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SECOND SESSION

VOLUME 140—PART 15

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

SENATE—*Wednesday, August 10, 1994*

(Legislative day of Monday, August 8, 1994)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, the Reverend Dr. Richard Halverson. Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights * * * to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed * * *."—Declaration of Independence.

Almighty God, our Founding Fathers established this Nation upon the belief in a Creator-God. Thomas Jefferson asked, "Can the liberties of a nation be secure if we have removed from the hearts of the people the belief that those liberties are the gift of God?"

The prophet Jeremiah declared, "Thus speaks the Lord: What injustice did your fathers find in Me that they abandoned Me, habitually followed after futility, and became useless?"—Jeremiah 2:5, Berkeley Version.

Forty-five years ago the editors of Life magazine wrote: "The greatest threat to our civilization comes from within that civilization itself—our $64 euphemism for it is secularism. A much blunter word is godlessness. Our civilization, for all its churches and all its churchgoers, is predominantly a secular, godless civilization."

Holy God, awaken us to our national peril and help us to return to the God of our fathers.

In Jesus' name and for the sake of our national welfare. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 4606, the Labor-HHS Appropriations Act, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Helms amendment No. 2466 (to committee amendment on page 63, beginning on line 5), to express the sense of the Senate regarding the congressional timetable for considering health care reform.

(2) Graham amendment No. 2478, to provide funds to carry out the Emergency Immigrant Education Act of 1984 or its successor authority.

AMENDMENT NO. 2478

The PRESIDENT pro tempore. Under the previous order, the Senator from Florida [Mr. GRAHAM] is recognized to speak for up to 15 minutes on amendment No. 2478.

The Senator from Florida.

Mr. GRAHAM. Mr. President, the amendment which has been filed by myself and others would provide for full funding of the Emergency Immigrant Education Act. This act was recently the subject of an amendment during our consideration of the Elementary and Secondary Education Act, at which time the authorization level for this program was set at $150 million. The purpose of this amendment is to provide appropriations to match that authorization.

Mr. President, immigrant education is, unfortunately, yet another example of the failed Federal-State partnership. In the case of Plyler versus Doe, the U.S. Supreme Court held that States have a legal responsibility to educate all children, regardless of immigration status. That is, the States have the legal responsibility to provide a free public education for children who are the children of citizens, permanent residents, and all other forms of legal residents as well as undocumented aliens.

Since that ruling more than a decade ago, the Federal Government has not provided adequate funds to reimburse States for these mandated services, particularly to the children of undocumented aliens. Individual States, of course, have no capacity, either under law or with their resources, to control access of illegal entrants to this Nation. Under the U.S. Constitution, that responsibility has been vested in the Federal Government.

Unfortunately, when the Federal Government does not adequately address its responsibility for illegal immigration, State and local governments are left with the burden of that failure.

The Emergency Immigrant Education Act program is the only Federal education program dedicated exclusively to assisting communities impacted by such immigration. The EIEA reimburses local school districts for the additional costs of educating immigrant children whom States are constitutionally bound to serve. Unfortunately, the program has been grossly underfunded since its inception in 1984, and the trend line has been down. Today, there are almost 810,000 immigrant children in the United States who qualify for funding under the EIEA. In 1984, the appropriation level for EIEA equaled $86 per pupil. The current appropriation for fiscal year 1994 of $39 million provides only $48 per pupil.

So, in 10 years, with increasing education costs, we have gone from a paltry $86 per pupil to today's $48 per pupil. Because Federal funding has not

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

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VOL 140 PT 15 AG 10 — 11 1994 UMI

kept pace with increased immigration, thousands of school districts must devote more of their own scarce resources to educating immigrant children. Meanwhile, overcrowded classrooms have caused an explosion in construction costs, and the quality of education for both immigrant and American-born children, children of American citizens, is in jeopardy.

If I could use some examples, Mr. President, from my own State. In April 1994, Florida Governor, Lawton Chiles, and the Dade County School Board, a school board that serves the metropolitan Miami area, sued the Federal Government for the unreimbursed cost of serving the State's immigrant children, primarily for the 345,000 who are living there illegally, that is, the total number of immigrant children.

Education is the third largest of the costs which the State and local government are carrying as a result of that immigrant population. In 1993 alone, the Florida Department of Education and local school districts spent an estimated $517 million to provide education to immigrants. However, Florida received only $1.5 million under the Emergency Immigrant Education Act.

Compare those figures. The State and local school district spent $517 million to educate immigrant children; the Federal Government provided $1.5 million.

In Dade County, for each foreign-born student, the district incurs additional costs of approximately $1,152 from local funds which are not reimbursed from either Federal or State funds.

Mr. President, if I could personalize this, my daughter, Suzanne, taught for several years in the Dade County school system. In her last year of teaching in the Dade County school system, she taught in a kindergarten in a public school that served a community with large numbers of immigrant children, children who spoke a diversity of languages, with great educational needs, great differences in terms of their family circumstances. Her classroom, Mr. President, had 38 students—38 students—with only a part-time aide to assist her with 5-year-old kindergarten students. My daughter has subsequently married, has moved to northern Virginia, and taught last year at a public school in northern Virginia. She had fewer students in her north Virginia school system, only 24 or 25, with much less diversity in terms of the background of the students.

One of the consequences of this is that we are causing, very distinctly, unequal education to be made available not only to immigrant children but also to children of native-born American parents as a result of this disparity in terms of where immigrant children are being educated, a constitutional requirement that they be educated at State and local expense and the failure of the Federal Government to provide adequate supplemental resources.

More than 75,000 students, almost 25 percent of the student body in Dade County, are foreign born, thus costing the district over $86 million in unreimbursed costs. In addition, based on the net increase of 23,661 foreign-born students since 1980, it would cost Dade County a total of $285 million to build and renovate schools to accommodate these new students, the additional cost of such construction being an average of $12,000 per student.

A 1993 report entitled "Immigration Impact on Broward County Schools" stated that while,

* * * the intent of the Federal law is that students should be funded at $500 per student, this never happens.

Those levels have never risen above 2 percent of our total cost any year since 1989. For the past 3 years, we have received a minuscule portion of that money.'

For the 1992-93 school year, Broward County received only $17.25 per student for its 8,240 students, resulting in $3.9 million in unreimbursed costs.

During consideration of Improving America's Schools Act, we increased the authorization level for the Emergency Immigrant Education Act to $150 million. This was an important step. However, it will be a hollow victory unless we provide full funding for this critical program.

The bill we are considering today provides $50 million. This is an increase of $11 million from the 1994 level. But it still equals only $62 per eligible student, far less than the over $1,000 per student which local and State funds are required to be spent in terms of incremental costs.

The amendment that Senator HUTCHISON and I are offering would transfer $100 million from salary expenses and program management to the Emergency Immigrant Education Act. This has been endorsed by the National School Boards Association, the National Conference of Mayors, and the National Council of State Legislatures.

I recognize that many administrative accounts in this bill have already been frozen or reduced. However, our States are facing an emergency situation, one which requires us to make tough choices about how we will spend our Federal funds. For the past 10 years, the Federal Government has avoided these tough choices because it has had little incentive to provide adequate assistance to the States for immigrant education services. Whether or not we provide adequate funds to reimburse States for the costs of educating immigrant students, States will continue to provide these services and will continue to have to pay the tab and will continue to have to dilute the quality of education to all of the children in their school districts.

The Senator from Iowa has argued that the EIEA Program primarily benefits only five States. That is because there are currently five States facing emergency immigration situations. We have had other examples of emergencies: in my State with the hurricanes, in the State of the Senator from Iowa with floods, and the State of the Senator from California with earthquakes and otherwise.

This Congress has not refused to recognize an emergency just because it was highly concentrated in its impact. I believe, Mr. President, that similarly we should answer the question: Should we abandon those communities of America which are heavily impacted by immigration? The answer is clearly no. But in this situation, when our States are overwhelmed by the impact of Federal immigration policy, a policy which has failed to protect our borders, failed to enforce our immigration laws, and has allowed hundreds of thousands of undocumented aliens into our country, and our States have repeatedly asked the Federal Government for assistance to deal with this problem, we have the responsibility to provide that assistance.

The Senator from Iowa has also argued that the number of immigrant students has decreased over the past year. However, that has not changed the fact that the EIEA Program has never been adequately funded, and currently reimburses States for only a minuscule percentage of their cost of educating immigrant children.

The Federal Government has the complete constitutional responsibility for our Nation's immigration policies as enumerated in article I, section 8 of the U.S. Constitution. The power and singular responsibility was conferred from the States to the Federal Government to "establish a uniform rule of naturalization." When there is an egregious failure of the Federal Government to carry out their responsibility, the community in which this failure is projected should not have to pay the cost.

Until the Federal Government is required to meet its responsibility for its dereliction in its duty to protect the borders and enforce immigration, then the Federal Government has no basis upon which to refuse to provide assistance to those States which have been heavily impacted. States and localities do not have the luxury of avoiding this responsibility.

I urge my colleagues to join with the cosponsors of this amendment in support of the proposition that the Federal Government should meet its obligations and should assure that the goal of providing equal educational opportunities for all children in all communities of America is realized.

Thank you, Mr. President.

The PRESIDENT pro tempore. The pending question is amendment No. 2466, offered by the Senator from North Carolina [Mr. HELMS], to the committee amendment on page 63, line 5 of the bill.

The debate on the amendment is limited to 30 minutes, with 10 minutes under the control of the Senator from North Carolina [Mr. HELMS]; the Senator from Iowa [Mr. HARKIN]; and the Senator from Pennsylvania [Mr. SPECTER].

Who seeks recognition?

Mr. SPECTER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. SPECTER].

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, the bill was originally set for 9:30. It is now 9:33. The proponent of the amendment has not yet arrived on the floor. I just learned at about 9:10 this morning that the Senator from Florida had 15 additional minutes on his amendment. I have been advised by staff of the chairman, Senator HARKIN, that they were only advised this morning, as well. So it may be that we will need some additional time to respond to the amendment by the Senator from Florida.

Mr. President, in the absence of the pending amendment's sponsor, I ask unanimous consent to take 5 minutes in replying to the Senator from Florida, so that we can save that time after the other Members arrive.

The PRESIDENT pro tempore. Does the Senator not wish that that time come out of the time allotted to the Senator from Pennsylvania under the order?

Mr. SPECTER. Mr. President, that is correct. The time that this Senator has, 10 minutes, relates to the Helms amendment. I had not anticipated using any time on the amendment of the Senator from Florida.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. Perhaps I might propound a unanimous-consent request, if it is satisfactory to the chairman, for 10 additional minutes to reply to the Senator from Florida, 5 minutes being used by this Senator, and 5 minutes being used by the chairman.

Mr. President, after consulting with the chairman of the subcommittee, our request for unanimous consent is that we be allotted 10 extra minutes, 5 minutes which I will take and 5 minutes which Senator HARKIN will take, and then we will begin the Helms amendment at the conclusion of that 10 minutes. Thirty minutes will start to run at the conclusion of the 10 minutes which I have just requested.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection. The request is granted.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought the 5 minutes to reply briefly to the arguments made by the Senator from Florida [Mr. GRAHAM], on his amendment for a transfer of $100 million additionally to the program for immigrant education. I am very sympathetic to what Senator GRAHAM has requested. It is my wish that we fund an additional $100 million. However, the funds which the amendment proposes would be taken from salaries and expenses of the Departments of Labor, Health and Human Services, and Education. This would have a very, very severe impact.

When this bill was crafted, we were slightly under $70 billion, which seems like a great deal of money at first blush, but really is not when we have to accommodate all of the needs of Education, Health and Human Services, and Labor at the Federal level. There has already been an increase this year of some $11 million for immigrant education, which is an increase of some 28 percent, which is an enormous increase for this program compared to what has happened to other programs within this bill.

If the funds were taken, illustratively, from the Department of Labor, some $33 million and a third of a million dollars, it would block OSHA's initiative to target inspections of the worse offenders of the health and safety laws. It would leave the Bureau of Labor Statistics unable to revise the Consumer Price Index, which is enormously important for measuring inflation in America. It would reduce the number of mine inspections, and it would reduce the Department's ability to apprehend and prosecute violators.

On the education bill, there would be a very significant impact, eliminating the student aid guide and student aid enforcement center, which is instrumental in helping over 7 million college students to obtain Federal student aid dollars. It would require about 30 days' furlough for the Department's 5,000 employees.

And on Health and Human Services, the reduction would impact on the intermural research program and clinical center at the National Institutes of Health, and on the epidemiological and disease surveillance staff capacity of the Centers for Disease Control. There would have to be significant reduction in the Social Security Administration's disability determination programs.

We have very carefully considered these expenses, Senator HARKIN and I, as chairman and ranking member of the subcommittee, as has the full committee, which the Presiding Officer chairs, and we have done the best we can.

In view of the limited time, Mr. President, I ask unanimous consent that a letter of August 8 to Senator HARKIN from Acting Director of OMB, Alice Rivlin, be printed in the RECORD, as well as the impact statements from the three Departments, which more fully set forth the very significant cuts which will have to be imposed if this amendment were to be adopted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 8, 1994.

Hon. TOM HARKIN,
Chairman, Subcommittee on Labor, HHS, Education, and Related Agencies Appropriations, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to express the Administration's opposition to the "Hutchison-Graham" amendment to H.R. 4606, the Labor, Health and Human Services, Education, and Related Agencies appropriations bill, FY 1995. This amendment would substantially cut the agencies' administrative budgets in order to increase funding for the Immigrant Education Program.

The Administration is sympathetic to the Senators' desire to support State efforts to educate immigrants. However, this amendment would have a devastating impact on administration of programs in each agency. Examples include significantly delaying student financial aid grants and loans, preventing the Department of Labor from implementing its initiative to improve the targeting of OSHA inspections, reducing Health and Human Services' capacity to administer priority AIDS grants and childhood immunizations and to ensure the accuracy of Medicare and other entitlement payments, and delaying the Social Security Administration's ability to reduce the disability claims backlog.

The Administration strongly objects to the Hutchison-Graham amendment, and I urge the Senate to reject it.

Sincerely,

ALICE M. RIVLIN,
Acting Director.

IMPACT OF THE SALARIES AND EXPENSES CUT ON THE DEPARTMENT OF LABOR

The amendment to cut approximately $34 million from the Department of Labor's Salaries and Expenses (S&E) account would have a devastating impact. This is primarily a cut in DOL enforcement programs—not cuts in administrative overhead.

Adoption of this amendment would gut the Department's worker safety enforcement initiative aimed at improving the lives and workplaces of American workers. DOL enforcement activities have declined by 19 percent in the last 14 years, even as the Department's responsibilities have increased with the passage of new legislation, such as the Family Medical Leave Act, and with the growth of the workforce. The bill before the Senate has already decreased DOL S&E funding by $80 million, or 5%, below the Administration's request.

The action will have the following impacts:

It will block OSHA's long overdue initiative to target inspections on the worst violators of our health and safety laws. It will cut the number of inspections OSHA can undertake and increase the likelihood of another disaster like the Hamlet, N.C., chicken plant fire.

It will render the Bureau of Labor Statistics unable to undertake the proposed revision of the Consumer Price Index (CPI). The revision of the CPI is vitally needed. It is estimated that a 1% error in the CPI costs the

VOL 140 PT 15 AG 10 — 11 1994 UMI

American people $600 million annually. It is truly penny-wise and pound foolish not to make this small investment.

It will reduce the number of mine inspections, which will put miners at greater risk and could result in more accidents, injuries and deaths.

It will reduce the Department's ability to catch and prosecute those who embezzle from or defraud pension plans and health benefit plans, leaving retirees and workers less protected.

DEPARTMENT OF EDUCATION

SALARIES AND EXPENSES AMENDMENT

The Senate Committee bill has already reduced S&E by $19 million, or 5 percent below the President's request—and by $13 million, or almost 4 percent, below the House approved level.

A further reduction of $33 million would:

Eliminate the Student Aid Guide and Student Aid Information Center that help over 7 million college students obtain Federal student aid dollars.

Significantly delay the award of grants, loans, and work-study opportunities to these 7 million students.

Eliminate management improvements to prevent fraud and abuse in all Federal student aid programs—something for which this Body has severely criticized the Department.

Significantly delay the award of Federal dollars to States, local school districts and institutions under all the Department's 240 programs.

Eliminate providing assistance and information on Federal programs and successful education practices to States, school districts, teachers, and parents—at a time when the Nation needs to make dramatic reforms in education and to become more competitive.

Require about 30 furlough days for the Department's 5,000 employees.

EFFECT OF ADMINISTRATIVE COST REDUCTION—HHS

A $33 million reduction in Salaries and Expenses for HHS would impact on all aspects of the Department's operations including:

Payment of Medicare claims through the Medicare contractors.

The entire intermural research program and clinical center at the National Institutes of Health.

Epidemiological and disease surveillance staff capacity at the Centers for Disease Control.

Capacity to manage and implement expansion of Head Start and reform of the welfare system.

Social Security Administration's disability determinations operations.

Such an amendment ($33 million) is equivalent to nearly ¼ of the funds needed to pay the statutory Federal pay raise during FY 1995.

The Senate level, by either "freezing" administrative cost or cutting below FY 1994 levels, will force agencies to absorb the mandated pay raise in other budgeted items. An additional $33 million reduction will exacerbate this situation.

Removal of $33 million could jeopardize the Department's ability to meet its streamlining objectives through the use of buy-outs. Buy-outs cost $25,000 plus an average of $2,000–3,000 in lump-sum payments for annual leave.

Actions already taken:

Staff reductions—In 1994, 900 FTE will be eliminated and an additional 425 in 1995.

Procurement reduction—The procurement budget amendment reduced all procurement funding by $37 million. This will require agencies to purchase less services (consultants, data processing, Medicare insurance claims processing) and equipment.

Rent reduction—The rent payment budget amendment reduced funds available for space rental by $8 million, in order to downsize the current office space usage by HHS.

Administrative offsets for IHS Budget Amendment—Offsets of $27 million were taken against salaries and expenses to finance an April Indian Health Service budget amendment. This reduction represented an approximately 1.5 percent across-the-board cut.

Mr. SPECTER. I yield the floor.

The PRESIDENT pro tempore. The Senator from Iowa [Mr. HARKIN] is recognized.

Mr. HARKIN. Mr. President, I want to join my colleague, Senator SPECTER, in opposing the Graham amendment.

I had spoken about it the other day. I think Senators ought to be fully aware of what this amendment does. It may be couched in terms that you are cutting salaries of bureaucrats in some of these Departments by $100 million, and then we can use this for immigrant education.

First of all, a close reading of the amendment will show it is not just salaries. If you read the amendment, it says salaries, expenses, and program management, not just in the broad context, but in each program, project, or activity. That means that every entity in the Departments of Labor, Health, and Education, will all have to take a proportional share of the cut.

What that means is that it is not just some sort of a mushy taking out of some salary someplace. It means that the actual running of the offices, the management of the offices, the phone calls, the equipment, and everything else, is affected by this. So what it means is that the reduction could result in the closing of Social Security offices and delays in processing Social Security checks.

Mr. President, every Senator has on his or her desk a "Dear Colleague," signed by a bipartisan group of Senators, including the occupant of the chair, our President pro tempore, Senator BYRD; Senator HATFIELD; myself; Senator SPECTER; Senator INOUYE; Senator STEVENS; Senator COCHRAN; Senator PELL; Senator KASSEBAUM; and Senator DODD. This "Dear Colleague" lays it out very clearly as to the impact of the Graham amendment.

The backlog in Social Security disability claims is expected to be over a million in fiscal 1995 and will grow even larger because we will not be able to process Social Security disability claims. The reduction would cut funding appropriated for the process of Medicare claims, making millions of senior citizens wait longer for reimbursement. Audit activities to control fraud and abuse would also suffer and result in the loss of more than $100 million in Social Security and Medicare funds. Efforts to control SSI payments to drug addicts, alcoholics, and illegal aliens would be affected. The $100 million reduction will cut funding and delay the implementation of programs to immunize the Nation's children.

This amendment will cut funding for Public Health Service programs for AIDS, breast and prostate cancer, and necessary funds to respond to outbreaks of diseases such as tuberculosis. The reduction would delay services to 7 million college students who apply for Pell grants and other campus-based aids.

So, Mr. President, this amendment is one that would just be devastating. I must also add that in the past couple of years we have increased funding for immigrant education by almost 70 percent in the last 2 years, at the same time that the number of school districts reporting immigrant students has actually declined by 2 percent.

So I ask Senators to resist this amendment. It sounds good. It would have a devastating impact on other programs, plus the fact that we have increased immigrant education, increased it substantially, even while the reports are that the number of immigrant students is declining.

I yield the floor.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to speak in favor of the Graham amendment for 5 minutes.

The PRESIDING OFFICER (Mr. CAMPBELL). Is there objection?

Without objection, the Senator is recognized for not to exceed 5 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

I thank Senator HARKIN and Senator SPECTER for allowing me to speak in favor of the Graham amendment.

I do understand what the Senators are facing trying to get this bill through, and I know there have been some cuts, and I realize that it is very difficult to take money on the floor for another purpose. But the border States have been paying for a Federal mandate—this time it is a Supreme Court mandate—year after year after year. We are educating illegal immigrants in our school systems, and it is a very great burden that really should not be borne by the States. It is a Federal issue.

There are 810,000 illegal immigrant children in the school systems in America, and 70,000 of those are in my State. The school districts are not rich. These are local school districts. They get matching funds from the State, but it is mostly local. These are generally poor school districts that have a hard time providing the education at the level that we would like for them to be anyway.

But to have the burden of illegal immigrants coming into our education system is really more than those local school districts are able to bear. The States do help, but it is still not a fair

issue for the States to have to pick up the cost. There are probably 10 States in this country that are picking up the cost for the other 40. And that is just not right.

So what we are asking for today is equity. We are asking for the help from the Federal Government because we are not controlling our borders as we should be. The Federal Government is responsible for keeping illegal immigrants out of our country, as we welcome legal immigrants and as we try to serve the citizens and taxpayers of our country. It is very important that we recognize that this is a Federal issue, that the States and the local governments and the borders have been burying this infrastructure problem year upon year upon year.

I ask that the Senate pass this amendment. It is $100 million that will be taken from the administrative costs of three agencies. That is just a belt-tightening. Most businesses and most homes in this country have done belt-tightening. I think we ought to be doing it throughout the Federal Government anyway. In fact, I have introduced a separate bill that would provide a $50 billion cut, $10 billion a year, most of which is administrative costs of Government across the board.

I think everybody can belt-tighten 5 or 10 percent, as our businesses and our families have in this country. I think this would be a good exercise. Let us put it where we really need it, and that is to help the States and local school districts that are bearing this Federal burden to educate illegal immigrant children under a Federal mandate by the Supreme Court that we must do it.

I thank the Chair and I thank the managers of the bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The pending question is amendment No. 2466 offered by the Senator from North Carolina [Mr. HELMS], to the committee amendment on page 63, line 5 of the bill.

Debate on the amendment is limited to 30 minutes, with 10 minutes each under the control of the Senator from North Carolina [Mr. HELMS], and the Senator from Iowa [Mr. HARKIN], and the Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

PRIVILEGE OF THE FLOOR

Mr. SPECTER. Mr. President, I ask unanimous consent that John McCann, an intern on my staff who helped me prepare the chart on the Mitchell health care bill, be admitted to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be divided equally among the Senator from North Carolina, the Senator from Iowa, and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, may I inquire what is the status of the unanimous consent regarding the order in which amendments will be voted on this morning? I understand that there is some alteration.

The PRESIDING OFFICER. The Chair will tell the Senator the first vote will be on his amendment No. 2466 to the committee amendment, followed by the committee amendment, and then followed by amendment of the Senator from Florida [Mr. GRAHAM].

Mr. HELMS. I have been informed that a unanimous consent is in the process of—I think I will yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, will the Senator from North Carolina yield to me?

Mr. HELMS. I yield.

Mr. SPECTER. Mr. President, I am advised by the majority staff that this amendment is cleared and the amendment is acceptable to this Senator for unanimous consent to vote on or in relation to the Helms amendment No. 2488 occur immediately following the disposition of the Helms amendment No. 2466 with the remaining votes occurring as previously scheduled.

I believe that that would call for the time sequence of the 30 minutes to begin now on the Helms amendment No. 2488.

Mr. HELMS. Which of my amendments is amendment No. 2488?

The PRESIDING OFFICER. The Senator will withhold a moment.

Mr. HELMS. I certainly will.

The PRESIDING OFFICER. To identify the amendment the Senator is requesting it is amendment No. 2488 on the Department of Defense appropriations bill dealing with health care reform.

Mr. HELMS. That answers my question then, I am sure. In other words, amendment No. 2488 is the modification of the first health reform amendment, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. Mr. President, will my colleague yield one more moment?

Mr. HELMS. I yield.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, since this amendment has been substituted, I ask unanimous consent that the 30 minutes previously allotted to the prior amendment be allotted to this amendment with 10 minutes going to the Senator from North Carolina, 10 minutes to the Senator from Iowa, and 10 minutes to this Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. HELMS. Mr. President, let me save the Senate a bit of time. The immediately ensuing rollcall vote on the first Helms amendment to Labor-HHS will be a waste of the Senate's time because I am going to move to table my own amendment and ask for the yeas and nays on the motion to table unless the Senate proceeds and grants my unanimous consent to vitiate the yeas and nays on that first amendment. I ask unanimous consent in that regard. There is no point in having a rollcall vote on it.

The PRESIDING OFFICER. The Chair as the Senator from Colorado will object, in the absence of the majority leader being here.

Mr. HELMS. All right.

I understand what is going on, I say to the distinguished Senator occupying the Chair.

So, before I do move to table my amendment, then, I think I should make clear that following the vote on the motion to table my original amendment, another vote will immediately follow, on virtually the same amendment, this one having been offered to the Defense bill. That is what the Chair just confirmed to me. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

So the two amendments, the one that I shall move to table and the one on the Defense appropriations bill, are identical except for my addition of the following language to the original sense-of-the-Senate declaration. It is a portion that is in both amendments that I read now.

It is the sense of the Senate that major health care reform is too important to enact in a rushed fashion and Congress should take whatever time is necessary to do it right by deferring action until next year to give Congress and the American people ample time to obtain, read and consider all alternatives and make wise choices.

That is where the first amendment ends. The second amendment, which is the one to the Defense appropriations bill merely adds the following:

Unless the Senate has had the full opportunity to debate and amend the proposal after Congressional Budget Office estimates have been made available.

Now, as I say, this next vote is totally unnecessary. But let me explain

VOL 140 PT 15 AG 10 — 11 1994 UMI

why we are forced to proceed with such an unnecessary vote. Yesterday, Senator STEVENS on my behalf suggested that since I intended to modify my original amendment, the original amendment be withdrawn inasmuch as the yeas and nays had been obtained on the original amendment. When the unanimous consent to have my first amendment was proposed, an objection was heard on the Democratic side, as it was just moments ago.

I do not know what kind of games they are trying to play. That suits me fine. I can play them, too. Normally, in a situation like this courtesy prevails in the Senate, but in this case courtesy did not and does not prevail.

Now, let me point out that every publication, every observer that I know of has said wait to reform our health care system until January; do not do this thing in a rushed order. A recent NBC-Wall Street Journal poll found that 61 percent of those polled said to wait on health care reform. Only 34 percent said pass the bill now.

Here is the telephone number if you want to call Senators at the last minute and say, lay this thing aside until January and do not be foolish and pass something that is going to be bad for the American people. The Senate telephone switchboard number is 1-202-224-3121. You might want to call right now and get hold of your Senators.

Other polls also say that we should wait. The Hart-Teeter poll for the Wall Street Journal and NBC was conducted on April 30. It said "pass the bill this year, 34 percent"; "continue to debate the issue and act next year, 58 percent."

So, by a wide margin, Americans are of the opinion that it is a mistake for the Senate to rush through health care reform this year. It has become strictly a political issue. It is not a health issue anymore. It is a political issue. And we ought not to operate in that atmosphere in passing a piece of legislation this important.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I am advised that technically the unanimous-consent agreement was not entered. So I would renew the unanimous-consent request that the vote on or in relation to the Helms amendment No. 2480 occur immediately after the disposition of the Helms amendment No. 2466, with the remaining votes occurring as previously scheduled; with 10 minutes being allotted to the Senator from North Carolina, as in the previous unanimous-consent request; 10 minutes to the Senator from Iowa, Senator HARKIN; and 10 minutes to this Senator, as in the previous unanimous consent request; with the time used by Senator HELMS having been deducted from his 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, parliamentary inquiry. Does Senator HARKIN have 10 minutes assigned?

The PRESIDING OFFICER. The Senator is correct; the Senator has 10 minutes.

Mr. INOUYE. Mr. President, in his behalf, I yield back the remainder of my time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Parliamentary inquiry.

Under the unanimous-consent request, is it true that I now have 10 minutes to speak on the Helms amendment?

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator is correct.

Mr. SPECTER. I thank the Chair.

Mr. President, I have asked for 10 minutes to speak on the amendment by the Senator from North Carolina, which had as its original purpose to delay the consideration of health care legislation until next year, and it has been modified, as I understand, to delay consideration until there is adequate time. We will be voting on the Helms amendments in due course.

I had reserved these 10 minutes to speak on the subject because for many weeks I have said that I would not join any filibuster against health care legislation. However, over the last weekend I have reconsidered that position because of the complexities of the Mitchell bill and what may be a rush to judgment.

My current thinking is that we should take up this bill and take the time to do it right and not on anyone's political timetable. The bill is a very complicated bill, as is evident from the fact that it has not yet been filed, as I understand it.

This morning's Washington Post contains a report which questions whether the Mitchell bill can be scored and be presented to the Senate at this time. The report notes that "Since MITCHELL unveiled his plan last week, the legislation has been rewritten hundreds of times, sources said, because the original plan would have created a huge deficit." And there are many, many questions outstanding as to what the Mitchell plan would actually do.

When the original Clinton health care plan was proposed, I asked my staff to make a list of all the agencies, boards, and commissions, because I was so surprised by the complexity of the plan. Instead, my staff made a chart of the new agencies, boards, and commissions in the Clinton plan, and the chart showed that the plan had some 105 new agencies, boards, and commissions in a bill that was 1,342 pages long.

If the Chair will indulge me, I will go to the back of the Chamber to show the chart.

Mr. President, this is the chart of the Clinton health care program, with the boxes in red signifying 105 new agencies, boards, and commissions and the boxes in green signifying the existing agencies which have new administrative responsibilities.

Since my staff and I obtained the draft of the Mitchell proposal, with the work of John McCann, who is an intern in my office from the University of Pennsylvania's Fells Institute, working literally night and day, this chart has been prepared which shows at a glance the enormous bureaucracy of the Mitchell health bill. This was prepared from the preliminary draft of the Mitchell bill, and as yet we do not have the final version of the bill. The initial draft was 1,410 pages long and the red boxes here show 170 new boards, agencies, councils, commissions, programs, and functions, and 44 existing agencies with new and expanded functions.

Mr. President, this chart shows the enormously complicated bureaucracy which would come into play with Senator MITCHELL's bill. My suggestion has been consistently that what the Senate should do is not to scrap the current health care system but to build on it. Toward that end, I introduced, some 18 months ago, Senate bill 18, which would be directed at covering the 37 to 40 million Americans now not covered, provide for coverage for preexisting conditions, coverage for change of jobs and the reduction of spiraling health care costs. I intend to speak about that later today when my time will come to address the overall Mitchell proposal.

I believe that the Congress has not faced a challenge as serious as the one now confronting it, perhaps, in the history of the Congress; certainly since Social Security was enacted in the 1930's. I believe that we have to take whatever time is necessary to do it right. I do not think we ought to be motivated by any political timetable, where it is said that it is necessary to get this bill out before the November elections so the President's purpose can be accomplished. I do not think there ought to be any Democratic timetable to help Democrats. I do not think there ought to be any Republican timetable on a filibuster for political purposes, either.

During the course of the last week, as I have been in my home State, Pennsylvania, I have heard many, many questions raised about this plan. People approach me on the train traveling to and from Washington, DC, in the shopping malls, and again in restaurants.

I believe I struck a chord, apparently, 2 days ago when, discussing this matter, I commented about what my Aunt Rose in Wichita, KS, had to say about the Clinton health care plan and what she has read about the Mitchell proposal. From time to time, I find more wisdom in talking to my Aunt Rose than I find in the committees and on the floor of the U.S. Senate.

Aunt Rose had a very basic approach. Her approach was, "I like the health care coverage I have now. I have Medicare and I pay $91 a month. What will happen to me under Senator MITCHELL's bill?" And I could not answer that question.

And then she said, "I'd like to see the poor people covered. I'd like to know what is going to happen there." She said, "What is it going to cost if we have the Mitchell health care plan adopted?" And I could not answer that question for her.

I was talking to my wife over the weekend. Joan used to have a small business which was a bakery which made candy, walnut pies, and double chocolate mousse pies. She said, "Arlen, what would these health care plans cost me if I were still running that small business?" She said, "I certainly could not afford to pay several thousand dollars a year for each additional employee."

And I said, "Joan, I do not know. I do not know the answer to that question."

We have just seen a report come out from the Entitlement Commission, again drawing the dangers of the cost of entitlements in America. And on the Senate floor no subject has been debated more in my 14 years here than the deficit, which is around $250 billion a year, and the national debt, which is $400 trillion. What these entitlements will cost is unanswered. Today's story in the Washington Post again reiterates that.

So, Mr. President, it is my view that we ought to take up health care reform and we ought to seek answers to these questions. I do not think it is indispensable——

Mr. BUMPERS. May I borrow your chart?

Mr. SPECTER. You may borrow my charts, Mr. BUMPERS.

Mr. BUMPERS. I want to borrow the maker of the chart.

Mr. SPECTER. You want to borrow the maker of the chart? I will be glad to make the maker of the chart available to Senator BUMPERS as well.

Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate will come to order. The Senator from Pennsylvania has the floor.

Mr. SPECTER. Mr. President, the concern which I have is that in this rush to pass health care reform we will not have a chance to receive input from the American people. Hearings would be useful, but I am not saying the hearings on the Mitchell bill are absolutely indispensable.

But there is a quality that, when time passes and there are newspaper analyses, editorials, op-ed articles, and radio talk shows, the American people will discover what the bill is all about. We should have input from organizations representing senior citizens, consumers, doctors—if I may have 1 additional minute, Mr. President?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, that is what I think is necessary in order to have an evaluation of the program.

When the Clinton health care proposal was introduced in October of last year, the initial response was terrific. But as the American people began to understand it, the favorable rating for the Clinton health care plan went way down.

We have not yet even had the final version of the Mitchell health care plan. But I submit that when you take a look at this chart with the 170 new agencies, boards, commissions, programs, and functions, and 44 new agencies existing with new responsibilities, that we ought to pause. We have to take our time on this vital subject to do it right if we are to do it at all.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina has 4 minutes 58 seconds remaining.

Mr. HELMS. Mr. President, momentarily I shall move to table my own amendment, and I am going to urge all Senators to join me and vote to table. Before I do that, I ask unanimous consent that several things be printed in the RECORD at the conclusion of my remarks. First is a poll by the Times Mirror and the Harvard School of Public Health which asks:

"Will health care reform give you the freedom to choose a doctor?" Thirty-three percent said they would have as much freedom. But 58 percent said they would have less freedom to choose their doctor.

Second, a poll conducted by the CNN/USA Today/Gallup Poll, in mid-July asked:

"Do you think you have enough information to judge the health care plans which have been proposed?" Twenty-nine percent said they have enough information. A resounding 70 percent said they need more information.

Third, a Hart/Teeter poll from the Wall Street Journal/NBC asked:

"Should Congress pass the health bill this year?" Thirty-four percent said yes. But 58 percent said continue to debate the issue and act next year.

I ask unanimous consent that these three polls be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Now just a sample of commentaries. One is from this morning's Washington Post. It says the same thing I have said in my amendment—let us wait until next year. Written by Robert J. Samuelson, who has a similar piece in the latest issue of Newsweek, the article is headed, "Health Care: Start Over Next Year. They don't know what they are doing up there." I would say that is an understatement. So I ask unanimous consent that this article be published in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. One of the most sensible publishers in the country is the publisher of the Charlotte Observer in my own State, Rolfe Neill. This past Sunday, Rolfe devoted his op-ed piece to a Viewpoint headed, "What's The Rush? Don't hurry to provide lifetime, irrevocable benefits that we can't afford."

I ask unanimous consent that Rolfe Neill's column be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HELMS. Let me make one more attempt to save the Senate 15 minutes—it will be 25 minutes. There is no point in having two votes on this. It suits me fine, but I am going to ask unanimous consent, once more, that the yeas and nays be vitiated on my first amendment, the one to Labor/HHS, so that I can withdraw it. Then we can proceed to the vote on my second amendment, the one to the defense bill, which is almost identical.

The PRESIDING OFFICER. Is there objection to the motion to vitiate the yeas and nays?

Mr. INOUYE. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. Let the RECORD show this side is not trying to delay anything.

EXHIBIT 1

[From a Times Mirror-Harvard School of Public Health poll, June 23-26, 1994]

WILL HEALTH CARE REFORM GIVE YOU THE FREEDOM TO CHOOSE A DOCTOR?

As much freedom: 33%.
Less freedom: 58%.

DO YOU THINK YOU HAVE ENOUGH INFORMATION TO JUDGE THE HEALTH CARE PLANS WHICH HAVE BEEN PROPOSED?

Have enough information: 29%.
Need more information: 70%.
No opinion: 1%.

CONGRESS SHOULD . . .

Pass the Health Bill this year: 34%.
Continue to debate the issue and act next year: 58%.

EXHIBIT 2

[From the Washington Post, Aug. 10, 1994]

HEALTH CARE: START OVER NEXT YEAR

(By Robert J. Samuelson)

They don't know what they're doing up there.

Among other things, the Democratic health care plan contains a large—and unjustified—multi-billion-dollar tax on younger workers. You wonder whether most members of Congress know this or even care. The whole health care debate is now completely out of control. The desperate effort to craft something that can be advertised as "universal coverage" means that Congress literally no longer knows what it's doing. Anything resembling the Democrats' bills, if enacted,

VOL 140 PT 15 AG 10 — 11 1994 UMI

would produce massive unintended side effects.

Apparently, most Americans grasp this. In a Newsweek poll last week, respondents were asked whether Congress ought to "pass reform this year" or "start over next year." By a two-to-one margin (65–31 percent), they said "start over." They sense that the versions of health reform crafted by House and Senate leaders are hodgepodges of conflicting provisions whose only purpose is to win passage. But what is clear to ordinary Americans is denied in Washington. In the capital, the fiction is that legislators know what they're doing and are debating rational alternatives.

"I think you're going to see a very good, erudite back-and-forth," says House majority leader Richard Gephardt, sponsor of the House bill. Well, it won't be "erudite" if members of Congress don't understand the consequences of their actions.

Gephardt's plan, for instance, would create a new Medicare Part C program for the unemployed, workers in small companies and many existing Medicaid recipients. The Congressional Budget Office estimates that the program might enroll 90 million people. But the projection could easily err by millions in either direction. More important, Medicare Part C emphasizes "fee for service" medicine (patients selecting individual doctors), while the rest of the bill emphasizes "managed competition" (reliance on health maintenance organizations and similar plans).

In a single stroke, the bill would separate the under-65 population into two groups, mainly based on income and size of employer. Each group would be crudely steered toward a different type of medicine. In practice, this division may not be politically acceptable or economically workable. Many Americans may find one type of medicine more appealing than the other and resent being excluded. Or the artificial segmenting of the medical market may raise costs for both "managed competition" and "fee for service." Gephardt doesn't know; no one does.

Now, consider the tax on young workers. It arises from "community rating." As people age, their health costs and insurance premiums rise. But "community rating" requires that everyone pay the same rate. This provision is included in the House bill and, in a modified version, in the Senate bill. The effect would be to raise insurance for younger workers (say those below 45); the amounts are hard to estimate, but a good guess is at least $300 to $500 a worker. If employers have to pay higher insurance, they will pay lower salaries. The invisible tax on young workers might total $15 billion to $25 billion annually.

Is this fair? No. If enacted, it would compound the existing bias against the young. Already, one-third of the federal budget goes to the elderly; the young are taxed to support the old. How much farther is this to go? Or is it a cynical reaction to voting patterns (the young vote less than the middle-aged or old)?

Questions like these swirl around both Gephardt's plan and Senate majority leader George Mitchell's. It is hard even to describe Mitchell's plan. He says it's voluntary and lacks a "mandate." Wrong. It's true that it doesn't mandate companies to buy insurance for workers. But it does mandate a standard benefit package for firms—the vast majority—that offer insurance. Because the mandated benefits are, above average, this would probably raise health spending. Companies below the new standard would increase benefits; those above would have trouble lowering them.

Next, Mitchell hopes to achieve 95 percent insurance coverage by offering subsidies for low-income workers to buy it. But there's a "fail-safe" mechanism to limit subsidies if the budget costs exceed projected costs. However, if 95 percent coverage doesn't occur by 2000, Congress could require employers to pay 50 percent of their workers' insurance. But this would apply only to firms with more than 25 workers. Got it? Neither Mitchell nor anyone else knows whether this would reach 95 percent coverage.

These plans are confusing because the health debate evaded the basic tension between expanding health services ("universal coverage" etc.) and controlling health spending. It's hard to do both at the same time. The plans' complexities—as with the original Clinton plan's—aim to disguise this conflict. Republicans haven't been especially constructive in this debate because they haven't faced up to it either. But they are now correct that a bad bill would be worse than none.

Chaos is now the most important (and largely unreported) reality about the health care debate. Dozens of provisions in these bills would have huge unappreciated consequences. John Sheils of Lewin-VHI, a health consulting firm, says premiums for small businesses in the Mitchell bill could be 25 percent higher than for big companies. The CBO agrees a gap exists but puts it lower. Who's right? Do most members of Congress understand the gap? Probably not. Still, the pretense in Washington is that Congress is making conscious choices.

The pretense is sustained because in Washington politics is sport, especially at the climax of a legislative battle. All attention fixes on who wins and loses—and the deals that enliven the game. Rhetorical blasts are taken for reality; political reporters know little of how legislation would work and care less. This often leads to bad laws, and in health care, the potential for blunders is huge because Congress is tinkering with one-seventh of the economy and most aspects of medicine.

In May, Robert Reischauer, head of the CBO, warned that trying to find a compromise by combining provisions from different bills might make the health system worse. He compared it to building an auto engine with incompatible parts: "You can't say I want a piston from Ford, a fuel pump from Toyota . . . and expect the engine to run." Well, that's precisely what's happened. The contraption is no longer even a car made with incompatible parts. It's now part car, part tractor and part rollerblades. It's a clunker. Most Americans seem to understand this. Will Congress?

EXHIBIT 3

[From the Charlotte Observer, Aug. 7, 1994]

WHAT'S THE RUSH?

(By Rolfe Neill)

Don't hurry to provide lifetime, irrevocable health-care benefits that we can't afford.

Amid the insanity of congressional health-care debate comes an idea so compelling you yearn for its acceptance but know better. Americans for Tax Reform is circulating a 30-word covenant and asking each member of Congress to sign. It says:

LEGISLATIVE PRIORITY PLEDGE

I pledge to the taxpayers of my state that I will not vote to enact any health-care reform plan that I have not first personally read in its entirety.

The Wall Street Journal editorial page, boosting ATR's efforts, reports Republicans are signing but no Democrats. Hillary Clinton's original plan was some 1,300 pages of rules and definitions. You believe this will not increase health-care costs? When Medicare began in 1965, estimated annual expense for the hospital trust fund by 1990 was $10.1 billion. The reality: $68 billion. Name a single government scheme that costs less than predicted. I don't trust my government to design a national health system.

Two health issues are entangled, fueling a volatile discussion. One is to retard or reduce expense for the 85% of us insured; the other is to provide universal health coverage, taking in the 15% of people without insurance. The Clintons say the debate is between the caring and the uncaring. More accurately, it's between the questioning and the unquestioning.

The 15% is a fungible figure which proponents don't break down. Included are:

1. A charm group who are between jobs.

2. People who refuse to buy insurance because they feel they don't need it, estimated as high as 8.5 million of the 38 million uninsured.

3. Those who work but are too poor to pay insurance premiums, even though their Medicare and Medicaid payroll tax deductions pay for health coverage for retired people and nonworking poor.

None of these 38 million people is without emergency care. Any person showing up at a hospital emergency room is treated irrespective of ability to pay. We are about to radically redesign 14% of the gross national product. Everything we know about large systems suggests that we proceed very carefully. Instead, the president is horse trading with reluctant senators and representatives, promising pork for their districts and states if they will vote in a national health scheme that Americans are increasingly dubious about.

CANADIANS MUST WAIT

A doctor friend just back from Toronto tells of months of waiting by Canadians for free surgery because of insufficient government funds. There's a quota, and when those dollars are exhausted the list of waiting patients is carried over to the next year. He saw seven of 12 operating rooms empty in a major hospital despite the clamor for operations. An estimated 40% of Canadians in severe pain must wait more than a year for surgery, according to Fraser Institute, a public policy group in Vancouver. It may take a half year to see a neurologist and equally as long to obtain neurosurgery after it is prescribed, says the institute.

The London Times recently carried this headline about England's National Health Service: Indigestion Patient Gets Date to See Doctor: April, '96.

American hospitals have seen the future, and it is cost containment. They are ungilingently wringing out expenses. President Clinton has done the nation a service to focus on health care. But the rush to provide lifetime, irrevocable benefits for which there is not sufficient money is unwise advocacy. Bankruptcy or government health rationing loom.

The 6.2% taken from your paycheck for Social Security stops after you earn $60,600 in a year. For Medicare, the payroll tax is 1.45%, and you pay the tax on every dollar earned. Your employer pays a like amount of 6.2% for Social Security and 1.45% for Medicare. Even so, the hospital trust fund will be exhausted as early as 1998 and no later than 2000.

Medicare's actuaries say payroll taxes (employee + employer = 2.9%) will have to rise to 4.3% of payroll by 2000 and to 10% by 2035 to pay estimated costs.

MOVE CAUTIOUSLY

Scary? There's worse news. Today, four workers support each retiree. By 2050, when today's 10-year-olds retire, only two workers will be available to pay the Social Security and medical costs of each retiree.

Move cautiously. Make change gradually and see if it works. Pull back from the rush-to-adjournment stampede for a health bill. We could attempt to fix it for 15% while butchering it for the 85% now covered. Hippocrates was right: First, do no harm.

Mr. HELMS. Mr. President, I move to table my amendment. I do hope every Senator will join me in voting to table my amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON THE MOTION TO TABLE AMENDMENT NO. 2466

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment No. 2466.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced, yeas 100, nays 0, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—100

Akaka	Feingold	McConnell
Baucus	Feinstein	Metzenbaum
Bennett	Ford	Mikulski
Biden	Glenn	Mitchell
Bingaman	Gorton	Moseley-Braun
Bond	Graham	Moynihan
Boren	Gramm	Murkowski
Boxer	Grassley	Murray
Bradley	Gregg	Nickles
Breaux	Harkin	Nunn
Brown	Hatch	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Reid
Campbell	Hutchison	Riegle
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Sarbanes
Conrad	Kempthorne	Sasser
Coverdell	Kennedy	Shelby
Craig	Kerrey	Simon
D'Amato	Kerry	Simpson
Danforth	Kohl	Smith
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Dorgan	Lugar	Wellstone
Durenberger	Mack	Wofford
Exon	Mathews	
Faircloth	McCain	

So the motion to lay on the table the amendment (No. 2466) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to the underlying committee amendment on page 63, line 5 of the bill.

The amendment was agreed to.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The Senate resumed consideration of the bill.

Pending:

(1) Dole Amendment No. 2479, to provide for the termination of the United States arms embargo of the Government of Bosnia and Herzegovina no later than November 15, 1994

(2) Helms Amendment No. 2480, to limit military assistance and military sales financing to the Government of Colombia until the President certifies that it is fully cooperating in counternarcotics efforts.

(3) Bumpers Amendment No. 2481 (to committee amendment on page 37, line 7), to reduce the amount for the acquisition of Milstar satellites.

(4) Helms Amendment No. 2488 (to committee amendment on page 2), to express the sense of the Senate regarding the congressional timetable for considering health care reform.

(5) Bumpers Amendment No. 2489, to reduce the amount for the procurement of the Trident II Missile Program.

VOTE ON AMENDMENT NO. 2488

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 2488 offered by the Senator from North Carolina.

Mr. LEVIN. Mr. President, I support tabling this amendment. As it is drafted it is self-defeating and counter to the United States' efforts to combat international drug cartels.

The amendment would prohibit us from appropriating some of the funds we spend to curtail the production and transport of illegal Colombian drugs unless the Colombian Government takes detailed, specific actions to change Colombian law. Whether or not these changes would be good or appropriate is not the question. Rather, the question is, is it wise to condition what we think is best in our own interests on changes the Colombian Government may or may not make? We do not give Colombia assistance to fight illegal drug cartels out of charity. We give that assistance because it is in our interest to do so. This amendment would be self-defeating. If we determine that such assistance is best for our antidrugs effort, then the funds should be appropriated. If, however, we determine that such assistance is not best for our antidrug effort, then they should not be appropriated. But if we tie our own hands by conditioning our antidrug efforts on whether or not Colombia makes the changes we tell them to make, that just doesn't make sense.

Should many, many countries in the world make changes in their laws and conduct? You bet. Should countries that receive U.S. assistance make changes? You bet. But the nonhumanitarian assistance we give other nations is not given for their benefit, but for ours. Therefore I am not willing to allow another nation to determine whether we can appropriate funds that we think is in our best interest to do so. Therefore I urge the tabling of this amendment.

Mr. INOUYE. I move to table.

The PRESIDING OFFICER. The Senator from Hawaii is recognized to make a motion to table.

Mr. INOUYE. I move to table.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—54

Akaka	Feinstein	Metzenbaum
Baucus	Ford	Mikulski
Biden	Glenn	Mitchell
Bingaman	Graham	Moseley-Braun
Boren	Harkin	Moynihan
Boxer	Heflin	Murray
Bradley	Hollings	Nunn
Breaux	Inouye	Pell
Bryan	Johnston	Pryor
Bumpers	Kennedy	Reid
Byrd	Kerrey	Riegle
Conrad	Kerry	Robb
Daschle	Kohl	Rockefeller
DeConcini	Lautenberg	Sarbanes
Dodd	Leahy	Sasser
Dorgan	Levin	Simon
Exon	Lieberman	Wellstone
Feingold	Mathews	Wofford

NAYS—46

Bennett	Faircloth	McConnell
Bond	Gorton	Murkowski
Brown	Gramm	Nickles
Burns	Grassley	Packwood
Campbell	Gregg	Pressler
Chafee	Hatch	Roth
Coats	Hatfield	Shelby
Cochran	Helms	Simpson
Cohen	Hutchison	Smith
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thurmond
Danforth	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	
Durenberger	McCain	

So the motion to table the amendment (No. 2488) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred.)

CHANGE OF VOTE

Mr. SHELBY. Mr. President, on rollcall vote 268, I voted aye. It was my intention to vote no. Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

VOL
140
PT
15
AG
10
11
1994
UMI

DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENT NO. 2478

The PRESIDING OFFICER. The question occurs, under the previous order, on a motion to table amendment No. 2478 offered by the Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. DORGAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 34, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—66

Akaka	Glenn	Moseley-Braun
Baucus	Gorton	Murray
Biden	Gregg	Nunn
Bingaman	Harkin	Packwood
Bond	Hatfield	Pell
Breaux	Heflin	Pryor
Bryan	Helms	Reid
Bumpers	Hollings	Riegle
Byrd	Inouye	Rockefeller
Campbell	Jeffords	Roth
Chafee	Johnston	Sarbanes
Coats	Kassebaum	Sasser
Cochran	Kerrey	Shelby
Cohen	Kerry	Simon
Conrad	Kohl	Simpson
Danforth	Leahy	Smith
Daschle	Levin	Specter
Dodd	Lieberman	Stevens
Dorgan	Lugar	Thurmond
Exon	Mathews	Warner
Feingold	Metzenbaum	Wellstone
Ford	Mikulski	Wofford

NAYS—34

Bennett	Durenberger	Mack
Boren	Faircloth	McCain
Boxer	Feinstein	McConnell
Bradley	Graham	Mitchell
Brown	Gramm	Moynihan
Burns	Grassley	Murkowski
Coverdell	Hatch	Nickles
Craig	Hutchison	Pressler
D'Amato	Kempthorne	Robb
DeConcini	Kennedy	Wallop
Dole	Lautenberg	
Domenici	Lott	

So the motion to lay on the table the amendment (No. 2478) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISASTER ASSISTANCE

Mr. NUNN. Mr. President, I rise to address two amendments offered by Senator COVERDELL and myself that provide additional disaster assistance to areas of Georgia, Florida, and Alabama that were hit by Tropical Storm Alberto in July.

The first of these amendments adds $35 million in fiscal year 1995 to the appropriation for the public health and social services emergency fund. The existence of this fund reflects the broad range of human resources needs created by natural disasters, especially floods. Community life is disrupted—local health and human resource services are disrupted—and families are disrupted. The money provided under this amendment can help to meet these needs.

The floods associated with Alberto struck hardest at some of the lowest income areas of Georgia's lowest income region. Not surprisingly, these same areas have the highest rate of public assistance and the greatest dependence on public health and social services. The bulk of the appropriation made in this amendment to go into four categories—substance abuse and mental health services, services for children and families, disease control and prevention, and services for the elderly.

The Alberto disaster has created a particular threat to public health. The sanitation problems accompanying any flood are serious and in Georgia this has been compounded by widespread breakdown in water and sewer systems. The Centers for Disease Control needs additional money to help monitor disease outbreaks related to the disruption. Public health services need funds to help treat individuals with flood related injuries and illnesses. This appropriation will provide money for the CDCP to identify public health threats and to community and migrant health centers to treat a surge of patients seeking medical treatment.

All spending made possible by this amendment will be strictly contingent on a future request by the administration for an emergency appropriation. From the experience of the midwestern States last year, it is clear that the administration will require extremely detailed documentation before making a request, and that the actual figure requested may well be less than the amount provided through this amendment.

The second amendment sets aside $10 million in the Department of Education's impact aid account to assist school districts affected by the floods. Several school districts in Georgia saw their property tax bases reduced or eliminated by flood damage. These impact aid funds will assist these districts in replacing the lost revenues. This amendment is not a new appropriation. I am informed by officials at the Department of Education that there is over $20 million in unobligated funds in the impact aid account. This amendment sets aside up to $10 million of the existing account for damage associated with Tropical Storm Alberto.

Mr. President, I thank Senator HARKIN and Senator SPECTER and their staffs for their assistance in getting these amendments cleared and adopted.

RE TARKIO, MO

Mr. BOND. For some time now I have been working with officials from the Heartland Educational Institute in Tarkio, MO, on a project to utilize the former Tarkio College campus, create new jobs and stimulate a depressed economy in Atchison County, near our border with Iowa.

Officials from the city of Tarkio have requested a Department of Education write-down on their debt and release of the liens against the Tarkio college property. The Department of Education opposes this, believing that it can recoup some of the funds owed on the facilities' loans by a sale.

I would like to ask the distinguished chairman of the subcommittee if he would be willing to work with me, and with officials from Tarkio and from the Department of Education on finding a solution to this problem that will satisfy all the parties involved and permit the local community to move forward on generating economic development through a new youth rehabilitation facility.

Mr. HARKIN. I too am concerned about the situation in Tarkio, and believe that economic development there would help my own State of Iowa. I plan to work with my friend from Missouri and the Department to develop a plan that will work for the local community as well as for U.S. taxpayers.

TRIBALLY CONTROLLED COMMUNITY COLLEGES

Mr. CONRAD. Will the Senator from Iowa, the chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee, yield for a question?

Mr. HARKIN. I would be pleased to yield for a question.

Mr. CONRAD. First, I want to thank the chairman, Senator HARKIN, and the ranking member, Senator SPECTER, for including language in the committee report to expand the telecommunications-telemedicine infrastructure to provide education and training to medical, psychology and nursing students in the four-State area of North Dakota, South Dakota, Montana, and Minnesota. This project will link the four community-based campuses of the University of North Dakota's School of Medicine, 67 rural community-based hospitals in North Dakota, Minnesota, and Montana, and 16 tribally controlled community colleges in North Dakota, South Dakota, Montana, and Minnesota.

I would like to speak in more detail about one particular component of this project: the linkage to the 16 tribally controlled community colleges. The primary and initial purpose of this linkage is to allow Indian students to receive their first 2 years of education toward a degree in psychology in a reservation setting—an approach proven successful through other Indian educational programs such as the Indians into medicine program. The University of North Dakota's Department of Psychology is nationally recognized by the American Psychological Association for its education and training of native Americans. This telecommunication linkage will facilitate the recruitment and training of native Americans in the field of psychology.

Of the estimated total projected cost of $1,560,000, $160,000 will be available to purchase equipment for 16 downlink sites at the tribal colleges, and up to $50,000 of the administrative funds for this project could be used for tuition, fees, and stipends for the native Americans enrolled in the field of psychology.

Does the chairman concur that this level of funding is consistent with the language included in the Senate report on telecommunications-telemedicine infrastructure?

Mr. HARKIN. Yes, I do, and I thank the Senators from North Dakota for bringing this important issue to my attention.

Mr. CONRAD. Just for further clarification, I would like to ask the chairman if he concurs with the spending totals for the other elements of this package. It is my hope that the total for the project could be allocated as follows: equipment for the digital video system—$500,000; equipment for 25 downlink sites in Montana—$250,000; equipment for 10 downlink sites in Minnesota—$100,000; transmission costs for both fiber and satellite—$370,000; and administrative costs—$200,000.

Mr. HARKIN. The Senator has presented what seems to be a very realistic package. I am certainly hopeful that the Health Care Financing Administration will respond favorably.

Mr. DORGAN. I also want to thank Senator HARKIN and Senator SPECTER for their assistance in this very important project.

Mr. INOUYE. I want to compliment my colleagues on developing this creative approach to addressing the critical health and mental health needs of American Indians in the Northern Plains region. The American Indian population served by this program will total more than 120,000 in a part of the country that experiences some of the highest levels of morbidity and mortality in accidents, suicide, and infant mortality, amongst any population group in the United States.

I am particularly pleased that the tribally controlled community colleges, at least half of which are located in this region, are an integral part of this effort. Section 115 of the Indian Health Care Improvement Act (P.L. 94–437, as amended by P.L. 100–713) was enacted to assist these institutions in providing opportunities for Indian students to enter the health professions. The appropriation which we are discussing today will certainly provide the infrastructure necessary to carry out the purposes of the act.

In closing, I have visited the Northern Plains and understand the profound health care needs of the tribes in this region. I am, therefore, very encouraged by the efforts of my colleagues in the development of health care education by use of telecommunications.

Mr. BYRD. Mr. President, the Senate has just completed action on the fiscal year 1995 Labor/HHS appropriations bill, the 12th of the 13 regular appropriation bills, leaving only the Defense appropriations bill remaining. I commend the chairman of the subcommittee, Senator HARKIN, as well as the ranking member, Senator SPECTER, for their outstanding efforts on this very important appropriations bill.

As members are aware, the Labor/HHS appropriations bill contains funding for numerous critical programs designed to address many of the social problems facing our Nation. This bill seeks to provide educational opportunity for our Nation's young people. In addition, this bill seeks to make further progress in the area of biomedical research through appropriations to the National Institutes of Health, as well as appropriations to the Department of Labor to ensure a safe workplace for all Americans.

The managers of the bill deserve particular recognition for their efforts to balance these many competing demands and to do so while remaining within the subcommittee's very tight 602(b) allocation.

Senators HARKIN and SPECTER have served on the Labor/HHS Subcommittee for a number of years and have worked together in their capacities as chairman and ranking member. The Senate and the Nation owe them a debt of gratitude for their dedication and their commitment to excellence in carrying out their responsibilities on their subcommittee.

Mr. SIMPSON. Mr. President, I rise to speak concerning this amendment which would appropriate $100 million to reimburse states for the cost of educating immigrants. The money would be distributed under the Emergency Immigration Education Act of 1984.

This amendment and the underlying Emergency Immigration Education Act do not differentiate between legal and illegal immigrants, which very much concerns me. The Commission on Immigration Reform recently issued an excellent interim report making recommendations to the administration and the Congress on a variety of immigration issues, including that of providing Federal financial aids to the States for the costs of immigration.

The Commission recommended a "short-term authorization of financial aid to offset at least a portion of certain identifiable costs to states and localities resulting from unlawful immigration."

I have seen no solid evidence that it is even possible to accurately identify either the number or cost of illegal immigrants. One reason for this is that—believe it or not—many State and local government agencies are prohibited by law, ordinance or rule from even "communicating" with the Immigration and Naturalization Service.

The Commission on Immigration Reform recommended that if there is to be such Federal reimbursement to State and local governments that there also be "a requirement that the state and local governments cooperate with Federal authorities to enforce the immigration laws of the United States."

If this appropriation were to reimburse impacted States for the cost of educating illegal alien children, then taking $100 million from other programs to fund this amendment might well be justified—if those costs can be identified.

However, since many State and local governments prohibit their officials from communicating with the Immigration Service, I do not know how they can identify those costs attributable to illegal immigration. Cooperation with the INS should be a condition of any such amendment.

If this appropriation is to reimburse States for the costs of educating legal immigrant children, then this amendment is not the proper approach to reduce those costs.

If legal immigration is so high it is placing an unreasonable financial burden on the States, the answer is to reduce immigration, rather than provide Federal reimbursement. Also, States could rethink some of their very expensive bilingual education programs.

It has been the policy of the United States for more than 100 years that newcomers should "pay their way" after immigrating to the United States.

Personally, I believe that legal immigrants do pay their way, and that the impacted States probably benefit from legal immigrants, if they are coming in reasonable numbers. Some studies have found that legal immigrants more than pay their way, although there have also been contradictory studies.

If the numbers are unreasonable, and if immigrants are causing a burden the states cannot bear, then we should be discussing reducing admissions until the economies of the impacted states have had an opportunity to recover.

Mr. COVERDELL. Mr. President, I rise in support of H.R. 4606, the fiscal year 1995 Labor, Health, and Human Services, and Education appropriations bill. I want to congratulate my colleagues, Senator HARKIN and Senator SPECTOR, for their diligent work on this bill.

I rise to lend my support to language included in the report that accompanies this legislation. This language deals with the extramural construction

VOL 140 PT 15 AG 10 — 11 1994 UMI

funds provided under the National Center for Research Resources. The mission of the Center is to support the research technologies and shared resources that are critical to maintaining the health of all Americans. As such, the National Center supports construction programs which directly assist the Center in achieving its goals and mission.

One such project mentioned in the report is the National Center for Primary Health at the Morehouse School of Medicine in Atlanta. Since its founding, the Morehouse School of Medicine has dedicated itself to the primary health care needs of the American people, with a particular emphasis on minorities. As a result of this dedication, the Morehouse School of Medicine leads the Nation in the percentage of graduates who enter the primary care specialities. And, despite the fact that the school is less than 20 years old, its faculty has successfully competed for more research funding than one-third of all of the medical schools in the country. The National Center for Primary Care will build upon this foundation.

The National Center for Primary Care will be a national resource that will conduct, sponsor and participate in academic, clinical, and health services research. To achieve this mission, the center will accomplish the following goals:

To increase significantly the number of primary care physicians.

To create a national health and social policy center focused on identifying and analyzing the complex social, education, psychological, behavioral, economic and historical factors which contribute to current problems of diminished health status, access and quality in the provisions of both preventive and acute health care.

To augment both outreach and community-based clinical networks with new communications technologies to form a solid base for its expanded research and health policy efforts.

To create a new set of collaborative linkages focused on medical education, health and social policy and the dissemination of basic and applied research supported by expanded on-site teleconferencing capabilities and computer support.

I cannot think of an institution better suited to undertake this challenge than the Morehouse School of Medicine. The school, under the stewardship of its president, Dr. Louis Sullivan, already possesses the elements that are necessary to ensure that the National Center for Primary Care will be a national model for basic biomedical and applied research.

For example, the school has established an outstanding program of medical education. The Morehouse School of Medicine also possesses a fundamental understanding of the complexities and challenges involved in the provision of primary care services to individuals and families in low-income urban neighborhoods and rural communities. As a result, the school has built a long-standing and solid base of trust within many underserved communities. Finally, the Morehouse School of Medicine has developed an excellent program of basic applied research with an increasing emphasis on community-based research related to the environmental, economic, and social factors affecting health status.

I want to thank the chairman for recognizing the contribution the Morehouse School of Medicine has made in the area of primary health care. The inclusion of report language is testimony to the success and respect the school has achieved. I want to urge the Assistant Secretary for Health and the director of the National Center for Research Resources to carefully review and consider the Morehouse School of Medicine's application for extramural construction funds for the National Center for Primary Care.

FUNDING FOR SCHOLAR-ATHLETE COMPETITIONS IN 1995

Mr. CHAFEE. Mr. President, I would like to thank the managers of the appropriations bill for the Departments of Labor, Health and Human Services, and Education for their help in providing funding for a program that was authorized earlier this week in the Improving America's Schools Act which reauthorizes the Elementary and Secondary Education Act. The provision included in the ESEA authorizes the Secretary of Education to provide $1 million for scholar-athlete games to be conducted in 1995. I am delighted that the appropriators were able to provide $500,000 for this program. Of course, we will be back next year with the hope of securing the rest of the authorized amount.

In 1993, the Institute for International Sport at the University of Rhode Island conducted the World Scholar Athlete Games; 2,000 students from 125 countries and all 50 States participated in the games. Through these games, friendships were formed and understanding was developed between boys and girls who would otherwise never have crossed paths. I believe that through this form of interaction bridges between diverse populations are built.

The Institute for International Sport plans to conduct similar games in Rhode Island in 1995. The Rhode Island Scholar-Athlete Games will bring together boys and girls from the 5th through 12th grades. These students will have a record of academic excellence or have demonstrated marked improvement in their school work. The institute is dedicated to making a special effort to include low income and minority students. Rhode Island is a small State with a lot of diversity. These games will reflect that diversity and help to develop greater understanding between these students.

The sports activities that are planned include: baseball, softball, sailing, basketball, volleyball, soccer, tennis, swimming, and track. The cultural activities will include: art, band, debate, choir, theater, poetry, and creative writing. The Institute for International Sport also plans to hold theme days on the subjects of ethics and fair play, the environment and substance abuse.

Educators and civic leaders from every State will be invited to attend and observe the games. The institute will offer training sessions to these individuals to enable them to emulate the Rhode Island Scholar-Athlete Games in their home States.

I greatly appreciate the cooperation of Senator SPECTER and HARKIN in providing the funds for this program, and I am delighted that Senator PELL has joined me in ensuring funding for scholar-athlete competitions in 1995.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there Senators in the Chamber wishing to change their votes?

The result was announced—yeas 87, nays 13, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—87

Akaka	Daschle	Johnston
Baucus	DeConcini	Kassebaum
Bennett	Dodd	Kennedy
Biden	Dole	Kerrey
Bingaman	Domenici	Kerry
Bond	Dorgan	Kohl
Boren	Durenberger	Lautenberg
Boxer	Exon	Leahy
Bradley	Feingold	Levin
Breaux	Feinstein	Lieberman
Bryan	Ford	Lott
Bumpers	Glenn	Lugar
Burns	Gorton	Mack
Byrd	Graham	Mathews
Campbell	Grassley	McCain
Chafee	Harkin	McConnell
Coats	Hatch	Metzenbaum
Cochran	Hatfield	Mikulski
Cohen	Heflin	Mitchell
Coverdell	Hollings	Moseley-Braun
D'Amato	Inouye	Moynihan
Danforth	Jeffords	Murkowski
Murray	Riegle	Simpson
Nickles	Robb	Specter
Nunn	Rockefeller	Stevens
Packwood	Sarbanes	Thurmond
Pell	Sasser	Warner
Pryor	Shelby	Wellstone
Reid	Simon	Wofford

NAYS—13

Brown	Gregg	Roth
Conrad	Helms	Smith
Craig	Hutchison	Wallop
Faircloth	Kempthorne	
Gramm	Pressler	

So the bill (H.R. 4606), as amended, was passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, with that vote, the Senate has overwhelmingly approved H.R. 4606, the Labor, Health and Human Services, Education, and related agencies appropriations bill for fiscal 1995. I want to thank all Senators for their indulgence, for bringing their amendments to the floor, and for their support for passing this important bill.

I specially want to thank the staff who have worked so long and so hard on this bill. As Senator SPECTER and I have stated earlier, with the tight budget caps, this has been a particularly tough year on this subcommittee. In spite of these pressures, we have crafted a good bill, with strong bipartisan support. Much of the credit should go to the staff.

On the majority side, I want to recognize our staff director, Ed Long, along with Jim Sourwine, Carol Mitchell, Susan McGovern, Bill Cordes, Ellen Murray, Ron Yucas, Gladys Clearwaters, and Antonio Clinkscales. For the minority, I want to thank Craig Higgins, Bettilou Taylor, and Margaret Snyder.

To all of them, my heartfelt thanks and gratitude for the many hours they put into this effort.

We are now looking forward to conference with the House. Last year, conference on the fiscal 1994 bill lasted less than 3 hours. I'd like to complete conference on next year's bill in record time.

Again, I thank all my colleagues for their support.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House, and the Chair appoints the following conferees.

The PRESIDING OFFICER (Mr. DORGAN) appointed Mr. HARKIN, Mr. BYRD, Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. REID, Mr. KOHL, Mrs. MURRAY, Mr. SPECTER, Mr. HATFIELD, Mr. STEVENS, Mr. COCHRAN, Mr. GORTON, Mr. MACK, and Mr. BOND conferees on the part of the Senate.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order the Senate will now proceed to the conference report on H.R. 4426, the Foreign Operations appropriations bill, which the clerk will report.

The bill clerk read as follows:

Conference report to accompany H.R. 4426, making appropriations for foreign operations, export finance and related programs for fiscal year ending September 30, 1995.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report to H.R. 4426.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 88, nays 12, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—88

Akaka	Feingold	McConnell
Baucus	Feinstein	Metzenbaum
Bennett	Ford	Mikulski
Biden	Glenn	Mitchell
Bingaman	Gorton	Moseley-Braun
Bond	Graham	Moynihan
Boren	Gramm	Murray
Boxer	Grassley	Nickles
Bradley	Gregg	Nunn
Breaux	Harkin	Packwood
Brown	Hatch	Pell
Bryan	Hatfield	Pressler
Bumpers	Heflin	Pryor
Burns	Hutchison	Reid
Campbell	Inouye	Riegle
Chafee	Jeffords	Robb
Coats	Johnston	Rockefeller
Cochran	Kassebaum	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Shelby
Coverdell	Kerry	Simon
D'Amato	Kohl	Simpson
Danforth	Lautenberg	Specter
Daschle	Leahy	Stevens
DeConcini	Levin	Thurmond
Dodd	Lieberman	Warner
Dole	Lugar	Wellstone
Dorgan	Mack	Wofford
Durenberger	Mathews	
Exon	McCain	

NAYS—12

Byrd	Helms	Murkowski
Craig	Hollings	Roth
Domenici	Kempthorne	Smith
Faircloth	Lott	Wallop

So the conference report to H.R. 4426 was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the conference report on H.R. 4453, the military construction appropriations bill, which the clerk will report.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment to the bill (H.R. 4453) a bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

(The conference report is printed in the House proceedings of the RECORD of July 27, 1994.)

Mr. BYRD. Mr. President, the Senate version of the fiscal year 1995 military construction appropriations bill included an amendment, which I authored, which would have appropriated $25.1 million to the Department of Defense, to be transferred to the Coast Guard, to defray the expenses for a consolidation of activities at the Coast Guard's operations systems center at Martinsburg, West Virginia. These funds would have been completely offset by the rescission of $25.1 million previously appropriated for a Navy military construction project, which was canceled. The bill, as so amended, passed the Senate on July 15. The conferees agreed to the amendment. However, the managers on the part of the House decided to delete, without prejudice, the appropriation proposed by the Senate for the Coast Guard, inasmuch as the matter comes under the jurisdiction of the Transportation Appropriations Subcommittee. Therefore, the conference agreement at issue does not include any funds for the Martinsburg Coast Guard project, and I do not plan to offer an amendment at this time to restore the funds.

By way of explanation, Mr. President, the purpose of the Senate amendment was to provide funds for construction of facilities in connection with a consolidation at the Coast Guard Operations System Center at Martinsburg sought by Coast Guard officials in their quest to streamline operations.

The Coast Guard Commandant has indicated that that agency has undertaken a number of cost-benefit studies that could result in the centralization of certain information functions at the Coast Guard's Operations Systems Center. The Commandant indicated his belief that such consolidations will prove to be cost effective to the taxpayer.

Mr. President, the Coast Guard has developed a program to streamline its vessel documentation function at an eventual savings of approximately 20 personnel and $1 million per year. The Coast Guard advises that this initiative would consolidate 14 regional documentation offices in one location. A centralized vessel documentation processing facility will produce significant

VOL 140 PT 15 AG 10 — 11 1994 UMI

efficiencies. Currently, with 14 regional documentation offices, the representatives of industry, law enforcement, and other users must often make several inquiries to more than one office to gather information on a vessel. Additionally, service delays are inherent whenever a vessel's records are required to be forwarded to a new office as a result of the vessel's changing its port of documentation. Under the consolidated office concept, only one inquiry will be necessary and customer service delays will be significantly reduced.

In summary, the Coast Guard has embarked upon a program to consolidate and streamline its operations, and it has expressed its desire to expand upon its successful experience in Martinsburg.

The location of the Coast Guard Operations Systems Center at Martinsburg is not unique. Other examples of Coast Guard support facilities which are not located at coastal sites include the Coast Guard Pay and Personnel Center located in Topeka, Kansas, and the Coast Guard Institute, located in Oklahoma City, Oklahoma.

The Navy also has support facilities which are not located at coastal sites, including the Naval Weapons Support Center in Crane, Indiana, the Naval Ships Parts Control Center in Mechanicsburg, Pennsylvania, and the Navy Finance Center in Cleveland, Ohio.

Mr. President, the Coast Guard provides a valuable service, nationally and internationally. This funding would have helped the Coast Guard to consolidate, to operate more efficiently, and to save the taxpayer money in the long run. I support those efforts.

VOTE

The PRESIDING OFFICER. The question now occurs on agreeing to the conference report to H.R. 4453.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 5, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—95

Akaka	Coverdell	Grassley
Baucus	Craig	Harkin
Bennett	D'Amato	Hatch
Biden	Danforth	Hatfield
Bingaman	Daschle	Heflin
Bond	DeConcini	Helms
Boren	Dodd	Hollings
Boxer	Dole	Hotchison
Bradley	Domenici	Inouye
Breaux	Dorgan	Jeffords
Bryan	Durenberger	Johnston
Bumpers	Exon	Kassebaum
Burns	Faircloth	Kempthorne
Byrd	Feingold	Kennedy
Campbell	Feinstein	Kerrey
Chafee	Ford	Kerry
Coats	Glenn	Kohl
Cochran	Gorton	Lautenberg
Cohen	Graham	Leahy
Conrad	Gramm	Levin
Lieberman	Murray	Sasser
Lott	Nickles	Shelby
Lugar	Nunn	Simon
Mack	Packwood	Simpson
Mathews	Pell	Specter
McConnell	Pressler	Stevens
Metzenbaum	Pryor	Thurmond
Mikulski	Reid	Wallop
Mitchell	Riegle	Warner
Moseley-Braun	Robb	Wellstone
Moynihan	Rockefeller	Wofford
Murkowski	Sarbanes	

NAYS—5

Brown	McCain	Smith
Gregg	Roth	

So the conference report was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS CONCURRED WITH EN BLOC

The PRESIDING OFFICER. Under the previous order, the Senate concurs en bloc with the House amendments to Senate amendments number 6, 10, 13, 15, 16, 19, 20, 23, 24, 27, 31, and 32, and the Senate recedes from its amendment numbered 29; as follows:

In the House of Representatives,

Resolved, That the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4453) entitled "An Act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 8 and 14 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: "$49,386,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: "$188,062,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: "$57,370,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: "$22,748,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: "$57,066,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: "$1,013,708,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: "$1,183,710,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: "$1,205,064,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: "$277,444,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: "$1,102,289,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with the following amendments:

Restore the matter stricken by the Senate, with a amendment as follows:

In lieu of the section designation "SEC. 126.", insert: "SEC. 127."; and

Retain the matter proposed by the Senate with an amendment as follows:

In lieu of the section designation "SEC. 126." insert: "SEC. 128.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 32 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section designation "SEC. 127.", insert: "SEC. 129.".

Resolved, That the House insist on its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill.

The PRESIDING OFFICER. The motions to reconsider these votes are laid upon the table.

DEPARTMENT OF DEFENSE APPROPRIATIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4650, the Department of Defense appropriations bill, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

Pending:

(1) Dole Amendment No. 2479, to provide for the termination of the United States arms embargo of the Governments of Bosnia and Herzegovina no later than November 15, 1994.

(2) Helms Amendment No. 2480, to limit military assistance and military sales financing to the Government of Colombia until the President certifies that it is fully cooperating in counternarcotics efforts.

(3) Bumpers Amendment No. 2481 (to committee amendment on page 37, line 7), to reduce the amount for the acquisition of Milstar satellites.

(5) Bumpers Amendment No. 2489, to reduce the amount for the procurement of the Trident II Missile Program.

VOTE ON AMENDMENT NO. 2481

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment numbered 2481 offered by the Senator from Arkansas to the committee amendment on page 37, line 7. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 38, nays 62, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—38

Biden	Kassebaum	Pell
Bradley	Kerrey	Pryor
Breaux	Kohl	Riegle
Bumpers	Lautenberg	Robb
Byrd	Leahy	Rockefeller
Conrad	Levin	Roth
Dorgan	Lugar	Sarbanes
Feingold	Mathews	Sasser
Graham	Metzenbaum	Simon
Harkin	Mitchell	Simpson
Hatfield	Moseley-Braun	Wellstone
Hollings	Moynihan	Wofford
Jeffords	Murray	

NAYS—62

Akaka	Dodd	Kerry
Baucus	Dole	Lieberman
Bennett	Domenici	Lott
Bingaman	Durenberger	Mack
Bond	Exon	McCain
Boren	Faircloth	McConnell
Boxer	Feinstein	Mikulski
Brown	Ford	Murkowski
Bryan	Glenn	Nickles
Burns	Gorton	Nunn
Campbell	Gramm	Packwood
Chafee	Grassley	Pressler
Coats	Gregg	Reid
Cochran	Hatch	Shelby
Cohen	Heflin	Smith
Coverdell	Helms	Specter
Craig	Hutchison	Stevens
D'Amato	Inouye	Thurmond
Danforth	Johnston	Wallop
Daschle	Kempthorne	Warner
DeConcini	Kennedy	

So the amendment (No. 2481) was rejected.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

VISIT TO THE SENATE BY PRESIDENT TER-PETROSSIAN OF ARMENIA

Mr. MITCHELL. Mr. President, we are being visited today by a distinguished guest, and I will, following this brief introduction, ask unanimous consent that there be a recess for approximately 10 minutes to permit Senators to greet our guest, who is in the rear of the Chamber.

It is my privilege to introduce to the Senate the President of the Republic of Armenia, Levon Ter-Petrossian.

President Ter-Petrossian has the distinction of being the first democratically elected President of that country. He also played a critical role in the efforts which led to Armenia's independence in 1991, paying for his efforts with a period of imprisonment from 1988 to 1989. Three months after his release from prison, he was elected to the Supreme Council, Armenia's legislature, and became Chairman of that body from 1990 until 1991, when he was elected President.

In addition to securing such a prominent role for himself in the recent history of his country, President Ter-Petrossian is a noted scholar of ancient Armenian history, with a Ph.D. in philology from Leningrad University.

On behalf of all of the Senate, we welcome President Ter-Petrossian and wish him well in the quest for peace for his troubled region. In that context, I would like to salute the efforts which have led to a cease-fire in the Nagorno-Karabakh crisis and to express the Senate's hope for a lasting peace plan to which all parties can agree.

Mr. President, I ask all Senators now to join me in welcoming President Ter-Petrossian.

[Applause.]

RECESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a recess for a period of approximately 10 minutes to permit Senators to greet the President of Armenia.

There being no objection, the Senate, at 12:11 p.m. recessed until 12:20 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DORGAN].

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENT NO. 2489

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 2489, offered by the Senator from Arkansas [Mr. BUMPERS] to the committee amendment on page 25, line 8 of the bill.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 60, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—40

Baucus	Harkin	Murray
Biden	Hatfield	Pell
Boren	Jeffords	Pryor
Boxer	Kassebaum	Reid
Bradley	Kerrey	Riegle
Brown	Kerry	Rockefeller
Bryan	Kohl	Roth
Bumpers	Lautenberg	Sarbanes
Byrd	Leahy	Sasser
Conrad	Levin	Simon
DeConcini	Mathews	Wellstone
Dorgan	Metzenbaum	Wofford
Feingold	Moseley-Braun	
Grassley	Moynihan	

NAYS—60

Akaka	Exon	Lugar
Bennett	Faircloth	Mack
Bingaman	Feinstein	McCain
Bond	Ford	McConnell
Breaux	Glenn	Mikulski
Burns	Gorton	Mitchell
Campbell	Graham	Murkowski
Chafee	Gramm	Nickles
Coats	Gregg	Nunn
Cochran	Hatch	Packwood
Cohen	Heflin	Pressler
Coverdell	Helms	Robb
Craig	Hollings	Shelby
D'Amato	Hutchison	Simpson
Danforth	Inouye	Smith
Daschle	Johnston	Specter
Dodd	Kempthorne	Stevens
Dole	Kennedy	Thurmond
Domenici	Lieberman	Wallop
Durenberger	Lott	Warner

So the amendment (No. 2489) was rejected.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 2480 offered by the Senator from North Carolina [Mr. HELMS] to the committee amendment on page 2, line 15.

The yeas and nays have been ordered.

Mr. INOUYE. Mr. President, I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON THE MOTION TO TABLE AMENDMENT NO. 2480

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2480.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—53

Akaka	Bumpers	Daschle
Baucus	Byrd	DeConcini
Bennett	Chafee	Dodd
Biden	Cohen	Dorgan
Bingaman	Conrad	Durenberger
Boren	Coverdell	Exon
Breaux	Craig	Feinstein
Bryan	Danforth	Ford

VOL 140 PT 15 AG 10 — 11 1994 UMI

Glenn	Levin	Pell
Gorton	Lugar	Pryor
Graham	Mathews	Reid
Harkin	Metzenbaum	Riegle
Inouye	Mikulski	Robb
Jeffords	Mitchell	Rockefeller
Johnston	Moseley-Braun	Sarbanes
Kennedy	Moynihan	Simon
Kerrey	Murray	Wofford
Leahy	Nunn	

NAYS—47

Bond	Hatch	Murkowski
Boxer	Hatfield	Nickles
Bradley	Heflin	Packwood
Brown	Helms	Pressler
Burns	Hollings	Roth
Campbell	Hutchison	Sasser
Coats	Kassebaum	Shelby
Cochran	Kempthorne	Simpson
D'Amato	Kerry	Smith
Dole	Kohl	Specter
Domenici	Lautenberg	Stevens
Faircloth	Lieberman	Thurmond
Feingold	Lott	Wallop
Gramm	Mack	Warner
Grassley	McCain	Wellstone
Gregg	McConnell	

So the motion to lay on the table the amendment (No. 2480) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HEALTH SECURITY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2351, calendar No. 539, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I wonder if I might claim my leader time before we start on the health care. Has leader time been reserved?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, I yield 5 minutes of my leader time to the Senator from New York, [Mr. D'AMATO]. I will take about 2 or 3 minutes. I do not want to delay my colleagues.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I would like to call the attention of my colleagues to four articles in today's Washington Post.

First, I recommend the story on page 1 entitled, "CBO Is Lukewarm on Senate Health Plan." This story summarizes some of the problems the nonpartisan Congressional Budget Office has with Senator MITCHELL's proposal. Let me share a few quotes from that story.

The CBO also found the [Mitchell plan] would be difficult if not impossible for individual States to implement, and that a proposed tax on health care plans whose benefits costs exceed certain levels could increase the cost of insurance for many people and cause some to drop coverage.

Furthermore, the bill's proposal that there be an employer mandate only in States that do not reach 95 percent coverage by 2000 would cause businesses to move across State borders to avoid the payment.

The Agency also found an aspect of the Mitchell bill—establishing three additional medical subsidy programs—would be difficult to accomplish in a sensible and administrable fashion.

It is obvious from this story, Mr. President, that the CBO preliminary analysis of the Mitchell bill should be read by every Member of this Chamber before we begin the amendment process.

The second article worth reading is on the front page and it is entitled "A Second Opinion as Debate Begins." And this article reports that Mrs. Clinton believes the Mitchell bill is an "untested approach," and she expresses her skepticism that "it would work as advertised." Mrs. Clinton also expressed her preference for the legislation sponsored by Congressman GEPHARDT.

Mrs. Clinton's influence on this issue is well known. And no doubt about it, she has been a very eloquent voice in this debate. But if she believes the Gephardt bill is better, it should lead us to wonder what will happen in a House-Senate conference committee. Will the White House be exerting its influence to set aside whatever bill the Senate passes, and to adopt the Gephardt approach? If that is to be the case, why do we not just bring the radical Gephardt bill up for a vote right now.

Also on the front page is a headline that reads "Businesses Desert Key Health Bills."

And the article reports that:

A wide range of small and very large businesses have come to the same conclusion that the bad news [in the Mitchell and Gephardt bills] far outweighs the good.

The article also contains a very compelling quote from James Klein, the executive director of the Association of Private Pension and Welfare Plans.

Mr. Klein points out correctly that the folks who are saying that the Mitchell bill is not as bad as the Clinton or Gephardt bill are asking the wrong question. And he says the right question about the Mitchell bill is, "Is it better or worse than the current system with all its flaws?"

And Mr. Klein concludes:

Business, both large and small, is increasingly of the view that it is worse than the current system and shouldn't be allowed to go through.

That is also the conclusion shared by the highly respected economist Robert J. Samuelson, in the fourth article in today's Post that I recommend to my colleagues.

Let me just share a few quotes from Mr. Samuelson's op-ed which can be found on page A-19.

Among other things, the Democratic health care plans contain a large—and unjustified—multi-billion dollar tax on younger workers. You wonder whether most Members of Congress know this or even care. The whole health care debate is now completely out of control. The desperate effort to craft something that can be advertised as "universal coverage" means that Congress literally no longer knows what it's doing. Anything resembling the Democrats' bills, if enacted, would produce massive unintended side effects.

Chaos is now the most important (and largely unreported) reality about the health care debate. Dozens of provisions in [the Democrats' bills] would have huge unappreciated consequences. John Sheils of Lewin-VHI, a health consulting firm, says premiums for small businesses in the Mitchell bill could be 25% higher than for big companies. The CBO agrees a gap exists but puts it lower. Who's right? Do most Members of Congress understand the gap? Probably not.

And Mr. Samuelson—who, to be fair, also criticizes Republicans in his article—concludes by writing:

In May, Robert Reischauer, head of the CBO, warned that trying to find a compromise by combining provisions from different bills might make the health system worse. He compared it to building an auto engine with incompatible parts. "You can't say I want a piston from Ford, a fuel pump from Toyota—and expect the engine to run."

Well, that's precisely what's happened. The contraption is no longer even a car made from incompatible parts. It's now part car, part tractor, and part rollerblades. It's a clunker. Most Americans seem to understand this. Will Congress?

Mr. President, Will Rogers once said that "All I know is what I read in the paper."

And no doubt about it, after reading the Washington Post this morning, one thing I know is that it would be foolhardy for Americans to trade in the best health care system in the world for a plan that raises as many questions and as many concerns as the plans by Senator MITCHELL and Congressman GEPHARDT.

I ask unanimous consent that the two Washington Post articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

HEALTH CARE: START OVER NEXT YEAR—THEY DON'T KNOW WHAT THEY'RE DOING UP THERE

(By Robert J. Samuelson)

Among other things, the Democratic health care plans contain a large—and unjustified—multi-billion-dollar tax on younger workers. You wonder whether most members of Congress know this or even care. The whole health care debate is now completely out of control. The desperate effort to craft something that can be advertised as "universal coverage" means that Congress literally no longer knows what it's doing. Anything resembling the Democrats' bills, if enacted, would produce massive unintended side effects.

Apparently, most Americans grasp this. In a Newsweek poll last week, respondents were asked whether Congress ought to "pass reform this year" or "start over next year." By a two-to-one margin (65-31 percent), they said "start over." They sense that the versions of health reform crafted by House and Senate leaders are hodgepodges of conflicting provisions whose only purpose is to win passage. But what is clear to ordinary Americans is denied in Washington. In the capital, the fiction is that legislators know what they're doing and are debating rational alternatives.

"I think you're going to see a very good, erudite back-and-forth," says House majority leader Richard Gephardt, sponsor of the House bill. Well, it won't be "erudite" if members of Congress don't understand the consequences of their actions.

Gephardt's plan, for instance, would create a new Medicare Part C program for the unemployed, workers in small companies and many existing Medicaid recipients. The Congressional Budget Office estimates that the program might enroll 90 million people. But the project could easily err by millions in either direction. More important, Medicare Part C emphasizes "fee for service" medicine (patients selecting individual doctors), while the rest of the bill emphasizes "managed competition" (reliance on Lealth maintenance organizations and similar plans).

In a single stroke, the bill would separate the under-65 population into two groups, mainly based on income and size of employer. Each group would be crudely steered toward a different type of medicine. In practice, this division may not be politically acceptable or economically workable. Many Americans may find one type of medicine more appealing than the other and resent being excluded. Or the artificial segmenting of the medical market may raise costs for both "managed competition" and "fee for service." Gephardt doesn't know; no one does.

Now, consider the tax on young workers. It arises from "community rating." As people age, their health costs and insurance premiums rise. But "community rating" requires that everyone pay the same rate. This provision is included in the House bill and, in a modified version, in the Senate bill. The effect would be to raise insurance for younger workers (say those below 45); the amounts are hard to estimate, but a good guess is at least $300 to $500 a worker. If employers have to pay higher insurance, they will pay lower salaries. The invisible tax on young workers might total $15 billion to $25 billion annually.

Is this fair? No. If enacted, it would compound the existing bias against the young. Already, one-third of the federal budget goes to the elderly; the young are taxed to support the old. How much farther is this to go? Or is it a cynical reaction to voting patterns (the young vote less than the middle-aged or old)?

Questions like these swirl around both Gephardt's plan and Senate majority leader George Mitchell's. It is hard even to describe Mitchell's plan. He says it's voluntary and lacks a "mandate." Wrong. It's true that it doesn't mandate companies to buy insurance for workers. But it does mandate a standard benefit package for firms—the vast majority—that offer insurance. Because the mandated benefits are above average, this would probably raise health spending. Companies below the new standard would increase benefits; those above would have trouble lowering them.

Next, Mitchell hopes to achieve 95 percent insurance coverage by offering subsidies for low-income workers to buy it. But there's a "fail-safe" mechanism to limit subsidies if the budget costs exceed projected costs. However, if 95 percent coverage doesn't occur by 2000, Congress could require employers to pay 50 percent of their workers' insurance. But this would apply only to firms with more than 25 workers. Got it? Neither Mitchell nor anyone else knows whether this would reach 95 percent coverage.

These plans are confusing because the health debate evaded the basic tension between expanding health services ("universal coverage" etc.) and controlling health spending. It's hard to do both at the same time. The plans' complexities—as with the original Clinton plan's—aim to disguise this conflict. Republicans haven't been especially constructive in this debate because they haven't faced up to it either. But they are now correct that a bad bill would be worse than none.

Chaos is now the most important (and largely unreported) reality about the health care debate. Dozens of provisions in these bills would have huge unappreciated consequences. John Sheils of Lewin-VHI, a health consulting firm, says premiums for small businesses in the Mitchell bill could be 25 percent higher than for big companies. The CBO agrees a gap exists but puts it lower. Who's right? Do most Members of Congress understand the gap? Probably not. Still, the pretense in Washington is that Congress is making conscious choices.

The pretense is sustained because in Washington politics is sport, especially at the climax of a legislative battle. All attention fixes on who wins and loses—and the deals that enliven the game. Rhetorical blasts are taken for reality; political reporters know little of how legislation would work and care less. This often leads to bad laws, and in health care, the potential for blunders is huge because Congress is tinkering with one-seventh of the economy and most aspects of medicine.

In May, Robert Reischauer, head of the CBO, warned that trying to find a compromise by combining provisions from different bills might make the health system worse. He compared it to building an auto engine with incompatible parts: "You can't say I want a piston from Ford, a fuel pump from Toyota * * * and expect the engine to run." Well, that's precisely what's happened. The contraption is no longer even a car made with incompatible parts. It's now part car, part tractor and part rollerblades. It's a clunker. Most Americans seem to understand this. Will Congress?

CBO IS LUKEWARM ON SENATE HEALTH PLAN

(By Dana Priest and Helen Dewar)

The Congressional Budget Office yesterday gave a decidedly mixed review to the Senate leadership's health care reform bill.

The agency, in a preliminary analysis, said the bill would achieve its goal of covering 95 percent of the population in 1997, almost immediately after enactment, but would increase the deficit by $9 billion by 2000. The CBO said it would also be necessary to require employers to cover the 14 million people who would remain uninsured after 2000. The requirement is called the employer mandate.

Because of the way the Congress's budget rules are structured, the deficit would not prevent Congress from adopting the bill. The agency, which Congress created to give it independent economic analysis and forecasting, predicted the bill's adverse impact on the deficit would eventually disappear.

The CBO also found the plan by Sen. George J. Mitchell (D-Maine) would be difficult if not impossible for individual states to implement and that a proposed tax on health care plans whose benefits costs exceed certain levels could increase the cost of insurance for many people and cause some to drop coverage.

Furthermore, the bill's proposal that there be an employer mandate only in states that do not reach 95 percent coverage by 2000 would cause businesses to move across state borders to avoid the payment.

"Because of the disruptions, complications, and inequities that would result, CBO does not believe that it would be feasible to implement the mandated system in some states but not others; the system would have to include either all states or none."

The agency, which is charged with estimating the cost of legislation on the federal budget, also found an aspect of the Mitchell bill—establishing three additional medical subsidy programs—would be difficult to accomplish in a "sensible and administrable fashion."

The subsidies would cost the federal government $115 billion over four years in addition to what it would spend on Medicaid, the current federal-state Medicaid medical program for the poor.

Since Mitchell unveiled his plan last week, the legislation has been rewritten "hundreds of times," sources said, because the original plan would have created a "a huge deficit." The bill now includes few subsidies for small, low-wage firms. It also would not limit, as the Clinton bill did, out-of-pocket costs for individuals. The changes could pose serious political problems for Mitchell because the business subsidies had been a sweetener to attract lawmakers worried about burdening firms with new costs.

The bill includes a novel approach to cost containment—a 25 percent tax on health plans whose annual price increases exceed a government-set limit. The tax is projected to raise about $6 billion in 2000.

Mitchell adopted the provision as a way to raise money and to force health plans to lower their costs. To avoid criticism by labor unions, which oppose it, he inserted a rule prohibiting health plans from passing the tax on to consumers. But the CBO said such a restriction would be difficult to enforce, the tax would be passed on and, if insurance were voluntary, the increase would force some people to drop coverage.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I thank the leader for yielding me this time.

REMOVING TREASURY OFFICIALS

Mr. D'AMATO. Mr. President, today eight of my colleagues on the Senate Banking Committee joined me in sending a letter to Secretary Bentsen. It is a short letter. I am going to take the time to read it because it is important.

DEAR MR. SECRETARY:

As you are no doubt aware, the Senate Whitewater hearings revealed that Roger Altman and Jean Hanson were not fully truthful or forthcoming with the Senate Banking Committee on February 24. Thereafter, they continued to be less than truthful in a series of letters to the committee dated March 2, 3, and 11.

VOL
140
PT
15
AG
10
—
11
1994
UMI

Indeed, undisputed testimony by White House witnesses at the Whitewater hearings concluded last week established that White House officials specifically warned Mr. Altman on March 1 that his February 21 testimony "could be misleading." In addition, Josh Steiner, your chief of staff, gave testimony during the Senate hearings on Whitewater that the New York Times has described as "comical," referring to his efforts to repudiate his own writings.

By their actions, these officials have brought dishonor on your office, and we believe their continued service at Treasury cannot be productive. They have irretrievably lost the confidence of this committee. We hope that you will act swiftly to remove these officials and restore the Department's standards.

As I say, eight of my colleagues joined with me.

Secretary Bentsen has an obligation. It is not good enough to wait to see what the signal from the White House is. It is the Secretary's stewardship that is in question, and in terms of the actions of these three people who serve at his pleasure, I believe that their swift removal is the only thing that will restore the honor and credibility of the Department.

Mr. President, I have noticed something of late, and it has to do with Whitewater, but it goes beyond. Every time someone appears to be at odds with the President, the White House immediately has their minions running out there, whether it is DNC, whether it is Members of the Congress, whether they take to the floor of this Chamber or the other, and they look to attack the character and undermine the credibility of the person who may be at odds or have a difference of opinion. It has been going on and it continues to go on. This is their modus operandi. They try to be disingenuous after the President's lawyer, Mr. Bennett, who is the attack dog, starts. Oh, we disavow. And then one Member of the Congress after another.

It is pretty partisan. You cannot suggest to me that some of those Members up there attacking the people have not been part and parcel of this operation. They attacked Jay Stephens, the former U.S. attorney in Washington. They attacked the new independent prosecutor, Judge Kenneth Starr, and now they are even attacking the three-judge court that appointed independent prosecutor Starr. This game has gotten tired and old. It is their little tricks.

The President's lawyer, Robert Bennett, and the White House operatives should know better. I think it is about time we call them the way we see them, and that is the way this Senator sees them. I for one believe we have an obligation to stand up and not submit to this new kind of attempt to still the voices of people who have a difference of opinion.

I thank the Chair. I yield the floor.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, there will now be 4 hours of debate on the bill, S. 2351, equally divided and controlled between the majority and the minority leaders or their designees.

Who yields time?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. Mr. President, in a moment, I am going to yield to the Senator from Minnesota such time as he wants.

But I am telling you, I have reached the limit of my patience. Last night, the majority leader introduced a new bill. It has no number. He has not introduced it. He had it printed by the Government Printing Office. It is not a star print, which requires unanimous consent. It is a new bill. And apparently what he has done—I have it all on the one page, and I have not had a chance to look at it yet.

The following sections have been modified since the initial printing of S. 2351, which was his bill only last week. Title I, 101, 102, and so forth; title II, title III, IV, V, right on through title IX.

We have no idea what he has done. We are now soon going to be on this bill. This is exactly the problem I have been talking about for the last month. Are we going to go day by day with brandnew bills, brandnew amendments, with no chance to see them? Do these have to be costed? Do they have any cost? Does anybody know? Has anybody seen them? No.

Is the majority party so determined to pass a bill, any bill, that they do not care whether anyone sees it or not? We have already turned down Senator HELMS' sense-of-the-Senate amendment this morning that we should not proceed unless we have Congressional Budget Office estimates. We turned that down. That is the budget procedure we have voted to follow for years. We should have estimates before we go. We defeated that.

Now we have a bill we have never seen. We have modifications to the previous bill that we only saw last week that was 1,400 pages, 14 pounds.

It is an absolutely insane, inane, unfair process to ask us to now know what is in this bill that has not been introduced, but was printed last night at the request of the majority leader.

Mr. President, I yield to the Senator from Minnesota such time as he may deem necessary.

Mr. KENNEDY. Will the Senator just yield for purposes of clarification? What exactly is the point that the Senator was making?

The PRESIDING OFFICER (Mr. AKAKA). Does the Senator from Oregon yield?

Mr. PACKWOOD. No, not on my time.

Mr. MOYNIHAN. Mr. President, now, comity, comity; and no breaking of furniture.

Mr. PACKWOOD. I just did not want it on our time. That is fine.

Mr. MOYNIHAN. Sure. I yield to the majority leader such time as he requires.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I simply want to make one point, and then I will be glad to yield to our colleagues.

I introduced my bill 1 day after announcing my plan.

It was based upon the Finance Committee bill. That committee had completed its work a month before, and the Labor Committee bill which completed its work 2 months before. In June, Senators DOLE and PACKWOOD announced that they had a plan, and it was introduced as a bill last night, 6 weeks later. No one has yet had a chance to read it. It was for many weeks a phantom bill.

We welcome the opportunity to read the bill now finally after a 6-week delay. But I hope now that we can concentrate on debating the issues, not on when which bill was printed for whom. We moved as promptly as possible.

There will be ample opportunity to debate this bill. I have said many times no one will be rushed. We will stay here as long as it takes, as many days and weeks, months, if necessary, for every Senator to be able to consider the bill amply.

But let us be clear with respect to proceedings on the bill. My bill was introduced 1 day after I announced my plan for everyone to see. And it took more than 6 weeks to get our colleagues' bill from the time they announced the plan. We welcome the debate. We welcome the discussion. Perhaps we can get to the issues before this debate is through.

I thank my colleagues.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, just so the record is complete, in late June, Senator DOLE and I asked the legislative counsel's office—that is, the professional staff that drafts bills—to draft our bill. They only have so many people. They indicated they had to draft the finance bill first—and I am not complaining about that. Then they again set aside our bill to draft the majority leader's bill. We would have loved to have had our bill last June, the first week in July, or the second week in July. We just did not get it. We could not get it. I am not blaming anybody. It is no one's fault.

But for the majority leader to blame us because the professional staff that drafts the bills put his bill ahead of ours, seems to me, borders on a bit of hypocrisy.

I am glad we are going to have plenty of time. Senator DOLE and I are not suggesting that we rush our bill. We would be perfectly happy to take a recess for a month, and let everybody study our bill.

I hope that this is the last bill he is going to introduce because we spent a lot of time going through last week's bill.

I do not know. But I might say to my good friend from New York that I have heard—I do not know if this is true—that the provision he and I especially do not like about percentages of residents and number of residents may not be in this bill now. I do not know if it is or not. But I would hope it is out.

I hope the day after tomorrow we do not get another list like this. This is effective August 9, another list of titles and changes when we have spent hours and hours studying the last bill we have. You cannot quite go through this in a night.

So I would implore the majority leader to discuss with himself what it is he wants and make up his mind. I will not ask him—make up his mind and give us one last bill that we can work on.

I yield such time as my good friend from Minnesota wants.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. ROCKEFELLER: Will the Senator from Oregon yield?

Mr. PACKWOOD. On Senator MOYNIHAN's time. Yes.

Mr. ROCKEFELLER. Just as a point of clarification, the objection that the Senator raised on work force and residency caps has been removed. It is not in the bill printed on the podium before the Senator.

Mr. PACKWOOD. Let me thank my good friend from West Virginia. I am delighted it is out of the bill. Does he happen to know what else is out of the bill? I do not know what else is out of the bill. Does he know what is in the bill? I do not know what is in the bill either. That is all I am asking.

Mr. MOYNIHAN. May I say we will have those specifics for the Senator presently.

Mr. PACKWOOD. I thank my good friend from New York.

I now yield as much time as the Senator from Minnesota needs.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I thank my colleague from Oregon for yielding, and for my other colleagues for this brief debate.

I must also begin my comments by thanking 4-plus million constituents in the State of Minnesota for making this opportunity available to me. It has been a tremendous thrill, and it has been a real challenge as the last few minutes—perhaps the last few weeks have indicated—to serve in the U.S. Senate, particularly to serve them on an issue like this. I have enjoyed it a great deal.

I also want to thank my colleagues on the Finance Committee and on the Labor and Human Resources Committee for the most valuable education anybody could ever get both on the health policy and into the process by which legislation is made.

As I was listening to the debate which preceded my colleague from Oregon yielding to me, I was reminded of an incident that some wonderful staff person pulled out of a little history book on how Medicare came to be. He has been reading a series of L.B.J. books, and people who have written about L.B.J.

But he has this wonderful little story about Lyndon Johnson who is in the middle of negotiating with Medicare with the Ways and Means Committee and, in Johnson's book called "The Vantage Point," on page 216, he talks about this story. The story is about a man in Texas who was being tested for a job as a railroad switchman. They asked him the following:

> What would you do if a train from the east was going 60 miles an hour, and a train from the west was coming 60 miles an hour, and they were both on the same track, they were a mile apart, and they were headed for each other?

The guy responded:

> I would run and get my brother.

And they asked him why. He said:

> Because my brother has never seen a train wreck.

L.B.J. wrote that he at that time turned to Wilbur Cohen, who was his health staff, and said:

> I thought I would run and get my brother because if the Ways and Means Committee Medicare bill got reported out, there would be a train wreck.

I am sort of getting the sense here as I follow the opening on health care reform that we may well have a 60-mile-an-hour train from one direction and a 60-mile-an-hour train from another direction. But I do not think I am going to run and get my brother. I am going to, if my colleagues do not mind, make a couple of comments about the process, and then particularly about the bill which the majority leader has put in front of us.

I only reluctantly supported this resolution by the Senator from North Carolina this morning because I do not think we are rushing to health care reform. We have been doing health care reform ever since I got here. I do not agree with the notion that we are rushing to do health care reform. I remember writing a speech for George Bush in January 1992, while he was President of the United States. And we were trying to persuade him to take leadership on health care reform. A lot of people have been doing health care reform.

It is a reality that in the last few months we have had a variety of plans added to the wide variety of plans which we have been debating over the last year, and viewed from a public standpoint, there is a certain amount of rushing to a conclusion and a lot of confusion about exactly what this is all about.

But if I may begin my comments by reminding my colleagues and perhaps others that I stand at a desk that was occupied by health care reformist. There was nobody in this body when I arrived here as committed to health care reform as the late John Heinz from Pennsylvania. I sat next to John Heinz on the Finance Committee for at least 8 or 10 years before his untimely death. And there was a person who was totally committed to reforming the health care system, the way we pay for it, the way we insure it in this country. I stand now next to the Senator from Oregon who, when I got here in 1978, was a leader in health care reform. At various times we will hear from the Senator from Kansas, our Republican leader, who was doing health care reform when I got here. I remember our first act in 1979 on the Finance Committee was to beat, by one vote as I recall, the hospital cost containment approach to health reform of President Carter. While I do not know where my colleague from New York was at on that particular vote, I do know where the majority leader, the Democratic leader of the House was; he, too, voted against it.

In those days, we were doing bipartisan health care reform. The decision was that a national budget for hospitals and price control of hospitals in this country—by at least one vote in the Finance Committee and by a narrow vote in the Ways and Means Committee—was not the way to reform or change the system.

Congressman GEPHARDT was wise then, and Senator PACKWOOD was wise then, as was Senator DOLE, and anyone else who voted against that particular approach to health care reform.

In the 1980's the Republicans led in reform, using the Government program—the little-known Government program—called Medicare as the vehicle for health care reform. One of our colleagues said this morning on the floor of the Senate—Senator SPECTER from Pennsylvania—that his Aunt Rosie does not want anybody messing with her $91 payment on her Medicare plan. She thinks it is the Blue Cross plan she buys at home. Another one of my colleagues at breakfast said that a relative of his called and said, "I do not want any Government in my Medicare plan." I have a poll taken by AARP back in 1984 which tells us that even in 1984, 4 out of 5 Americans who are on Medicare do not realize that it is a Government-run program. I suspect that the number may be greater today.

Anyway, we have been using, through the 1980's, that Government program—Medicare—as a way to try to change the approach to health care in this country. Mr. President, I remind the

VOL 140 PT 15 AG 10 — 11 1994 UMI

occupant of the chair, the Senator from Hawaii, because he was not here, that in the first 6 years of this period when we had a Republican Senate and President, I happened to chair the Health Subcommittee of the Senate Finance Committee. Senator BAUCUS from Montana was the ranking member and then GEORGE MITCHELL, the majority leader, was the ranking member, and many people I see on the floor today were part of that committee. Every single thing we did, from prospectively pricing hospital payments to the so-called DRG payments to prospectively pricing the part B payments in 1989, was bipartisan. Everything we did to try to bring catastrophic insurance and drug benefits and long-term care to the elderly were cooperative efforts—in that case, between Senator MITCHELL and myself and others on the Finance Committee. Bipartisan. It was not a Republican bill; it was a bipartisan approach. The same thing is true of the outcomes of the work we did on AHCPR. The same thing is true of every effort that we made at changing the system—which everyone says is the greatest system in the world. It is not. It delivers the best health care in the world. That is why people come from all over to use it. But, as a system, it has been found wanting by many of us. We have tried to change it using Medicare as a vehicle. Every single time we have done it, it has been bipartisan.

Mr. President, I went back and looked at a book I wrote in the early 1980's. I wrote two books on health policy, but only one of them ever got printed. The other one is buried in about seven chapters that are edited and not published. I looked at the one that got printed back in 1979. I laid out the first health care reform bill that I authored, and its principles are the same as the principles that are incorporated into bills like Kerrey-Chafee, Breaux-Durenberger, Cooper-Grandy, and the current bipartisan Finance Committee bill.

I was reminded of this because in a conversation with my number two son, who is now working at a hospital in Minneapolis, he started telling me, "Dad, you know, in your book you said" this and that. I said, oh, my God, what a compliment that a kid will read and remember something his dad said or wrote. But in 1981, I laid out eight principles for reform. I am not the only one. I am sort of identifying those of us who have been involved in health care reform before Bill Clinton got to be a Governor, to say nothing of being a President. Health care reform did not start with the election of 1992. It did not start with the election in Pennsylvania. It started before I got to the U.S. Senate and has been ongoing, and the bottom line is that it has been bipartisan.

Mr. President, if for no other reason than history, I ask unanimous consent that the speech I referred from September 1981 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A FRAMEWORK FOR HEALTH SYSTEM REFORM

(Remarks by Senator Dave Durenberger to the National Health Council, Washington, DC, September 18, 1981)

It was over two years ago that I first introduced the Health Incentives Reform Act. Since that time I've learned a lot about health care in this country. I've learned which government programs work and which ones don't. I've learned about fraud and abuse. I've learned about getting the best health care in the world to the people who need it. And I've learned how much it all costs. But through it all, my faith in the principles underlying the Health Incentives Reform Act has not wavered. I started out with a strong belief in the value of choice and the strength of the private sector. Somewhere along the way the ideas were translated as "pro-competitive" and that's true—but the underlying theme remains consumer choice.

Choice gives individual consumers the opportunity to select a product or service that best meets their needs. The most successful provider of that goods or service will be the one that best responds to consumer desires—whether those desires include cost, quality, appearance, or other factors. As I'm sure you know, these very basic elements of a competitive market do not exist in health care. The ultimate consumer of health services, the patient, is usually insulated from the cost of care by a private or government insurance plan. Furthermore, when patients do share in the cost of their health care, they find there's nothing to shop around for—in other words, no choices. How many employees have a choice of health plans? How many Medicare beneficiaries do? Not many. And without consumer choice to stimulate providers to be responsive and efficient, we really can't expect doctors and hospitals to change their behavior. More regulation won't cure the ills of our health system. But neither will the status quo. We must introduce the basic elements of choice and competition into health care.

In the course of thinking about these issues I've come to realize that achieving a better health system entails much more than simply enacting a so-called pro-competitive bill. No single bill can include all the elements needed to make our health system more competitive. The reason we have market failure in health care cannot be attributed to any single piece of legislation in the past. The course to our present state of affairs has been incremental, and likewise our movement toward greater competition will have to be incremental. That doesn't mean that our action will be limited or slow in coming. It only means that we will act broadly and persistently.

An incremental approach requires that a competitive framework be established which can be used to formulate positions on the entire range of health issues. It's very easy for health policymakers to view issues in isolation and forget the contribution each one makes to the whole. You can't expect a business to produce a good product if each division sets its own agenda. There has to be coordination and an overall corporate strategy. Improving the health system is no different. It needs an overall framework and gameplan.

EIGHT GUIDING PRINCIPLES FOR CHANGE

I've thought a lot about a framework for health, and I'd like to share with you today the guiding principles I've been developing. Most of these principles apply to other issue areas in addition to health, and are representative of my general philosophy on the role of government in society.

1. Choices are good. Government policy should expand choices to the individual, not limit them.

Monopolies in service provision, whether public or private in nature, should be avoided. Citizens benefit from choice, whether it's in the form of competition with Ma Bell for long distance rates or in the alternatives to the U.S. Postal Service for package delivery. Government has done a reasonably good job of extending health care choices to its employees through the Federal Employees Health Benefits Plan. Similar choices should be extended to Medicare beneficiaries and veterans.

2. The government is generally a better purchaser of services than provider of them.

Government does not allocate resources as well as private markets and should directly provide services only when a private alternative is unavailable. In cities like New York, private bus lines are able to make a profit on runs the transit commission consistently loses money on, despite charging the same fare. Another example is in the area of municipal garbage collection. Those communities like Newark, Kansas City, and Minneapolis, that contract out for refuse collection, are able to save millions of dollars compared to communities that directly provide the service.

A further extension of this principle is that, if possible, government payments should go through the beneficiary rather than directly to the provider.

As an example, consider the G.I. Bill. Veterans were given the choice of going to whichever institution they wanted to receive their education, certainly a preferable alternative to building exclusive Veterans Colleges to handle all veteran education. In the area of subsidized housing, special projects conducted by HUD in Green Bay and South Bend have demonstrated that housing allowances—a form of voucher—give beneficiaries a range of choices that made them happier and the market more responsive. The same approach should be used with Medicare and Medicaid.

3. Consumer choice is enhanced as information increases. Government policy should facilitate the flow of information.

Individuals cannot be expected to make sound choices if they are provided with insufficient or inaccurate information. Furthermore, information must be presented in a straightforward and comparable manner. Individuals should not have to compare apples with oranges. Consider the value and popularity of a publication like Consumer Reports. It helps us compare products on the basis of cost and quality. On the other hand, look at the information the government provides federal employees under the FEHBP—there seems to be plenty of information there, but at least for me it's very difficult to make heads or tails out of. Information must be provided in a usable form.

4. The price of goods or service should be a true measure of its cost. Government policy should not facilitate hidden costs or cross-subsidizations.

A good example is the subsidy our government provides for tobacco. It's bad enough that the government gets in there and mucks up all the price signals that would otherwise be shaping the market—but then to have the stuff so unhealthy on top of that. It just doesn't make sense. In the health area, Medicare cost allocation formulas often force hospitals to shift legitimate expenses to private paying patients. Such cost-shifting doesn't save the system any money, but it does distort the price signals buyers perceive. Consumers should get what they pay for and pay for what they get.

5. The government should guarantee access to necessary care. However, standards of access cannot be open-ended and must be realistic.

Not every town has a Bloomingdale's or a hospital or an orthopedic surgeon, but access to these facilities and services is usually reasonable. In the medical area, geographical access is only one issue; there's also economic access. We provide medical services to those who can't afford them. But consider the difficult issue we face as medical technology offers us expensive new treatments for disease. True, the treatment may be better, but is it worth 10 times the cost? We simply cannot afford a health system which sets standards solely on the basis of available technology with no regard for price. Setting standards for access is a thorny but unavoidable government responsibility.

6. A responsive market will have fluctuations in capacity. Temporary shifts and increases in capacity are to be expected as the market adjusts.

Shifting buyer preference causes some producers to increase output while others decrease theirs. Consumer preference for fuel-efficient cars left our American auto manufacturers with too many large cars and too much capacity to produce them. Even though they are rapidly downsizing their models, they still have more capacity than they need for producing large automobiles. But that's not bad; it's just part of the process, and government shouldn't be tempted to meddle with it. In the health area, that means getting away from certificate-of-need.

7. The government should establish guidelines for quality, but recognize that quality will ultimately be judged by the individual.

Consumer protection often takes the form of government regulating the producer and setting standards for quality. For years the government has tried to regulate standards for mileage and crash restraints in automobiles. The government has also tried to control the use of artificial sweeteners, even though diabetics might choose to accept the risk of cancer to decrease their sugar intake. A more appropriate role for government is to establish guidelines and, as mentioned earlier, provide adequate information to the individual making the choice.

8. The government's role in stimulating competition should be to assure fair market conditions, not regulate its particular brand of competition.

We each have a slightly different definition of competition. What's important is not that we install one particular model, but that we create the conditions that will allow the market to diversify and shape its own future.

That's it. If I get up to ten, maybe we can call them the Commandments. For now, I guess they're just the Beatitudes.

As an example of how they might be used, take health planning. The concept is a good one. When it comes to a community's health system, citizens should have some input. But the regulatory authority we've given planning agencies is dangerous and uncalled for. To a planner, excess capacity is the bane of our health system. To a believer in the market and my sixth principle, excess capacity is a part of change and innovation. As I see it, the elimination of all excess hospitals beds in a community would significantly reduce the pressures for change within the hospital industry. Franchising may be okay for McDonalds or Wendy's, but it's not okay for the government. We should neither franchise peanut growing nor health care, and HSAs should not have the certificate-of-need authority they now enjoy.

I know you are interested in the more talked about pro-competitive provisions. I tend to think in terms of public buyers and private buyers. As the major purchaser of health care, government certainly has a responsibility to shape up its own act. Consequently, I have been very interested in proposals which would extend voucher-type options to Medicare and Medicaid beneficiaries. The proposals range from fairly limited ones, like Senator Heinz' bill to capitate HMOs under Medicare, to broader voucher schemes in the mold of Alain Enthoven's ideas.

I recognize both the technical difficulties and unknowns associated with a shift to capitated payments, but I believe we must pursue it now. From the standpoint of the budget process, capitated government contributions would make Medicare spending predictable and precise. From the standpoint of the beneficiary, there would be choices: choices which would allow the individual to best match his or her health needs with a qualified health plan. It all fits with my guiding principles, especially the first two. I expect the scope and details of a capitation plan for Medicare and Medicaid to be developed by my staff and the administration over the next several months. The Senate Finance Committee should be in a position to hold hearings and mark up a bill by early next year.

I'd be less than candid if I said I expected smooth sailing for these provisions. There is tremendous inertia in current federal policy. Government is accustomed to what we have, and so is the private sector. As a public buyer, government must change its position by directing its dollars through the beneficiary, offering choices, and returning coverage to the private sector. As private buyers, businesses must assure that fair market conditions exist for their employees. The market place can work if we all work to make it happen.

Mr. DURENBERGER. Mr. President, one of the things that our chairman of the Finance Committee has taught us this year, in literally hours and hours and hours of hearings on health care reform, is to define our terms. And we are all grateful to him for having done that. I hope that in the course of the debate, in the next week or two, however long it takes, that those definitions will come in handy. I must say, listening to the debate and discussion last night, the opening statements last night, starting with the majority leader's statement, I heard a lot of examples of Americans denied access to health insurance because of medical conditions.

As someone who has been trying to change the system for a long time, and who stood on the floor in 1992 with Lloyd Bentsen when he was chairman of the Finance Committee, and passed the national legislation that would have eliminated all of those problems, I do not like the idea that today's health care reform is premised on a set of real problems that could have been resolved in 1992, except the Democratic Congress would not permit us to take up that bill on the House side. But every one of those stories is a real story. My colleague from West Virginia told these stories about the medically uninsurable in Minnesota. They are real people who are really suffering. We have been trying for years to resolve that through insurance reform. It has been held up, for whatever reason, until now when it becomes a part of the overall health care reform. But it is only part of the health care reform debate.

One of the Sergeants at Arms was kind enough to come up to me and say, "Senator, I just learned you were not going to be here next year." In a way, that, too, is a compliment, that the word has not gotten out, even though I announced it a year ago. I went back to Minnesota in September and announced that I was not going to run for a fourth term, and Mrs. Clinton came to town the next day and sort of wiped me out. That is probably why he did not hear about it. She did a wonderful job all day long, as she did in many communities, alerting people to the need for health care reform.

At the end of the day, there was a 1-hour television program, one-third of it came from Rochester, MN, at the Mayo Clinic where Mrs. Clinton was, and PAUL WELLSTONE was up in a small town in northeastern Minnesota, and I was sitting in my hometown of St. Cloud, MN, which, to you Garrison Keillor fans, is Lake Woebegon. In Rochester, there was a 5-year-old youngster who had a serious disability with which she had been dealing since birth, a very expensive, medically uninsurable person. We talked for 15 minutes about how health care could help her and billions of people like her.

Then we went up to northern Minnesota to the little town of Moose Lake, and Senator WELLSTONE was there with Dr. Ray Christianson, who that year had been the Family Practitioner of the Year, and talked for 15 minutes on how health care reform put a family practitioner in every rural community in America.

We came to Lake Woebegon where I was sitting with the owners of the Ace Hardware Store, Cathy and Denny Timm, who were 35 years old—I remember that—from Clearwater, outside Saint Cloud, and have the Ace Hardware Store.

They had the television camera there, and Hillary Clinton was on the other end of it. It is hard to know what the Timms were going to ask.

Well, Denny Timm looks right in the camera and says:

Mrs. Clinton, we so appreciate your coming to Minnesota. This is my question: I am glad we are going to do health care reform. I need to know how much is it going to cost, who is

VOL
140
PT
15
AG
10
—
11
1994
UMI

going to pay for it, and how is it going to affect my 16 employees, half of whom are part time, and most of them are college students.

That was a much more difficult question to answer in 2 or 3 minutes by the First Lady of the United States, and it has become a more difficult question to answer as time goes on: How much is it going to cost? Who is going to pay for it? And how is it going to affect me?

Mr. President, I am going to deal with that subject in the context of the majority leader's bill. I wish I were here dealing with the context of the Finance Committee bill because it is the one bipartisan, or nonpartisan, bill that passed out of any committee of the House or the Senate. But I do not have that opportunity right now. I would like to talk about it in that context. But we will talk about it in the context of the Mitchell bill.

Before I do that, I want to say to the majority leader how much I have enjoyed working with him. I already referenced the fact that he and I worked on Medicare catastrophic. We worked our way through all the difficult efforts to pass it and stood on the floor of the Senate here trying to defend it as it was being defeated by a 65 to 35 vote. His heart is in the right place. There is no question about it.

(Mr. KERREY assumed the chair.)

Mr. DURENBERGER. But it is critical, Mr. President, as we try to find a solution to the challenge of what is health care reform, how much is it going to cost, who is going to pay for it, and how are we, the people of America, going to benefit from it, and what changes are we going to have to engage in in order to enjoy these benefits, that I talk about the Mitchell bill.

After July 2, when the Finance Committee bill was reported out, it was common knowledge that the Finance Committee bill, which was basically a market-based bill, and the Labor Committee bill, which is very much like the Clinton bill, were going to be melded. The word also went out that the drafters were going to reach out to those of us on the market side of the ledger.

We had one meeting, no ongoing discussions, no negotiations, no involvement in the drafting of the bill. When the draft emerged, we were told this was a market bill.

The majority leader says today that he tried to write it on the Finance Committee bill. Mr. President, I have read the Finance Committee bill. I wrote a lot of the Finance Committee bill. My staff did and other staff did. This is not the Finance Committee bill. It is not a market bill.

Today I want to tell you why. I have come to the conclusion that it is not health reform. It is 95 percent universal enrollment. It does insurance reform, but it does not do market reform.

Most people have never seen a medical market, at least not that they would recognize when they see it, but Americans live in a market economy and we operate in markets all the time. We are accustomed to choosing from a variety of products that we need on the basis of value, quality, price, service, satisfaction. We all know that. We have markets for food, for homes, for cars, for furniture, for dancing lessons, for restaurants, just to name a few. But we do not for health and medical services.

There are some, and I know some of my colleagues on this floor, who will say medical services cannot be bought and sold, you cannot put a value on them, you cannot put a price on them, you cannot judge consumer satisfaction; they are a social good; the heck with the price; the heck with the service.

Mr. President, we have medical markets now. Most of them do not work as well as they could. Some work better than others, and for most of our lives, the fact is that we have taken the quality of medicine and access to medical services for granted. Everyone who is here today knows that. Cost was no object. We pay doctors' fees for their services on a piecework basis.

I imagine, when I was a kid there were probably 100 different services doctors could do for you. Today there are apparently 9,000 different services, if you look just at the Medicare codes, a piecework service. And cost was no object. We sent the bills to insurance companies, and they paid them for us.

Doctors and lawyers and insurance companies then got State governments into the business of protecting fee for service. They passed laws preventing competition and choice. They taxed insurance premiums. They mandated long lists of benefits. They imposed other requirements. Every time in the licensure proceeding there was a new kind of doctor or medical professional, someone passed a law saying that new kind has to be in the benefit package.

The result is we have lots of services available. We have very high quality, but you really would not know it. We have the best care, as has been said often, but it costs so much. We are approaching a crisis in access and affordability, as the majority leader said last night.

The only thing that has demonstrated that we can actually do reform and actually get cost under control in this system is one national rule. It is called ERISA, and there is an ERISA rule, written in 1974 as a way to protect pensions at the national level, which has now been expanded to include all employee benefits, including health insurance. One little law has made it possible for employers and employed people all over America to say the system does not work; it costs too much and produces too little. And all over America, from Multnomah County, OR, to Mahnomen County, MN, you name it, employers and employees have come together in coalitions to self-insure. Self-insure. What does that mean? It means that at work our group will take on the risk of providing for the medical services of our employees.

What does it really mean? What it really means is you are not going to use health insurance because, if you use health insurance, you have to buy a whole bunch of services you do not need. You have to buy a whole bunch of providers you do not need, and you have to pay twice as much as you ought. Lately, it means you also have to take on taxes at the State level, surcharges at the State level, whatever the case may be.

What do you get in return for it? You think you get malpractice reform from the States? No. You think you get insurance reform from the States? No. Not until the last year or so did they start insurance reform.

You get a lot of costs on a fee-for-service system, and it is only because of this one little national law, the ERISA law, that people have said we are going to take responsibility for changing this system. And in community after community and company after company and CALPERS in California and the Minnesota public employees in Minnesota and Rochester, NY, and places all over America, people have gotten together and said the system is broken. Yes, the care is the best in the world, but the cost has no relationship to what we are buying. And so they have used this to take charge of their own access to the system. They are demanding value for their money.

And in this whole series of relationships that are being built up—the latest in my home community is called a health care action group, and it is a marvel the way intelligent employers and intelligent employees, banding together with people like the Mayo Clinic, the Park-Nicollett Clinic, all these doctors who in other places we accuse of being greedy—but not here. If you tell the doctors that they are going to be rewarded for being the best that they can be, they will be the best that they can be, not the most expensive they can be.

Because they understand, like in any other market in the world, that the measure of success in being best at what you are is that you get all the business, not that you get to charge the highest prices. That only works in professional baseball and football; but not in the grocery stores, not in any other competitive markets. If you are the best that you can be, you get the business.

That is why in the health care action group, you have all these people coming together to negotiate better ways to define what is health; what is a good medical service; what is a good outcome; how do we better share the risk; how do we get our employees more involved in making these decisions; how

do we reward people for staying healthy?

This is ordinary Minnesotans at work. No Government told them what to do. No Government or alliance or HIPC, or anything else. Only them. They made it up themselves.

All over America, this sort of thing has been going on in just the last few years. Efficient networks of care have expanded enrollment today. Up to 51 percent of private sector employees are in some kind of new network. I think my colleague from Oregon talked about this last night. The goal of market-based health care reform is to capture the gains of this trend toward competitive markets, to recreate national rules so that all these local markets can work, to give the hospitals of this country some sense of direction.

If we are going to cut them in half, the number of beds, they ought to know how it is going to be done. If you are going to get rewarded as an insurance company for being accountable rather than just being a bill-paying service, we ought to know what the rule is. And if you buy your health insurance in Minnesota but you use it in Florida, you ought to know the rule is the same in Florida as it is in Minnesota. National rules for local markets.

And no two markets are the same, Mr. President. The Omaha market is different. It is a different culture. Medicine is a series of relationships. Health care is a series of relationships at the local community level. But everyone in those relationships needs to deal by the same rules.

So, taking this little national rule, this so-called ERISA rule, we have tried to adopt a set of principles that said if we can just have national rules by which these markets can operate, then we do not have to tell the markets how to operate.

If they can do it in Minnesota without the Government telling them how to do it, if the Mayo Clinic, which is 1,100-plus doctors—you know, now they are in the primary care business and the rural business and the specialty business.

If the Mayo Clinic, from 1986 to 1992, can be averaging a growth of only 3.4 percent a year and in the last 2 years less than 1 percent growth in cost, they must be doing something right.

We have talked before in the Finance Committee about liver transplants at the Mayo Clinic—which is one of the best in the world, according to the U.S. News and World Report—are something less than $150,000—for a liver transplant.

Now that is a lot of money, but nothing compared to Tampa General Hospital in Tampa, FL, where my folks live, where it is over $300,000.

Now, who is better, Mayo or Tampa General? I do not know. Ask King Hussein. He goes to Mayo. But ask the average American, they do not know, because nobody tells them; because we pretend this is a social good and we cannot tell them this sort of stuff. Why not? Why not? No good reason.

Now, I am going to use that chart in just a second for another purpose, but the reality is—to get to the heart of what I want to talk about—the reality is that all of the Democratic bills that I have seen, and that includes the majority leader's bill, start out the same way. They all say we are for managed competition. They all say we have buyer co-ops, we have insurance reforms, we have rules for accountable health plans. They all start out the same way. They preempt some States' actions, in many cases, so we can have national rules and preempt the States from their anticompetition work.

But what they give with one hand, they take away with the other. They are so anxious just to get to universal coverage without having Government pay its fair share of its promises, that they compromise the market in order to get there.

President Clinton paid for universal coverage with something he called savings—savings.

Senator MOYNIHAN—and I know he does not like it when any of us say this—called that financing scheme "fantasy financing."

But, Mr. President, practically every committee in the House and the Senate has turned down explicit financing. There is no broad-based income tax to cover the 15 percent of Americans that are uninsured. There is no broad-based income tax or excise tax or anything like that to cover the cost of bringing all low-income people into this system.

There was a large tobacco tax but, thanks to a lot of Democrats, in particular from tobacco-growing States, that tax is practically gone.

So, we cannot raise real taxes. Fortunately, we cannot raise debt anymore, because we have a resolution that says we have to stop at $5.3 trillion.

We have only two choices.

Congressman GEPHARDT says, and the President has said in his original bill, we have to mandate somebody else to pay the bill. Let us have an employer mandate so all the employers pay 78 percent of these premiums, and then we in the Government will not have to raise the money to pay for universal coverage. It is called regulatory federalism, for those who are students of the way intergovernmental systems work.

There are three things the Federal Government can get people to do. First is taxes; the second is debt borrowing; and the third is tell someone to do it—mandate it.

Now, the employer mandate does not seem to be going anywhere, and there is a very soft employer mandate in this particular bill.

The universal coverage sponsors need a mandate. Without it, they have to resort to hidden financing. They have to shift funds from one place to another—cost shifts. They say we need to have universal coverage in order to end cost shifts. But what they do is force everybody into community-rated pools of payers in order to do cost shifts.

Let me say that again. What they do is force everybody into community-rated pools. The President had these things called mandatory alliances. In the labor bill, they had alliances which they said were voluntary, but the coverage pools served as the cost-shifting vehicle. Now, in the Mitchell version of this, we are going to have 78 percent of American workers in large community rated pools, and the other 22 percent in experience-rated pools, composed of employers of 500 or more. The objective is to get everyone into a community-rated pool of payers in order to do cost shifts, not to stop them.

What does raising this requirement of a firm from 100 to 500, for example, have to do with anything? You cannot self-insure if you are less than 500 employees. You have to go into some kind of community-rated pool. And I think they begin with adjusted community ratings, then they go community rated, or something like that.

What does that accomplish? Well, for one thing it stopped all these employers from getting together and negotiating what I was talking about earlier.

In the State of Vermont, there is only one company that employs more than 1,000 people. So in all of the State of Vermont, you have all these negotiators who are trying to change the system probably down to one or two or three people.

There are 50,000 employers between 100 employees or less and 500 employees or less—50,000 people all over this country who could be negotiating to get the quality of health care up and the prices down, but they are all wiped out. They are all wiped out. Half of the employees in this country are in groups of 100 or less and half in groups of 100 or more, which is why we chose 100 as the breaking point. In smaller firms, they need to group up to get market power.

The second reason we chose it, those of us who believe in the market, is that we wanted people, a lot of employers and a lot of employees, working to change this market. But, no, that is not what the Mitchell bill does.

All the firms in the Mitchell proposal are required to sign up for a cooperative within these pools. Remember, there are 78 percent that are in one of these mandatory pools. If there is no co-op available, believe it or not, what do you do? You go to Washington, DC, where the Federal Employee Health Benefit Plan will put a co-op together for you; a Government buyer from Washington, DC, given a competitive advantage over all other co-ops.

Senator MITCHELL takes away the incentive for many employers and many

VOL 140 PT 15 AG 10 — 11 1994 UMI

groups and associations to negotiate. We have carefully tried to bring trade associations, MEWA's, a lot of other employer organizations into this process. And now they are gone. What happens? Once all of these buyers are into one pool, what happens? Now the cost shifting begins in earnest. Last night, I heard our colleague, the chairman of the Labor and Human Resources Committee, Senator KENNEDY, say the majority of the funding in the Mitchell bill comes from savings in the Government programs. He is right. This bill increases cost shifting from Government to private employers in several ways. Today, two-thirds of the current cost shifting is embraced under payment by Federal programs, Medicare and Medicaid—something in the neighborhood of $24 billion to $25 billion a year.

Not only will this cost shift continue, but the Mitchell bill plans to increase it. What are Medicare savings? They are budgeted reductions in fees for Medicare expenditures. Medicare currently pays 59 cents on $1 of medical charges of part B, and 71 cents on a $1 of hospital charges in part A. Who pays the rest? That is a cost shift. There is no question about it. The cost shift works easily in the suburbs, where you have a lot of third-party payers to shift it on, but it does not work so easy in rural areas where two-thirds of the people are in Medicare or Medicaid.

So the difference is consistently shifted onto employers. And the rationale in the Mitchell bill for getting 78 percent of the working people into these large co-ops is so that you have this much larger pool, guaranteed to pick up the costs that are shifted from the Government programs. Senator MITCHELL said he is changing Medicaid so these people can join private plans as well—again, through these pools. Senator MOYNIHAN and I had a proposal for how to do this, how to phase it in over a period of time. But that is not the proposal in this bill. The proposal in this bill is to have all of the low-income people come right into the pool with working people or small businesses. The problem is that insurers do not know how to estimate the risk of previously uninsured individuals, so they will inflate the potential risk, thus raising the cost to everyone in the pool. So workers' rates go up. This makes risk adjustment, which we barely understand, very difficult. And health plans will go back to risk avoidance rather than seeking risks to insure.

Low-income individuals who qualify for subsidies would not have to pay for deductibles and copayments. The Government does not pick up the cost of the copayments or deductibles—you will. These will be shifted onto working people in that pool, as well. Subsidized people do not have to follow open enrollment rules, according to the Mitchell bill. They can sign up when they are sick without penalty. Think of that. When you know you are sick, you can go buy an insurance plan in part of this pool. So prices will reflect this personal risk selection, as well.

If that is not bad enough, plans cannot cancel people who fail to pay their premiums. Those losses are passed on to people who pay their bills. In effect, free riders shift costs onto riders. And we are not done yet. Not satisfied with cost shifts onto employers in the community-rated pool, the Mitchell bill allows new cost shifts from the community-rated pools to larger employers who are buying in experience-rated markets. Using "risk adjustment" programs governed by Federal and State rules, the funds will be transferred from huge community-rated pools to large employers. And this is simply a hidden payroll tax. Because it is hidden it is unlimited and open-ended.

The focus of criticism so far on the Mitchell bill has been on the triggered mandate on employers. But you do not need a mandate to force employers to pay the Government's obligations. You do not need a mandate to force employers to pay the Government's obligations. This bill, the Mitchell bill, does it for you. This 2001 trigger is not the problem with the Mitchell bill. The majority leader said in his opening statement today the only way cost shifting can be stopped is to cover everybody. The way his bill does it, the cost shift does not stop, it is institutionalized —from politicians who make promises and then break them and force working people to pay the bills.

Any kind of coverage extension that is premised on savings in this place has to be looked at very closely. And whether it is the drug benefit for the elderly, the $90 billion drug entitlement which is paid for from savings, or any of the other additional benefits, somebody has to answer the question that Denny Timm asked up in the Ace Hardware Store: Who is going to pay for it? How much is it going to cost? And how much is it going to affect me?

Shared responsibility, I cannot find it in this bill. People who have gold-plated plans continue to have unlimited tax deductions. Some of the law firms in this town pay $1,000 a month for plans, with a tax subsidy of 39 percent. That is $4,680 a year of your taxes going to buy their health plan. They put nothing at risk to maintain that system. The self-insured in the Mitchell bill—over 5 years, self-insured people will only get a 50 percent deduction for their premiums. Working people who pay their own premiums get nothing—nothing—while the lawyer gets a $4,680 tax subsidy.

I appreciate very much the efforts of the majority leader. Let me conclude by saying to the majority leader and to my colleagues who are on the floor, particularly those who are the leaders of the committees who brought us to this day, what I said earlier. First is that I do not think we are rushing to judgment on health care reform. We have been at this for a long time, and it is about time we take action. So I am on your side on that.

But I also say, we have to start looking at the forest, not at the trees. Universal coverage is a tree. We cannot even define it. Medically uninsured is a tree. Employer mandate triggers, there is a tree. FEHBP, that is a tree. Risk adjustment, that is a tree. Mandated benefits, that is a tree.

We need a vision of what the forest could be. We cannot get to a bipartisan—which I think it needs to be—health care reform bill one amendment at a time on this bill. We cannot get there one vote at a time.

I just need to conclude by reading from the quotation from Bob Reischauer, that was included in the Robert Samuelson article in today's Washington Post. For whatever else you may think of Reischauer's estimating prowess, I think he has been in health policy for as long a time as many of the rest of us. He warned trying to find a compromise by combining provisions from different bills might make the health system worse. He compared it to building an auto engine with incompatible parts.

"You cannot say," he says, "I want a piston from a Ford and a fuel pump from a Toyota, and expect the engine to run."

Mr. President, the majority leader, I am afraid that is what we are trying to do with these melded approaches to health care reform. We need a vision for what we could be as a nation; the role of medical invention, of information technology and, yes, the role of Government in getting us there.

I also think that it needs to be—and I have pledged to all of my colleagues—it needs to be bipartisan. By that, I do not mean one or two or three Republicans. I think there are a substantial number of Republicans in this Chamber and there are a substantial number of Democrats who do not want to put this off, who want to deal with this issue. And we need to be given the opportunity to do that.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, may I first thank the Senator from Minnesota for his words. That he has not dropped out of this effort is hugely important to us.

He has been on this issue from the day he arrived in the Senate. I, for one, hope he will leave a large achievement behind him. I think it is still possible. I think what he has said this afternoon makes it even more so. I want to thank him, and tell him of the gratitude I have had for his work in the Finance Committee all these years and, in point of fact, the only slight change I would make to his erudite factual statement is that the bill before us is, in fact, at this moment still the Finance Committee bill.

Mr. DURENBERGER. Will the chairman yield?

Mr. MOYNIHAN. Of course.

Mr. DURENBERGER. I leave you with one story. This is gleaned from the Tragedy of Lyndon Johnson by Eric Goldman. This is a story, again, that involves the passage of Medicare in 1965. As the story goes, one of the ways in which this Medicare bill was ensured of success is that Lyndon Johnson, being given a variety of ideas that came from Republicans, said laughingly to his staff, and I will quote:

> Just tell them to snip off the name Republican and slip those little old changes into the bill.

I thought of that story in the context of my advice to the majority leader and to my colleagues on the Democratic side of the aisle. That sort of sums up the essence of bipartisanship in this place, and it is a long tradition. It goes back to LBJ. You can, as far as I am concerned, snip off any contribution I make to the effort if, in fact, you can make sure it is bipartisan and you can make it happen this year in a way that—as the Finance Committee chairman said earlier, at least 60-plus Members of this body to get it passed.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I yield the learned and indefatigable Senator from West Virginia as much time as he desires, 20 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I thank my dear friend from the State of New York.

Mr. President, as we prepare to finally work the Senate's will on health care, a story comes back to me. Back about 50 years ago, a Russian visitor to Washington sat and observed a session of the Congress and said: "Congress is so strange. A man gets up to speak and says nothing. Nobody listens and then everybody disagrees."

I think everybody in this body can remember debates on this floor where we have had the same kind of thought. But I hope and I pray that all of us will approach the next days and weeks as we debate and resolve a bill to deal with our Nation's health care crisis, that we will approach it very differently than what the Russian observer saw.

When each of us sought election by the people of our States to this Senate, we never thought or agreed that it would be easy. I truly doubt that any of us tell our constituencies that we serve in the U.S. Senate just to talk or to make speeches or to argue amongst ourselves until we can go home for the night. We are all here to confront problems, not to pretend they do not exist. We are all here to represent the people of our States as part of the same union bound together as a nation. And now we have reached this moment when we confront a problem called health care in America.

In our wake are years and years of speeches about the crisis of rising health care costs and diminishing health care coverage.

I noted my friend from Minnesota, as he spoke, said many true things. And I think that the majority leader, Senator MITCHELL, has reached out in his bill by making many compromises. I interrupted the Senator from Oregon to point out that the cap on residency at academic health centers have been eliminated. That was in order to reach out, not only to the Finance chairman but also to the Senator from Oregon, and others, who felt that way.

We have reached out in terms of making alliances not mandatory but voluntary. We have stretched out the time line. If there is ever to be a mandate, it will never happen until the next century and only then under certain circumstances, only if the Congress does not follow the orders of the commission. We have reached out.

But I have to say that in the search for the 60 votes that the Senator from Minnesota so dearly wants, that this does have to be a two-way process. We cannot constantly be reaching out and out and more and more and then nothing comes back. It is very hard to reach agreement that way.

So here we are with our years of speeches about this crisis. This debate begins after, as you go over the years, I would say virtually thousands of hearings in Congress. Certainly tens of thousands of hearings and public meetings in our homes and visits that all of us have had with people in our States. Hundreds of reports, hundreds of studies and commissions, mountains. They fill cabinets in everyone's offices and in distant chambers somewhere in this complex, telling us some of the grim facts about health care in America.

We have to be realistic. The Senator from Minnesota spoke about the fact that we let the market work. That is one of the compromises Senator MITCHELL has made in this bill, is to give more time for the market to work. But I have to point out to my friends on the other side that the Department of Labor has recently indicated that workers who are insured, who have insurance through their jobs, that their numbers dropped from 66 to 61 percent over the last 10 years and that the trend is downward under the voluntary system. That means, Mr. President, that 5.5 million more working Americans are now uninsured.

The market system works in different sectors in different ways. Does it work perfectly in health care? I am afraid not. At some point, we have to draw on everything that we have learned, from the experts, from our own constituents and from our own souls, and decide on the actual steps that will solve as much of the problem as we possibly can this year.

With the health care plan submitted by the majority leader, we now have that opportunity. This is a bill that tries to achieve the major goals of health care reform in ways that will work and that we can afford and that are fair. The majority leader can only offer the rest of us the opportunity to act. He has no powers further than that. Then it is up to us. In order to complete this process and pass a good bill, enough of us have to commit to the hard work, commit to the honesty, looking at ourselves squarely in the mirror that comes along with solving problems that are as difficult and complex as health care. We have to do the listening and ultimately the decision-making that must occur if action is to be taken on behalf of the American people.

That, Mr. President, is what a legislative body is supposed to do. That is why we are here. That is why we are hired on. If too many Senators treat this debate upcoming as only a chance to score points, one against the other, one party against the other, their win is the American people's loss.

If too many Senators also stay stuck on the idea that we should hold off one more time until next month or next year or the next election, their delay dashes the hopes of millions of Americans—many in my State—who are now thinking maybe—just maybe—something will soon happen here to help them with their health care nightmare. If too many Senators refuse to admit that solving problems takes compromise and risk, their evasion means leaving the health care problem exactly where it is, and there is that possibility, Mr. President. There is that possibility, that from all of this effort, nothing will happen; that we will talk about bipartisanship but in the end there will be only one Republican and a number of Democrats and everybody else will be "no" and the votes will not be there. There is that possibility that we have to confront.

If we do that, leave the problem where it is, sadly, millions of Americans will have the terror of getting sick or of getting a pink slip, and yet everywhere I look someone is calling for more delay. We hear battle cries of filibusters against Senator MITCHELL's health care reform bill, itself a compromise bill based upon a compromise bill. Most astonishing is the talk that it is too late. Too late for whom? For us? Mr. President, it is not too late for the people that I represent. As West Virginians have told me now for many years, over the many years that I have

VOL
140
PT
15
AG
10
—
11
1994
UMI

worked on this issue, they simply need the politics and the posturing in Washington to stop. That is the only way—there is no other way—to actually solve the health care problems that are hurting our people, choking our businesses, and robbing our future.

For what are the champions of delay waiting? Is it not obvious enough that if Americans could get health care that they need on their own, through the current system by simply working hard and playing by the rules, they would have it, that they would be insured, that we would have universal coverage? The system has been in existence for quite a long time.

Unfortunately, this is a problem where they need Congress to act and to not make excuses. The rules that affect their lives, that are ruining lives, have to be changed, and only we can do that. That is what the bill from the majority leader is about. We have the time we need to pass a good bill. We have the time to keep faith with what matters most to the American people. We are building from years of work by Senator after Senator, many of them on this floor now—Senator MOYNIHAN, Senator DURENBERGER, Senator DOMENICI, Senator DOLE was here, many others—Senator PRYOR, Senator SIMON—many years of work by many Senators, 40 alone among the Finance Committee and the Committee on Labor and Human Services, Senators who have been steeped in this for years, who devoted untold hours to this issue, and we have 8 weeks left in this session to produce something that meets the basic test.

For West Virginia, there is only one outcome that deserves to be called too late. That is if Congress fails to pass a good health care bill this year. Then it will be too late for thousands of families in my home State—11,000 of whom will continue to lose their health insurance each month through no fault of their own. If trying to enact reform is pushed off once again, it will be too late for thousands and thousands of our senior citizens, veterans, children, young people, small business owners, and, Mr. President, for the 210,000 people in working families in my State who work each day, pay taxes and play by the rules but do not have health insurance. In a country called America, that should not exist.

These West Virginians cannot put their health care problems on hold or send them on recess, and they sure cannot turn to the Federal Employees Health Benefits program like we can. They have their own life savings, their homes, their peace of mind, their financial future, and, in some cases, their lives on the line. So for West Virginians, too late comes only if the Senate does not work through this bill, through our disagreements, and through our way to real results for very real people.

Mr. President, I think about Gary Smith and his family in Salem, WV. Their situation to me says it all. One of Gary Smith's three sons suffers from neuro-fibro mitosis, which is an unusual disease commonly called elephant man's disease. The son needs surgery to correct part of his face that is growing out of proportion with the rest of his body.

Gary, the father, works, painting high tension towers for a Pennsylvania company, but that very high stress job does not come with health benefits. The last time his son had surgery, the surgery cost $50,000. They were lucky that time; the hospital absorbed some of the costs and saved the family from bankruptcy. But this time they have to come up with the money; this time no more relief; the extra surgery cannot be put off; and yet the Smiths have too much to qualify for Medicaid—he is working—and too little to buy insurance on their own. He does not make that much. They have nowhere else to go.

I have no idea whether Gary Smith is a Democrat or a Republican. I have no idea if his political thinking is mainstream, midstream, to the left, or upside down, and I could care less. I just know that America cannot go on being a country that leaves hard-working people like Gary Smith out in the cold. It does not make sense, morally or economically, to be a people that are divided between those who can get health care and those who cannot, or between the people in businesses who shoulder the costs of rising health care and those who cannot or will not.

That is why Democrats and Republicans, the left, the middle, the right, whoever you are, have to do this together or we will fail. The majority leader deliberately and carefully crafted a bill that draws on the work of Senators from both sides of the aisle, from many committees—particularly two—and from other bills, a compromise on a compromise on a compromise, to try to get the votes, earnestly to try to get the votes.

The bill passes the most important test. It lays out the steps to universal coverage. We will get there, step by step—more slowly than I had hoped but with the important beginning of focusing on children. The bill responds to the fears about more bureaucracy which is so often discussed on this floor. It cuts most of it out. That will be an interesting subject for debate.

There are now protections and benefits for America's small businesses. Senator MITCHELL's bill includes prescription drugs and long-term care, the very proposal in fact that DAVID PRYOR and I made in the Finance Committee to guarantee home- and community-based care to millions of people, not just older but people of all ages, since 40 percent of the people who need long-term care are, indeed, younger than 65.

The bill has essential provisions to address the chronic shortage of primary care physicians all over our country, in both rural America and in our inner cities. We spend billions and billions of hard-earned taxpayers' dollars, Mr. President, to train physicians. Most taxpayers do not know that—billions of dollars to train physicians. Tax dollars through the Federal Treasury pay for over half the cost of what is spent in the totality of training a physician in America today.

Now, does that not suggest the Federal Government on behalf of taxpayers should also have something to say in suggesting that the money be used to train the kinds of providers that Americans need and where they need them, and in the right numbers? Taxpayers' money, public policy should follow behind that.

That simply is what the work force section in this bill is about, to make sure that we have the kinds of doctors to meet the needs of all Americans in West Virginia, in New York, in California, and in every other State.

The bill before us aims at keeping faith with America's veterans. There happen to be 27 million veterans in America. Comprehensive health care reform makes it finally possible to improve the quality and availability of medical care for all veterans, not just the 2.67 million who use the veterans hospitals now, but for all 27 million. It has extraordinary possibilities. It is in the bill. The leader's bill is our chance to meet that goal.

So, Mr. President, in conclusion, when all this is taken together, there is no arguing with the notion that Americans will have better, more affordable, more dependable, more secure health care with the Mitchell bill.

Mr. President, I urge all of my colleagues to think long and hard about the consequences of how we spend these next several weeks. It is in our power to produce a bill that eases the burdens of families and businesses and children in every State and town of this country. It is in our reach to work out our differences and put our energies into achieving positive results. It is now up to us, each of us, of both parties, to prove that we can turn our years of words about health care into deeds that extend to Americans the basic health security that can never, ever be taken from them.

I thank the Chair. I thank my distinguished finance chairman.

I yield the floor.

Mr. MOYNIHAN. Mr. President, could I just congratulate my learned and, as I said, indefatigable friend, the Senator from West Virginia, on his statement. He is entirely right. There is no reason whatever to go out of this Congress without legislation. He has said, in somewhat different tones but with the same level of comity, exactly what the Senator from Minnesota said,

Senator DURENBERGER, who opened the debate today.

I think it is going very well. I hope people are listening to this.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Oregon.

Mr. PACKWOOD. Mr. President, the Senator from West Virginia is one of the decent and kind people in the Senate. I have a quarrel with a number of things he said. But I will take only one.

He said the majority leader very carefully crafted this bill, taking bits and pieces from other bills and coming forth with almost nirvana. I did not think the last bill was nirvana.

But if this bill was so carefully crafted taking bits and pieces from all of the bills from all of the hearings, why last night do we have this? It does not have a number on it yet. This is the majority leader's new bill with every section, every subsection practically, changed. We do not know what is in it. If the last bill that he introduced was so carefully crafted, why do we need this? And if we need this, is this the last carefully crafted bill? Or are we going to have another carefully crafted bill tomorrow, or next week, or next month?

I think what crafting is attempting to do is to pick up a vote here and there, and he will craft it and craft it and craft it until he thinks he has the votes. It has nothing to do with the substance of the subject. It has a lot to do with the votes for the subject.

I yield as much time to my good friend from New Mexico as he may want.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I say to the junior Senator from West Virginia, while I have not had the opportunity to work with him as much as some Senators on the Finance Committee, we disagree on some things. But I, too, want to compliment the Senator from West Virginia on the way he conducts himself both on a personal basis and on a senatorial basis. I hope I am considered his friend because I take that view with his family. I am very pleased to be working on this bill. I hope we can come up with something together, bipartisan. I am not sure we can. But I want to express that right up front.

Mr. President, when I first came to the Senate a long time ago, I brought to Washington my children, all eight. And my last born were twins. They were 5½ when I was elected. We brought them and we bought a big enough house for all of them. So we live pretty far out, because, obviously, we do not have a lot of money. The further out you go, the more you buy. So we actually bought a house from the Israeli Embassy, which had a staff house out there. I did not know that. But it turned out to have a nice basketball pole and everything.

So I worked hard and did not spend much time with the children. But one morning I said, I am just going to go in late. I am going to be with them. It is teachers' holiday, so they were home. By then they were about 7. They were sitting in two chairs, as you might suspect, in front of the television set. Things have not changed much. And they were attentive as can be.

I put on my trusted robe. I sat behind them, and I was going to kind of be part of them, I thought, for a little while. So I put in a few words this way, a few words that way to see if they would focus on me instead of that television. Finally, one of them looked over her shoulder and said, "Daddy, you is no king. You're just a Senator."

Well, you know, this problem is big enough for a king. It is big enough for somebody who just sits down and says we are going to fix it. We do not have that luxury. So the second best luxury, as I see it, is to be a Senator, to be in this body at this historic time and to do just one very simple thing; that is, to try to get health care reform without doing a lot of harm to other things. And that is what worries me.

I am going to talk about the bill today that I thought was the premise for Senator MITCHELL's and President Clinton's proposals to reform health care. And many in this Senate know—and I take a great deal of pride in this—I did not come here today unprepared. I mean, there will be some things I will tell the people of this country and the Senate that nobody knows yet about this bill. I thought the good thing about being here right now and the way we are structuring it was maybe we would educate the American public and maybe we would educate ourselves, and maybe we would do the right thing. You cannot do the right thing in this kind of reform without knowing what you are talking about.

I just want to suggest that nobody is to blame. It is just sort of an admission on my part that I feel a bit let down today because I am going to spend about 35 or 40 minutes talking about what I think is very important about the deficit of the future, the debt on our children in the future, the fiscal policy of our Nation, new taxes and what they are going to do to our future, and how this great health care system might be adversely affected by what we are trying to do in the name of doing things better.

So I feel a bit let down after that work because I have just got this piece of paper that lists sections effective August 9 of yet a new bill. Frankly, I am not sure I am explaining to the American people the health care reform bill that is pending before the Senate for their consideration because I now find that this very well could be a whole new bill. First of all, it has grown. I did not catch that until just a couple of minutes ago. But this is 38 pages longer than the first bill—whatever that means. However big it was, it is 38 pages longer. I now find that in this bill, believe it or not—this new one, which I assume is out there to see whether 51 Senators can join it—there are a total of 139 sections that have been modified, amended, or deleted. That means that every single one of the 11 titles in the previous bill have been changed.

I assume that these changes are not one-word changes or grammatical changes. I assume there are some big substance changes. So I apologize right up front to those in our country and those who listen in the Senate; I apologize if my analysis is wrong. I do not believe I made a mistake. I choose to quote outsiders as much as I can in this statement. But we may be totally off the mark, because we may be talking about one proposal, and the majority leader may have a completely different proposal. I believe that is the case and, frankly, I want to make this last point only one more time: There is nothing more important to our future than that we do health care reform right. If we do it wrong, the repercussions, the legacy is an enormous thing for us to bear and for others to be burdened with.

I believe that the first Mitchell-Clinton bill that preceded this modification—I have looked at it enough and analyzed it, that I cannot believe it was seriously intended to become law. Had the U.S. House—after 51 Senators got signed up to that bill—agreed to accept that bill, I tell you, I cannot believe that it would really become law. Let me say, if that were the case, it is such a piecemeal project that I believe we would be back in 6 months with major surgery—to borrow something from the medical profession. I believe when the people of this country found out what was in it, and what they were going to have to do, for those who think this would be a good election ploy—if in 2 months they can find out things wrong with it, it will be a terrible thing for those who vote for it, because by the time people analyze what it does to the future of the American economy, to health care, to new costs, new taxes, to lack of ability to choose, and what it might do in the future to our health delivery system and professionalism, let me tell you, there would be a big price to pay.

I want to put this problem somewhat in perspective. Let me state at the outset that I believe we should enact health care reform. I think there are things in the system we ought to correct, and some of those are very serious. I give the President of the United States, Senator MITCHELL, Senator DOLE, and a myriad of others, credit for putting this issue at the top of our

VOL 140 PT 15 AG 10 — 11 1994 UMI

agenda. But as we move toward reforming our health care system, we in this Congress, like doctors who deliver health care, should take the Hippocratic oath to do no harm. We should take that oath to do no harm. We must remain conscious of the strengths of the health care system and careful that in our rush to reform it, we recognize these simple truths:

First, our health care system is huge and it is complex, consisting of almost $1 trillion in expenditures, private and public. It is one-seventh of the American economy now, and if not controlled, by shortly after the turn of the century it will be one-fifth of the entire gross domestic product. That is astonishing. I do not even know how to put that into common words for people to understand.

Since the gross domestic product is the sum total of everything of value that we do in a year, I think I might put it this way: This health care system will be so big that one of every five Americans will be taking care of you. So we might say, is that not wonderful? I say you can walk down the street and you can almost be assured that if five people have passed you, one of them is taking care of you.

I do not believe we will make it with that kind of system. I do not believe we can have a standard of living that is befitting of our people if one-fifth of everything of value we do, from producing cars to making desks, to buying food, to the myriad of things we live with—paying for electricity—if one-fifth of it is to stay healthy. That is what scares me, because my first point is that if you look at the leader's plan—the so-called Mitchell-Clinton plan—you do not reduce the costs of health care, you increase them. So that if you did nothing, we would be at 20 percent of the gross domestic product—and my good friend from Oregon said yesterday slightly less than that—after we do all this cost containment and all this other rigmarole that is in the bill.

Mr. PACKWOOD. If it all works right.

Mr. DOMENICI. And "if it all works right," says my good friend from Oregon.

The second point: Most Americans—85 percent—have health insurance that gives them access to the finest quality health care system in the world. That does not happen to be the case in my State. There are more uninsureds. But taking the Nation, 85 percent have health insurance, and most people think it is pretty good.

So the first point to be made is that we are talking about 15 percent of Americans that are uninsured, and a system that is trying to take care of those 15 percent in a rather willy-nilly way. But built into the system we are paying a lot of money already to take care of them, but not in an ordinary, primary care way, rather through emergency care and the like.

As I see it, I do not believe that we should pass anything that we are not as certain as we can be that it does no harm to the system that is delivering first-class health care services to tens of millions of Americans. As we move to improve the physical health of Americans, I believe it is imperative that we protect our Nation's fiscal health, our budgets, our obligations and our taxes, all of which are our fiscal health, and in our rush to reform, that we do not underestimate the costs and bankrupt this Nation.

The best way for us to ensure that we are moving in the right direction is to build our reform on principles that have wide bipartisan support already. Unfortunately, there is a lot of rhetoric—and much of it is partisan—surrounding this debate. I believe it does not add very much to the actual performance of our ultimate job. But it makes achieving bipartisanship, and an agreement based on that, much more difficult.

I would almost conclude for the people of this country that if a totally partisan bill is produced, what the majority leader will have to piece together to get the segments of the party and philosophies on his side of the aisle, will end up being a plan that does great harm.

I do not see it otherwise. I do not think there should be a rush to pass a bill that is partisan, because I think anybody who understands what that means would conclude that it will not be balanced.

Health care is too important because it affects every American in one way or another. Therefore, I believe sooner or later, hopefully sooner, we will put some of this rancor aside and focus on reforming health care without driving American families and American business or our Government into huge debt and, in some instances, into the inability to pay those debts.

This great country of ours has a huge private sector. Frequently we speak of that private sector, and many do not understand what it really means. But, first, the private sector in this country is principally made up of businesses large and small. They survive, if they are competitive, for the most part. If they are not, they do not make money. They cannot pay people. They do not pay good wages.

So let us recognize that we are taking up in this legislation at a time of tremendous reform and change in this health care system that is already occurring, and most of that change is in the private sector where they are driving health care costs down.

Let me repeat. Led by large employers, our health care system is already making enormous strides in controlling costs by enhancing quality. That is happening. We can see market forces at work in my home city of Albuquerque, where competition is strong. Hospital costs in that city are 40 percent lower than 200 miles away, in the city of Lubbock, TX, for such things as heart procedures and that kind of very sophisticated hospitalization and surgery.

Recently, the Wall Street Journal carried a report that a large coalition of employers in northern California used a competitive bidding process to successfully negotiate reductions in health insurance premiums of between 5 percent and 18 percent from 18 different suppliers of health services called HMO's.

This is beginning to happen all over America, especially in areas where large employers have aggressively begun managing their costs. The days of paying anything, not challenging it—just send the bill—are gone. They do not need the Federal Government to tell them how to make those kinds of changes. They are occurring dynamically and dramatically in the marketplace.

In my view, health care reform should encourage the favorable trends now taking place in the private sector, not turn over control to the Government.

Now, despite the strengths of this system, there are some facts to be faced. For too many Americans, the health care system is not working. If you work for small business, as so many New Mexicans do, you face some very serious problems because small business faces some very serious problems in terms of insurance premiums for health care. Insurers are likely to charge you much higher premiums for administrative costs than they charge larger businesses. You have less market power to negotiate good rates with insurers, and workers may be charged higher premiums. When a coworker has a medical problem like diabetes, insurers can deny you renewal of insurance if you had any major medical expenses, and insurers can exclude preexisting conditions if you switch jobs, creating job lock, one of the words that health care has brought into focus.

Moreover, if you are poor or of low income, but not on Medicaid, the high cost of health insurance makes it nearly impossible to get coverage, which is the primary reason there are so many uninsured Americans today. Americans with incomes below 200 percent of poverty, roughly $15,000 for an individual, are three times more likely to be uninsured than Americans with incomes above that level.

And, finally, we cannot assume that costs are under control even though I have stated what is going on in the marketplace, and there is a great anecdotal evidence regarding even those emerging signs of better cost controls, principally by big businesses and big purchasers. It is clear that some regions of our country are still experiencing very high cost increases. So any

health care reform must attempt to address those problems.

I want to depart—since people here frequently think of me as one who deals with the budget and they ask me questions about the budget, want to talk a little bit about health care reform and the Federal budget. Why would I do that? Because essentially, whether we like it or not, we are going to be voting on legislation that has a big effect on our children and grandchildren in terms of the budget of the United States, whether we are still in an enormous deficit position, whether we are still unable to pay our bills as a nation. And thus, in a very real sense, the effect on the Federal budget of this plan and any major plan is of extreme importance, and we ought to try our best up front to understand it.

That is not so easy, because we are sending new things to those who make the estimates all the time. Evidence of that is today, when every section in this bill has been changed, and yet we had some estimated costs in here the day before yesterday and yesterday.

So we must be careful not to saddle our young people and to burden future generations with today's health care costs. After all, the administration in its 1995 budget document revealed that future generations of taxpayers are already projected to face taxes amounting to 82 percent of their income without health care reform. That is in the President's budget document.

To quote Harvard law professor Laurence Tribe, and this quote was made in a public hearing regarding a balanced budget. Listen to it as it resonates with reference to the issues at hand, and I quote:

> Given the centrality in our revolutionary origins of the precept that there should be no taxation without representation, it seems especially fitting in principle that we seek somehow to tie our hands so that we cannot spend our children's legacy.

That is a pretty good statement by a constitutional scholar who understands the significance of indenturing future generations. He calls that taxation without representation.

There is no more compelling case for controlling health care costs than their current and projected impact on the Federal budget. Indeed, one of the most critical issues facing the country is continued growth of open-ended, mandatory spending in the Federal budget. That is, you create the situation where a citizen is entitled, as a matter of law, to benefits, and if you do not pay them, they can enforce it in a court of law. That is the definition of an entitlement. And this is led today by Medicare and Medicaid and the resulting growth in budget deficits.

It is amazing—I cannot pass judgment on the majority leader's bill or this serious modification—but it is amazing, since the major cost of future deficits is the open-endedness of Medicare, that that program was not found in the President's health care reform package; rather amazing, the very program causing the deficit problem and the cost containment problem for future generations, that program was left out of the reform, presumably to run much as it is today.

These costs of Government health entitlements which are not subject to competitive pressure have escalated at a remarkable pace since they were enacted in 1965 and will continue to do so in the future.

Between 1970 and 1993, Medicare spending has grown on average more than 14 percent a year, and Medicaid has grown more than 15 percent a year. It is no coincidence that the explosion of these programs coincides with the beginning of our long struggle to control the Federal debt. If, in the end, we do not control these programs, it will not matter that we have health security because our jobs, our prosperity, and our future will be in jeopardy.

I want to speak a moment about what I perceive to be a significant broken promise. I thought that the President agreed with me and many others in the production of his budget and the projections for the future. In fact, the President has said on many previous occasions that we will never get the budget under control if we do not control Medicare and Medicaid. You may remember, as I do, that the President sold his tax and budget plan to the American people on national television in July of 1993. During that TV news conference, the President said:

> We need to bring the deficit down to zero. To do that, we have to pass health care reform.

In fact, his promise of spending cuts in the context of health care reform was one of the arguments he used to get Congress to approve the tax increase, which I believe the distinguished chairman of the Finance Committee said was the largest tax increase in the world in history; anyhow, somewhere close to being the highest ever for Americans.

Now, might I explain to you what was found in the President's budget and vision statement with reference to health care?

Found on pages 116 to 120 of A Vision of Change for America, the President's tax and budget plan, issued in February of 1993, the President promised massive deficit reduction from his yet-to-be unveiled health care plan. In fact, Mr. President, he promised a $300 billion deficit reduction between 1995 and 2000.

On this chart, the President's promise is reflected in the red or orange area. Here we were. Here is where we were going to go on the green line if we left everything alone. This entire orange or red area was going to be applied to the deficit of the United States and get the deficit under control.

The President was right in one sense. We cannot balance the budget with Federal health care costs growing as they are. Despite the slowdown in private health spending, let me repeat, CBO, the Congressional Budget Office, continues to project that Medicare and Medicaid will grow at around 11 percent a year even if inflation is 3 or 2 percent. In 1980, those programs cost $48 billion. In 2004, they will cost $650 billion.

Now, here is what has happened to the promise and the reality.

This orange is what everybody is telling the American people is the savings that are going to accrue in the two major health care programs of the United States when and if we get the costs under control. So the President projected we are going to get health care costs under control, and here is the new line.

Here is what was projected.

And the yellow is what we are adding in new costs.

And, believe it or not, none of this goes to the deficit, for all of it is spent on the new programs. And, I might add, with the exception of one bill, every single bill on health care reform assumes $300 billion worth of savings. We do not know whether it will work, but we assume it. Because if we are going to get health care costs down, everyone assumes that every penny of it will be spent.

And I said, let us put $100 billion of it on the deficit by mandate and spend only what is leftover. But that was done because I understand it this way and understand that you will never get the deficit under control after you have adopted a health care program that uses all these savings unless you decide to tax the American people hugely, cut defense a huge amount—I do not think you will do that—or dramatically change the pension programs of this country.

So this debate and this program has a huge, huge footprint on what else has to happen in this country with reference to our fiscal policy for generations yet to come.

So, in other words, even after the $260 billion tax increase, the deficit is not under control. Despite some efforts to make it appear that it has gone away, it will begin to skyrocket again. And, I must say, it will be over $350 billion again shortly after the turn of the century.

So, looking back to the chart, we can see that the health care reform plan would actually push this deficit line to the top line from this line. A total difference between the promise and reality is close to $400 billion. And that is $400 billion less in deficit reduction; or, to put it the other way, $400 billion more in deficit spending.

Now I think it is vital that we understand this. I am not sure that anybody wants to do anything about it, but I believe we ought to minimize it at the very least.

VOL 140 PT 15 AG 10 — 11 1994 UMI

While that promise clearly was broken and cannot be met, so that nobody will misunderstand, we did offer budget proposals that reduced the deficit by cutting things. And the cuts were not in Medicare or Medicare exclusively, but many others, so we would have had a much different approach to where the deficits would end up.

Now, I want to take a look in terms of Senator MITCHELL's proposal of yesterday—clearly, I do not know about today—and tell you what it does. It creates 6, I say to Senator DURENBERGER, 6 new open-ended Government spending programs and creates or expands 15 others.

Let me repeat. We are all worried about entitlements and mandatory spending; that is, creating a program where a citizen is entitled to resources of the Government under order of the court. We have 6 major new ones, open-ended, and 15 other ones are changed, as well. None of the changes is downward, from what I can tell.

These new entitlements will cost—and this has pretty much been agreed upon by the Congressional Budget Office and our experts. Let me give you this one. The new entitlements will cost $501 billion between 1995 and 2000, and $1.4 trillion between 1995 and 2004. These new entitlements will bring millions of Americans on to the Federal Government's subsidy program.

And let me give you the best estimates I can there. An estimated 100 million Americans will be eligible for Senator MITCHELL's premium subsidies alone, not counting the long-term care, which is a new program with new beneficiaries, and other entitlements in this bill. I am not counting them. I am only counting the recipients of subsidies in whole or in part for insurance premiums.

And what is most alarming to me is the growth rate of these new entitlement programs. According to the Congressional Budget Office, the new premium subsidy program will grow over 10 percent a year, even after it is phased in. So if we thought we had things under control and were getting them there with new health care reform, admittedly, right up front, the Congressional Budget Office warns us that these subsidy programs will grow at a rate of 10 percent a year even after they are phased in.

The Medicare drug benefit, a brand new one, grows at 10.5 percent a year even after phased in. The long-term care program grows 44 percent a year according to the Congressional Budget Office once it is in full effect.

So I do not think there can be any mistake about it. The Mitchell-Clinton bill, under the guise of health care reform, will create several new open-ended, runaway entitlement programs.

Now, why do we have to do that when we are having difficulty understanding the reform programs and their effect? Why would we have new programs costing huge numbers of billions of dollars?

I guess I might say—and I hope this is not the case—that maybe it is because some of those programs bring some votes and bring some support out in the country that might not otherwise be there.

It should not be surprising, then, that the proposal of yesterday does nothing to slow the rate of growth of overall health care costs in this country. Everybody is wondering—we have said that. I think Senator DURENBERGER said that. But, after all, we are just Senators. In fact, according to the Congressional Budget Office, the Mitchell proposal will actually increase national health expenditures by between $240 and $285 billion over the next decade. Instead of controlling it, it goes up.

I have heard a lot—at least I did 2 weeks ago, it seems like it is not so loud and often now—that we ought to pass this reform package because it is good for the middle class. Right? Let me talk about the new taxes in this bill. If the middle class feels put upon by previous taxes they better hold on to their wallets. This new proposal has massive new taxes. Between 1995 and 2000, $110 billion; between 1995 and 2004, nearly $300 billion. Let us add them together, in the next 10 years it is $410 billion in new taxes. I find it very hard to believe that these new taxes will help middle-class Americans as the President has indicated.

First let me tell you about some of these taxes. There is a 1.75-percent tax on all health insurance for $74 billion, between 1995 and 2004; a 25-percent excise tax on health insurance premiums that grow faster than a premium cap—whenever those premiums do that, that 25-percent excise is on. And yesterday Senator PACKWOOD explained in some detail how the starting point for that 25-percent tax—how that would go. It is very complex and I believe very unfair. But that is $75 billion between 1995 and 2004.

Another 1 percent tax on health insurance premiums is levied by the States to fund administrative expenses, another $50 billion. That tax revenue goes to the States. These are big tax increases, billions and billions of dollars in new revenue.

According to the Congressional Budget Office, these taxes do little or nothing to contain health care costs and may actually pose, "an impediment to coverage." That is taken from the Congressional Budget Office.

To quote from that report, on this 25 percent new excise tax on high-cost premiums—and let me before I quote say it does not matter to me what is written in any bill that says that is going to only be a tax on the insurance companies and the providers. In the end, the cost of the delivery system will assimilate that and the insurance premiums will be higher on everybody. There is no way to get around it. You cannot write supply, demand, costs and expenditures, and some profit out of the private sector and claim you want them to do this, you want them to cover everybody. It will be there.

Now let me quote:

> The tax on premiums of high-cost health plans in Senator MITCHELL's proposal would be difficult to implement. In addition, its contribution to containing health care costs would be limited and it might be considered inequitable and an impediment to extending coverage.

Not PETE DOMENICI, not DAVID DURENBERGER—the Congressional Budget Office. Frankly, I believe they are being generous. I cannot imagine that they would write it in the toughest language, being a neutral body and with the director being subject to confirmation by the Senate and the House.

I continue quoting the Congressional Budget Office:

> Unlike taxes as contained in the Managed Competition Act and bill reported by the Committee on Finance, which would not affect the lowest-cost plans, virtually all plans would be subject to the assessment called for in Senator MITCHELL's proposal.

That is a vindication of my notion that all premiums would go up.

For middle-class Americans these taxes add up. I am not sure what it is. We are trying to find out. But I will say that for most middle-class Americans, their taxes will go up to at least an additional $500 a year in very short order. I think it is more but I feel comfortable in saying that.

Perhaps that is why the respected president of the Kaiser Family Foundation, Drew Altman—very reputable and very professional—gave this assessment of this health care reform just last week.

> The group that is most likely to be helped least, at least as the discussion stands now, is the working middle class. Which is a little surprising [he says] since it was the rise of the middle-class concern that put these issues on the front burner in the first place.

I repeat, this is not my evaluation. It is Drew Altman. I have inquired. Everybody I can ask says this is a man of high repute, and he indicates that at least as the discussion stands now, the group that will be hurt the most is working middle class.

Again, everybody is asking, if these are entitlement programs, can we not make sure they do not go through the roof? Can we not make sure they are contained? Can we not put a cap on them?

I want to offer my own observation first. If you put benefit programs in place where the citizens of America are entitled to something, and that something is health care, you are probably going to pay for it whatever the cost is, because it is very hard to take things like that away, change them, modify them, make them less of a package than you originally promised and gave.

Nonetheless, we have tried. In fact, I believe this Senator, with some very able staff, came up with a first attempt to do that. It now has a nickname. It is called a fail-safe provision. Right?

Mr. MOYNIHAN. Yes. Right.

Mr. DOMENICI. "Fail-safe" meaning we are only going to spend as much as we want to spend and we have a failsafe way to do that.

I am telling my colleagues, that failsafe was first found in the Chafee bill. We helped draft that. But I am very concerned that if we have a significant underestimate in the cost of these new entitlements—and I repeat what I said a while ago, we have had that in every entitlement that deals with health care; so big, in fact, that it was estimated Medicare hospital insurance was going to cost us only $9 billion in 1990. I assume the Senator is aware of that. Instead its cost was $67 billion.

That is why I believe any legislation that we ultimately pass, in order to protect our children and children yet unborn from huge deficits, has to have a fail-safe mechanism to control costs. Unfortunately, the proposal of yesterday—perhaps it has changed today. I note that section on fail-safe is changed. I cannot tell what it does. But, unfortunately, the Mitchell-Clinton proposal on fail-safe is so watered down in terms of its rigidness, in terms of real control, it is worthless—worthless. It is based on inexact, estimated baselines, not on real dollar limits. It has a $10 billion cushion. It leaves incredible discretion to the Office of Management and Budget. And it exempts increases attributed to economic and technical changes from the rigors of discipline.

Mr. DURENBERGER. Will my colleague yield for a question?

Mr. DOMENICI. Of course.

Mr. DURENBERGER. I know my colleague from Rhode Island is getting sensitive to the amount of time that is being allotted Republicans. But let us assume you have all of these promises made to extend all of this coverage. But the cost of the coverage exceeds what you estimate. This is your point.

Mr. DOMENICI. Yes.

Mr. DURENBERGER. At that point you have to either borrow the money, increase the deficit——

Mr. DOMENICI. Yes.

Mr. DURENBERGER. Or just using the Medicare Program as an example, you can, at the budget level here, reduce the amount that is going to be paid for doctor services or hospital services, thus you do not increase the deficit; right?

Mr. DOMENICI. The amount that the insured has to pay can be increased. That is another way.

Mr. DURENBERGER. It seems to me that if, in fact, the demands on the entire system exceed the fail-safe amount, what we normally do here is reduce the Medicare payments in the coming year for doctor services or hospital services. That is how we get to the place where a party is paying 71 cents on a dollar of charges for hospitals and 59 cents on a dollar of doctor fees. Is that not the process?

Mr. DOMENICI. Absolutely.

Mr. DURENBERGER. So the problem then presented to the working class in America is the degree to which they end up, when they go to the doctor's office or when they go to the hospital, how much of that difference between 59 cents and $1 do they end up paying?

Mr. DOMENICI. Right.

Mr. DURENBERGER. It seems to me—my colleague can correct me if I am wrong—no matter which way you cut it, these overpromises are either going to be paid out of debt or they become an additional tax on working people's premium.

Mr. DOMENICI. That is right.

Mr. DURENBERGER. So one of the problems we talked about earlier in the day with the Clinton-Mitchell proposal to get all working people into these large pools, and so forth, is to facilitate the additional tax from the cost shift from the promises that are made but not paid for onto the working people's premiums.

So, in addition to the specific tax—a tobacco tax, or premium tax or State surcharge—there is this hidden tax of the cost shift which occurs in the doctor's office, which is difficult to measure. I thank my colleague.

Mr. DOMENICI. You are absolutely right. The point is that to try to say to those who are worried about the next generation and how much we will have gone into debt, do not worry, even though we do not have any idea what our promises are going to cost—we have this measure out there that says it is only going to cost $300 billion and if it is more than that, something will be done about it. I believe you have to know much better up front the cost of what you are promising. So fail-safe is a tool that is not going to be used because, if you need it, you probably will not implement it. That is the point I am trying to make.

Might I ask the Chair, how much time do the Republicans have left?

The PRESIDING OFFICER (Mr. FEINGOLD). Twenty and a half minutes.

Mr. KENNEDY. How much time on our side?

The PRESIDING OFFICER. Ninety-four minutes.

Mr. DOMENICI. Mr. President, I have some other remarks, but I note my friend Senator CHAFEE is waiting.

OTHER CONCERNS WITH THE CLINTON-MITCHELL APPROACH

But my concerns with the Clinton-Mitchell approach to health reform are not confined to just economic and budgetary questions.

GOVERNMENT-RUN HEALTH CARE

The Clinton-Mitchell plans—and all of its variation in Congress, such as the Kennedy and Gephardt plans—are characterized by massive new Government controls, regulation, and bureaucracy.

The American people simply do not trust the Government to run the health care system. They know a Government system will be less responsive to them and will slowly undermine the quality of our health care delivery system; a system unsurpassed in the world.

Let me cite just a few examples of the massive Government role in the Clinton-Mitchell plan:

MANDATED STANDARD BENEFIT PACKAGES

Under Clinton-Mitchell, every American who wants to get health insurance will be required to buy a Government-set benefit package.

They will not be able to buy anything less.

You can be sure that if the Government is setting benefits, no treatment will be uncovered, no provider left out, and it will only get worse with time.

There is some value in standardized benefits in certain contexts, particularly for determining subsidies for low-income families.

But I am against the Clinton-Mitchell bill's limitations on choice and "one size fits all" approach.

PRICE CONTROLS

The Clinton-Mitchell bill also requires Government-set price controls, based on data that does not currently exist.

Under the proposal, the Secretary of the Treasury would set reference premium amounts for every geographic area in the country.

These reference premiums would be established based on 1994 national health expenditure data that the Secretary would somehow try to distribute by region.

According to CBO:

> These determinations would be extremely complex and difficult to make, requiring adjustments for demographic characteristics (age, sex, socioeconomic status), health status, current levels of health care expenditures, uninsurance and underinsurance, the presence of academic health centers, and other factors. Little reliable information of this sort is available, and the Secretary would have to collect a mass of new information. With the reference premiums affecting not only tax liability but also premium levels, the process could prove to be quite controversial.

But, nonetheless, the Secretary would set these reference premiums, and then allow them to grow by inflation plus: 3 percent in 1997, 2.5 percent in 1998, and 2 percent thereafter.

Health insurance premiums growing faster than this rate would face the 25-percent excise tax.

Clearly, this proposal is a back door attempt to adopt the Clinton premium caps.

It is an especially bad idea because it does not distinguish between efficient and inefficient plans.

All health plans would be held to the same growth rates, regardless of

79-059 O—97 Vol. 140 (Pt. 15) 2

VOL
140
PT
15
AG
10
—
11
1994
UMI

whether they have been low cost and efficient to start off with.

Moreover, the Clinton-Mitchell proposal exempts large employers' plans from the tax until after 1999.

Clearly, the tax is designed to protect, to the extent possible, the very expensive, high-cost, union-negotiated health plan.

Similar attempts at price controls have never worked in this country, and never will.

Shortcuts will be implemented and instead of reducing costs, they will lead to more inefficiency.

OTHER EXAMPLES OF GOVERNMENT INVOLVEMENT

The Government is going to determine the number of specialists and primary care physicians that can be trained in each medical residency program in the country.

The Government is going to run a new, voluntary long-term care insurance program.

The Government is going to determine which doctors, hospitals, and other health care providers are essential and therefore protected under managed care.

The Government is going to provide new opportunities for lawyers to bring suits against insurance companies for disputes over insurance claims.

The Government is going to provide new entitlement spending for health research, occupational safety and health, school-related service programs, dental schools, and countless other Government programs.

The Government is going to establish a risk adjustment program to measure the relative health status of enrollees in every health plan in the country, and then require States to transfer billions of dollars among plans based on that methodology, which today does not exist.

Do you detect a pattern of excessive Government interference here?

JOB-DESTROYING MANDATES

And now let us turn to the job-destroying employer mandates in the Clinton-Mitchell bill.

I am opposed to including any kind of employer mandate in the reform proposal.

It does not matter if it is delayed until after the next election, or triggered, or cut in half.

Because, clearly, this President and the Democratic Congress want an employer mandate—and the majority leader's proposal is just a foot in the door. It is the camel's nose under the tent. And if this bill passes and goes to conference, as sure as I am standing here, it will come back with an even more devastating, job-destroying employer mandate.

Let me quote from a senior administration health official from the August 4 Washington Post explaining their support for the Mitchell proposal:

. . . we hope the bill we get out of conference will have mechanisms [mandates] that will get us to universal coverage by a more direct route.

I am particularly worried that Senator MITCHELL'S proposal would single out States like New Mexico—where nearly 97 percent of all businesses are small business; and 86 percent are businesses with fewer than 20 employees.

As I read it, the mandate will be triggered only in those States that fall below 95-percent coverage.

Well, obviously, States with lots of small businesses, low income families, and high uninsured rates today are the most likely States to fall below the target.

And so the Clinton-Mitchell bill would penalize small businesses in low income States with a mandate, which will only make matters worse.

Such a mandate would destroy hundreds of thousands of jobs and severely curtail economic growth.

And, according to CBO, this state by state kind of mandate will not work, would drive business out of small States like New Mexico, and is not workable.

To quote CBO:

[a state by state mandate] would produce inefficient reallocations of business activity. Some firms that did not wish to provide insurance would migrate to states that were not included in the mandate.

Because of the disruptions, complications, and inequities that would result; CBO does not believe that it would be feasible to implement the mandated system in some states but not in others; the system would have to include either the states or none. Accordingly, CBO's cost estimates of the mandated system assume that a nationwide mandate would be in effect.

OTHER ISSUES

There are other problems with the Clinton-Mitchell bill as well: massive shifting of resources from the young to the old through strict community rating; weak medical liability reforms; State single payer options; and HMO-killing regulation and litigation.

At the appropriate time, I will have much more to say about each of these controversial issues.

THE SEEDS OF A BIPARTISAN SOLUTION

I believe we should only pass a health care reform bill that has strong bipartisan support.

I believe we can see the beginnings of that kind of an agreement in some of the major proposals put forward in the Senate, such as: the mainstream group's proposal, which is largely incorporated into the Finance Committee bill; the bill I introduced in May, the Health Care Reform Act of 1994; and the Dole-Packwood proposal, which has been endorsed by 40 Republicans.

All of these proposals differ in their details—some of which are significant—but they share some very critical core features:

EXPANDING COVERAGE IN A VOLUNTARY SYSTEM

Most Americans want health coverage to ensure good care when they need it and to avoid the financial risk of going uninsured.

The primary obstacle for the uninsured is cost.

Nearly two-thirds of the uninsured have incomes below 200 percent of poverty.

These proposals would expand subsidies for poor and low income Americans to make private health insurance affordable.

And they reject the notion that we should begin reform by imposing new Government mandates on businesses or individuals.

CONTROLLING COSTS IN A REFORMED MARKETPLACE

Only market incentives can improve the productivity of the health care delivery system. And that is the most effective and efficient route to holding down costs while maintaining or improving quality.

To make the market work better, consumers must be permitted to compare the price and quality of competing health insurance plans.

Our proposals would give consumers the standardized information needed to evaluate the cost and quality of their health insurance and their providers.

Moreover, we should encourage consumers to be cost conscious by putting a limit on how much employers an employees can deduct from taxes for health premiums.

SMALL BUSINESS INSURANCE REFORMS

These proposals all recognize the need to establish fair insurance rules for small businesses and individuals.

They would: ban preexisting condition clauses; establish some modified form of community rating for small businesses, with age adjustments; and give small businesses the ability to pool their purchasing power and get lower premiums.

REFORMING FEDERAL PROGRAMS

Moreover, these proposals would change the Medicaid program to allow those beneficiaries to enroll in private health insurance plans like other Americans.

The proposals would protect Medicare but expand the opportunities and incentives for beneficiaries to enroll in competing health insurance plans.

Today, some 50 percent of private group health insurance is in managed care, but only 5 percent of Medicare beneficiaries are in managed care.

ACCESS IN RURAL AREAS

Our proposals would dramatically expand funding for access to care in rural areas.

In particular, they would increase funding for community health centers and the National Health Service Corps.

FISCAL RESPONSIBILITY

Finally, these proposals all recognize that we cannot afford another new runaway entitlement program.

To ensure fiscal responsibility, they incorporate a "pay as you save" or fail safe process.

That means we can only expand coverage as we achieve savings in current programs.

I believe a bill with these elements could pass with overwhelming support if we can get beyond the partisanship and focus on what we can do to help the lives of millions of Americans.

SEVERE MENTAL ILLNESSES

During this debate, Senators will disagree on many issues, and the debate will be vigorous.

However, there are a few issues which I believe cross party lines and transcend politics.

Three years ago, I introduced a bill that stated when the Senate passes health care reform, it must provide equitable health insurance coverage for persons with severe mental illness.

That bill had 21 cosponsors evenly divided between Democrats and Republicans.

In September 1993, the National Alliance for the Mentally Ill [NAMI] held a rally across the street from the Capitol where they presented me with nearly 500,000 signatures supporting my bill.

Among those persons signing the petition were President Clinton, Vice-President GORE, and Mrs. Tipper Gore.

In the time since I introduced that bill, I have spoken on the Senate floor and at numerous assemblies with both Democrats and Republicans.

Nearly every time, one of my colleagues would take me aside and agree that we must help the severely mentally ill.

People with severe mental illnesses have been subjected to discrimination because of ignorance and fear resulting in public and private health insurance plans setting arbitrary limits on the amount of coverage a person can receive for these illnesses.

As a result, individuals and families often can't gain access to care because of this very limited coverage.

It is now estimated that one out of every three homeless persons suffers from severe mental illness.

Severe mental illnesses such as schizophrenia, major depression, bipolar disorder, obsessive compulsive disorder and panic disorder, are crippling and disabling illnesses that can strike any person from any background.

We have made a lot of progress as health care reform has moved through the Congress, but I must say to my colleagues that the bill introduced by the majority leader does not go far enough.

Unfortunately, the Mitchell proposal leaves the door wide open for the continued discrimination of the severely mentally ill.

In fact, this bill explicitly authorizes cutbacks in benefits for the mentally ill to finance other types of coverage if the National Board finds the benefit package is too costly.

So, the standard benefit package could provide coverage for eyeglasses, but may not provide coverage to someone suffering from major depression to keep them from committing suicide.

Frankly, I believe we need to rethink that kind of prioritization in the benefit package.

I can assure my colleagues that before this debate is over we will have the opportunity of a lifetime to provide equitable coverage for the severely mentally ill and end at least one form of discrimination.

I want to close by simply stating that the bill before us—again I repeat, before we got the new bill—that this bill has severe problems and, frankly, I do not think it can be fixed. This Clinton-Mitchell bill, as I see it, is a roll of the dice and the stakes—the bet, that is—is enormously high: one-seventh of the American economy. But it is also high for every person in this country that we are trying to help: those who currently have little or no health care, those who have good health care. They are all at risk.

And if we are going to take these risks, let us do it together in a much more coherent and bipartisan approach that has broad support of all Americans. I yield the floor.

Mr. MOYNIHAN. Mr. President, I yield 4 minutes to the Senator from Massachusetts, followed by 10 minutes to the Senator from Nebraska.

Mr. KENNEDY. Mr. President, I have in front of me the Gramm-Latta amendment that was offered in the House of Representatives in behalf of the Republican administration on June 26, 1981. It is an inch and a half thick. It was offered at 11:15 in the morning and debated until 7:45—8½ hours. I did not hear a lot of criticism from a lot of our Republican friends at that time that it was going to be so difficult for people to understand. I hope they can put that argument aside.

I heard our colleagues talk about their positions with regard to the health care measures. One of the oldest techniques in this body is to describe your opponent's position. In many instances, you do not accurately describe your opponent's position.

That is what has been done this afternoon. I listened with great interest to this whole debate and discussion from my colleagues, and I could not understand the Mitchell bill as described by my good friends or what, in many instances, their complaints were really about, including my friend from Minnesota, talking about national standards and State rules. If he has amendments—that is a concept in the Mitchell bill—if he has amendments on that, if he has proposals, I hope they will be forthcoming.

When I saw my good friend from New Mexico get on his feet and talk about this legislation, I thought he would talk about one of the most important provisions, and that deals with a cause that he has been identified with in the U.S. Senate, and that is on mental health.

One of the critical issues was whether we were going to have parity in treating mental health with the physical ailments of the people of this country. That has been debated in hearing after hearing. He was good enough to testify on that issue before our committee, and we have included it. It was included in the earlier bills, and it has been included in the Mitchell bill.

So for all those Americans who have been listening to that debate, they ought to understand that we are committed in the Mitchell bill, in this legislation on page 114, to the kind of mental health benefits that the mental health needs of this country ought to have.

Mr. President, I was hopeful to hear this afternoon that some proposals by our Republican friends were going to be forthcoming. In our committee, we have had a series of different amendments and suggestions, which we worked out without having to have votes on these measures.

We eliminated a lot of the mandatory requirements on the alliances in the legislation; we were able to come together, Republican and Democrats alike; we made adjustments in terms of the malpractice provisions; we simplified the benefits package; we made some changes in cost control—all suggestions that were made by Republicans and Democrats, not waiting until the amendment process and the part of the debate and discussion earlier in the day.

Bipartisanship requires coming at least halfway. And here we have the majority leader, who has been trying to move that whole process forward. I hope that at least in the remaining time—although there is not a great deal more time on that side—this afternoon, we will at least have some areas, some suggestions, some recommendations prior to the time that we are going to come to the point of voting on these matters where we can hear about where they are going to agree. Let us hear where they want to try to make some progress.

Maybe we have to delay the point for some days and finally come to grips and have the votes on some measures. But let us at least hope that the next time we speak and Members address that that we can at least find some suggestions and recommendations on where we can begin to build the bipartisan legislation which many people have talked about but which so far has at least escaped.

I want to thank my colleagues for indulging me at this time. I see the Senator from Arkansas as well as the Senator from Nebraska on the floor.

Mr. DOMENICI. Mr. President, I wonder, since Senator KENNEDY alluded to mental illness, if I might take 3 minutes on our side to respond.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Let me do that. I ask unanimous consent that the 3 minutes I use not be counted to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I really hope the distinguished Senator from Massachusetts was not implying that the Senator from New Mexico, because I proposed something in the Mitchell bill, is not going to be shoulder to shoulder with him on whatever bill passes to get parity for the severely mentally ill. But I might tell my good friend, his bill that he reported moved more toward covering the mentally ill than this bill.

In fact, this bill, Mr. President, to be honest with you, does not take care of the parity that is required. And I know the question is how are we going to pay for it.

But let me tell Senators, I think we ought to treat severe mental illness in this country exactly like other major ailments. We should not have to fund it separately. If we do not have enough money for other things, we cut everything back, but we do not have to continually treat the severely mentally ill as if they do not have parity.

This bill does not do that, so I am not worried about it.

Mr. KENNEDY. Mr. President, just on our side, 30 seconds.

I welcome the opportunity, with the Senator from New Mexico, and I am sure Senator WELLSTONE, who has been a leader here, to offer an amendment on this legislation as one of the first amendments that we can consider about how we can strengthen this proposal, and work with the CBO and find ways that we can do it. This is just the kind of bipartisan effort that we should have.

I acknowledge the leadership of the Senator from New Mexico. And Senator WELLSTONE has been a leader. This would, I think, make an enormous difference and indicate that in this area of public policy we do have bipartisan support.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, if I may yield myself 1 minute simply to once again remind you that the bill before us is the bipartisan bill reported from the Committee on Finance, and in that, if the Senator from New Mexico could hear me, and the Senator from Minnesota will attest, mental health has full parity with all other medical needs. It is a matter of principle, and bipartisan, and was never contested.

Ten minutes to the Senator from Nebraska.

Mr. KERREY. I thank the Chair and I thank the Senator from New York.

Mr. President, I rise to discuss the matter before us, the health care reform bill introduced by Majority Leader MITCHELL.

Something needs to be done to change the laws that govern the financing and delivery of health care in America. The status quo is unacceptable.

For those of us with personal wealth who are well insured life looks pretty good. However, for the majority, whose insured status and financial capacity to pay is in doubt, life looks very uncertain.

Too many hard-working young Nebraskan families do not have insurance and cannot afford to go to the doctor until the medical situation has become an emergency. Routine health care is not affordable for many whose take-home pay must cover rent, food, clothing, and other necessities.

Just one example of the cost of a familiar health care service should help focus our minds on the need to lay aside partisan differences and pass a bill which helps make health care more affordable.

The health care service is the delivery of a baby. It costs $12,000 to have a baby in Washington, DC, it costs $5,000 to $6,000 for the same services in Nebraska.

Bringing a baby into this world at either of these prices—which 20 years ago was considered to be within the household budget and thus was treated as an out-of-pocket expenditure—can be a financial catastrophe. Today, it is a procedure that is most often paid by an insurance company, the government, or by a now financially strapped family. Twenty years ago I paid cash to the doctor and hospital when my children were born. I did not have to be insured. Today, uninsured Americans who approach the birth of their first child do so with more economic anxiety and insecurity than their parents did a generation earlier.

Americans who have themselves or friends that have entered the world of high cost health care understand: The thin ice of medical indigence could break at any moment. In America the physical trauma of getting sick is an event which can also be accompanied by great financial trauma.

Therefore, we know that an urgency exists to change our laws. We also know that an urgency acted upon without careful consideration given to the question where we are going could result in our making the problem worse.

In particular we must take care not to allow the urgent need to subsidize those who cannot pay health care bills to dominate the need to contain costs. Every significant Federal intervention to expand coverage in this century—tax deductibility, Hill-Burton, Medicare, Medicaid—has increased the demand for expensive health care. This demand has increased the availability of expensive health care. Not surprisingly this has made health care more unaffordable and—we are back where we began—increased the demand for subsidies.

As I have said on earlier occasions, without a fundamental change in the way we become eligible for care—namely merely by being an American under color of law—we risk accelerating this cycle of subsidies driving demand, driving subsidies. This fundamental change, however, has been rejected by many as politically impractical.

Therefore, Americans smell politics all over this debate. They do not have to look too far to discover that political insecurity has become a greater concern than the insecurity Americans feel about health care. Mr. President, it should be this insecurity which motivates the need for change. It is this insecurity which gives such resonance to the call to provide health care that is always there.

However, Mr. President, Americans feel insecure about more than just health care. They feel insecure because they are becoming both afraid for and of their children. They feel insecure because of the pace of technological change. While technology has made us more productive and created new jobs, wealth and opportunity, it can make us feel we are skating at the wrong end of the pond. Downsizing is the bogie man of the 1990's. The stress of wondering if tomorrow is the day when they are given the news their job has been eliminated by the latest edition of the company's computer software program is very real.

American workers are also on alert to cheap worldwide labor and conscious free investment capital whose flow knows only the dictates of estimated rates of return. The recent revival of U.S. productivity demonstrates that America's work place team is willing to face international competition with the same courageous performance that has lifted our standard of living to the highest in the world. Still, in spite of this success, in the back of their minds, as they fight traffic to and from work, blue- and white-collar workers alike wonder: Is this the day my job goes to Mexico or Indonesia or China.

Insecurity in the midst of an economic recovery is the reason Americans still do not feel like their country or their political leaders are heading in the right direction. They feel misled and let down as we fail time and again to inspire and help them believe in the uncharted course of our future.

Wealthy, economically secure Americans can only guess at the terrible change which has accompanied the technological and economic advances of the past 30 years. They can only guess why the cry for health care that is always there hits home even for Americans who are currently protected with affordable insurance.

Some of them are still smarting from last year's deficit reduction legislation. That legislation and that attitude continue to influence the debate on health care. Where this influence subjects us to the need to make certain that health care reform contains costs and contributes to deficit reduction, it is a force for good. Where this influence is an angry, petulant one note interference, it obstructs the path of progress.

Made angry by last year's increase in their rates of taxation some wealthy Americans cannot see or do not care that tens of millions of low income working Americans were given more security by an increase in the earned income tax credit. Some of them cannot see or do not care about families who refinanced their homes making it easier to keep their budgets in balance. They cannot see or do not care about self-employed Americans who are finding that health care is more affordable now that they are able to deduct 25 percent of the cost of their insurance.

They cannot see or do not care that the economic recovery—which was in place when this legislation was enacted—has strengthened Americans' job security. The demand for skills is on the rise and with it the confidence of consumers who are buying cars, building houses, and adding to the security of those who build both.

In part, wealthy Americans whose taxes were raised have a right to complain. They were made to be the fall guy rather than being told they were participating in something which needed to be done. Instead of thanks they felt the abuse captured in the phrase we are only taxing those who profited from the excesses of the 1980's.

The taxes we raised in 1993 on upper income Americans and the spending restraint we enacted reduced the amount of borrowing required by the Federal Government to pay its bills. Those who paid those taxes and those whose programs have been curbed should be allowed to feel they have done something good. There can be no doubt we have borrowed hundreds of billions of dollars less than we would have otherwise. And there can be no doubt this effort has on balance been good for the American economy.

The best test of this truth cannot be found in liberal or conservative think tanks predisposed to be for or against tax increases. Reliable truth also cannot be found in the campaign material of those who voted for or against the act.

Instead, the best guide to find the truth is to witness the response of the stock and bond markets. These markets—which may have as many individual liars as a collection of politicians—does not lie in its aggregate decisions. It looks at this kind of legislation with the cold eye of the investor. There is no mercy given on account of ideological orientation.

The market hit the bid. They bought the spending caps. They believe they will work. It even liked the tax increases although that the attitude of the individual traders was less benevolent. Measured by the positive movement of interest rats, inflation, job growth, business starts, business confidence, and investment spending on equipment, the economy not only survived the blow of higher taxes, it has thrived.

The market, however, wants us to do more to reduce Federal borrowing needs. It does not want us to pass a health care bill which expands entitlements taking deficits higher. The Federal Reserve is already poised to raise interest rates on account of economic good news and fears of inflation. Action taken by us which pushes deficits higher in the name of health care security could reduce security by taking the steam out of economic growth and expansion.

America's collective capacity to subsidize those who cannot pay their health care bills is dependent on the strength of our economy. Our national capacity to buy is directly proportional to our national income. We should not make commitments to spend money unless we have the money to spend.

America needs to travel down a road of further deficit reduction. Our goal should be to arrive at a point where we are making annual payments to reduce our debt instead of annual additions. If we continue—and if we reduce the savings and investment barriers in our Income Tax Code—America's income will rise along with our capacity to pay health care bills.

The Mitchell bill contains language which provides a fail safe mechanism to make certain that does not happen. This portion of the law is designed to prevent the Federal Government from providing subsidies unless savings are obtained. In addition the law would require the Federal Government to disclose the amount of taxes that would be needed to pay for Federal health spending.

Unfortunately, this bill—in addition to bringing tens of millions of low income Americans into a subsidized system—would also give new benefits to those Americans who are already beneficiaries of Federal subsidies. This expansion causes me to doubt the promise of deficit neutrality.

This is my first category of concern: The Mitchell bill does not have sufficient safeguards against a further expansion of nonmeans tested Federal entitlement programs. Without expansion of eligibility or benefits, the year to year increase in Federal spending just for health care is almost equal to the entire amount spent on Medicare and Medicaid the year Senator MITCHELL began his distinguished career in this body. These two programs cost $50 billion that year; this year they will cost $280 billion.

My firm conclusion is this: Do not promise anything you will not pay for up front. Given a chance we would all prefer to have someone else pay our bills. This is particularly true with expensive health care. These bills carry a hefty weight.

My second category of concern is the increased centralization of decision-making required by this law. This new law would shift more power over health care to Congress and Federal agencies than is desirable. If we candidly assess our abilities, most of us would admit we make decisions today which are little more than educated guesses.

Let me provide a recent example offered to make this point: We should be making fewer health care decisions in Washington, DC, not more. Last week, I received a letter written to me by Dr. Paul Collicott, chairman of the Nebraska Medical Association ADHOC Committee on Medicare. The purpose of the letter was to ask me to offer a technical amendment authorizing the Secretary of the Department of Health and Human Services to do something Dr. Collicott believes would be good for Nebraska Medicare patients and the providers who care for them.

I am inclined to agree with Dr. Collicott. He is a man with well known integrity and credentials that give his suggestions an air of correctness. How could it be wrong to help? Particularly when it sounds so fair and so likely to bring a little benefit to Nebraska's Medicare beneficiaries.

The problem is that I am not making an informed decision. The decision is based more on an assessment of what makes good political sense than on what makes good medical sense. From the point of view of a policymaker concerned about cost and quality listen to the letter and answer honestly if you feel qualified to make this decision:

> This issue has to do with the impact of budget neutrality calculations on relative values under the Medicare Fee Schedule (MFS) due to coding changes for physician services and the arbitrary reduction of Relative Work Units (RWU's) that have been assigned to these codes by the Health Care Financing Administration (HCFA).
>
> Presently, the RWU's are assigned to a certain CPT code by a peer review process through the AMA's Relative Value Update Committee (RUC). These values then are forwarded on to HCFA, and either accepted at face value or reassigned a different value. In the past, in order to achieve budget neutrality, all RWU's have been arbitrarily reduced 2-3% in order to achieve budget neutrality. These RWU's have been reduced either within a family of codes or at the individual code level. This practice has led to distortions and underlying relative base work estimates developed through the AMA/RUC process a refinement process.

Current law gives the Federal Government—and we as representatives of the people—the power and the obligation to answer this question. Allow me to summarize it. In order to achieve budget neutrality, should we stop assigning RWU's to CPT's through the AMA's RUC particularly if HCFA is

VOL 140 PT 15 AG 10 — 11 1994 UMI

going to arbitrarily reduce the RWU's within a family of codes or at the individual level? No cheating now. Do not ask your staff to explain all the terms. You make the decision.

Just a little ridiculous, do you think? Well, the Mitchell bill would have us making even more of these kinds of decisions. Last week, I pointed out five examples where power and control were both being shifted to us and the bureaucracies which I would like to summarize again:

FEDERAL OVERSIGHT OF STATES

The Federal Government would set requirements which States must follow in the new system. States would submit an application to the Federal Government specifying how they will meet the requirements. If the State does not submit an application, or if the Federal Government does not approve the application, the Federal Government can step in and take over health care reform in the State, and charge a 15-percent tax on all insurance. After a State's application is approved, it is subject to Uncle Sam's variation of the random drug test: It can audit a State's program at any time.

FEDERAL OVERSIGHT OF MEDICINE

The Federal Government would decide how many doctors will be trained each year and how many go into primary care and how many will be permitted to train in each specialty and where they will train. The National Health Board will set standards for what is medically necessary and appropriate treatment instead of doctors. Furthermore, the National Health Benefits Board and the National Health Care Cost and Coverage Commission are exempted from the Federal Advisory Committee Act. Translation: They do not have to allow the public into their meetings.

FEDERAL REGULATION OF HEALTH SPENDING

The Federal Government would set the baseline for total health spending excluding Medicare and SSI based on 1994 spending for the standard benefit package. That number is trended forward in 1995 and 1996 based on CBO estimates for health care growth in their 1993 report. The Government then sets what the rate of growth will be beginning in 1997 and forward. Any plan that exceeds that will be taxed at 25 percent of the difference beginning in 1997. Big business and big unions are exempt from the tax until 1999.

FEDERAL REGULATION OF HEALTH INSURANCE

These regulations have the net effect of eliminating the existence of hospital indemnity policies, cancer policies, and other types of supplemental policies.

FEDERAL REGULATION OF SMALL BUSINESS

No business with less than 500 employees would be permitted to self-insure. All businesses of less than 500 would be required to join purchasing alliances.

This week, I would like to point out five additional parts of this proposed new law which would shift power inappropriately to the Congress or to Federal agencies.

FEDERAL REGULATION OF EMPLOYERS

The Federal government is authorized to audit, regulate, and investigate employers who contribute to their workers insurance. In addition, employers will be prohibited from offering an alternative-standard benefits package. The Federal Government also will develop certification criteria for all workplace wellness programs.

FEDERAL ROLE IN ADMINISTERING PRIVATE HEALTH PLANS

Where self-insured, employer-sponsored health plans are found insolvent, the Federal Government will assume temporary responsibility for operating the plan.

FEDERAL REGULATION AND ADMINISTRATION OF PURCHASING COOPERATIVES

The Federal Government will establish procedures for operating all purchasing cooperatives. In addition, the Office of Personnel Management [OPM] must "make every effort to enter into an agreement with a purchasing cooperative in each community rating area in the United States * * *" to ensure that standard health plans offered by the Federal Employee Health Benefits Program [FEHPB] are available to all community-rated individuals. If no purchasing cooperative exists in an area or if OPM is unsuccessful in contracting with an existing cooperative, OPM must establish and administer a purchasing cooperative in that area.

FEDERAL ROLE IN COLLECTIONS

The Federal Government shall provide States with such technical and other assistance as may promote the collection of amounts owed by families. In addition, the Federal Government is responsible for assuring that employers make payments of any employer premiums. The Federal Government may also provide for collection activities to collect amounts owed to States by purchasing cooperatives.

FEDERAL OVER-REGULATION OF BENEFITS

The amount of detail in this bill significantly increases the power of the Board so that it becomes a regulatory agency with few limits on its authority to interfere in plan decisions on coverage, similar to the Medicare model. The National Health Care Board is given broad powers to promulgate guidelines, establish and update periodically tables for all categories, and to specify and define specific items and services as clinical preventive services. In addition, the Board will develop standards for appropriate management of mental illness services, establish criteria for determinations of medical appropriateness, and regulations and guidelines for determining whether an item or service is medically necessary and appropriate.

Mr. President, these are my top 10 objections. Of importance is the omission from my list of the triggered 50–50 business mandate. While that may appear on a later list, its regulatory impact is much less than meets the political eye.

Mr. President, perhaps all of these can be changed in the Mitchell bill. Certainly the majority leader has clearly and fairly indicated a willingness to make changes. My problem is that the more I read the bill the more of these things I find. And the more I find, the more work I think needs to be done to construct a bill that will make health care more affordable to all Nebraskans.

Mr. President, I am willing to work to accomplish this goal.

Mr. President, the question really before us is whether or not we have the capacity to bridge the differences between Republicans and Democrats and pass a bill that is urgently needed by the people—urgently needed.

The distinguished Senator from Massachusetts is probably the best legislator, authorizer, in this body. The distinguished Senator from New York as well has a considerable amount of experience in writing legislation, enacting legislation, and working on behalf of the people not just of the State of New York but the people of this entire country.

I see the distinguished Senator from Oregon down here, who has been a part of extremely controversial legislation in the past and has managed to get over the partisan differences and bridge the gap between the left and the right, the up and the down, the back and the forward, and all that sort of thing, and get a piece of legislation. We passed tax reform in the past. There were great differences.

Mr. President, today lives are at stake. There truly are people in America who are watching now, hoping this debate gets interesting and hoping the debate, as a consequence of getting interesting, leads to a finished product, the enactment of legislation.

The question before us is, can we bridge the differences? I say with great respect to every single Member of the Labor Committee, I wish the vehicle today was going to continue to be the Finance Committee bill, because it is a bipartisan bill. There we have Republicans and Democrats that may not have liked the getting together that occurred, may not have liked just exactly the way it was done, but because it is bipartisan, it is much less likely that you are going to get the kind of, I think, frankly, dishonest representations back and forth that lead nowhere, that make for good press releases and make for very interesting sound bites on the television stations, but do not in fact inform us so that we can make a reasonable decision.

It is true we are dealing with one-seventh of the U.S. economy. It is true we are dealing with something that is

life and death for the American people, so we need to give it our full and serious consideration. We are prepared to do that. Many of us—indeed, I would say most of us—have spent a great deal of time studying this issue, a great deal of time at home in looking at the problems that are there. It is, as the President said, bankrupting this country. There will be a $38 billion increase from last year to this year just in Federal spending for health care—$38 billion, Mr. President.

Now, this year alone, we will spend $320 billion directly and $70 billion with an income tax deduction and an offset against FICA —nearly $400 billion in Federal tax dollars being allocated.

Now, I argue we do not disclose it, and we need to balance it. We are honest in the way we do it, but it is a tremendous amount of money. The President of the United States, when he started this thing, said it is bankrupting America, and it is. It is bankrupting businesses, and increasingly it is bankrupting families.

Why? Well, in part, we are demanding expensive health care. Not very many of us walk in and say, "Could you give me the cheapest thing you have?" Most of us walk in and say not only do we want expensive health care but, like Richard Dreyfuss in "The Tin Man," we say we want the Cadillac for nothing. And so over the past 50 years, we have come to Congress, and we have said we want expanded coverage. We want to have our purchase be income tax deductible. We want Medicare, Medicaid. We want Hill-Burton.

Every single time, indeed, we have helped people pay the bills, we have increased the coverage. We have done lots of good things. But in addition to that, we have gone from the point, in 1950, where 80 percent of the bills were paid with cash, to today, where 80 percent is either socialized through the Government or it is socialized through insurance—80 percent of us have our health care bills paid by someone else. As a consequence, most of us do not even know what the price is, and most of us in this body need to be reminded that for tens of millions of Americans, even having a baby can be a financial catastrophe.

Mr. President, it costs $12,000 to have a baby in this city—imagine that, $12,000. That is 2 days, a normal vaginal delivery. Now, the insurance companies only pay for 1 day. Two days, normal delivery, $12,000.

Mr. President, my babies were born 19 and 17 years ago. I paid cash. I did not have to be insured 20 years ago. Why? Because having a baby was not a financial catastrophe if you were not insured. We have driven increased demand into the system in order to provide coverage for individuals. In order to reach out and help individuals pay the bills, we have driven increased demand into the system. The price goes up. The requirement for increased subsidies occurs as a consequence, if you follow what I am saying. Every single time we come and drive demand into the system with Government action, it increases the price and then, not surprisingly, more Americans finding themselves needing subsidies, come to us and ask for the subsidies.

Mr. President, it is crucial for us to be honest with the American people in this debate. We are bankrupting America. We have to decide what Americans as individuals have to be responsible for in making a payment and in what areas are we going to pass the collective hat.

Every single one of us knows, and very few of us will mention, that we are subsidizing people in America today who have the capacity to pay. They just do not want to pay the bills.

Now, we subsidize lots of people with part B Medicare. We are subsidizing lots of people, as the distinguished Senator from Minnesota said earlier, who are getting high-cost health insurance plans through their employer. We have lots of subsidies in place for people today who do not deserve it.

Mr. President, we cannot pay all the bills. We cannot promise American people we are going to pay every single one of their health bills because the definition of health continues to expand.

There is no researcher in America that has instructions to find a cure or treatment for some terrible disease that is being told "Find a cure that is cheap; find a cure or treatment that is not going to cost very much money." And rarely do they find a cure or treatment that is not expensive, that is not again outside the reach of the American people's capacity to pay.

Mr. President, at some point we have to be honest and say that this stuff gets expensive. We have to be honest as well and say that there is substantial agreement in this body and feel an urgency to help those who genuinely need it. There are tens of millions of Americans out there who do not have the capacity to pay the bills, who are forced to ingratiate themseives to remain on welfare before they are told that they are eligible.

All of us know there is a problem in America. We can see the gaps and differentials that separate Republicans and Democrats. My sincere hope and prayer is that the momentum that seems to have stopped, seems to have caused lots of us to say, well, I am not sure we are going to get a bill; I hope that we are able, in a quiet moment, to acquire the humility necessary to see that the American people are counting on us to set aside our differences and enact legislation this year. It is urgently needed.

We ought to do the best we can to get a bill to the President of the United States so he can sign it on behalf of millions of Americans who are hoping and praying that we are able to get the job done.

As I have said before, I have offered some additional suggestions for changing, in particular, the Mitchell bill. I do it with great respect for the majority leader. I trust his capacity to be deficit neutral.

We began this whole thing by saying we want to reduce the deficit with health care reform. That is the reason our deficits are going up. That was the great line that began this whole debate. We have to make sure that on final passage we are able to go home and say that we did what we said we were going to do, that we passed health care reform that reduced and not increased the deficit in spite of our desire to say, yes, it expands benefits, expands and gives people all sorts of new things. It has to reduce the deficit.

I pointed out, as well, the things where I think we shifted the power of the Government in this legislation to the Federal bureaucracies and Members of Congress.

I reiterate a request made to me by a doctor in Lincoln, NE, who frankly is asking me a question that I pretend I know what I am talking about when I answer. But the truth of the matter is I do not have the capacity to answer the question. I am shooting at a target that is behind a wall, and a spotter comes out every now and then to tell me to adjust left and right. I really, as a Member of Congress, do not have the ability to make detailed decisions that very often are not economic decisions. They are moral decisions. They are ethical decisions, decisions about life and death.

Mr. President, all of us know that typically what goes on out there in the medical community is we have a desire to keep people alive, keep someone alive, to stay alive. These are very difficult moral decisions. I must tell you I do not feel comfortable as one individual in Congress making those decisions. I certainly do not trust signing it off to some bureaucracy in Washington, DC, which will, in my judgment, do very little other than perhaps to make it difficult to get a plane into Washington National Airport.

Mr. President, I hope that our strategy here is to recognize that Americans need it. Our economic security depends upon it, and our capacity to go to bed at night and say that Americans are going to be able to afford health care depends upon our taking action.

I will continue to work with the mainstream coalition. I will continue to focus and to work with the mainstream group, a group of Republicans and Democrats, who want a piece of legislation enacted. We are tormented by the problems that we see in the country, and the status quo is unacceptable.

I will pay a great deal of respect and attention to the Senator from New

VOL 140 PT 15 AG 10 — 11 1994 UMI

York, the chairman of the Finance Committee, and the senior Senator from Massachusetts who is probably this body's best legislator, probably the best able to see the gaps and the differences that separate one from another.

I pay a great deal attention as well to the Senator from Rhode Island who is waiting patiently to speak next, and last, and certainly not least, the majority leader.

Mr. President, we have to take action. There is agreement here in this body. I hope in the process of debating that we do not do as the Senator from Massachusetts cautioned us against doing, and that is simply coming down with a laundry list of complaints, simply coming down and saying, here is what is wrong, here is what is bad, here is what it is, but come down, and say, here is what we want changed. And, if it is changed, we will vote on it. That is what we need to be doing; not coming down here and offering a reason to vote no. Lord knows, there are a thousand reasons to vote no. But there are tens of millions of Americans out there that are good reasons for us to vote yes.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield such time as the Senator from Rhode Island may consume.

Mr. CHAFEE. Mr. President, first, I want to thank our ranking member, Senator PACKWOOD, and the distinguished chairman of the Finance Committee. Also, I would like to congratulate my good friend from Nebraska who gave such a fine statement. What he said are the feelings that I have. I think they reflect the feelings of everyone in the mainstream coalition. We want a bill. We want a bill this year. We believe we can get a bill.

Yes, there are problems we find in the legislation before us, but I think we can arrive at a strong bipartisan measure that will get enthusiastic support in this Chamber.

So for my part, I want to say I am delighted we are moving into this health reform legislation this week. It is very complicated. I think it is time for us to do the best we can to struggle for constructive changes that are going to help our citizens lead healthier lives.

A great deal of emphasis is placed on the limited amount of time we have. Yes, we were to go out on recess at the end of this week. Can we stay another week and another week? Sure. I recognize the need to move quickly, but I do think we have to proceed with some care because the legislation we enact will have widespread and not necessarily predictable consequences. No American is going to remain untouched. It is going to affect how we are born, how we live, how we die. This is far-reaching.

I just saw in the paper a note of a little child born in Pawtucket, Diana Rebello, born on Sunday night, August 7, at Women and Infants' Hospital in Providence. Think of her life and what it means. Then I think of Theresa Nigrelli of Westerly. She is 100 years old and still stringing pearls every day at Nigrelli Jewelers. She does not need glasses. So we think of her, too.

The financial aspects of this are mind-boggling. They have been touched on before. But I would like to repeat that one-seventh of our economy in the United States of America is devoted to health care, one-fifth of the Federal budget. Of the five biggest items in the Federal budget, Social Security, defense, interest on the debt, Medicare and Medicaid, it is the last two that are going right off the chart, Medicare and Medicaid. Defense is banging along, going down; Social Security, fairly stable; interest on the debt going up, not such a substantial amount. But it is the last two that are causing us our principal problems.

The 1,410-page bill before us was only released a couple of days ago. As I understand—I am not sure it is accurate—changes are still being made to it. So it is up to us during this debate to air thoroughly for the American people what is in this proposed legislation and to ensure that our actions do not make the situation any worse. Clearly, we do not want to go backward.

I would like to quote to my colleagues a warning from Reischauer of the Congressional Budget Office in February before the Finance Committee. This is what he said:

> Estimates of the interactive effects of so many complex changes to an industry that encompasses one-seventh of the economy are highly uncertain.

Underline that "highly uncertain." The estimates are "highly uncertain."

> Assumptions, used by the Congressional Budget Office and other analysts, about people's behavioral responses to new incentives are frequently based on research evidence from small changes in the existing marketplace.
>
> They are very small samplings.
>
> In the case of the Administration's proposal—
>
> This applies to any proposal—
>
> however, the entire marketplace and the configurations of the actors within it would be changing, and there is no precedent for estimating the effects on health spending or the economy.

That is the end of the quote. That is what the Director says.

The same caveat applies to each of the estimates that are given in the various bills that have come before us. We all know from study and vast experience and in listening to witnesses much that is right and much that is wrong with our health care system. And we acknowledge that in many respects it is exemplary in technology and innovation, the skill of our professionals, and the range of choices. We also know there are several things that demand reform. It seems to me very important to keep in mind what we are trying to do? What is the end game here? I think our objectives are three.

First, we must give Americans health security. We want to ensure to hard-working people like Christopher North of North Smithfield, RI, that he does not live in fear of losing his coverage. He, his wife, and two sons were covered by his wife's policy through her employer. She lost her job. They applied for a new policy. They were turned down. Why? Because their son had a preexisting condition. Minor though it might have been, it was enough for the insurance company to turn him down and thus turn down their family's insurance.

Insurance companies do not like to insure poor risks. They are very skillful at finding healthy people. And that is why many small businesses with employees who are older or have preexisting conditions are finding their health insurance—they can get it, but they cannot afford it. It is unaffordable. If one employee develops a debilitating condition, all or most of his employees are going to be dropped, frequently. This is a tricky problem in our States where 86 percent of the firms employ less than 20 people.

What about "job lock?" In other words, staying in a job, and you want to leave, but you cannot because, if you go to the new place, you will not be able to get insurance.

Donald Bolster, Bristol, RI, 13 years with Blue Cross—his wife suffers now with Parkinson's. No other insurance plan will take them on because of a preexisting condition. They cannot shop for insurance coverage. They cannot get an alternative plan. They do not have portability. They cannot move to another job. That is what is known as job lock.

The second objective: We must extend health insurance to those—as many as we can—who are not now covered. We want to make sure that the first group can keep their insurance. The second group, we want to extend it to them. We know the statistics: 15 percent of Americans, 37 million Americans at any one time, are without health insurance. In my State, it is 92,000 of our citizens, and 15,000 of them are, regrettably, children. They cannot get or do not have health insurance.

Who are these uninsured? Many people have the impression that the uninsured are the poor or elderly. That is not so. The very poor have Medicaid, and the elderly have Medicare. Ironically, in our system, single-parent families are better off in terms of health insurance than two-parent families. Single-parent families are frequently on Medicaid. Two-parent families are not. One may be working and

the wife is at home, or she may be working in a firm where they do not provide insurance. Therefore, they earn too much to qualify for Medicaid.

The vast majority of people without health insurance live in families in which the head of household is employed for at least some portion of the year. These are not people who are the unemployed, never getting a job; they are employed at least some portion of the year. In my State, 76 percent of the uninsured are in families in which the head of household works full time. Eighty-five percent have incomes above the poverty level. We all know that it is very costly for society when individuals like these do not have health insurance. They are the ones that go into the emergency rooms of hospitals for treatments or for procedures, and the hospital emergency room is not the right place. It is far too expensive for these individuals. Or else they do not go anywhere, and then the child, or the individual, or parent, comes down with a devastating illness that, in the end, costs our society far more.

The third objective is to do something about controlling costs. "Cost containment" is the buzzword used. The cost of health care in our society is getting tremendously expensive for the individual, for companies, for States—particularly through Medicaid—and for our Federal Government. In the United States as a whole, we spend 14 percent of our gross domestic product on health care—more than any other industrial nation. The Federal Government spends 19 percent of its budget—nearly 20 percent, one-fifth of all our expenditures, on health care. That is projected to go up to 25 percent by the end of the century.

Local and State governments, particularly through the costs of Medicaid for State governments, spend about 15 percent. The country just cannot sustain these costs. When you talk about what it is doing to businesses, the statistic is well known that there is a greater cost for health care than for the automobiles built by Chrysler, Ford, and General Motors. It costs more for health care than for the steel in the automobile. We spend twice as much for health care in the United States per automobile worker per car than is spent in Japan.

We have a wonderful opportunity to do something about all of this. This does not come along very often. It came along in the 1930's in the New Deal, in the 1940's under President Truman, and it came along in the 1970's under President Nixon. Yet, in each of those instances, the extremists, those demanding perfection and those who said do not do anything, got together and thwarted the chances of the group that wanted to do something. Obviously, it was not a majority.

So our challenge in 1994 is to make some history. I think we have the wisdom to put partisanship aside and to enact broad health care reform. I was honored 4 years ago when Senator DOLE asked me to be chairman of the Republican task force, and we worked on this and came up with legislation in 1991, and then a better bill in 1993, the Health Equity and Access Reform Today Act of 1993. We had 20 Republicans on that and, subsequently, we had two Democratic Senators join us, making it one of the only two bipartisan health care reforms.

In November of last year we formed a bipartisan group called the mainstream coalition to see if we could not work together. We are drawn by the common belief that reform is too important to be destroyed by party politics. We wanted to formulate a proposal that would put us on a responsible path toward universal and affordable coverage with effective cost controls.

We had some principles to guide us. The first was caution. Nobody knows how this thing is going to work out. Will we get better health care? How much will it cost? We have to implement the reforms slowly and build on the ongoing assessment of how it is affecting individuals and businesses and the Government.

Second, do not add to the deficit. We believe financing should have a realistic conservative time line for phasing in health insurance and for granting vouchers to the low-income individuals, which is part of our plan. And thus we came up with a so-called failsafe mechanism; which is a big word for slow it down, when you phase in the coverage, the costs, or accelerate it, depending on the success of the reforms. We want to ensure that the reforms do not add to the already dire Federal deficit.

Third, there should be a minimal level of Government intervention. Let us not replicate Medicare, which has been fine for the beneficiaries, but a disaster in terms of cost containment. That is the ultimate of the micromangement program. It is cumbersome and top heavy with regulation and produces a 12 percent annual growth in cost, which is more than double what the private sector is going up in. And only in Government-run programs do you have the bizarre situation during a House-Senate conference, where Congressmen PETE STARK and Senator JOHN CHAFEE are huddled at 2 a.m. in a corner of the Capitol deciding who is going to be reimbursed for reading an EKG, or whether nurse practitioners should be reimbursed directly or not. I do not know whether I can speak for Congressman STARK, but I can say I am incompetent to make those decisions. I suspect that he might be, too, but I have to be careful.

These service delivery issues should not be decided by politicians at 2 o'clock in the morning, but by health care professionals working in competitive, efficient markets.

Mr. President, this Government intervention is kind of interesting. I got a letter from Jim Wilson, owner of Wilson's clothing store in Wickford, Rhode Island. He indicates he is not too sure of what the Government is doing. He asks two simple questions: First, what is the Government's track record in projecting the costs of entitlements? How good is the Government in predicting what something is going to cost when it is entitlement? And how well have these programs been managed and controlled?

I think, reluctantly, the answer has to be "horrendous" to the first one and "poorly" to the other.

In the reforms we develop, I believe there should be the least possible Government intervention and the greatest possible reliance on market forces.

Fourth, the solution we must enact must have the broadest possible bipartisan support. That does not mean Democrats or Republicans caving in to the other side, it means all of us giving up a little bit to meet in the Senate. When we are enacting reform, we will be asking the public to accept a great deal on faith. How can we earn our trust if we pass a bill by one vote? The public will be suspicious, and rightfully so. We can see what happened with catastrophic a few years ago. We can debate in earnest taking up the bill by the majority leader. He has worked hard to fuse the two bills in the Finance Committee and Labor and Human Resources Committee, which was a herculean effort. I think we are indebted to Senator MITCHELL for his effort.

There are a number of provisions in this that cause me great concern.

The Senator from Massachusetts says: "Well, list them, but just do not attack the measure. Tell us specifically what you are talking about."

I personally feel that these points that I will make should be corrected. Maybe I am misunderstanding. Maybe I do not read the legislation right. Maybe it has changed in a subsequent rewrite. I do not know.

But the President and Senator MITCHELL, and others, have indicated they are willing to give voluntary market solutions a try before imposing Government controls. In this bill and in many areas, in my judgment, that voluntary market solution effort has not been given the chance it deserves.

Some of us have been chided in the Senate for not recognizing how far Senator MITCHELL has moved. I take such criticism seriously and have spent some time looking through this proposal. What I found is surprising. It is absolutely true the approach does not have the immediate mandate on the employers which was in the original bills that were discussed, such as the President's bill.

VOL 140 PT 15 AG 10 — 11 1994 UMI

But the leader, it seems to me, has in that instance attempted to accommodate those in his own party as well as Republicans. But let us look at some of the other issues that have been less debated and less publicly discussed since the Clinton bill was first presented, vestiges of which we still find in the Mitchell bill.

First, mandatory alliances. A single alliance set by the Federal Government through which all employers and all individuals must purchase insurance appears no longer to be part of this proposal. It is out. It appears to be. However, in its stead is a requirement that all employers with fewer than 500 employees must join a purchasing cooperative and pay any required fees, all employers with 500 or less employees. In my State that is practically everybody. Yes, we have a few employers with over 500, but they are relatively few.

The proposal of Senator MITCHELL appears to accept the idea that there would be competing cooperatives, and would allow employees to purchase coverage outside any cooperative. This sounds good.

Let us look a little further. There also is a requirement that the Federal Government, through the Office of Personnel Management, choose what one might call a favored cooperative. That is the responsibility of the Office of Personnel Management. All employers of 500 or fewer are required to join that cooperative, although they can join others likewise, but you have to join that one and pay your dues. PPM is mandated to establish a cooperative if there is none in the area. Follow this, the end result would easily be what we sought to avoid, single alliances in an area set up by OPM, thus run by the Federal Government with all businesses under 500 required to belong.

This is one of the things that we objected to and many objected to right in the beginning.

Second, price controls. Under the original proposal, Clinton proposed a premium cap above which insurance plans could not charge. That was in the original plan. Many of us objected and argued that competitive forces should be used instead to bring the price of insurance down.

The proposal before us by the majority leader contains a provision that purports to be a market-based, cost-containment mechanism, but on closer examination, it looks like the premium cap enforced by a tax. The Government sets what it believes is a reasonable premium in each area. The Government sets this. And it is indexed to increase at a fixed amount. And if it exceeds that, then the Government imposes a tax on the difference between what the plan charges and this other amount. This is clearly not letting the market forces work.

Third, the proposal creates new regulations for all health care insurance plans sold in the United States, not just those that are involved in the so-called uniform benefit package. In other words, it says that a whole new set of Federal regulations will apply to a whole series of plans that exist out there. It might be the cancer policy, for example. That would not be involved either. That would not be involved in the uniform benefit package.

Clearly, we can see why these new regulations apply to the uniform benefit package. There cannot be any denial for preexisting conditions, and all the things that we previously discussed in insurance market reform, but this proposal extends all of those rules to the policies that currently exist that someone might want to buy even though those policies receive no Federal subsidies.

We do not understand why you get the Government involved in this whole set of new regulations for an area that is working perfectly well now.

Next, the fail-safe mechanism that has been touched on already by prior speakers is something that we believe deeply in to make sure that what you are doing does not cost more than the expenditures that would have taken place in the plan before us. We do not believe that it accomplishes that objective.

Malpractice reform. One objective of health care reform has been to reduce the costs through medical liability reform. The bill before us proposes only modest Federal reforms. The proposal requires alternative dispute resolution but still allows the parties to go to court. There are no caps on noneconomic damages, no changes in the statute of limitations. Most important of all, the bill appears to preempt tougher State malpractice laws currently on the books in favor of the weaker Federal rules.

For example, in California, they have enacted substantial medical tort reform, medical liability reform, after hard-fought statewide debate. Those California rules would all be preempted now by these Federal rules by the Federal Government. In other words, there will be total Federal preemption.

Next is medical education that has been discussed. It was discussed last night by Senator PACKWOOD and in some detail. I would like to echo my concerns that he voiced. I cannot understand—obviously, there should be inducements for those to go into primary care but for someone to sit here and say x percentage of practitioners be in primary care and y percentage in the specialties, if one wants to study to be a ophthalmologist, three cheers. It may well turn out that the market forces will work out that he does not have a job, but that is his business. Maybe he is going to be the greatest ophthalmologist. But to restrict who can and cannot take up the various specialties does not seem to me to be a constructive way to proceed.

Again, we would hope that the market forces would work that way, and as we go more and more into managed care, the market forces in that particular area are going to be stronger and stronger.

Next, ERISA. ERISA are the rules that pertain to companies that operate in many States and those that have self-insurance. Many provisions in this proposal before us will have the effect of gutting the ERISA preemptions that currently exist and that have worked successfully for the health plans of multi-State companies and self-insured companies.

The effect of these changes will be to substantially increase the cost of these plans to employers and to employees. An example is a requirement that these companies be subject to State laws involving so-called risk adjustments, in other words, to paying from one set of plans into another set of plans, so-called community-rated plans. That is an open-ended ability of States to impose a new tax on the premiums of these companies. They do not know what it is going to cost.

Association plans. There currently exists the capacity for businesses, such as a group of automobile dealers or the local chamber of commerce which may put together a whole series of small businesses in groups. They are formed to purchase insurance. Now, many of us would like to see these plans grandfathered with slightly modified rules so they can continue to exist.

To enact a health care reform bill this year, is it really necessary, as is done in this proposal, to completely revamp even those parts of our existing health system that are currently working? I do not think so.

Next is the costly new litigation proposal that exists in this plan. It establishes broad new rules that will open State and Federal courts to a huge influx of claim disputes. In fact, under this proposal attorney's fees are subsidized for certain individuals bringing suit against the claims decisions made by a health plan. There is no question that the plans will simply pay off nonvalid claims, get rid of them solely to avoid the litigation costs.

This is hardly cost containment. It is a bonanza for cost, and it is a bonanza for lawyers. General Electric has told us that it is their estimate this will add $1 million a year to their health care costs.

Perhaps some of these ideas have merit. But I do not think any of them are essential to the enactment of health care reform.

Another point. After the employer mandate triggers into effect, this legislation prohibits insurance plans from ending an individual's health insurance coverage even if the individual or the group does not pay their premiums.

In other words, you cannot drop them for failing to pay their premiums. That is an unusual provision. So I guess the proposal, the rationale behind it, is they want everybody insured. So you can be insured even though you do not pay your premium. I think it would be a great incentive for people not to pay their premium.

But then there is set up a shortfall add-on assessment on all insurance payers. That amount is to be used to pay for those deadbeats who do not pay for their insurance. In other words, every insurer or rate payer will pay an additional amount for those who do not pay their premiums.

Finally, next to last, is community rating. That was discussed last evening by Senator PACKWOOD. Pure community rating, as you know, eliminates any difference between the amount paid by older Americans and those paid by younger Americans. This comes in the year, I think it is, 2002. It will inevitably lead to price increases for younger workers who are not the most wealthy of groups and will force them to drop their coverage.

And then, finally, for some reason, a new occupational safety and health program is established under this legislation. I do not quite know why we have to get into that in the name of health care reform.

These are some of the reasons I have concern over the proposal set forth by the majority leader. The Mitchell bill, but for the employer mandate, appears to reflect few of the principles that those of us in the mainstream have, those of us who err on the side of less Government intervention, more marketplace competition, and effective-cost containment.

What does that mean? Does that mean that we Democrats and Republicans cannot unite on a bipartisan plan that will enjoy broad support? I do not think so. By that I mean, I do not think the negative.

I will start that over again. Does it mean that we cannot unite? I believe we can unite. Does it make sense for us to try for a bipartisan measure that keeps in mind the two objectives we all say we are for?

I think if you ask people out here what are they for, they will all say two things: We want to increase the number of Americans who have health insurance, with our goal of eventually covering everyone. Everybody would agree with that, I think. Very few would not. Second, our objective is to get costs lower for individuals, for companies, for State governments, and for the Federal Government. Cost containment.

Nearly all of us pay tribute to the effectiveness of the marketplace. We all seem to subscribe to the notion of competition. There would be very few people who would get up on the floor of this Senate and say, "I don't believe in competition. I don't believe in the effectiveness of the marketplace."

We subscribe to the notion of competition, those of us in the mainstream. We are, for the most part, extremely skeptical of Government intervention.

So why can we not unite behind a bill that incorporates those beliefs? We do not have to achieve everything this year that we would like to. There will be other opportunities to deal with this subject, to ascertain whether we should do more or less.

I and all the other members of the mainstream group want to see good health care reform enacted this year. We will do all we can to be helpful. We believe it is extremely important to have a bill with broad support.

What am I talking about? Seventy-five or eighty votes in favor—that is not an impossibility—rather than a measure that sneaks through with 51 or 52 votes.

Time is getting short, but there still remains time to produce a product that will be of great benefit to millions of Americans. What an opportunity. What a wonderful opportunity. So let us not let it slip through our grasp.

I thank the distinguished chairman of the committee.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Rhode Island for a remarkable statement and a hugely positive and encouraging one, to this Senator.

We can do this. We can do it. And if it is done, he will be one of the principal reasons it was done.

I thank the Senator.

Mr. CHAFEE. I thank the Senator very much.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the time yielded to Senator CHAFEE not be deducted from the Democratic time, and that the time for the Democratic side be adjusted to equal that used by the Republican side.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I have no objection.

I would just like to know how much time, therefore, that leaves the Democrat side. We have used ours all up.

The PRESIDING OFFICER. The Democrats will be restored to 77 minutes.

Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, the able and learned Senator from Arkansas has been patiently waiting his opportunity, and I yield him 15 minutes.

Mr. PRYOR. Mr. President, I thank the distinguished chairman of the Finance Committee.

I would just like to say that I am very, very proud that this debate is finally here, that we are joining our forces here on the floor of the Senate, that we are doing our duty. Hopefully, this is going to be a constructive endeavor, ending up in meaningful health care reform legislation that can be sent to our President.

Mr. President, in late July, the very distinguished majority leader was faced with the daunting task of integrating the two major health initiatives that were offered by the Senate Labor and Senate Finance Committees. Senator MITCHELL was challenged to develop a bill that would effectively serve as the starting point of debate for one of the greatest legislative undertakings in recent history—reform of our health care system. I applaud the majority leader for meeting this challenge and bringing to the table a bill of considerable merit. I am certain all of my colleagues would agree that he has shown impressive leadership by acting both expediently and in a very, very bipartisan manner.

The majority leader's bill is the culmination of almost 2 years of intense congressional examination, and today we are presented with a real opportunity to use our hard work to effect positive changes in our health care system. Some of my colleagues are claiming that no bill is better than a bad bill. Yet, to imply that the majority leader's proposal is a "bad bill" misrepresents the work we have done the past several months. As a team, we have built upon the groundwork laid by President Clinton with his Health Security Act. And at least up until now, we have overcome many of the barriers presented by partisan politics.

I recognize that we still have plenty of work to do. But I firmly believe that instead of throwing up our arms in frustration, we have an obligation to the American public to meet the challenge put before us today.

Mr. President, I have stated before that the cost of doing nothing far outweighs the cost of reform—both in financial and human terms. My statement today is an effort to urge this Congress to take action and to seize this very unique opportunity to offer Americans the health care they deserve. With that said, I would like to comment on a few aspects of the majority leader's bill, which I find of particular importance.

As chairman of the Special Committee on Aging, I am very pleased that the majority leader included in his plan programs aimed to alleviate the two biggest concerns of older Americans—long-term care and prescription drugs. Understanding that the financing of any health care plan must include significant savings in the Medicare Program, we simply must provide senior citizens with something in return. The inclusion of a new long-term care program as well as prescription drug coverage is a major start, I truly believe, toward guaranteeing the health security of our Nation's most vulnerable populaton—the elderly.

Our Nation's elderly and disabled will rest easier knowing that the majority leader's plan includes a new home- and community-based care program. This

VOL 140 PT 15 AG 10 — 11 1994 UMI

new program is a major step in the effort to reform our long-term care system. By providing services for persons of all ages, this thrust will help give American families peace of mind regarding long-term care.

This new concept will also help end the institutional bias of our long-term care system. Currently, for many elderly and disabled Americans, the only public help available is offered in a nursing home setting. The lack of options will change, should Senator MITCHELL's plan go forward. The wedge of available services will widen, and more people with disabilities will be able to remain living at home with their families.

Another important benefit is that families will no longer have to impoverish themselves in order to get help paying the high cost of long-term care. Instead of forcing the elderly and the disabled to spend down to a low eligibility level, this opportunity is going to be made available to all Americans with disabilities. Many recipients will be required to pay some of the cost of their services. However, these copayments will be equitably set on a sliding scale, according to income. In this way, the welfare-based Medicaid methodology will be replaced by a fairer system of personal responsibility that removes incentives to squander income or to hide assets.

Our long-term care addition is going to offer a broad array of services, providing all disabled Americans with the option to remain in their homes and communities. Homemaker/chore assistance, respite services, adult day care, rehabilitation and home health care services will be among the services made available.

In our home State of Arkansas, nearly 40,000 people will benefit from this new concept. Let me tell you about a few of these people. There is a 90-year-old woman living in a small frame house—and I have been there—in rural Arkansas. She needs assistance in completing activities of daily living. She copes with seizures, heart problems, arthritis, and has a hip replacement. Her only family caregiver is a 68-year-old daughter. If it were not for the services provided by a personal care assistant, this 90-year-old woman would be living in a nursing home today and her stay there would be financed by the taxpayers.

This woman, however, is fortunate, relatively speaking, because she does have access to personal care assistance. Countless others living in our State and our country as a whole lack access to these types of services.

For example, another woman living in rural Arkansas suffers from numerous physical and emotional health problems. Despite these disabling conditions, she was turned down for community-based services because she somehow failed to meet the medical criteria. Now, as she continues to deteriorate on a daily basis, she has become increasingly concerned about her ability to continue living in her own home. She could apply again for help but is justifiably disillusioned by the health care system. Most likely, she will end up in a nursing home, and the taxpayers, again, will foot the bill.

There are many, many other stories that I could tell to illustrate the need for the new home- and community-based program. One of those people came before the Senate Special Committee on Aging back in April. Tom Chapman is 53 and is suffering from Alzheimer's. Hazel, his wife, has done everything that she can do, including leave the work force to become a full-time caregiver to keep her husband at home.

Their daughter, 13-year-old Angela, has all but given up her childhood as a result of her father's disease. Mrs. Chapman told our committee how her husband was diagnosed with Alzheimer's 3 years ago, how the disease has progressed to the point where he can no longer dress or go to the bathroom by himself. He shadows her all day long because he is afraid to be alone. When he eats, he often does not know the food is supposed to go into his mouth.

One of Mr. Chapman's major problems is that because of his age, 53, he is shut out of many of the community-based programs that are available to those who are over 60. The Mitchell bill would change that. It would set up a new home- and community-based care program open to disabled people of all ages. Because they have no options, and Tom's care needs have become so overwhelming, Hazel, his wife, has decided to look for a nursing home for Tom. The costs of nursing home care are so prohibitive that the Chapmans have recently had to give up their home because they can no longer afford it.

These are case studies that only barely scratch the surface of the problem at hand. It is imperative we take action this year, take action now to help the millions of people in this country who are struggling to gain access to long-term care.

Mr. President, I also point out the majority leader's proposal, thankfully, includes prescription drug coverage for older Americans. Prescription drugs provide us with some of the most cost-effective medical care at our disposal. Yet under the present system, too many people have been forced to make the desperate choice between buying food and utilities or buying the medications they need to stay healthy. Over the past decade, skyrocketing prescription drug prices have made medications unaffordable to many Americans, especially our Nation's elderly. In spite of the many studies which show the harmful effects of this relentless inflation on our Nation's poor and elderly, the country's drug manufacturers today say that Congress should not take any action to contain drug prices. They say we should, instead, rely upon market forces to hold down the prices of medications.

Because pharmaceutical companies retain a high degree of control over the prices of drugs they manufacture, the market fails to produce adequate cost containment for the American consumer. Competition in drug pricing is almost nonexistent because today the companies are buying the generic drug manufacturers that serve as their competition. The drug companies are also now buying the businesses which distribute these drugs throughout the American marketplace.

Through the course of my years in office, I have received thousands of letters, as I know the entirety of this Senate has, from older Americans, pleading for help in paying the cost of prescription drugs. Unfortunately, the elderly spend over two and a half times as much as the younger generation on medications, and they pay for a higher percentage of their drugs directly out of pocket. In fact, for over 75 percent of the elderly, prescription drug bills represent their highest out-of-pocket medical costs.

The Mitchell bill addresses this dilemma. It provides seniors with greater parity by including a Medicare drug benefit as part of the provisions. As I have already stated, with significant proposed cuts in the Medicare Program, we must now offer seniors some degree of help in return. This drug benefit, although many will say it is moderate, will have the added effect of reaping considerable Medicare savings due to reduced hospitalizations, generic substitutions, and improved health conditions.

The Center for Policy Studies recently found that these savings could total as much as $37.2 billion saved over 5 years. The seniors who stand to benefit from this program are not the wealthy elderly. They, instead, represent seniors who fall within 100 to 200 percent of the poverty range.

In my home State of Arkansas, the Medicare drug benefit will result in more comprehensive prescription drug coverage for over 250,000 people age 65 and older. These seniors will be a part of the older, poorer minority elderly population who are going to benefit greatly from the so-called Mitchell proposal that is now before the Senate.

Because of these two forward thinking concepts—long-term care and prescription drug coverage—we received this morning for Senator MITCHELL's proposal the endorsement of the American Association of Retired Persons.

I would like at the proper time to place this endorsement of the Mitchell plan into the RECORD. But I would like, Mr. President, before I do that, to quote from this endorsement. It is in about the fifth paragraph.

The PRESIDING OFFICER. The Senator has utilized the 15 minutes yielded to him.

Mr. PRYOR. It has expired?

The PRESIDING OFFICER. It has expired.

Mr. PRYOR. Mr. President, may I seek 3 or 4 additional minutes?

Mr. MOYNIHAN. Can we make it 3 minutes?

Mr. PRYOR. Yes.

The PRESIDING OFFICER. The Senator is recognized for an additional 3 minutes.

Mr. PRYOR. Mr. President, it states:

The Mitchell and Gephardt bills are about protecting American families. They offer an historic opportunity to provide each of us with affordable, high-quality health and long-term care. If either bill is defeated, health care reform will be dead for years to come.

In closing, let me state that this morning in the Washington Post, I read a very, very disturbing news article about a group of business people who are now meeting at the very exclusive City Club in downtown Washington. They have decided to oppose all health care reform bills, especially, it appears, the ones offered by the Democratic Senators.

The most disturbing statement was given and attributed to Mr. John Motley. I know Mr. Motley. He is a friend. He runs the NFIB, the National Federation of Independent Businesses. By the way, this is not a small organization. They have an enormous PAC fund, they have an enormous number of employees. This is something that Mr. Motley stated yesterday: "We are all very good at putting together votes against something," said Mr. Motley.

Mr. President, if Mr. Motley said that, this is the most cynical statement that I have seen yet in this long debate about health care. Here are a group of business people and their spokesman is saying, quoting again: "We are all very good at putting together votes against something."

I do not know exactly what our country is coming to. But unless we can really get to the bottom of some of these issues and tackle the many special interests that for years have profited from this health care crisis in America, I hate to say that we are going to be admitting that we do not have the fortitude nor the ability to carry forward with our commitment to provide health care for all Americans.

Mr. President, I ask unanimous consent to print in the RECORD the statement by the AARP president.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY AARP PRESIDENT EUGENE LEHRMANN

AARP recommend to our members that they support the health care reform bills introduced in the Congress by House Majority Leader Richard Gephardt and Senate Majority Leader George Mitchell. Although neither bill is perfect, after careful review, we conclude that they provide the foundation for comprehensive health care for all Americans.

AARP has been a constant voice calling for comprehensive reform of the nation's health care system. Throughout this long and often confusing debate over how to accomplish health care reform, AARP has not endorsed any proposal, but has held steadfastly to our basic reform goals that would provide: universal coverage; long-term care coverage; prescription drug benefits; provisions to protect and strengthen Medicare; controls that reign in skyrocketing health care costs; and a fully-funded health care system that is affordable to every American.

In the almost three decades since Medicare was enacted, two other Presidents—Nixon and Carter—proposed major reforms, but Congress did not act. The time for proposals without action has passed. We are now dealing with specific legislation that demands difficult choices but offers the hope of real reform.

Trade-offs will be required of each of us, regardless of age or income. For AARP members, cuts in Medicare must be balanced by new home and community-based long-term care and prescription drug benefits. AARP will continue to fight to protect Medicare and to make sure that older Americans are always able to get the doctor and hospital care they need.

Ultimately, the choice must be between health care reform and the current health care system. We all know the problems with the current system. The Mitchell and Gephardt bills are about protecting American families. They offer an historic opportunity to provide each of us with affordable, high-quality health and long-term care. If either bill is defeated, health care reform will be dead for years to come.

This is why we are asking our members to support the Mitchell and Gephardt bills. AARP pledges to our members that we will continue to fight for our goals until they are fully achieved. By supporting these bills, we can all make health care reform a reality, not only for ourselves, but for our children, our grandchildren, and the generations to follow.

Mr. PRYOR. Mr. President, I yield the floor, and I thank the distinguished chairman for providing me the opportunity to speak.

Mr. MOYNIHAN. And we thank the tenacious Senator from Arkansas for particularly drawing attention to the pharmaceutical benefit, which is of great importance.

Now I have the pleasure to turn to a natural authority on this subject, the junior Senator from Hawaii where we have had universal health care for many years and with great and felicitous results. I yield 10 minutes to Senator AKAKA.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I thank the chairman for giving me this time.

I have joined today's debate on health care because I represent Hawaii and Hawaii leads the Nation in ensuring that basic health care is available to all. Our system delivers high-quality care without high costs, despite Hawaii's high cost of living.

When the majority leader and the Republican leader opened the debate on health care on Tuesday, they described in very eloquent terms the problems with our health care system and their differences over how to correct these problems.

The one thing both leaders agreed was that affordability and access were the core problems with health care today. In both their speeches, the leaders used the identical words—affordability and access—to describe what is wrong with the current system.

Mr. President, for 20 years, since 1974, Hawaii has had a prepaid health care system whose keystone is shared responsibility, or employer-employee mandates. I want you and my colleagues to know, and the Nation to know, that it works for Hawaii and it will work for our Nation.

In Hawaii, we have solved the problems of affordability and access. Hawaii has achieved the American health care dream, near universal health care for its citizens and at a cost that is 25 to 30 percent below the national average. We achieved this because of shared responsibility—employers and their employees joining together to share the costs of health care coverage.

In Hawaii in 1974, we had opposition. We had opposition from the American Medical Association. We had opposition from the business community. We had opposition from small business associations. We had opposition from the Chamber of Commerce. And despite this opposition, because of the strong, solid Democratic majorities and a strong Democratic legislature and because the bill was a Democratic priority, it was passed in 1974, and we have had it now for 20 years.

So for 20 years, Hawaii has maintained a model health care system. The cornerstone of health care in Hawaii is shared responsibilities. For 20 years, Hawaii's employers have shared the cost of health insurance with their employees. As a result, Hawaii has one of the healthiest populations in the Nation.

I quote from the Journal of the American Medical Association:

Considering that health outcomes ought to be the key objective of a health care system, Hawaii fares very well, if not the best of all States, in terms of longevity, low infant mortality, and very low premature morbidity and mortality rates for cardiovascular and pulmonary disease and cancer. Two recent national analyses of the comparative health status of all 50 States, one by Northwest Insurance Company, Milwaukee, WI, and another by the Public Health Association, Washington, DC, have rated Hawaii first among all States. We believe a considerable amount of this success is attributable to direct and indirect effects of Hawaii's employer mandate over the past two decades.

* * * the State's continued emphasis on ensuring access to primary care for nearly all its citizens has been a major factor in better

VOL
140
PT
15
AG
10
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11
1994
UMI

health outcomes and improved health status for Hawaii's people.

Death from chronic health problems, such as cancer, heart disease and lung disease, are also among the lowest. Our cancer rate is one-quarter less than the national average, our heart disease rate is one-third less than the national average, and the incidence of lung disease is half the national average.

Opponents of health care reform and shared responsibility——

Mr. KENNEDY. Will the Senator answer a question on that?

Mr. AKAKA. Yes.

Mr. KENNEDY. Does the Senator draw a conclusion that because there is early intervention—as I understand it, Hawaii has twice the visits to the doctors as we do in other States and it has half the hospitalizations. A good deal of the analysis in Hawaii, as I understand, is for preventive aspects which you included in your program which are very similar to the programs in the Mitchell program; and that that has resulted in a reduction in both the utilization of hospitals and more extensive types of treatment. Is that part of the experience?

Mr. AKAKA. The Senator from Massachusetts is absolutely correct.

Mr. KENNEDY. I thank the Senator.

Mr. AKAKA. Hawaii has enjoyed this over many, many years.

The opponents of health care contend that requiring employers to provide health insurance will lead to widespread business failures, yet our experience is just the opposite. The dire predictions about economic decline, lost jobs, and small business failures have not materialized. Requiring businesses and employees to share the cost of health insurance has not undermined Hawaii's small business climate.

Critics respond by saying, "Hawaii is different. Your State is not representative," or that, for one reason or another, Hawaii is not a good test case on the effect of shared responsibility on small businesses.

In fact, Hawaii is a very good test case because Hawaii is a small business State. Small business is the engine that drives our economy. Ninety-eight percent of the businesses in Hawaii have fewer than 100 workers. Firms with 50 or fewer employees constitute 95 percent of our businesses. Hawaii is a haven for small businesses, not the Fortune 500 companies.

Since Hawaii implemented shared responsibility, we have enjoyed steady and nearly uninterrupted small business growth. With the exception of 1 year out of the past 20, small business employment has increased each year.

The Hawaii experience defies the predictions that shared responsibility will lead to higher insurance premiums or an increase in small business failures. Beginning in 1977, Mr. President, when an index for business failures was first created, Hawaii's small business failure rate has been half the national average. Hawaii has also been heralded as the number one "entrepreneurial hot spot" for start-up companies.

Critics also insist that employees will respond to health reform by eliminating low-wage employees. Yet, they contend that small businesses will be forced to cut jobs or shift to using part-time employees because they cannot afford the cost of contributing to health insurance.

Neither of these problems have surfaced in Hawaii.

These critics also fail to take into account the positive effect of lower insurance costs on business. What they do not appreciate is that as they get closer to universal coverage, insurance becomes less expensive, not more expensive. In most cases, businesses that currently provide insurance will see their premiums drop under the Health Security Act.

Because of Hawaii's near-universal coverage, health insurance premiums for small businesses are competitive with the low rates that large employers are able to negotiate. Despite our high cost of living, insurance rates for Hawaii's small businesses are 11 percent lower than the rest of the country. In 1993, a Kaiser Family Foundation study found that small business premiums averaged $251 less in Hawaii than the national average. Shared responsibility and universal coverage means that small businesses obtain rates that are usually reserved for large corporations.

Shared responsibility is the best way to reduce health care costs and make insurance affordable.

Requiring employees to share the responsibility for providing health care coverage has not hurt Hawaii's economy. Hawaii has impressive economic evidence to show that our small business sector has not suffered harm from 20 years of shared responsibility. Some might even say Hawaii's economy is strong because it has a work force that enjoys quality health care.

Our employers understand that a healthy and motivated work force is the key to business success. Our businesses receive an economic payoff that is well worth the cost of providing coverage for employees. And because of this and because it has worked in Hawaii for 20 years, I know it will work in our country when we pass this bill. I urge my colleagues to keep Hawaii's experience in mind as we act on health care reform.

I thank the chairman for giving me this time.

Mr. MOYNIHAN. Mr. President, we are coming to the close of 2 days of general debate on the health care proposals, and I for one have not heard a more forceful and relevant and revelatory statement than the Senator from Hawaii—the point that as you approach universal coverage there is not the cost shifting that brings premium rates up for small business, the fact that you have seen small businesses in 20 years in just 1 year decline in numbers through many recessions, a powerful statement for which I one for and the Senate in general are deeply grateful.

Mr. KENNEDY. Could I inquire of the Senator?

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Is it true that Hawaii now has the most favorable business climate for small business in the country?

Mr. AKAKA. That is the prediction and also that is the feeling there now; Hawaii businesses have grown over the years.

Mr. KENNEDY. Just finally, does the Senator not agree with me—we have heard a great deal from those who oppose the Mitchell program—that in many respects the program that was actually adopted in Hawaii and has been in effect 20 years in terms of universal coverage, the preventive aspects of health care, many of those features have been tried and tested in Hawaii and have been effective? As I understand, Hawaii also has the burden of looking after the health needs of many of the American possessions in the Pacific basin as well; many of those people come in from the Marianas and from the other islands, and they also utilize the Hawaiian facilities, and still with all of those kinds of burdens they are able to have the kind of excellent system with all of the health benefits and economic benefits that the Senator has identified.

Mr. AKAKA. The Senator from Massachusetts is correct. We do service the Pacific region. They do use our facilities and our program, and it has worked very well for the Pacific.

Mr. KENNEDY. I thank the Senator.

Mr. MOYNIHAN. We thank the Senator for a remarkable statement. But is the Senator sure it is not somewhat connected with the climate?

Mr. President, the Senator from Montana is here, and I am happy to yield 10 minutes to him.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I thank the chairman. I wonder if he could yield more than 10 minutes because my statement will take more than 10 minutes.

Mr. MOYNIHAN. Fifteen.

Mr. BAUCUS. I appreciate that.

Mr. President, first, I commend the chairman of the Senate Finance Committee and also the chairman of the Committee of Education and Labor. Many, many Members of this body have explained to their colleagues and to the public at large how much we all owe our gratitude to these very fine men, and I want to join in that praise and those compliments. Without their efforts, it is clear we would not now be

here attempting to work out a solution to the health care crisis that our country faces.

Mr. President, I wish to take a few minutes here to discuss the health reform proposal now before us. I begin by saying that this is a monumental effort. It is a historic effort. It is an effort that has been well framed in this debate, particularly by the measure offered by Senator George Mitchell, our majority leader.

I commend him for his work and the extraordinary, almost herculean, efforts he has undertaken to get us here.

Montanans have discussed health care in many ways and discussed it in depth. I, for example, held town meetings and conferences and have had more talks with Montana businesses, union members, health professionals, and ordinary citizens than I have had on practically any other issue. Virtually all agree that we have to act now.

Too many middle-class Montanans are in danger, for example, of losing their coverage. Too many Montana businesses are facing the choice of whether to offer health benefits at all. That is because costs for them are rising too fast.

Listen to Gary Beley, a self-employed, self-ensured rancher from Big Timber, MT.

> My wife and I are 59 years of age, and ranch for a living. We have a * * * $1,500 deductible policy on which we have filed one accident claim in over a 10-year period. They rate us in good health. From 1991 to 1993, our premium has gone up from $3,970 to $7,352 per year. This is an 85 percent increase in over a two year period. The increases over the last two years have been about 20 percent per every 6 months.

Mr. President, people like the Beleys are hard-working. They are middle-class Americans. They need some relief. And it is time for us to step in and do what we can to provide it.

I believe the proposal before us now will help. It will not solve all of the problems we face in health care, but it is a big step forward. Today, as we begin the debate, I want to discuss its major features. I begin with some of the reforms that will be most critical for America, rural America, particularly my State of Montana.

The first proposal before us has strong insurance reforms. These will make it easier for consumers and small businesses to buy insurance. Many have a hard time today. The proposal will limit the ability of insurance companies to deny health insurance to middle-class Americans with preexisting conditions—very important—and it limits the ability of insurance companies to cut benefits, arbitrarily drop coverage, or charge sick people dramatically higher rates, a lot of which is going on today.

Second, the measure before us offers assistance to businesses that want to offer health insurance but are unable to afford it.

Third, it will increase the number of primary care doctors, an area in which Montana in particular has serious shortages.

Fourth, it will improve the quality of rural health care because it includes a rural health condition that I proposed earlier this year. Its main features are: First, it makes Montana medical assistance facility demonstration projects permanent. This project is known as MAF's, and now operates in the towns of Jordan, Circle, Terry, and Ekalaka. And according to Walter Busch, the administrator at Roosevelt Medical Center in Culbertson, MT, a small town with a population of about 796 people by the North Dakota border—this is what he says:

> The Medical Assistance Facility has improved access to quality health care services in a cost-effective manner. It has restored health care services to four remote rural communities and prevented loss of services in two others. The program has cost relatively little to implement, and has been well received by both residents and rural communities. It is a very flexible program, and yet one that has provided consistently high quality care.

The rural provisions also offer grants for what is called "telemedicine," letting rural doctors and nurses use modern technology to confer with specialists in other areas. This is very high technology and is very important to remote rural areas. It creates a program of branching to create networking among providers, allowing them to share information on equipment and techniques and to cooperate much more effectively than they can today.

It also offers tax credits to doctors and nurses who practice in underserved rural areas. That includes two-thirds of Montanans.

Finally, it creates a new, permanent position of Assistant Secretary for Rural Health at HHS. This will help make sure Federal officials do not forget about places like Culbertson, MT.

On the whole, the proposal before us is a very good effort. However, it contains two troubling provisions. These discriminate against Montana and other rural States, place a burden on middle-class taxpayers, and endanger any support for the proposal as a whole. What are these two provisions?

The first creates a fund for teaching hospitals. These are large profit-making institutions, and about half of this fund will go to hospitals on the east coast. The fund is financed with a 1.5 percent premium, or a tax on health plans, all health plans, designed to raise about $65 billion over the next 10 years for these hospitals.

These hospitals also receive about $80 billion in transfers from the Medicare trust fund. The mere existence of this fund is a problem for me. There is no hard evidence that teaching hospitals require this kind of a new fund. I am not convinced that creating it is good policy. And my preference would be to eliminate it and return to the subject when and if a critical need is proven in the next several years.

However, the fund has a lot of support, and I do not insist upon striking it. But I do insist that it be fair. If we create a fund, it must support all hospitals with critical needs wherever they are because I will offer an amendment to set aside 30 percent of the fund for rural hospitals. That will deal with a real, grave, and worsening crisis, because 10 percent of rural hospitals closed in the last decade. They are gone. They provide no care. Rural areas where 3 in 10 Americans live have fewer than half as many physicians for providing patient care as urban areas. Where cities on the average have 225 doctors per 100,000 residents, rural areas have only 97 doctors per 100,000 residents.

Two of every three Montana counties are underserved, and rural areas have higher levels of chronic or serious illness—that is documented—and have higher percentages of senior citizens than any part of the country as a whole.

My amendment will give hospitals in these regions some critically needed aid. It will make sure that the fund is shared evenly among hospitals that need support. And it will preserve 70 percent of the money to deal with any problems that teaching hospitals might encounter.

The second problem is the proposed tax on high-cost insurance plans. This is an idea which sounds good. After all, we do need to control costs. We want people to choose the most sensible plan for themselves. So why not give them a push toward less ambitious, lower cost plans by taxing the higher cost plans? But when you look closer at this proposal, you find it is much more complicated. You find in fact that the tax will hit again rural heartland States harder than other parts of the country.

Many of the health plans this text covers are not luxuries. They are not gold-plated plans. They are the only option for people in high-risk jobs like logging, millworking, mining, and agriculture. Farming is now the most dangerous occupation in the United States with annual death rates at 52 per 100,000 workers, almost five times the national average. These people are responsible, they are hardworking middle-class citizens, and these jobs are the backbone of Montana's economy. This tax, then, has a large and unfair impact on middle-class Montana workers and industries.

This version, I must say, is less onerous than the version which led me to vote against the Finance Committee package that Senator MITCHELL has attempted to improve upon. But in its current version, it is still unfair to Montana, and it is hard to see how I can support any bill containing it. We should not raise the cost of premiums

VOL
140
PT
15
AG
10
11
1994
UMI

for honest, hardworking, middle-class families. Health reform should do just the opposite. It should make premiums cost less, not more, but less.

This proposal also would require large businesses to share the cost of health insurance for their employees. But it is a requirement unlikely ever to take effect. It provides that only if market forces fail to push us to 95 percent coverage by the year 2000, and if Congress does not bring us to that level by 2002, then all businesses with more than 25 full-time employees will be required to pay 50 percent of the cost of health insurance for their employees.

Most Montanans now, as a matter of course, get their health insurance through their employers. But some large businesses nationwide do not help provide insurance. They contribute to cost shifting, and thus to waste in our health care system. That makes everyone's premiums higher. In essence, they impose a private tax on middle-class Americans. And people like the Beleys in Big Timber, MT, are paying it.

These businesses should cover their employees. They have no excuse.

Small businesses, however, should not be subject to a mandate. They operate on small financial margins, and mandating health coverage would cost jobs, that is clear. Thus, the proposal exempts all businesses with 25 or fewer full-time employees from any mandate, ever. That is more than 80 percent of Montana firms. I believe it is fair to small business and does give the market a chance to work.

The Congressional Budget Office believes the proposal will cover 95 percent of Americans. Even if CBO is wrong, Congress has 2 years to address the issue. Only if this fails will large businesses be required to help provide insurance. It is a responsible approach, and I will vote to keep it.

I think we will not do enough to control costs. In many ways, this is the fundamental issue. Rising health costs put Federal and State budgets under tremendous pressure. Within the next 5 years, higher health costs will reverse the progress we have made in the deficit reduction bills of 1990 and 1993. They hold down wage increases for Montana and American workers, lowering the standard of living. And they make American business less competitive relative to foreign firms.

Sooner or later, we will have to deal with this problem. Budget pressures will give us no choice. I hoped we would do it this year, but it seems to be a political reality that we have no consensus to do it. Neither this proposal nor any Republican alternative will control costs effectively. But whether we pass a Democratic reform, a bipartisan proposal, a Republican bill, or nothing at all, we will have to do it soon.

This proposal's creation of a Commission on Health Care Costs is at least a step in the right direction. This Commission will report on health costs, gather information on the reasons health care costs are rising, and suggest possible ways to address the problem. That means pressure will come on Congress to take on health costs, and that we will have the most current information available to us on how to deal with it.

The fact that we will not control costs this year is regrettable. I think the American people want us to focus more on costs, and we are not doing so. But the Commission on Health Care Costs is an acceptable—barely—second best. And the failure to do more is no reason to oppose the reforms we have before us—support for small business, insurance reforms to guarantee coverage, and improved rural health care.

In conclusion, I again commend the majority leader, in particular, for his work. As he said, this proposal will change before it passes. But its introduction helps us along the way toward our goal of national health care reform. With this bill, Gary Beley and his wife will no longer have to insure on their own. They will be able to join a group and get lower rates. That may not be everything the Beleys need, but it is a start.

Finally, I want to take a minute to commend my legislative assistant, Maureen Testoni, for her tremendous work on health care over the past 2 years. She has worked long hours and provided me with consistently good, sound advice, cogent advice. I want to thank Maureen for her work and congratulate her on her wedding later this month.

Thank you, Mr. President. I look forward to the debate.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Montana for his very cogent remarks.

I yield 15 minutes to the chairman of the Committee on Agriculture, the able, learned Senator from Vermont, Senator LEAHY.

Mr. LEAHY. Mr. President, I thank my good friend and neighbor across the beautiful Lake Champlain. I know that he, like I, wish we could be almost in parallel areas—he in his lovely farm in upstate New York, and me on my lovely farm in upstate central Vermont, where we could then protect both shores of Lake Champlain. But, Mr. President, we are here to do something that I hope will protect all of us, all Americans, and that is to bring health care to all Americans.

I was reading the sports page the other day, and I came across a quote from Shaquille O'Neal, the famous basketball star who plays for the Orlando Magic. "The Shaq" hurt his back, but he said he was not worried. He said, "I am not too concerned—I have good health insurance."

That quote hit me because it summed up what we are all debating about—whether we give America's families the same kind of peace of mind about their health care. We should not have to be a famous basketball star and somebody who makes millions of dollars a year to have good health insurance.

In Vermont, my home State—and this is a State of only 560,000 people—5,000 people in Vermont lose their health insurance each month. There are 56,000 Vermonters without health coverage; 49,000 of them are in working families. Almost 6,000 of those Vermonters are children.

Mr. President, I know many, many of these Vermonters. Many of them are my neighbors, my friends. Some of these Vermonters without health insurance went to school with me. Some grew up on the same street I did in Montpelier, VT. Some are people I have known all their lives. They are hard-working, good, honest, decent people. The fact of the matter is that they have worked as hard as anybody in this Chamber and do not begin to have the kind of health coverage we have.

Too many Vermont families do not share "The Shaq's" sense of security because they know that if they have an illness or if they lose a job, it might mean the very end of their health insurance. They are asking everybody in this Chamber to do something to end their fears.

Let me give a personal example. A Vermonter, a mother of three children, one of whom is developmentally disabled and another of whom has a chronic disease, said it this way:

> I am asking the congressional delegation from Vermont to make sure that this work is done in a timely fashion. Our children cannot wait while party lines are haggled over. This issue is so important to many of us. Please remember that there are real families out here, struggling to provide meals and a roof over their heads and their families'. They should not have to worry about who is going to pay the doctor bill, too.

That is why we need health care reform, to give this mother, and so many parents like her across this country, some peace of mind.

There are those who do not agree. They say, "We want health care for Americans, and we understand that Americans who lose their jobs may lose their health care. We want to do something, but not quite yet, and really not in this form. We have to do something a little different, so let us make changes. Of course, we want everybody to have health care—believe us when we say that—but maybe not quite yet because we are not quite ready."

The people who say they are all in favor of health care but not yet and not quite in this form or that form and maybe we should wait a year to study it, the people who say this are invariably people who do have health care. They can wait until next year or the year after or the year after that because they have health care, and they know they and their spouses and brothers and sisters and parents and children are all covered.

But what do you say to those people who are hard working Americans who do not? What do you say to people who have a child with a chronic illness and could not get insurance for that child no matter what? What do you say to the people who have a preexisting condition and they know no matter how hard they work or how good they are they are not going to get health insurance?

Those people who do not have health insurance are also very real. They are just as real as those who have health insurance who say we can wait. They are trying to raise families, like this Vermont mother of three. They want us to remember them while we are having this debate.

I think of the debate on programs of Social Security and Medicare. During the debate on Social Security, we were told about how little good it would do for older Americans. We heard about the end of the American tradition. We heard about socialization of America. We heard when people were talking back in the thirties whether we would have Social Security, we were told by many who opposed it, that it would do more harm than good, that it would hurt older Americans, that it would turn us into some kind of socialistic nation.

During the debate on Medicare, one Senator said:

> It would achieve little for those who need it, while subjecting the very fabric of American life to the strain of severe and unnecessary sacrifices.

We are going to hear these arguments again. We will hear all of the reasons why we cannot cover people, why we cannot have guaranteed coverage through the workplace.

The special interests have hired the best lawyers in Washington to make sure they lose no ground in this bill. Some groups have gone so far as actually placing calls for people who they then supply with a script so they can say "We oppose this" or "We oppose that." That is shameless.

Let real Americans talk. Let us let the real people with a personal stake in this come forward, not someone who is a hired gun for or against any plan.

I congratulate Senator MITCHELL for getting us to this historic moment. He introduced a bill that will let us do what is right for the people of this country. His bill is a moderate and reasonable approach. It can move this country toward universal coverage.

The majority leader listened to the concerns people have with the President's plan and put together a bill that is less bureaucratic, emphasizes primary and preventive care, provides extra protection for businesses, and pays for itself.

Some say it does not go far enough. Others say it goes too far. We have seen the debate. I watched many of the debates the distinguished Senator from New York had in his Finance Committee. I wish to commend him. I think there was probably not a single issue that he did not bring out and explore in the best possible way. The distinguished senior Senator from Massachusetts [Mr. KENNEDY] did the same in his committee.

We have heard these debates. I think it is safe to say in listening to them we know there is never going to be a perfect solution. We are not in a perfect world. And if we wait for the perfect, if we let the perfect be the enemy of the good, we would never get off the ground, and millions of Americans would be without health insurance.

Is the bill before us the one I would have drafted? Is it the one the Senator from New York would have drafted or the one the Senator from Massachusetts would have drafted if they could write it all by themselves? I doubt if it is. But there are 100 Senators who have to vote on it here and 435 Representatives in the other body who have to vote on health care. And every one of us could look at whatever piece of legislation is before us and say it is not precisely what I would have wanted but it is a start.

The debate goes forward. I want to look at each part as we vote on it, but I would like to see us get to the bill, debate each part, and then decide up or down. I will look at how it will affect Vermont and how it will affect the country.

I want to make sure my own State's efforts to make our own health care system more efficient and more accessible are not diminished in any way.

There are a lot of things I like about Senator MITCHELL's plan. It has full funding of WIC. That is a goal my colleague, Senator JEFFORDS, and I shared and fought for for many, many years. It is something that we can say to poor pregnant women in this country that they can get the same kind of nutrition as someone who has more money. Their children can have at least a chance at birth. Having gone through the pregnancy, the gestation with decent nutrition, they should then have decent nutrition when they start their young life.

It has strong privacy protections. We want to know that people will not have their medical histories the subject of curiosity or harmful disclosure for commercial advantages, that someone cannot go into computers and find out everything about a person's life and sell it.

It has State flexibility, allowing States to implement national reforms on a fast track.

Coming from one of the most rural States in the Nation, I am glad to see it has strong rural provisions so that when you talk about health care reform that is not an empty promise to those who live in small cities and towns.

Many Senators last night mentioned the 59th anniversary of Social Security is coming this Sunday. I want to quote one Representative whose words from that debate are just as wise today. Here is what he said:

> I have looked forward to the initiation of such a program for many years. I must not let temporary disappointment over one feature of the program blind me to the great benefits of the program as a whole.

I urge Senators to remember these words and remember the hard-working people we are fighting for.

Let us debate the Mitchell plan. Let us improve it where we can. Let us, when we disagree with something, vote it up or down. Let us debate every amendment Senators have to offer. And let us vote.

Let us not give the American people the spectacle of a Senate unwilling to come to grips with this, unwilling to vote on each issue.

We have worked hard on this. The distinguished Senator from New York, the distinguished Senator from Massachusetts, the distinguished majority leader and many, many of our Republican colleagues have worked very, very hard on this.

Now let us bring it to fruition. I think on the thousands of hours by hundreds of professional staff members who worked on this. I am proud to be joined on the floor of the Senate by the senior staff member of my office who worked on this. Theresa Alberghini. She started off as a member of Mrs. Clinton's Health Care Task Force early on last year. She has worked with the President, with the First Lady, with Members of this body and their staffs, and with the Governor of our own State, trying to bring to me at least the best information possible but also to bring her own other talents. There are hundreds of other men and women associated with the Senate who have been doing the same.

Let us not let all that work go in vain. Let us face up to this, and let us hope in the coming days and weeks we can reach a conclusion for the American people.

Mr. President, I thank the distinguished chairman and my good friend from New York for yielding me this time.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I especially thank the chairman for the wisdom and for the experience behind his counsel, that no bill is going to satisfy all of us about all of the things, but this is the moment for a bill.

Again, I thank the Senator.

Mr. President, may I ask how much time is remaining?

The PRESIDING OFFICER. The Senator from New York controls 14 minutes and 16 seconds.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Mr. MOYNIHAN. Mr. President, in an act of abandon but enthusiasm, I yield it all to my friend from Ohio, and may I say that with this the distinguished Republican manager and I will have used all of our time, and so this will be the last address of the day in this debate.

Senator METZENBAUM.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I thank my colleague from New York and rise to take the position of the abandoned Senator, having been given this position by reason of an act of abandonment by my friend and colleague.

I rise to express my strong support for comprehensive national health care reform.

Let us not kid ourselves. This is a defining moment.

At many points in this century, the Congress has been on the verge of enacting a universal health care system and each time we have shied away from it.

Once again, we have a chance to rise to the challenge.

I implore my colleagues, please do not let this moment slip away again.

To the naysayers who say no bill, filibuster, or next year, I say, you are letting the American people down; you are playing politics with the health needs of the American people.

We must put the long-term needs of the American people first.

I believe that each one of us elected to this Chamber knows that this country should have a universal health care system.

Every American should have the right to go to a doctor or a hospital when they are sick. That is the heart of what we need to do: Assure every American access to affordable high quality health care.

We are elected Senators in order to lead. We are elected to do what is right for the country.

There will always be a certain amount of politics being played between Democrats and Republicans. The Republicans have made a political calculation that they can become the majority party if the American people believe that the Democrats failed to enact health care reform.

And, regrettably, too many Democrats also are fearful of reform. They want Republican cover to hide behind with some of their constituents.

But bipartisanship solely for its own sake would only mean a lowest common denominator reform bill.

Democrats need not fear health care reform. As long as we do what is right for the American people, we will be heroes, not failures.

Health care reform can be relatively simple. If we only have the courage of our convictions, we can do it.

The American people are fed up with politicians because of our willingness to put politics before policy.

So, as we begin this debate, I implore my colleagues, let us cast each vote in the name of a better health care system, let us live up to the aspirations of the American people, let us put the need for comprehensive health care reform first.

Every one of us is going to get sick at some point in our lives. And everyone must be able to go to a doctor or the hospital when he or she is sick. Every one of us; young and old; rich and poor; husbands and wives; children and grandchildren.

Let me tell you some of the cases that we are talking about. These are individual cases from Ohio.

Patrick Joyce, 3 years old, has cystic fibrosis. He needs access to specialized care to live a normal life. But without the money to get the medical care, he cannot live a normal life.

And then there is Shawn Durham, a 1-year-old child, rare heart defect, who has already had three heart surgeries—three heart surgeries on a 1-year-old child. The parents are in college. They have no insurance, and no insurance company will cover them. Can we in good conscience turn our backs on such cases?

John Corcoran, whose wife has Alzheimer's; his daughter has seizures. Neither can get insurance. And poor John is a farmer who would lose his business if either were to be hospitalized.

Then there is Donna McNamee, born with a bone disease, considered a preexisting condition. She cannot get insurance. She has to stay as a dependent of her parents in order to get Government help.

Fred Griffith, his wife has diabetes. That was considered a preexisting condition. He lost his job. He searched for a job which would insure his wife's preexisting condition. The only job he found was in Indiana. So he must travel and be away from his wife for extended periods of time to keep insurance.

Health care is not just a broad term. Health care relates to real people. Health care means people who today do not have insurance—37 million of them, maybe 39 million by this time, out there in the countryside. It is not a particularly important figure to you, unless one of your loved ones is one of those 39 million.

Donna Osmond is 59 years old. In 1989, she was stricken with breast cancer. She was insured through her husband's company. Her husband now wants to retire. He is 62. But if the husband retires before he turns 65, he loses coverage for his wife. And he cannot find insurance coverage elsewhere because of Donna's preexisting condition.

Eugene Schumacher, 70 years old. His mother is in a nursing home. In the last 6 months, he spent over $10,000 for room and board and $1,200 for medication. He is afraid he will run out of money because of the medical expenses. David Kuehl is a hemophiliac, his medication costs up to $100,000/year. He is no longer employed, but has extended health insurance coverage for 2 years through COBRA. When the 2 years is over, it is unlikely he will find insurance coverage elsewhere.

Under a national health care plan, we can cover everyone. That is what they do in other countries. That is what we ought to do in the United States of America. This is the richest, most powerful country in the world.

There is absolutely no reason why we cannot provide adequate health care to all of our citizens.

No one can claim that we are not already paying enough for health care in this country. We are spending $1 trillion dollars a year—I did not say million, I did not say billion, I said trillion—14 percent of our GDP each year on health care and still we have 39 million Americans without health insurance.

This is an absurdity. We must start by creating a national framework for the financing and delivery of health care. We must have the courage to step in at the Federal level.

The Mitchell bill takes an important first step. I am frank to say the Mitchell bill does not go as far as I would like, but it represents a sound attempt by the majority leader to craft a middle-ground health care reform package.

Under the Mitchell bill, workers and their families would continue to get their insurance through the workplace. Nonworkers and those workers whose employers do not provide benefits, would be covered through publicly sponsored programs.

Everyone would receive a standard set of health care benefits with an emphasis on preventive care to reduce long-term costs.

Employers may voluntarily contribute to their workers' health coverage, but if a voluntary system does not work, in the year 2000, a national commission, with Congress' acquiescence, would impose a mandatory employer contribution.

The Government will provide subsidies to low-income individuals and businesses.

This bill, as I said, is not all that I would like it to be, but represents a good start. I would like to see it strengthened in a number of areas, and will fight to change it.

I believe employers should be required to contribute to their workers' health insurance now, not in the year 2002.

I believe we need better subsidies for low-income and working families.

I also believe we need to do more to control health care costs.

Currently, there are a lot of people making money—important money—off our health care system.

The hardest challenge we face is standing up to the special interests—

the AMA, the AHA, the insurance companies, the pharmaceutical companies. But we must make our decisions based on what is the right policy, not on what the lobbyists want.

The special interests will adapt to whatever system we deem right. But we in the U.S. Senate must bite the bullet.

Quite frankly, we have too many doctors and hospitals who are ripping off the system. And we have too many doctors and hospitals spending too much time figuring out how to make money and not enough time providing health care.

We need to turn things around. We need to control the spiraling rate of increase in health care spending.

We need to recognize that we have many doctors who provide to the economy and to the health care of this country, not ripping off the system to protect their interests.

We need to get control of provider fraud and abuse, which is estimated to exceed $100 billion a year.

We need to reduce the administrative wastes of the insurance industry, which is ripping us off for almost 25 percent of every health care dollar, about $200 billion a year.

Frankly, I think we ought to eliminate the insurance industry entirely from the health care business.

But even if there is not support to eliminate unnecessary insurance, we must require insurance companies to bring their costs under control. Some companies are spending as much as 40 percent of insurance premiums on administrative costs.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. METZENBAUM. I will, indeed.

Mr. KENNEDY. Does not the Senator agree with me that the kinds of inclusions in the Mitchell bill to deal with fraud and abuse could mean the savings of billions of dollars that are escaping at the present time?

Mr. METZENBAUM. I certainly agree with the Senator from Massachusetts. There is not much doubt about that. There are abuses. There are excesses. And the Mitchell bill deals, in my opinion, very effectively with trying to eliminate those.

Mr. KENNEDY. Without that bill, we do not have in place today those kinds of provisions that have been included in the measure. I must say, as I think the Members of this body know, to a great extent they were the result of the activities and the suggestions or recommendations by the Senator from Ohio.

Finally, I would just like to know whether the Senator feels the kinds of protections for consumers in this legislation are important as well?

Mr. METZENBAUM. I think the Mitchell bill moves very far in the effort to protect the interests and concerns of the consumer. The Senator from Massachusetts and I have worked many hours—many years—trying to protect consumers, whether it had to do with consumer fraud generally or whether it had to do with consumer abuses in the health care field. I think the Mitchell bill will do much to protect the average American consumer. That is the reason I think it is so important we move forward.

Mr. KENNEDY. I was interested in working with the Senator because we included in there sort of a report card on different health care systems, hospitals, and also on doctors, so the consumers would be able to find out whether there was consumer satisfaction, whether there were delays, whether there was service, whether there is good service, so consumers would be able to have additional kinds of information which does not now exist, generally speaking.

Some States, for example Pennsylvania, have moved on it. But does the Senator not agree with me that those features which have been included in the Mitchell program would be of great help and assistance? They may even be strengthened. I know the Senator would like to strengthen them.

Mr. METZENBAUM. The features in the bill move a long way in providing that protection. The Senator is correct. I hope we can do more. I hope to be able to achieve some of those changes on the floor of the Senate. But let us face it, half a loaf of bread—in this case maybe three-quarters of a loaf of bread—is better than no bread at all. And I think this bill goes a long way in providing consumer protection.

Mr. KENNEDY. I just wanted to commend the Senator because I have been here for the last part of the debate yesterday and this afternoon, and this is really one of the first comments made about the advantages of this bill in terms of dealing with the problem of fraud and abuse and, second, in identifying one of the additional features of the Mitchell bill, besides moving us towards universal coverage and helping get a handle on cost containment and the preventive programs and the downpayment for our seniors. But there are important kinds of consumer protections and information, as well as dealing with fraud and abuse. These seem to me to be factors the American public would welcome.

Mr. METZENBAUM. I have no doubt about that. I think passing the Mitchell bill would do much to help the American people as far as consumer fraud and consumer abuses in the health care field.

Mr. KENNEDY. I thank the Senator.

Mr. METZENBAUM. I thank the Senator for his questions. Frankly, I would like to see a collaborative program in which all the major parties participate.

The PRESIDING OFFICER (Mr. CONRAD). The time of the Senator has expired.

Mr. METZENBAUM. Let me inquire if anyone else is seeking the floor. If not, I ask for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. I prefer to see a collaborative system in which all the major parties—consumers, doctors, hospitals and Government—sit down and negotiate what we will spend and how we will spend it. That is what every other country does. It is not a perfect or painless system, but it works. Everyone sits down together and decides what they are willing to spend on health care.

Some people say we can control costs through competition. I have my doubts about that. Individuals are not in a position to shop around for the cheapest surgeon or forego surgery if they think the price is too high. Individuals should not be shopping around for the cheapest doctor. And doctors should not be competing against each other on price—but rather on the quality of the care they provide.

Employers and managed care companies claim they can assure quality care at a lower cost, but neither data nor logic is on their side. Almost all of the studies show managed care companies are not saving much more money than traditional insurance companies. And to the extent that managed care companies are saving money, they are doing it by pressuring doctors and hospitals to discount their fees and not by improving the quality of health care they provide.

All that managed care does is substitute a level of managed care bureaucracy for insurance company bureaucracy. One need look no further than the financial pages to see what is going on in the health care market. Managed care companies are merging like wildfire in order to take over and control the health care market. Just this year Metropolitan Life and Travelers agreed to merge to create the second largest HMO, controlling one out of every four doctors in this country.

Columbia Health Care merged with Medical Care of America, a deal worth over $1 billion.

New York Life purchased Ethix Co. to create a 2 million enrollee HMO.

The list goes on and on and on. Insurance companies are at the forefront of this movement now, owning 45 percent of all the HMO's in this country. Two-thirds of all HMO's are for-profit entities. These companies are not in this business solely to deliver health care. They are in the business to make money—a respectable effort on their part. But when that money comes out of those dollars needed to provide adequate health care for the people of this country, or comes out of the pockets of doctors and hospitals who are squeezed up against the wall, then there is something wrong.

HMO profits increased 20 percent in 1993: Cigna, Aetna, Humana, U.S.

VOL
140
PT
15
AG
10
—
11
1994
UMI

Health Care, and Prudential had combined annual profits of almost $500 million last year. And who is paying for these profits? The American taxpayer, that is who, the average American.

Let us not kid ourselves. Managed care is big business and big money, and that is not good for the American people. Putting all this power, all of this economic strength in the hands of these HMO's, which are buying each other up at an unbelievable pace, means they think no matter what system we here in Congress bring about, they are going to be able to squeeze more and more dollars out for themselves, for their executives, and for their shareholders.

I am willing to give the managed care industry a chance to prove that it can hold down costs. But I have very little—very little—confidence they will. I think Senators will be speaking on this floor 10 years from now and they will see the HMO's have really been a detriment to bringing about a better national health care system. I think we could do it better on our own, without turning it over to the HMO's. But I believe we have to start now, one way or the other, with or without the HMO's, to take control of this monster that has been created and that is depriving average Americans of the health care that is so much needed.

In conclusion, let me say I believe we have an incredible opportunity before us. We have the opportunity to make a real difference in people's lives and improve our country for future generations. We can do it, but only if we put politics aside and put the American people first. I would say, anyone in this Senate who delays this matter from moving forward on the appropriate pace is providing a disservice to his constituents and is not the kind of American of which I or any other American could be proud.

I yield the floor.

Mr. KENNEDY. Will the Senator just yield? How much time does the Senator have?

The PRESIDING OFFICER. The Senator has 15 seconds.

Mr. KENNEDY. I will engage my colleague at another time. I see the Senator from Hawaii here and I know the Senator is about to begin.

The PRESIDING OFFICER. All time on the bill has expired at this time.

The Senator from Oregon.

Mr. PACKWOOD. I ask unanimous consent for 30 seconds to respond to the Senator from Ohio.

Mr. KENNEDY. If I get 30 seconds as well.

Mr. PACKWOOD. Mr. President, my colleague speaks about managed care as being almost corrupt. I will cite him just one statistic. In the Portland metropolitan area, 53 percent of the Medicare beneficiaries are now in managed care programs and they joined it voluntarily. You cannot compel a Medicare beneficiary to join. These people are not joining something they think is corrupt, evil and profit-minded that is going to do in their health care. They are joining because they think they get better service and quality than they do from the regular Medicare Program.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just to address a similar issue. Would the Senator not agree with me that in some areas it has been successful; in other areas there has been a squeezing of the services to the patients and the patients have not been able to take advantage and be adequately protected?

One of the features of the Mitchell bill is it does provide for remedies for individuals if they are going to be squeezed out by the budget crunches in the development of the HMO's. If it is not necessary, it does not need to be utilized. But where it is necessary, there are additional kinds of protections which otherwise do not exist under current law.

Mr. METZENBAUM. Without the Mitchell bill there would be no protection. As a matter of fact, in response to my friend from Oregon, the fact is right at the present time many doctors are being squeezed by being told to bring in 12,000 at $2 a head. And the doctors then have to provide a different kind of medicine than they are providing now.

I think it is important that we not kid ourselves. The HMO's, in some instances, have provided useful services, but, in the long run, I think we need some of the protection provided in the Mitchell bill. Without it, I think the patients will suffer.

The PRESIDING OFFICER. All time has expired.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4650, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending question is the committee amendment on page 2, line 15.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 2491 TO THE COMMITTEE AMENDMENT ON PAGE 2, LINE 15

(Purpose: To ensure that the President of the Republic of China on Taiwan can enter the United States on certain occasions)

Mr. BROWN. Mr. President, I rise to offer an amendment to the committee amendment. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN], for himself, Mr. SIMON, Mr. LIEBERMAN, Mr. MURKOWSKI, Mr. STEVENS, and Mr. INOUYE proposes an amendment numbered 2491 to the committee amendment on page 2.

Mr. BROWN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment, add the following new section:

"SEC . VISAS FOR OFFICIALS OF TAIWAN.

Section 4(b)(6) of the Taiwan Relations Act (22 U.S.C. 3302(b)(6)) is amended—

(1) by inserting "(A)" immediately after "(6)"; and

(2) by adding at the end the following:

"(B) Whenever the president of Taiwan or any other high-level official of Taiwan shall apply for a temporary visa to visit the United States for the purposes of:

(i) Discussions with United States federal or state government officials concerning trade or business with Taiwan or the reduction of the U.S.-Taiwan trade deficit;

(ii) Discussions with United States federal or state government officials concerning nuclear proliferation;

(iii) Discussions with United States federal government officials concerning U.S. national security or the national security of Taiwan; or

(iv) Discussions with United States federal or state government officials concerning the provision of humanitarian relief and assistance for regional disasters;

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.".

Mr. BROWN. Mr. President, this amendment is not new to the Members. It is one we have considered on other bills. It is known as the visas-for-Taiwanese-officials amendment. It is proposed by myself and Senator SIMON and has been strongly opposed by a few Members of the other body and has not been retained in conference. Thus, it is offered here again.

This amendment, passed by the Senate with 94 senators voting in favor of it and none voting in opposition, is one which expresses the Senate's intent in no uncertain terms. In addition to Senator SIMON and myself, Senators LIEBERMAN and MURKOWSKI join us, as well as the distinguished senior Senator from Hawaii who has been kind enough to lend his cosponsorship and support to this particular amendment.

The amendment attempts to correct a problem that has arisen in our relations with Taiwan: Specifically, the failure of this administration to allow the leadership of Taiwan to enter our Nation and to conduct official business with our government.

To correct this problem, the amendment outlines some very distinct areas in which it is clearly in the United States interest to have a dialog with the Taiwanese leadership. It requires that the president of Taiwan and other high-level officials be admitted to the United States for discussions to reduce the trade deficit between the United States and Taiwan; for discussions concerning efforts to reduce nuclear proliferation; for discussions involving United States national security; for discussions with regard to humanitarian relief and assistance with regional disasters.

These are all areas where I think most Members or all Members would feel it is appropriate and vital for us to work with the Taiwanese. Thus, we felt it essential to make the Congress intention clear.

Generally, decisions concerning entry into the United States for high-level visitors belongs with the administration. But Taiwan has been completely prohibited by this administration from any entry into the United States for its top officials. This administration's policy led to the rather humiliating experience of when the Taiwanese president visited Hawaii this past May and was denied the right to stay overnight in Hawaii while his airplane was being refueled. Humiliations of this nature should not be repeated. Our amendment sets forth minimal reasons for which Taiwan's leadership would be welcome to enter the United States, all of which are very much in our Nation's interest.

Mr. President, since the Senate has already expressed its opinion by voting 94 to 0 in favor of this provision, I see no reason to ask for a record vote, unless the distinguished senior Senator from Hawaii feels it would be appropriate.

Mr. INOUYE. Mr. President, if my colleague from Colorado will yield.

Mr. BROWN. I yield to the Senator.

Mr. INOUYE. Mr. President, this measure has been debated at quite some length. It has been accepted by the Senate by a vote and, as noted by the author, I am one of the cosponsors and I would be very pleased to accept it as a manager on the part of the Democrats.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I join in accepting the amendment of the Senator from Colorado. I am also a cosponsor, as I recall.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUYE. I would like to assure the Senator from Colorado that we will do our best to see that it stays in the conference.

Mr. BROWN. I thank the chairman.

VISAS FOR HIGH-LEVEL TAIWANESE OFFICIALS

Mr. MURKOWSKI. Mr. President, I am pleased to join my good friend from Colorado, Senator BROWN, in offering this amendment to ensure that high-level officials from the Taiwanese Government will be issued visas to visit the United States to discuss issues of mutual interest to our two governments.

I find it shocking that this amendment is even necessary. The Taiwan Relations Act was passed "to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan." 22 U.S.C. 3301. This policy has been impeded because of the U.S. Government's restrictive policies on high-level visits.

I remind my colleagues that Taiwan is the world's 13th largest trading partner and the United States 5th largest trading partner. With $16.2 billion in United States exports to Taiwan in 1993, it was the United States second largest export market in the Asia-Pacific region, after Japan. It holds the world's largest foreign reserves. Taiwan is friendly, democratic, stable and prosperous. Its human rights record has steadily improved.

And how do we treat this democratic country that plays such an important part in our economic and security interests in East Asia? I believe we wrongly treat them like an international pariah. In May of this year, I was embarrassed to learn that the Department of State refused the request of the Honorable Lee Ten-hui, the freely elected leader of the democratic Republic of China on Taiwan, to overnight in Hawaii en route to Costa Rica. I believe this decision was extremely ill-advised. Similar snubs have met other high-ranking Taiwanese officials. For instance, Taiwanese officials are forced to meet with United States Government officials in hotels, rather than Government buildings, even though they are discussing issues that are of mutual interest to the people of both countries.

The U.S. Government has the opportunity to make long overdue changes to its policy. For well over a year, the United States Government has been engaged in an interagency review of its policy toward Taiwan. President Clinton could take important steps to show clear United States support for Taiwan as part of this policy review. He could begin by welcoming President Lee Tenhui on U.S. soil for a visit. There is ample precedent for such a visit by the leader of a country with which we don't maintain formal diplomatic ties. Senator BROWN and I also would like the State Department to allow President Lee to visit our home States of Alaska and Colorado as part of our efforts to expand and strengthen ties between the people of the United States and the people of Taiwan.

President Clinton could also incorporate high-level exchanges into its new policy. I encourage President Clinton to send one of his Cabinet officers to Taiwan this fall. Fifty-three of my colleagues joined me in a letter to the President inviting him to do just that. Such visits will promote American interests in Taiwan and ensure the continued success of American business projects.

Even small, but symbolic changes, such as allowing the Coordination Council on North American Affairs to change its name to the Taipei Representative Office will show that the United States is prepared to treat the people of Taiwan with the respect they deserve.

Mr. President, I know my colleagues have supported many amendments over the past year that have had the intent of sending a signal both to the United States Government and to the people of Taiwan that the United States Senate supports positive changes in United States policy toward Taiwan. I am confident that this amendment will be added to that list. I hope the administration is listening.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2491) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROWN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 2492 TO THE COMMITTEE AMENDMENT ON PAGE 2, LINE 15

(Purpose: To make Poland, Hungary, the Czech Republic, and Slovakia eligible for allied defense cooperation with NATO countries, and for other purposes)

Mr. BROWN. Mr. President, I rise to offer an amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN], for himself, Mr. SIMON, Ms. MIKULSKI, Mr. ROTH, Mr. DOLE, Mr. WARNER, Mr. DOMENICI, Mr. LIEBERMAN, Mr. HELMS, Mr. COHEN, and Mr. KOHL, proposes an amendment numbered 2492.

Mr. BROWN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Without objection, it is so ordered.

The amendment is as follows:

At the end of the Pending amendment, insert the following new section:

SEC. . ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under section 516 of the Foreign Assistance Act of 1961 or under the

VOL 140 PT 15 AG 10 — 11 1994 UMI

Arms Export Control Act to Poland, Hungary, the Czech Republic, and Slovakia.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, the Czech Republic, or Slovakia".

(d) LOAN MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796(d)) is amended—

(1) by striking "or" after "United States)" and inserting a comma; and

(2) by inserting before the period at the end the following: ", Poland, Hungary, the Czech Republic, or Slovakia".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350c(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, the Czech Republic, and Slovakia".

(f) PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES.—Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, the Czech Republic, or Slovakia".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that, in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, the Czech Republic, and Slovakia, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.".

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area.

(i) CERTIFICATION REQUIRED.—Before exercising the authority in subsection (a), or in section 63(a)(2) of the Arms Export Control Act, with respect to Poland, Hungary, the Czech Republic, or Slovakia, the President shall determine and certify to the appropriate congressional committee that no such country is selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.

The PRESIDING OFFICER. The Senator should know that the pending question is the committee amendment. The Senator has drafted the amendment that he has sent to the desk as an amendment to the bill.

Mr. BROWN. Mr. President, I ask unanimous consent that the amendment be considered as an amendment to the pending committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Mr. President, the cosponsors of this amendment include Senators SIMON, MIKULSKI, ROTH, DOLE, WARNER, DOMENICI, LIEBERMAN, HELMS, COHEN, and KOHL, in addition to myself. The amendment has also been considered previously by this body. It relates to Eastern Europe and specifically the countries of Poland, Hungary, the Czech Republic, and Slovakia, making these countries eligible for allied defense cooperation with NATO countries.

When the Brown-Simon-Mikulski-Roth amendment was considered previously, Slovakia was not included. The version before the body includes Slovakia as well as Poland, Hungary and the Czech Republic. In addition, this version differs from previous amendments in one other respect. At the end of the amendment has been added a section involving certification. I might simply read it to the body because I think it is different from what we have proposed before:

Before exercising the authority in subsection (a),—

And here I might insert this is discretionary power for the President, it is not mandatory, but discretionary for him to use—

or in section 63(a)(2) of the Arms Export Control Act with respect to Poland, Hungary the Czech Republic or Slovakia, the President shall determine and certify to the appropriate congressional committees that no such country is selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.

This modification came as a result of discussions with Members in the past conference committee who expressed concern that it would be inappropriate to include any country under this authority who has exported defense articles to terrorist countries. In addition, Members felt that excess U.S. defense articles should be restricted from countries that have made other infractions of international discipline that we would reasonably expect NATO members and potential members of NATO to have complied with. It seemed a reasonable request and appropriate to include in this amendment.

Let me simply emphasize, because we have debated this before, what I think is so important. Right now the countries of Eastern Europe are making decisions about their future. The history of Poland, as well as these other Eastern European republics, is replete with stories of domination and subjugation by other countries in the region, whether it is as in the case of Poland which was once divided between the Soviet Union and Germany in the initial stages of World War II, or whether it is the other countries that have struggled under years of foreign domination.

The local politics of these countries are pushing them to deciding whether or not they become associated with NATO.

The democratic governments of these countries want to be associated with NATO. They want to be part of NATO. They want to stand side by side with the free men and women of this world and stand up for freedom and independence and opportunity.

Actions led by our Government and joined by other NATO members have cast a cloud over the hopes for security of these fledgling democracies. The question has been raised as to whether or not membership is appropriate and whether or not we wish them to be part of NATO.

Mr. President, it is my own feeling that our reluctance to allow them to immediately move into NATO is not a manifestation of the opposition of the American people.

Consequently, this amendment carries with it an important message, a message that goes far beyond simply qualifying them for a small but significant step on the road to NATO membership.

The message is that the United States is interested in the security concerns of these nations; we are interested in establishing thriving democracies in Eastern Europe. We are interested in standing side by side with the men and women of these countries to promote a free and democratic world.

The amendment merely grants discretionary authorization. It gives the President the option to work with these countries in making them eligible for aspects of allied defense cooperation. It does not mandate any action by the executive.

Nonetheless, the Brown-Simon-Mikulski-Roth amendment is a sign: a symbol that the United States wants to move towards their NATO membership and evidence of our interest in their fate.

I hoped very much that this would have been unanimous. When it was voted on earlier, it received a 76 to 22 vote. But I hope in time it will be unanimous because these brave people of Eastern Europe want to stand with America and with NATO for freedom.

My own sense is that if we turn our back on them, if we do not encourage their movement towards NATO, we will send a signal that it is all right for other countries to once again exert their influence over the heartland of Europe. It will indicate that we may be willing to stand aside if others attempt to dominate these nations.

Mr. President, I hope that day never comes. I hope we never ever, ever again turn our back on Eastern Europe. I hope we never again send a message that it is all right for powers to try to control them, and dominate them, and subject them to their will.

What is more, I believe by making our intentions clear, by moving ahead with NATO membership, we will take the issue off the table. Instead of being an open question where countries can suggest that a course of policy for their country would be to once again exert control over Eastern Europe, if Poland, Hungary, the Czech Republic and Slovakia become members of NATO or at least move toward membership, that eventuality would not even be a subject of debate.

That, I think, is our purpose here. It is to extend a hand of friendship, extend a hand of interest, extend a hand of commitment to the people who so eagerly want to be a part of the free world. These countries, all four of them, have expressed an interest in joining NATO. All four of them have a democratic system of government. All four of them have established civilian control over the military. And all four of them I believe are on the path toward becoming contributing, substantial, and important members of NATO.

So while this is merely permission, while this is merely authority that gives the President the opportunity to include them in allied defense cooperation efforts, the symbolism of this measure is terribly important. That is why I have asked the chairman to include this amendment in the bill.

The NATO Participation Act has been considered before, but it was not held in the conference. This issue is too important to let pass. The moment is too critical. I for one will continue to stay the course, working to ensure its final enactment into law. I think the bipartisan nature of the support for this amendment is one that will result in its passage if it receives full consideration by Members of the other body.

Mr. President, I believe the amendment has been cleared on both sides. I ask the chairman if he feels it would be helpful in conference to have a record vote, or if the body has already expressed its will on this matter.

Mr. INOUYE. Mr. President, under the able leadership of the distinguished Senator from Colorado, this measure was fully debated and accepted by the Senate by a vote of 76 to 22. The Senate has spoken, and accordingly I will be most pleased to accept the amendment. I am certain my colleague, the vice chairman of the committee, will be pleased to do likewise.

However, may I suggest to the Senator that the amendment as presented will amend a section on military personnel, and it would make it a bit more difficult for the managers of this bill to serve as advocates in the conference. May I suggest that it be made part of the amendment on page 142, between lines 5 and 6?

Mr. BROWN. Mr. President, I ask unanimous consent that the amendment be placed to the bill on page 142, between lines 5 and 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. I thank the Senator.

Mr. INOUYE. With that, I will be most pleased to accept the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2492) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2493 TO COMMITTEE AMENDMENT ON PAGE 141, LINE 22

(Purpose: To express the sense of the Congress concerning the progress of reform in Bulgaria)

Mr. BROWN. Mr. President, I rise to offer an amendment to the committee amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The pending question is the first committee amendment, the Chair reminds the Senator from Colorado.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2493 to the committee amendment beginning on page 141.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the committee amendment, add the following new section—

SEC. . SENSE OF THE CONGRESS CONCERNING THE REPUBLIC OF BULGARIA.

(a) FINDINGS.—The Congress finds that:

(1) In the spring of 1990, Bulgaria held its first round-table discussions and held its first free, democratic elections in June, 1990;

(2) In August 1990, the Bulgarian Grand National Assembly elected Dr. Zhelyu Zhelev as President of the Republic;

(3) On July 12, 1991 the Parliament of Bulgaria adopted the new Constitution of the Republic of Bulgaria, which proclaims that Bulgaria is governed by the rule of law;

(4) In addition, the Bulgarian Constitution establishes the principles of a market economy in Bulgaria, including Article 17 which guarantees and protects the right to property and inheritance and proclaims the inviolability of private property, and Article 19 which states that the economy of Bulgaria is based on free economic enterprise;

(5) In October 1991, Bulgaria held its second parliamentary elections;

(6) Since 1990, the Bulgarian parliament has passed more than 200 laws establishing legal protections for a free market economy including the Law and Land Ownership, the Law on the Protection of Competition, the Law on Commerce, the Law on Privatization, the Law on Accounting and the Law on Banking;

(7) The Bulgarian private sector has grown from 5% of GNP in 1990 to 22% of GNP in 1993, and by the end of 1993, 47% of Bulgarian farm land had been returned to its owners prior to 1948;

(8) In June 1990, Bulgaria established diplomatic relations with NATO and on February 14, 1994, joined the Partnership for Peace;

(9) Since October 1991, the Bulgarian minister of defense has been a civilian and this practice is scheduled to be institutionalized when the Bulgarian Law on Armed Forces is adopted in September 1994.

(b) SENSE OF CONGRESS.—Therefore, it is the sense of the Congress that:

(1) The Republic of Bulgaria is making swift and important progress to join the West and should be strongly commended for its efforts;

(2) The Republic of Bulgaria is making significant progress toward establishing democratic institutions, a free market economy, civilian control of the armed forces and the rule of law;

(3) As the President evaluates increased defense cooperation with central and eastern Europe, Bulgaria's extensive reform efforts should be given every possible consideration.

Mr. BROWN. Mr. President, I ask unanimous consent that the amendment be considered as an amendment to the pending committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

Mr. BROWN. Mr. President, this is a sense-of-the-Senate amendment, and is designed to express the sense of Congress concerning the progress of reform in Bulgaria.

Mr. President, this amendment's purpose is similar to that of the previous amendment concerning the countries of Poland, the Czech Republic, Hungary, and Slovakia.

Bulgaria has made progress of a dramatic sort in developing democracy, a market economy, and civilian control of its military. Although not included in the previous amendment, nevertheless we felt a sense of the Congress amendment was appropriate and important to send a signal to the Bulgarians that we have noted their progress toward democracy, that we have noted their commitment to civilian control of the military, and that we have noted, most importantly, their strong and sincere interest in becoming part of NATO.

As a sense of Congress, it does not commit us to legislative action, but it does make it clear that we applaud their progress, that we recognize their interest in becoming part of NATO, and we express our support for continued progress.

Mr. President, I personally feel it is most important that the Bulgarians understand how much we appreciate their commitment and their interest in promoting democracy. I also believe it is important that Bulgaria not take our failure as a nation to move rapidly with regard to NATO membership as any sign that we lack an interest or concern in their future or their commitment to democracy.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Thus, this sense of Congress is a first step in conveying that message. I am certain it will not be the last as Bulgaria moves toward full NATO membership.

Mr. President, I also ask unanimous consent that the pending amendment be considered as an amendment to the committee amendment on page 142, between lines 5 and 6.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. INOUYE. Mr. President, as manager of the bill, I would be very pleased to accept this amendment, and we will do our best to see that it hangs on in conference.

Mr. BROWN. I thank the Senator.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2493) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2494

(Purpose: To require a study by the JCS and the Secretary of Defense for a master plan for basing of Reserve 130's)

Mr. BROWN. Mr. President, I ask unanimous consent to lay aside the pending committee amendment. I rise to offer an amendment.

The PRESIDING OFFICER. Without objection, the pending amendment will be laid aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN], for himself and Mr. CAMPBELL, proposes an amendment numbered 2494.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . STUDY OF C–130S.

(a) REPORT.—Within six months of enactment of this Act, the Chairman of the Joint Chiefs of Staff (JCS) shall recommend to the Secretary of Defense a master stationing plan for C–130 aircraft for the active and reserve components based on the National Military Strategy and current contingency plans of the Joint Chiefs of Staff. The report shall include:

(i) a review of existing Air Reserve Component C–130s; and

(ii) a master plan for basing future Air Reserve Component C–130s over the next twenty years.

(b) INTERIM REDUCTIONS.—No reductions of primary authorized C–130 aircraft (PAA) shall be permitted until after completion of the report.

(c) APPROVAL.—Within 2 months of receipt of the report from the Chairman of the JCS, the Secretary of Defense shall approve the final master stationing plan for C–130 aircraft and shall provide it to the congressional defense committees. The Secretary shall also provide the final report to the Air Force and to the National Guard Bureau for implementation.

Mr. BROWN. Mr. President, in recent years, it has become a practice by Members of the other body and others to deal with the location of C–130 transportation aircraft through specific legislation; that is, to have Members stand up and seek to gain, for bases within their State or region, additional aircraft.

We can all understand and appreciate this interest and this vigilance in promoting one's district or one's State. On the other hand, it strikes this Member that the decision as to where to deploy aircraft should be made by our military leaders after sufficient study and objective review, not from legislation added without either.

There is a need, of course, for military flexibility. There is also a need, I think, for objective analysis. It would be a tragedy if the location of these aircraft becomes a question of simply amending the appropriations bill when it is brought before the body.

Thus, we have proposed an appropriate study and report as to where these aircraft as they are purchased should be located. We have asked that within 6 months of the enactment of this amendment that the Chairman of the Joint Chiefs of Staff shall recommend to the Secretary of Defense a master stationing plan for C–130 aircraft for the active and reserve components based on our national military strategy and on current contingency plans for the Joint Chiefs of Staff.

Mr. President, Colorado would love to have additional C–130 aircraft. But that is not the purpose of this amendment. The purpose of the amendment is to ensure that aircraft are located where they are most needed. Colorado, just as every other State, must take its chances. We must be willing to compete for these aircraft and to ensure that they are located where they are most needed, where they will be most effective.

The purpose of this amendment is simply that; to ensure that there is an objective analysis and review that the aircraft are located where they will do the most to defend our Nation, not simply to satisfy one Member's or the other's desire to increase the aircraft located within his or her district. It will be helpful in maximizing the cost-effectiveness of U.S. defense capabilities.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. INOUYE. Mr. President, the managers will be most pleased to accept this amendment with one modification for clarification purposes. In section B, Reductions, "No reductions of primary authorized aircraft", if the author of the measure would modify this to place between the words "of" and "primary" the term "C–130", otherwise, someone could interpret this to mean that it would cover all sorts of aircraft.

Mr. BROWN. I thank the distinguished chairman for his suggestion.

I ask unanimous consent that the amendment be so amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Would the Senator please send the altered language to the desk?

Mr. INOUYE. Mr. President, I have just been advised that the modified version of the amendment is at the desk at the moment.

With that understanding, the managers are pleased to accept the amendment.

The PRESIDING OFFICER. Does the Senator from Colorado wish to vitiate his request to modify?

Mr. BROWN. Thank you, Mr. President.

I ask unanimous consent to vitiate.

I thank the chairman.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 2494) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROWN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROWN. Mr. President, I ask unanimous consent to lay aside the pending committee amendment in order to offer an amendment to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2495

(Purpose: To express the sense of the Senate concerning Lowry AFB)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN], for himself and Mr. CAMPBELL, proposes an amendment numbered 2495.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

"SEC. . SENSE OF THE SENATE CONCERNING LOWRY AFB.

It is the sense of the Senate that—

(a) in issuing any lease, permit or deed of conveyance for use to assist the homeless under the Stewart B. McKinney Assistance Act concerning Lowry Air Force Base, Colorado, the Secretary of Health and Human Services, representatives of the City of Denver, Colorado, representatives of the City of Aurora, Colorado and representatives of homeless providers whose applications have been approved by the Secretary of Health and Human Services should jointly determine that such use is reasonable under the redevelopment plan for Lowry Air Force Base, Colorado; and

(b) the Department of Defense and the Department of Health and Human Services, in coordination with the appropriate committees of Congress and appropriate state and local authorities, should develop a reform proposal to address the many difficulties created for local communities by existing laws relating to the loan, lease or conveyance for use of government property during the base closure process.

Mr. BROWN. Mr. President, this is a sense of the Senate and it concerns Lowry Air Force Base. The amendment attempts to address the question of the administration of the McKinney Act as it applies to Lowry Air Force Base. Included in the bill is a provision that allows exemptions from the provisions of the McKinney Act for a base other than Lowry. This amendment does not attempt to duplicate that exemption, but it expresses the sense of the Senate that there be consultation and cooperation between the Secretary of Health and Human Services and representatives of the cities of Denver, Aurora, and representatives of the homeless providers.

Mr. President, the land transfer that is underway with Lowry Air Force Base is one of the largest transfers of Federal military property to the local communities in the history of Colorado. It has enormous impact. I think, as all Members will appreciate, the process of losing a base is difficult and troublesome at best.

What we have found as Denver and Aurora have undergone the difficult process of base closure at Lowry is enormous consternation and people who feel their hands are tied as they attempt to find the best and most effective use for the base. The McKinney Act obviously has significant impact in terms of the future use of this base as well. Provisions of the McKinney Act may require significant changes from current land use patterns in that part of the community.

Lowry Air Force Base was originally located on the outskirts of Denver, some distance away from housing. Over the years, it has been encompassed, engulfed and surrounded by an attractive neighborhood as well as a variety of other uses that differ significantly from its original surroundings. Our amendment simply makes it clear that the Senate wishes for full communication and coordination to occur between Denver and Aurora, the homeless providers and the Secretary of Health and Human Services. All determinations concerning the future use of Lowry AFB should be made jointly. We believe that by working together, they can improve the transition and make the adjustments to Lowry ultimately a benefit for the community. In addition, their coordination will provide a great opportunity not only for housing the homeless, but ensure uses for the base compliment the existing land use patterns of the community.

I believe this amendment has been cleared on both sides.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. I ask unanimous consent to set aside the pending amendment.

Mr. INOUYE. Mr. President, may I ask my friend from Colorado to temporarily withhold his request. I have a very important request to make.

UNANIMOUS-CONSENT AGREEMENT

Mr. INOUYE. Mr. President, I ask unanimous consent that all floor amendments in order to H.R. 4650, the defense appropriations bill, must be offered by 7 p.m. this evening; that at the hour of 6:50 p.m., Senator STEVENS will be recognized to offer amendments for Republican Senators who have not had a chance to offer, and at 6:55 p.m., Senator INOUYE be recognized to offer amendments for Democratic Senators who have not had a chance to offer; that no votes occur prior to 9 p.m. this evening; that the two leaders or their designees have until 9 p.m. to offer amendments that are in response to possible nonrelevant amendments that may be offered; that when the Senate considers the Nunn-Mitchell Bosnia amendment and the Dole Bosnia amendment No. 2479, there be 2 hours for debate on both amendments under the control of Senators DOLE and NUNN, or their designees, with an additional 30 minutes under Senator MCCAIN's control; that when all time is used or yielded back, the Senate vote on the Nunn-Mitchell amendment, followed by a vote on Senator DOLE's amendment No. 2479; that no amendments be in order to either of these two Bosnia amendments; that when the bill has been read a third time the Senate vote on passage of the bill; that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees, with the preceding all occurring without any intervening action or debate; that the Senate resume consideration of S. 2351, the health care reform bill, at 9 a.m. on Thursday, August 11, for 4 hours of debate only, with the time equally divided between the two leaders, or their designees, and that at the conclusion of that time, the Senate resume consideration of H.R. 4650, the defense appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, I am informed that there is no objection on this side at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Mr. President, I had intended at this time to offer an amendment that dealt with a study of the transportation of chemical weapons. More specifically, included in the bill as it came over from the House is a provision that prohibits a study on the feasibility of transportation of unitary chemical weapons.

I thought that it was appropriate to study a slightly different item related but dissimilar—that is, the transportation and destruction of neutralized portions of unitary chemical weapons. The difference, quite clearly, is that one is neutralized and not as able to do damage. The other, a unitary chemical weapon being transported, has a much greater potential for damage. The problem is basically this: The Defense Department has been unsure that the prohibition on the study of transportation of unitary chemical weapons which was included in appropriations legislation prevents them from studying the feasibility of transportation and destruction of neutralized portions of those unitary chemical weapons. Defense Department lawyers, quite naturally, want to follow the law, want to follow the guidelines, and are cautious in this regard.

My intention simply had been to clarify the existing provision in the bill by offering an amendment to ensure that studying transportation and destruction of parts of those weapons that have been neutralized already is permitted.

In discussions of this matter with the distinguished chairman and his staff, I have been assured that their intention is to allow the study of the transport of neutralized portions of unitary chemical weapons. My intention would be to include within the RECORD a colloquy with the chairman that deals with this clarification, rather than offering the amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I would like to express my gratitude and appreciation for the accommodation of the Senator from Colorado. I think we can work this out.

Mr. BROWN. I thank the chairman for his help.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Hawaii.

If the Senator will withhold one moment, if I might inquire of the Senator

VOL
140
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from Colorado his intentions with respect to his amendment No. 2495.

Mr. BROWN. Mr. President, the amendment, we believe, will be cleared on both sides. There is one Member from whom we have not been able to get a final word on that clearance. My hope is that the body will proceed with other matters while we attempt to get that cleared.

Mr. INOUYE. I ask unanimous consent that that amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODULAR AIRBORNE FIREFIGHTING SYSTEMS [MAFFS]

Mrs. FEINSTEIN. I would like to engage the distinguished chairman of the Defense Appropriations Subcommittee in a brief colloquy regarding an important National Guard equipment issue: replacement of the Modular Airborne Firefighting System [MAFFS].

As a Senator representing a state which has been especially hard-hit by the damage and destruction of wild fires, I am particularly aware of the importance MAFFS play in National Guard and U.S. Forest Service fire fighting efforts. In 1992 for example, MAFFS were used on 163 occasions to successfully combat some of the 65 major forest fires that burned more than 623,420 acres of land and caused $285 million in damage.

As the Chairman knows, MAFFS are self-contained, reusable fire fighting systems carried on National Guard C–130 aircraft that supplement commercial firefighting aircraft. There are currently eight MAFFS located in various locations throughout the county, each capable of delivering 30,000 pounds of retardant in just 7 seconds.

Through the use of MAFFS, the National Guard has been able to prevent immeasurable damage to lives, property, forest lands, and scenic areas. Between 1973 and 1993, National Guard units completed more than 2,600 missions with MAFFS that delivered nearly 8 million gallons of retardant. In fact, all eight MAFFS are currently being used in the west to combat wild fires in California, Oregon, Washington and several other States. Every region of the country is protected by the critical mission that MAFFS perform.

Unfortunately, the MAFFS in operation today are more than 20 years old; the technology dates to 1971 and there are consistent problems with maintenance and repair of the systems. The estimated cost to replace the eight MAFFS is $15 million—each unit costs $1.5 million, with an additional $3 million needed to re-engineer the outdated technology.

I know that the distinguished Chairman understands the importance of MAFFS in firefighting efforts, and hope that the Chairman will consider the need to replace the National Guard's MAFFS during conference on this bill.

Mr. INOUYE. I agree with the distinguished senior Senator from California that Modular Airborne Firefighting Systems are an important resource that the National Guard and the U.S. Forest Service use to combat wild fires throughout the country. I also understand that the MAFFS currently in operation today are more than 20 years old and are in need of replacement.

The Senator from California is aware that this bill provides $180,000,000 of undesignated funds for the National Guard to procure any equipment it needs to meet both its federal and state missions. I can assure the Senator from California that I will do everything I can to ensure the National Guard funding for miscellaneous equipment will not go below the Senate level. I am also hopeful that when fiscal year 1995 equipment funds are made available to the National Guard they will see the urgent need to replace the eight MAFFS you have identified.

Mrs. FEINSTEIN. I thank the distinguished Chairman very much for his consideration of this very important issue.

FUNDING FOR THE CONVERSION OF FORT ORD

Mrs. FEINSTEIN. I would like to engage the distinguished Chairman of the Defense Appropriations Subcommittee in a brief colloquy regarding defense conversion funding for Fort Ord.

Fort Ord has a long and illustrious history as one of the nation's largest military facilities. Named in honor of Maj. Gen. Edward Ord, who commanded Union troops during the Civil War, Fort Ord encompasses 28,000 acres on the Monterey Peninsula, where it has served as an important Army staging area for 77 years.

At the peak of World War II, when it served as a staging area for troops fighting in the Pacific theater, more than 50,000 troops were stationed there. It played an important role in the Korean and Vietnam wars as well. From 1972 through 1993 it was the home of the 7th Infantry Division, and as recently as last year, over 15,000 troops were stationed there.

As my colleagues can well realize, the closure of this facility has had a devastating impact on the surrounding communities of Monterey, Seaside, Marina, as well as other cities up and down the Monterey Peninsula. In response to the closure, the California State University system has put together an ambitious plan to utilize the existing facilities to develop a new university campus, an initiative that I strongly support.

Last year, Congress expressed its support and provided $15 million to begin the conversion, and I thank Chairman Inouye for everything that he did to make that possible. I am hopeful that $18 million can be provided in 1995 to continue the work. These funds are critical to the successful conversion of Fort Ord from a military base to a world-class university, that when completed will serve 25,000 students from all over the nation.

This project is moving full steam ahead. On July 8 of this year, Secretary of Defense William Perry personally attended the ceremony transferring the title of the first of three land parcels to the University. The other two parcels will be transferred once they are deemed safe for use.

The defense conversion funds will be used primarily for converting buildings into classrooms, laboratories and administrative offices, and bringing the existing buildings up to both seismic, and health safety (i.e. asbestos abatement) codes. Funds will also be used to provide for accessibility according to Americans with Disabilities Act guidelines. No funds will be spent on overhead, which are being funded by the State in a cost-sharing arrangement. I strongly believe that we must keep this project on track, and a continued Federal commitment is vital to that end.

I am hopeful that the Chairman will be able to review this matter in conference and address the continued need of defense conversion funding for Fort Ord.

Mr. INOUYE. The distinguished Senator from California can be assured that I will indeed review this matter in conference with the House, and will address Fort Ord's need for continued defense conversion funding.

Mrs. FEINSTEIN. I thank the distinguished Chairman very much for his consideration.

Mr. INOUYE. Mr. President, I have an amendment proposed by Mr. GORTON, Mrs. MURRAY, and Mr. INOUYE.

The PRESIDING OFFICER. Does the Senator intend to offer this as an amendment to the committee amendment or would he want the committee amendment set aside?

Mr. INOUYE. Mr. President, I ask unanimous consent that we set aside the committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2496

(Purpose: To impose an additional condition regarding the requirement to reimburse the Muckleshoot Indian Tribe of Auburn, Washington)

Mr. INOUYE. Mr. President, I send to the desk an amendment proposed by Mr. GORTON, Mrs. MURRAY, and Mr. INOUYE, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for himself, Mr. GORTON, Mrs. MURRAY, and Mr. INOUYE, proposes an amendment numbered 2496.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 19, after the period, insert the following: "The Secretary may not pay the Muckleshoot Indian Tribe the reimbursement otherwise required by the preceding sentence unless the Tribe waives in writing all claims that the Tribe may have against the United States or any agency or official of the United States (in the official capacity of that official), against the State of Washington or any agency or official of the State of Washington (in the official capacity of that official), and against the City of Seattle, Washington, or any agency or official of the City of Seattle, Washington (in the official capacity of that official), regarding the disposal of the Puget Sound Naval Air Station.".

AMENDMENT NO. 2496

Mr. GORTON. Mr. President, I am offering an amendment that would place an additional condition on the reimbursement of funds to the Muckleshoot Indian Tribe for its expenses in developing and submitting a reuse base for Naval Station Puget Sound. Specifically, my amendment would require that the tribe forfeit its ability to file suit against local, State or Federal Government in writing before receiving this reimbursement. I understand that the amendment has been agreed to on both sides.

This issue began with the 1991 Base Closure Commission's recommendation to close Naval Station Puget Sound. Because the base sits on Lake Washington near downtown Seattle, a number of groups have expressed interest in acquiring portions of its real property. Beginning shortly after the Commission's recommendation, the city of Seattle, in conjunction with the local Navy office, began work on a community reuse plan that sought to accommodate as many groups as possible. After numerous hearings and revisions, the city arrived at a plan that accommodates two Federal agencies, the McKinney Act, and the various concerns of the surrounding community. At the same time, the Muckleshoot Indian Tribe was developing a separate reuse proposal.

While the Department of the Navy will ultimately decide which plan is implemented, the Department's decisions are guided by a Federal screening process that prioritizes requests. That process asks that Federal entities be considered before the McKinney Act and State and local governments.

Various Federal agencies have disputed the standing of Indian tribes in this process. Some agencies, such as the Bureau of Indian Affairs, have suggested that an Indian tribe proposal represented by a Federal agency be considered with other Federal requests. Others, such as the Department of Navy, have determined in accordance with their interpretation of U.S. law that Indian tribes should be considered as State and local governments.

The administration has yet to decide which of these interpretations the Department of the Navy is to follow. As a result, the Department of the Navy has delayed choosing between the proposals for Sand Point. Regardless of its decision, however, I understand that the Muckleshoot Indian Tribe developed its proposal while under the impression—from Federal agencies—that Indian tribes would be considered as Federal agencies. In the event that the Navy does not give tribes that status, this bill will compensate the Muckleshoots by as much as $600,000 for the cost of developing and submitting a proposal. In the end, this language will help the city of Seattle, the Navy and the Muckleshoot Indian Tribe reach an agreement acceptable to all sides.

The amendment I am offering would simply clarify this language to prevent the Muckleshoot Indian Tribe from receiving this compensation if it also chooses to file suit against a Federal or State Government or the city of Seattle. Law suits have tied up the reuse of other military bases while imposing significant legal expenses on all parties. A lawsuit on the final reuse of Sand Point would, in my opinion, be one of the worst possible outcomes of this long process. It would cost the taxpayers, it would cost the tribe, and it would leave the base closed, but not surplussed.

Mr. President, I wish to thank the distinguished Senator from Hawaii for including the reimbursement provisions in this bill and agreeing to this amendment. If the White House chooses to emphasize the importance of community reuse proposals, as this body has directed it to on some occasions, I believe that it is probable that the Muckleshoot Indian Tribe will not have a Federal claim to Sand Point. In that event, this reimbursement will discourage the tribe from filing suit, while compensating the tribe for its real expenses in developing and submitting a proposal. This is in the very real interest of the city of Seattle.

Mr. INOUYE. Mr. President, this amendment has been cleared by both sides and approved and accepted.

The purpose is to impose an additional condition regarding the requirement to reimburse the Muckleshoot Indian Tribe of Auburn, WA.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

So the amendment (No. 2496) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. I ask unanimous consent that the prior vote be also reconsidered and tabled.

AMENDMENT NO. 2497

(Purpose: To limit the use of funds for deactivating or reducing Army ROTC units)

Mr. INOUYE. Mr. President, I send to the desk another amendment proposed by Senator DANFORTH and Senator BOND.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for himself, Mr. DANFORTH, and Mr. BOND, proposes an amendment numbered 2497.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . Funds appropriated for the Army by this Act may not be expended to deactivate or to take any action necessary to deactivate any Army Reserve Officers' Training corps unit, or to reduce any such unit for the purpose of eventually deactivating that unit, unless the Secretary of the Army has determined that the unit has been placed in, and has been evaluated for a full evaluation period under, the Effective Management Program of the Army Cadet Command.

Mr. DANFORTH. Mr. President, I rise today to offer an amendment to rectify what I believe is a very unfair and arbitrary decision made by the Department of the Army last week. On August 2, the Army announced that it would deactivate 18 Army Reserve Officers' Training Corps units at colleges and universities throughout the country. Seventeen of the units that the Army will deactivate had been placed in the Army Cadet Command's Effective Management Program [EMP] and were the subject of long reviews. The Army Cadet Command uses the EMP program to evaluate and assist units which suffer from declining enrollment. After an evaluation period of between 2 and 4 years, units not achieving full viability are recommended for closure. According to the Army, "using the EMP process for closure purposes provides a definable, defensible DOD supported logic for these actions." Mr. President, I recognize that military budgets are shrinking and that each of the services must take extraordinary steps to cut spending. The Cadet Command's EMP program appears to be a reasonable way to cut back ROTC units which have outlived their usefulness.

For one of the 18 schools, however, the Army did not utilize the EMP. The Army announced that Washington University in St. Louis, MO, would lose its ROTC unit "under the provision of the contract agreement between the University and the Secretary of the Army." For Washington University, the Army did not undertake a thorough review. It did not put its unit on evaluation status or provide assistance to correct any deficiencies in the program. It did not give Washington University 2 to 4 years to rebut allegations

VOL 140 PT 15 AG 10 — 11 1994 UMI

against its program or to demonstrate its commitment to the ROTC program. Instead, the Army avoided a thorough review and, to the great surprise of Washington University, elected to deactivate the ROTC because of alleged contract violations. Mr. President, this is the first time the Department of the Army has ever attempted to close an ROTC unit based on contract violations. If a drop in numbers of participants—an easily measured occurrence—deserves a thorough, 2 to 4 year review, then certainly alleged contract violations should be given a comparable review and an equal opportunity for rebuttal and for rectification. In the case of the Army's actions towards Washington University, the lack of a formal review process has permitted the Army to begin the process of deactivating a unit based on erroneous and very poor arguments which would not—and will not—survive a serious review.

The Army alleges three contract violations. The first alleged contract violation, according to the Army, is that the ROTC facilities at Washington University are not on the Washington University campus. There is no section of the contract which specifically requires that an ROTC facility be on campus. This alleged violation must relate to section 2(b) of the contract between the Army and Washington University, signed April 8, 1965. That clause requires Washington University "to make available to the Departments of Military Science the necessary classrooms, administrative offices, office equipment, storage space, and other required facilities in a fair and equitable manner in comparison with other departments of the institutions."

Mr. President, the Washington University ROTC facility is on campus and has been in the same location on campus for the last 16 years. The University owns the Academy building in which Army ROTC is housed. The ROTC building is directly across the street from the classrooms and offices of the School of Engineering and it is located in a neighborhood where many Washington University students live. To provide ROTC and other students with easy access to the north side of campus, the university built a walkway over Milbrook Boulevard, which provides a direct link between the Academy building and the School of Engineering. This walkway is similar to the underpass constructed by the university to connect the south side of the university to student dormitories, recreational fields, and the Department of Music facilities. This allegation by the Army is simply incorrect. if the Army truly had a problem with the location of the ROTC building, one would think it would have taken considerably less time that 16 years to voice objections.

The second allegation is that Washington University does not provide academic credit for ROTC courses. This requirement is found in section 2(d) of the contract: "The governing authorities of this institution agree * * * to grant appropriate academic credit applicable toward graduation for successful completion of courses offered by the Department of Military Science."

Once again, this allegation is not accurate. The university leaves it up to individual schools within the university to determine whether or not ROTC courses should be provided academic credit. The School of Engineering provides up to three course credits for ROTC programs, and is considering expanding that to six. Those courses count as electives and are not factored into students' grade point averages [GPAs]. The School of Arts and Sciences does not provide course credit. That is Washington University's interpretation of appropriate credit.

Washington University's policy regarding course credit is better for its ROTC students than the policies of several other schools and is similar to many others. Some universities offer no course credit at all for ROTC courses. Bucknell University, Princeton University, Syracuse University, the Clairmont Colleges, the Massachusetts Institute of Technology, Georgetown University, and George Mason University are among those institutions which fit into this category. Several place restrictions on course credit. Neither Rutgers University nor the University of Pennsylvania include ROTC courses in a cadet's GPA. Davidson gives credit for only one ROTC course. The University of Washington does not award credit towards graduation for ROTC courses taken in the first two years of college. The University of Indiana offers activity credit but not regular course credit. Some universities give discretion to the university's colleges in a similar manner as Washington University. The University of Cincinatti, Temple University, the University of Pittsburgh, and the University of Michigan all follow that approach.

The third allegation is that Washington University does not support the ROTC program. The Army alleges that because Washington University includes a disclaimer in certain university publications pointing out the difference between university policy and DOD policy regarding sexual orientation, Washington University is somehow not supporting the ROTC program. First, I can find nothing in the contract which requires that the university provide general support for the ROTC program. It is required only to meet the specific terms of the contract. Second, to read this disclaimer as a serious lack of support of ROTC is misguided at best, and at worst can be viewed as an attempt to scapegoat Washington University for having a policy on sexual orientation which is different from the military's.

Washington University's nondiscrimination statement reads: "Washington University encourages and gives full consideration to all applicants for admission, financial aid, and employment. The University does not discriminate in access to, or treatment or employment in, its programs and activities on the basis of race, color, age, religion, sex, sexual orientation, national origin, veteran status, or disability. Present Department of Defense policy governing ROTC and AFROTC programs discriminates on the basis of sexual orientation; such discrimination is inconsistent with Washington University policy."

Mr. President, this is a statement of fact. This does not demonstrate a lack of support for the ROTC program. Lack of support would be kicking ROTC off campus. This is what Pitzer College, California State University-Chico, and California State University at Sacramento did. It simply represents an attempt to deal with a contradiction between university and Pentagon policy in a responsible, respectful manner. And Washington University is not alone in utilizing disclaimers. Rutgers, Bucknell, Princeton Claremont, Cincinatti, and Pittsburgh all have disclaimers.

Washington University has supported the ROTC program since 1919. It is the only Army ROTC program in the St. Louis area, which is home to several universities. In February of 1970, protesting students fire-bombed the ROTC building and burned it down. Despite strong student sentiment to the contrary, the University committed itself to keeping ROTC on campus. And over the past several years, as student and faculty sentiment has clashed with DOD policy on the issue of sexual orientation, Washington University has issued a disclaimer rather than taking more severe action. Washington University has supported the Army. And now, instead of giving Washington University ample opportunity and due process to rebut and respond to the allegations, it has made a quick decision to destroy the 75 year relationship.

Mr. President, in summary, these three allegations offer no good reason to deactivate the ROTC program at Washington University. Washington University behaves no differently than many other schools which continue to have ROTC programs. For the Army to suggest otherwise is simply inaccurate and unfair.

Mr. President, my amendment would not permit the Army to use these very shoddy allegations to deactivate ROTC at Washington University, or at any other university. It would require the Army to utilize a fair process to deactivate all ROTC units. Cadet Command already has such a procedure. In the Army's words, "using the EMP process for closure purposes provides a definable, defensible DoD supported logic for these actions." This amendment would require the Army, if it does see fit to review the ROTC program at Washington University, to place the unit in the EMP and give it the same degree of consideration and support that it has given other units. If, at the end of the EMP 2- to 4-year evaluation period (the full evaluation period), it feels ROTC should be discontinued at Washington University, then at least it will have given the University a fair chance to rebut allegations it views as unfair and to demonstrate its intense interest in continuing the program. Anything short of that would be grossly unfair to an institution which takes its 75-year relationship with the Army very seriously and expects the same in return.

Mr. President, I ask unanimous consent to print in the RECORD a memorandum dated August 2, 1994.

There being no objection, the memorandum was ordered to be printed in the RECORD as follows:

INFORMATION FOR MEMBERS OF CONGRESS
SENIOR RESERVE OFFICERS' TRAINING CORPS CLOSURES

The Department of the Army announced today that 18 Army Reserve Officers' Training Corps units at colleges and universities throughout the country will be deactivated. Each year, the U.S. Army Cadet Command does an Annual Program Review and assessment of schools on the Effective Management Program [EMP]. The EMP is a program Cadet Command uses to assist units which are marginally effective. Each year, all programs are reviewed. As a result of that review, some units are put on evaluation status and provided positive assistance. After an evaluation period (usually 2-4 years), those units not achieving full viability are recommended for closure. The program also identifies potentially strong markets for possible ROTC unit establishments.

As a result of this year's review, 18 ROTC programs will be deactivated. Based upon the EMP review, 17 of these units have exhibited a downward trend in many of the performance categories, including officer production, cadet enrollment, and academic disciplines of officers commissioned. One of the 18 units will close under the provision of the contract agreement between the University and the Secretary of the Army. Of the 18 units to be deactivated, seven are host schools and 11 are extension centers (smaller units that work under the direction of a nearby "host" unit). These extension centers have an average of three ROTC instructors assigned, and commissioned an average of four officers per school during the past years (versus a target of ten).

This year's review also identified 10 host units for downgrade to extension centers. Consequently these units will be missioned and resourced at a lower level commensurate with their performance and market size. Additionally, the Annual Program Review identified one extension center for upgrade to host status, moving a host position to another location, and an opening of an extension center.

Recognizing that some hardships to both schools and cadets will result from these closures, the Army will provide options for completing ROTC and obtaining a commission to all cadets in their junior and senior years and all scholarship cadets. Cadet Command will notify and assist each affected cadet during the School Year 1994–1995. Senior officers from Cadet Command will deliver notification letters to the presidents of the affected schools on August 3, 1994.

When these reductions are completed, the Army will still have 316 units with representation in all 50 states, the District of Columbia, Puerto Rico, and Guam. Once closures are completed at the end of School Year 1994–1995 (there is normally a 1 year lag between notification and actual closure), the opportunity to participate in ROTC will remain in each State.

Last year, the Army leadership approved the closure of 17 schools at the end of School Year 1993–1994. Using the EMP process for closure purposes provides a definable, defensible DoD supported logic for these actions. Cadet Command works diligently to support these "at risk" programs and the closure decision will not be unexpected. The closures are an integral part of the overall reengineering of Cadet Command. It is efficient to close our least productive units and redirect resources to move viable programs.

This action will have no effect on the Army's Junior Reserve Officers' Training Corps (JROTC) program which is conducted at the high school level.

Furnished by Office, Chief of Legislative Liaison.

Mr. INOUYE. Mr. President, this amendment has been cleared by both sides and is acceptable.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2497) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. I ask unanimous consent that the prior vote be also reconsidered and tabled.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2498

(Purpose: To require a preference for the use of local and small businesses for environmental restoration and remediation of Kaho'olawe Island, Hawaii)

Mr. INOUYE. Madam President, I send to the desk an amendment proposed by Senator AKAKA.

The PRESIDING OFFICER (Mrs. BOXER). The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. AKAKA, proposes an amendment numbered 2498.

Mr. INOUYE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. 8121. PREFERENCE FOR LOCAL AND SMALL BUSINESSES TO CARRY OUT ENVIRONMENTAL RESTORATION AND REMEDIATION OF KAHO'OLAWE ISLAND, HAWAII.

(a) PREFERENCE REQUIRED.—In entering into contracts with private entities to carry out environmental restoration and remediation of Kaho'olawe Island, Hawaii, and the waters surrounding that island, the Secretary of the Navy shall, to the maximum extent practicable, give a preference to small business concerns and small disadvantaged business concerns located in the State of Hawaii. In giving the preference, the Secretary shall give especial preference to businesses owned by Native Hawaiians.

(b) DEFINITIONS.—In this section:

(1) The term "small business concern" means a business concern meeting the requirements of section 3 of the Small Business Act (15 U.S.C. 632).

(2) The term "small disadvantaged business concern" means the business concerns referred to in section 7(d)(1) of such Act (15 U.S.C. 637(d)(1)).

(3) The term "Native Hawaiian" means any individual who is a descendent of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

Mr. AKAKA. Madam President, I offer an amendment to H.R. 4650, the Department of Defense appropriations bill for fiscal year 1995. The amendment I am offering would provide preference to small and minority-owned businesses in Hawaii for the restoration and remediation of Kaho'olawe, Hawaii.

Kaho'olawe holds a special place in the hearts of Hawaii's people. This island, devastated by years of bombings, still contains many culturally and historically significant resources. Ancient burial places, fishing shrines, religious monuments of old Hawaii can still be found on Kaho'olawe. Fortunately, the island was placed on the National Register of Historic Places.

The restoration and remediation of Kaho'olawe is important to the people of Hawaii, particularly to the Native Hawaiian community. In fact, the State of Hawaii recently designated the island as a cultural preserve. Thus, it is only fitting that preference be given to native Hawaiian-owned business and other small businesses in Hawaii, who have the cultural sensitivity in restoring and preserving Kaho'olawe.

Such preference is not new or unique. Native American groups have also been given preference for similar projects, and preference to local firms has also been given to communities affected by base closure or realignment. Given the cultural significance of Kaho'olawe to the people of Hawaii, it is only fair and fitting that we also extend a preference to the island's cleanup to its people.

Mr. INOUYE. Madam President, the purpose of this amendment is to provide preferential treatment to small businesses in the cleanup of the island of Kaho'olawe.

This amendment has been studied and approved by the managers.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

So the amendment (No. 2498) was agreed to.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Mr. INOUYE. Madam President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2499

(Purpose: Limitation on Compensation)

Mr. STEVENS. Madam President, I send an amendment to the desk on behalf of Senator NICKLES.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. NICKLES, proposes an amendment numbered 2499.

Mr. STEVENS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 19, before the period, insert the following: ": *Provided further*, that the Undersecretary of Defense for Policy, shall, not later than October 15, 1994, transmit, in unclassified and classified forms, the Rand Corporation Study, published on or about December 1993, on The U.S. Role in Possible Middle East Peace Settlements to the congressional defense, intelligence and foreign affairs committees."

Mr. STEVENS. Madam President, I ask consideration of the amendment. It has been cleared on both sides in amendment form.

The PRESIDING OFFICER. Is there further debate?

Hearing none, the question is on agreeing to the amendment.

The amendment (No. 2499) was agreed to.

Mr. STEVENS. Madam President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, if I may speak to Members on my side, I have now until the hour of 6:50 p.m. to offer amendments on behalf of Republican Senators. We have no more ready to be offered at this time. I am hopeful that the Members and their staffs will be aware of the deadlines that have been set for offering of amendments and will bring them to the staff and to me as soon as possible.

Mr. INOUYE. Madam President, I would like to also advise Members on this side of the aisle that we have until 6:55 p.m. to offer amendments. Furthermore, I would like to point out that we hope to finish this measure tomorrow. If that is the case, I hope amendments will be brought up as soon as possible.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE REFORM

Mr. MCCAIN. Mr. President, in the next few weeks, Congress—at the President's behest—may determine for all time not only the availability, but the quality of health care in America. The magnitude of this undertaking is so immense, the risks so consequential, and the potential for doing harm to a system that, with all its imperfections, remains the envy of the world is so evident that it should humble us all.

I have no doubt that every Member—in both Houses and on all sides of the debate—is motivated to act by the very best of intentions. But neither the nobility of the cause nor the sincerity of its advocates necessitates our careless disregard for the axiom of governance that our past experiences have shown to be the most sound principle for organizing the affairs of a great nation: the least government involvement practical is preferable.

Alexis de Tocqueville, to whose wise observances we often turn for insights about our national character, illuminated the pivotal importance of a minimally intrusive government to the success of democracy in America by envisioning the relationship between government and the governed in the event that democracy failed in America. He wrote:

[Government] will be an immense and tutelary power, which takes upon itself to secure [the people's] gratifications, and to watch over their fate. That power is absolute, minute, regular, provident and mild. It would be like the authority of a parent, if, like that authority, its object was to prepare men for manhood; but it seeks, on the contrary, to keep them in perpetual childhood. For their happiness such a government willingly labors, but it chooses to be the sole agent and the only arbiter of that happiness; it provides for their security, foresees and supplies their necessities, facilitates their pleasures, manages their principal concerns, directs their industry, regulates the descent of their property, and subdivides their inheritances. What remains, but to spare them all the care of thinking and all the trouble of living?

From the outset of the health care debate, I have adhered to a set of principles that I believe are essential to constructive reform of our health care system. Reform should maintain the high quality of American health care; expand access for those who are currently excluded from the system; allow those who have insurance to keep it if they become ill or lose their job; preserve choice and strengthen security for all Americans. The distinguished Majority Leader's bill, which we are now considering, does not meet these criteria for a number of reasons which I will detail in subsequent debate.

But it is that first principle of governance, that the least government involvement practical is preferable, and which I believe the Majority Leader's bill seriously violates, that forms the basis of my opposition to Senator MITCHELL and the President's approach to health care reform.

Let me briefly explain why. The new taxes and employer mandates proposed by Senator MITCHELL and the President will be used to finance an enormous Government takeover of the health care system. They will pay for a huge new entitlement program that will subsidize at least 100 million people—almost half of the country. Subsidies would be available to some families with incomes up to 300 percent of the poverty line. Families of four with income of $44,000 would be entitled to a subsidy.

Additionally, the bill creates three other new entitlement programs at an estimated cost of $172 billion, including Medicare prescription drugs, a new long-term care program, and a new government-run medical education program funded by a tax on all health insurance plans.

Under Senator MITCHELL's plan, at least 20 new bureaucracies will be created. They include: the National Health Care Cost and Coverage Commission; the National Health Benefits Board; State health insurance purchasing cooperatives; Federal health insurance purchasing cooperatives established by OPM; a National Quality Council; a Worker's Compensation Commission; a National Council on Graduate Medical Education; State Consumer Information and Advocacy Centers; Quality Improvement Foundations; a National Guarantee Fund for Multi-State Self-Insured Plans; State guaranteed funds; a Biomedical and Health Services Research Fund; and mandatory State alternative dispute resolution.

The President and Senator MITCHELL's plan imposes substantial new Government regulation. In addition to the employer mandate, it would impose a complicated new tax on health plans whose premiums increase faster than the Government allows. It will operate in a manner similar to price controls. The plan also bans self-insurance for firms with fewer than 500 employees, and imposes a standard benefits package which limits consumer choice.

In short, Mr. President, for those of us who worry about excessive Government interference in one of the most personal decisions any American will ever make—choosing health care for his or her family—there is a great deal for us to be concerned about in the President's and Senator MITCHELL's health care plan.

I do not question the motives of the proponents of this plan. I am confident that theirs is a principled advocacy motivated by a belief that a huge Government role is necessary to reform those aspects of our health care system which we all agree need to be reformed. Again, I do not question anyone's motives. I only question their solution.

Likewise, ours is a principled opposition based, as I have said, in our profound skepticism about new and expansive Government activism in regulating America's health care system. As the debate on health care reform proceeds, much discussion will be focused by necessity on many arcane and complex aspects of various reform proposals. But we should not lose sight, Mr. President, that at the core of this debate is a fundamental disagreement about the extent of Government involvement that is necessary to make a good system better.

That is, in the end, most of what this debate is all about. And I deeply resent attempts by proponents of the President's approach to ascribe all manner of devious and nefarious motives to opponents of the President's plan. Again, this is a principled disagreement. We opponents believe just as sincerely in our plan to reform America's health care system, as the President, First Lady and their allies in the Congress believe in their plan.

Last week, the distinguished majority leader appealed to all Senators to avoid casting aspersions on the intentions of any one involved in this historic debate, on either side, and to keep partisan bickering to a bare minimum; that the issue was too important and the moment too consequential to be settled through personal attacks and political posturing. I could not agree more.

Yet, I would have hoped that the majority leader's plea would have been heard on both sides of the aisle, at both ends of Pennsylvania Avenue. Apparently, that was not the case.

Today, our Democratic colleagues denied Senator HELMS' request to vitiate the yeas and nays on an amendment which he proposed. If there was anything other than a political motive for opposing his unanimous-consent request it was not apparent to me.

Yesterday, the First Lady, Mrs. Clinton, was reported to have described opponents of the President's plan as a "small core of people" who want to prevent America from being a "compassionate and caring nation." She went on to apparently link those with different views on health care reform from hers to efforts to inject "hatred * * * into our political system." Lastly, she questioned the motives of one of our colleagues by name.

I would point out to the First Lady, that in every poll I have seen, the American people also oppose the President's health care plan. Does this mean that the majority of Americans lack compassion or are morally bankrupt?

I find the First Lady's unfair and unfounded characterization of our intentions to be entirely inappropriate, deeply offensive, and certain to undermine the majority leader's attempt to conduct the debate on health care in a respectful and informative manner.

No one in this town has cornered the market on compassion—no one. We are all moved by the many compelling personal stories that are often recounted to argue for one view or another in this debate. Americans share a great many concerns. We all have families. We all suffer anxieties about their welfare. We are all sympathetic to the anxieties of others. The ability to appreciate the pain of human suffering is not a virtue unique to the President's character.

Just like the President, the First Lady, and our Democrat colleagues, Republicans elected to Federal office came to this town with the intention of doing right by their constituents and their country. We are just as sincere in wanting to leave this good and blessed Nation better than we found it. We all believe in progress. We disagree over means, but not ends.

I find it most unfortunate to be obliged to remind the White House that what occurred in January, 1993 was that Bill Clinton was inaugurated the 42d President of the United States. What did not occur was the arrival of a morally superior force of public servants determined to save the country from a small core of cold-hearted evildoers bent on frustrating the President's attempts to make America a more compassionate Nation.

I hope the First Lady's attack yesterday will be the last time this debate is marred by White House efforts to turn a principled debate about the proper role of Government in one-seventh of our Nation's economy into some cosmic struggle between good and evil. Such tactics do a grave disservice to the President, to Congress and to the American people who, quite rightly, want this debate to be enlightening and conducted with the respect and fair-mindedness appropriate to a decision of such profound consequences for their well-being.

Madam President, I suggest the absence of a quorum.

Mr. BRYAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

I ask unanimous consent the pending committee amendment be set aside for the purpose of offering an amendment.

The PRESIDING OFFICER. Does the Senator from Arizona withdraw his request for the call of the roll?

Mr. MCCAIN. I withdraw my request for the quorum call and maintain my right to the floor.

The PRESIDING OFFICER. The Senator does continue to have the floor. The Senator from Arizona.

AMENDMENT NO. 2500

(Purpose: To provide for a temporary waiver of the prohibition on concurrent payment of disability compensation and uniformed services retired and retainer pay for certain totally disabled career members and former career members of the uniformed services)

Mr. MCCAIN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. GRAHAM, proposes an amendment numbered 2500.

Mr. MCCAIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . (a) The prohibition on concurrent award of compensation and retirement pay (including naval pension) set forth in section 5304(a)(1) of title 38, United States Code, does not apply to a person who has a service-connected disability if—

(1) the person has completed at least 20 years of service in the uniformed services that is creditable for purposes of computing the amount of retirement pay to which the member is entitled;

(2) the disability was incurred or aggravated in the performance of duty as a member of a uniformed service, as determined by the Secretary concerned; and

(3) the disability is a disability rated as total—

(A) by the Secretary concerned as of the date on which the person is retired from the uniformed services; or

(B) by the Secretary of Veterans Affairs within four years following the date on which the person is retired from the uniformed services.

(b) Notwithstanding section 1463(a) of title 10, United States Code, the amount of retirement pay paid in accordance with subsection (a) concurrently with the payment of disability compensation to the recipients of such retirement pay shall be paid out of funds appropriated by this Act.

(c) Subsection (a) is not applicable to a person for any period for which the disability of such person is not a disability rated as total as described in paragraph (3) of such subsection.

(d) In this section:

(1) The terms "compensation", "service-connected", and "Secretary concerned" have the meanings given such terms in section 101 of title 38, United States Code.

(2) The term "disability rated as total"—

(A) means a disability that is rated as total under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; and

(B) does not include a disability for which the schedular rating is less than total but for which a rating of total is assigned by reason of inability of the disabled person concerned to secure or follow a substantially gainful occupation as a result of service-connected disabilities or by reason of any other factor.

(3) The term "uniformed services" has the meaning given such term in section 101(a)(5) of title 10, United States Code.

(e) This section shall take effect on October 1, 1994, and shall apply to months that

VOL 140 PT 15 AG 10 — 11 1994 UMI

begin on or after that date and before October 1, 1995.

Mr. McCAIN. Madam President, I ask unanimous consent to add Senator GRAHAM of Florida as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Madam President, for over 3 years now I have been engaged in fighting for a cause which I feel strongly about—the discrimination of disabled veterans who must forgo retirement benefits. Current law prohibits concurrent receipt, requiring a career military servicemember who retires with 20 years of service and is disabled, to offset his or her retirement pay with any VA disability compensation the member receives. Because the career military servicemember receives no separate payment for his service-connected disability, our Government is effectively requiring career military retirees to fund their own disability benefits. Therefore, I rise today to offer an amendment to correct this gross inequity.

Madam President, the amendment I have offered would waive the prohibition of concurrent receipt for a year and provide for concurrent payment of disability pay and retired pay if the following criteria is met:

First, a veteran has completed 20 years of military service; and

Second, the disability was incurred or aggravated in the performance of duty in military service; and

Third, disability is rated as 100 percent at the time of retirement or within 4 years of the veteran's retirement date.

According to recent figures from the Department of Defense, there are about 7,000 former servicemembers who are rated 100 percent disabled and have completed 20 years of service. The cost of paying concurrent receipt in this legislative provision is about $55 to $60 million and will affect about 3,500 veterans.

Because the Office of Management and Budget has scored this change in concurrent receipt policy as a PAYGO cost, offsets elsewhere in the Department of Defense account must be found. However, although this task has become increasingly difficult, I believe that there are still some areas in the Department of Defense budget that can be cut and not have a detrimental effect on readiness in our Armed Forces.

For example, the travel pay of senior-level officer and civilian executive travel of the Pentagon staff. This travel is primarily for Department of Defense civilians, Generals and Admirals and Members of Congress. Additionally, funds that are available for support to travel such as the operation and maintenance funds of the Air Force 89th Airlift Wing, the Marine Corps HMX-1 Squadron, and the Joint Chiefs and Service Secretaries executive transport aircraft should be considered. According to the Department of Defense's own figures, it seems outrageous that these costs for executive travel approach nearly $370 million.

Equally as astonishing is the exorbitant administrative costs that the Department of Defense spends each year processing travel orders. In fact the Department of Defense spends more each year to process travel orders than it does on travel itself. According to figures compiled by Vice President AL GORE and the National Performance Review [NPR], the Pentagon spends $2.3 billion each year processing $2 billion worth of travel vouchers.

I do not believe it is necessary for me to list for the Appropriations Committee all the areas in the Defense budget which could be reapportioned to find funding to pay for concurrent receipt. Suffice it to say this should be done, not at the expense of readiness in our Armed Forces, but rather from defense accounts such as executive travel, university research, research, development, test, and evaluation, and military construction, for example.

Concurrent receipt is a fairness issue. The present law simply discriminates against career military people. Career military retired veterans are the only group of Federal retirees who are required to waive their retirement pay in order to receive VA disability. This inequity needs to be corrected. Over the past several years the Congress and the Department of Defense have sought to deal with this issue in a variety of ways.

I know personally the character of Americans who take up arms to defend our Nation's interests and to advance our democratic values. I know of all the battles, all the grim tests of courage and character, that have made a legend of the Army, Navy, Marine Corps, and Air Forces' devotion to duty.

Let me remind this body of the grave sacrifice that our men and women who risk their lives for their country must endure. The United States has exerted military force more than 240 times since the end of World War II. That number will almost certainly increase in the future.

We have seen the efficacy of U.S. military power in this new era displayed in Panama and the Persian Gulf. But we have also seen conflicts that reveal the limits of that efficacy, and for which we have few, if any, viable military answers. Such is the case in the horrible tragedy of Somalia and Bosnia.

But be assured, we will continue to place our servicemen and women in harms way. When our vital interests are so threatened that such a grave step becomes necessary.

It is also appropriate to note, Mr. President, that we know how important our Armed Forces have been to advancing the just influence of our values. The Iron Curtain did not collapse by accident. The triumph of freedom in the world today is a direct consequence of the blood shed by those in battles too numerous to mention. Their sacrifices protected more than a narrow definition of our national interest. They served, in Lincoln's words, as "a beacon light of liberty" to the most oppressive societies on Earth.

We now have an opportunity to show a measure of our gratitude to these brave men and women. It is time for Congress to reverse the law that prohibits career military who are wounded during their service to our country from receiving earned retirement benefits.

I have learned, through personal experiences, that our human resources are our most valuable asset. You cannot win a war on firepower alone. Our Armed Forces have the most technically advanced weapons in the world, but if you don't have skilled, experience to operate and the best trained soldiers, sailors, marines, and airmen to operate them, then we are not adequately prepared to fight to defend our national interests.

I believe we have prepared ourselves properly. Never has this Nation seen a better trained and better educated Armed Forces.

However, we are moving to a smaller force structure, from 1.8 million to 1.2 million personnel by the turn of the century. Our service men and women are losing faith in the careers they have chosen. Draconian cuts in the defense budget negatively impact our active and retired military service members each day. In my nearly 25 years of military service and my continued close observation of the military since I retired, I have seen an erosion of benefits for active and retired service men and women each and every day. To opponents of concurrent receipt who make the argument that the military receives an abundance of benefits which should exclude them from any additional benefit, I can only remark that they are dead wrong.

I cannot think of a more fitting way for Congress to appropriate some of the reduced defense expenditure, than to correct the policy of requiring American veterans, injured in service, to waive their earned retirement benefits in order to receive disability benefits. It is entirely inequitable that military retired pay is offset dollar-for-dollar by veterans' disability compensation pay.

I firmly believe that nondisability military retired pay is post-service compensation for service rendered in the U.S. military. Veterans' disability compensation pay is not.

In my view, the two pays are for very different purposes; one for loyal and selfless service to our country and the other for physical or mental pain and suffering; occurred in that service.

Previously, I have cosponsored concurrent receipt legislation, like that sponsored by my friend and colleague from Florida, Senator BOB GRAHAM, which required a sliding scale of offsets that would reduce compensation as disability ratings increase. Other proposals call for a phase-in over a number of years, a proposal only to individuals who have a 30 percent or less rated disability, and other variations on these themes.

Because of the complexity of some of these proposals and the costs associated with them, I believe that most of the proposals compromise the basic philosophy behind the purpose for this legislation. Again, that philosophy holds that VA disability pay is for physical or mental pain or suffering and it should remain independent of career military service pay.

Last year, it was involved in a very sad case where a career Arizona sailor lost his leg from injuries sustained while serving aboard a Navy guided missile destroyer. This young man lost his leg above the knee, yet only received 60 percent disability. So, with a veteran with 100 percent disability, how can you say no? No, to his earned retirement pay for his 20 years of service to his country. No, to the disability compensation for mental or physical pain or suffering caused from service to his country. How can anyone deny a military retiree with 100 percent disability from receiving his retirement pay and veterans' disability pay?

I am very hopeful that, once the administration and the Pentagon finally understands that Congress will not allow it to ignore disabled military retirees, that the Department of Defense will provide the Congress with a fair and equitable plan to permanently and properly compensate military retirees with disabilities.

I hope my colleagues understand the grave injustice that we have subjected our most seriously injured veterans to. I hope that they will vote for this amendment as a first step to correct this inequitable policy and restore to our disabled service men and women the proper measure of our Nation's gratitude for their great sacrifices on our behalf.

Madam President, I ask unanimous consent that letters of support for this legislation from the Military Coalition, a consortium of 25 nationally prominent military associations, the Veterans of Foreign Wars, the American Legion, the Disabled American Veterans, the Paralyzed Veterans of America, and the Uniformed Services Disabled Retirees be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD as follows:

THE MILITARY COALITION,
Alexandria, VA, August 6, 1994.

Senator JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: The Military Coalition, a consortium of 25 nationally prominent military associations (signatures enclosed) representing 3.75 million active, retired, and reserve members of the seven uniformed services and their families and survivors, strongly supports your proposed amendment to the FY 1995 Defense Appropriations bill that would provide concurrent receipt of military retired pay and VA disability compensation for retired members with 20 or more years of service, who are determined to be 100 percent disabled, and whose disability was incurred as a direct result of their military duties.

The Military Coalition has long supported the concept of concurrent receipt, but recognizes that funding constraints may necessitate limiting eligibility to those whose disability is most severe. This approach is consistent with the recommendations made by the Coalition during testimony before the Senate Armed Services Subcommittee on Force Requirements and Personnel on April 14, 1994. The Coalition concurs that the required funding should not come from readiness-related areas of the defense budget.

We deeply appreciate your continuing advocacy of the need to redress the compensation inequity imposed upon disabled military retirees, and will continue to work with you toward achieving this worthy goal.

Sincerely,

PAUL W. ARCARI,
Colonel, USAF (Ret). The Retired Officers Assn., Co-chairman.
MICHAEL OUELLETTE,
Sergeant Major, USA (Ret), Non Commissioned Officers Assn., Co-Chairman.

The letter was also signed by representatives of the following organizations:

Air Force Sergeants Assn.
National Association for Uniformed Services.
The Retired Enlisted Assn.
Enlisted Assn. of the National Guard Assn. of the US.
Marine Corps Reserve Officers Assn.
National Military Family Assn.
Commissioned Officers Assn.
Marine Corps League.
CWO & WO Assn., USCG.
Jewish War Veterans of the USA.
United States Armed Forces Assn.
Naval Enlisted Reserve Assn.
Navy League of the US.
The Military Chaplains Assn.
US Army Warrant Officers Assn.
US Coast Guard CPO Assn.
National Guard Assn. of the US.
Naval Reserve Assn.
Reserve Officers Assn.
Air Force Assn.
Assn. of Military Surgeons.
Fleet Reserve Assn.
Assn. of US Army.

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
August 10, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: The Veterans of Foreign Wars of the United States (VFW) strongly and unconditionally supports your proposed amendment to the FY 1995 Defense Appropriations Bill that would provide concurrent receipt of military retired pay and VA disability compensation for retired members who have served on active duty for 20 or more years and who were subsequently determined to be 100 percent disabled as a result of illness and/or injury incurred in the line of duty.

The VFW has had a nationally approved resolution reflecting the collective judgment of our 2.2 million member organization for each of the past eight years asking Congress to grant concurrent receipt of military retirement pay and veterans disability compensation to all disabled retirees. Given the present budgetary constraints this Congress is working under, we believe your amendment is absolutely the right course of action to take today. We wholeheartedly agree that the required funding should not be taken from the readiness related areas of the defense budget.

In closing, we again thank you for all your efforts on behalf of disabled veterans in general and disabled military retirees in particular. The VFW will continue to work closely with you and your professional staff to achieve our common goals.

Sincerely,

BOB MANHAN,
ASSISTANT DIRECTOR,
National Legislative Service.

THE AMERICAN LEGION,
Washington, DC, August 9, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: For many years The American Legion has believed that the professional members of the Armed Forces of the United States throughout their careers, have made repeated sacrifices for their country in ways neither found nor expected in a civilian profession. They live under circumstances of adverse environmental conditions, suffer through long periods of family separation while deployed in military operations, work in foreign lands under hostile weapons fire with insufficient personnel to meet mission requirements and receive little recognition for a job well done. It is that unquestioned loyalty, commitment to ideals and reaction to danger throughout a career that can result in permanent physical impairment and a requirement to fund their own disability compensation from their retired pay.

The American Legion supports your proposed legislation to award concurrent receipt of both retired and disability pay to those professional career veterans who are adjudged to be 100 percent disabled after their 20 year retirement, or within four years afterwards, and are disabled because of service-connected or line-of-duty service. The numbers of retirees who meet these criteria are estimated at less than 3,500, but are the most deserving because of their sacrifices and the reduction or negation of their earning potential for follow-on employment.

It is recognized there are other circumstances and criteria that cause military retirees to become 100 percent disabled. Under your proposed criteria some of them may be exempt from this bill. However, even though they are no less deserving, and even though The American Legion continues to support concurrent receipt for all disabled military retirees, the fiscal realities of today's budget may for now, prohibit coverage of all retirees who are 100% disabled. But, as a grateful nation this small initial step should be taken for the most seriously disabled who have unselfishly served their country.

Sincerely,

BRUCE THIESEN,
National Commander.

79-059 O—97 Vol. 140 (Pt. 15) 3

VOL 140 PT 15 AG 10 — 11 1994 UMI

DISABLED AMERICAN VETERANS,
Washington, DC, August 10, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the more than 1.4 million members of the Disabled American Veterans (DAV) and its Women's Auxiliary, I take this opportunity to express our support for your proposed amendment to the Fiscal Year 1995 Defense Appropriations Bill. Your amendment would provide concurrent receipt of military longevity retirement pay and Department of Veterans Affairs (VA) disability compensation for totally disabled veterans.

As you are aware, the DAV has long supported the principle of concurrent receipt for military longevity retirement pay and VA disability compensation. While your amendment does not grant concurrent receipt to all service-connected disabled military longevity retired veterans, it would provide meaningful assistance to our nation's most seriously disabled service-connected military retirees.

Your efforts on behalf of America's disabled veterans are greatly appreciated. If there is anything my staff can do to assist you in achieving this worthy goal, please do not hesitate to contact them.

Sincerely,

RICHARD E. MARBES,
National Commander.

PARALYZED VETERANS OF AMERICA,
Washington, DC, August 10, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: The Paralyzed Veterans of America (PVA) wholeheartedly supports your proposed amendment to the FY 1995 Defense Appropriations Bill which would enable service-connected disabled veterans to receive both retirement and disability pay. This concurrent payment would only be applicable to those veterans whose disability is rated 100 percent, and is granted upon their 20 year retirement, or within four years afterwards. Although PVA would like to see this benefit extended to all 100 percent service-connected retired members, the need to limit the number of beneficiaries due to budgetary constraints is appreciated.

PVA appreciates the support you have extended to the disabled veterans in the past and again thank you for your efforts in this proposed amendment.

Sincerely,

RICHARD F. JOHNSON,
National President.

UNIFORMED SERVICES
DISABLED RETIREES,
Albuquerque, NM, August 10, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: The Uniformed Services Disabled Retirees (USDR) represents all service-connected disabled military retirees who served in not only one (1), nor two (2), but in three (3) of our Nation's wars. It also includes the Cold War.

We strongly support your proposed amendment to the FY 1995 Defense Appropriations Bill. We realize that the Bill would provide concurrent receipt for those retired members with 20 or more years of military service and determined to be 100 percent disabled by the Department of Veterans' Affairs as being incurred in the line of duty. I would hope that under the determination of the Department of Veterans' Affairs, that they would include those who are rated as 100 percent disabled for unemployability.

The issue of concurrent receipt denial is a century old law. In its original state, the law was written to make it unfair and unjust besides discriminatory towards the service-connected disabled military retirees. Today, it places a financial hardship upon this group of America's disabled veterans, especially those rated as 100 percent disabled for total disability and or unemployability.

USDR encourages the United States Congress to accept your amendment and finally partially end the unfairness and injustice.

We of USDR greatly appreciate your continued advocacy to address the unfairness and place an end to the injustice pertaining to concurrent receipt.

Sincerely,

STEPHEN WOLONSKY,
President.

It is my understanding that this amendment may be accepted by the managers. If not, I will request the yeas and nays.

I ask unanimous consent to add as cosponsors Senator DOLE, Senator GRAMM, Senator FORD, Senator PRESSLER, Senator BINGAMAN, Senator MACK, Senator AKAKA, Senator DASCHLE, Senator SARBANES, and Senator LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the pending committee amendments are set aside.

Mr. MCCAIN. Madam President, I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I rise in support of the McCain amendment which addresses a fundamental matter of fairness and equity for a group of 100 percent disabled military retirees who incurred their disability in the performance of duty. In my view there is no one more deserving of the full benefits they earned than these individuals who each served our Nation at least 20 years and now are generally unemployable as a result of disability.

The amendment would, for this carefully selected group, allow concurrent receipt of their military retired pay and their VA disability benefit without the currently mandated dollar for dollar reduction in their retired pay. As the Senator from Arizona has pointed out, career military retired veterans are the only group of Federal retirees who are required to waive a portion of their retirement pay in order to receive VA disability compensation.

I commend the Senator from Arizona for his perseverance in trying to find a way to address this inequity within the budget constraints we face. He has designed a narrow exception to the current statute that will begin to deal with this inequity by focussing on those most needing these benefits. The cost, estimated at $55 million, is paid for through nonreadiness reductions, particularly in the travel area where recent reports have indicated the Pentagon is spending an inordinate amount of money on administrative expenses.

I am delighted to be part of this effort to ensure those military retirees with 100 percent disability as a result of the performance of their duty for the Nation over a 20-year career can receive the full benefits they earned through their service. I hope the amendment will be broadly supported by our colleagues.

Mr. GRAHAM. Madam President, I also rise in strong support of the amendment offered by the Senator from Arizona. There is a perversity here in that two military veterans, both of whom have suffered an injury in the course of service to their Nation, both of whom are receiving disability payments, one of whom elects to continue in military service until retirement. That individual, upon retirement, will see his or her retirement benefits reduced proportionate to the receipt of disability payments.

The second serviceman or woman who elects to leave the service and go into other employment, including employment with another Federal agency and serves until retirement, continues to get their full disability payment and the retirement that they have earned.

So the practical effect of this is to penalize those persons who, after having suffered a disability in the service to the Nation, then continue that service until retirement. It is a very perverse set of incentives in terms of maintaining the loyalty and service of outstanding people for our Nation's military.

It is, I think, an inexplicable example of unfairness to a group of citizens who, if anything, deserve our special commendation, both for having suffered an injury in service of the Nation and then having continued to serve until retirement.

I hope this Senate will end that unfairness this year with the adoption of the amendment offered by the Senator from Arizona. I am very pleased to join him in this effort.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. MCCAIN. Madam President, it is not clear to me yet whether the managers of the bill will choose to accept the amendment or at the appropriate time I will seek the yeas and nays. At this time, I yield to the distinguished manager of the bill, the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, if the Senators will indulge us, may I suggest the absence of a quorum?

Mr. MCCAIN. Could I ask the Senator to withhold that? I ask for recognition.

The PRESIDING OFFICER. Does the Senator from Hawaii withhold his request for a quorum call?

Mr. INOUYE. I just suggested the absence of a quorum to discuss this matter.

The PRESIDING OFFICER. The Senator from Arizona has asked that the Senator from Hawaii withhold that.

The Senator from Arizona.

AMENDMENT NO. 2501

(Purpose: To require reimbursement of the Department of Defense for funds made available by the Department for civilian sporting events)

Mr. MCCAIN. Madam President, I ask unanimous consent that the pending amendment be set aside so that I may send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2501.

Mr. MCCAIN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. 8121. REIMBURSEMENT FOR FUNDS PROVIDED IN SUPPORT OF CIVILIAN SPORTING EVENTS.

(a) AGREEMENT FOR REIMBURSEMENT.—Notwithstanding any other provision of law, funds made available to the Department of Defense under title II of this Act may not be expended either directly or indirectly to support the World Cup Soccer Games, the Goodwill Games, an Olympiad, or any other civilian sporting event until the Secretary of Defense—

(1) enters into an agreement with the entity or entities that are to receive the funds to provide for such funds to be reimbursed to the Department under terms and conditions established by the Secretary; and

(2) certifies to Congress that the agreement ensures that such reimbursement will be made.

(b) TERMS OF AGREEMENT.—An agreement entered into under subsection (a)—

(1) may not require any reimbursement until after the sporting event is complete and all event-related contractual obligations have been met by the entity or entities with which the agreement was made;

(2) shall provide that the amount reimbursed may not exceed 25 percent of surplus funds; and

(3) shall provide that no reimbursement is required if the entity or entities with which the agreement was made has no surplus funds after all other contractual obligations have been met.

(c) DEFINITION.—In this section, the term "surplus funds" means the amount equal to the excess of the total amount of revenues (other than tax revenues) and contributions received by the entity or entities referred to in subsection (b) over the total amount of the expenditures made by the entity or entities.

Mr. MCCAIN. Madam President, the amendment is a rather simple, straightforward amendment. It requires that the Department of Defense be reimbursed for expenditures entailing the use of Department of Defense personnel and equipment to provide security for any civilian sporting event, but that the Department of Defense only has to be reimbursed if there is a profit and if there is a profit, only on 25 percent basis of that profit.

What I am saying is that if the taxpayers' dollars are spent in the World Cup, the Olympics, the Goodwill Games, or any other, and a profit is made, as happened in the Los Angeles Olympic games which made a staggering $222 million profit, if there is a profit, then this amendment says that on a 25-percent basis of that profit, that the Department of Defense would be reimbursed.

I want to make it clear that I strongly believe that security needs to be provided for any of these games. The memory of the 1972 Olympics tragedy in Munich haunts all of us, and I would not want to reduce that security in any way. But I do believe that since we are spending taxpayers' dollars and sending Department of Defense personnel and equipment to be used, that if that Olympic game or that civilian sporting event makes a profit, then some of the money of the profits should be returned to the Department of Defense.

It is pretty straightforward, and I think it is logical and I think it is reasonable. I know that the Senators, especially from the State of Georgia, and other places, object to this amendment.

Let me also point out, Madam President, that most of these games do not make profits. The Senior Olympics, the Special Olympics—all of those—and the Olympics in Atlanta, I am told, do not expect to make a profit. So I do not expect the Department of Defense to be reimbursed if they do not make a profit.

I am only saying if they do make a profit, at least on a 25-percent basis that the Department of Defense should be reimbursed.

Madam President, on this amendment, I ask for the yeas and nays.

Mr. HEFLIN. Madam President, the announcement that the city of Birmingham had been selected to host the preliminary competition in the 1996 Olympic soccer tournament was an occasion for all the citizens of Alabama to rejoice. We were even more delighted to learn that Birmingham was one of two host cities for the quarterfinal games.

Thousands of people turned out in August 1993 when members of the Atlanta Committee for the Olympic Games, the U.S. Soccer Federation, and the Federation of International Football Association visited Birmingham. I think the spirit and enthusiasm which were so evident that day had a great deal to do with the decision to award these games to Birmingham.

I assure you this spirit is even stronger today. The citizens of Alabama will put forth every effort and dedicate every resource to guarantee that the athletes and spectators to these games receive an Olympic welcome that is second to none. I am told that as much as 60 percent of the world's population will watch these games on television. We know well the opportunity this presents to put our State on display around the world, and State leaders have assured me it will be taken full advantage of.

Hosting these prestigious games means much more than games run efficiently and people being welcomed. Those attending the games must be kept safe. The bitter memories of Munich in 1972, when terrorists scarred this celebration of the human spirit, remain with us still. We simply cannot afford to take a chance on anything like that happening on American soil.

The resources of the Department of Defense and other agencies involved in this security—the FBI, State Department, and Department of Treasury—are vital to the success of this mission. We cannot do it without them, and providing this assistance is clearly within one of Government's basic responsibilities—that of protecting its citizens and visitors to our shores.

Mr. President, my distinguished colleague from Arizona maintains that adoption of this amendment will not compromise security. However, I know that Senator NUNN, chairman of the Armed Services Committee, is opposed to this amendment. He clearly does not believe it to be in the best interests of the Olympic games being held in Atlanta. I also understand that the Defense Department itself does not support the amendment. Existing DOD policy allows for reimbursement in appropriate cases.

Therefore, I urge my colleagues to oppose this amendment. Planning is simply too far along, and the success of that planning is too critical for the process to be changed now. It is a risk we cannot afford to take.

Mr. SHELBY. Madam President, I rise in opposition to the amendment offered by my distinguished colleague from Arizona. My colleagues know that I am a strong supporter of national defense, and have always supported efforts to make sure that our men and women in uniform have the resources needed to perform their mission. I think this amendment could have disastrous results, and I must therefore oppose it.

I share the pride felt by all Alabamians at the decision to designate Birmingham, AL, as the host city for preliminary Olympic soccer games. Alabama, as well as the rest of the South, will be on display in July 1996 for the entire world to see. These games will build on the momentum generated by the recently held World Cup Games in this country, and the added prestige afforded by the Olympic rings will assure that thousands of people will assemble

VOL
140
PT
15
AG
10
11
1994
UMI

in Birmingham to watch the preliminary Olympic soccer games.

Security is unfortunately a vital part of the modern Olympics. We all remember the tragedy of the Munich Olympics, and no one wants to see any repeat of that in our own country. Local and State officials are going to need significant help in preparing for the complex threat posed to these games by the increasingly sophisticated and numerous groups of terrorists springing up around the world. The majority of the entire world will be watching these events, and this affords tempting opportunity for these evil and dangerous groups to elbow their way into the spotlight of world attention.

Madam President, I too want to help DOD husband its resources, but this amendment is wrong. In fact, I am told that DOD does not support this amendment. As I understand it, existing DOD policies allow for reimbursement for security expenses whenever it is appropriate, and DOD does not feel the need for any added protection.

The distinguished chairman of the Senate Armed Services Committee opposes this amendment because he fears that it may adversely impact the complicated process that is necessary to develop and implement a plan with the flexibility and sophistication to meet the serious threat of international terrorism. I concur in that judgment.

Madam President, those who have planned for the Atlanta Olympic Games have relied for more than 4 years on the continued ready availability of certain limited DOD resources. Introducing a new and complicated reimbursement process at this late date gains us little, and could cost our Nation much.

I urge my colleagues to defeat this amendment.

Mr. LIEBERMAN. Madam President, on previous occasions I have come to the floor of the Senate to speak about a program which helps people across the country and the world demonstrate courage, build self-respect, and feel the pride which comes from doing one's best even in the face of adversity. As you well know, the program I am speaking about is the Special Olympics which is the result of the vision, energy, and efforts of a very special woman, Eunice Kennedy Shriver, some 25 years ago.

This coming year, July 1 to 9, 1995 to be exact, the Ninth Special Olympics World Summer Games will bring over 6,700 special athletes from over 135 countries along with 2,000 coaches, 15,000 family and friends, 45,000 volunteers, 1,500 media representatives, and over half a million spectators to Albert Magnus College, Quinnipiac College, Southern Connecticut State University, the University of New Haven, and Yale University. For 9 exciting days, these Special Olympic games give men and women with mental retardation the opportunity to compete in Olympic athletic events and to feel the reward of their hard work, training, perseverance, and courage. These games will, in fact, be the largest sports event in the world in 1995.

I know that no one in this body wants to deny these Special Olympians their days of competition and celebration and that the amendment which we are currently debating is not aimed exclusively at the Special Olympics. But I am compelled by my strong feelings for these games to point out the difficulties which would befall the Special Olympics if this amendment passes.

The Special Olympics is being organized through a network of volunteers throughout the country. As a 501(c)(3) charitable organization, it relies on corporate sponsorships, philanthropic donations, and individual contributions to fund the events. The organizing committee has sought assistance from governments at the local, State, and Federal levels. It has no alternative. Response to its calls for help have been resoundingly positive. The White House welcomed the participation of the organizing committee in the activities of the Federal task force organized to support the 1966 Olympic Games and the 1994 World Cup Games. The Department of Defense has guidelines in place for determining the degree to which the Department can assist such activities. We should note that DOD has provided "in-kind" services with the consent of the Congress for such past events as the Los Angeles and Lake Placid Olympic Games, and the World Cup USA.

The Department of Defense has worked with the Special Olympics Organizing Committee to identify specific needs which it cannot fulfill by other means—such things as security, traffic support, medical support, emergency ordinance disposal, water resupply, and some limited transportation. The Department is prepared to provide these services and estimates that the in-kind costs will not exceed $3 million. Many of these tasks will be performed by the men and women of the Connecticut National Guard in conjunction with training; the leadership of the Connecticut Guard is proud and eager to have the opportunity to provide these services. The cooperative efforts of the Department of Defense and the organizing committee have produced a plan to provide those services which the military does best and would do if called on in a military action. It is the view of those responsible officials in the DOD that providing these services will not attrit the readiness of our military forces or deplete DOD funds for a cause totally unrelated to national security.

The pending amendment would establish reimbursement requirements and procedures which supplement, or perhaps replace, existing DOD policies which already allow the Department to request reimbursement for any service or mission that resides with another public or private entity. The proposals would result in detailed reimbursement negotiations and a process which will make it very difficult for the organizing committee of this event to concentrate their efforts on making these important games a reality in less than a year from now. This process is unnecessary and will, in reality, complicate the efforts of thousands of volunteers trying to do a noble task. Further, it could result in the negation of agreements already reached on particularly vital services such as security. I believe this amendment is not necessary and would be counterproductive to these Special Olympics.

Madam President, I fully agree with the desire of the amendment's sponsor to seek ways to protect the readiness of our vital military forces. If I thought that the $3 million of in-kind services which we have already authorized and now seek to appropriate would denigrate the ability of our forces to respond to a call to arms, I would not support it. I do not believe this is the case. Support of these games is consistent with past practices of the Department of Defense as approved by the Congress. Moreover, it is consistent with the best traditions and values of the people we represent. I will vote against this amendment and urge my colleagues to do the same.

Mr. BENNETT. Madam President, I would like to raise a few concerns about the McCain amendment. I understand his concern about shrinking defense budget. His concerns are valid. However, I am not convinced this amendment will result in a boost to DOD coffers.

On its face, this amendment appears reasonable. It requires that DOD be reimbursed for providing security at international sporting events, provided they make a profit. However, I believe, this amendment will do more damage than good. In fact, the McCain amendment may have the unintended effect of reducing the level of reimbursement that DOD currently receives.

Since winning an Olympic bid is of great interest to many in my State, I took the time to look into exactly what providing security at the Olympic games entails. I was astounded. My colleague from Atlanta, Senator COVERDELL, has already outlined the onerous process, so I will not recount it now. However, I think it is important to reiterate that their is a reimbursement mechanism currently in place. Where it is appropriate, DOD can negotiate reimbursement agreements to individual entities, on an ongoing basis. Under the McCain amendment, contracting would be required up front. When 34 different agencies are involved, contracting with every entity can only add time and expense to an already complex process that is based on good faith negotiations.

This amendment would also provide DOD reimbursement in the event a profit is made. However, this may never occur in some instances. It would seem to me that ongoing reimbursement is likely to benefit the military far more than the alternative.

The Department of Defense, the supposed beneficiary of this change in procedure, opposes this amendment. I think that is a good indication that the promise of improved or increased reimbursement under this amendment is suspect.

If the McCain amendment held the promise of dramatically improving current practice, I would assuredly vote for it. However, this is not the case, so I will oppose the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Madam President, I reluctantly oppose the amendment as offered by my good friend and colleague from Arizona.

First let me say to the Senator from Arizona that I share, as I am sure every American does, the deep commitment that he has made and does make to the men and women of our military and the sacrifice that they make on a day-to-day basis for the welfare of our Nation.

But I have believed in the context of Government and its relationship with business, and Americans as citizens, and taxes that we should never get in the business of changing the rules in the middle of the road.

This is an American Olympiad, not a Georgia Olympiad. Georgia is the house, so to speak, of a great accomplishment that America would entertain the centennial Olympiad. We are well over, well over half of the way through the planning process for the Olympics that occur in the summer of 1996 in Atlanta, in America. Over half the planning has been exhausted. We are deep into the process. We have only 700 days until the torch is lighted in America and in Atlanta.

This is not the right time to upset or interrupt or convolute the process of the arrangements in terms of the financials nor in terms of the security.

I personally think that the international community has begun to have questions about this Nation's commitment to the international Olympiad. We are one of the only nations that does not fund it. This is privately funded in the United States, and that has always raised questions. So to begin at this point, halfway through the planning process, on the Olympics to occur in this country in 1996, not only do we destabilize the planning and preparation for this massive event, this massive world event, but we also send signals about the planning process in other cities that are negotiating for the Winter Olympics, like Salt Lake City, UT.

Disruption of a multibillion dollar event halfway through the process is a very serious issue for this country and for those planning the Olympics.

Now, Madam President, there are 34 different governments involved with the planning of the 1996 Olympics. They are not all in Georgia—34 different Olympic venue sites and governments affected.

Now, I wish to read from the amendment. It states, Madam President, that no funds made available to the Department of Defense under title II of this act may not be expended, either directly or indirectly, to support the World Cup soccer games, the Goodwill Games and Olympiad—that is the 1996 Olympics—or any other sporting event until—and this is the pertinent language, Madam President—"until the Secretary of Defense enters into an agreement with the entity or entities that are to receive the funds, to provide for such funds to be reimbursed to the Department under terms and conditions established by the Secretary and certifies to the Congress that the agreement ensures that such reimbursement will be made."

So with 700 days to go, the Secretary of Defense—and we know the pace with which the Federal Government moves—700 days away from the torch being lit—would begin discussions on terms of the financing for security of the world's athletes in Atlanta, I suppose sometime in the next month or two, and I have to only envision that we would not be able to resolve all these agreements until the moment of the games, which would not allow for the appropriate planning and disposition of resources that have already been agreed upon.

Madam President, I will urge my colleagues not to vote for this amendment at the time we take the yeas and nays, not in disagreement to the intent or purpose of the Senator from Arizona. But in this case, to introduce this kind of interruption in the process of planning for the World Olympics I believe is not appropriate given the timing that we are facing.

Madam President, I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. Is there further debate?

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Madam President, I ask unanimous consent that the amendment be temporarily set aside so that I might offer an amendment.

Mr. McCAIN. I object. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I say to my friend from Nevada, we are in the middle of the debate on this amendment, and I ask his indulgence. I am sure we can get it finished very quickly, return to the original amendment which was set aside, dispense with that, because I am sure it has been agreed to, and then my friend from Nevada can proceed.

I hope he understands I just wanted to respond to the Senator from Georgia.

Mr. BRYAN. Will the Senator yield for a further question?

Mr. McCAIN. I will be glad to yield.

Mr. BRYAN. My only concern is that at 6:50 the time for offering amendments is cut off unless one does so through the managers.

Mr. McCAIN. Madam President, I understand better now the concern of the Senator from Nevada, and I would remove my objection to the unanimous consent request of the Senator from Nevada.

Mr. BRYAN. I thank my friend from Arizona.

I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Nevada is recognized.

AMENDMENT NO. 2502

(Purpose: To withhold funds allocated for construction of the headquarters buildings of the National Reconnaissance Office which were unobligated as of the date of enactment of this act until a review of that construction project is completed and Congress is informed of the results of the review)

Mr. BRYAN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself, Mr. BOREN, and Mr. GRAHAM, proposes an amendment numbered 2502.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following new section:

SEC. . Of the funds made available by this Act for the National Reconnaissance Office under the classified Schedule of Appropriations accompanying this Act, funds allocated for construction of the headquarters buildings of the National Reconnaissance Office which were unobligated as of the date of enactment of this Act may not be obligated or expended until the Director of Central Intelligence and the Secretary of Defense have completed a review of that construction project and the results of such review have been disclosed to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

VOL
140
PT
15
AG
10
—
11
1994
UMI

Mr. BRYAN. Madam President, I will be brief because I know there are other amendments pending. I think most of my colleagues were as surprised as I was yesterday morning in reading the Washington Post story on page 1 entitled, "Spy Unit's Spending Stuns Hill."

I have reference, Madam President, to the $310 million facility that is being used to house the National Reconnaissance Office. This is a project of incredible magnitude, a million square feet, which will cost us about $175 per square foot, well beyond what any comparable commercial building might require.

Let me just say, Madam President, that the genesis of this building dates back to the late 1980's when the Senate Intelligence Committee and its counterpart in the other body encouraged the National Reconnaissance Office to begin planning to colocate facilities that were scattered around the country. There is no objection in concept to that.

I was not on the committee until last year, so when I saw this in the paper yesterday, I asked for a briefing from the staff.

BRYAN AMENDMENT ON THE NRO HEADQUARTERS FACILITY

Mr. WARNER. Madam President, I am pleased to join Senator BYRAN as a cosponsor of his amendment concerning the NRO headquarters facility in northern Virginia. In my opinion, this amendment represents a reasonable check on this construction project.

Twenty-five years ago, as under Secretary of the Navy, I first started my public service responsibilities of overseeing Intelligence functions. Throughout my 5 years plus in DOD I was specifically tasked to operate the Department of the Navy's program which are now part of the NRO.

The NRO is essential to our Nation's security. To the extent that the United States is a superpower today, that status is dependent to a large part on the work of the NRO.

But the question before the Congress and the executive branch is whether the plans for consolidation and expansion of the NRO facility, as conceived in the cold war era, were properly reviewed in the aftermath of the demise of the Soviet Union.

Given that the DOD budget, which contains the overall Intelligence budget, has gone down from 15 to over 25 percent in various categories over the past 5 years, to what extent was the NRO facility scaled back?

Or, conversely, given that Intelligence is a force multiplier of our Defense forces, is there justification for level or increased NRO funding?

How did this controversy of today start?

On July 26, I chaired a Senate Intelligence Committee briefing on the NRO facility. Chairman DECONCINI joined that briefing later and reviewed the same facts. We jointly agreed to send a letter to the Secretary of Defense and the Director of Central Intelligence demanding more information. That letter was sent on July 29.

Then, on August 4, the chairman and I decided to have a formal hearing and seed declassification of as much material as possible. We joined in a letter to that effect on August 4.

Next, we made a field trip to the NRO construction site this Monday. Later that day, you informed me that public disclosure of this project would be immediate because of White House, DOD, and CIA decisions. Only today did I learn that the President was involved in this decision. The administration issued press releases at 5:00 on Monday. Our press conference followed shortly thereafter.

It had been my intention that the Intelligence Committee would at least have an opportunity to gain a full understanding of the executive branch response to our inquiry of July 29 before public disclosure. That, in my judgment, would have lessened to some extent the public confusion that exists today.

The NRO facility which I toured on Monday morning is truly a massive installation—a series of four modern towers comprising 1 million square feet. By rough comparison, the Pentagon consists of 5 million square feet of usable space.

I am concerned that this facility, which was conceived during the cold war, is now disproportionate to the needs of the NRO. I have been unable to find any information which indicates that a scrub was done of this project following the collapse of the Soviet Union. At every step along the way, this project continued to expand. For example, in the summer of 1992, long after the dissolution of the Soviet Union and the collapse of the Warsaw Pact, the NRO decided to expand this project from three to four towers.

I am also concerned about the basic issue of fairness to other Government employees, intelligence as well as others, who are working in facilities which are not as comfortable. In the Pentagon, I know from personal association, most employees work in cramped, aged quarters. Some perform the same high-level intelligence work as to the NRO employees. Why should NRO personnel be treated differently?

These are some of the issues which we must explore in detail.

Madam President, I would like to take this opportunity to correct a misperception which I have seen in press reporting on this issue. It has been reported that the Congress knew nothing about this construction project—that the CIA built this facility without informing the Congress. In fairness, that is simply not true. We knew that the NRO was building a new headquarters facility in northern Virginia. In fact, I played a role in bringing the NRO building to my State. Our complaint is that we were not adequately informed about the scope or the cost of the facility.

In fairness to the executive branch, this raises a legitimate question of whether the Intelligence Committee and perhaps other committees were forceful enough in their requests for more details. We, as the Congress, had the ultimate leverage to cut off funding until our informational needs were met. So we have a measure of self-examination to perform. I add that as a question to this debate.

Let us look at a specific example. The fiscal year 1991 Intelligence Authorization Act conference report stated that the NRO's "land and facility acquisition will remain subject to the prior approval of the appropriate congressional committees." This did not happen with regard to this facility. The NRO did not seek specific prior congressional approval for the Westfields project—instead, funding for the facility was buried in the base portion of the budget, an unspecified aggregate of various O&M costs.

This base funding for the Westfields project continued despite specific congressional direction to the NRO in the fiscal year 1994 intelligence authorization act conference report which stated, "The conferees also explicitly stipulate that each individual program must provide complete details for the entire request—not simply any changes from the base level provided in the prior fiscal year. Despite this requirement, the fiscal year 1995 budget request for the new NRO facility was once again buried in the base budget. Following this, the staff of the Intelligence Committee acted to initiate our audit and recommended a full briefing for committee members.

The NRO decided to bypass both GSA regulations and military construction procedures for the construction of the headquarters facility, opting instead to operate under the DCI's "special authorities." Did the Intelligence Committee sanction this approach? If so, under what conditions? Were those conditions followed? We need answers to these questions.

Madam President, does the Congress share a measure of responsibility for this problem? Could we have been more diligent in following up on our demands for more detailed and complete information at an earlier stage? Perhaps, but we should not have to be investigators. It is incumbent on the executive branch to be forthcoming in providing budget details to the Congress. We do not have the resources to conduct in-depth investigations on every item in the budget, nor should we have to. Detailed information on this project should have been provided to the Intelligence Committee and the Appropriations Committee.

In my opinion, this project should and will go forward. The facility is nearing structural completion. It will be an asset to the Intelligence Community, and indeed to the Nation, upon completion. Our task now is to ensure that the remaining construction on this facility is conducted in the most cost effective manner for the American taxpayer.

Fortunately, this project is at a stage where decisions can be made to invoke savings, achieve greater efficiency, and maximize utilization of this prime space by additicnal defense or Intelligence-related activities. During a hearing on this issue earlier today, the Intelligence Committee received assurances from top NRO officials that the NRO will allow maximum utilization of this facility by other elements of the Defense and Intelligence communities. Indeed, the NRO has already begun work on such options. It is now our responsibility to monitor the completion of this project and ensure that cost-saving options are pursued.

Mrs. FEINSTEIN. Mr. President, I rise today as an original cosponsor of the Bryan amendment to withhold funds for the construction of a National Reconnaissance Office [NRO] headquarters.

Frankly, I was extremely troubled to learn that more than $300 million is being spent to secretly construct an NRO facility in northern Virginia to consolidate personnel located in California and throughout the country.

Apparently, construction of the NRO facility was begun in 1990 and undertaken without the full knowledge and approval of Congress. This raises serious concerns about congressional oversight of this project and the entire NRO organization. In my opinion, the credibility of the NRO has been damaged, and Congress will be forced to more closely scrutinize its budget and activities.

Last week, my staff contacted Pentagon offices to inquire about speculation that NRO personnel were moving from offices at Los Angeles Air Force Base [AFB] in California to a new NRO headquarters building near Dulles International Airport. The Air Force denied all knowledge of such a proposed consolidation, and inquiries to the NRO went unanswered. The way these inquiries were handled leads me to believe that the intelligence community was trying to deceive Congress or, at a minimum, me. This is simply unacceptable.

Still today, after Pentagon officials testified before the Senate Intelligence Committee, the NRO has not provided me or my office any information, except a joint statement that was released to the press.

Apparently, construction of the NRO facility was originally planned for a partial consolidation of NRO headquarters personnel that are scattered throughout the Washington area. This would have allowed for construction of a building with two office towers at substantially less cost than current estimates.

However, sometime in 1992, after the fall of the Soviet Union—the primary target of NRO activities—the intelligence community decided to proceed with a full consolidation of NRO personnel nationwide. This decision caused the estimated cost for the new facility to near $350 million as two additional office towers were added, for a total of four huge towers. I am unclear why additional funds were allocated for this new structure at a time when defense and intelligence budgets were declining.

My staff still has not been able to determine exactly what type of consolidation is being proposed or the details of the approval process. Specifically:

When and how was the decision made to shift from only partial consolidation to full consolidation?

How many military, civilian and contractor personnel are being affected?

Where are these personnel currently located?

When is the proposed consolidation occurring?

What implications does the proposed consolidation have on the base realignment and closure [BRAC] process?

Because NRO is partly a Defense Department agency, is it subject to the BRAC process?

Was a true cost-benefit analysis completed to determine whether the associated costs of the NRO facility and full consolidation justified any national security or fiscal gain?

I have already written to Defense Secretary Perry expressing my concern over this matter and submitted some of these questions to him. I expect answers to these questions as soon as possible. I also expect the review currently being undertaken by the Director of the CIA and Deputy Secretary of Defense to address these and other issues.

In addition to my concerns regarding general congressional oversight of the project, I am particularly troubled that, though the consolidation was approved years ago and the Intelligence Committee was notified, I was never made aware that jobs would be moved out of California. Also, I am concerned that the consolidation of personnel from Los Angeles AFB may have an adverse impact—direct or indirect—on the upcoming 1995 base closure process, especially considering that this is just one of a number of planned consolidations out of Los Angeles AFB.

Mr. President, this matter needs to be thoroughly looked into and I hope that much of the information surrounding the project can be declassified so the public and taxpayers will have full knowledge of what is being built near Dulles International Airport.

I fully support this amendment which withholds unobligated funds for the NRO headquarters building until a full review has been completed and questions have been answered.

The PRESIDING OFFICER. The Chair would state to the Senator that under a previous order, in 30 seconds, the floor will return to the Senator from Alaska, who will be able to offer amendments for the Republicans for 5 minutes, and then it will go to the Senator from Hawaii.

So the Senator from Nevada has 30 seconds remaining to present the case for his amendment.

Mr. BRYAN. May I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. BRYAN. Am I protected under the previous unanimous-consent agreement by having offered my amendment in a timely fashion? If so, I would be happy to yield the floor and simply ask unanimous consent that Senator FEINSTEIN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized under a previous order for 5 minutes in which to present the Republican amendments.

Mr. MCCAIN. Madam President, could I ask the Senator from Alaska to yield for a request?

Mr. STEVENS. I only have 5 minutes. I am happy to yield to my friend.

Mr. MCCAIN. Would it be in order to go ahead and dispose of my previous amendment that I understand is agreed to?

Mr. STEVENS. It would be contrary to the time agreement. We must get these done by 7 o'clock.

Madam President, I have a series of amendments. Let me just read them by name of the sponsor. If there are any further ones to come, we will put them in.

I have an amendment by Senator SPECTER; another amendment by Senator SPECTER; a third amendment by Senator SPECTER; an amendment by Senator DOMENICI and Senator BINGAMAN; another by Senator DOMENICI; an amendment proposed by Senator HELMS; an amendment proposed by Senator CHAFEE; another amendment by Senator GRASSLEY; an amendment by Senator MURKOWSKI for himself and Senator DOLE; an amendment by Senator HATCH; an amendment by Senator MCCONNELL; an amendment proposed by Senator DOLE; another by Senator DOLE for himself and Senator MCCAIN; an amendment by Senator COHEN; a second amendment by Senator COHEN; an amendment by Senator DOLE for himself, Senator LIEBERMAN, Senator MCCAIN and others; an amendment by Senator COHEN; an amendment by Senator THURMOND and Senator DECONCINI; an amendment by Senator ROTH; and an amendment for myself.

That is the extent of the amendments that have been presented.

VOL
140
PT
15
AG
10
—
11
1994
UMI

I also have an amendment by Senator MCCONNELL.

I ask that all those amendments be submitted in accordance with the time agreement. I have 2 minutes remaining. I would like to reserve those.

The PRESIDING OFFICER. Without objection, it is so ordered. The time remaining will be reserved for the Senator from Alaska.

Under the previous order, the Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, I have a series of amendments that I would like to submit in behalf of my Democratic colleagues. First, by Senators NUNN and MITCHELL on Bosnia and Herzegovina; second, by Senator HARKIN; third, by Senator LIEBERMAN; fourth, by Senator SHELBY; fifth, by Senator BOREN; sixth, by Senator SIMON; seventh, by Senator BINGAMAN; eighth, by Senator LEVIN; ninth, by Senator WELLSTONE; and another BINGAMAN amendment. Senator BINGAMAN has two amendments. I have another amendment by Senator FEINSTEIN; two by Senator INOUYE; and one proposed by Senator DODD.

Mr. STEVENS. May I have time back?

The PRESIDING OFFICER. The Senator will send those amendments to the desk. Without objection, they will remain in order. Does the Senator from Hawaii reserve the remainder of his time.

Mr. INOUYE. If I may.

Mr. STEVENS. Madam President, I have an amendment by Senator KEMPTHORNE and two separate amendments by Senator HELMS. I send those to the desk and add those to the ones I previously submitted.

I, too, would like to reserve the remainder of my time.

The PRESIDING OFFICER. Without objection, those amendments will be added to the list of amendments to be considered.

The Senator reserves the remainder of his time.

The Chair informs the Senators that Senator INOUYE has 3½ minutes remaining and Senator STEVENS has 2 minutes 20 seconds remaining.

Mr. STEVENS. Madam President, I send an amendment to the desk for Senator DOLE.

The PRESIDING OFFICER. Without objection, it will remain in order.

Mr. INOUYE. Madam President, I send to the desk an amendment proposed by Senator MITCHELL and Senator COHEN.

The PRESIDING OFFICER. Without objection, it is in order. That will be added to the list of amendments.

Mr. INOUYE. I have an amendment proposed by Senator JOHNSTON.

The PRESIDING OFFICER. Without objection, it is in order.

Mr. INOUYE. I have an amendment by Senator BUMPERS.

The PRESIDING OFFICER. Without objection, it is in order.

Mr. STEVENS. Madam President, I send an amendment to the desk in behalf of Senator WALLOP.

The PRESIDING OFFICER. Without objection, it will be in order.

Mr. INOUYE. Madam President, I send an amendment by Senator DECONCINI to the desk.

The PRESIDING OFFICER. Without objection, it will be in order.

Mr. STEVENS. Madam President, I send an amendment to the desk in behalf of Senator COHEN and state that it may be duplicative of the one I previously submitted, and I ask the clerk to eliminate it if it is a duplicate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Madam President, I have an amendment by Senator BREAUX.

The PRESIDING OFFICER. Without objection, Senator BREAUX's amendment will be added to the list of amendments to be considered by the Senate.

Mr. STEVENS. Parliamentary inquiry. It is my understanding that there will be a period after we have offered the amendments for review of the amendments. Will the Chair have these amendments indicated so that each of us may have the others' amendments as quickly as possible?

The PRESIDING OFFICER. That will be the normal course that will be followed.

Mr. STEVENS. I would state, Madam President, that to the best of our knowledge those are the submissions for this side of the aisle.

Mr. INOUYE. Madam President, I believe they are complete here.

The PRESIDING OFFICER. The Chair will state that the hour of 7 p.m. having arrived, there will be no further amendments allowed under the unanimous-consent agreement.

Mr. STEVENS. Parliamentary inquiry: Those amendments will be called up by the individual Senators under the time agreement. That is the understanding.

The PRESIDING OFFICER. The Chair has no agreement on how the amendments will be disposed of. But the Chair assumes they will be disposed of in due course.

Mr. STEVENS. It is this Senator's understanding that those are the only amendments that may be considered now under the bill as pending business, is that correct—subject to the leaders having the right to offer amendments if they desire to do so?

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Alaska is entirely correct in his understanding.

Mr. STEVENS. I thank the Chair. If I might address, through the Chair, the Senator from Arizona; the majority manager and myself will be considering the amendment of the Senator from Arizona concerning the disability for retired members of the armed services.

AMENDMENT NO. 2500

Mr. MCCAIN. I ask unanimous consent that we set aside the pending McCain amendment concerning the Olympics and return to the previous amendment on concurrent receipts, and I ask unanimous consent that Senator DOMENICI be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The question before the Senate is amendment No. 2500.

Mr. INOUYE. Madam President, the managers of the bill have had the opportunity to study the amendment of the Senator from Arizona, and we find it to be acceptable. It will not be subject to a point of order.

So accordingly, may we have a vote?

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. What amendment is this? I did not hear the Senator.

The PRESIDING OFFICER. Amendment No. 2500.

Mr. STEVENS. It deals with the retirement.

Mr. NUNN. Is this a new retirement program? I would like to ask a couple of questions. Is this a new entitlement program? And if it is, how much does it cost? I just heard about the amendment.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia has the floor. Is he yielding the floor or asking a question?

Mr. NUNN. Madam President, I would like to ask the Senator from Arizona if this is a new entitlement program.

Mr. MCCAIN. Madam President, as the Senator from Georgia knows, current law requires a career military service member who retires after a length of service and is disabled to offset his or her retirement pay with any VA disability compensation that the member receives. I do not believe you would call this a new entitlement program. What it does is provides for concurrent payment of disability pay and retired pay if the following criteria are met: A veteran has completed 20 years of military service; the disability was incurred or was aggravated in performance of duty in the military service; the disability is rated 100 percent at the time of retirement or within 4 years of veteran's retirement date.

And in response to another question the Senator asked, the costs are approximately $55 million to $60 million in additional costs incurred with this change in the law. This is $55 million to $60 million additional.

Mr. NUNN. Is that per year?

Mr. MCCAIN. That is correct.

Mr. NUNN. If the Senator will yield, I think I will ask a further question. Is this a 1-year program, or is this a program that is intended to continue?

Mr. MCCAIN. It would be intended to continue right now. It affects approximately 7,000 military retirees who are rated 100 percent disabled and have completed 20 years of service. I would estimate that obviously there would be very few additional people, enrollees, in this program, since one of the criteria is that the disability was incurred or aggravated in the performance of duty. That, obviously, is a very small number of people.

Mr. NUNN. I understand. The way it is worded, it is only for 12 months, but it is the Senator's intent to continue it year after year?

Mr. MCCAIN. At this time, it is a temporary waiver. It is 12 months.

Mr. NUNN. So it is a 12-month period, but it is the intent to start this as a continuing program?

Mr. MCCAIN. That would be my intent.

Mr. NUNN. Where does the money come from—out of the Department of Defense? Is it Department of Defense money that would pay for this?

Mr. MCCAIN. I say to the Senator from Georgia, yes, it comes from travel pay of senior level officers, and civilian executive travel of Pentagon staff, estimated to be approximately $370 million a year at this time.

Mr. NUNN. I have not had a chance to study this amendment. I do not want to interfere with whatever the managers of the bill may decide on the amendment, but I hope they will take a very careful look at it now in the conference. I think we have to be extremely careful about starting programs which, though they are intended for even the most deserving possible beneficiaries, become entitlement programs.

We all know that the entitlement programs are eating us alive, eating the budget apart. We are really not going to have any discretionary money at all from year to year. We are going to have it all wrapped up in entitlement programs. I am not sure exactly what this one is and how it is going to be structured, where the money will come from. And what are the implications for people less than 100 percent disabled, say, 85 percent disabled or 90 percent? Do we exclude them? If they are 50 percent disabled, are they not counted? I do not know where this leads or how much money is involved.

I hope my friends from Alaska, Hawaii, and Arizona will look very carefully at this amendment—even if it is accepted here on the floor—in conference, because the cost implications could be rather serious, particularly when these programs have a tendency to grow and grow and grow and open up eligibility beyond original intent. Before you know it, you have a first-class, sure-enough entitlement program that costs millions each year, hundreds of millions, and it goes into billions, and then we wonder why we cannot get them under control.

I know the Senator from Arizona has looked at this, but I hope everybody will do so in terms of the fiscal consequences of it, and also what it does.

Mr. BYRD. Madam President, the amendment being offered today seeks to provide a temporary waiver of the prohibition on the concurrent payment of both disability compensation and retired pay for fiscal year 1995. The amendment would pay for these additional entitlement costs out of the discretionary funds appropriated in this bill. This amendment appears to address an inequity that is worthy of redress. However, this is an issue for the authorizing committee to decide, and to pay for, out of spending in its jurisdiction.

Last year, we had before the Congress a budget resolution and a reconciliation bill. My colleagues on the other side of the aisle voted against the resolution and the reconciliation bill. They argued that those measures cut defense too much, and other spending too little. Many came to the floor during that debate to decry that entitlement spending was out of control and that the President and Congress were not doing enough to control these mandatory programs.

The amendment, in effect, cuts other programs in the bill to pay for the increased benefit costs. So, let us be clear about this point, the effect of this amendment is to cut available discretionary defense funds to pay for an increase in an entitlement. It is hard for me to believe that this can be right. How many times have we been told that we cannot cut defense any further? How many times have our colleagues decried the growth in entitlement spending and chastised the majority for failing to control mandatory increases?

Madam President, the amendment by the Senator from Arizona is a well-meaning amendment. It promises only fairness to our well-deserving disabled, military retirees, by eliminating a disparity between military retirement and other Federal retirement programs. Who can fault the logic? Are not our disabled, military retirees worthy of the best benefits we can afford to provide? Of course they are.

I feel that if we establish a pattern of using discretionary funds to correct problems in mandatory programs, however, we will find ourselves entering a thicket that will impose increasing problems for us.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2500) was agreed to.

Mr. INOUYE. Madam President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2501

Mr. MCCAIN. Madam President, I think there is further debate on the amendment that was previously set aside on the Olympics. The Senator from Pennsylvania has three short amendments. I do not know if the Senator from Georgia wants to continue debate on that amendment. I would just as soon yield to the Senator from Pennsylvania.

Mr. NUNN. Madam President, I would like to be able to make a statement on the amendment of the Senator from Arizona that relates not just to the Olympics, but other international athletic events that are in the United States. I will do it, whenever it is appropriate. I do not know when that one is going to be voted on.

Is there any order decided by the managers of the bill on this amendment?

Mr. INOUYE. Madam President, parliamentary inquiry. Under the unanimous-consent agreement, will the vote on the amendment of the Senator from Arizona come up at 9 o'clock tonight?

The PRESIDING OFFICER. Under the agreement, no votes are in order until 9 o'clock.

Mr. NUNN. Madam President, what would be the order of debate then? I would like to be recognized to make about a 5-minute statement if I could. I know the Senator from Pennsylvania may want to present other amendments.

The PRESIDING OFFICER. If all the Pastore time has expired, the debate need not be germane to the pending question.

Mr. NUNN. Madam President, I would like to make a statement on the Olympic amendment if I could be recognized.

The PRESIDING OFFICER. The Senator has the floor.

The Chair would like to add one thing. On amendment 2500, the motion to reconsider the motion to lay on the table is agreed to.

The Senator from Georgia is recognized.

Mr. NUNN. I thank the Chair.

Madam President, I oppose the amendment of the Senator from Arizona relating to international games and reimbursement.

The Armed Services Committee has been working very closely with the Defense Department for a number of years on the conditions and procedures under which the Department of Defense provides unique security support to major international athletic events held in the United States. These procedures have been refined over the years through DOD support for major international athletic competition in the United States going back to the Lake Placid Olympics in 1980.

The procedures are working well. They recognize a legitimate and very important, indeed, a unique Federal responsibility that cannot be carried out in any other level, and they should not be changed on the spur of the moment, as this amendment would do.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Ever since we had the attack on the Israeli athletes at the 1972 Munich Olympics, which was a terrible tragedy, it has been recognized that our large international athletic events pose unique and major security problems. Very few communities in the United States maintain the security and public safety resources to provide security for a major international athletic event.

DOD has unique resources and expertise that can be used to assist planners in staging international events in order to protect the U.S. national security interests and avoid incidents like the terrible and tragic 1972 terrorist attack in Munich.

DOD support consists primarily of security and public safety-oriented support that is not available from any other Federal, State, or local law enforcement agency. This support is provided only under conditions that do not affect the Department of Defense's ability to carry out its military mission particularly for National Guardsmen and reservists, such as military police and a communications unit. DOD support for these events is often carried out as a part of a unit's normal training cycle. And what we try to do is encourage the Department of Defense and the National Guard units to get out in front with their planning so that the Olympic event itself can be part of the annual training of the National Guard people, which does not add budgetary cost and which give themselves good training.

Examples of this support include communications, explosive ordnance details, aviation support, for security and emergency response, as well as training.

The Department of Defense does not provide direct funding to these events. What the Department does provide is in-kind support for DOD stocks of equipment that is returned to DOD after the event is completed.

The amendment mistakenly assumed that the Department of Defense provides security support for the organization or entity staging the event, such as Atlanta's Committee for the Olympic Games, called ACOG.

What DOD actually provides is security support directly to the State and local law enforcement agencies that are responsible for providing the security for the event. The support does not go through the organizing committee. In the case of the Olympics, DOD provides security support through the Olympic security support group. Any support provided by the Department of Defense to an organizing committee is generally provided on a different basis, a noncost or reimbursable basis.

If the intent of the McCain amendment is that any of the law enforcement agencies to which DOD provides security support must reimburse the Department of Defense, I think that would be a serious mistake. The unacceptable outcome would be that these agencies would only request the assistance from the Department of Defense that they were able to afford, that they were able to budget, instead of asking for what they need to provide a safe and secure environment for the games.

If the intent of the McCain amendment is somehow to require the organizing entity of an event like the Olympics to reimburse the Department for security support, I think that would also be a serious mistake. If we require the organizing entity to reimburse DOD for security support that goes to local and State law enforcement agencies, it would mean the ultimate decision for what security measures are needed would leave. That would put those decisions in the hands of the organizing committee rather than local law enforcement agencies. This could lead to a situation where the organizing committee makes a decision for security support based on what they can afford rather than what law enforcement agencies feel is needed to provide for a safe and secure environment for these events.

Madam President, the international climate has a huge effect on what kind of security we need, for instance, in the 1996 Olympics, but this amendment would apply to all international games. It would apply to games like the Goodwill Games that will be held in, I believe, New York in 2, 3, or 4 years. It will apply to events that have taken place in places like California. It would apply to any international event.

And I will assure anyone whoever aspires to have an international event will have a very hard time complying with the amendment here and still staging that event in a secure environment.

We should understand events like the 1996 Olympics are truly a national event involving the entire Nation. If we have a terrible tragedy of the kind of terrorist attack in 1996 or any other international games held in the United States, the damage is going to be done to the entire Nation, not simply to one State or one city.

The United States is the host for all of the countries of the Olympic movement. If security for the Olympics is not adequate, it reflects poorly on the U.S. ability to host international events in an environment where security is a concern.

If DOD support is provided on a reimbursable basis, it will, I think, leave some State and local governments in a position where they simply are not able to afford the security arrangement and the precautions that are truly needed based on terrorist threats and other threats.

This is not the time to send a message to the world that the U.S. Government is going to pinch pennies when it comes to providing essential security support for a major international event like the 1996 Summer Olympics. The Federal Government and all in this country have a major stake in and responsibility for the security of international athletic events held in the United States. The modest support the DOD provides to these events is a recognition of this Federal responsibility.

Madam President, the Defense Department supports the current process and opposes this amendment.

I urge our colleagues to vote against this amendment because it could be very destructive not only to the Olympics but to other international events.

The PRESIDING OFFICER. The Senator from Hawaii.

UNANIMOUS-CONSENT AGREEMENT

Mr. INOUYE. Madam President, I ask unanimous consent that the vote on or in relation to the McCain amendment No. 2501 occur at 9 p.m. this evening.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Madam President, reserving the right to object, I think there may be debate on it yet. I have no objection if all debate is over by that time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Madam President, I will just take a moment more. I will just give examples of the games that we have had help with from the Department of Defense in the past.

We had help in the Lake Placid Olympics in 1980. We had help from DOD for the Los Angeles Olympics in 1984. We had help from DOD for the Pan Am games in 1987. We had help for the Goodwill Games in 1990. We had help for the World University Games in 1993. We had help for the 1994 World Cup. We will have DOD help for the Special Olympics in 1995, and also we plan help for the Summer Olympics in 1996.

These are matters of I think great importance. I do not think the amendment really is an amendment that is appropriate under any conditions, but certainly we should put any effective date of this amendment way out in the future, because these events are already underway and are being planned.

I can assure anyone that this would have a disruptive effect not only on the Olympics in the State of Georgia that I represent but also on the forthcoming events like the Special Olympics in 1995 and other events that may be coming to this country.

I believe the Senators from Idaho will also have an interest on this based on their own aspirations for international events.

So, Madam President, I yield the floor. But I would ask clarification if the Senator from Alaska can tell me when this will be voted on and if the yeas and nays have been ordered.

Mr. STEVENS. Madam President, it is my understanding the yeas and nays have been ordered, and we will vote at 9 o'clock under the agreement just entered into.

The PRESIDING OFFICER. That is correct.

The Senator from Alaska is recognized.

Mr. STEVENS. Madam President, I ask unanimous consent that Senator DOMENICI be added as an original cosponsor of the amendment previously adopted offered by the Senator from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, with regard to the pending amendment that has been offered by the Senator from Arizona dealing with the Olympics, I have had the honor to be associated with the Olympic movement for many years and have made many trips to the sites where we have provided some military assistance to the Olympic movement that really is in the form of security of some type.

Much of that in the past has been done by National Guard units. Others have been done by arrangements with the basic sponsoring entity. I remember the Lake Placid games, for instance.

But, I must tell my friend from Arizona, I must oppose his amendment, because I believe that, as stated by the Senator from Georgia, one of our basic responsibilities as the host country is to assure the safety of the athletes who come to our country. And we have done this. We did it in the Indiana games. We have done it in the Los Angeles games. We have done it almost in every one of the international games I know of. And the reason is that in this country of ours, where there is great freedom and opportunity and openness, there is more of an opportunity for people to endanger the lives of some of these athletes or to disrupt the games in their own personal pursuits.

I do not believe we should have an amendment like this on this bill. We do have money in this bill. I would point out to the Senator, there is an appropriation of $10 million to cover the costs of providing logistical and other support for the 1996 Summer Olympics to be held in Atlanta. We also have funds in here for the Special Olympics, which have a different type of problem as far as the ability of the Department of Defense to assure the logistic support for those games in New Haven, CT.

This has been an ongoing arrangement. It does maintain the relationship of the Department of Defense to these Olympic sports and to our international games. I think it is absolutely essential that we maintain that relationship and that we have people involved in the planning process from the very beginning to assure that we do meet our national responsibility for assuring the safety of the people involved in the games and maintaining the peace of this country.

It is, in my opinion, one of the best functions the Department of Defense has, in terms of its relationship to international sports.

It is not, I must say, something that could be reimbursed. I remember one time when there was a force of the Department of Defense standing by in case something went wrong. Nothing went wrong. Who is going to pay for that? That is part of our national responsibility. I think it must be maintained. The moneys provided in this bill are to assure those responsibilities will be met in Atlanta. I support that wholeheartedly and hope that the Senate will take that into account when we vote at 9 o'clock.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I had sought recognition and have been here for a little more than an hour to take a few minutes on three accepted amendments. I wonder if my colleague from Arizona would yield for that purpose.

Mr. MCCAIN. I will not. I have to respond to the Senator.

The PRESIDING OFFICER. I have just recognized the Senator from Pennsylvania. If you wish to yield, that is up to you.

Mr. SPECTER. Madam President, I ask unanimous consent that, at the conclusion of Senator MCCAIN's comments, I be recognized for a few moments to offer three amendments, setting the present amendment aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Very briefly, Madam President, I say to the Senator from Alaska, I do not disagree with anything that he said. I urge him to read the amendment. The amendment says that if the games make a profit, 25 percent of that profit would go to reimbursing the Department of Defense. Only if they made a profit.

In Los Angeles, they made a profit of $122 million; $50 million went for security. I am all for that security. The Special Olympics will not make a profit, the Senior Olympics will not make a profit, and they are saying that the Atlanta Olympics will not make a profit. So I do not see where they have a problem. It is only if they make a profit, then 25 percent of that.

None of us want any derogation of security. None of us want anything but the strongest possible security which only the Department of Defense can provide.

I am just saying, if they make a profit, 25 percent of that profit would go back to the main mission of the military, which is defending the national security interest, where we do not have enough ships. We have people on food stamps, we do not have enough ships, airplanes, and guns and we are spending this money on things like Olympics, which make $122 million in profit and do not reimburse the Government for it at all.

Let us be clear on what this amendment is Madam President. It is if they make a profit, which they say they are not going to do, and it is 25 percent of the profit, not the entire profit of these Olympic games, in order to reimburse the taxpayers of America for the Department of Defense money and equipment and manpower that was expended.

I want to apologize to my friend from Pennsylvania who has been very patient throughout this debate.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

AMENDMENT NO. 2503

(Purpose: To provide for the reassignment of members of the Army affected by the restructuring of the Army National Guard and the Army Reserve under the offsite agreement)

Mr. SPECTER. Madam President, consistent with the unanimous-consent agreement just entered into, having set aside the pending agreement under that agreement, I call up amendment No. 2503.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2503.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . IMPLEMENTATION OF AGREEMENT ON THE RESTRUCTURING OF THE ARMY NATIONAL GUARD AND THE ARMY RESERVE.

(a) FINDING.—Congress finds that the implementation of the off-site agreement may result in the loss to the Armed Forces of military personnel who have significant military experience and expertise.

(b) REASSIGNMENT OF MEMBERS.—(1) To the maximum extent practicable, the Secretary of the Army shall ensure that members of the Armed Forces who would otherwise be separated from service as a result of the deactivation of military units of the Army National Guard and the Army Reserve under the off-site agreement be reasigned instead to units that are not being deactivated.

(2) The reassignment of a member under paragraph (1) shall not affect the grade or rank in grade of the member.

(c) REPORTS.—Not later than 15 days after the end of each calendar quarter while the off-site agreement is in effect, the Secretary of the Army shall submit to the congressional defense committees a report on the

VOL 140 PT 15 AG 10 — 11 1994 UMI

number of members of the Armed Forces who were reassigned under subsection (b)(1) during the preceding calendar quarter.

(d) DEFINITIONS.—In this section:

(1) The term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(2) The term "off-site agreement" means the agreement on the restructuring of the Army National Guard and the Army Reserve.

Mr. SPECTER. Madam President, this is an amendment which seeks to preserve military skills which might otherwise be lost under extensive arrangements which have been made by the Army Reserve and the Army National Guard.

The issue came to my attention as a result of the threatened loss of expertise and experience of some 4,000 dedicated troops who are members of the 157th Separate Infantry Brigade, which is an Army Reserve unit headquartered in Horsham, PA. Under the arrangement between the Army National Guard and the Army Reserve, this unit would be deactivated and these 4,000 troops, who have considerable expertise, would be lost for our national defense.

After looking into the issue, it had been proposed that the deactivation be delayed until there had been a GAO study, but the Department of the Army had a considerable problem with awaiting that GAO study to carry out this agreement, the agreement being necessary because of the reduction in the Department of Defense appropriations, something that I think is necessary and in the national interest. These arrangements between the Army Reserve and the Army National Guard are entirely understandable.

So this amendment would accomplish retaining the expertise to the maximum extent possible by calling upon the Department of the Army to see to it that there be a reassignment of those who would be deactivated, either from the Army National Guard or the Army Reserve. This would save the expertise and would accommodate the many people, not only among the 4,000 in Horsham, PA, but across the country. It would have applicability beyond my State and I think it would be very good for the national defense and accommodate the interests of many thousands of Army National Guard men and women, National Guard personnel, and Army Reserve personnel.

As I understand it, this amendment has been cleared by both managers.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2503) was agreed to.

Mr. INOUYE. Madam President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2504

(Purpose: To delay the implementation of the Antler Military Operations Area)

Mr. SPECTER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2504.

Mr. SPECTER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

"No funds appropriated under this Act may be obligated or expended for the purpose of establishing the Antler Military Operations Area, Pennsylvania, for the purpose of conducting aerial combat training operations until:

"(1) Region III of the Environmental Protection Agency has completed its currently ongoing Environmental Impact Review."

Mr. SPECTER. Madam President, this is an amendment which would delay the implementation of low-altitude flights in a training corridor over central Pennsylvania until the regional office of the Environmental Protection Agency has reviewed the environmental impact of these flights.

This proposed flight pattern has caused enormous distress over some 1,200 square miles in central Pennsylvania where these low-level flights would have an enormous impact on the quality of life of the people who live there.

Central Pennsylvania is a beautiful place. It is essentially rural, although there are some cities in the Harrisburg, PA area. There has been an enormous public concern about how such flights would impact on the quality of life there.

And there is a study, which is being undertaken in region III of the Environmental Protection Agency, and the implementation of these low-level flights would be delayed until region III has an opportunity to review the environmental impact.

Again, it is my understanding that this amendment is acceptable to both of the managers.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2504) was agreed to.

Mr. SPECTER. I thank the Chair. Another one-vote victory.

AMENDMENT NO. 2505

(Purpose: To designate funds for the Vectored thrust combat agility demonstrator)

Mr. SPECTER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2505.

Mr. SPECTER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In title IV of the bill, under the heading "Research, Development, Test and Evaluation, Navy", strike out the period at the end and insert in lieu thereof ": *Provided further*, That of the amount of funds appropriated under this paragraph to be allocated to the aircraft technology program element, $5,000,000 of this amount may only be obligated for the completion of Phase I of the Vectored Thrust Combat Agility Demonstrator".

Mr. SPECTER. Madam President, this amendment calls for the allocation of some $5 million, which is now appropriated under this bill from the aircraft technology development funds within the Department of the Navy, to be used to complete phase I of the advanced rotorcraft vectored thrust combat agility demonstrator. This is a program which was established in 1991 to assess the capability of the Piasecki ringtail to improve helicopter speed, range and survivability and reduce operations and support costs.

This technology has already been subjected to very considerable expenditures, some $11.76 million of public funds and approximately $15 million by the private contractor.

This is a very highly sophisticated technology which has been developed by Mr. Frank Piasecki, whose company is conducting the research and development on this technology. Mr. Piasecki is a world-renowned developer of the helicopter. Indeed, the first helicopter a visitor encounters in the helicopter section of the Smithsonian Air and Space Museum is a Piasecki machine. He is world renowned and has done an enormous amount of work, and this technology, if it proves effective and reliable—and that is the purpose of these tests—would be crucial to protect troops transported by the new V–22's. It would turn more tightly, thereby enabling it to survive potential enemy attack and be operated at lower cost than existing helicopters and at a considerably greater speed.

This is an issue which I think would be very, very important for combat operations, as I say, especially in support of the new V–22's. And the $5 million will enable this technology to go forward. It does not call for the appropriation of any new funds, but will come out of appropriations already in existence from the aircraft technology development funds within the Department of the Navy.

Madam President, I ask unanimous consent my colleague Senator WOFFORD be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank my colleague from Arizona for yielding time for these brief amendments.

Madam President, I am advised the managers find this amendment acceptable.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2505) was agreed to.

Mr. SPECTER. Madam President, I note another one-vote victory. I thank my colleagues for that, and I move to reconsider.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2528

(Purpose: To require specific authorization and appropriations for construction projects for intelligence facilities and improvements to such facilities having an estimated Federal cost of more than $300,000)

Mr. BOREN. Madam President, I ask unanimous consent the amendment originally sent to the desk by the Senator from Hawaii, amendment No. 2528, be modified under the terms of the modification I will send to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

AMENDMENT NO. 2528, AS MODIFIED

Mr. BOREN. Madam President, I ask unanimous consent the amendment as modified be considered under the previous request and the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Madam President, I ask the clerk read the amendment.

The bill clerk read as follows:

On page 142, between lines 7 and 8, insert the following new section:

SEC. . (a) No project for the construction of any facility, or improvement to any facility, having an estimated Federal cost in excess of $300,000, may be undertaken in any fiscal year unless specifically identified as a separate item in the President's annual fiscal year budget request, if such facility or improvement would be used primarily by personnel of the intelligence community.

(b) As used in this section, the term "intelligence community" has the same meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Madam President, this amendment, which is offered on behalf of myself and the distinguished chairman of the Senate Intelligence Committee, Senator DECONCINI, is aimed at preventing the situation which has recently developed and which is well known to all of us now because of media coverage of these events. I refer to the project, the headquarters project under construction for the National Reconnaissance Office, which has now run to approximately $300 million, in excess of $300 million, in projected costs.

I have endeavored to go back over the record on this matter, some of which is still classified, as to how this project could have grown to such proportions. I must say it alarms me, and I was appalled to find that the project had grown to these proportions. In reviewing the record, I am convinced that the reason for this project becoming this large without sufficient congressional control is that in every year, starting in 1990 until the present time, no itemized request was made for this construction project. Instead, the costs of this construction project were buried in the budget of the agency in question under more generalized functional groupings.

Madam President, this has never been the case with other intelligence agencies. We always had separate items. We looked at those items. We considered the request for construction and for land acquisition. We had task forces within the Intelligence Committee, and I know the Appropriations Committee as well carefully reviewed all of these projects. That process was, in my opinion, subverted in a way by not having specific itemized requests for these construction projects presented by the NRO. The CIA, the National Security Agency, the Defense Intelligence Agency—all other intelligence agencies in the past have gone through the normal procedures of requesting items of appropriations for construction projects and have in essence gone through the same procedures required by military construction projects.

This amendment which I have just offered, which I have discussed with the ranking member and the chairman and staffs of both, would in no way want to cause these projects to be considered in a way that would not protect classified information. I think it is just essential, whether we are dealing with a classified project which cannot be openly discussed on the Senate or House floor or whether we are dealing with a project that can be openly discussed, that the taxpayers' interests must be protected. I think, for us to be able to protect the taxpayers' interests, we have to make sure separate itemized requests are made.

So, that is the reason for this amendment. I have discussed it with the current chairman of the Intelligence Subcommittee. It is based on my own experience of 6 years with that committee trying to make sure funds were appropriately appropriated and we kept tight control over any unnecessary spending. I think this is simply legislation that is needed to prevent in the future what has happened over the past 4 years because of the failure of this agency to make an itemized request, which actually did not come to the attention of the Senate Intelligence Committee fully until the independent audit unit which we established some 3 years ago began its own inquiry into the matter.

Madam President, I think this is a matter that has been cleared in terms of general agreement by both sides. I urge its adoption.

Mr. STEVENS. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Alaska is recognized.

AMENDMENT NO. 2528, AS FURTHER MODIFIED

Mr. STEVENS. Madam President, I suggested an addition to the Senator's amendment if he would consider it. I do believe there is another area that should be mentioned in this amendment and there are buildings that are specifically authorized and for which money has been appropriated that could be commenced. Would the Senator consider my suggested modification to his amendment?

Mr. BOREN. I will be happy to consider that modification. Could the Senator tell me what the language would be? I see, "unless specifically identified as a separate item in the President's annual fiscal year appropriation budget request or otherwise specifically authorized and appropriated."

Mr. STEVENS. Right.

Mr. BOREN. I ask unanimous consent to modify the amendment further by adding after the word "request," the words, "or otherwise specifically authorized and appropriated."

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator please send a copy of that to the desk.

The PRESIDING OFFICER. Will the Senator please send a copy of that to the desk?

Mr. BOREN. I send a copy to the desk.

The amendment, with its modification, is as follows:

On page 142, between lines 7 and 8, insert the following new section:

SEC. . (a) No project for the construction of any facility, or improvement to any facility, having an estimated Federal cost in excess of $300,000, may be undertaken in any fiscal year unless specifically identified as a separate item in the President's annual fiscal year budget request or otherwise specifically authorized and appropriated, if such facility or improvement would be used primarily by personnel of the intelligence community.

(b) As used in this section, the term "intelligence community" has the same meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

Mr. BOREN. Madam President, I now urge the adoption of the amendment, as further modified.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, I have no intention of mounting a ferocious opposition to this. But I will say

VOL
140
PT
15
AG
10
—
11
1994
UMI

to my friend who was the chairman and to the existing chairman and to the committee that this is as much the committee's fault as it is the fault of the National Reconnaissance Organization.

To begin with, it was the committee that told the National Reconnaissance Organization to consolidate its budget. But most important, Madam President, there was a time on those committees when subcommittees were responsible for the oversight of specific elements. That now no longer exists. The chairman and vice chairman have held unto themselves the whole budget process, and now we go in and listen to budget presentations and none of us have the information—none of us have the information upon which to make a judgment.

So the change in the committee from the time when all of us had a little area of responsibility and, in fact, could have been asked why we allowed this to take place—this no longer exists.

I have tried this year on the Intelligence Committee to get them to understand—our leadership on both sides; it is not a partisan issue—that it is really important that we reestablish some element of accountability amongst the members of that committee. As it has evolved, it is a catastrophe, one of which has resulted in the way we now do it.

In the old days, in the original time of the Intelligence Committee, we sat and we had areas of specific responsibility through subcommittees, and we had staff that could oversee and overlook these things.

What has happened now is a harvest that was planted and sown when out of whatever reason, the past committee chairman—and I do not even know when it started, subsequent to the time I left there. And I am not blaming anybody. I am just telling the Senate that until we go back to the time when the rest of the committee is involved in the decisions of the Intelligence Oversight Committee, we are going to have more of these, not fewer.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Madam President, I cannot comment on what the practice was of the past or the practice is now on the Intelligence Committee. I do not believe the Senator from Wyoming was serving on the Intelligence Committee during that period of time that I was chairman.

But I say to my good friend from Wyoming, during the time that I was chairman, I felt there had been very insufficient budgetary oversight and, therefore, the full committee met en banc hour after hour. Let me say, we had extraordinary attendance in which we started looking at the budgets of all the various elements of the intelligence community. That was the number one item on our agenda for the full committee. We went over every one of them. We did not just look at the baseline from prior years. We made them start with their justifications from the beginning. And we divided up our staffs into separate sections that would look at the budgets for particular agencies.

We then went further on construction projects, and I suppose the Senator from Wyoming might call this a subcommittee, but we set up a special task force of members at that time—I do not know if that practice is continuing—to particularly oversee construction projects and facilities decisions.

Every single facilities decision, except this one, and the progress on those construction projects, except this one, as far as I know, was brought before that task force which was composed of some of the members of the Intelligence Committee. They looked at cost by square footage; they looked at the prevailing commercial costs of similar facilities. And in all of these cases—and I can remember CIA facilities; I can remember DIA facilities, NSA facilities—the agencies in question, Madam President, submitted specific requests for these facilities, accompanied by specific budgets, and year by year, asked by item for an amount of money to be appropriated for that project.

We then, in addition, established during the time that I was chairman an independent audit unit for the first time so that we were simply not at the mercy of the Central Intelligence Agency or of the intelligence community to know if the money was being spent for the purpose for which we appropriated it.

That special audit unit that was approved in legislation and signed into law by then President Bush was given the authority to move anywhere in the world to examine intelligence accounts and to oversee the spending of those funds.

I might say, it was that independent audit unit that finally uncovered the full scope of what appeared to me to be significant cost overruns in this particular construction project. That was discovered only this year.

But I say to my friend from Wyoming, I feel that the National Reconnaissance office, in this case, bears a very heavy responsibility for what has happened because, unlike all of the others—and I must say that I as chairman assumed that if they were expending significant sums, they would request line items of appropriations for these sums. They did not do so.

I believe and, in fact, the very first briefing of any scale to the committee staff, interestingly, occurred in the period of time after the November 1992 elections when I was leaving the chairmanship, our staff members were leaving, our staff director, in fact, was working on a transition team, and the new staff of the new chairman was just not yet in place.

So we have a very significant project in which year by year the agency in question did not identify any line item in its budget and the amount of money it was requesting for this construction project.

So I think there was a significant lapse. That is the reason I am saying this, and I am not entering into what should now be the structure of the Intelligence Committee. I think that is appropriate for the current members.

Mr. WALLOP. If the Senator will yield, I am not, either. But I am here to say that this is not entirely and exclusively the fault of the National Reconnaissance Organization. There is at least some level of blame to be placed within the committee and its lack of oversight.

I say to the Senator, and I am not going to go on and debate the structure of it, but those budget hearings in which I participated this year were designed more to titillate than to inform, to show us the most amazing of the most amazing, and they were too short and they simply did not inform us.

I am just saying that the Senate should, as it goes into its next year's oversight responsibility, take a look at what it was that was its part of the fault that allowed this to happen. There is no exclusive blame, and I am certainly not trying to assign any to any one person, the chairman or anyone else. But the structure now does not lend itself to finding out items of this kind.

Mr. BOREN. Madam President, I will simply say to my good friend, at least during the period of time I was chairman, I would say the most significant part of my time, which averaged 4 to 5 hours a day, was spent trying to oversee the budget of the intelligence community and to make sure all the members of the committee had that information.

I also have to tell the Senator that I feel, in this case, I was misled, and I think artfully misled, by the National Reconnaissance agency, and I think the members of the committee at that time were misled, because we were given only a very generalized idea, in spite of specific report language by our committee stating that that agency should come to the relevant committees and seek prior specific approval for their construction programs. They never came, and I think we had the right to assume they would come.

Mr. WALLOP. I am not arguing the amendment, and I am certainly not trying to assign or lay blame. But this is not an exclusive problem.

Mr. BOREN. I say to my good friend, I believe it is an exclusive problem in this particular individual case because I think when an agency does not come forward and specify where it is spending its money in construction programs, that that is a responsibility that they have. Now, it is certainly the responsibility of the committee then—and as I say, we had a task force that looked at construction of capital projects. I think it is appropriate. I think there should be a task force to look at it, composed of members, as well as having staff look at it.

But I do think the National Reconnaissance office, just as the CIA, just as the NSA, just as the DIA, just as every other single intelligence organization itemizes construction requests down to the level of $300,000 or greater, the same standard followed in military construction projects. They should not be exempted from that requirement.

Mr. WALLOP. Madam President, if the Senator will yield one more time, I am not quarreling with the conclusion or the solution that he presents. I just do believe that we in the Senate, if we seek only to assign blame and never to accept, will probably not get to the point where all things are fixed.

Mr. WARNER. Madam President, will the Senator yield to the Senator from Virginia?

Mr. BOREN. I would be happy to yield.

Mr. WARNER. The committee today held a hearing, somewhat in excess of 3 hours, on this precise issue. As the Senator from Wyoming stated—and I think quite correctly—I acknowledged in my opening statement and in the course of my questioning that there were options that our committee, possibly under the Senator's jurisdiction as chairman, possibly under the period that I have shared the responsibility with Senator DECONCINI, could have taken to force the National Reconnaissance Office to be more forthcoming. An example was the specific language contained in the intelligence authorization bill in 1992. When the answers were not forthcoming, we could have simply said, "Not one dollar more until you do this." But for certain reasons, we did not do that.

So I think the Senator from Wyoming is correct in his observation. However, in the course of the hearing, I think in a spirit of fairness, both the Department of Defense through the Deputy Secretary, Mr. Deutch, and to some degree the Director of the Central Intelligence Agency, and later the Assistant Secretary of the Air Force, Mr. Harris, and others, acknowledged that perhaps there was not that degree of communication that is essential to enable the legislative branch, which has a small staff, to evaluate this project. Madam President, in this instance we had one staff person, Art Grant, a very fine individual, versus, as elicited from the NRO, 25 persons they have dealing with the budget.

So there is some limitation imposed by virtue of the size of the staff of the Senate Committee on Intelligence as to its ability to get into the details if the information is not forthcoming on a voluntary basis from the NRO.

So somewhere between these two poles lies the true story, and as yet, we are still trying to ascertain the full range of facts. And I would hope that all interested would reserve final judgment until such time as all those facts are before this body.

Madam President, if I might just say, I will have further comment—

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. BOREN. I will yield further to the Senator.

Mr. WARNER. Madam President, I was simply going to add I will ask unanimous consent to include a statement, and that I should like to have my statement appear with that given by the Senator from Nevada as it relates to his amendment, which I support as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Madam President, again I do not want to quarrel or prolong this discussion, but let me say the Senator from Virginia has just made the point, that the staff, even though we established a new independent audit unit during the time the Senator from Virginia was a member of the committee, a very important addition, because it left us some device of our own to be able to check to see how the agencies were spending the funds that were appropriated, an ability we never had before, we had a limited staff.

That independent audit unit has two people to try to go out and spot-check the entire intelligence budget to see if there was compliance on an independent basis on the part of the committee. In this case, one person on the staff was trying to oversee a functional area that included the National Reconnaissance Office. Let me say that we had 2 years in a row—and I quote this language—2 years in a row at least during the time I was there, and I do not know if this language was repeated later after I left the chairmanship, but the last 2 years I was chairman and this matter began to move, we had the language:

Facility acquisition will remain subject to the prior approval of the appropriate Congressional committees.

Now, there was never a line item or a specific request made by this organization for facility acquisition or improvement and therefore none was ever submitted to us to give prior approval.

Now, we worked very hard during the time that I was chairman, and other members worked very diligently with me, to establish a bipartisan atmosphere in that committee, and an atmosphere of mutual trust between the intelligence community and the committee which was charged with oversight so that we would never be in a position again in which we had to ask exactly the right question and we had to know a lot of information in advance, some information we could not possibly have known, to have asked exactly the right question to have found out the information.

I think in this case this is clearly an example in which the community put us in the position of having to know a lot of information to ask exactly the right question in order to elicit the required information, and when we had report language directing them to come back to us and make specific requests for facilities improvements and acquisitions, I think that clearly the NRO was derelict in not meeting those requests of the committee.

And as one who has tried year in and year out to support the legitimate requests of the intelligence community, let me say that I think this was a total lapse on their part, and I do not think it was a course of action aimed at allowing the Congress to play its appropriate role in the oversight or in the appropriation of funds.

So, Madam President, I would urge the adoption of the amendment. We can argue about the past. We can argue about affixing blame in the past. I think the important thing is that we assure that the NRO, like every other intelligence agency, will have to submit requests on construction projects in the future whenever they are undertaking projects in excess of $300,000, a standard now being followed by all of the other intelligence agencies which worked very well. We were able to give complete oversight over the others because they made such requests.

I think it needs to be put in place as a matter to prevent this kind of thing from happening in the future.

The PRESIDING OFFICER. Is there further discussion?

The question is on agreeing to the amendment.

The amendment (No. 2528), as further modified, was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2545

(Purpose: To provide additional funds for certain Ballistic Missile Defense activities)

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Madam President, I call up my amendment numbered 2545.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 2545.

Mr. WALLOP. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

VOL
140
PT
15
AG
10
—
11
1994
UMI

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, line 2, strike out the period at the end and insert in lieu thereof ": *Provided further*, That not less than $120,000,000 shall be available for Sea-Based Wide Area Defense System (Navy Upper Tier): *Provided further*, That not more than $522,725,000 shall be available for Defense Reinvestment Programs.".

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. INOUYE. Madam President, will the Senator from Wyoming yield?

Mr. WALLOP. I would be happy to yield to the chairman.

Mr. INOUYE. Madam President, I ask unanimous consent that there be 40 minutes on the amendment, 20 minutes to each side, 20 minutes to be under the control of the Senator from Wyoming, and 20 minutes under the control of the Senator from Hawaii or his designee.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. WALLOP. Madam President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Madam President, I yield myself 12 minutes of the time allotted.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 12 minutes.

Mr. WALLOP. Madam President, I offer an amendment to increase funding for a critical theater missile defense program: the Sea-Based Wide Area Defense Program, also known as Navy upper tier. The budget request for this program is $17.7 million. At that level of funding this highly promising program is essentially standing still. This was not a serious budget request, and if we fund the program at this level we will send the message that we too are not serious about this program.

My amendment would increase funding for Navy upper tier by $102 million, for a total of $120 million in fiscal year 1995. This is the exact level provided by the House Appropriations Committee—and it is the amount needed if this program is to become a coherent and high-priority part of our theater missile defense efforts.

To offset this funding increase, my amendment would reduce by the same amount funds available for defense reinvestment programs—the so-called Defense Conversion Program. Even after this cut, this appropriations bill would still provide over $520 million for defense conversion. By any honest measure, this is plenty, even excessive, given the likely benefits of the conversion program and the many other defense requirements that remain underfunded.

Let me briefly describe why the Navy Upper Tier Program needs more money and why it makes sense to take these funds from the Defense Conversion Program.

First of all, let us be clear that the administration's budget request for Navy Upper Tier in no way represents a serious effort to proceed with the program. At this level of funding, the most we can accomplish is a series of modest tests and studies. Recognizing this, and wanting Navy Upper Tier to become a genuine Theater Missile Defense Development and Acquisition Program, three of the four committees with oversight responsibility made additional funds available for this program.

The Senate Appropriations Committee did not provide additional funds for this program largely due to a concern that such a plus-up was premature. I have examined one program closely and consulted with the Navy, and I am here to tell the Senate that additional funds are not premature; in fact they are badly needed if we want to get moving any time soon.

The Navy, the Ballistic Missile Defense Organization and several major aerospace contractors have already produced detailed studies of what it would take to modify the existing Aegis Air Defense System into a wide-area theater missile defense system. It is important to emphasize that we are not talking about reinventing the wheel. One of the great advantages of a sea-based theater missile defense is that it relies on an existing system and infrastructure. The Navy's Aegis Air Defense System is already developed, deployed and proven. With minor modification—mostly in software—this system can become a highly effective wide-area theater missile defense system.

The Navy Upper Tier Program also builds on progress already made in the Navy's lower tier effort and BMDO's Lightweight Excatmospheric Projectile [LEAP] Program. Later this year, the Navy will conduct two LEAP tests using a terrier missile booster. None of these efforts are fundamentally new—all are well underway and well understood.

If we keep Navy upper tier funding at $17.7 million, as requested, the Navy will be able to do little more than concept exploration. With $120 million, on the other hand, the Navy could take the following important steps during fiscal year 1995:

Conduct one additional Terrier/LEAP test—which would reduce the technical risk of developing a tactically capable LEAP kill vehicle and would improve lethality and guidance accuracy.

Initiate aegis combat system engineering development for theaterwide capability.

Initiate integration of the standard missile-2—(SM–2)—block IV and LEAP to allow earlier fielding of capability.

Provide an option for a deployable prototype system—known as UOES—by 1998.

Provide an option to deploy an operational system by the year 2000.

Provide an integrated, two-tier sea-based theater missile defense system by the turn of the century.

As you can see, Madam President, we can get a tremendous theater missile defense capability with a relatively modest investment, and we can have it relatively soon if only we start now. This is not to say that the Navy Upper Tier Program faces no challenges or that we will be able to have a deployed system overnight. It is to say, however, that we are in no way prevented by technology from moving forward now, only by money and level of commitment.

Why do we need such a capability? The answer should be obvious to anyone who takes a serious look at the expanding threat posed by theater ballistic missiles. The trend is toward longer range missiles with more and more countries in possession of such a capability. We now know that North Korea is developing three new ballistic missiles—the No Dong, which can reach much of Japan, and two longer range systems that may cover much of the Pacific—potentially even threatening United States territory there. Many other potentially hostile countries are also developing or otherwise acquiring such ballistic missiles.

Madam President, the Navy Upper Tier Program promises to be both a highly affordable and capable theater missile defense system that could be developed before the turn of the century. Operating in conjunction with the Army's THAAD and advanced Patriot systems, the Navy upper tier system would give the United States a genuinely effective capability to defend against ballistic missiles.

A Navy missile defense system could be forward deployed and would not depend on any special basing rights. Moreover, it would not occupy scarce air- and sea-lift resources that would be much in demand at the beginning of any future conflict. For these and many other operational reasons—to say nothing of the modest cost—we would be irresponsible for not aggressively pursuing this option.

But of course funds are limited, as the distinguished chairman of the subcommittee has reminded us. My amendment, however, offers a means for paying for this important program. I propose to reduce funds for the Defense Conversion Program from $625 to $522 million in order to offset the increase in Navy upper tier.

My personal belief is that the Defense Conversion Program is an unaffordable luxury that could be cut back even further. Although there may be some useful research conducted under this program, it is pretty clear

that it benefits defense capability only marginally. I have been told by numerous people in industry—including some who have directly benefited by defense conversion contracts—that this money would be better spent on real defense development and acquisition programs.

The Defense Conversion Program is intended in large part to be a means of preserving the defense industrial base. Instead, it has become a drain on limited resources. The Senator from Hawaii has correctly pointed out the inadequacy of the funds now available for defense procurement. I join him in expressing alarm over the erosion of the defense industrial base. Quite simply, we are eating our seed corn and hoping that we will not face another major threat in the future.

At the same time, however, this bill proposes to spend $625 million on a whole range of interesting, but not particularly useful, hobby horses in the name of defense conversion. We simply cannot afford to spend this kind of money on projects that have little or no direct benefit to the national security of the United States. Projects that are truly meritorious should rise to the top and be selected for funding based on the normal DOD process. By making available a huge pot of money and simply saying come and get it, we are sure to waste much of it.

Virtually every expert that I have consulted with regarding the defense industrial base has confirmed that the best way to preserve that base is to keep it busy working on real defense research, development; and acquisition efforts. To the extent that the Defense Conversion Program takes away money from these activities, it actually is detrimental to the defense industrial base and national security.

My amendment proposes to take just over $100 million away from this fund and use it for something that will not only contribute to the defense industrial base but also will beef-up our inadequate efforts in the area of theater missile defense. To illustrate this point, let me just list the contractors that are already working on the Navy Upper Tier Program:

Hughes Missile Systems Co.—Canoga Park, CA.

Boeing Aircraft Co.—Seattle, WA.

Rockwell International—Canoga Park, CA.

Thiokol Corp.—Elkton, MD.

Raytheon Corp.—Bedford, MA.

Aerojet Corp.—Sacramento, CA.

If the Navy upper tier program gets off the ground, this list is sure to grow, as contractors, subcontractors and vendors realize that this is a dedicated effort.

I would be willing to bet that any one of these companies would rather be working on a contract to build real defenses against ballistic missiles than taking defense conversion contracts that don't create any defense capability at all. And I would also be willing to bet that each of these companies would confirm that money spent on a program such as Navy upper tier is more likely to preserve key elements of their productive base than anything that they could get from a defense conversion contract.

In sum, Madam President, this amendment would transfer $102 million from a wasteful and overfunded program to one that is highly meritorious and woefully underfunded. The choice is clear: Dedicate these funds to a program that will defend Americans against a dangerous and growing threat—and at the same time help preserve the defense industrial base—or spend it on an ill-defined and bloated barrel of pork.

(Mr. ROBB assumed the chair.)

Mr. WALLOP. Mr. President, interesting to note and very probably hard to see. But here is a map of what would take place if we had such a program. Here is what we can potentially do now. This is the Sea of Japan and the aegis cruiser, and we can barely touch a piece of the Japanese mainland against the North Korean threat. Were we to do this upper tier program, we would take all of the Japanese islands. Mr. President, the only way we can defend Hawaii, the only way we can defend Alaska, the only way we can defend either of our coasts, and many of our allies, is through this program.

I reserve the remainder of my time.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. I would like to ask for a minute or 2 in support of the Senator's amendment.

Mr. WALLOP. I yield 2 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, I commend the distinguished Senator from Wyoming. Perhaps no one in recent history of the Senate Armed Services Committee, to my knowledge, has had a better grasp of the whole concept of strategic defenses, and particularly those involving theater nuclear defenses, than the distinguished Senator from Wyoming. As he departs the Senate this year, he will be sorely missed. Many of us are doing our very best to fill the void that he will leave.

This is an amendment that the two of us have discussed. I strongly support it. I asked that I be made a cosponsor because it would be unconscionable for our Nation, given the experience we had in the gulf with those short-range Scud missiles, to ever again forward deploy men and women in the Armed Forces without adequate protection from theater ballistic systems. And this is precisely what this amendment does. It begins to bring back up that measure of funding that is essential to keep this program alive and at a level that will properly provide this Nation with that deterrent at sea that is needed.

Mr. WALLOP. The Senator will agree with me that when three of the four committees of jurisdiction have said, A, that the request is underfunded and that, B, this is the only means by which we hope to achieve the goal and the deterrent that we have; this is the only way we are ever going to get it done.

Mr. WARNER. Mr. President, I concur in that observation.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Hawaii.

UNANIMOUS-CONSENT AGREEMENT

Mr. INOUYE. Mr. President, I ask unanimous consent that the vote on or in relation to the Wallop amendment No. 2535 occur without any intervening action or debate immediately following the disposition of the McCain amendment No. 2501.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Wallop amendment be temporarily set aside for no more than 2 minutes to take up consideration of the Breaux amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment by the Senator from Wyoming is temporarily laid aside.

The Chair recognizes the Senator from Louisiana, Senator BREAUX.

Mr. BREAUX. Mr. President, I first of all thank the distinguished chairman of the appropriations subcommittee for his consideration and also the Senator from Wyoming.

AMENDMENT NO. 2547

Mr. BREAUX. Mr. President, I send an amendment to the desk numbered 2547 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 2547.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. . Notwithstanding any other provision of law, the Secretary of the Navy shall obligate, within thirty days of this Act becoming law, not less than $29,750,000 from the funds appropriated in this Act or previous Acts under the heading "Aircraft Procurement, Navy", solely to procure, on an urgent basis, AN/USH–42 mission recorders modified for use in S–3B aircraft.

Mr. BREAUX. Mr. President, I say to my colleagues briefly in fiscal year 1992 and fiscal year 1993 the Congress in the

VOL 140 PT 15 AG 10 — 11 1994 UMI

defense appropriations bill appropriated funds for the AN/USH–42 mission recorder program to be used within the A–6 aircraft program.

In the 1994 appropriations bill, the Congress ordered the Navy to verify that that mission recorder is required in the future for Navy aircraft for peacetime training involving damage assessment in combat.

The assessment by the Navy is completed, and the Navy said there is no particular requirement for the mission recorder based primarily on the decision to retire the A–6 aircraft. However, Mr. President, the Navy has conducted in their own words an independent review to examine other platforms for possible use of the AN/USH–42 and have determined that a modified AN/USH–42 could beat the S–3 attack aviation mission recorder requirements. In other words, the Navy is saying it cannot use it on the A–6 that is being phased out, but they can use it for their S–3 attack aviation operations.

Mr. President, my amendment simply directs the Navy to, in fact, use these mission recorders on S–3B aircraft, as I have explained, and I will ask for approval of my amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUYE. We have no objection.

The PRESIDING OFFICER. Is there further debate? If not the question occurs on the amendment offered by the Senator from Louisiana.

The amendment (No. 2547) was agreed to.

Mr. BREAUX. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, the time situation being the Senator from Wyoming has used up something in the neighborhood of 12 or 13 minutes of his time, I would ask he be allowed to reserve his time if you want to go to another amendment.

The PRESIDING OFFICER. The Chair will remind the Senator he has 8 minutes and 35 seconds under his control remaining.

Mr. WALLOP. Mr. President, in view of the fact there no opposition time has been utilized, I would not like to share it equally. I do not think that is quite appropriate.

I ask unanimous consent that until such time as someone is prepared to oppose it, unless the two leaders would like to drop the time agreement and vitiate the yeas and nays and they would accept it.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Wyoming to allocate time equally?

Mr. INOUYE. Mr. President, the Senator from New Mexico should be coming shortly to discuss this matter in opposition. But in the meantime, I ask unanimous consent that the Wallop amendment be temporarily set aside to accommodate the Senator from Nevada for no more than 5 minutes.

Mr. BRYAN. Six minutes at the outset.

Mr. WALLOP. Mr. President, reserving the right to object, and I shall not object, I want the Chair to make clear my request was not to divide the time equally.

Mr. INOUYE. Without the time running on either side.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Hawaii?

If not, it is so ordered, and the Senator from Nevada, Senator BRYAN, is recognized.

Mr. BRYAN. I thank the Chair and I thank the floor manager.

I might inquire of the Presiding Officer the amendment number of the Bryan amendment which was offered earlier this evening.

The PRESIDING OFFICER. The Chair will inform the Senator that the number is 2502.

Mr. BRYAN. Mr. President, I ask unanimous consent that Senator DECONCINI and Senator WARNER be added as original cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona and Virginia are added as original cosponsors.

NATIONAL RECONNAISSANCE OFFICE

Mr. BRYAN. Mr. President, I earlier commented before the time pursuant to the unanimous consent had expired on another matter to begin explaining the nature of this amendment. It deals with the National Reconnaissance Office, which most of us were startled to learn yesterday morning, is now estimated to cost between $310 million and $350 million.

The genesis of this building dates back to the early 1990's and late 1980's in which the intelligence committees of the respective bodies were encouraging the colocation of some facilities that were scattered all over the country into a single facility.

I was not a member of the committee at that time, having just joined last year.

But earlier this afternoon, as part of a Senate Intelligence Committee hearing, I had occasion to review the record as I did yesterday with staff. Suffice it to say that the distinguished senior Senator from Virginia, the ranking member of the Intelligence Committee, who was a member of the committee during all of the times that are relevant to the construction of this National Reconnaissance Office made the assertion that at no time did the National Reconnaissance Office indicate to the Senate Intelligence Committee that it was preparing to build a building of a magnitude of a million square feet, the cost of which is about $175 per square foot, and that what really occurred is it was incrementally included in the baseline but never specifically authorized prior to its commencement.

Mr. President, I say that my reading of the RECORD reaches the same conclusion as the distinguished Senator from Virginia.

Now, in the hearing this afternoon we learned that the head of the CIA and the Under Secretary for the Department of Defense are conducting a review.

The purpose of the amendment which I have offered is to seek to withhold any unobligated funds to be committed to the further expenditures in this building until such time as that review is completed and a report made back to the Intelligence Committees of the Senate and of the other body.

Let me emphasize it is not my purpose to in any way interfere with any contractural relationship that currently exists, but we know that at least $50 million is unobligated for such items prospectively, furnishings and fixtures of these elaborate facilities.

It is absolutely shocking, Mr. President, because four towers are under construction. The fourth tower, the most elaborate, the fanciest, which has huge office space and has very, very extravagant provisions in it, was authorized in 1992 by the National Reconnaissance Office. That is after the implosion of the former Soviet Union, after the Berlin Wall came down, after the Warsaw Pact had disintegrated.

This is highly irresponsible conduct and, in my judgment, is an absolute outrage to the taxpayers.

One of my colleagues during the course of this afternoon's hearing referred to it as a goldplated palace, and it is that.

So the purpose of this amendment is simply to say that before you spend any more unallocated moneys for any aspect of this project, since it has never been before the Senate Intelligence Committee, for a preauthorization from start to finish, that the committee have an opportunity to look into it. We have an opportunity, Mr. President, to save tens of millions of taxpayers' dollars if we act promptly, and I am hoping that the distinguished floor managers can support this amendment.

I emphasize we do not in any way impinge upon existing contractual rights, and this money would be subject to review after this executive agency review which I have described.

I yield the floor and thank the floor managers for accommodating me and thank my colleagues who joined as sponsors.

AMENDMENT NO. 2502, AS MODIFIED

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, will the Senator from Nevada yield?

Mr. BRYAN. The Senator from Nevada would be happy to do so.

Mr. INOUYE. May I suggest that the amendment be modified so that on page 2, on the last line, line 6, we add a comma after "Representatives" and add the following: "and the House and Senate Committees on Appropriations."

Mr. BRYAN. I am agreeable with such an amendment.

Mr. INOUYE. With that modification, the managers will accept the amendment.

The PRESIDING OFFICER. Is there objection to the modification.

If not, the amendment is modified accordingly.

The amendment (No. 2502), as modified, is as follows:

On page 142, between lines 7 and 8, insert the following new section:

SEC. . Of the funds made available by this Act for the National Reconnaissance Office under the classified Schedule of Appropriations accompanying this Act, funds allocated for construction of the headquarters buildings of the National Reconnaissance Office which were unobligated as of the date of enactment of this Act may not be obligated or expended until the Director of Central Intelligence and the Secretary of Defense have completed a review of that construction project and the results of such review have been disclosed to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, and the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

The PRESIDING OFFICER. Is there further debate?

Mr. BRYAN. Mr. President, I simply want to express my appreciation to the distinguished Senators from Hawaii and Alaska for accepting the amendment. I do think we have an opportunity to correct what is clearly an excessive expenditure.

I thank them both for their responsible action.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendment No. 2502, as modified, offered by the Senator from Nevada.

The amendment (No. 2502), as modified, was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii, Senator INOUYE.

AMENDMENT NO. 2545

Mr. INOUYE. Mr. President, I believe I should respond to the Senator from Wyoming to explain to the Senate the reasons for the action taken by the committee.

The committee, in studying the request by the Ballistic Missile Defense Organization, provided the full budget request amount that the BMDO had suggested, $18 million, and we could not go beyond that.

It is true that the House has added funds for this program and we felt that it could be considered in conference. It may interest my colleagues to know that in a memo dated July 11 of this year, the Chief of Naval Operations, Admiral Boorda, stated that the lower tier system was the Navy's first priority. The Department is just now beginning a cost and operational effectiveness analysis of this upper tier program.

Therefore, adding funds or accelerating this program before this cost and operational effectiveness analysis is complete would be premature and prejudges the outcome of the DOD analysis, which itself will cost about $5 million to complete.

So, all in all, because of the technical concerns and the ongoing analysis, the committee felt that any acceleration in the Navy upper tier missile program would be premature.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized accordingly.

Mr. WALLOP. Mr. President, I feel as though I am being done in; that the opposition to this amendment is reserving all of its time and sort of calling on me to waste mine.

But let me just say, I realize the Navy requested only the $17.6 million. But the problem is that the Navy was instructed to request—and this would not be the first time in the experience of the Senator from Wyoming—that the Appropriations Committee, specifically the subcommittee headed by the distinguished chairman, ignore what the Navy requested or the Army and Air Force requested, and ignore, in fact, what the Senate Armed Services Committee did.

We once had a rather gruesome little fight on the floor, which I will admit that I lost. One of the reasons I lost was because they appropriated things for which we had no authorizations. They appropriated things for which there were higher authorizations.

The purpose of the amendment of the Senator from Wyoming is to do one thing: To take the money, the $100 million, out of defense conversion, which is nothing but a corporate entitlement program, and put it into something that buys some defense for Americans. And three of the four committees of oversight have recommended this.

Mr. President, it is a question, when the administration and everybody says the only thing really threatening Americans and their allies now is missile proliferation, that we say we are going to spend a piddly little $17.6 million, which even the Navy now says is a waste of money and will get us nowhere nearer our goal. We will have some reports made and some lovely bound books printed, and other kinds of things, but we will not be able to defend ourselves from anything.

What the Senator from Wyoming is trying to do is to take the money that has been said to be useful and to provide a defense. And, keep in mind, Mr. President, that the Army THAAD and other kinds of things have to be moved overseas or through the air; the Air Force's programs are not yet available to us; the Navy's can be deployed with all the kinds of confrontation that took us how many months to make a piddly decision to move an inadequate system to Korea called the Patriot.

The Navy—again, let me show the map of what it can do. Here is what Aegis can now do. This is Korea and all of this under here is Japan. Look at what would happen if we had the Navy upper tier, the kidney-shaped thing. You can take care of all of Japan, and most of the western Alaskan islands down through Korea and Taiwan. We will either be able to do something useful about defending Americans and American allies from missiles or we will waste money spending $17.6 million and $100 million buying no defense.

Mr. President, almost two-thirds of $1 billion has gone into this corporate thing called defense conversion, which buys Americans nothing. And it is supposed to sustain the defense industrial base. How can you defend the defense industrial base by wasting money on things that do not result in weapons or security?

This is a small little thing. In case the Senator from Wyoming is wrong, $100 million out of two-thirds of $1 billion going into something that all of us know is of use, can produce, and has the technology. We merely need to know how to integrate it.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I ask unanimous-consent that I be permitted to yield a minute to the Senator from Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized for up to 1 minute.

AMENDMENT NO. 2548

Mr. COHEN. Mr. President, yesterday I advised Senator INOUYE that I intended to offer an amendment to this appropriations bill dealing with the Conventional Forces in Europe Treaty.

My understanding is that my staff submitted the language itself about a few minutes after 7 o'clock, and so it

VOL 140 PT 15 AG 10 — 11 1994 UMI

would not qualify under the unanimous consent agreement. So I now ask unanimous consent that this amendment be allowed to be considered during the debate before the conclusion of the bill.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Maine to consider the amendment?

If not, the amendment is in order.

Mr. COHEN. I thank my friend from Hawaii.

AMENDMENT NO. 2545

The PRESIDING OFFICER. Who yields time.

Mr. STEVENS. Does the Senator have any time left?

Mr. WALLOP. Would the Chair state the time circumstance?

The PRESIDING OFFICER. The time remaining chargeable to the Senator from Wyoming is 4 minutes and 20 seconds. The time remaining to the Senator from Hawaii is 17 minutes and 4 seconds.

Who yields time?

Mr. INOUYE. I yield 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska, Senator STEVENS, is recognized for up to 5 minutes.

Mr. STEVENS. Mr. President, the chairman of the subcommittee is generous, because I rise to support the amendment of the Senator from Wyoming, which I know that the Senator from Hawaii does not support.

I believe that Senator WALLOP has correctly noted the emergency situation in the ballistic missile threats that face us in the northern Asia area. I do believe that we have reviewed these intensively in the Intelligence and Appropriations Committees. The flexibility that would be afforded by a sea base system is essential. In my judgment, we should proceed now.

While I have joined the chairman in supporting the defense reinvestment budget, I do believe that Senator WALLOP's amendment addresses a much greater need. He addresses the acute shortfall in our missile defense effort. Development of Patriot, ERINT, and THAD meet the land-based requirements. The Senator correctly noted there is this emergency in the Asian area, and I believe his amendment should be adopted.

I yield the remainder of the time that was yielded me.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I ask unanimous consent Senator MCCAIN be listed as a cosponsor and reserve the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. Will the Senator withhold that? Would it be in order to set aside this amendment and turn to the amendment of the Senator from Idaho? Could we set aside the Wallop amendment? We are still waiting for one person to speak on that. I ask unanimous consent the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The time allotted under the previous order is set aside, and the Senator from Idaho, Senator KEMPTHORNE, is recognized for up to 5 minutes.

AMENDMENT NO. 2538

(Purpose: To restrict funding for United States military personnel in Somalia)

Mr. KEMPTHORNE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for himself, Mr. WARNER and Mr. CRAIG, proposes an amendment numbered 2538.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

RESTRICTION ON FUNDING UNITED STATES MILITARY PERSONNEL IN SOMALIA

SEC. . None of the funds appropriated by this Act may be used for the continuous presence in Somalia of United States military personnel after September 30, 1994.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that Senator WARNER and Senator CRAIG be added as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, in January of this year I visited Mogadishu. I was astounded at what I saw there in Somalia. An effort that had begun for relief purposes, for humanitarian purposes, to feed starving people at that point in time had become a situation where you were stepping into a war zone. It was absolutely apparent that it was a dangerous place to be.

Of course, it is there we lost 18 very brave Rangers.

Last year the Senator from West Virginia offered an amendment that was adopted by Congress. It said we prohibit the deployment of United States combat troops in Somalia after March 31, 1994. That was accomplished. But it did allow for a small contingent of United States military to remain there in order to provide protection for United States diplomats who would also remain there. We have 58 marines who are members of the fleet antiterrorist security team who are in place, and 20 diplomats. I have to say with regard to these Americans—the marines, the diplomats—it takes guts to be there. They have it. I also should note offshore we have an amphibious ready group, a Marine expeditionary unit. So we have about 4,000 United States military personnel off the coast of Somalia who are there in the event we need to go in for rapid extraction of United States personnel.

We were assured that after June 30 of this year, all of the military personnel would be out of Somalia. It was by happenstance I learned that June 30 came and went and our military personnel were not out of Somalia. I discussed this with the Armed Services chairman, Senator NUNN, and with the ranking member, Senator THURMOND. We held a hearing on July 21, 1994. As a result of that hearing, where we were briefed by the Department of Defense and by the State Department, 16 of the 22 members of the Armed Services Committee sent a letter immediately to the President of the United States urging him to withdraw all United States military personnel from Somalia by August 14.

We can see that date is not going to be met. But let me just read the names of those Senators who signed this letter urging that withdrawal: Senators NUNN, THURMOND, BYRD, WARNER, SHELBY, COATS, LEVIN, SMITH, GRAHAM, COHEN, MCCAIN, LOTT, LIEBERMAN, FAIRCLOTH, HUTCHISON and myself.

So why do I raise this issue? When you have an embassy in a country, are you not normally going to have a Marine detachment that is there to protect your diplomats? The problem is there is no embassy. There is no embassy and there is no one to protect that because there is no government in Somalia.

Normally, a host government provides protection in the streets surrounding the area where your personnel are located. This is what is in the streets of Somalia. This is a picture of one of the technicals. These are the vehicles that are roaming throughout Somalia with a concentration in Mogadishu. You can see here a .50 caliber machinegun. You can see this individual is holding a rocket-propelled grenade launcher. This is the same sort of equipment that was used to down the aircraft when the firefight erupted that caused the death of the Rangers. That is what is roaming the streets of Mogadishu.

Is it just one faction? Absolutely not. You have Aideed and you have Ali Mhadi—two factions. And it is very clear that they are back at war. It is very clear, according to the State Department, that their attitude is winner take all, no reconciliation in sight.

Where are our marines staying? Where are the diplomats? Here is a photograph of Mogadishu. The compound where they are located. This fence is what separates them. Repeatedly—repeatedly the U.S. Government has complained to the United Nations of the lack of security of the perimeter of this facility. It is not being addressed. So what is the assessment?

The Honorable Chas Freeman, who is the Assistant Secretary of Defense, has stated with regard to Somalia: "The situation has continued to deteriorate. Prospects for national reconciliation are bleak. And U.S., UNISOM, and relief organization personnel are increasingly in danger."

Let me remind this body of what President Clinton stated with regard to our goals in Somalia. He said, "It is not our job to rebuild Somalia's society or even to create a political process that can allow Somalia's clans to live and work in peace. The Somalis must do that for themselves."

So what is the assessment, then, of the Joint Chiefs of Staff of the Armed Services of the United States? They say that there is: A high threat of attacks, banditry, looting for all unsecured movements and facilities; No political settlement in sight; Large scale interclan fighting expected; High threat of spillover violence against U.S./U.N. personnel; The United Nations are selectively targeted. The United States is also now being selectively targeted. Chance will attack when they perceive U.S. and U.N. interference.

Mr. President, 58 marines are in that situation. They are the best fighting individuals of any armed service in the world. But 58 marines in that situation are a token force. And one of the lessons that we have learned is, you go in with an overwhelming force or you simply get yourself in a real dilemma; 58 marines in that environment is just enough to get in trouble.

The amendment I offer would cut off funds for the continuous deployment of United States military personnel in Somalia after September 30, 1994. The amendment would result in the withdrawal of United States military personnel from Somalia by October 1, 1994. But after consultation with various experts, it would not tie the President's hands regarding any future military deployments to Somalia.

As a member of the Armed Services Committee, I remember the hearing we held where we listened to the fathers of the Rangers who were killed in Somalia. I remember every one of us was deeply moved by that. And I remember they raised the question as to whether or not their sons had died in vain. But they said they hoped we have learned something from that and, if we had learned something from that that might protect other personnel in Somalia, it would not be in vain.

Mr. President, every assessment that you will look to from the Joint Chiefs of Staff, from the Department of Defense, from the State Department say that there is no reconciliation in sight in Somalia. Why then are we continually leaving at risk U.S. personnel?

It is absolutely time for them to be withdrawn from Somalia and for us to move that 4,000 amphibious-ready group from the coast of Somalia. That is what this amendment will accomplish, Mr. President.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. INOUYE. Mr. President, I yield whatever time is necessary to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for up to 15 minutes and 42 seconds.

AMENDMENT NO. 2545

Mr. BINGAMAN. Mr. President, I very much appreciate the time. I will not use the full 15 minutes, but I would like to make a few statements, at least, in opposition to the amendment that the Senator from Wyoming has offered.

As I understand his amendment, he is proposing to take, I believe it is, $102 million out of the technology reinvestment project and transfer that money to an activity designated the Navy Upper-Tier Ballistic Missile Defense Program.

Let me start by giving some background about the technology reinvestment project. This is a subject that many of us in the Senate worked very hard on in the last few years. I think it has been a successful program.

The TRP, or technology reinvestment project, is a program that was established to accomplish some of the defense conversion activity which we felt was important at this time after the end of the cold war. A specific amount of research and development funding has been set aside in the Department of Defense budget for initiatives that industry comes forward with that are defense related but that have a dual-use purpose.

The idea was that industry would know better than the Government where the opportunities were to use defense-related technology in a dual-use capacity. So the technology reinvestment project was designed with that in mind, and it is important to note that the project is one that requires a cost share, a 50-percent cost share, by industry, and it also requires the industry initiative in order for a program to be funded under this TRP.

It is administered by the Advance Research Projects Agency, ARPA, in the Department of Defense but in cooperation with the Department of Energy, with NASA, with the Department of Commerce, the Advance Technology Program people at NIST in the Department of Commerce. They all work together to administer this program, and it is a very successful program, Mr. President.

This last year, the amount available was somewhere in the range of $500 million. There were 2,800 proposals last year from industry for that funding. When the analysis had been done of the various proposals, right at 5 percent of the proposals were actually able to be funded.

So this is a program which is substantially oversubscribed by industry. There is a tremendous pent-up demand by industry that has been involved in the defense effort to pursue activities that can be funded through the technology reinvestment project—half funded through the technology reinvestment project, half funded by those industrial partners themselves.

This technology reinvestment effort has the strong support of Secretary Perry and Deputy Secretary Deutch. It has the strong support of the President and the Vice President. It has continued to have overwhelming demand in various of the focus competition areas. There is clearly a need here, and that need is one that this committee is trying to meet in the bill that it has presented to the Senate for consideration.

I commend the Senator from Hawaii and the Senator from Alaska for the funding that they have proposed for the technology reinvestment project. I think it is very consistent with what we have tried to do in the authorization bill. It is certainly consistent with the desires of the Department of Defense, and it is something we should not be reducing in order to fund the program which is specified by the Senator from Wyoming.

Just to say a few words about the alternative use of this money that the Senator from Wyoming has come up with, my information on this is that the committee has provided the exact amount of funds that the Navy and the Department of Defense requested for this activity, this Navy upper-tier program. The House added funds for it, and clearly the matter will be open for consideration in conference. But our own committee in the Senate, the Defense Appropriations Subcommittee, has funded it at the level that the administration asks.

Clearly, the first priority, as I understand it, of the Navy in this area is the lower-tier system, not the upper-tier system. They have made that clear. Admiral Boorda, the Chief of Naval Operations, signed a memo on July 11 stating that the lower-tier system was the Navy's first priority.

The Department of Defense is just now beginning a cost and operations effectiveness analysis on this Navy upper-tier program. And, accordingly, they did not think this kind of high-level funding that is being requested by the Senator from Wyoming was appropriate at this time.

Adding funds or accelerating this program before this analysis is complete is premature and prejudges the outcome of the Department of Defense analysis which itself will cost about $5 million to complete. It is not a cursory analysis.

The Department of Defense study may well recommend a naval version of

VOL
140
PT
15
AG
10
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11
1994
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the theater high-altitude area defense, or THAAD Interceptor. Thus, no well-defined program exists which would support the addition of these funds at the expense of other valid Department of Defense programs.

I also point out that we watched the administration negotiate for months with Russia on changes in the Anti-Ballistic Missile Treaty, and we know that the Russians oppose the Navy upper-tier system as it is presently proposed.

The recent United States offer to the Russians under the Anti-Ballistic Missile Treaty negotiations could preclude deployment of this Navy upper-tier system for which the Senator from Wyoming wants to increase funding. These funds could be wasted if the United States negotiates ABM Treaty restrictions which prohibit this Navy upper-tier system from being deployed.

The Navy upper-tier program is a very risky program relying on technologies which have not been proven or demonstrated. Significant questions exist about the lethality of the lightweight exo-atmospheric projectile and its ability to precisely impact a reentry vehicle.

Nora Slatkin, who is the Assistant Secretary of the Navy for research, development and acquisition, testified that the Navy upper-tier technology is not mature enough to be demonstrated for at least another 5 years. Technical concerns and the ongoing analysis I earlier referred to and the U.S. stance in the ABM Treaty negotiations—all of those factors argue strongly against any acceleration of this Navy upper-tier missile defense program.

Mr. President, to summarize, the technology reinvestment project is an extremely important initiative that was started under the Bush administration. It is being carried on by the Clinton administration. It needs to be continued. It needs to be supported. We have a long way to go to make the conversion for our defense sector from the cold war era to the post-cold-war era. They are working hard at it. These funds, through the technology reinvestment project, are an extremely important part of them making that transition. We need to support that program. We should not be taking funds away from it and earmarking it for other activities. Particularly, we should not be earmarking these funds for this particular program that the Senator from Wyoming is championing here tonight.

For the reasons I have stated, that program is not mature enough to justify the kind of funding he is requesting. I urge my colleagues in the Senate to resist his amendment.

I appreciate the time that has been granted to me by the Chair, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I am pleased to yield time to the Republican leader.

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, I did not have any comment on the amendment. Is the amendment going to be accepted? Why not go ahead and do that and then maybe I can be recognized.

Mr. INOUYE. Mr. President, I ask unanimous consent that Senator WOFFORD be named as a cosponsor of amendment No. 2505.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I also ask unanimous consent that Senator DOLE be permitted to submit an amendment at this time.

The PRESIDING OFFICER. Without objection——

Mr. WALLOP. Mr. President, reserving the right to object, and I shall not object——

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. I would like to have 2 minutes before the hour of 9 o'clock comes along to answer some of the points that were raised by the Senator from New Mexico.

Mr. STEVENS. Mr. President, pursuant to the time agreements previously entered into, I send an amendment to the desk for the minority leader, Mr. DOLE.

Mr. WALLOP. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment submitted by the Senator from Wyoming. There is 4 minutes and 20 seconds remaining. The Chair also observes that there are about 3 minutes remaining until 9 o'clock, and under the previous order, all the time on that amendment would expire at that time.

Mr. WALLOP. Mr. President, I ask that I might regain the floor in behalf of my amendment.

Mr. STEVENS. Mr. President, would it not be better order for us to let the Senator from Wyoming complete his time before we start the time at 9 o'clock?

I ask unanimous consent we just extend this so he can finish his 4 minutes, and then we have the votes.

Mr. WALLOP. I am perfectly willing to complete at 9 o'clock, if I can just get on with it.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for up to 3 minutes.

Mr. WALLOP. Mr. President, the Senator from New Mexico was describing a pet project of his, TRP, or defense conversion. Let me just explain to Senators that it buys no defense. It really buys no technology. And it buys no hardware. It does buy some stockholder good will, and it does buy some corporate souls. It is, in effect, nothing more than a defense industry entitlement.

Mr. President, the amendment that I have submitted takes $100 million out of a program that has two-thirds of $1 billion in it. It has more money than the entire money for the Marine Corps. It has as much money in it as all of the combat aircraft procurement. It has $200 million plus more than the entire national missile defense budget, and $150 million more than THAAD.

The argument is that we ought to go on something on which we are spending money that buys us nothing because the Russians oppose it.

Now, Mr. President, the administration has said if we are serious about defense—and they say they are—the one thing that is threatening to America and her allies is missiles and missile proliferation.

The Navy has said that we can have a prototype by the year 1998 and an operational system by 2000 if we fund it at this level. At least, for heaven's sake, Senators, if we are going to spend any money on defense and out of the defense budget, let us spend it on something that achieves a level of defense that Americans can have.

The Senator from New Mexico said there are significant questions about the capability. Of course, there are. That is the purpose of my amendment, to resolve those questions and buy American defense.

Mr. President, time is up. I yield back the remainder of whatever it may.

The PRESIDING OFFICER. All time is yielded back. Under the previous order, the question is on agreeing to amendment No. 2501, offered by the Senator from Arizona.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the managers have suggested that the Senate now complete debate on the Kempthorne amendment, and then have three votes in succession. I believe their suggestion is appropriate. It has been cleared on both sides.

So I now ask unanimous consent that there be 10 minutes of debate on the Kempthorne amendment No. 2538, 5 minutes under the control of Senator SIMON, 5 minutes under the control of Senator KEMPTHORNE, and that the vote on the Kempthorne amendment occur following the two votes previously scheduled; and that for the three votes that would then be scheduled the first be for the regular time, 15 minutes, and the second and third votes be for 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the vote on the Kempthorne amendment will be the last vote today. So there will be three votes beginning in approximately 10 minutes, the first 15 minutes, the second and third 10 minutes, and those will be the only votes remaining this evening.

I thank my colleagues. I thank the managers for their suggestion.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, I ask for the yeas and nays on the Kempthorne amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in opposition to the Kempthorne amendment. It is well-intentioned. But I think it is unwise.

We have roughly—I am not sure of the amount exactly—but roughly 300 American personnel in Somalia. This amendment would say we have to pull all of these people out. The people who are there are protecting our liaison office, and some are providing some technical assistance on such things as pure water and that sort of thing. We have asked other nations to have troops there. And we have pulled out almost all of our troops.

I was asked by a representative of the administration to talk to one of the leaders of Africa who has troops there urging that he keep his troops there pointing out that we would keep a residue of troops there.

I do not think we ought to be sending a signal to terrorists that, if you cause some problems, American troops will pull out. There are problems in Somalia. But let us leave it up to the administration, up to the Defense Department, when to pull those troops out.

I would add we have to be willing to take some risks. I wish we lived in a risk-free society. But when people enlist in the Armed Forces, there are risks that have to be taken just as people who enlist in the Chicago police department know that there are certain risks that have to be taken.

Somalia was not a disaster from the viewpoint of the United States. We saved who knows how many lives. Well over a million lives I believe were saved by our action there. It has not turned out the end product politically as well as we had hoped. But frankly, it was one of George Bush's finest hours when we used the U.S. military to see that desperate people in a land that was ungoverned got the food that was needed. Senator METZENBAUM and I were in Somalia. Before we entered we saw the devastation like devastation I have never seen before.

Finally, I would add. Yes. There were casualties in Somalia. But there were fewer people, American service personnel, killed in Somalia than cab drivers killed in New York City last year. I do not want one additional person to be killed unnecessarily. But I think we have to recognize that when you enlist in the Armed Forces there are risks, and we should be a force for stability in that area of the world.

I do not think we should micromanage this from the U.S. Senate. We ought to leave it up to the administration, up to the Defense Department, to make this decision.

I hope the Kempthorne amendment will be defeated.

The PRESIDING OFFICER (Mr. AKAKA). Who yields time?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum. I withhold my request. The Senator from Idaho I understand is now here and prepared to debate. I withhold my request.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, thank you very much.

I would like to acknowledge the comments made by the senior Senator from Illinois. Much of what I was able to hear I have to say I fully respect, and acknowledge that when you deploy military personnel you know that there may be in fact casualties. When you do that, though, Mr. President, you need to know what the mission is. The mission in Somalia changed on us. It went from humanitarian relief to trying to apprehend Aideed. Then there is the statement that I read by the President of the United States who said that our goal is not to establish a new society in Somalia. We must leave that to the Somalis. Our job is done in Somalia.

It has been stated, Mr. President, by the Department of Defense, by the State Department—if I had my papers here I would read to you—that the prospect of a peaceful settlement is zero, and that they are moving at a glacial pace to achieve this.

Mr. SIMON. Will my colleague yield for a question?

Mr. KEMPTHORNE. I am happy to.

Mr. SIMON. My understanding is that we only have about 300 personnel there. They are there primarily to protect our diplomatic mission and to serve as technicians. Is that correct, first?

Then my second question is: Does the Senator not think that we would be wise to leave this decision up to the administration and the Defense Department rather than making this decision on the floor of the U.S. Senate?

Mr. KEMPTHORNE. Mr. President, in response to that, there are currently 58 members of what is called the fleet antiterrorist security team, FAST marines. Normally, we have Marine detachments with embassies. There is no government to have an embassy for. I showed, moments ago, what is parading around through the streets of Mogadishu, the technicals with .50 caliber machine guns. They are beginning to target our U.S. military personnel. They are targets. For what? What are we trying to accomplish?

There is no mission. There is no stated mission today of anything further that the United States can accomplish.

Therefore, why do we not pull them out?

I also acknowledge that these diplomats—I think they are just as brave as the marines, but I am not dictating that those people must be pulled out. They have said they would go to a contract security system if that was necessary. But this is a very different situation. Mission accomplished.

If there is a lesson learned that we were supposed to learn from Vietnam, it was how do you exit. We do not know how to exit from Somalia. I also say to the distinguished Senator from Illinois that just offshore are 4,000 other U.S. military in an amphibious ready group, ready to go in and extract U.S. personnel if they get into a real problem. We are tying up a lot of assets, and there is no mission in Somalia.

Mr. SIMON. If my colleague will yield again, I believe in every diplomatic situation I know of there are a few marines. They have used military personnel to protect diplomatic personnel. I do not know why Somalia should be an exception to that general rule.

Mr. KEMPTHORNE. I say there is no government to provide further protection for the installation and for the diplomats. I would like to see all Americans out of Somalia.

I yield back the remainder of my time.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered.

AMENDMENT NO. 2501

Mr. STEVENS. We are now proceeding with the McCain amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. This is an amendment to refund the costs in connection with Olympic games to DOD, which I oppose.

Atlanta is not the only one who could potentially make a profit from the games. But does this amendment ask anyone else to pay back the DOD for services which we should be glad to contribute?

Should NBC, the network which won the bid to cover the 1996 Olympics,

VOL 140 PT 15 AG 10 — 11 1994 UMI

have to pay 25 percent of its profits back to DOD to pay for the benefits it receives from DOD? Should United Parcel Service have to pay back DOD for the profit it makes from being the "official" express-delivery company of the games? Should the many other sponsors have to pay 25 percent of their profits back to DOD for the services DOD provides?

It is an honor to win the privilege of hosting the games, and takes a lot of hard work by a city. The Federal Government should continue to fully support our cities when they are able to get these games. Atlanta already has committed much of the profits it receives—if there are any—in accordance with its host city contract.

According to the host city contract, Atlanta already has to pay the International Olympic Committee [IOC] and United States Olympic Committee [USOC] 10 percent each of any surplus after the games. According to the Atlanta Journal and Constitution, the Atlanta Committee for the Olympic Games will have to split any remaining money with the IOC as well. So Atlanta already will only keep a small portion of the profits if there are any.

The 1984 Los Angeles Games were a huge success story in terms of making profit; Los Angeles took that profit and created the $100 million Amateur Athletic Foundation [AAF], a nonprofit organization which has already provided more than $50 million to create, sustain, and encourage sports programs in California. This program has already taught more than 100,000 children how to swim, and introduced thousands more inner-city kids to sports like cycling, volleyball, and other sports.

Atlanta should have the same opportunity to create a legacy from any profits it makes for its children to remember the 1996 games by, and to be introduced to sports.

VOTE ON AMENDMENT NO. 2501

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Maryland [Ms. MIKULSKI] and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 21, nays 77, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—21

Chafee	Helms	Metzenbaum
Coats	Hutchison	Nickles
D'Amato	Jeffords	Pressler
Faircloth	Kohl	Reid
Feingold	Lugar	Smith
Glenn	Mack	Specter
Gorton	McCain	Wallop

NAYS—77

Akaka	Domenici	Lott
Baucus	Dorgan	Mathews
Bennett	Durenberger	McConnell
Biden	Exon	Mitchell
Bingaman	Feinstein	Moseley-Braun
Bond	Ford	Moynihan
Boren	Graham	Murkowski
Boxer	Gramm	Murray
Bradley	Grassley	Nunn
Breaux	Gregg	Packwood
Brown	Harkin	Pell
Bryan	Hatch	Riegle
Bumpers	Hatfield	Robb
Burns	Heflin	Rockefeller
Byrd	Hollings	Roth
Campbell	Inouye	Sarbanes
Cochran	Johnston	Sasser
Cohen	Kassebaum	Shelby
Conrad	Kempthorne	Simon
Coverdell	Kennedy	Simpson
Craig	Kerrey	Stevens
Danforth	Kerry	Thurmond
Daschle	Lautenberg	Warner
DeConcini	Leahy	Wellstone
Dodd	Levin	Wofford
Dole	Lieberman	

NOT VOTING—2

Mikulski Pryor

So the amendment (No. 2501) was rejected.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2545

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2545 of the Senator from Wyoming [Mr. WALLOP].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Maryland [Ms. MIKULSKI] and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 38, nays 60, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—38

Bennett	Gorton	McConnell
Bond	Gramm	Murkowski
Brown	Grassley	Nickles
Burns	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Helms	Roth
Cohen	Hutchison	Simpson
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Stevens
D'Amato	Lott	Thurmond
Danforth	Lugar	Wallop
Dole	Mack	Warner
Faircloth	McCain	

NAYS—60

Akaka	Chafee	Glenn
Baucus	Conrad	Graham
Biden	Daschle	Harkin
Bingaman	DeConcini	Hatfield
Boren	Dodd	Heflin
Boxer	Domenici	Hollings
Bradley	Dorgan	Inouye
Breaux	Durenberger	Jeffords
Bryan	Exon	Johnston
Bumpers	Feingold	Kennedy
Byrd	Feinstein	Kerrey
Campbell	Ford	Kerry
Kohl	Moseley-Braun	Rockefeller
Lautenberg	Moynihan	Sarbanes
Leahy	Murray	Sasser
Levin	Nunn	Shelby
Lieberman	Pell	Simon
Mathews	Reid	Specter
Metzenbaum	Riegle	Wellstone
Mitchell	Robb	Wofford

NOT VOTING—2

Mikulski Pryor

So the amendment (No. 2545) was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was rejected, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2538

The PRESIDING OFFICER. Mr. President, the question now occurs on agreeing to the Kempthorne amendment No. 2538.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Maryland [Ms. MIKULSKI] and the Senator from Arizona [Mr. PRYOR] are necessary absent.

The PRESIDING OFFICER (Mr. LEVIN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—54

Baucus	Ford	Mack
Bennett	Gorton	Mathews
Biden	Gramm	McConnell
Bond	Grassley	Murkowski
Brown	Gregg	Nickles
Bumpers	Hatch	Nunn
Burns	Hatfield	Packwood
Byrd	Heflin	Pressler
Coats	Helms	Roth
Cochran	Hollings	Sasser
Cohen	Hutchison	Shelby
Coverdell	Kempthorne	Simpson
Craig	Kohl	Smith
D'Amato	Lautenberg	Specter
Dole	Levin	Stevens
Domenici	Lieberman	Thurmond
Faircloth	Lott	Wallop
Feingold	Lugar	Warner

NAYS—44

Akaka	Durenberger	Metzenbaum
Bingaman	Exon	Mitchell
Boren	Feinstein	Moseley-Braun
Boxer	Glenn	Moynihan
Bradley	Graham	Murray
Breaux	Harkin	Pell
Bryan	Inouye	Reid
Campbell	Jeffords	Riegle
Chafee	Johnston	Robb
Conrad	Kassebaum	Rockefeller
Danforth	Kennedy	Sarbanes
Daschle	Kerrey	Simon
DeConcini	Kerry	Wellstone
Dodd	Leahy	Wofford
Dorgan	McCain	

NOT VOTING—2

Mikulski Pryor

So the amendment (No. 2538) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I ask unanimous consent that amendment No. 2500 previously adopted today be modified, and I send to the desk a modification.

I ask unanimous consent that Senator CHAFEE be added as an original cosponsor of this amendment.

The effect of this amendment that I am sending to the desk will make that amendment which was previously adopted subject to modification.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . (a) The prohibition on concurrent award of compensation and retirement pay (including naval pension) set forth in section 5304(a)(1) of title 38, United States Code, does not apply to a person who has a service-connected disability if—

(1) the person has completed at least 20 years of service in the uniformed services that is creditable for purposes of computing the amount of retirement pay to which the member is entitled;

(2) the disability was incurred or aggravated in the performance of duty as a member of a uniformed service, as determined by the Secretary concerned; and

(3) the disability is a disability rated as total—

(A) by the Secretary concerned as of the date on which the person is retired from the uniformed services; or

(B) by the Secretary of Veterans Affairs within four years following the date on which the person is retired from the uniformed services.

(b) Notwithstanding section 1463(a) of title 10, United States Code, the amount of retirement pay paid in accordance with subsection (a) concurrently with the payment of disability compensation to the recipients of such retirement pay shall be paid out of funds appropriated by this Act.

(c) Subsection (a) is not applicable to a person for any period for which the disability of such person is not a disability rated as total as described in paragraph (3) of such subsection.

(d) In this section:

(1) The terms "compensation", "service-connected", and "Secretary concerned" have the meanings given such terms in section 101 of title 38, United States Code.

(2) The term "disability rated as total"—

(A) means a disability that is rated as total under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; and

(B) does not include a disability for which the schedular rating is less than total but for which a rating of total is assigned by reason of inability of the disabled person concerned to secure or follow a substantially gainful occupation as a result of service-connected disabilities or by reason of any other factor.

(3) The term "uniformed services" has the meaning given such term in section 101(a)(5) of title 10, United States Code.

(e) This section shall take effect on October 1, 1994, and shall apply to months that begin on or after that date and before October 1, 1995, upon authorization in an Act other than this Act.

Mr. MCCAIN. Mr. President, with reference to amendment No. 2500, which was adopted a short time ago in the Senate, I want to bring to the attention of the Senate a correction to that amendment.

The amendment I offered, and which was accepted, sought to appropriate funds for a program which is not authorized. As soon as I realized that the program was not authorized, I sought the assistance of the managers of the bill in correcting the amendment. I thank the managers for promptly offering a technical amendment to amendment No. 2500 to make this program subject to authorization.

As my colleagues know, I do not support the appropriation of funds for any unauthorized program, project, or activity. I apologize to my colleagues for my inadvertent violation of this important principle.

I intend to ask the conferees on this bill to retain the language in amendment No. 2500, as corrected by the managers. In no case will I support expenditure of funds for this program in the absence of a specific authorization.

I also intend to work in the Armed Services Committee and appropriate authorizing committees to seek authorization for this program, as is required under the Senate's procedures.

Mr. INOUYE. Mr. President, I ask unanimous consent that Joe Sanchez be allowed access to the Senate floor during the remainder of the debate on this appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the committee amendments be adopted en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I reserve the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, may I take the opportunity to check that?

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I withdraw my request.

I ask unanimous consent to consider and adopt en bloc amendments numbered 2535, 2536, and 2542.

Mr. STEVENS. Mr. President, I ask unanimous consent that we add to that No. 2513 by Senator MCCONNELL.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. And that upon the adoption of these amendments, amendment 2517 be withdrawn.

Mr. STEVENS. I ask unanimous consent that the Mitchell amendment 2542 be cosponsored by Senator COHEN.

The PRESIDING OFFICER. Does the Senator from Hawaii accept the modification as proposed by the Senator from Alaska?

Mr. INOUYE. I do.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So the amendments (No. 2513, 2535, 2536, and 2542) were agreed to, as follows:

AMENDMENT NO. 2513

At the appropriate place in the bill insert the following

SEC. . (a.) Within 60 days of enactment of this Act, the President, in consultation with NATO, shall submit a report to the Committee on Appropriations defining specific military, economic, and political standards required to gain admission to NATO: Provided further, that such report shall not be limited to the principles enunciated in the Partnership for Peace; Provided further, such report shall include an assessment of measures which would be necessary to guarantee the armed services of Poland, Hungary, the Czech Republic, Slovakia, Lithuania, Latvia and Estonia are capable of military cooperation and interoperability with NATO and fulfilling other member responsibilities.

AMENDMENT NO. 2513

Mr. MCCONNELL. Mr. President, In 1949 a remarkable treaty was signed by 12 nations. The North Atlantic Treaty was a document of vision and flexibility—a collective covenant to safeguard freedom, democracy, individual liberty, and the rule of law—a pact to "promote stability and well being in the North Atlantic area."

NATO joined in common cause nations of disparate economic resources and strength, differing governing institutions, diverse ideologies and dissimilar military capabilities. Yet, differences have not divided the organization nor compromised the unambiguous and united determination to defend against any attack.

NATO has worked. It has been remarkably successful for more than four decades in preserving peace, security and stability.

Given the track record, it is completely understandable that nations so recently liberated from Soviet aggression now seek the security of participating in NATO. I can think of no more clear or compelling U.S. interest than the expansion of NATO's stabilizing influence.

Unfortunately, no nation seems to be able to crack the NATO admission code. They have been told that participation in the Partnership for Peace pact may lead to NATO admission, but there are no guarantees. They have been offered the cold comfort that if attacked, they have an "opportunity to consult with NATO" with no follow on commitments.

Why? because according to the administration these nations do not meet

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140
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NATO's admission standards. When I pursued the question of just what the standards of eligibility were with Secretary Christopher in a hearing before the Foreign Operations Subcommittee, he told me they had to meet the standards in the NATO charter. Well, the only standard spelled out in the charter is a commitment to the alliance and collective defense.

Mr. President, during consideration of the Foreign Operations bill I offered an amendment to clarify NATO eligibility standards. The amendment lost narrowly. During the debate there appeared to be two principal concerns which I believe I have addressed in this revised revision.

This amendment will require a report from the President in 60 days defining specific military, political or economic standards required to gain admission to NATO. During the last debate Senator LEVIN pointed out since NATO was a collective body, decisions regarding admission standards should be collective—the President does not have the unilateral authority to grant admission. I agree and presumed such consultation would occur, but to satisfy Senator LEVIN and others I added language to the amendment clarifying the President should prepare the report "in consultation with NATO leaders."

The amendment also requires an assessment of the capabilities of the Visegrad and Baltic nations to meet those admission standards and provides the President permissive authority to offer excess defense articles to assist these nations in achieving military cooperation and interoperability with NATO.

My earlier amendment required the transfer of excess defense articles to these seven nations. I decided to delete this provision in response to some of my colleagues who argued the President could not unilaterally mandate NATO EDA recipients and, more importantly, such a directive many undermine the security requirements of other current beneficiaries.

Mr. President, I believe the amendment before the Senate responds to the concerns raised by the chairman of the Armed Services Committee and others with a strong interest in NATO and European security policy. No doubt, Deputy Secretary Talbott will continue to object to the provision because it singles out several nations, thus "drawing lines" in Europe. Frankly, by default the administration has already drawn lines—NATO is on one side, Russia the other, and Central and Eastern Europe have been relegated to the gray ambiguous, no-man's land of Partnership of Peace.

Unfortunately, the victims of the administration's ambiguity consider their circumstances as an open invitation to Russia. In 1823, the U.S. established the imperatives of the Monroe Doctrine. Now, the perception from Warsaw to Kiev, is the U.S. supports a new, variation on their historical theme—the Moscow mandate. Leaders throughout Central Europe have publicly and privately criticized the administrations's willingness to cede their economic sovereignty and political independence to the sphere of Russian influence.

A July 24 column in the Washington Post by Lally Weymouth drew our attention to the profound concerns shared across Europe. Ms. Wymouth writes, "Recently, the Russian Ambassador to the United Nations Yuli Vorontsov, asked the world to bless the Russian deployment of peacekeepers to Georgia. Vorontsov said without some sort of U.N. endorsement of Russian peacekeepers in Georgia, Moscow would veto a resolution authorizing the dispatch of troops to Haiti * * * as a consequence, the Clinton Administration entered into a cynical deal with Russia which at least one U.N. diplomat compares with the controversial 1945 "spheres of influence Yalta pact * * *. What this means is that the United States has given Russia the right to reoccupy the Caucasus and other former Soviet Republics in return for Russian acquiescence in the U.N. Security Council Resolutions on Haiti."

Senior State Department officials have expressed concern about drawing lines dividing Europe—I think this is an artful dodge. In fact, avoiding drawing lines is avoiding making important decisions, avoiding the responsibilities of leadership, and avoiding the definition of American policy and interests in Europe. In effect, we concede to the Moscow mandate.

During his recent visit to Poland, President Clinton addressed the Parliament. In discussing NATO membership, he said there is "no longer a question of whether, but when and how."

This was a very encouraging statement which I hope to build on with the amendment I am offering today. The amendment before the Senate begins the process of defining "when and how" nations can join. It is a small first step in the direction of expanding stability and security in Europe, a goal so clearly and unambiguously in American interests.

AMENDMENT NO. 2535

On page 9, on line 13 of the Committee-reported bill, insert before the period the following: ": *Provided further*, That of the funds appropriated under this heading, not less than $39,674,000 shall be made available only for the Pacific Missile Range Facility, Hawaii".

AMENDMENT NO. 2536

On page 29, on line 15 of the Committee-reported bill, insert before the period the following: ": *Provided*, That of the funds appropriated under this heading, not less than $30,100,000 shall be made available only for the Pacific Missile Range Facility, Hawaii".

AMENDMENT NO. 2542

On page 53, line 13, after the period insert: "Funds appropriated in Title III of this Act may be used for multiyear procurement contracts as follows: MK19-3 grenade machine guns; M16A2 rifles; M249 squad automatic weapons; and M4 carbine rifles for the Army."

So the amendment (No. 2517) was withdrawn.

Mr. INOUYE. Mr. President, the managers of the bill are ready to go to bed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2505

Mr. WOFFORD. Mr. President, I am pleased to cosponsor this important amendment that will provided $5 million in fiscal year 1995 for the completion of phase I of the vectored thrust combat agility demonstrator [VTCAD].

The VTCAD program is designed to assess the benefits of the ring tail vectored thrust dected propeller [VTDP] for existing and future combat helicopters. This research has the potential of increasing the speed, range, and endurance of conventional helicopters for more effective combat productivity.

I appreciate the efforts of Senator INOUYE and the members of the Defense Appropriations Subcommittee for their acceptance of this amendment. As a strong supporter of the VTCAD research, I am very glad that my colleagues have agreed with my request to provide $5 million in funding for the completion of phase I of this important effort in fiscal year 1995.

HARKIN AMENDMENT NO. 2525 ON THE COMPREHENSIVE TEST BAN

Mr. BRYAN. Mr. President, I rise today in opposition to the amendment by the Senator from Iowa. This amendment, while only a sense of the Senate amendment, takes an irresponsible position in relation to our nuclear weapons stockpile, and our future need to maintain nuclear weapons that are safe and reliable.

We cannot turn a blind eye to the reality that we have a nuclear stockpile of thousands of weapons. As the cold war has come to a close, we have made substantial progress in reducing the number of nuclear weapons. I support these efforts.

What concerns me about the approach of this amendment and the ongoing Comprehensive Test Ban negotiations, is the lack of focus on the long-term needs of our nuclear weapons scientists to monitor our stockpile. It is hard to imagine why we would want to maintain thousands of the most dangerous weapons known to mankind, but eliminate the ability to test them. In the past, we have been able to replace old nuclear warheads with newer and safer designs. We now have no new nuclear warheads under development, and so the task of our nuclear scientists is to ensure the stockpile remains safe and reliable as the various components age and deteriorate.

Nuclear weapons are complex devices. The interaction that occurs in a warhead between the highly energetic explosive and the nuclear material will never be completely mimicked by testing simulation. As these devices age, we must have a complete understanding of their deterioration, and how this affects their safety and reliability.

In fact, as our stockpile of nuclear weapons is reduced, the reliability of each nuclear weapon becomes even more critical to an effective deterrence. Only through testing at the Nevada test site can we have adequate assurance that our nuclear weapons will function as expected in a time of crisis. Stockpile surveillance, above ground experiments, and modeling often uncover flaws that cannot be resolved without the use of a nuclear test.

The Washington Post ran a story in May 1990, which explained a disturbing incident occurring in 1988, only 6 years ago. The Department of Defense unexpectedly discovered a defect in a type of nuclear weapon after it had been deployed throughout Europe. Urgent orders were issued not to move the warheads, and repair teams had to hurry to the nuclear ammunition depots to disable the weapons so they could not accidently be detonated. Computer calculations and underground tests before the start of production had indicated no safety problems. Yet, a new safety analysis in 1988 raised concerns that were confirmed by actual underground nuclear tests.

Again, it is plain reckless for our Nation to hold thousands of the most powerful and dangerous weapons known to mankind, and destroy the ability to monitor and test them.

Mr. President, no one in this body can state with certainty that the nuclear weapons created by the United States have, suddenly, become completely safe and reliable for the foreseeable future. No one in this body can say with certainty that we will never again discover a dangerous flaw in a nuclear weapon, like that found less than 6 years ago.

Without a doubt, the goal of nonproliferation is vitally important, particularly maintaining controls on nuclear materials. However, I have yet to see a compelling argument that the United States nuclear testing moratorium has furthered that goal. China continues to test and modernize its nuclear weapons at will. Renegade nations, such as Libya and N. Korea, could continue to develop nuclear weapons even if they signed and abided by the provisions of a comprehensive test ban.

I also want to address the issue of the Comprehensive Test Ban and how it would affect the Nevada Test Site. The Nevada testing facility is a unique resource, and the Nation's investment in it must be protected.

Some of America's greatest technological resources have been devoted to design, production, and testing of our nuclear weapons. Personnel at the Nevada test site are a small community of highly specialized workers, with expertise found nowhere else in the world.

Mr. President, 2 years ago, a one kiloton conventional explosion occurred in the tunnels at the Nevada test site. The nonproliferation experiment was conducted in the general vicinity of previous low-yield nuclear tests, and provided vital data on the different seismic signals between a conventional explosion and a nuclear explosion. By furthering our ability to distinguish between conventional explosions and low-yield nuclear explosions, we greatly expanded our ability to monitor the proliferation of nuclear weapons. This test has had far reaching consequences in the ability of the United States to prevent renegade nations from disguising low-yield nuclear tests.

No other facility in the world has recorded data from low-yield nuclear explosions that made this test possible. No other facility in the world has the unique tunneling capability that enabled this conventional test to occur efficiently and without undue expense.

Most Members recognize the unique assets and expertise of the personnel at the Nevada test site. What my colleagues may not realize is that a wide variety of activities, such as the nonproliferation experiment, are now occurring at the test site, and many more activities are being planned for the future.

One of the most promising future uses for the Nevada test site is in the production of solar energy. Because of its size and location, the test site is ideally suited for research in solar energy development, which I believe should have a very high priority in supplying our future energy needs. Even a small portion of the test site, devoted to solar electric generation, could supply substantial energy resource.

Mr. President, as long as dictatorships are striving to acquire weapons of mass destruction, we must be vigilant. Our nuclear deterrence, tested time and again in the Nevada desert, helped prevent the tensions between the Soviet Union and the West from ever resulting in a nuclear conflict. Testing was part of that success, and we must not lightly discard such a proven capability.

Again, I urge my colleagues to vote against this amendment, and I yield the floor.

NUCLEAR TEST BAN RESOLUTION

Mr. HARKIN. Mr. President, the amendment at the desk is on behalf of myself, Senator JEFFORDS, Senator DECONCINI and Senator DASCHLE. This is a sense of the Congress resolution, basically praising the President for extending the nuclear testing moratorium until September, 1995, and calling on the President and the other nuclear powers to complete negotiations for a comprehensive nuclear testing ban treaty before the extension conference for the Non-Proliferation Treaty [NPT] begins in April 1995.

Some may say "Why the rush?"

Why not wait until 1996, which China and France seem to prefer?

I would list two primary reasons for President Clinton to take a strong leadership position now to assure completion of the CTBT by 1995: to complete the CTBT before the NPT extension conference begins in April, 1995 and to complete a CTBT before new presidents are elected in Russia, France and the United States.

First, the Non-Proliferation Treaty is up for renewal in 1995. The conference to strengthen, expand and extend the NPT begins in April 1995.

Mr. President, the NPT is becoming ever more important in the post cold war era. In the past, our focus has been on the former Soviet Union, with their enormous nuclear arsenal of over 20,000 nuclear weapons, and their plans and missiles to deliver many of those weapons of mass destruction to the United States homeland with less than half an hour warning.

But now we may have more to fear from one or two crude nuclear weapons in the hands of Saddam Hussein or Kim Il Sung's son in North Korea than 20,000 much larger nuclear weapons in the Soviet arsenal.

Paranoid leaders from rogue nations may be much more inclined to use nuclear weapons in a crisis. And paranoid leaders are not deterred by the massive U.S. nuclear arsenal.

Hence the Non-Proliferation Treaty takes on much greater significance. Our national security interests are severely undermined by the proliferation of nuclear weapons. So much so that at least one active-duty military officer, General Horner, has even suggested that we seriously consider the eventual elimination of all nuclear weapons.

He reasoned that nuclear weapons are the ideal "equalizers" for weak third world nations. Only nuclear weapons could severely damage U.S. interests, given our current and projected overwhelming conventional military superiority.

Under these circumstances, the extension and strengthening of the NAT should be a primary priority of U.S. defense policy.

For better or worse, the comprehensive test ban has become almost a prerequisite for extension of the NPT in the eyes of most of the nuclear weapons have-not nations.

They reason that stopping all nuclear testing is the least the nuclear weapons states can do to demonstrate our resolve not to continue the qualitative nuclear arms race. They reason that only if we agree to stop all testing will

VOL 140 PT 15 AG 10 — 11 1994 UMI

they, the nuclear have-nots, agree to forego development or acquisition of nuclear weapons.

Hence, to maximize our chances of strengthening and extending the NPT, we should make every possible effort to complete the CTBT by 1995. It will take a major, concerted effort by the United States to achieve this objective. This amendment encourages the President to undertake such a dedicated effort to complete the CTBT before April, 1995.

Second, the political landscape in several key nations may change significantly after 1995. Francois Mitterrand will be stepping down in May, 1995, and new presidential elections will be held in Russia and the United States in 1996.

While President Mitterrand's successor may eventually support a CTBT, I fear that France may want to conduct a flurry of nuclear tests before agreeing to sign the CTBT. The two current French candidates are vying with each other to see who can be the most supportive of the French nuclear arsenal. So we cannot be assured that the next French Government will support the CTBT at all.

In other words, we have three of the five nuclear powers supporting the completion of the CTBT now, but no assurance that any of the three will be as enthusiastic by 1996 or later. The CTBT now, but no assurance that any of the three will be as enthusiastic by 1996 or later. The CTBT and the NPT are too important to the national security of the United States to let this current opportunity pass by.

While we would certainly like France and China to join the CTBT initially, this is not necessary. After all, both France and China were not party to the NPT initially, but are now supportive.

At this moment, negotiations are continuing in Geneva on the CTBT. The current session began on July 25, and is scheduled to end on September 7. This is the last scheduled negotiating session. But a draft treaty has not even been tabled in Geneva.

I therefore urge the President to encourage the session chairman to at least lay down a draft treaty, so that the negotiators can begin narrowing down differences. I urge the President to avoid last minute complications, such as submitting endless verification or other technical suggestions which slow down the process without yielding significant increased security assurances.

I was pleased to learn that John Holum, the director of ACDA, stated on August 4 in Geneva at the U.N. Conference on Disarmament that the U.S. delegation will be willing to work after September 7, "continuously" if necessary.

This is a hopeful sign that the Clinton administration is willing to work with all diligence to complete the negotiations by April 1995.

This resolution merely signifies to the administration that we in Congress consider rapid progress essential to our national security.

I encourage my colleagues to support this resolution, urging the President and other nuclear powers to complete negotiations on the nuclear testing moratorium before the Non-Proliferation Treaty extension conference begins in April 1995.

AMENDMENT NO. 2525

Mr. REID. Mr. President, I rise to oppose the amendment offered by my colleague from Iowa, Senator HARKIN.

Once again, I see an effort to continue to undermine our nuclear deterrent and our nuclear stockpile while ignoring the real danger that faces our world today. That danger is the danger of the proliferation of weapons of mass destruction and, in particular, the spread of nuclear weapons and nuclear weapons technology.

Our national security will be served by negotiating an extension of the Nuclear Non-Proliferation Treaty, but the amendment offered by my friend from Iowa focuses on the negotiation of a Comprehensive Test Ban Treaty, which may or may not play a roll in gaining the extension of the Non-Proliferation Treaty.

A Comprehensive Test Ban Treaty carries with it several clear risks to national security and worldwide security that have been recognized by the Senate, President Clinton, and past Presidents.

The Senate in passing the Hatfield-Exon-Mitchell amendment recognized that the safety and security of our nuclear weapons and, presumably those of other countries, could be improved by a limited continuation of nuclear testing. The Hatfield-Exon-Mitchell amendment permitted continued testing for safety and reliability until 1996 and longer if other nations continued to conduct nuclear tests.

President Bush's national security advisors recommended a veto of the legislation containing the testing restrictions because of its serious consequences to national security. If the amendment had not been tied to a larger bill, it most likely would have been vetoed.

President Clinton, in extending the moratorium, expressed his concerns about the risk that a moratorium posed to our stockpile, but accepted the risk as the apparent cost of establishing the right atmosphere to promote the extension of the Nuclear Non-Proliferation Treaty.

The Chinese and the French have both stated the importance of a limited number of additional nuclear tests before a Comprehensive Test Ban Treaty would be in their national interests. A premature effort to push a Comprehensive Test Ban Treaty before next April may cause the Chinese and the French to withhold their support.

Do we want a Comprehensive Test Ban Treaty that the Chinese will not sign?

I do not support a Comprehensive Test Ban Treaty because I do not believe that it really contributes to making the world safer.

If there is to be an amendment, it should encourage the President to continue his efforts to get an indefinite extension of the Nuclear Non-Proliferation Treaty. A Non-Proliferation Treaty without a Comprehensive Test Ban Treaty is a significant step to a safer world. A comprehensive Test Ban Treaty without an extension of the Nuclear Non-Proliferation Treaty is a failure.

The Chinese will likely continue testing beyond April 1995, the time when the Non-Proliferation Treaty Extension Conference will be held. I suspect that the United States will, and should, push for an extension of the Non-Proliferation Treaty whether or not China or anyone else is testing.

Testing is not the issue. Limiting, or stopping proliferation of nuclear weapons is the issue.

The extension of the Nuclear Non-Proliferation treaty is in the interests of every nation, be they a nuclear power or a nonnuclear state. Most nations know this. No nation will gain from the termination of the Nuclear Non-Proliferation Treaty, although many may threaten not to sign to advance some separate agenda.

I believe that the sense of the Senate resolution offered by my friend from Iowa is in fact an attempt to advance a separate agenda.

That agenda is the delegimitization of nuclear weapons and, in particular, the U.S. nuclear arsenal as fast as possible.

As the chairman of the Defense Appropriation Committee said so eloquently on the floor earlier in this debate, this is not time to let the euphoria of the end of the cold war lead us into thinking that we can abandon our Armed Forces, and in this case our nuclear forces.

The world is still a dangerous place. The nuclear threat has changed, but it has not disappeared. We must maintain our nuclear stockpile, our nuclear deterrent capability, and our nuclear expertise. The capacity to resume testing is a critical element of that capability.

I am very concerned about efforts like this amendment that undermine the support for our own national security without securing assurances that the external nuclear threats are being reduced.

Look at Korea. The Non-Proliferation Treaty did not guarantee that they could not develop nuclear weapons. Our moratorium did not stop them from continuing their program. Our continuing efforts to promote a Comprehensive Test Ban Treaty and a the extension of the Nuclear Non-Proliferation Treaty have not convinced them to reject a nuclear program.

For another example of the continuing external threat, look at the recent discovery of weapons-grade plutonium being diverted from the former Soviet Union and offered for sale in Germany. The news media reports that the buyer for this material was to be Iraq. Does anyone here think that the extension of any treaty will end the threat from Iraq?

An extension of the Nuclear Non-Proliferation Treaty will help address these threats. A Comprehensive Test Ban Treaty will not.

Let us not forget the arguments that have been used to advance the Comprehensive Test Ban Treaty argument. Originally, we needed to stop testing to stop the arms race. In fact, the arms race ended while we were testing. The end came because the Soviet Union collapsed.

Another argument was that we need to stop testing to promote disarmament. The United States and Russia are both in the process of drastically reducing our nuclear arsenals. A testing program for reliability and safety does not preclude a weapons reduction.

Now they are saying that we need to end testing to get an extension of the Non-Proliferation Treaty. This is highly unlikely. The vast majority of responsible nations realize the great progress that has been made by the United States and the former Soviet Union to reduce the nuclear tension and the nuclear stockpiles.

These same nations realize that giving up the Non-Proliferation Treaty solely because there is no Comprehensive Test Ban Treaty is not in their national security interests.

The Comprehensive Test Ban Treaty is, at best, a debatable element of the Non-Proliferation Treaty extension.

If we want to send our President a sense of the Senate, let's tell him that we support his efforts to stop the proliferation of weapons of mass destruction. Let's not divert his attention to secondary issues that may or may not contribute to the ultimate goal.

I ask my colleagues to oppose the Harkin amendment.

AMENDMENT NO. 2526

Mr. LIEBERMAN. Mr. President, at a time of heightened concerns about terrorist attacks such as the World Trade Center bombing and recent incidents in Argentina and London, the Senate has an important opportunity to increase efforts of the United States Government and our allies to help counter these threats.

Several years ago, in response to the bombing of Pan Am 103, the Department of State and the Department of Defense established the Technical Support Working Group [TSWG], an interagency body that coordinates counterterrorism research and development efforts. Since its creation, the TSWG has made valuable contributions to enhancing the security of persons and property both inside the United States as well as beyond our borders by orchestrating and funding the development of innovative technology. For example, the TSWG has already improved the security of people flying on the world's airways by developing advanced methods for postblast detection and postblast containment of chemical explosives.

In the aftermath of the attacks in Argentina and London, it is clear that the world continues to be a dangerous place where terrorism will be used to strike at the heart of civilized peoples everywhere. We should do more to bolster the promising start of the technologies and techniques already developed by the TSWG. As President Clinton recently stated, "I think everyone in the United States would want us to do more against terrorism."

President Clinton requested $6.321 million as the Defense Department's contribution to the TSWG. This amount has been authorized by the Senate and House, appropriated by the House, and is in the Senate Defense appropriations bill we are currently discussing. Virtually all of this is required to continue projects identified in fiscal year 1993 and fiscal year 1994 and already underway. Thus, only about $2 million—the amount provided by the State Department in its funding share—is available for new projects, of which there are many which appear quite promising. Moreover, the $6.321 will limit the TSWG's ability to follow up the excellent start permitted by the fiscal year 1993 congressional initiative for an international program.

In the Defense authorization bill passed by the Senate, an additional $3 million was authorized for TSWG to enable it to continue and expand its promising international cooperative efforts. The additional funding which we seek today in this Defense appropriations will go along with the additional amount authorized and will go a considerable distance in funding important new counterterrorist technologies. Three areas are particularly promising and important: nonlethal technologies; border security; and strategies against advanced shoulder-launched surface-to-air missiles, radio-controlled explosive devices, and weapons of mass destruction. We will not solve the problems posed by these terrorist strategies with the funds we are adding today, but it is vital to keep up the momentum which has developed.

All of us recognize the constrained resources era in which we are currently operating. The distinguished chairman and his staff have worked with us on this amendment and have agreed to accept an additional $2 million for this program. I appreciate the chairman's cooperation and believe that this $2 million investment is both worthwhile and timely. We cannot wait until the next terrorist strike takes innocent lives here or abroad. We should move forward now with efforts which will enable us to prevent these kinds of attacks in the future. We have a responsibility to do all we can. This $2 million is an excellent beginning.

AMENDMENT NO. 2526

Mr. HATCH. Mr. President, I rise as a cosponsor of this amendment because of the importance in providing funds to fight terrorism. This earmark would further enable the Pentagon to contribute funds for the valuable work of the Technical Support Working Groups [TSWG], an interagency group that helps cover collaborative research projects designed to counter terrorist activity.

Mr. President, we have signed a series of Memorandums of Understanding [MOU] with three countries for 15 different counter terrorism programs. These programs cover a range of projects, including improved explosive detection and better perimeter security at a variety of facilities. Unfortunately, the MOU's were signed after budget was submitted, and subsequently the costs of these international R&D programs are not covered in the current budget. While the DOD bill authorized $3 million for the international programs, there is the need for a specific appropriation to cover these international projects.

There is not a single Member of this Chamber prepared to suggest that terrorism is not a serious challenge or threat to American interests or security. The recent bombing attacks in Buenos Aires, Panama, and two incidents in London only underscore the importance of developing the tools and resources to counter terrorism, and I am pleased to see that the TSWG is taking an important role in this process.

If we believe that we need to confront the threat posed by terrorism, then we need to will the means to fight it. I urge my colleagues to support the adoption of the amendment.

AMENDMENT NO. 2527

Mr. SHELBY. Mr. President, I am joined today by Senators HEFLIN and GLENN in offering an amendment to H.R. 4650, the Department of Defense Appropriations Act for fiscal year 1995, that would provide $3 million in much needed additional funding to modernize Air Force management/maintenance information systems. As our forces decline in numbers, it is incumbent on the Department of Defense to ensure that our Armed Forces are in a high state of readiness. In today's military, this often falls to the automated programs which keep maintenance information at technicians' fingertips.

The CAMS/REMIS system is the major Air Force system which provides technicians with up-to-date information about the maintenance and supply status of missiles, aircraft, and other equipment. It is in use at virtually

VOL 140 PT 15 AG 10 — 11 1994 UMI

every Air Force base throughout the United States and abroad.

The CAMS/REMIS system was created under a contract awarded in 1986. While funding has been available to create and operate CAMS/REMIS, and to consolidate other systems into this comprehensive system, funding constraints unfortunately have precluded upgrading the system to keep up with developments in this fast-growing field. I believe it is critically important to our readiness, and to the safety of our air men and women, that the Air Force provide a modern, fully capable maintenance management information system. A total of $8 million for these programs would permit the Air Force to upgrade the system adequately.

Mr. President, I urge the adoption of this amendment.

AMENDMENT NO. 2530

Mr. BINGAMAN. Mr. President, on behalf of myself and Senator DOMENICI I rise to offer an amendment which will ensure adequate funding for a critical safety modification of the F–111 aircraft. The amendment adds $1.296 million, for a total of $2.8 million, to the F–111 squadrons program element in the Air Force RDT&E budget.

As the Senator from Hawaii and the Senator from Alaska know, these aircraft are stationed at Cannon Air Force Base in New Mexico and provide a critical capability to deliver precision munitions deep within an adversary's territory, a capability that was demonstrated repeatedly and was vitally needed during the Persian Gulf war. The amendment I am proposing is consistent with action taken in the conference committee on the defense authorization bill.

During the authorization conference the Air Force told us that additional funds were needed in this program element to correct deficiencies found in operational testing of a modification to the digital flight control system of the F–111 and EF–111 aircraft. These problems include nuisance warnings, warning light anomalies, autopilot release level faults, and a terrain following radar/central air data computer interface fault. The program office at McClellan Air Force Base proposes to fix these problems through an engineering change proposal, the total cost of which is estimated to be $4.3 million. The Air Force informed us they had a requirement for $2.8 million in fiscal year 1995 for the overall program element, $2.5 million of which they intend to use for the digital flight control system upgrade. The remaining $1.8 million for the digital flight control system upgrade will be incorporated in the fiscal year 1996 request.

In light of this information, I hope our amendment is acceptable to the managers and I urge its adoption. I would note before closing that the House version of the fiscal year 1995 Defense Appropriations' Act provides $11.019 million for the F–111 squadrons program element, $9.5 million of which is to be used for safety modifications of the F–111 and EF–111 aircraft if the Secretary of the Air Force submits a report that such modifications are needed. I am not aware of other modifications needed at this time, but if further requirements for modifications in the F–111 fleet are identified by the Air Force, I would urge my colleague from Hawaii and my colleague from Alaska to move toward the higher level in the conference.

Mr. INOUYE. Mr. President, I appreciate the information provided by the Senator from New Mexico. I support the amendment he is offering to insure the digital flight control system is fully funded in this bill. I know the Senator from New Mexico is a very vigorous proponent of the F–111 aircraft and the capabilities it brings to our forces and I know that he takes a personal interest in insuring that upgrades needed by the aircraft, such as the digital flight control system modification, stay on track and get deployed on the aircraft.

With regard to the conference, I will be happy to consult with the Air Force to ascertain the actual funding needs with respect to maintaining the important capabilities of the F–111 fleet. As the Senator points out, there will be ample opportunity for us to bring this matter to the attention of the House conferees with the objective of satisfying the highest priority operational needs of the F–111. It is difficult at this time to predict what will be the amount acceptable to the House conferees for F–111 modifications, but we will do our utmost.

Mr. BINGAMAN. Mr. President, I thank the Senator from Hawaii for his support of my amendment and his promise to look into this matter further in the upcoming conference. I thank him also for his strong support for New Mexico's military installations and laboratories, ad the people who serve in them, support which is reflected in numerous provisions in this bill.

Mrs. FEINSTEIN. Madam President, I rise today to offer an amendment that would require the Secretary of Defense to report to Congress on a very important issue that involves not only congressional oversight of a defense program, but also proliferation concerns and stability in the Middle East: A Department of Defense proposal to codevelop the Advanced Threat Radar Jammer [ATRJ] with the United Arab Emirates [UAE].

I understand that the U.S. Army and Defense Security Assistance Agency [DSAA] are prepared to offer the UAE a proposal to codevelop the ATRJ—the Army's net generation radar receiver and jamming system. Under this proposal, the UAE would provide funding for research and development of the ATRJ and then be allowed to purchase the sophisticated systems for installation on recently acquired AH–64 Apache helicopters.

I and many of my colleagues are concerned about this proposal for several reasons. First, this agreement would establish an arrangement wherein a foreign nation would fund a U.S. defense program in an apparent circumvention of the normal authorization and appropriations process, and beyond the effective oversight of Congress. The Congress has repeatedly voiced its objections to executive branch efforts to solicit funds in support of U.S. foreign policy or defense initiatives that were not first made subject to the scrutiny of the legislative branch.

Second, I believe this agreement would undermine the President's own efforts to constrain weapons proliferation. It provides the UAE with a quantum improvement in its war fighting capability which could provoke other hostile nations to seek advanced systems to counter the new perceived UAE threat.

Third, this arrangement would violate a departmental policy, recently reaffirmed by the Deputy Secretary of Defense on March 15, 1994, which states that "the Department of Defense remains committed to the policy of no foreign military sales or commitments for foreign sales of defense systems prior to the successful completion of OT&E [operational test and evaluation], and the specific approval of the Under Secretary of Defense. This policy remains in effect today."

Finally, I am deeply concerned that if this new weapons system were introduced into a volatile region and ever fell into the hands of a U.S. adversary, its state-of-the-art jamming capability could pose a serious threat to U.S. forces. When fully operational, this system will be capable of friend or foe identification, pulsed radar jamming, extreme radio frequency sensitivity and processing capability, as well as multi-band situational awareness.

I see little justification for proceeding with an arrangement that is fraught with so many questionable funding practices and policy implications. While I and many of my colleagues believe that the United States shares an interest in the security of the UAE, the ATRJ would provide a level of jamming capability significantly greater than that possessed by many of our close NATO and major non-NATO allies. The possible threats to the UAE are no greater than those faced by other nations in the region, none of which have been asked to participate in the ATRJ program.

I have already contacted the Defense Department on this issue, expressing my concern over the codevelopment of the ATRJ with the UAE. Unfortunately, I found the response to my concerns to be inadequate.

Therefore, I have offered this amendment that directs the Department of Defense not to proceed with the codevelopment of the ATRJ with any foreign entity until the Department has fully consulted with Congress, and evaluated both legal and policy implications. The amendment exempts our NATO and major non-NATO allies.

Specifically, the report to be submitted by the Secretary of Defense should include the following:

(1) The legal basis for seeking for the program funds that are neither authorized to be appropriated nor appropriated.

(2) The consistency of the program with the Department of Defense policy that no foreign military sale of a defense system, and no commitment to foreign military sale of a defense system, be made before operational test and evaluation of the system is successfully completed and the Under Secretary of Defense for Acquisition of Technology has specifically approved the system for sale to a foreign government.

(3) The mission requirement for an advanced threat radar jammer for combat helicopters.

(4) An assessment of each threat for which an advanced threat radar jammer would be developed, particularly with regard to each threat to a foreign country with which the United States would jointly develop an advanced threat radar jammer.

(5) The potential for sensitive electronic warfare technology to be made available to potential adversaries of the United States as a result of United States participation in the program.

(6) The availability of other nondevelopmental items and less sophisticated technologies for countering the emerging radar detection threats to United States combat helicopters and combat helicopters of United States allies.

(7) A capability assessment of similar technologies available from other foreign countries and the consequences of proliferation of such technology.

I urge my colleagues to support this common sense amendment and I urge its adoption. I now ask unanimous consent that my previous correspondences with DOD be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 13, 1994.

Lt. Gen. THOMAS RHAME,
Director, Security Assistance Agency,
Washington, DC.

DEAR GENERAL RHAME: I am concerned that the Department of Defense is considering a co-development program with the United Arab Emirates (UAE) for the Army's Advanced Threat Radar Jammer (ATRJ). This action follows the sale of AH–64 Apache helicopters to the UAE.

Apparently, the UAE would provide funding for research and development of the ATRJ and then be allowed to purchase the sophisticated systems for installation on the recently required Apache helicopters. Specifically, I am concerned that the proposed program could have serious implications for U.S. national security by providing the UAE with an ultra-sophisticated capability to detect enemy radar and equip UAE helicopters with an advanced, high-powered radar jamming system.

This precedent may represent a major departure from U.S. Middle East policy and our commitment to Israel's qualitative edge in its national defense. To my knowledge, ATRJ technology has not been offered to other U.S. allies and would likely surpass similar technologies currently employed by other countries. By allowing the UAE to assist with research and development costs, the Defense Department may be granting a foreign country access to the most advanced version of a weapon system used by U.S. forces. In addition, the ATRJ co-development program may cause a new round of high technology proliferation in a very volatile region of the world.

I urge you to fully investigate the ATRJ co-development program, and carefully consider the implications to U.S. national security and U.S. Middle East policy. Thank you for your attention to this matter and I look forward to your reply.

Sincerely yours,

DIANNE FEINSTEIN,
U.S. Senator.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, May 10, 1994.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: This responds to your April 13, 1994, letter concerning the electronic warfare (EW) suite for the United Arab Emirates' (UAE) AH–64 Apache helicopter program.

The UAE has for some time been considering several United States and foreign EW systems for its AH–64 Apache helicopters. The Department of Defense and the UAE are exploring a two-phased approach under which the UAE would purchase a standard U.S. Army EW suite for its short-term needs, with a possible cooperative development program providing hardware for its long-term requirements. These discussions are still at an early stage, and no final decisions have been reached.

It is premature to speculate about the configuration and capabilities of any hardware that may result from a cooperative program several years hence, though it assuredly would not exceed the capabilities of equipment in use with our own forces. Should the United States and the UAE agree on such a program, you can be assured that all sensitive technologies would be protected and precautions taken against unauthorized disclosures.

The central objectives of our security assistance programs throughout the region are to enhance the self-defense capabilities of our friends and allies and to build the interoperability that will enable us to fight together should it ever become necessary. If successfully implemented, this program will fulfill both these objectives by providing UAE aircrafts with a defensive system that will be interoperable with U.S. systems and supportable through the U.S. logistics system.

I can assure you that our commitment to Israel's security remains unshakable. We would not even be considering such a program with the UAE if we believed that it would affect Israel's qualitative edge, which we are committed to maintaining. Please contact me if I can provide any additional information.

Sincerely,

THOMAS G. RHAME.

CENTER FOR MANUFACTURING SCIENCES

Mr. RIEGLE. Mr. President, I am concerned that the Defense appropriations bill deletes funding for the National Center for Manufacturing Science [NCMS]. I would also note that the committee report contains language questioning the appropriateness of continued DoD funding for NCMS. I recognize and support the need for close scrutiny of programs funded by the Department of Defense, especially in this time of constrained budgetary resources. However, this Senator believes that the best way to ensure effective use of DoD research and development funding is through the dual-use technology and manufacturing policy currently being followed by the Department. As Anita Jones, Director of DDR&E, stated in her testimony before the Senate Armed Service Committee, "our vision for the 21st century manufacturing is for an integrated civil/military industrial base that can provide a flexible response to our needs for a variety of product demands at varying rates, and can reduce the cost of defense products by getting components and subsystems from dual-use production lines." Mr. President, the NCMS is designed specifically to accomplish just such a dual-use objective, and therefore is highly appropriate for DoD funding.

As to the concerns that have been raised as to the defense benefits of NCMS, it is my understanding that the Department and NCMS signed an agreement that provided that all funded projects must have a defense application and that DoD would receive royalty-free licenses to all technologies developed. It is also my understanding that more than 20 weapon systems currently utilize NCMS developed technologies, including the V–22 Osprey and the C–17.

Given the benefits accruing to DoD through NCMS' research projects, I hope that the Chairman of the Defense Subcommittee will reconsider this issue during Conference with the House.

INTENT OF SEC. 8096

Mrs. FEINSTEIN. I would like to engage the distinguished Chairman of the Defense Appropriations Subcommittee in a colloquy to clarify Section 8096 of this bill regarding defense reinvestment programs. Is it the Chairman's intent that this section should in no way impact the small business defense conversion guaranteed loan program?

Mr. INOUYE. The senior Senator from California is correct. Service 8096 does not impact the small business defense conversion guaranteed loan program.

BRAIN AND SPINAL CORD INJURY RESEARCH

Mr. GRAHAM. Mr. President, I would like to express my deep concern for those suffering from injuries to the brain and spinal cord. I have spoken with my distinguished colleague from Hawaii, Senator INOUYE, who appreciates the seriousness of this medical

VOL
140
PT
15
AG
10
—
11
1994
UMI

problem. And I would like an opportunity to further express my thoughts on this issue.

There are approximately 180,000 individuals in the United States who suffer from chronic spinal cord injury, with between 10 and 12 thousand new cases added each year. A substantial number of these individuals, approximately 45,600, are veterans—men and women who have served our Nation with honor and distinction. Sixty percent of these veterans receive treatment for these injuries exclusively from VA facilities, while another 23 percent use a secondary medical provider in addition to the VA.

We know that combat service can be very hazardous, and that injuries to the brain and spinal cord can occur both during combat-related operations and noncombat-related activities. They can and do occur from shell blasts, armed combat, bullet wounds, and sometimes, common accidents. Very often such injuries are fatal. For those who survive, the injuries are usually seriously debilitating.

Currently, our Nation spends approximately $1.4 billion per year for initial spinal cord injury medical treatment. And an additional $4 billion is spent each year for subsequent spinal cord injury treatment.

Our moral obligation to help our veterans, the need to help prevent deaths and aggravated injuries among active duty military personnel, as well as the costs associated with such injuries and treatment, are compelling reasons for us to invest in research efforts to develop effective treatment for those afflicted with such injuries.

That is why I believe that it is important that the Departments of Defense and Veterans' Affairs work together on this medical problem to assist both members in uniform and our veterans in this regard.

I am pleased that the Senate Armed Services Committee, on which I serve, recommended $20 million for a collaborative Department of Defense and Department of Veterans' Affairs research initiative for brain and spinal cord injury, with cost sharing as a prerequisite. I am confident that the authorization conference committee will support the Senate-passed provision.

Knowing that we share a similar concern in this area, I would like to ask the chairman questions to clarify the intent of his subcommittee with respect to the Defense appropriations bill for fiscal year 1995.

Mr. INOUYE. I would be happy to respond to the Senator from Florida.

Mr. GRAHAM. I thank the Senator. It is my understanding that the chairman shares a similar concern regarding brain and spinal cord injury, and believes that such research should be considered a high priority for the two departments. Is that understanding correct?

Mr. INOUYE. Yes, it is. I am well aware of the problems the Senator spoke of, and would support the use of funds appropriated in the bill for this research.

Mr. GRAHAM. I thank the Senator. Is the distinguished chairman aware of the cost-shared brain and spinal cord injury research program authorized in S. 2182, the Defense authorization bill; and if so, is this a program that the chairman would support?

Mr. INOUYE. Yes, I am aware of the action taken by the Senate Armed Services Committee, on which the Senator from Florida serves, and I fully support their recommendations with regard to this brain and spinal cord injury initiative.

Mr. GRAHAM. Again, I thank my colleague for those words of support. Given the clear intent of the authorizing committee in the Senate to provide full funding for this collaborative initiative between the Departments of Defense and Veterans' Affairs, is it the intent of the distinguished floor manager that full funding would be available in the Defense appropriations bill to carry out this meritorious program?

Mr. INOUYE. Yes, it is our intent and desire to provide the full amount authorized for the brain and spinal cord injury research initiative.

Mr. GRAHAM. Finally, is it also the desire of the appropriators for the Departments of Defense and Veterans' Affairs to act promptly to ensure that authorized and appropriated monies are directed to brain and spinal cord injury research?

Mr. INOUYE. Yes, it is.

Mr. GRAHAM. I thank the distinguished Senator from Hawaii and look forward to working with him during further consideration of the Defense appropriations bill for fiscal year 1995.

Mr. BOND. I would like to address the provision in the bill regarding the Air Force's 60K aircraft loader program.

There has been a lot of talk in recent months about the concept of buying commercial-derivative aircraft either to replace or supplement military aircraft such as the C–17 and C–5B. Despite one's views on that subject—and I am one who has strong views—it is clear that the Air Force needs a new aircraft loader to replace its current inventory of Vietnam-era loaders. This new loader—the 60K loader—will be used to load and unload all types of cargo aircraft, however, it will be absolutely essential for operating any commercial-derivative aircraft we buy, as well as the Civil Reserve airfleet aircraft. The new system will allow the Air Force to load supplies rapidly on its aircraft for vital military missions and humanitarian relief missions. Given the daily commitments we face in airlift needs, the 60K loader is a vital part of the airlift master plan.

In its report, the committee has exercised its oversight responsibility and raised several valid concerns regarding the Air Force's progress on the 60K loader program. My office has been in contact with the Air Force on this matter, and they have said that any decrement in fiscal year 1995 funding could result in higher costs and possible delay for the program. In the Air Force appeal of our mark, they say our bill "actually increases risk as well as cost" of this program which the Air Mobility Command ranks second only to the C–17 in terms of requirements. I believe it is essential that we work with the Air Force to find a solution that meets the committee's concerns without causing harm or delay to the program. I hope the chairman will work with me and the Air Force to craft an equitable solution.

Mr. INOUYE. I thank my colleague for his statement. I understand his concerns about this program. I, too, believe the 60K loader is a vital part of this Nation's future airlift capability. The committee has, indeed, voiced concerns about the structuring of the program. However, I would be glad to work with my colleague from Missouri in the conference committee to ensure that this program stays on an appropriate track. I will also direct the committee staff to work with the Air Force to resolve committee concerns. I believe we can work together to help the Air Force make this vital program a success.

Mr. BOND. Mr. President, I would like to commend the chairman and ranking member for including in the committee report accompanying this bill an important provision directing a study of the Air Force's strike airpower requirements. I have been concerned for some time about the Air Force's plans regarding the future of our interdiction aircraft force. These aircraft—the F–117, F–111, and F–15E—played a key role in the Gulf war, and would certainly play a similar role in any future conflict.

The aircraft that make up the long-range interdiction force are the primary ones that can deliver precision guided munitions. In the Gulf war, we used them for striking hardened targets, for Scud hunting, and other priority strikes. Unfortunately, the future of the interdiction force appears to be bleak.

The Air Force reportedly has considered plans to retire the entire F–111 strike force. Although there are currently two full wings of F–15E's, normal attrition will take us below that amount in the near future. And there are only 56 F–117's remaining in the inventory at this time.

The F–117 line has been shut down for years. The Air Force has no current plans to buy additional F–15E's. And, in a development that only increases my concern, the Air Force has said that they plan to fill the eventual gap left by the F–111 with the F–16—an aircraft that does not have the range required to perform the mission, the ability to carry a similar weapons load, nor the same ability to deliver precision-guided munitions as the F–111. Moreover, the ability of long range bombers to deliver precision-guided munitions will be limited until about the turn of the century when these weapons begin to become available in adequate numbers.

It seems clear to me, that we face a major shortfall in interdiction aircraft as we enter the next century. The study ordered by the committee report on this bill will help us to focus on what that shortfall is, and how best to address it.

In my view, I believe the study ought to focus in on several specific points including:

First, the impact of the eventual retirement of F–111 aircraft on the Air Force's ability to conduct interdiction missions; second, the outlook for the interdiction force, assuming an eventual F–111 retirement and the expected attrition of F–15E and F–117 aircraft, and the ability of that force to meet planned requirements; third, the ability of existing aircraft (F–117, F–15E, F–16) to perform the mission currently being performed by the F–111—that is, the delivery of precision-guided munitions in the long-range interdiction role; fourth, the costs and operational effectiveness of continuing to operate the F–111 aircraft for the long-range interdiction role through the end of their expected service life; and fifth, the possible need for additional aircraft to fulfill the interdiction role.

I believe that a review of these issues will help both the Air Force and Congress to understand the challenge we face and begin to address it.

Mr. INOUYE. I thank the Senator from Missouri for his comments. I believe he has focused on an important issue—one that we will have to face in future budgets. I agree that the specific questions he has outlined are ones that, among other important considerations, should be covered in the independent strike airpower study to be performed by the Institute for Defense Analysis. I will do my best in conference to see that these issues are to be addressed comprehensively in the required study. I also intend to seek approval by the conference committee of the requirement that the full results of this study shall be submitted, in both classified and unclassified versions, to the congressional defense committees no later than June 1, 1995.

JOINT TRAINING, ANALYSIS AND SIMULATION CENTER FOR U.S. ATLANTIC COMMAND

Mr. GLENN. Mr. President, this amendment would provide up to $10.5 million in fiscal year 1995 for the Navy to begin procurement of equipment to outfit the new Joint Training, Analysis and Simulation Center for U.S. Atlantic Command. The amendment does not add funds to the bill—it simply provides the authority for the Navy to use funds within the Other Procurement, Navy account to initiate this exciting new simulation Center.

Earlier this year, the Subcommittee on Military Readiness and Defense Infrastructure which I chair visited the Norfolk Naval complex to discuss readiness concerns with front-line operating units. During our visit, we met with Adm. Paul David Miller, the Commander in Chief of U.S. Atlantic Command to discuss readiness within USACOM.

During that discussion, Admiral Miller briefed the Subcommittee on the Command's plans for a Joint Training, Analysis and Simulation Center. The purpose of this Center will be to provide cost-effective joint training to support U.S. Atlantic Command's program for training joint task forces through simulation.

Mr. President, in June the Defense Science Board Task Force on Readiness, chaired by former Army Chief of Staff General Shy Meyer, issued its final report on readiness in the Department of Defense. This Task Force found that the Defense Department did not have good systems for measuring joint readiness, and urged DOD to provide "increased emphasis on Joint and Combined readiness and requirements, including development of joint mission essential task lists."

The Readiness Task Force also called for enhanced use of modeling and simulation. Their final report recommends that "Modeling and simulation technology should be exploited to enhance joint and combined training and doctrine. It offers tremendous opportunity to leverage our existing training at all levels through enhancement or even replacement where appropriate after thorough review."

In my view, Mr. President, this new Joint Training, Analysis and Simulation Center is exactly the kind of effort that is called for by the Defense Science Board Task Force on Readiness. This Center will serve to improve and measure joint readiness, and provide a laboratory for the improvement of joint tactics, throughout U.S. Atlantic Command.

This new facility will be located in the building which was constructed for the Naval Undersea Warfare Center in Suffolk, VA. This building is under long-term lease to the Navy. Since the Naval Undersea Warfare Center is leaving this building as a result of the Base Realignment and Closure process, the use of the facility as the site for the Joint Training, Analysis and Simulation Center will make cost-effective use of this facility.

Mr. President, I ask unanimous consent that a letter from Mr. Louis Finch, the Deputy Under Secretary of Defense (Readiness), to Senator NUNN describing the Joint Training, Analysis and Simulation Center be included in the RECORD at the conclusion of my remarks.

I urge my colleagues to support this amendment.

Without objection, the letter was ordered to be printed in the RECORD, as follows:

PENTAGON,
Washington, DC, June 23, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your recent inquiries regarding the Joint Training, Analysis and Simulation Center (JTASC). The purpose of this Center is to provide cost-effective joint training to support the United States Atlantic Command's (USACOM) program for training joint task forces via simulation. This program will serve to improve and measure joint readiness, provide a laboratory for the improvement of joint tactics, and establish a secure CONUS joint environment for the demonstration of new technologies. It will occupy and use as a hub for these efforts the facility in Suffolk, Virginia, that is being vacated by the Naval Undersea Warfare organization.

To ensure there is no duplication of efforts, the JTASC fully intends to coordinate its efforts with those of the Services and other joint training efforts including those of the Joint Warfighting Center and the Armed Forces Staff College in Tidewater, Virginia, and those of the United States Special Operations Command for Special Operations Forces. It is my understanding that $10.548 million is required to finance the initial phase of this effort which is to procure command, control, communications and computer equipment for the Center.

Thank you for inquiry on this cost-effective program to improve joint readiness and other defense matters.

Sincerely,

LOUIS C. FINCH,
Deputy Under Secretary of Defense, (Readiness).

Mr. INOUYE. Mr. President, since we have finished our work for this evening, and we will be returning at or about 1:30 tomorrow afternoon, may I suggest the absence of a quorum.

Mr. FORD. Will the Senator withhold.

Mr. INOUYE. Certainly.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators allowed to speak therein up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SENIOR SENATOR FROM VERMONT

Ms. MIKULSKI. Mr. President, I rise today to honor one of the true leaders of the U.S. Senate, the senior Senator from Vermont.

I have had the privilege of serving with the distinguished senior Senator from Vermont on the Foreign Operations Subcommittee. As chairman, he

VOL
140
PT
15
AG
10
11
1994
UMI

is a champion of reason and compassion in the debate over foreign aid reform. He is presiding very effectively over the transition from a cold war foreign aid program to a new policy that addresses the challenges of the post-cold-war world.

I am happy to say that the senior Senator from Vermont has also been a champion of women's rights and reproductive health care. In a time of shrinking budgets, he has managed to increase the funding for these areas in recent foreign aid bills. This is a remarkable tribute to his effectiveness as subcommittee chairman, and to his sense of fairness.

I could go on at length praising the senior Senator from Vermont's accomplishments, but instead I will submit an article for the record from the Daily Herald of Rutland, VT. This article clearly explains why the senior Senator from Vermont commands such respect in this body and throughout the Government. He is a leader in every sense of the word, and I am proud to serve with him. Mr. President, I ask unanimous consent that this article be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Rutland Daily Herald, July 6, 1994]

LEAHY'S NEW WORLD

(By Melrose E. Huff)

Vermont may be a haven from the world for some, but the senior Senator from Vermont is helping to redefine America's role in the New World Order.

Sen. Patrick Leahy, now in his fourth term, has emerged as one of Washington's most influential voices on foreign policy and the reform of foreign aid.

"Leahy has been both a key leader and a key adviser on foreign policy" to the Clinton administration, according to Wendy Sherman, Assistant Secretary of State for legislative affairs. "The Secretary (of State), the President, and the Vice President see him as a keen observer and * * * someone they look to for counsel."

Sherman, the liaison between Secretary of State Warren Christopher and the congressional leadership, observed, "What is unique about Senator Leahy is that he has a policy perspective, intellectual know-how and understanding, and the appropriator's tools."

Leahy's influence derives from his chairmanship of an appropriations subcommittee that provide the funds for foreign aid. The appropriations are considered cardinals in the Senate," Sherman said. "They are seen as extraordinarily powerful because they have the power of the purse."

Leahy has chaired the foreign operations subcommittee of the Senate Appropriations Committee since 1989, and both Republican and Democratic administrations have had to rely on him to win passage of their foreign assistance requests.

Leahy's foreign aids subcommittee has come to play a role that is vastly disproportionate to the usual process, another official observed. That's because since the mid-1980s the Senate Foreign Relations Committee has been unable to produce an authorization bill, which in the bill that draws the general outlines of programs and sets spending levels.

The leadership of the Foreign Relations Committee has been deadlocked for years. Its chairman, Claiborne Pell, a liberal Democrat from Rhode Island, won a zero percent approval rating from the American Conservative Union last year. Its vice chairman, North Carolina Republican Jesse Helms received a 100 percent rating. The result has been to delegate that committee's power to reshape policy.

"Your budget is your policy," said Marianne O'Sullivan, who is chief of appropriations and budget for the legislative bureau of the Agency for International Development. And Leahy "has played the lead role in the Senate in reprioritizing where foreign aid funds are spent," she said.

Leahy has cut military and security assistance while increasing funds for such programs as population planning, international environmental assistance, child survival assistance and AIDS prevention, O'Sullivan said.

In 1989, the first year Leahy was chairman of the foreign operations subcommittee, he cut the administration's $5 billion foreign military financing request by $300 million; last year he cut a $4 billion request by $110 million. During those same years he increased development and economic assistance to sub-Saharan Africa from $565 million to $784 million, she noted.

Funding for disaster aid and development assistance—the kinds of programs usually thought of as "foreign aid"—makes up 46 percent of the current year's nearly $19 billion budget. Foreign military financing has dropped to 23 percent. Contributions to multilateral lending institutions, such as the International Monetary Fund and the World Bank, account for another 14 percent. Appropriations for the Peace Corps, narcotics control, refugee aid, anti-terrorism assistance and promotion of U.S. exports make up the remaining 17 percent.

Although year-to-year comparisons are difficult because of changes in accounting methods, this year's allocation for foreign military financing is roughly 25 percent smaller than 1989's, while development assistance is nearly 25 precent greater. Leahy likens the slow process of making these changes to reversing the course of a supertanker.

"My concern is that foreign aid, as such, continues by inertia and policy neglect. Nobody wants to stop and say why we're doing this," Leahy said.

By the end of Leahy's first year as chairman of the foreign operations subcommittee, it had become clear to him that foreign aid was in need of fundamental reform. Leahy called upon President Bush in a 1990 Senate speech to "confront the enormous global problems that have replaced communism as the greatest threat to our security" and submit a foreign aid budget that would address "the momentous changes * * * sweeping the world since the fall of the Berlin Wall." The Bush administration did not respond.

During the last presidential campaign, O'Sullivan said, Leahy wrote to candidate Clinton and to Bush calling for the reform of foreign aid. Then, during the first hundred days the Clinton presidency, he delivered a series of speeches on the Senate floor proposing major reforms in the foreign assistance act—the permanent law that authorizes funding for foreign aid—and calling for a total overhaul of AID.

"Frankly," Leahy said in the fourth and final speech, "it is the last chance. I do not intend to bring foreign aid bills to the floor of the Senate and ask senators to vote on them" unless reforms are undertaken. That widely cited warning was heard throughout the Clinton administration.

The problem in the past, Leahy told the Senate, was that we expected foreign aid to work in the developing world as the Marshall Plan had in Europe, where democratic institutions already existed. "By placing such a high priority on political stability and anti-communist credentials, we failed to insist on the establishment of democratic forms and institutions * * * nor did we penalize recipient governments that did not produce better lives for their own people."

Leahy singled out aid to Somali and Zaire as examples of U.S. support for repressive and corrupt governments that not only did "not prevent anarchy, it actually promoted it by allowing dictators to avoid the need to build workable institutions."

Patchwork attempts to reform the Foreign Assistance Act of 1961, a piece of Cold War legislation that sanctioned aid as a weapon in the fight against communism, failed because of "inadequate political, bureaucratic, or intellectual preparation," Leahy charged.

The result has been increasing congressional disenchantment with foreign aid. Leahy noted that it was impossible to pass an appropriation for the 1992 fiscal year: The entire foreign assistance program was funded through a year-long continuing resolution. The 1993 appropriation passed only because it included a highly popular Israeli loan guarantee program.

Leahy told the Senate that a foreign aid program advancing our national interests in the post-Cold War era would be one that "protects the environment, curbs runaway international population growth, promotes democracy and human rights, and stimulates sustainable economic growth with equity." He pointed out that foreign aid "aimed at promoting sustainable growth in the Third World offers a way to stimulate rapid growth in U.S. exports sales," which in turn creates U.S. jobs.

Leahy outlined a plan for restructuring aid that abandoned allocations for specific countries and focussed instead on broad policy objectives promoting sustainable development, building democratic institutions, encouraging respect for human rights, protecting the global environment, stabilizing world population growth, providing humanitarian aid and disaster assistance and advancing private enterprise and market economies.

Leahy also recommended a number of structural changes in AID, the agency that implements the foreign assistance program. He called for reducing the number of its overseas missions and implementing programs through private voluntary organizations, international organizations and the private sector when possible. He also urged increased local participation in planning and implementing AID programs.

In response to calls by Leahy's subcommittee and other Senate and House oversight committees, Christopher created a task force in the spring of 1993 to rethink the role of foreign assistance. In addition, President Clinton ordered the National Security Council to conduct a review.

The result was the first blueprint in more than a quarter of a century for U.S. engagement with the developing world. The Peace, Prosperity, and Democracy Act of 1994 was submitted to Congress in February and, if passed, will replace the Cold War Foreign Assistance Act of 1961.

The bill's new policy objectives are set forth in its six major divisions, or titles: promoting sustainable development; building democracy; promoting peace; providing humanitarian assistance; promoting growth through trade and investment; and advancing diplomacy.

According to AID's Kelly Kammerer, who helped draft the new legislation, if you compare Leahy's Senate speeches on foreign aid reform to the NSC and State Department reports and to the new bill, you'll see "that almost point by point Senator Leahy's recommendations have been incorporated." He observed, "It is a remarkable tribute to Senator Leahy."

It's also why, as O'Sullivan said, Leahy's "name is practically synonymous with foreign aid reform in this town."

SOCIAL SECURITY REFORM ACT OF 1994

Mr. SARBANES. Mr. President, last week the Senate approved important legislation which would make the Social Security Administration an independent agency. While this measure has been overshadowed by other issues, it is my view that it will positively affect the lives of every working American. Establishing the Social Security Administration as an independent agency appropriately frees social security from the economic and budgetary decisions affecting the rest of the Government, thereby increasing the agency's integrity.

Polls indicate that a majority of younger Americans believe that they will be unable to collect social security benefits by the time they reach retirement age. This bill reinforces the principle of the trust fund, ensures adequate administrative funds to operate the system for future generations, and returns to the system some of the public confidence that has eroded since the program's inception in 1935.

Today, the Social Security Administration has an annual budget of $300 billion, making it the third largest agency after the Department of Health and Human Services and the Treasury Department. More than 42 million individuals receive Social Security benefits and the Social Security Administration is responsible for maintaining earnings records for 132 million workers. Given the magnitude of its workload and operation, it makes sense to establish the Social Security Administration as an independent agency.

Separating the Social Security Administration from the Department of Health and Human Services was first recommended in the 1983 National Commission on Social Security reform. Following the committee's recommendation, Congress commissioned a study of how to make the Social Security Administration independent. The study was conducted by Elmer Staats, former Comptroller General of the General Accounting Office, and recommended that an independent Social Security Administration should be headed by a single administrator with a bipartisan panel to permit independent review. In 1989, the GAO assessed the most appropriate management structure for an independent Social Security Administration and came to the same conclusion.

The legislation passed by the Senate follows these recommendations. This measure will establish a bipartisan advisory board which will work with the Commissioner in determining policies which affect social security programs. It will increase the Social Security Administration's visibility and credibility. It will improve administrative efficiency, and it will provide the agency with more autonomy to direct and protect the Social Security trust fund.

As a direct result of reports that some disabled individuals have been using their benefit check to support their drug and alcohol habits, this bill also includes measures aimed at preventing fraud and abuse. Through the SSA's Social Security Disability Insurance [SSDI] and Supplemental Security Income [SSI] programs, 250,000 drug addicts and alcoholics receive $1.4 billion in cash benefits annually. However, the Social Security Administration can only verify that three percent of these beneficiaries receive treatment. This bill would require disabled substance abusers to be in treatment as a condition of receiving benefits, and will end all benefits after three years. A responsible third party, such as a community service agency, will manage their benefits. This is a common-sense way to make certain that drug addicts and alcoholics get the treatment they need without abusing the system.

In his 1944 address to Congress, President Roosevelt observed that this country had "accepted a second bill of rights under which a new basis of security and prosperity can be established for all, regardless of station, race or creed." Among these, he said, is the right of every American to have "adequate protection from the economic fears of old age, sickness, accident and unemployment."

President Roosevelt's words are still true today. We have a vested interest in preserving the stability of the trust funds for Social Security and Medicare and a responsibility to ensure access to quality services for all Americans today and in the years to come. I am pleased that Congress has taken steps to this end and I look forward to President Clinton signing this measure into law.

GODFATHERS OF RHODE ISLAND RENAISSANCE

Mr. PELL. Mr. President, I would like to share with my colleagues a thoughtful article expressing appreciation of two Rhode Island philanthropists and the far-reaching effect of their generosity.

The two philanthropists are Alan Shawn Feinstein and John Hazen White. Both men have focused their considerable resources on providing improved educational opportunities.

Each, in their own way, have helped to fuel what may yet become a Rhode Island renaissance. Our experience in Rhode Island may well serve as an inspiration to other philanthropists in other regions of our nation.

This article, by the way, is by someone who knows of the impact of Mr. White's philanthropy—Thomas J. Farrell, dean of the John Hazen White School of Arts and Sciences at Johnson & Wales University.

Mr. President, I ask unanimous consent that this article, entitled "Two godfathers of a Rhode Island renaissance," which appeared in the Providence Journal of August 5, 1994, appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWO GODFATHERS OF A RHODE ISLAND RENAISSANCE

Henry David Thoreau said, "Philanthropy is almost the only virtue that is sufficiently appreciated by mankind." Thoreau's comment is a useful reminder to Rhode Islanders that we need to recognize and value the philanthropists in our midst who have recently taken the lead in what has the promise of being a political, economic and social renaissance in our state.

Two of those philanthropists are Alan Shawn Feinstein and John Hazen White.

Although the philanthropic spirit is as old as recorded history, the term was first used in the 18th Century, when the state and private individuals began to take over charitable works previously done by religious organizations. Philanthropy is generally understood as being characterized by a spirit of goodwill toward humanity, usually expressed by activities that promote human welfare. While particular acts of generosity will vary in the amount of good they do for society, we can be certain that Mr. Feinstein and Mr. White surely represent philanthropy at its very best.

In late March, the Rhode Island Chapter of the American Red Cross honored Mr. Feinstein with a Longfellow Humanitarian Award. Among Mr. Feinstein's many accomplishments singled out that evening, the Red Cross applauded his committing millions of dollars to starting programs in community and public service in Rhode Island high schools. Providence College has established a degree program in public service with a Feinstein grant and "through his vision and financial support," the first high school in the country to have public and community service as its central theme will open in Rhode Island this year. Mr. Feinstein also founded the World Hunger Program at Brown University, the first university center for research and education addressing the root causes of world hunger.

A month later, 250 persons gathered at a reception to recognize John Hazen White's $1 million gift to the School of Arts and Sciences at Johnson & Wales University. The president and chief executive officer of TACO Inc. had previously provided Brown University with the funding to set up the Public Opinion Laboratory that bears his name. But it is "Red Alert!," Mr. White's grass-roots movement to bring about political reform and enhance the quality of life in Rhode Island, that is his most widely recognized activity.

VOL
140
PT
15
AG
10
—
11
1994
UMI

His frequent full-page newspaper ads call citizens to periodic town meetings at which healthy debates take place on issues ranging from integrity in state government to the problems of adolescents. On a quieter scale, all of Mr. White's employees at his Cranston-based manufacturing firm are able to attend free classes in the TACO Learning Center built just for their use. Employees can take classes—on company time—in anything from English as a Second Language to accounting for nonprofessionals, from parenting to customer service, from Weight Watchers to GED training.

Both Alan Shawn Feinstein and John Hazen White have philanthropic interests other than those mentioned here. It is worth noting, however, that a common thread runs through much of their gift-giving. That common thread is the conviction that education is the key to a better society. They accept Plutarch's notion that "the very spring and root of honesty and virtue lie in good education."

Astute businessmen that they are, these two Rhode Islanders instinctively realize that certain investments are apt to reap greater dividends. Both seem to share with Vaclav Havel, the playwright/president of the Czech Republic, the knowledge that "consciousness precedes action." In other words, people need to understand what something is about before they can do anything to change it.

Fortunately, there is considerable evidence that a new consciousness is spreading throughout the state, that there is a feeling of renewal caused by something other than balmy spring weather, that indeed we may be in the early stages of a Rhode Island renaissance.

Cynics may scorn such optimism and point to recent actions of the judiciary, the state Lottery Commission, or individual members of the state legislature to argue that business goes on as usual. That is what cynics do. In some cases, they may have a point, but ultimately, cynicism does not solve problems; nor is it psychologically satisfying.

What Rhode Islanders need most of all is to regain their self-esteem and confidence. Thus it is necessary to recognize and appreciate all the good things that are taking place. Consider the work of members of the various reform groups: Right Now, Common Cause, GAP, USPAC, Clean Sweep, Council of Churches, etc. Put partisan politics aside and acknowledge that Gov. Bruce Sundlun and the new state officers have restored a sense of trust and integrity to government.

Walk through downtown Providence and visualize the city that may yet come to be as a result of the efforts of the mayor and a number of planning groups. Witness the communication and cooperation between the city's colleges and hospitals and Mayor Vincent Cianci resulting in a pact that will benefit the children of Providence for years to come. All of these are signs of renaissance, a time for change, a time for new beginnings.

Is it premature to use the term "renaissance" to describe these recent events? perhaps, but the rebirth of optimism, and thinking positively, can often help actualize aspirations. We owe at least this much to Feinstein, White, and all of the many citizens who strive to make Rhode Island a better place.

TRIBUTE TO JOYCE RIDE

Mr. LIEBERMAN. Mr. President, I rise to recognize the exceptional efforts of Joyce Ride whose years of public service have enriched both the communities of Los Angeles and Capitol Hill.

Ms. Ride's work through the Ride Internship Program at Santa Monica College provides deserving students with the opportunity to intern on Capitol Hill for the summer. This program enhances the education of our leaders of tomorrow. Ms. Ride sponsored Ramin Youssefzadeh, an Iranian Jew who contributed a unique international perspective and was a tremendous asset to our office this summer.

In addition, as chair of the Subcommittee on Women in the Justice System which is included in the State Senate Women's Advisory Commission, Joyce Ride continues championing the rights of incarcerated women. Her efforts include an attempt to eliminate gender bias in prison healthcare and shield children from the tolls incarceration often takes on families.

I commend her outstanding work as Chair of Friends Outside, an organization that advocates the rights of incarcerated women. Also, I applaud the dedication to these women and their children apparent from Ms. Ride's many years of work on their behalf.

Joyce Ride is an exemplary citizen who makes a difference in the lives of many. I wish to honor her accomplishments.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the Constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,641,220,157,276.19 as of the close of business Tuesday, August 9. Averaged out, every man, woman and child in America owes a share of this massive debt, and that per capita share is $17,802.16.

SHEEP PROMOTION, RESEARCH, AND INFORMATION ACT OF 1994

Mr. BURNS. Mr. President, I rise today to speak on behalf of the Sheep Promotion, Research, and Information Act of 1994, and the ability of wool producers to market their product in the United States and around the world.

One year ago, a majority of this body voted to abolish the Wool support system over the next two years, a system that was established almost 50 years ago. However, I did not vote in favor of that provision. Congress left our wool producers high and dry in funding to promote the many products that are derived from sheep.

What the producers are asking of us is the ability to develop a legislative measure that will allow them a way to collect funds, from their own pockets, to promote the sheep and wool industry. The men and women that raise and market sheep are not asking for a hand out, they are asking for Congress's support in establishing a board that will allow them the chance to compete on a field that is sometimes slanted against them.

In Montana, where we have 2,900 farms and ranches that are in the sheep and wool producing industry, there is a concern about the ability to remain a viable and active industry. I ask you to support these families and give them the chance to compete with the world market by providing them the opportunity to establish this board for the future of the Wool industry.

Thank you, Mr. President.

HEALTH CARE REFORM

Mr. DOLE. Mr. President, the phones are ringing off the hook in my office today—and I suspect that is true of all Senate offices, as the American people call in to register their opinions on health care.

And their opinions is pretty clear. They do not like Senator MITCHELL's bill. They do not like Government-run health care. And they want Congress to be very very careful before trading in the best health care delivery system in the world for something else.

When I last checked, my office had received about 160 calls on health care today. One hundred and thirty-five of them said that they either opposed the Mitchell bill and that we should take our time; 25 expressed support for the Mitchell bill—that is about a 6–1 ratio.

And according to a CNN/USA Today/Gallup Poll released this evening, those numbers are part of a nationwide consensus. Let me just mention a few interesting results from the poll.

Sixty-eight percent of Americans believe that Congress should reform health care gradually over a number of years. Only 28 percent believe we should pass a comprehensive bill this year.

By a 2 to 1 ration—53 to 26 percent, Americans trust Congress rather than President Clinton to do a better job at reforming health care.

Fifty-nine percent believe that the bills currently before Congress are the same thing as President Clinton's failed proposal. Only 20 percent believe they are different.

The survey also asked Americans whether they were more concerned that Congress would pass a bill with too much Government, or more concerned that Congress would pass a bill that did not contain universal coverage. The results were 53 percent too much Government, 40 percent no universal care.

Finally, the survey asked Americans whether they believe they would be worse off if Congress passed a bill, or worse off if Congress didn't pass a bill.

Fifty-four percent said they would be worse off if Congress passed a bill. Only 30 percent said they would be worse off if Congress didn't pass a bill.

Mr. President. The American people are speaking. I only hope that Congress is listening.

TRIBUTE TO BILL SCALLY

Mr. DOLE. Mr. President, let me take a moment to honor Bill Scally, Reuters' senior Capitol Hill correspondent, who yesterday became an American citizen.

From what I understand, this native Englishman's desire to become a U.S. citizen is due in no small part to his adventurous spirit and uncommon determination. More than 30 years ago this spirit and determination brought him in a small leaky boat from the shores of England to the Canary Islands, and finally to his new home in America.

The same spirit and determination carried him throughout the world of journalism in Britain, the Middle East, and the United States. Since 1963, this talented journalist has reported for Reuters from the steps of the State Department to both ends of Pennsylvania Avenue.

Perhaps the most remarkable part of Bill's story is the fact that, after covering Congress night and day for several years, he still wanted to become a U.S. citizen.

We certainly congratulate and send best wishes to Bill, his wife Lori, and daughter Gwynnyth.

SALUTE TO VICTORIA HRUSKA

Mr. DOLE. Mr. President, all of us who are privileged to stand in the political arena know that we do not stand there alone. Our families also stand there with us. They put up with the late hours and the missed dinners. Our victories are their victories, and our defeats are their defeats.

One lady who handled the ups and downs of this life with great grace was Victoria Hruska, who passed away last week at the age of 88.

Victoria was the wife of our former colleague, Senator Roman Hruska of Nebraska, and was at his side throughout his 2 years in the House of Representatives, and his 22 years in the U.S. Senate.

Senator Hruska described Victoria as "indispensable," and her daughter, Jane, said she was "The foundation rock of the family."

During her years in Washington, Victoria would serve as the official hostess for events held for Nebraskans in Washington. She was also a member of the Senate Wives Club and the Red Cross unit.

I know all Members of the Senate join with me in extending our condolences to Senator Hruska, and to the entire Hruska family.

THE FISCAL YEAR 1995 ENERGY AND WATER APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 4506, the energy and water appropriations bill, and has found that the bill is under its 602(b) budget authority allocation by $20 million and under its 602(b) outlay allocation by $59 million.

I compliment the distinguished manager of the bill, Senator JOHNSTON, and the distinguished ranking member of the Energy and Water Subcommittee, Senator HATFIELD, on their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the energy and water appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 4506—
Fiscal year 1995 Energy and Water Appropriations—Conference Bill.
[In millions of dollar]

Bill summary	Budget authority	Outlays
Discretionary totals		
New spending in bill	$20,493	$12,083
Outlays from prior years appropriations		8,916
Permanent/advance appropriations	0	0
Supplementals	0	−115
Subtotal, discretionary spending	20,493	20,884
Mandatory totals	0	0
Bill total	20,493	20,884
Senate 602(b) allocation	20,513	20,943
Difference	−20	−59
Discretionary totals above (+) or below (−)		
President's request	−20	−56
House-passed bill	137	31
Senate-reported bill	−20	0
Senate-passed bill	−20	−1
Defense	10,319	10,449
International affairs	0	0
Domestic discretionary	10,174	20,884

SERVICE OF REAR ADM. MICHAEL W. CRAMER, DIRECTOR FOR INTELLIGENCE, J2

Mr. WARNER. Mr. President, I rise today to commend Adm. Michael W. Cramer for his service as the Joint Staff Director for Intelligence, J2. He served with distinction in this position from June 15, 1992, until August 5, 1994. His achievements to operational intelligence support resulted in significant improvements in this area. Admiral Cramer developed numerous initiatives which have advanced intelligence support and enhanced intelligence communications.

Admiral Cramer has been approved for the Intelligence Community Distinguished Service Medal and the National Intelligence Distinguished Service Medal. These illustrious medals were awarded not only for his outstanding service as the Joint Staff Director for Intelligence, J2, but for extraordinary service to our Nation during his entire military career. Admiral Cramer will continue to serve the U.S. Navy as Director of Naval Intelligence. He will assume these responsibilities later this month.

Mr. President, I would ask that a narrative of Admiral Cramer's military service along with citations for the above awards be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NARRATIVE

Rear Admiral Michael W. Cramer, United States Navy, demonstrated exceptionally distinguished service from 15 June 1992 to 5 August 1994 while assigned as The Joint Staff Director for Intelligence, J2. Carrying out the responsibilities of the office, Admiral Cramer set new standards for the quality of current and crisis intelligence support to the Chairman, Joint Chiefs of Staff, the Secretary of Defense, and the Joint Staff. He also initiated numerous highly successful programs that have already resulted in tangible improvements to operational intelligence support for the warfighter in the field. His achievements as the Director for Intelligence, J2 are broad in scope and long-lasting in their impact.

In his primary function as Intelligence Officer to The Joint Staff, Admiral Cramer's legacy is his genius for concise, graphically powerful presentations of complex situations. His briefings on current and crisis intelligence topics have become the national standard; they were requested by and delivered to the President and the National Security Advisor, the Secretary of Defense, several Committees of the Congress, and numerous other policymakers. His impact was equally as profound on the occasions when he represented the Intelligence Community directly to the American people, conducting televised, live press conferences during crisis situations to explain the background of U.S. involvement by military forces.

Admiral Cramer's masterful crisis management was evident throughout his assignment as J2. He took unprecedented initiative in leading the Intelligence Community toward improved, standardized, modern intelligence support to tactical, national, and international consumers. Admiral Cramer was the principal driver behind Intelligence Community and operational acceptance of the Joint Deployable Intelligence Support System (JDISS). JDISS is the common intelligence workstation software recognized throughout the Community, the Defense Department, and by Congress as the standard intelligence dissemination system. The JDISS initiative was a personal project of Admiral Cramer, aimed at resolving the interoperability shortfalls recognized in the aftermath of Operation DESERT STORM. Under his close supervision, JDISS has become not only the

VOL 140 PT 15 AG 10 — 11 1994 UMI

U.S. national intelligence standard, but has been embraced by NATO and the United Nations for specialized intelligence support requirements. In two short years, Admiral Cramer literally changed the way the business of intelligence is done worldwide, at all levels.

Concurrent with the JDISS initiative, Admiral Cramer carried the intelligence dissemination challenge to the next level by directing that a broad-bandwidth, all-media intelligence support system be developed and implemented to provide comprehensive, worldwide command support. The Joint Worldwide Intelligence Communications System (JWICS) was swiftly fielded and became the "core architecture" for joint worldwide intelligence communications. Centered in the National Military Joint Intelligence Center, JWICS permits video-teleconferencing and numerous other applications with Unified Commands and subelements, down to the Joint Task Forces deployed in the field or aboard ship. It is now in continuous use by U.S. operational commanders worldwide and is employed in very successful bilateral links with key allies.

Making significant headway in the arena of documenting joint military operations, Joint Intelligence Doctrine was written and approved under Admiral Cramer's leadership. Before Admiral Cramer assumed direction of this task, "joint" military intelligence doctrine was a disparate collection of non-validated local practices and personal opinion. In the past two years, Admiral Cramer has created a structure for the joint intelligence process, has supervised the drafting of a whole series of approved, community-wide products and has, for the first time, breathed operational and intelligence life into joint doctrine.

Under the policy direction of the Director of Central Intelligence and the Director of the Defense Intelligence Agency, Admiral Cramer oversaw the implementation of an unprecedented, history-making process for providing military intelligence support to the United Nations and to its peacemaking and peacekeeping forces deployed around the world. He directly supervised the vast interagency coordination involved in this herculean effort, personally guided the dissemination architecture, and achieved on-line intelligence support within months of the concept approval. Drawing assets from within his own organization, he assumed personal responsibility for ensuring that this historic initiative succeeds.

Admiral Cramer worked aggressively to resolve theater and tactical intelligence collection capability shortfalls. He brainstormed an unmanned aerial vehicle (UAV) concept and, by force of will and professional determination, saw vehicles flying operational missions in less than one year. Using commercial off-the-shelf technology, high-quality sensors, common ground stations and interoperable dissemination system and then mustering community consensus, the UAV has achieved all its goals due to its grounding in common sense and Admiral Cramer's intense personal commitment.

In sum, Admiral Cramer is the consummate intelligence officer, and his service to the Joint Chiefs of Staff and to the Nation, in peace and conflict, stands as the benchmark against which all other military intelligence professionals will measure their success. Admiral Cramer has achieved more of lasting significance to military intelligence and the Intelligence Community over a two year period than any officer of his generation. Assuming the broad, national intelligence community leadership responsibilities that come with his position, he aggressively exercised his mandate with creativity, determination, and skill and has made significant and lasting contributions to the Department of Defense and to the United States of America. Admiral Cramer's exemplary professional competence, initiative, leadership, dedication to duty, and sustained distinguished performance reflect great credit upon himself, the Joint Staff and the Department of Defense.

CITATION TO ACCOMPANY THE AWARD OF THE DEFENSE DISTINGUISHED SERVICE MEDAL TO MICHAEL W. CRAMER

Rear Admiral Michael W. Cramer, United States Navy, distinguished by exceptional service during the period 15 June 1992 to 5 August 1994 as Joint Staff Director for Intelligence, J2. During this period he set new standards for the quality of current and crisis intelligence support to the Chairman, Joint Chiefs of Staff, and the national leadership. Through his performance in peace and conflict, Admiral Cramer has recast the mold and defines a new standard of excellence in the Intelligence Community. As Director for Intelligence, J2, Admiral Cramer initiated numerous highly successful programs that have resulted in tangible improvements to operational intelligence support for the warfighters in the field. His unique vision and intense commitment led to the unparalled success of the Joint Deployable Intelligence Support System and the Joint Worldwide Intelligence Communications System. Drawing upon his creativity, determination, and skill, Admiral Cramer personally directed the development of the history-making process for providing intelligence support to the United Nations. The distinctive accomplishments of Admiral Cramer reflect the highest credit on himself, the United States Navy, the Joint Staff, and the Department of Defense.

Award nominated for: Distinguished Service Medal.

Name: Rear Admiral Michael W. Cramer, USN.

Organization: Joint Staff Director for Intelligence, J2.

SUMMARY OF ACCOMPLISHMENTS

Rear Admiral Michael W. Cramer, USN, is nominated for the award of the Intelligence Community Distinguished Service Medal for extraordinary service to the nation throughout his career, culminating in his assignment as Joint Staff Director for Intelligence, J2. Carrying out the responsibilities of the office he set new standards for the quality of current intelligence support to the Secretary of Defense, the Chairman, Joint Chiefs of Staff, and the Joint Staff. He initiated numerous highly successful programs that already have broad Intelligence Community impact, including tangible improvements to operational intelligence support in the field. His achievements in the Intelligence Community have been broad in scope and long-lasting in their impact.

Admiral Cramer has served at the center of operations throughout his career, providing intelligence support to military operators and at the highest staff levels. His career began with two combat cruises off Vietnam, and quickly transitioned to management of targeting operations and later of Operation HOMECOMING. He also served in the Soviet Union as Assistant Naval Attache during the height of the Cold War, setting new standards of performance in that key billet. Returning to the Office of Naval Intelligence, he put his fresh insights on the Soviet Union to use as Deputy Director of the Directorate for Soviet Strategy, Policy, and Tactics, participating in the comprehensive review of U.S. Navy strategy that culminated in the "Maritime Strategy." As his seniority increased he has assumed the most responsible positions available, including the top intelligence officer positions for Commander Sixth Fleet (during combat operations), Commander in Chief, U.S. Atlantic Fleet, Commander in Chief, U.S. Atlantic Command, and the Joint Staff.

Admiral Cramer's legacy in his primary function as Intelligence Officer to the Joint Staff will lie in his genius for concise, graphically powerful presentations of complex situations. His briefings on current intelligence topics have become the national standard; they were requested by and delivered to the President and the national Security Advisor, the Secretary of Defense, several Committees of the Congress, and numerous other policymakers. As importantly, he represented the Intelligence Community directly to the American people, conducting televised live press conferences during crisis situations to explain the background of involvement by U.S. military forces.

Beyond his primary function as intelligence officer to the Joint Staff, he took unprecedented initiative in leading the Intelligence Community toward improved, standardized, modern intelligence support to tactical, national, and international intelligence consumers. The following are specific examples of initiatives for which Admiral Cramer has been the creator and prime mover within the Intelligence Community:

THE JOINT DEPLOYABLE INTELLIGENCE SUPPORT SYSTEM (JDISS)

JDISS is the common intelligence workstation and software recognized throughout the Community, and by the Congress, as the standard intelligence dissemination system. The JDISS initiative was a personal project of Admiral Cramer, aimed at resolving the interoperability shortfalls recognized in the aftermath of operation DESERT STORM. Under his close supervision, JDISS has become not only the national intelligence standard, but has been embraced by NATO and by the United Nations for specialized intelligence support requirements. In two short years Admiral Cramer literally changed the way the business of intelligence is done, worldwide, at all levels.

THE JOINT WORLDWIDE INTELLIGENCE COMMUNICATIONS SYSTEM (JWICS)

Carrying the intelligence dissemination challenge to the next level, Admiral Cramer concurrently with the JDISS initiative directed that a broad-bandwidth, all-media intelligence support system be developed and implemented to provide comprehensive, worldwide command support. SWICS, swiftly fielded, because the "core architecture" for joint worldwide intelligence communications. Centered in the National Military Joint Intelligence Center, JWICS permits videoteleconferencing with Unified Commands and subelements, down to the JTF deployed in the field or aboard ship. It is in continuous use now worldwide, and in very successful bilateral links with key allies.

MILITARY INTELLIGENCE SUPPORT TO THE UNITED NATIONS

Under the policy direction of the Director of Central Intelligence and the Director, Defense Intelligence Agency, Admiral Cramer oversaw the implementation of an unprecedented, history-making process for providing military intelligence support to the United Nations. He directly supervised the vast interagency coordination involved in the effort, personally directed the dissemination architecture, and achieved on-line intelligence support within months of the concept approval. Drawing assets from within his own organization, he has assumed personal responsibility for ensuring that this historic initiative succeeds.

UNMANNED AERIAL VEHICLES (UAV)

Responding to theater intelligence collection capability shortfalls, Admiral Cramer personally brainstormed a UAV concept, and by force of will and professional determination saw vehicles flying operational missions in less than one year. Using commercial off-the-shelf technology, high quality sensors, common ground stations and an interoperable dissemination system, the UAV has achieved all its goals due to its grounding in common sense and Admiral Cramer's personal commitment.

Rear Admiral Cramer has achieved more of lasting significance to the Intelligence Community over a two-year period than any officer of his generation. Assuming the broad, national intelligence community leadership responsibilities that come with his position, he has aggressively exercised his mandate with creativity, determination and skill.

CITATION

Rear Adm. Michael W. Cramer, United States Navy is hereby awarded the National Intelligence Distinguished Service Medal in recognition of his extraordinary contribution to the Intelligence Community's continuing efforts to improve support to joint and combined military forces. Assuming a primary role in devising and implementing critical intelligence support initiatives, Admiral Cramer is personally responsible for the success of programs and systems that have become Community standards. He changed the nature of intelligence dissemination for all time by implementing the Joint Deployable Intelligence Support System and the Joint Worldwide Intelligence Communications System. These systems revolutionized intelligence dissemination throughout the Community, and have been effective tools in the unprecedented level of intelligence support Admiral Cramer has pioneered with the United Nations and its peacekeeping forces around the world. His creative and aggressive approach to problem solving is exemplified by the successful fielding, within months, of a successful aerial collection vehicle to meet a recognized Intelligence Community requirement. Admiral Cramer's brilliance as a current intelligence officer, and his vision as an architect of the future of intelligence support to operations, bring credit upon himself, the United States Navy, the Defense Intelligence Agency, the Department of Defense, and the Intelligence Community.

PASSAGE OF THE NATIONAL FLOOD INSURANCE REFORM ACT OF 1994

Mr. KERRY. Mr. President. Yesterday with the Senate's agreement to the conference report on H.R. 3474, the Riegle Community Development and Regulatory Improvement Act of 1994, which includes, as Title V, The National Flood Insurance Reform Act, Congress passed the most sweeping reforms to the flood insurance program since its inception a quarter-century ago. I can say confidently and with a sense of personal satisfaction that Congress has acted appropriately, wisely and with vision to correct the chronic flaws in the NFIP, and as a result has taken a significant step toward protecting the nation's taxpayers and floodplains.

A new, sensible course for the flood insurance program has been charted, and with it a new era of more sound, cost-effective and environmentally benign floodplain management. Due to the late hour when the conference report was agreed to by voice vote, I was unable to comment on the passage of this important legislation at that time, but I now would like to discuss the significance of this legislation.

In 1942, Dr. Gilbert White, one of the founding fathers of floodplain management in this country observed that floods may be an act of God, but flood damages are an act of man. Dr. White also might have observed that flood damages are just as much an act of Congress.

Four years ago I began my efforts to reform the National Flood Insurance Program [NFIP], an important but beleaguered part of our Federal floodplain management and disaster assistance matrix, in order to save taxpayers millions of dollars in disaster assistance and to increase coastal and river floodplain environmental protection. I considered this a necessary task because we simply can no longer afford to abide by our costly past policies and practices which actually encourage, not discourage, risky development in areas we know through experience to be hazardous, dangerous and altogether unfit to occupy.

Reform has not come easy. But then it is never easy to challenge the status quo and propose changes to a program which has evolved over years of mismanagement to the point that many perceive it to be an entitlement—another Federal giveaway shouldered by the taxpayer—that minimizes personal responsibility and public accountability.

I have been concerned about the flood insurance program for years and have spoken out to my colleagues about the need for program reform on numerous occasions: after Hurricane Andrew and Iniki in 1992, after the 1993 East Coast Winter Blizzard; and last summer after the Great Midwest Flood. And with each disaster, my concerns have grown.

We have known for years that the flood insurance program was a huge financial liability and that Federal costs for flood disaster assistance have continued to skyrocket despite the NFIP. We have documented that participation by individuals in the NFIP has lagged far behind reasonable expectations and left the program chronically under-capitalized, and that the program has suffered from adverse selection and costly repetitive losses. Mr. President, under these circumstances a private sector insurer surely would fail.

It also has become clear to me and to many of my colleagues on the Banking Committee that the floodplain management requirements and incentives of the NFIP simply were not doing enough to encourage sound community floodplain management—consisting of sensible, prudent and environmentally conscious land-use and development practices envisioned by Congress when it created the NFIP in 1968.

Most importantly, we have been reminded painfully that low participation in the NFIP has meant that thousands of individuals in hazardous floodplains go uninsured and exposed to risk—a reality made so tragically clear during the Great Midwest Flood of 1993, and once again this summer during the destructive flooding in the Southeast.

Fortunately, Congress in the form of this legislation has chosen to move in a direction which should reduce over time the magnitude of human misery following flood disasters. Title V of the conference agreement on H.R. 3474 closely resembles the compromise flood insurance reform . legislation that passed the Senate on March 17, 1993. It provides a sensible, fair and balanced schedule of reforms that establishes a workable framework for program improvement without jeopardizing those communities or individuals with an interest in the flood insurance program.

Increasing the number of people participating in the flood insurance program has long been regarded as a key element of any effort to improve the financial soundness of the flood insurance fund, control disaster assistance costs, and get the federal taxpayer off the hook. Greater participation should better spread the risk, generate greater premium income and bring the program closer to an actuarially sound condition.

Subtitle B of this legislation cracks down reasonably on compliance violations and will ensure that those required to purchase flood insurance actually buy it and maintain coverage. The compliance subtitle also should ensure that those individuals and institutions who try to free-ride off the system and not pay for their assumed risk are identified and required to comply with the law.

Improved hazard notification procedures and standard flood hazard determination forms will provide convenient methods to track compliance with flood insurance purchase requirements. Other compliance measures such as the establishment of escrow accounts for flood insurance premiums, and the allowance for lenders to force place the purchase of flood insurance for uninsured mortgages when coverage is required, provide common sense tools that work within existing lending practice and will boost participation.

VOL 140 PT 15 AG 10 — 11 1994 UMI

I would not be surprised to see a sharp increase in the number of insurance policies once these and other provisions in the legislation take hold.

Yet, greater participation will not by itself ensure financial soundness of the NFIP. Greater emphasis on loss reduction activities to reduce the amount of risk insured under the NFIP also vital and included in this legislation.

James Lee Witt, the Director of the Federal Emergency Management Agency [FEMA], has testified that mitigation is essential to improving our national floodplain management strategy. This bill gives Mr. Witt and his agency new incentives and strategies to encourage communities and individuals at risk to adopt more responsible and environmentally sound floodplain management measures to avoid or lessen future damages.

Subtitle C of this legislation creates a Community Rating System [CRS] as a new incentive to encourage communities to adopt floodplain management measures beyond NFIP minimum requirements in exchange for premium rate reductions. Significantly, communities that adopt measures that protect against flood and erosion hazards, and measures that preserve and protect natural and beneficial floodplain functions, are to be rewarded with credits that result in lower premiums for their residents who participate in the NFIP. Communities that have participated in CRS on a trial basis such as Tulsa, Oklahoma have seen premium rates go down nearly 40 percent and I hope that FEMA now will promote CRS aggressively nationwide.

This legislation also creates in Subtitle D—for the first time—a flexible and comprehensive mitigation strategy as an additional incentive for communities to reduce risk. Under this program $20 million will be available to states and communities to develop flood and erosion hazard mitigation plans and for mitigation grants to implement cost-saving mitigation activities for flood-prone structures such as relocation, elevation, floodproofing, and acquisition, if cost-effective. Importantly, NFIP loss leaders such as repetitive loss communities and substantially damaged structures are given priority consideration for mitigation grants.

Another key element of the mitigation strategy is the creation of a new insurance coverage, "mitigation insurance," in Subtitle F. Using the more convenient and timely insurance mechanism, this new coverage will pay up to $25,000 for the additional costs necessary to rebuild flood-damaged buildings to existing NFIP code requirements. Although FEMA will be allowed to add up to a $75 surcharge to policies to fund this additional coverage, FEMA advises that it estimates that the average surcharge for over 85 percent of NFIP policyholders will be $6. By any measure that I am aware, $6 for $25,000 of coverage is a great deal.

This legislation stimulates loss reduction with three new incentives: CRS, mitigation grants and mitigation insurance. Cumulatively, these incentives will encourage better and more thoughtful community floodplain management, reduce risks and make structures more floodworthy before the next flood, and make sure that structures, once damaged by a flood, are rebuilt as lesser risks to the NFIP and the taxpayer.

This legislation also provides numerous other provisions that will improve the flood insurance program, especially measures to increase the amounts of insurance coverage that people may purchase, improve flood insurance rate maps and enhance hazard identification. In addition, the act will stimulate FEMA to investigate and study some of the lingering questions that went unanswered for lack of data or appropriate analysis—the most important study being an evaluation of the extent and effect of erosion on the flood insurance program.

The identification of erosion hazard areas has been an especially prickly issue. Evidence and experience in several states conclusively demonstrate that erosion is a hazard which no longer can remain an unidentified, subsidized benefit in the NFIP. Just as clearly, the identification of erosion hazards has stimulated legitimate concerns by coastal communities, property owners and development interests which could not be answered completely.

The compromise contained in this legislation is to evaluate the effect of erosion, and not to direct FEMA to map erosion hazard areas as many coastal States already have done. We certainly can benefit from better data regarding the effects of erosion on the flood insurance fund and affected communities. Over the next two years, FEMA will begin the process of mapping erosion in a representative sample of communities where erosion risks are high, will assess the effects on the flood insurance fund, respective communities and the coastal environment, and will come back to Congress to make the case that erosion hazard mapping should, or should not, be implemented nationwide.

I am confident that if FEMA properly conducts this study, Congress finally will have the information to make a fully informed judgment on how best to address this costly hazard.

Is this legislation perfect? I am confident it is not, but then what legislation is? Certainly, during the give and take of the legislative process I agree to drop provisions that I considered quite important components of reform, and still contend that these provisions would have made beneficial contributions. But in the end, it is important for Congress to realize that with the passage of this legislation we set in motion a process to guarantee responsible reform today and purposeful refinement in the near future.

Mr. President, several Members of Congress contributed significantly to this effort and before ending I would like to take a moment to thank my colleagues who worked long and hard to bring us to this successful conclusion. I want to thank the Chairman of the Banking Committee, Senator RIEGLE, for his dedication, support and steady hand throughout this process and particularly during the conference.

I also want to acknowledge my Republican colleagues, the ranking member of the Banking Committee, Senator D'AMATO, the Senator from Florida, Senator MACK, and the Senator from Missouri, Senator BOND, and their staffs for the tremendous amount of time and energy they have committed to this bipartisan effort. In particular, I want to thank Senator MACK for his personal, good-faith efforts to forge a workable compromise.

I also want to commend our colleagues in the House, notably the distinguished Banking Committee Chairman, Mr. GONZALEZ, for concluding a successful conference and his support for flood insurance reform. I want to commend especially my good friend and colleague from Massachusetts, Mr. KENNEDY, for taking up the fight for NFIP reform, and his colleague on the Banking Committee, Mr. BEREUTER, who has brought so much expertise to this debate over the years.

Congress now has acted to address the ills affecting the NFIP, an accomplishment that is something in which we can and should take great pride. Obviously, any change in a program such as the NFIP is contentious, perhaps even more so than in the past due to heightened sensitivities on the part of some interests towards private property rights. It will be vital for Congress to work closely with FEMA to ensure that these reforms are properly implemented. My sincere aspiration is that once implemented this legislation will restore common sense and responsibility when people decide where to build, and when government decides what to insure.

In closing, Mr. President, I believe this legislation is fair, reasonable and balanced and will implement essential reforms. It should improve the financial soundness of the nation's flood insurance program by increasing participation and by lowering the potential for excessive flood damages through an incentive-based approach. I applaud my colleagues for recognizing the need to protect the Federal Treasury, protect the property at risk along the Nation's floodplains through encouragement of more environmentally aware floodplain management. I am delighted to send this measure to the President for his signature and hope he will sign it expeditiously.

MILCON ADD-ONS

Mr. MCCAIN. Mr. President, After I spoke on the fiscal year 1995 military construction appropriations bill on August 9, 1994, I received a letter from another of America's well-known watchdog groups, the National Taxpayers Union. I feel their views are of great importance, and that my colleagues should be aware of them. Therefore, I request unanimous consent that this letter be entered into the RECORD.

The National Taxpayers Union is another group which feels that unnecessary add-ons and earmarks squander funds that the National Taxpayers Union says should be directed to more pressing problems.

As the National Taxpayers Union says,

The pork-barrel spending contained in the Conference Report is outrageous. At a time when our nation must streamline not only its military, but also its budget, such a wasteful spending shows a gross neglect for the American taxpayer.

In addition, I ask unanimous consent that the two letters I cited in my speech yesterday—from Citizens Against Government Waste and Citizens for a Sound Economy—also be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, August 4, 1994.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Citizens for a Sound Economy (CSE), a 250,000-member grassroots organization that promotes free market economic policies, supports you in your opposition to the pork-barrel spending contained in the FY 1995 Military Construction Appropriations Conference Report (H.R. 4453 and H. Rpt. 103-624).

The conference report eliminated language in the Senate bill that established criteria for making military spending more fiscally responsible. Moreover, it added a slew of unrequested and expensive new projects to the bill, most of which would simply funnel money to specific states and congressional districts. Although it purports to cut $137 million from the original bill, the report prohibits the Department of Defense from eliminating any project—including the new pork-barrel items—to make this cut.

The unnecessary new spending items included in the conference report constitute yet another burden on American taxpayers. As an advocate of fiscal responsibility in all areas of government, CSE urges the members of Congress not to pass the conference report on the military appropriations bill until all unnecessary spending programs have been removed.

Sincerely,

PAUL BECKNER,
President.

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, August 8, 1994.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Coincidentally, at the moment we were asked by your staff to review your amendment to delete nearly $1 billion in pork-barrel spending from the FY95 Military Construction Appropriations conference report, we were finishing a letter to Senators concerning the pork-laden crime bill conference report.

The Council for Citizens Against Government Waste fully endorses your effort to send the conference report back for some serious liposuction, and our more than 600,000 members across the nation appreciate and applaud your leadership.

In only one respect would we disagree with you. In the talking points prepared for the bill, you say that the add-ons and earmarks are "an embarrassment for the Congress as a whole." Senator, in the ten years since Peter Grace gave to the American people his report on government waste, and founded this organization, the one thing that is clear is that Congress sadly seems to be beyond embarrassment when it comes to pork-barrel spending.

Your efforts will receive not only our gratitude but also a salutary report in the next issue of Government Waste Watch, due to arrive in our members' homes in October.

Sincerely,

JOE WINKELMANN,
Government Affairs Director.

NATIONAL TAXPAYERS UNION,
Washington, DC, August 4, 1994.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: The 250,000-member National Taxpayers Union fully supports your efforts to defeat the FY 1995 Military Construction Appropriations Conference Report with the intent of eliminating approximately $1 billion of add-ons and earmarks from the Appropriations Committee.

The pork-barrel spending contained in the Conference Report is outrageous. At a time when our nation must streamline not only its military, but also its budget, such wasteful spending shows a gross neglect for the American taxpayer.

The National Taxpayers Union commends you on your efforts on behalf of taxpayers and applauds your dedication to changing business as usual in Washington.

Sincerely,

PETE SEPP,
Director of Media Relations.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate message from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4217. An act to reform the Federal crop insurance program, and for other purposes.

H.R. 4590. An act to provide conditions for renewing nondiscriminatory (most-favored-nation) treatment for the People's Republic of China.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 250. Concurrent resolution expressing the sense of the Congress in support of efforts by the Government of Mexico, and the major political parties and concerned members of civil society in Mexico, to reform Mexico's political and electoral processes and ensure free and fair elections.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1927. An act to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. MOLLOHAN, Mr. SMITH of Iowa, Mr. CARR, Mr. MORAN, Mr. SKAGGS, Mr. PRICE of North Carolina, Mr. OBEY, Mr. ROGERS, Mr. KOLBE, Mr. TAYLOR of North Carolina, and Mr. MCDADE as the managers of the conference on the part of the House.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4506) making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 6, 9, 15, 16, 21, 33, 35, and 39 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 2, 4, 8, 28, 48, 49, and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

At 5:46 p.m., a message from the House of Representatives, delivered by

VOL
140
PT
15
AG
10
—
11
1994
UMI

Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 188. Joint resolution designating November 22, 1993, as "National Military Families Recognition Day."

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 8:07 p.m. a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2739. An act to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes;

H.R. 4429. An act to authorize the transfer of naval vessels to certain foreign countries; and

S.J. Res. 204. Joint resolution recognizing the American Academy in Rome, an American overseas center for independent study and advanced research, on the occasion of the 100th anniversary of its founding.

MEASURES REFERRED

The following bill and joint resolution were read the first and second times by unanimous consent and referred as indicated:

H.R. 4590. An act to provide conditions of renewing nondiscriminatory (most-favored-nation) treatment for the People's Republic of China; to the Committee on Foreign Relations.

H.J. Res. 188. Joint resolution designating November 22, 1993, as "National Military Families Recognition Day"; the Committee on the Judiciary.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 250 Concurrent resolution expressing the sense of the Congress in support of efforts by the Government of Mexico, and the major political parties and concerned members of civic society in Mexico, to reform Mexico's political and electoral processes and ensure free and fair elections; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent and placed on the calendar:

H.R. 4217. An act to reform the Federal crop insurance program, and for other purposes.

The following bills were read the first and second times by unanimous consent and ordered to be placed on the calendar:

H.R. 4455. An act to authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes.

H.R. 4650. An act to settle Indian land claims within the State of Connecticut, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3172. A communication from the Administrator of the United States Agency For International Development, transmitting, pursuant to law, a report of a violation of the Antideficiency Act which occurred on September 30, 1991; to the Committee on Appropriations.

EC-3173. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 93-10; to the Committee on Appropriations.

EC-3174. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 92-6; to the Committee on Appropriations.

EC-3175. A communication from the Assistant to the Secretary of Defense (Atomic Energy), transmitting, pursuant to law, notice relative to a report on management of chemical and biological defense programs; to the Committee on Armed Services.

EC-3176. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report covering certain properties with the Panama Canal Treaty and its related agreements; to the Committee on Armed Services.

EC-3177. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on the operations of the Exchange Stabilization Fund for fiscal year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC-3178. A communication from the Acting Director, Office of Thrift Supervision, transmitting, pursuant to law, the report on enforcement actions and initiatives for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC-3179. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-3180. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-3181. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-3182. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation to approve the location of a World War II Memorial; to the Committee on Energy and Natural Resources.

EC-3183. A communication from the Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of boundary descriptions and maps; to the Committee on Energy and Natural Resources.

EC-3184. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the report of the Superfund financial activities for toxic substances and disease registry for fiscal year 1992; to the Committee on Environment and Public Works.

EC-3185. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the report of the Superfund financial activities at the National Institute of Environmental Health Services; to the Committee on Environment and Public Works.

EC-3186. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on particpation, assignment, and extra billing in the Medicare program; to the Committee on Finance.

EC-3187. A communication from the Director, Defense Security Assistance Agency, transmitting, pursuant to law, notice relative to the Foreign Military Financing program; to the Committee on Foreign Relations.

EC-3188. A communication from the Director, Defense Security Assistance Agency, transmitting, pursuant to law, notice relative to Foreign Military Financing Grant funds; to the Committee on Foreign Relations.

EC-3189. A communication from the Director, Defense Security Assistance Agency, transmitting, pursuant to law, a report relative to the Congressional Presentation Document for fiscal year 1994; to the Committee on Foreign Relations.

EC-3190. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of United States contributions to international organizations for fiscal year 1993; to the Committee on Foreign Relations.

EC-3191. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to Rwanda and Burundi; to the Committee on Foreign Relations.

EC-3192. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-314 adopted by the Council on July 19, 1994; to the Committee on Governmental Affairs.

EC-3193. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-315 adopted by the Council on July 19, 1994; to the Committee on Governmental Affairs.

EC-3194. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-316 adopted by the Council on July 19, 1994; to the Committee on Governmental Affairs.

EC-3195. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-317 adopted by the Council on July 19, 1994; to the Committee on Governmental Affairs.

EC-3196. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-318 adopted by the Council on July 19, 1994; to the Committee on Governmental Affairs.

EC-3197. A communication from the Manager (Employee Benefits), Agribank, the report relative to the Retirement Plan for the Employees of the Seventh Farm Credit District for calendar year 1993; to the Committee on Governmental Affairs.

EC-3198. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Governmental Affairs.

EC-3199. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on the Foreign Service Retirement and Disability Fund for fiscal year 1992; to the Committee on Governmental Affairs.

EC-3200. A communication from the Secretary of Education, transmitting, pursuant to law, the final regulations on the Chapter 1 Program in Local Educational Agencies; to the Committee on Labor and Human Resources.

EC-3201. A communication from the Assistant Secretary of Education (Office of Special Education and Rehabilitative Services), transmitting, pursuant to law, the report of final regulations—State Vocational Rehabilitation Unit In-Service Training; to the Committee on Labor and Human Resources.

EC-3202. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the financial audit of the Capitol Preservation Fund for the period March 31, 1993 through September 30, 1993; to the Committee on Rules and Adminstration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1526. A bill to improve the management of Indian fish and wildlife and gathering resources, and for other purposes (Rept. No. 103-329).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 993. A bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations (Rept. No. 103-330).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KOHL:

S. 2376. A bill to provide for the appointment of 1 additional Federal district judge for the eastern district of Wisconsin, and for other purposes; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself, Mr. FAIRCLOTH, Mr. COATS, Mr. SIMPSON, and Mr. BURNS):

S. 2377. A bill to establish a national advisory referendum on limiting the terms of members of Congress at the general election of 1994; to the Committee on Rules and Administration.

By Mr. DOLE (for himself, Mr. SIMON, Mr. D'AMATO, Mr. GRAMM, and Mr. KENNEDY):

S. 2378. A bill to prohibit United States assistance to countries that prohibit or restrict the transport or delivery of United States humanitarian assistance; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 2376. A bill to provide for the appointment of one additional Federal district judge for the Eastern District of Wisconsin, and for other purposes; to the Committee on the Judiciary.

WISCONSIN EASTERN DISTRICT JUDGESHIP ACT OF 1994

Mr. KOHL. Mr. President, I rise today to introduce legislation that would create an additional Federal judgeship for the Eastern District of Wisconsin to be located in Green Bay. Let me tell you why an extra judge is crucially needed.

Suppose that you are a litigant from Oconto and you need to use the Federal courts to seek compensation for an injury. Or suppose that you are a retailer in Appleton and you want to charge an out-of-State manufacturer with price fixing. Or suppose that you are the key witness in a Federal drug prosecution that is centered around activities in the northeastern part of the State. In each instance, you will have to go to Milwaukee, where all four full-time Federal district judges hold court. And in each instance, the additional travel time—up to 6 hours in each direction—and cost may make justice less available, less affordable and, ultimately, less likely to the people who need it most.

Indeed, prosecuting cases on the Menominee Indian Reservation causes specific problems that alone may justify a Federal judge in Green Bay. Under current law, the Federal Government is required to prosecute all felonies committed by Indians that occur on the Menominee Reservation. However, the reservation's distance from the Federal prosecutors and courts—more than 150 miles—makes these prosecutions problematic. And because the Justice Department compensates attorneys and investigators—and sometimes witnesses—for travel expenses, the existing system also costs the taxpayers money as well.

Mr. President, law enforcement officials tell me that some criminal cases are never brought in Federal court because of the expense and inconvenience. Sadly, this should not be too surprising: as one group of Wisconsin law enforcement officers analogized:

Imagine the district attorney of Milwaukee being located in Keshena, or Green Bay, or Marinette and trying to coordinate witness interviews, case preparation, and testimony.

Placing a Federal judge in Green Bay will not resolve all of these problems overnight, of course. But it will begin to reduce some of these needless obstacles to the fair and efficient administration of Justice.

And don't take my word for it, ask the sheriffs and district attorneys in northeastern Wisconsin: each and every one of them has urged me to create a Federal district court in Green Bay. Mr. President, I ask unanimous consent that a letter from these law enforcement officials be included in the RECORD at the conclusion of my remarks. I also ask unanimous consent that a letter from the U.S. attorney for the Eastern District of Wisconsin, Tom Schneider, also be included. This letter expresses the support of the entire Federal law enforcement community in Wisconsin—including the FBI, the DEA and the BATF—for the legislation I am introducing today.

Mr. President, the creation of an additional judgeship in the Eastern District of Wisconsin is clearly justified on the basis of caseload. In 1993, the Judicial Conference, the administrative and statistical arm of the Federal judiciary, recommended the creation of additional Federal judgeships in 14 different judicial districts. In determining where to place these judges, the Conference looked primarily at "weighted filings;" that is, the total number of cases filed modified by the average level of case complexity. New positions were justified where the court's workload exceeded 400 weighted filings per judge. In 5 of the 14 districts where additional judgeships were recommended, however, the number of weighted filings per judge was actually fewer than in the Eastern District of Wisconsin. Indeed, from 1991 through 1993 the eastern district consistently averaged 440 weighted filing per judge, which is substantially in excess of the 400 weighted filings "cutoff."

Mr. President, this legislation is simple, effective and straightforward. It would create an additional judgeship for the eastern district, require that one judge hold court in Green Bay, and give the chief judge the flexibility to designate which judge holds court there. And it would increase the number of Federal district judges in Wisconsin for the first time since 1978. During that time, while more than 140 new Federal district judgeships have been added nationwide, not a single one has been created for Wisconsin.

In conclusion, Mr. President, having a Federal judge in Green Bay will reduce inconvenience and increase judicial efficiency. But most importantly, it will help ensure that justice is more available and more affordable to the people of Wisconsin. For these sensible reasons, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VOL 140 PT 15 AG 10 — 11 1994 UMI

S. 2376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL FEDERAL DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the eastern district of Wisconsin.

(b) TABLES.—In order that the table contained section 133 of title 28, United States Code, shall reflect the change in the total number of permanent district judgeships authorized under subsection (a), such table is amended by amending the item relating to Wisconsin to read as follows:

"Wisconsin:
"Eastern 5
"Western ..... 2".

(c) HOLDING OF COURT.—The chief judge of the eastern district of Wisconsin shall designate 1 judge who shall hold court for such district in Green Bay, Wisconsin.

AUGUST 8, 1994.

Senator HERB KOHL,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR KOHL: We are writing to urge your support for the creation of a Federal District Court in Green Bay. The Eastern District of Wisconsin includes the 28 eastern-most counties from Forest and Florence Counties in the north to Kenosha and Walworth Counties in the south.

Green Bay is central to the northern part of the district which includes approximately one third of the district's population. Currently, all Federal District Judges hold court in Milwaukee.

A federal court in Green Bay would make federal proceedings much more accessible to the people of northern Wisconsin and would alleviate many problems for citizens and law enforcement. Travel time of 3 or 4 hours each way makes it difficult and expensive for witnesses and officers to go to court in Milwaukee. Citizen witnesses are often reluctant to travel back and forth to Milwaukee. It often takes a whole day of travel to come to court and testify for a few minutes. Any lengthy testimony requires an inconvenient and costly overnight stay in Milwaukee. Sending officers is costly and takes substantial amounts of travel time, thereby reducing the number of officers available on the street. Many cases are simply never referred to federal court because of this cost and inconvenience.

In some cases there is no alternative. For example, the Federal government has the obligation to prosecute all felony offenses committed by Indians on the Menominee Reservation. Yet the Reservation's distance from the Federal Courts and prosecutors in Milwaukee poses serious problems. Imagine the District Attorney of Milwaukee being located in Keshena or Green Bay or Marinette and trying to coordinate witness interviews, case preparation, and testimony.

As local law enforcement officials, we try to work closely with other local, state and federal agencies, and we believe establishing a Federal District Court in Green Bay will measurably enhance these efforts. Most important, a Federal Court in Green Bay will make these courts substantially more accessible to the citizens who live here.

We urge you to introduce and support legislation to create and fund an additional Federal District Court in Green Bay.

Gary Robert Bruno, Shawano and Menominee County District Attorney.
Jay Conley, Oconto County District Attorney.
John DesJardins, Outagamie County District Attorney.
Douglas Drexler, Florence County District Attorney.
Guy Dutcher, Waushara County District Attorney.
E. James FitzGerald, Manitowoc County District Attorney.
Kenneth Kratz, Calumet County District Attorney.
Jackson Main, Jr., Kewaunee County District Attorney.
David Miron, Marinette County District Attorney.
Joseph Paulus, Winnebago County District Attorney.
Gary Schuster, Door County District Attorney.
John Snider, Waupaca County District Attorney.
Ralph Uttke, Langlade County District Attorney.
Demetrio Verich, Forest County District Attorney.
John Zakowski, Brown County District Attorney.
William Aschenbrener, Shawano County Sheriff.
Charles Brann, Door County Sheriff.
Todd Chaney, Kewaunee County Sheriff.
Michael Donart, Brown County Sheriff.
Patrick Fox, Waushara County Sheriff.
Bradley Gehring, Outagamie County Sheriff.
Daniel Gillis, Calumet County Sheriff.
James Kanikula, Marinette County Sheriff.
Norman Knoll, Forest County Sheriff.
Thomas Kocourek, Manitowoc County Sheriff.
Robert Kraus, Winnebago County Sheriff.
William Mork, Waupaca County Sheriff.
Jeffrey Rickaby, Florence County Sheriff.
David Stegar, Langlade County Sheriff.
Kenneth Woodworth, Oconto County Sheriff.
Richard Awonhopay, Chief, Menominee Tribal Police.
Richard Brey, Chief of Police, Manitowoc.
Patrick Campbell, Chief of Police, Kaukauna.
James Danforth, Chief of Police, Oneida Public Safety.
Donald Forcey, Chief of Police, Neenah.
David Gorski, Chief of Police, Appleton.
Robert Langan, Chief of Police, Green Bay.
Michael Lien, Chief of Police, Two Rivers.
Nike Nordin, Chief of Police, Sturgeon Bay.
Patrick Ravet, Chief of Police, Marinette.
Robert Stanke, Chief of Police, Menasha.
Don Thaves, Chief of Police, Shawano.
James Thome, Chief of Police, Oshkosh.

DEPARTMENT OF JUSTICE, U.S. ATTORNEY, EASTERN DISTRICT OF WISCONSIN,
Milwaukee, WI, August 9, 1994.

To: The District Attorney's, Sheriffs and Police Chiefs Urging the Creation of a Federal District Court in Green Bay.
From: Thomas P. Schneider, U.S. Attorney, Eastern District of Wisconsin.

Thank you for your letter of August 8, 1994, urging the creation of a Federal District Court in Green Bay. You point out a number of facts in your letter:

(1) Although 1/3 of the population of the Eastern District of Wisconsin is in the northern part of the district, all of the Federal District Courts are located in Milwaukee.

(2) A federal court in Green Bay would be more accessible to the people of northern Wisconsin. It would substantially reduce witness travel time and expenses, and it would make federal court more accessible and less costly for local law enforcement agencies.

(3) The federal government has exclusive jurisdiction over most felonies committed on the Menominee Reservation, located approximately 3 hours from Milwaukee. The distance to Milwaukee is a particular problem for victims, witnesses, and officers from the Reservation.

I have discussed this proposal with the chiefs of the federal law enforcement agencies in the Eastern District of Wisconsin, including Federal Bureau of Investigations, Federal Drug Enforcement Administration, Bureau of Alcohol, Tobacco and Firearms, Secret Service, U.S. Marshall, U.S. Customs Service, and Internal Revenue Service-Criminal Investigation Division. All express support for such a court and give additional reasons why it is needed.

Over the past several years, the FBI, DEA, and IRS have initiated a substantial number of investigations in the northern half of the district. In preparation for indictments and trials, and when needed to testify before the Grand Jury or in court, officers regularly travel to Milwaukee. Each trip requires 4 to 6 hours of round trip travel per day, plus the actual time in court. In other words, the agencies' already scarce resources are severely taxed. Several federal agencies report that many cases which are appropriate for prosecution are simply not charged federally because local law enforcement agencies do not have the resources to bring these cases and officers back and forth to Milwaukee.

Nevertheless, there have been a substantial number of successful federal investigations and prosecutions from the Fox Valley area and other parts of the Northern District of Wisconsin including major drug organizations, bank frauds, tax cases, and weapons cases.

It is interesting to note that the U.S. Bankruptcy Court in the Eastern District of Wisconsin holds hearings in Green Bay, Manitowoc, and Oshkosh, all in the northern half of the district. For the past four years approximately 29% of all bankruptcy filings in the district were in these three locations.

In addition, we continue to prosecute most felonies committed on the Menominee Reservation. Yet, the Reservation's distance from the federal courts in Milwaukee poses serious problems. A federal court in Green Bay is critically important if the federal government is to live up to its moral and legal obligation to enforce the law on the Reservation.

In summary, I appreciate and understand your concerns and I join you in urging the creation of a Federal District Court in Green Bay.

THOMAS P. SCHNEIDER,
U.S. Attorney, Eastern District of Wisconsin.

By Mrs. HUTCHISON (for herself, Mr. FAIRCLOTH, Mr. COATS, Mr. SIMPSON, and Mr. BURNS):

S. 2377. A bill to establish a national advisory referendum on limiting the terms of Members of Congress at the general election of 1994; to the Committee on Rules and Administration.

CONGRESSIONAL TERM LIMITS LEGISLATION

Mrs. HUTCHISON. Madam President, I rise today to introduce a bill to conduct a national referendum on the question of term limits for Members of Congress. It is a companion bill to H.R. 3835, sponsored in the House by Mr. HOEKSTRA of Michigan.

I have nothing against the senior Members of this Senate. Indeed, I respect them as some of the wisest legislators our Nation has. But the seniority system makes government a game of waiting—waiting for the right committee, waiting for the right chair, waiting sometimes for decades. And we expect our constituents to wait with us. I recently read an article which complained that a certain State might lose more than a century of seniority in the other Chamber next year. Seniority is displacing ideas as a commodity for citizens to value and to preserve.

We have created a system where it is better for our constituents to keep electing us, no matter how we vote, so that we can rack up seniority for our States. With all due respect, that is not what this Chamber, or the other one, is about. We pride ourselves, rightly, as the world's greatest deliberative body. And I think my fellow freshmen agree with me that our voices are heard and respected on this floor. But the seniority system tends to create career politicians, whereas our Founding Fathers wanted citizen-legislators. It was envisioned that people who had trades, professions, or businesses would serve for a period of time, bringing their business experience to shape the laws that would govern commerce and quality of life.

How can the citizens of one State or one district change their representation without losing out on this game? They can do it only if they can impose a limit on the tenure of all other Members of the Congress.

Madam President, I think the solution is to limit our terms. But do not take my word for it. We should ask the people what they think. This bill would add a nonbinding referendum to the election ballots in November, asking voters whether we should amend the Constitution to limit the time we can serve, just as it limits the term of the President of the United States. Amending the Constitution is a serious process, one that we debated last winter on the question of a balanced budget. Before we take that step on term limits, we should invoke the communicative power of democracy and ask the people what they think.

By Mr. DOLE (for himself, Mr. SIMON, Mr. D'AMATO, Mr. GRAMM, and Mr. KENNEDY):

S. 2378. A bill to prohibit U.S. assistance to countries that prohibit or restrict the transport or delivery of U.S. humanitarian assistance; to the Committee on Foreign Relations.

HUMANITARIAN AID CORRIDOR ACT

Mr. DOLE. Mr. President, I rise to introduce legislation with the distinguished senior Senator from Illinois, Senator SIMON, and Senator D'AMATO, Senator GRAMM, and Senator KENNEDY. Our legislation will further an important American principle: Humanitarian aid should not be restricted for political reasons. The legislation we are introducing today provides that no U.S. foreign aid shall be provided to countries which prohibit or restrict U.S. foreign aid to other countries.

It seems this is a principle that could be accepted by everyone—how could we give money to a country which prevents our aid from reaching other needy people? The legislation names no names, it simply affirms a basic principle: A government does not deserve our aid if it obstructs efforts to aid others.

While our legislation is drafted as a generic principle, there is one country that would clearly be affected. Turkey receives large amounts of United States assistance while it continues to enforce the embargo on Armenia. For the past, present, and next fiscal year, 1993–95, Turkey will receive roughly $1.75 billion in grants and concessional loans financed by the United States taxpayer. At the same time, Turkey prevents even care packages from the American Red Cross from entering Armenia.

Mr. President, the suffering of the democratic nation of Armenia under the immoral and illegal embargo are well-known: Food and energy supplies range from scarce to nonexistent. Outside relief supplies must travel circuitous and dangerous routes due to Turkey's blockage. Many never make it at all. Due to Turkey's official government policy of blockading Armenia, Armenians freeze, Armenians suffer, and Armenians go hungry. United States aid to Armenia is far more expensive and far less effective because of Turkey's blockade. In such circumstances, it is wrong to provide Turkey with one and three-quarters billion of American tax dollars.

Earlier today, I met with President Ter-Petrossian—Armenia's first democratically-elected head of State. President Ter-Petrossian knows the price of freedom, having been imprisoned under the Soviet Union for advocating Armenian nationalism. The President spoke about the terrible consequences of the Armenian embarbo. He spoke about how there has been no positive sign from Turkey, no movement toward opening routes into land-locked Armenia. President Ter-Petrossian thanked us for our efforts to help the long-suffering Armenian people.

The legislation Senator SIMON and I are introducing today would help change the Turkish policy of strangling Armenia. It would provide the administration with an effective tool to use with the Turkish Government. And it would provide a powerful incentive for Turkey to end its contribution to the suffering of the Armenian people.

I have nothing against the Turkish people. I met Prime Minister Ciller when she was in Washington last fall, and had a useful discussion. And I recognize that Turkey has been a valuable ally of the United States in NATO, and in Operation Desert Storm. The legislation we are introducing recognizes that there may be a compelling national interest which could override the principle of non-interference with humanitarian aid. For this reason, we have included Presidential waiver authority in section 3(b) of the bill.

The legislation could apply to many other relief situations. There are occasional reports of aid obstruction by Kenya, Russia, and other countries. This legislation would make one principle very clear: If a government plays political games with aid destined to help people in need, they will no longer get U.S. foreign assistance. This legislation will help deter interference with humanitarian relief, and it will provide for appropriate response in the case of interference.

Mr. President, this legislation will be referred to the Committee on Foreign Relations. I hope it will get rapid consideration. Similar legislation has been introduced in the House. I hope the Congress will enact this legislation and send it to the White House before the end of this Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Humanitarian Aid Corridor Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The United States' Federal budget deficit and spending constraints require the maximum efficiency in the usage of United States foreign assistance.

(2) The delivery of humanitarian assistance to people in need is consistent with the fundamental values of our Nation and is an important component of United States foreign policy.

(3) As a matter of principle and in furtherance of fiscal prudence, the United States should seek to promote the delivery of humanitarian assistance to people in need in a manner that is both timely and cost effective.

(4) Recipients of United States assistance should not hinder or delay the transport or delivery of United States humanitarian assistance to other countries.

SEC. 3. LIMITATION ON ASSISTANCE TO COUNTRIES THAT RESTRICT THE TRANSPORT OR DELIVERY OF UNITED STATES HUMANITARIAN ASSISTANCE.

(a) PROHIBITION ON ASSISTANCE.—Notwithstanding any other provision of law, funds appropriated or otherwise made available for United States assistance may not be made available for any country whose government prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(b) WAIVER.—The prohibition on United States assistance contained in subsection (a) shall not apply if the President determines and notifies Congress in writing that providing such assistance to a country is in the national security interest of the United States.

(c) RESUMPTION OF ASSISTANCE.—A suspension or termination of United States assistance for any country under subsection (a) shall cease to be effective when the President certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that such country is no longer prohibiting or otherwise restricting, either directly or indirectly, the transport or delivery of United States humanitarian assistance.

SEC. 4. REPORT.

(a) IN GENERAL.—At the time of the annual budget submission to Congress, the President shall submit a report to Congress describing any information available to the President concerning prohibitions or restrictions, direct or indirect, on the transport or delivery of United States humanitarian assistance by the government of any country receiving or eligible to receive United States foreign assistance during the current or preceding fiscal year.

(b) APPLICABILITY OF LAW.—The President shall include in the report required by subsection (a) a statement as to whether the prohibition in section 3(a) applies to each country for which the President has information available to him concerning prohibitions or restrictions, direct or indirect, on the transport or delivery of United States humanitarian assistance.

SEC. 5. DEFINITION.

As used in this Act, the term "United States assistance" has the same meaning given that term in section 481(e)(4) of the Foreign Assistance Act of 1961.

ADDITIONAL COSPONSORS

S. 823

At the request of Mr. GRAHAM, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 823, a bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

S. 1208

At the request of Mr. WOFFORD, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1822

At the request of Mr. HOLLINGS, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 1822, a bill to foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

S. 2053

At the request of Mr. BRADLEY, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2053, a bill to prevent handgun violence and illegal commerce in firearms.

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE RESOLUTION 243

At the request of Mr. LOTT, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Resolution 243, a resolution recognizing the REALTORS Land Institute on the occasion of its 50th Anniversary.

AMENDMENT NO. 2481

At the request of Mr. BUMPERS the names of the Senator from Tennessee [Mr. MATHEWS] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of amendment No. 2481 proposed to H.R. 4650, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT FOR FISCAL YEAR 1995

BROWN (AND OTHERS) AMENDMENT NO. 2491

Mr. BROWN (for himself, Mr. SIMON, Mr. MURKOWSKI, and Mr. LIEBERMAN) proposed an amendment to the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes; as follows:

At the end of the pending amendment, add the following new section:

"SEC. . VISAS FOR OFFICIALS OF TAIWAN.

Section 4(b)(6) of the Taiwan Relations Act (22 U.S.C. 3302(b)(6)) is amended—

(1) by inserting "(A)" immediately after "(6)"; and

(2) by adding at the end the following:

"(B) Whenever the president of Taiwan or any other high-level official of Taiwan shall apply for a temporary visa to visit the United States for the purposes of:

(i) Discussions with United States federal or state government officials concerning trade or business with Taiwan or the reduction of the U.S.-Taiwan trade deficit;

(ii) Discussions with United States federal or state government officials concerning nuclear federal government officials concerning U.S. national security or the national security of Taiwan; or

(iv) Discussions with United States federal or state government officials concerning the provision of humanitarian relief and assistance for regional disasters;

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.".

BROWN (AND OTHERS) AMENDMENT NO. 2492

Mr. BROWN (for himself, Mr. SIMON, Ms. MIKULSKI, Mr. ROTH, Mr. DOLE, and Mr. DOMENICI) proposed an amendment to the bill H.R. 4650, supra; as follows:

At the end of the pending amendment insert the following new section:

SEC. . ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION.

(a) SHORT TITLE.—This section may be cited as the "NATO" Participation Act".

(b) TRANSFER OF EXCESS DEFENSE ARTICLES.—The President may transfer excess defense articles under section 516 of the Foreign Assistance Act of 1961 or under the Arms Export Control Act to Poland, Hungary, the Czech Republic, and Slovakia.

(c) LEASES AND LOANS OF MAJOR DEFENSE EQUIPMENT AND OTHER DEFENSE ARTICLES.—Section 63(a)(2) of the Arms Export Control Act (22 U.S.C. 2796b) is amended by striking "or New Zealand" and inserting "New Zealand, Poland, Hungary, the Czech Republic, or Slovakia".

(d) LOAN MATERIALS SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—Section 65(d) of the Arms Export Control Act (22 U.S.C. 2796d(d)) is amended—

(1) by striking "or" after "United States" and inserting a comma; and

(2) by inserting before the period at the end of the following ", Poland, Hungary, the Czech Republic, or Slovakia".

(e) COOPERATIVE MILITARY AIRLIFT AGREEMENTS.—Section 2350c(e)(1)(B) of title 10, United States Code, is amended by striking "and the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, the Czech Republic, and Slovakia".

(f) PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES.—Section 2350f(d)(1)(B) is amended by striking "or the Republic of Korea" and inserting "the Republic of Korea, Poland, Hungary, the Czech Republic, or Slovakia".

(g) STANDARDIZATION OF EQUIPMENT WITH NORTH ATLANTIC TREATY ORGANIZATION MEMBERS.—Section 2457 of title 10 United States Code, is amended by adding at the end the following new subsection:

"(g) It is the sense of the Congress that, in the interest of maintaining stability and promoting democracy in Eastern Europe, Poland, Hungary, the Czech Republic, and Slovakia, those countries should, on and after the date of enactment of this subsection, be included in all activities under this section related to the increase standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.".

(h) INCLUSION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President should recommend legislation to the Congress making eligible under the provisions of law amended by this section such other European countries emerging from communist domination as the President may determine if such countries—

(1) have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area.

(i) CERTIFICATION REQUIRED.—Before exercising the authority in subsection (a), or in section 63(a)(2) of the Arms Export Control Act, with respect to Poland, Hungary, the Czech Republic, or Slovakia, the President shall determine and certify to the appropriate congressional committees that no such country is selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.

BROWN AMENDMENT NO. 2493

Mr. BROWN proposed an amendment to the bill H.R. 4650, supra; as follows:

At the appropriate place in the Committee amendment, add the following new section:

"SEC. . SENSE OF THE CONGRESS CONCERNING THE REPUBLIC OF BULGARIA.

(a) FINDINGS.—The Congress finds that:

(1) In the spring of 1990, Bulgaria held its first round-table discussions and held its first free, democratic elections in June, 1990;

(2) In August 1990, the Bulgarian Grand National Assembly elected Dr. Zhelyu Zhelev as President of the Republic;

(3) On July 12, 1991 the Parliament of Bulgaria adopted the new Constitution of the Republic of Bulgaria, which proclaims that Bulgaria is governed by the rule of law;

(4) In addition, the Bulgarian Constitution establishes the principles of a market economy in Bulgaria, including Article 17 which guarantees and protects the right to property and inheritance and proclaims the inviolability of private property, and Article 19 which states that the economy of Bulgaria is based on free economic enterprise;

(5) In October 1991, Bulgaria held its second parliamentary elections;

(6) Since 1990, the Bulgarian parliament has passed more than 220 laws establishing legal protections for a free market economy including the Law on Land Ownership, the Law on the Protection of Competition, the Law on Commerce, the Law on Privatization, the Law on Accounting and the Law on Banking;

(7) The Bulgarian private sector has grown from 5 percent of GNP in 1990 to 22 percent of GNP in 1993, and by the end of 1993, 47 percent of Bulgarian farm land had been returned to its owners prior to 1948;

(8) In June 1990, Bulgaria established diplomatic relations with NATO and on February 14, 1994, joined the Partnership for Peace;

(9) Since October 1991, the Bulgarian minister of defense has been a civilian and this practice is scheduled to be institutionalized when the Bulgarian Law on Armed Forces is adopted in September 1994.

(b) SENSE OF CONGRESS.—Therefore, it is the sense of the Congress that:

(1) The Republic of Bulgaria is making swift and important progress to join the West and should be strongly commended for its efforts;

(2) The Republic of Bulgaria is making significant progress toward establishing democratic institutions, a free market economy, civilian control of the armed forces and the rule of law;

(3) As the President evaluates increased defense cooperation with central and eastern Europe, Bulgaria's extensive reform efforts should be given every possible consideration.

BROWN (AND CAMPBELL) AMENDMENTS NOS. 2494–2495

Mr. BROWN (for himself and Mr. CAMPBELL) proposed two amendments to the bill H.R. 4650, supra; as follows:

AMENDMENT NO. 2494

At the appropriate place in the bill, add the following new section:

"SEC. . STUDY OF C–130S.

(a) REPORT.—Within six months of enactment of this Act, the Chairman of the Joint Chiefs of Staff (JCS) shall recommend to the Secretary of Defense a master stationing plan for C–130 aircraft for the active and reserve components based on the National Military Strategy and current contingency plans of the Joint Chiefs of Staff. The report shall include:

(i) a review of existing Air Reserve Components C–130s;

(ii) a master plan for basing future Air Reserve Component C–130s over the next twenty years.

(b) INTERIM REDUCTIONS.—No reductions of primary authorized C–130 aircraft (PAA) shall be permitted until after completion of the report.

(c) APPROVAL.—Within 2 months of receipt of the report from the Chairman of the JCS, the Secretary of Defense shall approve the final master stationing plan for C–130 aircraft and shall provide it to the congressional defense committees. The Secretary shall also provide the final report to the Air Force and to the National Guard Bureau for implementation.

AMENDMENT NO. 2495

At the appropriate place in the bill, add the following new section—

"SEC. . SENSE OF THE SENATE CONCERNING LOWRY AFB.

It is the sense of the Senate that—

(a) in issuing any lease, permit or deed of conveyance for use to assist the homeless under the Stewart B. McKinney Assistance Act concerning Lowry Air Force Base, Colorado, the Secretary of Health and Human Services, representatives of the City of Denver, Colorado, representatives of the City of Aurora, Colorado and representatives of homeless providers whose applications have been approved by the Secretary of Health and Human Services should jointly determine that such use is reasonable under the redevelopment plan for Lowry Air Force Base, Colorado; and

(b) the Department of Defense and the Department of Health and Human Services, in coordination with the appropriate committees of Congress and appropriate state and local authorities, should develop a reform proposal to address the many difficulties created for local communities by existing laws relating to the loan, lease or conveyance for use of government property during the base closure process.

GORTON (AND OTHERS) AMENDMENT NO. 2496

Mr. INOUYE (for Mr. GORTON, for himself, Mrs. MURRAY, and Mr. INOUYE) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 19, line 19, after the period, insert the following: "The Secretary may not pay the Muckleshoot Indian Tribe the reimbursement otherwise required by the preceding sentence unless the Tribe waives in writing all claims that the Tribe may have against the United States or any agency or official of the United States (in the official capacity of that official), against the State of Washington or any agency or official of the State of Washington (in the official capacity of that official), and against the City of Seattle, Washington, or any agency or official of the City of Seattle, Washington (in the official capacity of that official), regarding the disposal of the Puget Sound Naval Air Station.".

DANFORTH (AND BOND) AMENDMENT NO. 2497

Mr. INOUYE (for Mr. DANFORTH, for himself and Mr. BOND) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 142, between lines 7 and 8, insert the following:

Sec. . Funds appropriated for the Army by this Act may not be expended to deactivate or to take any action necessary to deactivate any Army Reserve Officers' Training Corps unit, or to reduce any such unit for the purpose of eventually deactivating that unit, unless the Secretary of the Army has determined that the unit has been placed in, and has been evaluated for a full evaluation period under, the Effective Management Program of the Army Cadet Command.

AKAKA AMENDMENT NO. 2498

Mr. INOUYE (for Mr. AKAKA) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. 8121. PREFERENCE FOR LOCAL AND SMALL BUSINESSES TO CARRY OUT ENVIRONMENTAL RESTORATION AND REMEDIATION OF KAHO'OLAWE ISLAND, HAWAII.

(a) PREFERENCE REQUIRED.—In entering into contracts with private entities to carry out environmental restoration and remediation of Kaho'olawe Island, Hawaii, and the waters surrounding that island, the Secretary of the Navy shall, to the maximum extent practicable, give a preference to small business concerns and small disadvantaged business concerns located in the State of Hawaii. In giving the preference, the Secretary shall give especial preference to businesses owned by Native Hawaiians.

(b) DEFINITIONS.—In this section:

(1) The Term "small business concern" means a business concern meeting the requirements of section 3 of the Small Business Act (15 U.S.C. 632).

(2) The Term "small disadvantaged business concern" means the business concerns referred to in section 7(d)(1) of such Act (15 U.S.C. 637(d)(1)).

(3) The Term "Native Hawaiian" means any individual who is a descendent of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

NICKLES AMENDMENT NO. 2499

Mr. STEVENS (for Mr. NICKLES) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 11, line 19, before the period, insert the following: ": *Provided further*, That the Undersecretary of Defense for Policy, shall, not later than October 15, 1994, transmit, in unclassified and classified forms, the Rand Corporation Study, published on or about December 1993, on The U.S. Role in Possible Middle East Peace Settlements to the congressional defense, intelligence and foreign affairs committees."

MCCAIN (AND OTHERS) AMENDMENT NO. 2500

Mr. MCCAIN (for himself, Mr. GRAHAM, Mr. DOLE, Mr. GRAMM, Mr. FORD,

VOL 140 PT 15 AG 10 — 11 1994 UMI

Mr. PRESSLER, Mr. BINGAMAN, Mr. MACK, Mr. AKAKA, Mr. DASCHLE, Mr. SARBANES, Mr. LAUTENBERG, Mr. CHAFEE, and Mr. DOMENICI) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . (a) The prohibition on concurrent award of compensation and retirement pay (including naval pension) set forth in section 5304(a)(1) of title 38, United States Code, does not apply to a person who has a service-connected disability if—

(1) the person has completed at least 20 years of service in the uniformed services that is creditable for purposes of computing the amount of retirement pay to which the member is entitled;

(2) the disability was incurred or aggravated in the performance of duty as a member of a uniformed service, as determined by the Secretary concerned; and

(3) the disability is a disability rated as total—

(A) by the Secretary concerned as of the date on which the person is retired from the uniformed services; or

(B) by the Secretary of Veterans Affairs within four years following the date on which the person is retired from the uniformed services.

(b) Notwithstanding section 1463(a) of title 10, United States Code, the amount of retirement pay paid in accordance with subsection (a) concurrently with the payment of disability compensation to the recipients of such retirement pay shall be paid out of funds appropriated by this Act.

(c) Subsection (a) is not applicable to a person for any period for which the disability of such person is not a disability rated as total as described in paragraph (3) of such subsection.

(d) In this section:

(1) The terms "compensation", "service-connected", and "Secretary concerned" have the meanings given such terms in section 101 of title 38, United States Code.

(2) The term "disability rated as total"—

(A) means a disability that is rated as total under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; and

(B) does not include a disability for which the schedular rating is less than total but for which a rating of total is assigned by reason of inability of the disabled person concerned to secure or follow a substantially gainful occupation as a result of service-connected disabilities or by reason of any other factor.

(3) The term "uniformed services" has the meaning given such term in section 101(a)(5) of title 10, United States Code.

(e) This section shall take effect on October 1, 1994, and shall apply to months that begin on or after that date and before October 1, 1995.

McCAIN AMENDMENT NO. 2501

Mr. McCAIN proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. 8121. REIMBURSEMENT FOR FUNDS PROVIDED IN SUPPORT OF CIVILIAN SPORTING EVENTS.

(a) AGREEMENT FOR REIMBURSEMENT.—Notwithstanding any other provision of law, funds made available to the Department of Defense under title II of this Act may not be expended either directly or indirectly to support the World Cup Soccer Games, the Goodwill Games, an Olympiad, or any other civilian sporting event until the Secretary of Defense—

(1) enters into an agreement with the entity or entities that are to receive the funds to provide for such funds to be reimbursed to the Department under terms and conditions established by the Secretary; and

(2) certifies to Congress that the agreement ensures that such reimbursement will be made.

(b) TERMS OF AGREEMENT.—An agreement entered into under subsection (a)—

(1) may not require any reimbursement until after the sporting event is complete and all event-related contractual obligations have been met by the entity or entities with which the agreement was made;

(2) shall provide that the amount reimbursed may not exceed 25 percent of surplus funds; and

(3) shall provide that no reimbursement is required if the entity or entities with which the agreement was made has no surplus funds after all other contractual obligations have been met.

(c) DEFINITION.—In this section, the term "surplus funds" means the amount equal to the excess of the total amount of revenues (other than tax revenues) and * * *.

BRYAN (AND OTHERS) AMENDMENT NO. 2502

Mr. BRYAN (for himself, Mr. BOREN, Mr. GRAHAM, Mr. DECONCINI, Mr. WARNER, Mrs. FEINSTEIN, and Mr. DORGAN) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 142, between lines 7 and 8, insert the following new section:

SEC. . Of the funds made available by this Act for the National Reconnaissance Office under the classified Schedule of Appropriations accompanying this Act, funds allocated for construction of the headquarters buildings of the National Reconnaissance Office which were unobligated as of the date of enactment of this Act may not be obligated or expended until the Director of Central Intelligence and the Secretary of Defense have completed a review of that construction project and the results of such review have been disclosed to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SPECTER (AND WOFFORD) AMENDMENTS NOS. 2503–2505

Mr. STEVENS (for Mr. SPECTER and Mr. WOFFORD) proposed three amendments to the bill H.R. 4650, supra; as follows:

AMENDMENT NO. 2503

On page 142, between lines 7 and 8, insert the following:

SEC. . IMPLEMENTATION OF AGREEMENT ON THE RESTRUCTURING OF THE ARMY NATIONAL GUARD AND THE ARMY RESERVE.

(A) FINDING.—Congress finds that the implementation of the off-site agreement may result in the loss to the Armed Forces of military personnel who have significant military experience and expertise.

(b) REASSIGNMENT OF MEMBERS.—(1) To the maximum extent practicable, the Secretary of the Army shall ensure that members of the Armed Forces who would otherwise be separated from service as a result of the deactivation of military units of the Army National Guard and the Army Reserve under the off-site agreement be reassigned instead to units that are not being deactivated.

(2) The reassignment of a member under paragraph (1) shall not affect the grade or rank in grade of the member.

(c) REPORTS.—Not later than 15 days after the end of each calendar quarter while the off-site agreement is in effect, the Secretary of the Army shall submit to the congressional defense committees a report on the number of members of the Armed Forces who were reassigned under subsection (b)(1) during the preceding calendar quarter.

(d) DEFINITIONS.—In this section:

(1) The term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(2) The term "Off-site agreement" means the agreement on the restructuring of the Army National Guard and the Army Reserve.

AMENDMENT NO. 2504

At the appropriate place, insert the following:

"No funds appropriated under this Act may be obligated or expended for the purpose of establishing the Antler Military Operations Area, Pennsylvania, for the purpose of conducting aerial combat training operations until:

(1) Region III of the Environmental Protection Agency has completed its currently ongoing Environmental Impact Review.

AMENDMENT NO. 2505

In title IV of the bill, under the heading "Research, Development, Test and Evaluation, Navy", strike out the period at the end and insert in lieu thereof ": *Provided further*, That of the amount of funds appropriated under this paragraph to be allocated to the aircraft technology program element, $5,000,000 of this amount may only be obligated for the completion of Phase I of the Vectored Thrust Combat Agility Demonstrator."

DOMENICI (AND BINGAMAN) AMENDMENT NO. 2506

Mr. STEVENS (for Mr. DOMENICI for himself and Mr. BINGAMAN) proposed an amendment to the bill H.R. 4650, supra; as follows:

At the appropriate place in the bill, insert:

SEC. . No funds appropriated by this Act may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B-52H, B-1B, or F-111 bomber aircraft.

DOMENICI AMENDMENT NO. 2507

Mr. STEVENS (for Mr. DOMENICI) proposed an amendment to the bill, H.R. 4650, supra; as follows:

On page 19, line 10, delete the period, and add the following new proviso: ": *Provided further*, That to the extent that Congress fails to approve the transfer of any part of $400,000,000 originally provided in section 9110(a) of the Department of Defense Appropriations Act, 1993, authority is provided for the Secretary of Defense to transfer funds made available in this Act, or for the President to transfer funds available for assistance to the Russian Federation in any other Appropriations Act, to this account for the Cooperative Threat Reduction "Nunn-Lugar" program: *Provided further*, That any transfer made by the Secretary of Defense under the foregoing proviso shall be subject to the limitations and the reporting requirements stipulated in section 8005 of this Act: *Provided further*, That the authority to make transfers pursuant to this provision is in addition to any other transfer authority of the President and the Secretary of Defense."

HELMS AMENDMENT NO. 2508

Mr. STEVENS (for Mr. HELMS) proposed an amendment to the bill, H.R. 4650, supra; as follows:

At the appropriate place in the committee amendment, insert the following:

SEC. . None of the funds appropriated to the Department of Defense may be used to enter into any agreement or to pay any logistical or support costs, including air transportation, for foreign military participation in any multilateral military activity or in any United Nations sanctioned multilateral force unless the President provides notification 5 days in advance to the appropriate Committees of Congress.

CHAFEE AMENDMENT NO. 2509

Mr. STEVENS (for Mr. CHAFEE) proposed an amendment to the bill, H.R. 4650, supra; as follows:

From the Defense Environmental Restoration Account, $1 million for environmental restoration of the Dereckton Shipyard, Newport, Rhode Island, owned by the U.S. Department of the Navy.

GRASSLEY AMENDMENT NO. 2510

Mr. STEVENS (for Mr. GRASSLEY) proposed an amendment to the bill, H.R. 4650, supra; as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . (a)(1) The Secretary of Defense shall develop a plan for establishing and implementing a requirement for disbursing officials of the Department of Defense to match disbursements to particular obligations before making the disbursements. The Secretary shall transmit the plan to Congress not later than March 1, 1995.

(2) The Inspector General of the Department of Defense shall review the plan and submit the Inspector General's independent assessment of the plan to the congressional defense committees.

(b)(1) Not later than July 1, 1995, the Secretary of Defense shall require that each disbursement by the Department of Defense in an amount in excess of $5,000,000 be matched to a particular obligation before the disbursement is made.

(2) Not later than October 1, 1995, the Secretary of Defense shall require that each disbursement by the Department of Defense in an amount in excess of $1,000,000 be matched to a particular obligation before the disbursement is made.

(c) The Secretary shall ensure that a disbursement in excess of the threshold amount applicable under subsection (b) is not divided into multiple disbursements of less than that amount for the purpose of avoiding the applicability of such subsection to that disbursement.

(d) The Secretary of Defense may waive a requirement for advance matching of a disbursement of the Department of Defense with a particular obligation in the case of (1) a disbursement involving deployed forces, (2) a disbursement for an operation in a war declared by Congress or a national emergency declared by the President or Congress, or (3) a disbursement under any other circumstances for which the waiver is necessary in the national security interests of the United States, as determined by the Secretary and certified by the Secretary to the congressional defense committees.

(e) This section shall not be construed to limit the authority of the Secretary of Defense to require that a disbursement not in excess of the amount applicable under subsection (b) be matched to a particular obligation before the disbursement is made.

MURKOWSKI (AND DOLE) AMENDMENT NO. 2511

Mr. STEVENS (for Mr. MURKOWSKI for himself and Mr. DOLE) proposed an amendment to the bill H.R. 4650, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PROHIBITION ON ASSISTANCE FOR NORTH KOREA.

(a) PROHIBITION.—No funds appropriated under this Act or any other Act may be made available to the Democratic People's Republic of Korea until the President certifies and reports to Congress that the Democratic People's Republic of Korea—

(1) does not possess nuclear weapons;

(2) has halted its nuclear weapons program; and

(3) is not exporting weapons-grade plutonium.

(b) NATIONAL SECURITY WAIVER.—The President may waive the prohibition in this section if he determines and certifies in writing to the Congress that to do so is vital to the national security interest of the United States, and notifies the appropriate Committees of Congress 15 days in advance in accordance with the regular notification procedures of such Committees. Such notification shall include the nature, purpose and amount of the proposed assistance.

HATCH AMENDMENT NO. 2512

Mr. STEVENS (for Mr. HATCH) proposed an amendment to the bill (H.R. 4650) supra; as follows:

At the appropriate place in the bill, add the following new section:

"SEC. . Notwithstanding any other provision of law, the Department of Defense shall pay the appropriate amount of Aviation Continuation Pay authorized by 37 U.S.C. Sec. 301(b) to the survivors of persons who have signed reenlistment contracts but whose service connected death predates the effective date of such reenlistment contract by less than 14 days."

McCONNELL AMENDMENT NO. 2513

Mr. STEVENS (for Mr. MCCONNELL) proposed an amendment to the bill, H.R. 4650, supra; as follows:

At the appropriate place in the bill insert the following SEC. .

(a) Within 60 days of enactment of this Act, the President, in consultation with NATO, shall submit a report to the Committee on Appropriations defining specific military, economic, and political standards required to gain admission to NATO; Provided further, that such report shall not be limited to the principles enunciated in the Partnership for Peace; Provided further, such report shall include an assessment of measures which would be necessary to guarantee the armed services of Poland, Hungary, the Czech Republic, Slovakia, Lithuania, Latvia and Estonia are capable of military cooperation and interoperability with NATO and fulfilling other member responsibilities.

DOLE AMENDMENT NO. 2514

Mr. STEVENS (for Mr. DOLE) proposed an amendment to the bill, H.R. 4650, supra; as follows:

At the appropriate place insert the following new section:

SEC. . REQUIREMENT TO INCLUDE IN THE ADMINISTRATION'S DEFENSE BUDGET REQUEST FOR THE COMING FISCAL YEAR THE COST OF INVOLVEMENT BY ARMED FORCES OF THE UNITED STATES IN HUMANITARIAN, PEACEKEEPING, PEACEMAKING OPERATIONS, AND OPERATIONS OTHER THAN WAR.

(a) REQUIREMENT.—The President shall, when submitting to the Congress the budget for the United States Government for the coming fiscal year, include in the budget the cost of involvement and participation by the Armed Forces of the United States in ongoing or anticipated operations outside the United States as specified below—

(1) operations to provide humanitarian aid;

(2) peacekeeping operations;

(3) peacemaking operations;

(4) operations other than war;

(5) and any operation, other than normal troop movements, rotations, or exercises, in which U.S. military involvement during the fiscal year is anticipated.

(b) CLASSIFIED ANNEX.—If the President or the Secretary of Defense determine that disclosure of the information required in paragraph (a) of this section could reasonably be expected to damage the national security of the United States, the President shall provide the information in a classified annex.

DOLE (AND McCAIN) AMENDMENT NO. 2515

Mr. STEVENS (for Mr. DOLE for himself and Mr. MCCAIN) proposed an amendment to the bill H.R. 4650, supra, as follows:

At the appropriate place insert the following new section:

SEC. . REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(A) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom Up Review to properly structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Joint Staff officer responsible for force planning testified on March 1, 1994, that the Bottom Up Review force structure exposes U.S. troops to a "high element of risk;"

(3) Whereas the Secretary of Defense has testified that the Department of Defense's Future Years Defense Program includes $20 billion more in program funding requests during fiscal years 1996 through 1999 than the defense funding levels in the Administration's budget can support;

(4) Whereas the General Accounting Office reported in July 1994 that the Administration's Future Years Defense Program may be underfunded by as much as $150 billion;

(5) Whereas, the Secretary of the Navy has testified that the Department of the Navy

VOL 140 PT 15 AG 10 — 11 1994 UMI

will only operate 330 ships rather than the 346 ships required by the Bottom Up Review;

(6) Whereas, in January 1994, in his Annual Report to the President and the Congress, the Secretary of Defense reported that the Air Force will field approximately 100 heavy bombers rather than the 184 required by the Bottom Up Review;

(7) Whereas the Department of Defense's plans for a major regional contingency in the Far East call for 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for 7 Army divisions, while the Bottom Up Review plans for an Army of only 10 active divisions;

(8) Whereas the Administration's budget assumes the Department of Defense will save at least $6 billion from procurement reform;

(9) Whereas the first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base closure round may cost significantly more than is assumed in the Administration's budget;

(b) REQUIREMENT.—

(1) The Secretary of Defense shall, within 30 days after enactment of this legislation, initiate a review of the assumptions and conclusions of the President's Budget, the Bottom Up Review, and the Future Years Defense Program;

(2) not more than 60 days after the review described in (b)(1) is initiated, the Secretary of Defense shall submit to the President and to the Congress a report detailing the funding level required for the defense and national security of the United States;

(3) The President shall, when submitting to the Congress the budget of the United States Government for Fiscal Year 1996, submit a defense budget for fiscal year 1996 and a Future Years Defense Plan which represents the funding level described in (b)(2).

COHEN AMENDMENTS NOS. 2516–2517

Mr. STEVENS (for Mr. COHEN) proposed two amendments to the bill H.R. 4650, supra; as follows:

AMENDMENT No. 2516

At an appropriate place in the bill, insert the following section:

SEC . SENATE ADVICE AND CONSENT TO CHANGES IN OBLIGATIONS UNDER THE CFE TREATY.

(a) FINDINGS.—

(1) On November 25, 1991, the Senate gave its advice and consent to ratification of the CFE Treaty.

(2) The President would need to seek the Senate's advice and consent to any change in obligation of the states parties under the CFE Treaty, unless such change were a minor matter of an administrative or technical nature.

(3) A change in the allowed holdings of treaty limited equipment in the area of application or any geographic sub-zone of the area of application would constitute a change in obligation for which the Senate's advice and consent would be required.

(b) REAFFIRMATION OF SENATE'S TREATY-MAKING POWERS.—The President shall submit for the Senate's advice and consent any change in the obligations of any state party under the CFE Treaty, unless such change is a minor matter of an administrative or technical nature.

(c) CFE TREATY DEFINED.—For the purpose of this section, the CFE Treaty means the Treaty on Conventional Armed Forces in Europe, signed in Paris on November 19, 1990, and associated protocols.

AMENDMENT No. 2517

At the appropriate place, insert:

SEC. 114. [S114]. SMALL ARMS INDUSTRIAL BASE.

(a) FUNDING FOR PROCUREMENT.—Of the funds authorized to be appropriated pursuant to section 101(3), $93,683,000 is available for procurement of small arms weapons as follows:

(1) $38,902,000 for the MK19–3 grenade machine gun.

(2) $13,000,000 for the M16A2 rifle.

(3) $28,616,000 for the M249 squad automatic weapon.

(4) $13,165,000 for the M4 carbine.

(b) MULTIYEAR CONTRACTS AUTHORIZED.—(1) During fiscal year 1995, the Secretary of the Army may, in accordance with section 2306(h) of title 10, United States Code, enter into multiyear contracts to meet the following objectives for quantities of small arms weapons to be procured for the Army:

Weapon	*Quantity*
MK19–3 grenade machine gun	21,217
M16A2 rifle	1,002,277
M249 squad automatic weapon	71,769
M4 carbine	132,510.

(2) If the Army does not enter into contracts during fiscal year 1995 that will meet all the objectives set forth in paragraph (1), the Secretary shall, to the extent provided for in appropriations Acts, enter into multiyear contracts during subsequent fiscal years to meet those objectives.

(c) FOLLOW-ON WEAPONS.—The Secretary of the Army shall provide for procurement of product improvements for existing small arms weapons and may do so within multiyear contracts entered into pursuant to subsection (b).

(d) JOINT SMALL ARMS MASTER PLAN.—(1) The Secretaries of the military departments shall jointly develop a master plan for meeting the immediate and future needs of the Armed Forces for small arms. The Secretary of the Army shall coordinate the development of the joint small arms master plan. The joint small arms master plan shall include—

(A) an examination of the relative advantages and disadvantages of improving existing small arms weapons as compared to investing in new, advanced technology weapons; and

(B) an analysis of the effects of each such approach on the small arms industrial base.

(2) Not later than April 1, 1995, the Under Secretary of Defense for Acquisition and Technology shall—

(A) review the joint small arms master plan and the results of the examination of relative advantages and disadvantages of the two courses of action described in paragraph (1); and

(B) transmit the plan, together with any comments that the Under Secretary considers appropriate, to Congress.

(e) FUNDING FOR RDT&E.—Of the funds authorized to be appropriated under section 201(1)—

(1) $5,000,000 shall be available for the Objective Crew-Served Weapons System; and

(2) $3,000,000 shall be available for product improvements to existing small arms weapons.

DOLE (AND OTHERS) AMENDMENT NO. 2518

Mr. STEVENS (for Mr. DOLE for himself and Mr. LIEBERMAN, Mr. MCCAIN, Mr. MOYNIHAN, Mr. WELLSTONE, Mr. EXON, Mr. FEINGOLD, Mr. HATCH, Mr. DECONCINI, Mr. LUGAR, and Mr. HELMS) proposed an amendment to the bill, H.R. 4650, supra; as follows:

At the appropriate place, add the following:

SEC . TERMINATION OF ARMS EMBARGO.

(1) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina no later than November 15, 1994 so that Government may exercise its right of self-defense under Article 51 of the United Nations Charter.

(2) DEFINITION.—As used in this section, the term 'United States arms embargo of the Government of Bosnia and Herzegovina' means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 F.R. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(B) any similar policy being applied by the United States Government as of the date of receipt of the request described in paragraph (1) pursuant to request described in paragraph (1) pursuant to which approval is denied for transfers of defense articles and defense services to the former Yugoslavia.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be interpreted as authorization for deployment of United States forces in the territory of Bosnia and Herzegovina for any purpose, including training, support, or delivery of military equipment.

COHEN AMENDMENT NO. 2519

Mr. STEVENS (for Mr. COHEN) proposed an amendment to the bill, H.R. 4650, supra; as follows:

At an appropriate place in the bill, insert the following section:

SEC. . SENATE ADVICE AND CONSENT TO CHANGES IN OBLIGATIONS UNDER THE CFE TREATY.

(a) FINDINGS.—

(1) On November 25, 1991, the Senate gave its advice and consent to ratification of the CFE Treaty.

(2) The President would need to seek the Senate's advice and consent to any change in obligation of the states' parties under the CFE Treaty, unless such change were a minor matter of an administrative or technical nature.

(3) A change in the allowed holdings of treaty limited equipment in the area of application or any geographic sub-zone of the area of application would constitute a change in obligation for which the Senate's advice and consent would be required.

(b) REAFFIRMATION OF SENATE'S TREATY-MAKING POWERS.—The President shall submit for the Senate's advice and consent any change in the obligations of any state party under the CFE Treaty, unless such change is a minor matter of an administrative or technical nature.

(c) CFE TREATY DEFINED.—For the purpose of this section, the CFE Treaty means the Treaty on Conventional Armed Forces in Europe, signed in Paris on November 19, 1990, and associated protocols.

THURMOND (AND DECONCINI) AMENDMENT NO. 2520

Mr. STEVENS (for Mr. THURMOND for himself and Mr. DECONCINI) proposed an amendment to the bill, H.R. 4650, supra; as follows:

At the end of Title VIII, General Provisions, add the following new section:

SEC. . Of the funds appropriated by title VIII of Public Law 102–396 (106 Stat. 1899) for defense reinvestment for economic growth, the unobligated balance of the funds made available by such title for military service members occupational conversion and training shall remain available until September 30, 1995.

ROTH AMENDMENT NO. 2521

Mr. Stevens (for Mr. ROTH) proposed an amendment to the bill, H.R. 4650, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . Sense of the Senate concerning Japan fulfilling its commitments under the Host Nation Support Agreement it signed with the United States on January 14, 1991:

That, the U.S.-Japan Security Treaty continues to be a strong bond between our two countries, serving as a main pillar of the bilateral relationship;

That, the bilateral relationship is of vital importance to both countries and to the stability of the Asia Pacific region and the entire world;

That, Japan's willingness to share the costs of maintaining forces in Japan is an important contribution to strengthening our security partnership;

That, it has often been asserted that Japan's host nation support for American forces provides a model defense burden-sharing arrangement for our allies;

That, Japan and the United States signed a new Host Nation Support Agreement on January 14, 1991, providing for Japan to assume—over five years beginning in Japanese Fiscal Year 1991 and ending in FY 1995—virtually all yen-based costs of maintaining U.S. forces in Japan;

That, Japan voluntarily entered into that agreement more than a year before the expiration of the previous Host Nation Support Agreement which was not as generous;

That, the Government of Japan hailed the new agreement as "a step of great significance for the overall relationship between the two countries;"

That, Japan's Defense Agency appears to have decided to decrease expenses for bearing the cost of stationing U.S. forces in Japan in its FY 1995 budget request, thereby failing to fulfill its obligations under the 1991 Host Nation Support Agreement;

That, should Japan fail to fulfill those obligations, the bilateral relationship may suffer negative consequences, particularly as current problems on the Korean peninsula may pose a critical challenge to U.S.-Japan security ties; Now, therefore, be it *resolved*, That:

(1) It is in the interest of both Japan and the United States to fully comply with all the provisions of the Host Nation Support Agreement of 1991; and

(2) Should Japan take actions that prevent it from fulfilling any of its obligations under that Agreement, the bilateral relationship, may suffer harmful consequences.

STEVENS AMENDMENT NO. 2522

Mr. STEVENS proposed an amendment to the bill, H.R. 4650, supra; as follows:

At the appropriate place, add the following: "None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, if the total cost over the life of the project for the replacement or renovation of the Pentagon Reservation shall exceed $1,009,000,000."

MCCONNELL AMENDMENT NO. 2523

Mr. STEVENS (for Mr. MCCONNELL) proposed an amendment to the bill, H.R. 4650, supra; as follows:

At the appropriate place in the bill insert the following:

SEC. . (a) Within 60 days of enactment of this Act, the President, in consultation with NATO, shall submit a report to the Committee on Appropriations defining specific military, economic, and political standards required to gain admission to NATO; *Provided further*, That such report shall not be limited to the principles enunciated in the Partnership for Peace; *Provided further*, Such, report shall include an assessment of measures which would be necessary to guarantee the armed services of Poland, Hungary, the Czech Republic, Slovakia, Lithuania, Latvia and Estonia are capable of military cooperation and interoperability with NATO and fulfilling other member responsibilities.

NUNN (AND MITCHELL) AMENDMENT NO. 2524

Mr. INOUYE (for Mr. NUNN for himself and Mr. MITCHELL) proposed an amendment to the bill H.R. 4650, supra; as follows:

SEC. . BOSNIA AND HERCEGOVINA.

(A) PURPOSE.—To express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Hercegovina, and to establish a process to end the arms embargo on the Government of Bosnia and Hercegovina.

(B) STATEMENT OF SUPPORT.—The Congress supports the efforts of the so-called "contact group" composed of representatives of the United States, Russia, France, Britain, and Germany to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina based upon the contact's group proposal of July 6, 1994 that has been agreed to by the Government of Bosnia and Hercegovina and rejected by the Bosnian Serb faction.

(C) SENSE OF THE CONGRESS.—It is the sense of the congress that:

(1) The United States should work with the NATO Member nations and other permanent Member of the United Nations Security Council to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina which maintains the territorial integrity of Bosnia and Hercegovina.

(2) A peaceful settlement of the conflict must preserve an economically, politically and militarily viable Bosnian state capable of exercising its rights under the United Nations Charter as part of a peaceful settlement, including the lifting of the arms embargo on the Government of Bosnia and Hercegovina so that it can exercise the inherent right of a sovereign state to self-defense.

(3) The acceptance of the contact group's peace proposal by the Government of Bosnia and Hercegovina should lead to the lifting of the international arms embargo on that Government.

(4) In providing weapons to the Bosnian Government or taking other actions, care should be taken to provide for the safety of the United Nations Protection Force (UNPROFOR) and the civilian personnel working for the United Nations or non-governmental volunteer organizations.

(5) The United States should immediately seek to organize an international effort to provide assistance to the nations bordering Serbia and Montenegro to bring about more effective enforcement by those nations of the international economic sanctions on the Government of Serbia and Montenegro.

(D) POLICY.—The United States should exercise leadership within the international community to cause the Bosnian Serb faction to accept the contact's group's proposal. Such action should be taken on separate but complimentary international and unilateral tracks. Accordingly:

(1) International: If the Bosnian Serbs have not accepted the contact group's proposal of July 6, 1994 within 10 days after the enactment of this Act or by October 15, 1994, whichever is later, the President or his representative should formally introduce and support a resolution in the United Nations Security Council, within fourteen (14) days thereafter, to terminate the international arms embargo on the Government of Bosnia and Hercegovina. The termination of the arms embargo on the Government of Bosnia and Hercegovina may be accomplished in stages but should result in a lifting of the arms embargo no later than December 1, 1994.

(2) Unilateral: If the United Nations Security Council has not voted to lift the international arms embargo on the Government of Bosnia and Hercegovina in accordance with paragraph 1 within 15 days after the President or his representative has formally introduced such a resolution or by November 15, 1994, whichever is earlier, and the Bosnian Serbs have not accepted the contact group's proposal of July 6, 1994 by that date:

(a) None of the funds available to the Department of Defense for any fiscal year shall thereafter be used for the purpose of participation in, support for, or assistance to the enforcement of the arms embargo on the Government of Bosnia and Hercegovina but the President may waive this provision in the case of U.S. military personnel serving in NATO headquarters staff positions. Nothing in this provision is intended to impede sanctions enforcement against Serbia;

(b) The President shall submit a plan to and consult with the Congress on the manner in which the armed forces of the United States and other friendly nations would provide training to the armed forces of the Government of Bosnia and Hercegovina outside of the territory of Bosnia and Hercegovina; and

(c) The President shall submit a plan to and consult with the Congress regarding unilateral lifting by the United States of the arms embargo on the Government of Bosnia and Hercegovina.

(3) Interim: If the Bosnian Serb faction attacks the United Nations declared safe areas, the President or his representative should promptly introduce and support a resolution in the United Nations Security Council that authorizes a selective lifting of the arms embargo on the Government of Bosnia and Hercegovina to provide defensive weapons, such as anti-tank weapons, counter-battery radars, and mortars, to enable the forces of the Government of Bosnia and Hercegovina to defend the safe areas.

HARKIN AMENDMENT NO. 2525

Mr. INOUYE (for Mr. HARKIN) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 142, between lines 7 and 8, insert the following:

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 8121. SENSE OF CONGRESS ON NEGOTIATION OF LIMITATIONS ON NUCLEAR WEAPONS TESTING.

(a) FINDINGS.—Congress finds the following:

(1) On January 25, 1994, the United States joined with 37 other nations to begin negotiations for a comprehensive treaty to ban permanently all nuclear weapons testing.

(2) On March 14, 1994, the President decided to extend the current United States nuclear testing moratorium at least through September 1995.

(3) Germany and the Group of 21 Non-Aligned States have publicly stated their support for the completion of a comprehensive nuclear test ban treaty by 1995.

(4) On June 6, 1994, the People's Republic of China conducted its second nuclear weapons test explosion since the United States, Russia, and France initiated their current nuclear test moratoria.

(5) On September 7, 1994, the third and final test ban negotiating session of the year will end.

(6) While some progress toward a comprehensive nuclear test ban treaty has been achieved, there is little chance that an agreement will be reached before April 1995 at the current rate of negotiation.

(7) The United States is seeking to extend indefinitely the Non-Proliferation Treaty at the April 1995 Extension Conference.

(8) Conclusion of a comprehensive nuclear test ban treaty could contribute toward successful negotiations to extend the Non-Proliferation Treaty.

(9) Agreements to eliminate nuclear testing and control the spread of nuclear weapons could contribute to national security of the United States, its allies, and other nations around the world.

(b) SENSE OF CONGRESS.—The Congress—

(1) applauds the President for maintaining the United States nuclear testing moratorium and for supporting the negotiation of a comprehensive nuclear test ban treaty;

(2) encourages the People's Republic of China and all other nuclear powers to refrain from conducting nuclear explosions prior to conclusion of a comprehensive nuclear test ban treaty; and

(3) urges the President and the other nuclear powers to take measures necessary to achieve a multilateral comprehensive nuclear test ban treaty before the Non-Proliferation Treaty Extension Conference.

(c) DEFINITION.—As used in this section, the term "Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968 (21 U.S.T. 483).

LIEBERMAN (AND HATCH) AMENDMENT NO. 2526

Mr. INOUYE (for Mr. LIEBERMAN for himself and Mr. HATCH) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 39, after the words "such section" on line 2, insert: :*Provided further*, That of the funds appropriated in this paragraph, not less than $2,000,000 shall be made available for International Cooperative projects to be funded under the Counterterror Technical Support program element".

SHELBY (AND OTHERS) AMENDMENT NO. 2527

Mr. INOUYE (for Mr. SHELBY for himself, Mr. HEFLIN, Mr. GLENN, Mr. COCHRAN, and Mr. LOTT) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 10, line 17, before the period insert the following: "*Provided*, That, of the amount appropriated under this paragraph, not less than $8,000,000 shall be available only for the upgrading of the Air Force's Core Automated Maintenance System/Reliability and Maintainability Information System (CAMS/REMIS)"

BOREN (AND DECONCINI) AMENDMENT NO. 2528

Mr. INOUYE (for Mr. BOREN for himself and Mr. DECONCINI) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 142, between lines 7 and 8, insert the following new section:

SEC. . (a) No project for the construction of any facility, or improvement to any facility, having an estimated Federal cost in excess of $300,000, may be undertaken in any fiscal year except to the extent and in the amounts specifically provided for it as a separate item provided in an appropriation Act, if such facility or improvement would be used primarily by personnel of the intelligence community.

(b) As used in this section, the term "intelligence community" has the same meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SIMON (AND OTHERS) AMENDMENT NO. 2529

Mr. INOUYE (for Mr. SIMON for himself, Mr. JEFFORDS and Mr. HELMS) proposed an amendment to the bill, H.R. 4650, supra; as follows:

At the end of the bill, add the following new title:

TITLE —AFRICAN CONFLICT RESOLUTION

SEC. 01. SHORT TITLE.

This Act may be cited as the "African Conflict Resolution Act".

SEC. 02. FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) It is in the national interest of the United States to help build African capability in conflict resolution. A relatively small investment of assistance in promoting African conflict resolution—

(A) would reduce the enormous human suffering which is caused by wars in Africa;

(B) would help the United States avoid huge future expenditures necessitated by Somalia-like humanitarian disasters; and

(C) would reduce the need for United Nations intervention as African institutions develop the ability to resolve African conflicts.

(2) Africa, to a greater extent than any other continent, is afflicted by war. Africa has been marred by more than 20 major civil wars since 1960. Rwanda, Somalia, Angola, Sudan, Liberia, and Burundi are among those countries that have recently suffered serious armed conflict.

(3) In the last decade alone, between 2,000,000 and 4,000,000 Africans have died because of war. There were 5,200,000 refugees and 13,100,000 displaced people in Africa in 1993. In Angola, relief organizations estimated that 1,000 people were dying each day at the end of 1993. In Rwanda, more than 200,000 people died in less than 5 weeks of fighting during 1994, while 300,000 people fled to other countries to escape war.

(4) Millions more Africans are currently at risk of war-related death. Looming or ongoing conflicts in Zaire, Angola, Sudan, Rwanda, and other countries threaten Africa's future.

(5) War has caused untold economic and social damage to the countries of Africa. Food production is impossible in conflict areas, and famine often results. Widespread conflict has condemned many of Africa's children to lives of misery and, in certain cases, has threatened the existence of traditional African cultures.

(6) Conflict and instability in Africa, particularly in large, potentially rich countries such as Angola, Sudan, and Zaire, deprive the global economy of resources and opportunities for trade and investment. Peace in these countries could make a significant contribution to global economic growth, while creating new opportunities for United States businesses.

(7) Many African armies are far too large, threatening political and economic stability while diverting scarce resources from development needs. Military expenditures in Africa average over twice the level in Latin America. Demobilization and other measures to reduce military expenditures are thus a critical need for many African countries.

(8) Conflict prevention, mediation, and demobilization are prerequisites to the success of development assistance programs. Nutrition and education programs, for example, cannot succeed in a nation at war. Billions of dollars of development assistance have been virtually wasted in war-ravaged countries such as Liberia, Somalia, and Sudan.

(9) Africans have a long tradition of informal mediation. This tradition should be built upon to create effective institutions through which Africans can resolve African conflicts.

(10) The Organization of African Unity, under the leadership of Secretary General Salim Salim, has established a conflict resolution mechanism and has been active in mediation and conflict resolution in several African countries. Various subregional organizations have also become active in conflict resolution efforts. These are encouraging developments.

(b) UNITED STATES POLICY.—The Congress declares, therefore, that a key goal for United States foreign policy should be to help institutionalize conflict resolution capability in Africa.

SEC. 03. IMPROVING THE CONFLICT RESOLUTION CAPABILITIES OF THE ORGANIZATION OF AFRICAN UNITY.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capability of the Organization of African Unity, as follows:

(1) Funds may be provided to the Organization of African Unity for use in supporting its conflict resolution capability.

(2) Funds may be used for expenses of sending individuals with expertise in conflict resolution to work with the Organization of African Unity.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, significant sums for each of the fiscal years 1995 through 1998 should be used to carry out subsection (a).

SEC. 04. IMPROVING CONFLICT RESOLUTION CAPABILITIES OF MULTILATERAL SUBREGIONAL ORGANIZATIONS IN AFRICA.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capabilities of subregional organizations established by countries in sub-Saharan Africa, as follows:

(1) Funds may be provided to such an organization for use in supporting its conflict resolution capability.

(2) Funds may be used for the expenses of sending individuals with expertise in conflict resolution to work with such an organization.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, up to $1,500,000 for each of the fiscal years 1995 through 1998 may be used to carry out subsection (a).

SEC. 05. AFRICAN DEMOBILIZATION AND RETRAINING PROGRAM.

(a) AUTHORIZATION OF ASSISTANCE.—In order to facilitate reductions in the size of the armed forces of countries of sub-Saharan Africa, the President is authorized to provide assistance for—

(1) encampment and related activities associated with demobilization of such forces, and

(2) the retraining for civilian occupations of military personnel who have been demobilized.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, up to $25,000,000 for each of the fiscal years 1995 and 1996 should be used for the assistance described in subsection (a), if conditions permit.

SEC. 06. TRAINING FOR AFRICANS IN CONFLICT RESOLUTION AND PEACEKEEPING.

(a) AUTHORIZATION OF ASSISTANCE..—The President is authorized to establish a program to provide education and training in conflict resolution and peacekeeping for civilian and military personnel of countries in sub-Saharan Africa.

(b) FUNDING.—Funds made available for military education and training activities under chapter 5 of part II of the Foreign Assistance Act of 1961 may be used to carry out the program provided for in subsection (a).

SEC. 07. BUILDING MEDIATION CAPABILITY IN AFRICA.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to nongovernmental organizations that are engaged in mediation and reconciliation efforts in Africa.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, funds for each of the fiscal years 1995 and 1996 should be used to carry out subsection (a).

SEC. 08. DEFINITION.

As used in this title, the term "foreign assistance funds" means funds made available—

(1) under chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 (relating to development assistance and the Development Fund for Africa),

(2) under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), and

(3) under section 23 of the Arms Export Control Act (relating to foreign military financing),

and includes unobligated funds in such accounts which remain available from previous fiscal years.

BINGAMAN (AND PRYOR) AMENDMENT NO. 2530

Mr. INOUYE (for Mr. BINGAMAN for himself and Mr. PRYOR) proposed an amendment to the bill H.R. 4650, supra; as follows:

Strike section 8096 and insert in lieu thereof:

Amendment No. : None of the funds appropriated or otherwise made available by this Act may be used for a defense technology reinvestment project that is not selected pursuant to the applicable competitive selection and other procedures set forth in chapter 148 of title 10, United States Code: *Provided*, That notwithstanding any other provision of law, funds appropriated for defense reinvestment programs under the heading "Research, Development, Test and Evaluation, Defense-Wide" shall not be obligated until the Secretary of Defense has ensured that the Assistant Secretaries for Research, Development, and Acquisition of the separate Military Departments are full members of the Defense Technology Conversion Council: *Provided further*, That notwithstanding any other provision of law, of the funds appropriated for defense reinvestment programs under the heading "Research, Development, Test and Evaluation, Defense-Wide", $150,000,000 may only be obligated for projects selected as a result of a focused competition held in subject areas selected by the Assistant Secretaries for Research, Development, and Acquisition of the separate Military Departments in coordination with the Director of the Advanced Research Projects Agency: *Provided further*, That in addition to the restriction contained in the preceding provisos, the focused competitions shall be conducted in accordance with other unaffected statutory provisions of the Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993.

LEVIN AMENDMENT NO. 2531

Mr. INOUYE (for Mr. LEVIN) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 11, line 10, before the period insert the following: ": *Provided further*, That, of the total amount appropriated under this title, $1,224,309,000 shall be available for the Defense Contract Management Command".

WELLSTONE AMENDMENT NO. 2532

Mr. INOUYE (for Mr. WELLSTONE) proposed an amendment to the bill H.R. 4650, supra; as follows:

At the appropriate place in the bill, insert the following:

"SEC. . The Senate finds:

a. In 1953, the U.S. Army conducted chemical and biological warfare tests in Minneapolis, MN, involving the spraying of zinc cadmium sulfide particles.

b. Members of the Senate have requested the Department of Defense to provide full disclosure of all documents pertaining to this and similar tests conducted nationwide.

c. The Department of Defense has thus far failed to provide even a time certain at which such documents will be made available.

SEC. . It is the sense of the Senate that the Department of Defense shall immediately provide, in writing, a schedule of production for the requested documents.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 2533

Mr. INOUYE (for Mr. BINGAMAN for himself, and Mr. DOMENICI) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 37, line 21, of the Committee reported bill before the period insert the following: ": *Provided further*, That of the funds appropriated in this paragraph, $2,800,000 shall be made available only for the F-111 Squadrons program element".

FEINSTEIN (AND OTHERS) AMENDMENT NO. 2534

Mr. INOUYE (for Mrs. FEINSTEIN for herself, Mr. SASSER, Mr. BINGAMAN, and Mr. ROTH) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . (a) None of the funds available to the Department of Defense during fiscal year 1995 may be used for negotiating or entering into any agreement with, nor for accepting funds from, a foreign government or an entity controlled by a foreign government for a joint program for the development of an advanced threat radar jammer for combat helicopters until 30 days after the Secretary of Defense, in consultation with the Secretary of State, the Secretary of the Army, and the Director of the Defense Security Assistance Agency, conducts a comprehensive review of the program and submits a report on the results of that review to the congressional defense committees.

(b) This section does not apply with respect to a major ally of the United States.

(c) In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government, and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary of Defense. Such term does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(2) The term "major ally of the United States" has the meaning given such term in section 2350a(i)(2) of title 10, United States Code.

INOUYE AMENDMENTS NOS. 2535–2536

Mr. INOUYE proposed two amendments to the bill H.R. 4650, supra; as follows:

AMENDMENT No. 2535

On page 9, on line 13, of the Committee-reported bill, insert before the period the following: ": *Provided further*, That of the funds appropriated under this heading, not less than $39,674,000 shall be made available only for the Pacific Missile Range Facility, Hawaii".

AMENDMENT No. 2536

On page 29, on line 15 of the Committee-reported bill, insert before the period the following: ": *Provided*, That of the funds appropriated under this heading, not less than $30,100,000 shall be made available only for the Pacific Missile Range Facility, Hawaii".

DODD AMENDMENT NO. 2537

Mr. INOUYE (for Mr. DODD) proposed an amendment to the bill H.R. 4650, supra; as follows:

VOL
140
PT
15
AG
10
11
1994
UMI

On page 142, between lines 7 and 8, insert the following:

SEC. The Secretary of Commerce, acting through the Commissioner of Patents, shall, upon expiration of United States patent numbers 4,428,744 and 4,683,889 (relating to a photopheresis method involving collection and exposure of extracorporeally circulating leukocyte-enriched blood to long-wave ultraviolet energy in the presence of a photoactive drug 8-methoxypsoralen), or as soon thereafter as practicable, extend such patents for four and one-half years, with all the rights pertaining thereto.

KEMPTHORNE (AND OTHERS) AMENDMENT NO. 2538

Mr. STEVENS (for Mr. KEMPTHORNE for himself, Mr. WARNER, and Mr. CRAIG) proposed an amendment to the bill H.R. 4650, supra; as follows:

At the appropriate place in the bill, insert the following new section:

RESTRICTION ON FUNDING UNITED STATES MILITARY PERSONNEL IN SOMALIA

SEC. . None of the funds appropriated by this Act may be used for the continuous presence in Somalia of United States military personnel after September 30, 1994.

HELMS AMENDMENTS NOS. 2539–2540

Mr. STEVENS (for Mr. HELMS) proposed two amendments to the bill H.R. 4650, supra; as follows:

AMENDMENT No. 2539

At the appropriate place in the Committee amendment, insert the following:

SEC. . LIMITATION ON THE USE OF FUNDS FOR THE SANDINISTA POPULAR ARMY AND SECURITY FORCES OF NICARAGUA.

(a) IN GENERAL.—None of the funds appropriated under this Act may be obligated or expended for the armed forces or security forces of Nicaragua, and none of the funds appropriated by this Act may be obligated or expended to pay the salaries of United States military personnel to provide assistance for the armed forces or security forces of Nicaragua, until the President determines and certifies to the Congress that—

(1) Nicaraguan military officers implicated for committing human rights violations, including those involved in the murders of Enrique Bermudez, Arges Sequeira, and Jean Paul Genie, have been removed or suspended from the military and judicial proceedings have commenced;

(2) officers of the Nicaraguan armed forces or security forces are not involved in the illicit trafficking of military equipment, including those seized by Colombian authorities on the San Andres Islands on July 24, 1994;

(3) civilian control over the military and security forces, including control over the budget and expenditures of such forces, has been clearly established; and

(4) there has been a full and independent investigation conducted relating to issues raised by the May 23, 1993 discovery of the Santa Rosa arms cache of the existence of a terrorist/kidnapping ring and any individuals identified by the investigation as being part of such ring are being prosecuted.

AMENDMENT No. 2540

At the appropriate place in the committee amendment, insert the following:

SEC. . PROHIBITION ON U.S. MILITARY PARTICIPATION IN ANY MULTILATERAL MILITARY FORCE WHICH INCLUDES NICARAGUA ARMED FORCES.

None of the funds appropriated or otherwise made available by this Act may be provided for any U.S. military participation in any multilateral operation which also involves elements of the military or security forces of Nicaragua unless the President certifies and reports in writing to the Congress that—

(1) Nicaraguan military officers implicated in human rights abuses by the Tripartite Commission, the Inter-American Commission on Human Rights, the Nicaraguan Association for Human Rights, the Permanent Commission for Human Rights, or the judiciary in Nicaragua, have been removed or suspended from military service, as the case may be, and judicial/legal proceedings have commenced;

(2) officers of the Nicaraguan armed forces or security forces are not involved in the illicit sale, transport, or trafficking of weapons and military equipment, including those seized by Colombian authorities on the San Andres Islands on July 24, 1994;

(3) civilian control over the military and security forces by the democratically-elected President and Congress of Nicaragua, including control over the budget and expenditures of the military and security forces, has been clearly established and evidence that such control is respected by such forces; and

(4) fair and impartial civilian judicial proceedings have been completed against those involved in the murders of Enrique Bermudez, Arges Sequeira, and Jean Paul Genie.

DOLE AMENDMENT NO. 2541

Mr. STEVENS (for Mr. DOLE) proposed an amendment to the bill H.R. 4650, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Megan Kanka Sexually Violent Predators Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) there exists a small but extremely dangerous group of sexually violent persons who do not have a mental disease or defect;

(2) persons who are sexually violent predators generally have antisocial personality features that—

(A) are not amenable to mental illness treatment modalities in existence on the date of enactment of this Act; and

(B) render the persons likely to engage in sexually violent behavior;

(3) the likelihood that sexually violent predators will repeat acts of predatory sexual violence is high; and

(4) the prognosis for curing sexually violent predators is poor and the treatment needs of the population of the predators are very long-term.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) MENTAL ABNORMALITY.—The term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes the person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(2) PREDATORY.—The term "predatory", with respect to an act, means an act directed towards a stranger, or a person with whom a relationship has been established or promoted, for the primary purpose of victimization.

(3) SEXUALLY VIOLENT OFFENSE.—The term "sexually violent offense" means an act that is a violation of title 18, United States Code or State criminal code that—

(A) involves the use or attempted or threatened use of physical force against the person or property of another person; and

(B) is determined beyond a reasonable doubt to be sexually motivated.

(4) SEXUALLY VIOLENT PREDATOR.—The term "sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

SEC. 4. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—In accordance with this section, the Attorney General shall establish guidelines for State programs to require a sexually violent predator to register a current address with a designated State law enforcement agency upon release from prison, being placed on parole, or being placed on supervised release. The Attorney General shall approve each State program that complies with the guidelines.

(2) STATE COMPLIANCE.—

(A) IMPLEMENTATION DATE.—A State that does not implement a program described in paragraph (1) by the date that is 3 years after the date of enactment of this Act, and maintain the implementation thereafter, shall be ineligible for funds in accordance with subparagraph (B).

(B) INELIGIBILITY FOR FUNDS.—

(i) IN GENERAL.—A State that does not implement the program as described in subparagraph (A) shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756).

(ii) REALLOCATION OF FUNDS.—Funds made available under clause (i) shall be reallocated, in accordance with such section, to such States as implement the program as described in subparagraph (A).

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—

(1) IN GENERAL.—An approved State program established in accordance with this section shall contain the requirements described in this section.

(2) DETERMINATION.—The determination that a person is a "sexually violent predator" and the determination that a person is no longer a "sexually violent predator" shall be made by the sentencing court after receiving a report by a board of experts on sexual offenses. Each State shall establish a board composed of experts in the field of the behavior and treatment of sexual offenders.

(3) NOTIFICATION.—If a person who is required to register under this section is anticipated to be released from prison, paroled, or placed on supervised release, a State prison officer shall, not later than 90 days before the anticipated date of the release or commencement of the parole—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing not later than 10 days after the change of address;

(C) obtain the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(4) TRANSFER OF INFORMATION TO STATE AND THE FBI.—Not later than 3 days after the receipt of the information described in paragraph (3)(C), the officer shall forward the information to a designated State law enforcement agency. As soon as practicable after the receipt of the information by the State law enforcement agency, the agency shall—

(A) enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency that has jurisdiction over the area in which the person expects to reside; and

(B) transmit the information to the Identification Division of the Federal Bureau of Investigation.

(5) QUARTERLY VERIFICATION.—

(A) MAILING TO PERSON.—Not less than every 90 days after the date of the release or commencement of parole of a person required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person.

(B) RETURN OF VERIFICATION FORM.—

(i) IN GENERAL.—The person shall return, by mail, the verification form to the agency not later than 10 days after the receipt of the form. The verification form shall be signed by the person, and shall state that the person continues to reside at the address last reported to the designated State law enforcement agency.

(ii) FAILURE TO RETURN.—If the person fails to mail the verification form to the designated State law enforcement agency by the date that is 10 days after the receipt of the form by the person, the person shall be in violation of this section unless the person proves that the person has not changed the residence address of the person.

(6) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESSES.—Any change of address by a person required to register under this section that is reported to the designated State law enforcement agency shall as soon as practicable be reported to the appropriate law enforcement agency that has jurisdiction over the area in which the person is residing.

(7) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to register and keep the registration current shall be subject to criminal penalties in the State. It is the sense of Congress that the penalties should include imprisonment for not less than 180 days.

(8) TERMINATION OF OBLIGATION TO REGISTER.—The obligation of a person to register under this section shall terminate on a determination made in accordance with the provision of paragraph (2) of this section that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.

(c) COMMUNITY NOTIFICATION.—The designated State law enforcement agency shall release relevant information that is necessary to protect the public concerning a specific sexually violent predator required to register under this section.

(d) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies, and State officials shall be immune from liability for any good faith conduct under this section.

MITCHELL (AND COHEN) AMENDMENT NO. 2542

Mr. INOUYE (for Mr. MITCHELL for himself and Mr. COHEN) proposed an amendment to the bill H.R. 4650, supra; as follows:

On Page 53, Line 13, after the period insert: "Funds appropriated in Title III of this Act may be used for multiyear procurement contracts as follows: MK19-3 grenade machine guns; M16A2 rifles; M249 squad automatic weapons; and M4 carbine rifles for the Army."

JOHNSTON AMENDMENT NO. 2543

Mr. INOUYE (for Mr. JOHNSTON) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 142, between 7 and 8, insert the following:

SEC. . (a) Notwithstanding any other provision of law, the Secretary of a military department may enter into a contract for use of commercial or proprietary credit card services for augmenting or replacing any in-house account receivable system in use by a nonappropriated fund instrumentality under the jurisdiction of that Secretary if the Secretary determines that such contract is in the best interest of that department.

(b) No official of the Department of Defense outside a military department may, by regulation or otherwise, limit or control the exercise of authority under this section by the Secretary of that military department.

BUMPERS AMENDMENT NO. 2544

Mr. INOUYE (for Mr. BUMPERS) proposed an amendment to the bill H.R. 4650, supra; as follows:

At the appropriate place in the bill, add the following:

"SEC. . None of the funds made available under this Act may be obligated or expended for the relocation or reduction of the functions specified in the 1991 Report to the President of the Defense Base Closure and Realignment Commission to be maintained at Fort Chaffee, Arkansas, including all civilian management, support personnel and operations associated with these functions that are in existence as of September 30, 1994."

WALLOP (AND MCCAIN) AMENDMENT NO. 2545

Mr. STEVENS (for Mr. WALLOP for himself and Mr. MCCAIN) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 39, line 2, strike out the period at the end and insert in lieu thereof ": *Provided further*, That not less than $120,000,000 shall be available for Sea-Based Wide Area Defense System (Navy Upper Tier): *Provided further*, That not more than $522,725,000 shall be available for Defense Reinvestment Programs.".

DECONCINI AMENDMENT NO. 2546

Mr. INOUYE (for Mr. DECONCINI) proposed an amendment to the bill H.R. 4650, supra; as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . (a) No funds may be obligated for a second low rate initial production of the HUNTER Unmanned Aerial Vehicle (UAV) system until the Secretary of Defense submits to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives the Secretary's certification of the following:

(1) That the Logistics Support Analysis Report required by contract to be submitted to the Department of Defense has been received by the Department and is sufficient to fully support a determination to field the system.

(2) That 200 hours of flight time have been successfully logged on a Phase II UAV airframe for the system as part of "OPTEMPO" testing.

(b) The Secretary shall submit to the committees referred to in subsection (a), with the certification submitted pursuant to that subsection, a copy of the Logistics Support Analysis Report and the OPTEMPO testing reports relating to the HUNTER UAV system.

BREAUX AMENDMENT NO. 2547

Mr. INOUYE (for Mr. BREAUX) proposed an amendment to the bill H.R. 4650, supra; as follows:

At the appropriate place, insert:

SEC. . Notwithstanding any other provision of law, the Secretary of the Navy shall obligate, within thirty days of this Act becoming law, not less than $29,750,000 from the funds appropriated in this Act or previous Acts under the heading "Aircraft Procurement, Navy", solely to procure, on an urgent basis, AN/USH-42 mission recorders modified for use in S-3B aircraft.

COHEN AMENDMENT NO. 2548

Mr. COHEN proposed an amendment to the bill H.R. 4650, supra; as follows:

At an appropriate place in the bill, insert the following section:

SEC. . SENATE ADVICE AND CONSENT TO CHANGES IN OBLIGATIONS UNDER THE CFE TREATY.

At an appropriate place in the bill, insert the following section:

(a) FINDINGS.—

(1) On November 25, 1991, the Senate gave its advice and consent to ratification of the CFE Treaty.

(2) The President would need to seek the Senate's advice and consent to any change in obligation of the states parties under the CFE Treaty, unless such change were a minor matter of an administrative or technical nature.

(3) A change in the allowed holdings of treaty limited equipment in the area of application or any geographic sub-zone of the area of application would constitute a change in obligation for which the Senate's advice and consent would be required.

(b) REAFFIRMATION OF SENATE'S TREATY-MAKING POWERS.—The President shall submit for the Senate's advice and consent any change in the obligations of any state party under the CFE Treaty, unless such change is a minor matter of an administrative or technical nature.

(c) CFE TREATY DEFINED.—For the purpose of this section, the CFE Treaty means the Treaty on Conventional Armed Forces in Europe, signed in Paris on November 19, 1990, and associated protocols.

DOLE AMENDMENT NO. 2549

Mr. STEVENS (for Mr. DOLE) proposed an amendment to the bill H.R. 4650, supra; as follows:

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At the appropriate place insert the following new section:

SEC. . PROHIBITION ON THE USE OF FUNDS.

(a) REQUIREMENT.—None of the funds appropriated for Fiscal Year 1994 or Fiscal Year 1995 for the Joint Primary Aircraft Training System shall be obligated or expended for any other purpose.

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES' HISTORIC BUILDING RESTORATION AND PRESERVATION ACT

DOLE (AND GRASSLEY) AMENDMENT NO. 2550

Mr. BENNETT (for Mr. DOLE for himself and Mr. GRASSLEY) proposed an amendment to the bill (H.R. 2921) to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges and universities; as follows:

On page 1, after line 2, insert the following:

"TITLE I—HISTORICALLY BLACK COLLEGES AND UNIVERSITIES HISTORIC BUILDING RESTORATION AND PRESERVATION".

On page 1, line 3, strike "SECTION 1." and insert in lieu thereof "SECTION 101." and redesignate the following sections accordingly.

On page 1, line 4, strike "Act" and insert in lieu thereof "title".

On page 5, line 23, strike "Act" and insert in lieu thereof "title".

On page 5, line 25, strike "Act" and insert in lieu thereof "title".

On page 6, after line 8, insert the following new title:

"TITLE II—COOPER HALL AND SCIENCE HALL PRESERVATION AND RESTORATION.

"SEC 201. AUTHORITY TO MAKE GRANTS.

The Secretary of the Interior (hereinafter in this title referred to at the "Secretary") is authorized to make grants in accordance with this title to preserve and restore Cooper Hall at Sterling College located in Sterling, Kansas and Science Hall at Simpson College located in Indianola, Iowa. Such grants shall be made, subject to the availability of appropriations therefore, from the amounts authorized to be appropriated to carry out the National Historic Preservation Act.

"SEC. 202. MATCHING EQUIPMENT.

The Secretary may obligate funds made available under this title only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

SEC. 203. FUNDING PROVISIONS.

Not more than $3,600,000 may be made available for grants for Cooper Hall and not more than $1,500,000 may be made available for grants for Science Hall under this title.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, August 10, 1994, in open session, to consider the following pending nominations: Mr. Walter B. Slocombe, to be Under Secretary of Defense for Policy; Mr. Jan M. Lodal, to be Deputy Under Secretary of Defense for Policy; Dr. Joseph S. Nye, Jr., To be Assistant Secretary of Defense for International Security Affairs; Ms. Sandra K. Stuart, to be Assistant Secretary of Defense for Legislative Affairs; Ms. Judith A. Miller, to be General Counsel, Department of Defense; and Mr. Philip Edward Coyle III, to be Director of Operational Test and Evaluation, Department of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, August 10, at 2 p.m. to hold nomination hearings on Richard Holbrooke to be Assistant Secretary for European and Canadian Affairs; Eileen Malloy, to be Ambassador to the Kyrgyz Republic; and James W. Swihart, Jr., to be Ambassador to the Republic of Lithuania.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, August 10, 1994, beginning at 2 p.m. in 216 Hart Senate Office Building to consider for report to the Senate S. 2036, the Indian Self-Determination Contract Reform Act of 1994; S. 2150, the Native Hawaiian Housing Assistance Act of 1994; S. 2259, the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act; S. 2269, the Native American Cultural Protection and Free Exercise of Religion Act of 1994; S. 2329, the Mohegan Nation of Connecticut Land Claims Settlement Act; H.R. 4228, the Auburn Indian Restoration Act; and, for other purpose to be followed immediately by confirmation hearings for Harold Monteau to serve as the Chairman of the National Indian Gaming Commission and Gary Kimble to serve as the Commissioner for the Administration for Native Americans.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, August 10, 1994, at 1:30 p.m. The committee will hold a full committee mark-up of S. 2060, the Small Business Administration Reauthorization and Amendment Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, August 10, 1994, at 10:30 a.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO GRETCHEN WAGGY, NATIONAL NAVAL SCIENCE AWARD WINNER

• Mr. ROCKEFELLER. Mr. President, at this time, I would like to recognize an outstanding West Virginian for becoming a National Naval Science Award winner. Miss Gretchen Waggy of Franklin, WV, was 1 of 25 science students selected by the Navy to receive an all-expense paid, 12-day science-oriented trip to San Diego, CA.

The Naval Science Awards Program, which is administered by the Chief of Naval Research, has been in existence for 36 years. For the past 18 years, the top winners across the Nation have been invited to submit scientific and engineering project abstracts to the Naval National Science Award Competition.

In the spring of 1994, approximately 400 regional and State science fairs were held and several first place winners were chosen to advance in the awards competition. These winners received an invitation to submit their project abstracts before a panel of judges. Miss Waggy's project was selected from among nearly 600 finalists.

Her project examined the territory of eastern box turtles. By using radio transmitters, Gretchen mapped the range of the individual turtles. Through her project we are able to understand the natural habitat of this species.

Miss Waggy exemplifies the true West Virginia spirit of hard work, dedication, and participation. These attributes enable her to be a winner and will ensure her future success. She has distinguished herself as a member of a special group of America's youth, who will be the leaders of tomorrow.

It is with great pride and pleasure that I share her accomplishments with each of you today. Outstanding students deserve our recognition and encouragement to continue their high level of achievement.•

ANCIENT WATER WOES LOOM IN THE MIDEAST

• Mr. SIMON. Mr. President, recently, our former colleague, Tim Wirth, now Under Secretary of State for Global Affairs, sent me a copy of an article by Holger Jensen from the Washington Times titled, "Ancient water woes loom in the Mideast."

Since Mr. Jensen is international editor of the Rocky Mountain News in Denver, I assume the article may have originally appeared in that newspaper.

It outlines, in brief, some of the water problems in the Middle East.

It is of more than casual interest that Ben-Gurion University in Beer-Sheva, Israel was asked by the United Nations to take a look at the water situation in the Middle East, and they came back with a study that says that short-term various answers can be found, but, long-term, the Middle East will have to rely on desalinated water from the ocean.

That is why the bill that passed the Senate recently, that I had the honor to be the chief sponsor of, calling for increased research on converting salt water to fresh water at less expense, is so important.

I ask to insert Mr. Jensen's observations into the RECORD at this point.

The article follows:

[From the Washington Times, July 29, 1994]

ANCIENT WATER WOES LOOM IN THE MIDEAST

(By Holger Jensen)

The handshake in Washington between Jordan's King Hussein and Israeli Prime Minister Yitzhak Rabin is another milestone on the road to Middle East peace, though the two countries have had secret contacts for years.

It puts added pressure on Syria to stop stalling and end its state of belligerence with Israel. And it further isolates Iraq—Saddam Hussein cannot be happy that his most important Gulf war ally, and sanctions busting neighbor, is back in the American camp.

Much of the groundwork for the Hussein-Rabin summit was laid at negotiations last week in an air-conditioned tent straddling the border between Israel and Jordan. And one incident there illustrated that not all their problems will be easily solved.

Munther Haddadin, a senior Jordanian delegate, refused to eat lunch provided by the Israelis because it contained vegetables he claimed were irrigated with Jordanian water. He flatly said "no" to the Israeli food and admonished others who ate it.

Water, or rather the lack of it, has caused more conflict in the arid Middle East than religion, oil or the quest for a Palestinian homeland. Water-stressed countries have traditionally taken up arms to capture neighboring oases, and every peace agreement in the region requires provisions for water-sharing.

The Code of Hammurabi, written in 1790 BC, contains among other things the world's first known water-sharing agreement in ancient Sumeria. The Arab-Israeli peace talks that began in Madrid two years ago created a working group on water resources. And the peace pact Israel signed with the PLO also addresses water rights.

Unfortunately, few disputes have been resolved so far. Peter Gleick, a water expert with the Pacific Institute for Studies in Development, Environment and Security in Oakland, Calif., warned Congress recently that there had been "a depressing lack of progress" in this arena, "which contains the seeds of another war."

At present, Israel gets two-thirds of its water from the occupied territories. So much of the Jordan River has been diverted, it is a trickle by the time it reaches the Red Sea. Now the Israelis are drilling deep into the underground aquifers beneath the West Bank, piping away the lifeblood of what will one day become a Palestinian state.

The same is happening on the Mediterranean coast. Overpumping has so depleted aquifers beneath the Gaza Strip, all the well water there is brackish and nearly unfit for human consumption.

In June, the U.N. Economic and Social Commission for Western Asia issued a report harshly criticizing Israel for stealing water from the Arabs. It named Lebanon, the West Bank, Gaza and the Golan Heights as being the chief victims of a "continued and abnormal increase in Israeli consumption."

The outlook is not all bleak, however. Normalization of ties between Israel and Jordan may revive an ambitious scheme—mothballed by Arab opposition a decade ago—to build opposition a decade ago—to build three canals from the Red Sea and the Mediterranean to the Dead Sea.

The Dead Sea, shared by Jordan and Israel, is actually a great lake lying 1,320 feet beneath sea level. The drop in elevation could generate enough electricity to run massive desalinization plants that would produce more than half the fresh water consumed by both Israelis and Palestinians.

Italy has offered to fund a feasibility study for one or the canals and the World Bank is willing to underwrite part of the $5.5 billion cost. Anything that removes water from the list of things to fight over will be worth the price.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

• Mr. BRYAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for Elizabeth Lambird, a member of the staff of Senator HELMS, to participate in a program in Taiwan sponsored by the Chinese Culture University from August 29 to September 5, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Lambird in this program.

The select committee received notification under rule 35 for Mary Irace, a member of the staff of Mr. KWEISI MFUME, to participate in a program in Vienna, sponsored by the Austrian Federal Economic Chamber from August 27 to September 2, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Irace in this program.

The select committee received notification under rule 35 for Phil Thoden, a member of the staff of Senator COATS, to participate in a program in Taiwan, sponsored by the Chung Yuan Christian University from August 22–29, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Thoden in this program.

The select committee received notification under rule 35 for Michael G. Harper, a member of the staff of Senator KASSEBAUM, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs from August 20 to September 6, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Harper in this program.

The select committee received notification under rule 35 for Katherine Brunett, a member of the staff of Senator SIMPSON, to participate in a program in Singapore, sponsored by the Singapore International Foundation from August 28 to September 3, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Brunett in this program.

The select committee received notification under rule 35 for Brad Figel, a member of the staff of Senator PACKWOOD, to participate in a program in Hong Kong, sponsored by the Hong Kong General Chamber of Commerce from August 29 to September 5, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Figel in this program.•

MESSAGES FROM THE HOUSE

Mr. FORD. Mr. President, I ask unanimous consent it be in order for the Chair to lay before the Senate en bloc messages from the House on the following concurrent resolutions: S. Con. Res. 38, 39, 40, and 41; that the Senate proceed en bloc to their immediate consideration; that the Senate concur en bloc in the House amendments to the concurrent resolutions; that the motions to reconsider be laid upon the table en bloc; and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

"THE U.S. CAPITOL: A BRIEF ARCHITECTURAL HISTORY"—MESSAGE FROM THE HOUSE

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 38) entitled "Concurrent resolution to authorize the reprinting of the book entitled 'The United States Capitol: A Brief Architectural History'", do pass with the following amendments:

Page 1, strike out line 10, and all that follows through page 2, line 2, and insert:

SEC. 3. In addition to the usual number, there shall be printed, for the use of the Commission on the Bicentennial of the United States Capitol, the lesser of—

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11
1994
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(1) 56,500 copies of the document; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $69,206.

Amend the title so as to read: "Concurrent resolution authorizing the printing of the book entitled 'The United States Capitol: A Brief Architectural History'.".

So the Senate concurred in the amendments of the House.

"HISTORY OF THE U.S. CAPITOL"—MESSAGE FROM THE HOUSE

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 39) entitled "Concurrent resolution to authorize the printing of a new annotated edition of Glenn Brown's 'History of the United States Capitol', originally published in two volumes in 1990 and 1903, prepared under the auspices of the Architect of the Capitol", do pass with the following amendments:

Page 1, line 3, strike out "entitled" and all that follows through "as" on line 4, and insert: *entitled "History of the United States Capitol", by Glenn Brown, as*

Page 1, strike out line 12 and all that follows through page 2, line 2, and insert:

SEC. 3. In addition to the usual number, there shall be printed, for the use of the Senate and the House of Representatives, the lesser of—

(1) 6,500 copies of the document, to be allocated as determined jointly by the Secretary of the Senate and the Clerk of the House of Representatives; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $111,265, with distribution to be allocated as described in paragraph (1).

Amend the title so as to read: "Concurrent resolution authorizing the printing of the book entitled 'History of the United States Capitol'."

So the Senate concurred in the amendments of the House.

PRINTING OF "CONSTANTINO BRUMIDI: ARTIST OF THE CAPITOL"—MESSAGE FROM THE HOUSE

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 40) entitled "Concurrent resolution to authorize the printing of the book entitled 'Constantino Brumidi: Artist of the Capitol', prepared by the Office of the Architect of the Capitol", do pass with the following amendments:

Page 1, strike out lines 10 through 15, and all that follows through page 2, line 2, and insert:

SEC. 3. In addition to the usual number, there shall be printed, for the use of the Senate and the House of Representatives, the lesser of—

(1) 15,000 copies of the document, to be allocated as determined jointly by the Secretary of the Senate and the Clerk of the House of Representatives; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $55,489, with distribution to be allocated as described in paragraph (1).

Amend the title so as to read: "Concurrent resolution authorizing the printing of the book entitled 'Constantino Brumidi: Artist of the Capitol'."

So the Senate concurred in the amendments of the House.

"THE CORNERSTONES OF THE U.S. CAPITOL"—MESSAGE FROM THE HOUSE

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S. Con. Res. 41) entitled "Concurrent resolution to authorize the printing of the book entitled 'The Cornerstones of the United States Capitol'", do pass with the following amendments:

Page 1, strike out line 10, and all that follows through page 2, line 2, and insert:

SEC. 3. In addition to the usual number, there shall be printed, for the use of the Commission on the Bicentennial of the United States Capitol, the lesser of—

(1) 50,000 copies of the document; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $59,697.

Amend the title so as to read: "Concurrent resolution authorizing the printing of the book entitled 'The Cornerstones of the United States Capitol'.".

So the Senate concurred in the amendments of the House.

PRINTING OF RICHARD M. NIXON EULOGIES AND ENCOMIUMS

Mr. FORD. Mr. President, I ask unanimous consent that Rules Committee be discharged from further consideration of H. Con. Res. 248, a concurrent resolution providing for the printing of the eulogies of the late President of the United States, Richard M. Nixon; that the concurrent resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating thereto appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 248) was agreed to.

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, as if in executive session, I ask unanimous consent that on Thursday, August 11, following disposition of the DOD appropriations bill, the Senate proceed to executive session to consider the nomination of Janet L. Yellen to be a Member of the Board of Governors of the Federal Reserve System (Ex. Cal. 1117); that there be 45 minutes for debate on the nomination to be divided as follows: 15 minutes under the control of the chairman of the Committee on Banking, Housing and Urban Affairs, or his designee; 15 minutes under the control of the ranking member or his designee; and 15 minutes under the control of the Senator from North Dakota [Mr. DORGAN]; that when time is used or yielded back, the Senate, without any intervening action, vote on the nomination; that if confirmed, the motion to reconsider be tabled and the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—H.R. 4653

Mr. FORD. Mr. President, I ask unanimous consent that H.R. 4653, relating to the Mohegan Nation of the Connecticut land claims, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—H.R. 4455

Mr. FORD. Mr. President, I ask unanimous consent that H.R. 4455, a bill relating to the Export-Import Bank, just received from the House, be placed on the calendar.

FEDERAL EMERGENCY FOOD AND SHELTER PROGRAM

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 544, S. 2218, a bill to authorize appropriations for the Federal Emergency Food and Shelter Program, that the bill be deemed read the third time, passed, and the motion to reconsider laid upon the table, that any statements relating to this item be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2218) was deemed read the third time, and passed, as follows:

S. 2218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $187,560,000 for each of fiscal years 1995 and 1996.".

HOUSE JOINT RESOLUTION 175—"ITALIAN-AMERICAN HERITAGE AND CULTURE MONTH"

HOUSE JOINT RESOLUTION 131—"NATIONAL PEARL HARBOR REMEMBRANCE DAY"

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of House Joint Resolution 175, House Joint Resolution 131, just received from the House; that the joint resolutions be deemed read the third time, passed, and the motion to reconsider be laid upon the table, en bloc, and that the consideration of these items appear separately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolutions (H.J. Res. 175 and H.J. Res. 131) were deemed read the third time, and passed.

PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION EXTENSION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 538, H.R. 4569, a bill to extend the John F. Kennedy Assassination Records Collection Act of 1992; that the committee amendments be agreed to, and the bill, as amended, be deemed read the third time, passed, the motion to reconsider be laid on the table, that any statements relating to this item be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

So the bill (H.R. 4569), as amended, was deemed read the third time, and passed.

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES HISTORIC BUILDING RESTORATION AND PRESERVATION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 450, H.R. 2921, a bill relating to the preservation of the historically black colleges and universities and that the committee amendments be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (H.R. 2921) to authorize appropriations for the preservation and restoration of historic buildings at historically Black colleges and universities, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Historically Black Colleges and Universities Historic Building Restoration and Preservation Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Nation's historically black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for African-American, low-income, and educationally disadvantaged Americans;

(2) over our Nation's history, States and the Federal Government have discriminated in the allocation of land and financial resources to support these institutions, thus forcing them to rely on the generous support of private individuals and other charitable organizations;

(3) the development of this source of private and charitable financial support for historically black colleges and universities has resulted in structures and buildings of historic importance and architecturally unique design on the campuses of these institutions; and

(4) many of these structures and buildings are national treasures worthy of preservation and restoration for future generations of all Americans as well as for the students and faculty of these institutions.

SEC. 3. PRESERVATION AND RESTORATION GRANTS FOR HISTORIC BUILDINGS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

[(a) AUTHORITY TO MAKE GRANTS.—From the amounts made available to carry out the National Historic Preservation Act for the fiscal years 1995 through 1998, the Secretary of the Interior shall make grants in accordance with this section to eligible historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campus of these institutions.]

(a) AUTHORITY TO MAKE GRANTS.—The Secretary of the Interior shall administer a program of grants-in-aid in accordance with this section to eligible historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campuses of these institutions. Such grants shall be made, subject to the availability of appropriations therefore, from the amounts authorized to be appropriated to carry out the National Historic Preservation Act for the fiscal years 1995 through 1998.

(b) GRANT CONDITIONS.—Grants made under subsection (a) shall be subject to the condition that the grantee covenants, for the period of time specified by the Secretary, that—

(1) no alteration will be made in the property with respect to which the grant is made without the concurrence of the Secretary; and

(2) reasonable public access to the property with respect to which the grant is made will be permitted by the grantee for interpretive and educational purposes.

(c) MATCHING REQUIREMENT FOR BUILDINGS AND STRUCTURES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES.—(1) Except as provided by paragraph (2), the Secretary may obligate funds made available under this section for a grant with respect to a building or structure listed on the National Register of Historic Places only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

(2) The Secretary may waive paragraph (1) with respect to a grant if the Secretary determines from circumstances that an extreme emergency exists or that such a waiver is in the public interest to assure the preservation of historically significant resources.

(d) FUNDING PROVISIONS.—(1) Not more than $20,000,000 for fiscal year 1995 and not more than $15,000,000 for each of the fiscal years 1996, 1997, and 1998 may be made available under this section.

(2) Of the amounts made available under this section for fiscal year 1995, $5,000,000 shall be available only for grants under subsection (a) to Fisk University.

(3) Of the amounts made available under this section for fiscal year 1995, $10,000,000 shall be available only for grants under subsection (a) to those historically black colleges and universities identified for inclusion in the Department of the Interior Historically Black College and University Historic Preservation Initiative.

(4) If less than $20 million is made available in fiscal year 1995 for the purpose of paragraph (1), such amount shall be allocated as follows:

(A) 25 percent of such amount shall be made available for grants to Fisk University as provided in paragraph (2).

(B) 50 percent of such amount shall be made available as provided in paragraphs (3).

(C) 25 percent of such amount shall be made available for grants under subsection (a) to other eligible historically black colleges and universities.

(e) REGULATIONS.—The Secretary shall promulgate such regulations as may be necessary to carry out this Act.

SEC. 4. DEFINITIONS.

For the purposes of this Act:

(1) The term "historically black colleges and universities" has the same meaning given the term "part B institution" by section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(2) The term "historic building and structures" means a building or structure listed on the National Register of Historic Places or designated a National Historic Landmark.

The committee amendments were agreed to.

AMENDMENT NO. 2550

(Purpose: To authorize grants to assist in the restoration and preservation of Cooper Hall at Sterling College in Sterling, Kansas and Science Hall at Simpson College in Indianola, Iowa)

Mr. BENNETT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. DOLE, for himself and Mr. GRASSLEY, proposes an amendment numbered 2550.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 2, insert the following:

"TITLE I—HISTORICALLY BLACK COLLEGES AND UNIVERSITIES HISTORIC BUILDING RESTORATION AND PRESERVATION.".

On page 1, line 3, strike "SECTION 1." and insert in lieu thereof "SECTION 101." and redesignate the following sections accordingly.

On page 1, line 4, strike "Act" and insert in lieu thereof "title".

On page 5, line 23, strike "Act" and insert in lieu thereof "title".

On page 5, line 25, strike "Act" and insert in lieu thereof "title".

VOL
140
PT
15
AG
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11
1994
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On page 6, after line 8, insert the following new title:

"TITLE II—COOPER HALL AND SCIENCE HALL PRESERVATION AND RESTORATION.

"SEC. 201. AUTHORITY TO MAKE GRANTS.

The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to make grants in accordance with this title to preserve and restore Cooper Hall at Sterling College located in Sterling, Kansas and Science Hall at Simpson College located in Indianola, Iowa. Such grants shall be made, subject to the availability of appropriations therefore, from the amounts authorized to be appropriated to carry out the National Historic Preservation Act.

"SEC. 202. MATCHING REQUIREMENT.

The Secretary may obligate funds made available under this title only if the grantees agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

"SEC. 203. FUNDING PROVISIONS.

Not more than $3,600,000 may be made available for grants for Cooper Hall and not more than $1,500,000 may be made available for grants for Science Hall under this title.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2550) was agreed to.

Mr. BENNETT. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

If not, the bill is considered read the third time and passed.

So the bill (H.R. 2921), as amended, was agreed to, and passed.

Mr. BENNETT. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE REFORM

Mr. DASCHLE. Mr. President, I know the hour is late, but I have not yet had the opportunity to make opening comments on the health reform debate.

It is with great anticipation that we begin this debate. It has been stated already that this is a historic occasion, in part, because it is the first time that a bill of this magnitude has reached the floor of the U.S. Senate. Never before has health reform legislation been this close to enactment.

I think it is safe to say that for many of us the vote on health reform will be the most important vote that we may cast on any domestic issue.

I must say I admire the President and the First Lady, for their dedication, their deep commitment, and their leadership on this issue. The White House staff and all of those who assisted the President and the First Lady in bringing the bill to the floor also share their dedication.

And as others have done, I commend the senior Senator from Massachusetts for his remarkable dedication to health reform over the past 25 years, and the majority leader for his tenacity, and his willingness to compromise as he crafted this health reform bill.

Finally, of course, I commend the chairman of the Finance Committee for the work that he has done to bring us to this point in the process. This legislation has been 2 years in the making, Mr. President, it represents 2 years of effort, 2 years of consultation, 2 years of hearings, meetings, committee deliberation, debate, and discussion.

But it is not just for the last 24 months that we have been consumed with this issue. The debate goes back 40 times in 24 months, back to the turn of the century, back to Teddy Roosevelt's time. Teddy Roosevelt may have been the first President to propose a national solution for American health care. He reminded us then—and I think it is as appropriate today as it was at the turn of the century—that the measure of the quality of a society is how it treats those in the dawn of life, the young; in the twilight of life, the old; and in the shadow of life, the sick. For 80 years that test has stood. For 80 years I think we could have measured our progress as a society by how well we met his test.

In the 1930's we began to recognize that we needed to treat those in the twilight of life, and we passed the most extraordinary piece of social legislation in history, the Social Security Program. In the 1960's, we saw another historic moment with the passage of Medicare. And over the decades we have recognized the need to help the youngest Americans with passage of the Women, Infants and Children Program, school lunches, immunization programs, and enhanced access to prenatal care. We enacted these programs with the recognition that this society will be judged by how we treat the youngest.

But it is those in the shadow of life, those who are sick, who today are the subject of countless stories of misfortune, neglect, and despair. It is those in the shadow of life who have not been given the opportunities that we have afforded others. We hear their voices in this debate. We see them in the halls as they petition us for help. We remember them long after our debates because of their tragic accounts of life in America without health insurance.

For six decades this country has grappled with solutions to this problem. Franklin Roosevelt recognized the problem in the 1930's and proposed what he called the "Second Bill of Rights" for America. He called for "The right to adequate medical care and opportunity to achieve and enjoy fundamental good health." He called health care a right, not a privilege.

And Harry Truman, his successor, was the first to recommend comprehensive health care reform. Harry Truman in a proposal to Congress said:

> The health of the American people must ever be safeguarded: it must be improved. As long as people are stricken by a disease which we have the ability to prevent, as long as people are chained by a disability which can be reversed, as long as needless death takes a toll, then American health will be unfinished business.

Little did he know how long the business would be unfinished, because in virtually every decade of this century, especially those following President Truman's reign, Presidents have tried but failed to reform our health care system. They failed not because of a lack of effort and not because of opposition from the American people. These efforts failed, Mr. President, one by one, because of the orchestrated opposition of powerful special interests who simply fear change. The major exception, of course, was the fight for Medicare and Medicaid 30 years ago.

The fight for Medicare, frankly, is instructive. President Kennedy, referring to the criticism that he had to confront, said very simply: These are the same arguments that they used against Social Security at the time of Franklin Roosevelt. We overcame them then. We ought to overcome them now.

That was President Kennedy's advice to Congress in the 1960's. That has, frankly, been President Clinton's advice to this Congress. We overcame the opposition then. We understood the ramifications of failure then. And we recognized that we had an opportunity to improve the quality of life, not only for those in the shadow of life, not only for those in the twilight of life, not only for those who so desperately cried out for help today, but for all Americans.

Because back then we heard some of the same criticisms leveled today in the health reform debate. Back in 1963, a Congressman from California said of Medicare, "Let me tell you here and now this is socialized medicine." A Senator from the Midwest said, "The cold, hard facts are simply that we cannot afford costly and unnecessary health care now or ever."

Decade after decade on the Senate floor we have heard the same naysaying, the same speeches, the same criticisms, the same excuses for why we must stay paralyzed. Opponents of reform use the same recycled arguments. They call health reform socialized medicine though real socialized systems spend half of what we spend on health care. "Too costly," we are told, while our health costs have doubled in the last 10 years. "It will cost jobs," we are told, while businesses now must choose between salaries and premiums.

I had a hope this year, Mr. President, that somehow it would be different. Now, because the problems which were bad before are even worse now and the overwhelming consensus across America is that we need comprehensive change. 80 percent of the American people support universal coverage, 65 percent of the American people support shared responsibility, 70 percent of all the people in this country today want real insurance reform. Yet some, particularly the special interests who now feel threatened, want this to be business as usual.

I was disappointed, frankly, with some of the Republican strategists. One of those who was most visible, most aggressive in his criticism, most determined to obfuscate the Democratic approaches is Bill Kristol.

In a recent report to his colleagues on the Republican side, Mr. Kristol said: "Sight unseen, the Republicans should oppose it. The appropriate Republican response is to take the noble road of opposing any alternative that Democrats offer and insist on starting over in 1995. We should do so with pride and not a speck of guilt. We should send them to the voters emptyhanded."

On October 28, 1993, Mr. Kristol's recommendation to the Republicans on the Clinton plan was: "Kill it. We don't want to wound the plan; we want to kill it. We don't want to confuse matters or weaken the cause by debating whether aspects of the Clinton plan will work or not."

In December of 1993, he added: "Any Republican urged to negotiate a less bad compromise with the Democrats and thereby gain momentary public credit for helping the President do something about health care should be resisted. Republicans must recognize the policy and tactical risk involved in near-term advocacy of sweeping change, however right it may be in principle."

And finally, on March 22 of this year, he urged Republicans that they should "not now or ever seek to work together with this President."

Mr. President, I have great admiration for those who have confronted Mr. Kristol, for those on both sides of the aisle who have said this is not the way to solve problems; this is not the bipartisan approach we all say we want.

And of all of those for whom I have admiration, perhaps the majority leader ranks at the top of the list, because of his determined effort to reach out. In spite of the attitude expressed by Mr. Kristol and others, the majority leader has made a remarkable effort in recent weeks and, frankly, to this very day, continues to do so.

But I have noted with great frustration that every time we move an inch their way, they move 2 inches away, finding fault, encouraging delay, and pressing partisanship.

When I first arrived in 1979, I was deeply affected by a man for whom I have had incredible admiration and respect, a man that I considered a mentor for many years, Congressman Claude Pepper of Florida.

I remember a wonderful conversation I had with Senator Pepper in the early 1980's, when he said: "Tom, we really ought not look at people once they get here as Democrats or Republicans. As hardcore a Democrat as I am, I think we really ought to look at people as constructive or destructive—C's or D's, not R's or D's."

He said, "All to often, I see people who do things for short-term political gain, and they have an incredible destructive power to change the course of good in Washington. But then I see the constructives, who continue to reach out and build bridges, who recognize the short time we are here and the opportunities we have to make things better. I hope you will be a constructive."

I have thought about that a lot during this health care debate. If ever there was a time for constructive leadership, if ever there was a time to reach out and build bridges, this is it.

I remember a conversation I had just in the past couple of months with a South Dakotan. We talked for about a half hour. As I was walking away, he said, "Tom, prove to me you can govern. Prove to me that Democrats and Republicans can put it all aside, recognize the problems we are facing in health care, and govern."

It is not just a question of whether we are going to achieve meaningful health care reform this year. In my view, Mr. President, it is a test of our ability to govern, a test of whether we are going to learn from history.

In the next 2 weeks, I am absolutely determined that we pass a health reform bill that achieves universal coverage, that achieves meaningful cost containment, that achieves real access in rural and urban America. And I am absolutely convinced that this will be the last time this century that we have the opportunity to pass comprehensive health care reform—the last time.

These may be the 2 most important weeks many of us will ever serve. Let us use them wisely to pass real reform—not as Democrats, not as Republicans, but as Americans who recognize, as Teddy Roosevelt said, that we will be judged by how we treat those in the dawn of life, the twilight of life, the shadow of life.

Improving the quality of our society and the opportunities that all Americans have is what this debate is all about.

I yield the floor.

ORDERS FOR TOMORROW

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Thursday, August 11; that when the Senate reconvenes on that day, the Journal of proceedings be deemed to have been approved to date, the call of the calendar be waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired; that the time for two leaders be reserved for their use later in the day; and that immediately thereafter, the previous order regarding consideration of S. 2351 be executed; provided further, that the remaining provisions of that previous order remain in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

Mr. DASCHLE. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand adjourned, as previously ordered.

The motion was agreed to; and the Senate, at 10:37 p.m., adjourned until Thursday, August 11, 1994, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 10, 1994:

AMTRAK

THOMAS R. CARPER, OF DELAWARE, TO BE A MEMBER OF THE AMTRAK BOARD OF DIRECTORS FOR A TERM OF 4 YEARS. VICE TOMMY G. THOMPSON, TERM EXPIRED.

DEPARTMENT OF STATE

ROBERT L. GALLUCCI, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE AMBASSADOR AT LARGE

DEPARTMENT OF JUSTICE

EDDIE J. JORDAN, JR., OF LOUISIANA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF LOUISIANA FOR THE TERM OF 4 YEARS VICE HARRY A. ROSENBERG, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

DENTAL CORPS

To be major

*CURTIS G. ABATE, 461-13-1136
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*RICHARD L. BROWN, 565-45-1528
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*GRIFFIN L. DEEN, 427-15-6575
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*KIMBERLY C. ENGLISH, 267-73-5862
*JANA FRANCIS, 442-72-8766
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*CURTIS R. HENLEY, 223-11-8644
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*CHRISTOPHER JONES, 265-77-1849
*JOHN A. JUNGHANS, 147-40-2714
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*ERIN F. KIYUNA, 575-78-1909
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VOL 140 PT 15 AG 10 — 11 1994 UMI

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*GREGORY M. MORGAN, 497-80-5472
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*RALPH W. McILVIE, 528-66-8149
*GINO A. ORLANDI, 398-58-1403
*DARIUS P. OSHIDAR, 075-64-8905
*PATRICIA H. PECK, 585-68-6534
*KAREN M. PHILLIPS, 343-68-6731
*SANDFORD W. PRINCE, 056-64-6939
*CUMMINGS SANTIAGO, 583-41-4992
*DONALD K. SCALES, 265-23-1647
*BRADLEY G. SHERN, 547-53-1497
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*GREGORY W. SILVER, 490-72-3484
*MICHAEL D. SIMS, 429-98-6190
*STEVEN R. WALLS, 159-52-9476

MEDICAL CORPS

To be major

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*DOUGLAS W. ADAMS, 398-54-1725
*STEPHEN D. ADAMS, 523-84-2616
*NADINE H. ALEX, 179-44-2229
*LARRY K. ANDREO, 186-48-2788
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*RENEE Y. FRIDAY, 161-58-5206
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*THOMAS W. GOLDEN, 519-88-3352
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*SPENCER D. GREGG, 412-23-5934
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*JOHN W. HAEBERLIN, 390-82-0792
*BRENT HAGEMEISTER, 551-04-2296
JOHN B. HALLIGAN 085-58-6501
*ROBERT W. HANDY, 207-42-7344
CURTIS K. HANST, 549-37-9333
*ROBIN C. HARDIMAN, 534-78-6238
*EUGENE L. HARDIN, 508-86-3666
*MICHAEL B. HARKINS, 436-17-6261
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*DAVID T. HARRINGTON, 010-42-4040
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*JEFFREY S. HEIER, 261-47-2871
*ANNA I. HEISSER, 439-25-6422
KEVIN S. HENNING, 553-67-1880
*JAMES M. HERROLD, 528-96-6345
*KEITH L. HIATT, 154-62-3182
*RICHARD B. HILBURN, 258-86-2532
JON A. HINMAN, 225-84-4536
*NATHAN J. HOELDTKE, 470-88-4232
*BRADLEY W. HOOVER, 413-94-2620
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VOL
140
PT
15
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11
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HOUSE OF REPRESENTATIVES—*Wednesday, August 10, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, for those to whom great responsibility has been given and from whom much is required. For leaders of our Nation who have been set aside with special obligations and duties, we offer this prayer of support and intercession. May they sense more fully than anyone the tasks of their office, the commitment toward justice, a fervor for doing the works of peace, a devotion to the neediest among us, and an appreciation to strengthen the resources of the land. May each of us sense our own obligation to be good stewards of the traditions given to us to do justice, to love mercy, and to walk humbly with You. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Indiana [Mr. JACOBS] will lead us in the Pledge of Allegiance.

Mr. JACOBS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474) "An Act to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes.".

LIBERTY AND JUSTICE FOR ALL

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, wow. Fifteen hours of questioning under hot lights—2 o'clock in the morning.

Oh, by the way, speaking of recusing oneself, if you were President, how would you like to be officially investigated by someone with no experience in investigation, and with prior demonstrated hostility toward you?

Character assassination by unprincipled partisans is one thing, and a reprehensible thing at that. But using the authority of the courts to stack the deck, compromises the meaning of the Constitution which is the underpinning of our mutual covenant of "liberty and justice for all."

Mr. Speaker, this new arrangement is not quite like the Spanish Inquisition about which Samuel Shellabarger wrote, "No one was too innocent to be proved guilty." Not quite. But close.

ONE THUMBS DOWN

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the Congressional Budget Office took a look at the Clinton-Mitchell bill and gave it one thumbs down.

According to their estimates, the plan would add at least $9 billion to the national deficit. According to one news report, CBO "also found the plan would be difficult if not impossible for individual States to implement."

No wonder. This latest version would add 175 additional unfunded mandates to the States, who are already struggling under the weight of Federal mandates.

Throw in the 47 new Federal bureaucracies created in the Clinton-Mitchell bill and you have a recipe for Government-run health care. Mr. Speaker, there is a better way to health care reform. We should fix what is wrong with our health care system, without breaking what is right. I urge my colleagues to work in a bipartisan fashion to craft a commonsense solution to health care reform.

WILL KENNETH STARR BE FAIR-MINDED?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Kenneth Starr is the new investigator of President Clinton and Whitewater. Will he be objective and fair-minded? Only time really will tell.

But one thing they know for sure is Kenneth Starr is a Republican. Kenneth Starr was appointed Solicitor General by a Republican President. Kenneth Starr has made a number of political contributions, in the thousands, all to Republican candidates, and all to the Republican Party.

We also know that Kenneth Starr got himself involved in a lawsuit involving the President and Paula Corbin Jones. He did so voluntarily, and Kenneth Starr has openly criticized President Clinton.

Is it is any wonder the Democrats believe that Kenneth Starr is a Republican hit man, appointed by Republican judges who were themselves appointed by a Republican President, Ronald Reagan? I do not know, but I find it hard to believe, Mr. Speaker, that in all of America there has only been one capable, fair-minded lawyer able to investigate Whitewater and Democrat President Bill Clinton, and that happens to be Kenneth Starr.

Beam me up.

WHITE HOUSE SHOULD NOT BE AFRAID TO ANSWER QUESTIONS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, today on the House floor and over the weekend, numerous Democrats have been complaining about the appointment of Mr. Starr as the new independent counsel. They have been raising all kinds of questions about political contributions he may have made.

Well, Mr. Fiske made political contributions, as well.

What they are not telling you is that Attorney General Janet Reno had Mr. Starr on the short list. He was one of the people that she considered previously for the special counsel position.

What they are not telling you is the three-judge Federal panel contained a judge appointed by L.B.J., and there was a unanimous decision made to appoint Mr. Starr the independent counsel.

The problem is there are many, many unanswered questions, and the Federal judges felt they were compelled to make a change. Mr. Frank indicated there was a secret letter that went to the judges. There was a letter sent by 10 Congressmen that had been made public and sent to the press. All he has to do is read the newspapers. I will give him a copy if he wants one.

The problem with the Democrats on this floor and in the White House right now is they are very, very concerned that questions that have not been asked are going to be asked, and that Mr. Starr is going to do the job that he was appointed to do. The problem is this: If there is nothing to hide, then the White House should not be afraid to come forward and answer these questions.

VOTES AGAINST CRIME BILL MAY BE HARD TO EXPLAIN

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, back in April I read from a letter circulated among House Republicans on the crime bill. In it, the writer said that if Republicans can defeat the crime bill, they can give the crime issue back to Republicans for the upcoming elections.

Now, aside from the callous disregard for the welfare of the American people which this letter displays, there is the question of how Republican incumbents intend to pull this little trick off.

How will Republican Members explain to their voters that they are tough on crime, after having voted against putting 100,000 more police officers on the streets?

How will they explain to their voters that they are tough on crime, after having voted against more money for prison construction?

How will they explain to their voters that they are tough on crime, after having voted against taking street sweepers, AK-47's, and TEC-9's out of the hands of drug dealers and gang members?

How will they explain that they are tough on crime, after having voted against the "three strikes" provision?

There was a great Republican President who issued a warning about trying to fool all the people all the time. They ought to keep that advice closer to their hearts.

THE CRIME BILL: NOT A GOOD DEAL FOR THE AMERICAN PEOPLE

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, the social worker employment bill that is currently being disguised as a crime bill has been unmasked, unmasked by none other than the FBI Director, Louis Freeh, an appointee of the President of the United States.

Director Freeh, in the Buffalo News this morning, says, and I will quote, "Dollars being used to finance the crime bill are being financed from cuts in the DEA and the FBI." He says specifically, and I am quoting here, "Downsizing the FBI and DEA"; he said that mayors and police chiefs he has talked with say they are worried the crime bill does not fully pay for the programs included, and that funds for the new officers will be eliminated after 1997. Quoting Director Freeh, "We feel very strongly that the extra police forces and the local support structures are vital and essential. We do question the wisdom of financing that by cutting back on FBI and DEA resources. In our view," quoting again Director Freeh, "this is not consistent with our expanding mission. Finally," he said, "you should know we supply the State and local organizations with important training and laboratory functions."

FBI Director Freeh says the crime bill is not a good deal for the American people.

79-059 O—97 Vol. 140 (Pt. 15) 5

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HEALTH CARE REFORM: EVERY HARDWORKING AMERICAN, DEMOCRATS AND REPUBLICANS, NEED IT

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, just this week the GOP drill sergeant, Bill Kristol, unleashed the latest of his obstructionist manifestos on health care. In a memo on that subject to the Republican leadership, Mr. Kristol said the GOP should mount, and I quote, "a cold-eyed effort to tip the Democratic leadership into the abyss where they belong." He urged Republicans, and I quote again, "Drive, (Senator George) Mitchell into a ditch." Not what I would call a thoughtful policy recommendation.

He advised his charges to, and I quote again, "Throw as much sand into the gears as possible." And Kristol has never been repudiated by any Republican leadership.

I think I speak for all Americans when I say to the Republican partisans, "It is time to come out of your sandbox. It is time to abandon the phony politics, the policy-by-pollster approach you seem to embrace, and do something for the people, for a change. And when you are ready to bury your obstructionist battle plans, we look forward to working with you in a spirit of true bipartisanship to insure we get a health plan for every hardworking American family, Democrats and Republicans alike."

DEMOCRAT HEALTH REFORM PLANS DRAFTED IN SECRET

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, here it is, the Clinton-Mitchell health care package, all 1,410 pages of it, which arrived on my desk yesterday morning, the very morning that the Senate began debate on it.

Why now? We have not even seen the Clinton-Gephardt bill at this point, and yet in a week from now we are to digest all of this and be able to make intelligent decisions about something that will affect the American public for generations to come.

Why not in September? Why not after we have gone home on the break? Why not after we have had a chance to digest it? Why not after the people of America have had a chance to digest this document? And then come back and make an intelligent decision.

But there lies the rub. If we go home and people find out what is in this, they will not want it. The more we know about it the less we like it.

Mr. Speaker, it was written in secret by Hillary and her group; it was rewritten in secret by MITCHELL, it was rewritten in secret by GEPHARDT.

A good rule to follow, my friends, is if it must be done in secret, we do not want it.

HEALTH CARE

(Ms. SHEPHERD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SHEPHERD. Mr. Speaker, in 4th grade, Teddy Gardner was diagnosed as manic depressive. His dad had two jobs and two health insurance policies. Despite treatment, Ted's condition deteriorated to the point where he needed inpatient mental health care. Neither of their policies covered it. Now Ted is 14. His parents owe $15,000 to Primary Children's Hospital in Salt Lake. Another $20,000 in bills has already been forgiven and transferred to paying insurers. They spent $7,336 for out-of-pocket medical expenses last year. They no longer have any credit. They no longer have any savings. If Ted is hospitalized again they will most certainly lose everything.

This family could be any of us. The only way to make our families secure is to pass legislation that guarantees all our constituents an affordable health policy with comprehensive coverage that protects them against financial ruin. Teddy's life depends on it, and I will not vote for anything less.

DEMOCRAT HEALTH CARE PLANS CONTAIN TOO MANY TAXES AND TOO MANY JOB-KILLING MANDATES

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, my colleagues, I have good news and bad

VOL 140 PT 15 AG 10 — 11 1994 UMI

news. The good news is that the Democrat leaders on Capital Hill killed the Clinton bill because the American people thought it had too many new taxes, too much bureaucracy and job-killing mandates. The bad news is that the proposals being floated here on Capitol Hill, in the other body and here in the House, have the same big Government bureaucracies and job-killing mandates. I do not think the liberals here in Congress get it yet. The American people know that Government is too big and spends too much.

If you begin to look at the so-called moderate Senate proposal, the so-called Clinton-Mitchell bill, it has 17 new taxes and 35 new Government bureaucracies. If you look at the Clinton-Gephardt bill—if you can find it—it does not exist yet—we hear it has at least 17 new taxes, maybe 50 Government bureaucracies.

The American people said "no" to the Clinton plan, and if we ever get to see the Clinton-Gephardt plan, they will say "no" to that as well.

AARP SEES GEPHARDT PLANS AS BEST FOR SENIOR CITIZENS

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, during the course of this health care debate, we have listened to horror story after horror story from senior citizens who have been forced to squander their life savings to pay for health care.

As we speak, the American Association of Retired Persons is holding a press conference to endorse the Gephardt Health Care reform bill. The AARP represents 33 million senior citizens and is endorsing the Gephardt plan because it is the best plan for senior citizens.

The Gephardt plan preserves Medicare and plows savings into new benefits for seniors.

The Gephardt bill is the only plan that includes prescription drug coverage and a new long-term care benefit to help our seniors with the burdensome costs of health care.

In the next few weeks this body will note on health care reform. I urge my colleagues not to ignore the voices of 33 million senior citizens. Vote for the Gephardt bill.

LEADERSHIP HEALTH CARE PLAN MYTHS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, it is no myth that the Clinton-Gephardt and Clinton-Mitchell plans do create huge new bureaucracies. It is no myth that these same plans both contain massive amounts of taxes and spending that America just cannot afford.

Now, how about myth No. 3? They claim there are no employer mandates. Guess again. The Clinton-Mitchell bill acts as a big brother and comes in to impose mandates to reach universal coverage if it has not already happened by the year 2000. And in the Clinton-Gephardt bill those same mandates are forced on large employers in 1996 and smaller employers by 1998.

It looks a duck, walks like a duck, quacks like a duck, this one even talks like a duck, it is a duck.

If the Government is forcing business to cover employees, that is a mandate, and Americans do not want mandates.

Americans do know the difference between myth and reality.

SOCIAL SECURITY, MEDICARE, AND, NOW, HEALTH CARE REFORM

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, hardly a day goes by where Republican Members in this institution do not come to the floor with great indignation about why it is they have been in the minority for 40 years. Well, once again you are about to get a demonstration.

Fifty years ago when Social Security came to this floor, not a single Republican voted for it; 30 years ago when Medicare came to the floor, the overwhelming burden was on the Democratic Party.

They have spent a generation apologizing for it. Now Americans, 80 million of them with preexisting illnesses, need health insurance; 50 million need portability so they can change their jobs; 40 million have no health insurance at all; 100,000 per month are losing their health insurance while a million Americans a year go bankrupt. And the Republican Party claims no responsibility, sees no crisis and, in the other body, is threatening a filibuster, lest we do something to help the American people.

Mr. Speaker, for a generation they have denied their role in stopping social security and Medicare, and I predict a generation from now they will regret, they will deny, they will go to new lengths to claim they were not on this floor fighting national health insurance.

REPUBLICANS DID VOTE FOR SOCIAL SECURITY, MEDICARE, CIVIL RIGHTS, ET CETERA

(Mr. EHLERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EHLERS. Mr. Speaker, I hope the previous speaker remains in the room to hear the fact that he is all wrong. However, he has gotten his information from the Vice President, who is also wrong, when they said that Republicans did not support Social Security and Republicans did not support Medicare.

I am here to talk about the pluses and minuses of the health care bill but simply to point out the erroneous assumption. If you look at the chart, you discover that 83 percent of the Republicans voted for the Social Security Act and more Republicans than Democrats voted for the Civil Rights Act and 47 percent of the Republicans voted for Medicare.

□ 1020

Now, when I went to school, that is considerably more than zero percent, and yet we are being forced by the Democrats in this Congress, we are being forced out of the discussion, and we may have a situation where only 2 percent, or even less, of the Republicans vote for the health care bill simply because the majority party has refused to share the information with us, has refused to give us a copy of the bill, and more or less they have told us they do not want us involved, and they want to pass their bill on their terms and ignore us.

Mr. Speaker, that is what I am objecting to as a Member of the body who supports health care reform. I want the opportunity to work with them and work on the health care bill.

RISE ABOVE PETTY PARTISANSHIP AND PASS THE CRIME BILL

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, for over 200 years ordinary Americans have brought their fears and their hopes to this House. In its finest hour this House has heard them. It has acted boldly and courageously to attend to their needs, and bind the Nation's wounds, and bring us together in hope.

The American people are in need today, Mr. Speaker. They are in anguish from the bloody scourge of violent crime that terrorizes our Nation. from the poorest neighborhoods to the richest, and everything in between, and we have before them an answer. We have a bold crime bill that answers their calls for help that has been 6 years in the making.

However, Mr. Speaker, a stubborn few are falling back on a bitter call to partisanship and demagoguery. Having failed on the merits, they hurl the empty charge that this bill has one thing or another that they do not like.

Yes, there are things in this bill that I do not like. There are things in this bill the President does not like. There are things in this bill that the majority leader or the minority leader do not like. But if we all say we will not vote for a bill because there are one or two things in it we do not like we will end up with gridlock, and the Nation will hold us to account.

Rise above the petty passions of the moment, and pass the crime bill that American people are urgently pleading with us to pass.

CRIMINALS SAY "MAKE MY DAY"

(Mr. EVERETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVERETT. Mr. Speaker, who could forget Clint Eastwood's classic line: Make my day? Unfortunately, it is the bad guys saying it now. It is the Nation's 10,000 convicted drug pushers who are saying, "Congress, pass the pork-ridden crime bill so we can walk."

That is right. Under the liberal crime bill, Mr. Speaker, mandatory sentencing for drug dealers is all but eliminated. While this crime bill issues get-out-of-jail-free cards for drug criminals, it boasts placing a hundred thousand additional policemen on the street. Yet, when we read between the lines, only 20,000 are actually funded.

No wonder criminals are saying, "Make my day," and just what is the crime bill's answer to the growing violence and murder rocking America? Nine billion dollars in increased social spending instead of mandatory sentencing and tougher punishment.

Mr. Speaker, I say, "Washington is spending your tax dollars for inner-city pork projects, and dance lessons, and self-esteem classes, and midnight basketball, and arts and crafts lessons. This is no crime bill. This is pure pork and pure deception."

SENIOR CITIZENS SHOW APPROVAL OF THE DEMOCRATIC HEALTH CARE PLAN

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, through the din of special interest hue and cry comes a reassuring sound—America's senior citizens have taken a good look at the Democratic proposal, and they like what they see. And here is why.

Mrs. Jones receives her health coverage through Medicare today, and she does not want that taken away.

Under our plan, she will stay on Medicare if she chooses, and she will continue to have the choice of any doctor or provider or plan she wants.

We go one step further—we add coverage for prescription drugs, because no older American should have to choose between the medicine she needs and paying rent or buying food. She will also be able to get annual mammograms and long-term home or community-based care if and when she needs it.

Let us listen to Mrs. Jones.

Let us keep this debate on the highest level—and that level is this:

How does this affect real Americans who play by the rules and pay the bills?

SUPPORT THE CONGRESSIONAL ACCOUNTABILITY ACT

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, today the House is scheduled to vote on H.R. 4822, the Congressional Accountability Act. As 1 of 4 who offered such a bill on the first day of this Congress and 1 of the 10 core freshmen who have been active in congressional reform since day one of the 103d Congress, I heartily support H.R. 4822.

But we cannot let this be our last step. It is only the first in the long road to reform.

The House can and must take the lead. The Constitution established the House to be the body closer and more responsive to the people. And now we need to respond by reforming ourselves.

Each time someone sees a reserved parking spot at the airport, it reminds them of how they hate Congress. My bill, H.R. 4444, does away with airport parking. It finishes the job the Senate left incomplete.

My bill brings us in line with the American people in health care, pensions, and travel guidelines, among others.

Vote for H.R. 4822 as a first step and support H.R. 4444 for total congressional reform.

THE GEPHARDT PLAN PROVIDES HOME HEALTH CARE FOR OUR SENIOR CITIZENS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, one of the reasons AARP has endorsed the Gephardt plan and rejects the Republican alternatives is home health care, home health care which allows seniors to stay at home and receive basic needed health care, seniors in their homes where they can stay in comfort with dignity and at a cost much lower than nursing homes.

Mr. Speaker, I have been out with visiting nurses. I encourage my colleagues to do the same. Find out how important home health care is to seniors. While the big business interests spend millions of dollars to defeat health care reform, Members would be well advised to pay attention to the real-life struggles of their parents and retired friends that they face every day.

AARP is right. When it comes to health care reform, my advice to my colleagues is:

"Listen to your mother, not to the special interest groups."

CRIME BILL TOUGH ON TAXPAYERS AND SOFT ON CRIMINALS

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, $270 million to fund arts and crafts and dance programs? Another $100 million for tutoring and job placement initiatives? And $40 million for midnight basketball leagues?

Sound like the budget for the Departments of Health and Human Services? Housing and Urban Development?

Wrong. Believe it or not, this is Congress' latest idea for a crime bill. And there is even more pork and wasteful Government spending yet to come.

Nine billion dollars, in fact. Tutoring centers. Revenue sharing.

But hardly a word about closing the loopholes that allow death row inmates to escape capital punishment or ensuring that other criminals serve out their full sentences.

The bill is tough, but tough on taxpayers and soft on criminals, giving them special treatment rather than punishment for their crimes. Mr. Speaker, just as he lost on the failed stimulus package last year, President Clinton will find this a tough sell with the American taxpayer this year.

President Clinton said over the weekend no one should play political games with our Nation's safety. He called for a shoot out at high noon on this bill. I agree. Let us pull this bill apart and let the taxpayer get a good look at what political favors the President can buy for $33 billion.

□ 1030

THIS CRIME BILL FIGHTS CRIME

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute.)

Mr. RICHARDSON. Mr. Speaker, the American people are fed up with crime and want us to act now. We cannot once again let gridlock prevail. Tomorrow the vote on the rule for the crime bill will be perhaps the most important vote of the session.

Our constituents know that claims that this is a pork-barrel bill are nothing but partisan ranting. They know that this bill is tough and well-balanced. They know that it punishes criminals and works intelligently to prevent crime.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Here is what is in this bill: 100,000 new cops; three strikes you're out; the death penalty for over 60 Federal crimes; providing States with $6.5 billion to build much needed prisons; and funds for prevention programs that we know work, programs that are working in communities that deal with young people, keeping them away from crime.

Mr. Speaker, the American people are not fooled by rhetoric and special interests. The American people want us to act on crime now. It will be a long, hot summer if we let this bill die.

A MANDATORY JAIL SENTENCE FOR THOSE WHO LAUNDER MONEY FOR POLITICAL CAMPAIGNS

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, I think that perhaps we should have included a provision in the crime bill enacting a mandatory-minimum jail sentence for anyone who violates Federal election law by illegally laundering money for political campaigns. I think it is time we got serious about this issue.

Quite frankly, Mr. Speaker, I don't care who is involved. Even if it is a Governor—Members of Congress—employees of State departments of transportation or national political parties—anyone who is involved in this practice ought to be held accountable. They need to know that they are going to be caught and serve jail time for this type of activity.

To put it very clearly—they need to know if they commit the crime, they will do the time.

Mr. Speaker, we need to spread the word loud and clear: So that every Tom, Dick, or Barry in this country understands when they engage in the illegal laundering of political contributions they will be identified and they will pay a severe price.

WAIT A WHILE

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, the Democrat leadership has decided to push back 1 week the August recess for the House in order to vote on health care. Apparently, the majority believes the less contact Members have with their constituents, the better chance they have of passing their health care bill.

That might make sense to the chief vote counters of the Democrat leadership, but it makes little political or policy sense.

Mr. Speaker, we have been elected here to represent the views of the American people, not to ignore them.

The best way to hear those concerns is to go home before we vote on health care reform, give the media and the Members a chance to explain the alternatives, and get the voters' reactions.

For the life of me, I just do not understand why we can't take this route to health care reform.

Fanaticism has been defined as redoubling your efforts when you have forgotten your goal. It seems the Democrat majority has forgotten the goal of health care reform while redoubling their efforts to jam a plan down the throats of the American people.

THE CASE AGAINST EMPLOYER MANDATES

(Mr. KIM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIM. Mr. Speaker, the proponents of the Gephardt plan are trying to convince the American people that they will be getting a free ride through employer mandates. Employer mandates give an impression that all employers get freebies. These mandates give the impression that we are getting something for nothing paid for by somebody else. Let me tell the Members the truth about employer mandates.

Employer mandates are nothing more than a tax on jobs. They are nothing more than a job-killing payroll tax, a tax that American workers will pay in the form of reduced wages and lost jobs. In other words, there is no such thing as a free lunch.

Members do not have to take my word for this. Almost every credible study predicts substantial job loss because of employer mandates. Even the White House's own economic adviser predicted that such mandates would cause over 600,000 job losses.

The Gephardt plan would guarantee you health coverage at work, but only if you are lucky enough to have a job after this plan goes into effect. The truth is that employer mandates are just another huge step toward the power-hungry liberals real agenda—Government-run health care.

FREE THE CRIME BILL

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, free the Crime bill.

From my district, those urging passage of this legislation include Los Angeles County Sheriff Sherman Block, Los Angeles County District Attorney Gil Garcetti, and the Los Angeles County Police Chiefs Association. It has been endorsed by Los Angles Mayor Richard Riordan, the Los Angeles City Council and PORAC—a California association of 37,000 peace officers.

Mr. Speaker, there are too many in America who can speak to the ravages of crime. When seeking crime's remedy we should first hear the voices of those who are charged with its eradication. And it is these individuals who contend that the crime bill will reduce the availability of semiautomatic weapons, get more police officers on the streets, stem the flow of illegal immigration, punish perpetrators of domestic violence and help its victims, provide for tougher sentencing including three strikes and you're out and more prisons.

Like our law enforcement officials, I do not believe this is a perfect bill. There are provisions I believe to be unnecessary and even wasteful. But to reject this legislation for its imperfections is to reject those men and women who fight crime for a living.

Instead, let us support these Americans. Let us support the crime bill.

CRIME BILL FOUND WANTING, WEAK ON FIGHTING CRIME

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, when the crime bill originally came before the House, I supported the crime bill and some of its provisions—more prisons, a swifter death penalty, and tougher punishment. Now, the conference report has produced a crime bill that I cannot support.

Even after the conference committee has taken out the racial quota provision, President Clinton promises to enact it by Executive order. This will kill the death penalty.

This bill has grown from a $22 billion bill in the Senate for prisons and police to $33 billion for more than 40,000 new social workers, pork and political patronage.

This bill will release 10,000 convicted drug felons on our streets and in our neighborhoods. This bill creates a vast array of new social programs. The Members have heard some of them—midnight basketball and dance programs.

Mr. Speaker, this crime bill is part of the problem. It is not the solution sought by me or by the American people. I regret that I can not support this crime conference report in its present form.

AS THE COUNTRY MOVES FORWARD, THE OPPOSITION PREDICTS CALAMITY

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, there they go again. Every time this country takes a step forward, a significant portion of the people on the other side of the aisle announces that calamity is just around the corner.

When we passed the Budget Act that has created more jobs in the last 16 months than in the previous 4 years, they told us we would see more unemployment, we would see higher deficits, and we would see an economic crisis. The reality is that this country has moved forward steadily, with more new jobs than ever before, more economic growth, and less inflation.

These are the same tired old arguments against any step forward in society.

Go and tell some of the mothers and fathers who watch their children getting inadequate health care that the present system is good enough.

□ 1040

We need to make sure that every child in America has decent coverage. AARP has stepped forward and joined the call to follow the Gephardt plan, to make sure that every citizen has decent coverage, has access to drugs that are needed to deal with their illnesses, and not left by the wayside. It is wrong to leave the middle class at risk, while the rich and the poor take the free ride.

TUNE OUT, TURN OFF, DROP OUT

(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, the President has decided to support the Senate majority leader's health care reform bill, saying it is a good start.

It is a good start, all right. It is a good start to the complete takeover of our economy by the Government. In fact, the Clinton-Mitchell bill creates 47 brandnew bureaucracies to administer his plan.

You have to wonder if the Democrats got Timothy Leary's advice all wrong: Instead of turn on, tune in, drop out, it is tune out, turn off, drop out.

It seems the President and the Senate majority have decided to tune out the advice of the American people: Government is too big and spends too much.

And by tuning out the wishes of the people, the President has turned off the electorate. That explains why the name Clinton is enough to kill any health care reform bill and why the Democrat leadership is so anxious to change the name of the President's bill.

Most voters wish that the President would drop out of the health care debate.

GET DEMOCRATS OFF SOAPBOXES

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, Democrat White House surrogates in the Congress who have been criticizing the selection of Ken Starr as the independent prosecutor should get off their soapboxes. Not only because it is so unseemly in light of all of the attempts at White House manipulation and influence over this investigation already, but because Ken Starr is precisely the kind of independent prosecutor they should have asked for in the first place. That he is not a buddy of Bernie Nussbaum's that he hasn't even the most tenuous of relationships to this administration, and that he did contemplate filing an amicus brief for Paula Jones, makes him perfectly suited for the job.

Nobody has suggested that Mr. Starr will act unfairly. Nobody has attacked his reputation for probity or impartiality as a Federal judge. They have merely suggested that he creates an appearance of partisanship.

Well, when the President and the First Lady are cleared of all the wrongdoing, as they have emphatically stated they will be, then this suggestion of partisanship will make Starr's conclusions unimpeachable. So pipe down, relax, and let the process take its course. And be careful, because all of this whining and protesting about Starr is going to sound an awful lot like another attempt to influence, manipulate, and divert to the American public.

HOUSE BILL GUARANTEES HEALTH SECURITY FOR SENIORS

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Ms. PELOSI. Mr. Speaker, every time I call home to my mother, at the end of the conversation she says:

> Take care of your health. As you grow older you learn that if you do not have your health, you do not have anything.

That statement I am sure many of us hear from our parents, older parents, more and more these days. And that means that health care reform is not a luxury, but a necessity for our senior citizens, and, indeed, for all Americans.

That is why I was so pleased to see that the AARP came out so strongly for the House health care reform bill. They did so because the bill includes new unlimited drug benefits for seniors in the Medicare Program, which means seniors will no longer have to tighten their belts to buy their medicine. It includes new preventive health benefits for seniors and new benefits for mammograms for women over 65 years of age, features that could save millions of elderly lives. And, for the very first time, long-term care would be available for the many seniors who need it the most. In addition to that, in an overall way, it guarantees health care that may never be taken away, health care that is always there for all Americans, including you, mom, our seniors.

REPUBLICANS RALLY AROUND PRESIDENT ON CORRECT POLICIES

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, at a time when the President of the United States is attempting to launch a Government takeover of one-seventh of the economy and the Democrat leadership in this House is attempting to obliterate something the American people have called for, that being Congressional reform, I find it very interesting that yesterday Republicans in this House stepped forward with nearly 75 percent of our membership supporting the cause of human rights in China and job creation here in the United States.

Yes, the President has had a pattern of criticizing Republicans for partisanship. But when the President is right, Republicans step forward and do everything that we possibly can to support those correct policies. I think it is very important, Mr. Speaker, that the record show that.

PASS THE CRIME BILL AND MAKE AMERICA SAFER

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, there might be a difference of opinion in our districts on whether Congress should address the health care problem today or soon, but there is certainly no difference of opinion on whether Congress should address the issue of crime in our country immediately or very soon.

I have had conversations with Mayor Jerry Abramson of my own town of Louisville, and County Judge/Executive David Armstrong. Both of them are very dedicated to the idea that Congress pass this crime bill.

Tomorrow there will be an opportunity for this House to take up first the rule which permits us to deal with the crime bill conference report, and then the conference report itself. And while there may be problems and each one of us may find some flaw in and some detriment or some lack of completeness in this bill, it is at least a generally approved step forward in the national fight against crime.

So, Mr. Speaker, I hope that we can, first, adopt the rule tomorrow, and then pass the crime bill and address the issue of crime and make America safer.

SUPPORT THE CONGRESSIONAL ACCOUNTABILITY ACT

(Mr. CAMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

VOL
140
PT
15
AG
10
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11
1994
UMI

Mr. CAMP. Mr. Speaker, I rise today in strong support of the Congressional Accountability Act, which asks Congress to live by the same rules we make for the American people. How can we make laws for others, but exempt ourselves? Thomas Jefferson called for this body to be made up of citizens leaving normal careers for short periods of time and then going back to live under the rules they made.

I ask my colleagues, how can we know the true implications of our laws if we do not experience the benefit and the burden of these laws? H.R. 4822 will help restore some confidence in this body by making us abide by the Fair Labor Standards Act, the Americans with Disability Act, the Age Discrimination in Employment Act, the Family and Medical Leave Act, the Occupational Safety and Health Act, to name a few.

Mr. Speaker, we must abide by the laws we place on others. Perhaps if we are forced to abide by the rules we pass, this body might take the time to understand the full implication of legislation before it becomes law.

ENDORSEMENT OF HOUSE LEADERSHIP HEALTH CARE PLAN BY AARP

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, as the health care debate moves forward during the next couple of weeks, I think it is extremely significant to note an important endorsement today. That endorsement of the House leadership plan by the American Association of Retired Persons. Yes, the AARP, one of the leading spokespersons for senior citizens in our country, because the AARP and the 33 million people they represent know that the House leadership plan protects that most important program to seniors, Medicare.

They know that the House leadership plan does indeed provide outpatient prescription drugs. They know that the House leadership plan begins to make some inroads into that knotty problem of long-term health care, home health care. And, finally, senior citizens know that Medicare, without the kind of action proposed by the House leadership plan, will keep getting squeezed more and more and more.

So what the important action of today by the AARP means is that the grandparents of this country are standing up to say we want our grandchildren to have the same kind of coverage.

CRIME BILL: UNFUNDED MANDATES AND TOO MUCH PORK

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, the Clinton crime bill says it will put 100,000 new police officers on the streets. In reality, this bill guarantees funding for only 20,000 permanent new cops over the next 6 years. That is only 20 percent of the total number of police officers promised by the bill's supporters.

The Clinton crime bill assumes that State and local governments will pick up $33 billion in new expenditures over the next 6 years. They will have to if they want to meet the target of 100,000 new police officers.

This bill will place another huge, unfunded mandate on our cities and towns, which are already overburdened by too many Federal rules and too much red tape.

This bill gives the attorney general the discretion to decide which cities and States receive new community policing funds. Do not be surprised if we see handouts given to well-connected big-city politicians. And, of course, there is nearly $9 billion in new, Great Society-type social welfare spending.

Mr. Speaker, if we have learned anything from the past, we see that our Nation has poured over 5 trillion tax dollars into our current welfare system since the so-called war on poverty was started in 1965. This is a bill that puts two social workers on the street for every one cop.

Mr. Speaker, there is more wrong with this bill than right, such as unfunded mandates and too much social spending. We should go back to the drawing board and address the real concerns of the American people.

□ 1050

GRASSROOTS SUPPORT FOR HEALTH CARE REFORM

(Mr. DERRICK asked and was given permission to address the House for one minute.)

Mr. DERRICK. Mr. Speaker, health care reform is a quintessential grassroots issue. Literally everyone has a stake in it. That is why Americans overwhelmingly support universal coverage and insurance that cannot be taken away.

The American will for reform speaks in a loud, clear voice. Listen to just a few of the health advocacy organizations representing millions of Americans who support the Guaranteed Health Insurance Act: Healthright, Families USA, The Center for Medicare Advocacy, The National Mental Health Association, Interreligious Health Care Access, The Protestant Health Alliance, The Consortium for Citizens with Disabilities, The National Multiple Sclerosis Society, The National Breast Cancer Coalition, The Community Health Access Coalition, The Epilepsy Foundation of America, The American Foundation for the Blind, The American Parkinson's Disease Association, and The Association for Retarded Citizens.

These groups give voice to the grassroots. Listen to the people. Support health care reform.

THE CRIME BILL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, every Member who is looking at the crime bill should understand why we are so concerned and why we want this bill to go back to conference.

The Buffalo News reports this morning that the Federal Bureau of Investigation Director is openly worried. In a page 1 story entitled "FBI Chief Criticizes Crime Bill," on the inside it is "Proposed Cuts Worry FBI Director," he says that the funding comes from downsizing the Federal Government and specifically from devastating the FBI and the DEA.

I do not think Members realize that the crime bill, which has still not been reported, which has still not been filed, which some Democratic leaders are still trying to rewrite, even though it is supposedly out of conference, that bill specifically cuts the Federal Bureau of Investigation and the Drug enforcement Agency.

I do think Members realize that the so-called crime bill is a social work bill that takes money away from the FBI to spend more money on social work. I hope that every Member will look at this kind of real issue and not vote for the rule on the crime bill.

APPOINTMENT OF CONFEREES ON H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995 AND FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

Mr. MOLLOHAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill—H.R. 4603—making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies' programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer a motion to instruct.

The clerk read as follows.

Mr. ROGERS moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 4603 be instructed to agree to the Senate amendments numbered 125 and 127.

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes, and the gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my motion instructs the conferees to accept the Senate funding levels for contributions to the U.N. general budget and U.N. peacekeeping.

Mr. Speaker, we have had to cut in this bill crimefighting money from the Justice Department. We had to cut job-producing programs in the Commerce Department. And we have had to cut peace dollars at the State Department; in order to fully fund U.N. contributions, we did those cuts.

My motion, Mr. Speaker, will partially correct what I count as a mistake. This motion would reduce funding to the United Nations by $74 million below the House level by two different means.

First, it would make a very modest cut in the peacekeeping arrearage payments by $33 million. By the way, that is out of a total of $1.2 billion so it is less than a 3-percent cut.

Second, it would cut $41 million in arrearage payments to the general budget at the United Nations. That is out of a total of $914 million that we pay to the United Nations and related agencies. So that is around a 4-percent cut to the general budget.

The savings though, Mr. Speaker, the $74 million then could be added back to crimefighting in America, to producing jobs in America, and to furthering America's peace initiatives around the world.

Mr. Speaker, these are modest trends. I would have liked to have seen much, much more. In fact, I tried to get more cuts on a motion on the bill when it passed through the House. We did not succeed. But these are very, very modest cuts: 3 percent peacekeeping, 4 percent to the general budget of the United Nations.

More importantly, those moneys can be directed to America's problems which we all know are excessive.

We have to make choices. The President's budget request for this bill was almost $800 million over what we were given to spend by the budget process. So we had to make trims.

We cut, as I said, Commerce Department funding. We cut Justice Department funding. We have cut State Department funding. In fact, we are cutting State Department below their current services in order to fund the U.N. contributions. We cannot fully fund every important program in this bill because of that.

The United Nations, Mr. Speaker, should not be held harmless from the budget cuts that we have to endure. We should not favor a United Nations over domestic priorities in this country.

Many would argue that U.N. spending is out of control. The number and the cost of the peacekeeping missions that the United Nations has undertaken have exploded. Just 6 years ago, Mr. Speaker, we only were involved in two peacekeeping missions in the world, the United Nations. Now, we are involved in 16, 8 times the number of peacekeeping missions we had just 6 years ago.

What is the cost of that to us, the United States? Then we were paying $30 million a year. Now it is costing us $1.2 billion a year, and just 30 million 6 years ago.

The American taxpayer, Mr. Speaker, is billed to much for peacekeeping missions because our allies are not being billed enough. We are paying a disproportionate share of the total U.N. cost for peacekeeping. We are paying or being billed for, at least, almost a third of the total cost of these peacekeeping missions.

Japan is only being billed for 12.5 percent; Germany only 9 percent; Great Britain, 6.5 percent. That is unfair. It may have been fair in the immediate post-World War II world. It is not fair in today's world with lots of economic giants out there more able to pay really than we are in many cases.

□ 1100

Third, the United Nations is a bloated bureaucracy, Mr. Speaker, rampant with waste, fraud, and abuse. Let me make a couple of points.

Eighty percent of the U.N. general budget, 80 percent, is used to pay some 14,000 U.N. employees, employees who receive, one, tax-free salaries guaranteed to be 20-percent higher than in the private sector in this country; guaranteed cost-of-living increases; guaranteed paid vacations of up to 2 months per year; virtually free education for all of their children through college. That is what employees at the United Nations get, subsidized by the large payments that the U.S. taxpayer makes to the general budget, which is 25 percent.

Can we justify, Mr. Speaker, can we justify fully funding the United Nations and all of those guaranteed perks and benefits, when we cannot fully fund the FBI in this country, or the State Department, or the job production programs at the Commerce Department? I say no, we cannot justify that. Therefore, these very small cuts, 3 or 4 percent at the United Nations, are the least we should be able to do.

Yes, Mr. Speaker, we do have a commitment to pay our bills to the United Nations, but we also have a commitment, Mr. Speaker, to the American people, a commitment to fight the war on crime in this country, a commitment to economic growth through technology and economic development programs in this country.

This motion, Mr. Speaker, allows us to fulfill both of these commitments the best we can, given our budget constraints. The dollars my motion would cut from the United Nations could be reallocated in conference, Mr. Speaker, to fighting crime here at home, producing jobs here at home, and furthering the cause of peace on America's behalf around the world.

I urge Members to address America's crime problems, while doing no harm to the United Nations.

Mr. Speaker, I urge the adoption of my motion, and I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the gentleman's motion to instruct conferees on our 1995 Commerce, Justice, State, and Judiciary appropriation bill. I understand that the gentleman's amendment really goes to our obligations.

This amendment would prevent us from funding arrearages, both in peacekeeping and in international organizations at the United Nations. It means we would not meet our obligations to the extent that the House, when we passed our bill, thought that we should meet those obligations.

Mr. Chairman, I think that the House, when they consider that, want to meet those responsibilities in as timely as fashion as we possibly can.

Mr. Speaker, we have debts to the U.N. right now which we are trying, in a phased way, to meet. We have debts to the international organizations that we need to honor. This motion would, if acted upon in conference, prevent us from meeting those obligations.

Mr. Speaker, the cuts that would be made by the gentleman's instructions, would come, ironically, Mr. Speaker, at a time when the United States is making real progress in addressing some of the concerns, legitimate concerns, that the gentleman spoke to. Right now, the United Nations has taken action to create an independent inspector general. That is an issue that the gentleman who is making this motion to instruct has been very concerned with and very articulate in

VOL 140 PT 15 AG 10 — 11 1994 UMI

bringing his concerns to the House for a number of years now.

However, the United Nations is addressing that, and they are appointing an inspector general, and there has been constructive cooperation between the United States and the United Nations on these problems. We are moving to address them. Those are legitimate concerns. We want the United Nations to operate carefully, we want them to operate in a fiscally prudent manner, and we are taking actions in the authorizing bill that we passed earlier this year to encourage the United Nations to move in that direction, and they are.

In addition, Mr. Speaker, the United Nations and the United States are right now in serious negotiations. They are under way, as we speak, to reduce the share of peacekeeping costs that the United States is obligated for, from 31 to 25 percent. That is also a goal that the gentleman from Kentucky [Mr. ROGERS] has advanced and has put forward on numerous occasions before this body, so they are addressing two of his most pressing concerns. We are very pleased that they are doing that.

At the time that the United Nations is indicating that they want to be responsible, we do not want to be irresponsible. We do not want to be pikers in the eyes of the world and not meet our financial obligations with regard to these arrearages.

Mr. Speaker, with regard to the gentleman's instruction, if it were to prevail and we were to effect it in conference, the instructions, as far as it relates to cutting the funding for arrearages for international organizations, would cut from such activities as the Food and Agricultural Organization. It would cut from the International Labor Organization our obligation to pay arrearages. It would cut from the U.N. Industrial Development Organization. I do not think that the gentleman or the body or this country wants the United States to pull back from its obligations in these areas.

In addition, Mr. Speaker, this amendment would cut our contribution to cleaning up our arrearages for the World Health Organization. I do not think that is an organization that we want to indicate to the world that we do not support, or that we do not want to pay up our obligations for our arrearages; also, for the Organization of American States, an organization very close to home that we ought to be supporting, and that we ought to be indicating that we want to meet our part of the obligation to fund that organization. In addition, the Pan American Health Organization, Mr. Speaker, would be one of the organizations that would receive a cut in our obligation for arrearages if this motion to instruct went forward.

Mr. Speaker, I would point out, finally, that the United States is bound by treaty to make payments that have been included in the House bill, have been carefully considered by our committee during the committee process, have been carefully considered on this House floor, and supported by the body when we passed our bill. The bill includes funding which would allow the United States to make those payments soon, permitting vital peacekeeping operations to continue, and fostering the reforms that the gentleman from Kentucky is so concerned about.

Therefore, Mr. Speaker, I would hope that the body would reject the gentleman's motion to instruct, and I trust that we will.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MCDADE], the able Republican on the full Committee on Appropriations.

Mr. MCDADE. Mr. Speaker, I want to begin by extending my deep appreciation to my friend, the gentleman from Kentucky [Mr. ROGERS] for yielding me this time, and for all the members of this subcommittee who have worked so hard to bring us this bill.

Mr. Speaker, I rise in support of this motion, and I want to commend the gentleman from Kentucky, who has labored as long as any Member of this House to bring some semblance of discipline to the United Nations and our country's relationship with it.

Mr. Speaker, I support this motion because it helps send a signal—to both the United Nations and the administration. It sends a signal the current path we are on with respect to peacekeeping and other U.N.-sanctioned missions is full of confusion, inconsistencies, and a disregard for the actions needed to realistically deal with a series of growing problems abroad.

Nothing more graphically demonstrates these problems than the tragedy which continues to unfold in Rwanda. All of us can, and should, Mr. Speaker, point with pride to the magnificent actions of our military and relief workers in bringing some measure of assistance to the hundreds of thousands of refugees in that troubled area. They have performed miracles.

But the fact remains this immense tragedy unfolded in front of all of us while the United Nations failed to act in a timely or effective manner. It took nearly 2 months after the slaughter began in Rwanda for the United Nations to approve a peacekeeping contingent—and today, nearly 3 months after the United Nations finally acted, there are only 500 peacekeepers on the ground as part of that force, only 500 troops.

□ 1110

That, Mr. Speaker, is less than 10 percent of what the United Nations announced it would send to Rwanda. Not only has the United Nations failure to act contributed to this tragedy but it may cause even more suffering and more calamities. The French, Mr. Speaker, who have sent 2,000 peacekeepers to Rwanda, are going to leave in less than 2 weeks. Most observers who are in the country believe that unless they are replaced by United Nations as peacekeepers, it will spark additional violence and another mass migration of Rwandans, perhaps, Mr. Speaker, as many as 1 million more refugees, and there are 1.2 million in Goma alone in Zaire, as we speak.

Without question, Mr. Speaker, this threatens our efforts in Rwanda. There, our initial strategy seems straightforward: Have our military provide sustenance for more than 1 million refugees near Goma, Zaire, for a short period until they are returned to Rwanda. But, Mr. Speaker, the entire strategy depends on convincing the refugees to return home. Unhappily, they are not doing so. But why, Mr. Speaker? They are not doing so because the former Rwandan Government and its military have refused to concede defeat, sowing fear and confusion among the refugees. They are not doing so, they are not returning home, because there is no sign that the international community will provide for their safety if they return to their homes.

All this, Mr. Speaker, points to an unravelling of the administration's planning for Rwanda, meaning, I regret to suggest, an extended stay for our troops, an increase in the cost required; a continued stretching of our military as it struggles to meet this mission as well as the demands of Haiti, of Bosnia, of Korea, of Iraq, of Somalia, not to mention, Mr. Speaker, areas of passing interest such as Japan, Western Europe, and the former Soviet Union.

Yet, Mr. Speaker, have we seen this unfortunate turn of events dealt with by the administration? As of today, we have not. Have we seen the administration attempt to explain this deteriorating situation and the challenges posed to our mission, to the American people and, Mr. Speaker, to the Congress? We have not, Mr. Speaker. Have we seen the administration describe an exit strategy which lays the foundation for our troops to conclude their mission? We have not, Mr. Speaker. Have we seen any concerted, high profile effort in the United Nations by our representatives to bring together peacekeeping contingents to prevent further tragedy in Rwanda and enable our troops to come home? We have not, Mr. Speaker. Instead we see our forces—our efforts focused on getting the United Nations to approve a United Nations invasion of Haiti.

Mr. Speaker, it is clear that both our Government and the community of nations must take decisive actions soon to prevent the Rwandan tragedy from descending into even greater depths of despair.

Mr. Speaker, I see the gentleman's motion as a means to send a signal today, a warning shot across the bow, indeed, that we believe the administration and the United Nations have to refocus on Rwanda as well as all the other peacekeeping missions we have embarked on. They must level with the American people. They must level with the Congress. We must refocus and get our House in order. We must enlist the community of nations to solve this problem.

And, oh, yes, Mr. Speaker, the United Nations needs reform immediately.

Mr. MOLLOHAN. Mr. Speaker, I yield back the balance of my time.

Mr. ROGERS. Mr. Speaker, I urge the adoption of the motion to instruct conferees.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. ROGERS].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ROGERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 177, nays 250, not voting 7, as follows:

[Roll No. 384]

YEAS—177

Allard	Condit	Goodlatte
Archer	Cooper	Goodling
Armey	Costello	Goss
Bachus (AL)	Cox	Grams
Baker (CA)	Crane	Grandy
Baker (LA)	Crapo	Green
Ballenger	Cunningham	Greenwood
Barrett (NE)	DeLay	Gunderson
Bartlett	Diaz-Balart	Hall (TX)
Barton	Dickey	Hancock
Bateman	Doolittle	Hansen
Bentley	Dreier	Hastert
Bilirakis	Duncan	Hayes
Billey	Dunn	Hefley
Blute	Ehlers	Hobson
Boehner	Emerson	Hoekstra
Bonilla	Everett	Hoke
Bunning	Ewing	Horn
Burton	Fawell	Huffington
Buyer	Fields (TX)	Hunter
Callahan	Fowler	Hutchinson
Calvert	Franks (CT)	Hyde
Camp	Franks (NJ)	Inglis
Canady	Gallegly	Inhofe
Castle	Gallo	Istook
Clinger	Gekas	Jacobs
Coble	Gilchrest	Johnson, Sam
Collins (GA)	Gillmor	Kasich
Combest	Gingrich	Kim
King	Molinari	Shuster
Kingston	Moorhead	Skeen
Klug	Myers	Smith (MI)
Knollenberg	Nussle	Smith (NJ)
Kolbe	Oxley	Smith (OR)
Kyl	Packard	Smith (TX)
Lazio	Paxon	Snowe
Levy	Petri	Solomon
Lewis (CA)	Pombo	Spence
Lewis (FL)	Portman	Stearns
Lewis (KY)	Poshard	Stump
Lightfoot	Pryce (OH)	Sundquist
Linder	Quillen	Talent
Livingston	Quinn	Tauzin
Lucas	Ramstad	Taylor (MS)
Machtley	Regula	Taylor (NC)
Manzullo	Ridge	Thomas (CA)
Mazzoli	Roberts	Thomas (WY)
McCandless	Rogers	Torricelli
McCollum	Rohrabacher	Traficant
McCrery	Ros-Lehtinen	Upton
McDade	Roth	Vucanovich
McHugh	Royce	Walker
McInnis	Santorum	Walsh
McKeon	Saxton	Weldon
McNulty	Schaefer	Wolf
Meyers	Schiff	Young (AK)
Mica	Sensenbrenner	Young (FL)
Michel	Shaw	Zeliff
Miller (FL)	Shays	Zimmer

NAYS—250

Abercrombie	Engel	Laughlin
Ackerman	English	Leach
Andrews (ME)	Eshoo	Lehman
Andrews (NJ)	Evans	Levin
Andrews (TX)	Farr	Lewis (GA)
Applegate	Fazio	Lipinski
Bacchus (FL)	Fields (LA)	Lloyd
Baesler	Filner	Long
Barca	Fingerhut	Lowey
Barcia	Fish	Maloney
Barlow	Flake	Mann
Barrett (WI)	Foglietta	Manton
Becerra	Ford (MI)	Margolies-Mezvinsky
Beilenson	Ford (TN)	Markey
Bereuter	Frank (MA)	Martinez
Berman	Frost	Matsui
Bevill	Furse	McCloskey
Bilbray	Gejdenson	McCurdy
Bishop	Gephardt	McDermott
Blackwell	Geren	McHale
Boehlert	Gibbons	McKinney
Bonior	Gilman	Meehan
Borski	Glickman	Meek
Boucher	Gonzalez	Menendez
Brewster	Gordon	Mfume
Brooks	Gutierrez	Miller (CA)
Browder	Hall (OH)	Mineta
Brown (CA)	Hamburg	Minge
Brown (FL)	Hamilton	Mink
Brown (OH)	Harman	Moakley
Bryant	Hastings	Mollohan
Byrne	Hefner	Montgomery
Cantwell	Hilliard	Moran
Cardin	Hinchey	Morella
Carr	Hoagland	Murphy
Chapman	Hochbrueckner	Murtha
Clay	Holden	Nadler
Clayton	Houghton	Neal (MA)
Clement	Hoyer	Neal (NC)
Clyburn	Hughes	Oberstar
Coleman	Hutto	Obey
Collins (IL)	Inslee	Olver
Collins (MI)	Jefferson	Ortiz
Conyers	Johnson (CT)	Orton
Coppersmith	Johnson (GA)	Owens
Coyne	Johnson (SD)	Pallone
Cramer	Johnson, E. B.	Parker
Danner	Johnston	Pastor
Darden	Kanjorski	Payne (NJ)
de la Garza	Kaptur	Payne (VA)
Deal	Kennedy	Pelosi
DeFazio	Kennelly	Penny
DeLauro	Kildee	Peterson (FL)
Dellums	Kleczka	Peterson (MN)
Derrick	Klein	Pickett
Deutsch	Klink	Pickle
Dicks	Kopetski	Pomeroy
Dingell	Kreidler	Porter
Dixon	LaFalce	Price (NC)
Dooley	Lambert	Rahall
Durbin	Lancaster	Rangel
Edwards (CA)	Lantos	Reed
Edwards (TX)	LaRocco	Reynolds
		Richardson
		Roemer
		Rose
		Rostenkowski
		Rowland
		Roybal-Allard
		Rush
		Sabo
		Sanders
		Sangmeister
		Sarpalius
		Sawyer
		Schenk
		Schroeder
		Schumer
		Scott
		Serrano
		Sharp
		Shepherd
		Sisisky
		Skaggs
		Skelton
		Slattery
		Slaughter
		Smith (IA)
		Spratt
		Stark
		Stenholm
		Stokes
		Strickland
		Studds
		Stupak
		Swett
		Swift
		Synar
		Tanner
		Tejeda
		Thompson
		Thornton
		Thurman
		Torkildsen
		Torres
		Towns
		Tucker
		Unsoeld
		Valentine
		Velazquez
		Vento
		Visclosky
		Volkmer
		Waters
		Watt
		Waxman
		Wheat
		Williams
		Wilson
		Wise
		Woolsey
		Wyden
		Wynn
		Yates

NOT VOTING—7

Dornan	Ravenel	Whitten
Herger	Roukema	
McMillan	Washington	

□ 1135

Mr. HOYER and Mr. STRICKLAND changed their vote from "yea" to "nay."

Mr. HALL of Texas changed his vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LAROCCO). Without objection, the Chair appoints the following conferees: Messrs. MOLLOHAN, SMITH of Iowa, CARR of Michigan, MORAN, SKAGGS, PRICE of North Carolina, OBEY, ROGERS, KOLBE, TAYLOR of North Carolina, and MCDADE.

There was no objection.

GENERAL LEAVE

Mr. MOLLOHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion to instruct House conferees on H.R. 4603.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill (H.R. 4506) making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes, as well as the Senate amendments reported in disagreement, and that I may include extraneous material and tables.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

VOL 140 PT 15 AG 10 — 11 1994 UMI

CONFERENCE REPORT ON H.R. 4506, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1995

Mr. BEVILL. Mr. Speaker, I call up the conference report on the bill (H.R. 4506) making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 4, 1994, at page 19681).

The SPEAKER pro tempore. The gentleman from Alabama [Mr. BEVILL] will be recognized for 30 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present the conference report on the fiscal year 1995 energy and water development appropriations bill for your favorable consideration. Our colleagues will recall that debate on this bill occurred in the House on June 14, and the bill was passed by a vote of 393 to 29. The Senate passed the bill on June 30 by a vote of 91 to 8.

Mr. Speaker, our conference committee meeting was held on Thursday, August 4. I wish to compliment our friends from the other body, particularly the Senator from Louisiana [Mr. JOHNSTON], the chairman of the Senate subcommittee, for the fine spirit of compromise displayed in the conference meeting. I also wish to thank my colleagues, the House conferees, for their support and their valuable contributions during the conference deliberations.

Mr. Speaker, I would like to address the action which the conference committee took on two items of interest of the House—the superconducting super collider and the advanced liquid metal reactor program.

For the superconducting super collider, no additional funds have been provided for termination in fiscal year 1995. Language has been included which will permit the use of funds appropriated last year for SSC termination costs to be used to finalize the outstanding claims of the State of Texas. This will conclude the Federal Government's liability to the State of Texas and no additional funds will be required. No additional funds are provided to the Department of Energy for other termination costs. All termination costs are to be paid from previously appropriated funds.

With respect to the advanced liquid metal reactor program, on August 1 the House instructed the conferees to maintain the House position on terminating the advanced liquid metal reactor program. As you can see from the conference agreement, only the House proposed funding to terminate this program in fiscal year 1995 has been provided.

Now I would like to comment on other aspects of the conference agreement.

In total the conference agreement is $19,751,000 below the President's budget request, just $1,000 below the subcommittee's 602(b) allocation for budget authority, and $4,236,000 below the 602(b) allocation for outlays.

Mr. Speaker, for the various agencies and programs under the jurisdiction of the Energy and Water Development Subcommittee, the committee of conference recommends $20,492,999,000 in new-budget authority. This amount is $137,377,000 above the House bill and $19,894,000 below the Senate bill.

The conference agreement we present to you today is the culmination of many months of effort on the part of the House committee and the same review by the Senate committee. During this period we have heard testimony from hundreds of witnesses—contained in eight hearing volumes of thousands of pages.

The Senate had a total of 50 numbered amendments to the bill. But, within those 50 amendments, there were approximately 400 individual items in disagreement. The conference agreement represents the best efforts of the House and Senate conferees to achieve consensus on each of those items. Many items had to be reduced or changed to accomplish agreement with the Senate. In addition, we had to keep in mind the need to have a bill that was acceptable to the administration.

Your House conferees did their best to maintain the House position. However, to bring back a conference report that is within the budget allocation for the energy and water development programs, a great many items had to be compromised.

We would like more money for energy and the water projects. But, we have only limited funds for these items, and therefore, we cannot provide all of the funds for all of the programs and projects to the extent we would like.

Mr. Speaker, the conference agreement contains $3,408,919,000 in title I for the Army Corps of Engineers. This $43,515,000 below the bill as passed by the House and $17,354,000 higher than the Senate-passed bill. These funds will finance 528 water resources projects in the planning or construction phase, and provide for urgently needed operation and maintenance activities at completed projects.

For title II, the Department of the Interior and the Bureau of Reclamation, the conferees recommend a total of $881,399,000 which is $2,221,000 below the House-passed bill and $11,985,000 more than the Senate-passed bill. This will fund 93 water resources projects in the planning or construction phase and provide funds for operation and maintenance of 39 projects.

In my view, the conference agreement provides for a financially prudent and environmentally sound water resources development program.

The conference agreement contains $15,901,676,000 for the Department of Energy programs in title III. This includes $3,314,548,000 for energy supply, research, and development activities; $272,526,000 for power marketing administrations; $392,800,000 for the nuclear waste disposal fund; and $984,031,000 for general science and research activities. The energy accounts include $388,108,000 for solar and other renewable energy programs; $293,228,000 for nuclear energy; $372,563,000 for magnetic fusion; and $747,296,000 for basic energy sciences. The conference agreement provides a total of $10,300,847,000 for atomic energy defense activities. Within this bill, $6,138,059,000 is provided for defense and nondefense environmental restoration and cleanup activities.

Mr. Speaker, the conference agreement includes $470,408,000 for nine independent agencies and commissions in title IV, including the Appalachian Regional Commission, the Nuclear Regulatory Commission, and the Tennessee Valley Authority.

Mr. Speaker, there are several people who made it possible to complete the conference agreement. I want to make special note of the contributions made by two appropriations committee staff members. Lori Whipp has worked tirelessly and with incredible skill in putting this conference report together. All of the tables and scorekeeping computations needed to develop this bill were prepared by Tim Buck who consistently works under very tight deadlines imposed by the subcommittee. I would also like to thank Kyle Jones, who has been on detail to the Subcommittee on Energy and Water Development from the Corps of Engineers, for his assistance during the entire fiscal year 1995 appropriations process. Lori, Tim, and Kyle deserve our very special thanks for their help in bringing this bill to the House for its consideration today.

Mr. Speaker, I strongly urge the Members to support the hard work of my subcommittee and pass the conference report and amendments which will be presented to the House.

Mr. Speaker, at this point I include in the RECORD a table which summarizes the financial aspects of the conference agreement, as follows:

ENERGY AND WATER APPROPRIATIONS BILL, 1995 (H.R. 4506)

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF DEFENSE - CIVIL						
DEPARTMENT OF THE ARMY						
Corps of Engineers - Civil						
General investigations	207,540,000	147,350,000	179,062,000	181,199,000	181,199,000	-26,341,000
Construction, general	1,400,875,000	956,147,000	1,023,565,000	977,660,000	983,868,000	-417,207,000
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	348,875,000	319,918,000	334,138,000	326,138,000	328,138,000	-20,737,000
Operation and maintenance, general	1,866,960,000	1,608,184,000	1,646,535,000	1,831,434,000	1,846,535,000	-42,455,000
Regulatory program	92,000,000	109,916,000	101,000,000	101,000,000	101,000,000	+9,000,000
Flood control and coastal emergencies	20,000,000	14,979,000	14,979,000	14,979,000	14,979,000	-5,021,000
Emergency supplemental appropriations	70,000,000					-70,000,000
General expenses	148,500,000	156,255,000	152,500,000	156,255,000	152,500,000	+4,000,000
Oil spill research	350,000	625,000	625,000	900,000	900,000	+550,000
Total, title I, Department of Defense - Civil	3,977,130,000	3,313,874,000	3,452,434,000	3,391,565,000	3,406,919,000	-568,211,000
TITLE II - DEPARTMENT OF THE INTERIOR						
Central Utah Project Completion Account						
Central Utah project construction	14,920,000	22,639,000	22,639,000	22,639,000	22,639,000	+7,719,000
Fish, wildlife, and recreation mitigation and conservation	4,850,000	11,133,000	11,133,000	11,133,000	11,133,000	+6,283,000
Utah reclamation mitigation and conservation account	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	
Program oversight and administration	1,000,000	1,191,000	1,191,000	1,191,000	1,191,000	+191,000
Total, Central Utah project completion account	25,770,000	40,163,000	40,163,000	40,163,000	40,163,000	+14,393,000
Bureau of Reclamation						
General investigations	13,819,000	12,800,000	14,190,000	14,340,000	14,190,000	+371,000
Construction program	464,423,000	380,906,000	432,727,000	425,727,000	432,727,000	-31,696,000
Operation and maintenance	282,898,000	284,185,000	286,521,000	282,185,000	284,300,000	+1,402,000
Loan program	13,500,000	3,800,000	9,800,000	6,800,000	9,800,000	-3,980,000
(Limitation on direct loans)	(21,000,000)	(10,915,000)	(23,000,000)	(20,000,000)	(23,000,000)	(+2,000,000)
General administrative expenses	54,034,000	54,191,000	54,034,000	54,034,000	54,034,000	
Emergency fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	
Colorado River Dam fund (by transfer, permanent authority)	(-7,168,000)	(-7,472,000)	(-7,472,000)	(-7,472,000)	(-7,472,000)	(-304,000)
Central Valley project restoration fund	45,000,000	45,385,000	45,385,000	45,385,000	45,385,000	+385,000
Total, Bureau of Reclamation	874,674,000	781,847,000	843,457,000	829,251,000	841,236,000	-33,438,000
Total, title II, Department of the Interior	900,444,000	822,010,000	883,620,000	869,414,000	881,399,000	-19,045,000
(By transfer)	(-7,168,000)	(-7,472,000)	(-7,472,000)	(-7,472,000)	(-7,472,000)	(-304,000)
TITLE III - DEPARTMENT OF ENERGY						
Energy Supply, Research and Development Activities:						
Operating expenses	2,812,840,000	2,969,841,000	2,859,527,000	2,953,085,000	2,936,905,000	+124,065,000
Plant and capital equipment	411,070,000	454,343,000	432,643,000	376,643,000	377,643,000	-33,427,000
Total	3,223,910,000	3,424,184,000	3,302,170,000	3,329,728,000	3,314,548,000	+90,638,000
Uranium Supply and Enrichment Activities:						
Operating expenses	246,992,000	66,108,000	72,210,000	66,108,000	66,108,000	-178,884,000
Plant and capital equipment	100,000	5,102,000	1,000,000	5,102,000	5,102,000	+5,002,000
Subtotal	247,092,000	73,210,000	73,210,000	73,210,000	73,210,000	-173,882,000
Gross revenues	-70,000,000	-9,900,000	-9,900,000	-9,900,000	-9,900,000	+60,100,000
Net appropriation	177,092,000	63,310,000	63,310,000	63,310,000	63,310,000	-113,782,000
Uranium enrichment decontamination and decommissioning fund	286,320,000	301,327,000	301,327,000	301,327,000	301,327,000	+15,007,000
General Science and Research Activities:						
Operating expenses	1,329,785,000	798,161,000	713,570,000	702,171,000	708,570,000	-621,215,000
Plant and capital equipment	285,329,000	275,461,000	275,461,000	271,461,000	275,461,000	-9,868,000
Total	1,615,114,000	1,073,622,000	989,031,000	973,632,000	984,031,000	-631,083,000
Nuclear Waste Disposal Fund	260,000,000	254,800,000	304,800,000	402,800,000	392,800,000	+132,800,000
Isotope production and distribution fund	3,910,000		11,800,000			-3,910,000
Environmental Restoration and Waste Management:						
Defense function	(5,181,855,000)	(5,194,424,000)	(5,126,211,000)	(5,063,891,000)	(5,092,891,000)	(-88,164,000)
Non-defense function	(1,003,798,000)	(1,045,368,000)	(1,045,368,000)	(1,045,368,000)	(1,045,368,000)	(+41,570,000)
Total	(6,185,653,000)	(6,239,792,000)	(6,173,579,000)	(6,129,059,000)	(6,138,059,000)	(-47,594,000)

VOL 140 PT 15 AG 10 — 11 1994 UMI

ENERGY AND WATER APPROPRIATIONS BILL, 1995 (H.R. 4506), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Atomic Energy Defense Activities						
Weapons Activities:						
Operating expenses	3,248,656,000	2,967,316,000	2,893,417,000	2,941,316,000	2,919,117,000	-329,539,000
Plant and capital equipment	346,542,000	333,052,000	307,952,000	309,952,000	309,952,000	-36,590,000
Total	3,595,198,000	3,300,368,000	3,201,369,000	3,251,268,000	3,229,069,000	-366,129,000
Defense Environmental Restoration and Waste Management:						
Operating expenses	4,552,278,000	4,537,010,000	4,530,547,000	4,501,961,000	4,503,961,000	-48,317,000
Plant and capital equipment	629,577,000	657,414,000	597,864,000	581,730,000	588,730,000	-40,847,000
Total	5,181,855,000	5,194,424,000	5,128,211,000	5,083,691,000	5,092,691,000	-89,164,000
Materials Support and Other Defense Programs:						
Operating expenses	1,654,248,000	1,703,015,000	1,677,309,000	1,694,015,000	1,677,762,000	+23,516,000
Plant and capital equipment	309,508,000	195,895,000	164,895,000	171,895,000	171,895,000	-137,614,000
Total	1,963,755,000	1,898,910,000	1,842,204,000	1,865,910,000	1,849,657,000	-114,098,000
Defense Nuclear Waste Disposal	120,000,000	129,430,000	129,430,000	129,430,000	129,430,000	+9,430,000
Total, Atomic Energy Defense Activities	10,860,808,000	10,523,132,000	10,301,214,000	10,330,299,000	10,300,847,000	-559,961,000
Departmental Administration:						
Operating expenses	393,458,000	389,792,000	400,417,000	400,417,000	400,417,000	+6,959,000
Plant and capital equipment	7,780,000	6,895,000	6,895,000	6,895,000	6,895,000	-885,000
Subtotal	401,238,000	396,687,000	407,312,000	407,312,000	407,312,000	+6,074,000
Miscellaneous revenues	-239,209,000	-161,490,000	-161,490,000	-161,490,000	-161,490,000	+77,719,000
Net appropriation	162,029,000	235,197,000	245,822,000	245,822,000	245,822,000	+83,793,000
Office of the Inspector General	30,362,000	26,465,000	26,465,000	26,465,000	26,465,000	-3,897,000
Power Marketing Administrations						
Operation and maintenance, Alaska Power Administration	4,010,000	6,494,000	6,494,000	6,494,000	6,494,000	+2,484,000
Operation and maintenance, Southeastern Power Administration	29,742,000	22,431,000	22,431,000	22,431,000	22,431,000	-7,311,000
Operation and maintenance, Southwestern Power Administration	33,587,000	21,316,000	21,316,000	21,316,000	21,316,000	-12,271,000
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	277,956,000	225,065,000	224,065,000	222,265,000	222,265,000	-55,671,000
(By transfer, permanent authority)	(7,168,000)	(7,472,000)	(7,472,000)	(7,472,000)	(7,472,000)	(+304,000)
Total, Power Marketing Administrations	345,295,000	275,326,000	274,326,000	272,526,000	272,526,000	-72,769,000
Federal Energy Regulatory Commission						
Salaries and expenses	185,375,000	166,173,000	166,173,000	166,173,000	166,173,000	+798,000
Revenues Applied	-185,375,000	-166,173,000	-166,173,000	-166,173,000	-166,173,000	-798,000
Total, title III, Department of Energy	16,964,840,000	16,177,363,000	15,820,065,000	15,945,909,000	15,901,678,000	-1,063,164,000
(By transfer)	(7,168,000)	(7,472,000)	(7,472,000)	(7,472,000)	(7,472,000)	(+304,000)
TITLE IV - INDEPENDENT AGENCIES						
Appalachian Regional Commission	249,000,000	187,000,000	187,000,000	267,000,000	282,000,000	+33,000,000
Defense Nuclear Facilities Safety Board	16,560,000	17,933,000	17,933,000	17,933,000	17,933,000	+1,373,000
Delaware River Basin Commission:						
Salaries and expenses	333,000	343,000	343,000	343,000	343,000	+10,000
Contribution to Delaware River Basin Commission	488,000	478,000	478,000	478,000	478,000	-10,000
Total	821,000	821,000	821,000	821,000	821,000	
Interstate Commission on the Potomac River Basin:						
Contribution to Interstate Commission on the Potomac River Basin	498,000	511,000	511,000	511,000	511,000	+13,000
Nuclear Regulatory Commission:						
Salaries and expenses	542,900,000	540,501,000	540,501,000	535,501,000	520,501,000	-22,399,000
Revenues	-520,900,000	-518,501,000	-518,501,000	-513,501,000	-498,501,000	+22,399,000
Subtotal	22,000,000	22,000,000	22,000,000	22,000,000	22,000,000	
Office of Inspector General	4,900,000	5,080,000	5,080,000	5,080,000	5,080,000	+280,000
Revenues	-4,900,000	-5,080,000	-5,080,000	-5,080,000	-5,080,000	-280,000
Subtotal						
Total	22,000,000	22,000,000	22,000,000	22,000,000	22,000,000	

ENERGY AND WATER APPROPRIATIONS BILL, 1995 (H.R. 4506), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Susquehanna River Basin Commission:						
Salaries and expenses	308,000	318,000	318,000	318,000	318,000	+10,000
Contribution to Susquehanna River Basin Commission	298,000	288,000	288,000	288,000	288,000	-10,000
Total	606,000	606,000	606,000	606,000	606,000	
Tennessee Valley Authority: Tennessee Valley Authority Fund	140,473,000	136,856,000	136,856,000	142,873,000	142,873,000	+2,400,000
Nuclear Waste Technical Review Board	2,160,000	2,664,000	2,664,000	2,664,000	2,664,000	+504,000
Office of the Nuclear Waste Negotiator	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	
Total, title IV, independent agencies	433,118,000	369,391,000	369,391,000	475,408,000	470,408,000	+37,290,000
Scorekeeping adjustments	-586,185,000	-169,888,000	-169,888,000	-169,403,000	-169,403,000	+416,782,000
Grand total:						
New budget (obligational) authority	21,889,347,000	20,512,750,000	20,355,622,000	20,512,893,000	20,492,999,000	-1,196,348,000
(By transfer)						

VOL 140 PT 15 AG 10 — 11 1994 UMI

Mr. Speaker, I would like to call the Members' attention to several minor printing errors in the conference report printed in the August 4, 1994, CONGRESSIONAL RECORD.

On page 19682, column one, under Amendment No. 2, "Horbart" should be "Hobart" and "Calument" should be "Calumet."

On page 19735, column one, eighth line from bottom, insert the word "disposition" after plutonium.

On page 19735, column two, the heading "Department" should be "Departmental."

One page of the Department of Energy tables is out of order. The table on page 19766 should be inserted before page 19767.

□ 1150

Mr. Speaker, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join Chairman BEVILL in thanking the staff and the committee members for the diligence and hard work that they put in to bringing this conference report to the floor.

However, I rise in somewhat reluctant support and some reserved support for the conference report. The chairman of the subcommittee and I and our staffs have come to the floor a great many times in the past the with energy and water development appropriation bills and the conference reports. I must say, regretfully, that this is the weakest and the poorest bill we have ever brought to the floor, but through no fault of this subcommittee. To begin with, our 602(b) allocation was cut way below last year's levels and way below meeting the needs for the responsibility that this committee has to fund for our executive branch and our Federal Government. This is the best we could come up with.

There are a couple of items I do have some disagreement with, and I will talk about those items later.

The bill is $137 million over our own House figure, and it is $20 million below the Senate figure. It is about $1.3 billion under last year's figure.

I am a conservative, and I certainly believe we ought to reduce spending whenever we have the opportunity but there are certain areas that we fund here that offer an investment in our future. As an example, for the Corps of Engineers, we have cut about half a billion dollars out of the Corps of Engineers for projects for keeping open the inland waterways, of which we have more than 25,000, and maintaining them so we will have a transportation system to move the products that are necessary to move on the inland waterways. Funding to maintain the deep seaports that we have on three coasts and the Great Lakes is reduced and we do not have the money this year to adequately maintain them. So we are really being penny-wise and pound-foolish here in cutting some of these programs.

We have cut $19 million from the Bureau of Reclamation that has responsibility for the Western area, particularly the Western States, in operating some of our waterways and management for Federal lands. This, too, will reduce our ability to do an efficient and effective job in maintaining and operating these lands.

The really big one, though, is the Department of Energy. About a billion dollars is cut out of the $16 billion we appropriate for the Department of Energy. These are investments in the research that will provide the energy for our children and grandchildren. Should we jeopardize our children's future and our grandchildren's future by denying them the access to having the cheapest and the most available resources that we take for granted every day? I think not.

There is one area the chairman did mention that I will talk about later on, and that is amendment No. 35, on which I have some serious reservations and some serious questions.

But, Mr. Speaker, I do support the bill, and I support the conference report with a lot of reluctance.

Mr. Speaker, I reserve the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield such time as he may consume the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I rise in support of the conference report on the energy and water development appropriations for fiscal year 1995.

Recently, the State of Texas and the Department of Energy reached a settlement dealing with the termination of the superconducting super collider. After several months of negotiations, Texas and DOE worked out the terms of an agreement that settles several outstanding issues arising from the decision to terminate the SSC, including the ownership of assets and Federal reimbursement to the State.

One of the terms of the settlement provides that the Federal Government will help complete the linear accelerator that was substantially built at the time the SSC was shut down. The linear accelerator, once complete, can be utilized as a proton beam cancer treatment facility, only the third such facility in the United States.

The conference agreement will enable the Department of Energy to carry out its obligations under the settlement by permitting it to use up to $65 million in previously appropriated funds to help complete the linear accelerator.

Mr. Speaker, this settlement is good for the Federal Government and for the State of Texas. It makes the best of a bad situation, and will eliminate the likelihood of years of expensive litigation.

Adoption of the conference report will let us put the controversies surrounding the SSC behind us once and for all. I commend Chairman BEVILL and the House conferees for their work, and urge Members to support passage of this measure.

Mr. BEVILL. Mr. Speaker, I yield 1 minute to our good friend, the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in very strong support of this bill. We had a huge flood in Iowa last year, and if you have gone through one of those floods, you would then understand how important this bill is. It is more important to be prepared for a flood than it is to try to clean up after one.

We were prepared out there. Thanks to this subcommittee, over the years we have established some flood control measures. But for that we would have had several billions of dollars probably in flood damages that did not occur. We were able to at least reduce the damages that resulted out there.

This is a very, very important bill. A dollar spent for maintenance and repairing is a lot better than spending money for emergency programs and for cleanup efforts.

I also want to say that many of the Members probably do not realize this, but the Energy Department has some very important research in this bill. The Ames laboratory is no longer in the district I represent, but it has a very important project there. It has been going on since World War II, and that has helped to prepare us to be competitive in this world today. So that is a very important part of the bill, and I do rise in strong support of the bill.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the ranking member emeritus of the Committee on Rules, the gentleman from Tennessee [Mr. QUILLEN], a Member of this Congress who has worked frequently with this committee.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to engage in a colloquy with the distinguished chairman of the Energy and Water Appropriations Subcommittee. I was delighted to see that the conferees on this bill agreed to appropriate $50 million for fissile materials disposition, even though the administration requested only $9 million. It is much to their credit that the conferees want the administration to advance its pace on developing and implementing approaches relating to the disposal and utilization of excess weapons grade material. I noticed, however, that while the conference report on this issue specifically referred to a number of fissile material projects, there was no specific mention of the need to make and implement decisions on the disposition of highly enriched uranium. I would like to confirm that the action of the conferees is aimed at the disposition of highly enriched uranium as well as other fissile materials and that the conferees wish to assign a high priority to all fissile material disposition activities, including those regarding H.E.U. Is that in fact the case?

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Speaker, in answer to the question, yes, the gentleman is correct.

Mr. QUILLEN. Mr. Speaker, I thank the chairman of the subcommittee.

Mr. BEVILL. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. PASTOR], a very distinguished member of this subcommittee.

Mr. PASTOR. Mr. Speaker, I rise today in strong support of the conference report for H.R. 4506. Both my colleagues on the subcommittee and our counterparts in the Senate have worked hard to create a bill that meets the needs of this country. Budgetary constraints made this an especially difficult task—the conference report is nearly $1.2 billion below last year's level. In addition, nearly one-third of the money in this bill is dedicated to environmental restoration and waste management activities at DOE weapons and defense sites, and at our national labs. Given these facts, there were many good, deserving projects and programs that did not receive funding. But this is a situation that we must live with today, and learn to live with for several more years.

This conference report, Mr. Speaker, is good for the American people. It contains money to clean up the environment, provide flood protection for tens of millions of people, reduce our dependence on foreign fuel, and research areas of science whose applications will improve the quality of life.

Funding for solar and renewable energy initiatives is nearly 12 percent higher than last year's appropriation. This increase will enable the Department of Energy to aggressively pursue the further development of renewable energy technologies and put our country firmly on the path to international leadership in this field. The future belongs to renewable energy. This bill will help the industry to make even greater gains and bring us closer to the day when we can harness the forces of nature to meet our energy demands.

Funding from the nuclear waste disposal fund received a massive increase of over 51 percent from last year's level. The additional dollars will help us to move closer to the day when the Federal Government can fulfill its obligation to safely store civilian nuclear waste. Pro- or anti-nuclear, everyone acknowledges the need to safely dispose of high level, civilian nuclear waste. This bill acknowledges this urgent need and provides the funding to help meet it.

The conference report also preserves, as best it can, our commitment to preserving a fuel mix. It provides money to continue nuclear research and development, as well as fusion research. In addition, it continues high energy and nuclear physics research, isotope production, and other important scientific endeavors.

Finally, the bill provides over $4.2 billion in flood control and water reclamation projects. From protecting life and property to researching innovative methods of water conservation, every State in the country benefits from these dollars.

Mr. Speaker, as I said before, this was an especially difficult year for the subcommittee. I would like to acknowledge the efforts of my colleagues on the subcommittee, especially Chairman BEVILL and Congressman MYERS. The fine leadership they provided helped to make the House bill, and now the conference report, the best it could be under our constraints. In addition, I want to thank the subcommittee staff, both minority and majority, who all have worked very hard on the bill over the past several months.

□ 1200

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. GALLO]. I might say at this point I thank the gentleman, for during the period of time we were working on this bill and the conference report, the gentleman was experiencing a lot of severe physical discomfort because of hip replacement, but he never missed any of the important meetings. He was always there to help us. We thank the gentleman on behalf of the committee.

Mr. GALLO. Mr. Speaker, I rise today in support of the conference report for H.R. 4506 making appropriations for energy and water development for fiscal year 1995 and I urge my colleagues to support this report.

As a member of this subcommittee, I would like to thank Chairman BEVILL and Ranking Member JOHN MYERS for all their hard work and leadership. I would also like to thank the subcommittee staff for assisting me and adding their expertise in crafting this important bill.

This year the subcommittee had a difficult task balancing the needs of our Nation with the need for fiscal responsibility. However, the subcommittee found that balance and was able to craft a bill that will provide energy security, keep our waterways open and protect our citizens from devastating floods.

This conference report is $19.8 million below the President's budget request for fiscal year 1995 and $1.2 billion below this year's level.

This is not a perfect bill, however, it does allow the United States to move forward in meeting our Nation's needs. We have provided a commitment toward the long-term development of new energy sources and have continued the impressive progress toward the development of our conventional energy sources.

I am particularly pleased that this conference report provides $388 million for solar and renewable energy sources, an increase of about 12 percent above this year's funds. We must continue this investment and we must continue our commitment to funding valuable research and development initiatives.

I am also pleased that the committee was able to provide an increase in funding for the activities at Yucca Mountain. This report provides $392.8 million. It is essential that we continue to move toward our goal of providing a national repository for our high level waste. I am concerned, however, that the administration does not share this goal and I urge them to take a close look at providing additional funding for this program in the future.

An important element of this year's report is the money provided for magnetic fusion research. It is difficult to think of a more worthwhile Federal investment than research and development into future energy alternatives. Fusion holds the promise of an environmentally benign and safe source of energy and it is an investment that I am happy to support.

This report contains funds for the Tokamak physics experiment [TPX] that will replace the country's largest fusion device at Princeton. We have not built a major fusion machine in this country since the 1970's and TPX is unique in world fusion efforts. I am anxious that Congress will authorize construction of this important machine in the near future so that we can continue to make world-record breakthroughs in fusion research.

In addition, this report provides funding for a number of critical flood control projects throughout the United States. It also provides necessary funding to keep our navigable waterways open for business. We cannot have a strong export market unless we are able to use our ports. This report allows us to dredge our ports and allows us to stay competitive with our trading partners.

Preparing for our future needs is never easy, but the conference report for H.R. 4506 provides the insight and programs that will make it a little easier. I urge the adoption of the conference report.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to our good friend and colleague, the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I rise in strong support of the conference agreement on the energy and water development appropriations for fiscal year 1995. I urge my colleagues to support the agreement hammered out with the Senate.

Mr. Speaker, the conferees have done an excellent job of reaching agreement

VOL 140 PT 15 AG 10 — 11 1994 UMI

on a wide variety of issues. I think it is important to note that this subcommittee has once again been asked to do more with less. Despite the adjustment in the subcommittee's 602(b) number, this bill is still $1.6 billion below our fiscal year 1994 allocation.

Many deserving projects have been delayed due to fiscal constraints. The agreement reached with the Senate reflects the many hard choices we were forced to make. We are all asked to do more with less. I believe that this bill represents the most we could do with much less than we need.

Mr. BEVILL and Mr. MYERS have once again moved our panel forward in a bipartisan manner, looking at each project on the merits. I want to thank them for their hard work and efforts. I also want to thank the subcommittee staff for finding ways to do the nearly impossible with such regularity.

Mr. Speaker, this bill deals with the tough choices we are faced with and does so in a thoughtful and reasonable way. The conferees have dealt with contentious issues like the termination of the advanced liquid metal reactor and the Supercollider in ways that maximize the federal investment while following the will of the House.

In consultation with the authorizing committees, the conferees have allowed for a sensible, fiscally-responsible development of important research programs like the magnetic fusion program. We also reaffirm our commitment of solar and renewable energy, providing funding that sends a signal that these important environmentally sound technologies are an integral part of our energy security.

Every Member in this Chamber has an interest in making sure that we protect our water systems, the lifeblood of our communities. The conference agreement provides the U.S. Army Corps of Engineers with the resources it needs to prevent flooding by planning flood control projects. In short, the agreement helps protect our constituents in times of too much water.

In times of too little water, the U.S. Bureau of Reclamation looks to fill needs created by drought conditions. The conference agreement reflects the changing role of the Bureau of Reclamation and recognizes the value of our natural resources.

Mr. Speaker, this bill is a balanced approach. It is the product of hard work and tough choices. We have been asked to do more with less. The conference agreement has met that mandate. I strongly urge a yes vote.

Mr. FAZIO. I would ask the gentleman from Alabama, the chairman of the subcommittee, to engage in a brief colloquy.

At my request and that of Mr. HAMBURG the conference report includes language expressing support for the Geysers wastewater effluent project as well as funding for the project at the level approved by the House. By adopting this language, is it correct that it is the intent of the conferees to do nothing to preclude the Department of Energy from working with the project sponsors to identify additional resources to ensure the timely completion of this important project?

Mr. BEVILL. Mr. Speaker will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Alabama.

Mr. BEVILL. The gentleman is correct.

Mr. FAZIO. I understand that if the Department of Energy determines that it can further assist in the timely completion of this project, then it should take such steps as it deems necessary, as long as such steps do not conflict with other spending priorities approved in the conference report. Is this correct?

Mr. BEVILL. Yes; the gentleman is correct.

Mr. FAZIO. Mr. Speaker, I thank the gentleman for this clarification and his strong support for this important project.

Mr. MYERS of Indiana. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. ROGERS], a member of the subcommittee.

Mr. ROGERS. Mr. Speaker, I thank the ranking member, Mr. MYERS, for this time.

Mr. Speaker, I rise in strong support of the fiscal year 1995 energy and water development appropriations conference report and urge its quick adoption.

I want to thank the distinguished chairman of the subcommittee, the gentleman from Alabama, and the ranking member, the gentleman from Indiana, for the fine work that they and their staffs have put into this bill over the spring and summer. As we all know, it is difficult to balance limited resources when there are so many legitimate and competing needs which deserve federal support.

Nonetheless, this subcommittee has done its best to strike that delicate balance and to provide funding for such diverse items as flood protection, nuclear waste clean-up, and next-generation energy production technologies.

Clearly, Mr. Speaker, this is the most austere allocation for this subcommittee in the recent past. Still, the subcommittee listened intently to the interests of hundreds of local and State officials, and to many colleagues here from this body who were concerned about important local and national projects.

This subcommittee protects these interests, and, consequently, those of our country, Mr. Speaker, as they develop this bill every year.

The collective experience of the chairman and ranking member and the other members of the subcommittee is one of the great assets, in my opinion, of this House. This bill deserves the support of the Members for a number of reasons, and I will briefly mention a few.

First and foremost, this bill is fiscally responsible. We are more than $19 million below the President's request and $1.2 billion below last year's level. And that $1.2 billion is in real dollars Mr. Speaker. It is not adjusted for inflation, growth, or any other budget terminology which may cloud the difficult spending cuts we must make every year. This subcommittee operates as fairly as possible with a shrinking budget.

Second, this bill continues to invest in our Nation's future through basic and applied research into science and technology that will keep the United States competitive in the next century. It is important to remember that this country greatly benefits today from research and development which was conducted in the past.

While it is sometimes difficult to justify programs which have long-term payoffs when there are so many immediate needs, this country's economic security is dependent on a scientific community which is as strong and as healthy as that of our competitors.

To be sure, we won the cold war because of our superior knowledge and technology. We must also be prepared to make a similar investment today so that we can win the economic competition of tomorrow.

Finally, this bill funds vital projects and programs that protect and promote American citizens today. Flood control is of particular importance to the Appalachian region of the country, and I am grateful that the committee has seen fit to provide adequate funding in this area. Flood protection is a wise investment that ultimately saves Federal monies. As we all know, an ounce of prevention in flood control will be vastly cheaper than a ton of cure in emergency assistance spending.

Moreover, I want to commend the conferees for including funds which will continue the work of the Appalachian Regional Commission, an agency that helps needy areas in our neck of the woods and throughout the 13 diverse Appalachian States of the country.

ARC's basic resources for education, infrastructure, and other initiatives permit our Nation's poorest rural communities to help themselves pursue economic development and security. In recent months, this body has devoted great attention to the needs of our inner cities. However, our impoverished rural communities have similar needs and I am grateful that this subcommittee has remembered them in this bill.

For all these reasons, Mr. Speaker, this bill deserves the support of all the Members in the body. While it does not meet every goal, as our panel would have preferred, we have been fiscally responsible and have struck the proper balance between the many important needs we must address with the limited funds we have available.

Again, I salute the subcommittee members for the fine work they have done in this bill, and urge its final adoption.

□ 1210

Mr. BEVILL. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Speaker, I will not reiterate all the accomplishments of this committee that have been noted by my other colleagues, but I do want to take a minute to thank the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS] for leading us in the right direction in a year when we had a very, very tough project of trying to determine the priorities. I am also very pleased to say that we did reduce spending overall, but in the process of reducing that spending we, I think, are leaving out some of the very important things that we have got to focus on. And that is in that research area that was noted by the previous speaker.

We need to work on that, and we will have to look at that again next year.

I am also happy to say that we did the renewal energy side of the House. We put enough money in there to keep that focused, and we also worked very hard to work on the flood containment that was obvious during the Midwest floods and just recently in the area of my district in northwest Florida.

I thank the staff, and I thank the Members for their diligent work and look forward to working on this project again next year.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I would like to enter into a brief colloquy with the chairman of the subcommittee relative to the Lake Meridith Salinity Control Project in Texas. Unfortunately, due to an apparent misunderstanding in the conference on the Energy and Water Development Appropriations bill for fiscal year 1995, funding for this project was omitted. To supplement the shortfall created by this oversight, I would like to request that the Bureau of Reclamation utilize any unused funds from fiscal year 1994 for the Lake Meridith project. Directing those unused funds from fiscal year 1994 would enable this project to move forward.

I thank the chairman for his consideration of this request. As the gentleman knows, managers of the bill in the other body will engage in a similar colloquy.

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. COMBEST. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Speaker, I appreciate this being brought to my attention, and I certainly agree with the gentleman from Texas.

Mr. COMBEST. Mr. Speaker, I thank the gentleman very much for his comments.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. MEEK], a very distinguished member of this subcommittee.

Mrs. MEEK of Florida. Mr. Speaker, I rise in strong support of the conference report for energy and water development for this year. I also stand to congratulate the two leaders of our committee, the gentleman from Alabama [Mr. BEVILL], and the ranking member, the gentleman from Indiana [Mr. MYERS], for the fine work that they did in leading this committee.

This was a difficult task and there were more needs than there were resources. About 1 year ago the Congress passed the President's economic plan and program. At the time opponents of this plan said it was all smoke and mirrors and that the deficit would not decrease. They were flat wrong and it has been proven to be in good shape. Discretionary spending is down, and this conference report is one of the examples.

The report is about $1.6 billion under fiscal year 1994. Even with these stiff constraints, Mr. Speaker, which are the direct result of the action of the Congress 1 year ago, it has been possible to continue to improve our ports and inland waterways, to provide for flood control, to restore and protect the environment and to address the energy needs of the next century, all because of the work of this committee.

This bill will help our Nation move into a global economy. Modern, efficient ports are critical to being able to ship our goods to foreign markets; foreign trade is booming.

Let me give you a parochial example. A decade ago there was very little cargo running from the Port of Miami. Today if we look out over the port as we drive across the causeway, we can see acres and acres of containers stacked 4 and 6 feet high. In 1993, 26.5 billion dollars' worth of goods passed through the south Florida ports and airports, and this was a 9-percent increase, Mr. Speaker, over 1992. Tens of thousands of jobs have been created by this activity.

The improvement to ports and inland waterways is a direct result of the work of this committee. It has made possible the economic activity such as we have seen demonstrated here today, Mr. Speaker.

This bill continues this modernization so that transportation costs for American products will be kept as low as possible.

This bill is a jobs creator, and I would like to say again, Mr. Speaker, this subcommittee and its members and its leadership should be congratulated.

The SPEAKER pro tempore (Mr. LAROCCO). The gentleman from Alabama [Mr. BEVILL] has 11 minutes remaining, and the gentleman from Indiana [Mr. MYERS] has 17 minutes remaining.

Mr. MYERS of Indiana. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. BOEHLERT], who works very closely with this subcommittee on almost every facet.

Mr. BOEHLERT. Mr. Speaker, the conference report before us today in effect approves the tentative agreement reached to settle the claims of Texas against the Department of Energy for shutdown of the superconducting super collider [SSC].

Much about this settlement disturbs me—and should disturb every Member of this body. Under the settlement, taxpayers will be forced to shell out more money for a dead project to pay off spurious claims by Texas—claims that were expressly rejected by this body in 1990.

Worse still, the agreement sets up a mock peer review process to provide additional funds to the State. The review process in the settlement has more in common with a shotgun wedding than with normal scientific merit evaluation.

Under the settlement, if the reviewers—whom Texas will have a say in selecting—do not approve the $65 million grant, the entire settlement is nullified. This sounds more like peer pressure than peer review. I hope no potential source of future funds for the linear accelerator is taken in by this unusual arrangement.

Finally, I'm concerned that the Department of Energy already seems to be sidling away from its initial statements that the settlement can be funded entirely from fiscal 1994 appropriations. I hope the Department proves more capable of living within cost estimates than it has in the past.

Still, despite all this, and despite the covert way the Department has proceeded, I will reluctantly go along with this settlement because I believe delaying the shutdown now will cost taxpayers even more money. There's a benefit to be gained simply in putting this entire episode behind us.

In addition, my two primary concerns have been addressed. In a letter that I will include in the RECORD, the Department has pleaded that this will be the last Federal money going to the SSC site and that termination costs should be held to the level already appropriated.

□ 1220

Mr. Speaker, I would like to engage the gentleman from Alabama [Mr. BEVILL] for a moment in a colloquy on these points.

I would ask the gentleman from Alabama, is it his intention to hold the

VOL 140 PT 15 AG 10 — 11 1994 UMI

Department to this commitment to limit Federal expenditures related to the SSC to the $735 million already available.

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Alabama.

Mr. BEVILL. Yes, Mr. Speaker, it is.

Mr. BOEHLERT. In addition, I think we all agree that any future uses for the site are the sole responsibility of Texas and not the Federal Government. This agreement brings to an end Federal commitments to future use of the linear accelerator and other projects. Is this correct?

Mr. BEVILL. If the gentleman will continue to yield, yes, that is correct.

Mr. BOEHLERT. Mr. Speaker, I thank the gentleman.

With these understandings, I will support the conference report.

Mr. Speaker, I include for the RECORD a letter to the Secretary of the Department of Energy setting forth this agreement, and a letter to me from the Secretary of Energy:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 29, 1994.

Hon. HAZEL R. O'LEARY,
Secretary of Energy, U.S. Department of Energy, Washington, DC.

DEAR MADAM SECRETARY: I appreciated the briefing I received from the deputy secretary and your staff last week on the terms of agreement with Texas. I hope the lines of communication can remain open in the future.

I do continue to have several concerns about the agreement with Texas that I hope you can allay.

First, the agreement seems to set up a situation in which Texas could be coming back quickly to the federal government for additional funds to operate former Superconducting Super Collider (SSC) facilities. The grant to complete the Linear Accelerator (LINAC) with its unusual peer review provisions and the continuation of the planning grant to Texas—also awarded under unusual procedures—would seem to indicate that Texas still wishes to encumber the federal government in the future with projects unrelated to national scientific priorities. Has the Department agreed—either in the agreement or in any other documents or discussions—to any future funding of former SSC facilities? I believe it is imperative that the federal government sever all ties (except those concerning liability) with the SSC site.

Second, I remain concerned that the settlement costs could exceed the funding available from existing appropriations. The uncertainties associated with environmental cleanup at the site, the proposed elimination of contingency funds and the continuing threat of claims and litigation from local authorities in Texas raise questions about the adequacy of the $735 million on hand to implement the settlement. And quite frankly, our experience with Department of Energy cost estimates is not good. How certain are you that the settlement outlined in the terms of agreement can be paid for out of existing appropriations?

The Department's proposed settlement with Texas does much further toward satisfying the state's unreasonable claims than I would prefer. Still, like you, I would prefer to put this whole sorry chapter behind us. (And in bills like the one Congressman Boucher and I have drafted, providing for high energy and nuclear physics, we are indeed looking toward the future.) I hope you can offer me the reassurances I need to back the proposed settlement on the House floor. I look forward to hearing from you.

Sincerely,

SHERWOOD BOEHLERT,
Member of Congress.

THE SECRETARY OF ENERGY,
Washington, DC, August 8, 1994.

Hon. SHERWOOD BOEHLERT,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN BOEHLERT: I was very pleased to receive the advice contained in your letter of July 28, 1994 that the briefing on the Department's settlement terms with Texas conducted by Under Secretary Curtis was helpful to you. I share your hope that our lines of communication remain open and constructive.

Turning to your specific questions, the Department has made no commitment for future Federal funding of former Superconducting Super Collider facilities. To the contrary, the $65 million grant toward completion of the Linear Accelerator as a medical facility is described explicitly as a one-time contribution. The settlement terms clearly state that the Department is to have no continuing or additional obligation in financing this or any other former Superconducting Super Collider facility.

The full scope of termination activities includes costs of a settlement of the Texas reimbursement claim and the above-mentioned grant associated with Texas' future use of the Linear Accelerator. During negotiations with Texas, the Department has emphasized the importance of minimizing the prospect of requiring any additional appropriations for Super Collider activities. Based upon our current cost estimates and planning assumptions, the Department fully expects that all anticipated termination expenses—including settlement with Texas and a $65 million one-time Federal contribution toward completion of the LINAC—can be accommodated with existing appropriated funds. We will work aggressively to achieve this goal through management efficiencies and, to the extent possible, changing the scope of termination activities.

Your letter notes concerns regarding the reliability of prior Department of Energy cost estimates regarding the Superconducting Super Collider project. I share those concerns. Therefore I must acknowledge that judgments about estimated costs of termination necessarily will be reassessed as our knowledge increases while project termination progresses. Nonetheless our actions are directed to the goal, which thus far seems an achievable one, of concluding all termination activities—including the settlement—from within the current appropriations of $735 million.

In order to maximize our prospects of meeting our goals of funding all termination activities from within the $735 million we are conducting a complete rebaselining in order to identify the management efficiencies and potential changes in scope of work described above. We will provide you a supplemental report on this work when it is concluded.

I hope this information will help allay the concerns that you have raised, and that they will enable you to conclude, as I have, that these settlement terms are in the national interest and merit your support.

Sincerely,

HAZEL R. O'LEARY.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. CHAPMAN], a very distinguished member of this subcommittee.

Mr. CHAPMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to take just a minute to, as others have done, both thank and congratulate the chairman of the Committee, the gentleman from Alabama [Mr. BEVILL], and the ranking member, the gentleman from Indiana [Mr. MYERS], for another year of extremely good work under extremely difficult circumstances.

I note, I think, Mr. Speaker, as has already been perhaps placed in the RECORD, that the funds for this subcommittee's work in this appropriation bill once again have been reduced, and I think the necessary requirements of funding the vital programs of this country are successfully balanced in this bill, and I ask my colleagues to please support it.

Mr. Speaker, in the context of the gentleman from New York [Mr. BOEHLERT] who just spoke, I will not characterize his endorsement of the settlement on the SSC, other than to say it was an endorsement, and urging the House to move forward. I might take issue with some of his conclusions about it being overly generous, and note that even after the House and Senate and the President approve this agreement, the State of Texas will owe $250 million in general obligation bonds that over the next 35 years will cost the taxpayers of Texas a half a billion dollars that are not reimbursed in this agreement, so I think it is the best of what has been an unfortunate situation. I think the Congress made a mistake, but it has the right to make mistakes, when it terminated this project.

Mr. Speaker, the bill is a good one. It deserves the support of this body, it deserves the support of the Senate, the signature of the President, and I hope that we will all join together in supporting it.

Mr. SARPALIUS. Mr. Speaker, will the gentleman yield?

Mr. CHAPMAN. I yield to the gentleman from Texas.

Mr. SARPALIUS. Mr. Speaker, I just wanted to thank the gentleman for his hard work, and thank the gentleman from Alabama [Mr. BEVILL], the chairman, and his staff, for the work they have done on the Pantex facility, where all nuclear weapons are dismantled, and especially for the work the House has done with Lake Meredith in cleaning up the salt. There are 100 pounds of salt dumped in that lake every minute, and it is unfortunate that the Senate is where they dropped the ball.

Mr. CHAPMAN. The gentleman, I think, makes a correct observation. I would join in the comments from the other gentleman from Lubbock, TX, in hopes that the Bureau of Reclamation,

perhaps from other funds, can pick up the ball that was dropped in the Senate. I urge adoption of the conference report.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of the conference report, and to commend the distinguished gentleman from Alabama [Mr. BEVILL], the chairman of the Energy and Water Development Subcommittee, and the distinguished gentleman from Indiana [Mr. MYERS], the ranking member of the subcommittee and all the subcommittee members for their exceptional work in bringing this conference report to the floor. Extremely tight budgetary constraints have made the chairman and the ranking members' task more difficult by enforcing this subcommittee to recommend over a 6-percent reduction in spending for the Department of Energy, a 14-percent reduction for the Army Corps, and a 4-percent reduction for the Bureau of Reclamation. Therefore, in light of these budgetary constraints, this Member would like to express his appreciation to the subcommittee and formally recognize that the Energy and Water Development Appropriations Conference Report for fiscal year 1995 includes funding for several related water projects that are important to Nebraska.

Most importantly, I want to note that the conference report provides funding for flood-related projects of tremendous importance to residents of Nebraska's First Congressional District. Mr. Speaker, last year's flooding temporarily closed Interstate 80 and seriously threatened the Lincoln municipal water system which is located along the Platte River near Ashland, NE. Therefore, this Member is extremely pleased the conference committee agreed to provide $160,000 in funding or the Lower Platte River and Tributaries Flood Control Study. This study should help to formulate and develop feasible solutions which will alleviate future flood problems along the Lower Platte River and tributaries.

Additionally, the conference report provides continued funding—$75,000—for a flood plain study of the Antelope Creek which runs through the heart of Nebraska's capital city, Lincoln.

Mr. Speaker, this Member is responsible for initiating the 1994 House-passed appropriation for Antelope Creek and for coordinating the City of Lincoln, the Lower Platte South Natural Resources District, and the University of Nebraska-Lincoln's work with the Army Corps of Engineers to identify a flood control system for downtown Lincoln.

Antelope Creek, which was originally a small meandering stream, became a straightened urban drainage channel as Lincoln grew and urbanized. Resulting erosion has deepened and widened the channel and created an unstable situation. A 10- by 20-foot closed underground conduit that was constructed between 1911 and 1916 now requires significant maintenance and major rehabilitation. A dangerous flood threat to adjacent public and private facilities exists.

The goals of the study are to anticipate and provide for the flooding of Antelope Creek, map the floodway, evaluate the underground conduit and provide for any necessary repair, stimulate neighborhood and UNL city campus development within current defined boundaries, eliminate fragmentation of the city campus, minimize vehicle/pedestrian/bicycle conflicts while providing adequate capacity, and improve bikeway and pedestrian systems.

The conference report also provides funding for two Missouri River projects which are designed to remedy problems of erosion, loss of fish and wildlife habitat, and sedimentation. First, it provides $10.1 million for the four-State Missouri River Mitigation project. This funding is needed to restore fish and wildlife habitat lost due to the federally sponsored channelization and stabilization projects of the Pick-Sloan era. The islands, wetlands, and flat flood plains needed to support the wildlife and waterfowl that once lived along the river are gone. An estimated 475,000 acres of habitat in Iowa, Nebraska, Missouri, and Kansas have been lost. Today's fishery resources are estimated to be only one-fifth of those which existed in predevelopment days.

The conference report provides $100,000 for operation and maintenance and $100,000 for construction of the Missouri National Recreation River Project. This project addresses a serious problem in protecting the river banks from the extraordinary and excessive erosion rates caused by the sporadic and varying releases from the Gavins Point Dam. These erosion rates are a result of previous work on the river by the Federal Government.

Finally, Mr. Speaker, this Member recognizes that the conference report enables the completion of a flood control study—$20,000—of the Burt Water Drainage District in Burt and Washington Counties and provides operation and maintenance funding for the Missouri River Water Control Manual as well as funding for Army Corps and Bureau of Reclamation projects in Nebraska's other two congressional districts.

Again, Mr. Speaker, this Member commends the distinguished gentleman from Alabama [Mr. BEVILL], the chairman of the subcommittee, and the distinguished gentleman from Indiana [Mr. MYERS], the ranking member of the subcommittee for their continued support of these projects which are important to Nebraska and the 1st Congressional District, as well as to the people living in the Missouri River Basin.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from California [Mr. BROWN], the chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Speaker, I thank the gentleman very much for yielding me this time.

Mr. Speaker, I rise in support of the energy and water appropriations conference report on H.R. 4506, and I commend the chair of the subcommittee, the gentleman from Alabama [Mr. BEVILL], the gentleman from Indiana [Mr. MYERS], the ranking Republican, and all the conferees for their efforts.

I am pleased with the substance of the bill as it pertains to programs in the jurisdiction of the Committee on Science, Space, and Technology and gratified that it does not try to bypass the proper authorizing committees with inappropriate legislative language. And I am also encouraged that the bill itself is free of earmarks—although I will have more to say in a moment about earmarks in the report language.

The committee has produced a bill that is fundamentally responsive to the administration's request for energy R&D and to the policy directions set by the Energy Policy Act of 1992. The conference report is also consistent with the policies and authorization levels set in H.R. 4908, the Hydrogen, Fusion, and High Energy and Nuclear Physics Research Act, which we will be considering on the floor later this week.

H.R. 4908 provides direction and authorizes appropriations for some of our most important nonfossil energy alternatives. It also establishes a strong framework for reinvigorating the Nation's high energy and nuclear physics programs in the wake of the cancellation of the superconducting super collider. The conference report before us today provides the funding necessary to get us off to a good start toward achieving these goals.

I am strongly supportive, for example, of the position the conferees have taken with respect to the fusion R&D program. The Committee on Science, Space, and Technology addressed the critical policy options facing the U.S. fusion program in H.R. 4908 and this report provides the funding to support the policy options laid out in that bill.

H.R. 4908 would accelerate the U.S. commitment to participate in the international thermonuclear experimental reactor [ITER]. It provides authorization for the tokamak physics experiment [TPX], the logical next step in the U.S. tokamak physics program, in addition to a more robust program in alternative fusion technologies, several of which are being aggressively pursued internationally. The bill also provides for consideration of a more practical redesign of TPX in the

VOL 140 PT 15 AG 10 — 11 1994 UMI

event that the ITER program is cancelled. Finally, H.R. 4908 provides for a National Academy of Sciences study of the U.S. fusion program and specifies that selection of a possible ITER site in the United States should occur only after selection of the host country through an international site-selection process.

I am very pleased that the conference report before us today allows full funding of ITER and substantial funding, $42 million, for TPX design work. Construction funds for TPX will hopefully come as the ITER project matures. The conference report also provides about $9 million in funding for alternative fusion technologies. I look forward to working with the conferees to ensure that these alternatives are funded somewhat more vigorously in the future, perhaps through conversion of existing defense R&D expenditures.

The statement of managers also contains a directive that the President's Advisory Council on Science and Technology review and evaluate both the magnetic and inertial fusion programs to shape the direction of the Nation's effort on these important energy sources for the future. H.R. 4908 provides that the National Academy of Sciences conduct a similar review. In my view, the fusion program is of sufficient importance, and the membership and thrust of the two advisory bodies in question are sufficiently complementary, that a dual review of this sort would be entirely appropriate.

With respect to high energy and nuclear physics, H.R. 4908 recognizes that the United States has underfunded the Department of Energy's High Energy and Nuclear Physics base programs for the past several years in order to accommodate funding for the SSC. The bill authorizes a funding pattern recommended by the expert panel commissioned by the Department of Energy—known as the Drell panel—and reflects the needs expressed by the high energy physics community, including a $50 million increase over current levels and an adjustment for inflation starting in fiscal year 1996. The conference report before us today makes a similar recognition of past underfunding and provides $25 million above the President's request for fiscal year 1995. I look forward to working with the appropriations committee in future years to continue to provide adequate funding for this valuable program.

H.R. 4908 also authorizes funding for the nuclear science program for fiscal year 1996 through fiscal year 1999 based on the fiscal year 1995 appropriation plus inflation. This funding provides sufficient operating moneys for current DOE nuclear science facilities and for the construction of the relativistic heavy ion collider at Brookhaven National Laboratory. The conference report provides a good base for this program.

As Members know, I remain concerned about the level of academic earmarking effected through our appropriations bills and reports. As with last year's Energy and Water appropriation, this bill comes back from conference free of any earmarks. Earmarks in the legislative reports and statement of managers are in the same range as they were last year.

To be specific, last year there were 10 academic earmarks that we could identify worth approximately $35 million. This year we can identify 16 earmarks worth a total of almost $43 million. A list is included for the RECORD. While I would prefer to see these numbers declining, I am relieved that they remain at a relatively low level. I say relatively low because 2 years ago there were almost $180 million in identifiable academic earmarks in the energy and water appropriation.

The Secretary of Energy should be reminded—and I know the distinguished chairman of the Energy and Water Appropriations Subcommittee would join me on this point—that report language is not binding upon the Department. None of us here on the floor can offer amendments to that language, nor do we vote on it. Report language does not represent the law of the land, nor is it explicitly or implicitly endorsed by the House when we vote in favor of passage of the conference report.

I have asked the Secretary of Energy to establish a rigorous inhouse review process for determining which report-language earmarks fit with DOE's missions and which do not. In those cases where an earmark does not fit with the Department's research priorities or fails to measure up in importance to ongoing research projects, the Secretary should not fund the earmarks.

In this tight budget climate, whenever the Department funds an earmarked project, it must also terminate, postpone, or cut back worthy research projects that contribute to the Department's important missions. For every university that benefits from an earmark, many other researchers at other institutions are victimized by a loss of funding. Such lost opportunities are a high price to pay when the project that the Department is being asked to fund contributes nothing to DOE's mission or national needs.

I will work with the Secretary of Energy to ensure that those earmarks which are funded in fiscal year 1995 make sense and bring a return for the Federal taxpayer's investment.

Despite these concerns about earmarks, Mr. Speaker, I believe that this is a good report, and one that follows the policy recommendations contained in authorization legislation quite consistently. I urge all members to support it.

Mr. Speaker, I include the following document regarding academic earmarks in the bill:

ACADEMIC EARMARKS IN THE ENERGY & WATER FISCAL YEAR 1995 APPROPRIATIONS BILL

Agency	School	Amount
Army Corps of Engineers	Indiana University, South Bend St. Joseph River project.	300K
Do	Indiana State University, Construction Technology Transfer project.	300K
Do	University of Miami, aquatic plant control.	2.5K
Department of Energy	Research Institutions in the Northern Gulf Coast Region, oilspill research	275K
Do	Florida Solar Energy Center, University of Oregon, and University of Central Florida.	600K
Do	University of Miami electron beam sterilization.	1K
Do	University of Nebraska Med Center development of a transplant center	5K
Do	Oregon Health Sciences University second phase of Biomedical Information Center.	5K
Do	Midwest Superconductivity Consortium—Indiana University, Iowa State University, Ohio State University, Purdue University, University of Missouri, University of Notre Dame, and University of Nebraska.	3.7K
Do	Super Computations Research Institute at Florida State University.	5.9K
Do	Jackson State University—Ana G Mendez Educational Foundation and Lawrence Berkeley Lab.	4K
Do	Louisiana systemic initiative—Southern University and others.	500K
Do	Center for Minorities in Science, Engineering, and Technology/Southern University and A&M College System in Baton Rouge, LA.	5K
Do	University Research Program in Robotics—University of Florida, University of Michigan, University of Tennessee, Knoxville, and University of Texas, Austin.	4K
Do	International Center for Groundwater Remediation Design, University of Vermont.	Unspecified
Do	University of Oklahoma, hydrogen research	250K
Do	Yucca Mountain infrastructure studies, University of Nevada-Reno, University of Nevada-Las Vegas, the Desert Research Institute, and Community College of Southern Nevada	3.7K
Total		42.025M

□ 1230

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON] who has worked with this committee very diligently in the last week to make sure that some of the language is in the bill.

Mr. BARTON of Texas. Mr. Speaker, I had not intended to speak on the bill but as I have sat in here and listened to the debate, I felt that it was necessary. I first want to thank the chairman and the ranking member and the other members of the subcommittee. The funding level in this bill represents a real cut. Any time an appropriation bill allocates not just less than some artificially projected spending level but less than was actually spent last year, that is a cut in anybody's book, and I think the Members are to be commended for making those tough choices necessary to report a bill that spends less than was spent last year.

I would like to speak about the proposed settlement on the SSC between the State of Texas and the Department of Energy. No one wins in this settlement in the long run because we have terminated one of the world-class basic research projects that would have brought, I think, tremendous benefits to all of mankind. Having said that, this agreement does live within the spirit of the agreement in last year's appropriation bill when Congress voted to terminate the project. There is no new money in this year's bill for termination costs. The State of Texas gives up its right to sue for litigation purposes. The Federal Government agrees to do the environmental remediation that may be necessary at the site. The bits and pieces of the collider are going to be put to the best possible alternative uses that can be found for them. Apparently that is going to be a medical treatment center for cancer, one of three of its kind in the United States, a regional computing center that will help hundreds of thousands of schoolchildren and researchers in a seven-State region and Mexico, and the possibility that some of the physics equipment can be used in conjunction with a project that is being considered in Europe at the CERN facilities. So all in all it is a good ending to a project that had the best of intentions and I would hope the conference and the Congress would support this agreement.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. SHARP], the chairman of the Subcommittee on Energy and Power.

Mr. SHARP. Mr. Speaker, I will not take all that time. I simply wanted to rise in strong support of the conference report and commend the gentleman from Alabama [Mr. BEVILL] for his ongoing, solid, and effective leadership over many years of this subcommittee and dealing with the science development for this country and the energy resources and the water resources of this country, and I know he has had a great deal of help from our colleague, the gentleman from Indiana [Mr. MYERS]. I particularly want to pay a tribute to his staff who are extraordinarily hardworking and cooperative folks. This country owes the gentleman from Alabama, the chairman, a great deal of credit.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho [Mr. CRAPO], who has for the last 2 years worked very diligently with the committee on the IFR.

Mr. CRAPO. Mr. Speaker, as I come before the House today, I also had not expected to speak, but as I have followed the debate, I felt that I ought to make one point very clear. There has been a lot of talk about the importance of the many projects and the support that this legislation gives to the energy and water needs of our country. I do not disagree with that and I recognize that this report is going to be accepted by this House.

I think I should state that I am very concerned that in the area of our nuclear energy research, the decision of the House and the decision that is reflected in this conference report to eliminate funding for the integral fast reactor effectively eliminates our long-term nuclear research capability in this country. The studies that I have seen show now that as the existing short-term nuclear research plays out beyond 1998, we will have shifted our energy research focus, which was a policy decision that was made, away from nuclear energy and into other sources of energy, such as wind and solar and other types of renewables.

I do not object to moving our research into the wind and solar and other renewable areas, but I think that we have made a shortsighted decision to eliminate our long-term nuclear options in the country in terms of our research.

I would hope that in future years, we will be able to revisit this issue and assure that the United States remains a leader in all of our areas of nuclear energy research.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, in response to the gentleman from Idaho [Mr. CRAPO], his subcommittee in conference with the Senate insisted upon the House position, not because our committee thought it was the right direction or the proper action to take, but we had little choice considering the direction that the House gave us last week when the gentleman gave us instructions that we must terminate the IFR immediately. It was a mistake, no question about it.

The thing that really brothers me is the fact that after that vote, a number of Members came up to me and said, "We voted wrong. We thought we were saving money." When they found out it was going to cost more the way we are going now to terminate this project and get absolutely nothing for the money, they had made a mistake. But be that as it may, we stood by the House position, the Senate tried to prevail upon us, we were morally obligated to do, if not legally.

Mr. Speaker, I do not want to speak about the bill as a whole. I will speak later about amendment 35, but it is a good bill. It is not the best bill this committee should come forward with, but I think it is a bill that everyone can support. I wish it were better, but the tools were reduced because of the restrictions on the 602(b) allocation and we had to cut some programs way below the need.

When the chairman and I first came on this committee years ago, many times we could take care of most Members that came to us and said, "We need a project in our district," there was money back then that we could do things like that. That luxury has been gone for a good many years. But this year we cut deeper than that. I do not think any Member got what they wanted this year, let alone what is needed. The important thing is, we did fund the programs at the best level we could. I hope that, particularly in the energy field, we have not cut research beyond the needs for the future. I hope we have not cut too deeply.

Mr. Speaker, I yield back the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI], chairman of one of our very outstanding subcommittees.

Mr. MAZZOLI. Mr. Speaker, I want to thank the chairman very much for yielding me the time.

I am really taking this time to salute him and commend him and the gentleman from Indiana [Mr. MYERS] and all Members of this distinguished subcommittee. I do want to include by name the gentleman from Kentucky [Mr. ROGERS].

In this bill, Mr. Speaker, is money to complete a very important part of our waterfront development in the city of Louisville, which is part of the McAlpine Dam Development project, and three separate programs for flood control and, of course, as the gentleman from Alabama, our chairman, remembers, the city of Louisville has been devastated by floods from time to time over the years. We appreciate that flood control money and the additional money to complete Louisville's Bellvedere Connector.

This is the last time the gentleman from Kentucky will appear as a sitting member of Congress before the gentleman from Alabama's panel, and I thought I would take a few seconds to reflect on all the years during which I have had the honor of joining first with Chairman Perkins and then with Chairman Natcher, coming before the gentleman's subcommittee and always, but always the Kentucky delegation received with courtesy and with affability, with charm, with that courtliness which I think is maybe indigenous to Alabama and the South. The chairman was always attentive to our needs, and working in collaboration with my friend from across the river, the gentleman has been very helpful.

I want to mention Mr. Spillan and the staff member of the Energy and Water Subcommittee because they have been very much associated with all of this.

I want to thank my friends for what you have done for the Third District and for Kentucky over the years. While I will not be importuning you and knocking on your door in the future, I will be here in spirit and I want to thank the chairman.

Mr. BEVILL. Mr. Speaker, I yield 2 minute to the distinguished gentleman from Pennsylvania [Mr. MCDADE], our ranking member of the Committee on Appropriations.

□ 1240

Mr. MCDADE. Mr. Speaker, I take just a brief moment on a very busy day for all of us to extend our heartfelt congratulations to my distinguished

VOL 140 PT 15 AG 10 — 11 1994 UMI

friend, the able chairman of the committee, Mr. BEVILL, and to my friend from Hoosierville, Mr. JOHN MYERS, who has been here about as long as I have and done superb work in shepherding the Nation's resources. I like to look at the quotation that is inscribed on the wall over the Speaker's chair by Daniel Webster:

Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also in our day and generation may not perform something worthy to be remembered.

Nobody does it better than my friend, the distinguished gentleman from Alabama and my friend, the distinguished gentleman from Indiana.

Mr. SANDERS. Mr. Speaker, I rise in support of the conference report on H.R. 4506, the Energy and Water Appropriations Conference Report. As in past years, this $21 billion appropriation is a strange hybrid of good and bad projects. On the one hand, it includes billions of dollars for defense nuclear energy projects, which continue to be funded at high levels even though the cold war is over and the Soviet Union no longer exists. Perhaps the most absurd example of this nuclear weapons spending is the fact that we are budgeting over a hundred million dollars for nuclear testing, even though we aren't going to do any nuclear testing this year. President Clinton, to his credit, has declared a moratorium on nuclear testing through the end of the next fiscal year—yet the Department of Energy still needs $150 million for nontesting.

Nevertheless, if the persistence of cold war spending for nuclear weapons in this bill is troubling, at least the trend is downward. Defense nuclear spending this year is down by 5 percent. And in fact, this year nearly half of the defense nuclear money is for cleaning up the horrible pollution problems created by past nuclear weapons production, and restoring the contaminated environment created by the cold war. For decades, poisoning of the soil and water—and of workers in the defense industry—was excused in the name of national security. Even the most disgusting cases of environmental degradation were ignored, as long as they were being produced by the Pentagon and its defense contractors. Now the bill has to be paid. It is not pleasant to be spending billions of dollars of our money to restore an environment that never should have been polluted in the first place—but it is necessary, and this conference report helps provide the money to do it.

If the nuclear weapons part of this conference report is the most disturbing aspect, perhaps the most hopeful sign is the increase, to $388 million, in funding for solar and renewable energy. Although slight less than the amount we passed in the House, this still represents an increase of 12 percent over fiscal 1994. Nuclear energy research, on the other hand, is cut by 14 percent, and boondoggle projects such as the advanced liquid metal reactor are terminated.

These shifts in spending priorities demonstrate that the Department of Energy and the Congress are serious about moving our energy system away from dangerous, polluting and costly nuclear and fossil fuels, and toward a clean economy based on renewable sources and energy conservation. They are not moving as fast as I would like to see, but at least they are moving.

On balance, Mr. Speaker, I find more positive than negative signs in this conference report, and I will vote for it. And I, and other Members of Congress and grassroots activists all across the Nation, will continue to fight for a new energy policy—one that recognizes that the cold war is over, the era of wasteful, polluting energy sources is over, and the time for a clean, renewable energy economy has arrived.

Mr. FAWELL. Mr. Speaker, I rise in opposition to the Fiscal Year 1995 Energy and Water Development Act conference report, which terminates the Department of Energy's Advanced Liquid Metal Reactor/Integral Fast Reactor [ALMR/IFR] Program.

I want to make two points.

First, the conference report's 4-year plan to shut down the program at the end of fiscal year 1998 would cost $332 million. On the other hand, the Senate's plan, which would also shut-down the program at the end of fiscal year 1998, would have provided for $60 million in Japanese cost-sharing and would have allowed for completion of the authorized research at a cost of $327.8 million, a savings of $4.2 million, including a savings of $5.9 million in fiscal year 1995. Thus, the conference report's plan makes no economic or fiscal sense.

Second, the Senate's plan was sound science and sound nuclear nonproliferation policy. There is an expanding amount of plutonium in the world today. The United States and Russia alone plan to retire thousands of nuclear weapons over the next decade, making available 100 metric tons or more of pure weapons plutonium melal.

By the year 2000 over 1,000 tons of LWR-produced plutonium will exist in spent LWR fuel over and above some 900 tons of LWR-produced plutonium in spent fuel which exists today.

And the world inventory of reactor plutonium will continue to escalate at an ever-increasing rate as the use of nuclear power inevitably expands in many countries world-wide. This is so even if this Nation never builds another nuclear power plant.

The ALMR/IFR is the only nuclear technology under research today that offers the world the prospect of totally destroying plutonium while safely and efficiently producing electricity. Indeed, I know of no technology of any sort which promises to fully destroy plutonium.

The ALMR/IFR's fuel cycle is also strongly proliferation resistant because first, it efficiently recycles and burns highly radioactive wastes, including plutonium, on-site and second, because the plutonium in the system never exists in its pure form and is recycled as a fuel and ultimately destroyed on site.

In contrast, conventional LWR's use an off-site Purex reprocessing to separate plutonium from spent fuel waste where diversion of pure plutonium is a proliferation concern.

More important, the ALMR/IFR is good science because, while destroying plutonium, it can generate electricity and cut the volume of nuclear waste to one-fourth of that produced by the current conventional LWR. In addition, what low-level waste is left will decay in 100 years rather than many thousands of years, and this low-level-low-volume waste could be stored at the reactor site. Also, the ALMR/IFR reactor, unlike the conventional LWR, will be passively safe; that is, if an accident were to occur and a nuclear chain reaction were to start, as at Chernobyl, it would shut itself off without any human intervention.

Thus, the ALMR/IFR Program is both a sound U.S. energy policy as well as a sound nonproliferation policy. Yet opponents condemn the ALMR/IFR because one of the fuels it uses is plutonium, while ignoring all of the sound scientific principles just referred to.

There are, of course, other options to dispose of plutonium that are under review. These include: indefinitely storing nuclear warheads; cycling plutonium once through a reactor and burying the highly radioactive spent fuel in a repository; vitrifying plutonium with high-level waste and burying it in a repository; dropping canisters of plutonium in deep boreholes in the Earth's crust; burying it under the seabed; detonating nuclear warheads underground; launching it into space; diluting it in the ocean, and so forth. All of these options have their own set of difficulties and none have the long-term promise of the ALMR/IFR.

I urge my colleagues to vote "no" on this conference report. Let us not turn our backs on this long-term technology. It is fiscally sound as well as being significant energy and nonproliferation policy.

Mr. BEVILL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAROCCO). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PENNY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 393, nays 34, not voting 7, as follows:

[Roll No. 385]

YEAS—393

Abercrombie	Barrett (WI)	Boehlert
Ackerman	Bartlett	Bonilla
Andrews (ME)	Barton	Bonior
Andrews (NJ)	Bateman	Borski
Andrews (TX)	Becerra	Boucher
Applegate	Beilenson	Brewster
Bacchus (FL)	Bentley	Brooks
Bachus (AL)	Bereuter	Browder
Baesler	Berman	Brown (CA)
Baker (CA)	Bevill	Brown (FL)
Baker (LA)	Bilbray	Brown (OH)
Ballenger	Bilirakis	Bryant
Barca	Bishop	Bunning
Barcia	Blackwell	Buyer
Barlow	Bliley	Byrne
Barrett (NE)	Blute	Callahan

Calvert	Hall (TX)	McMillan
Camp	Hamburg	McNulty
Canady	Hamilton	Meehan
Cantwell	Hansen	Meek
Cardin	Harman	Menendez
Carr	Hastert	Meyers
Castle	Hastings	Mfume
Chapman	Hayes	Mica
Clay	Hefner	Michel
Clayton	Hilliard	Miller (CA)
Clement	Hinchey	Mineta
Clinger	Hoagland	Mink
Clyburn	Hobson	Moakley
Coleman	Hochbrueckner	Molinari
Collins (GA)	Hoekstra	Mollohan
Collins (IL)	Hoke	Montgomery
Collins (MI)	Holden	Moorhead
Combest	Horn	Moran
Condit	Houghton	Morella
Conyers	Hoyer	Murphy
Cooper	Huffington	Murtha
Coppersmith	Hughes	Myers
Costello	Hunter	Nadler
Cox	Hutchinson	Neal (MA)
Coyne	Hutto	Neal (NC)
Cramer	Hyde	Nussle
Cunningham	Inhofe	Oberstar
Danner	Inslee	Obey
Darden	Istook	Olver
de la Garza	Jefferson	Ortiz
Deal	Johnson (CT)	Orton
DeFazio	Johnson (GA)	Owens
DeLauro	Johnson (SD)	Oxley
DeLay	Johnson, E.B.	Packard
Derrick	Johnson, Sam	Pallone
Deutsch	Johnston	Parker
Diaz-Balart	Kanjorski	Pastor
Dickey	Kaptur	Payne (NJ)
Dicks	Kasich	Payne (VA)
Dingell	Kennedy	Pelosi
Dixon	Kennelly	Peterson (FL)
Dooley	Kildee	Pickett
Doolittle	Kim	Pickle
Dornan	King	Pombo
Dunn	Kingston	Pomeroy
Durbin	Kleczka	Porter
Edwards (CA)	Klein	Portman
Edwards (TX)	Klink	Poshard
Ehlers	Knollenberg	Price (NC)
Emerson	Kolbe	Pryce (OH)
Engel	Kopetski	Quillen
English	Kreidler	Quinn
Eshoo	Kyl	Rahall
Evans	LaFalce	Rangel
Everett	Lambert	Reed
Ewing	Lancaster	Regula
Farr	Lantos	Reynolds
Fazio	LaRocco	Richardson
Fields (LA)	Laughlin	Ridge
Fields (TX)	Lazio	Roberts
Filner	Leach	Roemer
Fingerhut	Lehman	Rogers
Fish	Levin	Rohrabacher
Flake	Levy	Ros-Lehtinen
Foglietta	Lewis (CA)	Rose
Ford (MI)	Lewis (FL)	Rostenkowski
Ford (TN)	Lewis (GA)	Roth
Fowler	Lewis (KY)	Roukema
Frank (MA)	Lightfoot	Rowland
Franks (CT)	Linder	Roybal-Allard
Franks (NJ)	Lipinski	Rush
Frost	Livingston	Sabo
Furse	Lloyd	Sanders
Gallegly	Long	Sangmeister
Gallo	Lowey	Santorum
Gejdenson	Lucas	Sarpalius
Gekas	Machtley	Sawyer
Gephardt	Maloney	Saxton
Geren	Mann	Schenk
Gibbons	Manton	Schiff
Gilchrest	Margolies-Mezvinsky	Schroeder
Gillmor	Markey	Schumer
Gilman	Martinez	Scott
Gingrich	Matsui	Serrano
Glickman	Mazzoli	Sharp
Gonzalez	McCandless	Shaw
Goodlatte	McCloskey	Shepherd
Goodling	McCrery	Shuster
Gordon	McCurdy	Sisisky
Goss	McDade	Skaggs
Grandy	McDermott	Skeen
Green	McHale	Skelton
Greenwood	McInnis	Slattery
Gunderson	McKeon	Slaughter
Gutierrez	McKinney	Smith (IA)
Hall (OH)		Smith (MI)
Smith (NJ)	Taylor (MS)	Walker
Smith (OR)	Tejeda	Walsh
Smith (TX)	Thomas (CA)	Waters
Snowe	Thomas (WY)	Watt
Spence	Thompson	Waxman
Spratt	Thornton	Weldon
Stark	Thurman	Wheat
Stearns	Torkildsen	Whitten
Stenholm	Torres	Wilson
Stokes	Torricelli	Wise
Strickland	Towns	Wolf
Studds	Traficant	Woolsey
Stupak	Unsoeld	Wyden
Sundquist	Upton	Wynn
Swett	Valentine	Yates
Swift	Velazquez	Young (AK)
Synar	Vento	Young (FL)
Talent	Visclosky	Zimmer
Tanner	Volkmer	
Tauzin	Vucanovich	

NAYS—34

Allard	Hefley	Ramstad
Archer	Inglis	Royce
Armey	Jacobs	Schaefer
Burton	Klug	Sensenbrenner
Coble	Manzullo	Shays
Crane	McHugh	Solomon
Crapo	Miller (FL)	Stump
Dreier	Minge	Taylor (NC)
Duncan	Paxon	Tucker
Fawell	Penny	Zeliff
Grams	Peterson (MN)	
Hancock	Petri	

NOT VOTING—7

Boehner	McCollum	Williams
Dellums	Ravenel	
Herger	Washington	

□ 1301

Messrs. ALLARD, HEFLEY, TUCKER, ZELIFF, and McHUGH changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. LAROCCO). Pursuant to the rule, the amendments in disagreement are considered as read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 2: Page 2, strike out all after line 20 over to and including line 13 on page 3, and insert:

Red River Navigation Study, Arkansas, $500,000;

Indianapolis, White River, Central Waterfront, Indiana, $4,000,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $150,000;

Kentucky Lock and Dam, Kentucky, $2,000,000;

Hazard, Kentucky, $500,000;

Grand Marais Harbor, Michigan, $100,000;

Hartsville, Trousdale County, Tennessee, $95,000;

West Virginia Comprehensive, West Virginia, $350,000; and

West Virginia Port Development, West Virginia, $800,000.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

Red River Navigation Study, Arkansas, $300,000;

Los Angeles County Water Conservation and Supply, California, $500,000;

Norco Bluffs, California, $200,000;

Indianapolis, White River, Central Waterfront, Indiana, $4,000,000;

Lake George, Hobart, Indiana, $200,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $150,000;

Ohio River Greenway, Indiana, $500,000;

Hazard, Kentucky, $500,000;

Kentucky Lock and Dam, Kentucky, $2,000,000;

Mussers Dam, Pennsylvania, $100,000;

Hartsville, Trousdale County, Tennessee, $95,000;

West Virginia Comprehensive, West Virginia, $350,000; and

West Virginia Port Development, West Virginia, $800,000.

Mr. MYERS of Indiana (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 4: Page 4, strike out all after line 5 over to and including "$1,500,000" in line 18 on page 6 and insert:

Red River Emergency Bank Protection, Arkansas and Louisiana, $6,000,000;

Red River below Denison Dam Levee and Bank Stabilization, Arkansas and Louisiana, $1,500,000;

West Sacramento, California, $500,000;

Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $400,000;

Sacramento River Flood Control Project (Deficiency Correction), California, $3,700,000;

San Timoteo Creek (Santa Ana River Mainstem), California, $5,000,000;

Kissimmee River, Florida, $3,000,000;

Savannah Harbor Deepening, Georgia (Reimbursement), $11,585,000, of which $2,083,000 is for a cost-shared Savannah River recreation enhancement and public access project along 900 linear feet of shoreline in the City of Savannah;

Casino Beach, Illinois, $1,000,000;

Des Moines Recreational River and Greenbelt, Iowa, $2,000,000;

Harlan (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $20,000,000;

Middlesborough (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $1,200,000;

Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $3,000,000;

Pike County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $5,000,000;

Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana, $800,000;

VOL 140 PT 15 AG 10 — 11 1994 UMI

Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $12,500,000;
Ouachita River Levees, Louisiana, $4,500,000;
Ste. Genevieve, Missouri, $3,000,000;
Ramapo River at Oakland, New Jersey, $600,000;
Broad Top Region, Pennsylvania, $1,000,000;
Lackawanna River, Olyphant, Pennsylvania, $1,100,000;
Lackawanna River, Scranton, Pennsylvania, $1,000,000;
South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, Pennsylvania, $2,000,000;
Wallisville Lake, Texas, $1,000,000;
Richmond Filtration Plant, Virginia, $2,000,000;
Southern West Virginia Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, West Virginia, $1,500,000;
Hatfield Bottom (Levisa and Tug Fork of the Big Sandy River and Upper Cumberland River), West Virginia, $500,000;
Upper Mingo (Levisa and Tug Fork of the Big Sandy River and Upper Cumberland River), West Virginia, $250,000; and
Allendale Dam, Rhode Island, $67,500

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Red River Emergency Bank Protection, Arkansas and Louisiana, $6,000,000;
Red River below Denison Dam Levee and Bank Stabilization, Arkansas, Louisiana and Texas, $2,100,000;
West Sacramento, California, $500,000;
Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $400,000;
Sacramento River Flood Control Project (Deficiency Correction), California, $3,700,000;
San Timoteo Creek (Santa Ana River Mainstem), California, $5,000,000;
Central and Southern Florida, Florida, $8,624,000;
Kissimmee River, Florida, $4,000,000;
Savannah Harbor Deepening, Georgia (Reimbursement), $11,585,000, of which $2,083,000 is for a cost-shared Savannah River recreation enhancement and public access project along 900 linear feet of shoreline in the City of Savannah;
Casino Beach, Illinois, $1,000,000;
Des Moines Recreational River and Greenbelt, Iowa, $4,000,000;
Harlan (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $20,000,000;
Middlesborough (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $1,200,000;
Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $3,000,000;
Pike County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $5,000,000;
Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana, $800,000;
Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $12,500,000;
Quachita River Levees, Louisiana, $4,500,000;
Ste. Genevieve, Missouri, $3,000,000;
Hackensack Meadowlands Area, New Jersey, $2,500,000;
Ramapo River at Oakland, New Jersey, $600,000;
Salem River, New Jersey, $1,000,000;
Carolina Beach and Vicinity, North Carolina, $2,800,000;
Fort Fisher and Vicinity, North Carolina, $900,000;
Broad Top Region, Pennsylvania, $1,000,000;
Lackawanna River, Olyphant, Pennsylvania, $1,100,000;
Lackawanna River, Scranton, Pennsylvania, $1,000,000;
South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, Pennsylvania, $7,000,000;
Allendale Dam, Rhode Island, $67,500;
Wallisville Lake, Texas $1,000,000;
Richmond Filtration Plant, Virginia, $2,000,000;
Southern West Virginia Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, West Virginia, $1,500,000;
Hatfield Bottom (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $500,000; and
Upper Mingo County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $250,000

Mr. MYERS of Indiana (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 6: Page 7, line 2, strike out all after "expended," down to and including "project" in line 4 and insert: "and of which funds are provided for the following projects in the amounts specified:

"Eastern Arkansas Region, Arkansas, $3,000,000;

"Yazoo Basin, Mississippi, Upper Yazoo Projects, Belzoni Bridge Removal, $640,000; and

"Tiptonville, Tennessee, Levee Extension, Mississippi River Levees, $1,060,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 6, and concur therein.

Mr. MYERS of Indiana (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 7, strike out all after line 24 over to and including "$5,330,000" in line 4 on page 8 and insert:

"Tucson Diversion Channel, Arizona, $2,500,000; and

"John H. Kerr Reservoir, Virginia and North Carolina (Mosquito Control), $40,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Tucson Diversion Channel, Arizona, $2,500,000;
Jeffersonville-Clarkville, Indiana, $750,000;
McAlpine Lock and Dam (Ohio River Locks and Dams), Kentucky, $1,000,000;
Raystown Lake, Pennsylvania, $5,330,000; and
John H. Kerr Reservoir (Mosquito Control), Virginia and North Carolina, $40,000

Mr. MYERS of Indiana (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 9: Page 8, line 8, after "canceled" insert: *Provided further*, That the Secretary of the Army is directed during fiscal year 1995 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 9, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 15: Page 9, after line 25 insert:

GENERAL PROVISION

CORPS OF ENGINEERS—CIVIL

SEC. 101. In fiscal year 1995, the Secretary shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with Government-owned dredges in fiscal year 1992.

Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 15, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 16: Page 9, after line 25 insert:

SEC. 102. The Secretary of the Army, acting through the Chief of Engineers, shall not collect fees at boat launching ramps located in undeveloped or lightly developed shorelands with minimum security and illumination.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 16, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 21: Page 13, line 4, after "Act" insert: ": *Provided further*, That of the total appropriated, $4,827,000 shall be available for transfer to the State of New Mexico Irrigation Works Construction Fund for settlement of all claims associated with Costilla Dam".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 21, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 28: Page 17, line 20, after "expended" insert: ": *Provided*, That the Secretary of Energy may transfer available amounts appropriated for use by the Department of Energy under title III of previously enacted Energy and Water Development Appropriations Acts into the Isotope Production and Distribution Program Fund, in order to continue isotope production and distribution activities".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

": *Provided*, That the Secretary of Energy may transfer available amounts appropriated for use by the Department of Energy under title III of previously enacted Energy and Water Development Appropriations Acts into the Isotope Production and Distribution Program Fund, in order to continue isotope production and distribution activities: *Provided further*, That the authority to use these amounts appropriated is effective from the date of enactment of this Act: *Provided further*, That fees set by the Secretary for the sale of isotopes and related services shall hereafter be determined without regard to the provisions of Energy and Water Development Appropriations Act (P.L. 101-101): *Provided further*, That amounts provided for isotope production and distribution in previous Energy and Water Development Appropriations Acts shall be treated as direct appropriations and shall be merged with funds appropriated under this head".

Mr. MYERS of Indiana (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 33: Page 19, line 2, after "expended" insert: ": *Provided*, That at least $41,700,000 of amounts derived from the funds for such expenses shall be expended in accordance with title X, subtitle A of the Energy Policy Act of 1992".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 33, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 35: Page 19, line 19, after "tract" insert: ": *Provided further*, That of the amounts previously appropriated to orderly terminate the Superconducting Super Collider (SSC) project in the Energy and Water Development Appropriations Act, 1994, amounts not to exceed $65,000,000 shall be available as a one-time contribution to the completion, with modification, of partially completed facilities at the project site if the Secretary determines such one-time contribution (i) will assist the maximization of the value of the investment made in the facilities and (ii) is in furtherance of a settlement of the claims that the State of Texas has asserted against the United States in connection with the termination of the SSC project: Provided further, That no such amounts shall be made available as a contribution to operating expenses of such facilities".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 35, and concur therein.

Mr. MYERS of Indiana. Mr. Speaker, I rise in opposition to amendment No. 35.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. MYERS] will be recognized for 30 minutes. Does the gentleman from Alabama seek recognition?

If not, the Chair recognizes the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume. I shall not use the entire 30 minutes.

Mr. Speaker, my opposition to this amendment is one of procedure rather than content of the amendment. This all came about because of the House's decision last year to discontinue the SSC in Texas. Under that agreement the House asked the Department of Energy to expedite, to move as rapidly as that agency could, to try to recover as much of the taxpayers' investment in Texas as possible. In so doing, the department struck an agreement on July 22 of this year with the State of Texas which makes provisions to which I think the House should object.

Under the terms of the agreement entered into between the Department of Energy and the State of Texas which neither the Senate nor the House nor any party whatsoever has any interest in—provides $210 million in cash from previously appropriated funds, not new dollars but part of the funds that were to terminate the SSC to Texas. It also returns the land back to the State of

VOL 140 PT 15 AG 10 — 11 1994 UMI

Texas, all the real estate, land and property, as well as the investment therein, in buildings and equipment.

But the Department of Energy in this agreement went one step further. In providing the $210 million in cash, $65 million is earmarked to be used to upgrade the linear accelerator as a cancer treatment tool. I am not opposed, certainly, to that being done. My opposition is something that the authorizing committees have objected to with the Committee on Appropriations for years, that we should not earmark money, should not tell how the money should be spent, and should not authorize programs that are not authorized in existing law.

There is no existing law today directing anybody to build a linear accelerator or the cancer treatment by the University of Texas at this site, absolutely no authorization. The first we heard about it, in fact the first I heard of it was reading in the paper that the Senate had added this language.

Through questioning, we finally found out there was an agreement between the Department of Energy and the State of Texas providing that this be done. But, again, it did not call upon us in the agreement that we have to ratify it. In fact, Congress is not even mentioned in this agreement. I really do not understand why the authorizing committees are not standing up like they have so many times in the past, objecting to the Appropriations Committee authorizing something that is not authorized today.

Again, I am certainly not opposed to the cancer treatment center. But the chairman and I did meet with the lawyers, the attorneys from the Department of Energy as well as the lawyers from the State of Texas.

As far as the State of Texas is concerned they explained that they needed to have this language to make sure that the agreement was entered into, the lawyers for the Department of Energy said—and this is something I am not sure whether they are right or wrong—that they would find it very difficult to justify $210 million in cash.

True, Texas has advanced up to $539 million of money toward this project. But there was never an agreement that they would get this money back. I remember arguing about what State would get the superconducting super collider. If other States such as California, Illinois, Michigan, or some of the other States that were bidding at that time, if they would have known they were going to be held harmless on any investment they made, they would get it back. I think some of the other States would have bid probably even more. I cannot say that for sure, but I am sure a lot of the States would have bid higher to get that reactor if they knew they were not going to lose anything.

□ 1310

But again I am not opposed to Texas getting all these assets. I am opposed, and I do not understand why the authorizing committees have not objected, to telling the State of Texas how it must spend $65 million out of the $210 million. We are doing the job the Texas State legislature should do. It is not our role to tell them how to spend the money, so I do strongly oppose that.

Is it a fair settlement? Again, the Texas lawyers tell us it is a good settlement. DOE lawyers said, "We're not sure we can justify $210 million going back to Texas in this way when they get all the other assets." So I do not know whether it is right or wrong. I am not going to judge whether it is a good settlement or not. I am willing to accept that settlement. My objection is procedural. We should not be doing the legislature of Texas' job in this case.

The gentleman from New York [Mr. BOEHLERT] a moment ago in a colloquy with the chairman, asked whether this is the last we are going to appropriate. We all hope so but there is no way this Congress, this committee, can obligate future Congresses. We cannot ensure that there might not be a contingent liability coming up because in the terms of agreement with the Department of Energy and the State of Texas we have set aside any liability coming from the three counties that did put some money in, the communities that may have some damages because of loss of value of property. We may have some property owners under eminent domain, or several property owners have had their land taken from them, but have not been paid yet. There has been not a final settlement on eminent domain, so we have some questions here.

We also have the Environmental Protection Agency, which may have a claim against the State of Texas and the Department of Energy for damage to the property that will have to be remedially corrected. So, we cannot really tell the gentleman from New York [Mr. BOEHLERT] or anyone else that there will not be some future requirement. We all hope there will not be.

In closing I want to say that in adopting this provision, DOE says we have to do it. The State of Texas wants us to do it because I do not think they can get their legislature to do it, but the State of Idaho—we just talked about the IFR reactor. I understand Idaho would like to convert that reactor in Idaho for a different purpose, but they are told by the Department of Energy, who has entered into this deal, that they cannot do it, the reactor, we have already had three-quarters of a billion dollars invested in must be destroyed. Why? Why do we not save the taxpayers' investment in Idaho by letting them convert, if they would like to, to some other use for that reactor instead of destroying it in place?

There are just inconsistencies here. Procedurally it is a wrong thing to do. Even more importantly, precedence-wise we are making a terrible mistake here by telling Texas how they must spend this money even though Texas wants it. The precedence we will have to live with will go on forever from here on.

Mr. Speaker, I reserve the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield back the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAROCCO). The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 39: Page 20, line 14, after "Act" insert: ": *Provided further*, That the distribution of the funds herein provided among the affected units of local government shall be determined by the Department of Energy and made available to the State and affected units of local government by direct payment".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion. The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 39, and concur therein.

Mr. MYERS of Indiana (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 48: Page 30, line 16, strike out "$540,501,000" and insert "$535,501,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment, insert $520,501,000.

Mr. MYERS of Indiana (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 49: Page 31, line 10, strike out "$518,501,000" and insert "$513,501,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment, insert $498,501,000.

Mr. MYERS of Indiana (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

A motion to reconsider the votes by which action was on the several motions and the conference report was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 a.m. on tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONGRESSIONAL ACCOUNTABILITY ACT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 514 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 514

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4822) to make certain laws applicable to the legislative branch of the Federal Government. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour, with thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Rules and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the committee amendments now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 4892 modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. No amendment to the amendment in the nature of a substitute shall be in order except those printed in part 2 of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments printed in part 2 of the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

House Resolution 514 is the rule providing for the consideration of H.R. 4822, the Congressional Accountability Act. The resolution provides for 1 hour of general debate, with 30 minutes equally divided and controlled by the chairman and the ranking minority member of the Committee on Rules and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration.

For purposes of amendment, the rule makes in order as the original bill the text of H.R. 4892 with technical and clarifying amendments, as printed in part I of the report accompanying this resolution (House Report 103–691).

The rule makes in order the 14 amendments which are listed in part II of the report accompanying this resolution. Each amendment, which is to be offered in the order printed in the report, by the Member designated in the report, shall be debatable for 10 minutes. The amendments shall not be subject to further amendment or to demand for a division of the question. All points of order against the amendments are waived.

The amendments which are made in order address several issues concerning the way the new system of applying laws to Congress will operate. These include such matters as the qualification of, and requirements for, the Board of Directors and the Executive Director of the new Office of Compliance; the timing of the steps involved in applying the specified laws; requirements for reporting by the Office of Compliance; and the legal recourse aggrieved employees will have. Additional amendments address the issue of health care benefits provided for Members of Congress, and Members' use of frequent-flier mileage awards which accrue from official travel.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, the bill which this rule makes in order, the Congressional Accountability Act, is a long-overdue reform which will finally bring Congress under the same laws that apply to other Americans in a credible and effective manner. H.R. 4822 will ensure that congressional employees have the same employment rights and protections that other American workers have, and it will also ensure that Members of Congress are no longer insulated from the impacts and effects of the operation of these laws.

Briefly, H.R. 4822 would explicitly apply 10 employment-related laws to Congress:

The Fair Labor Standards Act;

Title VII of the Civil Rights Act of 1964;

The Americans with Disabilities Act;

The Age Discrimination in Employment Act;

The Family and Medical Leave Act;

The Occupational Safety and Health Act;

The Federal Labor Management Relations Act;

The Employee Polygraph Protection Act;

The Worker Adjustment and Retraining Act; and

The Rehabilitation Act of 1973.

The laws would be applied and enforced for the entire legislative branch by a new Office of Compliance. This office, which would replace the Office of Fair Employment Practices in the House as well as its Senate counterpart, would be overseen by an 8-member Board of Directors which would be appointed by the leadership of both parties in the House and Senate, and would be run by an executive director chosen by the Board.

The Board would conduct a study of the way in which the laws should be

VOL 140 PT 15 AG 10 — 11 1994 UMI

applied to the legislative branch, and then follow that study with proposed regulations prescribing the application of the laws to Congress. Unless Congress rejects the regulations by resolution of disapproval, those regulations will take effect. If they are rejected, the Board will reissue new regulations.

The Office will study and recommend additional laws to be applied on a continuing basis, and will be specifically required to study the possible application of the Freedom of Information Act and the Privacy Act.

The bill also provides a four-step process to resolve alleged violations of the law: counseling; mediation; formal complaint and hearing; and judicial review.

Mr. Speaker, there are many people who deserve to be recognized for their efforts in bringing forth this legislation, but chief among them are the two original sponsors of the Congressional Accountability Act, the gentleman from Connecticut [Mr. SHAYS] and the gentleman from New Hampshire [Mr. SWETT]. These two Members have worked tirelessly to get this legislation to the point where it is today.

I also want to recognize the work of the gentlewoman from Colorado [Mrs. SCHROEDER], the gentlewoman from Maine [Ms. SNOWE], and the gentlewoman from the District of Columbia [Ms. NORTON], who made many contributions to the development of this legislation.

And, I want to praise the Members of the freshman class, particularly their four leaders on reform issues, the gentleman from Ohio [Mr. FINGERHUT], the gentlewoman from Utah [Ms. SHEPHERD], the gentlewoman from Florida [Mrs. FOWLER], and the gentleman from Massachusetts [Mr. TORKILDSEN]. These Members made the application of laws to Congress a top priority among reform issues and were instrumental in bringing about our consideration of this legislation. Several of the freshman Members will be offering amendments today which will further refine this legislation.

Mr. Speaker, the charge that Congress exempts itself from laws it passes for everyone else is one of the most frequently heard criticisms of Congress, and understandably so. It is simply wrong to deny to congressional employees the same kinds of employment protections we grant to other employees, and it is wrong to insulate ourselves from the effects of these laws.

To our credit, both the House of Representatives and the Senate have attempted to apply employment-related laws to Congress. It has been a difficult endeavor because we have had to construct a way to do so without breaching the separation of powers doctrine under the U.S. Constitution, which could occur if the executive branch enforced these laws.

For the last 6 years, the House has applied several antidiscrimination measures and other protections to House employees through an internal enforcement system. And, as Congress has passed new laws, such as the Family and Medical Leave Act, we have applied those new measures to the House under the same system.

However, it has become quite clear that neither the range of laws we have applied to the House of Representatives, nor the manner in which they are applied, has been comparable to the private sector. Not all the laws that apply to the private sector apply to Congress, and our internal enforcement process does not provide adequate recourse for aggrieved employees. In addition, there are wide variations in the coverage of laws among different groups of legislative branch employees.

Establishing a new system for applying and enforcing these laws, and expanding and making uniform the range of laws covering the legislative branch, was one of the key recommendations of the Joint Committee on the Organization of Congress. The Joint Committee, drawing from the original bill authored by Mr. SHAYS and Mr. SWETT, recommended applying five laws to Congress, with the possibility of applying more, and establishing a new, more politically insulated entity, the Office of Compliance, which would be responsible for applying employment laws to the entire legislative branch. It also recommended new procedures, rights, and remedies for aggrieved employees.

Following hearings on this legislation by the Subcommittee on the Rules of the House last spring, and with further efforts by Representatives SHAYS and SWETT, and others, the Joint Committee's recommended legislation was revised in several respects. The result is that the bill before us—the bill reported by the House Administration Committee and the Rules Committee—is a much stronger version of the application of laws legislation included in H.R. 3801, the Joint Committee's bill.

This bill, H.R. 4822, is stronger in the following respects:

It explicitly provides for the application of 10 laws—twice as many laws as H.R. 3801 provided for. One of those additional laws is the Occupational Safety and Health Act [OSHA], whose omission by the Joint Committee was criticized by a number of witnesses at our subcommittee hearings, and which is probably the most visible example of laws which private-sector employers must comply with, but from which Congress has exempted itself.

This bill also ensures coverage of all employees of the legislative branch. H.R. 3801 simply provided for a study of the coverage of employees of the Library of Congress, the General Accounting Office, and other congressional instrumentalities.

It makes the Office of Compliance a more independent entity by providing that the Executive Director shall be appointed by the Board of Directors, rather than by the House and Senate leadership, as H.R. 3801 provided.

This bill ensures that congressional employees will continue to be covered under the various laws we already apply here in the House until the new regulations developed by the Office of Compliance take effect. H.R. 3801 left continuation of coverage in question.

It gives more authority to the Office of Compliance to apply the laws to Congress by providing that the regulations they issue will automatically take effect unless Congress rejects them by a resolution of disapproval. H.R. 3801 required Congress to act to approve the regulations before they could take effect.

Again, to emphasize—particularly for those Members who have criticized the delay in action on the Joint Committee's proposals—the bill we are considering today is a much stronger, and much more effective, version of the Joint Committee's proposal. And, the improvement is due in large part to the fact that we took the time over the last few months to hold several days of hearings on this legislation and to engage in many informal discussions on ways the Joint Committee's proposal could be strengthened.

Mr. Speaker, the Congressional Accountability Act is aptly named; it will in fact make Members of Congress significantly more accountable for our actions as employers of the thousands of legislative branch employees. Perhaps just as importantly, it will give us a better understanding of the effects of laws every private sector employer must live under and, hopefully, lead to more diligence and care and accountability for the laws we pass.

I urge the adoption of House Resolution 514 so that the House can proceed with consideration of this important bill.

Mr. Speaker. I reserve the balance of my time.

□ 1320

Mr. DREIER. Mr. Speaker, I yield myself such time I might consume.

Mr. Speaker, adoption of this rule will mark the death of congressional reform. Yes, we all heard about the agreement between the Speaker and the gentleman from Indiana [Mr. HAMILTON]. It called for separating off the application of laws section from the report of the Joint Committee on the Organization of Congress, which has happened here with this rule, and holding a floor vote on the rest of the reform package sometime in September.

That agreement, like past agreements to allow the full House to debate congressional reform, was written in fool's ink. There is no way the Democrat leadership is going to allow an effective reform bill onto this House floor. The gentleman from Indiana [Mr. HAMILTON] was right the first time in referring to H.R. 3801 when he said, "Separating off the compliance proposal will kill the rest of the package."

Sure enough, Democrats on the Committee on Rules are upstairs now planning to gut H.R. 3801. Biennial appropriations, gone. Committee and subcommittee assignment limitations, gone. The de minimis rule to abolish unpopular committees, gone. The publication of committee attendance and voting records, gone. Allowing independent factfinders to investigate ethics violations, gone.

When the Committee on Rules gets done with the Joint Committee's recommendations, it will consist of just two provisions: The budget control bill that the House passed last month, and pay raises for House committee staff.

□ 1330

Mr. Speaker, adoption of this rule will complete the Democrat leadership's divide and conquer strategy. It will allow them to kill two congressional reform birds with one stone. It is well known that the Joint Office of Compliance, which is contained in the Shays-Swett bill, is not popular with the other body. So there is little likelihood that Congress will have an effective compliance and enforcement law this year.

Mr. Speaker, our colleagues do not have to go along with this reform charade. If we defeat the previous question on this rule, I intend to offer an amendment to the rule that would allow for an amendment to the Shays-Swett bill consisting of H.R. 3801, the recommendations of the Joint Committee, which would be open to further amendment under the 5-minute rule.

In addition, if the previous question is defeated, my amendment also provides for an open rule—the ultimate congressional reform—for consideration of the Shays-Swett bill. An open rule would allow the gentleman from Loveland, CO [Mr. ALLARD] to offer his amendment to require congressional compliance with all of the laws, not just those that relate to the terms and conditions of employment.

An open rule would allow the gentleman from West Chester, OH [Mr. BOEHNER] to offer his amendment to apply the Freedom of Information Act to the nonlegislative offices of the Congress. It would allow the gentleman from Jacobus, PA [Mr. GOODLING] to offer his very thoughtful amendment on personal liability and punitive damages. It would allow the gentleman from Oklahoma City [Mr. ISTOOK] to offer his amendment to allow congressional employees to bring administrative and civil actions to enforce the application of laws.

Finally, an open rule would allow the gentleman from Shrewsbury, MA [Mr. BLUTE] to offer his amendment to require that all of the elements of any health care reform bill passed by Congress apply to all Members of Congress.

Mr. Speaker, many of these amendments, obviously, are controversial, but they deserve to be debated here on the House floor so that the American people will know who's serious about applying the laws to Congress, and who's not. More important, by voting to defeat the previous question, the American people will be able to distinguish between those who are serious about ending institutional inertia, and those who are only interested in reform as a public relations gimmick.

I urge my colleagues to defeat the previous question.

Mr. Speaker, I include for the RECORD the following information.

ROLL CALL VOTES IN THE COMMITTEE ON RULES DURING MARK-UP OF H.R. 4822, CONGRESSIONAL ACCOUNTABILITY ACT FRIDAY, JULY 29, 1994

1. Dreier Motion to Postpone to Date Certain—It is moved to postpone consideration of H.R. 4822 to the day on which the committee considers H.R. 3801, the Legislative Reorganization Act of 1994. Rejected: 3-4. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Beilenson, Frost and Slaughter. Not Voting: Derrick, Bonior, Hall, Wheat, Gordon and Quillen.

2. Dreier Amendment—An amendment to clarify that committees may not amend bills implementing compliance regulations and that the process for considering implementing bills cannot be waived, altered or suspended by special rule, order, motion or unanimous consent. Rejected: 3-4. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson and Frost. Not Voting: Bonior, Hall, Wheat, Gordon, Slaughter and Quillen.

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE RULE FOR H.R. 4822 CONGRESSIONAL ACCOUNTABILITY ACT OF 1994 TUESDAY, AUGUST 9, 1994

1. Substitute Open Rule Plus—The substitute rule would provide for two-hours of general debate divided between the Rules and House Administration Committee. Following an open amendment process on H.R. 4822 it would be in order for Reps. Hamilton or Dreier to offer a further amendment at the end of the bill consisting of the text of H.R. 3801, the Legislative Reorganization Act. All points of order against the amendment are waived. It would first be in order for Reps. Hamilton and Dreier to offer one amendment each in 8 specified subject areas of the bill. Any amendment adopted would become base text for the purpose of further amendment under the five-minute rule. If Rep. Hamilton offers an amendment as an alternative to an amendment by Rep. Dreier, both would be voted on and if both were adopted the one receiving the most votes would be considered the one adopted and would become base text for the purpose of amendment. Following the disposition of the Hamilton and Dreier amendments, the bill would be open to further amendment under the five-minute rule. (Vote: Defeated 3-6) Yeas—Solomon, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter. Not Voting: Bonior, Hall, Gordon, Quillen.

2. Open Rule—Two-hour general debate divided between the Rules and House Administration Committees with an open amendment process. (Vote: Defeated 3-6) Yeas—Solomon, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter. Not Voting: Bonior, Hall, Gordon, Quillen.

3. Dreier Amendment—Amendment #1 submitted by Rep. Dreier would be made in order in addition to the other amendments provided for in the rule and would be considered under the procedures described in #1 above. All points of order are waived against the amendment. (Vote: Defeated 3-6) Yeas—Solomon, Dreier, Goss. Nays—Moakley, Derriek, Beilenson, Frost, Wheat, Slaughter. Not Voting: Bonior, Hall, Gordon, Quillen.

4. Allard (CO)—Amends section 3(b) to require the Office of Compliance to study all laws from which Congress is exempt (not just those that relate to the terms and conditions of employment), and determine whether they should be applied to Congress. (Vote: Defeated 3-6) Yeas—Solomon, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter. Not Voting: Bonior, Hall, Gordon, Quillen.

5. Boehner (OH)— Applies the Freedom of Information Act to the nonlegislative offices of the Legislative branch. (Vote: Defeated 3-6) Yeas—Solomon, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter. Not Voting: Bonior, Hall, Gordon, Quillen.

6. Blute (MA)—Requires that any health reform bill passed by Congress may apply to all Members of Congress. (Vote: Defeated 3-6) Yeas—Solomon, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter. Not Voting: Bonior, Hall, Gordon, Quillen.

7. Goodling (PA)—Authorizes hearing board to award punitive damages of up to $50,000; makes head of employing office (including Members) personally liable. (Vote: Defeated 3-6) Yeas—Solomon, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter. Not Voting: Bonior, Hall, Gordon, Quillen.

8. Istook (OK)—Substitute allows congressional employees to bring administrative and civil actions to enforce application of certain laws; permits the House and Senate to promulgate regulations governing indemnification. (Vote: Defeated 3-6) Yeas—Solomon, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter. Not Voting: Bonior, Hall, Gordon, Quillen.

9. Adoption of Rule—(Vote: Adopted 6-3) Yeas—Moakley, Derrick, Beilenson, Frost, Wheat, Slaughter. Nays—Solomon, Dreier, Goss. Not Voting: Bonior, Hall, Gordon, Quillen.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	89	24	27	65	73

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong., "Notices of Action Taken," Committee on Rules, 103d Cong., through Aug. 9, 1994.

VOL 140 PT 15 AG 10 — 11 1994 UMI

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number	date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H Res. 58	Feb 3, 1993	MC	H R 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H Res. 59	Feb 3, 1993	MC	H R 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H Res. 103	Feb 23, 1993	C	H R 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H Res. 106	Mar 1, 1993	MC	H R 20: Hatch Act amendments	9 (D–1, R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H Res. 119	Mar 5, 1993	MC	H R 4: NIH Revitalization Act of 1993	13 (d–4, R–9)	8 (D–3, R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H Res. 132	Mar 17, 1993	MC	H R 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H Res. 133	Mar 17, 1993	MC	H Con Res. 64: Budget resolution	14 (D–2; R–12)	4 (1–D not submitted) (D–2, R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H Res. 138	Mar 23, 1993	MC	H R 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993)
H Res. 147	Mar 31, 1993	C	H R 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H Res 149	Apr 1, 1993	MC	H R 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H Res. 164	May 4, 1993	O	H R 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993)
H Res. 171	May 18, 1993	O	H R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H Res 172	May 18, 1993	O	H R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H Res. 173	May 19, 1993	MC	S.J. Res 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H Res. 183	May 25, 1993	O	H R 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H Res. 186	May 27, 1993	MC	H R 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H Res 192	June 1, 1993	MC	H R 2348: Legislative branch appropriations	50 (D–6; R–44)	5 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H Res. 193	June 10, 1993	O	H R 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H Res. 195	June 14, 1993	MC	H R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H Res 197	June 15, 1993	MO	H R 2333: State Department H R. 2404: Foreign aid	53 (D–20, R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H Res 199	June 16, 1993	C	H R 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H Res. 200	June 16, 1993	MC	H R 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H Res 201	June 17, 1993	O	H R 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H Res 203	June 22, 1993	MO	H R 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H Res 206	June 23, 1993	O	H R 2150: Coast Guard authorization	NA	NA	A: 401–0 (July 30, 1993).
H Res 217	July 19, 1993	MO	H R 2010: National Service Trust Act	NA	NA	A: 261–154 (July 21, 1993).
H Res. 220	July 20, 1993	MC	H R. 2667: Disaster assistance supplemental	14 (D–8, R–6)	2 (D–2, R–0)	PQ: 245–178. F: 205–216. (July 22, 1993)
H Res 226	July 26, 1993	MC	H R 2667: Disaster assistance supplemental	15 (D–8, R–7)	2 (D–2, R–0)	A: 224–205. (July 27, 1993).
H Res 229	July 28, 1993	MO	H R 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H Res 230	July 28, 1993	O	H R 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993)
H Res 246	Aug. 6, 1993	MO	H R 2401: National Defense authority	149 (D–109, R–40)		A: 246–172. (Sept. 8, 1993)
H Res 248	Sept. 8, 1993	MO	H R 2401: National defense authorization			PQ: 237–169. A: 234–169 (Sept. 13, 1993).
H Res. 250	Sept. 10, 1993	MC	H R 1340: RTC Completion Act	12 (D–3, R–9)	1 (D–1, R–0)	A: 213–191–1. (Sept. 14, 1993).
H Res 254	Sept. 12, 1993	MO	H R 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H Res 262	Sept. 28, 1993	O	H R 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H Res 264	Sept. 28, 1993	MC	H R 2351: Arts, humanities, museums	7 (D–0, R–7)	3 (D–0; R–3)	PQ: 240–184. A: 225–195. (Oct. 14, 1993).
H Res 265	Sept. 29, 1993	MC	H R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993)
H Res 269	Oct 6, 1993	MO	H R 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993)
H Res 273	Oct 13, 1993	MC	H R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1, R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H Res 274	Oct 13, 1993	MC	H R. 1804: Goals 2000 Educate America Act	15 (D–7, R–7, I–1)	1 (D–1, R–3)	A: Voice Vote. (Oct. 13, 1993)
H Res 282	Oct 20, 1993	C	H J Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct 21, 1993)
H Res 285	Oct 20, 1993	O	H R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H Res 287	Oct 20, 1993	C	H J Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H Res 289	Oct 28, 1993	O	H R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res 293	Nov 1, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–40 (Nov. 8, 1993)
H Res 299	Nov 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1, R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H Res 302	Nov 9, 1993	MC	H R 1025: Brady handgun bill	17 (D–6, R–11)	4 (D–1; R–3)	A: 238–182. (Nov 10, 1993)
H Res 303	Nov 9, 1993	O	H R 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov 16, 1993).
H Res 304	Nov 9, 1993	C	H J. Res. 288: Further CR, FY 1994	N/A	N/A	
H Res 312	Nov 18, 1993	MC	H R. 3425: EPA Cabinet Status	27 (D–8, R–19)	9 (D–1, R–8)	F: 191–227. (Feb. 2, 1994).
H Res 313	Nov 18, 1993	MC	H R 796: Freedom Access to Clinics	15 (D–9, R–6)	4 (D–1, R–3)	A: 233–192. (Nov 18, 1993).
H Res 314	Nov 18, 1993	MC	H R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179 (Nov 19, 1993).
H Res 316	Nov 18, 1993	C	H R 51: D.C. statehood bill	1 (D–1, R–0)	N/A	A: 252–172 (Nov 20, 1993).
H Res 319	Nov 20, 1993	MC	H R 3: Campaign Finance Reform	35 (D–6, R–29)	1 (D–0; R–1)	A: 220–207. (Nov 21, 1993).
H Res. 320	Nov 20, 1993	MC	H R 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183 (Nov 22, 1993).
H Res. 336	Feb 2, 1994	MC	H R 3759: Emergency Supplemental Appropriations	14 (D–8, R–5, I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb 3, 1994).
H Res 352	Feb 8, 1994	MC	H R 811: Independent Counsel Act	27 (D–8, R–19)	10 (D–4, R–6)	PQ: 249–174. A: 242–174 (Feb. 9, 1994)
H Res. 357	Feb 9, 1994	MC	H R. 3345: Federal Workforce Restructuring	3 (D–2, R–1)	2 (D–2; R–0)	A: VV (Feb 10, 1994).
H Res 366	Feb 23, 1994	MO	H R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994)
H Res 384	Mar 8, 1994	MC	H Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994)
H Res 401	Apr 13, 1994	MO	H R 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47, R–21)	A: 244–176 (Apr. 13, 1994).
H Res 410	Apr 27, 1994	MO	H R 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994)
H Res 414	Apr 28, 1994	O	H R 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H Res 416	May 4, 1994	C	H R 4296: Assault Weapons Ban Act	7 (D–5, R–2)	0 (D–0, R–0)	A: 220–209 (May 5, 1994).
H Res 420	May 5, 1994	O	H R 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H Res 422	May 11, 1994	MO	H R 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H Res 423	May 11, 1994	O	H R 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H Res 428	May 18, 1994	MO	H R 2108: Black Lung Benefits Act	4 (D–1, R–3)	N/A	A: VV (May 19, 1994).
H Res 429	May 18, 1994	MO	H R. 4301: Defense Auth., FY 1995	173 (D–115, R–58)		A: 369–49 (May 18, 1994)
H Res 431	May 24, 1994	MO	H R. 4301: Defense Auth.; FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H Res 440	May 26, 1994	MC	H R 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994)
H Res 443	May 25, 1994	MC	H R 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994)
H Res 444	May 25, 1994	MC	H R 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8, R–4)	A: 249–177 (May 26, 1994)
H Res. 447	June 8, 1994	O	H R 4539: Treasury/Postal Approps 1995	N/A	N/A	A. 236–177 (June 9, 1994)
H Res 467	June 28, 1994	MC	H R 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H Res 468	June 29, 1994	MO	H R 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H Res 474	July 12, 1994	MO	H R 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H Res 475	July 12, 1994	O	H R 1188: Anti: Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H Res 482	July 20, 1994	O	H R 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H Res 483	July 20, 1994	O	H R 3870: Environ Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H Res 484	July 20, 1994	MC	H R 4604: Budget Control Act of 1994	3 (D–2, R–1)	3 (D–2, R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H Res 491	July 27, 1994	O	H R 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H Res 492	July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H Res. 494	July 28, 1994	MC	H R 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	5 (D–4, R–2)	PQ: 215–189 A: 221–161 (July 29, 1994)
H Res 500	Aug 1, 1994	MO	H R 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994)
H Res 501	Aug 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H Res 502	Aug 1, 1994	O	H R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H Res 507	Aug 4, 1994	O	H R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994)
H Res 509	Aug 5, 1994	MC	H J Res. 373/H R 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H Res 513	Aug 9, 1994	MC	H R 4906: Emergency Spending Control Act	N/A	N/A	
H Res 512	Aug 9, 1994	MC	H R 4907: Full Budget Disclosure Act	N/A	N/A	
H Res. 514	Aug 9, 1994	MC	H R 4822: Cong Accountability	33 (D–16; R–17)	16 (D–10; R–6)	

Note—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from New Hampshire [Mr. SWETT], one of the cosponsors of this bill.

Mr. SWETT. Mr. Speaker, first I want to thank the members of the Committee on Rules and particularly the members who are here officiating floor debate, the gentlemen from California, Mr. BEILENSON and Mr. DREIER, for the very good effort that they have put into this legislation. I understand the concerns of the member from the minority side. I certainly have privately and will publicly pledge my support to him in those things that he talked about achieving.

I believe September is a month in which we can accomplish the other half of H.R. 3801 that has not been brought forward with this piece of legislation, but today I want to speak about this rule.

Mr. Speaker, I rise in strong support of this rule. The Rules Committee has produced a good rule that brings a strong bill to the floor—a bill this body can be proud of and which we should pass.

The rule makes 14 amendments in order, almost all of which are strengthening amendments. It enables us to consider a comprehensive, even historic, bill that will bring Congress under 10 important laws from which we are now exempt, either wholly or in part. This is a long overdue step for the legislative branch, and this rule will enable us to take it.

There are amendments that were not made in order which Congressman SHAYS and I asked the Rules Committee to make in order. Application of FOIA was in our bill, for instance, and we asked the Rules Committee to make Mr. BOEHNER's amendment in order. The committee didn't do so. But the House Administration Committee did include study language in the bill on FOIA. So Mr. BOEHNER and the rest of us will live to fight that battle again another day. When that day comes, I may well be by his side. But, in my judgment, there is not a single amendment which has not been made in order which justifies torpedoing this rule and, by extension, this bill.

No structured rule will meet with everyone's approval. But we should not throw out the baby with the bathwater. Against all expectations and odds, a strong congressional compliance bill has reached the floor and is now before us. I urge my colleagues not to throw away this opportunity to keep faith with our constituents and bring Congress into full compliance with our Nation's laws.

Let us get this job done. Please support the rule.

Mr. DREIER. Mr. Speaker, I yield 5 minutes to the gentleman from Glens Falls, NY [Mr. SOLOMON], the ranking Republican on the Committee on Rules, a very hard-working member of the now defunct Joint Committee on the Organization of Congress.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman, who is the vice chairman of the now defunct joint committee, which seems to be going nowhere.

I join my colleague in urging defeat of the previous question so that we can consider this bill and a congressional reform amendment under an open rule.

Mr. Speaker, my colleagues, here we are again, taking another piece out of the congressional reform bill on which our joint committee worked so long and so hard last year. This is the second attempt to gut this important bill and move it to the bottom of everybody's priority around here. I think it is ironic that the leadership inaction on congressional reform has brought us full circle to what gave birth to this joint reform committee back in 1992.

That committee was formed in the wake of scandals in this House and also in the other body. It had the full backing of the bipartisan and bicameral leadership in this House. And now the Democrat leadership is fully backing away from the modest set of reform proposals reported from that committee.

In so doing it is creating a new scandal in this House, a new scandal in this House.

Mr. Speaker, let me just say that the scandal of trying to sweep reform under the rug and avoid doing what needs to be done to overhaul the legislative structures and practices of this Congress is a shame.

In the joint committee's opening hearing, January 26 of last year, I want Members to listen to this, Mr. Speaker, listen to this, we had the unprecedented panel of the Speaker of the House and the majority and minority leaders of the House, of both houses appear before our joint committee. The Speaker did. And at that time the gentleman from Washington [Mr. FOLEY], and I quote, said this:

"I did take a strong position in support of this bipartisan, bicameral joint committee last year." He went on to say, "I have come to believe that this is a process that not only can work but must work."

Those are the Speaker's words. And the Speaker concluded his statement by saying, "I pledge to you my willingness to support you in any way that I can, and I wish you well."

Well, thanks a lot, Mr. Speaker.

Mr. Speaker, that congressional reform bill has been languishing in committees for the last 6 months. Where, Mr. Speaker, has that support gone? Deadline after deadline for House action has slipped from last fall to last spring, now to the late summer. How far can it slip?

Now we are told we may get to a token vote on this package sometime in September before we adjourn, when, of course, Mr. Speaker, it is too late to get anything through the conference and signed into law.

□ 1340

So much for congressional reform. That is a scandal. The rule before us will allow us to consider just one piece of that comprehensive reform package, the so-called Congressional Accountability Act, under a modified closed rule. Members are being gagged. Legitimate amendments, filed from both sides of the aisle, Democrats and Republicans, have been shut out of this process today, while a nongermane Democrat amendment has been allowed.

Mr. Speaker, it never ceases to amaze me how the majority leadership, with a straight face, can jam so-called reform bills through this House under undemocratic procedures. Whose idea of reform is it to disenfranchise Members of this House from representing their constituents, and exercising their constitutional rights to make the rules of the House?

Mr. Speaker, this bill is entitled the Congressional Accountability Act of 1994. It is a meritorious proposal and it is long overdue. We are going to vote for it. We should have brought ourselves under the laws we impose on others long ago. That is what Madison had in mind in the Federalist Paper No. 57 when he said, and think about this, almost 200 years ago, he said, "One of the strongest bonds" that can connect the rulers with the people and restrain rulers from "oppressive measures" is that "they can make no law that will not have its full operation on themselves," that means us, "that will not have its full operation on themselves and their friends, as well as on the great mass of society."

Mr. Speaker, how far we have strayed from that principle. But we have other steps to take if we truly want to restore the kind of congressional accountability that will again bind us to our constituents and earn their respect and their approval of the Members and I in this Congress.

We need to act now on comprehensive congressional reform. That is why every man and woman in this body ought to vote down the previous question and bring this bill back on the floor under an open rule, so that each and every one of the 435 Members can represent their constituency on the floor of this House. I dare you to do that. You would be proud of yourselves.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding time to me.

I just want to say, Mr. Speaker, as I am listening to this debate, I thought of something I heard on television this morning. One of the commentators said "The bad news is the baseball folks are going on strike, and the even worse news is that Congress canceled recess." If we listen to this debate, I think we would really believe it.

What we are doing here today, Mr. Speaker, is very historic, and people have been waiting for this a long time. I do not think there are very many people in the Chambers who have more scars than I do from waiting for this for such a long time.

Way back in 1976 a group of us tried to do this with the House Fair Employment Practices Act, because I think one of the things the American people wanted the most was to make sure we

VOL
140
PT
15
AG
10
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11
1994
UMI

lived under the same laws we passed, very simple.

It was like we had worn a bathing suit to church. There were about 100 Members who signed up, and there were, obviously, a lot of Members who did not sign up, but we tried to run that year after year after year. We were not given space, we had to run it out of our own office, we had to run it through our own phone numbers, and every other such thing.

Finally, Mr. Speaker, Congresswoman Lynn Martin and I were able to get another office created that made it a broader base, but we had great suspicion that it had been weakened so much that it was not working very well. Last year when we asked the Government Accounting Office to look at that, they found that they agreed with us.

Here today we have the great ability to form this Office of Compliance that once and for all is going to end this issue, and be under some independent boards, and let us do that. I really, really salute the gentlemen from Connecticut, Mr. SHAYS and Mr. SWETT, and the gentlemen from California, Mr. BEILENSON and Mr. DREIER, who sat through all those hearings, too.

All of us want reform. We have to get this reform, which is first and foremost, I think, done.

If you are the American people listening to this debate, Mr. Speaker, it gets very confusing. When we come to health care reform, everybody says "We cannot do that. It is too broad." Today we are trying to do this reform, and everybody is saying "No, we cannot do that, it is not enough. It ought to be bigger."

This is a chance to do some very important reform that many of us have thought was long overdue, and it is now here. Mr. Speaker, I would hope we would all join together, get this done, bring this to closure, put the employees here on the Hill under the laws that we pass for everyone else, and that we can move on and do other reforms as they come forward.

However, this is not something that just popped up and it is just one little piece. This one is further developed. We have a much longer track record on it. We know the problems of what we have in place, and why it needs to be changed.

Mr. Speaker, many of the people sitting here listening to this debate sat through incredible long hearings understanding that, so we now have a real basis to make a change the American public has never understood was not there. So I urge everyone to vote for the rule and get on with it.

Mr. DREIER. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Jacobus, PA [Mr. GOODLING], the ranking minority member of the Committee on Education and Labor, who has a very thoughtful amendment that unfortunately was denied under this rule.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, long before 70 percent of the Members in the House at this point came to the Congress of the United States, I was pushing for congressional accountability. In the Committee on Education and Labor, on which I have served the entire time, on every piece of labor legislation which has come before us, I said "What about us? What about those of us who are writing the law? Shouldn't we be covered?"

Mr. Speaker, I rise in opposition to the rule, as the Committee on Rules has offered it. I very much regret that the proposed rule does not allow me to offer an amendment, an amendment which was passed unanimously in the Committee on Education and Labor, the only committee that has dealt with the issue.

Mr. Speaker, there is no good reason in the world why Members of Congress and other legislative branch employers should be treated any differently than other employers. Nonetheless, without my amendment, while any private sector employer in any of our districts faces the possibility not only of being sued by an employee for back pay, compensatory damages, liquidated damages, in some cases, and punitive damages under civil rights laws, apparently the leadership of the House wants to shield us from that liability.

Every time we have had a debate on whether Congress should be covered or not, any time we have had a debate on we should have punitive damages and compensatory damages in all the legislation that we have passed, people get up and say "Yes, you must have it. Yes, you must have it. If you don't, no one will pay any attention to the law."

However, when it comes to us, that is a different story. We will pay attention to the law, because we are Members of Congress. Mr. Speaker, it will not work, and we positively need my amendment in this legislation.

If this bill's prohibition on punitive damages, which is what I am offering, remains, then let us not go home and tell our constituents, especially our employer constituents, that we are being treated the same way they are being treated. That is the farthest thing from the truth.

Mr. Speaker, I think it is particularly an abuse by the Committee on Rules to try to prevent my amendment when, as I said, it was passed unanimously in the Committee on Education and Labor, the only committee that dealt with the issue.

When we were discussing my amendment before the Committee on Rules, and the kind of liability and damages that every private sector employer faces every day, the suggestion was made by one of the members of the Committee on Rules that perhaps, instead of extending punitive damages and personal liability to the legislative branch, we ought to remove such damages from the employment laws as they apply to the private sector.

Mr. Speaker, I could not agree more. All I can say is that I hope that those who vote for the rule, and therefore against the inclusion of the same remedies and damages that private employers face, will indeed join me in seeking to repeal the same provisions as they apply against employers in our district. I would hope that we would have that open rule so we can treat ourselves just the same way we treat every private employer in this country.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 6 minutes to our friend, the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I do not see the gentleman from New York [Mr. SOLOMON] still in the Chamber. I must say that the gap between his rhetoric and reality was unusually large today, even for him.

I was struck by the theatrical force of his addressing Speaker FOLEY time and again as "Mr. Speaker" in the full knowledge that, of course, Speaker FOLEY was nowhere in the room, and that someone else was serving as Speaker. I am not surprised that the absent Speaker FOLEY was not able to respond to the gentleman's forceful invocation of his name.

Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON], if he would like, since he has returned, unlike Speaker FOLEY.

Mr. SOLOMON. Mr. Speaker, I would be very happy to quote my good friend, the Speaker, the gentleman from Washington [TOM FOLEY], because he meant what he said. Now I want him to follow through on it. I thank the gentleman for allowing me to say that.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman. My point was that the gentleman was, with great theatrical flare, addressing remarks to a Speaker FOLEY who was absent, and unless the gentleman's eyesight has also deteriorated very substantially, he would have known that.

Mr. SOLOMON. If the gentleman will continue to yield, Mr. Speaker, I think the Speaker was watching it on TV, though.

Mr. FRANK of Massachusetts. The gentleman, of course, has no more idea about that than he has about the rest of what he said.

The point, Mr. Speaker——

Mr. SOLOMON. Be careful. You could have your words taken down.

Mr. FRANK of Massachusetts. Mr. Speaker, I do not believe that saying that someone has no clear idea of what

he is talking about can be taken down. Factual discussions about the gap between reality and rhetoric are fully in order.

I do want to concede so the gentleman's error can be instructive.

□ 1350

Why did we get this kind of gap? Because we now know that there is something that makes Republicans angrier than Congress not applying the laws to itself. What is that? It is when Congress applies the laws to itself. Because what we are hearing is the desperately unhappy cry of people who see themselves losing an issue.

We are daring today to do the right thing, and that confounds my friends. I think it was Mark Twain who said, "Tell the truth. You will confound your enemies and astound your friends," something like that. He said it better.

Mr. Speaker, what we are doing today in a bipartisan way, this is the Swett-Shays bill, it is primarily offered by the gentleman from Connecticut, a Republican, and the gentleman from New Hampshire, a Democrat. It will contrary to what James Madison did, because the gentleman misunderstood James Madison, James Madison wrote into the U.S. Constitution precisely the sorts of exemptions the gentleman takes exception to.

The reason why the laws do not apply here, the reason we have some exemption from arrests, they were written into the Constitution by James Madison. We are changing hundreds of years of British and American parliamentary tradition by subjecting this institution to the laws. That is a drastic breakthrough for which all of us should be taking credit. But my Republican friends are terrified that someone might think that Congress did something good, and that would, of course, ruin their day. So they will denigrate unfairly this extraordinarily important achievement which will give the employees, and by the way, we are not on the whole talking about our individual congressional employees but the employees of the Architect and the police and those other people, but it will apply to everybody, they will get rights they have not previously gotten, thanks to the efforts of the gentleman from Connecticut, the gentleman from New Hampshire, I was glad to be able to help, and the Speaker agreed with that. That is where we are today. We are in fact changing hundreds of years.

The argument goes back to Queen Elizabeth and King Henry, when people felt that the executive would use the enforcement power to coerce the legislative branch. That is an outdated idea. It should be changed. By the way, enthusiasm for changing it is not always uniform.

A few years ago when the restaurant employees sought the right to organize and bargain collectively, myself, the gentleman from Missouri who chairs the Committee on Post Office and Civil Service, the gentleman from California who chairs the Subcommittee on Civil and Constitution Rights, and others, we tried to give them that right. We got no help on the Republican side. I approached Republicans, and they said, "Well, that's labor law, we don't agree with that. We're not going to support it." We pushed hard for it and we got no support. I am glad we are doing what we are doing.

Mr. Speaker, the question now is, are we doing something terrible because we are doing something good, but we are not doing something else the gentleman wants. And here is the argument. By separating whether or not the laws should apply to Congress as an institution, regarding discrimination and safety and health, et cetera, is that a terrible thing because we are not at the same time and in the same bill reforming committee procedure and voting? No, I think we are doing the right thing. In fact, it is the people on the other side who are trying to join two things which in my judgment have a great degree of separation. One question: Should the laws apply to people who work here? The answer to that, it seems to me, is clearly yes.

The second question: How many committees should we have? Should there be proxy voting? Et cetera. Those are not the same questions. To insist that we not extend the rights that we are now extending to thousands of people unless we simultaneously can achieve a consensus on how many committees there ought to be and whether or not there is proxy voting is in fact to denigrate those rights. And in fact I predict if we had done it the other way, we would have heard the same complaints, in fact more loudly. "How dare you hold up their rights until you solve the other problem." We are doing the right thing for once and my friends on the other side cannot stand it.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would respond to my friend by saying that the gentleman from Indiana [Mr. HAMILTON] made it very clear, dividing up the issue of congressional compliance would kill congressional reform. That is what the chairman on the Joint Committee on the Organization of Congress said in his statement.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. DREIER. We do not have much more time on this side because there are so many Members who want to celebrate the victory on this.

Mr. FRANK of Massachusetts. I yielded to the gentleman from New York. The gentleman will not yield to me?

Mr. DREIER. If the gentleman from California [Mr. BEILENSON] would yield to the gentleman, I would be happy to engage the gentleman in a colloquy.

Mr. FRANK of Massachusetts. I yielded on my time to the gentleman.

Mr. DREIER. That is because the gentleman has very few requests because this is something that Members on this side are genuinely more concerned about it seems than the other side.

Mr. FRANK of Massachusetts. The gentleman will not yield to me?

Mr. DREIER. Possibly the gentleman from California [Mr. BEILENSON] might yield.

Mr. BEILENSON. Mr. Speaker, I yield an additional 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me the time.

I am impressed by the gentleman from California's example of openness by alluding to me and then refusing to yield to me as I had yielded to the gentleman from New York.

Mr. DREIER. I was confident my friend the gentleman from California would yield to the gentleman.

Mr. FRANK of Massachusetts. This is my time. I would ask the gentleman to withhold because I do want to use the time well.

The point that the chairman of the joint committee said something does not seem to me to be conclusive. I have as the gentleman from California has from time to time voted against the chairman. The invocation of authority is a poor logical argument. In fact what the gentleman is saying is do not extend the rights to these workers unless we can also come to an agreement on the unrelated complicated subject of committee procedure and structure. I think that is unfair to these workers.

They are entitled to have these rights, they should have had them a long time ago. And to say that they cannot get them until we and the Senate can come to another set of agreements on another set of issues is unfair to them.

Mr. DREIER. Mr. Speaker, the fact of the matter is we hope very much that we can deal with the issue of congressional compliance and all the other items that have been brought before us, and I would say that I did not hear the gentleman from Massachusetts testify before the Joint Committee on the Organization of Congress along with 130 some odd Members who did agree to testify before the joint committee.

Mr. Speaker, I yield 2½ minutes to my friend, the gentleman from Metairie, LA [Mr. LIVINGSTON], a hard-working member of the Committee on House Administration.

Mr. LIVINGSTON. Mr. Speaker, if I could paraphrase what I heard a minute ago, the question was whether there should be congressional accountability and reform over the way Congress does business, and the answer was yes, but not too much.

79-059 O—97 Vol. 140 (Pt. 15) 6

VOL 140 PT 15 AG 10 — 11 1994 UMI

I rise today to urge the defeat of the previous question. Yet I support the underlying concept of H.R. 4822, the Congressional Accountability Act.

This bill will ultimately—we hope, and in a more improved fashion, if the previous question is defeated—force Congress to obey the same Federal employment labor laws that Congress has applied to the the private sector. American businesses face enormous challenges, securing an establishment, maintaining inventory, selling products, hiring employees, and complying with the Federal, State, and local regulations. While most of these challenges are expected, I think no business individual is ever adequately prepared for the devastating impact of Government regulations which seem to become ever more burdensome with each passing year. To legally operate a business, an entrepreneur must comply with literally thousands of Federal regulations under the Civil Rights Act of 1964, Equal Employment Opportunity Act of 1972, the Equal Pay Act, the Equal Labor Standards Act, the National Labor Relations Act, the Occupational Safety and Health Act, the Family Medical Leave Act, and the list goes on and on. Complying with these and other Federal mandates is no small endeavor. However, the Congress overlooking its own 40,000 employees, conveniently and routinely exempts itself from its own laws.

It pains me deeply to listen to entrepreneurs describe the tremendous burdens we place on them, costing the American people greatly in productivity and jobs. Perhaps some Members of Congress functioning under the same laws which they deem necessary for the private sector may learn firsthand what businesses have been experiencing for years.

I commend the various Members who have contributed so much to the issue of congressional compliance. However, I was very disappointed with the Democrat leadership's decision to separate the issue of congressional compliance from the Joint Committee on the Organization of Congress' comprehensive reform bill. This action has greatly jeopardized the passage of a complete JCOC reform package.

While H.R. 4822 is a significant step forward, the leadership has missed a tremendous opportunity to address some very important institutional reform matters. Let us defeat the previous question, allow the gentleman from California [Mr. DREIER], the gentleman from Colorado [Mr. ALLARD], the gentleman from Ohio [Mr. BOEHNER], the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from Oklahoma [Mr. ISTOOK], the gentleman from Massachusetts [Mr. BLUTE], and perhaps others to offer their reformation amendments under a fully open rule.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Naperville, IL [Mr. FAWELL], another hard-working members of the Committee on Education and Labor.

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise in opposition to the rule, but I am in strong support of the Congressional Accountability Act. We have all heard the old phrase that Congress would exempt itself from the law of gravity if we thought we could get away with it. We have tried to get away with it for a long, long time. We have a chance here, however, to go in the right direction. I am not so sure that this will survive over in the Senate, I think it will pass the House, and we shall be quite happy about that.

□ 1400

It is not perfect. It can be taking too great a first step in attempting to actually apply 10 separate labor law statutes at the same time, especially when we combine with the Senate and put them under the same administrative rules and under the same judicial remedies. But I repeat, it is in the right direction.

But also, we have to remember that at this time we do not know the specifics as to the manner in which these statutes will be made applicable to the Congress. We did not put that in the legislation. That has to be determined at a later date by the Office of Compliance.

But we do know at least that the employees will have the right to sue, the right to use the same remedies as authorized in the private sector when a Member of Congress may violate the provisions of any of these 10 statutes. That would include even the right of an aggrieved employee to sue a Member of Congress in Federal court before a jury, and compensatory damages, attorneys fees, et cetera, if the underlying statute allows this in the private sector.

But the bill, however,, as the gentleman from Pennsylvania [Mr. GOODLING] pointed out, exempts Members of Congress from punitive damages. In addition, I ask Members to think about this, in addition, it has the taxpayers indemnifying Members of Congress whenever a compensatory damage, pain, and suffering judgment may be brought against them, or whenever they are obligated under a court order to pay for the attorneys fees of the employee who brings the lawsuit. The Members are also allowed to use the general counsel with nothing coming out of their own pockets in order to defend themselves. That does not exist in the private sector, but I rejoice yet in this bill because we can always come back and, I think, try to take care of those matters. We are not going to fool the public. They will understand, of course, that we are protecting ourselves by fully indemnifying ourselves from all damages which Members may incur—at taxpayer expense.

But I repeat, this is a very important day, and certainly the gentleman from Connecticut [Mr. SHAYS], and the gentleman from New Hampshire [Mr. SWETT] should be congratulated. They bipartisanly faced this problem, and they have done quite a job. I repeat, I do not think it probably will make it through the Senate, but next year we will have an even stronger case.

Mr. DREIER. Mr. Speaker, may I inquire of the Chair how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. COPPERSMITH). The gentleman from California [Mr. BEILENSON] has 13 minutes remaining, and the other gentleman from California [Mr. DREIER] has 7 minutes remaining.

Mr. DREIER. Mr. Speaker, I yield 2½ minutes to my friend, the gentleman from Westchester, OH [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, first I would like to thank the gentleman from California [Mr. DREIER] for yielding the time on this very important debate.

Virtually 3 years ago today, I and the other 42 Members of my class, elected in 1990 and taking office in 1991, stood on the lawn of the Capitol with two very important Members of this body at that time, the gentleman from Indiana, Mr. HAMILTON, a Democrat, and Mr. GRADISON from Ohio, a Republican, pledging our support for this concept of creating a Joint Committee on the Reorganization of Congress. We had been here a mere 7 months and understood at that time pretty clearly that Congress is broken and something needs to happen.

What happened when we stood there on the lawn that day, several weeks later the House bank scandal came along, the House restaurant scandal came along, the post office scandal came along, a debate about the Ethics Committee on whether we were going to have full disclosure on what happened in the bank, and finally in June 1992, under heat, Congress passed a resolution setting up the joint committee.

We spent a year in the joint committee, held numerous hearings, hundreds of Members of Congress coming and testifying, over 40 different issues that we all know have to be addressed. And what happened? Nothing.

Today we are going to take one small part of that, an important part of that, but only one small part of that, and we are going to debate it in the Congressional Accountability Act, which I support.

One of the issues we were dealing with during that discussion was deliberation on the floor and Members' ability to come here with their ideas and to offer those ideas for the Members to vote on if they liked them. I was denied an amendment in this bill that would require Congress to adopt FOIA for the nonlegislative areas of this body. It was not made in order. And why should Congress come under FOIA? Because if we had the Freedom of Information Act like we have downtown in the executive branch we would have never had a House bank scandal, we would have never had a post office scandal, we would have never had a scandal in the House restaurant system. If the American people and the press could ask what happens here, if they could see how we spend our money day in and day out, Members might be little more careful. But because we do not have FOIA, those things have happened, and that is history. But to not allow me to offer the amendment on the floor today is exactly what is wrong with this body.

We should defeat the previous question and bring up real congressional reform today.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Loveland, CO [Mr. ALLARD], another member of the Joint Committee on the Reorganization of Congress.

Mr. ALLARD. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding me the time, and compliment him for his fine leadership on this particular issue.

Mr. Speaker, I rise in opposition to the rule. I strongly support the concept that we need to change the way that Congress does business. I served in the Colorado State Legislature, as many Members here did, and having seen the way they do business, we come to the Congress and find many things we did in the State legislature that had accountability, that made citizens feel good about what was happening in the State legislature. Then we come to Congress and we find that things are not near as open as that; there is not near as much accountability.

I serve on the Joint Committee on the Reorganization of Congress, and I like the idea and pushed the concepts of making Congress live under the same laws as everybody else has to live under. I think it is in the concept of a citizen legislature, and something we need to preserve. I think we are losing that.

So I think this is a very important issue we have coming up, and there are a number of amendments that would address that. But our committee was set up on the reorganization of Congress, and I see a lot of issues that are not going to be addressed today. That is why I am opposed to the rule.

I think we ought to give our Members more opportunity to bring up issues that deal with how we are going to do business in the Congress. We are not talking that much about committee numbers, but what we are going to do to reduce the number of committees with proxy voting. The Ethics Committee—we took a lot of testimony on the Ethics Committee and what are we going to do about improving the management of the Congress. There is duplication of efforts on both the Senate and House side, and we do not have any means of looking at that in a serious manner to try and have some accountability.

What about the budget process and the floor process itself? These are all issues Members should have an opportunity to bring to the floor and talk about, but because of the modified open rule, many Members are not going to have an opportunity to do that.

We took hours and hours of testimony in the Committee on the Reorganization of Congress discussing these issues. So I just rise in opposition because I think we ought to have more opportunity to bring about really true, meaningful change in the House of Representatives.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Bellevue, WA [Ms. DUNN], another member of the Joint Committee on the Reorganization of Congress, and a member of the House Administration Committee as well, a hard-working freshman.

Ms. DUNN. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, I rise to urge defeat of the previous question with the hope that the third time is the charm. This is the third time I have risen to ask my colleagues to deliver on what they promised: comprehensive congressional reform.

By this time we all know the story. The well-publicized Joint Committee on the Reorganization of Congress was created as a response to the internal crisis that wracked the House of Representatives. The bipartisan promise was for bold reforms to address a variety of shortcomings. The result would be a Congress that was more responsive, more deliberative in its lawmaking.

Now, as Paul Harvey would say, comes the rest of the story. The joint committee, of which I was a member, fizzled, but it still put forth a product that would at least be a proper starting point for debate on real congressional reform. The Congressional Accountability Act was a crucial component of that product.

Now, in a conscious effort to derail other crucial reforms, we are asked to consider the Congressional Accountability Act in splendid isolation.

Mr. Speaker, the Congressional Accountability Act is splendid, but it should not be considered in isolation. It should be considered as part of a complete overhaul of this institution: Scheduling reform to end the mindless and frenetic back and forth around this place, committee reforms to end the useless turf battles between committees, proxy reform to force Members to show up at committee meetings to hear the debate and maybe learn a thing or two and to vote on the topic.

□ 1410

And lastly, Mr. Speaker, sunshine to end the defenseless practices of passing laws behind closed doors.

I urge my colleagues, and most especially my fellow freshmen Members who wrapped themselves in the mantle of reform, defeat the previous question, and bring to the floor the joint committee's entire bill, including congressional accountability, so we can reform this embattled institution.

Mr. DREIER. Mr. Speaker, I yield 1½ minutes to the gentleman from Wyoming [Mr. THOMAS], a real reformer, a hard worker in this House, my friend from Casper, WY.

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to the rule. I am disappointed that reform could not have taken more change. We are absolutely certain we need to do more change here.

Almost everything has been said about the benefits of this bill. I support it.

I feel strongly about it and, therefore, I want to add my voice to that.

Let me say simply there is absolutely no justification for the Congress not to live under the same set of rules established for everyone else. One of the principles of good and fair governance is that those making the rules should live under them, and I strongly support the passage of this bill and again express my disappointment that it cannot be broader in terms of the reform mechanism.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma City, OK [Mr. ISTOOK], a freshman Member who unfortunately was denied an opportunity to offer his amendment.

Mr. ISTOOK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to this rule.

I think it is important to mention what is really going on here, because frequently it has not been pointed out. On a scale of 1 to 10 this bill may merit a 3, but a lot of people are talking about it as though it is a 10.

They say this subjects Congress to the same rules that everybody else lives under. That is not true. This bill says, when it comes to labor and employment laws, that Congress will have an Office of Compliance set up by the Congress that will decide how things will apply to us. Everyone else in the country, Mr. Speaker, has to go before the Labor Department, and the bureaucrats. They have to go through thousands of pages of Federal regulations. They have to deal with the EEOC, the Equal Employment Opportunity Commission. Under this legislation, Congress would remain exempt. It continues a special, preferred status for Members of Congress.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Yes, the bill does have a good point where it does provide that a Member of Congress ultimately could be sued for violating labor standards as interpreted not by the same bureaucrats that interpret it for everyone else but by our internal Office of Compliance. It maintains special treatment.

Now, if you look at any businessman who has to deal with things, the problem is not just the law. The problem is also dealing with the administrative agencies, and Members of Congress would not have to do so under this bill.

I offered an amendment which the Committee on Rules refused to permit that would have said Members of Congress not only are covered by the same laws but by the same interpretations, no special Office of Compliance to filter out those laws for us, and we would have to be accountable before the same administrative agencies as everyone else.

Let me give you just one example which is in the bill: OSHA, Occupational Safety and Health Act, if there is a violation of OSHA under the interpretation of the Office of Compliance, instead of having to do something immediately, the bill says you get until the end of the fiscal year following the fiscal year in which the violation occurred, which means you have 2 years. Give a businessman that same break.

Congress will never respond to the problem of overregulation until we have to deal with the same laws and the same procedures, and if they scare us, imagine how they are scaring the businessmen.

I urge you to oppose the rule.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my friend and classmate, the gentleman from Cape Girardeau, MO [Mr. EMERSON], a member of the Joint Committee on the Organization of Congress, who probably attended more hearings than any other member, who has been involved in the issue of reform for a long period of time, having started out as a page here on the House floor.

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding to me.

I rise to urge defeat of the previous question so that H.R. 3801 can be made in order. We need to consider H.R. 3801 in its totality, because reform has many facets that really need attention, not just that which the Democratic leadership with its protective agenda deigns to allow.

I am somewhat puzzled as to why we are not permitting H.R. 3801 in its totality to be considered. As a matter of fact, it was six Democrats and two Republicans that voted to report out of the Joint Committee on the Organization of Congress; it is the substance of their recommendations that is contained in H.R. 3801.

The gentleman from California [Mr. DREIER] and I split with the other members of our party to report the recommendations of the committee so that we could get a full package before the House, because the chairman, the gentleman from Indiana [Mr. HAMILTON], optimistically indicated he thought we could achieve so that it would be considered under a generous rule and so that the House could work its will on many of the reform issues that I believe the House wants to work its will on.

So I urge all of my colleagues, particularly our more junior colleagues who ran on a reform platform in 1992, to join us in defeating the previous question.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Stamford, CT [Mr. SHAYS], who has worked long and hard on the issue of congressional compliance.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I would like to thank the gentleman for yielding and say to you that I have such ambivalent feelings because I know what it feels like to be in the minority and the frustrations of not having opportunities to offer amendments, and I have a sense of what it is like to be in the majority in the process of working on this legislation.

I have just been in awe during this process of how Republicans and Democrats have worked together to this point. It has been something that I get down on my knees mentally in gratitude for, and I wish the American people could have seen the House Administration work on this bill, the Committee on Rules work on this bill, the various Members from both sides of the aisle work on this bill.

I see the American flag behind me, and the American people love the American flag. It is cloth; it means so much, but my honest hope is that they will love the institution of Congress as much as they love the American flag, this institution that was established by our Founding Fathers.

We may come to some conclusion that 40 years of one-party rule is a process that needs to be changed, and we can talk about all of these things. But I have to say for the record that when it comes to the Congressional Accountability Act, Mr. FOLEY, Mr. MICHEL, Mr. GINGRICH have been so supportive, Mr. ROSE, Mr. THOMAS, Mr. MOAKLEY, Mr. SOLOMON, Mr. HAMILTON, Mr. DREIER. We would not be here, ironically, with the congressional accountability bill if it were not for the gentleman from California, Mr. DREIER, and others, Members on the Committee on House Administration, Mr. GOODLING, who has fought long and hard for this day that has come before us, the gentleman from Illinois, Mr. FAWELL, the gentleman from Massachusetts, Mr. FRANK, who helped move this bill along when there were certain points that did not move forward, the gentleman from Ohio, Mr. BOEHNER, in the work he did. I look at this, and I see 250 cosponsors for this legislation, 100 Members of the freshman class. We would not have this bill before us if it were not for the 100 Members of the freshman class, both parties. They have made all the difference in the world.

Now we come to this point. I look up there, and I see the cameos of the various philosophers, the legislators, and one looks at us straight on, and it is Moses. It is the only one. I see Moses look at us head on, and I cannot say to you that this is a perfect bill, and I certainly cannot say that I do not want my colleagues' amendments offered, because I ask that they be, but there is a point now where we have to decide whether we kill the rule and move forward or we take this rule.

Everyone is going to have to come to their own conclusion. On my side of the aisle, I would hate it if any Member was blamed for voting against the rule because they did not want congressional accountability. We will need some Members on our side of the aisle, in my judgment, to support this rule and move the debate forward.

I say to you, when I hear the gentleman from Oklahoma [Mr. ISTOOK], I would have loved to have had that debate. I would have loved to have confronted him at every point along the way, when he says the laws will not apply. Section 3 says, "The following laws shall apply," and it goes down all 10 of those laws. "They shall apply." The difference is we took into account we are a separate body. We established an Office of Compliance much like the EEOC. That Office of Compliance is independent, more independent than I ever dreamed.

The leadership, both sides, have to appoint it. They are given one term. They cannot be reappointed. They have to have experience, but they cannot be reappointed.

They will draft regulations that will conform to the law, and Congress only gets to reject them in a concurrent resolution. Those regulations will apply unless Congress, House and Senate, reject them both.

□ 1420

I urge my colleagues to trust your heart, do what you think is right. I look forward to the debate on the 14 amendments that will make this a better bill.

I will conclude by saying Mr. SWETT and I have learned one grand lesson: We do not own his bill, it is the House's bill. We have seen Members come forward with amendments that we did not know if we liked or not. We listened to the debate. We realized that they made the bill better.

This bill has been amended about 20 times. It is a better bill in the process.

This bill is your bill. I hope today we get to vote on it.

Mr. DREIER. Mr. Speaker, I yielded myself the balance of my time. I will say very simply that anyone who votes for the previous question on this issue is voting to kill congressional reform. There is a wide range of proposals that were debated in the joint committee.

We are attempting to markup H.R. 3801 in the Committee on Rules, and amendment after amendment is being killed. We have a chance on this vote right here to make H.R. 3801 in order. If we can defeat the previous question, I plan to do that, which would include the Shays-Swett language and other items.

So I urge a "no" vote on the previous question, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Members should know that the members of the Committee on Rules this very week started markup on the remainder of H.R. 3801 and there will be a further and broader reform bill brought before Members before this session ends.

This particular rule, as Members have heard, makes in order an excellent and long-overdue change in the law, a bill that would finally apply to Congress those laws which for too many years we have applied to other people but not to ourselves. I want to make it clear to Members who happen to be listening but have not understood all of the discussion that this is in fact a bipartisan bill. The principal cosponsors are from both parties.

I also want to make clear the fact that more than half of the amendments that were made in order here under this particular rule, which we will be voting on in a very short time, are sponsored by either members of the minority party or by bipartisan coalitions of majority and minority members.

Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. SERRANO). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, I object to the vote on the ground of a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This 15-minute vote may be followed by a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 247, nays 185, not voting 2, as follows:

[Roll No. 386]

YEAS—247

Ackerman, Andrews (ME), Andrews (NJ), Andrews (TX), Applegate, Bacchus (FL), Baesler, Barca, Barcia, Barlow, Barrett (WI), Becerra, Beilenson, Berman, Bevill, Bilbray, Bishop, Blackwell, Bonior, Borski, Boucher, Brewster, Brooks, Browder, Brown (CA), Brown (OH), Bryant, Byrne, Cantwell, Cardin, Carr, Chapman, Clay, Clayton, Clement, Clyburn, Coleman, Collins (IL), Condit, Conyers, Coppersmith, Costello, Coyne, Cramer, Danner, Darden, de la Garza, Deal, DeFazio, DeLauro, Dellums, Derrick, Deutsch, Dicks, Dingell, Dixon, Dooley, Durbin, Edwards (CA), Edwards (TX), Engel, English, Eshoo, Evans, Farr, Fazio, Fields (LA), Filner, Fingerhut, Flake, Foglietta, Ford (TN), Frank (MA), Frost, Furse, Gejdenson, Gephardt, Geren, Gibbons, Glickman, Gonzalez, Gordon, Green, Gutierrez, Hall (OH), Hall (TX), Hamburg, Hamilton, Harman, Hastings, Hayes, Hefner, Hilliard, Hinchey, Hoagland, Hochbrueckner, Holden, Hoyer, Hughes, Hutto, Inslee, Jefferson, Johnson (GA), Johnson (SD), Johnson, E.B., Johnston, Kanjorski, Kaptur, Kennedy, Kennelly, Kildee, Kleczka, Klein, Klink, Kopetski, Kreidler, LaFalce, Lambert, Lancaster, Lantos, LaRocco, Laughlin, Lehman, Levin, Lewis (GA), Lipinski, Lloyd, Long, Lowey, Maloney, Mann, Manton, Margolies-Mezvinsky, Markey, Martinez, Matsui, McCloskey, McCurdy, McDermott, McHale, McKinney, McNulty, Meehan, Menendez, Mfume, Miller (CA), Mineta, Minge, Mink, Moakley, Mollohan, Montgomery, Moran, Murphy, Murtha, Nadler, Neal (MA), Neal (NC), Oberstar, Obey, Olver, Ortiz, Orton, Owens, Pallone, Parker, Pastor, Payne (NJ), Payne (VA), Pelosi, Penny, Peterson (FL), Peterson (MN), Pickett, Pickle, Pomeroy, Poshard, Price (NC), Rahall, Rangel, Reed, Reynolds, Richardson, Roemer, Rose, Rostenkowski, Rowland, Roybal-Allard, Rush, Sabo, Sanders, Sangmeister, Sarpalius, Sawyer, Schenk, Schroeder, Schumer, Scott, Serrano, Sharp, Shays, Shepherd, Sisisky, Skaggs, Skelton, Slattery, Slaughter, Smith (IA), Spratt, Stark, Stenholm, Stokes, Strickland, Studds, Stupak, Swett, Swift, Synar, Tanner, Tauzin, Tejeda, Thompson, Thornton, Thurman, Torres, Torricelli, Towns, Traficant, Tucker, Unsoeld, Valentine, Velazquez, Vento, Visclosky, Volkmer, Waters, Watt, Waxman, Wheat, Whitten, Williams, Wilson, Wise, Woolsey, Wyden, Wynn, Yates

NAYS—185

Abercrombie, Allard, Archer, Armey, Bachus (AL), Baker (CA), Baker (LA), Ballenger, Barrett (NE), Bartlett, Barton, Bateman, Bentley, Bereuter, Bilirakis, Bliley, Blute, Boehlert, Boehner, Bonilla, Brown (FL), Bunning, Burton, Buyer, Callahan, Calvert, Camp, Canady, Castle, Clinger, Coble, Collins (GA), Collins (MI), Combest, Cooper, Cox, Crane, Crapo, Cunningham, DeLay, Diaz-Balart, Dickey, Doolittle, Dornan, Dreier, Duncan, Dunn, Ehlers, Emerson, Everett, Ewing, Fawell, Fields (TX), Fish, Ford (MI), Fowler, Franks (CT), Franks (NJ), Gallegly, Gallo, Gekas, Gilchrest, Gillmor, Gilman, Gingrich, Goodlatte, Goodling, Goss, Grams, Grandy, Greenwood, Gunderson, Hancock, Hansen, Hastert, Hefley, Herger, Hobson, Hoekstra, Hoke, Horn, Houghton, Huffington, Hunter, Hutchinson, Hyde, Inglis, Inhofe, Istook, Jacobs, Johnson (CT), Johnson, Sam, Kasich, Kim, King, Kingston, Klug, Knollenberg, Kolbe, Kyl, Lazio, Leach, Levy, Lewis (CA), Lewis (FL), Lewis (KY), Lightfoot, Linder, Livingston, Lucas, Machtley, Manzullo, Mazzoli, McCandless, McCollum, McCrery, McDade, McHugh, McInnis, McKeon, McMillan, Meek, Meyers, Mica, Michel, Miller (FL), Molinari, Moorhead, Morella, Myers, Nussle, Oxley, Packard, Paxon, Petri, Pombo, Porter, Portman, Pryce (OH), Quillen, Quinn, Ramstad, Ravenel, Regula, Ridge, Roberts, Rogers, Rohrabacher, Ros-Lehtinen, Roth, Roukema, Royce, Santorum, Saxton, Schaefer, Schiff, Sensenbrenner, Shaw, Shuster, Skeen, Smith (MI), Smith (NJ), Smith (OR), Smith (TX), Snowe, Solomon, Spence, Stearns, Stump, Sundquist, Talent, Taylor (MS), Taylor (NC), Thomas (CA), Thomas (WY), Torkildsen, Upton, Vucanovich, Walker, Walsh, Weldon, Wolf, Young (AK), Young (FL), Zeliff, Zimmer

NOT VOTING—2

Herger, Washington

□ 1446

Ms. PRYCE of Ohio and Messrs. GREENWOOD, FISH, SMITH of Texas, TAYLOR of Mississippi, and ABERCROMBIE changed their vote from "yea" to "nay."

Mrs. COLLINS of Illinois and Messrs. STENHOLM, STOKES, CLAY, and LAUGHLIN changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. DREIER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DREIER. Mr. Speaker, House rule XI, in clause (l)(2)(A) reads: "No measure or recommendation shall be reported from any committee unless a majority of the committee was actually present, which shall be deemed the

VOL 140 PT 15 AG 10 — 11 1994 UMI

case if the records of the committee establish that a majority of the committee responded on a rollcall vote on that question."

Mr. Speaker, I realize that the rule goes on to say a point of order will lie in the House that a quorum was not present unless it was first made in the committee.

But my question is this: If the records of the committee show a quorum was not present on a rollcall vote to report a measure, can a committee still claim in its report that a quorum was present?

The SPEAKER pro tempore. The gentleman has correctly stated the rule.

Mr. DREIER. I know I have correctly stated the rule. I wonder if the committee can still claim in its report that a quorum was present?

The SPEAKER pro tempore. The Chair is giving the gentleman credit for stating the rule properly. In response to the gentleman's first inquiry, the Chair would state that, while it may not be accurate or proper for a committee to state in its report that a quorum was present if its records show a quorum was not actually present, that is an issue which must first be raised and preserved in the committee by a committee member for a point of order to survive in the House.

Mr. DREIER. Mr. Speaker, continuing my parliamentary inquiry, can a committee report a measure without a quorum being present, even when there is a rollcall vote, or must the committee then utilize a rolling quorum until an actual majority of the members respond to their names?

□ 1450

The SPEAKER pro tempore (Mr. SERRANO). In response to the gentleman's second inquiry, the Chair would state that if a point of no quorum is raised by a committee member when the measure is ordered reported, then the chairman of the committee must either await the appearance of a quorum if there is not to be a rollcall vote, or a rollcall vote must reveal a majority of the committee having responded at some point in time before the measure is ordered reported.

Mr. DREIER. Mr. Speaker, if I could pose one final question on my parliamentary inquiry, if a committee can order a measure reported with less than a majority being present, can the committee report a bill with just the chairman present as long as he does not make a point of order against himself?

The SPEAKER pro tempore. In response to the third inquiry, the Chair would state that it would be the responsibility of any and all committee members, at a properly convened meeting of the committee, to remain available to assure that at the time the measure is ordered reported a point of order is made that a quorum is not present in order to preserve that point of order in the House.

Mr. DREIER. Mr. Speaker, I thank the Chair for that very cogent explanation.

The SPEAKER pro tempore. Pursuant to House Resolution 514 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4822.

□ 1451

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4822) to make certain laws applicable to the legislative branch of the Federal Government, with Mr. INSLEE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. BEILENSON] will be recognized for 15 minutes; the gentleman from California [Mr. DREIER] will be recognized for 15 minutes; the gentleman from North Carolina [Mr. ROSE] will be recognized for 15 minutes; and the gentleman from California [Mr. THOMAS] will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Congressional Accountability Act, which is before us, is a strong and a good bill which deserves Members' support and vote. I pointed out earlier in the discussion on the rule itself that it, in fact, is a much stronger version of the application of laws legislation than that which was included originally in H.R. 3801, the reform bill of the joint committee.

This bill is stronger, may I reiterate, in the following respects:

First, it explicitly provides for the application of 10 laws, twice as many laws as H.R. 3801 provided for. One of those additional laws is the Occupational Safety and Health Act or OSHA, whose omission by the joint committee was criticized by a number of witnesses at our subcommittee hearings and which is probably the most visible example of laws which private-sector employers must comply with but from which Congress has heretofore exempted itself.

This bill also ensures coverage of all employees of the legislative branch, whereas the original bill, H.R. 3801, simply provided for a study of the coverage of employees of the various instrumentalities of the Congress.

Third, it makes the Office of Compliance a more independent entity than would H.R. 3801 by providing that the Executive Director be appointed by the Board of Directors rather than by the House and the Senate leadership.

The bill also ensures that congressional employees will continue to be covered by the various laws we already apply here in the House until the new regulations developed by the Office of Compliance take effect, whereas the original bill, 3801, left continuation of coverage in question.

Finally, it gives more authority to this new Office of Compliance to apply the laws to Congress by providing that the regulations they issue will automatically take effect unless Congress rejects them by a resolution of disapproval. The original bill, 3801, required Congress to act to approve the regulations before they could take effect.

Again, to emphasize, particularly for those Members who may have criticized the delay in action on the proposals of the joint committee, the bill that we are considering today is a much stronger, much more effective version than the original proposal of the joint committee. That improvement is due in large part to the fact that we have taken a few weeks. We have had some hearings. We have had a lot of help and input not only from the Committee on Rules but particularly from the Committee on House Administration, from a good many Members on both sides of the aisle. We have before us, this Member thinks, a bill of which we can be very, very proud and which will make a real difference.

Mr. Chairman, for purposes of debate only, I yield 6 minutes to the gentleman from New Hampshire [Mr. SWETT], one of the cosponsors of the bill along with the gentleman from Connecticut [Mr. SHAYS], to whom we owe credit for this bill before us today.

Mr. SWETT. Mr. Chairman, I want to thank Chairman ROSE for recognizing me and, more importantly, I want to thank him for all he and his staff have done to help get this legislation to the floor. Both the Committee on House Administration, and the Rules Committee under Chairman MOAKLEY, have reported out a strong bill for our consideration. This day could not have dawned without the support of both committees, and I and Congressman SHAYS want to express our appreciation to both the chairmen and ranking members of each.

Mr. Chairman, the bipartisan Congressional Accountability Act is simple in concept and broad in scope.

The simple concept behind the Congressional Accountability Act is that what's good for the private sector and executive branch is good for us here in Congress. Legislative branch employees deserve the same protections under the law as those enjoyed by their counterparts in the private sector or executive branch. As an employee, the legislative branch should bear the law's burdens just as other employers do.

This principle is as straightforward as it is just. That is why over 250 of our colleagues joined as cosponsors of an earlier version of the bill we will be voting on today.

H.R. 4822 applies, by statute, 10 employee protection and antidiscrimination laws to the legislative branch. These laws, by and large, are landmark pieces of legislation that Congress thought it important to pass; affording protections to employees that Congress thought it important they have. Today, if H.R. 4822 is approved, the House will go on record as supporting the full application of these same laws to our own employees. This step is a matter of simple fairness, and we should take it.

Our constituents expect that Congress will obey these laws just as they and their employees must. In the past, some have cited constitutional separation of power concerns as a reason for not extending the full protections of these laws to our own employees. Constitutional scholars differ on the validity of these concerns, but the bill before us today addresses them nonetheless by setting up a new and independent Office of Compliance within the legislative branch to enforce the laws on Congress. There will not be executive branch enforcement under this bill. What there will be, and ought to be, is the full and effective application of the protections afforded by these laws to legislative branch employees. No longer will Members of Congress sit in judgment of their colleagues on these matters. Outside hearing board officers will now determine when a violation of law has occurred and what the remedy for that violation should be.

Importantly, under the bill before us today aggrieved employees will be able to sue Members in district court where that right exists for private sector employees in the underlying statutes being applied. The right to a trial in district court is a fundamental step forward for congressional employees—one that empowers them and one that will keep the new internal process honest and effective.

Mr. Chairman, the Founders of our Constitution never intended that Congress should be exempt from laws enacted for the rest of the Nation. In Federalist Paper No. 57, James Madison made clear that the Founders fully understood the salutary benefits that would flow from having legislators join the public in conforming to the laws Congress would enact: he called it a guard against oppression and "one of the strongest bonds by which human policy can connect the rulers and the people together." The Founders intuitively understood the case we make here today: Congress will pass better laws if it knows it will be fully subject to them.

Mr. Chairman, everyone in this Chamber understands that a great deal of work needs to be done to repair the link between Congress and the people we represent, to close the gap that has opened up in recent years. The Congressional Accountability Act can be a key building block in that effort—a foundation from which a new span can be thrown across the chasm of mistrust which lies between all of us and the American people.

Congressman SHAYS and I have marveled at the bipartisan effort this bill represents. There are many colleagues and contributors, from the freshman class in Congress to constitutional experts in the think tanks to concerned constituents and citizens—all have shared in the shaping of this legislation. I, for one, am deeply grateful for the privilege of participating in such an effort and I thank all for their constructive contributions.

We have already begun building a bridge of cooperation and trust, modest as it might be, across the isle here in the House of Representatives. Passage of this legislation will extend that span from across the isle to across the beltway to the rest of the Nation.

Mr. Chairman, I urge all my colleagues to support final passage of the Congressional Accountability Act today.

□ 1500

Mr. DREIER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I stated during the debate on the rule, I have strong reservations about whether this legislation to apply the laws to Congress will, in fact, ever become law. Nevertheless, I want to express my strong support for H.R. 4822, as amended by the Rules Committee and the House Administration Committee.

Given the inclinations of the Democratic leadership to gut and kill this and other legitimate congressional reform initiatives, it is no small accomplishment that we are considering a strong compliance bill here today.

Credit also needs to be given to several of our colleagues for their contributions to this legislation.

They include, just to name a few: CHRIS SHAYS, BILL GOODLING, and HARRIS FAWELL on judicial review and OSHA compliance; OLYMPIA SNOWE on the integrity of the Office of Compliance; JOHN BOEHNER on the timely application of all employment laws; and WAYNE ALLARD, who played an instrumental role on the Joint Committee on the Organization of Congress.

Mr. Chairman, since the joint committee reported its reform recommendations last November, our colleagues have had an opportunity to review those recommendations dealing with congressional compliance, and they have raised genuine concerns that were not totally evident to the joint committee during our deliberations.

Most of those concerns, I believe, have been addressed in H.R. 4822.

For example, while the bill explicitly applies 10 laws to Congress, it also implicitly applies all other laws that relate to the terms and conditions of employment. The bill creates a Joint Office of Compliance, which will make it harder for either body to alter their internal rules if the application of laws becomes too burdensome.

More important, the bill provides for a "de novo" trial in district court in those cases where the de novo option would be available to employees in the private sector. Congress would not be complying with the laws if we are not subject to the same enforcement provisions available in the private sector.

I regret that the Democratic leadership will not allow us to debate a number of important amendments dealing with punitive damages, personal liability, and applying the Freedom of Information Act to Congress.

However, a number of good amendments are made in order that will improve an already strong bill. I urge my colleagues to support this legislation.

Mr. Chairman, I yield 1½ minutes to my very good friend, a freshman Member, the gentleman from Shrewsbury, MA [Mr. BLUTE].

Mr. BLUTE. Mr. Chairman, I thank my colleague, the gentleman from California, for yielding time to me.

Mr. Chairman, I rise in strong support of the Congressional Accountability Act. Next week we will be embroiled in a debate over how our future health care system will affect every American. In the past we have undertaken legislative tasks, comfortable in the acknowledge that we in the Congress were not affected by our own actions. When Members of Congress are not directly affected by the laws they pass, there is logically less incentive to pass rational legislation that works in the real world.

Our Founding Fathers envisioned a citizen Congress where Members would have to go home after their service and live under the laws that they have just passed. Unfortunately, Mr. Chairman, serving in Congress has become a career for many that has insulated them from the ramifications of their actions. Health care reform should not be developed in this insulated environment.

I have introduced legislation which would express our desire to see health care legislation applied to Congress. In fact, 90 bipartisan Members have cosponsored my bill and agree that health care reform should not be developed without congressional accountability.

While, unfortunately, that language is not part of this debate, it is imperative that we support the bill in front of us today, the Congressional Accountability Act. My New England neighbors, the gentleman from Connecticut [Mr. SHAYS] and the gentleman from New Hampshire [Mr. SWETT], have drafted legislation that will create a

VOL 140 PT 15 AG 10 — 11 1994 UMI

better environment for legislating and a better Congress for the American people. I strongly support its passage.

Mr. BEILENSON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Mrs. THURMAN].

□ 1510

Mrs. THURMAN. Mr. Chairman, I thank the gentleman from California for yielding me the time.

Mr. Chairman, I rise today to voice my strong support for H.R. 4822, the Congressional Accountability Act. I congratulate my colleagues, Mr. SHAYS and Mr. SWETT for their diligent work on this bill. I also want to recognize Mr. KLINK's efforts on behalf of this important issue.

I came to this House with a mandate from my constituents to change the way that Congress conducts its business. This bill is another vital step in the drive to make Congress accountable to the American people. I believe it will bring greater integrity and accountability to this House.

It is important that we show the American people that we are in no way above the law and that we are not afraid to live under the same laws we impose on the public.

My constituents constantly tell me that we here in Washington must be most responsive to them. If a law is good enough for our citizens, then it is good enough for us. This is the great benefit of this legislation: since we will now have to live under the statutes we approve, we will be more sensitive to the impact of our actions on the American people.

With passage of the Congressional Accountability Act, we will place ourselves under 10 existing laws to protect our employees. This is long overdue: we will now be covered by the Fair Labor Standards Act; the Family and Medical Leave Act; the Age Discrimination in Employment Act, the Americans with Disabilities Act; OSHA and five other important worker protection and antidiscrimination laws.

I want to briefly mention another important issue contained in this bill. During committee consideration, legitimate constitutional concerns were raised about executive branch intrusion into legislation branch affairs. The separation of power doctrine, the very foundation of our Government, must be preserved. A conflict has been avoided through the creation of the independent Office of Compliance governed by a board of directors. This new office, not the executive branch, will enforce the laws that we will have to follow with passage of this bill. The members of board of directors will be independent from the influence of current and former Members and lobbyists.

This bill is just the first step in the reform process. Before the 103d Congress adjourns, I look forward to consideration of the other proposals of the Joint Committee on the Organization of Congress. Our work on lobbying and campaign finance reform must also be completed. The time has come to expand accountability to every part of the legislative branch. Our constituents deserve nothing less.

Mr. DREIER. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Aston, PA [Mr. WELDON].

Mr. WELDON. Mr. Chairman, 7 years is not a long time inside the beltway. It is a long time to most people. Corporate America would love to have 7 years to comply with Federal regulations that we have imposed over the course of the history of this institution. It was 7 years ago, my first term in Congress, when I had to offer a privileged resolution on the floor of the House to get the attention of my colleagues at that time that the buildings we were operating in were fire traps. They were unsafe for the people who live and work here every day. This had followed a devastating fire in the office of then Speaker of the House Jim Wright. The buildings had no alarm systems, no detection systems, no automatic recall of elevators and would violate any building code in any city in America.

Mr. Chairman, it has taken us 7 years to bring the Federal legislative branch into compliance with OSHA regulations and I say it is about time.

Over the past 7 years that I have been here, we have tried on every occasion to include Members of Congress in the legislative branch in these various Federal regulations that we apply to corporate America. It has taken us 7 years to get to this point in time.

I am happy to rise in support of this bill. I say it is long overdue, but I say we could have done better. If we would have agreed with the gentleman from California [Mr. DREIER] and defeated the motion that previously was voted upon, we could have adopted the entire package of congressional reform, including 2 items that I had approved by the joint commission, a measure to establish a citizen ethics panel to oversee ethics issues within the Congress and targeted tax relief that would prohibit Members from anonymously putting in targeted tax relief in tax bills for specific constituents or corporations.

I am very happy that one of my third initiatives that I introduced in two previous sessions of Congress dealing with frequent flier mileage will, in fact, be offered later on today by our colleagues, the gentleman from Arizona and I plan to support that.

Mr. Chairman, I will support this piece of legislation. I think it is a long time coming. I say to my colleagues and to our constituents across the country, we could have done much better.

Mr. BEILENSON. Mr. Chairman, for purposes of debate only, I yield 2 minutes to the gentleman from Maine [Mr. ANDREWS].

Mr. ANDREWS of Maine. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, these cards provide to me and my wife the guarantee of quality health care, guaranteed. The question that this Congress will be facing today and in the next few weeks is whether or not the Congress of the United States should provide to the families of America the same guarantee of health care coverage that the hard-working families of America provide to Members of Congress. We can say yes to that question by supporting universal coverage in the debate over health care reform, and we can say yes to that question today by supporting this legislation and by supporting the Byrne amendment to this legislation, which will establish in this statute the principle that the Congress of the United States in voting for health care for hard-working Americans will be voting for health care for their families at home.

Mr. Chairman, to too many Americans across this country, congressional accountability is an oxymoron, a contradiction in terms. I believe very strongly that taking the step in passing this bill and providing to the families of America the same guaranteed health care coverage that the families of America provide to Members of Congress will be an important step in reversing that perception, restoring faith to this institution, and providing to the families of this country the guarantee of health care that they want and the guarantee of health care that their families deserve.

I urge Members to support this legislation and to support the Byrne amendment when it comes to the floor.

Mr. DREIER. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Ocala, FL [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I want to thank my colleague from California very much, and I commend him for all he is doing on this bill and for his constant effort in bringing to the public's attention what has to be done in terms of congressional reform.

Mr. Chairman, I have been a longtime supporter of passing legislation making the laws Congress passes for the rest of the Nation apply to itself, and am pleased we have the opportunity to vote on this bill today.

I regret, however, that this minimal reform appears to be all we are going to get out of Congress this year. When the leadership of the House separated this part of the overall reform package from vital organizational, procedural and budgetary reforms, it ensured that public skepticism about the intentions of Congress would rise, not fall, by our actions today.

The bipartisan Joint Committee on the Organization of Congress proposed sweeping changes in the way we do business here in the House, but the leadership of the House has refused to consider their recommendations as a package.

So, Americans watching this debate today are faced with a confusing anomaly. The bill we are debating is called the Congressional Accountability Act, but there is very little of the accountability the public is demanding in this bill.

Let me give two examples. I offered an amendment to this bill to provide for the ultimate accountability. It said that members of Congress could not raise their own pay in a year following a budget deficit. It was not allowed under this rule. Check with your constituents if that is the type of accountability they want.

I also offered an amendment to require the House to take a recorded vote whenever we raise the debt ceiling, rather than doing so by stealth tactics. That also is real accountability, but it was not allowed.

We should not go home and tell our constituents that we passed the Congressional Accountability Act. Instead, to be accurate, we should say we passed the Very, Very Limited Congressional Accountability Act. See if that will make our constituents happy.

Mr. BEILENSON. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. I thank the distinguished gentleman from California for yielding me the time.

Mr. Chairman, I rise in strong support of the Congressional Accountability Act. As so many have talked so eloquently, I think we are very much moving in the right direction, but I guess at the cost of some political peril and with an attempt at wit to say that perhaps it is irrational for me to be making such a statement as I am about to make or pointing this out, it is definitely impolitic and I have the utmost regard for the gentleman from Maine and his concern to bring universal health care and health equity to all Americans.

I would counsel for some thought at least as to the Byrne amendment as we rush to in essence give ourselves less rights than other Americans similarly situated have. Under the Byrne amendment, there would be a uniform minimum package as passed for all Americans but in essence singling out the Congress, just Members of the Congress, as distinct from all other Federal employees to have in essence less benefits, less choice, less rights in regard to their employer. I think this should at least pose some thought for the long run.

Mr. BEILENSON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Chairman, I rise in support of this measure.

Mr. Chairman, I rise today to urge my colleagues to vote for this measure which will hold Congress to the same employment standards that we have imposed on businesses and other employers for years.

The process of coming to grips with this legislation has been cumbersome. A major stumbling block has been the issue of separation of powers between the legislative and the executive branches of Government.

Mr. Chairman, the Constitutional principle of separation of powers should be preserved to ensure that Congress—as a coequal branch of Government—can operate independently of any influence by the executive branch. A provision in this bill addresses that very real concern by establishing an independent enforcement arm within the legislative branch to guarantee compliance. The Members who worked on this provision have developed a thoughtful and independent mechanism—specifically the Office of Compliance—to promulgate regulations and respond to employee complaints. The Office of Compliance will be free from partisan politics and any influence from the executive branch.

Mr. Chairman, many have said that this bill is about fairness—that Congress has uniquely—and wrongly—preserved itself from the laws of the land. While I agree with that statement, it is my hope that the practical impact of passing this legislation will actually resonate more with Members of Congress than with the public at large. It is my hope that Members will, as a result of this legislation, pass laws which are more thoughtful in the future.

Congressional offices are not at all unlike small businesses. And what Member of Congress has not heard the regulatory concerns of small businesses? By holding ourselves to the same employment standards to which we hold American businesses, I am hopeful that all of us will better understand the laws we create, and have created already.

Mr. Chairman, now that a thoughtful mechanism which preserves the independence of the legislative branch has been developed—it is time to pass this legislation.

I commend all of the Members who worked so hard on this measure and urge my colleagues to vote for the bill.

Mr. DREIER. Mr. Chairman, I yield a full and generous 3 minutes to my friend, the gentleman from Sanibel, FL [Mr. GOSS], a hard-working member of the Committee on Rules.

Mr. GOSS. Mr. Chairman, I thank the distinguished gentleman from greater San Dimas, CA for yielding me the full 3 minutes. I appreciate the full measure.

Mr. Chairman, in the very first weeks of this Congress I introduced House Concurrent Resolution 18, which stated that "Congress [should not be] exempt from the laws that it enacts and should govern itself according to the laws that apply to the private sector and other branches of the Federal Government."

The American people have long suspected that lawmakers in Washington treat themselves better than the people they represent. This image is not helped by the fact that Congress under Democratic leadership routinely exempts itself from legislation it expects others to live by. Congress is not, and should not be, above the law. I am pleased that we will finally address this issue today, although I am sorry we are prevented from debating a comprehensive reform package. Yes, it is a good start to abide by the laws we pass—but, we cannot lose sight of changing the way we do all of our business here on the Hill, as Mr. DREIER has so articulately stated. As long as Congress plays by a different set of rules than the private sector, the credibility of the institution and the confidence in the laws it passes will continue to suffer. We are not above the law. Just ask any American.

I think everyone realizes that by splitting apart the package crafted by the Joint Committee on the Organization of Congress—a product of many hours of hearings and deliberations—we are scuttling the possibility of enacting overall congressional reform. I am afraid the leadership is engaged in an attempt to pull the wool over the eyes of the American public, which has demanded comprehensive reform of the House and Congress. By splitting off a few of the more popular measures and passing them with great fanfare, the leadership hopes that Americans will forget about the rest of the package. This is a very shortsighted strategy, one that is doomed to failure because we leave so much necessary reform undone.

□ 1520

The distinguished gentleman from Massachusetts in the debate on the rule said, "Well, we're getting off here to a great start." After Chairman HAMILTON and the ranking member, the gentleman from California [Mr. DREIER] proposed the whole loaf of reform, the gentleman from Massachusetts indicated that we should be satisfied with not half the loaf, not even a few slices, but just one thin slice.

Why are we always settling for just one thin slice of reform when we could be doing the whole loaf, which has been so beautifully presented to us by the gentleman from California [Mr. DREIER] and the gentleman from Indiana [Mr. HAMILTON]?

Mr. Chairman, I thank the gentleman from California for his leadership on this issue.

Mr. BEILENSON. Mr. Chairman, I yield my remaining 2 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding the time.

Mr. Chairman, I rise today in support of H.R. 4822, the Congressional Accountability Act.

I am delighted that we are considering a bill today that enlarges provisions I originally included in the Americans with Disabilities Act 4 years ago, to include the Congress in the law's scope.

VOL 140 PT 15 AG 10 — 11 1994 UMI

The Congressional Accountability Act accomplishes something we need, it assures that Congress will comply with laws we have made for American businesses. I applaud the efforts of the gentleman from New Hampshire and the gentleman from Connecticut to bring this important legislation to the floor.

I cannot tell you how many times I have heard the complaint from my constituents in town hall meetings and chamber of commerce luncheons that Congress makes laws from which it exempts itself. I look forward to assuring them that is no longer the case.

This is an opportunity to change the perception in the country that there are two sets of laws: one for Congress, and one for everybody else. We need to show that we do live up to the standards we have set for our business owners, and also afford our employees the same protections that every other worker in the United States has.

From OSHA to Fair Labor Standards to a variety of other workplace related laws, this legislation will complete the work of bringing Congress into line with the rest of America.

While the bulk of this bill deals with laws that apply only to the private sector, let me touch on a different kind of compliance issue that is also addressed. Although the Freedom of Information Act does not apply to the private sector, it does currently apply to the executive branch.

I believe that the unique complexities of this matter, pertaining to privacy laws and the difficulties in applying FOIA to the legislative process, requires further study.

Therefore, I am pleased the committee adopted a bipartisan amendment which provides for the board of directors to study the issue and make recommendations regarding future implementation. We must ensure that while appropriate documents are available to the public and I believe most already are, that the privacy of our constituents is respected and protected.

The Congressional Accountability Act will not only make the U.S. Congress a better employer, but more important, it will give us an enhanced understanding of the implications of the workplace laws we make.

Mr. Chairman, I urge my colleagues to join me in supporting this legislation.

Mr. DREIER. Mr. Chairman, I yield 1½ minutes to my friend, the gentlewoman from Auburn, ME [Ms. SNOWE], a Member who has spent a great deal of time dealing with the issue of reform before both the Joint Committee on the Reorganization of Congress and the Rules Committee.

Ms. SNOWE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to extend my appreciation and thanks to Congressman DREIER, the co-vice-chairman of the Joint Committee on the Organization of Congress, and to Congressmen SHAYS and SWETT, whose efforts have done so much to bring the Congressional Accountability Act to the floor of the House today.

In the elections of November 1992, the American people sent a loud and clear message to Congress that the status quo has simply got to go. But this message was more of a "wake-up" call to a "Rip Van Winkle"-type institution that has slept through years of change and reform around the world. Just think about it—while the House has been dominated by one-party rule for almost 40 years, democracy came to the former Soviet Union, Mikhail Gorbachev came and went as leader of the Soviet Union, the Berlin Wall was built and torn down, peaceful dialog came to the Middle East and South Africa, and Mick Jagger and the Rolling Stones became grandads. The tide of openness, reform, and progress has swept across the world—and yet our House of Representatives stands as a monument to the status quo, to perks and privileges, and to the fear of change. Our great Nation used to be at the forefront of openness and accountability; now, it appears that we lag far behind.

But, in 1994, Americans are angry. They are impatient. They want a different kind of Congress. The American people believe that Congress is out of touch with the lives of ordinary Americans. And people will no longer tolerate Congress setting itself above the law. And it's now time for us to meet their higher expectations.

Mr. Chairman, the time for serious reform of Congress has long since arrived. Given the clear mandate for change and accountability sent by the American people 2 years ago, I simply cannot understand why Congress has waited this long to tackle reform. By refusing to debate and consider congressional reform legislation prior to today, Congress showed that it was not serious about policing and reforming itself. Because of congressional inaction, the American people hold Congress in a historically low regard.

And who can blame them. What kind of message does Congress send to Americans when it sets itself above the law? What kind of message does Congress send to America when it believes it is beholden to different ethical or moral standards? And how can Congress claim to pass laws in the best interest of the American people if Congress refuses to abide by those very same laws?

This is not what James Madison, one of our Founding Fathers, had in mind when he said that Congress "can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society." Congress desperately needs to pass this bill as the first step of many toward regaining its credibility as a law-making, and law-abiding, institution.

The application of laws to Congress has been a chief objective of mine for many years. I have long been concerned about this issue, having spoken out on several occasions against the policy of Congress exempting itself from the laws it passes affecting the American people; in fact, almost 10 years ago, in 1985, I testified before the House Post Office and Civil Service Committee about the need for Congress to treat its employees the way it requires private businesses to treat their employees. In addition, I introduced legislation in the last two Congresses to extend coverage for House employees under the Civil Rights Act and the Age Discrimination Act, and to require the Committee on House Administration to make recommendations on extending coverage under the Occupational Safety and Health Act.

In the 103d Congress, the Congressional Caucus for Women's Issues, which I cochair with my colleague, Representative PAT SCHROEDER, has aggressively pursued the issue of applying Federal laws to Congress. We introduced the Congressional Employees Fairness Act, on behalf of the caucus to ensure that Congress is covered under five major civil rights laws, and to provide broad new protections for employees of the House and Senate. The major provisions of this bill were adopted by the Joint Committee on the Organization of Congress, which was established last year to review and improve the legislative process. The JCOC's broad recommendations, which included congressional compliance, committee reform, changes to floor procedures, budget process reforms, among others, were packaged as H.R. 3081.

I am dismayed that we are not considering H.R. 3081 today, or that the major provisions of H.R. 3081 will be considered separately by this Chamber. I strongly believe that the reform package should have been considered in its entirety, with a rule providing ample opportunities for perfecting amendments on the floor. However, I do believe that the reform Americans want most from Congress is congressional compliance with Federal laws. The bill we are considering today, H.R. 4822, will accomplish that for the American people.

This bill is an excellent bill. It is a timely bill. And it is a necessary bill. Like the Caucus bill, it would apply the Civil Rights Act, the Americans with Disabilities Act, the Fair Labor Standards Act, the Family Medical Leave Act, and the Age Discrimination Act to Congress. H.R. 4822, however, would also extend protection to the entire legislative branch, and would apply five additional laws, including OSHA, the Federal Labor Management Act, the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Notification Act, and the Rehabilitation Act.

Mr. Chairman, Congress has shown great skill over the last 20 years in passing laws barring discrimination. Unfortunately, Congress has shown even greater skill in avoiding these same laws. But no institution should be above the law—especially Congress. No institution should be exempted from the law—especially Congress. And no one should ignore the law—especially Congress. That is why passage of this bill is an absolutely critical first step to giving this institution the reform it desperately needs and the reform the American public so clearly desires. Let us put the faith back into Congress. Let us put the Representative back into the House of Representatives. And let us show the American people that, yes, we do listen. Let us pass this bill today.

Mr. DREIER. Mr. Chairman, I yield 1 minute to my friend, the gentlewoman from Bellevue, WA [Ms. DUNN], one of the hardest working members of our Joint Committee on the Reorganization of Congress.

Ms. DUNN. Mr. Chairman, I thank the gentleman from California for yielding me the time.

Mr. Chairman, as I stated earlier today in the debate on the rule, disservice to the Congress and to our constituents to disregard bipartisan advice and bring this bill to the floor absent the remainder of the congressional reform legislation.

Nevertheless, I support the provisions of a Congressional Accountability Act that will finally force Congress and Members to obey the laws that are passed for every American outside of the Capitol. This bill is important because current laws will not be applied to Congress. But, it is the future for which this bill offers the greatest promise, for now, a precedent has been established—Congress will follow the law.

From today forward, every piece of legislation will be considered with the knowledge that the included provisions will apply to Congress. This will be the great legacy of this bill. No more will Congress pass bills saying, "Great idea, but sorry, it's too expensive for Congress." No more will Congress say, "Good, good point, but, no, sorry, it's not practical for Congress." From now on, if it is the right law for the American people, it will be the right law for Congress.

I commend the efforts of the Congressmen SHAYS and SWETT. You've rectified a past inequity, but more important, you have set a new path for the Congress for the future.

Mr. DREIER. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Osseo, WI [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I rise in support of this legislation, and I do so not only because, as the gentleman from Maryland indicated earlier, this gives protection to the employees. Equally important I would suggest if this does begin to give credibility to this institution, and whether we are talking deficit reduction or we are talking heath care reform or we are talking entitlement reform or other important issues in front of this Congress and this Nation, this Congress will never be able to make the tough decisions until we have credibility in the eyes of the people, something that does not exist today, but something this bill takes a small step in the right direction.

□ 1530

I would point out the reason it takes that step in the right direction is because it creates an Office of Compliance, and it allows every one of those employees who is the victim of this discrimination not only to seek internal recourse but, most important, to take that to the courts when and if it is necessary.

And so this, along with some of the amendments we are going to reconsider in terms of programs making us subject to the same health plan of everybody else, will be another step in the right direction of credibility in the eyes of the public, and I encourage your support.

Mr. DREIER. Mr. Chairman, I yield the balance of our time to the gentleman from Pennsylvania [Mr. GOODLING], the distinguished ranking member of the Committee on Education and Labor, my friend from Jacobus, PA.

Mr. GOODLING. I thank the gentleman for yielding me this time.

Mr. Chairman, I will compliment those who have brought this legislation to the floor. We have come a long, long way since I have seen some of the other pieces of legislation earlier on.

We could have gone the whole way had my amendment been made in order, because my amendment merely said that we will treat Members of Congress and employers in the legislative branch as we treat the private sector; in other words, we can be taken to court as employers, and we can have punitive damages brought against us up to a cap of $50,000.

I chose the $50,000 because that is the cap that we have for small businesses. There is no reason why we should not receive the same punishment for our misdeeds as the private sector, and had we included that, then I think we would have an ideal piece of legislation.

I do want to make sure our taxpayers back home understand that this could be a very, very, very expensive piece of legislation for taxpayers, very expensive because if the Members or if the person who is bringing the suit decides to go to court, and naturally, they will drift to court rather than through the internal process, if they do go to court then, of course, and are successful, the taxpayer is the employer. So it is the taxpayer who picks up all of their expenses, the expenses for their attorneys, the damages, et cetera, and it is unclear in the legislation whether that is not also true for Members of Congress, that the taxpayer may pick up our expenses if we lose.

The CHAIRMAN. The gentleman from North Carolina [Mr. ROSE] is recognized for 15 minutes.

Mr. ROSE. Mr. Chairman, I yield myself such time as I may consume.

H.R. 4822, the Congressional Accountability Act was unanimously reported from the Committee on House Administration on July 28. This act marks a historic step in two ways.

I would certainly stop at this point and pay a special thanks to our colleagues, the gentleman from New Hampshire [Mr. SWETT] and the gentleman from Connecticut [Mr. SHAYS], for the work that they have done together in a very bipartisan way to bring this part of the legislation before our committee.

Our committee was not given jurisdiction over the whole of this congressional reform effort, but simply that part that was mainly called the Shays-Swett portion of the bill, and we started actually in June holding hearings on this legislation. We asked Members to testify in June and to talk about why they thought it was necessary. We held two hearings, and then a markup in July.

We had congressional scholars, separation-of-powers scholars, people from OSHA actually show us what they had discovered about our office buildings, people from the Library of Congress, and then our leadership decided that they wanted this to move forward and we moved it to a markup on the 28th and as I said it passed unanimously.

First, the act grants legislative branch employees the same protections and legal rights as employees of the private sector. Second, it makes Congress subject to the same laws as the private sector.

This act applies 10 existing employee protection and nondiscrimination laws to Congress. These include the Fair Labor Standards Act, the Americans with Disabilities Act, and parts of the Civil Rights Act. The legislation establishes a new, and independent, Office of Compliance within the legislative branch. And I want the gentleman from New Hampshire [Mr. SWETT] on our side in a few moments to discuss this with me. Many people have questions about this Office of Compliance.

The Office will issue regulations, and respond to employee grievances, just as occurs in the private sector. This new Office of Compliance will replace the existing Offices of Fair Employment

VOL
140
PT
15
AG
10
—
11
1994
UMI

Practices, in both the House and Senate.

The Office will convene hearing boards, made up of three independent hearing officers. These hearing officers will be from the Federal Mediation and Conciliation Service, or the Administrative Conference of the United States, which will ensure their qualifications and their independence. And the Office itself will be independent of Representatives, Senators, and legislative branch agency heads. This independence will avoid possible or perceived conflicts in resolving congressional employee grievances.

Furthermore, if an aggrieved employee wants to go beyond the new hearing board process, the employee can proceed to the Federal district court. If the right is available to a private sector employee, it will be available to a congressional employee under this act, and the aggrieved employee will also have the right of appellate review by the U.S. Court of Appeals.

When implemented effectively, this act will have a salutary impact on Congress' relationships—not only with congressional employees—but also with the American people.

Several basic principles guided the formation of this act: First, fairness requires that congressional employees be accorded the same rights and protections as other employees; second, if a law is right, it should apply to the Congress as well as the private sector; third, if Congress lives by the same laws it applies elsewhere, it will write better laws; and fourth, the Constitutional separation of powers doctrine must be respected.

While some Members believe that executive branch enforcement must go hand-in-hand with these 10 laws, constitutional scholars do not speak with one voice on the issue. The objective of this act is to ensure effective enforcement—but not at the expense of the constitutional separation of powers doctrine.

Overall, the arguments against executive branch enforcement where compelling. An executive branch, armed with such enforcement powers, might attempt to manipulate the Congress.

This act clearly goes a long way toward closing the credibility gap, which exists between Congress and the American public regarding congressional compliance with laws. It also goes a long way in giving our employees the protections they deserve by law. It is an excellent start, and I urge my colleagues to support the bill.

The constitutional balance requires that the legislative branch be free from such potential initmidation—real or perceived—in both the execution of its constitutional role, and as a coequal branch of the Federal Government. I do not believe that Congress has ever purposefully abdicated its constitutional rights and responsibilities.

So the structure of the New Office, and the procedures in this act preserve the constitutional separation of powers, while empowering congressional employees with strong new protections against discrimination and harassment, and providing for a safer congressional working environment.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS of California. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, it is a pleasure to rise in support of H.R. 4822, despite the failure to look at fundamental congressional reform in all of the areas that the joint committee examined. At least in this one particular area, I am pleased to say that it has been marked singularly by bipartisanship.

Clearly the two authors of the bill, the gentleman from Connecticut [Mr. SHAYS] and the gentleman from New Hampshire [Mr. SWETT], have labored long and hard to make sure bipartisanism was the way in which they moved forward with their legislation.

I am pleased to say that on July 28 in the Committee on House Administration it was bipartisanism that was governing the discussion, the offering of amendments, and the acceptance of 14 amendments.

The bill was considered a positive change, and the amendments were offered in the context of a positive contribution to try to make the bill better. I was very pleased with the more than 4 hours of discussion that occurred over the bill and pleased with the unanimous vote at the end of the committee hearing to move this bill forward.

I believe that this is the beginning of a two-stage process. This is the first stage, and the first stage is getting Congress to understand what is actually going on out there in the real world.

After George McGovern left the U.S. Senate, he purchased a small hotel and restaurant in Statford, CT. On June 1, 1992, in a Wall Street Journal article entitled "A Politician's Dream is a Businessman's Nightmare," former Senator McGovern wrote,

> I also wish that during the years I was in public office, I had had this firsthand experience about the difficulties business people face every day. That knowledge would have made me a better United States Senator and a more understanding Presidential contender.

We are in stage 1. We need to get the U.S. Congress to understand what it has been doing to the private sector. I hope we will then move to stage 2.

□ 1540

Stage 2 is not to put us under the same laws; that is in Stage 1. The purpose of putting us under the same laws is to get us to realize how stupid and foolish we have been in many, many instances.

Stage 2 will be the redefining, restructuring, and repealing of a number of laws.

Mr. Chairman, I look forward to stage 2.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I thank the gentleman from North Carolina for yielding this time to me.

Mr. Chairman, Congress should be passing comprehensive reform legislation today. I voted, in fact, 3 times to force Congress to consider comprehensive reform legislation, but the least we can do is pass by overwhelming numbers today the Congressional Accountability Act.

It is high time Congress lives by the laws it passes for the people. It is high time that we end congressional hypocrisy when Congress, so often in the past, has passed special rules applying only to Congress. It is high time Congress lived by the Golden Rule, to do unto others as we would have done to ourselves.

It is my hope that we will, as the gentleman from California has pointed out, pass fewer laws, repeal bad laws once we feel the burden in our offices of these many laws.

If you walk a mile in the shoes of small business, you will find it is very, very good exercise for this Congress.

Mr. THOMAS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BARRETT], a very valued member of the committee who has labored in this field.

Mr. BARRETT of Nebraska. Mr. Chairman, although I rise in support of H.R. 4822, the Congressional Accountability Act, it is not the bill we should be debating today. If the leadership was truly committed to real reforms, H.R. 3801, put forth by the Joint Committee on the Organization of Congress, would be the bill under consideration today.

Nevertheless, I do want to commend Mr. SHAYS and Mr. SWETT for their hard work on H.R. 4822. Their efforts helped force this issue to the floor, and they were more than helpful in working with our House Administration Committee to draft a comprehensive compliance bill.

Having been a small businessman for more than 30 years, I know full well the overregulation and the endless bureaucratic hoops through which private businesses are forced to jump. And when I travel my district, the burden of Government regulation is always—always—the major complaint from today's small business men and women.

H.R. 4822 will hopefully make Members more receptive to these challenges that small businesses encounter. By bringing congressional operations under the full force of laws that we selectively applied to ourselves, and by

applying others, like OSHA, for the first time, perhaps the alarm will finally go off and wake Members up from dreamland.

Once our offices and support operations have to decipher, understand, comply with, and pay for the cost of these laws, then maybe we'll be more realistic in our approach to lawmaking. And wouldn't it be a miracle in la-la land if we discovered Congress had made a mistake in the past—that the Federal Government was being too heavyhanded, too paranoid about business operations—and we decided to repeal some regulations. I'd bet the ranch to be here for that.

Having said that, I want to stress again my disappointment that we aren't considering H.R. 4822 as part of the larger, more comprehensive reform package.

Mr. Chairman, it is no wonder that the people who watch our activities on C-SPAN don't understand how we get anything done around here.

The real issue here isn't congressional compliance—as there is broad, bipartisan support for that portion of congressional reform. The bitter pill to swallow is the change in how this House functions in its committees, on this floor, and when it goes behind closed doors and out of public view.

The system of rules we presently have in place always fixes the fight. It's a shootout at the OK Corral day after day, but the minority doesn't get to bring so much as a knife. It's more like the minority party, is supplied with plastic forks and knives to defend themselves, while the majority party is supplied with all of the assault weapons banned under the crime bill.

I urge my colleagues to support H.R. 4822, and I look forward to additional reforms that will provide for a less combative, less partisan environment under which this House could move forward legislation—even legislation as complex and controversial as health care reform and a crime bill—in a fair and open manner that is befitting the integrity of this Chamber.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I thank the gentleman from North Carolina for yielding this time to me.

Mr. Chairman, let me begin by saying that H.R. 4822 is a fine piece of legislation. It has been crafted over a year and half and had the input of dozens of reform-minded Members. It is my belief, however, that this legislation can be perfected today. I believe that we can make certain that Congress comes into complete compliance with labor laws, in exactly the same way our constituents in the private sector must comply.

When I was running for Congress, only 2 short years ago, I listened to public discontent over the issues of congressional ethics and the inside-the-beltway, out-of-touch-with-the-mainstream perception. The public is very aware that Congress passes laws without any practicable knowledge of the problems inherent in implementing these laws, especially labor and civil rights laws. Why is that? Because we do not have to comply with the laws that we pass.

Some laws do not explicitly exclude coverage of Congress—some Members of Congress even attest that we do comply with laws like the Fair Labor Standards Act and the Family and Medical Leave Act. But there is no enforcement of our compliance. Effective enforcement of compliance is the only true way to restore integrity to Congress.

In May of last year, I sponsored my first piece of legislation. The title of the bill is the Equity for Congress Act. Simultaneous to the introduction of my congressional compliance bill, I was a cosponsor of H.R. 349, the first Congressional Accountability Act, sponsored by Mr. SWETT and Mr. SHAYS. I have worked diligently over the past year and a half to ensure that the recommendations made by the Joint Committee on the Organization of Congress were refined, especially to include the Occupational Safety and Health Act. In addition, I have successfully offered an amendment, H.R. 1280, the OSHA Revisions Act, to guarantee our employees are afforded the same standards of health and safety as employees in the private sector.

The bill that is before us today is the culmination of the efforts of all Members who believe Congress must be treated like the private sector. H.R. 4822 complements present practice in this House in the following ways: All instrumentalities of the Congress will have to abide by civil rights and labor laws; Congress will be accountable for the remedies that private citizens fear for not being in compliance; there is a provision that ensures the independence of the Board of Directors of the Office of Compliance by not allowing Members, former Members, nor staff or former staff of Members from serving as Board members; and, most significantly, there is a provision that allows employees aggrieved by Congress to seek retribution in the courts.

H.R. 4822 is not the end, however. It is just the beginning. In excess of 30 amendments were offered to the Rules Committee. What is important now is that we all commit to further refining this legislation in future Congresses to make certain that Congress comes into complete compliance with labor laws, in exactly the same way our constituents in the private sector must comply.

I urge my colleagues to support this bill.

Mr. THOMAS of California. Mr. Chairman, it is my pleasure to yield such time as he may consume to the gentleman from Georgia [Mr. GINGRICH], a member of the committee and the minority whip.

Mr. GINGRICH. Let me just say that I rise with very mixed emotions. First of all, I am very strongly supportive of the general bill. I think that as a general bill this is something I have talked about everywhere in the country, and as I have said, it is something we should pass and it is something I hope that the other body will take up.

I think the concept of applying the laws that apply to the rest of the country to the Congress is very, very important. James Madison was correct in the Federalist Papers in saying that one of our protections against Congress doing foolish things ought to be to require the Congress—the knowledge that the Congress ought to obey the same laws and Congress, therefore, would not do dumb things because congressmen would be under the same rules.

In the last 30 years that has been less and less true and it has been bad. So, on the one hand I really strongly support the general direction of this bill. I think it is generally right.

On the other hand I think that the rule that was adopted and the way this has been approached is profoundly wrong; that many efforts to reform the system at large are being blocked and that it is unfortunate that the Democratic leadership in a sense is using this bill as a screen behind which to hide from the fact that there are other key provisions. And I refer specifically to Mr. DREIER's efforts on reforming the committee structure which are not going to be made in order, which are not going to come to the floor. That makes me sad.

But then in addition to that, I must say that the Democratic leadership has made two amendments in order that I think are just silly and that I think demean the whole process.

Let me be blunt: I think to have an amendment made in order on behalf of two different freshmen as a reelection public relations device just demeans the whole system. The one, basically, would in a bizarre move eliminate Members from the Federal employee health benefits plan in a way that would worry me if I were a Federal employee. I would wonder if that amendment means that that Member is now going to be or ought to be willing to have any member of the Federal employees health benefit plan subjected to the lowest possible health standards.

And it is a very strange amendment. It does not say that the Congress should participate in general health reform; it does not say if we pass medical savings accounts, if we pass catastrophic insurance, if we pass group insurance, that we should be eligible. It says, instead, that the Congress would only provide the most minimum possible health care offered anywhere.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Let me tell you why that worries me. It does not worry me for JAY ROCKEFELLER; he is a millionaire. He will laugh at it, vote "yes," and then buy whatever he wants. It does not worry me about TEDDY KENNEDY. You can go down the list of Senators. There are more and more Senators who are millionaires because there are more and more seats being bought. They can afford it.

Then go out and you try to recruit an average middle-class citizen with two or three children, a normal person who understands normal life, and you say, "Hi, why don't you come to the Congress? By the way, we are now going to artificially restrict you to the lowest possible denominator of health."

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Now what this will do is drive this place into two groups: millionaires that do not care, and they can laugh, or they demagog, because they are just going to pay for it out of their personal account, and people who will suffer any burden to have power, who will give up anything to have power. I think the amendment is pernicious. I hope Members have the courage to vote against it. I think it is, frankly, silly and makes no sense in its current form, and, if my colleagues read it carefully, I do not think any Member would seriously apply that to the others.

There is a second amendment being offered by a Member who wants to make sure they can go out and say, "I'm for reform" and it refers to frequent flyer trips. Now I do not think frequent flyer trips are a big deal either way. I do note that in the private sector if one flies often enough, they get some frequent flyer miles. But let me note for that Member that Member does not say, "Let's block Members from paying with the taxpayers' money for first class." They just say, "You can't use your frequent flyer miles to upgrade." So, presumably they are willing to build a bias into the system that, as long as one is willing to charge directly to the taxpayer, one can fly first class because they certainly do not block that. They do not say to Members, "Let's list next to each name every trip you take in an Air Force plane so we can see how much you spend."

And by the way, Mr. Chairman, I have gone to Russia at the President's request, and I do not mind listing it. I can defend traveling officially as a member of a U.S. delegation, but one cannot find those documents very easily.

What this Member has done is found a great public relations gesture, an interesting little device to say, "Oh, I'm tough on reform," and I think it is sad because quite frankly the rest of this bill is a good bill. It is a serious bill. It does serious things. It does not play games. It gives the House a real effort to put the House and hopefully, if the other body will go along, to put the Congress under the same laws as the rest of the country.

Those two efforts, in the interest of public relations, those two efforts demean the institution. They are public relations gestures, and they have no real reform meaning.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, I want to commend the gentleman from Georgia [Mr. GINGRICH]. I agree with him totally in both instances. They are merely efforts at bashing this Congress.

We on the Committee on Post Office and Civil Service have worked day and night to fashion a piece of legislation to go into the health bill that will open up the Federal employees health plan to all American citizens, and for somebody to get up here and give the impression that Congress is getting something that the American people are not getting either has not read what is in that legislation, but she has read it because she is on the committee, and she was there when we voted for it, so she knows that, if the health bill passes, as we have designed the legislation, that Members of Congress will have the same health benefits as other people who choose to come into the plan that we are opening up for them.

Mr. GINGRICH. Mr. Chairman, I say to my friend, "I commend what you have done."

I want to protect the Federal employee benefits health plan. I do not want to see it undermined. I do not want to see it used for public relations purposes.

Mr. Chairman, I commend what the gentleman has been trying to do. Many of us are trying to do the same thing. I just hope the Members of this House have the courage occasionally, and I say this as somebody who has fought very hard for reform and is fighting very hard for this bill: I hope we have the courage occasionally to say enough is enough, no public relations gestures, no demagoguery.

My colleagues, let us pass real reform.

Mr. CLAY. Mr. Chairman, I thank the gentleman from Georgia [Mr. GINGRICH] for having yielded to me.

Mr. ROSE. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. MCHALE].

Mr. MCHALE. Mr. Chairman, I too, want to join in commending the courageous independence and consistent dedication of my colleagues, the gentleman from Connecticut [Mr. SHAYS] and the gentleman from New Hampshire [Mr. SWETT], in bringing this bill to the floor.

Mr. Chairman, 20 years ago, when I was a student at Georgetown Law School, I would routinely walk by the entrance to the U.S. Supreme Court where above that entrance I would read the phrase: "Equal justice under law."

Today, with the passage of the Congressional Accountability Act, we bring that ideal a bit closer to reality. I believe this Chamber today will act wisely and in an overwhelmingly bipartisan fashion bring the Congress of the United States under the equal justice of law applicable to all other American citizens.

I urge an affirmative vote.

Mr. THOMAS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I rise in support of the bill before us, the Congressional Accountability Act.

By all predictions, this was to have been the Congress that rewrote the laws and rules governing congressional operations. With the end of the 103d Congress rapidly approaching, it appears that those predictions will fall far short of the mark.

In fact, the only reform initiative given much of a chance of becoming law is contained in the bill before us today. Enactment of the Congressional Accountability Act would, as I see it, help Congress meet two important goals. First, it would end the hypocritical practice of telling the private sector to "do as I say, not as I do." Every day that we carry on this double standard is a day that our moral authority to govern is brought into question by good people all across this Nation.

Second, in the process of complying with the laws currently governing the private sector, Congress will have to face the same difficulties as those confronting every other employer. Consequently, we will know firsthand the money and, perhaps even more precious, the time that every other employer must part with in order to comply with Federal law. This experience can only make us better lawmakers.

In closing, Mr. Chairman, I would extend my congratulations to the sponsors of this measure, CHRIS SHAYS of Connecticut and DICK SWETT of New Hampshire. Were it not for their diligence and hard work, it is unlikely that this measure would have been progressed through the legislative maze to this point.

Mr. THOMAS of California. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. BOEHNER], a Member who has worked diligently in committee on a number of very positive amendments.

Mr. BOEHNER. Mr. Chairman and my colleagues, I stand here today in support of the legislation that we have before us, and I want to commend the chairman of the full committee, the gentleman from North Carolina [Mr. ROSE], and our ranking member, the gentleman from California [Mr. THOMAS], for the efforts that they put into this bill and the manner in which it was considered in the Committee on House Administration.

Now we have had a lot of partisan battles in that committee, as Members well know, but I have to say that this

piece of legislation, and the hearings that we had leading up to it, and the markup we had, was exemplary, and we have before us a piece of legislation that is good.

During that consideration I found it rather interesting, as we went through the legislation that should apply to Congress, that many Members around the table on both sides of the aisle decided that this was not a very smart law and why do we want to abide by it, and it is the real point of why we have the bill before us, because until the full weight of the law applies to all of us here in this Chamber, our willingness to be careful, our willingness to pursue the details of legislation we pass on the floor for the private sector, will never quite be there.

So I say to my colleagues, we have done a good job. The bill deserves the support of all of us, and again to the gentleman from North Carolina [Mr. ROSE] and the gentleman from California [Mr. THOMAS] I say, Thank you very much.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, as we all well know, one of the criticisms of Congress is that we are out of touch with the American people. You and I know that this is not true—this body is made up of some of the finest Americans who work incredibly long hours and make tremendous efforts to give their neighbors a voice in this institution.

But it is true that Congress is exempted, from some laws, from many employment discrimination laws and health and safety laws by which the private sector and executive branch must abide. Laws such as the Occupational Safety and Health Act and the Federal Labor/Management Relations Act were put into place to protect Americans from unfair employment practices and to ensure their safety on the job, and it is in all fairness to our own legislative branch employees that Congress should now apply these to itself.

As a member of the Committee on House Administration and as a cosponsor of the original Shays-Swett bill, I strongly support H.R. 4822, the Congressional Accountability Act. It is important that Congress comply with these laws for the sake of accountability and fairness.

All of the laws and enforcement procedures would originate through the Office of Compliance, an independent body within the legislative branch created to implement all aspects of compliance, from rulemaking to enforcement, and created to be efficient, timely and fair.

However, before this legislation is passed, and I sincerely hope it will be, we must realize that complete compliance cannot take place without the necessary appropriations. For example—OSHA compliance could require costly abatement procedures such as asbestos removal. We must be prepared to pay for it, and I sincerely hope that all those who will vote so enthusiastically today will be just as enthusiastic when we have to foot the bill.

If we are serious about reform, we must pass this bill. I commend my colleague from Connecticut, Mr. SHAYS, and my colleague from New Hampshire, Mr. SWETT, on the effort to bring this important legislation to the floor before August recess. When we go back to our districts, we want to be able to say to our constituents that we have taken the necessary steps toward reform by passing compliance legislation and that we in Congress are no longer above the law.

Mr. THOMAS of California. Mr. Chairman, I yield 1 minute to the gentleman form Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Chairman, one of my first acts when I came to the Congress was to submit legislation to reform the Congress, and so of course of am pleased that this bill is before us today. But I hope that the Members of the House and the American people understand that this bill is just a first small step down the road that we need to take to complete reform.

This Congress, this body, is held in ever-lower esteem by the American people, and a very large part of that is because of the congressional reform that is needed. I hope we accept this as just a down payment, just a first step on to true reform that is needed, so we can regain the stature we need with the American people so that we can effectively legislate so this Government can effectively govern.

Mr. ROSE. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

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Mr. PENNY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Congressional Accountability Act, H.R. 4822, and I wish to congratulate the gentleman from New Hampshire [Mr. SWETT], and the gentleman from Connecticut [Mr. SHAYS] for their yeoman's work on this matter. Without their persistent leadership, we would not be on the House floor today preparing to pass this vital legislation.

Applying to ourselves the laws we in Congress impose on the private sector is the right thing to do and it is long, long overdue. Several years ago while I was a member of the Committee on Education and Labor I suggested that as we increased the minimum wage, extended family and medical leave laws, considered civil rise protections and reformed OSHA, that we simply apply these same laws to the Congress.

Those of us who supported and sponsored these amendments were told repeatedly that the Congress was special; that the constitutional separation of powers dictated that we should not be governed by the executive branch; and that we would be opening the Congress to numerous lawsuits.

Our point was this is a matter of accountability and trust. The American people cannot be expected to trust the Congress to do the work of the Nation if we exempt ourselves from the laws we apply to the rest of the Nation. Mr. SHAYS and Mr. SWETT have provided leadership on this issue. This legislation is long overdue. The bill deserves our support.

Mr. THOMAS. of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to once again commend the gentleman from Connecticut [Mr. SHAYS] and the gentleman from New Hampshire [Mr. SWETT]. Without them, we would not be where we are today. As is usually the case, it is someone who takes an inordinate interest and involves and invests an inordinate amount of time to bring us to the position that we are at today.

I want to underscore once again the very positive, bipartisanship that was obtained in the Committee on House Administration when we reviewed 14 amendments.

The rule, that made in order this bill, makes in order a number of amendments, and I would ask the Members to listen to the debate, pro and con, on most of these amendments. Frankly, the call could go either way on a number of these, and I may have my opinion, but other Members may have theirs. And clearly they are amendments that have merit. And whether they are voted into this bill or not, they are not pernicious. They are not there as Trojan horses. They are not their with a second agenda involved.

I have a personal concern about the amendment dealing with the court process, because it was brought up in committee, and I will discuss that when that amendment is made in order.

But I want to underscore the gentleman from Georgia's comments and the response of the gentleman from Missouri. I believe that this process is demeaned by the way in which the Committee on Rules made in order amendments that were clearly not designed to improve the underlying bill in terms of placing the Congress under those 10 laws that the private sector has to be placed under. I know arguments will be made as we come to the floor that these are in fact similar to the other amendments that are going to be offered. They are not.

I invite the Members' attention to the serious amendments, and that we should discuss them and make the House's will known, including or not including those. But I do hope the

VOL 140 PT 15 AG 10 — 11 1994 UMI

House makes it known that the kind of amendments that were made in order, that clearly I think are political and pernicious, should be given the faith that they deserve, and that is that they should be rejected.

Mr. ROSE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman would be so kind as to address a particular concern of mine regarding the duties of the Office of Compliance with respect to educating Members of this body as well as their staffs on their rights and responsibilities under the laws which will apply to them under this act, I would appreciate it.

Mr. ROSE. Mr. Chairman, if the gentleman will yield, I would be glad to do so.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of this long overdue legislation and strongly urge my colleagues to do the same.

I am extremely pleased that under section 6 of the bill the Office of Compliance is charged with carrying out educational programs so that Members, their staffs, and other legislative branch employees and agencies become informed of their duties under this legislation. The bill also broadly lays out ways in which the Office could implement educational initiatives, such as through mass mailings to Members and employees as well as through instructional seminars. Prior to learning that such provisions were included in the bill, I was planning to offer a similar amendment.

Nevertheless, it is my understanding that the bill does not specifically stress what I believe to be a vital component of the success of such educational efforts by the Office of Compliance, and that is the timeliness and regularity of these efforts, as well as any particular assurances that these educational efforts will be widely publicized and disseminated. In addition, I do not believe the bill offers the Office or the Board of Directors any real detailed suggestions as to how best to meet its educational requirements. I personally think that, if allowable, the Office of Compliance would be well served by a partnership with the Library of Congress for the purposes of carrying out its educational duties under this bill. It might also be beneficial for the Office of Compliance to ask each Member's office to designate a staffer responsible for oversight of the Office of Compliance activities, if the Member and their offices are so inclined.

My overall concern, Mr. Chairman, is that we don't end up learning about rules and regulations with which we must comply after the fact. The educational component of this bill is key to ensuring that this does not happen.

If the distinguished Chairman from North Carolina agrees with me on this merit of my concerns, I would be more than happy and willing to work with him and your staff in ensuring that the general thoughts I have just enunciated are conveyed through the proper channels, such as in possible report language to the bill, or through other means the gentleman may deem appropriate. I believe this would serve to clarify important congressional intent in this area.

Mr. ROSE. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I rise in enthusiastic support of this legislation.

Mr. Chairman, the concept of applying the laws of the land to Congress has been one which I have been fighting for since I first came to Congress. This is why I am pleased to finally see a bill on the floor of the House which attempts to achieve this goal. The bill before us today, H.R. 4822, the Congressional Accountability Act, has been a long time in coming.

The Hypocrisy of Congress in exempting itself from the very laws it imposes on others is so obvious, that one wonders how the practice so long managed to escape wide criticism. In the last few years, however, we have seen a change in the long-standing attitude that Congress is so unique and so different that it simply must be afforded special exemptions, even from employment laws, or it could not function; and those of us who once felt alone in the wilderness in urging congressional coverage now have welcome company. The reality is that the public is fed up, and Congress has been reacting.

In my years in the House, it has become increasingly clear that Congress, in its imperial wisdom, too cavalierly and too eagerly, continues to place layer upon layer of regulatory requirements on the private sector—without any deep understanding for what it is doing. Congressional coverage is vitally important because it will help Congress to adopt credible, effective, and workable laws which affect everyone else in the United States and will allow Congress to truly feel the pain of the impact of these laws. If the statutes don't apply to us, how in the world are we supposed to know how they will work in the real world outside of the beltway?

Mr. Chairman, H.R. 4822 sets up a congressional Office of Compliance which would be required to issue regulations to implement the application of 10 laws to Congress. I am pleased that the committee report language accompanying this bill directs that the Compliance Office should implement the specific provisions of the laws listed in the act to the greatest extent possible, and that it is not the act's intent that existing law be reinterpreted. I appreciate the fact that the authors of this bill, Mr. SHAYS and Mr. SWETT, agree with me on this point.

I am also heartened by the fact that the Occupational Safety and Health Act is one of the statutes which will be applied to Congress. Last year, I introduced the Congressional Safety and Health Act (H.R. 3458) to extend OSHA protections to employees of the House and its instrumentalities. The report language suggests an approach which is modeled after my bill, to ensure that OSHA enforcement mechanisms are applied to Congress that mirror, as closely as possible, those found in the private sector.

With regard to remedies available to aggrieved employees, H.R. 4822 copies the private sector process in allowing private law suits in court, with jury trials, where the underlying law allows for such law suits. In my view, this is a very important provision in the bill, because congressional employees should be entitled to the same type of damages as private sector employees under the relevant laws.

I must emphasize that if Members of Congress and Senators are not subjected to the same employee remedies which exist under many of the laws of the land, especially in the area of place-of-employment labor law, then we will not have true congressional coverage of these laws. This is not very well known, because Members are currently exempt from the most important aspect of many private sector laws, the right of employees to sue the employer in trial court for damages. In this day and age, these employee rights are what put the "teeth" into many of our private sector labor laws—and in ever increasing frequency, Congress is expanding these rights.

Mr. Chairman, with regard to one of the laws included in H.R. 4822, the Family and Medical Leave Act, I am pleased today to see that Members will be supporting the correct position on its application to Congress—a position which was not accepted when I offered my motion to recommit the FMLA bill when it was considered by the House last year. My motion would have allowed Congressional employees to use judicial remedies in the FMLA's enforcement and would have allowed Members to be sued in Federal court for violations of the Act. H.R. 4822 does, with the exception of allowing punitive damages and Member liability for wrongdoing, achieve the same result that I attempted to accomplish with my motion last year.

H.R. 4822, however, although it provides major improvements in terms of employee rights, it is still very deficient in the area of employer accountability. Under this bill, all Members of Congress, Senators, and heads of employing offices are totally shielded from any financial liability resulting from wrongdoing, even in proven cases of egregious violations of the law. This is a step back from the current procedures of the existing House Office of Fair Employment Practices, which provide for award payments for Members' office accounts. The bill also sets up a separate fund and provides for government-paid attorney representation, no matter how outrageous the behavior or allegations in question. In addition, H.R. 4822 expressly excludes awards of punitive damages. Where is the sting here? If only private sector companies were lucky enough to have this arrangement!

In the final analysis, the lack of employer accountability in this legislation will likely result in additional litigation against Congressional employers, because the deep pocket of the Government—the taxpayers—will pay for any damages of attorney fees which are awarded.

Mr. Chairman, despite these defects in the bill, it is still an improvement over the current situation. I would also hope that the shortcomings I mentioned can be addressed in conference with the Senate. There are many Members who should be thanked for their work on this issue, but I would like to specifically recognize several of my colleagues: Mr. SHAYS and Mr. SWETT for their perseverance in promoting their legislation; Mr. HAMILTON and Mr. DREIER for their work in the Joint Committee on the Organization of Congress, on which H.R. 4822 is based; and Mr. GOODLING, the ranking Member on the House Education and Labor Committee who introduced legislation last year which guided the authors of H.R. 4822 and ensured that we have a better product before us today. I only hope that the Senate will follow our lead and will pass similar legislation in the near future so that we may go to conference and send a bill to the President this year—one that provides a real and workable mechanism for making Congress subject to the same laws it mandates on the private sector.

Mr. ROSE. Mr. Chairman, to close debate on our side, I yield the balance of our time to the gentleman from New Hampshire [Mr. SWETT], who has done the yeoman's task of bringing this legislation to the point we are at today.

The CHAIRMAN. The gentleman from New Hampshire is recognized for 3 minutes.

Mr. SWETT. Mr. Chairman, I want to first thank the gentleman for the opportunity to close debate. I am somewhat humbled by all the numerous references to both myself and the gentleman from Connecticut [Mr. SHAYS]. I think that I can speak for the gentleman in saying that this is not our legislation. This is legislation that has been in this House for now 7 years, maybe longer. We have heard many people talk about different aspects of that, that they have worked on long before the gentleman or I made it into Congress.

We came into Congress recognizing in many respects the problems that this body faced because of the efforts of these people who came before us. We owe a great debt of gratitude to their efforts. They have educated us. We have taken what they have done and tried to expand upon it, include them in that expansion, and it has been certainly a great privilege to work with them.

First of all, what is this bill really about? This bill is about building back trust and confidence in a government that seems to have become the last plantation, that has no real sensitivity toward what is happening in the private sector. That is something that the gentleman from Connecticut [Mr. SHAYS] and I and all the other people that have worked on this bill have tried time and time again to incorporate.

How do we overcome these problems? How do we build this trust back in? How do we rebuild confidence in the Government? We do that by an open process. Every point on this bill was openly negotiated. It was a rule that we felt was important and had to be adhered to at all times, constructive dialog versus adversarial opposition. We negotiated with an unusual element that you rarely find in discussions in this country, let alone in this town of Washington, DC. That element was a fundamental adherence that there needed to be a basic building block of trust in everything that we discussed, trust that we could move forward to overcome our differences, trust to understand that we could ultimately agree on some kind of legislation that would help this body become more sensitive to the problems that people in this country face on a day-in and day-out basis.

We have brought Congress under the laws of the land. We have done it in a way that we feel protects the powers of separation. The constitutionalists have found satisfaction with what we have done. We have done it in a way that we hope will build some kind of community in this body that will enable us to go from here after this first step is taken and build upon it, as has been requested by the gentleman from California [Mr. THOMAS].

These are the milestones that make for effective government, and we are, today, accomplishing a milestone that was set out for the public by our predecessors nearly a decade ago.

Mr. ROSE. Mr. Chairman, will the gentleman yield?

Mr. SWETT. I yield to the gentleman from North Carolina.

Mr. ROSE. One of our colleagues asked, will this bill prohibit me from asking an employee that wants to go to work in my office, are you a Democrat, are you pro-life, are you pro-choice? Could you comment briefly on that?

Mr. SWETT. Mr. Chairman, Members will have the latitude to inquire of their employees on political grounds, domicile grounds. They have the opportunity to determine in those spectrums what is advantageous to their service.

I urge my colleagues to continue in this bipartisan spirit and to support this legislation.

Mr. PORTMAN. Mr. Chairman, I rise today to express my strong support for H.R. 4822, the Congressional Accountability Act. This long overdue reform would force Congress to abide by some of the same laws that it imposes on the private sector. I have no doubt this legislation will cause Congress to think twice about the impact new legislation will have on others and question the wisdom of previously passed laws as well. It's just common sense.

I am particularly pleased that we will be considering an amendment today to require that any standard benefits package approved as a part of health care reform apply to Members of Congress. On this subject, I have sponsored my own resolution that expresses the sense of Congress that any law pertaining to the reform of our Nation's health care system should apply to Members of Congress and all Federal employees. If Congress is to pass health care reforms that will affect the lives of every American, it's only fair that they should apply to Members of Congress, their staff, and all other Federal employees as well.

Regardless of what we do in Congress on health care reform or any other issue, there is no reason why laws should not apply to Congress. The likely outcome of such long overdue reform is that Members of Congress, by swallowing some of their own painful medicine, will become better lawmakers and begin to lead by example, not exemption. I urge my colleagues to support the Congressional Accountability Act.

Mrs. LLOYD. Mr. Chairman, I rise today in support of H.R. 4822, the Congressional Accountability Act, which applies 10 existing employee protection and antidiscrimination laws to the employees of Congress and other legislative branch agencies.

I have long maintained that Congress should also abide by the laws we pass for our citizens. H.R. 4822 specifies the following laws would apply to Congress: Fair Labor Standards Act, title VII of the Civil Rights Act of 1964, Americans With Disabilities Act, Age Discrimination in Employment Act, Family and Medical Leave Act, Occupational Safety and Health Act, Federal Labor Management Relations Act, Employee Polygraph Protection Act, Worker Adjustment and Retraining Notification Act, and the Rehabilitation Act of 1973.

This legislation avoids potential separation of powers conflicts by allowing Congress to promulgate its own rules and regulations, provided they are consistent with existing law, and administer the execution of these laws internally, through an Office of Compliance. This legislation establishes a process by which violations of these statutes may be remedied, including the option of judicial review.

I firmly believe that Congress needs to be held accountable for the laws it passes. This legislation is a solid, bipartisan step in the right direction and I will continue further efforts in the 103d Congress that promote legislative accountability.

Mr. BARCA. Mr. Chairman, I rise today to strongly support the amendment by Representative BYRNE to require that if Congress passes a health care plan with a standard health care benefits package that Congress will have the same benefits as the rest of the people in our country.

This amendment parallels House Concurrent Resolution 156 which I introduced last September. The resolution states that Members of Congress should participate on an equal basis with all other Americans in any health care system legislated by Congress.

During the past year I have conducted townhall meetings on health care reform throughout the First Congressional District of Wisconsin. The people attending these meetings had diverse opinions on the range of health care issues, but there was one unifying factor.

They unanimously supported my position that Members of Congress should have the same health care plan that is offered to the American people.

I am very pleased that we are acting today to pass a bill on congressional accountability to ensure that Congress will live by the laws we pass. This is a good addition to that act.

Mr. BUYER. Mr. Chairman, I rise in support of passage of H.R. 4822, the Congressional Accountability Act.

It is my preference that Congress would consider congressional reform as a whole, rather than as a piecemeal approach. Nonetheless, H.R. 4822 is a first step in the right direction.

It should be no surprise to anyone in this Chamber that Congress does not stand in

VOL 140 PT 15 AG 10 — 11 1994 UMI

high esteem among the general public. The public perceives an institution beset by privilege. This legislation, H.R. 4822, will help to put Congress on the same footing as the rest of the Nation.

The Congressional Accountability Act will apply 10 laws to Congress from which it is for the most part currently exempt. The bill creates a bicameral Office of Compliance to apply these laws to Congress and to enforce them. This office surmounts the separation of powers constitutional difficulty. The 10 laws under which Congress will now fall include:

Fair Labor Standards Act—governing minimum wage and overtime pay, as well as other labor standards as equal pay protections. Compliance time for Congress—1 year from enactment.

Title VII of the 1964 Civil Rights Act—prohibiting employment discrimination based on race, religion, sex, or national origin. Compliance time—1 year from enactment.

Americans With Disabilities Act—prohibiting employment discrimination against a qualified, but disabled individual. Compliance time—1 year from enactment.

Age Discrimination in Employment Act—prohibiting employment discrimination based on age. Compliance time—1 year from enactment.

Titles I and V of the Family and Medical Leave Act—title V of this act applied it to Congress. This bill revises the provisions to conform to the new procedures of compliance. It requires employers to provide up to 12 weeks of unpaid leave for the birth or adoption of a child or the illness of a close family member. Compliance time—1 year from enactment.

Occupational Safety and Health Act—governs workplace safety standards. Compliance time—2 years from enactment.

Chapter 71 of title 5 United States Code—permits Federal workers the right to unionize and bargain, but prohibits striking. Compliance time—2 years from enactment.

Employee Polygraph Protection Act—prohibits using lie detector tests on employees or job applicants with some exemptions, notably national security agencies. Compliance time—1 year, except the Capitol Police which are exempt.

Worker Adjustment and Retraining Notification Act—requires 60 days notice for plant closings that would cause 50 or more employees to lose their jobs and layoffs of longer than 6 months. Compliance time—1 year from enactment.

Rehabilitation Act—requires affirmative action plans for hiring disabled persons and prohibits discrimination on the basis of disability. Compliance time—2 years from enactment.

The Congressional Accountability Act sets forth a counseling and mediation process through which employees must attempt to seek redress of grievances. However, employees can bring civil suit in Federal district courts. The bill also establishes a fund to pay compensation if a violation has occurred and a monetary remedy is found to be appropriate.

Congress must live by the laws it passes for the rest of America. As a cosponsor of H.R. 349, originally introduced by Mr. SHAYS, I am pleased to support this legislation to improve the accountability of Congress.

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 4822, the Congressional Accountability Act. This important legislation would apply ten employee-protection laws to the employees of Congress.

H.R. 4822 fulfills our responsibility to grant the same protections and workplace standards that all other working Americans enjoy to our own employees in Congress. The Congressional Accountability Act continues the recent trend of Congress living by the rules we ask the rest of America to live by.

In recent years, we have enacted several major employee protection laws—the Americans with Disabilities Act, the Civil Rights Act of 1991 and the Family and Medical Leave Act. In each case, we applied the requirements of these laws to Congress just like they applied to the private sector. In addition, House rules provide House employees with protections afforded under the Fair Labor Standards Act and specify that House personnel actions shall be made "free from discrimination based on race, color, national origin, religion, sex—including marital or parental status—disability, or age."

H.R. 4822 continues our efforts to bring Congress into compliance with other significant employee protection statutes. The Congressional Accountability Act will also require Congress to comply with the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Occupational Safety and Health Act, the Federal Labor Management Relations Act, the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Act and the Rehabilitation Act of 1973.

This legislation establishes a four-step complaint process, including counseling, mediation, formal complaint and hearing and judicial review, to deal with alleged violations of these laws. In short, it affords congressional employees a formal process to air their grievances, including access to the courts.

This Act represents a positive change in how Congress treats its own employees. I strongly support this legislation and urge my colleagues to vote for this landmark congressional reform bill.

Mr. SANDERS. Mr. Chairman, I rise in support of the Congressional Accountability Act, H.R. 4822, which I'm pleased to be cosponsoring. This bill, which applies to congressional employees the basic protections against discrimination, unsafe working conditions and unfair labor practices which are guaranteed to other American workers, is a long overdue reform. For many decades, Congress routinely exempted itself for laws which it passed to apply to the rest of America—a double standard which increased the contempt which most citizens have justifiably held for this institution. Capitol Hill was the last bastion of arbitrary bosses, long after the struggles of working men and women gained basic human and economic rights for workers in most of our Nation.

Finally, a few years ago, Congress finally started to get the message. The Americans with Disabilities Act, the Civil Rights Act of 1991, and the Family and Medical Leave Act were applied to the legislative branch when they were passed, as well as to the executive branch and private employers. Now, with this bill 10 basic employee protection laws, including those dealing with family and medical leave, nondiscrimination, privacy, occupational safety and health, and fair labor standards, will be applied to employees of the legislative branch.

I realize that the separation of powers among the legislative, executive and judicial branches is an important constitutional issue in terms of this bill. But the authors of the bill, and the committees which are bringing it to the floor, have worked long and hard to devise enforcement mechanisms which respect both the Constitution's provisions and the rights of workers, and I believe that they have succeeded. While an office of compliance in the legislative branch will develop the regulations and resolve complaints, this will not supersede the rights of workers to take their cases to court for judicial review. The constitutional separation of powers is respected, but not at the expense of workers' rights.

Mr. Speaker, the laws which are applied to the legislative branch by this bill were major victories for the civil rights and labor movements in this country. The Civil Rights Act of 1964, which prevents discrimination by employers, was one of the most significant milestones in the struggle against racism in the 1960's. The Occupational Safety and Health Act, although still not strongly enforced, recognizes the right of all workers to be protected against injuries and occupational diseases. The American with Disabilities Act prevents discrimination against people with disabilities, and establishes that workers have the right to be judged based on their real abilities to do the job. And the Family Medical Leave Act, while still falling short of what other industrialized countries guarantee, at least makes it possible for workers to take time off to care for an injured child or a sick parent, without losing their jobs.

Mr. Speaker, this bill extends protection only to a few thousand more workers, but its symbolic importance goes far beyond that. It is a recognition that Congress can no longer maintain a double standard on workers' rights, applying them to everyone but itself. It is a strong statement that every worker in America has the right to a safe workplace, to family and medical leave, and to protect against discrimination. I urge my colleagues to vote for this bill, and finally bring Capitol Hill into the 20th century.

Mr. TRAFICANT. Mr. Chairman, I rise in strong support of H.R. 4822, the Congressional Accountability Act. I believe this measure is long overdue and much needed. The bill would apply 10 existing employee protection and antidiscrimination laws to the employees of Congress and other legislative branch agencies. I am especially pleased to note that H.R. 4822 extends coverage to the brave and dedicated men and women of the U.S. Capitol Police.

I'd like to focus in on 1 of the 10 employee protection measures the bill extends to the legislative branch: the Federal Labor Management Relations Act [FLMRA]. Under this bill, the FLMRA would apply to the legislative branch within 2 years of the date of enactment—regardless of whether final regulations are issued.

The end result of applying FLMRA to the legislative branch will be to allow the rank and file of the U.S. Capitol Police to organize and form a union. This is a basic right that most

of the more than 500,000 Federal, State, and local law enforcement officers across the country have.

For the past 2 years, I have been working to address the serious morale problems that exist on the Capitol Police. I have been pushing for adoption of a resolution creating an Ad Hoc Joint Congressional Committee to review the current labor relations policy for the U.S. Capitol Police and recommend changes to the Congress. H.R. 4822, by allowing the Capitol Police officers to unionize will—in the long run—help address the current problems on the force. However, I still believe that approval of my resolution, House Concurrent Resolution 84, would go a long way in addressing the current problems on the force.

Mr. Chairman, I have spoken with a number of officers about the force. Without question, there is a serious morale problem. The rank and file feel they have no rights, that they are treated like children. I have found instances of age, sex, and racial discrimination. I have found that in all too many instances management is petty, unsympathetic and incompetent. The bill before us today will go a long way in addressing these serious problems.

The Sergeant at Arms and the Capitol Police Board have made some important changes, but has done nothing to address the fundamental structural problems that exist. For example, the ombudsperson they established to hear complaints and grievances reports directly to management, and is perceived by the rank and file as a tool of management and not as an objective third party who can resolve problems.

If the rank and file could organize and establish a union, they could work cooperatively with management and create a grievance procedure that will have teeth, and one that everyone can have confidence in as being fair and objective.

The 3-day demonstration on the steps of the Capitol last February is proof positive that the morale problem is widespread and is not simply a matter of a few disgruntled officers making a lot of noise. There is a serious problem and Congress can't ignore it. Today, Congress is stepping up to the plate and addressing this problem, and other problems associated with its 200-year-old practice of exempting itself from the laws it passes for the rest of the country.

In conclusion, I applaud the distinguished gentleman from North Carolina [Mr. ROSE], the gentleman from Washington [Mr. SWIFT], and the gentleman from Connecticut [Mr. SHAYS], for their excellent work in moving this important legislation forward. I urge my colleagues to support the Capitol Police and vote for H.R. 4822.

Mr. FAWELL. Mr. Chairman, the concept of applying the laws of the land to Congress has been one which I have been fighting for since I first came to Congress. This is why I am pleased to finally see a bill on the floor of the House which attempts to achieve this goal. The bill before us today, H.R. 4822, the Congressional Accountability Act, has been a long time in coming.

The hypocrisy of Congress in exempting itself from the very laws it imposes on others is so obvious, that one wonders how the practice so long managed to escape wide criticism. In the last few years, however, we have seen a change in the long-standing attitude that Congress is so unique and so different that it simply must be afforded special exemptions, even from employment laws, or it could not function; and those of us who once felt alone in the wilderness in urging congressional coverage now have welcome company. The reality is that the public is fed up, and Congress has been reacting.

In my years in the House, it has become increasingly clear that Congress, in its imperial wisdom, too cavalierly and too eagerly, continues to place layer upon layer of regulatory requirements on the private sector—without any deep understanding for what it is doing. Congressional coverage is vitally important because it will help Congress to adopt credible, effective and workable laws which affect everyone else in the United States and will allow Congress to truly feel the pain of the impact of these laws. If the statutes do not apply to us, how in the world are we supposed to know how they will work in the real world outside of the beltway?

Mr. Chairman, H.R. 4822 sets up a Congressional Office of Compliance which would be required to issue regulations to implement the application of 10 laws to Congress. I am pleased that the committee report language accompanying this bill directs that the Compliance Office should implement the specific provisions of the laws listed in the act to the greatest extent possible, and that it is not the act's intent that existing law be reinterpreted. I appreciate the fact that the authors of this bill, Mr. SHAYS and Mr. SWETT, agree with me on this point.

I am also heartened by the fact that the Occupational Safety and Health Act is one of the statutes which will be applied to Congress. Last year, I introduced the Congressional Safety and Health Act (H.R. 3458) to extend OSHA protections to employees of the House and its instrumentalities. The report language suggests an approach which is modeled after my bill, to ensure that OSHA enforcement mechanisms are applied to Congress that mirror, as closely as possible, those found in the private sector.

With regard to remedies available to aggrieved employees, H.R. 4822 copies the private sector process in allowing private law suits in court, with jury trials, where the underlying law allows for such law suits. In my view, this is a very important provision in the bill, because congressional employees should be entitled to the same type of damages as private sector employees under the relevant laws.

I must emphasize that if Members of Congress and Senators are not subjected to the same employee remedies which exist under many of the laws of the land, especially in the area of place-of-employment labor law, then we will not have true congressional coverage of these laws. This is not very well known, because Members are currently exempt from the most important aspect of many private sector laws, the right of employees to sue the employer in trial court for damages. In this day and age, these employee rights are what put the teeth into many of our private sector labor laws—and in ever increasing frequency, Congress is expanding these rights.

Mr. Chairman, with regard to one of the laws included in H.R. 4822, the Family and Medical Leave Act, I am pleased today to see that Members will be supporting the correct position on its application to Congress—a position which was not accepted when I offered my motion to recommit the FMLA bill when it was considered by the House last year. My motion would have allowed congressional employees to use judicial remedies in the FMLA's enforcement and would have allowed Members to be sued in Federal court for violations of the act. H.R. 4822 does, with the exception of allowing punitive damages and Member liability for wrongdoing, achieve the same result that I attempted to accomplish with my motion last year.

H.R. 4822, however, although it provides major improvements in terms of employee rights, is still very deficient in the area of employer accountability. Under this bill, all Members of Congress, Senators, and heads of employing offices are totally shielded from any financial liability resulting from wrongdoing, even in proven cases of egregious violations of the law. This is a step back from the current procedures of the existing House Office of Fair Employment Practices, which provide for award payments from Members' office accounts. The bill also sets up a separate fund and provide for Government-paid attorney representation, no matter how outrageous the behavior or allegations in question. In addition, H.R. 4822 expressly excludes awards of punitive damages. Where is the sting here? If only private sector companies were lucky enough to have this arrangement.

In the final analysis, the lack of employer accountability in this legislation will likely result in additional litigation against congressional employers, because the deep pocket of the Government—the taxpayers—will pay for any damages or attorney fees which are awarded.

Mr. Chairman, despite these defects in the bill, it is still an improvement over the current situation. I would also hope that the shortcomings I mentioned can be addressed in conference with the Senate. There are many Members who should be thanked for their work on this issue, but I would like to specifically recognize several of my colleagues: Mr. SHAYS and Mr. SWETT for their perseverance in promoting their legislation; Mr. HAMILTON and Mr. DREIER for their work in the Joint Committee on the Organization of Congress, on which H.R. 4822 is based; and Mr. GOODLING, the ranking member on the House Education and Labor Committee who introduced legislation last year which guided the authors of H.R. 4822 and ensured that we have a better product before us today. I only hope that the Senate will follow our lead and will passs similar legislation in their near future so that we may go to conference and a send a bill to the President this year—one that provides a real and workable mechanism for making Congress subject to the same laws it mandates on the private sector.

Mr. RIDGE. Mr. Chairman, I believe by passing H.R. 4822, the Congressional Accountability Act, today, the House took the first step in bringing reform to this body. This bill applies 10 laws to Congress to which businesses in the private sector must already abide. It also provides a detailed process for congressional employees to raise allegations of violations to these laws. The intention of the

VOL 140 PT 15 AG 10 — 11 1994 UMI

bill is to provide legislative branch employees with the same employment rights and protections that are available to employees of the private sector or Federal branch of Government.

This legislation is long overdue. It is a privilege and honor to serve in Congress and this privilege should not be abused. Congress should hold themselves to at least the same standards that they enforce on others.

There is no reason that Congress should be exempted from laws such as the Civil Rights Act, the Equal Employment Opportunity Act, the Age Discrimination Act, and the American with Disabilities Act. These laws have been enacted to ensure that discrimination does not occur in the work place. Members of Congress should take the lead on such issues; not pass legislation which, in essence, ensures they do not even have to follow the rules they impose on other employers.

It is time that we, as Members of Congress, start acting as servants of those who elected us. We must stop placing ourselves above laws that we feel are necessary for others. Until we do—and to some degree rightly so—this institution's reputation with the American people will continue to erode.

I hope this is just a first step in reforming Congress. The Joint Committee on the Organization of Congress, which was established to make recommendations on how Congress can operate more efficiently and effectively, has made many other recommendations that need to be considered by this body. Only when the entire reform proposal is debated and passed will credibility begin to be truly restored to this body.

It is time for us to send a message to our constituents that we do not believe that we are above the laws we create.

Ms. FURSE. Mr. Chairman, I rise today in strong support of H.R. 4822, the Congressional Accountability Act. This is one of the most significant reforms this Congress can make to help break down barriers of government. It is illogical, and bad policy, for Congress to set a different standard for itself. We've heard the phrase over and over today, but it bears repeating: Congress will definitely write better laws if it has to live under the laws it passes.

When I came to Congress last year, the original Congressional Accountability Act was one of the first—and most important—reform measures I sponsored. The good work of my friends Mr. SHAYS and Mr. SWETT deserves recognition for making the bill before us today a reality. Because I came to Congress to change the way business is done, I urge all my colleagues to support this long overdue opportunity to bring citizens and their Government closer together, and vote for H.R. 4822, the Congressional Accountability Act.

Mr. SKAGGS. Mr. Chairman, I strongly support H.R. 4822, the Congressional Accountability Act. DICK SWETT and CHRIS SHAYS and many other Members have worked long and hard to bring this legislation before the House. As the chairman of the DSG Task Force on Congressional Reform, I appreciate the time and effort that's gone into it. The chairman and vice chairman of the Joint Committee on the Organization of Congress, Mr. HAMILTON and Mr. DREIER, also deserve much credit, and I thank them for all their work.

The DSG Task Force spent a great deal of time considering reform recommendations to make to the Joint Committee. We focused on five principal areas: the committee system; the budget process; floor deliberation and scheduling; ethics and institutional integrity; and staffing of Congress. These are important parts of the whole, and they are critical to true reform.

While some of these issues pertain exclusively to the operation of the House, others affect national policy. For example, could Members be more active in their committees if assignments were further limited? Would committee participation improve with a 4-day week? Would a 2-year budget process be more efficient, or just substitute many supplemental appropriations bills every other year?

These questions, and they're difficult ones, have been tackled by groups of Members, but not by the body as a whole. To function successfully, any organization has to periodically evaluate its operations and make appropriate changes. The evaluations have been made. We need to move on and make the corrections.

The package the Joint Committee put together is a good one because it's comprehensive. I believe we ought to be considering it in its entirety, and I regret that we aren't. But I in no way want to diminish the scope of the bill which we are considering today which requires congressional compliance with Federal workplace laws.

Quite simply, Congress should be subject to the same standards it applies to everyone else. And if we're going to pass laws that set rules for business, we ought to have to comply with them ourselves to the maximum extent practicable. That prospect no doubt will add a different and useful perspective to our deliberations on such laws.

With this bill, we will apply to Congress the Federal Labor Management Relations Act, the Age Discrimination in Employment Act, Title VII of the Civil Rights Act, the Occupational Safety and Health Act and six other employee-protection laws. Further, under this bill, Congress will be covered by other Federal laws relating to the terms and conditions of employment.

To ensure that Congress actually polices fair employment practices, and to respect the constitutional separation between the legislative branch and the executive branch, the DSG Task Force called for an independent enforcement agency within the legislative branch, with the right of appeal to the courts. The bill does this by establishing an Office of Compliance, made up of an eight-member Board of Directors and an Executive Director to develop regulations and to resolve complaints. Through a four-step process, legislative branch employees will be able to seek redress for alleged violations. A judicial review by the U.S. Court of Appeals can be requested, and, following a mediation stage, the employee can bring a civil suit in U.S. District Court. This complaint process is an effective way to ensure that Congress complies with the letter and spirit of workplace laws without violating the principle of separation of powers.

While this bill clearly demonstrates that the House is serious about congressional reform, a comprehensive reform package should be considered by the House this session. We've come too far not to complete the process, and I encourage the leadership to bring the rest of the Joint Committee's package to the full House for consideration. In the meantime, I urge my colleagues to support this bill.

Mr. KLECZKA. Mr. Chairman, I rise today in strong support of H.R. 4822, the Congressional Accountability Act.

The goal of H.R. 4822 is to better align public perception with reality. Although some Members may characterize this as a historic move, I would remind my colleagues that the reality is that Congress already adheres to the Civil Rights Act, the Fair Labor Standards Act, the Americans with Disabilities Act, and the Family and Medical Leave Act, among others.

Congress is not your typical workplace, it is a unique political institution. However, it is not above the law, and this legislation should clarify this point once and for all. The bill achieves the necessary balance between maintaining the legislative branch's independence and authority, and proving to taxpayers that this is an open and accountable body. It will lead to uniform enforcement between the two Chambers and among our support agencies like the Architect of the Capitol, the Congressional Budget Office, and the General Accounting Office.

The Congressional Accountability Act recognizes that Congress is already complying with the overwhelming majority of employment and labor laws. Yet, the bill upgrades existing congressional structures and creates an office of compliance to ensure that this institution continues to do so on an ongoing basis.

During consideration of this bill by the House Administration Committee, on which I serve, there was healthy debate on whether this bill should include the Freedom of Information Act. The committee decided that the Freedom of Information Act should not be included in this package because the bill compels compliance with labor and employment laws currently applicable to the private sector. As we all know, the Freedom of Information Act does not apply to the private sector, only to executive branch agencies.

In addition, I want to make it clear that the legislative branch is already the most open, most accountable branch of Government. The American people already have access to our debates, votes, speeches, testimony, salaries, investments, and official expenses. Moreover, with the arrival of the information age, just about everything we do and say is open to public scrutiny. Most of all, everyone in this Chamber must be reelected every other year. What could be more accountable than that?

Mr. Chairman, The Congressional Accountability Act is not a bill that will dramatically alter what is already an open, accountable institution. What it will go a long way toward doing is to improve the perception of this institution in the eyes of our taxpayers, which is something we could all use in this day and age.

Mr. RIDGE. Mr. Speaker, I believe by passing H.R. 4822, the Congressional Accountability Act, the House took the first step in bringing reform to this body. This bill applies 10 laws to Congress to which businesses in the private sector must already abide. It also provides a detailed process for congressional employees to raise allegations of violations to

these laws. The intention of the bill is to provide legislative branch employees with the same employment rights and protections that are available to employees of the private sector or Federal branch of Government.

This legislation is long overdue. It is a privilege and honor to serve in Congress and this privilege should not be abused. Congress should hold themselves to at least the same standards that they enforce on others.

There is no reason that Congress should be exempt from laws such as the Civil Rights Act, the Equal Employment Opportunity Act, the Age Discrimination Act, and the American with Disabilities Act. These laws have been enacted to ensure that discrimination does not occur in the workplace. Members of Congress should take the lead on such issues; not pass legislation which, in essence, ensures they don't even have to follow the rules they impose on other employers.

It is time that we, as Members of Congress, start acting as servants of those who elected us. We must stop placing ourselves above laws that we feel are necessary for others. Until we do—and to some degree rightly so—this institution's reputation with the American people will continue to erode.

I hope this is just a first step in reforming Congress. The Joint Committee on the Organization of Congress, which was established to make recommendations on how Congress can operate more efficiently and effectively, has made many other recommendations that need to be considered by this body. Only when the entire reform proposal is debated and passed will credibility begin to be truly restored to this body.

It is time for us to send a message to our constituents that we do not believe we are above the laws we create.

Ms. SHEPHERD. Mr. Chairman, I rise today in proud support of the Congressional Accountability Act. This far-reaching legislation is overdue and warrants our enthusiastic support.

Many of the new Members of Congress came to this institution after campaigning on platforms that promised reform. Mr. Chairman, today the House is about to deliver on those promises.

Ending congressional exemptions from current labor, safety, and civil rights legislation is an important and substantive change in current practice. By bringing the Congress into compliance with the same laws that impact on the private sector and the executive branch, we will be taking an important step in regaining the faith of the American electorate. Feeling the full impact of each piece of legislation is also certain to result in the Congress being more sensitive to the concerns of the private sector. We will all be better legislators because of this effort.

Let me also say that this legislation has another lesson for us. When the freshmen Democrats and Republicans put together their respective reform recommendations last year, we were pleased to find several areas of agreement. One of the proposals that garnered our wholehearted support is the Congressional Accountability Act. For nearly 18 months ERIC FINGERHUT, TILLIE FOWLER, PETER TORKILDSEN and I—along with other freshmen Members—have worked on a bipartisan basis to support this congressional compliance legislation.

CHRIS SHAYS and DICK SWETT have provided a model for those of us who want to work together on a bipartisan basis. Our collaborative effort has made it possible to craft a bill which preserves the Constitution's mandate for the separation of powers and, at the same time, requires Congress to obey the same laws it passes for the rest of the country. This bill represents significant congressional reform. I urge this House to vote for its passage.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 4892, modified by the amendments printed in part 1 of House Report 103-691, shall be considered as an original bill for the purpose of amendment and is considered read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Accountability Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) CONGRESSIONAL EMPLOYEE.—The term "congressional employee" means—

(A) an individual on the payroll of an employing office of the House of Representatives;

(B) an individual on the payroll of an employing office of the Senate;

(C) an individual on the payroll of an employing office of the Architect of the Capitol; and

(D) an individual on the payroll of an employing office of an instrumentality.

(2) EMPLOYEE IN THE HOUSE OF REPRESENTATIVES.—The term "individual on the payroll of an employing office in the House of Representatives" means—

(A) an individual who is covered under rule LI of the House of Representatives, as in effect on the day before the date of enactment of this Act;

(B) any applicant for a position that is to be occupied by an individual described in subparagraph (A); or

(C) any individual who was formerly an employee described in subparagraph (A) and whose claim of a violation arises out of the individual's employment.

(3) EMPLOYEE IN THE SENATE.—The term "individual on the payroll of an employing office in the Senate" means—

(A) any employee whose pay is disbursed by the Secretary of the Senate;

(B) any applicant for a position that is to be occupied by an individual described in subparagraph (A)); or

(C) any individual who was formerly an employee described in subparagraph (A) and whose claim of a violation arises out of the individual's employment.

(4) EMPLOYEE OF THE ARCHITECT OF THE CAPITOL.—The term "individual on the payroll of an employing office of the Architect of the Capitol" means—

(A) an employee of the Architect of the Capitol or an individual within the administrative jurisdiction of the Architect of the Capitol if such employee or individual is paid from funds under a law providing appropriations for the legislative branch;

(B) any applicant for a position that is to be occupied by an employee or individual described in subparagraph (A); or

(C) any individual who was formerly an employee or individual described in subparagraph (A) and whose claim of a violation arises out of the individual's employment.

(5) EMPLOYEE OF AN INSTRUMENTALITY.—The term "individual on the payroll of an employing office of an instrumentality" means—

(A) any individual on the payroll of an instrumentality of the legislative branch of the Federal Government;

(B) any applicant for a position that is to be occupied by an individual described in subparagraph (A); or

(C) any individual who was formerly an employee described in subparagraph (A) and whose claim of a violation arises out of the individual's instrumentality employment.

(6) HEAD OF AN EMPLOYING OFFICE.—The term "head of an employing office" means the individual who has final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the Congressional employment of an employee.

SEC. 3. APPLICATION OF LAWS.

(a) LAWS WHICH WILL APPLY.—The following laws shall apply, as prescribed by this subsection, to the legislative branch of the Federal Government:

(1) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), effective on the earlier of the effective date of applicable regulations of the Office of Compliance under section 5 or 1 year after the date of the enactment of this Act.

(2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), effective on the earlier of the effective date of applicable regulations of the Office of Compliance under section 5 or 1 year after the date of the enactment of this Act.

(3) The Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), effective on the earlier of the effective date of applicable regulations of the Office of Compliance under section 5 or 1 year after the date of the enactment of this Act.

(4) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) (including remedies available to private employees), effective on the earlier of the effective date of applicable regulations of the Office of Compliance under section 5 or 1 year after the date of the enactment of this Act.

(5) Titles I and V of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.), effective on the earlier of the effective date of applicable regulations of the Office of Compliance under section 5 or 1 year after the date of the enactment of this Act.

(6) The Occupational Safety and Health Act of 1970 (other than section 19) (29 U.S.C. 651 et seq.) (subject to subsection (c)), effective on the earlier of the effective date of applicable regulations of the Office of Compliance under section 5 or 2 years after the date of the enactment of this Act.

(7) Chapter 71 (relating to Federal labor management relations) of title 5, United States Code, effective on the earlier of the effective date of applicable regulations of the Office of Compliance under section 5 or 2 years after the date of the enactment of this Act.

(8) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.), effective on the earlier of the effective date of applicable regulations of the Office of Compliance under section 5 or 1 year after the date of the enactment of this Act, except that this Act shall not apply to the United States Capitol Police.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(9) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.), effective on the earlier of the effective date of applicable regulations of the Office of Compliance under section 5 or 1 year after the date of the enactment of this Act.

(10) The Rehabilitation Act of 1973 (29 U.S.C. 791), effective on the earlier of the effective date of applicable regulations of the Office of Compliance under section 5 or 1 year after the date of the enactment of this Act.

The laws referred to in this subsection which apply now to congressional employees shall continue to apply to such employees until the effective date such laws are made applicable in accordance with this subsection.

(b) LAWS WHICH MAY BE MADE APPLICABLE.—Any provision of Federal law shall, to the extent that it relates to the terms and conditions of employment (including hiring, promotion, or demotion, salary and wages, overtime compensation, benefits, work assignments or reassignments, termination, protection from discrimination in personnel actions, health and safety of employees, and family and medical leave) of employees apply to the legislative branch of the Federal Government in accordance with this Act.

(c) COMPLIANCE WITH OSHA.—The legislative branch of the Federal Government shall comply with the Occupational Safety and Health Act of 1970 as follows: If a citation of a violation of such Act is received, action to abate the violation shall take place as soon as possible, but no later than the fiscal year following the fiscal year in which the citation is issued.

SEC. 4. OFFICE OF COMPLIANCE.

(a) ESTABLISHMENT.—There is established in the legislative branch an Office of Compliance (hereinafter in this Act referred to as the "Office").

(b) COMPOSITION.—

(1) BOARD OF DIRECTORS.—The Office shall have a Board of Directors. The Board of Directors shall consist of 8 individuals appointed jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate. Appointments of the first 8 members of the Board of Directors shall be completed not later than 120 days after the date of the enactment of this Act.

(2) EXECUTIVE DIRECTOR.—The Chairperson of the Board of Directors shall—

(A) appoint,

(B) establish the compensation of, and

(C) terminate,

an executive director (referred to in this Act as the "executive director"), subject to the approval of the Board of Directors. The compensation of the executive director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) BOARD OF DIRECTORS QUALIFICATIONS.—

(1) IN GENERAL.—The members of the Board of Directors shall be individuals with training or expertise in—

(A) the application of the laws referred to in section 3 to employment, and

(B) employment in the Congress.

(2) SPECIFIC QUALIFICATIONS.—

(A) LOBBYING.—No individual who engages in, or is otherwise employed in, lobbying of the Congress and who is required under the Federal Regulation of Lobbying Act to register with the Clerk of the House of Representatives or the Secretary of the Senate shall be considered eligible for appointment to, or service on, the Board of Directors.

(B) OFFICE.—No member of the Board of Directors appointed under subsection (b)(1) may hold or may have held the position of Member of the House of Representatives, Senator, or employee of the House of Representatives or the Senate.

(3) HOLDING OFFICE.—If during a term of office a member of the Board of Directors engages in an activity described in paragraph (2)(A), such position shall be declared vacant and a successor shall be selected in accordance with subsection (b)(1).

(4) VACANCIES.—A vacancy in the Board of Directors shall be filled in the manner in which the original appointment was made.

(d) BOARD OF DIRECTORS TERM OF OFFICE.—

(1) IN GENERAL.—Except as provided in paragraph (2), membership on the Board of Directors shall be for 5 years. A member shall only be eligible for appointment for a single term of office.

(2) FIRST APPOINTMENTS.—Of the members first appointed to the Board of Directors—

(A) 2 shall have a term of office of 2 years,

(B) 2 shall have a term of office of 3 years,

(C) 2 shall have a term of office of 4 years, and

(D) 2 shall have a term of office of 5 years,

as designated at the time of appointment by the persons specified in subsection (b)(1).

(e) CHAIRPERSON.—The Chairperson of the Board of Directors shall be appointed from the members of the Board of Directors by the members of the Board.

(f) COMPENSATION OF MEMBERS.—

(1) PER DIEM.—Each member of the Board of Directors shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board.

(2) TRAVEL EXPENSES.—Each member of the Board of Directors shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(g) OFFICE STAFF.—The executive director may appoint and fix the compensation of such staff, including hearing officers, as are necessary to carry out this Act.

(h) DETAILEES.—The executive director may, with the prior consent of the Government department or agency concerned, use the services of any such department or agency, including the services of members or personnel of the General Accounting Office Personnel Appeals Board.

(i) CONSULTANTS.—In carrying out this Act, the executive director may procure the temporary (not to exceed 1 year) or intermittent services of individual consultants or organizations thereof.

SEC. 5. STUDY AND REGULATIONS.

(a) INITIAL ACTION.—

(1) IN GENERAL.—The Board of Directors shall conduct a study of the manner in which the laws made applicable to the legislative branch of the Federal Government under section 3(a) should apply. The Board of Directors shall complete such study and report the results to Congress not later than 180 days after the date of the first appointment of all the members of the Board of Directors.

(2) INSTRUMENTALITIES.—The Board of Directors shall include in its study under paragraph (1) an examination of the procedures used by the instrumentalities to enforce the application of laws applicable to the legislative branch of the Federal Government and a determination as to whether to direct the instrumentality to make improvements in its regulations and procedures so as to assure that procedures as effective as the procedures set forth in sections 7 through 12 will apply. If the instrumentality has no such regulations and procedures, the Board may direct the instrumentality to adopt the requisite regulations and procedures, or, if deemed necessary, in lieu thereof may itself adopt regulations pursuant to this section or authorize use of the procedures pursuant to sections 7 through 12.

(b) CONTINUING ACTION.—On an ongoing basis the Board of Directors—

(1) shall determine which of the laws referred to in section 3(b) should apply to the legislative branch of the Federal Government and if it should, the manner in which it should be made applicable;

(2) shall study the application to the legislative branch of the Federal Government of provisions of Federal law referred to in section 3 that are enacted after the date of the enactment of this Act; and

(3) may propose regulations with respect to such application in accordance with subsection (c).

(c) REGULATIONS.—

(1) LAWS MADE APPLICABLE.—

(A) GENERAL RULE.—Not later than 180 days after the date of the completion of the study under subsection (a), the Board of Directors shall, in accordance with section 553 of title 5, United States Code, propose regulations that specify the manner in which the laws made applicable to the legislative branch of the Federal Government under section 3(a) shall apply. The Board of Directors shall provide a period of at least 30 days for comment on the proposed regulations.

(B) CONGRESSIONAL NOTICE.— In addition to publishing a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, the Board of Directors shall concurrently submit such notice for publication in the Congressional Record.

(C) AMENDMENTS AND REPEALS.—When proposing regulations under subparagraph (A) specifying the manner in which a law referred to in section 3(a) shall apply to the legislative branch of the Federal Government, the Board of Directors shall recommend to the Congress changes in or repeals of existing law to accommodate the application of such law to the legislative branch of the Federal Government.

(D) FINAL REGULATIONS.— The Board of Directors shall, in accordance with such section 553, issue final regulations not later than 60 days after the end of the comment period on the proposed regulations.

(2) CONTINUING ACTION.—

(A) GENERAL RULE.—Not later than 180 days after the date of the completion of the study or a determination under subsection (b), the Board of Directors shall, in accordance with section 553 of title 5, United States Code, propose regulations that specify which of the provisions of Federal law considered in such study shall apply to the legislative branch of the Federal Government. The Board of Directors shall provide a period of at least 30 days for comment on the proposed regulations.

(B) CONGRESSIONAL NOTICE.— In addition to publishing a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, the Board of Directors shall concurrently submit such notice for publication in the Congressional Record.

(C) AMENDMENTS AND REPEALS.—When proposing regulations under subparagraph (A) specifying which of the provisions of Federal law referred to in section 3(b) shall apply to the legislative branch of the Federal Government, the Board of Directors shall recommend to the Congress changes in or repeals of existing law to accommodate the application of such law to the legislative branch of the Federal Government.

(D) FINAL REGULATIONS.— The Board of Directors shall, in accordance with such section 553, issue final regulations not later than 60 days after the end of the comment period on the proposed regulations.

(3) REGULATION REQUIREMENTS.—Regulations under paragraphs (1) and (2) shall be consistent with the regulations issued by an agency of the executive branch of the Federal Government under the provision of law made applicable to the legislative branch of the Federal Government, including portions relating to remedies.

(d) TRANSMITTAL.—A final regulation issued under subsection (c) shall be transmitted to the Congress for consideration under subsection (e).

(e) TAKING EFFECT OF REGULATIONS.—

(1) GENERAL RULE.—Subject to subsection (f), a final regulation which is issued under subsection (c) shall take effect upon the expiration of 60 days from the date the final regulation is issued unless disapproved by the Congress by concurrent resolution.

(2) CONCURRENT RESOLUTION.—A concurrent resolution referred to in paragraph (1) may be introduced in the House of Representatives or the Senate within 5 days of session after the date on which the Board of Directors issues the final regulation to which the concurrent resolution applies. The matter after the resolving clause of the resolution shall be as follows: "That Congress disapproves the issuance of final regulations of the Office of Compliance as issued on _____ (the blank space being appropriately filled in).".

(3) PROCEDURE.—A concurrent resolution referred to in paragraph (1) shall be referred to the appropriate committee of the House involved. If no concurrent resolution is reported within 15 days of session after the Board of Directors issues final regulations under subsection (c)(1)(D) or (c)(2)(D), the committee to which the concurrent resolution was referred shall be discharged from further consideration of the first such concurrent resolution introduced and the concurrent resolution shall be placed on the appropriate calendar of the House involved. Within 5 days of session after the concurrent resolution is reported or discharged, it shall be in order as a matter of highest privilege to move to proceed to its consideration and such motion shall not be debatable. The concurrent resolution shall be debatable for not to exceed 4 hours equally divided between proponents and opponents and it shall not be subject to amendment. If, prior to the adoption of a concurrent resolution by one House, that House receives a concurrent resolution of the other House with respect to the same regulations, then the procedure in that House shall be the same as if no concurrent resolution had been received from the other House, but vote on final adoption shall be on the concurrent resolution of the other House. If a concurrent resolution is received by a House in which no identical concurrent resolution has been introduced, it shall be referred to the appropriate committee and the same procedures and 20-day period for action shall apply to the consideration of the concurrent resolution by that House as would apply to an introduced concurrent resolution.

(f) RULEMAKING POWER.—The provisions of subsection (e) of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 6. OTHER FUNCTIONS.

(a) RULES OF THE OFFICE.—The executive director shall adopt rules governing the procedures of the Office, including the procedures of hearing boards, which shall be submitted for publication in the Congressional Record. The rules may be amended in the same manner. The executive director may consult with the Chairman of the Administrative Conference of the United States, the Legal Counsel of the Senate, and the General Counsel of the House of Representatives on the adoption of rules.

(b) INVESTIGATIVE AUTHORITY.—The executive director shall have authority to conduct such investigations as the executive director requires to implement sections 8 through 10 and section 12.

(c) DUTIES.—The Office shall—

(1) carry out a program of education for Members of Congress and other employing authorities of the legislative branch of the Federal Government respecting the laws made applicable to them and a program to inform individuals of their rights under laws applicable to the legislative branch of the Federal Government and under sections 7 through 12,

(2) in carrying out the program under paragraph (1), distribute the telephone number and address of the Office, procedures for action under sections 7 through 12, and any other information the executive director deems appropriate for distribution, distribute such information to Members of Congress and other employing authorities of the legislative branch of the Federal Government in a manner suitable for posting, provide such information to new employees of the legislative branch of the Federal Government, distribute such information to the residences of congressional employees, and conduct seminars and other activities designed to educate employers and employees in such information,

(3) compile and publish statistics on the use of the Office by congressional employees, including the number and type of contacts made with the Office, on the reason for such contacts, on the number of employees who initiated proceedings with the Office under sections 7 through 12 and the result of such proceedings, and on the number of employees who filed a complaint under section 10, the basis for the complaint, and the action taken on the complaint, and

(4) within 180 days of the initial appointment of the executive director and in conjunction with the Clerk of the House of Representatives and the Secretary of the Senate, develop a system for the collection of demographic data respecting the composition of the congressional employees, including race, sex, and wages, and a system for the collection of information on employment practices, including family leave and flexible work hours, in Congressional offices.

SEC. 7. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

The procedure for consideration of alleged violations of laws made applicable to the legislative branch of the Federal Government under this Act consists of 4 steps as follows:

(1) Step I, counseling, as set forth in section 8.

(2) Step II, mediation, as set forth in section 9.

(3) Step III, formal complaint and hearing by a hearing board, as set forth in section 10.

(4) Step IV, judicial review if a congressional employee is aggrieved by a dismissal of a claim under section 10(c), a final decision under section 10(g), or an order under section 10(h) or if a head of an employing office is aggrieved by a final decision under section 10(g) or would be subject to an order issued under section 10(h).

(5) Step V, as an alternative to steps III and IV, a civil action in a district court of the United States in accordance with section 12.

A congressional employee may elect the procedure described in paragraph (3) or (5) but not both procedures.

SEC. 8. STEP I: COUNSELING.

(a) IN GENERAL.—A congressional employee alleging a violation of a law made applicable to the legislative branch of the Federal Government under this Act may request counseling through the Office. The Office shall provide the employee with all relevant information with respect to the rights of the employee. A request for counseling shall be made not later than 180 days after the alleged violation forming the basis of the request for counseling occurred.

(b) PERIOD OF COUNSELING.—The period for counseling shall be 30 days unless the employee and the Office agree to reduce the period. The period shall begin on the date the request for counseling is received.

SEC. 9. STEP II: MEDIATION.

(a) IN GENERAL.—Not later than 15 days after the end of the counseling period under section 8, the employee who alleged a violation of a law made applicable to the legislative branch of the Federal Government under this Act may file a request for mediation with the Office. Mediation—

(1) may include the Office, the employee, the employing office, and individuals who are recommended by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters, and

(2) shall be a process involving meetings with the parties separately or jointly for the purpose of resolving the dispute between the employee and the employing office.

(b) MEDIATION PERIOD.—The mediation period shall be 30 days beginning on the date the request for mediation is received and may be extended for an additional 30 days at the discretion of the Office. The Office shall notify the employee and the head of the employing office when the mediation period has ended.

SEC. 10. STEP III: FORMAL COMPLAINT AND HEARING.

(a) FORMAL COMPLAINT AND REQUEST FOR HEARING.—Not later than 30 days after receipt by the congressional employee of notice from the Office of the end of the mediation period under section 9, the congressional employee may file a formal complaint with the Office against the head of the employing office involved. No complaint may be filed unless the employee has made a timely request for counseling and has completed the procedures set forth in sections 8 and 9.

(b) HEARING BOARD.—A board of 3 independent hearing officers (hereinafter in this Act

VOL 140 PT 15 AG 10 — 11 1994 UMI

referred to as a "hearing board"), who are not Members of the House of Representatives, Senators, or officers or employees of the House of Representatives or Senate, chosen by the executive director (one of whom shall be designated by the executive director as the presiding hearing officer) shall be assigned to consider each complaint filed under subsection (a). The executive director shall appoint hearing officers from candidates who are recommended by the Federal Mediation and Conciliation Service or the Administrative Conference of the United States. A hearing board shall act by majority vote.

(c) DISMISSAL OF FRIVOLOUS CLAIMS.—Prior to a hearing under subsection (d), a hearing board may dismiss any claim that it finds to be frivolous.

(d) HEARING.—A hearing shall be conducted—

(1) in closed session on the record by a hearing board; and

(2) no later than 30 days after filing of the complaint under subsection (a), except that the Office may, for good cause, extend up to an additional 60 days the time for conducting a hearing.

(e) DISCOVERY.—Reasonable prehearing discovery may be permitted at the discretion of the hearing board.

(f) SUBPOENA POWER.—

(1) IN GENERAL.—A hearing board may authorize subpoenas, which shall be issued by the presiding hearing officer on behalf of the hearing board for the attendance of witnesses at proceedings of the hearing board and for the production of correspondence, books, papers, documents, and other records. The attendance of witnesses and the production of evidence may be required from any place within the United States.

(2) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the hearing board may apply to a United States district court for an order requiring that person to appear before the hearing board to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the hearing board shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(5) IMMUNITY.—The hearing board is an agency of the United States for the purpose of part V of title 18, United States Code (relating to immunity of witnesses).

(g) HEARING BOARD DECISION.—As expeditiously as possible, but in no case more than 45 days after the conclusion of the hearing, the hearing board shall make a decision in the matter for which the hearing was held. The decision of the hearing board shall be transmitted by the Office to the employee and the employing office. The decision shall state the issues raised by the complaint, describe the evidence in the record, and contain a determination as to whether a violation of a law made applicable to the legislative branch of the Federal Government under this Act has occurred. Any decision of the hearing board shall contain a written statement of the reasons for the hearing board's decision. A final decision of the hearing board shall be made available to the public by the Office.

(h) REMEDY ORDER.—If the decision of the hearing board under subsection (g) is that a violation of a law made applicable to the legislative branch of the Federal Government under this Act, it shall order the remedies under such law as made applicable to the legislative branch of the Federal Government under this Act, except that no Member of the House of Representatives, Senator, any other head of an employing office, or agent of such a Member or Senator, shall be personally liable for the payment of compensation. The hearing board shall have no authority to award punitive damages. The entry of an order under this subsection shall constitute a final decision for purposes of judicial review under section 11.

(i) FUNDS.—There shall be established in the House of Representatives and in the Senate a fund from which compensation (including attorney's fees) may be paid in accordance with an order under subsection (h) or as a result of judicial review under section 11 or a civil action under section 12. From the outset of any proceeding in which compensation may be paid from a fund of the House of Representatives, the General Counsel of the House of Representatives may provide the respondent with representation.

SEC. 11. JUDICIAL REVIEW.

(a) IN GENERAL.—

(1) TYPES OF REVIEW.—Following any hearing under section 10 on a complaint relating to a provision of law described in section 3, any congressional employee aggrieved by a dismissal of a claim under section 10(c), a final decision under section 10(g), a final order under section 10(h), or any head of an employing office aggrieved by a final decision under section 10(g) or a final order under section 10(h), may petition for review by the United States Court of Appeals for the Federal Circuit in accordance with paragraph (2).

(2) PROVISIONS APPLICABLE TO REVIEW.—The following provisions apply to a review under paragraph (1):

(A) LAW APPLICABLE.—Chapter 158 of title 28, United States Code, shall apply—

(i) with respect to section 2344 of title 28, United States Code, service of the petition shall be on the House or Senate Legal Counsel, or the appropriate entity of an instrumentality, as the case may be, rather than on the Attorney General;

(ii) the provisions of section 2348 of title 28, United States Code, on the authority of the Attorney General, shall not apply;

(iii) the petition for review shall be filed not later than 90 days after the entry in the Office of a final decision under section 10(g), an order under section 10(h); and

(iv) the Office shall be an "agency" as that term is used in chapter 158 of title 28, United States Code.

(B) STANDARD OF REVIEW.—To the extent necessary for decision and when presented, the court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a dismissal under section 10(c), a final decision under section 10(g), or an order under section 10(h) if it is determined that the dismissal, decision, or order was—

(i) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(ii) not made consistent with required procedures; or

(iii) unsupported by substantial evidence.

(C) RECORD.—In making determinations under subparagraph (B), the court shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. The record on review shall include the record before the hearing board, the decision of the hearing board, and the order of the hearing board.

(b) ATTORNEY'S FEES.—If a congressional employee is the prevailing party in a proceeding under this section, attorney's fees for the judicial proceeding may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).

SEC. 12. CIVIL ACTION.

(a) IN GENERAL.—

(1) CIVIL ACTION.—A congressional employee may within 30 days after receipt of notice from the Office of the end of the mediation period under section 9 for a violation of a law made applicable to the legislative branch of the Federal Government bring a civil action in a district court of the United States seeking relief from the alleged violation of law if such a civil action is available under such law. In any such civil action, any party may demand a jury trial.

(2) EXHAUSTION REQUIREMENT.—No civil action may be filed under paragraph (1) unless the employee has made a timely request for counseling and has completed the procedures set forth in sections 8 and 9.

(3) COURT ORDER.—If a court determines that a violation of law occurred, the court may only enter an order described in section 10(h).

(b) ATTORNEY'S FEES.—If a congressional employee is the prevailing party in a proceeding under this section, attorney's fees may be allowed by the court in accordance with any standards prescribed under Federal law for the award of such fees in the event of a violation of such provision.

SEC. 13. RESOLUTION OF COMPLAINT.

If, after a formal complaint is filed under section 10, the employee and the head of the employing office resolve the issues involved, the employee may withdraw the complaint or the parties may enter into a written agreement, subject to the approval of the executive director.

SEC. 14. PROHIBITION OF INTIMIDATION.

Any intimidation of, or reprisal against, any employee by any Member of the House of Representatives, Senator, or officer or employee of the House of Representatives or Senate, by the Architect of the Capitol or anyone employed by the Architect of the Capitol, or by an instrumentality of the legislative branch of the Federal Government because of the exercise of a right under this Act constitutes an unlawful employment practice, which may be remedied in the same manner under this Act as is a violation of a law made applicable to the legislative branch of the Federal Government under this Act.

SEC. 15. CONFIDENTIALITY.

(a) COUNSELING.—All counseling shall be strictly confidential except that the Office and the employee may agree to notify the head of the employing office of the allegations.

(b) MEDIATION.—All mediation shall be strictly confidential.

(c) HEARINGS.—Except as provided in subsections (d) and (e), the hearings and deliberations of the hearing board shall be confidential.

(d) RELEASE OF RECORDS FOR JUDICIAL ACTION.—The records of hearing boards may be made public if required for the purpose of judicial action under section 9.

(e) ACCESS BY COMMITTEES OF CONGRESS.—At the discretion of the executive director, the executive director may provide to the Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate access to the records of the hearings and decisions of the hearing boards, including all written and oral testimony in the possession of the hearing boards, concerning a decision under section 10(g). The executive director shall not provide such access until the executive director has consulted with the individual filing the complaint at issue in the hearing, and until the hearing board has issued the decision.

(f) COORDINATION.—The executive director shall coordinate the proceedings with the Committee on Standards and Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate to ensure effectiveness, to avoid duplication, and to prevent penalizing cooperation by respondents in the respective proceedings.

SEC. 16. POLITICAL AFFILIATION AND PLACE OF RESIDENCE.

(a) IN GENERAL.—It shall not be a violation of a law made applicable to the legislative branch of the Federal Government under this Act to consider the—

(1) party affiliation,

(2) domicile, or

(3) political compatibility with the employing office,

of a congressional employee with respect to employment decisions.

(b) DEFINITION.—For purposes of subsection (a), the term "employee" means—

(1) an employee on the staff of the House of Representatives or Senate leadership,

(2) an employee on the staff of a committee or subcommittee,

(3) an employee on the staff of a Member of the House of Representatives or Senate,

(4) an officer or employee of the House of Representatives or Senate elected by the House of Representatives or Senate or appointed by a Member of the House of Representatives or Senate, other than those described in paragraphs (1) through (3), or

(5) an applicant for a position that is to be occupied by an individual described in paragraphs (1) through (4).

SEC. 17. OTHER REVIEW PROHIBITED.

No congressional employee may commence a judicial proceeding to redress practices prohibited under section 5, except as provided in this Act.

SEC. 18. STUDY.

(a) STUDY.—The Office shall conduct a study—

(1) of the ways that access by the public to information held by the Congress may be improved, streamlined, and made consistent between the House of Representatives and the Senate and of the application of section 552 of title 5, United States Code to the legislative branch of the Federal Government; and

(2) of the application of the requirement of section 552a of title 5, United States Code, to the legislative branch of the Federal Government.

(b) STUDY CONTENT.—The study conducted under subsection (a) shall examine—

(1) information that is currently made available under such section 552 by Federal agencies and not by the legislative branch of the Federal Government;

(2) information held by the non-legislative offices of the legislative branch of the Federal Government, including—

(A) the instrumentalities,

(B) the Architect of the Capitol,

(C) the Director of Non-Legislative and Financial Services of the House of Representatives,

(D) the Clerk of the House of Representatives,

(E) the Secretary of the Senate,

(F) the Inspector General of the House of Representatives,

(G) the Sergeant at Arms of the House of Representatives and the Sergeant at Arms of the Senate,

(H) the Doorkeeper of the House of Representatives,

(I) the United States Capitol Police, and

(J) the House Commission on Congressional Mailing Standards;

(3) financial expenditure information of the legislative branch of the Federal Government; and

(4) provisions for judicial review of denial of access to information held by the legislative branch of the Federal Government.

(c) TIME.—The Office shall conduct the study prescribed by subsection (a) and report the results of the study to the Congress not later than one year after the date of the initial appointment of the Board of Directors.

The CHAIRMAN. No amendment to the substitute shall be in order except the amendments printed in part 2 of the report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for a division of the question.

Debate time on each amendment will be equally divided and controlled by the proponent and an opponent of the amendment.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 103–691.

AMENDMENT OFFERED BY MR. ROSE

Mr. ROSE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROSE: Page 21, insert after line 24 the following:

(d) REPORT.—Within one year of the date the system referred to in subsection (c)(4) is developed and annually thereafter, the Board of Directors shall submit to Congress a report on the information collected under such system. Each report after the first report shall contain a comparison and evaluation of data contained in the previous report.

The CHAIRMAN. Pursuant to the rule, the gentleman from North Carolina [Mr. ROSE] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Chairman, my amendment is a simple amendment to section 6 of the bill. It was not the amendment offered in my absence in the full committee markup, I would say to my colleague from California, Mr. THOMAS. This amendment does nothing more than require annual reporting to the Congress of the information required to be gathered under section 6 of the bill.

□ 1610

The committee supported the information-gathering provisions in section 6 of the bill. My amendment simply requires that this information be transmitted to the Congress. I believe this should help us in the conduct of our oversight responsibilities.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, having looked at this amendment, the chairman is correct. This is not the amendment that was presented in the Committee on House Administration, and we have no objection to this amendment.

Mr. BEILENSON. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from California.

Mr. BEILENSON. Mr. Chairman, the Committee on Rules members also say to the distinguished chairman that we have looked at the amendment of the gentleman and are supportive of it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. ROSE].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in part 2 of House Report 103–691.

AMENDMENT OFFERED BY MR. KLINK

Mr. KLINK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 5, lines 8, 13, 18, and 24, strike "1 year" and insert in lieu thereof "120 days".

Page 6, lines 5 and 22, strike "1 year" and insert in lieu thereof "120 days".

Page 7, lines 5 and 10, strike "1 year" and insert in lieu thereof "120 days".

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. KLINK] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment I offer today to the Congressional Accountability Act changes the timeframe under which the Congress will comply with certain labor and civil rights laws listed in H.R. 4822 from 1 year to 120 days.

According to section 5 of the bill, the newly designed Office of Compliance will conduct a study of the manner in which the laws made applicable to the legislative branch should apply.

Once this bill is enacted, there will be a 120-day timeframe for the Board of

VOL 140 PT 15 AG 10 — 11 1994 UMI

Directors of the Office of Compliance to be appointed. The Board then has to appoint an Executive Director. The Board has another 180 days to review and study the laws that Congress has already seen fit to impose on the private sector. At the end of this review period—we are close to a year gone by already—the Board will promulgate regulations for our future compliance. These regulations must be printed in the CONGRESSIONAL RECORD and there is a 30-day comment period. Final regulations will be issued no later than 60 days after the comment period ends. And finally—yes, ladies and gentlemen, finally 60 days from the date the final regulations are issued, we have to abide by the laws in this bill.

I would like to note at this point that comments have already been received collectively over the past 25 years on all of these laws. If employers an employees in the private sector do not have the privilege of revising the guidelines set forth in the Fair Labor Standards Act, the Family and Medical Leave Act, and all the laws we are discussing here today, why is Congress being given 450 days—the equivalent of 1 year and 3 months—to review and comment on laws that we have already seen fit to pass for our constituents?

It is my understanding that during the markup of H.R. 4822 at the House Administration Committee, Mr. BOEHNER, successfully offered an amendment to make Members of Congress comply with the laws contained in this bill no later than 1 year after enactment of this legislation, even if the Office of Compliance has not issued specific regulations on each law. I applaud the gentleman from Ohio and the House Administration Committee for acknowledging that there was a flaw in this provision of the bill and adopting the 1 year timeframe. However, much can happen in 1 year. It is possible—perhaps not probable, but possible—that an applicant for a position at the Library of Congress could be rejected based on his or her race or gender. It is possible that in 1 year—not probable, but possible—that the House could amend certain labor laws to explicitly exempt us from compliance or enforcement, just because we cannot figure out just how to apply these laws for our employees. You get the picture. A lot can happen in 1 year.

My amendment changes the date of Congress' mandatory compliance with the Fair Labor Standards Act, the Americans With Disabilities Act, the Age Discrimination in Employment Act, the Family and Medical Leave Act, the Employee Polygraph Protection Act, the Rehabilitation Act, and title VII of the Civil Rights Act to 120 days after enactment of H.R. 4822. That would bring those of us voting on this law—assuming it passes in the Senate relatively quickly—into compliance before the end of this calendar year, before the end of our elected term of office. Each of us here today would very quickly be responsible for the vote we each make today.

I believe H.R. 4822 is a fine piece of legislation. It was crafted over 1½ a year and had the input of dozens of reform-minded Members. It is my belief, however, that we can perfect this legislation and make certain that Congress comes into complete compliance with labor laws, in exactly the same way our constituents in the private sector must comply.

My amendment would assure that congressional compliance does not get lost in a quagmire while the Board of Directors of the Office of Compliance are studying laws that we have already approved and drafting regulations and receiving comment on them.

My amendment would almost immediately restore integrity to and public faith in the Congress.

My amendment would perfect an imperfection in this fine piece of legislation.

I urge your support.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. KLINK. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I rise to support the gentleman from Pennsylvania in his amendment.

The point I would like to make is this. We pass a lot of these labor laws and before there is time for the Departments to actually issue the regulations explaining to the private sector how they must comply, the law is already in effect in the private sector. So if we truly want to mirror what is going on in the private sector, we ought to adopt the amendment of the gentleman from Pennsylvania. It will put the regulations on top of this institution in 120 days after the Board is set up, even though the regulations may not in fact be issued. We should understand clearly what those in the private sector that we deal with day in and day out have to deal with when they have got a law in front of them and yet have no regulations so that they understand how to comply.

I congratulate the gentleman from Pennsylvania and urge the adoption of his amendment.

Mr. KLINK. Mr. Chairman, I thank my colleague from Ohio for his work in the committee and for his fine comments on this amendment.

The CHAIRMAN. Is the gentleman from North Carolina [Mr. ROSE] opposed to the amendment?

Mr. ROSE. Mr. Chairman, I rise in rather gentle opposition to the amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. ROSE] is recognized for 5 minutes.

Mr. ROSE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment, only to point out that the gentleman from Pennsylvania has stated that he wants this legislation in force 120 days after the bill is passed. Even his friendly speaker, the gentleman from Ohio [Mr. BOEHNER], observed it would be 120 days after the Board is set up. That may be much longer than 120 days.

We wrestled with this at great length in the committee. I personally believe, and I think the majority of the committee believe, that we should get it passed, get the Board set up as quickly as possible, and then urge the Board to very, very quickly put all the laws into place.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman for yielding to me.

The chairman rises with some reluctance, as do I. The bill states that the members of the Board of Directors, in their selection process, shall be completed not later than 120 days after the date of the enactment of this act. So it means that at the same time the Board is completing its membership, these decisions will have had to have been made. It simply is not real world.

I understand the point of the gentleman from Pennsylvania, because oftentimes the laws that are passed are not real world.

If this amendment passes, it will, in fact, choke this bill. I am highly desirous of chocking certain things, but not this bill. What I want this bill to do is to chafe so that we begin to examine the ridiculous things we do as exemplified from the gentleman from Pennsylvania's amendment, so that we will not do it anymore, and we will review the various areas and change them.

So I am in reluctant opposition because he has clearly pointed out, very graphically, joined by the gentleman from Ohio, that what we do to the private sector, we ought to do it to ourselves. If we do, we cannot get the chafing effect involved which will bring about real change and, therefore, I reluctantly oppose the gentleman's amendment.

Mr. ROSE. Mr. Chairman, the heart and head of the gentleman from Pennsylvania are clearly in the right place on this amendment. I compliment him for his initiative. I, too, reluctantly ask that we not adopt the amendment at this time. In conference, I would certainly be willing to work with my colleagues, the gentleman from California [Mr. THOMAS], and I, in conference to see if we could speed this up in some way, more in line with the thinking of the gentleman from Pennsylvania [Mr. KLINK].

However, Mr. Chairman, reluctantly, I believe we should not adopt this amendment.

□ 1620

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. KLINK].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of House Report 103–691.

AMENDMENT OFFERED BY MRS. BYRNE

Mrs. BYRNE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment Offered by Mrs. BYRNE: Page 7, line 25, insert before the period the following: "or, to the extent that it relates to any standard benefits package approved as part of the national health care reform enacted by Congress in the 103d Congress, apply to Members of Congress, as defined in section 2106 of title 5, United States Code, in accordance with this Act".

Mrs. BYRNE. Mr. Chairman, as we speak on the floor today about congressional accountability, we take an important step toward forcing Congress to live under the same laws it passes for others.

My amendment addresses one area that remains untouched in this bill—health care. The amendment is quite simple: it requires Congress to live under any health care reform bill we pass. As we embark on health care reform, it is neither wise nor prudent for Congress once again to excuse itself from a system it requires the rest of Americans to live with. The adoption of this amendment, lets us state upfront to our constituents that we are truly in this together.

From the onset of the debate over health care reform, we have heard from thousands of our constituents and read countless newspaper editorials that rightly charge Congress with being out of touch with the issues involved with health care reform. These charges stem from the perception that Members of Congress are sheltered from the current system because of the high quality of care and guaranteed benefits they receive.

When it comes time to debate health care reform, we have a choice: either keep the status quo for ourselves, regardless of what the public will have; or give Congress and the American people the exact same benefits. Providing the Nation's political leaders the same benefits will let them serve as canaries in the coal mine, experiencing the problems of shortfall in the benefits package first hand so that they will quickly address them.

It just makes sense to include this language in the Congressional Accountability Act, which is a long-overdue effort to ensure that Congress lives by the laws it passes. Today, we have a historic opportunity to finally apply laws, some over half a century old, to the legislative branch. However, our actions today will be even more historic if we stop being merely reactive, but begin to act proactively.

I would like to point out, Mr. Chairman, that the House has already shown widespread support to ensure that Members of Congress are not sheltered from the effects of health care reform. In fact, nearly 200 Members have signed onto various resolutions calling for a health care bill that covers Congress in the same manner that the private sector is covered.

If we do not apply to Congress one of the most important pieces of legislation it has addressed in decades, I am afraid that we will fall short of what we set out to accomplish with the Congressional Accountability Act. More important, it will make passage of any health care reform bill a hollow effort, since we will not be a part of it. The result will be a plan which lacks credibility, and a Congress which lacks accountability.

Let us make it clear to the American people before the debate gets underway that Members of Congress are ready, willing, and able to abide by the benefits package established under health care reform. I want to be able to tell my constituents in northern Virginia that when health care reform takes place, it will affect me the same way it affects them. The Byrne amendment will make that possible.

Mr. Chairman, I urge my colleagues to support the Byrne amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member rise in opposition to the amendment?

Mr. ROSE. Mr. Chairman, by default, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. ROSE. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I thank the gentleman for yielding time to me.

Let me say, Mr. Chairman, that this amendment in itself is divisive. There is absolutely no need for us to even consider the amendment. Next week we are going to be considering national health care. Our committee, the Committee on Post Office and Civil Service, has reported out a piece of legislation that took us hours and hours of meetings with the Committee on Ways and Means, with the leadership, with the Committee on Energy and Commerce, with the Committee on Education and Labor, to construct.

In that piece of legislation that we constructed, which was comprehensive, it sets up a procedure for American citizens to join into the Federal Employees Health Benefit package. People who work for employers of 100 or less, those who work part-time, and other kinds of employees will be eligible to join the Federal employees plan, the same plan that Members of Congress are under now.

Mr. Chairman, I see no legislative reason whatsoever for considering or passing this amendment. There may be a political reason, I am not sure. In essence, what this is doing, Mr. Chairman, this amendment would override the jurisdiction of our committee. We have been working on this issue for many, many weeks. The gentlewoman who was offering the amendment is a member of the committee. She was there when we voted for the construct that has been accepted by the Democratic leadership, and is part of the overall health care plan. She supported it. If she wanted to offer this amendment, she should have offered it in committee and we would have had time to reasonably discuss it.

However, Mr. Chairman, to come forth without any hearings on it or whatever, without any knowledge of what damage it may or may not do to the total package of health insurance, health care, in my opinion, Mr. Chairman, is not worthy of our considering favorably on this floor.

Mrs. BYRNE. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Mr. Chairman, I rise to state that I was, and rightfully so, a cosponsor of the amendment that the gentlewoman from Virginia [Mrs. BYRNE] had offered prior to putting together this amendment, and it is my hope and expectation, Mr. Chairman, that as we in the Congress become more accountable to the laws and regulations that we put on the rest of the country, that we might also make sure that there is a consistency between the Congress and the rest of the country with regard to health care.

It is my concern that we not go through the process in an inappropriate fashion, Mr. Chairman, in a fashion that is contrary to the rules and regulations established in the House. If there are inconsistencies in this language with that process, I hope that they will be resolved in the conference committee report. It is philosophically something that I can agree with, and I will support this amendment.

Mr. ROSE. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have a statement to make, and then I have a series of questions to ask the gentlewoman from Virginia, because as the ranking Member of the Subcommittee on Health of the Committee on Ways and Means, we have been spending some time on the health care question, both in the subcommittee and in the full committee.

Mr. Chairman, currently the split on the Federal Employees Health Benefits package and the Federal Government share is roughly a 75–25 split. That is, the individuals and Members of Congress pay 25 percent of the health care

VOL 140 PT 15 AG 10 — 11 1994 UMI

costs. In the bill offered by the gentleman from Missouri [Mr. GEPHARDT], if it in fact reflects the Committee on Ways and Means structure, it is a 20–80 split. That is, individuals have to only pay 20 percent, so if in fact we conform to what goes on out there, that is a 5 percent break for Members of Congress and Federal employees. More importantly, it goes to the language of the amendment.

Mr. Chairman, I do not know whether the gentlewoman from Virginia understands that the term "standard benefits package" refers to a very specific set of benefits, as opposed to a high deductible policy, as opposed to a Medisave concept, which is contained in the Committee on Ways and Means provision.

The question I would ask of the gentlewoman from Virginia [Mrs. BYRNE] is in the reference to "standard benefits package," does she mean by that that the Members of Congress would be offered only the standard benefits package, as understood in the health care area, in the way in which it is defined in the legislation, or does she mean a standard benefits package to include all of the permutations that may be offered in the area of general health packages, including a high deductible policy, a Medisave concept, a catastrophic concept, or the myriad of policies that are offered?

□ 1630

Mrs. BYRNE. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentlewoman from Virginia.

Mrs. BYRNE. I would say the gentleman that the standard benefits package that is referred to in the amendment is whatever we come out with in this body. If we say that women over 65 can only have one mammogram a year, then Members of Congress who are 65 years old and female cannot have more than one. It is a very simple concept when boiled down to its essence, which is why should we be able to have a better benefits package than we are willing to enforce on the American people? I would also say to the gentleman that it has nothing to do with deductibility or anything else. It talks about the benefits package that is available to citizens through health care reform and that is what we are addressing in this amendment. Not the split, not anything else. If private employers can offer other packages, then we will be able to offer other packages, too. If they want to have a maintenance of effort, we will be able to offer a maintenance of effort, also. If the package says that we can have an 80–20 or a 75–25, it does not have anything to do with the benefits, which is clear in the language of this amendment, that is offered to the American people.

The CHAIRMAN. The gentlewoman from Virginia [Mrs. BYRNE] has 15 seconds remaining to close her portion of debate.

Mrs. BYRNE. Mr. Chairman, I yield myself the balance of my time.

In closing, Mr. Chairman, it seems to me that the concept here is one that fits perfectly with this bill. In congressional accountability, we are going to be talking in the next few weeks about the most important issue of the decade, which is how we deal with health care in this country, the benefit packages that people are going to be offered, and it makes sense that we offer those same benefit packages to Congress, no better, no worse, so we know what is going on with the health care system of the United States.

Mr. ROSE. Mr. Chairman, I yield myself 15 seconds.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, in the bill, we have the Fair Labor Standards Act, very specific; title VII of the Civil Rights Act, very specific; Americans With Disabilities Act, very specific; Age Discrimination in Employment Act, very specific.

What we have here is the phrase "standard benefits package." The gentlewoman from Virginia has described a number of options that may or may not be available under a number of standards. It seems to me if we are going to do this, we should be precise in what we do. I have to tell Members that standard benefits package means standard benefits package. It does not mean the Medisave concept, it does not mean the high deductible. It means Members of Congress will be getting less than whatever everyone else gets because of this language.

Mr. ROSE. Mr. Chairman, I yield my remaining time to the gentleman from Indiana [Mr. MCCLOSKEY] to close the debate.

The CHAIRMAN. The gentleman from Indiana [Mr. MCCLOSKEY] is recognized for 30 seconds.

Mr. MCCLOSKEY. Mr. Chairman, very briefly, and this has been discussed extensively, but this is not in essence a small "d" democratic package. It is a package really to diminish the status of elected officials in relation to all other people similarly situated. That includes staff, people in the Pentagon, Soil and Water Conservation Service, people working for IBM, et al. Why do we have to diminish ourselves to the point where we say we cannot have equal rights with the mailman? Let us be able to be in there with all our Federal employees and bring those who want into the Federal system.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Virginia [Mrs. BYRNE].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mrs. BYRNE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names.

[Roll No. 387]

ANSWERED "PRESENT"—428

Abercrombie	Collins (MI)	Geren
Ackerman	Combest	Gibbons
Andrews (ME)	Condit	Gilchrest
Andrews (NJ)	Conyers	Gillmor
Andrews (TX)	Cooper	Gilman
Applegate	Coppersmith	Gingrich
Archer	Costello	Glickman
Armey	Cox	Gonzalez
Bacchus (FL)	Coyne	Goodlatte
Bachus (AL)	Cramer	Goodling
Baesler	Crane	Gordon
Baker (CA)	Crapo	Goss
Baker (LA)	Cunningham	Grams
Ballenger	Danner	Grandy
Barca	Darden	Green
Barcia	de la Garza	Greenwood
Barlow	de Lugo (VI)	Gunderson
Barrett (NE)	Deal	Gutierrez
Barrett (WI)	DeFazio	Hall (OH)
Bartlett	DeLauro	Hall (TX)
Barton	DeLay	Hamburg
Bateman	Dellums	Hamilton
Becerra	Derrick	Hancock
Beilenson	Deutsch	Hansen
Bentley	Diaz-Balart	Harman
Bereuter	Dickey	Hastert
Berman	Dicks	Hastings
Bevill	Dingell	Hayes
Bilbray	Dixon	Hefley
Bilirakis	Dooley	Hefner
Bishop	Doolittle	Hilliard
Blackwell	Dornan	Hinchey
Bliley	Dreier	Hoagland
Blute	Duncan	Hobson
Boehlert	Dunn	Hochbrueckner
Boehner	Durbin	Hoekstra
Bonilla	Edwards (CA)	Hoke
Bonior	Edwards (TX)	Holden
Borski	Ehlers	Horn
Boucher	Emerson	Houghton
Brewster	Engel	Hoyer
Brooks	English	Huffington
Browder	Eshoo	Hughes
Brown (CA)	Evans	Hunter
Brown (FL)	Everett	Hutchinson
Brown (OH)	Ewing	Hutto
Bryant	Faleomavaega (AS)	Hyde
Bunning	Farr	Inglis
Burton	Fawell	Inhofe
Buyer	Fazio	Inslee
Byrne	Fields (LA)	Istook
Callahan	Fields (TX)	Jacobs
Calvert	Filner	Jefferson
Camp	Fingerhut	Johnson (CT)
Canady	Fish	Johnson (GA)
Cantwell	Flake	Johnson (SD)
Cardin	Foglietta	Johnson, E.B.
Carr	Ford (MI)	Johnson, Sam
Castle	Ford (TN)	Johnston
Chapman	Fowler	Kanjorski
Clay	Franks (CT)	Kaptur
Clayton	Franks (NJ)	Kasich
Clement	Frost	Kennedy
Clinger	Furse	Kennelly
Clyburn	Gallegly	Kildee
Coble	Gallo	Kim
Coleman	Gejdenson	King
Collins (GA)	Gekas	Kingston
Collins (IL)	Gephardt	Kleczka
Collins (MI)	Geren	Gibbons
Combest	Gilchrest	Gillmor
Condit	Gilman	Gingrich
Conyers	Glickman	Gonzalez
Cooper	Gonzalez	Goodlatte
Coppersmith	Goodling	Gordon
Costello	Gordon	Goss
Cox	Goss	Grams
Coyne	Grams	Grandy
Cramer	Green	Green
Crapo	Greenwood	Greenwood
Cunningham	Gunderson	Gunderson
Danner	Gutierrez	Gutierrez
Darden	Hall (OH)	Hall (OH)
de la Garza	Hall (TX)	Hall (TX)
Deal	Hamburg	Hamburg
DeFazio	Hamilton	Hamilton
DeLauro	Hancock	Hancock
Dellums	Hansen	Hansen
Derrick	Harman	Harman
Deutsch	Hastert	Hastert
Diaz-Balart	Hastings	Hastings
Dickey	Hayes	Hayes
Dicks	Hefley	Hefley
Dingell	Hefner	Hefner
Dixon	Hilliard	Hilliard
Dooley	Hinchey	Hinchey
Doolittle	Hoagland	Hoagland
Dornan	Hobson	Hobson
Dreier	Hochbrueckner	Hochbrueckner
Duncan	Hoekstra	Hoekstra
Dunn	Hoke	Hoke
Durbin	Holden	Holden
Edwards (CA)	Horn	Horn
Edwards (TX)	Houghton	Houghton
Ehlers	Hoyer	Hoyer
Emerson	Huffington	Huffington
Engel	Hughes	Hughes
English	Hunter	Hunter
Eshoo	Hutchinson	Hutchinson
Evans	Hutto	Hutto
Everett	Hyde	Hyde
Ewing	Inglis	Inglis
Faleomavaega (AS)	Inhofe	Inhofe
Farr	Inslee	Inslee
Fawell	Istook	Istook
Fazio	Jacobs	Jacobs
Fields (LA)	Jefferson	Jefferson
Fields (TX)	Johnson (CT)	Johnson (CT)
Filner	Johnson (GA)	Johnson (GA)
Fingerhut	Johnson (SD)	Johnson (SD)
Fish	Johnson, E.B.	Johnson, E.B.
Flake	Johnson, Sam	Johnson, Sam
Foglietta	Johnston	Johnston
Ford (MI)	Kanjorski	Kanjorski
Ford (TN)	Kaptur	Kaptur
Fowler	Kasich	Kasich
Franks (CT)	Kennedy	Kennedy
Franks (NJ)	Kennelly	Kennelly
Frost	Kildee	Kildee
Furse	Kim	Kim
Gallegly	King	King
Gallo	Kingston	Kingston
Gejdenson	Kleczka	Kleczka
Gekas	Klein	Klein
Gephardt	Klug	Klug
Geren	Knollenberg	Knollenberg
Gibbons	Kolbe	Kolbe
Gilchrest	Kopetski	Kopetski
Gillmor	Kreidler	Kreidler
Gilman	Kyl	Kyl
Glickman	LaFalce	LaFalce
Goodlatte	Lambert	Lambert
Goodling	Lancaster	Lancaster
Gordon	Lantos	Lantos
Goss	LaRocco	LaRocco
Grams	Laughlin	Laughlin
Green	Lazio	Lazio
Greenwood	Leach	Leach
Gunderson	Lehman	Lehman
Gutierrez	Levin	Levin
Hall (OH)	Levy	Levy
Hall (TX)	Lewis (GA)	Lewis (GA)
Hamburg	Lewis (KY)	Lewis (KY)
Hamilton	Lightfoot	Lightfoot
Hancock	Linder	Linder
Harman	Lipinski	Lipinski
Hastert	Livingston	Livingston
Hastings	Lloyd	Lloyd
Hayes	Long	Long
Hefley	Lowey	Lowey
Hefner	Lucas	Lucas
Hilliard	Machtley	Machtley
Hinchey	Maloney	Maloney
Hoagland	Mann	Mann
Hobson	Manzullo	Manzullo
Hochbrueckner	Margolies-Mezvinsky	Margolies-Mezvinsky
Hoekstra	Markey	Markey
Hoke	Matsui	Matsui
Holden	Mazzoli	Mazzoli
Horn	McCrery	McCrery
Houghton	McCurdy	McCurdy
Hoyer	McDermott	McDermott
Huffington	McHale	McHale
Hughes	McHugh	McHugh
Hunter	McInnis	McInnis
Hutchinson	McKeon	McKeon
Hutto	McKinney	McKinney
Hyde	McNulty	McNulty
Inglis	Meehan	Meehan
Inhofe	Menendez	Menendez
Inslee	Meyers	Meyers
Istook	Mfume	Mfume
Jacobs	Mica	Mica
Jefferson	Miller (CA)	Miller (CA)
Johnson (CT)	Miller (FL)	Miller (FL)
Johnson (GA)	Mineta	Mineta
Johnson (SD)	Minge	Minge
Johnson, E.B.	Moakley	Moakley
Johnson, Sam	Mollohan	Mollohan
Johnston	Montgomery	Montgomery
Kanjorski	Moorhead	Moorhead
Kaptur	Morella	Moran
Kasich	Murphy	Morella
Kennedy	Murtha	Murphy
Kennelly	Myers	Myers
Kildee	Nadler	Nadler
Kim	Neal (MA)	Neal (MA)
King	Neal (NC)	Neal (NC)
Kingston	Norton (DC)	Nussle
Kleczka	Nussle	Oberstar
Klein	Oberstar	Olver
Klink	Obey	Ortiz
Klug	Olver	Orton
Knollenberg	Ortiz	Owens
Kolbe	Orton	Pallone
Kopetski	Owens	Parker
Kreidler	Oxley	Pastor
Kyl	Packard	Paxon
LaFalce	Pallone	Payne (NJ)
Lambert	Parker	Payne (VA)
Lancaster	Pastor	Pelosi
Lantos	Paxon	Penny
LaRocco	Payne (NJ)	Peterson (FL)
Laughlin	Payne (VA)	Peterson (MN)
Lazio	Pelosi	Petri
Leach	Penny	Pickett
Lehman	Peterson (FL)	Pickle
Levin	Peterson (MN)	Pombo
Levy	Petri	Pomeroy
Lewis (CA)	Pickett	Porter
Lewis (FL)	Pickle	Portman
Lewis (GA)	Pombo	Poshard
Lewis (KY)	Pomeroy	Price (NC)
Lightfoot	Porter	Pryce (OH)
Linder	Portman	Quillen
Lipinski	Poshard	Quinn
Livingston	Price (NC)	Rahall
Lloyd	Pryce (OH)	Ramstad
Long	Quillen	Rangel
Lowey	Quinn	Ravenel
Lucas	Rahall	Reed
Machtley	Ramstad	Regula
Maloney	Rangel	Reynolds
Mann	Ravenel	Richardson
Manton	Reed	Ridge
Manzullo	Regula	Roberts
Margolies-Mezvinsky	Reynolds	Roemer
Markey	Richardson	Rogers
Martinez	Ridge	Rohrabacher
Matsui	Roberts	Ros-Lehtinen
Mazzoli	Roemer	Rose
McCandless	Rogers	Rostenkowski
McCloskey	Rohrabacher	Roth
McCollum	Ros-Lehtinen	Roukema
McCrery	Rose	Rowland
McCurdy	Rostenkowski	Roybal-Allard
McDade	Roth	Royce
McDermott	Roukema	Rush
McHale	Rowland	Sabo
McHugh	Roybal-Allard	Sanders
McInnis	Royce	Sangmeister
McKeon	Rush	Santorum
McKinney	Sabo	Sarpalius
McMillan	Sanders	Sawyer
McNulty	Sangmeister	Saxton
Meehan	Santorum	Schaefer
Meek	Sarpalius	Schenk
Menendez	Sawyer	Schiff
Meyers	Saxton	Schroeder
Mfume	Schaefer	Schumer
Mica	Schenk	Scott
Michel	Schiff	Sensenbrenner
Miller (CA)	Schroeder	Serrano
Miller (FL)	Schumer	Sharp
Mineta	Scott	Shaw
Minge	Sensenbrenner	Shays
Mink	Serrano	Shepherd
Moakley	Sharp	Shuster
Mollohan	Shaw	Sisisky
Montgomery	Shays	Skaggs
Moorhead	Shepherd	Skeen
Morella	Shuster	Skelton
Murphy	Sisisky	Slattery
Murtha	Skaggs	Slaughter
Myers	Skeen	Smith (IA)
Nadler	Skelton	Smith (MI)
Neal (MA)	Slattery	Smith (NJ)
Neal (NC)	Slaughter	Smith (OR)
Norton (DC)	Smith (IA)	Smith (TX)
Nussle	Smith (MI)	Snowe
Oberstar	Smith (NJ)	Solomon
Obey	Smith (OR)	Spence
Olver	Smith (TX)	Spratt
Ortiz	Snowe	Stenholm
Orton	Solomon	Stokes
Owens	Spence	Strickland
Oxley	Spratt	Studds
Packard	Stenholm	Stump
Pallone	Stokes	Stupak
Parker	Strickland	Sundquist
Pastor	Studds	Swett
Paxon	Stump	Swift
Payne (NJ)	Stupak	Synar
Payne (VA)	Sundquist	Talent
Pelosi	Swett	Tanner
Penny	Swift	Tauzin
Peterson (FL)	Synar	Taylor (MS)
Peterson (MN)	Talent	Taylor (NC)
Petri	Tanner	Tejeda
Pickett	Tauzin	Thomas (CA)
Pickle	Taylor (MS)	Thomas (WY)
Pombo	Taylor (NC)	Thompson
Pomeroy	Tejeda	Thornton
Porter	Thomas (CA)	Thurman
Portman	Thomas (WY)	Torkildsen
Poshard	Thompson	Torres
Price (NC)	Thornton	Torricelli
Pryce (OH)	Thurman	Towns
Quillen	Torkildsen	Traficant
Quinn	Torres	Tucker
Rahall	Torricelli	Underwood (GU)
Ramstad	Towns	Unsoeld
Rangel	Traficant	Upton
Ravenel	Tucker	Velazquez
Reed	Underwood (GU)	Vento
Regula	Unsoeld	Visclosky
Reynolds	Upton	Volkmer
Richardson	Velazquez	Vucanovich
Ridge	Vento	Walker
Roberts	Visclosky	Walsh
Roemer	Volkmer	Waters
Rogers	Vucanovich	Watt
Rohrabacher	Walker	Waxman
Romero-Barcelo (PR)	Walsh	Weldon
Ros-Lehtinen	Waters	Wheat
Rose	Watt	Whitten
Rostenkowski	Waxman	Wilson
Roth	Weldon	Wise
Roukema	Wheat	Wolf
Rowland	Whitten	Woolsey
Roybal-Allard	Wilson	Wyden
Royce	Wise	Yates
Rush	Wolf	Young (AK)
Sabo	Woolsey	Young (FL)
Sanders	Wyden	Zeliff
Sangmeister	Yates	Zimmer
Santorum	Young (AK)	
Sarpalius	Young (FL)	
Sawyer	Zeliff	
Saxton	Zimmer	
Schaefer		
Schenk		
Schiff		
Schroeder		
Schumer		
Scott		
Sensenbrenner		
Serrano		

□ 1655

The CHAIRMAN. Four hundred twenty-eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentlewoman from Virginia [Mrs. BYRNE] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 374, noes 57, answered "present" 3, not voting 5, as follows:

[Roll No. 388]

AYES—374

Allard	Durbin	Kingston
Andrews (ME)	Edwards (TX)	Kleczka
Andrews (NJ)	Ehlers	Klein
Andrews (TX)	Emerson	Klug
Applegate	Engel	Knollenberg
Archer	English	Kolbe
Armey	Eshoo	Kopetski
Bacchus (FL)	Evans	Kreidler
Bachus (AL)	Everett	Kyl
Baesler	Ewing	LaFalce
Baker (CA)	Faleomavaega (AS)	Lambert
Ballenger	Farr	Lancaster
Barca	Fawell	Lantos
Barcia	Fazio	LaRocco
Barlow	Fields (LA)	Laughlin
Barrett (NE)	Fields (TX)	Lazio
Barrett (WI)	Filner	Leach
Bartlett	Fingerhut	Lehman
Barton	Fish	Levin
Bateman	Flake	Levy
Becerra	Foglietta	Lewis (GA)
Beilenson	Ford (TN)	Lewis (KY)
Bentley	Frank (MA)	Lightfoot
Bereuter	Franks (CT)	Linder
Berman	Franks (NJ)	Lipinski
Bevill	Frost	Livingston
Bilbray	Furse	Lloyd
Bilirakis	Gallegly	Long
Bishop	Gallo	Lowey
Blackwell	Gejdenson	Lucas
Blute	Gekas	Machtley
Boehlert	Gephardt	Maloney
Boehner	Geren	Mann
Bonilla	Gibbons	Manzullo
Bonior	Gilchrest	Margolies-Mezvinsky
Boucher	Gillmor	Markey
Brewster	Gilman	Matsui
Brooks	Glickman	Mazzoli
Browder	Goodlatte	McCrery
Brown (CA)	Goodling	McCurdy
Brown (OH)	Gordon	McDermott
Bryant	Goss	McHale
Bunning	Grams	McHugh
Burton	Green	McInnis
Buyer	Greenwood	McKeon
Byrne	Gunderson	McKinney
Callahan	Gutierrez	McNulty
Calvert	Hall (OH)	Meehan
Camp	Hall (TX)	Menendez
Canady	Hamburg	Meyers
Cantwell	Hamilton	Mfume
Cardin	Hancock	Mica
Carr	Harman	Miller (CA)
Castle	Hastert	Miller (FL)
Chapman	Hayes	Mineta
Clement	Hefley	Minge
Clinger	Hefner	Moakley
Clyburn	Hilliard	Mollohan
Coble	Hinchey	Montgomery
Coleman	Hoagland	Moorhead
Collins (GA)	Hobson	Moran
Combest	Hochbrueckner	Morella
Condit	Hoekstra	Murphy
Conyers	Hoke	Myers
Cooper	Holden	Nadler
Coppersmith	Horn	Neal (MA)
Costello	Hoyer	Neal (NC)
Cox	Huffington	Nussle
Coyne	Hughes	Oberstar
Cramer	Hunter	Olver
Crapo	Hutchinson	Ortiz
Cunningham	Hutto	Orton
Danner	Inglis	Owens
Darden	Inhofe	Pallone
de la Garza	Inslee	Parker
Deal	Istook	Pastor
DeFazio	Jacobs	Paxon
DeLauro	Jefferson	Payne (NJ)
Dellums	Johnson (CT)	Payne (VA)
Derrick	Johnson (GA)	Pelosi
Deutsch	Johnson (SD)	Penny
Diaz-Balart	Johnson, E.B.	Peterson (FL)
Dickey	Johnson, Sam	Peterson (MN)
Dicks	Johnston	Petri
Dingell	Kanjorski	Pickett
Dixon	Kasich	Pickle
Dooley	Kennedy	Pombo
Doolittle	Kennelly	Pomeroy
Dornan	Kildee	Porter
Dreier	Kim	Portman
Duncan	King	Poshard
Dunn		Price (NC)
		Pryce (OH)
		Quillen
		Quinn
		Rahall
		Ramstad
		Rangel
		Ravenel
		Reed
		Regula
		Reynolds
		Richardson
		Ridge
		Roberts
		Roemer
		Rogers
		Rohrabacher
		Ros-Lehtinen
		Rose
		Rostenkowski
		Roth
		Roukema
		Rowland
		Royce
		Rush
		Sabo
		Sanders
		Sangmeister
		Santorum
		Sarpalius
		Sawyer
		Saxton
		Schaefer
		Schenk
		Schiff
		Schroeder
		Schumer
		Scott
		Sensenbrenner
		Sharp
		Shaw
		Shays
		Shepherd
		Shuster
		Sisisky
		Skaggs
		Skeen
		Skelton
		Slattery
		Slaughter
		Smith (IA)
		Smith (MI)
		Smith (NJ)
		Smith (TX)
		Snowe
		Solomon
		Spence
		Spratt
		Stark
		Stearns
		Stenholm
		Stokes
		Strickland
		Studds
		Stump
		Stupak
		Sundquist
		Swett
		Synar
		Talent
		Tanner
		Tauzin
		Taylor (MS)
		Taylor (NC)
		Tejeda
		Thomas (WY)
		Thompson
		Thornton
		Thurman
		Torkildsen
		Torres
		Torricelli
		Towns
		Traficant
		Unsoeld
		Upton
		Velazquez
		Vento
		Visclosky
		Volkmer
		Vucanovich
		Walker
		Walsh
		Waters
		Watt
		Waxman
		Weldon
		Wheat
		Whitten
		Williams
		Wilson
		Wise
		Wolf
		Woolsey
		Wyden
		Wynn
		Yates
		Young (AK)
		Young (FL)
		Zeliff
		Zimmer

NOES—57

Abercrombie	Grandy	Oxley
Ackerman	Hansen	Packard
Baker (LA)	Hastings	Romero-Barcelo (PR)
Barton	Houghton	Rose
Bateman	Hyde	Rostenkowski
Bliley	King	Roybal-Allard
Borski	Klink	Serrano
Clay	Lewis (CA)	Smith (OR)
Clayton	Lewis (FL)	Swift
Collins (IL)	Manton	Thomas (CA)
Collins (MI)	Martinez	Tucker
Crane	McCandless	Underwood (GU)
de Lugo (VI)	McCloskey	Watt
DeLay	McCollum	Waxman
Edwards (CA)	McDade	Yates
Flake	McMillan	Young (AK)
Ford (MI)	Meek	Young (FL)
Fowler	Michel	
Gingrich	Mink	
Gonzalez	Murtha	

ANSWERED "PRESENT"—3

Brown (FL)	Kaptur	Norton (DC)

NOT VOTING—5

Herger	Obey	Washington
Molinari	Valentine	

□ 1704

Mr. ROSE and Mr. SWIFT changed their vote from "aye" to "no."

Mr. MCDERMOTT changed his vote from "no" to "aye."

Ms. NORTON changed her vote from "no" to "present."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 4, printed in part 2 of House Report 103–691.

AMENDMENT OFFERED BY MR. BEILENSON

Mr. BEILENSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BEILENSON: Page 8, strike out line 22 and all that follows through line 7 on page 9 and insert the following:

VOL
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(2) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Chairperson of the Board of Directors shall appoint, may establish the compensation of, and may terminate, subject to the approval of the Board of Directors, an Executive Director (referred to in this Act as the "executive director"). The compensation of the executive director may not exceed the compensation for level V of the Executive Schedule under section 5316 of title 5, United States Code. The executive director shall be an individual with training or expertise in the application of the laws referred to in section 3 to employment. The appointment of the first executive director shall be completed no later than 120 days after the initial appointment of the Board of Directors.

(B) OFFICE.—The executive director may not be an individual who holds or may have held the position of Member of the House of Representatives or Senator. The executive director may not be an individual who holds the position of employee of the House of Representatives or the Senate but the executive director may be an individual who held such a position at least 4 years before appointment as executive director.

Page 9, strike lines 9 through 14, in line 15 on page 9 strike "(2)" and insert "(1)", and redesignate paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

Page 9, strike line 24 and all that follows through line 4 on page 10 and insert the following:

(B) OFFICE.—No member of the Board of Directors appointed under subsection (b)(1) may hold or may have held the position of Member of the House of Representatives or Senator, may hold the position of employee of the House of Representatives or Senate, or may have held such a position within 4 years of the date of appointment.

Page 12, strike line 22 and insert "the first executive director".

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. BEILENSON] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment I am offering would make several changes in the qualifications of the Board of Directors and the Executive Director of the Office of Compliance, and in the timing of the implementation of the bill's provisions. These changes are needed and intended to establish a more sensible and practicable process for achieving the bill's objectives and we believe they will strengthen the bill and make it work better.

These proposed changes developed from discussion about this legislation which followed the 5 days of hearing that the Subcommittee on Rules of the House held on H.R. 3801, the recommendations of the Joint Committee on the Organization of Congress. Our subcommittee's 5 days of hearings on that bill included testimony from many Members of the House and public witnesses specifically on the portion of H.R. 3801 dealing with the application of laws to Congress.

First, the amendment removes the requirement that the eight members of the Board of Directors have expertise or training in the laws to be applied to Congress, as well as in congressional employment. This requirement would severely limit the pool of potential Board members from which the House and Senate leadership will have to choose.

We hope and we expect that the leadership will appoint individuals to the Board who are knowledgeable about the applicable laws and about congressional employment, but if they are unable to consider appointing anyone who does not have true expertise in these areas, their task will be next to impossible, and the result might well be a major delay in the whole process of applying laws that this bill sets up.

The amendment also eliminates the prohibition on Board service by all former House or Senate employees, substituting, instead, a prohibition on individuals who have been congressional employees during the 4 years previous to their appointment. It maintains the bill's prohibition on service by current and former House and Senate Members, current congressional employees, and lobbyists.

This change, too, is intended to broaden the pool of potential candidates for the Board. Our concern is that, if every person who has ever served as a staff member of the House or Senate at any point in his or her life is ineligible to serve on the Board, a great many knowledgeable, capable individuals will automatically be disqualified.

Second, the amendment establishes qualifications for the Executive Director of the Office of Compliance—a subject the bill as reported is silent on. As this legislation has developed, it has become evident that the Executive Director is going to play a more fundamental and important role in applying laws to Congress than perhaps was originally envisioned, so we ought to provide some guidance on the kind of person who should be chosen for this role.

The amendment requires the Executive Director to have expertise or training in the application of laws to be applied to Congress. Because it is the Executive Director, rather than the Board, who will have principal authority and responsibility for determining how laws will be applied to Congress and for the day-to-day operations of the Office of Compliance, it makes more sense for that individual, rather than for the Board members, to be required to have such expertise or training.

Third, the amendment requires that the Board hire an Executive Director within 120 days after the Board itself is chosen. It then requires the study of the manner in which laws are to be applied to Congress to be completed 180 days after the Executive Director is hired.

□ 1710

The bill, as reported, lacks a time frame for hiring the first Executive Director and requires the Board to complete the study 6 months after initial Board members are appointed. This amendment will give the Board 4 months to hire an Executive Director before the 6-month period for conducting the study begins.

We would note that since the bill gives the Executive Director the authority to hire other staff for the Office of Compliance, the Board will not even be able to hire clerical help until the Executive Director is chosen. Practically speaking, the work required of the Board will not be able to get under way until the Executive Director is chosen, so it makes sense to build time into this process for that step.

Mr. Chairman, we believe strongly that all of these provisions will help the process of applying laws to Congress function more smoothly, and I urge adoption of the amendment.

AMENDMENT OFFERED BY MR. FINGERHUT TO THE AMENDMENT OFFERED BY MR. BEILENSON

Mr. FINGERHUT. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FINGERHUT as an amendment to the amendment offered by Mr. BEILENSON:

In paragraph 4(b)(2) proposed to be inserted by the amendment, amend subparagraph (B) to read as follows:

"(B) OFFICE.—The executive director may not be an individual who holds or has held the position of Member of the House of Representatives or Senator or the position of employee of the House of Representatives or the Senate, or who engages in, or is otherwise employed in, lobbying of the Congress and is required under the Federal Regulation of Lobbying Act to register with the Clerk of the House of Representatives or the Secretary of the Senate.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. FINGERHUT] will be recognized for 5 minutes, and a Member opposed to the amendment to the amendment will be recognized for 5 minutes.

Mr. FINGERHUT. Mr. Chairman, let me add my words of thanks to all those that have been involved in this very important piece of legislation, to the two principal sponsors, the gentleman New Hampshire [Mr. SWETT] and the gentleman from Connecticut [Mr. SHAYS], who have labored tirelessly, to the chairman of the committee, the gentleman from North Carolina [Mr. ROSE] and also to the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], and to my colleagues in the freshman reform task force, the gentleman from Massachusetts [Mr. TORKILDSEN], the gentlewoman from Florida [Mrs. FOWLER] as well as the gentlewoman from Utah [Ms. SHEPHERD], all of whom worked diligently on this matter.

Mr. Chairman, I do believe this is a historic piece of legislation and responds to one of the principal concerns about the Congress that I hear from my constituents.

Let me also say that the amendment offered by the gentleman from California [Mr. BEILENSON] I believe is appropriate in that it understands that the success of the Office of Compliance is critical to the success of this legislation because it is the Office of Compliance that will see to it that the Congress indeed does abide by the laws in the same manner as that which the rest of the public abides by the laws.

The gentleman from California [Mr. BEILENSON] is also correct in noting that the position of the Executive Director is critical to the success of the Office of Compliance, and he is correct in pointing out that the Executive Director must be as independent as possible.

My amendment though would go one step further. My amendment would clarify and, in one sense, go one step further than the amendment offered by the gentleman from California [Mr. BEILENSON] with respect to the qualifications of the Executive Director.

First, it would clarify that the Executive Director may not be someone who is currently a registered lobbyist. That may or may not be clear under the language of the amendment offered by the gentleman from California. It is clarified in this secondary amendment.

Second, the amendment offered by the gentleman from California [Mr. BEILENSON] would allow a former staff member of the Congress to serve as Executive Director if that staff member has ceased employment with the Congress for a period of 4 years. In efforts to make clear that the Executive Director is totally independent of the Congress, totally independent of the function of their employment, we believe it is necessary to say that not only can a former Member not serve, not only can a lobbyist not serve, but a former staff member of the Congress may not serve as an Executive Director. This amendment would clarify that, and I believe in this case, if the amendment is adopted together with the amendment offered by the gentleman from California [Mr. BEILENSON], there would be no question as to the independence of the Executive Director of the independent Office of Compliance.

I reserve the balance of my time.

Mr. BEILENSON. Mr. Chairman, I rise to express general reservations about the gentleman's amendment. I understand where he is coming from. I commend him for his interest in all these matters. He has done a yeomanlike job along with the others, some of whom he mentioned.

If our experience with the House Director of Financial and Nonlegislative Services is any indication, it is likely that the executive director position is going to be a very difficult one to fill even without any restrictions. I think it is going to be a very difficult position to fill even without any restrictions on who can serve, and I think it is reasonable to exclude Members, and former Members and staff, as we would under either gentleman's proposal, and also staff members who have been employed on the Hill in recent years. But I am concerned that by eliminating everyone who has ever served as a staff member of the House or the Senate at any time in his or her life that we may be automatically disqualifying literally thousands of potential candidates, some of whom might make potentially excellent prospects as executive director. The same may be true of eliminating all lobbyists, although I support the gentleman's provision in that regard. If we cannot fill the position of executive director, the whole process of applying these laws, as the gentleman well understands and has just said, are making the enforcement aspect of it something that is going to break down. I think we can trust the board to choose an executive director who is not biased toward the staff without imposing what may be an unreasonable and onerous eligibility requirement for that position, and I would ask the gentleman also to remember, and colleagues to remember, that the bill, as originally reported, as developed by the gentleman from Connecticut [Mr. SHAYS] and the gentleman from New Hampshire [Mr. SWETT] themselves, does not contain any qualifications or requirements for the executive director, and with the amendment which I am offering, the base amendment, we are, in fact, imposing some new exacting qualifications for that position. With that, with Mr. FINGERHUT's well-intentioned offering of an amendment, those qualifications may be unreasonably difficult to find in a particular individual, so I do raise those qualms about the gentleman's proposal.

Mr. FINGERHUT. Mr. Chairman, I thank the gentleman from California [Mr. BEILENSON], and would briefly say in response that I believe there are many qualified individuals all over the country who have knowledge of these laws and can serve well. I do not believe that we would be unfairly limiting ourselves, but he is correct that his qualifications of the executive director position are well taken.

Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I would like to thank the gentleman for yielding this time to me and just weigh in on both amendments. I congratulate the gentleman from California [Mr. BEILENSON] for making an improvement to our amendment. We totally overlooked the qualifications of the executive director, a major flaw, but I think we go in the wrong direction if we in this one most powerful position allow either former Members, which is not being proposed, or a former staff person to be the executive director. I think that the amendment offered by the gentleman from California [Mr. BEILENSON] is far better, and I just hope we can have his amendment pass with the amendment offered by the gentleman from Ohio [Mr. FINGERHUT], and I hope that the body will concur.

Mr. FINGERHUT. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Mr. Chairman, I thank the gentleman from Ohio [Mr. FINGERHUT] for the time to clarify.

Mr. Chairman, I agree with my colleague from Connecticut. This is an important amendment to an important amendment. We have got to keep a wall of separation between this office of compliance and its members and those people who serve on the board, and especially the executive director, and the rest of the congressional activity. I believe that the gentleman from Ohio's amendment does that clearly by keeping former staff, former Members and lobbyists out of that position, and I support his amendment wholeheartedly.

□ 1720

Mr. FINGERHUT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would simply reiterate that we support the terms of the Beilenson amendment. But because he has correctly identified for this body the importance of the Office of Compliance, the importance of the executive director to the success of this bill, we urge that we go one step further and make very clear that the executive director is independent of the Congress by guaranteeing it is not a lobbyist, not a former Member of Congress, and not a former staff Member of Congress. I ask for a positive vote on this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BEILENSON. Mr. Chairman, I yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, before this love feast reaches its conclusion, take a good look at what this amendment does. Before all of us rush off into the reform sunset, make sure you understand what it is doing.

We lost whoever the director of, whatever it is that we set up, whenever we did, a year ago. They brought in some general. He did not know anything. That was his primary consideration. Let us make sure we get somebody in here that is as ignorant of the operation of the House of Representatives as possible. Let us make sure we

VOL 140 PT 15 AG 10 — 11 1994 UMI

get somebody in here who does not know the first thing about what is going on. Then we will be all right. Then we can go back to our constituents and say, "We finally did the right thing. We were able to bring somebody in who doesn't know anything."

What an insult to the staff. There is nobody on this floor that can scarcely walk from their office over here and know how to get here without their staff. What do you mean, you want to throw out people who had staff work, that had all the years of experience.

I notice none of you are worried about how much money is being spent by the lobbyists to keep us from having an employer mandate or anything else.

Defeat the amendment. I would be proud to have somebody in this position who has been with the staff of this House. Don't vote for this phony-baloney of never having anybody in here who never knew what was going on.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. FINGERHUT] to the amendment offered by the gentleman from California [Mr. BEILENSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FINGERHUT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Does the gentleman withdraw his request for a quorum?

Mr. FINGERHUT. I withdraw my point of order, Mr. Chairman.

The CHAIRMAN. The Chair will count for a recorded vote.

A sufficient number having arisen, a recorded vote is ordered.

Mr. ABERCROMBIE. I object. There was no 25 standing. I object. I appeal the ruling of the Chair. Let us get an honest count, or get somebody in the chair that can give us one.

The CHAIRMAN. The committee will come to order. Does the gentleman from Ohio insist on his point of order that a quorum is not present?

Mr. FINGERHUT. I do, Mr. Chairman.

The CHAIRMAN. The Chair will count for a quorum.

Mr. FINGERHUT. Mr. Chairman, I withdraw the point of order.

PARLIAMENTARY INQUIRIES

Mr. FRANK of Massachusetts. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FRANK of Massachusetts. Mr. Chairman, did the Chair rule that a sufficient number had arisen for a vote?

The CHAIRMAN. Yes; if the Chair may clarify it for the benefit of the Members, the gentleman from Ohio [Mr. FINGERHUT] made the point of order that a quorum was not present. The gentleman from Ohio, the Chair believes, under the recognition of these rules, assumed that a recorded vote would be ordered. The gentleman withdrew his point of order.

Under the rules of the House and general recognition of comity established by this House, the Chair is asking the gentleman from Ohio whether or not he seeks to insist on his point of order.

The gentleman did insist. The Chair was just about to announce that a quorum is not present.

Mr. FRANK of Massachusetts. Mr. Chairman, a further parliamentary inquiry. If the gentleman from Ohio were now to withdraw his point of order, would there be a record vote without a quorum call?

Mr. THOMAS of California. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. THOMAS of California. Mr. Chairman, if I understand the current state of affairs, we are either going to have a quorum call or we are going to have a vote on appealing the decision of the Chair, and I think the quorum call is the preferable vote.

Mr. FRANK of Massachusetts. Mr. Chairman, a point of order. I do not believe there is an appeal pending.

The CHAIRMAN. The Chair does not recognize an appeal from the Chair's count. Having recognized no appeal of the Chair, the decision to order a recorded vote stands. A sufficient number having a recorded vote stands. A sufficient number having arisen, a recorded vote is ordered. Those in favor of the amendment will vote aye, those opposed will vote no. Members will record their vote by electronic device.

Pursuant to rule XXIII, the subsequent recorded vote, if ordered on the Beilenson amendment will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 216, noes 220, not voting 3, as follows:

[Roll No. 389]

AYES—216

Allard	Bryant	DeLauro
Andrews (NJ)	Bunning	DeLay
Andrews (TX)	Byrne	Deutsch
Archer	Calvert	Diaz-Balart
Armey	Camp	Dickey
Bacchus (FL)	Canady	Doolittle
Bachus (AL)	Cantwell	Dornan
Baker (CA)	Carr	Dreier
Ballenger	Castle	Duncan
Barca	Clement	Dunn
Barcia	Clinger	Edwards (TX)
Barlow	Coble	Ehlers
Barrett (NE)	Collins (GA)	Eshoo
Barrett (WI)	Combest	Everett
Bartlett	Cooper	Ewing
Becerra	Coppersmith	Farr
Bereuter	Cox	Fawell
Bilbray	Crapo	Fields (TX)
Billey	Cunningham	Fingerhut
Blute	Danner	Fish
Browder	de la Garza	Fowler
Brown (OH)	Deal	Franks (CT)
Franks (NJ)	Levy	Rogers
Furse	Lewis (FL)	Rohrabacher
Gallegly	Lewis (KY)	Romero-Barcelo (PR)
Gallo	Lightfoot	Ros-Lehtinen
Gekas	Linder	Roth
Gibbons	Livingston	Roukema
Gilchrest	Long	Royce
Gilman	Lowey	Santorum
Gingrich	Lucas	Saxton
Goodlatte	Machtley	Schaefer
Goodling	Maloney	Schenk
Goss	Manzullo	Schiff
Grams	Margolies-Mezvinsky	Schroeder
Grandy	McCandless	Sensenbrenner
Gunderson	McCollum	Shaw
Gutierrez	McCurdy	Shays
Hall (TX)	McHale	Shepherd
Hamilton	McHugh	Shuster
Harman	McInnis	Sisisky
Hastert	McKeon	Smith (IA)
Hayes	Meehan	Smith (MI)
Hoekstra	Menendez	Smith (NJ)
Holden	Meyers	Smith (TX)
Houghton	Mica	Snowe
Huffington	Miller (FL)	Solomon
Hutchinson	Minge	Spence
Hutto	Montgomery	Spratt
Inglis	Moorhead	Stearns
Inhofe	Nadler	Stenholm
Istook	Norton (DC)	Strickland
Jacobs	Nussle	Stupak
Jefferson	Orton	Sundquist
Johnson (CT)	Pallone	Swett
Johnson (GA)	Parker	Talent
Johnson, Sam	Paxon	Taylor (MS)
Kasich	Penny	Taylor (NC)
Kildee	Peterson (MN)	Thomas (CA)
Kim	Petri	Thurman
Kingston	Pombo	Torkildsen
Kleczka	Porter	Traficant
Klein	Portman	Tucker
Klug	Poshard	Unsoeld
Kolbe	Price (NC)	Upton
Kreidler	Pryce (OH)	Walker
Kyl	Quinn	Weldon
Lambert	Ramstad	Wolf
Lancaster	Ravenel	Wyden
Lantos	Richardson	Zeliff
Lazio	Ridge	Zimmer
Leach	Roemer	
Levin		

NOES—220

Abercrombie	Darden	Hilliard
Ackerman	de Lugo (VI)	Hinchey
Andrews (ME)	DeFazio	Hoagland
Applegate	Dellums	Hobson
Baesler	Derrick	Hochbrueckner
Baker (LA)	Dicks	Hoke
Barton	Dingell	Horn
Bateman	Dixon	Hoyer
Beilenson	Dooley	Hughes
Bentley	Durbin	Hunter
Berman	Edwards (CA)	Hyde
Bevill	Emerson	Inslee
Bilirakis	Engel	Johnson (SD)
Bishop	English	Johnson, E. B.
Blackwell	Evans	Johnston
Boehlert	Faleomavaega (AS)	Kanjorski
Boehner	Fazio	Kaptur
Bonilla	Fields (LA)	Kennedy
Bonior	Filner	Kennelly
Borski	Flake	King
Boucher	Foglietta	Klink
Brewster	Ford (MI)	Knollenberg
Brooks	Ford (TN)	Kopetski
Brown (CA)	Frank (MA)	LaFalce
Brown (FL)	Frost	LaRocco
Burton	Gejdenson	Laughlin
Buyer	Gephardt	Lehman
Callahan	Geren	Lewis (CA)
Cardin	Gillmor	Lewis (GA)
Chapman	Glickman	Lipinski
Clay	Gonzalez	Lloyd
Clayton	Gordon	Mann
Clyburn	Green	Manton
Coleman	Greenwood	Markey
Collins (IL)	Hall (OH)	Martinez
Collins (MI)	Hamburg	Matsui
Condit	Hancock	Mazzoli
Conyers	Hansen	McCloskey
Costello	Hastings	McCrery
Coyne	Hefley	McDade
Cramer	Hefner	McDermott
Crane		McKinney

McMillan	Quillen	Synar
McNulty	Rahall	Tanner
Meek	Rangel	Tauzin
Mfume	Reed	Tejeda
Michel	Regula	Thomas (WY)
Miller (CA)	Reynolds	Thompson
Mineta	Roberts	Thornton
Mink	Rose	Torres
Moakley	Rostenkowski	Torricelli
Mollohan	Rowland	Towns
Moran	Roybal-Allard	Underwood (GU)
Morella	Rush	Valentine
Murphy	Sabo	Velazquez
Murtha	Sanders	Vento
Myers	Sangmeister	Visclosky
Neal (MA)	Sarpalius	Volkmer
Neal (NC)	Sawyer	Vucanovich
Oberstar	Schumer	Walsh
Obey	Scott	Waters
Olver	Serrano	Watt
Ortiz	Sharp	Waxman
Owens	Skaggs	Wheat
Oxley	Skeen	Whitten
Packard	Skelton	Williams
Pastor	Slattery	Wilson
Payne (NJ)	Slaughter	Wise
Payne (VA)	Smith (OR)	Woolsey
Pelosi	Stark	Wynn
Peterson (FL)	Stokes	Yates
Pickett	Studds	Young (AK)
Pickle	Stump	Young (FL)
Pomeroy	Swift	

NOT VOTING—3

Herger	Molinari	Washington

□ 1746

Ms. ROYBAL-ALLARD and Messrs. VOLKMER, GREENWOOD, SCHUMER, and SLATTERY changed their vote from "aye" to "no."

Messrs. LANTOS, NADLER, ARMEY, and UPTON changed their vote from "no" to "aye."

Mr. CRANE changed his vote from "present" to "no."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BEILENSON].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in Part 2 of House Report 103–691.

AMENDMENT OFFERED BY MRS. FOWLER

Mrs. FOWLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. FOWLER: Page 9, insert after the period in line 7 the following: "The term of office of the executive director shall be a single term of 5 years.".

The CHAIRMAN. Pursuant to the rule, the gentlewoman from Florida [Mrs. FOWLER] will be recognized for 5 minutes, and a member opposed will be recognized for 5 minutes.

□ 1750

Mrs. FOWLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment I offer today on behalf of myself and Representatives FINGERHUT, SHEPHERD, and TORKILDSEN is very simple, yet very significant.

My amendment would stipulate that the Executive Director of the Office of Compliance is appointed for a term of 5 years. The way the bill is currently written, he or she, once appointed, serves until resignation or termination.

The Office of Compliance will be a major office in this institution, and the person who runs it will be on a par with the Clerk, the Doorkeeper and the Sergeant at Arms. If those appointments are reviewed and renewed on a regular basis, so should that of the Executive Director.

My amendment requires the Executive Director be reviewed every 5 years. If he or she is doing a great job, then the board can vote to reappoint.

The CHAIRMAN. The committee will come to order.

PARLIAMENTARY INQUIRY

Mr. McDADE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. McDADE. Would it be in order to ask the Chair to put a muffler on his gavel?

The CHAIRMAN. That would be out of order. But the Chair would seek order in the committee.

Mr. McDADE. It may not be, Mr. Chairman. I suggest the Chair lighten the gavel.

The CHAIRMAN. The Chair thanks the gentleman for his suggestion. It is always appreciated. The Chair would request Members to give the gentlewoman the respect of the House and allow her to continue.

Mrs. FOWLER. I thank the Chairman.

Mr. Chairman, the integrity of this entire process of congressional accountability hinges on the integrity of the board and Executive Director. That is why this amendment, and all the amendments offered by our bipartisan freshman coalition, seek to strengthen the integrity of the board and Executive Director.

I urge my colleagues to vote "yes" on this amendment.

While I have the time, Mr. Chairman, I would also like to urge my colleagues to vote "yes" on final passage.

The coauthors of my amendment and I serve as cochairs of our respective freshman class reform task forces. Early last year we began a series of meetings to identify areas of reform where there was bipartisan agreement.

First on that list was congressional accountability. One of the reasons our freshman class is the largest in four decades is the fact that the American people have lost confidence in this institution and are desperate for change.

Nothing drives a bigger wedge between this, the "People's House," and the people themselves than the practice of exempting Congress from laws it passes for everyone else.

As freshmen, we made it our top priority to end that practice and begin the process of restoring the confidence of the American people. Ninety-seven of us signed on as cosponsors of the original Shays-Swett Congressional Accountability Act. Our bipartisan freshman group testified before the Joint Committee on the Organization of Congress, the Rules Committee, and the House Administration Committee to show our class' support.

While I would much prefer that we were considering this bill as part of a more comprehensive reform package, I think its passage today will be a major victory for the reform effort.

Passage of this bill will result in much more than just ensuring we run Congress under the same laws as private business. The significant long-term impact of this bill will be that we pass better laws. Knowing that what we pass applies to ourselves will surely make us more vigilant, more pragmatic and maybe more cautious when adding to the statute books.

I urge my colleagues to vote "yes" on H.R. 4822.

Mr. BEILENSON. Mr. Chairman, will the gentlewoman yield?

Mrs. FOWLER. I yield to the gentleman from California.

Mr. BEILENSON. Mr. Chairman, we support the amendment and urge its adoption.

The CHAIRMAN. Does any Member rise in opposition to the amendment?

If not, the question is on the amendment offered by the gentlewoman from Florida [Mrs. FOWLER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment number 7 printed in part 2 of House Report 103–691.

AMENDMENT OFFERED BY MS. SHEPHERD

Ms. SHEPHERD. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. SHEPHERD: Page 11, insert after line 4 the following:

(3) REMOVAL.—Any member of the Board of Directors may be removed from office by a majority decision of the appointing authorities described in subsection (b)(1) and only for—

(A) disability that substantially prevents the member from carrying out the duties of the member,

(B) incompetence,

(C) neglect of duty,

(D) malfeasance, or

(E) a felony or conduct involving moral turpitude.

The CHAIRMAN. Pursuant to the rule, the gentlewoman from Utah [Ms. SHEPHERD] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Mr. Chairman, I yield myself such time as I may consume.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Mr. Chairman, the bill we are considering today is silent on conditions under which a member of the Board of Directors can be removed from the Board.

This amendment lays out specific conditions under which a member of the Board can be removed. It simply states that they can only be removed by a majority decision of the joint leadership, and then only for cause.

The intent of the amendment is to ensure members of the Board are not removed simply because they may make politically tough decisions on compliance provisions.

The amendment specifies the following reasons for dismissal: Incompetence, neglect of duty; malfeasance, or a felony or conduct involving moral turpitude.

This "good cause" standard has been used in the executive branch. It is currently applied to the chair of the Merit System Protection Board as well as for the Director of the Office of Government Ethics.

Mr. Chairman, this is, I believe a noncontroversial amendment. I am joined by my fellow freshman colleagues ERIC FINGERHUT, TILLIE FOWLER, and PETER TORKILDSEN in offering this amendment. We have worked together with the bipartisan sponsors of this landmark legislation, Mr. SHAYS and Mr. SWETT, in crafting this amendment and we have their support.

I urge my colleagues to join with us in supporting this noncontroversial but important amendment and in providing strong bipartisan support for passage of this critical legislation.

Mr. ROSE. Mr. Chairman, will the gentlewoman yield?

Ms. SHEPHERD. I yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Chairman, I just want to say I support the gentlewoman's amendment and have no objection to it.

Mr. BEILENSON. Mr. Chairman, will the gentlewoman yield?

Ms. SHEPHERD. I yield to the gentleman from California.

Mr. BEILENSON. Mr. Chairman, we, too, support the amendment, and we urge its adoption.

Ms. SHEPHERD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would simply, then, conclude by saying this is an insurance that mirrors what is done in the executive branch. It is exactly the same rule that is used by the Merit System Protection Board, and it would be used by the Office of Compliance.

I urge the adoption of this amendment.

The CHAIRMAN. Does any Member seek recognition to speak in opposition to the amendment?

If not, the question is on the amendment offered by the gentlewoman from Utah [Ms. SHEPHERD].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in part 2 of House Report 103–691.

AMENDMENTS OFFERED BY MR. SHAYS

Mr. ROSE. Mr. Chairman, I ask unanimous consent that amendments 8, 9, and 10, all of which are Shays-Swett amendments, be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. SHAYS. Mr. Chairman, I offer the amendments made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendment No. 8 offered by Mr. SHAYS: Page 13, strike "and" at the end of line 23, strike the period at the end of line 25 and insert "; and", and after line 25 insert the following:

(4) may review the regulations in effect under subsection (e)(1) and make such amendments as may be appropriate in accordance with subsection (c).

Amendment No. 9 offered by Mr. SHAYS: Page 14, line 8, strike "that specify the manner in which" and insert "to implement the requirements of" and in line 10 strike "shall apply".

Page 14, line 22, strike "specifying the manner in which" and insert "to implement the requirements of" and beginning in line 23 strike "shall apply to the legislative branch of the Federal Government".

Amendment No. 10 offered by Mr. SHAYS: Page 16, insert after line 24, the following:

(4) ACTION IF DISAPPROVAL.—If a concurrent resolution is considered under subsection (e) and is disapproved, not later than 60 days after the date of the disapproval, the Board of Directors shall propose a new regulation to replace the regulation disapproved with the disapproval of such concurrent resolution. The action of the Board of Directors under this paragraph shall be in accordance with the applicable requirements of this subsection.

The CHAIRMAN. Pursuant to the rule, the gentleman from Connecticut [Mr. SHAYS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. SHAYS].

MODIFICATION TO AMENDMENT NO. 10 OFFERED BY MR. SHAYS

Mr. SHAYS. Mr. Chairman, I ask unanimous consent that amendment No. 10 be modified pursuant to the technical amendment at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Amendment No. 10, as modified, offered by Mr. SHAYS:

Page 16, insert after line 24, the following:

(4) ACTION IF DISAPPROVAL.—If a regulation is disapproved by a concurrent resolution considered under subsection (e), not later than 60 days after the date of the disapproval, the Board of Directors shall propose a new regulation to replace the regulation disapproved. The action of the Board of Directors under this paragraph shall be in accordance with the applicable requirements of this subsection.

Mr. THOMAS of California (during the reading). Mr. Chairman, I ask unanimous consent that the modification to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ROSE. Mr. Chairman, reserving the right to object, and I will not object, we have examined the amendment, it is a very technical change, and it is perfectly acceptable to us.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. ROSE. Further reserving the right to object, I yield to the gentleman from California, the ranking member of the Committee on House Administration.

Mr. THOMAS of California. Mr. Chairman, we have examined the amendment, it is technical in nature, it is perfecting, and we have no objection to the amendment.

Mr. ROSE. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut for the modification?

There was no objection.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on amendment No. 8, the bill is silent about the ability of the board to review and amend as necessary regulations which it has already promulgated.

Mr. Chairman, the purpose of amendment No. 9, a technical amendment, is to emphasize that the board of directors in fulfilling its responsibilities to write regulations applying to statutes specified in section 3(a) of the bill is to ensure that all the rights and protections of these laws are to apply.

The amendment is meant to make clear that the office may not simply pick and choose which provisions of these laws the regulations will affect but at the same time provide the necessary flexibility for the board of directors to write these regulations in such a way as to accommodate the application of these laws consistent with the separation of powers, to the unique structure, organization, and procedures of the House and Senate.

Mr. Chairman, I would just add the amendment is meant to make clear that this office may not issue regulations that are inconsistent with the statute's language or intent.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, we have looked at these amendments. They are not technical in nature, they are substantive, but they do perfect the bill, they are a valuable addition to the bill, and we think they should be adopted.

□ 1800

Mr. ROSE. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Chairman, I agree with the conclusion of the gentleman from California [Mr. THOMAS] and have no objection.

Ms. DELAURO. Mr. Chairman, I rise in support of this amendment, and to thank my good friend and colleague the gentleman from Connecticut, and commend him for the tremendous time and effort he has put into this bill.

The idea behind this legislation is simple and straightforward. In fact, many Americans could be forgiven for wondering why this didn't happen a long, long time ago. Making Congress subject to the laws it passes is just common sense.

For years, public trust in this institution has been eroding. People no longer believe we understand them, understand their problems, listen to their concerns. Part of that is because they see us as isolated by the beltway, cut off from the lives they lead.

The fact that we pass laws which apply to them but not to us is compelling evidence of the gulf between us. We struggle daily to close that gap. We could take no greater step to improve our credibility with ordinary Americans than to pass this bill. To live by the standards we set for others.

It is high time. It is long overdue. And it is a matter of our credibility and, in the long term, our ability to govern. Adlai Stevenson said that "Public confidence in the integrity of government is indispensable to faith in democracy." This legislation will do no less than help to restore that faith.

The CHAIRMAN. Does any Member seek recognition to speak in opposition to the amendment?

If not, the question is on the amendments, as modified, offered by the gentleman from Connecticut [Mr. SHAYS].

The amendments, as modified, were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 11 printed in part 2 of House Report 103–691.

AMENDMENT OFFERED BY MR. ZIMMER

Mr. ZIMMER. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ZIMMER: Page 18, insert after the period in line 7 the following: "Any meeting of a committee on a concurrent resolution shall be open to the public.".

Page 19, insert after line 18 the following:

(g) OPEN TO THE PUBLIC.—Any meeting of the Board of Directors held in connection with a study under subsection (a) or (b) shall be open to the public. Any meeting of the Board of Directors in connection with a regulation under subsection (c) shall be open to the public.

The CHAIRMAN. Pursuant to rule, the gentleman from New Jersey [Mr. ZIMMER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a straightforward amendment. It would require that any meeting of the Board of Directors of the Office of Compliance be open to the public. It would also require that any meeting of a committee which is considering a concurrent resolution disapproving a recommendation of the Office of Compliance be open to the public.

This legislation is about accountability. This legislation is about restoring credibility to this Congress. One way to accomplish these objectives is to make sure that our deliberations and the deliberations of the Office of Compliance are held in full public view. No back room deals. No smoke-filled rooms. No smokeless rooms. Everything in full view so that the public will have confidence that we are applying to ourselves the laws that apply to them in a straightforward and honest way.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. ZIMMER. I am glad to yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman from New Jersey for yielding. The only concern that anyone might have is the requirement that a meeting of a committee in dealing with this information be open to the public whereas the rules of the House allow under certain circumstances that committee meetings be closed.

That is not a conflict. Very clearly you could have a portion of the meeting dealing with this issue open, and then other portions, if the committee felt it necessary to close it, you could close it. There is no reason that these should ever be held in a closed session, and we support this amendment.

Mr. ZIMMER. I thank the gentleman.

The CHAIRMAN. Does any Member seek recognition in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from New Jersey [Mr. ZIMMER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 12 printed in House Report 103–691.

AMENDMENT OFFERED BY MR. TORKILDSEN

Mr. TORKILDSEN. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TORKILDSEN: Page 19, insert at the end of line 21 the following: "subject to the approval of the Board of Directors,".

The CHAIRMAN. Pursuant to the rule, the gentleman from Massachusetts [Mr. TORKILDSEN] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today on behalf of an amendment offered by myself, Mrs. FOWLER, Ms. SHEPHERD, and Mr. FINGERHUT. This amendment will strengthen the original form of H.R. 4822, the Congressional Accountability Act.

This amendment would subject the rules of the Office of Compliance to the approval of the Board of Directors and ensure greater accountability of the Executive Director. Because the Board of Directors is, in fact, the heart of the Office of Compliance, it is important that the Executive Director answer to the Board to ensure that no individual have extended control over the functions or rules of the Office. This change is essential to creating a viable, effective Office of Compliance.

Though far from perfect, H.R. 4822 is a strong bill. As cochair of the Freshmen Republican Reform Task Force, I and many of my colleagues have been working hard to make Congress live by the laws it passes for the rest of the country. This bill is a great example of bipartisan cooperation working to restore public confidence in the U.S. Congress. Congressmen SHAYS and SWETT deserve great credit for initiating this bill. The freshmen Democrats and Republicans were instrumental in advancing this legislation to the floor.

I know there is hesitation by some to make all private sector laws apply to Congress. The American people do not have the luxury of determining what laws apply to them; we do. Yes, laws like OSHA and the Fair Labor Standards Act are expensive to implement, but that never stopped Congress from passing them. And if any law is too expensive for Congress to comply with, then shouldn't we ask if it is too expensive for private citizens to comply with?

For over 50 years, Congress has been exempting itself from the very laws that almost every American must follow. This is done in direct contradiction to what the Framers of the Constitution intended. In the 57th Federalist, Madison wrote, the House of Representatives "can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been one of the strongest bonds by which human policy can connect the rulers and the people together."

VOL 140 PT 15 AG 10 — 11 1994 UMI

What Madison saw as one of the strongest bonds connecting the rulers and the people is missing in the United States today. We can restore some confidence in congressional decisionmaking by simply requiring that Members of Congress obey laws that every other citizen must follow.

I strongly urge my colleagues to support this measure to make Congress comply with many laws that almost every American must comply with every day.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member seek recognition in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Massachusetts [Mr. TORKILDSEN].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 13 printed in part 2 of House Report 103–691.

AMENDMENT OFFERED BY MS. NORTON

Ms. NORTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. NORTON: Page 22, strike lines 20 through 24.

Page 28, strike line 18 and all that follows through line 9 on page 32.

Page 28, insert after line 17 the following:

SEC. 11. JUDICIAL REVIEW.

(a) IN GENERAL.—

(1) TYPES OF REVIEW.—Following any hearing under section 10 on a complaint relating to a provision of law described in section 3, any congressional employee aggrieved by a dismissal of a claim under section 10(c), a final decision under section 10(g), a final order under section 10(h), or any Member of the House of Representatives or Senator aggrieved by a final decision under section 10(g) or a final order under section 10(h), may—

(A) bring a civil action in a district court of the United States for a de novo review of such dismissal or of the alleged violation of law with respect to which such decision or order was issued if the law applicable to such dismissal or violation authorizes such a civil action, or

(B) petition for review by the United States Court of Appeals for the Federal Circuit.

If in an action brought under subparagraph (A) a court determines that a dismissal was not authorized or a violation of law occurred, the court may only enter an order described in section 10(h). Bringing a civil action under subparagraph (A) with respect to a matter in which an order was issued under section 10 shall vacate such order.

(2) PROVISIONS APPLICABLE TO REVIEW BY COURT OF APPEALS.—The following provisions apply to a review under paragraph (1)(B):

(A) LAW APPLICABLE.—Chapter 158 of title 28, United States Code, shall apply—

(i) with respect to section 2344 of title 28, United States Code, service of the petition shall be on the House or Senate Legal Counsel, or the appropriate entity of an instrumentality, as the case may be, rather than on the Attorney General;

(ii) the provisions of section 2348 of title 28, United States Code, on the authority of the Attorney General, shall not apply;

(iii) the petition for review shall be filed not later than 90 days after the entry in the Office of a final decision under section 10(g), an order under section 10(h);

(iv) the Office shall be an "agency" as that term is used in chapter 158 of title 28, United States Code;

(v) the Office shall be the respondent in any proceeding under subparagraph (A); and

(vi) the Office of Compliance may provide legal representation to the employee in such appellate proceedings under subparagraph (A) if the employee was a prevailing party in the hearing or if the employee has a nonfrivolous ground of appeal. Rules for providing representation for the employee shall be established by the executive director, subject to the approval of the Board of Directors.

(B) STANDARD OF REVIEW.—To the extent necessary for decision and when presented, the court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a dismissal under section 10(c), a final decision under section 10(g), or an order under section 10(h) if it is determined that the dismissal, decision, or order was—

(i) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(ii) not made consistent with required procedures; or

(iii) unsupported by substantial evidence.

(C) RECORD.—In making determinations under subparagraph (B), the court shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. The record on review shall include the record before the hearing board, the decision of the hearing board, and the order of the hearing board.

(b) ATTORNEY'S FEES.—If a congressional employee is the prevailing party in a proceeding under this section, attorney's fees may be allowed by the court in accordance with any standards prescribed under Federal law for the award of such fees.

The CHAIRMAN. Pursuant to the rule, the gentlewoman from the District of Columbia [Ms. NORTON] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I come to the floor as a former chair of the Equal Employment Opportunity Commission and as a Member who served on the Joint Committee for the Reorganization of Congress. I administered most of the laws that are the subject of H.R. 4822.

I offer an amendment to strengthen the bill by more closely meeting the standard we have set for ourselves to apply the laws we pass to ourselves as they are applied to other Americans.

I have worked closely with the gentleman from Connecticut [Mr. SHAYS], and the gentleman from New Hampshire [Mr. SWETT], and with the staff of the gentleman from California [Mr. THOMAS], as well. My amendment seeks to incorporate their concerns in addition to my own by meeting the goal of equivalent compliance by Congress.

I feel compelled to offer an amendment because without a change, House employees will be deprived of redress and appeal long available to other Americans. My amendment is not inconsistent with the comparable provision currently in the bill. Rather it strengthens the bill's provisions, coming closer to the existing law that now governs other Americans.

The bill, as it now stands, takes away an entire forum that is available to Federal, State, and private sector employees. Under H.R. 4822, House employees would have to make a most difficult choice: To go either to the Federal district court or an administrative hearing board before a three-member board. Other Americans enjoy the right to a cost-free forum to resolve their complaints, and thereafter may still go to Federal district court. Neither Federal, State, nor private sector employees give up their right to make their case before an administrative agency where neither a lawyer nor court costs are necessary.

The bill before us, however, requires House employees to give up their right to cost-free administrative resolution altogether if they desire a de novo district court hearing. Thus the bill goes to the expense of setting up a free administrative forum for everyone else but then denies House employees its use unless they give up the right to a court hearing afterwards. However, private sector, Federal and State employees may go to the EEOC and, if they lose there, may go to district court.

My amendment allows House employees a cost-free hearing before the independent three-member hearing board without depriving the employees of their right to a de novo hearing before a Federal district court, if desired, after a hearing board decision.

Why does my amendment allow both the administrative hearing and the court hearing? To conform to the fact that two forums are provided to other Americans. The members of the hearing board are not selected by the House, but rotate off a list of professionals recommended by the Administrative Conference of the United States and a Federal Mediation and Conciliation Service. In light of the fact that the review board is independent, my amendment offers an incentive to appeal rather than repeat the fact finding process, but to conform to the rules for other Americans, preserves the right of every employee to repeat the fact finding process if she pleases. Thus, the Office of Compliance would defend the hearing board's decision in the court of appeals and thus would in effect provide the employee counsel if the defendant appeals to the court of appeals. Employees who do not prevail before the hearing board but have nonfrivolous appeals would have similar representation if they appeal to the court of appeals.

Every House employee would retain the option of going to the Federal district court de novo, regardless, at her expense, just like other Americans.

Reliance upon a cost-free, independent administrative hearing is the key feature of the Shays-Swett bill, the Schroeder-Snowe Congressional Employees Fairness Act and the Joint Committee on the Organization of Congress's proposal.

My amendment takes away nothing from these bills but uses them as a guide while giving no less to House employees than what other Americans can claim. Do not sell House employees short by taking away their cost-free administrative hearing or their right to a de novo hearing in district court.

Mr. HUGHES. Mr. Chairman, will the gentlewoman yield?

Ms. NORTON. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, do I understand that what the gentlewoman's amendment does is it requires an employee to exhaust administrative remedies first?

Ms. NORTON. Yes, without depriving that employee of the right to then go to Federal district court as in the private sector.

Mr. HUGHES. But it requires an employee to exhaust all administrative remedies before they can file in the district court?

Ms. NORTON. That is right, where the resolution may well occur.

Mr. HUGHES. If the gentlewoman will yield further, does the gentlewoman envision that then there would be a de novo review, as I understand it, in the Federal district court once they have exhausted those remedies before the Office of Compliance?

Ms. NORTON. I would. That is so, because that is what happens in the private sector.

Mr. HUGHES. Then you envision if, in fact, a district court renders an adverse decision, there would be an appeal to the U.S. Court of Appeals?

Ms. NORTON. As in the private sector, yes. In other words, I have tried to track as closely as possible what happens in the private sector.

Mr. HUGHES. Mr. Chairman, I thank the gentlewoman.

Mr. THOMAS of California. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. THOMAS] is recognized for 5 minutes.

Mr. THOMAS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think we have to understand that if this bill is an attempt to place Congress under the laws as the private sector has them, you need to know that the Norton amendment is a step back from that position. The committee, after much discussion, unanimously accepted an amendment which, in fact, puts Congress and its employees closer to what occurs in the private sector. The question that was just asked by the gentleman from New Jersey goes directly to the heart of the question.

In the Fair Labor Standards Act employees have the right to an administrative proceeding or going to the court. In the Civil Rights Act they have that choice. In the Americans With Disabilities Act they have that choice. In the Age Discrimination in Employment Act they have that choice. In the Workers' Adjustment and Retraining Act they have that choice. In the committee version of the bill they have that choice.

They do not have that choice under the Norton amendment. In addition to that, in the private sector there is no inducement to get you to give up your right to go to a trial court and take the administrative proceeding, and then go to the appeals court. In the Norton amendment, if you go to the appeals court, your attorney is provided by the Office of Compliance.

It is an attempt not to have you go to the district court, not to have that right that is available to the private sector in every other of these laws.

We argued this in committee. The amendment accepted by the gentlemen who are the cosponsors of this bill, unanimously supported by the committee, says the employee has the right to take the administrative remedy or, at their choice, go to the district court.

It seems to me that if we are going to place Congress and the Federal employees more under the private sector laws, the committee procedure is closer to that than the Norton amendment, and I would ask that you oppose this amendment.

The CHAIRMAN. The time of the gentlewoman from the District of Columbia [Ms. NORTON] has expired. The gentleman from California [Mr. THOMAS] has 3 minutes remaining.

Mr. THOMAS of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I regret I did not have the opportunity of hearing the arguments. I have been in transit to be here.

But it does seem to me that there is no good reason to deprive employees of their right to go directly to court and to bypass the administrative procedures. I know that, for instance, in the civil rights laws, especially in regard to gender discrimination, that the employees made it very clear while we were considering that recent legislation that they felt very definitely that they wanted to have their right to their day in court before a jury so they could set their full case in regard to gender discrimination and, indeed, when you look at the EEOC and the procedures that would be utilized, when you look at civil rights laws, I think one has to recognize that what we have in this statute as it is very much in accord with what the EEOC has in reference to the Civil Rights Act or the ADA. You have conciliation, you have mediation, and then the party has a right to go directly to court.

I think it is good that they have the right to use an administrative procedure hearing here, but it is very, very important that we try to have the law as close to existing law as possible.

Mr. THOMAS of California. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I am somewhat sympathetic with the amendment offered by the gentlewoman from the District of Columbia, because that would make the whole process of labor law a lot easier for the private sector and for us, because if the private sector did not have their employees running into court but would, rather, have to go through an administrative procedure first, we could unclog a lot of the problems we have in the courts today.

But that is not what the private sector has to do. And so as sympathetic as I am with what she wants to do, it would make a lot more sense, we need to go back and change the laws that apply to the private sector, and then we could live under that same application.

But in the meantime, I think that we should provide out employees with the same rights and privileges as the private sector employees have, and that means that the committee version is the right version in order to maintain that integrity.

Mr. THOMAS of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I believe the gentlewoman from the District of Columbia is well intentioned in her amendment. But, I believe that the committee, in the discussion, in the amendment, and in the committee product, moves us closer to conformance on the model of the Shays-Swett legislation, and I would ask that we oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from the District of Columbia [Ms. NORTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. NORTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 14 printed in part 2 of House Report 103–691.

VOL 140 PT 15 AG 10 — 11 1994 UMI

AMENDMENT OFFERED BY MS. ENGLISH OF ARIZONA

Ms. ENGLISH of Arizona. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment Offered by Ms. ENGLISH of Arizona: Page 37, after line 12, add the following new section:

SEC. 19. LIMITATION ON USE OF TRAVEL AWARDS IN THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—Notwithstanding any other provision of law or any rule, regulation, or other authority, any travel award that accrues by reason of official travel of a Member, officers or employee of the House of Representatives may be used only with respect to official travel.

(b) REGULATIONS.—The Committee on House Administration of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) DEFINITIONS.—As used in this section—

(1) the term "travel award" means any frequent flier mileage, free travel, discounted travel, or other travel benefit, whether awarded by coupon, membership, or otherwise; and

(2) the term "official travel" means, with respect to the House of Representatives, travel performed for the conduct of official business of the House of Representatives.

The CHAIRMAN. Pursuant to the rule, the gentlewoman from Arizona [Ms. ENGLISH] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentlewoman from Arizona [Ms. ENGLISH].

Ms. ENGLISH of Arizona. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the legislation now before the House deals with applying to Congress the laws that we impose on the rest of the Nation.

The amendment I offer today would apply to the House the rule covering the use of frequent-flier tickets that the rest of the entire Federal Government—including the Senate—already lives under.

My amendment would reverse a 1991 House rule change that gave Members and staff the discretion to personally use frequent-flier travel awards earned from official, taxpayer-funded travel. Under the current rules, every four trips I take to my district on the same airline earns me a free airline ticket.

I can either use that ticket to conduct official business, saving a little taxpayer money, or I can use it to fly myself, friends, and family most anywhere in the country for free.

When the taxpayers of my district pay to fly me back and forth between Arizona and Washington so that I can do my job, I just do not think they expect me to get free plane tickets as a result.

I have established a policy in my office—as many of my colleagues have—that says free frequent-flier plane tickets are only to be used for official business.

I think that should be the policy for the House as a whole, and that's what my amendment would accomplish.

This amendment rests on one simple premise. Airline tickets cost money. Taxpayers pay for them. The frequent-flier miles belong to the taxpayers. It is that simple.

In these times of very tight budgetary constraints, when we are trying—legitimately—to cut waste and save money wherever we can, this rule change makes sense. Given the amount of travel that Members of Congress undertake, the value of these awards can be substantial.

For Members lucky enough to represent a Western district, as I do, the value of these free tickets reaches into the thousands of dollars a year. We should not pass by this opportunity to save money and improve the cost-effectiveness of our congressional operations.

In closing, Mr. Chairman, let me restate the premise that my amendment is built on. Airline tickets cost money. Taxpayers pay for them. The frequent-flier miles belong to the taxpayers.

I urge all my colleagues to vote for this amendment and return the House to its original, commonsense treatment of this issue. This is the practice followed by our colleagues in every other part of the Federal Government.

It should be our policy as well.

□ 1820

Mr. Chairman, for purposes of debate only, I yield 1 minute to the gentleman from Ohio [Mr. STRICKLAND].

Mr. STRICKLAND. Mr. Chairman, when I first came to Congress, a friend back home asked me, "What's it like in Washington? How does it feel to serve in Congress? What are other Members of Congress really like?"

I told him I was surprised to learn how hard people work in Washington. I said there's a strong, and for the most part, unrecognized work ethic among Members of Congress and their staff.

Yet, despite this work ethic, the approval rating of Congress languishes at around 30 percent. Many of our constituents feel that we are out of touch. Some say we are completely out of touch. Such negative feelings are unwarranted—however, there are steps we can take to move us closer to the people we represent.

Stopping the personal use of frequent flier miles acquired through tax-payer financed official travel is certainly a step in the right direction.

Will this decision to do away with the personal use of frequent flier miles increase the public's approval rating of Congress? Perhaps not, but it is a modest reform which may go a long way in demonstrating to the public that we don't consider ourselves special.

I hope my colleagues will agree with this commonsense reform and support the efforts of the gentlewoman from Arizona [Ms. ENGLISH].

The CHAIRMAN. Does any Member seek recognition to speak in opposition to the amendment offered by the gentlewoman from Arizona [Ms. ENGLISH]?

Mr. ROSE. Yes. Mr. Chairman, I take that time, but not for any other reason than to have the time to enter into a colloquy with the gentlewoman from Arizona, and, if she will allow me to do that, I would like to ask her a few questions about this amendment.

The CHAIRMAN. Does gentleman seek the time in opposition?

Mr. ROSE. Yes, Mr. Chairman, I seek to control the opposition time so that I may have a colloquy.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina [Mr. ROSE] for 5 minutes.

Mr. ROSE. Mr. Chairman, the amendment that the gentlewoman from Arizona [Ms. ENGLISH] has written says the Committee on House Administration shall have authority to prescribe regulations to carry out this section.

Now, if this comes to the committee, and I would recommend to all my colleagues in the House, I would like to ask my colleagues for a birthday present. This is my birthday today. I am 55 years old; do my colleagues want to vote on that?

I say to my colleagues, "Let's don't have a recorded vote on this. I really wish we could just accept this amendment. I'm willing to work within the committee to do what I believe it is the gentlewoman is after."

The gentlewoman's main concern is that frequent flyer points not be used in any way for personal use. Is that not correct?

Ms. ENGLISH of Arizona. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentlewoman from Arizona.

Ms. ENGLISH of Arizona. Mr. Chairman, the gentleman is correct.

Mr. ROSE. And that they be used for the official things that we do around here that are the official business of the House; is that correct?

Ms. ENGLISH of Arizona. That is correct.

Mr. ROSE. OK.

Mr. Chairman, I have no objection to this amendment.

The CHAIRMAN pro tempore (Mr. MURTHA). The question is on the amendment offered by the gentlewoman from Arizona [Ms. ENGLISH].

The question was taken; and the Chairman pro tempore being in doubt, the Committee divided, and there were—ayes 57, noes 2.

So the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute, as modified as amended.

The amendment in the nature of a substitute, as modified as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MURTHA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4822) to make certain laws applicable to the legislative branch of the Federal Government, pursuant to House Resolution 514, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SHAYS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 427, nays 4, not voting 4, as follows:

[Roll No. 390]

YEAS—427

Abercrombie	Brooks	Deal	Frank (MA)	Lewis (CA)	Reed	Wheat	Wolf	Young (AK)
Ackerman	Browder	DeFazio	Franks (CT)	Lewis (FL)	Regula	Whitten	Woolsey	Young (FL)
Allard	Brown (CA)	DeLauro	Franks (NJ)	Lewis (GA)	Reynolds	Williams	Wyden	Zeliff
Andrews (ME)	Brown (FL)	DeLay	Frost	Lewis (KY)	Richardson	Wilson	Wynn	Zimmer
Andrews (NJ)	Brown (OH)	Dellums	Furse	Lightfoot	Ridge	Wise	Yates	
Andrews (TX)	Bryant	Derrick	Gallegly	Linder	Roberts			
Applegate	Bunning	Deutsch	Gejdenson	Lipinski	Roemer		NAYS—4	
Archer	Burton	Diaz-Balart	Gekas	Livingston	Rogers	Clay	Ford (MI)	
Armey	Buyer	Dickey	Gephardt	Lloyd	Rohrabacher	Collins (MI)	Gonzalez	
Bacchus (FL)	Byrne	Dicks	Geren	Long	Ros-Lehtinen			
Bachus (AL)	Callahan	Dingell	Gibbons	Lowey	Rose		NOT VOTING—4	
Baesler	Calvert	Dixon	Gilchrest	Lucas	Rostenkowski	Gallo	Molinari	
Baker (CA)	Camp	Dooley	Gillmor	Machtley	Roth	Herger	Washington	
Baker (LA)	Canady	Doolittle	Gilman	Maloney	Roukema			
Ballenger	Cantwell	Dornan	Gingrich	Mann	Rowland			
Barca	Cardin	Dreier	Glickman	Manton	Roybal-Allard			
Barcia	Carr	Duncan	Goodlatte	Manzullo	Royce			
Barlow	Castle	Dunn	Goodling	Margolies-Mezvinsky	Rush			
Barrett (NE)	Chapman	Durbin	Gordon	Markey	Sabo			
Barrett (WI)	Clayton	Edwards (CA)	Goss	Martinez	Sanders			
Bartlett	Clement	Edwards (TX)	Grams	Matsui	Sangmeister			
Barton	Clinger	Ehlers	Grandy	Mazzoli	Santorum			
Bateman	Clyburn	Emerson	Green	McCandless	Sarpalius			
Becerra	Coble	Engel	Greenwood	McCloskey	Sawyer			
Beilenson	Coleman	English	Gunderson	McCollum	Saxton			
Bentley	Collins (GA)	Eshoo	Gutierrez	McCrery	Schaefer			
Bereuter	Collins (IL)	Evans	Hall (OH)	McCurdy	Schenk			
Berman	Combest	Everett	Hall (TX)	McDade	Schiff			
Bevill	Condit	Ewing	Hamburg	McDermott	Schroeder			
Bilbray	Conyers	Farr	Hamilton	McHale	Schumer			
Bilirakis	Cooper	Fawell	Hancock	McHugh	Scott			
Bishop	Coppersmith	Fazio	Hansen	McInnis	Sensenbrenner			
Blackwell	Costello	Fields (LA)	Harman	McKeon	Serrano			
Bliley	Cox	Fields (TX)	Hastert	McKinney	Sharp			
Blute	Coyne	Filner	Hastings	McMillan	Shaw			
Boehlert	Cramer	Fingerhut	Hayes	McNulty	Shays			
Boehner	Crane	Fish	Hefley	Meehan	Shepherd			
Bonilla	Crapo	Flake	Hefner	Meek	Shuster			
Bonior	Cunningham	Foglietta	Hilliard	Menendez	Sisisky			
Borski	Danner	Foley	Hinchey	Meyers	Skaggs			
Boucher	Darden	Ford (TN)	Hoagland	Mfume	Skeen			
Brewster	de la Garza	Fowler	Hobson	Mica	Skelton			
			Hochbrueckner	Michel	Slattery			
			Hoekstra	Miller (CA)	Slaughter			
			Hoke	Miller (FL)	Smith (IA)			
			Holden	Mineta	Smith (MI)			
			Horn	Minge	Smith (NJ)			
			Houghton	Mink	Smith (OR)			
			Hoyer	Moakley	Smith (TX)			
			Huffington	Mollohan	Snowe			
			Hughes	Montgomery	Solomon			
			Hunter	Moorhead	Spence			
			Hutchinson	Moran	Spratt			
			Hutto	Morella	Stark			
			Hyde	Murphy	Stearns			
			Inglis	Murtha	Stenholm			
			Inhofe	Myers	Stokes			
			Inslee	Nadler	Strickland			
			Istook	Neal (MA)	Studds			
			Jacobs	Neal (NC)	Stump			
			Jefferson	Nussle	Stupak			
			Johnson (CT)	Oberstar	Sundquist			
			Johnson (GA)	Obey	Swett			
			Johnson (SD)	Olver	Swift			
			Johnson, E. B.	Ortiz	Synar			
			Johnson, Sam	Orton	Talent			
			Johnston	Owens	Tanner			
			Kanjorski	Oxley	Tauzin			
			Kaptur	Packard	Taylor (MS)			
			Kasich	Pallone	Taylor (NC)			
			Kennedy	Parker	Tejeda			
			Kennelly	Pastor	Thomas (CA)			
			Kildee	Paxon	Thomas (WY)			
			Kim	Payne (NJ)	Thompson			
			King	Payne (VA)	Thornton			
			Kingston	Pelosi	Thurman			
			Kleczka	Penny	Torkildsen			
			Klein	Peterson (FL)	Torres			
			Klink	Peterson (MN)	Torricelli			
			Klug	Petri	Towns			
			Knollenberg	Pickett	Traficant			
			Kolbe	Pickle	Tucker			
			Kopetski	Pombo	Unsoeld			
			Kreidler	Pomeroy	Upton			
			Kyl	Porter	Valentine			
			LaFalce	Portman	Velazquez			
			Lambert	Poshard	Vento			
			Lancaster	Price (NC)	Visclosky			
			Lantos	Pryce (OH)	Volkmer			
			LaRocco	Quillen	Vucanovich			
			Laughlin	Quinn	Walker			
			Lazio	Rahall	Walsh			
			Leach	Ramstad	Waters			
			Lehman	Rangel	Watt			
			Levin	Ravenel	Waxman			
			Levy		Weldon			

□ 1849

Mr. MOORHEAD, Mr. ARCHER, and Ms. EDDIE BERNICE JOHNSON of Texas changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

KING HOLIDAY AND SERVICE ACT OF 1994

Mr. SAWYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1933) to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, to extend such Commission, and to support the planning and performance of national service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr., with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments: Page 2, strike out lines 17 to 21 and insert:

(3) in section 6—

(A) in subsection (a) by striking "maximum rate of pay payable for grade GS–18 of the General Schedule under section 5332" and inserting "rate of pay for level IV of the Executive Schedule under section 5315";

(B) in subsection (b)(1) by adding the following at the end: "A person who has been detailed under the preceding sentence for as many as 365 days (continuously or intermittently) may not subsequently be detailed to the Commission."; and

(C) All Federal employees on loan to the King Commission on the day of enactment of this Act may remain detailed to the Martin Luther King Holiday Commission for not more than 365 days.

Page 3, strike out all after line 3 down to and including "1990"" in line 6 and insert:

(5) by amending section 8 to read as follows:

"SEC. 8. COMMISSION REPORT.

"(a) IN GENERAL.—Not later than April 20 of each year, the Commission shall submit a report to the President and the Congress concerning its activities under this Act or under the National and Community Service Act of 1990.

"(b) ANALYSIS REQUIRED.—The Commission shall include in its annual report—

"(1) a detailed description of all activities undertaken by the Commission;

"(2) an analysis of the spending practices of the Commission indicating how much of the funds of the Commission are dedicated to

VOL 140 PT 15 AG 10 — 11 1994 UMI

salaries, travel expenses, and other overhead costs and how much are dedicated to the stated goals of the Commission; and

"(3) a detailed description of any grants made by the Corporation for National and Community Service with the consultation of the Commission.";

Page 3, line 6, strike out "; and"

Page 3, line 8, strike out the period and insert a semicolon

Page 3, after line 8, insert:

(7) by adding at the end the following new section:

"SEC. 10. None of the funds appropriated or donated to the Commission may be used for the purpose of purchasing first class air travel or first class hotel accommodations."; and

Page 3, after line 8, insert:

(8) by adding at the end the following:

"SEC. 11. ACCOUNTING PROCEDURES.

"The Commission shall follow a comprehensive basis of accounting, as defined by the Comptroller General in B-255473. The Commission shall establish an accounting system for review by the Comptroller General under section 3512 of title 31, United States Code. The Comptroller General is authorized to review and audit the Commission, its programs, activities, operations, and financial transactions. The Comptroller General, and his agents, shall have access to all records, files, documents, and papers of the Commission, as necessary, to accomplish such audits.".

Mr. SAWYER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the bill be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. CLYBURN). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I yield to my good friend and colleague, the gentleman from Ohio [Mr. SAWYER], chairman of the Subcommittee on Census, Statistics, and Postal Personnel of the Committee on Post Office and Civil Service, for an explanation of the Senate amendments.

Mr. SAWYER. Mr. Speaker, first of all, let me thank my friend and colleague, the gentleman from New York. We have worked closely on this and a number of other pieces of important legislation, and I appreciate his cooperation.

Mr. Speaker, I urge my colleagues to support H.R. 1933, the King Holiday and Service Act, as amended by the Senate.

As passed by the House last March, H.R. 1933 contained three major provisions. First, it would extend the life of the Martin Luther King, Jr. Federal Holiday Commission for 5 years, through fiscal year 1999.

Second, the bill authorizes $300,000 for fiscal year 1995; and increases that amount by a modest $50,000 each year through fiscal year 1999.

Finally, H.R. 1933 authorizes the Corporation for National and Community Service to make grants for planning and carrying out community service opportunities in conjunction with the King holiday.

The Commission sponsors activities throughout the year. However, it is the Federal holiday that casts the necessary light on the continued importance of Martin Luther King, Jr.'s legacy to so many facets of our lives today.

I believe that the Commission is a modest investment for the Federal Government to make in bridging the often wide gap between people of different races and cultures that threatens both social and economic progress in our country.

The Senate considered and passed H.R. 1933 on May 24, with several amendments. The amendments do not make any substantive changes to the bill. They are intended to improve the operation of the Commission and to ensure the most cost-effective use of fiscal and human resources.

Therefore, I urge my colleagues to approve the King Holiday and Service Act, as amended by the Senate.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I want to thank the gentleman for his explanation of this important commission.

Mr. Speaker, under my reservation of objection, I am pleased to yield to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I wish to thank my good friend and colleague, the gentleman from New York, for yielding. I also thank the gentleman from Ohio [Mr. SAWYER], who has been a strong leader on behalf of this legislation. I want to thank him for his initiative, his vision, his leadership, and his wholehearted support. I would like to also thank the gentleman from New York for his support.

Mr. Speaker, I strongly urge passage of H.R. 1933, as amended by the Senate, to reauthorize the Martin Luther King, Jr. Federal Holiday Commission. The King Commission has done an excellent job of promoting the King holiday. As we know, the King holiday is now celebrated in all 50 States, the District of Columbia, in the military, and in more than 100 nations.

But I believe there is work left to be done. Today, we are witnessing an increase in violence in our schools, in our streets, on our playgrounds. Our children have become victims of violence at the hands of other children. Gang killings have nearly tripled in the last 4 years; 100,000 children bring guns to school each day. Too many of us have had young friends killed by violence. Too many of us have lost our sons. Lost our daughters.

We must stop the violence.

The King Commission is out on the front lines, in our communities, in our cities, fighting violence. It has provided the leadership, guidance, and resources for activities promoting nonviolence throughout the Nation. It is fighting to end the cycle of violence and drug use in our schools, in our communities. It is fighting to make the King holiday a day of reaching out and helping others, a day of interracial cooperation.

Dr. King spoke to the heart and conscience of all of us who believed that nonviolence offered a more excellent way of achieving equality in this country. He was a spokesperson, not only for African-Americans, but for every American. A day in celebration of what he stood for should be a day in celebration of what we all stand for. It should be a celebration of community. It should be a celebration of coming together. It should be a celebration of what America should be, what America could be. It should be a promise of Dr. King's beloved community, a community founded on love, respect, and hope.

We must extend the life of the King Commission, and help make the Martin Luther King, Jr. holiday a holiday for us all.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I am pleased to yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank my friend, the gentleman from New York, for yielding to me.

Mr. Speaker, I appreciate the opportunity simply to associate myself with the remarks of our colleague, the gentleman from Georgia [Mr. LEWIS], and to thank him for his leadership and sponsorship of this measure, and to also thank our colleague, the gentleman from Ohio [Mr. REGULA] for his leadership throughout this, although he could not be with us this afternoon.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill, H.R. 1933, and the Senate amendments thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMUNICATION FROM THE HONORABLE BILL McCOLLUM, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable BILL MCCOLLUM, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 9, 1994.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has been served with a subpoena issued by the State of Florida, Division of Administrative Hearings in connection with a civil case involving constituent casework.

After consultation with the General Counsel, I will determine if compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

BILL MCCOLLUM,
Member of Congress.

□ 1900

CONFERENCE REPORT ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Mr. BROOKS submitted the following conference report and statement on the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety:

CONFERENCE REPORT (H. REPT. 103-694)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the amendment of the Senate to the bill (H.R. 3355), to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Law Enforcement Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The following is the table of contents for this Act:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—PUBLIC SAFETY AND POLICING
Sec. 10001. Short title.
Sec. 10002. Purposes.
Sec. 10003. Community policing; "Cops on the Beat".
TITLE II—PRISONS
Subtitle A—Violent Offender Incarceration and Truth in Sentencing Incentive Grants
Sec. 20101. Grants for correctional facilities.
Sec. 20102. Truth in sentencing incentive grants.
Sec. 20103. Violent offender incarceration grants.
Sec. 20104. Matching requirement.
Sec. 20105. Rules and regulations.
Sec. 20106. Technical assistance and training.
Sec. 20107. Evaluation.
Sec. 20108. Definitions.
Sec. 20109. Authorization of appropriations.
Subtitle B—Punishment for Young Offenders
Sec. 20201. Certainty of punishment for young offenders.
Sec. 20202. Grants for community-based violent juvenile facilities.
Subtitle C—Alien Incarceration
Sec. 20301. Incarceration of undocumented criminal aliens.
Subtitle D—Miscellaneous Provisions
Sec. 20401. Prisoner's place of imprisonment.
Sec. 20402. Prison impact assessments.
Sec. 20403. Sentences to account for costs to the Government of imprisonment, release, and probation.
Sec. 20404. Application to prisoners to which prior law applies.
Sec. 20405. Crediting of "good time".
Sec. 20406. Task force on prison construction standardization and techniques.
Sec. 20407. Efficiency in law enforcement and corrections.
Sec. 20408. Amendments to the Department of Education Organization Act and the National Literacy Act of 1991.
Sec. 20409. Appropriate remedies for prison overcrowding.
Sec. 20410. Congressional approval of any expansion at Lorton and congressional hearings on future needs.
Sec. 20411. Awards of Pell Grants to prisoners prohibited.
Sec. 20412. Education requirement for early release.
Sec. 20413. Conversion of closed military installations into Federal prison facilities.
Sec. 20414. Post-conviction release drug testing—Federal offenders.
Sec. 20415. Reporting of cash received by criminal court clerks.
Sec. 20416. Civil rights of institutionalized persons.
Sec. 20417. Notification of release of prisoners.
Sec. 20418. Correctional job training and placement.
TITLE III—CRIME PREVENTION
Subtitle A—Ounce of Prevention Council
Sec. 30101. Ounce of Prevention Council.
Sec. 30102. Ounce of Prevention Grant Program.
Sec. 30103. Definition.
Sec. 30104. Authorization of appropriations.
Subtitle B—Youth Employment and Skills Crime Prevention
Sec. 30201. Youth employment and skills crime prevention grants.
Subtitle C—Model Intensive Grant Programs
Sec. 30301. Grant authorization.
Sec. 30302. Uses of funds.
Sec. 30303. Program requirements.
Sec. 30304. Applications.
Sec. 30305. Reports.
Sec. 30306. Definitions.
Sec. 30307. Authorization of appropriations.
Subtitle D—Family and Community Endeavor Schools Grant Program
Sec. 30401. Community schools youth services and supervision grant program.
Sec. 30402. Family and Community Endeavor Schools Grant Program.
Sec. 30403. Authorization of appropriations.
Subtitle E—Police Partnerships for Children
Sec. 30501. Definitions.
Sec. 30502. Grant authority.
Sec. 30503. Administration.
Sec. 30504. Technical assistance, training, and evaluation.
Sec. 30505. Authorization of appropriations.
Subtitle F—Midnight Sports
Sec. 30601. Grants for midnight sports league anticrime programs.
Subtitle G—Assistance for Delinquent and At-Risk Youth
Sec. 30701. Grant authority.
Sec. 30702. Authorization of appropriations.
Subtitle H—Police Recruitment
Sec. 30801. Grant authority.
Sec. 30802. Authorization of appropriations.
Subtitle I—National Triad Program
Sec. 30901. Purposes.
Sec. 30902. National assessment and dissemination.
Sec. 30903. Pilot programs.
Sec. 30904. Training assistance, evaluation, and dissemination awards.
Sec. 30905. Report.
Sec. 30906. Authorization of appropriations.
Subtitle J—Local Partnership Act
Sec. 31001. Establishment of payment program.
Sec. 31002. Technical amendment.
Subtitle K—National Community Economic Partnership
Sec. 31101. Short title.
CHAPTER 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS
Sec. 31111. Purpose.
Sec. 31112. Provision of assistance.
Sec. 31113. Approval of applications.
Sec. 31114. Availability of lines of credit and use.
Sec. 31115. Limitations on use of funds.
Sec. 31116. Program priority for special emphasis programs.
CHAPTER 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS
Sec. 31121. Community development corporation improvement grants.
Sec. 31122. Emerging community development corporation revolving loan funds.
CHAPTER 3—MISCELLANEOUS PROVISIONS
Sec. 31131. Definitions.
Sec. 31132. Authorization of appropriations.
Sec. 31133. Prohibition.
Subtitle L—Gang Prevention Services for Boys and Girls
Sec. 31201. Program authority.
Sec. 31202. Program requirements.
Sec. 31203. Eligible providers.
Sec. 31204. Eligible participants.
Sec. 31205. Applications process.
Sec. 31206. Evaluation.
Sec. 31207. Authorization of appropriations.
Subtitle M—Olympic Youth Development Centers
Sec. 31301. Olympic youth development centers.
Subtitle N—Anticrime Youth Councils
Sec. 31401. Purpose.
Sec. 31402. Authority to make grants.
Sec. 31403. Applications for grants.
Sec. 31404. Selection of grant recipients.
Sec. 31405. Authorization of appropriations.
Subtitle O—Urban Recreation and At-Risk Youth
Sec. 31501. Purpose of assistance.
Sec. 31502. Definitions.
Sec. 31503. Criteria for selection.
Sec. 31504. Park and recreation action recovery programs.
Sec. 31505. Miscellaneous and technical amendments.
Subtitle P—Boys and Girls Clubs in Public Housing
Sec. 31601. Establishment.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Sec. 31602. Report.
Sec. 31603. Authorization of appropriations.
Subtitle Q—Community-Based Justice Grants for Prosecutors
Sec. 31701. Grant authorization.
Sec. 31702. Use of funds.
Sec. 31703. Applications.
Sec. 31704. Allocation of funds; limitations on grants.
Sec. 31705. Award of grants.
Sec. 31706. Reports.
Sec. 31707. Authorization of appropriations.
Sec. 31708. Definitions.
Subtitle R—Child Safety
Sec. 31801. Short title.
Sec. 31802. Purpose.
Sec. 31803. Demonstration grants for supervised visitation centers.
Sec. 31804. Demonstration grant application.
Sec. 31805. Evaluation of demonstration projects.
Sec. 31806. Special grants to study the effect of supervised visitation on sexually abused or severely physically abused children.
Sec. 31807. Reporting.
Sec. 31808. Authorization of appropriations.
Subtitle S—Family Unity Demonstration Project
Sec. 31901. Short title.
Sec. 31902. Purpose.
Sec. 31903. Definitions.
Sec. 31904. Authorization of appropriations.
CHAPTER 1—GRANTS TO STATES
Sec. 31911. Authority to make grants.
Sec. 31912. Eligibility to receive grants.
Sec. 31913. Report.
CHAPTER 2—FAMILY UNITY DEMONSTRATION PROJECT FOR FEDERAL PRISONERS
Sec. 31921. Authority of the Attorney General.
Sec. 31922. Requirements.
Subtitle T—Substance Abuse Treatment in Federal Prisons
Sec. 32001. Substance abuse treatment in Federal prisons.
Subtitle U—Residential Substance Abuse Treatment for State Prisoners
Sec. 32101. Residential substance abuse treatment for State prisoners.
Subtitle V—Prevention, Diagnosis, and Treatment of Tuberculosis in Correctional Institutions
Sec. 32201. Prevention, diagnosis, and treatment of tuberculosis in correctional institutions.
Subtitle W—Hope in Youth Program
Sec. 32301. Program authority.
Sec. 32302. Program requirements.
Sec. 32303. Eligible providers.
Sec. 32304. Applications.
Sec. 32305. Evaluation.
Sec. 32306. Definition.
Sec. 32307. Authorization of appropriations.
Subtitle X—Gang Resistance Education and Training
Sec. 32401. Gang resistance education and training projects.
TITLE IV—VIOLENCE AGAINST WOMEN
Sec. 40001. Short title.
Subtitle A—Safe Streets for Women
Sec. 40101. Short title.
CHAPTER 1—FEDERAL PENALTIES FOR SEX CRIMES
Sec. 40111. Repeat offenders.
Sec. 40112. Federal penalties.
Sec. 40113. Mandatory restitution for sex crimes.
Sec. 40114. Authorization for Federal victim's counselors.
CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN
Sec. 40121. Grants to combat violent crimes against women.
CHAPTER 3—SAFETY FOR WOMEN IN PUBLIC TRANSIT AND PUBLIC PARKS
Sec. 40131. Grants for capital improvements to prevent crime in public transportation.
Sec. 40132. Grants for capital improvements to prevent crime in national parks.
Sec. 40133. Grants for capital improvements to prevent crime in public parks.
CHAPTER 4—NEW EVIDENTIARY RULES
Sec. 40141. Sexual history in criminal and civil cases.
CHAPTER 5—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT
Sec. 40151. Education and prevention grants to reduce sexual assaults against women.
Sec. 40152. Training programs.
Sec. 40153. Confidentiality of communications between sexual assault or domestic violence victims and their counselors.
Sec. 40154. Information programs.
Sec. 40155. Education and prevention grants to reduce sexual abuse of runaway, homeless, and street youth.
Sec. 40156. Victims of child abuse programs.
Subtitle B—Safe Homes for Women
Sec. 40201. Short title.
CHAPTER 1—NATIONAL DOMESTIC VIOLENCE HOTLINE
Sec. 40211. Grant for a national domestic violence hotline.
CHAPTER 2—INTERSTATE ENFORCEMENT
Sec. 40221. Interstate enforcement.
CHAPTER 3—ARREST POLICIES IN DOMESTIC VIOLENCE CASES
Sec. 40231. Encouraging arrest policies.
CHAPTER 4—SHELTER GRANTS
Sec. 40241. Grants for battered women's shelters.
CHAPTER 5—YOUTH EDUCATION
Sec. 40251. Youth education and domestic violence.
CHAPTER 6—COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE
Sec. 40261. Establishment of community programs on domestic violence.
CHAPTER 7—FAMILY VIOLENCE PREVENTION AND SERVICES ACT AMENDMENTS
Sec. 40271. Grantee reporting.
Sec. 40272. Technical amendments.
CHAPTER 8—CONFIDENTIALITY FOR ABUSED PERSONS
Sec. 40281. Confidentiality of abused person's address.
CHAPTER 9—DATA AND RESEARCH
Sec. 40291. Research agenda.
Sec. 40292. State databases.
Sec. 40293. Number and cost of injuries.
CHAPTER 10—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT
Sec. 40295. Rural domestic violence and child abuse enforcement assistance.
Subtitle C—Civil Rights for Women
Sec. 40301. Short title.
Sec. 40302. Civil rights.
Sec. 40303. Attorney's fees.
Sec. 40304. Sense of the Senate concerning protection of the privacy of rape victims.
Subtitle D—Equal Justice for Women in the Courts Act
Sec. 40401. Short title.
CHAPTER 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS
Sec. 40411. Grants authorized.
Sec. 40412. Training provided by grants.
Sec. 40413. Cooperation in developing programs in making grants under this title.
Sec. 40414. Authorization of appropriations.
CHAPTER 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS
Sec. 40421. Authorizations of circuit studies; education and training grants.
Sec. 40422. Authorization of appropriations.
Subtitle E—Violence Against Women Act Improvements
Sec. 40501. Pre-trial detention in sex offense cases.
Sec. 40502. Increased penalties for sex offenses against victims below the age of 16.
Sec. 40503. Payment of cost of testing for sexually transmitted diseases.
Sec. 40504. Extension and strengthening of restitution.
Sec. 40505. Enforcement of restitution orders through suspension of Federal benefits.
Sec. 40506. National baseline study on campus sexual assault.
Sec. 40507. Report on battered women's syndrome.
Sec. 40508. Report on confidentiality of addresses for victims of domestic violence.
Sec. 40509. Report on recordkeeping relating to domestic violence.
Subtitle F—National Stalker and Domestic Violence Reduction
Sec. 40601. Authorizing access to Federal criminal information databases.
Sec. 40602. Grant program.
Sec. 40603. Authorization of appropriations.
Sec. 40604. Application requirements.
Sec. 40605. Disbursement.
Sec. 40606. Technical assistance, training, and evaluations.
Sec. 40607. Training programs for judges.
Sec. 40608. Recommendations on intrastate communication.
Sec. 40609. Inclusion in national incident-based reporting system.
Sec. 40610. Report to Congress.
Sec. 40611. Definitions.
Subtitle G—Protections for Battered Immigrant Women and Children
Sec. 40701. Alien petitioning rights for immediate relative or second preference status.
Sec. 40702. Use of credible evidence in spousal waiver applications.
Sec. 40703. Suspension of deportation.
TITLE V—DRUG COURTS
Sec. 50001. Drug courts.
Sec. 50002. Study by the General Accounting Office.
TITLE VI—DEATH PENALTY
Sec. 60001. Short title.
Sec. 60002. Constitutional procedures for the imposition of the sentence of death.
Sec. 60003. Specific offenses for which death penalty is authorized.
Sec. 60004. Applicability to Uniform Code of Military Justice.
Sec. 60005. Death penalty for murder by a Federal prisoner.
Sec. 60006. Death penalty for civil rights murders.
Sec. 60007. Death penalty for the murder of Federal law enforcement officials.
Sec. 60008. New offense for the indiscriminate use of weapons to further drug conspiracies.

Sec. 60009. Foreign murder of United States nationals.
Sec. 60010. Death penalty for rape and child molestation murders.
Sec. 60011. Death penalty for sexual exploitation of children.
Sec. 60012. Murder by escaped prisoners.
Sec. 60013. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 60014. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 60015. Death penalty for the murder of State or local officials assisting Federal law enforcement officials and State correctional officers.
Sec. 60016. Protection of court officers and jurors.
Sec. 60017. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 60018. Death penalty for murder of Federal witnesses.
Sec. 60019. Offenses of violence against maritime navigation or fixed platforms.
Sec. 60020. Torture.
Sec. 60021. Violence at airports serving international civil aviation.
Sec. 60022. Terrorist Death Penalty Act.
Sec. 60023. Weapons of mass destruction.
Sec. 60024. Enhanced penalties for alien smuggling.
Sec. 60025. Protection of jurors and witnesses in capital cases.
Sec. 60026. Appointment of Counsel.
TITLE VII—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES
Sec. 70001. Mandatory life imprisonment for persons convicted of certain felonies.
Sec. 70002. Limited grant of authority to Bureau of Prisons.
TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES
Sec. 80001. Limitation on applicability of mandatory minimum penalties in certain cases.
Sec. 80002. Special rule for sentences imposed for offenses subject to sentencing guidelines.
TITLE IX—DRUG CONTROL
Subtitle A—Enhanced Penalties and General Provisions
Sec. 90101. Enhancement of penalties for drug trafficking in prisons.
Sec. 90102. Increased penalties for drug-dealing in "drug-free" zones.
Sec. 90103. Enhanced penalties for illegal drug use in Federal prisons and for smuggling drugs into Federal prisons.
Sec. 90104. Clarification of narcotic or other dangerous drugs under RICO.
Sec. 90105. Conforming amendments to recidivist penalty provisions of the controlled substances act and the controlled substances import and export act.
Sec. 90106. Advertising.
Sec. 90107. Violent crime and drug emergency areas.
Subtitle B—National Narcotics Leadership Act Amendments
Sec. 90201. Implementation of National Drug Control Strategy.
Sec. 90202. Report on reprogramming; office personnel restriction.
Sec. 90203. National Drug Control Strategy outcome measures.
Sec. 90204. Counter-Drug Technology Assessment Center.
Sec. 90205. Special Forfeiture Fund amendments.
Sec. 90206. Authorization of appropriations.
Sec. 90207. Adequate staffing of the Office of National Drug Control Policy.
Sec. 90208. Termination of Office of National Drug Control Policy.
TITLE X—DRUNK DRIVING PROVISIONS
Sec. 100001. Short title.
Sec. 100002. State laws applied in areas of Federal jurisdiction.
Sec. 100003. Driving while intoxicated prosecution program.
TITLE XI—FIREARMS
Subtitle A—Assault Weapons
Sec. 110101. Short title.
Sec. 110102. Restriction on manufacture, transfer, and possession of certain semiautomatic assault weapons.
Sec. 110103. Ban of large capacity ammunition feeding devices.
Sec. 110104. Study by attorney general.
Sec. 110105. Effective date.
Sec. 110106. Appendix a to section 922 of title 18.
Subtitle B—Youth Handgun Safety
Sec. 110201. Prohibition of the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.
Subtitle C—Licensure
Sec. 110301. Firearms licensure and registration to require a photograph and fingerprints.
Sec. 110302. Compliance with State and local law as a condition to license.
Sec. 110303. Action on firearms license application.
Sec. 110304. Inspection of firearms licensees' inventory and records.
Sec. 110305. Reports of theft or loss of firearms.
Sec. 110306. Responses to requests for information.
Sec. 110307. Notification of names and addresses of firearms licensees.
Subtitle D—Domestic Violence
Sec. 110401. Prohibition against disposal of firearms to, or receipt of firearms by, persons who have committed domestic abuse.
Subtitle E—Gun Crime Penalties
Sec. 110501. Enhanced penalty for use of a semiautomatic firearm during a crime of violence or a drug trafficking crime.
Sec. 110502. Enhanced penalty for second offense of using an explosive to commit a felony.
Sec. 110503. Smuggling firearms in aid of drug trafficking.
Sec. 110504. Theft of firearms and explosives.
Sec. 110505. Revocation of supervised release after imprisonment.
Sec. 110506. Revocation of probation.
Sec. 110507. Increased penalty for knowingly making false, material Statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 110508. Possession of explosives by felons and others.
Sec. 110509. Summary destruction of explosives subject to forfeiture.
Sec. 110510. Elimination of outmoded language relating to parole.
Sec. 110511. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
Sec. 110512. Using a firearm in the commission of counterfeiting or forgery.
Sec. 110513. Enhanced penalties for firearms possession by violent felons and serious drug offenders.
Sec. 110514. Receipt of firearms by nonresident.
Sec. 110515. Theft of firearms or explosives from licensee.
Sec. 110516. Disposing of explosives to prohibited persons.
Sec. 110517. Increased penalty for interstate gun trafficking.
Sec. 110518. Firearms and explosives conspiracy.
Sec. 110519. Definition of armor piercing ammunition.
TITLE XII—TERRORISM
Sec. 120001. Extension of the statute of limitation for certain terrorism offenses.
Sec. 120002. Jurisdiction over crimes against United States nationals on certain foreign ships.
Sec. 120003. Counterfeiting United States currency abroad.
Sec. 120004. Sentencing guidelines increase for terrorist crimes.
Sec. 120005. Providing material support to terrorists.
TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT
Sec. 130001. Enhancement of penalties for failing to depart, or reentering, after final order of deportation.
Sec. 130002. Criminal alien tracking center.
Sec. 130003. Alien witness cooperation and counterterrorism information.
Sec. 130004. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 130005. Expeditious deportation for denied asylum applicants.
Sec. 130006. Improving border controls.
Sec. 130007. Expanded special deportation proceedings.
Sec. 130008. Authority to accept certain assistance.
Sec. 130009. Passport and visa offenses penalties improvement.
Sec. 130010. Asylum.
TITLE XIV—YOUTH VIOLENCE
Sec. 140001. Prosecution as adults of certain juveniles for crimes of violence.
Sec. 140002. Commencement of juvenile proceeding.
Sec. 140003. Separation of juvenile from adult offenders.
Sec. 140004. Bindover system for certain violent juveniles
Sec. 140005. Amendment concerning records of crimes committed by juveniles.
Sec. 140006. Increased penalties for employing children to distribute drugs near schools and playgrounds.
Sec. 140007. Increased penalties for travel act crimes involving violence and conspiracy to commit contract killings.
Sec. 140008. Solicitation of minor to commit crime.
TITLE XV—CRIMINAL STREET GANGS
Sec. 150001. Criminal street gangs.
Sec. 150002. Adult prosecution of serious juvenile offenders.
Sec. 150003. Addition of anti-gang byrne grant funding objective.
Sec. 150004. Juvenile drug trafficking and gang prevention grants.
Sec. 150005. Grants for youth development centers.
Sec. 150006. Mentoring program.
Sec. 150007. Juvenile anti-drug and anti-gang grants in federally assisted low-income housing.
Sec. 150008. Gang investigation coordination and information collection.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Sec. 150004. Multijurisdictional gang task forces.

TITLE XVI—CHILD PORNOGRAPHY

Sec. 160001. Penalties for international trafficking in child pornography.
Sec. 160002. Sense of Congress concerning State legislation regarding child pornography.
Sec. 160003. Confirmation of intent of Congress in enacting sections 2252 and 2256 of title 18, United States code.

TITLE XVII—CRIMES AGAINST CHILDREN

Subtitle A—Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

Sec. 170101. Establishment of program.

Subtitle B—Assaults Against Children

Sec. 170201. Assaults against children.

Subtitle C—Missing and Exploited Children

Sec. 170301. Short title.
Sec. 170302. Purpose.
Sec. 170303. Establishment of task force.

TITLE XVIII—RURAL CRIME

Subtitle A—Drug Trafficking in Rural Areas

Sec. 180101. Authorizations for rural law enforcement agencies.
Sec. 180102. Rural crime and drug enforcement task forces.
Sec. 180103. Rural drug enforcement training.
Sec. 180104. More agents for the Drug Enforcement Administration.

Subtitle B—Drug Free Truck Stops and Safety Rest Areas

Sec. 180201. Drug free truck stops and safety rest areas.

Subtitle C—Sense of Congress Regarding Funding for Rural Areas

Sec. 180301. Funding for rural areas.

TITLE XIX—FEDERAL LAW ENFORCEMENT

Sec. 190001. Federal judiciary and Federal law enforcement.

TITLE XX—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

Subtitle A—Police Corps

Sec. 200101. Short title.
Sec. 200102. Purposes.
Sec. 200103. Definitions.
Sec. 200104. Establishment of office of the police corps and law enforcement education.
Sec. 200105. Designation of lead agency and submission of State plan.
Sec. 200106. Scholarship assistance.
Sec. 200107. Selection of participants.
Sec. 200108. Police corps training.
Sec. 200109. Service obligation.
Sec. 200110. State plan requirements.
Sec. 200111. Assistance to States and localities employing police corps officers.
Sec. 200112. Authorization of appropriations.
Sec. 200113. Reports to congress.

Subtitle B—Law Enforcement Scholarship Program

Sec. 200201. Short title.
Sec. 1142. Definitions.
Sec. 200203. Allotment.
Sec. 200204. Establishment of program.
Sec. 200205. Scholarships.
Sec. 200206. Eligibility.
Sec. 200207. State application.
Sec. 200208. Local application.
Sec. 200209. Scholarship agreement.
Sec. 200210. Authorization of appropriations.

TITLE XXI—STATE AND LOCAL LAW ENFORCEMENT

Subtitle A—Byrne Program

Sec. 210101. Extension of Byrne Grant funding.

Subtitle B—Law Enforcement Family Support

Sec. 210201. Law enforcement family support.

Subtitle C—DNA Identification

Sec. 210301. Short title.
Sec. 210302. Funding to improve the quality and availability of DNA analyses for law enforcement identification purposes.
Sec. 210303. Quality assurance and proficiency testing standards.
Sec. 210304. Index to facilitate law enforcement exchange of DNA identification information.
Sec. 210305. Federal Bureau of Investigation.
Sec. 210306. Authorization of appropriations.

Subtitle D—Police Pattern or Practice

Sec. 210401. Cause of action.
Sec. 210402. Data on use of excessive force.

Subtitle E—Improved Training and Technical Automation

Sec. 210501. Improved training and technical automation.

Subtitle F—Other State and Local Aid

Sec. 210601. Reauthorization of Office of Justice Programs.
Sec. 210602. Federal assistance to ease the increased burdens on State court systems resulting from enactment of this act.
Sec. 210603. Availability of violent crime reduction trust fund to fund activities authorized by the brady handgun violence prevention act and the national child protection act of 1993.

TITLE XXII—MOTOR VEHICLE THEFT PREVENTION

Sec. 220001. Short title.
Sec. 220002. Motor vehicle theft prevention program.
Sec. 220003. Altering or removing motor vehicle identification numbers.

TITLE XXIII—VICTIMS OF CRIME

Subtitle A—Victims of Crime

Sec. 230101. Victim's right of allocution in sentencing.
Sec. 230102. Sense of the Senate concerning the right of a victim of a violent crime or sexual abuse to speak at an offender's sentencing hearing and any parole hearing.

Subtitle B—Crime Victims' Fund

Sec. 230201. Allocation of funds for costs and grants.
Sec. 230202. Relationship of crime victim compensation to certain Federal programs.
Sec. 230203. Administrative costs for crime victim compensation.
Sec. 230204. Grants for demonstration projects.
Sec. 230205. Administrative costs for crime victim assistance.
Sec. 230206. Maintenance of effort.
Sec. 230207. Change of due date for required report.
Sec. 230208. Amendment of the Victims of Crime Act.

TITLE XXIV—PROTECTIONS FOR THE ELDERLY

Sec. 240001. Missing Alzheimer's Disease Patient Alert Program.
Sec. 240002. Crimes against the elderly.
Sec. 240003. Safe senior corridors grants.

TITLE XXV—SENIOR CITIZENS AGAINST MARKETING SCAMS

Sec. 250001. Short title.
Sec. 250002. Enhanced penalties for telemarketing fraud.
Sec. 250003. Increased penalties for fraud against older victims.
Sec. 250004. Rewards for information leading to prosecution and conviction.
Sec. 250005. Authorization of appropriations.
Sec. 250006. Broadening application of mail fraud statute.
Sec. 250007. Fraud and related activity in connection with access devices.
Sec. 250008. Information network.

TITLE XXVI—COMMISSION MEMBERSHIP AND APPOINTMENT

Sec. 260001. Commission membership and appointment.
Sec. 260002. Conforming amendment.

TITLE XXVII—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL COMMISSION ON CRIME PREVENTION AND CONTROL

Sec. 270001. Presidential summit.
Sec. 270002. Establishment; committees and task forces; representation.
Sec. 270003. Purposes.
Sec. 270004. Responsibilities of the commission.
Sec. 270005. Administrative matters.
Sec. 270006. Staff and support services.
Sec. 270007. Powers.
Sec. 270008. Report; termination.
Sec. 270009. Authorization of appropriations.

TITLE XXVIII—SENTENCING PROVISIONS

Sec. 280001. Imposition of sentence.
Sec. 280002. Technical amendment to mandatory conditions of probation.
Sec. 280003. Direction to United States Sentencing Commission regarding sentencing enhancements for hate crimes.
Sec. 280004. Authorization of probation for petty offenses in certain cases.
Sec. 280005. Full-time vice chairs of the United States Sentencing Commission.
Sec. 280006. Cocaine penalty study.

TITLE XXIX—COMPUTER CRIME

Sec. 290001. Computer Abuse Amendments Act of 1994.

TITLE XXX—PROTECTION OF PRIVACY OF INFORMATION IN STATE MOTOR VEHICLE RECORDS

Sec. 300001. Short title.
Sec. 300002. Prohibition on release and use of certain personal information from State motor vehicle records.
Sec. 300003. Effective date.

TITLE XXXI—VIOLENT CRIME REDUCTION TRUST FUND

Sec. 310001. Creation of Violent Crime Reduction Trust Fund.
Sec. 310002. Conforming reduction in discretionary spending limits.
Sec. 310003. Extension of authorizations of appropriations for fiscal years for which the full amount authorized is not appropriated.
Sec. 310004. Flexibility in making of appropriations.

TITLE XXXII—MISCELLANEOUS

Subtitle A—Increases in Penalties

Sec. 320101. Increased penalties for assault.
Sec. 320102. Increased penalties for manslaughter.
Sec. 320103. Increased penalties for civil rights violations.
Sec. 320104. Penalties for trafficking in counterfeit goods and services.
Sec. 320105. Increased penalty for conspiracy to commit murder for hire.
Sec. 320106. Increased penalties for arson.
Sec. 320107. Increased penalties for drug trafficking near public housing.
Sec. 320108. Task force and criminal penalties relating to the introduction of nonindigenous species.
Sec. 320109. Military medals and decorations.

Subtitle B—Extension of Protection of Civil Rights Statutes

Sec. 320201. Extension of protection of civil rights statutes.

Subtitle C—Audit and Report

Sec. 320301. Audit requirement for State and local law enforcement agencies receiving Federal asset forfeiture funds.
Sec. 320302. Report to Congress on administrative and contracting expenses.

Subtitle D—Coordination

Sec. 320401. Coordination of substance abuse treatment and prevention programs.

Subtitle E—Gambling

Sec. 320501. Clarifying amendment regarding scope of prohibition against gambling on ships in international waters.

Subtitle F—White Collar Crime Amendments

Sec. 320601. Receiving the proceeds of extortion or kidnapping.
Sec. 320602. Receiving the proceeds of a postal robbery.
Sec. 320603. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
Sec. 320604. Miscellaneous amendments to title 18, United States Code.
Sec. 320605. Federal Deposit Insurance Act amendment.
Sec. 320606. Federal Credit Union Act amendments.
Sec. 320607. Addition of predicate offenses to financial institutions rewards statute.
Sec. 320608. Definition of savings and loan association" for purposes of the offense of bank robbery and related offenses.
Sec. 320609. Definition of 1-year period for purposes of the offense of obstruction of a Federal audit.

Subtitle G—Safer Streets and Neighborhoods

Sec. 320701. Short title.
Sec. 320702. Limitation on grant distribution.

Subtitle H—Recreational Hunting Safety

Sec. 320801. Short title.
Sec. 320802. Obstruction of a lawful hunt.
Sec. 320803. Civil penalties.
Sec. 320804. Other relief.
Sec. 320805. Relationship to State and local law and civil actions.
Sec. 320806. Regulations.
Sec. 320807. Rule of construction.
Sec. 320808. Definitions.

Subtitle I—Other Provisions

Sec. 320901. Wiretaps.
Sec. 320902. Theft of major artwork.
Sec. 320903. Addition of attempted robbery, kidnapping, smuggling, and property damage offenses to eliminate inconsistencies and gaps in coverage.
Sec. 320904. Gun-free school zones.
Sec. 320905. Interstate wagering.
Sec. 320906. Sense of Congress with respect to violence against truckers.
Sec. 320907. Sense of the Senate regarding a study on out-of-wedlock births.
Sec. 320908. Sense of the Senate regarding the role of the United Nations in international organized crime control.
Sec. 320909. Optional venue for espionage and related offenses.
Sec. 320910. Undercover operations.
Sec. 320911. Misuse of initials "DEA".
Sec. 320912. Definition of livestock.
Sec. 320913. Asset forfeiture.
Sec. 320914. Clarification of definition of a "court of the United States" to include the district courts for Guam, the Northern Mariana Islands, and the Virgin Islands.
Sec. 320915. Law enforcement personnel.
Sec. 320916. Authority to investigate violent crimes against travelers.
Sec. 320917. Extension of statute of limitations for arson.
Sec. 320918. Sense of Congress concerning child custody and visitation rights.
Sec. 320919. Edward Byrne Memorial Formula Grant Program.
Sec. 320920. Sense of the senate regarding Law Day U.S.A.
Sec. 320921. First time domestic violence offender rehabilitation program.
Sec. 320922. Display of flags at halfstaff.
Sec. 320923. Financial institution fraud.
Sec. 320924. Definition of parent for the purposes of the offense of kidnapping.
Sec. 320925. National Center for Criminal Justice Research and Education.
Sec. 320926. Hate Crime Statistics Act.
Sec. 320927. Exemption from Brady background check requirement of return of handgun to owner.
Sec. 320928. Amendment of the National Child Protection Act of 1993.
Sec. 320929. Tennessee Valley Authority law enforcement personnel.
Sec. 320930. Criminal justice and substance abuse treatment training.
Sec. 320932. Assistant United States attorney residency.
Sec. 320933. Labels on products.

TITLE XXXIII—TECHNICAL CORRECTIONS

Sec. 330001. Amendments relating to Federal financial assistance for law enforcement.
Sec. 330002. General title 18 corrections.
Sec. 330003. Corrections of erroneous cross references and misdesignations.
Sec. 330004. Repeal of obsolete provisions in title 18.
Sec. 330005. Correction of drafting error in the Foreign Corrupt Practices Act.
Sec. 330006. Elimination of redundant penalty provision in 18 U.S.C. 1116.
Sec. 330007. Elimination of redundant penalty.
Sec. 330008. Corrections of misspellings and grammatical errors.
Sec. 330009. Other technical amendments.
Sec. 330010. Correction of errors found during codification.
Sec. 330011. Problems related to execution of prior amendments.
Sec. 330012. Amendment to section 1956 of title 18 to eliminate duplicate predicate crimes.
Sec. 330013. Amendments to part V of title 18.
Sec. 330014. Update of cross reference.
Sec. 330015. Correction of error in amendatory language.
Sec. 330016. Correction of misleading and outmoded fine amounts in offenses under title 18.
Sec. 330017. Technical corrections to title 31 crimes.
Sec. 330018. Repeal of superfluous statute of limitation and transfer of child abuse statute of limitation.
Sec. 330019. Technical errors in section 1956.
Sec. 330020. Technical error.
Sec. 330021. Conforming spelling of variants of "kidnap".
Sec. 330022. Margin error.
Sec. 330023. Technical corrections relating to section 248 of title 18, United States Code.
Sec. 330024. Technical amendments necessitated by the enactment of the Domestic Chemical Diversion Control Act of 1993.
Sec. 330025. Victims of Crime Act.

TITLE I—PUBLIC SAFETY AND POLICING

SEC. 10001. SHORT TITLE.

This title may be cited as the "Public Safety Partnership and Community Policing Act of 1994".

SEC. 10002. PURPOSES.

The purposes of this title are to—

(1) substantially increase the number of law enforcement officers interacting directly with members of the community ("cops on the beat");

(2) provide additional and more effective training to law enforcement officers to enhance their problem solving, service, and other skills needed in interacting with members of the community;

(3) encourage the development and implementation of innovative programs to permit members of the community to assist State, Indian tribal government, and local law enforcement agencies in the prevention of crime in the community; and

(4) encourage the development of new technologies to assist State, Indian tribal government, and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime,

by establishing a program of grants and assistance in furtherance of these objectives, including the authorization for a period of 6 years of grants for the hiring and rehiring of additional career law enforcement officers.

SEC. 10003. COMMUNITY POLICING; "COPS ON THE BEAT".

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following new part:

"PART Q—PUBLIC SAFETY AND COMMUNITY POLICING; 'COPS ON THE BEAT'

"SEC. 1701. AUTHORITY TO MAKE PUBLIC SAFETY AND COMMUNITY POLICING GRANTS.

"(a) GRANT AUTHORIZATION.—The Attorney General may make grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia thereof to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

"(b) REHIRING, HIRING, AND INITIAL REDEPLOYMENT GRANT PROJECTS.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used for programs, projects, and other activities to—

"(A) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

"(B) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation; and

"(C) procure equipment, technology, or support systems, or pay overtime, if the applicant for such a grant demonstrates to the satisfaction of the Attorney General that expenditures for such purposes would result in an increase in the number of officers deployed in community-oriented policing equal to or greater than the increase in the number of officers that would result from a grant for a like amount for the purposes specified in subparagraph (A) or (B).

"(2) GRANTS FOR EQUIPMENT, TECHNOLOGY, AND SUPPORT SYSTEMS.—Grants pursuant to paragraph (1)(C)—

"(A) may not exceed—

"(i) 20 percent of the funds available for grants pursuant to this subsection in fiscal year 1995;

"(ii) 20 percent of the funds available for grants pursuant to this subsection in fiscal year 1996; or

"(iii) 10 percent of the funds available for grants pursuant to this subsection in fiscal years 1997, 1998, 1999, and 2000; and

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(B) may not be awarded in fiscal years 1998, 1999, or 2000 unless the Attorney General has certified that grants awarded in fiscal years 1995, 1996, and 1997 pursuant to subparagraph (1)(C) have resulted in an increase in the number of officers deployed in community-oriented policing equal to or greater than the increase in the number of officers that have resulted from the grants in like amounts awarded in fiscal years 1995, 1996, and 1997 pursuant to paragraph (1) (A) and (B).

"(c) TROOPS-TO-COPS PROGRAMS.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used to hire former members of the Armed Forces to serve as career law enforcement officers for deployment in community-oriented policing, particularly in communities that are adversely affected by a recent military base closing.

"(2) DEFINITION.—In this subsection, 'former member of the Armed Forces' means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of title 10, United States Code.

"(d) ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a) may include programs, projects, and other activities to—

"(1) increase the number of law enforcement officers involved in activities that are focused on interaction with members of the community on proactive crime control and prevention by redeploying officers to such activities;

"(2) provide specialized training to law enforcement officers to enhance their conflict resolution, mediation, problem solving, service, and other skills needed to work in partnership with members of the community;

"(3) increase police participation in multidisciplinary early intervention teams;

"(4) develop new technologies to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime;

"(5) develop and implement innovative programs to permit members of the community to assist State and local law enforcement agencies in the prevention of crime in the community, such as a 'citizens' police academy, including programs designed to increase the level of access to the criminal justice system enjoyed by victims, witnesses, and ordinary citizens by establishing decentralized satellite offices (including video facilities) of principal criminal courts buildings;

"(6) establish innovative programs to reduce, and keep to a minimum, the amount of time that law enforcement officers must be away from the community while awaiting court appearances;

"(7) establish and implement innovative programs to increase and enhance proactive crime control and prevention programs involving law enforcement officers and young persons in the community;

"(8) develop and establish new administrative and managerial systems to facilitate the adoption of community-oriented policing as an organization-wide philosophy;

"(9) establish, implement, and coordinate crime prevention and control programs (involving law enforcement officers working with community members) with other Federal programs that serve the community and community members to better address the comprehensive needs of the community and its members; and

"(10) support the purchase by a law enforcement agency of no more than 1 service weapon per officer, upon hiring for deployment in community-oriented policing or, if necessary, upon existing officers' initial redeployment to community-oriented policing.

"(e) PREFERENTIAL CONSIDERATION OF APPLICATIONS FOR CERTAIN GRANTS.—In awarding grants under this part, the Attorney General may give preferential consideration, where feasible, to applications for hiring and rehiring additional career law enforcement officers that involve a non-Federal contribution exceeding the 25 percent minimum under subsection (i).

"(f) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Attorney General may provide technical assistance to States, units of local government, Indian tribal governments, and to other public and private entities, in furtherance of the purposes of the Public Safety Partnership and Community Policing Act of 1994.

"(2) MODEL.—The technical assistance provided by the Attorney General may include the development of a flexible model that will define for State and local governments, and other public and private entities, definitions and strategies associated with community or problem-oriented policing and methodologies for its implementation.

"(3) TRAINING CENTERS AND FACILITIES.—The technical assistance provided by the Attorney General may include the establishment and operation of training centers or facilities, either directly or by contracting or cooperative arrangements. The functions of the centers or facilities established under this paragraph may include instruction and seminars for police executives, managers, trainers, supervisors, and such others as the Attorney General considers to be appropriate concerning community or problem-oriented policing and improvements in police-community interaction and cooperation that further the purposes of the Public Safety Partnership and Community Policing Act of 1994.

"(g) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

"(h) MINIMUM AMOUNT.—Unless all applications submitted by any State and grantee within the State pursuant to subsection (a) have been funded, each qualifying State, together with grantees within the State, shall receive in each fiscal year pursuant to subsection (a) not less than 0.5 percent of the total amount appropriated in the fiscal year for grants pursuant to that subsection. In this subsection, 'qualifying State' means any State which has submitted an application for a grant, or in which an eligible entity has submitted an application for a grant, which meets the requirements prescribed by the Attorney General and the conditions set out in this part.

"(i) MATCHING FUNDS.—The portion of the costs of a program, project, or activity provided by a grant under subsection (a) may not exceed 75 percent, unless the Attorney General waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program, project, or activity. In relation to a grant for a period exceeding 1 year for hiring or rehiring career law enforcement officers, the Federal share shall decrease from year to year for up to 5 years, looking toward the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support, as provided in an approved plan pursuant to section 1702(c)(8).

"(j) ALLOCATION OF FUNDS.—The funds available under this part shall be allocated as provided in section 1001(a)(11)(B).

"(k) TERMINATION OF GRANTS FOR HIRING OFFICERS.—The authority under subsection (a) of this section to make grants for the hiring and rehiring of additional career law enforcement officers shall lapse at the conclusion of 6 years from the date of enactment of this part. Prior to the expiration of this grant authority, the Attorney General shall submit a report to Congress concerning the experience with and effects of such grants. The report may include any recommendations the Attorney General may have for amendments to this part and related provisions of law in light of the termination of the authority to make grants for the hiring and rehiring of additional career law enforcement officers.

"SEC. 1702. APPLICATIONS.

"(a) IN GENERAL.—No grant may be made under this part unless an application has been submitted to, and approved by, the Attorney General.

"(b) APPLICATION.—An application for a grant under this part shall be submitted in such form, and contain such information, as the Attorney General may prescribe by regulation or guidelines.

"(c) CONTENTS.—In accordance with the regulations or guidelines established by the Attorney General, each application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan that reflects consultation with community groups and appropriate private and public agencies and reflects consideration of the statewide strategy under section 503(a)(1);

"(2) demonstrate a specific public safety need;

"(3) explain the applicant's inability to address the need without Federal assistance;

"(4) identify related governmental and community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate coordination with all affected agencies;

"(6) outline the initial and ongoing level of community support for implementing the proposal including financial and in-kind contributions or other tangible commitments;

"(7) specify plans for obtaining necessary support and continuing the proposed program, project, or activity following the conclusion of Federal support;

"(8) if the application is for a grant for hiring or rehiring additional career law enforcement officers, specify plans for the assumption by the applicant of a progressively larger share of the cost in the course of time, looking toward the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support;

"(9) assess the impact, if any, of the increase in police resources on other components of the criminal justice system;

"(10) explain how the grant will be utilized to reorient the affected law enforcement agency's mission toward community-oriented policing or enhance its involvement in or commitment to community-oriented policing; and

"(11) provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within the sworn positions in the law enforcement agency.

"(d) SPECIAL PROVISIONS.—

"(1) SMALL JURISDICTIONS.—Notwithstanding any other provision of this part, in relation to applications under this part of units of local government or law enforcement agencies having jurisdiction over areas with population of less than 50,000, the Attorney General may waive 1 or more of the requirements of subsection (c) and may otherwise make special provisions to facilitate the expedited submission, processing, and approval of such applications.

"(2) SMALL GRANT AMOUNT.—Notwithstanding any other provision of this part, in relation to applications under section 1701(d) for grants of less than $1,000,000, the Attorney General may waive 1 or more of the requirements of subsection (c) and may otherwise make special provisions to facilitate the expedited submission, processing, and approval of such applications.

"SEC. 1703. RENEWAL OF GRANTS.

"(a) IN GENERAL.—Except for grants made for hiring or rehiring additional career law enforcement officers, a grant under this part may be renewed for up to 2 additional years after the first fiscal year during which a recipient receives its initial grant, if the Attorney General determines that the funds made available to the recipient were used in a manner required under an approved application and if the recipient can demonstrate significant progress in achieving the objectives of the initial application.

"(b) GRANTS FOR HIRING.—Grants made for hiring or rehiring additional career law enforcement officers may be renewed for up to 5 years, subject to the requirements of subsection (a), but notwithstanding the limitation in that subsection concerning the number of years for which grants may be renewed.

"(c) MULTIYEAR GRANTS.—A grant for a period exceeding 1 year may be renewed as provided in this section, except that the total duration of such a grant including any renewals may not exceed 3 years, or 5 years if it is a grant made for hiring or rehiring additional career law enforcement officers.

"SEC. 1704. LIMITATION ON USE OF FUNDS.

"(a) NONSUPPLANTING REQUIREMENT.—Funds made available under this part to States or units of local government shall not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this part, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

"(b) NON-FEDERAL COSTS.—

"(1) IN GENERAL.—States and units of local government may use assets received through the Assets Forfeiture equitable sharing program to provide the non-Federal share of the cost of programs, projects, and activities funded under this part.

"(2) INDIAN TRIBAL GOVERNMENTS.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this part.

"(c) HIRING COSTS.—Funding provided under this part for hiring or rehiring a career law enforcement officer may not exceed $75,000, unless the Attorney General grants a waiver from this limitation.

"SEC. 1705. PERFORMANCE EVALUATION.

"(a) MONITORING COMPONENTS.—Each program, project, or activity funded under this part shall contain a monitoring component, developed pursuant to guidelines established by the Attorney General. The monitoring required by this subsection shall include systematic identification and collection of data about activities, accomplishments, and programs throughout the life of the program, project, or activity and presentation of such data in a usable form.

"(b) EVALUATION COMPONENTS.—Selected grant recipients shall be evaluated on the local level or as part of a national evaluation, pursuant to guidelines established by the Attorney General. Such evaluations may include assessments of individual program implementations. In selected jurisdictions that are able to support outcome evaluations, the effectiveness of funded programs, projects, and activities may be required. Outcome measures may include crime and victimization indicators, quality or life measures, community perceptions, and police perceptions of their own work.

"(c) PERIODIC REVIEW AND REPORTS.—The Attorney General may require a grant recipient to submit to the Attorney General the results of the monitoring and evaluations required under subsections (a) and (b) and such other data and information as the Attorney General deems reasonably necessary.

"SEC. 1706. REVOCATION OR SUSPENSION OF FUNDING.

"If the Attorney General determines, as a result of the reviews required by section 1705, or otherwise, that a grant recipient under this part is not in substantial compliance with the terms and requirements of an approved grant application submitted under section 1702, the Attorney General may revoke or suspend funding of that grant, in whole or in part.

"SEC. 1707. ACCESS TO DOCUMENTS.

"(a) BY THE ATTORNEY GENERAL.—The Attorney General shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this part and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this part.

"(b) BY THE COMPTROLLER GENERAL.—Subsection (a) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

"SEC. 1708. GENERAL REGULATORY AUTHORITY.

"The Attorney General may promulgate regulations and guidelines to carry out this part.

"SEC. 1709. DEFINITIONS.

"In this part—

" 'career law enforcement officer' means a person hired on a permanent basis who is authorized by law or by a State or local public agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws.

" 'citizens' police academy' means a program by local law enforcement agencies or private non profit organizations in which citizens, especially those who participate in neighborhood watch programs, are trained in ways of facilitating communication between the community and local law enforcement in the prevention of crime.

" 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711, et seq.) is amended by striking the item relating to part Q and inserting the following:

"PART Q—PUBLIC SAFETY AND COMMUNITY POLICING; 'COPS ON THE BEAT'

"Sec. 1701. Authority to make public safety and community policing grants.
"Sec. 1702. Applications.
"Sec. 1703. Renewal of grants.
"Sec. 1704. Limitation on use of funds.
"Sec. 1705. Performance evaluation.
"Sec. 1706. Revocation or suspension of funding.
"Sec. 1707. Access to documents.
"Sec. 1708. General regulatory authority.
"Sec. 1709. Definition.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3) by striking "and O" and inserting "O, P, and Q"; and

(2) by adding at the end the following new paragraph:

"(11)(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

"(i) $1,332,000,000 for fiscal year 1995;
"(ii) $1,850,000,000 for fiscal year 1996;
"(iii) $1,950,000,000 for fiscal year 1997;
"(iv) $1,700,000,000 for fiscal year 1998;
"(v) $1,700,000,000 for fiscal year 1999; and
"(vi) $268,000,000 for fiscal year 2000.

"(B) Of funds available under part Q in any fiscal year, up to three percent may be used for technical assistance under section 1701(f) or for evaluations or studies carried out or commissioned by the Attorney General in furtherance of the purposes of part Q. Of the remaining funds, 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations 150,000 or less or by public and private entities that serve areas with populations 150,000 or less. Of the funds available in relation to grants under part Q, at least 85 percent shall be applied to grants for the purposes specified in section 1701(b), and no more than 15 percent may be applied to other grants in furtherance of the purposes of part Q. In view of the extraordinary need for law enforcement assistance in Indian country, an appropriate amount of funds available under part Q shall be made available for grants to Indian tribal governments or tribal law enforcement agencies.".

TITLE II—PRISONS

Subtitle A—Violent Offender Incarceration and Truth in Sentencing Incentive Grants

SEC. 20101. GRANTS FOR CORRECTIONAL FACILITIES.

(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual States and to States organized as multi-State compacts to develop, expand, modify, operate, or improve correctional facilities and programs, including boot camp facilities and programs and other alternative confinement facilities and programs that can free conventional prison space for the confinement of violent offenders, to ensure that prison cell space is available for the confinement of violent offenders and to implement truth in sentencing laws for sentencing violent offenders.

(b) ELIGIBILITY.—To be eligible to receive a grant under this subtitle, a State or States organized as multi-State compacts shall submit an application to the Attorney General which includes—

(1) assurances that the State or States have implemented, or will implement, correctional policies and programs, including truth in sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public;

(2) assurances that the State or States have implemented policies that provide for the recognition of the rights and needs of crime victims;

(3) assurances that funds received under this section will be used to develop, expand, modify, operate, or improve correctional facilities and programs to ensure that prison cell space is available for the confinement of violent offenders;

VOL 140 PT 15 AG 10 — 11 1994 UMI

(4) assurances that the State or States have a comprehensive correctional plan which represents an integrated approach to the management and operation of correctional facilities and programs and which includes diversion programs, particularly drug diversion programs, community corrections programs, a prisoner screening and security classification system, appropriate professional training for corrections officers in dealing with violent offenders, prisoner rehabilitation and treatment programs, prisoner work activities (including, to the extent practicable, activities relating to the development, expansion, modification, or improvement of correctional facilities) and job skills programs, educational programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance, and an assessment of recidivism rates;

(5) assurances that the State or States have involved counties and other units of local government, when appropriate, in the development, expansion, modification, operation or improvement of correctional facilities and programs designed to ensure the incarceration of violent offenders, and that the State or States will share funds received under this section with counties and other units of local government, taking into account the burden placed on these units of government when they are required to confine sentenced prisoners because of overcrowding in State prison facilities;

(6) assurances that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds;

(7) assurances that the State or States have implemented, or will implement within 18 months after the date of the enactment of this Act, policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled;

(8) if applicable, documentation of the multi-State compact agreement that specifies the development, expansion, modification, operation, or improvement of correctional facilities and programs; and

(9) if applicable, a description of the eligibility criteria for prisoner participation in any boot camp that is to be funded.

(c) CONSIDERATION.—The Attorney General, in making such grants, shall give consideration to the special burden placed on States which incarcerate a substantial number of inmates who are in the United States illegally.

SEC. 20102. TRUTH IN SENTENCING INCENTIVE GRANTS.

(a) TRUTH IN SENTENCING GRANT PROGRAM.—Forty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 shall be made available for Truth in Sentencing Incentive Grants. To be eligible to receive such a grant, a State must meet the requirements of section 20101(b) and shall demonstrate that the State—

(1) has in effect laws which require that persons convicted of violent crimes serve not less than 85 percent of the sentence imposed; or

(2) since 1993—

(A) has increased the percentage of convicted violent offenders sentenced to prison;

(B) has increased the average prison time which will be served in prison by convicted violent offenders sentenced to prison;

(C) has increased the percentage of sentence which will be served in prison by violent offenders sentenced to prison; and

(D) has in effect at the time of application laws requiring that a person who is convicted of a violent crime shall serve not less than 85 percent of the sentence imposed if—

(i) the person has been convicted on 1 or more prior occasions in a court of the United States or of a State of a violent crime or a serious drug offense; and

(ii) each violent crime or serious drug offense was committed after the defendant's conviction of the preceding violent crime or serious drug offense.

(b) ALLOCATION OF TRUTH IN SENTENCING INCENTIVE FUNDS.—

(1) FORMULA ALLOCATION.—The amount available to carry out this section for any fiscal year under subsection (a) shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

(2) TRANSFER OF UNUSED FUNDS.—On September 30 of each of fiscal years 1996, 1998, 1999, and 2000, the Attorney General shall transfer to the funds to be allocated under section 20103(b)(1) any funds made available to carry out this section that are not allocated to an eligible State under paragraph (1).

SEC. 20103. VIOLENT OFFENDER INCARCERATION GRANTS.

(a) VIOLENT OFFENDER INCARCERATION GRANT PROGRAM.—Sixty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 shall be made available for Violent Offender Incarceration Grants. To be eligible to receive such a grant, a State or States must meet the requirements of section 20101(b).

(b) ALLOCATION OF VIOLENT OFFENDER INCARCERATION FUNDS.—

(1) FORMULA ALLOCATION.—Eighty-five percent of the sum of the amount available for Violent Offender Incarceration Grants for any fiscal year under subsection (a) and any amount transferred under section 20102(b)(2) for that fiscal year shall be allocated as follows:

(A) 0.25 percent shall be allocated to each eligible State except that the United States Virgin Islands, American Samoa, Guam and the Northern Mariana Islands each shall be allocated 0.05 percent.

(B) The amount remaining after application of subparagraph (A) shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

(2) DISCRETIONARY ALLOCATION.—Fifteen percent of the sum of the amount available for Violent Offender Incarceration Grants for any fiscal year under subsection (a) and any amount transferred under section 20103(b)(3) for that fiscal year shall be allocated at the discretion of the Attorney General to States that have demonstrated the greatest need for such grants and the ability to best utilize the funds to meet the objectives of the grant program and ensure that prison cell space is available for the confinement of violent offenders.

(3) TRANSFER OF UNUSED FORMULA FUNDS.—On September 30 of each of fiscal years 1996, 1997, 1998, 1999, and 2000, the Attorney General shall transfer to the discretionary program under paragraph (2) any funds made available for allocation under paragraph (1) that are not allocated to an eligible State under paragraph (1).

SEC. 20104. MATCHING REQUIREMENT.

The Federal share of a grant received under this subtitle may not exceed 75 percent of the costs of a proposal described in an application approved under this subtitle.

SEC. 20105. RULES AND REGULATIONS.

(a) The Attorney General shall issue rules and regulations regarding the uses of grant funds received under this subtitle not later than 90 days after the date of enactment of this Act.

(b) If data regarding part 1 violent crimes in any State for 1993 is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for 1993 for that State for the purposes of allocation of any funds under this subtitle.

SEC. 20106. TECHNICAL ASSISTANCE AND TRAINING.

The Attorney General may request that the Director of the National Institute of Corrections and the Director of the Federal Bureau of Prisons provide technical assistance and training to a State or States that receive a grant under this subtitle to achieve the purposes of this subtitle.

SEC. 20107. EVALUATION.

The Attorney General may request the Director of the National Institute of Corrections to assist with an evaluation of programs established with funds under this subtitle.

SEC. 20108. DEFINITIONS.

In this subtitle—

"boot camp" means a correctional program of not more than 6 months' incarceration involving—

(A) assignment for participation in the program, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(B) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(C) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(D) post-incarceration aftercare services for participants that are coordinated with the program carried out during the period of imprisonment.

"part 1 violent crimes" means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

"State" or "States" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 20109. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $175,000,000 for fiscal year 1995, of which $175,000,000 may be appropriated from the Violent Crime Reduction Trust Fund;

(2) $940,000,000 for fiscal year 1996, of which $500,000,000 may be appropriated from the Violent Crime Reduction Trust Fund;

(3) $1,240,000,000 for fiscal year 1997, of which $800,000,000 may be appropriated from the Violent Crime Reduction Trust Fund;

(4) $1,740,000,000 for fiscal year 1998, of which $1,300,000,000 may be appropriated from the Violent Crime Reduction Trust Fund;

(5) $2,290,000,000 for fiscal year 1999, of which $1,850,000,000 may be appropriated from the Violent Crime Reduction Trust Fund; and

(6) $2,310,000,000 for fiscal year 2000, of which $1,870,000,000 may be appropriated from the Violent Crime Reduction Trust Fund.

Subtitle B—Punishment for Young Offenders

SEC. 20201. CERTAIN PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 10003(a), is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following new part:

"PART R—CERTAIN PUNISHMENT FOR YOUNG OFFENDERS

"SEC. 1801. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Attorney General may make grants under this part to States, for the use by States and units of local government, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certain punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certain punishment for young offenders;

"(2) restitution programs for young offenders;

"(3) innovative projects, such as projects consisting of education and job training activities for incarcerated young offenders, modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.) and projects that provide family counseling;

"(4) correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

"(5) community service programs that provide work service placement for young offenders at non-profit, private organizations and community organizations;

"(6) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse) and gang-related offenses; and

"(7) adequate and appropriate after care programs for young offenders, such as substance abuse treatment, education programs, vocational training, job placement counseling, family counseling and other support programs upon release.

"SEC. 1802. STATE APPLICATIONS.

"(a) IN GENERAL.—

"(1) SUBMISSION OF APPLICATION.—To request a grant under this part, the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"(2) ASSURANCES.—An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1803. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Attorney General shall make a grant under section 1801(a) to carry out the projects described in the application submitted by such applicant under section 1802 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Attorney General has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1802 shall be considered approved, in whole or in part, by the Attorney General not later than 45 days after first received unless the Attorney General informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1801(b).

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Attorney General shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1804. LOCAL APPLICATIONS.

"(a) IN GENERAL.—

"(1) SUBMISSION OF APPLICATION.—To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1802(b).

"(2) APPROVAL.—An application under paragraph (1) shall be considered to have been approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) DISAPPROVAL.—The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) EFFECT OF APPROVAL.—If an application under subsection (a) is approved, the unit of local government is eligible to receive funds under this part.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1801 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Attorney General has approved the application submitted by the State and has made funds available to the State. The Attorney General may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1805. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—

"(1) IN GENERAL.—A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1801 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for correctional programs in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for correctional programs in such preceding fiscal year.

"(2) UNDISTRIBUTED FUNDS.—Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1801.

"(3) UNUSED FUNDS.— If the Attorney General determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1801, the Attorney General shall award such funds to units of local government in such State giving priority to the units of local government that the Attorney General considers to have the greatest need.

"(c) GENERAL REQUIREMENT.—Notwithstanding subsections (a) and (b), not less than two-thirds of funds received by a State under this part shall be distributed to units of local government unless the State applies for and receives a waiver from the Attorney General.

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802(a) for the fiscal year for which the projects receive assistance under this part.

"(e) CONSIDERATION.—Notwithstanding subsections (a) and (b), in awarding grants under this part, the Attorney General shall consider as a factor whether a State has in effect throughout such State a law or policy that requires that a juvenile who is in possession of a firearm or other weapon on school property or convicted of a crime involving the use of a firearm or weapon on school property—

"(1) be suspended from school for a reasonable period of time; and

"(2) lose driving license privileges for a reasonable period of time.

"(f) DEFINITION.—For purposes of this part, 'juvenile' means a person 18 years of age or younger.

"SEC. 1806. EVALUATION.

"(a) IN GENERAL.—

"(1) SUBMISSION TO THE DIRECTOR.—Each State and unit of local government that receives a grant under this part shall submit to the Attorney General an evaluation not later than March 1 of each year in accordance with guidelines issued by the Attorney General. Such evaluation shall include an appraisal by representatives of the community of the programs funded by the grant.

"(2) WAIVER.—The Attorney General may waive the requirement specified in paragraph (1) if the Attorney General determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Attorney General shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State or unit of local government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 10003(a), is amended by striking the matter relating to part R and inserting the following:

"PART R—CERTAIN PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1801. Grant authorization.
"Sec. 1802. State applications.
"Sec. 1803. Review of State applications.
"Sec. 1804. Local applications.
"Sec. 1805. Allocation and distribution of funds.
"Sec. 1806. Evaluation.

"PART S—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), is amended—

(1) by adding a semicolon at the end of paragraph (21);

(2) by striking "and" at the end of paragraph (22);

VOL 140 PT 15 AG 10 — 11 1994 UMI

(3) by striking the period at the end of paragraph (23) and inserting a semicolon; and

(4) by adding after paragraph (23) the following:

"(24) the term 'young offender' means a non-violent first-time offender or a non-violent offender with a minor criminal record who is 22 years of age or younger (including juveniles); and".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 10003(c), is amended—

(1) in paragraph (3) by striking "and Q" and inserting "Q, or R"; and

(2) by adding at the end the following new paragraph:

"(16) There are authorized to be appropriated to carry out projects under part R—

"(A) $20,000,000 for fiscal year 1996;

"(B) $25,000,000 for fiscal year 1997;

"(C) $30,000,000 for fiscal year 1998;

"(D) $35,000,000 for fiscal year 1999; and

"(E) $40,000,000 for fiscal year 2000.".

Subtitle C—Alien Incarceration

SEC. 20301. INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS.

(a) INCARCERATION.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(j) INCARCERATION.—

"(1) If the chief executive officer of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the incarceration of an undocumented criminal alien submits a written request to the Attorney General, the Attorney General shall, as determined by the Attorney General—

"(A) enter into a contractual arrangement which provides for compensation to the State or a political subdivision of the State, as may be appropriate, with respect to the incarceration of the undocumented criminal alien; or

"(B) take the undocumented criminal alien into the custody of the Federal Government and incarcerate the alien.

"(2) Compensation under paragraph (1)(A) shall be the average cost of incarceration of a prisoner in the relevant State as determined by the Attorney General.

"(3) For purposes of this subsection, the term 'undocumented criminal alien' means an alien who—

"(A) has been convicted of a felony and sentenced to a term of imprisonment; and

"(B)(i) entered the United States without inspection or at any time or place other than as designated by the Attorney General;

"(ii) was the subject of exclusion or deportation proceedings at the time he or she was taken into custody by the State or a political subdivision of the State; or

"(iii) was admitted as a nonimmigrant and at the time he or she was taken into custody by the State or a political subdivision of the State has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status.

"(4)(A) In carrying out paragraph (1), the Attorney General shall give priority to the Federal incarceration of undocumented criminal aliens who have committed aggravated felonies.

"(B) The Attorney General shall ensure that undocumented criminal aliens incarcerated in Federal facilities pursuant to this subsection are held in facilities which provide a level of security appropriate to the crimes for which they were convicted.

"(5) There are authorized to be appropriated such sums as may be necessary to carry out this subsection, of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

"(A) $130,000,000 for fiscal year 1995;

"(B) $300,000,000 for fiscal year 1996;

"(C) $330,000,000 for fiscal year 1997;

"(D) $350,000,000 for fiscal year 1998;

"(E) $350,000,000 for fiscal year 1999; and

"(F) $340,000,000 for fiscal year 2000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1994.

(c) TERMINATION OF LIMITATION.—Notwithstanding section 242(j)(5) of the Immigration and Nationality Act, as added by subsection (a), the requirements of section 242(j) of the Immigration and Nationality Act, as added by subsection (a), shall not be subject to the availability of appropriations on and after October 1, 2004.

Subtitle D—Miscellaneous Provisions

SEC. 20401. PRISONER'S PLACE OF IMPRISONMENT.

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following: "In designating the place of imprisonment or making transfers under this subsection, there shall be no favoritism given to prisoners of high social or economic status.".

SEC. 20402. PRISON IMPACT ASSESSMENTS.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§4047. Prison impact assessments

"(a) Any submission of legislation by the Judicial or Executive branch which could increase or decrease the number of persons incarcerated or in Federal penal institutions shall be accompanied by a prison impact statement (as defined in subsection (b)).

"(b) The Attorney General shall, in consultation with the Sentencing Commission and the Administrative Office of the United States Courts, prepare and furnish prison impact assessments under subsection (c) of this section, and in response to requests from Congress for information relating to a pending measure or matter that might affect the number of defendants processed through the Federal criminal justice system. A prison impact assessment on pending legislation must be supplied within 21 days of any request. A prison impact assessment shall include—

"(1) projections of the impact on prison, probation, and post prison supervision populations;

"(2) an estimate of the fiscal impact of such population changes on Federal expenditures, including those for construction and operation of correctional facilities for the current fiscal year and 5 succeeding fiscal years;

"(3) an analysis of any other significant factor affecting the cost of the measure and its impact on the operations of components of the criminal justice system; and

"(4) a statement of the methodologies and assumptions utilized in preparing the assessment.

"(c) The Attorney General shall prepare and transmit to the Congress, by March 1 of each year, a prison impact assessment reflecting the cumulative effect of all relevant changes in the law taking effect during the preceding calendar year.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 303 is amended by adding at the end the following new item:

"4047. Prison impact assessments.".

SEC. 20403. SENTENCES TO ACCOUNT FOR COSTS TO THE GOVERNMENT OF IMPRISONMENT, RELEASE, AND PROBATION.

(a) IMPOSITION OF SENTENCE.—Section 3572(a) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) the expected costs to the government of any imprisonment, supervised release, or probation component of the sentence;".

(b) DUTIES OF THE SENTENCING COMMISSION.—Section 994 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(y) The Commission, in promulgating guidelines pursuant to subsection (a)(1), may include, as a component of a fine, the expected costs to the Government of any imprisonment, supervised release, or probation sentence that is ordered.".

SEC. 20404. APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.

In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

SEC. 20405. CREDITING OF "GOOD TIME".

Section 3624 of title 18, United States Code, is amended—

(1) by striking "he" each place it appears and inserting "the prisoner";

(2) by striking "his" each place it appears and inserting "the prisoner's";

(3) in subsection (d) by striking "him" and inserting "the prisoner"; and

(4) in subsection (b)—

(A) in the first sentence by inserting "(other than a prisoner serving a sentence for a crime of violence)" after "A prisoner"; and

(B) by inserting after the first sentence the following: "A prisoner who is serving a term of imprisonment of more than 1 year for a crime of violence, other than a term of imprisonment for the duration of the prisoner's life, may receive credit toward the service of the prisoner's sentence, beyond the time served, of up to 54 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term, subject to determination by the Bureau of Prisons that, during that year, the prisoner has displayed exemplary compliance with such institutional disciplinary regulations.".

SEC. 20406. TASK FORCE ON PRISON CONSTRUCTION STANDARDIZATION AND TECHNIQUES.

(a) TASK FORCE.—The Director of the National Institute of Corrections shall, subject to availability of appropriations, establish a task force composed of Federal, State, and local officials expert in prison construction, and of at least an equal number of engineers, architects, and construction experts from the private sector with expertise in prison design and construction, including the use of cost-cutting construction standardization techniques and cost-cutting new building materials and technologies.

(b) COOPERATION.—The task force shall work in close cooperation and communication with other State and local officials responsible for prison construction in their localities.

(c) PERFORMANCE REQUIREMENTS.—The task force shall work to—

(1) establish and recommend standardized construction plans and techniques for prison and prison component construction; and

(2) evaluate and recommend new construction technologies, techniques, and materials,

to reduce prison construction costs at the Federal, State, and local levels and make such construction more efficient.

(d) DISSEMINATION.—The task force shall disseminate information described in subsection (c) to State and local officials involved in prison construction, through written reports and meetings.

(e) PROMOTION AND EVALUATION.—The task force shall—

(1) work to promote the implementation of cost-saving efforts at the Federal, State, and local levels;

(2) evaluate and advise on the results and effectiveness of such cost-saving efforts as adopted, broadly disseminating information on the results; and

(3) to the extent feasible, certify the effectiveness of the cost-savings efforts.

SEC. 20407. EFFICIENCY IN LAW ENFORCEMENT AND CORRECTIONS.

(a) IN GENERAL.—In the administration of each grant program funded by appropriations authorized by this Act or by an amendment made by this Act, the Attorney General shall encourage—

(1) innovative methods for the low-cost construction of facilities to be constructed, converted, or expanded and the low-cost operation of such facilities and the reduction of administrative costs and overhead expenses; and

(2) the use of surplus Federal property.

(b) ASSESSMENT OF CONSTRUCTION COMPONENTS AND DESIGNS.—The Attorney General may make an assessment of the cost efficiency and utility of using modular, prefabricated, precast, and pre-engineered construction components and designs for housing nonviolent criminals.

SEC. 20408. AMENDMENTS TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT AND THE NATIONAL LITERACY ACT OF 1991.

(a) TECHNICAL AMENDMENT.—The matter preceding paragraph (1) of section 214(d) of the Department of Education Organization Act (20 U.S.C. 3423a(d)) is amended by striking "under subsection (a)" and inserting "under subsection (c)".

(b) ESTABLISHMENT OF A PANEL AND USE OF FUNDS.—Section 601 of the National Literacy Act of 1991 (20 U.S.C. 1211–2) is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsections:

"(g) PANEL.—The Secretary is authorized to consult with and convene a panel of experts in correctional education, including program administrators and field-based professionals in adult corrections, juvenile services, jails, and community corrections programs, to—

"(1) develop measures for evaluating the effectiveness of the programs funded under this section; and

"(2) evaluate the effectiveness of such programs.

"(h) USE OF FUNDS.—Notwithstanding any other provision of law, the Secretary may use not more than five percent of funds appropriated under subsection (i) in any fiscal year to carry out grant-related activities such as monitoring, technical assistance, and replication and dissemination.".

SEC. 20409. APPROPRIATE REMEDIES FOR PRISON OVERCROWDING.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Subchapter C of chapter 229 of part 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§3626. Appropriate remedies with respect to prison crowding

"(a) REQUIREMENT OF SHOWING WITH RESPECT TO THE PLAINTIFF IN PARTICULAR.—

"(1) HOLDING.—A Federal court shall not hold prison or jail crowding unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that the crowding causes the infliction of cruel and unusual punishment of that inmate.

"(2) RELIEF.—The relief in a case described in paragraph (1) shall extend no further than necessary to remove the conditions that are causing the cruel and unusual punishment of the plaintiff inmate.

"(b) INMATE POPULATION CEILINGS.—

"(1) REQUIREMENT OF SHOWING WITH RESPECT TO PARTICULAR PRISONERS.—A Federal court shall not place a ceiling on the inmate population of any Federal, State, or local detention facility as an equitable remedial measure for conditions that violate the eighth amendment unless crowding is inflicting cruel and unusual punishment on particular identified prisoners.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to have any effect on Federal judicial power to issue equitable relief other than that described in paragraph (1), including the requirement of improved medical or health care and the imposition of civil contempt fines or damages, where such relief is appropriate.

"(c) PERIODIC REOPENING.—Each Federal court order or consent decree seeking to remedy an eighth amendment violation shall be reopened at the behest of a defendant for recommended modification at a minimum of 2-year intervals.".

(b) APPLICATION OF AMENDMENT.—Section 3626 of title 18, United States Code, as added by paragraph (1), shall apply to all outstanding court orders on the date of enactment of this Act. Any State or municipality shall be entitled to seek modification of any outstanding eighth amendment decree pursuant to that section.

(c) TECHNICAL AMENDMENT.—The subchapter analysis for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3626. Appropriate remedies with respect to prison crowding.".

(d) SUNSET PROVISION.—This section and the amendments made by this section are repealed effective as of the date that is 5 years after the date of enactment of this Act.

SEC. 20410. CONGRESSIONAL APPROVAL OF ANY EXPANSION AT LORTON AND CONGRESSIONAL HEARINGS ON FUTURE NEEDS.

(a) CONGRESSIONAL APPROVAL.—Notwithstanding any other provision of law, the existing prison facilities and complex at the District of Columbia Corrections Facility at Lorton, Virginia, shall not be expanded unless such expansion has been approved by the Congress under the authority provided to Congress in section 446 of the District of Columbia Self-Government and Governmental Reorganization Act.

(b) SENATE HEARINGS.—The Senate directs the Subcommittee on the District of Columbia of the Committee on Appropriations of the Senate to conduct hearings regarding expansion of the prison complex in Lorton, Virginia, prior to any approval granted pursuant to subsection (a). The subcommittee shall permit interested parties, including appropriate officials from the County of Fairfax, Virginia, to testify at such hearings.

(c) DEFINITION.—For purposes of this section, the terms "expanded" and "expansion" mean any alteration of the physical structure of the prison complex that is made to increase the number of inmates incarcerated at the prison.

SEC. 20411. AWARDS OF PELL GRANTS TO PRISONERS PROHIBITED.

(a) IN GENERAL.—Section 401(b)(8) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amended to read as follows:

"(8) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.".

(b) APPLICATION OF AMENDMENT.—The amendment made by this section shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act.

SEC. 20412. EDUCATION REQUIREMENT FOR EARLY RELEASE.

Section 3624(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "behavior.—";

(2) by striking "Such credit toward service of sentence vests at the time that it is received. Credit that has vested may not later be withdrawn, and credit that has not been earned may not later be granted." and inserting "Credit that has not been earned may not later be granted."; and

(3) by adding at the end the following:

"(2) Credit toward a prisoner's service of sentence shall not be vested unless the prisoner has earned or is making satisfactory progress toward a high school diploma or an equivalent degree.

"(3) The Attorney General shall ensure that the Bureau of Prisons has in effect an optional General Educational Development program for inmates who have not earned a high school diploma or its equivalent.

"(4) Exemptions to the General Educational Development requirement may be made as deemed appropriate by the Director of the Federal Bureau of Prisons.".

SEC. 20413. CONVERSION OF CLOSED MILITARY INSTALLATIONS INTO FEDERAL PRISON FACILITIES.

(a) STUDY OF SUITABLE BASES.—The Secretary of Defense and the Attorney General shall jointly conduct a study of all military installations selected before the date of enactment of this Act to be closed pursuant to a base closure law for the purpose of evaluating the suitability of any of these installations, or portions of these installations, for conversion into Federal prison facilities. As part of the study, the Secretary and the Attorney General shall identify the military installations so evaluated that are most suitable for conversion into Federal prison facilities.

(b) SUITABILITY FOR CONVERSION.—In evaluating the suitability of a military installation for conversion into a Federal prison facility, the Secretary of Defense and the Attorney General shall consider the estimated cost to convert the installation into a prison facility and such other factors as the Secretary and the Attorney General consider to be appropriate.

(c) TIME FOR STUDY.—The study required by subsection (a) shall be completed not later than the date that is 180 days after the date of enactment of this Act.

(d) CONSTRUCTION OF FEDERAL PRISONS.—

(1) IN GENERAL.—In determining where to locate any new Federal prison facility, and in accordance with the Department of Justice's duty to review and identify a use for any portion of an installation closed pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) and the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510), the Attorney General shall—

(A) consider whether using any portion of a military installation closed or scheduled to be closed in the region pursuant to a base closure law provides a cost-effective alternative to the purchase of real property or construction of new prison facilities;

(B) consider whether such use is consistent with a reutilization and redevelopment plan; and

(C) give consideration to any installation located in a rural area the closure of which will have a substantial adverse impact on the economy of the local communities and on the ability of the communities to sustain an economic recovery from such closure.

(2) CONSENT.—With regard to paragraph (1)(B), consent must be obtained from the local re-use authority for the military installation, recognized and funded by the Secretary of Defense, before the Attorney General may proceed with plans for the design or construction of a prison at the installation.

(3) REPORT ON BASIS OF DECISION.—Before proceeding with plans for the design or construction of a Federal prison, the Attorney General shall submit to Congress a report explaining the basis of the decision on where to locate the new prison facility.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(4) REPORT ON COST-EFFECTIVENESS.—If the Attorney General decides not to utilize any portion of a closed military installation or an installation scheduled to be closed for locating a prison, the report shall include an analysis of why installations in the region, the use of which as a prison would be consistent with a reutilization and redevelopment plan, does not provide a cost-effective alternative to the purchase of real property or construction of new prison facilities.

(e) DEFINITION.—In this section, "base closure law" means—

(1) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note); and

(2) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

SEC. 20414. POST-CONVICTION RELEASE DRUG TESTING—FEDERAL OFFENDERS.

(a) DRUG TESTING PROGRAM.—

(1) IN GENERAL.—Subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, subject to the availability of appropriations, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each judicial district the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4).".

(2) TECHNICAL AMENDMENT.—The subchapter analysis for subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3608. Drug testing of Federal offenders on post-conviction release.".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and";

(3) by adding at the end the following new paragraph:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant."; and

(4) by adding at the end the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A defendant who tests positive may be detained pending verification of a positive drug test result. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 3565(b), when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(c) CONDITIONS OF SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the court as provided in section 3563(a)(4). The results of a drug test administered in accordance with the preceding subsection shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 3583(g) when considering any action against a defendant who fails a drug test.".

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the Commission for any individual parolee if it determines that there is good cause for doing so. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 4214(f) when considering any action against a defendant who fails a drug test.".

SEC. 20415. REPORTING OF CASH RECEIVED BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Section 6050I of the Internal Revenue Code of 1986 (relating to returns relating to cash received in trade or business) is amended by adding at the end the following new subsection:

"(g) CASH RECEIVED BY CRIMINAL COURT CLERKS.—

"(1) IN GENERAL.—Every clerk of a Federal or State criminal court who receives more than $10,000 in cash as bail for any individual charged with a specified criminal offense shall make a return described in paragraph (2) (at such time as the Secretary may by regulations prescribe) with respect to the receipt of such bail.

"(2) RETURN.—A return is described in this paragraph if such return—

"(A) is in such form as the Secretary may prescribe, and

"(B) contains—

"(i) the name, address, and TIN of—

"(I) the individual charged with the specified criminal offense, and

"(II) each person posting the bail (other than a person licensed as a bail bondsman),

"(ii) the amount of cash received,

"(iii) the date the cash was received, and

"(iv) such other information as the Secretary may prescribe.

"(3) SPECIFIED CRIMINAL OFFENSE.—For purposes of this subsection, the term 'specified criminal offense' means—

"(A) any Federal criminal offense involving a controlled substance,

"(B) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

"(C) money laundering (as defined in section 1956 or 1957 of such title), and

"(D) any State criminal offense substantially similar to an offense described in subparagraph (A), (B), or (C).

"(4) INFORMATION TO FEDERAL PROSECUTORS.—Each clerk required to include on a return under paragraph (1) the information described in paragraph (2)(B) with respect to an individual described in paragraph (2)(B)(i)(I) shall furnish (at such time as the Secretary may by regulations prescribe) a written statement showing such information to the United States Attorney for the jurisdiction in which such individual resides and the jurisdiction in which the specified criminal offense occurred.

"(5) INFORMATION TO PAYORS OF BAIL.—Each clerk required to make a return under paragraph (1) shall furnish (at such time as the Secretary may by regulations prescribe) to each person whose name is required to be set forth in such return by reason of paragraph (2)(B)(i)(II) a written statement showing—

"(A) the name and address of the clerk's office required to make the return, and

"(B) the aggregate amount of cash described in paragraph (1) received by such clerk.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (iv) of section 6724(d)(1)(B) of the Internal Revenue Code of 1986 is amended to read as follows:

"(iv) section 6050I (a) or (g)(1) (relating to cash received in trade or business, etc.),".

(2) Subparagraph (K) of section 6724(d)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(K) section 6050I(e) or paragraph (4) or (5) of section 6050I(g) (relating to cash received in trade or business, etc.),".

(3) The heading for section 6050I of the Internal Revenue Code of 1986 is amended by striking "**BUSINESS**" and inserting "**BUSINESS, ETC.**".

(4) The table of sections for subpart B of part III of subchapter A of chapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by striking "business" and inserting "business, etc" in the item relating to section 6050I.

(c) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe temporary regulations under the amendments made by this section within 90 days after the date of enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 60th day after the date on which the temporary regulations are prescribed under subsection (c).

SEC. 20416. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS.

(a) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "ninety days" and inserting "180 days"; and

(B) in paragraph (2), by inserting before the period at the end the following: "or are otherwise fair and effective"; and

(2) in subsection (c)—

(A) in paragraph (1) by inserting before the period at the end the following: "or are otherwise fair and effective"; and

(B) in paragraph (2) by inserting before the period at the end the following: "or is no longer fair and effective".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 20417. NOTIFICATION OF RELEASE OF PRISONERS.

Section 4042 of title 18, United States Code, is amended—

(1) by striking "The Bureau" and inserting "(a) IN GENERAL.—The Bureau";

(2) by striking "This section" and inserting "(c) APPLICATION OF SECTION.—This section";

(3) in paragraph (4) of subsection (a), as designated by paragraph (1)—

(A) by striking "Provide" and inserting "provide"; and

(B) by striking the period at the end and inserting "; and";

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1), the following new paragraph:

"(5) provide notice of release of prisoners in accordance with subsection (b).''; and

(5) by inserting after subsection (a), as designated by paragraph (1), the following new subsection:

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) At least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, written notice of the release or change of residence shall be provided to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside. Notice prior to release shall be provided by the Director of the Bureau of Prisons. Notice concerning a change of residence following release shall be provided by the probation officer responsible for the supervision of the released prisoner, or in a manner specified by the Director of the Administrative Office of the United States Courts. The notice requirements under this subsection do not apply in relation to a prisoner being protected under chapter 224.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime, as that term is defined in section 924(c)(2); or

"(B) a crime of violence (as defined in section 924(c)(3)).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

SEC. 20418. CORRECTIONAL JOB TRAINING AND PLACEMENT.

(a) PURPOSE.—It is the purpose of this section to encourage and support job training programs, and job placement programs, that provide services to incarcerated persons or ex-offenders.

(b) DEFINITIONS.—As used in this section:

(1) CORRECTIONAL INSTITUTION.—The term "correctional institution" means any prison, jail, reformatory, work farm, detention center, or halfway house, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

(2) CORRECTIONAL JOB TRAINING OR PLACEMENT PROGRAM.—The term "correctional job training or placement program" means an activity that provides job training or job placement services to incarcerated persons or ex-offenders, or that assists incarcerated persons or ex-offenders in obtaining such services.

(3) EX-OFFENDER.—The term "ex-offender" means any individual who has been sentenced to a term of probation by a Federal or State court, or who has been released from a Federal, State, or local correctional institution.

(4) INCARCERATED PERSON.—The term "incarcerated person" means any individual incarcerated in a Federal or State correctional institution who is charged with or convicted of any criminal offense.

(c) ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—The Attorney General shall establish within the Department of Justice an Office of Correctional Job Training and Placement. The Office shall be headed by a Director, who shall be appointed by the Attorney General.

(2) TIMING.—The Attorney General shall carry out this subsection not later than 6 months after the date of enactment of this section.

(d) FUNCTIONS OF OFFICE.—The Attorney General, acting through the Director of the Office of Correctional Job Training and Placement, in consultation with the Secretary of Labor, shall—

(1) assist in coordinating the activities of the Federal Bonding Program of the Department of Labor, the activities of the Department of Labor related to the certification of eligibility for targeted jobs credits under section 51 of the Internal Revenue Code of 1986 with respect to ex-offenders, and any other correctional job training or placement program of the Department of Justice or Department of Labor;

(2) provide technical assistance to State and local employment and training agencies that—

(A) receive financial assistance under this Act; or

(B) receive financial assistance through other programs carried out by the Department of Justice or Department of Labor, for activities related to the development of employability;

(3) prepare and implement the use of special staff training materials, and methods, for developing the staff competencies needed by State and local agencies to assist incarcerated persons and ex-offenders in gaining marketable occupational skills and job placement;

(4) prepare and submit to Congress an annual report on the activities of the Office of Correctional Job Training and Placement, and the status of correctional job training or placement programs in the United States;

(5) cooperate with other Federal agencies carrying out correctional job training or placement programs to ensure coordination of such programs throughout the United States;

(6) consult with, and provide outreach to—

(A) State job training coordinating councils, administrative entities, and private industry councils, with respect to programs carried out under this Act; and

(B) other State and local officials, with respect to other employment or training programs carried out by the Department of Justice or Department of Labor;

(7) collect from States information on the training accomplishments and employment outcomes of a sample of incarcerated persons and ex-offenders who were served by employment or training programs carried out, or that receive financial assistance through programs carried out, by the Department of Justice or Department of Labor; and

(8)(A) collect from States and local governments information on the development and implementation of correctional job training or placement programs; and

(B) disseminate such information, as appropriate.

TITLE III—CRIME PREVENTION

Subtitle A—Ounce of Prevention Council

SEC. 30101. OUNCE OF PREVENTION COUNCIL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established an Ounce of Prevention Council (referred to in this title as the "Council"), the members of which—

(A) shall include the Attorney General, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Treasury, the Secretary of the Interior, and the Director of the Office of National Drug Control Policy; and

(B) may include other officials of the executive branch as directed by the President.

(2) CHAIR.—The President shall designate the Chair of the Council from among its members (referred to in this title as the "Chair").

(3) STAFF.—The Council may employ any necessary staff to carry out its functions, and may delegate any of its functions or powers to a member or members of the Council.

(b) PROGRAM COORDINATION.—For any program authorized under the Violent Crime Control and Law Enforcement Act of 1994, the Ounce of Prevention Council Chair, only at the request of the Council member with jurisdiction over that program, may coordinate that program, in whole or in part, through the Council.

(c) ADMINISTRATIVE RESPONSIBILITIES AND POWERS.—In addition to the program coordination provided in subsection (b), the Council shall be responsible for such functions as coordinated planning, development of a comprehensive crime prevention program catalogue, provision of assistance to communities and community-based organizations seeking information regarding crime prevention programs and integrated program service delivery, and development of strategies for program integration and grant simplification. The Council shall have the authority to audit the expenditure of funds received by grantees under programs administered by or coordinated through the Council. In consultation with the Council, the Chair may issue regulations and guidelines to carry out this subtitle and programs administered by or coordinated through the Council.

SEC. 30102. OUNCE OF PREVENTION GRANT PROGRAM.

(a) IN GENERAL.—The Council may make grants for—

(1) summer and after-school (including weekend and holiday) education and recreation programs;

(2) mentoring, tutoring, and other programs involving participation by adult role models (such as D.A.R.E. America);

VOL
140
PT
15
AG
10
—
11
1994
UMI

(3) programs assisting and promoting employability and job placement; and

(4) prevention and treatment programs to reduce substance abuse, child abuse, and adolescent pregnancy, including outreach programs for at-risk families.

(b) APPLICANTS.—Applicants may be Indian tribal governments, cities, counties, or other municipalities, school boards, colleges and universities, private nonprofit entities, or consortia of eligible applicants. Applicants must show that a planning process has occurred that has involved organizations, institutions, and residents of target areas, including young people, and that there has been cooperation between neighborhood-based entities, municipality-wide bodies, and local private-sector representatives. Applicants must demonstrate the substantial involvement of neighborhood-based entities in the carrying out of the proposed activities. Proposals must demonstrate that a broad base of collaboration and coordination will occur in the implementation of the proposed activities, involving cooperation among youth-serving organizations, schools, health and social service providers, employers, law enforcement professionals, local government, and residents of target areas, including young people. Applications shall be geographically based in particular neighborhood or sections of municipalities or particular segments of rural areas, and applications shall demonstrate how programs will serve substantial proportions of children and youth resident in the target area with activities designed to have substantial impact on their lives.

(c) PRIORITY.—In making such grants, the Council shall give preference to coalitions consisting of a broad spectrum of community-based and social service organizations that have a coordinated team approach to reducing gang membership and the effects of substance abuse, and providing alternatives to at-risk youth.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the applications submitted under subsection (b) for the fiscal year for which the projects receive assistance under this title.

(2) WAIVER.—The Council may waive the 25 percent matching requirement under paragraph (1) upon making a determination that a waiver is equitable in view of the financial circumstances affecting the ability of the applicant to meet that requirement.

(3) NON-FEDERAL SHARE.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

(4) NONSUPPLANTING REQUIREMENT.—Funds made available under this title to a governmental entity shall not be used to supplant State or local funds, or in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this title, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

(5) EVALUATION.—The Council shall conduct a thorough evaluation of the programs assisted under this title.

SEC. 30103. DEFINITION.

In this subtitle, "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 30104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $3,000,000 for fiscal year 1995;
(2) $15,000,000 for fiscal year 1996;
(3) $20,000,000 for fiscal year 1997;
(4) $20,000,000 for fiscal year 1998;
(5) $21,000,000 for fiscal year 1999; and
(6) $21,000,000 for fiscal year 2000.

Subtitle B—Youth Employment and Skills Crime Prevention

SEC. 30201. YOUTH EMPLOYMENT AND SKILLS CRIME PREVENTION GRANTS.

(a) IN GENERAL.—Part H of title IV of the Job Training Partnership Act (29 U.S.C. 1782 et seq.) is amended—

(1) by striking section 495;

(2) by redesignating sections 496, 497, 498, and 498A as sections 495, 496, 497, and 497A, respectively;

(3) by striking "this part" each place it appears and inserting "the provisions of this part other than section 498"; and

(4) by adding at the end the following new section:

"SEC. 498. YOUTH EMPLOYMENT AND SKILLS CRIME PREVENTION GRANTS.

"(a) STATEMENT OF PURPOSE.—The purpose of this section is to test the proposition that crime can be reduced in neighborhoods with high incidences of crime and poverty through a saturation jobs program, offered either separately or in conjunction with the services provided for under other sections of the Youth Fair Chance Program, that provides employment opportunities leading to permanent unsubsidized employment for disadvantaged young adults in those neighborhoods.

"(b) PROGRAM AUTHORIZATION.—The Secretary, in conjunction with the Attorney General, Secretary of Health and Human Services, and Secretary of Housing and Urban Development and in consultation with other appropriate Federal officials, including the Ounce of Prevention Council and the Community Empowerment Board, may make Youth Employment and Skills Crime Prevention grants authorized under this section to eligible entities for the purpose of providing a job saturation program for youth in target areas, as determined under subsection (c), to reduce crime.

"(c) PROGRAM TARGET AREA.—The target area of each grant shall be a neighborhood that—

"(1) is an area with severe crime problems, including a high incidence of violent crime or drug trafficking, or a history of street gang activity;

"(2) is a high poverty area (as defined in section 497A(2)) or set of contiguous high poverty areas;

"(3) is an area with a population consistent with the requirements of section 494(b)(1)(B), except that in appropriate circumstances, the Secretary, in conjunction with the Attorney General and the Secretary of Housing and Urban Development, may waive this limitation; and

"(4) is located in an area that meets the requirements of a participating community under section 497A(1).

"(d) PARTICIPANTS.—

"(1) ELIGIBLE POPULATION.—Young adults residing or attending school in a target area shall be eligible to participate in programs under this section if such individuals are 16 through 25 years of age. In certain circumstances, as determined by the Secretary in conjunction with the Attorney General and Secretary of Housing and Urban Development, youths aged 14 or 15 may also be eligible to participate.

"(2) RESPONSIBLE BEHAVIOR BY PARTICIPANTS.—Continued participation in a program under this section shall be conditioned, during participation in the program, on—

"(A) avoiding crime, including illegal drug use;

"(B) regular attendance and satisfactory performance at work;

"(C) paying child support when paternity has been established and the participant has an income;

"(D) in-school participants, who are under the age of 18, remaining in school until graduation; and

"(E) encouraging eligible participants who have dropped out of high school and who have not obtained a General Equivalency Diploma (GED) to return to school or an alternative education program.

"(e) APPLICATION FOR GRANTS.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, a chief elected official (as described in section 493(c)), on behalf of a target area meeting the criteria set forth in subsection (c), shall apply to the Secretary of Labor for a Youth Employment and Skills Crime Prevention grant by submitting an application that contains a plan for reducing crime by substantially increasing employment levels of young adults in the area.

"(2) CONTENTS.—A plan under paragraph (1) shall—

"(A) describe the private sector, nonprofit, and public sector components of the target area's job saturation strategy to reduce crime by substantially increasing the employment levels of young adults in that area, and describe, to the extent practicable, the nature of the employment opportunities that will be generated for young adults residing or attending school in the target areas;

"(B) describe the outcomes that will be used to evaluate the local success of the program, including reducing crime and substance abuse and increasing employment for young adults in the target area;

"(C) specify the organization that shall administer the program;

"(D) describe the public/private partnership that will promote collaboration between the State and local governments; local job training, education, and employment; public housing agencies and authorities; local residents, community-based organizations, and nonprofit organizations; and local community policing, gang prevention activities, substance abuse treatment and prevention programs, and juvenile justice or delinquency prevention initiatives;

"(E) describe how the public and private sectors will work together to assist young adults to make the transition from subsidized to unsubsidized jobs;

"(F) describe the extent of the local commitment of resources to the program, including the commitment of substantial resources by the last year of the program; and

"(G) provide such other information as the Secretary, in conjunction with the Attorney General and the Secretary of Housing and Urban Development, may require.

"(f) AWARD PRIORITIES.—In evaluating the applications submitted for Youth Employment and Skills Crime Prevention grants, the Secretary and the Attorney General and Secretary of Housing and Urban Development shall give priority to applications that—

"(1) demonstrate extensive community support, linkages among the local education authority, the service delivery area, and local and Federal law enforcement agencies, and linkages to crime prevention and substance abuse programs;

"(2) target areas that include public and assisted housing projects and their residents;

"(3) demonstrate that the target area has developed a comprehensive strategy to integrate programs funded under this section with other federally funded youth employment and training programs, as well as education programs, operating in the same area;

"(4) demonstrate that the target area has developed a comprehensive strategy to integrate activities funded under this section with community policing and gang violence prevention programs operating in the same area;

"(5) demonstrate a sufficient commitment on the part of employers to provide jobs for youth as specified in subsection (g) to qualify that area as a site that will test the proposition that a saturation jobs program, provided either separately or in conjunction with the education and training services provided for under other sections of the Youth Fair Chance Program, would have a significant effect on decreasing crime in the target area; and

"(6) target areas with the highest crime, unemployment, and poverty rates.

"(g) JOB SATURATION AGREEMENTS.—A grant recipient receiving funds under the Youth Employment and Skills Crime Prevention Program shall enter into a job saturation agreement with the Secretary, which agreement shall—

"(1) require the grant recipient to saturate the targeted areas with employment opportunities with for-profit, nonprofit, and public employers that are likely to lead to permanent, unsubsidized employment for youths who agree to condition their participation on the criteria established in subsection (d)(2);

"(2) specify the conditions under which funds provided under this section will be used to provide wage subsidies to employers, which conditions shall—

"(A) encourage private sector employers to employ participants, with an emphasis on opportunities that provide advanced or specialized training;

"(B) require private employers, under conditions specified by the Secretary, during the course of a participant's subsidized employment, to gradually increase such employer's share of the funding of that participant's wages;

"(C) encourage, if practicable, the provision of a structured and integrated work and learning experience, which may include components of the School-to-Work Opportunities Act of 1994;

"(D) encourage assistance to nonprofit employers and public agencies to employ participants in projects designed to address community needs, such as projects to enhance neighborhood infrastructure, to modernize public housing, and to provide other community services;

"(E) limit the duration of all subsidized employment provided pursuant to this section for a participant to not more than 2,080 hours;

"(F) require that the subsidized employment provided to any such youth who is still enrolled in high school shall not exceed 20 hours per week during the school year; and

"(G) contain such other terms and conditions as the Secretary in conjunction with the Attorney General and the Secretary of Housing and Urban Development require; and

"(3) provide that the grant recipient will make additional services available, including counseling, job development and placement, followup, and supportive services, to facilitate the transition of participating youth and young adults to permanent unsubsidized employment.

"(h) GRANT RECIPIENT, DURATION AND NUMBER.—

"(1) GRANT RECIPIENT.—Grants under this section may be awarded only to the service delivery area in which the target area is located.

"(2) DURATION OF GRANTS.—Grants under this section shall be awarded for 1 year, and be renewable for each of the 4 succeeding years based on conditions established by the Secretary in conjunction with the Attorney General and the Secretary of Housing and Urban Development.

"(3) NUMBER OF GRANTS.—There shall be no more than 20 grants awarded under this section. At least 2 of, and not less than 20 percent of the number of, the grants awarded under the Youth Employment and Skills Crime Prevention Program shall be in target areas that are also receiving funding under other provisions of this part.

"(i) FEDERAL RESPONSIBILITIES.—

"(1) PERFORMANCE MEASURES.—The Secretary, in conjunction with the Attorney General and the Secretary of Housing and Urban Development, shall establish a system of performance measures for assessing programs established pursuant to this section.

"(2) EVALUATION.—

"(A) IN GENERAL.—The Secretary, in conjunction with the Attorney General and the Secretary of Housing and Urban Development, shall conduct a rigorous national evaluation of Youth Employment and Skills Crime Prevention grants funded under this section that will track and assess the effectiveness of those programs and include an evaluation of the extent to which such grants reduced crime and substance abuse and increased employment and earnings.

"(B) OUTCOME COMPARISON.—The evaluation under subparagraph (A) shall compare outcomes for participating youth in areas receiving grants under the Youth Employment and Skills Crime Prevention program with—

"(i) outcomes for participating youth in areas receiving grants under both the Youth Employment Skills Crime Prevention Program and the Youth Fair Chance program; and

"(ii) outcomes for participating youth in areas receiving grants under the Youth Fair Chance Program only,

in order to determine which programs and which activities under those programs were most effective in reducing crime and substance abuse and increasing employment and earnings.

"(C) COST-BENEFIT ANALYSES; STATISTICAL METHODS AND TECHNIQUES.—The evaluation under subparagraph (A) may include cost-benefit analyses and shall utilize sound statistical methods and techniques.

"(D) TRANSMITTAL.—The evaluation under subparagraph (A) and any interim reports that may be prepared shall be transmitted to the President and to the Congress, the evaluation to be transmitted not later than December 31, 1999.

"(3) TECHNICAL ASSISTANCE.—The Secretary, in conjunction with the Attorney General and the Secretary of Housing and Urban Development, may provide appropriate technical assistance to carry out Youth Employment and Skills Crime Prevention grants under this section.

"(4) ADMINISTRATION.—The technical assistance, administration, and evaluations authorized by this section may be carried out directly by the Secretary or through grants, contracts, or other cooperative arrangements with the Attorney General, the Secretary of Housing and Urban Development, or other entities or agencies.".

(b) TECHNICAL AMENDMENTS.—

(1) EXCEPTION FROM LIMITATION ON SUBSIDIZED EMPLOYMENT.—Section 141(k) of the Job Training Partnership Act (29 U.S.C. 1551(a)) is amended by inserting ", or the individual employed is a participant in a program under part H of title IV" before the period.

(2) CLARIFICATION OF AUTHORIZATION OF APPROPRIATIONS.—Section 3(c)(3) of the Job Training Partnership Act (29 U.S.C. 1502(c)(3)) is amended to read as follows:

"(3) There are authorized to be appropriated to carry out part H of title IV (other than section 498) such sums as may be necessary for each of the fiscal years 1994 through 1997.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out section 498 of the Job Training Partnership Act, as added by subsection (a)—

(A) $150,000,000 for fiscal year 1996, of which $55,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $95,000,000 is authorized from the General Fund of the Treasury;

(B) $155,000,000 for fiscal year 1996, of which $55,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $90,000,000 is authorized from the General Fund of the Treasury;

(C) $190,000,000 for fiscal year 1998, of which $100,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $90,000,000 is authorized from the General Fund of the Treasury;

(D) $200,000,000 for fiscal year 1999, of which $145,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $55,000,000 is authorized from the General Fund of the Treasury; and

(E) $205,000,000 for fiscal year 2000, of which $185,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $20,000,000 is authorized from the General Fund of the Treasury.

(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this subsection shall remain available for obligation until expended.

(3) EVALUATIONS AND TECHNICAL ASSISTANCE.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary of Labor, in conjunction with the Attorney General and the Secretary of Housing and Urban Development, may reserve not more than 5 percent of such amounts for the fiscal year to carry out section 498(i) of the Job Training Partnership Act as added by subsection (a).

Subtitle C—Model Intensive Grant Programs

SEC. 30301. GRANT AUTHORIZATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Attorney General may award grants to not more than 15 chronic high intensive crime areas to develop comprehensive model crime prevention programs that—

(A) involve and utilize a broad spectrum of community resources, including nonprofit community organizations, law enforcement organizations, and appropriate State and Federal agencies, including the State educational agencies;

(B) attempt to relieve conditions that encourage crime; and

(C) provide meaningful and lasting alternatives to involvement in crime.

(2) CONSULTATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in awarding grants under paragraph (1).

(b) PRIORITY.—In awarding grants under subsection (a), the Attorney General shall give priority to proposals that—

(1) are innovative in approach to the prevention of crime in a specific area;

(2) vary in approach to ensure that comparisons of different models may be made; and

(3) coordinate crime prevention programs funded under this program with other existing Federal programs to address the overall needs of communities that benefit from grants received under this title.

SEC. 30302. USES OF FUNDS.

(a) IN GENERAL.—Funds awarded under this subtitle may be used only for purposes described in an approved application. The intent of grants under this subtitle is to fund intensively comprehensive crime prevention programs in chronic high intensive crime areas.

(b) GUIDELINES.—The Attorney General shall issue and publish in the Federal Register guidelines that describe suggested purposes for which funds under approved programs may be used.

(c) EQUITABLE DISTRIBUTION OF FUNDS.—In disbursing funds under this subtitle, the Attorney General shall ensure the distribution of awards equitably on a geographic basis, including urban and rural areas of varying population and geographic size.

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 30303. PROGRAM REQUIREMENTS.

(a) DESCRIPTION.—An applicant shall include a description of the distinctive factors that contribute to chronic violent crime within the area proposed to be served by the grant. Such factors may include lack of alternative activities and programs for youth, deterioration or lack of public facilities, inadequate public services such as public transportation, street lighting, community-based substance abuse treatment facilities, or employment services offices, and inadequate police or public safety services, equipment, or facilities.

(b) COMPREHENSIVE PLAN.—An applicant shall include a comprehensive, community-based plan to attack intensively the principal factors identified in subsection (a). Such plans shall describe the specific purposes for which funds are proposed to be used and how each purpose will address specific factors. The plan also shall specify how local nonprofit organizations, government agencies, private businesses, citizens groups, volunteer organizations, and interested citizens will cooperate in carrying out the purposes of the grant.

(c) EVALUATION.—An applicant shall include an evaluation plan by which the success of the plan will be measured, including the articulation of specific, objective indicia of performance, how the indicia will be evaluated, and a projected timetable for carrying out the evaluation.

SEC. 30304. APPLICATIONS.

To request a grant under this subtitle the chief local elected official of an area shall—

(1) prepare and submit to the Attorney General an application in such form, at such time, and in accordance with such procedures, as the Attorney General shall establish; and

(2) provide an assurance that funds received under this subtitle shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for programs funded under this subtitle.

SEC. 30305. REPORTS.

Not later than December 31, 1998, the Attorney General shall prepare and submit to the Committees on the Judiciary of the House and Senate an evaluation of the model programs developed under this subtitle and make recommendations regarding the implementation of a national crime prevention program.

SEC. 30306. DEFINITIONS.

In this subtitle—

"chief local elected official" means an official designated under regulations issued by the Attorney General. The criteria used by the Attorney General in promulgating such regulations shall ensure administrative efficiency and accountability in the expenditure of funds and execution of funded projects under this subtitle.

"chronic high intensity crime area" means an area meeting criteria adopted by the Attorney General by regulation that, at a minimum, define areas with—

(A) consistently high rates of violent crime as reported in the Federal Bureau of Investigation's "Uniform Crime Reports", and

(B) chronically high rates of poverty as determined by the Bureau of the Census.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 30307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $115,000,000 for fiscal year 1996;
(2) $150,000,000 for fiscal year 1997;
(3) $175,000,000 for fiscal year 1998;
(4) $200,000,000 for fiscal year 1999; and
(5) $255,000,000 for fiscal year 2000.

Subtitle D—Family and Community Endeavor Schools Grant Program

SEC. 30401. COMMUNITY SCHOOLS YOUTH SERVICES AND SUPERVISION GRANT PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Community Schools Youth Services and Supervision Grant Program Act of 1994".

(b) DEFINITIONS.—In this section—

"child" means a person who is not younger than 5 and not older than 18 years old.

"community-based organization" means a private, locally initiated, community-based organization that—

(A) is a nonprofit organization, as defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) is operated by a consortium of service providers, consisting of representatives of 5 or more of the following categories of persons:

(i) Residents of the community.
(ii) Business and civic leaders actively involved in providing employment and business development opportunities in the community.
(iii) Educators.
(iv) Religious organizations (which shall not provide any sectarian instruction or sectarian worship in connection with an activity funded under this title).
(v) Law enforcement agencies.
(vi) Public housing agencies.
(vii) Other public agencies.
(viii) Other interested parties.

"eligible community" means an area identified pursuant to subsection (e).

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

"public school" means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of that Act.

"Secretary" means the Secretary of Health and Human Services, in consultation and coordination with the Attorney General.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

(c) PROGRAM AUTHORITY.—

(1) IN GENERAL.—

(A) ALLOCATIONS FOR STATES AND INDIAN COUNTRY.—For any fiscal year in which the sums appropriated to carry out this section equal or exceed $20,000,000, from the sums appropriated to carry out this subsection, the Secretary shall allocate, for grants under subparagraph (B) to community-based organizations in each State, an amount bearing the same ratio to such sums as the number of children in the State who are from families with incomes below the poverty line bears to the number of children in all States who are from families with incomes below the poverty line. In view of the extraordinary need for assistance in Indian country, an appropriate amount of funds available under this subtitle shall be made available for such grants in Indian country.

(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS FROM ALLOCATIONS.—For such a fiscal year, the Secretary may award grants from the appropriate State or Indian country allocation determined under subparagraph (A) on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(C) REALLOCATION.—If, at the end of such a fiscal year, the Secretary determines that funds allocated for community-based organizations in a State or Indian country under subparagraph (B) remain unobligated, the Secretary may use such funds to award grants to eligible community-based organizations in another State or Indian country to pay for such Federal share. In awarding such grants, the Secretary shall consider the need to maintain geographic diversity among the recipients of such grants. Amounts made available through such grants shall remain available until expended.

(2) OTHER FISCAL YEARS.—For any fiscal year in which the sums appropriated to carry out this section are less than $20,000,000, the Secretary may award grants on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(3) ADMINISTRATIVE COSTS.—The Secretary may use not more than 3 percent of the funds appropriated to carry out this section in any fiscal year for administrative costs.

(d) PROGRAM REQUIREMENTS.—

(1) LOCATION.—A community-based organization that receives a grant under this section to assist in carrying out such a program shall ensure that the program is carried out—

(A) when appropriate, in the facilities of a public school during nonschool hours; or

(B) in another appropriate local facility in a State or Indian country, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(i) in a location that is easily accessible to children in the community; and

(ii) in compliance with all applicable local ordinances.

(2) USE OF FUNDS.—Such community-based organization—

(A) shall use funds made available through the grant to provide, to children in the eligible community, services and activities that—

(i) shall include supervised sports programs, and extracurricular and academic programs, that are offered—

(I) after school and on weekends and holidays, during the school year; and

(II) as daily full-day programs (to the extent available resources permit) or as part-day programs, during the summer months;

(B) in providing such extracurricular and academic programs, shall provide programs such as curriculum-based supervised educational, work force preparation, entrepreneurship, cultural, health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities;

(C) may use—

(i) such funds for minor renovation of facilities that are in existence prior to the operation of the program and that are necessary for the operation of the program for which the organization receives the grant, purchase of sporting and recreational equipment and supplies, reasonable costs for the transportation of participants in the program, hiring of staff, provision of meals for such participants, provision of health services consisting of an initial basic physical examination, provision of first aid and nutrition guidance, family counselling, parental training, and substance abuse treatment where appropriate; and

(ii) not more than 5 percent of such funds to pay for the administrative costs of the program; and

(D) may not use such funds to provide sectarian worship or sectarian instruction.

(e) ELIGIBLE COMMUNITY IDENTIFICATION.—

(1) IDENTIFICATION.—To be eligible to receive a grant under this section, a community-based organization shall identify an eligible community to be assisted under this section.

(2) CRITERIA.—Such eligible community shall be an area that meets such criteria with respect to significant poverty and significant juvenile delinquency, and such additional criteria, as the Secretary may by regulation require.

(f) APPLICATIONS.—

(1) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a community-based organization shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services to be provided through the program for which the grant is sought;

(B) contain an assurance that the community-based organization will spend grant funds received under this section in a manner that the community-based organization determines will best accomplish the objectives of this section;

(C) contain a comprehensive plan for the program that is designed to achieve identifiable goals for children in the eligible community;

(D) set forth measurable goals and outcomes for the program that—

(i) will—

(I) where appropriate, make a public school the focal point of the eligible community; or

(II) make a local facility described in subsection (d)(1)(B) such a focal point; and

(ii) may include reducing the percentage of children in the eligible community that enter the juvenile justice system, increasing the graduation rates, school attendance, and academic success of children in the eligible community, and improving the skills of program participants;

(E) provide evidence of support for accomplishing such goals and outcomes from—

(i) community leaders;
(ii) businesses;
(iii) local educational agencies;
(iv) local officials;
(v) State officials;
(vi) Indian tribal government officials; and
(vii) other organizations that the community-based organization determines to be appropriate;

(F) contain an assurance that the community-based organization will use grant funds received under this section to provide children in the eligible community with activities and services that shall include supervised sports programs, and extracurricular and academic programs, in accordance with subparagraphs (A) and (B) of subsection (d)(2);

(G) contain a list of the activities and services that will be offered through the program for which the grant is sought and sponsored by private nonprofit organizations, individuals, and groups serving the eligible community, including—

(i) extracurricular and academic programs, such as programs described in subsection (d)(2)(B); and

(ii) activities that address specific needs in the community;

(H) demonstrate the manner in which the community-based organization will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(I) include an estimate of the number of children in the eligible community expected to be served pursuant to the program;

(J) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(K) contain an assurance that the community-based organization will use competitive procedures when purchasing, contracting, or otherwise providing for goods, activities, or services to carry out programs under this section;

(L) contain an assurance that the program will maintain a staff-to-participant ratio (including volunteers) that is appropriate to the activity or services provided by the program;

(M) contain an assurance that the program will maintain an average attendance rate of not less than 75 percent of the participants enrolled in the program, or will enroll additional participants in the program;

(N) contain an assurance that the community-based organization will comply with any evaluation under subsection (m), any research effort authorized under Federal law, and any investigation by the Secretary;

(O) contain an assurance that the community-based organization shall prepare and submit to the Secretary an annual report regarding any program conducted under this section;

(P) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are provided solely through non-Federal private or nonprofit sources; and

(Q) contain an assurance that the community-based organization will maintain separate accounting records for the program.

(3) PRIORITY.—In awarding grants to carry out programs under this section, the Secretary shall give priority to community-based organizations who submit applications that demonstrate the greatest effort in generating local support for the programs.

(g) ELIGIBILITY OF PARTICIPANTS.—

(1) IN GENERAL.—To the extent possible, each child who resides in an eligible community shall be eligible to participate in a program carried out in such community that receives assistance under this section.

(2) ELIGIBILITY.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application and agree to the terms and conditions of participation in the program.

(3) NONDISCRIMINATION.—(A) In selecting children to participate in a program that receives assistance under this section, a community-based organization shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(B) In selecting children to participate in a program that receives assistance under this section, a community-based organization may find a child ineligible to participate in such a program if the organization determines that the child has behavior problems that pose an unacceptable risk of injury or illness to other participants or has a physical or mental disability so serious that the child would be unable to participate in the program.

(h) PEER REVIEW PANEL.—

(1) ESTABLISHMENT.—The Secretary may establish a peer review panel that shall be comprised of individuals with demonstrated experience in designing and implementing community-based programs.

(2) COMPOSITION.—A peer review panel shall include at least 1 representative from each of the following:

(A) A community-based organization.
(B) A local government.
(C) A school district.
(D) The private sector.
(E) A charitable organization.

(F) A representative of the United States Olympic Committee, at the option of the Secretary.

(3) FUNCTIONS.—A peer review panel shall conduct the initial review of all grant applications received by the Secretary under subsection (f), make recommendations to the Secretary regarding—

(A) grant funding under this section; and

(B) a design for the evaluation of programs assisted under this section.

(i) INVESTIGATIONS AND INSPECTIONS.—The Secretary may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(j) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall, subject to the availability of appropriations, pay to each community-based organization having an application approved under subsection (f) the Federal share of the costs of developing and carrying out programs described in subsection (c).

(2) FEDERAL SHARE.—The Federal share of such costs shall be no more than—

(A) 75 percent for each of fiscal years 1995 and 1996;

(B) 70 percent for fiscal year 1997; and

(C) 60 percent for fiscal year 1998 and thereafter.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in subsection (f)(2)(P)), and funds appropriated by the Congress for the activity of any agency of an Indian tribal government or the Bureau of Indian Affairs on any Indian lands may be used to provide the non-Federal share of the costs of programs or projects funded under this subtitle.

(B) SPECIAL RULE.—At least 15 percent of the non-Federal share of such costs shall be provided from private or nonprofit sources.

(k) EVALUATION.—The Secretary shall conduct a thorough evaluation of the programs assisted under this section, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

SEC. 30402. FAMILY AND COMMUNITY ENDEAVOR SCHOOLS GRANT PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Family and Community Endeavor Schools Act".

(b) PURPOSE.—It is the purpose of this section to improve the overall development of at-risk children who reside in eligible communities as defined in subsection (l)(3).

(c) PROGRAM AUTHORITY.—The Secretary may award grants on a competitive basis to eligible local entities to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section. No local entity shall receive a grant of less than $250,000 in a fiscal year. Amounts made available through such grants shall remain available until expended.

(d) PROGRAM REQUIREMENTS.—

(1) IMPROVEMENT PROGRAMS.—A local entity that receives funds under this section shall develop or expand programs that are designed to improve academic and social development by instituting a collaborative structure that trains and coordinates the efforts of teachers, administrators, social workers, guidance counselors, parents, and school volunteers to provide concurrent social services for at-risk students at selected public schools in eligible communities.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) OPTIONAL ACTIVITIES.—A local entity that receives funds under this section may develop a variety of programs to serve the comprehensive needs of students, including—

(A) homework assistance and after-school programs, including educational, social, and athletic activities;

(B) nutrition services;

(C) mentoring programs;

(D) family counseling; and

(E) parental training programs.

(e) ELIGIBLE COMMUNITY IDENTIFICATION.—The Secretary through regulation shall define the criteria necessary to qualify as an eligible community as defined in subsection (l)(3).

(f) GRANT ELIGIBILITY.—To be eligible to receive a grant under this section, a local entity shall—

(1) identify an eligible community to be assisted;

(2) develop a community planning process that includes—

(A) parents and family members;

(B) local school officials;

(C) teachers employed at schools within the eligible community;

(D) public housing resident organization members, where applicable; and

(E) public and private nonprofit organizations that provide education, child protective services, or other human services to low-income, at-risk children and their families; and

(3) develop a concentrated strategy for implementation of the community planning process developed under paragraph (2) that targets clusters of at-risk children in the eligible community.

(g) APPLICATIONS.—

(1) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a local entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—Each application submitted under paragraph (1) shall—

(A) contain a comprehensive plan for the program that is designed to improve the academic and social development of at-risk children in schools in the eligible community;

(B) provide evidence of support for accomplishing the objectives of such plan from—

(i) community leaders;

(ii) a school district;

(iii) local officials; and

(iv) other organizations that the local entity determines to be appropriate;

(C) provide an assurance that the local entity will use grant funds received under this subsection to implement the program requirements listed in subsection (d);

(D) include an estimate of the number of children in the eligible community expected to be served under the program;

(E) provide an assurance that the local entity will comply with any evaluation requested under subsection (k), any research effort authorized under Federal law, and any investigation by the Secretary;

(F) provide an assurance that the local entity shall prepare and submit to the Secretary an annual report regarding any program conducted under this section;

(G) provide an assurance that funds made available under this section shall be used to supplement, not supplant, other Federal funds that would otherwise be available for activities funded under this section; and

(H) provide an assurance that the local entity will maintain separate accounting records for the program.

(3) PRIORITY.—In awarding grants to carry out programs under this section, the Secretary shall give priority to local entities which submit applications that demonstrate the greatest effort in generating local support for the programs.

(h) PEER REVIEW PANEL.—

(1) ESTABLISHMENT.—The Secretary shall establish a peer review panel not to exceed 8 members that shall be comprised of individuals with demonstrated experience in designing and implementing programs to improve the academic and social development of at-risk children.

(2) FUNCTIONS.—Such panel shall make recommendations to the Secretary regarding—

(A) an illustrative model that effectively achieves the program requirements indicated in subsection (d) and a process whereby local entities can request such model; and

(B) a design for the evaluation of programs assisted under this section.

(i) INVESTIGATIONS AND INSPECTIONS.—The Secretary may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(j) FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall, subject to the availability of appropriations, pay to each local entity having an application approved under subsection (g) the Federal share of the costs of developing and carrying out programs referred to in subsection (d).

(2) FEDERAL SHARE.—The Federal share of such costs shall be 70 percent.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including personnel, plant, equipment, and services.

(B) SPECIAL RULE.—Not less than 15 percent of the non-Federal share of such costs shall be provided from private or nonprofit sources.

(k) EVALUATION.—The Secretary shall require a thorough evaluation of the programs assisted under this section, which shall include an assessment of the academic and social achievement of children assisted with funds provided under this section.

(l) DEFINITIONS.—For purposes of this section—

(1) the term "Secretary" means to the Secretary of the Department of Education;

(2) the term "local entity" means—

(A) a local educational agency, or

(B) a community-based organization as defined in section 1471(3) of the Elementary and Secondary Education Act of 1965;

(3) the term "eligible community" means an area which meets criteria with respect to significant poverty and significant violent crime, and such additional criteria, as the Secretary may by regulation require; and

(4) the term "public school" means an elementary school (as defined in section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8))) and a secondary school (as defined in section 1471(21) of that Act).

SEC. 30403. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle—

(1) $37,000,000 for fiscal year 1995;

(2) $115,000,000 for fiscal year 1996;

(3) $135,000,000 for fiscal year 1997;

(4) $170,000,000 for fiscal year 1998;

(5) $215,000,000 for fiscal year 1999; and

(6) $228,000,000 for fiscal year 2000.

(b) PROGRAMS.—Of the amounts appropriated under subsection (a) for any fiscal year—

(1) 70 percent shall be made available to carry out section 30401; and

(2) 30 percent shall be made available to carry out section 30402.

Subtitle E—Police Partnerships for Children

SEC. 30501. DEFINITIONS.

In this subtitle—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"partnership" means a cooperative arrangement or association involving one or more law enforcement agencies, and one or more public or private agencies that provide child or family services; and

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 30502. GRANT AUTHORITY.

(a) PARTNERSHIP GRANTS.—

(1) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, may make grants to partnerships for—

(A) teams or units involving both specially trained law enforcement professionals and child or family services professionals of the partnership that on a 24-hour basis respond to or deal with violent incidents in which a child is involved as a perpetrator, witness, or victim;

(B) training for law enforcement officers regarding behavior, psychology, family systems, and community culture and attitudes that is relevant to dealing with children who are involved in violent incidents or at risk of involvement in such incidents, or with families of such children;

(C) programs for children and families that are designed jointly by the law enforcement and child or family services components of the partnership, including programs providing 24-hour response to crisis situations affecting children, in-school programs (including D.A.R.E America), after-school activity and neighborhood recreation programs, parent support groups that are led jointly by child or family services and law enforcement personnel, mentoring programs, and programs that provide training in nonviolent conflict resolution; and

(D) regularly scheduled case conferences by the team of child or family services professionals and law enforcement officers described in subparagraph (A).

(2) CONSULTATION WITH OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in awarding grants under paragraph (1).

(b) GRANTS FOR POLICE RESIDENCE IN HIGH CRIME AREAS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, may make grants to States, Indian tribal governments, units of local government, public housing authorities, owners of federally assisted housing, and owners of housing in high crime areas in order to provide dwelling units to law enforcement officers without charge or at a substantially reduced rent for the purpose of providing greater security for residents of high crime areas.

SEC. 30503. ADMINISTRATION.

(a) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this subtitle.

(b) REGULATORY AUTHORITY.—The Attorney General, for the purposes of section 30502(a), and the Secretary of Housing and Urban Development, for purposes of section 30502(b), may issue regulations and guidelines to carry out this subtitle, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, matching funds, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(c) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General—

(1) an application for a grant under section 30502(a) shall—

(A) certify that the applicant is a partnership as defined in section 30501, or a law enforcement agency or public or private child or family services agency that is participating in a partnership and seeking support on behalf of the partnership;

(B) ensure that the head of the law enforcement agency and the head of the child and family services organization agree to the establishment of the partnership and that the law enforcement agency and the child and family services organization in the partnership will cooperate in carrying out the program;

(C) include a long-term strategy and detailed implementation plan;

(D) certify that the Federal support provided under this subtitle will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available, and in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs;

(E) identify any related governmental or community initiatives which complement or will be coordinated with the proposal; and

(F) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

(2) in addition to any other requirements that may be specified by the Secretary of Housing and Urban Development, an application for a grant under section 30502(b) shall—

(A) certify that there has been appropriate consultation with the employing agency of any law enforcement officer who is to be provided with a dwelling unit;

(B) identify any related governmental or community initiatives which complement or will be coordinated with the proposal;

(C) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal government, and local sources of funding that would otherwise be available; and

(D) provide assurances that local police officers will not be required to reside in residences funded under this subtitle.

(d) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this subtitle may not exceed 75 percent, unless the Attorney General, for purposes of section 30502(a), or the Secretary of Housing and Urban Development, for purposes of section 30502(b), waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program. Funds appropriated by the Congress for the activity of any agency of an Indian tribal government or of the Bureau of Indian Affairs on any Indian lands may be used to provide the non-Federal share of the programs funded under this subtitle.

(e) IN-KIND CONTRIBUTIONS.—The Attorney General shall accept the value of in-kind contributions made by the grant recipient as a part or all of the non-Federal share of grants.

(f) FUNDING PRIORITY.—In making grants under section 30502(a), the Attorney General shall give priority to applications by partnerships involving law enforcement agencies that engage in community-oriented policing for programs assisting distressed communities or populations with a high incidence of violence affecting children.

SEC. 30504. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training to further the purposes of this subtitle.

(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this subtitle.

(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, or through grants, contracts, or other cooperative arrangements with other entities.

SEC. 30505. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle—

(1) $4,000,000 for fiscal year 1996;

(2) $5,000,000 for fiscal year 1997;

(3) $6,000,000 for fiscal year 1998;

(4) $7,000,000 for fiscal year 1999; and

(5) $8,000,000 for fiscal year 2000.

(b) LIMITATION.—Not more than 35 percent of the funds made available in a fiscal year for this subtitle may be expended for grants under section 30502(b).

Subtitle F—Midnight Sports

SEC. 30601. GRANTS FOR MIDNIGHT SPORTS LEAGUE ANTICRIME PROGRAMS.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development, in consultation with the Attorney General of the United States, the Secretary of Labor, and the Secretary of Education, shall make grants, to the extent that amounts are approved in appropriations under subsection (k), to eligible entities to assist such entities in carrying out midnight sports league programs meeting the requirements of subsection (d).

(2) CONSULTATION WITH OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in awarding grants under paragraph (1).

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Grants under subsection (a) may be made only to the following eligible entities:

(A) Entities eligible under section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) for a grant under section 520(a) of that Act.

(B) Nonprofit organizations providing crime prevention, employment counseling, job training, or other educational services.

(C) Nonprofit organizations providing federally assisted low-income housing.

(2) PROHIBITION ON SECOND GRANTS.—A grant under subsection (a) may not be made to an eligible entity if the entity previously received a grant under such subsection.

(c) USE OF GRANT AMOUNTS.—Any eligible entity that receives a grant under subsection (a) may use the grant only—

(1) to establish or carry out a midnight sports league program under subsection (d);

(2) for salaries for administrators and staff of the program;

(3) for other administrative costs of the program, except that not more than 5 percent of the grant may be used for such administrative costs; and

(4) for costs of training and assistance provided under subsection (d).

(d) PROGRAM REQUIREMENTS.—Each eligible entity receiving a grant under subsection (a) shall establish a midnight sports league program as follows:

(1) The program shall establish a sports league of not less than 80 players.

(2) Not less than 50 percent of the players in the sports league shall be residents of federally assisted low-income housing.

(3) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):

(A) A substantial problem regarding use or sale of illegal drugs.

(B) A high incidence of crimes committed by youths or young adults.

(C) A high incidence of persons infected with the human immunodeficiency virus or serually transmitted diseases.

(D) A high incidence of pregnancy, or a high birth rate, among adolescents.

(E) A high unemployment rate for youths and young adults.

(F) A high rate of high school dropouts.

(4) The program shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held in conjunction with league sports games at or near the site of the games.

(5) The program shall serve only youths and young adults who demonstrate a need for such counseling, training, and education provided by the program, in accordance with criteria for demonstrating need, which shall be established by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education.

(6) The program shall obtain sponsors for each team in the sports league. Sponsors shall be private individuals or businesses in the neighborhood or community served by the program who make financial contributions to the program and participate in or supplement the employment, job training, and educational services provided to the players under the program with additional training or educational opportunities.

(7) The program shall comply with any criteria established by the Secretary of Housing and Urban Development in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education.

(e) GRANT AMOUNT LIMITATIONS.—

(1) PRIVATE CONTRIBUTIONS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, may not make a grant under subsection (a) to an eligible entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Secretary of Housing and Urban Development, or the Attorney General, that the entity will supplement the grant amounts with amounts of funds from non-Federal sources, as follows:

(A) In each of the first 2 years that amounts from the grant are disbursed (under paragraph (5)), an amount sufficient to provide not less than 35 percent of the cost of carrying out the midnight sports league program.

(B) In each of the last 3 years that amounts from the grant are disbursed, an amount sufficient to provide not less than 50 percent of the cost of carrying out the midnight sports league program.

(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term "funds from non-Federal sources" includes amounts from nonprofit organizations, public housing agencies, States, units of local government, and Indian housing authorities, private contributions, any salary paid to staff (other than from grant amounts under subsection (a)) to carry out the program of the eligible entity, in-kind contributions to carry out the program (as determined by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education), the value of any donated material, equipment, or building, the value of any lease on a building, the value of any utilities provided, and the value of any time and services contributed by volunteers to carry out the program of the eligible entity. Funds appropriated

VOL 140 PT 15 AG 10 — 11 1994 UMI

by the Congress for the activity of any agency of an Indian tribal government or of the Bureau of Indian Affairs on any Indian lands may be used to provide the non-Federal share of the costs of programs funded under this subtitle.

(3) PROHIBITION ON SUBSTITUTION OF FUNDS.—Grants made under subsection (a), and amounts provided by States and units of local government to supplement the grants, may not be used to replace other public funds previously used, or designated for use, under this section.

(4) MAXIMUM AND MINIMUM GRANT AMOUNTS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, may not make a grant under subsection (a) to any single eligible entity in an amount less than $50,000 or exceeding $250,000.

(5) DISBURSEMENT.—Each grant made under subsection (a)(1) shall be disbursed to the eligible entity receiving the grant over the 5-year period beginning on the date that the entity is selected to receive the grant, as follows:

(A) In each of the first 2 years of such 5-year period, 23 percent of the total grant amount shall be disbursed to the entity.

(B) In each of the last 3 years of such 5-year period, 18 percent of the total grant amount shall be disbursed to the entity.

(f) APPLICATIONS.—To be eligible to receive a grant under subsection (a), an eligible entity shall submit to the Secretary of Housing and Urban Development an application in the form and manner required by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, which shall include—

(1) a description of the midnight sports league program to be carried out by the entity, including a description of the employment counseling, job training, and other educational services to be provided;

(2) letters of agreement from service providers to provide training and counseling services required under subsection (d) and a description of such service providers;

(3) letters of agreement providing for facilities for sports games and counseling, training, and educational services required under subsection (d) and a description of the facilities;

(4) a list of persons and businesses from the community served by the program who have expressed interest in sponsoring, or have made commitments to sponsor, a team in the midnight sports league; and

(5) evidence that the neighborhood or community served by the program meets the requirements of subsection (d)(3).

(g) SELECTION.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall select eligible entities that submit applications under subsection (f) to receive grants under subsection (a). The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall establish criteria for selection of applicants to receive such grants. The criteria shall include a preference for selection of eligible entities carrying out midnight sports league programs in suburban and rural areas.

(h) REPORTS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall require each eligible entity receiving a grant under subsection (a) to submit for each year in which grant amounts are received by the entity, a report describing the activities carried out with such amounts.

(i) DEFINITIONS.—In this section—

"eligible entity" means an entity described under subsection (b)(1).

"federally assisted low-income housing" has the meaning given the term in section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a)—

(A) $5,000,000 for fiscal year 1996;
(B) $8,000,000 for fiscal year 1997;
(C) $8,000,000 for fiscal year 1998;
(D) $9,000,000 for fiscal year 1999; and
(E) $10,000,000 for fiscal year 2000.

Subtitle G—Assistance for Delinquent and At-Risk Youth

SEC. 30701. GRANT AUTHORITY.

(a) GRANTS.—

(1) IN GENERAL.—In order to prevent the commission of crimes or delinquent acts by juveniles, the Attorney General may make grants to public or private nonprofit organizations to support the development and operation of projects to provide residential services to youth, aged 11 to 19, who—

(A) have dropped out of school;

(B) have come into contact with the juvenile justice system; or

(C) are at risk of dropping out of school or coming into contact with the juvenile justice system.

(2) CONSULTATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in making grants under paragraph (1).

(3) SERVICES.—Such services shall include activities designed to—

(A) increase the self-esteem of such youth;

(B) assist such youth in making healthy and responsible choices;

(C) improve the academic performance of such youth pursuant to a plan jointly developed by the applicant and the school which each such youth attends or should attend; and

(D) provide such youth with vocational and life skills.

(b) APPLICATIONS.—

(1) IN GENERAL.—A public agency or private nonprofit organization which desires a grant under this section shall submit an application at such time and in such manner as the Attorney General may prescribe.

(2) CONTENTS.—An application under paragraph (1) shall include—

(A) a description of the program developed by the applicant, including the activities to be offered;

(B) a detailed discussion of how such program will prevent youth from committing crimes or delinquent acts;

(C) evidence that such program—

(i) will be carried out in facilities which meet applicable State and local laws with regard to safety;

(ii) will include academic instruction, approved by the State, Indian tribal government, or local educational agency, which meets or exceeds State, Indian tribal government, and local standards and curricular requirements; and

(iii) will include instructors and other personnel who possess such qualifications as may be required by applicable State or local laws; and

(D) specific, measurable outcomes for youth served by the program.

(c) CONSIDERATION OF APPLICATIONS.—Not later than 60 days following the submission of applications, the Attorney General shall—

(1) approve each application and disburse the funding for each such application; or

(2) disapprove the application and inform the applicant of such disapproval and the reasons therefor.

(d) REPORTS.—A grantee under this section shall annually submit a report to the Attorney General that describes the activities and accomplishments of such program, including the degree to which the specific youth outcomes are met.

(e) DEFINITIONS.—In this subtitle—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 30702. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under section 30701—

(1) $6,000,000 for fiscal year 1996;
(2) $7,000,000 for fiscal year 1997;
(3) $8,000,000 for fiscal year 1998;
(4) $9,000,000 for fiscal year 1999; and
(5) $10,000,000 for fiscal year 2000.

Subtitle H—Police Recruitment

SEC. 30801. GRANT AUTHORITY.

(a) GRANTS.—

(1) IN GENERAL.—The Attorney General may make grants to qualified community organizations to assist in meeting the costs of qualified programs which are designed to recruit and retain applicants to police departments.

(2) CONSULTATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in making grants under paragraph (1).

(b) QUALIFIED COMMUNITY ORGANIZATIONS.—An organization is a qualified community organization which is eligible to receive a grant under subsection (a) if the organization—

(1) is a nonprofit organization; and

(2) has training and experience in—

(A) working with a police department and with teachers, counselors, and similar personnel,

(B) providing services to the community in which the organization is located,

(C) developing and managing services and techniques to recruit individuals to become members of a police department and to assist such individuals in meeting the membership requirements of police departments,

(D) developing and managing services and techniques to assist in the retention of applicants to police departments, and

(E) developing other programs that contribute to the community.

(c) QUALIFIED PROGRAMS.—A program is a qualified program for which a grant may be made under subsection (a) if the program is designed to recruit and train individuals from underrepresented neighborhoods and localities and if—

(1) the overall design of the program is to recruit and retain applicants to a police department;

(2) the program provides recruiting services which include tutorial programs to enable individuals to meet police force academic requirements and to pass entrance examinations;

(3) the program provides counseling to applicants to police departments who may encounter problems throughout the application process; and

(4) the program provides retention services to assist in retaining individuals to stay in the application process of a police department.

(d) APPLICATIONS.—To qualify for a grant under subsection (a), a qualified organization shall submit an application to the Attorney General in such form as the Attorney General may prescribe. Such application shall—

(1) include documentation from the applicant showing—

(A) the need for the grant;

(B) the intended use of grant funds;

(C) expected results from the use of grant funds; and

(D) demographic characteristics of the population to be served, including age, disability, race, ethnicity, and languages used; and

(2) contain assurances satisfactory to the Attorney General that the program for which a grant is made will meet the applicable requirements of the program guidelines prescribed by the Attorney General under subsection (i).

(e) ACTION BY THE ATTORNEY GENERAL.—Not later than 60 days after the date that an application for a grant under subsection (a) is received, the Attorney General shall consult with the police department which will be involved with the applicant and shall—

(1) approve the application and disburse the grant funds applied for; or

(2) disapprove the application and inform the applicant that the application is not approved and provide the applicant with the reasons for the disapproval.

(f) GRANT DISBURSEMENT.—The Attorney General shall disburse funds under a grant under subsection (a) in accordance with regulations of the Attorney General which shall ensure—

(1) priority is given to applications for areas and organizations with the greatest showing of need;

(2) that grant funds are equitably distributed on a geographic basis; and

(3) the needs of underserved populations are recognized and addressed.

(g) GRANT PERIOD.—A grant under subsection (a) shall be made for a period not longer than 3 years.

(h) GRANTEE REPORTING.—(1) For each year of a grant period for a grant under subsection (a), the recipient of the grant shall file a performance report with the Attorney General explaining the activities carried out with the funds received and assessing the effectiveness of such activities in meeting the purpose of the recipient's qualified program.

(2) If there was more than one recipient of a grant, each recipient shall file such report.

(3) The Attorney General shall suspend the funding of a grant, pending compliance, if the recipient of the grant does not file the report required by this subsection or uses the grant for a purpose not authorized by this section.

(i) GUIDELINES.—The Attorney General shall, by regulation, prescribe guidelines on content and results for programs receiving a grant under subsection (a). Such guidelines shall be designed to establish programs which will be effective in training individuals to enter instructional programs for police departments and shall include requirements for—

(1) individuals providing recruiting services;

(2) individuals providing tutorials and other academic assistance programs;

(3) individuals providing retention services; and

(4) the content and duration of recruitment, retention, and counseling programs and the means and devices used to publicize such programs.

SEC. 30802. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under section 30801—

(1) $2,000,000 for fiscal year 1996;
(2) $4,000,000 for fiscal year 1997;
(3) $5,000,000 for fiscal year 1998;
(4) $6,000,000 for fiscal year 1999; and
(5) $7,000,000 for fiscal year 2000.

Subtitle I—National Triad Program

SEC. 30901. PURPOSES.

The purposes of this subtitle are—

(1) to support a coordinated effort among law enforcement, older Americans organizations, and social service agencies to stem the tide of violence against older Americans and support media and nonmedia strategies aimed at increasing both public understanding of the problem and the older Americans' skills in preventing crime against themselves and their property; and

(2) to address the problem of crime against older Americans in a systematic and effective manner by promoting and expanding collaborative crime prevention programs, such as the Triad model, that assist law enforcement agencies and older Americans in implementing specific strategies for crime prevention, victim assistance, citizen involvement, and public education.

SEC. 30902. NATIONAL ASSESSMENT AND DISSEMINATION.

(a) IN GENERAL.—The Attorney General, in consultation with the Assistant Secretary for Aging, shall conduct a qualitative and quantitative national assessment of—

(1) the nature and extent of crimes committed against older Americans and the effect of such crimes on the victims;

(2) the numbers, extent, and impact of violent crimes and nonviolent crimes (such as frauds and "scams") against older Americans and the extent of unreported crimes;

(3) the collaborative needs of law enforcement, health, and social service organizations, focusing on prevention of crimes against older Americans, to identify, investigate, and provide assistance to victims of those crimes; and

(4) the development and growth of strategies to respond effectively to the matters described in paragraphs (1), (2), and (3).

(b) MATTERS TO BE ADDRESSED.—The national assessment made pursuant to subsection (a) shall address—

(1) the analysis and synthesis of data from a broad range of sources in order to develop accurate information on the nature and extent of crimes against older Americans, including identifying and conducting such surveys and other data collection efforts as are needed and designing a strategy to keep such information current over time;

(2) institutional and community responses to elderly victims of crime, focusing on the problems associated with fear of victimization, abuse of older Americans, and hard-to-reach older Americans who are in poor health, are living alone or without family nearby, or living in high crime areas;

(3) special services and responses required by elderly victims;

(4) whether the experience of older Americans with some service organizations differs markedly from that of younger populations;

(5) the kinds of programs that have proven useful in reducing victimization of older Americans through crime prevention activities and programs;

(6) the kinds of programs that contribute to successful coordination among public sector agencies and community organizations in reducing victimization of older Americans; and

(7) the research agenda needed to develop a comprehensive understanding of the problems of crimes against older Americans, including the changes that can be anticipated in the crimes themselves and appropriate responses as the society increasingly ages.

(c) AVOIDANCE OF DUPLICATION.—In conducting the assessment under subsection (a), the Attorney General, in consultation with the Assistant Secretary of Aging, shall draw upon the findings of existing studies and avoid duplication of efforts that have previously been made.

(d) DISSEMINATION.—Based on the results of the national assessment and analysis of successful or promising strategies in dealing with the problems described in subsection (b) and other problems, including coalition efforts such as the Triad programs described in section 1066, the Attorney General, in consultation with the Assistant Secretary of Aging, shall disseminate the results through reports, publications, clearinghouse services, public service announcements, and programs of evaluation, demonstration, training, and technical assistance.

SEC. 30903. PILOT PROGRAMS.

(a) AWARDS.—The Attorney General, in consultation with the Assistant Secretary of Aging, shall make grants to coalitions of local law enforcement agencies and older Americans to assist in the development of programs and execute field tests of particularly promising strategies for crime prevention services and related services based on the concepts of the Triad model, which can then be evaluated and serve as the basis for further demonstration and education programs.

(b) TRIAD COOPERATIVE MODEL.—(1) Subject to paragraph (2), a pilot program funded under this section shall consist of a cooperative model, which calls for the participation of the sheriff, at least 1 police chief, and a representative of at least 1 older Americans' organization within a county and may include participation by general service coalitions of law enforcement, victim service, and senior citizen advocate service organizations. If there exists within the applicant county an area agency on aging as defined in section 102(17) of the Older Americans Act of 1965, the applicant county must include the agency as an organizational component in its program.

(2) If there is not both a sheriff and a police chief in a county or if the sheriff or a police chief do not participate, a pilot program funded under this section shall include in the place of the sheriff or police chief another key law enforcement official in the county such as a local prosecutor.

(c) APPLICATION.—A coalition that desires to establish a pilot program under this section shall submit to the Attorney General an application that includes—

(1) a description of the community and its senior citizen population;

(2) assurances that Federal funds received under this title shall be used to provide additional and appropriate education and services to the community's older Americans;

(3) a description of the extent of involvement of each organizational component (chief, sheriff (or other law enforcement official), and senior organization representative) and focus of the program;

(4) a comprehensive plan including—

(A) a description of the crime problems facing older Americans and need for expanded law enforcement and victim assistance services;

(B) a description of the types of projects to be developed or expanded;

(C) a plan for an evaluation of the results of the program;

(D) a description of the resources (including matching funds, in-kind services, and other resources) available in the community to implement the program's development or expansion;

(E) a description of the gaps that cannot be filled with existing resources;

(F) an explanation of how the requested grant will be used to fill those gaps; and

(G) a description of the means and methods the applicant will use to reduce criminal victimization of older persons; and

(5) funding requirements for implementing a comprehensive plan.

(d) DISTRIBUTION OF GRANT AWARDS.—The Attorney General, in consultation with the Assistant Secretary for Aging, shall attempt, to the

VOL 140 PT 15 AG 10 — 11 1994 UMI

extent practicable, to achieve an equitable geographic distribution of grant awards for pilot programs authorized under this subtitle.

(e) POST-GRANT PERIOD REPORT.—A grant recipient under this section shall, not later than 6 months after the conclusion of the grant period, submit to the Attorney General a report that—

(1) describes the composition of organizations that participated in the pilot program;

(2) identifies problem areas encountered during the course of the pilot program;

(3) provides data comparing the types and frequency of criminal activity before and after the grant period and the effect of such criminal activity on older Americans in the community; and

(4) describes the grant recipient's plans and goals for continuance of the program after the grant period.

SEC. 30904. TRAINING ASSISTANCE, EVALUATION, AND DISSEMINATION AWARDS.

In conjunction with the national assessment under section 30902—

(1) the Attorney General, in consultation with the Assistant Secretary for Aging, shall make awards to organizations with demonstrated ability to provide training and technical assistance in establishing crime prevention programs based on the Triad model, for purposes of aiding in the establishment and expansion of pilot programs under this section;

(2) the Attorney General, in consultation with the Assistant Secretary of Aging, shall make awards to research organizations, for the purposes of—

(A) evaluating the effectiveness of selected pilot programs; and

(B) conducting the research and development identified through the national assessment as being critical; and

(3) the Attorney General, in consultation with the Assistant Secretary for Aging, shall make awards to public service advertising coalitions, for the purposes of mounting a program of public service advertisements to increase public awareness and understanding of the issues surrounding crimes against older Americans and promoting ideas or programs to prevent them.

SEC. 30905. REPORT.

The Attorney General, in consultation with the Assistant Secretary for Aging, and the Director of the National Institute of Justice shall submit to Congress an annual report (which may be included with the report submitted under section 102(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712(b))) describing the results of the pilot programs conducted under section 30903.

SEC. 30906. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Attorney General for the purpose of making pilot program awards in that amount under section 30903—

(A) $1,000,000 for fiscal year 1996;

(B) $1,000,000 for fiscal year 1997; and

(C) $1,000,000 for fiscal year 1998;

(2) to the Attorney General for the purpose of funding the national training and technical assistance effort under sections 30902 and 30903—

(A) $250,000 for fiscal year 1996;

(B) $250,000 for fiscal year 1997; and

(C) $250,000 for fiscal year 1998;

(3) to the Attorney General and to the Administration on Aging, for the purpose of developing public service announcements under sections 30902 and 30904—

(A) $250,000 for fiscal year 1996;

(B) $250,000 for fiscal year 1997; and

(C) $250,000 for fiscal year 1998;

(4) to the Attorney General for the purposes of conducting the national assessment, evaluating pilot programs, and carrying out the research agenda under sections 30902 and 30904—

(A) $500,000 for fiscal year 1996;

(B) $500,000 for fiscal year 1997; and

(C) $500,000 for fiscal year 1998;

(5) to the extent that funds are not otherwise available for the purpose, such sums as are necessary to pay the administrative costs of carrying out this subtitle.

Subtitle J—Local Partnership Act

SEC. 31001. ESTABLISHMENT OF PAYMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title 31, United States Code, is amended by inserting after chapter 65 the following new chapter:

"CHAPTER 67—FEDERAL PAYMENTS

"Sec.
"6701. Payments to local governments.
"6702. Local Government Fiscal Assistance Fund.
"6703. Qualification for payment.
"6704. State area allocations; allocations and payments to territorial governments.
"6705. Local government allocations.
"6706. Income gap multiplier.
"6707. State variation of local government allocations.
"6708. Adjustments of local government allocations.
"6709. Information used in allocation formulas.
"6710. Public participation.
"6711. Prohibited discrimination.
"6712. Discrimination proceedings.
"6713. Suspension and termination of payments in discrimination proceedings.
"6714. Compliance agreements.
"6715. Enforcement by the Attorney General of prohibitions on discrimination.
"6716. Civil action by a person adversely affected.
"6717. Judicial review.
"6718. Investigations and reviews.
"6719. Reports.
"6720. Definitions, application, and administration.

"§6701. Payments to local governments

"(a) PAYMENT AND USE.—

"(1) PAYMENT.—The Secretary shall pay to each unit of general local government which qualifies for a payment under this chapter an amount equal to the sum of any amounts allocated to the government under this chapter for each payment period. The Secretary shall pay such amount out of the Local Government Fiscal Assistance Fund under section 6702.

"(2) USE.—Amounts paid to a unit of general local government under this section shall be used by that unit for carrying out one or more programs of the unit related to—

"(A) education to prevent crime;

"(B) substance abuse treatment to prevent crime; or

"(C) job programs to prevent crime.

"(3) COORDINATION.—Programs funded under this title shall be coordinated with other existing Federal programs to meet the overall needs of communities that benefit from funds received under this section.

"(b) TIMING OF PAYMENTS.—The Secretary shall pay each amount allocated under this chapter to a unit of general local government for a payment period by the later of 90 days after the date the amount is available or the first day of the payment period provided that the unit of general local government has provided the Secretary with the assurances required by section 6703(d).

"(c) ADJUSTMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall adjust a payment under this chapter to a unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid.

"(2) CONSIDERATIONS.—The Secretary may increase or decrease under this subsection a payment to a unit of local government only if the Secretary determines the need for the increase or decrease, or the unit requests the increase or decrease, within one year after the end of the payment period for which the payment was made.

"(d) RESERVATION FOR ADJUSTMENTS.—The Secretary may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of general local government in a State if the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

"(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

"(1) REPAYMENT REQUIRED.—A unit of general local government shall repay to the Secretary, by not later than 15 months after receipt from the Secretary, any amount that is—

"(A) paid to the unit from amounts appropriated under the authority of this section; and

"(B) not expended by the unit within one year after receipt from the Secretary.

"(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Secretary shall reduce payments in future payment periods accordingly.

"(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Secretary as repayments under this subsection shall be deposited in the Local Government Fiscal Assistance Fund for future payments to units of general local government.

"(f) EXPENDITURE WITH DISADVANTAGED BUSINESS ENTERPRISES.—

"(1) GENERAL RULE.—Of amounts paid to a unit of general local government under this chapter for a payment period, not less than 10 percent of the total combined amounts obligated by the unit for contracts and subcontracts shall be expended with—

"(A) small business concerns controlled by socially and economically disadvantaged individuals and women; and

"(B) historically Black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans.

"(2) EXCEPTION.—Paragraph (1) shall not apply to amounts paid to a unit of general local government to the extent the unit determines that the paragraph does not apply through a process that provides for public participation.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'small business concern' has the meaning such term has under section 3 of the Small Business Act; and

"(B) the term 'socially and economically disadvantaged individuals' has the meaning such term has under section 8(d) of the Small Business Act and relevant subcontracting regulations promulgated pursuant to that section.

"(g) NONSUPPLANTING REQUIREMENT.—

"(1) IN GENERAL.—Funds made available under this chapter to units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of funds under this chapter, be made available from State or local sources.

"(2) BASE LEVEL AMOUNT.—The total level of funding available to a unit of local government for accounts serving eligible purposes under this chapter in the fiscal year immediately preceding receipt of a grant under this chapter shall be designated the 'base level account' for the fiscal year in which grant is received. Grants under this chapter in a given fiscal year shall be reduced on a dollar for dollar basis to the extent that a unit of local government reduces its base level account in that fiscal year.

"§6702. Local Government Fiscal Assistance Fund

"(a) ADMINISTRATION OF FUND.—The Department of the Treasury has a Local Government Fiscal Assistance Fund, which consists of amounts appropriated to the Fund.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund—

"(1) $300,000,000 for fiscal year 1996;
"(2) $315,000,000 for fiscal year 1997;
"(3) $395,000,000 for fiscal year 1998;
"(4) $395,000,000 for fiscal year 1999; and
"(5) $395,000,000 for fiscal year 2000.

Such sums are to remain available until expended.

"(c) ADMINISTRATIVE COSTS.—Up to 2.5 percent of the amount authorized to be appropriated under subsection (b) is authorized to be appropriated for the period fiscal year 1995 through fiscal year 2000 to be available for administrative costs by the Secretary in furtherance of the purposes of the program. Such sums are to remain available until expended.

"§6703. Qualification for payment

"(a) IN GENERAL.—The Secretary shall issue regulations establishing procedures under which eligible units of general local government are required to provide notice to the Secretary of the units' proposed use of assistance under this chapter. Subject to subsection (c), the assistance provided shall be used, in amounts determined by the unit, for activities under, or for activities that are substantially similar to an activity under, 1 or more of the following programs and the notice shall identify 1 or more of the following programs for each such use:

"(1) The Drug Abuse Resistance Education Program under section 5122 of the Elementary and Secondary Education Act of 1965.

"(2) The National Youth Sports Program under section 682 of the Community Services Block Grant Act (Public Law 97–35) as amended by section 205, Public Law 103–252.

"(3) The Gang Resistance Education and Training Program under the Act entitled 'An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes', approved November 5, 1990 (Public Law 101–509).

"(4) Programs under title II or IV of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).

"(5) Programs under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.) as amended.

"(6) Programs under the School to Work Opportunities Act (Public Law 103–239).

"(7) Substance Abuse Treatment and Prevention programs authorized under title V or XIX of the Public Health Services Act (43 U.S.C. 201 et seq.).

"(8) Programs under the Head Start Act (42 U.S.C. 9831 et seq.).

"(9) Programs under part A or B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(10) The TRIO programs under part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(11) Programs under the National Literacy Act of 1991.

"(12) Programs under the Carl Perkins Vocational Educational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

"(13) The demonstration partnership programs including the community initiative targeted to minority youth under section 203 of the Human Services Reauthorization of 1994 (Public Law 103–232).

"(14) The runaway and homeless youth program and the transitional living program for homeless youth under title III of the Juvenile Justice and Delinquency Prevention Act (Public Law 102–586).

"(15) The family support program under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1148 et seq.).

"(16) After-school activities for school aged children under the Child Care and Development Block Grant Act (42 U.S.C. 9858 et seq.).

"(17) The community-based family resource programs under section 401 of the Human Services Reauthorization Act of 1994 (Public Law 103–232).

"(18) The family violence programs under the Child Abuse Prevention and Treatment Act Amendments of 1984.

"(19) Job training programs administered by the Department of Agriculture, the Department of Defense, or the Department of Housing and Urban Development.

"(b) NOTICE TO AGENCY.—Upon receipt of notice under subsection (a) from an eligible unit of general local government, the Secretary shall notify the head of the appropriate Federal agency for each program listed in subsection (a) that is identified in the notice as a program under which an activity will be conducted with assistance under this chapter. The notification shall state that the unit has elected to use some or all of its assistance under this chapter for activities under that program. The head of a Federal agency that receives such a notification shall ensure that such use is in compliance with the laws and regulations applicable to that program, except that any requirement to provide matching funds shall not apply to that use.

"(c) ALTERNATIVE USES OF FUNDS.—

"(1) ALTERNATIVE USES AUTHORIZED.—In lieu of, or in addition to, use for an activity described in subsection (a) and notice for that use under subsection (a), an eligible unit of general local government may use assistance under this chapter, and shall provide notice of that use to the Secretary under subsection (a), for any other activity that is consistent with 1 or more of the purposes described in section 6701(a)(2).

"(2) NOTICE DEEMED TO DESCRIBE CONSISTENT USE.—Notice by a unit of general local government that it intends to use assistance under this chapter for an activity other than an activity described in subsection (a) is deemed to describe an activity that is consistent with 1 or more of the purposes described in section 6701(a)(2) unless the Secretary provides to the unit, within 30 days after receipt of that notice of intent from the unit, written notice (including an explanation) that the use is not consistent with those purposes.

"(d) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of general local government qualifies for a payment under this chapter for a payment period only after establishing to the satisfaction of the Secretary that—

"(1) the government will establish a trust fund in which the government will deposit all payments received under this chapter;

"(2) the government will use amounts in the trust fund (including interest) during a reasonable period;

"(3) the government will expend the payments so received, in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

"(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

"(5) All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).

"(6) the government will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Secretary after consultation with the Comptroller General of the United States. As applicable, amounts received under this chapter shall be audited in compliance with the Single Audit Act of 1984;

"(7) after reasonable notice to the government, the government will make available to the Secretary and the Comptroller General of the United States, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General of the United States reasonably requires to review compliance and operations under section 6718(b);

"(8) the government will make reports the Secretary reasonably requires, in addition to the annual reports required under section 6719(b); and

"(9) the government will spend the funds only for the purposes set forth in section 6701(a)(2).

"(e) REVIEW BY GOVERNORS.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (d).

"(f) SANCTIONS FOR NONCOMPLIANCE.—

"(1) IN GENERAL.—If the Secretary decides that a unit of general local government has not complied substantially with subsection (d) or regulations prescribed under subsection (d), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current payment period and later payment periods until the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (d) and regulations prescribed under subsection (d).

"(2) NOTICE.—Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for comment.

"(3) PAYMENT CONDITIONS.—The Secretary may make a payment to a unit of general local government notified under paragraph (1) only if the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (d) and regulations prescribed under subsection (d).

"§6704. State area allocations; allocations and payments to territorial governments

"(a) FORMULA ALLOCATION BY STATE.—For each payment period, the Secretary shall allocate to each State out of the amount appropriated for the period under the authority of section 6702(b) (minus the amounts allocated to territorial governments under subsection (e) for the payment period) an amount bearing the same ratio to the amount appropriated (minus such amounts allocated under subsection (e)) as

VOL 140 PT 15 AG 10 — 11 1994 UMI

the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

"(1) determine the amount allocated to the State under subsection (b) or (c) of this section and allocate the larger amount to the State; and

"(2) allocate the amount allocated to the State to units of general local government in the State under sections 6705 and 6706.

"(b) GENERAL FORMULA.—

"(1) IN GENERAL.—For the payment period beginning October 1, 1994, the amount allocated to a State under this subsection for a payment period is the amount bearing the same ratio to $5,300,000,000 as—

"(A) the population of the State, multiplied by the general tax effort factor of the State (determined under paragraph (2)), multiplied by the relative income factor of the State (determined under paragraph (3)), multiplied by the relative rate of the labor force unemployed in the State (determined under paragraph (4)); bears to

"(B) the sum of the products determined under subparagraph (A) of this paragraph for all States.

"(2) GENERAL TAX EFFORT FACTOR.—The general tax effort factor of a State for a payment period is—

"(A) the net amount of State and local taxes of the State collected during the year 1991 as reported by the Bureau of the Census in the publication Government Finances 1990–1991; divided by

"(B) the total income of individuals, as determined by the Secretary of Commerce for national accounts purposes for 1992 as reported in the publication Survey of Current Business (August 1993), attributed to the State for the same year.

"(3) RELATIVE INCOME FACTOR.—The relative income factor of a State is a fraction in which—

"(A) the numerator is the per capita income of the United States; and

"(B) the denominator is the per capita income of the State.

"(4) RELATIVE RATE OF LABOR FORCE.—The relative rate of the labor force unemployed in a State is a fraction in which—

"(A) the numerator is the percentage of the labor force of the State that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes); and

"(B) the denominator is the percentage of the labor force of the United States that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes).

"(c) ALTERNATIVE FORMULA.—For the payment period beginning October 1, 1994, the amount allocated to a State under this subsection for a payment period is the total amount the State would receive if—

"(1) $1,166,666,667 were allocated among the States on the basis of population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the population of the State bears to the population of all States;

"(2) $1,166,666,667 were allocated among the States on the basis of population inversely weighted for per capita income, by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

"(A) the population of the State, multiplied by a fraction in which—

"(i) the numerator is the per capita income of all States; and

"(ii) the denominator is the per capita income of the State; bears to

"(B) the sum of the products determined under subparagraph (A) for all States;

"(3) $600,000,000 were allocated among the States on the basis of income tax collections by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the income tax amount of the State (determined under subsection (d)(1)) bears to the sum of the income tax amounts of all States;

"(4) $600,000,000 were allocated among the States on the basis of general tax effort by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the general tax effort amount of the State (determined under subsection (d)(2)) bears to the sum of the general tax effort amounts of all States;

"(5) $600,000,000 were allocated among the States on the basis of unemployment by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

"(A) the labor force of the State, multiplied by a fraction in which—

"(i) the numerator is the percentage of the labor force of the State that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes); and

"(ii) the denominator is the percentage of the labor force of the United States that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes), bears to

"(B) the sum of the products determined under subparagraph (A) for all States; and

"(6) $1,166,666,667 were allocated among the States on the basis of urbanized population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the urbanized population of the State bears to the urbanized population of all States. In this paragraph, the term 'urbanized population' means the population of an area consisting of a central city or cities of at least 50,000 inhabitants and the surrounding closely settled area for the city or cities considered as an urbanized area as published by the Bureau of the Census for 1990 in the publication General Population Characteristics for Urbanized Areas.

"(d) INCOME TAX AMOUNT AND TAX EFFORT AMOUNT.—

"(1) INCOME TAX AMOUNT.—The income tax amount of a State for a payment period is 15 percent of the net amount collected during the calendar year ending before the beginning of the payment period from the tax imposed on the income of individuals by the State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 164(a)(3)). The income tax amount for a payment period shall be at least 1 percent but not more than 6 percent of the United States Government individual income tax liability attributed to the State for the taxable year ending during the last calendar year ending before the beginning of the payment period. The Secretary shall determine the Government income tax liability attributed to the State by using the data published by the Secretary for 1991 in the publication Statistics of Income Bulletin (Winter 1993–1994).

"(2) GENERAL TAX EFFORT AMOUNT.—The general tax effort amount of a State for a payment period is the amount determined by multiplying—

"(A) the net amount of State and local taxes of the State collected during the year 1991 as reported in the Bureau of Census in the publication Government Finances 1990–1991; and

"(B) the general tax effort factor of the State determined under subsection (b)(2).

"(e) ALLOCATION FOR PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS.—

"(1) IN GENERAL.—(A) For each payment period for which funds are available for allocation under this chapter, the Secretary shall allocate to each territorial government an amount equal to the product of 1 percent of the amount of funds available for allocation multiplied by the applicable territorial percentage.

"(B) For the purposes of this paragraph, the applicable territorial percentage of a territory is equal to the quotient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

"(2) PAYMENTS TO LOCAL GOVERNMENTS.—The governments of the territories shall make payments to local governments within their jurisdiction from sums received under this subsection as they consider appropriate.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'territorial government' means the government of a territory;

"(B) the term 'territory' means Puerto Rico, Guam, American Samoa, and the Virgin Islands; and

"(C) the term 'territorial population' means the most recent population for each territory as determined by the Bureau of Census.

"§6705. Local government allocations

"(a) INDIAN TRIBES AND ALASKAN NATIVES VILLAGES.—If there is in a State an Indian tribe or Alaskan native village having a recognized governing body carrying out substantial governmental duties and powers, the Secretary shall allocate to the tribe or village, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the tribe or village bears to the population of the State. The Secretary shall allocate amounts under this subsection to Indian tribes and Alaskan native villages in a State before allocating amounts to units of general local government in the State under subsection (c). For the payment period beginning October 1, 1994, the Secretary shall use as the population of each Indian tribe or Alaskan native village the population for 1991 as reported by the Bureau of Indian Affairs in the publication Indian Service Population and Labor Force Estimates (January 1991). In addition to uses authorized under section 6701(a)(2), amounts allocated under this subsection and paid to an Indian tribe or Alaskan native village under this chapter may be used for renovating or building prisons or other correctional facilities.

"(b) NEWLY INCORPORATED LOCAL GOVERNMENTS AND ANNEXED GOVERNMENTS.—If there is in a State a unit of general local government that has been incorporated since the date of the collection of the data used by the Secretary in making allocations pursuant to sections 6704 through 6706 and 6708, the Secretary shall allocate to this newly incorporated local government, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the newly incorporated local government bears to the population of the State. If there is in the State a unit of general local government that has been annexed since the date of the collection of the data used by the Secretary in making allocations pursuant to sections 6704 through 6706 and 6708, the Secretary shall pay the amount that would have been allocated to this local government to the unit of general local government that annexed it.

"(c) OTHER LOCAL GOVERNMENT ALLOCATIONS.—

"(1) IN GENERAL.—The Secretary shall allocate among the units of general local government in a State (other than units receiving allocations under subsection (a)) the amount allocated to the State under section 6704 (as that amount is reduced by allocations under subsection (a)). Of the amount to be allocated, the Secretary shall allocate a portion equal to ½ of such amount in accordance with section 6706(1), and shall allocate a portion equal to ½ of such amount in accordance with section 6706(2). A unit of general local government shall receive an amount equal to the sum of amounts allocated to the unit from each portion.

"(2) RATIO.—From each portion to be allocated to units of local government in a State under paragraph (1), the Secretary shall allocate to a unit an amount bearing the same ratio to the funds to be allocated as—

"(A) the population of the unit, multiplied by the general tax effort factor of the unit (determined under paragraph (3)), multiplied by the income gap of the unit (determined under paragraph (4)), bears to

"(B) the sum of the products determined under subparagraph (A) for all units in the State for which the income gap for that portion under paragraph (4) is greater than zero.

"(3) GENERAL TAX EFFORT FACTOR.—(A) Except as provided in subparagraph (C), the general tax effort factor of a unit of general local government for a payment period is—

"(i) the adjusted taxes of the unit; divided by

"(ii) the total income attributed to the unit.

"(B) If the amount determined under subparagraphs (A) (i) and (ii) for a unit of general local government is less than zero, the general tax effort factor of the unit is deemed to be zero.

"(C)(i) Except as otherwise provided in this subparagraph, for the payment period beginning October 1, 1994, the adjusted taxes of a unit of general local government are the taxes imposed by the unit for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay), as determined by the Bureau of the Census for the 1987 Census of Governments and adjusted as follows:

"(I) Adjusted taxes equals total taxes times a fraction in which the numerator is the sum of unrestricted revenues and revenues dedicated for spending on education minus total education spending and the denominator is total unrestricted revenues.

"(II) Total taxes is the sum of property tax; general sales tax; alcoholic beverage tax; amusement tax; insurance premium tax; motor fuels tax; parimutuels tax; public utilities tax; tobacco tax; other selective sales tax; alcoholic beverage licenses, amusement licenses; corporation licenses, hunting and fishing licenses; motor vehicle licenses; motor vehicle operator licenses; public utility licenses; occupation and business licenses, not elsewhere classified; other licenses, individual income tax; corporation net income tax; death and gift tax; documentary and stock transfer tax; severance tax; and taxes not elsewhere classified.

"(III) Unrestricted revenues is the sum of total taxes and intergovernmental revenue from Federal Government, general revenue sharing; intergovernmental revenue from Federal Government, other general support; intergovernmental revenue from Federal Government, other; intergovernmental revenue from State government, other general support; intergovernmental revenue from State government, other; intergovernmental revenue from local governments, other general support; intergovernmental revenue from local governments, other; miscellaneous general revenue, property sale-housing and community development; miscellaneous general revenue, property sale-other property; miscellaneous general revenue, interest earnings on investments; miscellaneous general revenue, fines and forfeits; miscellaneous general revenue, rents; miscellaneous general revenues, royalties; miscellaneous general revenue, donations from private sources; miscellaneous general revenue, net lottery revenue (after prizes and administrative expenses); miscellaneous general revenue, other miscellaneous general revenue; and all other general charges, not elsewhere classified.

"(IV) Revenues dedicated for spending on education is the sum of elementary and secondary education, school lunch; elementary and secondary education, tuition; elementary and secondary education, other; higher education, auxiliary enterprises; higher education, other; other education, not elsewhere classified; intergovernmental revenue from Federal Government, education; intergovernmental revenue from State government, education; intergovernmental revenue from local governments, interschool system revenue; intergovernmental revenue from local governments, education; interest earnings, higher education; interest earnings, elementary and secondary education; miscellaneous revenues, higher education; and miscellaneous revenues, elementary and secondary education.

"(V) Total education spending is the sum of elementary and secondary education, current operations; elementary and secondary education, construction; elementary and secondary education, other capital outlays; elementary and secondary education, to State governments; elementary and secondary education, to local governments, not elsewhere classified; elementary and secondary education, to counties; elementary and secondary education, to municipalities; elementary and secondary education, to townships; elementary and secondary education, to school districts; elementary and secondary education, to special districts; higher education-auxiliary enterprises, current operations; higher education-auxiliary enterprises, construction; higher education, auxiliary enterprises, other capital outlays; other higher education, current operations; other higher education, construction; other higher education, other capital outlays; other higher education, to State government; other higher education, to local governments, not elsewhere classified; other higher education, to counties; other higher education, to municipalities; other higher education, to townships; other higher education, to school districts; other higher education, to special districts; education assistance and subsidies; education, not elsewhere classified, current operations; education, not elsewhere classified, construction education, not elsewhere classified, other capital outlays; education, not elsewhere classified, to State government; education, not elsewhere classified, to local governments, not elsewhere classified; education, not elsewhere classified, to counties; education, not elsewhere classified, to municipalities; education, not elsewhere classified, to townships; education, not elsewhere classified, to school districts; education, not elsewhere classified, to special districts; and education, not elsewhere classified, to Federal Government.

"(VI) If the amount of adjusted taxes is less than zero, the amount of adjusted tax shall be deemed to be zero.

"(VII) If the amount of adjusted taxes exceeds the amount of total taxes, the amount of adjusted taxes is deemed to equal the amount of total taxes.

"(ii) The Secretary shall, for purposes of clause (i), include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in the geographic area of which is located the unit of general local government as taxes imposed by the unit for public purposes if—

"(I) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

"(II) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this clause.

"(iii) The adjusted taxes of a unit of general local government shall not exceed the maximum allowable adjusted taxes for that unit.

"(iv) The maximum allowable adjusted taxes for a unit of general local government is the allowable adjusted taxes of the unit minus the excess adjusted taxes of the unit.

"(v) The allowable adjusted taxes of a unit of general government is the greater of—

"(I) the amount equal to 2.5, multiplied by the per capita adjusted taxes of all units of general local government of the same type in the State, multiplied by the population of the unit; or

"(II) the amount equal to the population of the unit, multiplied by the sum of the adjusted taxes of all units of municipal local government in the State, divided by the sum of the populations of all the units of municipal local government in the State.

"(vi) The excess adjusted taxes of a unit of general local government is the amount equal to—

"(I) the adjusted taxes of the unit, minus

"(II) 1.5 multiplied by the allowable adjusted taxes of the unit;

except that if this amount is less than zero then the excess adjusted taxes of the unit is deemed to be zero.

"(vii) For purposes of this subparagraph—

"(I) the term 'per capita adjusted taxes of all units of general local government of the same type' means the sum of the adjusted taxes of all units of general local government of the same type divided by the sum of the populations of all units of general local government of the same type; and

"(II) the term 'units of general local government of the same type' means all townships if the unit of general local government is a township, all municipalities if the unit of general local government is a municipality, all counties if the unit of general local government is a county, or all unified city/county governments if the unit of general local government is a unified city/county government.

"(4) INCOME GAP.—(A) Except as provided in subparagraph (B), the income gap of a unit of general local government is—

"(i) the number which applies under section 6706, multiplied by the per capita income of the State in which the unit is located; minus

"(ii) the per capita income of the geographic area of the unit.

"(B) If the amount determined under subparagraph (A) for a unit of general local government is less than zero, then the relative income factor of the unit is deemed to be zero.

"(d) SMALL GOVERNMENT ALLOCATIONS.—If the Secretary decides that information available for a unit of general local government with a population below a number (of not more than 500) prescribed by the Secretary is inadequate, the Secretary may allocate to the unit, in lieu of any allocation under subsection (b) for a payment period, an amount bearing the same ratio to the total amount to be allocated under subsection (b) for the period for all units of general local government in the State as the population of the unit bears to the population of all units in the State.

"§6706. Income gap multiplier

"For purposes of determining the income gap of a unit of general local government under section 6705(b)(4)(A), the number which applies is—

"(1) 1.6, with respect to ½ of any amount allocated under section 6704 to the State in which the unit is located; and

"(2) 1.2, with respect to the remainder of such amount.

"§6707. State variation of local government allocations

"(a) STATE FORMULA.—A State government may provide by law for the allocation of

VOL 140 PT 15 AG 10 — 11 1994 UMI

amounts among units of general local government in the State on the basis of population multiplied by the general tax effort factors or income gaps of the units of general local government determined under sections 6705 (a) and (b) or a combination of those factors. A State government providing for a variation of an allocation formula provided under sections 6705 (a) and (b) shall notify the Secretary of the variation by the 30th day before the beginning of the first payment period in which the variation applies. A variation shall—

"(1) provide for allocating the total amount allocated under sections 6705 (a) and (b); and

"(2) apply uniformly in the State.

"(b) CERTIFICATION.—A variation by a State government under this section may apply only if the Secretary certifies that the variation complies with this section. The Secretary may certify a variation only if the Secretary is notified of the variation at least 30 days before the first payment period in which the variation applies.

"§6708. Adjustments of local government allocations

"(a) MAXIMUM AMOUNT.—The amount allocated to a unit of general local government for a payment period may not exceed the adjusted taxes imposed by the unit of general local government as determined under section 6705(b)(3). Amounts in excess of adjusted taxes shall be paid to the Governor of the State in which the unit of local government is located.

"(b) DE MINIMIS ALLOCATIONS TO UNITS OF GENERAL LOCAL GOVERNMENT.—If the amount allocated to a unit of general local government (except an Indian tribe or an Alaskan native village) for a payment period would be less than $5,000 but for this subsection or is waived by the governing authority of the unit of general local government, the Secretary shall pay the amount to the Governor of the State in which the unit is located.

"(c) USE OF PAYMENTS TO STATES.—The Governor of a State shall use all amounts paid to the Governor under subsections (a) and (b) for programs described in section 6701(a)(2) in areas of the State where are located the units of general local government with respect to which amounts are paid under subsection (b).

"(d) DE MINIMIS ALLOCATIONS TO INDIAN TRIBES AND ALASKAN NATIVE VILLAGES.—

"(1) AGGREGATION OF DE MINIMIS ALLOCATIONS.—If the amount allocated to an Indian tribe or an Alaskan native village for a payment period would be less than $5,000 but for this subsection or is waived by the chief elected official of the tribe or village, the amount—

"(A) shall not be paid to the tribe or village (except under paragraph (2)); and

"(B) shall be aggregated with other such amounts and available for use by the Attorney General under paragraph (2).

"(2) USE OF AGGREGATED AMOUNTS.—Amounts aggregated under paragraph (1) for a payment period shall be available for use by the Attorney General to make grants in the payment period on a competitive basis to Indian Tribes and Alaskan native village for—

"(A) programs described in section 6701(a)(2); or

"(B) renovating or building prisons or other correctional facilities.

"§6709. Information used in allocation formulas

"(a) POPULATION DATA FOR PAYMENT PERIOD BEGINNING OCTOBER 1, 1994.—For the payment period beginning October 1, 1994, the Secretary, in making allocations pursuant to sections 6704 through 6706 and 6708, shall use for the population of the States the population for 1992 as reported by the Bureau of the Census in the publication Current Population Reports, Series P–25, No. 1045 (July 1992) and for the population of units of general local government the Secretary shall use the population for 1990 as reported by the Bureau of the Census in the publication Summary Social, Economic, and Housing Characteristics.

"(b) DATA FOR PAYMENT PERIODS BEGINNING AFTER SEPTEMBER 30, 1995.—For any payment period beginning after September 30, 1995, the Secretary, in making allocations pursuant to sections 6704 through 6706 and 6708, shall use information more recent than the information used for the payment period beginning October 1, 1994, provided the Secretary notifies the Committee on Government Operations of the House of Representatives at least 90 days prior to the beginning of the payment period that the Secretary has determined that the more recent information is more reliable than the information used for the payment period beginning October 1, 1994.

"§6710. Public participation

"(a) HEARINGS.—

"(1) IN GENERAL.—A unit of general local government expending payments under this chapter shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

"(2) SENIOR CITIZENS.—A unit of general local government holding a hearing required under this subsection or by the budget process of the government shall try to provide senior citizens and senior citizen organizations with an opportunity to present views at the hearing before the government makes a final decision on the use of the payment.

"(b) DISCLOSURE OF INFORMATION.—

"(1) IN GENERAL.—By the 10th day before a hearing required under subsection (a)(1) is held, a unit of general local government shall—

"(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

"(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

"(2) AVAILABILITY.—By the 30th day after adoption of the budget under State or local law, the government shall—

"(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

"(B) publish in at least one newspaper of general circulation a notice that the information referred to in subparagraph (A) is available for inspection.

"(c) WAIVERS OF REQUIREMENTS.—A requirement—

"(1) under subsection (a)(1) may be waived if the budget process required under the applicable State or local law or charter provisions—

"(A) ensures the opportunity for public attendance and participation contemplated by subsection (a); and

"(B) includes a hearing on the proposed use of a payment received under this chapter in relation to the entire budget of the government; and

"(2) under subsection (b)(1)(B) and paragraph (2)(B) may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government from amounts available for payment under this chapter, or if publication is otherwise impracticable.

"(d) EXCEPTION TO 10-DAY LIMITATION.—If the Secretary is satisfied that a unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b)(1) may be changed to the extent necessary to comply with applicable State or local law.

"§6711. Prohibited discrimination

"(a) GENERAL PROHIBITION.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a unit of general local government because of race, color, national origin, or sex if the government receives a payment under this chapter.

"(b) ADDITIONAL PROHIBITIONS.—The following prohibitions and exemptions also apply to a program or activity of a unit of general local government if the government receives a payment under this chapter:

"(1) A prohibition against discrimination because of age under the Age Discrimination Act of 1975.

"(2) A prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973.

"(3) A prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968 (popularly known as the Civil Rights Act of 1968).

"(c) LIMITATIONS ON APPLICABILITY OF PROHIBITIONS.—Subsections (a) and (b) do not apply if the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

"(d) INVESTIGATION AGREEMENTS.—The Secretary shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

"(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

"(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

"§6712. Discrimination proceedings

"(a) NOTICE OF NONCOMPLIANCE.—By the 10th day after the Secretary makes a finding of discrimination or receives a holding of discrimination about a unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

"(b) INFORMAL PRESENTATION OF EVIDENCE.—A unit of general local government may present evidence informally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e), the government may present evidence on whether—

"(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6711(a);

"(2) the program or activity of the government violated a prohibition described in section 6711(b); and

"(3) any part of that program or activity has been paid for with a payment received under this chapter.

"(c) TEMPORARY SUSPENSION OF PAYMENTS.—By the end of the 30-day period under subsection (b), the Secretary shall decide whether

the unit of general local government has not complied with section 6711 (a) or (b), unless the government has entered into a compliance agreement under section 6714. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this chapter unless, within 10 days after the government receives notice of the decision, the government—

"(1) enters into a compliance agreement under section 6714; or

"(2) requests a proceeding under subsection (d)(1).

"(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—

"(1) PROCEEDING.—A proceeding requested under subsection (c)(2) shall begin by the 30th day after the Secretary receives a request for the proceeding. The proceeding shall be before an administrative law judge appointed under section 3105 of title 5, United States Code. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the unit of general local government is likely to prevail in showing compliance with section 6711 (a) or (b).

"(2) DECISION.—If the administrative law judge decides at the end of a proceeding under paragraph (1) that the unit of general local government has—

"(A) not complied with section 6711 (a) or (b), the judge may order payments to the government under this chapter terminated; or

"(B) complied with section 6711 (a) or (b), a suspension under section 6713(a)(1)(A) shall be discontinued promptly.

"(3) LIKELIHOOD OF PREVAILING.—An administrative law judge may not issue a preliminary decision that the government is not likely to prevail if the judge has issued a decision described in paragraph (2)(A).

"(e) BASIS FOR REVIEW.—In a proceeding under subsections (b) through (d) on a program or activity of a unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

"§6713. Suspension and termination of payments in discrimination proceedings

"(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

"(1) IN GENERAL.—The Secretary shall suspend payment under this chapter to a unit of general local government—

"(A) if an administrative law judge appointed under section 3105 of title 5, United States Code, issues a preliminary decision in a proceeding under section 6712(d)(1) that the government is not likely to prevail in showing compliance with section 6711 (a) and (b);

"(B) if the administrative law judge decides at the end of the proceeding that the government has not complied with section 6711 (a) or (b), unless the government makes a compliance agreement under section 6714 by the 30th day after the decision; or

"(C) if required under section 6712(c).

"(2) EFFECTIVENESS.—A suspension already ordered under paragraph (1)(A) continues in effect if the administrative law judge makes a decision under paragraph (1)(B).

"(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—If a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

"(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a unit of general local government of payments suspended by the Secretary only—

"(1) as of the time of, and under the conditions stated in—

"(A) the approval by the Secretary of a compliance agreement under section 6714(a)(1); or

"(B) a compliance agreement entered into by the Secretary under section 6714(a)(2);

"(2) if the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6712(a);

"(3) if a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6712(d)(1)), that the government has complied with sections 6711 (a) and (b); or

"(4) if a suspension is discontinued under subsection (b).

"(d) PAYMENT OF DAMAGES AS COMPLIANCE.—For purposes of subsection (c)(2), compliance by a government may consist of the payment of restitution to a person injured because the government did not comply with section 6711 (a) or (b).

"(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a unit of general local government of payments terminated under section 6712(d)(2)(A) only if the decision resulting in the termination is reversed by an appellate court.

"§6714. Compliance agreements

"(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

"(1) approved by the Secretary, between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the unit of general local government that has not complied with section 6711 (a) or (b); or

"(2) between the Secretary and the chief executive officer.

"(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

"(1) shall state the conditions the unit of general local government has agreed to comply with that would satisfy the obligations of the government under sections 6711 (a) and (b);

"(2) shall cover each matter that has been found not to comply, or would not comply, with section 6711 (a) or (b); and

"(3) may be a series of agreements that dispose of those matters.

"(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of a compliance agreement to each person who filed a complaint referred to in section 6716(b), or, if an agreement under subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with section 6711 (a) or (b). The Secretary shall submit the copy by the 15th day after an agreement is made. However, if the Secretary approves an agreement under subsection (a)(1) after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

"§6715. Enforcement by the Attorney General of prohibitions on discrimination

"The Attorney General may bring a civil action in an appropriate district court of the United States against a unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6711 (a) or (b). The court may grant—

"(1) a temporary restraining order;

"(2) an injunction; or

"(3) an appropriate order to ensure enjoyment of rights under section 6711 (a) or (b), including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

"§6716. Civil action by a person adversely affected

"(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—If a unit of general local government, or an officer or employee of a unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

"(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected shall file an administrative complaint with the Secretary or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6711(d). Administrative remedies are deemed to be exhausted by the person after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

"(1) issues a decision that the government has not failed to comply with this chapter; or

"(2) does not issue a decision on the complaint.

"(c) AUTHORITY OF COURT.—In an action under this section, the court—

"(1) may grant—

"(A) a temporary restraining order;

"(B) an injunction; or

"(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

"(2) to enforce compliance with section 6711 (a) or (b), may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

"(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with section 6711 (a) or (b), the Attorney General may intervene in the action if the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

"§6717. Judicial review

"(a) APPEALS IN FEDERAL COURT OF APPEALS.—A unit of general local government which receives notice from the Secretary about withholding payments under section 6703(f), suspending payments under section 6713(a)(1)(B), or terminating payments under section 6712(d)(2)(A), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition shall be filed by the 60th day after the date the notice is received. The clerk of the court shall immediately send a copy of the petition to the Secretary.

"(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

"(c) COURT ACTION.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. If a finding is not supported by substantial evidence in the record, the

VOL 140 PT 15 AG 10 — 11 1994 UMI

court may remand the case to the Secretary to take additional evidence. Upon such a remand, the Secretary may make new or modified findings and shall certify additional proceedings to the court.

"(d) REVIEW ONLY BY SUPREME COURT.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.

"§6718. Investigations and reviews

"(a) INVESTIGATIONS BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall within a reasonable time limit—

"(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6716(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

"(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

"(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6711 (a) or (b) or other provision of this chapter.

"(2) TIME LIMIT.—The maximum time limit under paragraph (1)(A) is 120 days.

"(b) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for the Congress to evaluate compliance and operations under this chapter. These reviews shall include a comparison of the waste and inefficiency of local governments using funds under this chapter compared to waste and inefficiency with other comparable Federal programs.

"§6719. Reports

"(a) REPORTS BY SECRETARY TO CONGRESS.—Before June 2 of each year prior to 2002, the Secretary personally shall report to the Congress on—

"(1) the status and operation of the Local Government Fiscal Assistance Fund during the prior fiscal year; and

"(2) the administration of this chapter, including a complete and detailed analysis of—

"(A) actions taken to comply with sections 6711 through 6715, including a description of the kind and extent of noncompliance and the status of pending complaints;

"(B) the extent to which units of general local government receiving payments under this chapter have complied with the requirements of this chapter;

"(C) the way in which payments under this chapter have been distributed in the jurisdictions receiving payments; and

"(D) significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

"(b) REPORTS BY UNITS OF GENERAL LOCAL GOVERNMENT TO SECRETARY.—

"(1) IN GENERAL.—At the end of each fiscal year, each unit of general local government which received a payment under this chapter for the fiscal year shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

"(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated in the fiscal year;

"(B) the relationship of the payment to the relevant functional items in the budget of the government; and

"(C) the differences between the actual and proposed use of the payment.

"(2) AVAILABILITY OF REPORT.—The Secretary shall provide a copy of a report submitted under paragraph (1) by a unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the manner and form prescribed by the Secretary.

"§6720. Definitions, application, and administration

"(a) DEFINITIONS.—In this chapter—

"(1) 'unit of general local government' means—

"(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

"(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers;

"(2) 'payment period' means each 1-year period beginning on October 1 of the years 1994 through 2000;

"(3) 'State and local taxes' means taxes imposed by a State government or unit of general local government or other political subdivision of a State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes;

"(4) 'State' means any of the several States and the District of Columbia;

"(5) 'income' means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes, which for units of general local government is reported by the Bureau of the Census for 1990 in the publication Summary Social, Economic, and Housing Characteristics;

"(6) 'per capita income' means—

"(A) in the case of the United States, the income of the United States divided by the population of the United States;

"(B) in the case of a State, the income of that State, divided by the population of that State; and

"(C) in the case of a unit of general local government, the income of that unit of general local government divided by the population of the unit of general local government;

"(7) 'finding of discrimination' means a decision by the Secretary about a complaint described in section 6716(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with section 6711 (a) or (b);

"(8) 'holding of discrimination' means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, United States Code, that a unit of general local government expending amounts received under this chapter has—

"(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

"(B) violated a prohibition against discrimination described in section 6711(b); and

"(9) 'Secretary' means the Secretary of Housing and Urban Development.

"(b) DELEGATION OF ADMINISTRATION.—The Secretary may enter into agreements with other executive branch departments and agencies to delegate to that department or agency all or part of the Secretary's responsibility for administering this chapter.

"(c) TREATMENT OF SUBSUMED AREAS.—If the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. If only part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations prescribed by the Secretary, the Secretary shall make all data computations based on the ratio of the estimated population of the part to the population of the entire unit of general local government.

"(d) BOUNDARY AND OTHER CHANGES.—If a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of sections 6704 through 6708 in a way that does not carry out the purposes of sections 6701 through 6708, the Secretary shall apply sections 6701 through 6708 under regulations of the Secretary in a way that is consistent with those purposes.".

(b) ISSUANCE OF REGULATIONS.—Within 90 days of the date of enactment of this Act the Secretary shall issue regulations, which may be interim regulations, to implement subsection (a), modifying the regulations for carrying into effect the Revenue Sharing Act that were in effect as of July 1, 1987, and that were published in 31 C.F.R. part 51. The Secretary need not hold a public hearing before issuing these regulations.

(c) DEFICIT NEUTRALITY.—Any appropriation to carry out the amendment made by this subtitle to title 31, United States Code, for fiscal year 1995 or 1996 shall be offset by cuts elsewhere in appropriations for that fiscal year.

SEC. 31002. TECHNICAL AMENDMENT.

The table of chapters at the beginning of subtitle V of title 31, United States Code, is amended by adding after the item relating to chapter 65 the following:

"67. Federal payments ..... 6701".

Subtitle K—National Community Economic Partnership

SEC. 31101. SHORT TITLE.

This subtitle may be cited as the "National Community Economic Partnership Act of 1994".

CHAPTER 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

SEC. 31111. PURPOSE.

It is the purpose of this chapter to increase private investment in distressed local communities and to build and expand the capacity of local institutions to better serve the economic needs of local residents through the provision of financial and technical assistance to community development corporations.

SEC. 31112. PROVISION OF ASSISTANCE.

(a) AUTHORITY.—The Secretary of Health and Human Services (referred to in this subtitle as the "Secretary") may, in accordance with this chapter, provide nonrefundable lines of credit to community development corporations for the establishment, maintenance or expansion of revolving loan funds to be utilized to finance projects intended to provide business and employment opportunities for low-income, unemployed, or underemployed individuals and to improve the quality of life in urban and rural areas.

(b) REVOLVING LOAN FUNDS.—

(1) COMPETITIVE ASSESSMENT OF APPLICATIONS.—In providing assistance under subsection (a), the Secretary shall establish and implement a competitive process for the solicitation and consideration of applications from eligible entities for lines of credit for the capitalization of revolving funds.

(2) ELIGIBLE ENTITIES.—To be eligible to receive a line of credit under this chapter an applicant shall—

(A) be a community development corporation;

(B) prepare and submit an application to the Secretary that shall include a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted and the impact of such assistance on low-income, underemployed, and unemployed individuals in the target area;

(C) demonstrate previous experience in the development of low-income housing or community or business development projects in a low-income community and provide a record of achievement with respect to such projects; and

(D) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit or letters of commitment) in an amount that is at least equal to the amount requested in the application submitted under subparagraph (B).

(3) EXCEPTION.—Notwithstanding the provisions of paragraph (2)(D), the Secretary may reduce local contributions to not less than 25 percent of the amount of the line of credit requested by the community development corporation if the Secretary determines such to be appropriate in accordance with section 31116.

SEC. 31113. APPROVAL OF APPLICATIONS.

(a) IN GENERAL.—In evaluating applications submitted under section 31112(b)(2)(B), the Secretary shall ensure that—

(1) the residents of the target area to be served (as identified under the strategic development plan) would have an income that is less than the median income for the area (as determined by the Secretary);

(2) the applicant community development corporation possesses the technical and managerial capability necessary to administer a revolving loan fund and has past experience in the development and management of housing, community and economic development programs;

(3) the applicant community development corporation has provided sufficient evidence of the existence of good working relationships with—

(A) local businesses and financial institutions, as well as with the community the corporation proposes to serve; and

(B) local and regional job training programs;

(4) the applicant community development corporation will target job opportunities that arise from revolving loan fund investments under this chapter so that 75 percent of the jobs retained or created under such investments are provided to—

(A) individuals with—

(i) incomes that do not exceed the Federal poverty line; or

(ii) incomes that do not exceed 80 percent of the median income of the area;

(B) individuals who are unemployed or underemployed;

(C) individuals who are participating or have participated in job training programs authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Family Support Act of 1988 (Public Law 100–485);

(D) individuals whose jobs may be retained as a result of the provision of financing available under this chapter; or

(E) individuals who have historically been underrepresented in the local economy; and

(5) a representative cross section of applicants are approved, including large and small community development corporations, urban and rural community development corporations and community development corporations representing diverse populations.

(b) PRIORITY.—In determining which application to approve under this chapter the Secretary shall give priority to those applicants proposing to serve a target area—

(1) with a median income that does not exceed 80 percent of the median for the area (as determined by the Secretary); and

(2) with a high rate of unemployment, as determined by the Secretary or in which the population loss is at least 7 percent from April 1, 1980, to April 1, 1990, as reported by the Bureau of the Census.

SEC. 31114. AVAILABILITY OF LINES OF CREDIT AND USE.

(a) APPROVAL OF APPLICATION.—The Secretary shall provide a community development corporation that has an application approved under section 31113 with a line of credit in an amount determined appropriate by the Secretary, subject to the limitations contained in subsection (b).

(b) LIMITATIONS ON AVAILABILITY OF AMOUNTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide in excess of $2,000,000 in lines of credit under this chapter to a single applicant.

(2) PERIOD OF AVAILABILITY.—A line of credit provided under this chapter shall remain available over a period of time established by the Secretary, but in no event shall any such period of time be in excess of 3 years from the date on which such line of credit is made available.

(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), if a recipient of a line of credit under this chapter has made full and productive use of such line of credit, can demonstrate the need and demand for additional assistance, and can meet the requirements of section 31112(b)(2), the amount of such line of credit may be increased by not more than $1,500,000.

(c) AMOUNTS DRAWN FROM LINE OF CREDIT.—Amounts drawn from each line of credit under this chapter shall be used solely for the purposes described in section 31111 and shall only be drawn down as needed to provide loans, investments, or to defray administrative costs related to the establishment of a revolving loan fund.

(d) USE OF REVOLVING LOAN FUNDS.—Revolving loan funds established with lines of credit provided under this chapter may be used to provide technical assistance to private business enterprises and to provide financial assistance in the form of loans, loan guarantees, interest reduction assistance, equity shares, and other such forms of assistance to business enterprises in target areas and who are in compliance with section 31113(a)(4).

SEC. 31115. LIMITATIONS ON USE OF FUNDS.

(a) MATCHING REQUIREMENT.—Not to exceed 50 percent of the total amount to be invested by an entity under this chapter may be derived from funds made available from a line of credit under this chapter.

(b) TECHNICAL ASSISTANCE AND ADMINISTRATION.—Not to exceed 10 percent of the amounts available from a line of credit under this chapter shall be used for the provision of training or technical assistance and for the planning, development, and management of economic development projects. Community development corporations shall be encouraged by the Secretary to seek technical assistance from other community development corporations, with expertise in the planning, development and management of economic development projects. The Secretary shall assist in the identification and facilitation of such technical assistance.

(c) LOCAL AND PRIVATE SECTOR CONTRIBUTIONS.—To receive funds available under a line of credit provided under this chapter, an entity, using procedures established by the Secretary, shall demonstrate to the community development corporation that such entity agrees to provide local and private sector contributions in accordance with section 31112(b)(2)(D), will participate with such community development corporation in a loan, guarantee or investment program for a designated business enterprise, and that the total financial commitment to be provided by such entity is at least equal to the amount to be drawn from the line of credit.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made using funds made available under this chapter may be used only for the purposes described in section 31111 and shall be reinvested in the community in which they were generated.

SEC. 31116. PROGRAM PRIORITY FOR SPECIAL EMPHASIS PROGRAMS.

(a) IN GENERAL.—The Secretary shall give priority in providing lines of credit under this chapter to community development corporations that propose to undertake economic development activities in distressed communities that target women, Native Americans, at risk youth, farmworkers, population-losing communities, very low-income communities, single mothers, veterans, and refugees; or that expand employee ownership of private enterprises and small businesses, and to programs providing loans of not more than $35,000 to very small business enterprises.

(b) RESERVATION OF FUNDS.—Not less than 5 percent of the amounts made available under section 31112(a)(2)(A) may be reserved to carry out the activities described in subsection (a).

CHAPTER 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

SEC. 31121. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

(b) SKILL ENHANCEMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to acquire training and technical assistance from agencies or institutions that have extensive experience in the development and management of low-income community economic development projects; or

(B) to acquire such assistance from other highly successful community development corporations.

(c) OPERATING GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to support an administrative capacity for the planning, development, and management of low-income community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to conduct evaluations of the feasibility of potential low-income community economic development projects that address identified needs in the low-income community and that conform to those projects and activities permitted under subtitle A;

(B) to develop a business plan related to such a potential project; or

(C) to mobilize resources to be contributed to a planned low-income community economic development project or strategy.

(d) APPLICATIONS.—A community development corporation that desires to receive a grant under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) AMOUNT AVAILABLE FOR A COMMUNITY DEVELOPMENT CORPORATION.—Amounts provided

VOL 140 PT 15 AG 10 — 11 1994 UMI

under this section to a community development corporation shall not exceed $75,000 per year. Such corporations may apply for grants under this section for up to 3 consecutive years, except that such corporations shall be required to submit a new application for each grant for which such corporation desires to receive and compete on the basis of such applications in the selection process.

SEC. 31122. EMERGING COMMUNITY DEVELOPMENT CORPORATION REVOLVING LOAN FUNDS.

(a) AUTHORITY.—The Secretary may award grants to emerging community development corporations to enable such corporations to establish, maintain or expand revolving loan funds, to make or guarantee loans, or to make capital investments in new or expanding local businesses.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a community development corporation;

(2) have completed not less than one nor more than two community economic development projects or related projects that improve or provide job and employment opportunities to low-income individuals;

(3) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted using amounts received under the grant and the impact of such assistance on low-income individuals; and

(4) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit, or letters of commitment) in an amount that is equal to at least 10 percent of the amounts requested in the application submitted under paragraph (2).

(c) USE OF THE REVOLVING LOAN FUND.—

(1) IN GENERAL.—A revolving loan fund established or maintained with amounts received under this section may be utilized to provide financial and technical assistance, loans, loan guarantees or investments to private business enterprises to—

(A) finance projects intended to provide business and employment opportunities for low-income individuals and to improve the quality of life in urban and rural areas; and

(B) build and expand the capacity of emerging community development corporations and serve the economic needs of local residents.

(2) TECHNICAL ASSISTANCE.—The Secretary shall encourage emerging community development corporations that receive grants under this section to seek technical assistance from established community development corporations, with expertise in the planning, development and management of economic development projects and shall facilitate the receipt of such assistance.

(3) LIMITATION.—Not to exceed 10 percent of the amounts received under this section by a grantee shall be used for training, technical assistance and administrative purposes.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made with amounts provided under this section may be utilized only for the purposes described in this subtitle and shall be reinvested in the community in which they were generated.

(e) AMOUNTS AVAILABLE.—Amounts provided under this section to a community development corporation shall not exceed $500,000 per year.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 31131. DEFINITIONS.

As used in this subtitle:

(1) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

(2) LOCAL AND PRIVATE SECTOR CONTRIBUTION.—The term "local and private sector contribution" means the funds available at the local level (by private financial institutions, State and local governments) or by any private philanthropic organization and private, nonprofit organizations that will be committed and used solely for the purpose of financing private business enterprises in conjunction with amounts provided under this subtitle.

(3) POPULATION-LOSING COMMUNITY.—The term "population-losing community" means any county in which the net population loss is at least 7 percent from April 1, 1980 to April 1, 1990, as reported by the Bureau of the Census.

(4) PRIVATE BUSINESS ENTERPRISE.—The term "private business enterprise" means any business enterprise that is engaged in the manufacture of a product, provision of a service, construction or development of a facility, or that is involved in some other commercial, manufacturing or industrial activity, and that agrees to target job opportunities stemming from investments authorized under this subtitle to certain individuals.

(5) TARGET AREA.—The term "target area" means any area defined in an application for assistance under this subtitle that has a population whose income does not exceed the median for the area within which the target area is located.

(6) VERY LOW-INCOME COMMUNITY.—The term "very low-income community" means a community in which the median income of the residents of such community does not exceed 50 percent of the median income of the area.

SEC. 31132. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out chapters 1 and 2—

(1) $50,000,000 for fiscal year 1996;
(2) $80,000,000 for fiscal year 1997;
(3) $85,000,000 for fiscal year 1998; and
(4) $85,000,000 for fiscal year 1999.

(b) EARMARKS.—Of the aggregate amount appropriated under subsection (a) for each fiscal year—

(1) 60 percent shall be available to carry out chapter 1; and

(2) 40 percent shall be available to carry out chapter 2.

(c) AMOUNTS.—Amounts appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 31133. PROHIBITION.

None of the funds authorized under this subtitle shall be used to finance the construction of housing.

Subtitle L—Gang Prevention Services for Boys and Girls

SEC. 31201. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Education and Secretary of Health and Human Services, may make grants to eligible service providers to carry out programs that prevent young children from becoming gang involved. In making such grants, the Attorney General shall give priority to eligible service providers that have a proven track record of serving young children and have an overall budget of not more than $750,000 per program per fiscal year, prior to receiving a grant under this section.

(b) CONSULTATION WITH OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in making grants under subsection (a).

SEC. 31202. PROGRAM REQUIREMENTS.

The eligible service providers receiving a grant under section 31201 shall—

(1) provide a comprehensive array of support services to assist the participants to reach their full potential as contributing law-abiding citizens (which support services may include education and health services; career development training; music, art, and drama activities; physical fitness training; life skills training; mental health counseling; and job placement counseling);

(2) to the extent practicable, involve the parents and other family members of participating children, and the members of local organizations that support the educational and law enforcement institutions of the community, as is appropriate, in the administration and operation of the gang prevention program;

(3) utilize community resources and related support services as needed in the operation of the program;

(4) accept referrals from public institutions, as is appropriate, such as law enforcement, mental health, local school systems, and other entities of local government; and

(5) utilize volunteer staff, including participants in programs funded under the National and Community Service Program, Public Law 103–62, to the maximum extent practicable in the operation of the program.

SEC. 31203. ELIGIBLE PROVIDERS.

Community-based service providers, as defined in the Juvenile Justice and Delinquency Prevention Act of 1974, that have a proven track record of providing services to children ages 5 to 18 shall be eligible to apply for funds under this subtitle. A priority shall be given to service providers that have a history of providing services uniquely designed to meet the needs of young children such as the Boys and Girls Clubs of America or service providers that display the potential for providing such targeted services.

SEC. 31204. ELIGIBLE PARTICIPANTS.

Children that have the potential, because of community composition and other factors, to come into contact with gangs, or who have a family member that has come into contact with a gang, and are not more than 18 years old at the time of entry into the program, shall be eligible to receive services provided by programs receiving assistance under this subtitle.

SEC. 31205. APPLICATIONS PROCESS.

Eligible service providers may submit to the Attorney General, for approval, an application in such form at such time as the Attorney General deems appropriate.

SEC. 31206. EVALUATION.

The Attorney General shall conduct an evaluation of the effectiveness of the program model grants authorized under this subtitle, and the extent to which it can be replicated by other local communities. The Attorney General shall report to the Congress no later than January 1, 1999, on the details of such evaluations.

SEC. 31207. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $3,000,000 for fiscal year 1996;
(2) $3,000,000 for fiscal year 1997;
(3) $4,000,000 for fiscal year 1998;
(4) $5,000,000 for fiscal year 1999; and
(5) $5,000,000 for fiscal year 2000.

Subtitle M—Olympic Youth Development Centers

SEC. 31301. OLYMPIC YOUTH DEVELOPMENT CENTERS.

(a) DEFINITIONS.—In this section—

"child" means an individual who is not younger than 8 and not older than 18.

"Committee" means the United States Olympic Committee.

"Council" means the Ounce of Prevention Council.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) GRANT.—The Council may make a grant to United States Olympic Committee for the purpose of establishing Olympic Youth Development Centers and carrying out programs through such centers.

(c) PROGRAM REQUIREMENTS.—

(1) LOCATION.—The Committee, on receiving a grant under this section to establish such a center shall ensure that the center is established in an appropriate facility in a State, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(A) in a location that is easily accessible to children in the community; and

(B) in compliance with all applicable local ordinances.

(2) CENTERS.—The Committee shall, subject to the availability of appropriations, not later than 1 year after the date of enactment of this Act, establish not fewer than 6 such centers, and shall, subject to the availability of appropriations, to the extent possible, establish not less than 1 such center in each State by fiscal year 1997. In selecting locations for such centers, the Committee shall consider the need to maintain geographic diversity, and to maintain a balance of urban and rural locations for such centers.

(3) USE OF FUNDS.—The Committee—

(A) may use funds made available through the grant to provide supervised sports and recreation programs that are offered—

(i) after school and on weekends and holidays, during the school year; and

(ii) as daily (or weeklong) full-day programs (to the extent available resources permit) or as part-day programs, during the summer months;

(B) may use—

(i) such funds for the minor renovation of facilities that are in existence prior to the operation of the program and necessary for the operation of the program for which the Committee receives the grant, purchase of sporting and recreational equipment and supplies, reasonable cost for transportation of participants in the program, hiring of staff, provision of meals for such participants, provision of health services consisting of an initial basic physical examination, and provision of first aid and nutrition guidance; and

(ii) not more than 5 percent of such funds to pay for the administrative costs of the program; and

(C) may not use such funds to provide sectarian worship or sectarian instruction.

(4) EXECUTIVE DIRECTOR.—The Committee shall appoint an Executive Director to coordinate the centers and programs described in subsection (b), and shall appoint a Director for each such center to carry out such programs at the center.

(d) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, the Committee shall submit an application to the Council at such time, in such manner, and accompanied by such information, as the Council may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—The application submitted pursuant to paragraph (1) shall—

(A) contain an assurance that the program to be carried out through the center for which the grant is sought will maintain an average attendance rate of not less than 75 percent of the participants enrolled in the program, or will enroll additional participants in the program;

(B) contain an assurance that the Committee will comply with any evaluation under subsection (i), any research effort authorized under Federal law, and any investigation by the Administrator;

(C) contain an assurance that the Committee shall prepare and submit to the Administrator an annual report regarding any program conducted under this section;

(D) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are provided solely through non-Federal private or nonprofit sources;

(E) contain an assurance that the Committee will maintain separate accounting records for the program; and

(F) contain an assurance that the program will include outreach efforts in order to encourage participation in the program.

(e) ELIGIBILITY OF PARTICIPANTS.—

(1) IN GENERAL.—The Committee shall select children to participate in programs that receive assistance under this section without regard to the athletic ability of the children. In selecting children to participate in programs that receive assistance under this section, the Committee shall give priority to children from low-income communities and high-crime areas with demonstrated gang activity as determined by the Council.

(2) PARENTAL APPROVAL.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application and agree to the terms and conditions of participation in the program.

(3) NONDISCRIMINATION.—In selecting children to participate in a program that receives assistance under this section, the Committee shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(4) BEHAVIOR PROBLEMS.—The Committee may find a child ineligible to participate in such a program if the Committee determines that the child has behavior problems that pose an unacceptable risk of injury or illness to other participants or has a physical or mental disability so serious that the child would be unable to participate in the program with reasonable accommodation.

(f) INVESTIGATIONS AND INSPECTIONS.—The Council may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(g) FEDERAL SHARE.—

(1) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(A) PAYMENTS.—On approval of an application under subsection (d), the Council shall, subject to the availability of appropriations pay to the Committee the Federal share of the costs of establishing the centers and carrying out the programs described in subsection (b).

(B) FEDERAL SHARE.—The Federal share of such costs shall be not more than—

(i) 75 percent for fiscal years 1995 and 1996;
(ii) 70 percent for fiscal year 1997; and
(iii) 60 percent for fiscal year 1998.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in subsection (d)(2)(D)).

(B) SPECIAL RULE.—The Committee may not charge fees for the participation of children in programs carried out under this section.

(h) REPORTS.—At the end of each fiscal year, the Council shall submit to Congress a report on the activities conducted under this section, including a summary of the information in the report submitted under subsection (d)(2)(C).

(i) EVALUATION.—The Council shall conduct a thorough evaluation of the programs assisted under this section, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $7,000,000 for fiscal year 1996;
(B) $8,000,000 for fiscal year 1997;
(C) $10,000,000 for fiscal year 1998;
(D) $11,000,000 for fiscal year 1999; and
(E) $13,000,000 for fiscal year 2000.

(2) AVAILABILITY.—Amounts appropriated to carry out this section shall remain available until expended.

Subtitle N—Anticrime Youth Councils

SEC. 31401. PURPOSE.

The purpose of this subtitle is to provide for the establishment of youth anticrime councils to give intermediate and secondary school students a structured forum through which to work with community organizations, law enforcement officials, government and media representatives, and school administrators and faculty to address issues regarding youth and violence. The purpose of such councils is to empower local youth and ensure that their recommendations for preventing youth involvement in crime and violence will be heard and possibly incorporated into community anticrime strategies.

SEC. 31402. AUTHORITY TO MAKE GRANTS.

(a) IN GENERAL.—The Attorney General may make grants to public and nonprofit community-based organizations to establish regional anticrime youth councils each of which is composed of intermediate and secondary school students who represent all the schools in a separate congressional district.

(b) CONSULTATION.—The Attorney General may consult with the Ounce of Prevention Council in making grants under subsection (a).

SEC. 31403. APPLICATIONS FOR GRANTS.

To request a grant under section 31402, a public and nonprofit community-based organization shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require by rule, including assurances that—

(1) the anticrime youth council with respect to which such grant is requested will be—

(A) selected by a teacher or administrator of an intermediate or secondary school in the congressional district involved, in consultation with teachers and administrators of other intermediate and secondary schools in such district,

(B) composed of not more than 5 students from each of the intermediate and secondary schools in such district, selected as described in subparagraph (A) from among individuals who have first-hand knowledge of issues and problems relating to students who attend schools in such district,

(C) supervised by an individual who—

(i) is familiar with issues regarding youth violence,

(ii) has strong ties to the communities in such district and to the organizations with which such council will interact, and

(iii) will be responsible for coordinating the dissemination of information to such council, supervising council meetings, and acting as a liaison between such council and communities in such district, and

(D) meet not less frequently than monthly—

(i) to discuss issues of concern, including youth crime, school violence, job creation, and recreation, and

VOL 140 PT 15 AG 10 — 11 1994 UMI

(ii) to develop creative solutions for assisting community organizations, law enforcement officials, school officials, government officials, and others to address such issues, and

(2) the applicant will submit to the Attorney General a report, not later than 180 days after the first year for which such applicant receives a grant under section 31402, that—

(A) specifies the number of students and schools involved and represented on such council,

(B) specifies the number of organizations and individuals that council and its subcommittees met with,

(C) specifies the number of grants, policies, and programs submitted to the youth council for review and recommendation,

(D) contains evidence that—

(i) the community has consulted such council and adopted its recommendations, and

(ii) a grant review process has been established within a school system or police department that includes an evaluation by the youth council,

(E) describes the effect that participation on such council has had on the student representatives, (such as improved school attendance and academic performance, and decreased criminal involvement),

(F) describes the effect that participation on such council has had on the participating schools (such as decrease in incidence of school violence),

(G) describes the extent to which other students attended council and subcommittee meetings, and participated as members of the audience in such council's activities,

(H) describes the extent to which family service, youth service, and the education, police, health, and judicial departments within such district coordinate anticrime efforts as a result of the recommendations and programs of such council, and

(I) describes the extent to which such council raises public awareness and knowledge, via the media, about youth violence and such council's efforts to help prevent it.

SEC. 31404. SELECTION OF GRANT RECIPIENTS.

For the purpose of selecting eligible applicants to receive grants under section 31402, the Attorney General shall take into consideration—

(1) the extent to which all schools in a congressional district are represented on the proposed youth anticrime council,

(2) the extent to which youth crime and violence are an issue of concern in such district,

(3) the extent to which the community is committed to coordinating and meeting with the youth councils, and

(4) the extent to which the students selected to serve on such council are representative of the geographical area and knowledgeable about the issues that such council will consider.

SEC. 31405. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $500,000 for fiscal year 1996;
(2) $800,000 for fiscal year 1997;
(3) $1,000,000 for fiscal year 1998;
(4) $1,300,000 for fiscal year 1999; and
(5) $1,400,000 for fiscal year 2000.

Subtitle O—Urban Recreation and At-Risk Youth

SEC. 31501. PURPOSE OF ASSISTANCE.

Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end: "It is further the purpose of this title to improve recreation facilities and expand recreation services in urban areas with a high incidence of crime and to help deter crime through the expansion of recreation opportunities for at-risk youth. It is the further purpose of this section to increase the security of urban parks and to promote collaboration between local agencies involved in parks and recreation, law enforcement, youth social services, and juvenile justice system.".

SEC. 31502. DEFINITIONS.

Section 1004 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting the following new subsection after subsection (c) and by redesignating subsections (d) through (j) as (e) through (k), respectively:

"(d) 'at-risk youth recreation grants' means—
"(1) rehabilitation grants,
"(2) innovation grants, or
"(3) matching grants for continuing program support for programs of demonstrated value or success in providing constructive alternatives to youth at risk for engaging in criminal behavior, including grants for operating, or coordinating recreation programs and services;
in neighborhoods and communities with a high prevalence of crime, particularly violent crime or crime committed by youthful offenders; in addition to the purposes specified in subsection (b), rehabilitation grants referred to in paragraph (1) of this subsection may be used for the provision of lighting, emergency phones or other capital improvements which will improve the security of urban parks;".

SEC. 31503. CRITERIA FOR SELECTION.

Section 1005 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and" and by adding the following at the end:

"(8) in the case of at-risk youth recreation grants, the Secretary shall give a priority to each of the following criteria:

"(A) Programs which are targeted to youth who are at the greatest risk of becoming involved in violence and crime.

"(B) Programs which teach important values and life skills, including teamwork, respect, leadership, and self-esteem.

"(C) Programs which offer tutoring, remedial education, mentoring, and counseling in addition to recreation opportunities.

"(D) Programs which offer services during late night or other nonschool hours.

"(E) Programs which demonstrate collaboration between local park and recreation, juvenile justice, law enforcement, and youth social service agencies and nongovernmental entities, including the private sector and community and nonprofit organizations.

"(F) Programs which leverage public or private recreation investments in the form of services, materials, or cash.

"(G) Programs which show the greatest potential of being continued with non-Federal funds or which can serve as models for other communities.".

SEC. 31504. PARK AND RECREATION ACTION RECOVERY PROGRAMS.

Section 1007(b) of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end: "In order to be eligible to receive 'at-risk youth recreation grants' a local government shall amend its 5-year action program to incorporate the goal of reducing crime and juvenile delinquency and to provide a description of the implementation strategies to achieve this goal. The plan shall also address how the local government is coordinating its recreation programs with crime prevention efforts of law enforcement, juvenile corrections, and youth social service agencies.".

SEC. 31505. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) PROGRAM SUPPORT.—Section 1013 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting "(a) IN GENERAL.—" after "1013" and by adding the following new subsection at the end:

"(b) PROGRAM SUPPORT.—Not more than 25 percent of the amounts made available under this title to any local government may be used for program support.".

(b) EXTENSION.—Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "for a period of five years" and by striking "short-term".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle—

(2) $3,000,000 for fiscal year 1996;
(3) $500,000 for fiscal year 1997;
(4) $500,000 for fiscal year 1998;
(5) $500,000 for fiscal year 1999; and
(6) $500,000 for fiscal year 2000.

Subtitle P—Boys and Girls Clubs in Public Housing

SEC. 31601. ESTABLISHMENT.

(a) IN GENERAL.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America, a national nonprofit youth organization to establish Boys and Girls Clubs in public housing.

(b) CONSULTATION.—The Secretary of Housing and Urban Development may consult with the Ounce of Prevention Council in making grants under subsection (a).

SEC. 31602. REPORT.

By May 1 of each fiscal year for which funds for this section are provided, the Secretary of Housing and Urban Development shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives that details the progress of establishing boys and girls clubs in public housing and the effectiveness of the programs in reducing drug abuse and gang violence.

SEC. 31603. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $4,000,000 for fiscal year 1996;
(2) $5,000,000 for fiscal year 1997;
(3) $6,000,000 for fiscal year 1998;
(4) $7,000,000 for fiscal year 1999; and
(5) $8,000,000 for fiscal year 2000.

Subtitle Q—Community-Based Justice Grants for Prosecutors

SEC. 31701. GRANT AUTHORIZATION.

(a) IN GENERAL.—The Attorney General may make grants to State, Indian tribal, or local prosecutors for the purpose of supporting the creation or expansion of community-based justice programs.

(b) CONSULTATION.—The Attorney General may consult with the Ounce of Prevention Council in making grants under subsection (a).

SEC. 31702. USE OF FUNDS.

Grants made by the Attorney General under this section shall be used—

(1) to fund programs that require the cooperation and coordination of prosecutors, school officials, police, probation officers, youth and social service professionals, and community members in the effort to reduce the incidence of, and increase the successful identification and speed of prosecution of, young violent offenders;

(2) to fund programs in which prosecutors focus on the offender, not simply the specific offense, and impose individualized sanctions, designed to deter that offender from further antisocial conduct, and impose increasingly serious sanctions on a young offender who continues to commit offenses;

(3) to fund programs that coordinate criminal justice resources with educational, social service, and community resources to develop and deliver violence prevention programs, including mediation and other conflict resolution methods,

treatment, counselling, educational, and recreational programs that create alternatives to criminal activity; and

(4) in rural States (as defined in section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)), to fund cooperative efforts between State and local prosecutors, victim advocacy and assistance groups, social and community service providers, and law enforcement agencies to investigate and prosecute child abuse cases, treat youthful victims of child abuse, and work in cooperation with the community to develop education and prevention strategies directed toward the issues with which such entities are concerned.

SEC. 31703. APPLICATIONS.

(a) ELIGIBILITY.—In order to be eligible to receive a grant under this part for any fiscal year, a State, Indian tribal, or local prosecutor, in conjunction with the chief executive officer of the jurisdiction in which the program will be placed, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) REQUIREMENTS.—Each applicant shall include—

(1) a request for funds for the purposes described in section 31702;

(2) a description of the communities to be served by the grant, including the nature of the youth crime, youth violence, and child abuse problems within such communities;

(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section; and

(4) statistical information in such form and containing such information that the Attorney General may require.

(c) COMPREHENSIVE PLAN.—Each applicant shall include a comprehensive plan that shall contain—

(1) a description of the youth violence or child abuse crime problem;

(2) an action plan outlining how the applicant will achieve the purposes as described in section 31702;

(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources; and

(4) a description of how the requested grant will be used to fill gaps.

SEC. 31704. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

(a) ADMINISTRATIVE COST LIMITATION.—The Attorney General shall use not more than 5 percent of the funds available under this program for the purposes of administration and technical assistance.

(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

(1) the Attorney General determines that the funds made available to the recipient during the previous years were used in a manner required under the approved application; and

(2) the Attorney General determines that an additional grant is necessary to implement the community prosecution program described in the comprehensive plan required by section 31703.

SEC. 31705. AWARD OF GRANTS.

The Attorney General shall consider the following facts in awarding grants:

(1) Demonstrated need and evidence of the ability to provide the services described in the plan required under section 31703.

(2) The Attorney General shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

SEC. 31706. REPORTS.

(a) REPORT TO ATTORNEY GENERAL.—State and local prosecutors that receive funds under this subtitle shall submit to the Attorney General a report not later than March 1 of each year that describes progress achieved in carrying out the plan described under section 31703(c).

(b) REPORT TO CONGRESS.—The Attorney General shall submit to the Congress a report by October 1 of each year in which grants are made available under this subtitle which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants, and an evaluation of programs established under this subtitle.

SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $7,000,000 for fiscal year 1996;
(2) $10,000,000 for fiscal year 1997;
(3) $10,000,000 for fiscal year 1998;
(4) $11,000,000 for fiscal year 1999; and
(5) $12,000,000 for fiscal year 2000.

SEC. 31708. DEFINITIONS.

In this subtitle—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

"young violent offender" means individuals, ages 7 through 22, who have committed crimes of violence, weapons offenses, drug distribution, hate crimes and civil rights violations, and offenses against personal property of another.

Subtitle R—Child Safety

SEC. 31801. SHORT TITLE.

This subtitle may be cited as the "Child Safety Act".

SEC. 31802. PURPOSE.

The purpose of this subtitle is to authorize funding to enable supervised visitation centers and programs to provide the following:

(1) Supervised visitation for children whose parents are separated or divorced and the children are at risk because—

(A) there is documented sexual, physical, or emotional abuse as determined by the a court of competent jurisdiction;

(B) there is suspected or elevated risk of sexual, physical, or emotional abuse, or there have been threats of parental abduction of the child;

(C) due to domestic violence, there is an ongoing risk of harm to a parent or child;

(D) a parent is impaired because of substance abuse or mental illness;

(E) there are allegations that a child is at risk for any of the reasons stated in subparagraphs (A), (B), (C), and (D), pending an investigation of the allegations; or

(F) other circumstances, as determined by a court of competent jurisdiction, point to the existence of such a risk.

(2) Supervised visitation for children who have been removed from their parents and placed outside the home as a result of abuse or neglect or other risk of harm to them.

(3) An evaluation of visitation within the center or program, or contracted out to appropriately trained professionals, to assist in making determinations of future placement of children or access to the parents.

(4) A safe location for custodial parents to temporarily transfer custody of their children to noncustodial parents, or where a parent or child is at risk for any of the reasons stated in paragraph (1).

(5) An additional safeguard against the child witnessing abuse or a safeguard against the injury or death of a child or parent.

(6) An environment for families to have positive interaction activities, quality time, non-violent memory building experiences during visitation to help build the parent/child relationship.

(7) Parent and child education and support groups to help parents heal and learn new skills, and to help children heal from past abuse or family conflict.

(8) Documentation of visitation for use by child protective services, court-ordered evaluators, individuals or entities treating a family member, or a court of competent jurisdiction.

SEC. 31803. DEMONSTRATION GRANTS FOR SUPERVISED VISITATION CENTERS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this subtitle as the "Secretary") is authorized to award grants to and enter into contracts and cooperative agreements with new or existing public or nonprofit private entities to assist such entities in the establishment or operation of supervised visitation centers.

(b) CONSIDERATIONS.—In awarding grants, contracts and agreements under subsection (a), the Secretary shall take into account—

(1) the number of families to be served by the existing or proposed visitation center to be funded under the grant, contract, or agreement;

(2) the extent to which supervised visitation centers are needed locally;

(3) the relative need of the applicant; and

(4) the capacity of the applicant to make rapid and effective use of assistance provided under the grant, contract, or agreement.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Amounts provided under a grant, contract or cooperative agreement awarded under this section shall be used to support existing programs or establish new supervised visitation centers and for the purposes described in section 31802. In using such amounts, grantees shall target the economically disadvantaged and those individuals who could not otherwise afford such visitation services. Other individuals may be permitted to utilize the services provided by the center on a fee basis.

(2) PROHIBITION.—No visitation center funded under this title shall permit participation of any person denied visitation rights by a court of law.

SEC. 31804. DEMONSTRATION GRANT APPLICATION.

(a) IN GENERAL.—A grant, contract, or cooperative agreement may not be made or entered into under this Act unless an application for such grant, contract or cooperative agreement has been submitted to and approved by the Secretary.

(b) APPROVAL.—Grants, contracts, and cooperative agreements under this Act shall be awarded in accordance with such regulations as the Secretary may promulgate. At a minimum, to be approved by the Secretary under this section an application shall—

(1) demonstrate that the applicant has recognized expertise in the area of family violence, and a record of high-quality service to victims of family violence; and

(2) include specific procedures to minimize risk of harm to any client during services at the center or program.

SEC. 31805. EVALUATION OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Not later than 30 days after the end of each fiscal year, a recipient of a grant, contract or cooperative agreement under

VOL 140 PT 15 AG 10 — 11 1994 UMI

this Act shall prepare and submit to the Secretary a report that contains information concerning—

(1) the number of families served per year;

(2) the number of families and the number of visits per family served per year categorized by—

(A) origin of referral, if any;

(B) all reasons for use of center or program, including—

(i) child abuse or neglect;

(ii) child sexual abuse;

(iii) domestic violence;

(iv) substance abuse;

(v) mental illness;

(vi) risk of parental abduction;

(vii) interference with visitation;

(viii) foster care arrangement; and

(ix) order of protection; and

(C) length of visits in hours;

(3) the number of supervised visitation arrangements terminated because of violations of visitation terms, including violence;

(4) the number of protective temporary transfers of custody during the report year;

(5) the number of parental abduction cases in a judicial district using supervised visitation services, both as identified in criminal prosecution and custody violations;

(6) the number of safety and security problems that occur during the report year;

(7) the number of families who are turned away because the center cannot accommodate the demand for services;

(8) the process by which children or abused partners will be protected during visitations, temporary custody transfers and other activities for which the supervised visitation centers are created;

(9) the type of service provided, including—

(A) supervision of exchange only;

(B) supervision of visits occurring on site; and

(C) supervision of visits occurring off site;

(10) other services provided, such as parent and child education and support groups; and

(11) any other information determined appropriate in regulations promulgated by the Secretary.

(b) EVALUATION.—The Secretary shall designate an appropriate agency to conduct or coordinate an evaluation of the supervised visitation center or program operated under the grant, contract, or agreement. The selected agency shall make agreements with the court and the child protection social servicers division of the State to participate in the evaluation of the center or program, and shall ensure that local domestic violence agencies or State and local domestic violence coalitions are solicited and their evaluations and opinions are included in the evaluation. The entities conducting such evaluations, separately or in combination, shall submit a narrative evaluation of the center or program to the center or program, the coordinating State agency, and the Secretary.

(c) DEMONSTRATION OF NEED.—The recipient of a grant, contract or cooperative agreement under this Act shall demonstrate, during the first 3 years of the project operated under the grant, contract or agreement, the need for continued funding.

SEC. 31806. SPECIAL GRANTS TO STUDY THE EFFECT OF SUPERVISED VISITATION ON SEXUALLY ABUSED OR SEVERELY PHYSICALLY ABUSED CHILDREN.

(a) AUTHORIZATION.—The Secretary may award special grants to public or nonprofit private entities to assist such entities in designing and implementing research on supervised visitation centers or programs established under this Act to determine—

(1) the performances of the supervised visitation centers and programs receiving grants, making use of the data reported under section 31805 where possible;

(2) the effect of supervised visitation on children, including in particular—

(A) the effect on children who have been sexually abused or severely physically abused by a parent;

(B) whether the effect on such children is different if contact is allowed only when the abusive parent has completed a certified course for such abusers; or

(C) whether the effect on such children is different if contact is allowed only where the child expresses a positive wish for contact;

(3) the effect of the families' use of supervised visitation services on their use of the court system, including in particular, the number and nature of subsequent returns to court;

(4) the relationship between the type of abuse or neglect experienced by the child and the use of supervised visitation centers by the maltreating parent;

(5) in cases of spouse or partner abuse only, the extent to which supervised visitation should be predicated on participation by the abusive spouse in a specialized treatment program; and

(6) such other issues as determined by the Secretary.

(b) APPLICATION.—To be eligible to receive a grant under this section an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including documentary evidence to demonstrate that the entity possesses significant experience in social science research with particular experience in research concerning clinical issues involving children, abuse, and visitation. The level of clinical expertise and experience required will be determined by the Secretary.

(c) REPORT.—For the duration of the grant, the grantee shall prepare and submit to the Secretary a report of the research and data collected, at such times as the Secretary may require.

SEC. 31807. REPORTING.

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing the information collected under the reports received under sections 31805 and 31806, including recommendations made by the Secretary concerning whether or not the supervised visitation center demonstration and research programs should be reauthorized.

SEC. 31808. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the purpose of awarding grants, contracts, and cooperative agreements under this subtitle

(1) $4,000,000 for fiscal year 1996;

(2) $5,000,000 for fiscal year 1997;

(3) $6,000,000 for fiscal year 1998;

(4) $7,000,000 for fiscal year 1999; and

(5) $8,000,000 for fiscal year 2000.

(b) DISTRIBUTION.—Of the amounts appropriated under subsection (a) for each fiscal year—

(1) not less than 90 percent shall be used to award grants, contracts, or cooperative agreements under section 31804; and

(2) not more than 10 percent shall be used to award grants under section 31806.

Subtitle S—Family Unity Demonstration Project

SEC. 31901. SHORT TITLE.

This subtitle may be cited as the "Family Unity Demonstration Project Act".

SEC. 31902. PURPOSE.

The purpose of this subtitle is to evaluate the effectiveness of certain demonstration projects in helping to—

(1) alleviate the harm to children and primary caretaker parents caused by separation due to the incarceration of the parents;

(2) reduce recidivism rates of prisoners by encouraging strong and supportive family relationships; and

(3) explore the cost effectiveness of community correctional facilities.

SEC. 31903. DEFINITIONS.

In this subtitle—

"child" means a person who is less than 7 years of age.

"community correctional facility" means a residential facility that—

(A) is used only for eligible offenders and their children under 7 years of age;

(B) is not within the confines of a jail or prison;

(C) houses no more than 50 prisoners in addition to their children; and

(D) provides to inmates and their children—

(i) a safe, stable, environment for children;

(ii) pediatric and adult medical care consistent with medical standards for correctional facilities;

(iii) programs to improve the stability of the parent-child relationship, including educating parents regarding—

(I) child development; and

(II) household management;

(iv) alcoholism and drug addiction treatment for prisoners; and

(v) programs and support services to help inmates—

(I) to improve and maintain mental and physical health, including access to counseling;

(II) to obtain adequate housing upon release from State incarceration;

(III) to obtain suitable education, employment, or training for employment; and

(IV) to obtain suitable child care.

"eligible offender" means a primary caretaker parent who—

(A) has been sentenced to a term of imprisonment of not more than 7 years or is awaiting sentencing for a conviction punishable by such a term of imprisonment; and

(B) has not engaged in conduct that—

(i) knowingly resulted in death or serious bodily injury;

(ii) is a felony for a crime of violence against a person; or

(iii) constitutes child neglect or mental, physical, or sexual abuse of a child.

"primary caretaker parent" means—

(A) a parent who has consistently assumed responsibility for the housing, health, and safety of a child prior to incarceration; or

(B) a woman who has given birth to a child after or while awaiting her sentencing hearing and who expresses a willingness to assume responsibility for the housing, health, and safety of that child,

a parent who, in the best interest of a child, has arranged for the temporary care of the child in the home of a relative or other responsible adult shall not for that reason be excluded from the category "primary caretaker".

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 31904. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

(1) $4,000,000 for fiscal year 1996;

(2) $4,000,000 for fiscal year 1997;

(3) $4,000,000 for fiscal year 1998;

(4) $4,000,000 for fiscal year 1999; and

(5) $6,000,000 for fiscal year 2000.

(b) AVAILABILITY OF APPROPRIATIONS.—Of the amount appropriated under subsection (a) for any fiscal year—

(1) 90 percent shall be available to carry out chapter 1; and

(2) 10 percent shall be available to carry out chapter 2.

CHAPTER 1—GRANTS TO STATES

SEC. 31911. AUTHORITY TO MAKE GRANTS.

(a) GENERAL AUTHORITY.—The Attorney General may make grants, on a competitive basis, to States to carry out in accordance with this subtitle family unity demonstration projects that enable eligible offenders to live in community correctional facilities with their children.

(b) PREFERENCES.—For the purpose of making grants under subsection (a), the Attorney General shall give preference to a State that includes in the application required by section 31912 assurances that if the State receives a grant—

(1) both the State corrections agency and the State health and human services agency will participate substantially in, and cooperate closely in all aspects of, the development and operation of the family unity demonstration project for which such a grant is requested;

(2) boards made up of community members, including residents, local businesses, corrections officials, former prisoners, child development professionals, educators, and maternal and child health professionals will be established to advise the State regarding the operation of such project;

(3) the State has in effect a policy that provides for the placement of all prisoners, whenever possible, in correctional facilities for which they qualify that are located closest to their respective family homes;

(4) unless the Attorney General determines that a longer timeline is appropriate in a particular case, the State will implement the project not later than 180 days after receiving a grant under subsection (a) and will expend all of the grant during a 1-year period;

(5) the State has the capacity to continue implementing a community correctional facility beyond the funding period to ensure the continuity of the work;

(6) unless the Attorney General determines that a different process for selecting participants in a project is desirable, the State will—

(A) give written notice to a prisoner, not later than 30 days after the State first receives a grant under subsection (a) or 30 days after the prisoner is sentenced to a term of imprisonment of not more than 7 years (whichever is later), of the proposed or current operation of the project;

(B) accept at any time at which the project is in operation an application by a prisoner to participate in the project if, at the time of application, the remainder of the prisoner's sentence exceeds 180 days;

(C) review applications by prisoners in the sequence in which the State receives such applications; and

(D) not more than 50 days after reviewing such applications approve or disapprove the application; and

(7) for the purposes of selecting eligible offenders to participate in such project, the State has authorized State courts to sentence an eligible offender directly to a community correctional facility, provided that the court gives assurances that the offender would have otherwise served a term of imprisonment.

(c) SELECTION OF GRANTEES.—The Attorney General shall make grants under subsection (a) on a competitive basis, based on such criteria as the Attorney General shall issue by rule and taking into account the preferences described in subsection (b).

SEC. 31912. ELIGIBILITY TO RECEIVE GRANTS.

To be eligible to receive a grant under section 31911, a State shall submit to the Attorney General an application at such time, in such form, and containing such information as the Attorney General reasonably may require by rule.

SEC. 31913. REPORT.

(a) IN GENERAL.—A State that receives a grant under this title shall, not later than 90 days after the 1-year period in which the grant is required to be expended, submit a report to the Attorney General regarding the family unity demonstration project for which the grant was expended.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of prisoners who submitted applications to participate in the project and the number of prisoners who were placed in community correctional facilities;

(2) state, with respect to prisoners placed in the project, the number of prisoners who are returned to that jurisdiction and custody and the reasons for such return;

(3) describe the nature and scope of educational and training activities provided to prisoners participating in the project;

(4) state the number, and describe the scope of, contracts made with public and nonprofit private community-based organizations to carry out such project; and

(5) evaluate the effectiveness of the project in accomplishing the purposes described in section 31902.

CHAPTER 2—FAMILY UNITY DEMONSTRATION PROJECT FOR FEDERAL PRISONERS

SEC. 31921. AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—With the funds available to carry out this subtitle for the benefit of Federal prisoners, the Attorney General, acting through the Director of the Bureau of Prisons, shall select eligible prisoners to live in community correctional facilities with their children.

(b) GENERAL CONTRACTING AUTHORITY.—In implementing this title, the Attorney General may enter into contracts with appropriate public or private agencies to provide housing, sustenance, services, and supervision of inmates eligible for placement in community correctional facilities under this title.

(c) USE OF STATE FACILITIES.—At the discretion of the Attorney General, Federal participants may be placed in State projects as defined in chapter 1. For such participants, the Attorney General shall, with funds available under section 31904(b)(2), reimburse the State for all project costs related to the Federal participant's placement, including administrative costs.

SEC. 31922. REQUIREMENTS.

For the purpose of placing Federal participants in a family unity demonstration project under section 31921, the Attorney General shall consult with the Secretary of Health and Human Services regarding the development and operation of the project.

Subtitle T—Substance Abuse Treatment in Federal Prisons

SEC. 32001. SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS.

Section 3621 of title 18, United States Code, is amended—

(1) in the last sentence of subsection (b), by striking ", to the extent practicable,"; and

(2) by adding at the end the following new subsection:

"(e) SUBSTANCE ABUSE TREATMENT.—

"(1) PHASE-IN.—In order to carry out the requirement of the last sentence of subsection (b) of this section, that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, the Bureau of Prisons shall, subject to the availability of appropriations, provide residential substance abuse treatment (and make arrangements for appropriate aftercare)—

"(A) for not less than 50 percent of eligible prisoners by the end of fiscal year 1995, with priority for such treatment accorded based on an eligible prisoner's proximity to release date;

"(B) for not less than 75 percent of eligible prisoners by the end of fiscal year 1996, with priority for such treatment accorded based on an eligible prisoner's proximity to release date; and

"(C) for all eligible prisoners by the end of fiscal year 1997 and thereafter, with priority for such treatment accorded based on an eligible prisoner's proximity to release date.

"(2) INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM.—

"(A) GENERALLY.—Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has successfully completed a program of residential substance abuse treatment provided under paragraph (1) of this subsection, shall remain in the custody of the Bureau under such conditions as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for substance abuse and discontinue such conditions on determining that substance abuse has recurred.

"(B) PERIOD OF CUSTODY.—The period a prisoner convicted of a nonviolent offense remains in custody after successfully completing a treatment program may be reduced by the Bureau of Prisons, but such reduction may not be more than one year from the term the prisoner must otherwise serve.

"(3) REPORT.—The Bureau of Prisons shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives on January 1, 1995, and on January 1 of each year thereafter, a report. Such report shall contain—

"(A) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau;

"(B) a full explanation of how eligibility for such programs is determined, with complete information on what proportion of prisoners with substance abuse problems are eligible; and

"(C) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this title.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

"(A) $15,000,000 for fiscal year 1996;

"(B) $21,000,000 for fiscal year 1997;

"(C) $28,000,000 for fiscal year 1998;

"(D) $30,000,000 for fiscal year 1999; and

"(E) $31,000,000 for fiscal year 2000.

"(5) DEFINITIONS.—As used in this subsection—

"(A) the term 'residential substance abuse treatment' means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set apart from the general prison population—

"(i) directed at the substance abuse problems of the prisoner; and

"(ii) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems;

"(B) the term 'eligible prisoner' means a prisoner who is—

"(i) determined by the Bureau of Prisons to have a substance abuse problem; and

"(ii) willing to participate in a residential substance abuse treatment program; and

"(C) the term 'aftercare' means placement, case management and monitoring of the participant in a community-based substance abuse treatment program when the participant leaves the custody of the Bureau of Prisons.

"(6) COORDINATION OF FEDERAL ASSISTANCE.—The Bureau of Prisons shall consult with the Department of Health and Human Services concerning substance abuse treatment and related services and the incorporation of applicable components of existing comprehensive approaches including relapse prevention and aftercare services.".

VOL 140 PT 15 AG 10 — 11 1994 UMI

Subtitle U—Residential Substance Abuse Treatment for State Prisoners

SEC. 32101. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS.

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 20201(a), is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as section 2001; and

(3) by inserting after part R the following new part:

"PART S—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

"SEC. 1901. GRANT AUTHORIZATION.

"(a) The Attorney General may make grants under this part to States, for use by States and units of local government for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities, as well as within local correctional and detention facilities in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment.

"(b) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services to ensure that projects of substance abuse treatment and related services for State prisoners incorporate applicable components of existing comprehensive approaches including release prevention and after care services.

"SEC. 1902. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency (and, if appropriate, between representatives of local correctional agencies and representatives of either the State alcohol and drug abuse agency or any appropriate local alcohol and drug abuse agency).

"(b) SUBSTANCE ABUSE TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or other proven reliable forms of testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the substance abuse treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the correctional facility treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, half-way house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the substance abuse treatment program.

"(3) To qualify as an aftercare program, the head of the substance abuse treatment program, in conjunction with State and local authorities and organizations involved in substance abuse treatment, shall assist in placement of substance abuse treatment program participants with appropriate community substance abuse treatment facilities when such individuals leave the correctional facility at the end of a sentence or on parole.

"(d) COORDINATION OF FEDERAL ASSISTANCE.—Each application submitted for a grant under this section shall include a description of how the funds made available under this section will be coordinated with Federal assistance for substance abuse treatment and aftercare services currently provided by the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration.

"(e) STATE OFFICE.—The Office designated under section 507—

"(1) shall prepare the application as required under this section; and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1903. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Attorney General shall make a grant under section 1901 to carry out the projects described in the application submitted under section 1902 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Attorney General has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1902 shall be considered approved, in whole or in part, by the Attorney General not later than 90 days after first received unless the Attorney General informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Attorney General shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1904. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1902 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1905. EVALUATION.

"Each State that receives a grant under this part shall submit to the Attorney General an evaluation not later than March 1 of each year in such form and containing such information as the Attorney General may reasonably require.".

(b) TECHNICAL AMENDMENT.—The table of contents of title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 20201(b), is amended by inserting after the matter relating to part R the following new part:

"PART S—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

"Sec. 1901. Grant authorization.
"Sec. 1902. State applications.
"Sec. 1903. Review of State applications.
"Sec. 1904. Allocation and distribution of funds.
"Sec. 1905. Evaluation.

"PART T—TRANSITION-EFFECTIVE DATE-REPEALER

"Sec. 2001. Confirmation of rules, authorities, and proceedings.".

(c) DEFINITIONS.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), (as amended by section 20201(c), is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(25) the term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 20201(d), is amended—

(1) in paragraph (3) by striking "and R" and inserting "R, or S"; and

(2) by adding at the end the following new paragraph:

"(17) There are authorized to be appropriated to carry out the projects under part S—

"(A) $30,000,000 for fiscal year 1996;
"(B) $40,000,000 for fiscal year 1997;
"(C) $70,000,000 for fiscal year 1998;
"(D) $80,000,000 for fiscal year 1999; and
"(E) $80,000,000 for fiscal year 2000.".

Subtitle V—Prevention, Diagnosis, and Treatment of Tuberculosis in Correctional Institutions

SEC. 32201. PREVENTION, DIAGNOSIS, AND TREATMENT OF TUBERCULOSIS IN CORRECTIONAL INSTITUTIONS.

(a) GUIDELINES.—The Attorney General, in consultation with the Secretary of Health and Human Services and the Director of the National Institute of Corrections, shall develop and disseminate to appropriate entities, including State, Indian tribal, and local correctional institutions and the Immigration and Naturalization Service, guidelines for the prevention, diagnosis, treatment, and followup care of tuberculosis among inmates of correctional institutions and persons held in holding facilities operated by or under contract with the Immigration and Naturalization Service.

(b) COMPLIANCE.—The Attorney General shall ensure that prisons in the Federal prison system and holding facilities operated by or under contract with the Immigration and Naturalization Service comply with the guidelines described in subsection (a).

(c) GRANTS.—

(1) IN GENERAL.—The Attorney General shall make grants to State, Indian tribal, and local correction authorities and public health authorities to assist in establishing and operating programs for the prevention, diagnosis, treatment, and followup care of tuberculosis among inmates of correctional institutions.

(2) FEDERAL SHARE.—The Federal share of funding of a program funded with a grant under paragraph (1) shall not exceed 50 percent.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(A) $700,000 for fiscal year 1996;
(B) $1,000,000 for fiscal year 1997;
(C) $1,000,000 for fiseal year 1998;
(D) $1,100,000 for fiscal year 1999; and
(E) $1,200,000 for fiscal year 2000.

(d) DEFINITIONS.—In this section—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

Subtitle W—Hope in Youth Program

SEC. 32301. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this subtitle as the "Secretary") may make grants to eligible service providers in one or more political subdivisions of a State containing an area designated as an empowerment zone or enterprise community, as authorized under the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), that have submitted an approved plan to establish advisory organizations in low-income communities within the political subdivision containing an empowerment zone which will serve as umbrella agencies for strategic planning and evaluation of service programs serving the low-income communities in which the advisory organization operates.

(b) COORDINATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Secretary may coordinate with the Ounce of Prevention Council in making grants under subsection (a).

SEC. 32302. PROGRAM REQUIREMENTS.

Each advisory organization established as described in section 32301 shall—

(1) provide a permanent multi-issue forum for public policy discussion which will serve as part of a stable infrastructure of community outreach and support,

(2) develop a mechanism by which local support service providers may be evaluated and assessed in the level of service they provide to the community, and which establishes a method for advisory organization participants to review and participate in efforts to maintain or increase the quality of services provided by such providers,

(3) create a Family Outreach Team approach which provides a youth worker, a parent worker, and a school-parent organizer to provide training in outreach, mentoring, community organizing and peer counseling and mentoring to locally recruited volunteers in a particular area. The Family Outreach Team assists such volunteers in outreach, development and coordination of service delivery from among the service providers in the area, including the schools,

(4) establish processes by which local public agencies can effectively involve the private sector in the provision of services that meet the needs of local communities,

(5) establish processes of coalition building in which diverse groups within low-income communities attempt to work cooperatively to meet the collective needs of low-income communities, and

(6) create a training program to f ster community-based leadership in low-income communities.

SEC. 32303. ELIGIBLE PROVIDERS.

Consortia of public and private nonprofit local social service organizations that have a proven ability to involve disparate populations of low-income citizens and competing service providers are eligible to receive grants under section 32301.

SEC. 32304. APPLICATIONS.

Applications may be submitted, for approval by the Secretary, by eligible service providers at such time and in such manner as the Secretary may reasonably require. Such applications shall contain—

(1) assurances that selection of participants, organizations, and citizens will not be on the basis of religious preference or affiliation,

(2) assurances that participating organizations and citizens will not offer services based on any religious preference or affiliation, and

(3) assurances that such service providers will, to the extent practicable, involve participation by citizens not traditionally involved in such activities, including homeless individuals, alcohol- and drug-addicted individuals, and gang involved or violent youth.

SEC. 32305. EVALUATION.

The Secretary shall commence a program to evaluate the success and effectiveness of this program 2 years after the program has received an appropriation, and such evaluation shall be completed no later than 1 year after the second program year has been completed. A report thereon shall be submitted to the Congress within 60 days of the completion of the evaluation.

SEC. 32306. DEFINITION.

As used in this subtitle, the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 32307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $3,000,000 for fiscal year 1996;
(2) $3,500,000 for fiscal year 1997;
(3) $4,000,000 for fiscal year 1998;
(4) $4,500,000 for fiscal year 1999;
(5) $5,000,000 for fiscal year 2000;

Subtitle X—Gang Resistance Education and Training

SEC. 32401. GANG RESISTANCE EDUCATION AND TRAINING PROJECTS.

(a) ESTABLISHMENT OF PROJECTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall establish not less than 50 Gang Resistance Education and Training (GREAT) projects, to be located in communities across the country, in addition to the number of projects currently funded.

(2) SELECTION OF COMMUNITIES.—Communities identified for such GREAT projects shall be selected by the Secretary of the Treasury on the basis of gang-related activity in that particular community.

(3) AMOUNT OF ASSISTANCE PER PROJECT; ALLOCATION.—The Secretary of the Treasury shall make available not less than $800,000 per project, subject to the availability of appropriations, and such funds shall be allocated—

(A) 50 percent to the affected State and local law enforcement and prevention organizations participating in such projects; and

(B) 50 percent to the Bureau of Alcohol, Tobacco and Firearms for salaries, expenses, and associated administrative costs for operating and overseeing such projects.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 1995;
(2) $8,000,000 for fiscal year 1996;
(3) $8,000,000 for fiscal year 1997;
(4) $8,000,000 for fiscal year 1998;
(5) $8,000,000 for fiscal year 1999; and
(6) $8,000,000 for fiscal year 2000.

TITLE IV—VIOLENCE AGAINST WOMEN

SEC. 40001. SHORT TITLE.

This title may be cited as the "Violence Against Women Act of 1994".

Subtitle A—Safe Streets for Women

SEC. 40101. SHORT TITLE.

This subtitle may be cited as the "Safe Streets for Women Act of 1994".

CHAPTER 1—FEDERAL PENALTIES FOR SEX CRIMES

SEC. 40111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) AMENDMENT OF SENTENCING GUIDELINES.—The Sentencing Commission shall implement the amendment made by subsection (a) by promulgating amendments, if appropriate, in the sentencing guidelines applicable to chapter 109A offenses.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2247. Repeat offenders.".

SEC. 40112. FEDERAL PENALTIES.

(a) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend, where necessary, its sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, as follows:

(1) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to enhance penalties if more than 1 offender is involved in the offense.

(2) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to reduce unwarranted disparities between the sentences for sex offenders who are known to the victim and sentences for sex offenders who are not known to the victim.

(3) The Commission shall review and promulgate amendments to the guidelines to enhance penalties, if appropriate, to render Federal penalties on Federal territory commensurate with penalties for similar offenses in the States.

(4) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to account for the general problem of recidivism in cases of sex offenses, the severity of the offense, and its devastating effects on survivors.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission shall review and submit to Congress a report containing an analysis of Federal rape sentencing, accompanied by comment from independent experts in the field, describing—

(1) comparative Federal sentences for cases in which the rape victim is known to the defendant and cases in which the rape victim is not known to the defendant;

(2) comparative Federal sentences for cases on Federal territory and sentences in surrounding States; and

VOL 140 PT 15 AG 10 — 11 1994 UMI

(3) an analysis of the effect of rape sentences on populations residing primarily on Federal territory relative to the impact of other Federal offenses in which the existence of Federal jurisdiction depends upon the offense's being committed on Federal territory.

SEC. 40113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—

(1) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—

(1) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution may also be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, as well as other costs incurred; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2259. Mandatory restitution.".

SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There are authorized to be appropriated for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia)—

(1) $500,000 for fiscal year 1996;

(2) $500,000 for fiscal year 1997; and

(3) $500,000 for fiscal year 1998.

CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN

SEC. 40121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 32101(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

"PART T—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 2001. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women, and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities; providing specialized domestic violence

VOL 140 PT 15 AG 10 — 11 1994 UMI

court advocates in courts where a significant number of protection orders are granted, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence,

"(6) developing, enlarging, or strengthening programs addressing stalking; and

"(7) developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence.

"SEC. 2002. STATE GRANTS.

"(a) GENERAL GRANTS.—The Attorney General may make grants to States, for use by States, units of local government, nonprofit nongovernmental victim services programs, and Indian tribal governments for the purposes described in section 2001(b).

"(b) AMOUNTS.—Of the amounts appropriated for the purposes of this part—

"(1) 4 percent shall be available for grants to Indian tribal governments;

"(2) $500,000 shall be available for grants to applicants in each State; and

"(3) the remaining funds shall be available for grants to applicants in each State in an amount that bears the same ratio to the amount of remaining funds as the population of the State bears to the population of all of the States that results from a distribution among the States on the basis of each State's population in relation to the population of all States (not including populations of Indian tribes).

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used for any of the purposes described in section 2001(b);

"(2) grantees and subgrantees shall develop a plan for implementation and shall consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following 3 areas: prosecution, law enforcement, and victim services; and

"(4) any Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 shall apply to grants made under this part. In addition, each application shall include the certifications of qualification required by subsection (c), including documentation from nonprofit, nongovernmental victim services programs, describing their participation in developing the plan required by subsection (c)(2). An application shall include—

"(1) documentation from the prosecution, law enforcement, and victim services programs to be assisted, demonstrating—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background;

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 2005; and

"(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases provided in section 2006.

"(e) DISBURSEMENT.—

"(1) IN GENERAL.—Not later than 60 days after the receipt of an application under this part, the Attorney General shall—

"(A) disburse the appropriate sums provided for under this part; or

"(B) inform the applicant why the application does not conform to the terms of section 513 or to the requirements of this section.

"(2) REGULATIONS.—In disbursing monies under this part, the Attorney General shall issue regulations to ensure that States will—

"(A) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas;

"(B) determine the amount of subgrants based on the population and geographic area to be served;

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas of various geographic sizes; and

"(D) recognize and address the needs of underserved populations.

"(f) FEDERAL SHARE.—The Federal share of a grant made under this subtitle may not exceed 75 percent of the total costs of the projects described in the application submitted.

"(g) INDIAN TRIBES.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this part.

"(h) GRANTEE REPORTING.—

"(1) IN GENERAL.—Upon completion of the grant period under this part, a State or Indian tribal grantee shall file a performance report with the Attorney General explaining the activities carried out, which report shall include an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) CERTIFICATION BY GRANTEE AND SUBGRANTEES.—A section of the performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant.

"(3) SUSPENSION OF FUNDING.—The Attorney General shall suspend funding for an approved application if—

"(A) an applicant fails to submit an annual performance report;

"(B) funds are expended for purposes other than those described in this part; or

"(C) a report under paragraph (1) or accompanying assessments demonstrate to the Attorney General that the program is ineffective or financially unsound.

"SEC. 2003. DEFINITIONS.

"In this part—

"(1) the term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies;

"(2) the term 'Indian country' has the meaning stated in section 1151 of title 18, United States Code;

"(3) the term 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(4) the term 'law enforcement' means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

"(5) the term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim services programs);

"(6) the term 'sexual assault' means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim;

"(7) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities; and

"(8) the term 'victim services' means a nonprofit, nongovernmental organization that assists domestic violence or sexual assault victims, including rape crisis centers, battered women's shelters, and other sexual assault or domestic violence programs, including nonprofit, nongovernmental organizations assisting domestic violence or sexual assault victims through the legal process.

"SEC. 2004. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under this part, the Attorney General may request any Federal agency to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State, tribal, and local assistance efforts.

"(b) REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that includes, for each State and for each grantee Indian tribe—

"(1) the number of grants made and funds distributed under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

"(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

"(4) an evaluation of the effectiveness of programs funded under this part.

"(c) REGULATIONS OR GUIDELINES.—Not later than 120 days after the date of enactment of this part, the Attorney General shall publish proposed regulations or guidelines implementing this part. Not later than 180 days after the date of enactment, the Attorney General shall publish final regulations or guidelines implementing this part.

"SEC. 2005. RAPE EXAM PAYMENTS.

"(a) RESTRICTION OF FUNDS.—

"(1) IN GENERAL.—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this part unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the full out-of-pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault.

"(2) REDISTRIBUTION.—Funds withheld from a State or unit of local government under paragraph (1) shall be distributed to other States or units of local government pro rata. Funds withheld from an Indian tribal government under paragraph (1) shall be distributed to other Indian tribal governments pro rata.

"(b) MEDICAL COSTS.—A State, Indian tribal government, or unit of local government shall be deemed to incur the full out of pocket cost of forensic medical exams for victims of sexual assault if any government entity—

"(1) provides such exams to victims free of charge to the victim;

"(2) arranges for victims to obtain such exams free of charge to the victims; or

"(3) reimburses victims for the cost of such exams if—

"(A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

"(B) the reimbursing governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;

"(C) the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim's expense; and

"(D) the State, Indian tribal government, unit of local government, or reimbursing governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.

"SEC. 2006. FILING COSTS FOR CRIMINAL CHARGES.

"(a) IN GENERAL.—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this part unless the State, Indian tribal government, or unit of local government—

"(1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, or witness subpoena; or

"(2) gives the Attorney General assurances that its laws, policies and practices will be in compliance with the requirements of paragraph (1) within the later of—

"(A) the period ending on the date on which the next session of the State legislature ends; or

"(B) 2 years.

"(b) REDISTRIBUTION.—Funds withheld from a State, unit of local government, or Indian tribal government under subsection (a) shall be distributed to other States, units of local government, and Indian tribal government, respectively, pro rata.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 32101(b), is amended by striking the matter relating to part T and inserting the following:

"PART T—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 2001. Purpose of the program and grants.
"Sec. 2002. State grants.
"Sec. 2003. General definitions.
"Sec. 2004. General terms and conditions.
"Sec. 2005. Rape exam payments.
"Sec. 2006. Filing costs for criminal charges.

"PART U—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 32101(d), is amended—

(1) in paragraph (3) by striking "and S" and inserting "S, and T"; and

(2) by adding at the end the following new paragraph:

"(18) There are authorized to be appropriated to carry out part T—

"(A) $85,000,000 for fiscal year 1995;
"(B) $150,000,000 for fiscal year 1996;
"(C) $175,000,000 for fiscal year 1997;
"(D) $190,000,000 for fiscal year 1998;
"(E) $195,000,000 for fiscal year 1999; and
"(F) $205,000,000 for fiscal year 2000.".

CHAPTER 3—SAFETY FOR WOMEN IN PUBLIC TRANSIT AND PUBLIC PARKS

SEC. 40131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

(a) GENERAL PURPOSE.—There is authorized to be appropriated out of the general fund of the Treasury not to exceed $10,000,000, for the Secretary of Transportation (referred to in this section as the "Secretary") to make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1)(A) and (B).

(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be compiled on the basis of the type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of law, the Federal share under this section for each capital improvement project that enhances the safety and security of public transportation systems and that is not required by law (including any other provision of this Act) shall be 90 percent of the net project cost of the project.

(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to the same terms, conditions, requirements, and provisions applicable to grants and loans as specified in section 5321 of title 49, United States Code.

SEC. 40132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91-383 (16 U.S.C. 1a-1 et seq.) is amended by adding at the end the following new section:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) AVAILABILITY OF FUNDS.—From sums appropriated out of the general fund of the Treasury, not to exceed $10,000,000, the Secretary of the Interior shall take all necessary actions to seek to reduce the incidence of violent crime in the National Park System.

"(b) RECOMMENDATIONS FOR IMPROVEMENT.—The Secretary shall direct the chief official responsible for law enforcement within the National Park Service to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) DISTRIBUTION OF FUNDS.—Based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute the funds authorized by subsection (a) throughout the National Park System. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) USE OF FUNDS.—Funds provided under this section may be used—

"(1) to increase lighting within or adjacent to National Park System units;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to National Park System units;

"(3) to increase security or law enforcement personnel within or adjacent to National Park System units; or

"(4) for any other project intended to increase the security and safety of National Park System units.".

SEC. 40133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-8) is amended by adding at the end the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—

"(1) AVAILABILITY OF FUNDS.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated out of the general fund of the Treasury, the Secretary may provide financial assistance to the States, not to exceed $15,000,000, for projects or combinations thereof for the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(D) fund any other project intended to increase the security and safety of public parks and recreation areas.

"(2) ELIGIBILITY.—In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection shall be dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) FEDERAL SHARE.—Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes described in this subsection, and the remaining share of the cost shall be borne by the State.".

CHAPTER 4—NEW EVIDENTIARY RULES

SEC. 40141. SEXUAL HISTORY IN CRIMINAL AND CIVIL CASES.

(a) MODIFICATION OF PROPOSED AMENDMENT.—The proposed amendments to the Federal Rules of Evidence that are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the amendment made by subsection (b).

(b) RULE.—Rule 412 of the Federal Rules of Evidence is amended to read as follows:

"Rule 412. Sex Offense Cases; Relevance of Alleged Victim's Past Sexual Behavior or Alleged Sexual Predisposition

"(a) EVIDENCE GENERALLY INADMISSIBLE.—The following evidence is not admissible in any civil or criminal proceeding involving alleged sexual misconduct except as provided in subdivisions (b) and (c):

"(1) Evidence offered to prove that any alleged victim engaged in other sexual behavior.

"(2) Evidence offered to prove any alleged victim's sexual predisposition.

"(b) EXCEPTIONS.—

"(1) In a criminal case, the following evidence is admissible, if otherwise admissible under these rules:

"(A) evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of semen, injury or other physical evidence;

"(B) evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and

"(C) evidence the exclusion of which would violate the constitutional rights of the defendant.

"(2) In a civil case, evidence offered to prove the sexual behavior or sexual predisposition of any alleged victim is admissible if it is otherwise admissible under these rules and its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. Evidence of an alleged victim's reputation is admissible only if it has been placed in controversy by the alleged victim.

"(c) PROCEDURE TO DETERMINE ADMISSIBILITY.—

"(1) A party intending to offer evidence under subdivision (b) must—

"(A) file a written motion at least 14 days before trial specifically describing the evidence and stating the purpose for which it is offered unless the court, for good cause requires a different time for filing or permits filing during trial; and

"(B) serve the motion on all parties and notify the alleged victim or, when appropriate, the alleged victim's guardian or representative.

"(2) Before admitting evidence under this rule the court must conduct a hearing in camera and afford the victim and parties a right to attend and be heard. The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise.".

(c) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by amending the item relating to rule 412 to read as follows:

"412. Sex Offense Cases; Relevance of Alleged Victim's Past Sexual Behavior or Alleged Sexual Predisposition:
"(a) Evidence generally inadmissible.
"(b) Exceptions.
"(c) Procedure to determine admissibility.".

CHAPTER 5—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

SEC. 40151. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Human Services Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new section:

"SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

"(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities for—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

"(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $35,000,000 for fiscal year 1996;
"(2) $40,000,000 for fiscal year 1997;
"(3) $45,000,000 for fiscal year 1998;
"(4) $50,000,000 for fiscal year 1999; and
"(5) $50,000,000 for fiscal year 2000.

"(d) LIMITATION.—Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) DEFINITION.—For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) TERMS.—The Secretary shall make allotments to each State on the basis of the population of the State, and subject to the conditions provided in this section and sections 1904 through 1909.".

SEC. 40152. TRAINING PROGRAMS.

(a) IN GENERAL.—The Attorney General, after consultation with victim advocates and individuals who have expertise in treating sex offenders, shall establish criteria and develop training programs to assist probation and parole officers and other personnel who work with released sex offenders in the areas of—

(1) case management;
(2) supervision; and
(3) relapse prevention.

(b) TRAINING PROGRAMS.—The Attorney General shall ensure, to the extent practicable, that training programs developed under subsection (a) are available in geographically diverse locations throughout the country.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $1,000,000 for fiscal year 1996; and
(2) $1,000,000 for fiscal year 1997.

SEC. 40153. CONFIDENTIALITY OF COMMUNICATIONS BETWEEN SEXUAL ASSAULT OR DOMESTIC VIOLENCE VICTIMS AND THEIR COUNSELORS.

(a) STUDY AND DEVELOPMENT OF MODEL LEGISLATION.—The Attorney General shall—

(1) study and evaluate the manner in which the States have taken measures to protect the confidentiality of communications between sexual assault or domestic violence victims and their therapists or trained counselors;

(2) develop model legislation that will provide the maximum protection possible for the confidentiality of such communications, within any applicable constitutional limits, taking into account the following factors:

(A) the danger that counseling programs for victims of sexual assault and domestic violence will be unable to achieve their goal of helping victims recover from the trauma associated with these crimes if there is no assurance that the records of the counseling sessions will be kept confidential;

(B) consideration of the appropriateness of an absolute privilege for communications between victims of sexual assault or domestic violence and their therapists or trained counselors, in light of the likelihood that such an absolute privilege will provide the maximum guarantee of confidentiality but also in light of the possibility that such an absolute privilege may be held to violate the rights of criminal defendants under the Federal or State constitutions by denying them the opportunity to obtain exculpatory evidence and present it at trial; and

(C) consideration of what limitations on the disclosure of confidential communications between victims of these crimes and their counselors, short of an absolute privilege, are most likely to ensure that the counseling programs will not be undermined, and specifically whether no such disclosure should be allowed unless, at a minimum, there has been a particularized showing by a criminal defendant of a compelling need for records of such communications, and adequate procedural safeguards are in place to prevent unnecessary or damaging disclosures; and

(3) prepare and disseminate to State authorities the findings made and model legislation developed as a result of the study and evaluation.

(b) REPORT AND RECOMMENDATIONS.—Not later than the date that is 1 year after the date of enactment of this Act, the Attorney General shall report to the Congress—

(1) the findings of the study and the model legislation required by this section; and

(2) recommendations based on the findings on the need for and appropriateness of further action by the Federal Government.

(c) REVIEW OF FEDERAL EVIDENTIARY RULES.—The Judicial Conference of the United States shall evaluate and report to Congress its views on whether the Federal Rules of Evidence should be amended, and if so, how they should be amended, to guarantee that the confidentiality of communications between sexual assault victims and their therapists or trained counselors will be adequately protected in Federal court proceedings.

SEC. 40154. INFORMATION PROGRAMS.

The Attorney General shall compile information regarding sex offender treatment programs and ensure that information regarding community treatment programs in the community into which a convicted sex offender is released is made available to each person serving a sentence of imprisonment in a Federal penal or correctional institution for a commission of an offense under chapter 109A of title 18, United States Code, or for the commission of a similar offense, including halfway houses and psychiatric institutions.

SEC. 40155. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended—

(1) by redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) by inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

"SEC. 316. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, provision of information, and referral for runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

"(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to runaway, homeless, and street youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $7,000,000 for fiscal year 1996;
"(2) $8,000,000 for fiscal year 1997; and
"(3) $15,000,000 for fiscal year 1998.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'street-based outreach and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

"(2) the term 'street youth' means a juvenile who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.".

SEC. 40156. VICTIMS OF CHILD ABUSE PROGRAMS.

(a) COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.—

(1) REAUTHORIZATION.—Section 218(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014(a)) is amended to read as follows:

"(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

"(1) $6,000,000 for fiscal year 1996;
"(2) $6,000,000 for fiscal year 1997;
"(3) $7,000,000 for fiscal year 1998;
"(4) $9,000,000 for fiscal year 1999; and
"(5) $10,000,000 for fiscal year 2000.".

(2) TECHNICAL AMENDMENT.—Section 216 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13012) is amended by striking "this chapter" and inserting "this subtitle".

(b) CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS.—

(1) REAUTHORIZATION.—Section 224(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024(a)) is amended to read as follows:

"(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

"(1) $750,000 for fiscal year 1996;
"(2) $1,000,000 for fiscal year 1997;
"(3) $2,000,000 for fiscal year 1998;
"(4) $2,000,000 for fiscal year 1999; and
"(5) $2,300,000 for fiscal year 2000.".

(2) TECHNICAL AMENDMENT.—Section 221(b) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13021(b)) is amended by striking "this chapter" and inserting "this subtitle".

(c) GRANTS FOR TELEVISED TESTIMONY.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by amending section 1001(a)(7) (42 U.S.C. 3793(a)(7)) to read as follows:

"(7) There are authorized to be appropriated to carry out part N—

"(A) $250,000 for fiscal year 1996;
"(B) $1,000,000 for fiscal year 1997;
"(C) $1,000,000 for fiscal year 1998;
"(D) $1,000,000 for fiscal year 1999; and
"(E) $1,000,000 for fiscal year 2000.";

(2) in section 1402 (42 U.S.C. 3796aa-1) by striking "to States, for the use of States and units of local government in the States";

(3) in section 1403 (42 U.S.C. 3796aa-2)—

(A) by inserting "or unit of local government" after "of a State";

(B) by inserting "and" after paragraph (1);

(C) in paragraph (2) by striking the semicolon at the end and inserting a period; and

(D) by striking paragraphs (3) and (4);

(4) in section 1404 (42 U.S.C. 3796aa-3)—

(A) in subsection (a)—

(i) by striking "The Bureau" and all that follows through "determining that" and inserting "An applicant is eligible to receive a grant under this part if—";

(ii) in paragraph (1) by striking "there is in effect in such State" and inserting "the applicant certifies and the Director determines that there is in effect in the State";

(iii) in paragraph (2) by striking "such State law shall meet" and inserting "the applicant certifies and the Director determines that State law meets";

(iv) by inserting "and" after subparagraph (E);

(v) in paragraph (3)—

(I) by inserting "the Director determines that" before "the application"; and

(II) by striking "; and" and inserting a period;

(vi) by striking paragraph (4);

(vii) by striking "Each application" and inserting the following:

"(b) Each application"; and

(viii) by striking "the Bureau" each place it appears and inserting "the Director"; and

(B) by redesignating subsection (b) as subsection (c) and by striking "The Bureau" and inserting "The Director";

(5) by striking section 1405 (42 U.S.C. 3796aa-4);

(6) in section 1406 (42 U.S.C. 3796aa-5)—

(A) in subsection (a)—

(i) by striking "State which" and inserting "State or unit of local government that";

(ii) by striking "title" and inserting "part"; and

(iii) in paragraph (1) by striking "State"; and

(B) in subsection (b)(1) by striking "such State" and inserting "the State and units of local government in the State";

(7) in section 1407 (42 U.S.C. 3796aa-6)—

(A) in subsection (c)—

(i) by striking "Each State" and all that follows through "effective audit" and inserting "Grant recipients (or private organizations with which grant recipients have contracted to provide equipment or training using grant funds) shall keep such records as the Director may require by rule to facilitate such an audit."; and

(ii) in paragraph (2) by striking "States which receive grants, and of units of local government which receive any part of a grant made under this part" and inserting "grant recipients (or private organizations with which grant recipients have contracted to provide equipment or training using grant funds)"; and

(B) by adding at the end the following new subsection:

"(d) UTILIZATION OF PRIVATE SECTOR.—Nothing in this part shall prohibit the utilization of any grant funds to contract with a private organization to provide equipment or training for the televising of testimony as contemplated by the application submitted by an applicant.";

(8) by striking section 1408 (42 U.S.C. 3796aa-7); and

(9) in the table of contents—

(A) in the item relating to section 1405 by striking "Allocation and distribution of funds under formula grants" and inserting "(Repealed)"; and

(B) in the item relating to section 1408 by striking "State office" and inserting "(Repealed)".

Subtitle B—Safe Homes for Women

SEC. 40201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1994".

CHAPTER 1—NATIONAL DOMESTIC VIOLENCE HOTLINE

SEC. 40211. GRANT FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

"(a) IN GENERAL.—The Secretary may award a grant to a private, nonprofit entity to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

"(b) DURATION.—A grant under this section may extend over a period of not more than 5 years.

"(c) ANNUAL APPROVAL.—The provision of payments under a grant under this section shall be subject to annual approval by the Secretary and subject to the availability of appropriations for each fiscal year to make the payments.

"(d) ACTIVITIES.—Funds received by an entity under this section shall be used to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. In establishing and operating the hotline, a private, nonprofit entity shall—

"(1) contract with a carrier for the use of a toll-free telephone line;

"(2) employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assemble and maintain a current database of information relating to services for victims of domestic violence to which callers may be referred throughout the United States, including information on the availability of shelters that serve battered women; and

"(4) publicize the hotline to potential users throughout the United States.

"(e) APPLICATION.—A grant may not be made under this section unless an application for such grant has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

"(1) contain such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

"(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

"(C) the methods for the creation, maintenance and updating of a resource database;

"(D) a plan for publicizing the availability of the hotline;

"(E) a plan for providing service to non-English speaking callers, including hotline personnel who speak Spanish; and

"(F) a plan for facilitating access to the hotline by persons with hearing impairments;

"(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality

VOL 140 PT 15 AG 10 — 11 1994 UMI

service to victims of domestic violence, including a demonstration of support from advocacy groups, such as domestic violence State coalitions or recognized national domestic violence groups;

"(4) demonstrates that the applicant has a commitment to diversity, and to the provision of services to ethnic, racial, and non-English speaking minorities, in addition to older individuals and individuals with disabilities; and

"(5) contain such other information as the Secretary may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $1,000,000 for fiscal year 1995;

"(B) $400,000 for fiscal year 1996;

"(C) $400,000 for fiscal year 1997;

"(D) $400,000 for fiscal year 1998;

"(E) $400,000 for fiscal year 1999; and

"(F) $400,000 for fiscal year 2000.

"(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until expended.".

CHAPTER 2—INTERSTATE ENFORCEMENT

SEC. 40221. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—DOMESTIC VIOLENCE

"Sec. 2261. Interstate domestic violence.
"Sec. 2262. Interstate violation of protection order.
"Sec. 2263. Pretrial release of defendant.
"Sec. 2264. Restitution.
"Sec. 2265. Full faith and credit given to protection orders.
"Sec. 2266. Definitions.

"§2261. Interstate domestic violence

"(a) OFFENSES.—

"(1) CROSSING A STATE LINE.—A person who travels across a State line or enters or leaves Indian country with the intent to injure, harass, or intimidate that person's spouse or intimate partner, and who, in the course of or as a result of such travel, intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner, shall be punished as provided in subsection (b).

"(2) CAUSING THE CROSSING OF A STATE LINE.—A person who causes a spouse or intimate partner to cross a State line or to enter or leave Indian country by force, coercion, duress, or fraud and, in the course or as a result of that conduct, intentionally commits a crime of violence and thereby causes bodily injury to the person's spouse or intimate partner, shall be punished as provided in subsection (b).

"(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned—

"(1) for life or any term of years, if death of the offender's spouse or intimate partner results;

"(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the offender's spouse or intimate partner results;

"(3) for not more than 10 years, if serious bodily injury to the offender's spouse or intimate partner results or if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case,

or both fined and imprisoned.

"§2262. Interstate violation of protection order

"(a) OFFENSES.—

"(1) CROSSING A STATE LINE.—A person who travels across a State line or enters or leaves Indian country with the intent to engage in conduct that—

"(A)(i) violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued; or

"(ii) would violate subparagraph (A) if the conduct occurred in the jurisdiction in which the order was issued; and

"(B) subsequently engages in such conduct,

shall be punished as provided in subsection (b).

"(2) CAUSING THE CROSSING OF A STATE LINE.—A person who causes a spouse or intimate partner to cross a State line or to enter or leave Indian country by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, intentionally commits an act that injures the person's spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (b).

"(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned—

"(1) for life or any term of years, if death of the offender's spouse or intimate partner results;

"(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the offender's spouse or intimate partner results;

"(3) for not more than 10 years, if serious bodily injury to the offender's spouse or intimate partner results or if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case,

or both fined and imprisoned.

"§2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 for the purpose of determining whether a defendant charged under this chapter shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

"§2264. Restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may lake into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days before sentencing, the United States Attorney (or such Attorney's delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the delegate) shall advise the victim that the victim may file a separate affidavit and assist the victim in the preparation of the affidavit.

"(d) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (a) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(e) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(f) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable 10 days before sentencing as provided in subsection (c), the United States Attorney (or the United States Attorney's delegate) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 90 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(g) RESTITUTION IN ADDITION TO PUNISHMENT.—An award of restitution to the victim of an offense under this chapter is not a substitute for imposition of punishment under this chapter.

"§2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued that is consistent with subsection (b) of this section by the court of one State or Indian tribe (the issuing State or Indian tribe) shall be accorded full faith and credit by the court of another State or Indian tribe (the enforcing State or Indian tribe) and enforced as if it were the order of the enforcing State or tribe.

"(b) PROTECTION ORDER.—A protection order issued by a State or tribal court is consistent with this subsection if—

"(1) such court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State or tribal court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

"§2266. Definitions

"In this chapter—

"'bodily injury' means any act, except one done in self-defense, that results in physical injury or sexual abuse.

"'Indian country' has the meaning stated in section 1151.

"'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection.

"'spouse or intimate partner' includes—

"(A) a spouse, a former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides.

"'State' includes a State of the United States, the District of Columbia, a commonwealth, territory, or possession of the United States.

"'travel across State lines' does not include travel across State lines by an individual who is a member of an Indian tribe when such individual remains at all times in the territory of the Indian tribe of which the individual is a member.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"110A. Domestic violence ..... 2261.".

CHAPTER 3—ARREST POLICIES IN DOMESTIC VIOLENCE CASES

SEC. 40231. ENCOURAGING ARREST POLICIES.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40121(a), is amended—

(1) by redesignating part U as part V;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following new part:

"PART U—GRANTS TO ENCOURAGE ARREST POLICIES

"SEC. 2101. GRANTS.

"(a) PURPOSE.—The purpose of this part is to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law.

"(b) GRANT AUTHORITY.—The Attorney General may make grants to eligible States, Indian tribal governments, or units of local government for the following purposes:

"(1) To implement mandatory arrest or proarrest programs and policies in police departments, including mandatory arrest programs and policies for protection order violations.

"(2) To develop policies and training in police departments to improve tracking of cases involving domestic violence.

"(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges.

"(4) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

"(5) To strengthen legal advocacy service programs for victims of domestic violence.

"(6) To educate judges in criminal and other courts about domestic violence and to improve judicial handling of such cases.

"(c) ELIGIBILITY.—Eligible grantees are States, Indian tribal governments, or units of local government that—

"(1) certify that their laws or official policies—

"(A) encourage or mandate arrests of domestic violence offenders based on probable cause that an offense has been committed; and

"(B) encourage or mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

"(2) demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

"(3) certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense; and

"(4) certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

"SEC. 2102. APPLICATIONS.

"(a) APPLICATION.—An eligible grantee shall submit an application to the Attorney General that—

"(1) contains a certification by the chief executive officer of the State, Indian tribal government, or local government entity that the conditions of section 2101(c) are met or will be met within the later of—

"(A) the period ending on the date on which the next session of the State or Indian tribal legislature ends; or

"(B) 2 years of the date of enactment of this part;

"(2) describes plans to further the purposes stated in section 2101(a);

"(3) identifies the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) includes documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and identifying such programs in which such groups will be consulted for development and implementation.

"(b) PRIORITY.—In awarding grants under this part, the Attorney General shall give priority to applicants that—

"(1) do not currently provide for centralized handling of cases involving domestic violence by police, prosecutors, and courts; and

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(2) demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence.

"SEC. 2103. REPORTS.

"Each grantee receiving funds under this part shall submit a report to the Attorney General evaluating the effectiveness of projects developed with funds provided under this part and containing such additional information as the Attorney General may prescribe.

"SEC. 2104. REGULATIONS OR GUIDELINES.

"Not later than 120 days after the date of enactment of this part, the Attorney General shall publish proposed regulations or guidelines implementing this part. Not later than 180 days after the date of enactment of this part, the Attorney General shall publish final regulations or guidelines implementing this part.

"SEC. 2105. DEFINITIONS.

"For purposes of this part—

"(1) the term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the eligible State, Indian tribal government, or unit of local government that receives a grant under this part; and

"(2) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(b) TECHNICAL AMENDMENT.—The table of contents of title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40121(b), is amended by striking the matter relating to part U and inserting the following:

"PART U—GRANTS TO ENCOURAGE ARREST POLICIES

"Sec. 2101. Grants.
"Sec. 2102. Applications.
"Sec. 2103. Reports.
"Sec. 2104. Regulations or guidelines.
"Sec. 2105. Definitions.

"PART V—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 40121(c), is amended—

(1) in paragraph (3) by striking "and T" and inserting "T, and U"; and

(2) by adding at the end the following new paragraph:

"(19) There are authorized to be appropriated to carry out part U—

"(A) $26,000,000 for fiscal year 1996;
"(B) $33,000,000 for fiscal year 1997; and
"(C) $59,000,000 for fiscal year 1998.

(d) ADMINISTRATIVE PROVISIONS.—

(1) REGULATIONS.—Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)), is amended by striking "and O" and inserting "O, and U".

(2) DENIAL OF APPLICATION.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783 (b)) is amended in the first sentence by striking "or O" and inserting "O, or U".

CHAPTER 4—SHELTER GRANTS

SEC. 40241. GRANTS FOR BATTERED WOMEN'S SHELTERS.

Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $50,000,000 for fiscal year 1996;
"(2) $60,000,000 for fiscal year 1997;
"(3) $70,000,000 for fiscal year 1998;
"(4) $72,500,000 for fiscal year 1999; and
"(5) $72,500,000 for fiscal year 2000.".

CHAPTER 5—YOUTH EDUCATION

SEC. 40251. YOUTH EDUCATION AND DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 40211, is amended by adding at the end the following new section:

"SEC. 317. YOUTH EDUCATION AND DOMESTIC VIOLENCE.

"(a) GENERAL PURPOSE.—For purposes of this section, the Secretary may, in consultation with the Secretary of Education, select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

"(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in consultation with educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers.

"(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"400,000 for fiscal year 1996.

CHAPTER 6—COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

SEC. 40261. ESTABLISHMENT OF COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 40251, is amended by adding at the end the following new section:

"SEC. 318. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

"(a) IN GENERAL.—The Secretary shall provide grants to nonprofit private organizations to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity—

"(1) shall be a nonprofit organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence; and

"(2) shall include representatives of pertinent sectors of the local community, which may include—

"(A) health care providers;
"(B) the education community;
"(C) the religious community;
"(D) the justice system;
"(E) domestic violence program advocates;
"(F) human service entities such as State child services divisions;
"(G) business and civic leaders; and
"(H) other pertinent sectors.

"(c) APPLICATIONS.—An organization that desires to receive a grant under this section shall submit to the Secretary an application, in such form and in such manner as the Secretary shall prescribe through notice in the Federal Register, that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Secretary may require.

"(d) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(e) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Secretary; and
"(2) availability of appropriations.

"(f) GEOGRAPHICAL DISPERSION.—The Secretary shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"(g) USE OF GRANT MONIES.—

"(1) IN GENERAL.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(2) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

"(A) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

"(B) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(C) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $4,000,000 for fiscal year 1996; and
"(2) $6,000,000 for fiscal year 1997.

"(i) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after the date of enactment, the Secretary shall publish final regulations implementing this section.".

CHAPTER 7—FAMILY VIOLENCE PREVENTION AND SERVICES ACT AMENDMENTS

SEC. 40271. GRANTEE REPORTING.

(a) SUBMISSION OF APPLICATION.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" after "such State".

(b) APPROVAL OF APPLICATION.—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.".

SEC. 40272. TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 309(5)(B) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(5)(B)) is amended by inserting "or other supportive services" before "by peers individually or in groups,".

(b) SPECIAL ISSUE RESOURCE CENTERS.—

(1) GRANTS.—Section 308(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(a)(2)) is amended by striking "six" and inserting "seven".

(2) FUNCTIONS.—Section 308(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(c)) is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", including the issuance and enforcement of protection orders."; and

(B) by adding at the end the following new paragraph:

"(7) Providing technical assistance and training to State domestic violence coalitions.".

(c) STATE DOMESTIC VIOLENCE COALITIONS.—Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

"(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

"(B) planning and conducting State needs assessments and planning for comprehensive services;

"(C) serving as an information clearinghouse and resource center for the State; and

"(D) collaborating with other governmental systems which affect battered women;";

(3) in paragraph (2)(K), as redesignated by paragraph (1), by striking "and court officials and other professionals" and inserting ", judges, court officers and other criminal justice professionals,";

(4) in paragraph (3), as redesignated by paragraph (1)—

(A) by inserting ", criminal court judges," after "family law judges," each place it appears;

(B) in subparagraph (F), by inserting "custody" after "temporary"; and

(C) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children," and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children"; and

(5) in paragraph (4), as redesignated by paragraph (1), by inserting ", including information aimed at underserved racial, ethnic or language-minority populations" before the semicolon.

CHAPTER 8—CONFIDENTIALITY FOR ABUSED PERSONS

SEC. 40281. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

(a) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons' addresses.

(b) REQUIREMENTS.—The regulations under subsection (a) shall require—

(1) in the case of an individual, the presentation to an appropriate postal official of a valid, outstanding protection order; and

(2) in the case of a domestic violence shelter, the presentation to an appropriate postal authority of proof from a State domestic violence coalition that meets the requirements of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410)) verifying that the organization is a domestic violence shelter.

(c) DISCLOSURE FOR CERTAIN PURPOSES.—The regulations under subsection (a) shall not prohibit the disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes.

(d) EXISTING COMPILATIONS.—Compilations of addresses existing at the time at which order is presented to an appropriate postal official shall be excluded from the scope of the regulations under subsection (a).

CHAPTER 9—DATA AND RESEARCH

SEC. 40291. RESEARCH AGENDA.

(a) REQUEST FOR CONTRACT.—The Attorney General shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice, and direct services to victims and experts on domestic violence in diverse, ethnic, social, and language minority communities and the social sciences. In setting the agenda, the Academy shall focus primarily on preventive, educative, social, and legal strategies, including addressing the needs of underserved populations.

(b) DECLINATION OF REQUEST.—If the National Academy of Sciences declines to conduct the study and develop a research agenda, it shall recommend a nonprofit private entity that is qualified to conduct such a study. In that case, the Attorney General shall carry out subsection (a) through the nonprofit private entity recommended by the Academy. In either case, whether the study is conducted by the National Academy of Sciences or by the nonprofit group it recommends, the funds for the contract shall be made available from sums appropriated for the conduct of research by the National Institute of Justice.

(c) REPORT.—The Attorney General shall ensure that no later than 1 year after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

SEC. 40292. STATE DATABASES.

(a) IN GENERAL.—The Attorney General shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of sexual and domestic violence offenses within a State.

(b) CONSULTATION.—In conducting its study, the Attorney General shall consult persons expert in the collection of criminal justice data, State statistical administrators, law enforcement personnel, and nonprofit nongovernmental agencies that provide direct services to victims of domestic violence. The final report shall set forth the views of the persons consulted on the recommendations.

(c) REPORT.—The Attorney General shall ensure that no later than 1 year after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committees on the Judiciary of the Senate and the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

$200,000 for fiscal year 1996.

SEC. 40293. NUMBER AND COST OF INJURIES.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

$100,000 for fiscal year 1996.

CHAPTER 10—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT

SEC. 40295. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

(a) GRANTS.—The Attorney General may make grants to States, Indian tribal governments, and local governments of rural States, and to other public or private entities of rural States—

(1) to implement, expand, and establish cooperative efforts and projects between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence and child abuse;

(2) to provide treatment and counseling to victims of domestic violence and child abuse; and

(3) to work in cooperation with the community to develop education and prevention strategies directed toward such issues.

(b) DEFINITIONS.—In this section—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"rural State" has the meaning stated in section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $7,000,000 for fiscal year 1995;

(B) $8,000,000 for fiscal year 1997;

(C) $15,000,000 for fiscal year 1998;

(2) ADDITIONAL FUNDING.—In addition to funds received under a grant under subsection (a), a law enforcement agency may use funds received under a grant under section 103 to accomplish the objectives of this section.

Subtitle C—Civil Rights for Women

SEC. 40301. SHORT TITLE.

This subtitle may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act".

SEC. 40302. CIVIL RIGHTS.

(a) PURPOSE.—Pursuant to the affirmative power of Congress to enact this subtitle under section 5 of the Fourteenth Amendment to the Constitution, as well as under section 8 of Article I of the Constitution, it is the purpose of this subtitle to protect the civil rights of victims of gender motivated violence and to promote public safety, health, and activities affecting interstate commerce by establishing a Federal civil rights cause of action for victims of crimes of violence motivated by gender.

(b) RIGHT TO BE FREE FROM CRIMES OF VIOLENCE.—All persons within the United States shall have the right to be free from crimes of violence motivated by gender (as defined in subsection (d)).

(c) CAUSE OF ACTION.—A person (including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State) who commits a crime of violence motivated by gender and thus deprives another of the right declared in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as a court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender, and due, at least in part, to an animus based on the victim's gender; and

(2) the term "crime of violence" means—

(A) an act or series of acts that would constitute a felony against the person or that would constitute a felony against property if the conduct presents a serious risk of physical injury to another, and that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States; and

(B) includes an act or series of acts that would constitute a felony described in subparagraph (A) but for the relationship between the person who takes such action and the individual against whom such action is taken.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be motivated by gender (within the meaning of subsection (d)).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the elements of a cause of action under subsection (c).

(3) CONCURRENT JURISDICTION.—The Federal and State courts shall have concurrent jurisdiction over actions brought pursuant to this subtitle.

(4) SUPPLEMENTAL JURISDICTION.—Neither section 1367 of title 28, United States Code, nor subsection (c) of this section shall be construed, by reason of a claim arising under such subsection, to confer on the courts of the United States jurisdiction over any State law claim seeking the establishment of a divorce, alimony, equitable distribution of marital property, or child custody decree.

(5) LIMITATION ON REMOVAL.—Section 1445 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A civil action in any State court arising under section 40302 of the Violence Against Women Act of 1994 may not be removed to any district court of the United States.".

SEC. 40303. ATTORNEY'S FEES.

Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended in the last sentence—

(1) by striking "or" after "Public Law 92-318,"; and

(2) by inserting ", or section 40302 of the Violence Against Women Act of 1994," after "1964".

SEC. 40304. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

Subtitle D—Equal Justice for Women in the Courts Act

SEC. 40401. SHORT TITLE.

This subtitle may be cited as the "Equal Justice for Women in the Courts Act of 1994".

CHAPTER 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

SEC. 40411. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States (as defined in section 202 of the State Justice Institute Act of 1984 (42 U.S.C. 10701)) in training judges and court personnel in the laws of the States and by Indian tribes in training tribal judges and court personnel in the laws of the tribes on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 40412. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases; and

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims.

SEC. 40413. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 40414. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

$600,000 for fiscal year 1996.

(b) MODEL PROGRAMS.—Of amounts appropriated under this section, the State Justice Institute shall expend not less than 40 percent on model programs regarding domestic violence and not less than 40 percent on model programs regarding rape and sexual assault.

CHAPTER 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

SEC. 40421. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDIES.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits and to implement recommended reforms.

(b) MATTERS FOR EXAMINATION.—The studies under subsection (a) may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes in judicial proceedings;

(5) sentencing;

(6) sentencing alternatives and the nature of supervision of probation and parole;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters;

(11) the admissibility of the victim's past sexual history in civil and criminal cases; and

(12) the aspects of the topics listed in section 40412 that pertain to issues within the jurisdiction of the Federal courts.

(c) CLEARINGHOUSE.—The Administrative Office of the United States Courts shall act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide the Administrative Office of the Courts of the United States with their reports and related material.

(d) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, may—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 40422. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services to carry out section 40421(a)—

$500,000 for fiscal year 1996.

(2) to the Federal Judicial Center to carry out section 40421(d)—

$100,000 for fiscal year 1996.

(3) to the Administrative Office of the United States Courts to carry out section 40421(c)—

$100,000 for fiscal year 1996.

Subtitle E—Violence Against Women Act Improvements

SEC. 40501. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 40502. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "; and" at the end of subparagraph (C) and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 40503. PAYMENT OF COST OF TESTING FOR SEXUALLY TRANSMITTED DISEASES.

(a) FOR VICTIMS IN SEX OFFENSE CASES.—Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section.".

(b) PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.—Not later than 6 months after the date of enactment of this Act, the United States Sentencing Commission shall conduct a study and prepare and submit to the committees on the Judiciary of the Senate and the House of Representatives a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

SEC. 40504. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 40505. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A Federal agency shall immediately suspend all Federal benefits provided by the agency to the defendant, and shall terminate the defendant's eligibility for Federal benefits administered by that agency, upon receipt of a certified copy of a written judicial finding that the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section.

"(2) Any written finding of delinquency described in paragraph (1) shall be made by a court, after a hearing, upon motion of the victim named in the order to receive the restitution or upon motion of the United States.

"(3) A defendant found to be delinquent may subsequently seek a written finding from the court that the defendant has rectified the delinquency or that the defendant has made and will make good faith efforts to rectify the delinquency. The defendant's eligibility for Federal benefits shall be reinstated upon receipt by the agency of a certified copy of such a finding.

"(4) In this subsection, "Federal benefit" means a grant, contract, loan, professional license, or commercial license provided by an agency of the United States.".

SEC. 40506. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General, in consultation with the Secretary of Education, shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a) and data collected under the Student Right-To-Know and Campus Security Act (20 U.S.C. 1001 note; Public Law 101-542) and amendments made by that Act, the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

VOL 140 PT 15 AG 10 — 11 1994 UMI

(6) in conjunction with the report produced by the Department of Education in coordination with institutions of education under the Student Right-To-Know and Campus Security Act (20 U.S.C. 1001 note; Public Law 101-542) and amendments made by that Act, an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1996.

(d) DEFINITION.—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the study required by this section—$200,000 for fiscal year 1996.

SEC. 40507. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the House Committee on Energy and Commerce, the Senate Committee on Labor and Human Resources, and the Committees on the Judiciary of the Senate and the House of Representatives a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been considered in criminal trials.

(b) COMPONENTS.—The report under subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State, tribal, and Federal court cases in which evidence of battered women's syndrome was offered in criminal trials; and

(3) an assessment by State, tribal, and Federal judges, prosecutors, and defense attorneys of the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 40508. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 40509. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

Subtitle F—National Stalker and Domestic Violence Reduction

SEC. 40601. AUTHORIZING ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES.

(a) ACCESS AND ENTRY.—Section 534 of title 28, United States Code, is amended by adding at the end the following:

"(e)(1) Information from national crime information databases consisting of identification records, criminal history records, protection orders, and wanted person records may be disseminated to civil or criminal courts for use in domestic violence or stalking cases. Nothing in this subsection shall be construed to permit access to such records for any other purpose.

"(2) Federal and State criminal justice agencies authorized to enter information into criminal information databases may include—

"(A) arrests, convictions, and arrest warrants for stalking or domestic violence or for violations of protection orders for the protection of parties from stalking or domestic violence; and

"(B) protection orders for the protection of persons from stalking or domestic violence, provided such orders are subject to periodic verification.

"(3) As used in this subsection—

"(A) the term 'national crime information databases' means the National Crime Information Center and its incorporated criminal history databases, including the Interstate Identification Index; and

"(B) the term 'protection order' includes an injunction or any other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.".

(b) RULEMAKING.—The Attorney General may make rules to carry out the subsection added to section 534 of title 28, United States Code, by subsection (a), after consultation with the officials charged with managing the National Crime Information Center and the Criminal Justice Information Services Advisory Policy Board.

SEC. 40602. GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General is authorized to provide grants to States and units of local government to improve processes for entering data regarding stalking and domestic violence into local, State, and national crime information databases.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State or unit of local government shall certify that it has or intends to establish a program that enters into the National Crime Information Center records of—

(1) warrants for the arrest of persons violating protection orders intended to protect victims from stalking or domestic violence;

(2) arrests or convictions of persons violating protection or domestic violence; and

(3) protection orders for the protection of persons from stalking or domestic violence.

SEC. 40603. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $1,500,000 for fiscal year 1996;

(2) $1,750,000 for fiscal year 1997; and

(3) $2,750,000 for fiscal year 1998.

SEC. 40604. APPLICATION REQUIREMENTS.

An application for a grant under this subtitle shall be submitted in such form and manner, and contain such information, as the Attorney General may prescribe. In addition, applications shall include documentation showing—

(1) the need for grant funds and that State or local funding, as the case may be, does not already cover these operations;

(2) intended use of the grant funds, including a plan of action to increase record input; and

(3) an estimate of expected results from the use of the grant funds.

SEC. 40605. DISBURSEMENT.

Not later than 90 days after the receipt of an application under this subtitle, the Attorney General shall either provide grant funds or shall inform the applicant why grant funds are not being provided.

SEC. 40606. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATIONS.

The Attorney General may provide technical assistance and training in furtherance of the purposes of this subtitle, and may provide for the evaluation of programs that receive funds under this subtitle, in addition to any evaluation requirements that the Attorney General may prescribe for grantees. The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, or through contracts or other arrangements with other entities.

SEC. 40607. TRAINING PROGRAMS FOR JUDGES.

The State Justice Institute, after consultation with nationally recognized nonprofit organizations with expertise in stalking and domestic violence cases, shall conduct training programs for State (as defined in section 202 of the State Justice Institute Authorization Act of 1984 (42 U.S.C. 10701)) and Indian tribal judges to ensure that a judge issuing an order in a stalking or domestic violence case has all available criminal history and other information, whether from State or Federal sources.

SEC. 40608. RECOMMENDATIONS ON INTRASTATE COMMUNICATION.

The State Justice Institute, after consultation with nationally recognized nonprofit associations with expertise in data sharing among criminal justice agencies and familiarity with the issues raised in stalking and domestic violence cases, shall recommend proposals regarding how State courts may increase intrastate communication between civil and criminal courts.

SEC. 40609. INCLUSION IN NATIONAL INCIDENT-BASED REPORTING SYSTEM.

Not later than 2 years after the date of enactment of this Act, the Attorney General, in accordance with the States, shall compile data regarding domestic violence and intimidation (including stalking) as part of the National Incident-Based Reporting System (NIBRS).

SEC. 40610. REPORT TO CONGRESS.

The Attorney General shall submit to the Congress an annual report, beginning one year after the date of the enactment of this Act, that provides information concerning the incidence of stalking and domestic violence, and evaluates the effectiveness of State antistalking efforts and legislation.

SEC. 40611. DEFINITIONS.

As used in this subtitle—

(1) the term "national crime information databases" refers to the National Crime Information Center and its incorporated criminal history databases, including the Interstate Identification Index; and

(2) the term "protection order" includes an injunction or any other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

Subtitle G—Protections for Battered Immigrant Women and Children

SEC. 40701. ALIEN PETITIONING RIGHTS FOR IMMEDIATE RELATIVE OR SECOND PREFERENCE STATUS.

(a) IN GENERAL.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(A)",

(B) by redesignating the second sentence as clause (ii), and

(C) by adding at the end the following new clauses:

"(iii) An alien who is the spouse of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the alien's spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (iv)) under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States, the marriage between the alien and the spouse was entered into in good faith by the alien, and during the marriage the alien or a child of the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's spouse; and

"(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien or a child of the alien.

"(iv) An alien who is the child of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States and during the period of residence with the citizen parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent; and

"(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien.";

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)"; and

(B) by adding at the end the following new clauses:

"(ii) An alien who is the spouse of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's legal permanent resident spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (iii)) under such section if the alien demonstrates to the Attorney General that the conditions described in subclauses (I) and (II) of subparagraph (A)(iii) are met with respect to the alien.

"(iii) An alien who is the child of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's permanent resident alien parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States and during the period of residence with the permanent resident parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent; and

"(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien."; and

(3) by adding at the end the following new subparagraph:

"(H) In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), the Attorney General shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

(b) CONFORMING AMENDMENTS.—(1) Section 204(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(2)) is amended—

(A) in subparagraph (A) by striking "filed by an alien who," and inserting "for the classification of the spouse of an alien if the alien,"; and

(B) in subparagraph (B) by striking "by an alien whose prior marriage" and inserting "for the classification of the spouse of an alien if the prior marriage of the alien".

(2) Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking "204(a)(1)(A)" and inserting "204(a)(1)(A)(ii)".

(c) SURVIVAL RIGHTS TO PETITION.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(h) The legal termination of a marriage may not be the sole basis for revocation under section 205 of a petition filed under subsection (a)(1)(A)(iii) or a petition filed under subsection (a)(1)(B)(ii) pursuant to conditions described in subsection (a)(1)(A)(iii)(I).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

SEC. 40702. USE OF CREDIBLE EVIDENCE IN SPOUSAL WAIVER APPLICATIONS.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and nationality Act (8 U.S.c. 1186a(c)(4)) is amended by inserting after the second sentence the following: "In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to applications made before, on, or after such date.

SEC. 40703. SUSPENSION OF DEPORTATION.

(a) BATTERED SPOUSE OR CHILD.—Section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; or"; and

(3) by inserting after paragraph (2) the following:

"(3) is deportable under any law of the United States except section 241(a)(1)(G) and the provisions specified in paragraph (2); has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application; has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent); and proves that during all of such time in the United States the alien was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's parent or child.".

(b) CONSIDERATION OF EVIDENCE.—Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) is amended by adding at the end the following new subsection:

"(g) In acting on applications under subsection (a)(3), the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

TITLE V—DRUG COURTS

SEC. 50001. DRUG COURTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40231(a), is amended—

(1) by redesignating part V as part W;

(2) by redesignating section 2201 as section 2301; and

(3) by inserting after part U the following new part:

"PART V—DRUG COURTS

"SEC. 2201. GRANT AUTHORITY.

"The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for programs that involve—

"(1) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders; and

"(2) the integrated administration of other sanctions and services, which shall include—

"(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

"(B) substance abuse treatment for each participant;

"(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

"(D) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services.

"SEC. 2202. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.

"The Attorney General shall—

"(1) issue regulations and guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders; and

"(2) immediately suspend funding for any grant under this part, pending compliance, if

VOL
140
PT
15
AG
10
—
11
1994
UMI

the Attorney General finds that violent offenders are participating in any program funded under this part.

"SEC. 2203. DEFINITION.

"In this part, 'violent offender' means a person who—

"(1) is charged with or convicted of an offense, during the course of which offense or conduct—

"(A) the person carried, possessed, or used a firearm or dangerous weapon;

"(B) there occurred the death of or serious bodily injury to any person; or

"(C) there occurred the use of force against the person of another,

without regard to whether any of the circumstances described in subparagraph (A), (B), or (C) is an element of the offense or conduct of which or for which the person is charged or convicted; or

"(2) has one or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

"SEC. 2204. ADMINISTRATION.

"(a) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this part.

"(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

"(c) REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines necessary to carry out this part.

"(d) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan;

"(2) explain the applicant's inability to fund the program adequately without Federal assistance;

"(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;

"(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

"(6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the drug court program;

"(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

"(8) describe the methodology that will be used in evaluating the program.

"SEC. 2205. APPLICATIONS.

"To request funds under this part, the chief executive or the chief justice of a State or the chief executive or chief judge of a unit of local government or Indian tribal government shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"SEC. 2206. FEDERAL SHARE.

"The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2205 for the fiscal year for which the program receives assistance under this part, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section. In-kind contributions may constitute a portion of the non-Federal share of a grant.

"SEC. 2207. GEOGRAPHIC DISTRIBUTION.

"The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

"SEC. 2208. REPORT.

"A State, Indian tribal government, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General a report in March of the following year regarding the effectiveness of this part.

"SEC. 2209. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

"(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

"(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

"(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40231(b), is amended by striking the matter relating to part V and inserting the following:

"PART V—DRUG COURTS

"Sec. 2201. Grant authority.
"Sec. 2202. Prohibition of participation by violent offenders.
"Sec. 2203. Definition.
"Sec. 2204. Administration.
"Sec. 2205. Applications.
"Sec. 2206. Federal share.
"Sec. 2207. Geographic distribution.
"Sec. 2208. Report.
"Sec. 2209. Technical assistance, training, and evaluation.

"PART W—TRANSITION-EFFECTIVE DATE-REPEALER

"Sec. 2301. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 40231(c), is amended—

(1) in paragraph (3) by striking "and U" and inserting "U, and V"; and

(2) by adding at the end the following new paragraph:

"(20) There are authorized to be appropriated to carry out part V—

"(1) $100,000,000 for fiscal year 1995;
"(2) $150,000,000 for fiscal year 1996;
"(3) $200,000,000 for fiscal year 1997;
"(4) $250,000,000 for fiscal year 1998;
"(5) $300,000,000 for fiscal year 1999; and
"(6) $300,000,000 for fiscal year 2000.".

SEC. 50002. STUDY BY THE GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall study and assess the effectiveness and impact of grants authorized by part V of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as added by section 50001(a), and report to Congress the results of the study on or before January 1, 1997.

(b) DOCUMENTS AND INFORMATION.—The Attorney General and grant recipients shall provide the Comptroller General with all relevant documents and information that the Comptroller General deems necessary to conduct the study under subsection (a), including the identities and criminal records of program participants.

(c) CRITERIA.—In assessing the effectiveness of the grants made under programs authorized by part V of the Omnibus Crime Control and Safe Streets Act of 1968, the Comptroller General shall consider, among other things—

(1) recidivism rates of program participants;

(2) completion rates among program participants;

(3) drug use by program participants; and

(4) the costs of the program to the criminal justice system.

TITLE VI—DEATH PENALTY

SEC. 60001. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1994".

SEC. 60002. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§3591. Sentence of death

"(a) A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381; or

"(2) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"(b) A defendant who has been found guilty of—

"(1) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B); or

"(2) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section,

where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) EQUALLY CULPABLE DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a)(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE.—In determining whether a sentence of death is justified for an offense described in section 3591(a)(2), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 46502 of title 49, United States Code (aircraft piracy).

"(2) PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c), the defendant has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined in section 921) against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of 2 or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act (21 U.S.C. 848(c)), and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of that Act (21 U.S.C. 859).

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he or she is engaged in the performance of his or her official duties;

"(ii) because of the performance of his or her official duties; or

"(iii) because of his or her status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

"(15) PRIOR CONVICTION OF SEXUAL ASSAULT OR CHILD MOLESTATION.—In the case of an offense under chapter 109A (sexual abuse) or chapter 110 (sexual abuse of children), the defendant has previously been convicted of a crime of sexual assault or crime of child molestation.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591(b), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation,

VOL 140 PT 15 AG 10 — 11 1994 UMI

manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial or before acceptance by the court of a plea of guilty, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family, and may include oral testimony, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, and any other relevant information. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial, or at the trial judge's discretion. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor for which notice has been provided under subsection (a). Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by 1 or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a)(1), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591(a)(2), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591(b), an aggravating factor required to be considered under section 3592(d) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether the defendant should be sentenced to death, to life imprisonment without possibility of release or some other lesser sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§3594. Imposition of a sentence of death

"Upon a recommendation under section 3593(e) that the defendant should be sentenced to death or life imprisonment without possibility of release, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release.

"§3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death. The court of appeals shall not reverse or vacate a sentence of death on account of any error which can be harmless, including any erroneous special finding of an aggravating factor, where the Government establishes beyond a reasonable doubt that the error was harmless.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of the State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. In this subsection, 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§3598. Special provisions for Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151 of this title) and which has occurred within the boundaries of Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 227 the following new item:

"228. Death sentence ..... 3591".

SEC. 60003. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense resulted in the identification by a foreign power (as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978) of an individual acting as an agent of the United States and consequently in the death of that individual, or directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(4) MURDER.—The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(5) KILLING OF FOREIGN OFFICIAL.—Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(6) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(7) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(8) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(9) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(10) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(11) MURDER FOR HIRE.—Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(12) RACKETEERING.—Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(13) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;".

(14) CARJACKING.—Section 2119(3) of title 18, United States Code, is amended by striking the period after "both" and inserting ", or sentenced to death." and by striking ", possessing a firearm as defined in section 921 of this title," and inserting ", with the intent to cause death or serious bodily harm".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Chapter 465 of title 49, United States Code, is amended—

(1) in the chapter analysis by striking "Death penalty sentencing procedure for aircraft piracy" and inserting "Repealed"; and

(2) by striking section 46503.

SEC. 60004. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

Chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 60005. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§1118. Murder by a Federal prisoner

"(a) OFFENSE.—A person who, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—In this section—

"'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house.

"'murder' means a first degree or second degree murder (as defined in section 1111).

"'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States

VOL 140 PT 15 AG 10 — 11 1994 UMI

Code, is amended by adding at the end the following new item:

''1118. Murder by a Federal prisoner.''.

SEC. 60006. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting '', or may be sentenced to death.''.

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting '', or may be sentenced to death.''.

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting '', or may be sentenced to death'' after ''or for life''.

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting '', or may be sentenced to death'' after ''or both''.

SEC. 60007. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114 of title 18, United States Code, is amended by striking ''punished as provided under sections 1111 and 1112 of this title,'' and inserting ''punished, in the case of murder, as provided under section 1111, or, in the case of manslaughter, as provided under section 1112.''.

SEC. 60008. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) SHORT TITLE.—This section may be cited as the ''Drive-By Shooting Prevention Act of 1994''.

(b) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

''§36. Drive-by shooting

''(a) DEFINITION.—In this section, 'major drug offense' means—

''(1) a continuing criminal enterprise punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

''(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); or

''(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).

''(b) OFFENSE AND PENALTIES.—(1) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, by fine under this title, or both.

''(2) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of 2 or more persons and who, in the course of such conduct, kills any person shall, if the killing—

''(A) is a first degree murder (as defined in section 1111(a)), be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

''(B) is a murder other than a first degree murder (as defined in section 1111(a)), be fined under this title, imprisoned for any term of years or for life, or both.''.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

''36. Drive-by shooting.''.

SEC. 60009. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 60005(a), is amended by adding at the end the following new section:

''§1119. Foreign murder of United States nationals

''(a) DEFINITION.—In this section, 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

''(b) OFFENSE.—A person who, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

''(c) LIMITATIONS ON PROSECUTION.—(1) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same conduct.

''(2) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this paragraph is not subject to judicial review.''.

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking ''or 1116'' and inserting ''1116, or 1119''.

(2) The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 60005(a), is amended by adding at the end the following new item:

''1119. Foreign murder of United States nationals.''.

SEC. 60010. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

''§2245. Sexual abuse resulting in death

''A person who, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.''.

(b) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and inserting the following:

''2245. Sexual abuse resulting in death.
''2246. Definitions for chapter.''.

SEC. 60011. DEATH PENALTY FOR SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: ''Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.''.

SEC. 60012. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 60009(a), is amended by adding at the end the following new section:

''§1120. Murder by escaped prisoners

''(a) DEFINITION.—In this section, 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.

''(b) OFFENSE AND PENALTY.—A person, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112.''.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 60009(b)(2), is amended by adding at the end the following new item:

''1120. Murder by escaped prisoners.''.

SEC. 60013. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(i) A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

''(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

''(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section.''.

SEC. 60014. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(2) in subsection (a) by striking ''(c)'' and inserting ''(d)''; and

(3) by inserting after subsection (b) the following new subsection:

''(c) A person who kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113.''.

SEC. 60015. DEATH PENALTY FOR THE MURDER OF STATE OR LOCAL OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS AND STATE CORRECTIONAL OFFICERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 60012(a), is amended by adding at the end the following new section:

''§ 1121. Killing persons aiding Federal investigations or State correctional officers

''(a) Whoever intentionally kills—

''(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

''(A) while the victim is engaged in the performance of official duties;

''(B) because of the performance of the victim's official duties; or

''(C) because of the victim's status as a public servant; or

''(2) any person assisting a Federal criminal investigation, while that assistance is being rendered and because of it,

shall be sentenced according to the terms of section 1111, including by sentence of death or by imprisonment for life.

''(b)(1) Whoever, in a circumstance described in paragraph (3) of this subsection, while incarcerated, intentionally kills any State correctional officer engaged in, or on account of the performance of such officer's official duties, shall be sentenced to a term of imprisonment which shall not be less than 20 years, and may be sentenced to life imprisonment or death.

''(2) As used in this section, the term, 'State correctional officer' includes any officer or employee of any prison, jail, or other detention facility, operated by, or under contract to, either a State or local governmental agency, whose job responsibilities include providing for the custody of incarcerated individuals.

''(3) The circumstance referred to in paragraph (1) is that—

''(A) the correctional officer is engaged in transporting the incarcerated person interstate; or

''(B) the incarcerated person is incarcerated pursuant to a conviction for an offense against the United States.''.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 60012(b), is amended by adding at the end the following new item:

''1121. Killing persons aiding Federal investigations or State correctional officers.''.

SEC. 60016. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by inserting ''(a)'' before ''Whoever'';

(2) by striking ''fined not more than $5,000 or imprisoned not more than five years, or both.'' and inserting ''punished as provided in subsection (b).'';

(3) by adding at the end the following new subsection:

''(b) The punishment for an offense under this section is—

''(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

''(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years, a fine under this title, or both; and

''(3) in any other case, imprisonment for not more than 10 years, a fine under this title, or both.''; and

(4) in subsection (a), as designated by paragraph (1), by striking ''commissioner'' each place it appears and inserting ''magistrate judge''.

SEC. 60017. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting after the section heading the following new subsection:

''(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

''(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

''(B) providing to a law enforcement officer any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings,

shall be punished as provided in paragraph (2).

''(2) The punishment for an offense under this subsection is—

''(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

''(B) in the case of an attempt, imprisonment for not more than 20 years.''.

SEC. 60018. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

''(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;''.

SEC. 60019. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

''§2280. Violence against maritime navigation

''(a) OFFENSES.—

''(1) IN GENERAL.—A person who unlawfully and intentionally—

''(A) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

''(B) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

''(C) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

''(D) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

''(E) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

''(F) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

''(G) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (F); or

''(H) attempts to do any act prohibited under subparagraphs (A) through (G),

shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

''(2) THREAT TO NAVIGATION.—A person who threatens to do any act prohibited under paragraph (1) (B), (C) or (E), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

''(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a)—

''(1) in the case of a covered ship, if—

''(A) such activity is committed—

''(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

''(ii) in the United States and the activity is not prohibited as a crime by the State in which the activity takes place; or

''(iii) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

''(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

''(C) the offender is later found in the United States after such activity is committed;

''(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

''(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

''(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

''(d) DELIVERY OF SUSPECTED OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master's intention to deliver such person and the reasons therefor. If the master delivers such person, the master shall furnish to the authorities of such country the evidence in the master's possession that pertains to the alleged offense.

''(e) DEFINITIONS.—In this section—

'''covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country.

'''national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

'''territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

'''ship' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up.

'''United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.

''§2281. Violence against maritime fixed platforms

''(a) OFFENSES.—

''(1) IN GENERAL.—A person who unlawfully and intentionally—

''(A) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

''(B) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

''(C) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

''(D) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

''(E) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (D); or

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(F) attempts to do anything prohibited under subparagraphs (A) through (E),

shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

"(2) THREAT TO SAFETY.—A person who threatens to do anything prohibited under paragraph (1) (B) or (C), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

"(d) DEFINITIONS.—In this section—

"'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

"'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

"'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—This section and the amendments made by this section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 60020. TORTURE.

Section 2340A(a) of title 18, United States Code, is amended by inserting "punished by death or" before "imprisoned for any term of years or for life.".

SEC. 60021. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, as amended by section 60008(b), is amended by adding at the end the following new section:

"§37. Violence at international airports

"(a) OFFENSE.—A person who unlawfully and intentionally, using any device, substance, or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury (as defined in section 1365 of this title) or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.

"(c) It is a bar to Federal persecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, as amended by section 60008(c), is amended by adding at the end the following new item:

"37. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 60022. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18, United States Code is amended to read as follows:

"(1) if the killing is murder (as defined in section 1111(a)), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 60023. WEAPONS OF MASS DESTRUCTION.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by inserting after section 2332 the following new section:

"§2332a. Use of weapons of mass destruction

"(a) OFFENSE.—A person who uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term 'weapon of mass destruction' means—

"(A) any destructive device as defined in section 921 of this title;

"(B) poison gas;

"(C) any weapon involving a disease organism; or

"(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by inserting after the item relating to section 2332 the following:

"2332a. Use of weapons of mass destruction.".

SEC. 60024. ENHANCED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Any person" and inserting "(1)(A) Any person";

(B) by striking "(A) knowing" and inserting "(i) knowing";

(C) by striking "(B) knowing" and inserting "(ii) knowing";

(D) by striking "(C) knowing" and inserting "(iii) knowing";

(E) by striking "(D) encourages" and inserting "(iv) encourages";

(F) by striking "shall be fined in accordance with title 18, or imprisoned not more than five years, or both, for each alien in respect to whom any violation of this paragraph occurs" and inserting "shall be punished as provided in subparagraph (B)"; and

(G) by adding at the end the following new subparagraph:

"(B) A person who violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs—

"(i) in the case of a violation of subparagraph (A)(i), be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

"(ii) in the case of a violation of subparagraph (A) (ii), (iii), or (iv), be fined under title 18, United States Code, imprisoned not more than 5 years, or both;

"(iii) in the case of a violation of subparagraph (A) (i), (ii), (iii), or (iv) during and in relation to which the person causes serious bodily injury (as defined in section 1365 of title 18, United States Code) to, or places in jeopardy the life of, any person, be fined under title 18, United States Code, imprisoned not more than 20 years, or both; and

"(iv) in the case of a violation of subparagraph (A) (i), (ii), (iii), or (iv) resulting in the death of any person, be punished by death or imprisoned for any term of years or for life, fined under title 18, United States Code, or both."; and

(2) in paragraph (2) by striking "or imprisoned not more than five years, or both" and inserting "or in the case of a violation of subparagraph (B)(ii), imprisoned not more than 10 years, or both; or in the case of a violation of subparagraph (B)(i) or (B)(iii), imprisoned not more than 5 years, or both.".

SEC. 60025. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by inserting before the period the following: ", except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person".

SEC. 60026. APPOINTMENT OF COUNSEL.

Section 3005 of title 18, United States Code, is amended by striking "learned in the law" and all that follows through "He shall" and inserting "; and the court before which the defendant is to be tried, or a judge thereof, shall promptly, upon the defendant's request, assign 2 such counsel, of whom at least 1 shall be learned in the law applicable to capital cases, and who shall have free access to the accused at all reasonable hours. In assigning counsel under this section, the court shall consider the recommendation of the Federal Public Defender organization, or, if no such organization exists in the district, of the Administrative Office of the United States Courts. The defendant shall".

TITLE VII—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

SEC. 70001. MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES.

Section 3559 of title 18, United States Code, is amended—

(1) in subsection (b), by striking "An" and inserting "Except as provided in subsection (c), an" in lieu thereof; and

(2) by adding the following new subsection at the end:

"(c) IMPRISONMENT OF CERTAIN VIOLENT FELONS.—

"(1) MANDATORY LIFE IMPRISONMENT.—Notwithstanding any other provision of law, a person who is convicted in a court of the United States of a serious violent felony shall be sentenced to life imprisonment if—

"(A) the person has been convicted (and those convictions have become final) on separate prior occasions in a court of the United States or of a State of—

"(i) 2 or more serious violent felonies; or

"(ii) one or more serious violent felonies and one or more serious drug offenses; and

"(B) each serious violent felony or serious drug offense used as a basis for sentencing under this subsection, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'assault with intent to commit rape' means an offense that has as its elements engaging in physical contact by which a person intentionally places another person in fear of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242);

"(B) the term 'arson' means an offense that has as its elements maliciously damaging or destroying any building, inhabited structure, vehicle, vessel, or real property by means of fire or an explosive;

"(C) the term 'extortion' means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person;

"(D) the term 'firearms use' means an offense that has as its elements those described in section 924(c) or 929(a), if the firearm was brandished, discharged, or otherwise used as a weapon and the crime of violence or drug trafficking crime during and relation to which the firearm was used was subject to prosecution in a court of the United States or a court of a State, or both;

"(E) the term 'kidnapping' means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force;

"(F) the term 'serious violent felony' means—

"(i) a Federal or State offense, by whatever designation and wherever committed, consisting of murder (as described in section 1111); manslaughter other than involuntary manslaughter (as described in section 1112); assault with intent to commit murder (as described in section 113(a)); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242); abusive sexual contact (as described in sections 2244 (a)(1) and (a)(2)); kidnapping; aircraft piracy (as described in section 46502 of Title 49); robbery (as described in section 2111, 2113, or 2118); carjacking (as described in section 2119); extortion; arson; firearms use; or attempt, conspiracy, or solicitation to commit any of the above offenses; and

"(ii) any other offense punishable by a maximum term of imprisonment of 10 years or more that has as an element the use, attempted use, or threatened use of physical force against the person of another or that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense;

"(G) the term 'State' means a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States; and

"(H) the term 'serious drug offense' means—

"(i) an offense that is punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)); or

"(ii) an offense under State law that, had the offense been prosecuted in a court of the United States, would have been punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)).

"(3) NONQUALIFYING FELONIES.—

"(A) ROBBERY IN CERTAIN CASES.—Robbery, an attempt, conspiracy, or solicitation to commit robbery; or an offense described in paragraph (2)(F)(ii) shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that—

"(i) no firearm or other dangerous weapon was used in the offense and no threat of use of a firearm or other dangerous weapon was involved in the offense; and

"(ii) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person.

"(B) ARSON IN CERTAIN CASES.—Arson shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that—

"(i) the offense posed no threat to human life; and

"(ii) the defendant reasonably believed the offense posed no threat to human life.

"(4) INFORMATION FILED BY UNITED STATES ATTORNEY.—The provisions of section 411(a) of the Controlled Substances Act (21 U.S.C. 851(a)) shall apply to the imposition of sentence under this subsection.

"(5) RULE OF CONSTRUCTION.—This subsection shall not be construed to preclude imposition of the death penalty.

"(6) SPECIAL PROVISION FOR INDIAN COUNTRY.—No person subject to the criminal jurisdiction of an Indian tribal government shall be subject to this subsection for any offense for which Federal jurisdiction is solely predicated on Indian country (as defined in section 1151) and which occurs within the boundaries of such Indian country unless the governing body of the tribe has elected that this subsection have effect over land and persons subject to the criminal jurisdiction of the tribe.

"(7) RESENTENCING UPON OVERTURNING OF PRIOR CONVICTION.—If the conviction for a serious violent felony or serious drug offense that was a basis for sentencing under this subsection is found, pursuant to any appropriate State or Federal procedure, to be unconstitutional or is vitiated on the explicit basis of innocence, or if the convicted person is pardoned on the explicit basis of innocence, the person serving a sentence imposed under this subsection shall be resentenced to any sentence that was available at the time of the original sentencing.".

SEC. 70002. LIMITED GRANT OF AUTHORITY TO BUREAU OF PRISONS.

Section 3582(c)(1)(A) of title 18, United States Code, is amended—

(1) so that the margin of the matter starting with "extraordinary" and ending with "reduction" the first place it appears is indented an additional two ems;

(2) by inserting a one-em dash after "that" the second place it appears;

(3) by inserting a semicolon after "reduction" the first place it appears;

(4) by indenting the first line of the matter referred to in paragraph (1) and designating that matter as clause (i); and

(5) by inserting after such matter the following:

"(ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c), for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g);".

TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 80001. LIMITATION ON APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES.

(a) IN GENERAL.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN CASES.—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act (21 U.S.C. 841, 844, 846) or section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 961, 963), the court shall impose a sentence pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28 without regard to any statutory minimum sentence, if the court finds at sentencing that—

"(1) the defendant does not have more than 1 criminal history point, as determined under the sentencing guidelines;

"(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(3) the offense did not result in death or serious bodily injury to any person;

"(4) the defendant was not an organizer, leader, manager, or supervisor of others in the offense, as determined under the sentencing guidelines; and

"(5) not later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the Government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement, and a defendant sentenced before this subsection takes effect shall be deemed to have satisfied the requirement of this paragraph if such defendant—

"(A) received an adjustment under the sentencing guidelines for acceptance of responsibility;

"(B) received a sentence below the applicable guideline range for having provided substantial assistance in the investigation or prosecution of another person who has committed an offense; or

"(C) provides to the Government, after moving for resentencing and before determination of that motion, all information that the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.

(b) SENTENCING COMMISSION AUTHORITY.—

(1) IN GENERAL.—(A) The United States Sentencing Commission (referred to in this subsection as the "Commission"), under section 994(a)(1) and (p) of title 28—

(i) shall promulgate guidelines, or amendments to guidelines, to carry out the purposes of this section and the amendment made by this section; and

(ii) may promulgate policy statements, or amendments to policy statements, to assist in the application of this section and that amendment.

(B) In the case of a defendant for whom the statutorily required minimum sentence is 5 years, such guidelines and amendments to guidelines issued under subparagraph (A) shall call for a guideline range in which the lowest term of imprisonment is at least 24 months.

(2) PROCEDURES.—If the Commission determines that it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a), the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

(c) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall apply to all sentences imposed on or after the 10th day beginning after the date of enactment of this Act.

SEC. 80002. SPECIAL RULE.

(a) OFFENSES SUBJECT TO SENTENCING GUIDELINES.—For the purpose of section 3582(c)(2) of title 18, United States Code, with respect to a prisoner who, as determined by the court, has demonstrated good behavior while in prison, the changes in sentencing made as a result of this title shall be deemed to be changes in the sentencing ranges by the United States Sentencing Commission pursuant to section 994(o) of title 28, United States Code.

(b) OFFENSES NOT SUBJECT TO SENTENCING GUIDELINES.—Notwithstanding any other provision of law, a defendant serving a term of imprisonment who—

(1) was convicted of an offense that occurred prior to November 1, 1987, or was sentenced as if the offense had occurred before such date;

(2) meets the criteria set forth in section 3553(f) of title 18, United States Code; and

(3) has demonstrated good behavior while in prison; shall be eligible for release consideration under the provisions of chapter 311 of title 18, United States Code (as such provisions remain applicable to an individual who committed an offense prior to November 1, 1987). Such a release determination shall be made pursuant to the guidelines and policy statements issued by the United States Sentencing Commission.

TITLE IX—DRUG CONTROL

Subtitle A—Enhanced Penalties and General Provisions

SEC. 90101. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the following: "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting "(d)".

SEC. 90102. INCREASED PENALTIES FOR DRUG-DEALING IN "DRUG-FREE" ZONES.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement for a defendant convicted of violating section 419 of the Controlled Substances Act (21 U.S.C. 860).

SEC. 90103. ENHANCED PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS AND FOR SMUGGLING DRUGS INTO FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to appropriately enhance the penalty for a person convicted of an offense—

(1) under section 404 of the Controlled Substances Act involving simple possession of a controlled substance within a Federal prison or other Federal detention facility; or

(2) under section 401(b) of the Controlled Substances Act involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility.

(c) NO PROBATION.—Notwithstanding any other law, the court shall not sentence a person convicted of an offense described in subsection (b) to probation.

SEC. 90104. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER RICO.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)".

SEC. 90105. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B), (C), and (D)) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(b) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting "one or more prior convictions of such person for a felony drug offense have become final".

(c) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means".

(d) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

SEC. 90106. ADVERTISING.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) It shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term 'advertisement' does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.".

SEC. 90107. VIOLENT CRIME AND DRUG EMERGENCY AREAS.

(a) DEFINITIONS.—In this section—

"major violent crime or drug-related emergency" means an occasion or instance in which violent crime, drug smuggling, drug trafficking, or drug abuse violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) DECLARATION OF VIOLENT CRIME AND DRUG EMERGENCY AREAS.—If a major violent crime or drug-related emergency exists throughout a State or a part of a State, the President may declare the State or part of a State to be a violent crime or drug emergency area and may take appropriate actions authorized by this section.

(c) PROCEDURE.—

(1) IN GENERAL.—A request for a declaration designating an area to be a violent crime or drug emergency area shall be made, in writing, by the chief executive officer of a State or local government, respectively (or in the case of the District of Columbia, the mayor), and shall be forwarded to the Attorney General in such form as the Attorney General may by regulation require. One or more cities, counties, States, or the District of Columbia may submit a joint request for designation as a major violent crime or drug emergency area under this subsection.

(2) FINDING.—A request made under paragraph (1) shall be based on a written finding that the major violent crime or drug-related emergency is of such severity and magnitude that Federal assistance is necessary to ensure an effective response to save lives and to protect property and public health and safety.

(d) IRRELEVANCY OF POPULATION DENSITY.—The President shall not limit declarations made under this section to highly populated centers of violent crime or drug trafficking, drug smuggling, or drug use, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

(e) REQUIREMENTS.—As part of a request for a declaration under this section, and as a prerequisite to Federal violent crime or drug emergency assistance under this section, the chief executive officer of a State or local government shall—

(1) take appropriate action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major violent crime- or drug-related emergency;

(2) submit a detailed plan outlining that government's short- and long-term plans to respond to the violent crime or drug emergency, specifying the types and levels of Federal assistance requested and including explicit goals (including quantitative goals) and timetables; and

(3) specify how Federal assistance provided under this section is intended to achieve those goals.

(f) REVIEW PERIOD.—The Attorney General shall review a request submitted pursuant to this section, and the President shall decide whether to declare a violent crime or drug emergency area, within 30 days after receiving the request.

(g) FEDERAL ASSISTANCE.—The President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, financial assistance, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(h) DURATION OF FEDERAL ASSISTANCE.—

(1) IN GENERAL.—Federal assistance under this section shall not be provided to a violent crime or drug emergency area for more than 1 year.

(2) EXTENSION.—The chief executive officer of a jurisdiction may apply to the President for an extension of assistance beyond 1 year. The President may extend the provision of Federal assistance for not more than an additional 180 days.

(i) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section.

(j) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this section shall diminish or detract from existing authority possessed by the President or Attorney General.

Subtitle B—NATIONAL NARCOTICS LEADERSHIP ACT AMENDMENTS

SEC. 90201. IMPLEMENTATION OF NATIONAL DRUG CONTROL STRATEGY.

(a) PROGRAM BUDGET.—Section 1003(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(c)) is amended—

(1) by redesignating paragraphs (5), (6), and (7), as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) The Director shall request the head of a department or agency to include in the department's or agency's budget submission to the Office of Management and Budget funding requests for specific initiatives that are consistent with the President's priorities for the National Drug Control Strategy and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.".

(b) BUDGET RECOMMENDATION.—Section 1003(b) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) provide, by July 1 of each year, budget recommendations to the heads of departments and agencies with responsibilities under the National Drug Control Program, which recommendations shall apply to the second following fiscal year and address funding priorities developed in the annual National Drug Control Strategy.".

(c) CONTROL OF DRUG-RELATED RESOURCES.—Section 1003 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502) is amended—

(1) in subsection (d)—

(A) by amending paragraph (2) to read as follows:

"(2) request the head of a department or agency or program to place department, agency, or program personnel who are engaged in drug control activities on temporary detail to another department or agency in order to implement the National Drug Control Strategy, and the head of the department or agency shall comply with such a request;

(B) by striking "and" at the end of paragraph (6);

(C) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(D) by adding after paragraph (7) the following new paragraphs:

"(8) except to the extent that the Director's authority under this paragraph is limited in an annual appropriations Act, transfer funds appropriated to a National Drug Control Program agency account to a different National Drug Control Program agency account in an amount that does not exceed 2 percent of the amount appropriated to either account, upon advance approval of the Committees on Appropriations of each House of Congress; and

"(9) in order to ensure compliance with the National Drug Control Program, issue to the head of a National Drug Control Program agency a funds control notice described in subsection (f).''; and

(2) by adding at the end the following new subsections:

"(f) FUNDS CONTROL NOTICES.—(1) A funds control notice may direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated by—

"(A) months, fiscal year quarters, or other time periods; and

"(B) activities, functions, projects, or object classes.

"(2) An officer or employee of a National Drug Control Program agency shall not make or authorize an expenditure or obligation contrary to a funds control notice issued by the Director.

"(3) In the case of a violation of paragraph (2) by an officer or employee of a National Drug Control Program agency, the head of the agency, upon the request of and in consultation with the Director, may subject the officer or employee to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office.''.

(d) CERTIFICATION OF ADEQUACY OF BUDGET REQUEST.—Section 1003(c)(3)(B) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(c)(3)(B)) is amended—

(1) by inserting "in whole or in part" after "adequacy of such request"; and

(2) by striking the semicolon at the end and inserting "and, with respect to a request that is not certified as adequate to implement the objectives of the National Drug Control Strategy, include in the certification an initiative or funding level that would make the request adequate;".

SEC. 90202. OFFICE PERSONNEL RESTRICTION.

Section 1003 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502) is amended by adding at the end the following new subsection:

"(f) PROHIBITION ON POLITICAL CAMPAIGNING.—A Federal officer in the Office of National Drug Control Policy who is appointed by the President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such an official is not prohibited by this subsection from making contributions to individual candidates.".

SEC. 90203. NATIONAL DRUG CONTROL STRATEGY OUTCOME MEASURES.

Section 1005(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)) is amended—

(1) in paragraph (2)(A) by inserting "and the consequences of drug abuse" after "drug abuse"; and

(2) by amending paragraph (4) to read as follows:

"(4) The Director shall include with each National Drug Control Strategy an evaluation of the effectiveness of Federal drug control during the preceding year. The evaluation shall include an assessment of Federal drug control efforts, including—

"(A) assessment of the reduction of drug use, including estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of—

"(i) high-risk populations, including school dropouts, the homeless and transient, arrestees, parolees, and probationers, and juvenile delinquents; and

"(ii) drug use in the workplace and the productivity lost by such use;

"(B) assessment of the reduction of drug availability, as measured by—

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(i) the quantities of cocaine, heroin, and marijuana available for consumption in the United States;

"(ii) the amount of cocaine and heroin entering the United States;

"(iii) the number of hectares of poppy and coca cultivated and destroyed;

"(iv) the number of metric tons of heroin and cocaine seized;

"(v) the number of cocaine processing labs destroyed;

"(vi) changes in the price and purity of heroin and cocaine;

"(vii) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

"(viii) the effectiveness of Federal technology programs at improving drug detection capabilities at United States ports of entry;

"(C) assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

"(i) burdens drug users placed on hospital emergency rooms in the United States, such as the quantity of drug-related services provided;

"(ii) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other communicable diseases as a result of drug use;

"(iii) the extent of drug-related crime and criminal activity; and

"(iv) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States; and

"(D) determination of the status of drug treatment in the United States, by assessing—

"(i) public and private treatment capacity within each State, including information on the number of treatment slots available in relation to the number actually used, including data on intravenous drug users and pregnant women;

"(ii) the extent, within each State, to which treatment is available, on demand, to intravenous drug users and pregnant women;

"(iii) the number of drug users the Director estimates would benefit from treatment; and

"(iv) the success of drug treatment programs, including an assessment of the effectiveness of the mechanisms in place federally, and within each State, to determine the relative quality of substance abuse treatment programs, the qualifications of treatment personnel, and the mechanism by which patients are admitted to the most appropriate and cost effective treatment setting.

"(5) The Director shall include with the National Drug Control Strategy required to be submitted not later than February 1, 1995, and with every second such strategy submitted thereafter—

"(A) an assessment of the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

"(B) an assessment of the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups at-risk for drug use;

"(C) an assessment of the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B); and

"(D) identification of the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals.

"(6) Federal agencies responsible for the collection or estimation of drug-related information required by the Director shall cooperate with the Director, to the fullest extent possible, to enable the Director to satisfy the requirements of sections 4 and 5.

"(7) With each National Drug Control Strategy, the Director shall report to the President and the Congress on the Director's assessment of drug use and availability in the United States, including an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect in the preceding year in reducing drug use and availability.".

SEC. 90204. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) DRUG ABUSE ADDICTION AND REHABILITATION CENTER.—Section 1003A of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502a(c)(1)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) in consultation with the National Institute on Drug Abuse, and through interagency agreements or grants, examine addiction and rehabilitation research and the application of technology to expanding the effectiveness or availability of drug treatment;".

(b) ASSISTANCE FROM THE ADVANCED RESEARCH PROJECT AGENCY.—Section 1003A of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502a) is amended by adding at the end the following:

"(f) ASSISTANCE AND SUPPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.—The Director of the Advanced Research Project Agency shall, to the fullest extent possible, render assistance and support to the Office of National Drug Control Policy and its Director.".

(c) REPEAL AND REDESIGNATION.—The National Narcotics Leadership Act of 1988 is amended by—

(1) repealing section 1008 (21 U.S.C. 1505), as in effect on the date of the enactment of this Act;

(2) redesignating section 1003A, as amended by subsection (b) of this section, as section 1008; and

(3) moving such section, as redesignated, so as to follow section 1007.

SEC. 90205. SPECIAL FORFEITURE FUND AMENDMENTS.

(a) DEPOSITS INTO SPECIAL FORFEITURE FUND.—Section 6073 of the Asset Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is amended to read as follows:

"(b) DEPOSITS.—There shall be deposited into the Fund the amounts specified by section 524(c)(9) of title 28, United States Code, and section 9307(g) of title 31, United States Code, and any earnings on the investments authorized by subsection (d).".

(b) TRANSFERS FROM DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(9) of title 28, United States Code, is amended by amending subparagraphs (B), (C), and (D) to read as follows:

"(B) Subject to subparagraphs (C) and (D), at the end of each of fiscal years 1994, 1995, 1996, and 1997, the Attorney General shall transfer from the Fund not more than $100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988.

"(C) Transfers under subparagraph (B) may be made only from the excess unobligated balance and may not exceed one-half of the excess unobligated balance for any year. In addition, transfers under subparagraph (B) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed $100,000,000.

"(D) For the purpose of determining amounts available for distribution at year end for any fiscal year, 'excess unobligated balance' means the unobligated balance of the Fund generated by that fiscal year's operations, less any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under paragraph (1).".

(c) TRANSFERS FROM DEPARTMENT OF THE TREASURY FORFEITURE FUND.— Section 9703(g) of title 31, United States Code, is amended—

(1) in paragraph (3)—

(A) by amending subparagraph (A) to read as follows:

"(A) Subject to subparagraphs (B) and (C), at the end of each of fiscal years 1994, 1995, 1996, and 1997, the Secretary shall transfer from the Fund not more than $100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988."; and

(B) in subparagraph (B) by adding the following at the end: "Further, transfers under subparagraph (A) may not exceed one-half of the excess unobligated balance for a year. In addition, transfers under subparagraph (A) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed $100,000,000."; and

(2) in subparagraph (4)(A)—

(A) in clause (i) by striking "(i)"; and

(B) by striking clause (ii).

(d) SURPLUS FUNDS.—Section 6073 of the Asset Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is amended—

(1) by redesignating subsections (c), (d), (e), and (f), as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) SUPER SURPLUS.—(1) Any unobligated balance up to $20,000,000 remaining in the Fund on September 30 of a fiscal year shall be available to the Director, subject to paragraph (2), to transfer to, and for obligation and expenditure in connection with drug control activities of, any Federal agency or State or local entity with responsibilities under the National Drug Control Strategy.

"(2) A transfer may be made under paragraph (1) only with the advance written approval of the Committees on Appropriations of each House of Congress.".

SEC. 90206. AUTHORIZATION OF APPROPRIATIONS.

Section 1011 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1508) is amended by striking "4" and inserting "8".

SEC. 90207. ADEQUATE STAFFING OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

Section 1008(d)(1) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(d)(1)) is amended by striking "such" and inserting "up to 75 and such additional".

SEC. 90208. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) REAUTHORIZATION.—Section 1009 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1506) is amended by striking "the date which is 5 years after the date of the enactment of this subtitle" and inserting "September 30, 1997".

(b) CONTINUED EFFECTIVENESS.—The National Narcotics Leadership Act of 1988 (21 U.S.C. 1501 et seq.) shall be considered not to have been repealed by operation of section 1009 of that Act, but shall remain in effect as if the amendment made by subsection (a) had been included in that Act on the date of its enactment.

TITLE X—DRUNK DRIVING PROVISIONS

SEC. 100001. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1994".

SEC. 100002. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended—

(1) by striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) by adding at the end the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, not more than 5 years, or if death of a minor is caused, not more than 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 100003. DRIVING WHILE INTOXICATED PROSECUTION PROGRAM.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) by striking "and" at the end of paragraph (20);

(2) by striking the period at the end of paragraph (21) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(22) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles.".

TITLE XI—FIREARMS

Subtitle A—Assault Weapons

SEC. 110101. SHORT TITLE.

This subtitle may be cited as the "Public Safety and Recreational Firearms Use Protection Act".

SEC. 110102. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMIAUTOMATIC ASSAULT WEAPONS.

(a) RESTRICTION.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.

"(2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed under Federal law on the date of the enactment of this subsection.

"(3) Paragraph (1) shall not apply to—

"(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;

"(B) any firearm that—

"(i) is manually operated by bolt, pump, lever, or slide action;

"(ii) has been rendered permanently inoperable; or

"(iii) is an antique firearm;

"(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

"(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.

The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this subsection is in effect.

"(4) Paragraph (1) shall not apply to—

"(A) the manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement (whether on or off duty);

"(B) the transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

"(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

"(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.".

(b) DEFINITION OF SEMIAUTOMATIC ASSAULT WEAPON.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(30) The term 'semiautomatic assault weapon' means—

"(A) any of the firearms, or copies or duplicates of the firearms in any caliber, known as—

"(i) Norinco, Mitchell, and Poly Technologies Automat Kalashnikovs (all models);

"(ii) Action Arms Israeli Military Industries UZI and Galil;

"(iii) Beretta Ar70 (SC–70);

"(iv) Colt AR–15;

"(v) Fabrique National FN/FAL, FN/LAR, and FNC;

"(vi) SWD M–10, M–11, M–11/9, and M–12;

"(vii) Steyr AUG;

"(viii) INTRATEC TEC–9, TEC–DC9 and TEC–22; and

"(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

"(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

"(i) a folding or telescoping stock;

"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

"(iii) a bayonet mount;

"(iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and

"(v) a grenade launcher;

"(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—

"(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;

"(ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;

"(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;

"(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and

"(v) a semiautomatic version of an automatic firearm; and

"(D) a semiautomatic shotgun that has at least 2 of—

"(i) a folding or telescoping stock;

"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

"(iii) a fixed magazine capacity in excess of 5 rounds; and

"(iv) an ability to accept a detachable magazine.".

(c) PENALTIES.—

(1) VIOLATION OF SECTION 922(v).—Section 924(a)(1)(B) of such title is amended by striking "or (q) of section 922" and inserting "(r), or (v) of section 922".

(2) USE OR POSSESSION DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—Section 924(c)(1) of such title is amended in the first sentence by inserting ", or semiautomatic assault weapon," after "short-barreled shotgun,".

(d) IDENTIFICATION MARKINGS FOR SEMIAUTOMATIC ASSAULT WEAPONS.—Section 923(i) of such title is amended by adding at the end the following: "The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured.".

SEC. 110103. BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) PROHIBITION.—Section 922 of title 18, United States Code, as amended by section 110102(a), is amended by adding at the end the following new subsection:

"(w)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

"(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on the date of the enactment of this subsection.

"(3) This subsection shall not apply to—

"(A) the manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement (whether on or off duty);

"(B) the transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

"(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or

"(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.".

(b) DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.—Section 921(a) of title 18, United States Code, as amended by section 110102(b), is amended by adding at the end the following new paragraph:

"(31) The term 'large capacity ammunition feeding device'—

"(A) means—

"(i) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; and

"(ii) any combination of parts from which a device described in clause (i) can be assembled; but

"(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.".

VOL 140 PT 15 AG 10 — 11 1994 UMI

(c) LARGE CAPACITY AMMUNITION FEEDING DEVICES TREATED AS FIREARMS.—Section 921(a)(3) of title 18, United States Code, is amended in the first sentence by striking "or (D) any destructive device." and inserting "(D) any destructive device; or (E) any large capacity ammunition feeding device.".

(d) PENALTY.—Section 924(a)(1)(B) of title 18, United States Code, as amended by section 110102(c)(1), is amended by striking "or (v)" and inserting "(v), or (w)".

(e) IDENTIFICATION MARKINGS FOR LARGE CAPACITY AMMUNITION FEEDING DEVICES.—Section 923(i) of title 18, United States Code, as amended by section 110102(d) of this Act, is amended by adding at the end the following: "A large capacity ammunition feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.".

SEC. 110104. STUDY BY ATTORNEY GENERAL.

(a) STUDY.—The Attorney General shall investigate and study the effect of this subtitle and the amendments made by this subtitle, and in particular shall determine their impact, if any, on violent and drug trafficking crime. The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment of this Act.

(b) REPORT.—Not later than 30 months after the date of enactment of this Act, the Attorney General shall prepare and submit to the Congress a report setting forth in detail the findings and determinations made in the study under subsection (a).

SEC. 110105. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle—

(1) shall take effect on the date of the enactment of this Act; and

(2) are repealed effective as of the date that is 10 years after that date.

SEC. 110106. APPENDIX A TO SECTION 922 OF TITLE 18.

Section 922 of title 18, United States Code, is amended by adding at the end the following appendix:

"APPENDIX A

Centerfire Rifles—Autoloaders

Browning BAR Mark II Safari Semi-Auto Rifle
Browning BAR Mark II Safari Magnum Rifle
Browning High-Power Rifle
Heckler & Koch Model 300 Rifle
Iver Johnson M–1 Carbine
Iver Johnson 50th Anniversary M–1 Carbine
Marlin Model 9 Camp Carbine
Marlin Model 45 Carbine
Remington Nylon 66 Auto-Loading Rifle
Remington Model 7400 Auto Rifle
Remington Model 7400 Rifle
Remington Model 7400 Special Purpose Auto Rifle
Ruger Mini-14 Autoloading Rifle (w/o folding stock)
Ruger Mini Thirty Rifle

Centerfire Rifles—Lever & Slide

Browning Model 81 BLR Lever-Action Rifle
Browning Model 81 Long Action BLR
Browning Model 1886 Lever-Action Carbine
Browning Model 1886 High Grade Carbine
Cimarron 1860 Henry Replica
Cimarron 1866 Winchester Replicas
Cimarron 1873 Short Rifle
Cimarron 1873 Sporting Rifle
Cimarron 1873 30" Express Rifle
Dixie Engraved 1873 Rifle
E.M.F. 1866 Yellowboy Lever Actions
E.M.F. 1860 Henry Rifle
E.M.F. Model 73 Lever-Action Rifle
Marlin Model 336CS Lever-Action Carbine
Marlin Model 30AS Lever-Action Carbine
Marlin Model 444SS Lever-Action Sporter
Marlin Model 1894S Lever-Action Carbine
Marlin Model 1894CS Carbine
Marlin Model 1894CL Classic
Marlin Model 1895SS Lever-Action Rifle
Mitchell 1858 Henry Replica
Mitchell 1866 Winchester Replica
Mitchell 1873 Winchester Replica
Navy Arms Military Henry Rifle
Navy Arms Henry Trapper
Navy Arms Iron Frame Henry
Navy Arms Henry Carbine
Navy Arms 1866 Yellowboy Rifle
Navy Arms 1873 Winchester-Style Rifle
Navy Arms 1873 Sporting Rifle
Remington 7600 Slide Action
Remington Model 7600 Special Purpose Slide Action
Rossi M92 SRC Saddle-Ring Carbine
Rossi M92 SRS Short Carbine
Savage 99C Lever-Action Rifle
Uberti Henry Rifle
Uberti 1866 Sporting Rilfe
Uberti 1873 Sporting Rifle
Winchester Model 94 Side Eject Lever-Action Rifle
Winchester Model 94 Trapper Side Eject
Winchester Model 94 Big Bore Side Eject
Winchester Model 94 Ranger Side Eject Lever-Action Rifle
Winchester Model 94 Wrangler Side Eject

Centerfire Rifles—Bolt Action

Alpine Bolt-Action Rifle
A-Square Caesar Bolt-Action Rifle
A-Square Hannibal Bolt-Action Rifle
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700D Bavarian Bolt-Action Rifle
Anschutz 1733D Mannlicher Rifle
Barret Model 90 Bolt-Action Rifle
Beeman/HW 60J Bolt-Action Rifle
Blaser R84 Bolt-Action Rifle
BRNO 537 Sporter Bolt-Action Rifle
BRNO ZKB 527 Fox Bolt-Action Rifle
BRNO ZKK 600, 601, 602 Bolt-Action Rifles
Browning A-Bolt Rifle
Browning A-Bolt Stainless Stalker
Browning A-Bolt Left Hand
Browning A-Bolt Short Action
Browning Euro-Bolt Rifle
Browning A-Bolt Gold Medallion
Browning A-Bolt Micro Medallion
Century Centurion 14 Sporter
Century Enfield Sporter #4
Century Swedish Sporter #38
Century Mauser 98 Sporter
Cooper Model 38 Centerfire Sporter
Dakota 22 Sporter Bolt-Action Rifle
Dakota 76 Classic Bolt-Action Rifle
Dakota 76 Short Action Rifles
Dakota 76 Safari Bolt-Action Rifle
Dakota 416 Rigby African
E.A.A./Sabatti Rover 870 Bolt-Action Rifle
Auguste Francotte Bolt-Action Rifles
Carl Gustaf 2000 Bolt-Action Rifle
Heym Magnum Express Series Rifle
Howa Lightning Bolt-Action Rifle
Howa Realtree Camo Rifle
Interarms Mark X Viscount Bolt-Action Rifle
Interarms Mini-Mark X Rifle
Interarms Mark X Whitworth Bolt-Action Rifle
Interarms Whitworth Express Rifle
Iver Johnson Model 5100A1 Long-Range Rifle
KDF K15 American Bolt-Action Rifle
Krico Model 600 Bolt-Action Rifle
Krico Model 700 Bolt-Action Rifles
Mauser Model 66 Bolt-Action Rifle
Mauser Model 99 Bolt-Action Rifle
McMillan Signature Classic Sporter
McMillan Signature Super Varminter
McMillan Signature Alaskan
McMillan Signature Titanium Mountain Rifle
McMillan Classic Stainless Sporter
McMillan Talon Safari Rifle
McMillan Talon Sporter Rifle
Midland 1500S Survivor Rifle
Navy Arms TU–33/40 Carbine
Parker-Hale Model 81 Classic Rifle
Parker-Hale Model 81 Classic African Rifle
Parker-Hale Model 1000 Rifle
Parker-Hale Model 1100M African Magnum
Parker-Hale Model 1100 Lightweight Rifle
Parker-Hale Model 1200 Super Rifle
Parker-Hale Model 1200 Super Clip Rifle
Parker-Hale Model 1300C Scout Rifle
Parker-Hale Model 2100 Midland Rifle
Parker-Hale Model 2700 Lightweight Rifle
Parker-Hale Model 2800 Midland Rifle
Remington Model Seven Bolt-Action Rifle
Remington Model Seven Youth Rifle
Remington Model Seven Custom KS
Remington Model Seven Custom MS Rifle
Remington 700 ADL Bolt-Action Rifle
Remington 700 BDL Bolt-Action Rifle
Remington 700 BDL Varmint Special
Remington 700 BDL European Bolt-Action Rifle
Remington 700 Varmint Synthetic Rifle
Remington 700 BDL SS Rifle
Remington 700 Stainless Synthetic Rifle
Remington 700 MTRSS Rifle
Remington 700 BDL Left Hand
Remington 700 Camo Synthetic Rifle
Remington 700 Safari
Remington 700 Mountain Rifle
Remington 700 Custom KS Mountain Rifle
Remington 700 Classic Rifle
Ruger M77 Mark II Rifle
Ruger M77 Mark II Magnum Rifle
Ruger M77RL Ultra Light
Ruger M77 Mark II All-Weather Stainless Rifle
Ruger M77 RSI International Carbine
Ruger M77 Mark II Express Rifle
Ruger M77VT Target Rifle
Sako Hunter Rifle
Sako Fiberclass Sporter
Sako Safari Grade Bolt Action
Sako Hunter Left-Hand Rifle
Sako Classic Bolt Action
Sako Hunter LS Rifle
Sako Deluxe Lightweight
Sako Super Deluxe Sporter
Sako Mannlicher-Style Carbine
Sako Varmint Heavy Barrel
Sako TRG–S Bolt-Action Rifle
Sauer 90 Bolt-Action Rifle
Savage 110G Bolt-Action Rifle
Savage 110CY Youth/Ladies Rifle
Savage 110WLE One of One Thousand Limited Edition Rifle
Savage 110GXP3 Bolt-Action Rifle
Savage 110F Bolt-Action Rifle

Savage 110FXP3 Bolt-Action Rifle
Savage 110GV Varmint Rifle
Savage 112FV Varmint Rifle
Savage Model 112FVS Varmint Rifle
Savage Model 112BV Heavy Barrel Varmint Rifle
Savage 116FSS Bolt-Action Rifle
Savage Model 116FSK Kodiak Rifle
Savage 110FP Police Rifle
Steyr-Mannlicher Sporter Models SL, L, M, S, S/T
Steyr-Mannlicher Luxus Model L, M, S
Steyr-Mannlicher Model M Professional Rifle
Tikka Bolt-Action Rifle
Tikka Premium Grade Rifles
Tikka Varmint/Continental Rifle
Tikka Whitetail/Battue Rifle
Ultra Light Arms Model 20 Rifle
Ultra Light Arms Model 28, Model 40 Rifles
Voere VEC 91 Lightning Bolt-Action Rifle
Voere Model 2165 Bolt-Action Rifle
Voere Model 2155, 2150 Bolt-Action Rifles
Weatherby Mark V Deluxe Bolt-Action Rifle
Weatherby Lasermark V Rifle
Weatherby Mark V Crown Custom Rifles
Weatherby Mark V Sporter Rifle
Weatherby Mark V Safari Grade Custom Rifles
Weatherby Weathermark Rifle
Weatherby Weathermark Alaskan Rifle
Weatherby Classicmark No. 1 Rifle
Weatherby Weatherguard Alaskan Rifle
Weatherby Vanguard VGX Deluxe Rifle
Weatherby Vanguard Classic Rifle
Weatherby Vanguard Classic No. 1 Rifle
Weatherby Vanguard Weatherguard Rifle
Wichita Classic Rifle
Wichita Varmint Rifle
Winchester Model 70 Sporter
Winchester Model 70 Sporter WinTuff
Winchester Model 70 SM Sporter
Winchester Model 70 Stainless Rifle
Winchester Model 70 Varmint
Winchester Model 70 Synthetic Heavy Varmint Rifle
Winchester Model 70 DBM Rifle
Winchester Model 70 DBM–S Rifle
Winchester Model 70 Featherweight
Winchester Model 70 Featherweight WinTuff
Winchester Model 70 Featherweight Classic
Winchester Model 70 Lightweight Rifle
Winchester Ranger Rifle
Winchester Model 70 Super Express Magnum
Winchester Model 70 Super Grade
Winchester Model 70 Custom Sharpshooter
Winchester Model 70 Custom Sporting Sharpshooter Rifle

Centerfire Rifles—Single Shot

Armsport 1866 Sharps Rifle, Carbine
Brown Model One Single Shot Rifle
Browning Model 1885 Single Shot Rifle
Dakota Single Shot Rifle
Desert Industries G–90 Single Shot Rifle
Harrington & Richardson Ultra Varmint Rifle
Model 1885 High Wall Rifle
Navy Arms Rolling Block Buffalo Rifle
Navy Arms #2 Creedmoor Rifle
Navy Arms Sharps Cavalry Carbine
Navy Arms Sharps Plains Rifle
New England Firearms Handi-Rifle
Red Willow Armory Ballard No. 5 Pacific
Red Willow Armory Ballard No. 1.5 Hunting Rifle
Red Willow Armory Ballard No. 8 Union Hill Rifle
Red Willow Armory Ballard No. 4.5 Target Rifle
Remington-Style Rolling Block Carbine
Ruger No. 1B Single Shot
Ruger No. 1A Light Sporter
Ruger No. 1H Tropical Rifle
Ruger No. 1S Medium Sporter
Ruger No. 1 RSI International
Ruger No. 1V Special Varminter
C. Sharps Arms New Model 1874 Old Reliable
C. Sharps Arms New Model 1875 Rifle
C. Sharps Arms 1875 Classic Sharps
C. Sharps Arms New Model 1875 Target & Long Range
Shiloh Sharps 1874 Long Range Express
Shiloh Sharps 1874 Montana Roughrider
Shiloh Sharps 1874 Military Carbine
Shiloh Sharps 1874 Business Rifle
Shiloh Sharps 1874 Military Rifle
Sharps 1874 Old Reliable
Thompson/Center Contender Carbine
Thompson/Center Stainless Contender Carbine
Thompson/Center Contender Carbine Survival System
Thompson/Center Contender Carbine Youth Model
Thompson/Center TCR '87 Single Shot Rifle
Uberti Rolling Block Baby Carbine

Drillings, Combination Guns, Double Rifles

Beretta Express SSO O/U Double Rifles
Beretta Model 455 SxS Express Rifle
Chapuis RGExpress Double Rifle
Auguste Francotte Sidelock Double Rifles
Auguste Francotte Boxlock Double Rifle
Heym Model 55B O/U Double Rifle
Heym Model 55FW O/U Combo Gun
Heym Model 88b Side-by-Side Double Rifle
Kodiak Mk. IV Double Rifle
Kreighoff Teck O/U Combination Gun
Kreighoff Trumpf Drilling
Merkel Over/Under Combination Guns
Merkel Drillings
Merkel Model 160 Side-by-Side Double Rifles
Merkel Over/Under Double Rifles
Savage 24F O/U Combination Gun
Savage 24F–12T Turkey Gun
Springfield Inc. M6 Scout Rifle/Shotgun
Tikka Model 412s Combination Gun
Tikka Model 412S Double Fire
A. Zoli Rifle-Shotgun O/U Combo

Rimfire Rifles—Autoloaders

AMT Lightning 25/22 Rifle
AMT Lightning Small-Game Hunting Rifle II
AMT Magnum Hunter Auto Rifle
Anschutz 525 Deluxe Auto
Armscor Model 20P Auto Rifle
Browning Auto-22 Rifle
Browning Auto-22 Grade VI
Krico Model 260 Auto Rifle
Lakefield Arms Model 64B Auto Rifle
Marlin Model 60 Self-Loading Rifle
Marlin Model 60ss Self-Loading Rifle
Marlin Model 70 HC Auto
Marlin Model 990l Self-Loading Rifle
Marlin Model 70P Papoose
Marlin Model 922 Magnum Self-Loading Rifle
Marlin Model 995 Self-Loading Rifle
Norinco Model 22 ATD Rifle
Remington Model 522 Viper Autoloading Rifle
Remington 552BDL Speedmaster Rifle
Ruger 10/22 Autoloading Carbine (w/o folding stock)
Survival Arms AR–7 Explorer Rifle
Texas Remington Revolving Carbine
Voere Model 2115 Auto Rifle

Rimfire Rifles—Lever & Slide Action

Browning BL–22 Lever-Action Rifle
Marlin 39TDS Carbine
Marlin Model 39AS Golden Lever-Action Rifle
Remington 572BDL Fieldmaster Pump Rifle
Norinco EM–321 Pump Rifle
Rossi Model 62 SA Pump Rifle
Rossi Model 62 SAC Carbine
Winchester Model 9422 Lever-Action Rifle
Winchester Model 9422 Magnum Lever-Action Rifle

Rimfire Rifles—Bolt Actions & Single Shots

Anschutz Achiever Bolt-Action Rifle
Anschutz 1416D/1516D Classic Rifles
Anschutz 1418D/1518D Mannlicher Rifles
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700 FWT Bolt-Action Rifle
Anschutz 1700D Graphite Custom Rifle
Anschutz 1700D Bavarian Bolt-Action Rifle
Armscor Model 14P Bolt-Action Rifle
Armscor Model 1500 Rifle
BRNO ZKM–452 Deluxe Bolt-Action Rifle
BRNO ZKM 452 Deluxe
Beeman/HW 60–J–ST Bolt-Action Rifle
Browning A-Bolt 22 Bolt-Action Rifle
Browning A-Bolt Gold Medallion
Cabanas Phaser Rifle
Cabanas Master Bolt-Action Rifle
Cabanas Espronceda IV Bolt-Action Rifle
Cabanas Leyre Bolt-Action Rifle
Chipmunk Single Shot Rifle
Cooper Arms Model 36S Sporter Rifle
Dakota 22 Sporter Bolt-Action Rifle
Krico Model 300 Bolt-Action Rifles
Lakefield Arms Mark II Bolt-Action Rifle
Lakefield Arms Mark I Bolt-Action Rifle
Magtech Model MT–22C Bolt-Action Rifle
Marlin Model 880 Bolt-Action Rifle
Marlin Model 881 Bolt-Action Rifle
Marlin Model 882 Bolt-Action Rifle
Marlin Model 883 Bolt-Action Rifle
Marlin Model 883SS Bolt-Action Rifle
Marlin Model 25MN Bolt-Action Rifle
Marlin Model 25N Bolt-Action Repeater
Marlin Model 15YN "Little Buckaroo"
Mauser Model 107 Bolt-Action Rifle
Mauser Model 201 Bolt-Action Rifle
Navy Arms TU–KKW Training Rifle
Navy Arms TU–33/40 Carbine
Navy Arms TU–KKW Sniper Trainer
Norinco JW–27 Bolt-Action Rifle
Norinco JW–15 Bolt-Action Rifle
Remington 541–T
Remington 40–XR Rimfire Custom sporter
Remington 541–T HB Bolt-Action Rifle
Remington 581–S Sportsman Rifle
Ruger 77/22 Rimfire Bolt-Action Rifle
Ruger K77/22 Varmint Rifle
Ultra Light Arms Model 20 RF Bolt-Action Rifle
Winchester Model 52B Sporting Rifle

Competition Rifles—Centerfire & Rimfire

Anschutz 64–MS Left Silhouette
Anschutz 1808D RT Super Match 54 Target
Anschutz 1827B Biathlon Rifle

VOL 140 PT 15 AG 10 — 11 1994 UMI

Anschutz 1903D Match Rifle
Anschutz 1803D Intermediate Match
Anschutz 1911 Match Rifle
Anschutz 54.18MS REP Deluxe Silhouette Rifle
Anschutz 1913 Super Match Rifle
Anschutz 1907 Match Rifle
Anschutz 1910 Super Match II
Anschutz 54.18MS Silhouette Rifle
Anschutz Super Match 54 Target Model 2013
Anschutz Super Match 54 Target Model 2007
Beeman/Feinwerkbau 2600 Target Rifle
Cooper Arms Model TRP-1 ISU Standard Rifle
E.A.A./Weatrauch HW 60 Target Rifle
E.A.A./HW 660 Match Rifle
Finnish Lion Standard Target Rifle
Krico Model 360 S2 Biathlon Rifle
Krico Model 400 Match Rifle
Krico Model 360S Biathlon Rifle
Krico Model 500 Kricotronic Match Rifle
Krico Model 600 Sniper Rifle
Krico Model 600 Match Rifle
Lakefield Arms Model 90B Target Rifle
Lakefield Arms Model 91T Target Rifle
Lakefield Arms Model 92S Silhouette Rifle
Marlin Model 2000 Target Rifle
Mauser Model 86–SR Specialty Rifle
McMillan M–86 Sniper Rifle
McMillan Combo M–87/M–88 50-Caliber Rifle
McMillan .50 Phoenix Long Range Rifle
McMillan M–89 Sniper Rifle
McMillan National Match Rifle
McMillan Long Range Rifle
Parker-Hale M–87 Target Rifle
Parker-Hale M–85 Sniper Rifle
Remington 40–XB Rangemaster Target Centerfire
Remington 40–XR KS Rimfire Position Rifle
Remington 40–XBBR KS
Remington 40–XC KS National Match Course Rifle
Sako TRG–21 Bolt-Action Rifle
Steyr-Mannlicher Match SPG–UIT Rifle
Steyr-Mannlicher SSG P–I Rifle
Steyr-Mannlicher SSG P–III Rifle
Steyr-Mannlicher SSG P–IV Rifle
Tanner Standard UIT Rifle
Tanner 50 Meter Free Rifle
Tanner 300 Meter Free Rifle
Wichita Silhouette Rifle

Shotguns—Autoloaders

American Arms/Franchi Black Magic 48/AL
Benelli Super Black Eagle Shotgun
Benelli Super Black Eagle Slug Gun
Benelli M1 Super 90 Field Auto Shotgun
Benelli Montefeltro Super 90 20-Gauge Shotgun
Benelli Montefeltro Super 90 Shotgun
Benelli M1 Sporting Special Auto Shotgun
Benelli Black Eagle Competition Auto Shotgun
Beretta A–303 Auto Shotgun
Beretta 390 Field Auto Shotgun
Beretta 390 Super Trap, Super Skeet Shotguns
Beretta Vittoria Auto Shotgun
Beretta Model 1201F Auto Shotgun
Browning BSA 10 Auto Shotgun
Browning BSA 10 Stalker Auto Shotgun
Browning A-500R Auto Shotgun
Browning A-500G Auto Shotgun
Browning A-500G Sporting Clays
Browning Auto-5 Light 12 and 20
Browning Auto-5 Stalker
Browning Auto-5 Magnum 20
Browning Auto-5 Magnum 12
Churchill Turkey Automatic Shotgun
Cosmi Automatic Shotgun
Maverick Model 60 Auto Shotgun
Mossberg Model 5500 Shotgun
Mossberg Model 9200 Regal Semi-Auto Shotgun
Mossberg Model 9200 USST Auto Shotgun
Mossberg Model 9200 Camo Shotgun
Mossberg Model 6000 Auto Shotgun
Remington Model 1100 Shotgun
Remington 11–87 Premier shotgun
Remington 11–87 Sporting Clays
Remington 11–87 Premier Skeet
Remington 11–87 Premier Trap
Remington 11–87 Special Purpose Magnum
Remington 11–87 SPS–T Camo Auto Shotgun
Remington 11–87 Special Purpose Deer Gun
Remington 11–87 SPS–BG-Camo Deer/Turkey Shotgun
Remington 11–87 SPS-Deer Shotgun
Remington 11–87 Special Purpose Synthetic Camo
Remington SP–10 Magnum-Camo Auto Shotgun
Remington SP–10 Magnum Auto Shotgun
Remington SP–10 Magnum Turkey Combo
Remington 1100 LT–20 Auto
Remington 1100 Special Field
Remington 1100 20-Gauge Deer Gun
Remington 1100 LT–20 Tournament Skeet
Winchester Model 1400 Semi-Auto Shotgun

Shotguns—Slide Actions

Browning Model 42 Pump Shotgun
Browning BPS Pump Shotgun
Browning BPS Stalker Pump Shotgun
Browning BPS Pigeon Grade Pump Shotgun
Browning BPS pump Shotgun (Ladies and Youth Model)
Browning BPS Game Gun Turkey Special
Browning BPS Game Gun Deer Special
Ithaca Model 87 Supreme Pump Shotgun
Ithaca Model 87 Deerslayer Shotgun
Ithaca Deerslayer II Rifled Shotgun
Ithaca Model 87 Turkey Gun
Ithaca Model 87 Deluxe Pump Shotgun
Magtech Model 586–VR Pump Shotgun
Maverick Models 88, 91 Pump Shotguns
Mossberg Model 500 Sporting Pump
Mossberg Model 500 Camo Pump
Mossberg Model 500 Muzzleloader Combo
Mossberg Model 500 Trophy Slugster
Mossberg Turkey Model 500 Pump
Mossberg Model 500 Bantam Pump
Mossberg Field Grade Model 835 Pump Shotgun
Mossberg Model 835 Regal Ulti-Mag Pump
Remington 870 Wingmaster
Remington 870 Special Purpose Deer Gun
Remington 870 SPS–BG-Camo Deer/Turkey Shotgun
Remington 870 SPS-Deer Shotgun
Remington 870 Marine Magnum
Remington 870 TC Trap
Remington 870 Special Purpose Synthetic Camo
Remington 870 Wingmaster Small Gauges
Remington 870 Express Rifle Sighted Deer Gun
Remington 879 SPS Special Purpose Magnum
Remington 870 SPS–T Camo Pump Shotgun
Remington 870 Special Field
Remington 870 Express Turkey
Remington 870 High Grades
Remington 870 Express
Remington Model 870 Express Youlh Gun
Winchester Model 12 Pump Shotgun
Winchester Model 42 High Grade Shotgun
Winchester Model 1300 Walnut Pump
Winchester Model 1300 Slug Hunter Deer Gun
Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun
Winchester Model 1300 Turkey Gun
Winchester Model 1300 Ranger Pump Gun

Shotguns—Over/Unders

American Arms/Franchi Falconet 2000 O/U
American Arms Silver I O/U
American Arms Silver II Shotgun
American Arms Silver Skeet O/U
American Arms/Franchi Sporting 2000 O/U
American Arms Silver Sporting O/U
American Arms Silver Trap O/U
American Arms WS/OU 12, TS/OU 12 Shotguns
American Arms WT/OU 10 Shotgun
Armsport 2700 O/U Goose Gun
Armsport 2700 Series O/U
Armsport 2900 Tri-Barrel Shotgun
Baby Bretton Over/Under Shotgun
Beretta Model 686 Ultralight O/U
Beretta ASE 90 Competition O/U Shotgun
Beretta Over/Under Field Shotguns
Beretta Onyx Hunter Sport O/U Shotgun
Beretta Model SO5, SO6, SO9 Shotguns
Beretta Sporting Clay Shotguns
Beretta 687EL Sporting O/U
Beretta 682 Super Sporting O/U
Beretta Series 682 Competition Over/Unders
Browning Citori O/U Shotgun
Browning Superlight Citori Over/Under
Browning Lightning Sporting Clays
Browning Micro Citori Lightning
Browning Citori Plus Trap Combo
Browning Citori Plus Trap Gun
Browning Citori O/U Skeet Models
Browning Citori O/U Trap Models
Browning Special Sporting Clays
Browning Citori GTI Sporting Clays
Browning 325 Sporting Clays
Centurion Over/Under Shotgun
Chapuis Over/Under Shotgun
Connecticut Valley Classics Classic Sporter O/U
Connecticut Valley Classics Classic Field Waterfowler
Charles Daly Field Grade O/U
Charles Daly Lux Over/Under
E.A.A./Sabatti Sporting Clays Pro-Gold O/U
E.A.A/Sabatti Falcon-Mon Over/Under
Kassnar Grade I O/U Shotgun
Krieghoff K–80 Sporting Clays O/U
Krieghoff K–80 Skeet Shotgun
Krieghoff K–80 International Skeet
Krieghoff K–80 Four-Barrel Skeet Set
Krieghoff K–80/RT Shotguns
Krieghoff K–80 O/U Trap Shotgun
Laurona Silhouette 300 Sporting Clays
Laurona Silhouette 300 Trap
Laurona Super Model Over/Unders
Ljutic LM–6 Deluxe O/U Shotgun
Marocchi Conquista Over/Under Shotgun
Marocchi Avanza O/U Shotgun

Merkel Model 200E O/U Shotgun
Merkel Model 200E Skeet, Trap Over/Unders
Merkel Model 203E, 303E Over/Under Shotguns
Perazzi Mirage Special Sporting O/U
Perazzi Mirage Special Four-Gauge Skeet
Perazzi Sporting Classic O/U
Perazzi MX7 Over/Under Shotguns
Perazzi Mirage Special Skeet Over/Under
Perazzi MX8/MX8 Special Trap, Skeet
Perazzi MX8/20 Over/Under Shotgun
Perazzi MX9 Single Over/Under Shotguns
Perazzi MX12 Hunting Over/Under
Perazzi MX28, MX410 Game O/U Shotguns
Perazzi MX20 Hunting Over/Under
Piotti Boss Over/Under Shotgun
Remington Peerless Over/Under Shotgun
Ruger Red Label O/U Shotgun
Ruger Sporting Clays O/U Shotgun
San Marco 12-Ga. Wildflower Shotgun
San Marco Field Special O/U Shotgun
San Marco 10-Ga. O/U Shotgun
SKB Model 505 Deluze Over/Under Shotgun
SKB Model 685 Over/Under Shotgun
SKB Model 885 Over/Under Trap, Skeet, Sporting Clays
Stoeger/IGA Condor I O/U Shotgun
Stoeger/IGA ERA 2000 Over/Under Shotgun
Techni-Mec Model 610 Over/Under
Tikka Model 412S Field Grade Over/Under
Weatherby Athena Grade IV O/U Shotguns
Weatherby Athena Grade V Classic Field O/U
Weatherby Orion O/U Shotguns
Weatherby II, III Classic Field O/Us
Weatherby Orion II Classic Sporting Clays O/U
Weatherby Orion II Sporting Clays O/U
Winchester Model 1001 O/U Shotgun
Winchester Model 1001 Sporting Clays O/U
Pietro Zanoletti Model 2000 Field O/U

Shotguns—Side by Sides

American Arms Brittany Shotgun
American Arms Gentry Double Shotgun
American Arms Derby Side-by-Side
American Arms Grulla #2 Double Shotgun
American Arms WS/SS 10
American Arms TS/SS 10 Double Shotgun
American Arms TS/SS 12 Side-by-Side
Arrieta Sidelock Double Shotguns
Armsport 1050 Series Double Shotguns
Arizaga Model 31 Double Shotgun
AYA Boxlock Shotguns
AYA Sidelock Double Shotguns
Beretta Model 452 Sidelock Shotgun
Beretta Side-by-Side Field Shotguns
Crucelegui Hermanos Model 150 Double
Chapuis Side-by-Side Shotgun
E.A.A./Sabatti Saba-Mon Double Shotgun
Charles Daly Model Dss Double
Ferlib Model F VII Double Shotgun
Auguste Francotte Boxlock Shotgun
Auguste Francotte Sidelock Shotgun
Garbi Model 100 Double
Garbi Model 101 Side-by-Side
Garbi Model 103A, B Side-by-Side
Garbi Model 200 Side-by-Side
Bill Hanus Birdgun Doubles
Hatfield Uplander Shotgun
Merkel Model 8, 47E Side-by-Side Shotguns
Merkel Model 47LSC Sporting Clays Double
Merkel Model 47S, 147S Side-by-Sides
Parker Reproductions Side-by-Side
Piotti King No. 1 Side-by-Side
Piotti Lunik Side-by-Side
Piotti King Extra Side-by-Side
Piotti Piuma Side-by-Side
Precision Sports Model 600 Series Doubles
Rizzini Boxlock Side-by-Side
Rizzini Sidelock Side-by-Side
Stoeger/IGA Uplander Side-by-Side Shotgun
Ugartechea 10-Ga. Magnum Shotgun

Shotguns—Bolt Actions & Single Shots

Armsport Single Barrel Shotgun
Browning BT–99 Competition Trap Special
Browning BT–99 Plus Trap Gun
Browning BT–99 Plus Micro
Browning Recoilless Trap Shotgun
Browning Micro Recoilless Trap Shotgun
Desert Industries Big Twenty Shotgun
Harrington & Richardson Topper Model 098
Harrington & Richardson Topper Classic Youth Shotgun
Harrington & Richardson N.W.T.F. Turkey Mag
Harrington & Richardson Topper Deluxe Model 098
Krieghoff KS–5 Trap Gun
Krieghoff KS–5 Special
Krieghoff K–80 Single Barrel Trap Gun
Ljutic Mono Gun Single Barrel
Ljutic LTX Super Deluxe Mono Gun
Ljutic Recoilless Space Gun Shotgun
Marlin Model 55 Goose Gun Bolt Action
New England Firearms Turkey and Goose Gun
New England Firearms N.W.T.F. Shotgun
New England Firearms Tracker Stug Gun
New England Firearms Standard Pardner
New England Firearms Survival Gun
Perazzi TM1 Special Single Trap
Remington 90–T Super Single Shotgun
Snake Charmer II Shotgun
Stoeger/IGA Reuna Single Barrel Shotgun
Thompson/Center TCR '87 Hunter Shotgun.".

Subtitle B—Youth Handgun Safety

SEC. 110201. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGUN OR AMMUNITION TO, A JUVENILE.

(a) OFFENSE.—Section 922 of title 18, United States Code, as amended by section 110103(a), is amended by adding at the end the following new subsection:

"(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(3) This subsection does not apply to—

"(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

"(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

"(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

"(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

"(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;

"(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

"(iv) in accordance with State and local law;

"(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

"(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

"(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

"(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

"(5) For purposes of this subsection, the term 'juvenile' means a person who is less than 18 years of age.

"(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

"(B) The court may use the contempt power to enforce subparagraph (A).

"(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.".

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following new paragraph:

"(5)(A)(i) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

"(ii) A juvenile is described in this clause if—

"(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

"(B) A person other than a juvenile who knowingly violates section 922(x)—

"(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

"(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

(c) TECHNICAL AMENDMENT OF JUVENILE DELINQUENCY PROVISIONS IN TITLE 18, UNITED STATES CODE.—

(1) SECTION 5031.—Section 5031 of title 18, United States Code, is amended by inserting "or a violation by such a person of section 922(x)" before the period at the end.

(2) SECTION 5032.—Section 5032 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph by inserting "or (x)" after "922(p)"; and

(B) in the fourth undesignated paragraph by inserting "or section 922(x) of this title," before "criminal prosecution on the basis".

(d) TECHNICAL AMENDMENT OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12)(A)) is amended by striking "which do not constitute violations of valid court orders" and inserting "(other than an offense that constitutes a violation of a valid court order or a violation of section 922(x) of title 18, United States Code, or a similar State law).".

(e) MODEL LAW.—The Attorney General, acting through the Director of the National Institute for Juvenile Justice and Delinquency Prevention, shall—

(1) evaluate existing and proposed juvenile handgun legislation in each State;

(2) develop model juvenile handgun legislation that is constitutional and enforceable;

(3) prepare and disseminate to State authorities the findings made as the result of the evaluation; and

(4) report to Congress by December 31, 1995, findings and recommendations concerning the need or appropriateness of further action by the Federal Government.

Subtitle C—Licensure

SEC. 110301. FIREARMS LICENSURE AND REGISTRATION TO REQUIRE A PHOTOGRAPH AND FINGERPRINTS.

(a) FIREARMS LICENSURE.—Section 923(a) of title 18, United States Code, is amended in the second sentence by inserting "and shall include a photograph and fingerprints of the applicant" before the period.

(b) REGISTRATION.—Section 5802 of the Internal Revenue Code of 1986 is amended by inserting after the first sentence the following: "An individual required to register under this section shall include a photograph and fingerprints of the individual with the initial application.".

SEC. 110302. COMPLIANCE WITH STATE AND LOCAL LAW AS A CONDITION TO LICENSE.

Section 923(d)(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) the applicant certifies that—

"(i) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premise is located;

"(ii)(I) within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business; and

"(II) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

"(iii) that the applicant has sent or delivered a form to be prescribed by the Secretary, to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license.".

SEC. 110303. ACTION ON FIREARMS LICENSE APPLICATION.

Section 923(d)(2) of title 18, United States Code, is amended by striking "forty-five-day" and inserting "60-day".

SEC. 110304. INSPECTION OF FIREARMS LICENSEES' INVENTORY AND RECORDS.

Section 923(g)(1)(B)(ii) of title 18, United States Code, is amended to read as follows:

"(ii) for ensuring compliance with the record keeping requirements of this chapter—

"(I) not more than once during any 12-month period; or

"(II) at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee.".

SEC. 110305. REPORTS OF THEFT OR LOSS OF FIREARMS.

Section 923(g) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6) Each licensee shall report the theft or lass of a firearm from the licensee's inventory or collection, within 48 hours after the theft or loss is discovered, to the Secretary and to the appropriate local authorities.".

SEC. 110306. RESPONSES TO REQUESTS FOR INFORMATION.

Section 923(g) of title 18, United States Code, as amended by section 110405, is amended by adding at the end the following new paragraph:

"(7) Each licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by the Secretary for information contained in the records required to be kept by this chapter as may be required for determining the disposition of 1 or more firearms in the course of a bona fide criminal investigation. The requested information shall be provided orally or in writing, as the Secretary may require. The Secretary shall implement a system whereby the licensee can positively identify and establish that an individual requesting information via telephone is employed by and authorized by the agency to request such information.".

SEC. 110307. NOTIFICATION OF NAMES AND ADDRESSES OF FIREARMS LICENSEES.

Section 923 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(1) The Secretary of the Treasury shall notify the chief law enforcement officer in the appropriate State and local jurisdictions of the names and addresses of all persons in the State to whom a firearms license is issued.".

Subtitle D—Domestic Violence

SEC. 110401. PROHIBITION AGAINST DISPOSAL OF FIREARMS TO, OR RECEIPT OF FIREARMS BY, PERSONS WHO HAVE COMMITTED DOMESTIC ABUSE.

(a) INTIMATE PARTNER DEFINED.—Section 921(a) of title 18, United States Code, as amended by section 110103(b), is amended by inserting at the end the following new paragraph:

"(32) The term 'intimate partner' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.".

(b) PROHIBITION AGAINST DISPOSAL OF FIREARMS.—Section 922(d) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

"(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.".

(c) PROHIBITION AGAINST RECEIPT OF FIREARMS.—Section 922(g) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by inserting "or" at the end of paragraph (7); and

(3) by inserting after paragraph (7) the following:

"(8) who is subject to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

"(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury,".

(d) STORAGE OF FIREARMS.—Section 926(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by inserting after paragraph (2) the following:

"(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 922.".

(e) RETURN OF FIREARMS.—Section 924(d)(1) of title 18, United States Code, is amended by striking "the seized" and inserting "or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished".

Subtitle E—Gun Crime Penalties

SEC. 110501. ENHANCED PENALTY FOR USE OF A SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.

(a) AMENDMENT TO SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement of the punishment for a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a drug trafficking crime (as defined in section 924(c)(2) of title 18, United States Code) if a semiautomatic firearm is involved.

(b) SEMIAUTOMATIC FIREARM.—In subsection (a), "semiautomatic firearm" means any repeating firearm that utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round and that requires a separate pull of the trigger to fire each cartridge.

SEC. 110502. ENHANCED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate amendments to the sentencing guidelines to appropriately enhance penalties in a case in which a defendant convicted under section 844(h) of title 18, United States Code, has previously been convicted under that section.

SEC. 110503. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 60013, is amended by adding at the end the following new subsection:

"(j) A person who, with intent to engage in or to promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3)),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 110504. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 110203(a), is amended by adding at the end the following new subsection:

"(k) A person who steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) A person who steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 110505. REVOCATION OF SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place such term appears in such subsection and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COMPLY WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to comply with drug testing imposed as a condition of supervised release;

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

SEC. 110506. REVOCATION OF PROBATION.

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO COMPLY WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to comply with drug testing, thereby violating the condition imposed by section 3563(a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 110507. INCREASED PENALTY FOR KNOWINGLY MAKING FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B) by striking "(a)(6),"; and

(2) in subsection (a)(2) by inserting "(a)(6)," after "subsections".

SEC. 110508. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 110509. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraphs:

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of (including any person having an interest in) the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 110510. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) SECTION 924(e)(1) OF TITLE 18.—Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) SECTION 924(c)(1) OF TITLE 18.—Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed under this subsection.".

SEC. 10511. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any

VOL 140 PT 15 AG 10 — 11 1994 UMI

stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 110512. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of a felony under chapter 25 of title 18, United States Code, if the defendant used or carried a firearm (as defined in section 921(a)(3) of title 18, United States Code) during and in relation to the felony.

SEC. 110513. ENHANCED PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to—

(1) appropriately enhance penalties in cases in which a defendant convicted under section 922(g) of title 18, United States Code, has 1 prior conviction by any court referred to in section 922(g)(1) of title 18 for a violent felony (as defined in section 924(e)(2)(B) of that title) or a serious drug offense (as defined in section 924(e)(2)(A) of that title); and

(2) appropriately enhance penalties in cases in which such a defendant has 2 prior convictions for a violent felony (as so defined) or a serious drug offense (as so defined).

SEC. 110514. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 110515. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 110504(a), is amended by adding at the end the following new subsection:

"(l) A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 110204(b), is amended by adding at the end the following new subsection:

"(l) A person who steals any explosive material from a licensed importer, licensed manufacturer, or licensed dealer, or from any permittee shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 110516. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 110517. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 110515(a), is amended by adding at the end the following new subsection:

"(m) A person who, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

SEC. 110518. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 110517(a), is amended by adding at the end the following new subsection:

"(n) A person who conspires to commit an offense under subsection (c) shall be imprisoned for not more than 20 years, fined under this title, or both; and if the firearm is a machinegun or destructive device, or is equipped with a firearm silencer or muffler, shall be imprisoned for any term of years or life.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 110515(b), is amended by adding at the end the following new subsection:

"(m) A person who conspires to commit an offense under subsection (h) shall be imprisoned for any term of years not exceeding 20, fined under this title, or both.

SEC. 110519. DEFINITION OF ARMOR PIERCING AMMUNITION.

Section 921(a)(17) of title 18, United States Code, is amended by revising subparagraph (B) and adding a new subparagraph (C) to read as follows:

"(B) The term 'armor piercing ammunition' means—

"(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

"(ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

"(C) The term 'armor piercing ammunition' does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.".

TITLE XII—TERRORISM

SEC. 120001. EXTENSION OF THE STATUTE OF LIMITATION FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

"§3286. Extension of statute of limitation for certain terrorism offenses

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 46502, 46504, 46505, or 46506 of title 49, unless the indictment is found or the information is instituted within 8 years after the offense was committed.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall not apply to any offense committed more than 5 years prior to the date of enactment of this Act.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitation for certain terrorism offenses.".

SEC. 120002. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 120003. COUNTERFEITING UNITED STATES CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States

"A person who, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 if committed within the United States, shall be fined under this title, imprisoned not more than 20 years, or both.".

(b) TECHNICAL AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new item:

"470. Counterfeit acts committed outside the United States.".

(2) PART ANALYSIS.—The part analysis for part I of title 18, United States Code, is amended by amending the item for chapter 25 to read as follows:

"25. Counterfeiting and forgery ..... 470".

SEC. 120004. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an appropriate enhancement for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 120005. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"(a) DEFINITION.—In this section, 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

"(b) OFFENSE.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title or section 46502 of title 49, or in preparation for or carrying out the concealment of an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) INVESTIGATIONS.—

"(1) IN GENERAL.—Within the United States, an investigation may be initiated or continued under this section only when facts reasonably indicate that—

"(A) in the case of an individual, the individual knowingly or intentionally engages, has engaged, or is about to engage in the violation of this or any other Federal criminal law; and

"(B) in the case of a group of individuals, the group knowingly or intentionally engages, has engaged, or is about to engage in the violation of this or any other Federal criminal law.

"(2) ACTIVITIES PROTECTED BY THE FIRST AMENDMENT.—An investigation may not be initiated or continued under this section based on activities protected by the First Amendment to the Constitution, including expressions of support or the provision of financial support for the nonviolent political, religious, philosophical, or ideological goals or beliefs of any person or group.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by adding the following new item:

"2339A. Providing material support to terrorists.".

TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT

SEC. 130001. ENHANCEMENT OF PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or (4) of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

SEC. 130002. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $3,400,000 for fiscal year 1996;

(2) $3,600,000 for fiscal year 1997;

(3) $3,700,000 for fiscal year 1998;

(4) $3,800,000 for fiscal year 1999; and

(5) $3,900,000 for fiscal year 2000.

SEC. 130003. ALIEN WITNESS COOPERATION AND COUNTERTERRORISM INFORMATION.

(a) ESTABLISHMENT OF NEW NONIMMIGRANT CLASSIFICATION.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking "or" at the end of subparagraph (Q),

(2) by striking the period at the end of subparagraph (R) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(S) subject to section 214(j), an alien—

"(i) who the Attorney General determines—

"(I) is in possession of critical reliable information concerning a criminal organization or enterprise;

"(II) is willing to supply or has supplied such information to Federal or State law enforcement authorities or a Federal or State court; and

"(III) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise; or

"(ii) who the Secretary of State and the Attorney General jointly determine—

"(I) is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation;

"(II) is willing to supply or has supplied such information to Federal law enforcement authorities or a Federal court;

"(III) will be or has been placed in danger as a result of providing such information; and

"(IV) is eligible to receive a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien.".

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by inserting at the beginning the following new paragraph:

"(1) The Attorney General shall determine whether a ground for exclusion exists with respect to a nonimmigrant described in section 101(a)(15)(S). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting deportation proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(S) for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 101(a)(15)(S).".

(2) NUMERICAL LIMITATIONS; PERIOD OF ADMISSION; ETC.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(i) in any fiscal year may not exceed 100. The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(ii) in any fiscal year may not exceed 25.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—

"(A) shall report not less often than quarterly to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require;

"(B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission;

"(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status; and

"(D) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.

"(5) The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning—

"(A) the number of such nonimmigrants admitted;

"(B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens;

"(C) the number of terrorist acts prevented or frustrated resulting from cooperation of such aliens;

"(D) the number of such nonimmigrants whose admission or cooperation has not resulted in successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and

"(E) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) PROHIBITION OF CHANGE OF STATUS.—Section 248(1) of the Immigration and Naturalization Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(i)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(i) has supplied information described in subclause (I) of such section; and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the prosecution of an individual described in subclause (III) of that section,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the

VOL 140 PT 15 AG 10 — 11 1994 UMI

alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) If, in the sole discretion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(ii) has supplied information described in subclause (I) of such section, and

"(B) the provision of such information has substantially contributed to—

"(i) the prevention or frustration of an act of terrorism against a United States person or United States property, or

"(ii) the success of an authorized criminal investigation of, or the prosecution of, an individual involved in such an act of terrorism, and

"(C) the nonimmigrant has received a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(3) Upon the approval of adjustment of status under paragraphs (1) or (2), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current.".

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended by striking "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) EXTENSION OF PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(i))" after "five years".

SEC. 130004. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(b) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) The Attorney General may, in the case of an alien described in paragraph (2), determine the deportability of such alien under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony) and issue an order of deportation pursuant to the procedures set forth in this subsection or section 242(b).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time at which proceedings under this section commenced; and

"(B) is not eligible for any relief from deportation under this Act.

"(3) The Attorney General may not execute any order described in paragraph (1) until 30 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

"(4) Proceedings before the Attorney General under this subsection shall be in accordance with such regulations as the Attorney General shall prescribe. The Attorney General shall provide that—

"(A) the alien is given reasonable notice of the charges and of the opportunity described in subparagraph (C);

"(B) the alien shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings, as the alien shall choose;

"(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

"(D) the determination of deportability is supported by clear, convincing, and unequivocal evidence and a record is maintained for judicial review; and

"(E) the final order of deportation is not entered by the same person who issues the charges.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d)(1) A petition for review or for habeas corpus on behalf of an alien against whom a final order of deportation has been issued pursuant to section 242A(b) may challenge only—

"(A) whether the alien is in fact the alien described in the order;

"(B) whether the alien is in fact an alien described in section 242A(b)(2);

"(C) whether the alien has been convicted of an aggravated felony and such conviction has become final; and

"(D) whether the alien was afforded the procedures required by section 242A(b)(5).

"(2) No court shall have jurisdiction to review any issue other than an issue described in paragraph (1).".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES";

(2) in subsection (a), as designated prior to enactment of this Act, by striking "(a) IN GENERAL.—" and inserting the following:

"(a) DEPORTATION OF CRIMINAL ALIENS.—

"(1) IN GENERAL.—";

(3) in subsection (b), as designated prior to enactment of this Act, by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—";

(4) by striking subsection (c);

(5) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)"; and

(B) by striking "(2)" and inserting "(B)"; and

(6) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 130005. EXPEDITIOUS DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) IN GENERAL.—The Attorney General may provide for the expeditious adjudication of asylum claims and the expeditious deportation of asylum applicants whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status.

(b) EMPLOYMENT AUTHORIZATION.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(e) An applicant for asylum is not entitled to employment authorization except as may be provided by regulation in the discretion of the Attorney General.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $64,000,000 for fiscal year 1995;
(2) $90,000,000 for fiscal year 1996;
(3) $93,000,000 for fiscal year 1997; and
(4) $91,000,000 for fiscal year 1998.

SEC. 130006. IMPROVING BORDER CONTROLS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Immigration and Naturalization Service to increase the resources for the Border Patrol, the Inspections Program, and the Deportation Branch to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents or who remain in the country after their nonimmigrant visas expire—

(1) $228,000,000 for fiscal year 1995, of which $181,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $47,000,000 is authorized from the General Fund of the Treasury;

(2) $185,000,000 for fiscal year 1996, of which $137,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

(3) $204,000,000 for fiscal year 1997, of which $156,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

(4) $58,000,000 for fiscal year 1998, of which $10,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

Of the sums authorized in this section, all necessary funds shall, subject to the availability of appropriations, be allocated to increase the number of agent positions (and necessary support personnel positions) in the Border Patrol by not less than 1,000 full-time equivalent positions in each of fiscal years 1995, 1996, 1997, and 1998 beyond the number funded as of October 1, 1994.

(b) REPORT.—By September 30, 1996 and September 30, 1998, the Attorney General shall report to the Congress on the programs described in this section. The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

SEC. 130007. EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) and 242(i) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(b) DETENTION AND REMOVAL OF CRIMINAL ALIENS.—Subject to the availability of appropriations, the Attorney General may—

(1) construct or contract for the construction of 2 Immigration and Naturalization Service Processing Centers to detain criminal aliens; and

(2) provide for the detention and removal of such aliens.

(c) REPORT.—By September 30, 1996, and September 30, 1998 the Attorney General shall report to the Congress on the programs referred to in subsections (a) and (b). The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $55,000,000 for fiscal year 1995;
(2) $54,000,000 for fiscal year 1996;
(3) $49,000,000 for fiscal year 1997; and
(4) $2,000,000 for fiscal year 1998.

SEC. 130008. AUTHORITY TO ACCEPT CERTAIN ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, the Attorney General, in the discretion of the Attorney General, may accept, hold, administer, and utilize gifts of property and services (which may not include cash assistance) from State and local governments for the purpose of assisting the Immigration and Naturalization Service in the transportation of deportable aliens who are arrested for misdemeanor or felony crimes under State or Federal law and who are either unlawfully within the United States or willing to submit to voluntary departure under safeguards. Any property acquired pursuant to this section shall be acquired in the name of the United States.

(b) LIMITATION.—The Attorney General shall terminate or rescind the exercise of the authority under subsection (a) if the Attorney General determines that the exercise of such authority has resulted in discrimination by law enforcement officials on the basis of race, color, or national origin.

SEC. 130009. PASSPORT AND VISA OFFENSES PENALTIES IMPROVEMENT.

(a) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended—

(1) in section 1541 by striking "not more than $500 or imprisoned not more than one year" and inserting "under this title, imprisoned not more than 10 years";

(2) in each of sections 1542, 1543, and 1544 by striking "not more than $2,000 or imprisoned not more than five years" and inserting "under this title, imprisoned not more than 10 years";

(3) in section 1545 by striking "not more than $2,000 or imprisoned not more than three years" and inserting "under this title, imprisoned not more than 10 years";

(4) in section 1546(a) by striking "five years" and inserting "10 years";

(5) in section 1546(b) by striking "in accordance with this title, or imprisoned not more than two years" and inserting "under this title, imprisoned not more than 5 years"; and

(6) by adding at the end the following new section:

"§1547. Alternative imprisonment maximum for certain offenses

"Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

"(1) if committed to facilitate a drug trafficking crime (as defined in 929(a)) is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331) is 20 years.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 75 of title 18, United States Code, is amended by adding at the end the following new item:

"1547. Alternative imprisonment maximum for certain offenses.".

SEC. 130010. ASYLUM.

(a) FINDINGS.—The Senate finds that—

(1) in the last decade applications for asylum have greatly exceeded the original 5,000 annual limit provided in the Refugee Act of 1980, with more than 150,000 asylum applications filed in fiscal year 1993, and the backlog of cases growing to 340,000;

(2) this flood of asylum claims has swamped the system, creating delays in the processing of applications of up to several years;

(3) the delay in processing asylum claims due to the overwhelming numbers has contributed to numerous problems, including—

(A) an abuse of the asylum laws by fraudulent applicants whose primary interest is obtaining work authority in the United States while their claim languishes in the backlogged asylum processing system;

(B) the growth of alien smuggling operations, often involving organized crime;

(C) a drain on limited resources resulting from the high cost of processing frivolous asylum claims through our multilayered system; and

(D) an erosion of public support for asylum, which is a treaty obligation.

(4) asylum, a safe haven protection for aliens abroad who cannot return home, has been perverted by some aliens who use asylum claims to circumvent our immigration and refugee laws and procedures; and

(5) a comprehensive revision of our asylum law and procedures is required to address these problems.

(b) POLICY.—It is the sense of the Senate that—

(1) asylum is a process intended to protect aliens in the United States who cannot safely return home;

(2) persons outside their country of nationality who have a well-founded fear of persecution if they return should apply for refugee status at one of our refugee processing offices abroad; and

(3) the immigration, refugee and asylum laws of the United States should be reformed to provide—

(A) a procedure for the expeditious exclusion of any asylum applicant who arrives at a port-of-entry with fraudulent documents, or no documents, and makes a noncredible claim of asylum; and

(B) the immigration, refugee and asylum laws of the United States should be reformed to provide for a streamlined affirmative asylum processing system for asylum applicants who make their application after they have entered the United States.

TITLE XIV—YOUTH VIOLENCE

SEC. 140001. PROSECUTION AS ADULTS OF CERTAIN JUVENILES FOR CRIMES OF VIOLENCE.

The 4th undesignated paragraph of section 5032 of title 18, United States Code, is amended by striking "; however" and inserting ". In the application of the preceding sentence, if the crime of violence is an offense under section 113(a), 113(b), 113(c), 1111, 1113, or, if the juvenile possessed a firearm during the offense, section 2111, 2113, 2241(a), or 2241(c), 'thirteen' shall be substituted for 'fifteen' and 'thirteenth' shall be substituted for 'fifteenth'. Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to the preceding sentence for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151), and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that the preceding sentence have effect over land and persons subject to its criminal jurisdiction. However".

SEC. 140002. COMMENCEMENT OF JUVENILE PROCEEDING.

Section 5032 of title 18, United States Code, is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until".

SEC. 140003. SEPARATION OF JUVENILE FROM ADULT OFFENDERS.

Section 5039 of title 18, United States Code, is amended by inserting ", whether pursuant to an adjudication of delinquency or conviction for an offense," after "committed" the first place it appears.

SEC. 140004. BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES.

Section 501(b) of title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 100003, is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(23) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-old juveniles in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;
"(B) murder in the second degree;
"(C) attempted murder;
"(D) armed robbery when armed with a firearm;
"(E) aggravated battery or assault when armed with a firearm;
"(F) criminal sexual penetration when armed with a firearm; and
"(G) drive-by shootings as described in section 36 of title 18, United States Code.".

SEC. 140005. AMENDMENT CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

Section 5038 of title 18, United States Code, is amended in subsection (f) by adding "or whenever a juvenile has been found guilty of committing an act after his 13th birthday which if committed by an adult would be an offense described in the second sentence of the fourth paragraph of section 5032 of this title," after "title 21,".

SEC. 140006. INCREASED PENALTIES FOR EMPLOYING CHILDREN TO DISTRIBUTE DRUGS NEAR SCHOOLS AND PLAYGROUNDS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 21 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official, is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

SEC. 140007. INCREASED PENALTIES FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE AND CONSPIRACY TO COMMIT CONTRACT KILLINGS.

(a) TRAVEL ACT PENALTIES.—Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both," and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more

VOL 140 PT 15 AG 10 — 11 1994 UMI

than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

(b) MURDER CONSPIRACY PENALTIES.—Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 140006. SOLICITATION OF MINOR TO COMMIT CRIME.

(a) DIRECTIVE TO SENTENCING COMMISSION.—(1) The United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant 21 years of age or older who has been convicted of an offense shall receive an appropriate sentence enhancement if the defendant involved a minor in the commission of the offense.

(2) The Commission shall provide that the guideline enhancement promulgate pursuant to paragraph (1) shall apply for any offense in relation to which the defendant has solicited, procured, recruited, counseled, encouraged, trained, directed, commanded, intimidated, or otherwise used or attempted to use any person less than 18 years of age with the intent that the minor would commit a Federal offense.

(b) RELEVANT CONSIDERATIONS.—In implementing the directive in subsection (a), the Sentencing Commission shall consider—

(1) the severity of the crime that the defendant intended the minor to commit;

(2) the number of minors that the defendant used or attempted to use in relation to the offense;

(3) the fact that involving a minor in a crime of violence is frequently of even greater seriousness than involving a minor in a drug trafficking offense, for which the guidelines already provide a two-level enhancement; and

(4) the possible relevance of the proximity in age between the offender and the minor(s) involved in the offense.

TITLE XV—CRIMINAL STREET GANGS

SEC. 150001. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 25 the following new chapter:

"CHAPTER 26—CRIMINAL STREET GANGS

"§521. Criminal street gangs

"(a) DEFINITIONS.—

" 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent or controlled substances felony.

" 'criminal street gang' means an ongoing group, club, organization, or association of 5 or more persons—

"(A) that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subsection (c);

"(B) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subsection (c); and

"(C) the activities of which affect interstate or foreign commerce.

"(b) PENALTY.—The sentence of a person convicted of an offense described in subsection (c) shall be increased by up to 10 years if the offense is committed under the circumstances described in subsection (d).

"(c) OFFENSES.—The offenses described in this section are—

"(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years;

"(2) a Federal felony crime of violence that has as an element the use or attempted use of physical force against the person of another; and

"(3) a conspiracy to commit an offense described in paragraph (1) or (2).

"(d) CIRCUMSTANCES.—The circumstances described in this section are that the offense described in subsection (c) was committed by a person who—

"(1) participates in a criminal street gang with knowledge that its members engage in or have engaged in a continuing series of offenses described in subsection (c);

"(2) intends to promote or further the felonious activities of the criminal street gang or maintain or increase his or her position in the gang; and

"(3) has been convicted within the past 5 years for—

"(A) an offense described in subsection (c);

"(B) a State offense—

"(i) involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years' imprisonment; or

"(ii) that is a felony crime of violence that has as an element the use or attempted use of physical force against the person of another;

"(C) any Federal or State felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense; or

"(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following new item:

"26. Criminal street gangs ..... 521".

SEC. 150002. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph by striking "922(p)" and inserting "924(b), (g), or (h)";

(2) in the fourth undesignated paragraph by inserting "or in section 924(b), (g), or (h) of this title," before "criminal prosecution" the first place it appears; and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.".

SEC. 150003. ADDITION OF ANTI-GANG BYRNE GRANT FUNDING OBJECTIVE.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(4)), as amended by section 140004, is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(24) law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs.".

SEC. 150004. JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS.

Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

(1) by redesignating subpart III as subpart IV;

(2) by redesignating section 283 as section 284; and

(3) by inserting after subpart II the following new subpart:

"Subpart III—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 283. (a) AUTHORIZATION.—The Administrator may make grants to States, units of general local government, private not-for-profit anticrime organizations, or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective programs including prevention and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) PARTICULAR PURPOSES.—The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools.

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop within the juvenile justice system, including the juvenile corrections system, innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(4) To reduce juvenile drug and gang-related activity in public housing projects.

"(5) To develop and provide parenting classes to parents of at-risk youth, giving parents the skills they need to provide adequate care and supervision of such youth and to counteract the influences leading youth to a life of gangs, crime, and drugs.

"(6) To develop and provide training in methods of nonviolent dispute resolution to youth of junior high school and high school age.

"(7) To reduce and prevent juvenile drug and gang-related activity in rural areas.

"(8) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to—

"(A) identify drug-dependent or gang-involved juvenile offenders; and

"(B) provide appropriate counseling and treatment to such offenders.

"(9) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic, or artistic enrichment that also teach that drug and gang involvement are wrong.

"(10) To facilitate Federal and State cooperation with local school officials to develop education, prevention, and treatment programs for juveniles who are likely to participate in drug trafficking, drug use, or gang-related activities.

"(11) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls' and boys' clubs, scout troops, and little leagues.

"(12) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers.

"(13) To provide education and treatment programs for juveniles exposed to severe violence in their homes, schools, or neighborhoods.

"(14) To establish sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 283A. There is authorized to be appropriated to carry out this subpart—

"(1) $15,000,000 for fiscal year 1996;

"(2) $21,000,000 for fiscal year 1997;

"(3) $25,000,000 for fiscal year 1998;

"(4) $30,000,000 for fiscal year 1999; and

"(5) $34,000,000 for fiscal year 2000.

"APPLICATION

"SEC. 283B. (a) IN GENERAL.—Each State or entity applying for a grant under section 283 shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) REGULATIONS.—To the extent practicable, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the regulations governing applications required under part D, including the regulations relating to competition.

"MENTAL HEALTH SCREENING

"SEC. 283C. (a) SENSE OF THE CONGRESS.—It is the sense of the Congress that no child should have to be incarcerated in a State youth center or detention facility solely in order to receive mental health treatment.

"(b) IN GENERAL.—Not later than 2 years after the date of enactment of this subpart, the Attorney General, acting through the Administrator of the Office of Juvenile Justice and Delinquency Prevention, in collaboration with the Secretary of Health and Human Services, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall, subject to the availability of appropriations—

"(1) study the nature and prevalence of mental illness among youth in the juvenile justice system at several different points in the system, including the arrest stage, the adjudication, and dispositional stage, and the commitment stage, such study to be based on the best available data and include reviews of existing studies by the Government Accounting Office, the Inspector General's office, and such other interested parties as are appropriate;

"(2) develop a model system that the States can use to assess, diagnose, and treat the mental health needs of youth who come in contact with the juvenile justice system; and

"(3) disseminate the results of the study and the model to each State's Juvenile Justice Advisory Group.

"(c) STUDY.—The study should include analysis of—

"(1) national prevalence of rates of the different clinical categories of mental illness for youth who come in contact with the juvenile justice system;

"(2) the prevalence of multiple mental disorders among youth who have come in contact with the juvenile justice system;

"(3) recommendations to the Committee on the Judiciary of the Senate and the Committee on Education and Labor of the House of Representatives on the appropriateness and need for further Federal action; and

"(4) such other analysis as is appropriate.

"(d) MODEL.—The model should provide—

"(1) guidelines for accurate and timely assessment, diagnosis, and treatment at several different points in the juvenile justice system including the arrest stage, the adjudication and dispositional stage, and the commitment stage;

"(2) a method for fostering collaboration between the mental health agencies, juvenile justice agencies, educational agencies, social services agencies, substance abuse treatment agencies, police, and families;

"(3) a funding mechanism for implementing the model; and

"(4) such other guidelines as are appropriate.".

SEC. 150005. GRANTS FOR YOUTH DEVELOPMENT CENTERS.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.), is amended—

(1) by inserting before section 221 the following heading:

"Subpart I—Juvenile Justice and Delinquency Prevention Formula Grant Program";

and

(2) by adding at the end the following new subpart:

"Subpart II—Youth Violence Prevention Block Grants

"SEC. 232. (a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall subject to availability of appropriations make grants to States to assist the States in planning, establishing, operating, coordinating, and evaluating programs directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile violence.

"(b) ISSUES TO BE ADDRESSED.—A program funded under subsection (a) shall address issues identified as contributing to youth violence, which may include—

"(1) conflict resolution programs in schools;

"(2) alternatives to school suspension;

"(3) juvenile court diversion programs; and

"(4) other innovative projects.

"(c) ALLOCATION OF FUNDS.—The amount appropriated under this section for a fiscal year shall be allocated among the States by allocating to each State an amount that bears the same proportion to the amount appropriated as the number of residents of the State under the age of 18 years bears to the number of residents of all of the States under the age of 18 years.

"(d) ADMINISTRATION.—Grants made under this section shall be administered by the State office designated under section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

"(e) APPLICATIONS BY PUBLIC AND PRIVATE AGENCIES.—

"(1) IN GENERAL.—A public or private agency desiring to receive a grant or enter into a contract under this subpart shall submit an application at such time, in such manner, and containing such information as the office described in subsection (d) may prescribe.

"(2) CONTENTS.—In accordance with guidelines established by the office described in subsection (d), an application under paragraph (1) shall—

"(A) set forth a program or activity for carrying out 1 or more of the purposes described in subsections (a) and (b) and specifically identify each such purpose that the program or activity is designed to carry out;

"(B) provide that the program or activity will be administered by or under the supervision of the applicant;

"(C) provide for the proper and efficient administration of the program or activity;

"(D) provide for regular evaluation of the program or activity;

"(E) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(F) describe how the program or activity will be coordinated with programs, activities, and services available locally;

"(G) provide that regular reports on such program or activity shall be sent to the administering office named in subsection (d); and

"(H) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(f) MATCHING FUNDS REQUIREMENTS.—

"(1) FUNDS RECEIVED UNDER THIS SUBPART.—Funds received through a grant under this section may not be expended for more than 75 percent of the cost of any program that is so funded.

"(2) FUNDS FROM OTHER SOURCES.—In providing for the 25 percent share of the cost of a program from other sources, a State—

"(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(B) may provide for such share through State sources, local sources, private sources, nonprofit sources, other Federal sources, or any combination of these sources.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $5,000,000 for fiscal year 1996;

"(2) $8,000,000 for fiscal year 1997;

"(3) $10,000,000 for fiscal year 1998;

"(4) $12,000,000 for fiscal year 1999; and

"(5) $15,000,000 for fiscal year 2000.".

SEC. 150006. MENTORING PROGRAM.

Section 288C of part G of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended to read as follows:

"REGULATIONS AND GUIDELINES

"SEC. 288C. (a) PROGRAM GUIDELINES.—The Administrator shall issue program guidelines to implement this part. The program guidelines shall be effective only after a period for public notice and comment.

"(b) MODEL SCREENING GUIDELINES.—The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.".

SEC. 150007. JUVENILE ANTI-DRUG AND ANTI-GANG GRANTS IN FEDERALLY ASSISTED LOW-INCOME HOUSING.

Grants authorized in this Act to reduce or prevent juvenile drug and gang-related activity in "public housing" may be used for such purposes in federally assisted, low-income housing.

SEC. 150008. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by January 1, 1996.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $1,000,000 for fiscal year 1996.

SEC. 150009. MULTIJURISDICTIONAL GANG TASK FORCES.

Section 504(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "victims assistance programs, or multijurisdictional gang task forces" after "drug task forces".

TITLE XVI—CHILD PORNOGRAPHY

SEC. 160001. PENALTIES FOR INTERNATIONAL TRAFFICKING IN CHILD PORNOGRAPHY.

(a) IMPORT RELATED OFFENSE.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§2258. Production of sexually explicit depictions of a minor for importation into the United States

"(a) USE OF MINOR.—A person who, outside the United States, employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person

VOL 140 PT 15 AG 10 — 11 1994 UMI

to engage in, or who transports any minor with the intent that the minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, intending that the visual depiction will be imported into the United States or into waters within 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(b) USE OF VISUAL DEPICTION.—A person who, outside the United States, knowingly receives, transports, ships, distributes, sells, or possesses with intent to transport, ship, sell, or distribute any visual depiction of a minor engaging in sexually explicit conduct (if the production of the visual depiction involved the use of a minor engaging in sexually explicit conduct), intending that the visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates subsection (a) or (b), or conspires or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 10 years, or both; and

"(2) if the person has a prior conviction under this chapter or chapter 109A, shall be fined under this title, imprisoned not more than 20 years, or both.".

(b) TECHNICAL AMENDMENT.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2258. Production of sexually explicit depictions of a minor for importation into the United States.".

(2) FINE PROVISIONS.—Section 2251(d) of title 18, United States Code, is amended—

(A) by striking "not more than $100,000, or" and inserting "under this title,";

(B) by striking "not more than $200,000, or" and inserting "under this title,"; and

(C) by striking "not more than $250,000" and inserting "under this title".

(c) SECTION 2251 PENALTY ENHANCEMENT.—Section 2251(d) of title 18, United States Code, is amended by striking "this section" the second place it appears and inserting "this chapter or chapter 109A".

(d) SECTION 2252 PENALTY ENHANCEMENT.—Section 2252(b)(1) of title 18, United States Code, is amended by striking "this section" and inserting "this chapter or chapter 109A".

(e) CONSPIRACY AND ATTEMPT.—Sections 2251(d) and 2252(b) of title 18, United States Code, are each amended by inserting ", or attempts or conspires to violate," after "violates" each place it appears.

(f) RICO AMENDMENT.—Section 1961(1) of title 18, United States Code, is amended by striking "2251–2252" and inserting "2251, 2251A, 2252, and 2258".

(g) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(1) by striking "(a) Whoever" and inserting "(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who"; and

(2) by adding at the end the following new subsection:

"(b) TRAVEL WITH INTENT TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.—A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2245) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 160002. SENSE OF CONGRESS CONCERNING STATE LEGISLATION REGARDING CHILD PORNOGRAPHY.

It is the sense of the Congress that each State that has not yet done so should enact legislation prohibiting the production, distribution, receipt, or simple possession of materials depicting a person under 18 years of age engaging in sexually explicit conduct (as defined in section 2256 of title 18, United States Code) and providing for a maximum imprisonment of at least 1 year and for the forfeiture of assets used in the commission or support of, or gained from, such offenses.

SEC. 160003. CONFIRMATION OF INTENT OF CONGRESS IN ENACTING SECTIONS 2252 AND 2256 OF TITLE 18, UNITED STATES CODE.

(a) DECLARATION.—The Congress declares that in enacting sections 2252 and 2256 of title 18, United States Code, it was and is the intent of Congress that—

(1) the scope of "exhibition of the genitals or pubic area" in section 2256(2)(E), in the definition of "sexually explicit conduct", is not limited to nude exhibitions or exhibitions in which the outlines of those areas were discernible through clothing; and

(2) the requirements in section 2252(a) (1)(A), (2)(A), (3)(B)(i), and (4)(B)(i) that the production of a visual depiction involve the use of a minor engaging in "sexually explicit conduct" of the kind described in section 2256(2)(E) are satisfied if a person photographs a minor in such a way as to exhibit the child in a lascivious manner.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that in filing its brief in United States v. Knox, No. 92–1183, and thereby depriving the United States Supreme Court of the adverseness necessary for full and fair presentation of the issues arising in the case, the Department of Justice did not accurately reflect the intent of Congress in arguing that "the videotapes in [the Knox case] constitute 'lascivious exhibition[s] of the genitals or pubic area' only if those body parts are visible in the tapes and the minors posed or acted lasciviously.".

TITLE XVII—CRIMES AGAINST CHILDREN

Subtitle A—Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

SEC. 170101. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor, or of any other sexually violent offense to register a current address with a designated State law enforcement agency for 10 years after release from prison, or being placed on parole, supervised release, or probation.

(2) DEFINITION.—For purposes of this subsection—

(A) the term "criminal offense against a victim who is a minor" means any criminal offense that consists of—

(i) kidnapping of a minor, except by a parent;

(ii) false imprisonment of a minor, except by a parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of a minor to engage in sexual conduct;

(v) use of a minor in a sexual performance;

(vi) solicitation of a minor to practice prostitution;

(vii) any conduct that by its nature is a sexual offense against a minor; or

(viii) an attempt to commit an offense described in any of clauses (i) through (vii), if the State—

(I) makes such an attempt a criminal offense; and

(II) chooses to include such an offense in those which are criminal offenses against a victim who is a minor for the purposes of this section; and

(B) the term "sexually violent offense" means any criminal offense that consists of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code) or an offense that has as its elements engaging in physical contact with another person or using or brandishing a weapon against another person with intent to commit aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code).

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, SUPERVISED RELEASE, OR PROBATION.—An approved State registration program established under this section shall contain the following requirements:

(1) DUTY OF STATE PRISON OFFICIAL OR COURT.—If a person who is required to register under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, or in the case of probation, the court, shall—

(A) inform the person of the duty to register and obtain the information required for such registration;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) inform the person that if the person changes residence to another State, the person shall register the new address with the law enforcement agency with whom the person last registered, and the person is also required to register with a designated law enforcement agency in the new State not later than 10 days after establishing residence in the new State, if the new State has a registration requirement;

(D) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(E) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing. The designated law enforcement agency shall, if the person changes residence to another State, notify the law enforcement agency with which the person must register in the new State, if the new State has a registration requirement.

(5) PRIVACY OF DATA.—The information collected under a State registration program shall be treated as private data on individuals and may be disclosed only to law enforcement agencies for law enforcement purposes or to government agencies conducting confidential background checks with fingerprints. A law enforcement agency may release relevant information concerning a sex offender required to register under this section when such release of information is necessary to carry out law enforcement purposes or to notify the victims of the offender.

(c) REGISTRATION FOR CHANGE OF ADDRESS TO ANOTHER STATE.—A person who has been convicted of an offense which triggered registration in a State shall register the new address with a designated law enforcement agency in another State to which the person moves not later than 10 days after such person establishes residence in the new State, if the new State has a registration requirement.

(d) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from prison, or placed on parole, supervised release, or probation.

(e) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(f) IMMUNITY.—The State program shall provide appropriate legal immunity to law enforcement agencies, employees of law enforcement agencies, and State officials for good faith and reasonably diligent conduct in carrying out the State program.

(g) COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the guidelines issued under this section 3 years after the date of enactment of this Act may be reduced by the Attorney General by up to 10 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

Subtitle B—Assaults Against Children

SEC. 170201. ASSAULTS AGAINST CHILDREN.

(a) SIMPLE ASSAULT.—Section 113(e) of title 18, United States Code, is amended by inserting ", or if the victim of the assault is an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 1 year, or both" before the period.

(b) ASSAULTS RESULTING IN SUBSTANTIAL BODILY INJURY.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(7) Assault resulting in substantial bodily injury to an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 5 years, or both.".

(c) TECHNICAL AND STYLISTIC CHANGES TO SECTION 113.—Section 113 of title 18, United States Code, is amended—

(1) in paragraph (b), by striking "of not more than $3,000" and inserting "under this title";

(2) in paragraph (c), by striking "of not more than $1,000" and inserting "under this title";

(3) in paragraph (d), by striking "of not more than $500" and inserting "under this title";

(4) by modifying the left margin of each of paragraphs (a) through (f) so that they are indented 2 ems;

(5) by redesignating paragraphs (a) through (f) as paragraphs (1) through (6); and

(6) by inserting "(a)" before "Whoever".

(d) DEFINITIONS.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(b) As used in this subsection—

"(1) the term 'substantial bodily injury' means bodily injury which involves—

"(A) a temporary but substantial disfigurement; or

"(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty; and

"(2) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.".

(e) ASSAULTS IN INDIAN COUNTRY.—Section 1153(a) of title 18, United States Code, is amended by inserting "(as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years" after "serious bodily injury".

Subtitle C—Missing and Exploited Children

SEC. 170301. SHORT TITLE.

This subtitle may be cited as the "Morgan P. Hardiman Task Force on Missing and Exploited Children Act".

SEC. 170302. PURPOSE.

The purpose of this subtitle is to establish a task force comprised of law enforcement officers from pertinent Federal agencies to work with the National Center for Missing and Exploited Children (referred to as the "Center") and coordinate the provision of Federal law enforcement resources to assist State and local authorities in investigating the most difficult cases of missing and exploited children.

SEC. 170303. ESTABLISHMENT OF TASK FORCE.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) by redesignating sections 407 and 408 as sections 408 and 409, respectively; and

(2) by inserting after section 406 the following new section:

"TASK FORCE

"SEC. 407. (a) ESTABLISHMENT.—There is established a Missing and Exploited Children's Task Force (referred to as the "Task Force").

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Task Force shall include at least 2 members from each of—

"(A) the Federal Bureau of Investigation;

"(B) the Secret Service;

"(C) the Bureau of Alcohol, Tobacco and Firearms;

"(D) the United States Customs Service;

"(E) the Postal Inspection Service;

"(F) the United States Marshals Service; and

"(G) the Drug Enforcement Administration.

"(2) CHIEF.—A representative of the Federal Bureau of Investigation (in addition to the members of the Task Force selected under paragraph (1)(A)) shall act as chief of the Task Force.

"(3) SELECTION.—(A) The Director of the Federal Bureau of Investigation shall select the chief of the Task Force.

"(B) The heads of the agencies described in paragraph (1) shall submit to the chief of the Task Force a list of at least 5 prospective Task Force members, and the chief shall select 2, or such greater number as may be agreeable to an agency head, as Task Force members.

"(4) PROFESSIONAL QUALIFICATIONS.—The members of the Task Force shall be law enforcement personnel selected for their expertise that would enable them to assist in the investigation of cases of missing and exploited children.

"(5) STATUS.—A member of the Task Force shall remain an employee of his or her respective agency for all purposes (including the purpose of performance review), and his or her service on the Task Force shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis.

"(6) PERIOD OF SERVICE.—(A) Subject to subparagraph (B), 1 member from each agency shall initially serve a 1-year term, and the other member from the same agency shall serve a 1-year term, and may be selected to a renewal of service for 1 additional year; thereafter, each new member to serve on the Task Force shall serve for a 2-year period with the member's term of service beginning and ending in alternate years with the other member from the same agency; the period of service for the chief of the Task Force shall be 3 years.

"(B) The chief of the Task Force may at any time request the head of an agency described in paragraph (1) to submit a list of 5 prospective Task Force members to replace a member of the Task Force, for the purpose of maintaining a Task Force membership that will be able to meet the demands of its caseload.

"(c) SUPPORT.—

"(1) IN GENERAL.—The Administrator of the General Services Administration, in coordination with the heads of the agencies described in subsection (b)(1), shall provide the Task Force office space and administrative and support services, such office space to be in close proximity to the office of the Center, so as to enable the Task Force to coordinate its activities with that of the Center on a day-to-day basis.

"(2) LEGAL GUIDANCE.—The Attorney General shall assign an attorney to provide legal guidance, as needed, to members of the Task Force.

"(d) PURPOSE.—

"(1) IN GENERAL.—The purpose of the Task Force shall be to make available the combined resources and expertise of the agencies described in paragraph (1) to assist State and local governments in the most difficult missing and exploited child cases nationwide, as identified by the chief of the Task Force from time to time, in consultation with the Center, and as many additional cases as resources permit, including the provision of assistance to State and local investigators on location in the field.

"(2) TECHNICAL ASSISTANCE.—The role of the Task Force in any investigation shall be to provide advice and technical assistance and to make available the resources of the agencies described in subsection (b)(1); the Task Force shall not take a leadership role in any such investigation.

"(e) CROSS-DESIGNATION OF TASK FORCE MEMBERS.—The Attorney General may cross-designate the members of the Task Force with jurisdiction to enforce Federal law related to child abduction to the extent necessary to accomplish the purposes of this section.".

TITLE XVIII—RURAL CRIME

Subtitle A—Drug Trafficking in Rural Areas

SEC. 180101. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(9) There are authorized to be appropriated to carry out part O—

"(A) $24,000,000 for fiscal year 1996;

"(B) $40,000,000 for fiscal year 1997;

"(C) $50,000,000 for fiscal year 1998;

"(D) $60,000,000 for fiscal year 1999; and

"(E) $66,000,000 for fiscal year 2000.".

VOL 140 PT 15 AG 10 — 11 1994 UMI

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

(c) CLARIFICATION.—Section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §3796bb(b)) is amended by inserting ", based on the decennial census of 1990 through fiscal year 1997" before the period.

SEC. 180102. RURAL CRIME AND DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, may establish a Rural Crime and Drug Enforcement Task Force in judicial districts that encompass significant rural lands. Assets seized as a result of investigations initiated by a Rural Crime and Drug Enforcement Task Force and forfeited under Federal law shall be used, consistent with the guidelines on equitable sharing established by the Attorney General and of the Secretary of the Treasury, primarily to enhance the operations of the task force and its participating State and local law enforcement agencies.

(b) TASK FORCE MEMBERSHIP.—The Task Forces established under subsection (a) shall be carried out under policies and procedures established by the Attorney General. The Attorney General may deputize State and local law enforcement officers and may cross-designate up to 100 Federal law enforcement officers, when necessary to undertake investigations pursuant to section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) or offenses punishable by a term of imprisonment of 10 years or more under title 18, United States Code. The task forces—

(1) shall include representatives from—

(A) State and local law enforcement agencies;

(B) the office of the United States Attorney for the judicial district; and

(C) the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, and the United States Marshals Service; and

(2) may include representatives of other Federal law enforcement agencies, such as the United States Customs Service, United States Park Police, United States Forest Service, Bureau of Alcohol, Tobacco, and Firearms, and Bureau of Land Management.

SEC. 180103. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a)—

(1) $1,000,000 for fiscal year 1996;
(2) $1,000,000 for fiscal year 1997;
(3) $1,000,000 for fiscal year 1998;
(4) $1,000,000 for fiscal year 1999; and
(5) $1,000,000 for fiscal year 2000.

SEC. 180104. MORE AGENTS FOR THE DRUG ENFORCEMENT ADMINISTRATION.

There are authorized to be appropriated for the hiring of additional Drug Enforcement Administration agents—

(1) $12,000,000 for fiscal year 1996;
(2) $20,000,000 for fiscal year 1997;
(3) $30,000,000 for fiscal year 1998;
(4) $40,000,000 for fiscal year 1999; and
(5) $48,000,000 for fiscal year 2000.

Subtitle B—Drug Free Truck Stops and Safety Rest Areas

SEC. 180201. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) DEFINITIONS.—In this section—

"'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists.

"'truck stop' means a facility (including any parking lot appurtenant thereto) that—

"(A) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined in section 31301 of title 49, United States Code), operating in commerce (as defined in that section); and

"(B) is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.

"(b) FIRST OFFENSE.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) twice any term of supervised release authorized by section 401(b) for a first offense.

"(c) SUBSEQUENT OFFENSE.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is subject to—

"(1) 3 times the maximum punishment authorized by section 401(b); and

"(2) 3 times any term of supervised release authorized by section 401(b) for a first offense.".

(2) TECHNICAL AMENDMENTS.—

(A) CROSS REFERENCE.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409 and inserting the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide an appropriate enhancement of punishment for a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (b).

Subtitle C—Sense of Congress Regarding Funding for Rural Areas

SEC. 180301. FUNDING FOR RURAL AREAS.

It is the sense of Congress that—

(1) the Attorney General should ensure that funding for programs authorized by the provisions of this Act and amendments made by this Act is distributed in such a manner that rural areas continue to receive comparable support for their broad-based crime fighting initiatives;

(2) rural communities should not receive less funding than they received in fiscal year 1994 for anti-crime initiatives as a result of any legislative or administrative actions; and

(3) to the maximum extent possible, funding for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program should be maintained at its fiscal year 1994 level.

TITLE XIX—FEDERAL LAW ENFORCEMENT

SEC. 190001. FEDERAL JUDICIARY AND FEDERAL LAW ENFORCEMENT.

(a) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.—

FEDERAL JUDICIARY.—There are authorized to be appropriated for the activities of the Federal Judiciary to help meet the increased demands for judicial activities, including supervised release, pre-trial and probation services, that will result from enactment into law of this Act—

(A) $30,000,000 for fiscal year 1996;
(B) $35,000,000 for fiscal year 1997;
(C) $40,000,000 for fiscal year 1998;
(D) $40,000,000 for fiscal year 1999; and
(E) $55,000,000 for fiscal year 2000.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE.—There is authorized to be appropriated for the activities and agencies of the Department of Justice, in addition to sums authorized elsewhere in this section, to help meet the increased demands for Department of Justice activities that will result from enactment into law of this Act—

(A) $45,000,000 for fiscal year 1996;
(B) $55,000,000 for fiscal year 1997;
(C) $60,000,000 for fiscal year 1998;
(D) $60,000,000 for fiscal year 1999; and

(c) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL BUREAU OF INVESTIGATION.—There is authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for Federal Bureau of Investigation activities that will result from enactment into law of this Act—

(A) $35,000,000 for fiscal year 1996;
(B) $40,000,000 for fiscal year 1997;
(C) $50,000,000 for fiscal year 1998;
(D) $60,000,000 for fiscal year 1999; and
(E) $60,000,000 for fiscal year 2000.

(d) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR UNITED STATES ATTORNEYS.—There is authorized to be appropriated for the account Department of Justice, Legal Activities, "Salaries and expenses, United States Attorneys", to help meet the increased demands for litigation and related activities which will result from enactment into law of this Act—

(A) $5,000,000 for fiscal year 1996;
(B) $8,000,000 for fiscal year 1997;
(C) $10,000,000 for fiscal year 1998;
(D) $12,000,000 for fiscal year 1999; and
(E) $15,000,000 for fiscal year 2000.

(e) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF THE TREASURY.—There is authorized to be appropriated for the activities of the Bureau of Alcohol, Tobacco, and Firearms, the United States Customs Service, the Financial Crimes Enforcement Network, the Federal Law Enforcement Training Center, the Criminal Investigation Division of the Internal Revenue Service, and the United States Secret Service to help meet the increased demands for Department of Treasury activities that will result from enactment into law of this Act—

(1) $30,000,000 for fiscal year 1995;
(2) $70,000,000 for fiscal year 1996;
(3) $90,000,000 for fiscal year 1997;
(4) $110,000,000 for fiscal year 1998;
(5) $125,000,000 for fiscal year 1999; and
(6) $125,000,000 for fiscal year 2000.

TITLE XX—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

Subtitle A—Police Corps

SEC. 200101. SHORT TITLE.

This subtitle may be cited as the "Police Corps Act".

SEC. 200102. PURPOSES.

The purposes of this subtitle are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol; and

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement.

SEC. 200103. DEFINITIONS.

In this subtitle—

"academic year" means a traditional academic year beginning in August or September and ending in the following May or June.

"dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director.

"Director" means the Director of the Office of the Police Corps and Law Enforcement Education appointed under section 200104.

"educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree in legal- or criminal justice-related studies; or

(B) a course of graduate study legal or criminal justice studies following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses.

"institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"participant" means a participant in the Police Corps program selected pursuant to section 200106.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

"State Police Corps program" means a State police corps program that meets the requirements of section 200110.

SEC. 200104. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

SEC. 200105. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under this subtitle shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this subtitle;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program; and

(4) meet the requirements of section 200110.

SEC. 200106. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director may award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B), each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(3) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director may make payments to a participant to reimburse such participant for the costs of educational expenses if the student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any 1 student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study; and

(2) if a participant has enrolled in the program upon or after transfer to a 4-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) AGREEMENT.—(1)(A) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director.

(B) An agreement under subparagraph (A) shall contain assurances that the participant shall—

(i) after successful completion of a baccalaureate program and training as prescribed in section 200108, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(ii) complete satisfactorily—

(I) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study); and

(II) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 200108; and

(iii) repay all of the scholarship or payment received plus interest at the rate of 10 percent if the conditions of clauses (i) and (ii) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered to be in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) If a scholarship recipient is unable to comply with the repayment provision set forth in paragraph (1)(B)(ii) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from a participant who violates an agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any accredited institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

SEC. 200107. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant shall—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 200110(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of

VOL 140 PT 15 AG 10 — 11 1994 UMI

service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this Act, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 200109, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 200109, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this subtitle that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 200108. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director may enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces) to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director may enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 10 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 200109. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 200108 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 200106, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 200106(d)(1)(B)(iii) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 200106, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 200106(d)(1)(B)(iii) shall not apply.

SEC. 200110. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 200107;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) ensure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 200111. ASSISTANCE TO STATES AND LOCALITIES EMPLOYING POLICE CORPS OFFICERS.

Each jurisdiction directly employing Police Corps participants during the 4-year term of service prescribed by section 200109 shall receive $10,000 on account of each such participant at the completion of each such year of service, but—

(1) no such payment shall be made on account of service in any State or local police force—

(A) whose average size, in the year for which payment is to be made, not counting Police Corps participants assigned under section 106, has declined more than 2 percent since January 1, 1993; or

(B) which has members who have been laid off but not retired; and

(2) no such payment shall be made on account of any Police Corps participant for years of service after the completion of the term of service prescribed in section 200109.

SEC. 200112. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated from the General Fund of the Treasury to carry out this subtitle—

(1) $100,000,000 for fiscal year 1995;

(2) $300,000,000 for fiscal year 1996; and

(3) such sums as may be necessary for each of the fiscal years 1997, through 2000.

SEC. 200113. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than April 1 of each year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of current and past participants in the Police Corps program, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic, racial, and gender dispersion of participants in the Police Corps program; and

(3) describe the progress of the Police Corps program and make recommendations for changes in the program.

Subtitle B—Law Enforcement Scholarship Program

SEC. 200201. SHORT TITLE.

This subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 200202. DEFINITIONS.

In this subtitle—

"Director" means the Director of the Office of the Police Corps and Law Enforcement Education appointed under section 200104.

"educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, and related expenses.

"institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"law enforcement position" means employment as an officer in a State or local police force, or correctional institution.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 200203. ALLOTMENT.

From amounts appropriated under section 200210, the Director shall allot—

(1) 80 percent of such amounts to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such amounts to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 200204. ESTABLISHMENT OF PROGRAM.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—A State that receives an allotment pursuant to section 200203 shall use the allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment for a period not to exceed 1 year.

(2) EMPLOYMENT.—The employment described in paragraph (1)(B)—

(A) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an institution of higher education and who demonstrate an interest in undertaking a career in law enforcement;

(B) shall not be in a law enforcement position; and

(C) shall consist of performing meaningful tasks that inform students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—Subject to the availability of appropriations, the Director shall pay to each State that receives an allotment under section 200203 the Federal share of the cost of the activities described in the application submitted pursuant to section 200203.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(d) ADMINISTRATIVE EXPENSES.—A State that receives an allotment under section 200203 may reserve not more than 8 percent of the allotment for administrative expenses.

(e) SPECIAL RULE.—A State that receives an allotment under section 200203 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(f) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 200205. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of 1 academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use the scholarship for educational expenses at an institution of higher education.

SEC. 200206. ELIGIBILITY.

(a) SCHOLARSHIPS.—A person shall be eligible to receive a scholarship under this subtitle if the person has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—A person who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 200207. STATE APPLICATION.

(a) IN GENERAL.—Each State desiring an allotment under section 200203 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of persons who receive scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks that students will be assigned to perform;

(B) the compensation that students will be paid to perform such tasks; and

(C) the training that students will receive as part of their participation in the program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 200208. LOCAL APPLICATION.

(a) IN GENERAL.—A person who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall describe—

(1) the academic courses for which a scholarship is sought; or

(2) the location and duration of employment that is sought.

(c) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from persons who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 200209. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—A person who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—An agreement described in subsection (a) shall—

(1) provide assurances that the scholarship recipient will work in a law enforcement position in the State that awarded the scholarship in accordance with the service obligation described in subsection (c) after completion of the scholarship recipient's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the scholarship recipient will repay the entire scholarship in accordance with such terms and conditions as the Director shall prescribe if the requirements of the agreement are not complied with, unless the scholarship recipient—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which the scholarship recipient may seek employment in the field of law enforcement in a State other than the State that awarded the scholarship.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.— Except as provided in paragraph (2), a person who receives a scholarship under this subtitle shall work in a law enforcement position in the State that awarded the scholarship for a period of 1 month for each credit hour for which funds are received under the scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement of paragraph (1), a scholarship recipient shall work in a law enforcement position in the State that awarded the scholarship for not less than 6 months but shall not be required to work in such a position for more than 2 years.

SEC. 200210. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the General Fund of the Treasury to carry out this subtitle—

(1) $30,000,000 for fiscal year 1996;

(2) $30,000,000 for fiscal year 1997;

(3) $30,000,000 for fiscal year 1998;

(4) $30,000,000 for fiscal year 1999; and

(5) $30,000,000 for fiscal year 2000.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for a fiscal year—

(1) 80 percent shall be available to provide scholarships described in section 200204(a)(1)(A); and

(2) 20 percent shall be available to provide employment described in sections 200204(a)(1)(B) and 200204(a)(2).

TITLE XXI—STATE AND LOCAL LAW ENFORCEMENT

Subtitle A—Byrne Program

SEC. 210101. EXTENSION OF BYRNE GRANT FUNDING.

There is authorized to be appropriated for fiscal years 1995 through 2000 such sums as may be necessary to carry out the programs under parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

(1) $580,000,000 for fiscal year 1995;
(2) $130,000,000 for fiscal year 1996;
(3) $100,000,000 for fiscal year 1997;
(4) $75,000,000 for fiscal year 1998;
(5) $70,000,000 for fiscal year 1999; and
(6) $45,000,000 for fiscal year 2000.

Subtitle B—Law Enforcement Family Support

SEC. 210201. LAW ENFORCEMENT FAMILY SUPPORT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 50001(a), is amended—

(1) by redesignating part W as part X;

(2) by redesignating section 2301 as 2401; and

(3) by inserting after part V the following new part:

"PART W—FAMILY SUPPORT

"SEC. 2301. DUTIES.

"The Attorney General shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Department of Justice and by grant recipients.

"SEC. 2302. GENERAL AUTHORIZATION.

"The Attorney General may make grants to States and local law enforcement agencies and to organizations representing State or local law enforcement personnel to provide family support services to law enforcement personnel.

"SEC. 2303. USES OF FUNDS.

"(a) IN GENERAL.—A State or local law enforcement agency or organization that receives a grant under this Act shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency or organization that receives funds under this part shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(6) Technical assistance and training programs to support any or all of the services described in paragraphs (1), (2), (3), (4), and (5).

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency or organization that receives funds under this part may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"(10) Technical assistance and training to support any or all of the services described in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), and (9).

"SEC. 2304. APPLICATIONS.

"A law enforcement agency or organization desiring to receive a grant under this part shall submit to the Attorney General an application at such time, in such manner, and containing or accompanied by such information as the Attorney General may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality or from the highest ranking official from the organization applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Attorney General or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this part.

"SEC. 2305. AWARD OF GRANTS; LIMITATION.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Attorney General shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Attorney General may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency or $250,000 to a law enforcement organization for a period not to exceed 5 years. In any application from a State or local law enforcement agency or organization for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Attorney General shall review the progress made toward meeting the objectives of the program. The Attorney General may refuse to award a grant if the Attorney General finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 5 percent of grant funds received by a State or a local law enforcement agency or organization may be used for administrative purposes.

"SEC. 2306. DISCRETIONARY RESEARCH GRANTS.

"The Attorney General may reserve 10 percent of funds to award research grants to a State or local law enforcement agency or organization to study issues of importance in the law enforcement field as determined by the Attorney General.

"SEC. 2307. REPORTS.

"A State or local law enforcement agency or organization that receives a grant under this part shall submit to the Attorney General an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"SEC. 2308. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 50001(b), is amended by striking the matter relating to part V and inserting the following:

"PART W—FAMILY SUPPORT

"Sec. 2301. Duties.
"Sec. 2302. General authorization.
"Sec. 2303. Uses of funds.
"Sec. 2304. Applications.
"Sec. 2305. Award of grants; limitation.
"Sec. 2306. Discretionary research grants.
"Sec. 2307. Reports.
"Sec. 2308. Definitions.

"PART V—TRANSITION-EFFECTIVE DATE-REPEALS

"Sec. 2301. Continuation of rules, authorities, and privileges.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 50001(c), is amended—

(1) in paragraph (3) by striking "and V" and inserting "V, and W"; and

(2) by adding at the end the following new paragraph:

"(21) There are authorized to be appropriated to carry out part W—

"(1) $2,500,000 for fiscal year 1996;
"(2) $4,000,000 for fiscal year 1997;
"(3) $5,000,000 for fiscal year 1998;
"(4) $6,000,000 for fiscal year 1999; and
"(5) $7,500,000 for fiscal year 2000.".

Subtitle C—DNA Identification

SEC. 210301. SHORT TITLE.

This subtitle may be cited as the "DNA Identification Act of 1994".

SEC. 210302. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

(a) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) as amended by section 150003, is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(25) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes.".

(b) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of funds received from a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 210303 of the DNA Identification Act of 1994;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

"(iii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

"(iv) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 210303 of the DNA Identification Act of 1994.".

(c) DNA IDENTIFICATION GRANTS.—

(1) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 210201(a), is amended—

(A) by redesignating part X as part Y;

(B) by redesignating section 2401 as section 2501; and

(C) by inserting after part W the following new part:

"PART X—DNA IDENTIFICATION GRANTS

"SEC. 2401. GRANT AUTHORIZATION.

"The Attorney General may make funds available under this part to States and units of local government, or combinations thereof, to carry out all or a substantial part of a program or project intended to develop or improve the capability to analyze deoxyribonucleic acid (referred to in this part as 'DNA') in a forensic laboratory.

"SEC. 2402. APPLICATIONS.

"To request a grant under this part, the chief executive officer of a State or unit of local government shall submit an application in such form as the Attorney General may require.

"SEC. 2403. APPLICATION REQUIREMENTS.

"No grant may be made under this part unless an application has been submitted to the Attorney General in which the applicant certifies that—

"(1) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 210303 of the DNA Identification Act of 1994.

"(2) DNA samples obtained by and DNA analyses performed at the laboratory shall be made available only—

"(A) to criminal justice agencies for law enforcement identification purposes;

"(B) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

"(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or

"(D) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(3) the laboratory and each analyst performing DNA analyses at the laboratory shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program that meets the standards issued under section 210303 of the DNA Identification Act of 1994.

"SEC. 2404. ADMINISTRATIVE PROVISIONS.

"(a) REGULATION AUTHORITY.—The Attorney General may promulgate guidelines, regulations, and procedures, as necessary to carry out the purposes of this part, including limitations on the number of awards made during each fiscal year, the submission and review of applications, selection criteria, and the extension or continuation of awards.

"(b) AWARD AUTHORITY.—The Attorney General shall have final authority over all funds awarded under this part.

"(c) TECHNICAL ASSISTANCE.—To assist and measure the effectiveness and performance of programs and activities funded under this part, the Attorney General may provide technical assistance as required.

"SEC. 2405. RESTRICTIONS ON USE OF FUNDS.

"(a) FEDERAL SHARE.—The Federal share of a grant, contract, or cooperative agreement made under this part may not exceed 75 percent of the total costs of the project described in the application submitted for the fiscal year for which the project receives assistance.

"(b) ADMINISTRATIVE COSTS.—A State or unit of local government may not use more than 10 percent of the funds it receives from this part for administrative expenses.

"SEC. 2406. REPORTS.

"(a) REPORTS TO ATTORNEY GENERAL.—Each State or unit of local government which receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require which contains—

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application submitted under section 2402; and

"(2) such other information as the Attorney General may require.

"(b) REPORTS TO CONGRESS.—Not later than 90 days after the end of each fiscal year for which grants are made under this part, the Attorney General shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report that includes—

"(1) the aggregate amount of grants made under this part to each State or unit of local government for such fiscal year; and

"(2) a summary of the information provided in compliance with subsection (a)(1).

"SEC. 2407. EXPENDITURE RECORDS.

"(a) RECORDS.—Each State or unit of local government which receives a grant under this part shall keep records as the Attorney General may require to facilitate an effective audit.

"(b) ACCESS.—The Attorney General, the Comptroller General, or their designated agents shall have access, for the purpose of audit and examination, to any books, documents, and records of States and units of local government which receive grants made under this part if, in the opinion of the Attorney General, the Comptroller General, or their designated agents, such books, documents, and records are related to the receipt or use of any such grant.".

(2) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et

VOL 140 PT 15 AG 10 — 11 1994 UMI

seq.), as amended by section 210201(b), is amended by striking the matter relating to part X and inserting the following:

"PART X—DNA IDENTIFICATION GRANTS

"Sec. 2401. Grant authorization.
"Sec. 2402. Applications.
"Sec. 2403. Application requirements.
"Sec. 2404. Administrative provisions.
"Sec. 2405. Restrictions on use of funds.
"Sec. 2406. Reports.
"Sec. 2407. Expenditure records.

"PART Y—TRANSITION-EFFECTIVE DATE-REPEALER

"Sec. 2501. Continuation of rules, authorities, and proceedings.".

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 1001 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 210201(c), is amended—

(A) in paragraph (3) by striking "and W" and inserting "W, and X"; and

(B) adding at the end the following new paragraph:

"(22) There are authorized to be appropriated to carry out part X—

"(1) $1,000,000 for fiscal year 1996;
"(2) $3,000,000 for fiscal year 1997;
"(3) $5,000,000 for fiscal year 1998;
"(4) $13,500,000 for fiscal year 1999; and
"(5) $17,500,000 for fiscal year 2000.".

(4) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 210303. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(1)(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory officials.

(B) The advisory board shall include as members scientists from State, local, and private forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology.

(C) The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories and forensic analysts, in conducting analyses of DNA.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(4) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(b) ADMINISTRATION OF THE ADVISORY BOARD.—(1) For administrative purposes, the advisory board appointed under subsection (a) shall be considered an advisory board to the Director of the Federal Bureau of Investigation.

(2) Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a).

(3) The DNA advisory board established under this section shall be separate and distinct from any other advisory board administered by the FBI, and is to be administered separately.

(4) The board shall cease to exist on the date 5 years after the initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

(c) PROFICIENCY TESTING PROGRAM.—(1) Not later than 1 year after the effective date of this Act, the Director of the National Institute of Justice shall certify to the Committees on the Judiciary of the House and Senate that—

(A) the Institute has entered into a contract with, or made a grant to, an appropriate entity for establishing, or has taken other appropriate action to ensure that there is established, not later than 2 years after the date of enactment of this Act, a blind external proficiency testing program for DNA analyses, which shall be available to public and private laboratories performing forensic DNA analyses;

(B) a blind external proficiency testing program for DNA analyses is already readily available to public and private laboratories performing forensic DNA analyses; or

(C) it is not feasible to have blind external testing for DNA forensic analyses.

(2) As used in this subsection, the term "blind external proficiency test" means a test that is presented to a forensic laboratory through a second agency and appears to the analysts to involve routine evidence.

(3) Notwithstanding any other provision of law, the Attorney General shall make available to the Director of the National Institute of Justice during the first fiscal year in which funds are distributed under this subtitle up to $250,000 from the funds available under part X of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 to carry out this subsection.

SEC. 210304. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.

(a) ESTABLISHMENT OF INDEX.—The Director of the Federal Bureau of Investigation may establish an index of—

(1) DNA identification records of persons convicted of crimes;

(2) analyses of DNA samples recovered from crime scenes; and

(3) analyses of DNA samples recovered from unidentified human remains.

(b) INFORMATION.—The index described in subsection (a) shall include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed by or on behalf of a criminal justice agency in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 210303;

(2) prepared by laboratories, and DNA analysts, that undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 210303; and

(3) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(D) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) FAILURE TO COMPLY.—Access to the index established by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) are not met.

SEC. 210305. FEDERAL BUREAU OF INVESTIGATION.

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 210303.

(B) Within 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory.

(C) In this paragraph, "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) REPORT.—For 5 years after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests described in paragraph (1).

(b) PRIVACY PROTECTION STANDARDS.—

(1) GENERALLY.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) in judicial proceedings, if otherwise admissible pursuant to applicable statues or rules; and

(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) EXCEPTION.—If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) CRIMINAL PENALTY.—(1) A person who—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) knowingly discloses such information in any manner to any person or agency not authorized to receive it,

shall be fined not more than $100,000.

(2) A person who, without authorization, knowingly obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 210306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Bureau of Investigation to carry out sections 210303, 210304, and 210305—

(1) $5,500,000 for fiscal year 1996;
(2) $8,000,000 for fiscal year 1997;
(3) $8,000,000 for fiscal year 1998;
(4) $2,500,000 for fiscal year 1999; and
(5) $1,000,000 for fiscal year 2000.

Subtitle D—Police Pattern or Practice

SEC. 210401. CAUSE OF ACTION.

(a) UNLAWFUL CONDUCT.—It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(b) CIVIL ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

SEC. 210402. DATA ON USE OF EXCESSIVE FORCE.

(a) ATTORNEY GENERAL TO COLLECT.—The Attorney General shall, through appropriate means, acquire data about the use of excessive force by law enforcement officers.

(b) LIMITATION ON USE OF DATA.—Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of the victim or any law enforcement officer.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the data acquired under this section.

Subtitle E—Improved Training and Technical Automation

SEC. 210501. IMPROVED TRAINING AND TECHNICAL AUTOMATION.

(a) GRANTS.—

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations, make grants to State, Indian tribal, and local criminal justice agencies and to nonprofit organizations for the purposes of improving criminal justice agency efficiency through computerized automation and technological improvements.

(2) TYPES OF PROGRAMS.—Grants under this section may include programs to—

(A) increase use of mobile digital terminals;

(B) improve communications systems, such as computer-aided dispatch and incident reporting systems;

(C) accomplish paper-flow reduction;

(D) establish or improve ballistics identification programs;

(E) increase the application of automated fingerprint identification systems and their communications on an interstate and intrastate basis; and

(F) improve computerized collection of criminal records.

(3) FUNDING.—No funds under this subtitle may be used to implement any cryptographic or digital telephony programs.

(b) TRAINING AND INVESTIGATIVE ASSISTANCE.—

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations—

(A) expand and improve investigative and managerial training courses for State, Indian tribal, and local law enforcement agencies; and

(B) develop and implement, on a pilot basis with no more than 10 participating cities, an intelligent information system that gathers, integrates, organizes, and analyzes information in active support of investigations by Federal, State, and local law enforcement agencies of violent serial crimes.

(2) IMPROVEMENT OF FACILITIES.—The improvement described in subsection (a) shall include improvements of the training facilities of the Federal Bureau of Investigation Academy at Quantico, Virginia.

(3) INTELLIGENT INFORMATION SYSTEM.—The intelligent information system described in paragraph (1)(B) shall be developed and implemented by the Federal Bureau of Investigation and shall utilize the resources of the Violent Criminal Apprehension Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to carry out subsection (a)—
(A) $10,000,000 for fiscal year 1996;
(B) $20,000,000 for fiscal year 1997;
(C) $23,000,000 for fiscal year 1998;
(D) $23,000,000 for fiscal year 1999; and
(E) $24,000,000 for fiscal year 2000.

(2) to carry out subsection (b)(1)—
(A) $4,000,000 for fiscal year 1996;
(B) $2,000,000 for fiscal year 1997;
(C) $3,000,000 for fiscal year 1998;
(D) $5,000,000 for fiscal year 1999; and
(E) $6,000,000 for fiscal year 2000; and

(3) to carry out subsection (b)(2)—
$10,000,000 for fiscal year 1996.

(d) DEFINITIONS.—In this section—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

Subtitle F—Other State and Local Aid

SEC. 210601. REAUTHORIZATION OF OFFICE OF JUSTICE PROGRAMS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) in paragraph (1) by striking "1993 and 1994" and inserting "1994 and 1995";

(2) in paragraph (2) by striking "1993 and 1994" and inserting "1994 and 1995";

(3) in paragraph (3) by striking "1993 and 1994" and inserting "1994 and 1995";

(4) in paragraph (5) by striking "1993 and 1994" and inserting "1994 and 1995";

(5) in paragraph (6) by inserting "and 1995" after "1994";

(6) in paragraph (7) by striking "1991, 1992, 1993, and 1994," and inserting "1994 and 1995";

(7) in paragraph (8) by inserting "and 1995" after "1994"; and

(8) in paragraph (9) by inserting "and 1995" after "1994".

SEC. 210602. FEDERAL ASSISTANCE TO EASE THE INCREASED BURDENS ON STATE COURT SYSTEMS RESULTING FROM ENACTMENT OF THIS ACT.

(a) IN GENERAL.—The Attorney General shall, subject to the availability of appropriation, make grants for States and units of local government to pay the costs of providing increased resources for courts, prosecutors, public defenders, and other criminal justice participants as necessary to meet the increased demands for judicial activities resulting from the provisions of this Act and amendments made by this Act.

(b) APPLICATIONS.—In carrying out this section, the Attorney General may make grants to, or enter into contracts with public or private agencies, institutions, or organizations or individuals to carry out any purpose specified in this section. The Attorney General shall have final authority over all funds awarded under this section.

(c) RECORDS.—Each recipient that receives a grant under this section shall keep such records as the Attorney General may require to facilitate an effective audit.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $23,000,000 for fiscal year 1996;
(2) $30,000,000 for fiscal year 1997;
(3) $30,000,000 for fiscal year 1998;
(4) $32,000,000 for fiscal year 1999; and
(5) $35,000,000 for fiscal year 2000,

to remain available for obligation until expended.

SEC. 210603. AVAILABILITY OF VIOLENT CRIME REDUCTION TRUST FUND TO FUND ACTIVITIES AUTHORIZED BY THE BRADY HANDGUN VIOLENCE PREVENTION ACT AND THE NATIONAL CHILD PROTECTION ACT OF 1993.

(a) APPROPRIATIONS.—Of the amounts authorized in Sections 103(k) and 106(b)(2) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) and in section 4(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)), a total of $100,000,000 for fiscal year 1995, $25,000,000 for fiscal year 1996, and $25,000,000 for fiscal year 1997 may be appropriated from the Violent Crime Reduction Trust Fund established by this Act.

(b) TECHNICAL AMENDMENT.—Sections 103(k) and 106(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) are each amended by striking ", which may be appropriated from the Violent Crime Reduction Trust Fund,".

TITLE XXII—MOTOR VEHICLE THEFT PREVENTION

SEC. 220001. SHORT TITLE.

This title may be cited as the "Motor Vehicle Theft Prevention Act".

SEC. 220002. MOTOR VEHICLE THEFT PREVENTION PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with the States, a national voluntary motor vehicle theft prevention program (in this section referred to as the "program") under which—

(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

(A) states that the vehicle is not normally operated under certain specified conditions; and

(B) agrees to—

(i) display program decals or devices on the owner's vehicle; and

(ii) permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions; and

(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

(b) UNIFORM DECAL OR DEVICE DESIGNS.—

(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

(2) TYPE OF DESIGN.—The uniform design shall—

(A) be highly visible; and

(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

(1) clearly state that participation in the program is voluntary;

(2) clearly explain that participation in the program means that, if the participating vehicle

VOL 140 PT 15 AG 10 — 11 1994 UMI

is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

(4) include any additional information that the Attorney General may reasonably require.

(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may not be based on race, creed, color, national origin, gender, or age. These conditions may include—

(A) the operation of the vehicle during certain hours of the day; or

(B) the operation of the vehicle under other circumstances that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

(e) MOTOR VEHICLES FOR HIRE.—

(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

(2) TYPE OF NOTICE.—The notice required by this subsection shall—

(A) be in writing;

(B) be in a prominent format to be determined by the Attorney General; and

(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

(f) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

(g) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this section.

(1) $1,500,000 for fiscal year 1996;

(2) $1,700,000 for fiscal year 1997; and

(3) $1,800,000 for fiscal year 1998.

SEC. 220003. ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.

(a) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) A person who—

"(1) knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle or motor vehicle part; or

"(2) with intent to further the theft of a motor vehicle, knowingly removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act,

shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) EXCEPTED PERSONS.—Paragraph (2) of section 511(b) of title 18, United States Code, is amended—

(1) by striking "and" after the semicolon in subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(c) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(d) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

"§511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item relating to section 511 the following new item:

"511A. Unauthorized application of theft prevention decal or device.".

TITLE XXIII—VICTIMS OF CRIME

Subtitle A—Victims of Crime

SEC. 230101. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

(a) MODIFICATION OF PROPOSED AMENDMENTS.—The proposed amendments to the Federal Rules of Criminal Procedure which are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the following amendments:

(b) IN GENERAL.—Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (c)(3)(C);

(2) striking the period at the end of subdivision (c)(3)(D) and inserting "; and";

(3) inserting after subdivision (c)(3)(D) the following:

"(E) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement or present any information in relation to the sentence.";

(4) in subdivision (c)(3)(D), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (c)(4), striking "and (D)" and inserting "(D), and (E)";

(6) in the last sentence of subdivision (c)(4), inserting "the victim," before "or the attorney for the Government."; and

(7) adding at the end the following:

"(j) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense has been committed for which a sentence is to be imposed, but the right of allocution under subdivision (c)(3)(E) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall become effective on December 1, 1994.

SEC. 230102. SENSE OF THE SENATE CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Senate that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing and at any parole hearing if the offender has been convicted of a crime of violence or sexual abuse;

(2) such a victim should have an opportunity equivalent to the opportunity accorded to the offender to address the sentencing court or parole board and to present information in relation to the sentence imposed or to the early release of the offender; and

(3) if the victim is not able to or chooses not to testify at a sentencing hearing or parole hearing, the victim's parents, legal guardian, or family members should have the right to address the court or board.

Subtitle B—Crime Victims' Fund

SEC. 230201. ALLOCATION OF FUNDS FOR COSTS AND GRANTS.

(a) GENERALLY.—Section 1402(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)) is amended by—

(1) striking paragraph (2) and inserting the following:

"(2) the next $10,000,000 deposited in the Fund shall be available for grants under section 1404A.";

(2) striking paragraph (3) and inserting the following:

"(3) Of the remaining amount deposited in the Fund in a particular fiscal year—

"(A) 48.5 percent shall be available for grants under section 1403;

"(B) 48.5 percent shall be available for grants under section 1404(a); and

"(C) 3 percent shall be available for grants under section 1404(c).";

(3) striking paragraph (4) and inserting the following:

"(4) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000."; and

(4) striking paragraph (5).

(b) CONFORMING CROSS REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(d)(2)(D)" and inserting "(d)(2)".

SEC. 230202. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay,—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 230203. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The final sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) Not more than 5 percent of a grant made under this section may be used for the administration of the State crime victim compensation program receiving the grant.".

SEC. 230204. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 230205. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

(a) CREATION OF EXCEPTION.—Section 1404(b)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(2)) is amended by striking "An eligible" and inserting "Except as provided in paragraph (3), an eligible".

(b) REQUIREMENTS OF EXCEPTION.—Section 1404(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)) is amended by adding at the end the following new subsection:

"(3) Not more than 5 percent of sums received under subsection (a) may be used for the administration of the State crime victim assistance program receiving such sums.".

SEC. 230206. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 230207. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended by striking "and on December 31 every two years thereafter", and inserting "and on June 30 every two years thereafter".

SEC. 230208. AMENDMENT OF THE VICTIMS OF CRIME ACT.

Section 1404(a)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)(B)) is amended to read as follows:

"(B) $200,000 thereafter.".

TITLE XXIV—PROTECTIONS FOR THE ELDERLY

SEC. 240001. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall, subject to the availability of appropriations, award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $1,000,000 for fiscal year 1996;

(2) $1,000,000 for fiscal year 1997; and

(3) $1,000,000 for fiscal year 1998.

SEC. 240002. CRIMES AGAINST THE ELDERLY.

(a) IN GENERAL.—Pursuant to its authority under the Sentencing Reform Act of 1984 and section 21 of the Sentencing Act of 1987 (including its authority to amend the sentencing guidelines and policy statements) and its authority to make such amendments on an emergency basis, the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant, and to adequately reflect the heinous nature of such an offense.

(b) CRITERIA.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that—

(1) the guidelines provide for increasingly severe punishment for a defendant commensurate with the degree of physical harm caused to the elderly victim;

(2) the guidelines take appropriate account of the vulnerability of the victim; and

(3) the guidelines provide enhanced punishment for a defendant convicted of a crime of violence against an elderly victim who has previously been convicted of a crime of violence against an elderly victim, regardless of whether the conviction occurred in Federal or State court.

(c) DEFINITIONS.—In this section—

"crime of violence" means an offense under section 113, 114, 1111, 1112, 1113, 1117, 2241, 2242, or 2244 of title 18, United States Code.

"elderly victim" means a victim who is 65 years of age or older at the time of an offense.

SEC. 240003. SAFE SENIOR CORRIDORS GRANTS.

(a) GENERAL AUTHORITY.—The Attorney General may make grants to States, units of local governments, Indian tribal governments, and other public agencies to support pilot projects for controlling crime and ensuring public safety in areas that have a high population density of senior citizens or related special needs.

(b) PURPOSE OF GRANTS.—A pilot project grant under subsection (a) shall have the explicit purpose of providing senior citizens with enhanced protections from crime, particularly violent predatory crime, in geographic areas where their population densities or their activities make senior citizens particularly vulnerable.

(c) APPLICATIONS.—

(1) IN GENERAL.—The Attorney General shall prescribe requirements for the manner of filing and content of applications for funding under this part.

(2) CONTENTS.—An application under this section shall, at a minimum—

(A) demonstrate innovative plans aimed at establishing corridors of safety for senior citizens by increasing the numbers, presence, and watchfulness of law enforcement officers, community groups, and business owners and employees; and

(B) demonstrate the use of broad and diverse community-based volunteer efforts.

(d) REGULATIONS.—The Attorney General may promulgate any necessary regulations, definitions, and guidelines to govern the program authorized by this section.

(e) USE OF FUNDS.—The use of grant funds awarded under this section shall be governed by this section, under such regulations and guidelines as may be issued by the Attorney General.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $1,000,000 for fiscal year 1996; and

(2) $1,000,000 for fiscal year 1997.

TITLE XXV—SENIOR CITIZENS AGAINST MARKETING SCAMS

SEC. 250001. SHORT TITLE.

This Act may be cited as the "Senior Citizens Against Marketing Scams Act of 1994".

SEC. 250002. ENHANCED PENALTIES FOR TELEMARKETING FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended—

(1) by redesignating chapter 113A as chapter 113B; and

(2) by inserting after chapter 113 the following new chapter:

"CHAPTER 113A—TELEMARKETING FRAUD

"Sec.

"2325. Definition.

"2326. Enhanced penalties.

"2327. Mandatory restitution.

"§2325. Definition

"In this chapter, 'telemarketing'—

"(1) means a plan, program, promotion, or campaign that is conducted to induce—

"(A) purchases of goods or services; or

"(B) participation in a contest or sweepstakes,

by use of 1 or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant; but

"(2) does not include the solicitation of sales through the mailing of a catalog that—

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(A) contains a written description or illustration of the goods or services offered for sale;

"(B) includes the business address of the seller;

"(C) includes multiple pages of written material or illustration; and

"(D) has been issued not less frequently than once a year,

if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls take orders without further solicitation.

"§2326. Enhanced penalties

"A person who is convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344 in connection with the conduct of telemarketing—

"(1) may be imprisoned for a term of up to 5 years in addition to any term of imprisonment imposed under any of those sections, respectively; and

"(2) in the case of an offense under any of those sections that—

"(A) victimized ten or more persons over the age of 55; or

"(B) targeted persons over the age of 55,

may be imprisoned for a term of up to 10 years in addition to any term of imprisonment imposed under any of those sections, respectively.

"§2327. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution may be enforced by a victim named in the order to receive the restitution as well as by the United States Attorney, in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' means all losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution issued under this section shall be a condition of any probation or supervised release of a defendant. The court may revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, hold the defendant in contempt pursuant to section 3583(e), or suspend the offender's eligibility for any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or with appropriated funds of the United States if the defendant fails to comply with the order. In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(b) TECHNICAL AMENDMENTS.—

(1) PART ANALYSIS.—The part analysis for part I of title 18, United States Code, is amended by striking the item relating to chapter 113A and inserting the following:

"113A. Telemarketing fraud 2325
"113B. Terrorism ..... 2331".

(2) CHAPTER 113B.—The chapter heading for chapter 113B of title 18, United States Code, as redesignated by subsection (a)(1), is amended to read as follows:

"CHAPTER 113B—TERRORISM"

SEC. 250003. INCREASED PENALTIES FOR FRAUD AGAINST OLDER VICTIMS.

(a) REVIEW.—The United States Sentencing Commission shall review and, if necessary, amend the sentencing guidelines to ensure that victim related adjustments for fraud offenses against older victims over the age of 55 are adequate.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Sentencing Commission shall report to Congress the result of its review under subsection (a).

SEC. 250004. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 2326 which results in a conviction.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal, State, or local government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of an allegation or transaction that has been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

SEC. 250005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the purposes of carrying out this Act and the amendments made by this Act—

(1) for the Federal Bureau of Investigation to hire, equip, and train special agents and support staff to investigate telemarketing fraud cases—

(A) $750,000 for fiscal year 1996;
(B) $1,500,000 for fiscal year 1997;
(C) $1,500,000 for fiscal year 1998;
(D) $1,800,000 for fiscal year 1999; and
(E) $1,950,000 for fiscal year 2000;

(2) to hire, equip, and train Department of Justice attorneys, assistant United States Attorneys, and support staff to prosecute telemarketing fraud cases—

(A) $250,000 for fiscal year 1996;
(B) $500,000 for fiscal year 1997;
(C) $500,000 for fiscal year 1998;
(D) $600,000 for fiscal year 1999; and
(E) $650,000 for fiscal year 2000; and

(3) for the Department of Justice to conduct, in cooperation with State and local law enforcement agencies and senior citizen advocacy organizations, public awareness and prevention initiatives for senior citizens, such as seminars and training—

(A) $1,000,000 for fiscal year 1996;
(B) $2,000,000 for fiscal year 1997;
(C) $2,000,000 for fiscal year 1998;
(D) $2,500,000 for fiscal year 1999; and
(E) $2,500,000 for fiscal year 2000.

SEC. 250006. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 250007. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;";

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 250008. INFORMATION NETWORK.

(a) HOTLINE.—The Attorney General shall, subject to the availability of appropriations, establish a national toll-free hotline for the purpose of—

(1) providing general information on telemarketing fraud to interested persons; and

(2) gathering information related to possible violations of this Act.

(b) ACTION ON INFORMATION GATHERED.—The Attorney General shall work in cooperation with the Federal Trade Commission to ensure that information gathered through the hotline shall be acted on in an appropriate manner.

TITLE XXVI—COMMISSION MEMBERSHIP AND APPOINTMENT

SEC. 260001. COMMISSION MEMBERSHIP AND APPOINTMENT.

(a) MEMBERSHIP.—Section 211(B)(f) of Public Law 101-515 (104 Stat. 2123) is amended to read as follows:

"(f) NUMBER AND APPOINTMENT.—

"(1) IN GENERAL.—The Commission shall be composed of 29 members as follows:

"(A) Nine individuals appointed from national law enforcement organizations representing law enforcement officers, of whom—

"(i) two shall be appointed by the Speaker of the House of Representatives;

"(ii) two shall be appointed by the majority leader of the Senate;

"(iii) two shall be appointed by the minority leader of the House of Representatives;

"(iv) two shall be appointed by the minority leader of the Senate; and

"(v) one shall be appointed by the President.

"(B) Nine individuals appointed from national law enforcement organizations representing law enforcement management, of whom—

"(i) two shall be appointed by the Speaker of the House of Representatives;

"(ii) two shall be appointed by the majority leader of the Senate;

"(iii) two shall be appointed by the minority leader of the House of Representatives;

"(iv) two shall be appointed by the majority leader of the Senate; and

"(v) one shall be appointed by the President.

"(C) Two individuals appointed with academic expertise regarding law enforcement issues, of whom—

"(i) one shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate; and

"(ii) one shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

"(D) Two Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

"(E) Two Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

"(F) One individual from the Department of Justice, appointed by the President.

"(G) Two individuals representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed jointly by the majority leader and the minority leader of the Senate.

"(H) Two individuals representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed jointly by the Speaker and the minority leader of the House of Representatives.

"(2) COMPTROLLER GENERAL.—The Comptroller General shall serve in an advisory capacity and shall oversee the methodology and approve of the Commission study.

"(3) CHAIRPERSON.—Upon their appointment the members of the Commission shall select one of their number to act as chairperson.

"(4) APPOINTMENT DATE.—Members of the Commission shall be appointed no later than 90 days of the enactment of this Act.".

(b) REPORT.—Section 211(B)(p) of Public Law 101-515 (104 Stat. 2124) is amended by striking "the expiration" and all that follows through "this Act," and inserting "March 31, 1996,".

(c) REIMBURSEMENT.—

(1) Section 211(B)(i) of Public Law 101-515 (104 Stat. 2124) is amended by striking "non-reimbursable" and inserting "a reimbursable".

(2) Section 211(b)(j) of Public Law 101-515 (104 Stat. 2124) is amended by adding after "Commission" the following: ", on a reimbursable basis,".

SEC. 260002. CONFORMING AMENDMENT.

Section 3404(a) of Public Law 101-647 (42 U.S.C. 3721 note) is repealed.

TITLE XXVII—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL COMMISSION ON CRIME PREVENTION AND CONTROL

SEC. 270001. PRESIDENTIAL SUMMIT.

Congress calls on the President to convene a national summit on violence in America prior to convening the Commission established under this title.

SEC. 270002. ESTABLISHMENT; COMMITTEES AND TASK FORCES; REPRESENTATION.

(a) ESTABLISHMENT AND APPOINTMENT OF MEMBERS.—There is established a commission to be known as the "National Commission on Crime Control and Prevention". The Commission shall be composed of 28 members appointed as follows:

79-059 O—97 Vol. 140 (Pt. 15) 10

VOL 140 PT 15 AG 10 — 11 1994 UMI

(1) 10 persons by the President, not more than 6 of whom shall be of the same major political party.

(2) 9 persons by the President pro tempore of the Senate, 5 of whom shall be appointed on the recommendation of the Majority Leader of the Senate and the chairman of the Committee on the Judiciary of the Senate, and 4 of whom shall be appointed on the recommendation of the Minority Leader of the Senate and the ranking minority member of the Committee on the Judiciary of the Senate.

(3) 9 persons appointed by the Speaker of the House of Representatives, in consultation with the chairman of the Committee on the Judiciary of the House of Representatives, and 4 of whom shall be appointed on the recommendation of the Minority Leader of the House of Representatives, in consultation with the ranking member of the Committee on the Judiciary.

(b) COMMITTEES AND TASK FORCES.—The Commission shall establish committees or task forces from among its members for the examination of specific subject areas and the carrying out of other functions or responsibilities of the Commission, including committees or task forces for the examination of the subject areas of crime and violence generally, the causes of the demand for drugs, violence in schools, and violence against women, as described in subsections (b) through (e) of section 270004.

(c) REPRESENTATION.—(1) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of crime and violence generally, with education, training, expertise, or experience in such areas as law enforcement, law, sociology, psychology, social work, and ethnography and urban poverty (including health care, housing, education, and employment).

(2) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of the causes of the demand for drugs, with education, training, expertise, or experience in such areas as addiction, biomedicine, sociology, psychology, law, and ethnography and urban poverty (including health care, housing, education, and employment).

(3) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of violence in schools, with education, training, expertise, or experience in such areas as law enforcement, education, school governance policy and teaching, law, sociology, psychology, and ethnography and urban poverty (including health care, housing, education, and employment).

(4) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of violence against women, as survivors of violence, or as persons with education, training, expertise, or experience in such areas as law enforcement, law, judicial administration, prosecution, defense, victim services or advocacy in sexual assault or domestic violence cases (including medical services and counseling), and protection of victims' rights.

SEC. 270003. PURPOSES.

The purposes of the Commisston are as follows:

(1) To develop a comprehensive proposal for preventing and controlling crime and violence in the United States, including cost estimates for implementing any recommendations made by the Commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas for controlling and preventing crime.

(4) To recommend improvements in the coordination of local, State, Federal, and international crime control and prevention efforts, including efforts relating to crime near international borders.

(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and violence, including the causes of illicit drug use and other substance abuse, and to develop specific proposals for legislative and administrative actions to reduce crime and violence and the factors that contribute to it.

(6) To recommend means of utilizing criminal justice resources as effectively as possible, including targeting finite correctional facility space to the most serious and violent offenders, and considering increased use of intermediate sanctions for offenders who can be dealt with adequately by such means.

(7) To examine distinctive crime problems and the impact of crime on members of minority groups, Indians living on reservations, and other groups defined by race, ethnicity, religion, age, disability, or other characteristics, and to recommend specific responses to the distinctive crime problems of such groups.

(8) To examine the problem of sexual assaults, domestic violence, and other criminal and unlawful acts that particularly affect women, and to recommend Federal, State, and local strategies for more effectively preventing and punishing such crimes and acts.

(9) To examine the treatment of victims in Federal, State, and local criminal justice systems, and to develop recommendations to enhance and protect the rights of victims.

(10) To examine the ability of Federal, State, and local criminal justice systems to administer criminal law and criminal sanctions impartially without discrimination on the basis of race, ethnicity, religion, gender, or other legally proscribed grounds, and to make recommendations for correcting any deficiencies in the impartial administration of justice on these grounds.

(11) To examine the nature, scope, causes, and complexities of violence in schools and to recommend a comprehensive response to that problem.

SEC. 270004. RESPONSIBILITIES OF THE COMMISSION.

(a) IN GENERAL.—The responsibilities of the Commission shall include such study and consultation as may be necessary or appropriate to carry out the purposes set forth in section 270003, including the specific measures described in subsections (b) through (e) in relation to the subject areas addressed in those subsections.

(b) CRIME AND VIOLENCE GENERALLY.—In addressing the subject of crime and violence generally, the activities of the Commission shall include the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes in Federal and State law have had in controlling crime and violence.

(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among the Nation's youth.

(4) Examining the problem of youth gangs and providing recommendations as to how to reduce youth involvement in violent crime.

(5) Examining the extent to which the use of dangerous weapons in the commission of crime has contributed to violence and murder in the United States.

(6) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other persons who wish to participate.

(7) Reviewing all segments of the Nation's criminal justice systems, including the law enforcement, prosecution, defense, judicial, and corrections components in developing the crime control and prevention proposal.

(c) CAUSES OF THE DEMAND FOR DRUGS.—In addressing the subject of the causes of the demand for drugs, the activities of the Commission shall include the following:

(1) Examining the root causes of illicit drug use and abuse in the United States, including by compiling existing research regarding those root causes, and including consideration of the following factors:

(A) The characteristics of potential illicit drug users and abusers or drug traffickers, including age and social, economic, and educational backgrounds.

(B) Environmental factors that contribute to illicit drug use and abuse, including the correlation between unemployment, poverty, and homelessness and drug experimentation and abuse.

(C) The effects of substance use and abuse by a relative or friend in contributing to the likelihood and desire of an individual to experiment with illicit drugs.

(D) Aspects of, and changes in cultural values, attitudes and traditions that contribute to illicit drug use and abuse.

(E) The physiological and psychological factors that contribute to the desire for illicit drugs.

(2) Evaluating Federal, State, and local laws and policies on the prevention of drug abuse, control of unlawful production, distribution and use of controlled substances, and the efficacy of sentencing policies with regard to those laws.

(3) Analyzing the allocation of resources among interdiction of controlled substances entering the United States, enforcement of Federal laws relating to the unlawful production, distribution, and use of controlled substances, education with regard to and the prevention of the unlawful use of controlled substances, and treatment and rehabilitation of drug abusers.

(4) Analyzing current treatment and rehabilitation methods and making recommendations for improvements.

(5) Identifying any existing gaps in drug abuse policy that result from the lack of attention to the root causes of drug abuse.

(6) Assessing the needs of government at all levels for resources and policies for reducing the overall desire of individuals to experiment with and abuse illicit drugs.

(7) Making recommendations regarding necessary improvements in policies for reducing the use of illicit drugs in the United States.

(d) VIOLENCE IN SCHOOLS.—In addressing the subject of violence in schools, the activities of the Commission shall include the following:

(1) Defining the causes of violence in schools.

(2) Defining the scope of the national problem of violence in schools.

(3) Providing statistics and data on the problem of violence in schools on a State-by-State basis.

(4) Investigating the problem of youth gangs and their relation to violence in schools and providing recommendations on how to reduce youth involvement in violent crime in schools.

(5) Examining the extent to which dangerous weapons have contributed to violence and murder in schools.

(6) Exploring the extent to which the school environment has contributed to violence in schools.

(7) Reviewing the effectiveness of current approaches in preventing violence in schools.

(e) VIOLENCE AGAINST WOMEN.—In addressing the subject of sexual assault, domestic violence, and other criminal and unlawful acts that particularly affect women, the activities of the Commission shall include the following:

(1) Evaluating the adequacy of, and making recommendations regarding, current law enforcement efforts at the Federal, State, and local levels to reduce the incidence of such crimes and acts, and to punish those responsible for such crimes and acts.

(2) Evaluating the adequacy of, and making recommendations regarding, the responsiveness of prosecutors and courts to such crimes and acts.

(3) Evaluating the adequacy of rules of evidence, practice, and procedure to ensure the effective prosecution and conviction of perpetrators of such crimes and acts and to protect victims of such crimes and acts from abuse in legal proceedings, making recommendations, where necessary, to improve those rules.

(4) Evaluating the adequacy of pretrial release sentencing, incarceration, and post-conviction release in relation to such crimes and acts.

(5) Evaluating the adequacy of, and making recommendations regarding, the adequacy of Federal and State laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim.

(6) Evaluating the adequacy of, and making recommendations regarding, the adequacy of Federal and State laws on domestic violence and the need for a more uniform statutory response to domestic violence.

(7) Evaluating the adequacy of, and making recommendations regarding, the adequacy of current education, prevention, and protective services for victims of such crimes and acts.

(8) Assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases.

(9) Assessing the problem of stalking and recommending effective means of response to the problem.

(10) Evaluating the adequacy of, and making recommendations regarding, programs for public awareness and public dissemination of information to prevent such crimes and acts.

(11) Evaluating the treatment of victims of such crimes and acts in Federal, State, and local criminal justice systems, and making recommendations designed to improve such treatment.

SEC. 270005. ADMINISTRATIVE MATTERS.

(a) CHAIR.—The President shall designate a member of the Commission to chair the Commission.

(b) NO ADDITIONAL PAY OR BENEFITS; PER DIEM.—Members of the Commission shall receive no pay or benefits by reason of their service on the Commission, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(c) VACANCIES.—Vacancies on the Commission shall be filled in the same manner as initial appointments.

(d) MEETINGS OPEN TO THE PUBLIC.—The Commission shall be considered to be an agency for the purposes of section 552b of title 5, United States Code, relating to the requirement that meetings of Federal agencies be open to the public.

SEC. 270006. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—With the approval of the Commission, the chairperson shall appoint a staff director for the Commission.

(b) STAFF.—With the approval of the Commission, the staff director may appoint and fix the compensation of staff personnel for the Commission.

(c) CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Staff compensation may be set without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but in no event shall any such personnel be compensated at a rate greater than the rate of basic pay for level ES-4 of the Senior Executive Service Schedule under section 5382 of that title. The staff director shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule.

(d) CONSULTANTS.—With the approval of the Commission, the staff director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, personnel of that agency to the Commission to assist in carrying out its duties.

(f) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall provide suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 270007. POWERS.

(a) HEARINGS.—For the purposes of carrying out this title, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any committee, task force, member, or agent, of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this title.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any Federal agency or entity in the executive or legislative branch such information as is needed to carry out its functions.

(d) MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 270008. REPORT; TERMINATION.

Not later than 2 years after the date on which the Commission is fully constituted under section 270001, the Commission shall submit a detailed report to the Congress and the President containing its findings and recommendations. The Commission shall terminate 30 days after the submission of its report.

SEC. 270009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $1,000,000 for fiscal ygar 1996.

TITLE XXVIII—SENTENCING PROVISIONS

SEC. 280001. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 280002. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 280003. DIRECTION TO UNITED STATES SENTENCING COMMISSION REGARDING SENTENCING ENHANCEMENTS FOR HATE CRIMES.

(a) DEFINITION.—In this section, "hate crime" means a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.

(b) SENTENCING ENHANCEMENT.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for offenses that the finder of fact at trial determines beyond a reasonable doubt are hate crimes. In carrying out this section, the United States Sentencing Commission shall ensure that there is reasonable consistency with other guidelines, avoid duplicative punishments for substantially the same offense, and take into account any mitigating circumstances that might justify exceptions.

SEC. 280004. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by inserting "that is not a petty offense" before the period.

SEC. 280005. FULL-TIME VICE CHAIRS OF THE UNITED STATES SENTENCING COMMISSION.

(a) ESTABLISHMENT OF POSITIONS.—Section 991(a) of title 28, United States Code, is amended—

(1) in the second sentence by striking the period and inserting "and two of whom shall be designated by the President as Vice Chairs.";

(2) in the fourth sentence by striking the period and inserting ", and of the Chair and the two Vice Chairs, no more than two shall be members of the same political party."; and

(3) in the sixth sentence by striking "Chairman" and inserting "Chair, Vice Chairs,".

(b) TERMS AND COMPENSATION.—Section 992(c) of title 28, United States Code, is amended—

(1) by amending the first sentence to read as follows: "The Chair and Vice Chairs of the Commission shall hold full-time positions and shall be compensated during their terms of office at the annual rate at which judges of the United States courts of appeals are compensated.";

(2) in the second sentence by striking "Chairman" and inserting "Chair and Vice Chairs"; and

(3) in the third sentence by striking "Chairman" and inserting "Chair and Vice Chairs,".

VOL 140 PT 15 AG 10 — 11 1994 UMI

(c) TECHNICAL AMENDMENTS.—Chapter 58 of title 28, United States Code, is amended—

(1) by striking "Chairman" each place it appears and inserting "Chair";

(2) in the fifth sentence of section 991(a) by striking "his" and inserting "the Attorney General's";

(3) in the fourth sentence of section 992(c) by striking "his" and inserting "the judge's";

(4) in section 994(i)(2) by striking "he" and inserting "the defendant" and striking "his" and inserting "the defendant's"; and

(5) in section 996(a) by striking "him" and inserting "the Staff Director".

SEC. 280006. COCAINE PENALTY STUDY.

Not later than December 31, 1994, the United States Sentencing Commission shall submit a report to Congress on issues relating to sentences applicable to offenses involving the possession or distribution of all forms of cocaine. The report shall address the differences in penalty levels that apply to different forms of cocaine and include any recommendations that the Commission may have for retention or modification of such differences in penalty levels.

TITLE XXIX—COMPUTER CRIME

SEC. 290001. COMPUTER ABUSE AMENDMENTS ACT OF 1994.

(a) SHORT TITLE.—This subtitle may be cited as the "Computer Abuse Amendments Act of 1994".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;

"(B) through means of a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)";

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18 United States Code, is amended by adding at the end the following new subsection:

"(h) The Attorney General and the Secretary of the Treasury shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning investigations and prosecutions under section 1030(a)(5) of title 18, United States Code.".

(f) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

TITLE XXX—PROTECTION OF PRIVACY OF INFORMATION IN STATE MOTOR VEHICLE RECORDS

SEC. 300001. SHORT TITLE.

This title may be cited as the "Driver's Privacy Protection Act of 1994".

SEC. 300002. PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 121 the following new chapter:

"CHAPTER 123—PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS

"§2721. Prohibition on release and use of certain personal information from State motor vehicle records

"(a) IN GENERAL.—Except as provided in subsection (b), a State department of motor vehicles, and any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the department in connection with a motor vehicle record.

"(b) PERMISSIBLE USES.—Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act, and may be disclosed as follows:

"(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

"(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

"(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only—

"(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

"(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

"(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

"(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

"(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

"(7) For use in providing notice to the owners of towed or impounded vehicles.

"(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

"(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.).

"(10) For use in connection with the operation of private toll transportation facilities.

"(11) For any other use in response to requests for individual motor vehicle records if the motor vehicle department has provided in a clear and conspicuous manner on forms for issuance or renewal of operator's permits, titles, registrations, or identification cards, notice that personal information collected by the department may be disclosed to any business or person, and has provided in a clear and conspicuous manner on such forms an opportunity to prohibit such disclosures.

"(12) For bulk distribution for surveys, marketing or solicitations if the motor vehicle department has implemented methods and procedures to ensure that—

"(A) individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

"(B) the information will be used, rented, or sold solely for bulk distribution for surveys, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them.

"(13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

"(14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

"(c) RESALE OR REDISCLOSURE.—An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b) (11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b) (11)) that resells or rediscloses personal information covered by this title must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

"(d) WAIVER PROCEDURES.—A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing such individual of the request, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this section.

"§2722. Additional unlawful acts

"(a) PROCUREMENT FOR UNLAWFUL PURPOSE.—It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under section 2721(b) of this title.

"(b) FALSE REPRESENTATION.—It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

"§2723. Penalties

"(a) CRIMINAL FINE.—A person who knowingly violates this chapter shall be fined under this title.

"(b) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—Any State department of motor vehicles that has a policy or practice of substantial noncompliance with this chapter shall be subject to a civil penalty imposed by the Attorney General of not more than $5,000 a day for each day of substantial noncompliance.

"§2724. Civil action

"(a) CAUSE OF ACTION.—A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

"(b) REMEDIES.—The court may award—

"(1) actual damages, but not less than liquidated damages in the amount of $2,500;

"(2) punitive damages upon proof of willful or reckless disregard of the law;

"(3) reasonable attorneys' fees and other litigation costs reasonably incurred; and

"(4) such other preliminary and equitable relief as the court determines to be appropriate.

"§2725. Definitions

"In this chapter—

"(1) 'motor vehicle record' means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;

"(2) 'person' means an individual, organization or entity, but does not include a State or agency thereof; and

"(3) 'personal information' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.".

(b) CLERICAL AMENDMENT.—The table of parts at the beginning of part I of title 18, United States Code, is amended by adding at the end the following new item:

"123. Prohibition on release and use of certain personal information from State motor vehicle records ..... 2271"

SEC. 300003. EFFECTIVE DATE.

The amendments made by section 300002 shall become effective on the date that is 3 years after the date of enactment of this Act. After the effective date, if a State has implemented a procedure under section 2721(b) (11) and (12) of title 18, United States Code, as added by section 2902, for prohibiting disclosures or uses of personal information, and the procedure otherwise meets the requirements of subsection (b) (11) and (12), the State shall be in compliance with subsection (b) (11) and (12) even if the procedure is not available to individuals until they renew their license, title, registration or identification card, so long as the State provides some other procedure for individuals to contact the State on their own initiative to prohibit such uses or disclosures. Prior to the effective date, personal information covered by the amendment made by section 300002 may be released consistent with State law or practice.

TITLE XXXI—VIOLENT CRIME REDUCTION TRUST FUND

SEC. 310001. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) VIOLENT CRIME REDUCTION TRUST FUND.—There is established a separate account in the Treasury, known as the "Violent Crime Reduction Trust Fund" (referred to in this section as the "Fund") into which shall be transferred, in accordance with subsection (b), savings realized from implementation of section 5 of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 3101 note; Public Law 103–226).

(b) TRANSFERS INTO THE FUND.—On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1995), the following amounts shall be transferred from the general fund to the Fund—

(1) for fiscal year 1995, $2,423,000,000;
(2) for fiscal year 1996, $4,287,000,000;
(3) for fiscal year 1997, $5,000,000,000;
(4) for fiscal year 1998, $5,500,000,000;
(5) for fiscal year 1999, $6,500,000,000; and
(6) for fiscal year 2000, $6,500,000,000.

(c) APPROPRIATIONS FROM THE FUND.—(1) Amounts in the Fund may be appropriated exclusively for the purposes authorized in this Act and for those expenses authorized by any Act enacted before this Act that are expressly qualified for expenditure from the Fund.

(2) Amounts appropriated under paragraph (1) and outlays flowing from such appropriations shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985 except section 251A of that Act as added by subsection (g), or for purposes of section 605(b) of the Congressional Budget Act of 1974. Amounts of new budget authority and outlays under paragraph (1) that are included in concurrent resolutions on the budget shall not be taken into account for purposes of sections 601(b), 606(b), and 606(c) of the Congressional Budget Act of 1974, or for purposes of section 24 of House Concurrent Resolution 218 (One Hundred Third Congress).

(d) LISTING OF THE FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(e) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE TRUST FUND.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraphs:

"(30) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.

"(31) an analysis displaying, by agency, proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 5 of the Federal Workforce Restructuring Act of 1994.".

(f) ALLOCATION AND SUBALLOCATION OF AMOUNTS IN THE FUND.—

(1) IN GENERAL.—Section 602(a) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1)(A) by striking "and" at the end of clause (ii), by striking the semicolon and inserting a comma at the end of clause (iii), and by adding after clause (iii) the following:

"(iv) new budget authority from the Violent Crime Reduction Trust Fund, and

"(v) outlays from the Violent Crime Reduction Trust Fund;";

(B) in paragraph (2) by striking "and" at the end of subparagraph (B) and by adding after subparagraph (C) the following:

"(D) new budget authority from the Violent Crime Reduction Trust Fund; and

"(E) outlays from the Violent Crime Reduction Trust Fund;"; and

(C) by adding at the end the following new paragraph:

"(4) NO DOUBLE COUNTING.—Amounts allocated among committees under clause (iv) or (v) of paragraph (1)(A) or under subparagraph (D) or (E) of paragraph (2) shall not be included within any other allocation under that paragraph.".

(2) FISCAL YEAR 1995.—The chairman of the Committee on the Budget shall submit to the House of Representatives or the Senate, as the case may be, appropriately revised allocations under clauses (iv) and (v) of paragraph (1)(A) or subparagraphs (D) and (E) of paragraph (2) of section 602(a) of the Congressional Budget Act of 1974 for fiscal year 1995 to carry out subsection (b)(1).

(g) VIOLENT CRIME REDUCTION TRUST FUND SEQUESTRATION.—

(1) SEQUESTRATION.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 251 the following new section:

"SEC. 251A. SEQUESTRATION WITH RESPECT TO VIOLENT CRIME REDUCTION TRUST FUND.

"(a) SEQUESTRATION.—Within 15 days after Congress adjourns to end a session, there shall be a sequestration to eliminate any budgetary excess in the Violent Crime Reduction Trust Fund as described in subsection (b).

"(b) ELIMINATING A BUDGETARY EXCESS.—

"(1) IN GENERAL.—Except as provided by paragraph (2), appropriations from the Violent Crime Reduction Trust Fund shall be reduced by a uniform percentage necessary to eliminate any amount by which estimated outlays in the budget year from the Fund exceed the following levels of outlays:

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(A) For fiscal year 1995, $703,000,000.
"(B) For fiscal year 1996, $2,334,000,000.
"(C) For fiscal year 1997, $3,936,000,000.
"(D) For fiscal year 1998, $4,904,000,000.

For fiscal year 1999, the comparable level for budgetary purposes shall be deemed to be $5,639,000,000. For fiscal year 2000, the comparable level for budgetary purposes shall be deemed to be $6,225,000,000.

"(2) SPECIAL OUTLAY ALLOWANCE.—If estimated outlays from the Fund for a fiscal year exceed the level specified in paragraph (1) for that year, that level shall be increased by the lesser of that excess or 0.5 percent of that level.

"(c) LOOK-BACK.—If, after June 30, an appropriation for the fiscal year in progress is enacted that causes a budgetary excess in the Violent Crime Reduction Trust Fund as described in subsection (b) for that year (after taking into account any sequestration of amounts under this section), the level set forth in subsection (b) for the next fiscal year shall be reduced by the amount of that excess.

"(d) WITHIN-SESSION SEQUESTRATION.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for the budget year and before July 1 of that fiscal year) that causes a budgetary excess in the Violent Crime Reduction Trust Fund as described in subsection (b) for that year (after taking into account any prior sequestration of amounts under this section), 15 days later there shall be a sequestration to eliminate that excess following the procedures set forth in subsection (b).

"(e) PART-YEAR APPROPRIATIONS AND OMB ESTIMATES.—Paragraphs (4) and (7) of section 251(a) shall apply to appropriations from, and sequestration of amounts appropriated from, the Violent Crime Reduction Trust Fund under this section in the same manner as those paragraphs apply to discretionary appropriations and sequestrations under that section.".

(2) REPORTS.—Section 254(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) REPORTS ON SEQUESTRATION TO REDUCE THE VIOLENT CRIME REDUCTION TRUST FUND.—The final reports shall set forth for the budget year estimates for each of the following:

"(A) The amount of budget authority appropriated from the Violent Crime Reduction Trust Fund and outlays resulting from those appropriations.

"(B) The sequestration percentage and reductions, if any, required under section 251A.".

SEC. 310002. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

Upon enactment of this Act, the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) (as adjusted in conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, and in the Senate, with section 24 of House Concurrent Resolution 218 (103d Congress)) for fiscal years 1995 through 1999 are reduced as follows:

(1) for fiscal year 1995, for the discretionary category: $2,423,000,000 in new budget authority and $703,000,000 in outlays;

(2) for fiscal year 1996, for the discretionary category: $4,287,000,000 in new budget authority and $2,334,000,000 in outlays;

(3) for fiscal year 1997, for the discretionary category: $3,000,000,000 in new budget authority and $3,936,000,000 in outlays; and

(4) for fiscal year 1998, for the discretionary category: $5,500,000,000 in new budget authority and $4,904,000,000 in outlays.

For fiscal year 1999, the comparable amount for budgetary purposes shall be deemed to be $6,500,000,000 in new budget authority and $5,639,000,000 in outlays. For fiscal year 2000, the comparable amount for budgetary purposes shall be deemed to be $6,500,000,000 in new budget authority and $6,225,000,000 in outlays.

SEC. 310003. EXTENSION OF AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEARS FOR WHICH THE FULL AMOUNT AUTHORIZED IS NOT APPROPRIATED.

If, in making an appropriation under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a certain purpose for a certain fiscal year in a certain amount, the Congress makes an appropriation for that purpose for that fiscal year in a lesser amount, that provision or amendment shall be considered to authorize the making of appropriations for that purpose for later fiscal years in an amount equal to the difference between the amount authorized to be appropriated and the amount that has been appropriated.

SEC. 310004. FLEXIBILITY IN MAKING OF APPROPRIATIONS.

(a) FEDERAL LAW ENFORCEMENT.—In the making of appropriations under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a Federal law enforcement program for a certain fiscal year in a certain amount out of the Violent Crime Reduction Trust Fund, not to exceed 10 percent of that amount is authorized to be appropriated for that fiscal year for any other Federal law enforcement program for which appropriations are authorized by any other Federal law enforcement provision of this Act or amendment made by this Act. The aggregate reduction in the authorization for any particular Federal law enforcement program may not exceed 10 percent of the total amount authorized to be appropriated from the Violent Crime Reduction Trust Fund for that program in this Act or amendment made by this Act.

(b) STATE AND LOCAL LAW ENFORCEMENT.—In the making of appropriations under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a State and local law enforcement program for a certain fiscal year in a certain amount out of the Violent Crime Reduction Trust Fund, not to exceed 10 percent of that amount is authorized to be appropriated for that fiscal year for any other State and local law enforcement program for which appropriations are authorized by any other State and local law enforcement provision of this Act or amendment made by this Act. The aggregate reduction in the authorization for any particular State and local law enforcement program may not exceed 10 percent of the total amount authorized to be appropriated from the Violent Crime Reduction Trust Fund for that program in this Act or amendment made by this Act.

(c) PREVENTION.—In the making of appropriations under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a prevention program for a certain fiscal year in a certain amount out of the Violent Crime Reduction Trust Fund, not to exceed 10 percent of that amount is authorized to be appropriated for that fiscal year for any other prevention program for which appropriations are authorized by any other prevention provision of this Act or amendment made by this Act. The aggregate reduction in the authorization for any particular prevention program may not exceed 10 program of the total amount authorized to be appropriated from the Violent Crime Reduction Trust Fund for that program in this Act or amendment made by this Act.

(d) DEFINITIONS.—In this section—"Federal law enforcement program" means a program authorized in any of the following sections:

(1) section 190001(a);
(2) section 190001(b);
(3) section 190001(c);
(4) section 190001(d);
(5) section 190001(e);
(6) section 320925;
(7) section 150008;
(8) section 220002;
(9) section 130002;
(10) section 130005;
(11) section 130006
(12) section 130007
(13) section 250005;
(14) sections 210303–210306;
(15) section 180104; and
(16) section 270009.

"State and local law enforcement program" means a program authorized in any of the following sections:

(1) sections 10001–10003;
(2) section 210201;
(3) section 210603;
(4) section 180101;
(5) section 180103;
(6) sections 31701–31708;
(7) section 210602;
(8) sections 30801–30802;
(9) section 210302;
(10) section 210501;
(11) section 210101;
(12) section 320903;
(13) sections 20101–20109;
(14) section 20361;
(15) section 32201; and
(16) section 20201.

"prevention program" means a program authorized in any of the following sections:

(1) section 50001;
(2) sections 30101–30104;
(3) section 30201;
(4) sections 30301–30307;
(5) sections 30401–30403;
(6) sections 30501–30505;
(7) section 30601;
(8) sections 30701–30702;
(9) sections 30901–30906;
(10) sections 31001–31002;
(11) sections 31101–31133;
(12) sections 31201–31207;
(13) section 31301;
(14) sections 31401–31405;
(15) sections 31501–31505;
(16) sections 31601–31603;
(17) sections 31801–31808;
(18) sections 31901–31922;
(19) section 32001;
(20) section 32101;
(21) sections 32301–32307;
(22) section 32401;
(23) section 40114;
(24) section 40121;
(25) section 40151;
(26) section 40152;
(27) section 40155;
(28) section 40156;
(29) section 40211;
(30) section 40231;
(31) section 40241;
(32) section 40251;
(33) section 40261;
(34) section 40292;
(35) section 40293;
(36) section 40295;
(37) sections 40411–40414;
(38) sections 40421–40422;
(39) section 40506;
(40) sections 40601–40611;
(41) section 15004;
(42) section 15005;
(43) section 24001; and
(44) section 24003.

TITLE XXXII—MISCELLANEOUS

Subtitle A—Increases in Penalties

SEC. 320101. INCREASED PENALTIES FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases," after "shall"; and

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "ten"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "six".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved in the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," both places it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 320102. INCREASED PENALTIES FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the first undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "six".

SEC. 320103. INCREASED PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results";

(3) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(4) by inserting ", or both" after "life".

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or" after "death results";

(4) by striking "shall be subject to imprisonment" and inserting "imprisoned"; and

(5) by inserting ", or both" after "life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(5) by inserting "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(6) by inserting ", or both" after "life".

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) in the caption by striking "bodily injury; death;";

(2) by striking "not more than $1,000," and inserting "under this title";

(3) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(4) by striking "not more than $10,000," and inserting "under this title";

(5) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(6) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(7) by inserting ", or both" after "life".

SEC. 320104. PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) by striking "$1,000,000" and inserting "$5,000,000"; and

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) by striking "$5,000,000" and inserting "$15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

SEC. 320105. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 320106. INCREASED PENALTIES FOR ARSON.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking "not more than ten years, or fined not more than $10,000" and inserting "not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,"; and

(B) by striking "not more than twenty years, or fined not more than $10,000" and inserting "not more than 40 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,";

(2) in subsection (h)—

(A) in the first sentence by striking "five years" and inserting "3 years but not more than 15 years"; and

(B) in the second sentence by striking "ten years" and inserting "10 years but not more than 25 years"; and

(3) in subsection (i)—

(A) by striking "not more than ten years or fined not more than $10,000" and inserting "not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,"; and

(B) by striking "not more than twenty years or fined not more than $20,000" and inserting "not more than 40 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,".

SEC. 320107. INCREASED PENALTIES FOR DRUG TRAFFICKING NEAR PUBLIC HOUSING.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 320108. TASK FORCE AND CRIMINAL PENALTIES RELATING TO THE INTRODUCTION OF NONINDIGENOUS SPECIES.

(a) TASK FORCE.—

(1) IN GENERAL.—The Attorney General is authorized to convene a law enforcement task force in Hawaii to facilitate the prosecution of violations of Federal laws, and laws of the State

VOL 140 PT 15 AG 10 — 11 1994 UMI

of Hawaii relating to the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species.

(2) MEMBERSHIP.—(A) The task force shall be composed of representatives of—

(i) the Office of the United States Attorney for the District of Hawaii;

(ii) the United States Customs Service;

(iii) the Animal and Plant Health Inspection Service;

(iv) the Fish and Wildlife Service;

(v) the National Park Service;

(vi) the United States Forest Service;

(vii) the Military Customs Inspection Office of the Department of Defense;

(viii) the United States Postal Service;

(ix) the office of the Attorney General of the State of Hawaii;

(x) the Hawaii Department of Agriculture;

(xi) the Hawaii Department of Land and Natural Resources; and

(xii) such other individuals as the Attorney General deems appropriate.

(B) The Attorney General shall, to the extent practicable, select individuals to serve on the task force who have experience with the enforcement of laws relating to the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species.

(3) DUTIES.—The task force shall—

(A) facilitate the prosecution of violations of Federal and State laws relating to the conveyance, sale, or introduction of nonindigenous plant and animal species into Hawaii; and

(B) make recommendations on ways to strengthen Federal and State laws and law enforcement strategies designed to prevent the introduction of nonindigenous plant and animal species.

(4) REPORT.—The task force shall report to the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, and to the Committee on the Judiciary and Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on the Judiciary, Committee on Agriculture, and Committee on Merchant Marine and Fisheries of the House of Representatives on—

(A) the progress of its enforcement efforts; and

(B) the adequacy of existing Federal laws and laws of the State of Hawaii that relate to the introduction of nonindigenous plant and animal species.

Thereafter, the task force shall make such reports as the task force deems appropriate.

(5) CONSULTATION.—The task force shall consult with Hawaii agricultural interests and representatives of Hawaii conservation organizations about methods of preventing the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species into Hawaii.

(b) CRIMINAL PENALTY.—

(1) IN GENERAL.—Chapter 83 of title 18, United States Code, is amended by inserting after section 1716C the following new section:

"§ 1716D. Nonmailable injurious animals, plant pests, plants, and illegally taken fish, wildlife, and plants

"A person who knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything that section 3015 of title 39 declares to be nonmailable matter shall be fined under this title, imprisoned not more than 1 year, or both.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716C the following new item:

"1716D. Nonmailable injurious animals, plant pests, plants, and illegally taken fish, wildlife, and plants.".

SEC. 320109. MILITARY MEDALS AND DECORATIONS.

Section 704 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting (a) IN GENERAL.—Whoever";

(2) by striking "not more than $250" and inserting "under this title"; and

(3) by adding at the end the following new subsection:

"(b) CONGRESSIONAL MEDAL OF HONOR.—

"(1) IN GENERAL.—If a decoration or medal involved in an offense under subsection (a) is a Congressional Medal of Honor, in lieu of the punishment provided in that subsection, the offender shall be fined under this title, imprisoned not more than 1 year, or both.

"(2) DEFINITIONS.—(A) As used in subsection (a) with respect to a Congressional Medal of Honor, 'sells' includes trades, barters, or exchanges for anything of value.

"(B) As used in this subsection, 'Congressional Medal of Honor' means a medal awarded under section 3741 of title 10.".

Subtitle B—Extension of Protection of Civil Rights Statutes

SEC. 320201. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended—

(1) by striking "inhabitant of" and inserting "person in"; and

(2) by striking "such inhabitant" and inserting "such person".

Subtitle C—Audit and Report

SEC. 320301. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(a) STATE REQUIREMENT.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) INCLUSION IN ATTORNEY GENERAL'S REPORT.—Section 524(c)(6)(C) of title 28, United States Code, is amended by adding at the end the following flush sentence: "The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7).".

SEC. 320302. REPORT TO CONGRESS ON ADMINISTRATIVE AND CONTRACTING EXPENSES.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

Subtitle D—Coordination

SEC. 320401. COORDINATION OF SUBSTANCE ABUSE TREATMENT AND PREVENTION PROGRAMS.

The Attorney General shall consult with the Secretary of the Department of Health and Human Services in establishing and carrying out the substance abuse treatment and prevention components of the programs authorized under this Act, to assure coordination of programs, eliminate duplication of efforts and enhance the effectiveness of such services.

Subtitle E—Gambling

SEC. 320501. CLARIFYING AMENDMENT REGARDING SCOPE OF PROHIBITION AGAINST GAMBLING ON SHIPS IN INTERNATIONAL WATERS.

The paragraph of section 1081 of title 18, United States Code, defining the term "gambling ship" is amended by adding at the end the following: "Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986 as in effect on January 1, 1994).".

Subtitle F—White Collar Crime Amendments

SEC. 320601. RECEIVING THE PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) PROCEEDS OF EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 880. Receiving the proceeds of extortion

"A person who receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end the following new item:

"880. Receiving the proceeds of extortion.".

(b) RANSOM MONEY.—Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) A person who transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.".

SEC. 320602. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by striking "whoever" and inserting:

"(a) ASSAULT.—A person who"; and

(2) by adding at the end the following new subsection:

"(b) RECEIPT, POSSESSION, CONCEALMENT, OR DISPOSAL OF PROPERTY.—A person who receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 320603. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or willfully and materially overvalues any land, property or security—

"(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court.

"(b)(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

"(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to deceive any person, including any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person, about the financial condition or solvency of such business shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years.

"(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

"(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance, or

"(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'insurer' means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

"(3) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia, or any territory or possession of the United States;

"(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

"(C) all commerce between points within the same State through any place outside such State; or

"(D) all other commerce over which the United States has jurisdiction; and

"(4) the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"§ 1034. Civil penalties and injunctions for violations of section 1033

"(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the appropriate regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of such title is amended by adding at the end the following new items:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

SEC. 320604. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" at the end of subparagraph (C); and

(3) by adding at the end thereof the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce; or".

(b) LIMITATIONS.—Section 3293 of such title is amended by inserting "1033," after "1014,".

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.".

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SEC. 320605. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. 320606. FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 320607. ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 320608. DEFINITION OF SAVINGS AND LOAN ASSOCIATION" FOR PURPOSES OF THE OFFENSE OF BANK ROBBERY AND RELATED OFFENSES.

Section 2113 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'savings and loan association' means—

"(1) a Federal savings association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) having accounts insured by the Federal Deposit Insurance Corporation; and

"(2) a corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.".

SEC. 320609. DEFINITION OF 1-YEAR PERIOD FOR PURPOSES OF THE OFFENSE OF OBSTRUCTION OF A FEDERAL AUDIT.

Section 1516(b) of title 18, United States Code, is amended—

(1) by striking "section the term" and inserting "section—

"(1) the term";

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(2) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666.".

Subtitle G—Safer Streets and Neighborhoods

SEC. 320701. SHORT TITLE.

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1994".

SEC. 320702. LIMITATION ON GRANT DISTRIBUTION.

(a) AMENDMENT.—Section 510(b) of title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760(b)) is amended by inserting "non-Federal" after "with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994.

Subtitle H—Recreational Hunting Safety

SEC. 320801. SHORT TITLE.

This subtitle may be cited as the "Recreational Hunting Safety and Preservation Act of 1994".

SEC. 320802. OBSTRUCTION OF A LAWFUL HUNT.

It is a violation of this section intentionally to engage in any physical conduct that significantly hinders a lawful hunt.

SEC. 320803. CIVIL PENALTIES.

(a) IN GENERAL.—A person who violates section 320802 shall be assessed a civil penalty in an amount computed under subsection (b).

(b) COMPUTATION OF PENALTY.—The penalty shall be—

(1) not more than $10,000, if the violation involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person; and

(2) not more than $5,000 for any other violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 320802.

(d) PROCEDURE.—Upon receipt of—

(1) a written complaint from an officer, employee, or agent of the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service, or other Federal agency that a person violated section 320802; or

(2) a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual allegations to create a reasonable belief that a violation of section 320802 has occurred;

the Secretary may request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty under this section.

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by such Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) on Federal lands; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives on Federal lands.

SEC. 320804. OTHER RELIEF.

Injunctive relief against a violation of section 320802 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation.

SEC. 320805. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

This subtitle does not preempt a State law or local ordinance that provides for civil or criminal penalties for conduct that violates this subtitle.

SEC. 320806. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 320807. RULE OF CONSTRUCTION.

Nothing in this subtitle shall be construed to impair a right guaranteed to a person under the first article of amendment to the Constitution or limit any legal remedy for forceful interference with a person's lawful participation in speech or peaceful assembly.

SEC. 320808. DEFINITIONS.

As used in this subtitle:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) national forests;

(B) public lands;

(C) national parks; and

(D) wildlife refuges.

(2) LAWFUL HUNT.—The term "lawful hunt" means the taking or harvesting (or attempted taking or harvesting) of wildlife or fish, on Federal lands, which—

(A) is lawful under the laws applicable in the place it occurs; and

(B) does not infringe upon a right of an owner of private property.

(3) NATIONAL FOREST.—The term "national forest" means lands included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)))

(4) NATIONAL PARK.—The term "national park" means lands and waters included in the National Park System (as defined in section 2(a) of the Act entitled "An Act to facilitate the management of the National Park System and miscellaneous areas administered in connection with that system, and for other purposes", approved August 8, 1953 (16 U.S.C. 1c(a))).

(5) PUBLIC LANDS.—The term "public lands" has the same meaning as is provided in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(6) SECRETARY.—The term "Secretary" means—

(A) the Secretary of Agriculture with respect to national forests; and

(B) the Secretary of the Interior with respect to—

(i) public lands;

(ii) national parks; and

(iii) wildlife refuges.

(7) WILDLIFE REFUGE.—The term "wildlife refuge" means lands and waters included in the National Wildlife Refuge System (as established by section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd)).

(8) CONDUCT.—The term "conduct" does not include speech protected by the first article of amendment to the Constitution.

Subtitle I—Other Provisions

SEC. 320901. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by inserting "or" at the end of paragraph (d); and

(3) by adding after paragraph (d) the following new paragraph:

"(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e), 2516, and 2518 of this subchapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, and (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 320902. THEFT OF MAJOR ARTWORK.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§668. Theft of major artwork

"(a) DEFINITIONS.—In this section—

"'museum' means an organized and permanent institution, the activities of which affect interstate or foreign commerce, that—

"(A) is situated in the United States;

"(B) is established for an essentially educational or aesthetic purpose;

"(C) has a professional staff; and

"(D) owns, utilizes, and cares for tangible objects that are exhibited to the public on a regular schedule.

"'object of cultural heritage' means an object that is—

"(A) over 100 years old and worth in excess of $5,000; or

"(B) worth at least $100,000.".

"(b) OFFENSES.—A person who—

"(1) steals or obtains by fraud from the care, custody, or control of a museum any object of cultural heritage; or

"(2) knowing that an object of cultural heritage has been stolen or obtained by fraud, if in fact the object was stolen or obtained from the care, custody, or control of a museum (whether or not that fact is known to the person), receives, conceals, exhibits, or disposes of the object,

shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) PERIOD OF LIMITATION.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

"§3294. Theft of major artwork

"No person shall be prosecuted, tried, or punished for a violation of or conspiracy to violate section 668 unless the indictment is returned or the information is filed within 20 years after the commission of the offense.".

(d) TECHNICAL AMENDMENTS.—

(1) CHAPTER 31.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end the following new item:

"668. Theft of major artwork.".

(2) CHAPTER 213.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3294. Theft of major artwork.".

SEC. 320903. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 320904. GUN-FREE SCHOOL ZONES.

Section 922(q) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(2) by inserting after "(q)" the following new paragraph:

"(1) The Congress finds and declares that—

"(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

"(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

"(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate;

"(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

"(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

"(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

"(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

"(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves; even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

"(I) Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.".

SEC. 320905. INTERSTATE WAGERING.

Section 1301 of title 18, United States Code, is amended by inserting "or, being engaged in the business of procuring for a person in 1 State such a ticket, chance, share, or interest in a lottery, gift, enterprise or similar scheme conducted by another State (unless that business is permitted under an agreement between the States in question or appropriate authorities of those States), knowingly transmits in interstate or foreign commerce information to be used for the purpose of procuring such a ticket, chance, share, or interest;" after "scheme;".

SEC. 320906. SENSE OF CONGRESS WITH RESPECT TO VIOLENCE AGAINST TRUCKERS.

It is the sense of Congress that—

(1) when there is Federal jurisdiction, Federal authorities should prosecute to the fullest extent of the law murders, rapes, burglaries, kidnappings and assaults committed against commercial truckers; and

(2) appropriate Federal agencies should acknowledge this problem and place a priority on evaluating how best to prevent these crimes and apprehend those involved, and continue to coordinate their activities with multi-jurisdictional authorities to combat violent crimes committed against truckers.

SEC. 320907. SENSE OF THE SENATE REGARDING A STUDY ON OUT-OF-WEDLOCK BIRTHS.

It is the sense of the Senate that—

(1) the Secretary of Health and Human Services, in consultation with the National Center for Health Statistics, should prepare an analysis of the causes of the increase in out-of-wedlock births, and determine whether there is any historical precedent for such increase, as well as any equivalent among foreign nations, and

(2) the Secretary of Health and Human Services should report to Congress within 12 months after the date of the enactment of this Act on the Secretary's analysis of the out-of-wedlock problem and its causes, as well as possible remedial measures that could be taken.

SEC. 320908. SENSE OF THE SENATE REGARDING THE ROLE OF THE UNITED NATIONS IN INTERNATIONAL ORGANIZED CRIME CONTROL.

It is the sense of the Senate that—

(1) the United States should encourage the development of a United Nations Convention on Organized Crime; and

(2) the United Nations should—

(A) provide significant additional resources to the Commission on Crime Prevention and Criminal Justice;

(B) consider an expansion of the Commission's role and authority; and

(C) seek a cohesive approach to the international organized crime problem.

SEC. 320909. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or

VOL 140 PT 15 AG 10 — 11 1994 UMI

elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) or (c));

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The item relating to section 3239 in the table of sections of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offenses.".

SEC. 320910. UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§21. Stolen or counterfeit nature of property for certain crimes defined

"(a) Whenever in this title it is an element of an offense that—

"(1) any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated; and

"(2) the defendant knew that the property was of such character;

such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) For purposes of this section, the term 'official representation' means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 320911. MISUSE OF INITIALS "DEA".

(a) AMENDMENT.—Section 709 of title 18, United States Code, is amended—

(1) in the thirteenth unnumbered paragraph by striking "words—" and inserting "words; or"; and

(2) by inserting after the thirteenth unnumbered paragraph the following new paragraph:

"A person who, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date that is 90 days after the date of enactment of this Act.

SEC. 320912. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following new paragraph:

"'livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the carcasses thereof.".

SEC. 320913. ASSET FORFEITURE.

(a) AMENDMENT.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by redesignating subparagraph (H) as subparagraph (I); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order; and".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to all claims pending at the time of or commenced subsequent to the date of enactment of this Act.

SEC. 320914. CLARIFICATION OF DEFINITION OF A "COURT OF THE UNITED STATES" TO INCLUDE THE DISTRICT COURTS FOR GUAM, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§23. Court of the United States defined

"As used in this title, except where otherwise expressly provided the term 'court of the United States' includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"23. Court of the United States defined.".

SEC. 320915. LAW ENFORCEMENT PERSONNEL.

It is the sense of the Senate that law enforcement personnel should not be reduced and calls upon the President of the United States to exempt Federal law enforcement positions from Executive Order 12839 and other Executive memoranda mandating reductions in the Federal workforce.

SEC. 320916. AUTHORITY TO INVESTIGATE VIOLENT CRIMES AGAINST TRAVELERS.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following new section:

"§540A. Investigation of violent crimes against travelers

"(a) IN GENERAL.—At the request of an appropriate law enforcement official of a State or political subdivision, the Attorney General and Director of the Federal Bureau of Investigation may assist in the investigation of a felony crime of violence in violation of the law of any State in which the victim appears to have been selected because he or she is a traveler.

"(b) FOREIGN TRAVELERS.—In a case in which the traveler who is a victim of a crime described in subsection (a) is from a foreign nation, the Attorney General and Director of the Federal Bureau of Investigation, and, when appropriate, the Secretary of State shall assist the prosecuting and law enforcement officials of a State or political subdivision to the fullest extent possible in securing from abroad such evidence or other information as may be needed for the effective investigation and prosecution of the crime.

"(c) DEFINITIONS.—In this section—

"'felony crime of violence' means an offense punishable by more than one year in prison that has as an element the use, attempted use, or threatened use of physical force against the person of another.

"'State' means a State, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"'traveler' means a victim of a crime of violence who is not a resident of the State in which the crime of violence occurred.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 33 of title 28, United States Code, is amended by adding at the end the following new item:

"540A. Investigation of violent crimes against travelers.".

SEC. 320917. EXTENSION OF STATUTE OF LIMITATIONS FOR ARSON.

(a) IN GENERAL.—Section 844(i) of title 18, United States Code, is amended by adding at the end the following: "No person shall be prosecuted, tried, or punished for any noncapital offense under this subsection unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall not apply to any offense described in the amendment that was committed more than 5 years prior to the date of enactment of this Act.

SEC. 320918. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

SEC. 320919. EDWARD BYRNE MEMORIAL FORMULA GRANT PROGRAM.

Nothing in this Act shall be construed to prohibit or exclude the expenditure of appropriations to grant recipients that would have been or are eligible to receive grants under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

SEC. 320920. SENSE OF THE SENATE REGARDING LAW DAY U.S.A.

It is the sense of the Senate that in celebration of "Law Day, U.S.A.", May 1, 1995, the grateful people of this Nation should give special emphasis to all law enforcement personnel of the United States, and the grateful people of this Nation should acknowledge the unflinching and devoted service law enforcement personnel perform as such personnel help preserve domestic tranquillity and guarantee the legal rights of all individuals of this Nation.

SEC. 320921. FIRST TIME DOMESTIC VIOLENCE OFFENDER REHABILITATION PROGRAM.

(a) SENTENCE OF PROBATION.—Section 3561 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting the following new subsection after subsection (a):

"(b) DOMESTIC VIOLENCE OFFENDERS.—A defendant who has been convicted for the first time of a domestic violence crime shall be sentenced to a term of probation if not sentenced to a term of imprisonment. The term 'domestic violence crime' means a crime of violence for which the defendant may be prosecuted in a court of the United States in which the victim or intended victim is the spouse, former spouse, intimate partner, former intimate partner, child, or former child of the defendant, or any relative defendant, child, or former child of the defendant, or any other relative of the defendant.".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by inserting the following new paragraph:

"(4) for a domestic violence crime as defined in section 3561(b) by a defendant convicted of such an offense for the first time that the defendant attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

(c) SUPERVISED RELEASE.—Section 3583 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting "or if the defendant has been convicted for the first time of a domestic violence crime as defined in section 3561(b)" after "statute"; and

(2) in subsection (d) by inserting the following after the first sentence: "The court shall order as an explicit condition of supervised release for a defendant convicted for the first time of a domestic violence crime as defined in section 3561(b) that the defendant attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

SEC. 320922. DISPLAY OF FLAGS AT HALFSTAFF.

(a) PUBLIC LAW 87–726.—The first section of Public Law 87–726 (36 U.S.C. 167) is amended—

(1) by striking "(2)" and inserting "(3)";

(2) by inserting after clause (1) the following new clause: "(2) directing the officials of the Government to display at halfstaff the flag of the United States on all Government buildings on such day, as provided by section 3(m) of the Act of June 22, 1942 (Chapter 435; 56 Stat. 377; 36 U.S.C. 175),";

(3) by striking "(3)" and inserting "(4)"; and

(4) by inserting in paragraph (4) ", including the display at half-staff of the flag of the United States" after "activities".

(b) ACT OF JUNE 22, 1942.—Section 3(m) of the Act of June 22, 1942 (Chapter 435; 56 Stat. 377; 36 U.S.C. 175) is amended by inserting "The flag shall be flown at half-staff on Peace Officers Memorial Day, unless that day is also Armed Forces Day." after "a Member of Congress.".

SEC. 320923. FINANCIAL INSTITUTION FRAUD.

Section 528 of Public Law 101–509, approved November 5, 1990, is amended by striking "with the authority of the Resolution Trust Corporation or its successor" at the end of subsection (b)(2) and inserting "on December 31, 2004".

SEC. 320924. DEFINITION OF "PARENT" FOR THE PURPOSES OF THE OFFENSE OF KIDNAPPING.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'parent' does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order.".

SEC. 320925. NATIONAL CENTER FOR CRIMINAL JUSTICE RESEARCH AND EDUCATION.

(a) ESTABLISHMENT.—The Attorney General shall establish, at a qualified institution of postsecondary education, a National Center for Criminal Justice Research and Education (referred to as the "Center") as a means of developing, demonstrating, and implementing model criminal justice practices and policies.

(b) PROGRAM AND ACTIVITIES.—The Center, under guidelines established by the Attorney General, shall—

(1) provide criminal justice, drug treatment, and correctional education related research and development, instruction, technical assistance, and training, evaluation, and demonstration activities involving the 5 existing and approved Federal, State, and county correctional facilities in Jefferson County, Texas, as a means of demonstrating effective model programs, policies, and practices suitable for replication throughout the United States;

(2) carry out a program of research, development, demonstration, evaluation, education, training, and technical assistance involving applicable innovative technologies and approaches; and

(3) provide appropriate pre-employment and continuing education programs and services to the personnel of the participating correctional facilities, and when appropriate, other agencies.

(c) ACCEPTANCE OF SUPPORT.—The Center shall be authorized to accept funding, in-kind services, and other forms of support from private and public agencies to carry out its purposes under this section.

(d) GENERAL AUTHORITIES.—The Attorney General may issue guidelines, make grants, and enter into contracts and cooperative agreements with States, units of local government, Indian tribal governments, and other public and private entities or individuals as appropriate to carry out this section.

(e) REVOCATION OR SUSPENSION OF FUNDING.—The Attorney General may revoke or suspend funding in whole or in part, if the recipient of Federal assistance under this section is not in substantial compliance with the terms or requirements of any applicable grant, contract, or cooperative agreement.

(f) DEFINITION.—In this section, "qualified institution of post-secondary education" means a university system-related institution with experience and currently active in criminal justice related educational activities, located in Jefferson County, Texas.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

$10,000,000 for fiscal year 1995; to remain available until expended.

SEC. 320926. HATE CRIME STATISTICS ACT.

Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting "disability," after "religion,".

SEC. 320927. EXEMPTION FROM BRADY BACKGROUND CHECK REQUIREMENT OF RETURN OF HANDGUN TO OWNER.

Section 922(s)(1) of title 18, United States Code, is amended in the first sentence by inserting "(other than the return of a handgun to the person from whom it was received)" after "handgun".

SEC. 320928. AMENDMENT OF THE NATIONAL CHILD PROTECTION ACT OF 1993.

(a) PROTECTION OF THE ELDERLY AND INDIVIDUALS WITH DISABILITIES.—

(1) BACKGROUND CHECKS.—Section 3(a)(1) of the National Child Protection Act of 1993 (42 U.S.C. 5119a) is amended by striking "an individual's fitness to have responsibility for the safety and well-being of children" and inserting "the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities".

(2) GUIDELINES.—Section 3(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)) is amended—

(A) in paragraph (1)(E)—

(i) by striking "child" the first place it appears and inserting "person"; and

(ii) by striking "child" the second place it appears; and

(B) in paragraph (4) by striking "an individual's fitness to have responsibility for the safety and well-being of children" and inserting "the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities".

(3) DEFINITION OF CARE.—Section 5 of the National Child Protection Act of 1993 (42 U.S.C. 5119c(5)) is amended—

(A) by amending paragraph (5) to read as follows:

"(5) the term 'care' means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities;"; and

(B) in paragraph (8) by striking "child care" each place it appears and inserting "care".

(b) INFORMATION REQUIRED TO BE REPORTED.—Section 2(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119(a)) is amended by adding at the end "A criminal justice agency may satisfy the requirement of this subsection by reporting or indexing all felony and serious misdemeanor arrests and dispositions.".

(c) CLARIFICATION OF IMMUNITY PROVISION.—Section 3(d) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(d)) is amended by inserting "(other than itself)" after "failure of a qualified entity".

(d) DEFRAYMENT OF COSTS TO VOLUNTEERS OF CONDUCTING BACKGROUND CHECKS.—Section 4(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) to assist the State in paying all or part of the cost to the State of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or voluntary qualified entity to reduce the amount of fees charged for such background checks.".

(e) FEES.—Section 3(e) of the National Child Protection Act of 1993 is amended by striking "the actual cost" and inserting "eighteen dollars, respectively, or the actual cost, whichever is less,".

(f) COSTS OF THE FBI.—Funds authorized to be appropriated to the Federal Bureau of Investigation under section 190001(c) of this Act may be used to pay all or part of the cost to the Federal Bureau of Investigation of carrying out the National Child Protection Act of 1993, including the cost of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or voluntary qualified entity to reduce the amount of fees charged for such background checks.

(g) GUIDELINES.—

(1) IN GENERAL.—The Attorney General, in consultation with Federal, State, and local officials, including officials responsible for criminal history record systems, and representatives of public and private care organizations and health, legal, and social welfare organizations, shall develop guidelines for the adoption of appropriate safeguards by care providers and by States for protecting children, the elderly, or individuals with disabilities from abuse.

(2) MATTERS TO BE ADDRESSED.—In developing guidelines under paragraph (1), the Attorney General shall address the availability, cost, timeliness, and effectiveness of criminal history background checks and recommend measures to ensure that fees for background checks do not discourage volunteers from participating in care programs.

(3) DISSEMINATION.—The Attorney General shall, subject to the availability of appropriations, disseminate the guidelines to State and local officials and to public and private care providers.

(h) CHANGE OF REPORT DEADLINE.—Section 2(f)(2) of the National Child Protection Act of 1993 (42 U.S.C. 5119(f)(2)) is amended by striking "1 year" and inserting "2 years".

(i) CHANGE OF IMPLEMENTATION DEADLINE.—Section 2(b)(2)(A) of the National Child Protection Act of 1993 (42 U.S.C. 5119(b)(2)(A)) is

VOL 140 PT 15 AG 10 — 11 1994 UMI

amended by striking "3 years" and inserting "5 years".

(j) DEFINITION OF CHILD ABUSE CASES AND INDIVIDUALS WITH DISABILITIES.—Section 5 of the National Child Protection Act of 1993 (42 U.S.C. 5119c) is amended—

(1) by redesignating paragraph (6), (7), (8), and (9) as paragraph (8), (9), (10), and (11), respectively; and

(2) by inserting after paragraph (5) the following new paragraphs:

"(6) the term 'identifiable child abuse crime case' means a case that can be identified by the authorized criminal justice agency of the State as involving a child abuse crime by reference to the statutory citation or descriptive label of the crime as it appears in the criminal history record;

"(7) the term 'individuals with disabilities' means persons with a mental or physical impairment who require assistance to perform one or more daily living tasks;".

SEC. 320929. TENNESSEE VALLEY AUTHORITY LAW ENFORCEMENT PERSONNEL.

The Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) is amended by inserting after section 4 the following new section:

"SEC. 4A. LAW ENFORCEMENT.—(a) DESIGNATION OF LAW ENFORCEMENT AGENTS.—The Board may designate employees of the corporation to act as law enforcement agents in the area of jurisdiction described in subsection (c).

"(b) DUTIES AND POWERS.—

"(1) DUTIES.—A law enforcement agent designated under subsection (a) shall maintain law and order and protect persons and property in the area of jurisdiction described in subsection (c) and protect property and officials and employees of the corporation outside that area.

"(2) POWERS.—In the performance of duties described in paragraph (1), a law enforcement agent designated under subsection (a) may—

"(A) make arrests without warrant for any offense against the United States committed in the agent's presence, or for any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing such a felony;

"(B) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of any Federal law or regulation issued pursuant to law in connection with the investigation of an offense described in subparagraph (A);

"(C) conduct an investigation of an offense described in subparagraph (A) in the absence of investigation of the offense by any Federal law enforcement agency having investigative jurisdiction over the offense or with the concurrence of that agency; and

"(D) carry firearms in carrying out any activity described in subparagraph (A), (B), or (C).

"(c) AREA OF JURISDICTION.—A law enforcement agent designated under subsection (a) shall be authorized to exercise the law enforcement duties and powers described in subsection (b)—

"(1) on any lands or facilities owned or leased by the corporation or within such adjoining areas in the vicinities of such lands or facilities as may be determined by the board under subsection (e); and

"(2) on other lands or facilities—

"(A) when the person to be arrested is in the process of fleeing from such lands, facilities, or adjoining areas to avoid arrest;

"(B) in conjunction with the protection of property or officials or employees of the corporation on or within lands or facilities other than those owned or leased by the corporation; or

"(C) in cooperation with other Federal, State, or local law enforcement agencies.

"(d) FEDERAL INVESTIGATIVE JURISDICTION AND STATE CIVIL AND CRIMINAL JURISDICTION NOT PREEMPTED.—Nothing in this section shall be construed to—

"(1) limit or restrict the investigative jurisdiction of any Federal law enforcement agency; or

"(2) affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction on or within lands or facilities owned or leased by the corporation.

"(e) DETERMINATION OF ADJOINING AREAS.—

"(1) IN GENERAL.—The board shall determine and may from time-to-time modify the adjoining areas for each facility or particular area of land, or for individual categories of such facilities or lands, for the purposes of subsection (c)(1).

"(2) NOTICE.—A notice and description of each adjoining area determination or modification of a determination made under paragraph (1) shall be published in the Federal Register.

"(f) QUALIFICATIONS AND TRAINING.—The board, in consultation with the Attorney General, shall adopt qualification and training standards for law enforcement agents designated under subsection (a).

"(g) RELATION TO OTHER LAW.—A law enforcement agent designated under subsection (a) shall not be considered to be a law enforcement officer of the United States for the purposes of any other law, and no law enforcement agent designated under subsection (a) or other employee of the corporation shall receive an increase in compensation solely on account of this section.

"(h) RELATIONSHIP WITH ATTORNEY GENERAL.—The duties and powers of law enforcement agents designated under subsection (a) that are described in subsection (b) shall be exercised in accordance with guidelines approved by the Attorney General.".

SEC. 320930. CRIMINAL JUSTICE AND SUBSTANCE ABUSE TREATMENT TRAINING.

(a) ESTABLISHMENT.—The Attorney General shall establish a Criminal Justice and Substance Abuse Treatment and Prevention Training Center (referred to as the "Center") to develop and implement a program for training dislocated defense industry-related workers for careers in law enforcement, substance abuse treatment and counseling, and related criminal justice fields, and to carry out such other activities as may be required, such as creating a model database on related innovative and cost-effective distance learning techniques and technologies or facilitating placement of trainees and graduates.

(b) OPERATION.—The Center and its programs shall be operated by a consortium of not fewer than 2 qualified institutions of postsecondary education.

(c) PROGRAM AND ACTIVITIES.—The Center, under guidelines established by the Attorney General, shall—

(1) provide criminal justice and substance abuse treatment training, related research and development, instruction, technical assistance, evaluation, and demonstration activities involving the dislocated defense workers;

(2) establish a program of research, development, demonstration, evaluation, education, training, and technical assistance involving applicable innovative technologies and approaches; and

(3) provide such training and continuing education programs and services to dislocated defense industry workers.

(d) ACCEPTANCE OF SUPPORT.—The Center shall be authorized to accept funding, in-kind services, and other forms of support from private and public agencies to carry out its purposes under this section.

(e) COORDINATION OF ACTIVITIES.—All activities of the Center shall be coordinated with other appropriate and related Federal, federally assisted, State, Indian tribal, local, and private nonprofit activities to avoid duplication of effort.

(f) GENERAL AUTHORITIES.—The Attorney General may issue guidelines and make grants, enter into contracts and cooperative agreements with States, units of local government, Indian tribal governments, and other public and private entities or individuals as appropriate to carry out this section.

(g) REVOCATION OR SUSPENSION OF FUNDING.—The Attorney General may revoke or suspend funding in whole or in part if the recipient of Federal assistance under this section is not in substantial compliance with the terms or requirements of any applicable grant, contract, or cooperative agreement.

(h) DEFINITION.—In this section "qualified institution of postsecondary education" means a university system-related institution or college with experience and currently active in criminal justice related educational activities, located in Jefferson County, Texas, or in the vicinity of Huntsville, Texas.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

$1,000,000 for fiscal year 1995.

SEC. 320932. ASSISTANT UNITED STATES ATTORNEY RESIDENCY.

Section 545(a) of title 28, United States Code, is amended—

(1) by striking "and assistant United States attorney"; and

(2) by inserting the following after the first sentence: "Each assistant United States attorney shall reside in the district for which he or she is appointed or within 25 miles thereof.".

SEC. 320933. LABELS ON PRODUCTS.

To the extent any person introduces, delivers for introduction, sells, advertises, or offers for sale in commerce a product with a "Made in the U.S.A." or "Made in America" label, or the equivalent thereof, in order to represent that such product was in whole or substantial part of domestic origin, such label shall be consistent with decisions and orders of the Federal Trade Commission issued pursuant to section 5 of the Federal Trade Commission Act. This section only applies to such labels. Nothing in this section shall preclude the application of other provisions of law relating to labeling. The Commission may periodically consider an appropriate percentage of imported components which may be included in the product and still be reasonably consistent with such decisions and orders. Nothing in this section shall preclude use of such labels for products that contain imported components under the label when the label also discloses such information in a clear and conspicuous manner. The Commission shall administer this section pursuant to section 5 of the Federal Trade Commission Act and may from time to time issue rules pursuant to section 553 of Title 5, United States Code for such purpose. If a rule is issued, such violation shall be treated by the Commission as a violation of a rule under section 18 of the Federal Trade Commissions Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices. This section shall be effective upon publication in the Federal Register of a Notice of the provisions of this section. The Commission shall publish such notice within six months after the enactment of this section.

TITLE XXXIII—TECHNICAL CORRECTIONS

SEC. 330001. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) CROSS REFERENCE CORRECTIONS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)";

(3) in subsection (e) by striking "or (e)" and inserting "or (f)"; and

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but"; and

(ii) by striking "this subsection," and inserting "this subsection"; and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "paragraphs (1) and (2) of subsection (a)"; and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section"; and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "paragraph (1) or (3) of section 515(a)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in section 1201—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),"; and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)";

(ii) by striking "personal"; and

(iii) in the first proviso by striking "section" and inserting "subsection"; and

(2) in section 1204(3) by striking "who was responding to a fire, rescue or police emergency".

(f) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(g) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant";

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications"; and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(h) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) by striking "crime,," and inserting "crime,";

(2) in section 302(c)(19) by striking a period at the end and inserting a semicolon;

(3) in section 602(a)(1) by striking "chapter 315" and inserting "chapter 319";

(4) in section 603(a)(6) by striking "605" and inserting "606";

(5) in section 605 by striking "this section" and inserting "this part";

(6) in section 606(b) by striking "and Statistics" and inserting "Statistics";

(7) in section 801(b)—

(A) by striking "parts D," and inserting "parts";

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E";

(C) by striking "403(a)" and inserting "501"; and

(D) by striking "403" and inserting "503";

(8) in the first sentence of section 802(b) by striking "part D," and inserting "subpart 1 of part E or under part";

(9) in the second sentence of section 804(b) by striking "Prevention or" and inserting "Prevention, or";

(10) in section 808 by striking "408, 1308," and inserting "507";

(11) in section 809(c)(2)(H) by striking "805" and inserting "804";

(12) in section 811(e) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance";

(13) in section 901(a)(3) by striking "and," and inserting ", and";

(14) in section 1001(c) by striking "parts" and inserting "part".

(i) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 330002. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031(g)(2) of title 18, United States Code, is amended by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions".

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma that follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293 of title 18, United States Code, is amended by striking "1008,".

(f) ELIMINATION OF DUPLICATE SUBSECTION DESIGNATION.—Section 1031 of title 18, United States Code, is amended by redesignating the second subsection (g) as subsection (h).

(g) TECHNICAL AMENDMENT TO PART ANALYSIS FOR PART 1.—The item relating to chapter 33 in the part analysis for part 1 of title 18, United States Code, is amended by striking "701" and inserting "700".

(h) AMENDMENT TO SECTION 924(a)(1)(B).—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "(q)" and inserting "(r)".

(i) PUNCTUATION CORRECTION.—Section 207(c)(2)(A)(ii) of title 18, United States Code, is amended by striking the semicolon at the end and inserting a comma.

(j) CHAPTER ANALYSIS CORRECTION.—The chapter analysis for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Child Victims' and child witnesses' rights.".

(k) Elimination of Superfluous Comma.—Section 3742(b) of title 18, United States Code, is amended by striking "Government," and inserting "Government".

SEC. 330003. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) SECTION 1791 OF TITLE 18.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) SECTION 2703 OF TITLE 18.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(c) SECTION 666 OF TITLE 18.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(d) SECTION 4247 OF TITLE 18.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

(e) SECTION 408 OF THE CONTROLLED SUBSTANCE.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(f) MARITIME DRUG LAW ENFORCEMENT ACT.—(1) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(2) Section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(g) SECTION 2596 OF THE CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting "951(c)(2)".

(h) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 46(i)(1) of the Federal Rules of Criminal Procedure for the United States Courts is amended by striking "18 U.S.C. §3144" and inserting "18 U.S.C. §3142".

SEC. 330004. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212 by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213 by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709 by striking the seventh and thirteenth paragraphs;

(4) in section 711 by striking the second paragraph;

(5) by striking section 754 and amending the chapter analysis for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006 by striking "Reconstruction Finance Corporation," and striking "Farmers' Home Corporation,";

(7) in section 658 by striking "Farmers' Home Corporation,";

(8) in section 1013 by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160 by striking "white person" and inserting "non-Indian";

(10) in section 1698 by striking the second paragraph;

(11) by striking sections 1904 and 1908 and amending the chapter analysis for chapter 93 by striking the items relating to those sections;

VOL 140 PT 15 AG 10 — 11 1994 UMI

(12) in section 1909 by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations";

(13) by striking sections 2157 and 2391 and amending the chapter analysis for chapter 105 and for 115, respectively, by striking the items relating to those sections;

(14) in section 2257 by striking the subsections (f) and (g) that were enacted by Public Law 100-690;

(15) in section 3113 by striking the third paragraph;

(16) in section 3281 by striking "except for offenses barred by the provisions of law existing on August 4, 1939";

(17) in section 443 by striking "or (3) five years after 12 o'clock noon of December 31, 1946,";

(18) in sections 542, 544, and 545 by striking "the Philippine Islands,"; and

(19) in section 1073—

(A) by striking "or which, in the case of New Jersey, is a high misdemeanor under the laws of said State"; and

(B) by striking "or which in the case of New Jersey, is a high misdemeanor under the laws of said State".

SEC. 330005. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104(a)(3) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is amended by striking "issuer" and inserting "domestic concern".

SEC. 330006. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 330007. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting "(b)(5)".

SEC. 330008. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4) by striking "association or persons" and inserting "association of persons";

(2) in section 1956(e) by striking "Evironmental" and inserting "Environmental";

(3) in section 3125—

(A) in subsection (a)(2) by striking "use" and the quotation mark that immediately follows it and inserting "use;";

(B) by realigning the matter in subsection (a)(2) that begins with "may have installed" and ends with "section 3123 of this title" so that it is flush to the left margin; and

(C) by striking "provider for" and inserting "provider of" in subsection (d);

(4) in section 3731 by striking "order of a district courts" and inserting "order of a district court" in the second undesignated paragraph;

(5) in section 151 by striking "mean" and inserting "means";

(6) in section 208(b) by inserting "if" after "(4)";

(7) in section 209(d) by striking "under the terms of the chapter 41" and inserting "under the terms of chapter 41";

(8) in section 1014 by inserting a comma after "National Credit Union Administration Board"; and

(9) in section 3291 by striking "the afore-mentioned" and inserting "such".

SEC. 330009. OTHER TECHNICAL AMENDMENTS.

(a) SECTION 419 OF CONTROLLED SUBSTANCES ACT.—Section 419(b) of the Controlled Substances Act (21 U.S.C. 860(b)) is amended by striking "years Penalties" and inserting "years. Penalties".

(b) SECTION 667.—Section 667 of title 18, United States Code, is amended by adding at the end the following: "The term 'livestock' has the meaning set forth in section 2311 of this title.".

(c) SECTION 1114.—Section 1114 of title 18, United States Code, is amended by striking "or any other officer, agency, or employee of the United States" and inserting "or any other officer or employee of the United States or any agency thereof".

(d) Section 408 of Controlled Substances Act.—Section 408(q)(8) of the Controlled Substances Act (21 U.S.C. 848(q)(8)) is amended by striking "applications, for writ" and inserting "applications for writ".

SEC. 330010. CORRECTION OF ERRORS FOUND DURING CODIFICATION.

Title 18, United States Code, is amended—

(1) in section 212 by striking "218" and inserting "213";

(2) in section 1917—

(A) by striking "Civil Service Commission" and inserting "Office of Personnel Management"; and

(B) by striking "the Commission" in paragraph (1) and inserting "such Office";

(3) by transferring the subchapter analysis for each subchapter of each of chapters 227 and 229 to follow the heading of that subchapter;

(4) so that the heading of section 1170 reads as follows:

"§ 1170. Illegal trafficking in Native American human remains and cultural items";

(5) so that the item relating to section 1170 in the chapter analysis for chapter 53 reads as follows:

"1170. Illegal trafficking in Native American human remains and cultural items.";

(6) in section 3509(a) by striking paragraph (11) and redesignating paragraphs (12) and (13) as paragraphs (11) and (12), respectively;

(7) in section 3509—

(A) by striking "subdivision" each place it appears and inserting "subsection"; and

(B) by striking "government" each place it appears and inserting "Government";

(8) in section 2252(a)(3)(B) by striking "materails" and inserting "materials";

(9) in section 14 by striking "45," and "608, 611, 612,";

(10) in section 3059A—

(A) in subsection (b) by striking "this subsection" and inserting "subsection"; and

(B) in subsection (c) by striking "this subsection" and inserting "subsection";

(11) in section 1761(c)—

(A) by striking "and" at the end of paragraph (1);

(B) by inserting "and" at the end of paragraph (3); and

(C) by striking the period at the end of paragraph (2)(B) and inserting a semicolon;

(12) in the chapter analysis for chapter 11—

(A) in the item relating to section 203 by inserting a comma after "officers" and by striking the comma after "others"; and

(B) in the item relating to section 204 by inserting "the" before "United States Court of Appeals for the Federal Circuit";

(13) in the chapter analysis for chapter 23, in the item relating to section 437, by striking the period immediately following "Indians";

(14) in the chapter analysis for the beginning of chapter 25, in the item relating to section 491, by striking the period immediately following "paper used as money";

(15) in section 207(a)(3) by striking "Clarification of Restrictions" and inserting "Clarification of restrictions";

(16) in section 176 by striking "the government" and inserting "the Government";

(17) in section 3059A(e)(2)(iii) by striking "backpay" and inserting "back pay"; and

(18) by adding a period at the end of the item relating to section 3059A in the chapter analysis for chapter 203.

SEC. 330011. PROBLEMS RELATED TO EXECUTION OF PRIOR AMENDMENTS.

(a) INCORRECT REFERENCE.—Section 2587(b) of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "The chapter heading for" and inserting "The chapter analysis for".

(b) LACK OF PUNCTUATION IN STRICKEN LANGUAGE.—Section 46(b) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended, effective as of the date on which that section took effect, so that—

(A) in paragraph (1), the matter proposed to be stricken from the beginning of section 201(b) of title 18, United States Code, reads "(b) Whoever, directly"; and

(B) in paragraph (2), a comma, rather than a semicolon, appears after "his lawful duty" in the matter to be stricken from paragraph (3) of section 201(b) of that title.

(c) BIOLOGICAL WEAPONS.—(1) Section 3(b) of the Biological Weapons Anti-Terrorism Act of 1989 is amended, effective as of the date on which that section took effect, by striking "2516(c)" and inserting "2516(1)(c)".

(2) The item in the part analysis for part 1 of title 18, United States Code, that relates to chapter 10 is amended by striking "Weapons" and inserting "weapons".

(d) PLACEMENT OF NEW SECTION.—Section 404(a) of Public Law 101-630 is amended, effective on the date such section took effect, by striking "adding at the end thereof" each place it appears and inserting "inserting after section 1169".

(e) ELIMINATION OF ERRONEOUS CHARACTERIZATION OF MATTER INSERTED.—Section 225(a) of Public Law 101-647 is Amended, effective as of the date on which that section took effect, by striking "new rule".

(f) CLARIFICATION OF PLACEMENT OF AMENDMENT.—Section 1205(c) of Public Law 101-647 is amended, effective as of the date on which that section took effect, by inserting "at the end" after "adding".

(g) ELIMINATION OF DUPLICATE AMENDMENT.—Section 1606 of Public Law 101-647 (amending section 1114 of title 18, United States Code) is repealed effective as of the date of enactment of that section.

(h) ERROR IN AMENDMENT PHRASING.—Section 3502 of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "10" and inserting "ten".

(i) CLARIFICATION THAT AMENDMENTS WERE TO TITLE 18.—Sections 3524, 3525, and 3528 of Public Law 101-647 are each amended, effective as of the date on which those sections took effect, by inserting "of title 18, United States Code" before "is amended".

(j) CORRECTION OF PARAGRAPH REFERENCE.—Section 3527 of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "4th" and inserting "5th".

(k) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1345.—Section 3542 of Public Law 101-647 is repealed, effective as of the date of its enactment.

(l) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1956.—Section 3557(2)(E) of Public Law 101-647 is repealed, effective as of the date of its enactment.

(m) CLARIFICATION OF PLACEMENT OF AMENDMENTS.—Public Law 101-647 is amended, effective as of the date of its enactment—

(1) in section 3564(1) by inserting "each place it appears" after the quotation mark following "2251" the first place it appears; and

(2) in section 3565(3)(A) by inserting "each place it appears" after the quotation mark following "subchapter".

(n) CORRECTION OF WORD QUOTED IN AMENDMENT.—Section 3586(1) of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "fines" and inserting "fine".

(o) ELIMINATION OF OBSOLETE TECHNICAL AMENDMENT TO SECTION 4013.—Section 3599 of Public Law 101-647 is repealed, effective as of the date of its enactment.

(p) CORRECTION OF DIRECTORY LANGUAGE.—Section 3550 of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "not more than".

(q) REPEAL OF DUPLICATE PROVISIONS.—(1) Section 3568 of Public Law 101-647 is repealed, effective as of the date on which that section took effect.

(2) Section 1213 of Public Law 101-647 is repealed, effective as of the date on which that section took effect.

(r) CORRECTION OF WORDS QUOTED IN AMENDMENT.—Section 2531(3) of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "1679(c)(2)" and inserting "1679a(c)(2)".

(s) FORFEITURE.—(1) Section 1401 of Public Law 101-647 is amended, effective as of the date on which that section took effect—

(A) by inserting a comma after ", 5316"; and

(B) by inserting "the first place it appears" after the quotation mark following "5313(a)".

(2) Section 2525(a)(2) of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "108(3)" and inserting "2508(3)".

SEC. 330012. AMENDMENT TO SECTION 1956 OF TITLE 18 TO ELIMINATE DUPLICATE PREDICATE CRIMES.

Section 1956 of title 18, United States Code, is amended in subsection (c)(7)(E), by striking the period that follows a period.

SEC. 330013. AMENDMENTS TO PART V OF TITLE 18.

Part V of title 18, United States Code, is amended—

(1) by inserting after the heading for that part the following:

"CHAPTER 601—IMMUNITY OF WITNESSES";

(2) in section 6001(1)—

(A) by striking "Atomic Energy Commission" and inserting "Nuclear Regulatory Commission"; and

(B) by striking "the Subversive Activities Control Board,"

(3) by striking "part" the first place it appears and inserting "chapter"; and

(4) by striking "part" each other place it appears and inserting "title".

SEC. 330014. UPDATE OF CROSS REFERENCE.

Section 408(n)(11) of the Controlled Substances Act is amended by striking "section 405" and inserting "section 418".

SEC. 330015. CORRECTION OF ERROR IN AMENDATORY LANGUAGE.

Section 1904 of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "by inserting a new subsection (e) as follows" and inserting "so that subsection (e) reads as follows".

SEC. 330016. CORRECTION OF MISLEADING AND OUTMODED FINE AMOUNTS IN OFFENSES UNDER TITLE 18.

Title 18, United States Code, is amended—

(1)(A) in sections 1693, 1694, 1695, and 1696 by striking "not more than $50" and inserting "under this title";

(B) in sections 333, 489, 754, 1303, 1699, 1701, 1703, 1710, 1723, 1726, 1730, and 2390 by striking "not more than $100" and inserting "under this title";

(C) in sections 1697 and 1698 by striking "not more than $150" and inserting "under this title";

(D) in sections 1165 and 2279 by striking "not more than $200" and inserting "under this title";

(E) in sections 701, 702, 703, 704, 705, 706, 707, 708, 710, 711, 711a, 713, 715, 1164, and 1858 by striking "not more than $250" each place it appears and inserting "under this title";

(F) in sections 916, 1501, 1502, 1719, 1725, and 1861 by striking "not more than $300" and inserting "under this title";

(G) in sections 4, 41, 42, 46, 47, 112, 154, 244, 288, 290, 336, 475, 501, 502, 755, 872, 875, 876, 877, 917, 1013, 1018, 1024, 1154, 1155, 1156, 1382, 1541, 1700, 1703, 1704, 1707, 1712, 1713, 1720, 1721, 1722, 1729, 1731, 1734, 1752, 1793, 1856, 1857, 1863, 1912, 1913, 1922, 2074, 2195, and 2511 by striking "not more than $500" each place it appears and inserting "under this title";

(H) in sections 81, 210, 211, 215, 217, 242, 245, 291, 292, 439, 442, 480, 483, 484, 490, 491, 494, 495, 503, 507, 510, 594, 595, 596, 597, 598, 599, 604, 605, 641, 643, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 661, 662, 665, 712, 751, 752, 756, 795, 796, 797, 836, 844, 871, 875, 876, 877, 879, 911, 912, 913, 924, 957, 959, 961, 1003, 1012, 1021, 1025, 1026, 1071, 1112, 1163, 1262, 1263, 1264, 1301, 1302, 1304, 1306, 1341, 1342, 1343, 1361, 1363, 1384, 1504, 1508, 1509, 1657, 1705, 1706, 1707, 1711, 1715, 1716, 1733, 1738, 1761, 1762, 2276, 2277, 2278, 2382, and 2389 by striking "not more than $1,000" each place it appears and inserting "under this title";

(I) in sections 331, 482, 486, 499, 755, 873, 958, 1016, 1154, 1156, 1381, 1542, 1543, 1544, 1545, 1586, 1621, 1622, 1702, 1708, 1709, 1920, 1921, 1923, 2071, 2193, 2233, 2386, and 2424 by striking "not more than $2,000" each place it appears and inserting "under this title";

(J) in sections 431, 432, 479, 960, 1859, 1901, 1911, and 1959 by striking "not more than $3,000" and inserting "under this title";

(K) in sections 35, 81, 112, 152, 153, 155, 212, 213, 214, 285, 334, 351, 435, 436, 438, 471, 472, 473, 476, 477, 478, 481, 485, 487, 488, 497, 498, 505, 506, 508, 509, 541, 542, 543, 544, 546, 547, 548, 549, 550, 551, 552, 592, 593, 602, 603, 606, 607, 642, 655, 658, 659, 660, 661, 663, 751, 799, 844, 872, 874, 875, 876, 877, 878, 914, 915, 924, 953, 954, 956, 1004, 1010, 1011, 1015, 1017, 1025, 1028, 1071, 1073, 1074, 1163, 1165, 1231, 1265, 1363, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1461, 1462, 1463, 1465, 1503, 1505, 1506, 1507, 1510, 1581, 1582, 1583, 1584, 1585, 1588, 1658, 1659, 1717, 1732, 1735, 1737, 1751, 1906, 1907, 1908, 1909, 1915, 1991, 2072, 2073, 2113, 2217, 2152, 2197, 2231, 2244, 2314, 2316, 2317, 2344, and 2701 by striking "not more than $5,000" each place it appears and inserting "under this title";

(L) in sections 33, 224, 231, 241, 245, 246, 286, 289, 332, 335, 337, 351, 371, 437, 440, 441, 493, 496, 500, 510, 545, 595, 599, 600, 601, 641, 664, 665, 667, 757, 792, 793, 798, 844, 892, 893, 894, 924, 952, 955, 962, 963, 964, 965, 966, 967, 970, 1001, 1002, 1003, 1019, 1020, 1022, 1023, 1027, 1082, 1084, 1115, 1202, 1361, 1362, 1364, 1365, 1385, 1461, 1462, 1464, 1587, 1623, 1654, 1656, 1735, 1737, 1751, 1902, 1903, 1904, 1910, 1951, 1952, 1953, 1954, 1958, 1992, 2101, 2113, 2153, 2154, 2155, 2156, 2231, 2232, 2271, 2274, 2275, 2314, 2315, 2383, 2386, 2387, 2388, and 2512 by striking "not more than $10,000" each place it appears and inserting "under this title";

(M) in section 1028 by striking "not more than $15,000" and inserting "under this title";

(N) in sections 844, 878, 1728, 1955, 1958, 2321, 2384, and 2385 by striking "not more than $20,000" each place it appears and inserting "under this title";

(O) in sections 32, 114, 753, 1028, 1365, 1512, 1792, and 2118 by striking "not more than $25,000" each place it appears and inserting "under this title";

(P) in section 2118 by striking "not more than $35,000" and inserting "under this title";

(Q) in sections 1365, 1958, and 2118 by striking "not more than $50,000" anc inserting "under this title";

(R) in section 951 by striking "not more than $75,000" and inserting "under this title";

(S) in sections 32, 1167, 1365, 2251, and 2344 by striking "not more than $100,000" each place it appears and inserting "under this title";

(T) in section 2251 by striking "not more than $200,000" and inserting "under this title"; and

(U) in sections 1158, 1167, 1512, 1513, 2251, 2318, 2320, and 2701 by striking "not more than $250,000" and inserting "under this title";

(2)(A) in sections 3 and 373 by inserting "(notwithstanding section 3571)" before "fined not more than one-half";

(B) in section 113 by striking "fine of not more than" through the immediately following dollar amount each place it appears and inserting "a fine under this title";

(C) in sections 115, 513, 709, 831, 1366, 1511 and 1959 by striking "of not more than" through the immediately following dollar amount each place it appears and inserting "under this title";

(D) in section 201 by inserting "under this title or" after "be fined"; and by inserting "whichever is greater," before "or imprisoned";

(E) in section 402 by striking "fine" the first place it appears and inserting "a fine under this title";

(F) in section 443 by striking "shall, if a corporation, be fined not more than $50,000, and, if a natural person, be fined not more than $10,000" and inserting "shall be fined under this title";

(G) in sections 643, 644, 645, 647, 648, 649, 650, 651, 652, 653, and 1711 by inserting "under this title or" after "be fined" the first place it appears; and by inserting ", whichever is greater," before "or imprisoned the first place it appears;

(H) in sections 646 and 654 by inserting "under this title or" after "be fined" the first place it appears; and by inserting "whichever is greater," before "or imprisoned" the first place it appears;

(I) in section 1029 by striking "of not more than" through the immediately following dollar amount each place it appears and inserting "under this title"; and by inserting ", whichever is greater," before "or imprisonment" each place it appears;

(J) in section 2381 by inserting "under this title but" before "not less than $10,000"; and

(K) in section 3146(b)(1)(A)(iv) by striking "fine under this chapter" and inserting "fined under this title".

SEC. 330017. TECHNICAL CORRECTIONS TO TITLE 31 CRIMES.

(a) TITLE 31, U.S.C., AMENDMENTS.—

(1) Section 5321(a)(5)(A) of title 31, United States Code, is amended by inserting "any violation of" after "causing".

(2) Section 5324(a) of title 31, United States Code, is amended—

(A) by striking "section 5313(a), section 5325, or the regulations issued thereunder or section 5325 or regulations prescribed under such section 5325" each place it appears and inserting "section 5313(a) or 5325 or any regulation prescribed under any such section"; and

(B) by striking "with respect to such transaction".

(b) AMENDMENT RELATING TO TITLE 31, U.S.C.—

(1) Effective as of the date of enactment of the Annunzio-Wylie Anti-Money Laundering Act, section 1517(b) of that Act is amended by striking "5314" and inserting "5318".

(2) Section 5239 of the Revised Statutes of the United States is amended by redesignating the second subsection (c) (as added by section 1502(a) of the Annunzio-Wylie Anti-Money Laundering Act) as subsection (d).

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 330018. REPEAL OF SUPERFLUOUS STATUTE OF LIMITATION AND TRANSFER OF CHILD ABUSE STATUTE OF LIMITATION.

(a) IN GENERAL.—Section 3283 of title 18, United States Code, is amended to read as follows:

"§3283. Child abuse offenses

"No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a child under the age of 18 years shall preclude such prosecution before the child reaches the age of 25 years.".

(b) CONFORMING REPEAL.—Section 3509(k) of title 18, United States Code, is amended by striking the subsection heading and the first sentence and inserting "STAY OF CIVIL ACTION.—".

(c) TECHNICAL AMENDMENT.—The item in the chapter analysis for chapter 213 of title 18, United States Code, that relates to section 3283 is amended to read as follows:

"3283. Child abuse offenses.".

SEC. 330019. TECHNICAL ERRORS IN SECTION 1956.

(a) TECHNICAL CORRECTIONS.—Section 1956 of title 18, United States Code, is amended—

(1) in subsection (c)(7)(B)(iii) by inserting a close parenthesis after "1978";

(2) by redesignating the second subsection (g) as subsection (h); and

(3) in subsection (a)(2) by inserting "not more than" before "$500,000".

(b) CROSS REFERENCE CORRECTION.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 9(c) of the Food Stamp Act of 1977" and inserting "section 15 of the Food Stamp Act of 1977".

SEC. 330020. TECHNICAL ERROR.

Section 1567(f)(1) of title 18, United States Code, is amended by striking the comma that follows a comma.

SEC. 330021. CONFORMING SPELLING OF VARIANTS OF "KIDNAP".

Title 18, United States Code, is amended—

(1) by striking "kidnaping" each place it appears and inserting "kidnapping"; and

(2) by striking "kidnaped" each place it appears and inserting "kidnapped".

SEC. 330022. MARGIN ERROR.

Section 2512(2) of title 18, United States Code, is amended by realigning the matter that begins with "to send through" and ends with "electronic communications" so that it is flush to the left margin.

SEC. 330023. TECHNICAL CORRECTIONS RELATING TO SECTION 248 OF TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended—

(1) in the chapter analysis so that the item relating to section 248 reads as follows:

"248. Freedom of access to clinic entrances.";

(2) so that the heading of section 248 reads as follows:

"§248. Freedom of access to clinic entrances"; *and*

(3) in section 248(b) by inserting ", notwithstanding section 3571," before "be not more than $25,000".

(b) EFFECTIVE DATE.—The amendments made by this subsection (a) shall take effect on the date of enactment of the Freedom of Access to Clinic Entrances Act of 1994.

SEC. 330024. TECHNICAL AMENDMENTS NECESSITATED BY THE ENACTMENT OF THE DOMESTIC CHEMICAL DIVERSION CONTROL ACT OF 1993.

(a) MISSING CONJUNCTION.—Section 102(39)(A)(iv) of the Controlled Substances Act (21 U.S.C. 802(39)(A)(iv)) is amended by striking the period at the end and inserting "; or".

(b) PUNCTUATION AND INDENTATION CORRECTION.—Section 102(34) of the Controlled Substances Act is amended—

(1) by moving subparagraphs (V) and (W) two ems toward the left margin;

(2) in subparagraph (V) by striking "b" and inserting "B"; and

(3) in subparagraph (W) by striking "n" the first place it appears and inserting "N".

(c) ERRONEOUS CROSS REFERENCES.—

(1) Section 5(a) of the Domestic Chemical Diversion Control Act of 1993 is amended by striking "section 1505(a)" and inserting "section 4".

(2) Section 9(b) of the Domestic Chemical Diversion Control Act of 1993 is amended by striking "Controlled Substances Act" and inserting "Controlled Substances Import and Export Act".

(d) CORRECTION OF AMENDATORY LANGUAGE.—

(1) Section 2(a)(4)(B) of the Domestic Chemical Diversion Control Act of 1993 is amended by inserting "the first place it appears" before the semicolon.

(2) Section 5(b)(3) of the Domestic Chemical Diversion Control Act of 1993 is amended by striking "at the end" and inserting "after paragraph (4)".

(e) MISSING CONFORMING AMENDMENT.—Section 304(g) of the Controlled Substances Act is amended by inserting "or chemical" after "such substance" in the last sentence.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date that is 120 days after the date of enactment of the Domestic Chemical Diversion Control Act of 1993.

SEC. 330025. VICTIMS OF CRIME ACT.

(a) INCORRECT SECTION REFERENCE.—Section 1402(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(3)) is amended by striking "1404(a)" and inserting "1404A".

(b) MISSING TEXT.—Section 1403(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(1)) is amended by inserting after "domestic violence" the following: "for—

"(A) medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

"(B) loss of wages attributable to a physical injury resulting from a compensable crime; and

"(C) funeral expenses attributable to a death resulting from a compensable crime".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill, insert the following: "An Act to control and prevent crime.".

And the House agree to the same.

JACK BROOKS,
DON EDWARDS,
BILL HUGHES,
CHARLES SCHUMER,
JOHN CONYERS, Jr.,
MIKE SYNAR,

As additional conferees from the Committee on Agriculture, for consideration of sections 4601–08, 5105, and 5145 of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
CHARLIE ROSE,
CHARLES W. STENHOLM,
PAT ROBERTS,
RICHARD POMBO,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 2201–04, 2301, and 4901–33 of the Senate amendment, and sections 1031(b), 1038, and 1099AA–1099CC of the House amendment and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
BRUCE F. VENTO,

As additional conferees from the Committee on Education and Labor, for consideration of sections 631–33, 662(e), 662(f), 811–16, 921–28, 1121–50, 1331, 2801–03, 3261, 3263, 3311, 3341, 3351, 3361, 3381–83, 3501, 3707, 4001–09, 4301–04, 4701–02, 4801–09, 4901–33, 5120, 5122, 5135, 5140, 5142–43, and 5147 of the Senate amendment, and sections 1010–26, 1030–34, 1038, 1051–52, 1065–71, 1081–96, 1099A–1099G, 1099H–1099O, 1099P–1099T, 1606, 1610, 1653–54, 1902(e), 1902(f), 2201–02, 2701–39, 3061–62, 3089–90, of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
DALE E. KILDEE,
MATTHEW G. MARTINEZ,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1503–04, 1511–23, 1532, 1534–35, 1537, 1902(e), 3101–03, 3261, and 5166 of the Senate amendment, and sections 1010–26, 1041–44, 1606, 2901–03, and 3086 of the House amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
CARDIS COLLINS,

As additional conferees from the Committee on Government Operations, for consideration of sections 1353–54, 1535, and 5150 of the Senate amendment, and sections 1075–76 of the House amendment, and modifications committed to conference:

TOM LANTOS,
EDOLPHUS TOWNS,

Provided, Mr. Spratt and Mr. Kyl are appointed in lieu of Mr. Waxman and Mr. Clinger solely for the consideration of sections 1535 and 5150 of the Senate amendment.

JOHN M. SPRATT, Jr.,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 713–15, 4601–08, 5105, and 5145 of the Senate amendment, and modifications committed to conference:

GERRY STUDDS,
SOLOMON P. ORTIZ,
GEORGE HOCHBRUECKNER,

As additional conferees from the Committee on Natural Resources, for consideration of sections 3232–33, 4601–08, and 5145 of the Senate amendment and sections 1099U–1099Z of the House amendment, and modifications committed to conference:

GEORGE MILLER,
BRUCE F. VENTO,
KAREN SHEPHERD,
DON YOUNG,
BARBARA VUCANOVICH,

Provided, Ms. English of Arizona is appointed in lieu of Ms. Shepherd solely for the consideration of sections 4601–08 of the Senate amendment.

KARAN ENGLISH,

Provided, Mr. Hinchey is appointed in lieu of Ms. Shepherd solely for the consideration of sections 1099U–1099Z of the House amendment.

MAURICE HINCHEY,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 1352 and 3371 of the Senate amendment, and modifications committed to conference:

WILLIAM CLAY,
FRANK MCCLOSKEY,
ELEANOR H. NORTON,
JOHN T. MYERS,
CONSTANCE A. MORELLA,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1533, 1536, and 3231 of the Senate amendment, and section 1801 of the House amendment, and modifications committed to conference:

NORMAN Y. MINETA,
NICK RAHALL,
BUD SHUSTER,
THOMAS E. PETRI,

As additional conferees from the Committee on Rules, for consideration of sections 1353–54 of the Senate amendment, and modifications committed to conference:

JOHN JOSEPH MOAKLEY,
BUTLER DERRICK,
TONY BEILENSON,

As additional conferees from the Committee on Ways and Means, for consideration of sections 311(b), 1502, 1515–16, 1802, 4702(e)(1), 5102, and 5113 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,

Managers on the Part of the House.

JOSEPH R. BIDEN, Jr.,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
DENNIS DECONCINI,
PATRICK J. LEAHY,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (H.R. 3355), to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—PUBLIC SAFETY AND POLICING

House sections 1401–02 recede to Senate sections 101–02 and that portion of section 103 dealing with "Cops on the Beat" with the following modifications: the minimum amount for each qualified State is 0.5 percent; all applications will be direct to the Attorney General with special provisions for expedited submission and approval of applications from America's small jurisdictions as well as for small grants for non-police hiring; cost per police officer shall be limited to $75,000 which may be expended for periods up to five years; hiring funds may also be used to train new career law enforcement officers for community policing; 50 percent of the monies must be granted to jurisdictions with populations over 150,000, the remaining 50 percent must be allocated to jurisdictions with populations of 150,000 or less; the addition of the House provision regarding coordination of other Federal programs; a revised minority recruitment section; the addition of Indian tribal governments; and other modifications.

The Conferees are particularly concerned about those areas where members of racial and ethnic minority groups and women are highly under-represented in the law enforcement agency's sworn positions. The Conferees encourage the Attorney General to review this matter carefully in the applications from such areas.

One of the modifications permits additional flexibility in the use of grant funds.

The Conferees were informed that, in some police departments, payment of overtime or purchase of computers or other technology or the employment of support personnel will enable officers to be deployed, or redeployed from non-patrol assignments, to community-oriented policing assignments. The additional flexibility is intended to achieve that goal.

Thus, in addition to the use of grant funds pursuant to 1701(b) to hire or rehire police officers, a limited amount of such funds can be used for the payment of overtime or procurement of equipment, technology or support systems or support personnel, provided that expenditures for such purposes enable additional officers to be deployed to community-oriented policing assignments. The Conferees also note that, in appropriate circumstances, the permissible uses of the funding pursuant to section 1701(d) could also include payment for overtime.

The Conferees intend that the Attorney General, in awarding grants that will be used for redeployment purposes, take into consideration the extent to which police departments are committed to consultation about such redeployment with representatives of local labor organizations that represent police officers.

The Conferees also note Congress has found with regard to this title that: (1) according to data compiled by the Federal Bureau of Investigation, in 1961, there was approximately 1 reported violent crime per city police officer; but, while from 1961–1991 there was no substantial increase in United States cities' police employment rate, during the same period the number of reported violent crimes per city police officer rose to approximately 4.6 per officer; (2) National Crime Survey figures indicate that nearly 5,000,000 households in the United States had at least 1 member who had been a victim of violent crime during 1991; (3) these victims of violence experienced more than 6,400,000 crimes of which about one-half were reported to law enforcement authorities; (4) community-oriented policing ("cops on the beat") enhances communication and cooperation between law enforcement and members of the community; (5) such communication and cooperation between law enforcement and members of the community significantly assists in preventing and controlling crime and violence, thus enhancing public safety; and (6) while increasing and maintaining police resources and presence in the community are the long-term responsibility of State and local governments, State and local law enforcement agencies are in need of immediate assistance to begin the process of rehiring officers who have been laid off for budgetary reasons and hiring new, additional officers to assist in the implementation of community-oriented policing.

TITLE II—PRISONS

SUBTITLE A—VIOLENT OFFENDER INCARCERATION AND TRUTH IN SENTENCING INCENTIVE GRANTS

Senate sections 1321 and 1341 recede to House sections 601–05 and 801–04 with modifications.

SUBTITLE B—PUNISHMENT FOR YOUNG OFFENDERS

Senate section 1203, Certainty of Punishment for Young Offenders, recedes to House sections 2101–03 with modifications.

SUBTITLE C—ALIEN INCARCERATION

Senate section 5136, reimbursement for the costs of incarcerating criminal illegal aliens, recedes to House section 2403 with modifications to change the compensation criteria and funding provision.

SUBTITLE D—MISCELLANEOUS

Section 20401—House recedes to Senate section 1301, offender's place of imprisonment.

Section 20402—House recedes to Senate section 1302, prison impact statements, with modifications.

Section 20403—House recedes to Senate section 1305, criminal fines to account for the cost of imprisonment.

Section 20404—House recedes to Senate section 1325, supervised release pertaining to probation or parole.

Section 20405—House recedes to Senate section 5101, "good time credits," with modification.

Section 20406–07—House section 3046 recedes to Senate section 5107, task force on prison design and construction and section 5112, encouraging and assessing low-cost construction components, with modifications. The Conferees note the sense of Congress that, in providing assistance to State and local governments, the Attorney General should emphasize the provision to technical assistance in implementing methods to promote cost efficiency and realization of savings.

Section 20408—House recedes to Senate section 5120, panel of correctional educational experts, with modification.

Section 20409—House section 3080, prison overcrowding, recedes to Senate section 5139. The Conferees note that this section has no effect on the certification or success of class action lawsuits.

Section 20410—House recedes to Senate section 5149, Sense of Senate regarding prison facilities in Lorton, with technical modifications.

Section 20411—Senate section 5135, Pell grants, recedes to House section 3089.

Section 20412—Senate recedes to House section 3095, requiring prisoners to earn a high school diploma or G.E.D., with modifications.

Section 20413—Senate recedes to House section 3021 with modifications to delete subsection (c), remove limit on facilities suitable for conversion, and conforming modifications.

Section 20414—House recedes to Senate section 1303 with modification.

Section 20415—House recedes to Senate section 1801–02, Bail Posting Reporting, with modifications to the reporting requirements regarding the Internal Revenue Service.

Section 20416—House sections 3070–74, Civil Rights of Institutionalized Persons, recedes to Senate section 5103 with modification to change subsection (b) to conform with current law.

Section 20417—House recedes to Senate section 1324, notification of release of prisoners, with modification to lodge responsibility in the appropriate Federal entity.

Section 20418—House recedes to Senate sections 4701–02, Correctional Job Training and Placement, with technical modification. The Conferees note with respect to this provision Congress finds that job training and placement are important to, and make a significant contribution to, the readjustment to society of incarcerated persons and ex-offenders; and there is a growing need for immediate action by the Federal Government to assist State and local job training programs, and job placement programs, that provides services to incarcerated persons or ex-offenders.

Senate section 1322, NIJ study of inmate transfers, recedes to House.

Senate section 1323, NIJ study of recidivism rates, recedes to House.

Senate section 5125, use of anti-loitering laws, recedes to House.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Senate section 5113 recedes to House.

Senate section 5138, improvement of federal and State fingerprinting systems, recedes to House.

Senate section 5153, Sense of Senate regarding Federal Prison Industries, recedes to House.

Senate section 5165, reviewing capacity of federal prisons to accommodate State prisoners, recedes to House.

House section 3066, strength training in prisons, recedes to Senate.

It is the intent of the Conferees that, with the exception of Subtitle B of Title II (which provides for correctional programming for offenders up to the age of 22), all programs and activities for juvenile offenders funded under this legislation shall be carried out in a manner consistent with the mandates of the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. §5600 et seq.).

TITLE III—CRIME PREVENTION

SUBTITLE A—OUNCE OF PREVENTION COUNCIL

Section 30101—House section 1010 recedes to Senate section 103, Once of Prevention, with modifications including to: (1) give President the authority to designate chair, (2) give authority to the Council to coordinate any program under the bill not only at the request of the Council member with jurisdictional over the program; (3) revise Council's administrative responsibilities or powers; (4) revise evaluation component.

The Conferees note the work of the National Crime Prevention Council, which serves as a resource center for the prevention of crime, violence, and substance abuse. Such work is reflected in the design of a variety of programs in this bill.

Section 30102-04—Senate recedes to House section 1011 with modifications.

SUBTITLE B—YOUTH EMPLOYMENT AND SKILLS CRIME PREVENTION

Senate recedes to House sections 1081–96, Youth Employment Skills and Crime Prevention, with modifications.

SUBTITLE C—MODEL INTENSIVE GRANTS

Senate recedes to House sections 1001–07, Model Intensive Grants, with modifications to add a provision ensuring equitable distribution of grants; to include a definition of the term "State"; and to permit consultation with the Ounce of Prevention Council.

SUBTITLE D—FAMILY AND COMMUNITY ENDEAVOR SCHOOLS GRANT PROGRAM

House sections 1015–24, Community Schools, recede to Senate section 5142 with modifications which include dividing the program into two separate programs: (1) Community Schools, with responsibility lodged in the Secretary of Health and Human Services in consultation and coordination with the Attorney General, and (2) Family and Community Endeavor Schools (FACES), with responsibility lodged in the Secretary of Education.

Community schools

The Conferees note the sense of the Congress with regard to Community Schools that public-private partnerships between government and community-based organizations offer an opportunity to empower distressed and disconnected communities to develop their resources and abilities in order to meet the needs of children, forge innovative solutions to the challenges confronting the development of the children in such communities, and create environments where children grow up learning a healthy respect for themselves, for neighbors, and for their communities; increased resources should be invested in public-private partnerships; and community-based organizations, acting through such public-private partnerships should provide year-round supervised sports programs, and extracurricular and academic programs, for children in the communities, and in providing such extracurricular and academic programs, should promote the positive character development of such children through programs such as curriculum-based supervised educational, work force preparation, entrepreneurship, cultural, and health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities.

The Conferees also note that Congress has found with regard to this program the following: parents are devoting less time than in previous generations to the supervision, education, and nurturing of their children; the lack of supervision and meaningful activity after school contributes to the spread of violent juvenile delinquency in the form of youth and gang violence, drug trafficking, dangerous and self-destructive behavior, and lack of hope among children in our Nation; every child has the capacity to be productive and law abiding and deserves to grow in a safe and protected environment; communities have a responsibility to develop the children of our Nation into productive adults; because of their centrality, public schools are among the best facilities that communities can use to provide needed space and support services for programs for children; schools are most effective at serving a community when the people of the community are involved in activities designed to fulfill the needs of children in the community; and activities provided in community centers, recreational facilities, and other places where children gather, have a significant impact and influence on the behavior and attitudes of children.

Family and community endeavors schools

The Conferees note that Congress has found with regard to this program that: (1) children in areas with a high incidence of poverty are more likely to be exposed to problems created by economic deprivation, poor housing, overwhelming family responsibilities, inadequate parental educational background or parental substance abuse and are at risk of failure; (2) students from poor families are 3 times more likely to drop out of school than students from more advantaged homes; (3) without social intervention, at-risk children are often unable to improve academic performance; (4) schools are accessible, central resources in every community where social and education services can be coordinated and disseminated to at-risk children and their families; (5) schools are most effective at serving a community when the people of the community are involved in school management and help design activities to fulfill the needs of children in the community; and (6) many schools have successfully improved the academic performance and social development of at-risk children by instituting an organizational and management plan that incorporates parental involvement in school management and incorporates mental health and social intervention services in the daily academic curriculum.

SUBTITLE E—POLICE PARTNERSHIPS FOR CHILDREN

Senate sections 4801–09, Police Partnerships for Children, recede to House sections 1030–34 with modifications which include adding an in-kind contribution for grant recipients and clarifying the 24-hour basis of the program.

The Conferees note that Congress finds the following with respect to police partnerships: Homicide is the second leading cause of juvenile injury deaths for all youth 15 to 24 years of age. Homicide rates for children and youth have more than doubled since 1950. Teenagers are more than twice as likely as adults to be victims of violent crime, such as rape, robbery or assault. Physical fighting severe enough to require medical treatment for at least one participant occurs among high school students in patterns similar to those of homicide. The incidence rates of such physical fighting are higher for males than females, higher for minorities than for non-minorities, and more frequent between acquaintances than among strangers. Children increasingly live amidst chronic community violence and experience trauma as a result of such violence. One survey of inner-city children 6 to 10 years of age found that over 90 percent had witnessed some type of violence. A Chicago housing project survey found that virtually all children in such survey had firsthand experiences with shootings by the age of 5. Children who have been the victims of, or who have witnessed violence, are at risk of becoming involved in further violence if the trauma such children have experienced is not addressed. Police frequently encounter children who have been the victims of violence or who have witnessed violence in the course of the police work, but the police often lack the resources necessary to adequately respond to such children's needs. Child and family service agencies have expertise in child development and family issues that could support police efforts. Community-based police, by their visibility at the neighborhood level and their engagement in benign activities, can provide role models and resources to promote the well-being of children and families, as well as to identify and refer those at risk for behavioral problems.

SUBTITLE F—MIDNIGHT SPORTS

Senate recedes to House section 1038, Midnight Sports, with modifications.

SUBTITLE G—ASSISTANCE FOR DELINQUENT AND AT-RISK YOUTH

Senate recedes to House sections 1051–52, Assistance for Delinquent and At-Risk Youth, with technical modification.

SUBTITLE H—POLICE RECRUITMENT

Senate recedes to House sections 1061–62, Police Recruitment, with technical modification. The term 'non-profits' includes, but is not limited to, public institutions of higher education that so qualify under section 501(c)(3) of the Internal Revenue Code.

SUBTITLE I—NATIONAL TRIAD PROGRAM

Senate sections 921–28 recede to House sections 1065–71, National Triad Program, with a modification to designate the Attorney General as the responsible official and technical modifications.

The Conferees note that at least one of the pilot programs funded shall consist of a Triad cooperative model sponsored by the National Sheriff's Association (NSA), the International Association of Chiefs of Police (IACP), and the American Association of Retired Persons (AARP).

The Conferees also note that Congress finds with regard to this program that: older Americans are among the most rapidly growing segments of our society; currently, older Americans comprise 15 percent of our society, and predictions are that by the turn of the century they will constitute 18 percent of the nation's population; older Americans find themselves uniquely situated in the society, environmentally and physically; many older Americans are experiencing increased social isolation due to fragmented and distant familial relations, scattered associations, limited access to transportation, and other insulating factors; physical conditions such as hearing loss, poor eyesight, lessened agility, and chronic and debilitating illnesses often contribute to a senior citizen's susceptibility to criminal victimization; older Americans are too frequently the victims of abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games; studies have found that older Americans who are victims of violent crime are more likely to be injured and require medical attention than are younger victims; victimization data on crimes against older Americans are incomplete and out of date, and data sources are partial, scattered, and not easily obtained; although a few studies have attempted to define and estimate the extent of abuse and neglect of older Americans, both in their homes and in institutional settings, many experts believe that abuse and neglect crimes are substantially underreported and undetected; similarly, while some evidence suggests that older Americans may be targeted in a range of fraudulent schemes, neither the Uniform Crime Report nor the National Crime Survey collects data on individual- or household-level fraud; many law enforcement agencies do not have model practices for responding to the criminal abuse of older Americans; law enforcement officers and social service providers come from different disciplines and frequently bring different perspectives to the problem of crimes against older Americans; the differences in approaches can inhabit a genuinely effective response; there are a few efforts currently under way that seek to forge partnerships to coordinate criminal justice and social service approaches to victimization of older Americans; the Triad program, sponsored by the National Sheriffs' Association (NSA), the International Association of Chiefs of Police (IACP), and the American Association of Retired Persons (AARP), is one such effort; the Assistant Secretary for Aging, as the senior executive branch officer formulating older Americans policy is an appropriate leader in efforts to reduce violent crime against older Americans; and recognizing that older Americans have the same fundamental desire as other members of our society to live freely, without fear or restriction due to the criminal element, the Federal government should seek to expand efforts to reduce crimes against this growing and uniquely vulnerable segment of our population.

SUBTITLE J—LOCAL PARTNERSHIP ACT

Senate recedes to House section 1075–76, Local Partnership Act, with various modifications including the clarification of the purposes for which funds under this program can be used. The Local Partnership Act ("LPA") is authorized for fiscal years 1995 through 2000 rather than for fiscal years 1995 and 1996. At the request of the Administration, the LPA will be administered by the Secretary of Housing and Urban Development ("HUD") rather than the Secretary of Treasury, and HUD may delegate some or all of its administrative responsibilities to other Executive branch departments and agencies. Two and one-half percent of the total funds authorized for the LPA are authorized to be appropriated for fiscal years 1995 through 2000 for administrative costs of HUD in administering the LPA. Checks will be sent to local governments by HUD within 90 days of the actual appropriation of funds rather than 60 days. Technical changes are made in the LPA's allocation formula so that HUD will be able to replicate for fiscal year 1995 the dollar allocations to 39,000 local governments produced by the General Accounting Office ("GAO") on April 25, 1994; for later years HUD is free to use more reliable data—if available—than the data used by GAO.

The Conferees note that, in some areas of the country, public functions such as transportation, education, and hospitals are supported by property or sales taxes collected by separate taxing jurisdictions. The Conferees expect HUD, in consultation with the Governments Division of the Bureau of the Census, to report to the Committee on Government Operations on the operation of the Local Partnership Act in such areas and to include in its report any suggestions on changes to the statutory definition of the general tax effort factor.

The Conferees agreed to an amendment dealing with payments of less than $5,000 to Indian tribes and Alaskan native villages.

The Conferees also agreed to an amendment providing that GAO will report to Congress on a comparison of waste and efficiency under the LPA compared to other comparable Federal programs.

The Local Partnership Act contains a one percent set-aside for the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands. The allocation formula for local governments within the 50 States does not apply to these four jurisdictions. The Conferees expect, however, that objective criteria, such as population and/or per capita income, will be used to ensure an equitable distribution of these funds regarding the local governments within these four jurisdictions.

SUBTITLE K—NATIONAL COMMUNITY ECONOMIC PARTNERSHIP

House recedes to Senate sections 4901–33, Community Economic Partnership Act.

SUBTITLE L—GANG PREVENTION SERVICES FOR BOYS AND GIRLS

Senate recedes to House sections 1099I–99O, Gang Prevention Services for Boys and Girls, with modification to designate the Attorney General as the responsible official.

The Conferees note with regard to this program that Congress finds services provided through existing federally supported gang prevention programs do not adequately address the needs of boys and girls in communities with high levels of gang activity and other barriers to service (such as large concentrations of minority populations who have limited English speaking proficiency, geographically isolated populations, and communities in which social service providers are limited or nonexistent); children who are exposed to gang activity at an early age are more likely to become gang-involved than children who are exposed to such activity later in life, or children who are never exposed to such activity; gangs are increasingly targeting younger children for recruitment, especially children at middle schools and elementary schools; Federal studies indicate that violent crime has increased more significantly in the gang population compared to the adult population; and small community-based service agencies with strong ties to the educational and law enforcement systems offer the best chance to prevent young children from becoming involved in gangs.

SUBTITLE M—OLYMPIC YOUTH DEVELOPMENT CENTERS

House recedes to Senate section 5143, Olympic Youth Development Centers, with minor and conforming modifications.

SUBTITLE N—ANTICRIME YOUTH COUNCILS

Senate recedes to House section 1099P–99T, Anti-Crime Youth Councils, with modification to designate the Attorney General as the responsible official.

SUBTITLE O—URBAN RECREATION AND AT-RISK YOUTH

Senate recedes to House sections 1099U–99Z, Urban Recreation and At-Risk Youth, with modifications.

SUBTITLE P—BOYS AND GIRLS CLUBS IN PUBLIC HOUSING

Senate recedes to House sections 1099AA–99C, Boys and Girls Clubs in Public Housing, with technical modifications.

SUBTITLE Q—COMMUNITY BASED GRANTS FOR PROSECUTORS

Senate recedes to House sections 1099DD–99KK, Community Based Justice Grants for Local Prosecutors, with modifications.

SUBTITLE R—CHILD SAFETY

House recedes to Senate sections 4001–09, Child Safety, with a modification to prohibit participation of persons denied visitation rights by court order and other modifications.

The Conferees note that Congress finds with regard to this program the following: the problem of family violence does not necessarily cease when the victimized family is legally separated, divorced, or otherwise not sharing a household. During separation and divorce, family violence often escalates, and child custody and visitation become the new forum for the continuation of abuse. Some perpetrators use the children as pawns to control the abused party after the couple is separated. Every year an estimated 1,000 to 5,000 children are killed by their parents in the United States. In 1988, the Department of Justice reported that 354,100 children were abducted by family members who violated custody agreements or decrees (most victims were children from ages 2 to 11 years). Approximately 160,000 children are seriously injured or impaired by abuse or neglect each year. Studies by the American Humane Association indicate that reports of child abuse and neglect have increased by over 200 percent from 1976 to 1986; approximately 90 percent of children in homes in which their mothers are abused witness the abuse. Data indicates that women and children are at elevated risk for violence during the process of and after separation; and 50 to 70 percent of men who abuse their spouses or partners also abuse their children. Up to 75 percent of all domestic assaults reported to law enforcement agencies were inflicted after the separation of the couples; in one study of spousal homicide, over half of the male defendants were separated from their victims, seventy-three percent of battered women seeking emergency medical services do so after separation.

SUBTITLE S—FAMILY UNITY DEMONSTRATION PROJECT

House recedes to Senate sections 4101–22, Family Unity Demonstration Project, with the following modifications: a child is defined as less than seven years of age; the definition of eligible offender as well as the definition of a State are clarified; the Attorney General is designated as the responsible official; and technical modification.

The Conferees note that Congress finds with regard to this program an increasing number of children are becoming separated from their primary caretaker parents due to the incarceration of the parents in prisons and jails; such separation of children from their primary caretaker parents can cause

VOL 140 PT 15 AG 10 — 11 1994 UMI

harm to children's psychological well-being and hinder their growth and development; a significant number of children are born shortly before or during the incarceration of their mothers and are then quickly separated from their mothers, preventing the parent-child bonding that is crucial to developing in children a sense of security and trust; maintaining close relationships with their children provides a powerful incentive for prisoners to participate in and successfully benefit from rehabilitative programs; and maintaining strong family ties during imprisonment has been shown to decrease recidivism, thereby reducing prison costs.

SUBTITLE T—SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS

Senate section 1304, Drug Treatment in Federal Prisons, recedes to House section 2001 with modifications to subject the program to the availability of appropriations, to require the Bureau of Prisons to provide residential treatment, and to limit the early release incentive for successful program completion to non-violent offenders.

The authority provided to the Bureau of Prisons under this section is not to be construed as limiting any authority already possessed by the Bureau of Prisons with respect to the release of inmates.

SUBTITLE U—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

Senate section 1204 recedes to House sections 2301–02, Substance Abuse Treatment in State Prisons, with modifications to clarify that certain local detention facilities are eligible; extend the time for approval of an application to not later than 90 days; change the time period for residential substance abuse treatment programs to those lasting between 6 and 12 months; and designate the Attorney General as the responsible official.

SUBTITLE V—PREVENTION, DIAGNOSIS, AND TREATMENT OF TUBERCULOSIS IN CORRECTIONAL INSTITUTIONS

House recedes to Senate section 5121, tuberculosis prevention, with modification to include National Institute of Corrections rather than National Institute of Justice.

SUBTITLE W—HOPE IN YOUTH PROGRAM

Senate recedes to House section 1099B–99G, Hope in Youth, with technical modifications and the addition of the definition of the term "State". The Conferees note that Congress finds with respect to this program that: larger cities around the country, particularly those involved in empowerment zones, are attempting to empower low-income and ethnic minority communities; programs that involve local government and local community leaders and that include significant participation by service providers, service participants, and service funders, as equal partners in the design and direction of a myriad of social service support programs have been among the most effective demonstration models; programs that attempt to link disenfranchised and disconnected citizens through an umbrella organization that provides guidance to public and private service providers have proven to be an effective strategy for empowering local low-income communities; families in low-income communities have not attained their full potential as productive citizens, and Federal efforts thus far have been insufficient to assist them in fully realizing that potential.

SUBTITLE X—GREAT

House recedes to Senate section 5163, Gang Resistance Education and Training Projects, with modifications. The Conferees intend that the Secretary of the Treasury will consult with the Director of the BATF regarding the selection of communities for participation in this program.

TITLE IV—VIOLENCE AGAINST WOMEN

SUBTITLE A—SAFE STREETS FOR WOMEN

CHAPTER 1—FEDERAL PENALTIES FOR SEX CRIMES

Section 40111—House recedes to Senate section 3211, increasing penalties for repeat offenders, with modifications regarding foreign country convictions.

Section 40112—House recedes to Senate section 3212, Federal penalties.

Section 40113—House section 1609 recedes to Senate sections 3213 and the restitution provisions of 3321 and 3704–05, with modifications including: if a court finds a defendant is unable to pay any amount of restitution under any reasonable schedule of payments, the court must enter an order providing for a nominal restitution award; victims are permitted to enforce restitution awards; victims can recover costs in obtaining civil protection orders; the provision on compensation to third party payers is eliminated; privacy of records is expanded; compliance with a restitution order is made a condition of probation or supervised release; petition to modify order is added; court authority to refer, subject to de novo review, a matter to a magistrate or special master is added.

Section 40114—House recedes to Senate section 3214, Federal victims' counselors.

CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN

House recedes to Senate section 3221, grants to combat violent crimes against women, with the following modifications: the merger of three grant programs in Senate bill: grants for high intensity crime areas, general grants to States, and Domestic Violence and Family Support Grants (§3341); the addition of purposes to strengthen victim services programs in diverse populations, and programs addressing the needs of Indian tribes; the addition of a matching fund requirement (which tribal governments may satisfy with federal funds from the Bureau of Indian Affairs); and the designation of the Attorney General as the responsible official. With regard to the matching fund requirement, the Conferees intend that in disbursing grants for nongovernmental victim services, States shall not pass through to the subgrantees the amount of any required State match. With regard to this program, the Conferees acknowledge the critical role probation agencies play in monitoring and controlling the perpetrators of family violence; the Conferees intend that probation agencies receive appropriate consideration under this program.

Senate section 3262 recedes to House sections 1603–04, rape exam payments and filing costs, with modifications to extend the requirements to units of local government and Indian tribal governments except (in the case of rape exams) where another governmental entity incurs the costs of the exams; and to give States a period for bringing laws, policies, and practices into compliance with filing cost requirements.

CHAPTER 3—SAFETY FOR WOMEN IN PUBLIC TRANSIT AND PUBLIC PARKS

Section 40131—House recedes to Senate section 3231, grants for capital improvements to prevent crime in public transportation, with modification to clarify that Trust Fund money is not available for this program, and other modifications.

Section 40132—House recedes to Senate section 3232, National Park System Crime Prevention Assistance, with modification to clarify that Trust Fund money is not available for this program.

Section 40133—House recedes to Senate section 3233, Grants for Capital Improvements to Prevent Crime in Public Parks, with modification to clarify that Trust Fund money is not available for this program.

CHAPTER 4—NEW EVIDENTIARY RULES

Section 40141—House recedes to Senate sections 3251–3254 and 3706 with a modification to substitute the revisions of Federal Rule of Evidence 412 as transmitted to Congress by the Supreme Court on April 29, 1994 with an additional modification to extend evidentiary protection to civil cases (as proposed by the Judicial Conference of the United States to the Supreme Court on October 25, 1993). The Conferees intend that the Advisory Committee Note on Rule 412, as transmitted by the Judicial Conference of the United States to the Supreme Court on October 25, 1993, applies to Rule 412 as enacted by this section. This section, which modifies Rule 412 of the Federal Rules of Evidence as transmitted to the Congress by the United States Supreme Court, is enacted pursuant to the Rules Enabling Act.

CHAPTER 5—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

Section 40151—House recedes to Senate section 3261, Education and Prevention Grants to Reduce Sexual Assaults Against Women, with modification to allocate funds to States on the basis of population.

Section 40152—House recedes to Senate section 1607, National Institute of Justice Training Program, to assist court personnel in treating sex offenders.

Section 40153—House recedes to Senate proposal regarding confidentiality of communications between sexual assault or domestic violence victims and their counselors, with modifications.

Section 40154—House recedes to Senate section 1608 with regard to information about sex offender treatment programs.

Section 40155—House recedes to Senate section 3263 with modification to make runaway youth education and prevention grants gender-neutral and to cover juveniles.

Section 40156—House recedes to Senate section 5126, Victims of Child Abuse Act, with modifications.

SUBTITLE B—SAFE HOMES FOR WOMEN

CHAPTER 1—NATIONAL DOMESTIC VIOLENCE HOTLINE

Section 40211—House section 1653 recedes to Senate section 3311, grant for a national domestic violence hotline, with modifications as follows: (1) a grant may extend for 5 years, subject to annual approval; (2) applicants must include a plan for assisting non-English speaking callers and the hearing-impaired; and (3) applicants must demonstrate support from advocacy groups, such as State coalitions and recognized national domestic violence groups. The Conferees note Congress has found with regard to this program that (1) 4,000,000 women are battered by their partners each year, of which 4,000 die as a result of such abuse; (2) victims of domestic violence need access to resources which will refer such victims and their children to safe homes and shelters; and (3) there is a need for a national domestic violence hotline to provide information and assistance to victims of domestic violence because a privately funded national domestic violence hotline which previously handled more than 65,000 crisis calls annually no longer exits.

CHAPTER 2—INTERSTATE ENFORCEMENT

Section 40221—Senate section 3321, Interstate Enforcement, recedes to House section 1622 with modifications including: the addition of penalties for causing the crossing of State lines to commit a crime of violence; the revision of the new Federal crime for crossing a State line; the addition of a penalty where the crime results in disfigurement or life-threatening bodily injury; the modification of the mandatory restitution provisions to comport with the mandatory restitution provisions for sex crimes and crimes involving the sexual exploitation and abuse of children; and the modification of the definition of "spouse or intimate partner."

CHAPTER 3—ARREST POLICIES IN DOMESTIC VIOLENCE CASES

Section 40231—Senate section 3331 recedes to House section 1623, grants to encourage arrest polices, with modifications to include a two-year period for grantees to comply, and a modification to the definition of "domestic violence."

CHAPTER 4—SHELTER GRANTS

Section 40241—House recedes to Senate section 3341(j), authorizing money for battered women's shelters. (The remainder of Senate section 3341 was incorporated into Subtitle A, Chapter 2, of this title.)

CHAPTER 5—YOUTH EDUCATION

Section 40251—House recedes to Senate section 3361, youth education and domestic violence, with modification to permit the Secretary of Health and Human Services to consult with the Secretary of Education to select, implement, and evaluate four model programs.

CHAPTER 6—COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

Section 40261—House section 1654 recedes to Senate section 5140, community programs on domestic violence, with modifications. Senate section 5122 is deleted as duplicative.

CHAPTER 7—FAMILY VIOLENCE PREVENTION AND SERVICES ACT AMENDMENTS

Section 40271—House recedes to Senate section 3351, grantee reporting.

Section 40272—House recedes to Senate section 3381–83, technical amendments.

CHAPTER 8—CONFIDENTIALITY FOR ABUSED PERSONS

Section 40281—House recedes to Senate section 3371, confidentiality for abused persons, with modification to give Postal Service additional regulatory guidance.

CHAPTER 9—DATA AND RESEARCH

Section 40291—House recedes to Senate section 3391, data and research agenda, with modification to include diversity considerations for panel and to require the issuance of a report no later than 12 months rather than 9 months after enactment.

Section 40292—House recedes to Senate section 3392, State data bases, with modification to place responsibility for the study and report with the appropriate Department of Justice entities.

Section 40293—House recedes to Senate section 3393, number and cost of injuries.

CHAPTER 10—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT

Section 40295—House section 2521 recedes to Senate section 1421, rural domestic violence and child abuse enforcement assistance.

SUBTITLE C—CIVIL RIGHTS FOR WOMEN

Sections 40301–03—House recedes to Senate sections 3401–03, Civil Rights. The Conferees note that the applicable standard of proof in a civil rights cause of action under this section is preponderance of the evidence. The Conferees also note that the Congress has found that crimes of violence motivated by gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender; current law provides a civil rights remedy for gender crimes committed in the workplace, but not for crimes of violence motivated by gender committed on the street or in the home; State and Federal criminal laws do not adequately protect against the bias element of crimes of violence motivated by gender, which separates these crimes from acts of random violence, nor do these adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests; existing bias and discrimination in the criminal justice system often deprives victims of crimes of violence motivated by gender of equal protection of the laws and the redress to which they are entitled; crimes of violence motivated by gender have a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce; crimes of violence motivated by gender have a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products; a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects on interstate commerce caused by crimes of violence motivated by gender; and the victims of crimes of violence motivated by gender have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

Section 40304—House recedes to Senate section 3404, Sense of the Senate concerning protection of privacy of rape victims, with technical modifications. The Conferees note that the Senate finds with regard to this provision that: (1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape; (2) Rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature; (3) The victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the crime and are increasingly victimized by news media that are insensitive to the victim's emotional and psychological needs; (4) Rape victims' need for privacy should be respected; (5) Rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities; (6) Rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant; (7) The news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and (8) The public's interest in knowing the identify of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

Senate section 3501, safe campuses for women, is deleted because it has already been enacted.

SUBTITLE D—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

CHAPTER 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

Sections 40411–14—House sections 1661–64 recede to Senate sections 3601–14, Equal Justice for Women in the Courts Act, with modifications to include Indian tribal governments as grantees and to modify grant purposes.

CHAPTER 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

Section 40421–22—House sections 1665–67 recede to Senate sections 3621–22 with modifications to designate the Administrative Office of the United States Courts as the clearinghouse for the dissemination of reports and to delete circuit court allocation limits.

SUBTITLE E—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

Section 40501—House recedes to Senate section 3701, pre-trial detention in sex offense cases.

Section 40502—House recedes to Senate section 3702, increased penalties for sex offenses against victims below the age of 16. Senate section 801, sexual abuse amendments, is deleted as duplicative.

Section 40503—Senate sections 3703(a)–(b) recede to House section 1652, payment of cost of victim testing for sexually transmitted disease, with modification to ensure confidentiality and anonymity of the test, subject to waiver by the victim. Senate sections 3703(c)–(f) recede to House. House recedes to Senate section 3703(g), penalties for intentional transmission of HIV.

Section 40504—House recedes to Senate section 3704, extension and strengthening of restitution.

Section 40505—House recedes to Senate section 3705, with modifications.

Section 40506—House recedes to Senate section 3707, National Baseline Study on Campus Sexual Assault, with technical modification.

Section 40507—Senate section 3708, Report on Battered Women's Syndrome, recedes to House section 121. Senate section 2964 is deleted as duplicative.

Section 40508—House recedes to Senate section 3709, Report on Confidentiality of Addresses for Victims of Domestic Violence.

Section 40509—House recedes to Senate section 3710, Report on Record Keeping Relating to Domestic Violence.

Senate section 3711, Report on Fair Treatment in Legal Proceedings, recedes to House.

Senate section 3712 recedes to House.

Senate section 3713 recedes to House.

SUBTITLE F—NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION

Senate recedes to House sections 2801–12, Stalking, with modifications.

SUBTITLE G—PROTECTIONS FOR BATTERED IMMIGRANT WOMEN AND CHILDREN

Senate recedes to House sections 1626–28, Battered Immigrant Women, with modifications.

TITLE V—DRUG COURTS

Senate sections 1201–02 recede to House sections 1041–44 with modifications to prohibit violent offenders from participating, to add a GAO study, and with technical and conforming changes.

The Conferees recognize that drug court programs may support costs of judges, magistrates, quasi-judicial personnel, probation

VOL 140 PT 15 AG 10 — 11 1994 UMI

officers, drug testing personnel, prosecutors, defense attorneys, other criminal justice participants, drug treatment personnel, persons involved in programmatic and aftercare services, and other personnel necessary to implement drug court programs.

The Conferees note the diversity of court structures under which jurisdictions throughout the United States are organized and intend that the Attorney General, in implementing this program, issue regulations that are as flexible as possible in this regard.

TITLE VI—DEATH PENALTY

Procedures: The House recedes to the Senate with the following exceptions: (1) Senate recedes to the House regarding the firearm aggravator; (2) Senate recedes to the House to add the aggravator for sexual assault or child molestation; (3) the Conferees modified the provision regarding information presented at sentencing to reflect current law.

Offenses: The House recedes to the Senate death penalties, including terrorism death penalties, with the following modifications: (1) the deletion of Senate section 203(a)(8), attempted assassination of the President; (2) the deletion of the part of Senate section 202(a) which adds section 3591(b)(3) to title 18 regarding unintentional deaths due to overdose; (3) the addition of the Hyde amendment to section 203(a)(2), espionage; (4) Senate section 504 recedes to House section 708 regarding correctional officers; (5) Senate section 716, torture, recedes to House section 713 with modifications to delete already enacted provisions; (6) the addition of an intent standard for carjacking; (7) Senate recedes to the House intent standard; (8) Senate section 2406, to federalize all murders committed with guns, recedes to House; (9) Senate section 711, weapons of mass destruction, recedes to House section 710; and (10) the modification of Senate section 215, alien smuggling, to increase penalties. House recedes to Senate section 501–01 and 505.

House sections 901–02, racially discriminatory capital sentencing, recede to Senate.

Senate section 1021, racial and ethnic bias study grants, recedes to House.

Section 60026—Senate recedes to House proposal regarding appointment of counsel.

TITLE VII—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

Senate sections 2408 and 5111 recede to House sections 501–02 with modifications. The authority provided to the Bureau of Prisons under this section is not to be construed as limiting any authority already possessed by the Bureau of Prisons with respect to the release of inmates.

TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES

Senate section 2404 recedes to House sections 201–03 with technical and conforming modifications.

TITLE IX—DRUG CONTROL

SUBTITLE A—ENHANCED PENALTIES AND GENERAL PROVISIONS

In carrying out directions from the Congress, the U.S. Sentencing Commission shall assure reasonable consistency with other guidelines, avoid duplicative punishment for substantially the same offense, and take into account any mitigating circumstances which might justify exceptions. The Commission shall also carry out such directions in light of the factors set forth in subsection 3535(a) of title 18, United States Code.

Section 90101—House recedes to Senate section 1501, drug trafficking in prisons.

Section 90102—House recedes to Senate section 1505, drug-dealing in drug free zones, with modifications.

Section 90103—House recedes to Senate section 1506, illegal drug use in prisons, with technical modification.

Section 90104—House recedes to Senate section 1531, clarification of narcotics and other dangerous drugs.

Section 90105—House recedes to Senate section 1532, conforming amendments to recidivist penalty provisions of the Controlled Substance Act and the Controlled Substances Import and Export Act.

Section 90106—House recedes to Senate section 1534, Advertising, with modifications.

Section 90107—House recedes to Senate section 1538, Violent Crime and Drug Emergency Areas, with modifications.

SUBTITLE B—NATIONAL NARCOTICS LEADERSHIP ACT AMENDMENTS

Section 90201–08—House recedes to Senate section 5150, which reauthorizes the Office of National Drug Control Policy through September 30, 1997, with modifications.

In addition to the Director's authority to recommend to Federal agencies appropriate drug budget levels by July 1 of each year as those agencies are first developing their budgets for the following fiscal year, authority is granted to ensure that the agencies' budget submissions to the Office of Management and Budget are consistent with the National Drug Control Strategy.

The provision also provides authority to detail temporarily drug control personnel to other Departments or agencies to implement the National Drug Control Strategy. It further provides authority, except to the extent that the Director's authority is limited in an annual appropriations Act, to transfer up to 2% among National Drug Control Program accounts, upon advance approval of the Committees on Appropriations of each House of Congress. It is the intent of the Conferees that such advance approval be obtained from each of the Appropriations Subcommittees with jurisdiction over accounts increased or decreased by such budget shifts.

Several additional goals are added to the National Drug Control Strategy, including the "consequences" of drug abuse (such as emergency room overdoses and drug-related crime), assessment of national drug treatment system, and other evaluations of the strategy. Drug treatment and prevention are added to the mission of the Counter-Drug Technology Assessment Center. And, the provision prohibits the Director and other officials in the Office who are confirmed by the Senate from participating in Federal election campaigns.

Senate section 1504, anabolic steroids penalties, recedes to House as duplicative of stronger current law.

Senate section 1533, Program to provide public awareness of the provisions of Public Law 101–516, recedes to House.

Senate section 1537, Drug paraphernalia amendment, recedes to House.

Senate section 1511–23, Precursor Chemicals Act, deleted because already enacted.

Senate section 1536 recedes to House.

Senate section 1535, national drug control strategy, recedes to House.

Senate section 1502 is deleted because already enacted.

Senate section 2407 recedes to House.

TITLE X—DRUNK DRIVING PROVISIONS

Section 100002—House recedes to Senate section 1602, applying State law in areas of federal jurisdiction.

Section 100003—House sections 1801–02, Driving While Intoxicated Prosecution Program, recede to Senate section 5115.

TITLE XI—FIREARMS

SUBTITLE A—ASSAULT WEAPONS

House recedes to Senate sections 4501–10, with modifications.

The Conferees recognize that some workers will be adversely impacted by the enactment of this Subtitle. The Conferees note that the Department of Labor has made available, as of July 1, more than $1.1 billion through Title III of the Job Training Partnership Act to assist dislocated workers. The types of assistance available to dislocated workers under that Act include retraining, job search assistance, job counseling, on-the-job training, and other services. The Conferees expect that any employees dislocated as a result of enactment of this Subtitle will be eligible to apply for such benefits in accordance with Department of Labor criteria.

SUBTITLE B—YOUTH HANDGUN SAFETY

Section 110201—House sections 1901–02 recede to Senate section sections 661–62 with the deletion of Senate section 662(a) and technical modifications. Senate section 663 recedes to House.

The Conferees note Congress finds with regard to these sections that: Crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem; problems with crime at the local level are exacerbated by the interstate movement of drugs, guns, and criminal gangs; firearms and ammunition, and handguns in particular, move easily in interstate commerce, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate. Even before the sale of a handgun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce. While criminals freely move from State to State, ordinary citizens may fear to travel to or through certain parts of the country due to the concern that violent crime is not under control, and people from other countries may decline to travel in the United States for the same reason. Just as hardened drug kingpins often begin their lives in the illicit drug culture by exposure to drugs at a young age, violent criminals often start their criminal careers on streets where the ready availability of guns to young people results in the acceptability of their random use. Violent crime and the use of illicit drugs go hand-in-hand, and attempts to control one without controlling the other may be fruitless. Individual States and localities find it impossible to handle the problem by themselves; even States and localities that have made a strong effort to prevent, detect, and punish crime find their efforts unavailing due in part to the failure or inability of other States and localities to take strong measures. Inasmuch as illicit drug activity and related violent crime overflow State lines and national boundaries, the Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to combat these problems. The Congress finds that it is necessary and appropriate to assist the States in controlling crime by stopping the commerce in handguns with juveniles nationwide, and allowing the possession of handguns by juveniles only when handguns are possessed and used for legitimate purposes under appropriate conditions.

SUBTITLE C—LICENSURE

Sections 110301–07—House recedes to Senate section 311–17, Firearms Licensure.

SUBTITLE D—DOMESTIC VIOLENCE

Section 110401—Senate sections 301, Persons Subject to Restraining Orders, and 4201–03, Prohibition Against Disposal of Firearms to, or Receipt of Firearms by, Persons Who Have Committed Domestic Violence, recede to House sections 1624–25, with modifications.

The Conferees intend that the term "child" be read with common sense and normal meaning, and to include a child over whom a person's parental rights have been terminated by a court order. The Conferees also note that Congress finds with respect to this provision that domestic violence is the leading cause of injury to women in the United States between the ages of 15 and 44; firearms are used by the abuser in 7 percent of domestic violence incidents and produces an adverse effect on interstate commerce; and individuals with a history of domestic abuse should not have easy access to firearms.

SUBTITLE E—GUN CRIME PENALTIES

In carrying out directions from the Congress, the U.S. Sentencing Commission shall assure reasonable consistency with other guidelines, avoid duplicative punishment for substantially the same offense, and take into account any mitigating circumstances which might justify exceptions. The Commission shall also carry out such directions in light of the factors set forth in subsection 3553(a) of title 18, United States Code.

Section 110501—House recedes to Senate section 401, enhanced penalty for use of semi-automatic weapons during crime of violence or drug trafficking crime.

Section 110502—House section 3031 recedes to Senate section 402, second conviction for using or carrying explosives.

Section 110503—House recedes to Senate section 403, new offense for smuggling firearms.

Section 110504—House section 3032 recedes to Senate section 404, new offense for theft of guns and explosives moving in interstate commerce.

Section 110505—House recedes to Senate section 405, revocation of supervised release, with modifications. Senate section 2403, supervised release after imprisonment, recedes to House as incorporated in Senate section 405.

Section 110506—House recedes to Senate section 406, revocation of probation, with modifications.

Section 110507—House recedes to Senate section 407, knowingly making false material statement on a gun application.

Section 110508—House section 3033 recedes to Senate section 408, felon possessing explosives.

Section 110509—House recedes to Senate section 409, explosives destruction.

Section 110510—House recedes to Senate section 410, technical correction regarding parole.

Section 110511—House recedes to Senate section 411, prohibition against transactions involving stolen firearms or stolen guns.

Section 110512—House recedes to Senate section 412, using firearm in commission of forgery.

Section 110513—House recedes to Senate section 413, firearm possession by violent felons and serious drug offenders.

Section 110514—House recedes to Senate section 414, receipt of firearms by nonresident.

Section 110515—House section 3034 recedes to Senate section 417, stealing guns or explosives from a licensee.

Section 110516—House section 3035 recedes to Senate section 418, disposing of explosives to prohibited person.

Section 110517—House recedes to Senate section 420, interstate gun trafficking.

Section 110518—House recedes to Senate section 415, firearms conspiracy, with modification.

Section 110519—House recedes to Senate section 5168, Definition of Armor Piercing Ammunition, with modification.

Senate section 416, study of incendiary ammunition, recedes to House.

Senate section 419 recedes to House.

TITLE XII—TERRORISM

In carrying out directions from the Congress, the United State Sentencing Commission shall assure reasonable consistency with other guidelines, avoid duplicative punishment for substantially the same offense, and take into account any mitigating circumstances which might justify exceptions. The Commission shall also carry out such directions in light of the factors set forth in subsection 3553(a) of title 18, United States Code.

Section 120001—House recedes to Senate section 717, extension of statute of limitations, with modifications.

Section 120002—House recedes to Senate section 718, jurisdiction over crimes against U.S. nationals.

Section 120003—House recedes to Senate section 721, counterfeiting currency abroad, with modification to increase penalty.

Section 120004—House recedes to Senate section 724, Terrorist Felonies.

Section 120005—House recedes to Senate section 726, material support to terrorists, with modification.

Senate section 718, FBI access to telephone subscriber information, is deleted because already enacted.

Senate section 720, preventing acts of terrorism, recedes to House.

Senate section 722, economic terrorism task force, recedes to House.

Senate section 713, extension of territorial sea, recedes to House.

Senate section 714, assimilated crimes in extended territorial sea, recedes to House.

TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT

Section 130001—House recedes to Senate section 5005, enhancing penalties for failure to depart, with modification to delete subsection (c) regarding collateral review.

Section 130002—House recedes to Senate section 5007, criminal alien tracking center, with modification to conform to current law.

Section 130003—House recedes to Senate section 725, Protection of Recipients in Counter-Terrorism Rewards Program, with modifications to incorporate this section into Senate section 5117, and other modifications.

Section 130004—House recedes to Senate section 5002, deportation procedures for certain criminal aliens, with modifications.

Section 130005—Senate section 5158, expedited deportation for asylum applicants, recedes to House section 2411 with modification to clarify that asylum applicants have no right to work in the United States.

Section 130006—Senate section 5159, improving border controls, recedes to House section 2412 with modifications regarding report requirement and to incorporate House section 2421.

Section 130007—House section 2413, special deportation proceedings, recedes to Senate section 5160 with modifications. Senate section 5161, construction of INS service processing centers, recedes to House section 2414, which is incorporated into Senate section 5160, with modifications. The Conferees intend that the Attorney General should consider the availability of legal assistance in an area in determining where to locate the facilities.

Section 130008—Senate recedes to House section 2402, authority of the Attorney General to accept assistance in deporting criminal aliens, with modifications.

The Conferees note that many States and localities are burdened with the financial costs of housing and processing deportable aliens who are unlawfully within the United States and who are arrested for violating criminal statutes. The Immigration and Naturalization Service is not permitted under current law to accept State and local assistance in carrying out its deportation responsibilities. This section is intended to aid communities with criminal alien populations to expedite the removal of deportable aliens who are arrested for the violation of criminal statutes by providing transportation-related services or property to the Immigration and Naturalization Service.

Section 130009—Senate section 712 recedes to House section 2431 with modification increasing the penalty for employment document fraud to five years. Senate section 5124 is deleted as duplicative.

This section is intended to target person who commit document fraud for the purpose of commercial advantage, or to facilitate drug trafficking or international terrorism. The Conferees intend that the Attorney General implement these provisions so as not to prosecute bona fide applicants for asylum.

Section 130010—House recedes to Senate section 5131, asylum, which is modified to a Sense of the Senate, with other modifications.

Senate section 5006, miscellaneous and technical changes regarding alien deportation, recedes to House.

Senate section 5102, prohibition on payment of federal benefits to illegal aliens, recedes to House.

Senate section 5119, State and local cooperation with INS, recedes to House.

Senate section 5110, removal of alien terrorists, recedes to House.

House section 2401, Congressional findings regarding criminal aliens, recedes to Senate.

Senate section 5144, authority to release confidential information regarding aliens, recedes to House.

Senate section 5001, aggravated felony, recedes to House.

Senate section 5003, judicial deportation, recedes to House.

Senate section 5004, recedes to House.

Senate section 5157, Extradition, recedes to House.

TITLE XIV—YOUTH VIOLENCE

Sections 140001–03—Senate section 651 recedes to House section 1101 regarding adult prosecution of juveniles with modification to delete section 1101(b).

Section 140004—House recedes to Senate section 641 with modification to correct typographical error regarding the age for the bindover of juveniles.

Section 140005—House recedes to Senate section 618 with modifications.

Section 140006—House recedes to Senate section 615, increased penalties for employing children to distribute drugs near schools and playgrounds, with modification.

Section 140007—House recedes to Senate section 2906, increased penalties for travel act violations. Senate section 617 deleted as duplicative.

Section 140008—House recedes to Senate section 5130, solicitation of minor to commit crime.

TITLE XV—CRIMINAL STREET GANGS

Section 150001—House recedes to Senate section 611 with an amendment to provide increased penalties for federal gang crimes.

Section 150002—House recedes to Senate section 614 with modification to delete simple drug possession as basis of adult prosecution of juveniles.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Section 150003—House recedes to Senate section 615 to authorize use of Byrne funds for programs relating to gangs.

Section 150004—House sections 2201–02 recede to Senate section 631 with technical modifications and deletion of formula.

Section 150005—Senate section 632 recedes to House.

Section 150006—House recedes to Senate section 633 with technical modifications and the addition of mentoring program.

Section 150007—House recedes to Senate section 5167.

Section 150008—House recedes to Senate section 622, Gang Investigation Coordination and Information Collection.

Section 150009—Senate section 624 recedes to House section 1098, Multijurisdictional Gang Task Forces.

Senate section 612 recedes to House regarding use of minors as RICO predicate.

Senate section 613 recedes to House.

Senate section 623 is deleted because already enacted.

TITLE XVI—CHILD PORNOGRAPHY

Section 160001–02—House sections 1201–02 recede to Senate sections 824–25, child pornography.

Section 160003—House section 3083 recedes to Senate section 2410, Confirmation of intent of Congress in enacting sections 2252 and 2256 of title 18, United States Code.

TITLE XVII—CRIMES AGAINST CHILDREN

SUBTITLE A—JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION ACT

Section 170101—Senate sections 821–23, Jacob Wetterling Crimes Against Children Registration Act, recede to House section 1301 with modification to include the program contained in Senate sections 841–44 and other modifications.

SUBTITLE B—ASSAULTS AGAINST CHILDREN

Section 170201—Senate recedes to House section 301, assaults against children, with technical and conforming modifications.

SUBTITLE C—MISSING AND EXPLOITED CHILDREN

Sections 170301–03—House recedes to Senate sections 4301–04, Missing and Exploited Children, with modifications. The Conferees note Congress finds with regard to this program that the victimization of children in our nation has reached epidemic proportions; recent Department of Justice figures show that 4,600 children were abducted by nonfamily members; two-thirds of the abductions of children by non-family members involve sexual assault; more than 354,000 children were abducted by family members; and 451,000 children ran away; while some local law enforcement officials have been successful in the investigation and resolution of such crimes, most local agencies lack the personnel and resources necessary to give this problem the full attention it requires; a majority of the nation's 17,000 police departments have 10 or fewer officers; and locating missing children requires a coordinated law enforcement effort; supplementing local law enforcement agencies with a team of assigned active Federal agents will allow Federal agents to pool their resources and expertise in order to assist local agents in the investigation of the nation's most difficult cases involving missing children.

Senate section 5129, Parent Locator Service, recedes to House.

Senate section 2701, International Parental Kidnapping, is deleted because already enacted.

TITLE XVIII—RURAL CRIME

Section 180101–201 House sections 2501–21 recede to Senate sections 1401–21 with modification regarding the structure of rural drug task forces, the placement of section 1421 in the Violence Against Women title, and other modifications.

Section 180301—Senate recedes to House section 2531, Sense of Congress Regarding Funding for Rural Areas.

TITLE XIX—FEDERAL LAW ENFORCEMENT

Section 190001—House section 3016 recedes to Senate section 5132, federal judiciary, with modifications to incorporate section 621, additional Federal prosecutors for the prosecution of violent youth gangs, and other modifications.

TITLE XX—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

House sections 2701–39 recede to Senate sections 1121–50 with modification to delete Senate section 1124 (b) and (c) with regard to the appointment of a Director.

TITLE XXI—STATE AND LOCAL LAW ENFORCEMENT

SUBTITLE A—BYRNE PROGRAM

Section 210101—Senate recedes to House section 1098A, extension of Byrne grant funding, with modification to authorize specified funds.

SUBTITLE B—LAW ENFORCEMENT FAMILY SUPPORT

Section 210201—House recedes to Senate section 1101, Law Enforcement Family Support, with modification to designate the Attorney General as the responsible official, and other minor modifications.

SUBTITLE C—DNA IDENTIFICATION

Sections 210301–06—House sections 1501–06 recede to Senate sections 1001–6, DNA identification, with modification to ensure the establishment of a blind proficiency testing program for DNA analysis.

DNA Advisory Board

The Act requires the Director of the Federal Bureau of Investigation to appoint an advisory board on DNA quality assurance methods. The Conferees intend that, in making appointments to the advisory board, the Director of the FBI shall adhere strictly to all applicable conflict of interest and ethics laws. In particular, the FBI Director will ensure that no member of the board will have a commercial or proprietary interest in matters addressed by the board. To that end, the Director may obtain disclosure statements from nominees to the board. The Conferees expect that a review of any potential conflict of interest or ethical considerations will be conducted with the assistance of the Bureau's Legal Counsel Division, with the FBI Director retaining final authority regarding appointments to the board.

Proficiency Testing Program

The Conferees, in adopting the DNA Identification Act, recognize the significance of the development of a blind external proficiency testing program for DNA analyses. A blind external proficiency test means a test that is presented to a forensic laboratory through a second agency and appears to the analysts to involve routine evidence.

Under this Act, the Director of the National Institute of Justice is directed to study this issue and certify to Congress within one year that (1) the NIJ has undertaken steps to ensure that an appropriate entity or entities will establish a blind external proficiency testing program for DNA analyses, which shall be available to public and private laboratories performing forensic DNA analyses; (2) that a blind proficiency testing program for DNA analyses is already available; or (3) that it is not feasible to have a DNA blind proficiency testing program.

The Conferees fully expect that NIJ will report either that there are one or more existing DNA blind proficiency testing programs or that it has undertaken steps to ensure the establishment of one. There are many private DNA testing laboratories and commercial manufacturers of DNA testing products that have the technical expertise, individually or through professional and trade associations, necessary to establish the aforementioned program.

If the NIJ study determines blind external proficiency testing is feasible, neither State nor local DNA laboratories covered by the Act (i.e., those participating in the national DNA index or receiving grants), will be required by the Act to subscribe to such a blind testing program. The FBI Laboratory will not be required by the Act to subscribe to a particular blind testing program identified by NIJ. Participation by State and local governments should be voluntary and at their own discretion—although participation in such a program will be an important element of demonstrating quality control for purposes of having DNA evidence introduced into evidence.

SUBTITLE D—POLICE PATTERN OR PRACTICE

Sections 210401–02—House recedes to Senate sections 111–12, Police Pattern or Practice, with modification to section 1112.

SUBTITLE E—IMPROVED TRAINING AND TECHNICAL AUTOMATION

Section 210501—House recedes to Senate section 1031, improved training and technical automation, with technical and conforming modifications. The Conferees believe one appropriate use of this program would be to ensure that States, Indian Tribal governments, and local governments are made aware of advanced law enforcement technologies.

SUBTITLE F—OTHER STATE AND LOCAL AID

Section 210606—Senate recedes to House proposal to reauthorize the Office of Justice Programs.

Section 210602—House recedes to Senate section 5137, assistance to ease the increased burdens on State court systems, with modifications.

Section 210603—Senate recedes to House proposal to make money from the Violent Crime Reduction Trust Fund available to fund activities authorized by the Brady Handgun Violence Prevention Act and the National Child Protection Act of 1993.

Section 103(k) of the "Brady Bill" authorizes "such sums as are necessary" for the Attorney General to establish a "national instant criminal background check system." Section 106(b) of "Brady" authorizes $200 million for grants to States for the improvement of criminal records. Section 4(b) of the National Child Protection Act of 1993 authorizes $20 million for grants to States for the improvement of criminal records regarding child abuse. The Conference Report provides that a total of $150 million may be appropriated from the Trust Fund for these purposes.

TITLE XXII—MOTOR VEHICLE THEFT PREVENTION

House recedes to Senate sections 1901–03, motor vehicle theft prevention.

TITLE XXIII—VICTIMS OF CRIME

Senate sections 901–02, 912–17, crime victims, recede to House sections 101–21, with

the following modifications: allocations of funds are changed to 48.5%, 48.5%, and 3%; the report on battered women's syndrome is moved to title IV, Violence Against Women. House section 101, with a conforming amendment, is enacted pursuant to the Rules Enabling Act. House recedes to Senate section 903, Sense of the Senate regarding Rights to Victims Allocation, with conforming modification. Senate section 3264 is deleted as duplicative. Senate section 911 is deleted because already enacted. House recedes to Senate proposal to amend 10603(a)(5)(B) of title 42, United States Code.

TITLE XXIV—PROTECTION FOR THE ELDERLY

Section 240001—House recedes to Senate section 2001, Missing Alzheimer's Disease Patient Alert Program.

Section 240002—House recedes to Senate section 2002, crimes against the elderly.

Section 240003—Senate recedes to House proposal regarding Safe Senior Corridors.

TITLE XXV—SENIOR CITIZENS AGAINST MARKETING SCAMS

Sections 250001–05, 250008—House recedes to Senate sections 3901–03, 3905–07 and 3910, Senior Citizens Against Marketing Scams (SCAMS), with modifications. Senate section 3904 recedes to House.

Section 250006—House recedes to Senate section 2103, mail fraud. Senate section 3908 is deleted as duplicative.

Section 250007—House recedes to Senate section 2102, Consumer Protection Against Credit Card Fraud Act. Senate section 3909 is deleted as duplicative.

The Conferees note that Congress has found with regard to this issue the following: Unprecedented Federal law enforcement investigations have uncovered a national network of illicit telemarketing operations; most of the telemarketing industry is legitimate, employing over 3,000,000 people through direct and indirect means; illicit telemarketers, however, are an increasing problem which victimizes our nation's senior citizens in disproportionate numbers; interstate telemarketing fraud has become a problem of such magnitude that the resources of the Department of Justice are not sufficient to ensure that there is adequate investigation of, and protection from, such fraud; telemarketing differs from other sales activities in that it can be carried out by sellers across State lines without direct contact; telemarketers can also be very mobile, easily moving from State to State; it is estimated that victims lose billions of dollars a year as a result of telemarketing fraud; consequently, this legislation is intended to enhance federal law enforcement resources, ensure adequate punishment for telemarketing fraud, and educate the public.

TITLE XXVI—COMMISSION MEMBERSHIP AND APPOINTMENT

Senate sections 1721–30 recede to House sections 3026–27, Commission to Support Law Enforcement, with modifications.

TITLE XXVII—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL COMMISSION ON CRIME PREVENTION AND CONTROL

House sections 1643–51 and 2601–07 recede to Senate sections 1701–18, 1741–49 and 3241–49 with a modification to establish a National Commission on Crime Prevention and Control charged with developing a comprehensive proposal for preventing and controlling crime and violence in America. This Commission must establish committees or task forces for the following specific purposes: one to focus on crime and violence generally, one to focus on the causes of the demand for drugs, one to focus on violence in schools, and one to focus on violence against women. House recedes to Senate sections 1731–32, Presidential Summit on Violence, with modification.

TITLE XXVIII—SENTENCING PROVISIONS

Section 280001—House recedes to Senate section 2401, imposition of a sentence.

Section 280002—House recedes to Senate section 2402, technical amendment to mandatory conditions of probation.

Section 280003—House section 1701 recedes to Senate section 2409, Hate Crime Sentencing.

Section 280004—House recedes to Senate section 2501, authorization of probation for petty offenses in certain cases.

Section 280005—House recedes to Senate section 5152 with modifications to create two full-time vice chairs of the U.S. Sentencing Commission, and to specify that of the chair and the two vice chairs, no more than two shall be of the same political party.

Section 280006—House recedes to Senate section 3092, Cocaine Penalty Study.

Senate section 2405, mandatory minimums for use or possession of firearm during a State crime, recedes to House.

Senate section 2502, trial by a magistrate in petty cases, recedes to House.

TITLE XXIX—COMPUTER CRIME

House recedes to Senate section 2601, computer crime, with minor modifications.

TITLE XXX—PROTECTION OF PRIVACY INFORMATION IN STATE MOTOR VEHICLE RECORDS

Senate section 3101–03, Driver's Privacy Protection Act, recede to House sections 2901–03 with modifications.

This title prohibits the release and use of certain personal information except under certain circumstances. One of these exceptions, found in subsection (b)(3), permits disclosures where a person or entity is seeking correct information about an individual who presented false information or information that is no longer correct, "but only for the purpose of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual."

Some State motor vehicle departments may require requestors seeking to use this exception to certify or state the purpose for which the information is being sought. While in most cases this practice by the State will not give rise to further concern, it could pose a problem for debt collectors covered under the Fair Debt Collection Practices Act (FDCPA). Section 804 of the FDCPA provides: "Any debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall . . . (2) not state that such consumer owes any debt."

The interaction of section 804(2) of the FDCPA and subsection (b)(3) of the Driver's Privacy Protection Act could be interpreted as barring a covered debt collector from indicating to a State DMV that it was seeking information for a permitted purpose, thereby barring the debt collector from receiving information crucial to collecting a debt.

This was clearly not the intention of the drafters of the legislation and it is not the intention of the Conferees. To the contrary, the drafters of the legislation and the Conferees intend for debt collectors to be able to obtain motor vehicle record information without violating section 804(2) of the FDCPA. In this case, the purpose of disclosing the existence of a debt is solely to establish the basis for receiving DMV data, not to harass the debtor. Therefore, the Conferees believe that a statement that the information is being sought for the purposes of recovering on a debt would not violate section 804(2). In addition, the Conferees believe it would be adequate for debt collectors under (b)(3) to state that they are "pursuing legal remedies against . . . the individual," as provided in (b)(3), without stating that the legal remedies related to a debt. The Conferees believe that such a statement would not violate section 804 of the FDCPA, which is intended to prevent debt collectors from harassing a consumer by telling third parties that the consumer owes a debt. The Conferees believe that a collector is in no way harassing a consumer by telling a State DMV that information is sought in connection with "pursuing legal remedies."

The opportunity to prohibit disclosure of personal information under (b)(11) and (b)(12) does not have to be provided each time a request for such information is made. Instead, the opportunity to prohibit these disclosures should be provided at the time an individual registers for or renews his or her driver's license, title registration or identity card and at any other time an individual contacts the State on his or her own initiative to prohibit such disclosures.

Under subsection (b)(13), any requestor may obtain access to an individual's personal information if the requestor has obtained written consent from the individual whose personal information is sought. The Conferees intend that each State must provide that the requestor's demonstration include a written consent that has been notarized.

TITLE XXXI—VIOLENT CRIME REDUCTION TRUST FUND

Sections 310001–02—House recedes to Senate sections 1352–54 with modifications as follows: (1) the trust fund covers fiscal years 1995–2000 and totals $30.210 billion; (2) annual outlays from trust fund appropriations are subject to limits enforceable through sequestration procedures similar to those applied under the Balanced Budget and Emergency Deficit Control Act of 1985 to appropriations in the regular budget process; and (3) the limitations on the number of total Federal Government personnel is deleted because it has already been enacted into law (Federal Workforce Restructuring Act of 1994, P.L. 103–226).

Section 310003—Senate recedes to House proposal to provide for the extension of authorizations of appropriations.

This section is an "authorization extender" provision intended to assure the complete and efficient use of all authorizations contained in the Report and all monies transferred into the Violent Crime Reduction Trust Fund. Under this provision, if the amount appropriated from the Trust Fund for a given program in a particular fiscal year is less than the amount authorized for that program in that year, the unused portion of the authorization remains available for use for that program in later fiscal years.

For example, if $100 million is authorized for program "A" for fiscal year 1996 but only $75 million is actually appropriated, the remaining $25 million will be available for appropriations from the Trust Fund in fiscal years 1997 and beyond for that program. The $25 million in authorizations "extended" beyond fiscal year 1996 need not all be used in fiscal year 1997; it remains available until funds are appropriated for such authorizations.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Section 310004—Senate recedes to House proposal to provide for flexibility in making appropriations.

This Section provides "transfer authority" to give the Appropriations Committees some flexibility in allocating appropriations from the Trust Fund among the programs included within each of three specified functional categories. Under these provisions, the $30.2 billion in authorizations contained in the Report is divided into the following categories: (1) State and Local Law Enforcement, (2) Federal Law Enforcement and (3) Prevention. Within each of these categories, the Appropriations Committees will, in any fiscal year, be permitted to transfer up to 10 percent of the authorization for a particular program to any other program within the same category.

For example, within the "Federal law enforcement" category, the Appropriations Committees could decrease the fiscal year 1996 authorization for program "A" by up to 10 percent and transfer that money to program "B" by increasing the authorization for "B" by the dollar amount subtracted from "A".

The transfer authority provided in the Conference Report is subject to three additional limitations (1) the aggregate amount of authorizations transferred away from a program over the life of the Trust Fund may not exceed 10 percent of the program's total authorization; (2) transfer authority may not be used to increase total authorizations for any of the three categories for any fiscal year above the level authorized for that category by the Report; and (3) no transfers between categories are permitted, e.g., authorizations for "Prevention" programs may not be transferred to "Federal Law Enforcement" programs.

The following is a list of the programs included in each of the three broad functional categories:

FEDERAL LAW ENFORCEMENT

(1) Authorization of Additional Appropriations for the Federal Judiciary, Section 190001(a)

(2) Authorization of Additional Appropriations for the Department of Justice, Section 190001 (b)

(3) Authorization of Additional Appropriations for the Federal Bureau of Investigation, Section 190001 (c)

(4) Authorization of Additional Appropriations for United States Attorneys, Section 190001 (d)

(5) Authorization of Additional Appropriations for the Department of Treasury, Section 190001 (e)

(6) National Center for Criminal Justice Research and Education, Section 320925

(7) Gang Investigation Coordination and Information Collection, Section 150008

(8) Motor Vehicle Theft Prevention, Section 220002

(9) Criminal Alien Tracking Center, Section 130002

(10) Expeditious Deportation for Denied Asylum Applicants, Section 130005

(11) Improving Border Controls, Section 130006

(12) Expanded Special Deportation Proceedings, Section 130007

(13) FBI and U.S. Attorney activities regarding Senior Citizens Against Marketing Scams, Section 250005

(14) FBI Activities Regarding DNA, Sections 210303-210306

(15) Agents for the Drug Enforcement Administration, Section 180104

(16) Presidential Summit on Violence and National Commission on Crime Prevention and Control, Section 270009

STATE AND LOCAL LAW ENFORCEMENT

(1) Public Safety and Policing, Sections 10001-10003

(2) Law Enforcement Family Support, Section 210201

(3) Availability of Violent Crime Reduction Trust Fund to fund activities authorized by the Brady Handgun Violence Protection Act and the National Child Protection Act of 1993, Section 210603

(4) Rural Law Enforcement Agencies, Section 180101

(5) Rural Drug Enforcement Training, Section 180103

(6) Community-based Justice Grants for Prosecutors, Sections 31701-31708

(7) Federal assistance to State court systems, Section 210602

(8) Police Recruitment, Sections 30801-30802

(9) DNA Grants to States, Section 210302

(10) Improved training and technical automation, Section 210501

(11) Extension of Byrne Grant Program, Section 210101

(12) Criminal Justice and Substance Abuse Treatment Training, Section 320930

(13) Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants, Sections 20101-20109

(14) Incarceration of Undocumented Criminal Aliens, Section 20301

(15) Prevention, Diagnosis, and Treatment of Tuberculosis in Correctional Institutions, Section 32201

(16) Certainty of Punishment for Young Offenders, Section 20201

PREVENTION

(1) Drug Courts, Section 50001

(2) Ounce of Prevention, Section 30101-30104

(3) Youth Employment and Skills Crime Prevention, Section 30201

(4) Model Intensive Grants, Sections 30301-30307

(5) Family and Community Endeavor Schools Grant Program and Community Schools Youth Services and Supervision Grant Program, Sections 30401-30403

(6) Police Partnerships for Children and Grants for Police Residence in High Crime Areas, Sections 30501-30505

(7) Midnight Sports, Section 30601

(8) Assistance for Delinquent and At-Risk Youth, Sections 30701-30702

(9) National Triad Program, Sections 30901-30906

(10) Local Partnership Act, Sections 31001-31002

(11) National Community Economic Partnership, Sections 31101-31133

(12) Gang Prevention Services for Boys and Girls, Sections 31201-31207

(13) Olympic Youth Development Centers, Section 31301

(14) Anti-Crime Youth Councils, Sections 31401-31405

(15) Urban Recreation and At-Risk Youth, Sections 31501-31505

(16) Boys and Girls Clubs in Public Housing, Sections 31601-31603

(17) Child Safety, Sections 31801-31808

(18) Family Unity Demonstration Project, Sections 31901-31922

(19) Substance Abuse Treatment in Federal Prisons, Section 32001

(20) Substance Abuse Treatment for State Prisoners, Section 32101

(21) Hope in Youth Program, Sections 32301-32307

(22) Gang Resistance Education and Training, Section 32401

(23) Federal Victim's Counselors, Section 40114

(24) Grants to Combat Violent Crimes Against Women, Section 40121

(25) Education and Prevention Grants to Reduce Sexual Assaults Against Women, Section 40151

(26) Training Programs, Section 40152

(27) Education and Prevention Grants to Reduce Sexual Abuse of Runaway, Homeless, and Street Youth, Section 40155

(28) Victims of Child Abuse Programs, Section 40156

(29) National Domestic Violence Hotline, Section 40211

(30) Encouraging Arrest Policies in Domestic Violence Cases, Section 40231

(31) Battered Women Shelters, Section 40241

(32) Youth Education and Domestic Violence, Section 40251

(33) Community Programs on Domestic Violence, Section 40261

(34) Study on State Databases, Section 40292

(35) Study on Number and Cost of Domestic Violence Injuries, Section 40293

(36) Rural Domestic Violence and Child Abuse Enforcement Assistance, Section 40295

(37) Education and Training for Judges and Court Personnel in State Courts, Sections 40411-40414

(38) Education and Training for Judges and Court Personnel in Federal Courts, Sections 40421-40422

(39) National Baseline Study on Campus Sexual Assault, Section 40506

(40) National Stalker and Domestic Violence Reduction, Sections 40601-40611

(41) Juvenile Drug Trafficking and Gang Prevention Grants, Section 150004

(42) Grants for Youth Development Centers, Section 150005

(43) Missing Alzheimer's Disease Patient Alert Program, Section 240001

(44) Safe Senior Corridors Grants, Section 240003

TITLE XXXII—MISCELLANEOUS

SUBTITLE A—INCREASES IN PENALTIES

Section 320101—House recedes to Senate Section 2901, increased penalties for assault.

Section 320102—House recedes to Senate section 2902, increased penalties for manslaughter.

Section 320103—House recedes to Senate section 2903, increased penalties for civil rights violations.

Section 320104—Senate section 2904(a) recedes to House section 3051, Penalties for Trafficking in Counterfeit Goods and Services; House recedes to Senate section 2904(b), laundering monetary instruments.

Section 320105—House recedes to Senate section 2905, penalty for committing murder for hire.

Section 320106—House recedes to Senate section 2907, increased penalties for arson, with modifications to delete mandatory minimum and increase the maximum penalty range.

Section 320107—House recedes to Senate section 616, increased penalties for drug trafficking near public housing. Senate section 1503 is deleted as duplicative.

Section 320108—House recedes to Senate section 5105, penalties for nonindigenous species, with modifications.

Section 320109—Senate recedes to House section 3056, military medals and decorations.

Senate section 2967, balanced in the criminal justice system, recedes to House.

SUBTITLE B—EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES

Section 320201—House recedes to Senate section 2911, extension of civil rights statutes.

SUBTITLE C—AUDIT AND REPORT

Sections 320301–02—House recedes to Senate sections 2921–22, audit and report.

SUBTITLE D—COORDINATION

Section 320401—House recedes to Senate section 5166, coordination of treatment and prevention programs.

SUBTITLE E—GAMBLING

Section 320501—House recedes to Senate section 2932, clarifying amendment regarding scope of prohibition against gambling on ships in international waters, with technical modifications.

Senate section 2931, enforcement of laws relating to gaming, recedes to House.

SUBTITLE F—WHITE COLLAR CRIME AMENDMENTS

Section 320601—House recedes to Senate section 2941, receiving proceeds of extortion or kidnapping.

Section 320602—House recedes to Senate section 2942, receiving the proceeds of a postal robbery.

Sections 320603–04—Senate section 2101 recedes to House sections 401–02, Insurance Fraud.

Sections 320605–06—House recedes to Senate sections 2201–03, Financial Institution Fraud.

Section 320607—House recedes to Senate section 2944, addition of predicate offenses.

Section 320608—House recedes to Senate section 2945, definition of savings & loan.

Section 320609—House recedes to Senate section 2946, definition of 1-year sentence.

Senate section 2943 recedes to House.

Senate sections 3801–21, enhanced penalties for health care fraud enforcement efforts, recede to House.

Senate section 2301, savings and loan task force, recedes to House.

Senate sections 4401–04, public corruption, recede to House.

Senate section 2204 recedes to House.

Senate section 5146, Bankruptcy, recedes to House.

SUBTITLE G—SAFER STREETS AND NEIGHBORHOODS

Sections 320701–02—House recedes to Senate sections 2951–52, Safer Streets and Neighborhoods, with technical modifications.

SUBTITLE H—RECREATIONAL HUNTING SAFETY

House recedes to Senate sections 4601–08, Recreational Hunting Safety, with modifications.

The conference report contains a modified version of Title XLVI of the Senate amendment, the Recreational Hunting Safety and Preservation Act of 1994. The purpose of this subtitle is to protect the safety and rights of persons to lawfully engage in hunting and fishing activities on Federal land.

In fashioning the provisions of this subtitle, the Conferees took care to not infringe on the first amendment right of free speech. The civil penalty provisions of this subtitle only apply to intentional physical conduct that significantly hinders a lawful hunt. Conduct is defined to exclude any activity protected by the first amendment. None of the provisions of this subtitle are intended to affect or limit in any way first amendment rights. Nor does the subtitle affect Federal land managers' existing authority to subject speech to reasonable regulation as to time, place and manner to the extent it is Constitutionally permissible.

In the interest of clarity, the Conferees have adopted a concise standard of violation, defined as intentional physical conduct that significantly hinders a lawful hunt. The Conferees intend that the physical conduct and the hinderance by considered as unitary; that is, both must be intentional. In other words, the conduct must be intentional, and must be done with the intention of significantly hindering a lawful hunt. A violation only occurs if the hinderance is significant; that is, it must have a negative influence or effect. The Conferees intend this to mean that incidental conduct which has *de minimis* effect on a hunt would not violate this subtitle.

With the principles described above in mind, examples of violations of this subtitle would include, but not be limited to, driving or disturbing wildlife; blocking or impeding hunters; using visual, aural, olfactory, or physical stimuli to affect wildlife behavior; erecting barriers to deny ingress or egress to areas where a lawful hunt takes place; placing a person or object in the line of fire; taking, disturbing or damaging property, such as a hunting blind; abusing a hunting dog; or other conduct intended to slow or make difficult the progress of a lawful hunt.

SUBTITLE I—OTHER PROVISIONS

Section 320901—House recedes to Senate section 2965, wiretaps, with technical modification.

Section 320902—House recedes to Senate section 2966, theft of major artwork, with modifications.

Section 320903—House recedes to Senate section 2969, addition of attempted robbery, kidnapping, smuggling and property damage offenses.

Section 320904—House recedes to Senate section 2972, to include findings with respect to the gun-free school zone provisions of the Crime Control Act of 1990.

Section 320905—House recedes to Senate section 5109, interstate wagering.

Section 320906—Senate recedes to House section 3005 with technical modifications. The Conferees note that Congress finds with regard to this section that there are 8,000,000 workers in the trucking industry in the United States, some working for large carriers and some for small carriers, some for private carriers and some owner operators, all assisting the free flow of commerce by transporting all types of commodities that enter, leave, or move within this country. Unemployment, crime, and drug use have contributed to an increase of violence against commercial truckers, an increase that has gone unrecognized by the public at large. As few state or local authorities report violent crimes against truckers as such to the Federal Bureau of Investigation, statistics do not reflect this fast-growing and increasingly violent segment of crime. The Federal Bureau of Investigation investigated 282 truck hijackings involving crimes of violence in 1993, not including attempted crimes and crimes addressed by State, county, and local authorities. The Federal Government in large measure finances the highway system the trucking industry uses, collecting large sums in taxes from the industry and licenses, and regulates the industry and its drivers, entailing a concomitant responsibility to protect them against crime. Federal law provides protections to truckers in, among others, sections 33 and 1951 of title 18, United States Code, but currently Federal prosecutions are not undertaken unless certain monetary thresholds of loss are met.

Section 320907—House recedes to Senate section 5148 with technical modifications. The Conferees note the Senate finds with regard to this section that: (1) the National Center for Health Statistics has reported that the out-of-wedlock birth rate reached 29.5 percent in 1991 (66.3 percent in Washington DC., 71.0 percent in Detroit); (2) the out-of-wedlock birth rate has increased without interruption since 1970, and, as pointed out recently by George Will, "the rate of increase is not slowing even at extraordinary levels"; (3) Dr. Lee Rainwater of Harvard University predicts that the rate will reach 40 percent within 7 years; (4) Professor James Q. Wilson has described the erosion of the family structure in the United States and Western nations as "a major cultural convulsion" that is inextricably associated with the rise of violent urban crime; (5) President Clinton has stated on the national television program "Meet the Press" that there is "absolutely" a correlation between crime and drugs and the breakdown of the family.

Section 320908—House recedes to Senate section 5106 with technical modifications. The Conferees note the Senate finds with regard to this section that (1) international criminal activity has increased dramatically over the past decade and has been facilitated by modern developments in transportation and communications, relaxed travel restrictions, and the greatly increased volume of international trade; (2) The expansion of international criminal activity is reflected in the growth of requests for mutual legal assistance and extradition made between the United States and other countries, the number of such requests having increased from 535 in 1984 to 2,238 in 1992; (3) The global reach of organized crime constitutes a serious threat to the security and stability of sovereign nations; (4) the expanding scope of international organized crime necessitates greater cooperation among nations to prosecute and eliminate organized criminal groups; (5) there is an urgent need for new approaches to allow the international law enforcement community to pursue international criminals across national boundaries; (6) The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances has helped bring about improved international cooperation with respect to narcotics; (7) The current role of the United Nations with respect to international organized crime is limited by the lack of a binding international convention dealing with the broad range of organized criminal activity beyond narcotics; (8) The United Nations Commission on Crime Prevention and Criminal Justice has successfully facilitated the negotiation and implementation of mutual legal assistance and extradition treaties between certain nations, and has helped train nations to effectively execute the terms of such treaties; (9) The United Nations Commission on Crime Prevention and Criminal Justice currently has limited authority and resources.

Section 320909—House recedes to Senate section 2961, optional venue for espionage.

Section 320910—House recedes to Senate section 2962, undercover operations.

Section 320911—House recedes to Senate section 2968, misuse of DEA initials.

Section 320912—House recedes to Senate section 2970, definition of livestock, with modification.

Section 320913—House recedes to Senate section 5155, asset forfeiture.

Section 320914—House recedes to Senate section 5156, clarification of court.

Section 320915—House recedes to Senate section 5164. The Conferees note that the Senate has found regarding this provision that we are losing control of our streets and our neighborhoods to gangs, drugs and violent crime; Americans tolerate a level of violence 5 times that of Canada and 10 times

VOL 140 PT 15 AG 10 — 11 1994 UMI

that of England; this bill establishes a Violent Crime Reduction Trust Fund. The conference report authorizes the revenues to fund the Trust Fund be derived from savings resulting from a reduction in Federal personnel; and the Federal law enforcement agencies charged with carrying out the provisions of this Act will require substantial manpower to implement the Act.

Section 320916—Senate recedes to House section 3041, traveler protection.

Section 320917—House recedes to Senate section 2971, extension of statute of limitations for arson, with modifications.

Section 320918—House recedes to senate section 1609, Sense of Congress concerning child custody and visitation rights.

Section 320919—Senate recedes to House section 3048, Edward Byrne Memorial Formula Grant Program.

Section 320920—House recedes to Senate section 5127, Law Day USA with modification. The Conferees note that the Senate has found with regard to this program that the first day of May each year has been designated as "Law Day U.S.A." and set aside as a special day to advance equality and justice under law, to encourage citizens and support for law enforcement and law observance, and to foster respect for law and an understanding of the essential place of law in the life of every citizen of the United States; each day police officers and other law enforcement personnel perform their duties unflinchingly and without hesitation; each year tens of thousands of law enforcement personnel are injured or assaulted in the course of duty and many are killed; law enforcement personnel are devoted to their jobs, are underpaid for their efforts and are tireless in their work; and law enforcement personnel perform their duties without adequate recognition.

Section 320921—House recedes to Senate section 5154 with modifications. This section ensures that a defendant convicted for the first time will attend an appropriate rehabilitation program. The Conferees intend that the courts ensure that defendants who may suffer from organic brain damage or severe mental illness are referred to the most appropriate rehabilitative care addressing their specific needs. Further, any rehabilitation program may refer the defendant back to the court if it determines that its program is inappropriate for the defendant.

Section 320922—Senate recedes to House section 3001, Display of Flags at Half Staff.

Section 320923—Senate recedes to House section 3011, Financial Institution Fraud.

Section 320924—House recedes to Senate section 5114, definition of parent.

Section 320925—Senate recedes to House proposal regarding National Center for Criminal Justice Research and Education.

Section 320926—House recedes to Senate section 5123, Hate Crime Statistics Act.

Section 320927—Senate recedes to House proposal exempting return of handgun to owner from Brady background check requirement.

Section 320928—House recedes to Senate sections 811-16, Protection of Children, the Elderly, and Individuals with Disabilities, with modifications to delete already enacted provisions and with other modifications.

Section 320929—Senate recedes to House proposal regarding Tennessee Valley Authority Law Enforcement.

Section 320930—Senate recedes to House proposal for Criminal Justice and Substance Abuse Training.

Section 320933—House recedes to Senate section 5162, Assistant United States Attorney Residency, with modification to 25 miles.

Section 320933—Senate recedes to House section 3086 with modifications.

Senate section 5128, treatment of Indian tribes, recedes to House because Indian tribal governments are incorporated throughout the bill.

Senate section 5133, Control and Prevention of Crime in Indian Country, recedes to House because Indian Tribes are incorporated throughout the bill.

Senate section 5151, Supreme Court marshals and police, deleted because already enacted.

Senate section 5116, parental accountability, recedes to House.

Senate section 831, admissibility of evidence, recedes to House.

Senate section 5108, Report on Success of Royal Hong Kong Police Recruiting, recedes to House.

Senate section 5147 recedes to House. The Conferees note that the substance of this provision is included in the provisions for alternative punishment for young offenders.

Senate section 5145, Children and Youth Utilizing Federal Land, recedes to House.

Senate section 5104 recedes to House.

Senate section 5134, extension of RTC statute of limitations, recedes to House.

House section 3061-62, Age Discrimination in Employment, recede to Senate.

House section 1098B, Benefit for Chaplains, recedes to Senate because Senate budget point of order lies against this section.

Senate sections 2801-03, Safe Schools, are deleted because already enacted.

Senate sections 1011-12, community substance abuse prevention, recede to House.

House section 1605 recedes to Senate.

TITLE XXXIII—TECHNICAL CORRECTIONS

Sections 330001-025—Senate sections 3001-13 recede to the technical corrections found in H.R. 3131 with conforming changes and additional technical corrections.

JACK BROOKS,
DON EDWARDS,
BILL HUGHES,
CHARLES SCHUMER,
JOHN CONYERS, Jr.,
MIKE SYNAR,

As additional conferees from the Committee on Agriculture, for consideration of sections 4601-08, 5105, and 5145 of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
CHARLIE ROSE,
CHARLES W. STENHOLM,
PAT ROBERTS,
RICHARD POMBO,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 2201-04, 2301, and 4901-33 of the Senate amendment, and sections 1031(b), 1038, and 1099AA-1099CC of the House amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
BRUCE F. VENTO,

As additional conferees from the Committee on Education and Labor, for consideration of sections 631-33, 662(e), 662(f), 811-16, 921-28, 1121-50, 1331, 2801-03, 3261, 3263, 3311, 3341, 3351, 3361, 3381-83, 3501, 3707, 4001-09, 4301-04, 4701-02, 4801-09, 4901-33, 5120, 5122, 5135, 5140, 5142-43, and 5147 of the Senate amendment, and sections 1010-26, 1030-34, 1038, 1051-52, 1065-71, 1081-96, 1099A-1099G, 1099H-1099O, 1099P-1099T, 1606, 1610, 1653-54, 1902(e), 1902(f), 2201-02, 2701-39, 3061-62, 3089-90, of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
DALE E. KILDEE,
MATTHEW G. MARTINEZ,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1503-04, 1511-23, 1532, 1534-35, 1537, 1902(e), 3101-03, 3261, and 5166 of the Senate amendment, and sections 1010-26, 1041-44, 1606, 2901-03, and 3086 of the House amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
CARDISS COLLINS,

As additional conferees from the Committee on Government Operations, for consideration of sections 1553-54, 1535, and 5150 of the Senate amendment, and sections 1075-76 of the House amendment, and modifications committed to conference:

TOM LANTOS,
EDOLPHUS TOWNS,

Provided Mr. Spratt and Mr. Kyl are appointed in lieu of Mr. Waxman and Mr. Clinger solely for the consideration of sections 1335 and 5150 of the Senate amendment.

JOHN M. SPRATT, Jr.,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 713-15, 4601-08, 5105, and 5145 of the Senate amendment, and modifications committed to conference:

GERRY STUDDS,
SOLOMON P. ORTIZ,
GEORGE HOCHBRUECKNER,

As additional conferees from the Committee on Natural Resources, for consideration of sections 3232-33, 4601-08, and 5145 of the Senate amendment and sections 1099U-1099Z of the House amendment, and modifications committed to conference:

GEORGE MILLER,
BRUCE F. VENTO,
KAREN SHEPHERD,
DON YOUNG,
BARBARA VUCANOVICH,

Provided, Ms. English of Arizona is appointed in lieu of Ms. Shepherd solely for the consideration of sections 4601-08 of the Senate amendment.

KARAN ENGLISH,

Provided, Mr. Hinchey is appointed in lieu of Ms. Shepherd solely for the consideration of sections 1099U-1099Z of the House amendment.

MAURICE HINCHEY,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 1352 and 3371 of the Senate amendment, and modifications committed to conference:

WILLIAM CLAY,
FRANK MCCLOSKEY,
ELEANOR H. NORTON,
JOHN T. MYERS,
CONSTANCE A. MORELLA,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1533, 1536, and 3231 of the Senate amendment, and section 1801 of the House amendment and modifications committed to conference:

NORMAN Y. MINETA,
NICK RAHALL,
BUD SHUSTER,
THOMAS E. PETRI,

As additional conferees from the Committee on Rules, for consideration of sections 1353-54 of the Senate amendment, and modifications committed to conference:

JOHN JOSEPH MOAKLEY,
BUTLER DERRICK,
TONY BEILENSON,

As additional conferees from the Committee on Ways and Means, for consideration of sections 311(b), 1502, 1515-16, 1802, 4702(e)(1), 5102, and 5113 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
Managers on the Part of the House.

JOSEPH R. BIDEN, Jr.,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
DENNIS DECONCINI,
PATRICK J. LEAHY,
Managers on the Part of the Senate.

ANNOUNCEMENT OF EVENING MEETING OF COMMITTEE ON RULES

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, we have been notified that there will be a Committee on Rules meeting at 8 p.m. this evening.

Is that on the conference report that the gentleman just presented?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, the gentleman is correct.

Mr. SOLOMON. Are there copies in the Committee on Rules of that report now?

Mr. BROOKS. The copies will be there in 3 minutes. As we speak, they are moving over here.

Mr. SOLOMON. In 3 minutes. We appreciate that. That means we will have 57 minutes to look at it before we take it up in the Committee on Rules?

Mr. BROOKS. Maybe 58. If the gentleman reads fast.

Mr. SOLOMON. Please hurry, Mr. Chairman.

HEALTH CARE: START OVER NEXT YEAR

(Mr. DOOLITTLE asked and was given permission to address the House for I minute and to revise and extend his remarks, and include extraneous matter.)

Mr. DOOLITTLE. Mr. Speaker, it is not just the Republicans who do not like the Democrats' socialistic health care bills. Liberal Democrat columnist Robert Samuelson in today's Washington Post has written a column called "Health Care: Start Over Next Year. They don't know what they're doing up there."

Here is what he says:

Among other things, the Democratic health care plans contain a large—and unjustified—multi-billion-dollar tax on younger workers. You wonder whether most members of Congress know this or even care. The whole health care debate is now completely out of control. The desperate effort to craft something that can be advertised as "universal coverage" means that Congress literally no longer knows what it's doing. Anything resembling the Democrats' bills, if enacted, would produce massive unintended side effects.

Apparently, most Americans grasp this. In a Newsweek poll last week, respondents were asked whether Congress ought to "pass reform this year" or "start over next year." By a two-to-one margin (65-31 percent) they said "start over" * * *

Republicans * * * are now correct that a bad bill would be worse than none.

Mr. Speaker, the full text of the column by Robert Samuelson is as follows:

HEALTH CARE: START OVER NEXT YEAR—THEY DON'T KNOW WHAT THEY'RE DOING UP THERE

(By Robert J. Samuelson)

Among other things, the Democratic health care plans contain a large—and unjustified—multi-billion dollar tax on younger workers. You wonder whether most members of Congress know this or even care. The whole health care debate is now completely out of control. The desperate effort to craft something that can be advertised as "universal coverage" means that Congress literally no longer knows what it's doing. Anything resembling the Democrats' bills, if enacted, would produce massive unintended side effects.

Apparently, most Americans grasp this. In a Newsweek poll last week, respondents were asked whether Congress ought to "pass reform this year" or "start over next year." By a two-to-one margin (65-31 percent), they said "start over." They sense that the versions of health reform crafted by House and Senate leaders are hodgepodges of conflicting provisions whose only purpose is to win passage. But what is clear to ordinary Americans is denied in Washington. In the capital, the fiction is that legislators know what they're doing and are debating rational alternatives.

"I think you're going to see a very good, erudite back-and-forth," says House majority leader Richard Gephardt, sponsor of the House bill. Well, it won't be "erudite" if members of Congress don't understand the consequences of their actions.

Gephardt's plan, for instance, would create a new Medicare Part C program for the unemployed, workers in small companies and many existing Medicaid recipients. The Congressional Budget Office estimates that the program might enroll 90 million people. But the projection could easily err by millions in either direction. More important, Medicare Part C emphasizes "fee for service" medicine (patients selecting individual doctors), while the rest of the bill emphasizes "managed competition" (reliance on health maintenance organizations and similar plans).

In a single stoke, the bill would separate the under-65 population into two groups, mainly based on income and size of employer. Each group would be crudely steered toward a different type of medicine. In practice, this division may not be politically acceptable or economically workable. Many Americans may find one type of medicine more appealing than the other and resent being excluded. Or the artificial segmenting of the medical market may raise costs for both "managed competition" and "fee for service." Gephardt doesn't know; no one does.

Now, consider the tax on young workers. It arises from "community rating." As people age, their health costs and insurance premiums rise. But "community rating" requires that everyone pay the same rate. This provision is included in the House bill, and in a modified version, in the Senate bill. The effect would be to raise insurance for younger workers (say those below 45); the amounts are hard to estimate, but a good guess is at least $300 to $500 a worker. If employers have to pay higher insurance, they will pay lower salaries. The invisible tax on young workers might total $15 billion to $25 billion annually.

Is this fair? No. If enacted, it would compound the existing bias against the young. Already, one-third of the federal budget goes to the elderly; the young are taxed to support the old. How much farther is this to go? Or is it a cynical reaction to voting patterns (the young vote less than the middle-aged or old)?

Questions like these swirl around both Gephardt's plan and Senate majority leader George Mitchell's. It is hard even to describe Mitchell's plan. He says it's voluntary and lacks a "mandate." Wrong. It's true that it doesn't mandate companies to buy insurance for workers. But it does mandate a standard benefit package for firms—the vast majority—that offer insurance. Because the mandated benefits are above average, this would probably raise health spending. Companies below the new standard would increase benefits; those above would have trouble lowering them.

Next, Mitchell hopes to achieve 95 percent insurance coverage by offering subsidies for low-income workers to buy it. But there's a "fail-safe" mechanism to limit subsidies if the budget costs exceed projected costs. However, if 95 percent coverage doesn't occur by 2000, Congress could require employers to pay 50 percent of their workers' insurance. But this would apply only to firms with more than 25 workers. Got it? Neither Mitchell nor anyone else knows whether this would reach 95 percent coverage.

These plans are confusing because the health debate evaded the basic tension between expanding health services ("universal coverage" etc.) and controlling health spending. It's hard to do both at the same time. The plans' complexities—as with the original Clinton plan's—aim to disguise this conflict. Republicans haven't been especially constructive in this debate because they haven't faced up to it either. But they are now correct that a bad bill would be worse than none.

Chaos is now the most important (and largely unreported) reality about the health care debate. Dozens of provisions in these bill would have huge unappreciated consequences. John Sheils of Lewin-VHI, a health consulting firm, says premiums for small businesses in the Mitchell bill could be 25 percent higher than for big companies. The CBO agrees a gap exists but puts it lower. Who's right? Do most members of Congress understand the gap? Probably not. Still, the pretense in Washington is that Congress is making conscious choices.

The pretense is sustained because in Washington politics is sport, especially at the climax of a legislative battle. All attention fixes on who wins and loses—and the deals that enliven the game. Rhetorical blasts are taken for reality; political reporters know little of how legislation would work and care less. This often leads to bad laws, and in health care, the potential for blunders is huge because Congress is tinkering with one-seventh of the economy and most aspects of medicine.

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1994
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In May, Robert Reischauer, head of the CBO, warned that trying to find a compromise by combining provisions from different bills might make the health system worse. He compared it to building an auto engine with incompatible parts: "You can't say I want a piston from Ford, a fuel pump from Toyota * * * and expect the engine to run." Well, that's precisely what's happened. The contraption is no longer even a car made with incompatible parts. It's now part car, part tractor and part rollerblades. It's a clunker. Most Americans seem to understand this. Will Congress?

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CLYBURN). Under the Speaker's announced policy of February 11, 1994, June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

BEGINNING OF THE END FOR CASTRO DICTATORSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentlemen from New Jersey [Mr. MENENDEZ] is recognized for 5 minutes.

Mr. MENENDEZ. Mr. Speaker, I join my colleagues from Florida and New Jersey in calling upon the Cuban-American community to continue showing restraint in the face of taunts by Fidel Castro to create another exodus like we had in 1980. Castro continues to inflict pain upon the Cuban community both in Cuba and in exile, by seeking to exploit the strong yearning for family reunification.

However, we all know that the only reason that Castro seeks to create another *Mariel* type exodus is to release the pressure valve building within Cuba. Castro cannot sustain the public demonstrations that have taken place in unprecedented numbers, and the constant civil disobedience that human rights activists, and average Cubans exhibit by taking to the seas in search of freedom. He seeks to divert attention from his own abuse of human rights and acts of murder, such as the deliberate killing by the Cuban Government of 40 innocent men, women, and children on the high seas.

I believe that at long last we are witnessing the beginning of the end for the Castro dictatorship. Last Friday's demonstrations represent a watershed event in totalitarian Cuba, as similar demonstrations did throughout Eastern Europe. The Cuban people are saying loud and clear that they no longer fear Fidel.

Mr. Speaker, the Castro regime has begun to unravel.

In my view the disturbances will continue. Castro's headaches will not go away. His grip on power will continue to loosen as Cuba's failed economy continues to go down the drain; and, as the Cuban people make clear to Castro: "Mr. Dictator, we have absolutely no fear of you."

However, I call upon the Clinton administration not to play into Castro's hand by treating this latest threat as simply an immigration problem. If we do so, we will once again have let him set the agenda and divert the attention from the real problem; namely, the lack of economic and political reform.

The real solution to the problem is not the exodus of 100,000 or 200,000 people, but the departure of one tyrant.

The present situation is not only a challenge but an opportunity. Now is the time to use our technology to make sure that both Radio and Television Marti fully penetrate Cuba so that we can communicate with the Cuban people. We have the ability to make sure TV Marti's signal reaches a greater part of the population by transmissions from ship to shore, air to shore, satellite transmissions, or by raising the level of TV Marti's present signal technology. The powerful images that the average Cuban would see, the risks of dying at sea, the funerals that have taken place, how we debate these issues in Congress, as well as the images of fellow Cubans demonstrating against the dictatorship would stem the tide of immigration, show how democracy works, and foster hope for democratic change in Cuba.

The administration must have the will that others have lacked to give the people of Cuba, who live in a closed society, an open window on the world. Fidel Castro has challenged our national security at a time that we find ourselves busy in both humanitarian missions in Rwanda and the restoration of democracy in Haiti. It is in the national interests to respond by providing free and unfettered information to the Cuban people.

This is also the time to respond to my singular call to prepare for a post-Castro Cuba. Immediate support for my Free and Independent Cuba Assistance Act would send a message to the Cuban people and the international community that we are in solidarity with the Cuban people, that we want to assist them, but that we oppose the dictator that enslaves them and keeps them hungry. Finally, we must break Castro's stranglehold in making this a problem between Castro and Washington, or Castro and the exile community in Miami. Since there are no democratic elections in Cuba, the Cuban people are voting with their feet, by risking their lives and fleeing Cuba. They have also voiced their discontent by massive demonstrations, funeral observances in defiance of government admonitions, and other acts of civil disobedience.

It is time for the Clinton administration to seek a resolution in the United Nations condemning the Castro government for the murder of the 40 innocent men, women, and children aboard the vessel, *13 de Marzo*.

It is time for the administration to get other member countries, especially within the Western Hemisphere, to call for U.N. human rights observers to be sent to Cuba. They could observe the admitted actions of the rapid response brigades' brutality against average Cubans, whom Fidel Castro calls private citizens not government thugs. Civil society in Cuba is disintegrating and human rights abuses are at an all-time high.

It is time to internationalize the concern for the rights of Cuban citizens and break the myth that this is strictly a Castro versus Washington problem. This is a problem of hemispheric proportions which those countries who call themselves democracies cannot ignore as they seek greater hemispheric integration.

It is time to be proactive, not reactive. It is time to stop dancing to Castro's tune, and time to change the music. History will do justice to the Castro dictatorship. Once Castro wrote, "History will absolve me." Instead, history will condemn him. Let us not absolve Castro by blaming the United States: The blame rests squarely with Fidel Castro.

□ 1910

CONGRESSIONAL ACCOUNTABILITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. BARRETT] is recognized for 5 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, there are many days when the American people are frustrated if they watch what the House of Representatives does during the course of their day. But today is one of the days when the American people would be very proud of what the House of Representatives did, because the House of Representatives today, by an overwhelming vote, showed the American people that we are willing and able to abide by the same laws that we impose on other Americans.

There are three provisions of today's Congressional Accountability Act that I think are of particular importance and interest to the American people, and I am proud to have been a supporter of all three.

The first is the provision put forth by the gentlewoman from Arizona [Ms. ENGLISH] dealing with the frequent flier issue. I am a strong supporter of the measure which would restrict the use of frequent flier miles.

The policy of the House regarding the use of official travel miles has come under fire from those who argue that Members of Congress are taking advantage of their official positions. Under current law, Members of the House who receive frequent flier miles from taxpayer-funded travel may redeem these

benefits for personal use. Every other Federal agency, including the U.S. Senate, restricts this practice. It is time for the House to do the same.

Since the American taxpayers pay the cost of the travel, they should reap the benefits. If Members of Congress receive frequent flier miles from flights paid for by the taxpayer, then those miles should be used for official use only. Until personal use is prohibited, Members will be open to the charge that they are looking for a free ride from the American public. I was proud when the House today on a voice vote accepted the amendment to limit that.

The second amendment that the American people I am sure would be proud of is the amendment that ensures that whatever health care reforms we institute in this body will be the same as the benefits that other Americans receive. I actually think there are many Americans out there who are under the mistaken perception that Walter Reed is our personal physician. As the people here know, we pay probably a third of the cost of our health care insurance. But it is important for us to let the American people know that we are not better or we are no worse than they are.

If we pass health care reform, and I sincerely hope we pass health care reform within the next 12 days, it is my strong belief that whatever plan we pass should include Members of Congress as well.

The third issue that the American people would be proud of is the measures that were put forth by the gentleman from New Hampshire [Mr. SWETT] and the gentleman from Connecticut [Mr. SHAYS]. Those provisions ensure that many of the laws, if not all of the laws we pass as a body will apply to the Members of Congress as well as to the American public. Again the concern is the perception that somehow we feel we should be treated differently. Most, if not all Members of this House know how hard we work, and that we are not treated differently. But it is important that the American people also recognize that we do not place ourselves above them.

As a freshman member of Congress, it is a great honor to be a Member of this body. I believe that all Members know or should know what a tremendous honor it is to serve the American people in the House of Representatives.

Consequently, it is our duty to let the American people also know that we believe that we are still servants of the people and should be treated like every other American.

For those reasons, I am proud today Congress, by an overwhelming vote, passed the Congressional Accountability Act.

UNITED STATES HAITI POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I spoke earlier in this Chamber this week about the situation in Haiti, and I made the proposition do the American people really want to spend a billion dollars—a million precious—a billion dollars from our United States taxpayers on such a frivolous event as an invasion of Haiti, which is a friendly, neighboring country. I think not.

I also wanted to examine some of the other damage of this very inept foreign policy that the Clinton administration is persisting in. We are not making any friends in the Western Hemisphere.

The one ally we had who sort of tentatively supported the idea of perhaps a multiforce invasion of Haiti was Argentina, and the President of Argentina, when he went back home and checked with the people in his country, changed his mind, suddenly decided that his word about joining us in a multilateral invasion of Haiti would not be possible because the people of his country had reversed his position. They did not want to invade Haiti either. That puts them very much in the majority opinion in this country and, frankly, in this Chamber. I am not sure that there is anybody who is calling for the invasion of Haiti in a serious way except the Clinton administration.

Our friends in Mexico, our new trading partners, are strenuously urging against it. Our friends from Uruguay, another trading partner and longtime Democratic ally in the Western Hemisphere also say no, do not invade. Brazil, "for heaven's sakes, what are you talking about?" All of these players, and Brazil is a major player in this hemisphere, I would point out, are saying look, why have we got such a clumsy policy? Why are we trying to force people to do something they do not want to do, that does not fit, which is not going to help the Haitians, and certainly not going to help the United States of America?

In fact, it is not helping the cause of peace and human rights either, because now the embassy of Colombia and Argentina have closed their doors and have moved across the border from Haiti into the Dominican Republic because of threats of mischief and trouble stemming from all of this violence going on, caused by the pressure cauldron of our sanctions and embargo.

Just as much trouble as President Clinton has had in selling his Haitian policy to our allies in the Western Hemisphere he is having selling it to Americans in his own country because the polls clearly shows Americans are not supporting this any more than the Members of Congress are supporting it.

What is a little confusing to me is if the President has gone to the United Nations, and they have spoken, and the other body has spoken, why has not the Democratic leadership in this body brought the subject of Haiti to this floor? It is a legitimate question. It is a foreign policy question. It is certainly a question of human rights violations and suffering. All that we hear about the social needs, all we hear about the problems of the world, we are causing suffering by our policy in Haiti by withholding the medicines, the food, the support, the logistics that the very poor need there in that country which has been trashed. I challenge the leadership, the Democratic leadership: Why do we not bring forward some debate on our policy in Haiti?

It is not just a question about the War Powers Act, it is not, it is about the misuse of our military for a misguided foreign policy. It is also a misguided foreign policy that has frankly encouraged the extremes in Haiti at the expense of the moderate concerns.

Lawrence Pezzullo, who was formally the top man on Haiti for the White House, who has been fired, has written I think a very good piece, and I will read rather than paraphrase it. This comes from the Washington Post of Thursday, May 5, 1994, quoting Mr. Pezzullo: In February and March we saw legitimate parliamentarians who previously had opposed Aristide's return join forces with pro-Aristide legislators to call for his return. We saw conservative businessmen joining more progressive younger businessmen and pro-Aristide labor unions in calling for the departure of the country's military head.

"Unfortunately, this movement fell victim to intensive lobbying campaigns by both the extreme right, who saw the threat to their power, and Aristide's expatriate entourage, which incorrectly labeled the idea of a coalition with the majority of parliament 'power sharing' with the military. Ultimately, the extremes succeeded in killing the center."

There was no room for the moderates.

"The United States helped bring this about. Despite initial support for the parliamentary proposal, the United States Government was once again unable to stay the course on Haiti. A week after Vice President AL GORE advised Aristide of our considered position of support for the proposal, the U.S. administration was in full retreat. Why? Quite simply, the administration could not withstand domestic pressures against the proposal emanating from congressional supporters of President Aristide."

In other words, our foreign policy, if Haiti being driven by domestic, political considerations rather than legitimate foreign policy interests of the United States of America, that is absolutely intolerable, and that is exactly why we have a House of Representatives to debate, discuss and guide this abuse of power by the White House.

79-059 O—97 Vol. 140 (Pt. 15) 11

VOL
140
PT
15
AG
10
—
11
1994
UMI

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TRUTH TIME ON CRIME

The SPEAKER pro tempore (Mr. CLYBURN). Under a previous order of the House, the gentleman from Washington [Mr. KREIDLER] is recognized for 5 minutes.

Mr. KREIDLER. Mr. Speaker, we have come to the moment of truth on the crime bill. It is time to stop striking poses, stop playing politics with people's fears, stop the phony rhetoric, and start facing up to the facts.

Fact: This bill will put more cops on the streets and more criminals behind bars, all over this country. We could add 2,000 officers to local police forces, and more than 500 more prison cells, in Washington State.

Fact: This bill will help the courts deal with criminals, by supporting drug courts like the ones already planned for Pierce County and King County, WA.

Fact: This bill does more to help victims of domestic violence and sexual assault than anything we have ever passed before. It will help groups like the Seattle-King County and Tacoma, YWCA's, DAWN, and Safeplace, which provide safe havens for women and children in my district.

Fact: This bill will help stop crime before it starts, with prevention programs that work—programs like Safe Streets, in Pierce County, where they have organized 120,000 people, block by block, and shut down over 800 drug locations. Where they organized an effort to help the people of Tillicum take back their community.

Fact: This bill will help children and young people survive the war zone of adolescence with programs like Youth Fair Chance, which provides a second chance for young people out of school; the Jam Session Teen Program at the Klahanee Lake Community Center in Federal Way; the Pierce County Alliance, which runs a number of programs to help at-risk youth; the Eastside Neighborhood Center and the Eastside Family Support Center in Shalishan, which serve the children and families of East Tacoma.

Fact: This bill will stop the spread of deadly semiautomatic assault weapons—killing machines that no responsible gun owner would use.

If you are going to vote against this bill because it isn't "tough" enough, explain that to the women who are beaten by their husbands, to the families who have lost loved ones to random gunfire, to the victim whose attacker goes free because the prisons are full.

Explain that to Mary Glenn of SeaTac, whose 15-year-old son, Shaun Proctor, was robbed and killed with a Chinese-made assault rifle when he went out for pizza.

Explain that to Jackie Spears of Federal Way, whose 16-year-old son, Zachary, was killed by a 15-year-old with a gun.

Explain that to the girl who has been sexually abused but has to wait weeks or months for help because rape crisis centers are overwhelmed.

Explain that to the widow of the police officer who was slain by teenagers in June. She supports prevention programs like the ones in this bill. She said, "There's got to be better programs out there for kids to build their self-esteem * * *. We've got to make sure on the Federal, State and local levels that funding—for programs—has got to be there for those kids."

Some people will look for any excuse to kill this bill because it does not include something they wanted, or has something they do not like—or just because they do not want the President and the Congress to get any credit for doing the right thing.

Just this morning, the Republican whip complained because this bill is paid for by reducing the number of Federal employees. That shows how far some people will go to make sure gridlock wins, instead of the American people.

Other Republicans say they will not vote for the bill because it does not require that communities be notified when sexual predators have completed their sentences—it only requires notice to the police. I voted for community notification, and I am disappointed too. But I came here to produce results, not to walk away if I don't get 100 percent my way.

This is not a perfect bill. But this is not the time for sour grapes. Let us get on with it, quit the partisan bickering, and pass this bill.

GOOD HEALTH CARE POLICY NEEDS BIPARTISANSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, next week this House is scheduled to consider the subject of health care reform. Already, the normal August session has been extended in order to recognize the reality that the legislative counsel—who must draft thousands of pages of legal language of all the different health care proposals—and the Congressional Budget Office—which must officially score the various proposals for their budget impact—simply could not finish their jobs before August 12. Unfortunately, I am not sure an extra week will make their job any easier. We have already heard that at least one individual from the legislative counsel's office fell off his chair, soundly asleep from exhaustion.

More important, not a single Member of Congress will have seen the text of the bills upon which we are supposed to vote until just days before we are to make our decision on health care. That is a recipe for disaster. Mussolini made the trains run on time, but wrecked his country. Simply put, under the current schedule, the House of Representatives will vote without knowing what it is voting on. On the subject of health care, the details are critically important. They cannot be glossed over and ignored. With health care, a detail could be $10 billion spent wisely or simply wasted. The House should not be forced to make a gigantic leap of faith—with America's health care system at stake.

We owe it to the American people to be deliberate and thorough in our consideration of health care reform.

That does not mean I support delay. Where there is consensus, let us act now. And on many issues, consensus is widespread. Provisions such as insurance reforms—the elimination of preexisting conditions, portability, and community rating in some form. There is a consensus around the need for subsidies for individuals with low incomes as well as for malpractice reform, antifraud, and waste and abuse provisions as well as administrative simplification and medical savings accounts. There is a consensus for the expansion of community health providers. These issues would pass the House today.

But where there is controversy, and confusion, let us debate, deliberate, and consult with the people who sent us here. As it is—and as rumor has it—many of the most controversial changes do not take place for many years. Why should we be so rushed during the decisionmaking process when much of what we decide will have no useful effect for years?

I regret that, increasingly, it is no longer health care that is at the center of our discussions. A few have forgotten how the wheels of health care reform began moving. It was to help these fellow citizens who were not covered by some form of health care insurance or who faced a situation where their health care insurance would lapse in their time of need.

This debate has now degenerated to the point where egos and power grabs have replaced good intentions, where some seem to look for political victories instead of good policy. Have we forgotten that the American people sent us here not to bicker, but to have a meeting of the minds? Not to bicker, but to acknowledge legitimate differences? Not to bicker, but to recognize different perspectives and experiences? Not to bicker, but to hear informed testimony and gather, weigh, and decide among good ideas?

The American people expect us to put partisanship to the side. On a subject as all-encompassing as health care reform, the American people expect bipartisanship. Sadly, it is the desire for bipartisan action that is missing in terms of the White House and the majority party leadership.

One night in 1993, I mentioned the lack of bipartisanship to the President while chatting at a White House function. He said, smiling, "If I send a bill up and you vote for it, that makes it bipartisan." I replied, "No, Mr. President, that is not bipartisanship. What I mean by "Bipartisanship" is best reflected by a conversation held between a great internationalist, Republican Senator Arthur H. Vandenberg, and his friend Democratic President Harry S. Truman, when Vandenberg said "Mr. President, we want to be in on the takeoffs, not just the crash landings."

Passage of an unknown and unread bill by the barest of margins along strict partisan and ideological lines is unacceptable. It is a crash landing. Health Care Reform deserves and requires bipartisan cooperation. It deserved that from the beginning.

I urge the House Democratic leadership to give the subject of health care the time it deserves—a proper period of time to study and to listen and to debate. Prior to the vote, we should have spent time in our constituencies explaining the health care reform proposals we will consider. We should hear our constituents and then return to Washington to cast our votes on proposals that could affect our Nation more dramatically than any law in a generation, after that process, we might deal correctly with the very real problems that exist in our health care system.

It is through understanding that we will achieve acceptance, and that is a precondition for health care reform that will be applauded by the American people. It is not too late for this Chamber and the House leadership to allocate a proper period of time for consideration of health care reform. There is more than sufficient time left in this congressional session to pass a thoroughly understood and debated bill. Let us take the time to do it right.

Mr. Speaker, I attach a chart prepared by my colleague, PETER HOEKSTRA (R-Michigan). It shows the deliberative and consultative process which should occur in considering the important subject of health care.

HEALTH CARE DEBATE—SUGGESTED TIMELINE

August 8: Introduction of bills.

August 9–11: Scheduled walk-through of each bill; Congressional Budget Office scoring due; Rules Committee meets to craft rule for debate.

August 12: Debate rule (open with requirement that amendments be printed in the CONGRESSIONAL RECORD at least 24 hours in advance of debate).

August 13: Rule and details finalized before scheduled recess.

August 13–September 6: Public input and evaluation of proposed legislation; determination of amendments.

September 8: Amendments due to be printed in CONGRESSIONAL RECORD.

September 9: Debate begins (total debate 5–10 days); House votes.

September 19–26: Conference Committee meets.

October 5: Final vote in House and Senate.

October 7: Scheduled adjournment.

□ 1930

WE MUST PASS THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. HOAGLAND] is recognized for 5 minutes.

Mr. HOAGLAND. Mr. Speaker and colleagues, it is a pleasure to be here this evening and have this opportunity to address the problem of crime in America and the status of the crime bill here in the House. As my colleagues know, I wish I were able to stand here and say we are going to pass a crime bill that is going to make America safer, and I wish I were able to stand here and say we responded to the voice of America, to all that are concerned.

Let me say I urge all my colleagues on both sides of the aisle to vote for the rule, and it is scheduled to come up, perhaps, as early as tomorrow, so we can get this legislation passed and so hopefully in future years we will not have to read headlines like this from the Omaha World-Herald just recently.

This figure is truly striking, an 18-percent increase in the first 6 months of this year over the first 6 months of the year before. The article goes on to describe numbers from the Omaha police department that show that in nearly every area crime has gone up; more robberies over last year, more auto thefts over last year, more homicides over last year, more lives touched by crime and more lives shattered by crime. Mr. Speaker, more than 20,000 people in America were murdered last year.

Now if this were something done by a foreign army or in the context of international relations, we would view it as one of the highest possible threats to America, and we would view it as something to which we should respond in emergency fashion. We would declare a national emergency to try to do everything we could to bring an end to the violence, and I think clearly what we have to do is take immediate action to get this crime bill passed with the assault weapons ban.

Now each of us can take out parts of the bill they are uncomfortable with. Lord knows there are many aspects of the bill that I am uncomfortable with. I think it probably authorizes too much money in many areas, money that in a sense is a false promise because it will never be appropriated. But when it comes right down to it, Mr. Speaker, we need to pass the bill because passing the bill is going to save lives.

And when we pass the bill, shortly thereafter we will begin to put 100,000 more police officers on the street. We will have three strikes and you're out as part of Federal law that will help put away for long, long periods of time the most dangerous offenders in America.

Remember fewer than 15 percent of all criminals commit over 70 percent of the violent crimes in America. Let us identify those 15 percent and put them away for a long, long time.

This bill also deals with domestic violence by ensuring that offenders are prosecuted and the victims get help, and of course the bill bans 19 kinds of semiautomatic assault weapons. I am hearing from police officers throughout Omaha that we need to get assault weapons off the street. The fifth most commonly seized firearm in Omaha today is an assault weapon. Some police officers told me that the bullets of many assault weapons penetrate their bullet-proof vests. Really what is the use? What is the public purpose served by allowing these things to be legal?

Mr. Speaker, I say, "Let's take advantage of this legislation. Ban those 19 assault weapons and their progeny and get on with saving lives."

When I think about the importance of passing this bill, I think about some of the people talked to in Omaha by the Omaha World-Herald in a recent story that was done on crime:

People like Cornell Williams who is confined to a wheelchair because of a wound he received in a drive-by shooting 4 years ago. Cornell was training for a job as an electrician when a bullet paralyzed him from the waist down.

I think about people like Mary Beth Harrold who is so afraid that she won't drive to the mall to go shopping by herself anymore. Reports of assaults and robberies are always in the back of her mind.

I think about a young man in Omaha who at 15 has to watch his back when he is walking in his neighborhood because a gang member might not like the kinds of clothes that he is wearing or the people he is associating with.

So, these people know that tough action is necessary. We know that tough action is necessary, and the value is evident in a recent drug seizure in Omaha where 14 law enforcement agencies from four States worked through the task force, the metropolitan drug task force, to seize 70 guns, having served 19 search warrants, and having confiscated thousands of dollars in cash and 60 pounds of manufactured cocaine or methamphetamines.

Now the metropolitan drug task force gets a great deal of its funding through the Byrne grant program which is included in this crime bill. Over the last few years in eastern Nebraska this task force has made more than 2,000 arrests, seized 600 guns, and put drug dealers and gang members behind bars.

My colleagues, we need this legislation. Let us pass it quickly.

VOL
140
PT
15
AG
10
—
11
1994
UMI

PROMOTING NEW ENVIRONMENTAL TECHNOLOGIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. SWIFT] is recognized for 5 minutes.

Mr. SWIFT. Mr. Speaker, I am introducing today, the Landfill Technical Improvement Act of 1994. This legislation will allow us to utilize technical advances of the last decade in implementing our Nation's environmental protection strategy.

In 1984, Congress passed the Hazardous and Solid Waste Amendments. This Act required the Environmental Protection Agency [EPA] to issue regulations restricting the disposal of, among other things, organic absorbents in hazardous waste landfills.

In the past 10 years, Mr. Speaker, natural absorbent technologies have been developed which may be more efficient for some uses than traditional sorbents produced from fossil fuels. Normal landfill conditions are anaerobic, and studies have shown that no biodegradation takes place in the anaerobic environment of landfills. In the anaerobic landfill environment of RCRA landfills, these sorbents will not degrade. These organic absorbents, made totally from recycled/reclaimed materials, may actually outperform current chemical absorbents. However, because of the 1984 amendments and EPA regulations resulting therefrom, these absorbents have been effectively shut out from the landfill disposition.

This disposition issue threatens to undermine the existence of these new technologies, since that which cannot be disposed economically will not be used. Moreover, innovative and environmentally conscious technologies, such as those developed by a company in Bellingham, WA, which manufactures organic absorbents from a local paper mill's sludge, are discriminated against. The administration has clearly stated its preference for such recycled/reclaimed materials, but this outmoded regulation has prejudiced the widespread availability and use of these products. This is to the detriment of our national environmental goals.

My bill would rectify this situation by permitting environmentally sound current and future landfill technologies to be utilized to their fullest extent.

REFORMING THE WAY EPA ASSESSES RISKS AND INFORMS THE AMERICAN PUBLIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, this Member rises this evening to speak about the urgent need for a practice of more effective and truthful risk assessment by the U.S. Environmental Protection Agency. Some public attention has been focused on the problems of risk assessment in government during Supreme Court nominee Judge Stephen Breyer's successful confirmation hearings since he has written extensively on the manner in which our government wastes money and misleads the public in the areas of risk assessment and management. The regulatory public policy issue epitomizes the problems of mindless, inflexible regulations that are too commonly a part of Federal mandates which hamper farmers, businesses and local governments in Nebraska and across the United States.

Mr. Speaker, the distinguished gentleman from California [Mr. BROWN] has helped craft a workable, bipartisan product during committee consideration of H.R. 4306, the Risk Assessment Improvement Act, including perfecting amendments by the distinguished gentlemen from Pennsylvania [Mr. WALKER] and New Jersey [Mr. ZIMMER]. The Science, Space, and Technology Committee's passage of this legislation on July 20, 1994, was a step in the right direction. There are three main goals of this legislation. First, H.R. 4306 would make risk assessment guidelines legally binding on the EPA. Second, risk assessment will be conducted by the EPA under the guidelines of H.R. 4306 by formulating the most plausible and unbiased assumptions to a health hazard. Third, H.R. 4306 ensures that risk assessment will be communicated to the public in terms which can be readily understood—not scientific jargon. All of these are laudable goals which need to be implemented in order to better assure that common sense and rational thinking will win out in environmental policymaking.

This Member urges swift passage of H.R. 4306, because approval of this legislation will provide relief to Nebraska businesses, local communities, as well as this Member's State government which are all spending millions of dollars annually to comply with Federal mandates, many of which are unnecessarily burdensome. The same is surely true in all parts of America.

Mr. Speaker, other recent congressional action that would take steps toward alleviating our current risk assessment problems include the amendments by the full House to the Environmental Technologies Act, H.R. 3870, offered by the gentleman from Pennsylvania [Mr. WALKER] to reflect goals contained in H.R. 4306. In addition, this Member has agreed to cosponsor H.R. 2910, the Risk Communication Act, a bill with similar goals as H.R. 4306, which would further reform the way the EPA assess risks and informs the American public.

The fact is that the EPA often presents situations thought to be hazardous to the environment or to human health in exaggerated terms that do not reflect the real situation or in biased scientific terms that deceive the public. If the damage and cost was not so great, it would almost be humorous to look at some of these health threats that have been blown out of proportion by both the EPA and by an American media with an appetite for sensationalism.

In the area of pesticides, for example there are those who have tried to convince the EPA and the American public that all pesticides must be removed from the production of our food supply. In an opinion piece that appeared in the January, 1992, issue of Progressive Farmer Magazine, Dr. C. Everett Koop, former Surgeon General of the United States, documented the overblown risk assessments of the health hazards involving pesticides in this country. To quote Dr. Koop:

Americans are concerned because they are confused. They are confused because no one sorts out for them various components of what has become the food safety issue. The public does not have a very good grasp of the relationship between the dose of a toxic substance and its risk in human beings. Their information comes from those who revel in using scare tactics instead of science to warn the public about dangers in the food supply. These scare tactics lead us down the wrong path. We end up creating concern where it isn't necessary and ignoring concerns that are real.

Pesticides are in fact a benefit to modern farming, if used responsibly and in a scientifically sound manner. According to Dr. Bruce Ames, Director of the National Institute of Environmental Health Sciences Center at the University of California-Berkeley, in a July 5, 1994, article in The New York Times, "99.9% of the toxic chemicals we're exposed to are completely natural." Dr. Ames goes on to say that, "We're shooting ourselves in the foot with environmental regulations that cost over 2% of the G.N.P., much of it to regulate trivia." Lest one regard this as a statement of a biased source, it should be noted that Dr. Ames does no consulting for businesses and is indeed a highly respected scientist. He defends the proper use of pesticide by American agriculture. Dr. Ames states, "If our resources are diverted from important things to unimportant things, this does not serve the public." This Member wholeheartedly agrees.

In a November 10, 1993 article in the Journal of the American Medical Association entitled, "Review of Actual Causes of Death in the United States," by Dr. Michael McGinnis of the U.S. Department of Health and Human Services and Dr. William Foege of the Carter Presidential Center, documentation shows that deaths directly related to dietary and physical activity problems number over 300,000 a year. Since, according to Dr. Ames of Berkeley, only 9 percent of Americans eat the recommended serving of five servings of vegetables, and fruit daily, those dietary problems come from not eating enough of the very fruits, vegetables, and foods that help prevent cancer. Drs. McGinnis, Foege—pronounced FOAG—and Ames all conclude that pesticides help make these foods more bountiful and less expensive, which allows the public greater access to cancer-fighting fruits and vegetables. According to the Journal of the American Medical Association, the 300,000 American deaths due to dietary and physical activity problems is more than the 260,000 annual, collective American deaths which are due to infectious disease, toxic pollutants, firearms, sexual behavior, motor vehicles, and illicit use of drugs. Maybe we need public service ads which show an inactive couch potato eating fatty foods with a voice in the background saying, "Just Say No."

In all seriousness, Mr. Speaker, Americans need sensible information in order to make educated judgements as we balance out life's risks and benefits. Many times, the media hypes the most unusual and freakish occurrences in hopes of attracting high Nielsen ratings. We hardly ever see reports on the dangerous things we participate in each and every day. According to an article written by Robert J. Samuelson in the May 4, 1994 Washington Post, entitled, "The Triumph of the Psycho-Fact," 1 in every 167,000 Americans can expect to die in an airplane crash, 1 in every 9,100 child-bearing American women die in child birth, 1 in every 3,700 Americans die every year from car crashes, and 1 in every 300,000 Americans die every year on bicycles. Walking across the street is far more dangerous than eating foods protected by pesticides, yet the American media, and to some extent the EPA, only concentrates on the sensational or the unusual.

In addition to these concerns, this Member believes that we must also consider Federal, State and local governments' financial problems when discussing this issue. This country should not mindlessly spend millions, perhaps even billions, of dollars on what is increasingly an area of diminishing returns. As Federal fiscal resources are increasingly scarce, we must focus our money and efforts in areas of high risk and hazard to both the American public and the environment. Common sense would tell us that mandating local governments to spend millions of dollars on unwarranted Federal mandates is not a wise idea. We must also consider that these mandates, which can often cost people their jobs, slow down the economy and create unnecessary poverty. According to a May 3, 1994, Washington Times article entitled "Scaring Ourselves to Death", just by being poor, out of a job, and in the bottom 20 percent of our Nation's social structure, an American's life will be shortened by 7 to 10 years.

Mr. Speaker, examples like these illustrate why passage of H.R. 4306 is necessary. This Member urges his colleagues to support H.R. 4306, as well as any amendments offered during consideration of this important legislation which would make risk assessment more realistic, less expensive, and more responsive to the public.

Special appreciation is also noted to a member of my staff this summer, Mr. Andrew Loudon, who has been of great assistance in research assistance to this Member on the subject of risk-assessment.

□ 1940

CONGRESSIONAL ACCOUNTABILITY ACT: A PROUD DAY IN THE HOUSE

The SPEAKER pro tempore (Mr. CLYBURN). The gentleman from Wisconsin [Mr. BARCA] is recognized for 5 minutes.

Mr. BARCA of Wisconsin. Mr. Speaker, today is a proud day in the U.S. House of Representatives because today we passed the bill that is long overdue. It is a bill that the American people have long wondered why Congress has been unable to adopt. It is the Congressional Accountability Act.

When I was running for Congress and even before I had a dream of serving in Congress, I and other Americans have wondered why in bill after bill that Congress had passed they exempted themselves from the key provisions of those bills, and in some cases they had entirely exempted Congress from those provisions of the bills that were passed.

Well, today I think we did right by the American people. We sent forward the message that we will ensure that Congress will be included and in compliance with the key laws of this country, and hopefully we have set a precedent that in the future we will keep that faith.

Today, in bills such as the Fair Labor Standards Act, the Civil Rights Act, the Americans With Disabilities Act, the Family and Medical Leave Act, and the Employee Polygraph Protection Act, to just name a few, Congress will now be included and in full compliance with these laws. We also included laws protecting people such as occupational safety laws to a myriad of different labor enforcement bills in this country.

Additionally, we brought forward a measure that I think is very important, because on the eve of debating health care reform, one of the things that I had talked about and I had introduced 10 months ago, last September, is House Concurrent Resolution 156, which states that Members should live by whatever health care reform laws we pass. Today we were able to accomplish that as well, to make sure that whatever bill we are able to pass, that Congress will participate in.

I believe that a special part of our responsibility when we serve in Congress is to keep faith with the American people, to set an example for the people who will serve in years to come, to make them aware that Congress must comply with the laws that we pass, that Congress will honor the obligations that we are putting forward for other Americans. It is an important day and a day that I am proud to be serving in the U.S. House of Representatives.

SOCIALIZED HEALTH CARE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, within the next 8 days, Americans have a very critical period in our history to face us. Now, in Washington we are certainly going to be in the center of that history. But it is going to be something that will, in the words of the Speaker of the Senate, affect every American. I think we all agree on that. That is why I believe it is very important for us as we begin the debate on health care on the floor to look at it very cautiously.

Today at 6:30 we were supposed to get a copy of the House bill, the Clinton-Gephardt bill. We will don't have it. The Clinton-Mitchell version has been introduced in the other body. Here we don't have it. The other bill in the Senate is 1,400 pages long. Our bill over here may be 800 pages, it may be 1,600 pages. We still don't have the bill. Tomorrow is Thursday. A week from tomorrow we are supposed to be voting on this bill.

I like to read. I stay up late often at night reading books. But I don't know if I am going to be able to read an 1,800 page health care bill.

I do have some concerns that I wanted to submit in terms of a government-sponsored insurance program, governments-sponsored medicine, which when we talk about universal health care, that is basically what we are going to have, because you cannot have universal health care without an oversight committee making sure that everybody in America has health care, and that oversight committee is the Federal Government. And, as I understand it, the bills that we are considering will have this National Health Care Board in them. So I think you could certainly make the argument that this is socialized medicine we are debating.

With that, I wanted to read a letter by one of my constituents, Mrs. Angela Hine of Savannah, GA. She wrote this letter to me and said.

I appreciate your stand against socialized medicine and would like to share some of my experiences with government-controlled health care in England. In November 1984 I was to see socialized medicine at work first-hand.

She talks about some of the things that goes on. I am going to try to skip parts of the letter. She says,

My aunt was having a bad heart attack in November of that year. I went to see her.

Upon arriving in England, I immediately went to the hospital. On the way I was told my aunt had been in the men's ward as no beds were available when she was admitted, but now she had been moved to the women's ward. I stood in the doorway of that ward and couldn't believe my eyes. There were several beds in the ward. Curtains separated each bed. The toilets were at the end of the ward. A doctor had been assigned to her and

VOL 140 PT 15 AG 10 — 11 1994 UMI

had been taking care of her for many years. Upon her return home she had a visit from her regular doctor, who commented to me that if I brought her back to the United States, she could probably live another ten years, but she would never make it under the current system.

□ 1950

Then she talked about in a previous visit she went to see her aunt and she had an inflamed eye. Her lower eyelid turned inward and the lashes irritated her eyeball. She had been given an eye clean by her doctor, but it was obvious that she needed to see a specialist.

After several phone calls and pleadings for her condition, I was finally able to get her to a specialist where surgery was performed to correct the problem.

She talked about a cousin of hers that had a husband who was treated in England under the socialized medicine over there for a hernia, finally, when that did not work, the doctor set up an appointment with a specialist and by the time they determined that his problem was not a hernia but cancer, it was too late. The cancer had already spread and he died shortly thereafter.

She goes on to talk about in 1985 returning to England and visiting her aunt again and how the horrible conditions of the hospital were just very sad and distressing and not just for the aunt but for the patient.

I want to say that let us just say that even if the quality is the same under socialized medicine, the relationship is not. We are talking about human beings here. So I think it is very important to remember that.

This is something, though, that I think one of the lines she was talking about giving her aunt morphine for the pain and one of the British doctors said to her in the hall, he said,

We could have helped her live another two or three years, but as she is 88 years old and lived a good life; what is the point?

That was directly from a doctor's mouth.

I do not want government doctors telling me that my loved ones, my parents, my grandparents, just because they are 88 years old, they are going to get less than the best service. I do not want that decision, those critical family decisions to be made by health care bureaucrats running our family.

Yet that is the experience that Mrs. Hines had with her family. I will just summarize her letter.

Socialzied medicine is not a success as the media and certain politicians are saying. In fact, it is a disaster and should be voted down at all cost. The American people need to urgently study the plan that is now being considered for America. If this form of medicine is brought to the law, the people are in for a rude awakening.

I think that this letter, which is the authentic issue, I would like to also say, I have got many, many letters like this, has a lesson for us. So as we debate health care, we need to know exactly what it is we are voting on.

Are we voting for socialized medicine? I think if we were voting on a Mitchell type plan or a Clinton type plan, certainly we would be voting on socialized medicine. But as of right now, we do not have a bill. We are going to have 8 days to read it.

I hope, Madam Speaker, that we get the bill tomorrow and that we all spend the weekend reading up on it so that the American people know that their representatives have voted intelligently and with full knowledge of what is in the fine print.

THE CRIME BILL

The SPEAKER pro tempore (Ms. MCKINNEY). Under a previous order of the House, the gentleman from California [Mr. CUNNINGHAM] is recognized for 5 minutes.

Mr. CUNNINGHAM. Madam Speaker, the gentleman from Nebraska [Mr. HOAGLAND] a minute ago talked about an 18-percent crime rate in Omaha. That very same paper that that article was taken from, the Omaha World Herald strongly, and I say strongly, recommended that area Members of Congress vote against the crime bill. They editorialized against the crime bill. The gentleman should have put that up to read.

Several speakers have attempted to minimize the negative effects that the present crime bill has by stating there might be some Members that might find some little thing in the crime bill that would cause us to vote against the bill.

Madam Speaker, let me explain some of those items in which we may vote against the crime bill: $9 billion in social spending. Many of us would like that $9 billion to be spend to fight crime; $9 billion is not just a little thing.

I would like to read, Madam Speaker, a letter that was sent to the President of the United States from the Republican leadership. That Republican leadership was made up of BOB MICHEL, a respected Member on both sides of the aisle, Mr. DICK ARMEY, NEWT GINGRICH, HENRY HYDE, and BILL MCCOLLUM, the conference vice chairman for the crime bill.

I quote:

Contrary to the assertions in your Administration, the crime conference report is not stalled because of assault weapons provisions, but instead due to the more than $9 billion in new social welfare spending. We are writing to offer our assistance in moving a real crime bill that will get more police on the streets and move violent criminals in prison now. The law enforcement provisions of the crime bill could be beefed up, and the social welfare spending dramatically trimmed.

Madam Speaker, I would like to submit most of this for the RECORD, but I would like to read just a couple more.

But how do you do this?

"Remove the more than $9 billion in social welfare spending and replace it with the Senate's full funding for the Byrne grant program," full funding. What does this do? It makes sure that that money that we spend toward a crime bill will be used in the bill truly directed at crime prevention.

Because we realize there are some in your party who feel strongly about the new social spending provisions, Republicans would be willing to support a rule allowing for the consideration of a social welfare spending package as a separate bill after we have passed the consensus crime bill outlined above. That means Congress would have an opportunity to pass both a tough anti-crime bill that puts more police on the street and more violent criminals in prison, and consider a package of new social welfare spending. This approach would avoid the gridlock that has developed within your party as a result of the current strategy of tying these issues together in one bill assuming that Members would hold their nose and vote for anything that has police and prison funding.

Now, the simple little thing of $9 billion, the White House, Janet Reno have been calling Members on this side of the aisle and offering them, what can we give you in your district to get you to vote for the rule. What can we give you, what kind of payoff can we give you to vote with us?

The President has done the same deal with another caucus. There is a caucus in this House that strongly, by principle, supported an amendment called the racial justice amendment. That was stripped from the crime bill. That, I am sure, upset the caucus. They truly believed in what the principle stated. But it was stripped, and it upset that caucus. So what can we give you? We can give you $9 billion in the inner cities of pork-barrel spending.

The gentlewoman from California wanted to put a $100 stipend a month on teenagers. This was pointed at the gangs, $100 a month stipend for good grooming. Now, it is termed a different way in this bill, but it is there. Dancing lessons in prisons?

Madam Speaker, are we going to have murderers and rapists lead on Monday, Tuesday; sex abusers on Tuesday, Thursday? I do not think so.

The night basketball game, I changed my position on night basketball. I went down into the cities and said, hey, this is working, but we would like it to go back to conference and not include where the community has to be 2-percent HIV or drug abuse users. Maybe Magic Johnson could play in that league, but I do not want my kids playing in it.

Another thing where we could replace and put more strength in a crime bill would be to take out the 40,000 social workers, more social workers actually than the amount of police that will in actuality be funded. The FBI came out with a news article today that this crime bill will cut in effect their ability to deal with not only white collar crime but the drug abuse as well.

□ 2000

The gentlewoman from Washington [Ms. DUNN], myself, and the gentleman from New Jersey [Mr. ZIMMERMAN], offered an amendment that was passed by this House, and on the Senate, for sexual predators.

In New Jersey, a little girl was buried last Thursday. The sexual predator had been convicted twice before for preying on children. He moved in with two other sexual predators, males, across the street. The little girl was enticed into the home by a puppy and was strangled and murdered.

The amendment said that when these dirty, miserable rats get out of prison, that the community will know about it. If those guys would have been in my community, Madam Speaker, and your community, I do not think you would have let your children go over there or even see them.

It also cleared the liability of police officers in notifying those communities. However, that is being held hostage on the other side of the aisle. That is an amendment that should be in. It was passed by the Senate, and only 13 Members of this House voted against it.

Madam Speaker, these are no little things. We are asking the leadership of this house to get together with the Republican leadership and ask for a separate vote on the socialized $9 billion in spending, and let us put some real teeth into our crime bill.

HEALTH CARE REFORM FOR AMERICA

The SPEAKER pro tempore (Ms. MCKINNEY.) Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from South Carolina [Mr. CLYBURN] is recognized for 60 minutes as the designee of the majority leader.

Mr. CLYBURN. Madam Speaker, I would like to thank you on behalf of our fellow freshmen colleagues for allowing us to participate in special orders tonight. Joining us tonight are our colleagues from Georgia—Congressman BISHOP and Congresswoman MCKINNEY, from California—Congresswoman ESHOO, our colleague—Congresswoman CLAYTON from North Carolina, and from Mississippi, our distinguished colleague, Congressman THOMPSON.

Since we were elected almost 2 years ago, we have learned many things. We have voted on many significant pieces of legislation. And we have listened to many debates. However, few of these are as important as the debate raging today over health care reform legislation and what is right for our country. Just yesterday, I was in my district in South Carolina for the primary elections. As most of my colleagues probably do, I got up early and visited voting precincts throughout the district.

As I did, I noticed the large number of people who had come to cast their votes, some before going to work. There were people in uniforms belonging to the local utility company, there were nurses on their way to hospitals, there were business men and women heading to their offices and to their plants.

These people are no different from the millions of others in our country who work hard to make a living for themselves and their families. These people are no different from others in that they deserve affordable health care insurance that can never be taken away.

While greeting these voters as they slowly moved through the lines, I was reminded of some recent figures on uninsured Americans. In my district alone, there are 94,000 people from working families who have no health insurance and 4,000 people living in the Columbia area alone who lose their health insurance each month.

Twenty-six thousand of these uninsured in my district are children. The uninsured are the people who have unexpected medical emergencies and need preventive care, they are children who have ear infections and need childhood immunizations that should be covered under their families' health insurance plans.

Last night, during his evening health care message, President Clinton mentioned the studies recently done for the Catholic Health Association. I would like to commend the association for compiling this nonpartisan, up-to-the-minute information about the state of health care insurance in our country, and my colleagues and I would like to share some of this information with you tonight.

Currently, there are 37 million uninsured people in the United States. If we pass health care legislation without universal coverage, there is no way to guarantee that these middle-class, working Americans and their families will have health coverage they can never lose.

Take a look at this pie chart. It is a very simple chart and the message is very clear. The gold portion represents the 1.1 million currently uninsured Americans that will receive coverage under a plan with insurance market reforms. That's a very small piece of the pie.

If you look at the blue portion, you will see about 40 percent or 13.8 million of the uninsured Americans who will receive insurance when subsidies are added for low-income populations.

After taking these 2 pieces of the pie, there is still an enormous red slice containing 22.3 million Americans who will remain without health care coverage. This piece of the pie is too big to think we can get away with passing any kind of legislation with less than universal coverage.

Madam Speaker, I yield to my distinguished colleague, the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Madam Speaker, I thank the gentleman from South Carolina, who, in addition to the great service that he renders on behalf of his constituents here in the House of Representatives, also serves as the president of the freshman class of the second year of the 103d Congress. Actually, this evening, Madam Speaker, we have our president from the first year of the 103d Congress, and you will be hearing from her shortly.

Madam Speaker, we have heard a lot in the last several days about the problems with reforming our health care system incrementally. That means step-by-step, piece-by-piece, the piecemeal, slow step approach. Yet many of our colleagues continue to insist that we should only tinker with the system, rather than pass meaningful reform.

Therefore, tonight, I want to spend my time talking about what the differences are if in fact we tinker with the system and take an incremental approach, versus what most Americans have heard about and talk about themselves, and that is universal coverage, wherein all Americans would be brought in under the tent and be covered, and what the financial consequences are under both scenarios.

Madam Speaker, let me pose a question to all of my colleagues. That is, do any of us want to go home to our constituents and tell them that they have to pay more for health care? I don't think so. I sure as heck don't want to go home and tell my constituents that.

I don't want to have to pay more. I don't want my constituents to have to do that. That is why I support comprehensive reform, which guarantees private health coverage for every U.S. citizen, and will reduce the average health care costs for the middle class.

Madam Speaker, what seems counter intuitive to most people is that by bringing everyone in, that it would supposedly cost more. However, I would like to pull from a recent study. These are not my numbers, these are the numbers that were produced, as I said, very recently by the Lewin-VHI, the largest nonpartisan health care research organization in our country.

Their study confirms that incremental reform is a short-term, short-sighted solution. Madam Speaker, while it may seem politically palatable for some, it would hurt the very people we are trying to help the most, and that is the middle class of our Nation.

As this chart illustrates, Madam Speaker, the study shows that incremental reform would force families making between $20,000 and $30,000 a year, and there are many families where that is the income, to pay more

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than $200 more a year, not just $200, but $200 more a year than what they are paying now in their annual health care costs. Families making between $30,000 and $40,000 a year would have to pay almost $345 more a year for their family premium.

Madam Speaker, you can see this very well on the chart. It is not a complicated chart. I think Johnny Carson could have used this, because it has a lot of clarity; not to make jokes with, but because it is very clear in terms of what it is stating.

□ 2010

Those making between $40,000 and $50,000 a year would pay almost $140 a year more for their premium, and those making between $50,000 and $75,000 a year would pay $75 a year more on health care costs. Maybe it does not mean that much to them because they are way up there in terms of their annual income, but suffice it to say that it is more than less.

In other words, if we pass an incremental health care reform plan, more than half of all the families in the United States will spend more on health care and it will hit the middle class the hardest. The middle class is usually the group that picks up the brunt of most things, anyway, and I do not think the 1990's is the time to do that. I think that we stand tall and stand next to the middle class and say enough is enough and let us bring everyone in under the tent.

In contrast, if, in fact, we bring everyone in, the universal coverage approach linked to cost controls, which is very important in our system and employer/employee contributions, I believe that everyone needs to pay something—no one should get off for free—this would lower spending on health care for every family making less than $100,000 a year. That takes in a lot of families in the United States of America.

As the chart shows, those families making between $20,000 and $30,000 a year would pay approximately $40 less, those making between $30,000 and $40,000 would pay $165 a year less, those making between $40,000 and $50,000 a year would pay almost $150 less per year, and families earning between $50,000 and $75,000 per year would pay $115 less. These are for the premiums.

For those who are watching this at home, I know that you have heard for more than 2 years so much about the health care debate. It is a huge one, it is complex, but if we are wondering why there is so much debate about the controversy if comprehensive reform achieves these results, I will tell you why: Over $50 million has been spent to date by the special interests in this country advertising, advertising, advertising, and not only planting the seeds of suspicion in the American citizen's mind but to make you fearful. This is the largest sum of money that has ever been spent to lobby a single issue before the Congress of the United States in the history of the Congress. This is not called the health care industry for nothing. So what we need to look at and why I brought onto the floor this evening indisputable numbers by the most respected, nonpartisan health organization, and these numbers I present to you.

I believe that we need to have guaranteed private health insurance coverage that cannot be taken away. There are those that will tell you that Congress should proceed cautiously and not attempt to cover everyone. But who is that "not everyone"? Is that you? Is it your family? Is it your child?

In my district, there are 88,000 working individuals from families, 88,000 workers, not welfare individuals, but workers. Of that 88,000, 13,000 are children. None of them are covered. They either cannot afford it, it is not made accessible to them through their employment, or they have a preexisting condition or someone does in their family and they simply are not eligible. I do not really think that is the American way. That simply is not fair and I know that we can do better.

While this again seems counter intuitive to bring everyone in and the costs go down, let me explain this for a moment.

Higher costs drive younger, healthier people out of an insurance pool. We have seen that happen. It has been demonstrated in many States. If, in fact, we bring in those that are more vulnerable and keep the younger, healthier people in the mix, it lessens the risk pool of those that are being insured and, therefore, the premium comes down.

In contrast, if all of us cannot be covered, obviously the premiums will go up. I believe, along with so many others, and poll after poll shows that the American people want everyone covered. I think it is time for Congress to act. I think the moment of truth has arrived. We have debated, we have had our public hearings, we have certainly heard much from our constituents. I urge my colleagues to deliver what the American people really want. They do not want a $50,000 ad campaign. Instead, they want us to stand next to them, to the middle class, to the workers of this country and their families and once and for all say to them that no insurance company can take your insurance away from you, that we will all be covered by private insurance plans, a solid, good plan for the solid, good citizens of this country.

Mr. Speaker, I would like to thank the president of our freshman class, the gentleman from South Carolina [Mr. CLYBURN], who serves with great distinction for bringing us together once again on this I think one of the greatest domestic issues facing our Nation and as freshmen I think we are going to help make history, not just shape the bill, but make history by passing legislation that is truly meaningful, worthwhile and noble for the American people.

Mr. CLYBURN. Madam Speaker, I thank the gentlewoman from California [Ms. ESHOO] for giving us such a concise and clear picture of what is going to happen with the people of the middle class if we fail to do universal coverage with our health care reform.

Madam Speaker, I yield 8 minutes to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Madam Speaker, I thank my colleague, the gentleman from South Carolina [Mr. CLYBURN] for organizing this special order on health reform and the need for universal coverage.

I would like to thank my colleague, the gentlewoman from California [Ms. ESHOO] for helping to explain how health care reform will fail without universal coverage. Not only will premiums be driven up so that they are unaffordable for even middle class Americans, but reform without universal coverage will fail because it will destabilize our insurance markets and it will make insurance unaffordable for many of America's businesses and families.

This is what I would like to discuss tonight. If Congress passes a health care reform bill that attempts to provide universal coverage incrementally rather than immediately, we will not be providing a prolific health care reform measure that will grow to cover all Americans. Rather, we will be providing a sparse reform measure that will increase premiums and decrease the collective number of insured individuals.

In a recent study prepared for the Catholic Health Association, Lewin VHI, which undertook the study, said that universal coverage reduces consumer exit and entry into health insurance markets because if people can move freely in and out of the system, the healthy will tend to avoid insurance coverage until they get sick.

To the extent that this issue is not addressed in a real reform proposal, premiums are driven up, encouraging more people to become uninsured. The result is the vicious, upward spiral that is shown on this illustration.

Step one. Under reform plans that attain universal coverage incrementally, by certain dates and with so-called triggers, insurance reforms will extend coverage to sick and high users of health care. This will allow many people currently without coverage to become covered. I applaud that result. That is great. However, there is an inescapable reality that will occur when we include the sick and the high users of medical care without providing 100 percent universal coverage.

□ 2020

Under this plan, utilizing community rating, the newly insured sick will drive up average premiums for the currently insured. This is the beginning of the vicious upward spiral. These higher premiums will naturally cause healthy individuals and firms currently with plans to drop their coverage.

Why? Because under a plan that requires coverage for those in need, there is no reason to pay for it when you are healthy. Under an incremental plan, it is fiscally illogical for a healthy individual to continue to pay escalating health insurance premiums and stay on a plan. The reform system will allow them to reenter the insurance pool when they need health care, when they are sick, when paying for health care makes no sense to them. For healthy people to continue paying for insurance when it is in fact guaranteed later when they might need it would be merely earning more and more of their own money by buying an insurance plan with rising costs.

What happens next? When these healthy people and companies begin to leave their plans, the insurance resource pools will shrink and the average cost per customer will increase. This will cause premiums to rise yet again, the upward spiral caused by incremental reform. Fewer and fewer healthy people will remain on plans, premiums will continue to skyrocket, and insurance pools will shrink while the average cost per customer rises.

Do not think for a moment that this will die down, because it will not. The spiral will be perennial and will be as damaging to the insurance markets as a tornado is to a home in its path. The goal of universal coverage will be nothing but a pipe dream because healthy people will never spend money on expensive premiums to join a plan. Only when they become ill or in need of medical assistance will they join.

This is the ironic impact of expanded insurance availability without universal coverage.

Universal coverage, Mr. Speaker, is the only way to avert this problem by including healthier, lower cost individuals in the insurance pool, thereby holding down average premiums.

In a June 15 study that explains this phenomenon, the Wall Street Journal called the notion of a reform plan that prohibits insurance companies from increasing rates for the sick who are at risk of accumulating stacks of medical bills, "the health care proposal everyone loves. There's just one problem with the idea," the Journal continues, "Experts insist and real life evidence shows it probably won't work without universal coverage."

This is not just theory, but it is reality. Let us look at facts.

Signs of this impact are already evident in the State of New York. According to the State's insurance department's own data, 25,477 fewer people, fewer people had insurance in the individual and small group market at the beginning of this year than when community rating and other nonuniversal coverage reforms took place 9 months earlier.

Why? According to the Journal, New York tried community rating without a law requiring everyone to have health insurance. The result has been a rise in insurance premiums for healthier individuals. Consequently, those healthy people left their health care plans figuring they either will not need to have coverage or they will be able to get it at a reasonable rate when they do.

Mr. Speaker, our attempt to reform health care will be not only fruitless and senseless without immediate universal coverage, but harmful to insurance markets as well. We need universal coverage, and we need it immediately upon passage of any health reform measure.

In Georgia, in the Second Congressional District that I represent, our people need health insurance coverage desperately. We are determined to do whatever is necessary to fairly and impartially and rightfully provide for decent Americans' health insurance. If every criminal can be afforded a lawyer regardless of ability to pay, certainly every decent, hardworking American can be guaranteed universal health insurance coverage.

I thank the gentleman from South Carolina for organizing these special orders.

Mr. CLYBURN. Mr. Speaker, I thank the gentleman from Georgia [Mr. BISHOP] for giving us such a good, comprehensive statement of what can be expected to happen with our insurance markets if we fail to have universal coverage as we move to reform our health care financing business.

Mr. Speaker, I yield to our distinguished colleague, the gentlewoman from North Carolina [Mrs. EVA CLAYTON] the first-year president of the freshman class.

Mrs. CLAYTON. Mr. Speaker, I thank you for allowing me this opportunity to address my colleagues in the House about the importance of universal coverage in any health care reform bill that we consider, and hopefully pass. I also, want to extend my appreciation to the distinguished gentleman from South Carolina and president of the freshman class for his leadership in organizing this debate on health care reform.

I am confident of the fact that without universal coverage, any health care reform legislation we adopt will not solve the problem. At the very core of requiring all Americans to be covered, is the argument that universal coverage will improve the quality of health care and control cost-shifting. Universal coverage will correct the imbalance that currently exists between those who pay for health coverage and those who obtain coverage without paying.

Right now, individual farmers, small and big businesses, and rural hospitals all pay a very high price when someone without coverage obtains emergency care rather than primary care from a doctor's office. The cost of this expensive care is passed on to those individuals who pay for health coverage. Hospital prices go up when they provide uncompensated care which increases rates. How many of us have experienced paying $5 for aspirins at hospitals?

Small businesses that currently provide health coverage for their employees are affected with these rate increases. In fact, in recent years small businesses that provide coverage for their employees have experienced rate increases far higher than those of large businesses, rising by 10 percent to 30 percent each year. This can be devastating to small businesses which are trying to do the right thing by providing this essential coverage. Without employer participation which I prefer to think of as an employer-based system of shared responsibility instead of a mandate, it is unlikely we will get to universal coverage. Without universal coverage, those who currently pay the price will continue to do so, and they will pay even more in the future.

Contrary to what we have heard on TV or read from special interest organizations, a majority of small businesses, 58 percent, provide health insurance for their workers. Those who do not provide coverage are in the minority. Should we allow this minority of businesses to block passage of a universal health care system that upholds their own interests? Can we continue to allow them a free ride on the backs of the majority of small businessowners who do provide health coverage for their employees?

We must recognize that there are small businesses who are not now providing health coverage who will have difficulty in providing coverage without assistance. Any health care proposal should provide assistance. In fact, the House health bill provides subsidies and tax credits for small businesses with fewer than 50 employees.

However, the responsible small businesses that now provide coverage for their employees pay three times higher than they need to. This chart illustrates this unfair overpayment by those who can least afford it: First, they provide coverage for their own employees; second, they pay for the dependents of their employees who may work but don't get health care from their own jobs, and third, they pay for those uninsured—most of them working people—who receive health coverage in America's emergency rooms, whose costs are borne by the insured. I

VOL 140 PT 15 AG 10 — 11 1994 UMI

argue that this cost shifting is a hidden tax on small businesses that do provide insurance.

I have heard from small employers in my First Congressional District of North Carolina that provide health insurance coverage for their workers. I have heard from pharmacy owners, dry-cleaner operators, and homebuilders among others who support universal coverage. They not only see the problem, they feel the problem in their pocketbook.

Small businesses cannot be required to pay a much higher rate than large businesses, just because they recognize the value of insuring their workers and don't have the economy of scale in purchasing health insurance. These small businesses, realize that with the passage of universal coverage their rates will decrease if everyone participates in the health care system. No longer will some citizens be able to participate in America's great health care system without paying their fair share, without shouldering some responsibility for their care.

We cannot allow this cost shifting situation to continue. We have the power in this legislative body to make a real difference, to provide health coverage for all Americans. I for one intend to take a stand for my constituents, and for all those citizens who have suffered because we have allowed them to slip through the cracks without a safety net to ensure their care.

In my rural district in North Carolina, some 75,000 people in working families, largely employed by small businesses, have no health coverage. Of these families—there are 27,000 children—this is a despicable statistic. These are the individuals who will be the winners with a health care plan that provides for universal coverage.

I submit to you Mr. Speaker, that health care reform that does not provide for universal coverage will not improve the quality of health for many in my district and in many areas across the nation. Without universal coverage we will not stop or contain cost shifting. Without universal coverage Mr. Speaker, we will not have health care reform.

□ 2030

Mr. CLYBURN. I thank the gentlewoman from North Carolina so much for giving us that very comprehensive view on what is going to happen with cost shifting. I think that what you have shown to us with your presentation is that for the middle class, if we pass health care reform legislation which provides universal coverage, what we will have is, in fact, a middle-class tax cut that everybody has been asking about.

So thank you very much for pointing that out so clearly to us.

Mr. Speaker, I would now like to yield to our distinguished colleague, the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, I thank the gentleman from South Carolina [Mr. CLYBURN] for yielding and also for organizing this special order tonight.

Mr. Speaker, let me just say that health care reform is no reform at all without universal coverage.

I am happy to join my freshman class members this evening as we underscore the need for universal coverage for everyone.

I want to give a snapshot of the 11th Congressional District of Georgia tonight and to tell why Georgia's 11th Congressional District needs universal coverage. Presently under the current system 98,000 people in working families have no health coverage; 82 percent of all people without health coverage are in working families, and, of course, that means that 37,000 children in Georgia's 11th Congressional District have no health coverage.

With universal coverage, that means that 98,000 people in working families will have health coverage, 37,000 children will have health coverage, 33,000 women will have improved coverage for breast cancer screening, 5,000 2-year-olds will have improved coverage for immunization, 170,000 people will no longer have lifetime limits on their coverage, 89,000 people will no longer have preexisting-condition exclusions on their insurance.

With nonuniversal reform, every middle-class family earning between $20,000 and $75,000 will be forced to pay on average $622 more each year on insurance premiums. That is 110,000 families in Georgia's 11th Congressional District.

Now, in the health care reform bill that Congress will be voting on, there are six principles that are contained there: Security, simplicity, savings, quality, choice, responsibility, and after waiting so long and so hard, hard-working families from Georgia's 11th Congressional District and, quite frankly, hard-working families throughout America, just do not need to wait any longer for health security.

The interests of the 11th Congressional District and the interests of this country will not be served by tinkering on the margins. Mr. Speaker, I believe we were sent here to Washington with a mandate from the people to change business-as-usual politics. We want a Government that looks after the needs of people.

We anticipated resistance from the obstructionist, divisive, Republican gridlock gang, and quite frankly we have to fight every day with full force at every step of the way. Politics, gridlock, partisan positioning should not keep us from doing what we must do, and that is to perfect a health care reform bill that guarantees that health care will always be there when Americans need it.

Without universal coverage, health care reform is just a meaningless phrase. We cannot fall short of the promise.

Mr. CLYBURN and Mr. Speaker, I would like to thank all of you who are participating in tonight's special order. I would also like to thank my staff for allowing me to be able to participate tonight. I would like to thank the information that came to us from various sources, particularly the Catholic Health Association of the United States, and I would just like to close by reminding you that health care reform is no reform at all if it does not include universal coverage.

Mr. CLYBURN. I thank the gentlewoman from Georgia [Ms. MCKINNEY]. I think that what you have shared with us about the conditions which could be expected in your congressional district if we fail to do universal coverage is something that can be repeated over and over again as we look at the congressional districts across the Nation.

Now, Mr. Speaker, we want to close out this special order this evening by calling upon our colleague, the gentleman from Mississippi [Mr. THOMPSON], who will share with us some insight as to what we can expect to happen with access if we fail to do universal coverage.

Mr. THOMPSON. Mr. Speaker, I want to thank my colleague, the gentleman from South Carolina, for chairing this special order this evening dealing with health care.

The topic that I have is one that I think is absolutely key to the whole issue of health care reform in this country, and it is the notion that reform will fail without universal coverage. Without universal coverage, hospitals and physicians that serve the uninsured, the poor, and the elderly will be put most at risk.

One of the things that I share often with a number of my colleagues, Mr. Speaker, is that I represent one of the poorest districts in the country, and in that district we have a number of uninsured individuals. I hear from hospital administrators as well as physicians who feel that they are bearing an undue burden on servicing the poor and uninsured in my district. I agree with them.

I support the notion that in the richest country in the world that individuals should not have to make the choice between buying medicine and paying the rent or paying utility bills and going to the doctor. So many of the issues around universal coverage are addressed in the whole notion of health care reform.

□ 2040

As we talk about this, my chart will explain this to those of us here. It is comparing the uninsured counterparts with the insured. The uninsured are twice as likely to have no regular source of care. That means that those individuals who are without coverage basically do not have a doctor, do not have anybody to call when they are feeling bad, and consequently they are the ones that are falling through the system.

In my district alone there are 94,000 working people who have no coverage at all. Of that number, 83 percent of those individuals without coverage are from working families.

So what am I saying to my colleagues? Mr. Speaker, that even a number of the people who are without coverage are working, but they cannot afford the care.

So, we have almost 100,000 people in my congressional district alone who are working, but who cannot afford the coverage. Of that number, 37,000 are children, and my colleagues and I know that, as preventative health goes, those formative years are the years that are very important, even on through adulthood, but if 37,000 children in my district alone have no form of health coverage, then my colleagues can understand why infant mortality rates and other things are higher simply because they are not getting the prenatal and other care.

Also the uninsured are twice as likely to use the emergency room as a regular source of care, and there is no question that billions of dollars are written off every year in this country by emergency rooms and hospitals because individuals are using those facilities as doctors' offices because, as we said earlier, they do not have a physician, and generally they wait until it is too late to go anywhere other than the emergency room, and consequently they get an $800, $900 office visit in the emergency room.

In my district alone, $67 million was written off last year as bad debt, debt that could have been paid for had we had universal coverage, and I say:

Mind you, that debt is still picked up by the taxpayers whether we pay for it in the emergency room or we pay for it with universal coverage.

We will pay, so I think it is clear we will have to understand that the notion of universal coverage is also the notion of paying for health care, but at a different rate. So, it is important.

Also the uninsured are over 3 times as likely to report that there was a time that they needed medical care and did not get it for financial reasons.

What am I saying? These individuals cannot afford it.

So we asked them, "The last time that you had a headache, did you go to the doctor?"

They said, "No, I couldn't afford it."

So any time people have to make the choices between affordability and how they feel, then we know that they are seriously jeopardizing their health.

But also 72 to 100 percent of the uninsured are most likely to go without a physician visit for acute earache, recurring ear infections, or asthma, and that is young people. So, most of us who have children know that they get sick, and I ask my colleagues:

Can you imagine in the richest country in the world, when children are sick, they can't go to the doctor? Or if they go, they go to the most expensive provider, which is the emergency room?

We can do better if we have universal coverage.

One in three poor adolescents are not covered by Medicaid, and private insurance coverage for adolescents is increasingly restrictive; 42 to 60 percent are less likely, specially among women, to receive adequate preventive screening of hypertension, cervical cancer, breast cancer, and glaucoma.

The basic issue is that the majority of the people in my district who are without coverage are also women, and because of this the incidences of illnesses related to screening that is not taking place is greater, and also those illnesses, for the most part, are the ones that cost more money.

And I guess in summing it up, the tragedy is that 25 percent of those individuals who are without insurance die prematurely. In my district 163 infants die per 1,000 live births. We had the third highest infant mortality rate in the United States.

So, in conclusion, Mr. Speaker, I offer this chart to justify having universal coverage. But also we have to have increased competition, and to have that without universal coverage can only worsen the patterns that presently are going on in this country.

Last, I implore my colleagues that, as we discuss health care reform, let us make one of the main tenets of it universal coverage. If we do not have universal coverage, then indeed, Mr. Speaker, we do not have health reform.

Ms. MCKINNEY. Mr. Speaker, I think the gentleman has very eloquently reminded us that we are down here to do the business for the people, and through what he has talked about just now he reminded us that behind all of the statistics are very real people. We are talking about working people, we are talking about babies, we are talking about children, and this, quite frankly, is very serious business.

We are not here to do the business of special interests. We are not here to do the business for special businesses. We are not here to do the business of particular industries. We are here to do the people's business, and I thank the gentleman for such a touching and eloquent delivery, and a reminder really for why we are here.

Mr. CLYBURN. Mr. Speaker, I thank the gentleman from Mississippi [Mr. THOMPSON] for that very comprehensive overview of exactly what universal coverage is all about.

Mr. Speaker, I thank you for allowing us the time to participate tonight and I thank my freshman colleagues for all of the work they have put into the health care reform legislation that will come to the House floor in a few days.

On radios and televisions, in newspapers, and dinner conversations across the country—the hot topic right now is health care reform. As we contribute to this ongoing conversation from the Chamber where decisions affecting each and every one of us will be made in the coming days, Mr. Speaker, I remind you and my colleagues universal health care coverage which can never be lost should be guaranteed to every American, because there is no such thing as a lifetime guarantee of good health.

DO NOT SOCIALIZE HEALTH CARE

The SPEAKER pro tempore (Mr. CLYBURN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. HUNTER] is recognized for 60 minutes as the designee of the minority leader.

Mr. HUNTER. Mr. Speaker, I listened with interest to my colleagues who talked about what they saw as the benefits of universal coverage and, I think, a very eloquent closing by the gentlewoman from Georgia [Ms. MCKINNEY], who spoke of the necessity of this House doing the people's business, and the people not being special interests, not being necessarily corporations or industries, but people. And I think what America has heard, Mr. Speaker I want to speak very strongly against the first President Clinton plan that came out that now apparently is dead, not because of Republican opposition, but because we are outnumbered by 100 votes in this House and by quite a few in the other body, but because American people, business people, employees who wanted to keep their jobs, talked to their Democrat Representatives and their Democrat Senators, not to Republicans, who were in the minority and cannot control things, and told them not to pass this plan.

□ 2250

So you have the unique situation where a Democrat President, President Clinton, having total power, total control with his party over both bodies of the U.S. Congress, with the power to write a bill, deliver it to his desk within a few days, and sign it, with the Republican party being basically powerless to stop it, with all those things going for him, the President of the United States, Bill Clinton, was not able to push his first health care plan through.

Now, why did the people stop that plan? Why did Democrat Members of Congress and Members of the Senate stop that plan?

Well, I think it is fairly clear, Mr. Speaker. They sopped the plan because

VOL 140 PT 15 AG 10 — 11 1994 UMI

they perceived that it would be bad for them. And it was not just a few industries, because I don't think the Democrat Party in the House is controlled by a few industries. I think that the Members of the House who are Democrats have the same representative reflection of their constituencies that those on the Republican side have. They do what their constituents ask them to do, and they try to reflect the feelings of their constituents.

Now, why would not Americans, when faced with what has been described as this nirvana of health care, this great new benefit, where nobody is ever left out, everybody has a guarantee for life, from cradle to grave, you are going to be taken care of, and that very appealing personality of this President, who can look at an audience, whether it is a talk show or people in the White House, and you see a little glisten of a tear in his eye, and he talks about giving them security, why would not Americans walk right up and sign up for that program?

It is because Americans are a little bit different from folks in the other parts of the world. We are a country full of people that appreciate when Government gives you some security, it takes away some of your freedom. This debate over health care is a debate between Government control and freedom. And I hate to hear the word "reform" used when Members first started to describe the President's own health care plan, because for practical purposes, President Clinton's first plan was socialism. If it did not socialize the delivery of health care itself, it at least socialized the financing mechanism.

I have never considered socialism to be a reform of any kind. Certainly Cuba has all-inclusive health care coverage. They have got universal coverage. Communist China has universal coverage. All of the nations we have taught over the last 40 years concerning the faults of socialism have universal health coverage. The problem is they don't have any quality, and they don't have any quality of life for the people.

You know, John Papageorge, a former commander in the 101st Airborne, described quality of life in America as being a function of the amount of control that you have over your own life. I think that was a very good description of freedom and quality of life in this country.

A lot of people looked at the President's health care package and decided that they did not like what I would like to call Clinton I, President Clinton's first health care package.

That was a health care package in which everybody had to march down and sign up for the Government health care program. And if you did not sign up for the Government health care program, Government caught you and fined you a double premium if they caught you not signing up for the plan. So nobody had the option to say I want to pay for it myself, or I would rather go somewhere else, or I don't like this plan. Every American was obligated to go down and sign up with Government and pay Government money.

Everybody had to take a plan that was dished out under a Government system in which large cooperatives or purchasing alliances, Senator PHIL GRAMM called them collectives, but large purchasing alliances would make big deals with big insurance companies, and theoretically get good rates for packages. And those packages could either be an assigned doctor, where you basically spin a rotary wheel and if the doctor you get happens to be the guy who just immigrated from Bangladesh and has credentials to practice medicine in America, he was your doctor whether you liked him or not. Or maybe the preferred provider list, where you had a menu of doctors, but you might still not have the right to have the doctor you wanted. Or, in some cases under President Clinton's first plan, if an insurance company, and only if an insurance company, came forward and had a plan for what is known as fee for service, that is where you can pick any doctor you want, you could be under the government plan and still have a choice of doctors and go to your own doctor.

Well, the American people did not like that deal. They weren't the French, they weren't the British, they weren't the German, they weren't the Japanese nor the Canadians. They didn't like that deal and wanted to maintain more freedom.

I don't think it is unusual or unexpected that of all the nations in the world, the people of the United States like freedom maybe a little better than anybody else. And I think that is kind of a good thing.

So they didn't sign up for President Clinton's first plan. Incidentally, I think another reason they didn't sign up for President Clinton's first plan was because they looked at some of these countries which had socialized medicine and although they looked pretty good at first, when you saw a few figures, if you looked through the figures and looked to the quality of medicine that was delivered, you saw some pretty ugly things. And let's go around the world and look at some of the things we saw that we could expect President Clinton to drive us toward with this first health care plan.

First, we looked at Canada. Canada was offered to us in the United States Congress as the heaven of health care. This was the place were you had a single payer system where government had finally come to grips and "reformed health care."

Well, let me tell you what health care reform did to Canada, now that we have looked at it a little closer.

We now have discovered that the largest hospital in Ontario had to close down for 2 weeks last Christmas because they ran out of money. Then we discovered that there are now 177,000 Canadians waiting in line for operations.

I asked the question when I was in Minnesota recently, why are all these Canadians coming down for operations in Minnesota, Detroit, MI, and other American cities? I was told it was because they don't have to wait in line if they come to America. They get first-class health care and get it now. So they come to America.

We discovered in some places in Canada women in childbirth are not given epidural anesthetic. You may recall one of the articles that was in a national newspaper about a woman undergoing childbirth who was shivering in pain as her doctor passed her and said I know it hurts and I wish there were something I could do for you, but we just can't afford it.

So we looked at Canada and we also saw of those 177,000 Canadians waiting for operations, over 25 percent of them surveyed say they are in some sort of pain. So we decided maybe Canada wasn't the great model for "health care reform" or socialized medicine.

Well, some Members of the House talked about Japan, because Japan dedicates a smaller percentage of their Gross National Product to health care than the United States. We know what they have in Japan. They have a medical system in which doctors see approximately 49 patients a day on the average. Now, ladies and gentlemen, that is whipping people through pretty doggone fast.

My first question was how can you possibly do that? One answer was mass examinations. Well, Americans, especially Americans who have been in uniform, don't like the idea of mass examinations. They like a little bit of privacy.

You know, when I saw that figure, 49 patients a day per doctor, I thought about the subway system in Tokyo, where they have the professional packers, and these guys look like former sumo wrestlers to me, maybe they are not. They don't hurt anybody. But when the last Japanese passenger gets on that subway system who can possibly get in, they physically pack the people into the subway, and those big strong packers don't hurt anybody, but they get the last body in. That is kind of the image you get when you think about 49 patients a day going through each doctor's office in Tokyo. So we decided maybe we didn't want to have that kind of socialized medicine.

We looked at Great Britain, where they have socialized medicine. And yet if you are a senior citizen, if you have passed a certain age, and you need a life saving operation, you don't get it. The reason you don't get it is because

socialized medicine always operates ineffectively and they run out of money. When they run out of money, their philosophy to senior citizens in Great Britain is, you have lived a long and fruitful life and it is time for you to float from the tree, kind of like a leaf in the autumn time. You have had a full life and we will save these life saving operations for younger people.

□ 2100

That sounds fine if you look at it on paper. But when those senior citizens are your grandparents or your parents, you want to be able to have a chance to save their lives. So Americans have looked at Great Britain, and they do not like that socialized medicine system either.

The President has staked quite a bit on making a health care plan go this year. Although it is clear that a majority of the American people say, wait a minute, we do not want you to rush anything through in the immediacy of this election season. We want you to take your time, if you are going to do health care, because health care is a giant contract with the American people. And I do not think the American people like the 1,300-page document that President Clinton sent down the first time.

You know it took almost a year for the American people to be able to look at enough parts of that document and believe me, like a lot of Members of the House, I was pretty surprised when I would meet people at town hall meetings who had read that entire document, many others who knew the outlines, many others who knew the key provisions.

Americans read these things, folks. Ultimately they find out what we vote on. So we better doggone well read the documents ourselves before we vote on them.

So it took about a year for the American people to read President Clinton's health care plan and read it and understand it so well that there were enough people who objected to the plan that President Clinton, with a 100-seat majority in the House of Representatives being Democrat, could not pass that health care plan. Republicans did not beat that health care plan. The people of the United States beat that health care plan.

We have got a couple of days until recess. We are told that there is another plan coming up in the House and another plan coming up in the Senate and that we are going to vote on these plans in the next several days. These plans that are comprised of thousands and thousands of pages of regulations, every one of which will have some impact on Americans' lives.

I think that is wrong. I think the Democrat leadership in both bodies knows that it was the time that the American people took to look at this plan, the first plan that President Clinton offered, that caused it to lose and to be dropped, not by Republicans but by Democrats. And I think if we give the same light of day to this second plan, what I call the Gephardt-Clinton plan, named after distinguished majority leader in the House and the Mitchell-Clinton plan, named after the Democrat leader in the Senate, if the American people get a chance to see President Clinton's plan 2 and 3, they will be just as offended and just as put off and just as resistive of these two plans as they were of the first.

Let me talk about just a couple of things with respect to this plan.

First, I saw the exchange between President Clinton and the black entrepreneur Herb Kane, the gentleman who is the president and CEO of Godfather Pizzas. He did a businesslike thing, which I guess is sometimes unfair to do to politicians, especially when they are as smooth as our President is. He said, Mr. President, I am paraphrasing, I have looked at your plan. I am going to have to lay off people under this plan. I am going to have to close down franchises.

And the President said, essentially, to him, and I am paraphrasing the President, I do not know why you just cannot raise the price of your pizzas.

And I noticed on Mr. Kane's face, after the President said that, what I consider to be a pretty naive statement to a businessman who understands you cannot just raise the price of your goods to accommodate added costs, I saw kind of a look of surprise. And later on he told a number of us in the House, he said, if I could get more money for my pizzas, I would be getting it. But the point is, this plan is going to kill jobs. It is going to force me to close down some franchises that are marginal.

And he said another thing that I thought was interesting and goes to the heart of this whole debate. Because this whole debate is developed on the Democrat idea that we are going to make employers, small businesses and larger businesses, pay for all the health care for their employees.

Mr. Kane, once again I am paraphrasing him but I thought this was important, he was asked why he did not think that he owed giving health care or a health care program to every one of his employees. He said, because my first duty to my employees it to give them a job. And sometimes you cannot do both. That is the point with Clinton 2, with the second Clinton package which is being put together on the Senate side by Senator MITCHELL and Clinton 3, the third Clinton package which is being put together by Mr. GEPHARDT and the Democrat leadership behind closed doors on the House side, these plans are going to kill jobs.

I come from a State in which we have done what we thought were wonderful things for workers. The only thing we forgot to include was a job. We have got a workmen's compensation program in California that allows people to sue for stress and we have had a ton of fraudulent claims for stress. That has not helped workers. It has hurt the good workers because the fraudulent workers have gone out and collected their dollars, and the good workers have kept on working and the good businesses have moved out of California and moved to other States. And there is a continuing exodus.

So with the legislature of California attempting to be so kind to the workers, they forgot one thing. Blue collar workers cannot hire each other. White collar workers cannot hire each other. You have to have a businessman or a businesswomen, a business owner to hire you. And you cannot make the environment so unfriendly to them or so unprofitable or so burdensome that they go out of business, because if they go out of business, you are out of a job.

Well, the Clinton 2 and Clinton 3 health care plans put a lot of folks out of jobs.

Let me tell you how many they put out of jobs. This is an estimate that is taken off the CONSAD study, "Employment Impact of Ways and Means plans and Approximate Impact under the Gephardt Plan." The plan that the Democrat leadership is putting together in the House of Representatives is going to destroy almost a million jobs and it is doing to affect many times a million jobs. What do I mean by saying affect?

I mean this: If you have a business that is selling a particular product and they are only making a $20,000-a-year profit on this small business and they discover that the mandated health care plan under President Clinton 2 or 3 or 1 is going to cost them an additional $30,000, then they close up. Let us say they are still making slight profit and they intended to put that profit into giving their employees raises so they could increase productivity. Now they have to forgo the raises because there is no money there to do it with.

When you take money out of the payroll, especially when so many American businesses are having trouble meeting that Friday payroll, you either detract from the amount of money you are paying the present employees or you have to lay off employees. That is what this health care bill is all about. It kills jobs and it degrades jobs.

Let me tell the American people what the CONSAD study says. I want to read the States and I am going to read the numbers of jobs that are lost and the number of jobs that are downgraded because of President Clinton's second plan, that is Clinton-Gephardt.

Alabama, they lose 13,000 jobs; 716,000 jobs affected. Alaska, Alaska loses 1,200 jobs; 74,000 jobs are affected.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Arizona loses 11,000 jobs; 641,000 jobs are affected. Arkansas loses 7,000 jobs; 398,000 jobs are affected in Arkansas.

California, my State, loses 108,000 jobs. Over half the jobs that we lost with the aerospace flight are going to be lost with the Clinton health care plan. Over 5 million jobs will be affected.

Colorado, 11,000 jobs are lost; 638,000 jobs are affected. Connecticut, 15,000 jobs are lost under the Clinton health care plan; 796,000 jobs are affected. Delaware, 2,800 jobs are lost under the Clinton-Gephardt health care plan; 154,000 jobs are affected.

District of Columbia, 4,900 jobs are lost. That is like a large company leaving the District of Columbia and taking all of its jobs with them, except in this case, the jobs do not go anywhere, they are just destroyed. But under the Clinton-Gephardt health care plan, 4,900 jobs are lost in the District of Columbia; 240,000 jobs are downgraded.

□ 2110

Florida, 41,000 jobs are lost, 2.3 million jobs are downgraded; Georgia, 23,000 jobs are lost, 1,200,000 jobs are downgraded under the Clinton-Gephardt health care plan.

Idaho, 2,000 jobs are lost, 153,000 jobs affected; Illinois, 47,000 jobs are lost, 2,478,000 jobs are affected, Indiana, 22,000 jobs are lost, 1,168,000 jobs are affected; Iowa, 9,000 jobs are lost, 530,000 jobs are affected.

Kansas, 8,000 jobs are lost, 469,000 jobs are affected or downgraded under the Clinton-Gephardt health care plan; Kentucky, 11,000 jobs are lost, 610,000 jobs are downgraded; Louisiana, 11,000 jobs are lost, 645,000 jobs are downgraded.

Maine, 4,000 jobs are lost, 227,000 jobs are downgraded under the Clinton-Gephardt health care plan; Maryland, 16,000 jobs are lost, 953,000 jobs are downgraded; Massachusetts, 29,000 jobs are lost, 1.4 million jobs are downgraded; Michigan, 36,000 jobs are lost, 1.8 million jobs are downgraded.

Minnesota, 18,000 jobs are lost, 931,000 jobs are downgraded; Mississippi, 7,000 jobs are lost, 375,000 are downgraded; Missouri, 20,000 jobs are lost in Missouri under the Clinton-Gephardt health care plan, and over 1 million jobs are downgraded; Montana, 1,700 jobs are lost in the Big Sky country, 105,000 jobs are downgraded.

Nebraska, 5,000 jobs are lost, 313,000 jobs are downgraded; Nevada, 6,400 jobs are lost, 320,000 jobs are downgraded; New Hampshire, 4,000 jobs lost, 223,000 jobs downgraded, New Jersey, 29,000 jobs lost under the Clinton-Gephardt health care plan, 1.6 million jobs downgraded in New Jersey.

New Mexico, 3,000 jobs lost, 205,000 jobs downgraded; New York, 76,000 jobs lost in New York under the Clinton-Gephardt health care plan, 3.9 million jobs downgraded; North Carolina, 28,000 jobs lost, 1.4 million jobs are downgraded; North Dakota, 1,600 jobs lost, 96,000 jobs downgraded.

Ohio, 44,000 jobs lost, 2.26 million jobs downgraded; Oklahoma, 8,000 jobs lost, 466,000 jobs are downgraded under the Clinton-Gephardt health care plan; Oregon, 8,000 jobs are lost, 499,000 jobs downgraded.

Pennsylvania, here is a whopper, 47,000 jobs are lost in Pennsylvania under Clinton-Gephardt, 2,453,000 jobs are downgraded; Rhode Island, 3,800 jobs lost, 202,000 jobs downgraded; South Carolina, 12,000 jobs lost, 681,000 downgraded; South Dakota, 1,700 jobs lost, 103,000 jobs downgraded under the Clinton-Gephardt health care plan.

Tennessee, 19,000 jobs lost, 987,000 jobs downgraded; Texas, 55,000 jobs lost, 3 million jobs are downgraded. No wonder Texans, Democrat and Republican, have not been happy about this brand of socialized medicine.

Utah, 5,000 jobs lost, 309,000 jobs downgraded; Vermont, 1,800 jobs lost, 102,000 jobs downgraded; Virginia, 21,000 jobs lost, 1.2 million jobs downgraded.

Washington, 16,000 jobs lost, 936,000 jobs downgraded; West Virginia, 4,000 jobs lost, 238,000 jobs downgraded; Wisconsin, 19,000 jobs lost, 1,100,000 jobs are downgraded under the Clinton-Gephardt health care plan. We end up with Wyoming, 930 jobs lost, 60,000 jobs downgraded.

Mr. Speaker, it is clear that this administration and a few Members on the Democrat side are willing to sacrifice American jobs for Government control of health care.

Mr. Speaker, I did not give the figures of jobs that are going to be lost under so-called Clinton-Mitchell, but I would say that it is not going to be much less than the jobs that are lost under Clinton-Gephardt, which are close to 1 million jobs, and there are a couple of other things about the Mitchell plan, the Clinton-Mitchell plan, that I think are important to talk to the American people about.

Mr. Speaker, I want to quote the author of the plan, Senator MITCHELL, July 21, 1994. He said these words: "Our plans will be less bureaucratic," he said this, "more voluntary, and will be phased in over a longer period of time."

Let me just read to you a few of the 50 new Government agencies that we are going to establish if we pass the Clinton-Mitchell health care plan. Ready to go? Fifty new bureaucracies.

He said this is going to be less bureaucratic and more voluntary. Let me tell you about a few of the nonvoluntary bureaucracies which are going to be employing hundreds of thousands of new Federal workers.

We are going to have a National Health Benefits Board. That is section 1211. We are going to have the Health Insurance Purchasing Cooperatives set up by States or local governments. That is section 1321.

There will be the Health Insurance Purchasing Cooperative set up by the Federal Office of Personnel Management, section 1341. We are going to have a National Guaranty Fund for Multi-State Self-Insured Plans.

We are going to have an assistant secretary for the Office of Rural Health Policy. We are going to have a Federal Accreditation, Certification and Enforcement Program. That is going to be called ACE.

We are going to have a State Accreditation, Certification, and Enforcement Program under section 1501. We are going to have a Health Plan Service That is under section 1502.

We are going to have State Risk Adjustment Organizations. That is section 1504. We are going to have an Advisory Committee for Risk Adjustment Programs, section 1504.

We are going to have State Guaranty Funds. That is section 1505. We are going to have State Public Access Sites for Medically Underserved Areas, 1508. We are going to have the Prescription Drug Payment Review Commission, that is section 2004.

Incidentally, Mr. Speaker, let me just say with respect to drugs and the cost of medicines in America, the reason you don't want to have socialized medicine in America is this: An interesting fact that a lot of Americans discovered after the First Lady and the President went on their binge against the companies that develop medicines and cures, we discovered—and this was a surprise to me, and I think to a lot of our constituents across the country, but it is a fact—the United States of America develops more cures for diseases than all the rest of the nations of the world combined.

Isn't that incredible? That means you take Great Britain, France, Germany, Canada, all the rest of these civilized nations, and Third World nations, and you add them all up, and the good old United States of America, that has what the Democrat leadership calls this backward system, produces more cures that save the lives of your family and families around the world that all the rest of these so-called progressive nations, remember, Cuba is in that group, too, combined.

Why do we produce more cures than all the rest of the nations combined? I would submit it is not because Japan does not have great universities, and probably some pretty smart people; it is not because France and Great Britain do not have good universities. It is because none of them have the free enterprise system that we have.

Mr. Speaker, I have a gentleman in San Diego, a friend of mine named Bill Otterson, who suffers from a fairly rare disease. He and some other folks told me about a drug called Intron-A. Intron-A tells you why you do not want to pull the free enterprise system out of the development of medicine.

□ 2120

Intron-A costs $100 million to develop and when they first put it together, when they first took a chance on it and decided to burn up $100 million and bet that it would be a winner, they knew that there was only a small group of Americans initially who would be able to access or use that drug, and that was this very small pool of people who have what is known as hairy cell leukemia, a very unique type of leukemia. There are only about 1,000 folks in the United States who have that brand of leukemia. Yet a group of private investors put $100 million forward to develop this drug called Intron-A. They knew that initially it would take care of folks that had hairy cell leukemia. Of course those folks were pretty happy it was being developed. But they thought it also might, if it succeeded and if their gamble paid off, be able to address 17 or 18 other types of diseases. They were right. Today Intron-A is used to treat about 17 or 18 major diseases. It is a big success. It brings in about $500 million a year to the United States from countries all over the world that use it. It was dropped because we have a free enterprise system. All those people, including people like Bill Otterson who are themselves afflicted with these medical diseases that are treated by these miracle drugs say, "Please don't socialize medicine" because if Mrs. Clinton, respectfully, had been around to tell the Intron-A people, "If you develop Intron-A and put $100 million of your own money into it, I am only going to let you charge $1 a pill when you develop it," would it ever have been developed? Would the people who have hairy cell leukemia ever have had a chance to be cured or helped? Would Bill Otterson and the other hundreds of thousands who now use Intron-A to save their lives have a chance to have it? Absolutely not.

Mr. Speaker, the consensus of the medical community, including experts from places likes Johns Hopkins and other great medical centers is, if we socialize medicine and the creation of new medical cures, what the companies will do is simply this: They will go to a system in which they do not take any medical risks, because nobody is going to go out and put $50 million into a drug that you can only get $1 a pill for. So what they will do is they will take our present inventory of drugs and they will incrementally increase the capability of those drugs. They will try to research them a little bit and make them a little bit better, but they will never go out there and try to whip that new disease that nobody has beaten so far. They will not find a cure for cancer. They will not find any of the wonderful cures that America has found under freedom. it is kind of interesting, is it not?

A person does not have to be a wealthy person to understand how very, very important it is to have a free enterprise system in which people go out and take a risk and having taken a risk, they develop a system that saves lives by the thousands, by the tens of thousands, by the millions.

Mr. Speaker, I see my friend, the gentleman from Maryland has come to the floor and I would be happy to yield to him if he wants me to yield.

Mr. HOYER. Mr. Speaker, I thank my friend for yielding.

Mr. Speaker, I was working in my office and happened to see his discourse and, of course, there is nobody else on the floor, so there was not an opportunity for somebody perhaps to give the gentleman a question.

The gentleman referred to the Clinton plan as socialized medicine. He then referred to the Gephardt plan as well, as if they were the same. But in any event, would my friend describe for me what he perceives to be socialized medicine?

Mr. HUNTER. I would be happy to describe it.

In the first Clinton plan that was initiated——

Mr. HOYER. I am not asking the gentleman about the Clinton plan at this point in time. What does my friend describe socialized medicine as being?

Mr. HUNTER. My answer to my friend is it is a system in which not only is the medical service itself controlled, which is a pure socialized medicine that is practiced in some other places, but also a system in which the financing of the medical system is controlled.

If the gentleman would listen, I had read about 10 of the various new Federal Government agencies that will control medicine under the plan that is being developed by the Democrat leader in the Senate.

I think at least what I have seen of the Gephardt-Clinton plan is we are going to have a lot of government agencies helping to run that plan. So my answer to the gentleman is it is a system in which the financing— -

Mr. HOYER. Does the gentleman believe that Medicare is a socialized system?

Mr. HUNTER. I think it is a small piece of a socialized system, yes.

Mr. HOYER. Would my friend be in favor of eliminating Medicare?

Mr. HUNTER. No, I would not.

Mr. HOYER. So the gentleman likes a little bit of socialized medicine?

Mr. HUNTER. No, I would say to the gentleman who says that Medicare is a little bit of socialism——

Mr. HOYER. I did not say that.

Mr. HUNTER. Mr. Speaker, I am going to take my time back and I am going to answer my friend freely, and I am going to allow him to answer me freely.

To the gentleman and others who would say that Social Security is a little bit of socialism and that Medicare is a little bit of socialism, my answer to them would be that we have built a system around that and we now have built thousands and millions of Americans who now have, for better or for worse, become part of those programs, who have put their money in, and who now feel that they have a contract with government that took money that they might have better used in other programs and that those people are now locked into those programs.

I would submit to my friend that that is not a rationale for now creating a new Medicare Type C which the Gephardt-Clinton plan does, which will now bring almost 50 percent of the American population under Medicare.

So my answer to my friend is no. The fact that we have a Medicare program, which incidentally my friend knows that the costs are going up fairly radically in that program and that people have paid their money and many Americans feel they now have a contract.

How many times has the gentleman had a senior citizen said, "You know, if you had let me keep my money and do something else with it"—whether it is Social Security, Medicare, or other things—"I could have done a lot better than government did for me. But since you did it, I want mine"?

Mr. HOYER. If my friend would yield, I have never had anybody on Medicare tell me that. I have heard that on Social Security, where they thought they could have put it into an annuity program, but I have frankly never had anyone tell me that on Medicare. But let me ask the gentleman a question——

Mr. HUNTER. Before my friend asks me a question, let me ask him a question.

Is the gentleman saying that because Medicare exists and is part of our system now—and the gentleman is a Democrat leader, he is a distinguished member of the leadership, he has been through this analysis in which he has seen that there are a lot of problems in Canada, there are a lot of problems in Great Britain with rationing, there are problems in Canada where they have run out of money. I am sure the gentleman read The Washington Post that the biggest hospital in Ontario ran out of money.

Does the gentleman think the fact that we have a Medicare system and it is a small part of our health care now, is a reason to extend it or to extend government control to the entire system?

Mr. HOYER. Let me say, that is a major part——

Mr. HUNTER. The gentleman asked me a question. I want to ask it back to him.

Mr. HOYER. I understand, and I am going to answer.

I would say to my friend, the reason I came over here, the gentleman talked very glibly about socialized medicine

VOL 140 PT 15 AG 10 — 11 1994 UMI

and very frankly, opponents of this bill are going around the country scaring people with socialized medicine. We do have socialized medicine as the gentleman knows in this country.

Mr. HUNTER. First I want to take my time back for a second and just say this to my friend who is a member of the Democrat leadership. The Clinton I plan was not killed by a Republican. As the gentleman knows, they outnumber us by 100 votes in this House. It was killed by members of his caucus, Democrats, who went home and talked to their people who initially when they heard about health security said, "Hey, we're for that." When his people read the bill, they did not like it.

Mr. HOYER. So the gentleman's proposition is that the Clinton I plan was killed?

Mr. HUNTER. Mr. Speaker, I am reclaiming my time. The gentleman will have to suffer that. I have suffered that with him many times in our debates over the years.

Reclaiming my time, your voters read the bill. They read the first Clinton bill and they came back and told the gentleman, "As a Democrat, I don't like it."

When the first Clinton plan——

Mr. HOYER. So the gentleman's proposition is the Clinton plan is dead?

Mr. HUNTER. Let me finish my statement and I guarantee I will let my friend answer.

When the first Clinton plan came up for a vote in the House Committee on Ways and Means, I understand that not a single Democrat Congressman voted for it. So that was not a result of Republicans glibly scaring people, that was a result of people reading the plan and being scared because of what it did to them.

Mr. HOYER. If the gentleman will yield, I appreciate the fact he says the Clinton plan was killed. My point is this, though: We ought to have an honest debate about this. No American, or very few, are looking for socialized medicine. I would suggest to my friend that we do have a form of socialized medicine in America as my friend knows.

□ 2130

That is the health care that is given to our members of the armed services in the sense the hospitals are owned by the Government, the doctors work for the Government, and the members of the military go to the doctors who are available to them.

I do not criticize that system. It is, however, I would suggest to my friend, in the classic sense a socialized system because the doctors work for the Government, the nurses work for the Government, the technicians in the hospital work for the Government, and the hospital itself is owned by the Government, and that is socialized medicine, that is Government delivery of health services.

What concerns me, and I know the gentleman does not want to do this, is that we mislead the American people. There is nothing in either Clinton I, or the Gephardt plan, or the Mitchell plan which suggests that the doctors work for the Government. There is nothing that suggests that the hospitals be bought by the Government and in effect socialize, if you will. There is nothing to suggest that in fact the choice of the citizens will be restricted in their doctor or hospital by any of the plans that I know of and, therefore, I think if we are going to be honest in terms of our debate with the American public, we can differ, and the gentleman can take positions and say I do not like this proposal, but to characterize it as socialized medicine, I would suggest to my friend, is simply inaccurate by any proper definition of what socialized medicine is.

In fact, Medicare, I would suggest to my friend, from my perspective is not socialized medicine. It is, he is correct, as single-payer system where the Government collects money and pays the medical providers. But as my friend knows, those on Medicare choose their doctors who work for themselves, who work for an HMO or work for a hospital. They choose their hospital, not owned by the Government. In fact, it is a reimbursement to the private sector. And I would suggest further to my friend the fact that we have had that medical insurance system for our senior citizens has not only given them a much healthier environment and much healthier population for senior citizens, it has also done some of the things that my friend was talking about in terms of allowing sufficient funds in the system to provide for research, to provide for innovation, to provide for entrepreneurship.

So I would suggest to my friend that this plan is very much like in many respects a plan that already works.

Mr. HUNTER. I thank my friend for his statement and I want to reclaim my time and address his first statement.

The care that is given to members of the Armed Forces, I would suggest, is not socialized medicine for a very simple reason. If the gentleman watched, as I did, our troops who went ashore at Normandy into that hail of bullets, or watched some of the deprivations that have taken place in the Somalia situation before that, Desert Storm before that, and many, many military operations, military people who sign up for a contract with their employer, who happens to be Uncle Sam, he is not an employer down the street getting something for signing up.

Mr. HOYER. I am not criticizing.

Mr. HUNTER. I am not yielding to the gentleman.

Mr. HOYER. You are taking it as a criticism. I am not criticizing at all.

Mr. HUNTER. I am not saying the gentleman is criticizing the military, but I want to make the point, and I would not want the gentleman to interrupt me.

The point is that people who serve in the armed services give something for their medical care. They give service to their country.

Mr. HOYER. Nobody questions that. It is the same kind of thing, the reason I came over here. Nobody questions that.

Mr. HUNTER. I ask for regular order.

The SPEAKER pro tempore (Mr. CLYBURN). The time is controlled by the gentleman from California.

Mr. HUNTER. I just want to make this point that the gentleman said you could describe that as socialized medicine. I do not describe that as socialized medicine because people who serve their country have given to their employer, they have made a contract with them, and they have received something in return.

A very important question was asked during the debate that we had on health care, the Oxford-style debate. The question was asked of one of the gentleman's side of the aisle, and this was when the first Clinton health care plan came up, and I want to ask the gentleman about it. They said what if you have somebody who says, "I ain't working. I refuse to work and I want to lounge around, and I want to watch television, and I want free health care"? The question was never answered. So does that person get health care under Clinton I? The question was never answered.

That person to me is a different person from a person who joins the military and serves their country under a contract. I would just ask the gentleman the same question that was asked during the Oxford debates concerning Clinton I. In Clinton II or the Gephardt plan that we are now talking about, what happens there to somebody who says, "I simply want health care. I want to sign up and have free health care, and I don't intend to work for it, and I don't intend to pay for it." What happens to that person, and I yield to the gentleman.

Mr. HOYER. Frankly, my opinion is that as we adopt welfare reform and health care reform, which are going to be very closely intertwined, as the gentleman knows, that that person ought not to get health care. Very frankly, what the President has said, what we believe on this side of the aisle is those who play by the rules ought to be able to participate in the system. In my opinion, that person is not playing by the rules.

Mr. HUNTER. Let me answer that point and then I will yield to the gentleman for a second statement.

I looked through the first Clinton plan to look for the answer to that question. If somebody says, "I just want to be lazy and I want free health care," what would he do? I cannot find

a provision that says that they do not get health care. I just want to ask the gentleman, I have not read a provision in the Gephardt-Clinton plan yet that says that that person will not be served. Has the gentleman got an answer? Is there a provision denying that coverage to a person who simply refuses to work?

Mr. HOYER. Frankly, I do not have the answer to that question, but I will get it so I can point to the provision.

But again, let me reiterate on that aspect. Under welfare reform, as the President has proposed it, and as I hope we pass it, it is going to say to people, first of all, if you just want to sit around, if you want to not work and you are able, and you want to be lazy, you are off the system, you are not playing by the rules, and we are not going to support you. Hardworking Americans ought not to be supporting people like that, and frankly, it ought to tie into health care.

Having said that, let me go back to the central question, because the gentleman tried to say oh, we are for the military. I am a strong supporter of the military as the gentleman knows. Under the Reagan administration I was a strong supporter of the buildup.

Having said that, I am not questioning the validity of a program which offers to our men and women in the armed services health care. They ought to have it, and we send them to places where they cannot access it. So what we do is we provide it.

But my suggestion of the gentleman, and he wants to avoid I fear the question because he would much prefer to politically tell the American public that what we are proposing is a socialized system, but it is not. My point is that by any fair definition, a socialized system is a system in which the government owns either the means of production or the means of the delivery of the service. Clinton I did not propose it, GEPHARDT is not proposing it and MITCHELL does not propose it, and it is not accurate for the gentleman to tell the American people on one of the most important issues that confront them as a people, I suggest to you, as families and individuals that we are proposing or that people are proposing a socialized system. That simply is not true.

Mr. HUNTER. I thank the gentleman for his statement. I am going to have the last word and then yield to the chairman of the Rules Committee.

My last statement is this: The gentleman left out one category of socialization, and that is the socialization of the means of financing. I would simply submit to my friend that under Clinton I, Clinton II, or Clinton III, meaning Clinton-Gephardt or Clinton-Mitchell, the means of financing is controlled by Government and is socialized. Even though the doctors are private ostensibly and are hired in a private capacity, the means of financing the system is socialized.

I yield briefly to the gentleman.

Mr. HOYER. I thank the gentleman. He does control the time and he has given me the time to have this discourse with him, which hopefully will be helpful to the American public, who will ultimately have to make this decision and tell us what they think. The fact is insurance companies, private sector insurance companies will continue to be involved in the system of selling insurance to employers and employees and individuals involved in the system.

Yes, the gentleman is correct. The Medicare Part C provides for those in some respects who cannot afford insurance or employers and employees who choose the Part C aspect. But the fact is we do not replace the private sector insurance.

Mr. HUNTER. I would suggest to my friend that the private sector is used by Government in this sense by making business pay for this plan by the 80–20 split, or what you might call the 50–50 split in the Mitchell plan. By forcing that payment they are using what otherwise would be funds of private people just as surely as if they took them out of general revenues and ran the plan themselves.

□ 2140

So in my estimation, the financing of the system is a socialized method of financing, very clever, very subtle, has exactly the same affect, and with that, I have enjoyed this exchange of views with my friend from Maryland, and I will defer to the chairman of the Committee on Rules.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4908, HYDROGEN AND FUSION RESEARCH AND DEVELOPMENT PROGRAMS AUTHORIZATION ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–695) on the resolution (H. Res. 515) providing for consideration of the bill (H.R. 4908) to authorize the hydrogen and fusion research, development, and demonstration programs, and the high energy physics and nuclear physics programs, of the Department of Energy, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3433, TO PROVIDE FOR THE MANAGEMENT OF THE PRESIDIO

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–696) on the resolution (H. Res. 516) providing for consideration of the bill (H.R. 3433) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–697) on the resolution (H. Res. 517) waiving points of order against the conference report to accompanying the amendments of the House to the amendment of the Senate to the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety, which was referred to the House Calendar and ordered to be printed.

DO NOT SOCIALIZE HEALTH CARE

THE CONFERENCE REPORT ON THE CRIME BILL

Mr. HUNTER. Mr. Speaker, I yield to the distinguished gentleman from New York [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me a little time to perhaps explain that one of the reports that was just presented by the chairman of the Committee on Rules, my distinguished friend from Boston, MA, was a report that will bring the rule for the crime conference report to the floor as early as the second item on the agenda before the House tomorrow morning.

This rule, I am sorry to say, waives all points of order against everything that is in the bill including scope, which means many of the Members are very much concerned about what still remains in the bill or what has been added to the bill since it left this House and went to conference.

According to press reports from many newspapers, there have been many items added to the bill which Members are not aware of. It is a 972-page bill, and the bill Members are going to be forced to vote on—that crime conference report—by probably about noontime tomorrow, since we are limited to just 1 hour of debate on this conference report.

I am very much concerned about it. I am told that the bill as it is being presented to us tomorrow will repeal minimum mandatory sentences for people who have committed crimes with guns, yet in the same bill, it will take away the guns of law-abiding citizens. If that

VOL 140 PT 15 AG 10 — 11 1994 UMI

is the case, we need to know what is in the bill.

Mr. HUNTER. The gentleman has mentioned something that is a very critical aspect of this conference bill, that the American people, when they see it, become enraged about. During the drug wars, and the gentleman was one of the leaders fighting to get tough on drugs a couple of years ago, as was the gentleman from California [Mr. DREIER], the gentleman from Pennsylvania [Mr. WALKER], and we enacted what are known as mandatory minimum sentences on drug traffickers. That means when people came across international borders with backpacks full of cocaine for our children, we got tough on them, and we gave mandatory minimum sentences. That means you did not see these guys getting out in 2 years when they were given 10 by the judge or when there was a severe crime with respect to drugs, you did not give them 5 months or 6 months. You gave them a real sentence.

What we are doing now is repealing mandatory minimum sentences for these drug carriers, and when the President signs this thing, my estimate is 10,000 to 16,000 drug criminals are going to be released on the street.

I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER. I thank my friend from San Diego for yielding.

I would like to respond to an argument that was made upstairs in the Committee on Rules, and we will continue to hear tomorrow. We have heard it, frankly, since the President first started talking about it. He said we are going to get 100,000 police officers onto the street with this crime bill. That sounds fantastic, sounds wonderful.

Well, one of the staff members from the Committee on the Judiciary told me, and the source for this was a survey that was done nationwide in metropolitan areas throughout the country, that the average cost per police officer is $63,000 a year. Now, that is for everything that is involved, not just salary. And yet this bill provides, if the funding is actually there, $14,700, and based on those figures, less than a quarter of the number that has been promised of this great 100,000 out there that police chiefs and mayors around the country have been promised will actually be provided.

It seems to me that if we look at how shallow these figures are that have been given to us, just on that one case, that we will hear time and time again tomorrow, 100,000 police officers out there, I think it is important for us to actually look at these figures.

It is a very unfortunate thing, and, as the gentleman from New York [Mr. SOLOMON], was saying, this rule waives all points of order.

Now, when we had asked the chairman of the Committee on the Judiciary when he testified before us on this conference report, which we just got about 2 hours ago provided to us, and he had not even seen it at that point, because it just recently had been printed, we asked him what kinds of points of order are being waived, and he said that he did not know, and even if he did know, he would not tell us.

Now, that seems to be a real slap in the face at our Committee on Rules, and I believe a very unfortunate precedent as we try to deal with responsible legislation.

I know my friend from East Petersburg, PA, has a sneaking suspicion of what just one of those points of order that are waived in this rule for the conference report to come up, and I think I might like him to enlighten our colleagues on that.

Mr. HUNTER. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I was disturbed. I sat through a fairly contentious Committee on Rules meeting listening to all of this and was disturbed to hear that at the hearing held by the committee the chairman of the Committee on the Judiciary refused to detail what the points of order are that we are going to be waiving in tomorrow's bill, and so we have absolutely no idea what these points of order are that are being waived. One of them is going to be on the question of scope, and one of the things we know is out of scope is a $10 million pork-barrel project going into the District of the chairman of the Committee on the Judiciary.

We do not know what else may be down in there. I can understand why the chairman of the Committee on the Judiciary would not want to tell us some of the items that are out of scope when, in fact, one of the items is a major $10 million pork-barrel project going into his district.

If this is what this bill has been larded up with, the fact is the American people ought to have a better idea that we are going to have by tomorrow just what is in it.

I thank the gentleman for yielding. I think it is important we begin the discussion tonight about just how bad what we are going to have on the floor tomorrow may really be.

Mr. SOLOMON. If the gentleman will yield further, my good friend, the gentleman from California [Mr. DREIER], mentioned this bill will create some new police officer jobs, and they are needed.

The fact of the matter is they are temporary, and they are going to be unfunded after a period of a couple of years, and then the local municipalities are going to have to pick up the costs for those police officers.

But the point I was trying to make was that, you know, for every new police officer temporary job this bill creates, it creates two social workers. It creates a spate of new CETA program, and if all of you recall back in the 1970's how we had all of these government-run Federal programs that were a total disaster and were thrown out because they were such a disaster, you know, we do not want to go back to that.

I mentioned upstairs, why are liberals who always vote against tough crime bills for this bill, and why are conservatives who always vote for tough crime bills, why are they opposed to this bill? It is because it is a bad bill, that is soft on crime and is filled with pork-barrel largesse. That is why we need to defeat this rule and bring back our bill that is really tough on crime.

I really thank the gentleman for giving us a few minutes of his time.

Mr. HUNTER. I thank the gentleman.

I know we have Border Patrol men in this bill on an amendment I offered along with the gentleman from California [Mr. MOORHEAD] and the gentleman from California [Mr. DREIER] and the gentleman from California [Mr. CUNNINGHAM], and we got a large number of Border Patrol men in the bill. That is important to us, but I will say to my friends I do not think that I can look my constituents in the eye and tell them I voted for a bill that is going to release 10,000 to 16,000 drug dealers back on the street with this retroactive repeal of mandatory minimum sentences.

I know we have just a second here. I want to yield to my friend again, the gentleman from California [Mr. DREIER].

Mr. DREIER. I think that is a very important point. We all want to deal with the problem of those who are committing crimes, crossing the border, and those coming into this country illegally. The fact of the matter is they made an attempt to engage in a political grab bag to try and get the support from virtually everyone. It is a bill that they are trying to make as all things to all people, and I know that we are not going to support it on this side, and the rule itself is a crime.

□ 2150

Mr. HUNTER. Mr. Speaker, I thank the gentleman from California [Mr. DREIER], and I am going to conclude my special order and simply hold up the list of some 50 new Government agencies that are going to be developed under this so-called free enterprise health care plan that the majority leader in the Senate will be offering, the Mitchell-Gephardt bill. We will talk more about that tomorrow.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

Mrs. BENTLEY, for 5 minutes, today.

Mr. KOLBE, for 5 minutes, today and August 11.

Mr. KINGSTON, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today.

Mr. CUNNINGHAM, for 5 minutes, today.

(The following Members (at the request of Mr. MENENDEZ) to revise and extend their remarks and include extraneous material:)

Mr. MENENDEZ, for 5 minutes, today.

Mr. BARRETT of Wisconsin, for 5 minutes, today.

Mr. SWIFT, for 5 minutes, today.

Mr. KREIDLER, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. HOAGLAND, for 5 minutes, today.

Mr. BARCA of Wisconsin, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. BALLENGER.

Mr. GOODLING.

Mr. PACKARD.

Mr. KOLBE.

Mr. LEWIS of Florida.

Mr. SOLOMON.

Ms. SNOWE in two instances.

Mr. CRANE.

Mr. EHLERS.

Mr. LEWIS of California.

The following Members (at the request of Mr. MENENDEZ) and to include extraneous matter:)

Mr. FRANK of Massachusetts.

Mr. UNDERWOOD.

Mr. HAMILTON.

Mrs. MEEK of Florida.

Mr. COOPER.

Mrs. COLLINS of Illinois.

Mr. TORRES in two instances.

Ms. WOOLSEY.

Mr. LEHMAN in two instances.

Mr. REED.

Mr. APPLEGATE.

Mr. GEJDENSON.

Mr. KLEIN.

Mr. HALL of Texas.

Mr. TUCKER in two instances.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that the committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1631. An act to amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia;

H.R. 2739. An act to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes; and

H.R. 4429. An act to authorize the transfer of naval vessels to certain foreign countries.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled Joint Resolution of the Senate of the following title:

S.J. Res. 204, Joint Resolution recognizing the American Academy in Rome, an American overseas center for independent study and advanced research, on the occasion of the 100th anniversary of its founding.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 51 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, August 11, 1994, at 11 a.m.

EXECUTIVE COMMUNCIATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3665. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Italy for defense articles and services (Transmittal No. 94-34), pursaunt to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3666. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Thailand for defense articles and services (Transmittal No. 94-50), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3667. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Japan for defense articles and services (Transmittal No. 94-38), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3668. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Italy for defense articles and services (Transmittal No. 94-35), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3669. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Japan for defense articles and services (Transmittal No. 94-37), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3670. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Japan for defense articles and services (Transmittal No. 94-39), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3671. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Japan for defense articles and services (Transmittal No. 94-40), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3672. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Japan for defense articles and services (Transmittal No. 94-41), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3673. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the United Kingdom for defense articles and services (Transmittal No. 94-42), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3674. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to the Netherlands for defense articles and services (Transmittal No. 94-45), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4867. A bill to authorize appropriations for high-speed rail transportation, and for other purposes; with an amendment (Rept. 103-692). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4868. A bill to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that Act, and for other purposes; with an amendment (Rept. 103-693). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee of Conference. Conference report on H.R. 3355. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety (Rept. 103-694). Ordered to be printed.

Mr. GORDON: Committee on Rules. House Resolution 515. Resolution providing for consideration of the bill (H.R. 4908) to authorize the hydrogen and fusion research, development, and demonstration programs, and the high energy physics and nuclear physics program, of the Department of Energy, and for other purposes (Rept. 103-695). Referred to the House Calendar.

Ms. SLAUGHTER: Committee on Rules. House Resolution 516. Resolution providing for consideration of the bill (H.R. 3433) to provide for the management of portions of the Presidio under the jurisdiction of the

VOL 140 PT 15 AG 10 — 11 1994 UMI

Secretary of the Interior. (Rept. 103–696). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 517. Resolution waiving points of order against the conference report to accompany the amendments of the House to the amendment of the Senate to the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety (Rept. 103–697).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. UNDERWOOD (for himself, Mr. DE LUGO, Mr. FALEOMAVAEGA, Mr. MURPHY, Ms. NORTON, and Mr. ROMERO-BARCELÓ):

H.R. 4927. A bill to provide for a nonvoting delegate to the House of Representatives to represent the Commonwealth of the Northern Mariana Islands; to the Committee on Natural Resources.

By Mr. BALLENGER (for himself, Mr. GOODLING, Mr. FAWELL, and Mr. BARRETT of Nebraska):

H.R. 4928. A bill to amend the Individuals with Disabilities Education Act to improve the individualized education program, to increase parental participation in the development of the improving information about the special education program, to provide for the establishment of mediation procedures relating to services provided to children under that act, and for other purposes; to the Committee on Education and Labor.

By Mr. BROWN of Ohio:

H.R. 4929. A bill to amend the Public Health Service Act to establish a program of demonstration projects to provide outreach services regarding the utilization of health benefits under Federal, State, and local programs; to the Committee on Energy and Commerce.

By Ms. SNOWE:

H.R. 4930. A bill to amend the Magnuson Fishery Conservation and Management Act to authorize the Secretary of Commerce to prepare fishery management plans and amendments to fishery management plans under negotiated rulemaking procedures; to the Committee on Merchant Marine and Fisheries.

H.R. 4931. A bill to strengthen protection of the natural resources of the Gulf of Maine through greater cooperation and coordination between Federal agencies and the Gulf of Maine Council on the Marine Environment, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 4932. A bill to amend the Magnuson Fishery Conservation and Management Act to require the Secretary of Commerce to prepare conservation and management measures for the northeast multispecies—groundfish—fishery under negotiated rulemaking procedures; to the Committee on Merchant Marine and Fisheries.

By Mr. SWIFT:

H.R. 4933. A bill to amend the Solid Waste Disposal Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ARCHER:

H.R. 4934. A bill to restore immigration to traditional levels by curtailing illegal immigration and imposing a ceiling on legal immigration; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. JOHNSTON of Florida:

H.R. 4935. A bill to provide that recipients of export promotion assistance should meet certain requirements; jointly, to the Committees on Foreign Affairs and Energy and Commerce.

By Mr. REED (for himself, Mr. SENSENBRENNER, Mr. SYNAR, Mr. ROSE, Mr. GEKAS, and Mr. ZELIFF):

H.R. 4936. A bill to amend title 17, United States Code, to exempt business establishments from copyright fees for the public performance of nondramatic musical works by television and radio sets, to exempt certain choral groups from paying copyright fees, to provide for court-annexed arbitration in royalty disputes involving performing rights societies, and to ensure computer access to music repertoire; to the Committee on the Judiciary.

By Mr. GUTIERREZ:

H.J. Res. 400. Joint resolution to designate October 20, 1994, as "Leyte Landing Day"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SHAW introduced a bill (H.R. 4937) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Fifty One;* which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 24: Ms. SNOWE.
H.R. 291: Mr. PAXON, Mr. MCINNIS, and Mr. STEARNS.
H.R. 300: Mr. MANTON.
H.R. 627: Mr. KLINK.
H.R. 799: Mr. PACKARD.
H.R. 1171: Mr. GUTIERREZ.
H.R. 1671: Mr. BARLOW.
H.R. 2292: Mr. DEUTSCH.
H.R. 2488: Mr. COLEMAN.
H.R. 2708: Mr. DICKEY and Mr. LEWIS of Kentucky.
H.R. 2803: Mr. PAYNE of Virginia, Mr. RIDGE, Mr. CHAPMAN, and Mr. DARDEN.
H.R. 2873: Mr. TOWNS, Mr. SCHIFF, and Mrs. VUCANOVICH.
H.R. 3059: Mr. LANTOS.
H.R. 3271: Mrs. MALONEY.
H.R. 3320: Mr. KINGSTON, Mr. EMERSON, and Mr. SCHAEFER.
H.R. 3392: Ms. SNOWE.
H.R. 3397: Mr. BEILENSON.
H.R. 3458: Mr. ZELIFF.
H.R. 3475: Mr. HOKE.
H.R. 3661: Mr. ISTOOK.
H.R. 3739: Mrs. BYRNE, Mr. GALLEGLY, and Mr. BACCHUS of Florida.
H.R. 3762: Mr. LIPINSKI.
H.R. 3820: Mr. OWENS.
H.R. 3885: Mr. TORKILDSEN, Mr. SERRANO, Mr. YATES, and Mr. GUTIERREZ.
H.R. 3906: Mr. STUPAK.
H.R. 4050: Mr. FIELDS of Louisiana.
H.R. 4116: Ms. MOLINARI, Ms. SLAUGHTER, and Ms. VELAZQUEZ.
H.R. 4200: Mr. BROWN of Ohio, Mr. FINGERHUT, and Mr. MANN.
H.R. 4291: Ms. FURSE, Mr. HOEKSTRA, Mr. STUMP, and Mr. NEAL of North Carolina.
H.R. 4412: Mr. GUNDERSON and Mr. TOWNS.
H.R. 4413: Mr. WATT.
H.R. 4514: Mr. ROSE and Mr. ANDREWS of Maine.
H.R. 4557: Ms. PRYCE of Ohio and Mr. BEREUTER.
H.R. 4643: Mr. HANSEN and Mr. MCINNIS.
H.R. 4737: Ms. SHEPHERD.
H.R. 4767: Mr. WATT.
H.R. 4803: Mr. GILMAN, Mr. ANDREWS of New Jersey, and Mr. PASTOR.
H.R. 4805: Mr. LAROCCO, Mr. JOHNSON of South Dakota, Mr. MANZULLO, Mr. INHOFE, Mr. LIGHTFOOT, Mr. CRAPO, Mr. BROWN of Ohio, and Mr. PETERSON of Minnesota.
H.R. 4814: Mrs. COLLINS of Illinois.
H.R. 4840: Mr. CALVERT.
H.R. 4902: Mrs. ROUKEMA.
H.J. Res. 369: Mrs. KENNELLY, Mr. STENHOLM, Mr. LUCAS, Mr. HUTCHINSON, Mr. SMITH of Michigan, Mr. EVERETT, Mr. KNOLLENBERG, Mr. CRANE, Mr. WHITTEN, Mr. ROGERS, Mr. WALSH, Mr. GONZALEZ, Mr. MARTINEZ, Mr. GILCHREST, Mr. NADLER, Mr. RAHALL, Mr. SUNDQUIST, Mr. LAZIO, Mr. FRANK of Massachusetts, Ms. BROWN of Florida, Mr. FROST, Mr. MCNULTY, Mr. UPTON, Mr. GUTIERREZ, Mr. LAROCCO, Mr. QUINN, Mr. TUCKER, Mr. TEJEDA, Mr. KLECZKA, Mr. COSTELLO, Mr. FAZIO, Mr. BACCHUS of Florida, Mr. HOEKSTRA, Mrs. JOHNSON of Connecticut, Mr. JEFFERSON, Mr. KINGSTON, Mr. SANDERS, Mr. GREENWOOD, Mr. FILNER, Mr. MANZULLO, Mrs. COLLINS of Illinois, Mr. STOKES, Mr. GOODLING, Mr. HOUGHTON, Mr. BAKER of California, Mr. ORTIZ, Mr. DE LA GARZA, Mr. MFUME, Mr. EVANS, and Mr. SABO.
H.J. Res. 381: Mr. PARKER, Mr. MEEHAN, Mr. EMERSON, Mr. DELLUMS, Mr. THOMPSON, Mr. CALVERT, Mr. ROMERO-BARCELÓ, Mr. LAFALCE, Mr. JOHNSON of South Dakota, Mr. KASICH, and Mr. HILLIARD.
H.J. Res. 385: Mrs. MALONEY, Mr. SHAYS, Mr. STUDDS, and Mr. OWENS.
H. Con. Res. 69: Mr. SPRATT and Mr. DELLUMS.
H. Con. Res. 148: Mr. PACKARD.
H. Res. 425: Mr. GOSS, Mr. MCCOLLUM, Mr. DORNAN, Mr. BATEMAN, Mr. HASTERT, Mr. SOLOMON, Mr. SHAYS, Mr. LIVINGSTON, Mr. ROYCE, Mr. SCHIFF, and Mr. FISH.
H. Res. 432: Mr. FINGERHUT, Mr. RUSH, and Mr. ANDREWS of Texas.
H. Res. 463: Mr. HILLIARD.
H. Res. 472: Mr. LINDER, Mr. HOKE, Mr. COBLE, and Mr. KIM.
H. Res. 497: Mr. OWENS, Mrs. ROUKEMA, Mr. ENGEL, Ms. PELOSI, Mr. LAZIO, Mr. LAFALCE, Mr. FROST, Mr. FRANK of Massachusetts, Mr. EVANS, Mr. GREENWOOD, Mr. MCNULTY, Mr. UNDERWOOD, Mr. DEUTSCH, and Mr. SHAYS.

AMENDMENTS TO H.R. 3600

AMENDMENT TO H.R. 3600, AS REPORTED OFFERED BY MR. GEKAS OF PENNSYLVANIA

Strike all after the enacting clause and insert the following:

SECTION. 1. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Bipartisan Health Care Reform Commission (in this Act referred to as the "Commission").

(b) APPOINTMENT.—The Commission shall consist of 3 members appointed by the President, 2 members appointed by the Majority Leader of the Senate, 1 by the Minority Leader of the Senate, 2 members appointed by the Speaker of the House of Representatives, and 1 member by the Minority Leader of the House of Representatives. Members shall be appointed on the basis of their expertise and national recognition in the fields of health economics, provider reimbursement, health insurance, health benefits design, and related fields. In selecting members of the Commission, the President shall consult with the Congress.

(c) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(d) VACANCY.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

SEC. 2. RESPONSIBILITIES.

(a) ANALYSES.—The Commission shall—

(1) conduct an analysis of the health care system reforms proposed or enacted by the States,

(2) conduct an analysis of the problems and potential solutions to the Federal health care programs, including the programs under titles XVII (medicare) and XIX (medicaid), and the Veterans health programs, and

(3) make recommendations on additional reforms that the Congress may want to consider in response to the findings of the analyses.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commission shall submit a report to the Congress on the state of health care in the United States. Such report shall include analyses of the following issues:

(1) The rate of growth in health care costs by type of provider, by type of payer, and by State.

(2) The success or failure of the private and public sectors in keeping their costs within the Gross Domestic Product Deflator (an inflation indicator).

(3) The utility of various mechanisms to empower purchasers of health care with information about comparative cost, quality, and access, including the effect of such information on patient's behavior in the medical marketplace.

(4) The success or failure of different types of group health plans, such as medical savings account/catastrophic insurance plans, managed care plans, voluntary cooperative plans, and traditional indemnity plans in cost, quality, and access.

(5) The success or failure of various Medicaid reform proposals, including privatization through managed care, voucherization, and government cost controls.

SEC. 3. CONSIDERATION OF RECOMMENDATIONS.

(a) IN GENERAL.—If the recommendations of the Commission under section 2 are accompanied by a statement provided by the Director of the Congressional Budget Office that the recommendations would not increase the deficit, the recommendations shall be considered in accordance with this section.

(b) PROCEDURE.—The following procedure shall apply to recommendations:

"(1) REFERRAL AND INTRODUCTION.—The recommendations shall be referred to the committees with jurisdiction over the matters in the recommendations and the chairmen of such committees shall introduce a bill, within 20 days of the receipt of such recommendations, which carries out such recommendations.

(2) COMMITTEE CONSIDERATION.—If any committee to which a bill introduced under paragraph (1) is referred has not reported the bill at the close of the 45th day since its introduction, such committee shall be automatically discharged from further consideration of the bill and it shall be place on the appropriate calendar.

(3) OPEN RULE.—The Committee on Rules shall provide an open rule for consideration of a bill introduced under paragraph (1). If such a bill differs from the recommendation of the Commission, the Committee on Rules shall provide that the recommendation of the Commission shall be considered as an amendment in the nature of a substitute for such bill. Debate shall not be limited.

(4) SENATE CONSIDERATION.—If a bill introduced under paragraph (1) is a revenue raising bill, the Senate shall be given an additional 15 days following passage by the House for consideration in Committee and an additional 15 days for consideration by the Senate.

Amendment to H.R. 3600
Offered by Mr. Gephardt of Missouri

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF TITLES AND SUBTITLES.

(a) SHORT TITLE.—This Act may be cited as the "Guaranteed Health Insurance Act of 1994".

(b) TABLE OF TITLES AND SUBTITLES IN ACT.—The following are the titles and subtitles contained in this Act:

TITLE I—UNIVERSAL COVERAGE AND SHARED RESPONSIBILITIES
Subtitle A—Universal Coverage and Individual Responsibilities
Subtitle B—Employer Responsibilities
TITLE II—INDIVIDUAL AND EMPLOYER RESPONSIBILITIES
Subtitle A—Individual Responsibilities
Subtitle B—Employer Responsibilities
TITLE III—BENEFITS
Subtitle A—Guaranteed National Benefit Package
Subtitle B—Coverage of Outpatient Prescription Drugs and Other Changes in Medicare Benefits
TITLE IV—STATE PROGRAMS
Subtitle A—State Single-Payer Systems
Subtitle B—State Managed Competition Programs
Subtitle C—State Provider Reimbursement Systems
Subtitle D—General Rules, Coordination, and Transition
TITLE V—HEALTH PLANS AND COOPERATIVES
Subtitle A—Standards for Carriers and Insured Health Benefit Plans
Subtitle B—Standards for Sponsors and Self-Insured Health Benefit Plans
Subtitle C—Standards for Supplemental Health Plans
Subtitle D—Universal FEHBP
Subtitle E—Consumer Purchasing Cooperatives
Subtitle F—General Provisions
Subtitle G—Transitional Insurance Reforms
TITLE VI—STANDBY COST CONTAINMENT IN THE PRIVATE SECTOR
Subtitle A—National Health Expenditure Estimates
Subtitle B—State Health Expenditure Estimates
Subtitle C—Stand-By Federal Cost Containment
Subtitle D—Maximum Payment Rates
Subtitle E—Administrative and Judicial Review
Subtitle F—National Health Cost Commission
TITLE VII—PUBLIC HEALTH INITIATIVES
Subtitle A—Health Workforce Priorities
Subtitle B—Certain Direct Spending Programs of Public Health Service
Subtitle C—Assistance for Capital Costs of Safety-Net Hospitals
Subtitle D—Other Programs in Public Health Service Act
Subtitle E—Mental Health
Subtitle F—United States-Mexico Border Health Commission
Subtitle G—Comprehensive School Health Education
Subtitle H—Occupational Safety and Health
Subtitle I—Miscellaneous Provisions
TITLE VIII—MEDICARE AND MEDICAID
Subtitle A—Medicare Part C Program
Subtitle B—Benefits for Low-Income Individuals; State Maintenance of Effort
Subtitle C—Cost Containment in the Medicare Programs
Subtitle D—Revisions to Medicare Part A and Part B
Subtitle E—Minor and Technical Medicare Amendments
Subtitle F—Provisions Relating to the Medicaid Program
Subtitle G—Miscellaneous and Technical Medicaid Amendments
Subtitle H—Provision Relating to AFDC Program
TITLE IX—QUALITY AND CONSUMER AND WORKFORCE PROTECTION
Subtitle A—Quality Management and Improvement
Subtitle B—Information Systems and Administrative Simplification
Subtitle C—Fair Health Information Practices
Subtitle D—Remedies
Subtitle E—Fraud and Abuse
Subtitle F—Physician Ownership and Referral
Subtitle G—Workforce Protection and Training
TITLE X—LONG-TERM CARE
Subtitle A—Long-Term Care Program
Subtitle B—Federal Standards for Private Long-Term Care Insurance Policies
Subtitle C—Worker Redeployment in Long-Term Care Programs
TITLE XI—REVENUE PROVISIONS
Subtitle A—Increase in Excise Taxes on Tobacco Products
Subtitle B—Treatment of Employer-Provided Health Care
Subtitle C—Extending Medicare Coverage of, and Application of Hospital Insurance Tax to, All State and Local Government Employees
Subtitle D—Treatment of Organizations Providing Health Care Services and Related Organizations
Subtitle E—Treatment of Accelerated Death Benefits Under Life Insurance Contracts
Subtitle F—Employment Status Provisions
Subtitle G—Tax Treatment of Funding of Retiree Health Benefits
Subtitle H—Excise Taxes on Insured and Self-Insured Health Plans
Subtitle I—Other Provisions
TITLE XII—AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974
TITLE XIII—COORDINATION OF MEDICAL PORTION WORKERS' COMPENSATION AND AUTOMOBILE INSURANCE
Subtitle A—Workers' Compensation Insurance
Subtitle B—Automobile Insurance
Subtitle C—Federal Employees' Compensation Act
Subtitle D—Davis-Bacon Act and Service Contract Act
Subtitle E—Effective Dates

VOL 140 PT 15 AG 10 — 11 1994 UMI

TITLE XIV—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM
Subtitle A—General Changes in Health Benefits for Federal Employees and Annuitants
Subtitle B—Provisions Relating to Universal FEHBP
Subtitle C—Transition Rules
Subtitle D—Post-Transition Provisions
Subtitle E—Miscellaneous Provisions
TITLE XV—DEPARTMENT OF VETERANS AFFAIRS
TITLE XVI—INDIAN HEALTH SERVICE
TITLE XVII—MEDICAL MALPRACTICE AND ANTITRUST REFORMS
Subtitle A—Medical Malpractice
Subtitle B—McCarran-Ferguson Reform

SEC. 2. GENERAL DEFINITIONS.

For purposes of this Act, except as otherwise specifically provided:

(1) AFDC RECIPIENT.—The term "AFDC recipient" means, for a month, an individual who is receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV, of the Social Security Act for the month.

(2) CERTIFIED HEALTH PLAN.—

(A) IN GENERAL.—The term "certified health plan" means a health plan that is certified (or deemed to be certified) as meeting the requirements of subtitle A or B of title V, and, except as otherwise provided, does not include the medicare program or medicare part C.

(B) TREATMENT OF CERTAIN PLANS.—Each of the following is deemed to have been certified as meeting the requirements described in subparagraph (A):

(i) The Civilian Health and Medical Program of the Uniformed Services (as defined in section 1072(4) of title 10, United States Code).

(ii) Any State single-payer system approved under subtitle A of title IV.

(C) CERTIFICATION PROCESS FOR CERTAIN FEDERAL HEALTH PLANS.—For provisions providing for certification of—

(i) health programs of the Indian Health Service (within the meaning of section 901 of the Indian Health Care Improvement Act), see section 5501(b), and

(ii) health plans of the Department of Veterans Affairs, see section 5501(c).

(3) CLASS OF ENROLLMENT.—The term "class of enrollment" means a class for enrollment of families specified in section 3(b).

(4) ELIGIBLE INDIVIDUAL.—The term "eligible individual" has the meaning given such term in section 1001(c).

(5) GUARANTEED NATIONAL BENEFIT PACKAGE.—The term "guaranteed national benefit package" means the package of health benefits described in subtitle A of title III.

(6) MEDICAID PROGRAM.—The term "medicaid program" means a State plan for medical assistance approved under title XIX of the Social Security Act.

(7) MEDICARE PART A BENEFICIARY.—The term "medicare part A beneficiary" means an individual who is entitled to benefits under part A of the medicare program.

(8) MEDICARE PART C.—The term "medicare part C" means the program of health insurance benefits under part A of title XXI of the Social Security Act (as added by section 8001).

(9) MEDICARE PROGRAM.—The term "medicare program" means the programs under title XVIII of the Social Security Act.

(10) SSI RECIPIENT.—The term "SSI recipient" means, for a month, an individual—

(A) with respect to whom supplemental security income benefits are being paid under title XVI of the Social Security Act for the month,

(B) who is receiving a supplementary payment under section 1616 of such Act or under section 212 of Public Law 93-66 for the month,

(C) who is receiving monthly benefits under section 1619(a) of the Social Security Act (whether or not pursuant to section 1616(c)(3) of such Act) for the month, or

(D) who is treated under section 1619(b) of the Social Security Act as receiving supplemental security income benefits in a month for purposes of title XIX of such Act.

(11) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(12) STATE.—The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(13) UNITED STATES.—The term "United States" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and Northern Mariana Islands.

SEC. 3. DEFINITIONS AND RULES RELATING TO FAMILY MEMBERS.

(a) FAMILY DEFINED.—In this Act, unless otherwise provided, the term "family"—

(1) means, with respect to an eligible individual who is not a young dependent, the individual; and

(2) includes the following persons (if any):

(A) The individual's spouse if the spouse is an eligible individual.

(B) The individual's young dependents (and, if applicable, the young dependents of the individual's spouse) if they are eligible individuals.

In this section, the term "young dependent" has the meaning given such term in section 1003(b)(1)(B).

(b) CLASSES OF ENROLLMENT; TERMINOLOGY.—In this Act:

(1) IN GENERAL.—Each of the following is a separate class of enrollment:

(A) Coverage only of an individual (referred to in this Act as the "individual" enrollment or class of enrollment).

(B) Coverage of an unmarried individual and one or more children (referred to in this Act as the "single parent" enrollment or class of enrollment).

(C) Coverage of a married couple and one or more children (referred to in this Act as the "family" enrollment or class of enrollment).

(2) COUPLES ENROLLED IN DIFFERENT PLANS.—In the case of a couple—

(A) without young dependents in which each spouse is enrolled in a different health plan, each spouse is considered to be enrolled in an individual class of enrollment, and

(B) with young dependents in which a spouse is enrolled in one plan and the other spouse and young dependents are enrolled in another plan, the former spouse is considered to be enrolled in an individual class of enrollment and the latter spouse and young dependents are considered to be enrolled in a single parent class of enrollment.

(c) SPOUSE; MARRIED; COUPLE.—In this Act:

(1) IN GENERAL.—The terms "spouse" and "married" mean, with respect to a person, another individual who is the spouse of the person or married to the person, as determined under applicable State law.

(2) COUPLE.—The term "couple" means an individual and the individual's spouse.

TITLE I—UNIVERSAL COVERAGE AND SHARED RESPONSIBILITIES

TABLE OF CONTENTS OF TITLE

TITLE I—UNIVERSAL COVERAGE AND SHARED RESPONSIBILITIES
Sec. 1000. Protection of consumer choice.
Subtitle A—Universal Coverage and Individual Responsibilities
Sec. 1001. Universal health coverage.
Sec. 1002. Satisfaction of responsibility through enrollment in certified health plans, medicare part C, and medicare.
Sec. 1003. Special rules for covered individuals who are not required to contribute.
Sec. 1004. Special rules for individuals neither covered nor required to contribute.
Sec. 1005. Miscellaneous definitions and related provisions.
Subtitle B—Employer Responsibilities
PART 1—EMPLOYER COVERAGE RESPONSIBILITIES
Sec. 1101. Employer responsibilities.
Sec. 1102. Satisfaction of responsibility by large employers through enrollment in certified health plans.
Sec. 1103. Satisfaction of responsibility for small employers through certified health plans or medicare part C.
Sec. 1104. Qualified employer-covered employee defined.
Sec. 1105. Employees not subject to requirement.
Sec. 1106. Definitions and special rules.
PART 2—ADDITIONAL EMPLOYER RESPONSIBILITIES
Sec. 1111. Maintenance-of-effort in providing health benefits to employees.
Sec. 1112. Nondiscrimination requirements in providing additional health benefits to full-time employees.
Sec. 1113. Maintenance-of-effort requirements with respect to former employees.
TITLE II—INDIVIDUAL AND EMPLOYER RESPONSIBILITIES
Sec. 2001. Amendment of 1986 Code.
Subtitle A—Individual Responsibilities
Sec. 2101. Individual share of medicare part C premiums.
Subtitle B—Employer Responsibilities
Sec. 2201. Health-related employer taxes and credits.
Sec. 2202. Reporting requirements.
Sec. 2203. Transitional continuation coverage requirement for group health plans.
TITLE III—BENEFITS
Subtitle A—Guaranteed National Benefit Package
PART 1—BENEFITS DESCRIBED
Sec. 3001. Establishment of package.
Sec. 3002. Coverage of items and services not covered under medicare.
Sec. 3003. Modification of mental health and substance abuse benefits under approved managed mental health programs.
PART 2—COST-SHARING
Sec. 3011. Application of cost-sharing schedules.
Sec. 3012. Limits on out-of-pocket expenditures.
Sec. 3013. Standard cost-sharing schedule described.
Sec. 3014. Managed care cost-sharing schedule.

PART 3—MISCELLANEOUS PROVISIONS
Sec. 3021. References to medicare provisions.
Sec. 3022. Relation between package and certain State laws.
Sec. 3023. Provision of items or services contrary to religious belief or moral conviction.
Sec. 3024. Establishment of commissions.
Sec. 3025. Study on coverage of emergency dental services.
Sec. 3026. Study on coverage of screening for adult diabetes.
Subtitle B—Coverage of Outpatient Prescription Drugs and Other Changes in Medicare Benefits
PART 1—COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS
Sec. 3101. Coverage of outpatient prescription drugs.
Sec. 3102. Payment rules and related requirements for covered outpatient drugs.
Sec. 3103. Medicare rebates for covered outpatient drugs.
Sec. 3104. Prescription drug payment review commission.
Sec. 3105. Coverage of home infusion drug therapy services.
PART 2—CHANGES IN MEDICARE BENEFITS TO CONFORM TO GUARANTEED NATIONAL BENEFIT PACKAGE
Sec. 3111. Imposition of cap on out-of-pocket expenditures.
Sec. 3112. Repeal of limit on lifetime reserve days of inpatient hospital services.
Sec. 3113. Coverage of services for infants and children.
Sec. 3114. Expanding coverage of preventive benefits.
Sec. 3115. Coverage of pregnancy-related services and family planning.
Sec. 3116. Expanding coverage of mental health and substance abuse services.
Sec. 3117. Expanded coverage of certain chiropractic services.
Sec. 3118. Managed care options.
Sec. 3119. Effective date.
TITLE IV—STATE PROGRAMS
Subtitle A—State Single-Payer Systems
Sec. 4001. Standards for State single-payer systems.
Sec. 4002. General requirements for approval.
Sec. 4003. Treatment of medicare beneficiaries.
Sec. 4004. Options relating to payment for premium subsidies and wrap-around benefits.
Sec. 4005. Offset to direct payments for outstanding maintenance of effort payments.
Sec. 4006. Termination of approval.
Subtitle B—State Managed Competition Programs
Sec. 4101. Standards for State managed competition programs.
Sec. 4102. General requirements for State managed competition programs.
Sec. 4103. Termination of approval.
Subtitle C—State Provider Reimbursement Systems
Sec. 4201. Standards for State provider reimbursement systems.
Sec. 4202. General conditions for State provider requirements for State systems.
Sec. 4203. Control of aggregate expenditures requirement for State systems.
Sec. 4204. Termination of approval of State system.
Subtitle D—General Rules, Coordination, and Transition
Sec. 4301. Procedures.
Sec. 4302. Availability of private right of action for aggrieved individuals.
Sec. 4303. References to waivers under the medicare programs.
Sec. 4304. Exemptions from ERISA preemption.
TITLE V—HEALTH PLANS AND COOPERATIVES
Subtitle A—Standards for Carriers and Insured Health Benefit Plans
Sec. 5001. Requirements for certification of carriers and plans.
Sec. 5002. Nondiscrimination.
Sec. 5003. Open enrollment.
Sec. 5004. Prohibition on preexisting condition exclusions.
Sec. 5005. Prohibition against waiting periods.
Sec. 5006. Continuation of coverage requirements.
Sec. 5007. Benefit requirements.
Sec. 5008. Requirements relating to community rating of premiums.
Sec. 5009. Special requirements for managed care and point-of-service plans.
Sec. 5010. Standards for marketing of health benefit plans.
Sec. 5011. Collection and dissemination of plan information.
Sec. 5012. Requirements for arrangements with essential community providers.
Sec. 5013. Requirements relating to plan solvency.
Sec. 5014. Utilization review.
Sec. 5015. Acceptance of premium certificates.
Sec. 5016. Additional requirements for insured health benefit plans.
Subtitle B—Standards for Sponsors and Self-Insured Health Benefit Plans
PART 1—GENERAL REQUIREMENTS
Sec. 5101. Requirement for certification of sponsors and plans.
Sec. 5102. Limitation on eligible sponsors.
Sec. 5103. Non-discrimination.
Sec. 5104. Requirements relating to enrollment.
Sec. 5105. Prohibition on pre-existing condition exclusions.
Sec. 5106. Prohibition on waiting periods.
Sec. 5107. Benefit requirements.
Sec. 5108. Requirements relating to rating of premiums.
Sec. 5109. Additional standards for managed care plans and point-of-service plans.
Sec. 5110. Provision of plan information.
Sec. 5111. Requirements for arrangements with essential community providers.
Sec. 5112. Utilization review.
Sec. 5113. Acceptance of premium certificates.
Sec. 5114. Additional requirements for self-insured health benefit plans.
PART 2—RESPONSIBILITIES RELATING TO FINANCING
Sec. 5121. Reserve requirements.
Sec. 5122. Trusteeship of insolvent plans by Secretary of Labor.
Sec. 5123. Provision of amounts due providers from insolvent plans.
Sec. 5124. Imposition and collection of periodic assessments on plan sponsors.
Sec. 5125. Management of funds; relations with employees.
Subtitle C—Standards for Supplemental Health Plans
Sec. 5201. Requirement for certification of carriers and policies.
Sec. 5202. Standardized benefits.
Sec. 5203. Requirements for offering of packages.
Sec. 5204. Non-discrimination requirements.
Sec. 5205. Open enrollment.
Sec. 5206. Prohibition on pre-existing condition exclusions.
Sec. 5207. Continuation of coverage requirement.
Sec. 5208. Community rating requirements.
Sec. 5209. Standards for marketing.
Subtitle D—Universal FEHBP
Sec. 5301. Purpose.
Sec. 5302. Contracts with carriers.
Sec. 5303. Eligibility.
Sec. 5304. Premiums for coverage.
Sec. 5305. General administrative provisions.
Sec. 5306. Universal FEHBP Health Benefits Fund.
Sec. 5307. Establishment of Office of Universal FEHBP.
Sec. 5308. Studies; annual report.
Subtitle E—Consumer Purchasing Cooperatives
PART 1—ESTABLISHMENT BY STATES
Sec. 5401. Establishment of cooperatives.
Sec. 5402. Designation of cooperative boundaries and service area.
PART 2—GOVERNANCE REQUIREMENTS
Sec. 5411. Board of Directors.
Sec. 5412. Provider advisory boards.
PART 3—RESPONSIBILITIES AND AUTHORITIES OF COOPERATIVES
Sec. 5421. Contracts with carriers.
Sec. 5422. Services for participants.
Sec. 5423. Requirements relating to collection of premiums and accounting.
Sec. 5424. Cooperative fee.
Sec. 5425. Antidiscrimination.
PART 4—GRANTS FOR ESTABLISHMENT AND OPERATION OF COOPERATIVES
Sec. 5431. Establishment of grant program.
Sec. 5432. Use of grant for participation of cooperative in capital review program.
Sec. 5433. Authorization of appropriations.
Subtitle F—General Provisions
Sec. 5501. Establishment of Federal standards.
Sec. 5502. Enforcement through approved State programs.
Sec. 5503. Federal penalties.
Sec. 5504. Definitions.
Sec. 5505. Preemption of State law.
Sec. 5506. Construction of references.
Subtitle G—Transitional Insurance Reforms
Sec. 5601. Establishment of standards.
Sec. 5602. Continuation of coverage.
Sec. 5603. Limits on pre-existing condition exclusions.
Sec. 5604. Premium changes to reflect changes in group or individual characteristics or terms of coverage.
Sec. 5605. Limitations on changes in premiums for plans in individual sector and small group sector related to increases in health care costs and utilization.
Sec. 5606. More stringent State laws not preempted.
Sec. 5607. Limit on changes in self-insured health benefit plans.
Sec. 5608. Definitions.
Sec. 5609. Effective date.

VOL
140
PT
15
AG
10
—
11
1994
UMI

TITLE VI—STANDBY COST CONTAINMENT IN THE PRIVATE SECTOR
Subtitle A—National Health Expenditure Estimates
Sec. 6001. National private sector per capita health expenditure estimate.
Sec. 6002. Classes of health care services.
Sec. 6003. Allocation of per capita estimates by class of service.
Sec. 6004. National health expenditures reporting system.
Subtitle B—State Health Expenditure Estimates
Sec. 6101. State private sector per capita health expenditure estimate.
Subtitle C—Stand-By Federal Cost Containment
Sec. 6201. Application of maximum payment rates in States that fail to control costs.
Subtitle D—Maximum Payment Rates
PART 1—ESTABLISHMENT AND APPLICATION OF MAXIMUM PAYMENT RATES
Sec. 6301. Process.
Sec. 6302. Payment methodology; relation to estimate allocation.
Sec. 6303. General application and enforcement of maximum payment rates.
PART 2—METHODOLOGIES FOR DETERMINING MAXIMUM PAYMENT RATES
Sec. 6311. Basis for maximum payment rates for inpatient hospital services.
Sec. 6312. Basis for maximum payment rates for class of physicians' services and other professional medical services.
Sec. 6313. Basis for other maximum payment rates for services using certain medicare payment methodologies.
Sec. 6314. Services provided by managed care organizations.
Sec. 6315. Other services.
Subtitle E—Administrative and Judicial Review
Sec. 6401. Limitation on administrative and judicial review.
Sec. 6402. References to medicare provisions.
Subtitle F—National Health Cost Commission
Sec. 6501. National Health Cost Commission.
Sec. 6502. Expedited consideration of recommendations and alternatives.
TITLE VII—PUBLIC HEALTH INITIATIVES
Subtitle A—Health Workforce Priorities
PART 1—NATIONAL PLAN REGARDING PHYSICIANS AND OTHER HEALTH PROFESSIONALS
SUBPART A—NATIONAL PLAN; GENERAL PROVISIONS
Sec. 7001. Development of Plan.
SUBPART B—NATIONAL PLAN; PROVISIONS REGARDING PHYSICIANS
Sec. 7011. National Advisory Council on Graduate Medical Education.
Sec. 7012. Annual designation of authorized per-specialty number of specialty positions; requirements regarding primary health care.
Sec. 7013. Allocation of specialty positions among approved physician training programs.
PART 2—PAYMENTS TO TEACHING HOSPITALS
Sec. 7021. Formula payments regarding private-sector share of costs of graduate of medical education.
Sec. 7022. Agreement regarding compliance with allocation system.
Sec. 7023. Application for payments.
Sec. 7024. Annual amount of payments.
Sec. 7025. Transitional provisions regarding direct-cost payments.
Sec. 7026. Rule of construction regarding medicare amendments.
PART 3—QUALIFYING PHYSICIAN TRAINING CONSORTIA
Sec. 7031. Special rules regarding allocation of specialty positions and receipt of direct-cost payments.
PART 4—TRANSITIONAL PAYMENTS FOR TEACHING HOSPITALS LOSING SPECIALTY POSITIONS
Sec. 7041. Transitional payments to teaching hospitals.
PART 5—OTHER HEALTH PROFESSIONS PROGRAMS
SUBPART A—GRADUATE NURSING EDUCATION
Sec. 7051. Federal payments for graduate nursing education.
SUBPART B—MEDICAL SCHOOLS
Sec. 7061. Federal payments for medical schools.
PART 6—MISCELLANEOUS PROVISIONS
Sec. 7071. Study of funding needs of health professions schools.
Sec. 7072. Additional studies.
PART 7—GENERAL PROVISIONS
Sec. 7081. Definitions.
Subtitle B—Certain Direct Spending Programs of Public Health Service
PART 1—BIOMEDICAL RESEARCH
Sec. 7101. Additional funding.
PART 2—CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS
Sec. 7111. Table of contents regarding revised provisions of title XIX of Public Health Service Act.
Sec. 7112. Direct spending regarding formula grants to States.
PART 3—HEALTH CENTERS FOR POPULATIONS LACKING ACCESS TO SERVICES
Sec. 7121. Purpose of program.
Sec. 7122. Table of contents regarding new title XXVII of Public Health Service Act.
Sec. 7123. Direct spending regarding federally qualified health centers; development of additional centers.
Sec. 7124. Conforming amendments.
PART 4—NATIONAL HEALTH SERVICE CORPS
Sec. 7131. Purpose of program.
Sec. 7132. Direct spending regarding general program and scholarship and loan repayment programs.
PART 5—CONSUMER RESOURCES REGARDING HEALTH PLANS
Sec. 7141. Consumer resources.
PART 6—REDUCTION IN DISCRETIONARY SPENDING LIMITS
Sec. 7151. Conforming reductions regarding certain direct spending programs of Public Health Service.
Subtitle C—Assistance for Capital Costs of Safety-Net Hospitals
Sec. 7201. Table of contents regarding new title XXVIII of Public Health Service Act.
Sec. 7202. Direct spending regarding certain hospitals.
Subtitle D—Other Programs in Public Health Service Act
Sec. 7301. School-based health clinics.
Sec. 7302. Rural and urban managed care program.
Sec. 7303. Emergency medical services in rural areas.
Sec. 7304. Allied health professions.
Sec. 7305. Community health advisors.
Sec. 7306. Training of health professionals for rural areas.
Sec. 7307. COBRA continuation coverage; transitional coverage requirement for group health plans.
Subtitle E—Mental Health
Sec. 7401. State comprehensive managed mental health and substance abuse programs.
Sec. 7402. Comprehensive community mental health services for children with serious emotional disturbances.
Subtitle F—United States-Mexico Border Health Commission
Sec. 7501. Agreement to establish binational commission.
Sec. 7502. Duties.
Sec. 7503. Other authorized functions.
Sec. 7504. Membership.
Sec. 7505. Regional offices.
Sec. 7506. Reports.
Sec. 7507. Definitions.
Subtitle G—Comprehensive School Health Education
PART 1—GENERAL PROVISIONS
Sec. 7601. Purposes.
Sec. 7602. Definitions.
Sec. 7603. Prohibition against Federal control of education.
Sec. 7604. Prohibition against distribution of obscene materials.
PART 2—SCHOOL HEALTH EDUCATION; GENERAL PROVISIONS
Sec. 7611. Authorizations of appropriations.
Sec. 7612. Waivers of statutory and regulatory requirements.
PART 3—SCHOOL HEALTH EDUCATION; GRANTS TO STATE EDUCATION AGENCIES
Sec. 7621. Application for grant.
Sec. 7622. Selection of grantees.
Sec. 7623. Amount of grant.
Sec. 7624. Authorized activities; limitation on administrative costs.
Sec. 7625. Subgrants to local educational agencies.
Subtitle H—Occupational Safety and Health
Sec. 7701. Occupational injury and illness prevention.
Subtitle I—Miscellaneous Provisions
Sec. 7801. Identifying strategies for assessing impact of health care reform.
Sec. 7802. Study of worksite wellness programs.
TITLE VIII—MEDICARE AND MEDICAID
Sec. 8000. References in title.
Subtitle A—Medicare Part C Program
Sec. 8001. Establishment of medicare part C program.
"TITLE XXI—MEDICARE PART C
"Sec. 2100. Establishment of program.
"PART A—ELIGIBILITY AND ENROLLMENT
"Sec. 2101. Eligibility.
"Sec. 2102. Enrollment process.
"Sec. 2103. Facilitation of enrollment.
"Sec. 2104. Coverage period; termination of enrollment.
"PART B—BENEFITS AND PAYMENTS
"Sec. 2111. Coverage of benefits under guaranteed national benefit package.
"Sec. 2112. Payments for health insurance benefits.
"Sec. 2113. Adjustments to medicare rates and methodologies.
"Sec. 2114. Exclusions; coordination.

"PART C—PREMIUMS; MEDICARE PART C TRUST FUND
"Sec. 2121. Computation of applicable medicare part C premium.
"Sec. 2122. Medicare part C premium liability.
"Sec. 2123. Collection of premiums.
"Sec. 2124. Medicare part C trust fund.
"PART D—ADMINISTRATIVE PROVISIONS
"Sec. 2131. Agreements with hospitals; participating physicians; treatment of Indian Health Service facilities.
"Sec. 2132. Health maintenance organizations.
"Sec. 2133. Use of fiscal agents.
"Sec. 2134. Compliance with information standards; application of medicare quality assurance and survey and certification requirements.
"Sec. 2135. Program integrity.
"Sec. 2136. General administration; miscellaneous provisions.
"PART E—DEFINITIONS AND MISCELLANEOUS
"Sec. 2161. Definitions.
"Sec. 2162. References to medicare provisions.
Sec. 8002. Conforming amendments.
Sec. 8003. Effective date.
Subtitle B—Benefits for Low-Income Individuals; State Maintenance of Effort
PART 1—BENEFITS FOR LOW-INCOME INDIVIDUALS
Sec. 8101. Establishment of benefits.
"TITLE XXII—ASSISTANCE FOR LOW-INCOME INDIVIDUALS
"Sec. 2200. Establishment of programs.
"PART A—PREMIUM CERTIFICATE PROGRAM
"Subpart 1—Certificates for Low-Income Individuals Covered Under Certified Health Plans
"Sec. 2201. Eligibility.
"Sec. 2202. Value of premium certificate.
"Sec. 2203. Administration of program.
"Subpart 2—Premium Assistance for Qualified Retirees
"Sec. 2211. Eligibility for premium certificate for certain retirees.
"Sec. 2212. Eligibility.
"Sec. 2213. Value of premium certificate.
"Sec. 2214. Administration of premium certificates for retirees.
"Subpart 3—Maintenance of Effort Offset for Retiree Premium Contributions
"Sec. 2221. Offset of premium obligations for retirees.
"Sec. 2222. Amount of offset.
"Sec. 2223. Procedures for obtaining offset.
"PART B—WRAP-AROUND BENEFITS FOR LOW-INCOME INDIVIDUALS
"Sec. 2231. Eligibility.
"Sec. 2232. Wrap-around benefits.
"Sec. 2233. Application for benefits.
"Sec. 2234. References to medicare provisions.
"PART C—PAYMENT OF MEDICARE COST-SHARING FOR CERTAIN LOW-INCOME INDIVIDUALS
"Sec. 2241. Payment of cost-sharing for certain individuals.
"Sec. 2242. Medicare cost-sharing defined.
"Sec. 2243. Individuals defined.
"Sec. 2244. Timing.
"PART D—ADMINISTRATIVE PROVISIONS
"Sec. 2251. Determination of eligibility; appeals.
"Sec. 2252. Verification of eligibility.
"Sec. 2253. Penalties for misrepresentation.
Sec. 8102. Effective dates.
PART 2—STATE MAINTENANCE OF EFFORT
SUBPART A—PAYMENTS FOR CASH ASSISTANCE RECIPIENTS
Sec. 8111. State responsibility for payments.
Sec. 8112. Determination of AFDC per capita amounts for States.
Sec. 8113. Determination of SSI per capita amount for States.
Sec. 8114. Determination of number of AFDC and SSI recipients.
SUBPART B—PAYMENTS FOR NON-CASH ASSISTANCE RECIPIENTS
Sec. 8121. State responsibility for payments.
Sec. 8122. Determination of baseline amounts.
Sec. 8123. Updating of baseline amount.
SUBPART C—GENERAL AND MISCELLANEOUS PROVISIONS
Sec. 8131. Timing and manner of payments.
Sec. 8132. Special rules for Puerto Rico and other territories.
Sec. 8133. Sanctions for failure to make timely payments.
Sec. 8134. State maintenance of effort percentage.
PART 3—ANALYSIS OF IMPACT OF ACT ON FEDERAL EXPENDITURES AND STATES
Sec. 8141. Impact of health care reform on Federal budget.
Sec. 8142. Impact of health care reform on States.
Subtitle C—Cost Containment in the Medicare Programs
PART 1—MEDICARE HEALTH EXPENDITURE ESTIMATES
Sec. 8201. National medicare per capita health expenditure estimate.
Sec. 8202. Classes of health care services.
Sec. 8203. Allocation of per capita estimates by class of service for medicare A/B.
Sec. 8204. Allocation of per capita estimates by class of service for medicare C.
Sec. 8205. Combined medicare per capita allocations for classes of services.
Sec. 8206. Computation of medicare annual combined rate of increase for classes of services; application to medicare payment rates.
Sec. 8207. National health expenditures reporting system.
PART 2—STATE HEALTH EXPENDITURE ESTIMATES
Sec. 8211. State medicare per capita health expenditure estimate.
PART 3—ADMINISTRATIVE AND JUDICIAL REVIEW
Sec. 8221. Limitation on administrative and judicial review.
Subtitle D—Revisions to Medicare Part A and Part B
PART 1—ADDITIONAL MEDICARE SAVINGS
Sec. 8301. Reduction in payments for indirect costs of medical education.
Sec. 8302. Reductions in disproportionate share adjustments
Sec. 8303. Reductions in payments for capital-related costs of inpatient hospital services for PPS hospitals.
Sec. 8304. Limitations on payment for physicians' services furnished by high-cost hospital medical staffs.
Sec. 8305. Medicare secondary payer.
Sec. 8306. Imposition of 20 percent coinsurance on home health services under medicare.
Sec. 8307. Home health cost limits.
PART 2—PROVISIONS RELATING TO PAYMENTS FOR MEDICAL EDUCATION
Sec. 8311. Limiting medicare medical education payments to approved residency positions.
Sec. 8312. Determination of number of full-time equivalent residents.
Sec. 8313. Payments for hospitals losing specialty positions.
Sec. 8314. Medicare demonstration regarding consortia of hospitals.
Sec. 8315. Study of payments for medical education at sites other than hospitals.
PART 3—ASSISTANCE FOR PROVIDERS SERVING LOW-INCOME AND UNDERSERVED POPULATIONS
Sec. 8321. Increase in payments for federally qualified health centers.
Sec. 8322. Changes in underserved area bonus payments.
Sec. 8323. Essential access community hospitals.
Sec. 8324. Medicare telemedicine pilot projects.
Sec. 8325. Treatment of other Indian facilities as Indian health service facilities.
PART 4—APPLICATION OF QUALITY MANAGEMENT AND ADMINISTRATIVE REFORM UNDER GUARANTEED HEALTH INSURANCE ACT OF 1994
Sec. 8331. Integration of medicare into national quality management program.
Sec. 8332. Coordination of medicare cards with health security cards.
Sec. 8333. Elimination of medicare and medicaid coverage data bank.
Sec. 8334. Requirement for uniform hospital cost reporting.
Sec. 8335. Application of health information and information transaction requirements to fiscal intermediaries and carriers.
Sec. 8336. Application of restrictions on disclosure and use of health information.
PART 5—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS
Sec. 8341. Anti-kickback statutory provisions.
Sec. 8342. Civil money penalties.
Sec. 8343. Amendments to exclusionary provisions in fraud and abuse program.
Sec. 8344. Sanctions against practitioners and persons for failure to comply with statutory obligations relating to quality of care.
Sec. 8345. Revisions to criminal penalties.
Sec. 8346. Effective date.
PART 6—REVISIONS TO LIMITATIONS ON PHYSICIAN SELF-REFERRALS
Sec. 8351. Application of ban on self-referrals to claims submitted by physicians.
Sec. 8352. Expansion of self-referral ban to additional services.
Sec. 8353. Exceptions for both ownership and compensation arrangements.
Sec. 8354. Exceptions related only to ownership or investment.
Sec. 8355. Repeal of exception for remuneration unrelated to provision of designated health services.
Sec. 8356. Referring physicians.
Sec. 8357. Miscellaneous and technical provisions.
Sec. 8358. Effective date.
PART 7—OTHER MEDICARE PROVISIONS
Sec. 8361. Treatment of beneficiaries residing in States with approved single-payer systems.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Sec. 8362. Development and implementation of prospective payment methodologies.
Sec. 8363. Medicare supplemental insurance policy amendments.
Sec. 8364. Requiring hospitals to participate in medicare part C.
Sec. 8365. Conforming amendments relating to program of cost-sharing for qualified medicare beneficiaries.
Sec. 8366. Adjusting capital payments for amounts received under capital financing assistance program.
Sec. 8367. Study of physician supervision of nurse anesthetist services.

PART 8—EXPANSION OF FRAIL ELDERLY DEMONSTRATIONS

Sec. 8371. Expansion of number of sites for demonstration program of all-inclusive care for the elderly (PACE).

Subtitle E—Minor and Technical Medicare Amendments

PART 1—PROVISIONS RELATING TO PART A

Sec. 8401. Provisions relating to adjustments to standardized amounts for wages and wage-related costs.
Sec. 8402. Provisions relating to rural health transition grant program.
Sec. 8403. Psychology services in hospitals.
Sec. 8404. Skilled nursing facilities.
Sec. 8405. Notification of availability of hospice benefit.
Sec. 8406. Clarifying expertise of individuals to serve on the prospective payment assessment commission.
Sec. 8407. Authority for budget neutral adjustments for changes in payment amounts for transfer cases.
Sec. 8408. Hemophilia pass-through extension.
Sec. 8409. Sub-acute care services demonstration project.
Sec. 8410. Clarification of DRG payment window expansion; miscellaneous and technical corrections.

PART 2—PROVISIONS RELATING TO PART B

SUBPART A—PHYSICIANS' SERVICES

Sec. 8411. Development and implementation of resource-based methodology for practice expenses.
Sec. 8412. Geographic cost of practice index refinements.
Sec. 8413. Extra-billing limits.
Sec. 8414. Relative values for pediatric services.
Sec. 8415. Administration of claims relating to physicians' services.
Sec. 8416. Miscellaneous and technical corrections.

SUBPART B—DURABLE MEDICAL EQUIPMENT

Sec. 8421. Certification of suppliers.
Sec. 8422. Restrictions on certain marketing and sales activities.
Sec. 8423. Beneficiary liability for noncovered services.
Sec. 8424. Adjustments for inherent reasonableness.
Sec. 8425. Miscellaneous and technical corrections.

SUBPART C—OTHER ITEMS AND SERVICES

Sec. 8431. Ambulatory surgical center services.
Sec. 8432. Study of medicare coverage of patient care costs associated with clinical trials of new cancer therapies.
Sec. 8433. Study of annual cap on amount of medicare payment for outpatient physical therapy and occupational therapy services.
Sec. 8434. Payment of part B premium late enrollment penalties by States.
Sec. 8435. Treatment of inpatients and provision of diagnostic X-ray services by rural health clinics and federally qualified health centers.
Sec. 8436. Application of mammography certification requirements.
Sec. 8437. Coverage of services of speech-language pathologists and audiologists.
Sec. 8438. Miscellaneous and technical corrections.

PART 3—PROVISIONS RELATING TO PARTS A AND B

SUBPART A—MEDICARE SECONDARY PAYER

Sec. 8441. Medicare secondary payer reforms.

SUBPART B—OTHER ITEMS AND SERVICES RELATING TO PARTS A AND B

Sec. 8451. Definition of FMGEMS examination for payment of direct graduate medical education.
Sec. 8452. Qualified medicare beneficiary outreach.
Sec. 8453. Hospital agreements with organ procurement organizations.
Sec. 8454. Peer review organizations.
Sec. 8455. Health maintenance organizations.
Sec. 8456. Home health agencies.
Sec. 8457. Permanent extension of authority to contract with fiscal intermediaries and carriers on other than a cost basis.
Sec. 8458. Transportation demonstration project.
Sec. 8459. Diabetes treatment demonstration project.
Sec. 8460. Expansion of number of sites for demonstration program of all-inclusive care for the elderly (PACE).
Sec. 8460A. Miscellaneous and technical corrections.

PART 4—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES

Sec. 8461. Standards for medicare supplemental insurance policies.

Subtitle F—Provisions Relating to the Medicaid Program

PART 1—CONFORMING MEDICAID TO GUARANTEED HEALTH INSURANCE ACT OF 1994

Sec. 8501. Conforming medicaid amendments relating to guaranteed national benefit package.
Sec. 8502. Enforcement of maintenance-of-effort requirements through medicaid.
Sec. 8503. Conforming medicaid amendments relating to quality and consumer protection.
Sec. 8504. Conforming amendments relating to cost-sharing for qualified medicare beneficiaries.
Sec. 8505. Treatment of certain facilities as federally qualified health centers.
Sec. 8506. Waivers facilitating State health security programs.
Sec. 8507. Conforming requirements for rebate agreements for covered outpatient drugs.
Sec. 8508. Construction of Guaranteed Health Insurance Act of 1994 references.

PART 2—LONG-TERM CARE

Sec. 8511. Coordination of optional home and community based services under medicaid with long-term care under Guaranteed Health Insurance Act of 1994.
Sec. 8512. Nursing home pass-through.
Sec. 8513. Continuation of Texas frail elderly demonstration.

PART 3—HEALTH MAINTENANCE ORGANIZATIONS

Sec. 8521. Permitting Garden State Health Plan to participate in managed care waiver.
Sec. 8522. Extension of period of applicability of enrollment mix requirement to Dayton Area Health Plan.
Sec. 8523. Clarification of applicability of restrictions on Federal financial participation.

PART 4—VACCINES FOR CHILDREN

Sec. 8531. State mandate for insurers to offer coverage of immunizations and well-child services.
Sec. 8532. Limitation on State ability to purchase vaccines at Federal price.

PART 5—TREATMENT OF INDIANS AND INDIAN HEALTH SERVICE PROVIDERS

Sec. 8541. Nondiscrimination in participation providers.
Sec. 8542. Requiring individuals subject to waivers to have option to enroll in Indian Health Service plans.
Sec. 8443. Treatment of outpatient facilities as federally qualified health centers.

PART 6—EFFECTIVE DATE OF AMENDMENTS

Sec. 8451. Amendments effective without regard to issuance of regulations.

Subtitle G—Miscellaneous and Technical Medicaid Amendments

PART 1—SUBSTANTIVE PROVISIONS

SUBPART A—MANAGED CARE PROVISIONS

Sec. 8601. Medicaid managed care antifraud provisions.
Sec. 8602. Extension of medicaid waiver for Tennessee Primary Care Network.
Sec. 8603. Waiver of application of medicaid enrollment mix requirement to District of Columbia Chartered Health Plan, Inc.
Sec. 8604. Waiver of application of medicaid enrollment mix requirement to Managed Health Services Insurance Corporation of Milwaukee, Wisconsin.
Sec. 8605. Extension of Minnesota prepaid medicaid demonstration project.

SUBPART B—HOME AND COMMUNITY-BASED SERVICES WAIVER PROVISIONS

Sec. 8611. Elimination of requirement of prior institutionalization with respect to habilitation services furnished under a waiver for home or community-based services.
Sec. 8612. Relief from third party liability requirements when cost-effective.
Sec. 8613. State expenditures for medical assistance with respect to home and community-based services provided under a waiver.

SUBPART C—OTHER PROVISIONS

Sec. 8621. Presumptive eligibility for pregnant women.
Sec. 8622. Criteria for determining the amount of disallowances.
Sec. 8623. Intermediate sanctions for kickback violations.
Sec. 8624. Technical amendment related to taxes on certain health care items and services.

Sec. 8625. Application of mammography certification requirements under the medicaid program.
Sec. 8626. Nursing home reform.
Sec. 8627. Increase in authorization of appropriations for the maternal and child health services block grant program.

PART 2—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING TO OBRA-1990

Sec. 8641. Effective date.
Sec. 8642. Corrections relating to section 4401 (drug rebate program).
Sec. 8643. Corrections relating to section 4402 (enrollment under group health plans).
Sec. 8644. Corrections relating to section 4501 (low-income medicare beneficiaries).
Sec. 8645. Corrections relating to section 4601 (child health).
Sec. 8646. Corrections relating to section 4602 (outreach locations).
Sec. 8647. Corrections relating to section 4604 (payment for hospital services for children under 6 years of age).
Sec. 8648. Corrections relating to section 4703 (payment adjustments for disproportionate share hospitals).
Sec. 8649. Corrections relating to section 4704 (federally-qualified health centers).
Sec. 8650. Corrections relating to section 4708 (substitute physicians).
Sec. 8651. Corrections relating to section 4711 (home and community care for frail elderly).
Sec. 8652. Corrections relating to section 4712 (community supported living arrangements).
Sec. 8653. Correction relating to section 4713 (cobra continuation coverage).
Sec. 8654. Correction relating to section 4716 (medicaid transition for family assistance).
Sec. 8655. Corrections relating to section 4718 (medically needy income levels for certain 1-member families).
Sec. 8656. Corrections relating to section 4723 (medicaid spend-down option).
Sec. 8657. Corrections relating to section 4724 (optional State disability determinations).
Sec. 8658. Correction relating to section 4732 (special rules for health maintenance organizations).
Sec. 8659. Corrections relating to section 4747 (coverage of HIV-positive individuals).
Sec. 8660. Correction relating to section 4751 (advanced directives).
Sec. 8661. Corrections relating to section 4752 (physicians' services).
Sec. 8662. Corrections relating to section 4801 (nursing home reform).
Sec. 8663. Other technical corrections.

PART 3—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING TO OBRA-1993

Sec. 8671. Effective date.
Sec. 8672. Corrections relating to section 13601 (personal care services).
Sec. 8673. Corrections relating to section 13604 (emergency services for aliens).
Sec. 8674. Corrections relating to section 13611 (transfers of assets; treatment of certain trusts).
Sec. 8675. Corrections relating to section 13612 (medicaid estate recoveries).
Sec. 8676. Corrections relating to section 13622 (liability of third parties to pay for care and services).
Sec. 8677. Corrections relating to section 13623 (medical child support).
Sec. 8678. Corrections relating to section 13624 (physician referrals).
Sec. 8679. Corrections relating to section 13631 (medicaid pediatric immunization provisions).
Sec. 8680. Corrections relating to section 13643 (demonstration projects).

Subtitle H—Provision Relating to AFDC Program

Sec. 8701. Enforcement of maintenance-of-effort requirements through AFDC.

TITLE IX—QUALITY AND CONSUMER AND WORKFORCE PROTECTION

Subtitle A—Quality Management and Improvement

PART 1—NATIONAL QUALITY MANAGEMENT PROGRAM

Sec. 9001. National Quality Management Program.
Sec. 9002. Consumer surveys.
Sec. 9003. National measures of quality performance.
Sec. 9004. National quality standards for approved sponsors.
Sec. 9005. Profiling patterns of practice of qualified providers.
Sec. 9006. Quality-related profiling data.
Sec. 9007. Compliance monitoring by approved States.
Sec. 9008. Guideline development and research on health care quality.
"Sec. 915. Evaluation, certification, and dissemination of guidelines.
Sec. 9009. Quality improvement organizations.
Sec. 9010. Quality management grants.
Sec. 9011. Authorization of appropriations for contracts and grants.
Sec. 9012. Health Care Quality Advisory Commission.
Sec. 9013. Definitions.
Sec. 9014. References to medicare provisions.
Sec. 9015. Effective dates.

PART 2—CONSUMER RESOURCES

Sec. 9021. Consultation requirements regarding administration of program.

Subtitle B—Information Systems and Administrative Simplification

Sec. 9101. Requirements for health security cards and personal identifiers.
Sec. 9102. National enrollment verification systems.
Sec. 9103. Standards for health information and information transactions.
Sec. 9104. Requirements on sponsors and providers.
Sec. 9105. Imposition of additional requirements.
Sec. 9106. Standards and certification for health information network services.
Sec. 9107. Civil money penalty.
Sec. 9108. Effect on State law.
Sec. 9109. Definitions.

Subtitle C—Fair Health Information Practices

Sec. 9200. Definitions.

PART 1—DUTIES OF HEALTH INFORMATION TRUSTEES

Sec. 9201. Inspection of protected health information.
Sec. 9202. Amendment of protected health information.
Sec. 9203. Notice of information practices.
Sec. 9204. Accounting for disclosures.
Sec. 9205. Security.

PART 2—USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

Sec. 9221. General limitations on use and disclosure.
Sec. 9222. Authorizations for disclosure of protected health information.
Sec. 9223. Treatment, payment, and oversight.
Sec. 9224. Next of kin and directory information.
Sec. 9225. Public health.
Sec. 9226. Health research.
Sec. 9227. Emergency circumstances.
Sec. 9228. Judicial and administrative purposes.
Sec. 9229. Law enforcement.
Sec. 9230. Subpoenas, warrants, and search warrants.
Sec. 9231. Health information service organizations.

PART 3—ACCESS PROCEDURES AND CHALLENGE RIGHTS

Sec. 9241. Access procedures for law enforcement subpoenas, warrants, and search warrants.
Sec. 9242. Challenge procedures for law enforcement subpoenas.
Sec. 9243. Access and challenge procedures for other subpoenas.
Sec. 9244. Construction of part; suspension of statute of limitations.
Sec. 9245. Responsibilities of Secretary.

PART 4—MISCELLANEOUS PROVISIONS

Sec. 9251. Payment card and electronic payment transactions.
Sec. 9252. Access to protected health information outside of the United States.
Sec. 9253. Standards for electronic documents and communications.
Sec. 9254. Duties and authorities of affiliated persons.
Sec. 9255. Agents and attorneys.
Sec. 9256. Minors.
Sec. 9257. Maintenance of certain protected health information.

PART 5—ENFORCEMENT

Sec. 9261. Civil actions.
Sec. 9262. Civil money penalties.
Sec. 9263. Alternative dispute resolution.
Sec. 9264. Amendments to criminal law.
"CHAPTER 90—PROTECTED HEALTH INFORMATION
"1831. Definitions.
"1832. Obtaining protected health information under false pretenses.
"1833. Monetary gain from obtaining protected health information under false pretenses.
"1834. Knowing and unlawful obtaining of protected health information.
"1835. Monetary gain from knowing and unlawful obtaining of protected health information.
"1836. Knowing and unlawful use or disclosure of protected health information.
"1837. Monetary gain from knowing and unlawful sale, transfer, or use of protected health information.

PART 6—AMENDMENTS TO TITLE 5, UNITED STATES CODE

Sec. 9271. Amendments to Title 5, United States code.

PART 7—REGULATIONS, RESEARCH, AND EDUCATION; EFFECTIVE DATES; APPLICABILITY; AND RELATIONSHIP TO OTHER LAWS

Sec. 9281. Regulations; research and education.
Sec. 9282. Effective dates.
Sec. 9283. Applicability.
Sec. 9284. Relationship to other laws.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Subtitle D—Remedies

Sec. 9300. Definitions.

Subtitle E—Fraud and Abuse

PART 1—APPLICATION OF FRAUD AND ABUSE AUTHORITIES UNDER THE SOCIAL SECURITY ACT TO OTHER PAYERS

Sec. 9401. Application of civil money penalties to all payers.
Sec. 9402. Application of certain criminal penalties to all payers.
Sec. 9403. Private right of action.
Sec. 9404. Construction of Social Security Act references.

PART 2—ESTABLISHMENT OF ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM

Sec. 9411. All-payer health care fraud and abuse control program.
Sec. 9412. Establishment of all-payer health care fraud and abuse control account.
Sec. 9413. Payments to States for health care fraud and abuse control units.

PART 3—AMENDMENTS TO CRIMINAL LAW

Sec. 9421. Health care fraud.
Sec. 9422. Forfeitures for violations of fraud statutes.
Sec. 9423. False statements.
Sec. 9424. Bribery and graft.
Sec. 9425. Injunctive relief relating to health care offenses.
Sec. 9426. Grand jury disclosure.
Sec. 9427. Theft or embezzlement.
Sec. 9428. Rewards for information leading to prosecution and conviction.

PART 4—AMENDMENTS TO CIVIL FALSE CLAIMS ACT

Sec. 9431. Amendments to Civil False Claims Act.

PART 5—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS APPLICABLE TO MEDICARE, MEDICAID, AND STATE HEALTH CARE PROGRAMS

Sec. 9441. Reference to amendments.

PART 6—PREEMPTION OF STATE CORPORATE PRACTICE LAWS

Sec. 9451. Preemption of State laws prohibiting corporate practice of medicine.

Subtitle F—Physician Ownership and Referral

PART 1—EXTENSION OF LIMITATIONS ON SELF-REFERRAL UNDER MEDICARE TO REFERRALS UNDER PRIVATE PLANS

Sec. 9501. Limitations on physician self-referral under private plans.
Sec. 9502. Construction of Social Security Act references.

PART 2—AMENDMENTS TO PHYSICIAN OWNERSHIP AND REFERRAL PROVISIONS UNDER MEDICARE

Sec. 9511. Reference to amendments.

Subtitle G—Workforce Protection and Training

Sec. 9600. Definitions.

PART 1—GENERAL EMPLOYER RESPONSIBILITIES

Sec. 9601. Prohibition of certain employer discrimination.
Sec. 9602. Whistleblower protection.
Sec. 9603. Employer neutrality.

PART 2—TRANSITIONAL PROVISIONS FOR WORKFORCE STABILITY

Sec. 9621. Application.
Sec. 9622. Obligations of displacing employer and affiliated enterprises in event of displacement.
Sec. 9623. Employment with other health care employers.
Sec. 9624. Collective bargaining obligations during transition period.
Sec. 9625. General provisions.

PART 3—RESPONSIBILITIES OF BOARD OF INQUIRY

Sec. 9631. Request for appointment of board of inquiry.
Sec. 9632. Appointment of board of inquiry.
Sec. 9633. Public fact finding.
Sec. 9634. Compensation of members of board of inquiry.
Sec. 9635. Maintenance of terms and conditions of employment.

PART 4—WORKFORCE PRIORITIES UNDER FEDERAL PAYMENTS

Sec. 9641. Programs of the Secretary of Labor.
Sec. 9642. National Institute for Health Care Workforce Development.

TITLE X—LONG-TERM CARE

Subtitle A—Long-Term Care Program

Sec. 10001. Establishment of long-term care program for home and community-based services.
Sec. 10002. Individuals with severe disabilities.
Sec. 10003. Home and community-based services.
Sec. 10004. Administration through State plans.
Sec. 10005. Payments to States; medicaid maintenance of effort.
Sec. 10006. Federal funding.

Subtitle B—Federal Standards for Private Long-Term Care Insurance Policies

PART 1—GENERAL REQUIREMENT; ESTABLISHMENT OF STANDARDS

SUBPART A—GENERAL REQUIREMENT

Sec. 10101. General requirement.
Sec. 10102. Establishment of standards.
Sec. 10103. Deadline for application of standards in States.
Sec. 10104. Relation to State law.
Sec. 10105. Code of conduct with respect to endorsements.
Sec. 10106. Requirements for agent training and certification programs.

SUBPART B—DEFINITIONS

Sec. 10111. Long-term care insurance policy.
Sec. 10112. Other terms.

PART 2—STANDARDS

SUBPART A—POLICY STANDARDS

Sec. 10121. Use of standard definitions and terminology and uniform format.
Sec. 10122. Minimum benefits; limiting conditions on benefits.
Sec. 10123. Prohibition of discrimination.
Sec. 10124. Limitation on use of preexisting condition limits.
Sec. 10125. Use of functional assessment.
Sec. 10126. Requirements for premiums.
Sec. 10127. Inflation protection.
Sec. 10128. Nonforfeiture.
Sec. 10129. Designation of representatives.
Sec. 10130. Issuance, renewal, and cancellation.

SUBPART B—SALES PRACTICES

Sec. 10131. Certification of training of sales agents.
Sec. 10132. Duty of good faith and fair dealing.
Sec. 10133. Financial guidelines.
Sec. 10134. Prohibition of sale or issuance to medicaid beneficiaries.
Sec. 10135. Prohibition of sale or issuance of duplicate policies.
Sec. 10136. Provision of outline of coverage and other information.
Sec. 10137. Information on financial arrangements with groups.

SUBPART C—CARRIER STANDARDS

Sec. 10141. Refund of premiums (free look).
Sec. 10142. Mailing of policy.
Sec. 10143. Prompt payment.
Sec. 10144. Claims denials.
Sec. 10145. Limitation on rescission, cancellation, or nonrenewal or denial of claims.
Sec. 10146. Reporting of information; access to information.
Sec. 10147. Medical documentation for the elderly.
Sec. 10148. Limits on compensation for sale of policies.

PART 3—ENFORCEMENT OF STANDARDS

SUBPART A—GENERAL PROVISIONS

Sec. 10151. Secretarial enforcement authority.
Sec. 10152. Complaints and investigations.
Sec. 10153. Hearings.
Sec. 10154. Cease and desist order with civil money penalty.

SUBPART B—STANDARDS FOR APPROVAL OF STATE REGULATORY PROGRAMS

Sec. 10161. General requirement.
Sec. 10162. Enforcement.
Sec. 10163. Publication and public access to compliance information.
Sec. 10164. Process for approval of premiums.
Sec. 10165. Annual reports.
Sec. 10166. Increase in funding for long-term care insurance, information, counseling, and assistance through State regulatory programs.

PART 4—MISCELLANEOUS PROVISIONS

Sec. 10171. Reports and studies.
Sec. 10172. Waiver of paperwork requirements.

Subtitle C—Worker Redeployment in Long-Term Care Programs

Sec. 10201. Requirement regarding redeployment of health care workers under long-term care program.

TITLE XI—REVENUE PROVISIONS

Sec. 11001. Amendment of 1986 Code.

Subtitle A—Increase in Excise Taxes on Tobacco Products

Sec. 11101. Increase in excise taxes on tobacco products.
Sec. 11102. Modifications of certain tobacco tax provisions.
Sec. 11103. Imposition of excise tax on manufacture or importation of roll-your-own tobacco.

Subtitle B—Treatment of Employer-Provided Health Care

Sec. 11201. Health benefits may not be provided under cafeteria plans or flexible spending arrangements other than medical savings accounts.
Sec. 11202. Deduction for health insurance costs of self-employed individuals increased and made permanent.
Sec. 11203. Limitation on prepayment of medical insurance premiums.

Subtitle C—Extending Medicare Coverage of, and Application of Hospital Insurance Tax to, All State and Local Government Employees.

Sec. 11301. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.

Subtitle D—Treatment of Organizations Providing Health Care Services and Related Organizations

Sec. 11401. Qualification and disclosure requirements for certain nonprofit health care organizations.
Sec. 11402. Excise taxes for failure by tax-exempt health care organizations to meet certain qualification requirements.
Sec. 11403. Treatment of nonprofit health care organizations.
Sec. 11404. Tax treatment of taxable organizations providing health insurance and other prepaid health care services.
Sec. 11405. Organizations subject to section 833.
Sec. 11406. Tax exemption for high-risk insurance pools.

Subtitle E—Treatment of Accelerated Death Benefits Under Life Insurance Contracts

Sec. 11501. Tax treatment of accelerated death benefits under life insurance contracts.
Sec. 11502. Tax treatment of companies issuing qualified accelerated death benefit riders.

Subtitle F—Employment Status Provisions

Sec. 11601. Employment status proposal required from Department of the Treasury.
Sec. 11602. Increase in penalties relating to reporting of payments for services.

Subtitle G—Tax Treatment of Funding of Retiree Health Benefits

Sec. 11701. Post-retirement medical and life insurance reserves.

Subtitle H—Excise Taxes on Insured and Self-Insured Health Plans

Sec. 11801. Excise taxes on insured and self-insured health plans.

Subtitle I—Other Provisions

PART 1—TAX INCENTIVES FOR HEALTH SERVICES PROVIDERS

Sec. 11901. Nonrefundable credit for certain primary health services providers.
Sec. 11902. Expensing of medical equipment.

PART 2—HEALTH CARE WORKFORCE TRUST FUND

Sec. 11911. Health Care Workforce Trust Fund.

PART 3—RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS

Sec. 11921. Recapture of certain health care subsidies received by high-income individuals.

TITLE XII—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 12001. Conforming amendments to definitions.
Sec. 12002. Reporting and disclosure requirements for group health plans.
Sec. 12003. Amendments to enforcement provisions of ERISA.
Sec. 12004. Exemptions from ERISA preemption.
Sec. 12005. Transitional continuation coverage requirement for group health plans.
Sec. 12006. Coverage of pediatric vaccines and well-child services under group health plans.
Sec. 12007. Additional amendments relating to group health plans.
Sec. 12008. Plan claims procedures.
Sec. 12009. Regulations defining collective bargaining agreement.

TITLE XIII—COORDINATION OF MEDICAL PORTION OF WORKERS' COMPENSATION AND AUTOMOBILE INSURANCE

Subtitle A—Workers' Compensation Insurance

Sec. 13000. Definitions.

PART 1—HEALTH PLAN REQUIREMENTS RELATING TO WORKERS' COMPENSATION

Sec. 13001. Provision of workers' compensation services.
Sec. 13002. Payment by workers' compensation carrier.

PART 2—REQUIREMENTS OF STATES

Sec. 13011. State designation of centers of excellence in occupational health.
Sec. 13012. Development of supplemental schedules.
Sec. 13013. Provision of workers' compensation data.
Sec. 13014. Effect on State workers' compensation laws.
Sec. 13015. Protection against fraud.

PART 3—APPLICATION OF INFORMATION PRACTICES REQUIREMENTS; EFFECT ON PREMIUMS

Sec. 13021. Application of information practices requirements.
Sec. 13022. Report on effect on workers' compensation premiums.
Sec. 13023. Permissible terms of certain construction industry collective bargaining agreements.

PART 4—DEMONSTRATION PROJECTS

Sec. 13031. Authorization.
Sec. 13032. Development of work-related protocols.
Sec. 13033. Development of capitation payment models.

PART 5—COMMISSION ON INTEGRATION OF WORKERS' COMPENSATION MEDICAL BENEFITS

Sec. 13041. Commission.

Subtitle B—Automobile Insurance

Sec. 13100. Definitions.
Sec. 13101. Provision of automobile insurance medical benefits through health plans.
Sec. 13102. Payment by automobile insurance carrier.
Sec. 13103. Construction.

Subtitle C—Federal Employees' Compensation Act

Sec. 13201. Application of policy.

Subtitle D—Davis-Bacon Act and Service Contract Act

Sec. 13301. Coverage of benefits under Guaranteed Health Insurance Act of 1994.

Subtitle E—Effective Dates

Sec. 13401. General effective date; application.
Sec. 13402. Federal requirements.

TITLE XIV—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Sec. 14001. Findings and purposes.
Sec. 14002. Definitions.
Sec. 14003. Amendment of title 5, United States Code.

Subtitle A—General Changes in Health Benefits for Federal Employees and Annuitants

Sec. 14101. Types of benefits.
Sec. 14102. Contributions for guaranteed national benefits; other provisions taking effect in 1997.
Sec. 14103. Annualization of open enrollment periods.
Sec. 14104. Subsidies for low-income Federal employees and annuitants.
Sec. 14105. Provisions relating to the Retired Federal Employees Health Benefits Act.
Sec. 14106. Temporary employees.
Sec. 14107. Standardized claims processing.
Sec. 14108. Advance directives.
Sec. 14109. Collective bargaining authority.

Subtitle B—Provisions Relating to Universal FEHBP

Sec. 14201. Universal FEHBP.

Subtitle C—Transition Rules

Sec. 14301. Treatment of comprehensive medical plans.
Sec. 14302. Eligibility for universal FEHBP.
Sec. 14303. Treatment of remaining plans.

Subtitle D—Post-Transition Provisions

Sec. 14401. Integration of FEHBP and universal FEHBP.

"CHAPTER 89A—PROVISIONS FOR THE INTEGRATION OF FEHBP AND UNIVERSAL FEHBP

"Sec. 8931. Definitions.
"Sec. 8932. Applicability.
"Sec. 8933. Coverage under universal FEHBP.
"Sec. 8934. Provisions relating to plans offering the guaranteed national benefit package.
"Sec. 8935. Eligibility for additional benefits.
"Sec. 8936. Opportunities to enroll.
"Sec. 8937. Regulations.

Sec. 14402. Final accounting and distribution of certain reserves of chapter 89 plans.
Sec. 14403. Treatment of individuals residing abroad.

Subtitle E—Miscellaneous Provisions

Sec. 14501. Technical and conforming amendments.
Sec. 14502. Report on conforming legislative changes.
Sec. 14503. Treatment of Postal Service plans as multiemployer plans.

TITLE XV—DEPARTMENT OF VETERANS AFFAIRS

Sec. 15001. Benefits and eligibility through Department of Veterans Affairs medical system.

"CHAPTER 18—ELIGIBILITY AND BENEFITS UNDER ENROLLMENT-BASED SYSTEM

"SUBCHAPTER I—GENERAL

"1801. Definitions.

"SUBCHAPTER II—ENROLLMENT

"1811. Enrollment: veterans.
"1812. Enrollment: CHAMPVA eligibles.
"1813. Enrollment: family members.
"1814. Exclusive enrollment eligibility categories.

"SUBCHAPTER III—BENEFITS

"1821. Benefits for VA enrollees.
"1822. Chapter 17 benefits.
"1823. Supplemental benefits packages and policies.
"1824. Limitation regarding veterans enrolled with health plans outside Department.

"SUBCHAPTER IV—FINANCIAL MATTERS

"1831. Premiums, copayments, etc..
"1832. Recovery of cost of certain care and services.
"1833. Health Plan Fund.
"1834. Guaranteed funding of Government costs.

Sec. 15002. Organization of Department of Veterans Affairs facilities as health plans.

VOL
140
PT
15
AG
10
11
1994
UMI

"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM
"7341. Organization of health care facilities as health plans.
"7342. Operation of health care facilities within States operating single payer programs or pure managed competition programs.
"7343. Health care resource agreements.
"7344. Administrative and personnel flexibility.
"7345. Veterans Health Care Transition Fund.
"7346. Funding provisions: grants and other sources of assistance.
Sec. 15003. Eligibility for chapter 17 care.
Sec. 15004. Authority to provide health care for herbicide and radiation exposure.
Sec. 15005. Extension of authority to provide priority outpatient health care for exposure to environmental hazards.
Sec. 15006. Confidentiality of medical records.
Sec. 15007. Report on waiving cost-sharing for certain medical care for dependents of Persian Gulf veterans who may have been exposed to environmental hazards.
Sec. 15008. Study of the effect of telemedicine on the delivery of VA health care services.
Sec. 15009. Conforming reduction in discretionary spending limits.
Sec. 15010. Effective dates.
TITLE XVI—INDIAN HEALTH SERVICE
Sec. 16001. Policy.
Sec. 16002. Health security for Indians.
"TITLE IX—HEALTH SECURITY FOR INDIANS
"Sec. 901. Definitions.
"Sec. 902. Eligibility and health service coverage of Indians.
"Sec. 903. Provision of health services to non-enrollees and non-Indians.
"Sec. 904. Provision of guaranteed national benefit package.
"Sec. 905. Administrative provisions.
"Sec. 906. Long-term care for home and community-based services.
"Sec. 907. Capital investment and transitional assistance.
"Sec. 908. Treatment of Indians entitled to veterans benefits.
Sec. 16003. Treatment of payments under medicare and medicaid programs.
Sec. 16004. Annual consultation concerning health care initiatives.
Sec. 16005. Preemption of State regulatory authority.
Sec. 16006. Rules of construction.
Sec. 16007. Prohibition on reductions of full-time equivalent positions in the Indian Health Service.
TITLE XVII—MEDICAL MALPRACTICE AND ANTITRUST REFORMS
Subtitle A—Medical Malpractice
PART 1—LIABILITY REFORM
Sec. 17001. Definitions.
Sec. 17002. Federal tort reform.
Sec. 17003. Alternative dispute resolution methods.
Sec. 17004. Requirement for affidavit of merit.
Sec. 17005. Limitation on amount of attorneys' contingency fees.
Sec. 17006. Periodic payment of awards.
PART 2—OTHER PROVISIONS RELATING TO MEDICAL MALPRACTICE LIABILITY
Sec. 17011. Pilot program applying practice guidelines to medical malpractice liability actions.
Sec. 17012. Federal study on medical malpractice.
Subtitle B—McCarran-Ferguson Reform
Sec. 17101. Short title.
Sec. 17102. Rules of construction.
Sec. 17103. Amendments.
Sec. 17104. Publication and availability of historical underwriting capacity risk pool notifications.
Sec. 17105. Business review.
Sec. 17106. Study and report.
Sec. 17107. Effective dates.

SEC. 1000. PROTECTION OF CONSUMER CHOICE.

Nothing in this Act shall be construed as prohibiting the following:

(1) An individual from choosing the individual's own health provider.

(2) An individual from purchasing any health care services.

(3) An individual from purchasing supplemental insurance (offered consistent with this Act) to cover health care services not covered under the guaranteed national benefit package.

(4) Employers from providing coverage (consistent with this Act) for benefits in addition to the guaranteed national benefit package.

(5) Employers from making contributions (consistent with this Act) toward employee premiums in excess of any contributions required under this Act.

Subtitle A—Universal Coverage and Individual Responsibilities

SEC. 1001. UNIVERSAL HEALTH COVERAGE.

(a) COVERAGE.—In accordance with this Act, each eligible individual is entitled to the benefits covered under the guaranteed national benefit package under title III.

(b) REQUIREMENT.—In accordance with this Act and the applicable provisions of the Internal Revenue Code of 1986, individuals are required to obtain health insurance coverage for themselves and their family members.

(c) ELIGIBLE INDIVIDUAL DEFINED.—In this Act, the term "eligible individual" means an individual who is—

(1) a citizen or national of the United States;

(2) an alien permanently residing in the United States under color of law (as defined in section 1005(b)(1)); or

(3) a long-term nonimmigrant (as defined in section 1005(b)(2)).

Such term does not include an undocumented alien or a prisoner.

(c) GENERAL EFFECTIVE DATE.—This section takes effect on January 1, 1999.

(d) ISSUANCE OF HEALTH SECURITY CARDS.—Each eligible individual is entitled to be issued a health security card by the certified health plan (or under the medicare program or medicare part C) in which the individual is enrolled.

SEC. 1002. SATISFACTION OF RESPONSIBILITY THROUGH ENROLLMENT IN CERTIFIED HEALTH PLANS, MEDICARE PART C, AND MEDICARE.

(a) COVERAGE UNDER CERTIFIED HEALTH PLAN.—An individual meets the requirement of section 1001(b) for a month only through coverage—

(1) under a certified health plan (as defined in section 2), or

(2) under medicare part C (if the individual is eligible to enroll under medicare part C).

(b) COVERAGE UNDER MEDICARE PROGRAM.—An individual is considered to have met the requirement of section 1001(b) if the individual is a part A medicare beneficiary, and the provision of benefits under the medicare program is deemed to constitute the entitlement described in section 1001(a).

SEC. 1003. SPECIAL RULES FOR COVERED INDIVIDUALS WHO ARE NOT REQUIRED TO CONTRIBUTE.

(a) IN GENERAL.—In the case of an individual who is a covered, noncontributing individual (as defined in subsection (b)) with respect to all months in a taxable year, the individual shall not be required under section 1001(b) to make any contribution toward obtaining health insurance coverage with respect to the taxable year.

(b) COVERED, NONCONTRIBUTING INDIVIDUAL DEFINED.—In subsection (a), the term "covered, noncontributing individual", with respect to a taxable year, means either of the following individuals:

(1) YOUNG DEPENDENTS.—

(A) IN GENERAL.—An individual who is a young dependent of any taxpayer for a taxable year of such taxpayer which begins in the calendar year in which such taxable year begins.

(B) YOUNG DEPENDENT.—For purposes of this section, the term "young dependent" means, with respect to periods in any calendar year, any individual if—

(i) an exemption is allowable under section 151(c) of the Internal Revenue Code of 1986 with respect to such individual to the taxpayer for a taxable year beginning in such calendar year, and

(ii) such individual—

(I) has not attained the age of 19 as of the close of such calendar year, or

(II) is a student (as defined in section 151(c)(4) of such Code) who has not attained age 24 as of the close of such calendar year.

(2) CERTAIN CASH RECIPIENTS.—

(A) IN GENERAL.—An individual who for each month in the taxable year is—

(i) an AFDC recipient (as defined in section 2), or

(ii) an SSI recipient (as defined in such section).

(B) LIMITATION FOR SSI RECIPIENTS.—Subparagraph (A)(ii) shall not apply to an individual filing a joint return unless both spouses are SSI recipients.

(c) REFERENCE TO LOW-INCOME INDIVIDUALS WHO ARE COVERED AND NOT REQUIRED TO FULLY CONTRIBUTE.—

(1) LOW-INCOME INDIVIDUALS WITH BELOW-THRESHOLD INCOME NOT REQUIRED TO CONTRIBUTE.—For exemption from requirement to contribute toward health insurance coverage for low-income individuals, see paragraph (1) of section 59B(b) of the Internal Revenue Code of 1986 or section 2122(c)(1) of the Social Security Act.

(2) REDUCED CONTRIBUTION FOR OTHER LOW-INCOME INDIVIDUALS.—For reduction in contribution requirement toward health insurance coverage for other low-income individuals, see paragraph (2) of section 59B(b) of the Internal Revenue Code of 1986 or section 2122(c)(2) of the Social Security Act.

SEC. 1004. SPECIAL RULES FOR INDIVIDUALS NEITHER COVERED NOR REQUIRED TO CONTRIBUTE.

(a) IN GENERAL.—In the case of an individual who is a noncovered, noncontributing individual (as defined in subsection (b)) with respect to a month in a taxable year, the individual is deemed to have waived entitlement to benefits under section 1001(a) and is not required to make a contribution toward health insurance coverage.

(b) NONCOVERED, NONCONTRIBUTING INDIVIDUAL DEFINED.—In subsection (a), the term "noncovered, noncontributing individual", with respect to a month, means any of the following individuals:

(1) RELIGIOUS EXEMPTION.—An individual if, as of the first day of such month, there is in effect for such individual, a qualified religious exemption (as defined in subsection (c)(1)).

(2) DISABLED VETERANS.—An individual if, as of the first day of such month, there is in effect for the individual, a qualified disabled veteran exemption (as defined in subsection (c)(2)).

(3) ACTIVE DUTY MILITARY.—An individual if as of the first day of such month, the individual is on active duty as a member of the uniformed services (as defined in section 101 of title 10, United States Code).

(4) PRISONERS.—An individual if as of the first day of such month, the individual is imprisoned under Federal, State, or local authority after conviction.

(c) RELIGIOUS AND VETERANS EXEMPTIONS DESCRIBED.—For purposes of subsection (b)—

(1) QUALIFIED RELIGIOUS EXEMPTION.—

(A) IN GENERAL.—The term "qualified religious exemption" means an exemption granted by the Secretary to an individual—

(i) who is a member of a recognized religious sect or division thereof with respect to which such Secretary makes the findings referred to in subparagraphs (C), (D), and (E) of section 1402(g)(1) of the Internal Revenue Code of 1986,

(ii) who is an adherent of established tenets or teachings of such sect or division as described in such section, and

(iii) who submits an application for such exemption which contains or is accompanied by the evidence described in section 1402(g)(1)(A) of such Code and a waiver described in section 1402(g)(1)(B) of such Code.

For purposes of the clause (iii), section 1402(g)(1)(B) of such Code shall be treated as including a reference to medicare part C.

(B) LIMITATION.—An exemption granted under this paragraph shall cease to apply beginning on the date such Secretary determines that the individual, or the sect or division, ceased to meet the requirements of subparagraph (A).

(2) QUALIFIED DISABLED VETERAN EXEMPTION.—

(A) IN GENERAL.—The term "qualified disabled veteran exemption" means an exemption granted by the Secretary to an eligible person (within the meaning of section 1710(a)(1) of title 38, United States Code) who waives all benefits and payments under all certified health plans of any employer and under medicare part C with respect to the guaranteed national benefit package described in title III.

(B) MINIMUM PERIOD OF EXEMPTION.—Such an exemption may not be granted for a period of less than 1 year and shall not take effect earlier than the month beginning after the month in which the eligible person requests such waiver.

(C) TERMINATION BY INDIVIDUAL.—Such an exemption may be terminated by the eligible person. Such a termination shall not take effect earlier than the month beginning after the month in which notice of such termination is sent to the Secretary. No subsequent exemption under this paragraph may be granted to such person until one year after the date such termination took effect.

SEC. 1005. MISCELLANEOUS DEFINITIONS AND RELATED PROVISIONS.

(a) RELATED DEFINITIONS.—In this subtitle—

(1) ALIEN PERMANENTLY RESIDING IN THE UNITED STATES UNDER COLOR OF LAW.—The term "alien permanently residing in the United States under color of law" means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act), and includes any of the following:

(A) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is withheld under section 243(h) of such Act.

(D) An alien whose deportation is suspended under section 244 of such Act.

(E) An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act, as in effect before April 1, 1980.

(F) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

(G) An alien who has been paroled into the United States under section 212(d)(5) of such Act for an indefinite period or who has been granted extended voluntary departure as a member of a nationality group, temporary protected status, or deferred enforced departure.

(H) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent residence is pending.

(I) An alien eligible for work authorization granted by the Immigration and Naturalization Service (other than as a nonimmigrant).

(J) An alien within such other classification of permanent resident aliens as the Secretary may establish by regulation. Such regulation shall include categories of such aliens who are included in regulations as in effect on the date of the enactment of this Act under title XIX of the Social Security Act.

(2) LONG-TERM NONIMMIGRANT.—The term "long-term nonimmigrant" means a nonimmigrant described in subparagraph (E), (H), (I), (K), (L), (N), (O), (P), (Q), or (R) of section 101(a)(15) of the Immigration and Nationality Act.

(3) PRISONER.—The term "prisoner" means, as specified by the Secretary, an individual during a period of imprisonment under Federal, State, or local authority after conviction.

(b) ADDITIONAL RECOMMENDATIONS AND RULES REGARDING ALIENS; RECOMMENDATIONS REGARDING CITIZENS RESIDING OUTSIDE THE UNITED STATES.—

(1) RECOMMENDATIONS CONCERNING ALIENS.—The Secretary, in consultation with the Attorney General, shall make recommendations to Congress with respect to classes of eligibility for aliens and modifications of rules concerning eligibility and coverage for aliens.

(2) RULES.—In making the recommendations under paragraph (1), the Secretary shall consider—

(A) appropriate treatment of diplomatic personnel and employees of international organizations,

(B) appropriate rules for minors who are not dependents of eligible individuals, and

(C) appropriate rules for the treatment of spouses who are dependents of ineligible individuals.

(3) RECIPROCAL TREATMENT OF OTHER NONIMMIGRANTS.—With respect to those classes of individuals who are lawful nonimmigrants but who are not long-term nonimmigrants (as defined in section (b)(2)), the Secretary, in consultation with the Attorney General, shall submit to Congress such recommendations relating to reciprocal agreements between the United States and foreign states with respect to coverage of some or all classes of such nonimmigrants as may be appropriate.

(4) RECOMMENDATIONS CONCERNING UNITED STATES CITIZENS RESIDING OUTSIDE THE UNITED STATES.—The Secretary shall make recommendations to Congress with respect to coverage of United States citizens residing outside the United States.

Subtitle B—Employer Responsibilities

PART 1—EMPLOYER COVERAGE RESPONSIBILITIES

SEC. 1101. EMPLOYER RESPONSIBILITIES.

(a) IN GENERAL.—In accordance with this Act and the applicable provisions of the Internal Revenue Code of 1986, employers are required to provide or contribute to health insurance coverage of employees and their family members.

(b) APPLICATION OF RULES.—In carrying out such requirement, the provisions in the following sections of this part apply.

(c) GENERAL EXEMPTION.—Subsection (a) shall not apply with respect to a generally excludable employee (as defined in section 1105(b)).

(d) EFFECTIVE DATE.—This section takes effect on January 1, 1997, with respect to large employers and January 1, 1999, with respect to other employers.

SEC. 1102. SATISFACTION OF RESPONSIBILITY BY LARGE EMPLOYERS THROUGH ENROLLMENT IN CERTIFIED HEALTH PLANS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Subject to paragraph (2), in order for a large employer to meet the requirements of section 1101(a) with respect to an employee for a month, the employee must be a qualified employer-covered employee (as defined in section 1104).

(2) TREATMENT OF PART-TIME, SEASONAL, OR TEMPORARY EMPLOYEES.—In the case of an exempt part-time, seasonal, or temporary employee (as defined in subsection (c)), in order for a large employer to meet the requirements of section 1101(a) with respect to such an employee for a month, either—

(A) the employee must be a qualified employer-covered employee (as defined in section 1104), or

(B) the employer must contribute to medicare part C.

(b) EXCEPTION FOR VOLUNTARILY EXCLUDED EMPLOYEES WHO MAY ELECT TO DECLINE COVERAGE.—

(1) IN GENERAL.—Subsection (a) shall not apply with respect to a voluntarily excluded employee (as defined in paragraph (2)), if the employee was offered coverage in accordance with section 1104(c)).

(2) VOLUNTARILY EXCLUDED EMPLOYEE.—For purposes of paragraph (1), subject to paragraph (3), the term "voluntarily excluded employee" means, with respect to a month, any of the following employees:

(A) OTHER HEALTH COVERAGE.—

(i) IN GENERAL.—Any employee if there is in effect as of the first day of such month a withholding exemption certificate stating that such employee is covered under medicare part A or a certified health plan other than a plan of such employer.

(ii) SPECIAL RULE FOR INDIVIDUALS COVERED UNDER INDIAN HEALTH SERVICE OR VETERANS PLAN.—Clause (i) shall not apply to an employee by reason of coverage under a plan described in clause (iii) unless the employer makes a contribution toward such coverage in the amount described in section 1104(d)(2).

(iii) PLANS DESCRIBED.—A plan described in this clause is—

(I) a health plan of the Indian Health Service, or

VOL 140 PT 15 AG 10 — 11 1994 UMI

(II) an HSA-certified VA health plan (as defined in section 1801 of title 38, United States Code) in the case of an employee who is a veteran (within the meaning of section 101 of such title) or a family member of a veteran.

(B) INDIVIDUALS ELECTING MEDICARE PART C.—Any employee if there is in effect as of the first day of such month a withholding exemption certificate stating that such employee—

(i) is an eligible individual who is an AFDC or SSI recipient, and

(ii) waives coverage under all certified health plans of the employer for such month.

(C) WAIVER DURING TRANSITION PERIOD.—In the case of a month before January 1999, any employee who waives coverage under all certified health plans of the employer for such month.

(3) SPECIAL RULE IN CASE OF ENROLLMENT OF EMPLOYEES OF LARGE EMPLOYERS IN COMMUNITY-RATED PLANS.—

(A) IN GENERAL.—In the case of an employee of a large employer who is enrolled in a certified health plan other than an exempt plan described in subparagraph (B), the employee is deemed to be covered under the certified health plan of the large employer and such plan shall make payment, in relation to other certified health plans, in the same manner as a group health plan is a primary plan (as described in section 1862(b)(2)(A)) in relation to the medicare program.

(B) EXEMPT PLAN.—An exempt plan described in this subparagraph with respect to an employee is—

(i) a certified health plan offered by another employer of the employee,

(ii) a certified health plan offered by an employer of the employee's spouse, or

(iii) a certified health plan offered by an employer of another person with respect to whom the employee is a young dependent.

(c) EXEMPT PART-TIME, SEASONAL, OR TEMPORARY EMPLOYEES.—For purposes of this part, the term "exempt part-time, seasonal, or temporary employee" means, with respect to a month, any of the following employees:

(1) CERTAIN PART-TIME EMPLOYEES.—Any employee whose normal work week is reasonably expected as of the first day of such month to be less than 25 hours.

(2) SEASONAL OR TEMPORARY EMPLOYEES.—Any employee who is not reasonably expected as of the first day of such month to be employed by the employer for a period of 120 consecutive days during any 365-day period that includes such first day.

(3) DELAY FOR CERTAIN PART-TIME EMPLOYEES.—Any employee whose normal work week is reasonably expected as of the first day of such month to be at least 25 hours, but less than 35 hours, and the normal work week of the employee during the preceding 3 months was less than 25 hours.

SEC. 1103. SATISFACTION OF RESPONSIBILITY FOR SMALL EMPLOYERS THROUGH CERTIFIED HEALTH PLANS OR MEDICARE PART C.

(a) IN GENERAL.—In order for a small employer to meet the requirements of section 1101(a) with respect to an employee for a month, the employee must be—

(1) a qualified employer-covered employee (as defined in section 1104) or an employee described in subsection (b)(2)(B), or

(2) covered under medicare part C.

(b) LIMITATION ON EMPLOYER CHOICE.—

(1) IN GENERAL.—Subject to paragraph (2), a small employer is not considered to have met the requirements of section 1101(a) by reason of subsection (a)(1) of this section unless all employees of such employer are qualified employer-covered employees.

(2) EXCEPTIONS.—A small employer is not required under paragraph (1) to provide coverage (under a certified health plan as a qualified employer-covered employee) of any employee who is—

(A) a medicare part C eligible individual described in paragraph (4) or (5) of section 2101(b) of the Social Security Act,

(B) a voluntarily excluded employee (as defined in section 1102(b)) described in section 1102(b)(2)(A) if the employee was offered such coverage in accordance with section 1104(c), or

(C) an exempt part-time, seasonal, or temporary employee (as defined in section 1102(c)).

For purposes of subparagraph (B), section 1102(b)(2)(A) shall be applied by treating clause (iii) thereof as including a reference to a certified health plan offered through Universal FEHBP.

SEC. 1104. QUALIFIED EMPLOYER-COVERED EMPLOYEE DEFINED.

(a) IN GENERAL.—In this part, the term "qualified employer-covered employee" means any employee if (and only if)—

(1) such employee is covered under a certified health plan of the employee's employer,

(2) such employee's coverage under such plan is in accordance with subsection (b),

(3) such employee was offered such coverage in accordance with subsection (c), and

(4) the employer makes a contribution for such coverage in accordance with subsection (d).

(b) COVERAGE REQUIREMENTS.—

(1) IN GENERAL.—An employee's coverage under a certified health plan is in accordance with this subsection if—

(A) such plan (which may be a high deductible plan, as defined in subsection (d)(2)(E)) was selected by the employee from plans offered consistent with subsection (c),

(B) family members of the employee are covered under such plan if such family coverage is elected in accordance with such subsection, and

(C) such coverage does not terminate by reason of termination of employment until the end of the month in which such termination occurs.

(2) COVERAGE DEFINED.—For purposes of this subsection, an individual is considered to be covered with respect to a plan at such time as the plan bears a legal responsibility for provision of (or payment for) services for which benefits are included under the plan.

(c) OFFERING REQUIRED.—

(1) IN GENERAL.—Coverage is offered in accordance with this subsection with respect to an employee only if the employee is offered coverage under a choice of certified health plans, including at least—

(A) 1 managed care plan (as defined in section 5504(7)), if available to the employer with respect to the employee, and

(B) 1 unlimited-choice-of-provider plan (as defined in section 5504(17)), which may be a point-of-service plan (as defined in section 5504(10)).

(2) OFFERING FAMILY COVERAGE.—

(A) IN GENERAL.—Coverage is offered in accordance with this subsection with respect to an employee only if coverage also is offered for family members under the plan in which the employee obtains coverage.

(B) FAMILY MEMBERS DEFINED.—For purposes of this section, the term "family member" means, with respect to an employee—

(i) the employee's spouse, if the spouse is an eligible individual, and

(ii) any young dependent of the employee, if the dependent is an eligible individual.

(3) TERMS OF OFFERING.—An employer shall not be treated as offering coverage in accordance with this subsection unless the following requirements are met:

(A) ANNUAL OPEN ENROLLMENT PERIODS.—The employer has an annual open enrollment period of at least 45 days during which employees may change the plan under which they are provided coverage.

(B) CHANGES IN ENROLLMENT DURING 1ST YEAR OF EMPLOYMENT.—Once during the 1st year of employment with an employer, each employee may change the plan under which the employee is provided coverage. Such a change shall be effective on the first day of the first month beginning at least 45 days after the date the employer receives a notice of change of coverage.

(C) CHANGES IN FAMILY STATUS.—The offer of family coverage under paragraph (2) is made (in accordance with regulations prescribed by the Secretary) at such times and in such manner as may be necessary to take into account changes in family status and changes in employment of family members.

(4) TREATMENT OF COOPERATIVES, UNIVERSAL FEHBP, AND STATE SINGLE-PAYER SYSTEMS.—An employer is deemed to meet the requirement of the paragraph (1) with respect to an employee if—

(A) in the case of a small employer, the employer makes available a choice of certified health plans through a consumer purchasing cooperative or through Universal FEHBP; or

(B) the employee resides in a State which has a State single-payer system approved under subtitle A of title IV and the employer meets the requirements applicable to the employer under such system.

(d) REQUIRED CONTRIBUTION.—

(1) IN GENERAL.—An employer makes a contribution for coverage under a certified health plan in accordance with this subsection with respect to an employee only if—

(A) the employer pays the employer contribution amount specified in paragraph (2) for an employee (and family members) covered under a certified health plan under subsection (b), and

(B) the portion of the premium for coverage not paid by the employer, net of the value of any premium certificates provided under part A of title XXII of the Social Security Act or other premium subsidies provided with respect to the employee, is withheld from wages paid the employee.

(2) EMPLOYER CONTRIBUTION AMOUNT.—

(A) FULL-TIME EMPLOYEES.—For purposes of paragraph (1)—

(i) COVERED UNDER MANAGED CARE PLANS.—In the case of an employee who is covered under a managed care plan (as defined in section 5504(7)), the employer contribution amount specified in this paragraph is equal to at least 80 percent of the premium for the qualified managed care plan offered under subsection (c) to the employee that has the lowest premium for the class of enrollment involved.

(ii) COVERED UNDER UNLIMITED-CHOICE-OF-PROVIDER PLAN.—In the case of an employee who is covered under an unlimited-choice-of-provider plan (other than a high deductible plan) the employer contribution amount specified in this paragraph is equal to at least 80 percent of the premium for the qualified unlimited-choice-of-provider plan offered under subsection (b) to the employee that has the lowest premium for the class of enrollment involved and that is not a high deductible plan.

(iii) COVERED UNDER HIGH DEDUCTIBLE PLAN.—In the case of an employee who is covered by a certified health plan that is a high deductible plan, the employer contribution amount specified in this paragraph is the same percent of the premium for such coverage as the percent that would apply under clause (ii) if the employee were covered under an unlimited-choice-of-provider plan that is not a high deductible plan.

(B) REDUCTION FOR PART-TIME EMPLOYEES.—

(i) IN GENERAL.—In the case of a part-time employee (as defined in section 1106(a)), the amount specified in this paragraph is an amount that is not less than the part-time fraction (as defined in such section) of the amount otherwise provided under subparagraph (A).

(ii) EMPLOYER ELECTION TO INCREASE SHARE.—An employer may elect to specify, with respect to any part-time employee for any month, an part-time fraction which is greater than the part-time fraction which would (but for this clause) apply to such employee for such month but not greater than 1. Any fraction so specified shall apply to the employee for the month for which made and all succeeding months beginning before the date it is revoked by the employer.

(C) CONTRIBUTION TO MEDICAL SAVINGS ACCOUNT REQUIRED IF COVERAGE UNDER HIGH DEDUCTIBLE MEDICAL SAVINGS ACCOUNT PLAN.—

(i) IN GENERAL.—An employer shall not be treated as making a contribution for coverage under a certified health plan in accordance with this subsection in the case of an employee covered under a high deductible plan offered by the employer, unless the employer also makes a contribution in the amount of the medical savings contribution amount specified in clause (ii) into a medical savings account (as defined in section 7705(a) of the Internal Revenue Code of 1986) on behalf of the employee. Such a contribution shall be made not later than the date of the premium payment to which it relates.

(ii) MSA CONTRIBUTION AMOUNT.—For purposes of clause (i), the term "medical savings contribution amount" means, for an employee covered under a high deductible plan, an amount equal to the excess of—

(I) the employer contribution amount that would apply under this paragraph if the employee were covered under an unlimited-choice-of-provider plan that was not a high deductible plan, over

(II) the employer contribution amount made for coverage under the high deductible plan.

(D) TREATMENT OF PLANS OFFERED THROUGH A COOPERATIVE OR UNIVERSAL FEHBP.—With respect to certified health plans offered through a consumer purchasing cooperative or Universal FEHBP by an employer to an employee, the contribution amount under this paragraph shall be determined as if all the certified health plans offered by the cooperative or Program were offered by the employer.

(E) HIGH DEDUCTIBLE PLAN.—For purposes of this paragraph, the term "high deductible plan" has the meaning given such term by section 5504(5).

(3) DETERMINATION OF PREMIUM.—

(A) IN GENERAL.—For purposes of this subsection, the term "premium" means, with respect to—

(i) a certified health plan that is offered by a carrier (as defined in section 5504(2)), the premium established by the carrier for the plan with respect to the guaranteed national benefit package described in title II ; or

(ii) any other certified health plan, a reasonable estimate of the aggregate accident and health coverage expenditures of the plan (as determined under section 4376(d) of the Internal Revenue Code of 1986) for the period involved with respect to the guaranteed national benefit package which—

(I) is determined on an actuarial basis for different classes of enrollment (consistent with section 5108), and

(II) takes into account such factors as the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, may prescribe.

(B) PREMIUM BASED ON CLASS OF ENROLLMENT.—The premium with respect to an employee for a month shall be based on the class of enrollment with respect to which the employee is provided coverage as of the first day of the month.

(C) ADDITIONAL RULES.—Rules similar to the rules in clauses (ii) and (iii) of subparagraph (B), and subparagraph (C), of section 4980B(f)(4) of the Internal Revenue Code of 1986 shall apply to the determination of the premium, except that the adjustment under subparagraph (B)(ii)(II) of such section shall be by the sum described in section 6001(c) of the Guaranteed Health Insurance Act of 1994).

(4) COMPLIANCE WITH PREMIUM CERTIFICATE REQUIREMENTS.—An employer is not considered to have made a contribution for coverage with respect to an employee in accordance with this subsection unless—

(A) the employer provides the employee, upon request, with such documentation, in such form and in such a timely manner, as the Secretary specifies, as the employee may require to apply for and obtain a premium certificate under part A of title XXII of the Social Security Act; and

(B) if the employee tenders to the employer a premium certificate issued under such subpart, the employer reduces by the value of the certificate the amount of any premium required to be paid by the employee for periods beginning after the date of tender of the certificate unless otherwise provided.

SEC. 1105. EMPLOYEES NOT SUBJECT TO REQUIREMENT.

(a) IN GENERAL.—An employer is not required to provide or contribute to health insurance coverage with respect to employment of a generally excludable employee (as defined in subsection (b)).

(b) GENERALLY EXCLUDABLE EMPLOYEE DEFINED.—For purposes of subsection (a), the term "generally excludable employee" means any employee for any month if—

(1) such employee began work for the employer after the first day of such month;

(2) there is in effect as of the first day of such month a withholding exemption certificate stating that such employee reasonably expects to be a young dependent (as defined in section 1003(b)(1)(B)) of any taxpayer for the taxable year of such taxpayer which includes such month;

(3) as of the first day of such month, there is in effect for such employee—

(A) a qualified religious exemption (as defined in section 1004(c)(1)), or

(B) a qualified disabled veteran exemption (as defined in section 1004(c)(2));

(4) as of the first day of such month, such individual is on active duty as a member of the uniformed services (as defined in section 101 of title 10, United States Code);

(5) the only services performed by such employee for the employer during such month are services the income from which is excluded from gross income for purposes of section 151(c)(1)(A) of the Internal Revenue Code of 1986 by reason of section 151(c)(5) of such Code; or

(6) the amount of wages paid by the employer to such employee during such month does not exceed $100.

(c) INFLATION ADJUSTMENT OF WAGE AMOUNT.—In the case of months in any calendar year after 1997, the dollar amount contained in subsection (b)(6) shall be increased by an amount equal to—

(1) such dollar amount, multiplied by

(2) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 for the calendar year which includes such month, by substituting "calendar year 1994" for "calendar year 1992" in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the nearest multiple of $5.

SEC. 1106. DEFINITIONS AND SPECIAL RULES.

(a) FULL-TIME EMPLOYEE; PART-TIME EMPLOYEE; PART-TIME FRACTION.—For purposes of this part—

(1) FULL-TIME EMPLOYEE.—The term "full-time employee" means any employee of an employer whose normal work week for such employer is not less than 35 hours.

(2) PART-TIME EMPLOYEE.—The term "part-time employee" means any employee who is not a full-time employee.

(3) PART-TIME FRACTION.—The part-time fraction is a fraction—

(A) the numerator of which is the number of hours in the employee's normal work week, and

(B) the denominator of which is 35.

(4) AGGREGATION RULES.—For purposes of this subsection—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer, and

(B) all employees of the members of an affiliated service group (as defined in section 414(m) of such Code) shall be treated as employed by a single employer.

(b) LARGE EMPLOYER; SMALL EMPLOYER DEFINED.—

(1) IN GENERAL.—For purposes of this part—

(A) LARGE EMPLOYER.—The term "large employer" means, with respect to any calendar year, any employer if, on each of 20 days during the preceding calendar year (each day being in a different week), such employer (or any predecessor) employed more than 100 employees for some portion of the day.

(B) SMALL EMPLOYER.—The term "small employer" means an employer other than a large employer.

(2) AGGREGATION RULES.—For purposes of paragraph (1)—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer, and

(B) all employees of the members of an affiliated service group (as defined in section 414(m) of such Code) shall be treated as employed by a single employer.

(c) TREATMENT OF EMPLOYEES OF EDUCATIONAL ORGANIZATIONS.—For purposes of this part—

(1) IN GENERAL.—Notwithstanding subsection (b)(4), an employee of an educational organization shall be treated as a full-time employee if such employee's normal work week is the customary hours that constitute full-time employment for such organization (as determined by such organization).

(2) PART-TIME EMPLOYEES.—The part-time fraction of an employee of an educational organization who is not treated as a full-time

VOL 140 PT 15 AG 10 — 11 1994 UMI

employee under paragraph (1) shall be the fraction which such employee's normal work week bears to the customary hours that constitute full-time employment for such organization (as so determined).

(3) SUMMER MONTHS, ETC.—In the case of a period between 2 successive academic years or terms, if—

(A) an employee of an educational organization performs services in the first of such academic years or terms,

(B) such employee performs substantially reduced services (if any) during such period, and

(C) there is a reasonable assurance that such employee will perform such services in the second of such academic years or terms,

then the employee shall be treated as an employee of such organization during such period and as having the same normal work week (and compensation) as such employee had in the first of such years or terms.

(4) EMPLOYEE OF EDUCATIONAL ORGANIZATION DEFINED.—For purposes of paragraphs (1) and (2), an individual is an employee of an educational organization if such individual—

(A) is an employee of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) or an elementary or secondary school (as defined in section 1471 of the Elementary and Secondary Education Act of 1965), and

(B) is employed in a capacity described in so much of section 13(a)(1) of the Fair Labor Standards Act of 1936 as ends with "secondary schools)".

(d) OTHER DEFINITIONS.—

(1) IN GENERAL.—For purposes of this part, the terms "wages", "employer", "employment", and "employee" have the same meanings as when used in chapter 21 of the Internal Revenue Code of 1986: except that, for purposes of this part, the following provisions of chapter 21 of such Code shall not apply:

(A) Paragraph (1) of section 3121(a).

(B) Paragraph (5) of section 3121(b).

(C) Paragraph (7) of section 3121(b) (other than subparagraph (C) or (F) thereof).

(D) Paragraph (9) of section 3121(b).

(2) CONSUMER PURCHASING COOPERATIVE.—The term "consumer purchasing cooperative" means such a cooperative under subtitle B of title IV or subtitle E of title V.

(3) UNIVERSAL FEHBP.—The term "Universal FEHBP" means the program established under subtitle D of title V.

PART 2—ADDITIONAL EMPLOYER RESPONSIBILITIES

SEC. 1111. MAINTENANCE-OF-EFFORT IN PROVIDING HEALTH BENEFITS TO EMPLOYEES.

(a) EMPLOYERS TO WHICH SUBSECTION APPLIES.—This section shall apply to any employer if such employer (or any predecessor) offered as of January 1, 1994, health benefits to any employee.

(b) REQUIREMENTS.—An employer meets the requirements of this section only if the employer offers, throughout the 5-year period beginning on the date of the enactment of this Act, at least the level of health benefits offered as of January 1, 1994, to—

(1) the employees, spouses, and dependents to whom such benefits were offered as of such date, and

(2) similarly situated employees, spouses, and dependents.

(c) COLLECTIVE BARGAINING AGREEMENTS.—To the extent health benefits are provided pursuant to a collective bargaining agreement between employee representatives and 1 or more employers which was ratified before the date of the enactment of this Act, the 5-year period referred to in subsection (b) shall not expire before the date on which such agreement terminates (determined without regard to any extension thereof on or after the date of the enactment of this Act). The preceding sentence shall cease to apply with respect to any such agreement on the effective date of any modification of such agreement on or after June 29, 1994.

(d) EFFECTIVE DATE.—The requirements of this section shall apply to benefits offered on or after the date of the enactment of this Act.

SEC. 1112. NONDISCRIMINATION REQUIREMENTS IN PROVIDING ADDITIONAL HEALTH BENEFITS TO FULL-TIME EMPLOYEES.

(a) EMPLOYERS TO WHICH SUBSECTION APPLIES.—This section shall apply to any employer who makes an additional health benefit payment on behalf of any full-time employee.

(b) REQUIREMENTS.—An employer meets the requirements of this section only if all full-time employees are offered the same amount of additional health benefit payments. The requirements of this subsection shall be applied separately with respect to employees enrolled in different classes of enrollment.

(c) SAFE HARBOR RULES RELATING TO PREMIUM PAYMENTS.—In any case in which an additional health benefit payment is an additional premium payment for a certified health plan, the employer shall not be treated as failing to meet the requirements of this section if such payment meets the requirements of any (or any combination) of the following paragraphs:

(1) LEVEL PERCENTAGE CONTRIBUTION FOR PLAN SELECTED.—The additional payment amount is a fixed percentage of the premium under each certified health plan offered. Such percentage may vary based on class of enrollment.

(2) LEVEL PERCENTAGE CONTRIBUTION FOR CATEGORY OF PLAN.—The additional payment amount is a fixed percentage of the premium for the lowest cost plan within each category of certified health plans offered. Such percentage may vary based on class of enrollment.

(3) EQUALIZING DOLLAR AMOUNTS OF REQUIRED CONTRIBUTIONS.—The additional payment amount is the minimum dollar amount, within such a class of enrollment, that is required to assure that the total dollar contribution by the employer (including both the minimum required contribution and the additional payment amount) for all employees is equal to the greater of—

(A) the minimum level of employer contribution required for a managed care plan, or

(B) the minimum level of employer contribution required for an unlimited-choice-of-provider plan,

without regard to the plan selected. Such dollar amount may vary based on class of enrollment.

(4) LEVEL DOLLAR AMOUNTS OF ADDITIONAL CONTRIBUTIONS.—The payment is a fixed equal dollar amount per full-time employee, without regard to the plan selected. Such premium contribution may vary, or not vary, based on such a class of enrollment.

For purposes of applying this subsection, the term "premium" includes, with respect to a high deductible medical savings plan, a contribution to a medical savings account.

(d) DIFFERENT TREATMENT OF UNLIMITED-CHOICE-OF-PROVIDER PLANS AND MANAGED CARE PLANS.—If any additional benefit consists of a reduction in the cost sharing otherwise required under the guaranteed national benefit package—

(1) such reduction shall be treated as an additional health benefit payment, and

(2) the requirements of this section shall be met only if any difference in such reduction between unlimited-choice-of-provider plans and managed care plans meets such terms and conditions as may be prescribed by the Secretary by regulations.

(e) RECOMMENDATIONS ON INCLUSION OF PART-TIME EMPLOYEES.—The Secretary of Labor shall analyze and submit to Congress a report on how the provisions of this section may be applied in the case of part-time employees.

(f) DEFINITIONS.—For purposes of this section—

(1) ADDITIONAL HEALTH BENEFIT PAYMENT.—The term "additional health benefit payment" means any payment designed to be used exclusively (or primarily) towards the cost of health insurance coverage and does not include any tax imposed by chapter 25 of the Internal Revenue Code of 1986.

(2) FULL-TIME EMPLOYEE.—The term "full-time employee" means any full-time employee (as defined in section 1106(a)(1)) with respect to whom the employer is required to make a contribution under section 1104(d).

(3) AGGREGATION RULES.—For purposes of this subsection—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer, and

(B) all employees of the members of an affiliated service group (as defined in section 414(m) of such Code) shall be treated as employed by a single employer.

(g) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENT.—This section shall not apply with respect to additional health benefits provided pursuant to a bona fide collective bargaining agreement or to a multiemployer plan.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to benefits provided—

(A) by a large employer (as defined in section 1106(b)) on or after January 1, 1997, or

(B) by another employer on or after January 1, 1999.

(2) RELATIONSHIP TO TRANSITIONAL MAINTENANCE-OF-EFFORT REQUIREMENTS.—An employer shall not be considered to have failed to comply with the requirements of this subsection because of the provision of additional health benefit payments that are required to be provided pursuant to section 1111.

SEC. 1113. MAINTENANCE-OF-EFFORT REQUIREMENTS WITH RESPECT TO FORMER EMPLOYEES.

(a) EMPLOYERS TO WHICH SECTION APPLIES.—This section shall apply to any employer if such employer (or any predecessor), as of January 1, 1994, was paying any portion of the health costs for a qualified retiree or a qualified spouse or child.

(b) REQUIREMENTS.—

(1) IN GENERAL.—An employer meets the requirements of this section only if—

(A) each individual who is a qualified retiree or a qualified spouse or child is offered coverage under a health benefit plan of such employer which covers benefits comparable to the benefits covered by the employer with respect to qualified retirees as of January 1, 1994, and

(B) with respect to such individuals who elect coverage under a certified health plan of such employer, the employer contribution for each month is an amount equal to 80 percent of the cost of providing such coverage.

(2) OPTION TO PROVIDE EMPLOYER CONTRIBUTION TO MEDICARE PART C.—For periods beginning on or after January 1, 1999, an employer also shall meet the requirements of this section if—

(A) each individual who is a qualified retiree or a qualified spouse or child is offered coverage under medicare part C, and

(B) the employer contribution for each month for each such individual who elects coverage (or is covered) under medicare part C is an amount equal to the employer's share of applicable medicare part C premium for such month (as determined under section 3455 of the Internal Revenue Code of 1986).

(c) QUALIFIED RETIREE DEFINED.—For purposes of this section, the term "qualified retiree" means an eligible individual who—

(1) has attained age 55 but not age 65,

(2) is not a full-time employee, and

(3) is not a medicare part A beneficiary.

(d) QUALIFIED SPOUSE OR CHILD DEFINED.—For purposes of this section, the term "qualified spouse or child" means, in relation to a qualified retiree, an eligible individual with respect to whom the requirements in one of the following paragraphs is met:

(1) The individual (A) is under 65 years of age and is (and has been for a period of at least one year) married to a qualified retiree or (B) is a child of the qualified retiree.

(2) In the case of a person who was a qualified retiree at the time of the person's death—

(A) the individual was (and had for a period of at least one year been) married to the retiree at the time of the person's death,

(B) the individual is under 65 years of age,

(C) the individual is not a full-time employee,

(D) the individual is not remarried, and

(E) the deceased spouse would still be a qualified retiree if such spouse had not died.

(3) The individual is a child of an individual described in paragraph (2).

(e) EMPLOYER.—For purposes of this section, the term "employer" includes, with respect to any qualified retiree under a State or local retirement system (or the qualified spouse or child of such a retiree), such system.

(f) EFFECTIVE DATE.—This section shall apply to coverage for periods beginning on or after the date of the enactment of this Act.

SEC. 1114. ENFORCEMENT BY CIVIL MONEY PENALTIES OF SECRETARY OF LABOR.

(a) APPLICATION.—

(1) IN GENERAL.—Except as otherwise specifically provided, in the case of a person that violates a requirement of this part, the Secretary of Labor may impose a civil money penalty, in an amount not to exceed $10,000, for each violation with respect to each individual with respect to whom a violation occurred.

(b) CONSIDERATIONS IN IMPOSITION.—In determining the amount of any penalty to be assessed under this section, the Secretary of Labor shall take into account the previous record of compliance of the person being assessed with the applicable requirements of this Act and the gravity of the violation.

(c) ADMINISTRATIVE REVIEW.—

(1) OPPORTUNITY FOR HEARING.—The person assessed shall be afforded an opportunity for hearing by the Secretary of Labor upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing all factual determinations shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(2) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary of Labor modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (d).

(d) JUDICIAL REVIEW.—

(1) FILING OF ACTION FOR REVIEW.—Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which such person is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice be registered mail to the Secretary of Labor.

(2) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary of Labor shall promptly certify and file in such court the record upon which the penalty was imposed.

(3) STANDARD FOR REVIEW.—The findings of the Secretary of Labor shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(4) APPEAL.—Any final decision, order, or judgment of such district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

(e) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

(1) FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary of Labor, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

(2) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(f) PAYMENT OF PENALTIES.—Penalties collected under this section shall be paid to the Secretary of Labor (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions of this part.

TITLE II—INDIVIDUAL AND EMPLOYER RESPONSIBILITIES

SEC. 2001. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Individual Responsibilities

SEC. 2101. INDIVIDUAL SHARE OF MEDICARE PART C PREMIUMS.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—INDIVIDUAL SHARE OF MEDICARE PART C PREMIUMS

"Sec. 59B. Individual share of medicare part C premiums.

"SEC. 59B. INDIVIDUAL SHARE OF MEDICARE PART C PREMIUMS.

"(a) IMPOSITION OF TAX.—In the case of an individual, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax for the taxable year in the amount equal to the medicare part C premium liability (if any) of such individual for such taxable year.

"(b) EXEMPTION FOR LOW-INCOME INDIVIDUALS.—

"(1) IN GENERAL.—No tax shall be imposed by subsection (a) on any taxpayer whose modified adjusted gross income for the taxable year does not exceed the threshold amount.

"(2) PHASE-IN OF TAX.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount by less than the phase-in amount, the amount of the tax imposed by subsection (a) for such taxable year shall be the phase-in percentage of the medicare part C premium liability of such taxpayer for such taxable year.

"(B) PHASE-IN PERCENTAGE.—For purposes of subparagraph (A), the phase-in percentage shall be determined under tables prescribed by the Secretary which—

"(i) shall have income brackets of not more than $50, and

"(ii) provide for a ratable increase in the amount of tax imposed by subsection (a) for modified adjusted gross incomes between the threshold amount and the sum of the threshold amount and the phase-in amount.

"(C) PHASE-IN AMOUNT.—For purposes of subparagraphs (A) and (B), the phase-in amount is the amount equal to the applicable percentage (determined in accordance with the following table) of the threshold amount.

"In the case of taxable years ending with or within—	The applicable percentage is—
1999, 2000, or 2001	100 percent
2002 or 2003	120 percent
2004 or thereafter	140 percent.

"(c) MEDICARE PART C PREMIUM LIABILITY.—For purposes of this section—

"(1) IN GENERAL.—The medicare part C premium liability of any individual for any taxable year is the excess (if any) of—

"(A) the sum of the applicable medicare part C premiums for each month of medicare part C coverage during the taxable year, over

"(B) the sum of—

"(i) the aggregate mandatory employer taxes with respect to the employment of such individual during the calendar year in which the taxable year begins, and

"(ii) the aggregate elective employer taxes with respect to the employment of such individual during such calendar year.

For purposes of this paragraph, the term 'month of medicare part C coverage' means any month as of the first day of which the individual, the spouse of the individual, or any young dependent of the individual is a medicare part C covered individual.

"(2) LIMITATION ON MANDATORY EMPLOYER TAXES TAKEN INTO ACCOUNT.—The amount of mandatory employer taxes which are taken into account under paragraph (1)(B)(i) with respect to any individual for any taxable year shall not exceed 80 percent of the amount referred to in paragraph (1)(A).

"(3) APPLICABLE MEDICARE PART C PREMIUM.—

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(A) TAXPAYERS WITH YOUNG DEPENDENTS.—Except as provided in subparagraph (C), if, as of the first day of a month, the individual (or, in the case of a joint return, either spouse) has a young dependent who is a medicare part C covered individual, the applicable medicare part C premium for such month is—

"(i) the applicable family premium for such month in the case of a joint return filed by spouses both of whom are medicare part C covered individuals for such month, and

"(ii) the applicable single parent premium for such month in any other case.

"(B) TAXPAYERS WITHOUT YOUNG DEPENDENTS.—Except as provided in subparagraph (C), if, as of the first day of a month, the individual does not have (or, in the case of a joint return, neither spouse has) a young dependent who is a medicare part C covered individual, the applicable medicare part C premium for such month is—

"(i) the applicable individual premium for such month, or

"(ii) in the case of a joint return, the sum of the applicable individual premiums for each spouse who is a medicare part C covered individual for such month.

"(C) SPOUSES NOT FILING JOINT RETURNS BY REASON OF DIVORCE OR OTHERWISE.—If—

"(i) the individual was married as of the first day of a month,

"(ii) the applicable medicare part C premium for such month would have been the applicable family premium if the individual had filed a joint return for the taxable year which includes such month with the spouse of such individual as of such first day, and

"(iii) the individual does not file a joint return for such taxable year,

the applicable medicare part C premium for such month is ½ the applicable family premium.

"(D) APPLICABLE PREMIUMS.—The applicable individual premium, the applicable family premium, and the applicable single parent premium of an individual for any month shall be determined—

"(i) under tables prescribed under section 2121(a) of the Social Security Act by the Secretary of Health and Human Services which are effective for such month, and

"(ii) on the basis of the State (or place outside the United States) in which such individual has his principal place of abode as of the first day of such month.

"(d) MEDICARE PART C COVERED INDIVIDUAL.—For purposes of this section—

"(1) IN GENERAL.—An individual shall be treated as a medicare part C covered individual for any month unless—

"(A) for such month, such individual is covered under a certified health plan or medicare part A, and

"(B) such individual furnishes to the Secretary (at such time and in such manner as the Secretary may prescribe) the required certification of such coverage for such month.

"(2) CERTIFIED HEALTH PLAN.—The term 'certified health plan' has the meaning given such term by section 2 of the Guaranteed Health Insurance Act of 1994.

"(3) MEDICARE PART A.—The term 'medicare part A' means the insurance program established by part A of title XVIII of the Social Security Act.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'threshold amount' means—

"(i) $7,400 in the case of a return with respect to which 1 personal exemption is allowable under section 151,

"(ii) $11,500 in the case of a return with respect to which 2 or 3 personal exemptions are allowable under section 151, and

"(iii) $16,000 in the case of a return with respect to which 4 or more personal exemptions are allowable under section 151.

"(B) CERTAIN SEPARATE RETURNS.—The threshold amount shall be zero in the case of a taxpayer who—

"(i) is married as of the close of the taxable year but does not file a joint return for such taxable year, and

"(ii) does not live apart from his spouse at all times during the last 6 months of the taxable year.

"(C) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning in a calendar year after 1998, each dollar amount contained in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the individual during the taxable year which is exempt from tax.

The determination under the preceding sentence shall be made without regard to any carryover or carryback.

"(3) MANDATORY EMPLOYER TAXES.—The term 'mandatory employer taxes' means the tax imposed by section 3455 determined without regard to any election under section 3455(b)(2).

"(4) ELECTIVE EMPLOYER TAXES.—The term 'elective employer taxes' means the taxes imposed by section 3455 which are not mandatory employer taxes.

"(5) YOUNG DEPENDENT.—The term 'young dependent' has the meaning given such term by section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994.

"(6) REQUIRED CERTIFICATION.—The term 'required certification' means the statement required to be provided under section 6050Q(b) (or a copy thereof) or any other statement approved by the Secretary for purposes of this section.

"(7) ALLOCATION OF EMPLOYER'S SHARE OF PREMIUMS FOR SPOUSES NOT FILING JOINT RETURN.—Individuals who are married to each other as of the first day of any month and who do not file a joint return with each other for the taxable year which includes such month may allocate mandatory and elective employer taxes for such month to such extent and subject to such conditions as the Secretary shall prescribe.

"(f) COORDINATION WITH OTHER PROVISIONS.—

"(1) TREATMENT AS MEDICAL EXPENSE.—For purposes of section 213, the tax imposed by this section for any taxable year shall be treated as an expense paid during such taxable year for medical care of the taxpayer.

"(2) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The tax imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit allowable under this chapter, or

"(B) the amount of the minimum tax imposed by section 55.

"(3) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F, the tax imposed by this section shall be treated as if it were a tax imposed by section 1.

"(4) TAXES IMPOSED BY POSSESSIONS.—The tax imposed by this section shall not apply to a bona fide resident of a possession with respect to which the requirements of section 2101(c)(3)(A) of the Social Security Act are met.

"(g) EXEMPTIONS.—

"(1) IN GENERAL.—No tax shall be imposed by this section on any individual for any taxable year if such individual is—

"(A) a covered, noncontributing individual (as defined in section 1003(b) of the Guaranteed Health Insurance Act of 1994) for such taxable year, or

"(B) a nonresident alien (as defined in section 7701(b)).

"(2) CERTAIN INDIVIDUALS NOT TAKEN INTO ACCOUNT IN DETERMINING AMOUNT OF TAX.—

"(A) IN GENERAL.—For purposes of this section, an individual shall be treated as not being a medicare part C covered individual for any month if—

"(i) the individual is a noncovered, noncontributing individual (as defined in section 1004(b) of the Guaranteed Health Insurance Act of 1994) for such month, or

"(ii) the first day of such month is included in any period for which such individual is a qualified individual (as defined in section 911(d)(1)).

Clause (ii) shall not apply to any individual for any taxable year if, at any time during such taxable year, such individual receives services under medicare part C.

"(B) MEDICARE PART C.—For purposes of subparagraph (A), the term 'medicare part C' means the program of health insurance benefits under title XXI of the Social Security Act.

"(h) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations determining the applicable premium for spouses having different principal places of abode, and

"(2) regulations, prescribed after consultation with the Secretary of Health and Human Services, treating health plans of foreign governments or foreign employers outside the United States as certified health plans."

(b) ADJUSTMENTS TO WITHHOLDING.—Subsection (a) of section 3402 (relating to income tax collected at source) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR TAX IMPOSED BY SECTION 59B.—

"(A) IN GENERAL.—In determining the amount required to be deducted and withheld from wages paid to an individual during any month by such individual's employer, the tax imposed by section 59B shall be taken into account.

"(B) WAGES NOT REDUCED BY EXEMPTIONS.—In determining the amount to be deducted and withheld by reason of subparagraph (A), the amount of wages shall not be reduced as provided in paragraph (2)."

(c) RELIEF FROM ESTIMATED TAX PENALTIES WHERE EMPLOYMENT TERMINATED.—Paragraph (3) of section 6654(e) (relating to failure by individual to pay estimated income tax) is amended by adding at the end the following new subparagraph:

"(C) UNDERPAYMENT OF MEDICARE PART C PREMIUMS FOR MONTHS AFTER INVOLUNTARY TERMINATION OF EMPLOYMENT.—If the Secretary determines that—

"(i) an individual's employment was involuntarily terminated during the taxable year, and

"(ii) the medicare part C portion of any underpayment for such year was due to reasonable cause and not due to willful neglect,

no addition to tax shall be imposed under subsection (a) with respect to such portion. For purposes of the preceding sentence, the medicare part C portion of an underpayment is the amount of the underpayment to the extent that it does not exceed the amount of the tax imposed by section 59B which is attributable to the portion of such taxable year after such termination."

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6012 is amended by inserting after paragraph (9) the following new paragraph:

"(10) Every individual if—

"(A) such individual, or the spouse or any young dependent (as defined in section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994) of such individual, is a medicare part C covered individual (as defined in section 59B(d)) for any month in the taxable year, and

"(B) such individual is not exempt from the tax imposed by section 59B by reason of subsection (b)(1) or (g) thereof."

(2) Section 31 is amended by adding at the end the following new subsection:

"(d) CERTAIN PAYMENTS OF MEDICARE PART C PREMIUMS.—The amount paid by an individual to the Secretary of Health and Human Services under section 2123(b) of the Social Security Act shall be allowed to such individual as a credit against the tax imposed by this subtitle for the taxable year which includes the month for which such amount was required to be paid. Individuals who are married to each other as of the first day of any month and who do not file a joint return with each other for the taxable year which includes such month may allocate the amounts described in the preceding sentence for such month to such extent and subject to such conditions as the Secretary shall prescribe."

(3) Subparagraph (A) of section 1(f)(6) is amended by inserting "section 59B(e)(1)(C)," after paragraph (2)(A),".

(4)(A) Subsection (b) of section 6521 is amended to read as follows:

"(b) INDIVIDUAL AND EMPLOYER MEDICARE PART C PREMIUMS.—In the case of the tax imposed by section 59B (relating to individual share of medicare part C premiums) and the tax imposed by section 3455 (relating to employer share of medicare part C premiums), if—

"(1) an amount is erroneously treated under section 59B as the medicare part C premium liability of an individual, or an amount is erroneously treated under section 3455 as the employer share of the applicable medicare part C premium with respect to such individual,

"(2) the correction of the error would require an assessment of one such tax and the refund or credit of the other tax, and

"(3) at any time the correction of the error is authorized as to one such tax but is prevented as to the other tax by any law or rule of law (other than section 7122, relating to compromises),

then, if the correction authorized is made, the amount of the assessment, or the amount of the credit or refund, as the case may be, authorized as to the one tax shall be reduced by the amount of the credit or refund, or the amount of the assessment, as the case may be, which would be required with respect to such other tax for the correction of the error if such credit or refund, or such assessment, of such other tax were not prevented by any law or rule of law (other than section 7122, relating to compromises)."

(B) Subsection (a) of section 6521 is amended by adding at the end the following new sentence: "For purposes of this subsection, the terms 'self-employment income' and 'wages' shall have the same meanings as when used in section 1402(b)."

(e) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Individual share of medicare part C premiums."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 1998, in taxable years ending after such date.

Subtitle B—Employer Responsibilities

SEC. 2201. HEALTH-RELATED EMPLOYER TAXES AND CREDITS.

(a) GENERAL RULE.—Subtitle C (relating to employment taxes) is amended by redesignating chapter 25 as chapter 26 and by inserting after chapter 24 the following new chapter:

"CHAPTER 25—HEALTH-RELATED EMPLOYER TAXES AND CREDITS

"Subchapter A. Employer Taxes.

"Subchapter B. Employer Credits.

"Subchapter C. General Provisions.

"Subchapter A—Employer Taxes

"Part I. Tax on noncomplying large employers.

"Part II. Employer share of medicare part C premiums.

"Part III. Tax with respect to employees covered by certain other health plans.

"PART I—TAX ON NONCOMPLYING LARGE EMPLOYERS

"Sec. 3451. Imposition of tax.

"SEC. 3451. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—In addition to other taxes, there is hereby imposed on every large employer an excise tax, with respect to the employment of any employee during any month unless, for such month—

"(1) such employee is a qualified employer-covered employee of such employer, or

"(2) such employee is a voluntarily excluded employee.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) with respect to any employee for any month shall be an amount equal to 25 percent of the wages paid during such month by such employer to such employee.

"(c) TAX NOT TO APPLY TO EMPLOYMENT OF CERTAIN EMPLOYEES.—

"(1) EMPLOYEES PERMITTED TO BE EXCLUDED FROM COVERAGE UNDER PRIVATE EMPLOYER PLANS.—No tax shall be imposed by this section on the employment for any month of any exempt part-time, seasonal, or temporary employee (as defined in section 1102(c) of the Guaranteed Health Insurance Act of 1994).

"(2) GENERALLY EXCLUDABLE EMPLOYEES.—

"For exemption from tax for employment of generally excludable employees, see section 3465.

"(d) DEFINITIONS.—For purposes of this section—

"(1) LARGE EMPLOYER.—The term 'large employer' has the meaning given to such term by section 1106 of the Guaranteed Health Insurance Act of 1994.

"(2) VOLUNTARILY EXCLUDED EMPLOYEE.—The term 'voluntarily excluded employee' has the meaning given to such term by section 1102 of the Guaranteed Health Insurance Act of 1994.

"(3) QUALIFIED EMPLOYER-COVERED EMPLOYEE.—The term 'qualified employer-covered employee' has the meaning given to such term by section 1104 of the Guaranteed Health Insurance Act of 1994 are met.

"(e) WAIVER OF TAX IN CERTAIN CASES.—If—

"(1) a large employer failed—

"(A) to correctly determine that it is a large employer, or

"(B) to cover any employee as a qualified employer-covered employee of such employer (other than an employee referred to in paragraph (1) or (2) of subsection (c)),

"(2) such failure is due to reasonable cause and not to willful neglect, and

"(3) the employer takes such corrective action as the Secretary may require,

the Secretary may waive part or all of the tax imposed by subsection (a) if the Secretary determines that the payment of such tax would be excessive relative to the failure involved.

"PART II—EMPLOYER SHARE OF MEDICARE PART C PREMIUMS

"Sec. 3455. Imposition of tax.

"SEC. 3455. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to the employment of any medicare part C covered employee during any calendar month, equal to the employer share of the applicable medicare part C premium for such month.

"(b) EMPLOYER SHARE OF MEDICARE PART C PREMIUM.—For purposes of subsection (a)—

"(1) IN GENERAL.—The employer share of the applicable medicare part C premium for any calendar month is an amount equal to 80 percent of the applicable medicare part C premium for such month.

"(2) EMPLOYER ELECTION TO INCREASE SHARE.—At the election of the employer, paragraph (1) shall be applied by substituting for '80 percent' any percentage specified by the employer which is greater than 80 percent and not greater than 100 percent. Any percentage so specified shall apply to the month for which made and all succeeding months beginning before the date it is revoked by the employer. Any percentage so specified shall apply to all medicare part C covered employees of such employer.

"(3) REDUCTION FOR PART-TIME EMPLOYEES.—

"(A) IN GENERAL.—In the case of any part-time employee (as defined in section 1106 of the Guaranteed Health Insurance Act of 1994), the employer share of the applicable medicare part C premium for any month is the part-time fraction (as defined in such section 1106) of the amount determined under paragraphs (1) and (2).

"(B) EMPLOYER ELECTION TO INCREASE SHARE.—Any employer may elect to specify, with respect to any part-time employee for any month, a part-time fraction which is greater than the part-time fraction which would (but for this subparagraph) apply to such employee for such month but not greater than 1. Any fraction so specified shall apply to such employee for the month for which made and all succeeding months beginning before the date it is revoked by the employer.

"(4) SPECIAL RULE FOR STATES WITH APPROVED STATE MANAGED COMPETITION PROGRAMS.—With respect to an employee who resides in a State with a managed competition program approved under subtitle B of

VOL 140 PT 15 AG 10 — 11 1994 UMI

title IV of the Guaranteed Health Insurance Act of 1994, the employer share of the applicable medicare part C premium for any calendar month is amount equal to 25 percent of the wages paid during such month by such employer to such employee.

"(c) APPLICABLE MEDICARE PART C PREMIUM.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable medicare part C premium for a medicare part C covered employee for any month is the applicable individual premium for such month.

"(2) EMPLOYEES WITH YOUNG DEPENDENTS.—If, for any month, an employee has a young dependent who is not covered by a certified health plan or medicare part A—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable medicare part C premium for such employee for such month is—

"(i) the applicable family premium for such month if such employee is married and both spouses are not covered by any certified health plan or medicare part A, and

"(ii) the applicable single parent premium for such month in any other case.

"(B) FULL FAMILY PREMIUM PAID BY ANOTHER EMPLOYER.—If, for such month, another employer pays an unreduced applicable family premium for such month with respect to such employee or the spouse of such employee, the applicable medicare part C premium for such employee for such month is zero. For purposes of this subparagraph, the term 'unreduced' means, with respect to any premium, a premium which is not reduced under subsection (b)(3).

"(3) EMPLOYEES WITH SPOUSES FOR WHOM NO EMPLOYER PAYS PART C PREMIUM.—If, for any month—

"(A) an employee is married but does not have a young dependent who is not covered by a certified health plan or medicare part A,

"(B) neither such employee nor such employee's spouse is covered by a certified health plan or medicare part A, and

"(C) no other employer pays the employer's share of an unreduced (as defined in paragraph (2)(B)) applicable medicare part C premium for such spouse for such month,

then the applicable medicare part C premium for such employee for such month is twice the applicable individual premium for such month.

"(4) APPLICABLE PREMIUMS.—The applicable individual premium, the applicable family premium, and the applicable single parent premium of an employee for any month shall be determined—

"(A) under tables prescribed under section 2121(a) of the Social Security Act by the Secretary of Health and Human Services which are effective for such month, and

"(B) on the basis of the State or place outside the United States (which such employee certifies in the withholding exemption certificate which is in effect as of the first day of such month) in which such employee has his principal place of abode.

"(5) CERTAIN INDIVIDUALS NOT TAKEN INTO ACCOUNT IN DETERMINING AMOUNT OF TAX.—An individual who is married to a noncovered, noncontributing individual (as defined in section 1004(b) of the Guaranteed Health Insurance Act of 1994) shall be treated as not married for purposes of this subsection.

"(6) FAILURE TO DISCLOSE PRINCIPAL PLACE OF ABODE.—If an employee does not have in effect with his employer a withholding exemption certificate which certifies the employee's principal place of abode, such employee's principal place of abode shall be treated for purposes of paragraph (4)(B) as being in the State which includes such employee's principal place of employment with his employer.

"(7) DETERMINATIONS MADE ON BASIS OF WITHHOLDING CERTIFICATE.—Determinations of the applicable medicare part C premium for an employee for any month shall be made on the basis of such employee's withholding exemption certificate (if any) which is in effect as of the first day of such month unless the employer has actual knowledge that the information provided on such certificate is incorrect.

"(d) DEFINITIONS.—For purposes of this section—

"(1) MEDICARE PART C COVERED EMPLOYEE.—An employee of the employer shall be treated as a medicare part C covered employee for any month unless—

"(A)(i) such employee is a qualified employer-covered employee of such employer for such month, or

"(ii) there is in effect as of the first day of such month a withholding exemption certificate stating that such employee is covered under a certified health plan (other than a plan of such employer) or medicare part A, and

"(B)(i) each young dependent (if any) of such employee is covered for such month under the certified health plan of the employer under which such employee is covered, or

"(ii) there is in effect as of the first day of such month a withholding exemption certificate stating that each young dependent (if any) of such employee is covered under a plan described in subparagraph (A)(ii).

"(2) YOUNG DEPENDENT.—The term 'young dependent' has the meaning given such term by section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994.

"(3) EMPLOYEE.—For purposes of this section, the term 'employee' includes a former employee of an employer if the requirements of section 1113 of the Guaranteed Health Insurance Act of 1994 apply to such employer and the employer elects to satisfy such requirements as described in section 1113(b)(2) of such Act.

"(e) TREATMENT OF INDIANS EMPLOYED OTHER THAN BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this section—

"(A) the term 'certified health plan' shall not include any health program of the Service (as defined in section 901 of the Indian Health Care Improvement Act), and

"(B) any employee who (but for this subsection) would not be a medicare part C covered employee solely by reason of coverage under such a health program shall be treated as a medicare part C covered employee.

"(2) EXCEPTION FOR EMPLOYMENT BY INDIAN TRIBE, ETC.—Paragraph (1) shall not apply if the employer is—

"(A) an Indian tribe (as defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)), or

"(B) a tribal organization (as defined in such section 4).

"(3) TRANSFER OF TAX TO HEALTH PROGRAMS OF THE INDIAN HEALTH SERVICE.—

"For transfer of taxes received in the Medicare Part C Trust Fund by reason of this subsection for programs of the Indian Health Service, see section 2124(c)(2)(A) of the Social Security Act.

"(f) TREATMENT OF VETERANS IN AN GHIA-QUALIFIED VA HEALTH PLAN.—

"(1) IN GENERAL.—For purposes of this section—

"(A) the term 'certified health plan' shall not include any GHIA-qualified VA health plan (as defined in section 1801 of title 38, United States Code) in the case of an employee who is a veteran (within the meaning of section 101 of such title) or a spouse or dependent of such an employee, and

"(B) any employee who (but for this subsection) would not be a medicare part C covered employee solely by reason of coverage under such a health plan shall be treated as a medicare part C covered employee.

"(2) TRANSFER OF TAX TO HEALTH PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.—

"For transfer of taxes received in the Medicare Part C Trust Fund by reason of this subsection for programs of the Department of Veterans Affairs, see section 2124(c)(2)(B) of the Social Security Act.

"(g) CREDIT FOR TAXES PAID BASED ON INCORRECT INFORMATION.—If—

"(1) on or before January 31 of any calendar year, an employer determines (in such manner as the Secretary shall prescribe) that such employer overpaid the tax imposed by this section with respect to an employee for any month during the preceding calendar year by reason of incorrect information shown on any withholding exemption certificate of such employee which was in effect for such month, and

"(2) the statement furnished to such employee under section 6051 on or before such January 31 for the preceding calendar year reflects the tax which would have been paid by such employer if the information shown on such certificate had been correct,

then the excess of the tax paid under this section by such employer during such preceding calendar year over the amount of tax referred to in paragraph (2) shall be treated as an overpayment of the tax.

"(h) TAX TREATED AS EMPLOYER-PROVIDED HEALTH COVERAGE.—

"(1) INCOME TAX.—For purposes of chapter 1, payment of the taxes imposed by this section shall be treated as the providing of coverage by the employer under an accident or health plan.

"(2) EMPLOYMENT TAXES.—For purposes of this subtitle, no amount shall be included in the remuneration of any individual by reason of the payment of the taxes imposed by this section.

"PART III—TAX WITH RESPECT TO EMPLOYEES COVERED BY CERTAIN OTHER HEALTH PLANS

"Sec. 3458. Imposition of tax.

"SEC. 3458. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to the employment of any employee described in subsection (b) during any month, equal to 80 percent of the applicable individual premium (as defined in section 3455(c)(4)) for such month with respect to each such employee. In applying section 3455(c)(4) for purposes of the preceding sentence, such employee's principal place of abode shall be treated as being in the State which includes such employee's principal place of employment with such employer.

"(b) EMPLOYEES DESCRIBED.—For purposes of subsection (a), an employee is described in this subsection for any month if—

"(1) such employee is covered for such month under a certified health plan other than a plan of his employer and (but for such coverage) such employer would be liable for tax under section 3451 or 3455 with respect to the employment of such employee for such month, or

"(2) such employee is a medicare part C covered individual (as defined in section 59B(d)) for such month, and the applicable medicare part C premium for such employee is zero by reason of section 3455(c)(2)(B).

For purposes of paragraph (1), it shall be assumed that the employee would not become a qualified employer-covered employee of his employer.

"(c) REDUCTION OF TAX FOR PART-TIME EMPLOYEES.—With respect to any part-time employee, the tax imposed by this section for any month shall be an amount equal to the part-time fraction of the amount determined under subsection (a).

"(d) TREATMENT OF INDIANS EMPLOYED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—No tax shall be imposed by this section with respect to the employment of any employee if—

"(1) such employee is described in subsection (b)(1) solely by reason of being covered under a health program of the Service (as defined in section 901 of the Indian Health Care Improvement Act), and

"(2) the employer is an Indian tribe (as defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)) or a tribal organization (as defined in such section 4).

"Subchapter B—Employer Credits

"Sec. 3461. Family premium credit.

"Sec. 3462. Small employer credit.

"SEC. 3461. FAMILY PREMIUM CREDIT.

"(a) GENERAL RULE.—Every employer shall be entitled to treat an amount equal to the applicable percentage of such employer's family premium amount for any calendar quarter as a payment by such employer of such employer's employment tax liability for such calendar quarter.

"(b) FAMILY PREMIUM AMOUNT.—

"(1) IN GENERAL.—For purposes of this section, the family premium amount of an employer for any calendar quarter is an amount equal to the sum of—

"(A) such employer's aggregate liability for tax under section 3455 for such quarter with respect to employees for whom the applicable medicare part C premium is the applicable family premium, and

"(B) the aggregate imputed part C family premiums for such quarter for qualified employer-covered employees of such employer receiving family coverage under any certified health plan of such employer.

"(2) PART C FAMILY PREMIUM LIABILITY.—The determination under paragraph (1)(A) shall be made without regard to any election under section 3455(b)(2).

"(3) IMPUTED PART C FAMILY PREMIUM.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the imputed part C family premium for any qualified employer-covered employee is an amount equal to 80 percent of the applicable family premium determined under section 3455 on the basis of the State which includes such employee's principal place of employment with his employer.

"(B) LOWER PERCENTAGE IN CERTAIN CASES.—If, in determining the amount of the employer contribution to any certified health plan of such employer with respect to any part-time employee who is a qualified employer-covered employee, the part-time fraction applied by the employer is less than 1, the imputed part C family premium for such employee is such fraction of the amount determined under subparagraph (A).

"(c) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The applicable percentage for any calendar year is the percentage which the Secretary estimates (in consultation with the Secretary of Health and Human Services) will result in the aggregate amount of the deemed payments determined under this section for all employers for such year being equal to the product of the phase-in percentage and the Secretary's estimate of the taxes imposed by section 3458 which will be paid for such year. Proper adjustments shall be made in the applicable percentage determined for succeeding calendar years to the extent that the applicable percentage determined for such calendar year was greater than or less than the correct percentage.

"(2) PHASE-IN PERCENTAGE.—For purposes of paragraph (1), the phase-in percentage is—

"(A) 25 percent for calendar year 1999,

"(B) 40 percent for calendar year 2000,

"(C) 60 percent for calendar year 2001, and

"(D) 100 percent for calendar years after 2001.

"(d) COORDINATION WITH DEPOSITORY REQUIREMENTS.—Any employer who is entitled to treat any amount as a payment under subsection (a) for any calendar quarter may reduce, in such manner as the Secretary may by regulations prescribe, by a like amount, the amount otherwise required to be deposited during such quarter by reason of the employment tax liability of such employer.

"(e) SPECIAL RULES.—

"(1) PAYMENT TREATED AS MADE ON DUE DATE.—Notwithstanding subsection (d), for purposes of determining interest, any deemed payment under subsection (a) for any calendar quarter shall be treated as made on the due date for the return for such quarter.

"(2) DENIAL OF DEDUCTION.—The amount of any deduction otherwise allowable under chapter 1 for the taxes imposed by this chapter or for expenditures under any certified health plan of such employer shall be reduced by any payment treated as made under subsection (a).

"(f) EMPLOYMENT TAX LIABILITY.—For purposes of this section, the term 'employment tax liability' means liability for the taxes imposed by this chapter and chapters 21 and 24.

"SEC. 3462. SMALL EMPLOYER CREDIT.

"(a) GENERAL RULE.—Every eligible small employer shall be entitled to treat an amount equal to the applicable percentage of such employer's total premium amount for any calendar year as a payment by such employer of such employer's employment tax liability (as defined in section 3461(f)) for such calendar year.

"(b) TOTAL PREMIUM AMOUNT.—

"(1) IN GENERAL.—For purposes of this section, the total premium amount of an employer for a calendar year is an amount equal to the excess of—

"(A) the sum of—

"(i) such employer's aggregate liability for tax under sections 3455 and 3458 for such year, and

"(ii) the aggregate imputed part C premiums for such year for qualified employer-covered employees of such employer receiving coverage under any certified health plan of such employer, over

"(B) the aggregate deemed payments by the employer for such year under section 3461.

"(2) IMPUTED PART C PREMIUM.—For purposes of paragraph (1), the imputed part C premium for any qualified employer-covered employee is an amount equal to 80 percent of the applicable medicare part C premium determined under section 3455 for such employee on the basis of the State which includes such employee's principal place of employment with his employer and the type of coverage provided to such employee under the certified health plan. Rules similar to the rules of section 3461(b)(3)(B) shall apply for purposes of the preceding sentence.

"(3) CERTAIN INDIVIDUALS NOT TAKEN INTO ACCOUNT.—The total premium amount of an employer shall be determined without regard to—

"(A) in the case of an employer which is a corporation, any employee who owns (directly or by application of section 318) more than 10 percent of—

"(i) the outstanding stock of such corporation, or

"(ii) the total combined voting power of all stock of the corporation,

"(B) in the case of an employer which is an estate or trust, any grantor, beneficiary, or fiduciary of the estate or trust, and

"(C) any member of the family (within the meaning of section 267(c)(4)) of—

"(i) an individual described in subparagraph (A) or (B),

"(ii) in the case of an employer which is a sole proprietorship, the sole proprietor, or

"(iii) in the case of an employer which is a partnership, any partner who owns more than 10 percent of the capital interest or profits interest of such partnership.

In the case of an employer who is not a corporation, the total premium amount also shall be determined without regard to any individual not performing services in a trade or business of the employer.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable percentage is—

"(A) 37.5 percent for calendar years after 1998 and before 2004,

"(B) 20 percent for calendar year 2004,

"(C) 10 percent for calendar year 2005, and

"(D) 0 for calendar years after 2005.

"(2) SMALLER EMPLOYERS.—In the case of an employer who would be an eligible small employer if '25 employees' were substituted for '50 employees' in subsection (d)(1), the applicable percentage is—

"(A) 50 percent for calendar years after 1998 and before 2004,

"(B) 30 percent for calendar year 2004,

"(C) 15 percent for calendar year 2005, and

"(D) 0 for calendar years after 2005.

"(3) PHASEOUT OF CREDIT WHERE HIGHER AVERAGE EMPLOYEE WAGE.—If the average employee wage of an eligible small employer for any calendar year exceeds $12,000, the applicable percentage which would (but for this paragraph) apply for such calendar year shall be reduced (but not below zero) by the number of percentage points which bears the same ratio to such applicable percentage as such excess bears to $14,000.

"(d) ELIGIBLE SMALL EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible small employer' means, with respect to any calendar year, any employer unless—

"(A) on each of 20 days during such year (each day being in a different week), such employer (or any predecessor) employed more than 50 employees for some portion of the day, or

"(B) the average employee wage of such employer for such year exceeds $26,000.

"(2) AVERAGE EMPLOYEE WAGE.—The average employee wage of an employer for any calendar year is an amount equal to—

"(A) the total payroll of such employer for such calendar year, divided by

"(B) the number of full-time equivalent employees of such employer for such calendar year.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(3) TOTAL PAYROLL.—The total payroll of an employer for any calendar year is an amount equal to the sum of—

"(A) the total wages paid by the employer during such calendar year,

"(B) in the case of a sole proprietorship, the net earnings from self-employment of the proprietor from such trade or business for the taxable year ending with or within such calendar year, and

"(C) in the case of a partnership, the net income of the partnership for the taxable year ending with or within such calendar year which will be treated as net earnings from self-employment by the partners.

"(4) NET EARNINGS FROM SELF-EMPLOYMENT.—The term 'net earnings from self-employment' has the meaning given such term by section 1402; except that the amount thereof may never be less than zero.

"(5) FULL-TIME EQUIVALENT EMPLOYEES.—The number of full-time equivalent employees of an employer for any calendar year is the sum of—

"(A) the number of employees who worked on a substantially full-time basis for the employer throughout the calendar year, and

"(B) a fraction for each other employee based on the number of hours such employee worked during the calendar year compared to a full-time, full-year employee.

For purposes of this paragraph, the proprietor shall be treated as an employee of a sole proprietorship, and each partner who has net earnings from self-employment from a partnership shall be treated as an employee of such partnership.

"(6) AGGREGATION RULES.—For purposes of this subsection—

"(A) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer, and

"(B) all employees of the members of an affiliated service group (as defined in section 414(m)) shall be treated as employed by a single employer.

"(e) COORDINATION WITH DEPOSITORY REQUIREMENTS.—

"(1) IN GENERAL.—Any employer who reasonably expects to be entitled to treat any amount as a payment under subsection (a) for any calendar year may reduce, in such manner as the Secretary may by regulations prescribe, by a like amount, the amount otherwise required to be deposited during such year by reason of the employment tax liability (as defined in section 3461(f)) of such employer.

"(2) QUARTERLY DETERMINATIONS.—The amount of reduction permitted under paragraph (1) for any calendar quarter shall be based on a separate estimate for such quarter of the amount of deemed payments to which the employer reasonably expects to be entitled under subsection (a) for the calendar year which includes such quarter and shall be properly adjusted (under regulations prescribed by the Secretary) to reflect the amount by which prior reductions under subsection (a) during such calendar year were in excess of, or less than, the amounts which would be proper under such estimate.

"(3) YEAR-END ADJUSTMENTS.—

"(A) EXCESS OF DEEMED PAYMENTS ALLOWABLE OVER DEPOSITORY BENEFIT CLAIMED.—If the amount of deemed payments to which an employer is entitled under subsection (a) for any calendar year exceeds the amount claimed by the employer under paragraph (1) during such year, such excess shall be treated for purposes of this title as an overpayment made by such employer. For purposes of determining interest, such overpayment shall be treated as made on January 31 of the following calendar year.

"(B) DEPOSITORY BENEFIT CLAIMED EXCEEDS DEEMED PAYMENT ALLOWABLE.—If the amount claimed by the employer under paragraph (1) during the calendar year exceeds the amount of deemed payments to which such employer is entitled under subsection (a) for such year, such excess shall be treated for purposes of this title as an underpayment of the tax imposed by this chapter for such calendar year. For purposes of determining interest, such underpayment shall be allocated ratably among the calendar quarters in such year (or in such other manner as the Secretary may by regulations prescribe).

"(f) SPECIAL RULES.—

"(1) PAYMENT TREATED AS MADE ON DUE DATE.—Notwithstanding subsection (e), for purposes of determining interest, a payment shall be treated as made under subsection (a) on the due date for the return for each calendar quarter in an amount equal to the amount of the reduction permitted under subsection (e) for such quarter.

"(2) DENIAL OF DEDUCTION.—The amount of any deduction otherwise allowable under chapter 1 for the taxes imposed by this chapter or for expenditures under any certified health plan of such employer shall be reduced by any payment treated as made under subsection (a).

"Subchapter C—General Provisions

"Sec. 3465. Exemption for employment of generally excludable employees.

"Sec. 3466. Definitions and special rules.

"SEC. 3465. EXEMPTION FOR EMPLOYMENT OF GENERALLY EXCLUDABLE EMPLOYEES.

"No tax shall be imposed by subchapter A with respect to the employment of any employee during any month if such employee is a generally excludable employee (as defined in section 1105(b) of the Guaranteed Health Insurance Act of 1994) for such month.

"SEC. 3466. DEFINITIONS AND SPECIAL RULES.

"(a) CERTIFIED HEALTH PLAN; MEDICARE PART A.—For purposes of this chapter—

"(1) CERTIFIED HEALTH PLAN.—The term 'certified health plan' has the meaning given such term by section 2 of the Guaranteed Health Insurance Act of 1994.

"(2) MEDICARE PART A.—The term 'medicare part A' means the insurance program established by part A of title XVIII of the Social Security Act.

"(b) FULL-TIME EMPLOYEE; PART-TIME EMPLOYEE; PART-TIME FRACTION.—For purposes of this chapter—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) the terms 'full-time employee', 'part-time employee', and 'part-time fraction' have the meanings given to such terms by section 1106 of the Guaranteed Health Insurance Act of 1994, and

"(B) the rules of section 1106(c) of the Guaranteed Health Insurance Act of 1994 shall apply.

"(2) EXCEPTION.—Subparagraphs (A) and (B) of section 1106(a)(4) of the Guaranteed Health Insurance Act of 1994, and section 1106(c) of such Act, shall not apply for purposes of section 3462.

"(c) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this chapter shall be covered over to any possession of the United States.

"(d) OTHER DEFINITIONS.—For purposes of this chapter, the terms 'State', 'wages', 'employer', 'employment', and 'employee' have the same respective meanings as when used in chapter 21; except that, for purposes of this chapter, the following provisions of chapter 21 shall not apply:

"(1) Paragraph (1) of section 3121(a).

"(2) Paragraph (5) of section 3121(b).

"(3) Paragraph (7) of section 3121(b) (other than subparagraph (C) or (F) thereof).

"(4) Paragraph (9) of section 3121(b).

"(e) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out the purposes of this chapter, including regulations prescribing 1 or more simplified methods (including brackets of hours) for determining the part-time fraction and full-time equivalent employees."

(b) MODIFICATION OF WITHHOLDING EXEMPTION CERTIFICATE REQUIREMENTS.—Subsection (f) of section 3402 is amended by adding at the end the following new paragraph:

"(8) CERTIFICATE TO INCLUDE INFORMATION RELATED TO MEDICARE PART C STATUS.—

"(A) INITIAL CERTIFICATE.—On the withholding exemption certificate furnished by an employee under paragraph (2)(A), the employee shall certify—

"(i) whether the employee—

"(I) is covered under medicare part A or a certified health plan (as defined in section 2 of the Guaranteed Health Insurance Act of 1994) other than a plan of such employer, or

"(II) reasonably expects to be a young dependent (as defined in section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994) of any taxpayer,

"(ii) whether the employee has a young dependent (as so defined),

"(iii) the State (or place outside the United States) in which such employee has his principal place of abode, and

"(iv) such other information as the Secretary may require.

"(B) CHANGE OF STATUS.—If, on any day, there is a change in any item of information required to be certified under subparagraph (A) on the withholding exemption certificate then in effect with respect to an employee, such employee shall within 10 days thereafter furnish the employer with a new withholding exemption certificate containing the information described in subparagraph (A)."

(c) MODIFICATION OF PENALTY FOR FAILURE TO MAKE DEPOSIT OF TAXES.—Section 6656 (relating to failure to make deposit of taxes) is amended by adding at the end the following new subsection:

"(c) REDUCTIONS IN DEPOSITS BY REASON OF HEALTH-RELATED CREDITS.—No penalty shall be imposed by subsection (a) on any underpayment attributable to the depositor's estimate of any deemed payment under subchapter B of chapter 25 (relating to health-related employer credits) unless there is no reasonable basis for such estimate."

(d) CLERICAL AMENDMENT.—The table of chapters for subtitle C is amended by striking the item relating to chapter 25 and inserting the following:

"Chapter 25. Health-related employer taxes and credits.

"Chapter 26. General provisions relating to employment taxes."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1999.

(2) APPLICATION OF SECTION 3451 TO LARGER EMPLOYERS.—Section 3451 of the Internal Revenue Code of 1986 (as added by this section) shall take effect on January 1, 1997.

SEC. 2202. REPORTING REQUIREMENTS.

(a) EMPLOYER SHARE OF MEDICARE PART C PREMIUM SHOWN ON W-2.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting a comma, and by inserting after paragraph (9) the following new paragraphs:

"(10) the total mandatory employer taxes (as defined in section 59B(e)(3)) with respect to such employee, and

"(11) the total elective employer taxes (as defined in section 59B(e)(4)) with respect to such employee."

(b) RETURNS RELATING TO CERTIFIED HEALTH PLANS AND MEDICARE PART A, DIRECT PREMIUM PAYMENTS TO HHS, AND MEDICARE PART C COVERAGE OF EMPLOYEES.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with others) is amended by adding at the end the following new sections:

"SEC. 6050Q. RETURNS RELATING TO CERTIFIED HEALTH PLANS AND MEDICARE PART A.

"(a) REQUIREMENT OF REPORTING.—The administrator of any certified health plan (as defined in section 2 of the Guaranteed Health Insurance Act of 1994) and the Secretary of Health and Human Services with respect to medicare part A (as defined in such section) shall make a return for each calendar year setting forth—

"(1) the name and TIN of each individual covered under such plan or program at any time during such taxable year as a primary insured or as the spouse of a primary insured,

"(2) the name and TIN (to the extent available) of each individual covered under such plan or program at any time during such taxable year as a young dependent (as defined in section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994) of a primary insured, and

"(3) the months during such calendar year for which such individuals were so covered.

Such return shall be made at such time and in such form as the Secretary may by regulations prescribe.

"(b) STATEMENTS TO PRIMARY INSURED INDIVIDUALS.—Every administrator (and the Secretary of Health and Human Services) required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return by reason of being a primary insured a written statement showing—

"(1) the name of the certified health plan (or medicare part A) and the address of its administrator (or of the Secretary), and

"(2) the information required to be shown on the return with respect to such primary insured.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) STATEMENT TO SPOUSE OR YOUNG DEPENDENTS OF PRIMARY INSURED ON REQUEST.—At the request of an individual who, at any time during a calendar year, was the spouse or a young dependent (as defined in section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994) of a primary insured who is required to receive a statement under subsection (b) from an administrator, such administrator shall furnish to such individual a copy of such statement with respect to such insured for such calendar year.

"SEC. 6050R. RETURNS RELATING TO MEDICARE PART C PREMIUM PAYMENTS TO DEPARTMENT OF HEALTH AND HUMAN SERVICES.

"(a) REQUIREMENT OF REPORTING.—The Secretary of Health and Human Services shall make a return for each calendar year setting forth—

"(1) the name and TIN of each individual from whom such Secretary received payments during such year under section 2123(b) of the Social Security Act for coverage under medicare part C, and

"(2) the amount of such payments during such year.

Such return shall be made at such time and in such form as the Secretary may by regulations prescribe.

"(b) STATEMENTS TO INDIVIDUALS.—The Secretary of Health and Human Services shall furnish to each individual whose name is required to be set forth in such return a written statement showing the aggregate payments described in subsection (a) received by such Secretary from such individual. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) MEDICARE PART C.—For purposes of this section, the term 'medicare part C' means the program of health insurance benefits under part title XXI of the Social Security Act.

"SEC. 6050S. RETURNS RELATING TO EMPLOYER MEDICARE PART C PREMIUM PAYMENTS.

"Every employer who pays tax under section 3455 (relating to employer share of medicare part C premiums) with respect to the employment of any employee during any calendar year shall make a return for such year setting forth—

"(1) the name and TIN of each such employee,

"(2) the class of enrollment on which such tax was determined with respect to each such employee for each month of such year,

"(3) the name and TIN of the spouse of such employee,

"(4) the name and TIN (to the extent available) of each young dependent (as defined in section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994) of such employee.

Such return shall be made at such time and in such form as the Secretary may by regulations prescribe."

(c) MONTHLY STATEMENTS TO EMPLOYEES TO SPECIFY EMPLOYER SHARE OF MEDICARE PART C PREMIUM.—Section 6051 (relating to receipts for employees) is amended by adding at the end the following new subsection:

"(g) EMPLOYER SHARE OF MEDICARE PART C PREMIUM.—Every employer required to pay a tax under section 3455 with respect to any employee for any month shall furnish to each such employee a written statement showing the aggregate amount of such tax paid by such employer with respect to such employee for such month. Such statement shall be furnished with the employer's payment of wages for the payroll period which includes the last day of such month or at such times as may be specified by the Secretary by regulations."

(d) UNIFORM PENALTY PROVISIONS MADE APPLICABLE.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by inserting after the item relating to clause (viii) the following new items (and redesignating the following clauses accordingly):

"(ix) section 6050Q(a) (relating to returns regarding certified health plans and medicare part A),

"(x) section 6050R(a) (relating to returns relating to medicare part C premium payments to Department of Health and Human Services),

"(xi) section 6050S (relating to returns relating to employer medicare part C premium payments),".

(2) Paragraph (2) of section 6724(d) is amended by inserting after subparagraph (P) the following new subparagraph (and by redesignating the following subparagraphs accordingly):

"(Q) subsection (b) or (c) of section 6050Q (relating to returns regarding certified health plans and medicare part A),

"(R) section 6050R(b) (relating to returns relating to medicare part C premium payments to Department of Health and Human Services),".

(e) DISCLOSURE OF INFORMATION BY SECRETARY.—

(1) Subsection (l) of section 6103 is amended by adding at the end the following new paragraphs:

"(15) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT HEALTH PREMIUM CERTIFICATE PROGRAM.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Department of Health and Human Services return information for purposes of determining or verifying whether any taxpayer is entitled to a premium certificate under part A of title XXII of the Social Security Act and the amount thereof. Such return information shall be limited to—

"(A) such taxpayer's marital status,

"(B) the adjusted gross income of such taxpayer,

"(C) the interest received by such taxpayer which is exempt from tax, and

"(D) the number of personal exemptions of such taxpayer.

Return information disclosed under this paragraph may be used by such officers and employees only for the purposes of, and to the extent necessary in, making such determination or verification.

"(16) DISCLOSURE OF RETURN INFORMATION RELATING TO SUBSIDIES TO STATES ADOPTING STATE BENEFIT MANAGEMENT PROGRAMS.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Department of Health and Human Services return information necessary to determine or verify the proper amount payable under section 2124(c)(1)(C) of the Social Security Act to a State which has a State benefit management program approved under subtitle B of title IV of the Guaranteed Health Insurance Act of 1994. Return information disclosed under this paragraph may be used by such officers and employees only for the purposes of, and to the extent necessary in, making such determination or verification."

(2) Paragraph (4) of section 6103(p) is amended by striking "or (14)" each place it appears and inserting "(14), (15), or (16)".

(f) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new items:

"Sec. 6050Q. Returns relating to certified health plans and medicare part A.

"Sec. 6050R. Returns relating to medicare part C premium payments to Department of Health and Human Services.

"Sec. 6050S. Returns relating to employer medicare part C premium payments."

(g) EFFECTIVE DATE.—The amendments made by this section (other than subsection (e)) shall apply to calendar years after 1998.

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 2203. TRANSITIONAL CONTINUATION COVERAGE REQUIREMENT FOR GROUP HEALTH PLANS.

Clause (i) of section 4980B(f)(2)(B) is amended by adding at the end the following new sentence: "In the case of an individual whose period of coverage under this clause would (but for this sentence) end after the date of the enactment of the Guaranteed Health Insurance Act of 1994 and before January 1, 1999, such period shall in no event terminate by reason of this clause before January 1, 1999."

TITLE III—BENEFITS

Subtitle A—Guaranteed National Benefit Package

PART 1—BENEFITS DESCRIBED

SEC. 3001. ESTABLISHMENT OF PACKAGE.

(a) COVERAGE OF EXPANDED MEDICARE BENEFITS.—

(1) IN GENERAL.—Except as otherwise provided in this subtitle, for purposes of this Act and the Social Security Act, the guaranteed national benefit package shall consist of the same items and services for which payment may be made under title XVIII of the Social Security Act (as amended by the Guaranteed Health Insurance Act of 1994) to individuals entitled to benefits under part A, and enrolled under part B, of title XVIII of such Act, subject to the same exclusions from coverage as are provided under section 1862(a) of such Act.

(2) EXCEPTIONS RELATING TO PRESCRIPTION DRUGS.—

(A) MEDICARE REBATES NOT APPLICABLE.—An outpatient prescription drug shall be included in the guaranteed national benefit package notwithstanding any exclusion from coverage that may be made with respect to the drug under section 1862(a)(17) of the Social Security Act.

(B) NONAPPLICATION OF PRIOR AUTHORIZATION AND DRUG USE REVIEW BY SECRETARY.—The provisions of section 1834(d)(6) of the Social Security Act shall not apply with respect to an outpatient prescription drug furnished to an individual who is not enrolled under part B of title XVIII of such Act or under medicare part C. A health plan may subject an outpatient prescription drug furnished to any other individual to prospective review, prior authorization, or drug use review, but only if the plan meets the requirements described in section 5007(d).

(b) ENHANCED MEDICARE BENEFITS DESCRIBED.—In addition to the items and services covered under title XVIII of the Social Security Act as of the date of the enactment of this title, the guaranteed national benefit package shall include the following items and services for which coverage is provided under such title XVIII as a result of the amendments to such title made by subtitle B.

(1) Outpatient prescription drugs (as added by section 3101).

(2) Limitations on out-of-pocket expenditures (as added by section 3111).

(3) Unlimited days of coverage for inpatient hospital services (as added by section 3112).

(4) Newborn, well-baby, and well-child services and hearing aids (as added by section 3113).

(5) Expanded coverage of screening mammography (provided under section 3114(a)) and screening pap smears (provided under section 3114(b)).

(6) Screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy (as added by section 3114(c)).

(7) Screening for sexually-transmitted diseases (as added by section 3114(d)).

(8) Screening for tuberculosis (as added by section 3114(e)).

(9) Pregnancy-related services and voluntary family planning services (as added by section 3115).

(10) Expanded coverage for mental health and substance abuse services (as provided under section 3116).

(11) Expanded coverage for certain chiropractic services (as provided under section 3117).

SEC. 3002. COVERAGE OF ITEMS AND SERVICES NOT COVERED UNDER MEDICARE.

(a) EXPERIMENTAL TREATMENTS.—

(1) IN GENERAL.—In the absence of a national coverage decision under the medicare program, the guaranteed national benefit package may, at the option of a certified health plan, include coverage of an experimental item, service, or treatment. Nothing in the previous sentence may be construed to permit a certified health plan to include in the guaranteed national benefit package an item or service for which the Secretary does not have the authority to make such a national coverage decision.

(2) CONSTRUCTION.—For purposes of paragraph (1), a service covered as an incident to a qualifying investigational treatment under subsection (b) shall not be considered an experimental item, service, or treatment.

(b) SERVICES INCIDENT TO INVESTIGATIONAL TREATMENTS.—

(1) IN GENERAL.—The guaranteed national benefit package shall include coverage of any item or service provided to an individual incident to a qualifying investigational treatment if the item or service is otherwise included in the guaranteed national benefit package.

(2) QUALIFYING INVESTIGATIONAL TREATMENT DEFINED.—In this subsection, a "qualifying investigational treatment" means an investigational treatment provided under a clinical research trial approved by the Secretary or a qualified non-governmental research entity (as defined in guidelines of the National Institutes of Health, including guidelines for designated cancer support grants of the National Cancer Institute), or a peer-reviewed and approved research program (as defined by the Secretary), conducted for the primary purpose of determining whether or not a treatment is safe, efficacious, or having any other characteristic of a treatment which must be demonstrated in order for the treatment to be medically necessary.

(3) EXCLUSIONS.—Nothing in this subsection may be construed to provide for coverage under the guaranteed national benefit package of an item or service of a class or type for which the Secretary determines that payment is generally made from sources other than certified health plans, including the investigational agent or device itself or the investigational procedure, any non-health services that might be required for a person to receive the qualifying investigational treatment, or the costs of managing the research.

(c) MODIFICATION OF COVERAGE FOR PREVENTIVE SERVICES.—In consultation with appropriate experts in the area of preventive medicine (including the Advisory Council on Immunological Practices of the Centers for Disease Control and Prevention), the Secretary may modify the coverage of immunizations and other preventive services otherwise provided under the guaranteed national benefit package under this part to provide for coverage of additional services or to increase the frequency of coverage, but only if—

(1) any such modification is determined to be clinically appropriate;

(2) in the case of preventive services related to communicable diseases, such services shall be provided pursuant to modification without the application of any deductible or coinsurance; and

(3) in the case of behavioral preventive services (as specified by the Secretary), the coverage of such services will not result in any increase in the premium imposed under medicare part C.

(d) COVERAGE OF CERTAIN OTHER PROVIDERS.—

(1) IN GENERAL.—For purposes of a certified health plan or medicare part C, the guaranteed national benefit package shall include—

(1) coverage of services provided at an individual's home by a Christian Science practitioner or Christian Science nurse; and

(2) coverage of services provided in a Christian Science Sanitorium (as defined in section 1861(y) by a Christian Science practitioner.

(2) QUALIFICATIONS OF PROVIDERS.—A Christian Science practitioner or Christian Science nurse is qualified for purposes of paragraph (1) if the practitioner or nurse is listed as such a practitioner or nurse by the First Church of Christ, Scientist, in Boston, Massachusetts.

SEC. 3003. MODIFICATION OF MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS UNDER APPROVED MANAGED MENTAL HEALTH PROGRAMS.

(a) SUBSTITUTION OF MENTAL HEALTH BENEFITS PROVIDED UNDER PROGRAM FOR BENEFITS PROVIDED UNDER GUARANTEED NATIONAL BENEFIT PACKAGE.—In the case of an individual who is a resident of a State operating a comprehensive managed mental health program approved by the Secretary under section 1981 of the Public Health Service Act for a month, the individual is considered to have waived the right to benefits for mental health services under the guaranteed national benefit package under this subtitle in consideration of receipt of benefits for mental health services through such program.

(b) MENTAL HEALTH SERVICES DESCRIBED.—In this section, the term "mental health services" means the following items and services:

(1) Inpatient psychiatric services (as described in section 1812(a)(5) of the Social Security Act).

(2) Any items or services furnished under part B of title XVIII of such Act for the treatment of mental, psychoneurotic, and personality disorders of an individual who is not an inpatient of a hospital.

(3) Intensive community-based mental health services (as described in section 1861(ff) of such Act).

(4) Intensive residential services (as described in section 1861(qq) of such Act).

PART 2—COST-SHARING

SEC. 3011. APPLICATION OF COST-SHARING SCHEDULES.

(a) IN GENERAL.—Benefits provided under the guaranteed national benefit package shall be subject to one of the following cost-sharing schedules offered by a certified health plan and medicare part C:

(1) The standard cost-sharing schedule described in section 3013.

(2) The managed care cost-sharing schedule described in section 3014.

(b) TREATMENT OF DEDUCTIBLES.—

(1) APPLICATION ON AN ANNUAL BASIS.—The deductibles for a year under the schedules referred to in subsection (a) shall be applied based upon expenses incurred for items and services covered under the guaranteed national benefit package that are furnished in the year.

(2) INDIVIDUAL AND FAMILY GENERAL DEDUCTIBLES.—

(A) INDIVIDUAL.—Subject to subparagraphs (B) and (C), with respect to an individual enrolled under a certified health plan or medicare part C (regardless of the class of enrollment), any individual general deductible in the cost sharing schedule offered by the plan represents the amount of countable expenses (as defined in subparagraph (D)) that the individual may be required to incur in a year before the plan incurs liability for expenses for items and services covered under the guaranteed national benefit package that are furnished to the individual.

(B) FAMILY.—Subject to subparagraph (C), in the case of an individual enrolled under a certified health plan or medicare part C other than under an individual class of enrollment (as defined in section 3(b)), the individual general deductible under subparagraph (A) shall not apply to countable expenses incurred by any member of the individual's family in a year at such time as the family members included in such enrollment have incurred, in the aggregate, countable expenses in the amount of the family general deductible for the year.

(C) SPECIAL RULE FOR HIGH DEDUCTIBLE PLANS.—In the case of an individual enrolled under a certified health plan that is a high deductible plan (as defined in section 5504(5)) in a class of enrollment other than an individual class of enrollment, subparagraph (A) shall not apply and the family general deductible represents the amount of countable expenses (as defined in subparagraph (D)) that the members of family may be required to incur in the aggregate in a year before the plan incurs liability for expenses for items and services covered under the guaranteed national benefit package that are furnished to such members.

(D) COUNTABLE EXPENSE.—In this paragraph, the term "countable expense" means, with respect to an individual for a year, an expense for an item or service covered under the guaranteed national benefit package that is subject to the general deductible and for which, but for such deductible and any other cost sharing under this part, a health plan is liable for payment. The amount of countable expenses for an individual for a year under this paragraph shall not exceed the individual general deductible for the year.

(c) TREATMENT OF COINSURANCE AND COPAYMENTS.—After a general or separate deductible that applies to an item or service covered under the guaranteed national benefit package has been satisfied for a year, coinsurance and copayments are amounts (expressed as a percentage of an amount otherwise payable or as a dollar amount, respectively) that an individual may be required to pay with respect to the item or service.

(d) ROUNDING OF AMOUNTS.—Any amount expressed in dollars in this part shall be rounded to the nearest multiple of $1.

SEC. 3012. LIMITS ON OUT-OF-POCKET EXPENDITURES.

(a) ANNUAL OUT-OF-POCKET LIMIT ON COST-SHARING FOR SERVICES OTHER THAN OUTPATIENT PRESCRIPTION DRUGS.—The total amount of cost-sharing incurred in a year (beginning with 1997) with respect to items and services covered under the guaranteed national benefit package (other than outpatient prescription drugs) may not exceed the following:

(1) In the case of an individual enrolled under a certified health plan or medicare part C under an individual class of enrollment (as defined in section 3(b))—

(A) for 1997, an amount equal to $3,000, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during each of the years 1994 through 1996;

(B) for 1998, the amount determined under this paragraph for 1997, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during 1997; and

(C) for each succeeding year, the amount determined under this paragraph for the previous year, increased by the national medicare growth factor established for the year under section 8201(c).

(2) In the case of an individual enrolled under a certified health plan or medicare part C under any other class of enrollment—

(A) for 1997, an amount equal to $6,000, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during the period of 1994 through 1996;

(B) for 1998, the amount determined under this paragraph for 1997, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during 1997; and

(C) for each succeeding year, the amount determined under this paragraph for the previous year, increased by the national medicare growth factor established for the year under section 8201(c).

(b) SEPARATE OUT-OF-POCKET LIMIT ON COST-SHARING FOR OUTPATIENT PRESCRIPTION DRUGS.—The amount of cost-sharing incurred in a year with respect to outpatient prescription drugs may not exceed—

(1) for 1997, $1,000, increased by the average annual percentage increase in private sector per capita outpatient prescription drug expenditures (as determined by the Secretary) during each of the years 1994 through 1996;

(2) for 1998, the amount applicable under this paragraph for 1997, increased by the average annual percentage increase in private sector per capita outpatient prescription drug expenditures (as determined by the Secretary) during 1997; and

(3) for 1999 and each succeeding year, the amount applicable under this paragraph for the previous year, increased by the percentage increase computed under section 8206(b) for the year.

SEC. 3013. STANDARD COST-SHARING SCHEDULE DESCRIBED.

(a) DEDUCTIBLE.—

(1) IN GENERAL.—Except as provided in paragraphs (3) and (4), with respect to expenses incurred for items and services in the comprehensive benefit package during a year (other than expenses incurred for items and services described in paragraph (2)), the standard cost-sharing schedule offered by a certified health plan and medicare part C shall have—

(A) for 1997—

(i) an annual individual general deductible of $500, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during the period of 1994 through 1996, and

(ii) an annual family general deductible of $750, increased by such average annual percentage increase;

(B) for 1998, the annual individual general deductible and the annual family general deductible applicable for 1997, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during 1997; and

(C) for 1999 and each succeeding year, the annual individual general deductible and the annual family general deductible applicable for the previous year, increased by the national medicare growth factor established for the year under section 8201(c).

(2) SEPARATE DEDUCTIBLE FOR COVERED OUTPATIENT DRUGS.—With respect to expenses incurred for covered outpatient drugs in a year, the standard cost-sharing schedule offered by a certified health plan and medicare part C shall have—

(A) for 1997, an annual general deductible of $500, increased by the average annual percentage increase in private sector per capita outpatient prescription drug expenditures (as determined by the Secretary) during each of the years 1994 through 1996;

(B) for 1998, the amount applicable under this paragraph for 1997, increased by the average annual percentage increase in private sector per capita outpatient prescription drug expenditures (as determined by the Secretary) during 1997; and

(C) for 1999 and each succeeding year, the amount applicable under this paragraph for the previous year, increased by the percentage increase computed under section 8206(b) for the year.

(3) WAIVER OF DEDUCTIBLE FOR CERTAIN SERVICES.—No deductible shall be applied under the standard cost-sharing schedule offered by a certified health plan or medicare part C with respect to expenses incurred—

(A) for screening mammography (described in section 1834(c) of such Act);

(B) for screening pap smear and pelvic exams (described in section 1861(s)(14);

(C) for screening for sexually-transmitted diseases (described in section 1861(s)(19) of such Act); and

(D) for screening for tuberculosis (described in section 1861(s)(20)) of such Act).

(E) for pregnancy-related services consisting of prenatal services (described in section 1861(s)(21) of such Act);

(F) for voluntary family planning services (described in section 1861(s)(22) of such Act);

(G) for newborn and well-baby services (described in section 1861(oo)(1) of the Social Security Act); and

(H) for well-child services (described in section 1861(pp)(1) of such Act).

(4) SPECIAL RULES FOR HIGH DEDUCTIBLE PLAN.—In the case of a high deductible plan (as defined in section 5504(5))—

(A) the reference in paragraph (1)(A)(i) to "$500" shall be considered a reference to an amount established by the carrier offering the plan, except that such amount may not be less than $1,500 and may not exceed $2,500; and

(B) the reference in paragraph (1)(A)(ii) to "$750" shall be considered a reference to an amount established by the carrier offering the plan, except that such amount may not be less than $2,150 and may not exceed $3,750.

(b) APPLICATION OF MEDICARE COINSURANCE RATES AND COPAYMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the coinsurance rates applicable to an item or service under title XVIII of the Social Security Act shall apply under the standard cost-sharing schedule offered by a certified health plan and medicare part C with respect to the same item or service covered under the guaranteed national benefit package.

(2) WAIVER OF COINSURANCE AND COPAYMENTS FOR CERTAIN INPATIENT SERVICES.—

VOL
140
PT
15
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Under the standard cost-sharing schedule offered by a certified health plan and medicare part C, inpatient hospital services (as defined in section 1861(b) of the Social Security Act) and intensive residential services (as defined in section 1861(qq) of such Act) shall not be subject to the coinsurance otherwise applicable under the second sentence of section 1813(a)(1) of such Act.

(3) COVERAGE OF EXTENDED CARE SERVICES WITHOUT REGARD TO SPELL OF ILLNESS.—With respect to post-hospital extended care services (as defined in section 1861(i) of such Act) furnished in a skilled nursing facility (as defined in section 1861(j) of such Act), such services may be furnished to an individual notwithstanding that the services are not furnished during a spell of illness (as described in section 1861(a)).

SEC. 3014. MANAGED CARE COST-SHARING SCHEDULE.

(a) IN GENERAL.—Items and services covered under the guaranteed national benefit package provided through a provider network (as defined in section 5504(10)) of a certified health plan or medicare part C—

(1) are not subject to a deductible or to payment of any coinsurance (except as may be provided in subsection (b)), and

(2) are subject to the applicable copayment described in this section.

(b) COPAYMENTS IMPOSED IN 1997.—

(1) IN GENERAL.—The copayment applicable under this section with respect to items and services provided during 1997 shall be equal to the following amounts, adjusted in accordance with paragraph (2):

(A) In the case of physician visits and other health professional visits, $15.

(B) In the case of emergency room services (or any other emergency services) for non-emergency treatment, $30.

(C) In the case of hospital outpatient and other ambulatory medical and surgical services, $15.

(D) In the case of a covered outpatient drug—

(i) which is a generic product or which is not a generic product if an equivalent generic product is not available, the lesser of $10 or an amount equal to a coinsurance of 20 percent; or

(ii) which is not a generic product if an equivalent generic product is available, the greater of $10 or an amount equal to a coinsurance of 20 percent.

(E) In the case of pregnancy-related services and family planning services (other than prenatal visits), $15.

(F) In the case of intensive community mental illness and substance abuse services, $30.

(G) In the case of outpatient mental health and substance abuse services (other than psychotherapy) $15 per visit.

(H) In the case of outpatient mental health and substance abuse services consisting of psychotherapy, $25 per visit.

(2) INDEXING OF AMOUNTS PROVIDED.—The amounts described in paragraph (1) shall be increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during the period of 1994 through 1996.

(c) COPAYMENTS IMPOSED IN SUBSEQUENT YEARS.—The copayment applicable under this section with respect to items and services provided—

(1) in 1998 is equal to the amount applicable under this section for 1997, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during 1997; and

(2) in 1999 and each succeeding year is equal to the amount applicable under this section for the previous year, increased by the national medicare growth factor established for the year under section 8201(c).

PART 3—MISCELLANEOUS PROVISIONS

SEC. 3021. REFERENCES TO MEDICARE PROVISIONS.

In this subtitle, except as otherwise specifically provided, any references to provisions of title XVIII of the Social Security Act are deemed to be references to such provisions as in effect on the day after the date of the enactment of this Act, taking into account the amendments made to such title by this Act as if the effective date of such amendments were January 1, 1997.

SEC. 3022. RELATION BETWEEN PACKAGE AND CERTAIN STATE LAWS.

(a) PERMITTING STATES TO REQUIRE BENEFITS UNDER CERTIFIED HEALTH PLANS TO BE FURNISHED BY CERTAIN PROVIDERS.—Nothing in this subtitle may be construed to prohibit a State from requiring that an item or service covered under the guaranteed national benefit package be furnished to an individual enrolled in a certified health plan by any particular class or type of provider who is legally authorized to provide such item or service under the law of the State (or under a State regulatory mechanism provided by State law) in which the item or service is provided.

(b) REQUIRING HEALTH PLANS TO OFFER BENEFITS IN EXCESS OF NATIONAL PACKAGE.—No State may require a certified health plan to offer any item or service not included in the guaranteed national benefit package.

(c) COVERAGE OF SERVICES NOT FURNISHED BY MEDICARE PROVIDERS.—

(1) IN GENERAL.—Nothing in this subtitle shall be construed to prohibit coverage of an item or service otherwise described in section 3001 under the guaranteed national benefit package furnished to an individual under a certified health plan solely on the ground that the individual or entity providing the item or service is not an eligible medicare provider, so long as the individual or entity is legally authorized to provide such item or service under the law of the State (or under a State regulatory mechanism provided by State law) in which the item or service is provided.

(2) ELIGIBLE MEDICARE PROVIDER DEFINED.—In paragraph (1), an "eligible medicare provider" is an individual or entity providing an item or service for which payment may be made under title XVIII of the Social Security Act who is participating in such title or otherwise eligible to receive payment for providing such an item or service under such title.

SEC. 3023. PROVISION OF ITEMS OR SERVICES CONTRARY TO RELIGIOUS BELIEF OR MORAL CONVICTION.

A health professional or a health facility may not be required to provide an item or service in the guaranteed national benefit package if the professional or facility objects to doing so on the basis of a religious belief or moral conviction.

SEC. 3024. ESTABLISHMENT OF COMMISSIONS.

(a) ADVISORY COMMISSION ON MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

(1) ESTABLISHMENT OF COMMISSION.—

(A) IN GENERAL.—The Director of the Office of Technology Assessment (hereafter in this section referred to as the "Director" and the "Office", respectively) shall provide for the appointment of an Advisory Commission on Mental Health and Substance Abuse Services (hereafter in this subsection referred to as the "Commission") to be composed of individuals appointed by the Director without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(B) NUMBER; TIMING OF APPOINTMENT.—The Commission shall consist of 15 individuals. Members of the Commission shall first be appointed not later than 1 year after the date of the enactment of this subsection for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

(C) COMPOSITION.—The membership of the Commission shall include (but need not be limited to)—

(i) physicians,

(ii) other health professionals,

(iii) individuals with knowledge of and experience in the delivery of mental health and substance abuse services,

(iv) representatives of public mental health and substance abuse treatment service systems, and

(v) consumers.

To the greatest extent feasible, the membership of the Commission shall reflect the racial, ethnic, and gender composition of the population of the United States.

(2) ISSUES STUDIED BY COMMISSION.—The Commission shall examine the following issues:

(A) The variety of mental health and substance abuse services provided in the United States, together with the types of providers furnishing such services and the methods under which the providers receive payment for furnishing such services.

(B) The means available to appropriately manage the delivery of mental health and substance abuse services and coordinate the delivery of such services with the delivery of other health services, and to achieve parity in the scope of mental health and substance abuse services covered under the guaranteed national benefit package under this title with the scope of other health services covered under the package.

(C) The variations in the utilization of and costs associated with mental health and substance abuse services among different geographic regions and demographic groups.

(D) The incidence and prevalence of severe mental illness and substance abuse among incarcerated adults and juveniles and the relation between the mental health and substance abuse treatment provided to these individuals and the length of time these individuals are incarcerated.

(E) The standards for training and certifying providers of mental health and substance abuse services.

(F) The standards used to measure the quality of mental health and substance abuse services and to review the utilization of such services.

(G) Such other issues relating to mental health and substance abuse services in the United States as the Commission considers appropriate.

(3) SUBMISSION OF ANNUAL REPORT.—Not later than January 1, 1998 (and not later than January 1 of the first 4 years thereafter), the Commission shall submit to Congress a report—

(A) describing the issues examined by the Commission under paragraph (2) during the preceding year;

(B) evaluating the effectiveness of the guaranteed national benefit package under this subtitle in assuring adequate coverage for mental health and substance abuse services;

(C) analyzing the progress made in achieving parity in the delivery of mental health and substance abuse services and the delivery of other health services for individuals in the United States;

(D) evaluating State comprehensive managed mental health programs operated during the preceding year under section 1981 of the Public Health Service Act and the extent of the integration of public and private systems of mental health and substance abuse treatment services in the State;

(E) analyzing trends in the delivery of mental health and substance abuse services and the costs associated with the delivery of such services; and

(F) analyzing whether any distinctions in limitations on coverage and determinations of payment amounts between mental health and substance abuse services and other services in the guaranteed national benefit package under this subtitle should be maintained, modified, or eliminated.

(4) APPLICABILITY OF OTHER ADMINISTRATIVE PROVISIONS.—The following provisions of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner as such provisions apply to the Prospective Payment Assessment Commission:

(A) Subparagraph (C) (relating to staffing and administration generally).

(B) Subparagraph (D) (relating to compensation of members).

(C) Subparagraph (F) (relating to access to information).

(D) Subparagraph (G) (relating to use of funds).

(E) Subparagraph (H) (relating to periodic GAO audits).

(F) Subparagraph (J) (relating to requests for appropriations).

(5) TERMINATION.—The Commission shall terminate 30 days after submitting the final report required under paragraph (3).

(b) NATIONAL HEALTH ADVISORY COMMISSION.—

(1) ESTABLISHMENT OF COMMISSION.—

(A) IN GENERAL.—The Director of the Office of Technology Assessment (hereafter in this section referred to as the "Director" and the "Office", respectively) shall provide for the appointment of a National Health Advisory Commission (hereafter in this subsection referred to as the "Commission").

(B) COMPOSITION.—The Commission shall consist of the following individuals:

(i) The Chair and Vice-Chair of the Prospective Payment Assessment Commission.

(ii) The Chair and Vice-Chair of the Physician Payment Review Commission.

(iii) The Chair and Vice-Chair of the Prescription Drug Payment Review Commission.

(iv) The Chair and Vice-Chair of the Advisory Commission on Mental Health and Substance Abuse Services.

(v) 3 other individuals appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service) with expertise in health economics, health insurance, benefits, and provider reimbursement.

To the greatest extent feasible, the membership of the Commission shall reflect the racial, ethnic, and gender composition of the population of the United States.

(C) TIMING OF APPOINTMENT.—Members of the Commission shall first be appointed not later than 15 months after the date of the enactment of this subsection for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

(2) DUTIES.—Based on detailed information provided by the Commissions referred to in paragraph (1), the Commission shall monitor the impact of this Act on individuals, employers, and governments.

(3) ANNUAL REPORTS.—Not later than January 1, 1998, and each January 1 thereafter, the Commission shall submit to Congress a report on the impact of this Act on individuals, employers, and governments, and shall include in the report recommendations for changes in this Act, including (but not limited to) changes in the guaranteed national benefit package described in this subtitle.

(4) APPLICABILITY OF OTHER ADMINISTRATIVE PROVISIONS.—The following provisions of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner as such provisions apply to the Prospective Payment Assessment Commission:

(A) Subparagraph (C) (relating to staffing and administration generally).

(B) Subparagraph (D) (relating to compensation of members).

(C) Subparagraph (F) (relating to access to information).

(D) Subparagraph (G) (relating to use of funds).

(E) Subparagraph (H) (relating to periodic GAO audits).

(F) Subparagraph (J) (relating to requests for appropriations).

SEC. 3025. STUDY ON COVERAGE OF EMERGENCY DENTAL SERVICES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study to determine whether coverage for emergency dental services should be included in the guaranteed national benefit package under this subtitle.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subsection (a), and shall include in the report such recommendations as the Secretary considers appropriate regarding the conditions under which emergency dental services should be covered and the methodology under which payment may be made for such services.

SEC. 3026. STUDY ON COVERAGE OF SCREENING FOR ADULT DIABETES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study to determine the appropriateness and cost-effectiveness of screening for adult diabetes for purposes of determining whether coverage for such service should be included in the guaranteed national benefit package under this subtitle.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subsection (a), and shall include in the report such recommendations as the Secretary considers appropriate regarding the conditions under which screening for adult diabetes should be covered and the methodology under which payment may be made for such service.

Subtitle B—Coverage of Outpatient Prescription Drugs and Other Changes in Medicare Benefits

PART 1—COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS

SEC. 3101. COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS.

(a) COVERED OUTPATIENT DRUGS AS MEDICAL AND OTHER HEALTH SERVICES.—Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended to read as follows:

"(J) covered outpatient drugs;".

(b) DEFINITION OF COVERED OUTPATIENT DRUG.—Section 1861(t) (42 U.S.C. 1395x(t)) is amended—

(1) in the heading, by adding at the end the following: "; Covered Outpatient Drugs";

(2) in paragraph (1)—

(A) by striking "paragraph (2)" and inserting "the succeeding paragraphs of this subsection", and

(B) by striking the period at the end and inserting ", but only if used for a medically accepted indication (as described in paragraph (4))."; and

(3) by striking paragraph (2) and inserting the following:

"(2) Except as otherwise provided in paragraph (3), the term 'covered outpatient drug' means any of the following products used for a medically accepted indication (as described in paragraph (4)):

"(A) A drug which may be dispensed only upon prescription and—

"(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling.

"(B) A biological product which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product.

"(C) Insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(D) Enteral nutrients provided as a covered home infusion drug.

"(E) Medical foods (other than enteral nutrients described in subparagraph (D)) that comply with the requirements of the Federal Food, Drug, and Cosmetic Act and that are prescribed by a physician for persons with Phenyiketonuria (PKU) and other inborn errors of metabolism, in accordance with guidelines established by the Secretary.

An item described in subparagraph (D) or (E) shall not be considered a covered outpatient drug for purposes of section 1850.

"(3) The term 'covered outpatient drug' does not include any product—

"(A) which is administered through infusion in a setting described in paragraph (5)(A)(ii) unless the product is a covered

VOL 140 PT 15 AG 10 — 11 1994 UMI

home infusion drug (as defined in paragraph (5));

"(B) when furnished as part of, or as incident to, a diagnostic service or any other item or service for which payment may be made under this title (other than physicians' services or services which would be physicians' services if furnished by a physician);

"(C) which is listed under paragraph (2) of section 1927(d) (other than subparagraph (B), (I), or (J) of such subparagraph) as a drug which may be excluded from coverage under a State plan under title XIX and which the Secretary elects to exclude from coverage under part B; or

"(D) which is a contraceptive drug described in section 1861(s)(21).

"(4) For purposes of paragraph (2), the term 'medically accepted indication', with respect to the use of an outpatient drug, includes—

"(A) any use which has been approved by the Food and Drug Administration for the drug, and

"(B) any other use of the drug, unless the Secretary determines that such use is not medically appropriate.

"(5)(A) For purposes of paragraph (3), the term 'covered home infusion drug' means a covered outpatient drug dispensed to an individual that—

"(i) is administered intravenously, subcutaneously, or epidurally, using an access device that is inserted into the body and an infusion device to control the rate of flow of the drug (or through other means of administration determined by the Secretary);

"(ii) is administered—

"(I) in the individual's home,

"(II) an institution used as the individual's home, but only if the drug is administered during an inpatient day for which payment is not made to the institution under part A for inpatient or extended care services furnished to the individual, or

"(III) in a facility other than the individual's home if the administration of the drug at the facility is determined by the Secretary to be cost-effective (in accordance with such criteria as the Secretary may establish); and

"(iii) with respect to a drug furnished in a home setting—

"(I) is an antibiotic drug and the Secretary has not determined, for the specific drug or the indication to which the drug is applied, that the drug cannot generally be administered safely and effectively in such a setting, or

"(II) is not an antibiotic drug and the Secretary has determined, for the specific drug or the indication to which the drug is applied, that the drug can generally be administered safely and effectively in such a setting.

"(B) Not later than January 1, 1998 (and periodically thereafter), the Secretary shall publish a list of the drugs, and indications for such drugs, that are covered home infusion drugs for purposes of this title.".

(c) CONFORMING AMENDMENTS REPEALING SEPARATE COVERAGE OF CERTAIN DRUGS AND PRODUCTS.—(1) Effective January 1, 1998, section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (A), by striking "(including drugs" and all that follows through "self-administered)";

(B) by striking subparagraphs (G) and (I);

(C) by adding "and" at the end of subparagraph (M); and

(D) by striking subparagraphs (O), (P), and (Q).

(2) Effective January 1, 1998, section 1861 (42 U.S.C. 1395x) is amended by striking the subsection (jj) added by section 4156(a)(2) of OBRA–1990.

(3) Effective January 1, 1998, section 1881(b) (42 U.S.C. 1395rr(b)) is amended—

(A) in the first sentence of paragraph (1)—

(i) by striking ", (B)" and inserting ", and (B)", and

(ii) by striking ", and (C)" and all that follows and inserting a period;

(B) in paragraph (11)—

(i) by striking "(11)(A)" and inserting "(11)", and

(ii) by striking subparagraphs (B) and (C).

SEC. 3102. PAYMENT RULES AND RELATED REQUIREMENTS FOR COVERED OUTPATIENT DRUGS.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) PAYMENT FOR AND CERTAIN REQUIREMENTS CONCERNING COVERED OUTPATIENT DRUGS.—

"(1) DEDUCTIBLE.—

"(A) IN GENERAL.—Payment shall be made under paragraph (2) only for expenses incurred by an individual for a covered outpatient drug during a calendar year after the individual has incurred expenses in the year for such drugs (during a period in which the individual is entitled to benefits under this part) equal to the deductible amount for that year.

"(B) DEDUCTIBLE AMOUNT.—

"(i) For purposes of subparagraph (A), the deductible amount is—

"(I) for 1998, an amount equal to $500, increased by the average annual percentage increase in private sector per capita outpatient prescription drug expenditures (as determined by the Secretary) during each of the years 1994 through 1997; and

"(II) for any succeeding year, the amount applicable under this subparagraph for the previous year, increased by the percentage increase computed under section 8206(b) of the Guaranteed Health Insurance Act of 1994 for that succeeding year.

"(ii) The Secretary shall promulgate the deductible amount for 1998 and each succeeding year not later than October 1 of the previous year.

"(2) PAYMENT AMOUNT.—

"(A) IN GENERAL.—Subject to the deductible established under paragraph (1), the amount payable under this part for a covered outpatient drug furnished to an individual during a calendar year shall be equal to—

"(i) 80 percent of the payment basis described in paragraph (3), in the case of an individual who has not incurred expenses for covered outpatient drugs during the year (including the deductible imposed under paragraph (1)) in excess of the out-of-pocket limit for the year under subparagraph (B); and

"(ii) 100 percent of the payment basis described in paragraph (3), in the case of any other individual.

"(B) OUT-OF-POCKET LIMIT DESCRIBED.—

"(i) For purposes of subparagraph (A), the out-of-pocket limit for a year is equal to—

"(I) for 1998, $1000, increased by the average annual percentage increase in private sector per capita outpatient prescription drug expenditures (as determined by the Secretary) during each of the years 1994 through 1997; and

"(II) for any succeeding year, the amount applicable under this subparagraph for the previous year, increased by the percentage increase computed under section 8206(b) of the Guaranteed Health Insurance Act of 1994 for that succeeding year.

"(ii) The Secretary shall promulgate the out-of-pocket limit for 1998 and each succeeding year not later than October 1 of the previous year.

"(3) PAYMENT BASIS.—For purposes of paragraph (2), the payment basis is the lesser of—

"(A) the actual charge for a covered outpatient drug, or

"(B) the applicable payment limit established under paragraph (4).

"(4) PAYMENT LIMITS.—

"(A) PAYMENT LIMIT FOR SINGLE SOURCE DRUGS AND MULTIPLE SOURCE DRUGS WITH RESTRICTIVE PRESCRIPTIONS.—In the case of a covered outpatient drug that is a multiple source drug which has a restrictive prescription, or that is single source drug, the payment limit for a payment calculation period is equal to the amount of the administrative allowance (established under paragraph (5)) plus the product of the number of dosage units dispensed and the per unit estimated acquisition cost for the drug product (determined under subparagraph (C)) for the period.

"(B) PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS WITHOUT RESTRICTIVE PRESCRIPTIONS.—In the case of a drug that is a multiple source drug which does not have a restrictive prescription, the payment limit for a payment calculation period is equal to the amount of the administrative allowance (established under paragraph (5)) plus the product of the number of dosage units dispensed and the unweighted median of the unit estimated acquisition cost (determined under subparagraph (C)) for the drug products for the period.

"(C) DETERMINATION OF UNIT PRICE.—

"(i) INITIAL PAYMENT CALCULATION PERIOD.—Subject to clause (ii), the Secretary shall determine, for the dispensing of a covered outpatient drug product in the payment calculation period beginning January 1, 1998, the estimated acquisition cost for the drug product, based upon—

"(I) in the case of a single source drug or multiple source drug with a restrictive prescription, based upon information from the period beginning in 1994 updated (in a compound manner) by the percentage change in the consumer price index for all urban consumers (U.S. city average) for the 4 12-month periods ending with June 1997; or

"(II) in the case of a multiple source drug without a restrictive prescription, based upon information from the most recent year for which data is available.

"(ii) LIMITATION.—With respect to any covered outpatient drug product, the estimated acquisition cost in the payment calculation period described in clause (i) may not exceed 93 percent of the published average wholesale price for the drug, as determined one month prior to the beginning of the payment calculation period.

"(iii) SUBSEQUENT PERIODS.—The estimated acquisition cost for a covered outpatient drug product applicable under this subparagraph for the dispensing of a drug product in a payment calculation period beginning in January of each year (beginning with 1999) shall be equal to the estimated acquisition cost for the product determined under this subparagraph for the period ending in January of the previous year, increased by the uniform percentage increase determined under section 8206(a) of the Guaranteed Health Insurance Act of 1994 for the class of services that includes prescription drugs for the year involved. Notwithstanding the previous sentence, with respect to any covered outpatient drug product, such cost may not exceed 93 percent of the published average wholesale price for the drug, as determined one month prior to the beginning of the payment calculation period.

"(iv) COMPLIANCE WITH REQUEST FOR INFORMATION.—If a wholesaler or direct seller of a covered outpatient drug refuses, after being requested by the Secretary, to provide price information requested to carry out clauses (i), (ii), or (iii), or deliberately provides information that is false, the Secretary may impose a civil money penalty of not to exceed $10,000 for each such refusal or provision of false information. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under the previous sentence in the same manner as they apply to a penalty or proceeding under section 1128A(a). Information gathered pursuant to clause (i), (ii), or (iii) shall not be disclosed except as the Secretary determines to be necessary to carry out the purposes of this part and to permit the Comptroller General and the Director of the Congressional Budget Office to review the information provided.

"(D) UPDATES TO PAYMENT LIMITS.—Notwithstanding any other provision of this paragraph, the payment limit determined under this paragraph with respect to a payment calculation period may not exceed the payment limit for the preceding year, increased by the percentage increase computed under section 8206(b) of the Guaranteed Health Insurance Act of 1994.

"(5) ADMINISTRATIVE ALLOWANCE FOR PURPOSES OF PAYMENT LIMIT.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the administrative allowance established under this paragraph is—

"(i) for 1998, an amount equal to $5, adjusted by the percentage change in the consumer price index for all urban consumers (U.S. city average) for the 2 12-month periods ending with June 1997; and

"(ii) for each succeeding year, the amount for the previous year, adjusted by the percentage change in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that previous year.

"(B) REDUCTION FOR MAIL ORDER PHARMACIES.—The Secretary may, after consulting with representatives of pharmacists, individuals enrolled under this part, and of private insurers, reduce the administrative allowances established under subparagraph (A) for any covered outpatient drug dispensed by a mail order pharmacy, based on differences between such pharmacies and other pharmacies with respect to operating costs and other economies.

"(C) NO DISPENSING FEE FOR CERTAIN DRUGS AND PRODUCTS.—No administrative allowance may be provided under this paragraph with respect to any of the following covered outpatient drugs:

"(i) Erythropoietin provided to dialysis patients.

"(ii) Drugs and biologicals provided as an incident to a physician's service or to a service which would be a physician's service if furnished by a physician.

"(iii) Covered home infusion drugs.

"(6) ASSURING APPROPRIATE PRESCRIBING AND DISPENSING PRACTICES.—

"(A) IN GENERAL.—The Secretary shall develop a program to—

"(i) provide on-line prospective review of prescriptions on a 24-hour basis (in accordance with subparagraph (B)) and retrospective review of claims;

"(ii) establish standards for counseling individuals to whom covered outpatient drugs are prescribed; and

"(iii) identify (and to educate physicians, patients, and pharmacists concerning)—

"(I) instances or patterns of unnecessary or inappropriate prescribing or dispensing practices for covered outpatient drugs,

"(II) instances or patterns of substandard care with respect to such drugs,

"(III) potential adverse reactions, and

"(IV) appropriate use of generic products.

"(B) PROSPECTIVE REVIEW.—

"(i) IN GENERAL.—The program under this paragraph shall provide for on-line prospective review of each covered outpatient drug prescribed for a patient before the prescription is filled or the drug is furnished, including screening for potential drug therapy problems due to therapeutic duplication, drug-to-drug interactions, and incorrect drug dosage or duration of drug treatment.

"(ii) DISCUSSION OF APPROPRIATE USE.—In conducting prospective review under this subparagraph, any individual or entity that dispenses a covered outpatient drug shall offer to discuss with the patient to whom the drug is furnished or the patient's caregiver (in person if practicable, or through access to a toll-free telephone service) information regarding the appropriate use of the drug, potential interactions between the drug and other drugs dispensed to the individual, and such other matters as the Secretary may require.

"(iii) ADDITIONAL DUTIES.—In carrying out this subparagraph, the Secretary shall—

"(I) develop public domain software which could be used by carriers and pharmacies to provide the on-line prospective review; and

"(II) study the feasibility and desirability of requiring patient diagnosis codes on prescriptions and the feasibility of expanding the prospective review program to include the identification of drug-disease contraindications, interactions with over-the-counter drugs, and drug-allergy interactions.

"(C) PRIOR AUTHORIZATION.—

"(i) IN GENERAL.—The Secretary shall establish a process under which (subject to clause (ii)) the Secretary may require advance approval for any covered outpatient drug.

"(ii) RESTRICTIONS ON DENIAL OF APPROVAL.—The Secretary may not deny the approval of a drug under the process established under clause (i) before its dispensing unless the process—

"(I) provides responses by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

"(II) provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in emergency situations.

"(D) DRUG USE REVIEW.—As part of the program established under subparagraph (A), the Secretary shall provide for a drug use review program to provide for the ongoing periodic examination of claims data and other records on covered outpatient drugs furnished to patients under this title in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and patients.

"(E) EXCEPTION FOR MANAGED CARE PROGRAMS.—The Secretary may waive the application of any provision of this paragraph to the dispensing of covered outpatient drugs by an organization described in section 1833(a)(1)(A) or an eligible organization with an agreement in effect under section 1876 to the extent the Secretary finds that the organization has in effect a program that meets the objectives of such provision.

"(F) ADOPTION OF MEDICAID PROGRAMS.—To the extent considered appropriate by the Secretary, the program developed under this paragraph with respect to drugs furnished in a State may include elements applicable to the furnishing of covered outpatient drugs under the State medicaid program under section 1927.

"(7) ADMINISTRATIVE AND REPORTING REQUIREMENTS.—

"(A) REQUIREMENTS RELATING TO CONTROLLED SUBSTANCES AND ILLEGAL USES.—The Secretary shall require an entity furnishing covered outpatient drugs under this part to report electronically to the appropriate State agency on any covered outpatient drugs dispensed to individuals enrolled under this part that are controlled substances under schedules II through V of the Controlled Substance Act, and on the illegal use or diversion of any such drugs furnished by the entity.

"(B) REPORTS ON DEATHS AND INJURIES RESULTING FROM USE OF DRUGS.—

"(i) IN GENERAL.—The Secretary shall require individuals and entities furnishing items and services for which payment may be made under this title to report electronically to the Secretary on any incidents within the knowledge of the individual or entity of death or serious injury (including initial or prolonged hospitalization, impairment, damage or disruption in the patient's body function, congenital anomaly, or life-threatening outcome) resulting from the prescribing, dispensing, or administration of a covered outpatient drug dispensed to an individual enrolled under this part.

"(ii) PRIVACY PROTECTION.—The Secretary shall establish standards to protect from public disclosure the identity of individuals or institutions that report information under this subparagraph and the identity of any individual (whether a patient or an individual involved in the prescribing, dispensing, or administration of the drug) who is the subject of such information.

"(C) OBTAINING INFORMATION ON FEDERAL ASSISTANCE FOR DRUG DEVELOPMENT.—The Secretary may request that any Federal department or agency provide the Secretary with information on the amount of assistance provided by the department or agency for the research, development, or manufacture of any drug or drug product.

"(D) STANDARD CLAIMS FORM.—The Secretary shall develop, in consultation with representatives of pharmacies and of other interested persons, a standard claims form for covered outpatient drugs in accordance with title IX of the Guaranteed Health Insurance Act of 1994.

"(8) BILLING REQUIREMENTS.—

"(A) MANDATORY ASSIGNMENT.—(i) Payment under this part for a covered outpatient drug may only be made on an assignment-related basis.

"(ii) Except for deductible, coinsurance, or copayment amounts applicable under this part, no person may bill or collect any amount from an individual enrolled under this part or other person for a covered outpatient drug for which payment may be made under this part, and no such individual or person is liable for payment of any amounts billed in violation of this clause. If a person knowingly and willfully bills or collects an amount in violation of the previous sentence, the Secretary may apply sanctions against such person in accordance with section 1842(j)(2). Paragraph (4) of section 1842(j) shall apply in this clause in the same manner as such paragraph applies to such section.

"(B) USE OF ELECTRONIC SYSTEM.—Carriers and pharmacies shall submit information respecting covered outpatient drugs in accordance with the applicable information system

VOL 140 PT 15 AG 10 — 11 1994 UMI

established under subtitle B of title IX of the Guaranteed Health Insurance Act of 1994.

"(9) REQUIRING PHARMACY SUPPLIER NUMBERS.—Payment may not be made under this part with respect to a covered outpatient drug dispensed by a pharmacy unless—

"(A) the entity has obtained a supplier number from the Secretary; and

"(B) the entity demonstrates to the Secretary that it will maintain patient records (in accordance with such standards as the Secretary may impose) and meet the other applicable requirements of this subsection and section 1848(g).

"(10) DEFINITIONS.—In this subsection:

"(A) MULTIPLE AND SINGLE SOURCE DRUGS.—The terms 'multiple source drug' and 'single source drug' have the meanings of those terms under section 1927(k)(7), except that the reference in such section to a 'covered outpatient drug' shall be considered a reference to a covered outpatient drug under this part.

"(B) RESTRICTIVE PRESCRIPTION.—A drug has a 'restrictive prescription' only if—

"(i) in the case of a written prescription, the prescription for the drug indicates, in the handwriting of the physician or other person prescribing the drug and with an appropriate phrase (such as 'brand medically necessary') recognized by the Secretary, that a particular drug product must be dispensed, or

"(ii) in the case of a prescription issued by telephone—

"(I) the physician or other person prescribing the drug (through use of such an appropriate phrase) states that a particular drug product must be dispensed, and

"(II) the physician or other person submits to the pharmacy involved, within 30 days after the date of the telephone prescription, a written confirmation which is in the handwriting of the physician or other person prescribing the drug and which indicates with such appropriate phrase that the particular drug product was required to have been dispensed.

"(C) PAYMENT CALCULATION PERIOD.—The term 'payment calculation period' means a caledar year.".

(b) REQUIRING PHARMACIES TO SUBMIT CLAIMS.—Section 1848(g)(4) (42 U.S.C. 1395w-4(g)(4)) is amended—

(1) in the heading—

(A) by striking "PHYSICIAN", and

(B) by inserting "BY PHYSICIANS AND SUPPLIERS" after "CLAIMS";

(2) in the matter in subparagraph (A) preceding clause (i)—

(A) by striking "For services furnished on or after September 1, 1990, within 1 year" and inserting "Within 1 year (or 90 days in the case of covered outpatient drugs)",

(B) by striking "a service" and inserting "an item or service", and

(C) by inserting "or of providing a covered outpatient drug," after "basis,"; and

(3) in subparagraph (A)(i), by inserting "item or" before "service".

(c) SPECIAL RULES FOR CARRIERS.—

(1) USE OF REGIONAL CARRIERS.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following:

"(D) With respect to activities related to covered outpatient drugs, the Secretary may enter into contracts with carriers under this section to perform the activities on a regional basis.".

(2) ADDITIONAL FUNCTIONS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by adding "and" at the end of subparagraph (L);

(C) by redesignating subparagraph (L) as subparagraph (I); and

(D) by inserting after subparagraph (I) (as so redesignated) the following new subparagraphs:

"(J) if it makes determinations or payments with respect to covered outpatient drugs, will—

"(i) receive information transmitted under the electronic system referred to in section 1834(d)(8)(B), and

"(ii) respond to requests by pharmacies (and individuals entitled to benefits under this part) as to whether or not such an individual has met the prescription drug deductible established under section 1834(d)(1)(A) for a year; and

"(K) will enter into such contracts with organizations described in subsection (f)(3) as the Secretary determines may be necessary to implement and operate (and for related functions with respect to) the electronic system referred to in section 1834(d)(8)(B) for covered outpatient drugs under this part;".

(3) PAYMENT ON OTHER THAN A COST BASIS.—Section 1842(c)(1)(A) (42 U.S.C. 1395u(c)(1)(A)) is amended—

(A) by inserting "(i)" after "(c)(1)(A)",

(B) in the first sentence, by inserting ", except as otherwise provided in clause (ii)," after "under this part, and", and

(C) by adding at the end the following:

"(ii) To the extent that a contract under this section provides for activities related to covered outpatient drugs, the Secretary may provide for payment for those activities based on any method of payment determined by the Secretary to be appropriate.".

(4) BATCH PROMPT PROCESSING OF CLAIMS.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended—

(A) in paragraphs (2)(A) and (3)(A), by striking "Each" and inserting "Except as provided in paragraph (4), each";

(B) by adding at the end the following new paragraph:

"(4)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), with respect to claims for payment for covered outpatient drugs shall provide for a payment cycle under which each carrier will, on a monthly basis, make a payment with respect to all claims which were received and approved for payment in the period since the most recent date on which such a payment was made with respect to the participating pharmacy or individual submitting the claim.

"(B) If payment is not issued, mailed, or otherwise transmitted within 5 days of when such a payment is required to be made under subparagraph (A), interest shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after such 5-day period and ending on the date on which payment is made.".

(5) USE OF OTHER ENTITIES FOR COVERED OUTPATIENT DRUGS.—Section 1842(f) (42 U.S.C. 1395u(f)) is amended—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by adding at the end the following:

"(3) with respect to activities related to covered outpatient drugs, any other private entity which the Secretary determines is qualified to conduct such activities.".

(6) DESIGNATED CARRIERS TO PROCESS CLAIMS OF RAILROAD RETIREES.—Section 1842(g) (42 U.S.C. 1395u(g)) is amended by inserting "(other than functions related to covered outpatient drugs)" after "functions".

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(i) by striking "and" at the end of clause (O), and

(ii) by inserting before the semicolon at the end the following: ", and (Q) with respect to covered outpatient drugs, the amounts paid shall be as prescribed by section 1834(d)".

(B) Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended in the matter preceding subparagraph (A) by inserting ", except for covered outpatient drugs," after "and (I) of such section".

(2) Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by inserting "or with respect to covered outpatient drugs" before the comma.

(3) Section 1834(j)(3)(F) (42 U.S.C. 1395m(j)(4)(F)), as added by section 8421(a)(1) and as redesignated by section 8423(a), is amended—

(A) in clause (i), by adding "and" at the end;

(B) by striking ciauses (ii), (iv), and (v) and redesignating clause (iii) as clause (ii); and

(C) in clause (ii) (as so redesignated), by striking the comma at the end and inserting a period.

(4) The first sentence of section 1842(h)(2) (42 U.S.C. 1395u(h)(2)) is amended by inserting "(other than a carrier described in subsection (f)(3))" after "Each carrier".

(5) The first sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended—

(A) in clause (i), by inserting "section 1834(d)," after "section 1833(b),", and

(B) in clause (ii), by inserting ", other than for covered outpatient drugs," after "provider)".

SEC. 3103. MEDICARE REBATES FOR COVERED OUTPATIENT DRUGS.

(a) IN GENERAL.—Part B of title XVIII is amended by adding at the end the following new section:

"REBATES FOR OUTPATIENT DRUGS

"SEC. 1850. (a) REQUIREMENT FOR REBATE AGREEMENT.—In order for payment to be available under this part for drugs of a manufacturer dispensed or provided on or after January 1, 1998, the manufacturer must have entered into and have in effect a rebate agreement with the Secretary meeting the requirements of subsection (b) and an agreement to give equal access to discounts in accordance with subsection (e), and must meet the requirements of section 1927(a)(1).

"(b) TERMS, IMPLEMENTATION, AND ENFORCEMENT OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—

"(A) IN GENERAL.—A rebate agreement under this section shall require the manufacturer to pay to the Secretary for each calendar quarter, not later than 30 days after the date of receipt of the information described in paragraph (2) for such quarter, a rebate in an amount determined under subsection (c) for all covered outpatient drugs of the manufacturer described in subparagraph (B).

"(B) DRUGS INCLUDED IN QUARTERLY REBATE CALCULATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), drugs subject to a rebate with respect to a calendar quarter are covered outpatient drugs which are single source and innovator multiple source drugs, and contraceptive drugs described in section 1861(s)(21), which are dispensed or provided during such quarter to individuals (other than individuals enrolled with an eligible organization

with a contract under section 1876) eligible for benefits under this part, as reported to the Secretary.

"(ii) EXCEPTION FOR CERTAIN BIOLOGICAL PRODUCTS.—A covered outpatient drug consisting of a biological product is not subject to a rebate under this section if payment was made for the product under part B prior to the date of the enactment of this section.

"(2) INFORMATION FURNISHED TO MANUFACTURERS.—

"(A) IN GENERAL.—The Secretary shall report to each manufacturer, not later than 60 days after the end of each calendar quarter, information on the total number, for each covered outpatient drug described in paragraph (1)(B), of units of each dosage form, strength, and package size dispensed or provided under the plan during the quarter, on the basis of the data reported to the Secretary described in paragraph (1)(B).

"(B) AUDIT.—The Comptroller General may audit the records of the Secretary to the extent necessary to determine the accuracy of reports by the Secretary pursuant to subparagraph (A). Adjustments to rebates shall be made to the extent determined necessary by the audit to reflect actual units of drugs dispensed.

"(3) PROVISION OF PRICE INFORMATION BY MANUFACTURER.—

"(A) QUARTERLY PRICING INFORMATION.—Each manufacturer with an agreement in effect under this section shall report to the Secretary, not later than 30 days after the last day of each calendar quarter, on the average manufacturer retail price and the average manufacturer non-retail price for each dosage form and strength of each covered outpatient drug described in paragraph (1)(B) for the quarter.

"(B) BASE QUARTER PRICES.—Each manufacturer of a covered outpatient drug with an agreement under this section shall report to the Secretary, by not later than 30 days after the effective date of such agreement (or, if later, 30 days after the end of the base quarter), the average manufacturer retail price, for such base quarter, for each dosage form and strength of each such covered drug.

"(C) VERIFICATION OF AVERAGE MANUFACTURER PRICE.—The Secretary may inspect the records of manufacturers, and survey wholesalers, pharmacies, and institutional purchasers of drugs, as necessary to verify prices reported under subparagraph (A).

"(D) PENALTIES.—

"(i) CIVIL MONEY PENALTIES.—The Secretary may impose a civil money penalty on a manufacturer with an agreement under this section—

"(I) for failure to provide information required under subparagraph (A) on a timely basis, in an amount up to $10,000 per day of delay;

"(II) for refusal to provide information about charges or prices requested by the Secretary for purposes of verification pursuant to subparagraph (C), in an amount up to $100,000; and

"(III) for provision, pursuant to subparagraph (A) or (B), of information that the manufacturer knows or should know is false, in an amount up to $100,000 per item of information.

Such civil money penalties are in addition to any other penalties prescribed by law. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(ii) TERMINATION OF AGREEMENT.—If a manufacturer with an agreement under this section has not provided information required under subparagraph (A) or (B) within 90 days of the deadline imposed, the Secretary may suspend the agreement with respect to covered outpatient drugs dispensed after the end of such 90-day period and until the date such information is reported (but in no case shall a suspension be for less than 30 days).

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of not less than one year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall afford a manufacturer an opportunity for a hearing concerning such termination, but such hearing shall not delay the effective date of the termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVE DATE OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO PHARMACIES.—In the case of a termination under this subparagraph, the Secretary shall notify pharmacies and physician organizations not less than 30 days before the effective date of such termination.

"(c) AMOUNT OF REBATE.—

"(1) BASE REBATE.—Each manufacturer shall remit a basic rebate to the Secretary for each calendar quarter in an amount, with respect to each dosage form and strength of a covered outpatient drug equal to the product of—

"(A) the total number of units subject to rebate for such quarter, as described in subsection (b)(1)(B); and

"(B)(i) in the case of a single-source drug or an innovator-multiple source drug (other than insulin furnished over-the-counter), 15 percent of the average manufacturer retail price, or

"(ii) in the case of insulin furnished over-the-counter, 10 percent of the average manufacturer retail price.

"(2) ADDITIONAL REBATE.—Each manufacturer shall remit to the Secretary, for each calendar quarter, an additional rebate for each dosage form and strength of a single-source drug or an innovator-multiple source drug, in an amount equal to—

"(A) the total number of units subject to rebate for such quarter, as described in subsection (b)(1)(B), multiplied by

"(B) the amount, if any, by which the average manufacturer retail price for such drugs of the manufacturer exceeds the average manufacturer retail price for the base quarter, increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. average) from the end of such base quarter to the month before the beginning of such calendar quarter.

"(3) DEPOSIT OF REBATES.—The Secretary shall deposit rebates under this section in the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

"(d) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by a manufacturer under this section is confidential and shall not be disclosed by the Secretary (or a carrier), except—

"(1) as the Secretary determines to be necessary to carry out this section,

"(2) to permit the Comptroller General to review the information provided, and

"(3) to permit the Director of the Congressional Budget Office to review the information provided.

"(e) AGREEMENT TO GIVE EQUAL ACCESS TO DISCOUNTS.—An agreement under this subsection by a manufacturer of covered outpatient drugs shall guarantee that the manufacturer will offer, to each wholesaler or retailer (or other purchaser representing a group of such wholesalers or retailers) that purchases such drugs on substantially the same terms (including such terms as prompt payment, cash payment, volume purchase, single-site delivery, the use of formularies by purchasers, and any other terms effectively reducing the manufacturer's costs) as any other purchaser (including any institutional purchaser) the same price for such drugs as is offered to such other purchaser. In determining a manufacturer's compliance with the previous sentence, there shall not be taken into account prices that are merely nominal in amount or prices excluded under section 1927(c)(1)(C)(i).

"(f) DEFINITIONS.—For purposes of this section—

"(1) AVERAGE MANUFACTURER RETAIL PRICE.—The term 'average manufacturer retail price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the average price (inclusive of discounts for cash payment, prompt payment, volume purchases, and rebates (other than rebates under this section), but exclusive of nominal prices) paid to the manufacturer for the drug in the United States for drugs distributed to the retail pharmacy class of trade.

"(2) AVERAGE MANUFACTURER NON-RETAIL PRICE.—The term 'average manufacturer non-retail price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the weighted average price (inclusive of discounts for cash payment, prompt payment, volume purchases, and rebates (other than rebates under this section), but exclusive of nominal prices) paid to the manufacturer for the drug in the United States by hospitals and other institutional purchasers that purchase drugs for institutional use and not for resale.

"(3) BASE QUARTER.—The term 'base quarter' means, with respect to a covered outpatient drug of a manufacturer, the calendar quarter beginning April 1, 1993, or (if later) the first full calendar quarter during which the drug was marketed in the United States.

"(4) DRUG.—The terms 'innovator multiple source drug', 'noninnovator multiple source drug', and 'single source drug' have the meanings of those terms under section 1927(k)(7), except that the reference in such section to a 'covered outpatient drug' shall be considered a reference to a covered outpatient drug under this part.

"(5) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug—

"(A) the entity whose National Drug Code number (as issued pursuant to section 510(e) of the Federal Food, Drug, and Cosmetic Act) appears on the labeling of the drug; or

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(B) if the number described in subparagraph (A) does not appear on the labeling of the drug, the person named as the applicant in a human drug application (in the case of a new drug) or the product license application (in the case of a biological product) for such drug approved by the Food and Drug Administration.".

(b) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "and" at the end of paragraph (15),

(2) by striking the period at the end of paragraph (16) and inserting "; or", and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) consisting of a covered outpatient drug (as described in section 1861(t)) furnished during a year for which the drug's manufacturer does not have in effect a rebate agreement with the Secretary that meets the requirements of section 1850 for the year.".

SEC. 3104. PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION.

Part B of title XVIII is amended by adding at the end the following new section:

"PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

"SEC. 1847. (a) APPOINTMENT; MEMBERSHIP.—(1) The Director of the Congressional Office of Technology Assessment (in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a Prescription Drug Payment Review Commission (in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of covered outpatient drugs appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than January 1, 1996, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

"(3) The membership of the Commission shall include recognized experts in the fields of health care economics, medicine, pharmacology, pharmacy, and prescription drug reimbursement, as well as at least one individual who is a medicare beneficiary and one individual representing a research-based pharmaceutical and biotechnology company. To the greatest extent feasible, the membership of the Commission shall reflect the racial, ethnic, and gender composition of the population of the United States.

"(b) REPORTS.—(1) The Commission shall submit to Congress an annual report no later than May 1 of each year, beginning with 1997, concerning methods of determining payment for covered outpatient drugs under this part, including recommendations on the prescription drug allocation of national private and medicare health care expenditure estimates for a year and the annual target rate of increase for such allocation under title VI of the Guaranteed Health Insurance Act of 1994.

"(2) The report described in paragraph (1), in 1998 and thereafter, shall include, with respect to the previous year, information on—

"(A) the relation between the costs of covered outpatient drugs and the costs of other items and services provided for the treatment of similar illnesses and conditions,

"(B) the level of utilization of covered outpatient drugs by medicare beneficiaries, and

"(C) administrative costs relating to covered outpatient drugs.

"(3) The first report submitted by the Commission under paragraph (1) shall include an analysis of—

"(A) the feasibility and desirability of excluding manufacturers from the requirement to provide a rebate under section 1850 on the basis of the manufacturers' discounts, rate of increase in prices charged, profits, and other appropriate criteria;

"(B) the appropriateness of the payment methodology provided under this part for the professional services of pharmacists, including the reasonableness of the charges for varying levels of services (including patient consultation); and

"(C) the appropriateness of providing for public disclosure of the information submitted to the Secretary under section 1850 by manufacturers of covered outpatient drugs on the prices charged and other similar information, and the effect of such disclosure on the competitiveness of such prices.

"(c) CONSUMER GUIDE.—The Commission shall publish a consumer guide to prescription drugs to assist individuals in reducing expenditures for covered outpatient drugs and to assist providers in determining the cost-effectiveness of such drugs.

"(d) ADMINISTRATION.—Section 1845(c)(1) shall apply to the Commission in the same manner as it applies to the Physician Payment Review Commission.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Supplementary Medical Insurance Trust Fund and the Medicare Part C Trust Fund under section 2124, in an allocation that reasonably reflects the proportion of expenditures for outpatient prescription drugs under this part and under title XXI.".

SEC. 3105. COVERAGE OF HOME INFUSION DRUG THERAPY SERVICES.

(a) IN GENERAL.—Section 1832(a)(2)(A) (42 U.S.C. 1395k(a)(2)(A)) is amended by inserting "and home infusion drug therapy services" before the semicolon.

(b) HOME INFUSION DRUG THERAPY SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) by redesignating the subsection (jj) inserted by section 4156(a)(2) of the Omnibus Budget Reconciliation Act of 1990 as subsection (kk); and

(2) by inserting after such subsection the following new subsection:

"Home Infusion Drug Therapy Services

"(ll)(1) The term 'home infusion drug therapy services' means the items and services described in paragraph (2) furnished to an individual who is under the care of a physician—

"(A) in a setting described in section 1861(t)(5)(A)(ii),

"(B) by a qualified home infusion drug therapy provider (as defined in paragraph (3)) or by others under arrangements with them made by that provider, and

"(C) under a plan established and periodically reviewed by a physician.

"(2) The items and services described in this paragraph are such nursing, pharmacy, and related services (including medical supplies, intravenous fluids, delivery, and equipment) as are necessary to conduct safely and effectively a drug regimen through use of a covered home infusion drug (as defined in subsection (t)(5)), but do not include such covered home infusion drugs.

"(3) The term 'qualified home infusion drug therapy provider' means any entity that the Secretary determines meets the following requirements (or, in the case of a home health agency or an entity with respect to which the only items and services described in paragraph (2) furnished by the entity are enteral nutrition therapy services, meets any of the following requirements which the Secretary considers appropriate):

"(A) The entity is capable of providing or arranging for the items and services described in paragraph (2) and covered home infusion drugs.

"(B) The entity maintains clinical records on all patients.

"(C) The entity adheres to written protocols and policies with respect to the provision of items and services.

"(D) The entity makes services available (as needed) seven days a week on a 24-hour basis.

"(E) The entity coordinates all service with the patient's physician.

"(F) The entity conducts a quality assessment and assurance program, including drug regimen review and coordination of patient care.

"(G) The entity assures that only trained personnel provide covered home infusion drugs (and any other service for which training is required to provide the service safely).

"(H) The entity assumes responsibility for the quality of services provided by others under arrangements with the entity.

"(I) In the case of an entity in any State in which State or applicable local law provides for the licensing of entities of this nature, the entity (i) is licensed pursuant to such law, or (ii) is approved, by the agency of such State or locality responsible for licensing entities of this nature, as meeting the standards established for such licensing.

"(J) The entity meets such other requirements as the Secretary may determine are necessary to assure the safe and effective provision of home infusion drug therapy services and the efficient administration of the home infusion drug therapy benefit.".

(c) PAYMENT.—

(1) IN GENERAL.—Section 1833 (42 U.S.C. 1395l) is amended—

(A) in subsection (a)(2)(B), by striking "or (E)" and inserting "(E), or (F)",

(B) in subsection (a)(2)(D), by striking "and" at the end,

(C) in subsection (a)(2)(E), by striking the semicolon and inserting "; and",

(D) by inserting after subsection (a)(2)(E) the following new subparagraph:

"(F) with respect to home infusion drug therapy services, the amounts described in section 1834(j);", and

(E) in the first sentence of subsection (b), by striking "services, (3)" and inserting "services and home infusion drug therapy services, (3)".

(2) AMOUNT DESCRIBED.—Section 1834 is amended by adding at the end the following new subsection:

"(j) HOME INFUSION DRUG THERAPY SERVICES.—

"(1) IN GENERAL.—With respect to home infusion drug therapy services, payment under this part shall be made in an amount equal to the lesser of the actual charges for such services or the fee schedule established under paragraph (2).

"(2) ESTABLISHMENT OF FEE SCHEDULE.—

"(A) IN GENERAL.—The Secretary shall establish by regulation before the beginning of 1998 and each succeeding year a fee schedule for home infusion drug therapy services for which payment is made under this part. A fee schedule established under this subsection shall be on a per diem basis.

"(B) ADJUSTMENT FOR SERVICES FURNISHED BY INSTITUTIONS.—The fee schedule established by the Secretary under subparagraph (A) shall provide for adjustments in the case of home infusion drug therapy services for which payment is made under this part that are furnished by a provider of services to avoid duplicative payments under this title for the service costs associated with such services.".

(d) CERTIFICATION.—Section 1835(a)(2) (42 U.S.C. 1395n(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (E),

(2) by striking the period at the end of subparagraph (F) and inserting "; and", and

(3) by inserting after subparagraph (F) the following:

"(G) in the case of home infusion drug therapy services, (i) such services are or were required because the individual needed such services for the administration of a covered home infusion drug, (ii) a plan for furnishing such services has been established and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(e) CERTIFICATION OF HOME INFUSION DRUG THERAPY PROVIDERS; INTERMEDIATE SANCTIONS FOR NONCOMPLIANCE.—

(1) TREATMENT AS PROVIDER OF SERVICES.—Section 1861(u) (42 U.S.C. 1395x(u)) is amended by inserting "home infusion drug therapy provider," after "hospice program,".

(2) CONSULTATION WITH STATE AGENCIES AND OTHER ORGANIZATIONS.—Section 1863 (42 U.S.C. 1395z) is amended by striking "and (dd)(2)" and inserting "(dd)(2), and (ll)(3)".

(3) USE OF STATE AGENCIES IN DETERMINING COMPLIANCE.—Section 1864(a) (42 U.S.C. 1395aa(a)) is amended—

(A) in the first sentence, by striking "an agency is a hospice program" and inserting "an agency or entity is a hospice program or a home infusion drug therapy provider,"; and

(B) in the second sentence—

(i) by striking "institution or agency" and inserting "institution, agency, or entity", and

(ii) by striking "or hospice program" and inserting "hospice program, or home infusion drug therapy provider".

(4) APPLICATION OF INTERMEDIATE SANCTIONS.—Section 1846 (42 U.S.C. 1395w2) is amended—

(A) in the heading, by adding "AND FOR QUALIFIED HOME INFUSION DRUG THERAPY PROVIDERS" at the end,

(B) in subsection (a), by inserting "or that a qualified home infusion drug therapy provider that is certified for participation under this title no longer substantially meets the requirements of section 1861(ll)(3)" after "under this part", and

(C) in subsection (b)(2)(A)(iv), by inserting "or home infusion drug therapy services" after "clinical diagnostic laboratory tests".

(f) USE OF REGIONAL INTERMEDIARIES IN ADMINISTRATION OF BENEFIT.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(k) With respect to carrying out functions relating to payment for home infusion drug therapy services and covered home infusion drugs, the Secretary may enter into contracts with agencies or organizations under this section to perform such functions on a regional basis.".

(g) CONFORMING AMENDMENTS.—(1) Section 1834(h)(4)(B) (42 U.S.C. 1395m(h)(4)(B)) is amended by striking ", except that" and all that follows through "equipment".

(2) Section 1861(n) (42 U.S.C. 1395x(n)) is amended by adding at the end the following: "Such term does not include any home infusion drug therapy services described in section 1861(ll) or any covered outpatient drug used as a supply related to the furnishing of an item of durable medical equipment.".

(3) Section 1861(s)(8) (42 U.S.C. 1395x(s)(8)) is amended by inserting after "dental" the following: "devices or enteral and parenteral nutrients, supplies, and equipment".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1998.

PART 2—CHANGES IN MEDICARE BENEFITS TO CONFORM TO GUARANTEED NATIONAL BENEFIT PACKAGE

SEC. 3111. IMPOSITION OF CAP ON OUT-OF-POCKET EXPENDITURES.

(a) IN GENERAL.—Title XVIII is amended by adding at the end the following new section:

"LIMIT ON COST-SHARING INCURRED DURING YEAR

"SEC. 1894. (a) IN GENERAL.—Notwithstanding any other provision of this title, the total amount of cost-sharing incurred by an individual in a year (beginning with 2004) with respect to items and services provided to the individual under this title shall be subject to a limit equal to—

"(1) with respect to items and services furnished in 2004, an amount equal to $5,500, increased by the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during each of the years 1994 through 1998 and by the national medicare growth factors established for each of the years 1999 through 2004 under section 8201(c) of the Guaranteed Health Insurance Act of 1994; and

"(2) with respect to items and services furnished in any succeeding year, the amount determined under this paragraph for the previous year, increased by the national medicare growth factor established for the year under section 8201(c) of the Guaranteed Health Insurance Act of 1994.

"(b) NOTICE FOR BENEFICIARIES REACHING LIMIT.—The Secretary shall provide each individual, who is determined to have incurred (or has had paid on the individual's behalf) cost-sharing in a calendar year in the amount described in subsection (a) with a notice that states that the individual has reached the limit on out-of-pocket cost sharing for the year.

"(c) COST-SHARING DEFINED.—In subsection (a), the term 'cost-sharing' means expenses incurred by an individual that are attributable to—

"(1) the deductibles and coinsurance described in section 1813;

"(2) the deductibles established under section 1833(b); and

"(3) the difference between the payment amount provided under part B and the payment amount that would be provided if '100 percent' and '0 percent' were substituted for '80 percent' and '20 percent', respectively, each place either appears in sections 1833(a), 1833(i)(2), 1833(i)(3), 1833(n)(1)(B)(i)(II), 1834(a)(1)(A), 1834(c)(1)(C), 1834(h)(1)(A), 1834(i)(1), 1835(b)(2), 1866(a)(2)(A), 1881(b)(2), and 1881(b)(3).".

(b) LIMIT ON CHARGES WHEN CAP REACHED.—Section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end the following new sentence: "A provider of services may not impose a charge under the first sentence of this subparagraph for services furnished to an individual during a year after the amount of cost-sharing incurred by the individual during the year reaches the limit on such cost-sharing established under section 1894.".

SEC. 3112. REPEAL OF LIMIT ON LIFETIME RESERVE DAYS OF INPATIENT HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "for up to" and all that follows through "payment made)".

(b) CONFORMING AMENDMENTS.—Section 1812 (42 U.S.C. 1395d) is further amended—

(1) in subsection (b), by striking paragraph (1);

(2) by striking subsection (c); and

(3) in subsection (e), by striking "subsections (b) and (c)" and all that follows through "extended care services" and inserting "subsection (b), services".

(c) ADMINISTRATION; TRANSITION.—The Secretary of Health and Human Services may take such actions as the Secretary finds appropriate to adjust the payments made to hospitals under title XVIII of the Social Security Act for hospital services to take into account the amendments made by this section.

SEC. 3113. COVERAGE OF SERVICES FOR INFANTS AND CHILDREN.

(a) SERVICES DESCRIBED.—Section 1861(s) (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of paragraph (12);

(2) by striking the period at the end of paragraph (14) and inserting "; and"; and

(3) by inserting after paragraph (14) the following new paragraphs:

"(15) newborn and well-baby services (as defined in subsection (oo)(1));".

"(16) well-child services (as defined in subsection (pp)(1)) provided to an individual who is under 19 years of age; and

"(17) medically necessary and appropriate hearing aids provided to an individual who is under 19 years of age (in accordance with such periodicity schedule as the Secretary may establish in consultation with the Academy of Otolaryngology-Head and Neck Surgery and the American Speech-Language Hearing Association).".

(b) SERVICES DEFINED.—

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Newborn and Well-Baby Services

"(oo)(1) The term 'newborn and well-baby services' means well-baby care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests (including lead screening), and includes the services of pediatricians during high-risk delivery (as determined in accordance with criteria established by the Secretary).

"(2) The Secretary, in consultation with the American Academy of Pediatrics and other entities considered appropriate by the Secretary, shall establish a schedule of periodicity which reflects the appropriate frequency with which the services referred to in paragraph (1) should be provided.".

"Well-Child Services

"(pp)(1) The term 'well-child services' means well-child care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests (including lead screening in accordance with recommendations of the Centers for Disease Control and Prevention), child abuse assessment, and dental care (including preventive dental services described in paragraph (2), routine fillings, and oral surgery), provided in accordance with the periodicity schedule established with respect to the services under paragraph (3).

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(2) In paragraph (1), the term 'preventive dental services' means oral dental examinations, radiographs, dental sealants, fluoride application, and dental prophylaxis.

"(3) The Secretary, in consultation with the American Academy of Pediatrics, the Academy of Pediatric Dentistry, and other entities considered appropriate by the Secretary, shall establish a schedule of periodicity which reflects the appropriate frequency with which the services referred to in paragraph (1) should be provided to healthy children.".

(2) CONFORMING AMENDMENTS.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking "and" at the end,

(ii) in subparagraph (F), by striking the semicolon at the end and inserting a comma, and

(iii) by adding at the end the following new subparagraphs:

"(G) in the case of newborn and well-baby services, which are performed more frequently than is provided under the schedule of periodicity established by the Secretary under section 1861(oo)(2) for such services, and

"(H) in the case of well-child services, which are provided more frequently than is provided under the schedule of periodicity established by the Secretary under section 1861(pp)(2) for such services;"; and

(B) in paragraph (7), by striking "section 1861(s)(10) and paragraph (1)(B) or under paragraph (1)(F)" and inserting "section 1861(s)(10), section 1861(s)(17), and subparagraphs (B), (F), (G), or (H) of paragraph (1)".

(3) PAYMENT; WAIVER OF COST-SHARING.—

(A) AMOUNT OF PAYMENT; WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 3102(d)(1)(A), is amended—

(i) by striking "and (Q)" and inserting "(Q)"; and

(ii) by striking the semicolon at the end and inserting the following: ", (R) with respect to newborn and well-baby services (as described in section 1861(oo)(1)), the amounts paid shall be 100 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph, and (S) with respect to well-child services (as described in section 1861(pp)(1)), the amounts paid shall be 100 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph;".

(B) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)) is amended—

(i) by striking "and (5)" and inserting "(5)"; and

(ii) by striking the period at the end and inserting the following: ", (6) such deductible shall not apply with respect to newborn and well-baby services (as described in section 1861(oo)(1)), and (7) such deductible shall not apply with respect to well-child services (as described in section 1861(pp)(1)).".

(4) COVERAGE OF SERVICES UNDER MAINTENANCE OR PREVENTION PROGRAM FOR CERTAIN CHILDREN AS REHABILITATION SERVICES.—Section 1861(p) (42 U.S.C. 1395x(p)) is amended by adding at the end the following: "In the case of a child under 19 years of age with a congenital condition, the term 'outpatient physical therapy services' shall include the following rehabilitation services that are used to prevent deterioration of, or restore or maintain, functional capacity:

"(A) The initial evaluation and periodic oversight of the patient's needs by a qualified rehabilitation health professional.

"(B) the designing by such professional of a maintenance or prevention program that is appropriate to the capacity and tolerance of the patient and the treatment objectives;

"(C) the instruction of the patient, family members, and any personnel providing rehabilitation-related assistance to the individual, in carrying out such program; and

"(D) reevaluations of such program.".

(c) GENERAL CONFORMING AMENDMENTS.—The Social Security Act is amended—

(1) in section 1861(s)(2)(C) (42 U.S.C. 1395x(s)(2)(C)), by striking "(C)" and inserting "(C) subject to section 1890(b),";

(2) in section 1861(s)(3) (42 U.S.C. 1395x(s)(3)), by striking "(3)" and inserting "(3) subject to section 1890(a)";

(3) by striking the second and third sentences of section 1861(s); and

(4) by inserting after section 1889 the following new section:

"SPECIAL RULES FOR LABORATORY AND DIAGNOSTIC TESTS AND SERVICES

"SEC. 1890. (a) REQUIRING DIAGNOSTIC LABORATORY AND SCREENING TESTS TO BE FURNISHED IN CERTIFIED SETTINGS.—No payment may be made under this title for any diagnostic and screening test performed in any laboratory (including a laboratory that is part of a rural health clinic or any institution considered a hospital for purposes of section 1814(d)), including a routine laboratory test for purposes of section 1861(oo)(1) or section 1861(pp)(1), unless such laboratory meets the following requirements:

"(1) If the laboratory is situated in any State in which State or applicable local law provides for licensing of establishments of this nature, the laboratory—

"(A) is licensed pursuant to such law, or

"(B) is approved, by the agency of such State or locality responsible for licensing establishments of this nature, as meeting the standards established for such licensing.

"(2) The laboratory meets—

"(A) the certification requirements under section 353 of the Public Health Service Act; and

"(B) such other conditions relating to the health and safety of individuals with respect to whom such tests are performed as the Secretary may find necessary.

"(b) EXCLUSION OF DIAGNOSTIC SERVICES NOT MEETING REQUIREMENTS FOR INPATIENT HOSPITAL SERVICES.—

"(1) IN GENERAL.—No item or service may be included as a diagnostic service specified in section 1861(s)(2)(C) if the item or service would not be included as an inpatient hospital service under section 1861(b) if furnished to an inpatient of a hospital.

"(2) EXCEPTION FOR PHYSICIANS' SERVICES.—Paragraph (1) shall not apply with respect to any service consisting of a physicians' service."; and

(5) by striking "paragraphs (15) and (16) of section 1861(s)" each place it appears in section 1864(a) and the third sentence of section 1865(a) and inserting "subsections (a) and (b) of section 1890".

SEC. 3114. EXPANDING COVERAGE OF PREVENTIVE BENEFITS.

(a) SCREENING MAMMOGRAPHY.—

(1) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 49.—SECTION 1834(C)(2)(A) (42 U.S.C. 1395M(C)(2)(A)) IS AMENDED—

(A) in clause (iv), by striking "but under 65 years of age,"; and

(B) by striking clause (v).

(2) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by section 3113(b)(3), is amended—

(A) by striking "and (7)" and inserting "(7)"; and

(B) by striking the period at the end and inserting the following: ", and (8) such deductible shall not apply with respect to screening mammography (as described in section 1861(jj)).".

(3) CONFORMING AMENDMENT.—Section 1834(c)(1)(C) (42 U.S.C. 1395m(c)(1)(C)) is amended by striking ", subject to the deductible established under section 1833(b),".

(b) COVERAGE OF SCREENING PAP SMEAR AND PELVIC EXAMS.—

(1) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(A) in the heading, by striking "Smear" and inserting "Smear; Screening Pelvic Exam";

(B) by striking "(nn)" and inserting "(nn)(1)";

(C) by striking "3 years" and all that follows and inserting "3 years, or during the preceding year in the case of a woman described in paragraph (3).."; and

(D) by adding at the end the following new paragraphs:

"(2) The term 'screening pelvic exam' means a pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

"(3) A woman described in this paragraph is a woman who—

"(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical cancer; or

"(B) is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary).".

(2) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by section 3113(b)(3) and subsection (a)(2), is amended—

(A) by striking "and '(8)" and inserting "(8)"; and

(B) by striking the period at the end and inserting the following: ", and (9) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn)).".

(3) CONFORMING AMENDMENTS.—(A) Section 1861(s)(14) (42 U.S.C. 1395x(s)(14)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(B) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(c) COVERAGE OF COLORECTAL SCREENING.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 3102(a), is amended by inserting after subsection (d) the following new subsection:

"(e) FREQUENCY AND PAYMENT LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS, SCREENING FLEXIBLE SIGMOIDOSCOPIES, AND SCREENING COLONOSCOPY.—

"(1) SCREENING FECAL-OCCULT BLOOD TESTS.—

"(A) LIMITING COVERAGE FOR NON-ELDERLY TO HIGH-RISK INDIVIDUALS.—No payment may be made under this part for a screening fecal-occult blood test provided for the purpose of early detection of colon cancer to an individual who is under 65 years of age unless the individual is at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary).

"(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test is performed—

"(i) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(ii) in the case of any other individual, within the 11 months following the month in which a previous screening fecal-occult blood test was performed.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) LIMITING COVERAGE FOR NON-ELDERLY TO HIGH-RISK INDIVIDUALS.—No payment may be made under this part for a screening flexible sigmoidoscopy provided for the purpose of early detection of colon cancer to an individual who is under 65 years of age unless the individual is at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary).

"(C) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—

"(i) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(ii) in the case of any other individual, within the 59 months following the month in which a previous screening flexible sigmoidoscopy was performed.

"(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

"(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening colonoscopy for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening colonoscopy for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 47 months following the month in which a previous screening colonoscopy was performed.

"(C) FACTORS CONSIDERED IN ESTABLISHING CRITERIA FOR DETERMINING INDIVIDUALS AT HIGH RISK.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

"(4) REVISION OF FREQUENCY.—

"(A) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy based on age and such other factors as the Secretary believes to be pertinent.

"(B) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection, but no such revision shall apply to tests or procedures performed before January 1, 2002.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer or a screening colonoscopy provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual enrolled under this part, the physician may not charge the individual more than the limiting charge (as defined in section 1848(g)(2)).

"(B) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(2) CONFORMING AMENDMENTS.—(A) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by striking "subsection (h)(1)," and inserting "subsection (h)(1) or section 1834(e)(1),".

(B) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by striking "a service" and inserting "a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer or a screening colonoscopy provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)".

(C) Section 1861(s) (42 U.S.C. 1395x(s)) as amended by section 3113(a), is amended—

(i) by striking "and" at the end of paragraph (16);

(ii) by striking the period at the end of paragraph (17) and inserting "; and"; and

(iii) by inserting after paragraph (17) the following new paragraph:

"(18) screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy provided for the purpose of early detection of colon cancer.".

(D) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 3113(b)(2), is amended—

(i) in paragraph (1)—

(I) in subparagraph (G), by striking "and" at the end;

(II) in subparagraph (H), by striking the semicolon at the end and inserting ", and"; and

(III) by adding at the end the following new subparagraph:

"(I) in the case of screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(e);"; and

(ii) in paragraph (7), by striking "or (H)" and inserting "(H), or (I)".

(d) COVERAGE OF SCREENING FOR SEXUALLY-TRANSMITTED DISEASES.—

(1) IN GENERAL.—Section 1861(s) (42 U.S.C. 1395x(s)(2)), as amended by section 3113(a) and subsection (c)(2)(C), is amended—

(A) by striking "and" at the end of paragraph (17);

(B) by striking the period at the end of paragraph (18) and inserting "; and"; and

(C) by inserting after paragraph (18) the following new paragraph:

"(19) screening for sexually-transmitted diseases for an individual over 12 years of age and under 50 years of age who is at risk for sexually-transmitted disease (as determined pursuant to factors identified by the Secretary) and who has not had such a screening during the preceding 1-year period.".

(2) AMOUNT OF PAYMENT; WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 3102(f), section 3113(b)(3), and subsection (b)(2), is amended—

(A) by striking "and (S)" and inserting "(S)"; and

(B) by striking the semicolon at the end and inserting the following: ", and (T) with respect to screening for sexually-transmitted diseases (as described in section 1861(s)(19)), the amounts paid shall be 100 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph;".

(3) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b), (42 U.S.C. 1395l(b)) as amended by section 3113(b)(3), subsection (a)(2), and subsection (b)(2), is amended—

(A) by striking "and (9)" and inserting "(9)"; and

(B) by striking the period at the end and inserting the following: ", and (10) such deductible shall not apply with respect to screening for sexually-transmitted diseases (as described in section 1861(s)(19)),".

(4) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 3113(b)(2) and subsection (c)(2)(C), is amended—

(A) in paragraph (1)—

(i) in subparagraph (H), by striking "and" at the end;

(ii) in subparagraph (I), by striking the semicolon at the end and inserting ", and"; and

(iii) by adding at the end the following new subparagraph:

"(J) in the case of screening for sexually-transmitted diseases, which is performed more frequently than is covered under section 1861(s)(19);"; and

(B) in paragraph (7), by striking "or (I)" and inserting "(I), or (J)".

(e) COVERAGE OF SCREENING FOR TUBERCULOSIS.—

(1) IN GENERAL.—Section 1861(s) (42 U.S.C. 1395x(s)(2)), as amended by section 3113(a), subsection (c)(2)(C), and subsection (d)(1), is amended—

(A) by striking "and" at the end of paragraph (18);

(B) by striking the period at the end of paragraph (19) and inserting "; and"; and

(C) by inserting after paragraph (19) the following new paragraph:

"(20) screening for tuberculosis for an individual who is at risk for tuberculosis (as determined pursuant to factors identified by

VOL 140 PT 15 AG 10 — 11 1994 UMI

the Secretary) and who has not had such a screening during the preceding 1-year period.".

(2) AMOUNT OF PAYMENT; WAIVER OF COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by sections 3102(f), 3113(b)(3), and subsection (d)(2), is amended—

(A) by striking "and (T)" and inserting "(T)"; and

(B) by striking the semicolon at the end and inserting the following: ", and (U) with respect to screening for tuberculosis (as described in section 1861(s)(20)), the amounts paid shall be 100 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph;".

(3) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b), (42 U.S.C. 1395l(b)) as amended by section 3113(b)(3), subsection (a)(2), subsection (b)(3), and subsection (d)(3), is amended—

(A) by striking "and (10)" and inserting "(10)"; and

(B) by striking the period at the end and inserting the following: ", and (11) such deductible shall not apply with respect to screening for tuberculosis (as described in section 1861(s)(20)).".

(4) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 3113(b)(2), subsection (c)(2)(C), and subsection (d)(4), is amended—

(A) in paragraph (1)—

(i) in subparagraph (I), by striking "and" at the end;

(ii) in subparagraph (J), by striking the semicolon at the end and inserting ", and"; and

(iii) by adding at the end the following new subparagraph:

"(K) in the case of screening for tuberculosis, which is performed more frequently than is covered under section 1861(s)(20);"; and

(B) in paragraph (7), by striking "or (J)" and inserting "(J), or (K)".

SEC. 3115. COVERAGE OF PREGNANCY-RELATED SERVICES AND FAMILY PLANNING.

(a) IN GENERAL.—Section 1861(s) (42 U.S.C. 1395x(s)(2)), as amended by sections 3113(a), 3114(c)(2)(C), 3114(d)(1), and 3114(e)(1) is amended—

(1) by striking "and" at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting "; and"; and

(3) by inserting after paragraph (20) the following new paragraphs:

"(21) pregnancy-related services furnished by an individual or entity legally authorized to furnish such services under State law (or the State regulatory mechanism provided by State law); and

"(22) voluntary family planning services, including contraceptive drugs and devices that—

"(A) may only be dispensed upon prescription, and

"(B) are subject to approval by the Secretary under the Federal Food, Drug, and Cosmetic Act.".

(b) WAIVER OF COINSURANCE AND DEDUCTIBLE FOR CERTAIN SERVICES.—

(1) WAIVER OF COINSURANCE FOR PRENATAL SERVICES.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by sections 3102(f), 3113(b)(3), section 3114(d)(2), and section 3114(e)(2), is amended—

(A) by striking "and (U)" and inserting "(U)"; and

(B) by striking the semicolon at the end and inserting the following: ", and (V) with respect to pregnancy-related services (as described in section 1861(s)(20)), the amounts paid shall be 80 percent (or, in the case of services consisting of prenatal services, 100 percent) of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph;".

(2) WAIVER OF DEDUCTIBLE FOR PRENATAL AND FAMILY PLANNING SERVICES.—The first sentence of section 1833(b), (42 U.S.C. 1395l(b)) as amended by sections 3113(b)(3), 3114(a)(2), 3114(b)(3), and 3114(d)(3), is amended—

(A) by striking "and (11)" and inserting "(11)"; and

(B) by striking the period at the end and inserting the following: ", and (12) such deductible shall not apply with respect to pregnancy-related services consisting of prenatal services (described in section 1861(s)(21)) or to voluntary family planning services (described in section 1861(s)(22)).".

(c) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 3113(b)(2), section 3114(c)(2)(C), section 3114(d)(4), and section 3114(e)(2), is amended—

(A) in paragraph (1)—

(i) in subparagraph (J), by striking "and" at the end;

(ii) in subparagraph (K), by striking the semicolon at the end and inserting ", and"; and

(iii) by adding at the end the following new subparagraphs:

"(L) in the case of pregnancy-related services, which do not meet the requirements of section 1861(s)(21);

"(M) in the case of voluntary family planning services, which do not meet the requirements of section 1861(s)(22);"; and

(B) in paragraph (7), by striking "or (K)" and inserting "(K), (L), or (M)".

SEC. 3116. EXPANDING COVERAGE OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.

(a) INPATIENT PSYCHIATRIC HOSPITAL SERVICES.—

(1) SERVICES COVERED.—Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) inpatient hospital services furnished primarily for the diagnosis or treatment of mental illness or substance abuse for up to 60 days during a year.".

(2) LIMITATION ON COVERAGE.—Section 1812(b)(3) (42 U.S.C. 1395d(b)) is amended to read as follows:

"(3) inpatient hospital services furnished primarily for the diagnosis or treatment of mental illness or substance abuse that are furnished to the individual during a year after such services have been furnished to the individual for a total of 60 days during the year.".

(3) CONFORMING AMENDMENTS.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by inserting "(other than services described in paragraph (5))" after "inpatient hospital services" the first place it appears.

(B) Section 1812(b)(1) (42 U.S.C. 1395d(b)(1)) is amended by inserting "(other than services described in paragraph (3))" after "inpatient hospital services" the first place it appears.

(C) Section 1812 (42 U.S.C. 1395d) is amended by striking subsection (c).

(D) Section 1814(a) (42 U.S.C. 1395f(a)) is amended—

(i) in paragraph (2), by striking subparagraph (A);

(ii) in paragraph (3), by striking "(other than inpatient psychiatric hospital services)"; and

(iii) by striking paragraph (4).

(E) Section 1861 (42 U.S.C. 1395x) is amended by striking subsection (c).

(4) EFFECTIVE DATE; TRANSITION.—The amendments made by this section shall take effect January 1, 1998, except that—

(A) an individual who at any time prior to such date has been furnished inpatient psychiatric hospital services (as defined for purposes of title XVIII of the Social Security Act as of the date of the enactment of this Act) for 190 consecutive days is not entitled to any services under section 1812(a)(5) (as added by paragraph (1)(C)); and

(B) in the case of an individual who is not described in subparagraph (A) and is receiving inpatient psychiatric hospital services (as defined for purposes of title XVIII of the Social Security Act as of the date of the enactment of this Act) on December 31, 1997, for which payment may be made under section 1812 of such Act, the number of days of services for which the individual is entitled under section 1812(a)(5) (and the number of days applicable under section 1812(b)(3)) shall be equal to the greater of 60 or the difference between 190 days and the number of days of such inpatient psychiatric hospital services furnished to the individual prior to January 1, 1998.

(b) INTENSIVE RESIDENTIAL SERVICES.—

(1) COVERAGE UNDER PART A.—Section 1812(a) (42 U.S.C. 1395d(a)), as amended by subsection (a)(1), is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(6) intensive residential services (as described in section 1861(qq)) furnished to an individual for up to 120 days during any calendar year, except that such services may be furnished to the individual for additional days during the year if necessary for the individual to complete a course of treatment to the extent that the number of days of inpatient hospital services described in paragraph (5) that may be furnished to the individual during the year (as reduced under such paragraph) is not less than 15.".

(2) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x), as amended by section 3113(b), is further amended by adding at the end the following new subsection:

"Intensive Residential Services

"(qq)(1) Subject to paragraph (2), the term 'intensive residential services' means inpatient services provided in any of the following facilities:

"(A) Residential detoxification centers.

"(B) Crisis residential programs or mental illness residential treatment programs.

"(C) Therapeutic family or group treatment homes.

"(D) Residential centers for substance abuse treatment.

"(2) No service may be treated as an intensive residential service under paragraph (1) unless the facility at which the service is provided—

"(A) is legally authorized to provide such service under the law of the State (or under a State regulatory mechanism provided by State law) in which the facility is located or is certified to provide such service by an appropriate accreditation entity approved by the State in consultation with the Secretary; and

"(B) meets such other requirements as the Secretary may impose to assure the quality of the intensive residential services provided.

"(3) No service may be treated as an intensive residential service under paragraph (1) unless the service is furnished in accordance with standards established by the Secretary for the management of such services.".

(3) REDUCTION IN DAYS OF COVERAGE FOR INPATIENT SERVICES.—Section 1812(a)(5) and section 1812(b)(3), as amended by subsection (a), are each amended by striking the period at the end and inserting the following: ", reduced by a number of days determined by the Secretary so that the actuarial value of providing such number of days of services under this paragraph to the individual is equal to the actuarial value of the days of inpatient residential services furnished to the individual under paragraph (6) during the year after such services have been furnished to the individual for 120 days during the year (rounded to the nearest day).".

(4) AMOUNT OF PAYMENT.—Section 1814 (42 U.S.C. 1395f) is amended—

(A) in subsection (b) in the matter preceding paragraph (1), by inserting "other than intensive residential services," after "hospice care,"; and

(B) by adding at the end the following new subsection:

"Payment for Intensive Residential Services

"(m) The amount of payment under this part for intensive residential services under section 1812(a)(6) shall be equal to—

"(1) the lesser of—

"(A) the reasonable cost of such services, as determined under section 1861(v), or

"(B) the customary charges with respect to such services,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A);

"(2) if such services are furnished by a public provider of services or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with subsection (b)(2); and

"(3) if (and for so long as) the conditions described in subsection (b)(3) are met, the amounts determined under the reimbursement system described in such section.".

(c) LOWERING COINSURANCE FOR CERTAIN OUTPATIENT MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

(1) IN GENERAL.—Section 1833(c) (42 U.S.C. 1395l(c)) is amended by striking "mental, psychoneurotic, and personality disorders" and all that follows through "are incurred" and inserting the following: "mental illness or substance abuse of an individual who, at the time such expenses are incurred, is over 18 years of age, is not an inpatient of a hospital, and has received 5 or more sessions of such treatment during the calendar year,".

(2) REQUIRING SERVICES TO BE FURNISHED IN ACCORDANCE WITH MANAGEMENT STANDARDS.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 3103(b), is amended—

(A) by striking "and" at the end of paragraph (16);

(B) by striking the period at the end of paragraph (17) and inserting "; or"; and

(C) by inserting after paragraph (17) the following:

"(18) in the case of any items or services furnished under part B for the treatment of mental illness or emotional disturbance (including substance abuse), if the services are not furnished in accordance with standards established by the Secretary for the management of such services.".

(d) INTENSIVE COMMUNITY-BASED SERVICES.—

(1) COVERAGE.—

(A) IN GENERAL.—Section 1832(a)(2)(J) (42 U.S.C. 1395k(a)(2)(J)) is amended to read as follows:

"(J) intensive community-based services (as described in section 1861(ff))—

"(i) for an unlimited number of days during any calendar year, in the case of services described in section 1861(ff)(2)(E) that are furnished to an individual who is a seriously mentally ill adult, a seriously emotionally disturbed child, or an adult or child with serious substance abuse disorder (as determined in accordance with criteria established by the Secretary),

"(ii) in the case of services described in section 1861(ff)(2)(C), for up to 180 days during any calendar year, except that such services may be furnished to the individual for a number of additional days during the year equal to the difference between the total number of days of intensive residential services which the individual may receive during the year under part A (as determined under section 1812(a)(6)) and the number of days of such services which the individual has received during the year, or

"(iii) in the case of any other such services, for up to 90 days during any calendar year, except that such services may be furnished to the individual for the number of additional days during the year described in clause (ii).".

(B) REDUCTION IN NUMBER OF DAYS OF INTENSIVE RESIDENTIAL SERVICES.—Section 1812(a)(6) (42 U.S.C. 1395d(a)(6)), as added by subsection (b)(1), is amended—

(i) by inserting "(A)" before "such services"; and

(ii) by striking the period at the end and inserting the following: ", and (B) reduced by a number of days determined by the Secretary so that the actuarial value of providing such number of days of services under this paragraph to the individual is equal to the actuarial value of the days of intensive community-based services furnished to the individual under section 1832(a)(2)(J) during the year after such services have been furnished to the individual for 90 days (or, in the case of services described in section 1832(a)(2)(J)(ii), for 180 days) during the year (rounded to the nearest day).".

(2) SERVICES DESCRIBED.—Section 1861(ff)(2) (42 U.S.C. 1395x(ff)(2)) is amended—

(A) in the matter preceding subparagraph (A), by striking "are—" and inserting "are as follows:";

(B) in subparagraph (C)—

(i) by inserting "behavioral aide services," after "nurses", and

(ii) by adding at the end the following: "(to the extent authorized under State law)";

(C) by adding "and" at the end of subparagraph (G);

(D) in subparagraph (H), by striking ", and" and inserting a period;

(E) by redesignating subparagraphs (A) through (H) as clauses (i) through (viii) and moving such subparagraphs 2 ems to the right;

(F) by inserting before clause (i) (as so redesignated) the following:

"(A) Partial hospitalization services consisting of—";

(G) by inserting after clause (viii) (as so redesignated) the following new subparagraphs:

"(B) Psychiatric rehabilitation services.

"(C) Day treatment services for individuals under 19 years of age.

"(D) In-home services.

"(E) Case management services, including collateral services designated as such case management services by the Secretary.

"(F) Ambulatory detoxification services.".

(3) PERMITTING NON-PHYSICIAN PROVIDERS TO SUPERVISE INDIVIDUAL PROGRAM OF TREATMENT.—Section 1861(ff)(1) (42 U.S.C. 1395x(ff)(1)) is amended by inserting after "supervision of a physician" the following: "(or, to the extent permitted under the law of the State in which the services are furnished, a non-physician mental health professional)".

(4) REQUIRING SERVICES TO MEET MANAGEMENT STANDARDS.—Section 1861(ff)(1) (42 U.S.C. 1395x(ff)(1)) is amended by striking the period at the end and inserting the following: ", but does not include any item or service that is not furnished in accordance with standards established by the Secretary for the management of such services.".

(5) PROGRAMS ELIGIBLE TO PROVIDE SERVICES.—Section 1861(ff)(3) (42 U.S.C. 1395x(ff)(3)) is amended to read as follows:

"(3) A program described in this paragraph is a program (whether facility-based or free-standing) which is furnished by an entity—

"(A) legally authorized to furnish such a program under State law (or the State regulatory mechanism provided by State law) or certified to furnish such a program by an appropriate accreditation entity approved by the State in consultation with the Secretary; and

"(B) meeting such other requirements as the Secretary may impose to assure the quality of the intensive community-based services provided.".

(6) WAIVER OF COPAYMENT FOR CASE MANAGEMENT SERVICES FURNISHED TO CERTAIN INDIVIDUALS.—Section 1832(a)(3) (42 U.S.C. 1395k(a)(2)) is amended—

(A) in subparagraph (B), by striking "or (E)" and inserting "(E), or (F)";

(B) by striking "and" at the end of subparagraph (D);

(C) by adding "and" at the end of subparagraph (E); and

(D) by adding at the end the following new subparagraph:

"(F) with respect to services described in section 1832(a)(2)(J)(i), the amount determined under subparagraph (B), except that '100 percent' shall be substituted for any reference in such subparagraph to '80 percent';".

(7) CONFORMING AMENDMENTS.—(A) Section 1835(a)(2)(F) (42 U.S.C. 1395n(a)(2)(F)) is amended—

(i) by striking "partial hospitalization" and inserting "intensive community-based"; and

(ii) in clause (ii), by striking "physician" and inserting "physician (or, to the extent permitted under the law of the State in which the services are furnished, a non-physician mental health professional)".

(B) Section 1861(s)(2)(B) (42 U.S.C. 1395x(s)(2)(B)) is amended by striking "partial hospitalization" and inserting "intensive community-based".

(C) Section 1861(ff) (42 U.S.C. 1395x(ff)) is amended—

(i) in the heading, by striking "Partial Hospitalization" and inserting "Intensive Community-Based"; and

(ii) in paragraph (1), by striking "partial hospitalization" and inserting "intensive community-based".

VOL 140 PT 15 AG 10 — 11 1994 UMI

(D) Section 1866(e)(2) (42 U.S.C. 1395cc(e)(2)) is amended by striking "partial hospitalization" and inserting "intensive community-based".

(e) REQUIREMENT FOR PROVISION OF SERVICES THROUGH ORGANIZED SYSTEMS OF CARE FOR AT-RISK CHILDREN.—

(1) REQUIRING COORDINATION OF MENTAL HEALTH SERVICES THROUGH ORGANIZED SYSTEMS OF CARE.—

(A) PSYCHIATRIC HOSPITAL SERVICES.—Section 1812(a)(5) (42 U.S.C. 1395d(a)(5)), as added by subsection (a)(1), is amended by striking the period at the end and inserting the following: ", but only if (with respect to services furnished to an at-risk child described in section 1861(rr)) such services are furnished in conformity with the plan of an organized system of care for mental health and substance abuse services in accordance with section 1861(rr).".

(B) OTHER PART B ITEMS AND SERVICES.—Section 1862(a)(18), as added by subsection (c)(2), is amended by striking the period at the end and inserting the following: ", and, in the case of services furnished to an at-risk child described in section 1861(rr) who is not an inpatient of a hospital, if the services are not furnished in conformity with the plan of an organized system of care for mental health and substance abuse services in accordance with section 1861(rr).".

(C) INTENSIVE RESIDENTIAL SERVICES.—Section 1861(qq) (42 U.S.C. 1395x(qq)) as added by subsection (b)(2), is amended—

(i) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(ii) by adding at the end the following new paragraph:

"(3) In the case of services furnished to an at-risk child described in section 1861(rr), no service may be treated as an intensive residential service under this subsection unless the service is furnished in conformity with the plan of an organized system of care for mental health and substance abuse services in accordance with section 1861(rr).".

(D) INTENSIVE COMMUNITY-BASED SERVICES.—Section 1861(ff)(1) (42 U.S.C. 1395x(ff)(1)) is amended by inserting after "by a physician" the following: "(or, in the case of services furnished to an at-risk child described in section 1861(rr), by an organized system of care for mental health and substance abuse services in accordance with such section)".

(2) ORGANIZED SYSTEMS OF CARE DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Organized System of Care for Mental Health and Substance Abuse Services

"(rr)(1) The term 'organized system of care for mental health and substance abuse services' means, with respect to mental health services provided to an at-risk child, a community-based service delivery network consisting of public or private providers that a State determines meets the following requirements (in accordance with guidelines of the Secretary):

"(A) The system has established linkages with existing mental illness and substance abuse service delivery programs in the area in which the child resides (or is in the process of developing or operating a system with appropriate public agencies in the area to coordinate the delivery of such services to individuals in the area).

"(B) The system provides for the participation and coordination of multiple agencies and providers that serve the needs of children in the area, including agencies and providers involved with child welfare, education, juvenile or criminal justice, health care, mental health, and substance abuse treatment.

"(C) The system provides for the involvement of the families of children to whom mental illness and substance abuse services are provided in the planning of treatment and the delivery of services.

"(D) The system provides for the development and implementation by multidisciplinary and multi-agency teams of individualized treatment plans that are recognized and followed by the requisite providers in the area.

"(E) The system ensures the delivery and coordination of the range of mental illness and substance abuse services required for at-risk children.

"(F) The system provides for the management of the individualized treatment plans and for a flexible response to treatment changes over time.

"(G) In the case of individuals receiving substance abuse treatment services, the system places such individuals in treatment programs in accordance with uniform patient placement criteria established by the Secretary in consultation with the States.

"(H) The system provides for assessment of clinical outcomes of individuals receiving services through the system.

"(2) In this subsection—

"(A) the term 'at-risk child' means an individual under 19 years of age who has a serious emotional disorder or substance abuse disorder (in accordance with criteria established by the Secretary for purposes of this subsection) and is currently involved or at imminent risk of being involved with one or more public agencies providing services to children, including agencies relating to child welfare, special education, and juvenile or criminal justice; and

"(B) the term 'mental health services' has the meaning given such term in section 1893(c).".

(3) ESTABLISHMENT OF CRITERIA FOR SEVERITY OF ILLNESS BY SECRETARY.—Not later 1 year after the date of the enactment of this Act, the Secretary shall develop criteria for determining whether an individual has a serious emotional disorder or substance abuse disorder for purposes of section 1861(rr)(2).

(f) SPECIAL RULE FOR BENEFICIARIES IN STATES WITH MANAGED PROGRAMS.—Title XVIII is amended by inserting after section 1892 the following new section:

"COVERAGE OF MENTAL HEALTH SERVICES FOR INDIVIDUALS IN STATES WITH MANAGED MENTAL HEALTH PROGRAMS

"SEC. 1893. (a) APPLICATION OF STATE COVERAGE RULES.—Notwithstanding any other provision of this title, in the case of an individual entitled to benefits under part A or enrolled under part B who is a resident of a State or a member of a tribe or tribal organization operating a comprehensive managed mental health program under section 1981 of the Public Health Service Act and who is enrolled in the program during a month—

"(1) the individual is considered to have waived the right to benefits for mental health services under this title in consideration of receipt of benefits for mental health services through such program;

"(2) the Secretary shall make a per capita payment to the State or the tribe or tribal organization, in the amount specified in subsection (b)(1), on behalf of the individual; and

"(3) no other payment may be made under this title with respect to mental health services furnished to the individual during the month.

Payments under paragraph (2) shall be made on a monthly basis.

"(b) AMOUNT OF CAPITATION PAYMENT.—

"(1) IN GENERAL.—In the case of a State or tribe or tribal organization operating a program described in subsection (a) for a month, the amount specified in this subsection is the Secretary's estimate of the sum of the following products:

"(A) The product of—

"(i) the part A per enrollee mental health payment described in paragraph (2) for the month; and

"(ii) the number of individuals who are entitled to benefits under part A during the month and (as estimated prior to the month based on information provided by the State or the tribe or tribal organization) who are enrolled in the program described in subsection (a).

"(B) The product of—

"(i) the part B per enrollee mental health payment described in paragraph (2) for the month; and

"(ii) the number of individuals who are enrolled under part B during the month and (as estimated prior to the month based on information provided by the State or the tribe or tribal organization) who are enrolled in the program described in subsection (a).

"(2) PER ENROLLEE PAYMENTS.—In paragraph (1)—

"(A) the 'part A per enrollee payment' for a month is an amount equal to the Secretary's estimate of the average actuarial value of the mental health services for which payment would be made under part A for the month on behalf of individuals enrolled in the State program described in subsection (a) during the month if the individuals were not enrolled in the State program during the month; and

"(B) the 'part B per enrollee payment' for a month is an amount equal to the Secretary's estimate of the average actuarial value of the mental health services for which payment would be made under part B for the month on behalf of individuals enrolled in the State program described in subsection (a) during the month if the individuals were not enrolled in the State program during the month.

"(3) ADJUSTMENTS.—The Secretary shall adjust the amount of payment otherwise made to a State or a tribe or tribal organization under this subsection for a month—

"(A) to reduce such payment to take into account any amounts paid to the State or tribe or tribal organization under other programs towards the costs of providing mental health services to individuals enrolled in the program; and

"(B) to take into account overpayments or underpayments made under this subsection in previous months.

"(c) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES DESCRIBED.—In this section, the term 'mental health and substance abuse services' means the following items and services:

"(1) Inpatient psychiatric services (as described in section 1812(a)(5)).

"(2) Any items or services furnished under part B for the treatment of mental illness or substance abuse for an individual who is not an inpatient of a hospital.

"(3) Intensive community-based mental health services (as described in section 1861(ff)).

"(4) Intensive residential services (as described in section 1861(qq).".

SEC. 3117. EXPANDED COVERAGE OF CERTAIN CHIROPRACTIC SERVICES.

Section 1861(r)(5) (42 U.S.C. 1395x(r)(5)) is amended by striking "sections 1861(s)(1) and

1861(s)(2)(A)" and inserting "paragraphs (1), (2)(A), (3), and (4) of subsection (s)".

SEC. 3118. MANAGED CARE OPTIONS.

Section 1876(g) (42 U.S.C. 1395mm(g)) is amended by adding at the end the following new paragraph:

"(7) An eligible organization with a risk-sharing contract under this section may provide services under part A and B to individuals enrolled with the organization through an unlimited-choice-of-provider plan described in section 5504(15) of the Guaranteed Health Insurance Act of 1994, except that in no case could the cost sharing requirements imposed under such option with respect to services furnished through providers who are not members of the organization's provider network (as defined in section 5504(10) of such Act) exceed the cost-sharing requirements that would otherwise be imposed with respect to the services if the services were furnished under this title other than through the eligible organization.".

SEC. 3119. EFFECTIVE DATE.

The amendments made by this part shall apply to items and services furnished on or after January 1, 1998.

TITLE IV—STATE PROGRAMS

Subtitle A—State Single-Payer Systems

SEC. 4001. STANDARDS FOR STATE SINGLE-PAYER SYSTEMS.

(a) ESTABLISHMENT OF SYSTEMS.—

(1) IN GENERAL.—As an alternative to the method otherwise provided in this Act to achieving universal health insurance coverage for residents of a State, a State may operate a State single-payer system approved by the Secretary of Health and Human Services and the Secretary of Labor (in this title jointly referred to as the "Secretaries") under this subtitle.

(2) REQUIREMENTS.—For purposes of this section, a State single-payer system is a system established by a State under which meets the following requirements:

(A) DIRECT PAYMENT TO PROVIDERS.—

(i) IN GENERAL.—Under the system, the State makes payments directly to providers who furnish items and services included in the guaranteed national benefit package to individuals covered under the system and assume (subject to clause (ii)) all financial risk associated with making such payments.

(ii) CAPITATED PAYMENTS PERMITTED.—Nothing in clause (i) shall be construed to prohibit providers furnishing items and services under the system from receiving payments from the State on a capitated, at risk-basis based on prospectively determined amounts.

(B) GUARANTEED NATIONAL BENEFIT PACKAGE.—The system guarantees coverage for at least the guaranteed national benefit package, including pediatric services for children, for all eligible individuals who are residents of the State, subject to section 4002.

(C) BUDGETARY COMPLIANCE.—The system controls aggregate health care expenditures in the State subject to the same tests as a State operating a State provider reimbursement system under subtitle C, without regard to the adjustment described in section 4203(a)(2)(A).

(b) CONDITIONS FOR APPROVAL.—The Secretaries may not approve a single-payer system under this subtitle unless—

(1) the State submits to the Secretaries an application in such form and manner as the Secretaries may require [under the coordinated process established under section 4301], and

(2) the Secretaries determine to their satisfaction that the State and the system meet the applicable requirements of section 4002.

(c) TERMINATION OF APPROVAL.—Either Secretary shall terminate approval of a system in accordance with section 4006 if that Secretary determines that the State or the system no longer meet the applicable requirements of section 4002.

SEC. 4002. GENERAL REQUIREMENTS FOR APPROVAL.

(a) UNIVERSAL COVERAGE.—

(1) IN GENERAL.—Except as provided in this subsection and section 4003, the single-payer system shall cover all eligible individuals who are residents of the State.

(2) EXCEPTION FOR INDIANS.—

(A) IN GENERAL.—A State may not require an individual described in subparagraph (B) to be covered under the system, but shall allow such an individual the option of coverage under such system.

(B) INDIVIDUALS DESCRIBED.—An individual described in this subparagraph is an individual who is—

(i) eligible to receive services pursuant to sections 36.1—36.14 of title 42, Code of Federal Regulations (1986);

(ii) an urban Indian (as defined in section ___ of the Indian Health Care Improvement Act); or

(iii) an Indian described in section 809(b) of the Indian Health Care Improvement Act.

(3) EXCEPTION FOR QUALIFIED RELIGIOUS EXEMPTION, VETERANS, AND ACTIVE DUTY MILITARY.—A State may not require any of the following individuals to be covered under the single-payer system:

(A) An individual who is described in section 1004(b)(1).

(B) An eligible person (within the meaning of section 1710(a)(1) of title 38, United States Code).

(C) An individual on active duty as a member of the uniformed services (as defined in section 101 of title 10, United States Code).

(4) INCLUSION OF CHAMPUS AND FEHBP.—For provisions authorizing inclusion of—

(A) certain CHAMPUS-eligible individuals in State single-payer systems, see section ___ of title 10, United States Code; or

(B) Federal employees and annuitants in State single-payer systems, see section ___ of title 5, United States Code.

(5) DETERMINATION OF RESIDENCE IN STATE.—

(A) IN GENERAL.—For the purposes of determining eligibility for coverage under a State single-payer system, an individual shall be considered a "resident" of the State if the individual lives in the State with the intention of remaining there permanently or indefinitely.

(B) CERTAIN INDIVIDUALS EXCLUDED.—The State may not deny coverage under the State single-payer system to an individual described in subparagraph (A) because the individual has not resided in the State for a specified period, or because the individual is temporarily absent from the State. However, a State may deny eligibility for benefits under the system to an individual if the State determines that the individual is residing in the State substantially for the purpose of receiving medical treatment in that State.

(b) ENSURING ACCESS TO BENEFITS.—

(1) IN GENERAL.—The system shall provide for coverage of not less than the guaranteed national benefit package, including the cost sharing provided under the package (subject to paragraph (2)), to all individuals required to be covered under the system.

(2) IMPOSITION OF REDUCED COST SHARING.—The system may decrease the cost sharing otherwise provided in the package with respect to any class of individuals enrolled in the system or any class of items or services included in the package, so long as the system does not increase the cost sharing otherwise imposed with respect to any other class of individuals, items, or services.

(3) ACCESS TO SERVICES.—Services covered under the guaranteed national benefit package shall be reasonably accessible to individuals required to be covered under subsection (a).

[*New (8/9):*] (4) ACCESS TO CHOICE OF PROVIDERS.—The system shall provide individuals with unlimited choice of providers for receiving services under the system, except that nothing in this paragraph shall be construed to prohibit the State from imposing cost-sharing requirements that result in variations in out-of-pocket expenses based on the provider chosen, so long as such variations do not impose a significant financial impairment on the individual's choice.

(c) PUBLIC OPERATION AND ACCOUNTABILITY.—

(1) IN GENERAL.—The system shall be established under State law and State law shall provide for mechanisms to enforce the requirements of the system.

(2) OPERATION BY STATE.—The State single-payer system shall be operated by the State, a designated agency of the State, or a non-profit entity established through State law in a manner that provides for public accountability with respect to the operation of the system.

(3) USE OF CONTRACTS.—During the 5-year period beginning the date of the approval of the application under this subtitle, nothing in this subsection shall be construed to prohibit a State from contracting with private organizations to assist in the administration of the system, but only if, under any contract entered into with such a private organization pursuant to this paragraph, such private organization is required to limit administrative expenses under the system to a rate of not more than 3 percent of program expenses. Any arrangement under the system under which items or services are provided by carriers shall meet such standards under title V as the Secretaries shall determine appropriate by regulation.

(d) NONDISCRIMINATORY FINANCING.—Any taxes, fees, or other assessments imposed with respect to the financing of the State single-payer system may not be imposed in a manner that discriminates, with respect to employment or employers, on the basis of the type of sponsor, or the size, self-insured nature, or other characteristics of an employer.

[*New (8/9):*] (e) APPLICATION OF CERTAIN INSURANCE REFORM STANDARDS.—The State single-payer system shall meet the following additional requirements:

(1) The system shall meet such standards applicable to insured health benefit plans under subtitle A of title V as the Secretary determines to be appropriate for a single-payer system.

(2) The system shall provide coverage for emergency and urgent care services furnished to individuals enrolled in the system by out-of-State providers.

(3) The system provides coverage and coordination of payment for services provided to individuals enrolled in the system by out-of-State providers.

(4) The system has in effect procedures to coordinate the delivery and payment of benefits for individuals enrolled in health benefit plans outside of the State who receive services from providers in the State, individuals who are employees of employers in the State but are not residents of the State, and

VOL 140 PT 15 AG 10 — 11 1994 UMI

other individuals for whom coordination of enrollment and delivery and payment of benefits is necessary.

(f) ONGOING REPORTS.—A State operating an approved State single-payer system shall submit annual reports to the Secretaries on the operation of the system, together with such other reports as either of the Secretaries may require.

SEC. 4003. TREATMENT OF MEDICARE BENEFICIARIES.

(a) PERMITTING STATES TO COVER MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—A State single-payer system may cover an individual who is a medicare part A beneficiary and who resides in the State, but only if the State demonstrates to the satisfaction of the Secretary [of Health and Human Services], in its application under this subtitle, that—

(A) all services for which such beneficiaries would otherwise be eligible under the medicare program shall be provided under the system without additional cost to such beneficiaries and shall be reasonably accessible to all such beneficiaries residing in the State; and

(B) such beneficiaries shall be eligible for the same benefits and provided the same opportunities with respect to choice of providers as other residents of the State under the system.

For purposes of subparagraph (A), coverage determinations under the system shall be made under rules that are no more restrictive than are otherwise applicable under the medicare program.

(2) TIMING OF COVERAGE.—The coverage of medicare part A beneficiaries shall begin no earlier than the beginning of the fourth year that occurs after the Secretaries have approved the system pursuant to this subtitle and only if the State provides evidence, satisfactory to the Secretary, that all of the requirements for the system will be met, and that all benefits guaranteed to such beneficiaries will be provided.

(3) CONTROL OF MEDICARE EXPENDITURES.—If medicare part A beneficiaries are included in a system under this section, the State shall guarantee that total expenditures under the medicare program in the State during the year will not exceed the expenditures that would otherwise have been made with respect to such beneficiaries residing in the State during the year if the system were not approved under this section.

[*New (89):*] (4) EFFECT ON FINANCING.—Nothing in this section shall be construed to prohibit a State from subjecting medicare beneficiaries to any generally applicable taxes used to finance the State system.

(b) REFERENCE TO MEDICARE PAYMENT RULES.—In the case of a State single-payer system that covers medicare part A beneficiaries, such beneficiaries shall receive benefits under the State system, and the Secretary shall make payments to the State, in accordance with section 1894 of the Social Security Act (as added by section 8361).

(c) REINSTATEMENT OF MEDICARE IN EVENT OF FAILURE TO MEET SYSTEM REQUIREMENTS.—In the case of a State system which covers medicare part A beneficiaries or medicare part C beneficiaries and fails substantially to meet requirements of this section or of the medicare program or medicare part C, the Secretary shall terminate coverage of such beneficiaries under the State system and make payment for any services covered under the medicare program or medicare part C that were provided to such beneficiaries but were not reimbursed under the State system.

(d) MEDICARE PART C BENEFICIARY DEFINED.—In this section, the term "medicare part C beneficiary" means an individual who would be eligible for benefits under medicare part C but for approval of a State single-payer system under this subtitle.

SEC. 4004. OPTIONS RELATING TO PAYMENT FOR PREMIUM SUBSIDIES AND WRAP-AROUND BENEFITS.

(a) PREMIUM SUBSIDIES.—

(1) PREMIUM CERTIFICATE ELIGIBLE INDIVIDUALS.—

(A) IN GENERAL.—Under a State single-payer system, payment shall be made directly to the State under section 2124(c)(1)(C)(i) of the Social Security Act in an amount described in subparagraph (B).

(B) DETERMINATION OF AMOUNT OF PERIODIC PAYMENTS.—The amount described in this subparagraph is, subject to subparagraph (C), with respect to periods occurring during a year, the Secretary's estimate of the aggregate amount of the payments that would have been made for premium certificates under part A of title XXII of the Social Security Act to individuals covered under the State single-payer system during the most recent preceding year if payment had been made as provided in such subpart, increased by the Secretary's estimate of the rate of increase in the total amount of such payments with respect to such individuals during the year.

(C) SPECIAL RULE FOR PAYMENT TO STATES FOR YEARS BEFORE 2000.—In the case of periods occurring during a year before 2000, the State shall submit to the Secretary such information as the Secretary may require to appropriately estimate the amounts described in subparagraph (B) based on a system established by the State to determine the eligibility of State residents for the premium certificates described in part A of title XXII of the Social Security Act (using the same eligibility criteria applicable under such part).

(2) TREATMENT OF PART C ELIGIBLE INDIVIDUALS.—

(A) IN GENERAL.—The Secretary shall make payments to the State under section 2124(c)(1)(C)(iii) of the Social Security Act in the amount described in subparagraph (B).

(B) AMOUNT.—The amount described in this subparagraph is the Secretary's estimate of the aggregate amount of the reduction in the tax imposed under section 59B of the Internal Revenue Code of 1986 that would have resulted from the application of subsection (b) of such section with respect to individuals enrolled in the system during the applicable period if the State did not have an approved system under this subtitle.

(C) USE OF DATA.—In computing amounts under subparagraph (B), the Secretary may use information made available under section 6103(l)(16) of the Internal Revenue Code of 1986.

(3) RECONCILIATION FOR PREVIOUS ERRORS IN ESTIMATION.—The Secretary shall adjust the amount of payment made to the State pursuant to this subsection for periods occurring in a year to take into account any errors in the estimations made in previous payments, based on information furnished by the Secretary of the Treasury and such other information as the Secretary deems necessary.

(b) WRAP-AROUND BENEFITS.—

(1) IN GENERAL.—Under a State single-payer system, payment shall be made under section 2124(c)(1)(C)(ii) of the Social Security Act directly to the State in an amount described in paragraph (B).

(2) DETERMINATION OF AMOUNT.—The amount described in this paragraph is, subject to paragraph (3), the Secretary's estimate of the aggregate amount of the payments that would been made under part B of title XXII of the Social Security Act if payment had been made as provided in such part.

(3) SPECIAL RULE FOR PAYMENT TO STATES FOR YEARS PRIOR TO 2000.—In the case of periods occurring during a year prior to 2000, the State shall submit to the Secretary such information as the Secretary may require to appropriately estimate the amounts described in paragraph (2), based on a system established by the State to determine the individuals enrolled in the single-payer system who would be wrap-around eligible individuals but for the election under the State single-payer system (applying the same criteria and a similar process used by the Secretary to determine whether individuals are wrap-around eligible individuals under part B of title XXII of the Social Security Act).

(4) RECONCILIATION FOR PREVIOUS ERRORS IN ESTIMATION.—The Secretary shall adjust the amount of payment made to the State under this subsection for periods occurring in a year to take into account any errors in the estimations made under this subsection.

(5) DEFINITIONS.—In this subsection:

(A) The term "State wrap-around benefits" means a package of benefits consisting of items and services not covered under the guaranteed national benefit package that the Secretary finds is comparable to the wrap-around benefits provided under part B of title XXII of the Social Security Act.

(B) The term "wrap-around benefits" means the benefits described in section 2212 of the Social Security Act (as added by section 8102(a)).

(C) The term "wrap-around eligible individual" has the meaning given such term in section 2211(b) of the Social Security Act (as added by section 8102(a)).

SEC. 4005. OFFSET TO DIRECT PAYMENTS FOR OUTSTANDING MAINTENANCE OF EFFORT PAYMENTS.

The Secretary shall reduce the amount of any payment made directly to the State under section 4003(b) or subsection (a) or (b)[of section 4004 for a period by the amount of any payments owed by the State under part 2 of subtitle B of title VIII for such period.

SEC. 4006. TERMINATION OF APPROVAL.

(a) ANNUAL DETERMINATION OF BUDGETARY COMPLIANCE BY SECRETARIES.—The Secretaries shall annually determine whether a State system has met the tests described in section 4001(a)(2)(C) for the most recent 3-year period, determined based on all classes of services covered under the system.

(b) PROCESS FOR TERMINATION.—If either Secretary finds under subsection (a) that the single-payer system approved under this subtitle fails the tests described in section 4001(a)(2)(C), or no longer meets any of the other applicable requirements of section 4001(a)(2) or section 4002, such Secretary shall terminate approval of the system, in accordance with the process described in section 4204(b) (relating to termination of a State provider reimbursement system under subtitle C).

Subtitle B—State Managed Competition Programs

SEC. 4101. STANDARDS FOR STATE MANAGED COMPETITION PROGRAMS.

(a) ESTABLISHMENT OF STATE PROGRAMS.—As an alternative to the method otherwise provided in this Act to achieving universal health insurance coverage for residents of a State, a State may operate a managed competition program approved by the Secretary of Health and Human Services and the Secretary of Labor (in this subtitle jointly referred to as the "Secretaries") under this subtitle under which the State, subject to subsection (b), requires eligible individuals to obtain coverage through a consumer purchasing cooperative established under subtitle E of title V. In this subtitle, the term "State managed competition program" means a managed competition program approved by the Secretaries under this subtitle.

(b) CONDITIONS FOR APPROVAL.—The Secretaries may not approve a managed competition program under this subtitle unless—

(1) the State submits to the Secretaries an application in such form and manner as the Secretaries may require, and

(2) the Secretaries determine to their satisfaction that the State and the program meets the applicable requirements of sections 4102.

(c) TERMINATION OF APPROVAL.—Either Secretary shall terminate approval of a managed competition program in accordance with section 4106 if that Secretary determines that the State or the program no longer meet the applicable requirements of sections 4102.

SEC. 4102. GENERAL REQUIREMENTS FOR STATE MANAGED COMPETITION PROGRAMS.

(a) PROVISION OF COVERAGE THROUGH QUALIFIED INSURED HEALTH BENEFIT PLANS OFFERED BY CONSUMER PURCHASING COOPERATIVES.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Except as provided in this paragraph, under the managed competition program eligible individuals residing in the State are required to obtain health coverage through enrollment in a qualified insured health benefit plan offered through a consumer purchasing cooperative.

(B) APPLICATION OF COMMUNITY-RATING TO ALL PLANS AND ENROLLEES.—All such plans shall meet the requirements of section 5008 (relating to community-rating of premiums) with respect to all individuals and employers covered under the program.

(2) EXCEPTION FOR INDIANS, QUALIFIED RELIGIOUS EXEMPTION, VETERANS, ACTIVE DUTY MILITARY, CHAMPUS ELIGIBLE INDIVIDUALS, FEHBP ENROLLEES, MEDICARE PART A BENEFICIARIES.—Paragraph (1) shall not apply to—

(A) individuals described in paragraph (2) or (3) of section 4002(a);

(B) individuals who are entitled to benefits under the Civilian Health and Medical Program of the Uniformed Services (as defined in section 1072(4) of title 10, United States Code);

(C) individuals who are enrolled in a health plan under chapter 89 of title 5, United States Code;

(D) medicare part A beneficiaries.

(3) EXCEPTION FOR FULL-TIME EMPLOYEES IN LARGE FIRMS OR IN MULTIEMPLOYER PLANS.—

(A) FULL-TIME EMPLOYEES OF LARGE EMPLOYERS.—A managed competition program may not require an individual who is a full-time employee of an employer that has more than 1,000 full-time employees in the United States to participate in the program.

(B) BENEFICIARIES AND PARTICIPANTS IN MULTIEMPLOYER PLANS.—

(i) IN GENERAL.—A managed competition program may not require an individual who is a participant or beneficiary (as defined in clause (ii)) under a multiemployer plan described in clause (iii) to participate in the program.

(ii) PARTICIPANT AND BENEFICIARY DEFINED.—In clause (i), subject to clause (iv), the terms "participant" and "beneficiary" have the meaning given such terms in section 3 of the Employee Retirement Income Security Act of 1974.

(iii) PLAN DESCRIBED.—A plan described in this clause is a multiemployer plan that—

(I) covers more than 1,000 active participants in the United States whose coverage under such plan is on terms at least as favorable as those provided under this Act with respect to a full-time employee, or

(II) is maintained by one or more affiliates of the same labor organization, or one or more affiliates of labor organizations representing employees in the same industry, covering more than 1,000 such active participants.

(iv) ELIGIBILITY STANDARDS.—A multiemployer plan may establish eligibility standards for those individuals who will be treated as participants and beneficiaries for purposes of this section. Such standards shall not discriminate on the basis of race, national origin, sex, religion, language, socioeconomic status, age, disability, sexual orientation, health status, or anticipated need for health services, but may take into account the level and rate at which employer contributions are paid on behalf of employees. Nothing in this clause shall be construed as affecting the ability of a multiemployer plan to provide health or other benefits to participants and beneficiaries who are not treated as participants and beneficiaries with respect to the plan.

(C) RURAL ELECTRIC AND TELEPHONE COOPERATIVES.—

(i) IN GENERAL.—A managed competition program may not require an individual who is a full-time employee of a member of a rural cooperative described in clause (ii), or a family member of such an employee, to participate in the program.

(ii) RURAL COOPERATIVE DESCRIBED.—A rural cooperative described in this clause is a rural electric cooperative or rural telephone cooperative association if the cooperative or association (or members of the cooperative or association) maintain a health plan under which at least 1,000 full-time employees in the United States are entitled to health benefits.

(D) OPTION.—A managed competition program may permit individuals otherwise exempt under this paragraph to participate in the program.

(b) ENSURING ACCESS OF LOW-INCOME INDIVIDUALS TO PLANS.—The managed competition program shall provide such financial assistance toward the premiums of low-income individuals described in section 2211(b)(1)(A)as will assure that such individuals may obtain coverage under a certified health plan upon the presentation of premium certificate issued under part A of title XXII of the Social Security Act.

(c) COMPLIANCE WITH PLAN REQUIREMENTS.—

(1) IN GENERAL.—The plans offered under the managed competition program shall comply with the requirements of subtitle A (and, if applicable, subtitle C) title V, except that the Secretaries may waive such provisions of such title as may be necessary to permit the operation of such a program under this subtitle.

(2) EXCLUSIVE OFFER THROUGH COOPERATIVES.—The managed competition program shall require carriers to offer certified health plans (other than to individuals exempt from participation under subsection (a)(3)) through consumer purchasing cooperatives.

(d) BUDGETARY COMPLIANCE.—The managed competition program shall control aggregate health care expenditures in the State subject to the same tests as a State operating a State provider reimbursement system under subtitle C, without regard to the adjustment described in section 4203(a)(2)(A).

(e) APPLICATION OF CERTAIN RULES.—

(1) DETERMINATION OF RESIDENCE AND ONGOING REPORTS.—Subsections (a)(5) and (e) of section 4002 apply to a managed competition program under this section in the same manner as they apply to a single-payer system under such section.

(2) NONDISCRIMINATORY FINANCING.—

(A) IN GENERAL.—Section (d) of section 4002 applies to a managed competition program under this section in the same manner as it applies to a single-payer system under such section, except that no tax, fee, or other assessment may be imposed with respect to coverage of individuals who do not participate in the program pursuant to subsection (b)(3).

(B) CONSTRUCTION.—Subparagraph (A) shall not be construed as permitting apply with respect to only apply with respect to In carrying out subparagraph (A).

SEC. 4103. TERMINATION OF APPROVAL.

(a) ANNUAL DETERMINATION OF BUDGETARY COMPLIANCE BY SECRETARY.—The Secretary shall annually determine whether a managed competition program has met the tests described in subsection 4101(a)(2) for the most recent 3-year period, determined based on all classes of services covered under the program.

(b) PROCESS FOR TERMINATION.—If the Secretary finds under subsection (a) that the managed competition program fails the tests described in section 4101(a)(2), or no longer meets any of the applicable requirements of section 4102, the Secretary shall terminate approval of the program, in accordance with the process described in section 4204(b) (relating to termination of a State provider reimbursement system under subtitle C).

(c) REINSTATEMENT OF MEDICARE PART C IN EVENT OF FAILURE TO MEET PROGRAM REQUIREMENTS.—In the case of a managed competition program which covers individuals who would (but for approval of the program) be medicare part C eligible individuals and fails substantially to meet requirements of this section with respect to such individuals, the Secretary shall terminate the approval of the program with respect to medicare part C eligible individuals.

Subtitle C—State Provider Reimbursement Systems

SEC. 4201. STANDARDS FOR STATE PROVIDER REIMBURSEMENT SYSTEMS.

(a) IN GENERAL.—During the period in which a State provider reimbursement system (in this subtitle referred to as a "State payment system") is approved under this section—

(1) the payment rates provided under such system shall apply to services covered under the system and furnished in the State;

(2) maximum payment rates shall not apply to such services under subtitle D of title VI, in accordance with section 6201(b)(2)(A); and

(3) the requirements relating to the determination of payment amounts under the medicare program, medicare part C, and medicaid programs are waived insofar as such waiver is necessary to implement such system.

State preemption requirements under the Employee Retirement Income Security Act of 1974 are waived under section 514(b)(11) of such Act (as added by section 12____) in order to carry out such a system.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(b) APPLICATION.—

(1) IN GENERAL.—Subject to subsection (e), the Secretaries may not approve a state payment system under this subtitle unless—

(A) the State submits to the Secretaries an application in such form and manner and containing such information and assurances (consistent with this subtitle) as the Secretaries may require, and

(B) the Secretaries determine to their satisfaction that the State and the system meet the applicable requirements of sections 4202 and 4203 are met.

(2) LIMITATION ON DISAPPROVAL.—The Secretaries cannot deny the application of a State for a State payment system on the ground that the methodology used under the system to control payments for inpatient hospital services is based on a payment methodology other than on the basis of a diagnosis-related group.

(c) TERMINATION OF APPROVAL.—

(1) IN GENERAL.—Either Secretary may terminate approval of a State payment system in accordance with section 4204 if that Secretary—

(A) determines that the State or the system no longer meets the requirements of section 4202(b)(1) (relating to all payers), section 4202(b)(3)(B) (relating to limitation on differentials for medicaid services), or section 4202(e) (relating to certain requirements for hospitals); or

(B) has reason to believe that the assurances described in any of the following sections are not being (or will not be) met:

(i) Section 4202(b)(2) (relating to equitable treatment of all payers).

(ii) Section 4202(f) (relating to special requirements for hospital admissions and exclusions).

(iii) Section 4203 (relating to limiting aggregate expenditures).

(2) ADDITIONAL AUTHORITY.—Either of the Secretaries may terminate such approval if such Secretary determines that the system no longer continues to meet another condition for approval described in section 4202 or 4203.

(e) DEEMED APPROVAL OF CERTAIN SYSTEMS.—

(1) IN GENERAL.—In the case of a hospital reimbursement control system approved under section 1886(c)(4) of the Social Security Act or described in section 1814(b)(3) of such Act and used for payment of hospital services in the State under the medicare program, the system is deemed to be a State payment system approved under this section with respect to payment for hospital services.

(2) TERMINATION.—Insofar as paragraph (1) applies to a State payment system, the continuation of the approval of the system is conditioned only upon the system's compliance with the requirements described in such paragraph.

SEC. 4202. GENERAL CONDITIONS FOR STATE PROVIDER REQUIREMENTS FOR STATE SYSTEMS.

(a) APPLICATION TO SERVICES.—

(1) IN GENERAL.—Subject to paragraph (2), the state payment system applies to services described in any (or all) of the following subparagraphs:

(A) Inpatient hospital services (including services of exempt hospitals (as defined in section 6311(a)(4)) statewide.

(B) Outpatient hospital services (including services of exempt hospitals (as so defined)) statewide.

(C) Physicians services statewide.

For purposes of this part, services described in each of subparagraphs (A), (B), and (C) shall be treated as a separate class of services.

(2) ADDITIONAL SERVICES ONLY BY CLASS OF SERVICE.—The system may apply to services in addition to services described in paragraph (1) only if the system applies to all services within the class (established under section 6002) in which the services are classified.

(b) APPLICATION TO ALL PAYERS; EQUITABLE TREATMENT.—

(1) APPLICATION TO ALL PAYERS.—

(A) IN GENERAL.—The system applies to substantially all payers (including the medicaid program in the State) for services to which the system applies.

(B) EXCLUSION OF MEDICARE PROGRAM.—A State may elect not to include the medicare program under the system.

(2) EQUITABLE TREATMENT OF PAYERS.—Assurances satisfactory to both Secretaries have been provided as to the equitable and nondiscriminatory treatment of all payers (including the medicare program, medicare part C, and medicaid programs and other Federal and State programs) under the system.

(3) PAYMENT RATE DIFFERENTIALS PERMITTED.—

(A) IN GENERAL.—Subject to subparagraph (B), a State may provide for payment rates for services furnished under the medicaid program that are different from the payment rates for services for which payment is made by other payers.

(B) LIMITATION ON DIFFERENTIALS FOR SERVICES UNDER MEDICAID.—The ratio of the average rate of payment for services under the medicaid program to such average rate of payment for the same services by health benefit plans (other than the medicare program, medicare part C, and medicaid programs) may not be less than the ratio of the average of the rates of payment within the class of services for which payment is provided under the medicaid program to such average rate of payment under other health benefit plans (other than the medicare program, medicare part C, and medicaid programs) during the most recent year before the implementation of the state payment system, as determined jointly by the Secretaries.

(4) SEPARATE RATE NEGOTIATIONS PERMITTED FOR HEALTH MAINTENANCE ORGANIZATIONS.—

(A) IN GENERAL.—A State may provide that a health maintenance organization (as defined in subparagraph (B)) may negotiate directly with a provider of services covered under the system with respect to the organization's rate of payment for such services.

(B) DEFINITION.—In subparagraph (A), the term "health maintenance organization" means an eligible organization with a contract under section 1876 of the Social Security Act or a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act).

(5) MINIMUM PAYMENT RATES.—Under the state payment system, the State may provide that the amount of payment for any service within a class of services under the system may not be less than a minimum payment rate established by the State for the services.

(6) LIMITING USE OF ADDITION PAYMENT AMOUNTS TO BAD DEBT AND CHARITY.—Under the State payment system, amounts required to be paid (for items or services) that are in excess of the reasonable cost or charges or other reasonable measure (as may be designated by the Secretaries) of cost for such items and services shall be accounted for separately and applied solely for the purpose of covering bad debts or charity care (as defined by the Secretary).

(c) OPERATION.—The system is operated directly by the State or by a State agency or other public authority. The previous sentence shall be construed to prohibit a State from contracting with private organizations to carry out the requirements of the State payment system.

(d) REPORTS REQUIRED.—Providers of services covered under the system must make such reports as the Secretaries may jointly require in order to monitor assurances provided under section 4203 and make determinations under section 4204.

(e) CONTINUED ACCESS.—The State must demonstrate to the satisfaction of the Secretaries that operation of the system will not result in any change in hospital admission practices or the provision of other services which result in—

(1) a significant reduction in the proportion of patients (receiving services covered under the system) who have no third-party coverage and who are unable to pay for such services,

(2) a significant reduction in the proportion of individuals provided services for which payment is (or is likely to be) less than the anticipated charges or costs of such services, or

(3) the refusal to provide services to individuals who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available from the provider.

(f) SPECIAL REQUIREMENTS FOR HOSPITAL ADMISSIONS AND EXCLUSIONS.—If the system applies to payment for hospital services, the system requires hospitals to which the system applies to meet the requirement of section 1866(a)(1)(G) of the Social Security Act with respect to the medicare program and the system provides for the exclusion of certain costs in accordance with section 1862(a)(14) of such Act (except for such waivers thereof as the Secretaries jointly provide by regulation).

SEC. 4203. CONTROL OF AGGREGATE EXPENDITURES REQUIREMENT FOR STATE SYSTEMS.

(a) ASSURANCES REQUIRED.—

(1) IN GENERAL.—A State payment system may not be approved until the Secretaries have been provided assurances satisfactory to the Secretaries that under the system, during a 3-year period (the first such period beginning with the first month in which this section applies to that system in the State) the following 2 tests are met:

(A) AGGREGATE EXPENDITURE TEST.—The sum of—

(i) aggregate private sector expenditures (as defined in paragraph (4)), and

(ii) the aggregate medicare expenditures (as defined in paragraph (5)) for such class (or classes) under the system,

will not exceed the applicable total limit specified in paragraph (2).

(B) MEDICARE EXPENDITURE TEST.—The aggregate medicare expenditures for such class (or classes) under the system will not exceed the applicable medicare limit specified in paragraph (3).

(2) APPLICABLE TOTAL LIMIT.—The applicable total limit specified in this paragraph is the total of the maximum amount of payments that would be payable in the State for the covered class (or classes) of services if the State payment system were not in effect. With respect to payments for individuals who are not enrolled under the medicare program or medicare part C, such amount shall be based on the State private per capita expenditure estimate (established under subtitle B of title VI) for the State, adjusted—

(A) to remove the effect of the adjustment described in section 6101(b)(3), and

(B) to take into account only the proportion of such estimate that is attributable to the covered class (or classes).

(3) APPLICABLE MEDICARE LIMIT.—The applicable medicare limit specified in this paragraph is the sum of—

(A) the maximum amount of payments that would be payable in the State for the covered class (or classes) of services under the medicare program if the state payment system were not in effect, and

(B) the maximum amount of payments that would be payable in the State for the covered class (or classes) of services under medicare part C if the state payment system were not in effect.

(4) AGGREGATE PRIVATE SECTOR EXPENDITURES DEFINED.—In this subtitle, the term "aggregate private sector expenditures" means the product of—

(A) the State private per capita expenditure estimate (referred to in paragraph (2), subject to the adjustment described in such paragraph) for the class (or classes) of services covered under the system, and

(B) the average number of residents of the State enrolled in certified health plans.

(5) AGGREGATE MEDICARE EXPENDITURES DEFINED.—In this subtitle, the term "aggregate medicare expenditures" means expenditures under the medicare program and medicare part C for items and services included in the class (or classes) of services covered under the system.

(6) WAIVER OF AGGREGATE EXPENDITURE TEST FOR YEARS PRIOR TO 1997.—The aggregate expenditure test described in paragraph (1) shall not apply with respect to a State payment system for any year prior to 1997.

(b) ANNUAL DETERMINATION BY SECRETARIES.—The Secretaries shall jointly determine annually whether a State payment system has met the tests described in subsection (a)(1) for the most recent 3-year period, determined based on all classes of services covered under the system.

(c) USE OF MEDICARE SAVINGS.—

(1) IN GENERAL.—If the Secretaries jointly determine that a State payment system under this subtitle has resulted in medicare savings over a period of 3 consecutive years, in the 4th year there shall be paid to the State an amount equal to the medicare savings in the first year of such 3-year period. Such payments shall be made from the Federal Hospital Insurance Trust Fund, the Federal Supplementary Medical Insurance Trust Fund, Medicare Part C Trust Fund in such amounts as reflects the medicare savings attributable to the respective Trust Fund in such first year.

(2) DEFINITIONS.—In this subsection:

(A) The term "medicare spending" means, with respect to a State in a year, aggregate medicare expenditures incurred under the medicare program and medicare part C in the State in the year.

(B) The term "baseline medicare spending" means, with respect to a State in a year, the amount of aggregate medicare expenditures that the Secretaries jointly estimate would have been incurred under the medicare program and medicare part C in the State in the year if this subtitle did not apply in the State.

(C) The term "medicare savings" means, with respect to a State in a year, the amount by which the baseline medicare spending for the State in the year exceeds the medicare spending for the State in the year.

SEC. 4204. TERMINATION OF APPROVAL OF STATE SYSTEM.

(a) IN GENERAL.—Either of the Secretaries shall terminate approval of a state payment system in accordance with this section if such Secretary determines under section 4203(b) that the State has not met the tests referred to in such section.

(b) PROCESS.—

(1) NOTICE.—Either of the Secretaries may terminate the approval of a State payment system under this subtitle only after the expiration of a 90-day period beginning on the date such Secretary informs the State of such Secretary's intention to terminate such approval, unless, during such 90-day period, the State requests a hearing with such Secretary.

(2) HEARING.—If the State requests a hearing during the 90-day period described in paragraph (1), such Secretary shall conduct a hearing during which the State may present evidence showing that such Secretary should not terminate the approval of its system. If such Secretary decides to reject such evidence, such Secretary shall terminate the approval of the State's system beginning with the first day of the first month that begins after the date of such Secretary's decision.

(3) JUDICIAL REVIEW PROHIBITED.—There shall be no administrative or judicial review of a decision by either of the Secretaries with respect to the approval (or termination of approval) of a State payment system under this subsection.

(c) ADJUSTMENTS TO RECAPTURE EXCESS SPENDING.—

(1) ADJUSTMENT OF MAXIMUM PAYMENT RATES.—If either of the Secretaries terminates the approval of a State payment system under this section due to—

(A) a failure to meet the test described in section 4203(a)(1)(A) (relating to aggregate private sector and medicare expenditures), the maximum payment rates otherwise established for services within the class (or classes) of services under subtitle D of title VI shall be adjusted in accordance with paragraph (2)(A), but only for that State; or

(B) a failure to meet the test described in section 4203(a)(1)(B) (relating to aggregate medicare expenditures), the payment rates otherwise established for items and services within the class (or classes) of services under subtitle C of title VIII shall be adjusted in accordance with paragraph (2)(B), but only for that State.

(2) ADJUSTMENTS.—

(A) IN MAXIMUM PAYMENT RATES FOR PRIVATE SECTOR EXPENDITURES.—The adjustment described in this subparagraph is such a reduction in the maximum payment rates for the class (or classes) of services covered under the system as such Secretary determines necessary to decrease—

(i) the amount of aggregate private sector expenditures that would otherwise be made for services provided in the State, by

(ii) the amount by which aggregate private sector expenditures for such class (or classes) of services for the 3-year period involved exceeded the applicable private sector limit specified in section 4203(a)(4) for such period.

(B) IN MEDICARE PAYMENT RATES.—The adjustment described in this subparagraph for a State is such a reduction in the applicable medicare payment rate for the class (or classes) of services covered under the system as the Secretary determines necessary to decrease—

(i) the amount of aggregate medicare expenditures that would otherwise be made for services provided in the State, by

(ii) the amount by which aggregate medicare expenditures for such class (or classes) of services for the 3-year period involved exceeded the applicable medicare limit specified in section 4203(a)(3) for such period.

(C) PERIOD OF ADJUSTMENT.—The adjustments under subparagraphs (A) and (B) shall be made—

(i) during the year following the termination of the system, or

(ii) during each year in the 3-year period following the termination, if such Secretary determines that a reduction over such 3-year period is appropriate in the case of a State.

Subtitle D—General Rules, Coordination, and Transition

SEC. 4301. PROCEDURES.

The Secretaries shall prescribe by regulation a process for coordinating the procedures of each such Secretary governing submission, consideration, and determination of applications for approval, ongoing reports, and termination procedures under this title. Under such process, no approval of any system or program under this title may apply to the portions of a metropolitan statistical area which are located in the counties of Monroe, Wayne, Ontario, and Livingston.

SEC. 4302. AVAILABILITY OF PRIVATE RIGHT OF ACTION FOR AGGRIEVED INDIVIDUALS.

(a) IN GENERAL.—Any person aggrieved by an act or omission of a State under this title which constitutes a failure to comply with an applicable requirement of this title may obtain from the State in any court of competent jurisdiction appropriate relief, including actual and compensatory damages and equitable relief.

(b) EXCEPTION FOR CERTAIN VIOLATIONS.—Subsection (a) does not apply in the case of an act or omission upon which a complaint may be filed in a complaint review office pursuant to section 9304 or for which a remedy may be sought under section 9331.

(c) ATTORNEY'S FEES AND COSTS.—In any action under this section in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

(d) EXHAUSTION OF REMEDIES.—In an action under subsection (a), the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law.

SEC. 4303. REFERENCES TO WAIVERS UNDER THE MEDICARE PROGRAMS.

For waiver of certain provisions of the medicare program, see section 1894 of the Social Security Act, as added by section 8361 of this Act.

SEC. 4304. EXEMPTIONS FROM ERISA PREEMPTION.

For exemptions from preemption of State law, under the Employee Retirement Income Security Act of 1974, see paragraphs (9), (10), and (11) of section 514(b) of such Act, as added by section 12004 of this Act.

TITLE V—HEALTH PLANS AND COOPERATIVES

TABLE OF CONTENTS OF TITLE

Subtitle A—Standards for Carriers and Insured Health Benefit Plans

Sec. 5001. Requirements for certification of carriers and plans.
Sec. 5002. Nondiscrimination.
Sec. 5003. Open enrollment.
Sec. 5004. Prohibition on preexisting condition exclusions.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Sec. 5005. Prohibition against waiting periods.
Sec. 5006. Continuation of coverage requirements.
Sec. 5007. Benefit requirements.
Sec. 5008. Requirements relating to community rating of premiums.
Sec. 5009. Special requirements for managed care and point-of-service plans.
Sec. 5010. Standards for marketing of health benefit plans.
Sec. 5011. Collection and dissemination of plan information.
Sec. 5012. Requirements for arrangements with essential community providers.
Sec. 5013. Requirements relating to plan solvency.
Sec. 5014. Utilization review.
Sec. 5015. Acceptance of premium certificates.
Sec. 5016. Additional requirements for insured health benefit plans.

Subtitle B—Standards for Sponsors and Self-Insured Health Benefit Plans

PART 1—GENERAL REQUIREMENTS

Sec. 5101. Requirement for certification of sponsors and plans.
Sec. 5102. Limitation on eligible sponsors.
Sec. 5103. Non-discrimination.
Sec. 5104. Requirements relating to enrollment.
Sec. 5105. Prohibition on pre-existing condition exclusions.
Sec. 5106. Prohibition on waiting periods.
Sec. 5107. Benefit requirements.
Sec. 5108. Requirements relating to rating of premiums.
Sec. 5109. Additional standards for managed care plans and point-of-service plans.
Sec. 5110. Provision of plan information.
Sec. 5111. Requirements for arrangements with essential community providers.
Sec. 5112. Utilization review.
Sec. 5113. Acceptance of premium certificates.
Sec. 5114. Additional requirements for self-insured health benefit plans.

PART 2—RESPONSIBILITIES RELATING TO FINANCING

Sec. 5121. Reserve requirements.
Sec. 5122. Trusteeship of insolvent plans by Secretary of Labor.
Sec. 5123. Provision of amounts due providers from insolvent plans.
Sec. 5124. Imposition and collection of periodic assessments on plan sponsors.
Sec. 5125. Management of funds; relations with employees.

Subtitle C—Standards for Supplemental Health Plans

Sec. 5201. Requirement for certification of carriers and policies.
Sec. 5202. Standardized benefits.
Sec. 5203. Requirements for offering of packages.
Sec. 5204. Non-discrimination requirements.
Sec. 5205. Open enrollment.
Sec. 5206. Prohibition on pre-existing condition exclusions.
Sec. 5207. Continuation of coverage requirement.
Sec. 5208. Community rating requirements.
Sec. 5209. Standards for marketing.

Subtitle D—Universal FEHBP

Sec. 5301. Purpose.
Sec. 5302. Contracts with carriers.
Sec. 5303. Eligibility.
Sec. 5304. Premiums for coverage.
Sec. 5305. General administrative provisions.
Sec. 5306. Universal FEHBP Health Benefits Fund.
Sec. 5307. Establishment of Office of Universal FEHBP.
Sec. 5308. Studies; annual report.

Subtitle E—Consumer Purchasing Cooperatives

PART 1—ESTABLISHMENT BY STATES

Sec. 5401. Establishment of cooperatives.
Sec. 5402. Designation of cooperative boundaries and service area.

PART 2—GOVERNANCE REQUIREMENTS

Sec. 5411. Board of Directors.
Sec. 5412. Provider advisory boards.

PART 3—RESPONSIBILITIES AND AUTHORITIES OF COOPERATIVES

Sec. 5421. Contracts with carriers.
Sec. 5422. Services for participants.
Sec. 5423. Requirements relating to collection of premiums and accounting.
Sec. 5424. Cooperative fee.
Sec. 5425. Antidiscrimination.

PART 4—GRANTS FOR ESTABLISHMENT AND OPERATION OF COOPERATIVES

Sec. 5431. Establishment of grant program.
Sec. 5432. Use of grant for participation of cooperative in capital review program.
Sec. 5433. Authorization of appropriations.

Subtitle F—General Provisions

Sec. 5501. Establishment of Federal standards.
Sec. 5502. Enforcement through approved State programs.
Sec. 5503. Federal penalties.
Sec. 5504. Definitions.
Sec. 5505. Preemption of State law.
Sec. 5506. Construction of references.

Subtitle G—Transitional Insurance Reforms

Sec. 5601. Establishment of standards.
Sec. 5602. Continuation of coverage.
Sec. 5603. Limits on pre-existing condition exclusions.
Sec. 5604. Premium changes to reflect changes in group or individual characteristics or terms of coverage.
Sec. 5605. Limitations on changes in premiums for plans in individual sector and small group sector related to increases in health care costs and utilization.
Sec. 5606. More stringent State laws not preempted.
Sec. 5607. Limit on changes in self-insured health benefit plans.
Sec. 5608. Definitions.
Sec. 5609. Effective date.

Subtitle A—Standards for Carriers and Insured Health Benefit Plans

SEC. 5001. REQUIREMENTS FOR CERTIFICATION OF CARRIERS AND PLANS.

(a) CERTIFICATION REQUIRED FOR CARRIERS PROVIDING INSURED HEALTH BENEFIT PLANS.—

(1) IN GENERAL.—No carrier may sell, issue, or renew a contract under an insured health benefit plan (as defined in section 5504) in a State, or sell, issue, or renew a contract under a supplemental health benefit policy (as defined in section 5504(11)) in a State, unless the carrier, in relation to the plan, and the plan have been certified as meeting the applicable standards established under section 5501 consistent with this subtitle—

(A) by a State regulatory program of the State (approved under section 5502), or

(B) in the case of a State without such an approved program, by the Secretary (in accordance with such procedures as the Secretary establishes).

(2) PLAN DISAPPROVED.—If the applicable regulatory authority determines that a carrier with respect to an insured health benefit plan or a supplemental health benefit policy does not meet the applicable standards of this subtitle on or after the effective date described in subsection (b), the carrier may not provide coverage under the plan to individuals not enrolled as of the date of the determination and may not continue to provide the plan for plan years beginning after the date of such determination until the authority determines that such carrier and plan are in compliance with such standards.

(3) SPECIAL RULE FOR CARRIERS OFFERING PLANS IN MULTI-STATE METROPOLITAN STATISTICAL AREAS.—In the case of a carrier offering an insured health benefit plan in a portion of a State that is located in a metropolitan statistical area, the carrier may not sell, issue, or renew a contract under the plan with respect to an individual or employer in such metropolitan statistical area unless the carrier, in relation to the plan, and the plan have been certified as meeting the applicable standards established under section 5501 by the State regulatory program of each State in which the metropolitan statistical area is located. The Secretary may waive the application of this paragraph to a carrier with respect to a State with an approved single-payer system under subtitle A of title IV, or under unusual circumstances.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsection (a) shall apply to contracts under insured health benefit plans sold, issued, or renewed on or after January 1, 1997.

(2) EXCEPTION FOR PLANS OFFERED IN STATES REQUIRING LEGISLATION.—In the case of an insured health benefit plan sold, issued, or renewed in a State which the Secretary identifies, in consultation with the NAIC, as—

(A) requiring State legislation (other than legislation appropriating funds) in order for carriers and plans to meet the requirements of this subtitle, but

(B) having a legislature which is not scheduled to meet in 1996 in a legislative session in which such legislation may be considered, the date specified in this subsection is January 1, 1998, or, if earlier, the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1997. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 5002. NONDISCRIMINATION.

(a) NO DISCRIMINATION BASED ON HEALTH STATUS.—A carrier may not deny, limit, or condition the coverage under (or benefits of) an insured health benefit plan based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

(b) OTHER DISCRIMINATION PROHIBITED.—A carrier may not engage in any activity in relation to an insured health benefit plan offered in a market sector that directly or through contractual arrangements would have the effect of discriminating against an individual on the basis of race, national origin, religion, gender, sexual orientation, language, socioeconomic status, age, status of an eligible individual as a citizen of the United States, health status, or anticipated need for health services.

SEC. 5003. OPEN ENROLLMENT.

(a) ENROLLMENT REQUIREMENTS.—Subject to the succeeding provisions of this section, a carrier that offers an insured health benefit plan in a market sector to individuals residing (or to employers located) in a community-rating area (described in section 5008(c)) must offer the same plan to any other resident of (or employer located in) such area who is eligible to seek coverage through such a sector.

(b) ENROLLMENT PERIODS.—

(1) IN GENERAL.—Except as provided under paragraph (2), the requirement described in subsection (a) shall apply on a continuous, year-round basis.

(2) ENROLLMENT FOR INDIVIDUALS IN COMMUNITY-RATED MARKET SECTOR.—With respect to eligible individuals seeking enrollment in an insured health benefit plan offered in the community-rated market sector who are seeking coverage on behalf of themselves (and their dependents) and not seeking coverage on the basis of employment or through a consumer purchasing cooperative, the following rules apply:

(A) ANNUAL OPEN ENROLLMENT PERIOD.—The State shall establish an annual open enrollment period of at least 45 days during which a carrier may not refuse to enroll such individuals. Before and during each such open enrollment period, the carrier shall make public information on the availability of coverage in the community-rated market sector (in accordance with section 5010).

(B) CONTINUOUS OPEN ENROLLMENT FOR NEW MARKET ENTRANTS.—A carrier may not refuse to enroll such an individual who is not enrolled in an insured health benefit plan offered in the community-rated market sector.

(C) PERMITTING CHANGE IN PLAN.—

(i) GROUNDS FOR CHANGE.—An individual may change the plan under which the individual is provided coverage under an insured health benefit plan—

(I) during the individual's first year of coverage; or

(II) for good cause during any year of the individual's coverage (under procedures developed by the Secretary).

(ii) TIMING OF CHANGE.—A change in plan described in clause (i) shall be effective on the first day of the first month beginning at least 45 days after the date the individual provides notice to the carrier offering the plan in which the individual seeks coverage.

(D) PERMITTING CONTINUOUS OPEN ENROLLMENT.—Nothing in this subparagraph may be construed to prohibit a carrier from permitting enrollment of any individual at any other time, so long as the carrier permits enrollment of any individual eligible to enroll and does not discriminate among such individuals in violation of section 5002.

(3) EXCEPTION FOR YEARS BEFORE 1999.—

(A) INDIVIDUALS.—Notwithstanding any other provision of this title, during any year prior to 1999, a carrier offering an insured health benefit plan offered in the community-rated market sector may refuse to enroll an individual who seeks coverage under the plan on behalf of the individual (and the individual's dependents) and not seeking coverage on the basis of employment or membership in a qualifying association, or through a consumer purchasing cooperative, except during an annual 30-day open enrollment period established by the Secretary for States during which the plan would be required to provide for enrollment of any such eligible individual. Before and during such open enrollment period, the carrier shall make public information on the availability of coverage under such plans (in accordance with section 5010).

(B) SMALL EMPLOYERS.—Notwithstanding any other provision of this title, during any year prior to 1999, a carrier may refuse to provide coverage with respect to a small employer through the community-rated market sector if the employer does not meet standards of the carrier relating to the minimum participation of employees of the employer in insured health benefit plans offered through such sector (in accordance with standards established by the Secretary), except during the annual 30-day open enrollment period described in subparagraph (A) during which the plan would be required to provide for coverage with respect to any small employer. Prior to and during such open enrollment period, the carrier shall make public information on the availability of coverage under such plans (in accordance with section 5010).

(4) EXCEPTION FOR TERMINATED PLANS.—A carrier may refuse to enroll an individual in an insured health benefit plan offered in a market sector if the carrier is terminating enrollment in the plan pursuant to section 5006(c).

(c) SPECIAL RULES FOR PLANS OFFERED THROUGH QUALIFYING ASSOCIATIONS.—

(1) OFFERING OF PLANS PERMITTED.—Subject to paragraph (2), a carrier may offer an insured health benefit plan through an association that is a qualifying association defined in subsection (e)(4).

(2) SPECIAL RULES FOR ASSOCIATION PLANS.—With respect to an insured health benefit plan offered by a carrier through a qualifying association—

(A) the carrier shall offer the same plan to all individuals and employers eligible to seek coverage through the community-rated sector; and

(B) the carrier may not offer the plan to a large employer seeking coverage through the association on behalf of its employees.

(3) CARRIERS THAT ARE QUALIFYING ASSOCIATIONS.—In the case of a qualifying association that—

(A) is a religious fraternal organization, and

(B) is a carrier (and was a carrier as of December 31, 1993),

the association may limit enrollment in health plans it offers as a carrier to members of the association.

(d) CAPACITY LIMITATION.—

(1) IN GENERAL.—A carrier offering an insured health benefit plan may apply to the applicable regulatory authority to cease enrolling new employers or individuals in part or all of the service area of the plan if it can demonstrate that its financial or administrative capacity (or, in the case of a staff model or dedicated group model health maintenance organization, its service capacity) to serve previously enrolled employers and individuals (and additional individuals who will be expected to enroll because of affiliation with such previously enrolled employers) will be impaired if it is required to enroll new employers or individuals.

(2) PRIORITIES IN CASE OF OVERSUBSCRIPTION.—

(A) IN GENERAL.—The applicable regulatory authority in a State shall establish a method for establishing enrollment priorities in the case of an insured health benefit plan offered by a carrier that is permitted to limit enrollment under this subsection. Except as provided in subparagraph (B), such priorities shall not take into account personal characteristics of potential enrollees, such as health status, socioeconomic status, anticipated need for health care, age, occupation, sexual orientation, race, sex, national origin, or affiliation with any person or entity.

(B) PRIORITIES.—Such method shall provide that in the case of such an oversubscribed plan—

(i) individuals already enrolled in the plan are given priority in continuing enrollment in the plan, and

(ii) to the extent that other individuals may be enrolled, such enrollment shall be in accordance with a method that provides equal opportunity for all individuals who seek enrollment during the same enrollment period, regardless of when during the period the enrollment has been sought.

(e) MARKET SECTORS DESCRIBED.—For purposes of this title, each of the following is a separate market sector:

(1) COMMUNITY-RATED MARKET SECTOR.—The community-rated market sector, consisting of (subject to subsection (f))—

(A) individuals seeking coverage on behalf of themselves (and their dependents) and not seeking coverage on the basis of employment or membership in a qualifying association, or through a consumer purchasing cooperative; and

(B) small employers seeking coverage on behalf of their employees (and dependents) and on behalf of other individuals on the basis of their employment (or similar business relationship) with the employer and not seeking coverage on the basis of membership in a qualifying association or through a consumer purchasing cooperative.

(2) LARGE GROUP MARKET SECTOR.—The large group market sector, consisting of eligible large group sponsors seeking coverage on behalf of individuals eligible to seek coverage through such sponsors.

(3) ELIGIBLE LARGE GROUP SPONSOR DEFINED.—In this section, the term "eligible large group sponsor" means an eligible sponsor described in section 5102(b).

(4) OTHER DEFINITIONS.—

(A) CONSUMER PURCHASING COOPERATIVE.—The term "consumer purchasing cooperative" means a cooperative described in section subtitle E, without regard to whether or not a grant is made under such subtitle for the area in which the cooperative is established.

(B) EMPLOYEE INCLUDING SELF-EMPLOYED.—The term "employee" includes, with respect to an employer that is a self-employed individual, the self-employed individual.

(C) LARGE EMPLOYER.—The term "large employer" has the meaning given such term in section 1106(b)(1)(A).

(D) QUALIFYING ASSOCIATION.—The term "qualifying association" means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

(i) has been formed for purposes other than the sale of health insurance and does not restrict membership based on any characteristic described in section 5002(a),

(ii) does not exist solely or principally for the purpose of selling insurance,

(iii) has at least 1,000 individual members or 200 employer members,

(iv) offered a health benefit plan as of December 31, 1993,

(v) any health benefit plan it offers to its members is made available consistent with the requirements of section 5002(a), and

(vi) any health benefit plan it offers to its members is not made available to any eligible large group sponsor described in paragraph (3).

Such term includes a subsidiary or corporation that is wholly owned by one or more qualifying organizations.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(E) SMALL EMPLOYER.—The term "small employer" means an employer that is not a large employer and employs at least 2 employees.

(f) CERTAIN INDIVIDUALS NOT INCLUDED IN COMMUNITY-RATED MARKET SECTOR.—The following individuals are not included in the community-rated market sector under subsection (e)(1):

(1) MEDICARE ELIGIBLE INDIVIDUALS.—

(A) IN GENERAL.—Subject to subparagraph (B), an individual who is entitled to benefits or enrolled under part A of title XVIII of the Social Security Act.

(B) EXCEPTION WHERE MEDICARE SECONDARY PAYER.—Subparagraph (A) shall not apply to an individual if the certified health plan in which the individual enrolls (or will be enrolled) under this subtitle is (or would be) a primary plan (as defined in section 1862(b)(2)(A) of the Social Security Act) with respect to the individual.

(2) ENROLLED AS A DEPENDENT.—An individual who is enrolled under another health plan as a dependent of an individual.

(3) SPECIAL REQUIREMENT FOR MEDICAID-ELIGIBLE INDIVIDUALS.—An individual who is entitled to benefits with respect to the guaranteed national benefit package under a State medicaid plan under title XIX of the Social Security Act.

(4) FULL-TIME EMPLOYEE OF SMALL EMPLOYERS ENROLLED IN MEDICARE PART C.—An individual who is a medicare part C covered employee and who is a full-time employee of an employer who is not a large employer.

SEC. 5004. PROHIBITION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—A carrier may not exclude or limit coverage under an insured health benefit plan with respect to services covered under the plan related to treatment of a preexisting condition.

(b) TRANSITION FOR YEARS PRIOR TO 1999.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a carrier providing an insured health benefit plan may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months and such exclusion shall not apply with respect to services furnished to newborns, pregnancy-related services, or to a plan for which such exclusion did not apply as of the effective date of subtitle F.

(2) CREDITING OF PREVIOUS COVERAGE.—

(A) IN GENERAL.—A carrier providing an insured health benefit plan shall provide that if an individual covered under such a plan is in a period of continuous coverage (as defined in subparagraph (B)(i)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

(B) DEFINITIONS.—As used in this paragraph:

(i) PERIOD OF CONTINUOUS COVERAGE.—The term "period of continuous coverage" means, with respect to particular services, the period beginning on the date an individual is enrolled under a health benefit plan, the medicare program, a State medicaid plan, or other health benefit arrangement which provides benefits with respect to the same or substantially similar services (as determined in accordance with criteria established by the Secretary) and ends on the date the individual is not so enrolled for a continuous period of more than 3 months (or for a longer period with respect to individuals who lose employment and meet such other conditions as the Secretary may specify).

(ii) PREEXISTING CONDITION.—The term "preexisting condition" means, with respect to coverage under a health benefit plan, a condition which has been diagnosed or treated during the 6-month period ending on the day before the first date of such coverage (without regard to any waiting period).

SEC. 5005. PROHIBITION AGAINST WAITING PERIODS.

(a) IN GENERAL.—Except as otherwise provided in this section, a carrier shall provide coverage of an individual under an insured health benefit plan as of the first day of the month following the month of enrollment. A carrier may not impose any waiting period on an enrollee before providing coverage under an insured health benefit plan.

(b) COVERAGE AFTER ENROLLMENT DURING ANNUAL OPEN ENROLLMENT PERIOD.—In the case of an individual who enrolls in an insured health benefit plan during an open enrollment period described in section 5003(b)(3)(A), the carrier shall provide coverage of the individual under the plan effective as of such date as the Secretary may establish with respect to enrollments made during such period.

SEC. 5006. CONTINUATION OF COVERAGE REQUIREMENTS.

(a) IN GENERAL.—A carrier may not refuse to enroll, refuse to renew the enrollment of, or terminate the enrollment of, an individual or employer in an insured health benefit plan except for—

(1) nonpayment of premiums, or

(2) fraud or misrepresentation of material fact.

(b) TRANSITION FOR NONCONFORMING POLICIES.—Notwithstanding State law or the provision of any agreement to the contrary, effective January 1, 1999, a carrier may cancel or refuse to renew a health insurance policy issued in a State prior to the application of this part to health benefit plans sold or issued in the State if the policy does not provide for coverage of the guaranteed national benefit package, but only if the carrier offers the policyholder affected the opportunity to obtain coverage under an insured health benefit plan meeting the standards established under this part.

(c) EXCEPTION FOR PLANS EXITING MARKET.—

(1) IN GENERAL.—A carrier may refuse to renew the enrollment of, or terminate the enrollment of, an individual or employer in an insured health benefit plan offered in a market sector if—

(A) the carrier is terminating the enrollment of all individuals in such plan with the approval of the applicable regulatory authority, or

(B) the carrier is terminating the plan pursuant to a joint marketing agreement entered into prior to January 1, 1994.

(2) LIMITATION ON OFFERING OF OTHER PLANS IN MARKET SECTOR.—If a carrier terminates the enrollment of individuals in a plan offered in a market sector pursuant to paragraph (1) in a State, the carrier may not offer a plan (that is the same type as the type of plan terminated) in the market sector to individuals or employers in the State until the expiration of the 5-year period that begins on the date that no individual is enrolled in the plan in the State.

SEC. 5007. BENEFIT REQUIREMENTS.

(a) REQUIRING OFFER OF PLAN CONSISTING OF GUARANTEED NATIONAL BENEFIT PACKAGE.—

(1) IN GENERAL.—Each carrier that offers an insured health benefit plan shall offer such a plan that only includes coverage for the benefits contained in the guaranteed national benefit package. A carrier may offer a plan within each type of plan within each market sector.

(2) LIMITATION ON OFFERING OF HIGH DEDUCTIBLE PLANS.—A carrier may not offer an insured health benefit plan that is a high deductible plan other than to an employer who demonstrates that the employer is making contributions to medical savings accounts in accordance with section 3466(d)(2)(C)(i) of the Internal Revenue Code of 1986.

(b) PREEMPTION OF STATE LAWS REQUIRING PLANS TO COVER ADDITIONAL BENEFITS.—Subsection (a)(1) shall preempt any State law requiring a carrier to include in an insured health benefit plan coverage for any benefit not contained in the guaranteed national benefit package.

(c) SPECIAL RULE FOR ENROLLEES COVERED UNDER MANAGED MENTAL HEALTH PROGRAMS.—

(1) PAYMENT TO STATE OF CAPITATED PAYMENT.—In the case of an individual enrolled in an insured health benefit plan who is enrolled in a managed mental health program of a State or an Indian tribe or tribal organization approved under section 1981 of the Public Health Service Act for a month—

(A) the individual is considered to have waived the right to benefits for mental health services through the plan in consideration of receipt of benefits for mental health services through such program;

(B) the carrier providing the plan shall make a per capita payment to the State or Indian tribe or tribal organization, in the amount specified in paragraph (2), on behalf of the individual; and

(C) the carrier is not obligated to make any other payment under the plan with respect to mental health services furnished to the individual during the month.

Payments under subparagraph (B) shall be made on a monthly basis.

(2) CAPITATED PAYMENT AMOUNTS.—The amount of the per capita payment required under paragraph (1) shall be an amount determined in accordance with a methodology established by the Secretary (similar to the methodology used under section 1893(b) to determine capitated payments to States and Indian tribes or tribal organizations on behalf of medicare beneficiaries enrolled in such programs) that reflects the portion of the premium associated with the coverage of mental health services under the guaranteed national benefit package that would be provided to the individual under the plan if the individual were not enrolled in the managed mental health program.

(3) MENTAL HEALTH SERVICES DESCRIBED.—In this subsection, the term 'mental health services' has the meaning given such term in section 1893(c) of the Social Security Act.

(d) SPECIAL REQUIREMENTS RELATING TO PRESCRIPTION DRUGS.—With respect to outpatient prescription drugs covered under an insured health benefit plan, the plan may subject the coverage of the drug to prospective review, prior authorization, or drug use review, but only if such review or authorization is conducted in the same manner and under the same terms as provided under section 1834(d)(6) of the Social Security Act.

SEC. 5008. REQUIREMENTS RELATING TO COMMUNITY RATING OF PREMIUMS.

(a) RATING REQUIREMENT.—Subject to subsections (b) and (e), the premium rate charged by a carrier for a type of insured health benefit plan in a community-rating area (as specified under subsection (c)) within the community-rated market sector shall not vary except by class of enrollment in accordance with subsection (d).

(b) TRANSITION.—

(1) GENERAL TRANSITION.—Except in the case of a State described in paragraph (2):

(A) FIRST YEAR.—In the first year for which this part applies to a carrier in a State, the premium rate charged by the carrier for an insured health benefit plan providing the guaranteed national benefit package in a community-rating area may vary within a class of enrollment so long as the premium range percentage (as defined in paragraph (3)) does not exceed ⅔ of the premium range percentage of premium rates charged by the carrier for insured health benefit plans providing similar benefits in the community-rating area in the previous year.

(B) SECOND YEAR.—In the second year for which this part applies to a carrier in a State, the premium rate charged by the carrier for an insured health benefit plan providing the guaranteed national benefit package in a community-rating area may vary within a class of enrollment so long as the premium range percentage does not exceed ½ of the maximum premium range percentage permitted under paragraph (1) for the previous year.

(2) SPECIAL TRANSITION FOR STATES SUBJECT TO DELAYED IMPLEMENTATION.—In the case of a State described in section 5001(b)(2), in the first year for which this part applies to a carrier in the State, the premium rate charged by the carrier for an insured health benefit plan providing the guaranteed national benefit package in a community-rating area may vary within a class of enrollment so long as the premium range percentage (as defined in paragraph (3)) does not exceed ½ of the premium range percentage of premium rates charged by the carrier for insured health benefit plans providing similar benefits in the community-rating area in the previous year.

(3) PREMIUM RANGE PERCENTAGE DEFINED.—In this subsection, the term "premium range percentage" means—

(A) the highest premium rate minus the lowest premium rate, divided by

(B) the lowest premium rate,

expressed as a percentage.

(4) PERMISSIBLE VARIATION.—Section 5002(a) and 5002(b) (insofar as such sections relate to age, health status, or anticipated need for health services) shall not apply to variations in premiums permitted under this subsection.

(5) NO TRANSITION PERMITTED AFTER 1998.—In no event may any variation in premiums be permitted pursuant to this subsection after December 31, 1998.

(c) SPECIFICATION OF COMMUNITY-RATING AREA.—

(1) IN GENERAL.—For purposes of this section, a community-rating area shall be determined consistent with this subsection.

(2) NO SPLITTING OF MSA.—The entire part of a metropolitan statistical area shall be in the same community-rating area.

(3) TREATMENT OF NON-MSA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all portions of a State that are outside a metropolitan statistical area shall be in a single community-rating area.

(B) STATE MAY DIVIDE.—A State may divide the portions of a State that are outside a metropolitan statistical area into more than one community-rating area.

(4) NO OVERLAPPING AREAS PERMITTED.—No portion of a State may be in more than one community-rating area.

(5) SPECIAL RULE.—Notwithstanding paragraph (2), the State of New York shall define a community-rating area to be the same area as an area defined (as of August 1, 1994) pursuant to section 4317 of the Insurance Law of the State of New York.

(d) CHARGING RATES BY CLASS OF ENROLLMENT.—

(1) IN GENERAL.—Each carrier shall establish separate premium rates for each of the three classes of enrollment described in section 3(b) for each market sector (including the large employer market sector).

(2) VARIATIONS ONLY BY ACTUARIAL VALUE.—The differences among such rates for an insured health benefit plan shall reflect only differences in the actuarial value of the guaranteed national benefit package among the classes of enrollment, consistent with standards established by the Secretary.

(e) RISK ADJUSTMENT.—

(1) DEVELOPMENT OF MODELS BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall develop one or more model risk adjustment systems under which premiums applicable to insured health plans offered by carriers in the community-rated market sector would be adjusted to take into account such factors as the Secretary considers appropriate to predict the future need and use of services by individuals enrolled in such plans, which may include—

(i) the age, gender, geographic residence, health status, socioeconomic status, or other demographic characteristics of individuals enrolled in such plans; and

(ii) the proportion of individuals enrolled in such plans who are AFDC recipients (as defined in section 2(1)) or SSI recipients (as defined in section 2(11)).

(B) UPDATING MODELS.—The Secretary may periodically modify the model risk adjustment systems developed under subparagraph (A) as the Secretary considers appropriate.

(C) ADJUSTMENT FOR PEDIATRIC RISK FACTORS.—In addition to the risk adjustment methodology developed under subparagraph (A), the Secretary shall develop such a model methodology for pediatric risk factors, based on factors that predict solely the future need and use of health services by children enrolled in health benefit plans.

(2) APPLICATION OF METHODOLOGY TO PLANS.—The State shall require carriers providing insured health plans in the State in the community-rated market sector to meet the requirements of one of the model risk adjustment systems developed by the Secretary under paragraph (1)(A), or the requirements of an alternative system adopted by the State and approved by the Secretary.

(f) EXTENSION OF COMMUNITY RATES TO LARGE GROUP MARKET SECTOR.—Nothing in this section shall be construed to prohibit a carrier from offering a plan in the large group market sector at the rate applicable to the plan in the community-rated market sector.

SEC. 5009. SPECIAL REQUIREMENTS FOR MANAGED CARE AND POINT-OF-SERVICE PLANS.

(a) IN GENERAL.—The additional requirements of this section shall apply—

(1) in the case of a managed care plan; and

(2) with respect to the furnishing of items and services through a provider network of a point-of-service plan.

(b) ARRANGEMENTS WITH PROVIDERS.—

(1) IN GENERAL.—The carrier shall enter into such agreements with health care providers (including primary and specialty providers for children) or have such other arrangements as may be necessary to assure that individuals enrolled with the plan have reasonably prompt access to all items and services contained in the guaranteed national benefit package (including access to services on a 24-hour basis where medically necessary), in a manner that assures the continuity of the provision of such items and services.

(2) PROVISION OF PHYSICIANS' SERVICES.—In the case of a managed care plan, the plan provides for coverage of physicians' services primarily—

(A) directly through physicians who are either employees or partners of the carrier offering the plan; or

(B) through contracts with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

(3) ACCESS TO CENTERS OF EXCELLENCE.—

(A) IN GENERAL.—The carrier shall demonstrate that individuals enrolled in a plan (including individuals with acute life-threatening and chronic diseases) have access through the plan's provider network to specialized treatment expertise of designated centers of excellence. The carrier shall demonstrate such access according to standards developed by the Secretary, including requirements relating to plan arrangements with such centers and plan referral of patients to such centers.

(B) DESIGNATION PROCESS FOR CENTERS OF EXCELLENCE.—The Secretary shall establish a process for the designation of facilities as centers of excellence for purposes of this paragraph. Such process may include the use of treatment outcomes data.

(C) REQUIREMENTS FOR DESIGNATION.—A facility may not be designated pursuant to subparagraph (B) unless the facility is determined—

(i) to provide specialty care,

(ii) to deliver care for complex cases requiring specialized treatment and for individuals with acute life-threatening or chronic diseases, and

(iii) to meet any other requirements that shall be established by the Secretary relating to specialized education and training of health professionals, participation in peer-reviewed research or clinical trials, or treatment of patients from outside the geographic area of the facility.

(4) NO REFERRAL REQUIRED FOR OBSTETRICS AND GYNECOLOGY.—A carrier may not require an individual to obtain a referral in order to obtain covered items and services from a physician who specializes in obstetrics and gynecology.

(5) PROTECTIONS FOR INDIVIDUALS WITH DISABILITIES.—A carrier take such measures as may be necessary to ensure the provision of covered items and services for individuals with disabilities, including such measures as may be necessary to ensure access to centers of excellence and essential community providers.

(c) PROVISION OF EMERGENCY AND URGENT CARE SERVICES.—

(1) IN GENERAL.—The plan must cover medically necessary emergency and urgent care services provided to enrollees (including trauma services provided by designated trauma centers), without regard to whether or not the provider furnishing such services has a contractual (or other) arrangement with the plan to provide items or services to enrollees of the plan and, in the case of services furnished for the treatment of an emergency medical condition (as defined in section 1867(e)(1) of the Social Security Act), without regard to prior authorization.

(2) DESIGNATED TRAUMA CENTERS DEFINED.—In paragraph (1), the term "designated trauma center"—

VOL 140 PT 15 AG 10 — 11 1994 UMI

(A) has the meaning given such term in section 1231 of the Public Health Service Act, and

(B) includes (for years prior to 2001) a trauma center that—

(i) is located in a State that has not designated trauma centers under section 1213 of such Act, and

(ii) the Secretary finds meets the standards under such section to be a designated trauma center.

(d) STANDARDS RELATING TO PROVIDER NETWORKS.—

(1) LIMITATIONS ON ABILITY TO EXCLUDE PROVIDERS FROM NETWORK.—

(A) IN GENERAL.—Except as provided in subparagraph (C), a carrier offering an insured health plan may not exclude from the provider network of the plan any provider of covered items or services (including a nonphysician provider) who is willing to accept the terms for participation in the network, including terms relating to the schedule of fees, covered expenses, and quality standards.

(B) CONSTRUCTION.—Nothing in this section may be construed to prohibit a carrier from carrying out any of the following activities with respect to providers who are members of a plan's provider network:

(i) Instituting criteria for the credentialing of providers.

(ii) Requiring providers to accept discounts in fees.

(iii) Matching the availability of providers with the needs of individuals enrolled in the plan.

(iv) Establishing measures to maintain quality and control costs.

(C) EXCEPTION FOR DEDICATED GROUP AND STAFF MODEL HEALTH MAINTENANCE ORGANIZATIONS.—Subparagraph (A) shall not apply with respect to a managed care plan that is a health maintenance organization if the organization—

(i) is treated as described in section 501(c)(3) of the Internal Revenue Code of 1986 pursuant to section 501(n)(2) of such Code, or

(ii) is not so treated but substantially all of its primary care health services are provided by the organization to its members at its own facilities through health care professionals who do not provide substantial health care services other than on behalf of such organization.

(2) DUE PROCESS PROTECTIONS FOR PROVIDERS.—

(A) STANDARDS FOR SELECTION OF PROVIDERS FOR NETWORK.—

(i) ESTABLISHMENT.—The carrier shall establish standards to be used by the carrier for contracting with health care providers with respect the plan's provider network. Such standards shall be established in consultation with providers who are members of the network.

(ii) DISTRIBUTION OF INFORMATION.—Descriptive information regarding these standards shall be made available to enrollees, providers who are members of the network, and prospective enrollees and prospective participating providers.

(B) NOTICE REQUIREMENT.—

(i) IN GENERAL.—The carrier may not terminate or refuse to renew an agreement with a provider to participate in the plan's provider network unless the carrier provides written notification to the provider of the carrier's decision to terminate or refuse to renew the agreement. The notification shall include a statement of the reasons for the carrier's decision, consistent with the standards established under subparagraph (A).

(ii) TIMING OF NOTIFICATION.—The carrier shall provide the notification required under clause (i) at least 60 days prior to the effective date of the termination or expiration of the agreement (whichever is applicable). The previous sentence shall not apply if failure to terminate the agreement prior to the deadline would adversely affect the health or safety of an individual enrolled with the plan.

(C) REVIEW PROCESS.—

(i) IN GENERAL.—The carrier shall provide a process under which the provider may request a review of the carrier's decision to terminate or refuse to renew the provider's participation agreement. Such review shall be conducted by a group of individuals the majority of whom are health care providers who are members of the plan's provider network or employees of the carrier, and who are members of the same profession as the provider who requests the review.

(ii) COUNSEL.—If the provider requests in advance, the carrier shall permit an attorney representing the provider to be present at the provider's review.

(iii) REVIEW ADVISORY.—The findings and conclusions of a review under this subparagraph shall be advisory and nonbinding.

(D) CONSTRUCTION.—Nothing in this paragraph shall be construed to affect any other provision of law that provides an appeals process or other form of relief to a provider of health care services.

(3) DEVELOPMENT OF MEDICAL POLICIES.—The carrier shall consult with physicians who are members of the plan's network in the development of the plan's medical policy, quality and credentialing criteria, and medical management procedures.

SEC. 5010. STANDARDS FOR MARKETING OF HEALTH BENEFIT PLANS.

(a) MARKETING RESTRICTIONS ON CARRIERS.—

(1) IN GENERAL.—Each carrier—

(A) shall file any marketing materials for insured health benefit plans it provides for approval by the applicable regulatory authority prior to distributing them within the plan's service area;

(B) may not distribute any such materials that have not been previously approved by such authority, and

(C) shall comply with such other requirements as the Secretary may impose, including requirements to assure that marketing materials do not include false or materially misleading information and other requirements designed to inappropriate marketing practices, including abusive enrollment procedures.

(2) RESTRICTION ON USE OF MARKETING MATERIALS.—All such approved marketing materials—

(A) shall be made available uniformly to all individuals eligible to enroll in plans of the carrier pursuant to section 5003, and

(B) may not be used to attract or limit enrollment of certain individuals or groups on the basis of personal characteristics or anticipated need for health services.

(3) PROHIBITION OF TIE-INS.—A carrier may not seek to influence an individual's choice to enroll in a health benefit plan in conjunction with the offering or sale of any other product. The Secretary may establish rules to carry out this paragraph.

(b) NONDISCRIMINATION IN AGENT COMPENSATION.—A carrier—

(1) may not vary or condition the compensation provided to an agent or broker related to the sale or renewal of an insured health benefit plan because of the health status or claims experience of any individuals enrolled with the carrier through the agent or broker; and

(2) may not terminate, fail to renew, or limit its contract or agreement of representation with an agent or broker for any reason related to the health status or claims experience of any individuals enrolled with the carrier through the agent or broker.

(c) CONSTRUCTION.—Nothing in this subtitle (other than subsection (b)) may be construed to permit a State (including the enrollment assistance program established in the State under section 5011(b)) or a consumer purchasing cooperative to restrict the ability of a carrier to contract with an agent or broker for the sale of an insured health plan offered by the carrier.

SEC. 5011. COLLECTION AND DISSEMINATION OF PLAN INFORMATION.

(a) PROVISION OF INFORMATION BY CARRIERS.—A carrier providing an insured health benefit plan in a State shall provide to the applicable regulatory authority information requested by the State to disseminate under this section.

(b) ENROLLMENT ASSISTANCE PROGRAM.—Each applicable regulatory mechanism in a State shall establish and operate an enrollment assistance program which—

(1) provides for enrollment assistance with respect to all insured health benefit plans offered in the community-rated market sector in the State;

(2) provides for sites that are readily available to individuals and employers eligible to seek coverage through plans in such areas and that are not controlled by any carrier (or group or association of carriers), and

(3) must be coordinated with the preparation and provision of annual information on insured health benefit plans under subsection (c).

(c) PROVIDING ANNUAL INFORMATION ON INSURED HEALTH BENEFIT PLANS.—

(1) IN GENERAL.—Each applicable regulatory authority in a State shall annually prepare and make available to consumers, in a uniform format, information on insured health benefit plans sold in the State.

(2) INFORMATION DESCRIBED.—Such information shall include summary information—

(A) for each plan, on—

(i) the premium for the plan and the 3-year rate of increase in such premium,

(ii) identity, location, qualifications and availability of providers in any provider networks of the plan, including the ratio of primary care providers to enrollees during the previous year,

(iii) the number of individuals enrolling and disenrolling from the plan in the previous year,

(iv) procedures used by the plan to control utilization of services and expenditures,

(v) procedures used by the plan to assure quality of care,

(vi) the plan's loss ratio, and

(vii) rights and responsibilities of enrollees, including rights described in title IX;

(B) in addition, for each managed care plan, on—

(i) restrictions on payment for services provided outside the plan's provider network,

(ii) the process by which services may be obtained through the plan's provider network,

(iii) coverage for out-of-area services, and

(iv) any exclusions in the types of providers participating in the plan's provider network;

(C) the means by which individuals may contact the Consumer Health Advocacy Office available for consumers in the State (as established under part O of title III of the Public Health Service Act, as added by title VII); and

(D) such other information as the Secretary may require.

(3) DISSEMINATION OF INFORMATION.—Carriers, agents, and brokers shall provide the information described in this subsection to individuals and employers seeking to purchase health coverage.

(d) DISCLOSURE OF UTILIZATION REVIEW AND QUALITY STANDARDS.—Upon the request of any individual with respect to an insured health plan offered in the State, the State shall make available information on—

(1) procedures used by the plan to control utilization of services and expenditures, and

(2) procedures used by the plan to assure quality of care.

SEC. 5012. REQUIREMENTS FOR ARRANGEMENTS WITH ESSENTIAL COMMUNITY PROVIDERS.

(a) IN GENERAL.—

(1) AGREEMENTS REQUIRED.—Each carrier providing an insured health benefit plan shall, with respect to each essential community provider (as defined in subsection (c)) located within the plan's service area (except as provided in paragraph (2)), offer to enter into a written provider participation agreement (described in subsection (b)) with any such provider who is willing to accept the generally applicable terms for participation, including terms relating to the schedule of fees, covered expenses, and quality standards.

(2) EXCEPTION FOR AGREEMENTS BETWEEN CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND HOSPITALS.—Paragraph (1) shall not apply with respect to any essential community provider that is a hospital in the case of an insured health benefit plan described as follows:

(A) The plan is a managed care plan that is a dedicated group or staff model health maintenance organization (as described in section 5009(d)(1)(C)) and is treated as described in section 501(c)(3) of the Internal Revenue Code of 1986 pursuant to section 501(n)(2) of such Code.

(B) The hospitals through which the plan provides services to its enrollees are owned and operated by the plan, or owned and operated by an organization that shares common ownership and control with the plan.

(b) PARTICIPATION AGREEMENT.—A participation agreement between a carrier and an essential community provider under this subsection shall provide that the plan agrees to treat the provider in accordance with terms and conditions at least as favorable as those that are applicable to other providers with a participation agreement with the plan with respect to each of the following:

(1) The scope of items and services for which payment is made by the plan to the provider.

(2) The rate of payment for covered care and services.

(3) The applicability of financial incentives to participating providers.

(4) Limitations on financial risk provided to other participating providers.

(5) Assignment of enrollees to participating providers.

(c) ESSENTIAL COMMUNITY PROVIDERS DESCRIBED.—In this section, an "essential community provider" means any of the following:

(1) CERTAIN MEDICARE DISPROPORTIONATE SHARE HOSPITALS.—A hospital—

(A) described in section 1886(d)(5)(F)(i)(II) of the Social Security Act;

(B) described in section 1886(d)(5)(F)(iv)(I) of such Act with a disproportionate patient percentage (as defined in section 1886(d)(5)(F)(vi) of such Act) greater than 20.2; or

(C) that would be described in subparagraph (A) or (B) if—

(i) the hospital were a subsection (d) hospital (as defined in section 1886(d)(1)(B) of such Act), or

(ii) in the case of a hospital whose inpatients are predominantly individuals under 18 years of age, if the hospital were a subsection (d) hospital with more than 100 beds.

(2) DESIGNATED CANCER HOSPITALS.—A hospital that the Secretary has classified as a hospital involved extensively in treatment for or research on cancer, as described in section 1886(d)(1)(B)(v) of such Act.

(3) SOLE COMMUNITY HOSPITALS.—A sole community hospital (as described in section 1886(d)(5)(D)(iii) of such Act).

(4) MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.—A medicare-dependent, small rural hospital (as described in section 1886(d)(5)(G)(iii) of such Act), or a hospital that would be a medicare-dependent, small rural hospital if the hospital were a subsection (d) hospital (as defined in section 1886(d)(1)(B) of such Act).

(5) FEDERALLY QUALIFIED HEALTH CENTERS.—A Federally qualified health center (as defined in section 1905(l)(2)(B) of such Act) or an entity that would be such a center but for its failure to meet the requirement described in section 329(f)(2)(G)(i) of the Public Health Service Act or the requirement described in section 330(e)(3)(G)(i) of such Act (relating to the composition of the entity's governing board).

(6) RURAL HEALTH CLINICS.—A rural health clinic (as defined in section 1861(aa)(2) of the Social Security Act).

(7) FAMILY PLANNING CLINICS.—A family planning project receiving funds under title X of the Public Health Service Act (or receiving funds from a State pursuant to such title) or receiving funds under title V or XX of the Social Security Act (or receiving funds from a State pursuant to such a title).

(8) CERTAIN DIAGNOSTIC AND TREATMENT CENTERS.—A nonprofit center or clinic that is licensed under a State law in effect as of January 1, 1994, as a diagnostic and treatment center which provides primary care services (including obstetric and gynecology services) in an area—

(A) designated by the Secretary as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act, or

(B) with a significant number of individuals who are members of a medically underserved population designated by the Secretary under section 330 of such Act.

(9) LOCAL HEALTH DEPARTMENTS.—A health department of a unit of State or local government which provides health services directly to individuals.

(10) PROVIDERS SERVING UNDERSERVED AREAS.—

(A) IN GENERAL.—Any provider of health care services who meets the requirement of subparagraph (B) (if applicable) and is described as follows (in accordance with certification standards of the Secretary):

(i) The provider furnishes services not less than 20 hours per week—

(I) in an area designated by the Secretary as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act, or

(II) in an area with a significant number of individuals who are members of a medically underserved population designated by the Secretary under section 330 of such Act.

(ii) The provider—

(I) serves for at least 20 hours per week at the principal site in a neighborhood or community in which persons reside who are at risk of being medically underserved (in accordance with criteria established by the Secretary), and

(II) is available to patients evenings and weekends at the principal site.

(B) REQUIREMENT FOR PHYSICIANS.—In the case of an individual provider who is a physician, the provider must be board certified, hold hospital staff privileges, or be affiliated with one or more physicians holding hospital staff privileges.

(11) INDIAN HEALTH FACILITIES.—A health program of the Indian Health Service electing treatment as an essential community provider under section 903(c) of the Indian Health Care Improvement Act.

(12) CERTAIN PROVIDERS OF SERVICES FOR HIV.—Any public or private nonprofit entity receiving funds from a State or unit of local government pursuant to title XXVI of the Public Health Service Act that the Secretary determines provides primary care services, or any entity receiving a grant under subpart 2 of part C of such title.

(13) PROVIDER OF SCHOOL HEALTH SERVICES.—A provider of school health services that is eligible to receive funds under subtitle D of title VII, without regard to whether the provider receives such funds, but only with respect to services for which the provider may receive funding under such subtitle.

(14) NATIVE HAWAIIAN HEALTH CENTERS.—A Native Hawaiian Health Center (as defined in section 8(4) of the Native Hawaiian Health Care Act of 1988).

(15) RURAL PRIMARY CARE HOSPITAL.—A rural primary care hospital (as designated by the Secretary under section 1820(i)(2)).

(16) RESIDENTIAL TREATMENT PROGRAMS FOR PREGNANT WOMEN.—A program receiving a grant under section 508 of the Public Health Service Act.

(17) MEDICAL ASSISTANCE FACILITIES.—A facility participating in a demonstration project described in section 4008(i) of the Omnibus Budget Reconciliation Act of 1990.

(18) HEMOPHILIA TREATMENT CENTERS.—A comprehensive hemophilia diagnostic and treatment center receiving a grant under section 501(a)(2) of the Social Security Act.

(19) CERTAIN COMMUNITY CLINICS.—A community clinic organized as a nonprofit, public benefit corporation under California Health and Safety Code §1204(a) that does not charge patients directly for services rendered.

(d) SPECIAL RULE FOR PAYMENTS TO CERTAIN ESSENTIAL COMMUNITY PROVIDERS.—In the case of services in the guaranteed national benefit package that are furnished to an enrollee of an insured health benefit plan by any Federally qualified health center (described in subsection (c)(5)) or rural health clinic (described in subsection (c)(6)), the amount of payment made to the center or clinic for such services shall be determined in accordance with the payment methodology used to determine the amount of payment to such a center for services furnished under part B of title XVIII, unless the center or clinic elects to receive payment under an alternative methodology.

(e) REQUIRING ESSENTIAL COMMUNITY PROVIDERS TO PROVIDE SERVICES TO CERTAIN INDIVIDUALS.—An individual or entity may not be treated as an essential community provider under this section unless the individual or entity—

(1) provides services to individuals without regard to their ability to pay for such services (in accordance with standards established by the Secretary); and

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) effective January 1, 1999, is a participating provider under medicare part C.

SEC. 5013. REQUIREMENTS RELATING TO PLAN SOLVENCY.

(a) IN GENERAL.—A carrier shall comply with the following procedures and requirements in order to assure solvency of insured health benefit plans provided by the carrier:

(1) The carrier shall meet the capital requirements established by the applicable regulatory authority.

(2) The carrier shall arrange for an annual audit by an independent accountant of financial statements reporting its financial position and its financial activities with regard to its health plan business.

(3) The carrier shall arrange for an annual opinion by its appointed actuary on the reasonableness of assets held by the carrier.

(4) The carrier shall maintain separate records of finances, financial transactions, assets, and liabilities related to all business undertaken with respect to its health plan or plans.

(5) The carrier shall participate in the health plan guaranty fund established by the applicable regulatory authority.

(6) The carrier shall comply with such corrective actions, and shall cease such practices which, if not corrected, would jeopardize the financial solvency of the carrier, as the applicable regulatory authority may require.

(7) The carrier shall comply with all other solvency standards and requirements established by the Secretary.

(b) AUTHORITY OF APPLICABLE REGULATORY AUTHORITIES IN RELATION TO FINANCIAL SOLVENCY.—Each applicable regulatory authority, with respect to carriers and insured health benefit plans over which it exercises authority—

(1) may examine the financial and operating records of the carriers (and each plan of such carriers) and plans,

(2) may order a carrier to take corrective actions and to cease practices which, if not corrected, would jeopardize the financial solvency of the carrier, and

(3) shall take any actions necessary to assure the payment of claims on behalf of individuals enrolled in insured health benefit plans provided by carriers declared to be financially impaired, in a financially hazardous condition, or insolvent.

(c) RESPONSE TO CARRIER FINANCIAL INSTABILITY.—

(1) NOTIFICATION.—Upon determining that a carrier may be financially impaired, in a financially hazardous condition, or insolvent, the applicable regulatory authority of a State in which a carrier is licensed to operate shall—

(A) notify the Secretary of such determination in a timely manner; and

(B) notify the applicable regulatory authority of the State in which the carrier is domiciled (if the carrier is domiciled in a State other than the State providing the notification).

(2) PROCEEDINGS TO REHABILITATE OR LIQUIDATE INSOLVENT CARRIERS.—Upon receiving a notification under paragraph (1)(B) (if applicable), the applicable regulatory authority of the State in which the carrier is domiciled shall take the carrier into conservatorship and begin proceedings to rehabilitate or liquidate the carrier in accordance with State law.

(3) PROTECTIONS FOR ENROLLEES.—In the case of an insured health benefit plan in a State for which the applicable regulatory authority in the State has made a determination that the carrier offering the plan may be financially impaired, in a financially hazardous condition, or insolvent—

(A) a provider of items and services covered under the plan may not charge or collect payment for such an item or service furnished to an individual enrolled in the plan (other than any cost-sharing otherwise applicable with respect to the item or service); and

(B) a provider of items and services covered under the plan shall continue to provide such items and services to individuals enrolled in the plan until such individuals are no longer enrolled in the plan.

(d) STATE HEALTH PLAN GUARANTY FUND.—Each State shall assure that there is a health plan guaranty fund in operation in the State that meets requirements established by the Secretary in order to provide for the payment of outstanding provider claims and obligations of an insured health benefit plan offered by a carrier determined to be financially impaired, in a financially hazardous condition, or insolvent by the applicable regulatory authority in the State.

SEC. 5014. UTILIZATION REVIEW.

(a) REQUIRING REVIEW TO MEET STANDARDS.—A carrier offering an insured health benefit plan may not deny coverage of or payment for items and services on the basis of a utilization review program unless the program meets the standards established by the Secretary under this section.

(b) ESTABLISHMENT OF STANDARDS BY SECRETARY.—The Secretary shall establish standards for utilization review programs of insured health benefit plans, consistent with subsection (c), and shall periodically review and update such standards to reflect changes in the delivery of health care services. The Secretary shall establish such standards in consultation with appropriate parties.

(c) REQUIREMENTS FOR STANDARDS.—Under the standards established under subsection (b)—

(1) individuals performing utilization review may not receive financial compensation based upon the number of denials of coverage;

(2) negative determinations of the medical necessity or appropriateness of services or the site at which services are furnished may be made only by clinically qualified personnel;

(3) the utilization review program shall provide for a process under which an enrollee or provider may obtain timely review of a denial of coverage;

(4) utilization review shall be conducted in accordance with uniformly applied standards that are based on the most currently available medical evidence;

(5) providers shall participate in the development of the utilization review program;

(6) the timing of the utilization review and the information required to be reviewed shall be commensurate with the medical need of the individual for whom the service is to be furnished; and

(7) prior authorization for the delivery of services shall not be permitted in inappropriate circumstances.

SEC. 5015. ACCEPTANCE OF PREMIUM CERTIFICATES.

(a) IN GENERAL.—If an individual covered under an insured health benefit plan offered by a carrier tenders to the carrier a premium certificate issued under part A of title XXII of the Social Security Act, the carrier shall reduce by the value of the certificate the amount of any premium required to be paid by the individual for periods beginning after the date of tender of the certificate unless otherwise provided by the Secretary.

(b) TENDER OF CERTIFICATE.—

(1) IN GENERAL.—If an individual tenders to a carrier a premium certificate under subsection (a), the carrier may tender such a certificate to the Secretary, in a manner specified by the Secretary, and, upon such tender, is entitled to receive the value of the certificate so tendered.

(2) TENDER THROUGH UNIVERSAL FEHBP OR COOPERATIVES.—Paragraph (1) shall apply with respect to an individual on whose behalf a premium certificate is tendered by the Director of the Office of Universal FEHBP under subtitle D or a consumer purchasing cooperative under subtitle E.

SEC. 5016. ADDITIONAL REQUIREMENTS FOR INSURED HEALTH BENEFIT PLANS.

In addition to the requirements imposed by the preceding provisions of this part, each carrier providing an insured health benefit plan shall meet the following additional requirements:

(1) ISSUANCE OF HEALTH SECURITY CARDS; COORDINATION OF INDIVIDUAL ENTITLEMENT.—The carrier shall issue health security cards and carry out other administrative functions in accordance with regulations developed by the Secretary including the issuance of an annual written statement to enrollees verifying enrollment in a private health plan and the provision of information on enrollees to the Secretary which the Secretary may forward to the Secretary of the Treasury.

(2) COMPLIANCE WITH PAYMENT RULES.—The carrier provides for payment for items and services consistent with any State system approved under title IV.

(3) OTHER REQUIREMENTS.—The carrier shall meet the applicable requirements of the following provisions of this Act:

(A) Subtitle A of title IX (relating to grievance and appeals procedures, participation in the National Quality Management Program, and the privacy of information on enrollees).

(B) Subtitle B of title IX (relating to data management and reporting and administrative simplification).

Subtitle B—Standards for Sponsors and Self-Insured Health Benefit Plans

PART 1—GENERAL REQUIREMENTS

SEC. 5101. REQUIREMENT FOR CERTIFICATION OF SPONSORS AND PLANS.

(a) IN GENERAL.—No sponsor may offer a self-insured health benefit plan (as defined in section 5504(11)) during a year on or after the effective date specified in subsection (b) (or enroll any individual under such a plan beginning on or after such effective date) unless the sponsor and the plan have been certified for the year by the Secretary of Labor (in accordance with such procedures as the Secretary of Labor establishes) as meeting the applicable standards established under section 5501(a)(2) consistent with this subtitle.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to contracts under a self-insured health benefit plan sold, issued, or renewed on or after January 1, 1997.

SEC. 5102. LIMITATION ON ELIGIBLE SPONSORS.

(a) IN GENERAL.—No entity may serve as the sponsor of a self-insured health benefit plan unless the entity is an eligible sponsor (as defined in subsection (b)) who elects, in a form and manner specified by the Secretary of Labor consistent with this subtitle, to be treated as the sponsor of such a plan and to be subject to the standards established by the Secretary of Health and Human Services for such plans under section 5501(a)(2).

(b) ELIGIBLE SPONSORS.—

(1) IN GENERAL.—In this section, each of the following is an eligible sponsor:

(A) LARGE EMPLOYER.—An employer that is a large employer as of the date of an election under subsection (a), with respect to employees, former employees, and family members.

(B) PLAN SPONSOR OF A MULTIEMPLOYER PLAN.—A plan sponsor described in section 3(16)(B)(iii) of Employee Retirement Income Security Act of 1974, but only with respect to participants and beneficiaries (as defined in section 3 of such Act) covered under a group health plan that is a multiemployer plan (as defined in subsection (c)(3)) maintained by the sponsor and only if (as of the date of an election under subsection (a)) such plan—

(i) covers more than 100 full-time employees in the United States, or

(ii) the plan is maintained by one or more affiliates of the same labor organization, or one or more affiliates of labor organizations representing employees in the same industry, covering more than 100 full-time employees.

(C) RURAL ELECTRIC COOPERATIVE AND RURAL TELEPHONE COOPERATIVE ASSOCIATION.—A rural electric cooperative or a rural telephone cooperative association, but only with respect to employees, former employees, and family members covered under a group health plan that is maintained by such cooperative or association (or members of such cooperative or association) and only if such plan has more than 100 employees in the United States entitled to benefits under the plan.

(2) EXCLUSION OF SPONSORS OF MEWAS.—The plan sponsor of a multiple employer welfare arrangement may not be considered an eligible sponsor under this subsection.

(c) DEFINITIONS.—In this section, except as otherwise provided:

(1) GROUP HEALTH PLAN.—The term "group health plan" means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974) providing medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) to participants or beneficiaries (as defined in section 3 of the Employee Retirement Income Security Act of 1974) directly or through insurance, reimbursement, or otherwise.

(2) LARGE EMPLOYER.—The term "large employer" has the meaning given such term in section 1106(b)(1)(A).

(3) MULTIEMPLOYER PLAN.—The term "multiemployer plan" has the meaning given such term in section 3(37) of the Employee Retirement Income Security Act of 1974, and includes any plan that is treated as such a plan under title I of such Act.

(4) MULTIPLE EMPLOYER WELFARE ARRANGEMENT.—The term "multiple employer welfare arrangement" has the meaning given such term in section 3(40) of the Employee Retirement Income Security Act of 1974 (as in effect on the day before the date of the enactment of this Act).

(5) RURAL ELECTRIC COOPERATIVE.—The term "rural electric cooperative" has the meaning given such term in section 3(40)(A)(iv) of the Employee Retirement Income Security Act of 1974.

(6) RURAL TELEPHONE COOPERATIVE ASSOCIATIONS.—The term "rural telephone cooperative association" has the meaning given such term in section 3(40)(A)(v) of the Employee Retirement Income Security Act of 1974.

SEC. 5103. NON-DISCRIMINATION.

(a) IN GENERAL.—Section 5002 shall apply with respect to a sponsor of a self-insured health benefit plan in the same manner as such provisions apply with respect to a carrier providing an insured health benefit plan.

(b) PROHIBITING OFFERING INDUCEMENT TO ENROLL IN INSURED HEALTH BENEFIT PLANS.—A sponsor of a self-insured health benefit plan may not offer any inducement to any individual eligible to seek coverage through the sponsor to seek coverage elsewhere.

SEC. 5104. REQUIREMENTS RELATING TO ENROLLMENT.

(a) ENROLLMENT IN CHOSEN PLAN.—The sponsor of a self-insured health benefit plan shall enroll an individual eligible to seek coverage through the sponsor in the plan chosen by the individual from among the plans offered by the sponsor (in accordance with the requirements of section 5107).

(b) ANNUAL OPEN ENROLLMENT PERIOD.—The sponsor of a self-insured health benefit plan shall provide for an annual open enrollment period of at least 45 days during which individuals eligible to enroll in the plan may change the health benefit plan under which they are provided coverage.

(c) CHANGES IN ENROLLMENT DURING 1ST YEAR OF ENROLLMENT.—Once during the first year for which an individual is enrolled in a plan offered by the sponsor of a self-insured health benefit plan, the individual may change the health benefit plan in which the individual is enrolled. Such a change shall be effective on the first day of the first month beginning at least 45 days after the date the sponsor receives a notice of change of coverage.

(d) ENROLLMENT OF NEWLY ELIGIBLE INDIVIDUALS.—The sponsor of a self-insured health benefit plan may not refuse to enroll an individual who is eligible to enroll in a health benefit plan offered by the sponsor and is not enrolled in such a plan.

SEC. 5105. PROHIBITION ON PRE-EXISTING CONDITION EXCLUSIONS.

The provisions of section 5004(a) shall apply with respect to the sponsor of a self-insured health benefit plan in the same manner as such provisions apply with respect to a carrier providing an insured health benefit plan.

SEC. 5106. PROHIBITION ON WAITING PERIODS.

(a) IN GENERAL.—The provisions of section 5005(a) shall apply with respect to the sponsor of a self-insured health benefit plan in the same manner as such provisions apply with respect to a carrier providing an insured health benefit plan.

(b) COVERAGE AFTER ENROLLMENT DURING ANNUAL OPEN ENROLLMENT PERIOD.—In the case of an individual who enrolls in a self-insured health benefit plan during an open enrollment period described in section 5104(b), the sponsor shall provide coverage of the individual under the plan effective as of such date as the sponsor may establish with respect to enrollments made during such period (consistent with the standards established by the Secretary of Health and Human Services under section 5501(c)).

SEC. 5107. BENEFIT REQUIREMENTS.

(a) OFFER OF PLAN CONSISTING OF GUARANTEED NATIONAL BENEFIT PACKAGE.—Each sponsor of a self-insured health benefit plan—

(1) shall offer all enrollees a health benefit plan consisting only of coverage for the benefits (including cost-sharing) contained in the guaranteed national benefit package; and

(2) may offer a health benefit plan consisting of coverage for the benefits described in paragraph (1) and (subject to subsection (d)) additional benefits.

(b) OFFER OF PLAN PROVIDING UNLIMITED CHOICE OF PROVIDERS.—Each sponsor of a self-insured health benefit plan shall assure that all enrollees are offered coverage in—

(1) at least one managed care plan (unless there is no such plan available in the area); and

(2) at least one unlimited-choice-of-provider plan, which may be a point-of-service plan.

(c) SPECIAL RULE FOR ENROLLEES COVERED UNDER STATE MANAGED MENTAL HEALTH PROGRAMS.—The provisions of section 5007(c) shall apply to sponsors of self-insured health benefit plans in the same manner as they apply to carriers providing insured health benefit plans.

(d) NON-DISCRIMINATION IN ADDITIONAL BENEFITS FOR NON-EMPLOYER PLANS.—In the case of a self-insured health benefit plan with an eligible sponsor described in subparagraph (B) or (C) of section 5102(b)(1), if the sponsor offers additional benefits pursuant to subsection (a)(2) that consist of a reduction in the cost-sharing imposed under a plan, the sponsor shall provide such additional benefits to all enrollees in the same manner as an employer would be required under 1112.

SEC. 5108. REQUIREMENTS RELATING TO RATING OF PREMIUMS.

(a) CHARGING RATES BY CLASS OF ENROLLMENT.—The sponsor of a self-insured health benefit plan shall establish separate premium rates for each of the three classes of enrollment described in section 3(b) of the Guaranteed Health Insurance Act of 1994.

(b) VARIATIONS ONLY BY ACTUARIAL VALUE.—

(1) IN GENERAL.—The differences among premium rates established under subsection (a) shall reflect only differences in the actuarial value of the guaranteed national benefit package among the classes of enrollment, consistent with standards established by the Secretary of Health and Human Services.

(2) PERMITTING VARIATION BY GEOGRAPHIC AREA OF ENROLLMENT.—At the option of the sponsor of a self-insured health benefit plan, in applying paragraph (1) the sponsor may vary premium rates based on differences in the actuarial value of the package among classes of enrollment in geographic areas, but only if the geographic areas applied are the same as the community-rating areas established under section 5008(d) with respect to insured health benefit plans offered in the State.

(c) EXCEPTION FOR SPONSORS PAYING ENTIRE PREMIUM.—Subsections (a) and (b) shall not apply in the case of a self-insured health benefit plan offered by a sponsor for which the sponsor does not require the enrollee to contribute any portion of the applicable premium.

SEC. 5109. ADDITIONAL STANDARDS FOR MANAGED CARE PLANS AND POINT-OF-SERVICE PLANS.

The provisions of section 5009 shall apply with respect to a managed care plan and a point-of-service plan provided by the sponsor of a self-insured health benefit plan in the same manner as such provisions apply with respect to a managed care plan and point-of-service plan provided by the carrier providing an insured health benefit plan.

SEC. 5110. PROVISION OF PLAN INFORMATION.

(a) IN GENERAL.—The sponsor of a self-insured health benefit plan shall annually prepare and make available to individuals eligible to enroll in the plan, in a uniform format, information on the plans offered by the sponsor.

(b) INFORMATION DESCRIBED.—The information required to be provided under subsection (a) shall include summary information described in section 5011(b)(2) (other than information described in subparagraph (A)(vi)).

(c) DISCLOSURE OF UTILIZATION REVIEW AND QUALITY STANDARDS.—Upon the request of

VOL 140 PT 15 AG 10 — 11 1994 UMI

any individual eligible to enroll in a self-insured health benefit plan offered by a sponsor, the sponsor shall make available information on—

(1) procedures used by the plan to control utilization of services and expenditures, and

(2) procedures used by the plan to assure quality of care.

SEC. 5111. REQUIREMENTS FOR ARRANGEMENTS WITH ESSENTIAL COMMUNITY PROVIDERS.

The provisions of section 5012 shall apply with respect to the sponsor of a self-insured health benefit plan in the same manner as such provisions apply with respect to a carrier providing an insured health benefit plan.

SEC. 5112. UTILIZATION REVIEW.

The provisions of section 5014 shall apply with respect to a utilization review program of a self-insured health benefit plan in the same manner as such provisions apply with respect to a utilization review program of an insured health benefit plan.

SEC. 5113. ACCEPTANCE OF PREMIUM CERTIFICATES.

The provisions of section 5015 shall apply with respect to the sponsor of a self-insured health benefit plan in the same manner as such provisions apply with respect to a carrier providing an insured health benefit plan.

SEC. 5114. ADDITIONAL REQUIREMENTS FOR SELF-INSURED HEALTH BENEFIT PLANS.

The additional requirements described in section 5016 shall apply with respect to the sponsor of a self-insured health benefit plan in the same manner as such additional requirements apply with respect to a carrier providing an insured health benefit plan, except that the requirements of paragraph (2) of such section shall not apply in the case of a sponsor who is not required to participate in a State system approved under title IV.

PART 2—RESPONSIBILITIES RELATING TO FINANCING

SEC. 5121. RESERVE REQUIREMENTS.

(a) IN GENERAL.—The Secretary of Labor shall ensure that each sponsor of a self-insured health benefit plan maintains plan assets in trust as provided in section 403 of the Employee Retirement Income Security Act of 1974—

(1) without any exemption under section 403(b)(4) of such Act, and

(2) in amounts which the Secretary of Labor determines are sufficient to provide at any time for payment to health care providers of all outstanding balances owed by the plan at such time.

The requirements of the preceding sentence may be met through letters of credit, bonds, or other appropriate security to the extent provided in regulations of the Secretary of Labor.

(b) SOLVENCY REQUIREMENTS.—The Secretary of Labor shall—

(1) prescribe such additional financial reserve requirements (which may include requirements relating to the use of aggregate and specific stop-loss insurance, reinsurance, or any other insurance requirement), and

(2) establish such limits on the amount of risk such a plan may retain,

as may be appropriate to assure the solvency of a self-insured health benefit plan. The requirements and limits shall take into account the number of lives covered and other appropriate risk-related factors identified by the Secretary of Labor.

(c) DISCLOSURE.—The sponsor of a self-insured health benefit plan shall notify the Secretary of Labor at such time as the financial reserve requirements of this section are not being met. The Secretary of Labor may assess a civil money penalty of not more than $100,000 against any sponsor for any failure to provide such notification in such form and manner and within such time periods as such Secretary may prescribe by regulation.

SEC. 5122. TRUSTEESHIP OF INSOLVENT PLANS BY SECRETARY OF LABOR.

(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary of Labor determines that self-insured health benefit plan will be unable to provide benefits when due or is otherwise in a financially hazardous condition as defined in regulations of such Secretary, the Secretary of Labor shall, upon notice to the plan, apply to the appropriate United States district court for appointment of such Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the enrolled individuals or health care providers or to avoid any unreasonable deterioration of the financial condition of the plan or any unreasonable increase in the liability of the Self-Insured Plan Insolvency Fund. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

(b) POWERS AS TRUSTEE.—The Secretary of Labor, upon appointment as trustee under subsection (a), shall have the power—

(1) to do any act authorized by the plan, this Act, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan,

(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee,

(3) to invest any assets of the plan which such Secretary holds in accordance with the provisions of the plan, regulations of such Secretary, and applicable provisions of law,

(4) to do such other acts as such Secretary deems necessary to continue operation of the plan without increasing the potential liability of the Self-Insured Plan Insolvency Fund, if such acts may be done under the provisions of the plan,

(5) to require the plan sponsor, the plan administrator, any contributing employer, and any employee organization representing covered individuals to furnish any information with respect to the plan which such Secretary as trustee may reasonably need in order to administer the plan,

(6) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship,

(7) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan,

(8) to issue, publish, or file such notices, statements, and reports as may be required under regulations of the Secretary or by any order of the court,

(9) to terminate the plan and liquidate the plan assets in accordance with applicable provisions of this Act and other provisions of law, to restore the plan to the responsibility of the large group sponsor, or to continue the trusteeship,

(10) to take such steps as may be necessary to ensure the continuation of the individual's enrollment in a plan providing coverage of the guaranteed national benefit package, and

(11) to do such other acts as may be necessary to comply with this Act or the Employee Retirement Income Security Act of 1974 or any order of the court and to protect the interests of enrolled individuals and health care providers.

(c) NOTICE OF APPOINTMENT.—As soon as practicable after such Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

(1) the plan administrator,

(2) each enrolled individual,

(3) each employer who may be liable for contributions to the plan, and

(4) each employee organization which, for purposes of collective bargaining, represents enrolled individuals.

(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this Act or title I of the Employee Retirement Income Security Act of 1974, the Secretary of Labor, upon appointment as trustee under this section, shall have the same rights, powers, and duties as those of a trustee under chapters 1, 3 (other than the right to compensation under section 330), and 5, and subchapters I and II of chapter 7, of title 11, United States Code, and shall have the duties of a fiduciary for purposes of such title I.

(e) OTHER PROCEEDINGS.—An application by the Secretary of Labor under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

(f) JURISDICTION OF COURT.—

(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this subsection, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this subsection, of a court of the United States having jurisdiction over cases under title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary of Labor as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the large group sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of such Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

(2) VENUE.—An action under this subsection may be brought in the judicial district where the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

(g) PERSONNEL.—In accordance with regulations of the Secretary of Labor, such Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with such Secretary's service as trustee under this section.

SEC. 5123. PROVISION OF AMOUNTS DUE PROVIDERS FROM INSOLVENT PLANS.

(a) IN GENERAL.—To the extent that amounts are available in the Fund established under subsection (b), the Secretary of Labor shall make payment from such Fund of outstanding amounts due to providers under a self-insured health benefit plan while such plan is under such Secretary's trusteeship under section 5122.

(b) SELF-INSURED PLAN INSOLVENCY FUND.—

(1) ESTABLISHMENT.—The Secretary of Labor shall establish a Self-Insured Plan Insolvency Fund (hereinafter in this part referred to as the "Fund") from which the Secretary shall authorize payment of the amounts described in subsection (a).

(2) BORROWING AUTHORITY.—At the direction of the Secretary of Labor, the Fund may, to the extent necessary to carry out this section, issue to the Secretary of the Treasury notes or other obligations, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. The total balance of the Fund obligations outstanding at any time shall not exceed $500,000,000. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations by the Fund. The Secretary of the Treasury shall purchase any notes or other obligations issued by the Fund under this paragraph, and for that purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by such Secretary under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(3) PROTECTION FOR ENROLLEES.—The Secretary of Labor shall take such actions as may be necessary to assure that health care providers continue to care for eligible individuals enrolled in such a plan while the plan is under trusteeship.

SEC. 5124. IMPOSITION AND COLLECTION OF PERIODIC ASSESSMENTS ON PLAN SPONSORS.

(a) IMPOSITION OF ASSESSMENTS.—The Secretary of Labor may impose assessments under this section to enable the Fund to repay amounts borrowed by the Fund while maintaining a balance sufficient to ensure the Fund's solvency.

(b) LIMITATION ON AMOUNT OF ASSESSMENT.—The total amount assessed against a plan under this section during a year may not exceed two percent of the total amount contributed to the plan toward the enrollment of individuals under the plan during the year.

(c) PAYMENT OF ASSESSMENTS.—

(1) OBLIGATION TO PAY.—The designated payor of each plan shall pay the assessments imposed by the Secretary of Labor under this section with respect to that plan when they are due. Assessments under this section are payable at the time, and on an estimated, advance, or other basis, as determined by such Secretary. Assessments shall continue to accrue until the plan's assets are distributed pursuant to a termination procedure or such Secretary is appointed to serve as trustee of the plan under section 5122.

(2) LATE PAYMENT CHARGES AND INTEREST.—

(A) LATE PAYMENT CHARGES.—If any assessment is not paid when it is due, the Secretary of Labor may assess a late payment charge plus interest, as prescribed by such Secretary in regulations.

(B) WAIVERS.—Late payment charges and interest under subparagraph (A) shall not apply to any assessment payment made within 60 days after the date on which payment is due, if before such date, the designated payor obtains a waiver from the Secretary of Labor based upon a showing of substantial hardship arising from the timely payment of the assessment.

(d) CIVIL ACTION UPON NONPAYMENT OR LATE PAYMENT.—If any designated payor fails to pay an assessment when due, the Secretary of Labor may bring a civil action in any district court of the United States within the jurisdiction of which the plan assets are located, the plan is administered, or in which a defendant resides or is found, for the recovery of the amount of the unpaid assessment, reasonable interest, any late payment charge, and interest, and process may be served in any other district. The district courts of the United States shall have jurisdiction over actions brought under this subsection by the Secretary of Labor without regard to the amount in controversy.

(e) DESIGNATED PAYOR DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "designated payor" means—

(A) the employer or plan administrator in any case in which the eligible sponsor of the plan is described in subparagraph (A) of section 5101(b)(1); and

(B) the contributing employers or the plan administrator in any case in which the eligible sponsor of the large group sponsor is described in subparagraph (B) or (C) of section 5101(b)(1).

(2) CONTROLLED GROUPS.—If an employer is a member of a controlled group, each member of such group shall be jointly and severally liable for any assessments required to be paid by such employer. For purposes of the preceding sentence, the term "controlled group" means any group treated as a single employer under subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986.

SEC. 5125. MANAGEMENT OF FUNDS; RELATIONS WITH EMPLOYEES.

(a) MANAGEMENT OF FUNDS.—The management of funds by the sponsor of a self-insured health benefit plan shall be subject to the applicable fiduciary requirements of title I of the Employee Retirement Income Security Act of 1974.

(b) MANAGEMENT OF FINANCES AND RECORDS; ACCOUNTING SYSTEM.—Each sponsor of a self-insured health benefit plan shall comply with standards relating to the management of finances and records and accounting systems as the Secretary of Labor shall specify.

Subtitle C—Standards for Supplemental Health Plans

SEC. 5201. REQUIREMENT FOR CERTIFICATION OF CARRIERS AND POLICIES.

(a) CERTIFICATION REQUIRED.—

(1) IN GENERAL.—No carrier may sell, issue, or renew a contract under a supplemental health benefit policy (as defined in section 5504(11)) with respect to any individual or group in a State, unless the carrier, in relation to the plan, and the plan have been certified as meeting the applicable standards established under section 5501 consistent with this subtitle—

(A) by a State regulatory program of the State (approved under section 5502), or

(B) in the case of a State without such an approved program, by the Secretary (in accordance with such procedures as the Secretary establishes).

(2) POLICY DISAPPROVED.—If the applicable regulatory authority determines that a carrier with respect to a supplemental health benefit policy does not meet the applicable standards of this title on or after the effective date described in subsection (d), the carrier may not provide coverage under the policy to individuals not enrolled as of the date of the determination and may not continue to provide the policy for policy years beginning after the date of such determination until the authority determines that such carrier and policy are in compliance with such standards.

(3) SPECIAL RULE FOR CARRIERS OFFERING POLICIES IN MULTI-STATE METROPOLITAN STATISTICAL AREAS.—In the case of a carrier offering or selling a supplemental health benefit policy in a portion of a State that is located in a metropolitan statistical area, the carrier may not sell, issue, or renew a contract under the policy with respect to an individual or employer in such metropolitan statistical area unless the carrier, in relation to the policy, and the policy have been certified as meeting the applicable standards established under section 5501 by the State regulatory program of each State in which the metropolitan statistical area is located. The Secretary may waive the application of this paragraph to a carrier under extraordinary circumstances.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsection (a) shall apply to contracts under supplemental health benefit policies sold, issued, or renewed on or after January 1, 1997.

(2) EXCEPTION FOR PLANS OFFERED IN STATES REQUIRING LEGISLATION.—In the case of a supplemental health benefit policy sold, issued, or renewed in a State which the Secretary identifies, in consultation with the NAIC, as—

(A) requiring State legislation (other than legislation appropriating funds) in order for carriers and plans to meet the requirements of this subtitle, but

(B) having a legislature which is not scheduled to meet in 1996 in a legislative session in which such legislation may be considered, the date specified in this subsection is January 1, 1998, or, if earlier, the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1998. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 5202. STANDARDIZED BENEFITS.

(a) LIMITATION ON POLICIES PERMITTED.—An carrier may not offer or sell a supplemental health benefit policy unless the benefits covered by the policy meet the requirements for one of the standard benefit packages established by the Secretary under subsection (b).

(b) ESTABLISHMENT OF STANDARDIZED PACKAGES.—

(1) IN GENERAL.—Not later than July 1, 1995, the Secretary shall establish not more than 10 standardized benefit packages for supplemental health benefit policies under this subtitle. Of such packages—

VOL 140 PT 15 AG 10 — 11 1994 UMI

(A) the Secretary shall designate one as a core supplemental benefit package consisting of a reasonable combination of benefits typical of such policies; and

(B) at least one shall be designed to supplement a managed care plan.

(2) CRITERIA USED IN ESTABLISHING PACKAGES.—In establishing standardized benefit packages under paragraph (1), the Secretary shall take into account State laws that mandate the inclusion of particular benefits and providers of services, and the benefits typically offered or sold by health plans that are not included in the guaranteed national benefit package.

SEC. 5203. REQUIREMENTS FOR OFFERING OF PACKAGES.

(a) REQUIRING OFFER OF CORE SUPPLEMENTAL BENEFIT PACKAGE.—An carrier may not offer or sell any supplemental health benefit policy unless the carrier offers or sells one such policy that provides only for coverage of the core supplemental benefit package described in section 5202(b)(1)(A).

(b) PROHIBITING OFFER OF MULTIPLE PACKAGES TO AN INDIVIDUAL.—An carrier may not offer or sell a supplemental health benefit policy to an individual who is covered under another such policy, unless the individual's coverage under the new policy begins only after the individual's coverage under the original policy is terminated.

SEC. 5204. NON-DISCRIMINATION REQUIREMENTS.

(a) DISCRIMINATION BASED ON HEALTH STATUS.—The provisions of section 5002(a) shall apply during the annual open enrollment period established under section 5205 with respect to a carrier offering or selling a supplemental health benefit policy in the same manner as such provisions apply with respect to a carrier providing an insured health benefit plan.

(b) DISCRIMINATION BASED ON OTHER FACTORS.—The provisions of section 5002(b) shall apply with respect to a carrier offering or selling a supplemental health benefit policy in the same manner as such provisions apply with respect to a carrier providing an insured health benefit plan.

SEC. 5205. OPEN ENROLLMENT.

The State shall establish an annual open enrollment period of at least 30 days during which a carrier offering or selling a supplemental health benefit policy may not refuse to enroll an individual who seeks coverage under the policy.

SEC. 5206. PROHIBITION ON PRE-EXISTING CONDITION EXCLUSIONS.

(a) DURING ANNUAL OPEN ENROLLMENT PERIOD.—A carrier offering or selling a supplemental health benefit policy may not exclude or limit coverage under the policy during the annual open enrollment period established under section 5105 with respect to services covered under the policy related to treatment of a pre-existing condition.

(b) DURING OTHER PERIODS.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a carrier offering or selling a supplemental health benefit policy may exclude coverage during any period other than the annual open enrollment period established under section 5105 with respect to services related to treatment of a pre-existing condition, but the period of such exclusion may not exceed 6 months and shall not apply to services furnished to newborns or pregnancy-related services.

(2) CREDITING OF PREVIOUS COVERAGE.—

(A) IN GENERAL.—A carrier offering or selling a supplemental health benefit policy shall provide that if an individual covered under such a policy is in a period of continuous coverage (as defined in subparagraph (B)(i)) with respect to particular services as of the date of initial coverage under such policy, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

(B) DEFINITIONS.—As used in this paragraph:

(i) PERIOD OF CONTINUOUS COVERAGE.—The term "period of continuous coverage" means, with respect to particular services, the period beginning on the date an individual is enrolled under any plan or policy which provides benefits with respect to the same or substantially similar services (as determined in accordance with criteria established by the Secretary) and ends on the date the individual is not so enrolled for a continuous period of more than 3 months (or for a longer period with respect to individuals who lose employment and meet such other conditions as the Secretary may specify).

(ii) PREEXISTING CONDITION.—The term "preexisting condition" means a condition which has been diagnosed or treated during the 6-month period ending on the day before the first date of the individual's coverage (without regard to any waiting period).

SEC. 5207. CONTINUATION OF COVERAGE REQUIREMENT.

The provisions of section 5006 (other than subsection (b) of such section) shall apply with respect to a carrier offering or selling a supplemental health benefit policy in the same manner as such provisions apply with respect to a carrier offering an insured health benefit plan.

SEC. 5208. COMMUNITY RATING REQUIREMENTS.

(a) IN GENERAL.—The premium rate charged by a carrier for a supplemental health benefit policy consisting of a standard benefit package established by the Secretary under section 5202 in a community-rating area for a class of enrollment shall be the same for all such enrollments.

(b) REFERENCES TO COMMUNITY AND ENROLLMENT.—The "community-rating area" and "class of enrollment" applicable under subsection (a) are the community and class of enrollment applicable to the community rating of premiums for insured health benefit plans required under section 5008.

SEC. 5209. STANDARDS FOR MARKETING.

(a) RESTRICTIONS ON TIE-INS WITH HEALTH BENEFIT PLANS.—

(1) IN GENERAL.—A carrier offering or selling a supplemental health benefit policy may not condition the offer or sale of a health benefit plan to an individual on the purchase of the supplemental health benefit policy by the individual.

(2) RESTRICTION ON AUTHORITY OF MANAGED CARE PLANS TO OFFER SUPPLEMENTAL POLICIES.—A carrier providing a managed care plan which provides for coverage of the guaranteed national benefit package may not offer or sell a supplemental health benefit policy to any individual unless the individual is enrolled in such managed care plan.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—The provisions of section 5010 shall apply with respect to a carrier offering or selling a supplemental health benefit policy in the same manner as such provisions apply with respect to a carrier providing an insured health benefit plan.

Subtitle D—Universal FEHBP

SEC. 5301. PURPOSE.

The purpose of this subtitle is to ensure that individuals seeking health insurance coverage in the community-rated market sector may enroll in the same range of health plans providing the same guaranteed national benefits as are provided to Members of Congress and Federal employees.

SEC. 5302. CONTRACTS WITH CARRIERS.

(a) IN GENERAL.—

(1) CARRIERS SERVING THE COMMUNITY-RATED MARKET SECTOR.—The Office of Universal FEHBP (established under section 5307(a), in this subtitle referred to as the "Office") shall enter into such contracts with carriers who, beginning on January 1, 1997, shall offer insured health benefit plans certified under this title in the community-rated market sector and who shall meet standards prescribed under subsection (c).

(2) ASSURING RANGE OF PLANS AVAILABLE.—To the maximum extent practicable, the Office shall assure with respect to each community-rating area the offering of such a range of types of health benefit plans in the area under this subtitle as is (or was) provided under the Federal Employees Health Benefits Program (under chapter 89 of title 5, United States Code).

(3) CONDITIONS.—The Office may enter into contracts with carriers under this subtitle under the same conditions (in relation to bidding and duration of contract) as are provided for contracts under section 8902(a) of title 5, United States Code. The Office is not required to enter into such a contract with any particular carrier. Each such contract under this subtitle shall be consistent with the provisions of this subtitle and this Act.

(b) OFFERING OF SUPPLEMENTAL POLICIES.—To the extent practicable, the Office may provide for the offering of supplemental health benefit policies that meet the applicable requirements of subtitle C of this title to individuals who are enrolled under this subtitle in an insured health benefit plan certified under this title. The Office shall take such actions as may be appropriate to permit the offering of a supplemental health benefit policy that has the same benefits as those in a maintenance of effort policy described in section 8904a of title 5, United States Code.

(c) STANDARDS FOR CARRIERS, PLANS, AND POLICIES.—The Office may prescribe reasonable standards for carriers seeking to offer insured health benefit plans under this subtitle in the community-rated market sector, including standards relating to quality, price, administration, and other matters. Approval of a plan may be withdrawn only after notice and opportunity for hearing to the carrier concerned without regard to subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

(d) INFORMATION TO THE PUBLIC.—The Office shall disseminate general information to the public (especially to individuals and employers of individuals eligible to enroll under this subtitle) on the availability of insured health benefit plans under this subtitle, enrollment and premium payment procedures, and such other related information as the Office considers appropriate. Such information shall meet the standards specified in section 5011(c)(2).

(e) RISK.—Neither the Office nor the United States Government may bear insurance risk under this subtitle, and the Office may not bear any financial, fiduciary, or other responsibility for any VA health plan in which veterans may enroll under title 38, United States Code, pursuant to an agreement under subsection (f). The Office may not collect premiums with respect to the enrollment in any such VA health plan.

(f) AGREEMENT REGARDING VA HEALTH PLANS.—The Office shall enter into an agreement with the Secretary of Veterans Affairs

to provide for disseminating information and the enrollment of veterans who are eligible to be enrolled both—

(1) in an insured health benefit plan offered under this subtitle, and

(2) in a VA health plan under chapter 18 of title 38, United States Code,

in such a VA health plan certified pursuant to section 5501(c) of this title. Such a VA health plan is an experienced-rated plan whose premiums are established under section 1831(d)(2) of title 38, United States Code, and shall not be treated as part of a community-rating area for any purpose relating to risk or the establishment of premiums for the purposes of this subtitle. The Secretary of Veterans Affairs shall reimburse the Office for any expense incurred in disseminating information on the availability of VA health plans and enrolling in such a plan pursuant to such agreement.

SEC. 5303. ELIGIBILITY.

(a) IN GENERAL.—Individuals in the community-rated market sector (described in section 5003(e)(1)) are eligible to be enrolled in an insured health benefit plan certified under this title that is offered under this subtitle. The enrollment may include family members based on an appropriate class of enrollment.

(b) CERTAIN INDIVIDUALS NOT INCLUDED IN COMMUNITY-RATED MARKET SECTOR.—The following individuals are not included in the community-rated market sector:

(1) IN GENERAL.—Subject to paragraphs (2) and (3) of this subsection, any individual described in section 5003(f).

(2) CHAPTER 89 ELIGIBLES.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), an individual who is eligible to enroll in an approved health benefit plan under chapter 89 of title 5, United States Code.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any individual—

(i) who makes an effective election under section 8905b of such title (relating to elections of coverage during the FEHBP transition period (within the meaning of section 8903b(a)(1) of title 5, United States Code));

(ii) who is a full-time employee and is not eligible to enroll (other than as a family member) under chapter 89 of such title; or

(iii) who is a family member of an individual described in clause (ii).

(C) TERMINATION.—The previous provisions of this paragraph shall not be effective with respect to any period of coverage which begins after the end of the FEHBP transition period.

(3) FULL-TIME EMPLOYEE OF LARGE EMPLOYERS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), an individual who is a full-time employee of a large employer.

(B) EXCEPTION FOR FAMILY MEMBERS.—Subparagraph (A) shall not apply to an employee who is—

(i) a spouse of an individual who is a employee of an employer that is not a large employer, or

(ii) a dependent child.

(C) EXCEPTION FOR POSTAL WORKERS.—Subparagraph (A) shall not apply to a full-time employee of the United States Postal Service.

(c) TREATMENT OF FEDERAL GOVERNMENT.—For purposes of this section, the Government of the United States (excluding the United States Postal Service) shall not be treated as a large employer.

SEC. 5304. PREMIUMS FOR COVERAGE.

(a) AMOUNT OF PREMIUMS.—

(1) IN GENERAL.—Premiums charged individuals in a community-rating area enrolled in insured health benefit plans under this subtitle shall be the premiums established under section 5008 for the plan for the area.

(2) NEGOTIATION OF ADMINISTRATIVE DISCOUNT.—The Office may negotiate with a carrier seeking to offer an insured health benefit plan under this subtitle a dollar or percentage discount from the amount of the premiums otherwise applicable. Such a discount—

(A) shall be applied uniformly to all enrollees of the plan;

(B) may vary only by class of enrollment;

(C) shall only reflect administrative savings to such a carrier from marketing such a plan through the Office under this subtitle instead of other means of marketing such a plan; and

(D) may not relate to differences in anticipated claims, costs, or utilization.

(b) PAYMENT PROCEDURES.—The Office shall develop and implement procedures for the payment of premiums by enrolling individuals and by employers offering health coverage through insured health benefit plans under this subtitle. The procedures shall provide for the acceptance and forwarding of premium certificates issued under part A of title XXII of the Social Security Act toward payment of the premiums owed.

SEC. 5305. GENERAL ADMINISTRATIVE PROVISIONS.

(a) TERMS OF OFFERING AND ENROLLMENT.—Plans and policies shall be offered under this subtitle in a manner consistent with the requirements of this title for the offering of such plans and policies other than under this subtitle. The Office shall develop and implement procedures for the enrollment, directly or by contract, of individuals under this subtitle during an annual open enrollment period and at such other special enrollment periods as may be appropriate and consistent with the requirements of this Act based on changes in employment, family status, or otherwise.

(b) AUDIT.—Each contract entered into with a carrier under this subtitle shall contain provisions requiring the carrier to—

(1) furnish such reasonable reports as the Office determines to be necessary to enable it to carry out its functions under this subtitle; and

(2) permit the Office and representatives of the General Accounting Office to examine records of the carriers as may be necessary to carry out the purposes of this subtitle.

(c) TREATMENT OF CERTAIN ORGANIZATIONS AS CARRIERS.—

An organization which is a bargaining representative recognized under section 1203 of title 39, United States Code, which at any time during the 24-month period ending on the date of the enactment of this Act, was under contract with the Office of Personnel Management under section 8902 of title 5, United States Code, for a health benefits plan that was self-insured, shall be treated as a carrier for purposes of this subtitle, and may provide health benefits only to full members of such organization (determined in a manner consistent with section 8903a(d) of such title 5), including annuitants (as defined in section 8901(3) of such title 5) by reason of separating from a position in such a bargaining unit.

SEC. 5306. UNIVERSAL FEHBP HEALTH BENEFITS FUND.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish, at the request of the Office, in the Treasury of the United States, a Universal FEHBP Health Benefits Fund. The Fund shall be administered by the Office.

(b) DEPOSITS INTO FUND.—If the Fund is established, there shall be deposited into the Fund—

(1) premiums paid to the Office under this subtitle;

(2) administrative fees and such other payments as are prescribed by the Office;

(3) moneys and the proceeds from the sale of gifts, devises, and bequests of property received under subsection (f).

(c) AVAILABILITY OF AMOUNTS IN FUND.—

(1) IN GENERAL.—Amounts in the Fund shall be available—

(A) without fiscal year limitation for payments to insured health benefit plans under this subtitle; and

(B) to pay expenses for administering this subtitle within the limitations that may be specified annually by Congress.

(2) USE OF LETTER-OF-CREDIT ARRANGEMENTS.—Payments from the Fund to a plan participating in a letter-of-credit arrangement under this subtitle shall, in connection with any payment or reimbursement to be made by such plan for a health service or supply, be made, to the maximum extent practicable, on a checks-presented basis (as defined under regulations of the Department of the Treasury).

(d) SET-ASIDE FOR ADMINISTRATIVE EXPENSES.—

(1) FUND.—If the Fund is established, a percentage (specified under paragraph (3)) of the amounts deposited into the Fund as premiums shall be regularly set aside in the Fund to pay administrative expenses described in subsection (c)(1)(B).

(2) PREMIUMS NOT PAID INTO FUND.—In the case of premiums payable to a carrier for coverage under this subtitle which are not deposited into the Fund, the Office shall assess an administrative fee against the carrier in an amount equal to a percentage (specified under paragraph (3)) of such premiums.

(3) PERCENTAGE.—For purposes of this subsection, the Office shall establish a percentage that, when applied under this subsection, is reasonably adequate to pay such administrative expenses. Beginning with the fourth full contract year under this subtitle, such percentage may not exceed 1 percent.

(e) INVESTMENT AUTHORITY.—The Secretary of the Treasury may invest and reinvest any of the money in the Fund in interest-bearing obligations of the United States, and may sell these obligations for the purposes of the Fund. The interest on and the proceeds from the sale of these obligations shall be added to and become a part of the Fund.

(f) GIFTS.—The Office may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, made unconditionally for the purpose of carrying out this subtitle. Conditional gifts may be accepted and used in accordance with their provisions, except that no gift may be accepted which is conditioned on any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(g) AUTHORIZATION OF APPROPRIATION OF AMOUNT FOR START-UP EXPENSES.—There are authorized to be appropriated to the Office such sums as may be necessary for the initial implementation of this subtitle. The Office shall provide for repayments to the General Fund of the Treasury, during a period of not longer than 10 years beginning with the second full contract year during which insured health benefit plans are offered under this subtitle and from the premiums paid for coverage under such plans, of the amounts appropriated pursuant to this subsection.

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 5307. ESTABLISHMENT OF OFFICE OF UNIVERSAL FEHBP.

(a) ESTABLISHMENT OF OFFICE.—There is established in the Office of Personnel Management an office to be known as the "Office of Universal FEHBP" to be headed by a Director appointed by the President.

(b) FUNCTIONS.—The Office shall be responsible for the administration of the program under this subtitle.

(c) TRANSFER.—The President shall transfer to the Office such functions, personnel, and other resources (and may transfer such authority) of the Office of Personnel Management or any other department or agency as the Office may require to carry out its responsibilities under this subtitle.

(d) DETAIL AUTHORITY.—Agencies may detail to the Office, with or without reimbursement, such personnel as the Office may require to carry out such responsibilities.

(e) REGULATIONS.—The Office may prescribe regulations necessary to carry out this subtitle.

SEC. 5308. STUDIES; ANNUAL REPORT.

(a) STUDIES.—The Office shall make a continuing study of the operation and administration of this subtitle, including surveys and reports on insured health benefit plans available to individuals eligible to enroll under this subtitle and on the experience of the plans.

(b) ANNUAL REPORT.—Not later than April 1 of each year, the Office shall transmit to Congress an annual report on the operation of this subtitle for the preceding contract year. Such report shall include an assessment of any circumstances in the universal FEHBP market that would adversely affect the operation of this subtitle. The report submitted under this subsection before the first full contract year under this subtitle shall include a description of the procedures developed and intended to be implemented for enrollment of individuals in insured health benefit plans under this subtitle.

Subtitle E—Consumer Purchasing Cooperatives

PART 1—ESTABLISHMENT BY STATES

SEC. 5401. ESTABLISHMENT OF COOPERATIVES.

(a) IN GENERAL.—For purposes of this title, a "consumer purchasing cooperative" or "cooperative" is an entity which is established by a State in accordance with this part and—

(1) which meets the governance requirements of part 2; and

(2) which carries out functions in accordance with part 3.

(b) ESTABLISHMENT OF COOPERATIVES BY UNITS OF LOCAL GOVERNMENT.—A unit of local government may establish a cooperative under this subtitle in the same manner as a State, but only if—

(1) the geographic area over which the unit has jurisdiction is included in a metropolitan statistical area with a population not less than 1,000,000; and

(2) the cooperative established by the unit covers the entire geographic area over which the unit has jurisdiction.

(c) ADMINISTRATION OF COOPERATIVE BY STATE.—A State may operate a consumer purchasing cooperative through a State agency or a unit of local government or may contract with a nonprofit organization for the operation of the cooperative.

SEC. 5402. DESIGNATION OF COOPERATIVE BOUNDARIES AND SERVICE AREA.

In establishing the boundaries of a consumer purchasing cooperative—

(1) a State may not discriminate on the basis of or otherwise take into account race, age, gender, sexual orientation, language, religion, national origin, socioeconomic status, or health status; or

(2) if a cooperative area includes any portion of a metropolitan statistical area located in the State, the State shall include the entire portion of such metropolitan statistical area located in the State in the cooperative area; and

(3) if the State establishes more than one cooperative under this subpart—

(A) no area of the State may be included in more than one cooperative area, and

(B) each area of the State shall be included in a cooperative area.

PART 2—GOVERNANCE REQUIREMENTS

SEC. 5411. BOARD OF DIRECTORS.

(a) IN GENERAL.—A consumer purchasing cooperative must be governed by a Board of Directors appointed or elected consistent with the provisions of this section. All powers vested in a consumer purchasing cooperative under this subtitle shall be vested in the Board of Directors.

(b) MEMBERSHIP; CHAIRMAN.—

(1) MEMBERSHIP.—Such a Board of Directors shall consist of 13 members as follows:

(A) REPRESENTATIVES OF EMPLOYERS.—6 members who represent employers whose employees purchase health coverage through the cooperative, including self-employed individuals who purchase such coverage.

(B) REPRESENTATIVES OF CONSUMERS.—6 members who represent individuals who purchase such coverage, including employees who purchase such coverage.

(C) CHIEF HEALTH OFFICER.—The chief health officer of the State (or such officer's designee).

The members of the Board of Directors described in subparagraphs (A) and (B) are referred to in this section as "elected" Board members.

(2) CHAIR.—The Board of Directors shall elect a member to serve as the chair of the Board.

(3) APPOINTMENT AND ELECTION.—

(A) INITIAL APPOINTMENT.—The State shall provide, in accordance with rules established by the Secretary, for the appointment of initial members to the Board of Directors.

(B) SUBSEQUENT ELECTION.—Subsequent elected members of the Board of Directors of a cooperative shall be elected by individuals enrolled in plans through the cooperative. Such elections shall occur annually for Board members whose terms expire in the following year.

(C) VACANCIES.—A vacancy of an elected Board member shall be filled through election within 30 days after the date of the vacancy. A vacancy in the Board of Directors shall not affect the ability of the remaining Board members to govern the cooperative.

(4) NOMINATION PROCESS.—

(A) IN GENERAL.—Each cooperative shall provide a process for nominating individuals to serve as members of the Board. Under the process, the individuals nominated shall be broadly representative of the interests and backgrounds (including ethnic and racial backgrounds and gender) of the cooperative members.

(B) QUALIFICATIONS OF MEMBERS NOMINATED.—No cooperative member shall be nominated unless the member—

(i) has been a member of the cooperative for at least 6 months,

(ii) has presented a petition signed by 250 cooperative members, and

(iii) has submitted a written nominating statement, pursuant to the rules of the cooperative.

(5) TERMS OF MEMBERS.—

(A) IN GENERAL.—Elected Board members shall serve for a term of 3 years, except that such members initially elected shall serve for staggered terms.

(B) REMOVAL FOR CAUSE.—Each cooperative shall establish procedures for the removal of an elected Board member for cause. Such procedure shall assure adequate due process.

(6) COMPENSATION OF MEMBERS.—No member of the Board of Directors shall receive compensation for service as a member of the Board, except that such a member may receive reimbursement for expenses incurred while performing official functions as member of the Board.

(c) REQUIREMENTS ON BOARD MEMBERS.—

(1) NO CONFLICT OF INTEREST PERMITTED.—An individual may not serve as an elected Board member (or as a member appointed under subsection (b)(3)) if the individual is one of the following (or an immediate family member of one of the following):

(A) A health care provider.

(B) An individual who is an employee or member of the board of directors of, has a substantial ownership in, or derives substantial income from, a health care provider, health plan, pharmaceutical company, or a supplier of medical equipment, devices, or services.

(C) A person who derives substantial income from the provision of health care.

(D)(i) A member or employee of an association, law firm, or other institution or organization that represents the interests of one or more health care providers, health plans or others involved in the health care field, or (ii) an individual who practices as a professional in an area involving health care.

(2) PROHIBITING DISCRIMINATION BASED ON POLITICAL AFFILIATION.—Members of the Board may not engage in any activity that constitutes discrimination on the basis of political affiliation.

(3) FIDUCIARY STANDARDS.—Members of the Board of Directors and other officers and employees of a consumer purchasing cooperative shall comply with the requirements of part 4 of title I of the Employee Retirement Income Security Act of 1974.

(4) LIMITATION ON GIFTS.—Members of the Board of Directors of a cooperative may not receive gifts (other than of nominal value, from immediate families, or under other circumstances explicitly permitted by the State) from any entity that has a financial interest in activities conducted by the Board.

(d) MEETINGS OF THE BOARD.—

(1) IN GENERAL.—Meetings of the Board of Directors shall be called by the Chairman or a majority of its members.

(2) OPEN MEETINGS.—Meetings of the Board of Directors shall be open to cooperative members and the public, except that, under rules established by the State, the Board may meet in executive session that is not open to the public.

(3) QUORUM.—A majority of the serving members of the Board of Directors shall constitute a quorum for the purposes of conducting its business, but 4 members of the Board constitute a quorum for purposes of holding hearings or gathering information.

SEC. 5412. PROVIDER ADVISORY BOARDS.

Each consumer purchasing cooperative must establish a provider and technical advisory board consisting of representatives of health care providers and professionals who provide covered items and services through plans offered in the community-rated market sector served by the cooperative and including other professionals. Such advisory board shall provide the Board of Directors of the cooperative with medical, technical, and policy advice on various issues relating to the cooperative. To the greatest extent feasible, the membership of such advisory board shall represent the various geographic regions of the area served by the cooperative and shall reflect the racial, ethnic, and gender composition of the health care providers and professionals who provide covered items and services through health plans offered by the cooperative.

PART 3—RESPONSIBILITIES AND AUTHORITIES OF COOPERATIVES

SEC. 5421. CONTRACTS WITH CARRIERS.

(a) CONTRACTS WITH CARRIERS.—Each cooperative may enter into a contract under this part with a carrier that seeks to offer an insured health benefit plan certified under this title in the community-rated market sector through the cooperative.

(b) DEVELOPMENT OF STANDARDS.—The cooperative shall develop standards for carriers seeking to offer plans through the cooperative, including standards relating to quality, price, administration, and other matters.

SEC. 5422. SERVICES FOR PARTICIPANTS.

(a) OFFERING CHOICE OF PLANS.—

(1) NO LIMITATION ON CHOICE OF PLANS OFFERED.—Each consumer purchasing cooperative shall permit each individual eligible to seek coverage in the community-rated market sector through an insured health benefit plan offered through the cooperative to seek coverage through any such plan offered through the cooperative.

(2) REQUIREMENTS FOR OFFERING CERTAIN PLANS.—The cooperative shall assure that each individual eligible to seek coverage through a plan offered through the cooperative is offered—

(A) at least one managed care plan (unless there is no such plan available in the area served by the cooperative); and

(B) at least one unlimited-choice-of-provider plan, which may be a point-of-service plan.

(b) INFORMATION.—In conjunction with the offering of plans to individuals and employers, the cooperative shall make available the information described in section 5011(c)(2) and such other information as it deems appropriate about such plans.

(c) OUTREACH.—Each cooperative shall provide for appropriate outreach programs to underserved populations.

(d) ADDITIONAL SERVICES.—Each cooperative shall carry out the following additional functions:

(1) The notification of the availability of medicare part C for certain individuals

(2) The enrollment of individuals during an annual open enrollment period and at such other special enrollment periods as may be appropriate and consistent with the requirements of this Act based on changes in employment, family status, or otherwise.

(3) In accordance with requirements of section 5414, the collection of premium contributions, the forwarding of such contributions to the plans in which the individuals are enrolled, and the acceptance and forwarding of premium certificates issued under part A of title XXII of the Social Security Act toward payment of the premiums owed.

SEC. 5423. REQUIREMENTS RELATING TO COLLECTION OF PREMIUMS AND ACCOUNTING.

(a) ADMINISTRATIVE DISCOUNT PERMITTED FOR PLANS OFFERED THROUGH COOPERATIVES.—A cooperative may negotiate with a carrier seeking to offer a plan through the cooperative a dollar or percentage discount from the amount of the premiums otherwise applicable. Such a discount—

(1) shall be applied uniformly to all enrollees of the plan;

(2) may vary only by class of enrollment;

(3) shall only reflect administrative savings to such a carrier from marketing such a plan through the cooperative instead of other means of marketing such a plan; and

(4) may not relate to differences in anticipated claims, costs, or utilization.

(b) LIABILITY FOR PAYMENTS OF PREMIUMS TO PLAN SPONSORS.—Under rules established by the State—

(1) IN GENERAL.—The cooperative has a duty—

(A) to account for the receipt of payments for premiums and premium certificates issued under part A of title XXII of the Social Security Act, and

(B) to coordinate such payments in a manner consistent with this Act.

(2) LIABILITY.—The cooperative is liable to the parties involved for breach of the duty described in paragraph (1)(A).

(c) ACCOUNTING SYSTEM.—The cooperative shall establish an accounting system that meets standards established by the Secretary of Health and Human Services (in consultation with the Secretary of Labor) for purposes of carrying out this subtitle. Such a system shall collect such information on a timely basis as may be required to ascertain the individuals (including family members) covered under plans offered through the cooperative, the applicable premium, and premium payments (including employer contributions towards enrollment and reductions in premiums owed pursuant to premium certificates issued under part A of title XXII of the Social Security Act) and to provide periodic reports on premiums imposed, amounts collected, and remaining amount owing by such individuals.

(d) COMPLIANCE WITH FIDUCIARY STANDARDS.—The cooperative shall comply with standards and duties relating to administration, management, and distribution of premium payments and other funds provided under this subtitle. The standards shall be specified by the Secretary of Labor, in consultation with the Secretary of Health and Human Services. The standards shall include at least protections of the type applicable to fiduciaries under part 4 of title I and under title V of the Employee Retirement Income Security Act of 1974.

SEC. 5424. COOPERATIVE FEE.

(a) IN GENERAL.—A consumer purchasing cooperative may require a carrier that offers a plan through the cooperative to pay a fee in an amount equal to a uniform percentage (not to exceed one percent) of the premiums paid by individuals enrolled in the plan through the cooperative.

(b) USE OF FUNDS.—A cooperative shall use the funds under subsection (a) only for activities described in this subtitle.

SEC. 5425. ANTIDISCRIMINATION.

No cooperative may discriminate, or engage (directly or through contractual arrangements) in any activity, including marketing, that has the effect of discriminating against an individual on the basis of race, national origin, sex, religion, language, socioeconomic status, age, disability, sexual orientation, health status, anticipated need for health services, or location of residence within the service area of a plan of a carrier. However, this section shall not be construed as preventing a cooperative from engaging in activities to encourage the enrollment of individuals eligible to enroll in plans through the cooperative who reside in underserved areas.

PART 4—GRANTS FOR ESTABLISHMENT AND OPERATION OF COOPERATIVES

SEC. 5431. ESTABLISHMENT OF GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program under which the Secretary shall make grants to eligible States for the planning, development, and initial operation of consumer purchasing cooperatives.

(c) ELIGIBILITY OF STATE.—A State is eligible to receive a grant under this subpart if the State submits to the Secretary (at such time and in such form as the Secretary may require) an application containing—

(1) assurances that the State has established (or is in the process of establishing) one or more cooperatives in accordance with this subtitle);

(2) assurances that the State and each such cooperative meet the applicable requirements of this subtitle; and

(3) such other information and assurances as the Secretary may require.

(g) GRANTS TO CONTIGUOUS STATES ESTABLISHING JOINT COOPERATIVES.—In the case of contiguous States each of which is eligible to receive a grant under this part, the Secretary may make grants to the States for the establishment and operation of a consumer purchasing cooperative operated jointly by the States and serving areas in each of the States.

(f) LIMIT ON TOTAL PROVIDED TO STATE.—The total amount of funds provided to a State under this part may not exceed $5,000,000 for a 5-year period.

SEC. 5432. USE OF GRANT FOR PARTICIPATION OF COOPERATIVE IN CAPITAL REVIEW PROGRAM.

(a) IN GENERAL.—A State (or unit of local government) receiving a grant for the operation of a consumer purchasing cooperative under this subtitle may use funds provided under the grant for the participation of the cooperative in a program of the State to review and approve capital expenditures in the State (meeting the requirements of subsection (b)).

(b) REQUIREMENTS FOR PROGRAM.—A capital review program meets the requirements of this subsection if the program—

(A) is designed to assure that the needs of the State's residents for health care services are met;

(B) includes and enforces occupancy targets for inpatient hospital facilities;

(C) includes and enforces utilization targets for services subject to review under the plan;

(D) identifies where appropriate which facilities (and parts of facilities) would be consolidated in order to reach the occupancy and utilization targets for health care services; and

(E) provides an opportunity for review and comment by interested parties.

SEC. 5433. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $150,000,000 for the 5-year period beginning with fiscal year 1996 for grants under this part.

Subtitle F—General Provisions

SEC. 5501. ESTABLISHMENT OF FEDERAL STANDARDS.

(a) ESTABLISHMENT OF GENERAL STANDARDS FOR HEALTH BENEFIT PLANS.—

(1) STANDARDS FOR CARRIERS PROVIDING INSURED HEALTH BENEFIT PLANS.—Not later than July 1, 1995, the Secretary shall establish standards for carriers providing insured health benefit plans consistent with this section and the requirements described in subtitle A.

(2) STANDARDS FOR SPONSORS OF SELF-INSURED HEALTH BENEFIT PLANS.—Not later

VOL 140 PT 15 AG 10 — 11 1994 UMI

than July 1, 1995, the Secretary of Health and Human Services (in consultation with the Secretary of Labor) shall establish and publish standards for self-insured health benefit plans and the sponsors of such plans consistent with this section and the requirements of subtitle B. Under such standards, the Secretary of Labor would annually certify (for years beginning with 1997) each self-insured health benefit plan found by the Secretary of Labor to be in compliance with such standards, based on information provided by the plans in such manner and format as the Secretary of Labor considers appropriate.

(3) STANDARDS FOR PLANS THAT SUPPLEMENT THE GUARANTEED NATIONAL BENEFIT PACKAGE.—Not later than July 1, 1995, the Secretary shall establish standards for supplemental health benefit policies in accordance with the requirements for such policies (and the entities offering such policies) consistent with this section and the requirements described in subtitle C.

(b) SPECIAL RULES FOR PROGRAMS OF THE INDIAN HEALTH SERVICE.—

(1) IN GENERAL.—The standards established under subsection (a) apply with respect to the certification of health programs of the Indian Health Service (as used in section 901 of the Indian Health Care Improvement Act), except as provided in paragraph (3).

(2) APPLICABLE REGULATORY AUTHORITY.—The applicable regulatory authority with respect to the certification of health programs of the Indian Health Service under this title shall be the Secretary. The Secretary may not delegate the responsibility for certification.

(3) EXCEPTED STANDARDS.—The Secretary shall, after consulting with Indian tribes, tribal organizations, and urban Indian organizations, promulgate regulations describing the standards or elements of standards which the Secretary finds are not appropriate to health programs of the Indian Health Service. In carrying out this subsection, the Secretary shall apply the same standards in the same manner to health programs operated directly by the Indian Health Service as the Secretary applies to health programs operated by tribes, tribal organizations, and urban Indian organizations.

(4) REPORT.—The Secretary shall submit a report to the Congress describing the standards which the Secretary finds are not appropriate and the reasons therefore.

(5) REGULATIONS.—Regulations promulgated under this section shall be promulgated no later than 3 months after the date that standards are established and published under subsection (a).

(c) SPECIAL RULES FOR PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.—

(1) IN GENERAL.—The standards established under subsection (a) apply with respect to the certification of health plans of the Department of Veterans Affairs, except as provided in paragraph (3).

(2) APPLICABLE REGULATORY AUTHORITY.—The applicable regulatory authority with respect to the certification of health plans of the Department of Veterans Affairs under this title shall be the Secretary. The Secretary may not delegate the responsibility for certification.

(3) SPECIAL RULES.—The Secretary shall, after consulting with the Secretary of Veterans Affairs, promulgate regulations describing the standards or elements of standards which the Secretary finds are not appropriate to health plans of the Department of Veterans Affairs. Under such regulations, the Secretary shall assure that premium charged for enrollment in such a plan may not be less than the actuarial value of the benefits provided to enrollees under the plan.

(4) REPORT.—The Secretary shall submit a report to the Congress describing the standards which the Secretary finds are not appropriate and the reasons therefore.

(5) REGULATIONS.—Regulations promulgated under this section shall be promulgated no later than 3 months after the date that standards are established and published under subsection (a).

(d) ROLE OF NAIC IN RELATION TO SOLVENCY STANDARDS.—

(1) REQUEST.—The Secretary shall request the NAIC (in consultation with the American Society of Actuaries) within 6 months after the date of the enactment of this title—

(A) to develop model regulations that specify standards with respect to the solvency requirements described in section 5013 (consistent with paragraph (2)), and

(B) to submit such model regulations to the Secretary.

(2) SPECIFICATIONS FOR STANDARDS.—The standards specified by the model regulations under paragraph (1)(A) shall include the following:

(A) Capital requirements for carriers, based on financial analysis, appropriate for maintaining reasonable net worth for the type of carrier (and plan) involved, including a requirement for additional capital in the case of factors likely to adversely affect the carrier's financial stability and solvency as measured by the following:

(i) Projected plan enrollment.

(ii) The number of participating providers.

(iii) The extent and nature of risk-sharing with participating providers.

(iv) Prior performance of the carrier and its plans and liquidity of the carrier's assets.

(B) Procedures for financial review of carriers.

(C) Procedures for ongoing monitoring and enforcement of compliance with the standards.

(D) Standards for the oversight and regulation of financial transactions between the carrier and its parent or affiliate organizations.

(E) Criteria for determining whether a carrier is in a financially impaired condition.

(F) Standards for health plan guaranty funds described in section 5013(d), including standards with respect to premium assessments.

(3) USE OF MODEL REGULATION.—If the NAIC develops and submits model regulations on a timely basis under paragraph (1) and the Secretary determines that the model regulations incorporates such solvency requirements, the Secretary shall incorporate such model regulations within the standards established under this section.

(e) STANDARDS RELATING TO COORDINATION OF ENROLLMENT AND COVERAGE.—

(1) IN GENERAL.—In establishing standards for health benefit plans under this section, the Secretary shall establish rules concerning when changes in enrollment become effective under health benefit plans in relation to changes in the status of an individual enrolled in a health benefit plan.

(2) MONTHLY CHANGES.—Such rules shall be designed—

(A) to provide automatic coverage to newborns as of the date of birth,

(B) in the case of an individual provided coverage through employment, to provide for coverage through the end of the month in which the employment is terminated, and

(C) to prevent eligible individuals from having any periods of noncoverage when changing enrollment among health benefit plans.

(3) SPECIAL RULES FOR COORDINATION OF COVERAGE.—The Secretary shall provide for such rules as may be necessary to provide for the allocation of responsibility among certified health plans (and the medicare program and medicare part C) in the case of an inpatient hospital stay, or in the case in which a single payment amount is made for other services provided over a period of time, that begins during the period of coverage under one such health benefit plan and ends during a period of coverage under another such certified health plan or program.

SEC. 5502. ENFORCEMENT THROUGH APPROVED STATE PROGRAMS.

(a) IN GENERAL.—If the Secretary determines that a State has in effect an effective regulatory program—

(1) for the application of the standards established under section 5501(a)(1) to carriers providing insured health benefit plans (including provisions imposing penalties under the same conditions and in the same amounts as provided for under section 5503(a), and other provisions to monitor and enforce such standards), and for providing for collecting and disseminating information under section 5009, the Secretary may approve such program for purposes of certification of carriers and insured health benefit plans under subtitle A; and

(2) for the application of the standards established under section 5501(a)(3) to carriers providing supplemental health benefit policies (including provisions imposing penalties under the same conditions and in the same amounts as provided for under section 5503(a), and other provisions to monitor and enforce such standards), and for providing for collecting and disseminating information with respect to such policies under section 5106(b), the Secretary may approve such program for purposes of certification of carriers and supplemental health benefit policies under subtitle C.

(b) ANNUAL REPORTS.—As a condition for the continued approval of such a regulatory program, the State shall report to the Secretary annually such information as the Secretary may require with respect to the performance of the program. Such information shall include a list of the carriers and insured health benefit plans or supplemental health benefit policies (as the case may be) certified under the program, the compliance of such carriers and plans with the applicable standards established under section 5501, and monitoring and enforcement actions taken to ensure such compliance.

(c) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAMS.—The Secretary annually shall review State regulatory programs approved under subsection (a) to determine if they adequately continue to apply, monitor, and enforce the standards. If the Secretary initially determines that a State regulatory program no longer is applying and enforcing such standards, the Secretary shall provide the State an opportunity to adopt such a plan of correction that would bring such program into compliance. If the Secretary makes a final determination that the State regulatory program fails to apply and enforce such standards after such an opportunity, the Secretary shall disapprove such program and assume responsibility for certification of all carriers and insured health benefit plans or supplemental health benefit policies (as the case may be) in that State, for establishing enrollment periods under section 5003(b), and for providing for collecting and disseminating information under section 5011.

(d) GAO AUDITS.—The Comptroller General shall conduct periodic reviews on a sample of State regulatory programs approved under subsection (a) to determine their compliance with the requirements of such subsection. The Comptroller General shall report to the Secretary and Congress on the findings of such reviews.

(e) EFFECT ON SECRETARIAL RESPONSIBILITIES.—Nothing in this section may be construed to restrict the Secretary's ability to obtain such information and carry out such activities as may be necessary to impose the Federal penalties described in section 5503 or to otherwise carry out duties and responsibilities under this title in a State with an approved program under this section.

SEC. 5503. FEDERAL PENALTIES.

(a) APPLICATION OF FEDERAL CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Any person who sells or issues a health plan—

(A) that is not certified in accordance with this title is subject to a civil money penalty not to exceed $25,000 for each such violation,

(B) in violation of the requirements of part 2 of subtitle B (relating to financial requirements for self-insured health benefit plans) is subject to the civil money penalty applicable under such part, and

(C) in violation of any other requirement under subtitle A, B, or C is subject to a civil money penalty not to exceed $25,000 for each such violation.

(2) PROCEDURES FOR IMPOSITION.—Except as provided in subsection (d), the provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under this subsection in the same manner as they apply to a penalty or proceeding under section 1128A of such Act.

(3) IMPOSITION OF PENALTIES BY APPROPRIATE SECRETARY.—The civil money penalties referred to in paragraph (1) shall be imposed by the Secretary of Health and Human Services (in the case of penalties relating to an insured health benefit plan or a supplemental health benefit policy) or the Secretary of Labor (in the case of penalties relating to a self-insured health benefit plan).

(4) AVAILABILITY OF INJUNCTIVE RELIEF.—The Secretary of Health and Human Services (in cases relating to an insured health benefit plan or a supplemental health benefit policy) or the Secretary of Labor (in cases relating to a self-insured health benefit plan) may obtain injunctive relief to enjoin any act or omission which may be subject to a civil money penalty under this subsection.

(5) APPLICATION OF FEDERAL PENALTIES.—A person is subject to a penalty under this section without regard to whether the applicable regulatory authority with respect to the person is the Secretary or the State.

(b) WITHHOLDING FEDERAL FINANCIAL ASSISTANCE TO STATES NOT ENFORCING ANTI-DISCRIMINATION REQUIREMENTS.—If the Secretary finds that a State has not adopted and is not enforcing the requirements described in section 5002 (relating to anti-discrimination requirements for carriers providing insured health benefit plans) with respect to insured health benefit plans in the State, the Secretary may—

(1) withhold Federal financial assistance payments to the State; and

(2) refer any findings to the Attorney General for further action pursuant to subtitle A of title IX.

(c) PENALTY FOR CERTAIN POLICIES DUPLICATING COVERAGE.—

(1) IN GENERAL.—Any person who sells or issues a health plan described in paragraph (4) that duplicates coverage of any item or service covered under the guaranteed national benefit package is subject to a civil money penalty not to exceed $25,000 for each such violation. Paragraph (2) of subsection (a) shall apply with respect to a penalty under the previous sentence in the same manner as such paragraph applies to penalties under such subsection.

(2) EXCEPTION FOR PLANS PROVIDING BENEFITS WITHOUT REGARD TO OTHER COVERAGE.—Paragraph (1) shall not apply with respect to any health plan that provides benefits to an enrollee without regard to any benefits provided to the enrollee under another plan.

(3) EXCEPTION FOR LIABILITY INSURANCE COVERAGE.—Paragraph (1) shall not apply with respect to any health plan described in clause (iv) or (v) of section 5504(15)(B) that provides benefits to an enrollee without regard to any benefits provided to the enrollee under a plan other than a plan described in such clause.

(4) PLANS DESCRIBED.—The health plans described in this paragraph are the plans described in section 5504(15)(B), but do not include a maintenance of effort policy provided under section 8904a of title 5, United States Code.

(d) PROCEDURES FOR IMPOSITION OF PENALTIES FOR VIOLATION OF FINANCIAL REQUIREMENTS FOR SELF-INSURED PLANS.—

(1) APPLICABILITY.—The procedures described in this subsection shall apply with respect to the imposition of a civil money penalty against the sponsor of a self-insured health benefit plan for violations of any requirements described in part 2 of subtitle B (relating to financial requirements).

(2) CONSIDERATIONS IN IMPOSITION.—In determining the amount of any penalty to be assessed under the procedures established under this section, the Secretary of Labor shall take into account the previous record of compliance of the person being assessed with the applicable requirements for sponsors of self-insured health benefit plans under subtitle B and the gravity of the violation.

(3) ADMINISTRATIVE REVIEW.—

(A) OPPORTUNITY FOR HEARING.—The person assessed shall be afforded an opportunity for hearing by the Secretary of Labor upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing all evidence shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(B) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary of Labor modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under paragraph (4).

(4) JUDICIAL REVIEW.—

(A) FILING OF ACTION FOR REVIEW.—Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this subsection may obtain review by the United States district court for any district in which such person is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice be registered mail to the Secretary of Labor.

(B) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary of Labor shall promptly certify and file in such court the record upon which the penalty was imposed.

(C) STANDARD FOR REVIEW.—The findings of the Secretary of Labor shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(D) APPEAL.—Any final decision, order, or judgment of such district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

(5) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

(A) FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary of Labor, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

(B) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(6) PAYMENT OF PENALTIES.—Except as otherwise provided, penalties collected under this subsection shall be paid to the Secretary of Labor (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.

(e) AVAILABILITY OF PRIVATE RIGHT OF ACTION FOR AGGRIEVED INDIVIDUALS.—

(1) IN GENERAL.—Any person aggrieved by an act or omission of an individual or entity which constitutes a failure to comply with an applicable requirement of this title may obtain from such individual or entity in any court of competent jurisdiction appropriate relief, including actual, compensatory, and punitive damages and equitable relief.

(2) EXCEPTION FOR CERTAIN VIOLATIONS.—Paragraph (1) does not apply in the case of an act or omission upon which a complaint may be filed in a complaint review office pursuant to section 9304 or for which a remedy may be sought under section 9333.

(3) ATTORNEY'S FEES AND COSTS.—In any action under paragraph (1) in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

(4) EXHAUSTION OF REMEDIES.—In an action under paragraph (1), the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law.

SEC. 5504. DEFINITIONS.

In this title:

(1) APPLICABLE REGULATORY AUTHORITY.—The term "applicable regulatory authority" means—

(A) the Secretary, or

(B) in the case of a State that has assumed responsibility for enforcement of standards under subtitle A pursuant to a State program approved under section 5502, the authority of the State that is exercising such responsibility.

(2) CARRIER.—The term 'carrier' means a licensed insurance company, a hospital or medical service corporation (including an existing Blue Cross or Blue Shield organization, within the meaning of section 833(c)(2) of the Internal Revenue Code of 1986), a

VOL 140 PT 15 AG 10 — 11 1994 UMI

health maintenance organization, or other entity licensed or certified by a State to provide health insurance or health benefits. The Secretary may issue regulations that provide for affiliated carriers to be treated as a single carrier where appropriate under this title.

(3) HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "health benefit plan" means a health plan, other than a plan described in subparagraph (B).

(B) EXCEPTION.—The term "health benefit plan" does not include any of the following (or any combination thereof):

(i) Coverage only for accident, dental, vision, disability income, or long-term care insurance, or any combination thereof.

(ii) Medicare supplemental health insurance.

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Worker's compensation or similar insurance.

(vi) Automobile medical-payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) A hospital or fixed indemnity policy.

(ix) Coverage provided exclusively to individuals who are not eligible individuals under this Act.

(4) HEALTH PLAN.—The term "health plan" means—

(A) any contract of health insurance, including any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract, that is provided by a carrier, or

(B) an employee welfare benefit plan or other arrangement insofar as the plan or arrangement provides health benefits and is funded in a manner other than through the purchase of one or more policies or contracts described in subparagraph (A).

(5) HIGH DEDUCTIBLE PLAN.—The term "high deductible plan" means an insured health benefit plan (other than a plan that provides services through a provider network) that provides for cost-sharing using the standard cost-sharing schedule under section 3013(a) for which the carrier establishes the deductible in accordance with paragraph (4) of such section.

(6) INSURED.—The term "insured" means, with respect to a plan, a plan that is provided by a carrier.

(7) MANAGED CARE PLAN.—The term "managed care plan" means a health benefit plan that provides for services included in the guaranteed national benefit package under the plan (other than services described in subsections (c) and (d) of section 5009) primarily through providers in the provider network of the plan.

(8) MARKET SECTOR.—The term "market sector" means a market sector described in section 5003(e)(2).

(9) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(10) POINT-OF-SERVICE PLAN.—The term "point-of-service plan" means an unlimited-choice-of-provider plan that also permits an enrollee to receive benefits through a provider network.

(11) PROVIDER NETWORK.—The term "provider network" means, with respect to a health plan, providers who have entered into an agreement with the plan under which such providers are obligated to provide items and services covered under the plan to individuals enrolled in the plan subject to the managed care cost-sharing schedule established under section 3014.

(12) SELF-INSURED.—The term "self-insured" means, with respect to a plan, a plan that is described in paragraph (4)(B).

(13) SPONSOR.—The term "sponsor" means, in relation to a health plan that—

(A) is insured, the carrier providing the plan, or

(B) is self-insured, the entity that sponsors the plan.

(14) STATE.—The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(15) SUPPLEMENTAL HEALTH BENEFIT POLICY.—

(A) IN GENERAL.—The term "supplemental health benefit policy" means a health insurance policy or health benefit plan which provides—

(i) coverage for items and services not included in the guaranteed national benefit package, or

(ii) coverage for items and services included in such package but not covered because of a limitation in amount, duration, or scope of benefits (including coverage for cost-sharing),

or both.

(B) EXCLUSIONS.—Such term does not include the following:

(i) Coverage only for accident, disability income, or long-term care insurance, or any combination thereof.

(ii) Medicare supplemental health insurance.

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Worker's compensation or similar insurance.

(vi) Automobile medical-payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) A hospital or fixed indemnity policy.

(ix) Coverage provided exclusively to individuals who are not eligible individuals under this Act.

(C) EXCEPTION FOR SERVICES COVERED UNDER CERTIFIED SELF-INSURED PLAN.—Such term does not include any self-insured health benefit plan certified by the Secretary under section 5501(a)(1)(B) as meeting the standards applicable to such a plan under subtitle B, notwithstanding that the plan provides coverage for any item or service described in subparagraph (A).

(16) TYPE OF PLAN.—Each of the following is considered to be a separate "type" of plan:

(A) A managed care plan.

(B) A point-of-service plan.

(C) A high deductible plan.

(D) An unlimited-choice-of-provider plan that is not a point-of-service plan or a high deductible plan.

(16) UNLIMITED-CHOICE-OF-PROVIDER PLAN.—

(A) IN GENERAL.—The term "unlimited-choice-of-provider plan" means a health benefit plan that, regardless of whether it permits enrollees to receive benefits through a provider network—

(i) provides coverage for all items and services included in the guaranteed national benefit package that are furnished by any lawful health care provider, subject to permissible coverage limitations (described in subparagraph (B)), and

(ii) makes payment to such a provider whether or not there is a contractual arrangement between the plan and the provider subject to cost sharing at the standard cost-sharing schedule (described in section 3013).

(B) PERMISSIBLE COVERAGE LIMITATIONS DESCRIBED.—The permissible coverage limitations are (as specified by the Secretary) the following:

(i) Utilization review.

(ii) Prior approval for specified services (not including routine prior approval for services), other than services provided for the treatment of an emergency medical condition (as defined in section 1867(e)(1) of the Social Security Act).

(iii) Exclusion of providers on the basis of poor quality of care, based on evidence obtainable by the plan.

SEC. 5505. PREEMPTION OF STATE LAW.

No State may enforce any law or regulation that is inconsistent with any standard established under this title.

SEC. 5506. CONSTRUCTION OF REFERENCES.

In this title, except as otherwise specifically provided, any references to provisions of the Social Security Act or the Employee Retirement Income Security Act of 1974 are deemed to be references to such provisions as in effect on the day after the date of the enactment of this Act, taking into account the amendments made to such provisions by this Act.

Subtitle G—Transitional Insurance Reforms

SEC. 5601. ESTABLISHMENT OF STANDARDS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in consultation with the Secretary of Labor) shall establish standards to carry out the requirements of this subtitle.

(b) CERTIFICATION OF COMPLIANCE.—For each 6-month period in which this subtitle is effective, each health plan sponsor shall file a certification with the Secretary (or with a State with which the Secretary has entered into an arrangement under subsection (c)(2)) that the sponsor is in compliance with the requirements of this subtitle.

(c) ENFORCEMENT.—

(1) ISSUANCE OF REGULATIONS.—The Secretary shall issue regulations to carry out this subtitle, and is authorized to issue such regulations on an interim basis that become final on the date of publication, subject to change based on subsequent public comment. The Secretary may consult with States and the National Association of Insurance Commissioners in issuing regulations and guidelines under this subtitle.

(2) ARRANGEMENTS WITH STATES.—The Secretary may enter into arrangements with a State to enforce the requirements of this subtitle with respect to insured health benefit plans issued or sold, or established and maintained, in the State.

(d) SANCTIONS AND REMEDIES.—

(1) IN GENERAL.—Any health plan sponsor that violates a requirement of this subtitle shall be subject to a civil money penalty of not more than $25,000 for each such violation. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a) of such Act.

(2) EQUITABLE REMEDIES.—A civil action may be brought by the Secretary—

(A) to enjoin any act or practice which violates any provision of this subtitle, or

(B) to obtain other appropriate equitable relief (I) to redress such violations, or (II) to

enforce any provision of this subtitle, including, in the case of a wrongful termination of (or refusal to renew) coverage, reinstating coverage effective as of the date of the violation.

(e) CONSTRUCTION.—The provisions of this subtitle shall be construed in a manner that assures, to the greatest extent practicable, continuity of health benefits under health benefit plans in effect on the effective date of this Act.

(f) SPECIAL RULES FOR ACQUISITIONS AND TRANSFERS.—The Secretary may issue regulations regarding the application of this subtitle in the case of insured health benefit plans (or groups of such plans) which are transferred from one carrier to another carrier through assumption, acquisition, or otherwise, and in the case of plans terminated pursuant to a joint marketing agreement entered into prior to January 1, 1994.

SEC. 5602. CONTINUATION OF COVERAGE.

(a) PROHIBITION OF TERMINATION.—

(1) GROUP HEALTH INSURANCE PLANS.—Each health plan sponsor that provides a group health insurance plan for a group of employees may not terminate (or fail to renew) coverage for the group, or for any covered individual, if the employer of the employees continues the plan, except in the case of—

(A) nonpayment of required premiums, or

(B) fraud or misrepresentation of a material fact relating to an application for coverage or claim for benefits.

(2) INDIVIDUAL HEALTH INSURANCE PLANS.—Each carrier providing an individual health insurance plan may not terminate (or fail to renew) coverage for an individual covered under the plan (or a covered dependent), except in the case of—

(A) nonpayment of required premiums,

(B) fraud, or

(C) misrepresentation of a material fact relating to an application for coverage or claim for benefits.

(3) SELF-INSURED HEALTH BENEFIT PLANS.—Each sponsor of a self-insured health benefit plan may not terminate (or fail to renew) coverage for an individual covered under the plan (or a covered dependent), except in the case of—

(A) nonpayment of required premiums,

(B) fraud, or

(C) misrepresentation of a material fact relating to an application for coverage or claim for benefits.

(b) ACCEPTANCE OF NEW MEMBERS IN A GROUP HEALTH INSURANCE PLAN.—

(1) IN GENERAL.—In the case of a health plan sponsor that provides a group health insurance plan that is in effect on the effective date of this subtitle, the sponsor is required—

(A) to accept all individuals, and their eligible dependents, who become full-time employees (as defined in section 3467(b)(1) of the Internal Revenue Code of 1986) of an employer covered after such effective date;

(B) to establish and apply premium rates that are consistent with section 5605; and

(C) to limit the application of pre-existing condition restrictions in accordance with section 5603.

(2) CONSISTENT APPLICATION OF RULES RELATING TO DEPENDENTS AND WAITING PERIODS.—In this subsection, the term "eligible dependent", with respect to a group health insurance plan, has the meaning provided under the plan as of June 29, 1994, or, in the case of a plan not established as of such date, as of the date of establishment of the plan.

SEC. 5603. LIMITS ON PRE-EXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—Subject to the succeeding provisions of this section, a carrier providing an insured health benefit plan may exclude coverage with respect to services related to treatment of a pre-existing condition, but the period of such exclusion may not exceed 6 months and such exclusion shall not apply with respect to services furnished to newborns, pregnancy-related services, or to a plan for which such exclusion did not apply as of the effective date of this subtitle.

(b) CREDITING OF PREVIOUS COVERAGE.—

(1) IN GENERAL.—A carrier providing an insured health benefit plan shall provide that if an individual covered under such a plan is in a period of continuous coverage (as defined in paragraph (2)(A)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a pre-existing condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

(2) DEFINITIONS.—As used in this subsection:

(A) PERIOD OF CONTINUOUS COVERAGE.—The term "period of continuous coverage" means, with respect to particular services, the period beginning on the date an individual is enrolled under a health benefit plan, the medicare program, a State medicaid plan, or other health benefit arrangement which provides benefits with respect to the same or substantially similar services (as determined in accordance with criteria established by the Secretary) and ends on the date the individual is not so enrolled for a continuous period of more than 3 months (or for a longer period with respect to individuals who lose employment and meet such other conditions as the Secretary may specify).

(B) PRE-EXISTING CONDITION.—The term "pre-existing condition" means, with respect to coverage under a health benefit plan, a condition which has been diagnosed or treated during the 6-month period ending on the day before the first date of such coverage (without regard to any waiting period).

SEC. 5604. PREMIUM CHANGES TO REFLECT CHANGES IN GROUP OR INDIVIDUAL CHARACTERISTICS OR TERMS OF COVERAGE.

(a) APPLICATION.—The provisions of this section shall apply to changes in premiums under insured health benefit plans that reflect—

(1) changes in the number of individuals covered under such a plan;

(2) changes in the group or individual characteristics (including age, gender, family composition or geographic area but not including health status, claims experience or duration of coverage under the plan) of individuals covered under such a plan;

(3) changes in the level of benefits (including changes in cost-sharing) under the plan; and

(4) changes in any material terms and conditions of the health benefit plan (other than factors related to health status, claims experience, and duration of coverage under the plan).

(b) DIVISION OF HEALTH INSURANCE PLANS BY SECTOR.—For purposes of this section, each health plan sponsor shall divide its health insurance business into the following 3 sectors:

(1) Health insurance for groups with at least 100 covered lives (in this subsection referred to as the "large group sector")

(2) Health insurance for groups with fewer than 100 covered lives (in this subsection referred as the "small group sector").

(3) Health insurance for individuals, and not for groups (in this subsection referred to as the "individual sector").

(c) SINGLE SET OF RATE FACTORS.—

(1) IN GENERAL.—Each health plan sponsor shall develop a single set of rate factors which will be used to calculate any changes in premium within a sector described in subsection (b) that relate to the reasons described in paragraphs (1) through (4) of subsection (a).

(2) STANDARDS.—Such rate factors—

(A) shall relate to reasonable and objective differences in demographic characteristics, in the design and in levels of coverage, and in other terms and conditions of a contract,

(B) shall not relate to expected health status, claims experience, or duration of coverage of the one or more groups or individuals, and

(C) shall comply with regulations established under section 5606.

(d) COMPUTATION OF PREMIUM CHANGES.—

(1) IN GENERAL.—Changes in premium rates within a sector that relate to the reasons described in subsection (a) shall be calculated using the rate factors developed pursuant to subsection (c).

(2) APPLICATION OF FACTORS.—

(A) IN GENERAL.—The change in premium rates with respect to each health benefit plan shall reflect the rate factors specified under subsection (c) applicable to the reason as applied to the current premium charged for the plan. Such rate factors shall be applied in a manner so that the resulting adjustment, to the extent possible, reflects the premium that would have been charged under the plan if the reason for the change in premium had existed at the time that the current premium rate was calculated.

(B) NO REFLECTION OF CHANGE IN HEALTH STATUS.—In applying the rate factors under this paragraph, the adjustment shall not reflect any change in the health status, claims experience or duration of coverage with respect to any employer or individual covered under the plan.

(e) LIMITATION ON APPLICATION.—This section shall only apply—

(1) to changes in premiums occurring on or after the date of the enactment of this Act to groups and individuals covered as of such date, and

(2) with respect to groups and individuals subsequently covered, to changes in premiums subsequent to such coverage.

(f) APPLICATION TO COMMUNITY-RATED PLANS.—Nothing in this section shall require the application of rate factors related to individual or group characteristics with respect to any health benefit plan that, as of the date of the enactment of this Act, does not use such factors in the determination of premiums under the plan.

SEC. 5605. LIMITATIONS ON CHANGES IN PREMIUMS FOR PLANS IN INDIVIDUAL SECTOR AND SMALL GROUP SECTOR RELATED TO INCREASES IN HEALTH CARE COSTS AND UTILIZATION.

(a) APPLICATION.—The provisions of this section shall apply to changes in premiums for insured health benefit plans in the individual sector and the small group sector (as such terms are defined in section 5604(b)) that reflect increases in health care costs and utilization.

(b) EQUAL INCREASE FOR ALL PLANS WITHIN EACH SECTOR.—

(1) IN GENERAL.—To the extent that any increase in premiums by a health plan sponsor for insured health benefit plans reflect increases in health care costs and utilization—

(A) the annual percentage increase for plans within the individual sector shall be the same for all such plans in the sector; and

(B) the annual percentage increase for plans within the small group sector shall be the same for all such plans in the sector.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) GEOGRAPHIC APPLICATION.—Paragraph (1)—

(A) may be applied on a national level, or

(B) may vary based on geographic area, but only if (i) such areas are sufficiently large to provide credible data on which to calculate the variation and (ii) the variation is due to reasonable factors related to the objective differences among such areas in costs and utilization of health services.

(3) EXCEPTIONS TO ACCOMMODATE STATE RATE REFORM EFFORTS.—Paragraph (1) shall not apply, in accordance with guidelines of the Secretary, to the extent necessary to permit a State to narrow the variations in premiums among insured health benefit plans offered by health plan sponsors to similarly situated groups or individuals within a sector.

(4) OTHER REASONS SPECIFIED BY THE SECRETARY.—The Secretary may specify through regulations such other exceptions to the provisions of this subsection as the Secretary determines are required to enhance stability of the health insurance market and continued availability of coverage.

(c) EVEN APPLICATION THROUGHOUT A YEAR.—In applying the provisions of this section to an insured health benefit plan that are renewed in different months of a year, the annual percentage increase shall be applied in a consistent, even manner so that any variations in the rate of increase applied in consecutive months are even and continuous during the year.

(d) PETITION FOR EXCEPTION.—A health plan sponsor may petition the Secretary (or a State acting under a contract with the Secretary under section 5601(c)(3)) for an exception from the application of the provisions of this section. The Secretary may approve such an exception if—

(1) the sponsor demonstrates that the application of this section would threaten the financial viability of the sponsor, and

(2) the sponsor offers an alternative method for increasing premiums that is not substantially discriminatory to any sector or to any group or individual covered by an insured health benefit plan offered by the sponsor.

SEC. 5606. MORE STRINGENT STATE LAWS NOT PREEMPTED.

The requirements of this subtitle do not preempt any State law unless the State law directly conflicts with such requirements. The provision of additional protections under State law shall not be considered to directly conflict with such requirements.

SEC. 5607. LIMIT ON CHANGES IN SELF-INSURED HEALTH BENEFIT PLANS.

(a) IN GENERAL.—A sponsor of a self-insured health benefit plan may not make a modification of benefits described in subsection (b).

(b) MODIFICATION OF BENEFITS DESCRIBED.—

(1) IN GENERAL.—A modification of benefits described in this subsection is any reduction or limitation in coverage, effected on or after the effective date of this subtitle, with respect to any medical condition or course of treatment for which the anticipated cost for any individual enrollee is likely to exceed $5,000 in any 12-month period.

(2) TREATMENT OF TERMINATION.—A modification of benefits includes the termination of a plan if the sponsor, within a period (specified by the Secretary) establishes a substitute plan that reflects the reduction or limitation described in paragraph (1).

(c) REMEDY.—Any modification made in violation of this subsection shall not be effective and the sponsor of the self-insured health benefit plan shall continue to provide benefits as though the modification (described in subsection (b)) had not occurred.

SEC. 5608. DEFINITIONS.

In this subtitle:

(1) COVERED EMPLOYEE.—The term "covered employee" means an employee (or dependent of such an employee) covered under a group health insurance plan.

(2) COVERED INDIVIDUAL.—The "covered individual" means, with respect to a health plan, an individual insured, enrolled, eligible for benefits, or otherwise covered under the plan.

(3) GROUP HEALTH INSURANCE PLAN.—

(A) IN GENERAL.—The term "group health insurance plan" means a health benefit plan offered primarily to employers for the purpose of providing health insurance to the employees (and dependents) of the employer.

(B) INCLUSION OF ASSOCIATION PLANS AND MEWAS.—Such term includes—

(i) any arrangement in which coverage for health benefits is offered to employers through an association, trust, or other arrangement, and

(ii) a multiple employer welfare arrangement (as defined in section 3(40) of the Employee Retirement Income Security Act of 1974), whether funded through insurance or otherwise.

(4) INDIVIDUAL HEALTH INSURANCE PLAN.—

(A) IN GENERAL.—The term "individual health insurance plan" means any health benefit plan directly purchased by an individual or offered primarily to individuals (including families) for the purpose of permitting individuals (without regard to an employer contribution) to purchase health insurance coverage.

(B) INCLUSION OF ASSOCIATION PLANS.—Such term includes any arrangement in which coverage for health benefits is offered to individuals through an association, trust, listbilling arrangement, or other arrangement in which the individual purchaser is primarily responsible for the payment of any premium associated with the contract.

(C) TREATMENT OF CERTAIN ASSOCIATION PLANS.—In the case of a health benefit plan sponsored by an association, trust, or other arrangement that provides health insurance coverage both to employers and to individuals, the plan shall be treated as—

(i) a group health insurance plan with respect to such employers, and

(ii) an individual health insurance plan with respect to such individuals.

(5) STATE COMMISSIONER OF INSURANCE.—The term "State commissioner of insurance" includes a State superintendent of insurance.

SEC. 5609. EFFECTIVE DATE.

(a) INSURED HEALTH BENEFIT PLANS.—The provisions of this subtitle—

(1) shall first apply to insured health benefit plans provided in a State on or after January 1, 1995, except that section 5602 shall apply to such plans on or after the date of the enactment of this Act; and

(2) shall not apply to an insured health benefit plan provided in a State on and after the first day of the first year during which the standards established by the Secretary under section 5501 for insured health benefit plans sold to individuals and employers are in effect in the State (in accordance with such section).

(b) SELF-INSURED HEALTH BENEFIT PLANS.—The provisions of this subtitle—

(1) shall first apply to self-insured health benefit plans provided on or after January 1, 1995, except that section 5602 shall apply to such plans on or after the date of the enactment of this Act; and

(2) shall not apply as of the first day of the first year during which the standards established by the Secretary under section 5501 for self-insured health benefit plans and the sponsors of such plans are in effect.

TITLE VI—STANDBY COST CONTAINMENT IN THE PRIVATE SECTOR

Subtitle A—National Health Expenditure Estimates

SEC. 6001. NATIONAL PRIVATE SECTOR PER CAPITA HEALTH EXPENDITURE ESTIMATE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—For each calendar year (beginning with 1996), there is established a national private sector per capita health expenditure estimate (in this subtitle referred to as the "national private per capita estimate") determined under paragraph (2).

(2) AMOUNT.—Subject to subsection (e)—

(A) 1996.—The national private per capita estimate for 1996 is equal to the private sector per capita budget baseline for 1995 (determined under subsection (b)) multiplied by the national private sector growth factor (specified under subsection (c)) for 1996.

(B) SUBSEQUENT YEARS.—The total amount of the national private per capita estimate for each year after 1996 is equal to the national private per capita estimate determined under this paragraph for the previous year multiplied by the national private sector growth factor (specified under subsection (c)) for the year involved.

(3) PUBLICATION.—The Secretary of Health and Human Services shall publish in the Federal Register and report to the Congress—

(A) by not later than April 1 before each year, an initial estimate of the national private per capita estimate for the year; and

(B) by not later than October 1 before each year, a final determination of the national private per capita estimate for such year.

(b) PRIVATE SECTOR PER CAPITA BUDGET BASELINE.—The Secretary shall compute a private sector per capita budget baseline under this subsection for 1995 as follows:

(1) 1993 ACTUAL EXPENDITURES.—The Secretary shall determine (on the basis of the best data available) the amount of the private sector per capita expenditures (as determined under subsection (d)) for 1993.

(2) PROJECTION FOR 1995.—The Secretary shall increase such amount by the Secretary's estimate of the percentage increase in the national private per capita estimate between the midpoint of 1993 and the midpoint of 1995.

(c) NATIONAL PRIVATE SECTOR GROWTH FACTOR.—The national private sector growth factor under this subsection for each year is 1 plus the sum (expressed as a fraction) of—

(1) the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during the 5-year period ending with the second previous year; and

(2)(A) for 1996, 2.4 percentage points,

(B) for 1997, 0.6 percentage points, and

(C) for each year thereafter, 0 percentage points.

(d) DETERMINATION OF NATIONAL PRIVATE PER CAPITA EXPENDITURES FOR 1993.—

(1) IN GENERAL.—The Secretary shall determine for 1993 the national private per capita expenditures equal to—

(A) total covered health care expenditures (described in paragraph (2)), divided by

(B) the estimated average population in the United States of individuals in 1993 who are eligible individuals (and would be subject to the individual mandate in 1998) (other than medicare part A beneficiaries and individuals entitled to medical assistance under a State plan under title XIX of the Social Security Act) for whom such expenditures were determined.

(2) COVERED HEALTH CARE EXPENDITURES.—For purposes of paragraph (1)(A), the Secretary shall determine covered health care expenditures for 1993 as follows:

(A) DETERMINATION OF TOTAL EXPENDITURES.—

(i) IN GENERAL.—The Secretary shall first determine the amount of total payments made for items and services included in the guaranteed national benefit package (determined without regard to cost sharing) or included in any standard benefit package for supplemental health benefit policies established under subtitle C of title V (determined without regard to cost sharing) in the United States in 1993.

(ii) INCLUSION OF ALL PAYERS.—Except as provided in clause (iii), the amount of total payments described in clause (i) shall be determined without regard to the source of payment and shall include (as specified by the Secretary) direct patient expenditures and payments made by third party payers (including Government health programs and health maintenance organizations).

(iii) EXCLUSIONS.—In computing such payment amounts, there shall be excluded, as specified by the Secretary—

(I) nonoperating revenues (such as interest);

(II) receipts attributable to personal comfort and convenience items described in section 6002(a)(5);

(III) direct payments from the Federal Government, from State government, from units of local government for research to the extent unrelated (and not attributable) to the provision of health care services;

(IV) receipts attributable to the program for the provision of hospital care and medical services by the Department of Veterans' Affairs under chapter 17 of title 38, United States Code;

(V) payments made to health care facilities and providers of the Department of Defense and of the Indian Health Service; and

(VI) such other receipts unrelated to the provision of health care services as the Secretary specifies.

(B) REMOVAL OF CERTAIN EXPENDITURES NOT INCLUDED IN PRIVATE SECTOR.—The amount so determined shall be decreased by the proportion of such amount that is attributable to any of the following:

(i) Medicare beneficiaries.

(ii) Medicaid beneficiaries.

(iii) Expenditures which are paid for through workers' compensation or automobile or other liability insurance.

(iv) Expenditures which are paid for items and services excluded from classes of services under section 6002(a)(4).

(v) Expenditures by parties (including the Federal Government) that the Secretary determines will not be payable by private health plans for coverage either of the guaranteed national benefit package or under any supplemental health benefit policy under this Act.

(e) ADJUSTMENTS.—

(1) IN GENERAL.—Except as provided in this subsection, the Secretary is not authorized to adjust the national private per capita estimate for a year once it is published before October of the previous year.

(2) RECOMMENDATIONS FOR CHANGES.—Except as permitted under paragraphs (3) and (4), the Secretary may submit to Congress recommendations for changes in the national private per capita estimate, but may not implement such recommendations without the approval of Congress.

(3) CORRECTION PERMITTED FOR ESTIMATION ERRORS IN PRIVATE SECTOR PER CAPITA BUDGET BASELINE.—Insofar as the Secretary determines that the amounts used in estimating initially the private sector per capita budget baseline described in subsection (b) did not accurately reflect the actual amount described in subsection (b)(1) and the actual percentage increase described in subsection (b)(2), the Secretary shall adjust the national private per capita estimate to correct for such estimation errors.

(4) SPECIAL RULE FOR 1998.—The Secretary shall adjust the national private per capita estimate for 1998 in order to reflect the impact of universal coverage on the national private per capita estimate, including—

(A) the elimination from the private sector per capita budget baseline under subsection (b) of amounts attributable to uncompensated care or to a differential between payment rates under title XIX of the Social Security Act and payment rates in the private sector; and

(B) increased utilization of, and expenditures for, items and services covered under the guaranteed national benefit package likely to occur, as a result of coverage of individuals under certified health plans who, as of 1997 were uninsured or underinsured with respect to such package.

(5) SPECIAL RULE FOR YEARS AFTER 2002.—The Secretary shall adjust the national private per capita estimate for each year after 2002 in order to reflect the impact of establishing an annual out-of-pocket limit on cost-sharing under the guaranteed national benefit package under section 3001.

SEC. 6002. CLASSES OF HEALTH CARE SERVICES.

(a) ESTABLISHMENT OF CLASSES.—

(1) IN GENERAL.—

(A) SPECIFIED SERVICES.—

(i) IN GENERAL.—Subject to subparagraph (B)(ii), in the case of items and services specified in a subparagraph under paragraph (2), all of the items and services described in that subparagraph shall be considered to be a "separate" class of health care services.

(ii) OVERLAPPING SERVICES.—Except as the Secretary may provide, items and services specified in a subparagraph of paragraph (2) shall be considered to be excluded from the subsequent subparagraphs of that paragraph.

(B) OTHER ITEMS AND SERVICES.—

(i) IN GENERAL.—In the case of items and services included as health care services under paragraph (3), the Secretary shall group such items and services into such class or classes of health care services as may be appropriate.

(ii) INCLUSION IN CLASSES OF SPECIFIED HEALTH CARE SERVICES.—In carrying out clause (i), the Secretary may include an item or service described in paragraph (3) within a class of services established under subparagraph (A).

(iii) UNIFORM DEFINITION OF CLASSES.—The Secretary shall define classes under this section in a manner identical to the definition of classes under section 8202.

(2) SPECIFIED HEALTH CARE SERVICES.—Subject to paragraph (4), the items and services specified in this paragraph are as follows:

(A) Inpatient hospital services, other than mental health services.

(B) Outpatient hospital services and ambulatory facility services (including renal dialysis facility services), other than mental health services.

(C) Diagnostic testing services (including clinical laboratory services and x-ray services).

(D) Physicians' services and other professional medical services, other than mental health services.

(E) Home health services and hospice care.

(F) Rehabilitation services, such as physical therapy, occupational and speech therapy.

(G) Durable medical equipment and supplies.

(H) Prescription drugs and biologicals and insulin.

(I) Nursing facility services, including skilled nursing facility services and intermediate care facility services, other than mental health services.

(J) Mental health services.

(3) CLASSIFICATION OF ADDITIONAL ITEMS AND SERVICES.—Subject to paragraph (4), with respect to items and services (not described in paragraph (2)) which are included under the guaranteed national benefit package or included in any standard benefit package for supplemental health benefit policies established under subtitle C of title V, the Secretary may classify them either within a class specified in paragraph (2) or within a new class established by the Secretary for such an item or service.

(4) EXCLUSIONS.—The following items and services shall not be considered to be health care services and shall not be included in a class of services under paragraph (1) or (3):

(A) Over-the-counter medications and medical equipment and devices.

(B) Homemaker and home health aide services and personal care services, and other services described in section 1915(c)(4)(B), section 1929(a), or section 1930(a) of the Social Security Act.

(C) Inpatient mental health services of a custodial nature.

(5) EXCLUSION OF INSTITUTIONAL CHARGES FOR PERSONAL COMFORT AND CONVENIENCE ITEMS.—Payments received (and amounts charged) by a facility which are attributable to items (such as private rooms, telephones, and television rentals) provided for the personal comfort and convenience of patients shall not be counted as receipts (nor subject to limitations on amounts that may be charged) for purposes of this title.

(b) PUBLICATION.—

(1) IN GENERAL.—The Secretary shall publish—

(A) by not later than April 1, 1995, proposed regulations defining the health care services and establishing the classes of services under this section, and

(B) by not later than October 1, 1995, final regulations defining the health care services and establishing such classes.

(2) ITEMS INCLUDED IN REGULATIONS.—In such regulations, the Secretary shall define—

(A) the class or classes to be established under subsection (a)(1),

(B) the services to be included within each class, and

(C) the methods and sources of data for computing, for purposes of this title, the national private per capita estimate within the class.

(3) CHANGES.—

(A) NO CHANGES AUTHORIZED.—After the Secretary has established classes of services under paragraph (1)(B), the Secretary may not change such classes (or the services included in such classes), except in the case of services not previously classified. Any such services not previously classified shall be classified within one of the classes previously established.

(B) RECOMMENDED CHANGES.—If the Secretary determines that a change in the classification established under this section may be appropriate, the Secretary shall submit to the Congress a report proposing such change. The Secretary shall include in the report an explanation of—

VOL 140 PT 15 AG 10 — 11 1994 UMI

(I) the rationale for such change, and

(II) the impact of such change on the national private per capita estimate permitted for classes of services that would be affected by the change.

(4) COMMISSION REPORTS.—

(A) INITIAL REPORTS.—With respect to the establishment of classes of services under this section, each applicable Commission (as defined in section 8202(c)), by not later than June 1, 1995, shall report to the Congress its comments concerning the classification proposed by the Secretary under paragraph (1)(A).

(B) PERIODIC REPORTS.—Each applicable Commission shall periodically report to Congress on changes in the system of classification under this section that should be made to promote the more efficient provision of medically appropriate health care services.

(c) APPLICABLE COMMISSION DEFINED.—In this title, the term "applicable Commission" has the meaning given such term in section 8202(c).

SEC. 6003. ALLOCATION OF PER CAPITA ESTIMATES BY CLASS OF SERVICE.

(a) ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate the national private per capita estimate under section 6001 for a year among classes of services specified under section 6002.

(2) PROPORTIONAL ALLOCATION BASED ON HISTORICAL PROJECTED EXPENDITURES.—

(A) IN GENERAL.—The amount allocated to each class for a year shall be equal to the national private per capita estimate allocated for the year multiplied by the ratio (expressed as a percentage) of—

(i) the historical projected private expenditures for the class for the year (as determined under subsection (b)(2)), to

(ii) the sum of such historical projected private expenditures for all the classes for the year.

(B) NATIONAL ANNUAL RATE OF INCREASE FOR A CLASS OF SERVICES.—In this Act, the term "national annual rate of increase" means, with respect to a class of services for a year, the percentage by which—

(i) the amount determined under subparagraph (A) for the class for the year, exceeds

(ii) the amount determined under such subparagraph for the class for the preceding year.

(3) PUBLICATION.—

(A) IN GENERAL.—The Secretary shall, in conjunction with the publication of the initial estimate and final determination of the national private per capita estimate under section 6001(a)(3) for a year, publish in the Federal Register and report to the Congress the allocation of the national private per capita estimate among the classes of services under this subsection.

(B) EXCEPTION FOR 1996.—For 1996, the Secretary shall publish and report the allocation of the national private per capita estimate among the classes of services under this subsection not later than August 1, 1995.

(b) HISTORICAL PROJECTED PRIVATE EXPENDITURES.—

(1) IN GENERAL.—

(A) DETERMINATION.—For purposes of subsection (a)—

(i) FOR 1995.—The historical projected private expenditures for a class of services for 1995 is equal to the portion of the national private per capita estimate during 1993 (as determined under section 6001(b)(2)(A)) which is attributable to the class of services, multiplied by the private trend factor (described in subparagraph (B)) for the class. In computing such portion for classes, the Secretary shall take into account the allocation of expenditures by health maintenance organizations among the different classes of services.

(ii) SUBSEQUENT YEARS.—The historical projected private expenditures for a class of services for a year after 1995 is equal to the amount of the allocation for the class under subsection (a)(2)(B) for the preceding year multiplied by the trend factor (described in subparagraph (B)) for the class and multiplied by the adjustment factor described in subparagraph (C) for the year..

(B) PRIVATE TREND FACTOR.—In subparagraph (A), subject to subsection (c)(1)(B), the "private trend factor", for a class of services, is 1 plus the average annual rate of increase in per capita private expenditures for the class of services during the 5-year period ending with 1995.

(C) ADJUSTMENT FACTOR.—The adjustment factor described in this subparagraph for a year is equal to the ratio of—

(i) the national private per capita estimate for the year (as determined under section 6001(a)(2)), or, for 1995, the private sector per capita budget baseline for 1995 (as determined under section 6001(b)(2)), to

(ii) the sum of the historical projected private expenditures projected for all the classes for the year (determined under subparagraph (A) without regard to this subparagraph).

(2) PUBLICATION OF TREND FACTORS.—The Secretary shall publish, by not later than August 1, 1995, the private trend factors for the different classes of services.

(c) REVIEW AND CHANGES IN ALLOCATION.—

(1) IN GENERAL.—

(A) NO ADMINISTRATIVE AUTHORITY TO CHANGE.—Except as specifically provided in this paragraph or by law enacted after the enactment of this Act, the Secretary has no authority to change the allocation or private trend factors from the allocation and private trend factors provided under this section.

(B) ADJUSTMENT IN PRIVATE TREND FACTORS.—The Secretary shall make such adjustments in the private trend factors under subsection (b)(1)(B) as the Secretary determines to be appropriate to reflect changes in patterns of use of health care services among the different classes of services. Such adjustment shall be made by regulation published not later than August 1, 1998, and shall be effective for determining allocations for years beginning with 1999.

(C) RECOMMENDED CHANGES.—Subject to subparagraph (D), if the Secretary determines that a change in the allocation of an estimate among classes is appropriate, the Secretary shall submit to the Congress a report proposing such change. The Secretary shall include in the report an explanation of—

(i) the rationale for such change, and

(ii) the impact of such change on the national private per capita estimate permitted for classes of services that would be affected by the change.

(D) CORRECTION PERMITTED FOR ESTIMATION ERRORS.—Insofar as the Secretary determines that the amounts used in estimating initially the historical projected private expenditures under this subsection did not accurately reflect the actual portions described in subsection (b)(1)(A)(i) or the actual private trend factors described in subsection (b)(1)(B), the Secretary shall adjust the allocation of the national private per capita estimate among classes of services to correct for such estimation errors.

(2) COMMISSION REVIEW.—Each applicable Commission shall annually review and report to Congress, in its report submitted under section 6002(b)(4), on the effect of the private trend factors used in the allocation of the national private per capita estimate among classes of services. Such report shall include such recommendations for appropriate adjustments in the private trend factors as the applicable Commission considers appropriate to properly take into account at least—

(A) changes in health care technology,

(B) changes in the patterns and practices relating to health care delivery found to be appropriate,

(C) changes in the distribution of health care services, and

(D) the special health care needs of underserved rural and inner city populations.

SEC. 6004. NATIONAL HEALTH EXPENDITURES REPORTING SYSTEM.

(a) IN GENERAL.—The Secretary shall establish a national health expenditures reporting system (in this section referred to as the "system") for purposes of—

(1) establishing the national private per capita estimate,

(2) allocating the national private per capita estimate among classes of services,

(3) determining maximum payment rates,

(4) monitoring of any State cost containment and benefit management programs established by States pursuant to title IV, and

(5) otherwise carrying out this title.

(b) INFORMATION REPORTING.—

(1) ANNUAL REPORT BY PROVIDERS.—

(A) IN GENERAL.—Under the system, providers of health care services (including such providers within provider networks) shall submit (by not later than April 15 of each year, beginning with 1997) a report.

(B) CONTENTS.—Such a report shall include such information as the Secretary specifies relating to the provision of health care services in the previous year, including—

(i) the volume and receipts for such services,

(ii) cost and revenue data for hospitals and other institutional providers and revenue data for other providers, and

(iii) information by class of service, type of payer, and State of residence of individual provided the services.

Information on revenues for activities not related to the provision of direct patient care, such as teaching or research or for services that are explicitly excluded from the system of national health expenditures estimates, shall be reported separately.

(C) FORM.—The report shall be submitted in such form and manner (including the use of electronic transmission) as the Secretary shall specify in regulation. Such form shall permit the reporting of information by health plans on behalf of providers who are in provider networks in the plan.

(D) USE OF REPORTING MECHANISMS.—To the maximum extent practicable and appropriate, reporting under such system shall be done through reporting mechanisms (such as uniform hospital reports provided under section 9105) and using data bases otherwise in use.

(E) USE OF SURVEYS.—The Secretary may, where appropriate, provide for the collection of information under the system through surveys of a sample of health care providers or with respect to a sample of information with respect to such providers.

(2) CONFIDENTIALITY.—Information gathered pursuant to the authority provided under this section shall not be disclosed in a manner that identifies individual providers of services.

(3) TRANSITION.—Before April 15, 1997, for purposes of this title, the Secretary may use such other data collection and estimation techniques as may be appropriate for purposes described in subsection (a).

(c) ENFORCEMENT.—If a provider of health services is required, under the system under this section, to report information and refuses, after being requested by the Secretary, to provide the information required, or deliberately provides information that is false, the Secretary may impose a civil money penalty of not to exceed $10,000 for each such refusal or provision of false information. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

Subtitle B—State Health Expenditure Estimates

SEC. 6101. STATE PRIVATE SECTOR PER CAPITA HEALTH EXPENDITURE ESTIMATE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—For each calendar year (beginning with 1996), the Secretary shall establish a State private sector per capita health expenditure estimate (in this title referred to as a "State private per capita estimate") for each State under paragraph (2).

(2) AMOUNT.—Subject to subsection (e), the State private per capita estimate for a State for a year is equal to the national private per capita estimate for the year, established under section 6001, multiplied by the applicable State adjustment factor (specified under subsection (b)) for the State.

(3) PUBLICATION.—The Secretary shall publish in the Federal Register and report to the Congress and to each State—

(A) by not later than April 1 before each year, an initial estimate of the State private per capita estimate for each State for the year; and

(B) by not later than October 1 before each year, a final determination of the State private per capita estimate for each State for the year.

(4) PERIODIC COMMISSION REPORTS ON STATE ESTIMATES.—Each applicable Commission shall periodically review and report to Congress on the State private per capita estimates established under this section. Such a report shall include such recommendations as the respective Commission deems appropriate.

(b) STATE ADJUSTMENT FACTORS.—

(1) IN GENERAL.—The Secretary shall compute a State adjustment factor for each State consistent with this subsection.

(2) UTILIZATION AND PRICE FACTORS.—In establishing State adjustment factors, the Secretary shall take into account the following:

(A) RATIO OF STATE PRIVATE SECTOR PER CAPITA EXPENDITURES TO NATIONAL PRIVATE SECTOR PER CAPITA EXPENDITURES.—Subject to adjustments to reflect subparagraphs (B) and (C), the ratio of a State private sector per capita expenditures (that would be computed for the State under section 6001(d) if computations under such section were made for that State rather than for the United States) to the national private per capita expenditures determined under such section.

(B) HISTORIC UTILIZATION.—With respect to utilization of services, differences among the States in demographic composition and historic utilization of different services in the private sector in 1993.

(C) MAXIMUM PAYMENT RATES UNDER THIS TITLE.—With respect to the price of services, the price of such services that would be allowed in the State in 1995 if the maximum payment rates (provided under subtitle D) were to apply in the State in 1995.

(3) ADJUSTMENT TO REFLECT HEALTH CARE EXPENDITURES FOR STATE RESIDENTS.—The Secretary shall provide for an adjustment to take into account differences among States in the in-State, and out-of-State, use of services by residents and non-residents of the State, in order that the per capita amount reflects per capita health care expenditures for residents of the State for services provided anywhere in the United States.

(4) AVERAGE.—The Secretary shall establish the State adjustment factors in such a manner as assures that the population weighted average of such factors is 1.

(c) ADJUSTMENT.—

(1) IN GENERAL.—Subject to paragraph (3), the provisions of section 6001(e) shall apply to the State private per capita estimates under this section in the same manner as they apply to the national private per capita estimate.

(2) ADJUSTMENT TO CORRECT ESTIMATION ERRORS.—Insofar as the Secretary determines that the amounts used in estimating initially the State private per capita estimates did not accurately reflect the correct values for the factors used in computing State adjustments factors under subsection (b), the Secretary shall adjust the State private per capita estimates to correct for such estimation errors.

(3) ADJUSTMENT IN 1998.—In applying section 6001(e)(4) under paragraph (1), the adjustment for each State private per capita estimate shall be the same as the adjustment to the national private per capita estimate under such section.

Subtitle C—Stand-By Federal Cost Containment

SEC. 6201. APPLICATION OF MAXIMUM PAYMENT RATES IN STATES THAT FAIL TO CONTROL COSTS.

(a) DETERMINATION OF STATE PERFORMANCE.—

(1) IN GENERAL.—During each year (beginning with 1997), the Secretary shall determine for each State whether the actual State private per capita health care expenditures (determined in a manner similar to the manner in which the national private per capita expenditures is determined under section 6001(d)(2)) for the previous year exceeded the State private per capita estimate for the State for such year (as determined under subtitle B). Such determination shall be based on information submitted by providers under section 6005 and such other data as the Secretary finds appropriate.

(2) ADJUSTMENT OF ACTUAL PER CAPITA HEALTH EXPENDITURES.—

(A) IN GENERAL.—In accordance with procedures established by the Secretary, a State may apply to the Secretary to exclude from the computation of actual State per capita health expenditures under paragraph (1) in the State for a year expenditures attributable to health care needs of a sudden and temporary nature, such as epidemics or natural disasters, to the extent that health care expenditures for such or similar needs were not reflected in the State private per capita estimate.

(B) LIMITATION.—For purposes of subparagraph (A), expenditures extending over a period of longer than 6 months shall not be considered temporary.

(b) APPLICATION OF STANDBY COST CONTAINMENT UNDER SUBTITLE D.—

(1) IN GENERAL.—If the Secretary determines in a year under subsection (a) beginning after 1999 that the actual State per capita health expenditures in a State for the previous year was greater than the State private per capita estimate for the State for such year, subject to paragraph (2) the provisions of subtitle D shall apply to charges imposed (and payments made) for services furnished in the State on or after January 1 of the following year.

(2) SUBSTITUTION OF STATE APPROVED ALTERNATIVE PAYMENT SYSTEM.—

(A) ALTERNATIVE PAYMENT SYSTEM.—Subtitle D shall not apply in a State for a year to services if the Secretary determines that the State has in effect for the year an alternative payment system that meets the applicable requirements of subtitle A of title III for the services covered.

(B) BENEFITS MANAGEMENT PROGRAM.—Subtitle D shall not apply in a State for a year if the Secretary determines that the State has in effect for the year a benefits management program that meets the applicable requirements of subtitle B of title III.

Subtitle D—Maximum Payment Rates

PART 1—ESTABLISHMENT AND APPLICATION OF MAXIMUM PAYMENT RATES

SEC. 6301. PROCESS.

(a) PUBLICATION OF RATES.—

(1) IN GENERAL.—The Secretary shall cause to have published in the Federal Register—

(A) not later than April 1 of each year (or not later than September 1, 1995, in the case of rates for 1996), proposed maximum payment rates under this subtitle for the following year for public comment, and

(B) not later than October 1 of each year (or not later than December 1, 1995, in the case of rates for 1996), after such consideration of public comment on the proposed rates, the maximum payment rates under this subtitle for the following year.

(2) PAYMENT RATES ONLY ADVISORY FOR 1996 THROUGH 2000.—The maximum payment rates for 1996 through 2000 published under paragraph (1) are only advisory and shall not be applied to payment for services during such years.

(b) ITEMS INCLUDED IN PUBLICATIONS.—The Secretary shall include in the publications referred to in subsection (a)(1)—

(1) a description of the payment methodology used in the establishment of maximum payment rates; and

(2) in the case of a publication under subsection (a)(1)(B), the extent that the rates differ from the applicable Commission's recommendations under subsection (c), an explanation of the Secretary's grounds for not following such recommendations.

(c) REPORTS OF COMMISSIONS.—With respect to the establishment of maximum payment rates for services under this subtitle, the applicable Commission, not later than June 1 of each year, shall report its recommendations to the Secretary and Congress concerning such rates for the following year. Each such report may include such other recommendations relating to the operation of this subtitle as the Commission considers appropriate.

(d) PAYMENT RATE DEFINED.—In this subtitle, the term "payment rate" means, with respect to health care services for which amounts are payable under a plan or program, the rate of payment provided for under the plan or program and including cost-sharing (including deductibles, coinsurance, and extra billing amounts) applicable under the plan or program with respect to the services.

SEC. 6302. PAYMENT METHODOLOGY; RELATION TO ESTIMATE ALLOCATION.

(a) PAYMENT METHODOLOGY.—

(1) IN GENERAL.—Subject to sections 8002(c) and 8003, the Secretary shall establish maximum payment rates under this subtitle consistent with the payment rate methodology specified under part 2.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) TREATMENT OF SERVICES WITHIN A CLASS.—Nothing in this title shall be construed as requiring that maximum payment rates established under this subtitle for different health care services within a class of services be the same or determined under the same methodology.

(b) RELATION TO NATIONAL PRIVATE PER CAPITA ESTIMATE.—

(1) IN GENERAL.—Subject to paragraph (2), the maximum payment rates for a year shall be established under this subtitle in a manner so that, if they were to apply in the year in all the States under this title—

(A) the national average private per capita expenditures for all the services within each class subject to such rates, is equal to

(B) the percent of the national private per capita estimate allocated to the class under section 6001(a)(1) for the year.

(2) RULES FOR CERTAIN STATES.—The rates shall be established under paragraph (1) not taking into account any reductions in such rates effected under section 4004(c)(2)(A). The reductions under such section shall be applied only to the rates (as so established) in that State.

SEC. 6303. GENERAL APPLICATION AND ENFORCEMENT OF MAXIMUM PAYMENT RATES.

(a) LIMITS ON CHARGES.—

(1) IN GENERAL.—In the case of a provider that provides health care services to an individual for which a maximum payment rate is established and applied pursuant to this subtitle and subtitle C—

(A) the provider may not charge (i) an amount in excess of such rate or (ii) on a payment basis other than the payment basis established for such services under part 2;

(B) the provider may not collect for such services an amount in excess of such rate; and

(C) the individual and other entities, including a health benefit plan, are not liable collectively for payment of any amount that exceeds such rate.

(2) RELATION TO MEDICARE PROGRAMS.—This subsection shall not apply to services furnished to an individual who is entitled to benefits with respect to such services under title XVIII of the Social Security Act, medicare part C, or the program established under part B of title XXII of the Social Security Act.

(b) ENFORCEMENT THROUGH CIVIL MONEY PENALTIES.—

(1) IMPROPER CHARGES.—If a provider imposes a charge in violation of subsection (a)(1)(A), the provider is subject to civil money penalty in an amount not to exceed $100 for each such charge.

(2) IMPROPER COLLECTION.—If a provider collects excess amounts in violation of subsection (a)(1)(B) and does not refund such excess amounts within 30 days of date on which the provider is notified (in a form and manner specified by the Secretary) that the provider collected excess amount, the provider is subject to a civil money penalty in an amount equal to three times the amount of such excess which has not been so refunded or, if greater, $500.

(3) PROCESS.—The provisions of section 1128A of the Social Security Act (other subsections (a) and (b)) shall apply to a civil money penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(4) DEPOSIT OF PENALTIES IN ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—Any civil money penalties collected under this subsection shall be paid into the All-payer Health Care Fraud and Abuse Control Account (established under section 9212).

PART 2—METHODOLOGIES FOR DETERMINING MAXIMUM PAYMENT RATES

SEC. 6311. BASIS FOR MAXIMUM PAYMENT RATES FOR INPATIENT HOSPITAL SERVICES.

(a) PAYMENT RATES.—

(1) IN GENERAL.—Subject to subsection (e), the maximum payment rate established under this subtitle for a service within the class of services consisting of inpatient hospital services that is provided by—

(A) a hospital that is not an exempt hospital (as defined in paragraph (4)) is the payment rate specified in paragraph (2), or

(B) an exempt hospital is the payment rate specified in paragraph (3).

(2) RATE FOR GENERAL HOSPITALS.—The payment rate under this paragraph during a year shall be equal to the sum of the following:

(A) STANDARD DRG-BASED PAYMENT RATE.—The product of—

(i) the standardized amount applicable to the hospital, as established in accordance with subsection (b), adjusted under subsection (d); and

(ii) the weighting factor assigned to the service (as determined in accordance with subsection (c)).

(B) OUTLIERS.—An amount for discharges classified as outliers, in accordance with a methodology similar to the methodology used under section 1886(d)(5)(A) of the Social Security Act.

(C) DIRECT GRADUATE MEDICAL EDUCATION.—An amount for direct graduate medical education costs of the hospital, as determined in accordance with section 7024(e)(1)).

(3) RATE FOR EXEMPT HOSPITALS.—The payment rate under this paragraph during a year shall be determined on a per admission basis, based on the allowable operating receipts of the hospital (determined in the manner specified in subparagraphs (A) and (B) of subsection (b)(2)).

(4) EXEMPT HOSPITAL DEFINED.—In this section, the term "exempt hospital" means—

(A) a psychiatric hospital (as defined in section 1861(f) of the Social Security Act), including a psychiatric unit of a hospital which is a distinct part of the hospital (as defined by the Secretary);

(B) a rehabilitation hospital (as defined by the Secretary), including a rehabilitation unit of a hospital which is a distinct part of the hospital (as defined by the Secretary);

(C) a hospital whose inpatients are predominantly individuals under 18 years of age;

(D) a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days; or

(E) a hospital that the Secretary has classified, at any time on or before December 31, 1990, for purposes of applying exceptions and adjustments to payment amounts under section 1886(d) of such Act, as a hospital involved extensively in treatment for or research on cancer.

(5) EXCLUSION OF EXEMPT HOSPITALS IN DETERMINATIONS.—For purposes of the succeeding subsections of this section, the term "hospital" does not include an exempt hospital.

(b) ESTABLISHMENT OF STANDARDIZED AMOUNTS.—

(1) IN GENERAL.—The Secretary shall establish a standardized amount under subsection (a) for hospitals located in a large urban area and for other hospitals for a year by standardizing the hospital's average cost per discharge (based on the hospital's allowed operating receipts, as determined under paragraph (2)) in accordance with paragraph (3). For purposes of the preceding sentence, a hospital is located in a "large urban area" if the hospital is treated as being located in a large urban area under section 1886(d) of the Social Security Act for purposes of the medicare program.

(2) ALLOWED OPERATING RECEIPTS PER DISCHARGE DEFINED.—

(A) IN GENERAL.—For purposes of paragraph (1) and except as provided in subparagraph (B), a hospital's "allowed operating receipts" means the total of all receipts of the hospital (without regard to the source) attributable to routine operating costs, ancillary service operating costs, and special care unit operating costs with respect to inpatient hospital services, as determined on an average per admission or per discharge basis (as determined by the Secretary), during 1993, increased by the Secretary's estimate of the percentage increase in such receipts between the midpoint of 1993 and the midpoint of 1995.

(B) EXCLUSIONS.—In determining a hospital's allowed operating receipts per discharge under subparagraph (A), the Secretary shall exclude receipts attributable to services for which payment was made to the hospital under the medicare program and discharges (or admissions) attributable to individuals entitled to benefits under part A of the medicare program.

(C) CERTAIN OUTPATIENT RECEIPTS INCLUDED.—In determining a hospital's allowed operating receipts under subparagraph (A), the Secretary shall include all receipts attributable to services that are provided by the hospital (or by an entity wholly owned or operated by the hospital) to a patient during the 3 days immediately preceding the date of the patient's admission if such services are diagnostic services (including clinical diagnostic laboratory tests) or are other services related to the admission (as defined by the Secretary).

(3) PROCESS FOR STANDARDIZING AMOUNTS.—The Secretary shall standardize the average per discharge amount for each hospital for a year, in a manner similar to the standardization process described in section 1886(d)(2)(C) of the Social Security Act, by providing for the following adjustments and exclusions:

(A) Adjusting for variations among hospitals by area in the average hospital wage level, using the area wage level applied for hospitals under the medicare program under section 1886(d)(3)(E) of the Social Security Act.

(B) Adjusting for variations in case mix among hospitals.

(C) Excluding an estimate of the additional payments to be made for outliers, using the amounts paid to hospitals for outliers under the medicare program under section 1886(d)(5)(A) of such Act (except that the Secretary may apply different amounts if the Secretary finds that such different amounts more accurately reflect outliers for services furnished to individuals who are not medicare beneficiaries).

(D) Adjusting for variations among hospitals by area in input prices other than wages and wage-related costs.;

(E) Excluding an estimate of indirect medical education costs, using the indirect medical education adjustment applied for hospitals under the medicare program under section 1886(d)(5)(B) of such Act.

(F) Excluding an estimate of the additional payments made for hospitals serving a disproportionate share of low-income individuals, determined in the same manner as payment adjustments made on behalf of such

hospitals under section 1886(d)(5)(F) of such Act (as amended by this Act).

(G) Excluding an estimate of direct graduate medical education costs.

(H) Excluding an estimate of capital-related costs.

(c) ESTABLISHMENT OF DIAGNOSIS-RELATED GROUPS AND WEIGHTING FACTORS.—

(1) DIAGNOSIS-RELATED GROUPS.—For purposes of this section, the Secretary shall establish a classification of inpatient hospital discharges by diagnosis-related groups and a methodology for classifying specific hospital discharges within these groups.

(2) WEIGHTING FACTORS.—For each diagnosis-related group established under paragraph (1), the Secretary shall assign an appropriate weighting factor which reflects the relative hospital resources used with respect to discharges classified within that group compared to discharges classified within other groups.

(3) USE OF MEDICARE GROUPS AND FACTORS.—In establishing diagnosis-related groups and assigning weighting factors for such groups under this paragraph, the Secretary shall use the diagnosis-related groups and weighting factors used under the medicare program under section 1886(d)(4) of the Social Security Act, except to the extent that the Secretary must establish diagnosis-related groups in addition to the groups under such program, or adjust such weighting factors, to take into account the application of payment rates under this section to inpatient hospital services furnished to individuals who are not medicare beneficiaries. In carrying out this paragraph, the Secretary shall establish separate diagnosis-related groups and weighting factors applicable to services furnished to children.

(d) ADJUSTMENTS TO STANDARDIZED AMOUNTS.—The adjustments under this subsection are as follows:

(1) WAGE ADJUSTMENT.—Adjusting for variations among hospitals by area in the average hospital wage level, using the area wage level applied for hospitals under the medicare program under section 1886(d)(3)(E) of the Social Security Act.

(2) NON-WAGE ADJUSTMENT.—Adjusting for variations among hospitals by area in input prices other than wages and wage-related costs.

(3) ADDITION OF INDIRECT MEDICAL EDUCATION.—Adding an amount for the indirect medical education costs of the hospital, in accordance with section 7024(e)(2).

(4) ADDITION OF CAPITAL.—Adding an amount for capital and capital-related costs, determined in the same manner as payment for such costs is provided under section 1886(g) of the Social Security Act.

(5) ADDITION OF DSH.—Adding an amount in the case of hospitals serving a disproportionate share of low-income individuals, determined in the same manner as payment adjustments are made on behalf of such hospitals under section 1886(d)(5)(F) of such Act (as amended by this Act).

(e) OTHER ADJUSTMENTS.—

(1) NEEDS OF CERTAIN FACILITIES.—The Secretary may adjust the maximum payment rates otherwise determined under this section for hospitals in such manner and to such extent as the Secretary considers appropriate to take into account the needs of—

(A) regional and national referral centers described in section 1886(d)(5)(C) of the Social Security Act;

(B) sole community hospitals described in section 1886(d)(5)(D) of such Act; and

(C) essential access hospitals designated by the Secretary under section 1820(i)(1) of such Act.

(2) RULES FOR TRANSFERRED PATIENTS.—The Secretary shall provide for rules for applying the maximum payment rates under this section in the case of a hospital for inpatient hospital services provided to patients transferred to (or from) the hospital, in accordance with the rules used with respect to such transfers under the medicare program.

SEC. 6312. BASIS FOR MAXIMUM PAYMENT RATES FOR CLASS OF PHYSICIANS' SERVICES AND OTHER PROFESSIONAL MEDICAL SERVICES.

(a) USE OF RELATIVE VALUE FEE SCHEDULE.—

(1) IN GENERAL.—Subject to subsection (b), the maximum payment rates established under this subtitle for a service within the class of services consisting of physicians' services and other professional medical services during a year shall be equal to the product of—

(A) the relative value for the service applied under section 1848(b) of the Social Security Act;

(B) an applicable conversion factor (determined by the Secretary in an amount consistent with the requirements of section 6302(b)); and

(C) the applicable geographic adjustment factors applied under section 1848(b) of the Social Security Act.

(b) NEW PROCEDURE CODES AND RELATIVE VALUE UNITS.—In applying subsection (a) in the case of services for which relative value units have not been established under section 1848 of the Social Security Act, the Secretary shall establish relative value units in the same manner as if payment for such services were made under the medicare program.

(c) PUBLICATION OF DEFINITIONS, RELATIVE VALUE UNITS, AND PAYMENT POLICIES.—The Secretary shall provide for publication of such definitions, relative value units (established under subsection (b)), and payment policies as may be necessary for payers to apply the maximum payment rates established under this section.

SEC. 6313. BASIS FOR OTHER MAXIMUM PAYMENT RATES FOR SERVICES USING CERTAIN MEDICARE PAYMENT METHODOLOGIES.

The maximum payment rates established under this subtitle for services for any of the following classes of services shall be determined using the applicable payment methodologies under the medicare program as follows:

(1) In the case of facility services described in section 1832(a)(2)(F) of the Social Security Act furnished in connection with a surgical procedure specified pursuant to section 1833(i)(1)(A) of such Act and furnished to an individual in an ambulatory surgical center described in such section, the methodology described in section 1833(i)(2) of such Act.

(2) For services provided by Federally qualified health centers, the methodology shall be the cost-based methodology used in determining payment amounts under the medicare programs, as amended by section 7022, and the maximum payment rates shall be the amounts determined under such programs.

(3) For the class of diagnostic testing services described in section 6002(a)(2)(C)—

(A) in the case of clinical laboratory services, the methodology described in sections 1833(a)(2)(D) and 1833(h) of such Act (including the requirement of direct billing for such services), and

(B) in the case of other diagnostic services, the applicable methodology under part B of title XVIII of the Social Security Act.

(4) In the case of an item of durable medical equipment (described in section 1834(a)(13) of the Social Security Act), the methodology described in section 1834(a)(1) of such Act.

(5) In the case of prosthetic devices and orthotics and prosthetics, the methodology described in section 1834(h)(1)(A) of the Social Security Act.

(6) In the case of psychologists and clinical social workers, the methodologies described in section 1833(a)(1)(L) and 1833(a)(1)(F) of the Social Security Act, respectively.

(7) For prescription drugs, the methodology used to determine payment limits under section 1834(d)(4) of the Social Security Act, as inserted by section 3102(a), except that—

(A) any reference in such section to "1998" or "1999" shall be deemed to be a reference to "1996" or "1997",

(B) any reference in such section to "4 12-month periods ending with June 1997" shall be deemed a reference to "2 12-month periods ending with June 1995", and

(C) any reference in such section to the uniform percentage increase determined under section 8206(a) shall be deemed a reference to national rate of increase for the class of prescription drugs established under 6003(a)(2)(B).

(8) For renal dialysis services, home dialysis supplies and equipment (as defined in section 1881(b)(8) of the Social Security Act), and self-care home dialysis support services (as defined in section 1881(b)(9) of such Act), the methodology described in section 1881(b) of such Act.

(9) For any other service within a class of services for which the amount of payment made under part B of the medicare program is determined on the basis of reasonable or prevailing charge, the methodology used for payment for such service under such part.

SEC. 6314. SERVICES PROVIDED BY MANAGED CARE ORGANIZATIONS.

(a) IN GENERAL.—The maximum payment rates established under this subtitle for capitation payments made to managed care organizations for the guaranteed national benefit package shall be determined using the applicable payment methodologies established under subsection (b).

(b) PAYMENT METHODOLOGY.—

(1) IN GENERAL.—The Secretary shall establish a system of determining payments to managed care organizations contracting to provide the guaranteed national benefit package on a capitated or risk basis.

(2) USE OF MEDICARE METHODOLOGY.—Such methodology shall be based on the methodology used under section 1876 of the Social Security Act, and the payment rates shall reflect the guaranteed national benefit package and a representative population of individuals in the private sector.

(c) PAYMENT RATES.—The maximum payment rates under this section shall be equal to 95 percent of the actuarially comparable cost of providing services to individuals not enrolled with managed care organizations, consistent with maximum payment rates established under this part.

SEC. 6315. OTHER SERVICES.

In the case of services within a class of services for which a methodology for establishing maximum payment rates is not otherwise provided pursuant to the preceding provisions of this subtitle, by January 1, 1997, the Secretary shall establish an appropriate methodology for establishing such rates, taking into account the payment methodology or methodologies in use under the medicare program or other health benefit plans, including prospective payment methodologies developed and implemented under section 8002(a).

VOL
140
PT
15
AG
10
—
11
1994
UMI

Subtitle E—Administrative and Judicial Review

SEC. 6401. LIMITATION ON ADMINISTRATIVE AND JUDICIAL REVIEW.

There shall be no administrative or judicial review of any of the following determinations:

(1) The maximum payment rates established under subtitle D, including—

(A) relative values and relative value units and conversion factors;

(B) the establishment of diagnosis-related groups, of the methodology for the classification of discharges within such groups, and of the appropriate weighting factors thereof.

(2) The national private per capita estimate and the State private per capita estimate for each State.

(3) Allocation of the national private per capita estimate or a State private per capita estimate to a class of health services.

SEC. 6402. REFERENCES TO MEDICARE PROVISIONS.

In this title, except as otherwise specifically provided, any references to provisions of title XVIII of the Social Security Act are deemed to be references to such provisions as in effect on the day after the date of the enactment of the Guaranteed Health Insurance Act of 1994, taking into account the amendments made to such title by such Act.

Subtitle F—National Health Cost Commission

SEC. 6501. NATIONAL HEALTH COST COMMISSION.

(a) ESTABLISHMENT.—By not later than January 1, 1997, the President shall establish a National Health Cost Commission (in this subtitle referred to as the "Commission").

(b) COMPOSITION.—The Commission shall consist of 9 members, appointed by the President, who shall serve at the pleasure of the President. The President shall appoint members based on their expertise and national recognition in the fields of health economics, provider reimbursement, health insurance, health benefits design, and related fields. The Commission shall include individuals from diverse geographic areas and, to the greatest extent feasible, the membership of the Commission shall reflect the racial, ethnic, and gender composition of the population of the United States. In appointing members to the Commission, the President shall seek recommendations from the Speaker and majority and minority leaders of the House of Representatives and the majority and minority leaders of the Senate.

(c) DUTIES.—

(1) ANALYSES.—

(A) IN GENERAL.—The Commission shall conduct analyses of the health care cost and revenue data reported to the Secretary under section 6004.

(B) ANALYSIS OF REGIONAL VARIATION IN PER CAPITA EXPENDITURES DUE TO PRACTICE PATTERNS.—The Commission shall conduct analyses of the variations in per capita expenditures and utilization patterns among different geographic areas (that are States or sub-State areas) due to variation in practice patterns, not due to other factors (such as health care input prices and demographic factors).

(2) ANNUAL REPORTS.—Not later than April 1 of each year, beginning in 1998, the Commission shall submit a report to Congress on health care costs in the United States. The report shall include an analysis relating to each of the following:

(A) The rate of growth in health care costs, by type of provider, by type of payer, and by State.

(B) The success or failure of the private sector in maintaining health care expenditures within the national health expenditure estimates established under subtitle A on a State-by-State basis.

(C) The impact of universal coverage on health care costs and on payment for services by private payers.

(D) The future rate of growth in health care costs, based on projections of historical trends, using the same economic assumptions used by the Congressional Budget Office.

(E) The variations in per capita expenditures described in paragraph (1)(B).

(3) RECOMMENDATIONS ON CHANGES IN STATE HEALTH EXPENDITURE ESTIMATES TO ELIMINATE INAPPROPRIATE REGIONAL VARIATION.—The annual report submitted under this subsection in 1999 shall include recommendations relating to such phased-in changes in the State private sector per capita health expenditure estimates under section 6101 as the Commission determines to be appropriate to eliminate the effect of inappropriate variations described in paragraph (1)(B). In making such recommendations, the Commission shall take into account the prior success of cost containment efforts in the States and may take into account regional variations in demographic or health status and in health care input prices.

(d) SPECIAL REPORT IN 2000.—

(1) IN GENERAL.—In the report submitted under subsection (c)(2) in 2000, the Commission shall include a specific finding regarding whether a system of cost containment should be imposed on health care services provided under private health benefit plans. The finding shall be based on the most recent data available at the time of the report's preparation.

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—Such report may recommend that the system of private sector cost containment provided under subtitle C be allowed to go into effect, or may recommend an alternative system.

(B) LEGISLATIVE PROPOSAL.—Any recommendations which require legislation to implement shall include a detailed legislative proposal providing for their implementation.

(C) NO CHANGES IN GUARANTEED NATIONAL BENEFIT PACKAGE.—Such recommendations shall not include any change in the guaranteed national benefit package.

(e) ADMINISTRATION.—The President shall assure such compensation, staff, and support services for the Commission as may be necessary for the Commission to carry out its duties.

SEC. 6502. EXPEDITED CONSIDERATION OF RECOMMENDATIONS AND ALTERNATIVES.

(a) INTRODUCTION AND REFERRAL.—

(1) IN GENERAL.—If—

(A) the report under section 6501(d) contains a detailed legislative proposal, and

(B) such report is accompanied by a statement (provided by the Director of the Congressional Budget Office under subsection (i)) that the system provided in the proposal meets the cost-containment objectives set forth in this Act,

the majority leader (or the leader's designee) in each House shall introduce (by request and not later than 7 days after the date of receipt by Congress of the report) the legislative proposal as a bill. The title of that bill shall be "A bill to achieve the cost containment objectives set forth in the Guaranteed Health Insurance Act of 1994, and for other purposes.".

(2) REFERRAL.—That bill shall be referred on the date of introduction to the appropriate committee (or committees) in accordance with rules of the respective Houses.

(b) DISCHARGE DEADLINE.—If any committee to which the bill is referred does not report the bill by the end of the 45-day period beginning on the date the bill was referred to the committee, the committee shall be automatically discharged from further consideration of the bill as of the end of such period.

(c) FLOOR CONSIDERATION.—

(1) HOUSE OF REPRESENTATIVES.—For the purpose of expediting consideration and passage of a measure reported or discharged under this section, it shall be in order for the Committee on Rules of the House of Representatives to report a privileged resolution providing for the consideration of the bill. Any such resolution, if it makes in order any amendments to the bill, shall make in order an amendment consisting of the text of the Commission's recommendations.

(2) SENATE.—[LANGUAGE TO BE INSERTED LATER.]

(d) NO RECOMMITTAL.—It shall not be in order to move to recommit the bill.

(e) FINAL PASSAGE.—A vote on final passage of the bill shall be taken in a House not later than the end of the 15-day period beginning on the date on which the motion to proceed to its consideration in that House has been approved.

(f) SPECIAL RULES.—If the House of Representatives approves a bill and the Senate approves a bill the text of which is identical to the text of the bill approved by the House of Representatives, the Senate is deemed to have approved the bill approved by the House of Representatives, effective on the later of—

(1) the date of approval of a bill in the Senate, or

(2) the date the Senate receives a message from the House of Representatives announcing that the House has passed the bill.

(g) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and of the Senate, respectively, or of that House to which they specifically apply and such rules supersede other rules only to the extent that they are inconsistent therewith, and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(h) NOT INCLUDING CERTAIN DAYS.—Days on which a House of Congress is not in session because of an adjournment of more than 3 days shall be excluded in the computation of any number of days in a period under this section with respect to that House.

(i) CONGRESSIONAL BUDGET OFFICE DETERMINATIONS.—The Director of the Congressional Budget Office, upon request of the Commission or an appropriate committee, shall—

(1) review any bill to be proposed by the Commission or the committee to determine if the system of health care cost containment reflected in the bill would meet the cost-containment objectives set forth in this Act, and

(2) provide a written statement of such determination.

TITLE VII—PUBLIC HEALTH INITIATIVES

TABLE OF CONTENTS FOR TITLE

Subtitle A—Health Workforce Priorities

PART 1—NATIONAL PLAN REGARDING PHYSICIANS AND OTHER HEALTH PROFESSIONALS

SUBPART A—NATIONAL PLAN; GENERAL PROVISIONS

Sec. 7001. Development of Plan.

SUBPART B—NATIONAL PLAN; PROVISIONS REGARDING PHYSICIANS
Sec. 7011. National Advisory Council on Graduate Medical Education.
Sec. 7012. Annual designation of authorized per-specialty number of specialty positions; requirements regarding primary health care.
Sec. 7013. Allocation of specialty positions among approved physician training programs.
PART 2—PAYMENTS TO TEACHING HOSPITALS
Sec. 7021. Formula payments regarding private-sector share of costs of graduate of medical education.
Sec. 7022. Agreement regarding compliance with allocation system.
Sec. 7023. Application for payments.
Sec. 7024. Annual amount of payments.
Sec. 7025. Transitional provisions regarding direct-cost payments.
Sec. 7026. Rule of construction regarding medicare amendments.
PART 3—QUALIFYING PHYSICIAN TRAINING CONSORTIA
Sec. 7031. Special rules regarding allocation of specialty positions and receipt of direct-cost payments.
PART 4—TRANSITIONAL PAYMENTS FOR TEACHING HOSPITALS LOSING SPECIALTY POSITIONS
Sec. 7041. Transitional payments to teaching hospitals.
PART 5—OTHER HEALTH PROFESSIONS PROGRAMS
SUBPART A—GRADUATE NURSING EDUCATION
Sec. 7051. Federal payments for graduate nursing education.
SUBPART B—MEDICAL SCHOOLS
Sec. 7061. Federal payments for medical schools.
PART 6—MISCELLANEOUS PROVISIONS
Sec. 7071. Study of funding needs of health professions schools.
Sec. 7072. Additional studies.
PART 7—GENERAL PROVISIONS
Sec. 7081. Definitions.

Subtitle B—Certain Direct Spending Programs of Public Health Service

PART 1—BIOMEDICAL RESEARCH
Sec. 7101. Additional funding.
PART 2—CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS
Sec. 7111. Table of contents regarding revised provisions of title XIX of Public Health Service Act.
Sec. 7112. Direct spending regarding formula grants to States.
PART 3—HEALTH CENTERS FOR POPULATIONS LACKING ACCESS TO SERVICES
Sec. 7121. Purpose of program.
Sec. 7122. Table of contents regarding new title XXVII of Public Health Service Act.
Sec. 7123. Direct spending regarding federally qualified health centers; development of additional centers.
Sec. 7124. Conforming amendments.
PART 4—NATIONAL HEALTH SERVICE CORPS
Sec. 7131. Purpose of program.
Sec. 7132. Direct spending regarding general program and scholarship and loan repayment programs.
PART 5—CONSUMER RESOURCES REGARDING HEALTH PLANS
Sec. 7141. Consumer resources.
PART 6—SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS REGARDING SERVICE IN PUBLIC HEALTH POSITIONS
Sec. 7151. Establishment of scholarship and loan repayment programs.

Subtitle C—Assistance for Capital Costs of Safety-Net Hospitals

Sec. 7201. Table of contents regarding new title XXVIII of Public Health Service Act.
Sec. 7202. Direct spending regarding certain hospitals.

Subtitle D—Other Programs in Public Health Service Act

Sec. 7301. School-based health clinics.
Sec. 7302. Rural and urban managed care program.
Sec. 7303. Emergency medical services in rural areas.
Sec. 7304. Allied health professions.
Sec. 7305. Community health advisors.
Sec. 7306. Training of health professionals for rural areas.
Sec. 7307. Regional poison control centers.
Sec. 7308. COBRA continuation coverage; transitional coverage requirement for group health plans.

Subtitle E—Mental Health

Sec. 7401. State comprehensive managed mental health and substance abuse programs.
Sec. 7402. Comprehensive community mental health services for children with serious emotional disturbances.

Subtitle F—United States-Mexico Border Health Commission

Sec. 7501. Agreement to establish binational commission.
Sec. 7502. Duties.
Sec. 7503. Other authorized functions.
Sec. 7504. Membership.
Sec. 7505. Regional offices.
Sec. 7506. Reports.
Sec. 7507. Definitions.

Subtitle G—Comprehensive School Health Education

PART 1—GENERAL PROVISIONS
Sec. 7601. Purposes.
Sec. 7602. Definitions.
Sec. 7603. Prohibition against Federal control of education.
Sec. 7604. Prohibition against distribution of obscene materials.
PART 2—SCHOOL HEALTH EDUCATION; GENERAL PROVISIONS
Sec. 7611. Authorizations of appropriations.
Sec. 7612. Waivers of statutory and regulatory requirements.
PART 3—SCHOOL HEALTH EDUCATION; GRANTS TO STATE EDUCATION AGENCIES
Sec. 7621. Application for grant.
Sec. 7622. Selection of grantees.
Sec. 7623. Amount of grant.
Sec. 7624. Authorized activities; limitation on administrative costs.
Sec. 7625. Subgrants to local educational agencies.

Subtitle H—Occupational Safety and Health

Sec. 7701. Occupational injury and illness prevention.

Subtitle I—Miscellaneous Provisions

Sec. 7801. Identifying strategies for assessing impact of health care reform.
Sec. 7802. Study of worksite wellness programs.

Subtitle A—Health Workforce Priorities

PART 1—NATIONAL PLAN REGARDING PHYSICIANS AND OTHER HEALTH PROFESSIONALS

Subpart A—National Plan; General Provisions

SEC. 7001. DEVELOPMENT OF PLAN.

(a) IN GENERAL.—

(1) DEVELOPMENT OF PLAN.—The Secretary shall develop and carry out in accordance with this part a plan for the applicable period to be known as the National Health Care Workforce Plan.

(2) PURPOSE.—The purpose of the Plan shall be to establish a national goal for the United States of developing a health care workforce whose composition reflects the needs of the United States for practitioners in the various health professions, including the need for practitioners in primary health care.

(3) DEFINITIONS.—For purposes of this subtitle:

(A) The term "applicable period" means the academic years designated by the Secretary as the years to which a plan under paragraph (1) is to apply, except that the initial applicable period shall be the academic years 1998 through 2002.

(B) The term "academic year" means the 1-year period beginning on July 1. The academic year beginning July 1, 1998, is academic year 1998.

(C) The term "Plan" means the plan under paragraph (1) for the applicable period involved.

(b) PROVISIONS REGARDING HEALTH PROFESSIONALS OTHER THAN PHYSICIANS.—With respect to health professionals other than physicians, the Secretary shall in carrying out subsection (b) ensure that, for the academic years of the applicable period, the Plan—

(1) establishes recommendations for national goals regarding the number and variety of such professionals that should be trained (including goals regarding nurse practitioners and other advanced practice nurses); and

(2) provides recommendations for encouraging the training of such professionals in accordance with the goals.

(c) PROVISIONS REGARDING PHYSICIANS.—

(1) IN GENERAL.—With respect to physicians, the Secretary shall develop the Plan in accordance with subpart B.

(2) APPLICABILITY OF CERTAIN REQUIREMENTS.—Subsections (e) through (g) apply both to provisions of the Plan that relate to physicians and to provisions of the Plan that relate to other health professionals.

(d) PERIODIC REVIEW AND REVISION OF PLAN.—With respect to the discretion provided in this part to the Secretary for the development and administration of the Plan, the Secretary shall periodically review the Plan, and shall revise the Plan to the extent determined by the Secretary to be appropriate.

(e) CONSIDERATION OF PROJECTED NUMBERS OF PROFESSIONALS.—In developing and revising the Plan, the Secretary shall take into account projections of the health care needs of the United States.

(f) CONSULTATIONS.—In developing and revising the Plan, the Secretary shall consult with the advisory council established under section 7011, consumers, experts in health workforce needs, teaching physicians, physicians in private practice, nurses, representatives of health insurers (including health maintenance organizations and other managed care plans), other organizations representing physicians, organizations involved in the accreditation of residency training programs, and organizations involved in the certification of practitioners.

(g) REPORT TO CONGRESS.—Not later than June 30, 1996, the Secretary shall submit to the Congress a final report describing the contents of the initial Plan. The report shall include an analysis of the impact on teaching hospitals and other training sites of limiting support for training, consistent with

VOL 140 PT 15 AG 10 — 11 1994 UMI

the Plan. The Secretary may submit interim reports regarding any component of the Plan (regardless of whether the Secretary has prepared other components).

Subpart B—National Plan; Provisions Regarding Physicians

SEC. 7011. NATIONAL ADVISORY COUNCIL ON GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—There is established within the Department of Health and Human Services an advisory council to be known as the National Advisory Council on Graduate Medical Education (in this subtitle referred to as the "Council").

(b) DUTIES.—The Council shall provide advice to the Secretary on carrying out this subpart. In providing such advice, the Council shall develop and submit to the Secretary a proposal for the components of the Plan under section 7001 that relate to physicians (including the provisions of the Plan required in sections 7012 and 7013).

(c) COMPOSITION.—

(1) IN GENERAL.—The Secretary shall appoint to the Council 15 individuals who are not officers or employees of the United States. Such individuals shall include not less than 1 individual from each of the following categories of individuals or entities:

(A) Organizations representing consumers of health care services.

(B) Physicians who are faculty members of medical schools (as defined in section 7012(f)), or who supervise approved physician training programs (as so defined).

(C) Physicians in private practice who are not physicians described in subparagraph (B).

(D) Practitioners in public health.

(E) Medical schools.

(F) Teaching hospitals.

(G) Certified health plans (as defined in section 2).

(H) The Accreditation Council on Graduate Medical Education.

(I) The American Board of Medical Specialities.

(J) The Council on Postdoctoral Training of the American Osteopathic Association.

(K) The Council on Podiatric Medical Education of the American Podiatric Medical Association.

(2) REQUIREMENTS REGARDING REPRESENTATIVE MEMBERSHIP.—To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States, shall reflect the racial, ethnic, and gender composition of the population of the United States, and shall be broadly representative of medical schools and teaching hospitals in the United States.

(3) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary (or by other Federal officers who are appointed by the President with the advice and consent of the Senate). Individuals designated under the preceding sentence shall include each of the following officials (or a designee of the official):

(A) The Secretary of Health and Human Services.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(d) CHAIR.—The Secretary shall, from among members of the Council appointed under subsection (c)(1), designate an individual to serve as the Chair of the Council.

(e) TERMINATION.—The Council terminates December 31, 1999.

SEC. 7012. ANNUAL DESIGNATION OF AUTHORIZED PER-SPECIALTY NUMBER OF SPECIALTY POSITIONS; REQUIREMENTS REGARDING PRIMARY HEALTH CARE.

(a) ANNUAL AUTHORIZATION OF NUMBER OF POSITIONS PER SPECIALTY.—With respect to physicians, the Secretary shall in carrying out section 7001 ensure that, for each medical specialty, the Plan designates, for each of the academic years of the applicable period, the number of individuals nationwide who are authorized to be enrolled in approved physician training programs in the specialty for the academic year involved, including a designation of the number of individuals who are authorized to enter the programs for such year. The Secretary may, under section 7001(d), change a number designated under the preceding sentence for an academic year to reflect changing needs for physicians in the various medical specialties.

(b) PRIMARY HEALTH CARE.—

(1) REQUIREMENT ACROSS SPECIALTIES.—In designating the per-specialty annual numbers of positions for all medical specialties for academic year 2002 or any subsequent academic year, the Secretary shall ensure that, of the class of training participants entering approved physician training programs for the year, the percentage that enters such programs in primary health care is not less than 55 percent, subject to the following:

(A) The Secretary, in order to provide a period of transition regarding such requirement, shall establish a lesser percentage for each of the academic years 1998 through 2001.

(B) The Secretary may change the percentage specified in the Plan for any academic year to reflect changing needs for physicians in the various medical specialties.

(2) RULES OF CONSTRUCTION.—For purposes of the requirement of paragraph (1) (relating to a percentage):

(A) The requirement applies in the aggregate to all training participants in approved physician training programs for the academic year involved, and not individually to any such program.

(B) In the case of approved physician training programs in a medical specialty participation in which is a prerequisite to participation in approved physician training programs in another medical specialty, the Secretary shall apply the requirement of paragraph (1) as follows:

(i) The Secretary shall periodically make an estimate, by specialty, of the average number of training participants in such prerequisite programs who subsequently enter the other programs.

(ii) In designating the per-specialty annual numbers of positions for such prerequisite programs, the Secretary shall consider such estimates in order to ensure that the numbers designated for the programs reasonably reflect the needs of the United States for practitioners in the medical specialities for which the programs provide training.

(3) EXCLUSION FROM DETERMINATION.—Specialty positions in approved physician training programs in podiatric medicine shall be excluded from determinations under paragraph (1) (both determinations regarding the number of entering positions in specialties in primary health care and the number of entering positions in other specialities).

(c) CERTAIN CONSIDERATIONS IN DESIGNATING ANNUAL NUMBERS.—Factors considered by the Secretary in designating a per-specialty annual number of positions for an academic year shall include the extent to which there is a need for additional practitioners in the medical specialty involved. In carrying out the preceding sentence, the Secretary shall consider, among other factors determined by the Secretary to be relevant, the incidence and prevalence (in the general population and in various other populations) of the diseases, disorders, or other health conditions with which the specialty is concerned.

(d) DEFINITIONS.—

(1) APPROVED PROGRAM.—For purposes of this subtitle:

(A) The term "approved physician training program", with respect to the medical specialty involved, means (subject to subparagraph (C)) a residency or other postgraduate program that trains physicians and meets the conditions described in clause (i), or the conditions described in clause (ii), as follows:

(i) The conditions described in this clause are that—

(I) participation in the program may be counted toward certification in the medical specialty, as determined under the applicable standards of the American Board of Medical Specialities or the Council on Postdoctoral Training of the American Osteopathic Association; and

(II) the program is accredited by the Accreditation Council on Graduate Medical Education or approved by the Council on Postdoctoral Training of the American Osteopathic Association.

(ii) The conditions described in this clause are that—

(I) the program meets the condition described in subclause (I) of clause (i), or the condition described in subclause (II) of such clause, but not both; and

(II) the Secretary designates the program as an approved physician training program for purposes of this subtitle.

(B) The term "approved physician training program" includes any postgraduate program meeting the conditions described in clause (i) or (ii) in subparagraph (A), including such a program that provides health services in an ambulatory setting (regardless of whether the program provides inpatient hospital services).

(C) The term "approved physician training program" includes (notwithstanding subparagraphs (A) and (B)) each program that receives payments under section 1886(h) of the Social Security Act as an approved medical residency training program.

(2) OTHER DEFINITIONS.—For purposes of this subtitle:

(A) The term "medical school" means a school of medicine (as defined in section 799 of the Public Health Service Act) or a school of osteopathic medicine (as so defined).

(B) The term "medical specialty" includes all medical, surgical, and other physician specialties and subspecialties.

(C) The term "per-specialty annual number of positions", with respect to a medical specialty, means the number designated by the Secretary under subsection (a) for approved physician training programs for the academic year involved.

(D) The term "primary health care" means the following medical specialties: Family medicine, general internal medicine, general pediatrics, geriatrics, preventive medicine, osteopathic general practice, and obstetrics and gynecology.

(E) The term "specialty position" means a position as a training participant.

(F) The term "training participant" means an individual who is enrolled in an approved physician training program.

SEC. 7013. ALLOCATIONS AMONG SPECIALITIES AND PROGRAMS.

(a) PROVISIONS IN NATIONAL PLAN.—

(1) IN GENERAL.—With respect to physicians, the Secretary shall in carrying out section 7001 ensure that the Plan specifies that the per-specialty annual number of positions designated under section 7012 for a medical specialty for an academic year is to be allocated among approved physician training programs in the specialty.

(2) METHODOLOGY FOR PROGRAM BY PROGRAM IMPLEMENTATION OF PLAN.—In developing the Plan, the Secretary shall develop a methodology for annually allocating among the approved physician training programs in a medical specialty the per-specialty annual number of positions that the Secretary has designated for the academic year involved. The Secretary shall include among the factors upon which the methodology is based the following:

(A) The geographic distribution of physicians.

(B) The historical distribution of specialty positions among the various geographic areas of the United States.

(C) The extent to which the approved physician training programs of a hospital directly provide health services to patients of the hospital.

(D) The extent to which a reduction in the allocation of specialty positions for such programs of a hospital will have an adverse effect on the financial capacity of the hospital to maintain a level of health services equivalent to the level the hospital would provide in the absence of the reduction.

(E) The quality of physician training programs.

(F) The need to train physicians in sites other than hospitals, as appropriate to the specialty involved.

(G) The need to encourage the training of minority physicians.

(H) The need for appropriate opportunities for training in osteopathic specialities.

(I) The extent to which graduates of an approved physician training program are practicing in underserved rural and urban areas.

(J) The extent to which an approved physician training program provides training under the program in underserved rural and urban areas, including training provided at health facilities provided for under Public Law 94-437.

(3) DEFINITION.—For purposes of this subtitle, the term "underserved", with respect to a rural or urban area, means a health professional shortage area as defined in section 332(a)(1) of the Public Health Service Act.

(b) ANNUAL ALLOCATIONS BY SECRETARY.—

(1) IN GENERAL.—For academic year 1998 and each subsequent academic year, the Secretary shall for each medical specialty make allocations among approved physician training programs of the per-specialty annual number of positions designated for the academic year involved. The preceding sentence is subject to section 7031 (relating to qualifying physician training consortia).

(2) USE OF PLAN METHODOLOGY.—In making allocations under paragraph (1), the Secretary shall use the methodology developed under subsection (a)(2), with such modifications in the methodology as the Secretary may make under section 7001(d).

(c) ADVANCE NOTICE TO PROGRAMS.—The Secretary shall notify each approved physician training program of the allocation to be made for the program under subsection (b) for an academic year not later than October 1 of the preceding academic year.

(d) EXCLUSIONS FROM ALLOCATION SYSTEM.—

(1) IN GENERAL.—The Secretary shall exclude from the applicability of this section any specialty position filled by a training participant described in paragraph (2). Such positions in an approved physician training program are in addition to specialty positions allocated to the program under subsection (b).

(2) RELEVANT TRAINING PARTICIPANTS.—For purposes of paragraph (1) and other provisions of this subtitle, a training participant described in this paragraph is such a participant who, through a program carried out jointly by a medical school and another accredited educational entity, has received both—

(A) a doctorate of medicine; and

(B) a doctorate of philosophy, or an equivalent degree.

PART 2—PAYMENTS TO TEACHING HOSPITALS

SEC. 7021. FORMULA PAYMENTS REGARDING PRIVATE-SECTOR SHARE OF COSTS OF GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—In the case of each teaching hospital that in accordance with section 7023 submits to the Secretary an application for calendar year 1996 or any subsequent calendar year (referred to in this part as an "eligible hospital" for the year involved), the Secretary shall in accordance with section 7024 make payments for such year to the hospital, and shall in accordance with such section make adjustments in maximum payment rates for the hospital. The preceding sentence is subject to section 7031 (relating to qualifying physician training consortia).

(b) DEFINITIONS.—For purposes of this subtitle, the term "teaching hospital" means any hospital that receives payments under subsection (d)(5)(B) or (h) of section 1886 of the Social Security Act (relating to graduate medical education).

SEC. 7022. AGREEMENT REGARDING COMPLIANCE WITH ALLOCATION SYSTEM.

With respect to the approved physician training programs of a teaching hospital, the Secretary may make payments under section 7021 for the programs only if the hospital agrees to ensure that the numbers of individuals enrolled in the programs is in accordance with allocations made under section 7013 for the programs.

SEC. 7023. APPLICATION FOR PAYMENTS.

(a) IN GENERAL.—For purposes of section 7021(a), an application for payments under such section for a calendar year is in accordance with this section if—

(1) the application is submitted not later than the date specified by the Secretary;

(2) the application contains the agreement required in section 7022; and

(3) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(b) CONSOLIDATION WITH APPLICATION UNDER PART 3.—The Secretary may establish procedures through which teaching hospitals simultaneously apply for payments under section 7021 and 7041.

SEC. 7024. ANNUAL AMOUNT OF PAYMENTS.

(a) IN GENERAL.—From amounts in the Health Care Workforce Trust Fund under section 9512 of the Internal Revenue Code of 1986, the Secretary shall, subject to section 7025, make payments under section 7021 to an eligible hospital for a calendar year as follows:

(1) Payments, made on a periodic basis, whose sum is equal to the amount determined under subsection (c) for the hospital for the year (which amount relates to the direct costs for graduate medical education attributable to certain individuals).

(2) Payments (in addition to payments under paragraph (1)), made on a periodic basis, whose sum is equal to the amount determined under subsection (d) for the hospital for the year (which amount relates to the per discharge indirect costs of the hospital for graduate medical education attributable to certain individuals).

Payments under paragraph (1) are effective for portions of cost reporting periods occurring on or after January 1, 1996. Payments under paragraph (2) are effective for patient discharges occurring on or after such date.

(b) RELATIONSHIP OF PAYMENTS TO ALLOCATION OF SPECIALTY POSITIONS.—On and after July 1, 1998, the Secretary, in making determinations under subsections (c) and (d) for the payments required in paragraphs (1) and (2) of subsection (a) for an eligible hospital, shall count only training participants who are in a specialty position that, under section 7013, has been allocated to an approved physician training program of the hospital. In the case of payments under paragraph (1) of subsection (a), the preceding sentence is effective for portions of cost reporting periods occurring on or after such date; and in the case of payments under paragraph (2) of such subsection, the sentence is effective for patient discharges occurring on or after such date.

(c) AMOUNT OF PAYMENTS; DIRECT COSTS.—

(1) IN GENERAL.—For purposes of paragraph (1) of subsection (a), the amount determined under this subsection for an eligible hospital for a calendar year is the product of—

(A) the aggregate nonmedicare training amount for the hospital, as defined in paragraph (2); and

(B) the direct-cost Fund payout percentage, as defined in paragraph (4).

(2) AGGREGATE NONMEDICARE TRAINING AMOUNT.—For purposes of this subtitle, the term "aggregate nonmedicare training amount", with respect to the eligible hospital involved, means (subject to paragraph (3)(D)) an amount equal to the product of subparagraphs (A) and (B), as follows:

(A) Subject to section 7025(b), the number of full-time-equivalent training participants in the approved physician training programs of the hospital for the academic year in which the calendar year begins (including training participants described in section 7013(d)(2)).

(B) An amount equal to the product of—

(i) the national average FTE training amount, as defined in paragraph (3); and

(ii) a percentage equal to 1 minus the medicare patient load of the hospital (determined under section 1886(h)(3)(C) of the Social Security Act) for the cost reporting period involved, except that the determination of the medicare patient load for purposes of this clause shall include (in addition to the patients included under such section) patients enrolled in the program under title XXI of such Act.

(3) NATIONAL AVERAGE FTE TRAINING AMOUNT.—

(A) IN GENERAL.—For purposes of this subtitle, the term "national average FTE training amount" means the national average of the costs per training participant for all approved physician training programs and all medical specialities, which average shall be derived from the per-resident approved FTE resident amounts in effect for hospitals under section 1886(h) of the Social Security Act for academic year 1992 (as adjusted under subparagraphs (B) and (C)). The weighting factor applied pursuant to paragraph (4)(C) of such section shall be the weighting factor in effect under such paragraph on the day before the date of the enactment of this Act.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(B) ANNUAL ADJUSTMENTS PER CONSUMER PRICE INDEX.—The national average applicable under subparagraph (A) for a calendar year for such programs is, subject to subparagraph (C), the amount determined under subparagraph (A) increased by the amount necessary to offset the effects of inflation occurring since academic year 1992, as determined through use of the consumer price index.

(C) INDIVIDUAL ADJUSTMENTS PER AREA WAGE INDEX.—The national average determined under subparagraph (A) and adjusted under subparagraph (B) for a calendar year shall, in the case of the approved physician training programs of the eligible hospital involved, be adjusted by a factor to reflect regional differences in wage and wage-related costs, as determined in accordance with the area wage index applicable (as of the beginning of such year) to hospitals in the labor-market area involved, as determined under section 1886(d)(3)(E) of the Social Security Act.

(D) ALTERNATIVE RULE FOR CERTAIN HOSPITALS.—

(i) ELECTION FOR APPLICABILITY OF RULE.—In the case of an eligible hospital for which the election under section 1861(b)(7) of the Social Security Act was in effect on July 1, 1994, and has remained in effect continuously from such date, the following applies:

(I) The hospital may, with respect to the determination under paragraph (2) of the aggregate nonmedicare training amount for the hospital, elect to have the alternative rule described in clause (ii) applied to the hospital.

(II) If the election under such section 1861(b)(7) ceases to be in effect, any election made by the hospital under subclause (I) is terminated.

(III) If the hospital has made the election under subclause (I) and subsequently requests that the election be terminated, the Secretary shall approve the request. Upon the approval of the request, the hospital may not subsequently elect to have the alternative rule applied to the hospital.

(ii) DESCRIPTION OF ALTERNATIVE RULE.—With respect to a determination under paragraph (2) of the aggregate nonmedicare training amount for an eligible hospital that has made the election under clause (i), the alternative rule described in this clause is as follows:

(I) In lieu of the applicability of the national FTE training amount (for purposes of paragraph (2)(B)(i)), the Secretary shall apply an amount equal to the approved FTE resident amount in effect for the hospital under section 1886(h)(2) of the Social Security Act.

(II) Subject to the modification applied under subclause (I), the Secretary shall determine an amount under paragraph (2).

(III) The Secretary shall determine an amount equal to the product of the percentage determined under paragraph (2)(B)(ii) and the amount of the physician costs of services recognized under section 1861(v)(1) of the Social Security Act pursuant to the election of the hospital under section 1861(b)(7) of such Act.

(IV) In lieu of the applicability of the aggregate nonmedicare training amount (for purposes of paragraph (1)(A)), the Secretary shall apply an amount equal to the sum of the amount determined under subclause (II) and the amount determined under subclause (III).

(4) DIRECT-COST FUND PAYOUT PERCENTAGE.—For purposes of this subtitle, the term "direct-cost Fund payout percentage", with respect to the calendar year involved, means a percentage equal to the ratio of—

(A) the amount available in the Health Care Workforce Trust Fund for such year (as estimated by the Secretary); to

(B) an amount equal to the sum of clauses (i) through (iv), as follows:

(i) The total amount of payments under subsection (a)(1) that would be made to eligible hospitals for such year if each hospital received, pursuant to paragraph (1), 100 percent of the aggregate nonmedicare training amount determined for the hospital.

(ii) The total of the amounts determined under subsection (d) of section 7041 for such year for teaching hospitals eligible for payments under such section.

(iii) The total of the amounts determined for such year for grants under section 848 of the Public Health Service Act (relating to graduate nursing education).

(iv) The total of the amounts determined for such year for grants under section 741 of such Act (relating to medical schools).

(d) AMOUNT OF PAYMENTS; INDIRECT COSTS.—

(1) IN GENERAL.—For purposes of paragraph (2) of subsection (a), the amount determined under this subsection for an eligible hospital for a calendar year is the product of—

(A) an amount equal to the sum of the nonmedicare per-discharge supplemental payments, as defined in paragraph (2); and

(B) the indirect-cost Fund payout percentage, as defined in paragraph (3).

(2) NONMEDICARE PER-DISCHARGE SUPPLEMENTAL PAYMENT.—

(A) IN GENERAL.—For purposes of this subtitle, the term "nonmedicare per-discharge supplemental payment", with respect to a calendar year, means a payment made to an eligible hospital for a discharge during the year of a patient described in subparagraph (B), the amount of which payment is determined in accordance with subparagraph (C).

(B) RELEVANT PATIENTS.—For purposes of subparagraph (A), a patient described in this subparagraph is a patient who is not—

(i) entitled to benefits under part A of title XVIII of the Social Security Act;

(ii) enrolled in the health insurance program under title XXI of such Act; or

(iii) eligible for medical assistance under title XIX of such Act.

(C) AMOUNT OF PER-DISCHARGE PAYMENT.—For purposes of subparagraph (A), the amount of the payment under such subparagraph for the discharge of a patient described in subparagraph (B) is the product of—

(i) an amount equal to the maximum payment rate determined for the discharge under subsection (a)(2)(A) of section 6311, except that for purposes of this clause, the determination under such subsection shall be made without the adjustments described in paragraphs (3) through (5) of subsection (d) of such section; and

(ii) the percentage applicable to the hospital under section 1886(d)(5)(B)(ii) of the Social Security Act.

(3) INDIRECT-COST FUND PAYOUT PERCENTAGE.—For purposes of this subtitle, the term "indirect-cost Fund payout percentage", with respect the calendar year involved, means a percentage equal to the ratio of—

(A) the amount available in the Health Care Workforce Trust Fund for such year remaining after payments for the year have been made under subsection (a)(1), under section 7041, and under sections 848 and 741 of the Public Health Service Act (as such amount is estimated by the Secretary); to

(B) the total amount of payments under subsection (a)(2) that would be made to eligible hospitals for such year if each hospital received, pursuant to paragraph (1), 100 percent of an amount equal to the sum of the nonmedicare per-discharge supplemental payments determined for the hospital.

(e) OFFSET REGARDING SHORTFALL IN FUND PAYMENTS; INCREASE IN MAXIMUM PAYMENT RATES UNDER TITLE VI.—

(1) SHORTFALL IN DIRECT-COST PAYMENTS.—

(A) IN GENERAL.—In the case of an eligible hospital, for any calendar year for which the direct-cost Fund payout percentage is less than 100 percent, the Secretary shall increase, by the amount determined under subparagraph (B), the maximum payment rate otherwise applicable to a discharge under subtitle D of title VI for inpatient services furnished by the hospital. The amount so determined shall be applied uniformly to each discharge from the hospital. This paragraph is subject to paragraph (3).

(B) AMOUNT OF INCREASE.—For purposes of subparagraph (A), the amount of the increase per discharge for a calendar year for an eligible hospital is the product of—

(i) a percentage equal to 1 minus the direct-cost Fund payout percentage; and

(ii) the applicable per discharge training amount for the hospital, as defined in subparagraph (C).

(C) APPLICABLE PER DISCHARGE TRAINING AMOUNT.—For purposes of this subtitle, the term "applicable per discharge training amount", with respect to the eligible hospital involved and the calendar year involved, means an amount equal to the quotient of—

(i) the aggregate nonmedicare training amount for the hospital, as determined under subsection (c)(1)(A); divided by

(ii) the average annual number of discharges of patients described in subsection (d)(2)(B) during the most recent 3-year period (as determined by the Secretary on the basis of the most recent data available to the Secretary).

(2) SHORTFALL IN INDIRECT-COST PAYMENTS.—

(A) IN GENERAL.—In the case of an eligible hospital, for any calendar year for which the indirect-cost Fund payout percentage is less than 100 percent, the Secretary shall increase, by the amount determined under subparagraph (B), the maximum payment rate per discharge otherwise established under section 6311 with respect to the discharge. The preceding sentence is subject to paragraph (3).

(B) AMOUNT OF INCREASE.—For purposes of subparagraph (A), the amount of the per discharge increase for an eligible hospital for a calendar year is the product of—

(i) a percentage equal to 1 minus the indirect-cost Fund payout percentage; and

(ii) an amount equal to the amount applicable under subsection (d)(2)(C)(i) to the discharge multiplied by the percentage applicable to the hospital under section 1886(d)(5)(B)(ii) of the Social Security Act.

(3) RELATIONSHIP OF RATE INCREASES TO ALLOCATIONS OF SPECIALTY POSITIONS.—Effective for patient discharges occurring on or after July 1, 1998, the Secretary, in making determinations under paragraphs (1) and (2) of increases in amounts, shall count only training participants who are in a specialty position that, under section 7013, has been allocated to an approved physician training program.

(f) PUBLICATION OF FUND PAYOUT PERCENTAGES AND ADJUSTMENTS IN MAXIMUM PAYMENT RATES.—The Secretary shall include in the publication of the final maximum payment rates for a calendar year under section 6301(a)—

(1) the direct-cost Fund payout percentage;

(2) the indirect-cost Fund payout percentage; and

(3) the hospital-specific adjustments in such rates determined under paragraph (1) or (2) of subsection (e).

(g) DEFINITIONS.—For purposes of this subtitle, the term "full-time-equivalent training participant" means a full-time equivalent resident of the hospital as determined under section 1886(h)(4) of the Social Security Act for the cost reporting period involved.

SEC. 7025. TRANSITIONAL PROVISIONS REGARDING DIRECT-COST PAYMENTS.

(a) PAYMENT BLEND.—For each of the calendar years 1996 through 1998, in the case of an eligible hospital (other than an eligible hospital making the election under section 7024(c)(3)(D)), the amount required in section 7024(a)(1) to be paid to the hospital is the sum of paragraphs (1) and (2), as follows (as applicable to the calendar year involved):

(1) An amount determined in accordance with section 7024(c) except that, in lieu of applying the national FTE training amount (for purposes of paragraph (2)(B)(i) of such section), the Secretary shall apply the following:

(A) For calendar year 1996, an amount equal to 75 percent of the approved FTE resident amount in effect for the hospital under section 1886(h)(2) of the Social Security Act.

(B) For calendar year 1997, an amount equal to 50 percent of such resident amount.

(C) For calendar year 1998, an amount equal to 25 percent of such resident amount.

(2) An amount determined in accordance with section 7024(c) except that, in lieu of applying 100 percent of the national FTE training amount (for purposes of paragraph (2)(B)(i) of such section), the Secretary shall apply the following:

(A) For calendar year 1996, an amount equal to 25 percent of such training amount.

(B) For calendar year 1997, an amount equal to 50 percent of such training amount.

(C) For calendar year 1998, an amount equal to 75 percent of such training amount.

(b) TRANSITIONAL LIMIT ON NUMBER OF FTEs.—In determining the number of full-time-equivalent training participants under section 7024(c)(2)(A) for a hospital, for the period beginning on January 1, 1996 and ending on June 30, 1998, such number may not exceed the number of full-time equivalent residents determined with respect to the hospital under section 1886(h)(4) of the Social Security Act for portions of cost-reporting periods during the academic year 1994.

SEC. 7026. RULE OF CONSTRUCTION REGARDING MEDICARE AMENDMENTS.

Except as otherwise provided in this subtitle:

(1) A reference in this title to title XVIII of the Social Security Act shall be considered to be a reference to such title as in effect on the day after the date of the enactment of this Act, without regard to any amendment subsequently made to such title XVIII.

(2) For purposes of paragraph (1), an amendment to such title XVIII that is made by this Act as of the day referred to in such paragraph applies to this title upon the amendment taking effect, without regard to whether the date on which the amendment takes effect is after the day referred to in such paragraph.

PART 3—QUALIFYING PHYSICIAN TRAINING CONSORTIA

SEC. 7031. SPECIAL RULES REGARDING ALLOCATION OF SPECIALTY POSITIONS AND RECEIPT OF DIRECT-COST PAYMENTS.

(a) IN GENERAL.—In the case of a qualifying physician training consortium (as defined in subsection (b))—

(1) the Secretary may make allocations under section 7013 to the consortium in the aggregate in lieu of making the allocations individually to the approved physician training programs of the consortium; and

(2) if the Secretary makes allocations to the consortium pursuant to paragraph (1)—

(A) the Secretary shall make payments under sections 7024(a)(1) and 7041 to the consortium in the aggregate in lieu of making the payments individually to the teaching hospitals of the consortium; and

(B) the payments shall be made on the basis of the amount of the payments that otherwise would have been made to the hospitals, adjusted through averaging the criteria that under sections 7024(a)(1) and 7041 do not apply uniformly to teaching hospitals and through weighting such averages according to the extent to which the data that form the basis of such criteria apply to the hospitals of the consortium.

(b) DEFINITION.—For purposes of this subtitle, the term "qualifying physician training consortium" means a group of teaching hospitals meeting the following conditions:

(1) The hospitals of the group have entered into an agreement under which a consortium is established, and the purposes of the consortium include the purposes specified in subsection (c).

(2) The hospitals of the consortium include not less than 2 teaching hospitals, and—

(A) with respect to allocations under section 7013, all of the approved physician training programs of the hospitals participate in the consortium; and

(B) with respect to any entity (other than an entity that is part of any of the hospitals of the consortium) at whose facilities any of the hospitals conducts a significant amount of training under such programs, each of such entities participates in the consortium.

(3) For the academic year preceding the academic year for which the allocations are to be made pursuant to subsection (a), or for academic year 1994, the aggregate number of training participants of the consortium who were entering their first approved physician training program was not less than 50.

(4) The consortium submits to the Secretary an application in accordance with subsection (d) for designation as a qualifying physician training consortium, and the Secretary approves the application.

(c) PURPOSES OF CONSORTIUM.—The purposes referred to in subsection (b)(1) regarding a consortium are as follows:

(1) The approved physician training programs of the consortium collaborate in the provision of training under the programs.

(2) With respect to an aggregate allocation for a medical specialty that is made to the consortium pursuant to subsection (a)(1), the consortium designates the number of specialty positions to be received by each of the approved physician training programs of the consortium in the specialty.

(3) With respect to aggregate payments that are made to the consortium pursuant to subsection (a)(2), the consortium allocates the payments among each of the teaching hospitals of the consortium.

(4) Such other purposes as the Secretary determines to be appropriate.

(d) APPLICATION FOR CONSORTIUM STATUS.—

(1) IN GENERAL.—For purposes of subsection (b)(4), an application under this subsection for designation as a qualifying physician training consortium for a calendar year is in accordance with this subsection if—

(A) the application is submitted not later than the date specified by the Secretary;

(B) the application demonstrates that the teaching hospitals involved meet the conditions described in paragraphs (1) through (3) of subsection (b);

(C) the application contains an agreement described in section 7022 from each of the teaching hospitals; and

(D) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(2) RELATION TO REQUIREMENT OF INDIVIDUAL APPLICATIONS.—If a group of teaching hospitals submits to the Secretary an application in accordance with paragraph (1) for a calendar year, and the Secretary approves the application, each of the hospitals shall be considered to have submitted an application in accordance with section 7023 (and accordingly, each of the hospitals is an eligible hospital for the year for purposes of part 2).

PART 4—TRANSITIONAL PAYMENTS FOR TEACHING HOSPITALS LOSING SPECIALTY POSITIONS

SEC. 7041. TRANSITIONAL PAYMENTS TO TEACHING HOSPITALS.

(a) PAYMENTS REGARDING EFFECTS OF ALLOCATION OF SPECIALTY POSITIONS.—In the case of each hospital that in accordance with subsection (c) submits to the Secretary an application for calendar year 1998 or any subsequent calendar year (in this section referred to as an 'eligible hospital' for the year involved), the Secretary shall make payments for the year to the hospital in an amount determined in accordance with subsection (d). Such payments shall be made from amounts in the Health Care Workforce Trust Fund under section 9512 of the Internal Revenue Code of 1986.

(b) HOSPITALS LOSING SPECIALTY POSITIONS; OTHER CONDITIONS.—

(1) HOSPITALS LOSING SPECIALTY POSITIONS.—

(A) IN GENERAL.—The Secretary may make payments under subsection (a) to a teaching hospital for a calendar year only if, as a result of allocations under 7013, the aggregate number of full-time-equivalent specialty positions for the hospital for the academic year in which the calendar year begins (as estimated by the Secretary) is below the aggregate number of such positions for the hospital for academic year 1993.

(B) AGGREGATE NUMBER OF SPECIALTY POSITIONS LOST.—For purposes of this section:

(i) The term "aggregate number of specialty positions lost", with respect to a teaching hospital and an academic year, means the difference between the 2 aggregate numbers determined by the Secretary under subparagraph (A) for the hospital.

(ii) The term "lost position", with respect to an academic year, means a full-time-equivalent specialty position counted in the determination under clause (i) of the aggregate number of specialty positions lost for the year.

(2) COMPLIANCE WITH ALLOCATION SYSTEM.—With respect to the approved physician training programs of a teaching hospital, the Secretary may make payments under subsection (a) only if the hospital agrees to ensure that the numbers of individuals enrolled

VOL 140 PT 15 AG 10 — 11 1994 UMI

in the programs is in accordance with allocations made under section 7013 for the programs.

(c) APPLICATION FOR PAYMENTS.—For purposes of subsection (a), an application for payments under such subsection for a teaching hospital is in accordance with this subsection if—

(1) the hospital submits the application not later than the date specified by the Secretary;

(2) the application demonstrates that the hospital meets the condition described in subsection (b)(1)(A);

(3) the application contains each agreement required in this section; and

(4) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary.

(d) AMOUNT OF PAYMENTS.—The amount of payments required in subsection (a) to be made to an eligible hospital for a calendar year is an amount equal to the product of paragraphs (1) and (2), as follows:

(1) An amount equal to the product of—

(A) the aggregate lost position amount, as defined in subsection (e) for the academic year; and

(B) 1 minus the medicare patient load of the hospital (determined under section 1886(h)(3)(C) of the Social Security Act) for the cost reporting period involved, except that the determination of the medicare patient load for purposes of this subparagraph shall include (in addition to the patients included under such section) patients enrolled in the program under title XXI of such Act.

(2) The direct-cost Fund payout percentage under section 7024(c)(4).

(e) AGGREGATE LOST POSITION AMOUNT.—

(1) FIRST YEAR OF RECEIVING PAYMENTS.—For purposes of subsection (d)(1)(A), the term "aggregate lost position amount", with respect to the first calendar year for which an eligible hospital receives payments under subsection (a), means an amount equal to the product of—

(A) the aggregate number of specialty positions lost (as defined in subsection (b)(1)(B)); and

(B) an amount equal to 100 percent of the national average FTE training amount in effect for the year under section 7024(c)(3) (or, as the case may be, 100 percent of the alternative amount that applies to the hospital under section 7024(c)(3)(D) or section 7025).

(2) SUBSEQUENT YEARS OF PAYMENT.—For purposes of subsection (d)(1)(A), the term "aggregate lost position amount", with respect to the second or subsequent calendar year for which an eligible hospital receives payments under subsection (a), means an amount equal to the sum of subparagraphs (A) through (D), as follows:

(A) An amount equal to the product of—

(i) the aggregate number of specialty positions lost, less an amount equal to the sum of—

(I) the number of lost positions for which payments are being made for the calendar year pursuant to subparagraphs (B) through (D); and

(II) the total number of lost positions for which, in determinations under this subsection for the hospital for prior calendar years, the percentage applicable to the national average or alternative amount referred to in paragraph (1)(B) was 25 percent; and

(ii) 100 percent of such national average or alternative amount applicable for the year involved.

(B) An amount equal to the product of—

(i) the number of lost positions for which, in the determination under this subsection for the hospital for the preceding calendar year, the percentage applicable to the national average or alternative amount was 100 percent, subject to paragraph (3) (relating to decreases in aggregate numbers); and

(ii) 75 percent of the national average or alternative amount applicable for the year involved.

(C) An amount equal to the product of—

(i) the number of lost positions for which, in the determination under this subsection for the hospital for the preceding calendar year, the percentage applicable to the national average or alternative amount was 75 percent, subject to paragraph (3); and

(ii) 50 percent of the national average or alternative amount applicable for the year involved.

(D) An amount equal to the product of—

(i) the number of lost positions for which, in the determination under this subsection for the hospital for the preceding calendar year, the percentage applicable to the national average or alternative amount was 50 percent, subject to paragraph (3); and

(ii) 25 percent of the national average or alternative amount applicable for the year involved.

(3) RULE REGARDING DECREASE IN AGGREGATE NUMBER OF SPECIALTY POSITIONS LOST.—With respect to payments under subsection (a) for an eligible hospital for a calendar year, if the aggregate number of specialty positions lost for the academic year involved is less than such number for the preceding academic year (which difference between the 2 aggregate numbers is referred to in this paragraph as the "decrease in the number of lost positions"), the following applies:

(A) The Secretary shall identify the number of lost positions for which, as determined under paragraph (2) without regard to this paragraph, the percentage applicable to payments for the calendar year is 75 percent, the number of such positions for which such percentage is 50 percent, and the number of such positions for which such percentage is 25 percent.

(B) In the case of the lost positions so identified, the Secretary shall apply the decrease in the number of lost positions as follows:

(i) First, as a reduction in the number of positions for which the percentage applicable is 75 percent.

(ii) Second (for any remaining portions of the decrease after compliance with clause (i)), as a reduction in the number of positions for which such percentage is 50 percent.

(iii) Third (for any remaining portions of the decrease after compliance with clause (ii)), as a reduction in the number of positions for which such percentage is 25 percent.

PART 5—OTHER HEALTH PROFESSIONS PROGRAMS

Subpart A—Graduate Nursing Education

SEC. 7051. FEDERAL PAYMENTS FOR GRADUATE NURSING EDUCATION.

(a) IN GENERAL.—Part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end the following subpart:

"Subpart IV—Grants Under Health Care Workforce Trust Fund

"FORMULA GRANTS FOR GRADUATE NURSE EDUCATION PROGRAMS

"SEC. 848. (a) GRANTS UNDER HEALTH CARE WORKFORCE TRUST FUND.—

"(1) IN GENERAL.—In the case of each graduate nurse education program that in accordance with subsection (c) submits to the Secretary an application for calendar year 1996 or any subsequent calendar year (in this section referred to as an 'eligible program' for the year involved), the Secretary shall make a grant for the year to the program for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the program under subsection (d).

"(2) TRUST FUND.—Grants under paragraph (1) shall be made from amounts in the Health Care Workforce Trust Fund under section 9512 of the Internal Revenue Code of 1986. Of the amounts in such Fund, the amount available for carrying out this section for a calendar year is the product of—

"(i) $150,000,000; and

"(ii) the direct-cost Fund payout percentage for the year, as determined under section 7024(c)(4) of the Guaranteed Health Insurance Act of 1994.

"(3) RESERVATION OF AMOUNTS.—Of the amount available under paragraph (2) for carrying out this section for a calendar year, the Secretary may reserve not more than 10 percent for carrying out section 849.

"(b) PURPOSE OF PAYMENTS.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the graduate nurse education program involved agrees that the payments will be expended only for the following purposes:

"(A) Increasing nursing education opportunities for individuals from disadvantaged backgrounds (including members of racial or ethnic minority groups) through the activities authorized in section 827(a).

"(B) Expanding enrollment, including individuals who are not described in subparagraph (A).

"(C) Providing scholarships to students in financial need with preference given to those who agree to practice in health professional shortage areas.

"(D) Developing and supporting programs to provide students with experience in providing primary health care services in non-institutional settings.

"(E) Developing innovative approaches to delivering services in the cultural context and language most appropriate for the individuals to whom the services are provided.

"(F) Developing programs or otherwise providing for education and training in the identification, treatment, and referral of cases of domestic violence.

"(G) Such other purposes as the Secretary determines to be appropriate.

"(2) ALLOCATION.—The Secretary may make a grant under subsection (a) only if the graduate nurse education program involved agrees that the program will expend not less than 20 percent of the grant to carry out the purpose described in paragraph (1)(A).

"(c) APPLICATION FOR PAYMENTS.—For purposes of subsection (a)(1), an application for a grant under such subsection for a calendar year is in accordance with this subsection if—

"(1) the application is submitted not later than the date specified by the Secretary;

"(2) the application contains the agreements required in this section; and

"(3) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(d) AMOUNT OF PAYMENTS.—

"(1) IN GENERAL.—For purposes of subsection (a), the allotment determined under this subsection for an eligible program for a calendar year is the product of—

"(A) the percentage determined for the program under the formula established by the Secretary under paragraph (2); and

"(B) the amount available under subsection (a)(2) for the year, less any amount the Secretary reserves under subsection (a)(3).

"(2) DEVELOPMENT OF FORMULA.—The Secretary shall establish a formula for purposes of paragraph (1)(A). The formula shall be established by the Secretary on the basis of the following factors (which factors shall be given equal weight):

"(A) The percentage constituted by the ratio of—

"(i) the number of individuals enrolled (or accepted for enrollment) in the eligible program involved; to

"(ii) the sum of the respective numbers determined under clause (i) for each eligible program.

"(B) A factor developed by the Secretary to reflect the operational costs of the program relative to the operational costs of other eligible programs.

"(C) A factor developed by the Secretary to reflect the extent of the need for the nursing professionals involved in medically underserved communities.

"(e) DEFINITION OF GRADUATE NURSE EDUCATION PROGRAM.—For purposes of this section, the term 'graduate nurse education programs' means programs for advanced nurse education, including programs for education as nurse practitioners, programs for education as nurse midwives, programs for education as nurse anesthetists, programs for advanced training in occupational health nursing, other programs for training in clinical nurse specialties determined by the Secretary to require advanced education, and programs in nursing administration.

"(f) REPORT TO CONGRESS.—

"(1) IN GENERAL.—The Secretary shall conduct a study for the purpose of determining the cost incurred in the operation of graduate nurse education programs. In conducting the study, the Secretary shall evaluate the program carried out under subsection (a) and may develop recommendations for improving the program.

"(2) DATE CERTAIN FOR COMPLETION.—Not later than February 1, 1998, the Secretary shall complete the study required in paragraph (1) and submit to the Congress the findings made in the study, including any recommendations developed in the study.

"CATEGORICAL GRANTS REGARDING BASIC NURSE EDUCATION

"SEC. 849. (a) IN GENERAL.—The Secretary may make grants to public and nonprofit schools of nursing for the purpose of improving the capacity of such schools to provide for basic nurse education and practice.

"(b) FUNDING.—Grants under subsection (a) shall be made from such amounts as the Secretary may reserve under section 848(a)(3).".

(b) OTHER MODIFICATIONS REGARDING TITLE VIII.—

(1) IN GENERAL.—Section 851 of the Public Health Service Act (42 U.S.C. 298) is amended—

(A) by striking "(a) There is" and all that follows and inserting the following: "(a) IN GENERAL.—There is established within the Department of Health and Human Services an advisory council to be known as the National Advisory Council on Nurse Education (in this section referred to as the "Council").

"(b) DUTIES.—

"(1) IN GENERAL.—The Council shall provide advice to the Secretary on carrying out this title, including advice on—

"(A) the need for educating additional individuals as advanced practice nurses; and

"(B) matters relating to the program under section 848.

"(2) CERTAIN ACTIVITIES.—The Council may collect and analyze data for purposes of carrying out the duties of the Council under paragraph (1), including data on the number of advanced practice nurses and other health professionals in the various geographic areas of the United States.

"(c) COMPOSITION.—

"(1) IN GENERAL.—The membership of the Council shall include individuals who are appointed to the Council from among individuals who are not officers or employees of the United States. Such individuals shall be appointed by the Secretary, and shall include individuals from each of the following categories:

"(A) Nurse practitioners, nurse midwives, nurse anesthetists, and clinical nurse specialists.

"(B) Schools of nursing, teaching hospitals or other entities that provide health services, and other experts in health care financing, in the delivery of health services, and in education in the health professions.

"(2) REPRESENTATIVE MEMBERSHIP.—To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States, and shall reflect the racial, ethnic, and gender composition of the population of the United States.

"(3) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary (or by other Federal officers who are appointed by the President with the advice and consent of the Senate). Individuals designated under the preceding sentence shall include each of the following officials (or a designee of the official):

"(A) The Secretary of Health and Human Services.

"(B) The Secretary of Veterans Affairs.

"(C) The Secretary of Defense.

"(d) CHAIR.—The Secretary shall, from among members of the National Council appointed under subsection (c)(1), designate an individual to serve as the Chair of the Council."; and

(B) in the heading for the section, by striking "PRACTICE;" and all that follows and inserting "PRACTICE".

(2) RULE OF CONSTRUCTION.—With respect to the advisory council in effect under section 851 of the Public Health Service Act on the day before the date of the enactment of this Act, individuals who were serving as members of the council may serve as members of the Council established under the amendment made by subsection (a), except as inconsistent with the amendment.

Subpart B—Medical Schools

SEC. 7061. FEDERAL PAYMENTS FOR MEDICAL SCHOOLS.

Part B of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.) is amended by adding at the end the following section:

"SEC. 741. FORMULA GRANTS FOR MEDICAL SCHOOLS.

"(a) GRANTS UNDER HEALTH CARE WORKFORCE TRUST FUND.—

"(1) IN GENERAL.—In the case of each school of medicine or osteopathic medicine that in accordance with subsection (c) submits to the Secretary an application for calendar year 1996 or any subsequent calendar year (in this section referred to as an 'eligible school' for the year involved), the Secretary shall make a grant for the year to the school for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the school under subsection (d).

"(2) TRUST FUND.—Grants under paragraph (1) shall be made from amounts in the Health Care Workforce Trust Fund under section 9512 of the Internal Revenue Code of 1986. Of the amounts in such Fund, the amount available for carrying out this section for a calendar year is the product of—

"(i) $50,000,000; and

"(ii) the direct-cost Fund payout percentage for the year, as determined under section 7024(c)(4) of the Guaranteed Health Insurance Act of 1994.

"(b) EXPENDITURES OF GRANT.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the school involved agrees to expend the grant in accordance with the following purposes:

"(A) The school will carry out a program to recruit and retain minority and disadvantaged individuals (including members of racial or ethnic minority groups).

"(B) The school will carry out a program to encourage students of the school to enter a field in primary health care.

"(C) The school will provide for education and training in the identification, treatment, and referral of cases of domestic violence.

"(D) The school will establish goals for the programs described in subparagraphs (A) through (C) and will monitor the programs to determine the extent to which progress is being made toward achieving the goals.

"(2) CERTAIN AUTHORITIES REGARDING MINORITY AND DISADVANTAGED INDIVIDUALS.—With respect to the program for minority and disadvantaged individuals that is carried out by a school of medicine or osteopathic medicine receiving a grant under subsection (a), the Secretary may authorize the school to expend the grant for the following purposes:

"(A) Identifying, recruiting, and selecting minority and disadvantaged individuals for the program.

"(B) Facilitating the entry of such individuals into the school.

"(C) Providing counseling or other services designed to assist such individuals in successfully completing the educational programs involved.

"(D) Providing, for a period prior to the entry of such individuals into the regular course of education of the school, preliminary education designed to assist the individuals in successfully completing such regular course of education at the school, or referring the individuals to hospitals providing such preliminary education.

"(E) Publicizing existing sources of financial aid available to the individuals for attendance at the school.

"(F) Paying such scholarships as the Secretary may determine for such attendance.

"(G) Paying such stipends as the Secretary may approve for such individuals for any period of education in student-enhancement programs (other than regular courses) at the school, except that such a stipend may not be provided to an individual for more than 12 months, and such a stipend shall be in an amount of $40 per day (notwithstanding any other provision of law regarding the amount of stipends).

"(3) ALLOCATION.—The Secretary may make a grant under subsection (a) only if the school involved agrees that the school will expend not less than 20 percent of the grant to carry out the purposes described in paragraph (2).

"(c) APPLICATION FOR PAYMENTS.—For purposes of subsection (a)(1), an application for

VOL 140 PT 15 AG 10 — 11 1994 UMI

a grant under such subsection for a calendar year is in accordance with this subsection if—

"(1) the application is submitted not later than the date specified by the Secretary;

"(2) the application contains the agreements required in this section; and

"(3) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(d) AMOUNT OF PAYMENTS.—

"(1) IN GENERAL.—For purposes of subsection (a), the allotment determined under this subsection for an eligible school for a calendar year is the product of—

"(A) the percentage determined for the school under the formula established by the Secretary under paragraph (2); and

"(B) the amount determined under subsection (a)(2) for the year.

"(2) DEVELOPMENT OF FORMULA.—The Secretary shall establish a formula for purposes of paragraph (1)(A). Subject to paragraph (3), the formula shall be established by the Secretary on the basis of the following factors (which factors shall be given equal weight):

"(A) The number of minority and disadvantaged individuals enrolled (or accepted for enrollment) in the entering class of the eligible school involved for the academic year in which the calendar year begins, plus the number of minority and disadvantaged individuals to whom the contingency described in subsection (e) applies (subject to not counting any individual more than once for purposes of this subparagraph).

"(B) Of the individuals graduating from the school for the academic year that is 6 years prior to the academic year involved, the number of individuals who have entered a postgraduate residency training program in a field of primary health care.

"(3) MINIMUM FORMULA AMOUNT FOR CERTAIN SCHOOLS.—If for the year involved an eligible school is a grantee under section 740, the Secretary shall ensure that the amount determined pursuant to paragraph (1)(A) for the school is not less than the amount of the grant made under section 740 to the school for fiscal year 1994, or fiscal year 1995, whichever is greater, subject to the school agreeing to expend the grant under subsection (a) to reach the goals established for the school under section 740 regarding the recruitment and retention of minority and disadvantaged individuals. The Secretary shall waive the requirement of such agreement if the Secretary determines that the goal for the school has been reached.

"(e) PAYMENTS BY MEDICAL SCHOOLS FOR OFF-SCHOOL EDUCATION.—The Secretary may make a grant under subsection (a) for a calendar year only if the school involved agrees that if, for the academic year beginning in such calendar year, 1 or more students is enrolled (or accepted for enrollment) in the school on the contingency of successfully completing for the academic year a substantial number of hours in medical education through an educational institution that does not operate a school of medicine or osteopathic medicine, and if the school provides credit toward a doctorate in medicine for the hours successfully completed at such other institution, then the school will pay to the other institution for such calendar year an amount equal to the product of—

"(1) the amount of the grant under subsection (a) for the calendar year; and

"(2) the percentage constituted by the ratio of—

"(A) the number of such students attending the other institution for the academic year; to

"(B) the total number of individuals enrolled (or accepted for enrollment) in the eligible school involved for the academic year in which the calendar year begins, plus the number of individuals to whom the contingency described in this subsection applies (subject to not counting any individual more than once for purposes of this subparagraph).".

PART 6—MISCELLANEOUS PROVISIONS

SEC. 7071. STUDY OF FUNDING NEEDS OF HEALTH PROFESSIONS SCHOOLS.

(a) IN GENERAL.—The Secretary shall conduct a study for the purpose of determining the funding needs of health professions schools, including schools of medicine and osteopathic medicine, and schools of dentistry.

(b) CONSIDERATION OF CERTAIN COSTS.—In conducting the study under subsection (a), the Secretary shall also consider the following costs regarding the funding needs of health professions schools:

(1) Uncompensated costs incurred in providing health care.

(2) Costs resulting from reduced productivity due to teaching responsibilities.

(3) Increased costs of caring for the health needs of patients with severe medical complications.

(4) Uncompensated costs incurred in conducting clinical research.

(5) The impact of competitive health plans on payments for professional services delivered by faculty.

(6) The costs associated with changes in medical education from hospital inpatient to ambulatory, nonhospital sites.

(c) CONSIDERATIONS REGARDING ADDITIONAL FUNDING.—In conducting the study under subsection (a), the Secretary shall determine the following:

(1) Whether the health professions schools involved have a significant need for an increase in the amount of funds available to the schools.

(2) If there is such a need—

(A) recommendations regarding the sources of funds to provide the increase; and

(B) recommendations for a methodology for determining the amount that should be provided to the schools involved.

(d) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report describing the findings and recommendations made in the study.

SEC. 7072. ADDITIONAL STUDIES.

(a) PAYMENT AMOUNTS REGARDING GRADUATE MEDICAL EDUCATION.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine whether the program of payments under section 7021 should be modified (relating to payments to approved physician training programs). Factors considered in the study shall include the following factors:

(A) The effect on educational costs of hospital size, faculty salary levels, and geographic region (including location in urban areas and area wage rates).

(B) Variations in costs associated with training in ambulatory settings, including community health centers, managed care organizations, and hospital outpatient clinics.

(C) Variations in costs associated with the operation of approved physician training programs in different medical specialties.

(D) Whether payments to training participants should vary according to which year of training the participant is in.

(E) Whether additional factors should be included under section 7024(c)(3) regarding adjustments in the amount of payments.

(F) Whether, for purposes of section 7024(c), approved physician training programs in podiatric medicine should receive payments on the basis of a national average FTE training amount that is specific to podiatric medicine.

(2) INDEX REGARDING COST VARIATIONS.—The Secretary shall conduct a study for the purpose of developing an index, for use in the program under section 7021, to reflect variations by geographic area in the costs incurred in operating approved physician training programs.

(b) RETRAINING OF PHYSICIANS REGARDING PRACTICING IN PRIMARY HEALTH CARE.—With respect to physicians who do not practice in primary health care, the Secretary shall conduct a study to determine the feasibility of retraining the physicians as practitioners in such care.

(c) DATE CERTAIN FOR COMPLETION.— Not later than February 1, 1997, the Secretary shall complete the studies required in subsections (a) and (b) and submit to the Congress reports describing the findings made in the studies.

PART 7—GENERAL PROVISIONS

SEC. 7081. DEFINITIONS.

For purposes of this subtitle:

(1) The term "academic year" has the meaning given such term in section 7001(a)(3).

(2) The term "aggregate lost position amount" has the meaning given such term in section 7041(e).

(3) The term "aggregate nonmedicare training amount" has the meaning given such term in section 7024(c)(2).

(4) The term "aggregate number of specialty positions lost" has the meaning given such term in section 7041(b)(1)(B).

(5) The term "applicable per discharge training amount" has the meaning given such term in section 7024(e)(1)(C).

(6) The term "applicable period" has the meaning given such term in section 7001(a)(3).

(7) The term "approved physician training program" has the meaning given such term in section 7012(d).

(8) The term "Council" has the meaning given such term in section 7011(a).

(9) The term "direct-cost Fund payout percentage" has the meaning given such term in section 7024(c)(4).

(10) The term "full-time-equivalent training participant" has the meaning given such term in section 7024(g)(2).

(11) The term "indirect-cost Fund payout percentage" has the meaning given such term in section 7024(d)(3).

(12) The term "lost position" has the meaning given such term in section 7041(b)(1)(B).

(13) The term "medical school" has the meaning given such term in section 7012(d).

(14) The term "medical specialty" has the meaning given such term in section 7012(d).

(15) The term "national average FTE training amount" has the meaning given such term in section 7024(c)(3).

(16) The term "nonmedicare per-discharge supplemental payment" has the meaning given such term in section 7024(d)(2).

(17) The term "per-specialty annual number of positions" has the meaning given such term in section 7012(d).

(18) The term "Plan" has the meaning given such term in section 7001(a)(3).

(19) The term "primary health care" has the meaning given such term in section 7012(d).

(20) The term "qualifying physician training consortium" has the meaning given such term in section 7031(b).

(21) The term "specialty position" has the meaning given such term in section 7012(d).

(22) The term "teaching hospital" has the meaning given such term in section 7021(b).

(23) The term "training participant" has the meaning given such term in section 7012(d).

(24) The term "underserved" has the meaning given such term in section 7013(a)(3).

Subtitle B—Certain Direct Spending Programs of Public Health Service

PART 1—BIOMEDICAL RESEARCH

SEC. 7101. ADDITIONAL FUNDING.

(a) ADMINISTRATOR OF ADDITIONAL FUNDS.—Section 402(a) of the Public Health Service Act (42 U.S.C. 282(a)) is amended by striking the first sentence and inserting the following: "There shall be within the Department of Health and Human Services an Assistant Secretary for Scientific Affairs, who shall be appointed by the President by and with the advice and consent of the Senate. Such Assistant Secretary shall serve as the head of the National Institutes of Health, in a position to be known as the Director of the National Institutes of Health (in this title referred to as the 'Director of NIH').".

(b) EXPENDITURE OF FUNDS.—Title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following part:

"PART C—HEALTH RESEARCH PROGRAM OF ASSISTANT SECRETARY FOR SCIENTIFIC AFFAIRS

"HEALTH RESEARCH PROGRAM

"SEC. 261. (a) IN GENERAL.—With respect to the amounts appropriated in subsection (b), the Secretary, acting through the Assistant Secretary for Scientific Affairs and in consultation with the interagency advisory board established under subsection (d), shall in accordance with subsection (c) carry out a program for the expenditure of such amounts.

"(b) DIRECT SPENDING.—For carrying out the program under subsection (c), there are hereby appropriated, out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved):

"(1) For fiscal year 1996, $325,000,000.

"(2) For fiscal year 1997, $500,000,000.

"(3) For fiscal year 1998, $550,000,000.

"(4) For fiscal year 1999, $575,000,000.

"(5) For fiscal year 2000, $600,000,000.

"(6) For fiscal year 2001, $650,000,000.

"(7) For fiscal year 2002, $675,000,000.

"(8) For fiscal year 2003, $725,000,000.

"(9) For fiscal year 2004, $775,000,000.

"(10) For fiscal year 2005, the amount specified in paragraph (9) multiplied by an amount equal to the product of—

"(A) 1 plus the national medicare growth factor (as defined in section 8201(c) of the Guaranteed Health Insurance Act of 1994); and

"(B) 1 plus the annual percentage increase projected by the Assistant Secretary to occur during such year in the population of the States.

"(11) For fiscal year 2006 and each subsequent fiscal year, the amount determined under this subsection for the preceding fiscal year multiplied by an amount equal to the product of subparagraphs (A) and (B) of paragraph (10) (as such subparagraphs are applied for the fiscal year involved).

"(c) PROGRAM FOR MAKING EXPENDITURES.—The Assistant Secretary may expend the amounts appropriated in subsection (b) for biomedical and behavioral research and demonstration projects authorized in this Act, and for health services research and demonstration projects authorized in this Act. In conducting and supporting such projects under the preceding sentence, the Assistant Secretary shall provide for projects to develop and evaluate effective methods for the delivery of health services in rural areas.

"(d) INTERAGENCY ADVISORY BOARD.—

"(1) IN GENERAL.—There is established an advisory board to be known as the Interagency Advisory Board on Scientific Affairs (in this subsection referred to the 'Board'), consisting of the following officials.

"(A) The Director of the Centers for Disease Control and Prevention.

"(B) The Commissioner of Food and Drugs.

"(C) The Administrator for Health Care Policy and Research.

"(D) The Administrator of the Health Resources and Services Administration.

"(E) The Director of the Indian Health Service.

"(2) DUTIES.—The Board shall provide advice to the Assistant Secretary on carrying out the program under subsection (c). Such advice shall include advice on priorities in the expenditure of the amounts appropriated in subsection (b), a description of which priorities shall be made available to the public. Such priorities shall include priorities for —

"(A) basic research and applied research;

"(B) research on significant public health problems; and

"(C) research on the development and application of cost-effective and improved medical technologies.

"(e) DEFINITIONS.—For purposes of this section, the term 'Assistant Secretary' means the Assistant Secretary for Scientific Affairs (appointed under section 402(a)(1)).".

PART 2—CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS

SEC. 7111. TABLE OF CONTENTS REGARDING REVISED PROVISIONS OF TITLE XIX OF PUBLIC HEALTH SERVICE ACT.

A table describing the contents of part A of title XIX of the Public Health Service Act, as added by section 7112 of this Act, is as follows:

PART A—PUBLIC HEALTH PROGRAMS

SUBPART I—BLOCK GRANTS FOR CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS

Sec. 1901. Formula grants to States.
Sec. 1902. Purposes of grant.
Sec. 1903. State contributions toward purposes.
Sec. 1904. Submission of information.
Sec. 1905. Reports.
Sec. 1906. Application for grant.
Sec. 1907. Amount of allotment.

SUBPART II—NATIONAL PUBLIC HEALTH EMERGENCY FUND

Sec. 1910. National emergency fund.

SEC. 7112. CAPPED ENTITLEMENT REGARDING FORMULA GRANTS TO STATES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by striking part A and inserting the following:

"PART A—PUBLIC HEALTH PROGRAMS

"Subpart I—Block Grants for Core Functions of Public Health Programs

"SEC. 1901. FORMULA GRANTS TO STATES.

"(a) FORMULA GRANTS.—In the case of each State that submits to the Secretary an application in accordance with section 1906 for a fiscal year (in this part referred to as an 'eligible State' for the year), the Secretary shall make a grant to the State for the year for the purposes specified in section 1902. The grant shall consist of the allotment made for the State under section 1907. For the purpose of carrying out this part for fiscal year 1995, there are authorized to be appropriated such sums as may be necessary.

"(b) DIRECT SPENDING.—For the purpose of carrying out this part, there are hereby appropriated, out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved), effective October 1 of the fiscal year involved:

"(1) For each of the fiscal years 1996 through 2004, an amount equal to the amount appropriated for fiscal year 1994 for carrying out this part (as in effect for such year), plus the following additional amount, as applicable to the fiscal year involved:

"(A) For fiscal year 1996, $325,000,000.

"(B) For fiscal year 1997, $500,000,000.

"(C) For fiscal year 1998, $550,000,000.

"(D) For fiscal year 1999, $575,000,000.

"(E) For fiscal year 2000, $600,000,000.

"(F) For fiscal year 2001, $650,000,000.

"(G) For fiscal year 2002, $675,000,000.

"(H) For fiscal year 2003, $725,000,000.

"(I) For fiscal year 2004, $775,000,000.

"(2) For fiscal year 2005, the aggregate amount specified in paragraph (1) for fiscal year 2004 multiplied by an amount equal to the product of—

"(A) 1 plus the national medicare growth factor (as defined in section 8201(c) of the Guaranteed Health Insurance Act of 1994); and

"(B) 1 plus the annual percentage increase projected by the Secretary to occur during such year in the populations of the States.

"(3) For fiscal year 2006 and each subsequent fiscal year, the amount determined under this subsection for the preceding fiscal year multiplied by an amount equal to the product of subparagraphs (A) and (B) of paragraph (2) (as such subparagraphs are applied for the fiscal year involved).

"(c) ENTITLEMENT STATUS OF GRANTS.—

"(1) CAPPED ENTITLEMENT.—Effective on and after October 1, 1995, in the case of an eligible State, the requirement established in subsection (a) for the Secretary (relating to making a grant)—

"(A) is an entitlement in the State on behalf of the population of the State (but is not an entitlement in any member of the population or in any other entity); and

"(B) represents the obligation of the Federal Government, subject to subsection (c)—

"(i) to make grants under subsection (a) from the amounts appropriated in subsection (b); and

"(ii) to apply the formula under section 1907 (as in effect for the fiscal year involved) to such amounts for the year in order to determine the amount of the grant for the State for the year.

"(2) NATURE OF ENTITLEMENT.—With respect to the purposes for which a grant under subsection (a) is authorized to be expended, modifications in such purposes enacted after the date of the enactment of the Guaranteed Health Insurance Act of 1994 do not affect the amount of budget authority provided in subsection (b) for any fiscal year.

"(c) ALLOCATIONS FOR NATIONAL PUBLIC HEALTH EMERGENCY FUND.—Of the amounts appropriated in subsection (b) for a fiscal year, 10 percent is hereby transferred to the account established in section 1910, effective October 1 of the year.

"(d) ADMINISTRATOR OF PROGRAMS.—The Secretary shall carry out this part acting through the Director of the Centers for Disease Control and Prevention.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"SEC. 1902. PURPOSES OF GRANT.

"(a) IN GENERAL.—A funding agreement for a grant under section 1901 is that the State involved will expend the grant only for carrying out the following activities:

"(1) To monitor and protect the health of communities against communicable diseases and exposure to toxic environmental pollutants and occupational hazards.

"(2) To identify and control outbreaks of infectious disease and patterns of chronic disease and injury.

"(3) To inform and educate health care consumers and providers about their roles in preventing and controlling disease and the appropriate use of medical services.

"(4) To collect, analyze, and disseminate data regarding the activities carried out under paragraphs (1) through (3).

"(5) To develop and test new prevention and public health control interventions.

"(6) To provide for health laboratory services.

"(b) PROGRESS IN IMPROVING PUBLIC HEALTH STATUS.—For fiscal year 1998 and each subsequent fiscal year, if the Secretary determines that, relative to October 1, 1994, a State has not made reasonable progress in improving the public health status of the State (as determined under the Healthy People 2000 Objectives, as defined in section 1904(b)), the Secretary shall designate the particular activities under this section to be carried out by the State with the grant under section 1901. For any such fiscal year for which the Secretary makes such a determination, a funding agreement for a grant under section 1901 for the fiscal year is that the State will expend the grant in accordance with the designations made by the Secretary under the preceding sentence.

"SEC. 1903. STATE CONTRIBUTIONS TOWARD PURPOSES.

"(a) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs of carrying out the purposes specified in section 1902, a funding agreement for a grant under section 1901 is that the State involved will make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED; RELATIONSHIP TO MAINTENANCE OF EFFORT.—In making a determination of the amount of non-Federal contributions provided by a State under paragraph (1), the Secretary may only include non-Federal contributions in excess of amounts expended by the State in compliance with subsection (b).

"(b) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—With respect to the costs of carrying out the purposes specified in section 1902, a funding agreement for a grant under section 1901 is that the State involved will maintain expenditures of non-Federal amounts for such purposes at a level that is not less than the level of such expenditures maintained by the State for the 2-year period preceding October 1, 1994.

"(2) WAIVER.—The Secretary may, upon the request of a State, waive the requirement established in paragraph (1) for a fiscal year if the Secretary determines that extraordinary economic conditions in the State justify the waiver. If the Secretary provides a waiver under the preceding sentence for a State for a fiscal year, the Secretary may make a grant under section 1901 to the State for the following fiscal year only if the Secretary reviews the circumstances involved to determine whether the waiver should remain in effect.

"(3) NONCOMPLIANCE BY STATE.—

"(A) In making a grant under section 1901 to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year, the State maintained material compliance with the agreement under paragraph (1). If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment under section 1907 for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

"(B) The Secretary may make a grant under section 1901 for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in subparagraph (A).

"SEC. 1904. SUBMISSION OF INFORMATION.

"(a) IN GENERAL.—The Secretary may make a grant under section 1901 only if the State involved submits to the Secretary the following information (expressed in relation to standards, objectives, and goals of the Healthy People 2000 Objectives, as defined in subsection (b)):

"(1) A description of existing deficiencies in the public health system of the State (at the State level and the local level).

"(2) A description of public health status measures to be improved within the State (at the State level and the local level) through expanding the extent to which activities authorized in section 1902 are carried out.

"(3) Information regarding each such activity, which—

"(A) identifies the amount of State and local funding expended on each such activity for the fiscal year preceding the fiscal year for which the grant is sought; and

"(B) provides a detailed description of how additional Federal funding will improve each such activity by both the State and local public health agencies.

"(4) A description of such activities to be carried out at the local level, and a specification for each such activity of—

"(A) the communities in which the activity will be carried out; and

"(B) the amount of the grant to be expended for the activity in each community so specified.

"(b) HEALTHY PEOPLE 2000 OBJECTIVES.—For purposes of this part, the term 'Healthy People 2000 Objectives' means—

"(1) in the case of the fiscal years 1996 through 2000, the objectives established by the Secretary toward the goals of increasing the span of healthy life, reducing health disparities among various populations, and providing access to preventive services, which objectives apply to the health status of the population of the United States for the year 2000; and

"(2) in the case of fiscal year 2001 and subsequent fiscal years, any successor goals and objectives established by the Secretary regarding the health status of such population for a year.

"SEC. 1905. REPORTS.

"A funding agreement for a grant under section 1901 is that the States involved will, not later than the date specified by the Secretary, submit to the Secretary a report, for the fiscal year for which the grant was provided, describing—

"(1) the purposes for which the grant was expended; and

"(2) the extent of progress made by the State in achieving the public health status measures identified under section 1904(a)(2).

"SEC. 1906. APPLICATION FOR GRANT.

"For purposes of section 1901, an application for a grant under such section for a fiscal year is in accordance with this section if—

"(1) the State involved submits the application not later than the date specified by the Secretary;

"(2) the application contains each funding agreement that is described in this subpart;

"(3) the application contains an agreement by the State that each provision of subpart III of part B applies to the grant to the same extent and in the same manner as such subpart applies to grants under subpart I or II of part B;

"(4) the agreements are made through certification from the chief executive officer of the State; and

"(5) the application is otherwise in such form, is made in such manner, and contains such agreements as the Secretary determines to be necessary to carry out this subpart.

"SEC. 1907. AMOUNT OF ALLOTMENT.

"For purposes of section 1901, the allotment for a State for a fiscal year is the sum of paragraphs (1) through (3) as follows:

"(1) An amount equal to the product of—

"(A) an amount equal to ⅓ of the portion of the amount appropriated in subsection (b) of section 1901 for the fiscal year that remains after the transfer under subsection (c) of such section for the year (except that, for fiscal year 1995, the amount under this subparagraph is ⅓ of the amounts that are appropriated under subsection (a) of such section and available for allotment under this section); and

"(B) the percentage constituted by the ratio of—

"(i) a number determined by the Secretary on the basis of population of the State; to

"(ii) the sum of the respective amounts determined under clause (i) for eligible States for the fiscal year.

"(2) An amount equal to the product of—

"(A) an amount equal to ⅓ of the portion referred to in paragraph (1)(A) (except that, for fiscal year 1995, the amount under this subparagraph is ⅓ of the amount specified in paragraph (1)(A) with respect to such fiscal year); and

"(B) the percentage constituted by the ratio of—

"(i) a number determined by the Secretary on the basis of the extent of poverty in the State; to

"(ii) the sum of the respective amounts determined under clause (i) for eligible States for the fiscal year.

"(3) An amount equal to the product of—

"(A) an amount equal to ⅓ of the portion referred to in paragraph (1)(A) (except that, for fiscal year 1995, the amount under this subparagraph is ⅓ of the amount specified in paragraph (1)(A) with respect to such fiscal year); and

"(B) the percentage constituted by the ratio of—

"(i) a number determined by the Secretary on the basis of the years of potential life lost by individuals in the State; to

"(ii) the sum of the respective amounts determined under clause (i) for eligible States for the fiscal year.

"Subpart II—NATIONAL PUBLIC HEALTH EMERGENCY ACCOUNT

"SEC. 1910. NATIONAL EMERGENCY ACCOUNT.

"(a) ESTABLISHMENT OF ACCOUNT.—There is established an account to be known as the National Public Health Emergency Account (in this section referred to as the 'Account'). The Account shall consist of the amounts transferred under section 1901(c).

"(b) EXPENDITURES FROM ACCOUNT.—

"(1) IN GENERAL.—Subject to paragraph (2), upon the Secretary submitting to the Congress a written declaration that a public health emergency exists, amounts in the Account are available to the Secretary for the purpose of responding to the emergency.

"(2) CERTAIN CONDITIONS.—With respect to the availability to the Secretary of amounts in the Account, a declaration under paragraph (1) is effective only if in the declaration the Secretary provides that the Secretary has determined that—

"(A) the emergency involved poses a significant threat to the health of individuals in the community involved;

"(B) the resources of the State involved (including Federal funds provided to the State) that are otherwise available to the State for responding to the emergency are insufficient; and

"(C) the circumstances constituting the emergency are other than chronic conditions.

"(c) ALLOCATION TO STATES OF UNOBLIGATED AMOUNTS.—With respect to amounts that are transferred under 1901(c) for a fiscal year and that are unobligated as of September 30 of the fiscal year (referred to in this subsection as the 'unobligated balance'), the Secretary shall pay to a State, from the unobligated balance, an amount equal to the product of such balance and the percentage constituted by the ratio of the amount of the grant under section 1901 to the State for the fiscal year to the total amount of such grants for the year. The amount paid to a State under the preceding sentence shall be considered by the Secretary to be part of the grant made to the State under section 1901 for such fiscal year.

PART 3—HEALTH CENTERS FOR POPULATIONS LACKING ACCESS TO SERVICES

SEC. 7121. PURPOSE OF PROGRAM.

The purpose of the program under title XXVII of the Public Health Service Act (added by section 7123 of this Act) is to achieve the goal that federally qualified health centers in operation as of the date of the enactment of this Act, and such centers developed and placed into operation pursuant to such title XXVII, will have sufficient capacity to provide the required services of the centers to all rural and urban medically underserved populations that, as of December 31, 1995, were designated by the Secretary as such a population.

SEC. 7122. TABLE OF CONTENTS REGARDING NEW TITLE XXVII OF PUBLIC HEALTH SERVICE ACT.

A table describing the contents of title XXVII of the Public Health Service Act, as added by section 7123 of this Act, is as follows:

TITLE XXVII—FEDERALLY QUALIFIED HEALTH CENTERS

Subtitle A—Unfunded Portion of Operational Costs of Rural and Urban Centers

PART 1—GRANTS REGARDING UNFUNDED PORTION OF OPERATIONAL COSTS

Sec. 2701. Capped entitlement regarding unfunded portion of operational costs.

PART 2—SERVICES AND STRUCTURE OF CENTERS; OTHER CONDITIONS REGARDING CURRENT STATUS

Sec. 2711. Required services of centers; additional services.
Sec. 2712. Activities for special populations.
Sec. 2713. Governing board.
Sec. 2714. Schedule of fees and discounts.
Sec. 2715. Additional conditions.
Sec. 2716. Application for grant.

PART 3—REQUIRED AGREEMENTS

Sec. 2721. Expenditure of grant; operational costs.
Sec. 2722. Additional services.
Sec. 2723. Certain public entities with modified governing boards; matching funds.
Sec. 2724. Certain provisions regarding capital costs.
Sec. 2725. Development by centers of health plans and community provider networks.
Sec. 2726. Additional agreements.
Sec. 2727. Reports.

PART 4—GENERAL PROVISIONS

Sec. 2741. Amount of grant; unfunded portion of operational costs.
Sec. 2742. Expenditure of certain funds.
Sec. 2743. Designation of service area.
Sec. 2744. Miscellaneous provisions.

Subtitle B—Development of Additional Rural and Urban Centers

Sec. 2751. Development of centers.
Sec. 2752. Requirement regarding presence of certain medically underserved populations.
Sec. 2753. Authority regarding modified governing boards.
Sec. 2754. Certain requirements.
Sec. 2755. Application for grant.
Sec. 2756. General provisions.

Subtitle C—General Provisions

Sec. 2791. Miscellaneous provisions.
Sec. 2792. Definitions.

SEC. 7123. DIRECT SPENDING REGARDING FEDERALLY QUALIFIED HEALTH CENTERS; TEMPORARY PROGRAM FOR DEVELOPMENT OF ADDITIONAL CENTERS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following title:

"TITLE XXVII—FEDERALLY QUALIFIED HEALTH CENTERS

"Subtitle A—Unfunded Portion of Operational Costs of Rural and Urban Centers

"PART 1—GRANTS REGARDING UNFUNDED PORTION OF OPERATIONAL COSTS

"SEC. 2701. CAPPED ENTITLEMENT REGARDING UNFUNDED PORTION OF OPERATIONAL COSTS.

"(a) IN GENERAL.—In the case of any public or nonprofit private entity that in accordance with section 2710 submits to the Secretary an application for a fiscal year demonstrating that the entity is a federally qualified health center, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make a grant to the entity for such year for the purposes determined under section 2721. The grant shall be made in an amount determined under section 2741, subject to subsections (b) through (e). Grants under this subsection may only be made for fiscal year 1996 and subsequent fiscal years.

"(b) DIRECT SPENDING.—For carrying out this title, there are hereby appropriated, out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved):

"(1) For fiscal year 1996, $1,325,000,000.
"(2) For fiscal year 1997, $1,630,000,000.
"(3) For fiscal year 1998, $1,750,000,000.
"(4) For fiscal year 1999, $1,750,000,000.
"(5) For fiscal year 2000, $1,800,000,000.
"(6) For fiscal year 2001, $1,850,000,000.
"(7) For fiscal year 2002, $1,950,000,000.
"(8) For fiscal year 2003, $1,850,000,000.
"(9) For fiscal year 2004, $1,950,000,000.
"(10) For fiscal year 2005, the amount specified in paragraph (9) multiplied by an amount equal to the product of—

"(A) 1 plus the national medicare growth factor (as defined in section 8201(c) of the Guaranteed Health Insurance Act of 1994); and

"(B) 1 plus the annual percentage increase projected by the Secretary to occur during such year in the populations served by federally qualified health centers.

"(11) For fiscal year 2006 and each subsequent fiscal year, the amount determined under this subsection for the preceding fiscal year multiplied by an amount equal to the product of subparagraphs (A) and (B) of paragraph (10) (as such subparagraphs are applied for the fiscal year involved).

"(c) ENTITLEMENT STATUS OF GRANTS.—

"(1) IN GENERAL.—Effective on and after October 1, 1995, in the case of a federally qualified health center, the requirement established in subsection (a) for the Secretary (relating to making a grant)—

"(A) is an entitlement in the center on behalf of individuals served by the center (but is not an entitlement in any such individual); and

"(B) represents the obligation of the Federal Government, subject to paragraph (2), to make a grant under subsection (a) to the center in the amount determined for the center under section 2741.

"(2) CAPPED ENTITLEMENT.—With respect to making grants under subsection (a) to federally qualified health centers in the amounts determined under section 2741, the entitlement established in paragraph (1) for such centers is subject to the extent of the amount appropriated in subsection (b) for the fiscal year and to allocations under subsections (d) and (e).

"(3) PRO RATA REDUCTIONS UNDER CAP AMOUNT.—With respect to making grants under subsection (a) for a fiscal year to federally qualified health centers in the amounts determined under section 2741, if the Secretary determines that the budget authority provided in subsection (b) is insufficient to both provide the amounts under section 2741 and make the allocations under subsections (d) and (e), the Secretary shall first make the allocation under subsection (e) and then reduce each amount determined under section 2741 for such year on a pro rata basis to the extent necessary for the grants under subsection (a) to be provided in an aggregate amount equal to the balance of the budget authority.

"(4) NATURE OF ENTITLEMENT.—With respect to the purposes for which a grant under subsection (a) is authorized to be expended, modifications in such purposes enacted after the date of the enactment of the Guaranteed Health Insurance Act of 1994 do not affect the amount of budget authority provided in subsection (b) for any fiscal year.

"(d) ALLOCATIONS REGARDING DEVELOPMENT OF ADDITIONAL CENTERS.—Of the budget authority provided in subsection (b) for a fiscal year, the Secretary shall, for the purpose of making grants under section 2751 (relating to the development of federally qualified health centers), reserve the following amount, as applicable to the fiscal year involved:

"(1) For fiscal year 1996, $75,000,000.
"(2) For fiscal year 1997, $80,000,000.
"(3) For fiscal year 1998, $100,000,000.
"(4) For fiscal year 1999, $100,000,000.
"(5) For fiscal year 2000, $100,000,000.

79-059 O—97 Vol. 140 (Pt. 15) 14

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(6) For fiscal year 2001, $100,000,000.
"(7) For fiscal year 2002, $150,000,000.
"(e) ALLOCATIONS FOR UNANTICIPATED NEEDS.—
"(1) IN GENERAL.—Of the budget authority provided in subsection (b) for a fiscal year, the Secretary shall reserve 2 percent for—
"(A) making grants to any federally qualified health center that, in the determination of the Secretary, has a need for such a grant to assist the center in responding to unanticipated needs for required services or additional services that have arisen in the service area of the center, or in responding to other unanticipated circumstances that have arisen in the provision by the center of required services or additional services; and
"(B) making grants to any grantee under section 2751 that, in the determination of the Secretary, has a need for a such a grant to assist the grantee in responding to unanticipated circumstances that have arisen in carrying out the project under such section.
"(2) ALLOCATION TO GRANTEES OF UNOBLIGATED AMOUNTS.—With respect to amounts that are reserved under paragraph (1) for a fiscal year and that are unobligated as of September 30 of the fiscal year (referred to in this subsection as the 'unobligated balance'), the Secretary shall pay to each federally qualified health center and to each grantee under section 2751, from the unobligated balance, an amount equal to the product of such balance and the percentage constituted by the ratio of the amount of the grant for the fiscal year for such center or grantee (made under subsection (a) or section 2751, respectively) to the sum of the total amount of grants under subsection (a) for the year and the total amount of grants under section 2751 for the year. The amount paid to such center or grantee under the preceding sentence shall be considered by the Secretary to be part of the grant made for such fiscal year to the center or grantee under subsection (a) or section 2751, respectively.
"(f) DEFINITION OF FEDERALLY QUALIFIED HEALTH CENTER.—
"(1) IN GENERAL.—For purposes of this title, the term 'federally qualified health center' means a public or nonprofit private entity that is described in paragraph (2) or (3), and that operates a health center that—
"(A) serves any medically underserved populations (as defined in section 2752(b)) in the service area designated for the center under section 2743;
"(B) meets each of the conditions described in part 2 (relating to current status);
"(C) meets each of the conditions described in part 3 (relating to agreements on future status); and
"(D) meets each of the conditions described in sections 2741 and 2742 of part 4 (relating to general provisions).
"(2) RELATIONSHIP TO STATUS IN FISCAL YEAR 1995.—For purposes of paragraph (1), an entity described in this paragraph is an entity that met one or more of the following conditions for fiscal year 1995:
"(A) The entity received a grant under section 329, 330, 340, or 340A, as in effect for such year.
"(B) The entity applied for such a grant and was approved by the Secretary as meeting the requirements for such a grant, but the entity did not receive a grant because the amount of funding available to the Secretary for such grants was insufficient to make a grant to all entities so approved.
"(C) The entity was certified by the Secretary as a Federally-qualified health center under section 1905(l)(2)(B) of the Social Security Act.
"(3) RELATIONSHIP TO DEVELOPMENT GRANTS.—For purposes of paragraph (1), an entity described in this paragraph is an entity that, for fiscal year 1996 or any subsequent fiscal year, received a grant under section 2751 of subtitle B (relating to the development of centers).

"PART 2—SERVICES AND STRUCTURE OF CENTERS; OTHER CONDITIONS REGARDING CURRENT STATUS

"SEC. 2711. REQUIRED SERVICES OF CENTERS; ADDITIONAL SERVICES.

"(a) SERVICES GENERALLY; AVAILABILITY.—A condition under section 2701(f) for status as a federally qualified health center for a fiscal year is as follows:
"(1) The center involved (directly or through contracts or cooperative agreements with public or private entities)—
"(A) provides the required services (as defined in subsection (b)); and
"(B) provides any additional service (as defined in section 2722) that is included for the center in the plan in effect for the center under section 2721(d).
"(2) The center makes the required and additional services available to all individuals (subject to the extent of the capacity of the center), unless the Secretary provides a waiver for the entity under which the center provides the services principally to migratory or seasonal agricultural workers and related individuals, or principally to Indians. The Secretary shall provide such a waiver upon request of the center regarding the individuals involved if, for fiscal year 1995, the center principally served such individuals. Before making a grant under section 2701 for a fiscal year to a center for which such a waiver was in effect for the previous fiscal year, the Secretary shall review the circumstances involved to determine whether the waiver should remain in effect.
"(b) REQUIRED SERVICES.—
"(1) IN GENERAL.—For purposes of this title, the term 'required services' means the following:
"(A) Basic health services.
"(B) Referrals to providers of medical services and other health-related services.
"(C) Patient case management services.
"(D) Required enabling services, subject to subsection (c).
"(2) BASIC HEALTH SERVICES.—For purposes of this title, the term 'basic health services' means the following:
"(A) Services of health professionals.
"(B) Diagnostic laboratory and radiologic services.
"(C) Preventive health services.
"(D) Emergency medical services.
"(E) Preventive dental services, subject to subsection (c).
"(F) Pharmaceutical services, subject to subsection (c).
"(3) PREVENTIVE HEALTH SERVICES.—With respect to the definition of the term 'preventive health services' for purposes of this title—
"(A) for each of the fiscal years 1996 through 1998, such term includes prenatal and perinatal services; screening for breast and cervical cancer (including mammography); well-child services; immunizations against vaccine-preventable diseases; screenings for elevated blood lead levels, for communicable diseases, and for cholesterol; pediatric eye and ear examinations to determine the need for vision and hearing correction; and voluntary family planning services; and
"(B) for fiscal year 1999 and subsequent fiscal years, such term means services specified in subparagraph (A), and in addition, any preventive or screening service included in the guaranteed national benefit package under subtitle A of title III of the Guaranteed Health Insurance Act of 1994.
"(4) PATIENT CASE MANAGEMENT SERVICES.—For purposes of this title, the term 'patient case management services' means services that will assist patients of a center in gaining access to needed medical, social, educational, and other services.
"(5) REQUIRED ENABLING SERVICES.—
"(A) For purposes of this title, the term 'required enabling services' means services specified in subparagraph (B) that are provided for the purpose of enabling individuals to utilize the services of the center involved.
"(B) The services referred to in subparagraph (A) are (as necessary in the service area of the center involved) transportation, community and patient outreach, patient education, and translation services.
"(c) APPLICABILITY OF CERTAIN REQUIREMENTS.—
"(1) IN GENERAL.—If, for fiscal year 1995, a center did not provide a service specified in paragraph (2), the requirement under subsection (a) to provide the service is effective for fiscal year 1999 and subsequent fiscal years, except as provided in subparagraph (B). With respect to the fiscal years 1996 through 1998, the following applies to the center:
"(A) If, for such a fiscal year, the center (at the option of the center) includes the service in the proposed plan submitted under 2721(a)(1), the Secretary shall include the service in the plan in effect for the center under 2721(d) for the year.
"(B) Upon the service being so included in the plan, the center is subject to the requirement under subsection (a) to provide the service each fiscal year.
"(2) RELEVANT SERVICES.—A service referred to in paragraph (1) is any required enabling service, any preventive dental service, and any pharmaceutical service.
"(d) OTHER DEFINITIONS.—For purposes of this title:
"(1) The term 'Indian' means an individual who, under section 4 of the Indian Health Care Improvement Act, is an Indian or an urban Indian.
"(2)(A) The term 'migratory or seasonal agricultural worker, or related individual' means each of the following:
"(i) A migratory agricultural worker.
"(ii) A seasonal agricultural worker.
"(iii) A member of the family of a migratory or seasonal agricultural worker.
"(iv) An individual who previously was such a worker, but who no longer meets the definition under subparagraph (B) or (C) because of age or disability.
"(v) A member of the family of an individual described in clause (iv).
"(B) The term 'migratory agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last twenty-four months, and who establishes for the purposes of such employment a temporary abode.
"(C) The term 'seasonal agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker.
"(D) The term 'agriculture' means farming in all its branches, including—
"(i) cultivation and tillage of the soil;
"(ii) the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of a commodity grown in or on, the land; and

"(iii) any practice (including preparation and processing for market and delivery to storage or to market or to carriers for transportation to market) performed by a farmer or on a farm incident to or in conjunction with an activity described in clause (i).

"SEC. 2712. ACTIVITIES FOR SPECIAL POPULATIONS.

"(a) DEFINITION OF SPECIAL POPULATIONS.—For purposes of this title, the term 'special population' means each of the following populations:
"(1) Homeless individuals.
"(2) Residents of public housing.
"(3) Individuals with HIV disease, tuberculosis, or other communicable diseases.
"(4) Such other populations as the Secretary may identify as having significant particularized difficulties in obtaining the services of federally qualified health centers.
"(b) RULE OF CONSTRUCTION.—The activities carried out under subsection (c) for special populations are in addition to the services carried out for such populations under section 340 and 340A.
"(c) REQUIRED ACTIVITIES.—Effective for fiscal year 1996 and subsequent fiscal years, a condition under section 2701(f) for status as a federally qualified health center is that the center involved carries out for each special population activities to overcome the particularized difficulties experienced by the population in obtaining the services of the center.
"(d) DEFINITIONS.—For purposes of this title:
"(1) The term 'homeless individual' means an individual who lacks housing (without regard to whether the individual is a member of a family), including an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations and an individual who is a resident in transitional housing.
"(2) The term 'resident of public housing' means a resident of housing that is public housing as defined in section 3(b)(1) of the United States Housing Act of 1937.

"SEC. 2713. GOVERNING BOARD.

"(a) REQUIREMENTS.—A condition under section 2701(f) for status as a federally qualified health center for a fiscal year is that the center involved has established a governing board meeting the following requirements:
"(1) Except as provided in subsection (b), such board is composed of individuals, a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center.
"(2) The board establishes general policies for the center, except as provided in subsection (c).
"(3) The board reviews the application to be submitted by the center under section 2716, including the proposed plan for the center developed under section 2721(a)(1), and approves or disapproves the application.
"(4) The board approves the selection of a director for the center.
"(5) The board meets at least once quarterly.
"(b) INDIAN TRIBES AND ORGANIZATIONS.—The requirement of subsection (a)(1) does not apply to the governing board of a center if the center is operated by an Indian tribe or tribal organization under the Indian Self-Determination Act.
"(c) CENTERS OF CERTAIN PUBLIC ENTITIES; MODIFIED BOARDS.—
"(1) IN GENERAL.—In the case of a center operated by a public entity, the requirement of subsection (a)(2) does not apply to the personnel policies of the center, or the fiscal policies of the center (subject to paragraph (2)), if—
"(A) the center is operated by an entity described in section 2701(f)(2), and for fiscal year 1994 was not required to permit the governing board of the center to establish personnel or fiscal policies for the center; or
"(B) for fiscal year 1996 or any subsequent fiscal year, the center received a grant under subtitle B (relating to the development of centers) and, under section 2753, was not so required.
"(2) RULE OF CONSTRUCTION.—The requirements of subsection (a)(3), including with respect to the proposed plan under section 2721, apply to a center notwithstanding the provisions of paragraph (1) regarding fiscal policies.

"SEC. 2714. SCHEDULE OF FEES AND DISCOUNTS.

"A condition under section 2701(f) for status as a federally qualified health center for a fiscal year is that the center involved is in compliance with the following:
"(1) The center has maintained and is maintaining a schedule of fees for the provision of the services of the center, and the schedule has been and is consistent with locally prevailing rates or charges.
"(2) In the case of any portion of a fee for which a patient of the center has the responsibility of making payment (including amounts owed pursuant to requirements of health plans regarding copayments and deductibles), the center has maintained and is maintaining a schedule of discounts to be applied to the payment of such portion, and the discounts have been and are being adjusted in accordance with section 303(f) of part 51c of title 42, Code of Federal Regulations (42 CFR 51c.303(f)), as in effect for fiscal year 1994.
"(3) With respect to the schedule of fees under paragraph (1) and the schedule of discounts under paragraph (2), the center has made and is making every reasonable effort to secure in accordance with the schedules payments from patients, subject to paragraph (4).
"(4) In the case of an individual seeking a service of the center, the center has not conditioned and is not conditioning the provision of the service on payment for the service, and the center has provided and is providing the service without regard to whether the individual has paid the portions of fees imposed by the center for which the individual has the responsibility of making payments (including amounts owed pursuant to requirements of health plans regarding copayments and deductibles).

"SEC. 2715. ADDITIONAL CONDITIONS.

"A condition under section 2701(f) for status as a federally qualified health center for a fiscal year is that the center involved is in compliance with the following:
"(1) The services of the center have been and are available and accessible in the service area of the center promptly, as appropriate, and in a manner that assures continuity.
"(2) The center has maintained and is maintaining organizational arrangements that provide for—
"(A) an ongoing quality assurance program regarding the services of the center; and
"(B) procedures to maintain the confidentiality of patient records.
"(3) The center has maintained and is maintaining an ongoing referral relationship with one or more hospitals.
"(4) The center has maintained and is maintaining compliance with applicable Federal law on accounting procedures, including such requirements on accounting procedures as the Secretary may establish specifically for the expenditure of a grant under section 2701.
"(5) The center has provided and is providing the services of the center in the language and cultural context that is most appropriate for the patients involved.

"SEC. 2716. APPLICATION FOR GRANT.

"(a) IN GENERAL.—For purposes of section 2701(a), an application for a grant under such section for a fiscal year for a center is in accordance with this section if the application—
"(1) is submitted not later than the date specified by the Secretary;
"(2) contains the proposed plan required in section 2721(a)(1);
"(3) demonstrates that the application, including such plan, has been approved by the governing board of the center;
"(4) contains the agreements required in this subtitle, and otherwise demonstrates that the center meets the conditions established in this subtitle regarding status as a federally qualified health center; and
"(5) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subtitle.
"(b) AGREEMENT REGARDING CONTINUANCE OF CURRENT STATUS.—A condition under section 2701(f) for status as a federally qualified health center for a fiscal year is that the center involved agree to continue serving any medically underserved populations in the service area of the center, and to continue meeting each of the conditions described in this part.

"PART 3—REQUIRED AGREEMENTS

"SEC. 2721. EXPENDITURE OF GRANT; OPERATIONAL COSTS.

"(a) IN GENERAL.—A condition under section 2701(f) for status as a federally qualified health center for a fiscal year is as follows:
"(1) The center involved submits to the Secretary, in accordance with subsection (d), a proposed plan for the expenditure by the center of a grant under section 2701 for the fiscal year.
"(2) The center agrees to expend the grant only for costs that are specified in subsection (b) and only in accordance with the plan in effect for the center for the year under subsection (d).
"(b) OPERATIONAL COSTS.—
"(1) IN GENERAL.—For purposes of subsection (a)(2), the costs specified in this subsection regarding the expenditure by a federally qualified health center of a grant under section 2701 are the costs of providing the required services; the costs of providing any additional services (as defined in section 2722) that are included for the center in the plan in effect under subsection (d); and the costs of otherwise operating the center involved in accordance with the conditions established in this subtitle.
"(2) REQUIRED ALLOWANCE OF CERTAIN COSTS.—The Secretary shall under paragraph (1) authorize each federally qualified health center to expend a grant under section 2701 for the following costs:
"(A) The costs of providing the required services and the additional services involved.
"(B) The costs of recruiting, training, and compensating the staff of the center.
"(C) The costs of administering the center, including the costs of participating as a provider in one or more health plans.
"(D) The costs of carrying out offsite activities with respect to the required and additional services.
"(3) DISCRETIONARY ALLOWANCE OF CERTAIN COSTS.—In the case of the center involved,

VOL 140 PT 15 AG 10 — 11 1994 UMI

the Secretary may under paragraph (1) authorize the expenditure of a grant under section 2701 for any or all of the following costs (in addition to expenditures authorized under paragraph (2)):

"(A) The developmental costs of expanding the capacity of the center to provide required and additional services (including the provision of additional services not previously provided by the center; the provision of services to an increased number of individuals; and the provision of services through school-based clinics, mobile clinics, satellite clinics, and other offsite locations).

"(B) Capital costs, subject to section 2724. Such costs include the purchase of equipment; the acquisition, expansion, or modernization of existing facilities; and the construction of new facilities.

"(C) The costs of carrying out activities in areas beyond the service area of the center for the purpose of improving or maintaining the health of individuals within the service area.

"(D) The costs of planning and developing a health plan in accordance with section 2725(a).

"(E) The costs of planning and developing a network of health care providers in accordance with section 2725(b) (relating to community providers).

"(F) Such other costs as the Secretary may allow with respect to the provision of required services and additional services.

"(c) CRITERIA FOR DETERMINING AUTHORIZED EXPENDITURES.—

"(1) IN GENERAL.—With respect to an expenditure by a federally qualified health center, the Secretary shall establish criteria for determining—

"(A) whether the expenditure is for a cost for which a grant under section 2701 may be expended; and

"(B) whether any limitation applies to the expenditure with respect to being considered as such a cost.

"(2) CERTAIN REQUIREMENTS.—Criteria under paragraph (1) regarding the expenditure of a grant under section 2701 shall provide for the reasonable and efficient administration of federally qualified health centers, and shall appropriately reflect the costs of operating such centers under the following circumstances (as applicable to the center involved):

"(A) With respect to recruiting and retaining individuals as professional staff for the center (including health professionals), difficulties arising from substantial disparities between the rate of compensation provided by a center for a professional and the rate of compensation for such a professional prevailing in the geographic area involved.

"(B) With respect to a center located in a rural area, the increased costs that the center incurs, relative to other centers, as a result of serving fewer patients or as a result of difficulties in recruiting or retaining professional staff.

"(C) With respect to the population of patients served by a center, the increased costs that the center incurs, relative to other centers, as a result of the population having a higher incidence or prevalence of a health condition, or a greater number of severe or chronic health conditions.

"(D) With respect to a center at which a health professions training program is carried out, the increased costs that the center incurs, relative to other centers, as a result of the training program.

"(3) RELATIONSHIP TO FORMER CRITERIA.—

"(A) In establishing criteria under paragraph (1), the Secretary shall, subject to subparagraph (B), ensure that the expenditures that are authorized for grants under section 2701 include all expenditures that were authorized for fiscal year 1994 for purposes of part 413 of title 42, Code of Federal Regulations (42 CFR 413 et seq.; relating to payments under title XVIII of the Social Security Act), except to the extent that such part 413 relates to services that are not required services or additional services for purposes of this subtitle.

"(B) With respect to the relationship between criteria under paragraph (1) and criteria under part 413 of title 42, Code of Federal Regulations, subparagraph (A) does not for purposes of this subsection establish any limitation regarding the maximum amount of expenditures. Such limitations described in the Federal Register in volume 57 at any of pages 24961 through 24974 (June 12, 1992; file code BPD-728-FC) (relating to a final rule under Public Law 101-508) do not apply to criteria under paragraph (1), and otherwise shall not have any legal effect.

"(d) PLAN REGARDING EXPENDITURE OF GRANT.—For purposes of subsection (a), the following applies to the plan of a center for a fiscal year:

"(1) The proposed plan submitted by the center is in accordance with this subsection if the proposal describes the purposes for which the center intends to expend the grant under section 2701, including the following:

"(A) The activities to be carried out in providing the required services and the amounts to be expended for the activities.

"(B) The requests of the center regarding additional services, and the activities to be carried out in providing the services and the amounts to be expended for the activities.

"(2) If the center meets the conditions established in this subtitle regarding status as a federally qualified health center, the Secretary shall negotiate with the center to approve a plan for the fiscal year for the expenditure by the center of a grant under section 2701 for the costs described in subsection (b).

"(3) The Secretary shall ensure that the plan negotiated and approved under paragraph (2) for the fiscal year includes a specification of each of the following:

"(A) The total amount of costs that are projected to be incurred by the center for the fiscal year in carrying out the plan.

"(B) The total amount, exclusive of the grant under section 2701, that is projected to be received by the center for the fiscal year as payments for the provision of the required services and the additional services of the center.

"(4) In negotiating a plan under paragraph (2), the Secretary shall provide to the center written findings explaining the basis of the decisions of the Secretary, including decisions regarding the following:

"(A) Types of expenditures.

"(B) Limitations on expenditures.

"(C) Any denial by the Secretary of a request by the center regarding the provision of a service. The written findings regarding such a denial shall include an explanation of whether the service is needed by the individuals served by the center.

"(5) With the consent of a federally qualified health center, the Secretary may modify the plan in effect under this subsection for the center for the fiscal year involved. If a center submits to the Secretary a written request for a modification to the plan of the center, the Secretary shall approve or deny the request not later than 30 days after the request is received by the Secretary.

"SEC. 2722. ADDITIONAL SERVICES.

"For purposes of this title, the term 'additional service' means each of the following (if not a required service under this title):

"(1) Any item or service covered in the guaranteed national benefit package under subtitle A of title III of the Guaranteed Health Insurance Act of 1994, except for the following (as defined in such title): Hospital services; extended care services; residential mental health treatment services; residential substance abuse treatment services; and ambulance services.

"(2) Any item or service available under title XVIII or XIX of the Social Security Act, except for the following (as defined in such titles): Nursing facility services; inpatient hospital services; outpatient hospital services; services in an intermediate care facility for the mentally retarded; and inpatient psychiatric hospital services.

"(3) Ambulance services in rural areas (notwithstanding paragraph (1)).

"(4) Environmental health services (including the detection and alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field sanitation, housing, and other environmental factors related to health).

"(5) Services that are in addition to the services specified in section 2711(b)(5)(B) and that are provided for the purpose of enabling individuals to utilize the services of the center involved.

"SEC. 2723. CERTAIN PUBLIC ENTITIES WITH MODIFIED GOVERNING BOARDS; MATCHING FUNDS.

"(a) IN GENERAL.—In the case of a center to which section 2713(c)(1)(B) applies, a condition under section 2701(f) for status as a federally qualified health center for a fiscal year is that the public entity involved agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward the operational costs of the center in an amount that is not less than 50 percent of such costs.

"(b) MAINTENANCE OF EFFORT; RELATIONSHIP TO MATCHING FUNDS.—In making a determination of the amount of non-Federal contributions provided by a public entity under subsection (a), the Secretary may only include non-Federal contributions in excess of the average amount of non-Federal contributions made by the entity toward the operational costs of the center involved for the 2-year period preceding October 1, 1994.

"SEC. 2724. CERTAIN PROVISIONS REGARDING CAPITAL COSTS.

"(a) CERTAIN COSTS.—With respect to authorizing capital costs as permissible expenditures under section 2721(b)(3)(B), the costs that the Secretary may authorize include the costs of amortizing the principal of, and paying interest on, loans; and the costs of repaying loan guarantees and interest subsidies.

"(b) WAGES OF LABORERS AND MECHANICS.—

"(1) AGREEMENT.—A condition under section 2701(f) for status as a federally qualified health center for a fiscal year is that the center involved agree that, in the performance of work on any expansion, modernization, or construction of buildings carried out with a grant under section 2701, all laborers and mechanics employed by contractors or subcontractors will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act).

"(2) AUTHORITY OF SECRETARY OF LABOR.—The Secretary of Labor shall have with respect to the labor standards referred to in paragraph (1) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(c) RESTRICTIONS REGARDING CONSTRUCTION.—The Secretary may authorize as a permissible expenditure under section 2721(b)(3)(B) the construction of new buildings only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the center involved has made reasonable efforts to secure from other sources funds in lieu of the grant under section 2701 to construct such facilities.

"(d) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the use and disposition of real property, and the transfer of title to such property, a condition under section 2701(f) for status as a federally qualified health center for a fiscal year is that the center involved agree that expenditures of a grant under section 2701 for capital costs regarding such property are subject to the provisions of section 134 of part 74 of title 45, Code of Federal Regulations (45 CFR 74.134) (or any successor provision).

"(e) SUBORDINATION; WAIVERS.—In the case of any Federal interest that may be derived by virtue of the expenditure of a grant under section 2701 for the capital costs of a center, the Secretary may subordinate or waive Federal rights if the Secretary determines that the subordination or waiver will further the objectives of this subtitle.

"SEC. 2725. DEVELOPMENT BY CENTERS OF HEALTH PLANS AND COMMUNITY PROVIDER NETWORKS.

"(a) HEALTH PLANS.—With respect to authorizing the costs of developing a health plan as permissible expenditures under section 2721(b)(3)(D), a federally qualified health center has developed a plan in accordance with this subsection if the plan meets the following conditions:

"(1) The plan is an insured health benefits plan meeting the requirements of subtitle A of title V of the Guaranteed Health Insurance Act of 1994.

"(2) The plan is a public or nonprofit private entity governed by the center (or by the center in collaboration with other public or nonprofit private entities).

"(3) The center is a provider of health services through the plan.

"(b) COMMUNITY PROVIDER NETWORK.—With respect to authorizing the costs of developing a network of health care providers as permissible expenditures under section 2721(b)(3)(E), a federally qualified health center has developed a network in accordance with this subsection if the network meets the following conditions:

"(1) The network is a public or nonprofit private entity governed by the center (or by the center in collaboration with other public or nonprofit private entities).

"(2) The network maintains written agreements with each of the health care providers participating in the network, and the agreements provide as follows:

"(A) Each member agrees to provide appropriate emergency and medical support services to other members.

"(B) Each member agrees to accept referrals from other members.

"(C) Each hospital member has arrangements to provide staff privileges to physicians providing care for other members.

"(D) Each member has in effect (or is in the process of establishing) agreements with other members to share in the member's communication system, including (where appropriate) the electronic sharing of patient data, medical records, and billing services.

"(3) The network includes the center as a provider of health services in the network.

"(4) The network participates as a provider of health care in one or more health plans that are either insured health benefits plan under subtitle A of title V of the Guaranteed Health Insurance Act of 1994, or self-insured health benefit plans under subtitle B of such title.

"(5) The network is composed principally of essential community providers (as defined in subsection (d)).

"(6) The network provides health services within a defined geographic area (in this title referred to as the 'network service area'), which area includes the service area of each of the federally qualified health centers participating in the network.

"(7) The network serves any medically underserved populations in the network service area.

"(8) In the case of federally qualified health centers in the network service area—

"(A) the network permits each such center to participate in the network, subject to the center entering into the agreement under paragraph (2) for such participation;

"(B) the terms and conditions of the agreement for the participation of the center are at least as favorable as the terms and conditions of the agreement for the participation of other entities; and

"(C) the network provides a written notification to each federally qualified health center in the network service area informing the center of the opportunity to participate in the network.

"(c) ANTIDISCRIMINATION REGARDING NETWORKS.—Section 9333 of the Guaranteed Health Insurance Act of 1994 applies to networks under subsection (b) to the same extent and in the same manner as such section applies to health plans under such section 9333.

"(d) DEFINITIONS.—For purposes of this title, the term 'essential community provider' means entities that are essential community providers under section 5012(c) of the Guaranteed Health Insurance Act of 1994.

"SEC. 2726. ADDITIONAL AGREEMENTS.

"(a) THIRD-PARTY REIMBURSEMENTS.—A condition under section 2701(f) for status as a federally qualified health center for a fiscal year is that the center involved agree as follows:

"(1) The center will participate as a provider of health services in the program under title XVIII of the Social Security Act; the program under title XIX of such Act; other Federal or State programs that make payment for the provision of health services to individuals in the State involved, and in private health plans.

"(2) The center, in providing health services, will make every reasonable effort—

"(A) to collect appropriate reimbursement from the programs and plans referred to in paragraph (1); and

"(B) to collect the reimbursements on the basis of the full amount of fees applicable under the schedule in effect pursuant to paragraph (1) of section 2714, which reimbursements shall be made on the basis of such fees without regard to discounts that are applied by the center pursuant to paragraph (2) of such section.

"(b) MAINTENANCE OF EFFORT REGARDING PUBLIC ENTITIES.—In the case of a center operated by a public entity, a condition under section 2701(f) for status as a federally qualified health center for a fiscal year is that the entity will maintain expenditures of non-Federal amounts for the center at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the center is applying to receive a grant under section 2701. The preceding sentence is subject to section 2723(b).

"SEC. 2727. REPORTS.

"(a) IN GENERAL.—A condition under section 2701(f) for status as a federally qualified health center for a fiscal year is that the center involved agree as follows:

"(1) The center will prepare a report regarding the activities of the center for the fiscal year, and will submit the report to the Secretary during the following fiscal year by not later than the date specified under subsection (b).

"(2) The report will include information on the following:

"(A) Expenditures of the center for operational costs included in the plan in effect for the center under 2721(d).

"(B) The patterns of use of the services of the center, including the patterns of use of each of the special populations in the service area of the center.

"(C) The availability and accessibility of such services.

"(D) Expenditures made from any amount the center retained under section 2743(b).

"(E) Such other matters relating to operations of the center as the Secretary may require.

"(b) DATE FOR SUBMISSION OF REPORT.—With respect to reports under subsection (a) for a fiscal year, the Secretary shall specify a date in the following fiscal year by which the reports are to be submitted to the Secretary.

"PART 4—GENERAL PROVISIONS

"SEC. 2741. AMOUNT OF GRANT; UNFUNDED PORTION OF OPERATIONAL COSTS.

"(a) IN GENERAL.—For purposes of section 2701(a), the amount determined under this section for a grant for a federally qualified health center for a fiscal year is the difference between—

"(1) the total amount of costs that are projected to be incurred by the center for the fiscal year in carrying out the plan in effect for the year under section 2721(d), as such total amount is specified under paragraph (3)(A) of such section; and

"(2) the total amount, exclusive of the grant under section 2701 for the fiscal year, that is projected to be received by the center for the year as payments for the provision under the plan of required services and additional services, as such total amount is specified under paragraph (3)(B) of section 2721(d).

"(b) GRANT PAYMENTS.—Payments under a grant under section 2701 shall be made in advance, and in such installments as the Secretary finds necessary. Adjustments in such payments may be made for overpayments or underpayments, subject to section 2742(b).

"SEC. 2742. EXPENDITURE OF CERTAIN FUNDS.

"(a) EXPENDITURE OF NONGRANT FUNDS.—

"(1) IN GENERAL.—

"(A) Subject to paragraph (2), the Secretary may not under this subtitle restrict the purposes for which a federally qualified health center expends the nongrant funds of the center, including restricting expenditures pursuant to criteria under section 2721(c)(1) or pursuant to other Federal cost principles.

VOL
140
PT
15
AG
10
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11
1994
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"(B) For purposes of this section, the term 'nongrant funds' means funds of a center other than the grant under section 2701.

"(2) COMPLIANCE WITH CENTER CONDITIONS.—The Secretary may require, as a condition under section 2701(f) for status as a federally qualified health center for a fiscal year, that the center involved agree that the nongrant funds of the entity will be expended for purposes that are consistent with the purposes specified in this subtitle.

"(b) EXPENDITURE OF EXCESS OPERATING REVENUES.—If, for a fiscal year, the sum of the amount of the grant under section 2701 to a federally qualified health center and the amount of the nongrant funds of the center exceeds the costs of the center in carrying out the plan in effect for the center under section 2721(d), the center is entitled to retain such excess operating revenues (without any offsetting reduction in grants under section 2701) if the center agrees, as a condition under section 2701 for status as such a center, to expend such revenues only for purposes authorized in this subtitle. Such purposes include the following:

"(1) Expanding and improving services.

"(2) Increasing the number of individuals served.

"(3) Purchasing equipment; acquiring, modernizing, and expanding facilities; and constructing facilities.

"(4) Improving the administration of the center.

"(5) Establishing financial reserves, including reserves required for the furnishing of services on a prepaid basis or as needed to cover unanticipated expenses.

"(6) Carrying out health professions training programs.

"(7) Developing health plans and community provider networks in accordance with section 2725.

"(c) RULE OF CONSTRUCTION.—With respect to amounts that are nongrant funds under subsection (a), or excess operating revenues under subsection (b), this section may not be construed as limiting the authority of the Secretary to require the submission of such plans, budgets, and other information as may be necessary to ensure that the funds and revenues are expended in accordance with subsections (a) and (b), respectively.

"SEC. 2743. DESIGNATION OF SERVICE AREA.

"(a) IN GENERAL.—In determining whether a center meets the conditions under section 2701(f) for status as a federally qualified health center for a fiscal year, the Secretary shall designate the geographic area that the center is to serve. In designating a service area under the preceding sentence, the Secretary shall ensure that the following requirements are met:

"(1) The size of the area is a size that ensures that the services of the center (including services provided at any satellite clinic or offsite location) are available and accessible to individuals in the area promptly and as appropriate.

"(2) The boundaries of the area, to the extent practicable, conform to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs.

"(3) The boundaries of the area, to the extent practicable, eliminate barriers to access to the services of the center, including barriers resulting from the physical characteristics of the area, the residential patterns of the area, the economic and social grouping of the area, and available transportation.

"(b) OVERLAP IN AREAS.—In designating service areas under subsection (a), the Secretary may provide for the operation of more than one federally qualified health center in a service area in any case in which the Secretary determines that there is a population group in such area that otherwise will have a shortage of personal health services. The preceding sentence may not be construed as requiring that, in such a case, the service areas of the centers involved be identical.

"(c) DEFINITION.—For purposes of this title, the term 'service area', with respect to a center, means the area designated under subsection (a) for the center.

"SEC. 2744. MISCELLANEOUS PROVISIONS.

"(a) OPPORTUNITY TO CORRECT MATERIAL FAILURE REGARDING GRANT CONDITIONS.—

"(1) IN GENERAL.—Notwithstanding the provisions of this subtitle, if a center materially fails to meet a condition of this subtitle regarding status as a federally qualified health center for a fiscal year, the Secretary shall provide the center an opportunity to comply with the condition, subject to paragraph (2).

"(2) LIMITATIONS.—The provision of an opportunity under paragraph (1) is subject to the following:

"(A) The opportunity may not be provided with respect to a material failure to comply with any applicable condition of section 2713 or 2723 (relating to governing boards).

"(B) In the case of any other condition, the opportunity shall be provided for a period determined by the Secretary, which may not exceed one year.

"(C) Such period begins on the date on which the Secretary provides a written notification to the center informing the center of the material failure of the center, and of the opportunity to comply with the condition involved.

"(b) AGENCY REVIEW OF DECISIONS.—

"(1) PROCEDURES OF DEPARTMENTAL GRANTS APPEALS BOARD.—Through the applicable procedures in effect under parts 16, 74, and 75 of title 45, Code of Federal Regulations (or any successor provisions), the Secretary, upon request of the center involved, shall (subject to paragraph (3)) permit the center to appeal a decision of the Secretary under this subtitle and obtain from the Secretary a fair, impartial review of the decision.

"(2) ALTERNATIVE PROCEDURES REGARDING CERTAIN DECISIONS.—

"(A) Subject to paragraph (3), if the Secretary makes a decision under this subtitle that is described in subparagraph (B), the Secretary, upon request of the center involved, shall permit the center to appeal the decision and obtain from the Secretary a review of the decision on the record.

"(B) The decisions referred to in subparagraph (A) regarding a center are as follows:

"(i) The Secretary, having provided to the center a period of opportunity under subsection (a) to comply with a condition, finds that the center continues to be in material failure regarding the condition.

"(ii) The Secretary modifies the service area of the center.

"(iii) The Secretary terminates the designation as a medically underserved population of a population within the service area of the center.

"(iv) The amount of the grant determined under section 2741 for the fiscal year involved is less than the amount so determined for the center for the preceding fiscal year, and the difference between such amounts results or will result in a significant reduction in the availability from the center of required services and additional services.

"(3) EXCEPTION REGARDING PRO RATA REDUCTIONS.—The requirements under paragraphs (1) and (2) for the Secretary to review a decision do not apply if the decision is made in response to pro rata reductions under section 2701(b)(3) (except that review may be obtained to the extent necessary to determine whether the decision was so made).

"(4) ELECTION OF PROCEDURES.—In the case of a decision described in paragraph (2)(B), the center involved may elect for appeal and review of the decision under paragraph (1) or under paragraph (2), but not both.

"(c) RULE OF CONSTRUCTION.—With respect to compliance with the conditions of this subtitle for status as a federally qualified health center for a fiscal year, the circumstances constituting the material failure of a center to be in such compliance include expending a grant under section 2701 for a cost that the Secretary disallows. Subsections (a) and (b) apply to such a material failure.

"Subtitle B—Development of Additional Rural and Urban Centers

"SEC. 2751. DEVELOPMENT OF CENTERS.

"(a) IN GENERAL.—From amounts reserved under section 2701(d), the Secretary shall make grants to public and nonprofit private entities for carrying out projects to plan and develop centers whose services, structure, programs, capabilities, and other characteristics will, once the project is completed, meet the conditions for the entitlement under subtitle A (relating to the operational costs of federally qualified health centers). Grants under this subsection may only be made for fiscal year 1996 and subsequent fiscal years.

"(b) ALLOCATIONS REGARDING RURAL AREAS.—Of the amounts reserved under section 2701(c)—

"(1) the Secretary shall reserve ⅔ for projects under paragraph (1) in rural areas;

"(2) the Secretary shall reserve ⅓ for projects under paragraph (1) in urban areas.

"(c) PREFERENCES IN CERTAIN GRANTS.—In making grants under subsection (a) from amounts reserved under subsection (b)(2), the Secretary shall give preference to grantees under section 340 or 340A to assist the grantees in meeting the standards referred to in subsection (a) with respect to becoming a federally qualified health center. The requirement of preference applies only to grantees under section 340 or 340A who meet the requirements of this subtitle for receiving a grant under section 2751.

"SEC. 2752. REQUIREMENTS REGARDING PRESENCE OF CERTAIN MEDICALLY UNDERSERVED POPULATIONS.

"(a) IN GENERAL.—The Secretary may make a grant under section 2751 only if the Secretary determines that, in the geographic area for which the project under such section is to be carried out, there is a medically underserved population (as defined in subsection (b)).

"(b) DEFINITION OF MEDICALLY UNDERSERVED POPULATION.—For purposes of this title, the term 'medically underserved population' means the population of a rural or urban area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

"(c) CRITERIA REGARDING DEFINITION.—

"(1) IN GENERAL.—For purposes of subsection (b), the Secretary shall establish criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall—

"(A) take into account comments received by the Secretary from the chief executive officer of a State and local officials in a State and from affected persons; and

"(B) include factors indicative of the health status of a population group or individuals in an area (including the rate of infant mortality), the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.

"(2) MODIFICATION OF CRITERIA.—The Secretary may modify the criteria established under paragraph (1) only after affording public notice and an opportunity for comment on any such proposed modifications.

"(d) NOTICE AND COMMENT REGARDING DESIGNATIONS.—The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice to and opportunity for comment by—

"(1) the chief executive officer of such State;

"(2) local officials in such State;

"(3) members of the medically underserved population involved; and

"(4) representatives of the health center involved.

"SEC. 2753. AUTHORITY REGARDING MODIFIED GOVERNING BOARDS.

"(a) IN GENERAL.—Subject to the subsequent provisions of this section, in the case of a public entity that submits an application for a grant under section 2751, the Secretary may provide that, in meeting the requirement under such section to plan and develop a governing board (in accordance with section 2713), the entity is authorized to develop and operate a board that does not establish the personnel policies of the center, or the fiscal policies of the center (subject to section 2713(c)(2)).

"(b) MATCHING FUNDS.—With respect to the costs of carrying out a project under section 2751, the Secretary may provide an authorization under subsection (a) only if the public entity involved agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount that is not less than 50 percent of such costs.

"(c) RESTRICTION REGARDING FUNDING.—Of the budget authority provided in section 2751(b) for a fiscal year, the Secretary may not obligate more than 5 percent for projects under such section with respect to which an authorization under subsection (a) has been (or is to be) provided.

"SEC. 2754. CERTAIN REQUIREMENTS.

"(a) SUBMISSION OF INFORMATION.—The Secretary may make a grant under section 2751 only if the applicant for the grant submits to the Secretary, in the application under section 2755, the following information:

"(1) An assessment of the need in the geographic area involved for the required services.

"(2) The design for the federally qualified health center involved, and the services of the center, based on such assessment.

"(3) Information demonstrating that the center developed with the grant will, by the date on which funding under section 2751 is terminated for the center (pursuant to section 2756(c)), meet the conditions for the entitlement under subtitle A.

"(b) COMMUNITY INVOLVEMENT.—The Secretary may make a grant under section 2751 only if the applicant for the grant agrees that, in developing the federally qualified health center involved, the applicant will provide for the involvement of the individuals to be served by the center.

"SEC. 2755. APPLICATION.

"The Secretary may make a grant under section 2751 only if an application for the grant is submitted to the Secretary, the application is submitted by the date specified by the Secretary, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subtitle.

"SEC. 2756. GENERAL PROVISIONS.

"(a) LOCATION OF CENTER WITHIN SERVICE AREA.—In making a grant under section 2751 for a center, the Secretary shall ensure that the center is located so that the center provides services to the greatest number of individuals residing in the service area that (in accordance with section 2743) is designated under section 2751 for the center.

"(b) EXPENDITURES.—The purposes for which a grant under section 2751 may be expended include the capital costs of developing the center involved (including the costs specified in sections 2721(b)(3))(B) and 2724), and such other costs of carrying out a project under such section as the Secretary may authorize.

"(c) AMOUNT AND NUMBER OF GRANTS.—The amount of a grant under section 2751 for a project shall be determined by the Secretary. A center may not receive more than 2 years of funding under such section.

"Subtitle C—General Provisions

"SEC. 2791. MISCELLANEOUS PROVISIONS.

"(a) TECHNICAL ASSISTANCE.—The Secretary may provide (either through the Department of Health and Human Services, or through grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management)—

"(1) to any public or nonprofit private entity to assist the entity in operating as a federally qualified health center under subtitle A or in developing such a center under subtitle B;

"(2) to assist federally qualified health centers in developing health plans and community provider networks pursuant to subparagraphs (D) and (E) of section 2721(b)(3); and

"(3) to any public or nonprofit private entity to assist the entity in meeting the requirements for applications to receive grants under section 2701 and section 2751.

"(b) AUTHORITY REGARDING JOINT-PURCHASING ARRANGEMENTS FOR REDUCED COSTS.—With respect to the costs of providing the supplies and services needed for the operation of federally qualified health centers, the Secretary, directly or through grants or contracts, may carry out projects to establish and administer arrangements under which such costs are reduced through collaborative efforts of the centers, through making purchases that apply to multiple centers, or through such other methods as the Secretary determines to be appropriate. Amounts under this subsection may not be expended for the purchase of supplies or services.

"(c) ADMINISTRATION OF PROGRAMS.—The Secretary may delegate the authority to administer the programs authorized by this title to any office within the Public Health Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.

"SEC. 2792. DEFINITIONS.

"For purposes of this title:

"(1) The term 'additional services', with respect to federally qualified health centers, has the meaning given such term in section 2722.

"(2) The term 'agriculture' has the meaning given such term in section 2712(e).

"(3) The term 'basic health services' has the meaning given such term in section 2711(b).

"(4) The term 'essential community provider' has the meaning given such term in section 2725(d).

"(5) The term 'federally qualified health center' has the meaning given such term in section 2701(f).

"(6) The term 'HIV disease' means infection with the human immunodeficiency virus, and includes any condition arising from acquired immune deficiency syndrome.

"(7) The term 'homeless individual' has the meaning given such term in section 2712(d).

"(8) The term 'human immunodeficiency virus' means the etiologic agent for acquired immune deficiency syndrome.

"(9) The term 'Indian' has the meaning given such term in section 2711(d).

"(10) The term 'migratory agricultural worker' has the meaning given such term in section 2711(d).

"(11) The term 'migratory or seasonal agricultural worker, or related individual' has the meaning given such term in section 2711(d).

"(12) The term 'network service area', with respect to an essential community provider network, has the meaning indicated for such term in section 2725(b)(6).

"(13) The term 'preventive health services' has the meaning given such term in section 2711(b).

"(14) The term 'required enabling services' has the meaning given such term in section 2711(b).

"(15) The term 'required services' has the meaning given such term in section 2711(b).

"(16) The term 'resident of public housing' has the meaning given such term in section 2712(d).

"(17) The term 'seasonal agricultural worker' has the meaning given such term in section 2711(d).

"(18) The term 'service area' has the meaning given such term in section 2743(c).

"(19) The term 'special population' has the meaning given such term in section 2712(a).".

SEC. 7124. CONFORMING AMENDMENTS.

Effective October 1, 1995, the Public Health Service Act (42 U.S.C. 201 et seq.) is amended by striking sections 329 and 330.

PART 4—NATIONAL HEALTH SERVICE CORPS

SEC. 7131. PURPOSE OF PROGRAM.

The purpose of the programs carried out pursuant to section 7132 is to achieve the goal that the number of members of the National Health Service Corps who are practicing in health professional shortage areas, together with the number of students attending health professions schools under the Scholarship Program of the Corps, will be sufficient (once such students begin practicing in such areas) to provide primary health services to all rural and urban health professional shortage areas that, as of December 31, 1995, were designated under section 332 of the Public Health Service Act as such an area.

SEC. 7132. DIRECT SPENDING REGARDING GENERAL PROGRAM AND SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.

Section 331(a) of the Public Health Service Act (42 U.S.C. 254d(a)) is amended by adding at the end the following paragraph:

"(4) For the purpose of carrying out this subpart and sections 338A through 338H of

VOL 140 PT 15 AG 10 — 11 1994 UMI

subpart III, there are hereby appropriated the following amounts, as applicable to the fiscal year involved:

"(A) For fiscal year 1995, $200,000,000.
"(B) For fiscal year 1996, $200,000,000.
"(C) For fiscal year 1997, $250,000,000.
"(D) For fiscal year 1998, $250,000,000.
"(E) For fiscal year 1999, $300,000,000.
"(F) For fiscal year 2000, $300,000,000.
"(G) For fiscal year 2001, $350,000,000.
"(H) For fiscal year 2002, $350,000,000.
"(I) For fiscal year 2003, $400,000,000.
"(J) For fiscal year 2004, $400,000,000.
"(K) For fiscal year 2005, the amount specified in subparagraph (J) multiplied by an amount equal to the product of—

"(i) 1 plus the national medicare growth factor (as defined in section 8201(c) of the Guaranteed Health Insurance Act of 1994); and

"(ii) 1 plus the annual percentage increase projected by the Secretary to occur during such year in the populations served by the Corps.

"(L) For fiscal year 2006 and each subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year multiplied by an amount equal to the product of clauses (i) and (ii) of subparagraph (K) (as such clauses are applied for the fiscal year involved).".

PART 5—CONSUMER RESOURCES REGARDING HEALTH PLANS

SEC. 7141. CONSUMER RESOURCES.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following part:

"PART O—CONSUMER RESOURCES REGARDING HEALTH PLANS

"FUNDING FOR CERTAIN GRANT PROGRAMS

"SEC. 399P. (a) DIRECT SPENDING FOR GRANTS FOR CONSUMER HEALTH ADVOCACY OFFICES.—For carrying out the program under section 399Q, there are hereby appropriated, out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved):

"(1) For fiscal year 1999, $10,000,000.
"(2) For fiscal year 2000, the amount specified in paragraph (1) multiplied by an amount equal to the product of—

"(A) 1 plus the national medicare growth factor (as defined in section 8201(c) of the Guaranteed Health Insurance Act of 1994); and

"(B) 1 plus the annual percentage increase projected by the Secretary to occur during such year in the population of the States.

"(3) For fiscal year 2001 and each subsequent fiscal year, the amount determined under this subsection for the preceding fiscal year multiplied by an amount equal to the product of subparagraphs (A) and (B) of paragraph (2) (as such subparagraphs are applied for the fiscal year involved).

"(b) DIRECT SPENDING FOR GRANTS FOR NATIONAL CONSUMER HEALTH RESOURCE CENTER.—For carrying out the program under section 399R, there are hereby appropriated, out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved):

"(1) For fiscal year 1996, $5,000,000.
"(2) For fiscal year 1997, $5,000,000.
"(3) For fiscal year 1998, $7,500,000.
"(4) For fiscal year 1999, $10,000,000.
"(5) For fiscal year 2000, $10,000,000.
"(6) For fiscal year 2001, the amount specified in paragraph (5) multiplied by an amount equal to 1 plus the consumer price index for all urban consumers (U.S. city average).

"(7) For fiscal year 2002 and each subsequent fiscal year, the amount determined under this subsection for the preceding fiscal year multiplied by an amount equal to 1 plus such index (as such index is applied for the fiscal year involved).

"GRANTS FOR CONSUMER HEALTH ADVOCACY OFFICES

"SEC. 399Q. (a) IN GENERAL.—The Secretary, in consultation with the Secretary of Labor, shall make grants under this section to private nonprofit entities for the establishment and operation of offices to perform the functions described in subsection (b) for consumers in a State (or a multi-State area described in subsection (d)). Each such office shall be known as a 'Consumer Health Advocacy Office' (in this part referred to as an 'Office'). For any grant term under subsection (c), the Secretary may not make a grant under this section to more than one entity with respect to any State or multi-State area.

"(b) FUNCTIONS.—An entity that receives a grant under this section shall use the grant to establish and operate an Office to perform the following functions in a State or multi-State area:

"(1) Assist, in person and by toll-free telephone access, individuals eligible to seek coverage in the community-rated market sector with enrollment in insured health benefit plans (as described in title V of the Guaranteed Health Insurance Act of 1994) by referring them to an appropriate enrollment assistance program established under section 5011(b) of such Act.

"(2) Assist, in person and by toll-free telephone access, individuals in applying for enrollment in the medicare part C program under title XXI of the Social Security Act, a premium certificate under part A of title XXII of such Act, or wrap-around benefits under part B of such title, by referring them to an appropriate local office used by the Social Security Administration.

"(3) Collect and provide to the public—

"(A) annual information on insured health benefit plans provided in the State or area that is required to be prepared under section 5011(c) of the Guaranteed Health Insurance Act of 1994; and

"(B) performance reports prepared under section 9003(g) of the such Act by the State or States in the area.

"(4) Provide, in person and by toll-free telephone access, information to individuals regarding the remedies available under subtitle D of title IX of such Act.

"(5) Address systemic problems affecting consumers in health benefit plans provided in the State or area (as described in title V of such Act), but refer individual complaints relating to denials of items and services and requests for reimbursement under such plans to an appropriate complaint review office established under part 1 of subtitle D of title IX of such Act.

"(6) Respond, in person and by toll-free telephone access, to general inquiries from consumers concerning such plans.

"(7) Provide outreach and education relating to consumer rights and responsibilities under this Act to consumers, including underserved populations.

"(8) Annually report to the National Consumer Health Resource Center concerning the activities carried out by the Office during the year.

"(9) Perform such other functions as the Secretary may specify.

"(c) TERM OF GRANT AND RENEWABILITY.—A grant under this section shall be awarded under a competitive selection process for a term of 3 years.

"(d) MULTI-STATE AREAS.—A multi-State area under this section may only be comprised of multiple contiguous States.

"(e) APPLICATIONS.—

"(1) SUBMISSION.—To apply for a grant under this section, an entity shall submit an application to the Secretary in accordance with the procedures established by the Secretary and in a form prescribed by the Secretary.

"(2) CRITERIA FOR APPROVAL.—The Secretary may not approve an application submitted by an entity under paragraph (1) unless the application includes assurances satisfactory to the Secretary that—

"(A) funds received under this section will be used for the purpose described in subsection (b);

"(B) the applicant has demonstrated expertise in the fields of—

"(i) provision of consumer information; and

"(ii) advocacy on behalf of consumers;

"(C) the applicant has the ability to serve an entire State or, with respect to an application submitted for a multi-State area, the entire area;

"(D) the applicant will establish and maintain local offices to the extent necessary effectively to carry out the functions described in paragraphs (1) through (9) of subsection (b) in the area for which the application is submitted; and

"(E) the applicant is not subject to a conflict of interest, including a conflict of interest arising from an affiliation (through ownership or common control) with—

"(i) a certified health benefit plan sponsor (as defined in section 9300(2) of the Guaranteed Health Insurance Act of 1994); or

"(ii) a health provider (as defined in section 9109(7) of such Act).

"(3) PETITIONS FOR RECONSIDERATION AND REAPPLICATIONS.—

"(A) IN GENERAL.—With respect to an application submitted under paragraph (1) that is disapproved under this subsection, the applicant may submit to the Secretary—

"(i) a petition for reconsideration of the application; and

"(ii) an application that conforms to the requirements of this subsection.

"(B) DEADLINES.—The Secretary shall establish a deadline for the submission of petitions for reconsideration and reapplications under this paragraph. The Secretary shall approve or disapprove each such petition and reapplication before the termination of the 60-day period beginning on the date of such submission.

"GRANTS FOR NATIONAL CONSUMER HEALTH RESOURCE CENTER

"SEC. 399R. (a) IN GENERAL.—The Secretary shall make grants under this section to private nonprofit entities for the establishment and operation of a national center to perform the functions described in subsection (b). The center shall be known as the 'National Consumer Health Resource Center' (in this part referred to as the 'Center'). For any grant term under subsection (c), the Secretary may not make a grant under this section to more than one entity.

"(b) FUNCTIONS.—An entity that receives a grant under this section shall use the grant to perform the following functions through the Center:

"(1) Coordinate and oversee the activities of the Offices under section 399Q .

"(2) Provide technical assistance to the Offices.

"(3) Consolidate the annual reports prepared by the Offices under section 399Q of such Act into a national annual report and submit the national report to the Secretary.

"(4) Make recommendations to the Secretary on issues affecting consumers of health care items and services.

"(5) Perform such other functions as the Secretary may specify.

"(c) TERM OF GRANT AND RENEWABILITY.—A grant under this section shall be awarded under a competitive selection process for a term of 3 years.

"(d) APPLICATIONS.—

"(1) SUBMISSION.—To apply for a grant under this section, an entity shall submit an application to the Secretary in accordance with the procedures established by the Secretary and in a form prescribed by the Secretary.

"(2) CRITERIA FOR APPROVAL.—The Secretary may not approve an application submitted by an entity under paragraph (1) unless the application includes assurances satisfactory to the Secretary that—

"(A) funds received under this section will be used for the purpose described in subsection (b);

"(B) the applicant has demonstrated expertise in the fields of—

"(i) provision of consumer information; and

"(ii) advocacy on behalf of consumers; and

"(C) the applicant is not subject to a conflict of interest, including a conflict of interest arising from an affiliation (through ownership or common control) with—

"(i) a certified health benefit plan sponsor (as defined in section 9300(2) of the Guaranteed Health Insurance Act of 1994); or

"(ii) a health provider (as defined in section 9109(7) of such Act).

"(3) PETITIONS FOR RECONSIDERATION AND REAPPLICATIONS.—

"(A) IN GENERAL.—With respect to an application submitted under paragraph (1) that is disapproved under this subsection, the applicant may submit to the Secretary—

"(i) a petition for reconsideration of the application; and

"(ii) an application that conforms to the requirements of this subsection.

"(B) DEADLINES.—The Secretary shall establish a deadline for the submission of petitions for reconsideration and reapplications under this paragraph. The Secretary shall approve or disapprove each such petition and reapplication before the termination of the 60-day period beginning on the date of such submission.

"REVIEW AND SANCTIONS

"SEC. 399S. The Secretary shall review at least annually the compliance of an entity receiving a grant under a section of this part with the provisions of such section. The Secretary shall establish a procedure for determining whether an entity receiving a grant under a section of this part has failed to comply substantially within the provisions of such section and the sanctions to be imposed for any such noncompliance.

"ANNUAL REPORTS

"SEC. 399T. The Secretary shall transmit annually to the Congress a report containing a detailed statement of the activities carried out under this part by the Secretary, the Offices, and the Center in the year that is the subject of the report.

"REGULATIONS

"SEC. 399U. The Secretary may issue any regulations necessary to carry out this part.".

PART 6—SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS REGARDING SERVICE IN PUBLIC HEALTH POSITIONS

SEC. 7151. ESTABLISHMENT OF SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.

Section 761 of the Public Health Service Act (42 U.S.C. 294d) is amended to read as follows:

"SEC. 761. SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS REGARDING SERVICE IN PUBLIC HEALTH POSITIONS.

"(a) DIRECT SPENDING FOR PROGRAMS.—For carrying out this section, there are hereby appropriated, out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved):

"(1) For fiscal year 1999, $25,000,000.

"(2) For fiscal year 2000, the amount specified in paragraph (1) multiplied by an amount equal to 1 plus the consumer price index for all urban consumers (U.S. city average).

"(3) For fiscal year 2001 and each subsequent fiscal year, the amount determined under this subsection for the preceding fiscal year multiplied by an amount equal to 1 plus such index (as such index is applied for the fiscal year involved).

Amounts appropriated in this subsection are in addition to amounts appropriated in section 765 that are available for carrying out this section.

"(b) SCHOLARSHIP PROGRAM.

"(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the Centers for Disease Control and Prevention, shall carry out a program under which the Secretary awards scholarships to individuals described in paragraph (2) for the purpose of assisting the individuals with the costs of attending public and nonprofit private schools of public health (or other public or nonprofit private institutions providing graduate or specialized training in public health).

"(2) ELIGIBLE INDIVIDUALS.—An individual referred to in paragraph (1) is any individual meeting the following conditions:

"(A) The individual is enrolled (or accepted for enrollment) at a school or other institution referred to in paragraph (1) as a full-time or part-time student in a program providing training in a health profession in a field of public health (including the fields of epidemiology, biostatistics, environmental health, health administration and planning, behavioral sciences, maternal and child health, occupational safety, public health nursing, nutrition, and toxicology).

"(B) The individual enters into the contract required pursuant to subsection (d) as a condition of receiving the scholarship (relating to an agreement to provide services in approved public health positions, as defined in subsection (d).

"(3) ELIGIBLE SCHOOLS.—For fiscal year 1997 and subsequent fiscal years, the Secretary may make an award of a scholarship under paragraph (1) only if the Secretary determines that—

"(A) the school or other institution with respect to which the award is to be provided has coordinated the activities of the school or institution with relevant activities of the Health Resources and Services Administration and the Centers for Disease Control and Prevention; and

"(B) not fewer than 60 percent of the graduates of the school or institution are in public health positions determined by the Secretary to be consistent with the needs of the United States regarding such professionals.

"(4) APPLICABILITY OF CERTAIN PROVISIONS.—Except as inconsistent with this subsection or subsection (d), the provisions of subpart III of part D of title III (relating to the Scholarship and Loan Repayment Programs of the National Health Service Corps) apply to an award of a scholarship under paragraph (1) to the same extent and in the same manner as such provisions apply to an award of a scholarship under section 338A.

"(c) LOAN REPAYMENT PROGRAM.—

"(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the Centers for Disease Control and Prevention, shall carry out a program under which the Federal Government enters into agreements to repay all or part of the educational loans of individuals meeting the following conditions:

"(A) The individual involved is a graduate of a school or other institution described in subsection (b)(1).

"(B) The individual meets the applicable legal requirements to provide services as a public health professional (including a professional in any of the fields specified in subsection (b)(2)(A)).

"(C) The individual enters into the contract required pursuant to subsection (b) as a condition of the Federal Government repaying such loans (relating to an agreement to provide services in approved public health positions, as defined in subsection (d)).

"(2) APPLICABILITY OF CERTAIN PROVISIONS.—Except as inconsistent with this subsection or subsection (d), the provisions of subpart III of part D of title III (relating to the Scholarship and Loan Repayment Programs of the National Health Service Corps) apply to an agreement regarding repayment under paragraph (1) to the same extent and in the same manner as such provisions apply to an agreement regarding repayment under section 338B.

"(3) AMOUNT OF REPAYMENTS.—For each year for which an individual contracts to serve in an approved public health position pursuant to paragraph (2), the Secretary may repay not more than $20,000 of the principal and interest of the educational loans of the individual.

"(d) APPROVED PUBLIC HEALTH POSITIONS.—

"(1) POSITION REGARDING POPULATIONS WITH SIGNIFICANT NEED FOR SERVICES.—

"(A) With respect to the programs under this section, the obligated service of a program participant pursuant to subsections (b)(4) and (c)(2) shall be provided through an assignment, to an entity described in paragraph (2), for a position in which the participant provides services as a public health professional to a population determined by the Secretary to have a significant unmet need for the services of such a professional.

"(B) For purposes of subsection (b)(4) and (c)(2), the period of obligated service is the following, as applicable to the program participant involved:

"(i) In the case of scholarships under subsection (b) for full-time students, the greater of—

"(I) 1 year for each year for which such a scholarship is provided; or

"(II) 2 years.

"(ii) In the case of scholarships under subsection (b) for part-time students, a period determined by the Secretary on the basis of the number of hours of education or training received under the scholarship, considering the percentage constituted by the ratio of such number to the number of hours for a full-time student in the program involved.

VOL
140
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AG
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"(iii) In the case of the loan repayments under subsection (c), such period as the Secretary and the participant may agree, except that the period may not be less than 2 years.

"(2) APPROVAL OF ENTITIES FOR ASSIGNMENT OF PROGRAM PARTICIPANTS.—The entities referred to in paragraph (1)(A) are public and nonprofit private entities approved by the Secretary as meeting such requirements for the assignment of a program participant as the Secretary may establish. The entities that the Secretary may so approve include State and local departments of health, public hospitals, community and neighborhood health clinics, migrant health clinics, community-based health-related organizations, certified regional poison control centers, purchasing cooperatives regarding health insurance, and any other public or nonprofit private entity.

"(3) DEFINITIONS.—For purposes of this section:

"(1) The term 'approved public health position', with respect to a program participant, means a position to which the participant is assigned pursuant to paragraph (1).

"(B) The term 'program participant' means an individual who enters into a contract pursuant to subsection (b)(2)(B) or subsection (c)(1)(C).

"(e) ALLOCATION OF FUNDS; SPECIAL CONSIDERATIONS.—

"(1) ALLOCATIONS REGARDING NEW PARTICIPANTS IN SCHOLARSHIP PROGRAM.—Of the amounts appropriated in subsection (a) for a fiscal year, the Secretary shall obligate not less than 30 percent for the purpose of providing awards for scholarships under subsection (b) to individuals who have not previously received such scholarships.

"(2) SPECIAL CONSIDERATION FOR CERTAIN INDIVIDUALS.—In making awards of scholarships under subsection (b) and making repayments under subsection (c), the Secretary shall give special consideration to individuals who are in the armed forces of the United States or who are veterans of the armed forces.

"(3) SCHOOL HEALTH EDUCATION PROGRAMS.—The Secretary shall ensure that the approved public health positions to which the Secretary assigns program participants under this part include positions in programs that provide education on the promotion of health and the prevention of diseases and that are carried out on the premises of public or nonprofit private elementary and secondary schools.".

Subtitle C—Assistance for Capital Costs of Safety-Net Hospitals

SEC. 7201. TABLE OF CONTENTS REGARDING NEW TITLE XXVIII OF PUBLIC HEALTH SERVICE ACT.

A table describing the contents of title XXVIII of the Public Health Service Act, as added by section 7202 of this Act, is as follows:

TITLE XXVIII—ASSISTANCE FOR CAPITAL COSTS OF CERTAIN ENTITIES

Subtitle A—Safety-Net Hospitals

PART 1—GENERAL PROVISIONS

Sec. 2801. Financial assistance for qualifying hospitals.
Sec. 2802. Funding.
Sec. 2803. Certain requirements for assistance.
Sec. 2804. Application for assistance.

PART 2—QUALIFYING HOSPITALS; SAFETY-NET HOSPITALS

SUBPART A—GENERAL PROVISIONS

Sec. 2811. Definition of qualifying hospitals.
Sec. 2812. Priorities in award of assistance.

SUBPART B—REQUIREMENTS FOR LOAN GUARANTEES

Sec. 2821. Loan guarantees.
Sec. 2822. Funding.
Sec. 2823. Terms and conditions of loan guarantees.
Sec. 2824. Premiums for loan guarantees.
Sec. 2825. Procedures regarding loan default.

SUBPART C—REQUIREMENTS FOR INTEREST RATE SUBSIDIES

Sec. 2831. Grants as interest rate subsidies.
Sec. 2832. Eligible loans.
Sec. 2833. Amount of subsidy; allocation of funds.
Sec. 2834. Terms and conditions for subsidies.
Sec. 2835. Subsidies for loan refinancing.

SUBPART D—REQUIREMENTS FOR DIRECT MATCHING LOANS

Sec. 2841. Provision of matching loans.
Sec. 2842. Eligible projects.
Sec. 2843. Funding.
Sec. 2844. Terms and conditions of loans.
Sec. 2845. Use of loans for refinancing.
Sec. 2846. Creation of revolving fund.
Sec. 2847. Loan default.

SUBPART E—REQUIREMENTS FOR GRANTS FOR URGENT CAPITAL NEEDS

Sec. 2851. Provision of grants.
Sec. 2852. Eligible projects.

PART 3—QUALIFYING HOSPITALS; ACADEMIC HEALTH CENTERS

Sec. 2871. Transitional assistance; provision of interest rate subsidies.
Sec. 2872. Eligible financing.
Sec. 2873. Eligible projects.
Sec. 2874. Allotment of subsidies.

Subtitle B—Emergency Medical Equipment for Rural Areas

Sec. 2881. Grants regarding emergency medical services.

Subtitle C—Facilities of Indian Health Service

Sec. 2891. Financial assistance for facilities of Service.

SEC. 7202. DIRECT SPENDING REGARDING CERTAIN HOSPITALS.

The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 7123 of this Act, is amended by adding at the end the following title:

"TITLE XXVIII—ASSISTANCE FOR CAPITAL COSTS OF CERTAIN ENTITIES

"Subtitle A—Safety-Net Hospitals

"PART 1—GENERAL PROVISIONS

"SEC. 2801. FINANCIAL ASSISTANCE FOR QUALIFYING HOSPITALS.

"(a) IN GENERAL.—For the fiscal years 1996 through 1999, the Secretary, acting through the Administrator of the Health Resources and Services Administration, may in accordance with this subtitle provide financial assistance for qualifying hospitals for projects for—

"(1) the construction, acquisition, modernization, and renovation of facilities for the hospitals; and

"(2) the purchase of equipment.

"(b) QUALIFYING HOSPITAL.—For purposes of this subtitle, the term 'qualifying hospital'—

"(1) in the case of financial assistance authorized in part 2, has the meaning given such term in section 2811(a); and

"(2) in the case of financial assistance authorized in part 3, has the meaning given such term in section 2871(b).

"(c) FORMS OF ASSISTANCE.—The forms of financial assistance that may be provided under this subtitle are loan guarantees, direct loans, and grants, subject to being authorized in part 2 or part 3.

"SEC. 2802. FUNDING.

"(a) DIRECT SPENDING.—For carrying out this title, there are hereby appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the calendar year involved):

"(1) For fiscal year 1996, $980,000,000.
"(2) For fiscal year 1997, $975,000,000.
"(3) For fiscal year 1998, $955,000,000.
"(4) For fiscal year 1999, $955,000,000.

"(b) ALLOCATIONS.—Of the amounts appropriated in subsection (a) for a fiscal year, the Secretary—

"(1) shall reserve $29,400,000 for carrying out subtitle C;

"(2) shall reserve $75,000,000 for carrying out part 3 of this subtitle; and

"(3) may reserve not more than $35,000,000 for carrying out subtitle B.

"SEC. 2803. CERTAIN REQUIREMENTS FOR ASSISTANCE.

"(a) COMMUNITY SERVICE.—The Secretary may provide financial assistance under this subtitle only if the qualifying hospital involved—

"(1) provides services to individuals without regard to their ability to pay for such services (in accordance with standards established by the Secretary); and

"(2) effective January 1, 1999, is a participating provider under medicare part C (established under title XXI of the Social Security Act).

"(b) PROTECTION OF FEDERAL FINANCIAL INTERESTS.—The Secretary shall establish criteria to ensure that the financial interests of the United States in projects described in section 2801 are protected, including ensuring that qualifying hospitals have the capacity to meet any financial obligations established under this subtitle for the hospital. The Secretary may provide financial assistance under this subtitle only if the qualifying hospital involved agrees to comply with the criteria.

"(c) TWENTY-YEAR OBLIGATION; RIGHT OF RECOVERY.—

"(1) IN GENERAL.—The Secretary may provide financial assistance under this subtitle only if the qualifying hospital involved agrees as follows:

"(A) The hospital is liable to the United States, for an amount determined pursuant to subparagraph (B), if at any time during the 20-year period beginning on the date of completion of the activities for which the assistance is provided, the hospital—

"(i) ceases to be a hospital meeting 1 or more of the conditions described in section 2811(a)(3) (relating to ownership status); or

"(ii) is sold or transferred to any entity other than an entity that is—

"(I) a hospital described in clause (i); and

"(II) approved by the Secretary as a purchaser or transferee of the hospital.

"(B) The provisions of section 1622 (relating to the amount of liability, the waiver of recovery rights, and other matters) apply to the hospital regarding the liability of the hospital under subparagraph (A) to the same extent and the same manner as such provisions apply to the liability of an entity under section 1622(a).

"(2) OTHER PARTIES.—The Secretary may recover the amount of liability under paragraph (1) from the qualifying hospital involved or from any transferee (or, in the case of a hospital that has ceased to be public or nonprofit private entity, from the owners thereof).

"(d) WAGES OF LABORERS AND MECHANICS.—

"(1) AGREEMENT.—The Secretary may provide financial assistance under section 2801 only if the qualifying hospital involved agrees that, in carrying out the capital activities for which the assistance is provided, all laborers and mechanics employed by contractors or subcontractors will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act).

"(2) AUTHORITY OF SECRETARY OF LABOR.—The Secretary of Labor shall have with respect to the labor standards referred to in paragraph (1) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"SEC. 2804. APPLICATION FOR ASSISTANCE.

"The Secretary may provide financial assistance under this subtitle only if the qualifying hospital involved—

"(1) submits to the Secretary an application for the assistance;

"(2) the application contains the agreements required in this subtitle for the receipt of the assistance; and

"(3) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subtitle.

"PART 2—QUALIFYING HOSPITALS; SAFETY-NET HOSPITALS

"Subpart A—General Provisions

"SEC. 2811. DEFINITION OF QUALIFYING HOSPITALS.

"(a) DEFINITION.—

"(1) IN GENERAL.—For purposes of this part, the term 'qualifying hospital' means a hospital that—

"(A) meets 1 or more of the conditions described in paragraph (2); and

"(B) meets 1 or more of the conditions described in paragraph (3).

"(2) MEDICARE STATUS.—For purposes of paragraph (1), the conditions described in this paragraph regarding a hospital are as follows:

"(A) The hospital is designated as an essential access community hospital by the Secretary under section 1820(i)(1) of the Social Security Act.

"(B) The hospital is designated as a rural primary care hospital by the Secretary under section 1820(i)(2) of such Act.

"(C) The hospital has a disproportionate patient percentage (as described in section 1886(d)(5)(F)(vi) of such Act) equal to or greater than 40 percent.

"(3) OWNERSHIP STATUS.—For purposes of paragraph (1), the conditions described in this paragraph regarding a hospital are as follows:

"(A) The hospital is owned or operated by a unit of State or local government.

"(B) The hospital is a quasi-public corporation, defined as a private, nonprofit corporation or public benefit corporation which is formally granted one or more governmental powers by legislative action through (or is otherwise partially funded by) the State legislature, city or county council.

"(C) The hospital is a private nonprofit hospital.

"(4) CERTAIN HOSPITALS.—For purposes of this part, the term 'qualifying hospital' includes each of the following: George W. Hubbard Hospital of the Meharry Medical College (in Nashville, in the State of Tennessee); Howard University Hospital (in the District of Columbia); Newport News General Hospital (in Newport News, in the State of Virginia); Norfolk Community Hospital (in Norfolk, in the State of Virginia); Richmond Community Hospital (in Richmond, in the State of Virginia); Riverside General Hospital (in Houston, in the State of Texas); Bethany Hospital (in Chicago, in the State of Illinois); Jackson Park Hospital (in Chicago, in the State of Illinois); North General Hospital (in New York, in the State of New York); Roseland Community Hospital (in Chicago, in the State of Illinois); Southwest Hospital and Medical Center (in Atlanta, in the State of Georgia); and St. Bernard Hospital (in Chicago, in the State of Illinois).

"(b) RULE OF CONSTRUCTION REGARDING MEDICARE AMENDMENTS.—Except as otherwise provided in this subtitle:

"(1) A reference in this subtitle to title XVIII of the Social Security Act shall be considered to be a reference to such title as in effect on the day after the date of the enactment of the Guaranteed Health Insurance Act of 1994, without regard to any amendment subsequently made to such title XVIII.

"(2) For purposes of paragraph (1), an amendment to such title XVIII that is made by the Guaranteed Health Insurance Act of 1994 as of the day referred to in such paragraph applies to this subtitle upon the amendment taking effect, without regard to whether the date on which the amendment takes effect is after the day referred to in such paragraph.

"SEC. 2812. PRIORITIES IN AWARD OF ASSISTANCE.

"In the case of qualifying hospitals that meet the requirements of this part for receiving financial assistance, the Secretary shall give priority to hospitals meeting the conditions of each of paragraphs (1) and (2), as follows:

"(1) The project to be carried out with the assistance meets 1 or more of the following conditions:

"(A) The project is necessary to bring the hospital into compliance with accreditation standards or fire and life safety, seismic, or other related Federal, State or local regulatory standards.

"(B) The project will improve the provision of essential services (such as emergency medical and trauma services; services regarding acquired immune deficiency syndrome and infectious diseases; perinatal services; services for burned individuals; primary care; and such other services as the Secretary may designate).

"(C) The project will result in the provision of access to essential health services to indigent and other needy individuals within the service area of the hospital, which services would otherwise be unavailable.

"(2) The hospital provides to the Secretary (in the application under section 2804) specific anticipated State or local governmental or other non-Federal assurances of financial support.

"Subpart B—Requirements for Loan Guarantees

"SEC. 2821. LOAN GUARANTEES.

"(a) PURPOSE.—The Secretary may provide loan guarantees for loans to qualifying hospitals for projects described in section 2801. The program under this subpart shall be designed by the Secretary with the goal of rebuilding and maintaining the essential health services of qualifying hospitals eligible for such guarantees.

"(b) GUARANTEE AS ESSENTIAL ELEMENT IN FINANCING.—The Secretary may provide a loan guarantee under subsection (a) for a qualifying hospital only if the guarantee is essential for the hospital to obtain financing for the project involved from a non-Federal lender at a reasonably affordable rate of interest.

"(c) PREFERENCES IN PROVIDING GUARANTEES.—In providing loan guarantees under subsection (a), the Secretary shall give preference to projects in which State or local governmental entities participate in the form of first guarantees of part or all of the total loan value.

"(d) LIMITATION REGARDING RATE OF INTEREST.—The Secretary shall ensure that, with respect to a loan guarantee under subsection (a), the rate of interest does not exceed such annual percentage on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

"SEC. 2822. FUNDING.

"(a) IN GENERAL.—Of the amounts available under section 2802 for a fiscal year after compliance with subsection (b) of such section, the Secretary may reserve not more than $150,000,000 for providing loan guarantees under section 2821.

"(b) ALLOCATIONS FOR RURAL HOSPITALS.—Of the amounts available for a fiscal year pursuant to subsection (a), the Secretary shall reserve not less than 10 percent for loan guarantees for qualifying hospitals in rural areas, subject to a sufficient number of such hospitals meeting the requirements for such guarantees.

"(c) LIMITATION REGARDING REFINANCING LOANS.—Of the amounts available for a fiscal year pursuant to subsection (a), the Secretary may not obligate more than 20 percent to guarantee refinancing loans.

"SEC. 2823. TERMS AND CONDITIONS OF LOAN GUARANTEES.

"(a) IN GENERAL.—The principle amount of a loan guaranteed under section 2821, when added to any Federal grant assistance made under this subtitle, may not exceed 95 percent of the total value of the project, including land.

"(b) MAINTENANCE OF EFFORT.—Loan guarantees under section 2821 may not be used to supplant other forms of State or local support.

"(c) RIGHT TO RECOVER FUNDS.—The United States shall be entitled to recover from any applicant the amount of payments made pursuant to any loan guarantee under this part, unless the Secretary for good cause waives its right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipients of the payments with respect to which the guarantee was made.

"(d) INCONTESTABILITY OF TERMS ABSENT FRAUD OR MISREPRESENTATION.—Any loan guarantee made by the Secretary under section 2821 shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or other person.

"SEC. 2824. PREMIUMS FOR LOAN GUARANTEES.

"(a) IN GENERAL.—The Secretary shall determine a reasonable loan insurance premium which shall be charged for loan guarantees under section 2821, taking into account the availability of the reserves created under section 2822. Premium charges shall be payable in cash to the Secretary (either in full upon issuance or annually in advance). In addition to such charge, the Secretary may charge and collect such amount as the Secretary considers reasonable for the appraisal of a property or project offered for insurance and for the inspection of such property or project.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(b) PAYMENT IN ADVANCE.—In the event that the principal obligation of any loan accepted for a guarantee under section 2821 is paid in full prior to the maturity date, the Secretary may, in the discretion of the Secretary, require the payment by the borrower of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the qualifying hospital involved would otherwise have been required to pay if the loan had continued to be guaranteed until maturity date.

"(c) WAIVER OF PREMIUMS.—The Secretary may, in the discretion of the Secretary, partially or totally waive premiums charged for loan guarantees under section 2821 for qualifying hospitals that are financially distressed (as described by the Secretary).

"SEC. 2825. PROCEDURES REGARDING LOAN DEFAULT.

"(a) PAYMENT OF INSURANCE AFTER DEFAULT.—

"(1) TRANSFER OF RIGHTS AND INTERESTS.—The failure of a qualifying hospital to make the payment due under or provided by the terms of a loan guaranteed under section 2821 shall be considered in default under such loan and, if such default continues for a period of 30 days, the lender shall be entitled to receive the benefits of the guarantee as provided in this part, upon assignment, transfer, and delivery to the Secretary, within a period and in accordance with rules and regulations to be prescribed by the Secretary of—

"(A) all rights and interests arising under the loan in default;

"(B) all claims of the lender against the qualifying hospital or others, arising out of the loan transactions;

"(C) all policies of title or other insurance or surety bonds or other guarantees and any and all claims thereunder;

"(D) any balance of the loan not advanced to the borrower;

"(E) any cash or assets held by the lender, or to which it is entitled, as deposits made for the account of the borrower and which have not been applied in reduction of the principal of the loan indebtedness; and

"(F) all records, documents, books, papers, and accounts relating to the mortgage transaction.

"(2) PAYMENTS BY SECRETARY.—Upon an assignment, transfer, and delivery described in paragraph (1), the obligation of a qualifying hospital to pay the premium charges for the loan guarantee shall cease, and the Secretary shall, subject to the cash adjustment provided for in subsection (d), issue to the lender a certificate of claim as provided in subsection (b), and debentures having total face value equal to the original principal face amount of the loan plus such amount as the borrower may have paid for taxes, special assessments, and water rates, which are liens prior to the mortgage; insurance on the assets; and reasonable expenses for the completion and preservation of the assets and any loan insurance premiums paid after default, less the sum of—

"(A) that part of the amount of the principal obligation that has been repaid by the borrower,

"(B) an amount equivalent to 1 percent of the unpaid amount of such principal obligation, and

"(C) any net income received by the lender from the assets.

"(3) OPTION TO FORECLOSE.—

"(A) IN GENERAL.—In the event of a default under the loan the lender may, at its option and in accordance with the regulations of, and in a period of time to be determined by the Secretary, proceed to foreclose on and obtain possession of or otherwise acquire such assets from the borrower after default, and receive the benefits of the insurance as herein provided, upon—

"(i) the prompt conveyance to the Secretary of title to the assets which meets the requirements of the rules and regulations of the Secretary in force at the time the loan was insured and which is evidenced in the manner prescribed by such rules and regulations; and

"(ii) the assignment to the Secretary of all claims of the lender against the borrower or others, arising out of the loan transaction or foreclosure proceedings, except such claims that may have been released with the consent of the Secretary.

"(B) REPEAL OF OBLIGATION TO PAY PREMIUM.—Upon such conveyance and assignment, the obligation of the qualifying hospital to pay the premium charges for the loan guarantee shall cease and the hospital shall be entitled to receive the benefits of the guarantee as provided in this subsection, except that in such event the 1 percent deduction set out above shall not apply.

"(b) CERTIFICATE OF CLAIM; DIVISION OF EXCESS PROCEEDS.—

"(1) VALUE OF CERTIFICATE.—The certificate of claim issued under this section shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the lender, to equal the amount which the lender would have received if, on the date of the assignment, transfer and delivery to the Secretary provided for in subsection (a) of this section, the mortgagor had extinguished the mortgage indebtedness by payment in full of all obligations under the loan and a reasonable amount for necessary expenses incurred by the lender in connection with the default proceedings, or the acquisition of the mortgaged assets otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 percent per annum which shall not be compounded.

"(2) TREATMENT OF EXCESS.—If the net amount realized from the mortgage, and all claims in connection therewith, so assigned, transferred, and delivered, and from the assets covered by such mortgage and all claims in connection with such assets, after deducting all expenses incurred by the Secretary in handling, dealing with, acquiring title to, and disposing of such mortgage and assets and in collecting such claims, exceeds the face value of the debentures issued and the case adjustment paid to the mortgagee plus all interest paid on such debentures, such excess shall be divided as follows:

"(A) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such assets, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be retained by the Secretary and credited to the loan insurance program of the Secretary.

"(B) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

"(c) ACQUISITION OF ASSETS BY CONVEYANCE OR FORECLOSURE.—

"(1) IN GENERAL.—The Secretary is authorized to—

"(A) acquire possession of and title to any assets, covered by a mortgage insured under this section and assigned to it, by voluntary conveyance in extinguishment of the mortgage indebtedness, or

"(B) institute proceeding for foreclosure on the assets covered by any such insured mortgage and prosecute such proceedings to conclusion.

"(2) BIDDING PROCEDURES AT FORECLOSURE.—The Secretary at any sale under foreclosure may, in its discretion, for the protection of the Secretary, bid any sum up to but not in excess of the total unpaid indebtedness secured by the mortgage plus taxes, insurance, foreclosure costs, fees, and other expenses, and may become the purchaser of the assets at such sale. In determining the amount to be bid, the Secretary shall act consistently with its duties.

"(3) PAYMENT OF EXPENSES.—The Secretary is authorized to pay from the Secretary such sums as may be necessary to defray such taxes, insurance, costs, fees, and other expenses in connection with the acquisition or foreclosure of assets under this section.

"(4) EXERCISE OF RIGHTS PENDING ACQUISITION.—Pending such acquisition by voluntary conveyance or by foreclosure, the Secretary is authorized, with respect to any mortgage assigned to it under the provisions of subsection (a), to exercise all the rights of a mortgagee under such mortgage, including the right to sell such a mortgage, and to take such action and advance such sums as may be necessary to preserve or protect the lien of such mortgage.

"(d) HANDLING AND DISPOSAL OF ASSETS; SETTLEMENT OF CLAIMS.—

"(1) PAYMENT FOR CERTAIN EXPENSES.—Notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real and other property by the United States, the Secretary shall also have power, for the protection of the interests of the Secretary, to pay out of the Secretary all expenses or charges in connection with, and to deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or establish suitable agencies for the management of, or sell for cash or credit or lease in its discretion, any assets acquired by it under this section.

"(2) SETTLEMENT OF CLAIMS.—Notwithstanding any other provision of law, the Secretary shall also have the power to pursue to final collection by way of compromise or otherwise all claims assigned and transferred to it in connection with the assignment, transfer, and delivery provided for in this section, and at any time, upon default, to foreclose or refrain from foreclosing on any assets secured by any mortgage assigned and transferred to or held by it.

"(3) LIMITATIONS ON AUTHORITY.—Subsections (a) and (b) shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such assets if the amount thereof does not exceed $1,000.

"Subpart C—Requirements for Interest Rate Subsidies

"SEC. 2831. GRANTS AS INTEREST RATE SUBSIDIES.

"(a) IN GENERAL.—The Secretary shall make grants as interest subsidies to reduce the costs of qualifying hospitals in financing projects described in section 2801.

"(b) PURPOSES.—The interest subsidy program under subsection (a) shall provide a partial Federal subsidy of debt service payment for financing replacement (whether by construction or acquisition), modernization,

and renovation projects or capital equipment acquisitions.

"(c) INTEREST SUBSIDIES AS ESSENTIAL ELEMENT IN FINANCING.—The Secretary may make a grant under subsection (a) for a qualifying hospital only if the grant is essential for the hospital as financing for the project involved.

"SEC. 2832. ELIGIBLE LOANS.

"(a) IN GENERAL.—Qualifying hospitals shall have issued or plan to issue bonds, or shall have secured or plan to secure loans, for capital projects or be responsible for paying debt service on general obligation or revenue bonds issued or loans made on the qualifying hospital's behalf. To be eligible, bonds must have been issued after December 31, 1992.

"(b) NON-FEDERAL PARTICIPATION REQUIREMENT.—The Secretary may provide interest subsidies under section 2831 for a qualifying hospital only if the hospital receives assistance from non-Federal sources in an amount not less than the amount of such subsidies.

"SEC. 2833. AMOUNT OF SUBSIDY; ALLOCATION OF FUNDS.

"(a) IN GENERAL.—Interest subsidy grants under section 2831 shall be made in the amount of 3 percentage points for qualifying non-Federal loans.

"(b) QUALIFYING FEDERAL LOANS UNDER PART 2.—Interest subsidy grants under section 2831 in an amount of up to 5 percentage points shall be made for qualifying Federal loans made under this part if it is determined by the Secretary that the project would not be otherwise financially feasible.

"(c) RESERVE FOR RURAL HOSPITALS AND FACILITIES.—Of the amounts available for a fiscal year pursuant to subsection (e), the Secretary shall reserve not less than 10 percent for grants under section 2831 to qualifying hospitals in rural areas, subject to there being a sufficient number of qualified applicants.

"(d) LIMITATION ON AMOUNT OF SUBSIDIES AWARDED PER STATE.—The aggregate value of interest subsidies made under section 2831 to qualifying hospitals in any State for a fiscal year shall not exceed 25 percent of the amounts available under subsection (e) for the year.

"(e) AMOUNT ALLOCATED FROM SECRETARY.—Of the amounts available under section 2802 for a fiscal year after compliance with subsection (b) of such section, the Secretary shall reserve $220,000,000 for interest subsidies under section 2831.

"SEC. 2834. TERMS AND CONDITIONS FOR SUBSIDIES.

"(a) STATE OR LOCAL PARTICIPATION.—State or local participation in an amount equal to not less than the Federal subsidy shall be required.

"(b) ISSUANCE OF FEDERAL COMMITMENTS.—If the Secretary approves an application for interest subsidies under section 2831, the qualifying hospital involved shall receive a Federal commitment of a grant for the subsidies. Applicants shall then have 12 months to finalize financing arrangements before unobligated funds are returned to the subsidy program. A commitment, when issued, shall be valid for as long as the qualifying hospital continues to meet the eligibility qualifications of this subtitle.

"SEC. 2835. SUBSIDIES FOR LOAN REFINANCING.

"In addition to providing interest rate subsidies for new loans, the Secretary may provide subsidies to assist in refinancing if the qualifying hospital involved presently lacks permanent financing at an affordable current market rate.

"Subpart D—Requirements for Direct Matching Loans

"SEC. 2841. PROVISION OF MATCHING LOANS.

"(a) IN GENERAL.—The Secretary may provide direct loans to qualifying hospitals for projects described in section 2801 if the hospitals are unable otherwise to obtain essential financing for the projects.

"(b) PRIORITY FOR CERTAIN PROJECTS.—In making direct loans under subsection (a) to qualifying hospitals, the Secretary shall give priority to smaller projects where the transaction costs of securing financing from other sources may be disproportionately onerous in relationship to the amounts financed.

"SEC. 2842. ELIGIBLE PROJECTS.

"(a) IN GENERAL.—Qualifying hospitals may seek a direct loan under section 2841 for a project of up to $50,000,000. Not more than 75 percent of the cost of the project may come from Federal sources.

"(b) EXCEPTION FOR FINANCIALLY DISTRESSED APPLICANTS.—The Secretary shall have the discretion to waive the 25 percent match requirement under subsection (a) for financially distressed hospitals and facilities (as described by the Secretary).

"SEC. 2843. FUNDING.

"(a) IN GENERAL.—Of the amounts available under section 2802 for a fiscal year after compliance with subsection (b) of such section, the Secretary shall reserve for direct loans under section 2841 $114,500,000 for fiscal year 1996, $109,500,000 for fiscal year 1997, and $89,500,000 for fiscal year 1998. Funded projects shall be divided between projects designed to achieve compliance with accreditation standards, life safety code, and other certification standards, and those related to the provision of new services.

"(b) RESERVE FOR RURAL HOSPITALS AND FACILITIES.—Of the amounts available for a fiscal year pursuant to subsection (a), the Secretary shall reserve not less than 10 percent for direct loans under section 2841 to qualifying hospitals in rural areas, subject to there being a sufficient number of qualified applicants.

"SEC. 2844. TERMS AND CONDITIONS OF LOANS.

"(a) GENERAL TERM.—Direct loans under section 2841 shall be made for a period equal to the construction period of the project involved plus up to 39 years amortization.

"(b) INTEREST RATE.—The interest rate for a direct loan under section 2841 shall be a market rate determined by the Secretary to be the most recent applicable index for revenue bonds, as the Secretary finds appropriate.

"SEC. 2845. USE OF LOANS FOR REFINANCING.

"In addition to making direct loans under section 2841 for new projects, the Secretary may make such loans to refinance existing loans if the qualifying hospital involved has been unable to secure permanent financing at an affordable current market rate, except that the amount of such loans made for a fiscal year for refinancing existing loans may not exceed 20 percent of the total amount made available for such loans for the year.

"SEC. 2846. CREATION OF REVOLVING FUND.

"In addition to the new amounts made available under section 2843 for a fiscal year, all loan repayments under section 2841 made by qualifying hospitals shall be held in a revolving fund that may be used for additional loans under section 2841.

"SEC. 2847. LOAN DEFAULT.

"(a) IN GENERAL.—The failure of a qualifying hospital to make payment due under or provided by the terms of a direct loan made under section 2841 shall be considered a default under such loan and, if such default continues for a period of 30 days, the Secretary shall have the right to begin collection proceedings against the hospital.

"(b) PRIORITY OF FEDERAL INTEREST.—In the case of default, the United States shall be paid prior to State or local bonds.

"(c) SETTLEMENT OF CLAIMS.—Notwithstanding any other provision of law, the Secretary shall have the power to pursue to final collection by way of compromise or otherwise all claims assigned and transferred to the Secretary in connection with an assignment, transfer, and delivery and at any time, upon default, to foreclose or refrain from foreclosing on any assets secured by any defaulted loan held by the Secretary.

"Subpart E—Requirements for Grants for Urgent Capital Needs

"SEC. 2851. PROVISION OF GRANTS.

"(a) IN GENERAL.—The Secretary shall make grants to qualifying hospitals with urgent capital needs for carrying out a project under section 2801.

"(b) PURPOSES.—Grants made under subsection (a) shall be available to qualifying hospitals for 3 types of projects:

"(1) Emergency certification and licensure grants shall be available to such hospitals that are threatened with closure or loss of accreditation or certification of a facility or of essential services as a result of life or safety code violations or similar facility or equipment failures. Such grants shall provide limited funding for repair and renovation or capital equipment acquisition where failure to fund would disrupt the provision of essential public health services such as emergency care.

"(2) Emergency grants shall be available for capital renovation, expansion, or replacement (whether by construction or acquisition) necessary to the maintenance or expansion of essential safety and health services such as obstetrics, perinatal, emergency and trauma, primary care and preventive health services.

"(3) Planning grants shall be available to qualified hospitals and facilities requiring pre-approval assistance related to management and finance in order to apply for loans, loan guarantees, and interest subsidies under this part.

"(c) PRIORITY TO FINANCIALLY DISTRESSED PROVIDERS.—In making grants pursuant to subsection (a), the Secretary shall give priority to qualifying hospitals that are financially distressed (as described by the Secretary).

"(d) APPLICATION PROCESS.—The Secretary shall create an expedited application process for grants under subsection (a).

"(e) AMOUNT ALLOCATED FROM SECRETARY.—Of the amounts available under section 2802 for a fiscal year after compliance with subsection (b) of such section, the Secretary shall reserve $356,100,000 for making grants under subsection (a).

"SEC. 2852. ELIGIBLE PROJECTS.

"(a) MATCHING GRANTS.—

"(1) LIMITATION ON AMOUNT.—Grants under section 2851 shall be limited to $25,000,000.

"(2) MATCHING REQUIREMENT.—The Secretary shall require that qualifying hospitals receiving grants under section 2851 receive at least 50 percent of their funding from State or local sources.

"(3) RESERVATION FOR RURAL APPLICANTS.—Of the amounts available pursuant to section 2851(e) for a fiscal year, the Secretary shall reserve not less than 10 percent for grants under section 2851 for qualifying hospitals in rural areas, subject to there being a sufficient number of qualified applicants.

"(b) PLANNING GRANTS.—

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(1) IN GENERAL.—In making grants under section 2851, the Secretary may make a grant to a qualifying hospital of up to $200,000 to assist in implementation of key budgetary and financial systems as well as management and governance restructuring.

"(2) LIMIT ON TOTAL AMOUNTS PROVIDED.—The total amount of assistance provided pursuant to section 2851 in the form of planning grants described in this subsection shall not exceed $10,000,000.

"PART 3—QUALIFYING HOSPITALS; ACADEMIC HEALTH CENTERS

"SEC. 2871. TRANSITIONAL ASSISTANCE; PROVISION OF INTEREST RATE SUBSIDIES.

"(a) IN GENERAL.—From the amounts reserved under section 2802(b)(2) for a fiscal year, the Secretary may make grants as interest subsidies to reduce the capital costs of qualifying hospitals in carrying out projects described in section 2801 that meet the conditions described in section 2873.

"(b) DEFINITION OF QUALIFYING HOSPITAL.—For purposes of this part, the term 'qualifying hospital' means a hospital that—

"(1) is eligible to receive payment for the direct costs of graduate medical education under section 1886(h) of the Social Security Act;

"(2) on June 1, 1994, was eligible to receive a payment adjustment under section 1886(d)(5)(F) of such Act in an amount determined in accordance with section 1886(d)(5)(f)(vii)(I) of such Act; and

"(3) is a public or nonprofit private hospital.

"SEC. 2872. ELIGIBLE FINANCING.

"(a) IN GENERAL.—An interest subsidy is available under section 2871 with respect to any financing obtained by the hospital involved if the financing meets the requirements of subsections (b) through (d), without regard to whether such financing is subject to refunding, advance refunding, or refinancing.

"(b) PROPORTION OF AGGREGATE FINANCING USED FOR PROJECT.—An interest subsidy is available under section 2871 with respect to any financing obtained for a project only if not less than 80 percent of all financing for which a subsidy is provided under such section with respect to the project is used for such project.

"(c) LIMIT ON TOTAL AMOUNT OF FINANCING ELIGIBLE FOR SUBSIDY.—The total amount of financing for which a subsidy is provided under section 2871 with respect to a project may not exceed the lesser of—

"(1) 65 percent of the total cost of the project, as specified by the governing board of the hospital prior to June 1, 1994;

"(2) the total amount of borrowing authorized by the governing board of the hospital with respect to the project prior to June 1, 1994; or

"(3) the Secretary's estimate of the reasonable cost of such financing, as determined in accordance with the methodology described in section 1861(v).

"(d) PROHIBITION AGAINST USE OF SUBSIDY FOR RETROACTIVE DEBT SERVICE PAYMENTS.—The Secretary may not provide any interest subsidy under section 2871 with respect to any debt service payment made by a hospital prior to the date on which the subsidy is initially provided to the hospital under such section.

"SEC. 2873. ELIGIBLE PROJECTS.

"(a) IN GENERAL.—The Secretary may make a grant under section 2871 to a qualifying hospital for a project under section 2801 only if—

"(1) prior to June 1, 1994, the project has been approved by a State under a capital review program or, in the case of a project in a State without such a program, by the governing board of the hospital;

"(2) the hospital demonstrates that the replacement facility will be available for providing services to patients not later than December 31, 2002 and was not available for providing services to patients prior to January 1, 1987; and

"(3) the total cost of the project is not less than $200,000,000.

"(b) TOTAL PROJECT COST.—For purposes of subsection (a)(3), the term 'total cost of the project' means the total amount of project-related costs, including the following: Construction; land; air rights; equipment; construction contingency; planning; legal, architectural, engineering, and design services; interest during construction; borrowings for the purpose of refinancing previously incurred debt in order to meet requirements of a new lender; and other expenses generally recognized as costs of development, financing, and construction of such projects.

"SEC. 2874. ALLOTMENT OF SUBSIDIES.

"(a) IN GENERAL.—Interest subsidy grants to a hospital under section 2871 shall be made in an amount not exceeding 3 percentage points, except that the amount of such a grant may not exceed the interest portion of the eligible financing involved. The amount applicable under the preceding sentence as the maximum amount for such a grant shall be reduced by the Secretary by the amount of any financial assistance provided for the project involved under part 2.

"(b) AMOUNT ALLOCATED BY SECRETARY.—If the amount reserved under section 2802(b)(2) for a fiscal year is insufficient to provide interest subsidies to all qualifying hospitals that apply for and are eligible for such subsidies, the amount of the subsidy provided to each recipient shall be reduced on a pro rata basis.

"Subtitle B—Emergency Medical Equipment for Rural Areas

"SEC. 2881. GRANTS REGARDING EMERGENCY MEDICAL SERVICES.

"(a) IN GENERAL.—From amounts reserved under section 2802(b)(3), the Secretary, acting through the Director of the Office of Rural Health Policy, may make grants to public and nonprofit private entities for the purpose of purchasing equipment and vehicles for the provision of emergency medical services in rural areas.

"(b) REQUIREMENT REGARDING COMMUNITY SERVICE.—Section 2803(a) applies to a grant under subsection (a) to the same extent and in the same manner as such section applies to financial assistance under section 2801.

"(c) USE OF EQUIPMENT AND VEHICLES.—The Secretary may make a grant under subsection (a) only if the applicant agrees that the equipment and vehicles purchased pursuant to subsection (a) will be owned, operated, and maintained by the applicant.

"(d) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs of the program to be carried out under subsection (a) by an applicant, the Secretary may make a grant under such subsection only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 50 percent of such costs.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(e) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"Subtitle C—Facilities of Indian Health Service

"SEC. 2891. FINANCIAL ASSISTANCE FOR FACILITIES OF SERVICE.

"(a) IN GENERAL.—From the amounts reserved under section 2802(b)(1), the Secretary shall provide financial assistance in the form of loan guarantees, direct loans, and grants to facilities of health programs of the Service (as defined in section 901 of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) for the purposes specified in subparagraphs (A) and (B) of section 2801(a)(1).

"(b) TERMS AND CONDITIONS.—Section 2803 applies to financial assistance under subsection (a) to the same extent and in the same manner as such section applies to financial assistance under section 2801. Such assistance shall be subject to such other terms and conditions as the Secretary determines appropriate to carry out this subtitle with respect to such facilities of health programs of the Service.

"(c) EQUAL TREATMENT OF IHS AND TRIBAL FACILITIES.—In carrying out this section, the Secretary shall—

"(1) treat facilities operated directly by the Indian Health Service and facilities operated by Indian tribes, tribal organizations, and urban Indian organizations through a contract or compact with the Indian Health Service equitably; and

"(2) apply the same terms and conditions in the same manner with respect to facilities operated directly by the Indian Health Service as the Secretary applies to facilities operated by tribes, tribal organizations, and urban Indian organizations through a contract or compact with the Indian Health Service.".

Subtitle D—Other Programs in Public Health Service Act

SEC. 7301. SCHOOL-BASED HEALTH CLINICS.

(a) IN GENERAL.—Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following section:

"SCHOOL-BASED HEALTH CLINICS

"SEC. 340E. (a) IN GENERAL.—

"(1) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for the purpose of making available to school children the health services described in subsection (c) at sites that are on or in close proximity to the premises of a school (or at such other sites as the Secretary determines to be appropriate to provide school children with access to the services).

"(2) SCHOOL CHILDREN.—For purposes of this section, the term "school children" means an individual between the ages of 3 and 21 (inclusive).

"(b) MINIMUM QUALIFICATIONS; STATUS REGARDING FEDERAL HEALTH PROGRAMS.—

"(1) IN GENERAL.—For fiscal year 1996 and subsequent fiscal years, the Secretary may make a grant under subsection (a) only if, subject to paragraph (2), the applicant involved is in compliance with the following, as applicable to the fiscal year involved:

"(A) For each of the fiscal years 1996 through 1998, and for the first quarter of fiscal year 1999, the applicant is a provider of

services under the State plan approved for the State involved under title XIX of the Social Security Act.

"(B) For the remaining quarters of fiscal year 1999 and for each subsequent fiscal year, the applicant is a participating provider under medicare part C (established under title XXI of the Social Security Act).

"(2) WAIVER.—The requirements established in paragraph (1) do not apply to an applicant that provides health services without charge and does not receive reimbursement for the services from any third-party payors.

"(c) REQUIRED CONSULTATIONS REGARDING PARENTS AND TEACHERS.—The Secretary may make a grant under paragraph (1) only if the applicant involved, in preparing the application under subsection (k), has consulted with parents in the community in which services under the grant are to be provided, with teachers at schools in the community, and with the local educational agency with jurisdiction over such schools.

"(d) PREFERENCES IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to—

"(1) qualified applicants that are experienced in delivering health care services to medically underserved populations (as defined in section 2752(b)) or in areas in which a significant number of children are at risk for health problems; and

"(2) qualified applicants that are affiliated with community provider networks operated pursuant to section 2721(b)(3)(E).

"(e) AUTHORIZED SERVICES.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that services made available under the grant will include each of the following (as medically appropriate for the child involved):

"(A) Comprehensive health examinations.

"(B) Health education and prevention services, including prenatal care.

"(C) Follow-up care for routine health problems.

"(D) Referrals for dental, vision, and hearing services and for mental health services.

"(E) Screenings and follow-up treatment for sexually-transmitted diseases or other communicable diseases.

"(2) OPTION REGARDING FAMILY PLANNING SERVICES.—A grantee under subsection (a) may, at the option of the grantee, expend the grant under such subsection to provide voluntary family planning services. The Secretary may not require as a condition of the receipt of a grant under subsection (a) that an applicant for the grant agree to provide such services.

"(3) OTHER SERVICES.—In addition to services specified in paragraphs (1) and (2), the Secretary may authorize a grantee under subsection (a) to expend the grant for such additional health or health-related services for school children as the Secretary determines to be appropriate.

"(4) AVAILABILITY THROUGHOUT YEAR.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that services under the grant will be available throughout the year (including any portion of the year during which the school does not hold classes).

"(f) CULTURAL CONTEXT OF SERVICES.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that services under the grant will be provided in the language and cultural context most appropriate for the individuals to whom the services are provided.

"(g) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, if a fee is imposed for the provision of services under the grant, such fee—

"(1) will be made according to a schedule of fees that is made available to the public;

"(2) will be adjusted to reflect the income and resources of the school-children involved; and

"(3) will not be imposed on any school child with an income of less than 100 percent of the applicable official poverty line (established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981).'

"(h) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs of the program to be carried out under subsection (a) by an applicant, the Secretary, subject to paragraph (3), may make a grant under such subsection only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is—

"(A) for the first fiscal year for which the applicant receives such a grant, 10 percent of such costs;

"(B) for any second such fiscal year, 25 percent of such costs; and

"(C) for any subsequent such fiscal year, 50 percent of such costs.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(3) WAIVER.—The Secretary may for an applicant waive the requirement of paragraph (1) for a fiscal year if the Secretary determines that the applicant will be unable to carry out a program under subsection (a) otherwise. If the Secretary provides a waiver under the preceding sentence for a grantee under subsection (a) for a fiscal year, the Secretary may make a grant to the applicant for the following fiscal year only if the Secretary reviews the waiver to determine whether the waiver should remain in effect.

"(i) ADDITIONAL AGREEMENTS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees as follows:

"(1) The applicant will maintain the confidentiality of patient records.

"(2) The applicant will establish an ongoing quality assurance program regarding services provided under the grant.

"(3) The applicant will not expend more than 10 percent of the grant for administrative expenses regarding the grant.

"(j) REPORTS TO SECRETARY.—The Secretary may make a grant under subsection (a) only if the applicant agrees that, not later than February 1 of the fiscal year following the fiscal year for which the grant is to be made, the applicant will submit to the Secretary a report describing the program carried out by the applicant under the grant, including provisions on the utilization, cost, and outcome of services provided under the grant.

"(k) APPLICATION FOR GRANT; PLAN.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary; the application contains a plan describing the proposal of the applicant for a program under subsection (a); and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(l) EVALUATION OF PROGRAMS.—The Secretary, directly or through grants or contracts, shall provide for evaluations of programs carried out under subsection (a), including the cost-effectiveness and health-effectiveness of the programs.

"(m) REPORTS TO CONGRESS.—Not later than May 31 of each fiscal year, the Secretary shall submit to the Congress a report on the programs carried out under subsection (a). The report shall include a summary of the evaluations carried out under subsection (l) for the preceding fiscal year.

"(n) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $100,000,000 for each of the fiscal year 1996, $275,000,000 for fiscal year 1997, $350,000,000 for fiscal year 1998, and $400,000,000 for each of the fiscal years 1999 and 2000.".

(b) CONFORMING AMENDMENT.—Part D of title III of the Public Health Service Act (42 U.S.C 254b et seq.), as amended by section 104 of Public Law 103-183 (107 Stat. 2230), is amended in the heading for subpart VIII by striking "Bulk" and all that follows and inserting the following: "Miscellaneous Provisions Regarding Primary Health Care".

(c) RULE OF CONSTRUCTION.—For fiscal year 1995, references in section 340E of the Public Health Service Act (as added by subsection (a) of this section) to section 2752(b) of such Act are deemed to be references to section 330(a) of such Act.

SEC. 7302. RURAL AND URBAN MANAGED CARE PROGRAM.

(a) IN GENERAL.—The Public Health Service Act, as amended by section 7201 of this Act, is amended by adding at the end the following title:

"TITLE XXIX—ADDITIONAL PROGRAMS OF PUBLIC HEALTH SERVICE

"SEC. 2901. RURAL AND URBAN MANAGED CARE PROGRAM.

"(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for the purpose of carrying out projects for the following:

"(1) To develop rural community-operated health plans, as defined in subsection (b).

"(2) To develop community health networks, as defined in subsection (c).

"(3) To promote the establishment of managed care plans in underserved areas.

"(b) RURAL COMMUNITY-OPERATED HEALTH PLAN.—For purposes of this section, the term 'rural community-operated health plan' means health plan meeting the following conditions:

"(1) The health plan is a public or nonprofit private entity that provides services exclusively in a rural or frontier area.

"(2) The plan is developed in consultation with the local governments of the geographic area to be served by the plan, with individuals who reside in the area, and with a reasonable number and variety of health professionals who provide services in the area.

"(3) The principal legal authority over the operation of the plan is vested in individuals who reside in such geographic area.

"(4) The plan provides a full continuum of services.

"(c) COMMUNITY HEALTH NETWORK.—

"(1) IN GENERAL.—For purposes of this section, the term 'community health network' means a public or nonprofit entity meeting the following requirements:

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(A) The entity provides primary care services and acute care services, including health promotion, health maintenance, and disease prevention, either directly through its members or through contracts with other entities (under such limited circumstances as the Secretary may permit in regulations) in an area—

"(i) designated by the Secretary as a health professional shortage area under section 332(a)(1)(A); or

"(ii) with a significant number of individuals who are members of a medically underserved population designated by the Secretary under section 2752(b).

"(B) The entity consists of—

"(i) at least one hospital that

"(I) is a sole community hospital described in section 1886(d)(5)(D) of the Social Security Act;

"(II) is a rural referral center described in section 1886(d)(5)(C) of such Act; or

"(III) is described in section 1886(d)(5)(F) of such Act, or would be described in such section if the hospital were a subsection (d) hospital as defined in section 1886(d)(1)(B) of such Act;

"(ii) at least 3 primary care centers, as described in paragraph (2); and

"(iii) at the election of the entity's members, any other entities that provide primary care or other health care services.

"(C) The members of the entity have entered into an agreement under which—

"(i) each member agrees to provide appropriate emergency and medical support services to other members;

"(ii) each member agrees to accept referrals from other members;

"(iii) each hospital member has arrangements to provide staff privileges to physicians providing care for other members; and

"(iv) each member has in effect (or is in the process of establishing) agreements with other members to share in the member's communication system, including (where appropriate) the electronic sharing of patient data, medical records, and billing services.

"(2) PRIMARY CARE CENTERS.—For purposes of this section, the term primary care center' means—

"(A) a rural health clinic, as defined in section 1861(aa)(2) of the Social Security Act;

"(B) a Federally-qualified health center certified by the Secretary under section 1905(l)(2)(B) of such Act; or

"(C) a facility that would be a Federally-qualified health center but for its failure to meet the requirement described in section 2713(a)(1) (relating to the composition of the facility's governing board), but only if the facility provides assurances to the State or unit of local government that consumers have significant input into the governance of the facility.

"(3) RULE OF CONSTRUCTION REGARDING MEDICARE AMENDMENTS.—Except as otherwise provided in this section:

"(A) A reference in this section to title XVIII of the Social Security Act shall be considered to be a reference to such title as in effect on the day after the date of the enactment of the Guaranteed Health Insurance Act of 1994, without regard to any amendment subsequently made to such title XVIII.

"(B) For purposes of subparagraph (A), an amendment to such title XVIII that is made by the Guaranteed Health Insurance Act of 1994 as of the day referred to in such subparagraph applies to this section upon the amendment taking effect, without regard to whether the date on which the amendment takes effect is after the day referred to in such subparagraph.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $85,000,000 for each of the fiscal years 1995 through 1999.".

(b) RULE OF CONSTRUCTION.—For fiscal year 1995, references in section 2901 of the Public Health Service Act (as added by subsection (a) of this section) to section 2752(b) of such Act are deemed to be references to section 330(a) of such Act, and references to section 2713(a)(1) of such Act are deemed to be references to section 329(e)(2)(G)(i) of such Act, or section 330(e)(3)(G)(i) of such Act, as applicable to the entity involved.

SEC. 7303. EMERGENCY MEDICAL SERVICES IN RURAL AREAS.

(a) USE OF CERTAIN FORMULA GRANTS FOR TRAINING OF PERSONNEL.—Part B of title XII of the Public Health Service Act (42 U.S.C. 300d-11 et seq.) is amended—

(1) in section 1211(b), by inserting before the period the following: ", and for training personnel in accordance with section 1213(e)"; and

(2) in section 1213, by adding at the end the following subsection:

"(e) TRAINING OF PERSONNEL.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees that 25 percent of the payments will be expended to train personnel in the provision of trauma care.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1232(a) of the Public Health Service Act (42 U.S.C. 300d-32(a)) is amended—

(1) by striking "and such sums" and inserting ", such sums"; and

(2) by inserting before the period the following: ", and $100,000,000 for each of the fiscal years 1995 through 1997".

SEC. 7304. ALLIED HEALTH PROFESSIONS.

(a) CAPITAL COSTS.—Subpart II of part D of title VII of the Public Health Service Act (42 U.S.C. 294d et seq.) is amended by adding at the end the following section:

"SEC. 768. CAPITAL COSTS OF SCHOOLS OF ALLIED HEALTH IN INCREASING CAPACITY FOR TRAINING.

"(a) IN GENERAL.—The Secretary may make loans to, and guarantee the payment of principal and interest to Federal and non-Federal lenders on behalf of, schools of allied health for the capital costs of increasing the capacity of the schools to train students in the allied health professions.

"(b) PREFERENCES REGARDING UNDERSERVED AREAS.—In providing loans and guarantees under subsection (a), the Secretary shall give preference to qualified applicants that agree to make capital expenditures under subsection (a) that the Secretary determines will assist underserved rural and urban areas.

"(c) TERMS AND CONDITIONS.—The Secretary shall establish terms and conditions (and such other criteria as the Secretary considers necessary) regarding loans and loan guarantees under subsection (a), including provisions regarding defaults by borrowers and including such provisions as may be necessary to protect the financial interests of the United States. The Secretary may provide a loan or loan guarantee under subsection (a) only if the applicant involved agrees to comply with such terms and conditions (and other criteria).

"(d) TWENTY-YEAR OBLIGATION; RIGHT OF RECOVERY.—

"(1) IN GENERAL.—With respect to a facility for which a loan or loan guarantee is to be made under subsection (a), the Secretary may provide the loan or loan guarantee only if the applicant involved agrees that the applicant will be liable to the United States for the amount of the loan or loan guarantee, together with an amount representing interest, if at any time during the 20-year period beginning on the date of completion of the activities involved, the facility—

"(A) ceases to be a facility utilized for the purpose specified in subsection (a) (or another purpose approved by the Secretary for education and training in the health professions); or

"(B) is sold or transferred to any entity other than an entity that is—

"(i) qualified to carry out a purpose referred to in subparagraph (A); and

"(ii) approved by the Secretary as a purchaser or transferee regarding the facility.

"(2) SUBORDINATION; WAIVERS.—The Secretary may subordinate or waive the right of recovery under paragraph (1), and any other Federal interest that may be derived by virtue of a loan or loan guarantee under subsection (a), if the Secretary determines that subordination or waiver will further the objectives of this section.

"(e) WAIVER.—The Secretary may, under a waiver of the requirement under subsection (a) regarding status as a school of allied health, make not more than 1 grant under such subsection each fiscal year to a public or nonprofit private institution that does not meet each of the conditions described in section 799(4) if the entity operates a program that provides training in the allied health professions.

"(f) FUNDING.—

"(1) CREDIT AUTHORITY.—Credit authority for making loans and loan guarantees under subsection (a) for a fiscal year is available only to the extent of amounts provided in appropriations Acts.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1997.".

(b) PROJECT GRANTS AND CONTRACTS.—Section 767(d) of the Public Health Service Act (42 U.S.C. 294e(d)) is amended—

(1) by striking "there is" and inserting "there are"; and

(2) by striking "through 1995" and inserting the following: "and 1994, and $9,000,000 for each of the fiscal years 1995 through 1997".

SEC. 7305. COMMUNITY HEALTH ADVISORS.

Title XXIX of the Public Health Service Act, as added by section 7302 of this Act, is amended by adding at the end the following section.

"SEC. 2902. FORMULA GRANTS REGARDING COMMUNITY HEALTH ADVISOR PROGRAMS.

"(a) IN GENERAL.—

"(1) FORMULA GRANTS.—In the case of each State (or entity designated by a State under paragraph (4) that submits to the Secretary an application in accordance with subsection (d) for a fiscal year, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the heads of the agencies specified in paragraph (2), shall make an award of financial assistance to the State or entity for the development and operation of community health advisor programs under section subsection (b)(2). The award shall consist of the allotment determined under subsection (e) with respect to the State, subject to subsection (j).

"(2) COORDINATION WITH OTHER AGENCIES.—The agencies referred to in paragraph (1) regarding coordination are the Health Resources and Services Administration, the National Institutes of Health, the Substance Abuse and Mental Health Services Administration, the Agency for Health Care Policy and Research, and the Indian Health Service.

"(3) PRIORITY FOR MEDICALLY UNDERSERVED COMMUNITIES.—A funding agreement for an award under paragraph (1) is that the applicant involved will give priority to developing and operating community health advisor programs for medically underserved communities.

"(4) DESIGNATED ENTITIES.—With respect to the State involved, an entity other than the State may receive an award under paragraph (1) only if the entity—

"(A) is a public or nonprofit private entity; and

"(B) has been designated by the State to carry out the purpose described in such paragraph in the State and to receive amounts under such paragraph in lieu of the State.

"(5) ROLE OF STATE AGENCY FOR PUBLIC HEALTH.—A funding agreement for an award under subsection (a) is that—

"(A) if the applicant is a State, the award will be administered by the State agency with the principal responsibility for carrying out public health programs; and

"(B) if the applicant is an entity designated under paragraph (3), the award will be administered in consultation with such State agency.

"(5) STATEWIDE RESPONSIBILITIES; LIMITATION ON EXPENDITURES.—

"(A) A funding agreement for an award under paragraph (1) is that the applicant involved will—

"(i) operate a clearinghouse to maintain and disseminate information on community health advisor programs (and similar programs) in the State, including information on developing and operating such programs, on training individuals to participate in the programs, and on evaluation of the programs;

"(ii) provide to community health advisor programs in the State technical assistance in training community health advisors under subsection (c)(7)(A);

"(iii) coordinate the activities carried out in the State under the award, including coordination between the various community health advisor programs and coordination between such programs and related activities of the State and of other public or private entities.

"(B) A funding agreement for an award under paragraph (1) is that the applicant involved will not expend more than 15 percent of the award in the aggregate for carrying out subparagraph (A) and for the expenses of administering the award with respect to the State involved, including the process of receiving payments from the Secretary under the award, allocating the payments among the entities that are to develop and operate the community health advisor programs involved, and monitoring compliance with the funding agreements made under this section by the applicant.

"(b) REQUIREMENTS REGARDING COMMUNITY HEALTH ADVISOR PROGRAMS.

"(1) PURPOSE OF AWARD; HEALTHY PEOPLE 2000 OBJECTIVES.—

"(A) Subject to subparagraph (B), a funding agreement for an award under subsection (a) for an applicant is that the purpose of the award is, through community health advisor programs under paragraph (2), to assist the State involved in attaining the Healthy People 2000 Objectives (as defined in paragraph (4)).

"(B) With respect to compliance with the agreement made under subparagraph (A), an applicant receiving an award under subsection (a) may, from among the various Healthy People 2000 Objectives, select one or more Objectives to be given priority in the operation of a community health advisor program of the applicant, subject to the applicant selecting such priorities in consultation with the entity that is to carry out the program.

"(2) REQUIREMENTS FOR PROGRAMS.—A funding agreement for an award under subsection (a) for an applicant is that, in expending the award, the purpose described in subsection (a)(1) will be carried out in accordance with the following:

"(A) For each community for which the purpose is to be carried out, the applicant will establish a program in accordance with this subsection.

"(B) The program will be carried out in a community only if the applicant has, under subsection (c)(1), identified the community as having a significant need for the program.

"(C) The program will be operated by a public or nonprofit private entity with experience in providing health or health-related social services to individuals who are underserved with respect to such services.

"(D) The services of the program, as specified in paragraph (3), will be provided principally by community health advisors (as defined in paragraph (5)).

"(3) AUTHORIZED PROGRAM SERVICES.—For purposes of paragraph (2)(D), the services specified in this paragraph for a program are as follows:

"(A) The program will collaborate with health care providers and related entities in order to facilitate the provision of health services and health-related social services (including collaborating with local health departments, community health centers, migrant health centers, rural health clinics, hospitals, physicians and nurses, providers of health education, and providers of social services).

"(B) The program will provide public education on health promotion and disease prevention and facilitate the use of available health services and health-related social services.

"(C) The program will provide health-related counseling.

"(D) The program will provide referrals for available health services and health-related social services.

"(E) For the purpose of increasing the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs, the following conditions will be met:

"(i) The program will assist individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs.

"(ii) The program will provide such other services as the Secretary determines to be appropriate, which services may include (but are not limited to) transportation and translation services.

"(F) The program will provide outreach services to inform the community of the availability of the services of the program.

"(c) ADDITIONAL AGREEMENTS.—

"(1) IDENTIFICATION OF COMMUNITY NEEDS.—A funding agreement for an award under subsection (a) is that the applicant involved will—

"(A) identify the needs of the community involved for the authorized program services;

"(B) in identifying such needs, consult with members of the community, with individuals and programs that provide health services in the community, and with individuals and programs that provide health-related social services in the community; and

"(C) consider such needs in carrying out a community health advisor program for the community.

"(2) MATCHING FUNDS.—

"(A) IN GENERAL.—With respect to the cost of carrying out a community health advisor program, a funding agreement for an award under subsection (a) is that the applicant involved will make available (directly or through donations from public or private entities) non-Federal contributions toward such cost in an amount that is not less than 25 percent of such cost.

"(B) DETERMINATION OF AMOUNT CONTRIBUTED.—

"(i) Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(ii) With respect to the State in which the community health advisor program involved is to be carried out, amounts provided by the State in compliance with paragraph (3) shall be included in determining the amount of non-Federal contributions under subparagraph (A).

"(3) MAINTENANCE OF EFFORT.—

"(A) With respect to the purposes for which an award under subsection (a) is authorized in this section to be expended, the Secretary may make such an award only if the State involved agrees to maintain expenditures of non-Federal amounts for such purposes at a level that is not less than the level of such expenditures maintained by the State for the fiscal year preceding the first fiscal year for which such an award is made with respect to the State.

"(B)(i) In making an award under subsection (a) for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year, the State involved maintained material compliance with the agreement made under subparagraph (A). If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the grant under subsection (a) for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

"(ii) The Secretary may make a grant under subsection (a) for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in clause (i).

"(4) CULTURAL CONTEXT OF SERVICES.—A funding agreement for an award under subsection (a) for an applicant is that the services of the community health advisor program involved will be provided in the language and cultural context most appropriate for the individuals served by the program.

"(5) NUMBER OF PROGRAMS PER AWARD; PROGRAMS FOR URBAN AND RURAL AREAS.—A funding agreement for an award under subsection (a) for an applicant is that the number of community health advisor programs operated in the State with the award will be determined by the Secretary, except that (subject to subsection (a)(3)) such a program will be carried out in not less than one urban area of the State, and in not less than one rural area of the State.

"(6) ONGOING SUPERVISION OF ADVISORS.—A funding agreement for an award under subsection (a) is that the applicant involved will ensure that each community health advisor

VOL 140 PT 15 AG 10 — 11 1994 UMI

program operated with the award provides for the ongoing supervision of the community health advisors of the program.

"(7) CERTAIN EXPENDITURES.—

"(A) Funding agreements for an award under subsection (a) include the following:

"(i) The applicant involved will ensure that, for each community health advisor program operated with the award, a program is carried out to train community health advisors to provide the authorized program services, including practical experiences in providing services for health promotion and disease prevention.

"(ii) The program of training will provide for the continuing education of the community health advisors.

"(iii) Not more than 15 percent of the award will be expended for the program of training.

"(B) With respect to compliance with the agreements made under this section, the purposes for which an award under subsection (a) may be expended include providing compensation for the services of community health advisors.

"(8) REPORTS TO SECRETARY; ASSESSMENT OF EFFECTIVENESS.—Funding agreements for an award under subsection (a) for an applicant include the following:

"(A) The applicant will ensure that, for each fiscal year for which a community health advisor program receives amounts from the award, the program will prepare a report describing the activities of the program for such year, including—

"(i) a specification of the number of individuals served by the program;

"(ii) a specification of the entities with which the program has collaborated in carrying out the purpose described in subsection (a)(1); and

"(iii) an assessment of the extent of the effectiveness of the program in carrying out such purpose.

"(B) Such reports will include such additional information regarding the applicant and the programs as the Secretary may require.

"(C) The applicant will prepare the reports as a single document and will submit the document to the Secretary not later than February 1 of the fiscal year following the fiscal year for which the reports were prepared.

"(d) APPLICATION FOR ASSISTANCE; STATE PLAN.—For purposes of subsection (a), an application is in accordance with this section if the application is submitted not later than the date specified by the Secretary; the application contains each funding agreement described in this section; the application contains a State plan describing the purposes for which the award is to be expended in the State (including a description of the manner in which the applicant will comply with each such funding agreement); and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) DETERMINATION OF AMOUNT OF ALLOTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the allotment under this subsection with respect to a State for a fiscal year is the greater of—

"(A) the sum of the respective amounts determined for the State under paragraph (2) and paragraph (3); and

"(B) $500,000.

"(2) AMOUNT RELATING TO POPULATION.—For purposes of subsection (a), the amount determined under this paragraph is the product of—

"(A) an amount equal to 50 percent of the amount appropriated under subsection (j) for the fiscal year and available for awards under subsection (a); and

"(B) the percentage constituted by the ratio of—

"(i) the number of individuals residing in the State involved; to

"(ii) the sum of the respective amounts determined for each State under clause (i).

"(3) AMOUNT RELATING TO POVERTY LEVEL.—For purposes of subsection (a), the amount determined under this paragraph is the product of—

"(A) the amount determined under paragraph (2)(A); and

"(B) the percentage constituted by the ratio of—

"(i) the number of individuals residing in the State whose income is at or below an amount equal to 200 percent of the official poverty line; to

"(ii) the sum of the respective amounts determined for each State under clause (i).

"(f) QUALITY ASSURANCE; COST-EFFECTIVENESS.—The Secretary shall establish guidelines for assuring the quality of community health advisor programs (including quality in the training of community health advisors) and for assuring the cost-effectiveness of the programs. A funding agreement for an award under subsection (a) is that the applicant involved will carry out such programs in accordance with the guidelines.

"(g) EVALUATIONS; TECHNICAL ASSISTANCE.—

"(1) EVALUATIONS.—The Secretary shall conduct evaluations of community health advisor programs, and may disseminate information developed as a result of the evaluations. In conducting such evaluations, the Secretary shall determine whether the programs are in compliance with the guidelines established under subsection (f).

"(2) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to recipients of awards under subsection (a) with respect to the planning, development, and operation of community health advisor programs.

"(3) GRANTS AND CONTRACTS.—The Secretary may carry out this subsection directly or through grants, cooperative agreements, or contracts.

"(4) LIMITATION ON EXPENDITURES.—Of the amounts appropriated under subsection (j) for a fiscal year, the Secretary may reserve not more than 10 percent for carrying out this subsection.

"(h) RULE OF CONSTRUCTION REGARDING PROGRAMS OF INDIAN HEALTH SERVICE.—This section may not be construed as requiring the Secretary to modify or terminate the program carried out by the Director of the Indian Health Service and designated by such Director as the Community Health Representative Program. The Secretary shall ensure that support for such Program is not supplanted by awards under subsection (a). In communities in which both such Program and a community health advisor program are being carried out, the Secretary shall ensure that the community health advisor program works in cooperation with, and as a complement to, the Community Health Representative Program.

"(i) DEFINITIONS.—For purposes of this section:

"(1) The term "authorized program services", with respect to a community health advisor program, means the services specified in subsection (b)(3).

"(2) The term "community health advisor" means an individual—

"(A) who has demonstrated the capacity to carry out one or more of the authorized program services;

"(B) who, for not less than 1 year, has been a resident of the community in which the community health advisor program involved is to be operated; and

"(C) is a member of a socioeconomic group to be served by the program.

"(3) The term "community health advisor program" means a program carried out under subsection (b)(2).

"(4) The term "financial assistance", with respect to an award under subsection (a), means a grant, cooperative agreement, or a contract.

"(5) The term "funding agreement" means an agreement required as a condition of receiving an award under subsection (a).

"(6) The term "Healthy People 2000 Objectives" means the objectives established by the Secretary toward the goals of increasing the span of healthy life, reducing health disparities among various populations, and providing access to preventive services, which objectives apply to the health status of the population of the United States for the year 2000.

"(7) The term "medically underserved community" has the meaning given such term in section 799.

"(8) The term "official poverty line" means the official poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981, which poverty line is applicable to the size of the family involved.

"(9) The term "State involved", with respect to an applicant for an award under subsection (a), means the State in which the applicant is to carry out a community health advisor program.

"(j) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 2000.

"(2) EFFECT OF INSUFFICIENT APPROPRIATIONS FOR MINIMUM ALLOTMENTS.—

"(A) If the amounts made available under paragraph (1) for a fiscal year are insufficient for providing each State (or entity designated by the State pursuant to subsection (a), as the case may be) with an award under subsection (a) in an amount equal to or greater than the amount specified in subsection (e)(1)(B), the Secretary shall, from such amounts as are made available under paragraph (1), make such awards on a discretionary basis.

"(B) For purposes of subparagraph (A), awards under subsection (a) are made on a discretionary basis if the Secretary determines which States (or entities designated by States pursuant to such subsection, as the case may be) are to receive such awards, subject to meeting the requirements of this section for such an award, and the Secretary determines the amount of such awards.".

SEC. 7306. TRAINING OF HEALTH PROFESSIONALS FOR RURAL AREAS.

Section 778(f) of the Public Health Service Act (42 U.S.C. 294p(f)) is amended by striking "there is" and all that follows and inserting the following: "there is authorized to be appropriated $400,000,000 for each of the fiscal years 1995 through 2003.".

SEC. 7307. REGIONAL POISON CONTROL CENTERS.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended by adding at the end the following part:

"PART G—REGIONAL POISON CONTROL CENTERS

"SEC. 1271. GRANTS FOR REGIONAL CENTERS.

"(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for centers to carry out activities regarding—

"(1) the prevention and treatment of poisoning; and

"(2) such other activities regarding the control of poisons as the Secretary determines to be appropriate.

"(b) REGIONAL CONSIDERATIONS.—In making grants under subsection (a), the Secretary shall determine the need in each of the principal geographic regions of the United States for a center under such subsection, and shall make the grants according to priorities established by the Secretary on the basis of the extent of such need in each of the regions. In carrying out the preceding sentence, the Secretary shall ensure that no two centers receive grants for the same geographic service area.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs of an entity in providing for centers under subsection (a), the Secretary may make a grant under such subsection only if the State in which the center is to operate, or other public entities in the State, agree to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount determined by the Secretary.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"SEC. 1272. REQUIREMENTS REGARDING CERTIFICATION.

"(a) IN GENERAL.—Subject to subsection (b), the Secretary may make a grant under section 1271 only if the center involved has been certified by a professional organization in the field of poison control, and the Secretary has approved the organization as having in effect standards for certification that reasonably provide for the protection of the public health with respect to poisoning. In carrying out the preceding sentence, the Secretary shall consider the standards established by the American Association of Poison Control Centers.

"(b) TEMPORARY WAIVER.—The Secretary may waive the requirement of subsection (a) for a center for a period not exceeding 1 year.

"SEC. 1273. GENERAL PROVISIONS.

"(a) DURATION OF GRANT.—The period during which payments are made under a grant under section 1271 may not exceed 3 years. The provision of such payments is subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. The preceding sentence may not be construed as establishing a limitation on the number of such grants that may be made to an entity.

"(b) STUDY REGARDING NEED FOR CENTERS.—

"(1) IN GENERAL.—The Secretary shall conduct a study of each of the centers for which a grant under section 1271 has been provided. The purpose of the study shall be to determine the effectiveness of the centers in carrying out the activities described in such section and the extent to which the activities have been carried out in a cost-effective manner.

"(2) ALTERNATIVES TO CENTERS.—In carrying out the study under paragraph (1), the Secretary shall determine the extent to which the activities described in section 1271 can be effectively carried out through means other than centers under such section. The alternative means considered by the Secretary under the preceding sentence shall include the alternative of requiring public and private health plans to carry out such activities.

"(3) DATE CERTAIN FOR COMPLETION.—Not later than November 1, 1996, the Secretary shall submit to the Congress a report describing the findings made in the study under paragraph (1).

"(4) NOTICE TO CENTERS.—Not later than February 1, 1997, the Secretary shall notify each grantee under section 1271 whether the Secretary considers the continued operation of the center involved to be necessary in meeting the needs of the geographic region involved for the activities described in such section.

"SEC. 1274. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

"For the purpose of carrying out this part, there is authorized to be appropriated $50,000,000 for each of the fiscal years 1995 through 1997.".

SEC. 7308. COBRA CONTINUATION COVERAGE; TRANSITIONAL COVERAGE REQUIREMENT FOR GROUP HEALTH PLANS.

Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2) is amended by adding at the end the following new sentence: "In the case of an individual whose period of coverage under this paragraph would (but for this sentence) end after the date of the enactment of the Guaranteed Health Insurance Act of 1994 and before January 1, 1999, such period shall in no event terminate by reason of this paragraph before January 1, 1999.".

Subtitle E—Mental Health

SEC. 7401. STATE COMPREHENSIVE MANAGED MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAM.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following part:

"PART D—STATE COMPREHENSIVE MANAGED MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS

"SEC. 1981. AUTHORITY FOR ESTABLISHMENT OF PROGRAMS.

"(a) OPTIONAL ESTABLISHMENT OF PROGRAMS BY STATES.—

"(1) IN GENERAL.—A State with an application approved by the Secretary under subsection (b) may establish a comprehensive managed mental health and substance abuse program (in this section referred to as the 'Program') under which, during a year the Program is in effect—

"(A) the State shall provide (or arrange for the provision of) mental health and substance abuse services through the Program for qualified individuals residing in the State who choose to receive such services through the Program during such year; and

"(B) such individuals shall receive such services through the Program and not through a certified health plan, through the medicare program, or through medicare part C providing the guaranteed national benefit package.

"(2) PERMITTING OPERATION OF PROGRAM THROUGH PLANS.—A State may operate the Program by entering into agreements with certified health plans, the medicare program, or medicare part C, under which the State shall reimburse such plans or programs for providing services under the Program under this section to qualified individuals who are enrolled in such certified health plans or programs.

"(3) EFFECT ON OTHER MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—Nothing in this section shall be construed to affect the provision of services in a State that are not covered under the guaranteed national benefit package.

"(4) APPLICABILITY TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—

"(A) IN GENERAL.—An Indian tribe or tribal organization may establish a program under this section in the same manner and under the same terms and conditions as a State (other than the condition described in subsection (b)(8)).

"(B) DEFINITION.—In subparagraph (A), the terms 'Indian tribe' and 'tribal organization' have the meaning given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

"(b) ELIGIBILITY REQUIREMENTS FOR STATES.—A State is eligible to establish a Program under this section if the State submits an application to the Secretary (at such time and in such form as the Secretary may require) containing information and assurances that the State and the Program meets the following requirements:

"(1) COVERAGE OF SERVICES WITHOUT DAY LIMITS.—The Program provides for coverage of the mental health and substance abuse services described in the guaranteed national benefit package without the imposition of any limits applicable under the package on the number of days for which the services may be provided and (at the option of the State) at a lower coinsurance rate than the rate applicable under the package.

"(2) COVERAGE OF ALL QUALIFIED INDIVIDUALS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Program provides for coverage for all qualified individuals in the State (as described in subsection (c)) during the year.

"(B) INITIAL COVERAGE OF ONE GROUP OF QUALIFIED INDIVIDUALS ONLY.—During any of the first 3 years in which the Program is in operation, the Program may provide for coverage for only the group of qualified individuals described in paragraph (1) of subsection (c) or only the group of qualified individuals described in paragraph (2) of such subsection, except that the Program may not discontinue coverage of any group for which coverage is provided.

"(3) DEVELOPMENT OF INTEGRATED DELIVERY SYSTEMS.—The Program promotes the development of integrated delivery systems for the management of mental health and substance abuse services for individuals enrolled in the Program.

"(4) ACCESS TO PROVIDERS.—The State assures that individuals enrolled in the Program have access to the full range of qualified providers necessary to furnish services covered under the Program in accordance with such requirements as the State may impose, except that any individual or entity to whom payment may be made for the provision of mental health and substance abuse services under medicare part C shall be deemed to be a qualified provider under the Program.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(5) MECHANISM FOR ENROLLMENT OF ADULTS NOT MEETING INCOME ELIGIBILITY REQUIREMENT.—

"(A) OPTION DESCRIBED.—A State operating a Program may elect to permit certified health plans in the State, the medicare program, and medicare part C to enroll in the Program any individual covered under the certified health plan, the medicare program, or medicare part C who wishes to enroll in the Program and who would be a qualified individual described in subsection (c)(2) but for the individual's failure to meet the requirement described in subparagraph (E) of such subsection (relating to income).

"(B) REQUIRING ENROLLMENT AND BUY-IN MECHANISM.—If a State elects to permit plans or programs to enroll individuals in the Program under subparagraph (A), the State shall establish an effective mechanism to enroll such individuals and impose an appropriate premium with respect to such enrollment.

"(6) STANDARDS FOR PROVIDERS.—The State establishes and enforces standards for the eligibility of individuals and entities to furnish services under the Program.

"(7) SUBMISSION OF PLAN.—The State shall submit to the Secretary (and regularly update) a plan describing the operation of the Program, including information on the following:

"(A) The management, access and referral structure which the State would use to promote and achieve integration of the services the State intends to integrate under the Program.

"(B) The steps to be taken under the Program to ensure the integration of services under the Program with services of other agencies and providers that serve the needs of adults with serious mental illness or substance abuse, or children with serious emotional disturbance or substance abuse (including agencies and providers involved with child welfare, education, juvenile justice, corrections, vocational rehabilitation, crime prevention, health care, mental health, and substance abuse prevention and treatment).

"(C) The detailed specifications for the program which will assure that individuals enrolled in the Program have access to each service covered under the Program.

"(D) The criteria used by the State to determine whether an individual is a qualified individual under subsection (c).

"(E) The involvement of the families of individuals to whom services are provided under the Program (with the approval of the individual where possible) in the planning of treatment, the delivery of services, and the evaluation of these interventions.

"(F) In the case of substance abuse treatment services, the application of uniform patient placement criteria (as established by the Secretary in consultation with the States) for determining the placement of individuals enrolled in the Program in treatment programs.

"(G) The proposed system for the development and implementation of individualized treatment plans through multi-disciplinary or multi-agency teams.

"(H) The description of how the State will provide for public input in the development and ongoing assessment of the Program.

"(I) The description of the grievance procedure that will be available to eligible individuals dissatisfied with the Program.

"(J) The method and components of Program review, including assessments of clinical outcomes, residential stability, vocational and academic achievement, and management of costs.

"(K) The sources of any funds that the State proposes to integrate in order to finance the Program (including funds expended by or provided to the State under title IV of the Social Security Act, title XIX of such Act, and the Individuals With Disabilities Education Act, and State general revenue), except that nothing in this section may be construed to permit the State from reducing the level of financial assistance it provides under any other program as a result of receiving funds provided under this Act or amendments made by this Act for the operation of the Program.

"(L)(i) Assurances that, prior to implementing the Program, negotiations will be commenced with labor organizations representing the employees of any hospitals or other facilities that may be affected by the Program. Such negotiations shall address the following:

"(I) The impact of the proposed Program upon the workforce.

"(II) Methods to redeploy workers to positions in the Program or other private or public settings, in the case of workers affected by the proposed Program.

"(ii) Evidence of compliance with clause (i).

"(8) CONSULTATION WITH INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The State consults with Indian tribes and tribal organizations in the State regarding the establishment of the Program and the ability of individuals who receive services from the tribes and tribal organizations to enroll in the State Program.

"(c) QUALIFIED INDIVIDUALS DESCRIBED.—In this section, a 'qualified individual' is either of the following:

"(1) The individual—

"(A) is an eligible individual (as defined in section 2);

"(B) is under 19 years of age;

"(C) has a serious mental illness or emotional disturbance or substance abuse disorder (as determined in accordance with standards established by the Secretary consistent with subsection (d)); and

"(D) has such an illness, disturbance, or disorder that is expected to last for not less than 1 year.

"(2) The individual—

"(A) is an eligible individual;

"(B) is 19 years of age or older;

"(C) has a serious mental illness or emotional disturbance or substance abuse disorder (as determined in accordance with standards established by the Secretary consistent with subsection (d));

"(D) has such an illness, disturbance, or disorder that is expected to last for not less than 1 year; and

"(E) has family income not greater than 200 percent of the official poverty line.

"(d) CRITERIA FOR STANDARDS FOR QUALIFIED INDIVIDUALS.—In establishing standards for purposes of subsection (c), the Secretary shall assure that Programs under this section focus services on adults with serious mental illness, children with serious emotional disturbance, and individuals with substance abuse disorder, as evidenced by a need for multiple services (either a past history, or prediction of future needs), and who have a disorder which is expected to last at least one year.

"(e) DEFINITIONS.—

"(1) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—In this section, the term "mental health and substance abuse services" has the meaning given such term under section 1893(c) of the Social Security Act (as in effect on the date of the enactment of the Guaranteed Health Insurance Act of 1994).

"(2) OTHER DEFINITIONS.—In this section, the terms 'guaranteed national benefit package', 'medicare part C', 'medicare program', and 'certified health plan' have the meaning given such terms in the Guaranteed Health Insurance Act of 1994.

"SEC. 1982. GRANTS FOR DEVELOPMENT OF PROGRAMS.

"(a) IN GENERAL.—The Secretary may make grants to States for the initial operation of State programs under section 1981.

"(b) LIMITATION ON PERIOD OF GRANT.—A State may not receive funding from a grant awarded under this section for a period exceeding 5 years.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section $100,000,000 for each of the fiscal years 1996 through 1999.".

SEC. 7402. COMPREHENSIVE COMMUNITY MENTAL HEALTH SERVICES FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES.

Section 565(f)(1) of the Public Health Service Act (42 U.S.C. 290ff-4(f)(1)) is amended by striking "for fiscal year 1994" and inserting "for each of the fiscal years 1994 through 1997".

Subtitle F—United States-Mexico Border Health Commission

SEC. 7501. AGREEMENT TO ESTABLISH BINATIONAL COMMISSION.

The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

SEC. 7502. DUTIES.

It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico border area for the purposes of identifying, evaluating, preventing, and resolving health problems that affect the general population of the area;

(2) to implement the actions recommended by the needs assessment by—

(A) assisting in the coordination of the efforts of public and private entities to prevent and resolve such health problems; and

(B) assisting in the coordination of the efforts of public and private entities to educate such population concerning such health problems; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country would reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service.

SEC. 7503. OTHER AUTHORIZED FUNCTIONS.

In addition to the duties described in section 7502, the Commission should be authorized to perform the following additional functions as the Commission determines to be appropriate:

(1) To conduct or sponsor investigations, research, or studies designed to identify, study, and monitor health problems that affect the general population in the United States-Mexico border area.

(2) To provide financial, technical, or administrative assistance to public or private entities who act to prevent, resolve, or educate such population concerning such health problems.

SEC. 7504. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or such individual's delegate.

(2) The commissioners of health from the States of Texas, New Mexico, California, and Arizona or such individuals' delegates.

(3) 2 individuals from each of the States of Texas, New Mexico, California, and Arizona who are nominated by the chief executive officer of one of such States, and are appointed by the President from among individuals who have demonstrated ties to community-based organizations and have a demonstrated interest in health issues of the United States-Mexico border area.

(b) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

SEC. 7505. REGIONAL OFFICES.

The Commission should establish no fewer than 2 regional border offices in locations selected by the Commission.

SEC. 7506. REPORTS.

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

SEC. 7507. DEFINITIONS.

For purposes of this subtitle:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission authorized in section 7501.

(2) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air and water quality.

(3) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico border area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

Subtitle G—Comprehensive School Health Education

PART 1—GENERAL PROVISIONS

SEC. 7601. PURPOSES.

Subject to the subsequent provisions of this subtitle, the purposes of this subtitle are as follows:

(1) To support the provision in kindergarten through grade 12 of sequential, age-appropriate, comprehensive health education programs that address locally-determined priorities developed with the active participation of parents, families, community organizations, and other appropriate entities.

(2) To establish a national framework within which State educational agencies, educational service agencies, and local education agencies can create comprehensive school health education programs that—

(A) target the health risk behaviors accounting for the majority of the morbidity and mortality among youth and adults, including the following: Alcohol and other drug abuse; sexual behaviors resulting in infection with the human immunodeficiency virus, in other sexually transmitted diseases or in unintended pregnancy; child abuse and neglect; behaviors resulting in intentional and unintentional injuries; dietary patterns resulting in disease; work hazards associated with preventable diseases and injuries and sedentary lifestyles; and

(B) are integrated with plans and programs in the State, if any, under title III of the Goals 2000: Educate America Act or any other State education reform plan and those targeting health promotion and disease prevention goals related to the national health objectives set forth in Healthy People 2000.

(3) To pay the initial costs of developing statewide comprehensive school health education programs that will be implemented and maintained with local, State, and other Federal resources.

(4) To support Federal activities such as research and demonstrations, evaluations, and training and technical assistance regarding comprehensive school health education.

(5) To motivate youth, especially low-achieving youth, to stay in school, avoid teen pregnancy, and strive for success by providing intensive, high-quality comprehensive health education programs that include peer-teaching, family, and community involvement.

(6) To improve the knowledge and skills of children and youth by integrating academic and experiential learning in comprehensive health education with other elements of a comprehensive school health program.

(7) To further the National Education Goals set forth in title I of the Goals 2000: Educate America Act and the national health objectives set forth in Healthy People 2000.

SEC. 7602. DEFINITIONS.

(a) COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.—For purposes of this subtitle, the term "comprehensive school health education program" means a program that addresses locally determined priorities and is developed with the active involvement of parents, families, community organizations, and other appropriate entities, and that meets the following conditions:

(1) The program is sequential, and age and developmentally appropriate.

(2) The program is provided, in the area served by the program, every year for all students from kindergarten through grade 12.

(3) The program provides comprehensive health education, which covers a full range of topics relevant to human health, such as the following:

(A) Community health.

(B) Environmental health.

(C) Personal health (including physical fitness).

(D) Family life (including parenting and child development).

(E) Growth and development.

(F) Nutritional health.

(G) Emotional and mental health.

(H) Prevention and control of disease and disorders and such heath-risk behaviors as child abuse and neglect.

(I) Safety and prevention of injuries.

(J) Alcohol and drug abuse.

(K) Consumer health, including education to ensure that students understand the benefits and appropriate use of medical services, including immunizations and other clinical preventive services.

(4) The program is based upon current scientific knowledge of human health, fitness, and nutrition and does not provide medically false information.

(5) The program promotes personal responsibility for a healthy lifestyle and provides the knowledge and skills necessary to adopt a healthy lifestyle, including teaching the legal, social, mental, and health consequences of behaviors that pose health risks.

(6) To the extent practicable, the program is sensitive to cultural, gender, and ethnic issues in the content of instructional materials and approaches and addresses the needs of children with disabilities.

(7) The program includes activities that support instruction.

(8) The program includes activities to promote involvement by parents, families, community organizations, and other appropriate entities.

(9) The program is coordinated with other Federal, State, and local health education and prevention programs and with other Federal, State and local education programs, including those carried out under the Elementary and Secondary Education Act of 1965 (including the Drug-Free Schools and Communities Act of 1986) and the Individuals with Disabilities Education Act.

(10) The program focuses on the particular health concerns of the students, parents, and families in the State, school district, or school, as the case may be.

(11) The program utilizes existing professional resources and pupil services programs to prevent duplication and waste and to increase efficiency and coordination among education and prevention programs.

(b) OTHER DEFINITIONS.—For purposes of this subtitle:

(1) The term "educational service agency" means regional public multiservice agencies authorized by State statute to develop, manage, and provide services and programs to local educational agencies.

(2) The term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "Secretary" means the Secretary of Health and Human Services, except as otherwise provided.

(5) The term "State educational agency" has the meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965.

SEC. 7603. PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION.

Nothing in this subtitle shall be construed to authorized any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

SEC. 7604. PROHIBITION AGAINST DISTRIBUTION OF OBSCENE MATERIALS.

No entity receiving assistance under this subtitle may use such assistance to support the distribution of obscene materials to minors on school grounds.

PART 2—SCHOOL HEALTH EDUCATION; GENERAL PROVISIONS

SEC. 7611. AUTHORIZATIONS OF APPROPRIATIONS.

(a) FUNDING FOR SCHOOL HEALTH EDUCATION.—For the purpose of carrying out part 3, there are authorized to be appropriated $50,000,000 for fiscal year 1995, and

VOL 140 PT 15 AG 10 — 11 1994 UMI

such sums as may be necessary for each of the fiscal years 1996 through 2000.

(b) ALLOCATIONS.—Of the amounts appropriated under subsection (a) for a fiscal year—

(1) the Secretary may reserve not more than $5,000,000 to support national leadership activities, such as research and demonstration, evaluation, and training and technical assistance in comprehensive school health education; and

(2) the Secretary may reserve not more than 5 percent for administrative expenses regarding part 3.

(c) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

SEC. 7612. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) IN GENERAL.—

(1) WAIVERS.—Except as provided in subsection (c), upon the request of an entity receiving funds under part 3 and under a program specified in paragraph (2), the Secretary of Education, upon the request of the Secretary of Health and Human Services, may grant to the entity a waiver of any requirement of such program regarding the use of funds, or of the regulations issued for the program by the Secretary of Education, if the following conditions are met with respect to such program:

(A) The Secretaries determine that the requirement of such program impedes the ability of the State educational agency or other recipient to achieve more effectively the purposes of part 3.

(B) The Secretaries determine that, with respect to the use of funds under such program, the requested use of the funds by the entity would be consistent with the purposes of part 3.

(C) In the case of a request for a waiver submitted by a State educational agency, the State educational agency—

(i) provides all interested local educational agencies in the State with notice and an opportunity to comment on the proposal; and

(ii) submits the comments to the Secretary.

(D) In the case of a request for a waiver submitted by a local educational agency or other agency, institution, or organization that receives funds under part 3 from the State educational agency, such request has been reviewed by the State educational agency and is accompanied by the comments, if any, of such agency.

(2) RELEVANT PROGRAMS.—For purposes of paragraph (1), the programs specified in this paragraph are any program carried out under part B of the Drug-Free Schools and Communities Act of 1986.

(b) WAIVER PERIOD.—

(1) IN GENERAL.—A waiver under this section shall be for a period not to exceed three years.

(2) EXTENSIONS.—The Secretaries involved under subsection (a) may extend such period if the Secretaries determines that—

(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which it was requested and has contributed to improved performance; and

(B) such extension is in the public interest.

(c) WAIVERS NOT AUTHORIZED.—The Secretaries involved under subsection (a) may not waive, under this section, any statutory or regulatory requirement relating to—

(1) comparability of services;

(2) maintenance of effort;

(3) the equitable participation of students attending private schools;

(4) parental participation and involvement;

(5) the distribution of funds to States or to local educational agencies or other recipients of funds under the programs specified in subsection (a)(2);

(6) maintenance of records;

(7) applicable civil rights requirements; or

(8) the requirements of sections 444 and 445 of the General Education Provisions Act.

(d) TERMINATION OF WAIVER.—The Secretaries involved under subsection (a) shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if it is no longer necessary to achieve its original purposes.

PART 3—SCHOOL HEALTH EDUCATION; GRANTS TO STATE EDUCATION AGENCIES

SEC. 7621. APPLICATION FOR GRANT.

(a) IN GENERAL.—Any State educational agency that wishes to receive a grant under this part shall submit an application to the Secretary of Health and Human Services and the Secretary of Education, at such time and in such manner as the Secretaries may require.

(b) APPLICATION; DEVELOPMENT; CONTENTS.—An application under subsection (a) shall be developed by the State educational agency in consultation with the State health agencies of the State involved, and shall describe the following:

(1) The State's need for comprehensive school health education based on an assessment, using goals that are established by the Department of Health and Human Services and the Department of Education and that are integrated with the State's school improvement plan, if any, under title III of Goals 2000: Educate America Act or other State education reform plan.

(2) The State educational agency's goals and objectives for comprehensive school health education.

(3) How the State educational agency will collaborate with the State health agency in the planning and development of a comprehensive school health education and pupil services program in the State, including coordination of existing health education and pupil services programs and resources.

(4) A plan for evaluating the effectiveness of comprehensive school health education activities.

(5) How the State will allocate funds to local educational agencies in accordance with section 7625.

(6) How the State will coordinate programs under this part with other local, State and Federal health education and nutrition education programs.

(7) How comprehensive school health education programs will be coordinated and integrated with other local, State and Federal education programs, such as programs under the Elementary and Secondary Education Act of 1965 and the Individuals with Disabilities Education Act, with the State's school improvement plan, if any, under title III of the Goals 2000: Educate America Act, and with any similar programs.

(8) How the State will work with local education agencies, educational service agencies, and State and local health agencies to reduce barriers to implementing comprehensive school health education programs.

(9) How the State will monitor the implementation of such programs by local educational agencies.

(10) How the State will build capacity for professional development of school personnel.

(11) How the State will provide staff development (including curricula models and materials) and technical assistance to local educational agencies, including through the use of educational service agencies where such agencies exist.

(12) The respective roles of the State educational agency, local educational agencies, educational service agencies, the State health agency, and the local health agencies in developing and implementing such comprehensive school health education programs.

(13) How such school health education programs will be tailored, to the extent practicable, to be sensitive to gender, cultural, and linguistic differences and responsive to the various needs of the students served, including individuals with disabilities, and individuals from disadvantaged backgrounds (including racial and ethnic minorities).

(14) Such other information and assurances as the Secretary may reasonably require.

SEC. 7622. SELECTION OF GRANTEES.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall establish criteria for the competitive selection of grantees under this part.

(b) EQUITABLE DISTRIBUTION.—The Secretary shall seek to ensure that assistance under this part is equitably distributed among the geographic regions of the United States, including both urban and rural areas.

SEC. 7623. AMOUNT OF GRANT.

(a) IN GENERAL.—For any fiscal year, the minimum grant to any State under this part is an amount determined by the Secretary to be necessary to enable the State to carry out the activities under this part.

(b) CRITERIA.—In determining the amount of any such grant, the Secretary may consider such factors as the number of children enrolled in schools in the State, the number or percentage of school-aged children living in poverty in the State, and the scope and quality of the State's plan.

SEC. 7624. AUTHORIZED ACTIVITIES; LIMITATION ON ADMINISTRATIVE COSTS.

(a) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State that receives funds under this part for any fiscal year shall retain not more than 20 percent of those funds in the first year, and 10 percent of those funds in each succeeding year. Those funds not retained by the State shall be used to make grants to local educational agencies or educational service agencies in accordance with section 7625.

(b) STATE-LEVEL ACTIVITIES.—Each State shall use retained funds for any fiscal year for the following purposes:

(1) To conduct statewide or sub-State regional coordination and collaboration activities.

(2) To develop and provide technical assistance for the implementation of student learning objectives, instructional materials, and assessment instruments.

(3) To adapt, validate, or disseminate program models or strategies for comprehensive school health education.

(4) To build capacity to deliver staff development and technical assistance services to local educational agencies, and State and local health agencies.

(5) To promote program activities involving families and coordinating program activities with community groups and other public and private nonprofit agencies.

(6) To evaluate and report to the Secretary on the activities carried out with assistance under this part.

(7) To conduct such other activities to achieve the objectives of this part as the Secretary may by regulation authorize.

(c) STATE ADMINISTRATION.—Of the amounts received by a State for a fiscal year under this part and remaining after any grants to local educational agencies made from such amounts, the State may use up to 5 percent for the costs of administering such amounts, including monitoring the performance of local educational agencies.

SEC. 7625. SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) APPLICATION FOR GRANT.—Any local educational agency or educational service agency that wishes to receive a grant under this part shall submit an application to the State, containing such information and assurances as the State may require, including a description of the following:

(1) The local educational agency's goals and objectives for comprehensive school health education programs.

(2) How the local educational agency will concentrate funds in schools with the greatest need for comprehensive health education and provide sufficient funds to such schools to ensure the implementation of comprehensive programs.

(3) How the local educational agency will monitor the implementation of these programs.

(4) How the local educational agency will ensure that comprehensive school health education programs are tailored, to the extent practicable, to be sensitive to gender, cultural, and linguistic differences and responsive to the various needs of the students served, including individuals with disabilities, and individuals from disadvantaged backgrounds (including racial and ethnic minorities).

(5) How the local educational agency, in consultation with the local health agency, will evaluate and report on its progress toward attaining the goals and objectives described in paragraph (1).

(6) How the local educational agency, in consultation with the local health agency, will involve parents, teachers, school health and pupil services personnel, and other education and health professionals in the design, instructional content, development, and implementation of the program.

(b) SELECTION OF SUBGRANTEES.—

(1) IN GENERAL.—Each State shall give priority to applications from local educational agencies serving areas with high needs, as indicated by objective, needs-based criteria developed by the State, using readily available public health and other data, which shall include, but need not be limited to, high rates of any of the following:

(A) Poverty among school-aged youth.

(B) Birth to adolescents.

(C) Sexually transmitted diseases among school-aged youth.

(D) Drug and alcohol use among school-aged youth.

(E) Violence among school-aged youth.

(F) Poor daily school attendance.

(2) EQUITABLE DISTRIBUTION.—Each State shall ensure that assistance under this part is equitably distributed among the geographic regions of the State, including both urban and rural areas.

(c) AUTHORIZED ACTIVITIES.—Each local educational agency that receives a grant under this part shall use the grant funds to implement comprehensive school health education programs, as defined in section 7602.

SEC. 7701. OCCUPATIONAL INJURY AND ILLNESS PREVENTION.

(a) IN GENERAL.—The Secretary of Health and Human Services and the Secretary of Labor shall collaborate to develop and implement a comprehensive program to expand and coordinate initiatives to prevent occupational injuries and illnesses.

(b) SECRETARY OF LABOR.—The Secretary of Labor, after consultation with the Secretary of Health and Human Services, shall directly or by grants or contracts—

(1) provided for training and education programs for employees and employers in the recognition and control of workplace hazards and methods and measures to prevent occupational injuries and illnesses;

(2) develop model educational materials for training and educating employees and employers on the recognition and control of workplace hazards, including a core curriculum for general safety and health training and materials related to specific safety and health hazards; and

(3) provide programs and services for technical assistance to employers and employees on the recognition and control of workplace safety and health hazards including programs for onsite consultation.

Nothing in this Act shall be construed to require adoption or implementation by any employer of materials or curricula funded by the Secretary of Labor pursuant to paragraph (2). Technical assistance and consultative services under paragraph (3) shall be provided in a manner that is separate from the enforcement programs conducted by the Secretary of Labor.

(c) SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services, acting through the Director of the National Institute for Occupational Safety and Health and after consultation with the Secretary of Labor, shall directly or by grants or contracts—

(1) provide education programs for training occupational safety and health professionals including professionals in the fields of occupational medicine, occupational health nursing, industrial hygiene, safety engineering, toxicology, and epidemiology;

(2) provide education programs for other health professionals and health care providers and the public to improve the recognition, treatment, and prevention of occupationally related injuries and illnesses;

(3) conduct surveillance programs to identify patterns and to determine the prevalence of occupational illnesses, injuries and deaths related to exposure to particular safety and health hazards;

(4) conduct investigations and evaluations to determine if workplace exposures to toxic chemicals, harmful physical agents or potentially hazardous conditions pose a risk to exposed employees; and

(5) conduct research, demonstrations, and experiments relating to occupational safety and health to identify the causes of and major factors contributing to occupational illnesses and injuries.

In any case in which the Secretary of Health and Human Services conducts any activity under paragraph (3), (4), or (5) which includes a cohort study involving current or past employees of an employer, the Secretary shall provide prior notice to the employer and the employees (or employee representatives of the employees) in advance of the major steps of such activity, and shall provide the employer and the employees (or employee representatives) an opportunity to review the study and submit analysis or other comments prior to making the study publicly available.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there are authorized to be appropriated $150,000,000 for each of the fiscal years 1995 through 2000.

Subtitle I—Miscellaneous Provisions

SEC. 7801. IDENTIFYING STRATEGIES FOR ASSESSING IMPACT OF HEALTH CARE REFORM.

(a) IN GENERAL.—Within 90 days after the date of the enactment of this Act, the Secretary shall seek to enter into an agreement with the Institute of Medicine of the National Academy of Sciences (or another nonprofit, nongovernmental organization or consortium of institutions) to study and report on the impact of this Act at the national, regional, and State levels.

(b) PURPOSE.—The purpose of the study under this section is to develop a detailed framework, using a prospective, longitudinal study design, to assess the impact of this Act on national goals, such as the goals of assuring security of coverage, promoting simplicity of administration, achieving health care savings, encouraging individual responsibility, improving quality of care, promoting choice, and improving health status.

(c) REPORT.—The Secretary shall require the organization conducting the study under this section to submit to the Secretary and the Congress a report within 18 months after the date of the enactment of this Act. The report shall include recommendations regarding each of the following:

"(1) The appropriate indicators of national progress towards meeting the national goals referred to in subsection (b).

(2) The appropriate study designs that would assess the impact of this Act on these indicators and that could take into account different approaches to health care reform that may be used in different States and regions (or by different Federal agencies), as well as by foreign countries.

(3) The data elements and public and private sources of information for measuring such indicators, including—

(A) the special requirements or authorities needed to permit access to confidential data (and to assure continued confidentiality of such data) needed to measure such indicators;

(B) the methods for obtaining the elements that are not currently in use;

(C) approaches to establishing a core set of primary data as part of a national collection effort that could overlap with the evaluation of this Act; and

(D) the relationship between Federal, State, and local agencies in the gathering, reporting, and sharing of information on this Act and its assessment.

(4) The nature, scope, and frequency of reports that would best serve the Secretary and the Congress in the evaluation of this Act.

(5) The overall cost estimates associated with obtaining and evaluating information on the impact of this Act.

(6) The ways in which the findings contained in the report could be used by various groups, such as patients, providers, insurers, employers, taxpayers, and various government agencies.

SEC. 7802. STUDY OF WORKSITE WELLNESS PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services, after consultation with the Secretary of Labor, shall conduct a study evaluating the effectiveness of health promotion programs in the worksite and analyzing the feasibility and desirability of providing incentives (including health plan

VOL 140 PT 15 AG 10 — 11 1994 UMI

premium discounts) to encourage employers to adopt such programs. In conducting the study, the Secretary shall assess the effect of programs of various size, scope, and type on health status, medical risk factors, life style, disability, morbidity, mortality, and productivity.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subsection (a), and shall include in the report—

(1) information on the cost effectiveness, type, and amount of financial incentives (if any) provided under the programs studied; and

(2) such recommendations as the Secretary considers appropriate for providing incentives to encourage employers to adopt health promotion programs in the worksite.

TITLE VIII—MEDICARE AND MEDICAID

TABLE OF CONTENTS OF TITLE

TITLE VIII—MEDICARE AND MEDICAID

Sec. 8000. References in title.

Subtitle A—Medicare Part C Program

Sec. 8001. Establishment of medicare part C program.

"TITLE XXI—MEDICARE PART C

"Sec. 2100. Establishment of program.

"PART A—ELIGIBILITY AND ENROLLMENT

"Sec. 2101. Eligibility.

"Sec. 2102. Enrollment process.

"Sec. 2103. Facilitation of enrollment.

"Sec. 2104. Coverage period; termination of enrollment.

"PART B—BENEFITS AND PAYMENTS

"Sec. 2111. Coverage of benefits under guaranteed national benefit package.

"Sec. 2112. Payments for health insurance benefits.

"Sec. 2113. Adjustments to medicare rates and methodologies.

"Sec. 2114. Exclusions; coordination.

"PART C—PREMIUMS; MEDICARE PART C TRUST FUND

"Sec. 2121. Computation of applicable medicare part C premium.

"Sec. 2122. Medicare part C premium liability.

"Sec. 2123. Collection of premiums.

"Sec. 2124. Medicare part C trust fund.

"PART D—ADMINISTRATIVE PROVISIONS

"Sec. 2131. Agreements with hospitals; participating physicians; treatment of Indian Health Service facilities.

"Sec. 2132. Health maintenance organizations.

"Sec. 2133. Use of fiscal agents.

"Sec. 2134. Compliance with information standards; application of medicare quality assurance and survey and certification requirements.

"Sec. 2135. Program integrity.

"Sec. 2136. General administration; miscellaneous provisions.

"PART E—DEFINITIONS AND MISCELLANEOUS

"Sec. 2161. Definitions.

"Sec. 2162. References to medicare provisions.".

Sec. 8002. Conforming amendments.

Sec. 8003. Effective date.

Subtitle B—Benefits for Low-Income Individuals; State Maintenance of Effort

PART 1—BENEFITS FOR LOW-INCOME INDIVIDUALS

Sec. 8101. Establishment of benefits.

"TITLE XXII—ASSISTANCE FOR LOW-INCOME INDIVIDUALS

"Sec. 2200. Establishment of programs.

"PART A—PREMIUM CERTIFICATE PROGRAM

"Subpart 1—Certificates for Low-Income Individuals Covered Under Certified Health Plans

"Sec. 2201. Eligibility.

"Sec. 2202. Value of premium certificate.

"Sec. 2203. Administration of program.

"Subpart 2—Premium Assistance for Qualified Retirees

"Sec. 2211. Eligibility for premium certificate for certain retirees.

"Sec. 2212. Eligibility.

"Sec. 2213. Value of premium certificate.

"Sec. 2214. Administration of premium certificates for retirees.

"Subpart 3—Maintenance of Effort Offset for Retiree Premium Contributions

"Sec. 2221. Offset of premium obligations for retirees.

"Sec. 2222. Amount of offset.

"Sec. 2223. Procedures for obtaining offset.

"PART B—WRAP-AROUND BENEFITS FOR LOW-INCOME INDIVIDUALS

"Sec. 2231. Eligibility.

"Sec. 2232. Wrap-around benefits.

"Sec. 2233. Application for benefits.

"Sec. 2234. References to medicare provisions.

"PART C—PAYMENT OF MEDICARE COST-SHARING FOR CERTAIN LOW-INCOME INDIVIDUALS

"Sec. 2241. Payment of cost-sharing for certain individuals.

"Sec. 2242. Medicare cost-sharing defined.

"Sec. 2243. Individuals defined.

"Sec. 2244. Timing.

"PART D—ADMINISTRATIVE PROVISIONS

"Sec. 2251. Determination of eligibility; appeals.

"Sec. 2252. Verification of eligibility.

"Sec. 2253. Penalties for misrepresentation.".

Sec. 8102. Effective dates.

PART 2—STATE MAINTENANCE OF EFFORT

SUBPART A—PAYMENTS FOR CASH ASSISTANCE RECIPIENTS

Sec. 8111. State responsibility for payments.

Sec. 8112. Determination of AFDC per capita amounts for States.

Sec. 8113. Determination of SSI per capita amount for States.

Sec. 8114. Determination of number of AFDC and SSI recipients.

SUBPART B—PAYMENTS FOR NON-CASH ASSISTANCE RECIPIENTS

Sec. 8121. State responsibility for payments.

Sec. 8122. Determination of baseline amounts.

Sec. 8123. Updating of baseline amount.

SUBPART C—GENERAL AND MISCELLANEOUS PROVISIONS

Sec. 8131. Timing and manner of payments.

Sec. 8132. Special rules for Puerto Rico and other territories.

Sec. 8133. Sanctions for failure to make timely payments.

Sec. 8134. State maintenance of effort percentage.

PART 3—ANALYSIS OF IMPACT OF ACT ON FEDERAL EXPENDITURES AND STATES

Sec. 8141. Impact of health care reform on Federal budget.

Sec. 8142. Impact of health care reform on States.

TABLE OF CONTENTS OF SUBTITLE

Subtitle C—Cost Containment in the Medicare Programs

PART 1—MEDICARE HEALTH EXPENDITURE ESTIMATES

Sec. 8201. National medicare per capita health expenditure estimate.

Sec. 8202. Classes of health care services.

Sec. 8203. Allocation of per capita estimates by class of service for medicare A/B.

Sec. 8204. Allocation of per capita estimates by class of service for medicare C.

Sec. 8205. Combined medicare per capita allocations for classes of services.

Sec. 8206. Computation of medicare annual combined rate of increase for classes of services; application to medicare payment rates.

Sec. 8207. National health expenditures reporting system.

PART 2—STATE HEALTH EXPENDITURE ESTIMATES

Sec. 8211. State medicare per capita health expenditure estimate.

PART 3—ADMINISTRATIVE AND JUDICIAL REVIEW

Sec. 8221. Limitation on administrative and judicial review.

Subtitle D—Revisions to Medicare Part A and Part B

PART 1—ADDITIONAL MEDICARE SAVINGS

Sec. 8301. Reduction in payments for indirect costs of medical education.

Sec. 8302. Reductions in disproportionate share adjustments.

Sec. 8303. Reductions in payments for capital-related costs of inpatient hospital services for PPS hospitals.

Sec. 8304. Limitations on payment for physicians' services furnished by high-cost hospital medical staffs.

Sec. 8305. Medicare secondary payer.

Sec. 8306. Imposition of 20 percent coinsurance on home health services under medicare.

Sec. 8307. Home health cost limits.

PART 2—PROVISIONS RELATING TO PAYMENTS FOR MEDICAL EDUCATION

Sec. 8311. Limiting medicare medical education payments to approved residency positions.

Sec. 8312. Determination of number of full-time equivalent residents.

Sec. 8313. Payments for hospitals losing specialty positions.

Sec. 8314. Medicare demonstration regarding consortia of hospitals.

Sec. 8315. Study of payments for medical education at sites other than hospitals.

PART 3—ASSISTANCE FOR PROVIDERS SERVING LOW-INCOME AND UNDERSERVED POPULATIONS

Sec. 8321. Increase in payments for federally qualified health centers.

Sec. 8322. Changes in underserved area bonus payments.

Sec. 8323. Essential access community hospitals.

Sec. 8324. Medicare telemedicine pilot projects.

Sec. 8325. Treatment of other indian facilities as indian health service facilities.

PART 4—APPLICATION OF QUALITY MANAGEMENT AND ADMINISTRATIVE REFORM UNDER GUARANTEED HEALTH INSURANCE ACT OF 1994

Sec. 8331. Integration of medicare into national quality management program.

Sec. 8332. Coordination of medicare cards with health security cards.

Sec. 8333. Elimination of medicare and medicaid coverage data bank.

Sec. 8334. Requirement for uniform hospital cost reporting.

Sec. 8335. Application of health information and information transaction requirements to fiscal intermediaries and carriers.

Sec. 8336. Application of restrictions on disclosure and use of health information.

PART 5—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS

Sec. 8341. Anti-kickback statutory provisions.

Sec. 8342. Civil money penalties.

Sec. 8343. Amendments to exclusionary provisions in fraud and abuse program.

Sec. 8344. Sanctions against practitioners and persons for failure to comply with statutory obligations relating to quality of care.

Sec. 8345. Revisions to criminal penalties.

Sec. 8346. Effective date.

PART 6—REVISIONS TO LIMITATIONS ON PHYSICIAN SELF-REFERRALS

Sec. 8351. Application of ban on self-referrals to claims submitted by physicians.

Sec. 8352. Expansion of self-referral ban to additional services.

Sec. 8353. Exceptions for both ownership and compensation arrangements.

Sec. 8354. Exceptions related only to ownership or investment.

Sec. 8355. Repeal of exception for remuneration unrelated to provision of designated health services.

Sec. 8356. Referring physicians.

Sec. 8357. Miscellaneous and technical provisions.

Sec. 8358. Effective date.

PART 7—OTHER MEDICARE PROVISIONS

Sec. 8361. Treatment of beneficiaries residing in States with approved single-payer systems.

Sec. 8362. Development and implementation of prospective payment methodologies.

Sec. 8363. Medicare supplemental insurance policy amendments.

Sec. 8364. Requiring hospitals to participate in medicare part C.

Sec. 8365. Conforming amendments relating to program of cost-sharing for qualified medicare beneficiaries.

Sec. 8366. Adjusting capital payments for amounts received under capital financing assistance program.

Sec. 8367. Study of physician supervision of nurse anesthetist services.

PART 8—EXPANSION OF FRAIL ELDERLY DEMONSTRATIONS

Sec. 8371. Expansion of number of sites for demonstration program of all-inclusive care for the elderly (PACE).

Subtitle E—Minor and Technical Medicare Amendments

PART 1—PROVISIONS RELATING TO PART A

Sec. 8401. Provisions relating to adjustments to standardized amounts for wages and wage-related costs.

Sec. 8402. Provisions relating to rural health transition grant program.

Sec. 8403. Psychology services in hospitals.

Sec. 8404. Skilled nursing facilities.

Sec. 8405. Notification of availability of hospice benefit.

Sec. 8406. Clarifying expertise of individuals to serve on the prospective payment assessment commission.

Sec. 8407. Authority for budget neutral adjustments for changes in payment amounts for transfer cases.

Sec. 8408. Hemophilia pass-through extension.

Sec. 8409. Sub-acute care services demonstration project.

Sec. 8410. Clarification of DRG payment window expansion; miscellaneous and technical corrections.

PART 2—PROVISIONS RELATING TO PART B

SUBPART A—PHYSICIANS' SERVICES

Sec. 8411. Development and implementation of resource-based methodology for practice expenses.

Sec. 8412. Geographic cost of practice index refinements.

Sec. 8413. Extra-billing limits.

Sec. 8414. Relative values for pediatric services.

Sec. 8415. Administration of claims relating to physicians' services.

Sec. 8416. Miscellaneous and technical corrections.

SUBPART B—DURABLE MEDICAL EQUIPMENT

Sec. 8421. Certification of suppliers.

Sec. 8422. Restrictions on certain marketing and sales activities.

Sec. 8423. Beneficiary liability for noncovered services.

Sec. 8424. Adjustments for inherent reasonableness.

Sec. 8425. Miscellaneous and technical corrections.

SUBPART C—OTHER ITEMS AND SERVICES

Sec. 8431. Ambulatory surgical center services.

Sec. 8432. Study of medicare coverage of patient care costs associated with clinical trials of new cancer therapies.

Sec. 8433. Study of annual cap on amount of medicare payment for outpatient physical therapy and occupational therapy services.

Sec. 8434. Payment of part B premium late enrollment penalties by States.

Sec. 8435. Treatment of inpatients and provision of diagnostic X-ray services by rural health clinics and federally qualified health centers.

Sec. 8436. Application of mammography certification requirements.

Sec. 8437. Coverage of services of speech-language pathologists and audiologists.

Sec. 8438. Miscellaneous and technical corrections.

PART 3—PROVISIONS RELATING TO PARTS A AND B

SUBPART A—MEDICARE SECONDARY PAYER

Sec. 8441. Medicare secondary payer reforms.

SUBPART B—OTHER ITEMS AND SERVICES RELATING TO PARTS A AND B

Sec. 8451. Definition of FMGEMS examination for payment of direct graduate medical education.

Sec. 8452. Qualified medicare beneficiary outreach.

Sec. 8453. Hospital agreements with organ procurement organizations.

Sec. 8454. Peer review organizations.

Sec. 8455. Health maintenance organizations.

Sec. 8456. Home health agencies.

Sec. 8457. Permanent extension of authority to contract with fiscal intermediaries and carriers on other than a cost basis.

Sec. 8458. Transportation demonstration project.

Sec. 8459. Diabetes treatment demonstration project.

Sec. 8460. Expansion of number of sites for demonstration program of all-inclusive care for the elderly (PACE).

Sec. 8460A. Miscellaneous and technical corrections.

PART 4—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES

Sec. 8461. Standards for medicare supplemental insurance policies.

Subtitle F—Provisions Relating to the Medicaid Program

PART 1—CONFORMING MEDICAID TO GUARANTEED HEALTH INSURANCE ACT OF 1994

Sec. 8501. Conforming medicaid amendments relating to guaranteed national benefit package.

Sec. 8502. Enforcement of maintenance-of-effort requirements through medicaid.

Sec. 8503. Conforming medicaid amendments relating to quality and consumer protection.

Sec. 8504. Conforming amendments relating to cost-sharing for qualified medicare beneficiaries.

Sec. 8505. Treatment of certain facilities as federally qualified health centers.

Sec. 8506. Waivers facilitating State health security programs.

Sec. 8507. Conforming requirements for rebate agreements for covered outpatient drugs.

Sec. 8508. Construction of Guaranteed Health Insurance Act of 1994 references.

PART 2—LONG-TERM CARE

Sec. 8511. Coordination of optional home and community based services under medicaid with long-term care under Guaranteed Health Insurance Act of 1994.

Sec. 8512. Nursing home pass-through.

Sec. 8513. Continuation of Texas frail elderly demonstration.

PART 3—HEALTH MAINTENANCE ORGANIZATIONS

Sec. 8521. Permitting Garden State Health Plan to participate in managed care waiver.

Sec. 8522. Extension of period of applicability of enrollment mix requirement to Dayton Area Health Plan.

Sec. 8523. Clarification of applicability of restrictions on Federal financial participation.

PART 4—VACCINES FOR CHILDREN

Sec. 8531. State mandate for insurers to offer coverage of immunizations and well-child services.

Sec. 8532. Limitation on State ability to purchase vaccines at Federal price.

PART 5—TREATMENT OF INDIANS AND INDIAN HEALTH SERVICE PROVIDERS

Sec. 8541. Nondiscrimination in participation providers.

VOL
140
PT
15
AG
10
—
11
1994
UMI

Sec. 8542. Requiring individuals subject to waivers to have option to enroll in Indian Health Service plans.
Sec. 8543. Treatment of outpatient facilities as federally qualified health centers.

PART 6—EFFECTIVE DATE OF AMENDMENTS

Sec. 8551. Amendments effective without regard to issuance of regulations.

Subtitle G—Miscellaneous and Technical Medicaid Amendments

PART 1—SUBSTANTIVE PROVISIONS

SUBPART A—MANAGED CARE PROVISIONS

Sec. 8601. Medicaid managed care antifraud provisions.
Sec. 8602. Extension of medicaid waiver for Tennessee Primary Care Network.
Sec. 8603. Waiver of application of medicaid enrollment mix requirement to District of Columbia Chartered Health Plan, Inc.
Sec. 8604. Waiver of application of medicaid enrollment mix requirement to Managed Health Services Insurance Corporation of Milwaukee, Wisconsin.
Sec. 8605. Extension of Minnesota prepaid medicaid demonstration project.

SUBPART B—HOME AND COMMUNITY-BASED SERVICES WAIVER PROVISIONS

Sec. 8611. Elimination of requirement of prior institutionalization with respect to habilitation services furnished under a waiver for home or community-based services.
Sec. 8612. Relief from third party liability requirements when cost-effective.
Sec. 8613. State expenditures for medical assistance with respect to home and community-based services provided under a waiver.

SUBPART C—OTHER PROVISIONS

Sec. 8621. Presumptive eligibility for pregnant women.
Sec. 8622. Criteria for determining the amount of disallowances.
Sec. 8623. Intermediate sanctions for kickback violations.
Sec. 8624. Technical amendment related to taxes on certain health care items and services.
Sec. 8625. Application of mammography certification requirements under the medicaid program.
Sec. 8626. Nursing home reform.
Sec. 8627. Increase in authorization of appropriations for the maternal and child health services block grant program.

PART 2—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING TO OBRA-1990

Sec. 8641. Effective date.
Sec. 8642. Corrections relating to section 4401 (drug rebate program).
Sec. 8643. Corrections relating to section 4402 (enrollment under group health plans).
Sec. 8644. Corrections relating to section 4501 (low-income medicare beneficiaries).
Sec. 8645. Corrections relating to section 4601 (child health).
Sec. 8646. Corrections relating to section 4602 (outreach locations).
Sec. 8647. Corrections relating to section 4604 (payment for hospital services for children under 6 years of age).
Sec. 8648. Corrections relating to section 4703 (payment adjustments for disproportionate share hospitals).
Sec. 8649. Corrections relating to section 4704 (federally-qualified health centers).
Sec. 8650. Corrections relating to section 4708 (substitute physicians).
Sec. 8651. Corrections relating to section 4711 (home and community care for frail elderly).
Sec. 8652. Corrections relating to section 4712 (community supported living arrangements).
Sec. 8653. Correction relating to section 4713 (cobra continuation coverage).
Sec. 8654. Correction relating to section 4716 (medicaid transition for family assistance).
Sec. 8655. Corrections relating to section 4718 (medically needy income levels for certain 1-member families).
Sec. 8656. Corrections relating to section 4723 (medicaid spend-down option).
Sec. 8657. Corrections relating to section 4724 (optional State disability determinations).
Sec. 8658. Correction relating to section 4732 (special rules for health maintenance organizations).
Sec. 8659. Corrections relating to section 4747 (coverage of HIV-positive individuals).
Sec. 8660. Correction relating to section 4751 (advanced directives).
Sec. 8661. Corrections relating to section 4752 (physicians' services).
Sec. 8662. Corrections relating to section 4801 (nursing home reform).
Sec. 8663. Other technical corrections.

PART 3—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING TO OBRA-1993

Sec. 8671. Effective date.
Sec. 8672. Corrections relating to section 13601 (personal care services).
Sec. 8673. Corrections relating to section 13604 (emergency services for aliens).
Sec. 8674. Corrections relating to section 13611 (transfers of assets; treatment of certain trusts).
Sec. 8675. Corrections relating to section 13612 (medicaid estate recoveries).
Sec. 8676. Corrections relating to section 13622 (liability of third parties to pay for care and services).
Sec. 8677. Corrections relating to section 13623 (medical child support).
Sec. 8678. Corrections relating to section 13624 (physician referrals).
Sec. 8679. Corrections relating to section 13631 (medicaid pediatric immunization provisions).
Sec. 8680. Corrections relating to section 13643 (demonstration projects).

Subtitle H—Provision Relating to AFDC Program

Sec. 8701. Enforcement of maintenance-of-effort requirements through AFDC.

SEC. 8000. REFERENCES IN TITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

Subtitle A—Medicare Part C Program

SEC. 8001. ESTABLISHMENT OF MEDICARE PART C PROGRAM.

The Social Security Act is amended by adding after title XX the following new title:

"TITLE XXI—MEDICARE PART C

"SEC. 2100. ESTABLISHMENT OF PROGRAM.

"Not later than January 1, 1999, the Secretary shall establish and operate a Medicare Part C Program under this title to provide coverage for the guaranteed national benefit package for eligible individuals.

"PART A—ELIGIBILITY AND ENROLLMENT

"SEC. 2101. ELIGIBILITY.

"(a) ELIGIBILITY TO ENROLL FOR HEALTH INSURANCE BENEFITS.—Each medicare part C eligible individual (as defined in subsection (b)) is eligible to enroll in the program under this title.

"(b) MEDICARE PART C ELIGIBLE INDIVIDUAL DEFINED.—In this title, subject to subsection (c), the term 'medicare part C eligible individual' means any eligible individual (as defined in section 1001(c) of the Guaranteed Health Insurance Act of 1994) who meets any of the following requirements:

"(1) CERTAIN PART-TIME, TEMPORARY, AND SEASONAL EMPLOYEES.—The individual is an employee described in section 1102(c) of the Guaranteed Health Insurance Act of 1994 or a member of the family of such an individual (as defined in section 3 of such Act).

"(2) FULL-TIME EMPLOYEES OF SMALL EMPLOYERS.—The individual is a full-time employee (as defined in section 1106(a) of the Guaranteed Health Insurance Act of 1994) of an employer that is not a large employer (as defined in section 1106(b) of such Act) and the employee is not a qualified employer-covered employee of the employer (as defined in section 1104 of such Act), or a member of the family of such an individual (as defined in section 3 of such Act).

"(3) NON-WORKERS.—The individual is not an employee, or is a member of the family of an individual who is not an employee.

"(4) AFDC AND SSI RECIPIENTS.—The individual is an AFDC or SSI recipient.

"(5) EMPLOYED INDIVIDUALS WITH INCOME BELOW SPECIFIED PERCENTAGE OF INCOME THRESHOLD.—

"(A) IN GENERAL.—The individual—

"(i) is an employee of a small employer (as defined in section 1106(b) of the Guaranteed Health Insurance Act of 1994), and

"(ii) is determined, under part D of title XXII in the manner described in section 2251, to have projected modified adjusted gross income that is less than the applicable percentage (specified in subparagraph (B)) of the threshold amount (as defined in section 2122(c)(3)) applicable to the taxpayer involved.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the 'applicable percentage', for taxable years ending with or within—

"(i) 1999, 2000, or 2001, is 200 percent,

"(ii) 2002 or 2003, is 220 percent, and

"(iii) a year thereafter, is 240 percent.

"(c) INELIGIBLE INDIVIDUAL.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—The term 'medicare part C eligible individual' does not include an eligible individual (as defined in section 1001 of the Guaranteed Health Insurance Act of 1994)—

"(i) who is covered under a certified health plan,

"(ii) subject to paragraph (2), who is entitled to benefits under part A of title XVIII,

"(iii) whose principal place of abode is in Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands, unless (and only so long as) such possession meets the requirements of paragraph (3)(A), or

"(iv) who is covered under a State single-payer system or a State managed competition program under subtitle A or B of title IV of the Guaranteed Health Insurance Act of 1994.

"(B) CONSTRUCTION.—Nothing in subparagraph (A)(i) shall prevent an individual described in such subparagraph from disenrolling from a plan in order to become a medicare part C eligible individual.

"(2) EXCEPTION FOR MEDICARE SECONDARY PAYER SITUATIONS.—Paragraph (1)(A)(ii) shall not apply to an individual to whom section 1862(b)(2) applies, if the program under this title would otherwise constitute the primary plan (as defined in section 1862(b)(2)(A)).

"(3) RULES RELATING TO POSSESSIONS.—

"(A) REQUIREMENTS.—The requirements of this subparagraph with respect to a possession are that an agreement is in effect between the United States and such possession pursuant to which—

"(i) the laws of such possession impose a qualified medicare part C premium individual share tax (as defined in subparagraph (B));

"(ii) nothing in any provision of law, including the law of such possession, permits such possession to reduce or remit in any way, directly or indirectly, any liability to such possession by reason of such individual share tax;

"(iii) any amount received in the Treasury of such possession by reason of such individual share tax shall be paid (at such time and in such manner as the Secretary of the Treasury shall prescribe) to the Treasury of the United States for credit to the Medicare Part C Trust Fund;

"(iv) such individual share tax is coordinated with the tax imposed by section 59B of the Internal Revenue Code of 1986 such that, for any period, an individual would be required to pay (in the aggregate under both such taxes) not more than the appropriate applicable medicare part C premium for such period; and

"(v) the possession complies with such other requirements as may be prescribed by the Secretary and the Secretary of the Treasury to carry out the purposes of this paragraph, including requirements prescribing the information individuals to whom such individual share tax may apply shall furnish to the Secretary and the Secretary of the Treasury.

"(B) QUALIFIED MEDICARE PART C PREMIUM INDIVIDUAL SHARE TAX.—In subparagraph (A), the term 'qualified medicare part C premium individual share tax' means a tax imposed and collected by such a possession that is—

"(i) equivalent to the tax imposed under section 59B of the Internal Revenue Code of 1986 (and any tax subsequently enacted for the purpose of collecting the individual share of premiums for benefits under this title); and

"(ii) imposed on all individuals who are medicare part C eligible individuals (as determined without regard to paragraph (1)(A)(iii)) and who are bona fide residents of the possession, to the extent such individuals have not paid the tax imposed under such section 59B to the United States by reason of subsection (f)(4) of such section or otherwise paid the qualified medicare part C premium individual share tax imposed by another possession under this paragraph.

"SEC. 2102. ENROLLMENT PROCESS.

"(a) IN GENERAL.—The Secretary, through the Health Care Financing Administration, the Social Security Administration, and other appropriate agencies, shall establish a process in coordination with section 2184 for—

"(1) determining whether individuals are medicare part C eligible individuals,

"(2) enrolling medicare part C eligible individuals under this title if they seek such enrollment or are otherwise required to be enrolled or covered under this title, and

"(3) enrolling medicare part C eligible individuals described in section 2101(b)(2) whose employers do not enroll such individuals in a certified health plan.

"(b) PERIOD OF CONTINUOUS OPEN ENROLLMENT.—Any medicare part C eligible individual may enroll under this title at any time beginning July 1, 1998.

"(c) APPLICATION PROCESS.—

"(1) IN GENERAL.—The filing of an application for enrollment under this title shall (except as the Secretary may provide) constitute enrollment under this title. Such an application may be filed with the Secretary by mail or at such locations as the Secretary may specify.

"(2) AVAILABILITY OF APPLICATIONS.—The Secretary shall make applications for enrollment under this title available—

"(A) at local offices of the Social Security Administration,

"(B) at out-reach sites (such as provider and practitioner locations described in section 2103(c)), and

"(C) at other locations (including post offices) accessible to a broad cross-section of medicare part C eligible individuals.

"(3) COORDINATION WITH APPLICATION FOR PREMIUM SUBSIDIES AND WRAP-AROUND BENEFITS.—An application for enrollment under this title may (but need not) be accompanied by an application for wrap-around benefits under part B of title XXII.

"(c) CERTAIN INDIVIDUALS DEEMED ENROLLED.—Consistent with standards established under section 5501 of the Guaranteed Health Insurance Act of 1994—

"(1) TERMINATION OF ENROLLMENT UNDER CERTIFIED HEALTH PLAN.—The Secretary shall provide a process under which an eligible individual whose coverage under a certified health plan is terminated and who fails to establish continuous coverage under another certified health plan or the medicare program shall be deemed to be enrolled under this title as of the date of termination of such coverage.

"(2) COVERAGE AT BIRTH.—The Secretary shall provide that in the case of an individual born in the United States and who is not enrolled or otherwise covered under a certified health plan at the time of birth, the individual shall be deemed to have been enrolled under this title at the time of birth.

"(d) ISSUANCE OF HEALTH SECURITY CARD.—At the time an individual enrolls in the program under this title, the Secretary shall issue a health security card to the individual in accordance with the standards applicable to the issuance of such cards under subtitle B of title IX of the Guaranteed Health Insurance Act of 1994.

"SEC. 2103. FACILITATION OF ENROLLMENT.

"(a) IN GENERAL.—The Secretary shall establish procedures that facilitate enrollment under this title.

"(b) COORDINATION.—The Secretary shall coordinate with existing programs and agencies to streamline the enrollment process.

"(c) USE OF CERTAIN PROVIDERS.—

"(1) IN GENERAL.—In accordance with regulations promulgated by the Secretary, hospitals, rural primary care hospitals, federally qualified health centers, rural health clinics, and any essential community provider (as described in section 5012(c) of the Guaranteed Health Insurance Act of 1994) receiving Federal funds, shall—

"(A) assist in enrolling under this title individuals who (i) appear to be medicare part C eligible individuals, (ii) are provided services covered under the guaranteed national benefit package, and (iii) do not present a valid health security card, and

"(B) report to the Secretary such information as the Secretary may require to assist in the enrollment of such individuals.

"(2) ACCESS TO INFORMATION.—Such hospitals, centers, clinics, and providers shall have access to information, pertaining to the certified health plans (or the medicare program or medicare part C) in which individuals are enrolled, through the national enrollment verification system established under subtitle B of title IX of the Guaranteed Health Insurance Act of 1994.

"(d) OUTREACH.—The Secretary shall develop and implement outreach programs to ensure enrollment of all medicare part C eligible individuals (who are not enrolled in a certified health plan or the medicare program) under this title.

"SEC. 2104. COVERAGE PERIOD; TERMINATION OF ENROLLMENT.

"(a) BEGINNING OF COVERAGE.—In the case of an individual enrolled under this title, the benefits under this title shall first become available for services furnished beginning—

"(1) in the case of an individual who enrolls on or before January 1, 1999, on January 1, 1999; or

"(2) in the case of an individual who enrolls after such date, on the date of enrollment or such other date as the Secretary may specify, consistent with preventing eligible individuals from having any periods of noncoverage and consistent with rules established under section 5501 of the Guaranteed Health Insurance Act of 1994.

"(b) LIMITING TERMINATION OF ENROLLMENT.—An individual enrolled under this title may not terminate such enrollment unless—

"(A) the individual is no longer a medicare part C eligible individual because of a change of family, employment, or other relevant status; or

"(B) the individual demonstrates to the satisfaction of the Secretary that if the individual is an eligible individual the individual is enrolled under a certified health plan, is entitled to benefits under part A of title XVIII, is a noncovered, noncontributing individual (as defined in section 1004(b) of the Guaranteed Health Insurance Act of 1994), or is described in section 59B(g)(2)(A)(ii) of the Internal Revenue Code of 1986.

"PART B—BENEFITS AND PAYMENTS

"SEC. 2111. COVERAGE OF BENEFITS UNDER GUARANTEED NATIONAL BENEFIT PACKAGE.

"(a) IN GENERAL.—Subject to subsection (b), the health insurance benefits provided to an individual covered under this title shall consist of entitlement to the benefits (including cost-sharing) contained in the guaranteed national benefit package described in

VOL
140
PT
15
AG
10
11
1994
UMI

subtitle A of title III of the Guaranteed Health Insurance Act of 1994. Except in the case of enrollment with an organization under section 2132, the cost-sharing schedule shall be the standard cost-sharing schedule described in section 3013 of the Guaranteed Health Insurance Act of 1994 (determined without regard to subsection (a)(4) thereof).

"(b) REQUIRING COVERED SERVICES TO BE FURNISHED BY MEDICARE-ELIGIBLE PROVIDERS.—No benefits are payable under this title with respect to an individual or entity that provides items and services (other than services described in section 3002(d) of the Guaranteed Health Insurance Act of 1994) unless the individual or entity qualifies for payment with respect to such items or services under title XVIII (for individuals entitled to benefits under such title).

"SEC. 2112. PAYMENTS FOR HEALTH INSURANCE BENEFITS.

"(a) USE OF MEDICARE PAYMENT RULES.—

"(1) IN GENERAL.—Except as otherwise provided in this title, consistent with sections 5501(c)(3) and 8002(c) of the Guaranteed Health Insurance Act of 1994 and consistent with the cost-sharing described in section 2111(a)—

"(A) payment of health insurance benefits under this title with respect to services shall be made, subject to adjustment in payment rates under section 2113, in the same amounts and on the same basis as payment may be made with respect to such services under title XVIII (including pursuant to waiver authority), and

"(B) the provisions of sections 1814, 1815, 1833, 1834, 1835, 1842, 1848, 1850, 1886, 1887, and 1893 shall apply to payment of benefits (and provision of services and charges thereon) under this title in the same manner as they apply to benefits, services, and charges under title XVIII.

"(2) ESTABLISHMENT OF COMPARABLE PAYMENT METHODS FOR NEW SERVICES.—In the case of any service for which there is not a payment basis established under title XVIII, the Secretary shall establish payment rules that are similar to the payment rules for similar services under such title, in consultation with the Prospective Payment Assessment Commission, Physician Payment Review Commission, and the Prescription Drug Payment Review Commission.

"(3) LIMITATIONS ON ADMINISTRATIVE OR JUDICIAL REVIEW.—Administrative or judicial review of the payment rates or rules under this section (including adjustments made under section 2113) shall be available only to the extent such a review would be available with respect to such rates or rules (or similar rates or rules) under title XVIII.

"(4) USE OF TRUST FUND.—In applying the provisions described in paragraph (a)(1)(B) in carrying out this section, any reference in title XVIII to a trust fund shall be treated as a reference to the Medicare Part C Trust Fund established under section 2124.

"(b) PAYMENTS TO PROVIDERS FOR CERTAIN EMERGENCY CARE SERVICES FOR INELIGIBLE ALIENS.—

"(1) IN GENERAL.—In addition to amounts otherwise payable under this title, the Secretary shall make payments for care and services that are necessary for the treatment of an emergency medical condition (as defined in section 1903(v)(3)) of an alien who is not an eligible individual.

"(2) PAYMENT AMOUNT.—Notwithstanding any other provisions of this title, the amount of such payments—

"(A) shall not take into account any cost-sharing that may otherwise be imposed under this title, but

"(B) shall be reduced by the amount of any payment otherwise made (or that through the exercise of reasonable collection policies, would have been paid) with respect to such care and services.

"(3) EFFECTIVE DATE.—This subsection shall not apply to care and services furnished before January 1, 2002.

"SEC. 2113. ADJUSTMENTS TO MEDICARE RATES AND METHODOLOGIES.

"(a) ADJUSTMENT OF MEDICARE PAYMENT RATES FOR INPATIENT HOSPITAL SERVICES.—

"(1) FOR PPS HOSPITALS.—For purposes of payment for inpatient hospital services for hospitals receiving payment under section 1886(d), the Secretary, by regulation and in accordance with this section—

"(A) shall adjust the standardized amounts otherwise established under title XVIII to reflect differences in the average cost of providing inpatient hospital services (included in the guaranteed national benefit package) between the program under part A of title XVIII and under this title, and

"(B) may develop separate diagnosis-related groups and weighting factors for such groups to reflect resource needs of individuals enrolled under this title and shall develop separate groups and factors for children.

"(2) REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—The Prospective Payment Assessment Commission, in its report to Congress under section 1886(e)(3)(A) in 1998, shall include its recommendations on the adjustments that should be made under paragraph (1) in the payment methodology for inpatient hospital services and data that should be collected in order to establish appropriate weighting factors for diagnosis-related groups used under this section. The Commission shall include, in its subsequent reports under such section, such recommendations with respect to payment for inpatient hospital services under this title as it deems appropriate.

"(3) SECRETARIAL PUBLICATIONS.—The Secretary shall provide for the publication, in the manner and time specified under section 1886(e)(5), of adjustments proposed to be made (and to be made) under this subsection for each fiscal year.

"(b) NEW PROCEDURE CODES AND RELATIVE VALUE UNITS FOR PHYSICIANS' SERVICES.—

"(1) NEW PROCEDURE CODES AND RELATIVE VALUE UNITS.—In applying section 2112 in the case of services for which relative value units have not been established under section 1848, the Secretary shall establish relative value units in the same manner as if payment for such services were made under part B of title XVIII.

"(2) REPORT BY PHYSICIAN PAYMENT REVIEW COMMISSION.—The Physician Payment Review Commission, in its recommendations to Congress under section 1845(b) in the year before the first year in which this title is effective, shall include recommendations on adjustments to the relative value units that should be applied (under paragraph (1)) with respect to physicians' services furnished under this title. The Commission shall include, in its subsequent recommendations under such section, such recommendations with respect to the payment for physicians' services under this title as it deems appropriate.

"(3) SECRETARIAL PUBLICATION.—The Secretary shall cause to be published in the Federal Register—

"(A) before June 1 of the year before the first year in which this title is effective, the relative value units proposed to be applied during such first year under this title, and

"(B) after consideration of public comments submitted pursuant to such proposal and before October 1 before such first year, the relative value units to be applied during such first year under this title.

"(4) SECRETARIAL REVIEW AND REVISION.—The Secretary shall provide for the periodic review and adjustment of the relative value units to be applied under this title in the same manner and frequency as provided under section 1848(c)(2)(B), except that such review shall first be conducted each year during the first 3 years in which this title is in effect and not less often than every 5 years thereafter.

"(c) ADJUSTMENT TO AVERAGE PER CAPITA RATES FOR HEALTH MAINTENANCE ORGANIZATIONS.—For purposes of establishing per capita rates of payment for classes of individuals enrolled with an eligible organization under a risk-sharing contract under section 2132, the Secretary, by regulation and in accordance with this subsection, shall adjust the adjusted average per capita cost otherwise established under section 1876(a)(4) to take into account differences between the population served under title XVIII and the population receiving health insurance benefits under this title.

"SEC. 2114. EXCLUSIONS; COORDINATION.

"(a) EXCLUSIONS.—

"(1) IN GENERAL.—Section 1862 shall apply to expenses incurred for items and services provided under this title in the same manner as such section applies to items and services provided under title XVIII.

"(2) USE OF SAME NATIONAL COVERAGE DECISION REVIEW PROCESS.—The provisions of section 1869(b)(3) shall apply under this title in the same manner as they apply under title XVIII. Any determination under such title that, under paragraph (1), applies under this title shall not be subject to review under this paragraph.

"(b) TREATMENT AS LARGE GROUP HEALTH PLAN FOR PURPOSES OF MEDICARE SECONDARY PAYER.—For purposes of section 1862(b), this title shall be treated as a large group health plan (described in such section).

"PART C—PREMIUMS; MEDICARE PART C TRUST FUND

"SEC. 2121. COMPUTATION OF APPLICABLE MEDICARE PART C PREMIUM.

"(a) IN GENERAL.—The applicable medicare part C premium under this title, for health insurance benefits for any individual in a class of enrollment (as defined in section 3(b) of the Guaranteed Health Insurance Act of 1994) in a State (or outside the United States) for a month in a year, is equal to the product of—

"(1) the monthly national actuarial rate established under subsection (b) with respect to such class for months in the year, and

"(2) a State actuarial adjustment factor established under subsection (c) with respect to the State (or outside the United States).

The Secretary shall publish, for purposes of this title, sections 59B(c)(3)(D) and 3455(c)(4)(A) of the Internal Revenue Code of 1986, and part A of title XXII, tables of the monthly applicable medicare part C premium computed under this subsection.

"(b) MONTHLY NATIONAL ACTUARIAL RATES.—

"(1) INITIAL RATE.—Subject to the succeeding provisions of this subsection, the national monthly actuarial rates under this subsection for months in 1999 are as follows (expressed in 1994 dollars):

"(A) INDIVIDUAL ENROLLMENT.—$178.25 for the individual class of enrollment.

"(B) SINGLE PARENT ENROLLMENT.—$347.50 for the single parent class of enrollment.

"(C) FAMILY ENROLLMENT.—$472.60 for the family class of enrollment.

"(2) DETERMINATION OF RATES.—

"(A) ANNUAL DETERMINATION.—In September of each year (beginning with 1998) the Secretary shall determine and publish a national monthly actuarial rate for each class of enrollment for health insurance benefits under this title in the following year. Such rates for—

"(i) 1999 shall be the rates specified under paragraph (1), subject to adjustment under subparagraph (C), or

"(ii) a subsequent year, shall be the monthly actuarial rates estimated under paragraph (3).

"(B) PUBLIC STATEMENT.—Whenever the Secretary publishes monthly actuarial rates under this section, the Secretary shall, at the time of such publication, include a public statement setting forth the actuarial assumptions and bases employed in arriving at the amount of the actuarial rates.

"(C) RELATION TO SPECIFIED RATES.—If the Secretary finds that the rates specified under paragraph (1) are greater or less than the respective monthly actuarial rates estimated under paragraph (3), the Secretary shall adjust the specified rates to reflect such estimated actuarial rates and the national monthly actuarial rates under this subsection shall be treated for all purposes as the rates as so adjusted.

"(3) BASIS FOR MONTHLY ACTUARIAL RATES.—

"(A) IN GENERAL.—Subject to subparagraph (C), each such monthly actuarial rate established for a class of enrollment shall be an amount the Secretary estimates to be necessary so that, if payments were made on the basis of such rates for all individuals enrolled under this title in such class, the aggregate amount for the calendar year would equal the total of the benefits and administrative costs which the Secretary estimates will be payable from the Medicare Part C Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rates, the Secretary shall include an appropriate amount for a contingency margin.

"(B) ASSUMPTIONS FOR PREMIUM CALCULATION.—In determining actuarial rates under subparagraph (A)—

"(i) the Secretary shall not take into account any expenditures (including related administrative expenses) attributable to—

"(I) individuals enrolled for health insurance benefits under this title who are SSI recipients who have been determined to be disabled for purposes of the supplemental security income program (under title XVI); or

"(II) the operation of part B of this title; or

"(III) payments made pursuant to section 2112(b); and

"(ii) for months in 1999, 2000, 2001, and 2002, the Secretary shall assume that ¾ of individuals who are medicare part C eligible individuals are enrolled under this title.

"(c) STATE ACTUARIAL ADJUSTMENT FACTORS.—

"(1) IN GENERAL.—The Secretary shall establish for each State a State actuarial adjustment factor. Such factor shall vary among the States based on the variation in the average level of costs for covered benefits and administration, described in subsection (b)(3)(B) and determined on a per capita basis, among such States.

"(2) CONDITIONS.—State actuarial adjustment factors shall be computed for each year in a manner so that the application of such adjustment factors shall not change the weighted average of the national monthly payment rates computed under this subsection.

"(3) SPECIAL RULE FOR INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.—In the case of an eligible individual who has a principal place of abode outside the United States, the State actuarial adjustment factor under this subsection is 1.

"(d) APPLICATION TO FAMILIES.—In the case of individuals enrolled under this title in a class of enrollment other than the individual class of enrollment, the premium rate established under this section applies collectively to all family members included within the class of enrollment.

"SEC. 2122. MEDICARE PART C PREMIUM LIABILITY.

"(a) IN GENERAL.—An individual's share of the medicare part C premium is the amount determined under section 59B of the Internal Revenue Code of 1986.

"(b) DESCRIPTION OF FACTORS TAKEN INTO ACCOUNT.—The amount of such individual share under such section—

"(1) is based on the sum of monthly premiums based on class of enrollment;

"(2) is fully or partially reduced for low-income individuals, as described in subsection (c); and

"(3) may be reduced by any employer payments.

"(c) REDUCTION FOR LOW-INCOME INDIVIDUALS.—

"(1) IN GENERAL.—An individual whose modified adjusted gross income (as defined in paragraph (4)) does not exceed the threshold amount (as defined in paragraph (3)) is not liable for payment of the individual share of the medicare part C premium.

"(2) PHASE-IN OF PREMIUM LIABILITY.—

"(A) IN GENERAL.—If the modified adjusted gross income of an individual for a taxable year exceeds the threshold amount by less than the phase-in amount (described in subparagraph (C)), the amount of the premium liability under subsection (a) for the year shall be the phase-in percentage (specified in subparagraph (B)) of the medicare part C premium liability of such individual for the taxable year.

"(B) PHASE-IN PERCENTAGE.—For purposes of subparagraph (A), the phase-in percentage shall be determined under tables prescribed by the Secretary of the Treasury under section 59B(b)(2)(B) of the Internal Revenue Code of 1986, which tables—

"(i) have income brackets of not more than $50, and

"(ii) provide for a ratable increase in the amount of premium imposed by subsection (a) for modified adjusted gross incomes between the threshold amount and the sum of the threshold amount and the phase-in amount.

"(C) PHASE-IN AMOUNT.—For purposes of subparagraphs (A) and (B), the phase-in amount is the amount equal to the applicable percentage (determined in accordance with the following table) of the threshold amount.

"In the case of taxable years ending with or within—	The applicable percentage is—
1999, 2000, or 2001	100 percent
2002 or 2003	120 percent
2004 or thereafter	140 percent.

"(3) THRESHOLD AMOUNT DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'threshold amount' means—

"(i) $7,400 in the case of a return with respect to which 1 personal exemption is allowable under section 151 of the Internal Revenue Code of 1986,

"(ii) $11,500 in the case of a return with respect to which 2 or 3 personal exemptions are allowable under such section, and

"(iii) $16,000 in the case of a return with respect to which 4 or more personal exemptions are allowable under such section.

"(B) CERTAIN SEPARATE RETURNS.—The threshold amount shall be zero in the case of a taxpayer who—

"(i) is married as of the close of the taxable year but does not file a joint return for such taxable year, and

"(ii) does not live apart from his spouse at all times during the last 6 months of the taxable year.

"(C) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning in a calendar year after 1998, each dollar amount contained in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 for the calendar year in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.

"(4) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, and pursuant to section 59B(e)(1) of the Internal Revenue Code of 1986, the term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 911, 931, and 933 of the Internal Revenue Code of 1986, and

"(B) increased by the amount of interest received or accrued by the individual during the taxable year which is exempt from tax.

The determination under the preceding sentence shall be made without regard to any carryover or carryback.

"SEC. 2123. COLLECTION OF PREMIUMS.

"(a) IN GENERAL.—Except as provided in subsection (b), the amounts under section 2122 are payable pursuant to section 59B of the Internal Revenue Code of 1986.

"(b) DIRECT PAYMENT PROCESS.—

"(1) IN GENERAL.—The Secretary shall establish a process whereby individuals who are liable for payments under section 2122 (or section 59B of the Internal Revenue Code of 1986) may make such payments directly to the Secretary (or the Secretary's designee) in a manner specified by the Secretary.

"(2) INFORMATION.—Under the process, the Secretary shall provide such information return or other documentation that may be used to establish, for purposes of the Internal Revenue Code of 1986 or otherwise, the amounts paid on behalf of each individual under this subsection and the period in which the individual was enrolled under this title.

"(3) DEPOSIT.—Amounts received under this subsection shall be deposited to the credit of the Medicare Part C Trust Fund (established under section 2124).

"SEC. 2124. MEDICARE PART C TRUST FUND.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Medicare Part C Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests

VOL 140 PT 15 AG 10 — 11 1994 UMI

as may be made as provided pursuant to section 201(h) and such amounts as may be deposited in, or appropriated to, such Trust Fund as provided in this part.

"(2) DEPOSIT OF PREMIUM AMOUNTS AND CONTRIBUTIONS.—There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of—

"(A) the amounts received in the Treasury under section 59B and chapter 25 of the Internal Revenue Code of 1986 and section 2132,

"(B) the amount of payments made by States to the Secretary under sections 8111, 8121, and 8131 of the Guaranteed Health Insurance Act of 1994, and

"(C) amounts paid to the Treasury pursuant to agreements under section 2101(c)(3)(A).

The amounts appropriated by clauses (A) and (C) of the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the amounts paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the amounts specified in such clauses.

"(3) APPROPRIATIONS TO COVER BALANCE OF EXPENDITURES.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Medicare Part C Trust Fund a Government contribution equal to the amount by which the expenditures from the Trust Fund (including the payment of administrative expenses in accordance with section 201(g)(1)) exceed the other receipts of the Trust Fund.

"(b) INCORPORATION OF PROVISIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of subsections (b) through (e), (h), and (i) of section 1817 shall apply to the Trust Fund and this title in the same manner as they apply to the Federal Hospital Insurance Trust Fund and part A of title XVIII.

"(2) EXCEPTIONS.—In applying paragraph (1)—

"(A) the Board of Trustees and Managing Trustee of the Trust Fund shall be composed of the members of the Board of Trustees and the Managing Trustee, respectively, of the Federal Hospital Insurance Trust Fund; and

"(B) any reference in section 1817 to the Federal Hospital Insurance Trust Fund or to title XVIII (or part A thereof) is deemed a reference to the Trust Fund under this section and this title, respectively.

"(c) PAYMENTS FROM TRUST FUND.—

"(1) PAYMENTS FOR PART C PROGRAM.—Pursuant to authority described in section 1817(h) (as incorporated under subsection (b)(1)), the Managing Trustee of the Trust Fund shall pay from time to time from the Trust Fund such amounts as the Secretary certifies are necessary to carry out the medicare part C program under this title.

"(2) CERTAIN TRANSFERS.—The Managing Trustee of the Trust Fund shall also pay from time to time from the Trust Fund—

"(A) such amounts to the General Treasury as the Secretary certifies to be necessary to carry out parts A, B, and C of title XXII (including amounts for payments to States under subsections (a)(1)(B), (a)(2)(B), and (b)(2) of section 4001 of the Guaranteed Health Insurance Act of 1994).

"(B) such amounts to the General Treasury as the Secretary of the Treasury certifies to be payments for credits under section 3461 and 3462 of the Internal Revenue Code of 1986 that are not an offset to a liability in amounts otherwise payable under chapter 25 of such Code;

"(C) such amounts to the Secretary of Health and Human Services as are appropriated to the Trust Fund under subsection (a)(2)(B);

"(D) amounts equivalent to the amounts received in the Trust Fund by reason of section 3455(e) of the Internal Revenue Code of 1986 to the Indian Health Service to augment the appropriation for health programs of such Service; and

"(E) amounts equivalent to the amounts received in the Trust Fund by reason of section 3455(f) of the Internal Revenue Code of 1986 to the Secretary of Veterans Affairs to augment the appropriation for health programs of the Department of Veterans Affairs.

Amounts paid by a small employer (as defined in section 1106(b) of the Guaranteed Health Insurance Act of 1994) shall be taken into account under subparagraph (E) only if such employer offers coverage under a certified health plan.

"PART D—ADMINISTRATIVE PROVISIONS

"SEC. 2131. AGREEMENTS WITH HOSPITALS; PARTICIPATING PHYSICIANS; TREATMENT OF INDIAN HEALTH SERVICE FACILITIES.

"(a) REQUIREMENT.—Any hospital shall be qualified to participate under this title and shall be eligible for payments under this title if—

"(1) it has in effect a participation agreement under section 1866(a)(1), and

"(2) it files with the Secretary a participation agreement meeting the requirements of subsection (b).

"(b) ELEMENTS OF AGREEMENT.—

"(1) IN GENERAL.—Except as provided in this subsection, a participation agreement under this subsection shall provide terms, specified by the Secretary, that are the same terms as those required of hospital participation agreements under section 1866(a)(1).

"(2) MODIFIED COPAYMENTS.—Instead of the limitation on charges specified under paragraphs (1)(A) and (2) of section 1866(a), the agreement shall not permit the hospital to charge more than the applicable deductible and coinsurance permitted under this title.

"(c) PHYSICIAN PARTICIPATION AGREEMENTS.—The Secretary shall provide for participating physician agreements under this title in the same manner as such agreements are provided for under part B of title XVIII pursuant to section 1842(h).

"(d) INDIAN HEALTH SERVICE FACILITIES.—The provisions of section 1880 (relating to Indian health service facilities) shall apply to this title in the same manner as they apply under title XVIII.

"SEC. 2132. HEALTH MAINTENANCE ORGANIZATIONS.

"(a) IN GENERAL.—Except as provided in this section, section 1876 shall apply to individuals enrolled under this title in the same manner as such section applies to individuals entitled to benefits under part A, and enrolled under part B, of title XVIII.

"(b) APPLICATION.—In applying section 1876 under subsection (a)—

"(1) individuals who are enrolled in a class of enrollment under this title may enroll with an eligible organization only based on the same class of enrollment;

"(2) if an eligible organization imposes an additional premium for additional benefits, such a premium shall be adjusted to reflect the class of enrollment with the eligible organization;

"(3) the appropriate classes of members described in section 1876(a)(1)(B) applied under this section may be different from the classes applied for purposes of title XVIII;

"(4) the provisions of such section relating only to individuals enrolled under part B of title XVIII shall not apply;

"(5) any reference to a Trust Fund established under title XVIII and to benefits with respect to any services under such title is deemed a reference to the Medicare Part C Trust Fund and to the guaranteed national benefit package with respect to required health services under this title;

"(6) the adjusted average per capita cost shall be determined on the basis of benefits under this title;

"(7) subsection (h) shall not apply; and

"(8) in the case of a risk-sharing contract, the eligible organization may not require an enrollee to obtain a referral from a physician in order to obtain covered items and services from a physician who specializes in obstetrics and gynecology.

"SEC. 2133. USE OF FISCAL AGENTS.

"(a) USE OF FISCAL AGENTS.—

"(1) IN GENERAL.—Except as provided in this section, the Secretary shall provide for the administration of this title through the use of fiscal agents in the same manner as title XVIII is carried out through the use of fiscal intermediaries and carriers.

"(2) SEPARATE CONTRACTS.—Contracts with fiscal agents entered into pursuant to this subsection for an area need not be with the same fiscal intermediary or carrier with an agreement under section 1816 or a contract under section 1842 for the area. However, nothing in this section shall be construed as preventing such an organization with such an agreement or contract under such respective section from entering into a contract under this section.

"SEC. 2134. COMPLIANCE WITH INFORMATION STANDARDS; APPLICATION OF MEDICARE QUALITY ASSURANCE AND SURVEY AND CERTIFICATION REQUIREMENTS.

"(a) IN GENERAL.—The Secretary, with respect to the program under this title, shall comply with the applicable provisions of subtitle B of title IX of the Guaranteed Health Insurance Act of 1994 (relating to information systems and administrative simplification).

"(b) SURVEY AND CERTIFICATION; QUALITY ASSURANCE.—In accordance with rules of the Secretary, the survey and certification requirements of title XVIII, and the quality assurance provisions of such title and part B of title XI (relating to professional review organizations), insofar as they relate to providers of services and other health care providers under title XVIII, shall apply to such providers under this title in the same manner as they apply to providers under title XVIII.

"SEC. 2135. PROGRAM INTEGRITY.

Sections 1124, 1124A, 1126, 1128 through 1128B (relating to fraud and abuse), 1145 (relating to restrictions on the disclosure of health information), and section 1877 (relating to limitation on certain physician referrals) shall apply to this title in the same manner as they apply to title XVIII.

"SEC. 2136. GENERAL ADMINISTRATION; MISCELLANEOUS PROVISIONS.

"(a) HEALTH SECURITY ADMINISTRATION.—

"(1) IN GENERAL.—Except as otherwise provided in this title, this title shall be administered by the Health Security Administration.

"(2) RENAMING HEALTH CARE FINANCING ADMINISTRATION AS HEALTH SECURITY ADMINISTRATION.—Any reference in law to the 'Health Care Financing Administration' is hereby deemed a reference to the 'Health Security Administration'.

"(b) REGULATIONS; TITLE II PROVISIONS; ADMINISTRATION.—The provisions of sections 1871, 1872, and 1874 (relating to regulations, application of certain provisions of title II, and administration) shall apply to this title in the same manner as they apply to title XVIII.

"(c) DETERMINATIONS; APPEALS; PROVIDER REIMBURSEMENT REVIEW BOARD.—

"(1) IN GENERAL.—The determination of whether an individual is entitled to benefits under this title, the determination of the amount of benefits under this title, and appeals from such determinations shall be made in accordance with the same procedures applicable to determinations under title XVIII.

"(2) PROVIDER REIMBURSEMENT REVIEW BOARD.—The provisions of section 1878 (relating to the Provider Reimbursement Review Board) shall apply under this title in the same manner as they apply under title XVIII.

"(d) REPORTING OF INFORMATION TO SECRETARY OF TREASURY.—The Secretary shall submit to the Secretary of the Treasury such information on individuals enrolled under this title as the Secretary of the Treasury may require for purposes of carrying out sections 59B and chapter 25, and related provisions, of the Internal Revenue Code of 1986.

"PART E—DEFINITIONS AND MISCELLANEOUS

"SEC. 2161. DEFINITIONS.

"In this title—

"(1) the definitions contained in section 1861 apply for purposes of this title in the same manner as they apply for purposes of title XVIII;

"(2) the definitions contained in sections 2 and 3 (relating to general definitions and definitions relating to families) of the Guaranteed Health Insurance Act of 1994 apply for purposes of this title in the same manner as they apply for purposes of such Act.

"SEC. 2162. REFERENCES TO MEDICARE PROVISIONS.

"In this title, except as otherwise specifically provided, any references to provisions of title XVIII of the Social Security Act are deemed to be references to such provisions as in effect on the day after the date of the enactment of the Guaranteed Health Insurance Act of 1994, taking into account the amendments made to such title by such Act.".

SEC. 8002. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Effective January 1, 1999, section 1876(f) (42 U.S.C. 1395mm(f)) is amended by striking "under a State plan approved under title XIX" and inserting "under title XXI" each place it appears.

(b) RENAMING OF HEALTH CARE FINANCING ADMINISTRATION.—Section 1117 (42 U.S.C. 1317) is amended—

(1) in the heading, by striking "HEALTH CARE FINANCING ADMINISTRATION" and inserting "HEALTH SECURITY ADMINISTRATION", and

(2) by striking "Health Care Financing Administration" and inserting "Health Security Administration".

(c) ADMINISTRATIVE EXPENSES.—Section 201 (42 U.S.C. 401) is amended—

(1) in subsection (g)(1)(A), by inserting "and the Medicare Part C Trust Fund established by title XXI" after "title XVIII" in the matter before clause (i);

(2) in subsection (g)(1), by striking "and XVIII" and "and title XVIII" each place either appears and inserting "XVIII, and XXI" and "title XVIII, and title XXI", respectively; and

(3) in subsection (h), by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting "the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Part C Trust Fund".

(d) DEFINITION OF STATE.—Section 1101(a)(1) (42 U.S.C. 1301(a)(1)) is amended by inserting "or title XXI" after "Such term when used in title XX".

SEC. 8003. EFFECTIVE DATE.

Title XXI of the Social Security Act, as added by section 8001, shall take effect on the date of the enactment of this Act, except that no benefits shall be provided under such title for services furnished before January 1, 1999.

Subtitle B—Benefits for Low-Income Individuals; State Maintenance of Effort

Subtitle C—Cost Containment in the Medicare Programs

PART 1—MEDICARE HEALTH EXPENDITURE ESTIMATES

Sec. 8201. National medicare per capita health expenditure estimate.
Sec. 8202. Classes of health care services.
Sec. 8203. Allocation of per capita estimates by class of service for medicare A/B.
Sec. 8204. Allocation of per capita estimates by class of service for medicare C.
Sec. 8205. Combined medicare per capita allocations for classes of services.
Sec. 8206. Computation of medicare annual combined rate of increase for classes of services; application to medicare payment rates.
Sec. 8207. National health expenditures reporting system.

PART 2—STATE HEALTH EXPENDITURE ESTIMATES

Sec. 8211. State medicare per capita health expenditure estimate.

PART 3—ADMINISTRATIVE AND JUDICIAL REVIEW

Sec. 8221. Limitation on administrative and judicial review.

PART 1—BENEFITS FOR LOW-INCOME INDIVIDUALS

SEC. 8101. ESTABLISHMENT OF BENEFITS.

The Social Security Act, as amended by section 8001, is amended by adding after title XXI the following new title:

"TITLE XXII—ASSISTANCE FOR LOW-INCOME INDIVIDUALS

"SEC. 2200. ESTABLISHMENT OF PROGRAMS.

"(a) IN GENERAL.—Not later than January 1, 1999, the Secretary shall establish and operate the following programs under this title:

"(1) A program of premium subsidies under part A for certain low-income individuals covered under a certified health plan (as defined in section 2 of the Guaranteed Health Insurance Act of 1994).

"(2) A program of wrap-around benefits under part B for certain low-income individuals.

"(3) A program of payment of medicare cost-sharing under part C for qualified medicare beneficiaries.

"(b) DIRECT SPENDING FOR PROGRAMS.—

"(1) IN GENERAL.—There are hereby appropriated to the Secretary such amount as the Secretary determines is necessary to enable the Secretary to make all required expenditures under this title.

"(2) DIRECT SPENDING.—Amounts appropriated pursuant to this subsection are available each fiscal year to the Secretary for carrying out this title.

"PART A—PREMIUM CERTIFICATE PROGRAM

"Subpart 1—Certificates for Low-Income Individuals Covered Under Certified Health Plans

"SEC. 2201. ELIGIBILITY.

"(a) IN GENERAL.—Each premium certificate eligible individual is entitled to be issued a premium certificate in accordance with this part.

"(b) PREMIUM CERTIFICATE ELIGIBLE INDIVIDUAL.—

"(1) IN GENERAL.—In this part, the term 'premium certificate eligible individual' means an eligible individual who—

"(A) with respect to premiums for a taxable year ending in a year, is determined, in the manner described in section 2251, to have projected modified adjusted gross income that is less than the applicable percentage (specified in section 2101(b)(5)(B)) of the threshold amount (as defined in section 2122(c)(3)) applicable to the taxpayer involved; or

"(B) with respect to a premium for a month, is an AFDC or SSI recipient (as defined in section 2 of the Guaranteed Health Insurance Act of 1994) in the month.

"(2) EXCEPTION.—

"(A) IN GENERAL.—Such term does not include an individual—

"(i) who is enrolled under the medicare part C program under title XXI;

"(ii) who is entitled to benefits under part A of title XVIII;

"(iii) subject to subparagraph (B), who is covered under a State single-payer system approved under subtitle A of title IV of the Guaranteed Health Insurance Act of 1994 or a State managed competition system approved under subtitle B of title IV of such Act; or

"(iv) whose only enrollment in a certified health plan is in a plan that is a high deductible plan (as defined in section 5504(5)).

"(B) CONTINUED APPLICATION IN CASE OF CERTAIN ELECTION.—Subparagraph (A)(iii) shall not apply in the case of a State which has made the election described in section 4104(a)(1)(A)(ii) of the Guaranteed Health Insurance Act of 1994.

"SEC. 2202. VALUE OF PREMIUM CERTIFICATE.

"The value of the premium certificate issued under this part to an individual is equal to—

"(1) the amount of the reduction that would occur in the medicare part C premium liability under section 2122(c) for the individual if the individual were a medicare part C covered individual; or

"(2) if less in the case of an individual who is an employee and who is covered under a certified health plan of the employer, the employee's premium obligation under such certified health plan.

"SEC. 2203. ADMINISTRATION OF PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a program to provide for the issuance of premium certificates, in the amount described in section 2202, to premium certificate eligible individuals. Under the program the Secretary shall—

"(1) determine if individuals are premium certificate eligible individuals, and

"(2) provide for issuance of premium certificates to individuals determined to be premium certificate eligible individuals.

"(b) APPLICATION FOR CERTIFICATE.—

"(1) IN GENERAL.—Any eligible individual may apply for a premium certificate under this part, by filing an application with the Secretary (either in person or by mail) through a local office of the Social Security Administration. An eligible Indian under section 902(a) of the Indian Health Care Improvement Act may apply for a certificate

VOL 140 PT 15 AG 10 — 11 1994 UMI

through the Indian Health Service in the same manner as an individual applying through a local office of the Social Security Administration.

"(2) ATTACHMENTS.—The Secretary shall require attachments to the application of such documentation (such as prior year tax forms and pay stubs) as may be needed to determine the individual's eligibility and the value of any premium certificate.

"(c) DETERMINATIONS.—

"(1) IN GENERAL.—The Secretary shall provide for—

"(A) prompt determination, on each application made under subsection (b), of eligibility of an applicant and the value of any premium certificate for the applicant, and

"(B) prompt notification of the applicant of such determinations (including an explanation of the reasons for the determination)

"(2) CONDITION OF CERTIFICATE.—Each certificate issued to an individual under this section is conditioned upon the individual reporting to the Secretary (in a form and manner specified by the Secretary) any change in status that would affect the individual's eligibility for such a certificate or the amount of the certificate.

"(3) HEARINGS; APPEALS.—The provisions of section 2205(c) shall apply with respect to determinations of eligibility for and the value of a premium certificate under this part in the same manner as such provisions apply to determinations of entitlement to and the amount of benefits under title XXI.

"(d) ISSUANCE AND USE OF CERTIFICATES.—

"(1) ISSUANCE.—The Secretary shall issue a premium certificate to each individual determined to be a premium certificate eligible individual under this section.

"(2) TREATMENT OF EMPLOYEES.—

"(A) IN GENERAL.—If an individual who is entitled to a premium certificate under this part is an employee and eligible to be enrolled under a certified health plan offered by an employer of the individual, the premium certificate may only be applied against the premiums for a certified health plan offered by the employer.

"(B) SUBMISSION TO SECRETARY AND REMISSION OF VALUE TO EMPLOYER.—The Secretary shall make payments (in a manner specified by the Secretary) to each employer who tenders such a certificate to the Secretary in the value of the certificate so tendered.

"(3) TREATMENT OF OTHER INDIVIDUALS.—

"(A) IN GENERAL.—If an individual who is entitled to a premium certificate under this part is not described in paragraph (2)(A)—

"(i) the premium certificate may be applied against the premiums for the certified health plan in which the individual is enrolled, and

"(ii) upon the tender of such certificate by the individual to the applicable carrier, the carrier is required to reduce the amount of premiums required to be paid by the individual.

"(B) APPLICABLE CARRIER DESCRIBED.—In subparagraph (A), the term 'applicable carrier' means, with respect to an individual enrolled in a certified health plan,—

"(i) the Office of Universal FEHBP, in the case of an individual who pays premiums through such office;

"(ii) the consumer purchasing cooperative under subtitle E of title V of the Guaranteed Health Insurance Act of 1994, in the case of an individual who pays premiums through the cooperative);

"(iii) the program of the Indian Health Service (as used in section 901 of the Indian Health Care Improvement Act), in the case of an individual enrolled in a health program of the Indian Health Service; or

"(iv) the Secretary of Veterans Affairs, in the case of an individual enrolled in a health program of the Department of Veterans Affairs.

"(4) DIRECT PAYMENT OF CERTAIN ASSISTANCE.—The Secretary shall provide for a payment directly to an individual whose application is approved of an amount equal to the amount of the reduction in premium that would have been provided with respect to the individual for the month in which the application was filed if the certificate had been issued (and tendered to the individual's employer or plan, as the case may be) on the first day of such month.

"(e) VERIFICATION.—

"(1) IN GENERAL.—The Secretary shall periodically verify information reported on applications under this section, using any or all of the following:

"(A) The national enrollment verification system established under subtitle B of title IX of the Guaranteed Health Insurance Act of 1994.

"(B) Information reported pursuant to section 1137.

"(C) Other information deemed to be necessary.

"(2) RECONCILIATION.—

"(A) EXCESS PAYMENTS.—If the Secretary determines, based upon information described in paragraph (1), that the value of a certificate issued exceeded the correct value of the certificate or that an individual who was issued a certificate was not a premium certificate eligible individual, the Secretary shall—

"(i) adjust the value of the certificate to recoup, over a reasonable period of time, the amount of the overpayment, or

"(ii) if the individual is no longer a premium certificate eligible individual, bill the individual for the amount of the excess value and for interest on any amount so billed that is not repaid on a timely basis.

"(B) DEFICIT PAYMENTS.—If the Secretary determines, based upon the information described in paragraph (1), that the value of a certificate issued was less than the correct value of the certificate, the Secretary shall—

"(i) pay directly to the individual the amount of the underpayment, or

"(ii) if the individual continues to be a premium certificate eligible individual, adjust the value of the certificate, as appropriate.

"(f) PENALTIES FOR MISREPRESENTATION.—Any individual who knowingly makes a material misrepresentation of information in an application for a premium certificate under this section would be liable for excess payments made based upon such misrepresentation and interest on such excess payments, at a rate specified by the Secretary. In addition, such individuals would be subject to a civil monetary penalty of $1,000, or, if greater, three times the amount of excess payments made based on such misrepresentations. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subsection in the same manner as they apply to a penalty or proceeding under section 1128A(a).

"Subpart 2—Premium Assistance for Qualified Retirees

"SEC. 2211. ELIGIBILITY FOR PREMIUM CERTIFICATE FOR CERTAIN RETIREES.

"(a) IN GENERAL.—A qualified retiree (or qualified spouse or child of such a retiree) is eligible for a premium certificate in accordance with this subpart if—

"(1) the total amount paid by the individual for premiums for enrollment in a health benefit plan during months in a year, exceeds

"(2) the product of (A) the individual's projected modified adjusted gross income for the year, and (B) the applicable percentage established under section 2212(c).

"(b) HEALTH BENEFIT PLAN DEFINED.—In subsection (a), the term 'health benefit plan' has the meaning given such term in section 5504(3) of the Guaranteed Health Insurance Act of 1994.

"SEC. 2212. ELIGIBILITY.

"(a) QUALIFIED RETIREE AND QUALIFIED SPOUSE OR CHILD DEFINED.—For purposes of this subpart—

"(1) QUALIFIED RETIREE DEFINED.—The term 'qualified retiree' means, with respect to a month in a calendar year, an eligible individual who meets the income requirements specified in subsection (b) for the year and who as of the first day of the month—

"(A) has attained age 55 but not age 65 (as of January 1, 1994),

"(B) is not a full-time employee, and

"(C) is not entitled to benefits under part A of title XVIII.

"(2) QUALIFIED SPOUSE OR CHILD DEFINED.—The term 'qualified spouse or child' means, in relation to a qualified retiree, an eligible individual who meets the income requirements specified in subsection (b) for the year and with respect to whom the requirements in one of the following clauses is met (with respect to the first day of a month):

"(A) The individual (i) is under 65 years of age, is not a full-time employee, and is (and has been for a period of at least one year) married to a qualified retiree or (ii) is a young dependent (as described in section 1003(b)(1)(B) of the Guaranteed Health Insurance Act of 1994) of the qualified retiree.

"(B) In the case of a person who was a qualified retiree at the time of the person's death—

"(i) the individual was (and had for a period of at least one year been) married to the retiree at the time of the person's death,

"(ii) the individual is under 65 years of age,

"(iii) the individual is not a full-time employee,

"(iv) the individual is not remarried, and

"(v) the deceased spouse would still be a qualified retiree if such spouse had not died.

"(C) The individual is a young dependent (as described in section 1003(b)(1)(B) of the Guaranteed Health Insurance Act of 1994) of an individual described in subparagraph (B).

"(b) MAXIMUM AMOUNT OF INCOME.—

"(1) IN GENERAL.—An individual meets the income requirements of this subsection if (for a calendar year ending in 1994)—

"(A) in the case of a married individual whose spouse is a qualified retiree or qualified spouse or child under subsection (a), the combined income of the individual and the individual's spouse for the year does not exceed $40,000, or

"(B) in the case of any other individual, the individual's income for the year does not exceed $30,000.

"(2) INFLATION ADJUSTMENTS.—In the case of a year after 1997, each dollar amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the previous calendar year.

"(c) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage specified in this paragraph for a year is determined in accordance with the following table:

"In the case of calendar years ending with or within—	The applicable percentage is—
1997	7 percent
1998	7 percent
1999	6 percent
2000	5 percent
2001 or thereafter	4 percent.

"(d) PRORATION.—In the case of an individual described in subsection (a) who is not a qualified retiree or qualified spouse or child for all months in the calendar year, the amount of any premium certificate under subsection (a) shall be prorated to reflect the ratio of the number of months in the year in which the individual is a qualified retiree or qualified spouse or child to 12 months.

"SEC. 2213. VALUE OF PREMIUM CERTIFICATE.

"(a) IN GENERAL.—The amount of the premium certificate provided to an individual under this subpart for a year is equal to the amount by which—

"(1) the total amount paid by the individual for premiums for enrollment in a health benefit plan during months in the year; exceeds

"(2) the product of (A) the individual's projected modified adjusted gross income for the year, and (B) the applicable percentage established under section 2212(c).

"(b) LIMITATION FOR YEARS AFTER 1998.—With respect to years beginning with 1999, the amount of the premium certificate provided to an individual under this subpart for the year is equal to the lesser of—

"(1) the amount determined in accordance with subsection (a); or

"(2) an amount equal to the amount by which—

"(A) the total amount that would have been paid by the individual for premiums during the year if the individual had been enrolled in medicare part C during the year, exceeds

"(B) the amount described in subsection (a)(2).

"SEC. 2214. ADMINISTRATION OF PREMIUM CERTIFICATES FOR RETIREES.

"The provisions of section 2203 shall apply to this subpart in the same manner as they apply to subpart 1.

"Subpart 3—Maintenance of Effort Offset for Retiree Premium Contributions

"SEC. 2221. OFFSET OF PREMIUM OBLIGATIONS FOR RETIREES.

"The Secretary shall make a per capita payment to each employer who meets the requirements of section 1113 of the Guaranteed Health Insurance Act of 1994 (relating to maintenance of effort for premiums for certain retirees, spouses, and dependents) during a year in the amount determined under section 2222 with respect to each eligible individual for whom the employer meets such requirement.

"SEC. 2222. AMOUNT OF OFFSET.

"The amount of the payment made to an employer with respect to an individual for a year is equal to 50 percent of the employer's share of the premium that would be applicable to the individual based on the individual's class of enrollment during the year if the individual were enrolled in medicare part C during the year.

"SEC. 2223. PROCEDURES FOR OBTAINING OFFSET.

"The Secretary shall establish procedures under which employers may submit information necessary for the Secretary to make payment to the employer under this subpart.

"PART B—WRAP-AROUND BENEFITS FOR LOW-INCOME INDIVIDUALS

"SEC. 2231. ELIGIBILITY.

"(a) IN GENERAL.—Subject to subsection (c), each individual who applies for benefits under this part and is determined under this part to be a wrap around eligible individual described in subsection (b) is entitled to wrap-around benefits in accordance with this part, without regard to whether the individual is enrolled under medicare part C under title XXI.

"(b) WRAP AROUND ELIGIBLE INDIVIDUAL.—

"(1) IN GENERAL.—In this part, the term 'wrap around eligible individual' means any of the following individuals:

"(A) INDIVIDUALS WITH INCOME BELOW POVERTY LEVEL.—An individual who is determined under this part to have projected modified adjusted gross income that is less than the threshold amount (as defined in section 2122(c)(3)) applicable to the individual involved.

"(B) AFDC AND SSI RECIPIENTS.—An AFDC recipient or SSI recipient.

"(C) CHILDREN AND PREGNANT WOMEN WITH INCOME BELOW 200 PERCENT OF POVERTY LEVEL.—Any of the following individuals if the individual is determined under this part to have projected modified adjusted gross income that is less than twice the threshold amount (as defined in section 2122(c)(3)) applicable to the individual involved:

"(i) A child under 19 years of age.

"(ii) A pregnant woman.

For purposes of clause (ii), a woman shall be deemed to be a pregnant woman during the period ending on the first day of the first month that begins more than 60 days after the date of the termination of the pregnancy.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Such term does not include an individual—

"(i) who is entitled to benefits under part A of title XVIII,

"(ii) subject to subparagraph (B), who is covered under a State single-payer system approved under subtitle A of title IV of the Guaranteed Health Insurance Act of 1994 or a State managed competition system approved under subtitle B of title IV of such Act, or

"(iii) whose only enrollment in a certified health plan is in a plan that is a high deductible plan (as defined in section 5504(5)).

"(B) SPECIAL RULE.—Subparagraph (A)(ii) shall not apply in the case of a State which has made the election described in section 4104(b)(1)(B) of the Guaranteed Health Insurance Act of 1994.

"(c) SPECIAL RULES FOR CASH ASSISTANCE RECIPIENTS.—

"(1) IN GENERAL.—An individual who is an AFDC recipient or SSI recipient is deemed to be entitled to benefits under this part, without the need to file an application under this part, for items and services furnished during the period in which the individual is receiving assistance.

"(2) COORDINATION.—The Secretary shall provide for a method under which individuals who are determined to be AFDC recipients or SSI recipients are notified of the benefits to which they are entitled under this part and any applicable procedures for obtaining evidence of their entitlement.

"(d) PERIOD OF ENTITLEMENT.—

"(1) BEGINNING OF BENEFITS.—Benefits under this part shall be available with respect to expenses incurred for items and services furnished after the date the individual is determined to be a wrap around eligible individual.

"(2) TERMINATION OF PERIOD.—

"(A) IN GENERAL.—Subject to subparagraph (C) and section 2251(c), an individual who is determined to be entitled to benefits under this part shall remain so entitled for a period of 12 months beginning on the date on which the determination takes effect. Such period may be extended upon the filing of an application under this part before the end of the 12-month period.

"(B) NOTICE OF REQUIREMENT.—The Secretary shall provide for appropriate written notice of the requirement of subparagraph (A) (relating to reapplying annually in order to continue to be entitled to benefits under this part) to each family a member of which is entitled to benefits under this part at least 60 days before the expiration of the 12-month period described in such subparagraph.

"(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply with respect to an individual whose entitlement to benefits under this part is based solely on the grounds that the individual is an AFDC recipient or an SSI recipient.

"(e) AFDC RECIPIENT AND SSI RECIPIENT DEFINED.—In this part, the terms 'AFDC recipient' and 'SSI recipient' have the meanings given such terms in section 2 of the Guaranteed Health Insurance Act of 1994.

"SEC. 2232. WRAP-AROUND BENEFITS.

"(a) BENEFITS.—The benefits provided to a wrap around eligible individual under this part consist of the following (subject to subsection (e)):

"(1) WAIVER OF COST-SHARING.—The payment for any cost sharing (described in part B of title XXI) otherwise applicable to items and services covered under the guaranteed national benefit package (described in subtitle A of title III of the Guaranteed Health Insurance Act of 1994).

"(2) EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES.—For individuals under 19 years of age, payment for those early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r)) that are not covered under the guaranteed national benefit package.

"(3) VISION AND HEARING CARE.—For individuals 19 years of age or older, payment for vision and hearing care of the same scope as provided under paragraph (2), including eyeglasses and hearing aids, that are not covered under the guaranteed national benefit package.

"(b) PAYMENT AMOUNTS.—

"(1) COST-SHARING.—Payments for cost-sharing under subsection (a)(1) for an item or service shall be based upon the cost-sharing amounts that would apply to the item or service if the individual were enrolled under medicare part C under title XXI, without regard to whether the individual is enrolled under such part.

"(2) ADDITIONAL SERVICES.—Payments for items and services described in paragraph (2) or (3) of subsection (a)—

"(A) for which there are payment amounts established under title XXI shall be based on the payment amounts established under such title; or

"(B) for which there are not such payment amounts established, shall be based on payment amounts established by the Secretary, in consultation with the Prospective Payment Assessment Commission and the Physician Payment Review Commission, taking into account the payment rules established for similar items and services under part A of title XVIII.

"(c) SECONDARY PAYER TO CERTIFIED HEALTH PLANS.—Section 1862(b) shall apply to expenses incurred for items and services

79-059 O—97 Vol. 140 (Pt. 15) 15

VOL 140 PT 15 AG 10 — 11 1994 UMI

provided under this part in the same manner as such section applies to items and services provided under title XVIII.

"(d) USE OF MEDICARE PART C CLAIMS PROCESS.—

"(1) COST-SHARING FOR INDIVIDUALS ENROLLED UNDER MEDICARE PART C.—In the case of individuals entitled to benefits under this part and enrolled under title XXI, the benefits for cost-sharing under subsection (a)(1) with respect to an item or service shall be provided simultaneous with the payment of benefits with respect to such item or service under such part.

"(2) OTHER BENEFITS.—Except as provided in paragraph (1), claims for payment for benefits under this part shall be made and processed in the same manner as claims for payment for benefits under title XXI.

"(3) EXTENSION OF AGREEMENTS WITH FISCAL AGENTS.—The Secretary may provide for the administration of this part through agreements with fiscal agents meeting the requirements applicable to such agents under title XXI.

"(e) SPECIAL RULES FOR INDIVIDUALS ENROLLED IN MANAGED MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS.—

"(1) COVERAGE OF SERVICES THROUGH THE PROGRAM.—In the case of a wrap around eligible individual who is enrolled in a managed mental health and substance abuse program of a State or an Indian tribe or tribal organization approved under section 1981 of the Public Health Service Act for a month—

"(A) the individual is considered to have waived the right to benefits described in paragraph (3) under this part in consideration of receipt of benefits for mental health and substance abuse services through such program;

"(B) the Secretary shall make a per capita payment to the State or Indian tribe or tribal organization, in the amount specified in paragraph (2), on behalf of the individual; and

"(C) no other payment may be made under this part with respect to such services furnished to the individual during the month.

Payments under subparagraph (B) shall be made not less frequently than monthly.

"(2) CAPITATED PAYMENTS AMOUNTS.—The amount of the per capita payment provided under paragraph (1)(B) shall be an amount determined in accordance with a methodology established by the Secretary (similar to the methodology used under section 1893(b) to determine capitated payments to States or Indian tribes or tribal organizations on behalf of medicare beneficiaries enrolled in such programs) that reflects the costs associated with the benefits described in paragraph (3) that would be provided to the individual under this part if the individual were not enrolled in the managed mental health and substance abuse program.

"(3) MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS DESCRIBED.—The benefits described in this paragraph are as follows:

"(A) MENTAL HEALTH AND SUBSTANCE ABUSE COST SHARING.—Payment of cost sharing described in subsection (a)(1) with respect to mental health and substance abuse services (as defined in section 1893(c)) covered under the guaranteed national benefit package.

"(B) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES INCLUDED IN EPSDT.—Benefits under subsection (a)(2) with respect to such mental health and substance abuse services.

"SEC. 2233. APPLICATION FOR BENEFITS.

"(a) FORM.—

"(1) IN GENERAL.—An application for benefits under this part shall be made in such form and manner as the Secretary shall specify consistent with this section.

"(2) INFORMATION.—The application shall require—

"(A) the provision of information necessary to determine eligibility for benefits under this part, and

"(B) the provision of information respecting whether the individual is enrolled under medicare part C and the certified health plan (if any) in which the individual is enrolled.

"(b) AVAILABILITY OF APPLICATIONS.—The Secretary shall make applications for benefits under this part available in the same manner as the Secretary makes available applications for enrollment under title XXI.

"(c) COORDINATION WITH PART C AND PREMIUM CERTIFICATE ENROLLMENT APPLICATION.—An application for benefits under this part may (but need not) be accompanied by an application for enrollment under medicare part C or for a premium certificate under part A on the basis of being a low-income individual.

"(d) FACILITATION OF APPLICATIONS FOR BENEFITS.—The provisions of section 2103 shall apply to wrap around eligible individuals and applications for benefits under this part in the same manner as such provisions apply to medicare part C eligible individuals and applications for enrollment under title XXI.

"(e) TIMING OF APPLICATION.—An application for benefits under this part may be filed at any time during the year.

"SEC. 2234. REFERENCES TO MEDICARE PROVISIONS.

"In this part, except as otherwise specifically provided, any references to provisions of title XVIII of the Social Security Act are deemed to be references to such provisions as in effect on the day after the date of the enactment of the Guaranteed Health Insurance Act of 1994, taking into account the amendments made to such title by such Act.

"PART C—PAYMENT OF MEDICARE COST-SHARING FOR CERTAIN LOW-INCOME INDIVIDUALS

"SEC. 2241. PAYMENT OF COST-SHARING FOR CERTAIN INDIVIDUALS.

"Subject to section 2242, the Secretary shall make payments as follows:

"(1) QUALIFIED MEDICARE BENEFICIARIES WITH INCOME BELOW 100 PERCENT OF POVERTY LEVEL.—In the case of an individual who is determined by the Secretary to be a qualified medicare beneficiary (as defined in section 2243(a)), the Secretary shall make payment for all medicare cost-sharing described in section 2242(a).

"(2) QUALIFIED MEDICARE BENEFICIARIES WITH INCOME BELOW 120 PERCENT OF POVERTY LEVEL.—In the case of an individual who would be such a qualified medicare beneficiary but for the fact the individual's family income exceeds 100 percent, but is less than 120 percent, of the official poverty line (as described in section 2243(d)), the Secretary shall make payment for the medicare cost-sharing described in section 2242(a)(1)(B).

"(3) QUALIFIED DISABLED AND WORKING INDIVIDUALS.—In the case of an individual who is determined by the Secretary to be a qualified disabled and working individual (as defined in section 2243(d)(2)), the Secretary shall make payment for the medicare cost-sharing described in section 2242(a)(1)(A).

"SEC. 2242. MEDICARE COST-SHARING DEFINED.

"(a) IN GENERAL.—In this section, the term 'medicare cost-sharing' means the following costs incurred with respect to a qualified medicare beneficiary or a qualified disabled and working individual:

"(1)(A) Premiums under section 1818 or 1818A, and

"(B) premiums under section 1839.

"(2) Coinsurance under title XVIII (including coinsurance described in section 1813).

"(3) Deductibles established under title XVIII (including those described in section 1813, 1833(b), and 1834(b)).

"(4) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to '80 percent' therein were deemed a reference to '100 percent'.

"(b) ENROLLMENT WITH ELIGIBLE ORGANIZATIONS.—Under rules established by the Secretary for an individual described in section 2241(1), 'medicare cost-sharing' under this section may include premiums for the enrollment of the individual with an eligible organization under section 1876.

"SEC. 2243. INDIVIDUALS DEFINED.

"(a) QUALIFIED MEDICARE BENEFICIARY.—In this part, the term 'qualified medicare beneficiary' means an individual—

"(1) who is entitled to benefits under part A of title XVIII (other than an individual entitled to such benefits only pursuant to an enrollment under section 1818A);

"(2) whose income (as determined under section 1612 for purposes of the supplemental security income program, except as provided in subsection (c)) does not exceed 100 percent of the official poverty line applicable to a family of the size involved; and

"(3) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual may have and obtain benefits under that program.

"(b) QUALIFIED DISABLED AND WORKING INDIVIDUAL.—The term 'qualified disabled and working individual' means an individual—

"(1) who is entitled to enroll for hospital insurance benefits under part A of title XVIII under section 1818A;

"(2) whose income (as determined under section 1612 for purposes of the supplemental security income program, except as provided in subsection (c)) does not exceed 200 percent of the official poverty line applicable to a family of the size involved;

"(3) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual or a couple (in the case of an individual with a spouse) may have and obtain benefits under that program; and

"(4) who is not eligible for medical assistance under the State plan for medical assistance under title XIX for the State in which the individual resides.

"(c) EXCLUSION OF CERTAIN TRANSITION INCOME.—In determining under this section the income of an individual who is entitled to monthly insurance benefits under title II for a transition month in a year, such income shall not include any amounts attributable to an increase in the level of monthly insurance benefits payable under such title which have occurred pursuant to section 215(i) for benefits payable for months beginning with December of the previous year. In the previous sentence, the term 'transition month' means each month in a year through the month following the month in which the annual revision of the official poverty line (as described in subsection (d)) is published.

"(d) OFFICIAL POVERTY LINE DESCRIBED.—In this section, the 'official poverty line' is the line defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(e) USE OF ALTERNATIVE METHODOLOGIES.—

"(1) IN GENERAL.—The methodology to be employed in determining income and resource eligibility under this section may be less restrictive, and shall be no more restrictive, than the methodology—

"(A) in the case of groups consisting of aged, blind, or disabled individuals, under the supplemental security income program under title XVI, or

"(B) in the case of other groups, under the State plan most closely categorically related.

"(2) MORE RESTRICTIVE METHODOLOGY DESCRIBED.—For purposes of this subsection, a methodology is considered to be 'no more restrictive' if, using the methodology, additional individuals may be eligible for treatment as qualified medicare beneficiaries or qualified disabled and working individuals and no individuals who are otherwise eligible to be so treated are made ineligible for such treatment.

"SEC. 2244. TIMING.

"If an individual is determined to be a qualified medicare beneficiary or a qualified disabled and working individual under this part, such determination shall apply to items and services furnished after the end of the month in which the determination first occurs.

"PART D—ADMINISTRATIVE PROVISIONS

"SEC. 2251. DETERMINATION OF ELIGIBILITY; APPEALS.

"(a) PROCESS.—The Secretary, through the Social Security Administration and other appropriate agencies, shall establish a process for determining whether individuals are eligible for benefits under this title. Such process shall be coordinated with the enrollment process described in section 2102.

"(b) DETERMINATION OF PROJECTED INCOME FOR PURPOSES OF MEDICARE PART C AND WRAP-AROUND.—

"(1) IN GENERAL.—In determining the amount of an individual's projected modified adjusted gross income for purposes of part A or part B, the income for a year shall be projected on an annual basis based on evidence of the current (and projected) modified adjusted gross income over a period of at least 3 months, as determined under a uniform, national methodology established by the Secretary.

"(2) MODIFIED ADJUSTED GROSS INCOME DEFINED.—In this title, the term 'modified adjusted gross income' has the meaning given such term in section 59B(e)(2) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of the Guaranteed Health Insurance Act of 1994). The parenthetical in the preceding sentence shall not apply to the determination of adjusted gross income.

"(c) REQUIREMENT TO PROVIDE NOTICE OF MATERIAL CHANGE AFFECTING ELIGIBILITY FOR BENEFITS.—

"(1) IN GENERAL.—Each individual who has been determined to be entitled to benefits under this title (including under section 2231(c)) shall notify the Secretary (in a form and manner specified by the Secretary) of any material change in status that would affect the individual's eligibility for benefits under this title.

"(2) CONSTRUCTION.—Nothing in this section shall be construed as authorizing reconciliation of benefits provided with respect to deductibles and coinsurance.

"(d) NOTICE AND APPEALS.—

"(1) NOTICE.—If the Secretary determines that an individual is not entitled to benefits under this title, the Secretary shall notify the individual of the determination (and an explanation of the reasons for the determination).

"(2) APPEALS.—The provisions of section 2136(c) shall apply with respect to determinations of entitlement to and the amount of benefits under this title in the same manner as such provisions apply to determinations of entitlement to and the amount of benefits under title XXI.

"SEC. 2252. VERIFICATION OF ELIGIBILITY.

"(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Treasury, shall provide for such verification of eligibility, including verification of income, as the Secretary deems appropriate. Such verification may be based upon information provided under the national enrollment verification system established under subtitle B of title IX of the Guaranteed Health Insurance Act of 1994 and information provided under section 1137, and may be made on a sample or other basis.

"(b) MONITORING CHANGES IN STATUS.—

"(1) IN GENERAL.—The Secretary periodically shall verify, using the national enrollment verification system established under subtitle B of title IX of the Guaranteed Health Insurance Act of 1994 and other means, the status of individuals who are receiving benefits under this title in order to identify changes of employment or other status that may affect their eligibility for such benefits.

"(2) INFORMATION ON CASH ASSISTANCE RECIPIENTS.—In order to carry out paragraph (1), the Secretary shall require States administering plans under parts A or E of title IV and the entity responsible for administering the supplemental security income program under title XVI to report to the Secretary, on a semiannual basis, such information as may be necessary to verify an individual's status as an AFDC or SSI recipient.

"SEC. 2253. PENALTIES FOR MISREPRESENTATION.

"Any individual that knowingly misrepresents income or family status for the purpose of obtaining benefits under this title to which the individual is not entitled is subject to a civil money penalty not to exceed $1,000 for each such misrepresentation, or, if greater, three times the amount of the benefits obtained as a result of the misrepresentation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this section in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

SEC. 8102. EFFECTIVE DATES.

(a) PREMIUM CERTIFICATES.—No premium certificate or other assistance under title XXII of the Social Security Act (as added by subsection (a)) shall be made available—

(1) under subpart 1 or subpart 3 of part A of such title for premiums or assistance for months before January 1999; or

(2) under subpart 2 of part A of such title for premiums for months before January 1997.

(b) WRAP-AROUND BENEFITS.—No wrap-around benefits are available under part B of title XXII of the Social Security Act, added by subsection (a), with respect to any items or services furnished before January 1, 1999.

(c) MEDICARE COST-SHARING.—No medicare cost-sharing is available under part C of title XXII of the Social Security Act (as added by section 8001) with respect to items or services furnished in a State before January 1999.

PART 2—STATE MAINTENANCE OF EFFORT

Subpart A—Payments for Cash Assistance Recipients

SEC. 8111. STATE RESPONSIBILITY FOR PAYMENTS.

(a) IN GENERAL.—Subject to section 8133, each State shall provide in each year (beginning with 1999) for payment to the Secretary, to the credit of the Medicare Part C Trust Fund, of an amount equal to the State medical assistance percentage (as defined in subsection (b)) of the State maintenance of effort percentage (as defined in section 8134) for the year of the sum of the following products:

(1) AFDC PORTION.—The product of—

(A) the sum of—

(i) the AFDC, non-DSH per capita amount for the State for the year (determined under section 8112(a)(1)), and

(ii) the AFDC, DSH per capita amount for the State for the year (determined under section 8112(a)(2)); and

(B) the number of AFDC recipients residing in the State in the year (as determined under section 8114).

(2) SSI PORTION.—The product of—

(A) the sum of—

(i) the SSI, non-DSH per capita amount for the State for the year (determined under section 8113), and

(ii) the SSI, DSH per capita amount for the State for the year (determined under section 8113); and

(B) the number of SSI recipients residing in the State in the year (as determined under section 8114).

(b) STATE MEDICAL ASSISTANCE PERCENTAGE DEFINED.—In subsection (a), the term "State medical assistance percentage" means, for a State for a quarter in a fiscal year, 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) for the State for the fiscal year.

(c) BENEFIT PACKAGE FOR LOW-INCOME INDIVIDUALS.—In this subtitle, the term "benefit package for low-income individuals" means the benefits, including the guaranteed national benefit package and the wrap-around benefits made available for low-income individuals under part A and subpart 2 of part B of title XXI of the Social Security Act, as added by the previous provisions of this title.

SEC. 8112. DETERMINATION OF AFDC PER CAPITA AMOUNTS FOR STATES.

(a) DETERMINATIONS.—

(1) IN GENERAL.—For each State for each year, the Secretary shall determine an AFDC, non-DSH per capita amount in accordance with paragraph (2) and an AFDC, DSH per capita amount in accordance with paragraph (3).

(2) AFDC, NON-DSH PER CAPITA AMOUNT.—The AFDC, non-DSH per capita amount is equa. to the per capita, non-DSH State medicaid expenditures (under subsection (b)(1)) for the benefit package for low-income individuals (as defined in section 8111(c)) for AFDC recipients for the State for the year (as determined under subsection (b)(1)).

(3) AFDC, DSH PER CAPITA AMOUNT.—The AFDC, DSH per capita amount is equal to the per capita DSH State medicaid expenditures (under subsection (b)(2)) for the benefit package for low-income individuals (as defined in section 8111(c)) for AFDC recipients for the State for the year (as determined under subsection (b)(2)).

(b) PER CAPITA STATE MEDICAID EXPENDITURES DEFINED.—For purposes of subsection (a)—

(1) PER CAPITA NON-DSH STATE MEDICAID EXPENDITURES.—The "per capita non-DSH State medicaid expenditures" for the benefit package for low-income individuals for a State for a year is equal to the base per capita non-DSH expenditures (described in subsection (c)(1)), updated to the year involved under subsection (d)).

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) PER CAPITA DSH STATE MEDICAID EXPENDITURES.—The "per capita DSH State medicaid expenditures" for the benefit package for low-income individuals for a State for a year is equal to the base per capita DSH expenditures (described in subsection (c)(2)), updated to the year involved under subsection (d)).

(c) MEDICAID EXPENDITURES.—

(1) BASE PER CAPITA NON-DSH EXPENDITURES.—The "base per capita non-DSH expenditures" described in this paragraph, for a State for a year, is—

(A) the baseline non-DSH medicaid expenditures (as defined in subsection (e)(1)(A)) for the State, divided by

(B) the number of AFDC recipients enrolled in the State medicaid plan in fiscal year 1993, as determined under section 8114(a).

(2) BASE PER CAPITA DSH EXPENDITURES.—The "base per capita DSH expenditures" described in this paragraph, for a State for a year, is—

(A) the baseline DSH medicaid expenditures (as defined in subsection (e)(1)(B)) for the State; divided by

(B) the number of AFDC recipients enrolled in the State medicaid plan in fiscal year 1993, as determined under section 8114(a).

(d) UPDATING.—

(1) INITIAL UPDATE THROUGH 1998.—

(A) IN GENERAL.—

(i) BASE PER CAPITA NON-DSH EXPENDITURES.—The Secretary shall update the base per capita non-DSH expenditures described in subsection (c)(1) for each State from fiscal year 1993 through 1998, by 57.6 percent.

(ii) BASE PER CAPITA DSH EXPENDITURES.—The Secretary shall update the base per capita DSH expenditures described in subsection (c)(2) for each State from fiscal year 1993 through 1998, by 39.7 percent.

(B) ADJUSTMENT AUTHORIZED TO TAKE INTO ACCOUNT CASH FLOW VARIATIONS.—In determining the update under paragraph (1), the Secretary may provide for an adjustment in a manner similar to the adjustment permitted under section 8122(b)(3).

(2) UPDATE FOR SUBSEQUENT YEARS.—For each State for 1999 and for each subsequent year the Secretary shall update the base per capita non-DSH expenditures described in subsection (c)(1) (as previously updated under this subsection) and the base per capita DSH expenditures described in subsection (c)(2) (as previously updated under this subsection) by a factor equal to the national medicare growth factor (under section 8201(c) for the year.

(e) DETERMINATION OF BASELINE MEDICAID EXPENDITURES.—

(1) IN GENERAL.—

(A) BASELINE NON-DSH MEDICAID EXPENDITURES.—For purposes of subsection (c)(1)(A), the "baseline non-DSH medicaid expenditures" for a State is the gross amount of payments under the State medicaid plan with respect to medical assistance furnished, for items and services included in the benefit package for low-income individuals, for AFDC recipients for calendar quarters in fiscal year 1993, but does not include such expenditures for which no Federal financial participation is provided under such plan and does not include any payments made under section 1923 of the Social Security Act (relating to DSH payments).

(B) BASELINE DSH MEDICAID EXPENDITURES.—For purposes of subsection (c)(2)(A), the term "baseline DSH medicaid expenditures" for a State is payments made under section 1923 of the Social Security Act in fiscal year 1993 multiplied by the proportion of payments for medical assistance for hospital services (including psychiatric hospital services) under the State medicaid plan in fiscal year 1993 that is attributable to AFDC recipients.

(2) TREATMENT OF DISALLOWANCES.—The amount determined under this subsection shall take into account amounts (or an estimate of amounts) disallowed.

(f) APPLICATION TO PARTICULAR ITEMS AND SERVICES IN BENEFIT PACKAGE FOR LOW-INCOME INDIVIDUALS.—For purposes of this section, in determining the per capita State non-DSH medicaid expenditures and the per capita State DSH medicaid expenditures for a category of items and services (within the benefit package for low-income individuals) furnished in a State, there shall be counted only that proportion of such expenditures (determined only with respect to medical assistance furnished to AFDC recipients) that were attributable to items and services included in the benefit package for low-income individuals (taking into account any limitation on amount, duration, or scope of items and services included in such package).

SEC. 8113. DETERMINATION OF SSI PER CAPITA AMOUNT FOR STATES.

For State for each year, the Secretary shall determine an SSI per capita amount in accordance with this section. Such amount shall be determined in the same manner as the AFDC per capita amount for the State is determined under section 8112 except that, for purposes of this section—

(1) any reference in such section (or in sections referred to in such section) to an "AFDC recipient" is deemed a reference to an "SSI recipient"; and

(2)(A) 25.8 percent shall be substituted for 57.6 percent in section 8112(d)(1)(A)(i), and

(B) 11.5 percent shall be substituted for 39.7 percent in section 8112(d)(1)(A)(ii).

SEC. 8114. DETERMINATION OF NUMBER OF AFDC AND SSI RECIPIENTS.

(a) BASELINE.—For purposes of section 8112 and section 8113, the number of AFDC recipients and SSI recipients for a State for fiscal year 1993 shall be determined based on actual reports submitted by the State to the Secretary. In the case of individuals who were not recipients for the entire fiscal year, the number shall take into account only the portion of the year in which they were such recipients. The Secretary may audit such reports.

(b) SUBSEQUENT YEARS.—For purposes of section 8111(a), the number of AFDC and SSI recipients residing in a State shall be determined on a monthly basis based on the actual number of such recipients.

Subpart B—Payments for Non-Cash Assistance Recipients

SEC. 8121. STATE RESPONSIBILITY FOR PAYMENTS.

(a) PAYMENT.—Each State shall provide for each year (beginning with 1999) for payment to the Secretary, to the credit of the Medicare Part C Trust Fund, of the amounts specified in subsection (b).

(b) AMOUNT.—Subject to section 8133, the total amount of such payment for a year shall be equal to the State maintenance of effort percentage (as defined in section 8134) for the year of the sum of—

(1) the State non-cash, non-DSH baseline amount for the State, determined under section 8122(a)(1) and updated to the year involved under section 8123, and

(2) the State non-cash, DSH baseline amount for the State, determined under section 8122(a)(2) and updated to the year involved under section 8123.

SEC. 8122. DETERMINATION OF BASELINE AMOUNTS.

(a) BASELINE AMOUNTS.—

(1) NON-DSH AMOUNT.—The Secretary shall determine for each State a non-cash, non-DSH baseline amount which is equal to the aggregate State medicaid expenditures in fiscal year 1993 (as defined in subsection (c)(1)) for the benefit package for low-income individuals for non-cash assistance recipients (as defined in subsection (b)).

(2) DSH AMOUNT.—The Secretary shall determine for each State a non-cash, DSH baseline amount which is equal to the DSH expenditures in fiscal year 1993 (as defined in subsection (c)(2)) multiplied by proportion of payments for medical assistance for hospital services (including psychiatric hospital services) under the State medicaid plan in fiscal year 1993 that is attributable to non-cash assistance recipients.

(b) NON-CASH ASSISTANCE RECIPIENT.—In this part, the term "non-cash assistance recipient" means an eligible individual who is not an AFDC or SSI recipient or a medicare part A beneficiary.

(c) STATE MEDICAID EXPENDITURES AND DSH EXPENDITURES DEFINED.—

(1) AGGREGATE STATE MEDICAID EXPENDITURES.—

(A) IN GENERAL.—In this section, the term "aggregate State medicaid expenditures" means, with respect to a State in fiscal year 1993, the amount of payments under the State medicaid plan with respect to medical assistance furnished for non-cash assistance recipients for calendar quarters in fiscal year 1993, less the amount of Federal financial participation paid to the State with respect to such assistance, and not including any DSH expenditures (as defined in paragraph (2)).

(B) LIMITED TO PAYMENTS FOR SERVICES.—In applying subparagraph (A), payments under the State medicaid plan shall not be included unless Federal financial participation is provided with respect to such payments under section 1903(a)(1) of the Social Security Act and such payments shall not include payments for medicare cost-sharing (as defined in section 1905(p)(3) of the Social Security Act).

(2) DSH EXPENDITURES.—In this section, the term "DSH expenditures" means payments made under section 1923 of the Social Security Act in fiscal year 1993.

(3) ADJUSTMENT AUTHORIZED TO TAKE INTO ACCOUNT CASH FLOW VARIATIONS.—If the Secretary finds that a State took an action that had the effect of shifting the timing of medical assistance payments under the State medicaid plan between quarters or fiscal years in a manner so that the payments made in fiscal year 1993 do not accurately reflect the value of the medical assistance provided with respect to items and services furnished in that fiscal year, the Secretary may provide for such adjustment in the amounts computed under this subsection as may be necessary so that the non-cash, non-DSH baseline amount and the non-cash, DSH baseline amount determined under this section accurately reflect such value.

(4) TREATMENT OF DISALLOWANCES.—The amounts determined under this subsection shall take into account amounts (or an estimate of amounts) disallowed.

(d) APPLICATION TO PARTICULAR ITEMS AND SERVICES IN THE BENEFIT PACKAGE FOR LOW-INCOME INDIVIDUALS.—For purposes of subsection (a), in determining the aggregate State medicaid expenditures for a category of items and services (within the benefit package for low-income individuals) furnished in a State, there shall be counted only that proportion of such expenditures that were attributable to items and services included in such package (taking into account any limitation on amount, duration, or scope of items and services included in such package).

SEC. 8123. UPDATING OF BASELINE AMOUNT.

(a) UPDATE FOR YEARS THROUGH 1998.—

(1) NON-CASH, NON-DSH BASELINE AMOUNT.—The Secretary shall update the non-cash, non-DSH baseline amount determined under section 8122(a)(1) for each State for years from fiscal year 1993 through 1998 by 66.2 percent.

(2) NON-CASH, DSH BASELINE AMOUNT.—The Secretary shall update the non-cash, DSH baseline amount determined under section 8122(a)(2) for each State for years from fiscal year 1993 through 1998 by 47.3 percent.

(3) ADJUSTMENT AUTHORIZED TO TAKE INTO ACCOUNT CASH FLOW VARIATIONS.—In determining the updates under paragraph (1), the Secretary may provide for an adjustment in a manner similar to the adjustment permitted under section 8122(b)(3).

(b) UPDATE FOR SUBSEQUENT YEARS.—For each State for each year after 1998, the Secretary shall update the non-cash, non-DSH baseline amount (as previously updated under this section) and the non-cash, DSH baseline amount (as previously updated under this section) by the product of—

(1) 1 plus the national medicare growth factor (under section 8201(c)) for the year, and

(2) 1 plus the annual percentage increase in the population of the United States of individuals who are under 65 years of age (as estimated by the Secretary based on projections made by the Bureau of Labor Statistics of the Department of Labor) for the year.

Subpart C—General and Miscellaneous Provisions

SEC. 8131. TIMING AND MANNER OF PAYMENTS.

(a) IN GENERAL.—Amounts required to be paid under this part shall be paid on a periodic basis specified by the Secretary, taking into account the benefits provided under part B of title XXI of the Social Security Act and taking into account the manner in which States provide for payments under agreements under section 1843 of such Act.

(b) PERIODIC PROVISION OF INFORMATION.—Each State shall periodically transmit to the Secretary such information as the Secretary may require to verify the amounts payable.

(c) RECONCILIATION.—

(1) PRELIMINARY.—At such time after the end of each year as the Secretary shall specify, the State shall submit to the Secretary such information as the Secretary may require to do a preliminary reconciliation of the amounts paid under this part and the amounts due.

(2) FINAL.—No later than June 30 of each year, the Secretary shall provide for a final reconciliation for such payments for quarters in the previous year. Amounts subsequently payable are subject to adjustment to reflect the results of such reconciliation.

(3) AUDIT.—Payments under this part are subject to audits by the Secretary in accordance with rules established by the Secretary.

SEC. 8132. SPECIAL RULES FOR PUERTO RICO AND OTHER TERRITORIES.

(a) COMPUTATION OF BASELINES AS IF COMMONWEALTHS AND TERRITORIES WERE STATES.—

(1) IN GENERAL.—For purposes of determining payment amounts by the Commonwealths and territories under subpart A and subpart B of this part, subject to paragraph (2), the Secretary, in consultation with such Commonwealths and territories and using data on expenditures reported to the Secretary by the Commonwealths and territories, shall compute—

(A) the base per capita non-DSH expenditures and base per capita DSH expenditures, under section 8112(c), and

(B) the non-cash, non-DSH baseline amount and the non-cash, DSH baseline amount, under section 8122(a),

in the same manner as if the Commonwealths and territories had been one of the 50 States of the United States.

(2) REDUCTION OF MAINTENANCE OF EFFORT PAYMENTS BY AMOUNT OF TOBACCO TAXES IN PUERTO RICO.—The payment amounts otherwise payable under subparts A and B of this part by each of the Commonwealths and territories for a year shall be ratably reduced by ratio of—

(A) the amount of additional revenues in the year which the Secretary of the Treasury estimates to be attributable to section 5701(h) of the Internal Revenue Code of 1986 (as added by section 11101(h) of this Act), to

(B) the total payment amounts otherwise payable under such subparts by all of the Commonwealths and territories for the year.

(b) TREATMENT OF CERTAIN SSI RECIPIENTS.—With respect to the Commonwealths and territories insofar as they are not covered under the supplementary security income program, in this part, the term "SSI recipient" includes an individual receiving aid under a territorial program for the aged, blind, or disabled under the Social Security Act.

(c) COMMONWEALTHS AND TERRITORIES.—In this section, the term "Commonwealths and territories" means Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

SEC. 8133. SANCTIONS FOR FAILURE TO MAKE TIMELY PAYMENTS.

(a) REDUCTION OF FEDERAL MATCHING PAYMENTS.—To the extent that a State that fails to make the payments required under this part in a timely manner, the Secretary shall, in addition to withholding payments pursuant to section 1903(x) of the Social Security Act (as added by section 8502(b)), withhold the required amounts from Federal matching payments that would otherwise be paid to the State for the following programs:

(1) The program under part A of title IV of the Social Security Act.

(2) The program under title XVI of such Act.

(3) The program under title XX of such Act.

(b) CONSTRUCTION.—Nothing in this section shall be construed as affecting payments made directly to individuals, whether or not such payments are administered by a State agency.

SEC. 8134. STATE MAINTENANCE OF EFFORT PERCENTAGE.

For purposes of sections 8111(a) and 8121(b), the term "State maintenance of effort percentage" means—

(1) 100 percent for 1999, 2000, and 2001

(2) 96 percent for 2002 and 2003, and

(3) 86 percent for each year thereafter.

PART 3—ANALYSIS OF IMPACT OF ACT ON FEDERAL EXPENDITURES AND STATES

SEC. 8141. IMPACT OF HEALTH CARE REFORM ON FEDERAL BUDGET.

(a) STUDY.—The Director of the Congressional Budget Office shall conduct a study of the impact of this Act on the budget of the Federal Government (including the impact on receipts, spending, and other obligations) with respect to each fiscal year (beginning with fiscal year 1996).

(b) REPORT.—Not later than March 1 of each year (beginning with 1997), the Director shall submit a report to Congress on the study conducted under subsection (a) for the previous fiscal year, and shall include in the report—

(1) a comparison of the actual impact of this Act on the Federal budget with the projected impact of this Act on Federal receipts, spending, and obligations, as first estimated by the Director after the date of the enactment of this Act; and

(2) to the extent that the actual impact of this Act on the Federal budget is not in accordance with the Director's estimate, an explanation for the differences.

SEC. 8142. IMPACT OF HEALTH CARE REFORM ON STATES.

(a) STUDY.—The Director of the Congressional Budget Office shall conduct a State-by-State study for each fiscal year (beginning with fiscal year 1996) of the impact of this Act on State spending for health care services and the overall economy of the State during the fiscal year. Such study shall include an analysis of the impact of this Act on the following:

(1) The number of individuals in the State with health insurance coverage.

(2) Health-related expenditures by the State, including—

(A) maintenance of effort paid under part 2;

(B) payments under the State plan under title XIX of the Social Security Act;

(C) support for uninsured and low-income individuals (including undocumented aliens);

(D) payments for medical education and other public health programs;

(E) payments for health insurance coverage for State and local government employees.

(3) Health-related payments by the Federal government to individuals and providers in the State, including—

(A) premium certificates under part A of title XXII of the Social Security Act and other premium assistance for low-income individuals;

(B) credits for small employers and retirees;

(C) payments to providers under the medicare program and medicare part C; and

(D) other Federal assistance to providers and programs (including capital assistance, payments under the Public Health Service Act, and payments for graduate medical education) under this Act and other Federal laws.

(b) REPORT.—Not later than March 1 of each year (beginning with 1997), the Director shall submit a report to Congress on the study conducted under subsection (a) for the previous fiscal year.

(c) RECOMMENDATIONS TO ASSIST ADVERSELY AFFECTED STATES.—If, with respect to a State for a fiscal year, the Director finds that this Act resulted in an adverse impact on State revenues and the overall State economy during the year, the Director shall report such information to the Secretary. The Secretary shall submit recommendations to Congress for a legislative proposal to assure that the State is held harmless as a result of this Act (including recommendations relating to adjustments in the State maintenance of effort payments required under part 2, other revenues contained in this Act, and other provisions).

VOL 140 PT 15 AG 10 — 11 1994 UMI

Subtitle C—Cost Containment in the Medicare Programs

PART 1—MEDICARE HEALTH EXPENDITURE ESTIMATES

SEC. 8201. NATIONAL MEDICARE PER CAPITA HEALTH EXPENDITURE ESTIMATE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—For each calendar year (beginning with 1996), there is established a national medicare per capita health expenditure estimate (in this subtitle referred to as the "national medicare per capita estimate") determined under paragraph (2).

(2) AMOUNT.—Subject to subsection (e)—

(A) NATIONAL MEDICARE PER CAPITA ESTIMATE.—

(i) 1996, 1997, AND 1998.—The national medicare per capita estimate for 1996, 1997, and 1998 is equal to the national medicare A/B per capita estimate for the respective year.

(ii) SUBSEQUENT YEARS.—The national medicare per capita estimate for a year after 1998 is equal to the average, weighted by the estimated number of enrollees in the respective programs, of the national medicare A/B per capita estimate and the national medicare C per capita estimate for the year.

(B) NATIONAL MEDICARE A/B PER CAPITA AMOUNT.—

(i) 1996.—Subject to the special rule provided under subsection (e)(4), the national medicare A/B per capita estimate for 1996 is equal to the medicare per capita budget baseline for 1995 (as determined under subsection (b)) multiplied by the sum of 1 plus the national medicare growth factor (specified under subsection (c)) for 1996.

(ii) SUBSEQUENT YEARS.—Subject to the special rule provided under subsection (e)(4), the total amount of the national medicare A/B per capita estimate for each year after 1996 is equal to the national medicare A/B per capita estimate determined under this subparagraph for the previous year multiplied by the national medicare growth factor (specified under subsection (c)) for the year involved.

(C) NATIONAL MEDICARE C PER CAPITA AMOUNT.—

(i) 1999.—The Secretary shall estimate the national medicare C per capita estimate for 1999 by using the payment rates under the medicare part C program in 1999 and taking into account the average characteristics of the population expected to be enrolled in such program and their projected use of covered services (including wrap around services covered under subpart 2 of part B of title XXIII of the Social Security Act).

(ii) SUBSEQUENT YEARS.—The total amount of the national medicare C per capita estimate for each year after 1999 is equal to the national medicare C per capita estimate determined under this subparagraph for the previous year multiplied by the sum of 1 plus the national medicare growth factor (specified under subsection (c)) for the year involved.

(3) PUBLICATION.—The Secretary of Health and Human Services shall publish in the Federal Register and report to the Congress—

(A) by not later than April 1 before each year, an initial estimate of the per capita estimates under this subsection for the year; and

(B) by not later than October 1 before each year, a final determination of such per capita estimates for such year.

COM008 (b) MEDICARE PER CAPITA BUDGET BASELINE.—The Secretary shall compute a medicare per capita budget baseline under this subsection for 1995 as follows:

(1) 1993 ACTUAL EXPENDITURES.—The Secretary shall determine (on the basis of the best data available) the amount of the medicare per capita expenditures (as determined under subsection (d)) for 1993.

(2) PROJECTION FOR 1995.—The Secretary shall increase such amount by the Secretary's estimate of the percentage increase in the national medicare per capita estimate between the midpoint of 1993 and the midpoint of 1995.

(c) NATIONAL MEDICARE GROWTH FACTOR.—The national medicare growth factor under this subsection for each year is the sum (expressed as a fraction) of—

(1) the average annual percentage increase in the per capita gross domestic product (in current dollars, as published by the Secretary of Commerce) during the 5-year period ending with the second previous year; and

(2)(A) for 1996, 1.8 percentage points,

(B) for 1997, 1.4 percentage points,

(C) for 1998, 0.5 percentage points,

(D) for 1999, 0.1 percentage points, and

(E) for each year thereafter, 0 percentage points.

(d) DETERMINATION OF NATIONAL MEDICARE PER CAPITA EXPENDITURES FOR 1993.—

(1) IN GENERAL.—The Secretary shall determine for 1993 the national medicare per capita expenditures equal to—

(A) total covered health care expenditures (described in paragraph (2)), divided by

(B) the estimated average number of medicare beneficiaries in 1993 for whom such expenditures were determined.

(2) COVERED HEALTH CARE EXPENDITURES.—For purposes of paragraph (1)(A), the Secretary shall determine covered health care expenditures for 1993 as follows:

(A) DETERMINATION OF TOTAL EXPENDITURES.—The Secretary shall first determine the amount of total payments made for items and services under title XVIII of the Social Security Act (determined without regard to cost sharing) in 1993.

(B) REMOVAL OF CERTAIN EXPENDITURES NOT INCLUDED IN MEDICARE.—The amount so determined shall be decreased by the proportion of such amount that is attributable to expenditures which are paid for items and services excluded from classes of services under section 8202(a)(4).

(e) ADJUSTMENTS.—

(1) IN GENERAL.—Except as provided in this subsection, the Secretary is not authorized to adjust the medicare A/B per capita estimate or the medicare C per capita estimate under this section for a year once they are published before October of the previous year.

(2) RECOMMENDATIONS FOR CHANGES.—Except as permitted under paragraphs (3) and (4), the Secretary may submit to Congress recommendations for changes in the medicare A/B per capita estimate or the medicare C per capita estimate, but may not implement such recommendations without the approval of Congress.

(3) CORRECTION PERMITTED FOR ESTIMATION ERRORS IN MEDICARE PER CAPITA BUDGET BASELINE.—Insofar as the Secretary determines that the amounts used in estimating initially the medicare per capita budget baseline described in subsection (b) did not accurately reflect the actual amount described in subsection (b)(1) and the actual percentage increase described in subsection (b)(2), the Secretary shall adjust the national medicare per capita estimate to correct for such estimation errors.

(4) SPECIAL RULES.—

(A) MEDICARE A/B PER CAPITA ESTIMATE.—The Secretary shall adjust the national medicare A/B per capita estimate for each year (beginning with 1996) in order to reflect the changes in expenditures under parts A and B of the medicare program attributable to amendments made by subtitle B of title III or subtitle D of this title, including the addition of an outpatient prescription drug benefit.

(B) MEDICARE C PER CAPITA ESTIMATE.—The Secretary shall adjust the national medicare C per capita estimate for each year (beginning with 1999) in order to reflect the changes in expenditures under medicare part C attributable to the addition of benefits not included in the previous year.

SEC. 8202. CLASSES OF HEALTH CARE SERVICES.

(a) ESTABLISHMENT OF CLASSES.—

(1) IN GENERAL.—

(A) SPECIFIED SERVICES.—

(i) IN GENERAL.—Subject to subparagraph (B)(ii), in the case of items and services specified in a subparagraph under paragraph (2), all of the items and services described in that subparagraph shall be considered to be a "separate" class of health care services.

(ii) OVERLAPPING SERVICES.—Except as the Secretary may provide, items and services specified in a subparagraph of paragraph (2) shall be considered to be excluded from the subsequent subparagraphs of that paragraph.

(B) OTHER ITEMS AND SERVICES.—

(i) IN GENERAL.—In the case of items and services included as health care services under paragraph (3), the Secretary shall group such items and services into such class or classes of health care services as may be appropriate.

(ii) INCLUSION IN CLASSES OF SPECIFIED HEALTH CARE SERVICES.—In carrying out clause (i), the Secretary may include an item or service described in paragraph (3) within a class of services established under subparagraph (A).

(2) SPECIFIED HEALTH CARE SERVICES.—Subject to paragraph (4), the items and services specified in this paragraph are as follows:

(A) Inpatient hospital services, other than mental health services.

(B) Outpatient hospital services and ambulatory facility services (including renal dialysis facility services), other than mental health services.

(C) Diagnostic testing services (including clinical laboratory services and x-ray services).

(D) Physicians' services and other professional medical services, other than mental health services.

(E) Home health services and hospice care.

(F) Rehabilitation services, such as physical therapy, occupational and speech therapy.

(G) Durable medical equipment and supplies.

(H) Prescription drugs and biologicals and insulin.

(I) Nursing facility services, including skilled nursing facility services and intermediate care facility services, other than mental health services.

(J) Mental health services.

(3) CLASSIFICATION OF ADDITIONAL ITEMS AND SERVICES.—Subject to paragraph (4), with respect to items and services (not described in paragraph (2)) which are included under the medicare program (including wrap around benefits under subpart 2 of part B of title XXIII of the Social Security Act), the Secretary may classify them either within a class specified in paragraph (2) or within a new class established by the Secretary for such an item or service.

(4) EXCLUSIONS.—The following items and services shall not be considered to be health care services and shall not be included in a

class of services under paragraph (1) or (3), except as provided in paragraph (5):

(A) Over-the-counter medications and medical equipment and devices.

(B) Homemaker and home health aide services and personal care services, and other services described in section 1915(c)(4)(B), section 1929(a), or section 1930(a) of the Social Security Act.

(C) Inpatient mental health services of a custodial nature.

(5) INCLUSION OF MEDICARE SERVICES.—Paragraph (4) shall not apply to items and services covered under the medicare program.

(b) PUBLICATION.—

(1) IN GENERAL.—The Secretary shall publish—

(A) by not later than April 1, 1995, proposed regulations defining the health care services and establishing the classes of services under this section, and

(B) by not later than October 1, 1995, final regulations defining the health care services and establishing such classes.

(2) ITEMS INCLUDED IN REGULATIONS.—In such regulations, the Secretary shall define—

(A) the class or classes to be established under subsection (a)(1),

(B) the services to be included within each class, and

(C) the methods and sources of data for computing, for purposes of this subtitle, the national medicare per capita estimate within the class.

(3) CHANGES.—

(A) NO CHANGES AUTHORIZED.—After the Secretary has established classes of services under paragraph (1)(B), the Secretary may not change such classes (or the services included in such classes), except in the case of services not previously classified. Any such services not previously classified shall be classified within one of the classes previously established.

(B) RECOMMENDED CHANGES.—If the Secretary determines that a change in the classification established under this section may be appropriate, the Secretary shall submit to the Congress a report proposing such change. The Secretary shall include in the report an explanation of—

(i) the rationale for such change, and

(ii) the impact of such change on the per capita estimates under this part and on medicare expenditures permitted for classes of services that would be affected by the change.

(4) COMMISSION REPORTS.—

(A) INITIAL REPORTS.—With respect to the establishment of classes of services under this section, each applicable Commission (as defined in subsection (c)), by not later than June 1, 1995, shall report to the Congress its comments concerning the classification proposed by the Secretary under paragraph (1)(A).

(B) PERIODIC REPORTS.—Each applicable Commission shall periodically report to Congress on changes in the system of classification under this section that should be made to promote the more efficient provision of medically appropriate health care services.

(c) APPLICABLE COMMISSION DEFINED.—In this subtitle, the term "applicable Commission" means—

(1) with respect to services included in a class of services furnished by a hospital, other institutional provider, or home health provider, the Prospective Payment Assessment Commission (established under section 1886(e)(2) of the Social Security Act);

(2) with respect to prescription drugs, biologicals, and insulin, the Prescription Drug Payment Review Commission (provided for under section 1847 of the Social Security Act, as added by section 3104 of this Act),

(3) with respect to physicians' services, the Physician Payment Review Commission (provided for under section 1845 of the Social Security Act), and

(4) with respect to mental health and substance abuse services, the Advisory Commission on Mental Health and Substance Abuse Services (provided for under section 3025(a)).

SEC. 8203. ALLOCATION OF PER CAPITA ESTIMATES BY CLASS OF SERVICE FOR MEDICARE A/B.

(a) ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate the medicare A/B per capita estimate under section 8201 for a year among classes of services specified under section 8202.

(2) PROPORTIONAL ALLOCATION BASED ON PROJECTED EXPENDITURES.—The amount allocated to each class for a year shall be equal to the medicare A/B per capita estimate for the year multiplied by the ratio (expressed as a percentage) of—

(A) the projected medicare A/B expenditures for the class for the year (as determined under subsection (b)(2)), to

(B) the sum of such projected medicare A/B expenditures for all the classes for the year.

(3) PUBLICATION.—

(A) IN GENERAL.—The Secretary shall, in conjunction with the publication of the initial estimate and final determination of the per capita estimates under section 8201(a)(3) for a year, publish in the Federal Register and report to the Congress the allocation of the per capita estimates among the classes of services under this subsection.

(B) EXCEPTION FOR 1996.—For 1996, the Secretary shall publish and report the allocation of the medicare A/B per capita estimate among the classes of services under this subsection not later than August 1, 1995.

(b) PROJECTED MEDICARE A/B EXPENDITURES.—

(1) IN GENERAL.—

(A) DETERMINATION.—For purposes of subsection (a)—

(i) FOR 1995.—The projected medicare A/B expenditures for a class of services for 1995 is equal to the portion of the national medicare per capita expenditures during 1993 (as determined under section 8201(d)) which is attributable to the class of services, multiplied twice by the medicare A/B trend factor (described in subparagraph (B)) for the class and multiplied by the adjustment factor described in subparagraph (C) for 1995. In computing such portion for classes, the Secretary shall take into account the allocation of expenditures by health maintenance organizations among the different classes of services.

(ii) SUBSEQUENT YEARS.—The projected medicare A/B expenditures for a class of services for a year after 1995 is equal to the amount of the allocation for the class under clause (i) for the preceding year multiplied by the medicare A/B trend factor (described in subparagraph (B)) for the class and multiplied by the adjustment factor described in subparagraph (C) for the year.

(B) MEDICARE A/B TREND FACTOR.—In subparagraph (A), subject to subparagraph (D), the "medicare A/B trend factor", is 1 plus the following amount for the class of services involved:

(i) INPATIENT HOSPITAL SERVICES.—For the class described in section 8202(a)(2)(A), 8.6 percent.

(ii) OUTPATIENT HOSPITAL SERVICES.—For the class described in section 8202(a)(2)(B), 15.7 percent.

(iii) DIAGNOSTIC TESTING SERVICES.—For the class described in section 8202(a)(2)(C), 12.2 percent.

(iv) PHYSICIANS' SERVICES.—For the class described in section 8202(a)(2)(D), 9.1 percent.

(v) HOME HEALTH AND HOSPICE.—For the class described in section 8202(a)(2)(E), 13.9 percent.

(vi) REHABILITATION SERVICES.—For the class described in section 8202(a)(2)(F), 12.3 percent.

(vii) DURABLE MEDICAL EQUIPMENT.—For the class described in section 8202(a)(2)(G), 10.2 percent.

(viii) PRESCRIPTION DRUGS.—For the class described in section 8202(a)(2)(H), 8.2 percent.

(ix) NURSING FACILITY SERVICES.—For the class described in section 8202(a)(2)(I), 11.5 percent.

(x) MENTAL HEALTH SERVICES.—For the class described in section 8202(a)(2)(J), 15.7 percent.

(C) ADJUSTMENT FACTOR (NORMALIZATION).—The adjustment factor described in this subparagraph for a year is equal to the ratio of—

(i) the national medicare A/B per capita estimate for the year (as determined under section 8201(a)(2)(B)) or, for 1995, the medicare per capita budget baseline for 1995 (as determined under section 8201(b)(2)), to

(ii) the sum of the projected medicare A/B expenditures projected for all the classes for the year (determined under subparagraph (A) without regard to this subparagraph).

(D) SPECIAL RULE.—The Secretary shall adjust the projected medicare A/B expenditures for each year (beginning with 1996) in order to reflect the changes in expenditures under parts A and B of the medicare program attributable to amendments made by subtitle B of title III or subtitle D of this title, including the addition of an outpatient prescription drug benefit. Such adjustment shall be consistent with the adjustment described in section 8201(e)(4)(A).

(2) PUBLICATION OF TREND FACTORS.—The Secretary shall publish, by not later than August 1, 1995, the medicare A/B trend factors for the different classes of services.

(c) REVIEW AND CHANGES IN ALLOCATION.—

(1) IN GENERAL.—

(A) NO ADMINISTRATIVE AUTHORITY TO CHANGE.—Except as specifically provided in this paragraph, the Secretary has no authority to change the allocation or medicare A/B trend factors from the allocation and medicare A/B trend factors provided under this section.

(B) RECOMMENDED CHANGES.—Subject to subparagraph (C), if the Secretary determines that a change in the allocation of an estimate among classes is appropriate, the Secretary shall submit to the Congress a report proposing such change. The Secretary shall include in the report an explanation of—

(i) the rationale for such change, and

(ii) the impact of such change on the per capita estimates permitted for classes of services that would be affected by the change.

(C) CORRECTION PERMITTED FOR ESTIMATION ERRORS.—Insofar as the Secretary determines that the amounts used in estimating initially the projected medicare A/B expenditures under this subsection did not accurately reflect the actual portions described in subsection (b)(1)(A)(i), the Secretary shall adjust the allocation of the medicare A/B per capita estimate among classes of services to correct for such estimation errors.

(2) COMMISSION REVIEW.—Each applicable Commission shall annually review and report

VOL 140 PT 15 AG 10 — 11 1994 UMI

to Congress, in its report submitted under section 8202(b)(4), on the effect of the medicare trend factors used in the allocation of the medicare A/B per capita estimate among classes of services. Such report shall include such recommendations for appropriate adjustments in the medicare trend factors as the applicable Commission considers appropriate to properly take into account at least—

(A) changes in health care technology,

(B) changes in the patterns and practices relating to health care delivery found to be appropriate,

(C) changes in the distribution of health care services, and

(D) the special health care needs of underserved rural and inner city populations.

SEC. 8204. ALLOCATION OF PER CAPITA ESTIMATES BY CLASS OF SERVICE FOR MEDICARE C.

(a) ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate the medicare C per capita estimate under section 8201 for a year among classes of services specified under section 8202.

(2) PROPORTIONAL ALLOCATION BASED ON PROJECTED EXPENDITURES.—The amount allocated to each class for a year shall be equal to the medicare C per capita estimate allocated for the year multiplied by the ratio (expressed as a percentage) of—

(A) the projected medicare C expenditures for the class for the year (as determined under subsection (b)(2)), to

(B) the sum of such projected medicare C expenditures for all the classes for the year.

(3) PUBLICATION.—The Secretary shall, in conjunction with the publication of the initial estimate and final determination of the per capita estimates under section 8201(a)(3) for a year, publish in the Federal Register and report to the Congress the allocation of the per capita estimates among the classes of services under this subsection.

(b) PROJECTED MEDICARE PART C EXPENDITURES.—

(1) IN GENERAL.—

(A) DETERMINATION.—For purposes of subsection (a)—

(i) FOR 1999.—The projected medicare part C expenditures for a class of services for 1999 is equal to the portion of the national medicare C per capita estimate during 1999 (as determined under section 8201(a)(2)(C)) which is attributable to each class of services, as estimated by the Secretary based upon the best data available, consistent with data used in determining the applicable medicare part C premiums under section 2121 of the Social Security Act.

(ii) SUBSEQUENT YEARS.—The projected medicare C expenditures for a class of services for a year after 1999 is equal to the amount of the allocation for the class under clause (i) for the preceding year multiplied by the medicare C trend factor (described in subparagraph (B)) for the class for the year involved and multiplied by the adjustment factor described in subparagraph (C) for the year.

(B) MEDICARE C TREND FACTOR.—

(i) IN GENERAL.—In subparagraph (A), subject to clause (ii), the "medicare C trend factor", for a class of services, the private trend factor for the class of services, as determined under section 6003(b)(1)(B).

(ii) MODIFICATION.—Based upon data from the medicaid program and such other data as the Secretary determines to be appropriate, the Secretary may modify the trend factors described in clause (i) to reflect the rate of growth in services for the classes under medicare part C.

(C) ADJUSTMENT FACTOR (NORMALIZATION).—The adjustment factor described in this subparagraph for a year is equal to the ratio of—

(i) the national medicare C per capita estimate for the year (as determined under section 8201(a)(2)(C)), to

(ii) the sum of the projected medicare C expenditures projected for all the classes for the year (determined under subparagraph (A) without regard to this subparagraph).

(D) SPECIAL RULE.—The Secretary shall adjust the projected medicare C expenditures for each year (beginning with 2000) in order to reflect the changes in expenditures under medicare part C to reflect the changes in expenditures under medicare part C attributable to the addition of benefits not included in the previous year. Such adjustment shall be consistent with the adjustment described in section 8201(e)(4)(B).

(2) PUBLICATION OF TREND FACTORS.—The Secretary shall publish, by not later than April 1, 1998, the medicare C trend factors for the different classes of services.

(c) REVIEW AND CHANGES IN ALLOCATION.—

(1) IN GENERAL.—

(A) NO ADMINISTRATIVE AUTHORITY TO CHANGE.—Except as specifically provided in this paragraph, subsection (b)(1)(B)(ii), and sections 8201(e)(4)(B) and 8203(b)(1)(D), the Secretary has no authority to change the allocation or medicare C trend factors from the allocation and medicare C trend factors provided under this section.

(B) RECOMMENDED CHANGES.—If the Secretary determines that a change in the allocation of an estimate among classes is appropriate, the Secretary shall submit to the Congress a report proposing such change. The Secretary shall include in the report an explanation of—

(i) the rationale for such change, and

(ii) the impact of such change on the per capita estimates permitted for classes of services that would be affected by the change.

(2) COMMISSION REVIEW.—Each applicable Commission shall annually review and report to Congress, in its report submitted under section 8202(b)(4), on the effect of the medicare trend factors used in the allocation of the medicare C per capita estimate among classes of services. Such report shall include such recommendations for appropriate adjustments in the medicare trend factors as the applicable Commission considers appropriate to properly take into account at least—

(A) changes in health care technology,

(B) changes in the patterns and practices relating to health care delivery found to be appropriate,

(C) changes in the distribution of health care services, and

(D) the special health care needs of underserved rural and inner city populations.

SEC. 8205. COMBINED MEDICARE PER CAPITA ALLOCATIONS FOR CLASSES OF SERVICES.

(a) FOR 1996, 1997, AND 1998.—For 1996, 1997, and 1998, the Secretary shall compute a combined medicare per capita allocation for each class of services equal to the per capita amount allocated to the class for medicare A/B for the year under section 8203.

(b) SUBSEQUENT YEARS.—For each year after 1998, the Secretary shall compute a combined medicare per capita allocation for each class of services equal to the average of—

(1) the per capita amount allocated to the class for medicare A/B for the year under section 8203, and

(2) the per capita amount allocated to the class for medicare C for the year under section 8204,

weighted to reflect the relative average number of enrollees in the medicare program and in medicare part C, respectively, for the year.

SEC. 8206. COMPUTATION OF MEDICARE ANNUAL COMBINED RATE OF INCREASE FOR CLASSES OF SERVICES; APPLICATION TO MEDICARE PAYMENT RATES.

(a) COMBINED RATES.—

(1) DETERMINATION.—For each year (beginning with 1996) for services within each class of services, the Secretary shall determine a uniform percentage increase. The uniform percentage increase shall be such an increase as the Secretary determines will result in aggregate expenditures under the medicare program and medicare part C consistent with the combined medicare per capita allocation for such class for such year, as determined under section 8205.

(2) APPLICATION TO MEDICARE PAYMENT RATES.—Notwithstanding any provision of title XVIII or title XXIII of the Social Security Act, subject to section 4004(c)(1)(B), the amount of payment under such titles for items and services included in a class of services for a year (after 1995) shall be based on the amount of payment for such items and services under such titles in the previous year increased by the uniform percentage increase determined under paragraph (1) for such class of services for the year.

(b) PERCENTAGE INCREASE IN COMBINED ALLOCATION FOR CLASS OF PRESCRIPTION DRUGS.—For each year beginning after 1997, for purposes of sections 1834(d) of the Social Security Act and sections 3012(d) and 3013(a), the Secretary shall compute the percentage by which—

(1) the combined medicare per capita allocation for the class of services that includes prescription drugs for the year, exceeds

(2) the combined medicare per capita allocation for such class of services for the preceding year.

SEC. 8207. NATIONAL HEALTH EXPENDITURES REPORTING SYSTEM.

(a) IN GENERAL.—The Secretary shall establish a national health expenditures reporting system (in this section referred to as the "system") for purposes of—

(1) establishing per capita estimates,

(2) allocating the medicare per capita estimates among classes of services,

(3) determining medicare payment rates,

(4) monitoring of any State cost containment and benefit management programs established by States pursuant to title IV, and

(5) otherwise carrying out this subtitle.

(b) INFORMATION REPORTING.—

(1) ANNUAL REPORT BY PROVIDERS.—

(A) IN GENERAL.—Under the system, providers of health care services (including such providers within provider networks) shall submit (by not later than April 15 of each year, beginning with 1997) a report.

(B) CONTENTS.—Such a report shall include such information as the Secretary specifies relating to the provision of health care services in the previous year, including—

(i) the volume and receipts for such services,

(ii) cost and revenue data for hospitals and other institutional providers and revenue data for other providers, and

(iii) information by class of service, type of payer, and State of residence of individual provided the services.

Information on revenues for activities not related to the provision of direct patient care, such as teaching or research or for services that are explicitly excluded from the system of national health expenditures estimates, shall be reported separately.

(C) FORM.—The report shall be submitted in such form and manner (including the use of electronic transmission) as the Secretary shall specify in regulation. Such form shall permit the reporting of information by health plans on behalf of providers who are in provider networks in the plan.

(D) USE OF REPORTING MECHANISMS.—To the maximum extent practicable and appropriate, reporting under such system shall be done through reporting mechanisms (such as uniform hospital) reports provided under section 9105) and using data bases otherwise in use.

(E) USE OF SURVEYS.—The Secretary may, where appropriate, provide for the collection of information under the system through surveys of a sample of health care providers or with respect to a sample of information with respect to such providers.

(2) CONFIDENTIALITY.—Information gathered pursuant to the authority provided under this section shall not be disclosed in a manner that identifies individual providers of services.

(3) TRANSITION.—Before April 15, 1997, for purposes of this subtitle, the Secretary may use such other data collection and estimation techniques as may be appropriate for purposes described in subsection (a).

(c) ENFORCEMENT.—If a provider of health services is required, under the system under this section, to report information and refuses, after being requested by the Secretary, to provide the information required, or deliberately provides information that is false, the Secretary may impose a civil money penalty of not to exceed $10,000 for each such refusal or provision of false information. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

PART 2—STATE HEALTH EXPENDITURE ESTIMATES

SEC. 8211. STATE MEDICARE PER CAPITA HEALTH EXPENDITURE ESTIMATE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—For each calendar year (beginning with 1996), the Secretary shall establish a State medicare per capita health expenditure estimate (in this subtitle referred to as a "State medicare per capita estimate") for each State under paragraph (2).

(2) AMOUNT.—Subject to subsection (e), the State medicare per capita estimate for a State for a year is equal to the national medicare per capita estimate for the year, established under section 8201, multiplied by the applicable State adjustment factor (specified under subsection (b)) for the State.

(3) PUBLICATION.—The Secretary shall publish in the Federal Register and report to the Congress and to each State—

(A) by not later than April 1 before each year, an initial estimate of the State medicare per capita estimate for each State for the year; and

(B) by not later than October 1 before each year, a final determination of the State medicare per capita estimate for each State for the year.

(4) PERIODIC COMMISSION REPORTS ON STATE ESTIMATES.—Each applicable Commission shall periodically review and report to Congress on the State medicare per capita estimates established under this section. Such a report shall include such recommendations as the respective Commission deems appropriate.

(b) STATE ADJUSTMENT FACTORS.—

(1) IN GENERAL.—The Secretary shall compute a State adjustment factor for each State consistent with this subsection.

(2) BASIS FOR COMPUTATION.—Subject to adjustment under paragraphs (3) and (4), the State adjustment factor for a State shall be equal to the ratio of the State's medicare per capita expenditures (that would be computed for the State under section 8201(d) if computations under such section were made for that State rather than for the United States) to the national medicare per capita expenditures determined under such section.

(3) ADJUSTMENT TO REFLECT HEALTH CARE EXPENDITURES FOR STATE RESIDENTS.—The Secretary shall provide for an adjustment to take into account differences among States in the in-State, and out-of-State, use of services by residents and non-residents of the State, in order that the per capita amount reflects the medicare per capita health care expenditures for residents of the State for services provided anywhere in the United States.

(4) AVERAGE.—The Secretary shall establish the State adjustment factors in such a manner as assures that the population weighted average of such factors is 1.

(c) ADJUSTMENT.—

(1) IN GENERAL.—Subject to paragraph (3), the provisions of section 8201(e) shall apply to the State medicare per capita estimates under this section in the same manner as they apply to the national medicare per capita estimate.

(2) ADJUSTMENT TO CORRECT ESTIMATION ERRORS.—Insofar as the Secretary determines that the amounts used in estimating initially the State medicare per capita estimates did not accurately reflect the correct values for the factors used in computing State adjustments factors under subsection (b), the Secretary shall adjust the State medicare per capita estimates to correct for such estimation errors.

(3) ADJUSTMENTS IN 1996 AND SUBSEQUENT YEARS.—

(A) ADJUSTMENT FOR CHANGES IN BENEFITS IN 1996.—In applying section 8201(e)(4) under paragraph (1), the adjustment for each State medicare per capita estimate shall be the same as the adjustment to the national medicare per capita estimate under such section.

(B) ADJUSTMENT FOR IMPLEMENTATION OF MEDICARE PART C.—The Secretary shall adjust the State medicare per capita estimates for each State for each year (beginning with 1999) to reflect variations among States in the estimated number of residents of the State who are enrolled in medicare part C for the year.

PART 3—ADMINISTRATIVE AND JUDICIAL REVIEW

SEC. 8221. LIMITATION ON ADMINISTRATIVE AND JUDICIAL REVIEW.

There shall be no administrative or judicial review of any of the following determinations:

(1) The national medicare per capita estimate and the State medicare per capita estimate for each State.

(2) Allocation of the national medicare per capita estimate or a State medicare per capita estimate to a class of health services.

Subtitle D—Revisions to Medicare Part A and Part B

PART 1—ADDITIONAL MEDICARE SAVINGS

SEC. 8301. REDUCTION IN PAYMENTS FOR INDIRECT COSTS OF MEDICAL EDUCATION.

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c * (((1+r) to the nth power) - 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

"(I) May 1, 1986, and before January 1, 1999, 'c' is equal to 1.89;

"(II) January 1, 1999, and before October 1, 1999, 'c' is equal to 1.68;

"(III) October 1, 1999, and before October 1, 2000, 'c' is equal to 1.48; and

"(IV) October 1, 2000, 'c' is equal to 1.28.".

(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "of 1985" and inserting "of 1985, but not taking into account the amendments made by section 8301(a) of the Guaranteed Health Insurance Act of 1994".

SEC. 8302. REDUCTIONS IN DISPROPORTIONATE SHARE ADJUSTMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking "The amount" and inserting "Subject to clause (ix), the amount"; and

(2) by adding at the end the following new clause:

"(ix) Notwithstanding any other provision of this subparagraph, the Secretary shall reduce the amount of any additional payment made to a hospital under this subparagraph—

"(I) for discharges occurring on or after January 1, 1999, and before October 1, 2000, by 25 percent (or, in the case of an urban hospital that has more than 100 beds and a disproportionate patient percentage equal to or greater than 30 percent or a hospital described in the second sentence of clause (v), by 10 percent); and

"(II) for discharges occurring on or after October 1, 2000 by 50 percent (or, in the case of an urban hospital that has more than 100 beds and a disproportionate patient percentage equal to or greater than 30 percent or a hospital described in the second sentence of clause (v), by 25 percent).".

(b) RECOMMENDATIONS ON ADJUSTMENTS TO FORMULA.—

(1) RECOMMENDATIONS OF SECRETARY.—Not later than October 1, 1995, the Secretary shall submit recommendation to Congress on methods to adjust the definition of disproportionate patient percentage used to determine the amount of payment adjustments made under section 1886(d)(5)(F) of the Social Security Act to hospitals serving a significantly disproportionate number of low-income patients to take into account the provisions of this Act, including the establishment of the health insurance benefit program under part A of title XXIII of the Social Security Act and the repeal of coverage of inpatient hospital services under State plans for medical assistance under title XIX of such Act.

(2) REPORT BY PROPAC.—The Prospective Payment Assessment Commission shall review the Secretary's report under paragraph (2) and include recommendations relating to the report in the report submitted pursuant

VOL 140 PT 15 AG 10 — 11 1994 UMI

to section 1886(e)(3) of the Social Security Act on March 1, 1996.

SEC. 8303. REDUCTIONS IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES FOR PPS HOSPITALS.

Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.31 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c)), as in effect on the date of the enactment of the Guaranteed Health Insurance Act of 1994) and shall reduce by 10.41 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on the date of the enactment of the Guaranteed Health Insurance Act of 1994).".

SEC. 8304. LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES FURNISHED BY HIGH-COST HOSPITAL MEDICAL STAFFS.

(a) IN GENERAL.—

(1) LIMITATIONS DESCRIBED.—Part B of title XVIII, as amended by [*Review:* section 3103(a)], is amended by inserting after section 1848 the following new section:

"LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES FURNISHED BY HIGH-COST HOSPITAL MEDICAL STAFFS

"SEC. 1849. (a) SERVICES SUBJECT TO REDUCTION.—

"(1) DETERMINATION OF HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1997), the Secretary shall determine for each hospital—

"(A) the hospital-specific per admission relative value under subsection (b)(2) for the following year; and

"(B) whether such hospital-specific relative value is projected to exceed the allowable average per admission relative value applicable to the hospital for the following year under subsection (b)(1).

"(2) REDUCTION FOR SERVICES AT HOSPITALS EXCEEDING ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—If the Secretary determines (under paragraph (1)) that a medical staff's hospital-specific per admission relative value for a year (beginning with 1998) is projected to exceed the allowable average per admission relative value applicable to the medical staff for the year, the Secretary shall reduce (in accordance with subsection (c)) the amount of payment otherwise determined under this part for each physician's service furnished during the year to an inpatient of the hospital by an individual who is a member of the hospital's medical staff.

"(3) TIMING OF DETERMINATION; NOTICE TO HOSPITALS AND CARRIERS.—Not later than October 1 of each year (beginning with 1997), the Secretary shall notify the medical executive committee of each hospital (as set forth in the Standards of the Joint Commission on the Accreditation of Health Organizations) of the determinations made with respect to the medical staff under paragraph (1).

"(b) DETERMINATION OF ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE AND HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUES.—

"(1) ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—

"(A) URBAN HOSPITALS.—In the case of a hospital located in an urban area, the allowable average per admission relative value established under this subsection for a year is equal to 125 percent (or 120 percent for years after 1999) of the median of 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

"(B) RURAL HOSPITALS.—In the case of a hospital located in a rural area, the allowable average per admission relative value established under this subsection for 1998 and each succeeding year, is equal to 140 percent of the median of the 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

"(2) HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—

"(A) IN GENERAL.—The hospital-specific per admission relative value projected for a hospital (other than a teaching hospital) for a calendar year, shall be equal to the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding such calendar year, adjusted for variations in case-mix and disproportionate share status among hospitals (as determined by the Secretary under subparagraph (C)).

"(B) SPECIAL RULE FOR TEACHING HOSPITALS.—The hospital-specific relative value projected for a teaching hospital in a calendar year shall be equal to the sum of—

"(i) the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding such calendar year; and

"(ii) the equivalent per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by interns and residents of the hospital during the second year preceding such calendar year, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under subparagraph (C)). The Secretary shall determine such equivalent relative value unit per admission for interns and residents based on the best available data for teaching hospitals and may make such adjustment in the aggregate.

"(C) ADJUSTMENT FOR TEACHING AND DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall adjust the allowable per admission relative values otherwise determined under this paragraph to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5). The adjustment for teaching status or disproportionate share shall not be less than zero.

"(c) AMOUNT OF REDUCTION.—The amount of payment otherwise made under this part for a physician's service that is subject to a reduction under subsection (a) during a year shall be reduced 15 percent, in the case of a service furnished by a member of the medical staff of the hospital for which the Secretary determines under subsection (a)(1) that the hospital medical staff's projected relative value per admission exceeds the allowable average per admission relative value.

"(d) RECONCILIATION OF REDUCTIONS BASED ON HOSPITAL-SPECIFIC RELATIVE VALUE PER ADMISSION WITH ACTUAL RELATIVE VALUES.—

"(1) DETERMINATION OF ACTUAL AVERAGE PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1999), the Secretary shall determine the actual average per admission relative value (as determined pursuant to section 1848(c)(2)) for the physicians' services furnished by members of a hospital's medical staff to inpatients of the hospital during the previous year, on the basis of claims for payment for such services that are submitted to the Secretary not later than 90 days after the last day of such previous year. The actual average per admission shall be adjusted by the appropriate case-mix, disproportionate share factor, and teaching factor for the hospital medical staff (as determined by the Secretary under subsection (b)(2)(C)). Notwithstanding any other provision of this title, no payment may be made under this part for any physician's service furnished by a member of a hospital's medical staff to an inpatient of the hospital during a year unless the hospital submits a claim to the Secretary for payment for such service not later than 90 days after the last day of the year.

"(2) RECONCILIATION WITH REDUCTIONS TAKEN.—In the case of a hospital for which the payment amounts for physicians' services furnished by members of the hospital's medical staff to inpatients of the hospital were reduced under this section for a year—

"(A) if the actual average per admission relative value for such hospital's medical staff during the year (as determined by the Secretary under paragraph (1)) did not exceed the allowable average per admission relative value applicable to the hospital's medical staff under subsection (b)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff by the amount by which payments for such services were reduced for the year under subsection (c), including interest at an appropriate rate determined by the Secretary;

"(B) if the actual average per admission relative value for such hospital's medical staff during the year is less than 15 percentage points above the allowable average per admission relative value applicable to the hospital's medical staff under subsection (b)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff, as a percent of the total allowed charges for physicians' services performed in such hospital (prior to the withhold), the difference between 15 percentage points and the actual number of percentage points that the staff exceeds the limit allowable average per admission relative value, including interest at an appropriate rate determined by the Secretary; and

"(C) if the actual average per admission relative value for such hospital's medical staff during the year exceeded the allowable average per admission relative value applicable to the hospital's medical staff by 15 percentage points or more, none of the withhold is paid to the fiduciary agent for the medical staff.

"(3) MEDICAL EXECUTIVE COMMITTEE OF A HOSPITAL.—Each medical executive committee of a hospital whose medical staff is projected to exceed the allowable relative value per admission for a year, shall have one year from the date of notification that such medical staff is projected to exceed the allowable relative value per admission to designate a fiduciary agent for the medical staff to receive and disburse any appropriate withhold amount made by the carrier.

"(4) ALTERNATIVE REIMBURSEMENT TO MEMBERS OF STAFF.—At the request of a fiduciary agent for the medical staff, if the fiduciary agent for the medical staff is owed the reimbursement described in paragraph (2)(B) for excess reductions in payments during a year, the Secretary shall make such reimbursement to the members of the hospital's medical staff, on a pro-rata basis according to the proportion of physicians' services furnished to inpatients of the hospital during the year that were furnished by each member of the medical staff.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) MEDICAL STAFF.—An individual furnishing a physician's service is considered to be on the medical staff of a hospital—

"(A) if (in accordance with requirements for hospitals established by the Joint Commission on Accreditation of Health Organizations)—

"(i) the individual is subject to bylaws, rules, and regulations established by the hospital to provide a framework for the self-governance of medical staff activities;

"(ii) subject to such bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body; and

"(iii) under such clinical privileges, the individual may provide physicians' services independently within the scope of the individual's clinical privileges, or

"(B) if such physician provides at least one service to a medicare beneficiary in such hospital.

"(2) RURAL AREA; URBAN AREA.—The terms 'rural area' and 'urban area' have the meaning given such terms under section 1886(d)(2)(D).

"(3) TEACHING HOSPITAL.—The term 'teaching hospital' means a hospital which has a teaching program approved as specified in section 1861(b)(6).".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(a)(1)(N) (42 U.S.C. 1395l(a)(1)(N)) is amended by inserting "(subject to reduction under section 1849)" after "1848(a)(1)".

(B) Section 1848(a)(1)(B) (42 U.S.C. 1395w-4(a)(1)(B)) is amended by striking "this subsection," and inserting "this subsection and section 1849,".

(b) REQUIRING PHYSICIANS TO IDENTIFY HOSPITAL AT WHICH SERVICE FURNISHED.—Section 1848(g)(4)(A)(i) (42 U.S.C. 1395w-4(g)(4)(A)(i)) is amended by striking "beneficiary," and inserting "beneficiary (and, in the case of a service furnished to an inpatient of a hospital, report the hospital identification number on such claim form),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 8305. MEDICARE SECONDARY PAYER.

(a) EXTENSION OF DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) REPEAL OF SUNSET ON APPLICATION TO DISABLED EMPLOYEES OF EMPLOYERS WITH MORE THAN 100 EMPLOYEES.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended—

(1) in the heading, by striking "SUNSET" and inserting "EFFECTIVE DATE"; and

(2) by striking ", and before October 1, 1998".

(c) PROVISIONS RELATING TO END STAGE RENAL DISEASE BENEFICIARIES.—

(1) EXTENSION OF PERIOD.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended in the second sentence by striking "and on or before October 1, 1998,".

(2) CLARIFICATION OF SECONDARY PAYER FOR BENEFICIARIES COVERED UNDER GROUP HEALTH PLANS.—Effective as if included in the enactment of OBRA-1993, section 1862(b)(1)(C)(i) (42 U.S.C. 1395y(b)(1)(C)(i)) is amended—

(A) by inserting "(or a member of the individual's family) who is covered under the plan by virtue of the individual's current employment status with an employer" after "an individual"; and

(B) by inserting "solely" after "this title".

(d) PENALTY FOR LATE PAYMENT.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following: "If a primary plan fails to make such reimbursement during the 60-day period that begins on the date such notice or other information is received, the amount required to be reimbursed shall be increased by 1 percent for each month occurring after the expiration of such period and prior to the month in which the primary plans makes the reimbursement.".

SEC. 8306. IMPOSITION OF 20 PERCENT COINSURANCE ON HOME HEALTH SERVICES UNDER MEDICARE.

(a) PART A.—Section 1813(a) (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

"(5) The amount payable for a home health service furnished to an individual under this part shall be reduced by a copayment amount equal to 20 percent of the average of all the per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year).".

(b) PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)), as amended by section 2106(c)(1), is amended—

(1) in subparagraph (A), by striking "to home health services," and by striking the comma after "opinion)";

(2) in subparagraph (E), by striking "and" at the end;

(3) in subparagraph (F), by striking the semicolon at the end and inserting "; and"; and

(4) by adding at the end the following new subparagraph:

"(G) with respect to any home health service—

"(i) the lesser of —

"(I) the reasonable cost of such service, as determined under section 1861(v), or

"(II) the customary charges with respect to such service,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), or

"(ii) if such service is furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2),

less a copayment amount equal to 20 percent of the average of all per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year);".

(c) PROVIDER CHARGES.—Section 1866(a)(2)(A)(i) (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(1) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(2) by striking "or (a)(4)" and inserting "(a)(4), or (a)(5)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 8307. HOME HEALTH COST LIMITS.

(a) REDUCTION IN UPDATE TO ROUTINE COST LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in subclause (II), by striking "or" at the end;

(2) in subclause (III), by striking "112 percent," and inserting "and before July 1, 1996, 112 percent, or"; and

(3) by inserting after subclause (III) the following new subclause:

"(IV) July 1, 1996, 100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13564(a)(1) of the Omnibus Budget Reconciliation Act of 1993),".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after July 1, 1996.

PART 2—PROVISIONS RELATING TO PAYMENTS FOR MEDICAL EDUCATION

SEC. 8311. LIMITING MEDICARE MEDICAL EDUCATION PAYMENTS TO APPROVED RESIDENCY POSITIONS.

(a) PAYMENT FOR DIRECT GRADUATE MEDICAL EDUCATION.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

"(F) REQUIRING RESIDENTS TO MEET APPROVAL UNDER WORKFORCE PROGRAM.—Such rules shall provide that, with respect to a resident whose initial residency period begins on or after July 1, 1998—

"(i) an individual shall be counted only if the individual is in a residency position that, under section 7013 of the Guaranteed Health Insurance Act of 1994, has been allocated to an approved medical residency training program; and

"(ii) the Secretary may not make any payments under this subsection to a hospital unless the number of residents in each of the approved medical residency training programs of the hospital is in accordance with allocations under such section 7013.".

(b) PAYMENT FOR INDIRECT GRADUATE MEDICAL EDUCATION.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding at the end the following new clause:

"(v) On and after July 1, 1998—

"(I) the Secretary, in determining such adjustment, may count a resident in the calculation of a hospital's ratio of full-time equivalent interns and residents to beds only if the resident is in a residency position that, under section 7013 of the Guaranteed Health Insurance Act of 1994, has been allocated to an approved medical residency training program; and

"(II) the Secretary may not make any payments under this subparagraph to the hospital unless the number of residents in each of the approved medical residency training programs of the hospital is in accordance with allocations under such section 7013.".

SEC. 8312. DETERMINATION OF NUMBER OF FULL-TIME EQUIVALENT RESIDENTS.

(a) DETERMINATION OF FULL-TIME-EQUIVALENT RESIDENTS DURING INITIAL RESIDENCY PERIOD.—

(1) EMPHASIS ON PRIMARY CARE.—Paragraph (4)(C)(ii) of section 1886(h) (42 U.S.C. 1395ww(h)) is amended by striking "is 1.00," and inserting the following: "is—

"(I) 1.1, in the case of a resident who is a primary care resident (as defined in paragraph (5)(H)),

"(II) .8, in the case of a resident not described in subclause (I),".

(2) TREATING OBSTETRICS AND GYNECOLOGY RESIDENTS AS PRIMARY CARE RESIDENTS.—Paragraph (5) of such section is amended—

(A) by striking "or"; and

(B) by striking the period and inserting ", or obstetrics and gynecology.".

VOL 140 PT 15 AG 10 — 11 1994 UMI

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to portions of cost reporting periods beginning on or after January 1, 1996.

SEC. 8313. PAYMENTS FOR HOSPITALS LOSING SPECIALTY POSITIONS.

Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following subsection:

"(j) PAYMENTS FOR HOSPITALS LOSING SPECIALTY POSITIONS UNDER ALLOCATION SYSTEM.—

"(1) IN GENERAL.—

"(A) PAYMENTS.—In the case of each hospital that in accordance with paragraph (3) submits to the Secretary an application for calendar year 1998 or any subsequent calendar year (in this subsection referred to as an 'eligible hospital' for the year involved), the Secretary shall make payments for the year to the hospital in an amount determined in accordance with paragraph (4).

"(B) SOURCE OF FUNDS FOR PAYMENTS.—Payments under paragraph (1) shall be made from amounts in the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, and from amounts in the Medicare Part C Trust Fund under title XXI (in the proportions described in subsection (h)(1), taking into account the proportions of direct medical education costs associated with the provision of services under title XXI).

"(2) HOSPITALS LOSING SPECIALTY POSITIONS; OTHER CONDITIONS.—

"(A) LOSS OF POSITIONS.—

"(i) IN GENERAL.—The Secretary may make payments under paragraph (1) to a hospital for a calendar year only if, as a result of allocations under 7013 of the Guaranteed Health Insurance Act of 1994, the aggregate number of full-time-equivalent specialty positions for the hospital for the academic year in which the calendar year begins (as estimated by the Secretary) is below the aggregate number of such positions for the hospital for academic year 1993.

"(ii) AGGREGATE NUMBER OF SPECIALTY POSITIONS LOST.—For purposes of this subsection:

"(I) The term 'aggregate number of specialty positions lost', with respect to a hospital and an academic year, means the difference between the 2 aggregate numbers determined by the Secretary under clause (i) for the hospital.

"(II) The term 'lost position', with respect to an academic year, means a full-time-equivalent specialty position counted in the determination under subclause (I) of the aggregate number of specialty positions lost for the year.

"(B) COMPLIANCE WITH ALLOCATION SYSTEM.—With respect to the approved physician training programs of a hospital, the Secretary may make payments under paragraph (1) only if the hospital agrees to ensure that the numbers of individuals enrolled in the programs is in accordance with allocations made under section 7013 of the Guaranteed Health Insurance Act of 1994 for the programs.

"(3) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments under such paragraph for a hospital is in accordance with this paragraph if—

"(A) the hospital submits the application not later than the date specified by the Secretary;

"(B) the application demonstrates that the hospital meets the condition described in paragraph (2)(A)(i);

"(C) the application contains each agreement required in this subsection; and

"(D) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary.

"(4) AMOUNT OF PAYMENTS.—The amount of payments required in paragraph (1) to be made to an eligible hospital for a calendar year is an amount equal to the product of—

"(A) the aggregate lost position amount, as defined in paragraph (5) or (6) for the year, as applicable; and

"(B) the medicare patient load of the hospital under subsection (h)(3)(C) for the cost reporting period involved, except that the determination of the medicare patient load for purposes of this subparagraph shall include (in addition to the patients included under such subsection) patients enrolled in the medicare part C program under part A of title XXI.

"(5) AGGREGATE LOST POSITION AMOUNT; FIRST YEAR OF PAYMENTS.—For purposes of paragraph (4)(A), the term 'aggregate lost position amount', with respect to the first calendar year for which an eligible hospital receives payments under paragraph (1), means an amount equal to the product of—

"(A) the aggregate number of specialty positions lost (as defined in paragraph (2)(A)(ii)(1)); and

"(B) an amount equal to 100 percent of the national average FTE training amount in effect for the year under section 7024(c)(3) of the Guaranteed Health Insurance Act of 1994 (or, as the case may be, 100 percent of the alternative amount that applies to the hospital under section 7024(c)(3)(D) or section 7025 of such Act).

"(6) AGGREGATE LOST POSITION AMOUNT; SUBSEQUENT YEARS OF PAYMENTS.—For purposes of paragraph (4)(A), the term 'aggregate lost position amount', with respect to the second or subsequent calendar year for which an eligible hospital receives payments under paragraph (1), means an amount equal to the sum of subparagraphs (A) through (D), as follows:

"(A) An amount equal to the product of—

"(i) the aggregate number of specialty positions lost, less an amount equal to the sum of—

"(I) the number of lost positions for which payments are being made for the calendar year pursuant to subparagraphs (B) through (D); and

"(II) the total number of lost positions for which, in determinations under this paragraph for the hospital for prior calendar years, the percentage applicable to the national average or alternative amount referred to in paragraph (5)(B) was 25 percent; and

"(ii) 100 percent of such national average or alternative amount applicable for the year involved.

"(B) An amount equal to the product of—

"(i) the number of lost positions for which, in the determination under this paragraph for the hospital for the preceding calendar year, the percentage applicable to the national average or alternative amount was 100 percent, subject to paragraph (7) (relating to decreases in aggregate numbers); and

"(ii) 75 percent of the national average or alternative amount applicable for the year involved.

"(C) An amount equal to the product of—

"(i) the number of lost positions for which, in the determination under this paragraph for the hospital for the preceding calendar year, the percentage applicable to the national average or alternative amount was 75 percent, subject to paragraph (7); and

"(ii) 50 percent of the national average or alternative amount applicable for the year involved.

"(D) An amount equal to the product of—

"(i) the number of lost positions for which, in the determination under this paragraph for the hospital for the preceding calendar year, the percentage applicable to the national average or alternative amount was 50 percent, subject to paragraph (7); and

"(ii) 25 percent of the national average or alternative amount applicable for the year involved.

"(7) RULE REGARDING DECREASE IN AGGREGATE NUMBER OF SPECIALTY POSITIONS LOST.—With respect to payments under paragraph (1) for an eligible hospital for a calendar year, if the aggregate number of specialty positions lost for the academic year involved is less than such number for the preceding academic year (which difference between the 2 aggregate numbers is referred to in this paragraph as the "decrease in the number of lost positions"), the following applies:

"(A) The Secretary shall identify the number of lost positions for which, as determined under paragraph (6) without regard to this paragraph, the percentage applicable to payments for the calendar year is 75 percent, the number of such positions for which such percentage is 50 percent, and the number of such positions for which such percentage is 25 percent.

"(B) In the case of the lost positions so identified, the Secretary shall apply the decrease in the number of lost positions as follows:

"(i) First, as a reduction in the number of positions for which the percentage applicable is 75 percent.

"(ii) Second (for any remaining portions of the decrease after compliance with clause (i)), as a reduction in the number of positions for which such percentage is 50 percent.

"(iii) Third (for any remaining portions of the decrease after compliance with clause (ii)), as a reduction in the number of positions for which such percentage is 25 percent.

"(8) DEFINITIONS.—For purposes of this subsection, the terms 'academic year', 'approved physician training program', 'full-time-equivalent specialty position', and 'specialty position', each has the meaning given the term under section 7081 of the Guaranteed Health Insurance Act of 1994.".

SEC. 8314. MEDICARE DEMONSTRATION REGARDING CONSORTIA OF HOSPITALS.

(a) IN GENERAL.—The Secretary shall establish and conduct not more than 10 demonstration projects to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice under which the Secretary shall make payments in accordance with subsection (c) to participating health care training consortia.

(b) APPLICATIONS.—Each consortium desiring to participate in a demonstration project under this section shall prepare and submit to the Secretary an application at such time and in such manner as the Secretary may require, and containing—

(1) assurances that not less than 55 percent of all residents participating in approved residency training programs conducted by members of the consortium are primary care residents (as defined in section 1886(h)(5)(H) of the Social Security Act); and

(2) such other information and assurances as the Secretary may require.

(c) PAYMENTS TO PARTICIPANTS.—

(1) IN GENERAL.—Notwithstanding any provision of title XVIII of the Social Security Act—

(A) in the case of a consortium participating in a demonstration project under this subtitle, the Secretary shall make payments under such title for the direct and indirect costs of graduate medical education of members of the consortium to the consortium (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium), except that the amount paid to the consortium shall be based on the designations described in paragraph (2); and

(B) the Secretary may not make any payment under such title to a member of a consortium for the direct and indirect costs of graduate medical education during the period of the consortium's participation in the demonstration project.

(2) DESIGNATION OF RESIDENTS BY CONSORTIUM.—Each consortium participating in a demonstration project shall designate for each resident assigned to the consortium a hospital operating an approved medical residency training program for purposes of enabling the Secretary to calculate the amount paid to the consortium under paragraph (1)(A). Such hospital shall be the hospital where the resident receives the majority of the resident's hospital-based, nonambulatory training experience.

(3) LIMIT ON PAYMENT.—The amount paid to a consortium under paragraph (1)(A) during a year may not exceed the Secretary's estimate of the sum of the payments that would have been made under title XVIII to each member of the consortium during the year but for the application of this section, determined as if such payments were based on—

(A) the number of full-time-equivalent residents in approved medical residency training programs of the member calculated under section 1886(h)(4) of the Social Security Act during the academic year beginning July 1, 1993; and

(B) the ratio of the member's full-time equivalent interns and residents to beds applicable under section 1886(d)(5)(B)(ii) of such Act for discharges occurring during the 12-month cost reporting period beginning or after July 1, 1993.

(d) DURATION.—A demonstration project under this section shall be conducted for a period not to exceed 10 years. The Secretary may terminate a project if the Secretary determines that the consortium participating in the project is not in substantial compliance with the terms of the application approved by the Secretary.

(e) EVALUATIONS AND REPORTS.—

(1) EVALUATIONS.—Each consortium participating in a demonstration project shall submit to the Secretary a final evaluation within 360 days of the termination of the consortium's participation and such interim evaluations as the Secretary may require.

(2) REPORTS TO CONGRESS.—Not later than 360 days after the first demonstration project under this section begins, and annually thereafter for each year in which such a project is conducted, the Secretary shall submit a report to Congress which evaluates the effectiveness of the consortium activities conducted under such projects and includes any legislative recommendations determined appropriate by the Secretary.

(f) DEFINITIONS.—In this section:

(1) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term "approved medical residency training program" has the meaning given such term in section 1886(h)(5)(A) of the Social Security Act.

(2) HEALTH CARE TRAINING CONSORTIUM.—The term "health care training consortium" means a State, regional, or local entity consisting of at least 2 hospitals operating approved medical residency training programs.

(3) RESIDENT.—The term "resident" has the meaning given such term in section 1886(h)(5)(H) of the Social Security Act.

SEC. 8315. STUDY OF PAYMENTS FOR MEDICAL EDUCATION AT SITES OTHER THAN HOSPITALS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the feasibility and desirability of making payments to facilities, from sources including the Health Care Workforce Trust Fund under title VII and the Trust Funds established under title XVIII of the Social Security Act, that are not hospitals for the direct and indirect costs of graduate medical education attributable to residents trained at such facilities. In conducting the study, the Secretary shall evaluate new payment methodologies—

(1) under which each entity which incurs costs of graduate medical education shall receive reimbursement for such costs; and

(2) which would encourage the training of primary care physicians.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to Congress a report on the study conducted under subsection (a), and shall include in the report such recommendations as the Secretary considers appropriate.

PART 3—ASSISTANCE FOR PROVIDERS SERVING LOW-INCOME AND UNDERSERVED POPULATIONS

SEC. 8321. INCREASE IN PAYMENTS FOR FEDERALLY QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1833(a)(3) (42 U.S.C. 1395l(a)(3)) is amended by inserting after "1861(v)(1)(A)," the following: "and, in the case of services described in subparagraph (D)(ii) of such section, which include any costs associated with participation in an approved medical residency training program (as defined in section 1886(h)(5)(A)) as determined based on the portion of time spent by a resident or intern at the center and adjusted by a factor reflecting the relative indirect and direct costs of such participation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to costs incurred on or after January 1, 1996.

SEC. 8322. CHANGES IN UNDERSERVED AREA BONUS PAYMENTS.

(a) INCREASE IN AMOUNT OF PAYMENT FOR PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended—

(A) by striking "10 percent" and inserting "a percent",

(B) by striking "service" the last place it appears and inserting "services", and

(C) by adding the following new sentence: "The percent referred to in the previous sentence is 20 percent in the case of primary care services, as defined in section 1842(i)(4), and 10 percent for services other than primary care services furnished in health professional shortage areas located in rural areas as defined in section 1886(d)(2)(D).".

(b) EXTENSION TO SERVICES FURNISHED IN AREAS LOSING DESIGNATION.—Section 1833(m) of such Act (42 U.S.C. 1395l(m)) is amended by striking "area," and inserting "area (or was designated as such an area at any time during the 36-month period ending on the date the services are furnished),".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to services furnished on or after January 1, 1998.

SEC. 8323. ESSENTIAL ACCESS COMMUNITY HOSPITALS.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) of the Social Security Act (42 U.S.C. 1395i-4(a)(1)) is amended by striking "not more than 7".

(b) TREATMENT OF INPATIENT HOSPITAL SERVICES PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

(1) IN GENERAL.—Section 1820(f)(1)(F) of such Act (42 U.S.C. 1395i-4(f)(1)(F)) is amended to read as follows:

"(F) subject to paragraph (4), provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care to patients requiring stabilization before discharge or transfer to a hospital, except that the facility may not provide any inpatient hospital services—

"(i) to any patient whose attending physician does not certify that the patient may reasonably be expected to be discharged or transferred to a hospital within 72 hours of admission to the facility; or

"(ii) consisting of surgery or any other service requiring the use of general anesthesia (other than surgical procedures specified by the Secretary under section 1833(i)(1)(A)), unless the attending physician certifies that the risk associated with transferring the patient to a hospital for such services outweighs the benefits of transferring the patient to a hospital for such services.".

(2) LIMITATION ON AVERAGE LENGTH OF STAY.—Section 1820(f) of such Act (42 U.S.C. 1395i-4(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION ON AVERAGE LENGTH OF INPATIENT STAYS.—The Secretary may terminate a designation of a rural primary care hospital under paragraph (1) if the Secretary finds that the average length of stay for inpatients at the facility during the previous year in which the designation was in effect exceeded 72 hours. In determining the compliance of a facility with the requirement of the previous sentence, there shall not be taken into account periods of stay of inpatients in excess of 72 hours to the extent such periods exceed 72 hours because transfer to a hospital is precluded because of inclement weather or other emergency conditions.".

(3) CONFORMING AMENDMENT.—Section 1814(a)(8) of such Act (42 U.S.C. 1395f(a)(8)) is amended by striking "such services" and all that follows and inserting "the individual may reasonably be expected to be discharged or transferred to a hospital within 72 hours after admission to the rural primary care hospital.".

(4) GAO REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit reports to Congress on—

(A) the application of the requirements under section 1820(f) of the Social Security Act (as amended by this subsection) that rural primary care hospitals provide inpatient care only to those individuals whose attending physicians certify may reasonably be expected to be discharged within 72 hours after admission and maintain an average length of inpatient stay during a year that does not exceed 72 hours; and

(B) the extent to which such requirements have resulted in such hospitals providing inpatient care beyond their capabilities or have limited the ability of such hospitals to provide needed services.

(c) DESIGNATION OF HOSPITALS.—

(1) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—

(A) IN GENERAL.—Section 1820 of such Act (42 U.S.C. 1395i-4) is amended—

(i) by amending paragraph (1) of subsection (e) to read as follows:

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(1) is participating in a rural health network that includes at least one rural primary care hospital designated by the State under subsection (f);";

(ii) in subsection (e)(2)(A)—

(I) by striking "is located" and inserting "except in the case of a hospital located in an urban area, is located",

(II) by striking ", (ii)" and inserting "or (ii)", and

(III) by striking "or (iii)" and all that follows through "section."; and

(iii) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) of such Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in clause (iii)(III), by inserting "located in a rural area and" after "that is", and

(ii) in clause (v), by inserting "located in a rural area and" after "in the case of a hospital".

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(A) IN GENERAL.—Section 1820 of such Act (42 U.S.C. 1395i–4) is amended—

(i) by redesignating subsection (k) as subsection (l); and

(ii) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

"(3) a hospital or facility designated pursuant to this subsection shall be eligible to receive a grant under subsection (a)(2).".

(B) CONFORMING AMENDMENTS.—(i) Section 1820(c)(1) of such Act (42 U.S.C. 1395i–4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(ii) Paragraphs (1)(A) and (2)(A) of section 1820(i) of such Act (42 U.S.C. 1395i–4(i)) are each amended—

(I) in clause (i), by striking "(a)(1)" and inserting "(a)(1) (except as provided in subsection (k))", and

(II) in clause (ii), by striking "subparagraph (B)" and inserting "subparagraph (B) or subsection (k)".

[*New*] (3) ELIGIBILITY OF INDIAN HEALTH SERVICE FACILITIES FOR DESIGNATION AS RURAL PRIMARY CARE HOSPITALS.—Section 1820(i)(2) (42 U.S.C. 1395i@4(i)(2)) is amended by adding at the end the following new subparagraph:

"(D) The Secretary may designate a [facility of the Indian Health Service] as a rural primary care hospital under this section if the facility meets the requirements applicable to a hospital described in subparagraph (C) and elects to be treated as such a hospital under this title. No facility designated by the Secretary under this subparagraph shall be taken into account under subparagraph (C) in determining the number of hospitals designated by the Secretary under this paragraph.".

(d) SKILLED NURSING SERVICES IN RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i–4(f)(3)) is amended by striking "because the facility" and all that follows and inserting the following: "because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.".

(e) DEADLINE FOR DEVELOPMENT OF PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—Section 1814(l)(2) of such Act (42 U.S.C. 1395f(l)(2)) is amended by striking "January 1, 1993" and inserting "January 1, 1996".

(f) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—Section 1834(g) of such Act (42 U.S.C. 1395m(g)) is amended—

(A) in paragraph (1), by striking "during a year before 1993" and inserting "during a year before the prospective payment system described in paragraph (2) is in effect"; and

(B) in paragraph (2), by striking "January 1, 1993," and inserting "January 1, 1996,".

(2) NO USE OF CUSTOMARY CHARGE IN DETERMINING PAYMENT.—Section 1834(g)(1) of such Act (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following new flush sentence:

"The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.".

(g) REQUIREMENTS RELATING TO RURAL HEALTH CARE PLAN.—

(1) IN GENERAL.—Section 1820(b)(1)(A) of such Act (42 U.S.C. 1395i–4(b)(1)(A)) is amended—

(A) by striking "and" at the end of clause (iii);

(B) by striking the semicolon at the end of clause (iv) and inserting ", and"; and

(C) by adding at the end the following new clause:

"(v) meets such other requirements as the Secretary may establish regarding the quality and effectiveness of such plans;".

(2) TECHNICAL ASSISTANCE.—At the request of a State submitting an application for a grant under section 1820 of the Social Security Act, the Secretary of Health and Human Services shall provide technical assistance to the State for the development of the State's rural health care plan described in section 1820(b)(1) of such Act.

(h) SERVICE AREA OF FACILITIES INCLUDED IN RURAL HEALTH NETWORKS.—Section 1820(g) of such Act (42 U.S.C. 1395i–4(g)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ", and"; and

(3) by adding at the end the following new paragraph:

"(3) the members of which provide services in the same general geographic area (in accordance with criteria established by the Secretary).".

(i) PAYMENT FOR SERVICES OF ESSENTIAL ACCESS COMMUNITY HOSPITALS.—

(1) REPEAL OF CATEGORICAL TREATMENT AS SOLE COMMUNITY HOSPITAL.—Section 1886(d)(5)(D)(iii) of such Act (42 U.S.C. 1395ww(d)(5)(D)(iii)) is amended—

(A) by adding "or" at the end of subclause (I);

(B) by striking "or" at the end of subclause (II); and

(C) by striking subclause (III).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1996.

(3) REPORT ON APPROPRIATE PAYMENT METHODOLOGY.—Not later than September 1, 1995, the Prospective Payment Assessment Commission shall submit a report to Congress recommending appropriate adjustments in the methodology used to determine the amounts paid to essential access community hospitals for the operating costs of inpatient hospital services under part A of the medicare program to take into account the special needs of such hospitals.

(j) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) of such Act (42 U.S.C. 1395i–4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(k) TECHNICAL AMENDMENTS RELATING TO PART A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) of such Act (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) of such Act (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services".

(4) Section 1861(a) of such Act (42 U.S.C. 1395x(a)) is amended—

(A) in paragraph (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

(l) AUTHORIZATION OF APPROPRIATIONS.—Section 1820(l) of such Act (42 U.S.C. 1395i–4(l)), as redesignated by subsection (c)(2)(A), is amended by striking "Trust Fund" and all that follows and inserting the following: "Trust Fund—

"(1) for each of the fiscal years 1990 through 1994—

"(A) $10,000,000 for grants to States under subsection (a)(1), and

"(B) $15,000,000 for grants to hospitals, facilities, and consortia under subsection (a)(2); and

"(2) for each of the fiscal years 1995 through 1999—

"(A) $50,000,000 for grants to States under subsection (a)(1), and

"(B) $40,000,000 for grants to hospitals, facilities, and consortia under subsection (a)(2).".

(m) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 8324. MEDICARE TELEMEDICINE PILOT PROJECTS.

(a) ESTABLISHMENT OF PROJECT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish not more than 10 pilot projects to investigate over a 3-year period the effectiveness of the use of rural health care provider telemedicine networks to provide coverage of physician consultative services provided with respect to the provision of other services under part B of the medicare program in rural areas.

(2) NETWORKS DEFINED.—In this section, the term "rural health care provider telemedicine network" (hereafter referred to as a "network") means a network of providers that meets the following requirements:

(A) The network serves physicians, clinics (including rural health clinics described in section 1861(aa)(2) of the Social Security Act), and other non-tertiary care providers in a rural area who have entered into agreements with a multi-specialty tertiary care provider who has agreed to provide physician consultative services (without regard to whether or not such tertiary care provider is in the rural area) regarding patient referral and transfer, the use of joint communications systems, and the provision of emergency and non-emergency transportation among the network members.

(B) The area in which the network operates is a rural area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act) or is an underserved rural area in accordance with such other criteria as the Secretary may specify.

(b) MEDICARE PAYMENT FOR PARTICIPANTS.—

(1) IN GENERAL.—Under the projects established under this section, the Secretary shall make payments from the Federal Supplementary Medical Insurance Trust Fund under part B of title XVIII of the Social Security Act in accordance with the methodology described in paragraph (2) for physicians' consultation services provided by the tertiary care services consisting of a professional consultation to an individual or entity in the network furnishing a service for which payment may be made under such part to a medicare beneficiary in a rural area, notwithstanding that the individual providing the professional consultation is not at the same location as the individual furnishing the service to the medicare beneficiary.

(2) METHODOLOGY FOR DETERMINING AMOUNT OF PAYMENTS.—Taking into account the amount of funds available for payments under the project, the Secretary shall establish a methodology for determining the amount of payments made under paragraph (1), and shall include in the methodology a method for making payment for reasonable costs incurred in the usage of signal transmission facilities suitable for the conduct of physician consultative services.

(c) ELIGIBILITY OF NETWORKS.—

(1) IN GENERAL.—A network is eligible to participate in a pilot project under this section if—

(A) the network submits to the Secretary (at such time and in such form as the Secretary may require) an application containing—

(i) information and assurances that the members of the network have entered into such agreements as are necessary to operate the network,

(ii) information and assurances that the network has available the appropriate technology for providing remote consultations, and

(iii) such other information and assurances as the Secretary may require; and

(B) the network agrees to submit to the Secretary such information as the Secretary may require to determine the amount of payments described in subsection (b)(2), to prepare reports under subsection (e), and to otherwise carry out the project.

(2) RURAL AREA DEFINED.—In this section, the term "rural area" has the meaning given such term in section 1886(d)(2)(D) of the Social Security Act.

(d) CRITERIA FOR SELECTING PARTICIPANTS.—

(1) TECHNOLOGY APPLIED.—In selecting among eligible networks for participation in pilot projects under this section, the Secretary shall give priority to networks that provide for consultations between patients and medical specialists involving transmission of detailed data on the patient in a manner that serves as a reasonable substitute for in-person interaction between the patients and the specialists.

(2) PERMITTING EXISTING NETWORKS TO PARTICIPATE.—Nothing in this section may be construed to prohibit the Secretary from selecting a network operating at the time of the establishment of the pilot projects for participation in the project.

(e) REPORTS.—

(1) INTERIM REPORT ON PARTICIPATING SITES.—Not later than 24 months after the Secretary first makes payment under subsection (b) for services under a pilot project, the Secretary shall submit a report to Congress describing the projects and the networks participating in the projects under this section, including a description of the amounts expended and the number of patients served under the projects;

(2) FINAL.—Not later than 1 year after the termination of the projects, the Secretary shall submit a final report to Congress describing the operation of the projects and containing—

(A) the Secretary's analysis of the projects' cost-effectiveness and success in promoting the access of providers of health care services in rural areas to consultation services of specialist physicians;

(B) the Secretary's analysis of the impact of the projects on the ability of patients to obtain a higher quality and greater range of care; and

(C) such recommendations as the Secretary considers appropriate for changes in the medicare program relating to telemedicine, including estimates of the costs associated with any such changes.

(f) LIMITATION ON AMOUNT EXPENDED UNDER PROJECTS.—The total amount expended from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act for services under the demonstration project under this section may not exceed $25,000,000.

SEC. 8325. TREATMENT OF OTHER INDIAN FACILITIES AS INDIAN HEALTH SERVICE FACILITIES.

(a) IN GENERAL.—Section 1880(a) (42 U.S.C. 1395qq(a)) is amended by striking "facility of the Indian Health Service, whether operated by such service" and inserting "facility operated by such service or facility operated by the Indian Health Service".

(b) CLARIFICATION OF COVERAGE OF HOSPITAL OUTPATIENT SERVICES.—Section 1880(a) (42 U.S.C. 1395qq(a)) is amended by inserting "(including payments for services described in section 1832(a)(2)(B))" after "under this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to portions of cost reporting periods beginning on or after January 1, 1999.

PART 4—APPLICATION OF QUALITY MANAGEMENT AND ADMINISTRATIVE REFORM UNDER GUARANTEED HEALTH INSURANCE ACT OF 1994

SEC. 8331. INTEGRATION OF MEDICARE INTO NATIONAL QUALITY MANAGEMENT PROGRAM.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a detailed proposal for legislation to provide for the integration of the medicare program into the National Quality Management Program through—

(1) the incorporation of information provided by medicare beneficiaries into the consumer surveys described in section 9002;

(2) the incorporation of information on the quality of services provided under the medicare program, as measured by the national measures of quality performance established under section 9003, into the performance reports described in section 9003(g);

(3) the transfer to approved quality improvement organizations, on a State-by-State basis over a 5-year period, of functions being performed by both approved quality improvement organizations and utilization and quality control peer review organizations entering into contracts with the Secretary under part B of title XI of the Social Security Act (without regard to whether the organizations with contracts under such part perform such functions on a multi-State basis); and

(4) the retention by such peer review organizations of functions the organizations are required to perform under such Act that do not overlap with functions that are required to be performed by approved quality improvement organizations under this part.

SEC. 8332. COORDINATION OF MEDICARE CARDS WITH HEALTH SECURITY CARDS.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"COORDINATION OF CARDS

"SEC. 1805. In issuing identification cards for individuals entitled to benefits under this title, the Secretary shall assure that such cards conform to the standards established for health security cards under section 9101(c) of the Guaranteed Health Insurance Act of 1994.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect January 1, 1997.

SEC. 8333. ELIMINATION OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

Effective upon full implementation of the national enrollment verification system under section 9102—

(1) no employer is required to make any reports under section 1144(c) of the Social Security Act; and

(2) information and functions previously in or performed by the Medicare and Medicaid

VOL 140 PT 15 AG 10 — 11 1994 UMI

Coverage Data Bank under section 1144 of such Act shall be subsumed by the enrollment verification system.

SEC. 8334. REQUIREMENT FOR UNIFORM HOSPITAL COST REPORTING.

(a) IN GENERAL.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (P), by striking "and" at the end;

(2) by striking the period at the end of subparagraph (Q) and inserting ", and"; and

(3) by inserting after subparagraph (Q) the following:

"(R) in the case of a hospital or a rural primary care hospital, to report information in a uniform manner consistent with standards established by the Secretary to carry out section 4007(c) of the Omnibus Budget Reconciliation Act of 1987 and in an electronic form, consistent with standards established by the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1994.

SEC. 8335. APPLICATION OF HEALTH INFORMATION AND INFORMATION TRANSACTION REQUIREMENTS TO FISCAL INTERMEDIARIES AND CARRIERS.

(a) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816(f) (42 U.S.C. 1395h(f)) is amended by adding at the end the following new paragraph:

"(3) The standards and criteria under paragraph (1) shall include requirements that the agency or organization meet the following requirements applicable under subtitle B of title IX of the Guaranteed Health Insurance Act of 1994 to a sponsor of an administered health plan:

"(A) Health information standards under section 9103 of such Act.

"(B) Standards relating to transactions and information under section 9104 of such Act.

"(C) Standards relating to the acceptance of claims and attachments and limitations on other transactions under section 9105 of such Act.".

(b) CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Each contract under this section shall include requirements that the carrier meet the following requirements applicable under subtitle B of title IX of the Guaranteed Health Insurance Act of 1994 to a sponsor of an administered health plan:

"(A) Health information standards under section 9103 of such Act.

"(B) Standards relating to transactions and information under section 9104 of such Act.

"(C) Standards relating to the acceptance of claims and attachments and limitations on other transactions under section 9105 of such Act.".

SEC. 8336. APPLICATION OF RESTRICTIONS ON DISCLOSURE AND USE OF HEALTH INFORMATION.

Part A of title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"RESTRICTIONS ON DISCLOSURE OF HEALTH INFORMATION

"SEC. 1145. The provisions of subtitle C of title IX of the Guaranteed Health Insurance Act of 1994 shall apply with respect to health information relating to individuals entitled to benefits under part A of title XVIII in the same manner as such provisions apply with respect to health information relating to other individuals under such subtitle.".

PART 5—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS

SEC. 8341. ANTI-KICKBACK STATUTORY PROVISIONS.

(a) REVISION TO PENALTIES.—

(1) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraphs (1) and (2);

(B) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b);".

(2) DESCRIPTION OF CIVIL MONETARY PENALTY APPLICABLE.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "given)," at the end of the first sentence and inserting the following: "given or, in cases under paragraph (4), $50,000 for each such violation),"; and

(B) by striking "claim." at the end of the second sentence and inserting the following: "claim (or, in cases under paragraph (4), damages of not more than three times the total amount of remuneration offered, paid, solicited, or received.".

(3) INCREASE IN CRIMINAL PENALTY.—Paragraphs (1) and (2) of section 1128B(b) (42 U.S.C. 1320a-7b(b)) are each amended—

(A) by striking "$25,000" and inserting "$50,000"; and

(B) by striking the period at the end and inserting the following: ", and shall be subject to damages of not more than three times the total remuneration offered, paid, solicited, or received.".

(b) REVISIONS TO EXCEPTIONS.—

(1) EXCEPTION FOR DISCOUNTS.—Section 1128B(b)(3)(A) (42 U.S.C. 1320a-7b(b)(3)(A)) is amended by striking "program;" and inserting "program and is not in the form of a cash payment;".

(2) EXCEPTION FOR PAYMENTS TO EMPLOYEES.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)) is amended by inserting at the end "if the amount of remuneration under the arrangement is consistent with the fair market value of the services and is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals, except that such employee can be paid remuneration in the form of a productivity bonus based on services personally performed by the employee,".

(3) EXCEPTION FOR WAIVER OF COINSURANCE BY CERTAIN PROVIDERS.—Section 1128B(b)(3)(D) (42 U.S.C. 1320a-7b(b)(3)(D)) is amended to read as follows:

"(D) a waiver or reduction of any coinsurance or other copayment if—

"(i) the waiver or reduction is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply to certain individuals,

"(ii) the waiver or reduction is made pursuant to an established program and applies to a defined group of individuals whose incomes do not exceed 150 percent (or such higher percentage as the Secretary may permit) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

"(iii) the waiver or reduction of coinsurance is not offered as part of any advertisement or solicitation and the person offering the waiver or reduction determines in good faith that the individual is in financial need,

"(iv) the person offering the waiver or reduction fails to collect the coinsurance or other payment after making reasonable collection efforts, or

"(v) the waiver or reduction of coinsurance is in accordance with a cost sharing schedule or a supplemental benefit package which may be offered by a managed care plan under title XXII; and".

(4) NEW EXCEPTION FOR CAPITATED PAYMENTS.—Section 1128B(b)(3) (42 U.S.C. 1320a-7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end the following new subparagraphs:

"(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under any of the following:

"(i) A health plan which is furnishing items or services under a risk-sharing contract under section 1876 or section 1903(m).

"(ii) A health plan receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972; and

"(G) any amounts paid to a provider for an item or service furnished to an individual or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under a health plan under which the provider furnishing the item or service is paid by the health plan for furnishing the item or service only on a capitated basis pursuant to a written arrangement between the plan and the provider in which the provider assumes financial risk for furnishing the item or service.".

(c) AUTHORIZATION FOR THE SECRETARY TO ISSUE REGULATIONS.—Section 1128B(b) (42 U.S.C. 1320a-7b(b)) is amended by adding at the end the following new paragraph:

"(4) The Secretary is authorized to impose by regulation such other requirements as needed to protect against program or patient abuse with respect to any of the exceptions described in paragraph (3).".

(d) CLARIFICATION OF OTHER ELEMENTS OF OFFENSE.—Section 1128B(b) (42 U.S.C. 1320a-7b(b)) is amended—

(1) in paragraph (1)(A), by striking "in return for referring" and inserting "to refer";

(2) in paragraph (1)(B), by striking "in return for purchasing, leasing, ordering, or arranging for or recommending" and inserting "to purchase, lease, order, or arrange for or recommend"; and

(3) by adding at the end of paragraphs (1) and (2) the following sentence: "A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.".

SEC. 8342. CIVIL MONEY PENALTIES.

(a) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by section 8341(a)(1), is amended—

(A) by striking "; or" at the end of paragraph (3) and inserting a semicolon;

(B) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) offers, pays, or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program, other than to influence an individual enrolled in a managed care plan or a point-of-service plan (as defined in section 2204) to receive benefits under the plan in accordance with established practice patterns for the delivery of medically necessary services;".

(2) REMUNERATION DEFINED.—Section 1128A(i) of such Act (42 U.S.C. 1320a-7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'remuneration' includes the waiver or reduction of coinsurance amounts, and transfers of items or services for free or for other than fair market value, except that such term does not include the waiver or reduction of coinsurance amounts by a person or entity, if—

"(A) the waiver or reduction is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply to certain individuals,

"(B) the waiver or reduction is made pursuant to an established program and applies to a defined group of individuals whose incomes do not exceed 150 percent (or such higher percentage as the Secretary may permit) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

"(C) the waiver or reduction of coinsurance is not offered as part of any advertisement or solicitation and the person offering the waiver or reduction determines in good faith that the individual is in financial need,

"(D) the person offering the waiver or reduction fails to collect the coinsurance or other payment after making reasonable collection efforts, or

"(E) the waiver or reduction of coinsurance is in accordance with a cost sharing schedule or a supplemental benefit package which may be offered by a managed care plan under title XXII.".

(b) ADDITIONAL OFFENSES.—Section 1128A(a) of such Act, as amended by section 8341(a)(1) and subsection (a)(1), is further amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the semicolon at the end of paragraph (5) and inserting "; or"; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) engages in a practice which has the effect of limiting or discouraging (as compared to other plan enrollees) the utilization of medically necessary health care services covered by law or under the service contract by title XIX or other publicly subsidized patients, including but not limited to differential standards for the location and hours of service offered by providers participating in the plan;

"(7) substantially fails to cooperate with a quality assurance program or a utilization review activity;

"(8) engaging in a pattern of failing substantially to provide or authorize medically necessary items and services that are required to be provided to an individual covered under a health plan under the Guaranteed Health Insurance Act of 1994 or public program for the delivery of or payment for health care items or services, if the failure has adversely affected (or had a substantial likelihood of adversely affecting) the individual; or

"(9) submits false or fraudulent statements, data or information on claims to the Secretary, a State health care agency, or any other Federal, State or local agency charged with implementation or oversight of a health plan or a public program that the person knows or should know is fraudulent;".

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by section 8341(a), subsection (a)(1), and subsection (b), is amended in the matter following paragraph (9)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting after "under paragraph (4), $50,000 for each such violation" the following: "; in cases under paragraph (5), $10,000 for each such offer, payment, or transfer; in cases under paragraphs (6) through (9), an amount not to exceed $10,000 for each such determination by the Secretary"; and

(3) by striking "twice the amount" and inserting "three times the amount".

(d) INTEREST ON PENALTIES.—Section 1128A(f) (42 U.S.C. 1320a-7a(f)) is amended by adding after the first sentence the following: "Interest shall accrue on the penalties and assessments imposed by a final determination of the Secretary in accordance with an annual rate established by the Secretary under the Federal Claims Collection Act. The rate of interest charged shall be the rate in effect on the date the determination becomes final and shall remain fixed at that rate until the entire amount due is paid. In addition, the Secretary is authorized to recover the costs of collection in any case where the penalties and assessments are not paid within 30 days after the determination becomes final, or in the case of a compromised amount, where payments are more than 90 days past due. In lieu of actual costs, the Secretary is authorized to impose a charge of up to 10 percent of the amount of penalties and assessments owed to cover the costs of collection.".

(e) AUTHORIZATION TO ACT.—

(1) IN GENERAL.—The first sentence of section 1128A(c)(1) (42 U.S.C. 1320a-7a(c)(1)) is amended by striking all that follows "(b)" and inserting the following: "unless, within one year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States.".

(2) EFFECTIVE DATE.—The amendment made by this paragraph (1) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

(f) DEPOSIT OF PENALTIES COLLECTED INTO ALL-PAYER ACCOUNT.—Section 1128A(f)(3) (42 U.S.C. 1320a-7a(f)(3)) is amended by striking "as miscellaneous receipts of the Treasury of the United States" and inserting "in the All-Payer Health Care Fraud and Abuse Control Account established under section [9212] of Guaranteed Health Insurance Act of 1994".

(g) CLARIFICATION OF PENALTY IMPOSED ON EXCLUDED PROVIDER FURNISHING SERVICES.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a-7a(a)(1)(D)) is amended by inserting "who furnished the service" after "in which the person".

SEC. 8343. AMENDMENTS TO EXCLUSIONARY PROVISIONS IN FRAUD AND ABUSE PROGRAM.

(a) MANDATORY EXCLUSION OF INDIVIDUAL CONVICTED OF CRIMINAL OFFENSE RELATED TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted under Federal or State law, in connection with the delivery of a health care item or service on or after January 1, 1996, or with respect to any act or omission on or after such date in a program operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) (42 U.S.C. 1320a-7(b)(1)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.—

(1) IN GENERAL.—Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraphs (1), (2), or (3) of subsection (b), the period of exclusion shall be a minimum of 3 years, unless the Secretary determines that an alternative period is appropriate because of aggravating or mitigating circumstances.

"(E) In the case of an exclusion of an individual or entity under paragraph (4) or (5) of subsection (b), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

(2) CONFORMING AMENDMENT.—Section 1128(c)(3)(A) (42 U.S.C. 1320a-7(c)(3)(A)) is amended by striking "subsection (b)(12)" and inserting "paragraph (1), (2), (3), (4), (6)(B), or (12) of subsection (b)".

(c) FAILURE TO PROVIDE INFORMATION AS GROUNDS FOR PERMISSIVE EXCLUSION UNDER MEDICARE AND MEDICAID.—Section 1128(b)(9) (42 U.S.C. 1320a-7(b)(9)) is amended by striking the period at the end and inserting ", or provide any information requested by the Attorney General or the Inspector General of the Department of Health and Human Services to carry out the All-Payer Health Care Fraud and Abuse Control Program established under section [9211] of the Guaranteed Health Insurance Act of 1994.".

SEC. 8344. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS RELATING TO QUALITY OF CARE.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is

VOL 140 PT 15 AG 10 — 11 1994 UMI

amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than one year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) AMOUNT OF CIVIL MONEY PENALTY.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "$10,000 for each instance".

(c) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations," and

(2) by striking the third sentence.

SEC. 8345. REVISIONS TO CRIMINAL PENALTIES.

(a) TREBLE DAMAGES FOR CRIMINAL SANCTIONS.—Section 1128B (42 U.S.C. 1320a-7b) is amended by adding at the end the following new subsection:

"(f) In addition to the fines that may be imposed under subsection (a) or (c) any individual found to have violated the provisions of any of such subsections may be subject to treble damages.".

(b) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a-7b), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(g) The Secretary shall—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

SEC. 8346. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, [1996].

PART 6—REVISIONS TO LIMITATIONS ON PHYSICIAN SELF-REFERRALS

SEC. 8351. APPLICATION OF BAN ON SELF-REFERRALS TO CLAIMS SUBMITTED BY PHYSICIANS.

Section 1877(a)(1)(B) (42 U.S.C. 1395nn(a)(1)(B)) is amended to read as follows:

"(B) no physician or entity may present or cause to be presented a claim under this title or bill to any individual, third party payor, or other entity for designated health services furnished pursuant to a referral prohibited under subparagraph (A).".

SEC. 8352. EXPANSION OF SELF-REFERRAL BAN TO ADDITIONAL SERVICES.

Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)) is amended—

(1) in subparagraph (D), by striking "or other diagnostic"; and

(2) by adding at the end the following new subparagraphs:

"(L) Home infusion drug therapy services (other than services consisting of the furnishing of infusion pumps).

"(M) Any other item or service not rendered by the physician personally or by a person under the physician's direct supervision.".

SEC. 8353. EXCEPTIONS FOR BOTH OWNERSHIP AND COMPENSATION ARRANGEMENTS.

(a) REPEAL OF EXCEPTION FOR PHYSICIANS' SERVICES.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended by striking paragraph (1).

(b) REVISION TO IN-OFFICE ANCILLARY SERVICES EXCEPTION.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)(1)), as amended by subsection (a), is amended by striking "Subsection (a)(1) shall not apply in the following cases" and all that follows through paragraph (2) and inserting the following:

"(1) IN-OFFICE ANCILLARY SERVICES OF SOLE PRACTITIONERS.—Subsection (a)(1) shall not apply in the case of designated health services—

"(A) that are furnished—

"(i) personally by the referring physician or personally by individuals who are directly supervised by the physician,

"(ii) in an office location in which the referring physician furnishes physicians' services unrelated to the furnishing of designated health services, and

"(iii) using equipment that is wholly owned or leased exclusively by the referring physician; and

"(B) that are billed by the physician performing or supervising the services or by an entity that is wholly owned by such physician,

if the ownership or investment interest in such services meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(2) IN-OFFICE ANCILLARY SERVICES OF PHYSICIANS IN GROUP PRACTICE.—Subject to subsection (h)(4)(C), subsection (a)(1) shall not apply in the case of designated health services—

"(A) that are furnished personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are directly supervised by any physician who is a member of such group practice;

"(B) that are furnished in a building in which a physician who is a member of the group practice furnishes physicians' services unrelated to the furnishing of designated health services;

"(C) that are furnished using equipment that is owned or leased exclusively by the physician group; and

"(D) that are billed by the group practice of which the physician is a member under a billing number assigned to the group practice, or by an entity that is wholly owned by such group practice,

unless the Secretary determines other terms and conditions under which the provision of such services does not present a risk of program or patient abuse.".

(2) REQUIREMENTS FOR GROUP PRACTICE.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended by adding at the end the following new subparagraph:

"(C) REQUIREMENTS FOR GROUP PRACTICE.—For purposes of subsection (b)(2), a group practice meets the requirements of this subparagraph only if—

"(i) no member of the group is permitted to personally employ any individual to participate in the furnishing of services to patients of the group;

"(ii) no member of the group is permitted to enter separately on the member's own behalf into arrangements with any type of managed care entity (including health maintenance organizations and preferred provider organizations), third party payer, or other health benefit plan for the provision of services to patients of the group, except that nothing in this clause may be construed to prohibit the group from entering into an arrangement with a managed care entity that does not apply to services furnished by all the members of the group; and

"(iii) the group has a governing body or persons with responsibility for the conduct of the group practice, including making decisions relating to retention of all physician and nonphysician personnel, promulgating and enforcing personnel policies which apply to all employees of the group, developing salary, bonus, and benefits applicable to physicians and nonphysician personnel, and establishing fees for all services furnished by the group, except that nothing in this clause may be construed to prohibit the delegation of authority within a group practice or to require the personnel policies to be documented in writing.".

(c) NEW EXCEPTION FOR CAPITATED PAYMENTS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by subsection (a), is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) OTHER CAPITATED PAYMENTS.—Subsection (a)(1) shall not apply in the case of a designated health service, if the designated health service is included in the services for which a physician or physician group is paid only on a capitated basis by a health plan or insurer pursuant to a written arrangement between the plan or insurer and the physician or physician group in which the physician or physician group assumes financial risk for the furnishing of the service.".

(d) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by subsections (a) and (c), is amended—

(A) by redesignating paragraph (4) as paragraph (3); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) SHARED FACILITY SERVICES.—

"(A) IN GENERAL.—Subsection (a)(1) shall not apply in the case of a designated health service consisting of a shared facility service of a shared facility—

"(i) that is furnished—

"(I) personally by the referring physician who is a shared facility physician or personally by an individual directly employed by such a physician,

"(II) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physician that are unrelated to the furnishing of shared facility services, and

"(III) to a patient of a shared facility physician; and

"(ii) that is billed by the referring physician.

"(B) SHARED FACILITY RELATED DEFINITIONS.—

"(i) SHARED FACILITY SERVICE.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.

"(ii) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

"(iii) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician who has a financial relationship under a shared facility arrangement with the facility.

"(iv) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means,

with respect to the provision of shared facility services in a building, a financial arrangement—

"(I) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

"(II) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(III) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

SEC. 8354. EXCEPTIONS RELATED ONLY TO OWNERSHIP OR INVESTMENT.

(a) REVISION TO PUBLICLY TRADED SECURITIES EXCEPTION.—Section 1877(c)(1) (42 U.S.C. 1395nn(c)(1)) is amended by inserting "at the time acquired by the physician" after "which may be purchased on terms generally available to the public".

(b) REVISION TO RURAL PROVIDER EXCEPTION.—Section 1877(d)(2) of such Act (42 U.S.C. 1395nn(d)(2)) is amended by striking "substantially all" and inserting "not less than 75 percent (as determined in accordance with regulations of the Secretary)".

SEC. 8355. REPEAL OF EXCEPTION FOR REMUNERATION UNRELATED TO PROVISION OF DESIGNATED HEALTH SERVICES.

Section 1877(e) (42 U.S.C. 1395nn(e)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (4), (5), (6), and (7).

SEC. 8356. REFERRING PHYSICIANS.

Section 1877(h)(5)(C) (42 U.S.C. 1395nn(H)(5)(C)) is amended—

(1) by striking "and a request" and inserting "a request";

(2) by inserting after "radiation therapy," the following: "and a request by a nephrologist for items or services related to renal dialysis,"; and

(3) by striking "or radiation oncologist" and inserting "radiation oncologist, or nephrologist".

SEC. 8357. MISCELLANEOUS AND TECHNICAL PROVISIONS.

(a) CLARIFICATION OF COVERAGE OF INDIRECTLY HELD FINANCIAL INTERESTS.—The last sentence of section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by striking "an interest in an entity that holds an ownership or investment interest in any entity providing the designated health service" and inserting the following: "an interest held indirectly through means such as (but not limited to) holding a legal or beneficial interest in another entity (such as a trust) that holds such investment interest".

(b) CLARIFICATION OF EXCEPTION FOR PAYMENTS BY A PHYSICIAN.—Section 1877(e)(7) (42 U.S.C. 1395nn(e)(7)), as redesignated by section 9305, is amended to read as follows:

"(7) PAYMENTS BY A PHYSICIAN FOR ITEMS AND SERVICES.—Payments made by a physician to an individual or entity as compensation for items or services if the items or services are furnished at a price that is consistent with fair market value.".

(c) REPORTING REQUIREMENTS.—Section 1877(f) (42 U.S.C. 1395nn) is amended—

(1) in the matter before paragraph (1), by inserting ", investment, and compensation" after "ownership";

(2) in paragraph (2), by inserting ", or with a compensation arrangement (as described in subsection (a)(2)(B))," after "investment interest (as described in subsection (a)(2)(A))";

(3) in paragraph (2), by inserting "interest or who have such a compensation relationship with the entity" before the period at the end;

(4) in the fourth sentence, by striking "covered items and" and inserting "designated health"; and

(5) by striking the third and fifth sentences.

(d) REVISION OF EFFECTIVE DATE EXCEPTION PROVISION.—Section 13562(b)(2) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) the second sentence of subsection (a)(2), and subsections (b)(2)(B) and (d)(2), of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of the corresponding provisions in section 1877 (as amended by this Act);

"(B) section 1877(b)(4) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply;

"(C) the requirements of section 1877(c)(2) of the Social Security Act (as amended by this Act) shall not apply to any securities of a corporation that meets the requirements of section 1877(c)(2) of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(D) section 1877(e)(3) of the Social Security Act (as amended by this Act) shall apply, except that it shall not apply to any arrangement that meets the requirements of subsection (e)(2) or subsection (e)(3) of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(E) the requirements of clauses (iv) and (v) of section 1877(h)(4)(A), and of clause (i) of section 1877(h)(4)(B), of the Social Security Act (as amended by this Act) shall not apply; and

"(F) section 1877(h)(4)(B) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of section 1877(h)(4)(A)(ii) of such Act (as amended by this Act).".

(e) CLARIFICATION OF SANCTION AUTHORITY.—Section 1877(g)(4) (42 U.S.C. 1395nn(g)(4)) is amended by striking "Any physician" and all that follows through "to such entity," and inserting the following: "Any physician or other entity that enters into an arrangement or scheme (such as a cross-referral arrangement or an arrangement with multiple leases overlapping in time for the same or similar rental space or equipment) which the physician or entity knows or should know has a principal purpose of inducing referrals to another entity, which referrals, if made directly by the physician or entity to such other entity,".

(f) AUTHORIZATION FOR SECRETARY TO ISSUE REGULATIONS.—Section 1877 (42 U.S.C. 1395nn) is amended by adding at the end the following new subsection:

"(i) ADDITIONAL REQUIREMENTS.—The Secretary is authorized to impose by regulation such other requirements as needed to protect against program or patient abuse with respect to any of the exceptions under this section.".

SEC. 8358. EFFECTIVE DATE.

The amendments made by this part shall apply to referrals made on or after January 1, 1996, except that the amendments made by section 8356(2) and section 8357(d) shall apply as if included in the enactment of OBRA-1993.

PART 7—OTHER MEDICARE PROVISIONS

SEC. 8361. TREATMENT OF BENEFICIARIES RESIDING IN STATES WITH APPROVED SINGLE-PAYER SYSTEMS.

Title XVIII, as amended by section 3116(f), is further amended by adding at the end the following new section:

"TREATMENT OF BENEFICIARIES UNDER STATE SINGLE-PAYER SYSTEMS

"SEC. 1894. (a) IN GENERAL.—In the case of individual entitled to benefits under this title who is covered under a State single-payer system approved under subtitle A of title IV of the Guaranteed Health Insurance Act of 1994—

"(1) the benefits covered under such system shall be instead of the payments which would otherwise be made to the individual or on the individual's behalf under this title; and

"(2) the Secretary shall make a payment to the State in the amount specified under subsection (b), on such periodic basis that will permit the State to make timely payment for items and services furnished under the State single-payer system to such individuals.

"(b) AMOUNT OF PAYMENTS TO STATES.—

"(1) IN GENERAL.—The amount specified in this subsection with respect to a State is the Secretary's estimate of the sum of the following products:

"(A) The product of—

"(i) the part A per enrollee payment described in paragraph (2) for the month; and

"(ii) the number of individuals who are entitled to benefits under part A during the month and (as estimated prior to the month based on information provided by the State) who are covered under the State system described in subsection (a).

"(B) The product of—

"(i) the part B per enrollee payment described in paragraph (2) for the month; and

"(ii) the number of individuals who are enrolled under part B during the month and (as estimated prior to the month based on information provided by the State) who are covered under the State system described in subsection (a).

"(2) PER ENROLLEE PAYMENTS.—In paragraph (1)—

"(A) the 'part A per enrollee payment' for a month is an amount equal to the Secretary's estimate of the amount of payment which would be made under part A for the month on behalf of individuals covered under the State system described in subsection (a) during the month if the individuals were not covered under the State system during the month; and

"(B) the 'part B per enrollee payment' for a month is an amount equal to the Secretary's estimate of the amount of payment which would be made under part B for the month on behalf of individuals covered under the State system described in subsection (a) during the month if the individuals were not covered under the State system during the month.

"(3) ADJUSTMENTS.—The Secretary shall adjust the amount of payment otherwise made to a State under this subsection for a month to take into account overpayments or underpayments made under this subsection in previous months.

"(c) PAYMENTS FROM TRUST FUNDS.—Of the total amount of payment made to a State under subsection (b)—

"(1) the portion attributable to the amount described in subsection (b)(1)(A) shall be paid from the Federal Hospital Insurance Trust Fund; and

"(2) the portion attributable to the amount described in subsection (b)(1)(B) shall be paid

VOL 140 PT 15 AG 10 — 11 1994 UMI

from the Federal Supplementary Medical Insurance Trust Fund.".

SEC. 8362. DEVELOPMENT AND IMPLEMENTATION OF PROSPECTIVE PAYMENT METHODOLOGIES.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall, not later than January 1, 1997, develop and implement prospective payment methodologies for setting payment rates for services for which a prospective payment methodology is not used under the medicare program. In developing such methodologies, the Secretary shall ensure that the amount of payments under such methodologies under the medicare program would not exceed the amount of payments that would be paid under the methodologies otherwise applicable.

(b) PAYMENT METHODOLOGIES FOR PPS-EXEMPT HOSPITALS.—The Secretary shall develop and implement such a payment methodology for services of classes of hospitals (including children's hospitals) that are not subsection (d) hospitals (within the meaning of section 1886(d)(1)(B) of the Social Security Act) where appropriate. Any such payment methodology shall provide for hospital-specific payment rates based on resource requirements of such hospitals, determined using data specific to the different classes of such hospitals.

(c) APPLICATION OF METHODOLOGIES.—In the case of any service within a class of services for which a prospective payment methodology is implemented under subsection (a), notwithstanding any other provision of law, such methodology shall be applied under the medicare program and medicare part C and under subtitle D of title VI instead of the methodology otherwise provided.

(d) DEVELOPMENT OF METHODOLOGY FOR ESTABLISHING LIMITS ON PAYMENTS FOR SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—The Secretary shall revise the payment methodology established under the medicare program for payment for services provided in hospital outpatient departments in order to provide for a hospital-specific limit on the rate of growth in payments for such services. Such revision shall first be applied to payments to hospitals for portions of cost reporting periods occurring on or after January 1, 1997.

SEC. 8363. MEDICARE SUPPLEMENTAL INSURANCE POLICY AMENDMENTS.

(a) CONFORMING CHANGES IN MEDICARE BENEFITS.—Not later than July 1, 1995, the Secretary shall, in accordance with section 1882(p)(1) of the Social Security Act, promulgate standards for medicare supplemental policies to reflect the changes in benefits provided under parts A and B of title XVIII of such Act for purposes of the NAIC or Federal Standards applicable under such section. The provisions of section 1882(p)(1) of the Social Security Act shall apply to such standards in the same manner as such provisions apply to "Federal standards" described in subparagraph (B) of such section, except that any reference in such section to "the date specified in subparagraph" shall be deemed to be a reference to "January 1, 1998".

(b) REQUIRING OPEN ENROLLMENT.—

(1) IN GENERAL.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(A) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "paragraphs (1), (2), and (3)";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) Notwithstanding paragraph (2), the issuer of a medicare supplemental policy may not deny the issuance of a medicare supplemental policy during an annual open enrollment period of at least 30 days established by the Secretary for medicare supplemental policies.".

(2) ISSUANCE OF REGULATIONS.—Not later than July 1, 1995, the Secretary shall issue regulations to carry out the amendments made by paragraph (1).

(c) EFFECTIVE DATE.—

(1) CONFORMING CHANGES.—The changes in the NAIC or Federal standards made pursuant to subsection (a) shall apply to medicare supplemental policies issued on or after January 1, 1998.

(2) OPEN ENROLLMENT.—(A) Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to medicare supplemental policies issued on or after January 1, 1997.

(B) In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the amendments made by subsection (b), but

(ii) having a legislature which is not scheduled to meet in 1996 in a legislative session in which such legislation may be considered, the amendment made by subsection (b) shall apply to medicare supplemental policies issued in the State on or after the earlier of January 1, 1998, or the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 8364. REQUIRING HOSPITALS TO PARTICIPATE IN MEDICARE PART C.

(a) IN GENERAL.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)), as amended by section 8334(a), is amended—

(1) in subparagraph (Q), by striking "and" at the end;

(2) by striking the period at the end of subparagraph (R) and inserting ", and"; and

(3) by inserting after subparagraph (R) the following:

"(S) in the case of a hospital or a rural primary care hospital, to file a participation agreement with respect to the medicare part C program (in accordance with [section 2131]).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after January 1, 1999.

SEC. 8365. CONFORMING AMENDMENTS RELATING TO PROGRAM OF COST-SHARING FOR QUALIFIED MEDICARE BENEFICIARIES.

(a) IN GENERAL.—(1) Section 1818(g)(1) (42 U.S.C. 1395i–2(g)(1)) is amended by striking "1905(p)(1)" and inserting "2223(a)".

(2) Section 1843(h) (42 U.S.C. 1395v(h)) is amended by striking "1905(p)(1)" each place it appears in paragraph (1)(B) and paragraph (2) and inserting "2223(a)"

(3) Section 1848(g)(3)(A) (42 U.S.C. 1395w-4(g)(3)) is amended—

(A) by striking "(including as a qualified medicare beneficiary, as described in section 1905(p)(1))", and

(B) by inserting "or who is eligible for benefits under part C of title XXII" after "title XIX".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to items or services furnished in a State on or after January 1, 1999.

SEC. 8366. ADJUSTING CAPITAL PAYMENTS FOR AMOUNTS RECEIVED UNDER CAPITAL FINANCING ASSISTANCE PROGRAM.

Section 1886(g)(1)(B) (42 U.S.C. 1395ww(g)(1)(B)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting ", and"; and

(3) by adding at the end the following new clause:

"(v) shall provide for adjustments to assure that payment is not made to a hospital for capital-related costs to the extent that such costs were reduced or eliminated as a result of the receipt of financial assistance under title XXVIII of the Public Health Service Act.".

SEC. 8367. STUDY OF PHYSICIAN SUPERVISION OF NURSE ANESTHETIST SERVICES.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Administrator of the Health Care Financing Administration, shall conduct a study to determine the appropriate requirements for and amount of—

(1) payments under part B of the medicare program for services of a certified registered nurse anesthetist who does not provide such services under the medical supervision or medical direction of a physician, and

(2) payments under such part for the medical direction of such certified registered nurse anesthetist by a physician.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subsection (a), and shall include in the report such recommendations as the Secretary considers appropriate.

PART 8—EXPANSION OF FRAIL ELDERLY DEMONSTRATIONS

SEC. 8371. EXPANSION OF NUMBER OF SITES FOR DEMONSTRATION PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE).

Section 9412(b)(1) of OBRA–1986 is amended by striking "not more than 15" and inserting "not more than 50".

Subtitle E—Minor and Technical Medicare Amendments

TABLE OF CONTENTS OF SUBTITLE

Subtitle E—Minor and Technical Medicare Amendments

PART 1—PROVISIONS RELATING TO PART A

Sec. 8401. Provisions relating to adjustments to standardized amounts for wages and wage-related costs.
Sec. 8402. Provisions relating to rural health transition grant program.
Sec. 8403. Psychology services in hospitals.
Sec. 8404. Skilled nursing facilities.
Sec. 8405. Notification of availability of hospice benefit.
Sec. 8406. Clarifying expertise of individuals to serve on the prospective payment assessment commission.
Sec. 8407. Authority for budget neutral adjustments for changes in payment amounts for transfer cases.
Sec. 8408. Hemophilia pass-through extension.
Sec. 8409. Sub-acute care services demonstration project.
Sec. 8410. Clarification of DRG payment window expansion; miscellaneous and technical corrections.

PART 2—PROVISIONS RELATING TO PART B

SUBPART A—PHYSICIANS' SERVICES

Sec. 8411. Development and implementation of resource-based methodology for practice expenses.
Sec. 8412. Geographic cost of practice index refinements.
Sec. 8413. Extra-billing limits.
Sec. 8414. Relative values for pediatric services.
Sec. 8415. Administration of claims relating to physicians' services.
Sec. 8416. Miscellaneous and technical corrections.

SUBPART B—DURABLE MEDICAL EQUIPMENT

Sec. 8421. Certification of suppliers.
Sec. 8422. Restrictions on certain marketing and sales activities.
Sec. 8423. Beneficiary liability for noncovered services.
Sec. 8424. Adjustments for inherent reasonableness.
Sec. 8425. Miscellaneous and technical corrections.

SUBPART C—OTHER ITEMS AND SERVICES

Sec. 8431. Ambulatory surgical center services.
Sec. 8432. Study of medicare coverage of patient care costs associated with clinical trials of new cancer therapies.
Sec. 8433. Study of annual cap on amount of medicare payment for outpatient physical therapy and occupational therapy services.
Sec. 8434. Payment of part B premium late enrollment penalties by States.
Sec. 8435. Treatment of inpatients and provision of diagnostic X-ray services by rural health clinics and federally qualified health centers.
Sec. 8436. Application of mammography certification requirements.
Sec. 8437. Coverage of services of speech-language pathologists and audiologists.
Sec. 8438. Miscellaneous and technical corrections.

PART 3—PROVISIONS RELATING TO PARTS A AND B

SUBPART A—MEDICARE SECONDARY PAYER

Sec. 8441. Medicare secondary payer reforms.

SUBPART B—OTHER ITEMS AND SERVICES RELATING TO PARTS A AND B

Sec. 8451. Definition of FMGEMS examination for payment of direct graduate medical education.
Sec. 8452. Qualified medicare beneficiary outreach.
Sec. 8453. Hospital agreements with organ procurement organizations.
Sec. 8454. Peer review organizations.
Sec. 8455. Health maintenance organizations.
Sec. 8456. Home health agencies.
Sec. 8457. Permanent extension of authority to contract with fiscal intermediaries and carriers on other than a cost basis.
Sec. 8458. Transportation demonstration project.
Sec. 8459. Diabetes treatment demonstration project.
Sec. 8460. Expansion of number of sites for demonstration program of all-inclusive care for the elderly (PACE).
Sec. 8460A. Miscellaneous and technical corrections.

PART 4—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES

Sec. 8461. Standards for medicare supplemental insurance policies.

PART 1—PROVISIONS RELATING TO PART A

SEC. 8401. PROVISIONS RELATING TO ADJUSTMENTS TO STANDARDIZED AMOUNTS FOR WAGES AND WAGE-RELATED COSTS.

(a) USE OF OCCUPATIONAL MIX IN GUIDELINES FOR DETERMINATION OF AREA WAGE INDEX.—

(1) IN GENERAL.—Section 1886(d)(10)(D)(i)(I) (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by inserting "(to the extent the Secretary determines appropriate)" after "taking into account".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA–1989.

(b) CONFORMING AMENDMENTS RELATING TO GEOGRAPHIC AREA USED TO DETERMINE WAGE INDEX APPLICABLE TO HOSPITAL.—(1) Section 1886(d)(8)(C) (42 U.S.C. 1395ww(d)(8)(C)), as amended by section 13501(b)(1) of OBRA–1993, is amended—

(A) in clause (iv), by striking "paragraph (1)" and inserting "paragraph (10)"; and

(B) by adding at the end the following new clause:

"(v) This subparagraph shall apply with respect to discharges occurring in a fiscal year only if the Secretary uses a method for making adjustments to the DRG prospective payment rate for area differences in hospital wage levels under paragraph (3)(E) for the fiscal year that is based on the use of Metropolitan Statistical Area classifications.".

(2) Section 1886(d)(10) (42 U.S.C. 1395ww(d)(10)) is amended—

(A) in subparagraph (C)(i)(II), by striking "the area wage index applicable" and inserting "the factor used to adjust the DRG prospective payment rate for area differences in hospital wage levels that applies"; and

(B) in subparagraph (D)—

(i) by redesignating clause (ii) as clause (iii), and

(ii) by inserting after clause (i) the following new clause:

"(ii) Notwithstanding clause (i), if the Secretary uses a method for making adjustments to the DRG prospective payment rate for area differences in hospital wage levels under paragraph (3)(E) that is not based on the use of Metropolitan Statistical Area classifications, the Secretary may revise the guidelines published under clause (i) to the extent such guidelines are used to determine the appropriateness of the geographic area in which the hospital is determined to be located for purposes of making such adjustments.".

(c) ADJUSTMENT OF LABOR AND NON-LABOR PORTIONS OF STANDARDIZED AMOUNTS.—Section 1886(d)(3)(A)(iii) (42 U.S.C. 1395ww(d)(3)(A)(iii)) is amended by adding at the end the following: "For discharges occurring on or after October 1, 1994, the Secretary shall adjust the ratio of the labor portion to non-labor portion of each average standardized amount to equal such ratio for the national average of all standardized amounts.".

SEC. 8402. PROVISIONS RELATING TO RURAL HEALTH TRANSITION GRANT PROGRAM.

(a) ELIGIBILITY OF RURAL PRIMARY CARE HOSPITALS FOR GRANTS.—

(1) IN GENERAL.—Section 4005(e)(2) of OBRA–1987 is amended in the matter preceding subparagraph (A) by inserting "any rural primary care hospital designated by the Secretary under section 1820(i)(2) of the Social Security Act, or" after "means".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to grants made on or after October 1, 1993.

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 4005(e)(9) of OBRA–1987 is amended—

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of fiscal years 1993 through 1997".

(c) FREQUENCY OF REQUIRED REPORTS.—Section 4008(e)(8)(B) of OBRA–1987 is amended by striking "every 6 months" and inserting "every 12 months".

(d) USE OF GRANTS FOR TELECOMMUNICATIONS PROJECTS.—

(1) IN GENERAL.—Section 4005(e)(7) of OBRA–1987 is amended by adding at the end the following new subparagraph:

"(E) A hospital may use a grant received under this subsection to participate in a project established by the Secretary to establish telecommunications linkages between the hospital and other medical facilities in order to permit the hospital to use the medical expertise or equipment of the other facility through telecommunications techniques. In awarding grants to hospitals for this purpose, the Secretary shall take into account the need to demonstrate alternative telecommunications techniques for rural hospitals, including interactive video telecommunications, static video imaging transmitted through the telephone system, and facsimile reproductions transmitted through the telephone system.".

(2) SET-ASIDE OF AUTHORIZATION.—Section 4005(e)(9) of OBRA–1987 is amended by adding at the end the following: "Of the amounts authorized to be appropriated during each of the fiscal years 1996 and 1997, $2,000,000 shall be available solely for projects described in paragraph (7)(E).".

SEC. 8403. PSYCHOLOGY SERVICES IN HOSPITALS.

Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

SEC. 8404. SKILLED NURSING FACILITIES.

(a) CONSTRUCTION OF WAGE INDEX.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act.

(b) CLARIFICATION OF REPEAL OF UTILIZATION REVIEW REQUIREMENTS.—

(1) IN GENERAL.—(A) Section 1814(a)(5) (42 U.S.C. 1395f(a)(5)) is amended—

(i) by striking "and with respect" and all that follows through "regulations";

(ii) by striking "or skilled nursing facility, as the case may be"; and

(iii) by striking "or facility".

(B) Section 1866(d) (42 U.S.C. 1395cc(d)) is amended—

(i) by striking "or skilled nursing facility";

(ii) by striking "or facility" each place it appears;

(iii) by striking "or for post-hospital" and all that follows through "the case may be"; and

(iv) by striking ", or (in the case of" and all that follows through "transfer agreement,".

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–1987.

(c) REIMBURSEMENT FOR ATYPICAL SERVICES.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(c)" and inserting "(c)(1)"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary shall establish an expedited review process under which the Secretary shall respond to the request of a skilled nursing facility received on or after October 1, 1994, for an adjustment under this subsection based on the furnishing of atypical services by the facility during any cost reporting period (including the furnishing of atypical services based on the facility's case mix) not later than 30 days after receiving the facility's request. If the Secretary approves a facility's request under the process, the Secretary shall adjust the amount of the payments made under this title (on a timely basis) with respect to routine service costs of extended care services furnished by the facility for each cost reporting period for which the facility demonstrates that it furnishes (or will furnish) such atypical services.".

(d) PAYMENT FOR SERVICES OF INDEPENDENT LABORATORIES FURNISHED TO RESIDENTS.—

(1) INCLUSION AS ROUTINE SERVICE COSTS OF EXTENDED CARE SERVICES.—Section 1861(h)(6) (42 U.S.C. 1395x(h)(6)) is amended by inserting "or an independent clinical laboratory" after "by a hospital".

(2) REQUIRING FACILITIES TO FURNISH LABORATORY SERVICES.—Section 1819(b)(4)(A) (42 U.S.C. 1395i–3(b)(4)(A)) is amended—

(A) by striking "and" at the end of clause (vi);

(B) by striking the period at the end of clause (vii) and inserting "; and"; and

(C) by inserting after clause (vii) the following new clause:

"(viii) clinical laboratory services necessary to meet the needs of each resident.".

(e) CONFORMING AMENDMENTS TO NURSING HOME REFORM.—

(1) SUSPENSION OF DECERTIFICATION OF NURSES AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS BASED ON EXTENDED SURVEYS.—

(A) IN GENERAL.—Section 1819(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1395i–3(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: ", unless the survey shows that the facility is in compliance with the requirements of subsections (b), (c), and (d) of this section;".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of OBRA–1990.

(2) REQUIREMENTS FOR CONSULTANTS CONDUCTING REVIEWS ON USE OF DRUGS.—

(A) IN GENERAL.—Section 1819(c)(1)(D) (42 U.S.C. 1395i–3(c)(1)(D)) is amended by adding at the end the following sentence: "In determining whether such a consultant is qualified to conduct reviews under the preceding sentence, the Secretary shall take into account the needs of nursing facilities under this title to have access to the services of such a consultant on a timely basis.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of OBRA–1987.

(3) INCREASE IN MINIMUM AMOUNT REQUIRED FOR SEPARATE DEPOSIT OF PERSONAL FUNDS.—

(A) IN GENERAL.—Section 1819(c)(6)(B)(i) (42 U.S.C. 1395i–3(c)(6)(B)(i)) is amended by striking "$50" and inserting "$100".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect January 1, 1995.

(4) DUE PROCESS PROTECTIONS FOR NURSE AIDES.—

(A) PROHIBITING STATE FROM INCLUDING UNDOCUMENTED ALLEGATIONS IN NURSES AIDE REGISTRY.—Section 1819(e)(2)(B) (42 U.S.C. 1395i–3(e)(2)(B)) is amended by striking the period at the end of the first sentence and inserting the following: ", but shall not include any allegations of resident abuse or neglect or misappropriation of resident property that are not specifically documented by the State under such subsection.".

(B) DUE PROCESS REQUIREMENTS FOR REBUTTING ALLEGATIONS.—Section 1819(g)(1)(C) (42 U.S.C. 1395i–3(g)(1)(C)) is amended by striking the second sentence and inserting the following: "The State shall, after providing the individual involved with a written notice of the allegations (including a statement of the availability of a hearing for the individual to rebut the allegations) and the opportunity for a hearing on the record, make a written finding as to the accuracy of the allegations.".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect January 1, 1995.

(f) CORRECTIONS RELATING TO SECTION 4008.—

(1) Section 1819(b)(5)(D) (42 U.S.C. 1395i–3(b)(5)(D)), as amended by section 4008(h)(1)(D) of OBRA–1990, is amended by striking the comma before "or a new competency evaluation program,".

(2) Section 1819(b)(5)(G) (42 U.S.C. 1395i–3(b)(5)(G)) is amended by striking "or licensed or certified social worker" and inserting "licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician".

(3) Section 1819(f)(2)(B)(i) (42 U.S.C. 1395i–3(f)(2)(B)(i)) is amended by striking "facilities," and inserting "facilities (subject to clause (iii)),".

(4) Section 1819(f)(2)(B)(iii)(I)(c) (42 U.S.C. 1395i–3(f)(2)(B)(iii)(I)(c)) is amended by striking "clauses" each place it appears and inserting "clause".

(5) Section 1819(g)(5)(B) (42 U.S.C. 1395i–3(g)(5)(B)) is amended by striking "paragraphs" and inserting "paragraph".

(6) Section 4008(b)(1)(F)(ii) of OBRA–1990 is amended—

(A) by striking "The amendments" and inserting "(I) The amendments";

(B) by striking "nursing facility" each place it appears and inserting "skilled nursing facility";

(C) by redesignating subclauses (I) through (V) as items (aa) through (ee); and

(D) by adding at the end the following new subclause:

"(II) Notwithstanding subclause (I) and subject to section 1819(f)(2)(B)(iii)(I) of the Social Security Act (as amended by clause (i)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a skilled nursing facility described in subclause (I) if, during the previous 2 years, item (aa), (bb), (cc), (dd), or (ee) of subclause (I) did not apply to the facility.".

(7) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

SEC. 8405. NOTIFICATION OF AVAILABILITY OF HOSPICE BENEFIT.

(a) IN GENERAL.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting ", including hospice services," after "post-hospital services".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

SEC. 8406. CLARIFYING EXPERTISE OF INDIVIDUALS TO SERVE ON THE PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Section 1886(e)(6)(B) (42 U.S.C. 1395ww(e)(6)(B)) is amended by striking "hospital reimbursement, hospital financial management" and inserting "health facility management, reimbursement of health facilities or other providers of services which reflect the scope of the Commission's responsibilities".

SEC. 8407. AUTHORITY FOR BUDGET NEUTRAL ADJUSTMENTS FOR CHANGES IN PAYMENT AMOUNTS FOR TRANSFER CASES.

Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)) is amended—

(1) by inserting "(i)" after "(I)"; and

(2) by adding at the end the following new clause:

"(ii) In making adjustments under clause (i) for transfer cases (as defined by the Secretary) in a fiscal year, the Secretary may make adjustments to each of the average standardized amounts determined under paragraph (3) to assure that the aggregate payments made under this subsection for such fiscal year are not greater or lesser than those that would have otherwise been made in such fiscal year.".

SEC. 8408. HEMOPHILIA PASS-THROUGH EXTENSION.

Effective as if included in the enactment of OBRA–1993, section 6011(d) of OBRA–1989 (as amended by section 13505 of OBRA–1993) is amended by striking "September 30, 1994" and inserting "September 30, 1999".

SEC. 8409. SUB-ACUTE CARE SERVICES DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project during fiscal years 1996 and 1997 on the provision of sub-acute care services under part A of the medicare program in freestanding skilled nursing facilities and hospitals.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 1996 and 1997 to conduct the demonstration project under paragraph (1).

(b) REPORT.—Not later than 6 months after the conclusion of the demonstration project conducted under subsection (a), the Secretary shall submit a report to Congress on the demonstration project, and shall include in the report an evaluation of the demonstration project together with any recommendations considered appropriate by the Secretary for changes to title XVIII of the Social Security Act relating to the provision of sub-acute care services under part A of the medicare program.

SEC. 8410. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION; MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION.—The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is amended by inserting "(or, in the case of a hospital that is not a subsection (d) hospital, during the 1 day)" after "3 days".

(b) TECHNICAL CORRECTION RELATING TO RESIDENT ASSESSMENT IN NURSING HOMES.—Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i–3(b)(3)(C)(i)(I)) is amended by striking "not later than" before "14 days".

(c) TECHNICAL CORRECTION RELATING TO APPLICABLE ADJUSTMENT FACTOR FOR INDIRECT MEDICAL EDUCATION ADJUSTMENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended by striking "May 1, 1986," and inserting "October 1, 1988,".

(d) MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS AND SOLE COMMUNITY HOSPITALS.—

(1) MEDICARE DEPENDENT, SMALL RURAL HOSPITALS.—

(A) CLARIFICATION OF ADDITIONAL PAYMENT.—Section 1886(d)(5)(G)(ii)(I) (42 U.S.C. 1395ww(d)(5)(G)(ii)(I)), as amended by section 13501(e)(1) of OBRA–1993, is amended by striking "the first 3 12-month cost reporting periods that begin" and inserting "the 36-month period beginning with the first day of the cost reporting period that begins".

(B) CONFORMING TARGET AMOUNTS TO EXTENSION OF ADDITIONAL PAYMENTS.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended in the matter preceding clause (i) by striking "March 31, 1993" and inserting "September 30, 1994".

(2) CLARIFICATION OF UPDATES.—Section 1886(b)(3)(B)(iv)(II) (42 U.S.C. 1395ww(b)(3)(B)(iv)(II)), as added by section 13501(a)(2) of OBRA–1993, is amended by striking "(taking into account" and all that follows through "1994)" and inserting "(adjusted to exclude any portion of a cost reporting period beginning during fiscal year 1993 for which the applicable percentage increase is determined under subparagraph (I))".

(e) CLERICAL CORRECTIONS.—(1) Section 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended by striking "1990" and inserting "1990,".

(2) Section 1816(f)(2)(A)(ii) (42 U.S.C. 1396h(f)(2)(A)(ii)) is amended by striking "such agency" and inserting "such agency's".

PART 2—PROVISIONS RELATING TO PART B

Subpart A—Physicians' Services

SEC. 8411. DEVELOPMENT AND IMPLEMENTATION OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative value units for each physicians' service. The methodology utilized shall recognize the staff, equipment, and supplies used in the provision of various medical and surgical services in various settings.

(2) REPORT.—The Secretary shall transmit a report by July 1, 1995, on the methodology developed under paragraph (1) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—Section 1848(c)(2)(C)(ii) (42 U.S.C. 1395w–4(c)(2)(C)(ii)) is amended—

(A) by inserting "for the service for years before 1997" before "equal to",

(B) by striking the period at the end of subclause (II) and inserting a comma, and

(C) by adding after and below subclause (II) the following:

"and for years beginning with 1997 based on the relative practice expense resources involved in furnishing the service (in accordance with the transition provided in subparagraph (G)).".

(2) TRANSITION.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended by adding at the end the following new subparagraph:

"(G) TRANSITION TO RESOURCE-BASED PRACTICE EXPENSE RELATIVE VALUE UNITS.—With respect to physicians' services furnished in years beginning with 1997, the number of practice expense relative value units applicable under subparagraph (C)(ii) shall be equal to the following:

"(i) For services furnished in 1997, the sum of—

"(I) 75 percent of the units determined under the methodology applicable under such subparagraph for years prior to 1997; and

"(II) 25 percent of the units determined under the methodology developed by the Secretary under section 8411(a)(1) of the Guaranteed Health Insurance Act of 1994.

"(ii) For services furnished in 1998, the sum of—

"(I) 50 percent of the units determined under the methodology applicable under such subparagraph for years prior to 1997; and

"(II) 50 percent of the units determined under the methodology developed by the Secretary under section 8411(a)(1) of the Guaranteed Health Insurance Act of 1994.

"(iii) For services furnished in 1999, the sum of—

"(I) 25 percent of the units determined under the methodology applicable under such subparagraph for years prior to 1997; and

"(II) 75 percent of the units determined under the methodology developed by the Secretary under section 8411(a)(1) of the Guaranteed Health Insurance Act of 1994.

"(iv) For services furnished in years beginning with 2000, 100 percent of the units determined under the methodology developed by the Secretary under section 8411(a)(1) of the Guaranteed Health Insurance Act of 1994.".

(3) CONFORMING AMENDMENT.—Section 1848(c)(3)(C)(ii) (42 U.S.C. 1395w–4(c)(3)(C)(ii)) is amended by striking "The practice" and inserting "For years before 2000, the practice".

(4) APPLICATION OF CERTAIN PROVISIONS.—In implementing the amendment made by paragraph (1)(C), the provisions of clauses (ii)(II) and (iii) of section 1848(c)(2)(B) of the Social Security Act shall apply in the same manner as they apply to adjustments under clause (ii)(I) of such section.

SEC. 8412. GEOGRAPHIC COST OF PRACTICE INDEX REFINEMENTS.

(a) REQUIRING CONSULTATION WITH REPRESENTATIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by striking "shall review" and inserting "shall, in consultation with appropriate representatives of physicians, review".

(b) USE OF MOST RECENT DATA IN GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended by adding at the end the following new subparagraph:

"(D) USE OF RECENT DATA.—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.".

(c) REPORT ON REVIEW PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data.

SEC. 8413. EXTRA-BILLING LIMITS.

(a) ENFORCEMENT OF LIMITS.—Section 1848(g) (42 U.S.C. 1395w–4(g)), as amended by section 13517(a) of OBRA–1993, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) IN GENERAL.—In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician's service furnished with respect to an individual enrolled under this part, the following rules apply:

"(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

"(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed by the individual to the physician.

"(B) SANCTIONS.—If a physician, supplier, or other person—

"(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

"(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(C) TIMELY BASIS.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided 'on a timely basis', if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).''; and

(2) in paragraph (3)(B)—

(A) by inserting after the first sentence the following: ''No person is liable for payment of any amounts billed for such a service in violation of the previous sentence.''. and

(B) in the last sentence, by striking ''previous sentence'' and inserting ''first sentence''.

(b) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 8416(e), is amended by adding at the end the following new paragraph:

''(18)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

''(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsurance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may apply sanctions against a physician in accordance with subsection (j)(2) in the same manner as such section applies with respect to a physician. Paragraph (4) of subsection (j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.

''(C) A practitioner described in this subparagraph is any of the following:

''(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

''(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

''(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

''(iv) A clinical social worker (as defined in section 1861(hh)(1)).

''(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

''(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician's service.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (l)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking ''and'' at the end of subparagraph (B),

(B) in subparagraph (C), by striking ''shall include'', and

(C) in subparagraph (C), by striking the period at the end and inserting '', and'', and

(D) by adding at the end the following new subparagraph:

''(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).''.

(2) DETERMINATIONS BY CARRIERS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

''(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

''(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

''(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

''(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;''.

(d) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-4(g)(6)(B)) is amended by inserting ''information on the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and information'' after ''report to the Congress''.

(e) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833(h)(5)(D) (42 U.S.C. 1395l(h)(5)(D)) is amended—

(1) by striking ''paragraphs (2) and (3)'' and by inserting ''paragraph (2)''; and

(2) by adding at the end the following: ''Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.''.

(f) EFFECTIVE DATES.—

(1) ENFORCEMENT; MISCELLANEOUS AND TECHNICAL AMENDMENTS.—The amendments made by subsections (a) and (e) shall apply to services furnished on or after the date of the enactment of this Act; except that the amendments made by subsection (a) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1995.

(2) PRACTITIONERS.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1995.

(3) EOMBS.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after January 1, 1995.

(4) CARRIER DETERMINATIONS.—The amendments made by subsection (c)(2) shall apply to contracts as of January 1, 1995.

(5) REPORT.—The amendment made by subsection (d) shall apply to reports for years beginning with 1995.

SEC. 8414. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall fully develop, by not later than January 1, 1995, relative values for the full range of pediatric physicians' services which are consistent with the relative values developed for other physicians' services under section 1848(c) of the Social Security Act. In developing such values, the Secretary shall conduct such refinements as may be necessary to produce appropriate estimates for such relative values.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting such study, the Secretary shall consult with appropriate organizations representing pediatricians and other physicians and physical and occupational therapists.

(2) REPORT.—Not later than July 1, 1995, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include any appropriate recommendations regarding needed changes in coding or other payment policies to ensure that payments for pediatric services appropriately reflect the resources required to provide these services.

SEC. 8415. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) LIMITATION ON CARRIER USER FEES.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

''(4) Neither a carrier nor the Secretary may impose a fee under this title—

''(A) for the filing of claims related to physicians' services,

''(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

''(C) for any appeal under this title with respect to physicians' services,

''(D) for applying for (or obtaining) a unique identifier under subsection (r), or

''(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.''.

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to read as follows: ''(D) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this subparagraph for payment to the first physician''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 8416. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES.—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking '', simple and subcutaneous'',

(B) by striking ''; small'' and inserting ''and small'',

(C) by striking ''treatments;'' the first place it appears and inserting ''and'',

(D) by striking ''lobectomy;'',

(E) by striking ''enterectomy; colectomy; cholecystectomy;'',

(F) by striking ''; transurerethral resection'' and inserting ''and resection'', and

(G) by striking ''sacral laminectomy;''.

(2) Section 4101(b)(2) of OBRA–1990 is amended—

(A) in the matter before subparagraph (A), by striking ''1842(b)(16)'' and inserting ''1842(b)(16)(B)'', and

(B) in subparagraph (B)—

(i) by striking '', simple and subcutaneous'',

(ii) by striking ''(HCPCS codes 19160 and 19162)'' and inserting ''(HCPCS code 19160)'', and

(iii) by striking all that follows ''(HCPCS codes 92250'' and inserting ''and 92260).''.

(b) RADIOLOGY SERVICES.—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating the subparagraphs (E) and (F) redesignated by section 4102(a)(1) of OBRA–1990 as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking ''shall be determined as follows:'' and inserting ''shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:'',

(B) in clause (iv), by striking ''LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to'' and inserting ''ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for'',

(C) in clause (vii), by striking ''under this subparagraph'', and

(D) in clause (vii), by inserting ''reduced under this subparagraph by'' after ''shall not be''.

(3) Section 4102(c)(2) of OBRA–1990 is amended by striking ''radiology services'' and all that follows and inserting ''nuclear medicine services.''.

(4) Section 4102(d) of OBRA–1990 is amended by striking ''new paragraph'' and inserting ''new subparagraph''.

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting ''RULE FOR CERTAIN SCANNING SERVICES.—'' after ''(E)''.

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w–4(a)(2)(D)(iii)) is amended by striking ''that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989'' and by striking ''provided under such section'' and inserting ''provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989''.

(c) ANESTHESIA SERVICES.—(1) Section 4103(a) of OBRA–1990 is amended by striking ''REDUCTION IN FEE SCHEDULE'' and inserting ''REDUCTION IN PREVAILING CHARGES''.

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking ''shall be determined as follows:'' and inserting ''shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:'', and

(B) in clause (iii), by striking ''Subject to clause (iv), the prevailing charge conversion factor to be applied in'' and inserting ''The adjusted prevailing charge conversion factor for''.

(d) ASSISTANTS AT SURGERY.—(1) Section 4107(c) of OBRA–1990 is amended by inserting ''(a)(1)'' after ''subsection''.

(2) Section 4107(a)(2) of OBRA–1990 is amended by adding at the end the following: ''In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).''.

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA–1990, as paragraph (17) and, in such paragraph, by inserting '', tests specified in paragraph (14)(C)(i),'' after ''diagnostic laboratory tests''.

(f) STATEWIDE FEE SCHEDULES.—Section 4117 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking ''(a) IN GENERAL.—'', and

(B) by striking '', if the'' and all that follows through ''1991,''; and

(2) by striking subsections (b), (c), and (d).

(g) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES.—Section 4113 of OBRA–1990 is amended—

(1) by inserting ''of the Social Security Act'' after ''1869(b)(2)''; and

(2) by striking ''December 31, 1992'' and inserting ''December 31, 1993''.

(h) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking ''FISCAL YEAR''.

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking ''amendments'' and inserting ''amendment'', and

(ii) in paragraph (3), by striking ''amendments made by paragraphs (1) and (2)'' and inserting ''amendment made by paragraph (1)''.

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended by inserting ''PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—'' after ''(C)''.

(C) Section 4105(d) of OBRA–1990 is amended by inserting ''PUBLICATION OF PERFORMANCE STANDARD RATES.—'' after ''(d)''.

(3) Section 4106(c) of OBRA–1990 is amended by inserting ''of the Social Security Act'' after ''1848(d)(1)(B)''.

(4) Section 4114 of OBRA–1990 is amended by striking ''patients'' the second place it appears.

(5) Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by inserting ''date of the'' after ''since the''.

(6) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking ''is amended''.

(7) Section 4118(f)(1)(N)(ii) of OBRA–1990 is amended by striking ''subsection (f)(5)(A)'' and inserting ''subsection (f)(5)(A))''.

(8) Section 1845(e) (42 U.S.C. 1395w–l(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(9) Section 4118(j)(2) of OBRA–1990 is amended by striking ''In section'' and inserting ''Section''.

(10)(A) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended—

(i) by striking ''apply to'' and inserting ''would otherwise apply to'', and

(ii) by inserting before the period at the end ''but for the application of section 1848(i)(3)''.

(i) OTHER CORRECTIONS.—(1) Effective on the date of the enactment of this Act, section 6102(d)(4) of OBRA–1989 is amended by striking all that follows the first sentence.

(2) Effective for payments for fiscal years beginning with fiscal year 1994, section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) in subparagraph (A), by striking ''(A) Any contract'' and inserting ''Any contract''; and

(B) by striking subparagraph (B).

(j) EFFECTIVE DATE.—Except as provided in subsection (i), the amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA–1990.

Subpart B—Durable Medical Equipment

SEC. 8421. CERTIFICATION OF SUPPLIERS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 13544(b)(1) of OBRA–1993, is amended by adding at the end the following new subsection:

''(j) REQUIREMENTS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

''(1) ISSUANCE AND RENEWAL OF SUPPLIER NUMBER.—

''(A) PAYMENT.—Except as provided in subparagraph (C), no payment may be made under this part after the expiration of the 60-day period that begins on the date of the enactment of the Guaranteed Health Insurance Act of 1994, for items furnished by a supplier of medical equipment and supplies unless such supplier obtains (and renews at such intervals as the Secretary may require) a supplier number.

''(B) STANDARDS FOR POSSESSING A SUPPLIER NUMBER.—A supplier may not obtain a supplier number unless—

''(i) for medical equipment and supplies furnished on or after the expiration of the 60-day period that begins on the date of the enactment of the Guaranteed Health Insurance Act of 1994, and before January 1, 1996, the supplier meets standards prescribed by the Secretary in regulations issued on June 18, 1992; and

''(ii) for medical equipment and supplies furnished on or after January 1, 1996, the supplier meets revised standards prescribed by the Secretary (in consultation with representatives of suppliers of medical equipment and supplies, carriers, and consumers) that shall include requirements that the supplier—

''(I) comply with all applicable State and Federal licensure and regulatory requirements;

''(II) maintain a physical facility on an appropriate site;

''(III) have proof of appropriate liability insurance; and

''(IV) meet such other requirements as the Secretary may specify.

''(C) EXCEPTION FOR ITEMS FURNISHED AS INCIDENT TO A PHYSICIAN'S SERVICE.—Subparagraph (A) shall not apply with respect to medical equipment and supplies furnished incident to a physician's service.

''(D) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

''(E) PROHIBITION AGAINST DELEGATION OF SUPPLIER DETERMINATIONS.—The Secretary may not delegate (other than by contract

VOL 140 PT 15 AG 10 — 11 1994 UMI

under section 1842) the responsibility to determine whether suppliers meet the standards necessary to obtain a supplier number.

"(2) CERTIFICATES OF MEDICAL NECESSITY.—

"(A) LIMITATION ON INFORMATION PROVIDED BY SUPPLIERS ON CERTIFICATES OF MEDICAL NECESSITY.—

"(i) IN GENERAL.—Effective upon the expiration of the 60-day period that begins on the date of the enactment of the Guaranteed Health Insurance Act of 1994, a supplier of medical equipment and supplies may distribute to physicians, or to individuals entitled to benefits under this part, a certificate of medical necessity for commercial purposes which contains no more than the following information completed by the supplier:

"(I) An identification of the supplier and the beneficiary to whom such medical equipment and supplies are furnished.

"(II) A description of such medical equipment and supplies.

"(III) Any product code identifying such medical equipment and supplies.

"(IV) Any other administrative information (other than information relating to the beneficiary's medical condition) identified by the Secretary.

"(ii) INFORMATION ON PAYMENT AMOUNT AND CHARGES.—If a supplier distributes a certificate of medical necessity containing any of the information permitted to be supplied under clause (i), the supplier shall also list on the certificate of medical necessity the fee schedule amount and the supplier's charge for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

"(iii) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of clause (i) or fails to provide the information required under clause (ii) is subject to a civil money penalty in an amount not to exceed $1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

"(B) DEFINITION.—For purposes of this paragraph, the term 'certificate of medical necessity' means a form or other document containing information required by the carrier to be submitted to show that an item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(3) DEFINITION.—The term 'medical equipment and supplies' means—

"(A) durable medical equipment (as defined in section 1861(n));

"(B) prosthetic devices (as described in section 1861(s)(8));

"(C) orthotics and prosthetics (as described in section 1861(s)(9));

"(D) surgical dressings (as described in section 1861(s)(5));

"(E) such other items as the Secretary may determine; and

"(F) for purposes of paragraph (1)—

"(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)),

"(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)),

"(iii) therapeutic shoes for diabetics (as described in section 1861(s)(12)),

"(iv) oral drugs prescribed for use as an anticancer therapeutic agent (as described in section 1861(s)(2)(Q)), and

"(v) self-administered erythropoetin (as described in section 1861(s)(2)(P)).".

(2) CONFORMING AMENDMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (16).

(b) USE OF COVERED ITEMS BY DISABLED BENEFICIARIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with representatives of suppliers of durable medical equipment under part B of the medicare program and individuals entitled to benefits under such program on the basis of disability, shall conduct a study of the effects of the methodology for determining payments for items of such equipment under such part on the ability of such individuals to obtain items of such equipment, including customized items.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate to assure that disabled medicare beneficiaries have access to items of durable medical equipment.

(c) CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETIC DEVICES OR ORTHOTICS AND PROSTHETICS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate describing prosthetic devices or orthotics and prosthetics covered under part B of the medicare program that do not require individualized or custom fitting and adjustment to be used by a patient. Such report shall include recommendations for an appropriate methodology for determining the amount of payment for such items under such program.

SEC. 8422. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual unless 1 of the following applies:

"(i) The individual has given written permission to the supplier to make contact by telephone regarding the furnishing of a covered item.

"(ii) The supplier has furnished a covered item to the individual and the supplier is contacting the individual only regarding the furnishing of such covered item.

"(iii) If the contact is regarding the furnishing of a covered item other than a covered item already furnished to the individual, the supplier has furnished at least 1 covered item to the individual during the 15-month period preceding the date on which the supplier makes such contact.

"(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for any item subsequently furnished to the individual by the supplier.

"(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier's conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the programs under this Act, in accordance with the procedures set forth in subsections (c), (f), and (g) of section 1128.".

(2) REQUIRING REFUND OF AMOUNTS COLLECTED FOR DISALLOWED ITEMS.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(18) REFUND OF AMOUNTS COLLECTED FOR CERTAIN DISALLOWED ITEMS.—

"(A) IN GENERAL.—If a nonparticipating supplier furnishes to an individual enrolled under this part a covered item for which no payment may be made under this part by reason of paragraph (17)(B), the supplier shall refund on a timely basis to the patient (and shall be liable to the patient for) any amounts collected from the patient for the item, unless—

"(i) the supplier establishes that the supplier did not know and could not reasonably have been expected to know that payment may not be made for the item by reason of paragraph (17)(B), or

"(ii) before the item was furnished, the patient was informed that payment under this part may not be made for that item and the patient has agreed to pay for that item.

"(B) SANCTIONS.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

"(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

"(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.".

(b) CONFORMING AMENDMENT.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "Paragraph (12)" and inserting "Paragraphs (12) and (17)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished after the expiration of the 60-day period that begins on the date of the enactment of this Act.

SEC. 8423. BENEFICIARY LIABILITY FOR NONCOVERED SERVICES.

(a) UNASSIGNED CLAIMS.—Section 1834(j) (42 U.S.C. 1395m(i)), as added by section 8421(a)(1), is amended—

(A) by redesignating paragraph (3) as paragraph (4), and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) LIMITATION ON PATIENT LIABILITY.—If a supplier of medical equipment and supplies (as defined in paragraph (4))—

"(A) furnishes an item or service to a beneficiary for which no payment may be made by reason of paragraph (1);

"(B) furnishes an item or service to a beneficiary for which payment is denied in advance under subsection (a)(15); or

"(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.".

(b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

"(h) If a supplier of medical equipment and supplies (as defined in section 1834(j)(4))—

"(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(j)(1);

"(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15); or

"(3) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(a)(17)(B),

any expenses incurred for items and services furnished to an individual by such a supplier on an assignment-related basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of section 1834(a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items or services furnished on or after the expiration of the 60-day period that begins on the date of the enactment of this Act.

SEC. 8424. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) ADJUSTMENTS MADE TO FINAL PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: "In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

(1) IN GENERAL.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) ITEMS DESCRIBED.—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 8425. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) UPDATES TO PAYMENT AMOUNTS.—(1) Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

(2) The amendment made by paragraph (1) shall be effective on the date of the enactment of this Act.

(b) ADVANCE DETERMINATIONS OF COVERAGE.—(1) Effective on the expiration of the 60-day period that begins on date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to read as follows:

"(15) ADVANCE DETERMINATIONS OF COVERAGE FOR CERTAIN ITEMS.—

"(A) DEVELOPMENT OF LISTS OF ITEMS BY SECRETARY.—The Secretary may develop and periodically update a list of items for which payment may be made under this subsection that the Secretary determines, on the basis of prior payment experience, are frequently subject to unnecessary utilization throughout a carrier's entire service area or a portion of such area.

"(B) DEVELOPMENT OF LISTS OF SUPPLIERS BY SECRETARY.—The Secretary may develop and periodically update a list of suppliers of items for which payment may be made under this subsection with respect to whom—

"(i) the Secretary has found that a substantial number of claims for payment under this part for items furnished by the supplier have been denied on the basis of the application of section 1862(a)(1); or

"(ii) the Secretary has identified a pattern of overutilization resulting from the business practice of the supplier.

"(C) DETERMINATIONS OF COVERAGE IN ADVANCE.—A carrier shall determine in advance of delivery of an item whether payment for the item may not be made because the item is not covered or because of the application of section 1862(a)(1) if—

"(i) the item is included on the list developed by the Secretary under subparagraph (A);

"(ii) the item is furnished by a supplier included on the list developed by the Secretary under subparagraph (B); or

"(iii) the item is a customized item (other than inexpensive items specified by the Secretary) and the patient to whom the item is to be furnished or the supplier requests that such advance determination be made.".

(2) Effective for standards applied for contract years beginning after the date of the enactment of this Act, section 1842(c) (42 U.S.C. 1395u(c)), as amended by section 8415(a), is amended by adding at the end the following new paragraph:

"(5) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(15)(C).".

(3) Effective on the date of the enactment of this Act, section 1834(h)(3) (42 U.S.C. 1395m(h)(3)), as amended by section 8423(b), is amended by striking "(12) and (17)" and inserting "(12), (15), and (17)".

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than 6 months after collecting and analyzing the data described in paragraph (1)—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—(1) Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

(2) The amendment made by paragraph (1) shall be effective on the date of the enactment of this Act.

(e) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) Section 4152(a)(3) of OBRA-1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA-1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA-1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA-1990 is amended by striking "Reconiliation" and inserting "Reconciliation".

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

Subpart C—Other Items and Services

SEC. 8431. AMBULATORY SURGICAL CENTER SERVICES.

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—

(1) USE OF SURVEY TO DETERMINE INCURRED COSTS.—Section 1833(i)(2)(A)(i) (42 U.S.C. 13951(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later

VOL 140 PT 15 AG 10 — 11 1994 UMI

than January 1, 1995, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services.".

(2) AUTOMATIC APPLICATION OF INFLATION ADJUSTMENT.—Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(A) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(B) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1996), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved.".

(3) CONSULTATION REQUIREMENT.—The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—

(1) ESTABLISHMENT OF PROCESS FOR REVIEW OF AMOUNTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) FACTORS CONSIDERED.—In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) NOTICE AND COMMENT.—The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of the Secretary's determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) EFFECTIVE DATE OF ADJUSTMENT.—Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

(c) TECHNICAL CORRECTION RELATING TO BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—

(1) IN GENERAL.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990.

(d) TECHNICAL CORRECTION RELATED TO CATARACT SURGERY.—Effective as if included in the enactment of OBRA–1990, section 4151(c)(3) of such Act is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

SEC. 8432. STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF NEW CANCER THERAPIES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the effects of expressly covering under the medicare program the patient care costs for beneficiaries enrolled in clinical trials of new cancer therapies, where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an institutional review board. The study shall include—

(1) an estimate of the cost of such coverage, taking into account the extent to which medicare currently pays for such patient care costs in practice;

(2) an assessment of the extent to which such clinical trials represent the best available treatment for the patients involved and of the effects of participation in the trials on the health of such patients;

(3) an assessment of whether progress in developing new anticancer therapies would be assisted by medicare coverage of such patient care costs; and

(4) an evaluation of whether there should be special criteria for the admission of medicare beneficiaries (on account of their age or physical condition) to clinical trials for which medicare would pay the patient care costs.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report on the study conducted under subsection (a) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. Such report shall include recommendations as to the coverage under the medicare program of patient care costs of beneficiaries enrolled in clinical trials of new cancer therapies.

SEC. 8433. STUDY OF ANNUAL CAP ON AMOUNT OF MEDICARE PAYMENT FOR OUTPATIENT PHYSICAL THERAPY AND OCCUPATIONAL THERAPY SERVICES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the appropriateness of continuing an annual limitation on the amount of payment for outpatient services of independently practicing physical and occupational therapists under the medicare program.

(b) REPORT.—By not later than January 1, 1996, the Secretary shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a). Such report shall include such recommendations for changes in such annual limitation as the Secretary finds appropriate.

SEC. 8434. PAYMENT OF PART B PREMIUM LATE ENROLLMENT PENALTIES BY STATES.

Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g)(1) Upon the request of a State, the Secretary may enter into an agreement with the State under which the State agrees to pay on a quarterly or other periodic basis to the Secretary (to be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund) an amount equal to the amount of the part B late enrollment premium increases with respect to the premiums for eligible individuals (as defined in paragraph (3)(A)).

"(2) No part B late enrollment premium increase shall apply to an eligible individual for premiums for months for which the amount of such an increase is payable under an agreement under paragraph (1).

"(3) In this subsection:

"(A) The term 'eligible individual' means an individual who is enrolled under this part B and who is within a class of individuals specified in the agreement under paragraph (1).

"(B) The term 'part B late enrollment premium increase' means any increase in a premium as a result of the application of subsection (b).".

SEC. 8435. TREATMENT OF INPATIENTS AND PROVISION OF DIAGNOSTIC X-RAY SERVICES BY RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.

(a) TREATMENT OF INPATIENTS.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is amended—

(1) in paragraph (1), in the matter following subparagraph (C), by striking "as an outpatient" and inserting "as a patient";

(2) in paragraph (2)(A), by striking "furnishing to outpatients" and inserting "furnishing to patients"; and

(3) in paragraph (3), in the matter following subparagraph (B), by striking "as an outpatient" and inserting "as a patient".

(b) TREATMENT OF DIAGNOSTIC X-RAY SERVICES.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is further amended—

(1) in paragraph (1)(A), by inserting "(i)" after "(A)" and by adding at the end the following: "and (ii) diagnostic x-ray services,", and

(2) in paragraph (2)(A), by striking "(A)" and inserting "(A)(i)".

(c) CONFORMING AMENDMENT.—Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "and services of a certified registered nurse anesthetist" and inserting "services of a certified registered nurse anesthetist, rural health clinic services, and Federally-qualified health center services".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995, and shall apply to services furnished on or after such date.

SEC. 8436. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS.

(a) SCREENING MAMMOGRAPHY.—Section 1834(c) (42 U.S.C. 1395m(c)) is amended—

(1) in paragraph (1)(B), by striking "meets the quality standards established under paragraph (3)" and inserting "is conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act";

(2) in paragraph (1)(C)(iii), by striking "paragraph (4)" and inserting "paragraph (3)";

(3) by striking paragraph (3); and

(4) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4).

(b) DIAGNOSTIC MAMMOGRAPHY.—Section 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by

inserting "and including diagnostic mammography if conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act" after "necessary".

(c) CONFORMING AMENDMENTS.—(1) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by striking "or which does not meet the standards established under section 1834(c)(3)" and inserting "or which is not conducted by a facility described in section 1834(c)(1)(B)".

(2) Section 1863 (42 U.S.C. 1395z) is amended by striking "or whether screening mammography meets the standards established under section 1834(c)(3),".

(3) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking ", or whether screening mammography meets the standards established under section 1834(c)(3)".

(4) The third sentence of section 1865(a) (42 U.S.C. 1395bb(a)) is amended by striking "1834(c)(3),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to mammography furnished by a facility on and after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility.

SEC. 8437. COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

(a) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by section 8438(f)(6)(E), is amended by inserting after subsection (kk) the following new subsection:

"Speech-Language Pathology Services; Audiology Services

"(ll)(1) The term 'speech-language pathology services' means such speech, language, and related function assessment and rehabilitation services furnished by a qualified speech-language pathologist as the speech-language pathologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician.

"(2) The term 'audiology services' means such hearing and balance assessment services furnished by a qualified audiologist as the audiologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), as would otherwise be covered if furnished by a physician.

"(3) In this subsection:

"(A) The term 'qualified speech-language pathologist' means an individual with a master's or doctoral degree in speech-language pathology who—

"(i) is licensed as a speech-language pathologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not license speech-language pathologists, has successfully completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating such supervised clinical experience), performed not less than 1 month of supervised full-time speech-language pathology services after obtaining a master's or doctoral degree in speech-language pathology or a related field, and successfully completed a national examination in speech-language pathology approved by the Secretary.

"(B) The term 'qualified audiologist' means an individual with a master's or doctoral degree in audiology who—

"(i) is licensed as a speech-language pathologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not license speech-language pathologists, has successfully completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating such supervised clinical experience), performed not less than 1 month of supervised-full-time speech-language pathology services after obtaining a master's or doctoral degree in speech-language pathology or a related field, and successfully completed a national examination in speech-language pathology approved by the Secretary.".

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE TREATMENT OF SPEECH AND LANGUAGE SERVICES.—

(1) EXTENDED CARE SERVICES.—Section 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(2) HOME HEALTH SERVICES.—Section 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(3) OUTPATIENT PHYSICAL THERAPY SERVICES.—The fourth sentence of section 1861(p) (42 U.S.C. 1395x(p)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(4) COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.—Section 1861(cc)(1)(B) (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(5) HOSPICE CARE.—Section 1861(dd)(1)(B) (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking "therapy or speech-language pathology" and inserting "therapy, or speech-language pathology services".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 8438. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA–1989 is amended—

(1) by inserting "and clinical social worker services" after "psychologist services"; and

(2) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) OBRA–1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking "systems" each place it appears and inserting "system"; and

(ii) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by inserting "and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992" after "1989"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1861(s)(2)(K)(ii) (42 U.S.C. 1395x(s)(2)(K)(ii)) is amended—

(A) by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)"; and

(B) by striking "subsection (aa)(4)" and inserting "subsection (aa)(6)".

(2) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(3) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)) is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(4) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(5) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking "this Act" and inserting "this title".

(6) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(7) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after

VOL 140 PT 15 AG 10 — 11 1994 UMI

the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) CLINICAL DIAGNOSTIC LABORATORY TESTS.—Section 4154(e)(5) of OBRA–1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(3) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES.—Section 4157(a) of OBRA–1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(4) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS.—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(5) SCREENING MAMMOGRAPHY.—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments".

(6) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (kk), but excluding other".

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than a covered osteoporosis drug (as defined in section 1861(kk)))";

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end of subparagraph (E) and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to a covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than a covered osteoporosis drug (as defined in section 1861(kk)))".

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by striking "(jj) The term" and inserting "(kk) The term".

(7) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a–3a(a)(2)(A)) is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

PART 3—PROVISIONS RELATING TO PARTS A AND B

Subpart A—Medicare Secondary Payer

SEC. 8441. MEDICARE SECONDARY PAYER REFORMS.

(a) IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

(A) IN GENERAL.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

"(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.".

(B) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall enter into an agreement with an entity not later than the expiration of the 60-day period that begins on the date of the enactment of this Act, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)).

(C) NO MEDICARE SECONDARY PAYER DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF QUESTIONNAIRES.—The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.".

(2) MANDATORY SCREENING BY PROVIDERS AND SUPPLIERS UNDER PART B.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

"(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to complete a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed $2,000 for each such incident. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(b) IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.—

(1) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1396h) is amended by adding at the end the following new subsection:

"(k) An agreement with an agency or organization under this section shall require that such agency or organization submit an annual report to the Secretary describing the steps taken to recover payments made for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(B) CARRIERS UNDER PART B.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(i) by striking "and" at the end of subparagraph (G);

(ii) by striking "and" at the end of subparagraph (H); and

(iii) by inserting after subparagraph (H) the following new subparagraph:

"(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)); and".

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816(f)(1)(A) (42 U.S.C. 1396h(f)(1)(A)) is amended by striking "processing" and inserting "processing (including the agency's or organization's success in recovering payments made under this title for services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)))".

(B) CARRIERS UNDER PART B.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the carrier shall be subject to standards and criteria relating to the carrier's success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(3) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(A) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: "If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).".

(B) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: "REPAYMENT REQUIRED.—".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments for items and services furnished on or after the date of the enactment of this Act.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for contract years beginning on or after the date of the enactment of this Act.

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) Effective as if included in the enactment of OBRA–1993, section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)), as amended by section 13561(e)(1) of OBRA–1993, is amended—

(A) in clause (i)(II), by striking "over (and the individual's spouse age 65 or older) who is covered under the plan by virtue of the individual's current employment status with an employer" and inserting "older (and the spouse age 65 or older of any individual) who has current employment status with an employer"; and

(B) in clause (ii), by striking "or employee organization that has 20 or more individuals in current employment status" and inserting "that has 20 or more employees".

(2) Effective as if included in the enactment of OBRA–1993, section 1837(i) (42 U.S.C. 1395p(i)) is amended—

(A) by striking "as an active individual (as those terms are defined in section 1862(b)(1)(B)(iv))" each place it appears in the second sentence of paragraph (1), and the second sentence of paragraph (2) and inserting "(as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual's current employment status (or the current employment status of a family member of the individual)";

(B) in paragraph (3)(B), by striking "as an active individual in a large group health plan (as such terms are defined in section 1862(b)(1)(B)(iv))" and inserting "in a large group health plan (as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual's current employment status (or the current employment status of a family member of the individual)";

(C) in the second sentence of paragraph (2) (as amended by subparagraph (A)), by striking "as an active individual" and inserting "by reason of the individual's current employment status (or the current employment status of a family member of the individual)"; and

(D) by inserting "status" after "current employment" each place it appears in paragraphs (1)(A), (2)(B), (2)(C), and (3)(A).

(3) Effective as if included in the enactment of OBRA–1993, the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) is amended—

(A) by inserting "status" after "current employment", and

(B) by striking "as an active individual (as those terms are defined in section 1862(b)(1)(B)(iv))" and inserting "(as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual's current employment status (or the current employment status of a family member of the individual)".

(4) Effective as if included in the enactment of OBRA–1990, the sentence in section 1862(b)(1)(C) added by section 4203(c)(1)(B) of OBRA–1990 is amended by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(5) Effective as if included in the enactment of OBRA–1989, section 1862(b)(1)(C) is amended in the matter after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when":

(6) Effective as if included in the enactment of OBRA–1989, section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking "6103(l)(12)(D)(iii)" and inserting "6103(l)(12)(E)(iii)".

(7) Effective as if included in the enactment of OBRA–1990, section 4203(c)(2) of such Act is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(8) Effective as if included in the enactment of OBRA–1990, section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(9) Effective as if included in the enactment of OBRA–1993, section 13561(e)(1)(D) of OBRA–1993 is amended—

(A) by inserting "effective as if included in the enactment of OBRA–1989," after "(D)", and

(B) by striking "of each subparagraph".

(10) The amendment made by section 13561(e)(1)(G) of OBRA–1993, to the extent it relates to the definition of large group health plan, shall be effective as if included in the enactment of OBRA–1989.

Subpart B—Other Items and Services Relating to Parts A and B

SEC. 8451. DEFINITION OF FMGEMS EXAMINATION FOR PAYMENT OF DIRECT GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—Section 1886(h)(5)(E) (42 U.S.C. 1395ww(h)(5)(E)) is amended by inserting "or any successor examination" after "Medical Sciences".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).

SEC. 8452. QUALIFIED MEDICARE BENEFICIARY OUTREACH.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 8453. HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT ORGANIZATIONS.

(a) HOSPITAL AGREEMENTS.—

(1) IN GENERAL.—

(A) IDENTIFICATION OF ORGAN DONORS.—Section 1138(a)(1)(A)(iii) (42 U.S.C. 1320b–8(a)(1)(A)(iii)) is amended to read as follows:

"(iii) require that such hospital's designated organ procurement agency (as defined in paragraph (3)(B)) is notified of potential organ donors;".

(B) AGREEMENTS WITH DESIGNATED ORGAN PROCUREMENT AGENCIES.—Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(ii) by adding at the end the following new subparagraph:

"(C) the hospital or rural primary care hospital has an agreement (as defined in paragraph (3)(A)) only with such hospital's designated organ procurement agency.".

(C) WAIVER OF REQUIREMENTS RELATED TO AGREEMENTS.—Section 1138(a) (42 U.S.C. 1320b–8(a)) is amended—

(i) by redesignating paragraph (2) as paragraph (3); and

(ii) by inserting after paragraph (1) the following new paragraph:

"(2)(A) The Secretary shall grant a waiver of the requirements under subparagraphs (A)(iii) and (C) of paragraph (1) to a hospital or rural primary care hospital desiring to enter into an agreement with an organ procurement agency other than such hospital's designated organ procurement agency if the Secretary determines that—

"(i) the waiver is expected to increase organ donation; and

"(ii) the waiver will assure equitable treatment of patients referred for transplants within the service area served by such hospital's designated organ procurement agency and within the service area served by the organ procurement agency with which the hospital seeks to enter into an agreement under the waiver.

"(B) In making a determination under subparagraph (A), the Secretary may consider factors that would include, but not be limited to—

"(i) cost effectiveness;

"(ii) improvements in quality;

"(iii) whether there has been any change in a hospital's designated organ procurement agency due to a change made on or after December 28, 1992, in the definitions for metropolitan statistical areas (as established by the Office of Management and Budget); and

"(iv) the length and continuity of a hospital's relationship with an organ procurement agency other than the hospital's designated organ procurement agency;

except that nothing in this subparagraph shall be construed to permit the Secretary to grant a waiver that does not meet the requirements of subparagraph (A).

"(C) Any hospital or rural primary care hospital seeking a waiver under subparagraph (A) shall submit an application to the Secretary containing such information as the Secretary determines appropriate.

"(D) The Secretary shall—

"(i) publish a public notice of any waiver application received from a hospital or rural primary care hospital under this paragraph within 30 days of receiving such application; and

"(ii) prior to making a final determination on such application under subparagraph (A), offer interested parties the opportunity to

VOL 140 PT 15 AG 10 — 11 1994 UMI

submit written comments to the Secretary during the 60-day period beginning on the date such notice is published.".

(D) DEFINITIONS.—Section 1138(a)(3) (42 U.S.C. 1320b-8(a)(3)), as redesignated by subparagraph (C), is amended to read as follows:

"(3) For purposes of this subsection—

"(A) the term 'agreement' means an agreement described in section 371(b)(3)(A) of the Public Health Service Act;

"(B) the term 'designated organ procurement agency' means, with respect to a hospital or rural primary care hospital, the organ procurement agency designated pursuant to subsection (b) for the service area in which such hospital is located; and

"(C) the term 'organ' means a human kidney, liver, heart, lung, pancreas, and any other human organ or tissue specified by the Secretary for purposes of this subsection.".

(2) EXISTING AGREEMENTS.—Any hospital or rural primary care hospital which has an agreement (as defined in section 1138(a)(3)(A) of the Social Security Act) with an organ procurement agency other than such hospital's designated organ procurement agency (as defined in section 1138(a)(3)(B) of such Act) on the date of the enactment of this section shall, if such hospital desires to continue such agreement on and after the effective date of the amendments made by paragraph (1), submit an application to the Secretary for a waiver under section 1138(a)(2) of such Act not later than January 1, 1995, and such agreement may continue in effect pending the Secretary's determination with respect to such application.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to hospitals and rural primary care hospitals participating in the programs under titles XVIII and XIX of the Social Security Act beginning January 1, 1995.

(b) STUDY ON HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT AGENCIES.—

(1) IN GENERAL.—The Office of Technology Assessment (referred to in this section as the "OTA") shall, pursuant to the approval of the Technology Assessment Board of the OTA, conduct a study to determine the efficacy and fairness of requiring a hospital to enter into an agreement under section 371(b)(3)(A) of the Public Health Service Act with the organ procurement agency designated pursuant to section 1138(b) of the Social Security Act for the service area in which such hospital is located and the impact of such requirement on the efficacy and fairness of organ procurement and distribution.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the OTA shall complete the study required under paragraph (1) and prepare and submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the findings of such study and the implications of such findings with respect to policies affecting organ procurement and distribution.

SEC. 8454. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—

(1) IN GENERAL.—Section 1164 (42 U.S.C. 1320c-13) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 1154 (42 U.S.C. 1320c-3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking "(and except as provided in section 1164)".

(B) Section 1833 (42 U.S.C. 13951) is amended—

(i) in subsection (a)(1)(D)(i), by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(ii) in subsection (a)(1), by striking subparagraph (G);

(iii) in subsection (a)(2)(A), by striking ", to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),";

(iv) in subsection (a)(2)(D)(i)—

(I) by striking "basis," and inserting "basis or", and

(II) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(v) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion"; and

(vi) in the first sentence of subsection (b), by striking "(4)" and all that follows through "and (5)" and inserting "and (4)".

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion".

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) by adding "or" at the end of paragraph (14),

(ii) by striking "; or" at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "whehter" and inserting "whether".

(2)(A) Section 1154(a)(9)(B) (42 U.S.C. 1320c-3(a)(9)(B)) is amended to read as follows:

"(B) if the organization finds, after reasonable notice to and opportunity for discussion with the physician or practitioner concerned, that the physician or practitioner has furnished services in violation of section 1156(a) and the organization determines that the physician or practitioner should enter into a corrective action plan under section 1156(b)(1), the organization shall notify the State board or boards responsible for the licensing or disciplining of the physician or practitioner of its finding and of any action taken as a result of the finding.".

(B) Subparagraph (D) of section 1160(b)(1) (42 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

"(D) to provide notice in accordance with section 1154(a)(9)(B);".

(3) Section 4205(d)(2)(B) of OBRA-1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA-1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

(B) The amendments made by paragraph (2) (relating to the requirement on reporting of information to State boards) shall take effect on the date of the enactment of this Act.

SEC. 8455. HEALTH MAINTENANCE ORGANIZATIONS.

(a) ADJUSTMENT IN MEDICARE CAPITATION PAYMENTS TO TAKE INTO ACCOUNT SECONDARY PAYER STATUS.—

(1) IN GENERAL.—In defining the classes to be used in determining the annual per capita rate of payment under section 1876(a)(1)(B) of the Social Security Act to an eligible organization with a risk-sharing contract under such section (for contract years beginning on or after October 1, 1994), the Secretary of Health and Human Services shall treat as a separate class individuals entitled to benefits under title XVIII of such Act with respect to whom there is a group health plan that is a primary plan (within the meaning of section 1862(b)(2)(A) of such Act).

(2) DEADLINE FOR ANNOUNCEMENT OF RATES.—Not later than September 1, 1994, the Secretary shall announce annual per capita rates of payment for eligible organizations described in paragraph (1) that take into account the separate treatment of individuals with respect to whom there is a group health plan that is a primary plan.

(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—Section 4204(b) of OBRA-1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than October 1, 1995, the Secretary of Health and Human Services (in this subsection referred to as the 'Secretary') shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1996 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In proposing the revisions required under subparagraph (A), the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

"(2) Not later than 3 months after the date of submittal of the proposal under paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.".

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(2) Section 4204(c)(3) of OBRA-1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(3) Section 4204(d)(2) of OBRA-1990 is amended by striking "amendment" and inserting "amendments".

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after "contributed to".

(5) Section 4204(e)(2) of OBRA-1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(6) Section 4204(f)(4) of OBRA-1990 is amended by striking "final".

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

SEC. 8456. HOME HEALTH AGENCIES.

(a) USE OF MOST CURRENT DATA IN DETERMINING WAGE INDEX.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "as of such date to" and inserting "and determined using the survey of the most recent available wages and wage-related costs of".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to cost reporting periods beginning on or after July 1, 1996.

(b) CLARIFICATION OF EXTENSION OF WAIVER OF LIABILITY.—

(1) IN GENERAL.—The second sentence of section 9205 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA-1990.

SEC. 8457. PERMANENT EXTENSION OF AUTHORITY TO CONTRACT WITH FISCAL INTERMEDIARIES AND CARRIERS ON OTHER THAN A COST BASIS.

(a) IN GENERAL.—Section 2326(a) of the Deficit Reduction Act of 1984, as amended by section 6215 of OBRA-1989, is amended in the third sentence by striking "during such period" and inserting "beginning with fiscal year 1990 and any subsequent fiscal year".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 8458. TRANSPORTATION DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project at 2 sites to—

(1) examine methods to reduce the cost of non-emergency medical transportation and regularly scheduled medical transportation by coordinating the timing of the provision of non-emergency medical services with the availability of public transportation; and

(2) examine methods to reduce the cost of emergency medical transportation and emergency room treatment through the supervised use of ambulance emergency medical technicians.

(b) SELECTION OF SITES.—Of the 2 sites selected for the demonstration project under subsection (a), one shall be in an urban area and one shall be in a rural area.

SEC. 8459. DIABETES TREATMENT DEMONSTRATION PROJECT.

The Secretary of Health and Human Services shall conduct a demonstration project at sites in urban and rural areas under which the Secretary shall provide for coverage under the medicare program of comprehensive diabetes treatment, management, and education services (including services necessary to provide intensive metabolic management found effective by the Diabetes Control and Complications Trial of the National Institutes of Health) to determine whether the manner in which payment is made for the treatment of diabetes under the medicare program should be modified.

SEC. 8460. EXPANSION OF NUMBER OF SITES FOR DEMONSTRATION PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE).

Section 9412(b)(1) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "not more than 15" and inserting "not more than 30".

SEC. 8460A. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(b) HOME DIALYSIS DEMONSTRATION TECHNICAL CORRECTIONS.—Section 4202 of OBRA-1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels)";

(3) in subsection (c)(1)(A), by striking "skilled"; and

(4) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)".

(c) TECHNICAL CORRECTION TO REVISIONS OF COVERAGE FOR IMMUNOSUPPRESSIVE DRUG THERAPY.—The Secretary of Health and Human Services may administer section 1861(s)(2)(J) of the Social Security Act in a manner such that the months of coverage of drugs described in such section are provided consecutively, so long as the total number of months of coverage provided is the same as the number described in such section.

(d) OTHER MISCELLANEOUS AND TECHNICAL PROVISIONS.—(1) Section 1833 (42 U.S.C. 13951) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA-1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking "1833(r)" and inserting "1833(s)".

(3) Section 4201(d)(2) of OBRA-1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(4) The section following section 4206 of OBRA-1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subtitle is referred to as section 4207 of OBRA-1990.

(5)(A) Section 4207(a)(1) of OBRA-1990 is amended by adding closing quotation marks and a period after "such review.".

(B) Section 4207(a)(4) of OBRA-1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(C) Section 4207(b)(1) of OBRA-1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(6) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA-1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(7) Section 4207(b)(4)(B)(iii)(III) of OBRA-1990 is amended by striking the period at the end and inserting a semicolon.

(8) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA-1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(9) Section 4207(c)(2) of OBRA-1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(10) Section 4207(d) of OBRA-1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(11) Section 4207(i)(2) of OBRA-1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(12) Section 4207(j) of OBRA-1990 is amended by striking "title" each place it appears and inserting "subtitle".

PART 4—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 8461. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.—

(1) Section 4351 of OBRA-1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards')", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this

VOL 140 PT 15 AG 10 — 11 1994 UMI

subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C)."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(b) GUARANTEED RENEWABILITY.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS.—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA–1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking "the the Secretary" and inserting "the Secretary".

(d) PREVENTING DUPLICATION.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows:

"(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

"(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.";

(B) by designating the second sentence as clause (ii) and, in such clause, by striking "the previous sentence" and inserting "clause (i)";

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking "the previous sentence" and inserting "clause (i) with respect to the sale of a medicare supplemental policy", and

(ii) by striking "and the statement" and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking "65 years of age or older",

(B) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(C) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if (aa) a State medicaid plan under such title pays the premiums for the policy, (bb) in the case of a qualified medicare beneficiary described in section 1905(p)(1), the policy provides for coverage of outpatient prescription drugs, or (cc) the only medical assistance to which the individual is entitled under the State plan is medicare cost sharing described in section 1905(p)(3)(A)(ii).".

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking "the selling" and inserting "(i) the sale or issuance", and

(ii) by inserting before the period at the end the following: ", (ii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable statement (specified under subparagraph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title and (in the case of a policy that is not a health plan described in section 2203(c)(2) and does not provide coverage for benefits regardless of other coverage), to the extent considered appropriate by the Secretary, benefits under the guaranteed national benefit package under title XXI or under a standardized benefit package for supplemental health benefit policies established under part D of title XXII, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual".

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

"(D)(1) If—

"(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, but not limited to, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits, and policies that limit benefit payments to specific diseases) which are sold or issued to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

"(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I),

each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements. .

"(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted within the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, but not limited to, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits, and policies that limit benefit payments to specific diseases) which are sold or issued to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.".

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5) are amended by striking "of the Social Security Act".

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 8461(m)(4) of the Guaranteed Health Insurance Act of 1994.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) by adding at the end of paragraph (2)(A), the following new sentence: "In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 8461(m)(4) of the Guaranteed Health Insurance Act of 1994.";

(J) in paragraph (2), by striking "policy year" each place it appears and inserting "calendar year";

(K) in paragraph (4), by striking "February", "disllowance", "loss-ratios" each place it appears, and "loss-ratio" and inserting "October", "disallowance", "loss ratios", and "loss ratio", respectively;

(L) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(M) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking "subsection (F)" and inserting "subparagraph (F)".

(3) Section 4355(d) of OBRA–1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.".

(f) TREATMENT OF HMO'S.—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1995, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA–1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) PRE-EXISTING CONDITION LIMITATIONS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or",

(2) in paragraph (2)(A), by striking "in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B" and inserting "as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B", and

(3) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES.—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING.—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report", and

(C) in paragraph (1), by striking "Statewide";

(7) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(8) in the second subsection (f) (relating to authorization of appropriations for grants)—

(A) by striking "and 1993" and inserting "1993, 1994, 1995, and 1996"; and

(B) by redesignating such subsection as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b–2) is amended—

(A) by adding at the end of the heading the following: ": MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 is repealed.

(k) MAILING OF POLICIES.—Section 1882(d)(4) (42 U.S.C. 1395ss(d)(4)) is amended—

(1) in subparagraph (D), by striking ", if such policy" and all that follows up to the period at the end, and

(2) by adding at the end the following new subparagraph:

"(E) Subparagraph (A) shall not apply in the case of an issuer who mails or causes to be mailed a policy, certificate, or other matter solely to comply with the requirements of subsection (q).".

(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA–1990, except that—

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA–1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(1)(A) and by subparagraphs (A), (B), and (E) of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1995, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1995, and who were not covered under such section before January 1, 1995, the 6-month period specified in that section shall begin January 1, 1995).

(m) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such

VOL 140 PT 15 AG 10 — 11 1994 UMI

change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the "NAIC") modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with "unless", such revised regulation incorporating the modifications shall be considered to be the 1991 Regulation for the purposes of section 1882 of the Social Security Act.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the 1991 Regulation for the purposes of section 1882 of the Social Security Act.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1996 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subtitle F—Provisions Relating to the Medicaid Program

TABLE OF CONTENTS OF SUBTITLE

Subtitle F—Provisions Relating to the Medicaid Program

PART 1—CONFORMING MEDICAID TO GUARANTEED HEALTH INSURANCE ACT OF 1994

Sec. 8501. Conforming medicaid amendments relating to guaranteed national benefit package.

Sec. 8502. Enforcement of maintenance-of-effort requirements through medicaid.

Sec. 8503. Conforming medicaid amendments relating to quality and consumer protection.

Sec. 8504. Conforming amendments relating to cost-sharing for qualified medicare beneficiaries.

Sec. 8505. Treatment of certain facilities as federally qualified health centers.

Sec. 8506. Waivers facilitating State health security programs.

Sec. 8507. Conforming requirements for rebate agreements for covered outpatient drugs.

Sec. 8508. Construction of Guaranteed Health Insurance Act of 1994 references.

PART 2—LONG-TERM CARE

Sec. 8511. Coordination of optional home and community based services under medicaid with long-term care under Guaranteed Health Insurance Act of 1994.

Sec. 8512. Nursing home pass-through.

Sec. 8513. Continuation of Texas frail elderly demonstration.

PART 3—HEALTH MAINTENANCE ORGANIZATIONS

Sec. 8521. Permitting Garden State Health Plan to participate in managed care waiver.

Sec. 8522. Extension of period of applicability of enrollment mix requirement to Dayton Area Health Plan.

Sec. 8523. Clarification of applicability of restrictions on Federal financial participation.

PART 4—VACCINES FOR CHILDREN

Sec. 8531. State mandate for insurers to offer coverage of immunizations and well-child services.

Sec. 8532. Limitation on State ability to purchase vaccines at Federal price.

PART 5—TREATMENT OF INDIANS AND INDIAN HEALTH SERVICE PROVIDERS

Sec. 8541. Nondiscrimination in participation providers.

Sec. 8542. Requiring individuals subject to waivers to have option to enroll in Indian Health Service plans.

Sec. 8543. Treatment of outpatient facilities as federally qualified health centers.

PART 6—EFFECTIVE DATE OF AMENDMENTS

Sec. 8551. Amendments effective without regard to issuance of regulations.

PART 1—CONFORMING MEDICAID TO GUARANTEED HEALTH INSURANCE ACT OF 1994

SEC. 8501. CONFORMING MEDICAID AMENDMENTS RELATING TO GUARANTEED NATIONAL BENEFIT PACKAGE.

(a) LIMITING COVERAGE UNDER MEDICAID.—

(1) IN GENERAL.—Title XIX is amended by redesignating section 1931 as section 1932 and by inserting after section 1930 the following new section:

"LIMITATION ON COVERAGE OF SERVICES UNDER GUARANTEED NATIONAL BENEFIT PACKAGE

"SEC. 1931. (a) IN GENERAL.—Subject to subsection (b), a State plan under this title is not required to provide medical assistance on or after January 1, 1999, consisting of payment for any item or service which is included in the guaranteed national benefit package under title III of the Guaranteed Health Insurance Act of 1994.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) emergency care and services described in section 1903(v)(2) furnished before January 1, 2002, or

"(2) inpatient mental health services provided to individuals who are entitled to benefits under part A of title XVIII.

"(c) NO FFP FOR STATE MAINTENANCE-OF-EFFORT.—Payment of amounts under part 2 of subtitle B of title VIII of the Guaranteed Health Insurance Act of 1994 shall not be construed to constitute medical assistance for purposes of section 1903(a).".

(2) CONFORMING AMENDMENT TO STATE PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended in the matter preceding paragraph (1) by striking "A State" and inserting "Subject to section 1931, a State".

(3) NO FEDERAL FINANCIAL PARTICIPATION.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) by striking "or" at the end of paragraph (14),

(B) by striking the period at the end of paragraph (15) and inserting "; or", and

(C) by inserting after paragraph (15) the following new paragraphs:

"(16) with respect to medical assistance consisting of payment for items or services furnished to an individual on or after January 1, 1999, to the extent that payment may be made for the item or service under the guaranteed national benefit package under title III of the Guaranteed Health Insurance Act of 1994; or

"(17) with respect to any medical assistance furnished on or after January 1, 1999, to an individual entitled to benefits under part A of title XVIII other than long-term care services described in section 1905(t).".

(4) LONG-TERM CARE SERVICES DEFINED.—Section 1905 (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(t) The term 'long-term care services' means the following items and services:

"(1) Nursing facility services and intermediate care facility services for the mentally retarded (including items and services that may be included in such services pursuant to regulations in effect as of October 26, 1993).

"(2) Personal care services.

"(3) Home or community-based services provided under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(4) Home and community care provided to functionally disabled elderly individuals under section 1929.

"(5) Community supported living arrangements services provided under section 1930.

"(6) Home health care services, case-management services, clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that qualifies the individual to receive any of the services described in paragraphs (1) through (5).".

(5) CONFORMING AMENDMENTS RELATING TO SECONDARY PAYER.—(A) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by inserting "certified health plans (as defined in section 2 of the Guaranteed Health Insurance Act of 1994 and including medicare part C)," after "of 1974),".

(B) Section 1903(o) (42 U.S.C. 1396b(o)) is amended by inserting "and a certified health plan (as defined in section 2 of the Guaranteed Health Insurance Act of 1994 and including medicare part C)" after "of 1974)".

(C) OTHER MEDICAID CONFORMING AMENDMENTS.—Section 1902(a)(9)(C) (42 U.S.C. 1396a(a)(9)(C)) and section 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1396n(a)(1)(B)(ii)(I)) are each amended by striking "paragraphs (15) and (16) of section 1861(s)" and inserting "subsections (a) and (b) of section 1890".

SEC. 8502. ENFORCEMENT OF MAINTENANCE-OF-EFFORT REQUIREMENTS THROUGH MEDICAID.

(a) STATE PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by inserting after paragraph (62) the following new paragraph:

"(63) provide assurances that the State is making payments required under part 2 of subtitle B of title VIII of the Guaranteed Health Insurance Act of 1994.".

(b) WITHHOLDING AMOUNTS UNPAID.—Section 1903 (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(x) Notwithstanding any other provision of this section, the Secretary shall reduce the amount of payment made to a State under this section for quarters in any fiscal year to the extent that the State fails to make the payments required for the fiscal year under part 2 of subtitle B of title VIII of the Guaranteed Health Insurance Act of 1994 in a timely manner.".

SEC. 8503. CONFORMING MEDICAID AMENDMENTS RELATING TO QUALITY AND CONSUMER PROTECTION.

(a) STATE PLAN REQUIREMENTS.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 8502(a), is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by inserting after paragraph (62) the following new paragraphs:

"(63) provide that the identification cards issued under the State plan conform with the requirements of section 9101(c) of the Guaranteed Health Insurance Act of 1994;

"(64) provide that the claims process applicable under the State plan conforms with the requirements of section 9103(c) of the Guaranteed Health Insurance Act of 1994; and

"(65) provide that the State plan meets the requirements of section 9104(c)(4) of the Guaranteed Health Insurance Act of 1994.".

(b) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR IMPROPERLY SUBMITTED CLAIMS.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 8501(a)(3), is amended—

(A) by striking "or" at the end of paragraph (16),

(B) by striking the period at the end of paragraph (17) and inserting "; or", and

(C) by inserting after paragraph (17) the following new paragraph:

"(18) with respect to medical assistance consisting of payment for items and services for which the claim was not submitted in a form and manner consistent with the standards established under section 9103(c) of the Guaranteed Health Insurance Act of 1994.".

SEC. 8504. CONFORMING AMENDMENTS RELATING TO COST-SHARING FOR QUALIFIED MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Title XIX is amended as follows:

(1) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended—

(A) in subparagraph (C) in the matter preceding clause (i), by striking "or (E)",

(B) by adding "and" at the end of subparagraph (D);

(C) by striking subparagraph (E) and redesignating subparagraph (F) as subparagraph (E); and

(D) in the matter following subparagraph (E) (as so redesignated), by striking clause (VIII).

(2) Section 1902(e) (42 U.S.C. 1396a(e)) is amended by striking paragraph (8).

(3) The first sentence of section 1902(f) (42 U.S.C. 1396a(f)) is amended by striking "qualified disabled" and all that follows through "medicare beneficiaries".

(3) Section 1902(m)(4) (42 U.S.C. 1396a(m)(4)) is amended—

(A) in the matter preceding subparagraph (A), by striking "1905(p)(1)" and inserting "1894(e)(1)"; and

(B) in subparagraph (A), by striking "1905(p)(1)(B)" and inserting "1894(e)(1)(B)".

(4) Section 1902(u)(2) (42 U.S.C. 1396a(u)(2)) is amended by striking "(a)(10)(F)" and inserting "(a)(10)(E)".

(5) Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A) by striking "1902(a)(10)(A)(ii)(X), or 1905(p)(1)" and inserting "or 1902(a)(10)(A)(ii)(X)".

(6) Section 1905(a) (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1) by striking "or, in the case of medicare cost-sharing" and all that follows through "such a beneficiary".

(7) Section 1905 (42 U.S.C. 1396d) is amended by striking subsections (p) and (s).

(8) Section 1916 (42 U.S.C. 1396o) is amended—

(A) in subsection (a) in the matter preceding paragraph (1), by striking "or (E)(i)";

(B) in subsection (b) in the matter preceding paragraph (1), by striking "or (E)"; and

(C) by striking subsection (d).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to items or services furnished in a State on or after January 1, 1999.

SEC. 8505. TREATMENT OF CERTAIN FACILITIES AS FEDERALLY QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)) is amended—

(1) by striking "or 340A" each place it appears in clause (i) and clause (ii)(I) and inserting "340A, or 508";

(2) by striking "or" at the end of clause (iii);

(3) by striking the semicolon at the end of clause (iv) and inserting a comma; and

(4) by inserting after clause (iv) the following new clauses:

"(v) is a Native Hawaiian Health Center (as defined in section 8(4) of the Native Hawaiian Health Care Act of 1988), or

"(vi) is a community clinic organized as a nonprofit, public benefit corporation under California Health and Safety Code §1204(a) that does not charge patients directly for services rendered;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to quarters beginning on or after July 1, 1995.

SEC. 8506. WAIVERS FACILITATING STATE HEALTH SECURITY PROGRAMS.

(a) IN GENERAL.—Section 1115(a) (42 U.S.C. 1315(a)) is amended by adding at the end the following: "The Secretary may not waive compliance with any of the requirements of section 1902 under this subsection with respect to a State for a year except to the extent necessary to enable the State to operate an approved State single-payer system under subtitle A of title IV of the Guaranteed Health Insurance Act of 1994 or an approved State managed competition system under subtitle B of title IV.".

(b) EFFECTIVE DATE.—The amendment made by subsection shall take effect—

(1) on January 1, 1999, in the case of a State with a waiver approved under section 1115(a) of the Social Security Act for which a formal, written, and completed application was received by the Secretary of Health and Human Services under such section on or before August 1, 1994; or

(2) on August 1, 1994, in the case of any other State.

SEC. 8507. CONFORMING REQUIREMENTS FOR REBATE AGREEMENTS FOR COVERED OUTPATIENT DRUGS.

(a) IN GENERAL.—Section 1927(a)(1) (42 U.S.C. 1396r-8(a)(1)) is amended by striking "manufacturer)," and inserting "manufacturer) and a rebate agreement with the Secretary under section 1850,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to covered outpatient drugs furnished during quarters beginning on or after January 1, 1999.

SEC. 8508. CONSTRUCTION OF GUARANTEED HEALTH INSURANCE ACT OF 1994 REFERENCES.

Section 1932 (42 U.S.C. 1396s), as redesignated by section 8501(a), is amended by adding at the end the following new subsection:

"(c) REFERENCES GUARANTEED HEALTH INSURANCE ACT OF 1994.—In this title, except as otherwise specifically provided, any references to provisions of the Guaranteed Health Insurance Act of 1994 are deemed to be references to such provisions as in effect on the day after the date of the enactment of such Act.".

PART 2—LONG-TERM CARE

SEC. 8511. COORDINATION OF OPTIONAL HOME AND COMMUNITY BASED SERVICES UNDER MEDICAID WITH LONG-TERM CARE UNDER GUARANTEED HEALTH INSURANCE ACT OF 1994.

(a) PERSONAL CARE SERVICES.—Section 1905(a)(24) (42 U.S.C. 1396d(a)(24)) is amended—

(1) by striking "and (C)" and inserting "(C)"; and

(2) by striking "location;" and inserting "location, and (D) for quarters beginning on or after October 1, 1999, in compliance with the standards applicable to personal assistance services under the long-term care program for home and community-based services under subtitle A of title X of the Guaranteed Health Insurance Act of 1994;".

(b) SERVICES UNDER HOME AND COMMUNITY-BASED WAIVERS.—(1) Section 1915(c)(2) (42 U.S.C. 1396n(c)(2)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) effective October 1, 1997, the services furnished under the waiver meet the applicable standards for home and community-based services furnished under the long-term care program for home and community-based services under subtitle A of title X of the Guaranteed Health Insurance Act of 1994.".

(2) Section 1915(d)(2) (42 U.S.C. 1396n(d)(2)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) effective October 1, 1997, the services furnished under the waiver meet the applicable standards for home and community-based services furnished under the long-term care program for home and community-based services under subtitle A of title X of the Guaranteed Health Insurance Act of 1994.".

SEC. 8512. NURSING HOME PASS-THROUGH.

Section 1902(a)(13)(A) (42 U.S.C. 1396a(a)(13)(A)) is amended by—

(1) inserting "incurred by facilities in making required contributions towards enrolling employees in health plans under the Guaranteed Health Insurance Act of 1994 and" before "the costs of services"; and

(2) by striking "nursing care, and which" and inserting "nursing care, and which, in the case of intermediate care facilities for the mentally retarded, take into account the costs incurred by facilities in making required contributions towards enrolling employees in health plans under the Guaranteed Health Insurance Act of 1994, and which".

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 8511. CONTINUATION OF TEXAS FRAIL ELDERLY DEMONSTRATION.

A State that is described in section 1929(b)(2)(B) of the Social Security Act and is receiving Federal financial participation under section 1903(a) of such Act as of the date of the enactment of this Act with respect to medical assistance consisting of home and community care for functionally disabled elderly individuals that meets the requirements for such care described in section 1929 of the Social Security Act may continue to receive participation with respect to such medical assistance under the same terms and conditions during quarters ending on or before September 30, 1997.

PART 3—HEALTH MAINTENANCE ORGANIZATIONS

SEC. 8521. PERMITTING GARDEN STATE HEALTH PLAN TO PARTICIPATE IN MANAGED CARE WAIVER.

Section 1903(m)(6)(D) (42 U.S.C. 1396b(m)(6)(D)) is amended to read as follows:

"(D) The undertaking described in subparagraph (A) shall be eligible to participate in a waiver under section 1915(b) if the State provides individuals subject to the waiver with the option to enroll in at least 3 plans in addition to the plan offered through the undertaking.".

SEC. 8522. EXTENSION OF PERIOD OF APPLICABILITY OF ENROLLMENT MIX REQUIREMENT TO DAYTON AREA HEALTH PLAN.

Section 2 of Public Law 102-276 is amended by striking "December 31, 1995" and inserting "December 31, 1999".

SEC. 8523. CLARIFICATION OF APPLICABILITY OF RESTRICTIONS ON FEDERAL FINANCIAL PARTICIPATION.

Section 1903(i) (42 U.S.C. 1396b(i)) is amended in the matter preceding paragraph (1) by striking "the preceding provisions of this section" and inserting "this section (including subsection (m))".

PART 4—VACCINES FOR CHILDREN

SEC. 8531. STATE MANDATE FOR INSURERS TO OFFER COVERAGE OF IMMUNIZATIONS AND WELL-CHILD SERVICES.

(a) REQUIREMENT FOR PEDIATRIC IMMUNIZATION PROGRAM.—Section 1928(f) (42 U.S.C. 1396s(f)) is amended to read as follows:

"(f) STATE INSURANCE REQUIREMENTS.—

"(1) MAINTENANCE OF IMMUNIZATION LAWS FOR CERTAIN STATES.—In the case of a State that had in effect as of May 1, 1993, a law that requires some or all health insurance policies or plans to provide some coverage with respect to a pediatric vaccine, a State program under this section does not comply with the requirements of this section unless the State certifies to the Secretary that the State has not modified or repealed such law in a manner that reduces the amount of coverage so required.

"(2) REQUIREMENT FOR COVERAGE OF IMMUNIZATIONS AND WELL-CHILD SERVICES.—A State program under this section does not comply with the requirements of this section unless the State certifies to the Secretary that State has in effect a law that requires (and allows enforcement through private rights of action) health insurance policies or plans issued or renewed on or after January 1, 1995, to provide coverage for the following services without deductible, coinsurance, or any other form of cost-sharing:

"(A) All vaccines on the list described in subsection (e).

"(B) Well-child services (inciuding the administration of vaccines referred to in subparagraph (A)) for children 6 years of age or younger, as determined by the Secretary after consultation with recognized medical organizations involved in child health care.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to calendar quarters beginning on or after January 1, 1995.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 8532. LIMITATION ON STATE ABILITY TO PURCHASE VACCINES AT FEDERAL PRICE.

(a) IN GENERAL.—Section 1928(d)(4)(B) (42 U.S.C. 1396s(d)(4)(B)) is amended by striking "each State" and inserting "each eligible State (as described in paragraph (8))".

(b) STATES ELIGIBLE TO PURCHASE AT FEDERAL PRICE DESCRIBED.—Section 1928(d) (42 U.S.C. 1396s(d)) is amended by adding at the end the following new paragraph:

"(8) STATES ELIGIBLE TO PURCHASE AT FEDERAL PRICE DESCRIBED.—

"(A) IN GENERAL.—A State is eligible for purposes of paragraph (4)(B) if the State—

"(i)(I) is a universal purchase State (as defined in subparagraph (B)), or

"(II) the State agrees that the vaccines obtained under such paragraph will be used to provide immunizations only for children who do not have private insurance coverage for all the vaccines on the list described in subsection (e) without deductible, coinsurance, or any other form of cost-sharing; and

"(ii) does not have in operation a trust fund or similiar mechanism consisting of contributions from private entities that provide health care or offer or seil health plans from which amounts are used to purchase vaccines pursuant to contracts of the Centers for Disease Control and Prevention with vaccine manufacturers (unless such trust fund was in operation as of July 1, 1994).

"(B) UNIVERSAL PURCHASE STATE DEFINED.—

"(i) IN GENERAL.—In paragraph (4)(B), the term 'universal purchase state' means any of the following:

"(I) A State which has in effect as of July 1, 1994, a vaccine purchase program designed to assure immunization of all children in the State with the vaccines specified in subparagraph (C) without charge.

"(II) A State which advises the Centers for Disease Control and Prevention as of July 20, 1994, of its intent to provide the vaccines specified in subparagraph (C), and, by October 1, 1994, provides the vaccines in volumes necessary to assure immunization of all children in the State, pursuant to contracts of the Centers for Disease Control and Prevention with vaccine manufacturers with effective dates on or before October 1, 1994.

"(III) A State which manufacturers any of the vaccines specified in clause (ii).

"(C) VACCINES SPECIFIED.—The vaccines specified in this subparagraph are as follows: diphtheria, pertussis, tetanus, oral polio, measles, mumps, and rubella.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to quarters beginning on or after January 1, 1995.

PART 5—TREATMENT OF INDIANS AND INDIAN HEALTH SERVICE PROVIDERS

SEC. 8541. NONDISCRIMINATION IN PARTICIPATION PROVIDERS.

Section 1911(a) (42 U.S.C. 1396j(a)) is amended by striking the period at the end and inserting the following: ", without regard to whether or not the facility furnishes all medical assistance covered under the State plan.".

SEC. 8542. REQUIRING INDIVIDUALS SUBJECT TO WAIVERS TO HAVE OPTION TO ENROLL IN INDIAN HEALTH SERVICE PLANS.

(a) 1115 WAIVERS.—Section 1115 (42 U.S.C. 1315) is amended by adding at the end the following new subsection:

"(e)(1) A State with a waiver granted under subsection (a) with respect to title XIX may not prohibit any individual eligible under the State plan under such title from receiving services pursuant to the waiver at a facility described in paragraph (2), and may not refuse to make payment under the State plan for medical assistance provided to such an individual at such a facility.

"(2) A facility described in this paragraph is a facility described in section 1911(a), or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.".

(b) 1915 WAIVERS.—Section 1915(c) (42 U.S.C. 1396n(c)) is amended by adding at the end the following: "No waiver under this subsection may prohibit any individual from receiving services pursuant to the waiver at a facility described in section 1911(a), or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.".

SEC. 8543. TREATMENT OF OUTPATIENT FACILITIES AS FEDERALLY QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)) is amended in the matter following clause (iv) by inserting "the Indian Health Service or" after "operated by".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to quarters beginning on or after July 1, 1995.

PART 6—EFFECTIVE DATE OF AMENDMENTS

SEC. 8551. AMENDMENTS EFFECTIVE WITHOUT REGARD TO ISSUANCE OF REGULATIONS.

(a) IN GENERAL.—Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) ISSUANCE OF REGULATIONS NOT REQUIRED.—Each amendment made by this subtitle shall take effect on the effective date provided for such amendment, without regard to whether or not final regulations to carry out the amendment have been issued by such effective date.

Subtitle G—Miscellaneous and Technical Medicaid Amendments

TABLE OF CONTENTS OF SUBTITLE

Subtitle G—Miscellaneous and Technical Medicaid Amendments

PART 1—SUBSTANTIVE PROVISIONS

SUBPART A—MANAGED CARE PROVISIONS

Sec. 8601. Medicaid managed care antifraud provisions.

Sec. 8602. Extension of medicaid waiver for Tennessee Primary Care Network.

Sec. 8603. Waiver of application of medicaid enrollment mix requirement to District of Columbia Chartered Health Plan, Inc.

Sec. 8604. Waiver of application of medicaid enrollment mix requirement to Managed Health Services Insurance Corporation of Milwaukee, Wisconsin.

Sec. 8605. Extension of Minnesota prepaid medicaid demonstration project.

SUBPART B—HOME AND COMMUNITY-BASED SERVICES WAIVER PROVISIONS

Sec. 8611. Elimination of requirement of prior institutionalization with respect to habilitation services furnished under a waiver for home or community-based services.

Sec. 8612. Relief from third party liability requirements when cost-effective.

Sec. 8613. State expenditures for medical assistance with respect to home and community-based services provided under a waiver.

SUBPART C—OTHER PROVISIONS

Sec. 8621. Presumptive eligibility for pregnant women.

Sec. 8622. Criteria for determining the amount of disallowances.

Sec. 8623. Intermediate sanctions for kickback violations.

Sec. 8624. Technical amendment related to taxes on certain health care items and services.

Sec. 8625. Application of mammography certification requirements under the medicaid program.

Sec. 8626. Nursing home reform.

Sec. 8627. Increase in authorization of appropriations for the maternal and child health services block grant program.

PART 2—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING TO OBRA-1990

Sec. 8641. Effective date.

Sec. 8642. Corrections relating to section 4401 (drug rebate program).

Sec. 8643. Corrections relating to section 4402 (enrollment under group health plans).

Sec. 8644. Corrections relating to section 4501 (low-income medicare beneficiaries).

Sec. 8645. Corrections relating to section 4601 (child health).

Sec. 8646. Corrections relating to section 4602 (outreach locations).

Sec. 8647. Corrections relating to section 4604 (payment for hospital services for children under 6 years of age).

Sec. 8648. Corrections relating to section 4703 (payment adjustments for disproportionate share hospitals).

Sec. 8649. Corrections relating to section 4704 (federally-qualified health centers).

Sec. 8650. Corrections relating to section 4708 (substitute physicians).

Sec. 8651. Corrections relating to section 4711 (home and community care for frail elderly).

Sec. 8652. Corrections relating to section 4712 (community supported living arrangements).

Sec. 8653. Correction relating to section 4713 (cobra continuation coverage).

Sec. 8654. Correction relating to section 4716 (medicaid transition for family assistance).

Sec. 8655. Corrections relating to section 4718 (medically needy income levels for certain 1-member families).

Sec. 8656. Corrections relating to section 4723 (medicaid spend-down option).

Sec. 8657. Corrections relating to section 4724 (optional State disability determinations).

Sec. 8658. Correction relating to section 4732 (special rules for health maintenance organizations).

Sec. 8659. Corrections relating to section 4747 (coverage of HIV-positive individuals).

Sec. 8660. Correction relating to section 4751 (advanced directives).

Sec. 8661. Corrections relating to section 4752 (physicians' services).

Sec. 8662. Corrections relating to section 4801 (nursing home reform).

Sec. 8663. Other technical corrections.

PART 3—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING TO OBRA-1993

Sec. 8671. Effective date.

Sec. 8672. Corrections relating to section 13601 (personal care services).

Sec. 8673. Corrections relating to section 13604 (emergency services for aliens).

Sec. 8674. Corrections relating to section 13611 (transfers of assets; treatment of certain trusts).

Sec. 8675. Corrections relating to section 13612 (medicaid estate recoveries).

Sec. 8676. Corrections relating to section 13622 (liability of third parties to pay for care and services).

Sec. 8677. Corrections relating to section 13623 (medical child support).

Sec. 8678. Corrections relating to section 13624 (physician referrals).

Sec. 8679. Corrections relating to section 13631 (medicaid pediatric immunization provisions).

Sec. 8680. Corrections relating to section 13643 (demonstration projects).

PART 1—SUBSTANTIVE PROVISIONS

Subpart A—Managed Care Provisions

SEC. 8601. MEDICAID MANAGED CARE ANTI-FRAUD PROVISIONS.

(a) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

(1) IN GENERAL.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A)—

(i) by striking "and" at the end of clause (x),

(ii) by striking the period at the end of clause (xi) and inserting "; and", and

(iii) by adding at the end the following new clause:

"(xii) the entity complies with the requirements of paragraph (3) (relating to certain protections against fraud and abuse).";

(B) in paragraph (2)(B), as amended by section 8649, by striking "clause (ix)" and inserting "clauses (ix) and (xii)"; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3)(A)(i) An entity with a contract under this subsection may not have a person described in clause (iv) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the entity's equity.

"(ii) An entity with a contract under this subsection may not have an employment, consulting, or other agreement with a person described in clause (iv) for the provision of goods and services that are significant and material to the entity's obligations under its contract with the State described in paragraph (2)(A)(iii).

"(iii) If an entity with a contract under this subsection is not in compliance with clause (i) or (ii)—

"(I) a State may continue an existing agreement with the entity unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(II) a State may not renew or otherwise extend the duration of an existing agreement with the entity unless the State provides a written statement to the Secretary describing compelling reasons that exist for renewing or extending the agreement and the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) approves such statement.

"(iv) A person described in this clause is a person that—

"(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting, or

"(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in subclause (I).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to agreements between a State and an entity under section 1903(m) of the Social Security Act entered into or renewed on or after January 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(b) REQUIREMENT FOR STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—

(1) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by subsection (a)(1)(A), is amended—

(A) by striking "and" at the end of clause (xi),

(B) by striking the period at the end of clause (xii) and inserting "; and", and

(C) by adding at the end the following new clause:

"(xiii) the State certifies to the Secretary and the Secretary finds that the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State who have responsibilities with respect to contracts with organizations under this subsection that are at least as effective as the Federal conflicts-of-interest safeguards provided under section 27 of the Office of Federal Procurement Policy Act that apply with respect to Federal procurement officials who have comparable responsibilities with respect to such contracts.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply as of July 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(c) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1)(C), is amended by adding at the end the following new subparagraph:

"(B) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that—

"(i) the entity agrees to report to the State such financial information as the Secretary or the State may require to demonstrate that the entity has a fiscally sound operation; and

"(ii) the entity agrees to make available to its enrollees upon reasonable request—

"(I) the information reported under clause (i),

"(II) the information required to be disclosed under sections 1124 and 1126, and

"(III) a description of each transaction, described in subparagraphs (A) through (C) of

VOL 140 PT 15 AG 10 — 11 1994 UMI

section 1318(a)(3) of the Public Health Service Act, between the entity and a party in interest (as defined in section 1318(b) of such Act).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after April 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date, with respect to information reported or required to be disclosed, or transactions occurring, before, on, or after such date.

(d) PROHIBITING MARKETING FRAUD.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1) and as amended by subsection (c)(1), is amended by adding at the end the following new subparagraph:

"(C) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity agrees to comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled or reenrolled with the entity, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll or reenroll.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years that begin on or after April 1, 1994.

(e) REQUIRING ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

(1) IN GENERAL.—Section 1903(m)(1)(A)(ii) (42 U.S.C. 1396b(m)(1)(A)(ii)) is amended by inserting ", which meets such standards as the Secretary shall prescribe," after "satisfactory to the State".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after January 1, 1995.

(f) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1) and as amended by subsections (c)(1) and (d)(1) is amended by adding at the end the following new subparagraph:

"(D) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

"(i) a financial statement of the entity's net earnings under the contract during the contract year, which statement has been audited using generally accepted auditing standards;

"(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the entity and entitled to medical assistance under the plan; and

"(iii) such other information as the Secretary may prescribe.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after January 1, 1994.

SEC. 8602. EXTENSION OF MEDICAID WAIVER FOR TENNESSEE PRIMARY CARE NETWORK.

Section 9411(f) of OBRA–1989, as amended by section 1 of Public Law 102–317, is amended by striking "January 31, 1994" and inserting "December 31, 1995".

SEC. 8603. WAIVER OF APPLICATION OF MEDICAID ENROLLMENT MIX REQUIREMENT TO DISTRICT OF COLUMBIA CHARTERED HEALTH PLAN, INC.

(a) IN GENERAL.—The Secretary of Health and Human Services shall waive the application of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)(ii)) to the entity known as the District of Columbia Chartered Health Plan, Inc., for the period described in subsection (b), if the Secretary determines that the entity is making continuous efforts and progress toward achieving compliance with such requirement.

(b) PERIOD OF APPLICABILITY.—The period referred to in subsection (a) is the period that begins on October 1, 1992, and ends on December 31, 1995.

SEC. 8604. WAIVER OF APPLICATION OF MEDICAID ENROLLMENT MIX REQUIREMENT TO MANAGED HEALTH SERVICES INSURANCE CORPORATION OF MILWAUKEE, WISCONSIN.

The Secretary of Health and Human Services shall waive the application of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)(ii)) to the entity known as the Managed Health Services Insurance Corporation of Milwaukee, Wisconsin until December 31, 1995, if the Secretary determines that the entity is making continuous efforts and progress toward achieving compliance with such requirement.

SEC. 8605. EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

(a) IN GENERAL.—Section 507 of the Family Support Act of 1988 (Public Law 100–485), as amended by section 6411(j) of OBRA–1989 and by section 4733 of OBRA–1990, is amended by striking "1996" and inserting "1998".

(b) AUTHORITY TO IMPOSE PREMIUM.—

(1) IN GENERAL.—Notwithstanding section 1916 of the Social Security Act and subject to paragraph (2), the State of Minnesota may impose a premium on individuals receiving medical assistance under the Minnesota Prepaid Demonstration Project operated under a waiver granted by the Secretary of Health and Human Services under section 1115(a) of the Social Security Act and other individuals eligible under the State's plan for medical assistance under title XIX of such Act.

(2) LIMITATION ON AMOUNT OF PREMIUM.—In no case may the amount of any premium imposed on an individual receiving medical assistance under the State plan or under the Demonstration Project described in paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of the individual exceeds 110 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

Subpart B—Home and Community-Based Services Waiver Provisions

SEC. 8611. ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1915(c)(5) (42 U.S.C. 1396n(c)(5)) is amended in the matter preceding subparagraph (A) by striking ", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 8612. RELIEF FROM THIRD PARTY LIABILITY REQUIREMENTS WHEN COST-EFFECTIVE.

(a) IN GENERAL.—Section 1902(a)(25)(B) (42 U.S.C. 1396a(a)(25)(B)) is amended to read as follows—

"(B) that in any case where such a legal liability is found to exist after medical assistance has been made available, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability, unless—

"(i) the amount of reimbursement the State can reasonably expect to recover for medical assistance furnished to an individual does not exceed the costs of such recovery, or

"(ii) with respect to case management services (as defined in section 1915(g)(2)), the State demonstrates to the satisfaction of the Secretary that it is not cost-effective in the aggregate to seek such recovery with respect to such services furnished to individuals covered under the State plan, using methods specified by the Secretary which may include a demonstration that such services are not generally covered by health insurers in the State;".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1994.

SEC. 8613. STATE EXPENDITURES FOR MEDICAL ASSISTANCE WITH RESPECT TO HOME AND COMMUNITY-BASED SERVICES PROVIDED UNDER A WAIVER.

(a) IN GENERAL.—Section 1915(d)(5)(B) (42 U.S.C. 1396n(d)(5)(B)) is amended—

(1) in clause (i), by striking "times the number of years" and inserting "compounded annually for years";

(2) in clause (ii), by striking "times the number of years" and inserting "compounded annually for years"; and

(3) in clause (iv), by striking "December 22, 1987" and inserting "the date of the enactment of the Omnibus Budget Reconciliation Act of 1986".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of OBRA–1987.

Subpart C—Other Provisions

SEC. 8621. PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN.

(a) QUALIFIED PROVIDER.—Section 1920(b)(2) (42 U.S.C. 1396r–1(b)(2)) is amended to read as follows:

"(2) the term 'qualified provider' means—

"(A) any provider that—

"(i) is eligible for payments under a State plan approved under this title;

"(ii) provides services of the type described in subparagraph (A) or (B) of section 1905(a)(2) or in section 1905(a)(9);

"(iii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A); and

"(iv)(I) receives funds under section 329, 330, 340, or 340A of the Public Health Service Act, title V of this Act, or title V of the Indian Health Care Improvement Act;

"(II) participates in a program established under section 17 of the Child Nutrition Act of 1966 or section 4(a) of the Agriculture and Consumer Protection Act of 1973;

"(III) participates in a State perinatal program; or

"(IV) is the Indian Health Service or is a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638); and

"(B) at the option of the State, any individual who is employed by the State and who is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1994.

SEC. 8622. CRITERIA FOR DETERMINING THE AMOUNT OF DISALLOWANCES.

(a) IN GENERAL.—

(1) CRITERIA FOR INITIAL DETERMINATIONS.—Section 1903 (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(x) If the Secretary determines that a disallowance of Federal financial participation should be made under this title with respect to any item or class of items, the Secretary shall, in making a determination with respect to the amount of such disallowance, take into account (to the extent the State makes a showing) factors which shall include—

"(1) whether the amount of the disallowance is reasonably related to the act or omission by the State which is the basis for the disallowance; and

"(2) whether the act or omission by the State which is the basis for the disallowance was based on a reasonable interpretation of Federal statutes, Federal regulations, or any written guidance provided by the Secretary.".

(2) CRITERIA FOR REDETERMINATIONS.—Section 1116(d) (42 U.S.C. 1316(d)) is amended—

(A) by striking "(d)" and inserting "(d)(1)"; and

(B) by adding at the end the following new paragraph:

"(2) In conducting any reconsideration of a disallowance of Federal financial participation by the Secretary under title XIX, the Departmental Appeals Board of the Department of Health and Human Services (or another entity designated by the Secretary), shall, if such Board or entity upholds the basis for the disallowance, determine whether the amount of the disallowance properly takes into account the factors listed in section 1903(x). If the amount of the disallowance does not properly take into account such factors, the Board shall adjust such amount in accordance with such factors.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disallowances made after the date of the enactment of this Act and shall take effect without regard to the promulgation of implementing regulations.

SEC. 8623. INTERMEDIATE SANCTIONS FOR KICKBACK VIOLATIONS.

(a) PENALTY FOR KICKBACK VIOLATIONS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraphs (1) and (2);

(2) by adding "or" at the end of paragraph (3);

(3) by inserting after paragraph (3) the following new paragraph:

"(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b) with respect to remuneration relating to a State health care program;";

(4) by striking "given)." at the end of the first sentence and inserting "given or, in cases under paragraph (4), $10,000 for each such violation).";

(5) in the second sentence, by inserting "in cases under paragraphs (1), (2), and (3)," after "In addition,"; and

(6) by inserting after the second sentence the following new sentence: "In cases under paragraph (4), such a person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b), determined without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose.".

(b) AUTHORIZATION TO ACT.—The first sentence of section 1128A(c)(1) (42 U.S.C. 1320a–7a(c)(1)) is amended by striking the period at the end and inserting ", except that with respect to a proceeding relating to a State health program, the Secretary may initiate such a proceeding at such time and under such procedures as the Secretary determines appropriate unless, within 1 year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to remuneration offered, paid, solicited, or received before, on, or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

SEC. 8624. TECHNICAL AMENDMENT RELATED TO TAXES ON CERTAIN HEALTH CARE ITEMS AND SERVICES.

(a) IN GENERAL.—Section 1903(w)(7)(A)(viii) (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended by striking the period at the end and inserting "not otherwise subject to a tax described in this subsection.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall be effective January 1, 1994.

(2) In the case of a State which the Secretary of Health and Human Services determines requires State legislation in order to avoid a reduction in Federal financial participation under section 1903(a) of the Social Security Act as a result of the amendment made by subsection (a), the State shall not be subject to such a reduction before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 8625. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1902(a)(9) (42 U.S.C. 1396a(a)(9)) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(D) that any mammography paid for under such plan must be conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act;".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to mammography furnished by a facility during calendar quarters beginning on or after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a)(3), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 8626. NURSING HOME REFORM.

(a) SUSPENSION OF DECERTIFICATION OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS BASED ON EXTENDED SURVEYS.—

(1) IN GENERAL.—Section 1919(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: ", unless the survey shows that the facility is in compliance with the requirements of subsections (b), (c), and (d) of this section;".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990.

(b) REQUIREMENTS FOR CONSULTANTS CONDUCTING REVIEWS ON USE OF DRUGS.—

(1) IN GENERAL.—Section 1919(c)(1)(D) (42 U.S.C. 1396r(c)(1)(D)) is amended by adding at the end the following sentence: "In determining whether such a consultant is qualified to conduct reviews under the preceding sentence, the Secretary shall take into account the needs of nursing facilities under this title to have access to the services of such a consultant on a timely basis.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA–1987.

(c) INCREASE IN MINIMUM AMOUNT REQUIRED FOR SEPARATE DEPOSIT OF PERSONAL FUNDS.—

(1) IN GENERAL.—Section 1919(c)(6)(B)(i) (42 U.S.C. 1396r(c)(6)(B)(i)) is amended by striking "$50" and inserting "$100".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect January 1, 1994.

(d) DUE PROCESS PROTECTIONS FOR NURSE AIDES.—

(1) PROHIBITING STATE FROM INCLUDING UNDOCUMENTED ALLEGATIONS IN NURSE AIDE REGISTRY.—Section 1919(e)(2)(B) (42 U.S.C. 1396r(e)(2)(B)) is amended by striking the period at the end of the first sentence and inserting the following: ", but shall not include any allegations of resident abuse or neglect or misappropriation of resident property that are not specifically documented by the State under such subsection.".

(2) DUE PROCESS REQUIREMENTS FOR REBUTTING ALLEGATIONS.—Section 1919(g)(1)(C) (42 U.S.C. 1396r(g)(1)(C)) is amended by striking the second sentence and inserting the following: "The State shall, after providing the individual involved with a written notice of the allegations (including a statement of the availability of a hearing for the individual to

VOL 140 PT 15 AG 10 — 11 1994 UMI

rebut the allegations) and the opportunity for a hearing on the record, make a written finding as to the accuracy of the allegations.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect January 1, 1994.

SEC. 8627. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.

Section 501(a) (42 U.S.C. 701(a)) is amended by striking "$686,000,000 for fiscal year 1990" and inserting "$705,000,000 for fiscal year 1994".

PART 2—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING TO OBRA–1990

SEC. 8641. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this part shall take effect as if included in the enactment of OBRA–1990.

SEC. 8642. CORRECTIONS RELATING TO SECTION 4401 (DRUG REBATE PROGRAM).

(a) SECTION 1927.—(1) Section 1927(a) (42 U.S.C. 1396r–8(a)), as inserted by section 4401(a)(3) of OBRA–1990, is amended—

(A) in paragraph (1)—

(i) by amending the second sentence to read as follows: "Any such agreement entered into prior to May 1, 1991, shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate to be paid by the manufacturer under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991.", and

(ii) in the third sentence, by striking "March" and inserting "May";

(B) in paragraph (2)—

(i) by striking "first", and

(ii) by striking the period at the end and inserting the following: ", except that such paragraph (and section 1903(i)(10)(A)) shall not apply to drugs dispensed before May 1, 1991, if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.";

(C) by amending paragraph (3) to read as follows:

"(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1) and section 1903(i)(10) shall not apply to the dispensing of a covered outpatient drug if—

"(A) the State has made a determination that the availability of such drug is essential to the health of beneficiaries under the State plan;

"(B) the drug has been given a rating of 1–A or 1–P by the Food and Drug Administration; and

"(C)(i) the physician has obtained approval for the use of the drug in advance of dispensing such drug in accordance with a prior authorization program described in subsection (d)(5), or

"(ii) the Secretary has reviewed and approved the State's determination under subparagraph (A).''; and

(D) in paragraph (4)—

(i) by striking "In the case" and inserting "(A) In the case",

(ii) by striking "in compliance with" and inserting "in effect under",

(iii) by striking "such agreement provides for a minimum aggregate rebate of 10 percent of the State's total expenditures under the State plan for coverage of the manufacturer's drugs under this title" and inserting "such agreement provides for a minimum aggregate rebate of 10 percent of the sum of the amounts determined under subparagraph (B) for all of the manufacturer's drugs paid for by the State under the agreement", and

(iv) by adding at the end the following new subparagraph:

"(B) The amount determined under this subparagraph with respect to a manufacturer's drug paid for by a State under an agreement described in the first sentence of subparagraph (A) is an amount equal to the product of—

"(i) the average manufacturer's price for such drug; and

"(ii) the number of dosage units of such drug paid for by the State under such agreement.".

(2) Section 1927(b) (42 U.S.C. 1396r–8(b)), as inserted by section 4401(a)(3) of OBRA–1990, is amended—

(A) in paragraph (2)(A), by striking "during" and inserting "for";

(B) in paragraph (3)(A)—

(i) in clause (i), by striking the open parenthesis before "for" and the close parenthesis after "drugs",

(ii) in clause (i), by striking "subsection (c)(2)(B)) for covered outpatient drugs" and inserting "subsection (c)(1)(C)) for each covered outpatient drug", and

(iii) in clause (ii), by inserting a comma after "this section" and after "1990";

(C) in paragraph (3)(B)—

(i) by striking "$100,000" and inserting "$10,000",

(ii) by striking "about charges or prices", and

(iii) by striking "or knowingly provides false information";

(D) in paragraph (3)(C)—

(i) in clause (i)—

(I) by striking "increased by", and

(II) by striking ", and, if" and inserting ". If",

(ii) in clause (ii), by striking "under this section" and inserting "under this section, or a wholesaler or direct seller,",

(iii) in clause (ii), by inserting "under subparagraph (A) or (B)" after "provides false information", and

(iv) in clause (ii), by striking "Such civil money penalties are" and inserting "Any such civil money penalty shall be";

(E) in paragraph (3)(D), by striking "wholesaler," the first time it appears and inserting "wholesaler or the"; and

(F) in paragraph (4)(B)(i), by adding at the end the following new sentence: "Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.".

(3) Section 1927(d)(3) (42 U.S.C. 1396r–8(d)(3)), as inserted by section 4401(a)(3) of OBRA–1990 and as amended by section 13602 of OBRA–1993, is amended to read as follows:

"(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically update the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.".

(4) Section 1927(g) (42 U.S.C. 1396r–8(g)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) REQUIREMENT FOR DRUG USE REVIEW PROGRAM.—Each State shall provide, by not later than January 1, 1993, for a drug use review program for covered outpatient drugs (other than drugs dispensed to residents of nursing facilities) consistent with standards established by the Secretary that—

"(i) meets the requirements of paragraph (2), and

"(ii) is intended to assure that prescriptions for such drugs are appropriate, medically necessary, and not likely to lead to adverse medical results.";

(B) in paragraph (2)—

(i) by amending the matter before subparagraph (A) to read as follows:

"(2) REQUIREMENTS.—",

(ii) by amending subparagraph (A) to read as follows:

"(A) PROSPECTIVE DRUG USE REVIEW.—Each drug use review program shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title (including counseling by pharmacists under standards established under applicable State law). Nothing in this paragraph shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation.",

(iii) in subparagraph (C)—

(I) by striking "APPLICATION OF STANDARDS.—" and inserting "STANDARDS.—(i)",

(II) by striking "and literature referred to in subsection (l)(B)" and inserting "described in clause (ii)",

(III) by striking "including but not limited to" and inserting ". Such assessment shall include",

(IV) by striking "abuse/misuse and, as necessary, introduce remedial strategies," and inserting "abuse or misuse and introduce remedial strategies", and

(V) by adding at the end the following new clause:

"(ii) The compendia described in this clause are the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information, and the American Medical Association Drug Evaluations.", and

(iv) by amending subparagraph (D) to read as follows:

"(D) EDUCATIONAL PROGRAM.—The program shall educate (directly or by contract) pharmacists, physicians, and other individuals prescribing or dispensing covered outpatient drugs under the State plan on common drug therapy problems in order to improve prescribing or dispensing practices.";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "(hereinafter" and all that follows and inserting "(in this paragraph referred to as the 'DUR Board').",

(ii) in subparagraph (B), by striking "51 percent" and all that follows and inserting "50 percent licensed and actively practicing physicians and at least 1/3 but not more than 50 percent licensed and actively practicing pharmacists.",

(iii) by amending subparagraph (C) to read as follows:

"(C) RESPONSIBILITIES.—The responsibilities of the DUR Board shall include the following:

"(i) Carrying out retrospective drug use review pursuant to paragraph (2)(B).

"(ii) Establishing and applying standards for drug use review described in paragraph (2)(C).

"(iii) Implementing educational programs described in paragraph (2)(D).

"(iv) Conducting ongoing evaluations of the effectiveness of its programs and activities in improving the quality and safety of drug therapy for individuals receiving benefits under the State plan."; and

(D) by amending subparagraph (D) to read as follows:

"(4) ANNUAL REPORT.—Each State shall submit a report each year to the Secretary on the nature and scope of the drug use review program under this subsection. Such report shall include an estimate of cost savings resulting from operation of such program.".

(5) Section 1927(h) (42 U.S.C. 1396r–8(h)) is amended to read as follows:

"(h) ENCOURAGING ELECTRONIC CLAIMS MANAGEMENT.—The Secretary shall encourage each single State agency under this title to establish, as its principal means of processing claims for covered outpatient drugs, a point-of-sale electronic claims management system for the purpose of verifying eligibility, transmitting data on claims, and assisting pharmacists and other authorized persons in applying for and receiving payment under the State plan.".

(6) Section 1927(i) (42 U.S.C. 1396r–8(i)) is amended to read as follows:

"(i) ANNUAL REPORT ON REBATE PROGRAM.—Not later than May 1 of each year, the Secretary shall submit to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Aging of the Senate a report on the operation of the rebate agreements required for covered outpatient drugs under this section in the preceding fiscal year, and shall include in the report such information in addition to the information required to be reported under section 601(d) of the Veterans Health Care Act of 1992 as the Secretary considers appropriate.".

(7) Section 1927(j) (42 U.S.C. 1396r–8(j)), as inserted by section 4401(a)(3) of OBRA–1990, is amended to read as follows:

"(j) EXEMPTION FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND HOSPITALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of this section shall not apply with respect to covered outpatient drugs dispensed by—

"(A) a health maintenance organization; or

"(B) a hospital that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's purchasing costs for covered outpatient drugs.

"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.".

(8) Section 1927(k) (42 U.S.C. 1396r–8(k)), as inserted by section 4401(a)(3) of OBRA–1990, is amended—

(A) in paragraph (2)—

(i) in the matter preceding clause (i) of subparagraph (A), by striking "paragraph (5)" and inserting "subparagraph (D)";

(ii) in subparagraph (A)—

(I) in clause (i), by striking "for safety and effectiveness" and by striking "or which is approved under section 505(j) of such Act"; and

(II) by striking "and" at the end;

(iii) in subparagraph (B)—

(I) in clause (i), by striking "prescription," and inserting "prescription;";

(II) in clause (ii), by striking ", and" and inserting "; and"; and

(III) by striking "and" at the end;

(iv) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).";

(B) in subparagraph (H) of paragraph (3), by inserting "services" after "dialysis";

(C) by striking paragraph (4) and redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively;

(D) by amending paragraph (4), as so redesignated, to read as follows:

"(4) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug."; and

(E) in paragraph (6), as so redesignated—

(i) in subparagraph (A)(i), by striking "paragraph (5)" and inserting "paragraph (2)(D)",

(ii) in subparagraph (A)(ii), by inserting "or product licensing application" after "application",

(iii) in subparagraph (A)(iv), by inserting "or product licensing application" after "application",

(iv) in subparagraph (A)(iv), by striking "distributers" and inserting "distributors",

(v) in subparagraph (C)(i), by striking "pharmaceuutically" and inserting "pharmaceutically", and

(vi) in subparagraph (C)(iii), by striking ", provided that" and inserting "if".

(b) SECTION 1903.—

(1) ENHANCED MATCH.—Section 1903(a) (42 U.S.C. 1396b(a)) is amended—

(A) by striking the period at the end of paragraph (7) and inserting "; plus"; and

(B) by adding at the end the following new paragraph:

"(8) 75 per centum of so much of the sums expended under the State plan during calendar years 1991 through 1993 as the Secretary determines attributable to the statewide adoption of a drug use review program which conforms to the requirements of section 1927(g).".

(2) CONFORMING AMENDMENTS.—Section 1903(a)(3) (42 U.S.C. 1396b(a)(3)) is amended—

(A) by striking "and" at the end of subparagraph (C) and inserting "plus"; and

(B) by striking subparagraph (D).

(c) FUNDING.—Section 4401(b)(2) of OBRA–1990 is amended by striking the semicolon and all that follows and inserting a period.

(d) DEMONSTRATION PROJECTS.—Section 4401(c)(1) of OBRA–1990 is amended—

(1) in subparagraph (A), by striking "1992" and inserting "1993";

(2) in subparagraph (A), by striking "10" and inserting "5";

(3) in subparagraph (C), by striking "regiment" and inserting "regimen"; and

(4) in subparagraph (D), by striking "1994" and inserting "1995".

(e) STUDIES.—Section 4401(d) of OBRA–1990 is amended—

(1) in paragraph (1)(A), by striking "other institutional facilities," and inserting "nursing facilities, intermediate care facilities for the mentally retarded,";

(2) in paragraph (1)(B), by striking "under this subsection" and inserting "under this paragraph";

(3) in paragraph (1)(B)(i), by striking "under this section" and inserting "under section 1927 of the Social Security Act";

(4) in paragraph (1)(B)(ii)—

(A) by striking "drug use review" the second time it appears and inserting "the type of drug use review that is"; and

(B) by striking "under this section" and inserting "under such section";

(5) in paragraph (1)(B)(iii), by striking "under this title" and inserting "under title XIX of the Social Security Act";

(6) in paragraph (1)(C)—

(A) by striking "May 1, 1991" and inserting "May 1, 1992", and

(B) by striking "Committees on Aging of the Senate and the House of Representatives" and inserting "Committee on Aging of the Senate";

(7) in paragraph (2)—

(A) by striking "By not later than May 1 of each year, the Comptroller" and inserting "The Comptroller";

(B) by striking "Committees on Aging of the Senate and House of Representatives" and inserting "Committee on Aging of the Senate";

(C) by striking "an annual report" and inserting "a report"; and

(D) by striking "retail and";

(8) in paragraph (3)—

(A) in subparagraph (A), by striking ", acting in consultation with the Comptroller General,",

(B) by indenting subparagraph (B) an additional 2 ems;

(C) in subparagraph (B), by striking "December 31, 1991, the Secretary and the Comptroller General" and inserting "June 1, 1993, the Secretary"; and

(D) by striking "Committees on Aging of the Senate and the House of Representatives" and inserting "Committee on Aging of the Senate";

(9) in paragraph (4)—

(A) in subparagraph (A), by striking "each" and by striking the semicolon and inserting a comma;

(B) in subparagraph (B), by striking "December 31, 1991" and inserting "January 1, 1993"; and

(C) in subparagraph (B), by striking "Committees on Aging of the Senate and the House of Representatives" and inserting "Committee on Aging of the Senate";

(10) in paragraph (5)—

(A) by striking "Secretary of Health and Human Services" and inserting "Comptroller General",

(B) by striking "under this title" and inserting "under State medicaid programs", and

(C) by striking the second sentence and inserting the following new sentence: "The Comptroller General shall report to the Congress on the study not later than January 1, 1993."; and

(11) by striking paragraph (6).

SEC. 8643. CORRECTIONS RELATING TO SECTION 4402 (ENROLLMENT UNDER GROUP HEALTH PLANS).

Section 4402(b) of OBRA–1990 is amended by striking "1903(u)(1)(C)(iv) (42 U.S.C. 1396b(u)(1)(C)(iv))" and inserting "1903(u)(1)(D)(iv) (42 U.S.C. 1396b(u)(1)(D)(iv))".

SEC. 8644. CORRECTIONS RELATING TO SECTION 4501 (LOW-INCOME MEDICARE BENEFICIARIES).

(a) Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii)), as added by section 4501(b)(3) of OBRA–1990, is amended by striking "cost sharing" and inserting "cost-sharing".

(b) Section 1905(p)(4)(B) (42 U.S.C. 1396d(p)(4)(B)), as amended by section 4501(c)(1) of OBRA–1990, is amended by striking "1902(a)(10)(E)(iii)" and inserting "section 1902(a)(10)(E)(iii)".

SEC. 8645. CORRECTIONS RELATING TO SECTION 4601 (CHILD HEALTH).

(a) Section 1902(a)(10)(A)(i)(VII) (42 U.S.C. 1396a(a)(10)(A)(i)(VII)), as added by section 4601(a)(10)(A)(iii) of OBRA–1990, is amended by striking "family;" and inserting "family; and".

VOL 140 PT 15 AG 10 — 11 1994 UMI

(b) Section 1902(1) (42 U.S.C. 1396a(1)), as amended by section 4601(a)(1)(C) of OBRA–1990, is amended—

(1) in paragraph (1)(C), by striking "children" after "(C)";

(2) in paragraph (3), by striking "(a)(10)(A)(i)(VII),," and inserting "(a)(10)(A)(i)(VII),"; and

(3) in paragraph (4)(B), by inserting a comma before "(a)(10)(A)(i)(VII),".

(c) Section 1925 (42 U.S.C. 1396r–6), as amended by section 4601(a) of OBRA–1990, is amended—

(1) in subsection (a)(3)(C), by striking "(i)(VI)" and inserting "(i)(VI),", and

(2) in subsection (b)(3)(C)(i), by striking "(i)(IV) (i)(VI) (i)(VII), ," and inserting "(i)(IV), (i)(VI), (i)(VII),".

SEC. 8646. CORRECTIONS RELATING TO SECTION 4602 (OUTREACH LOCATIONS).

(a) Section 1902(a)(55) (42 U.S.C. 1396a(a)(55)), as added by section 4602(a)(3) of OBRA–1990, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "subsection" and inserting "paragraph", and

(B) by striking "(a)" each place it appears; and

(2) in subparagraph (A), by striking "1905(l)(2)(B)" and inserting "1905(l)(2)(B)".

(b) Section 1902(l)(1) (42 U.S.C. 1396a(l)(1)) is amended by striking "who are not described in any of subclauses (I) through (III) of subsection (a)(10)(A)(i) and".

SEC. 8647. CORRECTIONS RELATING TO SECTION 4604 (PAYMENT FOR HOSPITAL SERVICES FOR CHILDREN UNDER 6 YEARS OF AGE).

(a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in clause (X) in the matter following subparagraph (F) by striking "under one year of age" and inserting "under 6 years of age".

(b) Section 1902(s) (42 U.S.C. 1396a(s)), as added by section 4604(a) of OBRA–1990, is amended to read as follows:

"(s) In order to meet the requirements of subsection (a)(56), the State plan must provide that payments to hospitals under the plan for inpatient services furnished to infants who have not attained the age of 1 year (or, in the case of such an individual who is an inpatient on his first birthday, until such individual is discharged) shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise), provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay;

"(2) not be limited by the imposition of day limits; and

"(3) not be limited by the imposition of dollar limits (other than dollar limits resulting from prospective payments as adjusted pursuant to paragraph (1)).".

(c) Section 1923(a)(2)(C) (42 U.S.C. 1396r–4(a)(2)(C)) is amended by striking "provided on or after July 1, 1989," and all that follows and inserting the following: "involving exceptionally high costs or exceptionally long lengths of stay—

"(i) for individuals under 1 year of age, in the case of services provided on or after July 1, 1989, and on or before June 30, 1991; and

"(ii) for individuals under 6 years of age, in the case of services provided on or after July 1, 1991.".

SEC. 8648. CORRECTIONS RELATING TO SECTION 4703 (PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS).

(a) Section 1923(c) (42 U.S.C. 1396r–4(c)) is amended—

(1) in paragraph (2), by striking "paragraph (b)(3)" and inserting "subsection (b)(3)";

(2) by striking the period at the end of paragraph (3)(B) and inserting a comma; and

(3) in the third sentence, by striking "the payment adjustment described in paragraph (2)" and inserting "a payment adjustment described in paragraph (2) or (3)".

(b) Effective December 22, 1987, section 1923(d)(2)(A)(ii) (42 U.S.C. 1396r–4(d)(2)(A)(ii)) is amended by striking "the date of the enactment of this Act" and inserting "December 22, 1987".

(c) Section 4703(d) of OBRA–1990 is amended by striking "412(a)(2)" and inserting "4112(a)(2)".

SEC. 8649. CORRECTIONS RELATING TO SECTION 4704 (FEDERALLY-QUALIFIED HEALTH CENTERS).

(a) Clause (ix) of section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as added by section 4704(b)(1)(C) of OBRA–1990, is amended—

(1) by striking "of such center" the first place it appears;

(2) by striking "federally qualified" and inserting "Federally-qualified";

(3) by inserting "section" before "1905(a)(2)(C)"; and

(4) by moving such clause 2 ems to the left.

(b) Section 1903(m)(2)(B) (42 U.S.C. 1396b(m)(2)(B)), as amended by section 4704(b)(2) of OBRA–1990, is amended in the matter preceding clause (i) by striking "except with respect to clause (ix) of subparagraph (A)," and inserting "(except with respect to clause (ix) of such subparagraph)".

(c) Section 1905(l)(2) (42 U.S.C. 1396d(l)(2)), as amended by section 4704(c) of OBRA–1990 and sections 13606(a) and 13631(f)(2)(B) of OBRA–1993, is amended—

(1) in subparagraph (A)—

(A) by striking "Federally-qualified" and inserting "Federally-qualified", and

(B) by striking "an patient" and inserting "a patient", and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "a entity" and inserting "an entity",

(B) by striking "or" at the end of clause (iii),

(C) by striking the semicolon at the end of clause (iv) and inserting ", or", and

(D) by striking "and includes an outpatient health program" and all that follows through "for good cause shown." and inserting the following:

"(v) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93–638) or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act for the provision of primary health services.

In applying clause (ii), the Secretary may waive any requirement referred to in such clause for up to 2 years for good cause shown.".

SEC. 8650. CORRECTIONS RELATING TO SECTION 4708 (SUBSTITUTE PHYSICIANS).

(a) Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)), as added by section 4708(a)(3) of OBRA–1990 and as amended by section 13631(e)(1) of OBRA–1993, is amended—

(1) in the matter preceding subparagraph (A), by striking "except that" and inserting "except that (subject to section 1903(i)(12))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the State for such services includes the second physician's unique identifier (provided under the system established under subsection (x)) and indicates that the claim meets the requirements of this subparagraph for payment to the first physician; and".

(b) The amendments made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 8651. CORRECTIONS RELATING TO SECTION 4711 (HOME AND COMMUNITY CARE FOR FRAIL ELDERLY).

(a) Section 1929 (42 U.S.C. 1396t), as added by section 4711(b) of OBRA–1990, is amended—

(1) in subsection (c)(2)(F), by moving the second sentence 2 ems to the right;

(2) in subsection (d)(2)(F)(ii), by striking "they manage" and inserting "it manages";

(3) in subsection (d)(2)(F)(iii), by inserting "the agency or organization" after "(iii)";

(4) in subsection (e)(2)(B), by striking "fiscal year 1989" and inserting "fiscal year 1990";

(5) in subsection (f)(1), by striking "Community care" and inserting "community care";

(6) in subsection (g)(1)—

(A) by striking "SETTINGS" and inserting "SETTING"; and

(B) in subparagraph (B), by striking "setting." and inserting "setting in which home and community care under this section is provided.";

(7) in subsection (g)(2), by striking "community care" the second, third, and fourth place it appears and inserting "home and community care";

(8) in subsection (h)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) a nonresidential setting that serves 8 or more individuals; or"; and

(B) in subparagraph (B)—

(i) by striking "more than 8" and inserting "8 or more"; and

(ii) by inserting "(other than merely board)" after "personal services";

(9) in subsection (h)(2), by striking "community care" the second and third place it appears and inserting "home and community care";

(10) in the first sentence of subsection (j)(1)(A), by striking "the State may terminate the provider's participation under the State plan and may provide in addition for a civil money penalty" and inserting "the State may provide for a civil money penalty and, in addition, may terminate the provider's participation under the State plan";

(11) in the first sentence of subsection (j)(2)(B), by striking "the Secretary may terminate the provider's participation under the State plan and may provide, in addition, for a civil money penalty under subparagraph (C)" and inserting "the Secretary may provide for a civil money penalty under subparagraph (C) and, in addition, terminate the provider's participation under the State plan";

(12) in subsection (k)(1)(A)(i)—

(A) by striking "(d)(2)(E)" and inserting "(d)(2)", and

(B) by striking "settings," and inserting "settings),";

(13) in subsection (l), by striking "State wideness" and inserting "Statewideness";

(14) in paragraph (2) of subsection (m) by striking "Individual Community Care Plan" and inserting "individual community care plan"; and

(15) by adding at the end the following new subsection:

"(n) COMMUNITY CARE SETTING DEFINED.—In this section, the term 'community care setting' means a small community care setting (as defined in subsection (g)(1)) or a large community care setting (as defined in subsection (h)(1)).".

(b) Section 1905(r)(5) (42 U.S.C. 1396d(r)(5)) is amended by striking "section 1905(a)" and inserting "subsection (a) (other than services described in paragraph (22) or (23) of such subsection)".

(c) Section 4711(f) of OBRA–1990 is amended by striking "Act" each place it appears and inserting "section".

SEC. 8652. CORRECTIONS RELATING TO SECTION 4712 (COMMUNITY SUPPORTED LIVING ARRANGEMENTS).

(a) Section 1930 (42 U.S.C. 1396u), as added by section 4712(b)(2) of OBRA–1990, is amended—

(1) in subsection (b)—

(A) by striking "title the term," and inserting "title, the term",

(B) by striking "guardian" and inserting "guardian or", and

(C) by striking "3 other" and inserting "3";

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "program," and inserting "program", and

(B) in the second sentence, by striking "plan" each place it appears and inserting "program"; and

(3) in subsection (i), by striking "FUNDS" and inserting "FUNDS".

(b) Section 4712(c) of OBRA–1990 is amended—

(1) in paragraph (1), by inserting "of section 1930 of the Social Security Act" after "subsection (h)"; and

(2) in paragraph (2), by striking "this section" and inserting "such section".

SEC. 8653. CORRECTION RELATING TO SECTION 4713 (COBRA CONTINUATION COVERAGE).

(a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (F) by striking "COBRA continuation premiums" and inserting "COBRA premiums".

(b) Section 1902(u)(3) (42 U.S.C. 1396a(u)(3)), as added by section 4713(a)(2) of OBRA–1990, is amended by striking "title VI" and inserting "part 6 of subtitle B of title I".

SEC. 8654. CORRECTION RELATING TO SECTION 4716 (MEDICAID TRANSITION FOR FAMILY ASSISTANCE).

Section 4716(a) of OBRA–1990 is amended by striking "AMENDMENTS.—Subsection (f) of section" and inserting "IN GENERAL.—Section".

SEC. 8655. CORRECTIONS RELATING TO SECTION 4718 (MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN 1-MEMBER FAMILIES).

Section 4718(b) of OBRA–1990 is amended by striking "June 1, 1989" and inserting "July 1, 1989".

SEC. 8656. CORRECTIONS RELATING TO SECTION 4723 (MEDICAID SPEND-DOWN OPTION).

Section 1903(f)(2) (42 U.S.C. 1396b(f)(2)), as amended by section 4723(a) of OBRA–1990, is amended by striking "to the State, provided that" and inserting "to the State if".

SEC. 8657. CORRECTIONS RELATING TO SECTION 4724 (OPTIONAL STATE DISABILITY DETERMINATIONS).

Section 1902(v) (42 U.S.C. 1396a(v)), as added by section 4724 of OBRA–1990, is amended—

(1) by striking "(v)(1)" and inserting "(v)"; and

(2) by striking "of the Social Security Act".

SEC. 8658. CORRECTION RELATING TO SECTION 4732 (SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS).

Section 1903(m)(2)(F)(i) (42 U.S.C. 1396b(m)(2)(F)(i)), as amended by section 4732(b)(2)(B) of OBRA–1990, is amended by striking "or" before "with an eligible organization".

SEC. 8659. CORRECTIONS RELATING TO SECTION 4747 (COVERAGE OF HIV-POSITIVE INDIVIDUALS).

Section 4747 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking "services described in subsection (c)" and inserting "services described in subsection (b)(1) (and may provide coverage for services described in subsection (b)(2))", and

(B) by striking "to individuals" and inserting "to individuals who are not otherwise eligible for medical assistance under such title,";

(2) by amending subsection (b) to read as follows:

"(b) SERVICES AVAILABLE UNDER A DEMONSTRATION PROJECT.—

"(1) REQUIRED SERVICES.—

"(A) IN GENERAL.—Services described in this paragraph are the following:

"(i) General and preventive medical care services, including outpatient care, physician visits, and clinic visits.

"(ii) Other laboratory and X-ray services.

"(iii) Prescription drugs (including costs associated with the intravenous administration of prescription drugs).

"(iv) Case management services.

"(B) SCOPE OF SERVICES.—The services described in subparagraph (A) may be limited under a demonstration project only on the basis of medical necessity or the appropriateness of such services.

"(2) OPTIONAL SERVICES.—

"(A) IN GENERAL.—Services described in this paragraph are the following:

"(i) Counseling and social services.

"(ii) Substance abuse treatment.

"(iii) Health education services.

"(iv) Dental services.

"(B) SCOPE OF SERVICES.—A demonstration project may limit the amount, duration, or scope of services described in subparagraph (A).";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "with a hospital" and all that follows through "other entity have" and inserting "with an entity which has", and

(ii) by striking "and have access" and all that follows through the end and inserting "and has access to data on comparable patients who have so tested and who are not participating in the demonstration project.", and

(B) by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (2);

(4) in subsection (d), by striking "paragraph (3)" and "paragraph (1)" and inserting "subsection (b)" and "subsection (a)", respectively; and

(5) in subsection (f), by adding at the end the following new sentence: "Such sums as may be available under the limitation set forth in this paragraph for fiscal year 1993 shall be available until expended.".

SEC. 8660. CORRECTION RELATING TO SECTION 4751 (ADVANCED DIRECTIVES).

Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)(1)(A)), as amended by section 4751(b)(1) of OBRA–1990, is amended—

(1) by striking "1902(w)" and inserting "1902(w) and"; and

(2) by striking "1902(a)" and inserting "1902(w)".

SEC. 8661. CORRECTIONS RELATING TO SECTION 4752 (PHYSICIANS' SERVICES).

(a) Paragraph (59) of section 1902(a) (42 U.S.C. 1396a(a)), as added by section 4752(c)(1)(C) of OBRA–1990 and as redesignated by section 13623(a)(6) of OBRA–1993, is amended by striking "subsection (v)" and inserting "subsection (x)".

(b) Section 1903(i)(12) (42 U.S.C. 1396b(i)(12)), as inserted by section 4752(e) of OBRA–1990 and as redesignated by section 13631(c)(3) of OBRA–1993, is amended—

(1) by amending clause (i) of subparagraph (A) to read as follows:

"(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics or is certified in family practice or pediatrics by the medical specialty boards recognized by the American Osteopathic Association,";

(2) by amending clause (i) of subparagraph (B) to read as follows:

"(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics or is certified in family practice or obstetrics by the medical specialty boards recognized by the American Osteopathic Association,"; and

(3) in subparagraphs (A) and (B)—

(A) by striking "or" at the end of clause (v);

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or".

SEC. 8662. CORRECTIONS RELATING TO SECTION 4801 (NURSING HOME REFORM).

(a) Section 1919(b)(3)(C)(i)(I) (42 U.S.C. 1396r(b)(3)(C)(i)(I)), as amended by section 4801(e)(3) of OBRA–1990, is amended by striking "not to exceed" before "14 days".

(b) Section 1919(b)(5)(D) (42 U.S.C. 1396r(b)(5)(D)), as amended by section 4801(a)(4) of OBRA–1990, is amended by striking the comma before "or a new competency evaluation program.".

(c) Section 1919(b)(5)(G) (42 U.S.C. 1396r(b)(5)(G)) is amended by striking "or licensed or certified social worker" and inserting "licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician".

(d) Section 1919(f)(2)(B)(i) (42 U.S.C. 1396r(f)(2)(B)(i)) is amended by striking "facilities," and inserting "facilities (subject to clause (iii)),".

(e) Section 1919(f)(2)(B)(iii)(I)(c) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(c)) is amended by striking "clauses" each place it appears and inserting "clause".

(f) Section 1919(g)(5)(B) (42 U.S.C. 1396r(g)(5)(B)) is amended by striking "paragraphs" and inserting "paragraph".

(g) Section 4801(a)(6)(B) of OBRA–1990 is amended—

VOL 140 PT 15 AG 10 — 11 1994 UMI

(1) by striking "The amendments" and inserting "(i) The amendments";

(2) by redesignating clauses (i) through (v) as subclauses (I) through (V); and

(3) by adding at the end the following new clause:

"(ii) Notwithstanding clause (i) and subject to section 1919(f)(2)(B)(iii)(1) of the Social Security Act (as amended by subparagraph (A)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a nursing facility described in clause (i) if, during the previous 2 years, none of the subclauses of clause (i) applied to the facility.".

SEC. 8663. OTHER TECHNICAL CORRECTIONS.

(a) Section 1905(o)(1)(A) (42 U.S.C. 1396d(o)(1)(A)) is amended—

(1) in the first sentence, by striking "intermediate care facility services" and inserting "for nursing facility services or intermediate care facility services for the mentally retarded"; and

(2) in the second sentence, by striking "or intermediate care facility" and inserting "(for purposes of title XVIII), a nursing facility, or an intermediate care facility for the mentally retarded".

(b) Section 1915(d) (42 U.S.C. 1396n(d)) is amended—

(1) by striking "skilled nursing facility or intermediate care facility" each place it appears in paragraphs (1), (2)(B), and (2)(C) and inserting "nursing facility";

(2) in paragraph (2)(B)(i), by striking "skilled nursing or intermediate care facility" and inserting "nursing facility";

(3) in paragraph (5)(A), by striking "under" the second place it appears and inserting "(or, in the case of waiver years beginning on or after October 1, 1990, with respect to nursing facility services and home and community-based services) under"; and

(4) in paragraph (5)(B)—

(A) in clause (i), by striking "furnished" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, for nursing facility services) furnished"; and

(B) in clause (iii)(I), by striking "(regardless" and inserting "(or, with respect to waiver years beginning on or after October 1, 1990, which comprise nursing facility services) (regardless".

(c)(1) Section 1924(h)(1)(A) (42 U.S.C. 1396r-5(h)(1)(A)) is amended to read as follows:

"(A)(i) is in a medical institution or nursing facility; or

"(ii) is described in section 1902(a)(10)(A)(ii)(VI) (except that for purposes of subsection (d), such term shall include such individual only if the State elects to apply such subsection to the individual); and".

(2) The amendments made by this subsection shall apply to home or community-based services furnished on or after January 1, 1994.

PART 3—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING TO OBRA–1993

SEC. 8671. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this part shall take effect as if included in the enactment of OBRA–1993.

SEC. 8672. CORRECTIONS RELATING TO SECTION 13601 (PERSONAL CARE SERVICES).

Section 13601(a)(3) of OBRA–1993 is amended by striking "comma" and inserting "period".

SEC. 8673. CORRECTIONS RELATING TO SECTION 13604 (EMERGENCY SERVICES FOR ALIENS).

Section 13604(b)(2) of OBRA–1993 is amended to read as follows:

"(2) The Secretary of Health and Human Services shall not disallow expenditures made under section 1903(v)(2) of the Social Security Act for care and services relating to organ transplant procedures furnished before the date of the enactment of this Act.".

SEC. 8674. CORRECTIONS RELATING TO SECTION 13611 (TRANSFERS OF ASSETS; TREATMENT OF CERTAIN TRUSTS).

(a) EXEMPTION FROM ASSET TRANSFER RESTRICTIONS.—Section 1917(c)(2)(B) (42 U.S.C. 1396p(c)(2)(B)), as amended by section 13611(a)(2) of OBRA–1993, is amended—

(1) by striking "or" at the end of clause (iii);

(2) by striking the semicolon at the end of clause (iv) and inserting ", or"; and

(3) by adding at the end the following new clause:

"(iv) were transferred to a trust described in subsection (d)(4)(B) or subsection (d)(4)(C).".

(b) RESTRICTION ON ABILITY OF TRUSTEE TO DISTRIBUTE CORPUS.—Section 1917(d)(4)(B) (42 U.S.C. 1396p(d)(4)(B)), as added by section 13611(b) of OBRA–1993, is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ", and"; and

(3) by adding at the end the following new clause:

"(iv) no payment may be made from any portion of the corpus of the trust to any person other than the individual.".

(c) INCOME PLACED INTO TRUST NOT COUNTED FOR PURPOSES OF ELIGIBILITY.—Section 1917(d) (42 U.S.C. 1396p(d)), as added by section 13611(b) of OBRA–1993, is amended—

(1) by striking the closing quotation mark and the second period at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) For purposes of determining an individual's eligibility for, or amount of, benefits under a State plan under this title, any income placed into a trust described in paragraph (4)(B) that is established for the benefit of the individual shall not be considered income of the individual.".

(d) OTHER TECHNICAL AMENDMENTS.—(1) Section 1917(c)(2)(C)(iii) (42 U.S.C. 1396p(c)(2)(C)(iii)), as added by section 13611(a)(2)(C)(iv) of OBRA–1993, is amended by striking "all".

(2) Section 1917(c)(4) (42 U.S.C. 1396p(c)(4)), as amended by section 13611(a)(2)(F), is amended by striking "resources" and inserting "assets".

(3) Section 13611(e)(3) of OBRA–1993 is amended—

(A) by striking "amendment made by subsection (b)" and inserting "amendments made by subsections (a) and (b)"; and

(B) by striking "such amendment" and inserting "such amendments".

SEC. 8675. CORRECTIONS RELATING TO SECTION 13612 (MEDICAID ESTATE RECOVERIES).

(a) CLARIFICATION OF DISREGARD OF ASSET RULES.—Section 1902(r)(2) (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following:

"(C)(i) Notwithstanding subparagraph (A), except as provided in clause (ii), a State plan may not provide pursuant to this paragraph for disregarding any assets—

"(I) to the extent that payments are made under a long-term care insurance policy; or

"(II) because an individual has received (or is entitled to receive) benefits for a specified period of time under a long-term care insurance policy.

"(ii) Clause (i) shall not apply to State plan provisions that are approved as of August 1, 1994.".

(b) ESTATE RECOVERIES.—Section 1917(b)(1) (42 U.S.C 1396p(b)(1)), as amended by section 13612(a) of OBRA–1993, is amended—

(1) by amending the matter preceding subparagraph (A) to read as follows:

"(b)(1) No adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan may be made, except that the State shall comply with the following:";

(2) by amending subparagraph (A) to read as follows:

"(A) In the case of an individual described in subsection (a)(1)(B), the State—

"(i) shall seek adjustment or recovery upon the sale of property subject to a lien imposed on account of medical assistance paid on behalf of the individual, and

"(ii) may seek adjustment or recovery from the individual's estate.";

(3) in subparagraph (B)—

(A) in clause (i), by striking "or" at the end and inserting "and"; and

(B) in clause (ii), by inserting "additional" after "any"; and

(4) in subparagraph (C), by striking the period at the end and inserting the following: ", and shall notify any individual who seeks to purchase such a policy (or who has purchased such a policy as of the date of the enactment of the Guaranteed Health Insurance Act of 1994) of the State's obligation to seek adjustment or recovery under this clause.".

SEC. 8676. CORRECTIONS RELATING TO SECTION 13622 (LIABILITY OF THIRD PARTIES TO PAY FOR CARE AND SERVICES).

(a) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)), as amended by section 13622(a) of OBRA–1993, is amended by striking "(as defined in section 607(1)" and inserting "(including any such plan meeting the definition of section 607(1))".

(b) Section 1902(a)(25)(I) (42 U.S.C. 1396a(a)(25)(I)), as added by section 13622(c) of OBRA–1993, is amended to read as follows:

"(I) assurances satisfactory to the Secretary that the State has in effect laws providing that, to the extent that payment has been made under the State plan of that or any other State for medical assistance for health care items or services furnished to an individual, the State paying such medical assistance is considered to have acquired the rights of such individual to payment by any third party legally liable to pay for such items or services;".

SEC. 8677. CORRECTIONS RELATING TO SECTION 13623 (MEDICAL CHILD SUPPORT).

(a)(1) Title XIX (42 U.S.C. 1396 et seq.) is amended by redesignating section 1908, as added by section 13623(b) of OBRA–1993, as section 1909.

(2) Paragraph (60) of section 1902(a) (42 U.S.C. 1396a(a)), as added by section 13623(a) of OBRA–1993, is amended by striking "section 1908" and inserting "section 1909".

(b) Subsection (b) of section 1909, as redesignated by subsection (a), is amended by striking "as defined in section 607(1)" and inserting "including any such plan meeting the definition of section 607(1)".

SEC. 8678. CORRECTIONS RELATING TO SECTION 13624 (PHYSICIAN REFERRALS).

Section 13624(b) of OBRA–1993 is amended by striking "on or".

SEC. 8679. CORRECTIONS RELATING TO SECTION 13631 (MEDICAID PEDIATRIC IMMUNIZATION PROVISIONS).

(a) Section 1902(a)(32)(D) (42 U.S.C. 1396(a)(32)(D)), as added by section 13631(e)(1) of OBRA–1993, is amended by striking "(which price includes a reasonable amount to cover shipping and the handling of returns)" and inserting "plus a reasonable amount to cover shipping and the handling of returns".

(b) Section 1928(d)(3)(B) (42 U.S.C. 1396s(d)(3)(B)), as added by section 13631(b)(2) of OBRA–1993, is amended by striking "and any applicable excise tax established under section 4131 of the Internal Revenue Code of 1986".

SEC. 8680. CORRECTIONS RELATING TO SECTION 13643 (DEMONSTRATION PROJECTS).

Effective as if included in the enactment of OBRA–1990, section 4745 of such Act is amended in subsection (d) by striking "shall commence not later than July 1, 1991 and".

Subtitle H—Provision Relating to AFDC Program

SEC. 8701. ENFORCEMENT OF MAINTENANCE-OF-EFFORT REQUIREMENTS THROUGH AFDC.

(a) STATE PLAN REQUIREMENT.—Section 402(a) (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (44);

(2) by striking the period at the end of paragraph (45) and inserting "; and"; and

(3) by inserting after paragraph (45) the following new paragraph:

"(46) provide assurances that the State is making payments required under part 2 of subtitle B of title VIII of the Guaranteed Health Insurance Act of 1994.".

(b) WITHHOLDING AMOUNTS UNPAID.—Section 403 (42 U.S.C. 603) is amended by adding at the end the following new subsection:

"(o) Notwithstanding any other provision of this section, the Secretary shall reduce the amount of payment made to a State under this section for quarters in any fiscal year to the extent that the State fails to make the payments required for the fiscal year under part 2 of subtitle B of title VIII of the Guaranteed Health Insurance Act of 1994 in a timely manner.".

TITLE IX—QUALITY AND CONSUMER AND WORKFORCE PROTECTION

Subtitle A—Quality Management and Improvement

PART 1—NATIONAL QUALITY MANAGEMENT PROGRAM

SEC. 9001. NATIONAL QUALITY MANAGEMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and oversee a performance-based program of quality management and improvement designed to enhance the quality, appropriateness, and effectiveness of health care services rendered in the United States. The program shall be known as the National Quality Management Program.

(b) ELEMENTS.—Subject to the specific provisions of this part, the National Quality Management Program shall consist of the following:

(1) The consumer surveys described in section 9002.

(2) The national measures of quality performance described in section 9003.

(3) The national quality standards for approved sponsors described in section 9004.

(4) The models for profiling patterns of clinical practice and improving quality of care described in section 9005.

(5) The quality-related profiling data described in section 9006.

(6) The compliance monitoring described in section 9007.

(7) The guideline development and certification and the research on health care quality described in section 9008.

(8) The contracts with approved quality improvement organizations entered into by the Secretary under section 9009.

(9) The quality management grants made to approved States by the Secretary under section 9010.

SEC. 9002. CONSUMER SURVEYS.

(a) IN GENERAL.—The Secretary shall conduct annual surveys of health care consumers to gather information, with respect to a year to which a survey pertains, concerning access to care, use of health services, health outcomes, and patient satisfaction. The surveys shall be conducted using the standard design and the sampling strategies developed under subsection (d).

(b) AUTHORITY TO CONTRACT.—The Secretary may carry out subsection (a) by entering into contracts with private individuals or entities or States pursuant to which the individuals, entities, or States undertake the duties applicable to the Secretary under the subsection.

(c) TRANSMISSION OF SURVEY RESULTS.—

(1) APPROVED SPONSORS.—The Secretary shall forward the results of any survey conducted under this section that pertains to an approved health plan provided or sponsored by an approved sponsor in a State to—

(A) the State (if the State is an approved State); and

(B) the approved quality improvement organization responsible for the geographic area that includes the State.

(2) QUALIFIED PROVIDERS.—The Secretary shall forward the results of any survey conducted under this section that pertains to health care services rendered in a State by a qualified provider to—

(A) the State (if the State is an approved State); and

(B) the approved quality improvement organization responsible for the geographic area that includes the State.

(d) DESIGN AND SAMPLING STRATEGIES.—

(1) STANDARD DESIGN.—The Secretary shall develop and approve a standard design for the surveys conducted under this section. The design shall ensure the collection of valid, reliable, and comparable survey responses.

(2) SAMPLING STRATEGIES.—The Secretary shall develop sampling strategies that ensure that survey samples adequately measure populations that are considered to be at risk of receiving inadequate health care, including individuals with disabilities.

(3) DEADLINE.—The Secretary shall develop and approve the design under paragraph (1) and the sampling strategies under paragraph (2) not later than 12 months after the date of the enactment of this Act.

(e) TIMELINESS.—The Secretary shall carry out subsections (a) and (c) in a manner that permits a State to include the results of consumer surveys that pertain to a year in the performance report published by the State under section 9003(g) that pertains to the year.

SEC. 9003. NATIONAL MEASURES OF QUALITY PERFORMANCE.

(a) DEVELOPMENT AND UPDATING.—

(1) IN GENERAL.—The Secretary shall develop and update a uniform set of national measures of quality performance to be used to assess—

(A) the performance of approved sponsors, network providers, and health institutions;

(B) the satisfaction of individuals enrolled under an approved health plan with the access to, and quality of, items and services provided by the approved sponsor providing or sponsoring the plan and network providers with respect to the plan;

(C) the satisfaction of individuals receiving health care items and services from a health institution; and

(D) the degree to which approved sponsors, network providers, and health institutions are meeting the needs of special patient populations, including individuals with disabilities.

(2) MINIMUM INFORMATION REQUIRED TO BE PROVIDED.—The measures shall be developed and selected in a manner that ensures that approved plan sponsors and health institutions are required to provide the minimum amount of information that is necessary to perform the assessments referred to in paragraph (1).

(3) BASES FOR MEASURES.—In developing and selecting the national measures of quality performance, the Secretary shall consider the recommendations of the Health Care Quality Advisory Commission established under section 9012 (in this part referred to as the "Commission"). The measures also may be based on guidelines developed or certified under title IX of the Public Health Service Act, research sponsored under such title, or other guidelines or research, if the guidelines or research are determined to be appropriate for such purpose by the Secretary.

(4) SEQUENTIAL SETS.—The set of national measures of quality performance shall be established through the development and use of a series of interim sets of quality measures. The Secretary, in consultation with the Commission, shall establish a sequence for such sets. The initial set of national measures of quality performance shall provide information on access to care and, with respect to an approved sponsor, information on the number, types, and locations of qualified providers who are authorized to provide services or receive payments under each approved health plan provided or sponsored by the sponsor. Subsequent sets of measures shall provide additional information as such information becomes valid and available (as determined by the Secretary).

(b) SUBJECT OF MEASURES.—The national measures of quality performance shall be selected in a manner that provides accurate, comparable information on the following subjects:

(1) Access to health care services and procedures by individuals enrolled in approved health plans.

(2) Outcomes (including patient functional status), effectiveness, and appropriateness of such health care services and procedures.

(3) Risk management and reduction, through health promotion and disease prevention.

(4) Consumer experience and satisfaction.

(c) CRITERIA.—The following criteria shall be used in developing and selecting national measures of quality performance:

(1) SIGNIFICANCE.—When a measure relates to a specific disease, disorder, or other health condition, the disease, disorder, or condition shall be of significance in terms of prevalence, morbidity, mortality, or the costs associated with the prevention, diagnosis, treatment, or clinical management of the disease, disorder, or condition.

(2) RANGE OF SERVICES.—The set of measures, taken as a whole, shall be representative of the range of services provided to consumers of health care.

(3) RELIABILITY AND VALIDITY.—To the extent practicable, the measures shall be reliable and valid.

(4) UNDUE BURDEN.—The data needed to calculate the measures shall be obtained without undue burden on the entity or individual providing the data.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(5) RURAL PRACTICE.—The measures shall take into account criteria appropriate to rural clinical practice.

(6) VARIATION.—Performance with respect to a measure shall be expected to vary widely among the individuals and entities whose performance is assessed using the measure.

(7) LINKAGE TO HEALTH OUTCOME.—When a measure is established relating to a process of care, the process shall be linked to a health outcome based upon the best available scientific evidence.

(8) PROVIDER CONTROL AND RISK ADJUSTMENT.—When a measure is an outcome of the provision of care, the outcome shall be within the control of the provider and one with respect to which an adequate risk adjustment can be made.

(9) PUBLIC HEALTH.—The measures shall reflect goals identified by the Secretary for meeting public health objectives.

(d) DATA TRANSMISSION.—

(1) APPROVED SPONSORS.—An approved sponsor shall transmit the data determined by the Secretary (consistent with subtitle C) to be necessary to assess under this section the performance of the sponsor with respect to an approved health plan provided or sponsored by the sponsor in a State, and the performance of network providers with respect to the plan, to the State (if the State is an approved State).

(2) HEALTH INSTITUTIONS.—A health institution shall transmit the data determined by the Secretary (consistent with subtitle C) to be necessary to assess the performance of the institution under this section with respect to health care services rendered in a State by the institution to the State (if the State is an approved State).

(3) APPLICATION OF SUBTITLE B.—Subsections (b), (c), and (d) of section 9104 and section 9107 shall apply to the transmission of data under this subsection, to the extent that such data are health information described in paragraph (1) or (2) of section 9104(b).

(e) DATA VALIDATION.—An approved State shall conduct such audits of the data submitted to the State under subsection (d) as are necessary to ensure that the data are valid, reliable, and complete. An approved sponsor and a health institution shall maintain such records, make such reports, and cooperate with the audits to the extent necessary to permit a State to satisfy the preceding sentence.

(f) ASSESSMENT OF PERFORMANCE.—

(1) STATES.—Each approved State annually shall assess, using the national measures of quality performance, the performance of each—

(A) approved sponsor providing or sponsoring an approved health plan in the State;

(B) network provider with respect to such a plan; and

(C) health institution licensed by the State.

(2) PLAN SPONSORS.—An approved sponsor shall use the national measures of quality performance to assess—

(A) the satisfaction of individuals enrolled under an approved health plan provided or sponsored by the sponsor with the services of the sponsor and network providers with respect to the plan; and

(B) the quality of such services, as measured by access to health care and appropriateness and outcomes of health care.

(g) PERFORMANCE REPORTS.—

(1) PREPARATION.—Using a standard format prescribed by the Secretary, and not later than January 1 of each year, an approved State shall compile in the form of a performance report the results of assessments conducted by the State under subsection (f), the results of the consumer surveys conducted by the Secretary under section 9002, and any other relevant information with respect to the national quality standards under section 9004 concerning approved sponsors providing or sponsoring an approved health plan in the State. The report shall be written in language calculated to be understood by the typical individual enrolled under such a plan and in a form which will assist consumers in selecting among such plans.

(2) PUBLICATION.—An approved State—

(A) shall publish any performance report prepared under paragraph (1);

(B) shall transmit any such published report to—

(i) the Consumer Health Advocacy Office for the State or a geographic region that includes the State established through a grant made under part O of title III of the Public Health Service Act (relating to consumer resources regarding health plans);

(ii) the enrollment assistance program for the State established under section 5011(b);

(iii) any consumer purchasing cooperatives in the State; and

(iv) the Secretary; and

(C) shall otherwise make available to the public any such published report.

(3) COMPILATION FOR CONGRESS.—The Secretary annually shall compile a national performance report from the reports transmitted to the Secretary under paragraph (2). The Secretary annually shall transmit such national report to the Congress.

(h) AUTHORITY TO CONTRACT.—An approved State may carry out subsections (f) and (g) by entering into contracts with individuals or entities pursuant to which the individuals or entities undertake the duties applicable to the State under the subsection.

(i) OTHER QUALITY IMPROVEMENT ACTIVITIES.—Consistent with subtitle C, an approved State shall make any data transmitted to the State under subsection (d) available to an quality improvement organization responsible for the geographic area that includes the State, upon request by the organization. An approved quality improvement organization may use such data, consistent with subtitle C, to carry out any function of the organization under this part.

(j) DEADLINE.—The Secretary shall develop an initial set of national measures of quality performance and the standard format for the performance reports under subsection (g) not later than 12 months after the date of the enactment of this Act.

SEC. 9004. NATIONAL QUALITY STANDARDS FOR APPROVED SPONSORS.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall establish national quality standards for approved sponsors. The standards established by the Secretary shall include the standards described in subsections (b) and (c).

(b) REQUIREMENTS FOR PLAN SPONSORS.—The quality standards for approved sponsors shall require each such sponsor—

(1) to establish an internal quality improvement program to measure, assess, and improve—

(A) the satisfaction of individuals enrolled under an approved health plan provided or sponsored by the sponsor with the services provided by the sponsor and by network providers with respect to the plan;

(B) the health status of such individuals; and

(C) the quality and outcomes of such services;

(2) through such program, to cooperate with—

(A) the performance monitoring activities undertaken by approved States under section 9007; and

(B) the activities undertaken by approved quality improvement organizations under sections 9004 and 9009;

(3) to make available to individuals enrolled in an approved health plan provided or sponsored by the sponsor information about the rights and responsibilities of enrollees;

(4) to provide an appeals procedure for review of benefit determinations that satisfies the requirements of part 1 of subtitle D;

(5) to provide a grievance procedure that provides for effective and timely response to complaints for enrollees to use in pursuing complaints with respect to the sponsor that are not based on a benefit determination reviewable under part 1 of subtitle D;

(6) to establish procedures for taking appropriate remedial action whenever inappropriate or substandard services are provided by an officer or employee of the sponsor or a qualified provider who is a network provider with respect to an approved health plan provided or sponsored by the sponsor;

(7) to verify the credentials of qualified providers who are network providers with respect to an approved health plan provided or sponsored by the sponsor;

(8) to establish a policy to identify and investigate sources of dissatisfaction with a provider who is a network provider with respect to an approved health plan provided or sponsored by the sponsor, outline actions to follow up on the findings, and inform the provider of the findings;

(9) to give reasonable consideration, in selecting among qualified providers for participation in a plan network serving a geographic area, to all providers who are legally authorized to provide health care services in the area; and

(10) to establish written policies and procedures to ensure that the confidentiality of protected health information (as defined in section 9200(a)) is protected in a manner consistent with subtitle C.

(c) OTHER REQUIREMENTS.—The quality standards for approved sponsors—

(1) shall ensure that any physician incentive plan (as defined in subsection (d)) operated by an approved sponsor is required to satisfy the requirements of clauses (i) and (ii) of section 1876(i)(8)(A) of the Social Security Act in the same manner as a physician incentive plan operated by an eligible organization (as defined in section 1876(b) of such Act) is required to satisfy the requirements of such clauses;

(2) shall require each approved sponsor to provide each State in which the sponsor provides or sponsors an approved health plan with descriptive information sufficient to permit the State to determine whether the sponsor is in compliance with any requirement established with respect to such incentive plans under this section;

(3) shall require that if a physician incentive plan operated by an approved sponsor places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the sponsor shall make available, upon request by enrollees, qualified providers, or potential enrollees or providers, descriptive information regarding any financial arrangements in the plan relating to controlling utilization or costs; and

(4) shall prohibit approved sponsors from engaging in any formal or informal practice that in any way restricts a qualified provider from communicating with a patient of the provider concerning the compensation of the provider, a term of any contract between the sponsor and the provider, or practices, protocols, or patterns of applying utilization review procedures of the sponsor, where such compensation, contract term, practice, protocol, or pattern may affect the patient's access to care.

(d) PHYSICIAN INCENTIVE PLAN DEFINED.—In this section, the term "physician incentive plan" means any compensation arrangement between an approved sponsor and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled in an approved health plan provided or sponsored by the sponsor.

SEC. 9005. PROFILING PATTERNS OF PRACTICE OF QUALIFIED PROVIDERS.

(a) PROFILING OF PATTERNS OF PRACTICE; OPPORTUNITIES FOR QUALITY IMPROVEMENT.—

(1) MODEL ADOPTION.—The Secretary shall develop models for profiling the patterns of clinical practice of qualified providers and approved sponsors (to the extent that such sponsors provide health benefits in the form of items and services to enrollees).

(2) DISSEMINATION.—The Secretary shall disseminate to approved quality improvement organizations, approved sponsors, and approved States the models adopted under paragraph (1).

(3) OPPORTUNITIES FOR QUALITY IMPROVEMENT.—The Secretary shall develop and disseminate to approved quality improvement organizations models for improving quality of care where opportunities are identified through profiling and other means so as to assure the quality of health care services provided in the United States.

(4) DEADLINE.—The Secretary shall develop the models under this subsection not later than 18 months after the date of the enactment of this Act.

(b) IMPLEMENTATION BY QUALITY IMPROVEMENT ORGANIZATIONS.—

(1) IN GENERAL.—An approved quality improvement organization shall implement, on an ongoing basis, the models developed under subsection (a) with respect to—

(A) qualified providers who are licensed by a State that is in a geographic area for which the organization is responsible; and

(B) approved sponsors providing health benefits in the form of items and services to enrollees in a State—

(i) in which the sponsor provides or sponsors an approved health plan; and

(ii) that is in a geographic area for which the organization is responsible.

(2) POPULATION-BASED MONITORING.—The duties of an approved quality improvement organization under the preceding sentence shall include population-based monitoring of the patterns of clinical practice described in subsection (a)(1) for the purpose of promoting community-based quality improvement.

(3) QUALITY-RELATED PROFILING DATA.—In implementing a model for profiling patterns of clinical practice, an approved quality improvement organization shall use the quality-related profiling data transmitted to the organization under section 9006.

(c) LIMITATION ON LIABILITY.—Notwithstanding any other provision of law, a person providing information to any approved quality improvement organization may not be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) unless—

(1) such information is unrelated to the performance of the contract of such organization with the Secretary under section 9009;

(2) such information is transmitted in violation of section 9006; or

(3) such information is false and the person providing it knew, or had reason to believe, that such information was false.

SEC. 9006. QUALITY-RELATED PROFILING DATA.

(a) TRANSMISSION.—

(1) APPROVED SPONSORS.—An approved sponsor that provides health benefits in the form of items and services to enrollees shall transmit to each approved quality improvement organization for a geographic area that includes a State in which the sponsor provides or sponsors an approved health plan the set of quality-related profiling data established by the Secretary under subsection (b).

(2) PROVIDERS.—A qualified provider shall transmit to each approved quality improvement organization for a geographic area that includes a State in which the provider is licensed the set of quality-related profiling data established by the Secretary under subsection (b).

(3) APPLICATION OF SUBTITLE B.—Subsections (b), (c), and (d) of section 9104 and section 9107 shall apply to the transmission of data under this subsection.

(b) ESTABLISHMENT OF DATA SETS.—

(1) IN GENERAL.—The Secretary shall establish a set of quality-related profiling data to be transmitted by approved sponsors and qualified providers to approved quality improvement organizations in order to permit such organizations to carry out section 9005(b). The set of quality-related profiling data may only include data that are part of a set of health information established by the Secretary under paragraph (1) or (2) of section 9103(b). The set may only include data that an approved quality improvement organization is authorized to receive under subtitle C. The Secretary shall also specify the frequency with which approved sponsors and qualified providers are required to transmit the quality-related profiling data set.

(2) NO UNDUE BURDEN.—With respect to data developed or collected by an approved sponsor or a qualified provider under this section, the Secretary shall, in order to assure the utility, accuracy, and sufficiency of such data, establish guidelines for uniform methods of developing and collecting such data. Such guidelines shall include specifications ensuring that any set of quality-related profiling data to be transmitted under this section may be developed or collected using the least burdensome method consistent with the efficient and effective administration of this part.

(c) FREEDOM OF INFORMATION ACT.—An approved quality improvement organization, in carrying out its functions under a contract entered into under section 9009, shall not be considered a Federal agency for purposes of section 552 of title 5, United States Code.

(d) USE AND DISCLOSURE OF DATA.—The Secretary shall establish standards concerning the purposes for which, and the procedures by which, data that is transmitted to, and collected by, an approved quality improvement organization under this section or section 9009 may be used and disclosed by the organization. The standards established under this subsection shall be consistent with subtitle C and section 1160(b) of the Social Security Act. Such standards shall include standards regarding the aggregation of data in a manner that does not reveal data that identifies or can readily be associated with the identity of an individual.

(e) REQUIREMENT ON ORGANIZATIONS.—An approved quality improvement organization shall comply with the standards established by the Secretary under subsection (c).

(f) DEADLINE.—Not later than 18 months after the date of the enactment of this Act, the Secretary—

(1) shall establish the set of quality-related profiling data under subsection (b); and

(2) shall establish the standards under subsection (c).

SEC. 9007. COMPLIANCE MONITORING BY APPROVED STATES.

(a) MONITORING.—An approved State shall monitor periodically, but not less than annually, compliance with requirements applicable to approved sponsors and qualified providers under this part by—

(1) approved sponsors providing or sponsoring an approved health plan in the State; and

(2) qualified providers licensed by the State.

(b) ENFORCEMENT.—

(1) APPROVED SPONSORS.—

(A) IN GENERAL.—If an approved State finds that an approved sponsor providing or sponsoring an approved health plan in the State engages in a pattern or practice of failing to fulfill a requirement applicable to the sponsor under this part, the State shall enforce the requirement by—

(i) prohibiting the sponsor from providing coverage under the plan in the State under section 5502; or

(ii) imposing a civil money penalty not to exceed $10,000 on the sponsor in accordance with the procedures described in section 5503(a)(2).

(B) PUBLIC INFORMATION.—An approved State shall make available to the public the following information with respect to an enforcement action under subparagraph (A), if such information is applicable with respect to the action:

(i) Information disclosing that the action has resulted in a penalty being imposed on an approved sponsor under clause (i) or (ii) of subparagraph (A).

(ii) Information disclosing that a national quality standard under section 9004 was found to have been violated by an approved sponsor through the action.

(iii) Any other information relating to the action that is required to be made available to the public under State law.

(2) QUALIFIED PROVIDERS.—If an approved State finds that a qualified provider that is licensed by the State engages in a pattern or practice of failing to fulfill a requirement applicable to the provider under this part, or failing to cooperate with an approved quality improvement organization to the extent the organization is carrying out a function under section 9009(c)(2), the State shall ensure that the appropriate State board or boards responsible for licensing, accrediting, and disciplining the provider are notified.

SEC. 9008. GUIDELINE DEVELOPMENT AND RESEARCH ON HEALTH CARE QUALITY.

(a) RESEARCH SUPPORT.—Section 902(a) of the Public Health Service Act is amended—

(1) in paragraph (7), by striking "; and" and inserting a semicolon;

(2) in paragraph (8), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (8) the following:

"(9) effective and efficient dissemination of information, standards, and guidelines.".

(b) DEVELOPMENT OF PEDIATRIC PRACTICE GUIDELINES.—Section 912(b) of the Public Health Service Act is amended—

(1) in paragraph (3), by striking "; and" and inserting a semicolon;

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) in paragraph (4), by striking "; and" and inserting a semicolon;

(3) in paragraph (5), by striking the period and inserting "; and"; and

(4) by inserting after paragraph (5) the following:

"(6) include pediatric practice guidelines for the medical treatment of individuals under the age of 18.".

(c) LIMITATION OF LIABILITY.—Section 913 of the Public Health Service Act is amended by inserting after subsection (c) the following:

"(d) LIMITATION OF LIABILITY.—A member of a panel convened under this section, or an entity having a contract under this section, may not be held, by reason of the performance of any duty, function, or activity required or authorized pursuant to this part or a valid contract entered into under this section, to have violated any criminal law or to be civilly liable under any law of the United States or of any State (or political subdivision thereof), if the member or entity exercised good faith in the performance of such duty, function, or activity.".

(d) DISSEMINATION OF GUIDELINES.—Section 914(c) of the Public Health Service Act is amended by—

(1) striking "912(a)." and inserting "912(a) or certified under section 915."; and

(2) striking "bodies," and inserting "bodies, States, approved quality improvement organizations (as defined in section 9013(2) of the Guaranteed Health Insurance Act of 1994),".

(d) EVALUATION, CERTIFICATION, AND DISSEMINATION OF GUIDELINES.—Part B of title IX of the Public Health Service Act is amended by adding at the end the following:

"SEC. 915. EVALUATION, CERTIFICATION, AND DISSEMINATION OF GUIDELINES.

"(a) EVALUATION AND CERTIFICATION.—Not later than 18 months after the date of the enactment of the Guaranteed Health Insurance Act of 1994, the Administrator shall establish a procedure by which individuals and entities may submit practice guidelines of the type described in section 912(a)(1) to the Administrator for evaluation and certification by the Administrator.

"(b) GUIDELINE CLEARINGHOUSE.—The Administrator shall establish and oversee a clearinghouse and dissemination program for practice guidelines that are certified under this section.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1141(i) of the Social Security Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking "and";

(B) in subparagraph (E), by striking the period and inserting "; and"; and

(C) by inserting after subparagraph (E) the following:

"(F) $6,000,000 for each of the fiscal years 1995 through 2000."; and

(2) in paragraph (2), by striking "and 1994" and inserting "through 2000".

SEC. 9009. QUALITY IMPROVEMENT ORGANIZATIONS.

(a) IN GENERAL.—

(1) CONTRACTS.—Subject to subsection (e), and using competitive contracting procedures, the Secretary shall enter into contracts with quality improvement organizations to perform the functions specified in subsection (c) for the geographic areas established under subsection (d)(1).

(2) COMMENCEMENT.—The Secretary may not enter into a contract under this section before the date that is 18 months after the date of the enactment of this Act or October 1, 1997, whichever occurs later.

(b) DEFINITION.—For purposes of this part, the term "quality improvement organization" means a private nonprofit entity that—

(1) has a governing body that is broadly representative of consumers of health care, purchasers of health care, qualified providers, and representatives of academia, including experts in quality improvement;

(2) has a governing body that, to the greatest extent feasible, reflects the racial, ethnic, and gender composition of the population of the United States;

(3) has a staff that includes individuals with expertise in the fields of quality improvement, public health, patient outcome assessment, risk adjustment, clinical practice guidelines, health services data analysis, and provider and consumer education; and

(4) is able, in the judgment of the Secretary, to satisfy the requirements in paragraphs (1) and (2) of subsection (c).

(c) FUNCTIONS.—

(1) IN GENERAL.—A quality improvement organization entering into a contract with the Secretary under this section—

(A) shall fulfill each requirement that is set forth in sections 9002 through 9008 and that is applicable to quality improvement organizations;

(B) shall assist in the development of innovative programs to improve the quality of health care services, including provider education programs;

(C) shall collaborate with, and provide technical assistance to, approved sponsors and qualified providers in ongoing efforts to improve the quality of care;

(D) shall develop programs in lifetime learning;

(E) shall disseminate information about quality improvement programs;

(F) shall disseminate and encourage the appropriate application of guidelines developed, updated, or certified pursuant to title IX of the Public Health Service Act or other guidelines;

(G) shall maintain such records, make such reports (including expenditure reports), and cooperate with such audits, as the Secretary finds necessary to determine the compliance of the organization with the requirements of this part; and

(H) shall perform such duties and functions, assume such responsibilities, and comply with such other requirements as the Secretary may require under regulations promulgated to carry out this part.

(2) REFERRAL.—

(A) EVALUATION OF PRACTICES.—If a quality improvement organization entering into a contract with the Secretary under this section finds that the pattern of practice of a qualified provider or an approved sponsor that provides health benefits in the form of items and services to enrollees suggests deficiencies in the quality of care being provided by the provider or sponsor that could impair patient health or safety, the organization shall evaluate the practices that may have lead to the suggestion of deficiencies.

(B) ASSISTANCE IN ELIMINATING DEFICIENCIES.—If a quality improvement organization finds, after conducting an evaluation under subparagraph (A), that the quality of the practices of a qualified provider or an approved sponsor referred to in such subparagraph is deficient, the organization shall work with the provider to assist the provider to eliminate the deficiencies.

(C) NO SUBSTANTIAL IMPROVEMENT.—If a quality improvement organization finds, after affording reasonable opportunities for improvement, that substantial improvement in the quality of the practices of a qualified provider or an approved plan sponsor referred to in subparagraph (B) has not occurred, the organization shall determine whether the deficiencies in the quality of such practices pose a danger to patient health or safety. If the organization finds that such practices do pose such a danger, the organization shall notify the appropriate State board or boards responsible for licensing, accrediting, and disciplining the provider or sponsor.

(d) CONTRACT SPECIFICATIONS.—

(1) ESTABLISHMENT OF GEOGRAPHIC AREAS.—The Secretary shall establish throughout the United States geographic areas with respect to which contracts under this section will be made. In establishing such areas, the Secretary shall take into account the following criteria:

(A) STATE AREAS.—Each State shall generally be designated as a geographic area for purposes of this paragraph.

(B) MULTI-STATE AREAS.—The Secretary may establish geographic areas comprised of multiple contiguous States rather than State areas only where the volume of activity or other relevant factors (as determined by the Secretary) warrant such an establishment.

(2) ORGANIZATIONS ENTITLED TO CONTRACT WITH SECRETARY.—

(A) IN GENERAL.—The Secretary shall enter into a contract with a quality improvement organization for each area established under paragraph (1) if a qualified organization is available in such area and such organization and the Secretary have negotiated a proposed contract which the Secretary determines will be carried out by such organization in a manner consistent with the efficient and effective administration of this part.

(B) LIMITATION ON AFFILIATIONS WITH PAYERS.—The Secretary may not enter into a contract under this section with any entity which is, or is affiliated with (through management, ownership, or common control), an entity (other than a self-insured employer) which directly or indirectly makes payments to any qualified provider whose health care services are reviewed by such entity or would be reviewed by such entity if it entered into a contract with the Secretary under this section.

(C) LIMITATION ON AFFILIATIONS WITH PROVIDERS.—The Secretary may not enter into a contract under this section with any entity which is, or is affiliated with (through management, ownership, or common control), a qualified provider, or association of such providers, within the area served by such entity or which would be served by such entity if it entered into a contract with the Secretary under this part. For purposes of this subparagraph, an entity shall not be considered to be affiliated with a qualified provider or association of providers by reason of management, ownership, or common control if the management, ownership, or common control consists only of not more than 20 percent of the members of the governing board of the entity being affiliated (through management, ownership, or common control) with one or more of such providers or associations.

(3) TERMS OF CONTRACT.—Each contract with an organization under this section shall provide that—

(A) the organization shall perform the functions set forth in subsection (c) or may subcontract for the performance of all or some of such functions (and for purposes of subparagraphs (B) and (C) paragraph (2), a subcontract under this subparagraph shall not constitute an affiliation with a subcontractor);

(B) the Secretary shall have the right to evaluate the quality and effectiveness of the organization in carrying out the functions specified in the contract;

(C) the contract shall be for an initial term of 3 years and shall be renewable for an additional term of 2 years thereafter without a competitive selection process based upon evidence of successful quality improvement activities;

(D) if the Secretary intends not to renew a contract, the Secretary shall notify the organization of the decision at least 90 days prior to the expiration of the contract term, and shall provide the organization an opportunity to present data, interpretations of data, and other information pertinent to its performance under the contract, which shall be reviewed in a timely manner by the Secretary;

(E) the organization may terminate the contract upon 90 days notice to the Secretary;

(F) the Secretary may terminate the contract prior to the expiration of the contract term upon 90 days notice to the organization if the Secretary determines that—

(i) the organization does not substantially meet the requirements of this section; or

(ii) the organization has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part, but only after such organization has had an opportunity to submit data and have such data reviewed by the panel established under paragraph (4).

(4) EVALUATION OF PERFORMANCE.—In evaluating the performance of quality improvement organizations under contracts under this section, the Secretary shall place emphasis on the performance of such organizations in improving the quality of health care services and educating qualified providers and approved sponsors concerning the process being used by the organization and the criteria being applied by the organization.

(5) CONTRACTING AUTHORITY OF SECRETARY.—The contracting authority of the Secretary under this section may be carried out without regard to any provision of law relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the purposes of this part. The Secretary may use different contracting methods with respect to different geographical areas.

(6) TERMINATION NOT SUBJECT TO JUDICIAL REVIEW.—Any determination by the Secretary to terminate or not to renew a contract under this section shall not be subject to judicial review.

(e) ASSUMPTION OF RESPONSIBILITIES BY SECRETARY.—If the Secretary determines that there is no qualified entity available for an area with which the Secretary can enter into a contract under this section, the Secretary shall take such steps as are necessary to perform in the area the duties applicable to approved quality improvement organizations under this part. Any information required under this part to be transmitted by any person to an approved quality improvement organization for an area shall be transmitted to the Secretary in the case where there is no qualified entity available for an area with which the Secretary can enter into a contract under this section.

(f) LIMITATION OF LIABILITY.—A quality improvement organization having a contract with the Secretary under this section, a person who is employed by, or who has a fiduciary relationship with, any such organization, and a person who furnishes professional services to such organization, may not be held, by reason of the performance of any duty, function, or activity required or authorized pursuant to this part or to a valid contract entered into under this section, to have violated any criminal law or to be civilly liable under any law of the United States or of any State (or political subdivision thereof), if the organization or person exercised good faith in the performance of such duty, function, or activity.

SEC. 9010. QUALITY MANAGEMENT GRANTS.

(a) IN GENERAL.—

(1) GRANTS.—The Secretary shall make a grant to each State that satisfies the requirements of this section.

(2) COMMENCEMENT.—The Secretary may not make a grant under this section before the date that is 18 months after the date of the enactment of this Act or October 1, 1997, whichever occurs later.

(b) APPLICATIONS.—

(1) SUBMISSION.—To apply for a grant under this section for any fiscal year, a State shall submit an application to the Secretary in accordance with the procedures established by the Secretary. The Secretary shall establish a deadline for the submission of applications under this paragraph for each fiscal year.

(2) CRITERIA FOR APPROVAL.—The Secretary may not approve an application submitted under paragraph (1) unless the application includes assurances satisfactory to the Secretary that—

(A) the State has a State regulatory program approved under section 5502(b) of the Social Security Act;

(B) the State is willing and able to fulfill each requirement that is set forth in sections 9002 through 9008 that is applicable to an approved State;

(C) the State will enforce the requirements set forth in sections 9002 through 9008 that are applicable to an approved sponsor or a qualified provider with respect to each approved sponsor that provides or sponsors an approved health plan in the State and each qualified provider licensed by the State, except in the case where another individual or entity is charged with such enforcement under this part;

(D) the State will maintain such records, make such reports (including expenditure reports), and cooperate with such audits, as the Secretary finds necessary to determine the compliance of the State (and persons regulated by the State) with the requirements of this part;

(E) the State will carry out a plan, that has been submitted to the Secretary in a form and manner specified by the Secretary, to make specific improvements, in accordance with standards established by the Secretary for this purpose, in the health status of populations in the State that—

(i) experience a disproportionately high rate of morbidity and mortality; or

(ii) are historically underserved; and

(F) funds received under this section will be used for consumer protection and quality oversight activities.

(3) PETITIONS FOR RECONSIDERATION AND RE-APPLICATIONS.—

(A) IN GENERAL.—With respect to an application submitted under paragraph (1) that is disapproved under this subsection, the applicant may submit to the Secretary—

(i) a petition for reconsideration of the application; and

(ii) an application that conforms to the requirements of this subsection.

(B) DEADLINES.—The Secretary shall establish a deadline for the submission of petitions for reconsideration and reapplications under this paragraph for each fiscal year. The Secretary shall approve or disapprove each such petition and reapplication before the termination of the 60-day period beginning on the date of such submission.

(c) ABILITY TO SATISFY REQUIREMENTS THROUGH ARRANGEMENTS.—A State may satisfy a requirement that is set forth in any of sections 9002 through 9008 directly or through arrangements with individuals or entities approved by the State that demonstrate to the satisfaction of the State that the individual or entity—

(1) has the ability to fulfill any duty delegated to the individual or entity by the State; and

(2) does not have a relationship with an approved sponsor or a qualified provider that would interfere with the ability of the individual or entity to fulfill any duty of a participating State under this part.

(d) PERIODIC REVIEW.—The Secretary shall periodically review the compliance by States that receive a grant under this section with the terms of the award of the grant.

(e) FEDERAL ASSUMPTION OF STATE RESPONSIBILITIES.—

(1) IN GENERAL.—In the case of a State that does not receive a grant under this section on or before January 1, 1999, or that substantially fails to satisfy a term of an award of such a grant, the Secretary shall take such steps as are necessary—

(A) to perform in the State the duties specified in sections 9002 through 9008 as duties of approved States;

(B) to enforce in the State the requirements set forth in sections 9002 through 9008 that are applicable to an approved sponsor or a qualified provider in the same manner as an approved State would be required to enforce such requirements under subsection (b)(2)(C).

(2) DATA TRANSMISSION.—Any information required under this part to be transmitted by any person to an approved State shall be transmitted to the Secretary in the case of a State described in paragraph (1).

SEC. 9011. AUTHORIZATION OF APPROPRIATIONS FOR CONTRACTS AND GRANTS.

There are authorized to be appropriated $300,000,000 for each of the fiscal years 1998 through 2002 for contracts under section 9009 and for grants under section 9010.

SEC. 9012. HEALTH CARE QUALITY ADVISORY COMMISSION.

(a) ESTABLISHMENT.—The Secretary shall provide for the appointment of a Health Care Quality Advisory Commission, to be composed of individuals from the public and private sectors with expertise in the fields of public health, financing and delivery of health care, health services research, health care quality, and privacy of health information and representatives of consumers appointed by the Secretary. To the greatest extent feasible, the membership of the Commission shall reflect the racial, ethnic, and gender composition of the population of the United States.

(b) DUTIES.—The Commission shall provide recommendations to the Secretary with respect to the—

(1) development and selection of the national measures of quality performance under section 9003, after consulting with appropriate interested parties, including the Administrator for Health Care Policy and Research, States, the National Association of Insurance Commissioners, approved sponsors, qualified providers, experts in quality

VOL 140 PT 15 AG 10 — 11 1994 UMI

measurement, nationally recognized accrediting bodies, other Federal advisory bodies, and consumers of health care services;

(2) establishment of an appropriate sequence for the interim sets of national measures of quality performance under section 9003(a)(4);

(3) development of national goals of quality performance;

(4) design and execution of consumer surveys under section 9002;

(5) standard format for performance reports under section 9003(g);

(6) establishment and functioning approved quality improvement organizations under section 9009; and

(7) impact of the implementation of the National Quality Management Program.

(c) MEMBERSHIP.—The Commission shall be composed of 15 members. Members of the Commission shall first be appointed not later than 6 months after the date of the enactment of this Act for a term of 3 years, except that the Secretary may provide initially for such shorter terms as will ensure that (on a continuing basis) the terms of not more than 4 member expire in any one year.

(d) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, the Commission shall continue in existence until otherwise provided by law.

(e) REPORT.—The Commission shall submit to the Congress an annual report not later than May 1 of each year concerning the activities of the Commission under this part during the preceding year.

SEC. 9013. DEFINITIONS.

For purposes of this part:

(1) APPROVED HEALTH PLAN.—The term "approved health plan" means an insured health benefit plan or a self-insured health benefit plan, as described in title V.

(2) APPROVED QUALITY IMPROVEMENT ORGANIZATION.—The term "approved quality improvement organization" means a quality improvement organization that has a contract with the Secretary under section 9009. When used with respect to a geographic area, such term means a quality improvement organization that is responsible under such a contract for carrying out the responsibilities of approved quality improvement organizations under this part in a geographic area established under section 9009(d)(1).

(3) APPROVED SPONSOR.—The term "approved sponsor" means—

(A) a carrier providing an insured health benefit plan, as described in title V; or

(B) a sponsor of a self-insured health benefit plan, as described in such title.

(4) APPROVED STATE.—The term "approved State" means a State that receives a grant under section 9010.

(5) HEALTH INSTITUTION.—The term "health institution" means a qualified provider that is not a network provider with respect to any approved health plan and is—

(A) a hospital (as defined in section 1861(e) of the Social Security Act);

(B) a psychiatric hospital (as defined in section 1861(f) of such Act);

(C) an institution (or a distinct part of an institution) which is primarily engaged in providing skilled nursing care and related services to residents who require medical or nursing care or rehabilitation services to residents for rehabilitation with respect to an illness, injury, disorder, or other health condition (regardless of whether the institution meets the requirements of section 1819 of such Act for receiving payment for items and services furnished under title 18 of such Act);

(D) an ambulatory surgical center (regardless of whether the center meets the health, safety, and other standards promulgated by the Secretary under section 1832(a)(2)(F)(i) of such Act);

(E) a provider of intensive residential services (as defined in section 1861(qq) of such Act); and

(F) a provider of intensive community-based services (as defined in section 1861(ff) of such Act).

(6) NETWORK PROVIDER.—The term "network provider", when used with respect to an approved health plan, means a qualified provider who is member of a plan network of the plan.

(7) PLAN NETWORK.—The term "plan network" means, with respect to an approved health plan, qualified providers who have entered into an agreement with the plan under which such providers are obligated to provide items and services covered under the plan to individuals enrolled in the plan, or have an agreement to provide services on a fee-for-service basis.

(8) QUALIFIED PROVIDER.—The term "qualified provider" means a health professional who, or a health facility that, is authorized to provide an item or service in the guaranteed national benefit package.

SEC. 9014. REFERENCES TO MEDICARE PROVISIONS.

In this part, any references to provisions of title XVIII of the Social Security Act are deemed to be references to such provisions as in effect on the day after the date of the enactment of this Act, taking into account the amendments made to such title by this Act as if the effective date of such amendments were January 1, 1997.

SEC. 9015. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this part shall take effect on January 1, 1998.

(b) PROVISIONS EFFECTIVE IMMEDIATELY.—

(1) SECRETARIAL RESPONSIBILITIES.—The following provisions imposing a duty on the Secretary shall take effect on the date of the enactment of this Act:

(A) Section 9001.

(B) Section 9002.

(C) Subsections (a), (b), (c), and (j) of section 9003.

(D) Section 9004.

(E) Section 9005(a).

(F) Subsections (b), (c), and (e) of section 9006.

(G) Sections 9008, 9009, 9010, 9012, 9013, and 9014.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 9011 shall take effect on the date of the enactment of this Act.

PART 2—CONSUMER RESOURCES

SEC. 9021. CONSULTATION REQUIREMENTS REGARDING ADMINISTRATION OF PROGRAM.

The Secretary of Health and Human Services shall consult with the Secretary of Labor in carrying out part O of title III of the Public Health Service Act (relating to consumer resources regarding health plans).

Subtitle B—Information Systems and Administrative Simplification

SEC. 9101. REQUIREMENTS FOR HEALTH SECURITY CARDS AND PERSONAL IDENTIFIERS.

(a) HEALTH SECURITY CARDS.—

(1) REQUIREMENT.—Each administered health plan sponsor shall issue a health security card that meets the requirements of subsection (c) for each individual who is entitled to benefits under an administered health plan provided or sponsored by the sponsor, if the plan provides for coverage of the guaranteed national benefit package. Such card shall be issued to the individual involved or, in the case of an individual enrolled as a dependent of another individual, to that other individual.

(2) DEADLINE FOR APPLICATION OF REQUIREMENT.—The deadline specified under this paragraph for the requirement under paragraph (1) is January 1, 1997.

(b) ENFORCEMENT THROUGH CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—In the case of an administered health plan sponsor that fails to issue a health security card in accordance with subsection (a)(1), the sponsor is subject to a civil money penalty of not to exceed $100 for each such violation. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to a civil money penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(2) EFFECTIVE DATE.—No penalty may be imposed under paragraph (1) for any failure occurring before the deadline specified in subsection (a)(2).

(c) STANDARDS FOR CARDS.—

(1) IN GENERAL.—The Secretary shall establish standards consistent with this subsection respecting the form and information to be contained on health security cards (for purposes of subsection (a)).

(2) PERMISSIBLE USES OF CARD.—A health security card that is issued to an individual who is entitled to benefits under an administered health plan may be used by an individual or entity, in accordance with regulations promulgated by the Secretary consistent with subtitle C, only for the purpose of providing to the individual entitled to benefits, or assisting the individual in obtaining, an item or service that is covered under such plan.

(3) ELECTRONIC.—

(A) IN GENERAL.—Subject to subparagraph (B), the card shall be in a form similar to that of a credit card and shall have, encoded in electronic or magnetic form—

(i) the identity of the individual entitled to health benefits;

(ii) the administered health plan providing for coverage of the guaranteed national benefit package in which the individual is enrolled;

(iii) the identity of each principal insured (as defined by the Secretary) for the family that includes the individual, in the case of an individual who is enrolled under a family class of enrollment;

(iv) the telephone number or numbers (or other electronic equivalent) to be used for the submission electronically of claims under the plan; and

(v) information relating to organ donation.

(B) USE OF ELECTRONIC READ-AND-WRITE CARDS.—The Secretary may provide for cards in an electronic form that permits information on the card to be readily changed. Such information may include information relating to the health coverage status of the individual and the medical history of the individual.

(C) PERSONAL IDENTIFIER.—For purposes of subparagraph (A), and for purposes of the transactions described in section 9104(a), the Social Security account number assigned to the individual by the Secretary under section 205(c)(2) of the Social Security Act or, in the case of an infant or other individual to whom such a number has not been issued, such a Social Security account number of a parent or guardian or other number as the Secretary shall specify, shall be used as the personal identifier for the individual.

(4) ADDITIONAL INFORMATION.—The card shall include such additional information, in electronic or other form, as the Secretary may require to carry out the purposes of this Act. In addition, the administered health plan sponsor issuing the card may include such additional information on the card as the sponsor desires, subject to such limitations as the Secretary may provide.

(5) DEADLINE.—The Secretary shall first establish the standards for health security cards under this subsection by not later than 18 months after the date of the enactment of this Act.

(d) MISUSE OF CARDS.—

(1) IN GENERAL.—An individual or entity may not collect, disseminate, request or require presentation of, or otherwise use (by electronic or other means) a health security card except as authorized under this section.

(2) PRIVATE RIGHT OF ACTION.—A person who is aggrieved by a violation of paragraph (1) may, in a civil action, obtain appropriate relief, including actual, compensatory, and punitive damages and equitable relief, against any appropriate party.

(3) ATTORNEY'S FEES AND COSTS.—In any action under paragraph (2) in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

(4) PENALTIES.—

(A) MISUSE OF INFORMATION.—The provisions of section 208(a) of the Social Security Act in relation to violations described in paragraphs (7) and (8) thereof shall apply with respect to the health security card and any information contained or encoded on such card in the same manner and to the same extent as such provisions apply with respect to the social security account number or other information contained or encoded on the social security card, except that, in applying such provisions, any reference therein to the Commissioner of Social Security shall be deemed a reference to the Secretary.

(B) MISUSE OF SYMBOLS, EMBLEMS, OR NAMES.—Section 1140 of the Social Security Act shall apply with respect to the health security card in the same manner and to the same extent as such section applies with respect to the social security card.

(5) CIVIL MONEY PENALTY.—Any person who the Secretary determines has failed to comply with paragraph (1) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $1,000 for each such failure. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(7) PROTECTION AGAINST DELAY OR DENIAL OF SERVICES.—An individual may not have health services delayed or denied for inability or failure to produce a health security card.

SEC. 9102. NATIONAL ENROLLMENT VERIFICATION SYSTEMS.

(a) ESTABLISHMENT.—The Secretary shall establish national enrollment verification systems for the verification of an individual's enrollment in an administered health plan and entitlement to benefits under such plan. The systems shall assist in the identification of, and collection from, parties responsible for the payment for health care items and services furnished to individuals enrolled under an administered health plan.

(b) INFORMATION IN SYSTEMS.—The enrollment verification systems shall contain such information submitted by administered health plan sponsors, the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, United States Code, employers, and other individuals and entities specified by the Secretary as the Secretary shall determine in standards established under this section. The information shall be submitted in a form and manner specified by the Secretary. The information shall include the following with respect to each individual enrolled in an administered health plan (regardless of whether the individual is enrolled under an individual or a family class of enrollment):

(1) The name, address, and personal identifier of the individual and the identity of each principal insured (as defined by the Secretary under section 9101(c)(3)(A)(iii)) for the family that includes the individual, in the case of an individual who is enrolled under a family class of enrollment.

(2) The name, address, and telephone number (or other electronic equivalent) of each administered health plan in which the individual is enrolled.

(3) The type of coverage elected.

(4) Race and ethnicity data.

(5) The period for which such coverage is elected.

(6) The status of individuals with respect to deductibles, copayments, coinsurance, or out-of-pocket limits on cost sharing.

(7) Coordination of benefit information appropriate in determining liability in cases in which benefits may be payable under 2 or more administered health plans.

(c) PERIODICITY OF SUBMISSIONS.—The standards established by the Secretary under this subsection shall require the submission of information to the national enrollment verification systems on a periodic basis (as determined by the Secretary) in order to report applicable changes with respect to the information described in subsection (b).

(d) FORM OF INQUIRY.—The verification systems shall be capable of accepting inquiries from health care providers, administered health plan sponsors, the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, United States Code, (and any other individual or entity determined appropriate by the Secretary) in a variety of electronic and other forms.

(e) FORM OF RESPONSE.—The systems shall be capable of responding to inquiries under subsection (d) in a variety of electronic and other forms.

(f) LIMITS ON DISCLOSURE OF INFORMATION REPORTED.—The disclosure of information reported to the national enrollment verification systems shall be restricted by the Secretary under standards established by the Secretary that are consistent with subtitle C.

(g) FEES.—The Secretary shall establish a schedule of fees for the acceptance of, and response to, inquiries to the verification systems. The Secretary may impose appropriate fees, according to the schedule, for such inquiries and responses.

(h) PUBLIC DOMAIN SOFTWARE TO PROVIDERS.—The Secretary shall provide for the development, and shall make available without charge to health care providers, a variety of forms of computer software to enable such providers to make inquiries to, and receive responses from, the national enrollment verification systems in electronic form.

(i) DEADLINE.—The Secretary shall establish the system and standards under this section (and shall develop and make available the software under subsection (h)) by not later than January 1, 1996.

(j) CIVIL MONEY PENALTY.—In the case of a failure of an individual or entity to report information to the enrollment verification system under a standard established by the Secretary under this section, the individual or entity shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $1000 for each day in which such failure persists. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to a civil money penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

SEC. 9103. STANDARDS FOR HEALTH INFORMATION AND INFORMATION TRANSACTIONS.

(a) STANDARDS TO ENSURE COMPARABILITY OF INFORMATION.—

(1) IN GENERAL.—The Secretary shall establish standards necessary to make a set of health information described in subsection (b) that is created by an administered health plan sponsor or a health provider comparable with the same set of information created by another such sponsor or provider.

(2) DATA ELEMENTS.—The standards shall specifically define the data elements that comprise each set of health information described in subsection (b).

(3) FORMAT.—The standards shall include uniform presentation and format requirements for the arrangement of data elements.

(4) ELECTRONIC.—The standards under paragraph (1) shall require that health information described in such paragraph be in electronic or magnetic form.

(5) UNIQUE IDENTIFIERS.—The Secretary shall establish a system to provide for a unique identifier for each employer, administered health plan, administered health plan sponsor, group practice, and health provider. In the case of a health provider that has a unique identifier issued for purposes of the medicare program, the 2 unique identifiers shall be identical.

(6) CODE SETS.—The Secretary, in consultation with experts from the private sector and Federal agencies—

(A) shall select code sets for appropriate data elements from among the code sets that have been developed by private and public entities; or

(B) shall establish code sets for appropriate data elements if no code set for the data elements has been developed by such entities.

(b) SETS OF HEALTH INFORMATION.—

(1) PLAN AND PROVIDER TRANSACTIONS.—The Secretary shall establish a separate set of health information that is appropriate for transmission in connection with each transaction described in section 9104(a).

(2) ENCOUNTER INFORMATION.—The Secretary shall establish a set of encounter information derived from inpatient and outpatient clinical encounters that the Secretary determines—

(A) is appropriate for creation by—

(i) an administered health plan sponsor to the extent the sponsor provides health benefits in the form of items and services to enrollees; or

(ii) a network provider with respect to an administered health plan sponsored or provided by an administered health plan sponsor, but only if the sponsor does not—

(I) provide health benefits in the form of payments based on claims; or

(II) create the set of encounter information; and

VOL 140 PT 15 AG 10 — 11 1994 UMI

(B) is necessary to provide information regarding the operation of an administered health plan sponsor described in subparagraph (A)(i), or a network provider described in subparagraph (A)(ii), that is equivalent to information derived from claims.

(3) PATIENT MEDICAL RECORD INFORMATION.—The Secretary shall establish a set of patient medical record information.

(4) ADDITIONS TO SETS.—The Secretary may make additions to a set of health information established under paragraph (1), (2), or (3) as the Secretary determines appropriate in a manner that minimizes the disruption to, and costs of compliance incurred by, an administered health plan sponsor or a health provider that is required to comply with section 9104.

(c) STANDARDS FOR INFORMATION TRANSACTIONS.—

(1) IN GENERAL.—The Secretary shall establish standards relating to technical aspects of the procedure and method by which an administered health plan sponsor or a health provider that is required to comply with section 9104 may transmit electronically health information that is included in a set of health information described in subsection (b). The standards shall include standards with respect to the format in which such information shall be transmitted under such section.

(2) CHAIN OF CUSTODY.—The standards under paragraph (1) shall ensure the suitability of health information that is included in a set of health information described in subsection (b) in a court of law.

(3) RECORD KEEPING.—The standards shall include instructions on record keeping in support of claims for benefits under an administered health plan.

(4) STANDARDS FOR CLAIMS FOR CLINICAL LABORATORY TESTS.—The standards shall provide that claims for clinical laboratory tests for which benefits are provided under an administered health plan shall be submitted directly by the person or entity that performed (or supervised the performance of) the tests to the plan in a manner consistent with (and subject to such exceptions as are provided under) the requirement for direct submission of such claims under the medicare program.

(5) ENSURING ACCOUNTABILITY FOR CLAIMS SUBMITTED ELECTRONICALLY.—In establishing the standards, the Secretary, in consultation with appropriate agencies, shall include such methods of ensuring health provider responsibility and accountability for claims submitted electronically that are designed to control fraud and abuse in the submission of such claims.

(6) SPECIAL RULE FOR COORDINATION OF BENEFITS.—Any standards adopted by the Secretary under paragraph (1) that relate to coordination of benefits shall provide, to the maximum extent practicable, that a claim for reimbursement for health services furnished is tested by an algorithm specified by the Secretary against appropriate records of enrollment and eligibility for the individual who received such services to determine any primary and secondary obligors for payment.

(d) GENERAL REQUIREMENTS.—In establishing standards under this section, the Secretary shall, to the maximum extent practicable—

(1) establish standards that are consistent with the objective of reducing the costs of providing and paying for health care;

(2) incorporate standards that are in use and generally accepted, or developed, by standard setting or standard development organizations; and

(3) consult with experts and professional organizations in the field of information management.

(e) TIMETABLES FOR STANDARDS.—

(1) INITIAL STANDARDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than January 1, 1996, the Secretary shall establish standards under subsections (a) and (c) with respect to each set of health information described in subsection (b).

(B) EXCEPTIONS.—

(i) IN GENERAL.—Not later than January 1, 1997, the Secretary shall establish standards under subsections (a) and (c) with respect to—

(I) health information that is appropriate for transmission in connection with the submission of a claim attachment; and

(II) the set of patient medical record information established under subsection (b)(3).

(ii) ADDITIONS.—The Secretary shall establish standards under subsection (a) and (c) with respect to health information that is added to a set of health information under subsection (b)(4) in conjunction with making such addition.

(2) MODIFICATIONS TO STANDARDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall review the standards established under this section and shall modify such standards as determined appropriate, but not more frequently than once every 6 months. Any modification under this subparagraph shall be made in a manner that minimizes the disruption to, and costs of compliance incurred by, a health information plan sponsor or a health provider that is required to comply with section 9104.

(B) SPECIAL RULES.—

(i) MODIFICATIONS DURING FIRST 12-MONTH PERIOD.—The Secretary may not modify a standard established under this section during the 12-month period beginning on the date the standard is established unless the Secretary determines that a modification is necessary in order to permit a health information plan sponsor or a health provider to comply with section 9104.

(ii) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

(I) IN GENERAL.—The Secretary shall ensure that procedures exist for the enhancement of code sets to accommodate changes in public health, biomedical science, and health care delivery.

(II) ADDITIONAL RULES.—If a code set is modified under this clause, the modified code set shall include instructions on how data elements that were encoded prior to the modification are to be converted or translated so as to preserve the value of the data elements. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption to, and costs of compliance incurred by, a health information plan sponsor or a health provider that is required to comply with section 9104.

(f) EVALUATION OF STANDARDS.—The Secretary may establish a process to measure or verify the consistency of standards established or modified under this section. The process may include demonstration projects and analyses of the cost of implementing such standards and modifications.

(g) DISTRIBUTION OF CODE SETS.—The Secretary shall establish efficient and low-cost procedures for the distribution of code sets that are selected, established, or modified under this section.

SEC. 9104. REQUIREMENTS ON SPONSORS AND PROVIDERS.

(a) TRANSACTIONS BY SPONSORS.—

(1) TRANSACTIONS WITH PROVIDERS.—If an administered health plan sponsor conducts any of the transactions described in paragraph (3) with a health provider—

(A) the transaction shall be a standard transaction; and

(B) the health information transmitted by the sponsor to the provider or by the provider to the sponsor in connection with the transaction shall be standard health information.

(2) TRANSACTIONS WITH SPONSORS.—If an administered health plan sponsor or a workers' compensation carrier conducts any of the transactions described in paragraph (3) with an administered health plan sponsor or a workers' compensation carrier—

(A) the transaction shall be a standard transaction; and

(B) the health information transmitted by any such sponsor or any such carrier in connection with the transaction shall be standard health information.

(3) TRANSACTIONS.—The transactions referred to in paragraphs (1) and (2) are the following:

(A) Verification of eligibility for benefits.
(B) First report of injury.
(C) Coordination of benefits.
(D) Claim submission.
(E) Claim attachment submission.
(F) Claim status notification.
(G) Claim status verification.
(H) Claim adjudication.
(I) Payment and remittance advice.

(b) DISCLOSURE OF INFORMATION.—

(1) TRANSACTION INFORMATION.—If an administered health plan sponsor or a health provider discloses health information that was transmitted or received by the sponsor or provider in connection with a transaction described in subsection (a) to a State, a Federal or State agency, a grantee of a State or the Federal Government, or a party to a contract entered into by a State or the Federal Government, and the disclosure is made in order to fulfill a requirement under this Act—

(A) the health information disclosed shall be standard health information; and

(B) the disclosure shall be made through an electronic transmission consistent with—

(i) the standards under section 9103(c); and

(ii) subtitle C.

(2) ENCOUNTER INFORMATION.—If an administered health plan sponsor or a health provider discloses health information that is included in the set of encounter information established by the Secretary under section 9103(b)(2) to a State, a Federal or State agency, a grantee of a State or the Federal Government, or a party to a contract entered into by a State or the Federal Government, and the disclosure is made in order to fulfill a requirement under this Act—

(A) the health information disclosed shall be standard health information; and

(B) the disclosure shall be made through an electronic transmission consistent with—

(i) the standards under section 9103(c); and

(ii) subtitle C.

(3) REQUIREMENT ON GOVERNMENT AGENTS.—A State, a Federal or State agency, a grantee of a State or the Federal Government, or a party to a contract entered into by a State or the Federal Government may not impose a requirement on an administered health plan sponsor or a health provider that is inconsistent with paragraph (1) or (2).

(c) USE OF HEALTH INFORMATION NETWORK SERVICES.—A health information plan sponsor or a health provider may comply with any provision of this section by entering into an agreement or other arrangement with a

health information network service certified under section 9106 pursuant to which the service undertakes the duties applicable to the sponsor or provider under the provision.

(d) TIMETABLES FOR COMPLIANCE.—

(1) INITIAL COMPLIANCE.—

(A) IN GENERAL.—A health information plan sponsor or health provider shall comply with the requirements of this section not later than January 1, 1997.

(B) ADDITIONAL HEALTH INFORMATION.—Not later than 6 months after the date on which the Secretary makes an addition to a set of health information under section 9103(b)(4), a health information plan sponsor or health provider shall comply with the requirements of this section with respect to the additional information.

(2) COMPLIANCE WITH MODIFIED STANDARDS.—

(A) IN GENERAL.—If the Secretary modifies a standard established under section 9103, a health information plan sponsor or health provider shall comply with the modified standard at such time as the Secretary determines appropriate, taking into account the nature and intent of the modification.

(B) SPECIAL RULE.—In the case of a modification to a standard under subparagraph (A) that does not occur within the 12-month period beginning on the date the standard is established, the time determined appropriate by the Secretary under subparagraph (A) may not be—

(i) earlier than the last day of the 90-day period beginning on the date the modified standard is established; or

(ii) later than the last day of the 12-month period beginning on the date the standard is established.

SEC. 9105. IMPOSITION OF ADDITIONAL REQUIREMENTS.

(a) ACCEPTANCE OF CLAIMS.—An administered health plan sponsor may not reject a claim for payment submitted by any individual or entity under an administered health plan provided or sponsored by the sponsor on the basis of the form or manner in which the claim is submitted if the claim—

(1) contains the standard health information in the set of health information with respect to claims submission established by the Secretary under section 9103(b)(1); and

(2) is submitted in accordance with the standards established under section 9103(c).

(b) ACCEPTANCE OF ATTACHMENTS.—An administered health plan sponsor may not reject a claim attachment submitted by any individual or entity in connection with a claim for payment under an administered health plan provided or sponsored by the sponsor on the basis of the form or manner in which the attachment is submitted if the attachment—

(1) contains the standard health information in the set of health information with respect to claims attachment submission established by the Secretary under section 9103(b)(1); and

(2) is submitted in accordance with the standards established under section 9103(c).

(c) LIMITATION ON OTHER TRANSACTIONS.—An administered health plan sponsor or a health provider may not require, as a condition of conducting a transaction described in section 9104(a), that any individual or entity—

(A) provide any health information that is not in the set of health information established by the Secretary under section 9103(b)(1) with respect to the transaction; or

(B) transmit any such health information in a manner inconsistent with the standards established under section 9103(c).

(d) EXCEPTIONS.—Subsections (a), (b), and (c) do not apply if—

(1) the individual or entity on whom the administered health plan sponsor or the health provider is imposing a requirement otherwise prohibited under the subsections voluntarily agrees to the imposition of the requirement; or

(2) a waiver is granted under subsection (e) to impose a requirement otherwise prohibited under such subsections.

(e) CONDITIONS FOR WAIVERS.—

(1) IN GENERAL.—An administered health plan sponsor or health provider may request a waiver from the Secretary in order to impose on an individual or entity a requirement otherwise prohibited under subsection (a), (b), or (c).

(2) CONSIDERATION OF WAIVER REQUESTS.—A waiver may not be granted under this subsection to impose an otherwise prohibited requirement unless the Secretary determines that the value of any additional information to be provided under the requirement for research or other purposes significantly outweighs the administrative cost of the imposition of the requirement, taking into account the burden of the timing of the imposition of the requirement.

(3) ANONYMOUS REPORTING.—If an administered health plan sponsor or a health provider attempts to impose on an individual or entity a requirement prohibited under subsection (a), (b), or (c), the individual or entity may contact the Secretary. The Secretary shall develop a procedure under which an individual or entity that contacts the Secretary under the preceding sentence shall remain anonymous. The Secretary shall notify the sponsor or provider imposing the requirement that the requirement may not be imposed unless the other sponsor or provider voluntarily agrees to such requirement or a waiver is obtained under this subsection.

(f) TIMETABLES FOR COMPLIANCE.—An administered health plan sponsor or a health provider shall comply with the requirements of this section not later than January 1, 1997.

SEC. 9106. STANDARDS AND CERTIFICATION FOR HEALTH INFORMATION NETWORK SERVICES.

(a) STANDARDS FOR OPERATIONS.—The Secretary shall establish standards with respect to the operation of health information network services, including standards ensuring that such services—

(1) develop, operate, and cooperate with one another to form a health information network;

(2) meet all of the requirements under subtitle C that are applicable to such services;

(3) make public information concerning their performance, as measured by uniform indicators such as accessibility, transaction responsiveness, administrative efficiency, reliability, dependability, and any other indicator determined appropriate by the Secretary; and

(4) have the highest security procedures that are practicable with respect to the processing and handling of health information.

(b) CERTIFICATION BY SECRETARY.—

(1) ESTABLISHMENT OF PROCEDURE.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall establish a certification procedure for health information network services which ensures that services certified under this section are qualified—

(A) to meet the requirements of this part and the standards established by the Secretary under this section; and

(B) to ensure the confidentiality of protected health information (as defined in section 9200(a)) as required under subtitle C.

(2) DEEMED CERTIFICATION.—The Secretary may designate private individuals or entities to conduct the certification procedure established by the Secretary under this subsection. A health information network service certified by such an individual or entity in accordance with such designation shall be considered to be certified by the Secretary under this subsection.

(3) APPLICATION FOR CERTIFICATION.—Each entity desiring to be certified as a health information network service shall apply to the Secretary for certification in a form and manner determined appropriate by the Secretary.

(4) AUDITS AND REPORTS.—The procedure established under paragraph (1) shall provide for audits by the Secretary and reports by an entity certified under this section as the Secretary determines appropriate in order to monitor the compliance by the entity with the requirements of this part and the standards established by the Secretary under this section.

(5) RECERTIFICATION.—A health information network service shall be recertified under this subsection not less than every 3 years.

(c) LOSS OF CERTIFICATION.—

(1) MANDATORY TERMINATION.—If a health information network service violates a provision of subtitle C, the certification of the service under this section shall be terminated unless the Secretary determines that appropriate corrective action has been taken.

(2) DISCRETIONARY TERMINATION.—If a health information service violates a requirement or standard under this part and a penalty has been imposed under section 9107, the Secretary shall review the certification of the service and may terminate the certification.

(d) HEALTH INFORMATION CONTINUITY.—If a health information network service is decertified or ceases to function, in a manner that would threaten the continued availability of the standard health information held by the service, the service shall transfer the standard health information to a health information network service that is certified under this section and designated by the Secretary to receive the information.

SEC. 9107. CIVIL MONEY PENALTY.

(a) IN GENERAL.—Any person who the Secretary determines is required, but has failed, to comply with a requirement or standard imposed under this part shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $1,000 for each such failure.

(b) PROCESS.—The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to a civil money penalty under subsection (a) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

SEC. 9108. EFFECT ON STATE LAW.

(a) PREEMPTION OF STATE QUILL PEN LAWS.—

(1) IN GENERAL.—Any provision of State law that requires medical or health insurance records (including billing information) to be maintained in written, rather than electronic, form is deemed to be satisfied if the records are maintained in an electronic form that meets standards established by the Secretary under paragraph (2).

(2) SECRETARIAL AUTHORITY.—Not later than 1 year after the date of the enactment

VOL
140
PT
15
AG
10
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11
1994
UMI

of this Act, the Secretary shall issue regulations to carry out paragraph (1). The regulations shall provide for an electronic substitute that is in the form of a unique identifier (assigned to each authorized individual) that serves the functional equivalent of a signature. The regulations may provide for such exceptions to paragraph (1) as the Secretary determines to be necessary to prevent fraud and abuse, to prevent the illegal distribution of controlled substances, and in such other cases as the Secretary deems appropriate.

(b) PUBLIC HEALTH REPORTING.—Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

SEC. 9109. DEFINITIONS.

For purposes of this subtitle:

(1) ADMINISTERED HEALTH PLAN.—The term "administered health plan" has the meaning given the term "health benefit plan" in section 5504(3), but includes—

(A) the medicare program, medicare supplemental health insurance, medicare part C, the medicaid program, the wrap-around benefit program under part B of title XXII of the Social Security Act; and

(B) except as the Secretary may provide, other Federal or State programs or arrangements that provide health benefits (other than coverage or insurance described in clause (i) or clauses (iii) through (ix) of section 5504(3)(B)).

(2) ADMINISTERED HEALTH PLAN SPONSOR.—The term "administered health plan sponsor" has the meaning given the term "sponsor" in section 5504(13) in relation to an administered health plan (as defined in paragraph (1)).

(3) CODE SET.—The term "code set" means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

(4) COORDINATION OF BENEFITS.—The term "coordination of benefits" means determining and coordinating the financial obligations of administered health plan sponsors and workers' compensation carriers when health care benefits are payable by more than one such sponsor or carrier.

(5) HEALTH INFORMATION.—The term "health information" means any information that relates to the past, present, or future physical or mental health or condition or functional status of an individual, the provision of health care to an individual, or payment for the provision of health care to an individual.

(6) HEALTH INFORMATION NETWORK SERVICE.—The term "health information network service" means a private entity or an entity operated by a State that enters into contracts—

(A) to process or facilitate the processing of nonstandard health information into standard health information;

(B) to provide the means by which individuals and entities transmit and receive standard health information to satisfy the requirements of this part; or

(C) to provide other information processing services, such as automated coordination of benefits or claim routing.

(7) HEALTH PROVIDER.—The term "health provider" includes a provider of services (as defined in section 1861(u) of the Social Security Act), a provider of medical or other health services (as defined in section 1861(s) of such Act), and any other person (other than an administered health plan sponsor) furnishing health care items or services.

(8) NETWORK PROVIDER.—The term "network provider", when used with respect to an administered health plan, means a health provider who is member of a plan network of the plan.

(9) PLAN NETWORK.—The term "plan network" means, with respect to an administered health plan, health providers who have entered into an agreement with the plan under which such providers are obligated to provide items and services covered under the plan to individuals enrolled in the plan, or have an agreement to provide services on a fee-for-service basis.

(10) STANDARD.—The term "standard", when used with reference to health information or a transaction involving such information, means that the information or transaction meets any standard established by the Secretary under section 9103 that applies to the information or transaction.

(11) WORKERS' COMPENSATION CARRIER.—The term "workers' compensation carrier" has the meaning given such term in section 13000(4).

Subtitle C—Fair Health Information Practices

SEC. 9200. DEFINITIONS.

(a) DEFINITIONS RELATING TO PROTECTED HEALTH INFORMATION.—For purposes of this subtitle:

(1) DISCLOSE.—The term "disclose", when used with respect to protected health information that is held by a health information trustee, means to provide access to the information, but only if such access is provided by the trustee to a person other than—

(A) the trustee or an officer or employee of the trustee;

(B) an affiliated person of the trustee; or

(C) a protected individual who is a subject of the information.

(2) DISCLOSURE.—The term "disclosure" means the act or an instance of disclosing.

(3) PROTECTED HEALTH INFORMATION.—The term "protected health information" means any information, whether oral or recorded in any form or medium—

(A) that is created or received in a State by—

(i) a health care provider;

(ii) a health plan sponsor;

(iii) a health oversight agency;

(iv) a health information service organization; or

(v) a public health authority;

(B) that—

(i) relates in any way to—

(I) the past, present, or future physical or mental health or condition or functional status of a protected individual;

(II) the provision of health care to a protected individual;

(III) any cause or circumstance underlying the provision of such care; or

(IV) payment for the provision of such care; or

(ii) is received by a health care provider in the course of the provision of health care; and

(C) that—

(i) identifies the individual; or

(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

(4) PROTECTED INDIVIDUAL.—The term "protected individual" means an individual who, with respect to a date—

(A) is living on the date; or

(B) has died within the 2-year period ending on the date.

(5) USE.—The term "use", when used with respect to protected health information that is held by a health information trustee, means—

(A) to use, or provide access to, the information in any manner that does not constitute a disclosure; or

(B) any act or instance of using, or providing access, described in subparagraph (A).

(b) DEFINITIONS RELATING TO HEALTH INFORMATION TRUSTEES.—For purposes of this subtitle:

(1) CARRIER.—The term "carrier" has the meaning given such term in section 5504(2).

(2) HEALTH PLAN.—The term "health plan" has the meaning given such term in section 5504(4).

(3) HEALTH PLAN SPONSOR.—The term "health plan sponsor" means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a carrier providing an insured health plan;

(B) a public or private entity sponsoring any other health plan; or

(C) an officer or employee of a person described in subparagraph (A) or (B).

(4) HEALTH CARE PROVIDER.—The term "health care provider" means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a person who is licensed, certified, registered, or otherwise authorized by law to provide an item or service that constitutes health care in the ordinary course of business or practice of a profession;

(B) a Federal or State program that directly provides items or services that constitute health care to beneficiaries; or

(C) an officer or employee of a person described in subparagraph (A) or (B).

(5) HEALTH INFORMATION SERVICE ORGANIZATION.—The term "health information service organization" means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a person, other than an affiliated person, who performs specific functions for which the Secretary has authorized (by means of a designation or certification) the person to receive access to health care information in electronic or magnetic form that is regulated by this Act; or

(B) an officer or employee of a person described in subparagraph (A).

(6) HEALTH INFORMATION TRUSTEE.—The term "health information trustee" means—

(A) a health care provider;

(B) a health information service organization;

(C) a health oversight agency;

(D) a health plan sponsor;

(E) a public health authority;

(F) a health researcher;

(G) a person who, with respect to a specific item of protected health information, is not described in subparagraphs (A) through (F) but receives the information—

(i) pursuant to—

(I) section 9227 (relating to emergency circumstances);

(II) section 9228 (relating to judicial and administrative purposes);

(III) section 9229 (relating to law enforcement); or

(IV) section 9230 (relating to subpoenas, warrants, and search warrants); or

(ii) while acting in whole or in part in the capacity of an officer or employee of a person described in clause (i).

(7) HEALTH OVERSIGHT AGENCY.—The term "health oversight agency" means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a person who performs or oversees the performance of an assessment, evaluation, determination, or investigation relating to the licensing, accreditation, or certification of health care providers;

(B) a person who—

(i) performs or oversees the performance of an audit, assessment, evaluation, determination, or investigation relating to the effectiveness of, compliance with, or applicability of, legal, fiscal, medical, quality, or scientific standards or aspects of performance related to the delivery of, or payment for, health care; and

(ii) is a public agency, acting on behalf of a public agency, acting pursuant to a requirement of a public agency, or carrying out activities under a State or Federal statute regulating the assessment, evaluation, determination, or investigation; or

(C) an officer or employee of a person described in subparagraph (A) or (B).

(8) HEALTH RESEARCHER.—The term "health researcher" means a person who, with respect to a specific item of protected health information, receives the information—

(A) pursuant to section 9226 (relating to health research); or

(B) while acting in whole or in part in the capacity of an officer or employee of a person described in subparagraph (A).

(9) PUBLIC HEALTH AUTHORITY.—The term "public health authority" means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) an authority of the United States, a State, or a political subdivision of a State that is responsible for public health matters;

(B) a person acting under the direction of such an authority; or

(C) an officer or employee of a person described in subparagraph (A) or (B).

(c) OTHER DEFINITIONS.—For purposes of this subtitle:

(1) AFFILIATED PERSON.—The term "affiliated person" means a person who—

(A) is not a health information trustee;

(B) is a contractor, subcontractor, associate, or subsidiary of a person who is a health information trustee; and

(C) pursuant to an agreement or other relationship with such trustee, receives, creates, uses, maintains, or discloses protected health information.

(2) APPROVED HEALTH RESEARCH PROJECT.—The term "approved health research project" means a biomedical, epidemiological, or health services research or statistics project, or a research project on behavioral and social factors affecting health, that has been approved by a certified institutional review board.

(3) CERTIFIED INSTITUTIONAL REVIEW BOARD.—The term "certified institutional review board" means a board—

(A) established by an entity to review research involving protected health information and the rights of protected individuals conducted at or supported by the entity;

(B) established in accordance with regulations of the Secretary under section 9226(e)(1); and

(C) certified by the Secretary under section 9226(e)(2).

(4) HEALTH CARE.—The term "health care"—

(A) means—

(i) any preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, counseling, service, or procedure—

(I) with respect to the physical or mental condition, or functional status, of an individual; or

(II) affecting the structure or function of the human body or any part of the human body, including banking of blood, sperm, organs, or any other tissue; or

(ii) any sale or dispensing of a drug, device, equipment, or other item to an individual, or for the use of an individual, pursuant to a prescription; but

(B) does not include any item or service that is not furnished for the purpose of maintaining or improving the health of an individual.

(5) LAW ENFORCEMENT INQUIRY.—The term "law enforcement inquiry" means a lawful investigation or official proceeding inquiring into a violation of, or failure to comply with, any criminal or civil statute or any regulation, rule, or order issued pursuant to such a statute.

(6) PERSON.—The term "person" includes an authority of the United States, a State, or a political subdivision of a State.

PART 1—DUTIES OF HEALTH INFORMATION TRUSTEES

SEC. 9201. INSPECTION OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (b), a health information trustee described in subsection (g)—

(1) shall permit a protected individual to inspect any protected health information about the individual that the trustee maintains, any accounting with respect to such information required under section 9204, and any copy of an authorization required under section 9222 that pertains to such information;

(2) shall provide the protected individual with a copy of the information upon request by the individual and subject to any conditions imposed by the trustee under subsection (d);

(3) shall permit a person who has been designated in writing by the protected individual to inspect the information on behalf of the individual or to accompany the individual during the inspection; and

(4) may offer to explain or interpret information that is inspected or copied under this subsection.

(b) EXCEPTIONS.—A health information trustee is not required by this section to permit inspection or copying of protected health information by a protected individual if any of the following conditions apply:

(1) MENTAL HEALTH TREATMENT NOTES.—The information consists of psychiatric, psychological, or mental health treatment notes about the individual, the trustee determines in the exercise of reasonable professional judgment that inspection or copying of the notes would cause sufficient harm to the protected individual so as to outweigh the desirability of permitting access, and the trustee does not disclose the notes to any person not directly engaged in treating the individual, except with the authorization of the individual or under compulsion of law.

(2) INFORMATION ABOUT OTHERS.—The information relates to an individual, other than the protected individual or a health care provider, and the trustee determines in the exercise of reasonable professional judgment that inspection or copying of the information would cause sufficient harm to one or both of the individuals so as to outweigh the desirability of permitting access.

(3) ENDANGERMENT TO LIFE OR SAFETY.—Inspection or copying of the information could reasonably be expected to endanger the life or physical safety of an individual.

(4) CONFIDENTIAL SOURCE.—The information identifies or could reasonably lead to the identification of an individual (other than a health care provider) who provided information under a promise of confidentiality to a health care provider concerning a protected individual who is a subject of the information.

(5) ADMINISTRATIVE PURPOSES.—The information—

(A) is used by the trustee solely for administrative purposes and not in the provision of health care to a protected individual who is a subject of the information; and

(B) is not disclosed by the trustee to any person.

(6) DUPLICATIVE INFORMATION.—The information duplicates information available for inspection under subsection (a).

(7) INFORMATION COMPILED IN ANTICIPATION OF LITIGATION.—The information is compiled principally—

(A) in anticipation of a civil, criminal, or administrative action or proceeding; or

(B) for use in such an action or proceeding.

(c) INSPECTION AND COPYING OF SEGREGABLE PORTION.—A health information trustee shall permit inspection and copying under subsection (a) of any reasonably segregable portion of a record after deletion of any portion that is exempt under subsection (b).

(d) CONDITIONS.—A health information trustee may—

(1) require a written request for the inspection and copying of protected health information under this section; and

(2) charge a reasonable cost-based fee for—

(A) permitting inspection of information under this section; and

(B) providing a copy of protected health information under this section.

(e) STATEMENT OF REASONS FOR DENIAL.—If a health information trustee denies in whole or in part a request for inspection or copying under this section, the trustee shall provide the protected individual who made the request with a written statement of the reasons for the denial.

(f) DEADLINE.—A health information trustee shall comply with or deny a request for inspection or copying of protected health information under this section within the 30-day period beginning on the date the trustee receives the request.

(g) APPLICABILITY.—This section applies to a health information trustee who is—

(1) a health plan sponsor;

(2) a health care provider;

(3) a health information service organization;

(4) a health oversight agency; or

(5) a public health authority.

SEC. 9202. AMENDMENT OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—A health information trustee described in subsection (f) shall, within the 45-day period beginning on the date the trustee receives from a protected individual about whom the trustee maintains protected health information a written request that the trustee correct or amend the information, complete the duties described in one of the following paragraphs:

(1) CORRECTION OR AMENDMENT AND NOTIFICATION.—The trustee shall—

(A) make the correction or amendment requested;

VOL 140 PT 15 AG 10 — 11 1994 UMI

(B) inform the protected individual of the amendment or correction that has been made;

(C) make reasonable efforts to inform any person who is identified by the protected individual, who is not an employee of the trustee, and to whom the uncorrected or unamended portion of the information was previously disclosed of the correction or amendment that has been made; and

(D) at the request of the individual, make reasonable efforts to inform any known source of the uncorrected or unamended portion of the information about the correction or amendment that has been made.

(2) REASONS FOR REFUSAL AND REVIEW PROCEDURES.—The trustee shall inform the protected individual of—

(A) the reasons for the refusal of the trustee to make the correction or amendment;

(B) any procedures for further review of the refusal; and

(C) the individual's right to file with the trustee a concise statement setting forth the requested correction or amendment and the individual's reasons for disagreeing with the refusal of the trustee.

(b) STANDARDS FOR CORRECTION OR AMENDMENT.—A trustee shall correct or amend protected health information in accordance with a request made under subsection (a) if the trustee determines that the information is not accurate, relevant, timely, or complete for the purposes for which the information may be used or disclosed by the trustee.

(c) STATEMENT OF DISAGREEMENT.—After a protected individual has filed a statement of disagreement under subsection (a)(2)(C), the trustee, in any subsequent disclosure of the disputed portion of the information, shall include a copy of the individual's statement and may include a concise statement of the trustee's reasons for not making the requested correction or amendment.

(d) CONSTRUCTION.—This section may not be construed to require a health information trustee to conduct a hearing or proceeding concerning a request for a correction or amendment to protected health information the trustee maintains.

(e) CORRECTION.—For purposes of subsection (a), a correction is deemed to have been made to protected health information when—

(1) information that is not timely, accurate, relevant, or complete is clearly marked as incorrect; or

(2) supplementary correct information is made part of the information and adequately cross-referenced.

(f) APPLICABILITY.—This section applies to a health information trustee who is—

(1) a health plan sponsor;

(2) a health care provider;

(3) a health information service organization;

(4) a health oversight agency; or

(5) a public health authority.

SEC. 9203. NOTICE OF INFORMATION PRACTICES.

(a) PREPARATION OF NOTICE.—A health information trustee described in subsection (d) shall prepare a written notice of information practices describing the following:

(1) The rights under this subtitle of a protected individual who is the subject of protected health information, including the right to inspect and copy such information and the right to seek amendments to such information, and the procedures for authorizing disclosures of protected health information and for revoking such authorizations.

(2) The procedures established by the trustee for the exercise of such rights.

(3) The uses and disclosures of protected health information that are authorized under this subtitle.

(b) DISSEMINATION OF NOTICE.—A health information trustee—

(1) shall, upon request, provide any person with a copy of the trustee's notice of information practices (described in subsection (a)); and

(2) shall make reasonable efforts to inform persons in a clear and conspicuous manner of the existence and availability of such notice.

(c) MODEL NOTICES.—Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment, shall develop and disseminate model notices of information practices for use by health information trustees under this section.

(d) APPLICABILITY.—This section applies to a health information trustee who is—

(1) a health plan sponsor;

(2) a health care provider;

(3) a health information service organization; or

(4) a health oversight agency.

SEC. 9204. ACCOUNTING FOR DISCLOSURES.

(a) IN GENERAL.—Except as provided in subsection (b) and section 9224, each health information trustee shall create and maintain, with respect to any protected health information the trustee discloses, a record of—

(1) the date and purpose of the disclosure;

(2) the name of the person to whom the disclosure was made;

(3) the address of the person to whom the disclosure was made or the location to which the disclosure was made; and

(4) where practicable, a description of the information disclosed.

(b) REGULATIONS.—Not later than July 1, 1996, the Secretary shall promulgate regulations that exempt a health information trustee from maintaining a record under subsection (a) with respect to protected health information disclosed by the trustee for purposes of peer review, licensing, certification, accreditation, and similar activities.

SEC. 9205. SECURITY.

(a) IN GENERAL.—Each health information trustee who receives or creates protected health information that is subject to this subtitle shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

(1) to ensure the integrity and confidentiality of the information;

(2) to protect against any reasonably anticipated—

(A) threats or hazards to the security or integrity of the information; and

(B) unauthorized uses or disclosures of the information; and

(3) otherwise ensure compliance with this subtitle by the trustee and the officers and employees of the trustee.

(b) GUIDELINES.—Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment, shall develop and disseminate guidelines for the implementation of this section. The guidelines shall take into account—

(1) the technical capabilities of record systems used to maintain protected health information;

(2) the costs of security measures;

(3) the need for training persons who have access to protected health information; and

(4) the value of audit trails in computerized record systems.

PART 2—USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

SEC. 9221. GENERAL LIMITATIONS ON USE AND DISCLOSURE.

(a) USE.—Except as otherwise provided under this subtitle, a health information trustee may use protected health information only for a purpose—

(1) that is compatible with and directly related to the purpose for which the information—

(A) was collected; or

(B) was received by the trustee; or

(2) for which the trustee is authorized to disclose the information under this subtitle.

(b) DISCLOSURE.—A health information trustee may disclose protected health information only as authorized under this subtitle.

(c) SCOPE OF USES AND DISCLOSURES.—

(1) IN GENERAL.—A use or disclosure of protected health information by a health information trustee shall be limited, when practicable, to the minimum amount of information necessary to accomplish the purpose for which the information is used or disclosed.

(2) GUIDELINES.—Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment, shall issue guidelines to implement paragraph (1), which shall take into account the technical capabilities of the record systems used to maintain protected health information and the costs of limiting use and disclosure.

(d) IDENTIFICATION OF DISCLOSED INFORMATION AS PROTECTED INFORMATION.—Except with respect to protected health information that is disclosed under section 9224 (relating to next of kin and directory information), a health information trustee may disclose protected health information only if the recipient has been notified that the information is protected health information that is subject to this subtitle.

(e) AGREEMENT TO LIMIT USE OR DISCLOSURE.—A health information trustee who receives protected health information from any person pursuant to a written agreement to restrict use or disclosure of the information to a greater extent than otherwise would be required under this subtitle shall comply with the terms of the agreement, except where use or disclosure of the information in violation of the agreement is required by law. A trustee who fails to comply with the preceding sentence shall be subject to section 9261 (relating to civil actions) with respect to such failure.

(f) NO GENERAL REQUIREMENT TO DISCLOSE.—Nothing in this subtitle shall be construed to require a health information trustee to disclose protected health information not otherwise required to be disclosed by law.

SEC. 9222. AUTHORIZATIONS FOR DISCLOSURE OF PROTECTED HEALTH INFORMATION.

(a) WRITTEN AUTHORIZATIONS.—A health information trustee, other than a health information service organization, may disclose protected health information pursuant to an authorization executed by the protected individual who is the subject of the information, if each of the following requirements is satisfied:

(1) WRITING.—The authorization is in writing, signed by the individual, and dated on the date of such signature.

(2) SEPARATE FORM.—The authorization is not on a form used to authorize or facilitate the provision of, or payment for, health care.

(3) TRUSTEE DESCRIBED.—The trustee is specifically named or generically described in the authorization as authorized to disclose such information.

(4) RECIPIENT DESCRIBED.—The person to whom the information is to be disclosed is specifically named or generically described in the authorization as a person to whom such information may be disclosed.

(5) STATEMENT OF INTENDED USES AND DISCLOSURES RECEIVED.—The authorization contains an acknowledgment that the individual has received a statement described in subsection (b) from such person.

(6) INFORMATION DESCRIBED.—The information to be disclosed is described in the authorization.

(7) AUTHORIZATION TIMELY RECEIVED.—The authorization is received by the trustee during a period described in subsection (c)(1).

(8) DISCLOSURE TIMELY MADE.—The disclosure occurs during a period described in subsection (c)(2).

(b) STATEMENT OF INTENDED USES AND DISCLOSURES.—

(1) IN GENERAL.—A person who wishes to receive from a health information trustee protected health information about a protected individual pursuant to an authorization executed by the individual shall supply the individual, in writing and on a form that is distinct from the authorization, with a statement of the uses for which the person intends the information and the disclosures the person intends to make of the information. Such statement shall be supplied before the authorization is executed.

(2) ENFORCEMENT.—If the person uses or discloses the information in a manner that is inconsistent with such statement, the person shall be subject to section 9261 (relating to civil actions) with respect to such failure, except where such use or disclosure is required by law.

(3) MODEL STATEMENTS.—Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment, shall develop and disseminate model statements of intended uses and disclosures of the type described in paragraph (1).

(c) TIME LIMITATIONS ON AUTHORIZATIONS.—

(1) RECEIPT BY TRUSTEE.—For purposes of subsection (a)(7), an authorization is timely received if it is received by the trustee during—

(A) the 1-year period beginning on the date that the authorization is signed under subsection (a)(1), if the authorization permits the disclosure of protected health information to—

(i) a health plan sponsor;

(ii) a health care provider;

(iii) a health oversight agency;

(iv) a public health authority;

(v) a health researcher; or

(vi) a person who provides counseling or social services to individuals; or

(B) the 30-day period beginning on the date that the authorization is signed under subsection (a)(1), if the authorization permits the disclosure of protected health information to a person other than a person described in subparagraph (A).

(2) DISCLOSURE BY TRUSTEE.—For purposes of subsection (a)(8), a disclosure is timely made if it occurs before—

(A) the date or event (if any) specified in the authorization upon which the authorization expires; and

(B) the expiration of the 6-month period beginning on the date the trustee receives the authorization.

(d) REVOCATION OR AMENDMENT OF AUTHORIZATION.—

(1) IN GENERAL.—A protected individual in writing may revoke or amend an authorization described in subsection (a), in whole or in part, at any time, except insofar as—

(A) disclosure of protected health information has been authorized to permit validation of expenditures based on health condition by a government authority; or

(B) action has been taken in reliance on the authorization.

(2) NOTICE OF REVOCATION.—A health information trustee who discloses protected health information in reliance on an authorization that has been revoked shall not be subject to any liability or penalty under this subtitle if—

(A) the reliance was in good faith;

(B) the trustee had no notice of the revocation; and

(C) the disclosure was otherwise in accordance with the requirements of this section.

(e) ADDITIONAL REQUIREMENTS OF TRUSTEE.—A health information trustee may impose requirements for an authorization that are in addition to the requirements in this section.

(f) COPY.—A health information trustee who discloses protected health information pursuant to an authorization under this section shall maintain a copy of the authorization.

(g) CONSTRUCTION.—This section may not be construed—

(1) to require a health information trustee to disclose protected health information; or

(2) to limit the right of a health information trustee to charge a fee for the disclosure or reproduction of protected health information.

(h) SUBPOENAS, WARRANTS, AND SEARCH WARRANTS.—If a health information trustee discloses protected health information pursuant to an authorization in order to comply with an administrative subpoena or warrant or a judicial subpoena or search warrant, the authorization—

(1) shall specifically authorize the disclosure for the purpose of permitting the trustee to comply with the subpoena, warrant, or search warrant; and

(2) shall otherwise meet the requirements in this section.

SEC. 9223. TREATMENT, PAYMENT, AND OVERSIGHT.

(a) DISCLOSURES BY PLANS, PROVIDERS, AND OVERSIGHT AGENCIES.—A health information trustee described in subsection (d) may disclose protected health information to a health plan sponsor, health care provider, or health oversight agency if the disclosure is—

(1) for the purpose of providing health care and a protected individual who is a subject of the information has not previously objected to the disclosure in writing;

(2) for the purpose of providing for the payment for health care furnished to an individual; or

(3) for use by a health oversight agency for a purpose that is described in subparagraph (A) or (B)(i) of section 9200(b)(7).

(b) SENSITIVE CLAIMS INFORMATION.—Not later than July 1, 1996, the Secretary shall establish standards consistent with this subtitle with respect to the disclosure, to any person other than a health plan sponsor, of protected health information created or received by a health care provider or a health plan sponsor in connection with a claim for benefits under a health plan, where such information—

(1) pertains to a diagnosis, item, or service; and

(2) is disclosed—

(A) concurrent with the filing of the claim; or

(B) after the claim is filed.

(c) USE IN ACTION AGAINST INDIVIDUAL.—A person who receives protected health information about a protected individual through a disclosure under this section may not use or disclose the information in any administrative, civil, or criminal action or investigation directed against the individual, except an action or investigation arising out of and related to receipt of health care or payment for health care.

(d) APPLICABILITY.—A health information trustee referred to in subsection (a) is any of the following:

(1) A health plan sponsor.

(2) A health care provider.

(3) A health oversight agency.

(4) A health information service organization.

SEC. 9224. NEXT OF KIN AND DIRECTORY INFORMATION.

(a) NEXT OF KIN.—A health information trustee who is a health care provider, who received protected health information pursuant to section 9227 (relating to emergency circumstances), or who is an officer or employee of such a recipient may orally disclose protected health information about a protected individual to the next of kin of the individual (as defined under State law), or to a person with whom the individual has a close personal relationship, if—

(1) the trustee has no reason to believe that the individual would consider the information especially sensitive;

(2) the individual has not previously objected to the disclosure;

(3) the disclosure is consistent with good medical or other professional practice; and

(4) the information disclosed is limited to information about health care that is being provided to the individual at or about the time of the disclosure.

(b) DIRECTORY INFORMATION.—

(1) IN GENERAL.—A health information trustee who is a health care provider, who received protected health information pursuant to section 9227 (relating to emergency circumstances), or who is an officer or employee of a such a recipient may disclose to any person the information described in paragraph (2) if—

(A) a protected individual who is a subject of the information has not objected in writing to the disclosure;

(B) the disclosure is otherwise consistent with good medical and other professional practice; and

(C) the information does not reveal specific information about the physical or mental condition or functional status of a protected individual or about the health care provided to a protected individual.

(2) INFORMATION DESCRIBED.—The information referred to in paragraph (1) is the following:

(A) The name of an individual receiving health care from a health care provider on a premises controlled by the provider.

(B) The location of the individual on such premises.

(C) The general health status of the individual, described in terms of critical, poor, fair, stable, satisfactory, or terms denoting similar conditions.

(c) NO ACCOUNTING REQUIRED.—A health information trustee who discloses protected health information under this section is not required to maintain an accounting of the disclosure under section 9204.

(d) RECIPIENTS.—A person to whom protected health information is disclosed under this section shall not, by reason of such disclosure, be subject to any requirement under this subtitle.

SEC. 9225. PUBLIC HEALTH.

(a) IN GENERAL.—A health information trustee who is a health care provider or a public health authority may disclose protected health information to—

(1) a public health authority for use in legally authorized—

(A) disease or injury reporting;

VOL 140 PT 15 AG 10 — 11 1994 UMI

(B) public health surveillance; or

(C) public health investigation or intervention; or

(2) an individual who is authorized by law to receive the information in a public health intervention.

(b) USE IN ACTION AGAINST INDIVIDUAL.—A public health authority who receives protected health information about a protected individual through a disclosure under this section may not use or disclose the information in any administrative, civil, or criminal action or investigation directed against the individual, except where the use or disclosure is authorized by law for protection of the public health.

(c) INDIVIDUAL RECIPIENTS.—An individual to whom protected health information is disclosed under subsection (a)(2) shall not, by reason of such disclosure, be subject to any requirement under this subtitle.

SEC. 9226. HEALTH RESEARCH.

(a) IN GENERAL.—A health information trustee described in subsection (d) may disclose protected health information to a person if—

(1) the person is conducting an approved health research project;

(2) the information is to be used in the project; and

(3) the project has been determined by a certified institutional review board to be—

(A) of sufficient importance so as to outweigh the intrusion into the privacy of the protected individual who is the subject of the information that would result from the disclosure; and

(B) impracticable to conduct without the information.

(b) DISCLOSURES BY HEALTH INFORMATION SERVICE ORGANIZATIONS.—A health information service organization may disclose protected health information under subsection (a) only if the certified institutional review board referred to in subsection (a)(3) has been certified as being qualified to make determinations under such subsection with respect to disclosures by such organizations.

(c) LIMITATIONS ON USE AND DISCLOSURE; OBLIGATIONS OF RECIPIENT.—A health researcher who receives protected health information about a protected individual pursuant to subsection (a)—

(1) may use the information solely for purposes of an approved health research project;

(2) may not use or disclose the information in any administrative, civil, or criminal action or investigation directed against the individual; and

(3) shall remove or destroy, at the earliest opportunity consistent with the purposes of the approved health research project in connection with which the disclosure was made, information that would enable an individual to be identified, unless a certified institutional review board has determined that there is a health or research justification for retention of such identifiers and there is an adequate plan to protect the identifiers from use and disclosure that is inconsistent with this subtitle.

(d) APPLICABILITY.—A health information trustee referred to in subsection (a) is any health information trustee other than a person who, with respect to the specific protected health information to be disclosed under such subsection, received the information—

(1) pursuant to—

(A) section 9228 (relating to judicial and administrative purposes);

(B) paragraph (1), (2), or (3) of section 9229(a) (relating to law enforcement); or

(C) section 9230 (relating to subpoenas, warrants, and search warrants); or

(2) while acting in whole or in part in the capacity of an officer or employee of a person described in paragraph (1).

(e) REQUIREMENTS FOR INSTITUTIONAL REVIEW BOARDS.—

(1) REGULATIONS.—Not later than July 1, 1996, the Secretary, after opportunity for notice and comment, shall promulgate regulations establishing requirements for certified institutional review boards under this subtitle. The regulations shall be based on regulations promulgated under section 491(a) of the Public Health Service Act and shall ensure that certified institutional review boards are qualified to assess and protect the confidentiality of research subjects. The regulations shall include specific requirements for certified institutional review boards that make determinations under subsection (a)(3) with respect to disclosures by health information service organizations. To the greatest extent feasible, the membership of a certified institutional review board shall reflect the racial, ethnic, and gender composition of the population of the United States.

(2) CERTIFICATION.—The Secretary shall certify that an institutional review board satisfies the requirements of the regulations promulgated under paragraph (1).

SEC. 9227. EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—A health information trustee may disclose protected health information if the trustee believes, on reasonable grounds, that the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of an individual.

(b) USE IN ACTION AGAINST INDIVIDUAL.—A person who receives protected health information about a protected individual through a disclosure under this section may not use or disclose the information in any administrative, civil, or criminal action or investigation directed against the individual, except an action or investigation arising out of and related to receipt of health care or payment for health care.

SEC. 9228. JUDICIAL AND ADMINISTRATIVE PURPOSES.

(a) IN GENERAL.—A health information trustee described in subsection (d) may disclose protected health information—

(1) pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, or comparable rules of other courts or administrative agencies in connection with litigation or proceedings to which a protected individual who is a subject of the information is a party and in which the individual has placed the individual's physical or mental condition or functional status in issue;

(2) if directed by a court in connection with a court-ordered examination of an individual; or

(3) to assist in the identification of a dead individual.

(b) WRITTEN STATEMENT.—A person seeking protected health information about a protected individual held by health information trustee under—

(1) subsection (a)(1)—

(A) shall notify the protected individual or the attorney of the protected individual of the request for the information;

(B) shall provide the trustee with a signed document attesting—

(i) that the protected individual is a party to the litigation or proceedings for which the information is sought;

(ii) that the individual has placed the individual's physical or mental condition or functional status in issue; and

(iii) the date on which the protected individual or the attorney of the protected individual was notified under subparagraph (A); and

(C) shall not accept any requested protected health information from the trustee until the termination of the 10-day period beginning on the date notice was given under subparagraph (A); or

(2) subsection (a)(3) shall provide the trustee with a written statement that the information is sought to assist in the identification of a dead individual.

(c) USE AND DISCLOSURE.—A person to whom protected health information is disclosed under this section may use and disclose the information only to accomplish the purpose for which the disclosure was made.

(d) APPLICABILITY.—A health information trustee referred to in subsection (a) is any of the following:

(1) A health plan sponsor.

(2) A health care provider.

(3) A health oversight agency.

(4) A person who, with respect to the specific protected health information to be disclosed under such subsection, received the information—

(A) pursuant to—

(i) section 9227 (relating to emergency circumstances); or

(ii) section 9230 (relating to subpoenas, warrants, and search warrants); or

(B) while acting in whole or in part in the capacity of an officer or employee of a person described in subparagraph (A).

SEC. 9229. LAW ENFORCEMENT.

(a) IN GENERAL.—A health information trustee, other than a health information service organization, may disclose protected health information to a law enforcement agency, other than a health oversight agency—

(1) if the information is disclosed for use in an investigation or prosecution of a health information trustee;

(2) in connection with criminal activity committed against the trustee or an affiliated person of the trustee or on premises controlled by the trustee; or

(3) if the information is needed to determine whether a crime has been committed and the nature of any crime that may have been committed (other than a crime that may have been committed by the protected individual who is the subject of the information).

(b) ADDITIONAL AUTHORITY OF CERTAIN TRUSTEES.—A health information trustee who is not a health information service organization, a public health authority, or a health researcher may disclose protected health information to a law enforcement agency (other than a health oversight agency)—

(1) to assist in the identification or location of a victim or witness in a law enforcement inquiry;

(2) pursuant to a law requiring the reporting of specific health care information to law enforcement authorities; or

(3) if the information is specific health information described in paragraph (2) and the trustee is operated by a Federal agency;

(c) CERTIFICATION.—Where a law enforcement agency requests a health information trustee to disclose protected health information under subsection (a) or (b)(1), the agency shall provide the trustee with a written certification that—

(1) is signed by a supervisory official of a rank designated by the head of the agency;

(2) specifies the information requested; and

(3) states that the information is needed for a lawful purpose under this section.

(d) RESTRICTIONS ON DISCLOSURE AND USE.—A person who receives protected health information about a protected individual through a disclosure under this section may not use or disclose the information—

(1) in any administrative, civil, or criminal action or investigation directed against the individual, except an action or investigation arising out of and directly related to the action or investigation for which the information was obtained; and

(2) otherwise unless the use or disclosure is necessary to fulfill the purpose for which the information was obtained and is not prohibited by any other provision of law.

SEC. 9230. SUBPOENAS, WARRANTS, AND SEARCH WARRANTS.

(a) IN GENERAL.—A health information trustee described in subsection (g) may disclose protected health information if the disclosure is pursuant to any of the following:

(1) A subpoena issued under the authority of a grand jury and the trustee is provided a written certification by the grand jury that the grand jury has complied with the applicable access provisions of section 9241.

(2) An administrative subpoena or warrant or a judicial subpoena or search warrant and the trustee is provided a written certification by the person seeking the information that the person has complied with the applicable access provisions of section 9241 or 9243(a).

(3) An administrative subpoena or warrant or a judicial subpoena or search warrant and the disclosure otherwise meets the conditions of one of sections 9223 through 9229.

(b) AUTHORITY OF ALL TRUSTEES.—Any health information trustee may disclose protected health information if the disclosure is pursuant to subsection (a)(3).

(c) RESTRICTIONS ON USE AND DISCLOSURE.—Protected health information about a protected individual that is disclosed by a health information trustee pursuant to—

(1) subsection (a)(2) may not be otherwise used or disclosed by the recipient unless the use or disclosure is necessary to fulfill the purpose for which the information was obtained; and

(2) subsection (a)(3) may not be used or disclosed by the recipient unless the recipient complies with the conditions and restrictions on use and disclosure with which the recipient would have been required to comply if the disclosure by the trustee had been made under the section referred to in subsection (a)(3) the conditions of which were met by the disclosure.

(d) RESTRICTIONS ON GRAND JURIES.—Protected health information that is disclosed by a health information trustee under subsection (a)(1)—

(1) shall be returnable on a date when the grand jury is in session and actually presented to the grand jury;

(2) shall be used only for the purpose of considering whether to issue an indictment or report by that grand jury, or for the purpose of prosecuting a crime for which that indictment or report is issued, or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure or a comparable State rule;

(3) shall be destroyed or returned to the trustee if not used for one of the purposes specified in paragraph (2); and

(4) shall not be maintained, or a description of the contents of such information shall not be maintained, by any government authority other than in the sealed records of the grand jury, unless such information has been used in the prosecution of a crime for which the grand jury issued an indictment or presentment or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure or a comparable State rule.

(e) USE IN ACTION AGAINST INDIVIDUAL.—A person who receives protected health information about a protected individual through a disclosure under this section may not use or disclose the information in any administrative, civil, or criminal action or investigation directed against the individual, except an action or investigation arising out of and directly related to the inquiry for which the information was obtained;

(f) CONSTRUCTION.—Nothing in this section shall be construed as authority for a health information trustee to refuse to comply with a valid administrative subpoena or warrant or a valid judicial subpoena or search warrant that meets the requirements of this subtitle.

(g) APPLICABILITY.—A health information trustee referred to in subsection (a) is any trustee other than the following:

(1) A health information service organization.

(2) A public health authority.

(3) A health researcher.

SEC. 9231. HEALTH INFORMATION SERVICE ORGANIZATIONS.

A health information trustee may disclose protected health information to a health information service organization for the purpose of permitting the organization to perform a function for which the Secretary has authorized (by means of a designation or certification) the organization to receive access to health care information in electronic or magnetic form that is regulated by this Act.

PART 3—ACCESS PROCEDURES AND CHALLENGE RIGHTS

SEC. 9241. ACCESS PROCEDURES FOR LAW ENFORCEMENT SUBPOENAS, WARRANTS, AND SEARCH WARRANTS.

(a) PROBABLE CAUSE REQUIREMENT.—A government authority may not obtain protected health information about a protected individual from a health information trustee under paragraph (1) or (2) of section 9230(a) for use in a law enforcement inquiry unless there is probable cause to believe that the information is relevant to a legitimate law enforcement inquiry being conducted by the government authority.

(b) WARRANTS AND SEARCH WARRANTS.—A government authority that obtains protected health information about a protected individual from a health information trustee under circumstances described in subsection (a) and pursuant to a warrant or search warrant shall, not later than 30 days after the date the warrant was served on the trustee, serve the individual with, or mail to the last known address of the individual, a copy of the warrant.

(c) SUBPOENAS.—Except as provided in subsection (d), a government authority may not obtain protected health information about a protected individual from a health information trustee under circumstances described in subsection (a) and pursuant to a subpoena unless a copy of the subpoena has been served by hand delivery upon the individual, or mailed to the last known address of the individual, on or before the date on which the subpoena was served on the trustee, together with a notice (published by the Secretary under section 9245(1)) of the individual's right to challenge the subpoena in accordance with section 9242, and—

(1) 30 days have passed from the date of service, or 30 days have passed from the date of mailing, and within such time period the individual has not initiated a challenge in accordance with section 9242; or

(2) disclosure is ordered by a court under section 9242.

(d) APPLICATION FOR DELAY.—

(1) IN GENERAL.—A government authority may apply to an appropriate court to delay (for an initial period of not longer than 90 days) serving a copy of a subpoena and a notice otherwise required under subsection (c) with respect to a law enforcement inquiry. The government authority may apply to the court for extensions of the delay.

(2) REASONS FOR DELAY.—An application for a delay, or extension of a delay, under this subsection shall state, with reasonable specificity, the reasons why the delay or extension is being sought.

(3) EX PARTE ORDER.—The court shall enter an ex parte order delaying, or extending the delay of, the notice and an order prohibiting the trustee from revealing the request for, or the disclosure of, the protected health information being sought if the court finds that—

(A) the inquiry being conducted is within the lawful jurisdiction of the government authority seeking the protected health information;

(B) there is probable cause to believe that the protected health information being sought is relevant to a legitimate law enforcement inquiry being conducted by the government authority;

(C) the government authority's need for the information outweighs the privacy interest of the protected individual who is the subject of the information; and

(D) there are reasonable grounds to believe that receipt of a notice by the individual will result in—

(i) endangering the life or physical safety of any individual;

(ii) flight from prosecution;

(iii) destruction of or tampering with evidence or the information being sought; or

(iv) intimidation of potential witnesses.

(4) SERVICE OF APPLICATION ON INDIVIDUAL.—Upon the expiration of a period of delay of notice under this subsection, the government authority shall serve upon the individual, with the service of the subpoena and the notice, a copy of any applications filed and approved under this subsection.

SEC. 9242. CHALLENGE PROCEDURES FOR LAW ENFORCEMENT SUBPOENAS.

(a) MOTION TO QUASH SUBPOENA.—Within 30 days of the date of service, or 30 days of the date of mailing, of a subpoena of a government authority seeking protected health information about a protected individual from a health information trustee under paragraph (1) or (2) of section 9230(a) (except a subpoena to which section 9243 applies), the individual may file (without filing fee) a motion to quash the subpoena—

(1) in the case of a State judicial subpoena, in the court which issued the subpoena;

(2) in the case of a subpoena issued under the authority of a State that is not a State judicial subpoena, in a court of competent jurisdiction;

(3) in the case of a subpoena issued under the authority of a Federal court, in any court of the United States of competent jurisdiction; or

(4) in the case of any other subpoena issued under the authority of the United States, in—

(A) the United States district court for the district in which the individual resides or in which the subpoena was issued; or

(B) another United States district court of competent jurisdiction.

(b) COPY.—A copy of the motion shall be served by the individual upon the government authority by delivery of registered or certified mail.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(c) AFFIDAVITS AND SWORN DOCUMENTS.—The government authority may file with the court such affidavits and other sworn documents as sustain the validity of the subpoena. The individual may file with the court, within 5 days of the date of the authority's filing, affidavits and sworn documents in response to the authority's filing. The court, upon the request of the individual, the government authority, or both, may proceed in camera.

(d) PROCEEDINGS AND DECISION ON MOTION.—The court may conduct such proceedings as it deems appropriate to rule on the motion. All such proceedings shall be completed, and the motion ruled on, within 10 calendar days of the date of the government authority's filing.

(e) EXTENSION OF TIME LIMITS FOR GOOD CAUSE.—The court, for good cause shown, may at any time in its discretion enlarge the time limits established by subsections (c) and (d).

(f) STANDARD FOR DECISION.—A court may deny a motion under subsection (a) if it finds that there is probable cause to believe that the protected health information being sought is relevant to a legitimate law enforcement inquiry being conducted by the government authority, unless the court finds that the individual's privacy interest outweighs the government authority's need for the information. The individual shall have the burden of demonstrating that the individual's privacy interest outweighs the need established by the government authority for the information.

(g) SPECIFIC CONSIDERATIONS WITH RESPECT TO PRIVACY INTEREST.—In determining under subsection (f) whether an individual's privacy interest outweighs the government authority's need for the information, the court shall consider—

(1) the particular purpose for which the information was collected by the trustee;

(2) the degree to which disclosure of the information will embarrass, injure, or invade the privacy of the individual;

(3) the effect of the disclosure on the individual's future health care;

(4) the importance of the inquiry being conducted by the government authority, and the importance of the information to that inquiry; and

(5) any other factor deemed relevant by the court.

(h) ATTORNEY'S FEES.—In the case of any motion brought under subsection (a) in which the individual has substantially prevailed, the court, in its discretion, may assess against a government authority a reasonable attorney's fee and other litigation costs (including expert fees) reasonably incurred.

(i) NO INTERLOCUTORY APPEAL.—A court ruling denying a motion to quash under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the individual. An appeal of such a ruling may be taken by the individual within such period of time as is provided by law as part of any appeal from a final order in any legal proceeding initiated against the individual arising out of or based upon the protect health information disclosed.

SEC. 9243. ACCESS AND CHALLENGE PROCEDURES FOR OTHER SUBPOENAS.

(a) IN GENERAL.—A person (other than a government authority seeking protected health information under circumstances described in section 9241(a)) may not obtain protected health information about a protected individual from a health information trustee pursuant to a subpoena under section 9230(a)(2) unless—

(1) a copy of the subpoena has been served upon the individual or mailed to the last known address of the individual on or before the date on which the subpoena was served on the trustee, together with a notice (published by the Secretary under section 9245(2)) of the individual's right to challenge the subpoena, in accordance with subsection (b); and

(2) either—

(A) 30 days have passed from the date of service or 30 days have passed from the date of the mailing and within such time period the individual has not initiated a challenge in accordance with subsection (b); or

(B) disclosure is ordered by a court under such subsection.

(b) MOTION TO QUASH.—Within 30 days of the date of service or 30 days of the date of mailing of a subpoena seeking protected health information about a protected individual from a health information trustee under subsection (a), the individual may file (without filing fee) in any court of competent jurisdiction, a motion to quash the subpoena, with a copy served on the person seeking the information. The individual may oppose, or seek to limit, the subpoena on any grounds that would otherwise be available if the individual were in possession of the information.

(c) STANDARD FOR DECISION.—The court shall grant an individual's motion under subsection (b) if the person seeking the information has not sustained the burden of demonstrating that—

(1) there are reasonable grounds to believe that the information will be relevant to a lawsuit or other judicial or administrative proceeding; and

(2) the need of the person for the information outweighs the privacy interest of the individual.

(d) SPECIFIC CONSIDERATIONS WITH RESPECT TO PRIVACY INTEREST.—In determining under subsection (c) whether the need of the person for the information outweighs the privacy interest of the individual, the court shall consider—

(1) the particular purpose for which the information was collected by the trustee;

(2) the degree to which disclosure of the information will embarrass, injure, or invade the privacy of the individual;

(3) the effect of the disclosure on the individual's future health care;

(4) the importance of the information to the lawsuit or proceeding; and

(5) any other factor deemed relevant by the court.

(e) ATTORNEY'S FEES.—In the case of any motion brought under subsection (b) by an individual against a person in which the individual has substantially prevailed, the court, in its discretion, may assess against the person a reasonable attorney's fee and other litigation costs (including expert fees) reasonably incurred.

SEC. 9244. CONSTRUCTION OF PART; SUSPENSION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Nothing in this part shall affect the right of a health information trustee to challenge a request for protected health information. Nothing in this part shall entitle a protected individual to assert the rights of a health information trustee.

(b) EFFECT OF MOTION ON STATUTE OF LIMITATIONS.—If an individual who is the subject of protected health information files a motion under this part which has the effect of delaying the access of a government authority to such information, the period beginning on the date such motion was filed and ending on the date on which the motion is decided shall be excluded in computing any period of limitations within which the government authority may commence any civil or criminal action in connection with which the access is sought.

SEC. 9245. RESPONSIBILITIES OF SECRETARY.

Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment, shall develop and disseminate brief, clear, and easily understood model notices—

(1) for use under subsection (c) of section 9241, detailing the rights of a protected individual who wishes to challenge, under section 9242, the disclosure of protected health information about the individual under such subsection; and

(2) for use under subsection (a) of section 9243, detailing the rights of a protected individual who wishes to challenge, under subsection (b) of such section, the disclosure of protected health information about the individual under such section.

PART 4—MISCELLANEOUS PROVISIONS

SEC. 9251. PAYMENT CARD AND ELECTRONIC PAYMENT TRANSACTIONS.

(a) PAYMENT FOR HEALTH CARE THROUGH CARD OR ELECTRONIC MEANS.—If a protected individual pays a health information trustee for health care by presenting a debit, credit, or other payment card or account number, or by any other electronic payment means, the trustee may disclose to a person described in subsection (b) only such protected health information about the individual as is necessary for the processing of the payment transaction or the billing or collection of amounts charged to, debited from, or otherwise paid by, the individual using the card, number, or other electronic payment means.

(b) TRANSACTION PROCESSING.—A person who is a debit, credit, or other payment card issuer, is otherwise directly involved in the processing of payment transactions involving such cards or other electronic payment transactions, or is otherwise directly involved in the billing or collection of amounts paid through such means, may only use or disclose protected health information about a protected individual that has been disclosed in accordance with subsection (a) when necessary for—

(1) the authorization, settlement, billing or collection of amounts charged to, debited from, or otherwise paid by, the individual using a debit, credit, or other payment card or account number, or by other electronic payment means;

(2) the transfer of receivables, accounts, or interest therein;

(3) the audit of the credit, debit, or other payment card account information;

(4) compliance with Federal, State, or local law; or

(5) a properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

SEC. 9252. ACCESS TO PROTECTED HEALTH INFORMATION OUTSIDE OF THE UNITED STATES.

(a) IN GENERAL.—Notwithstanding the provisions of part 2, and except as provided in subsection (b), a health information trustee may not permit any person who is not in a State to have access to protected health information about a protected individual unless one or more of the following conditions exist:

(1) SPECIFIC AUTHORIZATION.—The individual has specifically consented to the provision of such access outside of the United States in an authorization that meets the requirements of section 9222.

(2) EQUIVALENT PROTECTION.—The provision of such access is authorized under this subtitle and the Secretary has determined that

there are fair information practices for protected health information in the jurisdiction where the access will be provided that provide protections for individuals and protected health information that are equivalent to the protections provided for by this subtitle.

(3) ACCESS REQUIRED BY LAW.—The provision of such access is required under—

(A) a Federal statute; or

(B) a treaty or other international agreement applicable to the United States.

(b) EXCEPTIONS.—Subsection (a) does not apply where the provision of access to protected health information—

(1) is to a foreign public health authority;

(2) is authorized under section 9224 (relating to next of kin and directory information), 9226 (relating to health research), or 9227 (relating to emergency circumstances); or

(3) is necessary for the purpose of providing for payment for health care that has been provided to an individual.

SEC. 9253. STANDARDS FOR ELECTRONIC DOCUMENTS AND COMMUNICATIONS.

(a) STANDARDS.—Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment and in consultation with appropriate private standard-setting organizations and other interested parties, shall establish standards with respect to the creation, transmission, receipt, and maintenance, in electronic and magnetic form, of each type of written document specifically required or authorized under this subtitle. Where a signature is required under any other provision of this subtitle, such standards shall provide for an electronic or magnetic substitute that serves the functional equivalent of a signature.

(b) TREATMENT OF COMPLYING DOCUMENTS AND COMMUNICATIONS.—An electronic or magnetic document or communication that satisfies the standards established under subsection (a) with respect to such document or communication shall be treated as satisfying the requirements of this subtitle that apply to an equivalent written document.

SEC. 9254. DUTIES AND AUTHORITIES OF AFFILIATED PERSONS.

(a) REQUIREMENTS ON TRUSTEES.—

(1) PROVISION OF INFORMATION.—A health information trustee may provide protected health information to a person who, with respect to the trustee, is an affiliated person and may permit the affiliated person to use such information, only for the purpose of conducting, supporting, or facilitating an activity that the trustee is authorized to undertake.

(2) NOTICE TO AFFILIATED PERSON.—A health information trustee shall notify a person who, with respect to the trustee, is an affiliated person of any duties under this subtitle that the affiliated person is required to fulfill and of any authorities under this subtitle that the affiliated person is authorized to exercise.

(b) DUTIES OF AFFILIATED PERSONS.—

(1) IN GENERAL.—An affiliated person shall fulfill any duty under this subtitle that—

(A) the health information trustee with whom the person has an agreement or relationship described in section 9200(c)(1)(C) is required to fulfill; and

(B) the person has undertaken to fulfill pursuant to such agreement or relationship.

(2) CONSTRUCTION OF OTHER PARTS.—With respect to a duty described in paragraph (1) that an affiliated person is required to fulfill, the person shall be considered a health information trustee for purposes of this subtitle. The person shall be subject to part 5 (relating to enforcement) with respect to any such duty that the person fails to fulfill.

(3) EFFECT ON TRUSTEE.—An agreement or relationship with an affiliated person does not relieve a health information trustee of any duty or liability under this subtitle.

(b) AUTHORITIES OF AFFILIATED PERSONS.—

(1) IN GENERAL.—An affiliated person may only exercise an authority under this subtitle that the health information trustee with whom the person is affiliated may exercise and that the person has been given by the trustee pursuant to an agreement or relationship described in section 9200(c)(1)(C). With respect to any such authority, the person shall be considered a health information trustee for purposes of this subtitle. The person shall be subject to part 5 (relating to enforcement) with respect to any act that exceeds such authority.

(2) EFFECT ON TRUSTEE.—An agreement or relationship with an affiliated person does not affect the authority of a health information trustee under this subtitle.

SEC. 9255. AGENTS AND ATTORNEYS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), a person who is authorized by law (on grounds other than an individual's minority), or by an instrument recognized under law, to act as an agent, attorney, proxy, or other legal representative for a protected individual, or the estate of a protected individual, or otherwise to exercise the rights of the individual or estate, may, to the extent authorized, exercise and discharge the rights of the individual or estate under this subtitle.

(b) HEALTH CARE POWER OF ATTORNEY.—A person who is authorized by law (on grounds other than an individual's minority), or by an instrument recognized under law, to make decisions about the provision of health care to an individual who is incapacitated may exercise and discharge the rights of the individual under this subtitle to the extent necessary to effectuate the terms or purposes of the grant of authority.

(c) NO COURT DECLARATION.—If a health care provider determines that an individual, who has not been declared to be legally incompetent, suffers from a medical condition that prevents the individual from acting knowingly or effectively on the individual's own behalf, the right of the individual to authorize disclosure under section 9222 may be exercised and discharged in the best interest of the individual by—

(1) a person described in subsection (b) with respect to the individual;

(2) a person described in subsection (a) with respect to the individual, but only if a person described in paragraph (1) cannot be contacted after a reasonable effort;

(3) the next of kin of the individual, but only if a person described in paragraph (1) or (2) cannot be contacted after a reasonable effort; or

(4) the health care provider, but only if a person described in paragraph (1), (2), or (3) cannot be contacted after a reasonable effort.

SEC. 9256. MINORS.

(a) INDIVIDUALS WHO ARE 18 OR LEGALLY CAPABLE.—In the case of an individual—

(1) who is 18 years of age or older, all rights of the individual shall be exercised by the individual, except as provided in section 9255; or

(2) who, acting alone, has the legal capacity under State law to apply for and obtain health care and has sought such care, the individual shall exercise all rights of an individual under this subtitle with respect to protected health information relating to such care.

(b) INDIVIDUALS UNDER 18.—Except as provided in subsection (a)(2), in the case of an individual who is—

(1) under 14 years of age, all the individual's rights under this subtitle shall be exercised through the parent or legal guardian of the individual; or

(2) 14, 15, 16, or 17 years of age, the right of inspection (under section 9201), the right of amendment (under section 9202), and the right to authorize disclosure of protected health information (under section 9222) of the individual may be exercised either by the individual or by the parent or legal guardian of the individual.

SEC. 9257. MAINTENANCE OF CERTAIN PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—The Secretary shall establish a process under which the protected health information described in subsection (b) that is maintained by a person described in subsection (c) is delivered to, and maintained by, an individual or entity designated by the Secretary (which may include a State).

(b) INFORMATION DESCRIBED.—The protected health information referred to in subsection (a) is protected health information that—

(1) is recorded in any form or medium;

(2) is created by—

(A) a health care provider; or

(B) a health plan sponsor that provides health benefits in the form of items and services to enrollees and not in the form of reimbursement for items and services; and

(3) relates in any way to the past, present, or future physical or mental health or condition or functional status of a protected individual or the provision of health care to a protected individual.

(c) PERSONS DESCRIBED.—A person referred to in subsection (a) is any of the following:

(A) A health care facility that has closed.

(B) A professional practice operated by a health care provider that has closed.

(C) A health plan sponsor that—

(i) previously provided health benefits in the form of items and services to enrollees; and

(ii) has ceased to do business.

PART 5—ENFORCEMENT

SEC. 9261. CIVIL ACTIONS.

(a) IN GENERAL.—Any individual whose right under this subtitle has been knowingly or negligently violated—

(1) by a health information trustee, or any other person, who is not described in paragraph (2), (3), (4), or (5) may maintain a civil action for actual damages and for equitable relief against the health information trustee or other person;

(2) by an officer or employee of the United States while the officer or employee was acting within the scope of the office or employment may maintain a civil action for actual damages and for equitable relief against the United States;

(3) by an officer or employee of any government authority of a State that has waived its sovereign immunity to a claim for damages resulting from a violation of this subtitle while the officer or employee was acting within the scope of the office or employment may maintain a civil action for actual damages and for equitable relief against the State government;

(4) by an officer or employee of a government of a State that is not described in paragraph (3) may maintain a civil action for actual damages and for equitable relief against the officer or employee; or

(5) by an officer or employee of a government authority while the officer or employee

VOL 140 PT 15 AG 10 — 11 1994 UMI

was not acting within the scope of the office or employment may maintain a civil action for actual damages and for equitable relief against the officer or employee.

(b) KNOWING VIOLATIONS.—Any individual entitled to recover actual damages under this section because of a knowing violation of a provision of this subtitle (other than subsection (c) or (d) of section 9221) shall be entitled to recover the amount of the actual damages demonstrated or $5000, whichever is greater.

(c) ACTUAL DAMAGES.—For purposes of this section, the term "actual damages" includes damages paid to compensate an individual for nonpecuniary losses such as physical and mental injury as well as damages paid to compensate for pecuniary losses.

(d) PUNITIVE DAMAGES; ATTORNEY'S FEES.—In any action brought under this section in which the complainant has prevailed because of a knowing violation of a provision of this subtitle (other than subsection (c) or (d) of section 9221), the court may, in addition to any relief awarded under subsections (a) and (b), award such punitive damages as may be warranted. In such an action, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

(e) LIMITATION.—A civil action under this section may not be commenced more than 2 years after the date on which the aggrieved individual discovered the violation or the date on which the aggrieved individual had a reasonable opportunity to discover the violation, whichever occurs first.

(f) INSPECTION AND AMENDMENT.—If a health information trustee has established a formal internal procedure that allows an individual who has been denied inspection or amendment of protected health information to appeal the denial, the individual may not maintain a civil action in connection with the denial until the earlier of—

(1) the date the appeal procedure has been exhausted; or

(2) the date that is 4 months after the date on which the appeal procedure was initiated.

(g) NO LIABILITY FOR PERMISSIBLE DISCLOSURES.—A health information trustee who makes a disclosure of protected health information about a protected individual that is permitted by this subtitle and not otherwise prohibited by State or Federal statute shall not be liable to the individual for the disclosure under common law.

(h) NO LIABILITY FOR INSTITUTIONAL REVIEW BOARD DETERMINATIONS.—If the members of a certified institutional review board have in good faith determined that an approved health research project is of sufficient importance so as to outweigh the intrusion into the privacy of an individual pursuant to section 9226(a)(1), the members, the board, and the parent institution of the board shall not be liable to the individual as a result of such determination.

(i) GOOD FAITH RELIANCE ON CERTIFICATION.—A health information trustee who relies in good faith on a certification by a government authority or other person and discloses protected health information about an individual in accordance with this subtitle shall not be liable to the individual for such disclosure.

SEC. 9262. CIVIL MONEY PENALTIES.

(a) VIOLATION.—Any health information trustee who the Secretary determines has demonstrated a pattern or practice of failure to comply with the provisions of this subtitle shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $10,000 for each such failure. In determining the amount of any penalty to be assessed under the procedures established under subsection (b), the Secretary shall take into account the previous record of compliance of the person being assessed with the applicable requirements of this subtitle and the gravity of the violation.

(b) PROCEDURES FOR IMPOSITION OF PENALTIES.—The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to the imposition of a civil monetary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1128A of such Act.

SEC. 9263. ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—Not later than July 1, 1996, the Secretary shall, by regulation, develop alternative dispute resolution methods for use by individuals, health information trustees, and other persons in resolving claims under section 9261. Such regulations may not require an individual to pursue an alternative dispute resolution method.

(b) SUSPENSION OF STATUTE OF LIMITATIONS.—The regulations established by the Secretary under subsection (a) may provide that a period in which an individual who alleges that a right of the individual under this subtitle has been violated pursues (as defined by the Secretary) an alternative dispute resolution method under this section shall be excluded in computing the period of limitations under section 9261(e).

(c) METHODS.—The methods under subsection (a) shall include at least the following:

(1) ARBITRATION.—The use of arbitration.

(2) MEDIATION.—The use of mediation.

(3) EARLY OFFERS OF SETTLEMENT.—The use of a process under which parties make early offers of settlement.

(d) STANDARDS FOR ESTABLISHING METHODS.—In developing alternative dispute resolution methods under subsection (a), the Secretary shall ensure that the methods promote the resolution of claims in a manner that—

(1) is affordable for the parties involved;

(2) provides for timely and fair resolution of claims; and

(3) provides for reasonably convenient access to dispute resolution for individuals.

SEC. 9264. AMENDMENTS TO CRIMINAL LAW.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 89 the following:

"CHAPTER 90—PROTECTED HEALTH INFORMATION

"Sec.
"1831. Definitions.
"1832. Obtaining protected health information under false pretenses.
"1833. Monetary gain from obtaining protected health information under false pretenses.
"1834. Knowing and unlawful obtaining of protected health information.
"1835. Monetary gain from knowing and unlawful obtaining of protected health information.
"1836. Knowing and unlawful use or disclosure of protected health information.
"1837. Monetary gain from knowing and unlawful sale, transfer, or use of protected health information.

"§ 1831. Definitions

"As used in this chapter—

"(1) the term 'health information trustee' has the meaning given such term in section 9200(b)(6) of the Guaranteed Health Insurance Act of 1994;

"(2) the term 'protected health information' has the meaning given such term in section 9200(a)(3) of such Act; and

"(3) the term 'protected individual' has the meaning given such term in section 9200(a)(4) of such Act.

"§ 1832. Obtaining protected health information under false pretenses

"Whoever under false pretenses—

"(1) requests or obtains protected health information from a health information trustee; or

"(2) obtains from a protected individual an authorization for the disclosure of protected health information about the individual maintained by a health information trustee;

shall be fined under this title or imprisoned not more than 5 years, or both.

"§ 1833. Monetary gain from obtaining protected health information under false pretenses

"Whoever under false pretenses—

"(1) requests or obtains protected health information from a health information trustee with the intent to sell, transfer, or use such information for profit or monetary gain; or

"(2) obtains from a protected individual an authorization for the disclosure of protected health information about the individual maintained by a health information trustee with the intent to sell, transfer, or use such authorization for profit or monetary gain;

and knowingly sells, transfers, or uses such information or authorization for profit or monetary gain shall be fined under this title or imprisoned not more than 10 years, or both.

"§ 1834. Knowing and unlawful obtaining of protected health information

"Whoever knowingly obtains protected health information from a health information trustee in violation of subtitle C of title IX of the Guaranteed Health Insurance Act of 1994, knowing that such obtaining is unlawful, shall be fined under this title or imprisoned not more than 5 years, or both.

"§ 1835. Monetary gain from knowing and unlawful obtaining of protected health information

"Whoever knowingly—

"(1) obtains protected health information from a health information trustee in violation of subtitle C of title IX of the Guaranteed Health Insurance Act of 1994, knowing that such obtaining is unlawful and with the intent to sell, transfer, or use such information for profit or monetary gain; and

"(2) knowingly sells, transfers, or uses such information for profit or monetary gain;

shall be fined under this title or imprisoned not more than 10 years, or both.

"§ 1836. Knowing and unlawful use or disclosure of protected health information

"Whoever knowingly uses or discloses protected health information in violation of subtitle C of title IX of the Guaranteed Health Insurance Act of 1994, knowing that such use or disclosure is unlawful, shall be fined under this title or imprisoned not more than 5 years, or both.

"§ 1837. Monetary gain from knowing and unlawful sale, transfer, or use of protected health information

"Whoever knowingly sells, transfers, or uses protected health information in violation of subtitle C of title IX of the Guaranteed Health Insurance Act of 1994, knowing that such sale, transfer, or use is unlawful, shall be fined under this title or imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 89 the following:

"90. Protected health information ..... 1831".

PART 6—AMENDMENTS TO TITLE 5, UNITED STATES CODE

SEC. 9271. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) NEW SUBSECTION.—Section 552a of title 5, United States Code, is amended by adding at the end the following:

"(w) MEDICAL EXEMPTIONS.—The head of an agency that is a health information trustee (as defined in section 9200(b)(6) of the Guaranteed Health Insurance Act of 1994) shall promulgate rules, in accordance with the requirements (including general notice) of subsections (b)(1), (b)(2), (b)(3), (c), and (e) of section 553 of this title, to exempt a system of records within the agency, to the extent that the system of records contains protected health information (as defined in section 9200(a)(3) of such Act), from all provisions of this section except subsections (e)(1), (e)(2), subparagraphs (A) through (C) and (E) through (I) of subsection (e)(4), and subsections (e)(5), (e)(6), (e)(9), (e)(12), (l), (n), (o), (p), (q), (r), and (u).".

(b) REPEAL.—Section 552a(f)(3) of title 5, United States Code, is amended by striking "pertaining to him," and all that follows through the semicolon and inserting "pertaining to the individual;".

PART 7—REGULATIONS, RESEARCH, AND EDUCATION; EFFECTIVE DATES; APPLICABILITY; AND RELATIONSHIP TO OTHER LAWS

SEC. 9281. REGULATIONS; RESEARCH AND EDUCATION.

(a) REGULATIONS.—Not later than July 1, 1996, the Secretary shall prescribe regulations to carry out this subtitle.

(b) RESEARCH AND TECHNICAL SUPPORT.—The Secretary may sponsor—

(1) research relating to the privacy and security of protected health information;

(2) the development of consent forms governing disclosure of such information; and

(3) the development of technology to implement standards regarding such information.

(c) EDUCATION.—The Secretary shall establish education and awareness programs—

(1) to foster adequate security practices by health information trustees;

(2) to train personnel of health information trustees respecting the duties of such personnel with respect to protected health information; and

(3) to inform individuals and employers who purchase health care respecting their rights with respect to such information.

SEC. 9282. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle, and the amendments made by this subtitle, shall take effect on January 1, 1997.

(b) PROVISIONS EFFECTIVE IMMEDIATELY.—A provision of this subtitle shall take effect on the date of the enactment of this Act if the provision—

(1) imposes a duty on the Secretary to develop, establish, or promulgate regulations, guidelines, notices, statements, or education and awareness programs;

(2) authorizes the Secretary to sponsor research or the development of forms or technology; or

(3) defines a term.

79-059 O—97 Vol. 140 (Pt. 15) 17

SEC. 9283. APPLICABILITY.

(a) PROTECTED HEALTH INFORMATION.—Except as provided in subsections (b) and (c), the provisions of this subtitle shall apply to any protected health information that is received, created, used, maintained, or disclosed by a health information trustee in a State on or after January 1, 1997, regardless of whether the information existed or was disclosed prior to such date.

(b) EXCEPTION.—

(1) IN GENERAL.—The provisions of this subtitle shall not apply to a trustee described in paragraph (2), except with respect to protected health information that is received by the trustee on or after January 1, 1997. With respect to protected health information that is received by such a trustee before such date, other applicable law shall continue to apply.

(2) APPLICABILITY.—A trustee referred to in paragraph (1) is—

(A) a health researcher; or

(B) a person who, with respect to specific protected health information, received the information—

(i) pursuant to—

(I) section 9227 (relating to emergency circumstances);

(II) section 9228 (relating to judicial and administrative purposes);

(III) section 9229 (relating to law enforcement); or

(IV) section 9230 (relating to subpoenas, warrants, and search warrants); or

(ii) while acting in whole or in part in the capacity of an officer or employee of a person described in clause (i).

(c) AUTHORIZATIONS FOR DISCLOSURES.—An authorization for the disclosure of protected health information about a protected individual that is executed by the individual before January 1, 1997, and is recognized and valid under State law on December 31, 1996, shall remain valid and shall not be subject to the requirements of section 9222 until January 1, 1998, or the occurrence of the date or event (if any) specified in the authorization upon which the authorization expires, whichever occurs earlier.

SEC. 9284. RELATIONSHIP TO OTHER LAWS.

(a) STATE LAW.—Except as otherwise provided in subsections (b), (c), (d), and (f), a State may not establish, continue in effect, or enforce any State law to the extent that the law is inconsistent with, or imposes additional requirements with respect to, any of the following:

(1) A duty of a health information trustee under this subtitle.

(2) A provision of part 3 (relating to access procedures and challenge rights) or part 4 (miscellaneous provisions).

(b) LAWS RELATING TO AUTHORIZED DISCLOSURES.—This part does not preempt, supersede, or modify the operation of any State law to the extent that the law prohibits or regulates a disclosure of protected health information that is authorized under this part.

(c) CRIMINAL PENALTIES.—A State may establish and enforce criminal penalties with respect to a failure to comply with a provision of this part.

(d) PRIVILEGES.—A privilege that a person has under law in a court of a State or the United States or under the rules of any agency of a State or the United States may not be diminished, waived, or otherwise affected by—

(1) the execution by a protected individual of an authorization for disclosure of protected health information under this part, if the authorization is executed for the purpose of receiving health care or providing for the payment for health care; or

(2) any provision of this part that authorizes the disclosure of protected health information for the purpose of receiving health care or providing for the payment for health care.

(e) DEPARTMENT OF VETERANS AFFAIRS.—The limitations on use and disclosure of protected health information under this part shall not be construed to prevent any exchange of such information within and among components of the Department of Veterans Affairs that determine eligibility for or entitlement to, or that provide, benefits under laws administered by the Secretary of Veterans Affairs.

(f) CERTAIN DUTIES UNDER STATE OR FEDERAL LAW.—This part shall not be construed to preempt, supersede, or modify the operation of any of the following:

(1) Any law that provides for the reporting of vital statistics such as birth or death information.

(2) Any law requiring the reporting of abuse or neglect information about any individual.

(3) Subpart II of part E of title XXVI of the Public Health Service Act (relating to notifications of emergency response employees of possible exposure to infectious diseases).

(4) The Americans with Disabilities Act of 1990.

(5) Any Federal or State statute that establishes a privilege for records used in health professional peer review activities.

(g) SECRETARIAL AUTHORITY.—

(1) SECRETARY OF HEALTH AND HUMAN SERVICES.—A provision of this part does not preempt, supersede, or modify the operation of section 543 of the Public Health Service Act, except to the extent that the Secretary of Health and Human Services determines through regulations promulgated by such Secretary that the provision provides greater protection for protected health information, and the rights of protected individuals, than is provided under such section 543.

(2) SECRETARY OF VETERANS AFFAIRS.—A provision of this part does not preempt, supersede, or modify the operation of section 7332 of title 38, United States Code, except to the extent that the Secretary of Veterans Affairs determines through regulations promulgated by such Secretary that the provision provides greater protection for protected health information, and the rights of protected individuals, than is provided under such section 7332.

Subtitle D—Remedies

TABLE OF CONTENTS OF SUBTITLE

Subtitle D—Remedies

Sec. 9300. Definitions.

PART 1—GRIEVANCE AND APPEALS PROCESS

SUBPART A—REVIEW OF REFUSALS OF ITEMS AND SERVICES AND DENIALS OF PAYMENT TO PROVIDERS AND INDIVIDUALS

Sec. 9301. Determinations by certified health benefit plan sponsors providing items and services.

Sec. 9302. Determinations by certified health benefit plan sponsors providing benefits in the form of payments to health providers or individuals for items and services.

Sec. 9303. Notices; waiver of rights prohibited.

Sec. 9304. Review of grievances based on acts or practices by certified health benefit plan sponsors.

Sec. 9305. Initial proceedings in complaint review offices.

Sec. 9306. Hearings before hearing officers in complaint review offices.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Sec. 9307. Coordination with other provisions of law.
SUBPART B—EARLY RESOLUTION PROGRAMS
Sec. 9311. Establishment of early resolution programs in complaint review offices.
Sec. 9312. Eligibility of cases for submission to early resolution program.
Sec. 9313. Facilitators.
Sec. 9314. Initiation of proceedings.
Sec. 9315. The mediation proceedings.
Sec. 9316. Applicable time limits.
Sec. 9317. Legal effect of participation in proceedings.
Sec. 9318. Confidentiality.
Sec. 9319. Enforcement of settlement agreements.
PART 2—GENERAL CIVIL REMEDIES
Sec. 9321. Right of action against certified health benefit plan sponsors and third party contractors.
Sec. 9322. General private right of action against States.
PART 3—ANTI-DISCRIMINATION
Sec. 9331. Requirements relating to States.
Sec. 9332. Requirements relating to consumer purchasing cooperatives.
Sec. 9333. Requirements relating to plan sponsors.
Sec. 9334. Nondiscrimination in federally assisted programs.
Sec. 9335. Collection and reporting of data by Secretary.
Sec. 9336. Regulations.

SEC. 9300. DEFINITIONS.

For purposes of this subtitle—

(1) CERTIFIED HEALTH BENEFIT PLAN.—The term "certified health benefit plan" means—

(A) a health benefit plan (as defined in section 5504(3)) provided or sponsored by a private person (regardless of whether enrollment in such plan is facilitated by a purchasing cooperative or governmental program);

(B) a health benefit plan established or maintained by the government of a State or political subdivision thereof, or by any agency or instrumentality of such a government, for its employees; and

(C) a long-term care insurance policy (as defined in section 10111).

(2) CERTIFIED HEALTH BENEFIT PLAN SPONSOR.—The term "certified health benefit plan sponsor" has the meaning given the term "sponsor" in section 5504(13) in relation to a certified health benefit plan.

(3) DISABILITY.—The term "disability" has the meaning given such term in section 3(2) of the Americans with Disabilities Act of 1990.

(4) HEALTH PROVIDER.—The term "health provider" has the meaning given such term in section 9109(7).

(5) NETWORK PROVIDER.—The term "network provider" has the meaning given such term in section 9109(8).

(6) PLAN NETWORK.—The term "plan network" has the meaning given such term in section 9109(9).

(7) THIRD PARTY CONTRACTOR.—The term "third party contractor" means, in connection with a certified health benefit plan, any person (other than a certified health benefit plan sponsor with respect to the plan) who—

(A) administers or processes payments made under the plan pursuant to requests for payment for items and services but is not the provider of the items and services, or

(B) carries out any other duty of the certified health benefit plan sponsor under a direct or indirect contractual arrangement with the certified health benefit plan sponsor, other than providing the items and services.

PART 1—GRIEVANCE AND APPEALS PROCESS

Subpart A—Review of Refusals of Items and Services and Denials of Payment To Providers and Individuals

SEC. 9301. DETERMINATIONS BY CERTIFIED HEALTH BENEFIT PLAN SPONSORS PROVIDING ITEMS AND SERVICES.

(a) APPLICABILITY.—This section applies in the case of a certified health benefit plan to the extent it provides benefits in the form of items and services.

(b) EXPLANATION OF REASONS FOR CERTAIN REFUSALS OF ITEMS OR SERVICES.—

(1) IN GENERAL.—A certified health benefit plan sponsor shall provide any individual who is refused an item or service under the certified health benefit plan a written explanation for such refusal within three business days after a request for such explanation is made by or on behalf of the individual. Such explanation shall set forth the specific reasons for the refusal and shall meet the requirements of section 9303(a). For purposes of this section, a refusal to provide an item or service at the time requested shall be treated as a refusal of a request for the item or service. For treatment in the complaint review office of refusals involving urgent requests for items and services, see section 9306(b)(4).

(2) EXPLANATION WITH RESPECT TO CERTAIN REFUSALS.—

(A) NOT COVERED UNDER COMPREHENSIVE BENEFIT PACKAGE.—If the refusal by a certified health benefit plan sponsor of an item or service is based in whole or in part on a determination that the item or service is not covered by the comprehensive benefit package, the explanation required under paragraph (1) shall include the specific factual basis for the individual determination.

(B) EXPERIMENTAL TREATMENTS OR INVESTIGATIVE PROCEDURES.—If the refusal by a certified health benefit plan sponsor of an item or service is based in whole or in part on exclusion of coverage with respect to a service because the service is determined to comprise an experimental treatment or investigatory procedure, the explanation required under paragraph (1) shall include the medical basis for the determination and a description of the process used in making the determination.

(C) INCONSISTENCY WITH PRACTICE GUIDELINES.—If the refusal by a certified health benefit plan sponsor of an item or service is based in whole or in part on a determination that a particular treatment is not medically necessary or appropriate or is inconsistent with the plan's practice guidelines, the explanation required under paragraph (1) shall include the medical basis for the determination, the guidelines used in making the determination, the basis for such guidelines, and a description of the process used in making the determination.

(c) REQUIREMENTS RELATING TO TERMINATED OR REDUCED ITEMS OR SERVICES.—

(1) WRITTEN EXPLANATION.—A certified health benefit plan sponsor shall provide to any individual a written explanation for any intended action that would result in termination or reduction of any item or service which has been provided in a course of treatment for such individual. Such explanation shall be provided not less than one business day before the action is to be taken by the certified health benefit plan sponsor. The written explanation shall set forth the specific reasons for such action and shall meet the requirements of section 9303(a). Subsection (b)(2) shall apply with respect to such written explanation.

(2) INTERIM RELIEF IN URGENT CASES IN COMPLAINT REVIEW OFFICE.—

(A) IN GENERAL.—Upon the filing of a complaint with the appropriate complaint review office under section 9304 with respect to any proposed action described in a written explanation received pursuant to paragraph (1), together with an attestation described in subparagraph (B), the item or service proposed to be terminated or reduced shall be continued until an initial decision on the complaint is made by the complaint review office.

(B) ATTESTATION.—An attestation described in this paragraph is an attestation, with respect to the individual on whose behalf the complaint is made—

(i) that failure to immediately provide the item or service could reasonably be expected to result in—

(I) placing the health of such individual (or, with respect to such an individual who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

(II) serious impairment to bodily functions, or

(III) serious dysfunction of any bodily organ or part,

or

(ii) that immediate provision of the item or service is necessary because such individual has made or is at serious risk of making an attempt to harm himself or herself or another individual.

(d) FAILURE TO MEET REQUIREMENTS ESTABLISHING RIGHT TO FILE COMPLAINT.—A refusal described in subsection (b)(1), a reduction or termination described in subsection (c), or a failure by a certified health benefit plan sponsor to comply with any requirement of this section with respect to any individual shall establish a right for the aggrieved individual to file a complaint with the complaint review office under section 9304.

SEC. 9302. DETERMINATIONS BY CERTIFIED HEALTH BENEFIT PLAN SPONSORS PROVIDING BENEFITS IN THE FORM OF PAYMENTS TO HEALTH PROVIDERS OR INDIVIDUALS FOR ITEMS AND SERVICES.

(a) APPLICABILITY.—This section applies in the case of a certified health benefit plan to the extent it provides benefits in the form of payments to health providers or individuals for items and services.

(b) TREATMENT OF REQUESTS FOR PAYMENTS FOR ITEMS AND SERVICES.—

(1) NOTICE REQUIREMENTS AND TIME LIMITS.—

(A) IN GENERAL.—In the case of a request presented to a certified health benefit plan sponsor by a health provider or individual for payment for any item or service provided to an individual, the certified health benefit plan sponsor shall provide to the health provider or individual a written notice of any denial, in whole or in part, of the payment within 20 business days after the date on which the request is presented in writing to the certified health benefit plan sponsor. Failure by any certified health benefit plan sponsor to respond to any such request within such period of 20 business days shall be treated as a final determination by the certified health benefit plan sponsor to deny the request.

(B) MATTERS TO BE INCLUDED IN NOTICE.—Such notice shall include a written explanation for such denial which sets forth the specific reasons therefor and which meets the requirements of section 9303(a).

(2) EXPLANATION WITH RESPECT TO CERTAIN DENIALS.—

(A) NOT COVERED UNDER COMPREHENSIVE BENEFIT PACKAGE.—If the denial by a certified health benefit plan sponsor of payment to a health provider or individual for an item or service is based in whole or in part on a determination that the item or service is not covered by the comprehensive benefit package, exceeds the maximum payment rate, if any, applicable to the class of service under title VI, or exceeds payment rates under any applicable fee schedule, the explanation required under paragraph (1) shall include the specific factual basis for the individual determination.

(B) EXPERIMENTAL TREATMENTS OR INVESTIGATIVE PROCEDURES.—If the denial by a certified health benefit plan sponsor of payment to a health provider or individual for an item or service is based in whole or in part on exclusion of coverage with respect to a service because the service is determined to comprise an experimental treatment or investigatory procedure, the explanation required under paragraph (1) shall include the medical basis for the determination and a description of the process used in making the determination.

(C) INCONSISTENCY WITH PRACTICE GUIDELINES.—If the denial by a certified health benefit plan sponsor of payment to a health provider or individual for an item or service is based in whole or in part on a determination that a particular treatment is not medically necessary or appropriate or is inconsistent with the plan's practice guidelines, the explanation required under paragraph (1) shall include the medical basis for the determination, the guidelines used in making the determination, the basis for such guidelines, and a description of the process used in making the determination.

(c) TREATMENT OF REQUESTS BY HEALTH PROVIDERS OR INDIVIDUALS FOR PREAUTHORIZATION OF PAYMENT FOR ITEMS AND SERVICES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, subsection (e)(1), and section 9306(b)(4), any request by a health provider or an individual for preauthorization of payment for any item or service under a certified health benefit plan shall be treated in the same manner as a request for payment for an item or service under subsection (b). In applying subsection (b)(1)(A) to such a request, each reference therein to "20 business days" shall be deemed a reference to "10 business days".

(2) TREATMENT OF URGENT REQUESTS FOR PREAUTHORIZATION.—

(A) APPLICABILITY.—This paragraph applies to any request for preauthorization of an item or service (other than an emergency service which may not be subject to preauthorization) which is accompanied by an attestation, with respect to the individual on whose behalf the request is made—

(i) that failure to immediately provide the item or service could reasonably be expected to result in—

(I) placing the health of such individual (or, with respect to such an individual who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

(II) serious impairment to bodily functions, or

(III) serious dysfunction of any bodily organ or part,

or

(ii) that immediate provision of the item or service is necessary because such individual has made or is at serious risk of making an attempt to harm himself or herself or another individual.

(B) SHORTENED TIME LIMIT FOR CONSIDERATION OF URGENT REQUESTS FOR PREAUTHORIZATION.—A certified health benefit plan sponsor shall approve or deny any request described in subparagraph (A) within 24 hours after the request is presented to the certified health benefit plan sponsor. Failure to comply with the requirements of this paragraph shall be treated as a final determination by the certified health benefit plan sponsor to deny the request.

(3) DENIAL OF PREVIOUSLY AUTHORIZED CLAIMS NOT PERMITTED.—In any case in which a certified health benefit plan sponsor approves a request for preauthorization of payment for any item or service submitted by a health provider or individual pursuant to this section, the certified health benefit plan sponsor may not subsequently deny payment for such item or service, unless the certified health benefit plan sponsor makes a showing of an intentional misrepresentation of a material fact by the person making the request.

(d) TREATMENT OF REQUESTS TO CERTIFIED HEALTH BENEFIT PLAN SPONSORS FOR CONTINUATION OR RESTORATION OF TERMINATED OR REDUCED PAYMENT FOR ITEMS OR SERVICES.—

(1) IN GENERAL.—A certified health benefit plan sponsor shall provide to a health provider or individual a written explanation for any intended action that would result in termination or reduction of payment to such health provider or individual for any item or service which has been provided in the course of treatment. Such explanation shall be provided not less than one business day before the certified health benefit plan sponsor intends to take such action, shall set forth the specific reasons for such action, and shall meet the requirements of section 9303(a). Subsection (b)(2) shall apply with respect to such explanation.

(2) INTERIM RELIEF IN COMPLAINT REVIEW OFFICE OF URGENT REQUESTS FOR CONTINUATION OF PAYMENT FOR ITEMS AND SERVICES.—Upon the filing of a complaint with the appropriate complaint review office under section 9304 with respect to any proposed action described in a written explanation received pursuant to paragraph (1), accompanied by an attestation meeting the requirements of subsection (c)(2), the payment for the items and services which is proposed to be terminated or reduced shall be continued until an initial decision on the complaint is made by the complaint review office under section 9306(b)(4).

(e) TIME LIMIT FOR DETERMINATION OF INCOMPLETENESS OF REQUESTS FOR PAYMENT.—For purposes of this section—

(1) Any urgent request referred to in subsection (c)(2) shall be treated as submitted in complete form.

(2) Any other request referred to in subsection (b), (c), or (d) and any other written request by a health provider or individual to the certified health benefit plan sponsor regarding payment for an item or service provided thereunder shall be treated as filed in complete form as of 10 business days after the date of the submission thereof, unless the certified health benefit plan sponsor provides to the health provider or individual, within such period, a written explanation of any required matter remaining to be filed in order to complete the presentation of the request. Such explanation shall meet the requirements of section 9303(a).

(f) FAILURE TO MEET REQUIREMENTS ESTABLISHING RIGHT TO FILE COMPLAINT.—A denial in whole or in part by a plan of a request for payment described in subsection (b), (c), or (d) or a failure by a certified health benefit plan sponsor to comply with any requirement of this section with respect to any individual shall establish a right for such individual to file a complaint with the complaint review office under section 9304.

SEC. 9303. NOTICES; WAIVER OF RIGHTS PROHIBITED.

(a) NOTICE REQUIREMENTS.—Each written notice or explanation required under section 9301 or 9302 shall include—

(1) the address and telephone number of the Consumer Health Advocacy Office (established pursuant to part O of title III of the Public Health Service Act, as added by title VII) serving the community-rating area in which the recipient of the notice or explanation resides or (in the case of a health provider) provides health care and the services available from such Office, and

(2) an explanation of the right of aggrieved individuals and health providers to obtain review of grievances against the certified health benefit plan sponsor in the complaint review office for the applicable community-rating area under section 9304.

Any such notice or explanation shall be written in language calculated to be understood by the average individual enrolled under the plan and shall be provided in a form which takes into account accessibility to the information by individuals whose primary language is not English and shall be provided in a manner consistent with the applicable requirements of the Americans with Disabilities Act of 1990.

(b) WAIVER OF RIGHTS PROHIBITED.—A certified health benefit plan sponsor may not require any party to waive any right under the plan or Federal or State law, except to the extent otherwise specified in a settlement agreement under section 9319 or in a settlement agreement obtained with representation of such party by an attorney.

SEC. 9304. REVIEW OF GRIEVANCES BASED ON ACTS OR PRACTICES BY CERTIFIED HEALTH BENEFIT PLAN SPONSORS.

(a) FILINGS OF COMPLAINTS BY AGGRIEVED PERSONS.—Each State shall establish a complaint review office for each community-rating area, unless such area is adequately served by another complaint review office established by the State. Any person may, pursuant to section 9301(d) or section 9302(f), file with the complaint review office a complaint against the certified health benefit plan sponsor (or a third party contractor with respect to a certified health benefit plan) not later than three years after the alleged violation occurs.

(b) NOTICE OF FILING.—The complaint review office shall serve by certified mail a copy of the complaint (including the date, place, and circumstances of the alleged violation) to the person or persons against whom the complaint is made within 10 days after the filing of the complaint.

SEC. 9305. INITIAL PROCEEDINGS IN COMPLAINT REVIEW OFFICES.

(a) ELECTIONS.—Whenever a complaint is brought to a complaint review office under section 9304, the complaint review office shall provide the complainant with an opportunity, in such form and manner as shall be prescribed in regulations of the Secretary, to elect one of the following:

(1) to submit the complaint as a dispute under the Early Resolution Program, if established pursuant to part 2,

(2) to proceed with the complaint to a hearing in the complaint review office under section 9306, or

(3) to forego further proceedings in the complaint review office and rely on remedies available in a court of competent jurisdiction, including remedies under section 9321.

(b) EFFECT OF PARTICIPATION IN EARLY RESOLUTION PROGRAM.—If the complainant makes an election to submit the complaint as a dispute under the Early Resolution Program under subsection (a)(1) and the proceedings under the Program with respect to

VOL 140 PT 15 AG 10 — 11 1994 UMI

the dispute are terminated without settlement or resolution of the dispute with respect to such matter, the complainant may proceed to an election under subsection (a)(2) or (a)(3).

SEC. 9306. HEARINGS BEFORE HEARING OFFICERS IN COMPLAINT REVIEW OFFICES.

(a) ASSIGNMENT OF COMPLAINTS TO HEARING OFFICERS AND NOTICE TO PARTIES.—

(1) IN GENERAL.—In the case of an election under section 9305(a)(2) the complaint review office shall assign the complaint to a hearing officer employed by the State in the office who shall conduct a hearing on the compliant under this section.

(2) QUALIFICATIONS FOR HEARING OFFICERS.—The hearing officer shall be qualified and shall not have any official, financial, or personal conflict of interest.

(b) HEARINGS.—

(1) DE NOVO HEARING.—Hearings under this section shall be de novo. In any such hearing, the hearing officer shall provide for—

(A) full review of the applicable law and facts,

(B) no deference to factual findings, legal findings, or plan interpretations of the decisionmaker below, and

(C) admission of any new evidence and new witnesses provided by all parties to the extent relevant to any issue being considered.

(2) RECORDED TESTIMONY.—The testimony taken by the hearing officer shall be recorded.

(3) AUTHORITY OF HEARING OFFICERS.—The hearing officer may compel, by subpoena, the attendance of witnesses and the production of evidence at any designated place or hearing. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the hearing officer, the hearing officer may seek enforcement of the subpoena in an appropriate district court of the United States or in a State court of competent jurisdiction.

(4) EXPEDITED HEARINGS.—Notwithstanding section 9305 and the preceding provisions of this section, upon receipt of a complaint relating to a refusal or denial referred to in section 9301 or 9302 which is accompanied by an attestation equivalent to the attestation described in section 9301(c)(2)(B) or 9302(c)(2)(A), the complaint review office shall promptly provide the complainant with the opportunity to make an election under section 9305(a)(2) and assignment to a hearing on the complaint before a hearing officer. The complaint review office shall ensure that such a hearing commences not later than 24 hours after receipt of the complaint by the complaint hearing office and that the hearing is completed and the decision is rendered within three business days after the date on which the complaint is received.

(c) DECISION OF HEARING OFFICER.—

(1) IN GENERAL.—Within 60 days after the close of the hearing, the hearing officer shall make a decision with respect to each allegation in the complaint. The hearing officer shall decide the extent to which any party against whom the complaint is brought has acted or failed to act in violation of the terms of the certified health benefit plan or Federal or State law. Each such decision—

(A) shall be supported by substantial evidence on the record considered as a whole,

(B) shall include the hearing officer's findings of fact, and

(C) shall constitute the hearing officer's final disposition of the proceedings.

The burden of proof shall be on the party against whom the complaint is filed.

(2) DECISIONS FINDING IN FAVOR OF COMPLAINANT.—If the hearing officer rules in favor of the complainant—

(A) the hearing officer may order the party against whom the complaint is brought, as a remedy for such violation—

(i) to cease and desist from such violation,

(ii) to provide items and services under the plan, or payment requested, and to otherwise comply with the terms of the plan and the applicable requirements of Federal and State law,

(iii) to pay to the complainant actual and compensatory damages, except punitive damages, and

(iv) to pay to the complainant prejudgment interest on the actual costs incurred in obtaining the items and services, or payment therefor, at issue in the complaint, and

(B) if the complainant substantially prevails, the hearing officer shall award the complainant reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

(3) FINALITY OF DECISION.—The decision of the hearing officer shall be final, unless review is sought under subsection (d).

(d) REVIEW.—

(1) IN GENERAL.—Any party to the complaint may, within 60 days after service of the decision by the complaint review office, seek review of the decision in a court of competent jurisdiction. In any such proceeding in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

(2) SCOPE OF REVIEW.—The court shall set aside or modify the decision of the hearing officer if—

(A) the decision is not supported by substantial evidence on the record considered as a whole,

(B) in the case of any interpretation by the hearing officer of contractual terms (irrespective of the extent to which extrinsic evidence was considered), the determination is not supported by a preponderance of the evidence, or

(C) the decision is in excess of jurisdiction, without observance any procedure required by law, in violation of a statutory or constitutional right, or otherwise contrary to law.

(e) COURT ENFORCEMENT OF ORDERS.—If the complainant prevails and the order is not appealed, the complainant may petition any court of competent jurisdiction for enforcement of the order.

SEC. 9307. COORDINATION WITH OTHER PROVISIONS OF LAW.

Nothing under any provision of the Employee Retirement Income Security Act of 1974 or any other Federal law (other than this Act) shall be construed as limiting any right or remedy provided under this Act.

Subpart B—Early Resolution Programs

SEC. 9311. ESTABLISHMENT OF EARLY RESOLUTION PROGRAMS IN COMPLAINT REVIEW OFFICES.

(a) ESTABLISHMENT OF PROGRAMS.—Each State may establish and maintain an Early Resolution Program in each complaint review office in such State in accordance with this subpart. Any such Program shall include the establishment and maintenance of forums for mediation of disputes in accordance with this subpart.

(b) DUTIES OF COMPLAINT REVIEW OFFICES.—Each State establishing an Early Resolution Program shall—

(1) administer the Early Resolution Program in each claims review office in accordance with regulations of the Secretary,

(2) develop Program policy and procedures,

(3) maintain a roster of facilitators for each claims review office to act under the Program in mediation proceedings between parties conducted under this subpart, and coordinate the recruitment, selection, and training of such facilitators,

(4) provide meeting sites, maintain records, and provide facilitators with administrative support staff,

(5) establish and maintain attorney referral panels, and

(6) monitor and evaluate the Program on an ongoing basis.

SEC. 9312. ELIGIBILITY OF CASES FOR SUBMISSION TO EARLY RESOLUTION PROGRAM.

(a) CASE CRITERIA.—A dispute may be submitted to the Early Resolution Program only if the dispute consists of an assertion by an individual (hereinafter in this subpart referred to as the 'claimant') of—

(1) a denial or refusal by the certified health benefit plan sponsor (or a third party contractor with respect to the certified health benefit plan), contrary to the provisions of the certified health benefit plan, this Act, or State law, of one or more items or services under the plan or payment therefor, or

(2) failure or refusal by the certified health benefit plan sponsor (or a third party contractor with respect to the certified health benefit plan) to comply with the claimant's request for information or documents the disclosure of which is required under the plan, this Act, or State law (including failure or refusal to comply with any claim of entitlement to disclosure based on colorable claims to rights to benefits under the plan).

(b) REPRESENTATION.—Any claimant may be secure representation by any person.

(c) NOTICE OF PROGRAM AVAILABILITY.—Each certified health benefit plan sponsor shall ensure that, as part of review procedures established pursuant to this subpart, claimants taking part in such procedure will be informed during such procedure of the availability of the Early Resolution Program.

SEC. 9313. FACILITATORS.

(a) RECRUITMENT.—The State shall recruit individuals to serve as facilitators under the Early Resolution Program from individuals who have the requisite expertise for such service.

(b) CRITERIA.—In selecting individuals to serve as facilitators, the State shall consider the following:

(1) the individual's experience in dispute resolution;

(2) the individual's ability to act impartially;

(3) the individual's ability to perform evaluations quickly and to present them in nontechnical terms; and

(4) the individual's experience in employee benefit law and the individual's expertise pertaining to medical or disability issues;

(c) TRAINING OF FACILITATORS.—The State shall provide a training program for all new facilitators. The curriculum shall include the procedures of the Program, relevant ethical obligations, and skills in arbitration, mediation, and conciliation necessary for effective alternative dispute resolution in the applicable proceedings. A facilitator may serve only upon completion of such training program.

(d) ASSIGNMENT OF FACILITATORS TO CASES.—Upon submission of a dispute to mediation proceedings under this subpart, the State shall appoint a facilitator (as appropriate) through a random selection procedure which shall be prescribed in regulations.

(e) COMPENSATION.—Facilitators serving in the Early Resolution Program may, at their election, serve on a pro bono basis or be compensated at a fixed fee to be established by the State. Each facilitator shall receive travel expenses, including per diem in lieu of subsistence.

SEC. 9314. INITIATION OF PROCEEDINGS.

(a) FILING OF ELECTION.—A claimant with a dispute which is eligible under section 9312 for submission to the Early Resolution Program may elect to participate in proceedings under the Program by means of filing with the appropriate complaint review office an election for mediation under the Program. An election to commence mediation proceedings under the Program shall be in such form and manner as the Secretary may prescribe.

(b) AGREEMENT TO PARTICIPATE.—

(1) ELECTION BY CLAIMANTS.—A claimant may elect participation in mediation proceedings under the Program only by entering into a written agreement (including an agreement to comply with the rules of the Program and consent for the State to contact the certified health benefit plan sponsor (and any third party contractor with respect to the plan) involved regarding the agreement) and by releasing plan records to the Program for the exclusive use of the facilitator assigned to the mediation. The State may charge the claimant a filing fee of not more than $100. The State shall provide for waiver of the fee in cases of hardship, under standards which shall be prescribed by the Secretary by regulation.

(2) PARTICIPATION BY CERTIFIED HEALTH BENEFIT PLAN SPONSORS AND THIRD PARTY CONTRACTORS.—Each party whose participation in the mediation proceedings has been elected by a claimant shall participate in, and cooperate fully, in the proceedings. The complaint review office shall provide each party with a copy of the participation agreement described in paragraph (1), together with a written description of mediation under the Early Resolution Program. Each party shall submit a copy of the agreement, with the party's signature, to the complaint review office, and shall include a copy of the written record of any claims procedure completed by the plan pursuant to section 9301 or 9302 with respect to the dispute and all relevant plan documents. The State may charge each such party a filing fee of not more than $100. The relevant documents shall include all relevant medical records of the claimant and all documents under which the plan is or was administered or operated, including copies of any insurance contracts under which benefits are or were provided and any fee or reimbursement schedules for health providers requested by the facilitator.

SEC. 9315. THE MEDIATION PROCEEDINGS.

(a) IN GENERAL.—A mediation proceeding under the Early Resolution Program shall be conducted by facilitators recruited, trained, and assigned by the State under section 9313 and in accordance with fair and equitable procedures to be prescribed by the Secretary which shall be subject to the requirements of this subpart.

(b) PROCEDURAL RULES.—

(1) INAPPLICABILITY OF FORMAL RULES OF EVIDENCE.—Formal rules of evidence shall not apply to mediation proceedings under the Program. All statements made and evidence presented in the proceedings shall be admissible in such proceedings. The facilitator shall be the sole judge of the proper weight to be afforded to each submission.

(2) INAPPLICABILITY OF OATH REQUIREMENTS.—The parties to the mediation proceedings shall not be required to make statements or present evidence under oath.

(c) ANALYSIS STAGE.—In the commencement of the mediation proceedings with respect to any dispute, the facilitator assigned to the dispute shall—

(1) identify the necessary parties,

(2) confirm that the case is eligible for mediation under the Program,

(3) ensure that each party is informed of available legal representation, including such services as may be available free of charge under legal assistance programs,

(4) set a conference date,

(5) at the option of the facilitator, request position papers from the parties, if the facilitator determines that such papers are needed to clarify the parties' positions and issues in dispute, and

(6) analyze the record of any plan procedure conducted pursuant to subpart A and any position papers submitted by the parties, with appropriate legal assistance provided by the State, to determine if further case development is needed to clarify the legal and factual issues in dispute, and whether there is any need for additional information and documents, and request the parties to present any such needed information and documents.

(d) EVALUATION STAGE.—Upon completion of the procedures described in subsection (c), the mediation proceedings shall proceed as follows:

(1) COMMENCEMENT OF CONFERENCE.—The facilitator shall convene a conference between the parties. Each party shall be given the opportunity to make a statement summarizing the facts, issues, and arguments in support of such party's position, and present, or inform the facilitator of, any additional evidence such party considers to be relevant to the evaluation.

(2) NEUTRALITY OF FACILITATOR.—The facilitator shall maintain a neutral stance between the parties.

(3) PREPARATION OF SETTLEMENT AGREEMENT.—If settlement is reached, the facilitator shall assist in the preparation of a written settlement agreement (which shall remain confidential at the option of the parties) and shall ensure that the parties understand the terms of the settlement.

(4) EVALUATION UPON INITIAL FAILURE TO REACH SETTLEMENT.—If no settlement is reached, the facilitator may evaluate for the parties the likely outcome of further administrative action or litigation, based on the facilitator's assessment of the relative strength of each party's position. Any such evaluation by the facilitator shall be treated as a proceeding communication to which section 9318 applies.

(5) FURTHER PROCEEDINGS.—The facilitator shall then encourage extension of the proceedings if it is likely to lead to settlement or a substantial narrowing of the issues.

SEC. 9316. APPLICABLE TIME LIMITS.

The mediation proceedings under the Early Resolution Program with respect to any dispute shall be completed within 60 days after the date of the election to participate. The parties may agree to one extension of the proceedings of not more than 30 days.

SEC. 9317. LEGAL EFFECT OF PARTICIPATION IN PROCEEDINGS.

(a) PROCESS NONBINDING.—Findings and conclusions made in the mediation proceedings under the Early Resolution Program shall be treated as advisory in nature and nonbinding. Except as provided in subsection (b), the rights of the parties under subpart A shall not be affected by participation in the mediation proceedings under the Program.

(b) RESOLUTION THROUGH SETTLEMENT AGREEMENT.—If a case is settled through participation in the mediation proceedings under the Program, the facilitator shall assist the parties in drawing up an agreement which shall constitute, upon signature of the parties, a binding contract between the parties, which shall be enforceable under section 9319, and which shall be enforceable under this subpart and State law as if the terms of such agreement were terms of the plan.

(c) PRESERVATION OF RIGHTS OF NON-PARTIES.—The settlement agreement shall not have the effect of waiving or otherwise affecting any rights to review under this part, State law, or any other right under this Act, State law, or the plan with respect to any person who is not a party to the settlement agreement.

SEC. 9318. CONFIDENTIALITY.

(a) FACILITATORS.—Except as provided in subsections (d) and (e), a facilitator in a mediation proceeding under the Early Resolution Program shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any proceeding communication or any communication provided in confidence to the facilitator, unless—

(1) all parties to the proceeding and the facilitator consent in writing, and, if the proceeding communication was provided by a participating nonparty, that the participating nonparty also consents in writing,

(2) the proceeding communication has already been made public,

(3) the proceeding communication is required by statute to be made public, but a facilitator may make such communication public only if no other person is reasonably available to disclose the communication, or

(4) a court determines that such testimony or disclosure is necessary to—

(A) prevent a manifest injustice,

(B) help establish a violation of law, or

(C) prevent harm to the public health or safety,

of sufficient magnitude in the particular case to outweigh the integrity of the proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

(b) PARTIES.—A party to a mediation proceeding under the Early Resolution Program shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any proceeding communication, unless—

(1) the communication was prepared by the party seeking disclosure,

(2) all parties to the proceeding consent in writing,

(3) the proceeding communication has already been made public,

(4) the proceeding communication is required by statute to be made public,

(5) a court determines that such testimony or disclosure is necessary to—

(A) prevent a manifest injustice,

(B) help establish a violation of law, or

(C) prevent harm to the public health or safety,

of sufficient magnitude in the particular case to outweigh the integrity of the proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(6) the proceeding communication is relevant to determining the existence or meaning of an agreement or award that resulted from the proceeding or to the enforcement of such an agreement or award, or

(7) the proceeding communication was provided to or was available to all parties to the proceeding.

(c) INADMISSIBILITY OF DISCLOSED INFORMATION.—Any proceeding communication that is disclosed in violation of subsection (a) or (b) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the communication was made.

(d) ALTERNATIVE PROCEDURES.—The parties may agree to alternative confidential procedures for disclosures by a facilitator. Upon such agreement the parties shall inform the facilitator before the commencement of the proceeding of any modifications to the provisions of subsection (a) that will govern the confidentiality of the proceeding. If the parties do not so inform the facilitator, subsection (a) shall apply.

(e) NOTICE OF DEMANDS FOR DISCLOSURE.—If a demand for disclosure, by way of discovery request or other legal process, is made upon a facilitator regarding a proceeding communication, the facilitator shall make reasonable efforts to notify the parties and any affected participating nonparties of the demand. In any case in which such disclosure would otherwise be in violation of this section, the facilitator may perform such disclosure in accordance with such demand only if each party and affected nonparty participant who receives such notice consents to such disclosure within 15 calendar days after the date of the issuance of such notification.

(f) EXCEPTIONS.—

(1) INFORMATION OTHERWISE DISCLOSABLE.—Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a mediation proceeding under the Early Resolution Program.

(2) DOCUMENTATION OF AGREEMENTS OR ORDERS.—Subsections (a) and (b) shall have no effect on the information and data that are necessary to document an agreement reached or order issued pursuant to a mediation proceeding under the Early Resolution Program.

(3) RESEARCH OR EDUCATIONAL PURPOSES.—Subsections (a) and (b) shall not prevent the gathering of information for research or educational purposes so long as the parties and the specific issues in controversy are not identifiable.

(4) DISPUTES BETWEEN FACILITATOR AND A PARTY.—Subsections (a) and (b) shall not prevent use of a proceeding communication to resolve a dispute between the facilitator in a mediation proceeding under the Early Resolution Program and a party to or participant in such proceeding, so long as such proceeding communication is disclosed only to the extent necessary to resolve such dispute.

(g) CIVIL REMEDIES.—

(1) CIVIL PENALTY.—The Secretary shall assess a civil penalty against any person who discloses information in violation of subsection (a) or (b) in the amount of three times the amount of the claim involved. The procedures described in section 1128A of the Social Security Act (other than subsections (a) and (b)) apply to civil money penalties under this paragraph under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1128A of such Act.

(2) DISQUALIFICATION FROM SERVICE.—Any facilitator who discloses information in violation of subsection (a) shall be disqualified from further service as a facilitator under this subpart.

(h) DEFINITIONS.—For purposes of this section—

(1) PROCEEDING COMMUNICATION.—The term 'proceeding communication' means any oral or written communication prepared for the purposes of a mediation proceeding under the Early Resolution Program, including any memoranda, notes, or work product of the facilitator, parties, or participating nonparties, except that such term does not include a written agreement to enter into the proceeding or a final written agreement reached as a result of the proceeding.

(2) IN CONFIDENCE.—The term 'in confidence' means, with respect to information, that the information is provided—

(A) with the expressed intent of the source that it not be disclosed, or

(B) under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed.

SEC. 9319. ENFORCEMENT OF SETTLEMENT AGREEMENTS.

(a) CONFIRMATION; JURISDICTION; PROCEDURE.—At any time within one year after the date of a settlement agreement entered into in mediation proceeding under the Early Resolution Program, any party to the agreement may apply to the United States district court in and for the district within which such agreement was made for an order confirming the agreement. Upon such application, the court shall grant such an order unless the agreement is vacated, modified, or corrected as prescribed in subsection (b) or (c). Notice of the application shall be served upon the adverse party. Upon such notice, the court shall have jurisdiction of such adverse party as though such adverse party had appeared generally in the proceeding. If the adverse party is a resident of the district within which the award was made, such service shall be made upon the adverse party or such party's attorney as prescribed by law for service of notice of motion in any action in the same court. If the adverse party is a nonresident, the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other process of the court.

(b) VACATION; GROUNDS; REHEARING.—The court may make an order vacating the settlement agreement upon the application of any party to the agreement if—

(1) the agreement was procured under duress or by corruption, fraud, or undue means, or

(2) there was evident partiality or corruption in the facilitator who assisted in the making of the agreement.

(c) MODIFICATION OR CORRECTION; GROUNDS; ORDER.—The court may make an order modifying or correcting the settlement agreement upon the application of any party to the agreement if—

(1) there was a material miscalculation of figures or a material mistake in the description of any person, thing, or property referred to in the agreement,

(2) the agreement relates to a matter not submitted in the conference proceedings, unless it is a matter not affecting the merits of the agreement upon the matter submitted, or

(3) the agreement is imperfect in matter of form not affecting the merits of the controversy.

The order may modify and correct the agreement, so as to effect the intent thereof and promote justice between the parties.

(d) NOTICE OF MOTIONS TO VACATE OR MODIFY; SERVICE; STAY OF PROCEEDINGS.—Notice of a motion to vacate, modify, or correct a settlement agreement made in mediation proceedings under the Early Resolution Program must be served upon the adverse party or the party's attorney within 90 days after the settlement agreement is made. If the adverse party is a resident of the district within which the agreement is made, such service shall be made upon the adverse party or the party's attorney as prescribed by law for service of notice of motion in an action in the same court. If the adverse party is a nonresident, the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other process of the court. For the purposes of the motion any judge who may make an order to stay the proceedings in an action brought in the same court may make an order, to be served with the notice of motion, staying the proceedings of the adverse party to enforce the agreement.

(e) PAPERS FILED WITH ORDER ON MOTIONS; JUDGMENT; DOCKETING; FORCE AND EFFECT; ENFORCEMENT.—

(1) FILING OF PAPERS.—The party moving for an order confirming, modifying, or correcting a settlement agreement made in mediation proceedings under the Early Resolution Program shall, at the time such order is filed with the clerk for the entry of judgment thereon, also file the following papers with the clerk:

(A) the agreement, and

(B) each notice, affidavit, or other paper used upon an application to confirm, modify, or correct the agreement, and a copy of each order of the court upon such an application.

(2) DOCKETING OF JUDGMENT.—The judgment shall be docketed as if it were rendered in an action.

(3) FORCE AND EFFECT; ENFORCEMENT.—The judgment so entered shall have the same force and effect, in all respects, as a judgment in an action, and shall be subject to all the provisions of law relating to such a judgment. Such judgment, including the terms of the agreement (as confirmed, modified, or corrected), may be enforced as if it had been rendered in an action in the court in which it is entered.

(f) APPEALS.—An appeal may be taken from an order confirming or denying confirmation of a settlement agreement made in mediation proceedings under the Early Resolution Program or modifying, correcting, or vacating such an agreement.

(g) ATTORNEY'S FEES AND COSTS.—In any action for court enforcement of a settlement agreement under this section in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

(h) ENFORCEMENT IN STATE COURT.—Any party to a settlement agreement made in mediation proceedings under the Early Resolution Program may also apply to a State court of competent jurisdiction for an order confirming the agreement.

PART 2—GENERAL CIVIL REMEDIES

SEC. 9321. RIGHT OF ACTION AGAINST CERTIFIED HEALTH BENEFIT PLAN SPONSORS AND THIRD PARTY CONTRACTORS.

(a) IN GENERAL.—An individual or health provider who is aggrieved by an act or failure to act by a certified health benefit plan sponsor or a third party contractor in violation of the terms of a certified health benefit plan or Federal or State law may bring a civil action in a court of competent jurisdiction for the relief described in subsection (b).

(b) RELIEF.—In the case of any violation described in subsection (a), the certified health benefit plan sponsor, together with each third party contractor (if any) whose act or failure to act constitutes or contributes to the violation, shall be jointly and severally liable to the aggrieved individual or health provider for appropriate relief, including actual, compensatory, and punitive damages and equitable relief.

(c) ATTORNEY'S FEES AND COSTS.—In any action under this section in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

SEC. 9322. GENERAL PRIVATE RIGHT OF ACTION AGAINST STATES.

(a) IN GENERAL.—Any person aggrieved by an act or omission of a State which constitutes a failure to comply with an applicable requirement of this Act may obtain appropriate relief from the State, including actual, compensatory, and punitive damages and equitable relief, in any court of competent jurisdiction.

(b) EXHAUSTION OF REMEDIES.—In an action under subsection (a), the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law.

(c) ATTORNEY'S FEES AND COSTS.—In any action under this section in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

PART 3—ANTI-DISCRIMINATION

SEC. 9331. REQUIREMENTS RELATING TO STATES.

(a) IN GENERAL.—A State, or a person acting under the authority of a State, may not discriminate, or engage (directly or through contractual arrangements) in any activity that has the effect of discriminating, in carrying out any responsibility or in exercising any authority under this Act, against an individual or entity on the basis of race, age, gender, sexual orientation, language, religion, national origin, status of an eligible individual as a citizen of the United States, income, disability, perceived health status, or anticipated need for health services.

(b) BOUNDARIES.—In establishing boundaries for community rating areas or consumer purchasing cooperative areas, a State may not discriminate, engage (directly or through contractual arrangements) in any activity that has the effect of discriminating, or otherwise take into account, race, age, gender, sexual orientation, language, religion, national origin, status of an eligible individual as a citizen of the United States, income, disability, perceived health status, or anticipated need for health services.

(c) REMEDY.—A person who is aggrieved by a violation of subsection (a) or (b) may, in a civil action, obtain appropriate relief, including actual, compensatory, and punitive damages and equitable relief, against any appropriate party, including a State.

(d) ATTORNEY'S FEES AND COSTS.—In any action under subsection (c) in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

SEC. 9332. REQUIREMENTS RELATING TO CONSUMER PURCHASING COOPERATIVES.

(a) ACTIVITIES RELATING TO PLANS.—A consumer purchasing cooperative may not discriminate, or engage (directly or through contractual arrangements) in any activity that has the effect of discriminating, against a certified health benefit plan sponsor providing or sponsoring a certified health benefit plan on the basis of—

(1) mix of health providers associated with the plan;

(2) organizational arrangement of the plan (except as specifically provided in this Act);

(3) personal characteristics of an individual enrolled in the plan or considering enrolling in the plan that are unrelated to whether the individual is eligible to enroll in the plan, such as race, age, gender, sexual orientation, language, religion, national origin, status of an eligible individual as a citizen of the United States, income, disability, perceived health status, or anticipated need for health services; or

(4) personal characteristics of a health provider who is a network provider with respect to the plan, such as race, age, gender, sexual orientation, language, religion, national origin, status of an eligible individual as a citizen of the United States, income, disability, perceived health status, or anticipated need for health services.

(b) OTHER ACTIVITIES.—A consumer purchasing cooperative may not discriminate, or engage (directly or through contractual arrangements) in any other activity that has the effect of discriminating, against an individual or entity on the basis of race, age, gender, sexual orientation, language, religion, national origin, income, disability, status of an eligible individual as a citizen of the United States, perceived health status, or anticipated need for health services.

(c) REMEDY.—A person who is aggrieved by a violation of subsection (a) or (b) may, in a civil action, obtain appropriate relief, including actual, compensatory, and punitive damages and equitable relief, against any appropriate party.

(d) ATTORNEY'S FEES AND COSTS.—In any action under subsection (c) in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

(e) EXHAUSTION OF REMEDIES.—In an action under subsection (c), the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law.

SEC. 9333. REQUIREMENTS RELATING TO PLAN SPONSORS.

(a) UNDERWRITING.—A certified health benefit plan sponsor providing or sponsoring a certified health benefit plan may not engage in any practice that has the effect of attracting or limiting enrollees on the basis of personal characteristics that are unrelated to the eligibility of an individual to enroll in the plan, such as race, age, gender, sexual orientation, language, religion, national origin, status of an eligible individual as a citizen of the United States, income, disability, perceived health status, or anticipated need for health services.

(b) SELECTION OF NETWORK PROVIDERS.—In selecting among health providers for membership in a plan network, or in establishing the terms and conditions of such membership, a certified health benefit plan sponsor described in subsection (a) may not discriminate, or engage (directly or through contractual arrangements) in any activity that has the effect of discriminating, against a health provider—

(1) based on personal characteristics of the provider, such as race, age, gender, sexual orientation, language, religion, national origin, status of an eligible individual as a citizen of the United States, income, disability, perceived health status, or anticipated need for health services; or

(2) based on personal characteristics of a patient of the provider, such as race, age, gender, sexual orientation, language, religion, national origin, status of an eligible individual as a citizen of the United States, income, disability, perceived health status, or anticipated need for health services.

(c) OTHER SPONSOR ACTIVITIES.—A certified health benefit plan sponsor described in subsection (a) may not discriminate, or engage (directly or through contractual arrangements) in any other activity that has the effect of discriminating, against an individual or entity on the basis of race, age, gender, sexual orientation, language, religion, national origin, status of an eligible individual as a citizen of the United States, income, disability, perceived health status, or anticipated need for health services.

(d) BUSINESS NECESSITY.—Except in the case of intentional discrimination, a certified health benefit plan sponsor may not be considered to be in violation of this section, or of any regulations issued under this section, if the sponsor demonstrates, in a civil action under subsection (e), that each action of the sponsor that is otherwise prohibited under this section is required by a compelling business necessity and cannot be accomplished by less discriminatory means. Nothing in this subsection shall be construed to preclude the person alleging the violation from having an opportunity to present evidence to rebut the evidence presented in support of such demonstration.

(e) REMEDY.—A person who is aggrieved by a violation of this section may, in a civil action, obtain appropriate relief, including actual, compensatory, and punitive damages and equitable relief, against any appropriate party.

(f) ATTORNEY'S FEES AND COSTS.—In any action under subsection (e) in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

(g) EXHAUSTION OF REMEDIES.—In an action under subsection (e), the court shall exercise jurisdiction without regard to whether the aggrieved individual has exhausted any administrative or other remedies that may be available to the individual under part 1 or that are otherwise provided by law.

(h) CONSTRUCTION.—Nothing in this section may be construed to permit a right of action with respect to any practice or activity that is explicitly authorized under section 5003(b)(3) or 5008(b)(4).

SEC. 9334. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS.

(a) IN GENERAL.—No person in the United States shall, on the basis of race, age, gender, sexual orientation, language, religion, national origin, status of an eligible individual as a citizen of the United States, income, disability, perceived health status, or anticipated need for health services, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity receiving Federal financial assistance.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(b) PRIVATE REMEDY.—

(1) IN GENERAL.—A person who is aggrieved by a violation of this section may, in a civil action, obtain appropriate relief, including actual, compensatory, and punitive damages and equitable relief, against any appropriate party.

(2) ATTORNEY'S FEES AND COSTS.—In any action under this subsection in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

(c) ADMINISTRATIVE POWERS.—

(1) IN GENERAL.—Each Federal department and agency which is empowered to extend Federal financial assistance to any health program or activity shall effectuate the provisions of this section with respect to such program or activity in accordance with the remedies, procedures and rights set forth in title VI of the Civil Rights Act of 1964.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed to supersede, limit, or otherwise affect any provision of the Social Security Act or any duty or authority of the Secretary under such Act.

(d) DEFINITIONS.—For purposes of this section, the terms "program or activity", and "program" have the meaning given such terms in section 606 of the Civil Rights Act of 1964.

SEC. 9335. COLLECTION AND REPORTING OF DATA BY SECRETARY.

(a) IN GENERAL.—The Secretary shall promulgate regulations that provide for the routine collection, analysis, and reporting, by race, national origin, status of an eligible individual as a citizen of the United States, sex, language, income, age, and residence, of data collected from States, consumer purchasing cooperatives, certified health benefit plan sponsors, and any other person or entity determined appropriate by the Secretary that the Secretary determines are necessary or appropriate to determine whether such individuals and entities are complying with this part. The Secretary shall compile, analyze, and make public the data collected under this section.

(b) NO UNDUE BURDEN.—The regulations under subsection (a) shall include specifications ensuring that any data required to be collected under this section may be collected using the least burdensome method consistent with the efficient and effective administration of this part.

SEC. 9336. REGULATIONS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations to carry out this part.

Subtitle E—Fraud and Abuse

PART 1—APPLICATION OF FRAUD AND ABUSE AUTHORITIES UNDER THE SOCIAL SECURITY ACT TO OTHER PAYERS

SEC. 9401. APPLICATION OF CIVIL MONEY PENALTIES TO ALL PAYERS.

(a) ACTIONS SUBJECT TO PENALTY.—Any person who is determined by the Secretary to have committed any of the following actions with respect to a certified health plan shall be subject to a penalty in accordance with subsection (b):

(1) ACTIONS SUBJECT TO PENALTY UNDER MEDICARE, MEDICAID, AND OTHER SOCIAL SECURITY HEALTH PROGRAMS.—Any action that would subject the person to a penalty under paragraphs (1) through (9) of section 1128A(a) of the Social Security Act if the action was taken with respect to title V, XVIII, XIX, or XX of such Act.

(2) TERMINATION OF ENROLLMENT.—The termination of an individual's enrollment (including the refusal to re-enroll an individual) in violation of the applicable standards established under title V.

(3) DISCRIMINATING ON BASIS OF MEDICAL CONDITION.—The engagement in any practice that would reasonably be expected to have the effect of denying or discouraging the initial or continued enrollment in a certified health plan or medicare part C by individuals whose medical condition or history indicates a need for substantial future medical services.

(4) INDUCING ENROLLMENT ON FALSE PRETENSES.—The engagement in any practice to induce enrollment in a certified health plan or medicare part C through representations to individuals which the person knows or should know are false or fraudulent.

(b) PENALTIES DESCRIBED.—

(1) GENERAL RULE.—Any person who the Secretary determines has committed an action described in paragraphs (2) through (4) of subsection (a) shall be subject to a civil monetary penalty in an amount not to exceed $10,000 for each such determination.

(2) ACTIONS SUBJECT TO PENALTIES UNDER SOCIAL SECURITY ACT.—In the case of a person who the Secretary determines has committed an action described in paragraph (1) of subsection (a), the person shall be subject to the civil monetary penalty (together with any additional assessment) to which the person would be subject under section 1128A of the Social Security Act if the action on which the determination is based had been committed with respect to title V, XVIII, XIX, or XX of such Act.

(c) APPLICABILITY OF PROCEDURES UNDER SOCIAL SECURITY ACT.—The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil monetary penalty or assessment under this section in the same manner as such provisions apply with respect to the imposition of a penalty or assessment under section 1128A of such Act.

(d) TREATMENT OF AMOUNTS RECOVERED.—Any amounts recovered under this section shall be paid to the Secretary and disposed of as follows:

(1) Such portions of the amounts recovered as is determined to have been improperly paid from a certified health plan for the delivery of or payment for health care items or services shall be repaid to such plan.

(2) The remainder of the amounts recovered shall be deposited in the All-Payer Health Care Fraud and Abuse Control Account established under section 9412.

(e) NOTIFICATION OF LICENSING AUTHORITIES.—Whenever the Secretary's determination to impose a penalty or assessment under this section becomes final, the Secretary shall notify the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33) of the Social Security Act) that such a penalty or assessment has become final and the reasons therefore.

SEC. 9402. APPLICATION OF CERTAIN CRIMINAL PENALTIES TO ALL PAYERS.

Any person who is determined by the Attorney General (in consultation with the Secretary) to have committed any action with respect to a certified health plan that would subject the person to a penalty under subsection (a) or (b) of section 1128B of the Social Security Act if the action was taken with respect to title V, XVIII, XIX, or XX of such Act shall be subject to the penalty (together with any assessment) that would apply if the action was taken with respect to any such title.

SEC. 9403. PRIVATE RIGHT OF ACTION.

(a) AVAILABILITY OF RIGHT OF ACTION TO INSURERS.—Subject to paragraphs (2) and (3), a carrier offering an insured health benefit plan and the sponsor of a self-insured health benefit plan that suffers financial harm as a direct result of the submission of claims by an individual or entity for payment for items and services furnished under the plan which makes the individual or entity subject to a civil monetary penalty under this part may, in a civil action against the individual or entity in the United States District Court, obtain damages against the individual or entity and such equitable relief as is appropriate.

(b) RIGHT CONTINGENT UPON REFUSAL TO BRING ACTION BY SECRETARY AND ATTORNEY GENERAL.—A carrier or sponsor may bring a civil action under this section only if the carrier or sponsor provides the Secretary and the Attorney General with written notice of the intent to bring an action under this subsection, the identities of the individuals or entities the carrier or sponsor intends to name as defendants to the action, and all information the carrier or sponsor possesses regarding the activity that is the subject of the action that may materially affect the Secretary's decision to initiate a proceeding to impose a civil monetary penalty under this part against the defendants.

(c) CONDITIONS.—A carrier or sponsor may bring a civil action under this section only if any of the following conditions are met:

(1) During the 60-day period that begins on the date the Secretary receives the written notice described in paragraph (2), the Secretary does not notify the carrier or sponsor that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this section against the defendants.

(2) If the Secretary notifies the carrier or sponsor during the 60-day period described in subparagraph (A) that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this part against the defendants, the Secretary subsequently notifies the carrier or sponsor that the Secretary no longer intends to initiate such a proceeding against the defendants.

(3) After the expiration of the 2-year period that begins on the date the Secretary notifies the carrier or sponsor that the Secretary intends to initiate a proceeding to impose a civil monetary penalty under this part against the defendants, the Secretary has not made a good faith effort to initiate such a proceeding against the defendants.

(d) SET-ASIDE OF AMOUNTS TO ACCOUNT.—If a carrier or sponsor is awarded any amounts in an action brought under this section that are in excess of the damages suffered by the carrier or sponsor as a result of the defendant's activities, 10 percent of such amounts shall be withheld from the carrier or sponsor for payment into the Health Care Fraud and Abuse Control Account established under section 9412.

(e) STATUTE OF LIMITATIONS.—No action may be brought under this section more than 6 years after the date of the activity with respect to which the action is brought.

SEC. 9404. CONSTRUCTION OF SOCIAL SECURITY ACT REFERENCES.

(a) INCORPORATION OF OTHER AMENDMENTS.—Any reference in this part to a provision of the Social Security Act shall be considered a reference to the provision as amended under part 5 of subtitle D of title VIII.

(b) EFFECT OF SUBSEQUENT AMENDMENTS.—Except as provided in subsection (a), any reference to a provision of the Social Security Act in this part shall be deemed to be a reference to such provision as in effect on the date of the enactment of this Act, and (except as Congress may otherwise provide) any amendments made to such provisions after such date shall not be taken into account in determining the applicability of such provisions to individuals and entities under this Act.

PART 2—ESTABLISHMENT OF ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM

SEC. 9411. ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM.

(a) IN GENERAL.—Not later than January 1, 1996, the Secretary (acting through the Inspector General of the Department of Health and Human Services) and the Attorney General shall establish a program—

(1) to coordinate the functions of the Attorney General, the Secretary, and other organizations with respect to the prevention, detection, and control of health care fraud and abuse,

(2)(A) to conduct investigations, audits, evaluations, and inspections relating to health care fraud and abuse under the Public Health Service Act, titles V, XI, XVIII, XIX, and XX of the Social Security Act, medicare part C, and part 1 of this subtitle, and (B) to facilitate the conducting of such investigations, audits, evaluations, and inspections relating to the delivery of and payment for other health care services in the United States, and

(3) to facilitate the enforcement of this subtitle and other statutes applicable to health care fraud and abuse.

(b) COORDINATION WITH OTHER INSPECTORS GENERAL.—

(1) SCOPE OF AUTHORITY OF HHS INSPECTOR GENERAL.—The Inspector General of the Department of Health and Human Services may not exercise any authority under subsection (a)(2)(A) with respect to any matter which is subject to investigation, audit, evaluation, and inspection by the Inspector General of another executive department.

(2) SCOPE OF AUTHORITY OF OTHER INSPECTORS GENERAL.—The Inspector General of each of the Department of Defense, the Office of Personnel Management, and the Department of Veterans Affairs, and the Attorney General shall conduct audits, civil and criminal investigations, inspections, and evaluations relating to the prevention, detection, and control of health care fraud and abuse in violation of any Federal law, except that such an Inspector General may not conduct any investigation, audit, evaluation, or inspection with respect to the authorities described in subsection (a)(2)(A).

(c) COORDINATION WITH LAW ENFORCEMENT AGENCIES.—In carrying out the program under subsection (a), the Secretary and Attorney General may consult with, and arrange for the sharing of data and resources with Federal, State and local law enforcement agencies, State Medicaid Fraud Control Units, and State agencies responsible for the licensing and certification of health care providers (consistent with the requirements of subtitle C).

(d) COORDINATION WITH HEALTH PLANS.—In carrying out the program under subsection (a), the Secretary and Attorney General may consult with, and arrange for the sharing of data with representatives of certified health plans (consistent with the requirements of subtitle C).

(e) AUTHORITIES OF ATTORNEY GENERAL AND INSPECTOR GENERAL.—In carrying out duties under subsection (a), the Attorney General and the Inspector General are authorized—

(1) to conduct, supervise, and coordinate audits, civil and criminal investigations, inspections, and evaluations relating to the program established under such subsection; and

(2) to have access (including on-line access as requested and available) to all records available to certified health plans relating to the activities described in paragraph (1) (subject to restrictions based on the confidentiality of certain information under subtitle C).

(f) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information or communications to the Secretary or Attorney General in conjunction with their performance of duties under this section, in the same manner as such section applies to information provided to organizations with a contract under part B of title XI of such Act.

(g) AUTHORIZATIONS OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary and the Attorney General for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated such additional amounts as may be necessary to enable the Secretary and the Attorney General to conduct investigations, audits, evaluations, and inspections of allegations of health care fraud and abuse and otherwise carry out the program established under subsection (a) in a fiscal year.

(h) USE OF POWERS UNDER INSPECTOR GENERAL ACT OF 1978.—For purposes of carrying out duties and responsibilities under this section, each Inspector General referred to in subsection (b) may exercise powers that are available to that Inspector General for purposes of audits, investigations, and other activities under the Inspector General Act of 1978 (5 U.S.C. App.).

(i) CONSTRUCTION OF FEDERAL AUTHORITY.—Nothing in this section may be construed to affect the authority of States to conduct investigations, audits, evaluations, and inspections relating to violations of State law.

(j) DEFINITION.—In this subtitle, the term "Inspector General" means the Inspector General of the Department of Health and Human Services.

SEC. 9412. ESTABLISHMENT OF ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States an account to be known as the "All-Payer Health Care Fraud and Abuse Control Account" (in this section referred to as the "Anti-Fraud Account"), to be administered by the Inspector General of the Department of Health and Human Services. The Anti-Fraud Account shall consist of such gifts and bequests as may be made as provided in paragraph (2) and such amounts as may be deposited in such Anti-Fraud Account as provided in section 9401(d)(2) and title XI of the Social Security Act. It shall also include the following (but only with respect to activities of the Inspector General and the Attorney General under section 9411(a)(2)(A)):

(A) All criminal fines imposed in cases involving a Federal health care offense (as defined in subsection (d)).

(B) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution).

(C) Administrative penalties and assessments imposed under titles XI, XVIII, and XIX of the Social Security Act and section 9401 (except as otherwise provided by law).

(D) Amounts paid under section 9403(d) (relating to a set-aside of amounts recovered under private right of action).

(D) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

Any such funds received on or after the date of the enactment of this Act shall be deposited in the Anti-Fraud Account.

(2) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account or any activity financed through the Anti-Fraud Account.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available without appropriation and until expended as determined jointly by the Secretary and Attorney General in carrying out the All-Payer Health Care Fraud and Abuse Control Program established under section 9411 (including the administration of the Program), and may be used to cover costs incurred in operating the Program, including—

(A) costs of prosecuting health care matters (through criminal, civil and administrative proceedings);

(B) costs of investigations (including equipment, salaries, administratively uncontrollable work, travel, and training of law enforcement personnel);

(C) costs of financial and performance audits of health care programs and operations;

(D) costs of inspections and other evaluations; and

(E) the costs of providing awards under section 3059(c)(2) of title 18, United States Code (as added by section 9428).

(2) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(c) ANNUAL REPORT.—The Inspector General shall submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(d) USE OF SUBACCOUNTS.—

(1) SUBACCOUNTS DESCRIBED.—The Account shall consist of—

(A) the Health Care Fraud and Abuse Expenses Subaccount; and

(B) the Health Care Fraud and Abuse Reserve Subaccount.

(2) EXPENSES SUBACCOUNT.—

(A) CONTENTS.—The Expenses Subaccount consists of—

(i) amounts deposited pursuant to subsection (a)(1); and

(ii) amounts transferred from the Reserve Subaccount under paragraph (3)(B).

(B) USE.—Amounts in the Expenses Subaccount shall be available to the Inspector General for the uses described in subsection (b).

(3) RESERVE SUBACCOUNT.—

(A) DEPOSITS.—An amount otherwise required under paragraph (2)(A) to be deposited in the Expenses Subaccount in a fiscal year shall be deposited in the Reserve Subaccount, if—

(i) the amount in the Expenses Subaccount is greater than $500,000,000; and

(ii) the deposit of that amount in the Expenses Subaccount would result in the

VOL 140 PT 15 AG 10 — 11 1994 UMI

amount in the Expenses Subaccount exceeding 110 percent of the total amount deposited in the Expenses Subaccount in the preceding fiscal year.

(B) TRANSFERS TO EXPENSES SUBACCOUNT.—

(i) ESTIMATION OF SHORTFALL.—Not later than the first day of the last quarter of each fiscal year, the Inspector General shall estimate whether sufficient amounts will be available during such quarter in the Expenses Subaccount for the uses described in paragraph (2)(B).

(ii) TRANSFER TO COVER SHORTFALL.—If the Inspector General estimates under paragraph (1) that there will not be available sufficient amounts in the Expenses Subaccount during the last quarter of a fiscal year, there shall be transferred from the Reserve Subaccount to the Expenses Subaccount such amount as the Inspector General estimates is required to ensure that sufficient amounts are available in the Expenses Subaccount during such quarter.

(C) LIMITATION ON AMOUNT CARRIED OVER TO SUCCEEDING FISCAL YEAR.—There shall be transferred to the general fund of the Treasury any amount remaining in the Reserve Subaccount at the end of a fiscal year (after any transfer made under subparagraph (B)) in excess of 10 percent of the total amount authorized to be deposited in the Expenses Subaccount (consistent with subparagraph (A)) during the fiscal year.

(d) FEDERAL HEALTH CARE OFFENSE DEFINED.—The term "Federal health care offense" means a violation of, or a criminal conspiracy to violate—

(1) sections 226, 668, 1033, or 1347 of title 18, United States Code;

(2) section 1128B of the Social Security Act;

(3) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of title 18, United States Code, if the violation or conspiracy relates to health care fraud;

(4) sections 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud; or

(5) sections 301, 303(a)(2), or 303(b) or (e) of the Federal Food Drug and Cosmetic Act, if the violation or conspiracy relates to health care fraud.

(e) ACCOUNT PAYMENTS ADVISORY BOARD.—

(1) ESTABLISHMENT.—There is established the Account Payments Advisory Board, which shall make recommendations to the Inspector General regarding the equitable allocation of payments from the Anti-Fraud Account.

(2) MEMBERSHIP.—The Board shall consist of 10 members appointed by the Inspector General of the Department of Health and Human Services to represent Health Care Fraud and Abuse Control Units, of whom one shall be appointed—

(A) for each of the 10 regions established by the Director of the Office of Management and Budget under Office of Management and Budget Circular A–105, to represent Units in that region; and

(B) from among individuals recommended by the heads of those agencies in that region.

To the greatest extent feasible, the membership of the Board shall reflect the racial, ethnic, and gender composition of the population of the United States.

(3) TERMS.—The term of a member of the Board appointed under paragraph (2)(B) shall be 3 years, except that of such members first appointed 3 members shall serve an initial term of one year and 3 members shall serve an initial term of 2 years, as specified by the Inspector General at the time of appointment.

(4) VACANCIES.—A vacancy on the Board shall be filled in the same manner in which the original appointment was made, except that an individual appointed to fill a vacancy occurring before the expiration of the term for which the individual is appointed shall be appointed only for the remainder of that term.

(5) CHAIRPERSON AND BYLAWS.—The Board shall elect one of its members as chairperson and shall adopt bylaws.

(6) COMPENSATION AND EXPENSES.—Members of the Board shall serve without compensation, except that the Inspector General may pay the expenses reasonably incurred by the Board in carrying out its functions under this section.

(7) NO TERMINATION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Board.

SEC. 9413. PAYMENTS TO STATES FOR HEALTH CARE FRAUD AND ABUSE CONTROL UNITS.

(a) PAYMENTS TO STATES.—

(1) IN GENERAL.—For each year for which a State has an annual plan approved under subsection (b)(3), and subject to the availability of appropriations authorized under subsection (e), the Inspector General of the Department of Health and Human Services shall pay to the State for each quarter an amount equal to 75 percent of the sums expended during the quarter by the Health Care Fraud and Abuse Control Unit described in subsection (b)(1) in conducting activities described in that subsection.

(2) TIME OF PAYMENT.—The Inspector General shall make a payment under paragraph (1) for a quarter by not later than 30 days after the end of the quarter.

(b) STATE REQUIREMENTS FOR RECEIVING PAYMENTS.—A State is eligible to receive payments under subsection (a) if the State carries out the following activities:

(1) HEALTH CARE FRAUD AND ABUSE CONTROL UNIT REQUIREMENTS.—There is a Health Care Fraud and Abuse Control Unit established by the State which is a single identifiable entity of State government which is separate and distinct from any State agency with principal responsibility for the administration of health care programs, and meets the following requirements:

(A) The entity—

(i) is a unit of the office of the State Attorney General or of another department of State government that possesses statewide authority to prosecute individuals for criminal violations;

(ii) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority, and has formal procedures, approved by the Secretary, that assure it will refer suspected criminal violations relating to health care fraud or abuse in violation of Federal law to the appropriate authority or authorities of the State for prosecution and assure it will assist such authority or authorities in such prosecutions; or

(iii) has a formal working relationship with the office of the State Attorney General or the appropriate authority or authorities for prosecution and has formal procedures (including procedures under which it will refer suspected criminal violations to such office), that provide effective coordination of activities between the Health Care Fraud and Abuse Control Unit and such office with respect to the detection, investigation, and prosecution of suspected health care fraud or abuse in violation of Federal law.

(B) The entity conducts a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of health care fraud and abuse in violation of Federal law.

(C) The entity has procedures for—

(i) reviewing complaints of the abuse or neglect of patients of health care facilities in the State, and

(ii) where appropriate, investigating and prosecuting such complaints under the criminal laws of the State or for referring the complaints to other State or Federal agencies for action.

(D) The entity provides for the collection, or referral for collection to the appropriate agency, of overpayments that—

(i) are made under any federally funded or mandated health care program required by this Act, and

(ii) it discovers in carrying out its activities.

(E) The entity employs attorneys, auditors, investigators, and other necessary personnel, is organized in such a manner, and provides sufficient resources, as is necessary to promote the effective and efficient conduct of its activities.

(2) SUBMISSION OF ANNUAL PLAN.—The Health Care Fraud and Abuse Control Unit of a State has a plan preventing, detecting, and controlling health care fraud and abuse in violation of State law which is approved by the Inspector General of the Department of Health and Human Services. The Inspector General shall approve a plan submitted under paragraph (3) by the Health Care Fraud and Abuse Control Unit of a State, unless the Inspector General establishes that the plan will not enable the Unit to prevent, detect, and control health care fraud and abuse in violation of Federal law.

(3) REPORTS.—The Health Care Fraud and Abuse Control Unit submits to the Inspector General an annual report containing such information as the Inspector General determines to be necessary.

(c) SEMIANNUAL REPORTS OF INSPECTOR GENERAL OF HEALTH AND HUMAN SERVICES.—The Inspector General shall include in its semiannual reports to the Congress under section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) an assessment of the Inspector General of how well States are preventing, detecting, and controlling health care fraud and abuse.

(d) LIMITATION ON FEDERAL LAWS AFFECTED.—In this subsection, any reference to "Federal law" shall not include any law described in section 9411(a)(2)(A).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years beginning with fiscal year 1996 for payments under this section such sums as may be necessary for making such payments.

PART 3—AMENDMENTS TO CRIMINAL LAW

SEC. 9421. HEALTH CARE FRAUD.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services;

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title) such person shall be imprisoned for life or any term of years.

"(b) As used in this section, the term 'health plan' has the meaning given such term in title V of the Guaranteed Health Insurance Act of 1994.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 9422. FORFEITURES FOR VIOLATIONS OF FRAUD STATUTES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by inserting after paragraph (5) the following:

"(6) The court, in imposing sentence on a person convicted of a Federal health care offense (as defined in section 9412(d) of the Guaranteed Health Insurance Act of 1994) shall order the person to forfeit any real or personal property that—

"(A) is used in the commission of the offense, if the offense results in a financial loss or gain of $50,000 or more; or

"(B) constitutes or is derived from proceeds traceable to the commission of the offense.".

(b) PROCEEDS OF HEALTH CARE FRAUD FORFEITURES.—Section 524(c)(4)(A) of title 28, United States Code, is amended by inserting "all proceeds of forfeitures relating to Federal health care offenses (as defined in section 9412(d) of the Guaranteed Health Insurance Act of 1994), and" after "except".

SEC. 9423. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1033. False statements relating to health care matters

"(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'health plan' has the meaning given such term in title V of the Guaranteed Health Insurance Act of 1994.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 9424. BRIBERY AND GRAFT.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"§ 226. Bribery and graft in connection with health care

"(a) Whoever—

"(1) directly or indirectly, corruptly gives, offers, or promises anything of value to a health care official, or offers or promises a health care official to give anything of value to any other person, with intent—

"(A) to influence any of the health care official's actions, decisions, or duties relating to a health plan;

"(B) to influence such an official to commit or aid in the committing, or collude in or allow, any fraud, or make opportunity for the commission of any fraud, on a health plan; or

"(C) to induce such an official to engage in any conduct in violation of the lawful duty of such official; or

"(2) being a health care official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to accept anything of value personally or for any other person or entity, the giving of which violates paragraph (1) of this subsection;

shall be fined under this title or imprisoned not more than 15 years, or both.

"(b) Whoever, otherwise than as provided by law for the proper discharge of any duty, directly or indirectly gives, offers, or promises anything of value to a health care official, for or because of any of the health care official's actions, decisions, or duties relating to a health plan, shall be fined under this title or imprisoned not more than two years, or both.

"(c) As used in this section—

"(1) the term 'health care official' means—

"(A) an administrator, officer, trustee, fiduciary, custodian, counsel, agent, or employee of any health plan;

"(B) an officer, counsel, agent, or employee, of an organization that provides services under contract to any health plan;

"(C) an official or employee of a State agency having regulatory authority over any health plan;

"(D) an officer, counsel, agent, or employee of a health care sponsor; and

"(2) the term 'health care sponsor' means any individual or entity serving as the sponsor of a health plan for purposes of the Guaranteed Health Insurance Act of 1994, and includes the joint board of trustees or other similar body used by two or more employers to administer a health plan for purposes of such Act.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"226. Bribery and graft in connection with health care.".

SEC. 9425. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense (as defined in section 9412(d) of the Guaranteed Health Insurance Act of 1994);".

SEC. 9426. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) A person who is privy to grand jury information concerning a health law violation—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any civil proceeding related to a Federal health care offense (as defined in section 9412(d) of the Guaranteed Health Insurance Act of 1994).".

SEC. 9427. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"§ 668. Theft or embezzlement in connection with health care

"(a) Whoever embezzles, steals, willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, securities, premiums, credits, property, or other assets of a health plan or of any fund connected with such a plan, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) As used in this section, the term 'health plan' has the meaning given such term under title V of the Guaranteed Health Insurance Act of 1994.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"668. Theft or embezzlement in connection with health care.".

SEC. 9428. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following:

"(c)(1) The Attorney General may pay a reward not more than $50,000 to any person who furnishes information or services that lead to a conviction of a Federal health care offense as defined by section 9412 of the Guaranteed Health Insurance Act of 1994.

"(2) Rewards under this subsection are authorized to be paid out of the All-Payer Health Care Fraud and Abuse Control Account established under section 9412 of the Guaranteed Health Insurance Act of 1994.

"(3) An officer or employee of the United States (including a fiscal intermediary or carrier carrying out a program on behalf of the United States) or of a State or local government who furnishes information or renders services in the performance of official duty is ineligible for a payment under this subsection with respect to such information or services.

"(4) The granting or decision not to grant a reward under this subsection is not reviewable in any court.".

PART 4—AMENDMENTS TO CIVIL FALSE CLAIMS ACT

SEC. 9431. AMENDMENTS TO CIVIL FALSE CLAIMS ACT.

Section 3729 of title 31, United States Code, is amended—

(1) in subsection (a)(7), by inserting "or to a health plan" after "property to the Government";

(2) in the matter following subsection (a)(7), by inserting "or health plan" before "sustains because of the act of that person,";

(3) at the end of the first sentence of subsection (a), by inserting "or health plan" before "sustains because of the act of the person.";

(4) in subsection (c)—

(A) by inserting "the term" after "section,"; and

(B) by adding at the end the following: "The term also includes any request or demand, whether under contract of otherwise, for money or property which is made or presented to a health plan."; and

(5) by adding at the end the following:

"(f) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' has the meaning given such term under title V of

VOL
140
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15
AG
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1994
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the Guaranteed Health Insurance Act of 1994.".

PART 5—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS APPLICABLE TO MEDICARE, MEDICAID, AND STATE HEALTH CARE PROGRAMS

SEC. 9441. REFERENCE TO AMENDMENTS.

For provisions amending the anti-fraud and abuse provisions existing under the Social Security Act, see part 5 of subtitle D of title VIII.

PART 6—PREEMPTION OF STATE CORPORATE PRACTICE LAWS

SEC. 9451. PREEMPTION OF STATE LAWS PROHIBITING CORPORATE PRACTICE OF MEDICINE.

No provision of State or local law shall apply that prohibits a corporation from practicing medicine.

Subtitle F—Physician Ownership and Referral

PART 1—EXTENSION OF LIMITATIONS ON SELF-REFERRAL UNDER MEDICARE TO REFERRALS UNDER PRIVATE PLANS

SEC. 9501. LIMITATIONS ON PHYSICIAN SELF-REFERRAL UNDER PRIVATE PLANS.

The provisions of section 1877 of the Social Security Act shall apply to items and services (and payments and claims for payment for such items and services) furnished under any certified health plan in the same manner as such provisions apply to designated health services (and payments and claims for payment for such services) under title XVIII of the Social Security Act.

SEC. 9502. CONSTRUCTION OF SOCIAL SECURITY ACT REFERENCES.

(a) INCORPORATION OF OTHER AMENDMENTS.—Any reference in this part to a provision of the Social Security Act shall be considered a reference to the provision as amended under part 6 of subtitle D of title VIII.

(b) EFFECT OF SUBSEQUENT AMENDMENTS.—Except as provided in subsection (a), any reference to a provision of the Social Security Act in this part shall be deemed to be a reference to such provision as in effect on the date of the enactment of this Act, and (except as Congress may otherwise provide) any amendments made to such provisions after such date shall not be taken into account in determining the applicability of such provisions to individuals and entities under this Act.

PART 2—AMENDMENTS TO PHYSICIAN OWNERSHIP AND REFERRAL PROVISIONS UNDER MEDICARE

SEC. 9511. REFERENCE TO AMENDMENTS.

For provisions amending section 1877 of the Social Security Act, see part 6 of subtitle D of title VIII.

Subtitle G—Workforce Protection and Training

SEC. 9600. DEFINITIONS.

For purposes of this subtitle:

(1) EMPLOY.—The term "employ" includes to suffer or permit to work.

(2) EMPLOYEE.—

(A) IN GENERAL.—The term "employee" means—

(i) any individual employed by an employer or otherwise having the status of an employee, taking into account the factors described in subparagraph (B);

(ii) any officer of a corporation;

(iii) any individual (not described in clauses (i) through (ii)) who performs for remuneration services described in section 210(j) of the Social Security Act; and

(iv) an individual described in subparagraph (C).

(B) APPLICATION OF FACTORS REFLECTING ECONOMIC DEPENDENCE.—An individual shall be deemed to be employed taking into account (and to the extent that) the following factors apply:

(i) The individual has a low degree of control over the circumstances under which the services are performed.

(ii) The individual lacks opportunities for profit or loss in performing the services.

(iii) The individual does not have an investment in facilities or equipment used in performing the services.

(iv) The individual's relation with the person (for whom the services are provided) is not temporary.

(v) The services performed for the person represent a high percentage of all services performed by the individual.

(vi) The individual's performance of the services does not require a high degree of skill.

(C) INCLUSION OF CERTAIN CONTRACT RELATIONSHIPS.—The term "employee" includes, with respect to any employer which during the preceding year had gross receipts in excess of an amount specified by the Secretary of Labor (which amount shall not be less than $10,000,000), an individual who performs services for the employer if—

(i) the services are not performed by the individual as an employee of another employer or as a leased employee (as defined in paragraph (8)(C));

(ii) the contract or other arrangement for services contemplates that substantially all of such services are to be performed personally by such individual; and

(iii) the individual performs the services—

(I) on the premises owned or leased by the employer,

(II) using facilities or equipment in which the employer has a substantial investment, or

(III) using facilities and equipment in which the individual does not have a substantial investment.

(D) EXCLUSION OF VOLUNTEERS.—The term "employee" does not include any individual who volunteers to perform services for a public agency which is a State, a political subdivision of a State or an interstate governmental agency, if—

(i) the individual receives no compensation other than reasonable expenses or a nominal fee to perform the services for which the individual volunteered, and

(ii) such services are not the same type of services which the individual is employed to perform for such public agency.

An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency may volunteer to perform services for any other State, political subdivision, or interstate governmental agency, including a State, political subdivision, or agency with which the employing State, political subdivision, or agency has a mutual aid agreement.

(E) EXCEPTION FOR CERTAIN IMMEDIATE FAMILY.—Except as provided by the Secretary of Labor in regulations, a child under the age of 18 shall not be considered to be an employee by virtue of service performed for the child's parent or guardian.

(F) EXCLUSION OF EMPLOYEES OUTSIDE THE UNITED STATES.—The term "employee" does not include an individual who does not reside in the United States.

(G) EXCLUSION OF FOREIGN EMPLOYMENT.—The term "employee" does not include an individual—

(i) with respect to service, if the individual is not a citizen or resident of the United States and the service is performed outside the United States, or

(ii) with respect to service, if the individual is a citizen or resident of the United States and the service is performed outside the United States for an employer other than an American employer (as defined in section 210(e) of the Social Security Act).

(H) EXCLUSION OF INMATES AS EMPLOYEES.—An individual shall not be treated as an employee by virtue of services performed in a penal institution by an inmate thereof or in a hospital or other health care institution by a patient thereof.

(I) APPLICATION OF CONTROL GROUP RULES FOR EMPLOYERS.—For purposes of this subtitle:

(i) Two or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group.

(ii) The term "control group" means a group of trades or businesses under common control.

(iii) The determination of whether a trade or business is under common control with another trade or business shall be determined under regulations of the Secretary of Labor applying principles similar to the principles applied under section 4001(a)(14)(B) of the Employee Retirement Income Security Act of 1974.

(iv) Under regulations of the Secretary of Labor, all employees of organizations which are under common control with one or more organizations which are exempt from income tax under subtitle A of the Internal Revenue Code of 1986 shall be treated as employed by a single employer.

The regulations prescribed under clause (iv) shall be based on principles similar to the principles which apply to taxable organizations under clause (iii).

(J) ANTI-EVASION RULES.—An individual shall be treated as an employee of a person if the individual would otherwise be treated as such an employee but for an action which was undertaken by the person or another on the person's behalf to evade responsibilities imposed under this subtitle with respect to the individual as an employee.

(K) EXEMPTION OF EMPLOYEES WHO ARE MEMBERS OF CERTAIN RELIGIOUS FAITHS.—A member of certain religious faiths (as defined in section 1402(g) of the Internal Revenue Code of 1986) who elects to waive all benefits and payments provided under this Act (or the Social Security Act) with respect to the guaranteed national benefit package shall not be considered an employee for purposes of this subtitle. The election under the previous sentence shall be consistent with the waiver of benefits under section 202(v) of the Social Security Act.

(3) EMPLOYER.—

(A) IN GENERAL.—The term "employer"—

(i) means any person engaged in any activity, business or industry in commerce or affecting commerce that employs an individual;

(ii) includes any person who acts, directly or indirectly, in the interest of an employer in relation to any of the employees of such employer; and

(iii) includes any public agency (as defined in section 3(x) of the Fair Labor Standards Act, 29 U.S.C. 203(x)).

(B) COMMERCE.—The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or

the District of Columbia, or within the district of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country.

(C) AFFECTING COMMERCE.—The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

(D) SUCCESSOR EMPLOYER.—An employer is a "successor employer" if, based on the facts and circumstances, on balance after applying at least the following criteria, and consistent with any regulations promulgated by the Secretary of Labor, the employer has substantially assumed the employment-related responsibilities of another employer:

(i) Substantial continuity of the same business operations.

(ii) Use of the same plant, common facility, or work site.

(iii) Continuity of the work force.

(iv) Similarity of jobs and working conditions.

(v) Similarity of supervisory personnel.

(vi) Similarity in machinery, equipment, and productions methods.

(vii) Similarity of products or services.

(E) TREATMENT OF COMMON EMPLOYMENT.—The Secretary of Labor may promulgate regulations regarding responsibilities of employers in the case of common employment of an employee by such employers.

(4) FULL-TIME EQUIVALENT EMPLOYEES; PART-TIME EMPLOYEES.—

(A) IN GENERAL.—For purposes of this subtitle, subject to subparagraphs (D) and (E) a qualifying employee who is employed by an employer—

(i) for at least 120 hours in a month, is counted as one full-time equivalent employee for the month and shall be deemed to be employed on a full-time basis; or

(ii) for at least 40 hours, but less than 120 hours, in a month, is counted as a fraction of a full-time equivalent employee in the month equal to the full-time employment ratio (as defined in subparagraph (B)) for the employee and shall be deemed to be employed on a part-time basis.

(B) FULL-TIME EMPLOYMENT RATIO DEFINED.—For purposes of this subtitle, the term "full-time employment ratio" means, with respect to a qualifying employee of an employer in a month, subject to subparagraph (E), the lesser of 1 or the ratio of—

(i) the number of hours of employment such employee is employed by such employer for the month (as determined under paragraph (6)), to

(ii) 120 hours.

(C) FULL-TIME EMPLOYEE; PART-TIME EMPLOYEE.—For purposes of this subtitle, subject to subparagraphs (D) and (E), the terms "full-time employee" and "part-time employee" mean, with respect to an employer, an employee who is employed on a full-time basis or part-time basis (as specified in subparagraph (A)), respectively, by the employer.

(D) CONSIDERATION OF INDUSTRY PRACTICE.—As provided under rules established by the Secretary of Labor, an employee who is not described in subparagraph (C) shall be considered to be employed on a full-time or part-time basis by an employer (and to be a full-time or part-time employee of an employer) for a month (or for all months in a 12-month period) if the employee is employed by that employer on a continuing basis that, taking into account the structure or nature of the employment in the industry, represents full time or part time employment, respectively.

(E) EMPLOYMENT AT EDUCATIONAL INSTITUTIONS.—With respect to employees of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) or of an elementary or secondary school (as defined in section 1471 of the Elementary and Secondary Education Act of 1965) who are exempt under section 13 of the Fair Labor Standards Act of 1938—

(i) the employees shall be considered to be employed on a full-time basis (and to be a full-time employee) if they work the customary hours that constitute full-time employment as defined at such institution;

(ii) the number of hours and, with respect to less-than-full-time employees at such an institution, the number of such customary hours shall be substituted for 120 in subparagraphs (A) and (B)(ii); and

(iii) such employees who are regular seasonal employees who are not paid during summer months or other regular periods of the year, but are assured employment at the end of such periods, shall be considered to be employed year round.

(5) HEALTH CARE EMPLOYER.—The term "health care employer" means an employer that—

(A) provides health care items or services (including such items and services not included in the guaranteed national benefit package); or

(B) provides necessary related services, including administrative, food service, janitorial or maintenance services, to an entity that provides health care items or services (as described in subparagraph (A));

except that an employer that solely manufactures or provides goods or equipment to a health care employer shall not be considered a health care employer.

(6) HOURS OF EMPLOYMENT.—

(A) IN GENERAL.—For purposes of this subtitle, the Secretary shall specify the method for computing hours of employment for employees of an employer consistent with this paragraph. The Secretary shall take into account rules used for purposes of applying the Fair Labor Standards Act of 1938.

(B) HOURLY WAGE EARNERS.—In the case of an individual who receives compensation (in the form of hourly wages or compensation) for the performance of services, the individual is considered to be "employed" by an employer for an hour if compensation is payable with respect to that hour of employment, without regard to whether or not the employee is actually performing services during such hour.

(7) QUALIFYING EMPLOYEE.—

(A) IN GENERAL.—The term "qualifying employee" means, with respect to an employer for a month, an employee (other than a young dependent, as defined in subparagraph (B)) who is employed by the employer for at least 40 hours (as determined under paragraph (6)) in the month.

(B) YOUNG DEPENDENT DEFINED.—In subparagraph (A), the term "young dependent" means an eligible individual who is a young dependent (as defined in section 1003(b)(1)(B)) and is enrolled under a health plan as a family member (as defined in section 1104(c)(2)(B)).

(8) TREATMENT OF EMPLOYEE LEASING ARRANGEMENTS.—

(A) TREATMENT AS EMPLOYEE OF LEASING ORGANIZATION.—Except as provided in subparagraph (B), with respect to any person (in this paragraph referred to as the "recipient") for whom a leased employee (as defined in subparagraph (C)) performs services the leased employee shall not be treated as an employee of the recipient.

(B) APPLICATION IN RELATION TO WORKFORCE STABILITY.—For purposes of applying sections 9621(b) and 9624(b) (relating to transitional provisions for workforce stability), leased employees shall be treated as employees of the recipient and of the leasing organization.

(C) LEASED EMPLOYEE.—For purposes of this paragraph, the term "leased employee" means any person who is not an employee of the recipient and who provides services to the recipient if—

(i) such services are provided pursuant to an agreement between the recipient and any other person (in this paragraph referred to as the "leasing organization"); and

(ii)(I) such services are of a type historically performed, in the business field of the recipient, by employees;

(II) the person provides services to the recipient for at least such number of hours per week (or such percentage of the person's time) as the Secretary of Labor specifies; or

(III) the tasks performed by the person are functionally integrated with the operations of the recipient and performed on the premises of (or using the facilities and equipment of) the recipient.

(9) TREATMENT OF EMPLOYEES IN THE ENTERTAINMENT INDUSTRY.—In the case of employees in the entertainment industry, the Secretary shall establish special rules to determine what constitutes full-time and part-time work in the industry. Such rules shall take into account the historic employment patterns in the industry.

(10) TREATMENT OF FRANCHISE NETWORKS.—

(A) IN GENERAL.—The Secretary of Labor shall prescribe regulations regarding the circumstances under which individuals performing services for a franchisee are treated as employees of a franchise network.

(B) DEFINITIONS.—For purposes of this paragraph, the terms "franchisee" and "franchise network" have the meanings given such terms in regulations of the Federal Trade Commission published in part 436 of title 16, Code of Federal Regulations.

(11) TREATMENT OF SALARIED EMPLOYEES AND EMPLOYEES PAID ON CONTINGENT OR BONUS ARRANGEMENTS.—In the case of an employee who receives compensation on a salaried basis or on the basis of a commission (or other contingent or bonus basis), rather than an hourly wage, the Secretary of Labor shall establish rules for the conversion of the compensation to hours of employment, taking into account the minimum monthly compensation levels for workers employed on a full-time basis under the Fair Labor Standards Act of 1938 and other factors the Secretary considers relevant.

(12) WAGES.—

(A) IN GENERAL.—The term "wages" has the meaning given such term in section 209(a) of the Social Security Act, except that paragraph (1) shall not apply.

(B) TIPS NOT INCLUDED.—The term "wages" does not include cash tips.

PART 1—GENERAL EMPLOYER RESPONSIBILITIES

SEC. 9601. PROHIBITION OF CERTAIN EMPLOYER DISCRIMINATION.

(a) PROHIBITION OF FAMILY DISCRIMINATION.—No employer may discriminate with respect to an employee on the basis of the family status of the employee or on the basis of the class of family enrollment selected with respect to the employee.

(b) EVASION OF OBLIGATIONS.—It shall be unlawful for any employer or other person to discharge, fine, suspend, expel, discipline, discriminate or otherwise take adverse action against any employee if a purpose of

VOL 140 PT 15 AG 10 — 11 1994 UMI

such action is to interfere with the employee's attainment of status as a qualifying employee, as a full-time employee, or as a part-time employee, or if a purpose of such action is to evade or avoid any obligation under this Act.

(c) ENFORCEMENT.—In the case of a person that violates a requirement of this section, the Secretary of Labor may impose a civil money penalty, in an amount not to exceed $10,000, for each violation with respect to each individual with respect to whom a violation occurred. The provisions of section 503 of the Migrant and Seasonal Agricultural Worker Protection Act (other than subsection (a)) shall apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty under such Act.

SEC. 9602. WHISTLEBLOWER PROTECTION.

(a) EMPLOYEE PROTECTIONS.—No entity under this Act may discharge, discriminate, or otherwise take adverse action against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any other person acting pursuant to a request of the employee) provided information to any Federal, State, or public or private supervisory agency or entity regarding a possible violation of any provision of this Act or any regulation issued pursuant to this Act.

(b) COURT ACTION.—

(1) IN GENERAL.—An employee or former employee who believes that such employee was discharged, discriminated, or otherwise subject to adverse action in violation of subsection (a), may file a civil action in the appropriate district court of the United States not later than two years after the date of such discharge, discrimination, or adverse action.

(2) DAMAGES.—If the court determines that a violation of subsection (a) has occurred, the plaintiff may obtain appropriate relief, including actual, compensatory, and punitive damages and equitable relief (including reinstatement).

(3) ATTORNEY'S FEES AND COSTS.—In any action under paragraph (1) in which the plaintiff substantially prevails, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs, unless the court finds that such award would not be appropriate.

SEC. 9603. EMPLOYER NEUTRALITY.

Federal funds appropriated to carry out this Act, other than funds appropriated pursuant to title XVIII, XIX, XXI, or XXII of the Social Security Act, may not be used to assist, promote, or deter union organizing.

PART 2—TRANSITIONAL PROVISIONS FOR WORKFORCE STABILITY

SEC. 9621. APPLICATION.

(a) LIMITATION TO TRANSITION PERIOD.—The provisions of this part are intended to minimize, to the extent possible, disruptions in established employment relationships during the period of transition to a restructured health care delivery system, and shall terminate on January 1, 2004.

(b) HEALTH CARE EMPLOYERS COVERED BY PART.—The provisions of this part, including references to displacing employers, hiring employers, successors and contractors, apply only to health care employers (including successor employers) that employ more than 15 covered employees on a typical business day.

(c) COVERED EMPLOYEES DEFINED.—In this part, the term "covered employee" means an employee of a health care employer.

(d) INCLUSION OF SUCCESSOR EMPLOYERS.—In this part, the term "employer" includes a successor employer of the employer.

SEC. 9622. OBLIGATIONS OF DISPLACING EMPLOYER AND AFFILIATED ENTERPRISES IN EVENT OF DISPLACEMENT.

(a) NOTICE.—A health care employer which displaces a preference eligible employee (as defined in subsection (e)) shall provide such employee with—

(1) written notice, no later than the date of displacement, of employment rights under this part; and

(2) notice of any existing or subsequent vacancies with the displacing employer, which notice may be given by posting of such vacancies wherever notices to applicants for employment are customarily posted, by listing such vacancies with the local employment services agency, or in such other manner as the Secretary of Labor, by regulation, may specify.

Any such vacancy shall remain open for applications by preference eligible employees for not less than 14 calendar days from the date on which the initial notice is provided.

(b) HIRING PREFERENCE.—

(1) IN GENERAL.—A preference eligible employee who—

(A) meets any qualifications described in paragraph (3); and

(B) applies during the notice period described in subsection (a)(2) for a vacant position with the displacing employer which is in the employee's occupational specialty and located in the same State or Metropolitan Statistical Area in which the employee was employed prior to the displacement,

shall be given the right to accept or decline the position before the employer may offer the position to an employee who is not a preference eligible employee.

(2) MULTIPLE APPLICATIONS.—When considering applications from more than one preference eligible employee described in paragraph (1), the hiring health care employer shall have discretion as to which of such employees will be offered the position.

(3) EMPLOYMENT QUALIFICATION REQUIREMENTS.—A hiring health care employer may establish reasonable employment qualifications for a vacancy to which this part applies, except that an employee who performed essentially the same work prior to the employee's displacement shall be deemed presumptively qualified for a comparable position.

(c) TERMINATION OF PREFERENCE ELIGIBILITY.—Subject to section 9621(a), a displaced employee's preference eligibility shall terminate at such time as the displaced employee obtains substantially equivalent employment with the displacing employer.

(d) NOTICE OF JOB OPENINGS.—A health care employer, to the extent practicable, shall list all job openings for covered employees with the job bank established by the Employment Service.

(e) DEFINITIONS.—In this part:

(1) PREFERENCE ELIGIBLE EMPLOYEE.—The term "preference eligible employee" means an employee who—

(A) has been employed as a covered employee for in excess of one year by a health care employer; and

(B) has been displaced by or has received notice of an impending displacement by such employer.

(2) DISPLACEMENT.—The term "displacement" includes a lay off, termination, significant cutback in paid work hours, or other loss of employment, except that a discharge for just cause shall not constitute a displacement within the meaning of this paragraph.

SEC. 9623. EMPLOYMENT WITH OTHER HEALTH CARE EMPLOYERS.

A health care employer that replaces another health care employer in whole or in part through merger, consolidation, acquisition, contract, or other similar manner shall—

(1) provide employees who would otherwise be displaced the right to continued employment in the job positions previously held by such employees, unless the employer can establish that such positions no longer exist; and

(2) for six months from the date of their displacement by the predecessor, provide employees who are not rehired under paragraph (1) notice and the right to employment in any vacancies that become available in such job positions.

SEC. 9624. COLLECTIVE BARGAINING OBLIGATIONS DURING TRANSITION PERIOD.

(a) CONTINUATION OF PREVIOUSLY RECOGNIZED BARGAINING REPRESENTATIVES AND AGREEMENTS.—If a majority of the employees in an appropriate bargaining unit of employees of a health care employer consists of employees who were previously covered by a bargaining agreement or represented by an exclusive representative with respect to the terms and conditions of employment with the predecessor health care employer, and there has not been a substantial change in the operations performed by the employees in that unit, the employer shall recognize such representative as the exclusive representative for the unit and shall assume the bargaining agreement, except that if the application of this subsection would result in the recognition of more than one bargaining representative for a single unit, the question concerning which representative shall be recognized as the exclusive representative for the unit shall be resolved in accordance with applicable Federal or State law.

(b) JOINT EMPLOYER STATUS.—If employees of a contractor to a health care employer are assigned on a regular basis to perform work on the premises of a health care employer and the tasks performed by these employees are functionally integrated with the operations of the health care employer on whose premises such employees work, both the contractor and the health care employer shall be considered joint employers of the employees with respect to work performed on those premises for purposes of determining compliance with labor relations laws. Employees of such joint employers may not be excluded from a bargaining unit within either entity on the basis of such joint employer status.

SEC. 9625. GENERAL PROVISIONS.

(a) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall promulgate regulations to implement the requirements of this part.

(b) OTHER LAWS.—The standards and requirements of this part shall not preempt or excuse noncompliance with any other applicable Federal or State law, regulation, or municipal ordinance that establishes additional notice and preference standards or requirements concerning employee dislocation, employee representation, or collective bargaining.

(c) RULES OF CONSTRUCTION.—Nothing in this part shall be construed to excuse or otherwise limit the obligation of an employer to comply with the terms of any collective bargaining agreement or of any employee benefit plan that provides employees with rights in addition to those provided under this part.

(d) DISCRIMINATION.—In making decisions that would result in the displacement, retention, hiring or transfer of employees, a

health care employer may not discriminate between or among employees on the basis of their protected status under this part or under any other Federal or State laws.

(e) ENFORCEMENT.—Unless otherwise specifically provided in this part, the enforcement provisions of section 107 of the Family and Medical Leave Act of 1993 shall apply (except that the limitation of paragraph (1) of subsection (a) shall not apply) with respect to the enforcement of the individual rights, including notice requirements, provided under section 9622 and 9623. The collective bargaining and contractual rights provided under section 9624 shall be enforced through administrative and judicial procedures otherwise provided under Federal or State law with respect to such rights.

PART 3—RESPONSIBILITIES OF BOARD OF INQUIRY

SEC. 9631. REQUEST FOR APPOINTMENT OF BOARD OF INQUIRY.

(a) IN GENERAL.—A health care employer or a labor organization that has been lawfully certified or recognized as the representative of the employees of a health care employer for the purpose of engaging in collective bargaining concerning wages, hours and other terms and conditions of employment, may request that the Director of the Federal Mediation and Conciliation Service (referred to in this section as the "Director") appoint an impartial Health Care Board of Inquiry to investigate the issues involved in a collective bargaining dispute between the employer and the labor organization.

(b) TIME FOR REQUEST.—Such request may be made no earlier than 60 days after notice of the existence of a collective bargaining dispute has been provided to—

(1) the Federal Mediation and Conciliation Service in accordance with clause (A) or (B) of the last sentence of section 8(d) of the Labor Management Relations Act; or

(2) if the health care employer is otherwise exempt from coverage under such Act, any comparable State or territorial agency established to mediate and conciliate disputes to which notice is required to be given under applicable State law.

SEC. 9632. APPOINTMENT OF BOARD OF INQUIRY.

(a) IN GENERAL.—Except as provided in subsection (b), the Director shall appoint a Health Care Board of Inquiry not later than 10 days after receipt of a request under section 9631. Each such Board shall be composed of such number of individuals as the Director may deem desirable. No member appointed under this section shall have any interest or involvement in a health care employer, or a labor organization, involved in the collective bargaining dispute. To the greatest extent feasible, the membership of a Board shall reflect the racial, ethnic, and gender composition of the population of the community served by the health care employer involved.

(b) LIMITATION.—With respect to the appointment of a Health Care Board of Inquiry under paragraph (1), if the Director determines that—

(1) the health care employer is—

(A) otherwise exempt from coverage under the Labor Management Relations Act, as amended; and

(B) subject to State laws containing procedures for the resolution of impasses in collective bargaining that are comparable to those that would be followed by a Board of Inquiry under this section; or

(2) the parties involved have agreed to procedures for the resolution of the impasse in collective bargaining that are comparable to those that would be followed by a Board of Inquiry;

the Director may refuse the request for the appointment of such a Board.

SEC. 9633. PUBLIC FACT FINDING.

A Health Care Board of Inquiry appointed under this section shall investigate the issues involved in the dispute and make a written report thereon to the parties and to the Director within 30 days after the establishment of such a Board. The written report shall contain the findings of fact together with the Board's recommendations for settling the dispute, with the objective of achieving a prompt, peaceful and just settlement of the dispute. The Board shall arrange for publication of such report within the community served by the health care employer involved.

SEC. 9634. COMPENSATION OF MEMBERS OF BOARD OF INQUIRY.

(a) EMPLOYEES OF FEDERAL GOVERNMENT.—Members of any Board established under this part who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out its duties under this section.

(b) OTHER MEMBERS.—Members of any Board established under this section who are not subject to paragraph (1) shall receive compensation at a rate prescribed by the Director but not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, including travel for each day they are engaged in the performance of their duties under this section and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this part.

SEC. 9635. MAINTENANCE OF TERMS AND CONDITIONS OF EMPLOYMENT.

Beginning on the date on which a Board is requested under section 9631 and ending 15 days after the date any such Board has issued its report, no change in the terms and conditions of employment in effect prior to the expiration of the contract in the case of negotiations for a contract renewal, or in effect prior to the time the parties begin their bargaining in the case of an initial beginning negotiations, except by agreement, shall be made by the parties to the collective bargaining dispute.

PART 4—WORKFORCE PRIORITIES UNDER FEDERAL PAYMENTS

SEC. 9641. PROGRAMS OF THE SECRETARY OF LABOR.

(a) IN GENERAL.—

(1) FUNDING.—(A) For purposes of carrying out the programs described in this section, and for carrying out section 9642, there is authorized to be appropriated $200,000,000 for fiscal year 1995 and each subsequent fiscal year.

(B) Of the total amount authorized for each fiscal year under subparagraph (A)—

(i) not more than $10,000,000 may be used to carry out the program under subparagraph (B) of subsection (b)(1);

(ii) not more than $25,000,000 may be used to carry out the program under subparagraph (C) of subsection (b)(1);

(iii) not more than $10,000,000 may be used to carry out the program under subparagraph (D) of subsection (b)(1);

(iv) not more than $3,000,000 may be used to carry out the provisions of section 9642; and

(v) the remainder of funds shall be used to carry out the program under subparagraph (A) of subsection (b)(1).

(2) ADMINISTRATION.—The programs described in this section and carried out with amounts made available under subsection (a) shall be carried out by the Secretary of Labor.

(b) RETRAINING PROGRAMS; ADVANCED CAREER POSITIONS; WORKFORCE ADJUSTMENT PROGRAMS.—

(1) IN GENERAL.—For purposes of subsection (a), the programs described in this section are the following:

(A) A program for skills upgrading and occupational retraining (including retraining health care workers for more advanced positions as technicians, nurses, and physician assistants), and for quality and workforce improvement.

(B) A demonstration program to assist workers in health care institutions in obtaining advanced career positions.

(C) A program to ensure the expansion of the national job bank (established by the Employment Service of the Department of Labor) within local employment services agencies designed to address the needs of health care workers, subject to the following:

(i) Such job bank shall be available to all health care employers and health care workers in the community involved.

(ii)(I) With respect to each affected community, the local employment service agency or one-stop career center serving such community shall be allocated not less than one counselor whose responsibility shall include addressing the needs of health care workers.

(II) Such counselor shall ensure the solicitation of job openings from local health care employers and, not less frequently than once each month, ensure that such employers and other employers are contacted, and ensure that all job listings appropriate for health care workers adversely affected under this Act are monitored and updated regularly.

(III) Such counselor shall provide directly, or facilitate the provision of, labor exchange services by local employment service staff to eligible health care workers, including assessment, counseling, testing, job-search assistance, job referral and placement, and referral to training and educational programs.

(IV) If the impact of health care industry restructuring is such that the functions required under this clause cannot be satisfactorily provided by one counselor, additional counselors shall be allocated.

(iii) The job bank serving the community involved shall be subject to performance goals that measure the number of health care job openings and the proportion of health care employers in the community that list job openings. Such goals shall be adjusted based on specific economic, geographic, and other characteristics, including demonstrated difficulties with employer compliance.

(D) A program to provide for joint labor-management decision-making in the health care sector on workplace matters related to the restructuring of the health care delivery system provided for in this Act.

(2) USE OF FUNDS.—Amounts made available under subsection (a) for carrying out this section may be expended for program support, faculty development, trainee support, workforce analysis, and dissemination of information, as necessary to produce required performance outcomes.

(c) ADMINISTRATIVE REQUIREMENTS.—In carrying out the programs described in subsection (b), the Secretary of Labor shall, with respect to the organizations and employment positions involved, provide for the following:

(1) Joint labor-management implementation and administration.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) Discussion with employees as to training needs for career advancement.
(3) Commitment to a policy of internal hirings and promotion.
(4) Provision of support services.
(5) Consultations with employers and with organized labor.

SEC. 9642. NATIONAL INSTITUTE FOR HEALTH CARE WORKFORCE DEVELOPMENT.

(a) ESTABLISHMENT OF INSTITUTE.—The Secretary of Labor, in consultation with the Secretary of Health and Human Services, shall establish an office to be known as the National Institute for Health Care Workforce Development.

(b) DIRECTOR.—The Institute shall be headed by a Director, who shall be appointed by the Secretary of Labor.

(c) DUTIES.—

(1) RECOMMENDATIONS BY DIRECTOR.—The Director of the Institute shall make recommendations to the Secretary of Labor regarding—

(A) the supply of health care workers needed for proper staffing of the health care institutions serving the insured health benefit plans, and the self-insured health benefit plans, described in title V;

(B) the impact of this Act, and of related changes regarding health care, on health care workers and the needs of such workers with respect to education, training, and career development; and

(C) the development and implementation of high performance, high quality health care delivery systems, including employee participation committee systems, that will improve the health care delivery system by increasing the role, the responsibilities, and the area of independent decision-making authority of health care workers.

(2) RESPONSE TO RECOMMENDATIONS.—The Secretary of Labor, in acting upon the recommendations made under paragraph (1), may—

(A) issue timely and useful reports on health care worker supply and needs and on proper staffing of health care institutions;

(B) take actions to encourage the use of employee participation committees and other activities intended to promote the development of high performance, high quality health care delivery systems; and

(C) take such other actions as are authorized under this Act.

(d) ADVISORY BOARD.—

(1) IN GENERAL.—The Secretary of Labor shall establish an advisory board to assist in the development and implementation of recommendations under subsection (c)(1).

(2) COMPOSITION.—The advisory board established under paragraph (1) shall be composed of the following members with expertise in health care workforce issues:

(A) The Secretary of Labor.
(B) The Secretary of Health and Human Services.
(C) Five representatives of health care workers in organized labor to be appointed by Secretary of Labor.
(D) Five representatives of health institutions to be appointed by the Secretary of Health and Human Services.
(E) Two representatives from organizations that train and educate health care workers, to be appointed by the Secretary of Labor.
(F) Two representatives from consumer organizations to be appointed by the Secretary of Labor.

To the greatest extent feasible, the membership of the advisory board shall reflect the racial, ethnic, and gender composition of the population of the United States.

(e) STAFF, QUARTERS, AND OTHER ASSISTANCE.—The Secretary of Labor shall provide the Institute and the Advisory Board with such staff, quarters, and other administrative assistance as may be necessary for the Institute and the Advisory Board to carry out this section.

(f) COORDINATION.—The Secretary of Labor, in consultation with the Secretary of Health and Human Services, shall, to the extent practicable, ensure that the efforts under this section and section 792 of the Public Health Service Act are coordinated to ensure that joint planning occurs to maximize the utilization of resources, to avoid duplication of effort, and to provide for the equitable division of responsibility.

(g) DEFINITIONS.—For purposes of this section:

(1) ADVISORY BOARD.—The term "Advisory Board" means the advisory board established under subsection (d).

(2) EMPLOYEE PARTICIPATION COMMITTEE.—The term "employee participation committee" means a committee of non-managerial workers at a health care facility which—

(A) is selected without employer interference by one or more labor organizations representing such workers or, if there is no such organization, by such workers;

(B) operates without employer interference; and

(C) consults with management on issues of efficiency, productivity, and quality of care.

(3) The term "Institute" means the Institute established under subsection (a).

(h) SUNSET.—Unless otherwise extended by law, the Institute is terminated on January 1, 2004.

TITLE X—LONG-TERM CARE

Subtitle A—Long-Term Care Program

SEC. 10001. ESTABLISHMENT OF LONG-TERM CARE PROGRAM FOR HOME AND COMMUNITY-BASED SERVICES.

The Secretary shall establish a long-term care program for grants to States under this subtitle to provide home and community-based services for individuals with severe disabilities without regard to age or income through approved State plans. Nothing in this subtitle may be construed to authorize the Secretary to delegate to the States the primary responsibility for interpreting the governing provisions of this subtitle.

SEC. 10002. INDIVIDUALS WITH SEVERE DISABILITIES.

(a) IN GENERAL.—In this subtitle, the term "individual with severe disabilities" means any individual within one or more of the following 4 categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined by the Secretary) to perform three or more activities of daily living (as defined in subsection (c)), and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 100 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) specified by the Secretary as appropriate for measuring the individual's particular condition, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living,

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies, or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) which create a need for supervision to prevent harm to self or others; and

(C) whose is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 100 days.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) SEVERELY DISABLED CHILDREN.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition,

(B) but for receiving home and community-based services would require institutionalization in a hospital, nursing facility, or intermediate care facility for the mentally retarded, and

(C) is expected to have such disability or condition and require such services over a period of at least 100 days.

(b) DETERMINATION OF ELIGIBILITY.—

(1) IN GENERAL.—The determination of whether an individual is an individual with severe disabilities shall be made, by persons or entities (which may be local care coordination agencies) specified under the State plan (under section 10004), using a uniform protocol consisting of an initial screening and assessment specified by the Secretary. A State may collect additional information, at the time of obtaining information to be used by such persons or entities to make such determination, in order to provide for the assessment and plan described in section 10004(b) or for other purposes. The determination of such persons or entities shall be made without regard to the individual's income or (except in the case described in subsection (a)(4)) the individual's age.

(2) INITIAL SCREENING PROCESS.—The plan shall provide a process for the initial screening of individuals who appear to have some reasonable likelihood of being an individual with severe disabilities.

(3) PERIODIC REASSESSMENT.—The determination that an individual is an individual with severe disabilities shall be considered to be in effect under the State plan for a period of not more than 12 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(4) FAIR HEARING PROCESS.—The State shall establish a fair hearing process for appeals of such determinations.

(c) ACTIVITY OF DAILY LIVING DEFINED.—In this subtitle, the term "activity of daily living" means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 10003. HOME AND COMMUNITY-BASED SERVICES.

(a) SCOPE OF SERVICES.—

(1) IN GENERAL.—In this subtitle, the term "home and community-based services" includes, subject to paragraph (2), the following:

(A) Agency-administered and consumer-directed personal assistance services (as defined in paragraph (3)).
(B) Case management.
(C) Homemaker and chore assistance.
(D) Home modifications.

(E) Respite services.
(F) Assistive devices.
(G) Adult day services.
(H) Habilitation and rehabilitation.
(I) Supported employment.
(J) Home health services.
(L) Any other care or assistive services (approved by the Secretary) that a State determines will help individuals with severe disabilities to remain in their homes and communities.

(2) EXCLUSIONS.—Such term does not include coverage of the following:

(A) Room and board.
(B) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.
(C) Items and services to the extent coverage is provided for the individual under a certified health plan or under title XVIII of the Social Security Act or medicare part C.

(3) PERSONAL ASSISTANCE SERVICES DEFINED.—

(A) IN GENERAL.—In this subsection, the term "personal assistance services" includes hands-on and standby assistance, supervision, and cueing with activities of daily living, whether agency-administered or consumer-directed (as defined in subparagraph (B)).

(B) CONSUMER-DIRECTED; AGENCY-ADMINISTERED.—In this subtitle:

(i) The term "consumer-directed" means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the individual's option, trained) by the individual receiving the services.

(ii) The term "agency-administered" means, with respect to such services, services that are not consumer-directed.

(C) LIMITATION ON LICENSURE OR CERTIFICATION.—A State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements which the Secretary finds not to be necessary for the health and safety of individuals with severe disabilities.

(b) COST SHARING.—

(1) NO OR NOMINAL COST SHARING FOR POOREST.—No cost sharing (other than nominal cost sharing) may be imposed for individuals with income (as determined under paragraph (3)) less than 150 percent of the Federal poverty level (as defined in paragraph (4)) applicable to a family of the size involved.

(2) SLIDING SCALE FOR REMAINDER.—Cost sharing in the form of coinsurance (based on the amount paid under this subtitle for a service) shall be imposed—

(A) at a rate of 10 percent for individuals with severe disabilities with income not less than 150 percent, and less than 200 percent, of the applicable Federal poverty level;

(B) at a rate of 20 percent for such individuals with income not less than 200 percent, and less than 250 percent, of the applicable Federal poverty level; and

(C) at a rate of 25 percent for such individuals with income equal to at least 250 percent of such Federal poverty level.

(3) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—Each State, or an agency designated by the State, shall determine the income of an individual with severe disabilities for purposes of this subsection, in a manner specified by the Secretary.

(4) FEDERAL POVERTY LEVEL DEFINED.—In this subsection, the term "Federal poverty level" means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved for the year.

(c) SPECIFICATION OF SERVICES TO BE COVERED.—

(1) IN GENERAL.—Each State shall specify, in its plan under section 10004—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of home and community-based services to be covered under the plan and to be available to each category of individuals with severe disabilities;

(B) how the types, and the amount, duration, and scope of the services specified meet the needs of individuals within each of such categories;

(C) the extent and manner in which such services would be allocated among individuals with severe disabilities and categories of such individuals;

(D) the manner in which such services are coordinated with each other and with health and long-term care services available outside the plan for individuals with severe disabilities; and

(E) the manner in which individuals with severe disabilities will be assisted in obtaining services from other programs for which they may qualify (including home health services under title XVIII or medicare part C and home and community-based services under a State plan approved under title XIX).

(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—The services—

(A) shall be specified in a manner that permits sufficient flexibility for providers to meet the needs of individuals with severe disabilities in a cost effective manner;

(B) may be specified in a manner that takes into account the availability of informal care; and

(C) subject to subsection (a)(2)(B), may be delivered in an individual's home, a range of community residential arrangements, or outside the home (but not in an institutional setting).

SEC. 10004. ADMINISTRATION THROUGH STATE PLANS.

(a) IN GENERAL.—As a condition for the payment of funds to a State under section 10005, the State must have a plan for home and community-based services for individuals with severe disabilities approved by the Secretary. The Secretary may not approve such a plan unless the Secretary determines that the plan meets the requirements of subsection (b).

(b) PLAN REQUIREMENTS.—The requirements for a State plan are as follows:

(1) ELIGIBILITY PROCESS.—The plan shall provide for a process to determine if individuals are individuals with severe disabilities in accordance with section 10002(b).

(2) SPECIFICATION OF SERVICES, COST SHARING, TYPES OF PROVIDERS, AND REQUIREMENTS FOR PARTICIPATION.—The plan shall—

(A) specify, in accordance with section 10003(c), the home and community-based services to be provided under this subtitle to individuals with severe disabilities;

(B) impose cost sharing with respect to covered services in accordance with section 10003(b); and

(C) specify—

(i) the types of service providers eligible to participate in the program under the plan, and

(ii) any requirements for participation applicable to each type of service provider.

(3) PROVISION OF SERVICES.—

(A) ACCORDING TO PLAN OF CARE.—

(i) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if such services are provided consistent with an individualized plan of care.

(ii) PLAN OF CARE.—Such plan of care shall—

(I) be based on an assessment of the individual's need for such services under section 10002(b)(1),

(II) be developed in consultation with the individual and the individual's family, and

(III) be periodically reviewed and updated, as appropriate (in accordance with section 10002(b)(3).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(B) CONSUMER CHOICE.—To the extent possible, preference is to be given to the choice of an individual with severe disabilities (and that individual's family) regarding which covered services to receive and the providers who will provide such services.

(4) PAYMENTS FOR SERVICES.—The plan provides for payment for services in accordance with the schedules and payment methodology specified in subsection (e).

(5) BUDGETING AND FISCAL MANAGEMENT.—

(A) LIMITATION ON ADMINISTRATIVE EXPENDITURES.—The plan shall contain assurances that not more than an amount or level (specified by the Secretary) of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(B) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subtitle.

(C) BUDGET PRIORITY FOR CONTINUING CURRENT SERVICES FOR CURRENT RECIPIENTS.—The State plan shall give priority to the provision of such services to individuals who are already being provided services under the plan in a fiscal year during which insufficient funds are available to provide services to each individual eligible to receive such services under 10002(a).

(6) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with subsection (f).

(7) GENERAL ADMINISTRATION.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to manage and coordinate benefits under the plan, in accordance with specifications included in the plan.

(B) USE OF LOCAL CARE COORDINATION AGENCIES.—A State may contract with or establish local care coordination agencies throughout the State to assure the availability of home and community-based services to individuals with severe disabilities residing throughout the State.

(C) COORDINATION.—The plan shall specify how the plan—

(i) will be integrated with the State plan for medical assistance under title XIX of the Social Security Act, State plans under titles V and XX of such Act, programs under the Older Americans Act of 1965, programs under the Developmental Disabilities Assistance and Bill of Rights Act, the Individuals with Disabilities Education Act, and any other Federal or State programs that provide services or assistance targeted to individuals with severe disabilities, and

(ii) will be coordinated with certified health plans.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(8) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subtitle, including the processing of claims under the plan, and

(B) such data and information as the Secretary may require in order to carry out the purpose of the program.

(9) COMPLIANCE WITH WORKER REDEPLOYMENT NEGOTIATION REQUIREMENTS.—The plan shall meet the requirements of subtitle C (relating to negotiations regarding worker redeployment).

(c) STANDARDS FOR PLAN APPROVAL.—

(1) IN GENERAL.—The Secretary shall establish standards for the approval of State plans under this section.

(2) EFFECTIVENESS.—The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before October 1, 1998, shall be effective as of such date). In order to budget funds allotted under this subtitle, the Secretary may establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year.

(d) MONITORING STATE PERFORMANCE.—

(1) IN GENERAL.—The Secretary shall monitor the performance of States in carrying out plans under this section and shall, not less often than every two years, evaluate the performance of State agencies in carrying out their programmatic and fiscal responsibilities under this subtitle.

(2) PERFORMANCE MEASURES.—In evaluating such performance, the Secretary shall take into account at least the following:

(A) The State's ability to maintain plan expenditures within amounts for which Federal payments are available under section 10005.

(B) The plan's ability to maximize the provision of services within the State's allocation.

(C) The State's success at finding alternative sources of funding to pay for services authorized under a care plan.

(D) The plan's ability to maintain individuals with severe disabilities outside institutional settings.

(E) The State's ability to implement the requirement that the plan is a secondary payor to the State plan for medical assistance under title XIX of the Social Security Act under section 10005(f)(1).

(e) REQUIREMENTS RELATING TO PAYMENT FOR SERVICES.—

(1) IN GENERAL.—Subject to paragraph (2), payments for services under the State plan shall be made based on—

(A) the prospective payment system developed under paragraph (3)(B), or

(B) in the absence of such a system, the fee schedules developed under paragraph (3)(A), or

(C) in the absence of such a system or schedules, payment rates or methodologies developed by the providers for payment rates that are reasonable and ensure adequate provider participation and access to covered services of adequate quality.

(2) USE OF CASH PAYMENTS AND VOUCHERS.—

(A) IN GENERAL.—Under standards established by the Secretary under this section, a State plan may provide for the use of vouchers and cash payments directly to individuals with severe disabilities to pay for covered services.

(B) DETERMINATION OF PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set rates for such cash payments and vouchers.

(C) USE OF INTERMEDIATE ENTITIES FOR CONSUMER-DIRECTED SERVICES.—With respect to consumer-directed services furnished to an individual with severe disabilities by a provider, the plan may provide that an entity, other than the individual or provider—

(i) would inform the individual and the provider of rights and responsibilities under all Federal and other applicable labor and tax laws, and

(ii) would act as the employer of the provider for purposes of assuming responsibility for effective billing and for payments for service tax withholding, unemployment compensation, and workers'' compensation under such laws.

In such a case individuals with severe disabilities retain the right to select, hire, terminate, and direct the work of such a provider.

(3) DEVELOPMENT OF FEE SCHEDULES AND PROSPECTIVE PAYMENT SYSTEM.—

(A) IN GENERAL.—The Secretary shall develop fee schedules for payment for home and community-based services. Such schedules shall be—

(i) based on the estimated cost of visits by discipline or service,

(ii) adjusted to take into account variations in area wage levels and such other factors as the Secretary deems appropriate, and

(iii) adequate to ensure provider participation and access to covered services of adequate quality.

(B) DEVELOPMENT OF PROSPECTIVE SCHEDULE.—To the extent practicable, the Secretary shall develop a prospective payment system for payment for home and community-based services under this subtitle. Such a system shall adjust payment rates to take into account—

(i) variations in area wage levels, and

(ii) predictable differences in the cost and utilization of such services, based on degree of dependency in relation to activities of daily living and other case-mix severity indicators of resource needs.

To the extent possible, the unit of payment shall be established on a per-episode basis rather than per-visit basis. The payment rates under such a system shall be adequate to ensure provider participation and access to covered services of adequate quality.

(4) EXTRA BILLING NOT PERMITTED.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established under this subsection) and any cost sharing permitted or provided for under the plan as payment in full for services furnished under the plan.

(f) QUALITY ASSURANCE AND SAFEGUARDS.—

(1) QUALITY ASSURANCE REQUIREMENTS.—In order to assure the health and safety of individuals with severe disabilities, the Secretary shall establish, by not later than July 1, 1999, quality assurance and certification requirements—

(A) for providers to receive payments under a State plan for furnishing home and community-based services, and

(B) for enforcement of such requirements under the plan.

(2) SAFEGUARDS.—

(A) CONFIDENTIALITY.—The State plan shall provide safeguards which restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.

(B) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide, through methods other than reliance on State licensure processes, that individuals receiving home and community care under this subtitle are protected from neglect, physical and sexual abuse, financial exploitation, inappropriate involuntary restraint, and the provision of health care services by unqualified personnel in community care settings.

(C) SAFEGUARDS IN CASES OF CASH PAYMENTS AND VOUCHERS.—The State plans shall provide appropriate safeguards in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with severe disabilities.

(D) INCORPORATION OF PROVISIONS.—In carrying out this subsection, the provisions of subsections (f) through (h) of section 1929 of the Social Security Act (relating to minimum requirements for care and settings) shall apply under this subtitle in the same manner as they apply under such section.

(g) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle.

SEC. 10005. PAYMENTS TO STATES; MEDICAID MAINTENANCE OF EFFORT.

(a) IN GENERAL.—The Secretary shall authorize payment to each State with a plan approved under this subtitle, for each fiscal year (beginning with fiscal year 2000), of an amount equal to six dollars for each seven dollars expended under the plan, but not to exceed the State allocation under subsection (b)(1) for the fiscal year plus the State's share of the reallotment pool under subsection (b)(3).

(b) ALLOCATION TO STATES.—

(1) ALLOCATION OF FEDERAL FUNDS.—The Secretary shall allocate all the national long-term care allocation amount (described in paragraph (2)) for each fiscal year among the States in accordance with a formula based on—

(A) the number of individuals with severe disabilities in the State within each of the categories of such individuals, and

(B) the average per capita spending amounts within each State within each of such categories for home and community-based services.

(2) NATIONAL LONG-TERM CARE ALLOCATION AMOUNT.—For any fiscal year, the national long-term care allocation amount is 125 percent of the Federal funds available under section 10006 for the fiscal year.

(3) STATE SHARE OF REALLOTMENT POOL.—

(A) IN GENERAL.—For purposes of subsection (a), the State's share of the reallotment pool for the fiscal year under this paragraph is equal to the State's share (as determined under subparagraph (B)) of the redistribution pool (as determined under subparagraph (C)) for the fiscal year.

(B) STATE SHARE.—For purposes of subparagraph (A), a State's share is equal to the ratio of—

(i) the State allocation under paragraph (1) for the fiscal year, to

(ii) the sum of such allocations for all fully participating States for the fiscal year.

(C) REDISTRIBUTION POOL.—For purposes of subparagraph (A), the redistribution pool for a fiscal year is equal to the amount by which the available Federal funds under section 10006 for the fiscal year exceeds the total payments made to States under paragraphs (1) and (2) of subsection (a) for the fiscal year.

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide

for the payment to States of amounts described in subsection (a).

(d) DISALLOWANCE OF CERTAIN EXCESSIVE ADMINISTRATIVE COSTS.—For purposes of subsection (a), administrative expenditures that are in excess of the amounts permitted under section 10004(b)(5)(A) shall not be treated as expenditures under the State plan.

(e) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE RELATED TAXES.—The provisions of section 1903(w) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 1903(a) of such Act .

(f) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter in a fiscal year, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of one-quarter of the total sum to be expended in such fiscal year, and such other information as the Secretary may find necessary.

(2) The Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid.

(g) REDUCTION OF PAYMENTS AUTHORIZED FOR FAILURE TO MAINTAIN MEDICAID EFFORT.—

(1) PAYER OF LAST RESORT.—The Secretary shall reduce the amount of payments otherwise made to a State under this section by the amount of any expenditures under this subtitle for services to individuals otherwise entitled to benefits under the title XVIII, medicare part C, a State plan approved under title XIX, or any certified health plan.

(2) MEDICAID MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—The Secretary also may reduce the amount of payments otherwise made to a State in a fiscal year under this section by the amount by which—

(i) the State medicaid expenditures for home and community-based services in the fiscal year (as determined under subparagraph (B)), is less than

(ii) the maintenance of effort level for the State for the fiscal year (as determined under subparagraph (C)).

(B) STATE MEDICAID EXPENDITURES.—For purposes of this paragraph, a State's "medicaid expenditures for home and community-based services" in a fiscal year is—

(i) the gross amount expended on medical assistance under the State medicaid plan in the fiscal year for home and community-based services, including a reasonable allocation (determined by the Secretary) of administrative expenses attributable to the provision of such services, reduced by

(ii) the amount of the Federal financial participation attributable to such assistance and expenses under the medicaid program.

(C) MAINTENANCE-OF-EFFORT LEVEL.—For purposes of subparagraph (A)(ii), the "maintenance-of-effort level" for a State for a fiscal year (beginning with fiscal year 1998) is equal to—

(i) the State's medicaid expenditures for home and community-based services (as determined under subparagraph (B)) for fiscal year 1994,

(ii) increased by the total nominal growth in the gross domestic product between 1994 and 1997, and

(iii) increased for each year after 1998 and before the year in which the fiscal year involved ends by national medicare growth factor established under section 8201(c) for the year.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving benefits under this subtitle.

SEC. 10006. FEDERAL FUNDING.

(a) FISCAL YEARS 1998 THROUGH 2004.—For purposes of this subtitle, subject to subsection (c), the available Federal funds for all State plans under this subtitle—

(1) for fiscal year 1998 is $1.7 billion;
(2) for fiscal year 1999 is $1.5 billion;
(3) for fiscal year 2000 is $5.0 billion;
(4) for fiscal year 2001 is $6.6 billion;
(5) for fiscal year 2002 is $9.4 billion;
(6) for fiscal year 2003 is $19.3 billion; and
(7) for fiscal year 2004 is $22.6 billion.

(b) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, subject to subsection (c), the available Federal funds for State plans under this subtitle for each fiscal year after fiscal year 2004 is the total available Federal funds under this section for the preceding fiscal year increased by the national medicare growth factor established under section 8201(c) for the year in which such preceding fiscal year ends.

(c) SET ASIDE FOR SERVICES UNDER THE INDIAN HEALTH CARE IMPROVEMENT ACT.—The Secretary shall set aside and pay to the Indian Health Service for each fiscal year (beginning with fiscal year 2000), for payments under section 906 of the Indian Health Care Improvement Act, 0.8 percent of the available Federal funds otherwise provided under subsection (a) or (b). Such amounts shall be treated as a reduction of amounts available under this title for purposes of computing the amount of allocations to States under section 10005(b).

Subtitle B—Federal Standards for Private Long-Term Care Insurance Policies

PART 1—GENERAL REQUIREMENT; ESTABLISHMENT OF STANDARDS

Subpart A—General Requirement

SEC. 10101. GENERAL REQUIREMENT.

(a) APPROVED REGULATORY STATES.—No long-term care insurance policy (as defined in section 10111) may be issued, sold, or offered for sale in an approved regulatory State (as defined in section 10112(3)) on or after the date specified in section 10103 unless the policy has been certified by the State commissioner of insurance under such program as meeting the standards established by the approved regulatory program in the State.

(b) OTHER STATES.—No long-term care insurance policy may be issued, sold, or offered for sale in a State that is not an approved regulatory State on or after the date specified in section 10103 unless the policy has been certified by the Secretary (in accordance with such procedures as the Secretary may establish) as meeting the standards established under section 10102.

(c) TREATMENT OF ADVERTISING AND SOLICITING.—For purposes of this section, the advertising or soliciting with respect to a policy, directly or indirectly, shall be deemed the offering for sale of the policy.

SEC. 10102. ESTABLISHMENT OF STANDARDS.

(a) IN GENERAL.—The Secretary shall promulgate a regulation that provides standards that incorporate the requirements of part 2 and such standards shall apply under section 10101. Such regulations shall first be published by not later than July 1, 1995.

(b) CONSULTATION.—In promulgating regulations under this section, the Secretary shall consult with the National Association of Insurance Commissioners (in this subtitle referred to as the "NAIC") and with representatives of consumer groups.

SEC. 10103. DEADLINE FOR APPLICATION OF STANDARDS IN STATES.

(a) INITIAL STANDARDS.—With respect to the initial Standards established under section 10102, subject to subsection (b), for purposes of this part, the date specified in this section for a State is—

(1) the date the State establishes an approved regulatory program, or

(2) January 1, 1997,

whichever is earlier.

(b) STATE REQUIRING LEGISLATION.—In the case of a State which the Secretary identifies as—

(1) requiring State legislation (other than legislation appropriating funds) in order for the State regulatory program under section 10161 to be implemented; but

(2) having a legislature which is not scheduled to meet in a legislative session in which such legislation may be considered in the year following the year in which the standards (or subsequent standards) are established;

the date specified in this section is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1 of the year following the year in which such standards (or subsequent standards) are established. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 10104. RELATION TO STATE LAW.

(a) PREEMPTION.—Except as provided in subsection (b), the Standards established under section 10102 preempt provisions of State law which conflict with such Standards.

(b) STRICTER STANDARDS PERMITTED.—A State may apply standards that provide greater protection to policyholders of long-term care insurance policies than the Standards.

(c) GRANDPARENTING OF CURRENT POLICIES.—Except as a State may provide, the Standards shall not apply to policies issued before the date specified in section 10103, unless and until such policies are upgraded under section 10130(c)(2).

(d) EXEMPTION FOR CERTAIN POLICIES SUBJECT TO STATE PLAN AMENDMENTS UNDER MEDICAID.—The Standards shall not apply to a policy in connection with which assets or resources are disregarded in the manner described in section 1917(b)(1)(C)(ii) of the Social Security Act, but only if the policy is certified by the State pursuant to an amendment to the State medicaid plan under section 1902(r)(2) of such Act approved on or before August 1, 1994.

SEC. 10105. CODE OF CONDUCT WITH RESPECT TO ENDORSEMENTS.

Not later than July 1, 1995, the Secretary shall issue guidelines that shall apply to organizations and associations and their subsidiaries that provide endorsements of long-term care insurance policies, or that permit such policies to be offered for sale through the organization or association or subsidiary. Such guidelines shall include, at a minimum, the following:

VOL 140 PT 15 AG 10 — 11 1994 UMI

(1) In endorsing or selling long-term care insurance policies, the primary responsibility of an organization or association or its subsidiary shall be to educate their members concerning such policies and assist such members in making informed decisions. Such organizations and associations and their subsidiaries may not function primarily as sales agents for insurance companies.

(2) Organizations and associations and their subsidiaries shall provide objective information regarding long-term care insurance policies sold or endorsed by such organizations, associations, and subsidiaries to ensure that members of such organizations, associations, and subsidiaries have a balanced and complete understanding of both the strengths and weaknesses of the policies that are being endorsed or sold.

(3) Organizations and associations and their subsidiaries selling or endorsing long-term care insurance policies shall disclose, in marketing literature concerning such policies that is provided to their members, the manner in which such policies and the insurance company issuing such policies were selected. If the organization, association, or subsidiary and the insurance company have interlocking directorates, the organization, association, or subsidiary shall disclose such fact to their members.

(4) Organizations and associations and their subsidiaries selling or endorsing long-term care insurance policies shall disclose, in marketing literature concerning such policies that is provided to their members, the precise nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the organization, association, or subsidiary receives from the endorsement or sale of the policies to its members. The Boards of Directors of organizations and associations and their subsidiaries selling or endorsing long-term care insurance policies shall review and approve the compensation arrangements relating to such policies.

(5) Organizations and associations and their subsidiaries selling or endorsing long-term care insurance policies to their members shall—

(A) disclose, in summary form, the most recent information available pertaining to the financial status (including solvency) of the carrier;

(B) make periodic actuarial or independent examinations of the policies, including their benefits, features, and rates;

(C) actively monitor the marking efforts, with respect to its members, of the carrier and its agents;

(D) review and approve all marketing materials or other insurance communications used to promote sales among, or sent to, members regarding such policies; and

(E) file with the State insurance commissioner of the State in which they are based—

(i) a copy of the policies,

(ii) a copy of the outline of coverage which accompanies such policies, and

(iii) a copy of each advertising and other marketing materials utilized in connection with the sale or endorsement of such policies.

SEC. 10106. REQUIREMENTS FOR AGENT TRAINING AND CERTIFICATION PROGRAMS.

(a) ESTABLISHMENT.—The Secretary shall establish requirements for a long-term care insurance agent training and certification program for insurance agents who desire to sell or offer for sale long-term care insurance policies. Under such program—

(1) the agent must pass either—

(A) a comprehensive examination on long-term care insurance coverage and appropriate sales techniques, or

(B) an equally comprehensive long-term care insurance portion of another examination required by a State in order for the agent to sell another insurance product in the State; and

(2) agents who have completed such program shall be certified as qualified to sell or offer for sale long-term care insurance policies.

(b) ADMINISTRATION.—The program established under subsection (a) shall be administered under an approved State regulatory program.

Subpart B—Definitions

SEC. 10111. LONG-TERM CARE INSURANCE POLICY.

(a) IN GENERAL.—In this subtitle, except as otherwise provided in this section, the term "long-term care insurance policy" means any insurance policy, certificate, or rider advertised, marketed, offered, or designed to provide coverage for each covered individual on an expense incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes a group or individual annuity or life insurance policy or rider which provides directly (or which supplements) long-term care insurance described in the previous sentence. Such term also includes an insurance policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity.

(b) POLICIES EXCLUDED.—Except as provided in subsections (c) and (d), in this subtitle the term "long-term care insurance policy" does not include any medicare supplemental policy (as defined in section 1882(g) of the Social Security Act) and any insurance which is offered primarily to provide—

(1) basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, or major medical expense coverage,

(2) disability income or related asset-protection coverage,

(3) accident only coverage,

(4) specified disease or specified accident coverage, or

(5) limited benefit health coverage.

(c) INCLUSION OF POLICIES MARKETED AS LONG-TERM CARE INSURANCE.—In this subtitle, the term "long-term care insurance policy" also includes any product which is advertised, marketed, or offered as long-term care insurance.

(d) DISCLOSURE REQUIREMENTS FOR CERTAIN DISABILITY INCOME POLICIES AND LIFE INSURANCE POLICIES.—

(1) IN GENERAL.—In this subtitle, the term "long-term care insurance policy" includes—

(A) a policy described in subsection (b)(2) under which the eligibility or amount of benefits are based on an assessment of functional ability (based on activities of daily living or otherwise), or

(B) a life insurance policy described in paragraph (3),

if the disclosure requirements of paragraph (2) are not met.

(2) DISCLOSURE REQUIREMENTS.—The disclosure requirements of this paragraph for a policy are that—

(A) the policy discloses (in a form and manner specified in the Standards) the fact that the policy is not a long-term care insurance policy;

(B) the policy outlines how the benefits in the policy differ from the benefits required to be provided under the Standards of a long-term care insurance policy; and

(C) in the case of a life-insurance policy described in subsection (c), at the time of policy delivery there is provided to the purchaser and the beneficiary a policy summary that includes—

(i) an explanation of how the long-term care benefits interact with other components of the policy (including deductions from death benefits);

(ii) a description of the amount and length of benefits and the guaranteed lifetime benefits (if any) for each covered individual; and

(iii) any exclusions, reductions, and limitations on benefits of long-term care.

(3) CERTAIN LIFE INSURANCE POLICIES.—A life insurance policy described in this paragraph is one—

(A) which accelerates the death benefit specifically for—

(i) one or more of the qualifying events of terminal illness,

(ii) medical conditions requiring extraordinary medical intervention, or

(iii) permanent institutional confinement;

(B) which provides the option of a lumpsum payment for those benefits; or

(C) which provides benefits based on the use of nursing facility care.

SEC. 10112. OTHER TERMS.

In this subtitle:

(1) AGENT.—The term "agent" means—

(A) prior to 1 year after the date of the establishment of the agent training and certification requirements of section 10106, an individual who sells or offers for sale a long-term care insurance policy subject to the requirements of section 10101; and

(B) after the date referred to in subparagraph (A), an individual certified under a training and certification program established under section 10106.

(2) APPROVED REGULATORY PROGRAM; APPROVED REGULATORY STATE.—(A) The term "approved regulatory program" means a regulatory program in a State that the Secretary determines—

(i) provides for the application and enforcement of the standards established under section 10103, and

(ii) complies with the requirements of subpart B of part 3.

(B) APPROVED REGULATORY STATE.—The term "approved regulatory State" means a State with an approved regulatory program (as defined in subparagraph (A)).

(3) CARRIER.—The term "carrier" has the meaning given such term in section 5504.

(4) STANDARDS.—The term "Standards" means all standards established under section 10102 that apply in a State under section 10101.

(5) STATE COMMISSIONER OF INSURANCE.—The term "State commissioner of insurance" includes the State superintendent of insurance.

PART 2—STANDARDS

Subpart A—Policy Standards

SEC. 10121. USE OF STANDARD DEFINITIONS AND TERMINOLOGY AND UNIFORM FORMAT.

Each long-term care insurance policy shall, pursuant to the Standards—

(1) use uniform language and definitions for description of benefits, coverage, providers of covered services, facilities at which covered services are rendered, and eligibility for benefits, including definitions of "home and community care services", of "nursing facility services", and of "respite care", and

(2) use a uniform format and simple, easily understood English for presenting the marketing material and outline of coverage under such a policy.

SEC. 10122. MINIMUM BENEFITS; LIMITING CONDITIONS ON BENEFITS.

(a) MINIMUM BENEFITS.—

(1) IN GENERAL.—A long-term care insurance policy shall provide benefits either—

(A) for nursing facility services, but not for home and community care services, and be labeled prominently as a "nursing home care" policy;

(B) for home and community care services, but not for nursing facility services, and be labeled prominently as a "home and community care" policy; or

(C) for both nursing facility services and home and community care services, and be labeled prominently as a "comprehensive long-term care" policy.

(2) MUST OFFER ALL OPTIONS OR DISCLOSE LACK OF OPTIONS.—A carrier may not offer for sale to an individual a long-term care insurance policy described in one of the subparagraphs of paragraph (1) unless the carrier either (A) also offers for sale to the individual a policy described in each of the other 2 subparagraphs of that paragraph, or (B) discloses the fact that the carrier does not offer policies described in each of such subparagraphs.

(b) RESTRICTIONS ON CONDITIONS.—A long-term care insurance policy may not condition or limit eligibility—

(1) for benefits for a type of services to the need for or receipt of any other services, including prior hospitalization;

(2) for any benefit (where the need for such benefit has been established by an independent assessment of impairment) on any particular medical diagnosis (including any acute condition) or on one of a group of diagnoses;

(3) for benefits furnished by licensed or certified providers on compliance with conditions which are in addition to those required for licensure or certification under State law;

(4) for nursing facility services (if covered under the policy) only—

(A) to care provided in facilities which provide a specified level of care; or

(B) to care provided in facilities which provide for 24-hour or other nursing care not required in order to be licensed by the State; or

(5) for benefits on the continued payment of premiums during periods when long-term care is being received and for which claims under the policy are being filed.

(c) HOME AND COMMUNITY CARE SERVICES.—

(1) SERVICES INCLUDED.—Home and community care services under a long-term care insurance policy shall include—

(A) home-based services (described in paragraph (2)) which are provided in a place of residence used as the individual's home (or, in the case of services described in subparagraphs (C), (F), and (G) of that paragraph, which may be provided outside the individual's residence), and

(B) community-based services (described in paragraph (3)).

(2) HOME-BASED SERVICES.—The home-based services described in this paragraph are as follows:

(A) Nursing care provided by or under the supervision of a registered professional nurse.

(B) Services of a homemaker/home health aide who has successfully completed a training and competency evaluation program that meets minimum standards established by the Secretary under section 1891(a)(3)(D) of the Social Security Act.

(C) Personal assistance services furnished by an individual who has successfully completed a training and competency evaluation program that meets minimum standards established by the Secretary.

(D) Medical social services.

(E) Physical, occupational, or respiratory therapy or speech-language pathology.

(F) Medical supplies (other than drugs and biologicals), assistive technologies, and equipment that assist in the performance of activities of daily living.

(G) Patient and caregiver (including family caregiver) education and training to develop skills necessary to permit the individual to remain in the home setting.

(H) Such other home-based items and services as the Secretary may approve.

(3) COMMUNITY-BASED SERVICES.—The community-based services described in this paragraph are as follows:

(A) Adult day care services provided by an adult day care program that meets minimum standards (including the provision of at least 1 meal a day and the provision of necessary transportation) established by the Secretary.

(B) In the case of individuals with chronic mental illness, day treatment or other partial hospitalization services, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility), but only insofar as such services are equivalent to services described in subparagraph (A) and do not include individual therapy.

(C) Such other community-based items and services as the Secretary may approve.

(4) LIMITATIONS ON CONDITIONS.—If a long-term care insurance policy provides benefits for home and community care services, the policy—

(A) may not limit such benefits to services provided by registered nurses, licensed practical nurses, occupational, physical, or speech therapists, or social workers;

(B) may not require benefits for such services to be provided by a nurse or therapist that can be provided by a home health aide or licensed or certified home care worker acting within the scope of the worker's licensure or certification;

(C) may not limit such benefits to services provided by agencies or providers certified under title XVIII or XIX of the Social Security Act;

(D) may not limit or exclude benefits for such services (i) by requiring that the policyholder would need nursing care in a facility if home and community care services were not provided, or (ii) by requiring that the policyholder have an acute condition before home and community care services are covered; and

(E) must provide not less than 365 days of home-based services and community-based services.

(d) NURSING FACILITY SERVICES.—

(1) TYPES OF SERVICES.—Nursing facility services under a long-term care insurance policy shall include the following:

(A) Nursing care provided by or under the supervision of a registered professional nurse.

(B) Bed and board in connection with the furnishing of such nursing care.

(C) Physical, occupational, or respiratory therapy, or speech-language pathology, furnished by the facility or by others under arrangements with them made by the facility.

(D) Medical social services.

(E) Such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the facility as are ordinarily furnished by such facility for the care and treatment of residents.

(F) Medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of section 1861(l) of the Social Security Act), under a teaching program of such hospital approved as provided in the last sentence of section 1861(b) of such Act, and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement in effect.

(G) Such other services necessary to the health of the residents as are generally provided by nursing facilities.

(2) MINIMUM DURATION.—If a long-term care insurance policy provides benefits for nursing facility services, the policy shall provide—

(A) such benefits with respect to all nursing facilities (as defined in section 1919(a) of the Social Security Act, and

(B) not less than 365 days of such benefits with respect to all such nursing facilities.

SEC. 10123. PROHIBITION OF DISCRIMINATION.

A long-term care insurance policy may not treat benefits under the policy for an individual with Alzheimer's disease, with any related progressive degenerative dementia of an organic origin, with any mental disorder of a demonstrable organic origin, or with HIV disease, differently from benefits for an individual having another medical condition for which benefits may be made available. For purposes of the previous sentence, the term "HIV disease" means infection with the human immunodeficiency virus, and includes any condition arising from acquired immune deficiency syndrome.

SEC. 10124. LIMITATION ON USE OF PREEXISTING CONDITION LIMITS.

(a) INITIAL ISSUANCE.—

(1) IN GENERAL.—Subject to paragraph (2), a long-term care insurance policy may not exclude or condition benefits based on a medical condition for which the policyholder received treatment or was otherwise diagnosed before the date of issuance of the policy.

(2) 6-MONTH LIMIT.—A long-term care insurance policy may exclude benefits under a policy, during its first 6 months, based on a condition for which the policyholder received treatment or was otherwise diagnosed during the 6 months before the policy became effective.

(3) REFERENCE TO MEDICAL DOCUMENTATION REQUIREMENT.—For provision requiring medical documentation for individuals 75 years or age or older at the time of policy issuance, see section 10147.

(b) REPLACEMENT POLICIES.—If a long-term care insurance policy replaces another long-term care insurance policy, the replacing policy shall waive any time periods (including waiting periods, elimination periods, and probationary periods) applicable to preexisting conditions in the new policy for similar benefits to the extent such time was spent under the original policy.

SEC. 10125. USE OF FUNCTIONAL ASSESSMENT.

(a) IN GENERAL.—If a long-term care insurance policy limits the eligibility for, or level of, benefits, the policy—

(1) shall specify that eligibility for, and the level of, benefits available under the policy based on a functional assessment (described in subsection (c)); and

(2) shall specify the level (or levels) of physical, cognitive, or mental impairment required under such an assessment to obtain benefits under the policy.

(b) CONDUCT OF ASSESSMENT.—Such assessment may not be conducted by an individual—

VOL 140 PT 15 AG 10 — 11 1994 UMI

(1) who has a direct or indirect ownership or control interest in the carrier issuing the policy or an entity that provides services for which benefits are available under the long-term care insurance policy, or

(2) who has a direct or indirect affiliation or relationship with such a carrier or entity if there is a financial incentive that is related to the results of the assessment determination.

(c) UNIFORM ASSESSMENT INSTRUMENT AND UNIFORM FORMULAS.—Not later than July 1, 1995—

(1) the functional assessment referred to in subsection (a) must—

(A) be based on a professional assessment of the policyholder's physical, cognitive, and mental abilities, and

(B) be conducted in accordance with a standard, reproducible, uniform assessment instrument and methodology designated by the Secretary; and

(2) benefits shall be determined in accordance with an eligibility formula specified in the Standards and based on the assessment described in paragraph (1).

(d) APPEALS PROCESS.—Each long-term care insurance policy shall provide for an appeals process, meeting the Standards, for individuals who dispute the results of an assessment conducted under this section, including any determination of eligibility, level of functional impairment, or level of benefits.

SEC. 10126. REQUIREMENTS FOR PREMIUMS.

(a) INITIAL ISSUANCE.—The premiums charged for the initial issuance of a long-term care insurance policy shall be established in accordance with a system that ensures that premiums—

(1) accurately reflect the true lifetime cost of the policies (in order to minimize premium rate increases);

(2) are fully supported by an actuarial memorandum; and

(3) utilize lapse rates (in accordance with a table specified in the standards).

(b) RENEWALS.—Except as provided in subsection (c)—

(1) IN GENERAL.—The Standards shall provide limits on the increases in premiums that are allowable at the time of renewal. Such Standards shall be at least as stringent as the limitations contained in the succeeding paragraphs of this subsection.

(2) PROHIBITION ON INCREASES IN FIRST 4 YEARS.—No increase in premiums shall be granted during the first 4 years of a policy's duration.

(3) REQUIREMENTS FOR CERTAIN PREMIUM INCREASES FOR INDIVIDUALS UNDER AGE 70.—In the case of a policyholder or certificateholder of a long-term care insurance policy who is under the age of 70, a proposed premium increase for renewal of the policy that would result either—

(A) in the premium exceeding twice the original premium amount, or

(B) in a premium increase, over any 4-year period, exceeding 25 percent of the premium in effect at the beginning of such period,

shall not be granted.

(4) REQUIREMENTS FOR PREMIUM INCREASES FOR INDIVIDUALS BETWEEN 70 AND 80 YEARS OF AGE.—In the case of a policyholder or certificateholder of a long-term care insurance policy who is at least 70 years of age but under the age of 80, no proposed premium increase for renewal of the policy shall be granted if the proposed premium increase would result in a premium increase, over any 5-year period, exceeding 15 percent of the premium in effect at the beginning of the period.

(5) PROHIBITION ON PREMIUM INCREASES FOR INDIVIDUALS 80 YEARS OF AGE OR OLDER.—In the case of a policyholder or certificate holder of a long-term care insurance policy who is 80 years of age or older, the premiums for such policy may not be increased.

(c) SPECIAL RULES IN CASE OF INFLATION PROTECTION.—In the case of a policy that includes inflation protection benefits, the requirements of subsection (b) shall not apply to any proposed or expected premium increases if the increases are consistent with the increases attributable to such inflation protection as scheduled within the policy and were contained in the outline of coverage required under section 10136(b)(9).

SEC. 10127. INFLATION PROTECTION.

(a) REQUIREMENT TO OFFER.—An insurer offering for sale any long-term care insurance policy shall afford the purchaser the option to obtain coverage under such policy of annual increases in benefits (upon payment of increased premiums) at rates in accordance with subsection (b).

(b) RATE INCREASE IN BENEFITS.—For purposes of subsection (a), the benefits under a policy for each year shall be increased by a percentage of the full value of benefits under the policy for the previous year, which shall be not less than 5 percent of such value (or such other rate of increase as may be determined by the Secretary to be adequate to offset increases in the costs of long-term care services for which coverage is provided under the policy).

(c) REQUIREMENT OF WRITTEN REJECTION.—Inflation protection in accordance with subsection (b) may be excluded from the coverage under a policy only if the insured individual (or, if different, the person responsible for payment of premiums) has rejected in writing the option to obtain such coverage.

SEC. 10128. NONFORFEITURE.

(a) IN GENERAL.—Each long-term care insurance policy shall provide that if the policy lapses after the policy has been in effect for at least 3 years, the policy will provide without payment of any additional premiums benefits equal to a percentage (specified under the Standards) of the benefits otherwise available at term.

(b) STANDARDS.—The Standards may provide that the percentage under subsection (a) must increase based upon the period of time in which the policy was in effect.

SEC. 10129. DESIGNATION OF REPRESENTATIVES.

(a) IN GENERAL.—The carrier issuing a long-term care insurance policy—

(1) at the time of issuance of the policy shall require the applicant or policyholder either—

(A) to designate not more than 3 representatives whom the carrier shall notify in the event that the policyholder fails to pay premiums, or

(B) to provide a written waiver (signed and dated by the applicant or policyholder) of the right to make such designation; and

(2) shall permit the policyholder to make or alter such a designation not less frequently than annually at the time of renewal.

(b) NO LEGAL OBLIGATION TO PAY PREMIUMS.—An individual designated as a representative under subsection (a) is not under any legal obligation to pay for premiums or to otherwise act in the event of a notification under this section.

SEC. 10130. ISSUANCE, RENEWAL, AND CANCELLATION.

(a) IN GENERAL.—No long-term care insurance policy may be canceled or nonrenewed for any reason other than nonpayment of premium (subject to subsection (d) and any nonforfeiture rights under section 10128) or fraud or material misrepresentation (subject to section 10145(c)).

(b) CONTINUATION AND CONVERSION RIGHTS FOR GROUP POLICIES.—

(1) IN GENERAL.—Each group long-term care insurance policy shall provide covered individuals with a basis for continuation or conversion in accordance with this subsection.

(2) BASIS FOR CONTINUATION.—For purposes of paragraph (1), a policy provides a basis for continuation of coverage if the policy maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. A group policy which restricts provision of benefits and services to or contains incentives to use certain providers or facilities, may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy.

(3) BASIS FOR CONVERSION.—For purposes of paragraph (1), a policy provides a basis for conversion of coverage if the policy entitles each individual—

(A) whose coverage under the group policy would otherwise be terminated for any reason; and

(B) who has been continuously insured under the policy (or group policy which was replaced) for at least 6 months before the date of the termination;

to issuance of a policy providing benefits identical to, substantially equivalent to, or in excess of, those of the policy being terminated, without evidence of insurability.

(4) GUIDELINES FOR DETERMINATION OF SUBSTANTIAL EQUIVALENCE.—For the purpose of determining whether benefits under such policies are substantially equivalent under paragraphs (2) or (3), the Secretary shall establish guidelines for comparing long-term care insurance policies.

(5) GROUP REPLACEMENT OF POLICIES.—If a group long-term care insurance policy is replaced by another long-term care insurance policy purchased by the same policyholder, the succeeding carrier shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(6) PREMIUMS FOR REPLACEMENT OR CONVERSION.—In the case of a converted policy or a replacement policy issued by the same carrier that had issued a previous policy and issued to the same group or its successor, or issued to any individual covered by the previous group policy, the premium shall be calculated on the basis of the insured's age at the inception of coverage under the earliest previous policy which became the basis for the converted or replaced policy in the case of benefits which are the same as benefits that were provided under any earlier policy.

(c) GUARANTEED ISSUANCE.—

(1) IN GENERAL.—A carrier that sells or issues long-term care insurance policies shall guarantee that such policies shall be sold or issued to an individual if such individual meets the minimum medical underwriting requirements of such policy as established in compliance with an age rating formula established by the Secretary.

(2) POLICY UPGRADES.—

(A) CURRENT POLICIES.—Each long-term care insurance policy in effect as of the effective date of the Standards established under section 10102 shall permit the policyholder to purchase a policy that meets all

such standards and the carrier shall directly inform each such policyholder of the right to purchase an upgraded policy under this paragraph.

(B) FUTURE UPGRADES.—

(i) IN GENERAL.—If a carrier of a long-term care insurance policy provides for the issuance of policies with benefits that are greater than the benefits previously provided under such policies, the policyholder of a long-term care insurance policy previously issued by that carrier and still in force has the right to purchase a policy that provides for such upgraded benefits and the carrier shall directly inform each such policyholder of the existence of such an upgraded policy and the right to purchase an upgraded policy under this paragraph.

(ii) LIMITATION.—Clause (i) shall not apply to a policyholder who is eligible (or was eligible at any time within the previous 3 months) for benefits under the long-term care insurance policy.

(C) LIMITATION ON MEDICAL UNDERWRITING OF UPGRADED POLICIES REQUIRED UNDER FEDERAL OR STATE LAW.—With respect to a policy that offers upgraded benefits in accordance with a new Federal or State requirement, the carrier issuing the policy may not impose additional medical underwriting criteria, except that—

(i) the carrier may utilize an age rate for such policy based on the formula established by the Secretary under subsection (c)(1), and

(ii) the carrier may impose additional medical underwriting criteria in relation to benefits to the extent they were not included in the previously issued policy.

(D) LIMITATION ON MEDICAL UNDERWRITING ON OTHER UPGRADED POLICIES.—With respect to an upgraded long-term care insurance policy that offers benefits that are greater than the benefits required under Federal or State requirements, the carrier issuing the policy—

(i) except as provided in clause (ii), may not impose additional medical underwriting criteria in relation to benefits that are the same as the benefits under the previously issued policy and the premiums charged with respect to such benefits may not be greater than the premiums charged with respect to such benefits under the previously issued policy, but

(ii) may impose additional medical underwriting criteria in cases where the State insurance commissioner determines that the absence of such underwriting would result in adverse selection of insured risks.

(E) APPROVAL OF HIGHER PREMIUMS REQUIRED.—In the case of a carrier that intends to offer upgraded policies at premiums that are higher than the premiums charged for their existing policies, such carrier must have such higher premiums approved through the process specified in section 10164.

(F) CREDIT TOWARD NONFORFEITURE BENEFIT.—In the case that a policy is replaced with an upgraded policy, the upgraded policy shall provide for credit designed to assure retention of a policyholder's equity, according to a formula established by the Secretary, toward the nonforfeiture benefit for periods of coverage under the previous long-term care insurance policy issued by the same carrier.

(d) EFFECT OF INCAPACITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a long-term care insurance policy may not be canceled for nonpayment if the policy holder is determined by a long-term care provider, physician or other health care provider, independent of the carrier issuing the policy, to be cognitively, mentally, or physically incapacitated.

(2) PERMITTED CANCELLATION.—A long-term care insurance policy may be canceled under paragraph (1) for nonpayment if—

(A) the period of such nonpayment is in excess of 30 days; and

(B) notice of intent to cancel (and right of reinstatement under paragraph (3)) is received by all designated representatives of the policyholder after the expiration of the period specified in subparagraph (A) and not less than 30 days prior to such cancellation.

(3) REINSTATEMENT.—If a long-term care insurance policy is canceled for nonpayment under this subsection, the policy may be reinstated without any loss in the policyholder's equity for purposes of a nonforfeiture benefit if the policyholder pays all premiums owing within a period (specified in the standards and of not less than 6 months) after the date of the cancellation.

Subpart B—Sales Practices

SEC. 10131. CERTIFICATION OF TRAINING OF SALES AGENTS.

A person may not sell or offer for sale a long-term care insurance policy unless the person has been certified under the State regulatory program or by the Secretary as having received training (in accordance with section 10106) with respect to such policies in accordance with the Standards.

SEC. 10132. DUTY OF GOOD FAITH AND FAIR DEALING.

(a) IN GENERAL.—Each person who is selling or offering for sale a long-term care insurance policy has the duty of good faith and fair dealing to the purchaser or potential purchaser of such a policy.

(b) PROHIBITED PRACTICES.—A person is considered to have violated subsection (a) if the person engages in any of the following practices:

(1) TWISTING.—Knowingly making any misleading representation or incomplete or fraudulent comparison of any long-term care insurance policy or carrier for the purpose of inducing, or tending to induce, any person to retain or effect a change with respect to a long-term care insurance policy.

(2) HIGH PRESSURE TACTICS.—Employing any method of marketing having the effect of, or intending to, induce the purchase of long-term care insurance policy through undue pressure.

(3) COLD LEAD ADVERTISING.—Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(4) OTHERS.—Engaging in such other practices determined inappropriate under standards established by the Secretary.

(c) PROHIBITION OF COMPLETION OF MEDICAL HISTORIES.—A person who is selling or offering for sale a long-term care insurance policy may not complete the medical history portion of an application for any other individual (other than a relative of the person).

SEC. 10133. FINANCIAL GUIDELINES.

(a) DEVELOPMENT.—The Secretary, by July 1, 1995, shall develop recommended minimum financial guidelines (including both income and asset criteria) that an individual should meet before purchasing a long-term care insurance policy.

(b) CONSTRUCTION.—Nothing in such guidelines shall permit a person who is selling or offering for sale a long-term care insurance policy to compel a potential purchaser of such a policy (directly or indirectly) to provide financial information as a condition of purchasing such a policy.

SEC. 10134. PROHIBITION OF SALE OR ISSUANCE TO MEDICAID BENEFICIARIES.

A person may not knowingly sell or issue a long-term care insurance policy to an individual who is eligible for medical assistance (other than only as a qualified medicare beneficiary) under title XIX of the Social Security Act.

SEC. 10135. PROHIBITION OF SALE OR ISSUANCE OF DUPLICATE POLICIES.

A person may not sell or issue a long-term care insurance policy—

(1) knowing that the policy provides for coverage that duplicates coverage already provided in another long-term care insurance policy (unless the policy is intended to replace such other policy), or

(2) for the benefit of an individual unless the individual (or a representative of the individual) provides a written statement to the effect that the coverage under the new policy—

(A) does not duplicate other coverage in effect under a long-term care insurance policy,

(B) will replace another long-term care insurance policy, or

(C) is fully payable without regard to other long-term care services which may be provided to the individual.

SEC. 10136. PROVISION OF OUTLINE OF COVERAGE AND OTHER INFORMATION.

(a) OUTLINE OF COVERAGE.—A person may not sell or offer for a sale a long-term care insurance policy for the benefit of an individual without providing to the purchaser or potential purchaser (or representative), before such purchase, with—

(1) a copy of the guidelines developed under section 10133 and an explanation of such guidelines;

(2) an outline of coverage that includes the information required under subsection (b); and

(3) information (specified under the Standards) describing—

(A) the right of individuals to turn down the policy in 30 days, and

(B) the right of individuals to cancel a policy, and receive a refund on premiums paid, within 30 days after the date the policy is issued.

In applying this subsection in the case of a group long-term care insurance policy, the carrier issuing the policy is responsible for the provision of the outline and information to each certificate holder before the policy takes effect with respect to that certificate holder.

(b) CONTENTS OF OUTLINE OF COVERAGE.—The outline of coverage for each long-term care insurance policy shall be in a uniform format, utilizing simple, easily understood English, as prescribed in guidelines issued by the Secretary. Each outline shall include (in accordance with the Standards) at least the following:

(1) A description of the principal benefits and coverage under the policy, how such benefits and coverage compare to the range of potential benefits and coverage available under such policies, and the eligibility criteria (if any) for such benefits.

(2) A statement of the principal exclusions, reductions, and limitations contained in the policy.

(3) A statement of the terms under which the policy (or certificate in the case of a group policy) may be continued in force or discontinued, the terms for continuation or conversion, and any reservation in the policy of a right to change premiums.

(4) A statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy (or master

VOL 140 PT 15 AG 10 — 11 1994 UMI

policy) contains the contractual provisions that govern.

(5) A description of the terms, specified in section 10140, under which a policy may be returned and the premium refunded.

(6) Information developed by the Secretary on national average nursing home lengths of stay and percentage of the population that requires nursing facility or home care services, broken down by age groups.

(7) Information on average costs (and variation in such costs) for nursing facility care (and such other care as the Secretary may specify) in the United States, information on the value of benefits relative to such costs, and a statement that this national average varies by geographic region.

(8) A comparison of benefits, over a period of at least 20 years, for policies with and without inflation protection.

(9) A declaration as to whether the amount of benefits will increase over time, and, if so, a statement of the type and amount of, any limitations on, and any premium increases for, such benefit increases.

For purposes of carrying out paragraph (7), the Secretary shall publish annually the national average costs of nursing facility care, home health care services, and other long-term care services as may be deemed appropriate by the Secretary.

(c) CERTIFICATES.—A certificate issued pursuant to a group long-term care insurance policy shall include—

(1) a description of the principal benefits and coverage provided in the policy;

(2) a statement of the principal exclusions, reductions, and limitations contained in the policy; and

(3) a statement that the group master policy determines governing contractual provisions.

(d) LONG-TERM CARE AS PART OF LIFE INSURANCE.—In the case of a long-term care insurance policy issued as a part of or a rider on a life insurance policy, at the time of policy delivery there shall be provided a policy summary that includes—

(1) an explanation of how the long-term care benefits interact with other components of the policy (including deductions from death benefits);

(2) an illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits (if any) for each covered person;

(3) principal exclusions, reductions, and limitations on benefits of long-term care; and

(4) a description of the tax consequences of redeeming the life insurance policy to pay for long-term care.

SEC. 10137. INFORMATION ON FINANCIAL ARRANGEMENTS WITH GROUPS.

A person may not sell or offer for sale a long-term care insurance policy with respect to a member of an organization with which the person (or the carrier issuing the policy) has a financial arrangement of any type unless the person discloses (in accordance with the Standards) the nature of the financial arrangement.

Subpart C—Carrier Standards

SEC. 10141. REFUND OF PREMIUMS (FREE LOOK).

If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is denied or an applicant returns a policy or certificate within 30 days of the date of its issuance, the carrier shall refund directly to the applicant, not later than 30 days after the date of the denial or return, any premiums paid with respect to such a policy.

SEC. 10142. MAILING OF POLICY.

If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the carrier shall transmit to the applicant the policy of insurance not later than 30 days after the date of the approval.

SEC. 10143. PROMPT PAYMENT.

A carrier issuing a long-term care insurance policy shall make payment promptly to satisfy claims filed under such policy.

SEC. 10144. CLAIMS DENIALS.

(a) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied or results in less than full payment, the carrier shall, within 30 days of the date of the denial or partial payment—

(1) provide to the person submitting the claim, and to the persons (if any) designated under section 10129, a written explanation of the reasons for the denial or partial payment;

(2) make available to such person all information directly relating to such denial or partial payment; and

(3) inform the individual of the process established under paragraph (3) for the appeal of the claim denial.

(b) LIMITATION ON BASIS FOR DENIAL.—

(1) FAILURE TO DISCLOSE INFORMATION.—No claim under such a policy may be denied on the basis of a failure to disclose information at the time of delivery (and issuance for delivery) of the policy if the application for the policy failed to request such information.

(2) TIMELY RESOLUTION OF INSURABILITY QUESTIONS.—Before issuing a long-term care insurance policy or certificate with respect to coverage of an individual, the carrier shall resolve all reasonable questions relating to the insurability of the individual (including, if the carrier underwrites such coverage, the completion of such underwriting).

(3) TREATMENT OF INDIVIDUALS 75 YEARS OF AGE OR OLDER.—In the case of a policyholder who was 75 years of age or older at the time of delivery (and issuance for delivery) of a long-term care insurance policy, no claim under such a policy may be denied on the basis of a failure to disclose information at the time of delivery (and issuance for delivery) of the policy if the policyholder truthfully disclosed documentation obtained under section 10147.

(c) APPEALS PROCESS.—A policyholder whose policy has been rescinded, canceled, or nonrenewed, or whose claim has been fully or partly denied, or whose claim has not been acted upon with reasonable promptness shall have the right to a review of such rescission, cancellation, nonrenewal, or denial under a process specified in the Standards and shall be granted an opportunity for a fair hearing by the carrier in any case where the amount in controversy is at least $500. The Standards may provide for an appeal to the State commissioner of insurance in an appropriate State.

SEC. 10145. LIMITATION ON RESCISSION, CANCELLATION, OR NONRENEWAL OR DENIAL OF CLAIMS.

(a) IN GENERAL.—A carrier may rescind, cancel, or nonrenew a long-term care insurance policy or certificate, or deny an otherwise valid claim under such policy, only in accordance with this section.

(b) NONPAYMENT OF PREMIUMS.—A carrier may rescind, cancel, or nonrenew a long-term care insurance policy or certificate for nonpayment of premiums, except as provided in section 10130(d).

(c) FRAUD OR MISREPRESENTATION RELATING TO INSURABILITY.—A carrier may rescind, cancel, or nonrenew a long-term care insurance policy or certificate, or deny an otherwise valid claim under such policy based upon fraud or misrepresentation of facts relating to the insurability of the individual, only—

(1) based upon clear and convincing evidence—

(A) of fraud or misrepresentation of information material to the acceptance for coverage, and

(B) involve a chronic condition or dates of treatment before the date of the policy application; and

(2) if the carrier notifies the policyholder of the carrier's intention to rescind, terminate, or nonrenew the policy or deny the claim not later than—

(A) 60 days after the date the carrier discovers the fraud or misrepresentation, or

(B) 6 months (or 2 years in the case of clear and convincing evidence that the fraud or misrepresentation pertains to the condition for which benefits are sought) after the date of issuance of the policy,

whichever is earlier.

(d) FRAUD OR MISREPRESENTATION RELATING TO A GROUP POLICY.—In the case of a policyholder or certificate holder who is insured as part of a group, within 2 years after the date of issuance of the policy or certificate, a carrier may rescind, cancel, or nonrenew the policy or certificate, or deny an otherwise valid claim under such policy, based upon fraud or misrepresentation of facts relating to that individual's status as a member of the group or other relationship to that group at the time of initial coverage of that individual under the policy or certificate.

SEC. 10146. REPORTING OF INFORMATION; ACCESS TO INFORMATION.

(a) REPORTING OF INFORMATION.—Each carrier issuing a long-term care insurance policy shall periodically (not less often than annually) report to the State commissioner of insurance of each State in which the policy is sold, and shall make available to the Secretary, upon request, information respecting the following:

(1) The long-term care insurance policies of the carrier that are in force.

(2) Utilization of benefits and payment of claims under the policy.

(3) The ages of individuals purchasing the policy.

(4) Advertising and other marketing material utilized in connection with the sale of such policies, including a copy of each such item.

(5) Total premiums written and premiums earned in the previous year.

(6) The most recent premiums for such policies and the premiums imposed for such policies during the previous 5-year period.

(7) The lapse rates, replacement rates, and rescission rates for policies (by agent). For purposes of this paragraph, there shall not be included as a lapse of policy such a lapse due to the death of the policyholder.

(8) The claims denied (as a percentage of claims submitted) for such policies. For purposes of this paragraph, there shall not be included as a denied claim such a claim that is denied solely because of the failure to meet a deductible, waiting period, or exclusionary period.

(9) Complaints received with respect to such policies, and the resolution of such complaints.

(10) The rate of appeal of denied claims (as a percentage of claims denied) for such policies.

(11) The rate of reversal of denied claims on appeal (as a percentage of claim denials appealed) for such policies.

(12) Such other information as is specified in the Standards.

Information under this subsection shall be reported in a format specified in the Standards.

(b) ACCESS TO INFORMATION.—Each such carrier shall make available to the Secretary and the State commissioner of insurance of each State in which the policy is sold such additional information as the Secretary or Commissioner, may request.

(c) AVAILABILITY OF INFORMATION.—The State commissioner of insurance of each State shall make information under this section available, upon request, to the NAIC and, to the extent consistent with other laws, to other interested parties.

SEC. 10147. MEDICAL DOCUMENTATION FOR THE ELDERLY.

Each carrier issuing a long-term care insurance policy shall, with respect to an applicant who is 75 years of age or older, obtain one of the following before issuing the policy:

(1) A report of a contemporaneous physical examination.

(2) A contemporaneous assessment of functional capacity.

(3) Copies of contemporaneous medical records.

The carrier shall maintain the information obtained in its files.

SEC. 10148. LIMITS ON COMPENSATION FOR SALE OF POLICIES.

(a) IN GENERAL.—A carrier issuing a long-term care insurance policy may not provide a commission or other compensation to an agent or other representative for the sale of such a policy in an amount that exceeds a percentage of the commission or other compensation paid for selling or servicing such a policy in the second or subsequent year specified in the Standards.

(b) COMPENSATION DEFINED.—In subsection (a), the term "compensation" includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certification, including deferred compensation, bonuses, gifts, prizes, awards, and finders fees.

PART 3—ENFORCEMENT OF STANDARDS

Subpart A—General Provisions

SEC. 10151. SECRETARIAL ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—The Secretary shall exercise authority under this section—

(1) in the case of a State which does not an approved regulatory program;

(2) in the case of a State which has an approved regulatory State, to the extent specified by the Secretary (under a look-behind program), to determine whether or not individual long-term health care policies in the State have failed to comply with the applicable Standards required under part 2 and whether persons or entities are otherwise in compliance with the requirements of such part;

(3) in imposing sanctions under this subpart against any person who sells, offers for sale, or issues a long-term care insurance policy in violation of the Standards required under subpart B of part 2; and

(4) in imposing sanctions under this subpart against a carrier that violates the Standards required under subpart C of part 2.

(b) PLAN DISAPPROVED UNDER LOOK-BEHIND AUTHORITY.—If the Secretary determines under this subpart that a long-term care insurance policy does not meet the applicable requirements of part 2 on or after the date specified in section 10103, regardless of whether or not the State has taken any action with respect to such noncompliance, no new policies may be offered under the plan on or after the date of the determination.

(c) LOSS OF STATUS AS A LONG-TERM CARE PLAN.—If an association or its subsidiary or a carrier is determined under this section not to be in compliance with applicable Standards under part 2 and is not determined to have come into compliance with such applicable Standards at the end of the 6-month period beginning on the date of the initial determination of such noncompliance, any long-term care insurance policy issued, sold, or offered for sale by such association or its subsidiary or carrier shall be considered to be issued, sold, or offered for sale in violation of section 10101(a).

SEC. 10152. COMPLAINTS AND INVESTIGATIONS.

(a) IN GENERAL.—The Secretary shall establish procedures—

(1) for individuals and entities to file written, signed complaints respecting alleged violations of the Standards required under part 2,

(2) for responding on a timely basis to such complaints, and

(3) for the investigation of—

(A) those complaints which, on their face, have a substantial probability of validity, and

(B) such other alleged violations of the requirements of part 2 as the Secretary determines to be appropriate.

(b) CONDUCT OF INVESTIGATIONS.—In conducting investigations under this section, agents of the Secretary shall have reasonable access to examine evidence of any person or entity being investigated.

(c) TREATMENT OF CARRIER VIOLATIONS.—For purposes of this subpart, a carrier whose policy was sold, offered for sale, or issued by an agent in violation of the Standards under subpart B of part 2 and who had any reason to know of such violation but did not act immediately to correct such violation in good faith, shall be deemed to have violated the Standards of such subpart.

SEC. 10153. HEARINGS.

(a) IN GENERAL.—Before imposing an order described in section 10154 against a person or entity under this section for a violation of the Standards under part 2, the Secretary shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary) of the date of the notice, a hearing respecting the violation. If no hearing is so requested, the Secretary shall impose a final and unappealable order.

(b) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge under section 201 of the Social Security Act. If no hearing is so requested, the Secretary's imposition of the order shall constitute a final and unappealable order.

(c) AUTHORITY IN HEARINGS.—

(1) IN GENERAL.—In conducting hearings under this section—

(A) agents of the Secretary and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated, and

(B) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

(2) ENFORCEMENT OF SUBPOENAS.—In case of contumacity or refusal to obey a subpoena lawfully issued under this subsection and upon application of the Secretary, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

(d) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated the Standards required under part 2, the administrative law judge shall state the findings of fact and issue and cause to be served on such person or entity an order described in section 10154. Any order issued under such section shall be provided to the agent, association or its subsidiary, or carrier and include the findings and the basis of the order.

SEC. 10154. CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY.

(a) CEASE AND DESIST ORDER.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the order under this section—

(A) shall require the person or entity—

(i) to cease and desist from such violations, and

(ii) to pay a civil penalty in an amount not to exceed $25,000 (or $15,000 in the case of a violation by an agent) for each such violation; and

(B) may require the person or entity to take such other remedial action as is appropriate.

(2) AMOUNT OF CIVIL PENALTY.—The amount of a civil penalty under paragraph (1)(A)(ii) may take into account the penalties imposed by a State with respect to the same such violation.

(3) PROCEDURES FOR CIVIL PENALTY.—The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

(b) CRIMINAL PENALTY FOR MULTIPLE AGENT VIOLATIONS.— In the case of an agent who has committed multiple violations of the Standards required under subpart B of part 2, such agent also may be imprisoned not more than 5 years, or fined in accordance with title 18, United States Code, or both.

(c) CORRECTIONS WITHIN 30 DAYS.—No order shall be imposed under this section by reason of any violation if the person or entity establishes to the satisfaction of the Secretary by clear and convincing evidence that—

(1) such violation was due to reasonable cause and was not intentional and was not due to willful neglect, and

(2) such violation is corrected within the 30-day period beginning on the earliest date the person or entity knew, or exercising reasonable diligence could have known, that such a violation was occurring.

(d) WAIVER BY SECRETARY.—In the case of a violation which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the civil money penalty imposed by subsection (a)(1)(A)(ii) to the extent that payment of such penalty would be grossly excessive relative to the violation involved and to the need for deterrence of violations.

(e) REVIEW BY THE SECRETARY.—The decision and order of an administrative law judge under this section shall become the final agency decision and order of the Secretary unless, within 30 days, the Secretary modifies or vacates the decision and order, in which case the decision and order of the Secretary shall become a final order under this section.

(f) JUDICIAL REVIEW.—A person or entity adversely affected by a final order issued under this section may, within 45 days after

VOL 140 PT 15 AG 10 — 11 1994 UMI

the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(g) ENFORCEMENT OF ORDERS.—If a person or entity fails to comply with a final order issued under this section against the person or entity after opportunity for judicial review under subsection (f), the Secretary shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

Subpart B—Standards for Approval of State Regulatory Programs

SEC. 10161. GENERAL REQUIREMENT.

(a) IN GENERAL.—The Secretary may not approve a State regulatory program for purposes of this subtitle, unless the Secretary determines that the program—

(1) provides for the application and enforcement of the Standards; and

(2) complies with the requirements of—

(A) section 10162 (relating to enforcement),

(B) section 10163 (relating to publication and public access to compliance information),

(C) section 10164 (relating to a process for the approval of premiums), and

(D) section 10165 (relating to annual reports).

(b) PERIODIC REVIEW OF STATE REGULATORY PROGRAMS.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet the requirements for approval under subsection (a). If the Secretary determines that a State regulatory program no longer meets such standards and requirements or is no longer in compliance, before making a final determination that a State regulatory program no longer meets such requirements, the Secretary shall provide the State a hearing and an opportunity of 6 months (or, in the case in which State legislation is required in order for the State to be in compliance with such standards and requirements, such longer period as is necessary to enact such legislation) to adopt such a plan of correction as would permit the program to continue to meet such standards and requirements. If the Secretary makes a final determination that the State regulatory program, after such a hearing and opportunity, fails to meet such requirements, the Secretary shall assume responsibility under section 10101(b) with respect to certifying long-term care insurance policies in the State and shall exercise full authority under subpart A for persons and entities in the State.

SEC. 10162. ENFORCEMENT.

(a) IN GENERAL.—The enforcement process under each State regulatory program—

(1) shall be designed in a manner so as to secure compliance with the Standards within 30 days after the date of a finding of noncompliance with such Standards, and

(2) shall provide for notice to the Secretary in cases where such compliance is not secured within such 30-day period.

(b) PROCESS.—The enforcement process under each State regulatory program shall provide for—

(1) procedures for individuals and entities to file written, signed complaints respecting alleged violations of the Standards;

(2) responding on a timely basis to such complaints;

(3) the investigation of—

(A) those complaints which, on their face, have a substantial probability of validity, and

(B) such other alleged violations of the Standards as the program finds appropriate;

(4) notice and opportunity for a hearing before executing sanctions;

(5) the imposition of appropriate sanctions (which include, in appropriate cases, the imposition of a civil money penalty) in the case of a person or entity determined to have violated the Standards; and

(6) an annual report to the Secretary on details concerning complaints filed under the process, including the disposition of, and actions resulting from, such complaints.

SEC. 10163. PUBLICATION AND PUBLIC ACCESS TO COMPLIANCE INFORMATION.

(a) PUBLICATION OF INFORMATION.—Each State regulatory program shall publish annually a summary—

(1) by carrier, of (A) the types of long-term health care policies issued and (B) the types of complaints filed concerning such policies, and

(2) of the information reported by policy under section 10146.

(b) ACCESS TO INFORMATION ON COMPLAINTS.—

(1) IN GENERAL.—Each State regulatory program shall provide for consumer access to complaints filed with the State commissioner of insurance with respect to long-term care insurance policies. Any such disclosure of complaint information shall be accompanied by a general disclaimer stating that no representations are being made as to the merits of such a complaint.

(2) CONFIDENTIALITY.—The access provided under paragraph (1) shall be limited to the extent required to protect the confidentiality of the identity of individual policyholders.

SEC. 10164. PROCESS FOR APPROVAL OF PREMIUMS.

(a) IN GENERAL.—Each State regulatory program shall—

(1) provide for a process for approving or disapproving proposed premium increases with respect to long-term care insurance policies, and

(2) establish a policy for receipt and consideration of public comments before approving such a premium increase.

(b) CONDITIONS FOR APPROVAL.—No such premium increase shall be approved (or deemed approved) unless the proposed increase is accompanied by an actuarial memorandum which—

(1) includes a description of the assumptions which justify the increase,

(2) fully supports the increase,

(3) contains such information as may be required under the Standards, and

(4) is made available to the public.

(c) SECRETARIAL AUTHORITY.—In the case of a State without an approved regulatory program, the Secretary shall provide for the activities described in subsections (a) and (b).

SEC. 10165. ANNUAL REPORTS.

Each State regulatory program shall provide for annual reports to the Secretary on the implementation and enforcement of the Standards in the State.

SEC. 10166. INCREASE IN FUNDING FOR LONG-TERM CARE INSURANCE, INFORMATION, COUNSELING, AND ASSISTANCE THROUGH STATE REGULATORY PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated, under section 4360(f) of the Omnibus Budget Reconciliation Act of 1990, $10,000,000 for fiscal year 1997 and each subsequent fiscal year, to fund grant programs under such section for the purpose of providing information, counseling, and assistance relating to long-term care benefits under this subtitle and the procurement of adequate and appropriate long-term care insurance.

PART 4—MISCELLANEOUS PROVISIONS

SEC. 10171. REPORTS AND STUDIES.

(a) REPORT ON SOLVENCY PROTECTION.—Not later than 2 years after the date of the enactment of this title, the Secretary shall prepare and submit to the appropriate committees of Congress a report on standards that may be applied under this subtitle to assure the solvency of carriers with respect to long-term care insurance policies.

(b) STUDY OF STANDARD MEASURE OF VALUE FOR LONG-TERM CARE INSURANCE POLICIES.—The Secretary shall provide for the conduct of a study to develop a standard measure of value for long-term care insurance policies. Not later than 2 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning such study.

(c) STUDY OF LONG-TERM CARE INSURANCE RIDERS.—The Secretary shall review the applicability of the Standards to long-term care insurance riders. Not later than 2 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning such study.

(d) STUDY OF COORDINATION WITH PUBLIC PROGRAMS.—The Secretary shall review the coordination of coverage under long-term care insurance policies with benefits for long-term care services under the medicare program, medicare part C, the medicaid program, the long-term care program for home and community-based services under subtitle A, and other public programs. Not later than 2 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning such study. The Secretary shall include in the report such recommendations concerning rules for such coordination as the Secretary deems appropriate.

SEC. 10172. WAIVER OF PAPERWORK REQUIREMENTS.

Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this subtitle.

Subtitle C—Worker Redeployment in Long-Term Care Programs

SEC. 10201. REQUIREMENT REGARDING REDEPLOYMENT OF HEALTH CARE WORKERS UNDER LONG-TERM CARE PROGRAM.

With respect to the plan required in section 10004(c) (for the long-term care program for home and community-based services under subtitle A), the plan shall, in addition to requirements under such subtitle, provide for the following:

(1) Prior to implementing the program under such plan, negotiations will be commenced with labor organizations representing the employees of the affected hospitals or other facilities providing such services.

(2) Negotiations under paragraph (1) will address the following:

(A) The impact of the implementation of the program upon the workforce.

(B) Methods to redeploy workers to positions in the proposed program or other public or private settings, in the case of workers affected by the program.

(3) The plan will provide evidence that there has been compliance with paragraphs (1) and (2).

TITLE XI—REVENUE PROVISIONS

TABLE OF CONTENTS OF TITLE

Sec. 11001. Amendment of 1986 Code.

Subtitle A—Increase in Excise Taxes on Tobacco Products

Sec. 11101. Increase in excise taxes on tobacco products.

Sec. 11102. Modifications of certain tobacco tax provisions.

Sec. 11103. Imposition of excise tax on manufacture or importation of roll-your-own tobacco.

Subtitle B—Treatment of Employer-Provided Health Care

Sec. 11201. Health benefits may not be provided under cafeteria plans or flexible spending arrangements other than medical savings accounts.

Sec. 11202. Deduction for health insurance costs of self-employed individuals increased and made permanent.

Sec. 11203. Limitation on prepayment of medical insurance premiums.

Subtitle C—Extending Medicare Coverage of, and Application of Hospital Insurance Tax to, All State and Local Government Employees.

Sec. 11301. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.

Subtitle D—Treatment of Organizations Providing Health Care Services and Related Organizations

Sec. 11401. Qualification and disclosure requirements for certain nonprofit health care organizations.

Sec. 11402. Excise taxes for failure by tax-exempt health care organizations to meet certain qualification requirements.

Sec. 11403. Treatment of nonprofit health care organizations.

Sec. 11404. Tax treatment of taxable organizations providing health insurance and other prepaid health care services.

Sec. 11405. Organizations subject to section 833.

Sec. 11406. Tax exemption for high-risk insurance pools.

Subtitle E—Treatment of Accelerated Death Benefits Under Life Insurance Contracts

Sec. 11501. Tax treatment of accelerated death benefits under life insurance contracts.

Sec. 11502. Tax treatment of companies issuing qualified accelerated death benefit riders.

Subtitle F—Employment Status Provisions

Sec. 11601. Employment status proposal required from Department of the Treasury.

Sec. 11602. Increase in penalties relating to reporting of payments for services.

Subtitle G—Tax Treatment of Funding of Retiree Health Benefits

Sec. 11701. Post-retirement medical and life insurance reserves.

Subtitle H—Excise Taxes on Insured and Self-Insured Health Plans

Sec. 11801. Excise taxes on insured and self-insured health plans.

Subtitle I—Other Provisions

PART 1—TAX INCENTIVES FOR HEALTH SERVICES PROVIDERS

Sec. 11901. Nonrefundable credit for certain primary health services providers.

Sec. 11902. Expensing of medical equipment.

PART 2—HEALTH CARE WORKFORCE TRUST FUND

Sec. 11911. Health Care Workforce Trust Fund.

PART 3—RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS

Sec. 11921. Recapture of certain health care subsidies received by high-income individuals.

SEC. 11001. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase In Excise Taxes On Tobacco Products

SEC. 11101. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARETTES.—Subsection (b) of section 5701 is amended by striking paragraph (1) and all that follows and inserting the following:

"(1) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, the amount per thousand determined under the following table:

"In the case of cigarettes removed—	The tax per thousand is—
After July 31, 1995, and before January 1, 1997	$19.50
During 1997	$24.50
During 1998	$29.50
After December 31, 1998	$34.50.

"(2) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, removed at any time, an amount per thousand equal to 2.1 times the tax per thousand imposed by paragraph (1) on cigarettes removed at such time; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette."

(b) CIGARS.—Paragraphs (1) and (2) of section 5701(a) are amended to read as follows:

"(1) SMALL CIGARS.—On cigars, weighing not more than 3 pounds per thousand, the amount per thousand determined under the following table:

"In the case of cigars removed—	The tax per thousand is—
After July 31, 1995, and before January 1, 1997	$1.83
During 1997	$2.30
During 1998	$2.77
After December 31, 1998	$3.23.

"(2) LARGE CIGARS.—On cigars, weighing more than 3 pounds per thousand, the applicable percentage (determined under the following table) of the price for which sold but not more than the applicable limitation (determined under such table) per thousand:

In the case of cigars removed—	The applicable percentage is—	The limitation is—
After July 31, 1995 and before January 1, 1997	21 percent	$48.75
During 1997	26 percent	$61.26
During 1998	31 percent	$73.74
After December 31, 1998	37 percent	$86.25."

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended—

(1) by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of cigarette papers removed—	The tax for each 50 papers is—
After July 31, 1995 and before January 1, 1997	1.22 cents
During 1997	1.53 cents
During 1998	1.84 cents
After December 31, 1998	2.16 cents."

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended—

(1) by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of cigarette tubes removed—	The tax for each 50 tubes is—
After July 31, 1995 and before January 1, 1997	2.44 cents
During 1997	3.06 cents
During 1998	3.69 cents
After December 31, 1998	4.31 cents."

(e) SNUFF.—Paragraph (1) of section 5701(e) is amended—

(1) by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of snuff removed—	The tax per pound is—
After July 31, 1995 and before January 1, 1997	58.5 cents
During 1997	73.5 cents
During 1998	88.5 cents
After December 31, 1998	$1.03½."

(f) CHEWING TOBACCO.—Paragraph (2) of section 5701(e) is amended—

(1) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of chewing tobacco removed—	The tax per pound is—
After July 31, 1995 and before January 1, 1997	19.5 cents
During 1997	24.5 cents
During 1998	29.5 cents

VOL 140 PT 15 AG 10 — 11 1994 UMI

"In the case of chewing tobacco removed—	The tax per pound is—
After December 31, 1998	34.5 cents."

(g) PIPE TOBACCO.—Subsection (f) of section 5701 is amended—

(1) by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of pipe tobacco removed—	The tax per pound is—
After July 31, 1995 and before January 1, 1997	$1.10
During 1997	$1.38
During 1998	$1.66
After December 31, 1998	$1.94."

(h) APPLICATION OF TAX INCREASE TO PUERTO RICO.—Section 5701 is amended by adding at the end the following new subsection:

"(h) APPLICATION OF TAXES TO PUERTO RICO.—Notwithstanding subsections (b) and (c) of section 7653 and any other provision of law—

"(1) IN GENERAL.—On tobacco products and cigarette papers and tubes, manufactured in or imported into the Commonwealth of Puerto Rico, there is hereby imposed a tax at the rate equal to the excess of—

"(A) the rate of tax applicable under this section to like articles manufactured in the United States, over

"(B) the rate referred to in subparagraph (A) as in effect on the day before the date of the enactment of the Guaranteed Health Insurance Act of 1994.

"(2) SHIPMENTS TO PUERTO RICO FROM THE UNITED STATES.—Only the rates of tax in effect on the day before the date of the enactment of the Guaranteed Health Insurance Act of 1994 shall be taken into account in determining the amount of any exemption from, or credit or drawback of, any tax imposed by this section on any article shipped to the Commonwealth of Puerto Rico from the United States.

"(3) SHIPMENTS FROM PUERTO RICO TO THE UNITED STATES.—The rates of tax taken into account under section 7652(a) with respect to tobacco products and cigarette papers and tubes coming into the United States from the Commonwealth of Puerto Rico shall be the rates of tax in effect on the day before the date of the enactment of the Guaranteed Health Insurance Act of 1994.

"(4) REGULATIONS.—To the extent provided in regulations prescribed by the Secretary, references in this chapter (other than this section) to the United States shall be treating as including references to the Commonwealth of Puerto Rico to the extent appropriate to carry out the purposes of this subsection.

"(5) DISPOSITION OF REVENUES.—The provisions of section 7652(a)(3) shall not apply to any tax imposed by reason of this subsection."

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after July 31, 1995.

(j) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States or the Commonwealth of Puerto Rico which are removed before any tax-increase date and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 or 7652 of such Code on such article.

(2) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the $500 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) on each tax-increase date an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on such date for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any article on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) on any tax-increase date shall be paid on or before the date which is 3 months after such tax-increase date.

(5) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on any tax-increase date shall be subject to the taxes imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means August 1, 1995, January 1, 1997, January 1, 1998, and January 1, 1999.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section, as amended by this Act.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

SEC. 11102. MODIFICATIONS OF CERTAIN TOBACCO TAX PROVISIONS.

(a) EXEMPTION FOR EXPORTED TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TO APPLY ONLY TO ARTICLES MARKED FOR SHIPMENT FROM THE UNITED STATES.—

(1) Subsection (b) of section 5704 is amended by adding at the end the following new sentence: "Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe."

(2) Section 5761 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES FOR EXPORT.—Except as provided in subsections (b) and (d) of section 5704—

"(1) every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation under this chapter,

"(2) every person who sells or receives such relanded tobacco products or cigarette papers or tubes, and

"(3) every person who aids or abets in such selling, relanding, or receiving,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of $1,000 or 5 times the amount of the tax imposed by this chapter. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States, and all vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States."

(3) Subsection (a) of section 5761 is amended by striking "subsection (b)" and inserting "subsection (b) or (c)".

(4) Subsection (d) of section 5761, as redesignated by paragraph (2), is amended by striking "The penalty imposed by subsection (b)" and inserting "The penalties imposed by subsections (b) and (c)".

(5)(A) Subchapter F of chapter 52 is amended by adding at the end the following new section:

"SEC. 5754. RESTRICTION ON IMPORTATION OF PREVIOUSLY EXPORTED TOBACCO PRODUCTS.

"(a) IN GENERAL.—Tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d). For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

"(b) CROSS REFERENCE.—

"For penalty for the sale of tobacco products and cigarette papers and tubes in the United States which are labeled for export, see section 5761(c)."

(B) The table of sections for subchapter F of chapter 52 is amended by adding at the end thereof the following new item:

"Sec. 5754. Restriction on importation of previously exported tobacco products."

(b) IMPORTERS REQUIRED TO BE QUALIFIED.—

(1) Sections 5712, 5713(a), 5721, 5722, 5762(a)(1), and 5763(b) and (c) are each amended by inserting "or importer" after "manufacturer".

(2) The heading of subsection (b) of section 5763 is amended by inserting "QUALIFIED IMPORTERS," after "MANUFACTURERS,".

(3) The heading for subchapter B of chapter 52 is amended by inserting "**and Importers**" after "**Manufacturers**".

(4) The item relating to subchapter B in the table of subchapters for chapter 52 is amended by inserting "and importers" after "manufacturers".

(c) REPEAL OF TAX-EXEMPT SALES TO EMPLOYEES OF CIGARETTE MANUFACTURERS.—

(1) Subsection (a) of section 5704 is amended—

(A) by striking "EMPLOYEE USE OR" in the heading, and

(B) by striking "for use or consumption by employees or" in the text.

(2) Subsection (e) of section 5723 is amended by striking "for use or consumption by their employees, or for experimental purposes" and inserting "for experimental purposes".

(d) REPEAL OF TAX-EXEMPT SALES TO UNITED STATES.—Subsection (b) of section 5704 is amended by striking "and manufacturers may similarly remove such articles for use of the United States;".

(e) BOOKS OF 25 OR FEWER CIGARETTE PAPERS SUBJECT TO TAX.—Subsection (c) of section 5701 is amended by striking "On each book or set of cigarette papers containing more than 25 papers," and inserting "On cigarette papers,".

(f) STORAGE OF TOBACCO PRODUCTS.—Subsection (k) of section 5702 is amended by inserting "under section 5704" after "internal revenue bond".

(g) AUTHORITY TO PRESCRIBE MINIMUM MANUFACTURING ACTIVITY REQUIREMENTS.—Section 5712 is amended by striking "or" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe; or".

(h) LIMITATION ON COVER OVER OF TAX ON TOBACCO PRODUCTS.—Section 7652 is amended by adding at the end thereof the following new subsection:

"(h) LIMITATION ON COVER OVER OF TAX ON TOBACCO PRODUCTS.—For purposes of this section, with respect to taxes imposed under section 5701 or this section on any tobacco product or cigarette paper or tube, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the rate of tax under section 5701 in effect on the article on the day before the date of the enactment of the Guaranteed Health Insurance Act of 1994."

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after July 31, 1995.

SEC. 11103. IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.

(a) IN GENERAL.—Section 5701 (relating to rate of tax), as amended by section 11101, is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of the amount determined in accordance with the following table per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

"In the case of roll-your-own tobacco removed—	The tax per pound is—
After July 31, 1995 and before January 1, 1997	$1.10
During 1997	$1.38
During 1998	$1.66
After December 31, 1998	$1.94."

(b) ROLL-YOUR-OWN TOBACCO.—Section 5702 (relating to definitions) is amended by adding at the end the following new subsection:

"(p) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 5702 is amended by striking "and pipe tobacco" and inserting "pipe tobacco, and roll-your-own tobacco".

(2) Subsection (d) of section 5702 is amended—

(A) in the material preceding paragraph (1), by striking "or pipe tobacco" and inserting "pipe tobacco, or roll-your-own tobacco", and

(B) by striking paragraph (1) and inserting the following new paragraph:

"(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for his own personal consumption or use, and".

(3) The chapter heading for chapter 52 is amended to read as follows:

"CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(4) The table of chapters for subtitle E is amended by striking the item relating to chapter 52 and inserting the following new item:

"Chapter 52. Tobacco products and cigarette papers and tubes."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to roll-your-own tobacco removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after July 31, 1995.

(2) TRANSITIONAL RULE.—Any person who—

(A) on the date of the enactment of this Act is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

(B) before August 1, 1995, submits an application under subchapter B of chapter 52 of such Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

Subtitle B—Treatment of Employer-Provided Health Care

SEC. 11201. HEALTH BENEFITS MAY NOT BE PROVIDED UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING ARRANGEMENTS OTHER THAN MEDICAL SAVINGS ACCOUNTS.

(a) CAFETERIA PLANS.—

(1) IN GENERAL.—Subsection (f) of section 125 (defining qualified benefits) is amended by adding at the end the following new sentence: "Such term shall not include any benefits or coverage under an accident or health plan."

(2) CONFORMING AMENDMENT.—Subsection (g) of section 125 is amended by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) FLEXIBLE SPENDING ARRANGEMENTS.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) GENERAL RULE.—Except as provided in subsection (b), gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) NO EXCLUSION FOR COVERAGE PROVIDED UNDER FLEXIBLE SPENDING ARRANGEMENTS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to coverage provided through a flexible spending or similar arrangement.

"(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the cost of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.

"(c) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), gross income of an eligible employee does not include amounts contributed by an employer to any medical savings account of such employee to the extent such contributions are required to be made to such account by such employer under section 1104(d)(2)(C) of the Guaranteed Health Insurance Act of 1994. For purposes of the preceding sentence, the terms 'eligible employee' and 'medical savings account' have the respective meanings given such terms by section 7705.

"(2) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer."

(c) MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Chapter 79 is amended by adding at the end the following new section:

"SEC. 7705. MEDICAL SAVINGS ACCOUNTS.

"(a) GENERAL RULE.—For purposes of this title, the term 'medical savings account' means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written instrument creating the trust meets the following requirements:

"(1) Except in the case of a rollover contribution described in subsection (d)(3), no contribution will be accepted unless—

"(A) it is in cash, and

"(B) such individual is an eligible employee for the period for which such contribution is made.

"(2) The trustee is a bank (as defined in section 408(n)), insurance company (as defined in section 816), or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such

VOL 140 PT 15 AG 10 — 11 1994 UMI

other person will administer the trust will be consistent with the requirements of this section.

"(3) No part of the trust funds will be invested in life insurance contracts.

"(4) The interest of an individual in the balance of the account is nonforfeitable.

"(5) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(b) ELIGIBLE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible employee' means any employee who is covered under a high deductible plan (as defined in section 5000(5) of the Guaranteed Health Insurance Act of 1994) of his employer.

"(2) EXCEPTION.—An employee shall be treated as not being an eligible employee for any calendar year if—

"(A) for any month during such year, it is reasonably expected that such employee will be eligible for subsidies under part A of title XXII of the Social Security Act, or

"(B) it is reasonably expected that, if the employee were a medicare part C covered individual for any month during such year, the amount of tax imposed by section 59B (if any) on such employee would be determined under section 59B(b).

"(c) TAX TREATMENT OF ACCOUNTS.—

"(1) ACCOUNT TAXED AS GRANTOR TRUST.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the account beneficiary of a medical savings account shall be treated for purposes of this title as the owner of such account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

"(B) TREATMENT OF CAPITAL LOSSES.—With respect to assets held in a medical savings account, any capital loss for a taxable year from the sale or exchange of such an asset shall be allowed only to the extent of capital gains from such assets for such taxable year. Any capital loss which is disallowed under the preceding sentence shall be treated as a capital loss from the sale or exchange of such an asset in the next taxable year. For purposes of this subparagraph, all medical savings accounts of the account beneficiary shall be treated as 1 account.

"(2) ACCOUNT TERMINATES IF INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of the account beneficiary, such beneficiary engages in any transaction prohibited by section 4975 with respect to the account, the account shall cease to be a medical savings account as of the first day of such taxable year.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a medical savings account by reason of subparagraph (A) on the first day of any taxable year, subsection (d) shall be applied as if—

"(i) there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day), and

"(ii) no portion of such distribution were used to pay qualified medical expenses.

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the account beneficiary uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed and not used to pay qualified medical expenses.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account beneficiary or of the spouse or young dependents (as defined in section 1003(b)(1) of the Guaranteed Health Insurance Act of 1994) of such beneficiary shall be included in the gross income of such beneficiary to the extent such amount does not exceed the excess of—

"(i) the aggregate contributions to such account which were not includible in gross income by reason of section 106(c), over

"(ii) the aggregate prior payments or distributions from such account which were includible in gross income under this paragraph.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all medical savings accounts of the account beneficiary shall be treated as 1 account,

"(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(2) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by chapter 1 on the account beneficiary for any taxable year in which there is a payment or distribution from a medical savings account of such beneficiary which is includible in gross income under paragraph (1) shall be increased by 100 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISTRIBUTIONS AFTER AGE 65.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account beneficiary attains age 65.

"(C) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies.

"(3) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (1) shall not apply to any amount paid or distributed from a medical savings account to the account beneficiary to the extent the amount received is paid into a medical savings account for the benefit of such beneficiary not later than the 60th day after the day on which he receives the payment or distribution.

"(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in his gross income because of the application of this paragraph.

"(4) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care to the extent of the amount of such payment or distribution which is excludable from gross income solely by reason of paragraph (1)(A).

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED MEDICAL EXPENSES.—The term 'qualified medical expenses' means any expense for medical care (as defined in section 213(d)); except that such term shall not include any expense for insurance.

"(2) ACCOUNT BENEFICIARY.—The term 'account beneficiary' means the individual for whose benefit the medical savings account is maintained.

"(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if—

"(1) the assets of such account are held by a bank (as defined in section 408(n)), insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which he will administer the account will be consistent with the requirements of this section, and

"(2) the custodial account would, except for the fact that it is not a trust, constitute a medical savings account described in subsection (a).

For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) REPORTS.—The trustee of a medical savings account shall keep such records and make such reports regarding such account to the Secretary and to the account beneficiary with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by such regulations."

(2) EMPLOYER PAYMENTS EXCLUDED FROM EMPLOYMENT TAX BASE.—

(A) SOCIAL SECURITY TAXES.—

(i) Subsection (a) of section 3121 is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(ii) Subsection (a) of section 209 of the Social Security Act is amended by striking "or" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting "; or", and by inserting after paragraph (19) the following new paragraph:

"(20) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c) of the Internal Revenue Code of 1986."

(B) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

"(10) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(C) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(D) WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c)."

(3) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 (relating to prohibited transactions) is amended—

(A) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 7705) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 7705(c)(2)(A) to such account.", and

(B) by inserting "or a medical savings account described in section 7705" in subsection (e)(1) after "described in section 408(a)".

(4) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—Section 6693 (relating to failure to provide reports on individual retirement account or annuities) is amended—

(A) by inserting "**or on medical savings accounts**" after "**annuities**" in the heading of such section, and

(B) by adding at the end of subsection (a) the following: "The person required by section 7705(g) to file a report regarding a medical savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause."

(5) CLERICAL AMENDMENTS.—

(A) The table of sections for chapter 79 is amended by adding at the end the following:

"Sec. 7705. Medical savings accounts."

(B) The table of sections for subchapter B of chapter 68 is amended by inserting "or on medical savings accounts" after "annuities" in the item relating to section 6693.

(d) EMPLOYMENT TAX TREATMENT OF AMOUNT NOT EXCLUDED UNDER SECTION 106.—

(1) SOCIAL SECURITY TAX.—

(A) Subsection (a) of section 3121 is amended by inserting after paragraph (22) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(B) Subsection (a) of section 209 of the Social Security Act is amended by inserting after paragraph (20) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b) of the Internal Revenue Code of 1986."

(2) RAILROAD RETIREMENT TAX.—Paragraph (1) of section 3231(e) is amended by adding at the end thereof the following new sentence:

"Nothing in clause (i) of the second sentence of this paragraph shall exclude from the term 'compensation' any amount which is required to be included in gross income under section 106(b)."

(3) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by inserting after paragraph (17) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(4) WAGE WITHHOLDING.—Subsection (a) of section 3401 is amended by adding at the end thereof the following new sentence:

"Nothing in the preceding provisions of this subsection (other than paragraph (21)) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(e) EFFECTIVE DATE.—

(1) PROVISIONS OTHER THAN MEDICAL SAVINGS ACCOUNTS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendments made by subsections (a) and (d), and so much of the amendment made by subsection (b) as relates to section 106(b) of the Internal Revenue Code of 1986, shall take effect on January 1, 1995.

(B) BENEFITS PROVIDED PURSUANT TO COLLECTIVE BARGAINING AGREEMENTS.—In the case of a cafeteria plan or flexible spending arrangement maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers which was ratified before June 30, 1994, the amendments referred to in subparagraph (A) shall not apply to benefits pursuant to any such agreement provided before the date on which the last of such agreements terminates (determined without regard to any extension thereof on or after June 30, 1994). The preceding sentence shall cease to apply with respect to any such agreement on the effective date of any modification of such agreement on or after June 30, 1994.

(C) STATE AND LOCAL EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—In the case of employees of a State or political subdivision thereof—

(i) who are not entitled to the benefits of subparagraph (B),

(ii) who are covered by 1 or more collective bargaining agreements with such State or political subdivision which was ratified before June 30, 1994, and

(iii) who are eligible to participate in a cafeteria plan or flexible spending arrangement which was established by State or local law and which is in effect on such date,

the amendments referred to in subparagraph (A) shall not apply to benefits provided under such plan or arrangement (as in effect on such date) before January 1, 1999.

(2) MEDICAL SAVINGS ACCOUNTS.—The amendments made by this section (other than the amendments referred to in paragraph (1)(A)) shall take effect on January 1, 1999.

SEC. 11202. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED AND MADE PERMANENT.

(a) PROVISION MADE PERMANENT.—

(1) IN GENERAL.—Subsection (l) of section 162 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1993.

(b) DEDUCTION INCREASED TO 80 PERCENT.—

(1) IN GENERAL.—Paragraph (1) of section 162(l) is amended by striking "25 percent" and inserting "80 percent".

(2) OTHER COVERAGE.—Subparagraph (B) of section 162(l)(2) is amended to read as follows:

"(B) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer or the taxpayer's spouse—

"(i) is normally employed by an employer for at least 25 hours per week, or

"(ii) is eligible to participate in a subsidized health plan maintained by any employer of such taxpayer or spouse."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1998.

SEC. 11203. LIMITATION ON PREPAYMENT OF MEDICAL INSURANCE PREMIUMS.

(a) GENERAL RULE.—Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(10) LIMITATION ON PREPAYMENTS.—If the taxpayer pays a premium or other amount which constitutes medical care under paragraph (1), to the extent such premium or other amount is properly allocable to insurance coverage or care to be provided during periods more than 12 months after the month in which such payment is made, such premium shall be treated as paid ratably over the period during which such insurance coverage or care is to be provided. The preceding sentence shall not apply to any premium to which paragraph (7) applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid after December 31, 1994.

Subtitle C—Extending Medicare Coverage of, and Application of Hospital Insurance Tax to, All State And Local Government Employees.

SEC. 11301. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1996.

(b) PHASEIN OF AMOUNT OF TAX WITH RESPECT TO EMPLOYEES NEWLY SUBJECT TO TAX.—Subsection (u) of section 3121 is amended by adding at the end the following new paragraph:

"(4) PHASEIN OF AMOUNT OF TAX WITH RESPECT TO CERTAIN EMPLOYEES.—If the wages paid to any individual during any period before January 1, 2000, would not be subject to tax under sections 3101(b) and 3111(b) but for the repeal of subparagraphs (C) and (D) of paragraph (2), the rates of the taxes imposed by such sections with respect to such wages paid during such period shall be—

"(A) 0.3625 percent in the case of wages paid during 1997,

"(B) 0.725 percent in the case of wages paid during 1998, and

"(C) 1.0875 percent in the case of wages paid during 1999."

(c) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of

VOL
140
PT
15
AG
10
—
11
1994
UMI

the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1997, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendments made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1997, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1997.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting (or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) is amended by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),".

(2) Subparagraph (B) of section 210(p)(1) of the Social Security Act (42 U.S.C. 410(p)(1)) is amended by striking "paragraphs (2) and (3)." and inserting "paragraph (2)."

(3) Section 218 of the Social Security Act (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after December 31, 1996.

Subtitle D—Treatment of Organizations Providing Health Care Services and Related Organizations

SEC. 11401. QUALIFICATION AND DISCLOSURE REQUIREMENTS FOR CERTAIN NONPROFIT HEALTH CARE ORGANIZATIONS.

(a) TREATMENT OF HOSPITALS AND OTHER ENTITIES PROVIDING HEALTH CARE SERVICES.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) QUALIFICATION OF HEALTH CARE ORGANIZATIONS AS EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—An organization which is described in paragraph (3) or (4) of subsection (c) and the predominant activity of which is the provision of health care services shall be exempt from tax under subsection (a) only if—

"(A) such organization, with the participation of community representatives, annually—

"(i) assesses its community's needs for health care services and qualified outreach services, and

"(ii) prepares a written plan to meet those needs,

"(B) pursuant to such plan, such organization provides (directly or indirectly) significant qualified outreach services,

"(C) at least 80 percent of the members of the board of directors of such organization are independent members,

"(D) such organization does not discriminate against individuals in the provision of health care services on the basis of participation in a government-sponsored health plan,

"(E) such organization does not discriminate against individuals in the provision of emergency health care services on the basis of ability to pay, and

"(F) to the extent of such organization's financial ability, such organization does not discriminate against individuals in the provision of medically necessary health care services (other than emergency services) on the basis of ability to pay.

"(2) SPECIAL RULE FOR HEALTH MAINTENANCE ORGANIZATIONS.—A health maintenance organization shall not be treated as described in subsection (c)(3) unless substantially all of its primary care health services is provided as described in subsection (m)(6)(A).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED OUTREACH SERVICES.—The term 'qualified outreach services' means health care services (or preventive care, educational, or social services programs related thereto) which are provided—

"(i) in 1 or more medically underserved areas, or

"(ii) at below cost to individuals who are otherwise unable to afford such services.

Such term shall not include insurance described in subparagraph (B)(iii) unless such insurance is provided on a subsidized basis.

"(B) HEALTH CARE SERVICES.—The term 'health care services' means—

"(i) any activity of providing medical care (as defined in section 213(d)(1)(A)) to individuals,

"(ii) in the case of an organization described in subsection (c)(3), any activity which is treated as accomplishing an exempt purpose of the organization solely because it is carried on as part of an activity described in clause (i), and

"(iii) insurance (other than commercial-type insurance, as defined in subsection (m)) for the activities described in clauses (i) and (ii).

"(C) MEDICALLY UNDERSERVED AREA.—The term 'medically underserved area' means, with respect to a health care service, any area reasonably determined by the organization (in a manner not inconsistent with regulations prescribed by the Secretary) to have—

"(i) a shortage (relative to the number of individuals needing such service) of health professionals performing such service, or

"(ii) a population group experiencing such a shortage.

Such term includes a health professional shortage area (as defined in section 332 of the Public Health Service Act).

"(D) INDEPENDENT MEMBER.—The term 'independent member' means a member of the board of directors of an organization who receives no compensation (directly or indirectly)—

"(i) for medical services performed in connection with such organization, or

"(ii) for services as an officer of such organization (other than as a member of such board).

For purposes of clause (ii), the term 'officer' includes any individual having powers or responsibilities similar to those of officers.

"(4) EXCEPTION.—This subsection shall not apply to any organization which provides health care services exclusively on an uncompensated basis, regardless of ability to pay.

"(5) SAFE HARBOR FOR NURSING HOMES.—

"(A) IN GENERAL.—A nursing home shall be treated as meeting the requirement of paragraph (1)(D) if it accepts a proportion of Medicaid patients which meets a safe harbor prescribed by the Secretary for purposes of this paragraph.

"(B) DEFINITIONS.— For purposes of subparagraph (A)—

"(i) NURSING HOME.—The term 'nursing home' means any facility which is of a type which is traditionally considered a nursing home.

"(ii) MEDICAID PATIENT.—The term 'Medicaid patient' means any individual eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act.

"(6) DISALLOWANCE OF CHARITABLE DEDUCTIONS.—No gift or bequest to an organization which is not exempt from tax by reason of this subsection shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.

"(7) REQUIREMENTS SUPPLEMENT OTHER REQUIREMENTS.—The requirements of this subsection are in addition to, and not in lieu of, the requirements otherwise applicable to an organization described in paragraph (3) or (4) of subsection (c)."

(b) REPORTING AND DISCLOSURE OF NEEDS ASSESSMENT AND PLAN.—

(1) REPORTING.—

(A) ORGANIZATIONS DESCRIBED IN SECTION 501(c)(3).—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) is amended by striking "and" at the end of paragraph (9), by redesignating paragraph (10) as paragraph (14), and by inserting after paragraph (9) the following new paragraphs:

"(10) in the case of an organization which prepares a plan described in section 501(n)(1)(A) (relating to community needs)—

"(A) a copy of such plan for the year, and

"(B) information on the implementation of such plan for the year (including unrecovered costs and revenues foregone in furtherance of such plan),

"(11)(A) the amount (if any) of tax paid by the organization during the year under section 4958 (relating to tax on failure to satisfy section 501(n)), and

"(B) the amount (if any) of tax imposed by section 4958 on the organization which was not assessed, or the assessment of which was abated, pursuant to section 4958(d),

"(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4959(c)),

"(13) in the case of an applicable tax-exempt health care organization (as defined in section 4960), the respective amounts (if any) of the taxes paid by the organization during the year (and such other information as the Secretary may require with respect to the activities resulting in such taxes) under—

"(A) section 4911 (relating to tax on excess expenditures to influence legislation),

"(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations), and

"(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations), and",

(B) ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Section 6033 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) and which prepares a plan described in section 501(n)(1)(A) (relating to community needs) for the year—

"(1) shall include a copy of such plan with the return required under subsection (a) for the year, and

"(2) shall include on such return the information referred to in paragraphs (10)(B), (11), and (12) of subsection (b) with respect to such organization."

(2) DISCLOSURE.—

(A) IN GENERAL.—Subsection (e) of section 6104 (relating to public inspection of certain annual returns and applications for exemption) is amended by adding at the end the following new paragraph:

"(3) COMMUNITY HEALTH CARE NEEDS ASSESSMENT AND PLAN AND APPLICATION FOR EXEMPTION.—

"(A) IN GENERAL.—Every organization which is required to prepare a plan described in section 501(n)(1)(A) (relating to community needs)—

"(i) shall make a copy of such plan (and the assessment on which such plan is based) available for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

"(ii) upon request of an individual made at such principal office or such a regional or district office, shall provide—

"(I) a copy of such plan (and assessment),

"(II) a copy of the annual return filed under section 6033, and

"(III) a copy of the application, papers, letters, and other documents referred to in paragraph (2)(A)(ii),

to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

If the request under clause (ii) is made in person, such copies shall be provided immediately and, if made other than in person, shall be provided within 30 days.

"(B) PERIOD OF AVAILABILITY.—Subparagraph (A) shall apply—

"(i) with respect to any plan (and assessment) during the 3-year period after the close of the year for which such plan is prepared,

"(ii) with respect to any return, during the 3-year period beginning on the filing date (as defined in paragraph (1)(D)), and

"(iii) with respect to the material referred to in subparagraph (A)(ii)(III), at any time.

"(C) LIMITATION.—Subparagraph (A)(ii) shall not apply to any request if the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest."

(B) TECHNICAL AMENDMENT.—The heading for subsection (e) of section 6104 is amended by striking "AND APPLICATIONS FOR EXEMPTION" and inserting ", APPLICATIONS FOR EXEMPTION, AND COMMUNITY NEEDS ASSESSMENT AND PLAN FOR HEALTH AND OUTREACH SERVICES".

(c) FUNDRAISING SOLICITATIONS REQUIRED TO DISCLOSE AVAILABILITY OF ANNUAL RETURN.—

(1) Paragraph (1) of section 6104(e) is amended by adding at the end the following new subparagraph:

"(E) FUNDRAISING SOLICITATIONS OF CERTAIN HEALTH CARE ORGANIZATIONS REQUIRED TO DISCLOSE AVAILABILITY OF ANNUAL RETURN.—In the case of an applicable tax-exempt health care organization (as defined in section 4960), each fundraising solicitation (as defined in section 6113(c)) by (or on behalf of) such organization shall contain an express statement (in a conspicuous and easily recognizable format) that such return shall be provided to individuals upon request."

(2) PENALTY.—

(A) Section 6710 is amended, by striking "section 6113" each place it appears and inserting "section 6113 or 6104(e)(1)(E)".

(B) Subsection (a) of section 6710 is amended by inserting "$100 in the case of a failure to meet the requirements of section 6104(e)(1)(E))" after "$1,000".

(C) The section heading of section 6710 is amended by inserting before the period ": failure by certain health care organizations to disclose availability of annual return".

(D) The table of sections for part I of subchapter B of chapter 68 is amended by inserting before the period at the end of the item relating to section 6710 the following: ": failure by certain health care organizations to disclose availability of annual return".

(E) Subparagraph (C) of section 6652(c)(1) is amended by striking "(e)(1)" and inserting "(e)(1) (other than subparagraph (E))".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect on January 1, 1995.

(2) REQUIREMENT OF INDEPENDENT BOARD OF DIRECTORS.—Subparagraph (C) of section 501(n)(1) of the Internal Revenue Code of 1986, as added by this section, shall take effect on January 1, 1997.

(3) HMO SERVICE REQUIREMENT.—So much of the amendments made by this section as relate to section 501(n)(2) of such Code, as added by this section, shall take effect on the date of the enactment of this Act.

SEC. 11402. EXCISE TAXES FOR FAILURE BY TAX-EXEMPT HEALTH CARE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

"Subchapter D—Failure By Tax-Exempt Health Care Organizations To Meet Certain Qualification Requirements

"Sec. 4958. Tax on failure to satisfy section 501(n).

"Sec. 4959. Taxes on excess benefit transactions.

"Sec. 4960. Other definitions.

"SEC. 4958. TAX ON FAILURE TO SATISFY SECTION 501(n).

"(a) IMPOSITION OF TAX.—There is hereby imposed on any applicable tax-exempt health care organization which fails to meet 1 or more of the requirements of section 501(n)(1) during any taxable year a tax equal to the greater of—

"(1) $25,000, or

"(2) 5 percent of the organization's net investment income for such taxable year.

"(b) PAYMENT OF TAX.—The tax imposed by this section shall be paid by the organization.

"(c) DETERMINATION OF NET INVESTMENT INCOME.—For purposes of this section—

"(1) IN GENERAL.—The net investment income of an applicable tax-exempt health care organization shall include the net investment income of—

"(A) each organization which would be described in subparagraph (A) or (B) of section 509(a)(3) or in section 509(a)(4) with respect to such health care organization if such health care organization were described in section 509(a)(2), and

"(B) each organization which is organized and operated for the benefit of, and which directly or indirectly is controlled by, such health care organization.

"(2) NET INVESTMENT INCOME.—The term 'net investment income' has the meaning given such term by section 4940.

"(d) WAIVER.—If it is established to the satisfaction of the Secretary that—

"(1) a failure was due to reasonable cause and not to willful neglect, and

"(2) the organization has established safeguards to prevent future such failures (and has taken such additional corrective action as is prescribed by the Secretary by regulations),

then the tax imposed by subsection (a) (including interest) by reason of such failure shall not be assessed and, if assessed, the assessment shall be abated and, if collected, shall be credited or refunded as an overpayment.

"SEC. 4959. TAXES ON EXCESS BENEFIT TRANSACTIONS.

"(a) INITIAL TAXES.—

"(1) ON THE DISQUALIFIED PERSON.—There is hereby imposed on each excess benefit transaction a tax equal to 25 percent of the excess benefit. The tax imposed by this paragraph shall be paid by any disqualified person referred to in subsection (e)(1) with respect to such transaction.

"(2) ON THE MANAGEMENT.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation

79-059 O—97 Vol 140 (Pt. 15) 18

VOL 140 PT 15 AG 10 — 11 1994 UMI

is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.

"(b) ADDITIONAL TAX ON THE DISQUALIFIED PERSON.—In any case in which an initial tax is imposed by subsection (a)(1) on an excess benefit transaction and the excess benefit involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess benefit involved. The tax imposed by this subsection shall be paid by any disqualified person referred to in subsection (e)(1) with respect to such transaction.

"(c) EXCESS BENEFIT TRANSACTION; EXCESS BENEFIT.—For purposes of this section—

"(1) EXCESS BENEFIT TRANSACTION.—

"(A) IN GENERAL.—The term 'excess benefit transaction' means any transaction in which an economic benefit is provided by an applicable tax-exempt health care organization to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit.

"(B) LOANS AND CERTAIN PRIVATE INUREMENT INCLUDED.—The term 'excess benefit transaction' includes—

"(i) any loan of money or other extension of credit by an applicable tax-exempt health care organization to or for the use of a disqualified person described in subsection (e)(1)(A)(i), and

"(ii) any transaction in which the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the gross or net revenues of 1 or more activities of the organization but only if such transaction results in inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be.

"(2) EXCESS BENEFIT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'excess benefit' means the excess referred to in paragraph (1)(A).

"(B) LOANS AND PRIVATE INUREMENT INCLUDED.—The term 'excess benefit' means—

"(i) in the case of a loan or extension of credit described in paragraph (1)(B)(i), the amount of the loan or the credit extended, and

"(ii) in the case of a transaction described in paragraph (1)(B)(ii), the amount of the inurement.

"(3) EXCEPTION FOR ORGANIZATIONS SUBJECT TO PRIVATE FOUNDATION RULES.—For purposes of this section, the term 'applicable tax-exempt health care organization' shall not include a private foundation (as defined in section 509(a)).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable for any tax imposed by subsection (a) or subsection (b), all such persons shall be jointly and severally liable for such tax.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 excess benefit transaction, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

"(e) OTHER DEFINITIONS.—For purposes of this section—

"(1) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to any transaction—

"(A) any person who was, at any time during the 5-year period ending on the date of such transaction—

"(i) an organization manager, or

"(ii) an individual (other than an organization manager) in a position to exercise substantial influence over the affairs of the organization,

"(B) a member of the family of an individual described in subparagraph (A), and

"(C) a 35-percent controlled entity.

"(2) ORGANIZATION MANAGER.—The term 'organization manager' means, with respect to any applicable tax-exempt health care organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

"(3) 35-PERCENT CONTROLLED ENTITY.—

"(A) IN GENERAL.—The term '35-percent controlled entity' means—

"(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,

"(ii) a partnership in which such persons own more than 35 percent of the profits interest, and

"(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

"(B) CONSTRUCTIVE OWNERSHIP RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this paragraph.

"(4) FAMILY MEMBERS.—The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or half blood) of the individual and their spouses.

"(f) TREATMENT OF PREVIOUSLY EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this section, the status of any organization as an applicable tax-exempt health care organization shall be terminated only if—

"(A)(i) such organization notifies the Secretary (at such time and in such manner as the Secretary may by regulations prescribe) of its intent to accomplish such termination, or

"(ii) there is a final determination by the Secretary that such status has terminated, and

"(B)(i) such organization pays the tax imposed by paragraph (2) (or any portion not abated pursuant to paragraph (3)), or

"(ii) the entire amount of such tax is abated pursuant to paragraph (3).

"(2) IMPOSITION OF TAX.—There is hereby imposed on each organization referred to in paragraph (1) a tax equal to the lesser of—

"(A) the amount which the organization substantiates by adequate records or other corroborating evidence as the aggregate tax benefit resulting from its exemption from tax under section 501(a), or

"(B) the value of the net assets of such organization.

"(3) ABATEMENT OF TAX.—The Secretary may abate the unpaid portion of the assessment of any tax imposed by paragraph (2), or any liability in respect thereof, if the applicable tax-exempt health care organization distributes all of its net assets to 1 or more organizations each of which has been in existence, and described in section 501(c)(3), for a continuous period of at least 60 calendar months. If the distributing organization is described in section 501(c)(4), the preceding sentence shall be applied by treating the reference to section 501(c)(3) as including a reference to section 501(c)(4).

"(4) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (d), (e), and (f) of section 507 shall apply for purposes of this subsection.

"SEC. 4960. OTHER DEFINITIONS.

"(a) APPLICABLE TAX-EXEMPT HEALTH CARE ORGANIZATION.—For purposes of this subchapter, the term 'applicable tax-exempt health care organization' means any organization—

"(1) the predominant activity of which is the provision of health care services (as defined in section 501(n)(3)), and

"(2) which (without regard to any failure to meet any requirement of section 501(n) or any excess benefit) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a).

"(b) TAXABLE PERIOD; CORRECTION.—For purposes of this subchapter—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1) of section 4959, or

"(B) the date on which the tax imposed by such subsection (a)(1) is assessed.

"(2) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any excess benefit transaction, undoing the excess benefit to the extent possible, establishing safeguards to prevent future such excess benefit, and where fully undoing the excess benefit is not possible, such additional corrective action as is prescribed by the Secretary by regulations."

(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT HEALTH CARE ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Paragraph (4) of section 501(c) is amended by inserting "(A)" after "(4)" and by adding at the end the following:

"(B) Subparagraph (A) shall not apply to an entity the predominant activity of which is the provision of health care services (as defined in subsection (n)(3)) unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4955 is amended—

(A) by striking "SECTION 4945" in the heading and inserting "SECTIONS 4945 and 4959", and

(B) by inserting before the period "or an excess benefit for purposes of section 4959".

(2) Subsections (a), (b), and (c) of section 4963 are each amended by inserting "4959," after "4955,".

(3) Subsection (e) of section 6213 is amended by inserting "4959 (relating to private excess benefit)," before "4971".

(4) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting "4959," after "4955,".

(5) Subsection (b) of section 7454 is amended by inserting "or whether an organization manager (as defined in section 4959(e)(2)) has 'knowingly' participated in an excess benefit transaction (as defined in section 4959(c))," after "section 4912(b),".

(6) The table of subchapters for chapter 42 is amended by striking the last item and inserting the following:

"Subchapter D. Failure by tax-exempt health care organizations to meet certain qualification requirements.

"Subchapter E. Abatement of first and second tier taxes in certain cases."

(d) EFFECTIVE DATES.—

(1) SECTION 501(n) REQUIREMENTS.—The amendments made by this section, to the extent related to section 4958 of the Internal Revenue Code of 1986 (as added by this section), shall take effect on January 1, 1995.

(2) EXCESS BENEFIT TRANSACTION RULES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section, to the extent related to section 4959 of such Code (as added by this section), shall apply to excess benefit transactions occurring on or after June 30, 1994.

(B) BINDING CONTRACTS FOR PERSONAL SERVICES.—The amendments referred to in subparagraph (A) shall not apply to any transaction pursuant to any written contract for the performance of personal services which was binding on June 29, 1994, and at all times thereafter before such transaction occurred.

(3) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT HEALTH CARE ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to inurement occurring on or after June 30, 1994.

(B) BINDING CONTRACTS.—The amendment made by subsection (b) shall not apply to any inurement occurring before July 1, 1996, pursuant to a written contract which was binding on June 29, 1994, and at all times thereafter before such inurement occurred.

SEC. 11403. TREATMENT OF NONPROFIT HEALTH CARE ORGANIZATIONS.

(a) INSURANCE PROVIDED BY HEALTH MAINTENANCE ORGANIZATIONS.—Section 501(m) (relating to certain organizations providing commercial-type insurance not exempt from tax) is amended by adding at the end the following new paragraph:

"(6) CERTAIN ACTIVITIES PROVIDED BY HEALTH MAINTENANCE ORGANIZATIONS NOT TREATED AS COMMERCIAL-TYPE INSURANCE.—For purposes of this subsection, the provision of (or the arranging for the provision of) medical care on a prepaid basis by a health maintenance organization shall not be treated as commercial-type insurance if (and only if) such care is—

"(A) care provided by such organization to its members at its own facilities through health care professionals who do not provide substantial health care services other than on behalf of such organization,

"(B) care provided by a health care professional to a member of such organization on a basis under which substantially all of the risks of the rates of utilization is assumed by the provider of such care, or

"(C) care (other than primary care) provided to a member of such organization pursuant to a referral by such organization, or

"(D) emergency care provided to a member of such organization at a location outside such member's area of residence."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (3) of section 501(m) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(B) Paragraph (5) of section 501(m) is amended by striking "paragraph (3)(E)" and inserting "paragraph (3)(D)".

(b) TREATMENT OF PARENT ORGANIZATIONS OF HEALTH CARE PROVIDERS.—Section 509(a) (defining private foundation) is amended by striking "and" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) an organization which is organized and operated for the benefit of, and which directly or indirectly controls, an organization described in section 170(b)(1)(A)(iii); and".

(c) CONSUMER PURCHASING COOPERATIVES EXEMPT FROM TAX.—

(1) IN GENERAL.—Subsection (c) of section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by adding at the end the following new paragraph:

"(26)(A) Any consumer purchasing cooperative described in subtitle E of title V of the Guaranteed Health Insurance Act of 1994.

"(B) Such a cooperative shall not be exempt from tax pursuant to any provision other than this paragraph.

"(C) Such a cooperative shall not be exempt from tax unless—

"(i) no part of the net earnings of such cooperative inures to the benefit of any private shareholder or individual,

"(ii) no substantial part of the activities of such cooperative is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and

"(iii) such cooperative does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

(2) CERTAIN PROVISIONS APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(C)(3) MADE APPLICABLE TO CONSUMER PURCHASING COOPERATIVES.—Section 501 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CERTAIN PROVISIONS MADE APPLICABLE TO CONSUMER PURCHASING COOPERATIVES.—A consumer purchasing cooperative described in subsection (c)(26) shall be treated—

"(1) as described in subsection (c)(3) for purposes of applying subsection (h) (relating to expenditures by public charities to influence legislation), section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations), and section 4959 (relating to private inurement), and

"(2) as described in subsection (h)(4)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 11404. TAX TREATMENT OF TAXABLE ORGANIZATIONS PROVIDING HEALTH INSURANCE AND OTHER PREPAID HEALTH CARE SERVICES.

(a) GENERAL RULE.—Section 831 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF ORGANIZATIONS PROVIDING HEALTH INSURANCE AND OTHER PREPAID HEALTH CARE SERVICES.—

"(1) GENERAL RULE.—Any organization to which this subsection applies shall be taxable under this part in the same manner as if it were an insurance company other than a life insurance company.

"(2) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any organization—

"(A) which is not exempt from taxation under this subtitle,

"(B) which is not taxable as a life insurance company under part I of this subchapter,

"(C) which is not an organization to which section 833 applies, and

"(D) the primary and predominant business activity of which during the taxable year consists of 1 or more of the following:

"(i) Issuing accident and health insurance contracts or the reinsuring of risks undertaken by other insurance companies under such contracts.

"(ii) Operating as a health maintenance organization.

"(iii) Entering into arrangements under which—

"(I) fixed payments or premiums are received as consideration for the organization's agreement to provide or arrange for the provision of health care services, regardless of how the health care services are provided or arranged to be provided, and

"(II) substantially all of the risks of the rates of utilization of such services is assumed by the provider of such services.

In the case of an organization which has as a material business activity the issuing of accident and health insurance contracts or the reinsuring of risks undertaken by other insurance companies under such contracts, the administering of accident and health insurance contracts by such organization shall be treated as part of such business activity for purposes of subparagraph (D)(i)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

(2) TRANSITIONAL RULES.—

(A) ORGANIZATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any organization to which section 831(c) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies for such organization's first taxable year beginning after December 31, 1994; except that this paragraph shall not apply if—

(i) such organization treated itself as an insurance company taxable under part II of subchapter L of chapter 1 of such Code on its original Federal income tax return for its taxable year beginning in 1992 and for all of its taxable years thereafter beginning before January 1, 1995, or

(ii) such organization was exempt from tax under chapter 1 of such Code for such organization's last taxable year beginning before January 1, 1995.

(B) TREATMENT OF CURRENTLY TAXABLE COMPANIES.—In the case of any organization to which this paragraph applies—

(i) the amendments made by this section shall be treated as a change in the method of accounting, and

(ii) all adjustments required to be taken into account under section 481 of the Internal Revenue Code of 1986 shall be taken into account for such company's first taxable year beginning after December 31, 1994.

SEC. 11405. ORGANIZATIONS SUBJECT TO SECTION 833.

(a) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

"(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

"(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

"(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

"(i) is organized under, and governed by, State laws which are specifically and exclusively applicable to not-for-profit health insurance or health-service type organizations, and

"(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 11406. TAX EXEMPTION FOR HIGH-RISK INSURANCE POOLS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations)

VOL 140 PT 15 AG 10 — 11 1994 UMI

is amended by adding at the end the following new paragraph:

"(27) In the case of taxable years beginning before January 1, 1998, any corporation, association, or similar legal entity which is created by any State or political subdivision thereof to establish a risk pool to provide health insurance coverage to any person unable to obtain health insurance coverage in the private insurance market because of health conditions and no part of the net earnings of which inures to the benefit of any private shareholder, member, or individual."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

Subtitle E—Treatment of Accelerated Death Benefits Under Life Insurance Contracts

SEC. 11501. TAX TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

(a) GENERAL RULE.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, any amount received under a life insurance contract on the life of an insured who is a terminally ill individual shall be treated as an amount paid by reason of the death of such insured.

"(2) NECESSARY CONDITIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any amount received unless—

"(i) the total amount received is not less than the present value (determined under subparagraph (B)) of the reduction in the death benefit otherwise payable in the event of the death of the insured, and

"(ii) the percentage reduction by reason of the distribution in the cash surrender value of the contract does not exceed the percentage reduction by reason of such distribution in the death benefit payable under the contract.

For purposes of this subparagraph, any amount referred to in paragraph (1) that is received as a loan or lien shall be treated as a reduction at the time of receipt, in the death benefit or the cash surrender value to the extent that the death benefit or cash surrender value, respectively, are encumbered (or can become encumbered) by the amount of such loan or lien (or amounts related thereto).

"(B) DETERMINATION OF PRESENT VALUE.—The present value of a reduction in the death benefit shall be determined by—

"(i) using a discount rate not to exceed the highest rate set forth in subparagraph (C), and

"(ii) assuming that the death benefit (or the portion thereof) would have been paid on the date which is 12 months after the date of the certification referred to in paragraph (3).

"(C) RATES.—The rates set forth in this subparagraph are the following:

"(i) the 90-day Treasury bill yield,

"(ii) the rate described as Moody's Corporate Bond Yield Average-Monthly Average Corporates, as published by Moody's Investors Service, Inc., or any successor thereto, for the calendar month ending 2 months before the date on which the rate is determined, and

"(iii) the rate used to compute the cash surrender values under the contract during the applicable period plus 1 percent per annum.

"(D) LIENS.—To the extent a lien is imposed against the death benefit in connection with the distribution, the rate of any interest charged may not exceed the highest rate set forth in subparagraph (C), and such lien may not encumber the cash surrender value such that the percentage amount of the cash surrender value that is encumbered exceeds the percentage amount of the death benefit that is encumbered.

"(3) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who the insurer has determined, after receipt of an acceptable certification by a licensed physician, has an illness or physical condition which is reasonably expected to result in death within 12 months after the date of certification.

"(4) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

(2) DELAY IN APPLICATION OF DISCOUNTING RULES.—Clause (i) of section 101(g)(2)(A) of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any amount received before January 1, 1995.

(3) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract, the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)) shall not be treated as a modification or material change of such contract.

SEC. 11502. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

Subtitle F—Employment Status Provisions

SEC. 11601. EMPLOYMENT STATUS PROPOSAL REQUIRED FROM DEPARTMENT OF THE TREASURY.

Not later than January 1, 1996, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a legislative proposal relating to the classification of workers as employees or independent contractors.

SEC. 11602. INCREASE IN PENALTIES RELATING TO REPORTING OF PAYMENTS FOR SERVICES.

(a) INCREASE IN PENALTY.—Section 6721(a) (relating to imposition of penalty) is amended by adding at the end the following new paragraph:

"(3) INCREASED PENALTY FOR RETURNS INVOLVING PAYMENTS FOR SERVICES.—

"(A) IN GENERAL.—Subject to the overall limitation of paragraph (1), the amount of the penalty under paragraph (1) for any failure with respect to any applicable return shall be equal to the greater of $50 or 5 percent of the amount required to be reported correctly but not so reported.

"(B) EXCEPTION WHERE SUBSTANTIAL COMPLIANCE.—Subparagraph (A) shall not apply to failures with respect to applicable returns required to be filed by a person during any calendar year if the aggregate amount which is timely and correctly reported on applicable returns filed by the person for the calendar year is at least 97 percent of the aggregate amount which is required to be reported on applicable returns by the person for the calendar year.

"(C) APPLICABLE RETURN.—For purposes of this paragraph, the term 'applicable return' means any information return required to be filed under—

"(i) section 6041(a) but only if such return relates to payments to any person for services performed by such person (other than as an employee), or

"(ii) section 6041A(a)."

(b) CONFORMING AMENDMENT.—Section 6721(a)(1) is amended by striking "In" and inserting "Except as provided in paragraph (3), in".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (without regard to extensions) is more than 30 days after the date of the enactment of this Act.

Subtitle G—Tax Treatment of Funding of Retiree Health Benefits

SEC. 11701. POST-RETIREMENT MEDICAL AND LIFE INSURANCE RESERVES.

(a) MINIMUM PERIOD FOR WORKING LIVES.—Section 419A(c)(2) (relating to additional reserve for post-retirement medical and life insurance benefits) is amended by inserting "(but not less than 10 years)" after "working lives of the covered employees".

(b) SEPARATE ACCOUNTING.—

(1) REQUIREMENT.—Section 419A(c)(2) is amended by adding at the end the following new flush sentence:

"Such reserve shall be maintained as a separate account."

(2) USE OF RESERVE FOR OTHER PURPOSES.—Paragraph (1) of section 4976(b) (defining disqualified benefit) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) any payment to which subparagraph (C) does not apply which is out of an account described in section 419A(c)(2) and which is not used to provide a post-retirement medical benefit or life insurance benefit."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions paid or accrued after December 31, 1994, in taxable years ending after such date.

(2) SEPARATE ACCOUNTING.—The amendments made by subsection (b) shall apply to contributions paid or accrued after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle H—Excise Taxes on Insured and Self-Insured Health Plans

SEC. 11801. EXCISE TAXES ON INSURED AND SELF-INSURED HEALTH PLANS.

(a) GENERAL RULE.—Chapter 34 is amended by adding at the end the following new subchapter:

"Subchapter B—Insured and Self-Insured Health Plans

"Sec. 4375. Health insurance and health-related administrative services.
"Sec. 4376. Self-insured health plans.
"Sec. 4377. Definitions and special rules.

"SEC. 4375. HEALTH INSURANCE AND HEALTH-RELATED ADMINISTRATIVE SERVICES.

"(a) IMPOSITION OF TAX.—There is hereby imposed—

"(1) on each taxable health insurance policy, a tax equal to 2 percent of the premiums received under such policy, and

"(2) on each amount received for health-related administrative services, a tax equal to 2 percent of the amount so received.

"(b) LIABILITY FOR TAX.—

"(1) HEALTH INSURANCE.—The tax imposed by subsection (a)(1) shall be paid by the issuer of the policy.

"(2) HEALTH-RELATED ADMINISTRATIVE SERVICES.—The tax imposed by subsection (a)(2) shall be paid by the person providing the health-related administrative services.

"(c) TAXABLE HEALTH INSURANCE POLICY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'taxable health insurance policy' means any accident or health insurance policy issued with respect to individuals residing in the United States.

"(2) EXEMPTION OF CERTAIN POLICIES.—The term 'taxable health insurance policy' does not include any insurance policy if substantially all of the coverage provided under such policy relates to—

"(A) liabilities incurred under workers' compensation laws,

"(B) tort liabilities,

"(C) liabilities relating to ownership or use of property,

"(D) credit insurance, or

"(E) such other similar liabilities as the Secretary may specify by regulations.

"(3) SPECIAL RULE WHERE POLICY PROVIDES OTHER COVERAGE.—In the case of any taxable health insurance policy under which amounts are payable other than for accident and health coverage, in determining the amount of the tax imposed by subsection (a)(1) on any premium received under such policy, there shall be excluded the amount of the charge for the non-accident and health coverage if—

"(A) the charge for such non-accident and health coverage is either separately stated in the policy, or furnished to the policyholder in a separate statement, and

"(B) such charge is reasonable in relation to the total charges under the policy.

In any other case, the entire amount of the premium received under such a policy shall be subject to tax under subsection (a)(1).

"(4) TREATMENT OF PREPAID HEALTH COVERAGE ARRANGEMENTS.—

"(A) IN GENERAL.—In the case of any arrangement described in subparagraph (B)—

"(i) such arrangement shall be treated as a taxable health insurance policy,

"(ii) the payments or premiums referred to in subparagraph (B)(i) shall be treated as premiums received for a taxable health insurance policy, and

"(iii) the person referred to in subparagraph (B)(i) shall be treated as the issuer.

"(B) DESCRIPTION OF ARRANGEMENTS.—An arrangement is described in this subparagraph if under such arrangement—

"(i) fixed payments or premiums are received as consideration for any person's agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided, and

"(ii) substantially all of the risks of the rates of utilization of services is assumed by such person or the provider of such services.

"(d) HEALTH-RELATED ADMINISTRATIVE SERVICES.—For purposes of this section, the term 'health-related administrative services' means—

"(1) the processing of claims or performance of other administrative services in connection with accident or health coverage under a taxable health insurance policy if the charge for such services is not included in the premiums under such policy, and

"(2) processing claims, arranging for provision of accident or health coverage, or performing other administrative services in connection with an applicable self-insured health plan (as defined in section 4376(c)) established or maintained by another person.

"SEC. 4376. SELF-INSURED HEALTH PLANS.

"(a) IMPOSITION OF TAX.—In the case of any applicable self-insured health plan, there is hereby imposed a tax for each month equal to 2 percent of the sum of—

"(1) the accident and health coverage expenditures for such month under such plan, and

"(2) the direct administrative expenditures for such month under such plan.

"(b) LIABILITY FOR TAX.—

"(1) IN GENERAL.—The tax imposed by subsection (a) shall be paid by the plan sponsor.

"(2) PLAN SPONSOR.—For purposes of paragraph (1) the term 'plan sponsor' means—

"(A) the employer in the case of a plan established or maintained by a single employer,

"(B) the employee organization in the case of a plan established or maintained by an employee organization,

"(C) in the case of—

"(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

"(ii) a multiple employer welfare arrangement, or

"(iii) a voluntary employees' beneficiary association described in section 501(c)(9),

the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, or

"(D) the cooperative or association described in subsection (c)(2)(F) in the case of a plan established or maintained by such a cooperative or association.

"(c) APPLICABLE SELF-INSURED HEALTH PLAN.—For purposes of this section, the term 'applicable self-insured health plan' means any plan for providing accident or health coverage if—

"(1) any portion of such coverage is provided other than through an insurance policy, and

"(2) such plan is established or maintained—

"(A) by one or more employers for the benefit of their employees or former employees,

"(B) by one or more employee organizations for the benefit of their members or former members,

"(C) jointly by 1 or more employers and 1 or more employee organizations for the benefit of employees or former employees,

"(D) by a voluntary employees' beneficiary association described in section 501(c)(9),

"(E) by any organization described in section 501(c)(6), or

"(F) in the case of a plan not described in the preceding subparagraphs, by a multiple employer welfare arrangement (as defined in section 3(40) of Employee Retirement Income Security Act of 1974), a rural electric cooperative (as defined in section 3(40)(B)(iv) of such Act), or a rural telephone cooperative association (as defined in section 3(40)(B)(v) of such Act).

"(d) ACCIDENT AND HEALTH COVERAGE EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The accident and health coverage expenditures of any applicable self-insured health plan for any month is the aggregate expenditures for such month for accident and health coverage provided under such plan to the extent such expenditures are not subject to tax under section 4375.

"(2) TREATMENT OF REIMBURSEMENTS.—In determining accident and health coverage expenditures during any month of any applicable self-insured health plan, reimbursements (by insurance or otherwise) received during such month for accident and health coverage expenditures shall be taken into account as a reduction in accident and health coverage expenditures.

"(3) CERTAIN EXPENDITURES DISREGARDED.—Paragraph (1) shall not apply to any expenditure for the acquisition or improvement of land or for the acquisition or improvement of any property to be used in connection with the provision of accident and health coverage which is subject to the allowance under section 167, except that, for purposes of paragraph (1), allowances under section 167 shall be considered as expenditures.

"(e) DIRECT ADMINISTRATIVE EXPENDITURES.—For purposes of this section, the term 'direct administrative expenditures' means the administrative expenditures under the plan to the extent such expenditures are not subject to tax under section 4375. In determining the amount of such expenditures, rules similar to the rules of subsection (d)(3) shall apply.

"SEC. 4377. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) ACCIDENT AND HEALTH COVERAGE.—The term 'accident and health coverage' means any coverage which, if provided by an insurance policy, would cause such policy to be a taxable health insurance policy (as defined in section 4375(c).

"(2) INSURANCE POLICY.—The term 'insurance policy' means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

"(3) PREMIUM.—The term 'premium' means the gross amount of premiums and other consideration (including advance premiums, deposits, fees, and assessments) arising from policies issued by a person acting as the primary insurer, adjusted for any return or additional premiums paid as a result of endorsements, cancellations, audits, or retrospective rating.

"(4) UNITED STATES.—The term 'United States' includes any possession of the United States.

"(b) TREATMENT OF GOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—For purposes of this subchapter—

"(A) the term 'person' includes any governmental entity, and

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the taxes imposed by this subchapter except as provided in paragraph (2).

"(2) TREATMENT OF EXEMPT GOVERNMENTAL PROGRAMS.—In the case of an exempt governmental program—

"(A) no tax shall be imposed under section 4375 on any premium received pursuant to such program or on any amount received for health-related administrative services pursuant to such program, and

"(B) no tax shall be imposed under section 4376 on any expenditures pursuant to such program.

"(3) EXEMPT GOVERNMENTAL PROGRAM DEFINED.—For purposes of this subchapter, the term 'exempt governmental program' means—

"(A) the insurance programs established by parts A and B of title XVIII of the Social Security Act,

"(B) Medicare part C (as defined in section 59B(g)(2)),

"(C) the medical assistance program established by title XIX of the Social Security Act,

"(D) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being—

"(i) members of the Armed Forces of the United States, or

"(ii) veterans, and

"(E) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

"(c) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States."

(b) CLERICAL AMENDMENT.—Chapter 34 is amended by striking the chapter heading and inserting the following:

"CHAPTER 34—TAXES ON CERTAIN INSURANCE POLICIES

"Subchapter A. Policies issued by foreign insurers.

"Subchapter B. Insured and self-insured health plans.

"Subchapter A—Policies Issued By Foreign Insurers".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to premiums received and expenses incurred after December 31, 1995.

Subtitle I—Other Provisions

PART 1—TAX INCENTIVES FOR HEALTH SERVICES PROVIDERS

SEC. 11901. NONREFUNDABLE CREDIT FOR CERTAIN PRIMARY HEALTH SERVICES PROVIDERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. PRIMARY HEALTH SERVICES PROVIDERS.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

"(1) the number of months during such taxable year—

"(A) during which the taxpayer is a qualified primary health services provider, and

"(B) which are within the taxpayer's mandatory service period, and

"(2) $1,000 ($500 in the case of a qualified practitioner who is not a physician).

"(b) QUALIFIED PRIMARY HEALTH SERVICES PROVIDER.—For purposes of this section, the term 'qualified primary health services provider' means, with respect to any month, any qualified practitioner who—

"(1) has in effect a certification by the Bureau as a provider of primary health services and such certification is, when issued, for a health professional shortage area in which the qualified practitioner is commencing the providing of primary health services,

"(2) is providing primary health services full time in the health professional shortage area identified in such certification, and

"(3) has not received a scholarship under the National Health Service Corps Scholarship Program or any loan repayments under the National Health Service Corps Loan Repayment Program.

For purposes of paragraph (2) and subsection (e)(3), a provider shall be treated as providing services in a health professional shortage area when such area ceases to be such an area if it was such an area when the provider commenced providing services in the area.

"(c) MANDATORY SERVICE PERIOD.—For purposes of this section, the term 'mandatory service period' means the period of 60 consecutive calendar months beginning with the first month the taxpayer is a qualified primary health services provider. A taxpayer shall not have more than 1 mandatory service period.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BUREAU.—The term 'Bureau' means the Bureau of Primary Health Care, Health Resources and Services Administration of the United States Public Health Service.

"(2) QUALIFIED PRACTITIONER.—The term 'qualified practitioner' means a physician, a physician assistant, a nurse practitioner, or a certified nurse-midwife.

"(3) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act.

"(4) PHYSICIAN ASSISTANT; NURSE PRACTITIONER.—The terms 'physician assistant' and 'nurse practitioner' have the meanings given to such terms by section 1861(aa)(5) of the Social Security Act.

"(5) CERTIFIED NURSE-MIDWIFE.—The term 'certified nurse-midwife' has the meaning given to such term by section 1861(gg)(2) of the Social Security Act.

"(6) PRIMARY HEALTH SERVICES.—The term 'primary health services' has the meaning given such term by section 330(b)(1) of the Public Health Service Act.

"(7) HEALTH PROFESSIONAL SHORTAGE AREA.—The term 'health professional shortage area' has the meaning given such term by section 332(a)(1)(A) of the Public Health Service Act.

"(e) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If there is a recapture event during any taxable year, then—

"(A) no credit shall be allowed under subsection (a) for such taxable year and any succeeding taxable year, and

"(B) the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(i) the applicable percentage, and

"(ii) the aggregate unrecaptured credits allowed to such taxpayer under this section for all prior taxable years.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs during:	The applicable recapture percentage is:
Months 1–24	100
Months 25–36	75
Months 37–48	50
Months 49–60	25
Month 61 or thereafter	0.

"(B) TIMING.—For purposes of subparagraph (A), month 1 shall begin on the first day of the mandatory service period.

"(3) RECAPTURE EVENT DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'recapture event' means the failure of the taxpayer to be a qualified primary health services provider for any month during the taxpayer's mandatory service period.

"(B) SECRETARIAL WAIVER.—The Secretary, in consultation with the Secretary of Health and Human Services, may waive any recapture event caused by extraordinary circumstances.

"(4) NO CREDITS AGAINST TAX; MINIMUM TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part or for purposes of section 55."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Primary health services providers."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 11902. EXPENSING OF MEDICAL EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation on expensing of certain depreciable business assets) is amended to read as follows:

"(1) DOLLAR LIMITATION.—

"(A) GENERAL RULE.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $17,500.

"(B) HEALTH CARE PROPERTY.—The aggregate cost which may be taken into account under subsection (a) shall be increased by the lesser of—

"(i) the cost of section 179 property which is health care property placed in service during the taxable year, or

"(ii) $10,000."

(b) DEFINITION.—Section 179(d) (relating to definitions) is amended by adding at the end the following new paragraph:

"(11) HEALTH CARE PROPERTY.—For purposes of this section, the term 'health care property' means section 179 property—

"(A) which is medical equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment,

"(B) which is owned (directly or indirectly) and used by a physician (as defined in section 1861(r)(1) of the Social Security Act) in the active conduct of such physician's full-time trade or business of providing primary health services (as defined in section 330(b)(1) of the Public Health Service Act) in a health professional shortage area (as defined in section 332(a)(1)(A) of the Public Health Service Act), and

"(C) substantially all the use of which is in such area."

(c) RECAPTURE.—Paragraph (10) of section 179(d) is amended by inserting before the period "and with respect to any health care property which ceases to be health care property at any time".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 1994.

PART 2—HEALTH CARE WORKFORCE TRUST FUND

SEC. 11911. HEALTH CARE WORKFORCE TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9512. HEALTH CARE WORKFORCE TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Health Care Workforce Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section and section 9602(b).

"(b) TRANSFERS TO FUND.—There are hereby appropriated to the Health Care Workforce Trust Fund amounts equivalent to 50 percent of the net revenues received in the Treasury from the taxes imposed under subchapter B of chapter 34 (relating to taxes on health insurance and health-related administrative services).

"(c) EXPENDITURES FROM FUND.—Amounts in the Health Care Workforce Trust Fund are available to the Secretary of Health and Human Services for making payments under sections 7021 and 7041 of the Guaranteed Health Insurance Act of 1994 and for making grants under sections 741 and 818 of the Public Health Service Act.

"(d) NET REVENUES.—For purposes of this section, the term 'net revenues' means the amount estimated by the Secretary based on the excess of—

"(1) the taxes received in the Treasury under subchapter B of chapter 34, over

"(2) the decrease in the tax imposed by chapter 1 resulting from the taxes imposed by such subchapter.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9512. Health Care Workforce Trust Fund.".

PART 3—RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS

SEC. 11921. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 is amended by adding at the end thereof the following new part:

"PART IX—CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS

"Sec. 59C. Recapture of certain health care subsidies.

"SEC. 59C. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES.

"(a) IMPOSITION OF RECAPTURE AMOUNT.—In the case of an individual, if the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount, such taxpayer shall pay (in addition to any other amount imposed by this subtitle) a recapture amount for such taxable year equal to the aggregate of the Medicare part B recapture amounts (if any) for months during such year that a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part.

"(b) MEDICARE PART B PREMIUM RECAPTURE AMOUNT FOR MONTH.—For purposes of this section, the Medicare part B premium recapture amount for any month is the amount equal to the excess of—

"(1) 150 percent of the monthly actuarial rate for enrollees age 65 and over determined for that calendar year under section 1839(b) of the Social Security Act, over

"(2) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(c) PHASEIN OF RECAPTURE AMOUNT.—

"(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $15,000, the recapture amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the recapture amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $15,000.

"(2) JOINT RETURNS.—If a recapture amount is determined separately for each spouse filing a joint return, paragraph (1) shall be applied by substituting '$30,000' for '$15,000' each place it appears.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $90,000,

"(B) $115,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married (as determined under section 7703) but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 135, 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) JOINT RETURNS.—In the case of a joint return—

"(A) the recapture amount under subsection (a) shall be the sum of the recapture amounts determined separately for each spouse, and

"(B) subsections (a) and (c) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) TREATED AS TAX FOR SUBTITLE F.—For purposes of subtitle F, the recapture amount imposed by this section shall be treated as if it were a tax imposed by section 1.

"(B) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The recapture amount imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this chapter, or

"(ii) the amount of the minimum tax under section 55.

"(C) TREATED AS PAYMENT FOR MEDICAL INSURANCE.—The recapture amount imposed by this section shall be treated as an amount paid for insurance covering medical care, within the meaning of section 213(d)."

(b) REPORTING REQUIREMENT.—

(1) Paragraph (1) of section 6050F(a) (relating to returns relating to social security benefits) is amended by striking "and" at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

"(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and".

(2) Paragraph (2) of section 6050F(b) is amended to read as follows:

"(2) the information required to be shown on such return with respect to such individual."

(3) Subparagraph (A) of section 6050F(c)(1) is amended by inserting before the comma "and in the case of the information specified in subsection (a)(1)(D)".

(4) The heading for section 6050F is amended by inserting "**AND MEDICARE PART B COVERAGE**" before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting "and Medicare part B coverage" before the period.

(c) WAIVER OF CERTAIN ESTIMATED TAX PENALTIES.—No addition to tax shall be imposed under section 6654 of the Internal Revenue Code of 1986 (relating to failure to pay estimated income tax) for any period before April 16, 1998, with respect to any underpayment to the extent that such underpayment resulted from section 59C(a) of the Internal Revenue Code of 1986, as added by this section.

(d) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Part IX. Certain health care subsidies received by high-income individuals."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1996, in taxable years ending after such date.

TITLE XII—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 12001. CONFORMING AMENDMENTS TO DEFINITIONS.

(a) MOVING DEFINITION OF GROUP HEALTH PLAN.—Subtitle B of title I of such Employee Retirement Income Security Act of 1974 is amended—

(1) in section 607 (29 U.S.C. 1167), by striking paragraph (1);

(2) by striking section 3(41) commencing with "(41) SINGLE-EMPLOYER PLAN.—"; and

(3) in section 3 (29 U.S.C. 1002) (as amended by paragraph (2)), by adding at the end the following new paragraph:

"(42) The term "group health plan" means an employee welfare benefit plan providing medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) to participants or beneficiaries, directly or through insurance, reimbursement, or otherwise.".

(b) CLARIFICATION OF INTERRELATIONSHIP OF ERISA GUARANTEED HEALTH INSURANCE ACT OF 1994.—Section 3(42) of such Act (as amended by subsection (a)) is amended by adding at the end the following new sentence: "Such term includes a health plan (within the meaning of section 5504(4) of the Guaranteed Health Insurance Act of 1994 (as of the date of the enactment of such Act) but only to the extent such plan is an employee welfare benefit plan.".

(c) OTHER DEFINITIONS.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended—

(1) by adding at the end the following new paragraphs:

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(43) The term 'insured' means, with respect to a group health plan, a group health plan insofar as the plan is funded through the purchase of one or more contracts of health insurance, including any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract.

"(44) The term 'self-insured' means, with respect to a group health plan, a group health plan insofar as the plan is funded in a manner other than through the purchase of one or more policies or contracts described in paragraph (42).

"(45) The term 'carrier' has the meaning provided in section 5504(2) of the Guaranteed Health Insurance Act of 1994 (as of the date of the enactment of such Act).

"(46) The term 'third party contractor' means, in connection with a group health plan, any person (other than a health plan sponsor with respect to the plan) who—

"(A) administers or processes payments made under the plan pursuant to requests for payment for items and services but is not the provider of the items and services, or

"(B) carries out any other duty of the health plan sponsor under a direct or indirect contractual arrangement with the health plan sponsor, other than providing the items and services.".

SEC. 12002. REPORTING AND DISCLOSURE REQUIREMENTS FOR GROUP HEALTH PLANS.

(a) IN GENERAL.—Part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021 et seq.) is amended—

(1) by redesignating section 111 as section 112; and

(2) by inserting after section 110 the following new section:

"SPECIAL RULES FOR GROUP HEALTH PLANS

"SEC. 111. (a) IN GENERAL.—Rules issued by the Secretary under this part with respect to group health plans shall be consistent with the purposes of this title and the Guaranteed Health Insurance Act of 1994.

"(b) EXPEDITIOUS REPORTING AND DISCLOSURE.—The special rules provided under subsection (a) may include rules providing for—

"(1) reductions in the periods of time referred to in this part,

"(2) increases in the frequency of reports and disclosures required under this part, and

"(3) such other changes in the provisions of this part as may result in more expeditious reporting and disclosure of group health plan terms and changes in such terms to the Secretary and to plan participants and beneficiaries,

to the extent that the Secretary determines that the rules described in this subsection are necessary to ensure timely reporting and disclosure of information consistent with the purposes of this title and the Guaranteed Health Insurance Act of 1994 as they relate to group health plans.

"(c) ADDITIONAL REQUIREMENTS.—The special rules provided under subsection (a) may include rules providing for reporting and disclosure of additional information and for reporting and disclosure at more frequent intervals—

"(1) to the Secretary, and

"(2) to participants and beneficiaries,

to the extent necessary to effectively carry out this title with respect to group health plans and in a manner that is consistent with the Guaranteed Health Insurance Act of 1994.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 111 and inserting the following new items:

"Sec. 111. Special rules for group health plans.

"Sec. 112. Effective date."

SEC. 12003. AMENDMENTS TO ENFORCEMENT PROVISIONS OF ERISA.

(a) IMPROVEMENTS IN ENFORCEMENT.—

(1) RECOVERY OF DAMAGES FOR FAILURE TO PROVIDE BENEFITS AS REQUIRED UNDER A HEALTH PLAN.—

(A) IN GENERAL.—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended by adding at the end the following new paragraph:

"(5)(A) In the case of any act or failure to act by a group health plan or the plan sponsor in violation of the terms of the plan or this title, the plan, the plan sponsor, and the carrier (in the case of an insured plan), together with each third party contractor (if any) whose act or failure to act constitutes or contributes to the violation, shall be jointly and severally liable to any plaintiff described in subsection (a)(9) aggrieved by such violation for appropriate relief, including actual, compensatory, and punitive damages and equitable relief.

"(B) Nothing in the Guaranteed Health Insurance Act of 1994 shall be construed as limiting any right or remedy provided under this title in connection with a group health plan.".

(B) STANDING OF SPONSORS AND PLANS IN ACTIONS FOR FAILURE TO MEET REQUIREMENTS.—

(i) IN GENERAL.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(I) in paragraph (7), by striking "or" at the end;

(II) in paragraph (8), by striking the period and inserting "; or"; and

(III) by inserting after paragraph (8) the following new paragraph:

"(9) in the case of a group health plan—

"(A) by a participant or beneficiary, or by the plan sponsor (or, in the case of a self-insured plan, by any entity with a right to bring action on behalf of the plan), for the relief provided under subsection (c)(5), or

"(B) by the Secretary, on behalf of a participant or beneficiary, for the relief provided under subsection (c)(5),".

(ii) CONFORMING AMENDMENT.—Section 502(e)(1) of such Act (29 U.S.C. 1132(e)(1)) is amended—

(I) in the first sentence, by striking "subsection (a)(1)(B) of this section" and inserting "paragraph (1)(A) (with respect to relief under subsection (c)(5)), paragraph (1)(B), paragraph (7), or paragraph (9) of subsection (a)"; and

(II) in the second sentence, by striking "paragraphs (1)(B) and (7)" and insert "paragraphs (1)(A) (with respect to relief under subsection (c)(5)), paragraph (1)(B), paragraph (7), and paragraph (9)".

(2) ACTIONS FOR VIOLATIONS OF STATUTORY REQUIREMENTS.—Section 502(a)(1)(B) of such Act (29 U.S.C. 1132(a)(1)(B)) is amended by inserting "or the provisions of this title" after "plan" each place it appears.

(3) ACTIONS BY PLANS AGAINST FIDUCIARIES.—Section 502(a)(2) of such Act (29 U.S.C. 1132(a)(2)) is amended by striking "beneficiary or fiduciary" and inserting "a beneficiary, a fiduciary, a plan sponsor of a group health plan, or, in the case of a self-insured group health plan, any entity with a right to bring action on behalf of the plan".

(b) ATTORNEY'S FEES AND COSTS OF ACTION.—Section 502(g) of such Act (29 U.S.C. 1132(g)) is amended—

(1) in paragraph (1), by inserting "or (3)" after "paragraph (2)"; and

(2) by adding at the end the following new paragraph:

"(3) In any action or settlement proceeding under this title with respect to a group health plan by a participant or beneficiary under such plan, the court shall award the plaintiff reasonable attorney's fees (at generally prevailing hourly rates), reasonable expert witness fees, and other reasonable costs.".

(c) CIVIL MONEY PENALTIES FOR DENIAL OR DELAY IN PROVIDING GROUP HEALTH PLAN BENEFITS.—

(1) IN GENERAL.—Section 502(c) of such Act (as amended by the preceding provisions of this section) is further amended by adding at the end the following new paragraph:

"(6) CIVIL MONEY PENALTIES FOR DENIAL OR DELAY IN PROVIDING HEALTH PLAN BENEFITS.—The Secretary may assess a civil penalty against any group health plan, the plan sponsor of such plan, or the carrier (in the case of an insured plan) for unreasonable denial or delay in the provision of items or services, or payment therefor, and against any third-party contractor whose act or failure to act constitutes or contributes to the denial or delay, in an amount not to exceed—

"(A) $25,000 per violation, or $75,000 per violation in the case of a finding of bad faith on the part of the liable party, and

"(B) in the case of a finding of a pattern or practice of such violations engaged in by the liable party, $1,000,000 in addition to the total amount of penalties assessed under subparagraph (A) with respect to such violations.

For purposes of subparagraph (A), each violation with respect to any single individual shall be treated as a separate violation.".

(2) CONFORMING AMENDMENT.—Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking "subsection (c)(2) or (i) or (l)" and inserting "subsection (c)(2), (c)(6), (i), or (l)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to violations occurring on or after the date of the enactment of this Act.

SEC. 12004. EXEMPTIONS FROM ERISA PREEMPTION.

(a) IN GENERAL.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) by amending paragraph (5) to read as follows:

"(5) Subsection (a) shall not apply to the Hawaii Prepaid Health Care Act."; and

(2) by adding at the end the following new paragraphs:

"(9) Subsection (a) shall not apply to any provision of State law to the extent such provision implements a State single-payer system pursuant to subtitle A of title IV of the Guaranteed Health Insurance Act of 1994 (including the imposition of nondiscriminatory taxes in connection with such a system consistent with the requirements of such subtitle).

"(10) Subsection (a) shall not apply to any provision of State law to the extent such provision provides for a managed competition program under subtitle B of title IV of the Guaranteed Health Insurance Act of 1994 (including the imposition of nondiscriminatory taxes in connection with such a program consistent with the requirements of such subtitle).

"(11) Subsection (a) shall not apply to any provision of State law implementing a State provider payment system under subtitle C of title IV of the Guaranteed Health Insurance Act of 1994.".

(b) TEMPORARY TRANSITIONAL RULES.—

(1) IN GENERAL.—Section 514(b) of such Act (29 U.S.C. 1144(b)) (as amended by subsection (a)) is further amended by adding at the end the following new paragraphs:

"(12)(A) Except as provided in subparagraphs (C) and (D), subsection (a) shall not apply to any provision of State law described in subparagraph (B) if there is in effect an exemption under this paragraph granted to the State by the Secretary under section 12004(b)(2) of the Guaranteed Health Insurance Act of 1994 with respect to such provision.

"(B) A provision of State law is described in this subparagraph if such provision is a part of a program of comprehensive health care reform adopted by the State before the date of the enactment of the Guaranteed Health Insurance Act of 1994 under which employers are obligated to make contributions on behalf of employees and their families to group health plans providing comprehensive health benefit coverage for such employees and their families.

"(C) In any case in which the program referred to in subparagraph (A) includes a tax, subparagraph (A) shall not apply with respect to the provision of State law referred to in subparagraph (A) unless such tax is nondiscriminatory.

"(D) Subparagraph (A) shall not at any time apply in the case of any plan sponsor of a group health plan if such plan and plan sponsor would at such time be in compliance with the applicable requirements of the Guaranteed Health Insurance Act of 1994 if the provisions of such Act were in effect and fully implemented at such time.

"(E) This paragraph shall cease to be effective January 1, 1999.

"(13)(A) Subsection (a) shall not apply to any provision of State law described in subparagraph (B) if there is in effect an exemption under this paragraph granted to the State by the Secretary under section 12004(b)(2) of the Guaranteed Health Insurance Act of 1994 with respect to such provision.

"(B) A provision of State law is described in this subparagraph if such provision is part of a program consisting of a comprehensive legislative effort enacted by the State to achieve full implementation of the requirements of the Guaranteed Health Insurance Act of 1994, and—

"(i) such program has the effect of imposing requirements in relation to employees, employers, and group health plans that the Secretary finds would have the effect of imposing (under the State law) requirements which would be imposed under the Guaranteed Health Insurance Act of 1994, in relation to such employees, employers, and plans, if such Act were in effect and fully implemented,

"(ii) any tax included in such program is nondiscriminatory, and

"(iii) such program does not, directly or indirectly, discriminate against an individual on the basis of race, national origin, religion, gender, sexual orientation, language, socioeconomic status, age, status of an eligible individual as a citizen of the United States, health status, or anticipated need for health services.

"(C) This paragraph shall cease to be effective January 1, 1999.

"(14)(A) Subsection (a) shall not apply to any provision of State law described in subparagraph (B) if there is in effect an exemption under this paragraph granted to the State by the Secretary under section 12004(b)(2) of the Guaranteed Health Insurance Act of 1994 with respect to such provision.

"(B) A provision of State law is described in this subparagraph to the extent such provision provides for transfer of financial responsibility for workers' compensation medical benefits to certified health plans (as defined in section 2(2) of the Guaranteed Health Insurance Act of 1994 (as of the date of the enactment of such Act)) if there is in effect an exemption granted to the State by the Secretary of Labor under this section with respect to such provision.

"(C) This paragraph shall cease to be effective 2 years after the date on which the Commission on Integration of Workers' Compensation Medical Benefits submits its report to the President and to the Congress under section 13041 of the Guaranteed Health Insurance Act of 1994.".

(2) EXEMPTION PROCEDURE.—

(A) REQUIREMENTS.—The Secretary of Labor shall grant to a State an exemption under paragraph (12), (13), or (14) of section 514(b) of the Employee Retirement Income Security Act of 1974 with respect to a provision described in such paragraph if—

(i) an application for such exemption with respect to such provision has been duly filed with the Secretary of Labor by the State in complete form in accordance with such procedures as such Secretary may prescribe, and

(ii) the Secretary of Labor finds that such exemption is—

(I) administratively feasible,

(II) not adverse to the interests of the individuals covered under certified health plans affected by the exemption, and

(III) protective of the rights and benefits of the individuals covered under such certified health plans.

An exemption granted under this subparagraph with respect to any provision of State law shall terminate at such time as any requirement of this Act which is effectively implemented by such provision takes effect.

(B) INITIAL REVIEW.—Within 40 days after receipt of each application for exemption, the Secretary of Labor shall—

(i) complete an initial review of the application,

(ii) determine whether additional information is needed from the State and notify the State in writing of such determination, and

(iii) issue a preliminary opinion concerning the likelihood that the application will be approved.

(3) DECISION.—The Secretary of Labor shall issue his or her decision on each application for an exemption under this paragraph within 60 days after the later of—

(A) the date of the his or her receipt of the application, or

(B) the date on which such Secretary receives the State's response to any notification of need for additional information made by such Secretary pursuant to paragraph (2)(B)(ii).

The decision of the Secretary of Labor shall be final, subject to reconsideration and review under paragraph (3).

(4) RECONSIDERATION AND REVIEW.—

(A) PETITIONS FOR RECONSIDERATION.—

(i) IN GENERAL.—Any State dissatisfied with the decision of the Secretary of Labor decision under paragraph (2) may, within 60 days after it has been notified of such decision, file a petition with such Secretary for reconsideration of the State's application under this paragraph (2). Within 30 days after receipt of such a petition, such Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering such application. Such hearing shall be held not less than 20 days nor more than 60 days after the date notice of such hearing is furnished to such State, unless such Secretary and such State agree in writing to holding the hearing at another time. Such Secretary shall affirm or reverse the original decision within 60 days of the conclusion of the hearing.

(ii) NO STAYS PENDING RECONSIDERATION.—Action pursuant to a decision of the Secretary of Labor under paragraph (2) shall not be stayed pending reconsideration under clause (i).

(B) COURT REVIEW.—

(i) IN GENERAL.—Any State which is dissatisfied with the final decision of the Secretary of Labor on such State's application under this subsection, as affirmed after reconsideration under subparagraph (A), may, within 60 days after it has been notified of the action of such Secretary under subparagraph (A), file with the United States court of appeals for the circuit in which such State is located a petition for review of such decision. A copy of the petition shall be forthwith transmitted by the clerk of the court to such Secretary. Such Secretary thereupon shall file in the court the record of the proceedings on which such Secretary based the decision, as affirmed under subparagraph (A).

(ii) PROCEDURE.—The findings of fact by the Secretary of Labor, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to such Secretary to take further evidence, and such Secretary may thereupon make new or modified findings of fact and may modify such Secretary's previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(iii) JURISDICTION AND REVIEW.—The court shall have jurisdiction to affirm the action of the Secretary of Labor or to set it aside. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(c) TEMPORARY RULES GOVERNING PREEMPTION OF CERTAIN LAWS OF THE STATE OF NEW YORK.—

(1) IN GENERAL.—Section 514(b) of such Act (29 U.S.C. 1144(b)) (as amended by subsections (a) and (b)) is further amended by adding at the end the following new paragraph:

"(15)(A) Except as provided in subparagraphs (B), (D), (E), and (G), subsection (a) shall not apply to the following provisions of the law of the State of New York:

"(i) subdivisions 1(b) and 4(e) of section 2807-c of the Public Health Law (relating to 13 percent surcharge);

"(ii) subdivision 1(c) of section 2807-c of the Public Health Law (relating to uniform hospital charges);

"(iii) subdivision 2-a of section 2807-c of the Public Health Law (relating to the variable surcharge for HMOs);

"(iv) subdivision 14 of section 2807-c of the Public Health Law (relating to basic percentage allowances for bad debt and charity care);

"(v) subdivision 14-b of section 2807-c of the Public Health Law (relating to health care services allowances);

"(vi) subdivision 14-c of section 2807-c of the Public Health Law (relating to further allowances for financially distressed hospitals); and

"(vii) section 18 of chapter 266 of the laws of 1986, as amended (relating to excess malpractice insurance adjustments.

"(B) Except as provided in subparagraph (C), nothing in subparagraph (A) shall be construed to exempt from subsection (a)—

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(i) any State tax law relating to employee benefit plans, or

"(ii) any provision referred to in subparagraph (A) to the extent that any law of the State of New York appropriates amounts based on amounts collected by the State under such provision for any purpose other than carrying out the programs with respect to which the provisions described in subparagraph (A) apply.

"(C) Notwithstanding subparagraph (B), subsection (a) shall not apply to any provision of the law of the State of New York to the extent that such provision constitutes—

"(i) an HMO surcharge of the type provided for under subdivision 2-a of such section 2807-c (as in effect on February 2, 1993), or

"(ii) an allowance, of the type provided for under the provisions referred to in subparagraph (A) (as so in effect), for bad debts, charity care, health care services, or excess malpractice insurance,

but only if the law of such State appropriates or allocates amounts based on and equivalent to amounts collected by the State under such provision solely for the purpose of carrying out one or more programs with respect to which the provisions described in subparagraph (A) apply.

"(D) Subsection (a) shall apply to any provision of the law of the State of New York to the extent that such provision constitutes a surcharge of the type provided for under subdivisions 3(b) and 4(e) of section 2807-c of the Public Health Law of the State of New York (as in effect on February 2, 1993) unless such provision provides for use of amounts collected under such provision solely for the purpose of carrying out one or more programs with respect to which the provisions described in subparagraph (A) apply.

"(E) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any amendment of any provision referred to in subparagraph (A) enacted on or after February 2, 1993, to the extent it provides for more than the effective administration of such provisions as in effect on such date, unless such amendment constitutes only a change in the methodology of determining payments to hospitals and would result in—

"(i) a surcharge described in subparagraph (C)(i) of not more than 9 percent with respect to which the requirements of subparagraph (C) are met,

"(ii) an allowance described in subparagraph (C)(ii) which does not exceed in the aggregate a Statewide average of not more than 10 percent and with respect to which the requirements of subparagraph (C) are met, or

"(iii) a surcharge described in subparagraph (D) of not more than 13 percent with respect to which the requirements of subparagraph (D) are met.

"(F) Subsection (a) shall not apply to any amendment to chapter 2 of the laws of 1988 of the State of New York, as amended, to the extent that such amendment extends the period for which the provisions referred to in subparagraph (A) are in effect.

"(G) Notwithstanding subparagraph (A), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the provisions described in subparagraph (A) (as in effect on or after February 2, 1993), but the Secretary may enter into cooperative arrangements under this subparagraph and section 506 with officials of the State of New York to assist them in effectuating the policies of such provisions which are superseded by such parts 1 and 4 and the preceding sections of this part.

"(H) Subsection (a) shall apply to any provision of the law of the State of New York to the extent that such provision requires an entity which may be deemed to be engaged in the business of insurance under paragraph (2) (including a health maintenance organization) to provide open enrollment and community rating (including premium adjustments for the purpose of risk adjustment).

"(I) References in this paragraph to provisions of the law of the State of New York shall be deemed references to such provisions as in effect August 1, 1993.

"(J) This paragraph shall not apply to any provision of the law of the State of New York to the extent such provision applies with respect to residents of the area described in the second sentence of section 4301 of the Guaranteed Health Insurance Act of 1994.".

(d) TREATMENT OF CONSUMER PURCHASING COOPERATIVES.—Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended to read as follows:

"(6) Subsection (a) shall not apply with respect to any provision of State law to the extent that such provision implements a consumer purchasing cooperative pursuant to title V of the Guaranteed Health Insurance Act of 1994.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) EFFECTIVE DATE AND SUNSET OF NEW YORK RULE.—Section 514(b)(13) of the Employee Retirement Income Security Act of 1974 (added by subsection (b)) shall cease to be effective 2 years after the date of the enactment of this Act. Subparagraph (H) of such section 514(b)(13) shall apply with respect to provisions of State law in effect as of April 1, 1993.

(3) EFFECTIVE DATE OF CONSUMER PURCHASING COOPERATIVE RULE.—The amendment made by subsection (c) shall take effect January 1, 1997.

SEC. 12005. TRANSITIONAL CONTINUATION COVERAGE REQUIREMENT FOR GROUP HEALTH PLANS.

Paragraph (2) of section 602 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended by adding at the end the following new sentence: "In the case of an individual whose period of coverage under this paragraph would (but for this sentence) end after the date of the enactment of the Guaranteed Health Insurance Act of 1994 and before January 1, 1999, such period shall in no event terminate by reason of this paragraph before January 1, 1999.".

SEC. 12006. COVERAGE OF PEDIATRIC VACCINES AND WELL-CHILD SERVICES UNDER GROUP HEALTH PLANS.

(a) IN GENERAL.—Section 609(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(d)) is amended to read as follows:

"(f) COVERAGE OF COSTS OF PEDIATRIC VACCINE AND WELL-CHILD SERVICES FOR GROUP HEALTH PLANS.—

"(1) MAINTENANCE OF VACCINE COVERAGE.—A group health plan may not reduce its coverage of the costs of pediatric vaccines (as defined under section 1928(h)(6) of the Social Security Act) below the coverage it provided as of May 1, 1993.

"(2) REQUIREMENT FOR COVERAGE OF IMMUNIZATIONS AND WELL-CHILD SERVICES.—Each group health plan shall provide coverage of the following services without deductible, coinsurance, or any other form of cost-sharing:

"(A) All vaccines on the list described in section 1928(e) of the Social Security Act.

"(B) Well-child services described in section 1928(f)(2)(B) of such Act.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1995.—Any amendment to a plan required to be made by the amendment made by this section shall not be required to be made before the first plan year beginning on or after January 1, 1995.

SEC. 12007. ADDITIONAL AMENDMENTS RELATING TO GROUP HEALTH PLANS.

(a) TECHNICAL CORRECTIONS.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1993—

(1) Subsection (a)(2)(B)(ii) of section 609 of the Employee Retirement Income Security Act of 1974 is amended by striking "section 13822" and inserting "section 13623".

(2) Subsection (a)(4) of such section 609 is amended by striking "section 13822" and inserting "section 13623".

(3) Subsection (d) of such section 609 is amended by striking "section 13830" and inserting "section 13631".

(4) Section 514(b)(7) of such Act (29 U.S.C. 1144(b)(7)) is amended by inserting ", qualified medical child support orders (within the meaning of section 609(a)(2)(A)), and the provisions of law referred to in section 609(a)(2)(B)(ii) to the extent enforced by qualified medical child support orders" before the period.

SEC. 12008. PLAN CLAIMS PROCEDURES.

Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 503."; and

(2) by adding at the end the following new subsection:

"(b) GROUP HEALTH PLANS.—A group health plan shall be treated as failing to meet the requirements of subsection (a) to the extent that the requirements of sections 9301, 9302, and 9303 of the Guaranteed Health Insurance Act of 1994 are not met with respect to such plan.".

SEC. 12009. REGULATIONS DEFINING COLLECTIVE BARGAINING AGREEMENT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall prescribe regulations defining the term "collective bargaining agreement" for purposes of this Act and title I of the Employee Retirement Income Security Act of 1974.

TITLE XIII—COORDINATION OF MEDICAL PORTION OF WORKERS' COMPENSATION AND AUTOMOBILE INSURANCE

Subtitle A—Workers' Compensation Insurance

SEC. 13000. DEFINITIONS.

In this subtitle:

(1) INJURED WORKER.—The term "injured worker" means, with respect to a certified health plan, an individual enrolled under the plan who has a work-related injury or illness for which workers' compensation medical benefits are available under State law.

(2) SPECIALIZED WORKERS' COMPENSATION PROVIDER.—The term "specialized workers' compensation provider"—

(A) means a health provider that specializes in the provision of preventive services, diagnostic services, medical treatment and medical rehabilitative services relating to work-related injuries or illness, and includes a physician specializing in occupational medicine and a non-physician specialist in occupational health or a related field; and

(B) includes a center of excellence in occupational health.

(3) WORKERS' COMPENSATION MEDICAL BENEFITS.—The term "workers' compensation medical benefits" means, with respect to an enrollee who is an employee subject to the workers' compensation laws of a State, the comprehensive medical benefits for work-related injuries and illnesses provided for under such laws with respect to such an employee.

(4) WORKERS' COMPENSATION CARRIER.—The term "workers' compensation carrier" means an insurance company that underwrites workers' compensation medical benefits with respect to one or more employers and includes an employer or fund that is financially at risk for the provision of workers' compensation medical benefits.

(5) WORKERS' COMPENSATION SERVICES.—The term "workers' compensation services"—

(A) means items and services included in workers' compensation medical benefits, including rehabilitation services and long-term care services; and

(B) includes services of a case manager under section 13001(c) and the preparation of reports relating to workers' compensation medical benefits.

PART 1—HEALTH PLAN REQUIREMENTS RELATING TO WORKERS' COMPENSATION

SEC. 13001. PROVISION OF WORKERS' COMPENSATION SERVICES.

(a) PROVISION OF BENEFITS.—Subject to subsection (b)—

(1) REQUIREMENT FOR CERTIFIED HEALTH PLANS.—

(A) IN GENERAL.—Each certified health plan shall enter into such contracts and arrangements as are necessary (in accordance with subparagraph (B)) to provide or arrange for the provision of workers' compensation services to an enrollee who is an injured worker, in return for payment from the workers' compensation carrier under section 13002. The health plan shall contract with, or arrange for the provision of service from, a range of specialized workers' compensation providers (as defined in 13000(2)) sufficient to deliver the medical and rehabilitative services compensable under the State's workers' compensation laws.

(B) PROVISION OF SERVICES.—For purposes of this paragraph, a certified health plan provides (or arranges for the provision of) workers' compensation services with respect to an enrollee if the services are provided by—

(i) a participating provider in the plan,

(ii) any other specialized workers' compensation provider with whom the plan has entered into an agreement for the provision of such services, or

(iii) a center of excellence in occupational health designated by the State under section 13011(a), whether or not the center is a provider described in clause (i) or (ii).

(C) LIST OF SPECIALIZED WORKERS' COMPENSATION PROVIDERS.—Upon the request of an enrollee, a certified health plan shall provide a list of the plan's specialized workers' compensation providers and shall include, for each such provider, the provider's phone number, address, subspecialty, and a summary of the provider's training and relevant experience.

(2) INDIVIDUAL REQUIREMENT.—An individual entitled to workers' compensation medical benefits and enrolled in a certified health plan shall receive workers' compensation services through the provision (or arrangement for the provision) of such services by the health plan, regardless of whether the services are included in the guaranteed national benefit package.

(3) EXCEPTIONS FOR CERTAIN HEALTH PLANS FOR VETERANS, MILITARY PERSONNEL, AND INDIANS.—Paragraphs (1) and (2) shall not apply with respect to a health plan of the Department of Veterans' Affairs, of the Indian Health Service, or of the Department of Defense and individuals enrolled in such a plan.

(4) USE OF STATE-DESIGNATED CENTERS OF EXCELLENCE.—Either a certified health plan or the injured worker may elect to provide or receive benefits under this subsection through a center of excellence in occupational health designated under section 13011(a).

(5) ACCESS TO EMERGENCY SERVICES.—An injured worker shall have the same access to emergency workers' compensation services as the worker has with respect to other emergency services.

(b) ALTERNATIVE PERMITTED.—Subsection (a) shall not be construed as preventing an injured worker and a workers' compensation carrier from agreeing that workers' compensation services shall be provided other than by or through the certified health plan in which the worker is enrolled.

(c) COORDINATION.—

(1) DESIGNATION OF CASE MANAGER.—Each certified health plan shall employ or contract with one or more individuals, such as occupational nurses, with experience in the management of occupational illness and injury to provide case management services with respect to workers' compensation services provided through the plan under this section.

(2) FUNCTIONS OF CASE MANAGER.—The certified health plan (through the case manager described in paragraph (1)) is responsible for ensuring that—

(A) there is a plan of treatment (when appropriate) for each enrollee who is an injured worker designed to assure appropriate treatment and facilitate return to work;

(B) the plan of treatment is developed with the participation of the worker and communicated on a timely basis to the worker and to the workers' compensation carrier, the employer, or both for purposes of return to work planning;

(C) medical information to the extent needed to assure the enrollee's safe, healthful, and timely return to work is provided to the worker and to the workers' compensation carrier, the employer or both, as appropriate, that shall include the types of work activities an injured worker can safely perform and any specific work restrictions that may be appropriate to prevent the recurrence of the injury or illness and to permit the worker's complete recovery; and

(D) the health plan (and its providers) comply with legal duties and requirements under State workers' compensation law (including treatment protocols approved in accordance with such laws) and other Federal and State laws including those regarding the reporting of occupational injuries and diseases.

(d) ADMINISTRATION.—The Secretary of Labor shall administer this subtitle and, for such purposes, the Secretary is authorized to prescribe such rules and regulations as may be necessary and appropriate.

(e) WAIVER FOR CERTAIN STATES.—The Secretary shall waive the application of the provisions of this part and part 2 (other than sections 13011 and 13013) if the State demonstrates the following:

(1) The State has a comprehensive, mandatory workers' compensation system that covers an overwhelming majority of the workers in the State.

(2)(A) Injured workers in the State are assured a broad choice of health providers when seeking treatment for work-related illnesses and injuries.

(B) Injured workers are assured the right to seek workers' compensation services, when appropriate, from centers of excellence designated by the State under section 13011.

(C) If the State allows or requires injured workers to obtain workers' compensation medical benefits only from one or more organizations that restrict the workers' choice of providers from whom the benefits may be obtained—

(i) workers are provided an opportunity to select from among a reasonable choice of at least 3 such organizations;

(ii) such organizations are—

(I) certified by the State; and

(II) required by the State to meet minimum requirements related to quality, accessibility, and continuity of services; and

(iii) workers are provided the option to choose such an organization that is not owned or controlled by the workers' compensation carrier that underwrites the workers' compensation medical benefits with respect to the employer of the worker.

(3) The State has a system in place—

(A) to control increases in the costs of workers' compensation medical benefits; and

(B) to monitor and improve the quality of workers' compensation services provided to injured workers.

SEC. 13002. PAYMENT BY WORKERS' COMPENSATION CARRIER.

(a) PAYMENT.—

(1) IN GENERAL.—Each workers' compensation carrier that is liable for payment for workers' compensation services furnished by or through a certified health plan, regardless of whether the services are included in the guaranteed national benefit package, shall make payment for such services. If a certified health plan has provided or paid for services for which such a workers' compensation carrier is liable, such carrier shall reimburse the health plan for such services. If an individual has paid for services for which such a carrier is liable, the carrier shall reimburse the individual for such services (including cost sharing incurred for such services).

(2) USE OF FEE SCHEDULE.—Except as provided in subsection (b), such payment shall be made in accordance with the applicable fee schedule established by the certified health plan for services provided under the guaranteed national benefit package or section 13012.

(b) ALTERNATIVE PAYMENT METHODOLOGIES.—Subsection (a)(2) shall not apply—

(1) in the case of a State that establishes an alternative payment methodology (such as payment on a negotiated fee for each case) for payment for workers' compensation services; or

(2) in the case in which a workers' compensation carrier and the certified health plan negotiate alternative payment arrangements.

(c) LIMITATION OF LIABILITY OF INJURED WORKER.—Nothing in this part shall be construed as requiring an injured worker to make any payment (including payment of any cost sharing or any amount in excess of the applicable fee schedule) to any certified health plan or health provider for the receipt of workers' compensation services.

VOL 140 PT 15 AG 10 — 11 1994 UMI

PART 2—REQUIREMENTS OF STATES

SEC. 13011. STATE DESIGNATION OF CENTERS OF EXCELLENCE IN OCCUPATIONAL HEALTH.

(a) IN GENERAL.—A State shall, in consultation with a panel consisting of representatives of organized labor and representatives of employers in equal numbers, designate at least one center of excellence in occupational health for each community-rating area in the State. A State may designate such a center of excellence for a community-rating area that is not located in the area or the State. Injured workers and certified health plans may elect to receive workers' compensation services through such centers under section 13001(a)(4).

(b) QUALIFICATIONS.—A State shall not designate a center of excellence under subsection (a) unless the State finds that the center meets the following requirements:

(1) The center includes, as staff members or contractors, physicians and other health providers with significant experience and training in the diagnosis, management, and treatment of occupational injuries and illnesses, including the diagnosis of chronic diseases of occupational origin.

(2) The center has the ability to serve as a technical resource to providers serving certified health plans on issues relating to occupational injury and illness.

(3) The center provides an interdisciplinary range of specialized services, including independent evaluation of occupational injuries and illnesses, assessment and control of the causes of such injuries and illnesses, methods to educate workers in the prevention of such injuries and illnesses, and rehabilitative care and other treatment to facilitate the return to work of an injured worker.

(c) PUBLICATION.—Each State shall publish a list of centers of excellence designated under subsection (a).

(d) TRAVEL PAID BY CARRIER.—Injured workers shall be reimbursed by workers' compensation carriers for reasonable expenses related to travel to centers of excellence designated under subsection (a).

SEC. 13012. DEVELOPMENT OF SUPPLEMENTAL SCHEDULES.

Each State shall develop a fee schedule applicable to payment for workers' compensation services not included in the guaranteed national benefit package, including a separate schedule for services of a case manager under section 13001(c) and the preparation of reports relating to workers' compensation medical benefits.

SEC. 13013. PROVISION OF WORKERS' COMPENSATION DATA.

Each State shall make available to the Secretary of Labor, in such form as the Secretary shall require, injury and illness data collected as part of the State's workers' compensation program. Such a State is not required to make available personally identifiable information with respect to a worker. The Secretary is authorized to reimburse the States for the cost of preparing and transmitting the data in the requested form.

SEC. 13014. EFFECT ON STATE WORKERS' COMPENSATION LAWS.

(a) IN GENERAL.—Except as provided in this subtitle, no State law shall have any effect that restricts the choice, or payment, of providers that may provide workers' compensation services for individuals enrolled in a certified health plan.

(b) DISPUTE RESOLUTION.—A State law may provide for a method for resolving disputes related to—

(1) an individual's entitlement to workers' compensation medical benefits under State law,

(2) the necessity and appropriateness of workers' compensation services provided to an injured worker, and

(3) subject to section 13002, the reasonableness of fees charged for workers' compensation services.

(c) CONSTRUCTION.—Nothing in this subtitle shall be construed as altering—

(1) the effect of a State workers' compensation law as the exclusive remedy for work-related injuries or illnesses,

(2) the determination of whether or not a person is an injured worker and entitled to workers' compensation medical benefits under State law,

(3) the scope of items and services available to injured workers entitled to workers' compensation medical benefits under State law, including protocols approved under such a law relating to provision of workers' compensation services, or

(4) the eligibility of any individual or class of individuals for workers' compensation medical benefits under State law.

(d) INTEGRATION.—Nothing in this subtitle shall prevent a State from integrating or otherwise coordinating the payment for workers' compensation medical benefits with payment for benefits under health insurance or health benefit plans.

SEC. 13015. PROTECTION AGAINST FRAUD.

A State workers' compensation law may disqualify or suspend a health provider from providing workers' compensation services if the provider is determined to have violated protocols or standards of care, to have provided unnecessary or inappropriate services, to have billed in violation of law, or to have engaged in another prohibited practice with respect to workers' compensation services.

PART 3—APPLICATION OF INFORMATION PRACTICES REQUIREMENTS; EFFECT ON PREMIUMS

SEC. 13021. APPLICATION OF INFORMATION PRACTICES REQUIREMENTS.

(a) IN GENERAL.—The provisions of subtitle C of title IX apply to the provision of workers' compensation services.

(b) RULES.—The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall promulgate rules to clarify the responsibilities of certified health plans and workers' compensation carriers in carrying out the provisions referred to in subsection (a).

SEC. 13022. REPORT ON EFFECT ON WORKERS' COMPENSATION PREMIUMS.

(a) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Labor shall provide for a study of the impact of the provisions of this subtitle on the premium rates charged to employers for workers' compensation insurance. Such study shall use information supplied by States relating to workers' compensation premiums and such other information as the Secretary of Labor finds appropriate.

(2) REPORT.—The Secretary of Labor shall submit to the Congress, by not later than two years after the date that this subtitle applies to a substantial number of employers in all States, a report on the findings of the study.

(b) WORKERS' COMPENSATION CARRIER FILINGS.—

(1) IN GENERAL.—Each workers' compensation carrier (other than an employer that is self-funded for the purpose of providing workers' compensation services) providing workers' compensation insurance in a State shall make a filing with an agency designated by the State at a time specified by the Secretary of Labor (but not earlier than one year after the date this subtitle applies to a substantial number of employers in the State). Such filing shall describe the manner in which such carrier has modified (or intends to modify) its premium rates for workers' compensation insurance provided in the State to reflect the changes brought about by the provisions in this subtitle. The filing shall include such actuarial projections and assumptions as necessary to support the modifications of such rates.

(2) REPORT TO SECRETARY.—Each State shall provide to the Secretary of Labor such information on filings made under paragraph (1) as the Secretary of Labor may specify.

SEC. 13023. PERMISSIBLE TERMS OF CERTAIN CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING AGREEMENTS.

(a) IN GENERAL.—A construction industry collective bargaining agreement described in subsection (b) may include provisions relating to any of the following:

(1) A mechanism to resolve disputes relating to employee entitlement to workers' compensation benefits under applicable State workers' compensation law, including mediation or arbitration, so long as the rights and remedies of employees under such laws are not diminished.

(2) Providing benefits for injured workers or their survivors that are in addition to those provided under State workers' compensation law.

(3) Providing for a light duty, modified job, or return to work program.

(4) Providing for a vocational rehabilitation or training program.

(5) Providing for worker injury and illness prevention programs.

(b) CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING AGREEMENT DESCRIBED.—A construction industry collective bargaining agreement described in this subsection is a collective bargaining agreement—

(1) between—

(A) an employer engaged primarily in the building and construction industry, and

(B) a labor organization—

(i) of which building and construction employee are members, and

(ii) which is not established, maintained, or assisted by conduct that constitutes an unfair labor practice under section 8(a) of the National Labor Relations Act;

(2) covering employees engaged (or who upon their employment will be engaged) in the building and construction industry; and

(3) that meets the prevailing standards for such an agreement in the applicable area.

(c) CONSTRUCTION.—Nothing in this section shall be construed to authorize an agreement described in subsection (b)—

(1) to reduce the benefits payable under applicable State workers' compensation laws, or

(2) to limit the rights or remedies provided to injured workers under such laws.

PART 4—DEMONSTRATION PROJECTS

SEC. 13031. AUTHORIZATION.

The Secretary of Health and Human Services and the Secretary of Labor are authorized to conduct demonstration projects under this part in one or more States with respect to—

(1) treatment of work-related injuries and illnesses;

(2) ways in which occupational health providers can promote safety and health in the workplace; and

(3) ways in which health providers can promote effective return to work of injured workers.

SEC. 13032. DEVELOPMENT OF WORK-RELATED PROTOCOLS.

(a) IN GENERAL.—Under this part, the Secretaries, in consultation with States and

such experts on work-related injuries and illnesses as the Secretaries find appropriate, shall develop protocols (which may include protocols for utilization review) for the appropriate treatment of work-related conditions.

(b) TESTING OF PROTOCOLS.—The Secretaries shall enter into contracts with one or more certified health plans to test the validity of the protocols developed under subsection (a).

SEC. 13033. DEVELOPMENT OF CAPITATION PAYMENT MODELS.

The Secretaries shall develop, using protocols developed under section 13032 if possible, methods of providing for payment by workers' compensation carriers to certified health plans on a per case, capitated basis for the treatment of specified work-related injuries and illnesses.

PART 5—COMMISSION ON INTEGRATION OF WORKERS' COMPENSATION MEDICAL BENEFITS

SEC. 13041. COMMISSION.

(a) ESTABLISHMENT.—There is hereby created a Commission on Integration of Workers' Compensation Medical Benefits (in this part referred to as the "Commission").

(b) COMPOSITION.—

(1) IN GENERAL.—The Commission shall consist of the Director of the National Institute for Occupational Safety and Health (or the Director's designee) and 14 members appointed jointly by the Secretary of Health and Human Services and the Secretary of Labor. Appointed members of the Commission shall include the following:

(A) One or more individuals representing State insurance commissioners.

(B) One or more individuals representing State workers' compensation funds.

(C) One or more individuals representing organized labor.

(D) One or more members representing employers (other than workers' compensation insurance carriers).

(E) One or more members representing workers' compensation insurance carriers.

(F) One or more members of the medical profession having expertise in occupational health.

(G) One or more educators or researchers having expertise in the field of occupational health.

(H) One or more members of the legal profession who regularly represent workers' compensation claimants.

(I) One or more actuaries having expertise in the field of workers' compensation.

To the greatest extent feasible, the membership of the Commission shall reflect the racial, ethnic, and gender composition of the population of the United States.

(2) NO COMPENSATION EXCEPT TRAVEL EXPENSES.—Members of the Commission shall serve without compensation, but the Secretaries shall provide that each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(3) QUORUM.—Eight members of the Commission shall constitute a quorum.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall study the feasibility of transferring financial responsibility for workers' compensation medical benefits to certified health plans. The Commission shall consider both the potential benefits and potential disadvantages of integration, including the likely impact on—

(A) the quality of medical care delivered to workers injured or made ill on the job;

(B) the incentives for employers to maintain safe workplaces; and

(C) workers' compensation indemnity benefit costs, medical costs and the overall cost of the workers' compensation system.

(2) ISSUES TO BE ADDRESSED.—The Commission shall consider the following issues:

(A) Whether and how to maintain financial incentives for employers to prevent work-related illness and injury and to reduce workers' compensation costs.

(B) Modifications of requirements for workers' compensation carrier and certified health plan reserves, including any associated transition issues relating to the modification of such requirements.

(C) The ability of certified health plans to set capitated payment rates for workers' compensation costs, including the lack of availability of data for use by plans in setting such rates.

(D) Coverage for benefits not included in the guaranteed national benefits package, including both services and cost-sharing, that are covered under State workers' compensation laws.

(E) Variation among States in eligibility for medical and rehabilitation benefits, and the scope of such benefits, compensable under State workers' compensation laws.

(F) The ability to move the financial responsibility for workers' compensation medical benefits from an experience-rated system to a community-rated system.

(G) The need to provide appropriate incentives to encourage certified health plans, providers of health care services, and employers to return injured employees to work as soon as possible.

(H) The effect of an integrated system on the ability to preserve adequate case management of workers' compensation cases.

(I) The impact of an injured worker's choice of provider on the costs of medical care, losses in wages and benefits, and quality of care.

(J) Whether and under what circumstances a State may demonstrate that the comprehensive workers' compensation law providing for medical benefits to injured workers in effect in that State obviates the need for transferring financial responsibility for workers' compensation medical benefits to certified health plans, taking into account the impact on injured workers.

(3) DEVELOPMENT OF PLAN.—The Commission shall, based on its study of the issues under paragraphs (1) and (2), develop a detailed plan for implementing the transfer of financial responsibility for workers' compensation medical benefits to certified health plans and make a recommendation as to whether such a transfer should be effected.

(d) STAFF SUPPORT.—The Secretaries shall provide staff support for the Commission.

(e) REPORT.—The Commission shall submit a report on its work to the President and to the Congress by not later than two years after the date of the enactment of this Act. The report shall include the plan developed and its recommendation under subsection (c)(3).

(f) TERMINATION.—The Commission shall terminate 90 days after the date of submission of its report under subsection (e).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Automobile Insurance

SEC. 13100. DEFINITIONS.

In this subtitle:

(1) INJURED INDIVIDUAL.—The term "injured individual" means, with respect to a certified health plan, an individual enrolled under the plan who has an injury or illness sustained in an automobile accident for which automobile insurance medical benefits are available.

(2) AUTOMOBILE INSURANCE MEDICAL BENEFITS.—The term "automobile insurance medical benefits" means, with respect to an enrollee, the comprehensive medical benefits for injuries or illnesses sustained in automobile accidents.

(3) AUTOMOBILE INSURANCE CARRIER.—The term "automobile insurance carrier" means an insurance company that underwrites automobile insurance medical benefits and includes an employer or fund that is financially at risk for the provision of automobile insurance medical benefits.

(4) AUTOMOBILE INSURANCE MEDICAL SERVICES.—The term "automobile insurance medical services" means items and services included in automobile insurance medical benefits and includes items and services (such as rehabilitation services and long-term care services) commonly used for treatment of injuries and illnesses sustained in automobile accidents.

SEC. 13101. PROVISION OF AUTOMOBILE INSURANCE MEDICAL BENEFITS THROUGH HEALTH PLANS.

(a) IN GENERAL.—An individual entitled to automobile insurance medical benefits and enrolled in a certified health plan shall receive automobile insurance medical services through the provision (or arrangement for the provision) of such services by the health plan.

(b) REFERRAL FOR SPECIALIZED SERVICES.—Each certified health plan shall provide for such referral for automobile insurance medical services as may be necessary to assure appropriate treatment of injured individuals.

(c) EXCEPTIONS.—Subsections (a) and (b) shall not apply shall not apply with respect to a health plan of the Department of Veterans' Affairs, of the Indian Health Service, or of the Department of Defense and individuals enrolled in such a plan.

(d) ALTERNATIVE PERMITTED.—Subsection (a) shall not be construed as preventing an injured individual and an automobile insurance carrier from agreeing that automobile insurance medical services shall be provided other than by or through the certified health plan in which the individual is enrolled.

SEC. 13102. PAYMENT BY AUTOMOBILE INSURANCE CARRIER.

(a) PAYMENT.—

(1) IN GENERAL.—Except as provided in subsection (b), each automobile insurance carrier that is liable for payment for automobile insurance medical services furnished by or through a certified health plan, regardless of whether or not the services are included in the guaranteed national benefit package, shall make payment for such services directly to the health plan.

(2) PRICE DISCRIMINATION PROHIBITED.—Fees charged an automobile insurance carrier by a certified health plan or health provider for automobile insurance medical services shall not exceed fees charged by such certified health plan or health provider for similar services provided to an injured individual for an injury or illness not sustained in an automobile accident.

(3) EXCEPTION FOR MEDICARE PART C ENROLLEES.—Each health provider or certified health plan providing automobile insurance medical services to an injured individual enrolled in medicare part C shall bill the automobile insurance carrier directly for such services, and each carrier liable for payment for such services shall make payment for

VOL 140 PT 15 AG 10 — 11 1994 UMI

such services directly to such health provider or certified health plan.

(b) ALTERNATIVE PAYMENT METHODOLOGIES.—Subsection (a) shall not apply—

(1) in the case of a State that establishes an alternative payment methodology (such as payment on a negotiated fee for each case) for payment for automobile insurance medical services; or

(2) in the case in which an automobile insurance carrier and the certified health plan negotiate alternative payment arrangements.

(c) LIMITATION OF LIABILITY OF INJURED INDIVIDUAL.—Nothing in this subtitle shall be construed as requiring an injured individual to make any payment (including payment of any cost sharing) to any certified health plan or health provider for the receipt of automobile insurance medical services for which an automobile insurance carrier is liable.

(d) PREVENTION OF DUPLICATE PAYMENT.—Except in accordance with other subsections of this section, nothing in this Act shall require any automobile insurance carrier or policyholder to make any duplicate payment to any certified health plan or health provider for automobile insurance medical services.

(e) REIMBURSEMENT FOR PAYMENTS MADE.—Nothing in this section shall impair the right of a certified health plan or automobile insurance carrier to seek reimbursement from any person legally responsible for a bodily injury or illness resulting from an automobile accident for payments made for automobile insurance medical services to treat such injury or illness.

SEC. 13103. CONSTRUCTION.

Nothing in this subtitle shall be construed as altering—

(1) the determination of whether or not a person is an injured individual and entitled to automobile insurance medical benefits under State law, or

(2) the scope of items and services available to injured individuals entitled to automobile insurance medical benefits under State law.

Subtitle C—Federal Employees' Compensation Act

SEC. 13201. APPLICATION OF POLICY.

(a) IN GENERAL.—Chapter 81 of title 5, United States Code, known as the Federal Employees' Compensation Act shall be interpreted and administered consistent with the provisions of subtitle A.

(b) CONSTRUCTION.—In applying subsection (a), subtitle A shall be applied as if the following modifications had been made in subtitle A:

(1) Any reference in section 13000, section 13001(c)(2)(D), or section 13014 to a State law is deemed to include a reference to chapter 81 of title 5, United States Code.

(2) The term "workers' compensation carrier" includes the Employees Compensation Fund (established under section 8147 of title 5, United States Code).

(c) APPLICATION TO CERTAIN OTHER LAWS.—

(1) IN GENERAL.—The provisions of section 13002(a)(2), relating to payment for workers' compensation services, shall apply to payment for medical services in the United States under the following laws, in the same manner as such provisions apply to the Federal Employees' Compensation Act under this section:

(A) The Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.).

(B) Cure for a seaman under general maritime law.

(C) The Federal Employers' Liability Act (45 U.S.C. 51 et seq.).

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as altering—

(A) the remedies available under the laws described in subparagraphs (A) through (C) of paragraph (1);

(B) the determination of whether or not a person is entitled to benefits under such laws;

(C) the scope of items and services available under such laws; or

(D) the eligibility of any individual or class of individuals for benefits under such laws.

Subtitle D—Davis-Bacon Act and Service Contract Act

SEC. 13301. COVERAGE OF BENEFITS UNDER GUARANTEED HEALTH INSURANCE ACT OF 1994.

(a) DAVIS-BACON ACT.—Subsection (b)(2) of the first section of the Davis Bacon Act (40 U.S.C. 276a(b)(2)) is amended in the matter following subparagraph (B) by inserting after "local law" the following: "(other than benefits provided pursuant to the Guaranteed Health Insurance Act of 1994)".

(b) SERVICE CONTRACT ACT OF 1965.—The second sentence of section 2(a)(2) of the Service Contract Act of 1965 (41 U.S.C. 351(a)(2)) is amended by inserting after "local law" the following: "(other than benefits provided pursuant to the Guaranteed Health Insurance Act of 1994)".

Subtitle E—Effective Dates

SEC. 13401. GENERAL EFFECTIVE DATE; APPLICATION.

The provisions of subtitles A and B of this title shall take effect on January 1, 1997, and shall apply with respect to any individual covered under a certified health plan under this Act.

SEC. 13402. FEDERAL REQUIREMENTS.

The provisions of subtitle C of this title shall take effect on January 1, 1998.

TITLE XIV—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

SEC. 14001. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Federal Employees Health Benefits Program (in this section referred to as "FEHBP") has been providing tens of millions of Federal employees, retirees, and dependents with affordable, comprehensive health insurance for over 30 years.

(2) The FEHBP, as the only model of managed competition operating on a national basis, could make a significant contribution toward making affordable, comprehensive health insurance available to the Nation's underinsured and uninsured by enrolling members of the general public.

(3) The FEHBP has a better record than most private and public health programs in constraining the average rate of increases in annual health care costs, and offers the Nation a working model for constraining health care costs.

(4) The long-term viability of the FEHBP is critical to its contributing to increasing the availability of affordable, comprehensive health insurance to the general public.

(5) The long-term viability of the FEHBP is critical to the continued fulfillment of the Federal Government's obligation as the Nation's largest employer to provide affordable, comprehensive health benefits to its employees and retirees.

(6) To maintain the long-term viability of the FEHBP, the expansion of the program to serve the general public should be accomplished in a sound, prudent, and incremental manner.

(7) The enactment of certain insurance and health policy reforms as a part of national health care reform will eliminate features of the current system that would otherwise threaten the solvency of FEHBP health benefit plans and the long-term viability of the expanded program.

(8) Opening the FEHBP to the general public should be viewed as a complement to other broad-based health care reform initiatives, such as the creation of a nationwide system of affordable, comprehensive health care benefits available to all, to ensure the long-term viability of the FEHBP, to prevent the FEHBP from being overwhelmed administratively, and to protect the interests of existing FEHBP enrollees.

(9) The general public should have available the level of benefits, quality of service, and choice of plans and providers currently received by FEHBP enrollees and their dependents.

(10) The ultimate integration of existing FEHBP enrollees into community-rated pools should await the enactment of key insurance market reforms and an employer mandate, both to ensure the creation of stable insurance markets and to protect the interests of existing FEHBP enrollees.

(b) PURPOSES.—The purposes of this title are as follows:

(1) To provide tens of millions of Americans, many of whom have no or inadequate health insurance, with access to the same affordable, comprehensive health care benefits as are available to Federal employees and retirees.

(2) To permit the future integration of Federal employees and retirees into a FEHBP expanded to serve the general public.

(3) To make necessary changes in the FEHBP.

SEC. 14002. DEFINITIONS.

For the purpose of this title—

(1) the terms "FEHBP transition period" and "universal FEHBP" have the meanings given such terms by section 8903b of title 5, United States Code (as added by section 14301); and

(2) the term "contract year" is used in the same way as under chapter 89 of title 5, United States Code.

SEC. 14003. AMENDMENT OF TITLE 5, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 5, United States Code.

Subtitle A—General Changes in Health Benefits for Federal Employees and Annuitants

SEC. 14101. TYPES OF BENEFITS.

(a) GUARANTEED NATIONAL BENEFITS.—

(1) IN GENERAL.—

(A) BENEFITS TO BE OFFERED.—Subsection (a) of section 8904 is amended to read as follows:

"(a) The benefits provided under each plan described in section 8903 shall be the same as the guaranteed national benefit package under subtitle A of title III of the Guaranteed Health Insurance Act of 1994.".

(B) CONFORMING AMENDMENTS.—Chapter 89 is amended—

(i) in section 8903(1) by striking "8904(1)" and inserting "8904(a)";

(ii) in section 8903(2) by striking "8904(2)" and inserting "8904(a)";

(iii) in section 8903(3) by striking "8904(3)" and inserting "8904(a)";

(iv) in section 8903(4)(A) by striking "8904(4)" and inserting "8904(a)"; and

(v) in section 8903a(b)(2) by striking "paragraph (1) or (2) of section 8904 of this title or both" and inserting "section 8904(a)".

(2) LEVELS OF BENEFITS.—

(A) Paragraphs (1) and (2) of section 8903 are amended by striking ", offering two levels of benefits,".

(B) Section 8905a(d)(1)(A)(i) is amended by striking "and level of benefits".

(C) Section 8906(d) is amended by striking "plan and level of benefits." and inserting "plan.".

(3) CLASSES OF ENROLLMENT.—

(A) Section 8905(a) is amended by striking "either as an individual or for self and family." and inserting "based on an appropriate class of enrollment.".

(B) Section 8905(c)(1) is amended in the first sentence by striking "as an individual or for self and family as provided in paragraph (2) of this subsection".

(C) Section 8905 is amended by adding a period at the end of subsection (b) and by striking the matter before subparagraph (A) of subsection (c)(2) and inserting the following:

"(2) Coverage under this subsection shall not be available except with respect to—".

(D) Section 8905(d) is amended to read as follows:

"(d) If an employee, annuitant, or other individual eligible to enroll in a health benefits plan under this chapter has a spouse who is also eligible to enroll, such individual may not be enrolled both as an employee, annuitant, or other individual eligible to enroll and as a family member of the spouse.".

(E) Section 8905a(d)(3)(A) is amended by striking "coverage either as an individual or, if appropriate, for self and family." and inserting "any appropriate class of enrollment.".

(F) Section 8905a(f)(3)(A) is amended by striking "for self and family" and inserting "under a class of enrollment that covered such individual".

(b) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Chapter 89 is amended by inserting after section 8904 the following:

"§ 8904a. Maintenance of effort

"(a) For the purpose of this section, the term 'guaranteed national benefit package' means the guaranteed national benefit package referred to in section 8904(a).

"(b)(1) The Office of Personnel Management shall provide or contract for maintenance of effort policies which shall provide—

"(A) in the case of an individual covered by a comprehensive medical plan, coverage which, when considered together with the guaranteed national benefit package, is comparable to that which, during the year described in paragraph (3), was provided by the comprehensive medical plan with the largest number of enrollments in such year (as identified by the Office); and

"(B) in the case of an individual covered by any other plan under this chapter—

"(i) coverage for services and items which were available under the lower level of benefits offered by the service benefit plan during the year described in paragraph (3), but which are not included in the guaranteed national benefit package;

"(ii) coverage for services and items included in the guaranteed national benefit package, but not covered to the same extent as was the case under the lower level of benefits offered by the service benefit plan during the year described in paragraph (3), because of any limitation in amount, duration, or scope under the guaranteed national benefit package;

"(iii) coverage for deductibles, coinsurance, and copayments imposed under the guaranteed national benefit package, but not by the lower level of benefits offered by the service benefit plan during the year described in paragraph (3); or

"(iv) any combination thereof.

"(2) In developing maintenance of effort policies to be offered under this section, the Office of Personnel Management—

"(A) shall meet and confer with exclusive representatives of employees through a process to be established by the National Partnership Council; and

"(B) shall consult periodically with representatives of employees (other than those described in subparagraph (A)) and of annuitants.

"(3) The year described in this paragraph is the contract year immediately preceding the first contract year to which this section applies.

"(c) An individual shall be eligible to be covered by a maintenance of effort policy only so long as such individual is also covered by a health benefits plan under this chapter.

"(d)(1) The Government shall pay the total enrollment charge under this section in the case of any employee or annuitant for whom Government contributions are being made with respect to any health benefits plan under this chapter.

"(2)(A) Any payment under this subsection shall be made at the same time and in the same manner as if it were a Government contribution for a health benefits plan, and shall be made from the same appropriation or fund as from which any such Government contributions would, with respect to the employee or annuitant involved, be made.

"(B) The reference to 'Government contributions authorized by this section' in section 8906(g) shall be considered to include payments under this subsection.

"(e) To the extent that maintenance of effort policies are provided through carriers, section 8902 shall, with respect to the administration of this section, apply to the extent practicable.

"(f) No requirement of law relating to limiting the offering of a supplemental health benefit policy shall apply to a maintenance of effort policy offered under this section.".

(2) CHAPTER ANALYSIS.—The analysis for chapter 89 is amended by inserting after the item relating to section 8904 the following:

"8904a. Maintenance of effort.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to contract years beginning with the contract year described in paragraph (2).

(2) CONTRACT YEAR DESCRIPTION.—The contract year described in this paragraph is the contract year beginning in the first full calendar year throughout which the requirements of section 5007 of the Guaranteed Health Insurance Act of 1994 (relating to requirement of offering of guaranteed national benefit package by health benefit plans) will be met, or will be deemed to be met, with respect to insured health benefit plans in all the States, as determined by the Office of Personnel Management.

(3) SAVINGS PROVISION.—For purposes of applying the provisions of chapter 89 of title 5, United States Code, with respect to any contract year before the contract year described in paragraph (2), this section shall be treated as if it had not been enacted.

SEC. 14102. CONTRIBUTIONS FOR GUARANTEED NATIONAL BENEFITS; OTHER PROVISIONS TAKING EFFECT IN 1997.

(a) AVERAGE SUBSCRIPTION CHARGES.—Section 8906(a) is amended to read as follows:

"(a) The Office of Personnel Management shall determine the weighted average of the subscription charges in effect on the beginning date of each contract year for all health benefits plans under this chapter (for each class of enrollment).".

(b) GOVERNMENT CONTRIBUTION.—Section 8906(b) is amended—

(1) in paragraph (1) by striking "60 percent of the average subscription charge" and inserting "80 percent of the applicable weighted average subscription charge"; and

(2) in paragraph (2) by striking "75 percent of".

(c) PART-TIME CAREER EMPLOYMENT.—Section 8913 is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following:

"(d) The regulations of the Office may provide that, for purposes of carrying out this chapter in any contract year—

"(1) the term 'part-time career employment' shall (instead of the meaning which would otherwise apply) have the same meaning as being employed on a 'part-time basis' has under section 1106(a) of the Guaranteed Health Insurance Act of 1994, but only if, in the judgment of the Office, a greater number of employees would thereby qualify to be treated as occupying a position on a part-time career employment basis in such year; and

"(2) any appropriate adjustment in the method for determining the Government contribution under section 8906(b)(3) may be made if the alternative definition under paragraph (1) is applied.".

(d) DEFINITION OF CHILD.—Section 8901(5) is amended by striking "22;" and inserting "22, or such an unmarried dependent child between 22 and 24 years of age who is a student regularly pursuing a full-time course of study or training in residence at an educational institution referred to in section 8341(a)(4)(C) (determined in a manner similar to that provided for by the last 2 sentences of section 8341(a));".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to contract years beginning with the contract year that begins in 1997.

(2) SAVINGS PROVISION.—For purposes of applying the provisions of chapter 89 of title 5, United States Code, with respect to any contract year before the first contract year to which the amendments made by this section shall apply, subsections (a) through (d) of this section shall be treated as if they had not been enacted.

(f) TRANSITION.—For contract years beginning on or after the date of the enactment of this Act and before the 1997 contract year, notwithstanding any other provision of law, the dollar amount of the Government contribution under section 8906(b)(1) of title 5, United States Code, may not be less than the dollar amount of the Government contribution under such section 8906(b)(1) in the previous contract year, increased by the same percentage as the percentage increase in the weighted average premium of all health benefit plans offered under chapter 89 of such title between the previous contract year and the year involved.

SEC. 14103. ANNUALIZATION OF OPEN ENROLLMENT PERIODS.

Section 8905(f)(1) is amended by striking "any contract term" and all that follows through "provide" and inserting "each contract year, provide".

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 14104. SUBSIDIES FOR LOW-INCOME FEDERAL EMPLOYEES AND ANNUITANTS.

Section 8906 is amended by adding at the end the following:

"(j)(1) An employee enrolled under this chapter may be eligible for a premium certificate under part A of title XXII of the Social Security Act.

"(2) In the case of an individual enrolled under this chapter who is not an employee, but who would, if such individual were an employee, be eligible for such a premium certificate, for purposes of such part—

"(A) the individual shall be deemed to be an employee; and

"(B) the administrative entity responsible for administering the provisions of this chapter relating to the enrollment of such individual shall be deemed the employer of such individual.".

SEC. 14105. PROVISIONS RELATING TO THE RETIRED FEDERAL EMPLOYEES HEALTH BENEFITS ACT.

(a) PROGRAM TERMINATION.—The Retired Federal Employees Health Benefits Act (Public Law 86–724; 74 Stat. 849) is repealed as of the date specified in subsection (c), and all contracts under such Act shall terminate not later than such date.

(b) CONTINUED AVAILABILITY OF COVERAGE FOR RETIRED EMPLOYEES.—

(1) IN GENERAL.—For purposes of health insurance coverage for any period after the date as of which coverage under the Retired Federal Employees Health Benefits Act ceases to be available as a result of the enactment of this section, retired employees who (but for this section) would be eligible for coverage under such Act shall be treated, for purposes of chapter 89 of title 5, United States Code, as if they were annuitants eligible to enroll under such chapter 89.

(2) AUTOMATIC COVERAGE.—In the case of any retired employee who is enrolled in a plan under the Retired Federal Employees Health Benefits Act during the last year in which coverage under such Act is offered, and who fails to elect to be covered under such chapter 89 or to decline such coverage with respect to the following year, such retired employee shall be automatically enrolled in a service benefit plan under such chapter 89, as determined under regulations prescribed by the Office of Personnel Management.

(3) SURVIVORS.—For the purpose of this subsection, the term "retired employee" includes a survivor of the retired employee.

(c) SPECIFICATION OF DATE.—The date specified in this subsection is the first day of the first calendar year throughout which subsidies are available under section 8906(j)(2) of title 5, United States Code (as added by section 14104) to Federal annuitants.

(d) TREATMENT OF THE FUND.—After the date specified in subsection (c), the Retired Employees Health Benefits Fund shall temporarily remain available, and amounts in that fund shall subsequently be disbursed, in a manner comparable to that provided for under section 14402.

(e) REGULATIONS.—The Office shall prescribe such regulations as may be necessary to carry out this section.

SEC. 14106. TEMPORARY EMPLOYEES.

(a) NONEXCLUDABILITY.—Paragraph (4) of section 8913(b) is amended to read as follows:

"(4) an employee who is employed on a temporary basis, if such employee either—

"(A) has completed 3 months of current continuous employment (excluding any break in service of 5 days or less);

"(B) has been (or is reasonably expected to be) employed for a period of 4 months during the previous (or succeeding) 12-month period; or

"(C) meets such other employment requirements as the Office may prescribe.".

(b) REPEAL.—

(1) IN GENERAL.—Section 8906a is repealed.

(2) CHAPTER ANALYSIS.—The analysis for chapter 89 is amended by repealing the item relating to section 8906a.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall first apply to coverage provided on and after such month (not later than the first month that begins more than 3 months after the date of the enactment of this Act) as the Office of Personnel Management specifies.

(2) TRANSITION.—The Office of Personnel Management shall provide for such special enrollment procedures and other rules as may be required to provide for enrollment of individuals described in section 8913(b)(4) of title 5, United States Code, as amended by subsection (a), for coverage on or after the first month described in paragraph (1).

SEC. 14107. STANDARDIZED CLAIMS PROCESSING.

(a) IN GENERAL.—Section 8902 is amended by adding at the end the following:

"(o) A claim for payment or reimbursement under this chapter (whether electronic or otherwise) shall be submitted on such a standard form or in such a standard manner as may be required by the Office in relation to health benefit plans. Each contract under this chapter shall include appropriate provisions to carry out the preceding sentence.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall be implemented as soon as practicable, but in no event later than January 1, 1996.

SEC. 14108. ADVANCE DIRECTIVES.

(a) IN GENERAL.—Section 8907 is amended by adding at the end the following:

"(c) The Office shall—

"(1) prepare information relating to the use of advance directives regarding the type and intensity of care which an individual desires in the event that such individual becomes unable to communicate by reason of incapacity due to illness or injury; and

"(2) require, as a condition for approval of any contract under section 8902 (and in accordance with the applicable provisions (if any) of the Guaranteed Health Insurance Act of 1994), that appropriate provisions be included so that such information may be made available to enrollees of the plan involved.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to contract terms beginning on or after January 1, 1996.

SEC. 14109. COLLECTIVE BARGAINING AUTHORITY.

(a) IN GENERAL.—Any collective bargaining rights available under title 39, United States Code, before the date of the enactment of this Act, with respect to health benefits, shall continue to be available with respect to health benefits provided for as a result of the enactment of this Act.

(b) HOLD HARMLESS PROVISION.—In no event shall the Government contribution provided by the United States Postal Service be less than that required pursuant to a collective bargaining agreement under title 39, United States Code (if such agreement was ratified before the date of the enactment of this Act) while such agreement remains in effect. The preceding sentence shall be in addition to any requirement under section 1111(c) of this Act.

(c) AMENDMENT TO TITLE 39, UNITED STATES CODE.—Section 1005(f) of title 39, United States Code, is amended by striking "87 and 89" and inserting "87, 89, and 89A".

(d) RELATED PROVISION.—Notwithstanding any other provision of (or amendment made by) this Act, any health benefits plan of an organization described in section 5305(c) of this Act may operate without regard to the number of States in which it is licensed to issue group health insurance.

Subtitle B—Provisions Relating to Universal FEHBP

SEC. 14201. UNIVERSAL FEHBP.

For provisions relating to universal FEHBP, see subtitle D of title V of this Act.

Subtitle C—Transition Rules

SEC. 14301. TREATMENT OF COMPREHENSIVE MEDICAL PLANS.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 8903a the following:

"§ 8903b. Treatment of comprehensive medical plans

"(a) For the purpose of this section—

"(1) the term 'FEHBP transition period' means the 7-year period beginning on the first day of the first contract year beginning after the contract year described in subsection (b);

"(2) any reference to a particular numbered year in the FEHBP transition period refers to the corresponding contract year in such period;

"(3) the term 'old rate' means, with respect to a plan, the subscription charge for such plan under this chapter, determined—

"(A) as if the Guaranteed Health Insurance Act of 1994 had not been enacted; but

"(B) subject to subsection (c)(2);

"(4) the term 'new rate' means, with respect to a plan, the subscription charge for such plan's corresponding universal FEHBP plan;

"(5) the term 'corresponding universal FEHBP plan', as used with respect to a comprehensive medical plan, means the plan required by subsection (d) to be offered under universal FEHBP in order that such comprehensive medical plan may be offered under this chapter;

"(6) the term 'universal FEHBP' means the health insurance program under subtitle D of title V of the Guaranteed Health Insurance Act of 1994;

"(7) the term 'comprehensive medical plan' means a plan described by section 8903(4); and

"(8) the term 'guaranteed national benefit package' means the guaranteed national benefit package referred to in section 8904(a).

"(b)(1) The contract year described in this subsection is the first contract year—

"(A) for which an affirmative certification is made under paragraph (2)(A) that, with respect to each community-rating area in which individuals eligible to enroll under this chapter reside, universal FEHBP is—

"(i) operating in a stable health insurance market;

"(ii) serving a representative population; and

"(iii) offering such a range of types of health plans as is provided under this chapter (including a plan which offers an unlimited choice of providers); and

"(B) by the end of which the following provisions of law are in effect with respect to all individuals eligible to enroll in universal FEHBP:

"(i)(I) Section 59B of the Internal Revenue Code of 1986 and section 1001(b) of the Guaranteed Health Insurance Act of 1994 (relating to individual mandate); or

"(II) sections 3451 and 3455 of the Internal Revenue Code of 1986 and section 1101(a) of the Guaranteed Health Insurance Act of 1994 (relating to employer mandates).

"(ii) Section 5004 of the Guaranteed Health Insurance Act of 1994 (relating to preexisting condition exclusions).

"(iii) Subsection (a) of section 5008 of the Guaranteed Health Insurance Act of 1994 (relating to community rating of premiums), except that such subsection shall not, for purposes of this subparagraph, be considered to be in effect until the completion of the transition period established under subsection (b) of such section for all States.

"(iv) Section 5007 of the Guaranteed Health Insurance Act of 1994 (relating to requirement of offering of guaranteed national benefit package by health benefit plans).

"(v) Section 5003 of the Guaranteed Health Insurance Act of 1994 (relating to open enrollment requirements).

"(vi) Part A of title XXII of the Social Security Act (relating to premium certificates).

"(2)(A) The Office of Personnel Management shall certify for each contract year, beginning with the 1999 contract year, whether or not universal FEHBP satisfies the conditions set forth in paragraph (1)(A).

"(B) The Office shall transmit a report on each certification under subparagraph (A), including the basis for the certification, to Congress and the President not later than the tenth day after the end of the contract year to which the certification relates (unless that tenth day is a Saturday, Sunday, or legal holiday, in which case the deadline shall be the next day which is not one of the aforementioned days).

"(3) For purposes of paragraph (2)(A), the condition under paragraph (1)(A)(i) shall not be considered to be satisfied unless the community-rated market sector in which universal FEHBP is operating is large enough to yield credible experience and permit the setting of stable rates.

"(c) Notwithstanding section 8902(i) or any other provision of this chapter—

"(1) the subscription charge for each comprehensive medical plan shall—

"(A) for the first year of the FEHBP transition period, be equal to the old rate;

"(B) for the second year of the FEHBP transition period, be equal to the sum of—

"(i) 75 percent of the old rate; and

"(ii) 25 percent of the new rate;

"(C) for the third year of the FEHBP transition period, be equal to the sum of—

"(i) 50 percent of the old rate; and

"(ii) 50 percent of the new rate; and

"(D) for the fourth year of the FEHBP transition period, be equal to the sum of—

"(i) 25 percent of the old rate; and

"(ii) 75 percent of the new rate; and

"(2) the areas for which rates are established under this subsection shall, beginning with not later than the rates determined for the second year of the FEHBP transition period, be the same as under universal FEHBP.

"(d) A contract under this chapter for a comprehensive medical plan may not be made, nor may any such plan be approved, for any year in the FEHBP transition period, unless the carrier agrees to offer (in the same area) a health benefits plan under universal FEHBP in such year.

"(e) All computations under this section shall be made with respect to each class of enrollment available under the plan involved.

"(f)(1) Except in such cases as the Office may provide, effective for items and services furnished after the expiration of the fourth year of the FEHBP transition period—

"(A) health insurance coverage under a plan described by section 8903(4) shall not be available under this chapter; and

"(B) in applying this chapter, any reference to such plans shall be disregarded.

"(2) In the case of any individual who is enrolled in a plan described in section 8903(4) as of the last day of the fourth year of the FEHBP transition period, and who fails to elect to be covered under a plan under either this chapter or universal FEHBP or to decline such coverage with respect to the following year, such individual (if eligible) shall be automatically enrolled in the corresponding or most similar plan offered under universal FEHBP for the same or most similar class of enrollment, as determined under regulations prescribed by the Office.

"(g) The Office shall prescribe such regulations as may be necessary to carry out this section.".

(b) TREATMENT OF RESERVES.—For provisions relating to treatment of reserves, see section 14402.

(c) CHAPTER ANALYSIS.—The analysis for chapter 89 is amended by inserting after the item relating to section 8903a the following:

"8903b. Treatment of comprehensive medical plans.".

SEC. 14302. ELIGIBILITY FOR UNIVERSAL FEHBP.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 8905a the following:

"§ 8905b. Election of coverage under universal FEHBP

"(a) For the purpose of this section, the terms 'FEHBP transition period' and 'universal FEHBP' have the meanings given such terms by section 8903b.

"(b) Effective after the fourth contract year of the FEHBP transition period, any individual who would be eligible to enroll in a health benefits plan under this chapter if the Guaranteed Health Insurance Act of 1994 had not been enacted shall be eligible to enroll in a health benefits plan under universal FEHBP.

"(c) Enrollment and all other aspects of participation in universal FEHBP pursuant to this section shall be in accordance with chapter 89A (disregarding the applicability rule under section 8932(a)(2) and any provisions relating thereto). Nothing in this subsection or chapter 89A (including any provision incorporated under chapter 89A by reference) shall, with respect to any period before the end of the FEHBP transition period, have the effect of preventing an election of coverage under this chapter.

"(d) The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this section, including provisions under which any coverage under universal FEHBP shall, for purposes of subsections (b) and (d) of section 8905, be treated as coverage under this chapter.".

(b) COORDINATION OF OPEN ENROLLMENT PERIODS.—

(1) IN GENERAL.—Subsection (f)(1) of section 8905 is amended to read as follows:

"(f)(1) The Office shall provide for a period each year (beginning and ending on the same dates as the annual open enrollment period provided for under section 5305(a) of the Guaranteed Health Insurance Act of 1994 in such year) during which any employee, annuitant, former spouse, or other individual eligible to enroll in a health benefits plan under this chapter may—

"(A) commence, terminate, or transfer such individual's enrollment in a plan under this chapter or under universal FEHBP; or

"(B) make any other election allowable under regulations prescribed by the Office.".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall take effect on the first day of the fourth year of the FEHBP transition period.

(c) COORDINATION PROVISIONS RELATING TO OTHER ENROLLMENT OPPORTUNITIES.—Section 8905 is amended by adding at the end the following:

"(g) The periods during which, and the reasons for which, any change allowable under subsection (e) or (f)(2) may be made shall be at least coextensive with the provisions of section 5305(a) of the Guaranteed Health Insurance Act of 1994 which relate to special enrollment periods.".

(d) CHAPTER ANALYSIS.—The analysis for chapter 89 is amended by inserting after the item relating to section 8905a the following:

"8905b. Election of coverage under universal FEHBP.".

SEC. 14303. TREATMENT OF REMAINING PLANS.

(a) TREATMENT OF REMAINING PLANS.—Chapter 89 is amended by adding after section 8903b (as added by section 14301) the following:

"§ 8903c. Treatment of remaining plans

"(a) For the purpose of this section—

"(1) the terms 'FEHBP transition period' and 'universal FEHBP plan' have the meanings given such terms by section 8903b;

"(2) the rule of construction set forth in section 8903b(a)(2) applies;

"(3) the term 'experience-based rate' means, with respect to a plan, the subscription charge for such plan under this chapter, determined as if the Guaranteed Health Insurance Act of 1994 had not been enacted;

"(4) the term 'applicable community rate' means, with respect to a health benefits plan offered by a carrier under this chapter—

"(A) the subscription charge for the plan through which the guaranteed national benefit package is offered by such carrier under universal FEHBP within the community-rating area involved (if any); or

"(B) if subparagraph (A) cannot be applied, the weighted average of the subscription charges for the universal FEHBP plans which, in the preceding contract year, accounted for at least 80 percent of all enrollments under universal FEHBP (taken in descending order, starting with the plan which had the greatest number of enrollments) within the community-rating area involved, as determined by the Office of Personnel Management; and

"(5) the term 'community-rating area' means such an area as applied for purposes of section 5304(a)(1) of the Guaranteed Health Insurance Act of 1994.

"(b) Notwithstanding section 8902(i) or any other provision of this chapter, the subscription charge for each plan described by section 8903(1), (2), or (3) shall—

"(1)(A) for the fifth year of the FEHBP transition period, be equal to the sum of—

"(i) 75 percent of the experience-based rate; and

"(ii) 25 percent of the applicable community rate;

"(B) for the sixth year of the FEHBP transition period, be equal to the sum of—

"(i) 50 percent of the experience-based rate; and

"(ii) 50 percent of the applicable community rate; and

"(C) for the seventh year of the FEHBP transition period, be equal to the sum of—

"(i) 25 percent of the experience-based rate; and

"(ii) 75 percent of the applicable community rate; and

"(2) beginning with the rates for the fifth year of the FEHBP transition period, be determined on a community-by-community basis (except that nothing in this paragraph shall be considered to affect the way in

VOL 140 PT 15 AG 10 — 11 1994 UMI

which any experience-based rate, required for purposes of any computation under this section, is determined).

"(c) All computations under this section shall be made with respect to each class of enrollment available under the plan involved.

"(d)(1) Except in such cases as the Office may provide, effective for items and services furnished after the expiration of the FEHBP transition period—

"(A) health insurance coverage under a plan described by section 8903 (other than paragraph (4)) shall not be available under this chapter; and

"(B) in applying this chapter, any reference to such plans shall be disregarded.

"(2) In the case of any individual who is enrolled in a plan as of the last day of the FEHBP transition period, and who fails to elect to be covered under a plan under universal FEHBP or to decline such coverage with respect to the following year, such individual (if eligible) shall be automatically enrolled in the corresponding or most similar plan offered under universal FEHBP for the same or most similar class of enrollment, as determined under regulations prescribed by the Office."

(b) TREATMENT OF RESERVES.—For provisions relating to treatment of reserves, see section 14402.

(c) CHAPTER ANALYSIS.—The analysis for chapter 89 is amended by adding after the item relating to section 8903b (as added by section 1430) the following:

"8903c. Treatment of remaining plans.".

Subtitle D—Post-Transition Provisions

SEC. 14401. INTEGRATION OF FEHBP AND UNIVERSAL FEHBP.

(a) IN GENERAL.—Title 5, United States Code is amended by inserting after chapter 89 the following:

"CHAPTER 89A—PROVISIONS FOR THE INTEGRATION OF FEHBP AND UNIVERSAL FEHBP

"Sec.
"8931. Definitions.
"8932. Applicability.
"8933. Coverage under universal FEHBP.
"8934. Provisions relating to plans offering the guaranteed national benefit package.
"8935. Eligibility for additional benefits.
"8936. Opportunities to enroll.
"8937. Regulations.

"§ 8931. Definitions

"For the purpose of this chapter—

"(1) any term used in this chapter which is defined for purposes of chapter 89 has the meaning given such term under such chapter; and

"(2) the term 'FEHBP transition period' has the meaning given such term by section 8903b(a)(1).

"§ 8932. Applicability

"(a) IN GENERAL.—

"(1) TO WHOM THIS CHAPTER APPLIES.—This chapter applies with respect to any employee, annuitant, or other individual who (but for the enactment of the Guaranteed Health Insurance Act of 1994) would be eligible for coverage under chapter 89 (as determined under subsection (b)).

"(2) PERIODS WITH RESPECT TO WHICH THIS CHAPTER APPLIES.—This chapter applies with respect to any period of coverage (with respect to any such individual) beginning after the end of the FEHBP transition period.

"(b) DETERMINING ELIGIBILITY FOR COVERAGE UNDER CHAPTER 89.—For purposes of making any determination under subsection (a)(1) as to whether or not a particular individual would be eligible for coverage under chapter 89, the provisions of such chapter (disregarding the effect of sections 8903b and 8903c) shall be applied, except that, in applying section 8905(b), any period of coverage under universal FEHBP shall be counted as a period of coverage under chapter 89.

"§ 8933. Coverage under universal FEHBP

"(a) IN GENERAL.—An individual to whom this chapter applies is eligible, for purposes of any period with respect to which this chapter applies, for health insurance coverage under universal FEHBP, in accordance with section 5303 of the Guaranteed Health Insurance Act of 1994.

"(b) FAMILY MEMBERS.—Under rules specified by the Office of Personnel Management, any individual who would be eligible to be enrolled as a family member of another individual under chapter 89 (as determined under section 8932) shall not be disqualified from being so enrolled under universal FEHBP by reason of the way in which 'family member' is defined for purposes of universal FEHBP.

"§ 8934. Provisions relating to plans offering the guaranteed national benefit package

"(a) CONTRIBUTIONS.—The individual and Government contributions for plans offering the guaranteed national benefit package under universal FEHBP shall be governed by the provisions of section 8906, except that, in applying such provisions for purposes of this section, any reference to the weighted average under section 8906(a) shall be treated as a reference to the weighted average of the applicable premiums under universal FEHBP.

"(b) PAYMENT OF CONTRIBUTIONS.—

"(1) IN GENERAL.—Any Government contribution under this section shall be payable from the appropriation or fund from which any Government contribution on behalf of the individual would have been payable under chapter 89.

"(2) PAYMENTS FOR ANNUITANTS.—Any Government contributions under this section on behalf of an annuitant shall be paid from annual appropriations which are authorized to be made for that purpose and which may be made available until expended.

"(3) CONTINUATION OF POSTAL SERVICE RULE.—The requirement of section 8906(g)(2) shall continue to apply with respect to this section in the same manner as it applies with respect to section 8906.

"(c) ELIGIBILITY FOR PREMIUM SUBSIDIES.—An individual to whom this chapter applies who is enrolled under a health benefits plan under universal FEHBP shall be eligible for premium subsidies (referred to in section 8906(j)) to the same extent and in the same manner as would be the case under section 8906(j) with respect to an employee or other individual enrolled in a plan under chapter 89.

"§ 8935. Eligibility for additional benefits

"(a) IN GENERAL.—An individual to whom this chapter applies who is enrolled under a health benefits plan under universal FEHBP—

"(1) may enroll in any supplemental health benefit policy under section 5302(b) of the Guaranteed Health Insurance Act of 1994 for which the individual is eligible;

"(2) is eligible to be covered by a maintenance of effort policy under subsection (b); and

"(3) is entitled to be provided a contribution under subsection (c).

"(b) MAINTENANCE OF EFFORT POLICIES.—

"(1) IN GENERAL.—The Office shall provide or contract for one or more maintenance of effort policies of the type described in section 8904a(b)(1)(A) and of the type described in section 8904a(b)(1)(B).

"(2) CONSULTATION.—In developing maintenance of effort policies to be offered under this subsection, the Office—

"(A) shall meet and confer with exclusive representatives of employees through a process to be established by the National Partnership Council; and

"(B) shall consult periodically with representatives of employees (other than those described in subparagraph (A)) and of annuitants.

"(3) ADMINISTRATION.—To the extent that maintenance of effort policies are provided through carriers, section 8902 shall, with respect to the administration of this section, apply to the extent practicable. No requirement of law relating to limiting the offering of a supplemental health benefit policy shall apply to a maintenance of effort policy offered under this section.

"(c) CONTRIBUTION.—

"(1) IN GENERAL.—The Government shall pay the total enrollment charge for a maintenance of effort policy under subsection (b) in the case of any employee or annuitant for whom Government contributions are being made with respect to any health benefits plan under universal FEHBP.

"(2) PAYMENT.—Any payment under this subsection shall be made at the same time and in the same manner as if it were a Government contribution for a health benefits plan under section 8934, and shall be made from the same appropriation or fund as from which any such Government contributions would, with respect to the employee or annuitant involved, be made. In applying the previous sentence, the reference to 'Government contributions under this section' in section 8934(b)(2) shall be considered to include payments under this subsection. The requirement of section 8906(g)(2) shall continue to apply with respect to this subsection in the same manner as it applies with respect to section 8906.

"§ 8936. Opportunities to enroll

"Enrollment in plans under universal FEHBP shall be governed by section 5305(a) of the Guaranteed Health Insurance Act of 1994, except that an election opportunity may not be denied if there occurs any event or circumstance which would, if it had occurred during the last year of the FEHBP transition period, have made such an election allowable under subsection (e) or (f)(2) of section 8905.

"§ 8937. Regulations

"The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this chapter.".

(b) CLERICAL AMENDMENT.—The table of chapters of subpart G of part III of title 5, United States Code, is amended by adding after the item relating to chapter 89 the following:

"89A. Provisions for the Integration of FEHBP and Universal FEHBP 8931". .....

SEC. 14402. FINAL ACCOUNTING AND DISTRIBUTION OF CERTAIN RESERVES OF CHAPTER 89 PLANS.

(a) DEFINITIONS AND RULE OF CONSTRUCTION.—For the purpose of this section—

(1) the terms "contingency reserve" and "special reserve" are used in the same way as such terms are used in section 890.503(c) of title 5, Code of Federal Regulations, as in effect on January 1, 1994;

(2) the term "qualified health plan distributee" means an individual who was enrolled—

(A) on December 31 of the fourth year of the FEHBP transition period, in a comprehensive medical plan described in section 8903(4) of title 5, United States Code; or

(B) on December 31 of the seventh year of the FEHBP transition period, in a plan described in section 8903(1), (2), or (3) of such title;

(3) the rule of construction set forth in section 8903b(a)(2) of such title applies; and

(4) the term "FEHBP transition period" has the meaning given such term by section 8903b of such title.

(b) COMPREHENSIVE MEDICAL PLANS NO LONGER IN CHAPTER 89.—

(1) FINAL ACCOUNTING.—During the fifth year of the FEHBP transition period, the Office of Personnel Management shall perform a final accounting for the preceding calendar year for each contract with a qualified health maintenance carrier (other than an experience-rated carrier) entered into under section 8902(l) of such title (as such section was in effect during such calendar year).

(2) AVAILABILITY FOR DISTRIBUTION.—After the final accounting under paragraph (1), any balance remaining in the contingency reserve of any such plan shall be available for distribution in accordance with subsection (d).

(3) DETERMINATION OF QUALIFIED HEALTH PLAN DISTRIBUTEES.—The Office shall determine who is a qualified health plan distributee with respect to each plan subject to paragraph (1).

(c) EXPERIENCE-RATED PLANS NO LONGER IN CHAPTER 89.—

(1) FINAL ACCOUNTING.—

(A) FEE FOR SERVICE PLANS.—Except as provided in subparagraph (B), during the third year beginning after the seventh year of the FEHBP transition period, the Office shall perform a final accounting for such seventh year for each plan described by section 8903(1), (2), or (3).

(B) COMPREHENSIVE MEDICAL PLANS.—In the case of a plan described by section 8903(4) that is not subject to subsection (b), the Office shall perform a final accounting during the sixth year of the FEHBP transition period for the fourth year of such period.

(2) RECONCILIATION OF RESERVE BALANCES.—Each final accounting required by paragraph (1) shall reconcile the contingency reserves and special reserves of a plan, as follows:

(A) CLAIM AND SPECIAL RESERVES.—First, if the amounts in the reserve for incurred-but-unpaid benefit claims are—

(i) insufficient to meet incurred-but-unpaid benefit claims of a plan, such claims shall be paid from the special reserve of the plan (if available);

(ii) insufficient, in combination with any available special reserve of the plan, to meet incurred-but-unpaid benefit claims of a plan, such deficit shall be a negative addition to the plan's special reserve; or

(iii) greater than the actual incurred-but-unpaid benefit claims, any excess amount in such reserve shall be transferred to the plan's special reserve.

(B) TREATMENT OF THE SPECIAL RESERVE OF A PLAN.—Second, if the balance of the special reserve of a plan after subparagraph (A) is carried out is—

(i) greater than zero, the plan shall transfer the amount in the special reserve to the Office of Personnel Management for credit to the plan's contingency reserve; or

(ii) less than zero, the moneys in the contingency reserve of the plan shall be transferred to the special reserve in an amount that is sufficient to increase the balance of the special reserve to zero or, if less, an amount that is equal to the balance in such contingency reserve.

(C) PRE-DISTRIBUTION PAYMENTS TO PLAN SPECIAL RESERVES FROM COMBINED CONTINGENCY RESERVES.—Third, after payments from plan contingency reserves are made under subparagraph (B), remaining balances of all plan contingency reserves shall be combined, and payments shall be made from such aggregate balance (if any) to plans with negative special reserves to increase such special reserves to zero.

(D) AVAILABILITY FOR DISTRIBUTION.—Fourth, any balance remaining in the aggregate contingency reserves after subparagraph (C) is carried out shall be available for distribution in accordance with subsection (d).

(3) DETERMINATION OF QUALIFIED HEALTH PLAN DISTRIBUTEES.—The Office shall determine who is a qualified health plan distributee with respect to each plan subject to paragraph (1).

(d) DISTRIBUTION OF REMAINING CONTINGENCY RESERVES.—

(1) GENERAL RULE.—

(A) DISTRIBUTION.—Amounts available for distribution pursuant to subsections (b)(2) and (c)(2)(D) shall be distributed to the qualified health plan distributees living on the date of distribution, the United States Government, and the United States Postal Service.

(B) AMOUNTS.—Such amounts shall be distributed in sums which the Office determines, in accordance with regulations which the Office shall promulgate, to be proportional to their respective contributions to health plans (determined without regard to any collective bargaining agreement under title 39, United States Code) made during the plan year for which a final accounting is made under this section.

(C) REMAINING AMOUNTS REDISTRIBUTED TO UNITED STATES GOVERNMENT AND UNITED STATES POSTAL SERVICE.—Amounts which could not be distributed to a qualified health plan distributee under subparagraph (A) after reasonable efforts shall be redistributed to the United States Government or the United States Postal Service, as appropriate.

(2) INDIVIDUAL LIMITED TO ONE DISTRIBUTION.—An individual who is determined to be a qualified health plan distributee under both subsections (b)(3) and (c)(3) may receive only one distribution under paragraph (1)(A).

(3) TREATMENT OF MONEYS RECEIVED BY THE UNITED STATES GOVERNMENT AND THE UNITED STATES POSTAL SERVICE.—

(A) UNITED STATES GOVERNMENT.—Amounts received by the United States Government pursuant to paragraph (1) shall be deposited in a special account of the Employees Health Benefits Fund. Such amounts shall be available to be used only for purposes which benefit the health of Federal employees and annuitants, including payment for the Government-provided maintenance of effort policies required by section 8935 of title 5, United States Code, as directed by Congress.

(B) UNITED STATES POSTAL SERVICE.—Amounts received by the United States Postal Service pursuant to paragraph (1) shall be deposited in a special account in the Postal Service Fund (established by section 2003 of title 39, United States Code). Such amounts shall be available to be used only for purposes which benefit the health of employees and annuitants of the United States Postal Service, including—

(i) payment for the Government-provided maintenance of effort policies required by section 8935 of title 5, United States Code, or

(ii) contributions to the financial stability of health benefits plans established on behalf of employees and annuitants of the United States Postal Service, to be made in a manner that is proportional to the number of employees and annuitants of the United States Postal Service to whom each such plan (or its predecessor) provided health benefits on the last day of the plan's participation under chapter 89 of title 5, United States Code,

as directed by Congress.

(4) DEADLINE FOR DISTRIBUTIONS.—The distributions under paragraph (1)(A) shall be completed no later than 42 months following the end of the FEHBP transition period.

(e) MID-TRANSITION PERIOD REPORT.—Not later than December 31 of the seventh year of the FEHBP transition period, the Office shall submit a report to the Congress which shall include the projected amount to be distributed under subsection (d), as well as the proposed regulations for carrying out the distribution thereunder.

SEC. 14403. TREATMENT OF INDIVIDUALS RESIDING ABROAD.

(a) IN GENERAL.—Chapter 89 is amended by adding at the end the following:

"§ 8915. Health insurance program for individuals residing abroad

"(a)(1) The Office of Personnel Management, upon making the determination described in paragraph (2), shall by regulation establish, directly or by contract, a program under which employees, annuitants, and other individuals who (but for the enactment of the Guaranteed Health Insurance Act of 1994) would be eligible for coverage under this chapter and who, because of residence abroad or other unusual circumstances, have special needs shall be eligible for health insurance.

"(2) The determination described in this paragraph is a determination that the establishment of a health insurance program is necessary to assure that health benefits made available under this chapter are available to the individuals described in paragraph (1) because health insurance coverage would otherwise cease to be available as a result of the enactment of the Guaranteed Health Insurance Act of 1994.

"(b) To the extent practicable, terms and conditions of coverage provided to individuals under such program shall be the same as the terms and conditions of coverage which would otherwise apply under this chapter to employees.

"(c) Any Government contribution payable under such program shall be made from the appropriation or fund from which any Government contribution would have been payable under this chapter on behalf of the individual involved, except that, in the case of an annuitant, any such contribution shall be payable from amounts appropriated pursuant to section 8906(g) (or similar authority under this chapter or chapter 89A).".

(b) CHAPTER ANALYSIS.—The analysis for chapter 89 is amended by adding at the end the following:

"8915. Health insurance program for individuals residing abroad.".

Subtitle E—Miscellaneous Provisions

SEC. 14501. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) In section 1308(c), by striking "chapter 89" and inserting "chapter 89 and relevant aspects of universal FEHBP (as defined in chapter 89A)".

(2) In section 3374(b) (in the matter following paragraph (3)), by inserting "(or, instead of chapter 89, any other applicable health benefits system)" after "89 of this title".

VOL 140 PT 15 AG 10 — 11 1994 UMI

(3) In section 3582(a)(2)—

(A) by striking "89" each place it appears and inserting "89 (or 89A, as applicable)"; and

(B) by striking "Benefits Fund" and inserting "Benefits Fund (or the Universal FEHBP Health Benefits Fund)".

(4) In section 6386—

(A) by striking "chapter 89" and inserting "chapter 89 (or 89A)"; and

(B) by striking "(described in section 8909)," and inserting "described in section 8909 (or the Universal FEHBP Health Benefits Fund described in section 5306 of the Guaranteed Health Insurance Act of 1994, as the case may be),".

(b) OTHER REFERENCES TO CHAPTER 89.—Any reference in any provision of law in effect on the day before the date of the enactment of this Act, other than in a provision of law amended by subsection (a)—

(1) to coverage under chapter 89 of title 5, United States Code, shall be deemed to be a reference to coverage under chapter 89 or 89A of such title, as appropriate; and

(2) to the "Employees Health Benefits Fund" shall be deemed to be a reference to that fund or the Universal FEHBP Health Benefits Fund, as appropriate.

SEC. 14502. REPORT ON CONFORMING LEGISLATIVE CHANGES.

The Office of Personnel Management shall, by not later than 6 months after the date of the enactment of this Act, submit to Congress proposed legislation that conforms provisions of law to the amendments made by this title.

SEC. 14503. TREATMENT OF POSTAL SERVICE PLANS AS MULTIEMPLOYER PLANS.

For purposes of this Act (and laws amended by this Act), any health plan offered exclusively to employees of the United States Postal Service shall be treated as if it were a multiemployer plan (as defined in section 5102(c)(3) of this Act) in operation prior to September 1, 1993.

TITLE XV—DEPARTMENT OF VETERANS AFFAIRS

SEC. 15001. BENEFITS AND ELIGIBILITY THROUGH DEPARTMENT OF VETERANS AFFAIRS MEDICAL SYSTEM.

(a) DVA AS A PARTICIPANT IN HEALTH CARE REFORM.—

(1) IN GENERAL.—Title 38, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—ELIGIBILITY AND BENEFITS UNDER ENROLLMENT-BASED SYSTEM

"SUBCHAPTER I—GENERAL
"1801. Definitions.
"SUBCHAPTER II—ENROLLMENT
"1811. Enrollment: veterans.
"1812. Enrollment: CHAMPVA eligibles.
"1813. Enrollment: family members.
"1814. Exclusive enrollment eligibility categories.
"SUBCHAPTER III—BENEFITS
"1821. Benefits for VA enrollees.
"1822. Chapter 17 benefits.
"1823. Supplemental benefits packages and policies.
"1824. Limitation regarding veterans enrolled with health plans outside Department.
"SUBCHAPTER IV—FINANCIAL MATTERS
"1831. Premiums, copayments, etc..
"1832. Recovery of cost of certain care and services.
"1833. Health Plan Fund.
"1834. Guaranteed funding of Government costs

"SUBCHAPTER I—GENERAL

"§ 1801. Definitions

"For purposes of this chapter:

"(1) The term 'qualified health benefit plan' means an entity that is a qualified health benefit plan for purposes of the Guaranteed Health Insurance Act of 1994.

"(2) The term 'VA health plan' means a health plan that is established and operated by the Secretary under section 7341(a) of this title.

"(3) The term 'transitional VA health plan' means a VA health plan that is operated by the Secretary during the period before January 1, 1999.

"(4) The term 'GHIA-qualified VA health plan' means a VA health plan that is certified under title V of the Guaranteed Health Insurance Act of 1994 as a qualified health benefit plan for operation under such Act after December 31, 1998.

"(5) The term 'VA enrollee' means an individual enrolled under subchapter II of this chapter in a VA health plan.

"(6) The term 'guaranteed national benefit package' means the package of benefits that as of January 1, 1999, is required to be provided by a qualified health benefit plan under title III of the Guaranteed Health Insurance Act of 1994.

"SUBCHAPTER II—ENROLLMENT

"§ 1811. Enrollment: veterans

"Each veteran who is an eligible individual within the meaning of section 1001 of the Guaranteed Health Insurance Act of 1994 may enroll with a VA health plan. After December 31, 1998, a veteran who wants to receive the benefits that are included in the guaranteed national benefit package through the Department shall enroll with a VA health plan that is GHIA-qualified VA health plan.

"§ 1812. Enrollment: CHAMPVA eligibles

"(a) ELIGIBILITY.—An individual described in subsection (b) who is an eligible individual within the meaning of section 1001 of the Guaranteed Health Insurance Act of 1994 may enroll with a VA health plan.

"(b) APPLICABILITY.—This section applies to the following individuals who are not otherwise eligible for medical care under chapter 55 of title 10 (CHAMPUS):

"(1) The surviving spouse or child of a veteran who (A) died as a result of a service-connected disability, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability.

"(2) The surviving spouse or child of a person who died in the active military, naval, or air service in the line of duty and not due to such person's own misconduct.

"§ 1813. Enrollment: family members

"(a) ELIGIBILITY.—The Secretary shall authorize a VA health plan to enroll members of the family of an enrollee under section 1811 or 1812 of this title. The enrollee shall have the option of enrolling in the VA health plan as an individual or with family members, in accordance with the provisions of the Guaranteed Health Insurance Act of 1994.

"(b) ENROLLMENT ELIGIBILITY TO SURVIVE DEATH OF VETERAN.—An individual who is enrolled with a VA health plan pursuant to subsection (a) as a member of the family of a veteran enrolled under section 1811 of this title shall not lose eligibility to be enrolled with VA health plans by reason of the death of that veteran.

"(c) MEMBERS OF FAMILY.—For purposes of this section, the members of the family of an enrollee are those individuals (other than the enrollee) included within the term 'family' as defined in section 3(a) of the Guaranteed Health Insurance Act of 1994.

"§ 1814. Exclusive enrollment eligibility categories

"Eligibility of individuals for enrollment in a VA health plan shall be exclusively as provided in this subchapter.

"SUBCHAPTER III—BENEFITS

"§ 1821. Benefits for VA enrollees

"The Secretary shall ensure that each VA health plan provides to each individual enrolled with it the items and services in the guaranteed national benefit package. Such benefits are entitlements for each enrolled individual.

"§ 1822. Chapter 17 benefits

"(a) CARE AND SERVICES NOT INCLUDED IN GUARANTEED NATIONAL BENEFIT PACKAGE.—In the case of care and services that may be provided under chapter 17 of this title that are not included in the guaranteed national benefit package, the Secretary shall provide to any veteran (whether or not enrolled with a VA health plan) the care and services authorized under that chapter in accordance with the terms and conditions applicable to that veteran and that care under such chapter.

"(b) VETERANS WHO ARE NOT ELIGIBLE TO ENROLL UNDER GUARANTEED HEALTH INSURANCE ACT OF 1994.—In the case of a veteran who is not an eligible individual within the meaning of section 1001 of the Guaranteed Health Insurance Act of 1994, the Secretary shall provide to the veteran the care and services that may be provided under chapter 17 of this title through any facility of the department, whether or not the facility is operating as or within a VA health plan.

"(c) PRESERVATION OF SPECIALIZED DVA TREATMENT CAPACITIES.—In carrying out subsection (a), the Secretary shall ensure that the Department maintains the capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans (including veterans with spinal cord dysfunction, blindness, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that affords those veterans reasonable access to care and services for those specialized needs. The Secretary shall ensure that overall capacity of the Department to provide such specialized services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this chapter. Nothing in this subsection precludes the Secretary from expanding the number or type of facilities or programs that provide treatment and rehabilitation services for the specialized needs of such veterans, including provision of specialized services on an outpatient basis.

"(d) ANNUAL REPORT.—Not later than March 1 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the actions the Secretary has taken to carry out subsection (c) during the preceding fiscal year. Each such report shall include a statement of the number of veterans to whom the Department provided specialized services that are covered by the report and the expense of providing those services, and a description of the alternatives available in the private sector for the provision of those services to veterans.

"§ 1823. Supplemental benefits packages and policies

"The Secretary may offer supplemental health benefits packages consistent with the

requirements of title V of the Guaranteed Health Insurance Act of 1994. However, the Secretary may not offer a supplemental health benefits package to a veteran that provides coverage for services that the Department is required to provide to that veteran under chapter 17 of this title. To the extent that supplemental health benefits packages and supplemental cost sharing policies are offered and accepted, benefits under such packages and policies shall be entitlements for each enrolled individual.

"§ 1824. Limitation regarding veterans enrolled with health plans outside Department

"(a) REIMBURSEMENT REQUIRED.—After December 31, 1998, a veteran who is enrolled in a health plan other than a GHIA-qualified VA health plan may be provided the items and services in the guaranteed national benefit package by a VA health plan operating in that area only if (except as provided in subsection (b)) the plan is reimbursed for the cost of the care provided.

(b) EXCEPTION.—The Secretary may not impose on or collect from a veteran described in subsection (a) a cost-share charge of any kind in the case of treatment for a service-connected disability that (as determined by the Secretary) requires a specialized treatment capacity for which the Department has particular expertise.

"SUBCHAPTER IV—FINANCIAL MATTERS

"§ 1831. Premiums, copayments, etc.

"(a) EXEMPTION OF CERTAIN VETERANS.—(1) In the case of a veteran described in subsection (b) who is a VA enrollee, there may not be imposed or collected from the veteran a cost-share charge of any kind (whether a premium, copayment, deductible, coinsurance charge, or other charge) for items and services in the guaranteed national benefit package that are provided to the veteran by the Secretary within a VA plan provider network.

"(2) In the case of a veteran described in subsection (b) who is enrolled in a GHIA-qualified VA health plan and has a premium certificate issued under part A of title XXII of the Social Security Act, the Secretary may require the veteran to tender the certificate to the Secretary and the Secretary may accept the certificate.

"(3) The Secretary shall make such arrangements as necessary with the appropriate health insurance purchasing cooperative or with appropriate Federal, State, or other officials in order to carry out this subsection.

"(b) VETERANS EXEMPT FROM CHARGES.—The veterans referred to in subsection (a) are the following:

"(1) Any veteran with a service-connected disability.

"(2) Any veteran whose discharge or release from the active military, naval or air service was for a disability incurred or aggravated in the line of duty.

"(3) Any veteran who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such a veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section.

"(4) Any veteran who is a former prisoner of war.

"(5) Any veteran of the Mexican border period or World War I.

"(6) Any veteran who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(c) ESTABLISHMENT OF PREMIUM RATES.—(1) In the case of a transitional VA health plan, the Secretary shall establish premium rates for enrollees in the plan (other than for veterans described in subsection (b) and enrollees described in paragraph (3)) in accordance with regulations to be prescribed by the Secretary.

"(2) In the case of a GHIA-qualified VA health plan, premium rates (other than for veterans described in subsection (b) and enrollees described in paragraph (3)) shall be established in accordance with regulations prescribed by the Secretary of Health and Human Services under title V of the Guaranteed Health Insurance Act of 1994.

"(3) The Secretary may not collect a premium from an enrollee in the case of—

"(A) an individual who is enrolled in a VA health plan by reason of eligibility under section 1812 of this title; or

"(B) an individual who is enrolled in a VA health plan by reason of eligibility under section 1813 of this title and who is described in paragraph (1) of section 1713(a) of this title.

"(d) COST-SHARE CHARGES.—(1) In the case of a transitional VA health plan, the Secretary may establish cost-sharing charges (including copayments, deductibles, and other coinsurance amounts) for enrollees in the plan (other than for veterans described in subsection (b)) in accordance with regulations to be prescribed by the Secretary.

"(2) In the case of a GHIA-qualified VA health plan, cost-sharing charges (including copayments, deductibles, and other coinsurance amounts) for enrollees in the plan (other than for veterans described in subsection (b)) shall be established in accordance with regulations prescribed by the Secretary of Health and Human Services under title V of the Guaranteed Health Insurance Act of 1994.

"(3) The Secretary may not charge or collect a copayment, deductible, or other coinsurance amount in the case of care for any disease covered under section 1710(e)(1) of this title.

"§ 1832. Recovery of cost of certain care and services

"(a) RECOVERY FROM THIRD PARTIES.—In the case of an individual provided care or services through a VA health plan who is covered under a supplemental health insurance policy under the Guaranteed Health Insurance Act of 1994, a Medicare supplemental health insurance plan (as defined in the Guaranteed Health Insurance Act of 1994), or any other plan or policy designed to supplement health insurance coverage, the Secretary has the right to recover or collect charges for care or services (as determined by the Secretary, but not including care or services for a service-connected disability) from the party providing that coverage to the extent that the individual (or the provider of the care or services) would be eligible to receive payment for such care or services from such party if the care or services had not been furnished by a department or agency of the United States.

"(b) PROCEDURES.—The provisions of subsections (b) through (f) of section 1729 of this title shall apply with respect to claims by the United States under subsection (a) in the same manner as they apply to claims under subsection (a) of that section.

"§ 1833. Health Plan Fund

"(a) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury a revolving fund to be known as the 'Department of Veterans Affairs Health Plan Fund'.

"(b) CREDITING OF AMOUNTS TO FUND.—There shall be credited to the revolving fund any amount received by the Department by reason of the furnishing of health care by a VA health plan and any amount received by the Department by reason of the enrollment of an individual with a VA health plan (including amounts received as premiums, premium discount payments, copayments or coinsurance, and deductibles), any amount received as a third-party reimbursement, and any amount received as a reimbursement from another health plan for care furnished to one of its enrollees.

"(c) CREDITING TO TREASURY.—Any amounts deposited to the revolving fund that are attributable to amounts received by the Department as a premium by reason of the enrollment with a VA health plan of a veteran described in section 1831(b) of this title shall be covered into the General Fund of the Treasury.

"(d) AVAILABILITY OF FUNDS.—Amounts in the revolving fund are hereby authorized to be appropriated for all expenses, both direct and indirect, related to the delivery by a VA health plan of the items and services in the guaranteed national benefit package and any supplemental benefits package or policy offered by the Secretary. The appropriations authorized by this subsection shall be considered mandatory appropriations for all purposes, including for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of 1974.

"§ 1834. Guaranteed funding of Government costs

"(a) REQUIRED DEPOSITS FROM TREASURY.—The Secretary of the Treasury shall deposit into the Department of Veterans Affairs Health Plan Fund on the first day of each fiscal year quarter, from amounts not otherwise appropriated, the amount certified to the Secretary under subsection (b) with respect to the fiscal year quarter beginning on that date.

"(b) CERTIFICATION OF AMOUNT.—Not later than 30 days before the beginning of each fiscal year quarter, the Secretary of Veterans Affairs shall certify to the Secretary of the Treasury the amount determined for that quarter under subsection (c).

"(c) DETERMINATION OF AMOUNT.—(1) The amount to be certified to the Secretary of the Treasury under subsection (b) for any fiscal year quarter is the product of—

"(A) the projected number of VA enrollees described in section 1831(b) of this title as of the beginning of that fiscal year quarter, and

"(B) the capitated enrollment amount for that fiscal year determined under subsection (d).

"(2) The Secretary shall adjust future certifications under this subsection to take account of—

"(A) differences between the actual number of veterans described in section 1831(b) of this title enrolled for a fiscal year quarter and the projected number used in the certification for that quarter pursuant to paragraph (1); and

"(B) any information that the Secretary finds would produce a more accurate capitated enrollment amount by enabling the Secretary to estimate more accurately the costs that the Department will incur during the period covered by any such certification in providing those services that are specified to be included in the guaranteed national benefit package.

"(d) CAPITATED ENROLLMENT AMOUNT.—(1) The Secretary shall determine the capitated enrollment amount for purposes of subsection (c). The initial capitated enrollment

VOL 140 PT 15 AG 10 — 11 1994 UMI

amount shall be determined as the amount equal to—

"(A) the annual full cost (as defined in OMB Circular A–25, issued on July 8, 1993) that has been incurred by the Department in providing those services that are specified to be included in the guaranteed national benefit package, based upon the most recent cost data available as of the time of the determination, adjusted for inflation to the date of the determination based upon the medical care consumer price index calculated by the Bureau of Labor Statistics, divided by

"(B) the total number of veterans described in section 1831(b) of this title who received those services.

"(2) The Secretary shall include in the total annual cost for purposes of paragraph (1)(A) the amount appropriated for fiscal year 1994 for medical and prosthetic research by the Veterans Health Administration.

"(3) The Secretary shall develop the methodology for determining the initial capitated enrollment amount under paragraph (1) in consultation with the Comptroller General of the United States. If the Comptroller General disagrees with the methodology proposed to be used by the Secretary, the Comptroller General shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives. The determination of that amount shall be made not later than June 1, 1995.

"(4) The initial capitated enrollment amount, as adjusted annually for inflation based upon the medical care consumer price index calculated by the Bureau of Labor Statistics, shall apply through the fifth fiscal year during which the Secretary operates a GHIA-qualified VA health plan.

"(5)(A) Not later than the end of the third fiscal year during which the Secretary operates a GHIA-qualified VA health plan, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on what actions, if any, would be necessary in order for the Department to change the annual capitated enrollment amount by the end of the fifth such year from the initial amount determined under paragraph (1) to an amount determined using the method described in subparagraph (B), or to amounts determined using some other methodology, without a reduction in quality of care.

"(B) The method for determining the annual capitated enrollment amount for purposes of the study under this paragraph is to determine the average premium that would be payable under the Guaranteed Health Insurance Act of 1994 for individuals enrolled in health plans other than a GHIA-qualified VA health plans which have enrollment populations with disproportionate numbers of persons with similar demographic and patient-risk characteristics to the population of VA enrollees.".

(2) CLERICAL AMENDMENT.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, are amended by inserting after the item relating to chapter 17 the following new item:

"18. Eligibility and Benefits Under Enrollment-Based System ..... 1801".

(b) PRESERVATION OF EXISTING BENEFITS FOR FACILITIES NOT OPERATING AS HEALTH PLANS.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new section:

"§ 1705. Facilities not operating within health plans; veterans not eligible to enroll in health plans

"The provisions of this chapter shall apply with respect to the furnishing of care and services—

"(1) by any facility of the Department that (A) is not operating as or within a GHIA-qualified VA health plan, and (B) is not located in a State (or portion of a State) that is described in section 7342(a) of this title; and

"(2) by any facility of the Department (whether or not operating as or within a GHIA-qualified VA health plan) in the case of a veteran who is not an eligible individual with the meaning of section 1001 of the Guaranteed Health Insurance Act of 1994.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1704 the following new item:

"1705. Facilities not operating within health plans; veterans not eligible to enroll in health plans.".

SEC. 15002. ORGANIZATION OF DEPARTMENT OF VETERANS AFFAIRS FACILITIES AS HEALTH PLANS.

(a) IN GENERAL.—Chapter 73 of title 38, United States Code, is amended—

(1) by redesignating subchapter IV as subchapter V; and

(2) by inserting after subchapter III the following new subchapter:

"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM

"§ 7341. Organization of health care facilities as health plans

"(a)(1) The Secretary shall organize health plans and operate Department facilities as or within such health plans. The Secretary shall establish standards for the organization and operation of Department health care facilities as or within health plans.

"(2) Health plans organized and operated by the Secretary shall be known as 'VA health plans'. Such plans shall be known during the period before January 1, 1999, as 'transitional VA health plans'.

"(3) With respect to the operation of such plans after December 31, 1998, standards established under paragraph (1) shall be consistent with the regulations prescribed by the Secretary of Health and Human Services pursuant to title V of the Guaranteed Health Insurance Act of 1994.

"(4) The Secretary shall seek to ensure that each health plan organized by the Secretary before January 1, 1999, is certified as a qualified health benefit plan under title V of the Guaranteed Health Insurance Act of 1994, as provided in subsection (b).

"(5) The Secretary may not operate a VA health plan after December 31, 1998, unless the plan is certified as provided in subsection (b).

"(b)(1) A health plan established under subsection (a) may be certified as a qualified health benefit plan for purposes of the Guaranteed Health Insurance Act of 1994 in accordance with regulations prescribed by the Secretary of Health and Human Services pursuant to title V of the Guaranteed Health Insurance Act of 1994.

"(2) A health plan established by the Secretary under subsection (a) that is certified as provided in paragraph (2) may be referred to as a 'GHIA-qualified VA health plan'.

"(c) Within a geographic area or region, health care facilities of the Department located within that area or region may be organized to operate as a single health plan encompassing all Department facilities within that area or region or may be organized to operate as several health plans.

"(d) The Secretary shall ensure that each health plan established by the Secretary that is certified as a qualified health benefit plan under title V of the Guaranteed Health Insurance Act of 1994 is operated (except as specifically otherwise provided in chapter 18 of this title or in this subchapter) in accordance with the provisions of the Guaranteed Health Insurance Act of 1994 (and the amendments made by the Guaranteed Health Insurance Act of 1994).

"(e)(1) In establishing and operating health plans, the Secretary (in consultation with the Comptroller General) shall take appropriate steps to ensure the financial solvency and stability of each VA health plan and of contractors and subcontractors providing services pursuant to section 7343 of this title.

"(2) In carrying out paragraph (1), the Secretary may purchase from commercial sources insurance to insure the United States against the financial risks involved in the operation of any VA health plan.

"§ 7342. Operation of health care facilities within States operating single payer programs or pure managed competition programs

"(a) In a State (or portion of a State) that under the Guaranteed Health Insurance Act of 1994 is operating as a single payer program or that uses a pure managed competition program, the Secretary shall seek to achieve the maximum participation of Department health care facilities or GHIA-qualified VA health plans, as the case may be, in that State (or portion of a State) that is permitted under applicable provisions of law.

"(b) To the extent that the Secretary determines that applicable provisions of law do not permit adequate participation by GHIA-qualified VA health plans or Department health care facilities in such a State (or portion of a State), the Secretary shall submit to Congress a report containing such legislative recommendations as the Secretary considers appropriate. Any such report shall be prepared in coordination with the Secretary of Health and Human Services.

"§ 7343. Health care resource agreements

"(a)(1) In accordance with policies established under subsection (b), an official specified in paragraph (2) may, without regard to any law or regulation specified in paragraph (3), enter into agreements with health care plans, with insurers, and with health care providers, and with any other entity or individual, to furnish or obtain any health-care resource.

"(2) An official specified in this paragraph is any of the following:

"(A) The head of a VA health plan.

"(B) The director of a Department health care facility that is operating as or within a VA health plan.

"(C) The director of a Department health care facility that is operating in a State (or portion of a State) that is described in section 7342(a) of this title.

"(3) A law or regulation specified in this paragraph is any of the following:

"(A) Section 1703 of this title.

"(B) Any other law or regulation pertaining to—

"(i) competitive procedures;

"(ii) acquisition procedures or policies (other than contract dispute settlement procedures); or

"(iii) bid protests.

"(4) For purposes of this subsection, the term 'health-care resource' has the meaning given that term in section 8152 of this title.

"(b) Policies established by the Secretary under subsection (a) shall include appropriate provisions to ensure that procurements under that subsection are carried out in a manner consistent with (1) Federal acquisition policies regarding nondiscrimination, equal opportunity, business integrity, and safeguarding against fraud and abuse, and (2) the goal of a streamlined process for the acquisition of health-care resources.

"(c) Any proceeds to the Government received from an agreement under subsection (a) shall be credited to the Department of Veterans Affairs Health Plan Fund established under section 1834 of this title and to funds that have been allotted to the facility that furnished the resource involved.

"§ 7344. Administrative and personnel flexibility

"(a) In order to carry out this subchapter, the Secretary may—

"(1) subject to section 1822(c) of this title, carry out administrative reorganizations of the Department without regard to those provisions of section 510 of this title following subsection (a) of that section; and

"(2) when the Secretary finds it is cost-effective or necessary in order to provide health care services in a timely manner—

"(A) enter into contracts for procurement of any commercially available item at a cost of under $100,000 without regard to any provision of law or regulation (i) requiring competitive procedures; (ii) mandating or giving priority to any source of supply; or (iii) pertaining to protests; and

"(B) enter into contracts without regard to section 8110(c) of this title for the performance of services previously performed by employees of the Department.

"(b)(1) Whenever the Secretary considers such action necessary for the operation of a VA health plan, the Secretary may establish alternative personnel systems or procedures for personnel at facilities operating as or within VA health plans or for personnel at facilities operating in a State (or portion of a State) that is described in section 7342(a) of this title, except that the Secretary shall provide for preference eligibles (as defined in section 2108 of title 5) in a manner comparable to the preference for such eligibles under subchapter I of chapter 33, and subchapter I of chapter 35, of such title.

"(2) In establishing alternative personnel systems or procedures under this subsection, the Secretary shall include the following:

"(A) A system that ensures that applicants for employment and employees are appointed, promoted, and assigned on the basis of merit and fitness.

"(B) An equal employment opportunity program.

"(C) Compensation systems which will be used to set rates of pay that are competitive with rates of pay paid by health-care providers other than the Department and that take into consideration the difficulty, responsibility, and qualification requirements of the work performed.

"(D) A formal performance appraisal system.

"(E) A system to address unacceptable conduct and performance by employees, including a general statement of violations, sanctions, and procedures which shall be made known to all employees, and a dispute resolution procedure.

"(F) A formal policy regarding the accrual and use of sick leave and annual leave.

"(c) The Secretary may carry out appropriate promotional, advertising, and marketing activities to inform individuals of the availability of facilities of the Department operating as or within VA health plans.

"§ 7345. Veterans Health Care Transition Fund

"(a) For each of fiscal years 1995, 1996, and 1997, the Secretary of the Treasury shall credit to a special fund (in this section referred to as the 'Fund') of the Treasury an amount equal to—

"(1) $1,250,000,000 for fiscal year 1995;

"(2) $850,000,000 for fiscal year 1996; and

"(3) $1,950,000,000 for fiscal year 1997.

"(b) Amounts in the Fund shall be available to the Secretary only for the VA health plans authorized under this chapter. Such amounts are available without fiscal year limitation for costs of commencing operation of VA health plans, including consulting services, equipment, marketing, and other costs, minor construction, and (subject to section 8104 of this title) major construction.

"(c) The Secretary shall submit to Congress, no later than March 1, 1997, a report concerning the operation of the Department of Veterans Affairs health care system during fiscal years 1995 and 1996 in preparing for commencement of operations as VA health plans. The report shall include a discussion of—

"(1) the adequacy of amounts in the Fund for the operation of VA health plans;

"(2) the quality of care provided by such plans;

"(3) the ability of such plans to attract patients; and

"(4) the need (if any) for additional funds for the Fund in fiscal years after fiscal year 1997.

"§ 7346. Funding provisions: grants and other sources of assistance

"The Secretary may apply for and accept, if awarded, any grant or other source of funding that is intended to meet the needs of special populations if funds obtained through the grant or other source of funding will be used through a facility of the Department operating as or within a health plan.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by striking out the item relating to the heading for subchapter IV and inserting in lieu thereof the following:

"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM

"7341. Organization of health care facilities as health plans.

"7342. Operation of health care facilities within States operating single payer programs or pure managed competition programs.

"7343. Health care resource agreements.

"7344. Administrative and personnel flexibility.

"7345. Veterans Health Care Transition Fund.

"7346. Funding provisions: grants and other sources of assistance.

"SUBCHAPTER V—RESEARCH CORPORATIONS".

SEC. 15003. ELIGIBILITY FOR CHAPTER 17 CARE.

(a) NURSING HOME CARE.—Section 1710(a)(1) of title 38, United States Code, is amended by inserting "(or, in the case of a veteran described in subparagraph (A) or (D) below, shall furnish nursing home care)" after "may furnish nursing home care".

(b) OUTPATIENT CARE FOR ENROLLED VETERANS.—Paragraph (1) of section 1712(a) of such title is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(E) to any veteran described in section 1831(b) of this title who is enrolled under section 1811 of this title and the Guaranteed Health Insurance Act of 1994 with a VA health plan (as defined in section 1801 of this title), for any disability to the extent that care and treatment of that disability is not included within the guaranteed national benefit package (as defined in section 1801 of this title);".

(c) OBVIATE-THE-NEED OUTPATIENT CARE.—(1) Paragraph (2) of such section is amended by striking out "The Secretary" and all that follows through "this subsection—" and inserting in lieu thereof "Except as provided in subsection (b) of this section, the Secretary shall furnish on an ambulatory or outpatient basis such medical services as the Secretary determines are needed—".

(2) Paragraph (4) of such section is amended by striking out "medical services for a purpose described in paragraph (5) of this subsection" and inserting in lieu thereof ", to the extent that facilities are available, such medical services as the Secretary determines are needed".

(3) Such section is further amended—

(A) by striking out paragraph (5); and

(B) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(d) CONFORMING AMENDMENTS.—(1) Section 1701(6)(A)(i) of such title is amended by striking out "(except under the conditions described in section 1712(a)(5)(A) of this title)".

(2) Section 1701(6)(B)(i)(II) of such title is amended by striking "section 1712(a)(5)(B)" and inserting in lieu thereof "section 1712".

(3) Section 1703(a)(2)(B) of such title is amended by striking out "for a purpose described in section 1712(a)(5)(B) of this title" and inserting in lieu thereof "to complete treatment incident to hospital, nursing home, or domiciliary care that has been provided by the Department".

(4) Section 1712A(b)(1) of such title is amended by striking out "section 1712(a)(5)(B)" and inserting in lieu thereof "section 1703(a)(2)(B)".

SEC. 15004. AUTHORITY TO PROVIDE HEALTH CARE FOR HERBICIDE AND RADIATION EXPOSURE.

(a) AUTHORIZED INPATIENT CARE.—Section 1710(e) of title 38, United States Code, is amended to read as follows:

"(e)(1)(A) Subject to paragraph (4), a herbicide-exposed veteran is eligible for hospital care and nursing home care under subsection (a)(1)(G) for any disease specified in subparagraph (B).

"(B) The diseases referred to in subparagraph (A) are those for which the National Academy of Sciences, in a report issued in accordance with section 2 of the Agent Orange Act of 1991, has determined—

"(i) that there is sufficient evidence to conclude that there is a positive association between occurrence of the disease in humans and exposure to a herbicide agent;

"(ii) that there is evidence which is suggestive of an association between occurrence of the disease in humans and exposure to a herbicide agent, but such evidence is limited in nature; or

"(iii) that available studies are insufficient to permit a conclusion about the presence or absence of an association between occurrence of the disease in humans and exposure to a herbicide agent.

"(2) A radiation-exposed veteran is eligible for hospital care and nursing home care under subsection (a)(1)(G) for—

"(A) any disease listed in section 1112(c)(2) of this title; and

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(B) any other disease for which the Secretary, based on the advice of the Advisory Committee on Environmental Hazards, determines that there is credible evidence of a positive association between occurrence of the disease in humans and exposure to ionizing radiation.

"(3) Subject to paragraph (4), a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability which becomes manifest before October 1, 1996, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

"(4) Hospital and nursing home care may not be provided under or by virtue of paragraph (1) after September 30, 1996, or, in the case of a veteran described in paragraph (3), after September 30, 1998.

"(5) For purposes of this subsection and section 1712 of this title—

"(A) the term 'herbicide-exposed veteran' means a veteran (i) who served on active duty in the Republic of Vietnam during the Vietnam era, and (ii) who the Secretary finds may have been exposed during such service to a herbicide agent;

"(B) the term 'herbicide agent' has the meaning given that term in section 1116(a)(4) of this title; and

"(C) the term 'radiation-exposed veteran' has the meaning given that term in section 1112(c)(4) of this title.".

(b) AUTHORIZED OUTPATIENT CARE.—Section 1712 of such title is amended—

(1) in subsection (a)(1) (as amended by section 15003(b)), by adding at the end the following:

"(F) during the period before October 1, 1996, to any herbicide-exposed veteran for any disease listed in section 1710(e)(1)(B) of this title; and

"(G) to any radiation-exposed veteran for any disease covered under section 1710(e)(1)(C) of this title."; and

(2) in subsection (i)(3)—

(A) by striking out "(A)"; and

(B) by striking out ", or (B)" and all that follows through "title".

(c) SAVINGS PROVISION.—The provisions of sections 1710(e) and 1712(a) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall apply with respect to hospital care, nursing home care, and medical services in the case of any veteran furnished care or services before such date of enactment on the basis of presumed exposure to a substance or radiation under the authority of those provisions.

SEC. 15005. EXTENSION OF AUTHORITY TO PROVIDE PRIORITY OUTPATIENT HEALTH CARE FOR EXPOSURE TO ENVIRONMENTAL HAZARDS.

Section 1712(a)(1)(D) of title 38, United States Code, is amended by striking out "December 31, 1994, for any disability" and inserting in lieu thereof "October 1, 1998, for any disability which becomes manifest before October 1, 1996,".

SEC. 15006. CONFIDENTIALITY OF MEDICAL RECORDS.

Subsection (a) of section 5701 of title 38, United States Code, is amended to read as follows:

"(a)(1) Except for medical records protected by the Guaranteed Health Insurance Act of 1994, records described in paragraph (2) shall be confidential and privileged, and no disclosure of such records shall be made except as provided in this section.

"(2) Paragraph (1) applies to the following records in the possession of the Department:

"(A) All records pertaining to any claim under the laws administered by the Secretary.

"(B) All records of the names and addresses of present or former members of the Armed Forces, and their dependents, contained in records pertaining to any such claim or derived from records pertaining to any such claim.

"(3) For purposes of this paragraph, the term 'records' includes files, reports, and other papers and documents.".

SEC. 15007. REPORT ON WAIVING COST-SHARING FOR CERTAIN MEDICAL CARE FOR DEPENDENTS OF PERSIAN GULF VETERANS WHO MAY HAVE BEEN EXPOSED TO ENVIRONMENTAL HAZARDS.

(a) REPORT.—The Secretary of Veterans Affairs shall submit to Congress a report on the desirability and the feasibility of waiving any requirement for cost-sharing in the case of medical care described in subsection (b) that is provided by a VA health plan under chapter 18 of title 38, United States Code (as added by section 15001), to an individual who is a VA enrollee enrolled under family-member eligibility under section 1813 of that chapter.

(b) PERSIAN GULF WAR ILLNESS.—Medical care referred to in subsection (a) is medical care provided to a family member of a veteran described in subparagraph (C) of section 1710(e)(1) of title 38, United States Code, for any disease or disability occurring in that family member which the Secretary finds may be related to the service of the veteran in the Southwest Asia theater of operations during the Persian Gulf War.

(c) MATTERS TO BE CONSIDERED.—In preparing the report under subsection (a), the Secretary shall consider relevant studies, including those that have been (or that are being) conducted by the Department of Veterans Affairs, the Department of Defense, the National Institutes of Health, the National Academy of Sciences, and private health care providers.

(d) SUBMISSION OF REPORT.—The report under subsection (a) shall be submitted not later than 60 days after the date of the enactment of this Act.

SEC. 15008. STUDY OF THE EFFECT OF TELEMEDICINE ON THE DELIVERY OF VA HEALTH CARE SERVICES.

(a) IN GENERAL.—During each of fiscal years 1995 through 1997, the Secretary of Veterans Affairs shall carry out a study of the effect of telemedicine on the delivery, accessibility, and quality of health care services available to individuals who are eligible for enrollment in a Department of Veterans Affairs health care plan.

(b) REPORTS.—Not later than 120 days after the date of the enactment of this Act and annually thereafter through 1998, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report, including descriptions of the telemedicine applications benefiting veterans, relating to the study conducted under subsection (a).

(c) CONSULTATION.—Each study under subsection (a) shall be carried out in consultation with the Secretary of Health and Human Services, the Secretary of Defense, the Chair of the White House Information Infrastructure Task Force, and the Director of High Performance Computing and Communications in the Executive Office of the President.

SEC. 15009. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS.

(a) REDUCTION IN LIMITS.—To reflect the change in certain veterans' health activities from discretionary to mandatory, the spending limits for the discretionary category set forth in section 601(a)(2) of the Congressional Budget Act of 1974 (as adjusted in conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985) are hereby reduced as follows:

(1) for fiscal year 1996, $2,170,000,000 in new budget authority and in outlays;

(2) for fiscal year 1997, $6,020,000,000 in new budget authority and in outlays; and

(3) for fiscal year 1998, $15,650,000,000 in new budget authority and in outlays.

(b) DEFICIT REDUCTION INCLUDED ON PAY-AS-YOU-GO SCORECARD.—The reduction in the discretionary outlay limits under subsection (a) shall be considered a reduction in pay-as-you-go outlays for purposes of estimates made for this Act under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (in addition to any other pay-as-you-go amount estimated for purposes of that section as a result of the enactment of this Act).

SEC. 15010. EFFECTIVE DATES.

(a) CHAPTER 18.—The provisions of chapter 18 of title 38, United States Code, as added by section 15001, shall take effect on October 1, 1996.

(b) CHAPTER 17 ELIGIBILITY REFORM.—The amendments made by section 15003 shall take effect on October 1, 1996.

(c) ADMINISTRATIVE MATTERS.—The provisions of sections 7343 and 7344 of title 38, United States Code, as added by 15002(a), shall take effect on the date of the enactment of this Act.

(d) EARLY ENROLLMENT.—The Secretary of Veterans Affairs may commence enrollment under chapter 18 of title 38, United States Code, as added by section 15001, and otherwise carry out activities related to preparation for the conduct of health care activities in the form of health plans effective as of the date of the enactment of this Act.

TITLE XVI—INDIAN HEALTH SERVICE

SEC. 16001. POLICY.

Section 3(a) of the Indian Health Care Improvement Act (25 U.S.C. 1602(a)) is amended to read as follows:

"(a) The Congress hereby declares that it is the policy of this Nation, in fulfillment of its unique trust responsibility and legal obligation to the American Indian and Alaska Native people—

"(1) to assure the highest possible health status for American Indians and Alaska Natives,

"(2) to raise the quality of health care delivery to American Indians and Alaska Natives to the highest possible level,

"(3) to provide health care services in a culturally appropriate manner which is consistent with the policies of Indian self-determination and tribal self-governance, and

"(4) to provide all resources necessary to effect paragraphs (1) through (3).".

SEC. 16002. HEALTH SECURITY FOR INDIANS.

The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended by adding at the end the following new title:

"TITLE IX—HEALTH SECURITY FOR INDIANS

"SEC. 901. DEFINITIONS.

"For the purposes of this title:

"(1) GUARANTEED NATIONAL BENEFIT PACKAGE.—The term 'guaranteed national benefit package' has the meaning given such term in section 2(5) of the Guaranteed Health Insurance Act of 1994.

"(2) HEALTH PROGRAM OF THE SERVICE.—The term 'health program of the Service' means a facility or plan which provides or arranges for the provision of health services through one or more programs operated by the Service, by a health program of an Indian tribe, or by an urban Indian program operated pursuant to title V.

"(3) HEALTH PROGRAM OF AN INDIAN TRIBE.—The term 'health program of an Indian tribe' means a program which provides or arranges for the provision of health services and is operated by an Indian tribe, tribal organization, or group of Indian tribes or tribal organizations.

"(4) FAMILY.—The term 'family' has the meaning given such term in section 3 of the Guaranteed Health Insurance Act of 1994.

"(5) CERTIFIED HEALTH PLAN.—The term 'certified health plan' has the meaning given such term in section 2(2) of the Guaranteed Health Insurance Act of 1994.

"SEC. 902. ELIGIBILITY AND HEALTH SERVICE COVERAGE OF INDIANS.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—An eligible individual (as defined in section 1001(c) of the Guaranteed Health Insurance Act of 1994) is eligible to enroll in a health program of the Service if the individual is—

"(A) eligible to receive services pursuant to sections 36.1—36.14 of title 42, Code of Federal Regulations (1986);

"(B) an urban Indian; or

"(C) an Indian described in section 809(b).

"(2) ELECTION TO ENROLL OTHER TRIBAL MEMBERS.—In addition to those individuals made eligible to enroll in a health program of the Service under paragraph (1), a tribe, which operates a health program directly or through a tribal organization, may elect to offer enrollment in a health program of the Service to members of the tribe, regardless of their residency or domicile.

"(b) ENROLLMENT.—

"(1) AUTOMATIC ENROLLMENT IN HEALTH PROGRAM OF THE SERVICE.—The Service shall enroll an individual described in subsection (a)(1) in the health program of the Service in which the individual was last an active user unless the individual elects to enroll in—

"(A) another certified health plan,

"(B) another health program of the Service, or

"(C) medicare part C program (established under title XXI of the Social Security Act).

"(2) ELECTIVE ENROLLMENT IN HEALTH PROGRAM OF THE SERVICE.—The Service shall permit an individual described in subsection (a) who is not an active user to enroll in a health program of the Service.

"(3) CONSTRUCTION.—Nothing in paragraph (1) shall prevent an individual referred to in such paragraph from disenrolling from the health plan of the Service in order to enroll in another certified health plan or to become a medicare part C eligible individual.

"(c) LIMITATION ON CHARGES.—An individual who is eligible under subsection (a) and who enrolls in a health program of the Service shall not be subject to any charge for health insurance premiums, deductibles, copayments, coinsurance, or any other cost for health services provided under such program.

"SEC. 903. PROVISION OF HEALTH SERVICES TO NON-ENROLLEES AND NON-INDIANS.

"(a) PROVISION OF HEALTH SERVICES TO NON-INDIAN FAMILY MEMBERS OF INDIANS.—

"(1) IN GENERAL.—A health program of the Service may provide health services to family members of individuals described in section 902(a) if the tribe, tribes, or urban Indian organization served by the program authorizes the provision of services to such family members.

"(2) ENROLLMENT IN A HEALTH PROGRAM OF THE SERVICE.—

"(A) ELECTION.—If a health program of the Service opens enrollment pursuant to paragraph (1) to family members of individuals described in section 902(a), such program shall permit such individuals to elect family enrollment in such program.

"(B) ENROLLMENT.—

"(i) IN GENERAL.—An individual who elects family enrollment under subparagraph (A) in a health program of the Service shall enroll in such program.

"(ii) APPLICABLE INDIVIDUAL CHARGES.—The individual who enrolls in such program under clause (i) is not subject to any charge for health insurance premiums, deductibles, copayments, coinsurance, or any other cost for health services provided under such program attributable to the individual, but the family members who are not eligible for a health program of the Service under section 902(a) are subject to all such charges.

(b) CONTRACTS WITH CERTIFIED HEALTH PLANS.—A health program of the Service may enter into a contract with a certified health plan that is not a health program of the Service for the provision of health care services to individuals enrolled in such certified health plan if the tribe, tribes, or urban Indian organization served by the health program of the Service—

"(1) authorizes serving non-Indians, and

"(2) determines that allowing such services to non-Indians will not result in a denial or diminution of health services to any individual described in section 902(a) who is enrolled in a health program of the Service.

"(c) PROVISION OF HEALTH SERVICES AS AN ESSENTIAL COMMUNITY PROVIDER.—A health program of the Service may elect to provide services as an essential community provider under section 5012 of the Guaranteed Health Insurance Act of 1994 if the authorization and determination specified in paragraphs (1) and (2) of subsection (b) are made.

"(d) PROVISION OF HEALTH SERVICES AS A CERTIFIED HEALTH PLAN.—A health program of the Service may elect to offer the guaranteed national benefit package to individuals not described in subsection (a) of this section or section 902(a), or as a certified health plan under title V of the Guaranteed Health Insurance Act of 1994, if the authorization and determination specified in paragraphs (1) and (2) of subsection (b) are made.

"(e) PROVISION OF HEALTH SERVICES AS A PROGRAM OTHER THAN A CERTIFIED HEALTH PLAN OR AN ESSENTIAL COMMUNITY PROVIDER.—A health program of the Service that is not a certified health plan under title V of the Guaranteed Health Insurance Act of 1994 may provide health services to individuals who are not described in subsection (a) of this section or section 902(a) if the authorization and determination specified in paragraphs (1) and (2) of subsection (b) are made.

"SEC. 904. PROVISION OF GUARANTEED NATIONAL BENEFIT PACKAGE.

"Effective January 1, 1999, the Secretary shall ensure that all health programs of the Service provide or arrange for the provision of the guaranteed national benefit package to individuals described in section 902(a).

"SEC. 905. ADMINISTRATIVE PROVISIONS.

"(a) REIMBURSEMENT FOR SERVICES PROVIDED TO INDIANS ENROLLED IN OTHER HEALTH PROGRAMS OF THE SERVICE.—A health program of the Service shall reimburse another health program of the Service for services provided to its enrollees in accordance with such reimbursement provisions as the Secretary determines to be appropriate.

"(b) RETENTION OF RECEIPTS.—

"(1) IN GENERAL.—Amounts received by a health program of the Service pursuant to this title, the Guaranteed Health Insurance Act of 1994, or an amendment made by the Guaranteed Health Insurance Act of 1994 for the delivery of health services shall remain with and may be expended by the health program of the Service.

"(2) AVAILABILITY OF FUNDS FOR EXPENDITURE BY A HEALTH PROGRAM OF THE SERVICE.—Amounts available to a health program of the Service pursuant to this subsection shall be available without further appropriation and shall remain available until expended, first for payments for the delivery of the items and services in the guaranteed national benefit package and then for other services offered by the health program of the Service, including supplemental Indian health care benefits described in section 905(g).

"(c) RISK SHARING.—

"(1) AGGREGATION OF RECEIPTS.—Health programs of the Service may aggregate fund receipts (including from contracts and subcontracts) for the purposes of retaining risk on a partial or full risk basis.

"(2) REINSURANCE POOLS.—The Secretary may establish reinsurance pools on a local, regional, or national basis—

"(A) for health programs of the Service operated by the Service,

"(B) for health programs of an Indian tribe or an urban Indian organization, at the request of the tribe, tribes, tribal organization, or urban Indian organizations concerned, or

"(C) any combination thereof, if authorized by the tribe, tribes, tribal organization, or urban Indian organizations concerned.

"(d) PAYMENT FOR SERVICES PROVIDED BY CONTRACTORS.—Nothing in this title, the Guaranteed Health Insurance Act of 1994, or an amendment made by the Guaranteed Health Insurance Act of 1994 shall be construed as—

"(1) affecting any other provision of law, regulation, or judicial or administrative interpretation of law or policy concerning the status of the Service as the payor of last resort (as defined in part 36 of title 42, Code of Federal Regulations) for Indians eligible for contract health services under a health program of the Service; or

"(2) amending or modifying section 206 of this Act (relating to reimbursement from certain third parties of costs of health services).

"(e) HEALTH PROFESSIONAL SERVICES.—With respect to any individual enrolled in a health program of the Service, in applying the guaranteed national benefit package the term 'health professional services' includes health services provided by a traditional Indian healer.

"(f) DISPOSITION OF SUBSIDIES AND EMPLOYER PREMIUMS TRANSFERRED FROM THE SECRETARY OF THE TREASURY.—With respect to amounts paid to the Secretary under section 2124(c)(2)(C) of the Social Security Act, the Secretary shall promptly provide for the appropriate distribution of such amounts to such health programs of the Service as provide services to employees and family members with respect to which such payments are made. The Secretary may not offset or limit the amount of funds obligated to any health program of the Service because of receipt of funds under this section.

"(g) FACILITATION OF APPLICATION FOR PREMIUM CERTIFICATES.—The Service shall take such actions as may be necessary to facilitate the application for premium certificates under part A of title XXII of the Social Security Act by individuals described in section 902(a).

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(b) SUPPLEMENTAL INDIAN HEALTH CARE BENEFITS.—All individuals described in section 902(a) remain eligible for all services provided under the laws administered by the Service which supplement the guaranteed national benefit package. The individual shall not be subject to any charge or any other cost for such benefits.

"(i) MEDICAL RESIDENCY TRAINING PROGRAMS.—Consistent with the provisions of subtitle A of title VII of the Guaranteed Health Insurance Act of 1994, the Secretary shall develop training sites for medical residency training programs in primary care in health programs of the Service.

"SEC. 906. LONG-TERM CARE FOR HOME AND COMMUNITY-BASED SERVICES.

"(a) DISTRIBUTION OF SET-ASIDE FOR HOME AND COMMUNITY-BASED SERVICES TO CERTAIN INDIVIDUALS.—The Service shall provide for the fair and equitable distribution of funds received under section 10006(c) of the Guaranteed Health Insurance Act of 1994 to Indian tribes and tribal organizations for the provision of home and community-based services to individuals described in section 902(a) and enrolled family members under section 903(a) of this title with severe disabilities (as defined in section 10002 of the Guaranteed Health Insurance Act of 1994).

"(b) FEDERAL QUALITY STANDARDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an Indian tribe or tribal organization may receive funds under subsection (a) if the tribe or tribal organization meets the quality standards prescribed by the Secretary under title X of the Guaranteed Health Insurance Act of 1994 for the provision of home and community-based services for individuals with severe disabilities.

"(2) EXCEPTION.—No Indian or family member of an Indian served through a health program of the Service shall be required to participate in cost sharing for services provided under this section.

"SEC. 907. CAPITAL INVESTMENT AND TRANSITIONAL ASSISTANCE.

"(a) CAPITAL FINANCING.—

"(1) ESTABLISHMENT OF PROGRAM.—There is established in the Service a revolving loan program. Under the program, the Secretary, acting through the Service, shall provide guaranteed loans from the amounts appropriated pursuant to paragraph (5) to health programs of an Indian tribe and urban Indian organizations.

"(2) USE OF FUNDS.—Loans made under paragraph (1) may be used for the construction and renovation of hospitals, health centers, health stations, and other facilities of the Service, tribes, tribal organizations, and urban Indian organizations for the purpose of improving and expanding such facilities to enable the delivery of the full array of items and services guaranteed in the guaranteed national benefit package.

"(3) TERMS AND CONDITIONS.—Guaranteed loans under paragraph (1) shall be subject to such terms and conditions as the Secretary may prescribe, to assure that funds are used in a manner consistent with paragraph (2).

"(4) ELIGIBILITY FOR OTHER FUNDING.—Receipt of a guaranteed loan under paragraph (1) shall not prevent such health programs from obtaining loans or loan guarantees pursuant to section 2802(a)(2)(A) of the Public Health Service Act.

"(5) AGGREGATE CAPITAL FINANCING FUNDING LEVELS.—For purposes of paragraph (1), there is authorized to be appropriated $500,000,000 for each of the fiscal years 1995 through 1997.

"(b) TRANSITIONAL ASSISTANCE.—

"(1) IN GENERAL.—There is authorized to be appropriated $200,000,000 for each of the fiscal years 1995 through 2000 to provide transitional assistance to the Service and to Indian tribes, tribal organizations, and urban Indian organizations to provide the guaranteed national benefit package.

"(2) GRANTS TO TRIBES AND TRIBAL ORGANIZATIONS.—Subject to the availability of appropriations under paragraph (1), the Service shall make grants to assist Indian tribes, tribal organizations, and urban Indian organizations, under such terms and conditions as the Secretary determines, in developing the capacity (including the establishment of computerized information and billing systems) to deliver or arrange for the delivery of services under the guaranteed national benefit package.

"SEC. 908. TREATMENT OF INDIANS ENTITLED TO VETERANS BENEFITS.

"(a) IN GENERAL.—In the case of an individual described in section 902(a) who is enrolled in a health program of the Service and is a veteran who receives items and services in the guaranteed national benefit package through the Secretary of Veterans' Affairs, the Service shall not be required to provide reimbursement to such Secretary for such items and services.

"(b) COOPERATIVE AGREEMENTS.—The Secretary shall enter into a cooperative service and payment agreement with the Secretary of Veterans' Affairs to assure that veterans who are described in section 902(a) and also eligible for enrollment in a health plan operated by the Department of Veterans' Affairs are entitled to fully participate in either health plan without payment premiums, copayments, deductibles, or coinsurance.

"(c) SURVEY OF HEALTH SERVICES AVAILABLE TO INDIAN VETERANS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Veterans Affairs, Indian tribes and tribal organizations, shall conduct a survey to assess the availability and accessibility of health care services for Indian veterans residing on Indian reservations.

"(2) REPORT.—Not later than 180 days after the date of enactment of this title, the Secretary shall submit a report to the Congress, including recommendations, concerning the survey conducted under paragraph (1).".

SEC. 16003. TREATMENT OF PAYMENTS UNDER MEDICARE AND MEDICAID PROGRAMS.

(a) HEALTH CARE FACILITIES.—

(1) MEDICARE.—Section 401(a) of the Indian Health Care Improvement Act (25 U.S.C. 1641) is amended by striking "facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act)" and inserting "of a health program of the Service (as defined in section 901(2))".

(2) MEDICAID.—Section 402 of the Indian Health Care Improvement Act (25 U.S.C. 1642) is amended—

(A) in the first sentence of subsection (a)—

(i) by striking "facility of the Service" and inserting "health program of the Service (as defined in section 901(2))"; and

(ii) by striking "such Service" and inserting "such health programs of the Service";

(B) in the second sentence of subsection (a), by striking "the facilities of the Service" and inserting "such health programs of the Service"; and

(C) in subsection (b), by striking "such facility" and inserting "such health program of the Service".

SEC. 16004. ANNUAL CONSULTATION CONCERNING HEALTH CARE INITIATIVES.

Title VI of the Indian Health Care Improvement Act (25 U.S.C. 1661 et seq.) is amended—

(1) redesignating section 603 as section 604; and

(2) by inserting after section 602 the following:

"ANNUAL CONSULTATION AND NATIONAL INDIAN HEALTH ADVISORY GROUP

"SEC. 603. (a) The Secretary shall consult annually with representatives of Indian tribes, tribal organizations, and urban Indian organizations concerning health care initiatives that affect Indian communities and concerning policy, funding, and administration of health programs of the Service (as defined in section 901(2)). The Secretary shall solicit and consider the views and recommendations provided by Indian tribes, tribal organizations, and urban Indian organizations in making determinations that affect Indians and Indian tribes.

"(b)(1) The Secretary shall establish a national Indian advisory group to assess and advise the Secretary on all aspects of the administration of health programs of the Service (as defined in section 901(2)), including development of the budget for such programs.

"(2) The advisory group shall be composed of not less than one representative from each Service area, to be appointed by the Secretary from nominees of tribes and tribal organizations in the respective areas and such other appointees as the Secretary determines appropriate, except that a majority of the members must have been nominated by a tribe or tribal organization.

"(3) The advisory group shall submit such reports as may be necessary to the Congress.".

SEC. 16005. PREEMPTION OF STATE REGULATORY AUTHORITY.

A State (or an entity of a State) may not impose any standard or requirement on a health program of the Service (as defined in section 901(2) of the Indian Health Care Improvement Act) that is inconsistent with this Act or any regulation prescribed under this Act or the Indian Health Care Improvement Act regarding the operation of any such health program of the Service.

SEC. 16006. RULES OF CONSTRUCTION.

Unless otherwise provided by this Act or an amendment made by this Act, no part of this Act or any such amendment shall be construed to rescind or otherwise modify any obligations, findings, or purposes contained in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) and in the Indian Self-Determination and Education Assistance Act.

SEC. 16007. PROHIBITION ON REDUCTIONS OF FULL-TIME EQUIVALENT POSITIONS IN THE INDIAN HEALTH SERVICE.

(a) PROHIBITION.—Notwithstanding any other provision of law and until January 1, 1999, no reduction may be made in the number of full-time equivalent positions in the Indian Health Service from the number of such positions on September 30, 1994.

(b) EXEMPTION.—During the period that the prohibition specified in subsection (a) is effective, no restriction imposed by law on hiring by executive agencies for the purpose of achieving workforce reductions shall apply to the Indian Health Service, including section 5 of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 3101 note).

(c) RULE OF CONSTRUCTION.—No law may be construed as suspending or modifying this section unless such law specifically refers to or amends this section.

TITLE XVII—MEDICAL MALPRACTICE AND ANTITRUST REFORMS

Subtitle A—Medical Malpractice

PART 1—LIABILITY REFORM

SEC. 17001. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM.—The term "alternative dispute resolution system" means a system that provides for the resolution of medical malpractice claims in a manner other than through medical malpractice liability actions.

(2) ARBITRATION.—The term "arbitration" means a nonjury, adversarial dispute resolution process that may result in a final decision as to fact, law, liability, or damages.

(3) CLAIMANT.—The term "claimant" means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(4) CONTINGENCY FEE.—The term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

(5) FUTURE DAMAGES.—The term "future damages" means damages for economic or noneconomic loss incurred after the time of judgment.

(6) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(7) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(8) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice liability action or a medical malpractice claim.

(9) MANDATORY.—The term "mandatory" means required to be used by the parties to attempt to resolve a medical malpractice claim notwithstanding any other provision of an agreement, State law, or Federal law.

(10) MEDIATION.—The term "mediation" means a settlement process coordinated by a neutral third party and without the ultimate rendering of a formal opinion as to factual or legal findings.

(11) MEDICAL MALPRACTICE CLAIM.—The term "medical malpractice claim" means a claim against a health care provider, a health care professional, or a blood or tissue bank licensed or registered by the Food and Drug Administration in which a claimant alleges that injury was caused by the provision of (or the failure to provide) health care services, except that such term does not include—

(A) any claim based on an allegation of an intentional tort;

(B) any claim based on an allegation that a product is defective or unreasonably dangerous, or fails to contain an adequate warning; or

(C) any claim brought pursuant to subtitle D of title IX.

(12) MEDICAL MALPRACTICE LIABILITY ACTION.—The term "medical malpractice liability action" means a civil action brought in a State or Federal court against a health care provider, a health care professional, or a blood or tissue bank licensed or registered by the Food and Drug Administration in which the plaintiff alleges a medical malpractice claim.

SEC. 17002. FEDERAL TORT REFORM.

(a) IN GENERAL.—Except as provided in section 17003, this part shall apply with respect to any medical malpractice liability action brought in any State or Federal court, except that this part shall not apply to a claim or action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the claim or action.

(b) PREEMPTION.—The provisions of this part shall preempt any State law to the extent such law is inconsistent with such provisions.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this part shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this part shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 17003. ALTERNATIVE DISPUTE RESOLUTION METHODS.

(a) APPLICATION TO MALPRACTICE CLAIMS.—In any medical malpractice liability action, the alternative dis te resolution systems adopted under subsection (b) shall be available to the claimant. Participation in any of such systems shall be in lieu of any alternative dispute resolution method required by any other law or by any contractual arrangement made by or on behalf of the parties before the commencement of the action.

(b) STATE ADOPTION OF ALTERNATIVE DISPUTE RESOLUTION METHODS—Each State shall—

(1) adopt at least one of the alternative dispute resolution methods specified under subsection (c) for the resolution, subject to subsection (d), of medical malpractice claims;

(2) disclose to residents of the State the availability and procedures for resolution of consumer grievances regarding the provision of (or failure to provide) health care services, including the alternative dispute resolution methods applicable under paragraph (1); and

(3) provide that the alternative dispute resolution process may begin before or after, at the option of the claimant, the commencement of a medical malpractice liability action.

(c) SPECIFICATION OF PERMISSIBLE ALTERNATIVE DISPUTE RESOLUTION METHODS.—

(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall, by regulation, develop requirements with respect to the following alternative dispute resolution methods for the adoption by States:

(A) MANDATORY MEDIATION.—Mandatory mediation conducted by one or more mediators who are selected by agreement of the parties or, if the parties do not agree, who are qualified under applicable State law and selected by the court.

(B) ARBITRATION.—Arbitration entered into by agreement of the parties.

(2) STANDARDS FOR ESTABLISHING METHODS.—In developing alternative dispute resolution methods under paragraph (1), the Attorney General, in consultation with the Secretary, shall ensure that the methods promote the resolution of medical malpractice claims in a manner that—

(A) is affordable for the parties involved;

(B) encourages timely resolution of claims;

(C) encourages the consistent and fair resolution of claims;

(D) provides for reasonably convenient access to dispute resolution; and

(E) in the case of arbitration, provides rules for limiting the use of experts, for expediting discovery, and for waiving applicable rules of evidence.

(d) FURTHER REDRESS AND ADMISSIBILITY.—Any party dissatisfied with a determination reached with respect to a medical malpractice claim as a result of an alternative dispute resolution method applied under this section shall not be bound by such determination. The results of any alternative dispute resolution method applied under this section, and all statements, offers, and communications that originate during the application of such method, shall be inadmissible for purposes of adjudicating the claim.

SEC. 17004. REQUIREMENT FOR AFFIDAVIT OF MERIT.

(a) REQUIRING SUBMISSION WITH COMPLAINT.—No medical malpractice liability action may be brought by any individual unless, at the time the individual brings the action (except as provided in subsection (b)(1)), the individual (or the individual's attorney) submits an affidavit declaring that—

(1) the individual (or the individual's attorney) has consulted and reviewed the facts of the action with a qualified specialist;

(2) the individual (or the individual's attorney) has obtained a written report by a qualified specialist that clearly identifies the individual and that includes the specialist's statement of belief that, based on a review of the available medical record and other relevant material, there is a reasonable and meritorious cause for the filing of the action against the defendant; and

(3) on the basis of the qualified specialist's review and consultation, that the individual (or the individual's attorney) has concluded that there is a reasonable and meritorious cause for the filing of the action.

(b) EXTENSION IN CERTAIN INSTANCES.—

(1) IN GENERAL.—Subject to paragraph (2), subsection (a) shall not apply with respect to an individual who brings a medical malpractice liability action without submitting an affidavit described in such subsection if—

(A) the individual is unable to obtain the affidavit before the expiration of the applicable statute of limitations;

(B) as of the time the individual brings the action, the individual has been unable to obtain adequate medical records or other information necessary to prepare the affidavit; or

(C) other good cause exists for failing to submit the affidavit.

(2) DEADLINE FOR SUBMISSION WHERE EXTENSION APPLIES.—In the case of an individual who brings an action for which paragraph (1) applies, the action shall be dismissed unless the individual (or the individual's attorney) submits the affidavit described in subsection (a) not later than—

VOL
140
PT
15
AG
10
—
11
1994
UMI

(A) in the case of an action for which subparagraph (A) of paragraph (1) applies, 90 days after bringing the action;

(B) in the case of an action for which subparagraph (B) of paragraph (1) applies, 90 days after obtaining the information described in such subparagraph; or

(C) in the case of an action for which subparagraph (C) of paragraph (1) applies, 90 days after the good cause involved ceases to exist.

(c) QUALIFIED SPECIALIST DEFINED.—In subsection (a), a "qualified specialist" means, with respect to a medical malpractice liability action, a health care professional who is reasonably believed by the individual bringing the action (or the individual's attorney)—

(1) to be knowledgeable in the relevant issues involved in the action, and

(2) to practice (or to have practiced) or to teach (or to have taught) in the same, or a substantially similar, area of health care or medicine that is at issue in the action.

(d) SANCTIONS FOR SUBMITTING FALSE ALLEGATIONS.—Upon the motion of any party or its own initiative, the court in a medical malpractice liability action may impose a sanction on a party or the party's attorney (or both), including a requirement that the party reimburse the other party to the action for costs and a reasonable attorney's fee, if an affidavit described in subsection (a) is submitted without reasonable cause and is found to be untrue.

(e) CONFIDENTIALITY OF SPECIALIST.—Upon a showing of good cause by a defendant, the court may ascertain the identity of a specialist referred to in subsection (a) while preserving confidentiality.

SEC. 17005. LIMITATION ON AMOUNT OF ATTORNEYS' CONTINGENCY FEES.

(a) IN GENERAL.—

(1) AUTHORITY TO ENTER INTO CONTINGENCY FEE AGREEMENTS.—Notwithstanding any State law, an individual who intends to bring a medical malpractice liability action and an attorney may enter into an agreement for the payment of—

(A) a fee, on a contingency fee basis for services in connection with the resolution of the action, up to 33⅓ percent of the total amount recovered (exclusive of costs) by judgment or settlement; and

(B) an additional reasonable fee, subject to the approval of the court, for services in connection with any appeal of a judgment in the action.

(2) EXCLUSION OF OTHER FEES.—An attorney who represents, on a contingency fee basis, a plaintiff in a medical malpractice liability action may not charge, demand, receive, or collect for services rendered in connection with the action any fee in excess of the maximum fee payable under paragraph (1).

(b) CALCULATION IN CASE OF PERIODIC PAYMENTS.—For purposes of computing under subsection (a) the limitation on contingency fees, the value of future damages recovered in a judgment or settlement and to be paid on a periodic basis shall be based on the present value of such payments calculated according to an appropriate discount rate. The balance of the judgment or settlement shall then be paid in accordance with the schedule determined under section 17006.

SEC. 17006. PERIODIC PAYMENT OF AWARDS.

(a) AUTHORITY TO PERMIT PERIODIC PAYMENTS.—The court may instruct the trier of fact to find, or may otherwise order that, part or all of future damages that exceed $250,000 be paid on an appropriate periodic basis. The court shall ensure that the amount and present value of periodic payments constitute full recovery of the damages awarded for the claimant's injury and that the payment schedule is found to be in the best interests of all the parties to the action.

(b) BOND OR SECURITY FOR FUTURE DAMAGES.—If future damages are awarded on a periodic basis, the court shall require the defendant to post security or a bond, or otherwise ensure the full payment of such damages.

(c) MODIFICATION OF PAYMENT SCHEDULE.—Except where the parties agree otherwise, in a medical malpractice liability action, the court shall retain authority to modify, on the basis of changed circumstances, the payment schedule of any periodic payments of future damages awarded in the action.

(d) DEATH OF PLAINTIFF.—Except where the parties agree otherwise, if a plaintiff to whom future damages are awarded in a medical malpractice liability action and made payable on a periodic basis dies before completion of the payment of such damages, the court shall order the payment of any remaining portion of such damages be paid to the estate of the plaintiff.

PART 2—OTHER PROVISIONS RELATING TO MEDICAL MALPRACTICE LIABILITY

SEC. 17011. PILOT PROGRAM APPLYING PRACTICE GUIDELINES TO MEDICAL MALPRACTICE LIABILITY ACTIONS.

(a) ESTABLISHMENT.—Not later than 1 year after the Secretary determines that appropriate practice guidelines are available (including clinical practice guidelines developed under title IX of the Public Health Service Act) and were developed with the input of health care providers, legal professionals, and consumer representatives, the Secretary, in consultation with the Attorney General, shall establish a pilot program under which the Secretary shall provide funds (in such amount as the Secretary considers appropriate) to one or more eligible States to determine the effect of applying practice guidelines in the resolution of medical malpractice liability actions.

(b) ELIGIBILITY OF STATE.—A State is eligible to participate in the pilot program established under subsection (a) if the State submits an application to the Secretary (at such time and in such form as the Secretary may require) containing—

(1) assurances that, under the law of the State, in the resolution of any medical malpractice liability action based on conduct addressed by an appropriate practice guideline, that—

(A) compliance with the guideline shall be admissible by any party in a medical malpractice liability action and shall be sufficient to establish a rebuttable presumption that there is no liability for medical malpractice for conduct that is within the scope of the guideline; and

(B) noncompliance with the guideline shall be admissible by any party in a medical malpractice liability action and shall be sufficient to establish a rebuttable presumption that there is liability for medical malpractice for conduct that is within the scope of the guideline; and

(2) such other information and assurances as the Secretary may require.

(c) SELECTION OF PARTICIPATING STATES.—In selecting a State to participate in the pilot project established under subsection (a), the Secretary shall determine whether the practice guideline described in the application submitted under subsection (b)—

(1) is appropriate for purposes of resolving medical malpractice liability actions based on conduct addressed by such guideline; and

(2) was developed with the input of health care providers, legal professionals, and consumer representatives.

(d) REPORTS TO CONGRESS.—Not later than 3 months after the last day of each year throughout which the pilot program established under subsection (a) is in effect, the Secretary shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report describing the operation of the program during the previous year and containing such recommendations as the Secretary considers appropriate, including recommendations relating to revisions to the laws governing medical malpractice liability.

SEC. 17012. FEDERAL STUDY ON MEDICAL MALPRACTICE.

(a) STUDY.—In order to improve the level of empirical data on the incidence and effect of medical malpractice in the United States, the Secretary, in consultation with the Attorney General, shall carry out a nationwide interdisciplinary study of medical malpractice, including an evaluation of—

(1) the incidence of injuries resulting from medical treatment and the percentage of such injuries that resulted from the medical malpractice by a health care provider or health care professional;

(2) the costs of medical expenses and lost wages to the victims of medical malpractice and their families, and their compensation for such losses under current law;

(3) the costs of legal expenses associated with medical malpractice liability actions, including attorneys' fees that are not paid on a contingency fee basis;

(4) the number of medical malpractice claims brought and their impact on the legal system;

(5) methods to reduce the incidence and costs of medical malpractice;

(6) the cost of medical malpractice insurance and methods for reducing such cost; and

(7) methods to promote the efficient and fair resolution of legal claims stemming from the incidence of medical malpractice, including methods of resolving small medical malpractice claims in a more efficient and less costly basis.

(b) REPORT TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report describing the results of the evaluation required by subsection (a).

Subtitle B—McCarran-Ferguson Reform

SEC. 17101. SHORT TITLE.

This subtitle may be cited as the "Insurance Competitive Pricing Act of 1994".

SEC. 17102. RULES OF CONSTRUCTION.

The amendments made by this subtitle preserve—

(1) the provisions relating to State taxing and regulatory authority in section 2 of the Act of March 9, 1945 (59 Stat. 34; 15 U.S.C. 1012), commonly known as the McCarran-Ferguson Act;

(2) the availability, to persons engaged in the business of insurance, of the defense of State action in the same manner and to the same extent as such defense is available to other persons;

(3) the availability, to persons engaged in the business of insurance, of any antitrust immunity or defense that may be applicable under law other than the McCarran-Ferguson Act;

(4) the legal standards applicable under the McCarran-Ferguson Act, as in effect before such Act is amended by this subtitle, to all

conduct described in the safe harbors found in subparagraphs (B), (C), (D), and (E) of section 2(b)(1) of the McCarran-Ferguson Act, as amended by this subtitle; and

(5) the provisions relating to boycott, coercion, or intimidation in section 3(b) of the McCarran-Ferguson Act.

SEC. 17103. AMENDMENTS.

Section 2 of the Act of March 9, 1945 (59 Stat. 34; 15 U.S.C. 1012), commonly known as the McCarran-Ferguson Act, is amended—

(1) in subsection (b)—

(A) by striking ": *Provided*," and all that follows through "law." and inserting the following:

"except as follows:

"(1)(A) The antitrust laws shall be applicable to the business of insurance except as provided in subparagraphs (B), (C), (D), and (E).

"(B) The antitrust laws shall not be applicable to conduct that consists of making an agreement or engaging in joint conduct—

"(i)(I) to collect, compile, classify, or disseminate historical data;

"(II) to develop procedures to collect, compile, classify, or disseminate historical data; or

"(III) to verify that historical data is accurate and complete;

"(ii) to determine, using standard actuarial techniques, or disseminate, a loss development factor or developed losses;

"(iii) to develop or disseminate a standard insurance policy form (including a standard addendum to an insurance policy form and standard terminology in an insurance policy form) if such agreement or joint conduct does not include an agreement to adhere to such standard form, or to require adherence to such standard form, except that the fact that 2 or more persons engaged in the business of insurance use such standard form—

"(I) shall not be sufficient in itself to support a finding that an agreement to adhere, or to require adherence, to such standard form exists; and

"(II) may be used only for the purpose of supplementing or explaining direct evidence of the existence of an agreement to adhere, or to require adherence, to such standard form;

"(iv) to develop or disseminate, for use in providing insurance in a State, a manual that is filed, before dissemination, with the State entity that regulates the business of insurance under State law, if such manual includes only—

"(I) information and conduct described in clauses (i), (ii), and (iii), including relativity factors;

"(II) during the transition period, a trend factor or information to which a trend factor has been applied, to the extent permitted under subparagraph (C); and

"(III) explanations and instructions for using the manual (or any of the information contained in the manual), if such agreement or joint conduct does not include an agreement among competitors to adhere, or to require adherence, to any of such explanations or instructions;

"(v) to provide insurance pursuant to a public necessity market mechanism;

"(vi) to provide insurance as a historical underwriting capacity risk pool;

"(vii) to administer a public necessity market mechanism in a State, pursuant to the authorization of and under the supervision of such State, if all persons who provide insurance in such State pursuant to such mechanism, and all persons seeking to obtain insurance through such mechanism, have a reasonable opportunity to appeal determinations affecting them to a governmental entity;

"(viii) to develop or participate in a program to inspect commercial buildings and fire protection facilities, and evaluate government building code requirements and enforcement of such requirements, to determine the likelihood and potential extent of loss due to fire, wind, hail, earthquake, flood, or tidal wave, pursuant to a State law that provides procedures for making such a determination and provides a reasonable opportunity for an affected person to appeal such a determination to a governmental entity; or

"(ix) to develop or participate in a program, pursuant to a workers' compensation insurance plan filed with the State entity that regulates the business of insurance under State law, to measure an employer's experience with respect to occupational accidents and illnesses for which such employer is liable, against the comparable experience of other employers, and to make a modification for an individual employer based on such comparisons, if an affected employer has a reasonable opportunity to appeal a determination under such program to a governmental entity;

to the extent that such conduct is regulated by State law.

"(C) During the transition period, the antitrust laws shall not be applicable to conduct that consists of making an agreement or engaging in joint conduct to determine or disseminate a trend factor, to the extent that such conduct is regulated by State law.

"(D) The antitrust laws shall not be applicable to conduct by a director, officer, or employee of a national trade association representing insurance agents, or of a State trade association representing insurance agents that is affiliated with such national trade association, acting within the scope of the authority vested in such director, officer, or employee by the trade association involved, that consists of preparing, disseminating, or discussing a report or comment (including describing, evaluating, and suggesting possible responses for members of the association whose directors, officers, or employees prepared such report or such comment to consider) with respect to any insurer practice affecting the relationship between insurers and insurance agents, if—

"(i) such report or such comment includes a conspicuous statement that each insurance agent is expected to make his or her own decision regarding matters contained in such report or such comment and that anticompetitive agreements among insurance agents with respect to any response to such practice are illegal under the antitrust laws;

"(ii) such conduct does not involve—

"(I) monitoring or policing the extent to which any insurance agent follows, or pressuring any insurance agent to follow, any of such responses;

"(II) initiating any communication (including a mailing, association publication, or association meeting) with any member of any such association with respect to such report or such comment (including any of such responses), other than by a means designed to reach all members, or all directors and officers, of such association;

"(III) referring to any of such responses in any discussion unless the discussion emphasizes that each insurance agent is expected to make his or her own decision regarding matters contained in such report or such comment and that anticompetitive agreements among insurance agents with respect to any response to such practice are illegal under the antitrust laws; or

"(IV) the formal endorsement of such report or such comment (including any of such responses) by any part of the membership of any such association, other than a statement that dissemination of such report or such comment has been approved by the directors or officers of the association whose directors, officers, or employees prepared such report or such comment; and

"(iii) the number of directors and officers of any such association who are involved in preparing, disseminating, or discussing such report or such comment (including any of such responses) does not substantially exceed the number of directors and officers of such association serving on April 30, 1994;

and if the business of insurance is regulated by State law.

"(E) The antitrust laws shall not be applicable to conduct of an insurance agent that is a member of an association referred to in subparagraph (D) that consists of independently initiating a communication, in an issue of a regularly scheduled association publication or at a regularly scheduled association meeting, to members of a local trade association representing insurance agents of which such agent is a member, that describes or summarizes all or part of the contents of a report or comment described in such subparagraph provided to such agent by such association described in such subsection and that is made only by a means designed to reach all such members, if—

"(i) such conduct does not involve—

"(I) monitoring or policing the extent to which any insurance agent follows, or pressuring any insurance agent to follow, any of the possible responses contained in such report or such comment;

"(II) referring to any of such responses unless the references emphasizes that each insurance agent is expected to make his or her own decision regarding matters contained in such report or such comment and that anticompetitive agreements among insurance agents with respect to any response to an insurance practice discussed in such report or such comment are illegal under the antitrust laws; or

"(III) the formal endorsement of such report or such comment (including any of such responses); and

"(III) the formal endorsement of such report or such comment (including any of such responses); and

"(ii) the primary purpose of such meeting, or of such issue of such publication, is not the discussion of such report or such comment (including any of such responses);

and if the business of insurance is regulated by State law.

"(2) Subsequent to the transition period, the independent purchase of a trend factor by a person engaged in the business of insurance from a person not engaged in providing insurance (and not affiliated with a person engaged in providing insurance) shall be presumed not to violate the antitrust laws.

"(3) The Federal Trade Commission Act shall be applicable to the business of insurance to the extent that such business is not regulated by State law, except that, with respect to enforcement of the antitrust laws, section 17105 of such Act shall be applicable to the business of insurance to the same extent as the other antitrust laws.", and

(2) by adding at the end the following:

"(c) For purposes of subsection (b)—

"(1) the term 'antitrust laws' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) as such section 5 applies to conduct that constitutes a violation of the Sherman Act or the Clayton Act;

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(2) the term 'developed losses' means aggregate paid losses and aggregate reserves held for received claims, as adjusted by a loss development factor;

"(3) the term 'historical underwriting capacity risk pool' means an underwriting capacity risk pool established prior to April 30, 1994—

"(A) the purpose of which is to provide insurance for a commercial risk relating to—

"(i) an airport, aviation, or aerospace activity;

"(ii) a large commercial or industrial property (including machinery, boilers, and pressure vessels);

"(iii) a grain elevator or feed mill;

"(iv) an oil, gas, or chemical peril;

"(v) the construction or operation of a nuclear energy facility;

"(vi) an inland marine peril or an ocean marine enterprise;

"(vii) a natural disaster;

"(viii) an occupational accident or illness;

"(ix) transportation of currency, mail, securities, bullion, or other valuables by a person with fiduciary responsibility for their safe transport;

"(x) foreign commercial activities undertaken in cooperation with the United States Export-Import Bank; or

"(xi) a war, rebellion, riot, or similar civil commotion;

"(B) whose conduct has not materially changed from the conduct described in accordance with subparagraph (C)(ii) in which such pool—

"(i) was authorized to engage under its charter, bylaws, or other documents of organization or governance filed in accordance with subparagraph (C)(iii); and

"(ii) did engage as so authorized;

prior to April 30, 1994; and

"(C) that, before the effective date of the Insurance Competitive Pricing Act of 1994, filed with the Attorney General of the United States, in accordance with such rules as the Attorney General may have issued, a notification—

"(i) disclosing the identities of the members of such pool on April 30, 1994;

"(ii) describing the nature and scope of the activities of such pool, and the lines of insurance in which such pool was engaged, prior to April 30, 1994; and

"(iii) containing the charter, bylaws, and other documents of organization or governance of such pool in effect on or before April 30, 1994;

"(4) the term 'historical data' means information respecting—

"(A) losses paid by, claims received by, reserves for such claims set aside by, or units of exposure to loss in insurance policies sold by any person engaged in the business of insurance; or

"(B) insurance premiums received by any person engaged in the business of insurance, if such information is not disseminated in a form from which information respecting premiums received by any separately identifiable person engaged in the business of insurance may be derived;

"(5) the term 'insurance agent' means a person that is—

"(A) engaged as an independent contractor in the business of selling insurance;

"(B) licensed under the law of a State as an insurance agent or insurance broker; and

"(C) neither an insurer in any State in which such person is so engaged, nor an employee of an insurer;

"(6) the term 'insurance policy' means a contract under which insurance is sold to an insured;

"(7) the term 'insurer' means a person that is—

"(A) engaged in the business of providing insurance; and

"(B) obligated to pay losses under the insurance policies under which it provides insurance;

"(8) the term 'loss' means an amount paid or to be paid by a person engaged in the business of insurance to (or for the benefit of) a claimant to satisfy a claim on an insurance policy, and includes any attorney, investigatory, or litigation expenses that are separately incurred, identified, and allocated by such person with respect to that particular claim;

"(9) the term 'loss development factor' means an adjustment to be made to the aggregate of losses incurred during a prior period of time that have been paid or for which claims have been received and reserves are being held, in order to estimate the aggregate of the losses incurred during such period that will ultimately be paid;

"(10) the term 'loss incurred' means a loss for which the event has occurred that ultimately gives rise to liability on a claim on an insurance policy, without regard to whether a claim based on such event has been received;

"(11) the term 'public necessity market mechanism' means a plan established by State law or by the State entity that regulates the business of insurance under State law—

"(A) for providing a type of insurance in a State;

"(B) in which the persons providing such type of insurance pursuant to such mechanism represent a substantial number of the persons engaged in the business of providing such type of insurance in such State and are either required by State law, or formally requested or ordered by such State entity to participate;

"(C) the purpose of which is to make such type of insurance available to persons who would not otherwise be able to obtain such type of insurance at affordable cost; and

"(D) in which the rate for such type of insurance is subject to the approval or disapproval of such State;

"(12) the term 'relativity factor' means a ratio comparing one classification of historical data to another such classification, or comparing developed losses in one such classification to developed losses in another such classification;

"(13) the term 'transition period' means the 2-year period beginning on the effective date of the Insurance Competitive Pricing Act of 1994;

"(14) the term 'trend factor' means an adjustment to be made to developed losses in order to account for any change that is anticipated to affect losses; and

"(15) the term 'underwriting capacity risk pool' means a business arrangement or association—

"(A) whose members consist of 2 or more persons engaged in the business of insurance; and

"(B) that operates for the purpose of providing insurance under which the liability for paying losses is spread among such members.".

SEC. 17104. PUBLICATION AND AVAILABILITY OF HISTORICAL UNDERWRITING CAPACITY RISK POOL NOTIFICATIONS.

The Attorney General shall, not later than 30 days after receiving a notification filed in accordance with section 2(c)(3)(C) of the Act of March 9, 1945 (59 Stat. 34; 15 U.S.C. 1012), commonly known as the McCarran-Ferguson Act—

(1) publish in the Federal Register—

(A) a summary of such notification; and

(B) notice that such notification is available to the public; and

(2) make such notification available to the public.

SEC. 17105. BUSINESS REVIEW.

If a person engaged in the business of insurance submits a written request to the Attorney General in accordance with section 50.6 of title 28 of the Code of Federal Regulations (July 1, 1992), as amended from time to time, for a business review letter with respect to the application of the antitrust laws to specified activities of an underwriting capacity risk pool (as defined in section 2(c)(15) of the Act of March 9, 1945, commonly known as the McCarran-Ferguson Act) of which such person is, or intends to become, a member, then the Attorney General shall issue such letter in accordance with such section.

SEC. 17106. STUDY AND REPORT.

(a) STUDY.—During the 5-year period beginning on the effective date of this Act, the Attorney General shall conduct a study to determine the effect of this subtitle, and the amendments made by this subtitle, on the business of insurance.

(b) REPORT.—Not later than 1 year after the expiration of the 5-year period referred to in subsection (a), the Attorney General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report summarizing the results of the study required by subsection (a).

SEC. 17107. EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this subtitle shall take effect 1 year after the date of the enactment of this Act.

(b) EFFECTIVE DATE OF SECTIONS 17104 AND 17105.—Sections 17104 and 17105 shall take effect on the date of the enactment of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BE OFFERED BY REPRESENTATIVE SAM JOHNSON OF TEXAS

Strike out all after the enacting clause and insert in lieu thereof the text of H.R. 4840 (as introduced).

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BE OFFERED BY REPRESENTATIVE MCDERMOTT OF WASHINGTON

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Health Security Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ESTABLISHMENT OF A STATE-BASED AMERICAN HEALTH SECURITY PROGRAM; UNIVERSAL ENTITLEMENT; ENROLLMENT

Sec. 101. Establishment of a State-based American Health Security Program.
Sec. 102. Universal entitlement.
Sec. 103. Enrollment.
Sec. 104. Portability of benefits.
Sec. 105. Effective date of benefits.
Sec. 106. Relationship to existing Federal health programs.

TITLE II—COMPREHENSIVE BENEFITS, INCLUDING PREVENTIVE BENEFITS AND BENEFITS FOR LONG TERM CARE

Sec. 201. Comprehensive benefits.
Sec. 202. Definitions relating to services.
Sec. 203. Special rules for home and community-based long-term care services.
Sec. 204. Exclusions and limitations.
Sec. 205. Certification; quality review; plans of care.

TITLE III—PROVIDER PARTICIPATION

Sec. 301. Provider participation and standards.
Sec. 302. Qualifications for providers.
Sec. 303. Qualifications for comprehensive health service organizations.
Sec. 304. Limitation on certain physician referrals.

TITLE IV—ADMINISTRATION

Subtitle A—General Administrative Provisions

Sec. 401. American Health Security Standards Board.
Sec. 402. American Health Security Advisory Council.
Sec. 403. Professional, technical, and temporary advisory committees.
Sec. 404. American Health Security Quality Council.
Sec. 405. State health security programs.
Sec. 406. Complementary conduct of related health programs.

Subtitle B—Control Over Fraud and Abuse

Sec. 411. Application of Federal sanctions to all fraud and abuse under American Health Security Program.
Sec. 412. National health care fraud data base.
Sec. 413. Requirements for operation of State health care fraud and abuse control units.
Sec. 414. Assignment of unique provider and patient identifiers.

TITLE V—QUALITY ASSESSMENT

Sec. 501. Functions of Quality Council; development of practice guidelines and application to outliers.
Sec. 502. State quality review programs.
Sec. 503. Elimination of existing utilization review programs; transition.
Sec. 504. Development of national electronic data base.

TITLE VI—NATIONAL HEALTH SECURITY BUDGET; PAYMENTS; COST CONTAINMENT MEASURES

Subtitle A—Budgeting and Payments to States

Sec. 601. National health security budget.
Sec. 602. Computation of individual and State capitation amounts.
Sec. 603. State health security budgets.
Sec. 604. Federal payments to States.
Sec. 605. Account for health professional education expenditures.

Subtitle B—Payments by States to Providers

Sec. 611. Payments to hospitals and other facility-based services for operating expenses on the basis of approved global budgets.
Sec. 612. Payments to health care practitioners based on prospective fee schedule.
Sec. 613. Payments to comprehensive health service organizations.
Sec. 614. Payments for community-based primary health services.
Sec. 615. Payments for prescription drugs.
Sec. 616. Approved devices and equipment.
Sec. 617. Payments for other items and services.
Sec. 618. Payment incentives for medically underserved areas.
Sec. 619. Authority for alternative payment methodologies.

Subtitle C—Mandatory Assignment and Administrative Provisions

Sec. 621. Mandatory assignment.
Sec. 622. Procedures for reimbursement; appeals.

TITLE VII—PROMOTION OF PRIMARY HEALTH CARE; DEVELOPMENT OF HEALTH SERVICE CAPACITY; PROGRAMS TO ASSIST THE MEDICALLY UNDERSERVED

Subtitle A—Promotion and Expansion of Primary Care Professional Training

Sec. 701. Role of Board; establishment of primary care professional output goals.
Sec. 702. Establishment of Advisory Committee on Health Professional Education.
Sec. 703. Grants for health professions education, nurse education, and the National Health Service Corps.

Subtitle B—Direct Health Care Delivery

Sec. 711. Setaside for public health block grants.
Sec. 712. Setaside for primary health care delivery.
Sec. 713. Primary care service expansion grants.

Subtitle C—Primary Care and Outcomes Research

Sec. 721. Set-aside for outcomes research.
Sec. 722. Office of Primary Care and Prevention Research.

Subtitle D—School-Related Health Services

Sec. 731. Authorizations of appropriations.
Sec. 732. Eligibility for development and operation grants.
Sec. 733. Preferences.
Sec. 734. Grants for development of projects.
Sec. 735. Grants for operation of projects.
Sec. 736. Federal administrative costs.
Sec. 737. Definitions.

TITLE VIII—FINANCING PROVISIONS; AMERICAN HEALTH SECURITY TRUST FUND

Sec. 800. Amendment of 1986 code; section 15 not to apply.

Subtitle A—American Health Security Trust Fund

Sec. 801. American health security trust fund.

Subtitle B—Taxes Based on Income and Wages

Sec. 811. Payroll tax on employers.
Sec. 812. Health care income tax.

Subtitle C—Increase in Excise Taxes on Tobacco Products

Sec. 821. Increase in excise taxes on tobacco products.

Subtitle D—Increase in Taxes on Firearms and Ammunition

Sec. 831. Increase in taxes on firearms and ammunition.

TITLE IX—CONFORMING AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 901. ERISA inapplicable to health coverage arrangements under State health security programs.
Sec. 902. Exemption of State health security programs from ERISA preemption.
Sec. 903. Prohibition of employee benefits duplicative of benefits under State health security programs.
Sec. 904. Repeal of continuation coverage requirements under ERISA and certain other requirements relating to group health plans.
Sec. 905. Effective date of title.

TITLE I—ESTABLISHMENT OF A STATE-BASED AMERICAN HEALTH SECURITY PROGRAM; UNIVERSAL ENTITLEMENT; ENROLLMENT

SEC. 101. ESTABLISHMENT OF A STATE-BASED AMERICAN HEALTH SECURITY PROGRAM.

(a) IN GENERAL.—There is hereby established in the United States a State-Based American Health Security Program to be administered by the individual States in accordance with Federal standards specified in, or established under, this Act.

(b) STATE HEALTH SECURITY PROGRAMS.—In order for a State to be eligible to receive payment under section 604, a State must establish a State health security program in accordance with this Act.

(c) STATE DEFINED.—

(1) IN GENERAL.—In this Act, subject to paragraph (2), the term "State" means each of the fifty States and the District of Columbia.

(2) ELECTION.—If the Governor of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands certifies to the President that the legislature of the Commonwealth or territory has enacted legislation desiring that the Commonwealth or territory be included as a State under the provisions of this Act, such Commonwealth or territory shall be included as a "State" under this Act beginning January 1 of the first year beginning ninety days after the President receives the notification.

SEC. 102. UNIVERSAL ENTITLEMENT.

(a) IN GENERAL.—Every individual who is a resident of the United States and is a citizen or national of the United States or lawful resident alien (as defined in subsection (d) is entitled to benefits for health care services under this Act under the appropriate State health security program. In this section, the term "appropriate State health security program" means, with respect to an individual, the State health security program for the State in which the individual maintains a primary residence.

(b) TREATMENT OF CERTAIN NONIMMIGRANTS.—

(1) IN GENERAL.—The American Health Security Standards Board (in this Act referred to as the "Board") may make eligible for benefits for health care services under the appropriate State health security program under this Act such classes of aliens admitted to the United States as nonimmigrants as the Board may provide.

(2) CONSIDERATION.—In providing for eligibility under paragraph (1), the Board shall consider reciprocity in health care services offered to United States citizens who are nonimmigrants in other foreign states, and such other factors as the Board determines to be appropriate.

(c) TREATMENT OF OTHER INDIVIDUALS.—

(1) BY BOARD.—The Board also may make eligible for benefits for health care services under the appropriate State health security program under this Act other individuals not described in subsection (a) or (b), and regulate the nature of the eligibility of such individuals, in order—

(A) to preserve the public health of communities,

(B) to compensate States for the additional health care financing burdens created by such individuals, and

(C) to prevent adverse financial and medical consequences of uncompensated care, while inhibiting travel and immigration to the United States for the sole purpose of obtaining health care services.

(2) BY STATES.—Any State health security program may make individuals described in

VOL 140 PT 15 AG 10 — 11 1994 UMI

paragraph (1) eligible for benefits at the expense of the State.

(d) LAWFUL RESIDENT ALIEN DEFINED.—For purposes of this section, the term "lawful resident alien" means an alien lawfully admitted for permanent residence and any other alien lawfully residing permanently in the United States under color of law, including an alien with lawful temporary resident status under section 210, 210A, or 234A of the Immigration and Nationality Act (8 U.S.C. 1160, 1161, or 1255a).

SEC. 103. ENROLLMENT.

(a) IN GENERAL.—Each State health security program shall provide a mechanism for the enrollment of individuals entitled or eligible for benefits under this Act. The mechanism shall—

(1) include a process for the automatic enrollment of individuals at the time of birth in the United States and at the time of immigration into the United States or other acquisition of lawful resident status in the United States,

(2) provide for the enrollment, as of January 1, 1996, of all individuals who are eligible to be enrolled as of such date, and

(3) include a process for the enrollment of individuals made eligible for health care services under subsections (b) and (c) of section 102.

(b) AVAILABILITY OF APPLICATIONS.—Each State health security program shall make applications for enrollment under the program available—

(1) at employment and payroll offices of employers located in the State,

(2) at local offices of the Social Security Administration,

(3) at social services locations,

(4) at out-reach sites (such as provider and practitioner locations), and

(5) at other locations (including post offices and schools) accessible to a broad cross-section of individuals eligible to enroll.

(c) ISSUANCE OF HEALTH SECURITY CARDS.—In conjunction with an individual's enrollment for benefits under this Act, the State health security program shall provide for the issuance of a health security card which shall be used for purposes of identification and processing of claims for benefits under the program. The State health security program may provide for issuance of such cards by employers for purposes of carrying out enrollment pursuant to subsection (a)(2).

SEC. 104. PORTABILITY OF BENEFITS.

(a) IN GENERAL.—To ensure continuous access to benefits for health care services covered under this Act, each State health security program—

(1) shall not impose any minimum period of residence in the State, or waiting period, in excess of three months before residents of the State are entitled to, or eligible for, such benefits under the program;

(2) shall provide continuation of payment for covered health care services to individuals who have terminated their residence in the State and established their residence in another State, for the duration of any waiting period imposed in the State of new residency for establishing entitlement to, or eligibility for, such services; and

(3) shall provide for the payment for health care services covered under this Act provided to individuals while temporarily absent from the State based on the following principles:

(A) Payment for such health care services is at the rate that is approved by the State health security program in the State in which the services are provided, unless the States concerned agree to apportion the cost between them in a different manner.

(B) Payment for such health care services provided outside the United States is made on the basis of the amount that would have been paid by the State health security program for similar services rendered in the State, with due regard, in the case of hospital services, to the size of the hospital, standards of service, and other relevant factors.

(b) CROSS-BORDER ARRANGEMENTS.—A State health security program for a State may negotiate with such a program in an adjacent State a reciprocal arrangement for the coverage under such other program of health care services to enrollees residing in the border region.

SEC. 105. EFFECTIVE DATE OF BENEFITS.

Benefits shall first be available under this Act for items and services furnished on or after January 1, 1996.

SEC. 106. RELATIONSHIP TO EXISTING FEDERAL HEALTH PROGRAMS.

(a) MEDICARE AND MEDICAID.—

(1) IN GENERAL.—Notwithstanding any other provision of law, subject to paragraph (2)—

(A) no benefits shall be available under title XVIII of the Social Security Act for any item or service furnished after December 31, 1995,

(B) no individual is entitled to medical assistance under a State plan approved under title XIX of such Act for any item or service furnished after such date, and

(C) no payment shall be made to a State under section 1903(a) of such Act with respect to medical assistance for any item or service furnished after such date.

(2) TRANSITION.—In the case of inpatient hospital services and extended care services during a continuous period of stay which began before January 1, 1996, and which had not ended as of such date, for which benefits are provided under title XVIII, or under a State plan under title XIX, of the Social Security Act, the Secretary of Health and Human Services and each State plan, respectively, shall provide for continuation of benefits under such title or plan until the end of the period of stay.

(b) FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—No benefits shall be made available under chapter 89 of title 5, United States Code, for any part of a coverage period occurring after December 31, 1995.

(c) CHAMPUS.—No benefits shall be made available under sections 1079 and 1086 of title 10, United States Code, for items or services furnished after December 31, 1995.

(d) TREATMENT OF BENEFITS FOR VETERANS AND NATIVE AMERICANS.—Nothing in this Act shall affect the eligibility of veterans for the medical benefits and services provided under title 38, United States Code, or of Indians for the medical benefits and services provided by or through the Indian Health Service.

TITLE II—COMPREHENSIVE BENEFITS, INCLUDING PREVENTIVE BENEFITS AND BENEFITS FOR LONG TERM CARE

SEC. 201. COMPREHENSIVE BENEFITS.

(a) IN GENERAL.—Subject to the succeeding provisions of this title, individuals enrolled for benefits under this Act are entitled to have payment made under a State health security program for the following items and services if medically necessary or appropriate for the maintenance of health or for the diagnosis, treatment, or rehabilitation of a health condition:

(1) HOSPITAL SERVICES.—Inpatient and outpatient hospital care, including 24-hour a day emergency services.

(2) PROFESSIONAL SERVICES.—Professional services of health care practitioners authorized to provide health care services under State law, including patient education and training in self-management techniques.

(3) COMMUNITY-BASED PRIMARY HEALTH SERVICES.—Community-based primary health services (as defined in section 202(a)).

(4) PREVENTIVE SERVICES.—Preventive services (as defined in section 202(b)).

(5) LONG-TERM, ACUTE, AND CHRONIC CARE SERVICES.—

(A) Nursing facility services.

(B) Home health services.

(C) Home and community-based long term care services (as defined in section 202(c)) for individuals described in section 203(a).

(D) Hospice care.

(E) Services in intermediate care facilities for individuals with mental retardation.

(6) PRESCRIPTION DRUGS, BIOLOGICALS, INSULIN, MEDICAL FOODS.—

(A) Outpatient prescription drugs and biologicals, as specified by the Board consistent with section 515.

(B) Insulin.

(C) Medical foods (as defined in section 202(e)).

(7) DENTAL SERVICES.—Dental services (as defined in section 202(i)).

(8) MENTAL HEALTH SERVICES.—Mental health services (as defined in section 202(f)).

(9) SUBSTANCE ABUSE TREATMENT SERVICES.—Substance abuse treatment services (as defined in section 202(g)).

(10) DIAGNOSTIC TESTS.—Diagnostic tests.

(11) OTHER ITEMS AND SERVICES.—

(A) OUTPATIENT THERAPY.—Outpatient physical therapy services, outpatient speech pathology services, and outpatient occupational therapy services in all settings.

(B) DURABLE MEDICAL EQUIPMENT.—Durable medical equipment.

(C) HOME DIALYSIS.—Home dialysis supplies and equipment.

(D) AMBULANCE.—Emergency ambulance service.

(E) PROSTHETIC DEVICES.—Prosthetic devices, including replacements of such devices.

(F) ADDITIONAL ITEMS AND SERVICES.—Such other medical or health care items or services as the Board may specify.

(b) COST-SHARING.—

(1) IN GENERAL.—Except as provided in this subsection, there are no deductibles, coinsurance, or copayments applicable to acute care and preventive benefits provided under this title.

(2) COST-SHARING FOR LONG-TERM CARE SERVICES.—

(A) IN GENERAL.—

(i) payments for home and community-based long-term care services are subject to coinsurance of 20 percent, and

(ii) payments for nursing facility services are subject to coinsurance of 35 percent.

(B) EXCEPTION.—With respect to the coinsurance established under subparagraph (A)—

(i) such coinsurance shall not apply to an individual with income (as defined by the Secretary) of not more than 100 percent of the income official poverty line applicable to a family of the size involved; and

(ii) in the case of an individual with such income that exceeds 100 percent, but is less than 200 percent, of such applicable poverty line, the coinsurance shall be reduced in the same proportion as the proportion of such income is less than 200 percent of such applicable poverty line.

(c) PROHIBITION OF BALANCE BILLING.—As provided in section 531, no person may impose a charge for covered services for which benefits are provided under this Act.

(d) NO DUPLICATE HEALTH INSURANCE.—Each State health security program shall prohibit the sale of health insurance in the State if payment under the insurance duplicates payment for any items or services for which payment may be made under such a program.

(e) STATE PROGRAM MAY PROVIDE ADDITIONAL BENEFITS.—Nothing in this Act shall be construed as limiting the benefits that may be made available under a State health security program to residents of the State at the expense of the State.

(f) EMPLOYERS MAY PROVIDE ADDITIONAL BENEFITS.—Nothing in this Act shall be construed as limiting the additional benefits that an employer may provide to employees or their dependents, or to former employees or their dependents.

SEC. 202. DEFINITIONS RELATING TO SERVICES.

(a) COMMUNITY-BASED PRIMARY HEALTH SERVICES.—In this title, the term "community-based primary health services" means ambulatory health services furnished—

(1) by a rural health clinic;

(2) by a Federally-qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act), and which, for purposes of this Act, include services furnished by State and local health agencies;

(3) in a school-based setting;

(4) by public educational agencies and other providers of services to children entitled to assistance under the Individuals with Disabilities Education Act for services furnished pursuant to a written Individualized Family Services Plan or Individual Education Plan under such Act; and

(5) public and private non-profit entities receiving Federal assistance under the Public Health Service Act.

(b) PREVENTIVE SERVICES.—

(1) IN GENERAL.—In this title, the term "preventive services" means items and services—

(A) which—

(i) are specified in paragraph (2), or

(ii) the Board determines to be effective in the maintenance and promotion of health or minimizing the effect of illness, disease, or medical condition; and

(B) which are provided consistent with the periodicity schedule established under paragraph (3).

(2) SPECIFIED PREVENTIVE SERVICES.—The services specified in this paragraph are as follows:

(A) Basic immunizations.

(B) Prenatal and well-baby care (for infants under one year of age).

(C) Well-child care (including periodic physical examinations, hearing and vision screening, and developmental screening and examinations) for individuals under 18 years of age.

(D) Periodic screening mammography, Pap smears, and colorectal examinations and examinations for prostate cancer.

(E) Physical examinations.

(F) Family planning services.

(G) Routine eye examinations, eyeglasses, and contact lenses.

(H) Hearing aids, but only upon a determination of a certified audiologist or physician that a hearing problem exists and is caused by a condition that can be corrected by use of a hearing aid.

(3) SCHEDULE.—The Board shall establish, in consultation with experts in preventive medicine and public health and taking into consideration those preventive services recommended by the Preventive Services Task Force and published as the Guide to Clinical Preventive Services, a periodicity schedule for the coverage of preventive services under paragraph (1). Such schedule shall take into consideration the cost-effectiveness of appropriate preventive care and shall be revised not less frequently than once every 5 years, in consultation with experts in preventive medicine and public health.

(c) HOME AND COMMUNITY-BASED LONG-TERM CARE SERVICES.—In this title, the term "home and community-based long term care services" means the following services provided to an individual to enable the individual to remain in such individual's place of residence within the community:

(1) Homemaker services, including meals.

(2) Home health aide services.

(3) Adult day health care, social day care or psychiatric day care.

(4) Medical social work services.

(5) Care coordination services, as defined in subsection (h)(1).

(6) Respite care, including training for informal caregivers.

(7) Personal assistance services.

(d) HOME HEALTH SERVICES.—

(1) IN GENERAL.—The term "home health services" means items and services described in section 1861(m) of the Social Security Act and includes home infusion services.

(2) HOME INFUSION SERVICES.—The term "home infusion services" includes the nursing, pharmacy, and related services that are necessary to conduct the home infusion of a drug regimen safely and effectively under a plan established and periodically reviewed by a physician and that are provided in compliance with quality assurance requirements established by the Secretary.

(e) MEDICAL FOODS.—In this title, the term "medical foods" means foods which are formulated to be consumed or administered enterally under the supervision of a physician and which are intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.

(f) MENTAL HEALTH SERVICES.—In this title, the term "mental health services" means services related to the prevention, diagnosis, treatment, and rehabilitation of mental illness and promotion of mental health, including the following services:

(1) Crisis intervention.

(2) Outpatient mental health services.

(3) Partial hospitalization and day and evening treatment programs.

(4) Psychosocial rehabilitation services.

(5) Pharmacotherapeutic interventions.

(6) Other rehabilitation services, including halfway and three-quarter-way house care.

(7) Inpatient mental health services.

(8) Care coordination services (as defined in subsection (h)(1)).

(g) SUBSTANCE ABUSE TREATMENT SERVICES.—In this title, the term "substance abuse treatment services" means services for the treatment of dependency on alcohol or controlled substances provided through a treatment program meeting State qualification standards and includes the following services:

(1) Crisis intervention, including assessment, diagnosis, and referral.

(2) Detoxification services, in ambulatory and inpatient settings.

(3) Outpatient services, including intensive day and evening programs, continuing care, and family services.

(4) Short-term residential services in a hospital or free-standing program.

(5) Long-term residential services, including therapeutic communities and halfway houses.

(6) Pharmacotherapeutic interventions.

(7) Care coordination services (as defined in subsection (h)(1)).

(h) CARE COORDINATION SERVICES.—

(1) IN GENERAL.—In this title, the term "care coordination services" means services provided by care coordinators (as defined in paragraph (2)) to individuals described in paragraph (3) for the coordination and monitoring of mental health services, substance abuse treatment services, and home and community-based long term care services to ensure appropriate, cost-effective utilization of such services in a comprehensive and continuous manner, and includes—

(A) transition management between inpatient facilities and community-based services, including assisting patients in identifying and gaining access to appropriate ancillary services; and

(B) evaluating and recommending appropriate treatment services, in cooperation with patients and other providers and in conjunction with any quality review program or plan of care under section 205.

(2) CARE COORDINATOR.—

(A) IN GENERAL.—In this title, the term "care coordinator" means an individual or nonprofit or public agency or organization which the State health security program determines—

(i) is capable of performing directly, efficiently, and effectively the duties of a care coordinator described in paragraph (1), and

(ii) demonstrates capability in establishing and periodically reviewing and revising plans of care, and in arranging for and monitoring the provision and quality of services under any plan.

(B) INDEPENDENCE.—State health security programs shall establish safeguards to assure that care coordinators have no financial interest in treatment decisions or placements. Care coordination may not be provided through any structure or mechanism through which quality review is performed.

(3) ELIGIBLE INDIVIDUALS.—An individual described in this paragraph is an individual—

(A) described in section 203 (relating to individuals qualifying for long term and chronic care services); or

(B) determined (in a manner specified by the Board)—

(i) to have a serious mental illness (as defined by the Board), or

(ii) to have a history of substance abuse displaying severe associated illness or previous treatment failure (as defined by the Board).

(i) DENTAL SERVICES.—

(1) IN GENERAL.—In this title, subject to subsection (b), the term "dental services" means the following:

(A) Emergency dental treatment, including extractions, for bleeding, pain, acute infections, and injuries to the maxillofacial region.

(B) Prevention and diagnosis of dental disease, including examinations of the hard and soft tissues of the oral cavity and related structures, radiographs, dental sealants, fluorides, and dental prophylaxis.

(C) Treatment of dental disease, including non-cast fillings, periodontal maintenance services, and endodontic services.

(D) Space maintenance procedures to prevent orthodontic complications.

(E) Orthodontic treatment to prevent severe malocclusions.

(F) Full dentures.

(G) Medically necessary oral health care.

(H) Any items and services for special needs patients that are not described in subparagraphs (A) through (G) and that—

78-059 O—97 Vol. 140 (Pt. 15) 19

VOL 140 PT 15 AG 10 — 11 1994 UMI

(i) are required to provide such patients the items and services described in subparagraphs (A) through (G);

(ii) are required to establish oral function (including general anesthesia for individuals with physical or emotional limitations that prevent the provision of dental care without such anesthesia);

(iii) consist of orthodontic care for severe dentofacial abnormalities; or

(iv) consist of prosthetic dental devices for genetic or birth defects or fitting for such devices.

(I) Any dental care for individuals with a seizure disorder that is not described in subparagraphs (A) through (H) and that is required because of an illness, injury, disorder, or other health condition that results from such seizure disorder.

(2) LIMITATIONS.—Dental services are subject to the following limitations:

(A) PREVENTION AND DIAGNOSIS.—

(i) EXAMINATIONS AND PROPHYLAXIS.—The examinations and prophylaxis described in paragraph (1)(B) are covered only consistent with a periodicity schedule established by the Board, which schedule may provide for special treatment of individuals less than 18 years of age and of special needs patients.

(ii) DENTAL SEALANTS.—The dental sealants described in such paragraph are not covered for individuals 18 years of age or older. Such sealants are covered for individuals less than 10 years of age for protection of the 1st permanent molars. Such sealants are covered for individuals 10 years of age or older for protection of the 2d permanent molars.

(B) TREATMENT OF DENTAL DISEASE.—Prior to January 1, 2001, the items and services described in paragraph (1)(C) are covered only for individuals less than 18 years of age and special needs patients. On or after such date, such items and services are covered for all individuals enrolled for benefits under this Act, except that endodontic services are not covered for individuals 18 years of age or older.

(C) SPACE MAINTENANCE.—The items and services described in paragraph (1)(D) are covered only for individuals at least 3 years of age, but less than 13 years of age and—

(i) are limited to posterior teeth;

(ii) involve maintenance of a space or spaces for permanent posterior teeth that would otherwise be prevented from normal eruption if the space were not maintained; and

(iii) do not include a space maintainer that is placed within 6 months of the expected eruption of the permanent posterior tooth concerned.

(D) ORTHODONTIC TREATMENT.—Prior to January 1, 2001, the items and services described in paragraph (1)(E) are covered only for individuals at least 6 years of age, but less than 13 years of age, who have severe dentofacial abnormalities. On or after such date, such items and services are covered only for individuals at least 6 years of age, but less than 12 years of age.

(E) DENTURES.—Prior to January 1, 2001, the dentures described in paragraph (1)(F) are not covered, except for special needs patients. On or after such date, dentures are covered for an individual consistent with a periodicity schedule established by the Board, except that the limitation of periodicity provided in such schedule shall not apply to a special needs patient.

(3) DEFINITIONS.—For purposes of this title:

(A) MEDICALLY NECESSARY ORAL HEALTH CARE.—The term "medically necessary oral health care" means oral health care that is required as a direct result of, or would have a direct impact on, an underlying medical condition. Such term includes oral health care directed towards control or elimination of pain, infection, or reestablishment of oral function.

(B) SPECIAL NEEDS PATIENT.—The term "special needs patient" includes an individual with a genetic or birth defect, a developmental disability, or an acquired medical disability.

(j) NURSING FACILITY; NURSING FACILITY SERVICES.—Except as may be provided by the Board, the terms "nursing facility" and "nursing facility services" have the meanings given such terms in sections 1919(a) and 1905(f), respectively, of the Social Security Act.

(k) SERVICES IN INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH MENTAL RETARDATION.—Except as may be provided by the Board—

(1) the term "intermediate care facility for individuals with mental retardation" has the meaning specified in section 1905(d) of the Social Security Act (as in effect before the enactment of this Act); and

(2) the term "services in intermediate care facilities for individuals with mental retardation" means services described in section 1905(a)(15) of such Act (as so in effect) in an intermediate care facility for individuals with mental retardation to an individual determined to require such services in accordance with standards specified by the Board and comparable to the standards described in section 1902(a)(31)(A) of such Act (as so in effect).

(l) OTHER TERMS.—Except as may be provided by the Board, the definitions contained in section 1861 of the Social Security Act shall apply.

SEC. 203. SPECIAL RULES FOR HOME AND COMMUNITY-BASED LONG-TERM CARE SERVICES.

(a) QUALIFYING INDIVIDUALS.—For purposes of section 201(a)(5)(C), individuals described in this subsection are the following individuals:

(1) ADULTS.—Individuals 18 years of age or older determined (in a manner specified by the Board)—

(A) to be unable to perform, without the assistance of an individual, at least 2 of the following 5 activities of daily living (or who has a similar level of disability due to cognitive impairment)—

(i) bathing;

(ii) eating;

(iii) dressing;

(iv) toileting; and

(v) transferring in and out of a bed or in and out of a chair; or

(B) due to cognitive or mental impairments, requires supervision (or queuing to perform activities of daily living) because the individual behaves in a manner that poses health or safety hazards to himself or herself or others.

(2) CHILDREN.—Individuals under 18 years of age determined (in a manner specified by the Board) to meet such alternative standard of disability for children as the Board develops. Such alternative standard shall be comparable to the standard for adults and appropriate for children.

(b) LIMIT ON SERVICES.—

(1) IN GENERAL.—The aggregate expenditures by a State health security program with respect to home and community-based long-term care services in a period (specified by the Board) may not exceed 65 percent (or such alternative ratio as the Board establishes under paragraph (2)) of the average of the amount of payment that would have been made under the program during the period if all the home-based long-term care beneficiaries had been residents of nursing facilities in the same area in which the services were provided.

(2) ALTERNATIVE RATIO.—The Board may establish for purposes of paragraph (1) an alternative ratio (of payments for home and community-based long term care services to payments for nursing facility services) as the Board determines to be more consistent with the goal of providing cost-effective long-term care in the most appropriate and least restrictive setting.

SEC. 204. EXCLUSIONS AND LIMITATIONS.

(a) IN GENERAL.—Subject to section 201(e), benefits for service are not available under this Act unless the services meet the standards specified in section 201(a).

(b) MENTAL HEALTH SERVICES AND SUBSTANCE ABUSE TREATMENT SERVICES.—

(1) IN GENERAL.—Mental health services and substance abuse treatment services furnished for an individual in excess of a threshold specified in paragraph (2) are not covered services unless the services are determined under a utilization review program to meet the standards specified in section 201(a) and, with respect to inpatient or residential treatment services, to be provided in the least restrictive and most appropriate setting.

(2) UTILIZATION REVIEW THRESHOLD.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the thresholds specified in this paragraph are—

(i) 20 outpatient visits in a year, and

(ii) 15 days of inpatient services in a year.

(B) ALTERNATIVE NATIONAL THRESHOLDS.—The Board may specify alternative thresholds to those specified in subparagraph (A).

(C) ADDITIONAL STATE THRESHOLDS.—A State health security program may specify thresholds in addition to those established under the previous subparagraphs, which thresholds may be higher or lower than the number of outpatient visits or days of inpatient services otherwise specified.

(3) SPECIAL DELIVERY REQUIREMENTS FOR SERVICES PROVIDED TO CHILDREN.—

(A) REQUIRING SERVICES TO BE PROVIDED THROUGH ORGANIZED SYSTEMS OF CARE.—A State health security program shall ensure that mental health services and substance abuse treatment services are furnished through an organized system of care, as described in subparagraph (B), if—

(i) the services are provided to an individual less than 22 years of age;

(ii) the individual has a serious emotional disturbance or a substance abuse disorder; and

(iii) the individual is, or is at imminent risk of being, subject to the authority of, or in need of the services of, at least 1 public agency that serves the needs of children, including an agency involved with child welfare, special education, juvenile justice, or criminal justice.

(B) REQUIREMENTS FOR SYSTEM OF CARE.—In this paragraph, an "organized system of care" is a community-based service delivery network, which may consist of public and private providers, that meets the following requirements:

(i) The system has established linkages with existing mental health services and substance abuse treatment service delivery programs in the plan service area (or is in the process of developing or operating a system with appropriate public agencies in the area to coordinate the delivery of such services to individuals in the area).

(ii) The system provides for the participation and coordination of multiple agencies and providers that serve the needs of children in the area, including agencies and providers involved with child welfare, education, juvenile justice, criminal justice, health care, mental health, and substance abuse prevention and treatment.

(iii) The system provides for the involvement of the families of children to whom mental health services and substance abuse treatment services are provided in the planning of treatment and the delivery of services.

(iv) The system provides for the development and implementation of individualized treatment plans by multidisciplinary and multiagency teams, which are recognized and followed by the applicable agencies and providers in the area.

(v) The system ensures the delivery and coordination of the range of mental health services and substance abuse treatment services required by individuals under 22 years of age who have a serious emotion disturbance or a substance abuse disorder.

(vi) The system provides for the management of the individualized treatment plans described in clause (iv) and for a flexible response to changes in treatment needs over time.

(c) TREATMENT OF EXPERIMENTAL SERVICES.—In applying subsection (a), the Board shall make, after consultation with a technical advisory committee, national coverage determinations with respect to those services that are experimental in nature. Such determinations shall be made consistent with a process that provides for professional input and public comment.

(d) APPLICATION OF NATIONAL PRACTICE GUIDELINES.—In the case of services for which the Board has recognized national practice guidelines, the services are considered to meet the standards specified in section 201(a) only if they have been provided in accordance with such guidelines or in accordance with such guidelines as are provided by the State health security program consistent with title V.

(e) SPECIFIC LIMITATIONS.—

(1) LIMITATIONS ON EYEGLASSES, CONTACT LENSES, HEARING AIDS, AND DURABLE MEDICAL EQUIPMENT.—Subject to section 201(e), the Board may impose such limits relating to the costs and frequency of replacement of eyeglasses, contact lenses, hearing aids, and durable medical equipment to which individuals enrolled for benefits under this Act are entitled to have payment made under a State health security program as the Board deems appropriate.

(2) OVERLAP WITH PREVENTIVE SERVICES.—The coverage of services described in section 201(a) (other than paragraph (3)) which also are preventive services are required to be covered only to the extent that they are required to be covered as preventive services.

(3) MISCELLANEOUS EXCLUSIONS FROM COVERED SERVICES.—Covered services under this Act do not include the following:

(A) Surgery and other procedures (such as orthodontia) performed solely for cosmetic purposes (as defined in regulations) and hospital or other services incident thereto, unless—

(i) required to correct a congenital anomaly;

(ii) required to restore or correct a part of the body which has been altered as a result of accidental injury, disease, or surgery; or

(iii) otherwise determined to be medically necessary and appropriate under section 201(a).

(B) Personal comfort items or private rooms in inpatient facilities, unless determined to be medically necessary and appropriate under section 201(a).

(C) The services of a professional practitioner if they are furnished in a hospital or other facility which is not a participating provider.

(f) NURSING FACILITY SERVICES AND HOME HEALTH SERVICES.—Nursing facility services and home health services (other than post-hospital services, as defined by the Board) furnished to an individual who is not described in section 203(a) are not covered services unless the services are determined to meet the standards specified in section 201(a) and, with respect to nursing facility services, to be provided in the least restrictive and most appropriate setting.

SEC. 205. CERTIFICATION; QUALITY REVIEW; PLANS OF CARE.

(a) CERTIFICATIONS.—State health security programs may require, as a condition of payment for institutional health care services and other services of the type described in such sections 1814(a) and 1835(a) of the Social Security Act, periodic professional certifications of the kind described in such sections.

(b) QUALITY REVIEW.—For requirement that each State health security program establish a quality review program that meets the requirements for such a program under title V, see section 405(b)(1)(H).

(c) PLAN OF CARE REQUIREMENTS.—A State health security program may require, consistent with standards established by the Board, that payment for services exceeding specified levels or duration be provided only as consistent with a plan of care or treatment formulated by one or more providers of the services or other qualified professionals. Such a plan may include, consistent with subsection (b), case management at specified intervals as a further condition of payment for services.

TITLE III—PROVIDER PARTICIPATION

SEC. 301. PROVIDER PARTICIPATION AND STANDARDS.

(a) IN GENERAL.—An individual or other entity furnishing any covered service under a State health security program under this Act is not a qualified provider unless the individual or entity—

(1) is a qualified provider of the services under section 302;

(2) has filed with the State health security program a participation agreement described in subsection (b); and

(3) meets such other qualifications and conditions as are established by the Board or the State health security program under this Act.

(b) REQUIREMENTS IN PARTICIPATION AGREEMENT.—

(1) IN GENERAL.—A participation agreement described in this subsection between a State health security program and a provider shall provide at least for the following:

(A) Services to eligible persons will be furnished by the provider without discrimination on the ground of race, national origin, income, religion, age, sex or sexual orientation, disability, handicapping condition, or (subject to the professional qualifications of the provider) illness. Nothing in this subparagraph shall be construed as requiring the provision of a type or class of services which services are outside the scope of the provider's normal practice.

(B) No charge will be made for any covered services other than for payment authorized by this Act.

(C) The provider agrees to furnish such information as may be reasonably required by the Board or a State health security program, in accordance with uniform reporting standards established under section 401(g)(1), for—

(i) quality review by designated entities;

(ii) the making of payments under this Act (including the examination of records as may be necessary for the verification of information on which payments are based);

(iii) statistical or other studies required for the implementation of this Act; and

(iv) such other purposes as the Board or State may specify.

(D) The provider agrees not to bill the program for any services for which benefits are not available because of section 204(d).

(E) In the case of a provider that is not an individual, the provider agrees not to employ or use for the provision of health services any individual or other provider who or which has had a participation agreement under this subsection terminated for cause.

(F) In the case of a provider paid under a fee-for-service basis under section 612, the provider agrees to submit bills and any required supporting documentation relating to the provision of covered services within 30 days (or such shorter period as a State health security program may require) after the date of providing such services.

(2) TERMINATION OF PARTICIPATION AGREEMENTS.—

(A) IN GENERAL.—Participation agreements may be terminated, with appropriate notice—

(i) by the Board or a State health security program for failure to meet the requirements of this title, or

(ii) by a provider.

(B) TERMINATION PROCESS.—Providers shall be provided notice and a reasonable opportunity to correct deficiencies before the Board or a State health security program terminates an agreement unless a more immediate termination is required for public safety or similar reasons.

SEC. 302. QUALIFICATIONS FOR PROVIDERS.

(a) IN GENERAL.—A health care provider is considered to be qualified to provide covered services if the provider is licensed or certified and meets—

(1) all the requirements of State law to provide such services,

(2) applicable requirements of Federal law to provide such services, and

(3) any applicable standards established under subsection (b).

(b) MINIMUM PROVIDER STANDARDS.—

(1) IN GENERAL.—The Board shall establish, evaluate, and update national minimum standards to assure the quality of services provided under this Act and to monitor efforts by State health security programs to assure the quality of such services. A State health security program may also establish additional minimum standards which providers must meet.

(2) NATIONAL MINIMUM STANDARDS.—The national minimum standards under paragraph (1) shall be established for institutional providers of services, individual health care practitioners, and comprehensive health service organizations. Except as the Board may specify in order to carry out this title, a hospital, nursing facility, or other institutional provider of services shall meet standards for such a facility under the medicare program under title XVIII of the Social Security Act. Such standards also may include, where appropriate, elements relating to—

(A) adequacy and quality of facilities;

(B) training and competence of personnel (including continuing education requirements);

VOL 140 PT 15 AG 10 — 11 1994 UMI

(C) comprehensiveness of service;
(D) continuity of service;
(E) patient satisfaction (including waiting time and access to services); and
(F) performance standards (including organization, facilities, structure of services, efficiency of operation, and outcome in palliation, improvement of health, stabilization, cure, or rehabilitation).

(3) TRANSITION IN APPLICATION.—If the Board provides for additional requirements for providers under this subsection, any such additional requirement shall be implemented in a manner that provides for a reasonable period during which a previously qualified provider is permitted to meet such an additional requirement.

(4) EXCHANGE OF INFORMATION.—The Board shall provide for an exchange, at least annually, among State health security programs of information with respect to quality assurance and cost containment.

SEC. 303. QUALIFICATIONS FOR COMPREHENSIVE HEALTH SERVICE ORGANIZATIONS.

(a) IN GENERAL.—For purposes of this Act, a comprehensive health service organization (in this section referred to as a "CHSO") is a public or private organization which, in return for a capitated payment amount, undertakes to furnish, arrange for the provision of, or provide payment with respect to—

(1) a full range of health services (as identified by the Board), including at least hospital services and physicians services, and

(2) out-of-area coverage in the case of urgently needed services, to an identified population which is living in or near a specified service area and which enrolls voluntarily in the organization.

(b) ENROLLMENT.—

(1) IN GENERAL.—All eligible persons living in or near the specified service area of a CHSO are eligible to enroll in the organization; except that the number of enrollees may be limited to avoid overtaxing the resources of the organization.

(2) MINIMUM ENROLLMENT PERIOD.—Subject to paragraph (3), the minimum period of enrollment with a CHSO shall be twelve months, unless the enrolled individual becomes ineligible to enroll with the organization.

(3) WITHDRAWAL FOR CAUSE.—Each CHSO shall permit an enrolled individual to disenroll from the organization for cause at any time.

(c) REQUIREMENTS FOR CHSOs.—

(1) ACCESSIBLE SERVICES.—Each CHSO, to the maximum extent feasible, shall make all services readily and promptly accessible to enrollees who live in the specified service area.

(2) CONTINUITY OF CARE.—Each CHSO shall furnish services in such manner as to provide continuity of care and (when services are furnished by different providers) shall provide ready referral of patients to such services and at such times as may be medically appropriate.

(3) BOARD OF DIRECTORS.—In the case of a CHSO that is a private organization—

(A) CONSUMER REPRESENTATION.—At least one-third of the members of the CHSO's board of directors must be consumer members with no direct or indirect, personal or family financial relationship to the organization.

(B) PROVIDER REPRESENTATION.—The CHSO's board of directors must include at least one member who represents health care providers.

(4) PATIENT GRIEVANCE PROGRAM.—Each CHSO must have in effect a patient grievance program and must conduct regularly surveys of the satisfaction of members with services provided by or through the organization.

(5) MEDICAL STANDARDS.—Each CHSO must provide that a committee or committees of health care practitioners associated with the organization will promulgate medical standards, oversee the professional aspects of the delivery of care, perform the functions of a pharmacy and drug therapeutics committee, and monitor and review the quality of all health services (including drugs, education, and preventive services).

(6) PREMIUMS.—Premiums or other charges by a CHSO for any services not paid for under this Act must be reasonable.

(7) UTILIZATION AND BONUS INFORMATION.—Each CHSO must—

(A) comply with the requirements of section 1876(i)(8) of the Social Security Act (relating to prohibiting physician incentive plans that provide specific inducements to reduce or limit medically necessary services), and

(B) make available to its membership utilization information and data regarding financial performance, including bonus or incentive payment arrangements to practitioners.

(8) PROVISION OF SERVICES TO ENROLLEES AT INSTITUTIONS OPERATING UNDER GLOBAL BUDGETS.—The organization shall arrange to reimburse for hospital services and other facility-based services (as identified by the Board) for services provided to members of the organization in accordance with the global operating budget of the hospital or facility approved under section 611.

(9) BROAD MARKETING.—Each CHSO must provide for the marketing of its services (including dissemination of marketing materials) to potential enrollees in a manner that is designed to enroll individuals representative of the different population groups and geographic areas included within its service area and meets such requirements as the Board or a State health security program may specify.

(10) ADDITIONAL REQUIREMENTS.—Each CHSO must meet—

(A) such requirements relating to minimum enrollment,

(B) such requirements relating to financial solvency,

(C) such requirements relating to quality and availability of care, and

(D) such other requirements,

as the Board or a State health security program may specify.

(d) PROVISION OF EMERGENCY SERVICES TO NONENROLLEES.—A CHSO may furnish emergency services to persons who are not enrolled in the organization. Payment for such services, if they are covered services to eligible persons, shall be made to the organization unless the organization requests that it be made to the individual provider who furnished the services.

SEC. 304. LIMITATION ON CERTAIN PHYSICIAN REFERRALS.

(a) APPLICATION TO AMERICAN HEALTH SECURITY PROGRAM.—Section 1877 of the Social Security Act, as amended by subsections (b) and (c), shall apply under this Act in the same manner as it applies under title XVIII of the Social Security Act; except that in applying such section under this Act any references in such section to the Secretary or title XVIII of the Social Security Act are deemed references to the Board and the American Health Security Program under this Act, respectively.

(b) EXPANSION OF PROHIBITION TO CERTAIN ADDITIONAL DESIGNATED SERVICES.—Section 1877(b)(6) of the Social Security Act (42 U.S.C. 1395nn(h)(6)) is amended by adding at the end the following:

"(L) Ambulance services.

"(M) Home infusion therapy services.".

(c) CONFORMING AMENDMENTS.—Section 1877 of such Act is further amended—

(1) in subsection (a)(1)(A), by striking "for which payment otherwise may be made under this title" and by inserting "for which a charge is imposed";

(2) in subsection (a)(1)(B), by striking "under this title";

(3) by amending paragraph (1) of subsection (g) to read as follows:

"(1) DENIAL OF PAYMENT.—No payment may be made under a State health security program for a designated health service for which a claim is presented in violation of subsection (a)(1)(B). No individual, third party payor, or other entity is liable for payment for designated health services for which a claim is presented in violation of such subsection."; and

(4) in subsection (g)(3), by striking "for which payment may not be made under paragraph (1)" and by inserting "for which such a claim may not be presented under subsection (a)(1)".

TITLE IV—ADMINISTRATION

Subtitle A—General Administrative Provisions

SEC. 401. AMERICAN HEALTH SECURITY STANDARDS BOARD.

(a) ESTABLISHMENT.—There is hereby established an American Health Security Standards Board.

(b) APPOINTMENT AND TERMS OF MEMBERS.—

(1) IN GENERAL.—The Board shall be composed of—

(A) the Secretary of Health and Human Services, and

(B) 6 other individuals (described in paragraph (2)) appointed by the President with the advice and consent of the Senate.

The President shall first nominate individuals under subparagraph (B) on a timely basis so as to provide for the operation of the Board by not later than January 1, 1995.

(2) SELECTION OF APPOINTED MEMBERS.—With respect to the individuals appointed under paragraph (1)(B):

(A) They shall be chosen on the basis of backgrounds in health policy, health economics, the healing professions, and the administration of health care institutions.

(B) They shall provide a balanced point of view with respect to the various health care interests and at least two of them shall represent the interests of individual consumers.

(C) Not more than three of them shall be from the same political party.

(D) To the greatest extent feasible, they shall represent the various geographic regions of the United States and shall reflect the racial, ethnic, and gender composition of the population of the United States.

(3) TERMS OF APPOINTED MEMBERS.—Individuals appointed under paragraph (1)(B) shall serve for a term of 6 years, except that the terms of 5 of the individuals initially appointed shall be, as designated by the President at the time of their appointment, for 1, 2, 3, 4, and 5 years. During a term of membership on the Board, no member shall engage in any other business, vocation or employment.

(c) VACANCIES.—

(1) IN GENERAL.—The President shall fill any vacancy in the membership of the Board in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(2) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) REAPPOINTMENT.—The President may reappoint an appointed member of the Board for a second term in the same manner as the original appointment. A member who has served for two consecutive 6-year terms shall not be eligible for reappointment until two years after the member has ceased to serve.

(4) REMOVAL FOR CAUSE.—Upon confirmation, members of the Board may not be removed except by the President for cause.

(d) CHAIR.—The President shall designate one of the members of the Board, other than the Secretary, to serve at the will of the President as Chair of the Board.

(e) COMPENSATION.—Members of the Board (other than the Secretary) shall be entitled to compensation at a level equivalent to level II of the Executive Schedule, in accordance with section 5313 of title 5, United States Code.

(f) GENERAL DUTIES OF THE BOARD.—

(1) IN GENERAL.—The Board shall develop policies, procedures, guidelines, and requirements to carry out this Act, including those related to—

(A) eligibility;
(B) enrollment;
(C) benefits;
(D) provider participation standards and qualifications, as defined in title III;
(E) national and State funding levels;
(F) methods for determining amounts of payments to providers of covered services, consistent with subtitle B of title VI;
(G) the determination of medical necessity and appropriateness with respect to coverage of certain services;
(H) assisting State health security programs with planning for capital expenditures and service delivery;
(I) planning for health professional education funding (as specified in title VI);
(J) allocating funds provided under title VII; and
(K) encouraging States to develop regional planning mechanisms (described in section 405(a)(3)).

(2) REGULATIONS.—Regulations authorized by this Act shall be issued by the Board in accordance with the provisions of section 553 of title 5, United States Code.

(g) UNIFORM REPORTING STANDARDS; ANNUAL REPORT; STUDIES.—

(1) UNIFORM REPORTING STANDARDS.—

(A) IN GENERAL.—The Board shall establish uniform reporting requirements and standards to ensure an adequate national data base regarding health services practitioners, services and finances of State health security programs, approved plans, providers, and the costs of facilities and practitioners providing services. Such standards shall include, to the maximum extent feasible, health outcome measures.

(B) REPORTS.—The Board shall analyze regularly information reported to it, and to State health security programs pursuant to such requirements and standards.

(2) ANNUAL REPORT.—Beginning January 1, of the second year beginning after the date of the enactment of this Act, the Board shall annually report to Congress on the following:

(A) The status of implementation of the Act.
(B) Enrollment under this Act.
(C) Benefits under this Act.
(D) Expenditures and financing under this Act.
(E) Cost-containment measures and achievements under this Act.
(F) Quality assurance.
(G) Health care utilization patterns, including any changes attributable to the program.
(H) Long-range plans and goals for the delivery of health services.
(I) Differences in the health status of the populations of the different States, including income and racial characteristics.
(J) Necessary changes in the education of health personnel.
(K) Plans for improving service to medically underserved populations.
(L) Transition problems as a result of implementation of this Act.
(M) Opportunities for improvements under this Act.

(3) STATISTICAL ANALYSES AND OTHER STUDIES.—The Board may, either directly or by contract—

(A) make statistical and other studies, on a nationwide, regional, state, or local basis, of any aspect of the operation of this Act, including studies of the effect of the Act upon the health of the people of the United States and the effect of comprehensive health services upon the health of persons receiving such services;

(B) develop and test methods of providing through payment for services or otherwise, additional incentives for adherence by providers to standards of adequacy, access, and quality; methods of consumer and peer review and peer control of the utilization of drugs, of laboratory services, and of other services; and methods of consumer and peer review of the quality of services;

(C) develop and test, for use by the Board, records and information retrieval systems and budget systems for health services administration, and develop and test model systems for use by providers of services;

(D) develop and test, for use by providers of services, records and information retrieval systems useful in the furnishing of preventive or diagnostic services;

(E) develop, in collaboration with the pharmaceutical profession, and test, improved administrative practices or improved methods for the reimbursement of independent pharmacies for the cost of furnishing drugs as a covered service; and

(F) make such other studies as it may consider necessary or promising for the evaluation, or for the improvement, of the operation of this Act.

(4) REPORT ON USE OF EXISTING FEDERAL HEALTH CARE FACILITIES.—Not later than one year after the date of the enactment of this Act, the Board shall recommend to the Congress one or more proposals for the treatment of health care facilities of the Federal Government.

(h) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—There is hereby established the position of Executive Director of the Board. The Director shall be appointed by the Board and shall serve as secretary to the Board and perform such duties in the administration of this title as the Board may assign.

(2) DELEGATION.—The Board is authorized to delegate to the Director or to any other officer or employee of the Board or, with the approval of the Secretary of Health and Human Services (and subject to reimbursement of identifiable costs), to any other officer or employee of the Department of Health and Human Services, any of its functions or duties under this Act other than—

(A) the issuance of regulations; or

(B) the determination of the availability of funds and their allocation to implement this Act.

(3) COMPENSATION.—The Executive Director of the Board shall be entitled to compensation at a level equivalent to level III of the Executive Schedule, in accordance with section 5314 of title 5, United States Code.

(i) INSPECTOR GENERAL.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 11(1) by inserting after "Corporation;" the following: "the Chair of the American Health Security Standards Board;";

(2) in section 11(2) by inserting after "Information Agency," the following: "the American Health Security Standards Board,"; and

(3) by inserting after the second section 8G the following:

"§ 8I. Special provisions concerning American Health Security Standards Board

"The Inspector General of the American Health Security Standards Board, in addition to the other authorities vested by this Act, shall have the same authority, with respect to the Board and the American Health Security Program under this Act, as the Inspector General for the Department of Health and Human Services has with respect to the Secretary of Health and Human Services and the medicare and medicaid programs, respectively.".

(j) STAFF.—The Board shall employ such staff as the Board may deem necessary.

(k) ACCESS TO INFORMATION.—The Secretary of Health and Human Services shall make available to the Board all information available from sources within the Department or from other sources, pertaining to the duties of the Board.

SEC. 402. AMERICAN HEALTH SECURITY ADVISORY COUNCIL.

(a) IN GENERAL.—The Board shall provide for an American Health Security Advisory Council (in this section referred to as the "Council") to advise the Board on its activities.

(b) MEMBERSHIP.—The Council shall be composed of—

(1) the Chair of the Board, who shall serve as Chair of the Council, and

(2) twenty members, not otherwise in the employ of the United States, appointed by the Board without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

The appointed members shall include, in accordance with subsection (e), individuals who are representative of State health security programs, public health professionals, providers of health services, and of individuals (who shall constitute a majority of the Council) who are representative of consumers of such services, including a balanced representation of employers, unions, consumer organizations, and population groups with special health care needs. To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States and shall reflect the racial, ethnic, and gender composition of the population of the United States.

(c) TERMS OF MEMBERS.—Each appointed member shall hold office for a term of four years, except that—

(1) any member appointed to fill a vacancy occurring during the term for which the member's predecessor was appointed shall be appointed for the remainder of that term; and

(2) the terms of the members first taking office shall expire, as designated by the Board at the time of appointment, five at the end of the first year, five at the end of the second year, five at the end of the third year,

VOL 140 PT 15 AG 10 — 11 1994 UMI

and five at the end of the fourth year after the date of enactment of this Act.

(d) VACANCIES.—

(1) IN GENERAL.—The Board shall fill any vacancy in the membership of the Council in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(2) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) REAPPOINTMENT.—The Board may reappoint an appointed member of the Council for a second term in the same manner as the original appointment.

(e) QUALIFICATIONS.—

(1) PUBLIC HEALTH REPRESENTATIVES.—Members of the Council who are representative of State health security programs and public health professionals shall be individuals who have extensive experience in the financing and delivery of care under public health programs.

(2) PROVIDERS.—Members of the Council who are representative of providers of health care shall be individuals who are outstanding in fields related to medical, hospital, or other health activities, or who are representative of organizations or associations of professional health practitioners.

(3) CONSUMERS.—Members who are representative of consumers of such care shall be individuals, not engaged in and having no financial interest in the furnishing of health services, who are familiar with the needs of various segments of the population for personal health services and are experienced in dealing with problems associated with the consumption of such services.

(f) DUTIES.—

(1) IN GENERAL.—It shall be the duty of the Council—

(A) to advise the Board on matters of general policy in the administration of this Act, in the formulation of regulations, and in the performance of the Board's duties under section 401; and

(B) to study the operation of this Act and the utilization of health services under it, with a view to recommending any changes in the administration of the Act or in its provisions which may appear desirable.

(2) REPORT.—The Council shall make an annual report to the Board on the performance of its functions, including any recommendations it may have with respect thereto, and the Board shall promptly transmit the report to the Congress, together with a report by the Board on any recommendations of the Council that have not been followed.

(g) STAFF.—The Council, its members, and any committees of the Council shall be provided with such secretarial, clerical, or other assistance as may be authorized by the Board for carrying out their respective functions.

(h) MEETINGS.—The Council shall meet as frequently as the Board deems necessary, but not less than four times each year. Upon request by seven or more members it shall be the duty of the Chair to call a meeting of the Council.

(i) COMPENSATION.—Members of the Council shall be reimbursed by the Board for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board in accordance with subchapter I of chapter 57 of title 5, United States Code.

(j) FACA NOT APPLICABLE.—The provisions of the Federal Advisory Committee Act shall not apply to the Council.

SEC. 403. PROFESSIONAL, TECHNICAL, AND TEMPORARY ADVISORY COMMITTEES.

(a) IN GENERAL.—The Board shall appoint the standing advisory committees specified in subsections (b) through (f), and such other standing professional and technical committees in order to advise it in carrying out its duties under this Act.

(b) ADVISORY COMMITTEE ON BENEFITS.—

(1) IN GENERAL.—The Board shall appoint a standing Advisory Committee on Benefits to advise it with respect to the several classes of covered services under this Act.

(2) MEMBERSHIP.—The membership of the committee shall include individuals (in such number as the Board may determine) drawn from the health professions, from consumers of health services, from providers of health services (including non-medical licensed and non-licensed providers), or from other sources, whom the Board deems best qualified to advise it with respect to the professional and technical aspects of the furnishing and utilization of, and the evaluation of, a class of covered services designated by the Board, and with respect to the relationship of that class of services to other covered services. In appointing such individuals, the Board shall assure significant representation of consumers of health services and providers of health services. To the greatest extent feasible, the membership of the committee shall represent the various geographic regions of the United States and shall reflect the racial, ethnic, and gender composition of the population of the United States.

(c) ADVISORY COMMITTEE ON COST CONTAINMENT.—

(1) IN GENERAL.—The Board shall appoint a standing Advisory Committee on Cost Containment to advise it with respect to the payments and cost containment measures contained in title VI of this Act.

(2) MEMBERSHIP.—The membership of the committee shall include individuals (in such number as the Board may determine) with national recognition for their expertise in health economics, health care financing, provider reimbursement, and related fields. In appointing individuals the Board shall assure significant representation of consumers of health services and providers of health services. To the greatest extent feasible, the membership of the committee shall represent the various geographic regions of the United States and shall reflect the racial, ethnic, and gender composition of the population of the United States.

(d) ADVISORY COMMITTEE ON PRIMARY CARE AND THE MEDICALLY UNDERSERVED.—

(1) IN GENERAL.—The Board shall appoint a standing Advisory Committee on Primary Care and the Medically Underserved to advise it with respect to title VII of this Act, including with respect to the delivery of services and the education and training of health professionals, and to consider means of increasing the supply and expanding the scope of practice of mid-level professionals and the use of community health outreach workers and other non-professional health care workers.

(2) MEMBERSHIP.—The membership of the committee shall include individuals (in such number as the Board may determine) from the health professions and health services with expertise in—

(A) primary care services;

(B) the education and training of primary care practitioners;

(C) the special health needs of medically underserved populations;

(D) the training, educational, and financial incentives that would encourage health practitioners to serve in medically underserved areas;

(E) the delivery of health services through community-based and public facilities; and

(F) developing alternative models of delivering primary health services to medically underserved populations.

In appointing such individuals, the Board shall assure significant representation of consumers of health services and providers of health services. To the greatest extent feasible, the membership of the committee shall represent the various geographic regions of the United States and shall reflect the racial, ethnic, and gender composition of the population of the United States.

(e) ADVISORY COMMITTEE ON MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT SERVICES.—

(1) IN GENERAL.—The Board shall appoint a standing Advisory Committee on Mental Health and Substance Abuse Treatment Services to advise it with respect to the manner in which the benefits under this Act for mental health services and substance abuse treatment services should be modified to best meet the objectives of this Act.

(2) MEMBERSHIP.—The membership of the committee shall include individuals (in such number as the Board may determine) with expertise in health care economics, who are representative of the multi-disciplinary range of providers of such services, who are consumers of such services, and who represent advocacy groups representing consumers of such services. To the greatest extent feasible, the membership of the committee shall represent the various geographic regions of the United States and shall reflect the racial, ethnic, and gender composition of the population of the United States.

(3) RESPONSIBILITIES.—The committee shall—

(A) study changes in the utilization patterns and costs which accompany the provision of mental health services and substance abuse treatment services;

(B) study and make recommendations on any changes that may be advisable in the utilization review thresholds specified in section 204(b)(2)(A);

(C) make recommendations on ways to create a continuum of care and encourage the provision of care in the least restrictive appropriate setting;

(D) develop a standard set of practices for care coordination services, including—

(i) the range of care coordination services that should be offered for a specific target population,

(ii) the organizational structure in which care coordination services should be based,

(iii) the minimum training requirements for care coordinators, and

(iv) the standards for the clinical necessity of care coordination services,

and study (and make recommendations concerning) peer care coordination services; and

(E) report any initial recommendations to the Board by January 1, 1996.

(4) ROLE OF SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—The Board shall consult with the Administrator of the Substance Abuse and Mental Health Services Administration in the appointment of members to, and operation of, the committee.

(f) ADVISORY COMMITTEE ON PRESCRIPTION DRUGS.—

(1) IN GENERAL.—The Board shall appoint a standing Advisory Committee on Prescription Drugs to advise it with respect to the list of approved prescription drugs and biologicals under section 616(a)(1) and other matters relating to the coverage of prescription drugs under this Act.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The membership of the committee shall include individuals (in such number as the Board may determine) with expertise in appropriate utilization of prescription and nonprescription drug and biological therapies and of the relative safety and efficacy of prescription drugs and biologicals.

(B) AREAS OF EXPERTISE.—A majority of the members of the committee shall be physicians. Members of the committee shall include at least a dentist, a nurse, and a pharmacist, and individuals with special knowledge or expertise in at least the following areas: geriatric, obstetric, pediatric, psychiatric, and neurological problems associated with drug therapies; clinical pharmacology; pharmacoepidemiology; and comparative clinical trials of drugs (including statisticians and biopharmaceutic specialists).

(C) CONFLICT OF INTEREST PROHIBITION.—No individual who is an employee of a manufacturer of a drug or biological or who otherwise has a material financial interest directly or indirectly with respect to such a manufacturer, or who has an immediate family member (as defined by the Board) who is such an employee or has such an interest, shall serve as a member of the committee.

(D) DIVERSITY OF MEMBERSHIP.—To the greatest extent feasible, the membership of the committee shall represent the various geographic regions of the United States and shall reflect the racial, ethnic, and gender composition of the population of the United States.

(3) RESPONSIBILITIES.—The committee shall—

(A) continuously review scientific and medical information pertaining to the relative safety and efficacy, and the comparability, of prescription drugs and biologicals approved for marketing in the United States; and

(B) recommend drug use classifications and identify, within such a classification, drugs that are therapeutic alternates for a given indication and indications for which particular drugs are superior based on safety and efficacy.

The committee is not authorized to engage in drug price negotiations nor define acceptable costs for any product.

(4) CONSUMER INPUT.—In conducting its activities, the committee shall solicit advice and comments from a panel of consumer advocates.

(g) TEMPORARY COMMITTEES.—The Board is authorized to appoint such temporary professional and technical committees as it deems necessary to advise it on special problems not encompassed in the assignments of standing committees appointed under this section or to supplement the advice of standing committees.

(h) REPORTING.—Committees appointed under this section shall report from time to time (but not less often than biannually) to the Board, and copies of their reports shall be transmitted by the Board to the American Health Security Advisory Council and be made readily available to the public.

(i) COMPENSATION.—All members of the committees established under this section shall be reimbursed by the Board for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board in accordance with subchapter I of chapter 57 of title 5, United States Code.

(j) ADVICE FROM PROSPECTIVE PAYMENT ASSESSMENT COMMISSION, PRACTITIONER PAYMENT REVIEW COMMISSION, ETC.—For provisions relating to role of certain commissions in reviewing payment rates, see section 620.

SEC. 404. AMERICAN HEALTH SECURITY QUALITY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established an American Health Security Quality Council.

(b) APPOINTMENT AND TERMS OF MEMBERS.—

(1) IN GENERAL.—The Council shall be composed of 10 members appointed by the President. The President shall first appoint individuals on a timely basis so as to provide for the operation of the Council by not later than January 1, 1995.

(2) SELECTION OF MEMBERS.—Each member of the Council shall be a member of a health profession. Six members of the Council shall be physicians. Individuals shall be appointed to the Council on the basis of national reputations for clinical and academic excellence. To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States and shall reflect the racial, ethnic, and gender composition of the population of the United States.

(3) TERMS OF MEMBERS.—Individuals appointed to the Council shall serve for a term of 5 years, except that the terms of 4 of the individuals initially appointed shall be, as designated by the President at the time of their appointment, for 1, 2, 3, and 4 years.

(c) VACANCIES.—

(1) IN GENERAL.—The President shall fill any vacancy in the membership of the Council in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(2) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) REAPPOINTMENT.—The President may reappoint a member of the Council for a second term in the same manner as the original appointment. A member who has served for two consecutive 5-year terms shall not be eligible for reappointment until two years after the member has ceased to serve.

(d) CHAIR.—The President shall designate one of the members of the Council to serve at the will of the President as Chair of the Council.

(e) COMPENSATION.—Members of the Council who are not employees of the Federal Government shall be entitled to compensation at a level equivalent to level II of the Executive Schedule, in accordance with section 5313 of title 5, United States Code.

(f) GENERAL DUTIES OF THE COUNCIL.—The Council shall develop and update a set of national quality and performance measures which will apply to State health security programs, institutions, and health care professionals. In developing and selecting national measures of quality of performance, the Council shall consult with the Secretary of Health and Human Services and with appropriate interested parties, including States, health care providers, nationally recognized accrediting bodies, experts in quality measurement, and consumers. National measures of quality performance shall be selected and defined in a manner that will provide accurate and comparable information. The Council shall develop minimum criteria for competence for entities that can qualify to conduct ongoing and continuous external quality review for State quality review programs. Such entities must be independent of the State agency responsible for payments under the State health security program. The Council shall ensure coordination and reporting by State review entities to assure national consistency in quality standards. The Council is responsible for quality review activities under title V. The Council shall report to the Board annually on the conduct of activities under such title and shall report to the Board annually specifically on findings from outcomes research and development of practice guidelines that may affect the Board's determination of coverage of services under section 401(f)(1)(G).

SEC. 405. STATE HEALTH SECURITY PROGRAMS.

(a) SUBMISSION OF PLANS.—

(1) IN GENERAL.—Each State shall submit to the Board a plan for a State health security program for providing for health care services to the residents of the State in accordance with this Act.

(2) REGIONAL PROGRAMS.—A State may join with one or more neighboring States to submit to the Board a plan for a regional health security program instead of separate State health security programs.

(3) REGIONAL PLANNING MECHANISMS.—The Board shall provide incentives for States to develop regional planning mechanisms to promote the rational distribution of, adequate access to, and efficient use of, tertiary care facilities, equipment, and services.

(b) REVIEW AND APPROVAL OF PLANS.—

(1) IN GENERAL.—The Board shall review plans submitted under subsection (a) and determine whether such plans meet the requirements for approval. The Board shall not approve such a plan unless it finds that the plan (or State law) provides, consistent with the provisions of this Act, for the following:

(A) Payment for required health services for eligible individuals in the State in accordance with this Act.

(B) Adequate administration, including the designation of a single State agency responsible for the administration (or supervision of the administration) of the program.

(C) The establishment of a State health security budget.

(D) Establishment of payment methodologies (consistent with subtitle B of title VII).

(E) Assurances that individuals have the freedom to choose practitioners and other health care providers for services covered under this Act.

(F) A procedure for carrying out long-term regional management and planning functions with respect to the delivery and distribution of health care services that—

(i) ensures participation of consumers of health services and providers of health services, and

(ii) gives priority to the most acute shortages and maldistributions of health personnel and facilities and the most serious deficiencies in the delivery of covered services and to the means for the speedy alleviation of these shortcomings.

(G) The licensure and regulation of all health providers and facilities to ensure compliance with Federal and State laws and to promote quality of care.

(H) Establishment of a quality review system in accordance with section 502.

(I) Establishment of an independent ombudsman for consumers to register complaints about the organization and administration of the State health security program and to help resolve complaints and disputes between consumers and providers.

(J) Publication of an annual report on the operation of the State health security program, which report shall include information on cost, progress towards achieving full enrollment, public access to health services,

VOL 140 PT 15 AG 10 — 11 1994 UMI

quality review, health outcomes, health professional training, and the needs of medically underserved populations.

(K) Provision of a fraud and abuse prevention and control unit that the Inspector General determines meets the requirements of section 413(a).

(L) Provision that—

(i) all claims or requests for payment for services shall be accompanied by the unique provider identifier assigned under section 414(a) to the provider and the unique patient identifier assigned to the individual under section 414(b);

(ii) no payment shall be made under the program for the provision of health care services by any provider unless the provider has furnished the program with the unique provider identifier assigned under section 414(a);

(iii) the plan shall use the unique patient identifier assigned under section 414(b) to an individual as the identifier of the individual in the processing of claims and other purposes (as specified by the Board); and

(iv) queries made under section 412(c)(2) shall be made using the unique provider identifier specified under section 414(a).

(M) Prohibit payment in cases of prohibited physician referrals under section 304.

(N) Effective January 1, 2001, provide for use of a uniform electronic data base in accordance with section 504(a).

(2) CONSEQUENCES OF FAILURE TO COMPLY.—If the Board finds that a State plan submitted under paragraph (1) does not meet the requirements for approval under this section or that a State health security program or specific portion of such program, the plan for which was previously approved, no longer meets such requirements, the Board shall provide notice to the State of such failure and that unless corrective action is taken within a period specified by the Board, the Board shall place the State health security program (or specific portions of such program) in receivership under the jurisdiction of the Board.

(c) STATE HEALTH SECURITY ADVISORY COUNCILS.—

(1) IN GENERAL.—For each State, the Governor shall provide for appointment of a State Health Security Advisory Council to advise and make recommendations to the Governor and State with respect to the implementation of the State health security program in the State.

(2) MEMBERSHIP.—Each State Health Security Advisory Council shall be composed of at least 11 individuals. The appointed members shall include individuals who are representative of the State health security program, public health professionals, providers of health services, and of individuals (who shall constitute a majority) who are representative of consumers of such services, including a balanced representation of employers, unions and consumer organizations. To the greatest extent feasible, the membership of each State Health Security Advisory Council shall represent the various geographic regions of the State and shall reflect the racial, ethnic, and gender composition of the population of the State.

(3) DUTIES.—

(A) IN GENERAL.—Each State Health Security Advisory Council shall review, and submit comments to the Governor concerning the implementation of the State health security program in the State.

(B) ASSISTANCE.—Each State Health Security Advisory Council shall provide assistance and technical support to community organizations and public and private non-profit agencies submitting applications for funding under appropriate State and Federal public health programs, with particular emphasis placed on assisting those applicants with broad consumer representation.

(d) STATE USE OF FISCAL AGENTS.—

(1) IN GENERAL.—Each State health security program, using competitive bidding procedures, may enter into such contracts with qualified entities, such as voluntary associations, as the State determines to be appropriate to process claims and to perform other related functions of fiscal agents under the State health security program.

(2) RESTRICTION.—Except as the Board may provide for good cause shown, in no case may more than one contract described in paragraph (1) be entered into under a State health security program.

SEC. 406. COMPLEMENTARY CONDUCT OF RELATED HEALTH PROGRAMS.

In performing functions with respect to health personnel education and training, health research, environmental health, disability insurance, vocational rehabilitation, the regulation of food and drugs, and all other matters pertaining to health, the Secretary of Health and Human Services shall direct all activities of the Department of Health and Human Services toward contributions to the health of the people complementary to this Act.

Subtitle B—Control Over Fraud and Abuse

SEC. 411. APPLICATION OF FEDERAL SANCTIONS TO ALL FRAUD AND ABUSE UNDER AMERICAN HEALTH SECURITY PROGRAM.

The following sections of the Social Security Act shall apply to State health security programs in the same manner as they apply to State medical assistance plans under title XIX of such Act (except that in applying such provisions any reference to the Secretary is deemed a reference to the Board):

(1) Section 1128 (relating to exclusion of individuals and entities).

(2) Section 1128A (civil monetary penalties).

(3) Section 1128B (criminal penalties).

(4) Section 1124 (relating to disclosure of ownership and related information).

(5) Section 1126 (relating to disclosure of certain owners).

SEC. 412. NATIONAL HEALTH CARE FRAUD DATA BASE.

(a) ESTABLISHMENT.—The American Health Security Standards Board, through the Inspector General, shall establish a national data base (in this section referred to as the "data base") containing information relating to health care fraud and abuse.

(b) DATA INCLUDED.—

(1) IN GENERAL.—The data base shall include such information as the Inspector General, in consultation with the Board, shall specify, and shall include at least the information described in paragraph (2).

(2) SPECIFIED INFORMATION.—The information specified in this paragraph is, with respect to providers of health care services, the identity of any provider—

(A) that has been convicted of a crime for which the provider may be excluded from participation under a health program (as defined in paragraph (3));

(B) whose license to provide health care has been revoked or suspended (as described in section 1128(b)(5) of the Social Security Act);

(C) that has been excluded or suspended from a health program under section 1128 of the Social Security Act or from any other Federal or State health care program;

(D) with respect to whom a civil money penalty has been imposed under this Act or the Social Security Act; or

(E) that otherwise is subject to exclusion from participation under a health program.

(3) HEALTH PROGRAM DEFINED.—In this section, the term "health program" means a State health security program and includes the medicare program (under title XVIII of the Social Security Act) and a State health care program (as defined in section 1128(h) of such Act).

(c) REPORTING REQUIREMENT.—

(1) REPORTING.—Each State health security program shall provide such information to the Inspector General as the Inspector General may require in order to carry out fraud and abuse control activities and for purposes of maintaining the data base.

(2) QUERYING.—In accordance with rules established by the Board (in consultation with the Inspector General), each State health security program shall query periodically (as specified by the Inspector General)—

(A) the data base to determine if providers of health services for which the program makes payment are not disqualified from providing such services, and

(B) the Secretary of Health and Human Services, concerning information obtained by the Secretary under part B of the Health Care Quality Improvement Act of 1986 relating to practitioners.

(3) COORDINATION WITH MALPRACTICE DATA BASE.—The Secretary of Health and Human Services shall provide for the coordination of the reporting and disclosure of information under this section with information under part B of the Health Care Quality Improvement Act of 1986.

(4) UNIFORM MANNER.—Information shall be reported under this subsection in a uniform manner (in accordance with standards of the Inspector General) that permits aggregation of reported information.

(5) ACCESS FOR AUDIT.—Each State health security program shall provide the Inspector General such access to information as may be required to verify the information reported under this subsection.

(6) PENALTY FOR FALSE INFORMATION.—Any person that submits false information required to be provided under this subsection or that denies access to information under paragraph (5) may be imprisoned for not more than 5 years, or fined, or both, in accordance with title 18, United States Code.

(7) CONFIDENTIALITY.—The Board shall establish rules that protect the confidentiality of the information in the data base.

SEC. 413. REQUIREMENTS FOR OPERATION OF STATE HEALTH CARE FRAUD AND ABUSE CONTROL UNITS.

(a) REQUIREMENT.—In order to meet the requirement of section 405(b)(1)(K), each State health security program must establish and maintain a health care fraud and abuse control unit (in this section referred to as a "fraud unit") that meets requirements of this section and other requirements of the Board. Such a unit may be a State medicaid fraud control unit (described in section 1903(q) of the Social Security Act).

(b) STRUCTURE OF UNIT.—The fraud unit must—

(1) be a single identifiable entity of the State government;

(2) be separate and distinct from the State agency with principal responsibility for the administration of the State health security program; and

(3) meet 1 of the following requirements:

(A) It must be a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations.

(B) If it is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, approved by the Board, that (i) assure its referral of suspected criminal violations relating to the State health insurance plan to the appropriate authority or authorities in the States for prosecution, and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions.

(C) It must have a formal working relationship with the office of the State Attorney General and have formal procedures (including procedures for its referral of suspected criminal violations to such office) which are approved by the Board and which provide effective coordination of activities between the fraud unit and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the State health insurance plan.

(c) FUNCTIONS.—The fraud unit must—

(1) have the function of conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of health care services and activities of providers of such services under the State health security program;

(2) have procedures for reviewing complaints of the abuse and neglect of patients of providers and facilities that receive payments under the State health security program, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action; and

(3) provide for the collection, or referral for collection to a single State agency, of overpayments that are made under the State health security program to providers and that are discovered by the fraud unit in carrying out its activities.

(d) RESOURCES.—The fraud unit must—

(1) employ such auditors, attorneys, investigators, and other necessary personnel,

(2) be organized in such a manner, and

(3) provide sufficient resources (as specified by the Board),

as is necessary to promote the effective and efficient conduct of the unit's activities.

(e) COOPERATIVE AGREEMENTS.—The fraud unit must have cooperative agreements (as specified by the Board) with—

(1) similar fraud units in other States,

(2) the Inspector General, and

(3) the Attorney General of the United States.

(f) REPORTS.—The fraud unit must submit to the Inspector General an application and annual reports containing such information as the Inspector General determines to be necessary to determine whether the unit meets the previous requirements of this section.

SEC. 414. ASSIGNMENT OF UNIQUE PROVIDER AND PATIENT IDENTIFIERS.

(a) PROVIDER IDENTIFIERS.—

(1) IN GENERAL.—The Board shall provide for the assignment, to each individual or entity providing health care services under a State health security program, of a unique provider identifier.

(2) RESPONSE TO QUERIES.—Upon the request of a State health security program with respect to a provider, the Board shall provide the program with the unique provider identifier (if any) assigned to the provider under paragraph (1).

(b) PATIENT IDENTIFIERS.—The Board shall provide for the assignment, to each eligible individual, of a unique patient identifier. The identifier so assigned may be the Social Security account number of the individual.

(c) REQUIREMENT TO USE IDENTIFIERS.—Each State health security program is required under section 405(b)(1)(L) to use the unique identifiers assigned under this section.

TITLE V—QUALITY ASSESSMENT

SEC. 501. FUNCTIONS OF QUALITY COUNCIL; DEVELOPMENT OF PRACTICE GUIDELINES AND APPLICATION TO OUTLIERS.

(a) DEVELOPMENT OF PRACTICE GUIDELINES.—The American Health Security Quality Council (in this title referred to as the "Council")—

(1) shall collect data from outcomes research, including data on patient satisfaction and post-hospital discharge experience, on an ongoing basis (whether conducted by the Federal Government or other entities), and

(2) on the basis of such data and existing clinical knowledge, shall develop practice guidelines.

Such guidelines may vary based upon the area in which the services are provided and the degree of training, specialization, or similar characteristics of providers. Such guidelines must be updated on an annual basis and based on monitoring of outcomes research and other clinical data. Such guidelines shall be based on the degree to which a process of care increases the probability of desired patient outcomes.

(b) PROFILING OF PATTERNS OF PRACTICE; IDENTIFICATION OF OUTLIERS.—The Council shall adopt methodologies for profiling the patterns of practice of health care professionals and for identifying outliers (as defined in subsection (f)).

(c) CENTERS OF EXCELLENCE.—The Council shall develop guidelines for certain medical procedures designated by the Board to be performed only at tertiary care centers which can meet standards for frequency of procedure performance and intensity of support mechanisms that are consistent with the high probability of desired patient outcome. Reimbursement under this Act for such a designated procedure may only be provided if the procedure was performed at a center that meets such standards.

(d) REMEDIAL ACTIONS.—The Council shall develop standards for education and sanctions with respect to outliers so as to assure the quality of health care services provided under this Act. The Council shall develop criteria for referral of providers to the State licensing board if education proves ineffective in correcting provider practice behavior.

(e) DISSEMINATION.—The Council shall disseminate to the State—

(1) the guidelines developed under subsections (a) and (c),

(2) the methodologies adopted under subsection (b), and

(3) the standards developed under subsection (d),

for use by the States under section 502.

(f) OUTLIER DEFINED.—In this title, the term "outlier" means a health care provider whose pattern of practice, relative to applicable practice guidelines, suggests deficiencies in the quality of health care services being provided.

SEC. 502. STATE QUALITY REVIEW PROGRAMS.

(a) REQUIREMENT.—In order to meet the requirement of section 405(b)(1)(H), each State health security program shall establish one or more qualified entities to conduct quality reviews of persons providing covered services under the program, in accordance with standards established under subsection (b)(1) (except as provided in subsection (b)(2)) and subsection (d).

(b) FEDERAL STANDARDS.—

(1) IN GENERAL.—The Council shall establish standards with respect to—

(A) the adoption of practice guidelines (developed under section 501(a)),

(B) the identification of outliers (consistent with methodologies adopted under section 501(b)),

(C) the development of remedial programs and monitoring for outliers, and

(D) the application of sanctions (consistent with the standards developed under section 501(c)).

(2) STATE DISCRETION.—A State may apply under subsection (a) standards other than those established under paragraph (1) so long as the State demonstrates to the satisfaction of the Council on an annual basis that the standards applied have been as efficacious in promoting and achieving improved quality of care as the application of the standards established under paragraph (1). Positive improvements in quality shall be documented by reductions in the variations of clinical care process and improvement in patient outcomes.

(c) QUALIFICATIONS.—

(1) IN GENERAL.—An entity is not qualified to conduct quality reviews under subsection (a) unless the entity—

(A) is administratively independent of the individual or board that administers the State health security program, and

(B) does not provide any financial incentive to reviewers to favor one pattern of practice over another.

(2) PROVIDER-SPECIFIC ENTITIES.—Subject to paragraph (1), a State may provide that an individual hospital (or other institutional provider) may serve as a qualified entity to conduct quality reviews under subsection (a).

SEC. 503. ELIMINATION OF UTILIZATION REVIEW PROGRAMS; TRANSITION.

(a) INTENT.—It is the intention of this title to replace by January 1, 1998, random utilization controls with a systematic review of patterns of practice that compromise the quality of care.

(b) SUPERSEDING CASE REVIEWS.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the program of quality review provided under the previous sections of this title supersede all existing Federal requirements for utilization review programs, including requirements for random case-by-case reviews and programs requiring pre-certification of medical procedures on a case-by-case basis.

(2) TRANSITION.—Before January 1, 1998, the Board and the States may employ existing utilization review standards and mechanisms as may be necessary to effect the transition to pattern of practice-based reviews.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed—

(A) as precluding the case-by-case review of the provision of care—

(i) in individual incidents where the quality of care has significantly deviated from acceptable standards of practice, and

(ii) with respect to a provider who has been determined to be an outlier; or

(B) as precluding the case management of catastrophic, mental health, or substance abuse cases where such management is necessary to achieve appropriate, cost-effective, and beneficial comprehensive medical care, as provided for in section 204.

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 504. DEVELOPMENT OF NATIONAL ELECTRONIC DATA BASE.

(a) USE BY STATES.—In order to meet the requirement of this section, for purposes of section 405(b)(1)(N)), each State health security program shall develop and use a uniform electronic data base which uses the software designated under subsection (b) and which assures confidentiality under subsection (c), for all patient records in order to enable systematic quality review and outcomes analysis. Subject to subsection (c), data in such data base shall be made available, under rules established by the Board, in order to facilitate the portability of patient records and comparative outcomes research analysis.

(b) UNIFORM SOFTWARE.—The Board shall designate the uniform software that shall be used by States in the operation of their electronic data bases, in order to facilitate the portability of patient records and comparative outcomes research analysis. The Board shall not grant any waiver of the requirement of the previous sentence.

(c) CONFIDENTIALITY.—The Board shall establish standards that are designed to protect the privacy and otherwise shield the identity of the patients whose records are included in the data base. Under such standards, government agencies shall not have access to information in the data base that will identify individual patients except in cases of quality review procedures which require that individual patients be informed of necessary changes in their treatment.

TITLE VI—HEALTH SECURITY BUDGET; PAYMENTS; COST CONTAINMENT MEASURES

Subtitle A—Budgeting and Payments to States

SEC. 601. NATIONAL HEALTH SECURITY BUDGET.

(a) NATIONAL HEALTH SECURITY BUDGET.—

(1) IN GENERAL.—By not later than September 1 before the beginning of each year (beginning with 1995), the Board shall establish a national health security budget, which—

(A) specifies the total expenditures (including expenditures for administrative costs) to be made by the Federal Government and the States for covered health care services under this Act, and

(B) allocates those expenditures among the States consistent with section 604.

Pursuant to subsection (b), such budget for a year shall not exceed the budget for the preceding year increased by the percentage increase in gross domestic product.

(2) DIVISION OF BUDGET INTO COMPONENTS.—The national health security budget shall consist of at least 4 components:

(A) A component for quality assessment activities (described in title V).

(B) A component for health professional education expenditures.

(C) A component for administrative costs.

(D) A component (in this title referred to as the "operating component") for operating and other expenditures not described in subparagraphs (A) through (C), consisting of amounts not included in the other components. A State may provide for the allocation of this component between capital expenditures and other expenditures.

(3) ALLOCATION AMONG COMPONENTS.—Taking into account the State health security budgets established and submitted under section 603, the Board shall allocate the national health security budget among the components in a manner that—

(A) assures a fair allocation for quality assessment activities (consistent with the national health security spending growth limit); and

(B) assures that the health professional education expenditure component is sufficient to provide for the amount of health professional education expenditures sufficient to meet the need for covered health care services (consistent with the national health security spending growth limit under subsection (b)(2)).

(b) BASIS FOR TOTAL EXPENDITURES.—

(1) IN GENERAL.—The total expenditures specified in such budget shall be the sum of the capitation amounts computed under section 602(a) and the amount of Federal administrative expenditures needed to carry out this Act.

(2) NATIONAL HEALTH SECURITY SPENDING GROWTH LIMIT.—For purposes of this subtitle, the national health security spending growth limit described in this paragraph for a year is zero, or, if greater, the percentage increase in the gross domestic product (in current dollars) from the first quarter of the second previous year to the first quarter of the previous year.

(c) DEFINITIONS.—In this title:

(1) CAPITAL EXPENDITURES.—The term "capital expenditures" means expenses for the purchase, lease, construction, or renovation of capital facilities and for equipment and includes return on equity capital.

(2) HEALTH PROFESSIONAL EDUCATION EXPENDITURES.—The term "health professional education expenditures" means expenditures in hospitals and other health care facilities to cover costs associated with teaching and related research activities.

SEC. 602. COMPUTATION OF INDIVIDUAL AND STATE CAPITATION AMOUNTS.

(a) CAPITATION AMOUNTS.—

(1) INDIVIDUAL CAPITATION AMOUNTS.—In establishing the national health security budget under section 601(a) and in computing the national average per capita cost under subsection (b) for each year, the Board shall establish a method for computing the capitation amount for each eligible individual residing in each State. The capitation amount for an eligible individual in a State classified within a risk group (established under subsection (d)(2)) is the product of—

(A) a national average per capita cost for all covered health care services (computed under subsection (b)),

(B) the State adjustment factor (established under subsection (c)) for the State, and

(C) the risk adjustment factor (established under subsection (d)) for the risk group.

(2) STATE CAPITATION AMOUNT.—

(A) IN GENERAL.—For purposes of this title, the term "State capitation amount" means, for a State for a year, the sum of the capitation amounts computed under paragraph (1) for all the residents of the State in the year, as estimated by the Board before the beginning of the year involved.

(B) USE OF STATISTICAL MODEL.—The Board may provide for the computation of State capitation amounts based on statistical models that fairly reflect the elements that comprise the State capitation amount described in subparagraph (A).

(C) POPULATION INFORMATION.—The Bureau of the Census shall assist the Board in determining the number, place of residence, and risk group classification of eligible individuals.

(b) COMPUTATION OF NATIONAL AVERAGE PER CAPITA COST.—

(1) FOR 1995.—For 1995, the national average per capita cost under this paragraph is equal to—

(A) the average per capita health care expenditures in the United States in 1993 (as estimated by the Board),

(B) increased to 1994 by the Board's estimate of the actual amount of such per capita expenditures during 1994, and

(C) updated to 1995 by the national health security spending growth limit specified in section 601(b)(2) for 1995.

(2) FOR SUCCEEDING YEARS.—For each succeeding year, the national average per capita cost under this subsection is equal to the national average per capita cost computed under this subsection for the previous year increased by the national health security spending growth limit (specified in section 601(b)(2)) for the year involved.

(c) STATE ADJUSTMENT FACTORS.—

(1) IN GENERAL.—Subject to the succeeding paragraphs of this subsection, the Board shall develop for each State a factor to adjust the national average per capita costs to reflect differences between the State and the United States in—

(A) average labor and nonlabor costs that are necessary to provide covered health services;

(B) any social, environmental, or geographic condition affecting health status or the need for health care services, to the extent such a condition is not taken into account in the establishment of risk groups under subsection (d);

(C) the geographic distribution of the State's population, particularly the proportion of the population residing in medically underserved areas, to the extent such a condition is not taken into account in the establishment of risk groups under subsection (d); and

(D) any other factor relating to operating costs required to assure equitable distribution of funds among the States.

(2) MODIFICATION OF HEALTH PROFESSIONAL EDUCATION COMPONENT.—With respect to the portion of the national health security budget allocated to expenditures for health professional education, the Board shall modify the State adjustment factors so as to take into account—

(A) differences among States in health professional education programs in operation as of the date of the enactment of this Act, and

(B) differences among States in their relative need for expenditures for health professional education, taking into account the health professional education expenditures proposed in State health security budgets under section 603(a).

(3) BUDGET NEUTRALITY.—The State adjustment factors, as modified under paragraph (2), shall be applied under this subsection in a manner that results in neither an increase nor a decrease in the total amount of the Federal contributions to all State health security programs under subsection (b) as a result of the application of such factors.

(4) PHASE-IN.—In applying State adjustment factors under this subsection during the five-year period beginning with 1995, the Board shall phase-in, over such period, the use of factors described in paragraph (1) in a manner so that the adjustment factor for a State is based on a blend of such factors and a factor that reflects the relative actual average per capita costs of health services of the different States as of the time of enactment of this Act.

(5) PERIODIC ADJUSTMENT.—In establishing the national health security budget before the beginning of each year, the Board shall provide for appropriate adjustments in the State adjustment factors under this subsection.

(d) ADJUSTMENTS FOR RISK GROUP CLASSIFICATION.—

(1) IN GENERAL.—The Board shall develop an adjustment factor to the national average per capita costs computed under subsection (b) for individuals classified in each risk group (as designated under paragraph (2)) to reflect the difference between the average national average per capita costs and the national average per capita cost for individuals classified in the risk group.

(2) RISK GROUPS.—The Board shall designate a series of risk groups, determined by age, health indicators, and other factors that represent distinct patterns of health care services utilization and costs.

(3) PERIODIC ADJUSTMENT.—In establishing the national health security budget before the beginning of each year, the Board shall provide for appropriate adjustments in the risk adjustment factors under this subsection.

SEC. 603. STATE HEALTH SECURITY BUDGETS.

(a) ESTABLISHMENT AND SUBMISSION OF BUDGETS.—

(1) IN GENERAL.—Each State health security program shall establish and submit to the Board for each year a proposed and a final State health security budget, which specifies the following:

(A) The total expenditures (including expenditures for administrative costs) to be made under the program in the State for covered health care services under this Act, consistent with subsection (b), broken down as follows:

(i) By the 4 components (described in section 601(a)(2)), consistent with subsection (b).

(ii) Within the operating component—

(I) expenditures for operating costs of hospitals and other facility-based services in the State,

(II) expenditures for payment to comprehensive health service organizations,

(III) expenditures for payment of services provided by health care practitioners, and

(IV) expenditures for other covered items and services.

Amounts included in the operating component include amounts that may be used by providers for capital expenditures.

(B) The total revenues required to meet the State health security expenditures.

(2) PROPOSED BUDGET DEADLINE.—The proposed budget for a year shall be submitted under paragraph (1) not later than June 1 before the year.

(3) FINAL BUDGET.—The final budget for a year shall—

(A) be established and submitted under paragraph (1) not later than October 1 before the year, and

(B) take into account the amounts established under the national health security budget under section 601 for the year.

(4) ADJUSTMENT IN ALLOCATIONS PERMITTED.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of a final budget, a State may change the allocation of amounts among components.

(B) NOTICE.—No such change may be made unless the State has provided prior notice of the change to the Board.

(C) DENIAL.—Such a change may not be made if the Board, within such time period as the Board specifies, disapproves such change.

(b) EXPENDITURE LIMITS.—

(1) IN GENERAL.—The total expenditures specified in each State health security budget under subsection (a)(1) shall take into account Federal contributions made under section 604.

(2) LIMIT ON CLAIMS PROCESSING AND BILLING EXPENDITURES.—Each State health security budget shall provide that State administrative expenditures, including expenditures for claims processing and billing, shall not exceed 3 percent of the total expenditures under the State health security program, unless the Board determines, on a case-by-case basis, that additional administrative expenditures would improve health care quality and cost effectiveness.

(3) WORKER ASSISTANCE.—A State health security program may provide that, for budgets for years before 2000, up to 1 percent of the budget may be used for purposes of programs providing assistance to workers who are currently performing functions in the administration of the health insurance system and who may experience economic dislocation as a result of the implementation of the program.

(c) APPROVAL PROCESS FOR CAPITAL EXPENDITURES PERMITTED.—Nothing in this title shall be construed as preventing a State health security program from providing for a process for the approval of capital expenditures based on information derived from regional planning agencies.

SEC. 604. FEDERAL PAYMENTS TO STATES.

(a) IN GENERAL.—Each State with an approved State health security program is entitled to receive, from amounts in the American Health Security Trust Fund, on a monthly basis each year, of an amount equal to one-twelfth of the product of—

(1) the State capitation amount (computed under section 602(a)(2)) for the State for the year, and

(2) the Federal contribution percentage (established under subsection (b)).

(b) FEDERAL CONTRIBUTION PERCENTAGE.—The Board shall establish a formula for the establishment of a Federal contribution percentage for each State. Such formula shall take into consideration a State's per capita income and revenue capacity and such other relevant economic indicators as the Board determines to be appropriate. In addition, during the 5-year period beginning with 1995, the Board may provide for a transition adjustment to the formula in order to take into account current expenditures by the State (and local governments thereof) for health services covered under the State health security program. The weighted-average Federal contribution percentage for all States shall equal 86 percent and in no event shall such percentage be less than 81 percent nor more than 91 percent.

(c) USE OF PAYMENTS.—All payments made under this section may only be used to carry out the State health security program.

(d) EFFECT OF SPENDING EXCESS OR SURPLUS.—

(1) SPENDING EXCESS.—If a State exceeds its budget in a given year, the State shall continue to fund covered health services from its own revenues.

(2) SURPLUS.—If a State provides all covered health services for less than the budgeted amount for a year, it may retain its Federal payment for that year for uses consistent with this Act.

SEC. 605. ACCOUNT FOR HEALTH PROFESSIONAL EDUCATION EXPENDITURES.

(a) SEPARATE ACCOUNT.—Each State health security program shall—

(1) include a separate account for health professional education expenditures, and

(2) specify the general manner, consistent with subsection (b), in which such expenditures are to be distributed among different types of institutions and the different areas of the State.

(b) DISTRIBUTION RULES.—The distribution of funds to hospitals and other health care facilities from the account must conform to the following principles:

(1) The disbursement of funds must be consistent with achievement of the national and program goals (specified in section 701(b)) within the State health security program and the distribution of funds from the account must be conditioned upon the receipt of such reports as the Board may require in order to monitor compliance with such goals.

(2) The distribution of funds from the account must take into account the potentially higher costs of placing health professional students in clinical education programs in health professional shortage areas.

Subtitle B—Payments by States to Providers

SEC. 611. PAYMENTS TO HOSPITALS AND OTHER FACILITY-BASED SERVICES FOR OPERATING EXPENSES ON THE BASIS OF APPROVED GLOBAL BUDGETS.

(a) DIRECT PAYMENT UNDER GLOBAL BUDGET.—Payment for operating expenses for institutional and facility-based care, including hospital services and nursing facility services, under State health security programs shall be made directly to each institution or facility by each State health security program under an annual prospective global budget approved under the program. Such a budget shall include payment for outpatient care and non-facility-based care that is furnished by or through the facility. In the case of a hospital that is wholly owned (or controlled) by a comprehensive health service organization that is paid under section 614 on the basis of a global budget, the global budget of the organization shall include the budget for the hospital.

(b) ANNUAL NEGOTIATIONS; BUDGET APPROVAL.—

(1) IN GENERAL.—The prospective global budget for an institution or facility shall be developed through annual negotiations between the State health security program and the institution or facility and be based on a nationally uniform system of cost accounting established under standards of the Board.

(2) CONSIDERATIONS.—In developing a budget through negotiations, there shall be taken into account at least the following:

(A) With respect to inpatient hospital services, the number, and classification by diagnosis-related group, of discharges.

(B) An institution's or facility's past expenditures.

(C) The extent to which debt service for capital expenditures has been included in the proposed operating budget.

(D) Change in the consumer price index and other price indices.

(E) The cost of reasonable compensation to health care practitioners.

(F) The compensation level of the institution's or facility's workforce.

(G) The extent to which the institution or facility is providing health care services to meet the needs of residents in the area served by the institution or facility, including the institution's or facility's occupancy level.

(H) The institution's or facility's previous financial and clinical performance, based on utilization and outcomes data provided under this Act.

(I) The type of institution or facility, including whether the institution or facility is part of a clinical education program or serves a health professional education, research or other training purpose.

(J) Technological advances or changes.

(K) Costs of the institution or facility associated with meeting Federal and State regulations.

(L) The costs associated with necessary public outreach activities.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(M) In the case of a for-profit facility, a reasonable rate of return on equity capital, independent of those operating expenses necessary to fulfill the objectives of this Act.

(N) Incentives to facilities that maintain costs below previous reasonable budgeted levels without reducing the care provided.

(O) With respect to facilities that provide mental health services and substance abuse treatment services, any additional costs involved in the treatment of dually diagnosed individuals.

The portion of such a budget that relates to expenditures for health professional education shall be consistent with the State health security budget for such expenditures.

(3) PROVISION OF REQUIRED INFORMATION; DIAGNOSIS-RELATED GROUP.—No budget for an institution or facility for a year may be approved unless the institution or facility has submitted on a timely basis to the State health security program such information as the program or the Board shall specify, including in the case of hospitals, information on discharges classified by diagnosis-related group.

(c) ADJUSTMENTS IN APPROVED BUDGETS.—

(1) ADJUSTMENTS TO GLOBAL BUDGETS THAT CONTRACT WITH COMPREHENSIVE HEALTH SERVICE ORGANIZATIONS.—Each State health security program shall develop an administrative mechanism for reducing operating funds to institutions or facilities in proportion to payments made to such institutions or facilities for services contracted for by a comprehensive health service organization.

(2) AMENDMENTS.—In accordance with standards established by the Board, an operating and capital budget approved under this section for a year may be amended before, during, or after the year if there is a substantial change in any of the factors relevant to budget approval.

(d) DONATIONS PERMISSIBLE.—The States health security programs may permit institutions and facilities to raise funds from private sources to pay for newly constructed facilities, major renovations, and equipment. The expenditure of such funds, whether for operating or capital expenditures, does not obligate the State health security program to provide for continued support for such expenditures unless included in an approved global budget.

SEC. 612. PAYMENTS TO HEALTH CARE PRACTITIONERS BASED ON PROSPECTIVE FEE SCHEDULE.

(a) FEE FOR SERVICE.—

(1) IN GENERAL.—Every independent health care practitioner is entitled to be paid, for the provision of covered health services under the State health security program, a fee for each billable covered service.

(2) GLOBAL FEE PAYMENT METHODOLOGIES.—The Board shall establish models and encourage State health security programs to implement alternative payment methodologies that incorporate global fees for related services (such as all outpatient procedures for treatment of a condition) or for a basic group of services (such as primary care services) furnished to an individual over a period of time, in order to encourage continuity and efficiency in the provision of services. Such methodologies shall be designed to ensure a high quality of care.

(3) BILLING DEADLINES; ELECTRONIC BILLING.—A State health security program may deny payment for any service of an independent health care practitioner for which it did not receive a bill and appropriate supporting documentation (which had been previously specified) within 30 days after the date the service was provided. Such a program may require that bills for services for which payment may be made under this section, or for any class of such services, be submitted electronically.

(b) PAYMENT RATES BASED ON NEGOTIATED PROSPECTIVE FEE SCHEDULES.—With respect to any payment method for a class of services of practitioners, the State health security program shall establish, on a prospective basis, a payment schedule. The State health security program may establish such a schedule after negotiations with organizations representing the practitioners involved. Such fee schedules shall be designed to provide incentives for practitioners to choose primary care medicine, including general internal medicine and pediatrics, over medical specialization. Nothing in this section shall be construed as preventing a State from adjusting the payment schedule amounts on a quarterly or other periodic basis depending on whether expenditures under the schedule will exceed the budgeted amount with respect to such expenditures.

(c) BILLABLE COVERED SERVICE DEFINED.—In this section, the term "billable covered service" means a service covered under section 201 for which a practitioner is entitled to compensation by payment of a fee determined under this section.

SEC. 613. PAYMENTS TO COMPREHENSIVE HEALTH SERVICE ORGANIZATIONS.

(a) IN GENERAL.—Payment under a State health security program to a comprehensive health service organization to its enrollees shall be determined by the State—

(1) based on a global budget described in section 611, or

(2) based on the basic capitation amount described in subsection (b) for each of its enrollees.

(b) BASIC CAPITATION AMOUNT.—

(1) IN GENERAL.—The basic capitation amount described in this subsection for an enrollee shall be determined by the State health security program on the basis of the average amount of expenditures that is estimated would be made under the State health security program for covered health care services for an enrollee, based on actuarial characteristics (as defined by the State health security program).

(2) ADJUSTMENT FOR SPECIAL HEALTH NEEDS.—The State health security program shall adjust such average amounts to take into account the special health needs, including a disproportionate number of medically underserved individuals, of populations served by the organization.

(3) ADJUSTMENT FOR SERVICES NOT PROVIDED.—The State health security program shall adjust such average amounts to take into account the cost of covered health care services that are not provided by the comprehensive health service organization under section 303(a).

SEC. 614. PAYMENTS FOR COMMUNITY-BASED PRIMARY HEALTH SERVICES.

(a) IN GENERAL.—In the case of community-based primary health services, subject to subsection (b), payments under a State health security program shall—

(1) be based on a global budget described in section 611,

(2) be based on the basic primary care capitation amount described in subsection (c) for each individual enrolled with the provider of such services, or

(3) be made on a fee-for-service basis under section 612.

(b) PAYMENT ADJUSTMENT.—Payments under subsection (a) may include, consistent with the budgets developed under this title—

(1) an additional amount, as set by the State health security program, to cover the costs incurred by a provider which serves persons not covered by this Act whose health care is essential to overall community health and the control of communicable disease, and for whom the cost of such care is otherwise uncompensated,

(2) an additional amount, as set by the State health security program, to cover the reasonable costs incurred by a provider that furnishes case management services (as defined in section 1915(g)(2) of the Social Security Act), transportation services, and translation services, and

(3) an additional amount, as set by the State health security program, to cover the costs incurred by a provider in conducting health professional education programs in connection with the provision of such services.

(c) BASIC PRIMARY CARE CAPITATION AMOUNT.—

(1) IN GENERAL.—The basic primary care capitation amount described in this subsection for an enrollee with a provider of community-based primary health services shall be determined by the State health security program on the basis of the average amount of expenditures that is estimated would be made under the State health security program for such an enrollee, based on actuarial characteristics (as defined by the State health security program).

(2) ADJUSTMENT FOR SPECIAL HEALTH NEEDS.—The State health security program shall adjust such average amounts to take into account the special health needs, including a disproportionate number of medically underserved individuals, of populations served by the provider.

(3) ADJUSTMENT FOR SERVICES NOT PROVIDED.—The State health security program shall adjust such average amounts to take into account the cost of community-based primary health services that are not provided by the provider.

(d) COMMUNITY-BASED PRIMARY HEALTH SERVICES DEFINED.—In this section, the term "community-based primary health services" has the meaning given such term in section 202(a).

SEC. 615. PAYMENTS FOR PRESCRIPTION DRUGS.

(a) ESTABLISHMENT OF LIST.—

(1) IN GENERAL.—Based upon the recommendations of the Advisory Committee on Prescription Drugs under section 403, the Board shall establish a list of approved prescription drugs and biologicals that the Board determines are necessary for the maintenance or restoration of health or of employability or self-management and eligible for coverage under this Act.

(2) EXCLUSIONS.—The Board may exclude reimbursement under this Act for ineffective, unsafe, or over-priced products where better alternatives are determined to be available.

(b) PRICES.—For each such listed prescription drug or biological covered under this Act, for insulin, and for medical foods, the Board shall from time to time determine a product price or prices which shall constitute the maximum to be recognized under this Act as the cost of a drug to a provider thereof. The Board may conduct negotiations, on behalf of State health security programs, with product manufacturers and distributors in determining the applicable product price or prices.

(c) CHARGES BY INDEPENDENT PHARMACIES.—Each State health security program shall provide for payment for a prescription drug or biological or insulin furnished by an independent pharmacy based on the drug's cost to the pharmacy (not in excess of the applicable product price established under subsection (b)) plus a dispensing fee. In accordance with standards established by the Board, each State health security program, after consultation with representatives of the pharmaceutical profession, shall establish schedules of dispensing fees, designed to afford reasonable compensation to independent pharmacies after taking into account variations in their cost of operation resulting from regional differences, differences in the volume of prescription drugs dispensed, differences in services provided, the need to maintain expenditures within the budgets established under this title, and other relevant factors.

SEC. 616. PAYMENTS FOR APPROVED DEVICES AND EQUIPMENT.

(a) ESTABLISHMENT OF LIST.—The Board shall establish a list of approved durable medical equipment and therapeutic devices and equipment (including eyeglasses, hearing aids, and prosthetic appliances), that the Board determines are necessary for the maintenance or restoration of health or of employability or self-management and eligible for coverage under this Act.

(b) CONSIDERATIONS AND CONDITIONS.—In establishing the list under subsection (a), the Board shall take into consideration the efficacy, safety, and cost of each item contained on such list, and shall attach to any item such conditions as the Board determines appropriate with respect to the circumstances under which, or the frequency with which, the item may be prescribed.

(c) PRICES.—For each such listed item covered under this Act, the Board shall from time to time determine a product price or prices which shall constitute the maximum to be recognized under this Act as the cost of the item to a provider thereof. The Board may conduct negotiations, on behalf of State health security programs, with equipment and device manufacturers and distributors in determining the applicable product price or prices.

(d) EXCLUSIONS.—The Board may exclude from coverage under this Act ineffective, unsafe, or overpriced products where better alternatives are determined to be available.

SEC. 617. PAYMENTS FOR OTHER ITEMS AND SERVICES.

In the case of payment for other covered health services, the amount of payment under a State health security program shall be established by the program—

(1) in accordance with payment methodologies which are specified by the Board, after consultation with the American Health Security Advisory Council, or methodologies established by the State under section 620, and

(2) consistent with the State health security budget.

SEC. 618. PAYMENT INCENTIVES FOR MEDICALLY UNDERSERVED AREAS.

(a) MODEL PAYMENT METHODOLOGIES.—In addition to the payment amounts otherwise provided in this title, the Board shall establish model payment methodologies and other incentives that promote the provision of covered health care services in medically underserved areas, particularly in rural and innercity underserved areas.

(b) CONSTRUCTION.—Nothing in this title shall be construed as limiting the authority of State health security programs to increase payment amounts or otherwise provide additional incentives, consistent with the State health security budget, to encourage the provision of medically necessary and appropriate services in underserved areas.

SEC. 619. AUTHORITY FOR ALTERNATIVE PAYMENT METHODOLOGIES.

A State health security program, as part of its plan under section 405(a), may use a payment methodology other than a methodology required under this subtitle so long as—

(1) such payment methodology does not affect the entitlement of individuals to coverage, the weighting of fee schedules to encourage an increase in the number of primary care providers, the ability of individuals to choose among qualified providers, the benefits covered under the program, or the compliance of the program with the State health security budget under subtitle A, and

(2) the program submits periodic reports to the Board showing the operation and effectiveness of the alternative methodology, in order for the Board to evaluate the appropriateness of applying the alternative methodology to other States.

Subtitle C—Mandatory Assignment and Administrative Provisions

SEC. 631. MANDATORY ASSIGNMENT.

(a) NO BALANCE BILLING.—Payments for benefits under this Act shall constitute payment in full for such benefits and the entity furnishing an item or service for which payment is made under this Act shall accept such payment as payment in full for the item or service and may not accept any payment or impose any charge for any such item or service other than accepting payment from the State health security program in accordance with this Act.

(b) ENFORCEMENT.—If an entity knowingly and willfully bills for an item or service or accepts payment in violation of subsection (a), the Board may apply sanctions against the entity in the same manner as sanctions could have been imposed under section 1842(j)(2) of the Social Security Act for a violation of section 1842(j)(1) of such Act. Such sanctions are in addition to any sanctions that a State may impose under its State health security program.

SEC. 632. PROCEDURES FOR REIMBURSEMENT; APPEALS.

(a) PROCEDURES FOR REIMBURSEMENT.—In accordance with standards issued by the Board, a State health security program shall establish a timely and administratively simple procedure to assure payment within 60 days of the date of submission of clean claims by providers under this Act.

(b) APPEALS PROCESS.—Each State health security program shall establish an appeals process to handle all grievances pertaining to payment to providers under this title.

TITLE VII—PROMOTION OF PRIMARY HEALTH CARE; DEVELOPMENT OF HEALTH SERVICE CAPACITY; PROGRAMS TO ASSIST THE MEDICALLY UNDERSERVED

Subtitle A—Promotion and Expansion of Primary Care Professional Training

SEC. 701. ROLE OF BOARD; ESTABLISHMENT OF PRIMARY CARE PROFESSIONAL OUTPUT GOALS.

(a) IN GENERAL.—The Board is responsible for—

(1) coordinating health professional education policies and goals, in consultation with the Secretary of Health and Human Services (in this title referred to as the "Secretary"), to achieve the national goals specified in subsection (b);

(2) overseeing the health professional education expenditures of the State health security programs from the account established under section 602(c);

(3) developing and maintaining, in cooperation with the Secretary, a system to monitor the number and specialties of individuals through their health professional education, any postgraduate training, and professional practice; and

(4) developing, coordinating, and promoting other policies that expand the number of primary care practitioners.

(b) NATIONAL GOALS.—The national goals specified in this subsection are as follows:

(1) GRADUATE MEDICAL EDUCATION.—By not later than 5 years after the date of the enactment of this Act, at least 50 percent of the residents in medical residency education programs (as defined in subsection (e)(1)) are primary care residents (as defined in subsection (e)(3)).

(2) MIDLEVEL PRIMARY CARE PRACTITIONERS.—To assure an adequate supply of primary care practitioners, there shall be a number, specified by the Board, of midlevel primary care practitioners (as defined in subsection (e)(2)) employed in the health care system as of January 1, 2000.

(c) METHOD FOR ATTAINMENT OF NATIONAL GOAL FOR GRADUATE MEDICAL EDUCATION; PROGRAM GOALS.—

(1) IN GENERAL.—The Board shall establish a method of applying the national goal in subsection (b)(1) to program goals for each medical residency education program or to medical residency education consortia.

(2) CONSIDERATION.—The program goals under paragraph (1) shall be based on the distribution of medical schools and other teaching facilities within each State health security program, and the number of positions for graduate medical education.

(3) MEDICAL RESIDENCY EDUCATION CONSORTIUM.—In this subsection, the term "medical residency education consortium" means a consortium of medical residency education programs in a contiguous geographic area (which may be an interstate area) if the consortium—

(A) includes at least one medical school with a teaching hospital and related teaching settings, and

(B) has an affiliation with qualified community-based primary health service providers described in section 202(a) and with at least one comprehensive health service organization established under section 303.

(4) ENFORCEMENT THROUGH STATE HEALTH SECURITY BUDGETS.—The Board shall develop a formula for reducing payments to State health security programs (that provide for payments to a medical residency education program) that failed to meet the goal for the program established under this subsection.

(d) METHOD FOR ATTAINMENT OF NATIONAL GOAL FOR MIDLEVEL PRIMARY CARE PRACTITIONERS.—To assist in attaining the national goal identified in subsection (b)(2), the Board shall—

(1) advise the Public Health Service on allocations of funding under titles VII and VIII of the Public Health Service Act, the National Health Service Corps, and other programs in order to increase the supply of midlevel primary care practitioners, and

(2) commission a study of the potential benefits and disadvantages of expanding the scope of practice authorized under State laws for any class of midlevel primary care practitioners.

(e) DEFINITIONS.—In this title:

(1) MEDICAL RESIDENCY EDUCATION PROGRAM.—The term "medical residency education program" means a program that provides education and training to graduates of medical schools in order to meet requirements for licensing and certification as a physician, and includes the medical school supervising the program and includes the

VOL 140 PT 15 AG 10 — 11 1994 UMI

hospital or other facility in which the program is operated.

(2) MIDLEVEL PRIMARY CARE PRACTITIONER.—The term "midlevel primary care practitioner" means a clinical nurse practitioner, certified nurse midwife, physician assistance, or other non-physician practitioner, specified by the Board, as authorized to practice under State law.

(3) PRIMARY CARE RESIDENT.—The term "primary care resident" means (in accordance with criteria established by the Board) a resident being trained in a distinct program of family practice medicine, general practice, general internal medicine, or general pediatrics.

SEC. 702. ESTABLISHMENT OF ADVISORY COMMITTEE ON HEALTH PROFESSIONAL EDUCATION.

(a) IN GENERAL.—The Board shall provide for an Advisory Committee on Health Professional Education (in this section referred to as the "Committee") to advise the Board on its activities under section 701.

(b) MEMBERSHIP.—The Committee shall be composed of—

(1) the Chair of the Board, who shall serve as Chair of the Committee, and

(2) 12 members, not otherwise in the employ of the United States, appointed by the Board without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

The appointed members shall provide a balanced point of view with respect to health professional education, primary care disciplines, and health care policy and shall include individuals who are representative of medical schools, other health professional schools, residency programs, primary care practitioners, teaching hospitals, professional associations, public health organizations, State health security programs, and consumers.

(c) TERMS OF MEMBERS.—Each appointed member shall hold office for a term of five years, except that—

(1) any member appointed to fill a vacancy occurring during the term for which the member's predecessor was appointed shall be appointed for the remainder of that term; and

(2) the terms of the members first taking office shall expire, as designated by the Board at the time of appointment, two at the end of the second year, two at the end of the third year, two at the end of the fourth year, and three at the end of the fifth year after the date of enactment of this Act.

(d) VACANCIES.—

(1) IN GENERAL.—The Board shall fill any vacancy in the membership of the Committee in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Committee.

(2) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) REAPPOINTMENT.—The Board may reappoint an appointed member of the Committee for a second term in the same manner as the original appointment.

(e) DUTIES.—It shall be the duty of the Committee to advise the Board concerning graduate medical education policies under this title.

(f) STAFF.—The Committee, its members, and any committees of the Committee shall be provided with such secretarial, clerical, or other assistance as may be authorized by the Board for carrying out their respective functions.

(g) MEETINGS.—The Committee shall meet as frequently as the Board deems necessary, but not less than 4 times each year. Upon request by four or more members it shall be the duty of the Chair to call a meeting of the Committee.

(h) COMPENSATION.—Members of the Committee shall be reimbursed by the Board for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board in accordance with subchapter I of chapter 57 of title 5, United States Code.

(i) FACA NOT APPLICABLE.—The provisions of the Federal Advisory Committee Act shall not apply to the Committee.

SEC. 703. GRANTS FOR HEALTH PROFESSIONS EDUCATION, NURSE EDUCATION, AND THE NATIONAL HEALTH SERVICE CORPS.

(a) TRANSFERS TO PUBLIC HEALTH SERVICE.—From the amounts provided under subsection (c), the Board shall make transfers from the American Health Security Trust Fund to the Public Health Service under subpart II of part D of title III, title VII, and title VIII of the Public Health Service Act for the support of the National Health Service Corps, health professions education, and nursing education, including education of clinical nurse practitioners, certified registered nurse anesthetists, certified nurse midwives, and physician assistants. Of the amounts so transferred in each year, not less than 50 percent shall be expended for the support of the National Health Service Corps.

(b) RANGE OF FUNDS.—The amount of transfers under subsection (a) for any fiscal year shall be an amount (specified by the Board each year) not less than $\frac{1}{100}$ percent and not to exceed $\frac{5}{100}$ percent of the amounts the Board estimates will be expended from the Trust Fund in the fiscal year.

(c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The funds provided under this section with respect to provision of services are in addition to, and not in replacement of, funds made available under the provisions referred to in subsection (a) and shall be administered in accordance with the terms of such provisions. The Board shall make no transfer of funds under this section for any fiscal year for which the total appropriations for the programs authorized by such provisions are less than the total amount appropriated for such programs in fiscal year 1993.

Subtitle B—Direct Health Care Delivery

SEC. 711. SETASIDE FOR PUBLIC HEALTH.

(a) TRANSFERS TO PUBLIC HEALTH SERVICE.—From the amounts provided under subsection (c), the Board shall make transfers from the American Health Security Trust Fund to the Public Health Service for the following purposes (other than payment for services covered under title II):

(1) For payments to States under the maternal and child health block grants under title V of the Social Security Act.

(2) For prevention and treatment of tuberculosis under section 317 of the Public Health Service Act.

(3) For the prevention and treatment of sexually transmitted diseases under section 318 of the Public Health Service Act.

(4) Preventive health block grants under part A of title XIX of the Public Health Service Act.

(5) Grants to States for community mental health services under subpart I of part B of title XIX of the Public Health Service Act.

(6) Grants to States for prevention and treatment of substance abuse under subpart II of part B of title XIX of the Public Health Service Act.

(7) Grants for HIV health care services under parts A, B, and C of title XXVI of the Public Health Service Act.

(8) Public health formula grants described in subsection (d).

(b) RANGE OF FUNDS.—The amount of transfers under subsection (a) for any fiscal year shall be an amount (specified by the Board each year) not less than $\frac{1}{10}$ percent and not to exceed $\frac{14}{100}$ percent of the amounts the Board estimates will be expended from the Trust Fund in the fiscal year.

(c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The funds provided under this section with respect to provision of services are in addition to, and not in replacement of, funds made available under the programs referred to in subsection (a) and shall be administered in accordance with the terms of such programs.

(d) REQUIRED REPORTS ON HEALTH STATUS.—The Secretary shall require each State receiving funds under this section to submit annual reports to the Secretary on the health status of the population and measurable objectives for improving the health of the public in the State. Such reports shall include the following:

(1) A comparison of the measures of the State and local public health system compared to relevant objectives set forth in "Health People 2000" or subsequent national objectives set by the Secretary.

(2) A description of health status measures to be improved within the State (at the State and local levels) through expanded public health functions and health promotion and disease prevention programs.

(3) Measurable outcomes and process objectives for improving health status, and a report on outcomes from the previous year.

(4) Information regarding how Federal funding has improved population-based prevention activities and programs.

(5) A description of the core public health functions to be carried out at the local level.

(6) A description of the relationship between the State's public health system, community-based health promotion and disease prevention providers, and the State health security program.

(e) LIMITATION ON FUND TRANSFERS.—The Board shall make no transfer of funds under this section for any fiscal year for which the total appropriations for such programs are less than the total amount appropriated for such programs in fiscal year 1993.

(f) PUBLIC HEALTH FORMULA GRANTS.—The Secretary shall provide stable funds to States through formula grants for the purpose of carrying out core public health functions to monitor and protect the health of communities from communicable diseases and exposure to toxic environmental pollutants, occupational hazards, harmful products, and poor health outcomes. Such functions include the following:

(1) Data collection, analysis, and assessment of public health data, vital statistics, and personal health data to assess community health status and outcomes reporting. This function includes the acquisition and installation of hardware and software, and personnel training and technical assistance to operate and support automated and integrated information systems.

(2) Activities to protect the environment and to assure the safety of housing, workplaces, food, and water.

(3) Investigation and control of adverse health conditions, and threats to the health status of individuals and the community. This function includes the identification and

control of outbreaks of infectious disease, patterns of chronic disease and injury, and cooperative activities to reduce the levels of violence.

(4) Health promotion and disease prevention activities for which there is a significant need and a high priority of the Public Health Service.

(5) The provision of public health laboratory services to complement private clinical laboratory services, including—

(A) screening tests for metabolic diseases in newborns,

(B) toxicology assessments of blood lead levels and other environmental toxins,

(C) tuberculosis and other disease requiring partner notification, and

(D) testing for infectious and food-borne diseases.

(6) Training and education for the public health professions.

(7) Research on effective and cost-effective public health practices. This function includes the development, testing, evaluation, and publication of results of new prevention and public health control interventions.

(8) Integration and coordination of the prevention programs and services of community-based providers, local and State health departments, and other sectors of State and local government that affect health.

SEC. 712. SETASIDE FOR PRIMARY HEALTH CARE DELIVERY.

(a) TRANSFERS TO PUBLIC HEALTH SERVICE.—From the amounts provided under subsection (c), the Board shall make transfers from the American Health Security Trust Fund to the Public Health Service for the program of primary care service expansion grants under subpart V of part D of title III of the Public Health Service Act (as added by section 713 of this Act).

(b) RANGE OF FUNDS.—The amount of transfers under subsection (a) for any fiscal year shall be an amount (specified by the Board each year) not less than $\frac{6}{100}$ percent and not to exceed $\frac{1}{10}$ percent of the amounts the Board estimates will be expended from the Trust Fund in the fiscal year.

(c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The funds provided under this section with respect to provision of services are in addition to, and not in replacement of, funds made available under the sections 329, 330, 340, 340A, 1001, and 2655 of the Public Health Service Act. The Board shall make no transfer of funds under this section for any fiscal year for which the total appropriations for such sections are less than the total amount appropriated under such sections in fiscal year 1993.

SEC. 713. PRIMARY CARE SERVICE EXPANSION GRANTS.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart IX—Primary Care Expansion

"SEC. 340E. EXPANDING PRIMARY CARE DELIVERY CAPACITY IN URBAN AND RURAL AREAS.

"(a) GRANTS FOR PRIMARY CARE CENTERS.—From the amounts described in subsection (c), the American Health Security Standards Board shall make grants to public and nonprofit private entities for projects to plan and develop primary care centers which will serve medically underserved populations (as defined in section 330(b)(3)) in urban and rural areas and to deliver primary care services to such populations in such areas. The funds provided under such a grant may be used for the same purposes for which a grant may be made under subsection (c) or (d) of section 330.

"(b) PROCESS OF AWARDING GRANTS.—The provisions of subsection (e)(1) of section 330 shall apply to a grant under this section in the same manner as they apply to a grant under subsection (c) of such section. The provisions of subsection (g)(3) of such section shall apply to grants for projects to plan and develop primary care centers under this section in the same manner as they apply to grants under such section.

"(c) FUNDING AS SET-ASIDE FROM TRUST FUND.—Funding to carry out this section is provided from the American Health Security Trust Fund in accordance with section 912 of the American Health Security Act.

"(d) PRIMARY CARE CENTER DEFINED.—In this section, the term 'primary care center' means—

"(1) a migrant health center (as defined in section 329(a)(1)),

"(2) a community health center (as defined in section 330(a)),

"(3) an entity qualified to receive a grant under section 340, 340A, 1001, or 2655, or

"(4) a Federally qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act).".

Subtitle C—Primary Care and Outcomes Research

SEC. 721. SET-ASIDE FOR OUTCOMES RESEARCH.

(a) GRANTS FOR OUTCOMES RESEARCH.—The Board shall make transfers from the American Health Security Trust Fund to the Agency for Health Care Policy and Research under title IX of the Public Health Service Act for the purpose of carrying out activities under such title. The Secretary shall assure that there is a special emphasis placed on pediatric outcomes research.

(b) RANGE OF FUNDS.—The amount of transfers under subsection (a) for any fiscal year shall be an amount (specified by the Board each year) not less than $\frac{1}{100}$ percent and not to exceed $\frac{2}{100}$ percent of the amounts the Board estimates will be expended from the Trust Fund in the fiscal year.

(c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The funds provided under this section with respect to provision of services are in addition to, and not in replacement of, funds made available to the Agency for Health Care Policy and Research under section 926 of the Public Health Service Act. The Board shall make no transfer of funds under this section for any fiscal year for which the total appropriations for such section are less than the total amount appropriated under such section and title in fiscal year 1993.

(d) CONFORMING AMENDMENT.—Section 926(a) of the Public Health Service Act (42 U.S.C. 299c-5(a)) is amended by striking "$115,000,000" and all that follows and inserting "for each fiscal year (beginning with fiscal year 1994) such sums as may be necessary.".

SEC. 722. OFFICE OF PRIMARY CARE AND PREVENTION RESEARCH.

(a) IN GENERAL.—Title IV of the Public Health Service Act, as amended by section 141 of Public Law 103-43 (107 Stat. 136), is amended—

(1) by redesignating parts G through I as parts H through J, respectively; and

(2) by inserting after part F the following new part:

"PART G—RESEARCH ON PRIMARY CARE AND PREVENTION

"SEC. 486E. OFFICE OF PRIMARY CARE AND PREVENTION RESEARCH.

"(a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Primary Care and Prevention Research (in this part referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

"(b) PURPOSE.—The Director of the Office shall—

"(1) identify projects of research on primary care and prevention, for children as well as adults, that should be conducted or supported by the national research institutes, with particular emphasis on—

"(A) clinical patient care, with special emphasis on pediatric clinical care and diagnosis,

"(B) diagnostic effectiveness,

"(C) primary care education,

"(D) health and family planning services,

"(E) medical effectiveness outcomes of primary care procedures and interventions,

"(F) the use of multidisciplinary teams of health care practitioners,

"(2) identify multidisciplinary research related to primary care and prevention that should be so conducted;

"(3) promote coordination and collaboration among entities conducting research identified under any of paragraphs (1) and (2);

"(4) encourage the conduct of such research by entities receiving funds from the national research institutes;

"(5) recommend an agenda for conducting and supporting such research;

"(6) promote the sufficient allocation of the resources of the national research institutes for conducting and supporting such research; and

"(7) prepare the report required in section 486G.

"(c) PRIMARY CARE AND PREVENTION RESEARCH DEFINED.—For purposes of this part, the term 'primary care and prevention research' means research on improvement of the practice of family medicine, general internal medicine, and general pediatrics, and includes research relating to—

"(1) obstetrics and gynecology, dentistry, or mental health or substance abuse treatment when provided by a primary care physician or other primary care practitioner, and

"(2) primary care provided by multidisciplinary teams.

"SEC. 486F. NATIONAL DATA SYSTEM AND CLEARINGHOUSE ON PRIMARY CARE AND PREVENTION RESEARCH.

"(a) DATA SYSTEM.—The Director of NIH, in consultation with the Director of the Office, shall establish a data system for the collection, storage, analysis, retrieval, and dissemination of information regarding primary care and prevention research that is conducted or supported by the national research institutes. Information from the data system shall be available through information systems available to health care professionals and providers, researchers, and members of the public.

"(b) CLEARINGHOUSE.—The Director of NIH, in consultation with the Director of the Office and with the National Library of Medicine, shall establish, maintain, and operate a program to provide, and encourage the use of, information on research and prevention activities of the national research institutes that relate to primary care and prevention research.

"SEC. 486G. BIENNIAL REPORT.

"(a) IN GENERAL.—With respect to primary care and prevention research, the Director of the Office shall, not later than one year after the date of the enactment of this part, and biennially thereafter, prepare a report—

"(1) describing and evaluating the progress made during the preceding two fiscal years

VOL 140 PT 15 AG 10 — 11 1994 UMI

in research and treatment conducted or supported by the National Institutes of Health;

"(2) summarizing and analyzing expenditures made by the agencies of such Institutes (and by such Office) during the preceding two fiscal years; and

"(3) making such recommendations for legislative and administrative initiatives as the Director of the Office determines to be appropriate.

"(b) INCLUSION IN BIENNIAL REPORT OF DIRECTOR OF NIH.—The Director of the Office shall submit each report prepared under subsection (a) to the Director of NIH for inclusion in the report submitted to the President and the Congress under section 403.

"SEC. 486H. AUTHORIZATION OF APPROPRIATIONS.

"For the Office of Primary Care and Prevention Research, there are authorized to be appropriated $150,000,000 for fiscal year 1994, $180,000,000 for fiscal year 1995, and $216,000,000 for fiscal year 1996.".

(b) REQUIREMENT OF SUFFICIENT ALLOCATION OF RESOURCES OF INSTITUTES.—Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (11), by striking "and" after the semicolon at the end;

(2) in paragraph (12), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (12) the following new paragraph:

"(13) after consultation with the Director of the Office of Primary Care and Prevention Research, shall ensure that resources of the National Institutes of Health are sufficiently allocated for projects on primary care and prevention research that are identified under section 486(b).".

Subtitle D—School-Related Health Services

SEC. 731. AUTHORIZATIONS OF APPROPRIATIONS.

(a) FUNDING FOR SCHOOL-RELATED HEALTH SERVICES.—For the purpose of carrying out this subtitle, there are authorized to be appropriated $100,000,000 for fiscal year 1997, $275,000,000 for fiscal year 1998, $350,000,000 for fiscal year 1999, and $400,000,000 for each of the fiscal years 2000 and 2001.

(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

SEC. 732. ELIGIBILITY FOR DEVELOPMENT AND OPERATION GRANTS.

(a) IN GENERAL.—Entities eligible to apply for and receive grants under section 734 or 735 are the following:

(1) State health agencies that apply on behalf of local community partnerships and other communities in need of health services for school-aged children within the State.

(2) Local community partnerships in States in which health agencies have not applied.

(b) LOCAL COMMUNITY PARTNERSHIPS.—

(1) IN GENERAL.—A local community partnership under subsection (a)(2) is an entity that, at a minimum, includes—

(A) a local health care provider with experience in delivering services to school-aged children;

(B) one or more local public schools; and

(C) at least one community based organization located in the community to be served that has a history of providing services to school-aged children in the community who are at-risk.

(2) PARTICIPATION.—A partnership described in paragraph (1) shall, to the maximum extent feasible, involve broad based community participation from parents and adolescent children to be served, health and social service providers, teachers and other public school and school board personnel, development and service organizations for adolescent children, and interested business leaders. Such participation may be evidenced through an expanded partnership, or an advisory board to such partnership.

(c) DEFINITIONS REGARDING CHILDREN.—For purposes of this subtitle:

(1) The term "adolescent children" means school-aged children who are adolescents.

(2) The term "school-aged children" means individuals who are between the ages of 4 and 19 (inclusive).

SEC. 733. PREFERENCES.

(a) IN GENERAL.—In making grants under sections 734 and 735, the Secretary shall give preference to applicants whose communities to be served show the most substantial level of need for such services among school-aged children, as measured by indicators of community health including the following:

(1) High levels of poverty.

(2) The presence of a medically underserved population.

(3) The presence of a health professional shortage area.

(4) High rates of indicators of health risk among school-aged children, including a high proportion of such children receiving services through the Individuals with Disabilities Education Act, adolescent pregnancy, sexually transmitted disease (including infection with the human immunodeficiency virus), preventable disease, communicable disease, intentional and unintentional injuries, community and gang violence, unemployment among adolescent children, juvenile justice involvement, and high rates of drug and alcohol exposure.

(b) LINKAGE TO COMMUNITY HEALTH CENTERS.—In making grants under sections 734 and 735, the Secretary shall give preference to applicants that demonstrate a linkage to community health centers.

SEC. 734. GRANTS FOR DEVELOPMENT OF PROJECTS.

(a) IN GENERAL.—The Secretary may make grants to State health agencies or to local community partnerships to develop school health service sites.

(b) USE OF FUNDS.—A project for which a grant may be made under subsection (a) may include but not be limited to the cost of the following:

(1) Planning for the provision of school health services.

(2) Recruitment, compensation, and training of health and administrative staff.

(3) The development of agreements, and the acquisition and development of equipment and information services, necessary to support information exchange between school health service sites and health plans, health providers, and other entities authorized to collect information under this Act.

(4) Other activities necessary to assume operational status.

(c) APPLICATION FOR GRANT.—

(1) IN GENERAL.—Applicants shall submit applications in a form and manner prescribed by the Secretary.

(2) APPLICATIONS BY STATE HEALTH AGENCIES.—

(A) In the case of applicants that are State health agencies, the application shall contain assurances that the State health agency is applying for funds—

(i) on behalf of at least one local community partnership; and

(ii) on behalf of at least one other community identified by the State as in need of the services funded under this subtitle but without a local community partnership.

(B) In the case of the communities identified in applications submitted by State health agencies that do not yet have local community partnerships (including the community identified under subparagraph (A)(ii)), the State shall describe the steps that will be taken to aid the communities in developing a local community partnership.

(C) A State applying on behalf of local community partnerships and other communities may retain not more than 10 percent of grants awarded under this subtitle for administrative costs.

(d) CONTENTS OF APPLICATION.—In order to receive a grant under this section, an applicant must include in the application the following information:

(1) An assessment of the need for school health services in the communities to be served, using the latest available health data and health goals and objectives established by the Secretary.

(2) A description of how the applicant will design the proposed school health services to reach the maximum number of school-aged children who are at risk.

(3) An explanation of how the applicant will integrate its services with those of other health and social service programs within the community.

(4) A description of a quality assurance program which complies with standards that the Secretary may prescribe.

(e) NUMBER OF GRANTS.—Not more than one planning grant may be made to a single applicant. A planning grant may not exceed two years in duration.

SEC. 735. GRANTS FOR OPERATION OF PROJECTS.

(a) IN GENERAL.—The Secretary may make grants to State health agencies or to local community partnerships for the cost of operating school health service sites.

(b) USE OF GRANT.—The costs for which a grant may be made under this section include but are not limited to the following:

(1) The cost of furnishing health services that are not otherwise covered under this Act or by any other public or private insurer.

(2) The cost of furnishing services whose purpose is to increase the capacity of individuals to utilize available health services, including transportation, community and patient outreach, patient education, translation services, and such other services as the Secretary determines to be appropriate in carrying out such purpose.

(3) Training, recruitment and compensation of health professionals and other staff.

(4) Outreach services to school-aged children who are at-risk and to the parents of such children.

(5) Linkage of individuals to health plans, community health services and social services.

(6) Other activities deemed necessary by the Secretary.

(c) APPLICATION FOR GRANT.—Applicants shall submit applications in a form and manner prescribed by the Secretary. In order to receive a grant under this section, an applicant must include in the application the following information:

(1) A description of the services to be furnished by the applicant.

(2) The amounts and sources of funding that the applicant will expend, including estimates of the amount of payments the applicant will receive from sources other than the grant.

(3) Such other information as the Secretary determines to be appropriate.

(d) ADDITIONAL CONTENTS OF APPLICATION.—In order to receive a grant under this section, an applicant must meet the following conditions:

(1) The applicant furnishes the following services:

(A) Diagnosis and treatment of simple illnesses and minor injuries.

(B) Preventive health services, including health screenings.

(C) Services provided for the purpose described in subsection (b)(2).

(D) Referrals and followups in situations involving illness or injury.

(E) Health and social services, counseling services, and necessary referrals, including referrals regarding mental health and substance abuse.

(F) Such other services as the Secretary determines to be appropriate.

(2) The applicant is a participating provider in the State's program for medical assistance under title XIX of the Social Security Act.

(3) The applicant does not impose charges on students or their families for services (including collection of any cost-sharing for services under the comprehensive benefit package that otherwise would be required).

(4) The applicant has reviewed and will periodically review the needs of the population served by the applicant in order to ensure that its services are accessible to the maximum number of school-aged children in the area, and that, to the maximum extent possible, barriers to access to services of the applicant are removed (including barriers resulting from the area's physical characteristics, its economic, social and cultural grouping, the health care utilization patterns of such children, and available transportation).

(5) In the case of an applicant which serves a population that includes a substantial proportion of individuals of limited English speaking ability, the applicant has developed a plan to meet the needs of such population to the extent practicable in the language and cultural context most appropriate to such individuals.

(6) The applicant will provide non-Federal contributions toward the cost of the project in an amount determined by the Secretary.

(7) The applicant will operate a quality assurance program consistent with section 734(d).

(e) DURATION OF GRANT.—A grant under this section shall be for a period determined by the Secretary.

(f) REPORTS.—A recipient of funding under this section shall provide such reports and information as are required in regulations of the Secretary.

SEC. 736. FEDERAL ADMINISTRATIVE COSTS.

Of the amounts made available under section 731, the Secretary may reserve not more than 5 percent for administrative expenses regarding this subtitle.

SEC. 737. DEFINITIONS.

For purposes of this subtitle:

(1) The term "adolescent children" has the meaning given such term in section 732(c).

(2) The term "at risk" means at-risk with respect to health.

(3) The term "community health center" has the meaning given such term in section 330 of the Public Health Service Act.

(4) The term "health professional shortage area" means a health professional shortage area designated under section 332 of the Public Health Service Act.

(5) The term "medically underserved population" has the meaning given such term in section 330 of the Public Health Service Act.

(6) The term "school-aged children" has the meaning given such term in section 732(c).

TITLE VIII—FINANCING PROVISIONS; AMERICAN HEALTH SECURITY TRUST FUND

SEC. 800. AMENDMENT OF 1986 CODE; SECTION 15 NOT TO APPLY.

(a) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) SECTION 15 NOT TO APPLY.—The amendments made by subtitle B shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

Subtitle A—American Health Security Trust Fund

SEC. 801. AMERICAN HEALTH SECURITY TRUST FUND.

(a) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the American Health Security Trust Fund (in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such gifts and bequests as may be made and such amounts as may be deposited in, or appropriated to, such Trust Fund as provided in this Act.

(b) APPROPRIATIONS INTO TRUST FUND.—

(1) TAXES.—There are hereby appropriated to the Trust Fund for each fiscal year (beginning with fiscal year 1995), out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 percent of the aggregate increase in tax liabilities under the Internal Revenue Code of 1986 which is attributable to the application of the amendments made by this title. The amounts appropriated by the preceding sentence shall be transferred from time to time (but not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the amounts that should have been so transferred.

(2) CURRENT PROGRAM RECEIPTS.—Notwithstanding any other provision of law, there are hereby appropriated to the Trust Fund for each fiscal year (beginning with fiscal year 1995) the amounts that would otherwise have been appropriated to carry out the following programs:

(A) The medicare program, under parts A and B of title XVIII of the Social Security Act (other than amounts attributable to any premiums under such parts).

(B) The medicaid program, under State plans approved under title XIX of such Act.

(C) The Federal employees health benefit program, under chapter 89 of title 5, United States Code.

(D) The CHAMPUS program, under chapter 55 of title 10, United States Code.

(E) The maternal and child health program (under title V of the Social Security Act), vocational rehabilitation programs, programs for drug abuse and mental health services under the Public Health Service Act, programs providing general hospital or medical assistance, and any other Federal program identified by the Board, in consultation with the Secretary of the Treasury, to the extent the programs provide for payment for health services the payment of which may be made under this Act.

(c) INCORPORATION OF PROVISIONS.—The provisions of subsections (b) through (i) of section 1817 of the Social Security Act shall apply to the Trust Fund under this Act in the same manner as they applied to the Federal Hospital Insurance Trust Fund under part A of title XVIII of such Act, except that the American Health Security Standards Board shall constitute the Board of Trustees of the Trust Fund.

(d) TRANSFER OF FUNDS.—Any amounts remaining in the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund after the settlement of claims for payments under title XVIII have been completed, shall be transferred into the American Health Security Trust Fund.

Subtitle B—Taxes Based on Income and Wages

SEC. 811. PAYROLL TAX ON EMPLOYERS.

(a) IN GENERAL.—Section 3111.(relating to tax on employers) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) HEALTH CARE.—

"(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b)).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 4 percent in the case of a small employer, and

"(B) 8.4 percent in the case of any other employer.

"(3) SMALL EMPLOYER.—

"(A) IN GENERAL.—For purposes of paragraph (2), the term 'small employer' means any employer if—

"(i) the average number of full-time employees (or the equivalent) of such employer during the preceding calendar year is less than 75, and

"(ii) the average annual wages (as defined in section 3121(a)) paid by such employer to such employees during such year is less than $24,000.

"(B) CONTROLLED GROUPS.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 employer for purposes of subparagraph (A).".

(b) SELF-EMPLOYMENT INCOME.—Section 1401 (relating to rate of tax on self-employment income) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) HEALTH CARE.—

"(1) IN GENERAL.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the applicable percentage (as defined in section 3111(c)) of the amount of the self-employment income for such taxable year.

"(2) SPECIAL RULE FOR DETERMINING APPLICABLE PERCENTAGE.—In determining the applicable percentage for purposes of paragraph (1), section 3111(c) shall be applied by treating such individual as an employee receiving wages equal to such individual's self-employment income for the taxable year."

(c) COMPARABLE TAXES FOR RAILROAD SERVICES.—

VOL 140 PT 15 AG 10 — 11 1994 UMI

(1) TAX ON EMPLOYERS.—Section 3221 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) HEALTH CARE.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage (as defined in section 3111(c)) of the compensation paid by such employer for services rendered to such employer."

(2) TAX ON EMPLOYEE REPRESENTATIVES.—Subsection (a) of section 3211 (relating to tax on employee representatives) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) HEALTH CARE.—

"(A) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during the calendar year by such employee representative for services rendered by such employee representative.

"(B) SPECIAL RULE FOR DETERMINING APPLICABLE PERCENTAGE.—In determining the applicable percentage for purposes of subparagraph (A), section 3111(c) shall be applied by treated such individual as an employee receiving wages equal to such individual's compensation for the taxable year."

(3) NO APPLICABLE BASE.—Subparagraph (A) of section 3231(e)(2) is amended by adding at the end thereof the following new clause:

"(iv) HEALTH CARE TAXES.—Clause (i) shall not apply to the taxes imposed by sections 3221(c) and 3211(a)(3)."

(4) TECHSICAL AMENDMENTS.—

(A) Paragraph (4) of section 3211, as redesignated by paragraph (2), is amended by striking "and (2)" and inserting ", (2), and (3)".

(B) Subsection (f) of section 3221, as redesignated by paragraph (1), is amended by striking "and (b)" and inserting ", (b), and (c)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1996.

SEC. 812. HEALTH CARE INCOME TAX.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—HEALTH CARE INCOME TAX ON INDIVIDUALS

"Sec. 59B. Health care income tax.

"SEC. 59B. HEALTH CARE INCOME TAX.

"(a) IMPOSITION OF TAX.—In the case of an individual, there is hereby imposed a tax (in addition to any other tax imposed by this subtitle) equal to 2.1 percent of the taxable income of the taxpayer for the taxable year.

"(b) NO CREDITS AGAINST TAX; NO EFFECT ON MINIMUM TAX.—The tax imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(1) the amount of any credit allowable under this chapter, or

"(2) the amount of the minimum tax imposed by section 55.

"(c) SPECIAL RULES.—

"(1) TAX TO BE WITHHELD, ETC.—For purposes of this title, the tax imposed by this section shall be treated as imposed by section 1.

"(2) REIMBURSEMENT OF TAX BY EMPLOYER NOT INCLUDIBLE IN GROSS INCOME.—The gross income of an employee shall not include any payment by his employer to reimburse the employee for the tax paid by the employee under this section.

"(3) OTHER RULES.—The rules of section 59A(d) shall apply to the tax imposed by this section."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Health care income tax on individuals."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle C—Increase in Excise Taxes on Tobacco Products

SEC. 821. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (1) and inserting "$100 per thousand", and

(2) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (2) and inserting "$210 per thousand".

(b) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)" in paragraph (1) and inserting "$9.38 per thousand", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to 106.25 percent of the price for which sold but not more than $250 per thousand."

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "6.25 cents".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "12.5 cents".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" in paragraph (1) and inserting "$3.00", and

(2) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" in paragraph (2) and inserting "$1.00".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "$5.63".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986) after December 31, 1996.

(h) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States which are removed before January 1, 1997, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 or 7652 of such Code on such article.

(2) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on January 1, 1997, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the $500 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any article on January 1, 1997, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before July 31, 1997.

(5) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on January 1, 1997, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(B) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

Subtitle D—Increase in Taxes on Firearms and Ammunition

SEC. 831. INCREASE IN TAXES ON FIREARMS AND AMMUNITION.

(a) PISTOLS AND REVOLVERS.—The text of section 4181 (relating to imposition of tax on firearms) is amended to read as follows:

"There is hereby imposed upon the sale by the manufacturer, producer, or importer of any pistol, revolver, firearm, shell, or cartridge a tax equal to 50 percent of the price for which so sold."

(b) ADDITIONAL TAXES NOT ADDED TO WILDLIFE FUND.—Section 3(a) of the Act of September 2, 1937 (16 U.S.C. 669b(a)), commonly referred to as the "Pittman-Robertson Wildlife Restoration Act", is amended by adding at the end the following new sentence: "There shall not be covered into the fund the portion of the tax imposed by such section 4181 that is attributable to any increase in amounts received in the Treasury under such section by reason of the amendment made by section 831 of the American Health Security Act, as estimated by the Secretary.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

(d) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of any taxable article on which tax was imposed under section 4181 of the Internal Revenue Code of 1986 before January 1, 1997, and which is held by a dealer on such date, there is hereby imposed a floor stocks tax equal to the excess of—

(A) the tax which would be imposed by such section if such article had been sold by the manufacturer, producer, or importer on such date, over

(B) the tax imposed by such section on such article.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The dealer holding the taxable article on January 1, 1997, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before July 31, 1997.

(3) DEFINITIONS.—For purposes of this subsection—

(A) TAXABLE ARTICLE.—The term "taxable article" means any article subject to tax under section 4181 of such Code, other than an article exempt from such tax under section 4182 of such Code.

(B) HELD BY A DEALER.—The term "held by a dealer" has the meaning given such term by section 6412 of such Code.

(4) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on January 1, 1997, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4181 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4181.

TITLE IX—CONFORMING AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 901. ERISA INAPPLICABLE TO HEALTH COVERAGE ARRANGEMENTS UNDER STATE HEALTH SECURITY PROGRAMS.

Section 4 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1003) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following new subsection:

"(c) The provisions of this title shall not apply to any arrangement forming a part of a State health security program established pursuant to section 101(b) of the American Health Security Act of 1994.".

SEC. 902. EXEMPTION OF STATE HEALTH SECURITY PROGRAMS FROM ERISA PREEMPTION.

Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end the following new paragraph:

"(9) Subsection (a) of this section shall not apply to State health security programs established pursuant to section 101(b) of the American Health Security Act of 1994.".

SEC. 903. PROHIBITION OF EMPLOYEE BENEFITS DUPLICATIVE OF BENEFITS UNDER STATE HEALTH SECURITY PROGRAMS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"PROHIBITION OF EMPLOYEE BENEFITS DUPLICATIVE OF STATE HEALTH SECURITY PROGRAM BENEFITS

"SEC. 516. No employee benefit plan may provide benefits which duplicate payment for any items or services for which payment may be made under a State health security program established pursuant to section 101(b) of the American Health Security Act of 1994.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 514 the following new items:

"Sec. 515. Delinquent contributions.

"Sec. 516. Prohibition of employee benefits duplicative of State health security program benefits.".

SEC. 904. REPEAL OF CONTINUATION COVERAGE REQUIREMENTS UNDER ERISA AND CERTAIN OTHER REQUIREMENTS RELATING TO GROUP HEALTH PLANS.

(a) IN GENERAL.—Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(A) by adding "or" at the end of paragraph (6);

(B) by striking paragraph (7); and

(C) by redesignating paragraph (8) as paragraph (7).

(2) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by striking "paragraph (1) or (4) of section 606 or".

(3) Section 4301(c)(4) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 377) and the amendments made thereby are repealed.

(4) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by striking the items relating to part 6 of subtitle B of title I of such Act.

SEC. 905. EFFECTIVE DATE OF TITLE.

The amendments made by this title shall take effect January 1, 1996.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3600, AS REPORTED OFFERED BY MR. MANZULLO OF ILLINOIS

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Health Insurance Choice Act".

(b) FINDINGS RELATING TO INTERSTATE COMMERCE.—Congress finds that health insurance is a critical part of the economy of the United States and interstate commerce, consumes a significant percentage of public and private spending, and affects all industries and individuals in the United States.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title; findings.
Sec. 2. Table of contents.
TITLE I—IMPROVED ACCESS TO AFFORDABLE HEALTH CARE
Subtitle A—Increased Availability and Continuity of Health Coverage for Employees and Their Families
PART 1—PREEXISTING CONDITIONS AND CONTINUITY OF COVERAGE; RENEWABILITY
Sec. 101. Limitation on pre-existing condition clauses.
Sec. 102. Assurance of continuity of coverage through previous satisfaction of pre-existing condition requirement.
Sec. 103. Requirements relating to renewability generally.
PART 2—ENFORCEMENT; EFFECTIVE DATES; DEFINITIONS
Sec. 111. Enforcement.
Sec. 112. Effective dates.
Sec. 113. Definitions.
Subtitle B—Preemption of Scope of State Regulation
Sec. 121. Prohibition of State benefit mandates for group health plans.
Sec. 122. Prohibition of provisions prohibiting employer groups from purchasing health insurance.
Sec. 123. Restrictions on managed care.
Sec. 124. Definitions.
Subtitle C—Health Deduction Fairness
Sec. 131. Permanent extension and increase in health insurance tax deduction for self-employed individuals.
Sec. 132. Deduction of health insurance premiums for certain previously uninsured individuals.
TITLE II—REMOVING ANTI-TRUST IMPEDIMENTS
Sec. 201. Establishment of limited exemption program for health care joint ventures.
Sec. 202. Issuance of health care certificates of public advantage.
Sec. 203. Interagency Advisory Committee on Competition, Antitrust Policy, and Health Care.
Sec. 204. Definitions.

TITLE I—IMPROVED ACCESS TO AFFORDABLE HEALTH CARE

Subtitle A—Increased Availability and Continuity of Health Coverage for Employees and Their Families

PART 1—PREEXISTING CONDITIONS AND CONTINUITY OF COVERAGE; RENEWABILITY

SEC. 101. LIMITATION ON PRE-EXISTING CONDITION CLAUSES.

A group health plan may not impose (and an insurer may not require an employer under a group health plan to impose through a waiting period for coverage under a plan or similar requirement) a limitation or exclusion of benefits relating to treatment of a condition based on the fact that the condition pre-existed the effective date of the plan with respect to an individual if—

VOL 140 PT 15 AG 10 — 11 1994 UMI

(1) the condition relates to a condition that was not diagnosed or treated within 3 months before the date of coverage under the plan;

(2) the limitation or exclusion extends over more than 6 months after the date of coverage under the plan;

(3) the limitation or exclusion applies to an individual who, as of the date of birth, was covered under the plan; or

(4) the limitation or exclusion relates to pregnancy.

In the case of an individual who is eligible for coverage under a plan but for a waiting period imposed by the employer, in applying paragraphs (1) and (2), the individual shall be treated as having been covered under the plan as of the earliest date of the beginning of the waiting period.

SEC. 102. ASSURANCE OF CONTINUITY OF COVERAGE THROUGH PREVIOUS SATISFACTION OF PRE-EXISTING CONDITION REQUIREMENT.

(a) IN GENERAL.—Each group health plan shall waive any period applicable to a preexisting condition for similar benefits with respect to an individual to the extent that the individual, prior to the date of such individual's enrollment in such plan, was covered for the condition under any other health plan that was in effect before such date.

(b) CONTINUOUS COVERAGE REQUIRED.—

(1) IN GENERAL.—Subsection (a) shall no longer apply if there is a continuous period of more than 60 days (or, in the case of an individual described in paragraph (3), 6 months) on which the individual was not covered under a group health plan.

(2) TREATMENT OF WAITING PERIODS.—In applying paragraph (1), any waiting period imposed by an employer before an employee is eligible to be covered under a plan shall be treated as a period in which the employee was covered under a group health plan.

(3) JOB TERMINATION.—An individual is described in this paragraph if the individual loses coverage under a group health plan due to termination of employment.

(4) EXCLUSION OF CASH-ONLY AND DREAD DISEASE PLANS.—In this subsection, the term "group health plan" does not include any group health plan which is offered primarily to provide—

(A) coverage for a specified disease or illness, or

(B) a hospital or fixed indemnity policy, unless the Secretary determines that such a plan provides sufficiently comprehensive coverage of a benefit so that it should be treated as a group health plan under this subsection.

SEC. 103. REQUIREMENTS RELATING TO RENEWABILITY GENERALLY.

(a) MULTIEMPLOYER PLANS AND EXEMPTED MULTIPLE EMPLOYER HEALTH PLANS.—A multiemployer plan and an exempted multiple employer health plan may not cancel coverage or deny renewal of coverage under such a plan with respect to an employer other than—

(1) for nonpayment of contributions,

(2) for fraud or other misrepresentation by the employer,

(3) for noncompliance with plan provisions,

(4) for misuse of a provider network provision, or

(5) because the plan is ceasing to provide any coverage in a geographic area.

(b) INSURERS.—

(1) IN GENERAL.—An insurer may not cancel a health insurance plan or deny renewal of coverage under such a plan other than—

(A) for nonpayment of premiums,

(B) for fraud or other misrepresentation by the insured,

(C) for noncompliance with plan provisions,

(D) for misuse of a provider network provision, or

(E) because the insurer is ceasing to provide any health insurance plan in a State, or, in the case of a health maintenance organization, in a geographic area.

(2) LIMITATION ON MARKET REENTRY.—If an insurer terminates the offering of health insurance plans in an area, the insurer may not offer such a health insurance plan to any employer in the area until 5 years after the date of the termination.

PART 2—ENFORCEMENT; EFFECTIVE DATES; DEFINITIONS

SEC. 111. ENFORCEMENT.

(a) ENFORCEMENT BY DEPARTMENT OF LABOR FOR EMPLOYERS AND GROUP HEALTH PLANS.—

(1) IN GENERAL.—For purposes of part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of part 1 of this subtitle shall be deemed to be provisions of title I of such Act irrespective of exclusions under section 4(b) of such Act.

(2) REGULATORY AUTHORITY.—With respect to the regulatory authority of the Secretary of Labor under this subtitle pursuant to subsection (a), section 505 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1135) shall apply.

(b) ENFORCEMENT BY EXCISE TAX FOR INSURERS.—

(1) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980C. FAILURE OF INSURER TO COMPLY WITH HEALTH INSURANCE STANDARDS.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed a tax on the failure of an insurer to comply with the requirements applicable to the insurer under part 1 of subtitle A of title I of the Small Business Health Insurance Choice Act.

"(2) EXCEPTION.—Paragraph (1) shall not apply to a failure by an insurer in a State if the Secretary of Health and Human Services determines that the State has in effect a regulatory enforcement mechanism that provides adequate sanctions with respect to such a failure by such an insurer.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each individual to which such failure relates. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

"(2) LIMITATION.—The amount of the tax imposed by subsection (a) for an insurer with respect to a health insurance plan shall not exceed 25 percent of the amounts received under the plan for coverage during the period such failure persists.

"(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the insurer.

"(d) EXCEPTIONS.—

"(1) CORRECTIONS WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) by reason of any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected within the 30-day period beginning on earliest date the insurer knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of such tax would be excessive relative to the failure involved.

"(e) DEFINITIONS.—For purposes of this section, the terms 'health insurance plan' and 'insurer' have the respective meanings given such terms in section 113 of the Small Business Health Insurance Choice Act."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end thereof the following new items:

"Sec. 4980C. Failure of insurer to comply with health insurance standards."

SEC. 112. EFFECTIVE DATES.

(a) PART 1.—The requirements of part 1 with respect to—

(1) group health plans and employers shall apply to plans years beginning after December 31, 1994, and

(2) insurers shall take effect on January 1, 1995.

SEC. 113. DEFINITIONS.

(a) IN GENERAL.—For purposes of this subtitle:

(1) EMPLOYER.—The term "employer" shall have the meaning applicable under section 3(5) of the Employee Retirement Income Security Act of 1974.

(2) EXEMPTED MULTIPLE EMPLOYER HEALTH PLAN.—The term "exempted multiple employer health plan" means a multiple employer welfare arrangement treated as an employee welfare benefit plan by reason of an exemption under part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by part 2 of subtitle C of this title).

(3) GROUP HEALTH PLAN; PLAN.—(A) The term "group health plan" means an employee welfare benefit plan providing medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) to participants or beneficiaries directly or through insurance, reimbursement, or otherwise, but does not include any type of coverage excluded from the definition of a health insurance plan under section 1107(4)(B).

(B) The term "plan" means, unless used with a modifying term or the context specifically indicates otherwise, a group health plan (including any such plan which is a multiemployer plan), an exempted multiple employer health plan, or an insured multiple employer health plan.

(4) HEALTH INSURANCE PLAN.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "health insurance plan" means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer.

(B) EXCEPTION.—Such term does not include any of the following—

(i) coverage only for accident, dental, vision, disability income, or long-term care insurance, or any combination thereof,

(ii) medicare supplemental health insurance,

(iii) coverage issued as a supplement to liability insurance,

(iv) worker's compensation or similar insurance, or

(v) automobile medical-payment insurance,

or any combination thereof.

(5) INSURED MULTIPLE EMPLOYER HEALTH PLAN.—The term "insured multiple employer health plan" means a fully insured multiple employer welfare arrangement under which benefits consist solely of medical care described in section 607(1) of the Employee Retirement Income Security Act of 1974 (disregarding such incidental benefits as the Secretary of Health and Human Services shall specify by regulations).

(6) INSURER.—The term "insurer" means a licensed insurance company, a prepaid hospital or medical service plan, and a health maintenance organization offering such a plan to an employer, and includes a similar organization regulated under State law for solvency.

(7) STATE.—The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

Subtitle B—Preemption of Scope of State Regulation

SEC. 121. PROHIBITION OF STATE BENEFIT MANDATES FOR GROUP HEALTH PLANS.

In the case of a group health plan, no provision of State or local law shall apply that requires the coverage of one or more specific benefits, services, or categories of health care, or services of any class or type of provider of health care.

SEC. 122. PROHIBITION OF PROVISIONS PROHIBITING EMPLOYER GROUPS FROM PURCHASING HEALTH INSURANCE.

No provision of State or local law shall apply that prohibits 2 or more employers from obtaining coverage under an insured multiple employer health plan.

SEC. 123. RESTRICTIONS ON MANAGED CARE.

(a) PREEMPTION OF STATE LAW PROVISIONS.—Subject to subsection (c), the following provisions of State law are preempted and may not be enforced:

(1) RESTRICTIONS ON REIMBURSEMENT RATES OR SELECTIVE CONTRACTING.—Any law that restricts the ability of a group health plan to negotiate reimbursement rates with providers or to contract selectively with one provider or a limited number of providers.

(2) RESTRICTIONS ON DIFFERENTIAL FINANCIAL INCENTIVES.—Any law that limits the financial incentives that a group health plan may require a beneficiary to pay when a nonplan provider is used on a non-emergency basis.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the benefits and cost effectiveness of the use of managed care in the delivery of health services.

(2) REPORT.—By not later than 4 years after the date of the enactment of this Act, the Comptroller General shall submit a report to Congress on the study conducted under paragraph (1) and shall include in the report such recommendations (including whether the provisions of subsection (a) should be extended) as may be appropriate.

(c) SUNSET.—Unless otherwise provided, subsection (a) shall not apply 5 years after the date of the enactment of this Act.

SEC. 124. DEFINITIONS.

For purposes of this subtitle, the terms "employee", "employer", "group health plan", "health insurance plan", "insured multiple employer health plan", and "State" have the meanings given such terms in section 113.

Subtitle C—Health Deduction Fairness

SEC. 131. PERMANENT EXTENSION AND INCREASE IN HEALTH INSURANCE TAX DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS.

(a) PERMANENT EXTENSION OF DEDUCTION.—

(1) IN GENERAL.—Subsection (l) of section 162 of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1994.

(b) INCREASE IN AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (1) of section 162(l) of such Code is amended by striking "25 percent of" and inserting "100 percent (50 percent in the case of taxable years beginning in 1996 or 1997) of".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1994.

SEC. 132. DEDUCTION OF HEALTH INSURANCE PREMIUMS FOR CERTAIN PREVIOUSLY UNINSURED INDIVIDUALS.

(a) IN GENERAL.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end thereof the following new subsection:

"(f) DEDUCTION FOR HEALTH INSURANCE COSTS DETERMINED WITHOUT REGARD TO ADJUSTED GROSS INCOME THRESHOLD.—

"(1) IN GENERAL.—Subsection (a) shall be applied without regard to the limitation based on adjusted gross income in the case of the applicable percentage of the amounts paid for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 25 percent for taxable years beginning in 1995 or 1996,

"(B) 50 percent for taxable years beginning in 1997 or 1998, and

"(C) 100 percent for taxable years beginning after 1999.

"(3) DEDUCTION NOT ALLOWED TO INDIVIDUALS ELIGIBLE FOR EMPLOYER-SUBSIDIZED COVERAGE.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any individual—

"(i) who is eligible to participate in any subsidized health plan maintained by an employer of such individual or the spouse of such individual, or

"(ii) who is (or whose spouse is) a member of a subsidized class of employees of an employer.

"(B) SUBSIDIZED CLASS.—For purposes of subparagraph (A), an individual is a member of a subsidized class of employees of an employer if, at any time during the 3 calendar years ending with or within the taxable year, any member of such class was eligible to participate in any subsidized health plan maintained by such employer.

"(C) SPECIAL RULES.—

"(i) CONTROLLED GROUPS.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single employer for purposes of subparagraph (B).

"(ii) CLASSES.—Classes of employees shall be determined under regulations prescribed by the Secretary based on such factors as the Secretary determines appropriate to carry out the purposes of this subsection.

"(4) COORDINATION WITH DEDUCTION FOR OTHER AMOUNTS.—Amounts allowable as a deduction under subsection (a) by reason of this subsection shall not be taken into account in determining the deduction under subsection (a) for other amounts.

"(5) SUBSECTION NOT TO APPLY TO INDIVIDUALS ELIGIBLE FOR MEDICARE.—This subsection shall not apply to amount paid for insurance covering an individual who is eligible for benefits under title XVIII of the Social Security Act."

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (15) the following new paragraph:

"(16) COSTS OF CERTAIN HEALTH INSURANCE.—The deduction allowed by section 213 to the extent allowable by reason of section 213(f)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

TITLE II—REMOVING ANTITRUST IMPEDIMENTS

SEC. 201. ESTABLISHMENT OF LIMITED EXEMPTION PROGRAM FOR HEALTH CARE JOINT VENTURES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Attorney General, after consultation with the Secretary of Health and Human Services and the Interagency Advisory Committee on Competition, Antitrust Policy, and Health Care, shall promulgate specific guidelines under which a health care joint venture may submit an application requesting that the Attorney General provide the entities participating in the joint venture with an exemption under which (notwithstanding any other provision of law)—

(A) monetary recovery on a claim under the antitrust laws shall be limited to actual damages if the claim results from conduct within the scope of the joint venture that occurs while the exemption is in effect; and

(B) the conduct of the entity in making or performing a contract to carry out the joint venture shall not be deemed illegal per se under the antitrust laws but shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including (but not limited to) effects on competition in properly defined, relevant research, development, product, process, and service markets (taking into consideration worldwide capacity to the extent that it may be appropriate in the circumstances).

(2) DEADLINE FOR RESPONSE.—The Attorney General, after consultation with the Secretary and the Advisory Committee, shall approve or disapprove the application of a health care joint venture for an exemption under this subsection not later than 30 days after the Attorney General receives the joint venture's application.

(3) PROVIDING REASONS FOR DISAPPROVAL.—If the Attorney General disapproves the application of a health care joint venture for an exemption under this subsection, the Attorney General shall provide the joint venture with a statement explaining the reasons for the Attorney General's disapproval.

(b) REQUIREMENTS FOR APPROVAL.—For purposes of subsection (a), the Attorney General shall approve the application of a health care joint venture for an exemption under subsection (a) if an entity participating in the joint venture submits to the Attorney General an application not later than 30 days after the entity has entered into a written agreement to participate in the joint venture (or not later than 30 days after the date of the enactment of this Act in the case of a joint venture in effect as of such date) that contains the following information and assurances:

(1) The identities of the parties to the joint venture.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) The nature, objectives, and planned activities of the joint venture.

(3) Assurances that the entities participating in the joint venture shall notify the Attorney General of any changes in the information described in paragraphs (1) and (2) during the period for which the exemption is in effect.

(c) REVOCATION OF EXEMPTION.—

(1) IN GENERAL.—The Attorney General, after consultation with the Secretary, may revoke an exemption provided to a health care joint venture under this section if, at any time during which the exemption is in effect, the Attorney General finds that the joint venture no longer meets the applicable requirements for approval under subsection (b), except that the Attorney General may not revoke such an exemption if the failure of the health care joint venture to meet such requirements is merely technical in nature.

(2) TIMING.—The revocation of an exemption under paragraph (1) shall apply only to conduct of the health care joint venture occurring after the exemption is no longer in effect.

(d) WITHDRAWAL OF APPLICATION.—Any party that submits an application under this section may withdraw such application at any time before the Attorney General's response to the application.

(e) REQUIREMENTS RELATING TO NOTICE AND PUBLICATION OF EXEMPTIONS AND RELATED INFORMATION.—

(1) PUBLICATION OF APPROVED APPLICATIONS FOR EXEMPTIONS IN FEDERAL REGISTER.—

(A) IN GENERAL.—With respect to each exemption for a health care joint venture provided under subsection (a), the Attorney General (acting jointly with the Secretary) shall—

(i) prepare a notice with respect to the joint venture that identifies the parties to the venture and that describes the planned activities of the venture;

(ii) submit the notice to the entities participating in the joint venture; and

(iii) after submitting the notice to such entities (but not later than 30 days after approving the application for the exemption for the joint venture), publish the notice in the Federal Register.

(B) EFFECT OF PUBLICATION.—An exemption provided by the Attorney General under subsection (a) shall take effect as of the date of the publication in the Federal Register of the notice with respect to the exemption pursuant to subparagraph (A).

(2) WAIVER OF DISCLOSURE REQUIREMENTS FOR INFORMATION RELATING TO APPLICATIONS FOR EXEMPTIONS.—

(A) IN GENERAL.—All information and documentary material submitted as part of an application of a health care joint venture for an exemption under subsection (a), together with any other information obtained by the Attorney General, the Secretary, or the Advisory Committee in the course of any investigation, administrative proceeding, or case with respect to a potential violation of the antitrust laws by the joint venture with respect to which the exemption applies, shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not be made publicly available by any agency of the United States to which such section applies, except as relevant to a law enforcement investigation or in a judicial or administrative proceeding in which such information and material is subject to any protective order.

(B) EXCEPTION FOR INFORMATION INCLUDED IN FEDERAL REGISTER NOTICE.—Subparagraph (A) shall not apply with respect to information contained in a notice published in the Federal Register pursuant to paragraph (1).

(3) USE OF INFORMATION TO SUPPORT OR ANSWER CLAIMS UNDER ANTITRUST LAWS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the fact of disclosure of conduct under an application for an exemption under subsection (a) and the fact of publication of a notice in the Federal Register under paragraph (1) shall be admissible into evidence in any judicial or administrative proceeding for the sole purpose of establishing that a person is entitled to the protections provided by an exemption granted under subsection (a).

(B) EFFECT OF REJECTED APPLICATION.—If the Attorney General denies, in whole or in part, an application for an exemption under subsection (a), or revokes an exemption under such section, neither the negative determination nor the statement of reasons therefore shall be admissible into evidence in any administrative or judicial proceeding for the purpose of supporting or answering any claim under the antitrust laws.

SEC. 202. ISSUANCE OF HEALTH CARE CERTIFICATES OF PUBLIC ADVANTAGE.

(a) ISSUANCE AND EFFECT OF CERTIFICATE.—The Attorney General, after consultation with the Secretary and the Advisory Committee, shall issue in accordance with this section a certificate of public advantage to each eligible health care joint venture that complies with the requirements in effect under this section on or after the expiration of the 1-year period that begins on the date of the enactment of this Act (without regard to whether or not the Attorney General has promulgated regulations to carry out this section by such date). Such venture, and the parties to such venture, shall not be liable under any of the antitrust laws for conduct described in such certificate and engaged in by such venture if such conduct occurs while such certificate is in effect.

(b) REQUIREMENTS APPLICABLE TO ISSUANCE OF CERTIFICATES.—

(1) STANDARDS TO BE MET.—The Attorney General shall issue a certificate to an eligible health care joint venture if the Attorney General finds that—

(A) the benefits that are likely to result from carrying out the venture outweigh the reduction in competition (if any) that is likely to result from the venture, and

(B) such reduction in competition is reasonably necessary to obtain such benefits.

(2) FACTORS TO BE CONSIDERED.—

(A) WEIGHING OF BENEFITS AGAINST REDUCTION IN COMPETITION.—For purposes of making the finding described in paragraph (1)(A), the Attorney General shall consider whether the venture is likely —

(i) to maintain or to increase the quality of health care,

(ii) to increase access to health care,

(iii) to achieve cost efficiencies that will be passed on to health care consumers, such as economies of scale, reduced transaction costs, and reduced administrative costs,

(iv) to preserve the operation of health care facilities located in underserved geographical areas,

(v) to improve utilization of health care resources, and

(vi) to reduce inefficient health care resource duplication.

(B) NECESSITY OF REDUCTION IN COMPETITION.—For purposes of making the finding described in paragraph (1)(B), the Attorney General shall consider—

(i) the ability of the providers of health care services that are (or likely to be) affected by the health care joint venture and the entities responsible for making payments to such providers to negotiate societally optimal payment and service arrangements,

(ii) the effects of the health care joint venture on premiums and other charges imposed by the entities described in clause (i), and

(iii) the availability of equally efficient, less restrictive alternatives to achieve the benefits that are intended to be achieved by carrying out the venture.

(c) ESTABLISHMENT OF CRITERIA AND PROCEDURES.—Subject to subsections (d) and (e), not later than 1 year after the date of the enactment of this Act, the Attorney General and the Secretary shall establish jointly by rule the criteria and procedures applicable to the issuance of certificates under subsection (a). The rules shall specify the form and content of the application to be submitted to the Attorney General to request a certificate, the information required to be submitted in support of such application, the procedures applicable to denying and to revoking a certificate, and the procedures applicable to the administrative appeal (if such appeal is authorized by rule) of the denial and the revocation of a certificate. Such information may include the terms of the health care joint venture (in the case of a venture in existence as of the time of the application) and implementation plan for the joint venture.

(d) ELIGIBLE HEALTH CARE JOINT VENTURE.—To be an eligible health care joint venture for purposes of this section, a health care joint venture shall submit to the Attorney General an application that complies with the rules in effect under subsection (c) and that includes—

(1) an agreement by the parties to the venture that the venture will not foreclose competition by entering into contracts that prevent health care providers from providing health care in competition with the venture,

(2) an agreement that the venture will submit to the Attorney General annually a report that describes the operations of the venture and information regarding the impact of the venture on health care and on competition in health care, and

(3) an agreement that the parties to the venture will notify the Attorney General and the Secretary of the termination of the venture not later than 30 days after such termination occurs.

(e) REVIEW OF APPLICATIONS FOR CERTIFICATES.—Not later than 30 days after an eligible health care joint venture submits to the Attorney General an application that complies with the rules in effect under subsection (c) and with subsection (d), the Attorney General shall issue or deny the issuance of such certificate. If, before the expiration of such 30-day period, the Attorney General fails to issue or deny the issuance of such certificate, the Attorney General shall be deemed to have issued such certificate.

(f) REVOCATION OF CERTIFICATE.—Whenever the Attorney General finds that a health care joint venture with respect to which a certificate is in effect does not meet the standards specified in subsection (b), the Attorney General shall revoke such certificate.

(g) WRITTEN REASONS; JUDICIAL REVIEW.—

(1) DENIAL AND REVOCATION OF CERTIFICATES.—If the Attorney General denies an application for a certificate or revokes a certificate, the Attorney General shall include in the notice of denial or revocation a statement of the reasons relied upon for the denial or revocation of such certificate.

(2) JUDICIAL REVIEW.—

(A) AFTER ADMINISTRATIVE PROCEEDING.—(i) If the Attorney General denies an application submitted or revokes a certificate issued under this section after an opportunity for hearing on the record, then any party to the health care joint venture involved may commence a civil action, not later than 60 days after receiving notice of the denial or revocation, in an appropriate district court of the United States for review of the record of such denial or revocation.

(ii) As part of the Attorney General's answer, the Attorney General shall file in such court a certified copy of the record on which such denial or revocation is based. The findings of fact of the Attorney General may be set aside only if found to be unsupported by substantial evidence in such record taken as a whole.

(B) DENIAL OR REVOCATION WITHOUT ADMINISTRATIVE PROCEEDING.—If the Attorney General denies an application submitted or revokes a certificate issued under this section without an opportunity for hearing on the record, then any party to the health care joint venture involved may commence a civil action, not later than 60 days after receiving notice of the denial or revocation, in an appropriate district court of the United States for de novo review of such denial or revocation.

(h) EXEMPTION.—A person shall not be liable under any of the antitrust laws for conduct necessary—

(1) to prepare, agree to prepare, or attempt to agree to prepare an application to request a certificate under this section, or

(2) to attempt to enter into any health care joint venture with respect to which such a certificate is in effect.

SEC. 203. INTERAGENCY ADVISORY COMMITTEE ON COMPETITION, ANTITRUST POLICY, AND HEALTH CARE.

(a) ESTABLISHMENT.—There is hereby established the Interagency Advisory Committee on Competition, Antitrust Policy, and Health Care. The Advisory Committee shall be composed of—

(1) the Secretary of Health and Human Services (or the designee of the Secretary);

(2) the Attorney General (or the designee of the Attorney General);

(3) the Director of the Office of Management and Budget (or the designee of the Director); and

(4) a representative of the Federal Trade Commission.

(b) DUTIES.—The duties of the Advisory Committee are—

(1) to discuss and evaluate competition and antitrust policy, and their implications with respect to the performance of health care markets;

(2) to analyze the effectiveness of health care joint ventures receiving exemptions under the program established under section 201(a) or certificates under section 202 in reducing the costs of and expanding access to the health care services that are the subject of such ventures; and

(3) to make such recommendations to Congress not later than 2 years after the date of the enactment of this Act (and at such subsequent periods as the Advisory Committee considers appropriate) regarding modifications to the program established under section 201(a) or to section 202 as the Advisory Committee considers appropriate, including modifications relating to the costs to health care providers of obtaining an exemption for a joint venture under such program.

SEC. 204. DEFINITIONS.

For purposes of this title:

(1) The term "Advisory Committee" means the Interagency Advisory Committee on Competition, Antitrust Policy, and Health Care established under section 203.

(2) The term "antitrust laws"—

(A) has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in subparagraph (A).

(3) The term "certificate" means a certificate of public advantage authorized to be issued under section 202(a).

(4) The term "health care joint venture" means an agreement (whether existing or proposed) between 2 or more providers of health care services that is entered into solely for the purpose of sharing in the provision of health care services and that involves substantial integration or financial risk-sharing between the parties, but does not include the exchanging of information, the entering into of any agreement, or the engagement in any other conduct that is not reasonably required to carry out such agreement.

(5) The term "health care services" includes services related to the delivery or administration of health care services.

(6) The term "liable" means liable for any civil or criminal violation of the antitrust laws.

(7) The term "provider of health care services" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(8) The term "Secretary" means the Secretary of Health and Human Services.

Amendment To H.R. 3600

Offered By Mr. Michel of Illinois

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Affordable Health Care Now Act of 1994".

(b) TABLE OF CONTENTS OF TITLES AND SUBTITLES IN ACT.—The following are the titles and subtitles contained in this Act:

TITLE I—IMPROVED ACCESS TO AFFORDABLE HEALTH CARE

Subtitle A—Increased Availability and Continuity of Health Coverage for Individuals and Their Families
Subtitle B—Reform of Health Insurance
Subtitle C—Preemption
Subtitle D—Health Deduction Fairness
Subtitle E—Improved Access to Community Health Services
Subtitle F—Improved Access to Rural Health Services
Subtitle G—Assistance in Enrolling Uninsured Children in Health Insurance
Subtitle H—Medicaid Reform
Subtitle I—Remedies and Enforcement with Respect to Group Health Plans
Subtitle J—Delivery of Health Care Services to Illegal Immigrants

TITLE II—HEALTH CARE COST CONTAINMENT AND QUALITY ENHANCEMENT

Subtitle A—Medical Malpractice Liability Reform
Subtitle B—Administrative Cost Savings and Fair Health Information Practices
Subtitle C—Deduction for Cost of Catastrophic Health Plan; Medical Savings Accounts
Subtitle D—Anti-Fraud
Subtitle E—Increased Medicare Beneficiary Choice; Additional Medicare Reforms
Subtitle F—Health Care Antitrust Improvements
Subtitle G—Encouraging Enforcement Activities of Medical Self-Regulatory Entities
Subtitle H—Reform of Clinical Laboratory Requirements for Simple Tests
Subtitle I—Miscellaneous Provisions

TITLE III—LONG-TERM CARE

Subtitle A—Tax Treatment of Long-term Care Insurance
Subtitle B—Establishment of Federal Standards for Long-term Care Insurance
Subtitle C—Protection of Assets Under Medicaid Through Use of Qualified Long-term Care Insurance
Subtitle D—Studies
Subtitle E—Volunteer Service Credit Demonstration Projects

TITLE I—IMPROVED ACCESS TO AFFORDABLE HEALTH CARE

TABLE OF CONTENTS OF TITLE

TITLE I—IMPROVED ACCESS TO AFFORDABLE HEALTH CARE

Subtitle A—Increased Availability and Continuity of Health Coverage for Individuals and Their Families

PART 1—REQUIRED COVERAGE OPTIONS FOR ELIGIBLE EMPLOYEES, SPOUSES, AND DEPENDENTS
Sec. 1001. Requiring employers to offer option of coverage for eligible individuals.
PART 2—PORTABILITY AND NONDISCRIMINATION
Sec. 1011. Nondiscrimination based on health status.
Sec. 1012. Portability.
Sec. 1013. Requirements relating to renewability generally.
PART 3—STANDARDS FOR MANAGED CARE ARRANGEMENTS AND ESSENTIAL COMMUNITY PROVIDERS
Sec. 1021. Standards for managed care arrangements.
Sec. 1022. Utilization review.
PART 4—ENFORCEMENT; EFFECTIVE DATES; DEFINITIONS
Sec. 1031. Enforcement.
Sec. 1032. Effective dates.
Sec. 1033. Definitions and special rules.

Subtitle B—Reform of Health Insurance

PART 1—MARKETPLACE FOR SMALL BUSINESS
Sec. 1101. Requirement for insurers to offer MedAccess coverage.
Sec. 1102. MedAccess coverage defined.
Sec. 1103. Establishment of other MedAccess standards.
Sec. 1104. Use of modified community rating, uniform marketing materials, and miscellaneous consumer protections.
Sec. 1105. Monitoring and response to adverse selection; risk adjustment programs.
Sec. 1106. Establishment of reinsurance or allocation of risk mechanisms for high risk individuals in marketplace for small business and marketplace for individuals.
PART 2—MARKETPLACE FOR INDIVIDUALS
Sec. 1111. Application of similar requirements.

VOL 140 PT 15 AG 10 — 11 1994 UMI

PART 3—VOLUNTARY HEALTH PURCHASING ARRANGEMENTS
Sec. 1121. Establishment and organization.
Sec. 1122. Agreements with insurers.
Sec. 1123. Provision of information.
Sec. 1124. Enrolling eligible employees and eligible individuals through a purchasing arrangement.
Sec. 1125. Restriction on charges.
PART 4—DEFINITIONS AND MISCELLANEOUS PROVISIONS
Sec. 1131. Definitions.
Sec. 1132. Prohibition of improper incentives.
Sec. 1133. Enforcement.
Sec. 1134. Annual reports.
Sec. 1135. Research and demonstration projects; development of a health risk pooling model.
Subtitle C—Preemption
PART 1—SCOPE OF STATE REGULATION
Sec. 1201. Prohibition of State benefit mandates for group health plans.
Sec. 1202. Prohibition of provisions prohibiting employer groups from purchasing health insurance.
Sec. 1203. Preemption of State anti-managed care laws.
Sec. 1204. Definitions.
PART 2—MULTIPLE EMPLOYER HEALTH BENEFITS PROTECTIONS
Sec. 1211. Limited exemption from certain restrictions on ERISA preemption of State law for health plans maintained by multiple employers subject to certain Federal standards.
"PART 7—MULTIPLE EMPLOYER HEALTH PLANS
"Sec. 701. Definitions.
"Sec. 702. Exempted multiple employer health plans relieved of certain restrictions on preemption of State law and treated as employee welfare benefit plans.
"Sec. 703. Exemption procedure.
"Sec. 704. Eligibility requirements.
"Sec. 705. Additional requirements applicable to exempted multiple employer health plans.
"Sec. 706. Disclosure to participating employers by arrangements providing medical care.
"Sec. 707. Maintenance of reserves.
"Sec. 708. Corrective actions.
"Sec. 709. Expiration, suspension, or revocation of exemption.
"Sec. 710. Review of actions of the Secretary.
Sec. 1212. Clarification of scope of preemption rules.
Sec. 1213. Clarification of treatment of single employer arrangements.
Sec. 1214. Clarification of treatment of certain collectively bargained arrangements.
Sec. 1215. Employee leasing healthcare arrangements.
Sec. 1216. Enforcement provisions relating to multiple employer welfare arrangements and employee leasing healthcare arrangements.
Sec. 1217. Solvency requirements for certain self-insured group health plans.
Sec. 1218. Filing requirements for multiple employer welfare arrangements providing health benefits.
Sec. 1219. Cooperation between Federal and State authorities.
Sec. 1220. Effective date; transitional rules.
PART 3—ENCOURAGEMENT OF MULTIPLE EMPLOYER ARRANGEMENTS PROVIDING BASIC HEALTH BENEFITS
Sec. 1221. Eliminating commonality of interest or geographic location requirement for tax exempt trust status.
Sec. 1222. Single annual filing for all participating employers.
Sec. 1223. Compliance with coverage requirements through multiple employer health arrangements.
Subtitle D—Health Deduction Fairness
Sec. 1301. Permanent extension and increase in health insurance tax deduction for self-employed individuals.
Sec. 1302. Deduction of health insurance premiums for certain previously uninsured individuals.
Subtitle E—Improved Access to Community Health Services
PART 1—INCREASED AUTHORIZATION FOR COMMUNITY AND MIGRANT HEALTH CENTERS
Sec. 1401. Grant program to promote primary health care services for underserved populations.
PART 2—GRANTS FOR PROJECTS FOR COORDINATING DELIVERY OF SERVICES
Sec. 1411. Projects for coordinating delivery of outpatient primary health services.
PART 3—COMMUNITY HEALTH NETWORKS
Sec. 1421. Qualifications for community health networks.
Subtitle F—Improved Access to Rural Health Services
PART 1—ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS UNDER MEDICARE
Sec. 1501. Rural emergency access care hospitals described.
Sec. 1502. Coverage of and payment for services.
Sec. 1503. Effective date.
PART 2—RURAL MEDICAL EMERGENCIES AIR TRANSPORT
Sec. 1511. Grants to States regarding aircraft for transporting rural victims of medical emergencies.
PART 3—EMERGENCY MEDICAL SERVICES AMENDMENTS
Sec. 1521. Establishment of Office of Emergency Medical Services.
Sec. 1522. State offices of emergency medical services.
Sec. 1523. Programs for rural areas.
Sec. 1524. Funding.
Sec. 1525. Conforming amendments.
Sec. 1526. Effective date.
PART 4—ADDITIONAL RURAL HEALTH CARE PROVISIONS
Sec. 1531. Development of community-operated health plans in rural and frontier areas.
Sec. 1532. Primary health care for medically underserved rural communities; increased capacity of hospitals and outpatient facilities.
Sec. 1533. Innovative approaches to delivery of health services in rural areas.
Sec. 1534. Training of rural health professionals other than physicians.
Sec. 1535. General provisions.
Subtitle G—Assistance in Enrolling Uninsured Children in Health Insurance
Sec. 1601. Establishment of State programs.
Subtitle H—Medicaid Reform
PART 1—STATE FLEXIBILITY IN THE MEDICAID PROGRAM: THE MEDICAL HEALTH ALLOWANCE PROGRAM
Sec. 1701. Establishment of program.
Sec. 1702. Optional use of program to offer coverage to some or all State residents.
PART 2—MEDICAID PROGRAM FLEXIBILITY
Sec. 1711. Modification of Federal requirements to allow States more flexibility in contracting for coordinated care services under medicaid.
Sec. 1712. Period of certain waivers.
Sec. 1713. Elimination of duplicative pediatric immunization program.
PART 3—MEDICAID DISPROPORTIONATE SHARE ADJUSTMENT
Sec. 1721. 25 percent reduction in amount of payment adjustments for disproportionate share hospitals.
Subtitle I—Remedies and Enforcement With Respect to Group Health Plans
Sec. 1801. Claims procedure for group health plans.
Sec. 1802. Mediation of group health plan claims.
"Subpart B—Mediation of Group Health Plan Claims
"Sec. 521. Eligibility for submission to mediation.
"Sec. 522. Facilitators.
"Sec. 523. Role of attorneys.
"Sec. 524. Initiation of mediation.
"Sec. 525. Mediation procedure.
"Sec. 526. Mediation time limit.
"Sec. 527. Cost of mediation.
"Sec. 528. Legal effect of participation in mediation program.
"Sec. 529. Confidentiality and admissibility.
Sec. 1803. Available court remedies.
Sec. 1804. Effective date.
Subtitle J—Delivery of Health Care Services to Illegal Immigrants
Sec. 1901. Study on the delivery of health care services to illegal immigrants.
Sec. 1902. Report.
Subtitle A—Increased Availability and Continuity of Health Coverage for Individuals and Their Families
PART 1—REQUIRED COVERAGE OPTIONS FOR ELIGIBLE EMPLOYEES, SPOUSES, AND DEPENDENTS
SEC. 1001. REQUIRING EMPLOYERS TO OFFER OPTION OF COVERAGE FOR ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Each employer shall make available with respect to each eligible employee a group health plan under which—

(1) coverage of each eligible individual with respect to such an eligible employee may be elected on an annual basis for each plan year,

(2) subject to subsection (d), coverage is provided for at least the required coverage specified in subsection (c), and

(3) each eligible employee electing such coverage may elect to have any premiums owed by the employee collected through payroll deduction.

An employer is not required under this subsection to make any contribution to the cost of coverage under such a plan.

(b) SPECIAL RULES.—

(1) EXCLUSION OF NEW EMPLOYERS AND CERTAIN SMALL EMPLOYERS.—Subsection (a) shall not apply to any employer for any plan year if, as of the beginning of such plan year—

(A) such employer (including any predecessor thereof) has been an employer for less than 2 years,

(B) such employer has no more than 2 eligible full-time employees, or

(C) there are no more than 2 full-time eligible employees who both are not covered under any group health plan and do not have health insurance coverage.

(2) EXCLUSION OF FAMILY MEMBERS.—Under such procedures as the Secretary may prescribe, any relative of an employer may be, at the election of the employer, excluded from consideration as an eligible employee for purposes of applying the requirements of subsection (a). In the case of an employer that is not an individual, an employee who is a relative of a key employee (as defined in section 416(i)(1) of the Internal Revenue Code of 1986) of the employer may, at the election of the key employee, be considered a relative excludable under this paragraph.

(3) OPTIONAL APPLICATION OF WAITING PERIOD.—A group health plan shall not be treated as failing to meet the requirements of subsection (a) solely because a period of service by an eligible employee of not more than 60 days is required under the plan for coverage under the plan of eligible individuals with respect to such employee.

(c) REQUIRED COVERAGE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the required coverage specified in this subsection is standard coverage (consistent with section 1102(c)), including at least one option (either a fee-for-service option or a point-of-service option) that permits covered individuals an unlimited choice of the lawful providers for which covered benefits are made available.

(2) SPECIAL TREATMENT OF SMALL EMPLOYERS NOT CONTRIBUTING TO EMPLOYEE COVERAGE.—In the case of a small employer (as defined in section 1131(9)) that has not contributed during the previous plan year to the cost of coverage for any eligible employee under any group health plan, the required coverage specified in this subsection for the plan year (with respect to each eligible employee) is—

(A) MedAccess standard coverage, with a fee-for-service option and, if available, a point-of-service option and a managed care option (as defined in section 1033);,

(B) MedAccess catastrophic coverage; and

(C) if available, MedAccess medisave coverage,

as such terms are defined in section 1102(a)(2).

(3) CONSTRUCTION.—Nothing in this section shall be construed as limiting the group health plans, or types of coverage under such a plan, that an employer may offer to an employee.

(d) 5-YEAR TRANSITION FOR EXISTING GROUP HEALTH PLANS.—

(1) IN GENERAL.—The requirement of subsection (a)(2) shall not apply to a group health plan for a plan year if—

(A) the group health plan is in effect in the plan year in which July 1, 1994, occurs, and

(B) the employer makes (or offers to make), in such plan year and each subsequent plan year through the plan year involved, a contribution to the plan on behalf of each employee who is eligible to participate in the plan.

(2) SUNSET.—Paragraph (1) shall only apply to a group health plan for each of the 5 plan years beginning with the first plan year to which the requirement of subsection (a) applies.

PART 2—PORTABILITY AND NONDISCRIMINATION

SEC. 1011. NONDISCRIMINATION BASED ON HEALTH STATUS.

(a) IN GENERAL.—A group health plan and an insurer providing health insurance coverage may not deny or impose (and an insurer may not require an employer under a group health plan to impose or otherwise to impose through a waiting period for coverage under a plan or similar requirement) a limitation or exclusion of benefits relating to treatment of a condition based on health status or based on the fact that the condition preexisted the effective date of coverage of the individual under the plan if—

(1) in the case of any individual eligible for such coverage, such individual has such coverage at the time at which such individual first becomes eligible;

(2) the limitation or exclusion applies to an individual who, as of the date of birth, was covered under the plan;

(3) the limitation or exclusion relates to pregnancy;

(4) the condition relates to a condition that was not diagnosed or treated within 3 months (or 6 months in the case of coverage not under a group health plan) before the date of such coverage; or

(5) the limitation or exclusion extends over more than 6 months (or 12 months in the case of coverage not under a group health plan) after the date of such coverage.

In the case of an individual who is eligible for coverage but for a waiting period imposed by the employer, in applying paragraphs (4) and (5), the individual shall be treated as having had such coverage as of the earliest date of the beginning of the waiting period.

(b) ONE-TIME AMNESTY PERIOD.—

(1) IN GENERAL.—In the case of an individual who, as of the first date of the amnesty period is—

(A) covered under a group health plan or has health insurance coverage, such coverage shall not be subject to pre-existing condition exclusions on and after such date; or

(B) not so covered, if the individual obtains coverage under a group health plan or health insurance coverage during the next available open enrollment period with respect to the individual, coverage so obtained shall not be subject to pre-existing condition exclusions on and after the effective date of such coverage.

(2) AMNESTY PERIOD.—The amnesty period described in this paragraph, with respect to an individual who is a resident of a State, is the 45-calendar-day period beginning on the effective date of this part (under section 1032(b)).

(3) ESTABLISHMENT OF SPECIAL ALLOCATION OF RISK POOL FOR AMNESTY.—Each State shall establish rules and requirements relating to the allocation of risk among insurers with respect to additional risks assumed as a result of the amnesty period under this subsection (including individuals previously covered for whom a preexisting condition exclusion will be no longer applicable).

(c) APPLICATION OF RULES BY CERTAIN HEALTH MAINTENANCE ORGANIZATIONS.—A health maintenance organization that provides health insurance coverage shall not be considered as failing to meet the requirements of section 1301 of the Public Health Service Act notwithstanding that it provides for an exclusion of the coverage based on a preexisting condition consistent with the provisions of this part so long as such exclusion is applied consistent with the provisions of this part.

SEC. 1012. PORTABILITY.

(a) IN GENERAL.—Each group health plan and an insurer providing health insurance coverage shall waive any period applicable to a preexisting condition for similar benefits with respect to an individual to the extent that the individual, immediately prior to the date of such individual's enrollment in such plan, had health insurance coverage for the condition, or was covered for the condition under a group health plan, that was in effect before such date.

(b) CONTINUOUS COVERAGE REQUIRED.—

(1) IN GENERAL.—Subsection (a) shall no longer apply if there is a continuous period of more than 60 days (or, in the case of an individual described in paragraph (2), 6 months) for which the individual did not have health insurance coverage for the condition or was not covered under a group health plan for the condition.

(2) JOB TERMINATION.—An individual is described in this paragraph if the individual loses coverage under a group health plan due to termination of employment.

(3) EXCLUSION OF CASH-ONLY AND DREAD DISEASE PLANS.—In this subsection, the term "group health plan" does not include any group health plan which is offered primarily to provide—

(A) coverage for a specified disease or illness, or

(B) a hospital or fixed indemnity policy, unless the Secretary determines that such a plan provides sufficiently comprehensive coverage of a benefit so that it should be treated as a group health plan under this subsection.

(c) TRANSITION FOR NON-CONFORMING POLICIES.—Notwithstanding State law or the provision of any agreement to the contrary, effective January 1, 1997, an insurer may cancel or refuse to renew health insurance coverage in a State prior to the application of this subtitle to health insurance coverage issued in the State if the coverage does not provide for either standard or catastrophic coverage, but only if the insurer offers the covered individual affected the opportunity to obtain health insurance coverage that meets the applicable requirements of this title.

(d) APPLICABILITY OF COVERAGE UNDER PUBLIC INSURANCE.—In this section, an individual shall be considered to have health insurance coverage for a condition without regard to whether such coverage is under a private or public plan.

SEC. 1013. REQUIREMENTS RELATING TO RENEWABILITY GENERALLY.

(a) MULTIEMPLOYER PLANS AND EXEMPTED MULTIPLE EMPLOYER HEALTH PLANS.—A multiemployer plan and an exempted multiple employer health plan may not cancel coverage or deny renewal of coverage under such a plan with respect to an employer other than—

(1) for nonpayment of contributions,

(2) for fraud or other misrepresentation by the employer,

(3) for noncompliance with plan provisions, or

(4) because the plan is ceasing to provide any coverage in a geographic area.

(b) INSURERS.—

(1) IN GENERAL.—An insurer may not cancel health insurance coverage or deny renewal of such coverage other than—

(A) for nonpayment of premiums,

(B) for fraud or other misrepresentation by the insured,

(C) for noncompliance with plan provisions, or

VOL 140 PT 15 AG 10 — 11 1994 UMI

(D) subject to paragraph (2), because the insurer is ceasing to provide any health insurance coverage (or the same type of health insurance coverage in the same individual or small employer insurance market) in a State, or, in the case of a health maintenance organization or other network plan, in a geographic area.

(2) NOTICE REQUIREMENT FOR MARKET EXIT.—Paragraph (1)(D) shall not apply to an insurer ceasing to provide coverage unless the insurer provides notice of such termination to employers and individuals covered at least 180 days before the date of termination of coverage.

(3) LIMITATION ON REENTRY IN EMPLOYER AND INDIVIDUAL MARKETS.—If an insurer ceases to offer or provide health insurance coverage (or a type of insurance coverage) in an area with respect to the individual or small group market, the insurer may not offer such health insurance coverage (or type of coverage) in the area in such market until 5 years after the date of the termination.

(4) TYPE OF COVERAGE AND INSURANCE MARKET DEFINED.—In this subsection—

(A) MedAccess standard coverage, MedAccess catastrophic coverage, and MedAccess medisave coverage shall each be considered to be separate types of health insurance coverage;

(B) the term "small group market" means the insurance market offered to individuals seeking health care coverage on behalf of themselves (and their dependents) on the basis of employment or other relationship with respect to an employer or an association.

PART 3—STANDARDS FOR MANAGED CARE ARRANGEMENTS AND ESSENTIAL COMMUNITY PROVIDERS

SEC. 1021. STANDARDS FOR MANAGED CARE ARRANGEMENTS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Each group health plan, and each insurer providing health insurance coverage, for health care through a managed care arrangement shall comply with the applicable requirements of this section.

(2) DEFINITIONS.—In this section:

(A) MANAGED CARE ARRANGEMENT DEFINED.—The term "managed care arrangement" means, with respect to an arrangement under a group health plan or under health insurance coverage, providers who have entered into an agreement under the arrangement under which such providers are obligated to provide items and services covered under the arrangement to individuals covered under the plan or who have such coverage.

(B) PROVIDER NETWORK.—The term "provider network" means, with respect to a group health plan or health insurance coverage, providers who have entered into an agreement described in subparagraph (A) under a managed care arrangement.

(b) SCOPE OF ARRANGEMENTS WITH PROVIDERS.—

(1) IN GENERAL.—The entity providing for a managed care arrangement on behalf of a group health plan or under health insurance coverage shall enter into such agreements with health care providers (including primary and specialty providers for children) or have such other arrangements as may be necessary to assure that covered individuals have reasonably prompt access through the entity's provider network to all items and services contained in the package of benefits for which coverage is provided (including access to emergency services on a 24-hour basis where medically necessary), in a manner that assures the continuity of the provision of such items and services.

(2) ACCESS TO CENTERS OF EXCELLENCE.—

(A) IN GENERAL.—The entity providing for a managed care arrangement on behalf of a group health plan or under health insurance coverage shall demonstrate that covered individuals (including individuals with chronic diseases) have access through the entity's provider network to specialized treatment expertise of designated centers of excellence. Such entity shall demonstrate such access according to standards developed by the Secretary, including requirements relating to arrangements with such centers and referral of patients to such centers.

(B) DESIGNATION OF CENTERS OF EXCELLENCE.—The Secretary shall establish a process for the designation of facilities, including children's hospitals and other pediatric facilities, as centers of excellence for purposes of this paragraph. A facility may not be designated unless the facility is determined—

(i) to provide specialty care,

(ii) to deliver care for complex cases requiring specialized treatment and for individuals with chronic diseases, and

(iii) to meet other requirements that may be established by the Secretary relating to specialized education and training of health professionals, participation in peer-reviewed research, or treatment of patients from outside the geographic area of the facility.

(3) NO REFERRAL REQUIRED FOR OBSTETRICS AND GYNECOLOGY.—An entity providing for a managed care arrangement may not require an individual to obtain a referral from a physician in order to obtain covered items and services within the network of the arrangement from a physician who specializes in obstetrics and gynecology.

(c) PROVISION OF EMERGENCY AND URGENT CARE SERVICES.—

(1) IN GENERAL.—The entity providing for a managed care arrangement on behalf of a group health plan or under health insurance coverage must cover medically necessary emergency and urgent care services provided to covered individuals (including trauma services provided by designated trauma centers), without regard to whether or not the provider furnishing such services has a contractual (or other) arrangement with the entity to provide items or services to covered individuals and, in the case of services furnished for the treatment of an emergency medical condition (as defined in section 1867(e)(1) of the Social Security Act), without regard to prior authorization.

(2) DESIGNATED TRAUMA CENTERS DEFINED.—In paragraph (1), the term "designated trauma center"—

(A) has the meaning given such term in section 1231 of the Public Health Service Act, and

(B) includes (for years prior to 2001) a trauma center that—

(i) is located in a State that has not designated trauma centers under section 1213 of such Act, and

(ii) the Secretary finds meets the standards under such section to be a designated trauma center.

(d) DUE PROCESS STANDARDS RELATING TO PROVIDER NETWORKS.—

(1) STANDARDS FOR SELECTION OF PROVIDERS FOR NETWORK.—

(A) ESTABLISHMENT.—The entity providing for a managed care arrangement on behalf of a group health plan or under health insurance coverage shall establish standards to be used by the entity for contracting with health care providers with respect the entity's provider network. Such standards shall be established in consultation with providers who are members of the network.

(B) DISTRIBUTION OF INFORMATION.—Descriptive information regarding these standards shall be made available upon request to enrollees, providers who are members of the network, and prospective enrollees and prospective participating providers.

(2) NOTICE REQUIREMENT.—

(A) IN GENERAL.—The entity may not terminate or refuse to renew an agreement with a provider to participate in the entity's provider network unless the entity provides written notification to the provider of the entity's decision to terminate or to refuse to renew the agreement. The notification shall include a statement of the reasons for the entity's decision, consistent with the standards established under paragraph (1).

(B) TIMING OF NOTIFICATION.—The entity shall provide the notification required under subparagraph (A) at least 45 days prior to the effective date of the termination or expiration of the agreement (whichever is applicable). The previous sentence shall not apply if failure to terminate the agreement prior to the deadline would adversely affect the health or safety of a covered individual.

(3) REVIEW PROCESS.—

(A) IN GENERAL.—The entity shall provide a process under which the provider may request a review of the entity's decision to terminate or refuse to renew the provider's participation agreement. Such review shall be conducted by a group of individuals the majority of whom are health care providers who are members of the entity's provider network or employees of the entity, and who are members of the same profession as the provider who requests the review.

(B) COUNSEL.—If the provider requests in advance, the entity shall permit an attorney representing the provider to be present at the provider's review.

(C) REVIEW ADVISORY.—The findings and conclusions of a review under this paragraph shall be advisory and non-binding.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed to affect any other provision of law that provides an appeals process or other form of relief to a provider of health care services.

SEC. 1022. UTILIZATION REVIEW.

(a) REQUIRING REVIEW TO MEET STANDARDS.—A group health plan or insurer providing health insurance coverage may not deny coverage of or payment for items and services on the basis of a utilization review program unless the program meets the standards established by the Secretary under this section.

(b) ESTABLISHMENT OF STANDARDS BY SECRETARY.—The Secretary shall establish standards for utilization review programs, consistent with subsection (c), and shall periodically review and update such standards to reflect changes in the delivery of health care services. The Secretary shall establish such standards in consultation with appropriate parties, including representatives of health care providers, specialists, insurers, plan administrators, and other experts.

(c) REQUIREMENTS FOR STANDARDS.—Under the standards established under subsection (a)—

(1) individuals performing utilization review may not receive financial compensation based upon the number of denials of coverage;

(2) negative determinations of the medical necessity or appropriateness of services or the site at which services are furnished may be made only by clinically qualified personnel;

(3) the utilization review program shall provide for a process under which an enrollee or provider may obtain timely review of a denial of coverage;

(4) utilization review shall be conducted in accordance with uniformly applied standards that are based on the most currently available medical evidence; and

(5) providers shall participate in the development of the utilization review program.

(d) PREEMPTION.—For provision preempting State laws relating to utilization review, see section 1203(a)(3).

PART 4—ENFORCEMENT; EFFECTIVE DATES; DEFINITIONS

SEC. 1031. ENFORCEMENT.

(a) ENFORCEMENT BY DEPARTMENT OF LABOR FOR EMPLOYERS AND GROUP HEALTH PLANS.—

(1) IN GENERAL.—For purposes of part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts 1 and 2 of this subtitle and part 1 of subtitle B shall be deemed to be provisions of title I of such Act irrespective of exclusions under section 4(b) of such Act.

(2) REGULATORY AUTHORITY.—With respect to the regulatory authority of the Secretary of Labor under this subtitle pursuant to subsection (a), section 505 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1135) shall apply.

(b) ENFORCEMENT BY PENALTY FOR INSURERS.—

(1) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980C. FAILURE OF INSURER TO COMPLY WITH HEALTH INSURANCE STANDARDS.

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—There is hereby imposed a tax on the failure of an insurer to comply with the requirements applicable to the insurer under parts 2 and 3 of subtitle A of title I and subtitle B of the Affordable Health Care Now Act of 1994.

"(2) EXCEPTION.—Paragraph (1) shall not apply to a failure by an insurer in a State if the Secretary of Health and Human Services determines that the State has in effect a regulatory enforcement mechanism that provides adequate sanctions with respect to such a failure by such an insurer.

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each individual to which such failure relates. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

"(2) LIMITATION.—The amount of the tax imposed by subsection (a) for an insurer with respect to health insurance coverage shall not exceed 25 percent of the amounts received for such coverage during the period such failure persists.

"(c) LIABILITY FOR PENALTY.—The penalty imposed by this section shall be paid by the insurer.

"(d) EXCEPTIONS.—

"(1) CORRECTIONS WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) by reason of any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected within the 30-day period beginning on the earliest date the insurer knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of such tax would be excessive relative to the failure involved.

"(e) DEFINITIONS.—For purposes of this section, the terms 'health insurance coverage' and 'insurer' have the respective meanings given such terms in section 1033 of the Affordable Health Care Now Act of 1994."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end thereof the following new items:

"Sec. 4980C. Failure of insurer to comply with health insurance standards."

SEC. 1032. EFFECTIVE DATES.

(a) PART 1.—The requirements of part 1 shall apply to plans years beginning after December 31, 1996.

(b) PARTS 2 AND 3.—The requirements of parts 2 and 3 shall apply with respect to—

(1) group health plans and employers shall apply to plans years beginning after December 31, 1996, and

(2) insurers shall take effect on January 1, 1997.

SEC. 1033. DEFINITIONS AND SPECIAL RULES.

(a) IN GENERAL.—For purposes of this subtitle:

(1) DEPENDENT.—The term "dependent" means, with respect to any individual, any person who is—

(A) the spouse or surviving spouse of the individual, or

(B) under regulations of the Secretary, a child (including an adopted child) of such individual and—

(i) under 19 years of age, or

(ii) under 25 years of age and a full-time student.

(2) ELIGIBLE EMPLOYEE.—The term "eligible employee" means, with respect to an employer, an employee who normally performs on a monthly basis at least 10 hours of service per week for that employer. Such term shall not include any employee who is not reasonably expected as of the 1st day of a month to be employed by the employer for a period of 120 consecutive days during any 365-day period that includes such 1st day.

(3) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means, with respect to an eligible employee, such employee, and any dependent of such employee.

(4) EMPLOYER.—The term "employer" shall have the meaning applicable under section 3(5) of the Employee Retirement Income Security Act of 1974.

(5) EXEMPTED MULTIPLE EMPLOYER HEALTH PLAN.—The term "exempted multiple employer health plan" means a multiple employer welfare arrangement treated as an employee welfare benefit plan by reason of an exemption under part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by part 2 of subtitle C of this title).

(6) GROUP HEALTH PLAN; PLAN.—(A) The term "group health plan" means an employee welfare benefit plan providing medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) to participants or beneficiaries directly or through insurance, reimbursement, or otherwise, but does not include any type of coverage excluded from the definition of a health insurance coverage under section 1131(4)(B).

(B) The term "plan" means a group health plan (including any such plan which is a multiemployer plan) and an exempted multiple employer health plan.

(7) HEALTH INSURANCE COVERAGE.—The term "health insurance coverage" shall have the meaning applicable under section 1131(4).

(8) FULLY INSURED.—The term "fully insured" shall have the meaning applicable under section 701(9) of Employee Retirement Income Security Act of 1974 (as added by section 1211 of this title).

(9) INSURER.—The term "insurer" has the meaning given such term in section 1131(6).

(10) MULTIPLE EMPLOYER WELFARE ARRANGEMENT.—The term "multiple employer welfare arrangement" shall have the meaning applicable under section 3(40) of the Employee Retirement Income Security Act of 1974.

(11) OPTIONS.—

(A) FEE-FOR-SERVICE OPTION.—Standard coverage is considered to provide a "fee-for-service option" if benefits with respect to the covered items and services in the coverage are made available for such items and services provided through any lawful provider of such covered items and services.

(B) MANAGED CARE OPTION.—Standard coverage is considered to provide a "managed care option" if benefits with respect to the covered items and services in the coverage are made available exclusively through a managed care arrangement (as defined in section 1021(a)(2)), except in the case of emergency and urgent services and as otherwise required under law.

(C) POINT-OF-SERVICE OPTION.—Standard coverage is considered to provide a "point-of-service option" if the benefits with respect to covered items and services in the coverage are made available principally through a managed care arrangement, with the choice of the enrollee to obtain such benefits for items and services provided through any lawful provider of such covered items and services. The coverage may provide for different cost sharing schedules based on whether the items and services are provided through such an arrangement or outside such an arrangement.

(b) APPLICATION OF ERISA DEFINITIONS.—Except as otherwise provided in this subtitle, terms used in this subtitle shall have the meanings applicable to such terms under section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(c) SECRETARY.—Except with respect to references specifically to the Secretary of Labor, the term "Secretary" means the Secretary of Health and Human Services.

Subtitle B—Reform of Health Insurance

PART 1—MARKETPLACE FOR SMALL BUSINESS

SEC. 1101. REQUIREMENT FOR INSURERS TO OFFER MEDACCESS COVERAGE.

(a) REQUIREMENT.—

(1) IN GENERAL.—Each insurer (as defined in section 1131(6)) that makes available any health insurance coverage (as defined in section 1131(4)) to a small employer (as defined in section 1131(9)) in a State—

(A) shall make available to each small employer in the State MedAccess standard coverage (as defined in section 1102(a)(2)), with a fee-for-service option and, if available, a point-of-service option and a managed care option (as defined in section 1033),

(B) shall make available to each small employer in the State MedAccess catastrophic coverage (as defined in section 1102(a)(2)), and

(C) may make available to each small employer in the State MedAccess medisave coverage (as defined in section 1102(a)(2)).

(2) SPECIAL RULE FOR HEALTH MAINTENANCE ORGANIZATIONS.—The requirements of paragraph (1)(A) (with regard to requiring a fee-

VOL 140 PT 15 AG 10 — 11 1994 UMI

for-service option), and paragraphs (1)(B) and (1)(C) shall not apply with respect to a health insurance coverage that—

(A) is provided by a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act), or

(B) is not provided by such an organization but is provided by an organization recognized under State law as a health maintenance organization or managed care organization or a similar organization regulated under State law for solvency.

(3) EXCEPTION IF STATE PROVIDES FOR GUARANTEED AVAILABILITY (RATHER THAN GUARANTEED ISSUE).—Paragraph (1) shall not apply to an insurer in a State if the State is providing—

(A) access to each small employer in the State to MedAccess standard coverage, to MedAccess catastrophic coverage, and to a MedAccess medisave coverage, and

(B) a risk allocation mechanism described in subsection (c).

(b) GUARANTEED ISSUE OF MEDACCESS COVERAGE.—Subject to subsection (c)—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), each insurer that offers MedAccess coverage to a small employer in a State—

(A) must accept every small employer in the State that applies for such coverage; and

(B) must accept for enrollment under such coverage every eligible individual (as defined in paragraph (5)) who applies for enrollment on a timely basis (consistent with paragraph (4)) and may not place any restriction on the eligibility of an individual to enroll so long as such individual is an eligible individual.

(2) SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS.—In the case of coverage offered by a health maintenance organization or other network plan, the organization may—

(A) limit the employers that may apply for such coverage to those with eligible individuals residing in the service area of the plan;

(B) limit the individuals who may be enrolled under such coverage to those who reside in the service area for such organization; and

(C) within the service area of such organization, deny such coverage to such employers if the organization demonstrates that—

(i) it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees, and

(ii) it is applying this subparagraph uniformly to all employers without regard to the health status, claims experience, or duration of coverage of those employers and their employees.

In this paragraph, the term "health maintenance organization" includes an organization recognized under State law as a health maintenance organization or managed care organization or a similar organization regulated under State law for solvency.

(3) SPECIAL RULE FOR FINANCIAL CAPACITY LIMITS.—In the case of coverage offered by an insurer other than a health maintenance organization or network plan, the insurer may deny such coverage to small employers if the organization demonstrates that—

(A) it does not have the financial reserves necessary to underwrite additional coverage, and

(B) it is applying this paragraph uniformly to all employers without regard to the health status, claims experience, or duration of coverage of those employers and their employees.

(4) CLARIFICATION OF TIMELY ENROLLMENT.—

(A) GENERAL INITIAL ENROLLMENT REQUIREMENT.—Except as provided in this paragraph, enrollment of an eligible individual for MedAccess coverage may be considered not to be timely if the eligible employee or dependent fails to enroll under such coverage during an initial enrollment period, if such period is at least 30 days long.

(B) ENROLLMENT DUE TO LOSS OF PREVIOUS COVERAGE.—Enrollment under MedAccess coverage is considered to be timely in the case of an eligible individual who—

(i) was covered under a group health plan or had other health insurance coverage at the time of the individual's initial enrollment period,

(ii) stated at the time of the initial enrollment period that coverage under a group health plan or other health insurance coverage was the reason for declining enrollment,

(iii) lost coverage under a group health plan or other health insurance coverage (as a result of the termination of the coverage, termination or reduction of employment, or other reason), and

(iv) requests enrollment within 30 days after termination of the coverage.

(C) REQUIREMENT APPLIES DURING OPEN ENROLLMENT PERIODS.—Each insurer and each group health plan providing MedAccess coverage shall provide for at least one period (of not less than 30 days) each year during which enrollment under such coverage shall be considered to be timely.

(D) EXCEPTION FOR COURT ORDERS.—Enrollment of a spouse or minor child of an employee shall be considered to be timely if—

(i) a court has ordered that coverage be provided for the spouse or child under a covered employee's group health plan, and

(ii) a request for enrollment is made within 30 days after the date the court issues the order.

(E) ENROLLMENT OF SPOUSES AND DEPENDENTS.—

(i) IN GENERAL.—Enrollment of the spouse (including a child of the spouse) and any dependent child of an eligible employee shall be considered to be timely if a request for enrollment is made either—

(I) within 30 days of the date of the marriage or of the date of the birth or adoption of a child, if family coverage is available as of such date, or

(II) within 30 days of the date family coverage is first made available.

(ii) COVERAGE.—If available coverage includes family coverage and enrollment is made under such coverage on a timely basis under clause (i)(I), the coverage shall become effective not later than the first day of the first month beginning after the date of the marriage or the date of birth or adoption of the child (as the case may be).

(5) DEFINITIONS.—In this subsection, the terms "eligible individual" and "group health plan" have the meanings given such terms in section 1023(a).

(c) STATE OPTION OF GUARANTEED AVAILABILITY THROUGH ALLOCATION OF RISK (RATHER THAN THROUGH GUARANTEED ISSUE).—The requirements of subsection (b) shall not apply in a State if the State has provided (in accordance with standards established under this part) a mechanism under which—

(1) each insurer offering health insurance coverage to a small employer in the State must participate in a program for assigning high-risk small employer groups (or individuals within such a group) among some or all such insurers, and

(2) the insurers to which such high-risk small employer groups or individuals are so assigned comply with the requirements of subsection (b).

SEC. 1102. MEDACCESS COVERAGE DEFINED.

(a) MEDACCESS COVERAGE DEFINED.—In this subtitle:

(1) IN GENERAL.—The term "MedAccess coverage" means a health insurance coverage (whether under a managed-care plan, indemnity plan, or other plan) that meets the following requirements:

(A) The coverage—

(i) is designed to provide standard coverage (consistent with subsection (c)) with substantial cost-sharing,

(ii) is designed to provide only catastrophic coverage (consistent with subsection (d)), or

(iii) is designed to provide medisave coverage (consistent with subsection (e)).

(B) The coverage includes only services, including (but not limited to) medical, surgical, hospital, and preventive services, which are essential and medically necessary; except that no specific procedure or treatment, or classes thereof, is required to be included in such coverage, by this Act or through regulations.

(C) The coverage meets the applicable requirements of section 1101(b) (relating to guaranteed issue).

(D) The coverage meets the consumer protection standards established under section 1103(a)(1)(B).

(2) MEDACCESS STANDARD, CATASTROPHIC, AND MEDISAVE COVERAGE.—The terms "MedAccess standard coverage", "MedAccess catastrophic coverage", "MedAccess medisave coverage" mean MedAccess coverage that provides for at least standard coverage (referred to in paragraph (1)(A)(i)), for only catastrophic coverage (referred to in paragraph (1)(A)(ii)), or medisave coverage (referred to in paragraph (1)(A)(iii)), respectively.

(b) SET OF RULES OF ACTUARIAL EQUIVALENCE.—

(1) INITIAL DETERMINATION.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this Act, a set of rules, including an appropriate set of safe-harbors, which the NAIC determines is sufficient for determining, in the case of any health insurance coverage and for purposes of this section, the actuarial value of the coverage offered.

(2) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a set of rules that comply with the requirements of paragraph (1), the Secretary shall certify such set of rules for use under this part. If the Secretary determines that such a set of rules has not been submitted or does not comply with such requirements, the Secretary shall promptly establish a set of rules that meets such requirements.

(c) STANDARD COVERAGE.—

(1) IN GENERAL.—For purposes of this Act, health insurance coverage is considered to provide standard coverage consistent with this subsection if the benefits are specified in a written instrument providing for such coverage as essential and medically necessary services described in subsection (a)(1)(B) and determined, in accordance with the set of actuarial equivalence rules certified under subsection (b), to have a value that is within 5 percentage points of the applicable target actuarial value for standard coverage established under paragraph (2).

(2) INITIAL DETERMINATION OF APPLICABLE TARGET ACTUARIAL VALUE FOR STANDARD COVERAGE.—

(A) INITIAL DETERMINATION.—The NAIC is requested to submit to the Secretary, within

6 months after the date of the enactment of this Act, a procedure for determining the applicable target actuarial value for standard coverage (which may vary by geographic area). Such value shall be equal to the average actuarial value of a representative range of the different types of health benefits provisions (which include cost-sharing) typically offered as standard coverage in the small employer health coverage market. In determining the actuarial value, the benefits considered should be sufficient to cover only services, including (but not limited to) medical, surgical, hospital, and preventive services, which are essential and medically necessary; except that no specific procedure or treatment, or classes thereof, is required to be considered in such determination by this Act or through regulations. The determination of such value shall be based on a representative distribution of the population of eligible employees offered such coverage and a single set of standardized utilization and cost factors (which may vary by geographic area).

(B) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a procedure for determining the applicable target actuarial value for standard coverage that complies with the requirements of subparagraph (A), the Secretary shall certify such procedure for use under this part. If the Secretary determines that such a procedure has not been submitted or does not comply with such requirements, the Secretary shall promptly prescribe such a procedure that meets such requirements.

(d) CATASTROPHIC COVERAGE.—

(1) IN GENERAL.—For purposes of subsection (a)(1)(B), health insurance coverage is considered to provide catastrophic coverage consistent with this subsection if—

(A) benefits are available under such coverage for a year only to the extent that expenses for covered services in a year exceed a deductible amount that is consistent with the dollar amounts specified in section 220(c)(2)(A) of the Internal Revenue Code of 1986, as added by section 2202, and

(B) the benefits are determined, in accordance with the set of actuarial equivalence rules certified under subsection (b), to have a value that is within 5 percentage points of the target actuarial value for catastrophic coverage established under paragraph (2).

(2) INITIAL DETERMINATION OF TARGET ACTUARIAL VALUE FOR CATASTROPHIC COVERAGE.—

(A) INITIAL DETERMINATION.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this Act, a target actuarial value for catastrophic coverage equal to the actuarial value that would have been computed under subsection (c)(2)(A) if a deductible that represents the midpoint of the range of deductibles permitted consistent with subsections (b)(2) and (c)(2)(A) of section 220 of the Internal Revenue Code of 1986 were used in place of any deductible that otherwise would be applicable.

(B) CERTIFICATION.—If the Secretary determines that the NAIC has submitted a target actuarial value for catastrophic coverage that comply with the requirements of subparagraph (A), the Secretary shall certify such value for use under this part. If the Secretary determines that such a value has not been submitted or does not comply with such requirements, the Secretary shall promptly determine such a target actuarial value that meets such requirements.

(e) MEDISAVE COVERAGE.—

(1) IN GENERAL.—For purposes of subsection (a)(1)(C), health insurance coverage is considered to provide medisave coverage consistent with this subsection if such coverage consists of—

(A) coverage under a catastrophic health plan (within the meaning of section 220(c)(2) of the Internal Revenue Code of 1986, as inserted by section 2202 of this Act), and

(B) a medical savings account described in section 220(d)(1)(B) of such Code.

(f) SUBSEQUENT REVISIONS.—

(1) NAIC.—The NAIC may submit from time to time to the Secretary revisions of the set of rules of actuarial equivalence previously established or determined under this section if the NAIC determines such revision necessary to take into account changes in the relevant types of health benefits provisions, in deductible levels for catastrophic coverage, or in demographic conditions which form the basis for such set of rules. The provisions of subsection (b)(2) shall apply to such a revision in the same manner as they apply to the initial determination of the set of rules.

(2) SECRETARY.—The Secretary may by regulation revise such set of rules and values from time to time if the Secretary determines such revision necessary to take into account changes described in paragraph (1).

SEC. 1103. ESTABLISHMENT OF OTHER MEDACCESS STANDARDS.

(a) ESTABLISHMENT OF GENERAL STANDARDS.—

(1) ROLE OF NAIC.—The Secretary shall request the NAIC to develop, within 9 months after the date of the enactment of this Act, model regulations that specify standards with respect to each of the following:

(A)(i) The requirement, under section 1101(a), that insurers make available MedAccess coverage.

(ii) The requirements of guaranteed availability of MedAccess coverage to small employers under section 1101(b).

(B) The requirements of section 1104 (relating to use of modified community rating, uniform marketing materials, and miscellaneous consumer protections).

If the NAIC develops recommended regulations specifying such standards within such period, the Secretary shall review the standards. Such review shall be completed within 60 days after the date the regulations are developed. Unless the Secretary determines within such period that the standards do not meet the requirements, such standards shall serve as the standards under this section, with such amendments as the Secretary deems necessary.

(2) CONTINGENCY.—If the NAIC does not develop such model regulations within such period or the Secretary determines that such regulations do not specify standards that meet the requirements described in paragraph (1), the Secretary shall specify, within 15 months after the date of the enactment of this Act, standards to carry out those requirements.

(3) EFFECTIVE DATE.—The MedAccess standards and consumer protection standards (as defined in paragraph (5)) shall apply to MedAccess coverage and health insurance coverage provided in a State on or after the respective date the standards are implemented in the State under subsections (b) and (c).

(4) PREEMPTION OF STATE LAW.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a State may not establish or enforce standards for health insurance coverage made available to small employers and individuals that are different from the standards established under this part.

(B) GRANDFATHER.—In the case of a State that, as of August 1, 1994, required that premiums in the individual and small group market sectors be community-rated and not vary based on age, the State continue such standards (and reasonable modifications thereof) in force.

(5) DEFINITIONS.—In this section:

(A) CONSUMER PROTECTION STANDARDS.—The term "consumer protection standards" means the standards established under paragraph (1)(B).

(B) MEDACCESS STANDARDS.—The term "MedAccess standards" means the standards established under paragraph (1)(A) (relating to the requirements of section 1101), and includes the consumer protection standards insofar as they relate to MedAccess coverage.

(b) APPLICATION OF STANDARDS THROUGH STATES.—

(1) APPLICATION OF MEDACCESS STANDARDS.—

(A) IN GENERAL.—Each State shall submit to the Secretary, by the deadline specified in subparagraph (B), a report on steps the State is taking to implement and enforce the consumer protection standards with respect to insurers, and MedAccess coverage offered, not later than such deadline.

(B) DEADLINE FOR REPORT.—

(i) 1 YEAR AFTER STANDARDS ESTABLISHED.—Subject to clause (ii), the deadline under this subparagraph is 1 year after the date the MedAccess standards are established under subsection (a).

(ii) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(I) requiring State legislation (other than legislation appropriating funds) in order for insurers and plans providing MedAccess coverage offered to meet the MedAccess standards established under subsection (a), but

(II) having a legislature which is not scheduled to meet in 1995 in a legislative session in which such legislation may be considered, the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) FEDERAL ROLE.—If the Secretary determines that a State has failed to submit a report by the deadline specified under paragraph (1) or finds that the State has not implemented and provided adequate enforcement of the MedAccess standards under such paragraph, the Secretary shall notify the State and provide the State a period of 60 days in which to submit such report or to implement and enforce such standards under such paragraph. If, after such 60-day period, the Secretary finds that such a failure has not been corrected, the Secretary shall provide for such mechanism for the implementation and enforcement of such standards in the State as the Secretary determines to be appropriate. Such implementation and enforcement shall take effect with respect to insurers, and plans providing MedAccess coverage offered or renewed, on or after 3 months after the date of the Secretary's finding under the previous sentence, and until the date the Secretary finds that such a failure has been corrected. In exercising authority under this subparagraph, the Secretary shall determine whether the use of a risk-allocation mechanism, described in section 1101(c), would be more consistent with

VOL 140 PT 15 AG 10 — 11 1994 UMI

the small employer group health coverage market in the State than the guaranteed availability provisions of section 1101(b).

(2) APPLICATION OF CONSUMER PROTECTION STANDARDS.—

(A) IN GENERAL.—Each State shall submit to the Secretary, by the deadline specified in subparagraph (B), a report on steps the State is taking to implement and enforce the MedAccess standards with respect to insurers, and health insurance coverage (other than MedAccess coverage) offered, not later than such deadline.

(B) DEADLINE FOR REPORT.—

(i) 1 YEAR AFTER STANDARDS ESTABLISHED.—Subject to clause (ii), the deadline under this subparagraph is 1 year after the date the consumer protection standards are established under subsection (a).

(ii) EXCEPTION FOR LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(I) requiring State legislation (other than legislation appropriating funds) in order for insurers and plans providing health insurance coverage offered to meet the consumer protection standards established under subsection (a), but

(II) having a legislature which is not scheduled to meet in 1995 in a legislative session in which such legislation may be considered, the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) FEDERAL ROLE.—If the Secretary determines that a State has failed to submit a report by the deadline specified under paragraph (1) or finds that the State has not implemented and provided adequate enforcement of the consumer protection standards under such paragraph, the Secretary shall notify the State and provide the State a period of 60 days in which to submit such report or to implement and enforce such standards under such paragraph. If, after such 60-day period, the Secretary finds that such a failure has not been corrected, the Secretary shall provide for such mechanism for the implementation and enforcement of such standards in the State as the Secretary determines to be appropriate. Such implementation and enforcement shall take effect with respect to insurers, and health insurance coverage (other than MedAccess coverage) offered or renewed, on or after 3 months after the date of the Secretary's finding under the previous sentence, and until the date the Secretary finds that such a failure has been corrected.

SEC. 1104. USE OF MODIFIED COMMUNITY RATING, UNIFORM MARKETING MATERIALS, AND MISCELLANEOUS CONSUMER PROTECTIONS.

(a) USE OF MODIFIED COMMUNITY RATING.—

(1) IN GENERAL.—As a standard under section 1103(a)(1)(B), subject to paragraph (2), the premium rate established by an insurer for coverage may not vary within a plan design except by the following:

(A) AGE.—By age, based on classes of age established by a State.

(B) GEOGRAPHIC AREA.—By geographic area, based on 3-digit zip code or counties, as identified by a State.

(C) FAMILY SIZE.—Family size, based on a classification of individual, individual with one or more children, married couple without children, and married couple with children.

(2) DISCOUNT FOR EMPLOYER WELLNESS PROGRAM.—An insurer may provide for a group discount with respect to an employer that provides for a wellness program for employees.

(b) FULL DISCLOSURE OF RATING PRACTICES.—At the time an insurer offers health insurance coverage to a small employer, the insurer shall fully disclose to the employer rating practices for health insurance coverage, including rating practices for different plan designs.

(c) ACTUARIAL CERTIFICATION.—Each insurer that offers health insurance coverage to a small employer in a State shall file annually with the State commissioner of insurance a written statement by a member of the American Academy of Actuaries (or other individual acceptable to the commissioner) that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the insurer and methods used by the insurer in establishing premium rates for applicable health insurance coverage—

(1) the insurer is in compliance with the applicable provisions of this section, and

(2) the rating methods are actuarially sound.

Each such insurer shall retain a copy of such statement for examination at its principal place of business.

(d) REGISTRATION AND REPORTING.—Each insurer that issues any health insurance coverage to a small employer in a State shall be registered or licensed with the State commissioner of insurance and shall comply with any reporting requirements of the commissioner relating to such coverage.

(e) MARKETING MATERIAL.—Each insurer that issues any health insurance coverage to a small employer in a State shall file with the State those marketing materials relating to the offer and sale of health insurance coverage to be used for distribution before the materials are used. Such materials shall be in a uniform format specified under the standards established under section 1101. Such materials (including information on plan designs offered by different insurers) shall be distributed to employers that do not contribute to health insurance coverage for their employees, in order to distribute such information to their employees as part of the offer of coverage under section 1001(a).

SEC. 1105. MONITORING AND RESPONSE TO ADVERSE SELECTION; RISK ADJUSTMENT PROGRAMS.

(a) MONITORING.—The Secretary of Labor shall monitor the prevalence and impact of adverse risk selection in the fully insured plans made available to small employers resulting from the decision of small employers to self insure. State insurance commissioners may submit to the Secretary such information on such adverse risk selection as they determine to be appropriate.

(b) RESPONSE.—If the Secretary of Labor determines, on the basis of such information or otherwise, that, due to decisions of small employers to self-insure, there has been substantial or significant favorable selection with respect to self-insured plans or unfavorable selection with respect to fully insured plans in a State, the Secretary shall develop a risk adjustment program under subsection (c) that responds to such a pattern in the State. The Secretary shall request the NAIC to submit to the Secretary recommendations regarding the structure and operation of such a program.

(c) ESTABLISHMENT OF RISK ADJUSTMENT PROGRAM.—The risk adjustment program applied in a State under this subsection—

(1) shall be designed to be operated on a non-governmental basis,

(2) shall require participation of each small employer in the State that is self-insured,

(3) shall require the imposition of such assessments on self-insured plans offered by such employers as may be appropriate to prevent further adverse or favorable selection, and

(4) shall provide for the distribution of such assessments to the State involved for purposes of making payments to insurers to stabilize the small group insurance market. The amounts of the assessments under paragraph (3) for individual employers may take into account the number of lives covered under the plans of such employers and the area of residence of the lives covered.

SEC. 1106. ESTABLISHMENT OF REINSURANCE OR ALLOCATION OF RISK MECHANISMS FOR HIGH RISK INDIVIDUALS IN MARKETPLACE FOR SMALL BUSINESS AND MARKETPLACE FOR INDIVIDUALS.

(a) ESTABLISHMENT OF STANDARDS.—

(1) ROLE OF NAIC.—The Secretary shall request the NAIC to develop, within 9 months after the date of the enactment of this Act, models for reinsurance or allocation of risk mechanisms (each in this section referred to as a "reinsurance or allocation of risk mechanism") for health insurance coverage made available to small employers and for whom an insurer is at risk of incurring high costs in providing such coverage. If the NAIC develops such models within such period, the Secretary shall review such models to determine if they provide for an effective reinsurance or allocation of risk mechanism. Such review shall be completed within 30 days after the date the models are developed. Unless the Secretary determines within such period that such a model is not an effective reinsurance or allocation of risk mechanism, such remaining models shall serve as the models under this section, with such amendments as the Secretary deems necessary.

(2) CONTINGENCY.—If the NAIC does not develop such models within such period or the Secretary determines that all such models do not provide for an effective reinsurance or allocation of risk mechanism, the Secretary shall specify, within 15 months after the date of the enactment of this Act, models to carry out this section.

(b) IMPLEMENTATION OF REINSURANCE OR ALLOCATION OF RISK MECHANISMS.—

(1) BY STATES.—Each State shall establish and maintain one or more reinsurance or allocation of risk mechanisms that are consistent with a model established under subsection (a) by not later than the deadline specified in section 1103(b)(1)(B). A State may establish and maintain such a mechanism jointly with one or more other States.

(2) FEDERAL ROLE.—

(A) IN GENERAL.—If the Secretary determines that a State has failed to establish or maintain a reinsurance or allocation of risk mechanism in accordance with paragraph (1), the Secretary shall establish and maintain such a reinsurance or allocation of risk mechanism meeting the requirements of this paragraph.

(B) REINSURANCE MECHANISM.—Unless the Secretary determines under subparagraph (C) that an allocation of risk mechanism is the appropriate mechanism to use in a State under this paragraph, the Secretary shall establish and maintain for use under this section for each State an appropriate reinsurance mechanism.

(C) ALLOCATION OF RISK MECHANISM.—If the Secretary determines that, due to the nature of the health coverage market in the State (including a relatively small number of plans offered providing health insurance coverage or a relatively small number of uninsurable small employers), an allocation of risk mechanism would be a better mechanism than a reinsurance mechanism, the Secretary shall establish and maintain for use under this section for a State an allocation of risk mechanism under which small employers with employees who are at higher risk of significantly higher claims would be equitably assigned among insurers offering health insurance coverage to small employers.

(c) CONSTRUCTION.—Nothing in this section shall be construed to prohibit reinsurance or allocation of risk arrangements relating to health insurance coverage, whether on a State or multi-State basis, not required under this section.

PART 2—MARKETPLACE FOR INDIVIDUALS

SEC. 1111. APPLICATION OF SIMILAR REQUIREMENTS.

(a) IN GENERAL.—Except as provided in subsection (c)—

(1) the provisions of part 1 of this subtitle shall apply to insurers offering health insurance coverage to individuals in the individual market (as defined in subsection (b)) in the same manner as such provisions apply to insurers offering health insurance coverage to employers, and

(2) the standards established under section 1103 shall apply under this part in the same manner as they apply under part 1.

For purposes of this subsection, any reference to an employee or eligible employee is deemed a reference to such an individual.

(b) INDIVIDUAL MARKET DEFINED.—In subsection (a), the term "individual market" means the insurance market offered to individuals seeking health care coverage on behalf of themselves (and their dependents) and not seeking coverage on the basis of employment, membership in a organization, or through another group purchasing arrangement.

(c) EXCEPTION AND SPECIAL RULE.—

(1) WELLNESS DISCOUNTS.—Section 1104(a)(2) (relating to discounts for employer wellness programs) shall not apply under this part.

(2) SEPARATE APPLICATION OF RISK ADJUSTMENT TO INDIVIDUAL MARKET SECTOR.—Section 1105 (relating to monitoring and response to adverse selection; risk adjustment programs) shall be applied under this part in a manner that is separate from its application under part A.

(3) SEPARATE AGE RATING FACTOR FOR THE INDIVIDUAL MARKET.—The provisions regarding age under section 1104(a)(1)(A) shall be determined separately for each year of age and not by the classes of age referred to in such section.

(4) CONVERSION OF PERMANENT HEALTH INSURANCE POLICIES.—The provisions of section 1104 shall not apply in connection with a permanent policy of health insurance existing on the effective date, if each individual covered under the policy is given the option to convert the policy to a policy of health insurance subject to this part.

(d) APPLICATION OF REQUIREMENTS.—Coverage offered by an insurer shall not be treated as MedAccess coverage under this part unless the insurer complies with the requirements of part 3 of subtitle A (relating to standards for managed care arrangements and essential community providers) in the same manner as such requirements apply to a group health plan.

PART 3—VOLUNTARY HEALTH PURCHASING ARRANGEMENTS

SEC. 1121. ESTABLISHMENT AND ORGANIZATION.

(a) IN GENERAL.—Voluntary health purchasing arrangements (in this part referred to as "purchasing arrangements") may be established in accordance with this part. Each purchasing arrangement shall be chartered under State law and operated as a not-for-profit corporation. An insurer may not form, underwrite, or possess a majority vote of a purchasing arrangement, but may administer such an arrangement.

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each purchasing arrangement shall be governed by a Board of Directors. Such Board shall initially be appointed under procedures established by the State in which it operates. Subsequently, the Board shall be elected by the members of the arrangement in accordance with paragraph (3). Such Board shall be composed of individuals who are small employers (or representatives of small employers), eligible employees of small employers (or representatives of such employees), and eligible individuals in the area in which the arrangement operates.

(2) MEMBERSHIP.—A purchasing arrangement shall accept all small employers, eligible employees, and eligible individuals residing within the area served by the arrangement as members if such employers, employees or individuals request such membership.

(3) VOTING.—Members of a purchasing arrangement shall have voting rights consistent with the rules established under the bylaws governing the arrangement.

(c) DUTIES OF PURCHASING ARRANGEMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), each purchasing arrangement shall—

(A) market MedAccess coverage to members throughout the entire area served by the arrangement;

(B) enter into agreements with insurers offering MedAccess coverage under section 1122;

(C) enter into agreements with small employers under section 1123;

(D) enroll individuals in MedAccess coverage, only in accordance with section 1124; and

(E) carry out other functions provided for under this part.

(2) LIMITATION ON ACTIVITIES.—A purchasing arrangement shall not—

(A) perform any activity (including review, approval, or enforcement) relating to payment rates for providers;

(B) perform any activity (including certification or enforcement) relating to compliance of insurers or coverage with the requirements of parts 1 or 2;

(C) assume financial risk in relation to any such coverage; or

(D) perform other activities identified by the State as being inconsistent with the performance of its duties under paragraph (1).

(3) CHARACTERISTICS OF SERVICE AREA.—A purchasing arrangement need not serve areas that are contiguous, but the geographic boundaries of such areas shall be consistent with the boundaries established for geographic areas used in establishing premium rates in the individual and small group marketplace. If a purchasing arrangement serves a part of a metropolitan statistical area the arrangement shall serve the entire area.

(d) ESTABLISHMENT NOT REQUIRED.—Nothing in this section shall be construed as requiring—

(1) that a purchasing arrangement be established in each area of a State in which it operates; and

(2) that there be only one purchasing arrangement established with respect to any area.

SEC. 1122. AGREEMENTS WITH INSURERS.

(a) AGREEMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (3), each purchasing arrangement for an area shall enter into an agreement under this section with each insurer that desires to make MedAccess coverage available through the purchasing arrangement (consistent with any procedures established by the State).

(2) TERMINATION OF AGREEMENT.—An agreement under paragraph (1) shall remain in effect for a 12-month period, except that the purchasing arrangement may terminate an agreement under paragraph (1) if the insurer's license or certification under State law is terminated or for other good cause shown.

(3) LIMITATION ON RENEWAL OF AGREEMENTS.—Subsequent to the 12-month period described in paragraph (2), a purchasing arrangement may—

(A) refuse to enter into a subsequent agreement with an insurer if the arrangement determines that the enrollment or premium is too low, and

(B) if a previous agreement with an insurer was terminated for good cause and the arrangement determines appropriate actions have not been taken to correct the problems, refuse to enter into a subsequent agreement with the insurer.

(4) NO PROHIBITION ON OFFERING OF COVERAGE.—Nothing in this subsection shall be construed as prohibiting an insurer that does not enter into an agreement under paragraph (1) from offering health insurance coverage to small employers and eligible individuals within any area, so long as the premium rates charged outside such arrangement are the same as those charged within the arrangement (subject to reasonable differences in premiums that only reflect savings in administrative costs under such an arrangement).

(b) RECEIPT OF PREMIUMS ON BEHALF OF PLANS.—

(1) IN GENERAL.—Under an agreement under this section between a purchasing arrangement and an insurer—

(A) premiums shall be payable , and

(B) payment of premiums may be made by individuals (or employers on their behalf) directly to the purchasing arrangement for the benefit of the insurer.

(2) TIMING OF PAYMENT OF PREMIUMS.—Premiums may be payable on a monthly basis (or, at the option of an eligible employee or individual, on a quarterly basis). The purchasing arrangement may provide for reasonable penalties and grace periods for late payment.

(3) QUALIFIED HEALTH PLANS RETAIN RISK OF NONPAYMENT.—Nothing in this subsection shall be construed as placing upon a purchasing arrangement any risk associated with the failure of individuals and employers to make prompt payment of premiums to the purchasing arrangement (other than the portion of the premium representing the purchasing arrangement administrative fee under section 1125). Each small employer and eligible individual who enrolls with an insurer through the purchasing arrangement is liable to the insurer for premiums.

(c) FORWARDING OF PREMIUMS.—

(1) IN GENERAL.—If, under an agreement under subsection (a), premium payments for an insurer are made to the purchasing arrangement, the purchasing arrangement shall forward to the insurer the amount of the premiums and the purchasing arrangement (and not the employer or individual)

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shall be liable for the premium payment collected under such arrangement.

(2) PAYMENTS.—Payments shall be made by the purchasing arrangement under this subsection within a period of days (specified by the Secretary and not to exceed 7 days) after receipt of the premium from the small employer or the eligible employee or the eligible individual, as the case may be.

SEC. 1123. PROVISION OF INFORMATION.

(a) IN GENERAL.—Each purchasing arrangement for an area shall provide, upon request, to each small employer that employs individuals in the area and to each eligible individual who resides in the area—

(1) information provided to the purchasing arrangement by the State or insurers in accordance with rules by the State in which such arrangement is located, and

(2) the opportunity to enter into an agreement with the arrangement for the purchase of coverage through the insurer.

(b) FORWARDING INFORMATION AND PAYROLL DEDUCTIONS.—As part of an agreement entered into under this section, a small employer shall forward the information and make the payroll deductions required under section 1001.

SEC. 1124. ENROLLING ELIGIBLE EMPLOYEES AND ELIGIBLE INDIVIDUALS THROUGH A PURCHASING ARRANGEMENT.

A purchasing arrangement shall offer, on behalf of each insurer with which an agreement was entered into under section 1122 and in accordance with the enrollment procedures of such insurers, enrollment in health insurance coverage only to—

(1) all eligible employees employed by small employers in the area served by the purchasing arrangement; and

(2) all eligible individuals residing in such area.

SEC. 1125. RESTRICTION ON CHARGES.

(a) IN GENERAL.—A purchasing arrangement may impose an administrative fee with respect to an eligible employee or eligible individual obtaining coverage through the purchasing arrangement.

(b) FEE.—A purchasing arrangement that elects to impose a fee under subsection (a) shall ensure that such fee is set as a percentage of the premium for such coverage and is imposed uniformly with respect to all coverage provided through the arrangement.

PART 4—DEFINITIONS AND MISCELLANEOUS PROVISIONS

SEC. 1131. DEFINITIONS.

Except as otherwise specifically provided, for purposes of this subtitle:

(1) DEPENDENT CHILD.—The term "dependent child" means a child (including an adopted child) who is under 19 years of age or who is a full-time student and under 25 years of age.

(2) ELIGIBLE EMPLOYEE.—The term "eligible employee" means, with respect to an employer, an employee who—

(A) normally performs on a monthly basis at least 10 hours of service per week for that employer; or

(B) is reasonably expected as of the 1st day of such month to be employed by the employer for a period of 120 consecutive days during any 365-day period that includes such 1st day.

(3) EMPLOYER.—The term "employer" shall have the meaning applicable under section 3(5) of the Employee Retirement Income Security Act of 1974.

(4) HEALTH INSURANCE COVERAGE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "health insurance coverage" means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer.

(B) EXCEPTION.—Such term does not include any of the following:

(i) Coverage only for accident, dental, vision, disability income, or long-term care insurance, or any combination thereof.

(ii) Medicare supplemental health insurance.

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Worker's compensation or similar insurance.

(vi) Automobile medical-payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) A hospital or fixed indemnity policy.

(5) NETWORK PLAN.—The term "network plan" includes, as defined in standards established under section 1103, an organization that provides health insurance coverage which meets specified standards and under which health services are offered to be provided on a prepaid, at-risk basis primarily through a defined set of providers.

(6) INSURER.—The term "insurer" means a licensed insurance company, an entity offering prepaid hospital or medical services, and a health maintenance organization offering such services to an employer, and includes a similar organization regulated under State law for solvency.

(7) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) SMALL EMPLOYER.—The term "small employer" means, with respect to a calendar year, an employer that normally employs more than 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term "employee" includes a self-employed individual. For purposes of determining if an employer is a small employer, rules similar to the rules of subsection (b) and (c) of section 414 of the Internal Revenue Code of 1986 shall apply.

(10) STATE.—The term "State" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(11) STATE COMMISSIONER OF INSURANCE.—The term "State commissioner of insurance" includes a State superintendent of insurance.

SEC. 1132. ENFORCEMENT.

For enforcement of requirements of this subtitle, see section 1031.

SEC. 1133. PROHIBITION OF IMPROPER INCENTIVES.

(a) LIMITATION ON FINANCIAL INCENTIVES.—No insurer that offers health insurance coverage may vary the commission or financial or other remuneration to a person based on the claims experience or health status of individuals enrolled by or through the person.

(b) PROHIBITION OF TIE-IN ARRANGEMENTS.—No insurer that offers health insurance coverage may require the purchase of any other insurance or product as a condition for the purchase of such coverage.

SEC. 1134. ANNUAL REPORTS.

(a) IN GENERAL.—The Secretary shall submit to Congress an annual report on the implementation of this subtitle and the need for additional reforms to assure and expand coverage.

(b) INFORMATION REGARDING IMPACT OF REFORMS.—Each annual report shall include information concerning at least the following:

(1) Implementation and enforcement of the applicable MedAccess standards and consumer protection standards under this subtitle by the States and by the Secretary.

(2) An evaluation of the impact of the reforms under this subtitle on the availability of affordable health coverage for individuals and for small employers that purchase group health coverage and for their employees, and, in particular, the impact of—

(A) guaranteed availability of health coverage,

(B) limitations of restrictions from coverage of preexisting conditions,

(C) requirement for continuity of coverage,

(D) risk-management mechanisms for health coverage,

(E) limits on premium variations, and

(F) preemption of State benefit mandates.

In performing such evaluation, the Secretary shall seek to discount the effect of the insurance cycle on health insurance premiums.

(3) An assessment of the implications of the reforms on adverse selection among health insurance plans and the distribution of risk among health insurance plans.

(c) INFORMATION REGARDING COVERAGE OF THE UNINSURED.—The report submitted under this section 5 years after the date of the enactment of this Act also shall include findings and recommendations regarding each of the following:

(1) Characteristics of the insured and uninsured, including demographic characteristics, working status, health status, and geographic distribution.

(2) Steps which should be taken to improve access to health care and increase health insurance coverage of the chronically uninsured.

(3) Effectiveness of efforts to measure and improve health care outcomes in the public and private sectors.

(4) Effectiveness of initiatives targeted to improving access of underserved urban and rural populations to health care services.

(5) Effectiveness of new Federal subsidy programs, including recommendations to restrain future growth of such programs.

SEC. 1135. RESEARCH AND DEMONSTRATION PROJECTS; DEVELOPMENT OF A HEALTH RISK POOLING MODEL.

(a) RESEARCH AND DEMONSTRATIONS.—The Secretary is authorized, directly, by contract, and through grants and cooperative agreements within the Department of Health and Human Services and outside the Department—

(1) to conduct research on the impact of this subtitle on the availability of affordable health coverage for employees and dependents in the small employers group and individual health care coverage market and other topics described in section 1134(b), and

(2) to conduct demonstration projects relating to such topics.

(b) DEVELOPMENT OF METHODS OF MEASURING RELATIVE HEALTH RISK.—

(1) IN GENERAL.—The Secretary shall develop methods for measuring, in terms of the expected costs of providing benefits under health insurance plans and, in particular, MedAccess plans, the relative health risks of eligible individuals.

(2) METHODOLOGY.—The methods—

(A) shall rely on diagnosis or other health-related information that is predictive of individual health care needs,

(B) may rely upon information routinely collected in the process of making payments under group health plans, and

(C) may provide for such random, sample audits of records as may be necessary to verify the accuracy of measurements.

(c) DEVELOPMENT OF A HEALTH RISK POOLING MODEL.—

(1) IN GENERAL.—The Secretary shall develop a model, based on the methods of measuring risks under subsection (b), for equitably distributing health risks among insurers and group health plans in the small employer and individual health care coverage market.

(2) REDISTRIBUTION OF RISK.—Under such model, insurers and group health plans with below average health risks would be required to contribute to a common fund for payment to insurers and group health plans with above average health risks, each in relation to the degree of their favorable or adverse risk selection.

(3) INCENTIVES.—Such model shall include incentives to encourage continuous coverage of individuals and eligible individuals and small employers.

(d) CONSULTATION.—The methods and model under this section shall be developed in consultation with the NAIC.

(e) REPORT.—By not later than January 1, 1996, the Secretary shall submit to Congress a report on the methods and model developed under this section (as well as on research and demonstration projects conducted under subsection (a)). The Secretary shall include in the report such recommendations respecting the application of the model to insurers and group health plans (and, in particular, to MedAccess plans) under this subtitle as the Secretary deems appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 in each of fiscal years 1995 through 1999.

Subtitle C—Preemption

PART 1—SCOPE OF STATE REGULATION

SEC. 1201. PROHIBITION OF STATE BENEFIT MANDATES FOR GROUP HEALTH PLANS.

In the case of a group health plan, no provision of State or local law shall apply that requires the coverage of one or more specific benefits, services, or categories of health care, or services of any class or type of provider of health care.

SEC. 1202. PROHIBITION OF PROVISIONS PROHIBITING EMPLOYER GROUPS FROM PURCHASING HEALTH INSURANCE.

No provision of State or local law shall apply that prohibits 2 or more employers from obtaining coverage under a multiple employer welfare arrangement under which all coverage consists of medical care described in section 607(1) of the Employee Retirement Income Security Act of 1974 and is fully insured.

SEC. 1203. PREEMPTION OF STATE ANTI-MANAGED CARE LAWS.

(a) PREEMPTION OF STATE LAW PROVISIONS.—Subject to subsection (c), the following provisions of State law are preempted and may not be enforced:

(1) RESTRICTIONS ON REIMBURSEMENT RATES OR SELECTIVE CONTRACTING.—Any law that restricts the ability of a group health plan or insurer to negotiate reimbursement rates with providers or to contract selectively with one provider or a limited number of providers.

(2) RESTRICTIONS ON DIFFERENTIAL FINANCIAL INCENTIVES.—Any law that limits the financial incentives that a group health plan or insurer may require a beneficiary to pay when a non-plan provider is used on a non-emergency basis.

(3) RESTRICTIONS ON UTILIZATION REVIEW METHODS.—Any law that—

(A) prohibits utilization review of any or all treatments and conditions,

(B) requires that such review be made (i) by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or (ii) by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being reviewed,

(C) requires the use of specified standards of health care practice in such reviews or requires the disclosure of the specific criteria used in such reviews,

(D) requires payments to providers for the expenses of responding to utilization review requests,

(E) imposes liability for delays in performing such review, or

(F) requires standards in addition to or inconsistent with standards established under section 1022(b).

Nothing in subparagraph (B) shall be construed as prohibiting a State from (i) requiring a licensed physician or other health care professional be available at some time in the review or appeal process, or (ii) requiring that any decision in an appeal from such a review be made by a licensed physician.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the benefits and cost effectiveness of the use of managed care in the delivery of health services.

(2) REPORT.—By not later than 4 years after the date of the enactment of this Act, the Comptroller General shall submit a report to Congress on the study conducted under paragraph (1) and shall include in the report such recommendations (including whether the provisions of subsection (a) should be extended) as may be appropriate.

(c) SUNSET.—Unless otherwise provided, subsection (a) shall not apply 5 years after the date of the enactment of this Act.

SEC. 1204. DEFINITIONS.

For purposes of this part, the terms "dependent", "employee", "employer", "fully insured", "group health plan", "health insurance plan", "multiple employer welfare arrangement", and "State" have the meanings given such terms in section 1023(a).

PART 2—MULTIPLE EMPLOYER HEALTH BENEFITS PROTECTIONS

SEC. 1211. LIMITED EXEMPTION FROM CERTAIN RESTRICTIONS ON ERISA PREEMPTION OF STATE LAW FOR HEALTH PLANS MAINTAINED BY MULTIPLE EMPLOYERS SUBJECT TO CERTAIN FEDERAL STANDARDS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new part:

"Part 7—Multiple Employer Health Plans

"SEC. 701. DEFINITIONS.

"For purposes of this part—

"(1) INSURER.—The term 'insurer' means an insurance company, insurance service, or insurance organization, licensed to engage in the business of insurance by a State.

"(2) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a multiple employer welfare arrangement, any employer if any of its employees, or any of the dependents of its employees, are or were covered under such arrangement in connection with the employment of the employees.

"(3) EXCESS/STOP LOSS COVERAGE.—The term 'excess/stop loss coverage' means, in connection with a multiple employer welfare arrangement, a contract under which an insurer provides for payment with respect to claims under the arrangement, relating to participants or beneficiaries individually or otherwise, in excess of an amount or amounts specified in such contract.

"(4) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation.

"(5) SPONSOR.—The term 'sponsor' means, in connection with a multiple employer welfare arrangement, the association or other entity which establishes or maintains the arrangement.

"(6) STATE INSURANCE COMMISSIONER.—The term 'State insurance commissioner' means the insurance commissioner (or similar official) of a State.

"(7) DOMICILE STATE.—The term 'domicile State' means, in connection with a multiple employer welfare arrangement, the State in which, according to the application for an exemption under this part, most individuals to be covered under the arrangement are located, except that, in any case in which information contained in the latest annual report of the arrangement filed under this part indicates that most individuals covered under the arrangement are located in a different State, such term means such different State.

"(8) FULLY INSURED.—Coverage under a multiple employer welfare arrangement is 'fully insured' if one or more insurers, health maintenance organizations, similar organizations regulated under State law for solvency, or any combination thereof are liable under one or more insurance policies or contracts for all benefits under the arrangement (irrespective of any recourse they may have against other parties).

"(9) EXEMPTED MULTIPLE EMPLOYER HEALTH PLAN.—The term 'exempted multiple employer health plan' means a multiple employer welfare arrangement treated as an employee welfare benefit plan by reason of an exemption under this part.

"(10) COMMUNITY HEALTH NETWORK.—The term 'community health network' has the meaning given such term in section 1421 of the Affordable Health Care Now Act of 1994.

"SEC. 702. EXEMPTED MULTIPLE EMPLOYER HEALTH PLANS RELIEVED OF CERTAIN RESTRICTIONS ON PREEMPTION OF STATE LAW AND TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.

"(a) IN GENERAL.—Subject to subsection (b), a multiple employer welfare arrangement under which coverage is not fully insured and with respect to which there is in effect an exemption granted by the Secretary under this part (or with respect to which there is pending a complete application for such an exemption and the Secretary determines that provisional protection under this part is appropriate)—

"(1) shall be treated for purposes of subtitle A and the preceding parts of this subtitle as an employee welfare benefit plan, irrespective of whether such arrangement is an employee welfare benefit plan, and

"(2) shall be exempt from section 514(b)(6)(A)(ii).

"(b) BENEFITS MUST CONSIST OF MEDICAL CARE.—Subsection (a) shall apply to a multiple employer welfare arrangement only if the benefits provided thereunder consist solely of medical care described in section 607(1) (disregarding such incidental benefits as the Secretary shall specify by regulation).

79-059 O—97 Vol. 140 (Pt. 15) 20

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(c) RESTRICTION ON COMMENCEMENT OF NEW ARRANGEMENTS.—A multiple employer welfare arrangement providing benefits which consist of medical care described in section 607(1) which has not commenced operations as of January 1, 1995, may commence operations only if an exemption granted to the arrangement under this part is in effect (or there is pending with respect to the arrangement a complete application for such an exemption and the Secretary determines that provisional protection under this part is appropriate).

"SEC. 703. EXEMPTION PROCEDURE.

"(a) IN GENERAL.—The Secretary shall grant an exemption described in section 702(a) to a multiple employer welfare arrangement if—

"(1) an application for such exemption with respect to such arrangement, identified individually or by class, has been duly filed in complete form with the Secretary in accordance with this part,

"(2) such application demonstrates compliance with the requirements of section 704 with respect to such arrangement, and

"(3) the Secretary finds that such exemption is—

"(A) administratively feasible,

"(B) not adverse to the interests of the individuals covered under the arrangement, and

"(C) protective of the rights and benefits of the individuals covered under the arrangement.

"(b) NOTICE AND HEARING.—Before granting an exemption under this section, the Secretary shall publish notice in the Federal Register of the pendency of the exemption, shall require that adequate notice be given to interested persons, including the State insurance commissioner of each State in which covered individuals under the arrangement are, or are expected to be, located, and shall afford interested persons opportunity to present views. The Secretary may not grant an exemption under this section unless the Secretary affords an opportunity for a hearing and makes a determination on the record with respect to the findings required under subsection (a)(3). The Secretary shall, to the maximum extent practicable, make a final determination with respect to any application filed under this section in the case of a newly established arrangement within 90 days after the date which the Secretary determines is the date on which such application is filed in complete form.

"SEC. 704. ELIGIBILITY REQUIREMENTS.

"(a) APPLICATION FOR EXEMPTION.—

"(1) IN GENERAL.—An exemption may be granted by the Secretary under this part only on the basis of an application filed with the Secretary in such form and manner as shall be prescribed in regulations of the Secretary. Any such application shall be signed by the operating committee and the sponsor of the arrangement.

"(2) FILING FEE.—The arrangement shall pay to the Secretary at the time of filing an application under this section a filing fee in the amount of $5,000, which shall be available, to the extent provided in appropriation Acts, to the Secretary for the sole purpose of administering the exemption procedures under this part.

"(3) INFORMATION INCLUDED.—An application filed under this section shall include, in a manner and form prescribed in regulations of the Secretary, at least the following information:

"(A) IDENTIFYING INFORMATION.—The names and addresses of—

"(i) the sponsor, and

"(ii) the members of the operating committee of the arrangement.

"(B) STATES IN WHICH ARRANGEMENT INTENDS TO DO BUSINESS.—The States in which individuals covered under the arrangement are to be located and the number of such individuals expected to be located in each such State.

"(C) BONDING REQUIREMENTS.—Evidence provided by the operating committee that the bonding requirements of section 412 will be met as of the date of the application.

"(D) PLAN DOCUMENTS.—A copy of the documents governing the arrangement (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits and coverage that will be provided to individuals covered under the arrangement.

"(E) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the arrangement and contract administrators and other service providers.

"(F) FUNDING REPORT.—A report setting forth information determined as of a date within the 120-day period ending with the date of the application, including the following:

"(i) RESERVES.—A statement, certified by the operating committee of the arrangement, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 707 are or will be met in accordance with regulations which the Secretary shall prescribe.

"(ii) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the arrangement for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the arrangement. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

"(iii) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the arrangement and a projection of the assets, liabilities, income, and expenses of the arrangement for the 12-month period referred to in clause (ii). The income statement shall identify separately the arrangement's administrative expenses and claims.

"(iv) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the arrangement.

"(v) OTHER INFORMATION.—Any other information which may be prescribed in regulations of the Secretary as necessary to carry out the purposes of this part.

"(b) OTHER REQUIREMENTS.—A complete application for an exemption under this part shall include information which the Secretary determines to be complete and accurate and sufficient to demonstrate that the following requirements are met with respect to the arrangement:

"(1) SPONSOR.—

"(A) IN GENERAL.—Except in a case to which subparagraph (B) or (C) applies, the sponsor is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 3 years before the date of the application, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group), for substantial purposes other than that of obtaining or providing medical care described in section 607(1), and the applicant demonstrates to the satisfaction of the Secretary that the sponsor is established as a permanent entity which receives the active support of its members.

"(B) SPECIAL RULE FOR COMMUNITY HEALTH NETWORKS.—In the case of an arrangement that is a community health network (as defined in section 701(11)), the sponsor is the operating committee of the network.

"(C) SPECIAL RULE FOR EMPLOYERS IN THE SAME TRADE OR BUSINESS.—In the case of an arrangement under which all participating employers are engaged in a common type of trade or business, the sponsor is the operating committee of the arrangement.

"(2) OPERATING COMMITTEE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the arrangement is operated, pursuant to a trust agreement, by an operating committee which has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement, and the operating committee has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the arrangement and to meet all requirements of this title applicable to the arrangement. The members of the committee are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business. No such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the arrangement, except that officers or employees of a sponsor which is a service provider (other than a contract administrator) to the arrangement may be members of the committee if they constitute not more than 25 percent of the membership of the committee and they do not provide services to the arrangement other than on behalf of the sponsor. The committee has sole authority to approve applications for participation in the arrangement and to contract with a service provider to administer the day-to-day affairs of the arrangement.

"(B) SPECIAL RULE FOR COMMUNITY HEALTH NETWORKS.—In the case of an arrangement that is a community health network (as defined in section 701(11)), the operating committee is the board of the entity that is the network.

"(3) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the arrangement include a written instrument, meeting the requirements of an instrument required under section 1212(a)(1), which—

"(A) provides that the committee serves as the named fiduciary required for plans under section 1212(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)),

"(B) provides that the sponsor is to serve as plan sponsor (referred to in section 3(16)(B)),

"(C) incorporates the requirements of section 707, and

"(D) provides that, effective upon the granting of an exemption under this part—

"(i) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer, and

"(ii) all individuals thereafter commencing coverage under the arrangement must be—

"(I) active or retired owners, officers, directors, or employees of, or partners in, participating employers, or

"(II) the beneficiaries of individuals described in subclause (I).

"(4) CONTRIBUTION RATES.—The contribution rates referred to in subsection (a)(3)(F)(ii) are adequate.

"(5) REGULATORY REQUIREMENTS.—Such other requirements as the Secretary may prescribe by regulation as necessary to carry out the purposes of this part.

"(c) TREATMENT OF PARTY SEEKING EXEMPTION WHERE PARTY IS SUBJECT TO DISQUALIFICATION.—

"(1) IN GENERAL.—In the case of any application for an exemption under this part with respect to a multiple employer welfare arrangement, if the Secretary determines that the sponsor of the arrangement or any other person associated with the arrangement is subject to disqualification under paragraph (2), the Secretary may deny the exemption with respect to such arrangement.

"(2) DISQUALIFICATION.—A person is subject to disqualification under this paragraph if such person—

"(A) has intentionally made a material misstatement in the application for exemption;

"(B) has obtained or attempted to obtain an exemption under this part through misrepresentation or fraud;

"(C) has misappropriated or converted to such person's own use, or improperly withheld, money held under a plan or any multiple employer welfare arrangement;

"(D) is prohibited (or would be prohibited if the arrangement were a plan) from serving in any capacity in connection with the arrangement under section 411,

"(E) has failed to appear without reasonable cause or excuse in response to a subpoena, examination, warrant, or any other order lawfully issued by the Secretary compelling such response,

"(F) has previously been subject to a determination under this part resulting in the denial, suspension, or revocation of an exemption under this part on similar grounds, or

"(G) has otherwise violated any provision of this title with respect to a matter which the Secretary determines of sufficient consequence to merit disqualification for purposes of this part.

"(d) FRANCHISE NETWORKS.—In the case of a multiple employer welfare arrangement established and maintained by a franchisor for a franchise network consisting of its franchisees, such franchisor shall be treated as the sponsor referred to in the preceding provisions of this section, such network shall be treated as an association referred to in such provisions, and each franchisee shall be treated as a member (of the association and the sponsor) referred to in such provisions, if all participating employers are such franchisees and the requirements of subsection (b)(1) with respect to a sponsor are met with respect to the network.

"(e) CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.—In applying the preceding provisions of this section in the case of a multiple employer welfare arrangement which would be described in section 3(40)(A)(i) but for the failure to meet any requirement of section 3(40)(C)—

"(1) paragraphs (1) and (2) of subsection (b) and subparagraphs (A), (B), and (D) of paragraph (3) of subsection (b) shall be disregarded, and

"(2) the joint board of trustees shall be considered the operating committee of the arrangement.

"(f) CERTAIN ARRANGEMENTS NOT MEETING SINGLE EMPLOYER REQUIREMENT.—

"(1) IN GENERAL.—In any case in which the majority of the employees covered under a multiple employer welfare arrangement are employees of a single employer (within the meaning of clauses (i) and (ii) of section 3(40)(B)), if all other employees covered under the arrangement are employed by employers who are related to such single employer, subsection (b)(3)(D) shall be disregarded.

"(2) RELATED EMPLOYERS.—For purposes of paragraph (1), employers are 'related' if there is among all such employers a common ownership interest or a substantial commonality of business operations based on common suppliers or customers.

"SEC. 705. ADDITIONAL REQUIREMENTS APPLICABLE TO EXEMPTED MULTIPLE EMPLOYER HEALTH PLANS.

"(a) NOTICE OF MATERIAL CHANGES.—In the case of any exempted multiple employer health plan, descriptions of material changes in any information which was required to be submitted with the application for the exemption granted under this part shall be filed in such form and manner as shall be prescribed in regulations of the Secretary. The Secretary may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the exemption.

"(b) REPORTING REQUIREMENTS.—Under regulations of the Secretary, the requirements of sections 102, 103, and 104 shall apply with respect to any multiple employer welfare arrangement which is or has been an exempted multiple employer health plan in the same manner and to the same extent as such requirements apply to employee welfare benefit plans, irrespective of whether such exemption continues in effect. The annual report required under section 103 for any plan year in the case of any such multiple employer welfare arrangement shall also include information described in section 704(a)(3)(F) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed not later than 90 days after the close of the plan year.

"(c) ENGAGEMENT OF QUALIFIED ACTUARY.—The operating committee of each multiple employer welfare arrangement which is or has been an exempted multiple employer health plan shall engage, on behalf of all covered individuals, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the arrangement and to reasonable expectations, and

"(2) represent such actuary's best estimate of anticipated experience under the arrangement.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"(d) FILING NOTICE OF EXEMPTION WITH STATES.—An exemption granted to a multiple employer welfare arrangement under this part shall not be effective unless written notice of such exemption is filed with the State insurance commissioner of each State in which at least 5 percent of the individuals covered under the arrangement are located. For purposes of this paragraph, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed. The Secretary may by regulation provide in specified cases for the application of the preceding sentence with lesser percentages in lieu of such 5 percent amount.

"SEC. 706. DISCLOSURE TO PARTICIPATING EMPLOYERS BY ARRANGEMENTS PROVIDING MEDICAL CARE.

"(a) IN GENERAL.—A multiple employer welfare arrangement providing benefits consisting of medical care described in section 607(1) shall issue to each participating employer—

"(1) a document equivalent to the summary plan description required of plans under part 1,

"(2) information describing the contribution rates applicable to participating employers, and

"(3) a statement indicating—

"(A) that the arrangement is not a licensed insurer under the laws of any State,

"(B) whether coverage under the arrangement is fully insured,

"(C) if coverage under the arrangement if not fully insured, (i) whether the arrangement is (or has ceased to be) an exempted multiple employer health plan, and (ii) if such an arrangement is an exempted multiple employer health plan, that such arrangement is treated as an employee welfare benefit plan under this title.

"(b) TIME FOR DISCLOSURE.—Such information shall be issued to employers within such reasonable period of time before becoming participating employers as may be prescribed in regulations of the Secretary.

"SEC. 707. MAINTENANCE OF RESERVES.

"(a) IN GENERAL.—Each multiple employer welfare arrangement which is or has been an exempted multiple employer health plan and under which coverage is not fully insured shall establish and maintain reserves, consisting of—

"(1) a reserve for unearned contributions,

"(2) a reserve for payment of claims reported and not yet paid and claims incurred but not yet reported, and for expected administrative costs with respect to such claims, and

"(3) a reserve, in an amount recommended by the qualified actuary, for any other obligations of the arrangement.

"(b) MINIMUM AMOUNT FOR CERTAIN RESERVES.—The total of the reserves described in subsection (a)(2) shall not be less than an amount equal to 25 percent of expected incurred claims and expenses for the plan year.

"(c) REQUIRED MARGIN.—In determining the amounts of reserves required under this section in connection with any multiple employer welfare arrangement, the qualified actuary shall include a margin for error and other fluctuations taking into account the specific circumstances of such arrangement.

"(d) ADDITIONAL REQUIREMENTS.—The Secretary may provide such additional requirements relating to reserves and excess/stop loss coverage as the Secretary considers appropriate. Such requirements may be provided, by regulation or otherwise, with respect to any arrangement or any class of arrangements.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(e) ADJUSTMENTS FOR EXCESS/STOP LOSS COVERAGE.—The Secretary may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any arrangement or class of arrangements to take into account excess/stop loss coverage provided with respect to such arrangement or arrangements.

"(f) ALTERNATIVE MEANS OF COMPLIANCE.—The Secretary may permit an arrangement (including a community health network) to substitute, for all or part of the reserves required under subsection (a), such security, guarantee, or other financial arrangement as the Secretary determines to be adequate to enable the arrangement to fully meet all its financial obligations on a timely basis.

"SEC. 708. CORRECTIVE ACTIONS.

"(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—A multiple employer welfare arrangement with respect to which there is or has been in effect an exemption granted under this part shall continue to meet the requirements of section 707, irrespective of whether such exemption continues in effect. The operating committee of such arrangement shall determine semiannually whether the requirements of section 707 are met. In any case in which the committee determines that there is reason to believe that there is or will be a failure to meet such requirements, or the Secretary makes such a determination and so notifies the committee, the committee shall immediately notify the qualified actuary engaged by the arrangement, and such actuary shall, not later than the end of the next following month, make such recommendations to the committee for corrective action as the actuary determines necessary to ensure compliance with section 707. Not later than 10 days after receiving from the actuary recommendations for corrective actions, the committee shall notify the Secretary (in such form and manner as the Secretary may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the committee has taken or plans to take in response to such recommendations. The committee shall thereafter report to the Secretary, in such form and frequency as the Secretary may specify to the committee, regarding corrective action taken by the committee until the requirements of section 707 are met.

"(b) TERMINATION.—

"(1) NOTICE OF TERMINATION.—In any case in which the operating committee of a multiple employer welfare arrangement which is or has been an exempted multiple employer health plan determines that there is reason to believe that the arrangement will terminate, the committee shall so inform the Secretary, shall develop a plan for winding up the affairs of the arrangement in connection with such termination in a manner which will result in timely payment of all benefits for which the arrangement is obligated, and shall submit such plan in writing to the Secretary. Actions required under this paragraph shall be taken in such form and manner as may be prescribed in regulations of the Secretary.

"(2) ACTIONS REQUIRED IN CONNECTION WITH TERMINATION.—In any case in which—

"(A) the Secretary has been notified under subsection (a) of a failure of a multiple employer welfare arrangement which is or has been an exempted multiple employer health plan to meet the requirements of section 707 and has not been notified by the operating committee of the arrangement that corrective action has restored compliance with such requirements, and

"(B) the Secretary determines that the continuing failure to meet the requirements of section 707 can be reasonably expected to result in a continuing failure to pay benefits for which the arrangement is obligated,

the operating committee of the arrangement shall, at the direction of the Secretary, terminate the arrangement and, in the course of the termination, take such actions as the Secretary may require as necessary to ensure that the affairs of the arrangement will be, to the maximum extent possible, wound up in a manner which will result in timely payment of all benefits for which the arrangement is obligated.

"SEC. 709. EXPIRATION, SUSPENSION, OR REVOCATION OF EXEMPTION.

"(a) EXPIRATION AND RENEWAL OF EXEMPTION.—An exemption granted to a multiple employer welfare arrangement under this part shall expire 3 years after the date on which the exemption is granted. An exemption which has expired may be renewed by means of application for an exemption in accordance with section 704.

"(b) SUSPENSION OR REVOCATION OF EXEMPTION BY SECRETARY.—The Secretary may suspend or revoke an exemption granted to a multiple employer welfare arrangement under this part—

"(1) for any cause that may serve as the basis for the denial of an initial application for such an exemption under section 704, or

"(2) if the Secretary finds that—

"(A) the arrangement, or the sponsor thereof, in the transaction of business while under the exemption, has used fraudulent, coercive, or dishonest practices, or has demonstrated incompetence, untrustworthiness, or financial irresponsibility,

"(B) the arrangement, or the sponsor thereof, is using such methods or practices in the conduct of its operations, so as to render its further transaction of operations hazardous or injurious to participating employers, or covered individuals,

"(C) the arrangement, or the sponsor thereof, has refused to be examined in accordance with this part or to produce its accounts, records, and files for examination in accordance with this part, or

"(D) any of the officers of the arrangement, or the sponsor thereof, has refused to give information with respect to the affairs of the arrangement or the sponsor or to perform any other legal obligation relating to such an examination when required by the Secretary in accordance with this part.

Any such suspension or revocation under this subsection shall be effective only upon a final decision of the Secretary made after notice and opportunity for a hearing is provided in accordance with section 710.

"(c) SUSPENSION OR REVOCATION OF EXEMPTION UNDER COURT PROCEEDINGS.—An exemption granted to a multiple employer welfare arrangement under this part may be suspended or revoked by a court of competent jurisdiction in an action by the Secretary brought under paragraph (2), (5), or (6) of section 502(a), except that the suspension or revocation under this subsection shall be effective only upon notification of the Secretary of such suspension or revocation.

"(d) NOTIFICATION OF PARTICIPATING EMPLOYERS.—All participating employers in a multiple employer welfare arrangement shall be notified of the expiration, suspension, or revocation of an exemption granted to such arrangement under this part, by such persons and in such form and manner as shall be prescribed in regulations of the Secretary, not later than 20 days after such expiration or after receipt of notice of a final decision requiring such suspension or revocation.

"(e) PUBLICATION OF EXPIRATIONS, SUSPENSIONS, AND REVOCATIONS.—The Secretary shall publish all expirations of, and all final decisions to suspend or revoke, exemptions granted under this part.

"SEC. 710. REVIEW OF ACTIONS OF THE SECRETARY.

"(a) IN GENERAL.—Any decision by the Secretary which involves the denial of an application by a multiple employer welfare arrangement for an exemption under this part or the suspension or revocation of such an exemption shall contain a statement of the specific reason or reasons supporting the Secretary's action, including reference to the specific terms of the exemption and the statutory provision or provisions relevant to the determination.

"(b) DENIALS OF APPLICATIONS.—In the case of the denial of an application for an exemption under this part, the Secretary shall send a copy of the decision to the applicant by certified or registered mail at the address specified in the records of the Secretary. Such decision shall constitute the final decision of the Secretary unless the arrangement, or any party that would be prejudiced by the decision, files a written appeal of the denial within 30 days after the mailing of such decision. The Secretary may affirm, modify, or reverse the initial decision. The decision on appeal shall become final upon the mailing of a copy by certified or registered mail to the arrangement or party that filed the appeal.

"(c) SUSPENSIONS OR REVOCATIONS OF EXEMPTION.—In the case of the suspension or revocation of an exemption granted under this part, the Secretary shall send a copy of the decision to the arrangement by certified or registered mail at its address, as specified in the records of the Secretary. Upon the request of the arrangement, or any party that would be prejudiced by the suspension or revocation, filed within 15 days of the mailing of the Secretary's decision, the Secretary shall schedule a hearing on such decision by written notice, sent by certified or registered mail to the arrangement or party requesting such hearing. Such notice shall set forth—

"(1) a specific date and time for the hearing, which shall be within the 10-day period commencing 20 days after the date of the mailing of the notice, and

"(2) a specific place for the hearing, which shall be in the District of Columbia or in the State and county thereof (or parish or other similar political subdivision thereof) in which is located the arrangement's principal place of business.

The decision as affirmed or modified in such hearing shall constitute the final decision of the Secretary, unless such decision is reversed in such hearing.".

(b) CONFORMING AMENDMENT TO DEFINITION OF PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 1002(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes the sponsor (as defined in section 701(5)) of a multiple employer welfare arrangement which is or has been an exempted multiple employer health plan (as defined in section 701(10)).".

(c) ALTERNATIVE MEANS OF DISTRIBUTION OF SUMMARY PLAN DESCRIPTIONS.—Section 110 of such Act (29 U.S.C. 1030) is amended by adding at the end the following new subsection:

"(c) The Secretary shall prescribe, as an alternative method for distributing summary plan descriptions in order to meet the requirements of section 104(b)(1) in the case of multiple employer welfare arrangements providing benefits consisting of medical care described in section 607(1), a means of distribution of such descriptions by participating employers.".

(d) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 608 the following new items:

"PART 7—MULTIPLE EMPLOYER HEALTH PLANS

"Sec. 701. Definitions.
"Sec. 702. Exempted multiple employer health plans relieved of certain restrictions on preemption of State law and treated as employee welfare benefit plans.
"Sec. 703. Exemption procedure.
"Sec. 704. Eligibility requirements.
"Sec. 705. Additional requirements applicable to exempted multiple employer health plans.
"Sec. 706. Disclosure to participating employers by arrangements providing medical care.
"Sec. 707. Maintenance of reserves.
"Sec. 708. Corrective actions.
"Sec. 709. Expiration, suspension, or revocation of exemption.
"Sec. 710. Review of actions of the secretary."

SEC. 1212. CLARIFICATION OF SCOPE OF PREEMPTION RULES.

(a) IN GENERAL.—Section 514(b)(6)(A)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(6)(A)(ii)) is amended by inserting ", but only, in the case of an arrangement which provides medical care described in section 607(1) and with respect to which an exemption under part 7 is not in effect," before "to the extent not inconsistent with the preceding sections of this title".

(b) CROSS-REFERENCE.—Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) For additional rules relating to exemption from subparagraph (A)(ii) of multiple employer welfare arrangements providing medical care, see part 7.".

SEC. 1213. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of any such other arrangement," after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "common control";

(2) in clause (iii), by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control", and by striking "and" at the end,

(3) by redesignating clause (iv) as clause (v), and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, at the time the determination under clause (i) is made, the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 95 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement.".

SEC. 1214. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i) under or pursuant to one or more collective bargaining agreements,".

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

"(C) Clause (i) of subparagraph (A) shall apply only if—

"(i) the plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

"(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement, or

"(II) pay a commission or any other type of compensation to a person that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement,

"(ii) not less than 85 percent of the covered individuals under the plan or other arrangement are individuals who—

"(I) are employed within a bargaining unit covered by at least one of the collective bargaining agreements with a participating employer (or are covered on the basis of an individual's employment in such a bargaining unit), or

"(II) are present or former employees of the sponsoring employee organization, of an employer who is or was a party to at least one of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (or are covered on the basis of such present or former employment),

"(iii) the plan or other arrangement does not provide benefits to individuals (other than individuals described in clause (ii)(II)) who work outside the standard metropolitan statistical area in which the sponsoring employee organization represents employees (or to individuals (other than individuals described in clause (ii)(II)) on the basis of such work by others), except that in the case of a sponsoring employee organization that represents employees who work outside of any standard metropolitan statistical area, this clause shall be applied by reference to the State in which the sponsoring organization represents employees,

"(iv) the employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed in regulations of the Secretary—

"(I) that the plan or other arrangement meets the requirements of clauses (i), (ii), and (iii), and

"(II) if, for any year, 10 percent or more of the covered individuals under the plan are individuals not described in subclause (I) or (II) of clause (ii), the total number of covered individuals and the total number of covered individuals not so described.

"(D)(i) Clause (i) of subparagraph (A) shall not apply to a plan or other arrangement that is established or maintained pursuant to one or more collective bargaining agreements which the National Labor Relations Boards determines to have been negotiated or otherwise agreed to in a manner or through conduct which violates section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)).

"(ii)(I) Whenever a State insurance commissioner has reason to believe that this subparagraph is applicable to part or all of a plan or other arrangement, the State insurance commissioner may file a petition with the National Labor Relations Board for a determination under clause (i), along with sworn written testimony supporting the petition.

"(II) The Board shall give any such petition priority over all other petitions and cases, other than other petitions under subclause (I) or cases given priority under section 10 of the National Labor Relations Act (29 U.S.C. 160).

"(III) The Board shall determine, upon the petition and any response, whether, on the facts before it, the plan or other arrangement was negotiated, created, or otherwise agreed to in a manner or through conduct which violates section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)). Such determination shall constitute a final determination for purposes of this subparagraph and shall be binding in all Federal or State actions with respect to the status of the plan or other arrangement under this subparagraph.

"(IV) A person aggrieved by the determination of the Board under subclause (III) may obtain review of the determination in any United States court of appeals in the circuit in which the collective bargaining at issue occurred. Commencement of proceedings under this subclause shall not, unless specifically ordered by the court, operate as a stay of any State administrative or judicial action or proceeding related to the status of the plan or other arrangement, except that in no case may the court stay, before the completion of the review, an order which prohibits the enrollment of new individuals into coverage under a plan or arrangement.".

SEC. 1215. EMPLOYEE LEASING HEALTHCARE ARRANGEMENTS.

(a) EMPLOYEE LEASING HEALTHCARE ARRANGEMENT DEFINED.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(43) EMPLOYEE LEASING HEALTHCARE ARRANGEMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'employee leasing healthcare arrangement' means any labor leasing arrangement, staff leasing arrangement, extended employee staffing or supply arrangement, or other arrangement under which—

"(i) one business or other entity (hereinafter in this paragraph referred to as the 'lessee'), under a lease or other arrangement entered into with any other business or other entity (hereinafter in this paragraph referred to as the 'lessor'), receives from the lessor the services of individuals to be performed under such lease or other arrangement, and

"(ii) benefits consisting of medical care described in section 607(1) are provided to such individuals or such individuals and their dependents as participants and beneficiaries.

"(B) EXCEPTION.—Such term does not include an arrangement described in subparagraph (A) if, under such arrangement, the lessor retains, both legally and in fact, a

VOL 140 PT 15 AG 10 — 11 1994 UMI

complete right of direction and control within the scope of employment over the individuals whose services are supplied under such lease or other arrangement, and such individuals perform a specified function for the lessee which is separate and divisible from the primary business or operations of the lessee.".

(b) TREATMENT OF EMPLOYEE LEASING HEALTHCARE ARRANGEMENTS AS MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) (as amended by the preceding provisions of this title) is further amended by adding at the end the following new subparagraph:

"(E) The term 'multiple employer welfare arrangement' includes any employee leasing healthcare arrangement.".

(c) SPECIAL RULES FOR EMPLOYEE LEASING HEALTHCARE ARRANGEMENTS.—

(1) IN GENERAL.—Part 7 of subtitle B of title I of such Act (as added by the preceding provisions of this Act) is amended by adding at the end the following new section:

"SEC. 711. SPECIAL RULES FOR EMPLOYEE LEASING HEALTHCARE ARRANGEMENTS.

"(a) IN GENERAL.—The requirements of paragraphs (1), (2), and (3) of section 704(b) shall be treated as satisfied in the case of a multiple employer welfare arrangement that is an employee leasing healthcare arrangement if the application for exemption includes information which the Secretary determines to be complete and accurate and sufficient to demonstrate that the following requirements are met with respect to the arrangement:

"(1) 3-YEAR TENURE.—The lessor has been in operation for not less than 3 years.

"(2) SOLICITATION RESTRICTIONS.—Employee leasing services provided under the arrangement are not solicited, advertised, or marketed through licensed insurance agents or brokers acting in such capacity.

"(3) CREATION OF EMPLOYMENT RELATIONSHIP.—

"(A) DISCLOSURE STATEMENT.—Written notice is provided to each applicant for employment subject to coverage under the arrangement, at the time of application for employment and before commencing coverage under the arrangement, stating that the employer is the lessor under the arrangement.

"(B) INFORMED CONSENT.—Each such applicant signs a written statement consenting to the employment relationship with the lessor.

"(C) INFORMED RECRUITMENT OF LESSEE'S EMPLOYEES.—In any case in which the lessor offers employment to an employee of a lessee under the arrangement, the lessor informs each employee in writing that his or her acceptance of employment with the lessor is voluntary and that refusal of such offer will not be deemed to be resignation from or abandonment of current employment.

"(4) REQUISITE EMPLOYER-EMPLOYEE RELATIONSHIP UNDER ARRANGEMENT.—Under the employer-employee relationship with the employees of the lessor—

"(A) the lessor retains the ultimate authority to hire, terminate, and reassign such employees,

"(B) the lessor is responsible for the payment of wages, payroll-related taxes, and employee benefits, without regard to payment by the lessee to the lessor for its services,

"(C) the lessor maintains the right of direction and control over its employees, except to the extent that the lessee is responsible for supervision of the work performed consistent with the lessee's responsibility for its product or service, and

"(D) in accordance with section 301(a) of the Labor Management Relations Act, 1947 (29 U.S.C. 185(a)), the lessor retains in the absence of an applicable collective bargaining agreement, the right to enter into arbitration and to decide employee grievances, and

"(E) no owner, officer, or director of, or partner in, a lessee is an employee of the lessor, and not more than 10 percent of the individuals covered under the arrangement consist of owners, officers, or directors of, or partners in, such a lessee (or any combination thereof).

"(b) DEFINITIONS.—For purposes of this section—

"(1) LESSOR.—The term 'lessor' means the business or other entity from which services of individuals are obtained under an employee leasing healthcare arrangement.

"(2) LESSEE.—The term 'lessee' means a business or other entity which receives the services of individuals provided under an employee leasing healthcare arrangement.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (as amended by the preceding provisions of this title) is further amended by inserting after the item relating to section 710 the following new item:

"Sec. 711. Employee leasing healthcare arrangements.".

SEC. 1216. ENFORCEMENT PROVISIONS RELATING TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS AND EMPLOYEE LEASING HEALTHCARE ARRANGEMENTS.

(a) ENFORCEMENT OF FILING REQUIREMENTS.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6), by striking "subsection (c)(2) or (i) or (l)" and inserting "paragraph (2) or (4) of subsection (c) or subsection (i) or (l)"; and

(2) by adding at the end of subsection (c) the following new paragraph:

"(4) The Secretary may assess a civil penalty against any person of up to $1,000 a day from the date of such person's failure or refusal to file the information required to be filed with the Secretary under section 101(e).".

(b) ACTIONS BY STATES IN FEDERAL COURT.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(7) by a State official having authority under the law of such State to enforce the laws of such State regulating insurance, to enjoin any act or practice which violates any provision of part 7 which such State has the power to enforce under part 7.".

(c) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of such Act (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "SEC. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who, either willfully or with willful blindness, falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, an arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being an exempted multiple employer welfare arrangement (as defined in section 701(10)),

"(2) being an employee leasing healthcare arrangement under an exemption granted under part 7, or

"(3) having been established or maintained under or pursuant to a collective bargaining agreement,

shall, upon conviction, be imprisoned not more than five years, be fined under title 18, United States Code, or both.".

(d) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(m)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of a multiple employer welfare arrangement providing benefits consisting of medical care described in section 607(1) that—

"(A) is not licensed, registered, or otherwise approved under the insurance laws of the States in which the arrangement offers or provides benefits, or

"(B) is not operating in accordance with the terms of an exemption granted by the Secretary under part 7,

a district court of the United States shall enter an order requiring that the arrangement cease activities.

"(2) Paragraph (1) shall not apply in the case of a multiple employer welfare arrangement if the arrangement shows that—

"(A) coverage under it is fully insured, within the meaning of section 701(9),

"(B) it is licensed, registered, or otherwise approved in each State in which it offers or provides benefits, except to the extent that such State does not require licensing, registration, or approval of multiple employer welfare arrangements under which all coverage is fully insured, and

"(C) with respect to each such State, it is operating in accordance with applicable State insurance laws that are not superseded under section 514.

"(3) The court may grant such additional equitable or remedial relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the arrangement.".

(e) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by adding at the end (after and below paragraph (2)) the following new sentence: "The terms of each multiple employer welfare arrangement to which this section applies and which provides benefits consisting of medical care described in section 607(1) shall require the operating committee or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the arrangement.".

SEC. 1217. SOLVENCY REQUIREMENTS FOR CERTAIN SELF-INSURED GROUP HEALTH PLANS.

(a) IN GENERAL.—The Secretary of Labor shall prescribe by regulation provisions described in subsection (b) applicable to group health plans which are not multiple employer health plans, which offer coverage with respect to employees of small employers (as defined in section 1131), and under which some or all coverage is not fully insured (within the meaning of section 701(9) of the Employee Retirement Income Security Act of 1974)), for the purpose of promoting adequate funding of such plans.

(b) REQUIREMENTS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the provisions described in subsection (a) shall require the group health plan to establish and maintain reserves, consisting of—

(A) a reserve for unearned contributions, and

(B) a reserve for payment of claims reported and not yet paid and claims incurred but not yet reported, and for expected administrative costs with respect to such claims.

(2) EXCEPTION.—The Secretary may in such regulations permit a group health plan to substitute, for all or part of the reserves required under paragraph (1), such security, guarantee, or other financial arrangement as the Secretary determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis.

(c) CRITERIA FOR COMPLIANCE.—The criteria that the Secretary shall take into account in determining compliance with the requirements described in subsection (b) shall include:

(1) the size of the employer involved;

(2) the benefit package provided under the plan;

(3) whether the coverage provided under the plan is in the form of a fee-for-service arrangement, a health maintenance organization, or any other type of coverage;

(4) the extent to which excess/stop loss coverage is maintained for the plan; and

(5) the nature of any security, guarantee, or other financial arrangement described in subsection (b)(2) obtained for the plan.

SEC. 1218. FILING REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING HEALTH BENEFITS.

Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) Each multiple employer welfare arrangement shall file with the Secretary a registration statement described in paragraph (2) within 60 days before commencing operations (in the case of an arrangement commencing operations on or after January 1, 1995) and no later than February 15 of each year (in the case of an arrangement in operation since the beginning of such year), unless, as of the date by which such filing otherwise must be made, such arrangement provides no benefits consisting of medical care described in section 607(1).

"(2) Each registration statement—

"(A) shall be filed in such form, and contain such information concerning the multiple employer welfare arrangement and any persons involved in its operation (including whether coverage under the arrangement is fully insured), as shall be provided in regulations which shall be prescribed by the Secretary, and

"(B) if coverage under the arrangement is not fully insured, shall contain a certification that copies of such registration statement have been transmitted by certified mail to—

"(i) in the case of an arrangement which is an exempted multiple employer health plan (as defined in section 701(10)), the State insurance commissioner of the domicile State of such arrangement, or

"(ii) in the case of an arrangement which is not an exempted multiple employer health plan, the State insurance commissioner of each State in which the arrangement is located.

"(3) The person or persons responsible for filing the annual registration statement are—

"(A) the trustee or trustees so designated by the terms of the instrument under which the multiple employer welfare arrangement is established or maintained, or

"(B) in the case of a multiple employer welfare arrangement for which the trustee or trustees cannot be identified, or upon the failure of the trustee or trustees of an arrangement to file, the person or persons actually responsible for the acquisition, disposition, control, or management of the cash or property of the arrangement, irrespective of whether such acquisition, disposition, control, or management is exercised directly by such person or persons or through an agent designated by such person or persons.

"(4) Any agreement entered into under section 506(c) with a State as the primary domicile State with respect to any multiple employer welfare arrangement shall provide for simultaneous filings of reports required under this subsection with the Secretary and with the State insurance commissioner of such State.".

SEC. 1219. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) RESPONSIBILITY WITH RESPECT TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—

"(1) STATE ENFORCEMENT.—

"(A) AGREEMENTS WITH STATES.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority under sections 502 and 504 to enforce the provisions of this title applicable to multiple employer welfare arrangements which are or have been exempted multiple employer health plans (as defined in section 701(10)). The Secretary shall enter into the agreement if the Secretary determines that the delegation provided for therein would not result in a lower level or quality of enforcement of the provisions of this title.

"(B) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

"(C) CONCURRENT AUTHORITY OF THE SECRETARY.—If the Secretary delegates authority to a State in an agreement entered into under subparagraph (A), the Secretary may continue to exercise such authority concurrently with the State.

"(D) RECOGNITION OF PRIMARY DOMICILE STATE.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular multiple employer welfare arrangement, as the primary domicile State to which authority has been delegated pursuant to such agreements.

"(2) ASSISTANCE TO STATES.—The Secretary shall—

"(A) provide enforcement assistance to the States with respect to multiple employer welfare arrangements, including, but not limited to, coordinating Federal and State efforts through the establishment of cooperative agreements with appropriate State agencies under which the Pension and Welfare Benefits Administration keeps the States informed of the status of its cases and makes available to the States information obtained by it,

"(B) provide continuing technical assistance to the States with respect to issues involving multiple employer welfare arrangements and this Act,

"(C) assist the States in obtaining from the Office of Regulations and Interpretations timely and complete responses to requests for advisory opinions on issues described in subparagraph (B), and

"(D) distribute copies of all advisory opinions described in subparagraph (C) to the State insurance commissioner of each State.".

SEC. 1220. EFFECTIVE DATE; TRANSITIONAL RULES.

(a) EFFECTIVE DATE.—The amendments made by this part shall take effect January 1, 1995, except that the Secretary of Labor may issue regulations before such date under such amendments. The Secretary shall issue all regulations necessary to carry out the amendments made by this title before the effective date thereof.

(b) TRANSITIONAL RULES.—If the sponsor of a multiple employer welfare arrangement which, as of January 1, 1995, provides benefits consisting of medical care described in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)) files with the Secretary of Labor an application for an exemption under part 7 of subtitle B of title I of such Act within 180 days after such date and the Secretary has not, as of 90 days after receipt of such application, found such application to be materially deficient, section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) shall not apply with respect to such arrangement during the 18-month period following such date. If the Secretary determines, at any time after the date of enactment of this Act, that any such exclusion from coverage under the provisions of such section 514(b)(6)(A) of such Act of a multiple employer welfare arrangement would be detrimental to the interests of individuals covered under such arrangement, such exclusion shall cease as of the date of the determination. Any determination made by the Secretary under this subsection shall be in the Secretary's sole discretion.

PART 3—ENCOURAGEMENT OF MULTIPLE EMPLOYER ARRANGEMENTS PROVIDING BASIC HEALTH BENEFITS

SEC. 1221. ELIMINATING COMMONALITY OF INTEREST OR GEOGRAPHIC LOCATION REQUIREMENT FOR TAX EXEMPT TRUST STATUS.

(a) IN GENERAL.—Paragraph (9) of section 501(c) of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended—

(1) by inserting "(A)" after "(9)"; and

(2) by adding at the end the following:

"(B) Any determination of whether a multiple employer health plan (as defined in section 701(10) of the Employee Retirement Income Security Act of 1974) or an insured multiple employer health plan (as defined in section 701(11) of such Act) is a voluntary employees' beneficiary association meeting the requirements of this paragraph shall be made without regard to any determination of commonality of interest or geographic location if—

"(i) such plan provides at least standard coverage (consistent with section 102(c) of the Affordable Health Care Now Act of 1994), and

"(ii) in the case of an insured multiple employer health plan, it meets the requirements enforceable under section 514(b)(6)(B)(i) of the Employee Retirement Income Security Act of 1974 to the extent not preempted by section 1202 of the Affordable Health Care Now Act of 1994.".

VOL 140 PT 15 AG 10 — 11 1994 UMI

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to determinations made on or after January 1, 1995.

SEC. 1222. SINGLE ANNUAL FILING FOR ALL PARTICIPATING EMPLOYERS.

(a) IN GENERAL.—Section 110 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1030), as amended by section 1211(c) of this subtitle, is amended by adding at the end the following new subsection:

"(d) The Secretary shall prescribe by regulation or otherwise an alternative method providing for the filing of a single annual report (as referred to in section 104(a)(1)(A)) with respect to all employers who are participating employers under a multiple employer welfare arrangement under which all coverage consists of medical care (described in section 607(1)) and is fully insured (as defined in section 701(9)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The Secretary of Labor shall prescribe the alternative method referred to in section 110(d) of the Employee Retirement Income Security Act of 1974, as added by such amendment, within 90 days after the date of the enactment of this Act.

SEC. 1223. COMPLIANCE WITH COVERAGE REQUIREMENTS THROUGH MULTIPLE EMPLOYER HEALTH ARRANGEMENTS.

(a) COMPLIANCE WITH APPLICABLE REQUIREMENTS THROUGH MULTIEMPLOYER PLANS.—In any case in which an eligible employee is, for any plan year, a participant in a group health plan which is a multiemployer plan, the requirements of section 1001(a) shall be deemed to be met with respect to such employee for such plan year if the employer requirements of subsection (c) are met with respect to the eligible employee, irrespective of whether, or to what extent, the employer makes employer contributions on behalf of the eligible employee.

(b) COMPLIANCE WITH APPLICABLE REQUIREMENTS THROUGH OTHER MULTIPLE EMPLOYER HEALTH ARRANGEMENTS.—

(1) IN GENERAL.—In any case in which an employer is, for any plan year, a participating employer (as defined in paragraph (3)) in an exempted multiple employer health plan or in a multiple employer welfare arrangement under which all coverage consists of medical care (described in section 607(1) of the Employee Retirement Income Security Act of 1974) and is fully insured (as defined in section 701(9) of such Act), the requirements of section 1001(a) shall be deemed to be met (and the ERISA requirements of paragraph (2) shall be deemed to be met by the employer) with respect to an eligible employee of the employer if—

(A) the employer requirements of subsection (c) are met with respect to the eligible employee, and

(B) the applicable ERISA requirements of paragraph (2) are met by the plan or arrangement with respect to the plan or arrangement,

irrespective of whether, or to what extent, the employer makes employer contributions on behalf of the eligible employee.

(2) APPLICABLE ERISA REQUIREMENTS.—The applicable ERISA requirements of this paragraph are the requirements of—

(A) part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (relating to reporting and disclosure),

(B) section 503 of such Act (relating to claims procedure), and

(C) part 6 of subtitle B of such title I (relating to group health plans),

to the extent that such requirements relate to employers as plan sponsors or plan administrators.

(3) PARTICIPATING EMPLOYER.—In this subsection, the term "participating employer" means, in connection with an exempted multiple employer health plan or a multiple employer welfare arrangement under which all coverage consists of medical care (described in section 607(1) of the Employee Retirement Income Security Act of 1974) and is fully insured (as defined in section 701(9) of such Act), any employer if any of its employees, or any of the dependents of its employees, are or were covered under such plan or arrangement in connection with the employment of the employees.

(c) EMPLOYER REQUIREMENTS.—The employer requirements of this subsection are met under a plan or arrangement with respect to an eligible employee if—

(1) the employee is eligible under the plan or arrangement to elect coverage on an annual basis and is provided a reasonable opportunity to make the election in such form and manner and at such times as are provided by the plan or arrangement,

(2) subject to section 1001(c), such coverage includes at least the standard coverage (consistent with section 1102(c)),

(3) the employer facilitates collection of any employee contributions under the plan or arrangement and permits the employee to elect to have employee contributions under the plan or arrangement collected through payroll deduction, and

(4) in the case of a plan or arrangement to which part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 does not otherwise apply, the employer provides to the employee a summary plan description described in section 102(a)(1) of such Act in the form and manner and at such times as are required under such part 1 with respect to employee welfare benefit plans.

Subtitle D—Health Deduction Fairness

SEC. 1301. PERMANENT EXTENSION AND INCREASE IN HEALTH INSURANCE TAX DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS.

(a) PERMANENT EXTENSION OF DEDUCTION.—

(1) IN GENERAL.—Subsection (l) of section 162 of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1993.

(b) INCREASE IN AMOUNT OF DEDUCTION; INSURANCE PURCHASED MUST MEET CERTAIN STANDARDS.—

(1) INCREASE IN AMOUNT OF DEDUCTION.—Paragraph (1) of section 162(l) of such Code is amended by striking "25 percent of" and inserting "100 percent (25 percent in the case of taxable years beginning in 1994 or 1995 and 50 percent in the case of taxable years beginning in 1996 or 1997) of".

(2) INSURANCE PURCHASED MUST MEET CERTAIN STANDARDS.—Paragraph (2) of section 162(l) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF GROUP HEALTH PLANS.—For purposes of this subsection, an amount paid into a multiple employer health plan (as defined in section 701(10) of the Employee Retirement Income Security Act of 1974) shall be deemed to be an amount paid for insurance which constitutes medical care."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1994.

SEC. 1302. DEDUCTION OF HEALTH INSURANCE PREMIUMS FOR CERTAIN PREVIOUSLY UNINSURED INDIVIDUALS.

(a) IN GENERAL.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end thereof the following new subsection:

"(f) DEDUCTION FOR CERTAIN HEALTH INSURANCE COSTS DETERMINED WITHOUT REGARD TO ADJUSTED GROSS INCOME THRESHOLD.—

"(1) IN GENERAL.—Subsection (a) shall be applied without regard to the limitation based on adjusted gross income in the case of the applicable percentage of the amounts paid for insurance referred to in section 162(l)(2)(C) (and including payments referred to in section 162(l)(2)(D)).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 25 percent for taxable years beginning in 1994 or 1995,

"(B) 50 percent for taxable years beginning in 1996 or 1997, and

"(C) 100 percent for taxable years beginning after 1997.

"(3) DEDUCTION NOT ALLOWED TO INDIVIDUALS ELIGIBLE FOR EMPLOYER-SUBSIDIZED COVERAGE.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any individual—

"(i) who is eligible to participate in any subsidized health plan maintained by an employer of such individual or the spouse of such individual, or

"(ii) who is (or whose spouse is) a member of a subsidized class of employees of an employer of such individual or spouse.

"(B) SUBSIDIZED CLASS.—For purposes of subparagraph (A), an individual is a member of a subsidized class of employees of an employer if, at any time during the 3 calendar years ending with or within the taxable year, any member of such class was eligible to participate in any subsidized health plan maintained by such employer.

"(C) SPECIAL RULES.—

"(i) CONTROLLED GROUPS.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single employer for purposes of subparagraph (B).

"(ii) CLASSES.—Classes of employees shall be determined under regulations prescribed by the Secretary based on such factors as the Secretary determines appropriate to carry out the purposes of this subsection.

"(4) COORDINATION WITH DEDUCTION FOR OTHER AMOUNTS.—Amounts allowable as a deduction under subsection (a) by reason of this subsection shall not be taken into account in determining the deduction under subsection (a) for other amounts.

"(5) SUBSECTION NOT TO APPLY TO INDIVIDUALS ELIGIBLE FOR MEDICARE.—This subsection shall not apply to amount paid for insurance covering an individual who is eligible for benefits under title XVIII of the Social Security Act."

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (15) the following new paragraph:

"(16) COSTS OF CERTAIN HEALTH INSURANCE.—The deduction allowed by section 213 to the extent allowable by reason of section 213(f)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

Subtitle E—Improved Access to Community Health Services

PART 1—INCREASED AUTHORIZATION FOR COMMUNITY AND MIGRANT HEALTH CENTERS

SEC. 1401. GRANT PROGRAM TO PROMOTE PRIMARY HEALTH CARE SERVICES FOR UNDERSERVED POPULATIONS.

(a) AUTHORIZATION.—The Secretary of Health and Human Services shall provide for a program of grants to migrant and community health centers (receiving grants or contracts under section 329, 330, or 340 of the Public Health Service Act) in order to promote the provision of primary health care services for underserved individuals. Such grants may be used—

(1) to promote the provision of off-site services (through means such as mobile medical clinics);

(2) to improve birth outcomes in areas with high infant mortality and morbidity;

(3) to establish primary care clinics in areas identified as in need of such clinics; and

(4) for recruitment and training costs of necessary providers and operating costs for unreimbursed services.

(b) CONDITIONS.—(1) Grants under this subsection shall only be made upon application, approved by the Secretary.

(2) The amount of grants made under this section shall be determined by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) in fiscal year 1995, $100,000,000,

(2) in fiscal year 1996, $200,000,000,

(3) in fiscal year 1997, $300,000,000,

(4) in fiscal year 1998, $400,000,000, and

(5) in fiscal year 1999, $500,000,000,

to carry out this section. Of the amounts appropriated each fiscal year under this section, at least 10 percent shall be used for grants described in subsection (a)(1) and at least 10 percent shall be used for grants described in subsection (a)(2). The Secretary may use not to exceed 50 percent of the amounts appropriated to carry out this section for the purpose of making new grants or contracts under sections 329, 330, and 340 of the Public Health Service Act.

(d) STUDY AND REPORT.—The Secretary shall conduct a study of the impact of the grants made under this section to migrant and community health centers on access to health care, birth outcomes, and the use of emergency room services. Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on such study and on recommendations for changes in the programs under this section in order to promote the appropriate use of cost-effective outpatient services.

PART 2—GRANTS FOR PROJECTS FOR COORDINATING DELIVERY OF SERVICES

SEC. 1411. PROJECTS FOR COORDINATING DELIVERY OF OUTPATIENT PRIMARY HEALTH SERVICES.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new subpart:

"Subpart VII—Delivery of Services

"PROJECTS FOR COORDINATING DELIVERY OF SERVICES

"SEC. 340E. (a) AUTHORITY FOR GRANTS.—

"(1) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities to carry out demonstration projects for the purpose of increasing access to outpatient primary health services in geographic areas described in subsection (b) through coordinating the delivery of such services under Federal, State, local, and private programs.

"(2) REQUIREMENT REGARDING PLAN.—The Secretary may make a grant under paragraph (1) only if—

"(A) the applicant involved has received a grant under subsection (l) and the Secretary has approved the plan developed with such grant; and

"(B) the applicant agrees to carry out the project under paragraph (1) in accordance with the plan.

"(b) QUALIFIED HEALTH SERVICE AREAS.—

"(1) IN GENERAL.—A geographic area described in this subsection is a geographic area that—

"(A) is a rational area for the delivery of health services;

"(B) has a population of not more than 500,000 individuals; and

"(C)(i) has been designated by the Secretary as an area with a shortage of personal health services; or

"(ii) has a significant number of individuals who have low incomes or who have insufficient insurance regarding health care.

"(2) AUTHORITY REGARDING MULTIPLE POLITICAL SUBDIVISIONS.—The Secretary shall make a determination of whether a geographic area is a geographic area described in paragraph (1) without regard to whether the area is a political subdivision, without regard to whether the area is located in 2 or more political subdivisions or States, and without regard to whether the area encompasses 2 or more political subdivisions.

"(c) PREFERENCES IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to applicants demonstrating that, with respect to the outpatient primary health services that will be the subject of the project conducted by the applicant under such subsection—

"(1)(A) the project will result in the reduction of administrative expenses associated with such services by increasing the efficiency of the administrative processes of the providers participating in the project, and (B) the resulting savings will be expended-for the direct provision of such services for the designated population; or

"(2) the services that will be the subject of the project will be provided in facilities that are underutilized.

"(d) ACTIVITIES OF PROJECT MUST SERVE DESIGNATED POPULATION.—The Secretary may make a grant under subsection (a) to an applicant only if the applicant demonstrates that carrying out the project under such subsection will increase access to outpatient primary health services for a significant segment of the designated population.

"(e) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs of the project to be carried out under subsection (a) by an applicant, the Secretary may make a grant under such subsection only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 50 percent of such costs.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(f) CERTAIN LIMITATIONS REGARDING GRANTS.—

"(1) PROVISION OF HEALTH SERVICES; CONSTRUCTION OF FACILITIES.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that the grant will not be expended for the direct provision of any health service or for the construction or renovation of facilities.

"(2) DURATION AND AMOUNT OF GRANT.—The period during which payments are made for a project under subsection (a) may not exceed 4 years, and the aggregate amount of such payments for the period may not exceed $200,000. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

"(3) FINANCIAL CAPACITY FOR CONTINUATION OF PROJECT AFTER TERMINATION OF GRANT.—The Secretary may make a grant under subsection (a) only if the Secretary determines that there is a reasonable basis for believing that, after termination of payments under such subsection pursuant to paragraph (2), the project under such subsection will have the financial capacity to continue operating.

"(g) AGREEMENTS AMONG PARTICIPANTS IN PROJECTS.—

"(1) REQUIRED PARTICIPANTS.—The Secretary may make a grant under subsection (a) only if the applicant for the grant has, for purposes of carrying out a project under such subsection, entered into agreements with—

"(A) the chief public health officers, and the chief health officers for the elementary and secondary schools, of each of the political subdivisions of the qualified health service area in which the project under such subsection is to be carried out (or, in the case of a political subdivision that does not have such an official, with another appropriate official of such subdivision);

"(B) each hospital in the qualified health service area;

"(C) representatives of entities in such area that provide outpatient primary health services under Federal, State, local, or private programs;

"(D) representatives of businesses in such area, including small businesses; and

"(E) representatives of nonprofit private entities in such area.

"(2) OPTIONAL PARTICIPANTS.—With respect to compliance with this section, a grantee under subsection (a) may, for purposes of carrying out a project under such subsection, enter into such agreements with public and private entities in the qualified health service area involved (in addition to the entities specified in paragraph (1)) as the grantee may elect.

"(h) EXPENDITURES OF GRANT.—With respect to a project under subsection (a), the purposes for which a grant under such subsection may be expended include (but are not limited to) expenditures to increase the efficiency of the administrative processes of providers participating in the project, paying the costs of hiring and compensating staff, obtaining computers and other equipment (including vehicles to transport individuals to programs providing outpatient primary health services), and developing and operating provider networks.

"(i) MAINTENANCE OF EFFORT.—In the case of services and populations that are the subject of a project under subsection (a), the Secretary may make such a grant for a fiscal year only if the applicant involved agrees that the applicant, and each entity making an agreement under subsection (g), will maintain expenditures of non-Federal amounts for such services and populations at a level that is not less than the level of such

VOL 140 PT 15 AG 10 — 11 1994 UMI

expenditures maintained by the applicant and the entity, respectively, for the fiscal year preceding the first fiscal year for which the applicant receives such a grant.

"(j) REPORTS TO SECRETARY.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees to submit to the Secretary such reports on the project carried out under such subsection as the Secretary may require.

"(k) EVALUATIONS AND DISSEMINATION OF INFORMATION.—The Secretary shall provide for evaluations of projects carried out under subsection (a), and for the collection and dissemination of information developed as a result of such projects and as a result of similar projects.

"(l) PLANNING GRANTS.—

"(1) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for the purpose of developing plans to carry out projects under subsection (a). Such a grant may be made only if the applicant involved submits to the Secretary information—

"(A) providing a detailed statement of the proposal of the applicant for carrying out the project;

"(B) identifying the geographic area in which the project is to be carried out; and

"(C) demonstrating that the area is a qualified health service area and that the proposal otherwise is in accordance with the requirements established in this section for the receipt of a grant under subsection (a).

"(2) DURATION AND AMOUNT OF GRANT.—The period during which payments are made under paragraph (1) for the development of a plan under such paragraph may not exceed 1 year, and the amount of such payments may not exceed $100,000.

"(m) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) or (l) only if the applicant for the grant submits an application to the Secretary that—

"(1) contains any agreements, assurances, and information required in this section with respect to the grant; and

"(2) is in such form, is made in such manner, and contains such other agreements, assurances, and information as the Secretary determines to be necessary to carry out the purpose for which the grant is to be provided.

"(n) DEFINITIONS.—For purposes of this section:

"(1) The term 'designated population' means individuals described in subsection (b)(1)(C)(ii).

"(2) The term 'primary health services' includes preventive health services.

"(3) The term 'qualified health service area' means a geographic area described in subsection (b).

"(o) AUTHORIZATION OF APPROPRIATIONS.—

"(1) PLANNING FOR PROJECTS.—For the purpose of grants under subsection (l), there is authorized to be appropriated $5,000,000 for fiscal year 1995, to remain available until expended.

"(2) OPERATION OF PROJECTS.—For the purpose of grants under subsection (a), there is authorized to be appropriated an aggregate $10,000,000 for the fiscal years 1996 through 1999.".

PART 3—COMMUNITY HEALTH NETWORKS

SEC. 1421. QUALIFICATIONS FOR COMMUNITY HEALTH NETWORKS.

(a) COMMUNITY HEALTH NETWORK DEFINED.—For purposes of part 7 of subtitle B of title I of Employee Retirement Income Security Act of 1974 and this Act, added by section 1211(a) of this title, the term "community health network" means an arrangement that—

(1) is organized by health care providers (including medical practitioners), community groups, or both, and such other organizations as may be designated by the arrangement, to provide health care services to an enrolled population in a service area,

(2) provides to its enrollees at least the benefits included in standard coverage (consistent with section 1102(c)),

(3) receives payment for such services on a prospective capitated basis, which may vary only by family composition, geographic area, and age,

(4) meets the requirements of subsection (b) (relating to public accountability),

(5) meets the requirements of subsection (c) (relating to coordination and integration of care),

(6) meets the requirements of subsection (d) to the extent the arrangement is organized as a nonprofit entity, and

(7) meets the requirements of section 707 of the Employee Retirement Income Security Act of 1974 (relating to maintenance of reserves), added by section 1211.

(b) PUBLIC ACCOUNTABILITY REQUIREMENTS.—The public accountability requirements of this subsection, with respect to a network, are as follows:

(1) PERFORMANCE MEASURES.—The network must establish and implement procedures for developing, compiling, evaluating, and reporting performance measures, statistics, and other information on—

(A) the cost and financial performance of network operations,

(B) the service utilization patterns of enrollees,

(C) the availability, accessibility, and acceptability of health care services to enrollees,

(D) ownership and governance of the network, and

(E) demographic characteristics of enrollees, and

Such information shall be published annually and disseminated to enrollees and the public.

(2) QUALITY ASSURANCE PROGRAM.—The network must have an organizational arrangement for an ongoing quality assurance program for all health services it provides which—

(A) stresses health outcomes,

(B) to the maximum extent possible, relies primarily on evaluating and comparing practice patterns (rather than routine case-by-case review) to identify problems,

(C) provides review by physicians and other health professionals of the outcomes and process followed in the provision of health services, and

(D) makes the coverage and utilization review requirements of the plan, and the standards applied for such review, available to providers and the public.

(3) ENROLLMENT.—The network does not expel or refuse to enroll any applicant or limit coverage of services included in standard coverage for any applicant because of the health status or requirements for health services.

(4) CREDENTIALING.—The network must develop and implement a process for the credentialing (and renewal of credentials) of network providers (including practitioners).

(5) GRIEVANCE PROCESS.—The network must have an enrollee complaint and grievance resolution process which shall meet any requirements of applicable law.

(c) COORDINATION AND INTEGRATION OF CARE REQUIREMENTS.—The coordination and integration of care requirements of this subsection, with respect to a network, are as follows:

(1) COORDINATION AND INTEGRATION OF CARE.—The network must establish and implement mechanisms for coordinating the delivery of care across provider settings and over time, including at least mechanisms for—

(A) linking patient registration and medical record information so that it is accessible to all parts of the network and, consistent with State law, assures the confidentiality of patient information,

(B) assisting enrollees to obtain necessary care, including preventive services, and

(C) coordinating the services furnished to an enrollee when more than one practitioner or provider is involved.

(2) OUT-OF-AREA COVERAGE.—The network must provide care within a defined service area established by the arrangement and must provide for reimbursement for standard coverage (consistent with section 1102(c)) for enrollees who are temporarily outside such area.

(3) COMMON MALPRACTICE POLICY.—Providers (including practitioners) that provide standard coverage to network enrollees must be covered for malpractice in accordance with documented criteria established by the arrangement.

(4) RECORD KEEPING.—The network must use a unified patient registration system and medical records system that is accessible to all parts of the network and assures confidentiality of patient information, consistent with State law.

(d) REQUIREMENTS FOR NETWORKS ORGANIZED AS NONPROFIT ENTITIES.—The requirements of this subsection, with respect to a network, are as follows:

(1) COMMUNITY HEALTH STATUS IMPROVEMENT PROCESS.—The network develops and implements a community health status improvement process, in cooperation with other existing networks and community organizations from the same service area, that—

(A) provides for an assessment of community health status that identifies important health status problems in such area,

(B) implements measures to address such problems, and

(C) evaluates the efficiency and effectiveness of such measures in addressing such problems.

The results of evaluations made pursuant to subparagraph (C) shall be made publicly available on at least an annual basis.

(2) ENROLLMENT.—The network enrolls individuals who are broadly representative of the various age, social, and income groups within the area it serves.

Subtitle F—Improved Access to Rural Health Services

PART 1—ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS UNDER MEDICARE

SEC. 1501. RURAL EMERGENCY ACCESS CARE HOSPITALS DESCRIBED.

Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and negative operating losses, and the closure of the facility would limit the access of individuals residing in the facility's service area to emergency services.

"(D) The facility has entered into (or plans to enter into), with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receives data from and transmits data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' was deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'), except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means medical and other health services furnished by a rural emergency access care hospital.".

SEC. 1502. COVERAGE OF AND PAYMENT FOR SERVICES.

(a) COVERAGE UNDER PART B.—Section 1832(a)(2) of the Social Security Act (42 U.S.C. 1395k(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(b) PAYMENT BASED ON PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IN GENERAL.—Section 1833(a)(6) of the Social Security Act (42 U.S.C. 1395l(a)(6)) is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(2) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) of such Act (42 U.S.C. 1395m(g)) is amended—

(A) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(B) in paragraph (1), by striking "during a year before 1993" and inserting "during a year before the prospective payment system described in paragraph (2) is in effect";

(C) in paragraph (1), by adding at the end the following:

"The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.";

(D) in paragraph (2), by striking "January 1, 1993," and inserting "January 1, 1996,"; and

(E) by adding at the end the following new paragraph:

"(3) APPLICATION OF METHODS TO PAYMENT FOR RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES.—The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

SEC. 1503. EFFECTIVE DATE.

The amendments made by sections 1501 and 1502 shall apply to fiscal years beginning on or after October 1, 1994.

PART 2—RURAL MEDICAL EMERGENCIES AIR TRANSPORT

SEC. 1511. GRANTS TO STATES REGARDING AIRCRAFT FOR TRANSPORTING RURAL VICTIMS OF MEDICAL EMERGENCIES.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1252. GRANTS FOR SYSTEMS TO TRANSPORT RURAL VICTIMS OF MEDICAL EMERGENCIES.

"(a) IN GENERAL.—The Secretary shall make grants to States to assist such States in the creation or enhancement of air medical transport systems that provide victims of medical emergencies in rural areas with access to treatments for the injuries or other conditions resulting from such emergencies.

"(b) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application in such form, made in such manner, and containing such agreements, assurances, and information, including a State plan as required in paragraph (2), as the Secretary determines to be necessary to carry out this section.

"(2) STATE PLAN.—An application submitted under paragraph (1) shall contain a State plan that shall—

"(A) describe the intended uses of the grant proceeds and the geographic areas to be served;

"(B) demonstrates that the geographic areas to be served, as described under subparagraph (A), are rural in nature;

"(C) demonstrate that there is a lack of facilities available and equipped to deliver advanced levels of medical care in the geographic areas to be served;

"(D) demonstrate that in utilizing the grant proceeds for the establishment or enhancement of air medical services the State would be making a cost-effective improvement to existing ground-based or air emergency medical service systems;

"(E) demonstrate that the State will not utilize the grant proceeds to duplicate the capabilities of existing air medical systems that are effectively meeting the emergency medical needs of the populations they serve;

"(F) demonstrate that in utilizing the grant proceeds the State is likely to achieve a reduction in the morbidity and mortality rates of the areas to be served, as determined by the Secretary;

"(G) demonstrate that the State, in utilizing the grant proceeds, will—

"(i) maintain the expenditures of the State for air and ground medical transport systems at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received; and

"(ii) ensure that recipients of direct financial assistance from the State under such grant will maintain expenditures of such recipients for such systems at a level at least equal to the level of such expenditures maintained by such recipients for the fiscal year preceding the fiscal year for which the financial assistance is received;

"(H) demonstrate that persons experienced in the field of air medical service delivery were consulted in the preparation of the State plan;

"(I) contain such other information as the Secretary may determine appropriate.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—In determining whether to award a grant to a State under this section, the Secretary shall—

"(1) consider the rural nature of the areas to be served with the grant proceeds and the services to be provided with such proceeds, as identified in the State plan submitted under subsection (b); and

"(2) give preference to States with State plans that demonstrate an effective integration of the proposed air medical transport systems into a comprehensive network or plan for regional or statewide emergency medical service delivery.

"(d) STATE ADMINISTRATION AND USE OF GRANT.—

"(1) IN GENERAL.—The Secretary may not make a grant to a State under subsection (a) unless the State agrees that such grant will be administered by the State agency with principal responsibility for carrying out programs regarding the provision of medical services to victims of medical emergencies or trauma.

"(2) PERMITTED USES.—A State may use amounts received under a grant awarded under this section to award subgrants to public and private entities operating within the State.

"(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make a grant to a State under subsection (a) unless that State agrees that, in developing and carrying out the State plan under subsection (b)(2), the State will provide public notice with respect to the plan (including any revisions thereto) and facilitate comments from interested persons.

"(e) NUMBER OF GRANTS.—The Secretary shall award grants under this section to not less than 7 States.

"(f) REPORTS.—

"(1) REQUIREMENT.—A State that receives a grant under this section shall annually (during each year in which the grant proceeds are used) prepare and submit to the Secretary a report that shall contain—

"(A) a description of the manner in which the grant proceeds were utilized;

"(B) a description of the effectiveness of the air medical transport programs assisted with grant proceeds; and

"(C) such other information as the Secretary may require.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(2) TERMINATION OF FUNDING.—In reviewing reports submitted under paragraph (1), if the Secretary determines that a State is not using amounts provided under a grant awarded under this section in accordance with the State plan submitted by the State under subsection (b), the Secretary may terminate the payment of amounts under such grant to the State until such time as the Secretary determines that the State comes into compliance with such plan.

"(g) DEFINITION.—As used in this section, the term 'rural areas' means geographic areas that are located outside of standard metropolitan statistical areas, as identified by the Secretary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $15,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1996 and 1997.".

PART 3—EMERGENCY MEDICAL SERVICES AMENDMENTS

SEC. 1521. ESTABLISHMENT OF OFFICE OF EMERGENCY MEDICAL SERVICES.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended—

(1) in the heading for the title, by striking "TRAUMA CARE" and inserting "EMERGENCY MEDICAL SERVICES";

(2) in the heading for part A, by striking "GENERAL" and all that follows and inserting "GENERAL AUTHORITIES AND DUTIES"; and

(3) by amending section 1201 to read as follows:

"SEC. 1201. ESTABLISHMENT OF OFFICE OF EMERGENCY MEDICAL SERVICES.

"(a) IN GENERAL.—The Secretary shall establish an office to be known as the Office of Emergency Medical Services, which shall be headed by a director appointed by the Secretary. The Secretary shall carry out this title acting through the Director of such Office.

"(b) GENERAL AUTHORITIES AND DUTIES.—With respect to emergency medical services (including trauma care), the Secretary shall—

"(1) conduct and support research, training, evaluations, and demonstration projects;

"(2) foster the development of appropriate, modern systems of such services through the sharing of information among agencies and individuals involved in the study and provision of such services;

"(3) sponsor workshops and conferences;

"(4) as appropriate, disseminate to public and private entities information obtained in carrying out paragraphs (1) through (4);

"(5) provide technical assistance to State and local agencies;

"(6) coordinate activities of the Department of Health and Human Services; and

"(7) as appropriate, coordinate activities of such Department with activities of other Federal agencies.

"(c) CERTAIN REQUIREMENTS.—With respect to emergency medical services (including trauma care), the Secretary shall ensure that activities under subsection (b) are carried out regarding—

"(1) maintaining an adequate number of health professionals with expertise in the provision of the services, including hospital-based professionals and prehospital-based professionals;

"(2) developing, periodically reviewing, and revising as appropriate, in collaboration with appropriate public and private entities, guidelines for the provision of such services (including, for various typical circumstances, guidelines on the number and variety of professionals, on equipment, and on training);

"(3) the appropriate use of available technologies, including communications technologies; and

"(4) the unique needs of underserved inner-city areas and underserved rural areas.

"(d) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—In carrying out subsections (b) and (c), the Secretary may make grants and enter into cooperative agreements and contracts.

"(e) DEFINITIONS.—For purposes of this part:

"(1) The term 'hospital-based professional' means a health professional (including an allied health professional) who has expertise in providing one or more emergency medical services and who normally provides the services at a medical facility.

"(2) The term 'prehospital-based professional' means a health professional (including an allied health professional) who has expertise in providing one or more emergency medical services and who normally provides the services at the site of the medical emergency or during transport to a medical facility.".

SEC. 1522. STATE OFFICES OF EMERGENCY MEDICAL SERVICES.

(a) TECHNICAL AMENDMENTS TO FACILITATE ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended—

(A) by redesignating section 1239 as section 1235;

(B) by redesignating sections 1231 and 1233 as sections 1236 and 1237, respectively; and

(C) by redesignating sections 1211 through 1222 as sections 1221 through 1232, respectively.

(2) MODIFICATIONS IN FORMAT OF TITLE XII.—Title XII of the Public Health Service Act, as amended by paragraph (1) of this subsection, is amended—

(A) by striking "PART B" and all that follow through "STATE PLANS" and inserting the following:

"Subpart II—Formula Grants With Respect to Modifications of State Plans";

(B) by striking "PART C—GENERAL PROVISIONS" and inserting the following:

"Subpart III—General Provisions";

(C) by redesignating sections 1202 and 1203 as sections 1211 and 1212, respectively; and

(D) by inserting before section 1211 (as so redesignated) the following:

"PART B—TRAUMA CARE

"Subpart I—Advisory Council; Clearinghouse".

(b) STATE OFFICES.—Title XII of the Public Health Service Act, as amended by subsection (a) of this section, is amended by inserting after section 1201 the following new section:

"SEC. 1202. STATE OFFICES OF EMERGENCY MEDICAL SERVICES.

"(a) PROGRAM OF GRANTS.—The Secretary may make grants to States for the purpose of improving the availability and quality of emergency medical services through the operation of State offices of emergency medical services.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, to provide non-Federal contributions toward such costs in an amount that—

"(A) for the first fiscal year of payments under the grant, is not less than $1 for each $3 of Federal funds provided in the grant;

"(B) for any second fiscal year of such payments, is not less than $1 for each $1 of Federal funds provided in the grant; and

"(C) for any third fiscal year of such payments, is not less than $3 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(A) Subject to subparagraph (B), non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) The Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(i) for the first fiscal year of payments under the grant, 100 percent or less of the non-Federal contributions required in paragraph (1) will be provided in the form of in-kind contributions;

"(ii) for any second fiscal year of such payments, not more than 50 percent of such non-Federal contributions will be provided in the form of in-kind contributions; and

"(iii) for any third fiscal year of such payments, such non-Federal contributions will be provided solely in the form of cash.

"(c) CERTAIN REQUIRED ACTIVITIES.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that activities carried out by an office operated pursuant to such subsection will include—

"(1) coordinating the activities carried out in the State that relate to emergency medical services;

"(2) activities regarding the matters described in paragraphs (1) through (4) section 1201(b);

"(3) identifying Federal and State programs regarding emergency medical services and providing technical assistance to public and nonprofit private entities regarding participation in such programs.

"(d) REQUIREMENT REGARDING ANNUAL BUDGET FOR OFFICE.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, for any fiscal year for which the State receives such a grant, the office operated pursuant to subsection (a) will be provided with an annual budget of not less than $50,000.

"(e) CERTAIN USES OF FUNDS.—

"(1) RESTRICTIONS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(A) if research with respect to emergency medical services is conducted pursuant to the grant, not more than 10 percent of the grant will be expended for such research; and

"(B) the grant will not be expended to provide emergency medical services (including providing cash payments regarding such services).

"(2) ESTABLISHMENT OF OFFICE.—Activities for which a State may expend a grant under subsection (a) include paying the costs of establishing an office of emergency medical services for purposes of such subsection.

"(f) REPORTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees to submit to the Secretary reports containing such information as the Secretary may require regarding activities carried out under this section by the State.

"(g) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.".

SEC. 1523. PROGRAMS FOR RURAL AREAS.

(a) IN GENERAL.—Title XII of the Public Health Service Act, as amended by section 1522, is amended—

(1) by transferring section 1204 to part A;

(2) by redesignating such section as section 1203;

(3) by inserting such section after section 1202; and

(4) in section 1203 (as so redesignated)—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

"(c) DEMONSTRATION PROGRAM REGARDING TELECOMMUNICATIONS.—

"(1) LINKAGES FOR RURAL FACILITIES.—Projects under subsection (a)(1) shall include demonstration projects to establish telecommunications between rural medical facilities and medical facilities that have expertise or equipment that can be utilized by the rural facilities through the telecommunications.

"(2) MODES OF COMMUNICATION.—The Secretary shall ensure that the telecommunications technologies demonstrated under paragraph (1) include interactive video telecommunications, static video imaging transmitted through the telephone system, and facsimiles transmitted through such system.".

(b) CONFORMING AMENDMENT.—Section 1203 of the Public Health Service Act, as redesignated by subsection (a)(2) of this section, is amended in the heading for the section by striking "**establishment**" and all that follows and inserting "**programs for rural areas.**".

SEC. 1524. FUNDING.

Title XII of the Public Health Service Act, as amended by the preceding provisions of this title, is amended—

(1) by redesignating parts C through F as parts D through G, respectively;

(2) by inserting after subpart III of part B the following:

"PART C—FUNDING";

(3) by transferring section 1239 to part C (as so added); and

(4) in such section, by striking subsections (a) and (b) and inserting the following:

"(a) EMERGENCY MEDICAL SERVICES GENERALLY.—

"(1) IN GENERAL.—For the purpose of carrying out section 1201 other than with respect to trauma care, there are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(2) STATE OFFICES.—For the purpose of carrying out section 1202, there are authorized to be appropriated $3,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(3) CERTAIN TELECOMMUNICATIONS DEMONSTRATIONS.—For the purpose of carrying out section 1203(c), there are authorized to be appropriated $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(b) TRAUMA CARE AND CERTAIN OTHER ACTIVITIES.—

"(1) IN GENERAL.—For the purpose of carrying out part B, section 1201 with respect to trauma care, and section 1203 (other than subsection (c) of such section), there are authorized to be appropriated $60,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(2) ALLOCATION OF FUNDS BY SECRETARY.—

"(A) For the purpose of carrying out subpart I of part B, section 1201 with respect to trauma care, and section 1203 (other than subsection (c) of such section), the Secretary shall make available 10 percent of the amounts appropriated for a fiscal year under paragraph (1).

"(B) For the purpose of carrying out section 1203 (other than subsection (c) of such section), the Secretary shall make available 10 percent of the amounts appropriated for a fiscal year under paragraph (1).

"(C)(i) For the purpose of making allotments under section 1221(a), the Secretary shall, subject to subsection (c), make available 80 percent of the amounts appropriated for a fiscal year under paragraph (1).

"(ii) Amounts paid to a State under section 1221(a) for a fiscal year shall, for the purposes for which the amounts were paid, remain available for obligation until the end of the fiscal year immediately following the fiscal year for which the amounts were paid.".

SEC. 1525. CONFORMING AMENDMENTS.

Title XII of the Public Health Service Act, as amended by the preceding provisions of this title, is amended—

(1) in section 1203(b), by striking "1214(c)(1)" and inserting "1224(c)(1)";

(2) in section 1211(b)(3), by striking "1213(c)" and inserting "1223(c)";

(3) in section 1221—

(A) in subsection (a)—

(i) by striking "1218" and inserting "1228"; and

(ii) by striking "1217" and inserting "1227"; and

(B) in subsection (b)—

(i) by striking "1233" and inserting "1237"; and

(ii) by striking "1213" and inserting "1223";

(4) in section 1222—

(A) in subsection (a)—

(i) in paragraph (1), by striking "1211(a)" and inserting "1221(a)"; and

(ii) in paragraph (2)(A), by striking "1211(c)" and inserting "1221(c)"; and

(B) in subsection (b), by striking "1211(a)" and inserting "1221(a)";

(5) in section 1223—

(A) in subsection (a), by striking "1211(b)" and inserting "1221(b)";

(B) in subsection (b)—

(i) in paragraph (1), by striking "1211(a)" and inserting "1221(a)"; and

(ii) in paragraph (3), by striking "1211(a)" and inserting "1221(a)"; and

(C) in subsection (d), by striking "1211(a)" and inserting "1221(a)";

(6) in section 1224—

(A) in each of subsections (a) through (c), by striking "1211(a)" and inserting "1221(a)"; and

(B) in subsection (b), by striking "1213(a)(7)" and inserting "1223(a)(7)";

(7) in section 1225—

(A) in subsection (a)—

(i) by striking "1211(a)" and inserting "1221(a)"; and

(ii) by striking "1233" and inserting "1237"; and

(B) in subsection (b), by striking "1211(b)" and inserting "1221(b)";

(8) in section 1226, in each of subsections (a) through (c), by striking "1211(a)" and inserting "1221(a)";

(9) in section 1227—

(A) by striking "1211(a)" and inserting "1221(a)"; and

(B) by striking "1214" and inserting "1224";

(10) in section 1228—

(A) in each of subsections (a) through (c), by striking "1211(a)" each place such term appears and inserting "1221(a)";

(B) in subsection (b), in each of paragraphs (2)(A) and (3)(A), by striking "1232(a)" and inserting "1239(a)"; and

(C) in subsection (c)(2)—

(i) by striking "1232(b)(3)" and inserting "1239(b)(3)"; and

(ii) by striking "1217" and inserting "1227";

(11) in section 1229(a), by striking "1211(a)" each place such term appears and inserting "1221(a)";

(12) in section 1230(a), by striking "1211(a)" each place such term appears and inserting "1221(a)";

(13) in section 1231—

(A) in each of subsections (a) and (b), by striking "1211(a)" each place such term appears and inserting "1221(a)"; and

(B) in each of subsections (a) and (b), by striking "1211(b)" and inserting "1221(b)";

(14) in section 1232, by striking "1211" and inserting "1221";

(15) in section 1236—

(A) in the matter preceding paragraph (1), by striking "this title" and inserting "this part"; and

(B) in paragraph (1), by striking "1213" and inserting "1223";

(16) in section 1237—

(A) in each of subsections (a) and (b), by striking "1211" each place such term appears and inserting "1221";

(B) in subsection (b)—

(i) by striking "part B" and inserting "subpart II"; and

(ii) by striking "1214(c)(1)" and inserting "1224(c)(1)"; and

(C) in subsection (c), by striking "1213" and inserting "1223"; and

(17) in section 1239(c)(1)—

(A) by striking "1211(a)" and inserting "1221(a)"; and

(B) by striking "1218(a)(2)" and inserting "1228(a)(2)"; and

(C) by striking "part B" and inserting "subpart II".

SEC. 1526. EFFECTIVE DATE.

The amendments made by this part shall take effect October 1, 1994, or upon the date of the enactment of this Act, whichever occurs later.

PART 4—ADDITIONAL RURAL HEALTH CARE PROVISIONS

SEC. 1531. DEVELOPMENT OF COMMUNITY-OPERATED HEALTH PLANS IN RURAL AND FRONTIER AREAS.

(a) COMMUNITY-OPERATED HEALTH PLANS.—The Secretary of Health and Human Services (in this part referred to as the "Secretary") may make grants to public and nonprofit private entities for the purpose of carrying out projects to develop health plans to provide services exclusively in rural and frontier areas.

(b) COMMUNITY INVOLVEMENT.—The Secretary may make a grant under subsection (a) only if the applicant involved meets the following conditions:

(1) In developing the proposal of the applicant for a project under such subsection, the applicant has consulted with the local governments of the geographic area to be served by the health plan developed through the project, with individuals who reside in the area, and with a reasonable number and variety of health professionals who provide services in the area.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) The applicant agrees that the principal legal authority over the operation of the health plan will be vested in individuals who reside in such geographic area.

(3) In the proposal the applicant specifies how a full continuum of services will be provided.

(4) In the proposal the applicant specifies how the proposed health plan will utilize existing health care facilities in a manner that avoids unnecessary duplication.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under this section may be used for the following:

(A) To develop integrated health networks, utilizing existing local providers and facilities where appropriate, with community involvement.

(B) For information systems, including telecommunications.

(C) For transportation services.

(D) To develop rural emergency access care hospitals (as defined in section 1861(oo)(1) of the Social Security Act, as added by section 1501).

(2) LIMITATIONS.—Funds made available under this section shall not be used for the following:

(A) For a telecommunications system, unless the system is coordinated with, and does not duplicate, such a system existing in the area.

(B) For paying off existing debt.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 in each of fiscal years 1996, 1997, and 1998 to carry out this section.

SEC. 1532. PRIMARY HEALTH CARE FOR MEDICALLY UNDERSERVED RURAL COMMUNITIES; INCREASED CAPACITY OF HOSPITALS AND OUTPATIENT FACILITIES.

(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private hospitals in medically underserved rural communities, and to public and nonprofit outpatient facilities in such communities, for the purpose of carrying out projects to develop or increase the capacity of the hospitals and facilities to provide primary health services.

(b) MEDICALLY UNDERSERVED RURAL COMMUNITY.—For purposes of this section, the term "medically underserved rural community" means—

(1) a rural area that has a substantial number of individuals who are members of a medically underserved population, as defined in section 330 of the Public Health Service Act; or

(2) a rural area a significant portion of which is a health professional shortage area designated under section 332 of such Act.

(c) CERTAIN EXPENDITURES.—The purposes for which the Secretary may authorize a grant under subsection (a) to be expended include the renovation of facilities, the purchase of equipment, and the training of personnel.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) HOSPITALS.—There are authorized to be appropriated $50,000,000 in each of fiscal years 1996, 1997, and 1998 for the purpose of making grants to hospitals under subsection (a).

(2) OUTPATIENT FACILITIES.—There are authorized to be appropriated $25,000,000 in each of fiscal years 1996, 1997, and 1998 for the purpose of making grants to outpatient facilities under subsection (a).

SEC. 1533. INNOVATIVE APPROACHES TO DELIVERY OF HEALTH SERVICES IN RURAL AREAS.

(a) IN GENERAL.—The Secretary, acting through the Administrator for Health Care Policy and Research, may make grants to public and nonprofit private entities for the purposes of conducting research and carrying out demonstration projects to develop innovative approaches to the delivery of health care in rural areas, such as the use of telemedicine and the use of mobile delivery units.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 in each of fiscal years 1996 through 2000 to carry out this section.

SEC. 1534. TRAINING OF RURAL HEALTH PROFESSIONALS OTHER THAN PHYSICIANS.

(a) FUNDING FOR PROGRAMS UNDER PUBLIC HEALTH SERVICE ACT.—With respect to programs of title VII or VIII of the Public Health Service Act that provide for the training of individuals as health professionals other than physicians, there are authorized to be appropriated, in addition to amounts otherwise authorized to be appropriated, $50,000,000 in each of fiscal years 1996 through 2000 for the purpose of the Secretary carrying out such programs through entities described in subsection (b).

(b) ELIGIBILITY.—With respect to a program referred to in subsection (a), an entity described in this subsection is an entity—

(1) that is eligible to receive grants or contracts under the program (as provided in the applicable provisions of title VII or VIII of the Public Health Service Act); and

(2) a substantial number of whose designated graduates are providing health services in a rural area.

(c) DEFINITION OF DESIGNATED GRADUATE.—For purposes of this section, the term "designated graduate", with respect to an entity, means an individual completing the training involved during the 5-year period preceding the fiscal year for which the entity is applying to receive a grant or contract under the applicable program referred to in subsection (a).

(d) RELATIONSHIP TO OTHER FUNDS.—The amounts made available in subsection (a) for carrying out programs referred to in such subsection are in addition to any other amounts that are available for carrying out the programs.

SEC. 1535. GENERAL PROVISIONS.

(a) APPLICATION FOR GRANT.—The Secretary may make a grant under any section of this part only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the program involved.

(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to recipients of grants or contracts under this part with respect to the planning, development, and operation of activities under the grants or contracts.

Subtitle G—Assistance in Enrolling Uninsured Children in Health Insurance

SEC. 1601. ESTABLISHMENT OF STATE PROGRAMS.

(a) MEDICAID STATE PLAN REQUIREMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(63) provide for a State program furnishing premium subsidies for needy children in accordance with section 1932.".

(b) STATE PROGRAMS FOR PREMIUM SUBSIDIES FOR NEEDY CHILDREN.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1931 as section 1932 and by inserting after section 1930 the following new section:

"STATE PREMIUM SUBSIDY PROGRAMS FOR NEEDY CHILDREN

"SEC. 1932. (a) REQUIREMENT TO OPERATE STATE PROGRAM.—

"(1) IN GENERAL.—A State with a State plan approved under this title shall have in effect a premium subsidy program for furnishing premium subsidy under subsection (b) to premium subsidy eligible children in the State in fiscal years beginning with fiscal year 1998.

"(2) DESIGNATION OF STATE AGENCY.—A State may designate any appropriate State agency to administer the program under this section.

"(b) ASSISTANCE WITH PREMIUMS FOR STANDARD HEALTH COVERAGE.—

"(1) ELIGIBILITY.—

"(A) IN GENERAL.—An eligible individual who has been determined by a State to be a premium subsidy eligible child (as defined in paragraph (2)) shall be entitled to premium subsidies in the amount determined under subsection (b).

"(B) PREMIUM SUBSIDY ELIGIBLE CHILD.—For purposes of this section, the term 'premium subsidy eligible child' means an individual—

"(i) under 19 years of age,

"(ii) whose family has a family income determined under this section which does not exceed 185 percent (or such lesser percent as the Secretary may specify for a fiscal year, based on available funds during such fiscal year) of the poverty line, and

"(iii) except as provided in subparagraph (C), who is not otherwise eligible for medical assistance under the State plan (or would be eligible for such assistance on the basis of the plan in effect as of the date of the enactment of the Affordable Health Care Now Act of 1994).

"(C) ELIGIBILITY OF CHILDREN BECOMING ELIGIBLE FOR MEDICAID.—At the option of the State, a premium subsidy eligible child may include an individual who meets the requirements of clauses (i) and (ii) of subparagraph (B) and is eligible for medical assistance under the State plan if the individual was formerly a premium subsidy eligible child under subparagraph (B).

"(D) ADDITIONAL CHILDREN USING STATE-ONLY FUNDS.—Nothing in this section shall be construed as preventing a State, using its own funds and without any Federal financial participation, from covering additional children as premium subsidy eligible children.

"(c) AMOUNT OF PREMIUM SUBSIDY.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—The premium subsidy amount determined under this paragraph is a monthly amount equal to the subsidy percentage of ½th of the lesser of—

"(i) the annual premium for certified standard health coverage provided the child, or

"(ii) the actuarial value of the standard option, nationwide service benefit plan (taking into account cost sharing) made available under chapter 89 of title, United States Code for the year, adjusted to reflect a premium for a single child of the age involved and adjusted to reflect the relative cost of premiums for health coverage of premium subsidy eligible children in the geographic area in which the child resides compared to the national average.

"(B) SUBSIDY PERCENTAGE.—For purposes of paragraph (1), an individual's 'subsidy percentage' means 100 percent reduced (but not below zero percent) by 0.85 percentage points for each percentage point (or portion thereof) such individual's income equals or exceeds 100 percent of the poverty line.

"(d) PAYMENTS.—

"(1) IN GENERAL.—The amount of the premium subsidy available to a premium subsidy eligible child under subsection (b) shall be paid by the State in which the individual resides directly to the insurer that provides the coverage for the premium subsidy eligible child. Payments under the preceding sentence shall commence in the first month during which the individual is provided coverage and determined under this section to be a premium subsidy eligible child.

"(2) ADMINISTRATIVE ERRORS.—A State is financially responsible for premium subsidy paid based on an eligibility determination error to the extent the State's error rate for eligibility determinations exceeds a maximum permissible error rate to be specified by the Secretary.

"(e) ELIGIBILITY DETERMINATIONS.—

"(1) IN GENERAL.—The Secretary shall promulgate regulations specifying requirements for State programs under this section with respect to determining eligibility for premium subsidy, including requirements with respect to—

"(A) application procedures;

"(B) information verification procedures;

"(C) timeliness of eligibility determinations;

"(D) procedures for applicants to appeal adverse decisions; and

"(E) any other matters determined appropriate by the Secretary.

"(2) SPECIFICATIONS FOR REGULATIONS.—The regulations promulgated by the Secretary under paragraph (1) shall include the following requirements:

"(A) FREQUENCY OF APPLICATIONS.—A State program shall provide that an individual may file an application for assistance with an agency designated by the State at any time, in person or by mail.

"(B) APPLICATION FORM.—A State program shall provide for the use of an application form developed by the Secretary under this section.

"(C) DISTRIBUTION OF APPLICATIONS.—A State program shall distribute applications for assistance through employers and appropriate public agencies.

"(D) REQUIREMENT TO SUBMIT REVISED APPLICATION.—A State program shall, in accordance with regulations promulgated by the Secretary, require individuals to submit revised applications during a year to reflect changes in estimated family incomes, including changes in employment status of family members, during the year. The State shall revise the amount of any premium subsidy based on such a revised application.

"(E) VERIFICATION.—A State program shall provide for verification of the information supplied in applications under this section. Such verification may include examining return information disclosed to the State for such purpose under section 6103(l)(15) of the Internal Revenue Code of 1986.

"(f) ADMINISTRATION OF STATE PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall establish standards for States operating programs under this section which ensure that such programs are operated in a uniform manner with respect to application procedures, data processing systems, and such other administrative activities as the Secretary determines to be necessary.

"(2) APPLICATION FORMS.—The Secretary shall develop an application form for assistance which shall—

"(A) be simple in form and understandable to the average individual;

"(B) require the provision of information necessary to make a determination as to whether an individual is a premium subsidy eligible child including a declaration of estimated income by the individual based, at the election of the individual—

"(i) on multiplying by a factor of 4 the individual's family income for the 3-month period immediately preceding the month in which the application is made, or

"(ii) on estimated income for the entire year for which the application is submitted; and

"(C) require attachment of such documentation as deemed necessary by the Secretary in order to ensure eligibility for assistance.

"(3) OUTREACH ACTIVITIES.—A State operating a program under this section shall conduct such outreach activities as the Secretary determines appropriate.

"(4) EFFECTIVENESS OF ELIGIBILITY FOR PREMIUM SUBSIDIES.—A determination by a State that an individual is a premium subsidy eligible child shall be effective for the calendar year for which such determination is made unless a revised application submitted under paragraph (2) indicates that an individual is no longer eligible for premium subsidies.

"(5) PENALTIES FOR MATERIAL MISREPRESENTATIONS.—

"(A) IN GENERAL.—Any individual who knowingly makes a material misrepresentation of information in an application for assistance under this section shall be liable to the Federal Government for the amount of any premium subsidy received by individual on the basis of a misrepresentation and interest on such amount at a rate specified by the Secretary, and shall, in addition, be liable to the Federal Government for $2,000 or, if greater, 3 times the amount any premium subsidy received by individual on the basis of a misrepresentation.

"(B) COLLECTION OF PENALTY AMOUNTS.—A State which receives an application for assistance with respect to which a material misrepresentation has been made shall collect the penalty amount required under subparagraph (A) and submit 50 percent of such amount to the Secretary in a timely manner.

"(g) END-OF-YEAR RECONCILIATION FOR PREMIUM SUBSIDY.—

"(1) IN GENERAL.—

"(A) REQUIREMENT TO FILE STATEMENT.—An individual who received premium subsidies under this section from a State for any month in a calendar year shall file with the State an income reconciliation statement to verify the individual's family income for the year. Such a statement shall be filed at such time, and contain such information, as the State may specify in accordance with regulations promulgated by the Secretary.

"(B) NOTICE OF REQUIREMENT.—A State shall provide a written notice of the requirement under subparagraph (A) at the end of the year to an individual who received premium subsidies under this part from such State in any month during the year.

"(2) RECONCILIATION OF PREMIUM SUBSIDY BASED ON ACTUAL INCOME.—

"(A) IN GENERAL.—Based on and using the income reported in the reconciliation statement filed under paragraph (1) with respect to an individual, the State shall compute the amount of premium subsidy that should have been provided under this section with respect to the individual for the year involved.

"(B) OVERPAYMENT OF ASSISTANCE.—If the total amount of the premium subsidy provided was greater than the amount computed under subparagraph (A), the individual is liable to the State to pay an amount equal to the amount of the excess payment. Any amount collected by a State under this subparagraph shall be submitted to the Secretary in a timely manner.

"(C) UNDERPAYMENT OF ASSISTANCE.—If the total amount of the premium subsidy provided was less than the amount computed under subparagraph (A), the State shall pay to the individual an amount equal to the amount of the deficit.

"(D) STATE OPTION.—A State may, in accordance with regulations promulgated by the Secretary, establish a procedure under which any overpayments or underpayments of premium subsidy determined under subparagraphs (A) and (B) with respect to an individual for a year may be collected or paid, as appropriate, through adjustments to the premium subsidy furnished to such individual in the succeeding year.

"(3) VERIFICATION.—Each State may use such information as it has available to verify income of individuals with applications filed under this section, including return information disclosed to the state for such purpose under section 6103(l)(15) of the internal revenue code of 1986.

"(4) PENALTIES FOR FAILURE TO FILE.—In the case of an individual who is required to file a statement under this subsection in a year who fails to file such a statement by such date as the Secretary shall specify in regulations, the entire amount of the premium subsidy provided in such year shall be considered an excess amount under paragraph (2)(A) and such individual shall not be eligible for premium subsidy assistance under this section until such statement is filed. A State, using rules established by the Secretary, shall waive the application of this paragraph if the individual establishes, to the satisfaction of the State under such rules, good cause for the failure to file the statement on a timely basis

"(5) PENALTIES FOR FALSE INFORMATION.—Any individual who provides false information in a statement filed under paragraph (1) is subject to the same penalties as are provided under subsection (f)(5) for a misrepresentation of material fact described in such section.

"(h) SPECIAL RULES ON FEDERAL FINANCIAL PARTICIPATION.—

"(1) PREMIUM SUBSIDY.—In applying section 1903(a)(1) with respect to expenditures for premium subsidy (other than administrative expenses) under this section—

"(A) such expenditures shall be considered to be expenditures on medical assistance;

"(B) in the case of assistance for a premium subsidy eligible child not described in subsection (b)(1)(C), the Federal medical assistance percentage is deemed to be 100 percent, and

"(C) the total amount of Federal financial participation with respect to any State for quarters in any fiscal year shall not exceed the State allotment under subsection (l)(2) for that year.

"(2) ADMINISTRATION EXPENSES.—The amount of expenditures that may be taken into account in computing amounts that are payable to a State under section 1903(a) (other than paragraph (1)) with respect to the administration of the program under this section may not exceed 3 percent of the total expenditures

"(i) TOTAL FEDERAL BUDGET FOR PROGRAM; ALLOTMENTS TO STATES.—

"(1) TOTAL FEDERAL BUDGET.—

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(A) FISCAL YEARS 1998 THROUGH 2004.—Subject to subparagraph (E) (iii), for purposes of this section, the total Federal payments to States under this section may not exceed the following:

"(i) For fiscal year 1998, $5.2 billion.

"(ii) For fiscal year 1999, $7.0 billion.

"(iii) For fiscal year 2000, $10.0 billion.

"(iv) For fiscal year 2001, $11.3 billion.

"(v) For fiscal year 2002, $15.3 billion.

"(vi) For fiscal year 2003, $18.0 billion.

"(vii) For fiscal year 2004, $22.4 billion.

"(B) SUBSEQUENT FISCAL YEARS.—For purposes of this section, the total Federal budget for State plans under this part for each fiscal year after fiscal year 2004 is the total Federal budget under this subsection for the preceding fiscal year multiplied by the Secretary's estimate of the percentage increase in private sector health expenditures for the year.

"(2) ALLOTMENTS TO STATES.—

"(A) IN GENERAL.—The amount of a State's allotment under this section for a fiscal year shall be equal to the product of—

"(i) the limit on the total amount of Federal payments for the year under paragraph (1)(A); and

"(ii) the State's allotment percentage under subparagraph (B).

"(B) STATE ALLOTMENT PERCENTAGE.—In subparagraph (A), a State's allotment percentage for a fiscal year is equal to the percentage of all premium subsidy eligible children in the United States who are residents of the State (as estimated by the Secretary prior to the beginning of the fiscal year).

"(j) CERTIFIED STANDARD HEALTH COVERAGE DEFINED.—

"(1) IN GENERAL.—In this section, health insurance coverage is considered to provide certified standard health coverage if—

"(A) benefits under such coverage are provided within at least each of the required categories of benefits described in subparagraph (A) of paragraph (2) and consistent with such paragraph;

"(B) the actuarial value of the benefits meets the requirements of paragraph (3),

"(C) the benefits comply with the minimum requirements specified in paragraph (4), and

"(D) the benefits do not violate the antidiscrimination rules described in paragraph (5).

"(2) REQUIRED CATEGORIES OF COVERED BENEFITS.—

"(A) IN GENERAL.—The categories of covered benefits described in this subparagraph are the types of benefits specified in subparagraphs (A), (B), (C), (D), and (F) of paragraph (1), and subparagraphs (E) and (F) of paragraph (2), of section 8904(a) of title 5, United States Code (relating to types of benefits required to be in health insurance offered to Federal employees).

"(B) COVERAGE OF OFF-LABEL USE.—An off-label use for a drug that has been found to be safe and effective under section 505 of the Federal Food, Drug, and Cosmetic Act shall be covered if the medical indication for which it is used is listed in one of the following 3 compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, and the United States Pharmacopeia-Drug Information.

"(C) NO COVERAGE OF SPECIFIC TREATMENT, PROCEDURES, OR CLASSES REQUIRED.—Nothing in this subsection may be construed to require the coverage of any specific procedure or treatment or class of service in certified standard health coverage under this Act or through regulation.

"(3) STANDARD ACTUARIAL VALUE.—

"(A) IN GENERAL.—The actuarial value of the benefits under standard coverage in a rating area meets the requirements of this paragraph if such value is equivalent to the standard actuarial value described in subparagraph (B) for the area, as adjusted for inflation under subparagraph (D). The actuarial value of benefits under standard coverage shall be determined using the standardized population and set of standardized utilization and cost factors described in subparagraph (C).

"(B) STANDARD ACTUARIAL VALUE DESCRIBED.—The standard actuarial value described in this subparagraph for coverage in a geographic area is the actuarial value of benchmark coverage during 1994 in such area. Such actuarial value shall be determined using the standardized population and set of standardized utilization and cost factors described in subparagraph (C).

"(C) ADJUSTMENTS FOR STANDARDIZED POPULATION, STANDARDIZED UTILIZATION AND COST FACTORS, AND GEOGRAPHIC AREA.—The adjustment under this subparagraph—

"(i) for a standardized population shall be made by not taking into account individuals 65 years of age or older, employees of the United States Postal Service, and retirees; and

"(ii) for a geographic area shall be made in a manner that reflects the ratio of the actuarial value of benchmark coverage in such geographic area (as adjusted under clause (i)) to such actuarial value for such benchmark coverage for the United States as a whole, taking into account standardized actuarial utilization and cost factors.

"(D) ADJUSTMENT FOR INFLATION.—

"(i) IN GENERAL.—The adjustment under this paragraph for a year (beginning with 1995) is the FEHBP national rolling increase percentage for the year involved, compounded by such increase for each preceding year after 1994.

"(ii) FEHBP NATIONAL ROLLING INCREASE PERCENTAGE.—For purposes of this paragraph, the term "FEHBP national rolling increase percentage" means, for a year, the 5-year average of the annual national percentage increase in the premiums for health plans offered under the Federal Employees Health Benefits Program (under chapter 89 of title 5, United States Code) for the period ending with the previous year. Such increase shall be determined by the Secretary in consultation with the Director of Office of Personnel Management based on the best information available.

"(4) MINIMUM REQUIREMENTS.—Benefits offered under standard coverage within any category shall be not less than the narrowest scope and shortest duration of benefits within that category, in an approved health benefits plan under chapter 89 of title 5, United States Code, except that under such coverage—

"(A) no cost-sharing may be imposed for preventive services (as specified by the Secretary); and

"(B) any cost-sharing imposed for other items and services may only be nominal.

"(k) DEFINITIONS; DETERMINATIONS OF INCOME.—For purposes of this part:

"(1) DETERMINATIONS OF INCOME.—

"(A) FAMILY INCOME.—The term 'family income' means, with respect to an individual who—

"(i) is not a dependent (as defined in subparagraph (B)) of another individual, the sum of the modified adjusted gross incomes (as defined in subparagraph (D)) for the individual, the individual's spouse, and dependents of the individual; or

"(ii) is a dependent of another individual, the sum of the modified adjusted gross incomes for the other individual, the other individual's spouse, and dependents of the other individual.

"(B) DEPENDENT.—The term 'dependent' shall have the meaning given such term under paragraphs (1) or (2) of section 152(a) of the Internal Revenue Code of 1986.

"(C) SPECIAL RULE FOR FOSTER CHILDREN.—For purposes of subparagraph (A), a child who is placed in foster care by a State agency shall not be considered a dependent of another individual.

"(D) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986)—

"(i) determined without regard to sections 135, 162(l), 911, 931, and 933 of such Code, and

"(ii) increased by—

"(I) the amount of interest received or accrued by the individual during the taxable year which is exempt from tax, and

"(II) the amount of the social security benefits (as defined in section 86(d) of such Code) received during the taxable year to the extent not included in gross income under section 86 of such Code.

The determination under the preceding sentence shall be made without regard to any carryover or carryback.

"(2) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means an individual who is residing in the United States and who is—

"(i) a citizen or national of the United States; or

"(ii) an alien permanently residing in the United States under color of law (as defined in subparagraph (C)).

"(B) EXCLUSION.—The term 'eligible individual' shall not include an individual who is an inmate of a public institution (except as a patient of a medical institution).

"(C) ALIEN PERMANENTLY RESIDING IN THE UNITED STATES UNDER COLOR OF LAW.—The term 'alien permanently residing in the United States under color of law' means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act), and includes any of the following:

"(i) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

"(ii) An alien who is granted asylum under section 208 of such Act.

"(iii) An alien whose deportation is withheld under section 243(h) of such Act.

"(iv) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

"(v) An alien who has been paroled into the United States under section 212(d)(5) of such Act for an indefinite period or who has been granted extended voluntary departure as a member of a nationality group.

"(vi) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent residence is pending.

"(3) POVERTY LINE.—The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that—

"(A) in the case of a family of less than five individuals, is applicable to a family of the size involved; and

"(B) in the case of a family of more than four individuals, is applicable to a family of four persons.

"(4) PREMIUM.—Any reference to the term 'premium' includes a reference to premium equivalence for self-insured plans.".

Subtitle H—Medicaid Reform

PART 1—STATE FLEXIBILITY IN THE MEDICAID PROGRAM: THE MEDICAL HEALTH ALLOWANCE PROGRAM

SEC. 1701. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), as amended by section 1601, is further amended—

(1) by redesignating section 1932 as section 1933; and

(2) by inserting after section 1931 the following new section:

"STATE HEALTH ALLOWANCE PROGRAMS

"SEC. 1932. (a) TREATMENT OF EXPENDITURES UNDER HEALTH ALLOWANCE PROGRAMS AS MEDICAL ASSISTANCE UNDER STATE PLAN.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, for purposes of determining the amount to be paid to a State under section 1903(a)(1) for quarters in any fiscal year, amounts expended by an eligible State (as described in subsection (b)) during the fiscal year under a State health allowance program (as described in subsection (c)) shall be included in the total amount expended during the fiscal year as medical assistance under the State plan (except as provided under paragraphs (2) and (3) and under subsection (d)(1)(C)).

"(2) FEDERAL PAYMENT RESTRICTED TO ACUTE CARE SERVICES.—No amounts expended under a State health allowance program that are attributable to medical assistance described in paragraphs (4), (14), (15), (23), or (24) of section 1905(a) shall be included in the total amount expended as medical assistance under the State plan.

"(3) AMOUNT OF FEDERAL PAYMENT BASED UPON UNUSED PREMIUM SUBSIDY PROGRAM ALLOTMENT.—In no case shall this subsection result in the total Federal payments to the State under this title (including payments attributable to this section and section 1923) for quarters in a fiscal year exceeding an amount equal to the difference between—

"(A) the State's allotment for the premium subsidy program for children under section 1931(i)(2) for such fiscal year; and

"(B) the amount paid to the State for such program for such fiscal year.

"(b) ELIGIBILITY OF STATE.—A State is eligible for purposes of subsection (a) if the State submits (at such time and in such form as the Secretary may require) an application to the Secretary containing such information and assurances as the Secretary may require, including assurances that the State has adopted and is enforcing standards regarding quality assurance for group health plans participating in the State health allowance program, including standards regarding—

"(1) uniform reporting requirements for such plans relating to a minimum set of clinical data, patient satisfaction data, and other information that may be used by individuals to compare the quality of various plans; and

"(2) the establishment or designation of an entity of the State government to collect the data described in subparagraph (A) and to regularly report such data to the Secretary.

"(c) STATE HEALTH ALLOWANCE PROGRAM DESCRIBED.—

"(1) ENROLLMENT OF PARTICIPATING INDIVIDUALS IN APPROVED GROUP HEALTH PLANS.—In this section, a State health allowance program is a program in effect in all the political subdivisions of the State (except as provided in (c)) under which the State makes payments to a group health plan (approved under paragraph (2)) which provides coverage to the individual as an allowance towards the costs of providing the individual with benefits under the plan.

"(2) APPROVED PLANS DESCRIBED.—For purposes of paragraph (1), a State shall approve group health plans in accordance with such standards as the State may establish, except that—

"(A) the State may not approve a plan for a year unless the plan provides certified standard health coverage described in section 1931(j);

"(B) at least one of the plans approved by the State shall be a health maintenance organization or other plan under which payments are otherwise made on a capitated basis for providing medical assistance to individuals enrolled in the State plan under this title; and

"(C) in the case of an individual who is entitled to benefits under the State plan under this title as of the first month during which the State health allowance program is in effect, an approved plan may not require the individual to contribute a greater amount of cost-sharing than the individual would have been required to contribute under the State plan (except as may be imposed on an individual described in subparagraph (B) or subparagraph (C) of subsection (d)(1)).

"(3) WAIVER OF STATEWIDENESS REQUIREMENT.—At the request of a State, the Secretary may waive for a period not to exceed 3 years (subject to one 3-year extension) the requirement under paragraph (1) that the State health allowance program be in effect in all political subdivisions of the State.

"(d) ELIGIBILITY OF INDIVIDUALS TO PARTICIPATE IN ALLOWANCE PROGRAM.—

"(1) AUTOMATIC ELIGIBILITY OF MEDICAID CATEGORICALLY ELIGIBLE INDIVIDUALS.—Subject to subsection (e), any individual to whom the State makes medical assistance available under the State plan under this title pursuant to clause (i) of section 1902(a)(10)(A) shall be eligible to participate in the State health allowance program.

"(2) MANDATORY ELIGIBILITY OF PREGNANT WOMEN WITH INCOME UNDER 150 PERCENT OF THE POVERTY LEVEL.—

"(A) IN GENERAL.—Subject to subsection (e) and subparagraph (B), an individual lawfully residing in the State shall be eligible to participate in the program if the individual is a pregnant woman and the income of the individual's family is equal to or less than 150 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1991) applicable to a family of the size involved.

"(B) EXCEPTION.—If the application of subparagraph (A) would result in—

"(i) the total State expenditures for a quarter under this title (including expenditures attributable to this section and section 1923), exceeding

"(ii) the total State expenditures that the Secretary estimates would have been made under this title for the quarter if the State did not have a program under this section,

then there shall be substituted for 150 percent in subparagraph (A) such percent as would result in the amount described in clause (i) equaling the amount described in clause (ii).

"(3) OPTIONAL ELIGIBILITY OF OTHER INDIVIDUALS WITH INCOME UP TO 150 PERCENT OF POVERTY LEVEL.—

"(A) IN GENERAL.—Subject to subsection (e), a State operating a State health allowance program under this section may make an individual lawfully residing in the State who is not described in paragraph (2) eligible to participate in the program if the income of the individual's family is not greater than 150 percent of such officiai poverty line.

"(B) CONTRIBUTION MAY BE REQUIRED.—In the case of an individual who is participating in the program under this paragraph and whose family income is greater than 100 percent of the official poverty line, the program may require such an individual to contribute all (or a portion) of the premiums for such a group health plan if the amount of such contribution is determined in accordance with a sliding scale based on the individual's family income.

"(e) EXCLUSION AND USE OF RESOURCE STANDARD.—

"(1) EXCLUSION OF ELDERLY MEDICARE-ELIGIBLE INDIVIDUALS.—No individual shall be eligible to participate in the program if the individual is entitled to benefits under title XVIII pursuant to section 226.

"(2) USE OF RESOURCE STANDARD.—A State may require an individual to meet a resource standard as a condition of eligibility to participate in the program only if the Secretary approves the State's use of such a standard.

"(f) CONSTRUCTION.—No provision of any Federal law shall prevent a State from enrolling any employee or other individual in accordance with this section. The previous sentence shall not be construed as permitting a State to require the employer of an individual participating in the program to contribute toward the individual's premium required for such participation.

"(g) EVALUATIONS AND REPORTS.—

"(1) EVALUATIONS.—Not later than 3 years after the date of the enactment of this section (and at such subsequent intervals as the Secretary considers appropriate), the Secretary shall evaluate the effectiveness of the State health allowance programs for which Federal financial participation is provided under this section, and the impact of such programs on increasing the number of individuals with health insurance coverage in participating States and in controlling the costs of health care in such States.

"(2) REPORTS.—Not later than 3 years after the date of the enactment of this section (and at such subsequent intervals as the Secretary considers appropriate), the Secretary shall submit a report on the program to Congress.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after January 1, 1996.

SEC. 1702. OPTIONAL USE OF PROGRAM TO OFFER COVERAGE TO SOME OR ALL STATE RESIDENTS.

Section 1932 of the Social Security Act, as inserted by section 1701(a)(2), is amended—

(1) in subsection (c)(2)(A), in the matter before clause (i), by inserting ", except as provided in subsection (d)(4)(B)(iii)," after "unless", and

(2) by adding at the end of subsection (d) the following new paragraphs:

"(4) OPTIONAL ENROLLMENT OF OTHER INDIVIDUALS.—

"(A) IN GENERAL.—Subject to subsection (e), a State operating a State health allowance program under this section may make any individual (or class of individuals) who is not described in paragraph (1), (2), or (3) and

VOL 140 PT 15 AG 10 — 11 1994 UMI

who is not offered coverage under an employer group health plan eligible to participate in the program.

"(B) SPECIAL RULES.—

"(i) CONTRIBUTION MAY BE REQUIRED.—In the case of an individual who is participating in the program under this paragraph, the program may require such an individual to contribute all (or a portion) of the premiums and cost-sharing of such a group health plan.

"(ii) NO FEDERAL MATCHING PAYMENTS.—For purposes of payment to States under section 1903(a), no amounts expended by the State under the program during a fiscal year on behalf of an individual enrolled under subparagraph (A) may be included in the total amount expended during the fiscal year as medical assistance under the State plan.

"(5) OFFERING OF COVERAGE THROUGH OTHER PROGRAMS.—Nothing in this section shall be construed as preventing a State which—

"(A) does not operate a State health allowance program under this section from assuring that individuals in the State who are not offered coverage under an employer group health plan are offered coverage under a health plan, or

"(B) does operate such a program from assuring that individuals in the State who are not described in paragraph (1), (2), or (3) and who are not offered coverage under an employer group health plan are offered coverage under a health plan other than through such program.".

PART 2—MEDICAID PROGRAM FLEXIBILITY

SEC. 1711. MODIFICATION OF FEDERAL REQUIREMENTS TO ALLOW STATES MORE FLEXIBILITY IN CONTRACTING FOR COORDINATED CARE SERVICES UNDER MEDICAID.

(a) IN GENERAL.—Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended—

(1) by striking all that precedes paragraph (4) and inserting the following:

"(m) COORDINATED CARE.—

"(1) PAYMENT CONDITIONED ON COMPLIANCE.—

"(A) GENERAL RULE.—No payment shall be made under this title to a State with respect to expenditures incurred by it for payment to a risk contracting entity or primary care case management entity (as defined in subparagraph (B)), or with respect to an undertaking described in paragraph (6), unless the State and the entity or undertaking meet the applicable requirements of this subsection. For purposes of determining whether payment may be made under this section, the Secretary may reject a State's determination of compliance with any provision of this subsection.

"(B) GENERAL DEFINITIONS.—For purposes of this title—

"(i) RISK CONTRACTING ENTITY.—The term 'risk contracting entity' means an entity that has a contract with the State agency under which the entity—

"(I) provides or arranges for the provision of health care items or services to individuals eligible for medical assistance under the State plan under this title, and

"(II) is at risk (as defined in clause (iv)) for part or all of the cost of such items or services furnished to such individuals.

"(ii) PRIMARY CARE CASE MANAGEMENT PROGRAM.—The term 'primary care case management program' means a State program under which individuals eligible for medical assistance under the State plan under this title are enrolled with primary care case management entities, and are entitled to receive specified health care items and services covered under such plan only as arranged for and approved by such entities.

"(iii) AT RISK.—An entity is 'at risk', for purposes of this subparagraph, if it has a contract with the State agency under which it is paid a fixed amount for providing or arranging for the provision of specified health care items or services to an individual eligible for medical assistance and enrolled with the entity, regardless of whether such items or services are furnished to such individual, and is liable for all or part of the cost of furnishing such items or services, regardless of whether or the extent to which such cost exceeds such fixed payment.

"(iv) PRIMARY CARE CASE MANAGEMENT ENTITY.—The term 'primary care case management entity' means a health care provider (whether an individual or an entity) that, under a State primary care case management program meeting the requirements of paragraph (7), has a contract with the State agency under which the entity arranges for or authorizes the provision of health care items and services to individuals eligible for medical assistance under the State plan under this title, but is not at risk (as defined in clause (iv)) for the cost of such items or services provided to such individuals.

"(2) GENERAL REQUIREMENTS FOR RISK CONTRACTING ENTITIES.—

"(A) FEDERAL OR STATE QUALIFICATION.—Subject to paragraph (3), a risk contracting entity meets the requirements of this subsection only if it either—

"(i) is a qualified health maintenance organization as defined in section 1310(d) of the Public Health Service Act, as determined by the Secretary pursuant to section 1312 of that Act, or

"(ii) is an entity which the State agency has determined—

"(I) affords, to individuals eligible for medical assistance under the State plan and enrolled with the entity, access to health care items and services furnished by the entity, within the area served by the entity, at least equivalent to the access such individuals would have to such health care items and services in such area if not enrolled with the entity, and

"(II) has made adequate provision against the risk of insolvency, and assures that individuals eligible for medical assistance under this title are not held liable for the entity's debts in case of the entity's insolvency.

"(B) INTERNAL QUALITY ASSURANCE.—Subject to paragraph (3), a risk contracting entity meets the requirements of this subsection only if it has in effect an internal quality assurance program that meets the requirements of paragraph (9).

"(C) CONTRACT WITH STATE AGENCY.—Subject to paragraph (3), a risk contracting entity meets the requirements of this subsection only if the entity has a written contract with the State agency that provides—

"(i) that the entity will comply with all applicable provisions of this subsection;

"(ii) for a payment methodology based on experience rating or another actuarially sound methodology approved by the Secretary, which guarantees (as demonstrated by such models or formulas as the Secretary may approve) that payments to the entity under the contract shall not exceed 100 percent of expenditures that would have been made by the State agency in the absence of the contract;

"(iii) that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the entity (and of any subcontractor) that pertain—

"(I) to the ability of the entity to bear the risk of potential financial losses, or

"(II) to services performed or determinations of amounts payable under the contract;

"(iv) that in the entity's enrollment, reenrollment, or disenrollment of individuals eligible for medical assistance under this title and eligible to enroll, reenroll, or disenroll with the entity pursuant to the contract, the entity will not discriminate among such individuals on the basis of their health status or requirements for health care services;

"(v)(I) that individuals eligible for medical assistance under the State plan who have enrolled with the entity are permitted to terminate such enrollment without cause as of the beginning of the first calendar month following a full calendar month after the request is made for such termination (or at such times as required pursuant to paragraph (8)), and

"(II) for notification of each such individual, at the time of the individual's enrollment, of the right to terminate enrollment;

"(vi) for reimbursement, either by the entity or by the State agency, for medically necessary services provided—

"(I) to an individual eligible for medical assistance under the State plan and enrolled with the entity, and

"(II) other than through the entity because the services were immediately required due to an unforeseen illness, injury, or condition;

"(vii) for disclosure of information in accordance with paragraph (4);

"(viii) in the case of an entity that has entered into a contract with a Federally-qualified health center for the provision of services of such center—

"(I) that rates of prepayment from the State are adjusted to reflect fully the rates of payment specified in section 1902(a)(13)(E), and

"(II) that, at the election of such center, payments made by the entity to such center for services described in section 1905(a)(2)(C) are made at the rates of payment specified in section 1902(a)(13)(E);

"(ix) that any physician incentive plan that the entity operates meets the requirements of section 1876(i)(8);

"(x) for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients; and

"(xi) that the entity complies with the requirement of section 1902(w) with respect to each enrollee.

"(3) EXCEPTIONS TO REQUIREMENTS FOR RISK CONTRACTING ENTITIES.—The requirements of paragraph (2) (other than subparagraph (C)(viii)) do not apply to an entity that—

"(A)(i) received a grant of at least $100,000 in the fiscal year ending June 30, 1976, under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act, and for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title, has been the recipient of a grant under either such section; and

"(ii) provides to its enrollees, on a prepaid capitation or other risk basis, all of the services described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1905(a) and, to the extent required by section 1902(a)(10)(D) to be provided under the State plan, the services described in section 1905(a)(7);

"(B) is a nonprofit primary health care entity located in a rural area (as defined by the Appalachian Regional Commission)—

"(i) which received in the fiscal year ending June 30, 1976, at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965), and

"(ii) for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title either has been the recipient of a grant, subgrant, or subcontract under such Act or has provided services under a contract (initially entered into during a year in which the entity was the recipient of such a grant, subgrant, or subcontract) with a State agency under this title on a prepaid capitation or other risk basis; or

"(C) which has contracted with the State agency for the provision of services (but not including inpatient hospital services) to persons eligible for medical assistance under this title on a prepaid risk basis prior to 1970."; and

(2) by adding after paragraph (6) the following new paragraphs:

"(7) GENERAL REQUIREMENTS FOR PRIMARY CARE CASE MANAGEMENT.—A State that elects in its State plan under this title to implement a primary care case management program under this subsection shall include in the plan methods for the selection and monitoring of participating primary care case management entities to ensure that—

"(A) the numbers, geographic locations, hours of operation, and other relevant characteristics of such entities are sufficient to afford individuals eligible for medical assistance reasonable access to and choice among such entities;

"(B) such entities and their professional personnel are qualified to provide health care case management services, through methods including ongoing monitoring of compliance with applicable requirements for licensing of health care providers, providing training and certification of primary care case managers, and providing information and technical assistance; and

"(C) such entities are making timely and appropriate decisions with respect to enrollees' need for health care items and services, and are giving timely approval and referral to providers of adequate quality where such items and services are determined to be medically necessary.

"(8) STATE OPTIONS WITH RESPECT TO ENROLLMENT AND DISENROLLMENT.—

"(A) MANDATORY ENROLLMENT OPTION.—A State plan may require an individual eligible for medical assistance under the State plan (other than a medicare qualified beneficiary) to enroll with a risk contracting entity or primary care case management entity, without regard to the requirement of section 1902(a)(1) (concerning statewideness), the requirements of section 1902(a)(10)(B) (concerning comparability of benefits), or the requirements of section 1902(a)(23) (concerning freedom of choice of provider), if the individual is permitted a choice—

"(i) between or among two or more risk contracting entities,

"(ii) between a risk contracting entity and a primary care case management entity, or

"(iii) between or among two or more primary care case management entities.

"(B)(i) RESTRICTIONS ON DISENROLLMENT WITHOUT CAUSE.—A State plan may restrict the period in which individuals enrolled with a qualifying risk contracting entity (as defined in clause (ii)) may terminate such enrollment without cause to the first month of each period of enrollment (as defined in clause (iii)), but only if the State provides notification, at least once during each such enrollment period, to individuals enrolled with such entity of the right to terminate such enrollment and the restriction on the exercise of this right. Such restriction shall not apply to requests for termination of enrollment for cause.

"(ii) For purposes of this subparagraph, the term 'qualifying risk contracting entity' means a risk contracting entity that is—

"(I) a qualified health maintenance organization as defined in section 1310(d) of the Public Health Service Act;

"(II) an eligible organization with a contract under section 1876;

"(III) an entity that is receiving (and has received during the previous 2 years) a grant of at least $100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act;

"(IV) an entity that is receiving (and has received during the previous 2 years) at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965;

"(V) a program pursuant to an undertaking described in paragraph (6) in which at least 25 percent of the membership enrolled on a prepaid basis are individuals who (I) are not insured for benefits under part B of title XVIII or eligible for medical assistance under this title, and (II) (in the case of such individuals whose prepayments are made in whole or in part by any government entity) had the opportunity at the time of enrollment in the program to elect other coverage of health care costs that would have been paid in whole or in part by any governmental entity; or

"(VI) an entity that, on the date of enactment of this provision, had a contract with the State agency under a waiver under section 1115 or 1915(b) and was not subject to a requirement under this subsection to permit disenrollment without cause.

"(iii) For purposes of this subparagraph, the term 'period of enrollment' means—

"(I) a period not to exceed 6 months in duration, or

"(II) a period not to exceed one year in duration, in the case of a State that, on the effective date of this subparagraph, had in effect a waiver under section 1115 of requirements under this title under which the State could establish a 1-year minimum period of enrollment with risk contracting entities.

"(C) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—In the case of an individual who—

"(i) in a month is eligible for medical assistance under the State plan and enrolled with a risk contracting entity with a contract under this subsection,

"(ii) in the next month (or next 2 months) is not eligible for such medical assistance, but

"(iii) in the succeeding month is again eligible for such benefits,

the State plan may enroll the individual for that succeeding month with such entity, if the entity continues to have a contract with the State agency under this subsection.

"(9) REQUIREMENTS FOR INTERNAL QUALITY ASSURANCE PROGRAMS.—The requirements for an internal quality assurance program of a risk contracting entity are that program is written and the program—

"(A) specifies a systematic process including ongoing monitoring, corrective action, and other appropriate activities to achieve specified and measurable goals and objectives for quality of care, and including annual evaluation of the program;

"(B) identifies the organizational units responsible for performing specific quality assurance functions, and ensure that they are accountable to the governing body of the entity and that they have adequate supervision, staff, and other necessary resources to perform these functions effectively;

"(C) if any quality assistance functions are delegated to other entities, ensures that the risk contracting entity remains accountable for all quality assurance functions, and has mechanisms to ensure that all quality assurance activities are carried out;

"(D) includes methods to ensure that physicians and other health care professionals under contract with the entity are qualified to perform the services they provide, and that these qualifications are ensured through appropriate credentialing and recredentialing procedures;

"(E) includes policies addressing enrollee rights and responsibilities, including grievance mechanisms and mechanisms to inform enrollees about access to and use of services provided by the entity;

"(F) provides for continuous monitoring of the delivery of health care, including—

"(i) identification of clinical areas to be monitored,

"(ii) use of quality indicators and standards for assessing care delivered, including availability and accessibility of care,

"(iii) monitoring, through use of epidemiological data or chart review, the care of individuals, as appropriate, and patterns of care overall, and

"(iv) implementation of corrective actions; and

"(G) meets any other requirements prescribed by the Secretary after consultation with States.

"(10) INDEPENDENT REVIEW AND QUALITY ASSURANCE.—

"(A) STATE GRIEVANCE PROCEDURE.—A State contracting with a risk contracting entity or primary care case management entity under this subsection shall provide for a grievance procedure for enrollees of such entity with at least the following elements:

"(i) A toll-free telephone number for enrollee questions and grievances.

"(ii) A State-operated enrollee grievance procedure.

"(iii) Periodic notification of enrollees of their rights with respect to such entity or program.

"(iv) Periodic sample reviews of grievances registered with such entity or program or with the State.

"(v) Periodic survey and analysis of enrollee satisfaction with such entity or program.

"(B) STATE MONITORING OF RISK CONTRACTING ENTITIES' QUALITY ASSURANCE PROGRAMS.—A State contracting with a risk contracting entity under this subsection shall periodically review such entity's quality assurance program to ensure that it meets the requirements of paragraph (9).

"(C) EXTERNAL INDEPENDENT REVIEW OF INTERNAL QUALITY ASSURANCE.—A State contracting with a risk contracting entity under this subsection shall provide for annual external independent review (by a utilization control and peer review organization with a contract under section 1153, or another organization unaffiliated with the State government approved by the Secretary) of such entity's internal quality assurance activities. Such independent review shall include—

"(i) review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of inappropriate utilization and treatment,

"(ii) review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine quality trends,

"(iii) review of the entity's internal quality assurance activities, and

"(iv) notification of the entity and the State, and appropriate followup activities, when the review under this subparagraph indicates inappropriate care or treatment.".

VOL 140 PT 15 AG 10 — 11 1994 UMI

(b) STATE OPTION TO GUARANTEE MEDICAID ELIGIBILITY.—Section 1902(e)(2) of such Act (42 U.S.C. 1396a(e)(2)) is amended—

(A) in subparagraph (A), by striking all that precedes "(but for this paragraph)" and inserting "In the case of an individual who is enrolled—

"(i) with a risk contracting entity (as defined in section 1903(m)(1)(B)(i)) responsible for the provision of inpatient hospital services and any other service described in paragraphs (2), (3), (4), (5), and (7) of section 1905(a),

"(ii) with any risk contracting entity (as so defined) in a State that, on the effective date of this provision, had in effect a waiver under section 1115 of requirements under this title under which the State could extend eligibility for medical assistance for enrollees of such entity, or

"(iii) with an eligible organization with a contract under section 1876 and who would", and

(B) in subparagraph (B), by striking "organization or" each place it appears.

(c) CONFORMING AMENDMENTS.—

(1) Section 1128(b)(6)(C)(i) of such Act (42 U.S.C. 1320a-7(b)(6)(C)(i)) is amended by striking "health maintenance organization" and inserting "risk contracting entity".

(2) Section 1902(a)(25)(A) of such Act (42 U.S.C. 1396a(a)(25)(A)), as amended by section 13622(a)(1) of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "health maintenance organizations" and inserting "risk contracting entities".

(3) Section 1902(a)(25)(H) of such Act (42 U.S.C. 1396a(a)(25)(H)), as added by section 13622(b)(3) of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "health maintenance organization" and inserting "risk contracting entity".

(4) Section 1902(a)(30)(C) of such Act (42 U.S.C. 1396a(a)(30)(C)) is amended by striking all that precedes "with the results" and inserting "provide for independent review and quality assurance of entities with contracts under section 1903(m), in accordance with paragraph (10) of such section,".

(5) Section 1902(a)(57) of such Act (42 U.S.C. 1396a(a)(57)) is amended by striking "or health maintenance organization" and inserting "or risk contracting entity".

(6) Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by sections 13623(a), 13625(a), and 13631(a) of the Omnibus Budget Reconciliation Act of 1993, is amended—

(A) by striking "and" at the end of paragraph (61);

(B) by striking the period at the end of paragraph (62) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(63) at State option, provide for a primary care case management program in accordance with section 1903(m)(7).".

(7) Section 1902(p)(2) of such Act (42 U.S.C. 1396a(p)(2)) is amended by striking "health maintenance organization" and inserting "risk contracting entity".

(8) Section 1902(w) of such Act (42 U.S.C. 1396a(w)) is amended—

(A) in paragraph (1), by striking "section 1903(m)(1)(A)" and inserting "section 1903(m)(2)(A)(xi)", and

(B) in paragraph (2)(E), by striking "health maintenance organization" and "the organization" and inserting "risk contracting entity" and "the entity", respectively.

(9) Section 1903(k) of such Act (42 U.S.C. 1396b(k)) is amended by striking "health maintenance organization" and inserting "risk contracting entity".

(10) Section 1903(m)(4)(A) of such Act (42 U.S.C. 1396b(m)(4)(A)) is amended—

(A) in the first sentence, by striking "Each health maintenance organization" and inserting "Each risk contracting entity",

(B) in the first sentence, by striking "the organization" each place it appears and inserting "the entity", and

(C) in the second sentence, by striking "an organization" and "the organization" and inserting "a risk contracting entity" and "the risk contracting entity", respectively.

(11) Section 1903(m)(4)(B) of such Act (42 U.S.C. 1396b(m)(4)(B)) is amended by striking "organization" and inserting "risk contracting entity".

(12) Section 1903(m)(5) of such Act (42 U.S.C. 1396b(m)(5)) is amended in paragraphs (A)(iii) and (B)(ii) by striking "organization" and inserting "entity".

(13) Section 1903(o) (42 U.S.C. 1396b(o)), as amended by section 13622(a)(2) of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "health maintenance organization" and inserting "risk contracting entity".

(14) Section 1903(w)(7)(A)(viii) of such Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended by striking "health maintenance organizations (and other organizations with contracts under section 1903(m))" and inserting "risk contracting entities with contracts under section 1903(m)".

(15) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter preceding clause (i), by inserting "(which may be on a prepaid capitation or other risk basis)" after "payment" the first place it appears.

(16) Section 1908(b) of such Act, as added by section 13623(b) of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "health maintenance organization" and inserting "risk contracting entity".

(17) Section 1916(b)(2)(D) of such Act (42 U.S.C. 1396o(b)(2)(D)) is amended by striking "health maintenance organization" and inserting "risk contracting entity".

(18) Section 1925(b)(4)(D)(iv) of such Act (42 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended—

(A) in the heading, by striking "HMO" and inserting "RISK CONTRACTING ENTITY",

(B) by striking "health maintenance organization" and inserting "risk contracting entity" each place it appears, and

(C) by striking "section 1903(m)(1)(A)" and inserting "section 1903(m)(1)(B)(i)".

(19) Paragraphs (1) and (2) of section 1926(a) of such Act (42 U.S.C. 1396r-7(a)) are each amended by striking "health maintenance organizations" and inserting "risk contracting entities".

(20) Section 1927 of such Act (42 U.S.C. 1396s) is amended—

(A) in subsection (c)(1)(C)(i), as amended by section 13602(a)(1) of the Omnibus Budget Reconciliation Act of 1993, by striking "health maintenance organization" and inserting "risk contracting entity", and

(B) in subsection (j)(1), by striking "*** Health Maintenance Organizations, including those organizations" and inserting "risk contracting entities".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to calendar quarters beginning on or after January 1, 1995.

SEC. 1712. PERIOD OF CERTAIN WAIVERS.

(a) IN GENERAL.—Section 1915(h) of the Social Security Act (42 U.S.C. 1396n(h)) is amended by striking "No waiver" and all that follows through "unless the Secretary" and inserting "A waiver under this section (other than under subsection (c), (d), or (e)) shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional 5 year periods unless the Secretary".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to waivers pursuant to applications which are approved, and with respect to continuations of waivers for which requests are made, later than 30 days after the date of the enactment of this Act.

SEC. 1713. ELIMINATION OF DUPLICATIVE PEDIATRIC IMMUNIZATION PROGRAM.

Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1993, title XIX of the Social Security Act is amended as follows:

(1) Section 1902(a) is amended—

(A) by adding "and" at the end of paragraph (60),

(B) by striking "; and" at the end of paragraph (61) and inserting a period, and

(C) by striking paragraph (62).

(2) Section 1928 is repealed.

(3) Section 1903(i) is amended—

(A) by inserting "or" at the end of paragraph (12),

(B) by striking the semicolon at the end of paragraph (13) and inserting a period, and

(C) by striking paragraphs (14) and (15).

(4) Section 1902(a)(32) is amended—

(A) by adding "and" at the end of subparagraph (B),

(B) by striking "; and" at the end of subparagraph (C) and inserting a period, and

(C) by striking subparagraph (D).

(5) Section 1902(a) is amended—

(A) in paragraph (11)(B)—

(ii) by inserting "and" before "(ii)", and

(iii) by striking "to the individual under section 1903, and (iii) providing for coordination of information and education on pediatric vaccinations and delivery of immunization services" and inserting "to him under section 1903";

(B) in paragraph (11)(C), by striking ", including the provision of information and education on pediatric vaccinations and the delivery of immunization services," and

(C) in paragraph (43)(A), by striking "and the need for age-appropriate immunizations against vaccine-preventable diseases".

(6) Section 1905(r)(1) is amended—

(A) in subparagraph (A)(i), by striking "and, with respect to immunizations under subparagraph (B)(iii), in accordance with the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines"; and

(B) in subparagraph (B)(iii), by striking "(according to the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines)".

PART 3—MEDICAID DISPROPORTIONATE SHARE ADJUSTMENT

SEC. 1721. 25 PERCENT REDUCTION IN AMOUNT OF PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(a) IN GENERAL.—Section 1923 of the Social Security Act (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(h) REDUCTION IN FEDERAL FINANCIAL PARTICIPATION FOR DISPROPORTIONATE SHARE ADJUSTMENTS.—Notwithstanding any other provision of this section, the amount of payments under section 1903(a) with respect to any payment adjustment made under this section for hospitals in a State for quarters in a fiscal year shall not exceed 75 percent of the amount otherwise determined under subsection (f).".

(b) CONFORMING AMENDMENT.—Section 1923(c) of such Act (42 U.S.C. 1396r-4(c)) is amended in the matter preceding paragraph (1) by striking "(f) and (g)" and inserting "(f), (g), and (h)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply

to quarters in fiscal years beginning on or after October 1, 1996.

Subtitle I—Remedies and Enforcement With Respect to Group Health Plans

SEC. 1801. CLAIMS PROCEDURE FOR GROUP HEALTH PLANS.

(a) IN GENERAL.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 503."; and

(2) by adding at the end the following new subsection:

"(b) SPECIAL RULES FOR GROUP HEALTH PLANS.—

"(1) IN GENERAL.—In addition to meeting the requirements of subsection (a), every group health plan shall afford a reasonable opportunity to any participant or beneficiary, whose request for a preauthorization, an emergency preauthorization, a utilization review determination, or an emergency utilization review determination has been denied, for a full and fair review by the appropriate fiduciary of the decision denying the request.

"(2) TIME LIMITS FOR DECIDING CLAIMS.—

"(A) INITIAL DECISIONS.—A group health plan shall issue an initial approval or denial of any claim for medical, surgical, or hospital benefits not later than 30 days after its filing completion date. Failure to approve or deny such a claim within such 30-day period shall be treated as a denial of the claim.

"(B) REVIEWS OF INITIAL DECISIONS.—Every review by a fiduciary required under paragraph (1) of an initial denial under subparagraph (A) shall be completed not later than 30 days after the review filing date. Failure to issue a decision affirming, reversing, or modifying the initial denial shall be treated as a final decision denying the claim.

"(3) TIME LIMIT FOR DECIDING REQUESTS FOR PREAUTHORIZATION.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B)—

"(i) INITIAL DECISIONS.—If a request for preauthorization is required under the terms of a group health plan, the plan shall approve or deny any such request not later than 30 days after its filing completion date. Failure to approve or deny such a request within such 30-day period shall be treated as a denial of the request.

"(ii) REVIEWS OF INITIAL DECISIONS.—Every review by a fiduciary required under paragraph (1) of an initial denial under clause (i) shall be completed not later than 30 days after the review filing date. Failure to issue a decision affirming, reversing, or modifying the initial denial within such 30-day period shall be treated as a final decision denying the request.

"(B) REQUESTS FOR EMERGENCY PREAUTHORIZATION.—

"(i) INITIAL DECISIONS.—In any case in which a request for preauthorization required under the terms of a group health plan is a request for emergency preauthorization, the plan shall approve or deny any such request not later than 10 days after its filing completion date (24 hours after such date in cases involving emergency medical care). Failure to approve or deny such a request within such 10-day period (or 24-hour period) shall be treated as a denial of the request.

"(ii) REVIEWS OF INITIAL DECISIONS.—Every review by a fiduciary required under paragraph (1) of an initial denial under clause (i) shall be completed not later than 10 days after the review filing date (24 hours after such date in cases involving emergency medical care). Failure to issue a decision affirming, reversing, or modifying the initial denial within such 10-day period (or 24-hour period) shall be treated as a final decision denying the request.

"(4) TIME LIMIT FOR DECIDING REQUESTS FOR UTILIZATION REVIEW DETERMINATIONS.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B)—

"(i) INITIAL DECISIONS.—If a request for a utilization review determination is required under the terms of a group health plan, the plan shall approve or deny any such request not later than 30 days after its filing completion date. Failure to approve or deny such a request within such 30-day period shall be treated as a denial of the request.

"(ii) REVIEWS OF INITIAL DECISIONS.—Every review by a fiduciary required under paragraph (1) of an initial denial under clause (i) shall be completed not later than 30 days after the review filing date. Failure to issue a decision affirming, reversing, or modifying the initial denial within such 30-day period shall be treated as a final decision denying the request.

"(B) REQUESTS FOR EMERGENCY UTILIZATION REVIEW DETERMINATIONS.—

"(i) INITIAL DECISIONS.—In any case in which a request for a utilization review determination required under the terms of a group health plan is a request for an emergency utilization review determination, the plan shall approve or deny any such request not later than 10 days after its filing completion date (24 hours after such date in cases involving emergency medical care). Failure to approve or deny such a request within such 10-day period (or 24-hour period) shall be treated as a denial of the request.

"(ii) REVIEWS OF INITIAL DECISIONS.—Every review by a fiduciary required under paragraph (1) of an initial denial under clause (i) shall be completed not later than 10 days after the review filing date (24 hours after such date in cases involving emergency medical care). Failure to issue a decision affirming, reversing, or modifying the initial denial within such 10-day period (or 24-hour period) shall be treated as a final decision denying the request.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) CLAIM FOR MEDICAL, SURGICAL, OR HOSPITAL BENEFITS.—The term 'claim for medical, surgical, or hospital benefits' means a request for payment by a group health plan of such benefits made by or on behalf of a participant or beneficiary after the expense for medical, surgical, or hospital care has been incurred.

"(B) UTILIZATION REVIEW DETERMINATION.—The term 'utilization review determination' means a determination under a group health plan solely that proposed medical, surgical, or hospital care is medically necessary (as defined in section 1131(7) of the Health Security Act). Unless otherwise expressly provided under the terms of the plan, any such determination shall not by itself constitute a guarantee that benefits under the plan will be provided.

"(C) PREAUTHORIZATION.—The term 'preauthorization' means a determination under a group health plan that proposed medical, surgical, or hospital care meets the plan's terms and conditions of coverage. Such a determination shall constitute a guarantee that benefits under the plan will be provided.

"(D) REQUEST FOR PREAUTHORIZATION.—The term 'request for preauthorization' means a request for preauthorization by a group health plan of medical, surgical, or hospital benefits made by or on behalf of a participant or beneficiary before the expense for such care has been incurred.

"(E) REQUEST FOR EMERGENCY PREAUTHORIZATION.—The term 'request for emergency preauthorization' means a request for preauthorization by a group health plan in any case in which the medical, surgical, or hospital benefits for which the expense is to be incurred constitutes urgent medical care or emergency medical care.

"(F) REQUEST FOR UTILIZATION REVIEW DETERMINATION.—The term 'request for a utilization review determination' means a request by or on behalf of a participant or beneficiary, made before an expense for medical, hospital, or surgical care has been incurred, for a utilization review determination by a plan.

"(G) REQUEST FOR EMERGENCY UTILIZATION REVIEW DETERMINATION.—The term 'request for an emergency utilization review determination' means a request for a utilization review determination in any case in which the medical, hospital, or surgical care to be incurred constitutes urgent medical care or emergency medical care.

"(H) URGENT MEDICAL CARE.—The term 'urgent medical care' means medical, surgical, or hospital care in any case in which a physician with appropriate expertise has certified in writing that failure to provide the participant or beneficiary with such care within 45 days will result in either—

"(i) the death of the participant or beneficiary within 120 days, or

"(ii) the immediate, serious, and irreversible deterioration of the health of the participant or beneficiary within 120 days which will significantly increase the reasonable likelihood of death of the participant or beneficiary.

"(I) EMERGENCY MEDICAL CARE.—The term 'emergency medical care' means medical, surgical, or hospital care in any case in which a physician with appropriate expertise has certified in writing—

"(i) that failure to immediately provide the care to the participant or beneficiary could reasonably be expected to result in—

"(I) placing the health of such participant or beneficiary (or, with respect to such a participant or beneficiary who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(II) serious impairment to bodily functions, or

"(III) serious dysfunction of any bodily organ or part,

or

"(ii) that immediate provision of the care is necessary because the participant or beneficiary has made or is at serious risk of making an attempt to harm himself or herself or another individual.

"(J) FILING COMPLETION DATE.—The term 'filing completion date' means, in connection with a group health plan, the date as of which the plan is in receipt of all information reasonably required to make an initial decision to approve or deny a claim for medical, surgical, or hospital benefits, a request for preauthorization, a request for emergency preauthorization, a request for a utilization review determination or a request for an emergency utilization review determination.

"(K) REVIEW FILING DATE.—The term 'review filing date' means, in connection with a group health plan, the date as of which the appropriate fiduciary is in receipt of all information reasonably required to make a decision upon a full and fair review of the denial, in whole or in part, of a claim for medical, surgical, or hospital benefits, a request for preauthorization, a request for emergency preauthorization, a request for a utilization review determination or a request for

VOL 140 PT 15 AG 10 — 11 1994 UMI

an emergency utilization review determination.

"(L) APPROPRIATE FIDUCIARY.—The term 'appropriate fiduciary' means with respect to any determination under a group health plan a person designated by the plan to make such determination. One or more appropriate fiduciaries shall be designated under each group health plan for making determinations under the plan.".

(b) DEFINITION OF GROUP HEALTH PLAN.—

(1) IN GENERAL.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(42) The term 'group health plan' means an employee welfare benefit plan providing medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) to participants or beneficiaries directly or through insurance, reimbursement, or otherwise.".

(2) CONFORMING AMENDMENT.—Section 607 of such Act (29 U.S.C. 1167) is amended by striking paragraph (1).

SEC. 1802. MEDIATION OF GROUP HEALTH PLAN CLAIMS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(1) by inserting below the heading for part 5 the following:

"Subpart A—In General";

and

(2) by adding at the end the following new subpart:

"Subpart B—Mediation of Group Health Plan Claims

"SEC. 521. ELIGIBILITY FOR SUBMISSION TO MEDIATION.

"(a) IN GENERAL.—The Secretary shall establish a mediation program under this subpart (hereinafter in this subpart referred to as the 'mediation program') for the purpose of facilitating mediation of disputes meeting the requirements specified in subsection (b). At the time notice is provided to any participant or beneficiary of a group health plan's denial of any claim for benefits pursuant to section 503, the plan shall provide reasonable notice in writing to the participant or beneficiary whose claim for benefits under the plan has been denied of the availability of mediation under this subpart at the election of either the claimant or the plan.

"(b) DISPUTE CRITERIA.—A dispute may be submitted for mediation under the mediation program only if the following requirements are met with respect to such dispute:

"(1) PARTIES.—The dispute consists of an assertion by a participant, a beneficiary, or the duly authorized representative of a participant or beneficiary (or, in the case of an assignment, the assignee) of one or more claims under a group health plan, and a denial of such claims, or a denial of appropriate reimbursement based on such claims, by such plan or an appropriate fiduciary.

"(2) NATURE OF CLAIM.—The claim consists of a claim for benefits for medical, surgical, or hospital expenses under a group health plan which consist of benefits described in section 3(1).

"(3) SUBMISSION AFTER EXHAUSTION OF PLAN REMEDIES.—The claimant has received a final determination on regarding the claim under the plans' claims procedure under section 503, or has otherwise exhausted all remedies under the plan provided pursuant to section 503.

"(4) APPROPRIATE FIDUCIARY.—For purposes of this subpart, the term 'appropriate fiduciary' has the meaning provided in section 503(b)(5)(K).

"SEC. 522. FACILITATORS.

"(a) ROSTER.—The Secretary shall maintain a list of individuals with appropriate expertise to serve as facilitators in proceedings under the mediation program.

"(b) CRITERIA.—In identifying individuals to serve as facilitators, the Secretary shall consider the following:

"(1) the individual's experience in dispute resolution;

"(2) the individual's ability to act impartially;

"(3) the individual's ability to perform evaluations quickly and to present them in nontechnical terms; and

"(4) the individual's experience in employee medical, hospital, and surgical benefits.

"(c) APPOINTMENT OF FACILITATOR.—Within 15 days after either party files with the Secretary an election of mediation with respect to a dispute, the Secretary shall propose a facilitator, selected under a random selection procedure prescribed in regulations, and notify the parties of such selection. Within 10 days after receipt of the notification of the selection of a facilitator, either party may reject the proposed facilitator. If neither party objects to the Secretary's proposed facilitator within such 10-day period, the appointment shall become final. If either party objects to the Secretary's proposed facilitator, the procedure set forth in the preceding provisions of this subsection shall be repeated. Each party is limited to 1 objection to the Secretary's proposed facilitator for each mediation.

"SEC. 523. ROLE OF ATTORNEYS.

"Parties may represent themselves or be represented by attorneys throughout the mediation process.

"SEC. 524. INITIATION OF MEDIATION.

"(a) CLAIMANT INITIATION.—A claimant may initiate mediation of a dispute under this subpart only if no action has been commenced by the claimant under section 502 with respect to any claim involved. To initiate mediation, a claimant shall file an election for mediation with the Secretary (and shall file a copy of the election with the plan or the appropriate fiduciary) within 30 days after a final determination regarding the claim pursuant to section 503.

"(b) PLAN INITIATION.—A participant or beneficiary may not commence an action under section 502 with respect to any claim until the participant or beneficiary has provided to the plan or the appropriate fiduciary 10 days advance notice of the filing of such action. Within the earlier of (1) 25 days after receipt of such a notice with respect to any claim or (2) the date preceding the date on which such claim is filed in court, the plan or the appropriate fiduciary may elect mediation of a dispute under this subpart involving such claim by filing an election for mediation with the Secretary (and a copy of the election with the claimant). Upon a timely election of mediation by the plan or the appropriate fiduciary, the claimant's right to pursue the claim under section 502 shall be suspended until the earlier of 75 days after the date of the filing of the election of mediation or the termination of the mediation proceedings.

"(c) ELECTION FOR MEDIATION.—An election by any party for mediation under this subpart shall be in such form and manner as the Secretary shall prescribe by regulation.

"(d) PARTICIPATION.—The claimant and the plan shall participate in the mediation. Each party shall provide the facilitator a written summary of its position with respect to the dispute accompanied by supporting documentation.

"(e) FILING FEE.—The party initiating mediation under this section shall include with any election for mediation under this subpart a reasonable nonrefundable filing fee payable to the Secretary. The filing fee shall be determined pursuant to regulations prescribed by the Secretary.

"(f) TOLLING OF STATUTES OF LIMITATIONS.—The applicable statute of limitations with respect to any claim involved in a dispute subject to mediation proceedings under this subpart shall be tolled for the period commencing with the 10-day notice period required under subsection (b) and ending with the termination of the mediation proceedings with respect to such dispute. In no event shall the applicable statute of limitations be tolled beyond the 60-day-time limit for completion of mediation provided under section 526.

"SEC. 525. MEDIATION PROCEDURE.

"(a) IN GENERAL.—Mediation proceedings under this subpart shall be conducted, at locations convenient to complainants, by facilitators recruited and assigned by the Secretary under section 522.

"(b) DUTIES OF FACILITATOR.—The Secretary shall prescribe by regulation the duties and role of the facilitator during the mediation process. Such regulations may require the facilitator to identify parties, establish a schedule, request position papers from the parties, and evaluate positions of the parties. Such regulations shall provide that the mediation will be informal, convenient, inexpensive, and expeditious for all parties.

"(c) NEUTRALITY OF FACILITATOR.—The facilitator shall maintain a neutral stance between the parties.

"SEC. 526. MEDIATION TIME LIMIT.

"Any mediation proceedings commenced under this subpart shall be completed within 60 days from the final appointment of a facilitator pursuant to section 522(c).

"SEC. 527. COST OF MEDIATION.

"All reasonable costs of the mediation process under this subpart with respect to any dispute, including the cost of the facilitator, shall be divided equally among the parties. Facilitators shall be compensated at a rate established by the Secretary by regulation. The Secretary shall prescribe regulations specifying reasonable mediation costs and alternative means of allocating the costs in cases of hardship on the part of the claimant.

"SEC. 528. LEGAL EFFECT OF PARTICIPATION IN MEDIATION PROGRAM.

"(a) NONBINDING MEDIATION.—The results of any mediation under this subpart shall be treated as advisory in nature and nonbinding. Except as provided in subsection (b), the rights of the parties shall not be affected by participation in the mediation program.

"(b) RESOLUTION THROUGH SETTLEMENT AGREEMENT.—If a dispute is settled through participation in the mediation program, the facilitator shall, upon the request of either party, assist the parties in drawing up a settlement agreement between the parties.

"SEC. 529. CONFIDENTIALITY AND ADMISSIBILITY.

"(a) IN GENERAL.—All documents and communications made during or generated in connection with the mediation program, as well as any settlement offers or agreements made or entered into under such program—

"(1) shall be privileged and confidential, and

"(2) shall not be admissible as evidence in any Federal or State judicial proceeding unless all parties to the mediation consent in writing.

"(b) EXECUTION OF PRIVILEGE.—Any individual or entity involved in the mediation (including any party or facilitator or other individual who acts on behalf of a party or who provides information or an opinion in connection with the mediation) receiving a subpoena or other lawful process seeking disclosure of any information or documents rendered privileged and confidential under subsection (a) shall assert the privilege provided under subsection (a) and promptly notify all parties to the mediation proceedings of the request for disclosure. The privilege provided for in this section shall be in addition to any attorney-client privilege or other privilege which may be asserted by a party and nothing in this section shall constitute a waiver of such attorney-client privilege or other privilege.".

(b) CLERICAL AMENDMENTS.—The table of contents in section 1 of such Act is amended—

(1) by inserting after the item relating to the heading for part 5 of subtitle B of title I the following new item:

"Subpart A—General Provisions";

and

(2) by inserting after the item relating to section 514 the following new items:

"Subpart B—Mediation of Group Health Plan Claims

"Sec. 521. Eligibility for submission to mediation.
"Sec. 522. Facilitators.
"Sec. 523. Role of attorneys.
"Sec. 524. Initiation of mediation.
"Sec. 525. Mediation procedure.
"Sec. 526. Mediation time limit.
"Sec. 527. Cost of mediation.
"Sec. 528. Legal effect of participation in mediation program.
"Sec. 529. Confidentiality and admissibility.".

SEC. 1803. AVAILABLE COURT REMEDIES.

(a) IN GENERAL.—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new paragraphs:

"(5) In any action commenced under subsection (a) by a participant or beneficiary with respect to a group health plan in which the plaintiff alleges that a person, in the capacity of a fiduciary and in violation of the terms of the plan or this title, has taken an action resulting in a failure to provide an item or service, or payment therefor, or has failed to take an action for which such person is responsible under the plan and which is necessary under the plan for provision of such item or service, or payment therefor, upon finding in favor of the plaintiff, the court shall cause to be served on the defendant an order requiring the defendant—

"(i) to cease and desist from the alleged action or failure to act,

"(ii) to provide the item or service, or payment therefor, and to otherwise comply with the terms of the plan and the applicable requirements of this title,

"(iii) to pay to the plaintiff prejudgment interest on the actual costs incurred in obtaining any item or service, or payment therefor, at issue in the complaint, and

"(iv) to pay to the plaintiff a reasonable attorney's fee, reasonable expert witness fees, and other reasonable costs relating to the action on the charges on which the plaintiff prevails.

The remedies provided under this paragraph shall be in addition to remedies otherwise provided under this section.

"(6)(A) The Secretary may assess a civil penalty against the plan administrator of, or the appropriate fiduciary (as defined in section 503(b)(5)(K)) of, one or more group health plans for any pattern or practice thereof of repeated failures to provide benefits under the terms of the plan or plans without any reasonable basis or repeated violations thereby of the requirements of section 503 with respect to such plan or plans. Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice.

"(B) Such penalty shall be in an amount not to exceed the lesser of—

"(i) 20 percent of the aggregate value of claims shown by the Secretary to have been denied, or uniawfuily delayed in violation of section 503, under such pattern or practice, or

"(ii) $1,000,000.

"(C) The plan administrator or the appropriate fiduciary of any group health plan or plans who has engaged in any such pattern or practice with respect to such plans, upon the petition of the Secretary, may be removed by the court from that position, and from any other involvement, with respect to such plan or plans, for a period of not less than 7 years.

"(D) For purposes of this paragraph, the phrase 'without any reasonable basis' means, in connection with any denial of claims for benefits under a group health plan, that such denial does not have any reasonable basis, support, or justification under—

"(i) the facts regarding such claim which were reasonably available to the plan administrator or the appropriate fiduciary at the time the claim was denied, and

"(ii) the terms of the plan.

(b) CONFORMING AMENDMENT.—Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by inserting "or (c)(6)" after "(c)(2)".

SEC. 1804. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect January 1, 1995, except that the Secretary of Labor may issue regulations before such date under such amendments. The Secretary shall issue all regulations necessary to carry out the amendments made by this subtitle before the effective date thereof.

Subtitle I—Remedies and Enforcement With Respect to Group Health Plans

SEC. 1801. CLAIMS PROCEDURE FOR GROUP HEALTH PLANS.

(a) IN GENERAL.—Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 503."; and

(2) by adding at the end the following new subsection:

"(b) SPECIAL RULES FOR GROUP HEALTH PLANS.—

"(1) IN GENERAL.—In addition to meeting the requirements of subsection (a), every group health plan shall afford a reasonable opportunity to any participant or beneficiary, whose request for a preauthorization, an emergency preauthorization, a utilization review determination, or an emergency utilization review determination has been denied, for a full and fair review by the appropriate fiduciary of the decision denying the request

"(2) TIME LIMITS FOR DECIDING CLAIMS.—

"(A) INITIAL DECISIONS.—A group health plan shall issue an initial approval or denial of any claim for medical, surgical, or hospital benefits not later than 30 days after its filing completion date. Failure to approve or deny such a claim within such 30-day period shall be treated as a denial of the claim.

"(B) REVIEWS OF INITIAL DECISIONS.—Every review by a fiduciary required under paragraph (1) of an initial denial under subparagraph (A) shall be completed not later than 30 days after the review filing date. Failure to issue a decision affirming, reversing, or modifying the initial denial shall be treated as a final decision denying the claim.

"(3) TIME LIMIT FOR DECIDING REQUESTS FOR PREAUTHORIZATION.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B)—

"(i) INITIAL DECISIONS.—If a request for preauthorization is required under the terms of a group health plan, the plan shall approve or deny any such request not later than 30 days after its filing completion date. Failure to approve or deny such a request within such 30-day period shall be treated as a denial of the request.

"(ii) REVIEWS OF INITIAL DECISIONS.—Every review by a fiduciary required under paragraph (1) of an initial denial under clause (i) shall be completed not later than 30 days after the review filing date. Failure to issue a decision affirming, reversing, or modifying the initial denial within such 30-day period shall be treated as a final decision denying the request.

"(B) REQUESTS FOR EMERGENCY PREAUTHORIZATION.—

"(i) INITIAL DECISIONS.—In any case in which a request for preauthorization required under the terms of a group health plan is a request for emergency preauthorization, the plan shall approve or deny any such request not later than 10 days after its filing completion date (24 hours after such date in cases involving emergency medical care). Failure to approve or deny such a request within such 10-day period (or 24-hour period) shall be treated as a denial of the request.

"(ii) REVIEWS OF INITIAL DECISIONS.—Every review by a fiduciary required under paragraph (1) of an initial denial under clause (i) shall be completed not later than 10 days after the review filing date (24 hours after such date in cases involving emergency medical care). Failure to issue a decision affirming, reversing, or modifying the initial denial within such 10-day period (or 24-hour period) shall be treated as a final decision denying the request.

"(4) TIME LIMIT FOR DECIDING REQUESTS FOR UTILIZATION REVIEW DETERMINATIONS.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B)—

"(i) INITIAL DECISIONS.—If a request for a utilization review determination is required under the terms of a group health plan, the plan shall approve or deny any such request not later than 30 days after its filing completion date. Failure to approve or deny such a request within such 30-day period shall be treated as a denial of the request.

"(ii) REVIEWS OF INITIAL DECISIONS.—Every review by a fiduciary required under paragraph (1) of an initial denial under clause (i) shall be completed not later than 30 days after the review filing date. Failure to issue a decision affirming, reversing, or modifying the initial denial within such 30-day period shall be treated as a final decision denying the request.

"(B) REQUESTS FOR EMERGENCY UTILIZATION REVIEW DETERMINATIONS.—

"(i) INITIAL DECISIONS.—In any case in which a request for a utilization review determination required under the terms of a group health plan is a request for an emergency utilization review determination, the plan shall approve or deny any such request not later than 10 days after its filing completion date (24 hours after such date in cases

VOL 140 PT 15 AG 10 — 11 1994 UMI

involving emergency medical care). Failure to approve or deny such a request within such 10-day period (or 24-hour period) shall be treated as a denial of the request.

"(ii) REVIEWS OF INITIAL DECISIONS.—Every review by a fiduciary required under paragraph (1) of an initial denial under clause (i) shall be completed not later than 10 days after the review filing date (24 hours after such date in cases involving emergency medical care). Failure to issue a decision affirming, reversing, or modifying the initial denial within such 10-day period (or 24-hour period) shall be treated as a final decision denying the request.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) CLAIM FOR MEDICAL, SURGICAL, OR HOSPITAL BENEFITS.—The term 'claim for medical, surgical, or hospital benefits' means a request for payment by a group health plan of such benefits made by or on behalf of a participant or beneficiary after the expense for medical, surgical, or hospital care has been incurred.

"(B) UTILIZATION REVIEW DETERMINATION.—The term 'utilization review determination' means a determination under a group health plan solely that proposed medical, surgical, or hospital care is medically necessary (as defined in section 1131(7) of the Health Security Act). Unless otherwise expressly provided under the terms of the plan, any such determination shall not by itself constitute a guarantee that benefits under the plan will be provided.

"(C) PREAUTHORIZATION.—The term 'preauthorization' means a determination under a group health plan that proposed medical, surgical, or hospital care meets the plan's terms and conditions of coverage. Such a determination shall constitute a guarantee that benefits under the plan will be provided.

"(D) REQUEST FOR PREAUTHORIZATION.—The term 'request for preauthorization' means a request for preauthorization by a group health plan of medical, surgical, or hospital benefits made by or on behalf of a participant or beneficiary before the expense for such care has been incurred.

"(E) REQUEST FOR EMERGENCY PREAUTHORIZATION.—The term 'request for emergency preauthorization' means a request for preauthorization by a group health plan in any case in which the medical, surgical, or hospital benefits for which the expense is to be incurred constitutes urgent medical care or emergency medical care.

"(F) REQUEST FOR UTILIZATION REVIEW DETERMINATION.—The term 'request for a utilization review determination' means a request by or on behalf of a participant or beneficiary, made before an expense for medical, hospital, or surgical care has been incurred, for a utilization review determination by a plan.

"(G) REQUEST FOR EMERGENCY UTILIZATION REVIEW DETERMINATION.—The term 'request for an emergency utilization review determination' means a request for a utilization review determination in any case in which the medical, hospital, or surgical care to be incurred constitutes urgent medical care or emergency medical care.

"(H) URGENT MEDICAL CARE.—The term 'urgent medical care' means medical, surgical, or hospital care in any case in which a physician with appropriate expertise has certified in writing that failure to provide the participant or beneficiary with such care within 45 days will result in either—

"(i) the death of the participant or beneficiary within 120 days, or

"(ii) the immediate, serious, and irreversible deterioration of the health of the participant or beneficiary within 120 days which will significantly increase the reasonable likelihood of death of the participant or beneficiary.

"(I) EMERGENCY MEDICAL CARE.—The term 'emergency medical care' means medical, surgical, or hospital care in any case in which a physician with appropriate expertise has certified in writing—

"(i) that failure to immediately provide the care to the participant or beneficiary could reasonably be expected to result in—

"(I) placing the health of such participant or beneficiary (or, with respect to such a participant or beneficiary who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(II) serious impairment to bodily functions, or

"(III) serious dysfunction of any bodily organ or part,

or

"(ii) that immediate provision of the care is necessary because the participant or beneficiary has made or is at serious risk of making an attempt to harm himself or herself or another individual.

"(J) FILING COMPLETION DATE.—The term 'filing completion date' means, in connection with a group health plan, the date as of which the plan is in receipt of all information reasonably required to make an initial decision to approve or deny a claim for medical, surgical, or hospital benefits, a request for preauthorization, a request for emergency preauthorization, a request for a utilization review determination or a request for an emergency utilization review determination.

"(K) REVIEW FILING DATE.—The term 'review filing date' means, in connection with a group health plan, the date as of which the appropriate fiduciary is in receipt of all information reasonably required to make a decision upon a full and fair review of the denial, in whole or in part, of a claim for medical, surgical, or hospital benefits, a request for preauthorization, a request for emergency preauthorization, a request for a utilization review determination or a request for an emergency utilization review determination.

"(L) APPROPRIATE FIDUCIARY.—The term 'appropriate fiduciary' means with respect to any determination under a group health plan a person designated by the plan to make such determination. One or more appropriate fiduciaries shall be designated under each group health plan for making determinations under the plan.".

(b) DEFINITION OF GROUP HEALTH PLAN.—

(1) IN GENERAL.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(42) The term 'group health plan' means an employee welfare benefit plan providing medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) to participants or beneficiaries directly or through insurance, reimbursement, or otherwise.".

(2) CONFORMING AMENDMENT.—Section 607 of such Act (29 U.S.C. 1167) is amended by striking paragraph (1).

SEC. 1802. MEDIATION OF GROUP HEALTH PLAN CLAIMS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(1) by inserting below the heading for part 5 the following:

"Subpart A—In General";

and

(2) by adding at the end the following new subpart:

"Subpart B—Mediation of Group Health Plan Claims

"SEC. 521. ELIGIBILITY FOR SUBMISSION TO MEDIATION.

"(a) IN GENERAL.—The Secretary shall establish a mediation program under this subpart (hereinafter in this subpart referred to as the 'mediation program') for the purpose of facilitating mediation of disputes meeting the requirements specified in subsection (b). At the time notice is provided to any participant or beneficiary of a group health plan's denial of any claim for benefits pursuant to section 503, the plan shall provide reasonable notice in writing to the participant or beneficiary whose claim for benefits under the plan has been denied of the availability of mediation under this subpart at the election of either the claimant or the plan.

"(b) DISPUTE CRITERIA.—A dispute may be submitted for mediation under the mediation program only if the following requirements are met with respect to such dispute:

"(1) PARTIES.—The dispute consists of an assertion by a participant, a beneficiary, or the duly authorized representative of a participant or beneficiary (or, in the case of an assignment, the assignee) of one or more claims under a group health plan, and a denial of such claims, or a denial of appropriate reimbursement based on such claims, by such plan or an appropriate fiduciary.

"(2) NATURE OF CLAIM.—The claim consists of a claim for benefits for medical, surgical, or hospital expenses under a group health plan which consist of benefits described in section 3(1).

"(3) SUBMISSION AFTER EXHAUSTION OF PLAN REMEDIES.—The claimant has received a final determination regarding the claim under the plans' claims procedure under section 503, or has otherwise exhausted all remedies under the plan provided pursuant to section 503.

"(4) APPROPRIATE FIDUCIARY.—For purposes of this subpart, the term 'appropriate fiduciary' has the meaning provided in section 503(b)(5)(K).

"SEC. 522. FACILITATORS.

"(a) ROSTER.—The Secretary shall maintain a list of individuals with appropriate expertise to serve as facilitators in proceedings under the mediation program.

"(b) CRITERIA.—In identifying individuals to serve as facilitators, the Secretary shall consider the following:

"(1) the individual's experience in dispute resolution;

"(2) the individual's ability to act impartially;

"(3) the individual's ability to perform evaluations quickly and to present them in nontechnical terms; and

"(4) the individual's experience in employee medical, hospital, and surgical benefits.

"(c) APPOINTMENT OF FACILITATOR.—Within 15 days after either party files with the Secretary an election of mediation with respect to a dispute, the Secretary shall propose a facilitator, selected under a random selection procedure prescribed in regulations, and notify the parties of such selection. Within 10 days after receipt of the notification of the selection of a facilitator, either party may reject the proposed facilitator. If neither party objects to the Secretary's proposed facilitator within such 10-day period, the appointment shall become final. If either party objects to the Secretary's proposed facilitator, the procedure set forth in the preceding provisions of this subsection shall be repeated. Each party is limited to 1 objection to the Secretary's proposed facilitator for each mediation.

"SEC. 523. ROLE OF ATTORNEYS.

"Parties may represent themselves or be represented by attorneys throughout the mediation process.

"SEC. 524. INITIATION OF MEDIATION.

"(a) CLAIMANT INITIATION.—A claimant may initiate mediation of a dispute under this subpart only if no action has been commenced by the claimant under section 502 with respect to any claim involved. To initiate mediation, a claimant shall file an election for mediation with the Secretary (and shall file a copy of the election with the plan or the appropriate fiduciary) within 30 days after a final determination regarding the claim pursuant to section 503.

"(b) PLAN INITIATION.—A participant or beneficiary may not commence an action under section 502 with respect to any claim until the participant or beneficiary has provided to the plan or the appropriate fiduciary 10 days advance notice of the filing of such action. Within the earlier of (1) 25 days after receipt of such a notice with respect to any claim or (2) the date preceding the date on which such claim is filed in court, the plan or the appropriate fiduciary may elect mediation of a dispute under this subpart involving such claim by filing an election for mediation with the Secretary (and a copy of the election with the claimant). Upon a timely election of mediation by the plan or the appropriate fiduciary, the claimant's right to pursue the claim under section 502 shall be suspended until the earlier of 75 days after the date of the filing of the election of mediation or the termination of the mediation proceedings.

"(c) ELECTION FOR MEDIATION.—An election by any party for mediation under this subpart shall be in such form and manner as the Secretary shall prescribe by regulation.

"(d) PARTICIPATION.—The claimant and the plan shall participate in the mediation. Each party shall provide the facilitator a written summary of its position with respect to the dispute accompanied by supporting documentation.

"(e) FILING FEE.—The party initiating mediation under this section shall include with any election for mediation under this subpart a reasonable nonrefundable filing fee payable to the Secretary. The filing fee shall be determined pursuant to regulations prescribed by the Secretary.

"(f) TOLLING OF STATUTES OF LIMITATIONS.—The applicable statute of limitations with respect to any claim involved in a dispute subject to mediation proceedings under this subpart shall be tolled for the period commencing with the 10-day notice period required under subsection (b) and ending with the termination of the mediation proceedings with respect to such dispute. In no event shall the applicable statute of limitations be tolled beyond the 60-day-time limit for completion of mediation provided under section 526.

"SEC. 525. MEDIATION PROCEDURE.

"(a) IN GENERAL.—Mediation proceedings under this subpart shall be conducted, at locations convenient to complainants, by facilitators recruited and assigned by the Secretary under section 522.

"(b) DUTIES OF FACILITATOR.—The Secretary shall prescribe by regulation the duties and role of the facilitator during the mediation process. Such regulations may require the facilitator to identify parties, establish a schedule, request position papers from the parties, and evaluate positions of the parties. Such regulations shall provide that the mediation will be informal, convenient, inexpensive, and expeditious for all parties.

"(c) NEUTRALITY OF FACILITATOR.—The facilitator shall maintain a neutral stance between the parties.

"SEC. 526. MEDIATION TIME LIMIT.

"Any mediation proceedings commenced under this subpart shall be completed within 60 days from the final appointment of a facilitator pursuant to section 522(c).

"SEC. 527. COST OF MEDIATION.

"All reasonable costs of the mediation process under this subpart with respect to any dispute, including the cost of the facilitator, shall be divided equally among the parties. Facilitators shall be compensated at a rate established by the Secretary by regulation. The Secretary shall prescribe regulations specifying reasonable mediation costs and alternative means of allocating the costs in cases of hardship on the part of the claimant.

"SEC. 528. LEGAL EFFECT OF PARTICIPATION IN MEDIATION PROGRAM.

"(a) NONBINDING MEDIATION.—The results of any mediation under this subpart shall be treated as advisory in nature and nonbinding. Except as provided in subsection (b), the rights of the parties shall not be affected by participation in the mediation program.

"(b) RESOLUTION THROUGH SETTLEMENT AGREEMENT.—If a dispute is settled through participation in the mediation program, the facilitator shall, upon the request of either party, assist the parties in drawing up a settlement agreement between the parties.

"SEC. 529. CONFIDENTIALITY AND ADMISSIBILITY.

"(a) IN GENERAL.—All documents and communications made during or generated in connection with the mediation program, as well as any settlement offers or agreements made or entered into under such program—

"(1) shall be privileged and confidential, and

"(2) shall not be admissible as evidence in any Federal or State judicial proceeding unless all parties to the mediation consent in writing.

"(b) EXECUTION OF PRIVILEGE.—Any individual or entity involved in the mediation (including any party or facilitator or other individual who acts on behalf of a party or who provides information or an opinion in connection with the mediation) receiving a subpoena or other lawful process seeking disclosure of any information or documents rendered privileged and confidential under subsection (a) shall assert the privilege provided under subsection (a) and promptly notify all parties to the mediation proceedings of the request for disclosure. The privilege provided for in this section shall be in addition to any attorney-client privilege or other privilege which may be asserted by a party and nothing in this section shall constitute a waiver of such attorney-client privilege or other privilege.".

(b) CLERICAL AMENDMENTS.—The table of contents in section 1 of such Act is amended—

(1) by inserting after the item relating to the heading for part 5 of subtitle B of title I the following new item:

"Subpart A—General Provisions";

and

(2) by inserting after the item relating to section 514 the following new items:

"Subpart B—Mediation of Group Health Plan Claims

"Sec. 521. Eligibility for submission to mediation.
"Sec. 522. Facilitators.
"Sec. 523. Role of attorneys.
"Sec. 524. Initiation of mediation.
"Sec. 525. Mediation procedure.
"Sec. 526. Mediation time limit.
"Sec. 527. Cost of mediation.
"Sec. 528. Legal effect of participation in mediation program.
"Sec. 529. Confidentiality and admissibility.".

SEC. 1803. AVAILABLE COURT REMEDIES.

(a) IN GENERAL.—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new paragraphs:

"(5) In any action commenced under subsection (a) by a participant or beneficiary with respect to a group health plan in which the plaintiff alleges that a person, in the capacity of a fiduciary and in violation of the terms of the plan or this title, has taken an action resulting in a failure to provide an item or service, or payment therefor, or has failed to take an action for which such person is responsible under the plan and which is necessary under the plan for provision of such item or service, or payment therefor, upon finding in favor of the plaintiff, the court shall cause to be served on the defendant an order requiring the defendant—

"(i) to cease and desist from the alleged action or failure to act,

"(ii) to provide the item or service, or payment therefor, and to otherwise comply with the terms of the plan and the applicable requirements of this title,

"(iii) to pay to the plaintiff prejudgment interest on the actual costs incurred in obtaining any item or service, or payment therefor, at issue in the complaint, and

"(iv) to pay to the plaintiff a reasonable attorney's fee, reasonable expert witness fees, and other reasonable costs relating to the action on the charges on which the plaintiff prevails.

The remedies provided under this paragraph shall be in addition to remedies otherwise provided under this section.

"(6)(A) The Secretary may assess a civil penalty against the plan administrator of, or the appropriate fiduciary (as defined in section 503(b)(5)(K)) of, one or more group health plans for any pattern or practice thereof of repeated failures to provide benefits under the terms of the plan or plans without any reasonable basis or repeated violations thereby of the requirements of section 503 with respect to such plan or plans. Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice.

"(B) Such penalty shall be in an amount not to exceed the lesser of—

"(i) 20 percent of the aggregate value of claims shown by the Secretary to have been denied, or unlawfully delayed in violation of section 503, under such pattern or practice, or

"(ii) $1,000,000.

"(C) The plan administrator or the appropriate fiduciary of any group health plan or plans who has engaged in any such pattern or practice with respect to such plans, upon the petition of the Secretary, may be removed by the court from that position, and from any other involvement, with respect to such plan or plans, for a period of not less than 7 years.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(D) For purposes of this paragraph, the phrase 'without any reasonable basis' means, in connection with any denial of claims for benefits under a group health plan, that such denial does not have any reasonable basis, support, or justification under—

"(i) the facts regarding such claim which were reasonably available to the plan administrator or the appropriate fiduciary at the time the claim was denied, and

"(ii) the terms of the plan.

(b) CONFORMING AMENDMENT.—Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by inserting "or (c)(6)" after "(c)(2)".

SEC. 1804. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect January 1, 1995, except that the Secretary of Labor may issue regulations before such date under such amendments. The Secretary shall issue all regulations necessary to carry out the amendments made by this subtitle before the effective date thereof.

Subtitle J—Delivery of Health Care Services to Illegal Immigrants

SEC. 1901. STUDY ON THE DELIVERY OF HEALTH CARE SERVICES TO ILLEGAL IMMIGRANTS.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a detailed study of health care in the United States to populations of individuals immigrating to the United States illegally, including the effect of illegal immigration on levels of health costs and the shifting of health costs.

(b) MATTERS TO BE ANALYZED.—In conducting the study under this section, the Secretary shall analyze—

(1) the extent to which individuals illegally immigrating into the United States obtain health care services in the United States,

(2) the costs of such services,

(3) the means currently used to finance such costs,

(4) the means currently used for identifying, evaluating, preventing, and resolving health problems of populations comprised of such individuals,

(5) the extent of efforts currently being undertaken to prevent or resolve such health problems,

(6) the extent of efforts currently being undertaken to educate populations comprised of such individuals concerning such health problems and to coordinate such efforts,

(7) the programs currently in place for carrying out the activities described in paragraphs (3) through (6), and

(8) the extent of intergovernmental cooperation currently in place between the United States and other countries in dealing with health problems described in the preceding provisions of this subsection.

SEC. 1902. REPORT.

Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to each House of the Congress a final report on the matters analyzed in the study conducted under section 1801. The Secretary shall include in such report any recommendations derived by the Secretary regarding appropriate means of—

(1) alleviating the health problems peculiar to populations of individuals who have immigrated to the United States illegally,

(2) financing health care provided to such populations, and

(3) increasing intergovernmental cooperation and coordination of efforts between the United States and other countries to alleviate such health problems and to finance such efforts.

TITLE II—HEALTH CARE COST CONTAINMENT AND QUALITY ENHANCEMENT

TABLE OF CONTENTS OF SUBTITLE

Subtitle A—Medical Malpractice Liability Reform

PART 1—GENERAL PROVISIONS

Sec. 2001. Federal reform of medical malpractice liability actions.
Sec. 2002. Definitions.
Sec. 2003. Effective date.

PART 2—MEDICAL MALPRACTICE AND PRODUCT LIABILITY REFORM

Sec. 2011. Requirement for initial resolution of action through alternative dispute resolution.
Sec. 2012. Calculation and payment of damages.
Sec. 2013. Treatment of attorney's fees and other costs.
Sec. 2014. Joint and several liability.
Sec. 2015. Statute of limitations.
Sec. 2016. Uniform standard for determining negligence.
Sec. 2017. Special provision for certain obstetric services.

PART 3—REQUIREMENTS FOR STATE ALTERNATIVE DISPUTE RESOLUTION SYSTEMS (ADR)

Sec. 2031. Basic requirements.
Sec. 2032. Certification of State systems; applicability of alternative Federal system.
Sec. 2033. Reports on implementation and effectiveness of alternative dispute resolution systems.

PART 4—OTHER PROVISIONS RELATING TO MEDICAL MALPRACTICE LIABILITY

Sec. 2041. Permitting State professional societies to participate in disciplinary activities.
Sec. 2042. Study of incentives to encourage voluntary service by physicians.
Sec. 2043. Requirements for risk management programs.
Sec. 2044. Grants for medical safety promotion.

Subtitle B—Administrative Cost Savings and Fair Health Information Practices

PART 1—ADMINISTRATIVE COST SAVINGS

Sec. 2100. Purpose.
Sec. 2101. Definitions.

SUBPART A—STANDARDS FOR DATA ELEMENTS AND TRANSACTIONS

Sec. 2103. General requirements on Secretary.
Sec. 2104. Standards for data elements of health information.
Sec. 2105. Information transaction standards.
Sec. 2106. Timetables for adoption of standards.

SUBPART B—REQUIREMENTS WITH RESPECT TO CERTAIN TRANSACTIONS AND INFORMATION

Sec. 2111. Standard transactions and information.
Sec. 2112. Accessing health information for authorized purposes.
Sec. 2113. Ensuring availability of information.
Sec. 2114. Timetables for compliance with requirements.

SUBPART C—MISCELLANEOUS PROVISIONS

Sec. 2121. Standards and certification for health information network services.
Sec. 2122. Imposition of additional requirements.
Sec. 2123. Effect on State law.
Sec. 2124. Grants for demonstration projects.

SUBPART D—ASSISTANCE TO THE SECRETARY

Sec. 2131. General requirement on Secretary.
Sec. 2132. Health Information Advisory Committee.

PART 2—FAIR HEALTH INFORMATION PRACTICES

Sec. 2140. Definitions.

SUBPART A—DUTIES OF HEALTH INFORMATION TRUSTEES

Sec. 2141. Inspection of protected health information.
Sec. 2142. Amendment of protected health information.
Sec. 2143. Notice of information practices.
Sec. 2144. Accounting for disclosures.
Sec. 2145. Security.

SUBPART B—USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

Sec. 2151. General limitations on use and disclosure.
Sec. 2152. Authorizations for disclosure of protected health information.
Sec. 2153. Treatment, payment, and oversight.
Sec. 2154. Next of kin and directory information.
Sec. 2155. Public health.
Sec. 2156. Health research.
Sec. 2157. Emergency circumstances.
Sec. 2158. Judicial and administrative purposes.
Sec. 2159. Law enforcement.
Sec. 2160. Subpoenas, warrants, and search warrants.
Sec. 2161. Health information service organizations.

SUBPART C—ACCESS PROCEDURES AND CHALLENGE RIGHTS

Sec. 2171. Access procedures for law enforcement subpoenas, warrants, and search warrants.
Sec. 2172. Challenge procedures for law enforcement subpoenas.
Sec. 2173. Access and challenge procedures for other subpoenas.
Sec. 2174. Construction of subpart; suspension of statute of limitations.x
Sec. 2175. Responsibilities of Secretary.

SUBPART D—MISCELLANEOUS PROVISIONS

Sec. 2181. Payment card and electronic payment transactions.
Sec. 2182. Access to protected health information outside of the United States.
Sec. 2183. Standards for electronic documents and communications.
Sec. 2184. Duties and authorities of affiliated persons.
Sec. 2185. Agents and attorneys.
Sec. 2186. Minors.
Sec. 2187. Maintenance of certain protected health information.

SUBPART E—ENFORCEMENT

Sec. 2191. Civil actions.
Sec. 2192. Civil money penalties.
Sec. 2193. Alternative dispute resolution.
Sec. 2194. Amendments to criminal law.

SUBPART F—AMENDMENTS TO TITLE 5, UNITED STATES CODE

Sec. 2195. Amendments to title 5, United States Code.

SUBPART G—REGULATIONS, RESEARCH, AND EDUCATION; EFFECTIVE DATES; APPLICABILITY; AND RELATIONSHIP TO OTHER LAWS

Sec. 2196. Regulations; research and education.
Sec. 2197. Effective dates.
Sec. 2198. Applicability.
Sec. 2199. Relationship to other laws.

Subtitle C—Deduction for Cost of Catastrophic Health Plan; Medical Savings Accounts

Sec. 2201. Individuals allowed deduction from gross income for cost of catastrophic health plan.
Sec. 2202. Medical savings accounts.

Subtitle D—Anti-Fraud

PART 1—ESTABLISHMENT OF ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM

Sec. 2301. All-payer health care fraud and abuse control program.
Sec. 2302. Authorization of additional appropriations for investigators and other personnel.
Sec. 2303. Establishment of anti-fraud and abuse trust fund.

PART 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 2311. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 2312. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 2313. Revisions to criminal penalties.
Sec. 2315. Revisions to limitations on physician self-referral.
Sec. 2316. Medicare health maintenance organizations.
Sec. 2317. Effective date.

PART 3—AMENDMENTS TO CRIMINAL LAW

Sec. 2321. Penalties for health care fraud.
Sec. 2322. Rewards for information leading to prosecution and conviction.
Sec. 2323. Broadening application of mail fraud statute.

PART 4—ADVISORY OPINIONS

Sec. 2331. Authorizing the Secretary of Health and Human Services to issue advisory opinions under title XI.
Sec. 2332. Authorizing the Secretary of Health and Human Services to issue advisory opinions relating to physician ownership and referral.
Sec. 2333. Effective date.

Subtitle E—Increased Medicare Beneficiary Choice; Additional Medicare Reforms

PART 1—INCREASED MEDICARE BENEFICIARY CHOICE

Sec. 2401. Requirements for health maintenance organizations under medicare.
Sec. 2402. Expansion and revision of medicare select policies.
Sec. 2403. Including notice of available health maintenance organizations in annual notice to beneficiaries.
Sec. 2404. Legislative proposal on enrolling medicare beneficiaries in qualified health plans.
Sec. 2405. Optional interim enrollment of medicare beneficiaries in private health plans.

PART 2—MEDICARE PART B PREMIUM; OTHER MEDICARE PAYMENT CHANGES

Sec. 2411. Extension of current rules for computing medicare part B premium.
Sec. 2412. Increase in medicare part B premium for individuals with high income.
Sec. 2413. Improved efficiency through consolidation of administration of parts A and B.
Sec. 2414. Extension of medicare secondary payment provisions.

Subtitle F—Health Care Antitrust Improvements

Sec. 2501. Protection from antitrust laws for certain competitive and collaborative activities.
Sec. 2502. Designation of safe harbors.
Sec. 2503. Certificates of review.
Sec. 2504. Notifications providing reduction in certain penalties under antitrust law for health care joint ventures.
Sec. 2505. Review and reports on safe harbors, certificates of review, and notifications.
Sec. 2506. Rules, regulations, and guidelines.
Sec. 2507. Establishment of HHS Office of Health Care Competition Policy.
Sec. 2508. Definitions.

Subtitle G—Encouraging Enforcement Activities of Medical Self-Regulatory Entities

PART 1—APPLICATION OF THE CLAYTON ACT TO MEDICAL SELF-REGULATORY ENTITIES

Sec. 2601. Antitrust exemption for medical self-regulatory entities.
Sec. 2602. Definitions.

PART 2—CONSULTATION BY FEDERAL AGENCIES

Sec. 2611. Consultation with medical self-regulatory entities respecting medical professional guidelines and standards.

Subtitle H—Reform of Clinical Laboratory Requirements for Simple Tests

Sec. 2701. Eliminating CLIA requirement for certificate of waiver for simple laboratory examinations and procedures.
Sec. 2702. Amendment related to simple laboratory examinations.
Sec. 2703. Amendment related to study.
Sec. 2704. Amendments related to the Clinical Laboratory Improvement Advisory Committee.

Subtitle I—Miscellaneous Provisions

Sec. 2801. Requirement that certain agencies prefund government health benefits contributions for their annuitants.
Sec. 2802. Ineligibility of aliens for SSI and medicaid.
Sec. 2803. Limitation on SSI benefits for drug and alcohol addicts.

Subtitle A—Medical Malpractice Liability Reform

PART 1—GENERAL PROVISIONS

SEC. 2001. FEDERAL REFORM OF MEDICAL MALPRACTICE LIABILITY ACTIONS.

(a) APPLICABILITY.—This subtitle shall apply with respect to any medical malpractice liability claim and to any medical malpractice liability action brought in any State or Federal court, except that this subtitle shall not apply to a claim or action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the claim or action.

(b) PREEMPTION.—The provisions of this subtitle shall preempt any State law to the extent such law is inconsistent with the limitations contained in such provisions. The provisions of this subtitle shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle, places greater limitations on the amount of attorneys' fees that can be collected, or otherwise imposes greater restrictions than those provided in this subtitle.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 2002. DEFINITIONS.

As used in this subtitle:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under this subtitle that provides for the resolution of medical malpractice liability claims in a manner other than through medical malpractice liability actions.

(2) CLAIMANT.—The term "claimant" means any person who alleges a medical malpractice liability claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, except that such measure or degree of proof is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(4) ECONOMIC DAMAGES.—The term "economic damages" means damages paid to compensate an individual for hospital and other medical expenses, lost wages, lost employment, and other pecuniary losses.

(5) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(6) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(7) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice liability action or a medical malpractice liability claim.

(8) MEDICAL MALPRACTICE LIABILITY ACTION.—The term "medical malpractice liability action" means a civil action brought in a State or Federal court against a health care provider or health care professional in which the plaintiff alleges a medical malpractice

VOL 140 PT 15 AG 10 — 11 1994 UMI

liability claim, but does not include any action in which the plaintiff's sole allegation is an allegation of an intentional tort.

(9) MEDICAL MALPRACTICE LIABILITY CLAIM.—The term "medical malpractice liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services or the use of a medical product.

(10) MEDICAL PRODUCT.—

(A) IN GENERAL.—The term "medical product" means, with respect to the allegation of a claimant, a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) if—

(i) such drug or device was subject to premarket approval under section 505, 507, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 357, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which is the subject of the claimant's allegation or the adequacy of the packaging or labeling of such drug or device, and such drug or device is approved by the Food and Drug Administration; or

(ii) the drug or device is generally recognized as safe and effective under regulations issued by the Secretary of Health and Human Services under section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)).

(B) EXCEPTION IN CASE OF MISREPRESENTATION OR FRAUD.—Notwithstanding subparagraph (A), the term "medical product" shall not include any product described in such subparagraph if the claimant shows that the product is approved by the Food and Drug Administration for marketing as a result of withheld information, misrepresentation, or an illegal payment by manufacturer of the product.

(11) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to compensate an individual for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary losses, but does not include punitive damages.

(12) PUNITIVE DAMAGES; EXEMPLARY DAMAGES.—The terms "punitive damages" and "exemplary damages" mean compensation, in addition to compensation for actual harm suffered, that is awarded for the purpose of punishing a person for conduct deemed to be malicious, wanton, willful, or excessively reckless.

(13) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(14) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

SEC. 2003. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) and section 2017(c), this subtitle shall apply with respect to claims accruing or actions brought on or after the expiration of the 3-year period that begins on the date of the enactment of this Act.

(b) EXCEPTION FOR STATES REQUESTING EARLIER IMPLEMENTATION OF REFORMS.—

(1) APPLICATION.—A State may submit an application to the Secretary requesting the early implementation of this subtitle with respect to claims or actions brought in the State.

(2) DECISION BY SECRETARY.—The Secretary shall issue a response to a State's application under paragraph (1) not later than 90 days after receiving the application. If the Secretary determines that the State meets the requirements of this subtitle at the time of submitting its application, the Secretary shall approve the State's application, and this subtitle shall apply with respect to actions brought in the State on or after the expiration of the 90-day period that begins on the date the Secretary issues the response. If the Secretary denies the State's application, the Secretary shall provide the State with a written explanation of the grounds for the decision.

PART 2—MEDICAL MALPRACTICE AND PRODUCT LIABILITY REFORM

SEC. 2011. REQUIREMENT FOR INITIAL RESOLUTION OF ACTION THROUGH ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—

(1) STATE CASES.—A medical malpractice liability action may not be brought in any State court during a calendar year unless the medical malpractice liability claim that is the subject of the action has been initially resolved under an alternative dispute resolution system certified for the year by the Secretary under section 2032(a), or, in the case of a State in which such a system is not in effect for the year, under the alternative Federal system established under section 2032(b).

(2) FEDERAL DIVERSITY ACTIONS.—A medical malpractice liability action may not be brought in any Federal court under section 1332 of title 28, United States Code, during a calendar year unless the medical malpractice liability claim that is the subject of the action has been initially resolved under the alternative dispute resolution system referred to in paragraph (1) that applied in the State whose law applies in such action.

(3) CLAIMS AGAINST UNITED STATES.—

(A) ESTABLISHMENT OF PROCESS FOR CLAIMS.—The Attorney General shall establish an alternative dispute resolution process for the resolution of tort claims consisting of medical malpractice liability claims brought against the United States under chapter 171 of title 28, United States Code. Under such process, the resolution of a claim shall occur after the completion of the administrative claim process applicable to the claim under section 2675 of such title.

(B) REQUIREMENT FOR INITIAL RESOLUTION UNDER PROCESS.—A medical malpractice liability action based on a medical malpractice liability claim described in subparagraph (A) may not be brought in any Federal court unless the claim has been initially resolved under the alternative dispute resolution process established by the Attorney General under such subparagraph.

(b) INITIAL RESOLUTION OF CLAIMS UNDER ADR.—For purposes of subsection (a), an action is "initially resolved" under an alternative dispute resolution system if—

(A) the ADR reaches a decision on whether the defendant is liable to the plaintiff for damages; and

(B) if the ADR determines that the defendant is liable, the ADR reaches a decision on the amount of damages assessed against the defendant.

(c) PROCEDURES FOR FILING ACTIONS.—

(1) NOTICE OF INTENT TO CONTEST DECISION.—Not later than 60 days after a decision is issued with respect to a medical malpractice liability claim under an alternative dispute resolution system, each party affected by the decision shall submit a sealed statement to a court of competent jurisdiction indicating whether or not the party intends to contest the decision.

(2) DEADLINE FOR FILING ACTION.—A medical malpractice liability action may not be brought by a party unless—

(A) the party has filed the notice of intent required by paragraph (1); and

(B) the party files the action in a court of competent jurisdiction not later than 90 days after the decision resolving the medical malpractice liability claim that is the subject of the action is issued under the applicable alternative dispute resolution system.

(3) COURT OF COMPETENT JURISDICTION.—For purposes of this subsection, the term "court of competent jurisdiction" means—

(A) with respect to actions filed in a State court, the appropriate State trial court; and

(B) with respect to actions filed in a Federal court, the appropriate United States district court.

(d) LEGAL EFFECT OF UNCONTESTED ADR DECISION.—The decision reached under an alternative dispute resolution system shall, for purposes of enforcement by a court of competent jurisdiction, have the same status in the court as the verdict of a medical malpractice liability action adjudicated in a State or Federal trial court. The previous sentence shall not apply to a decision that is contested by a party affected by the decision pursuant to subsection (c)(1).

SEC. 2012. CALCULATION AND PAYMENT OF DAMAGES.

(a) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant and the members of the claimant's family for losses resulting from the injury which is the subject of a medical malpractice liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) BASIS FOR RECOVERY.—Punitive or exemplary damages shall not be awarded in a medical malpractice liability action unless the claimant establishes by clear and convincing evidence that the injury suffered was the direct result of conduct manifesting a malicious, wanton, willful, or excessively reckless disregard of the safety of others.

(2) NO AWARD AGAINST MANUFACTURER OF MEDICAL PRODUCT.—In the case of a medical malpractice liability action in which the plaintiff alleges a claim against the manufacturer of a medical product, no punitive or exemplary damages may be awarded against such manufacturer.

(3) PAYMENTS TO STATE FOR MEDICAL QUALITY ASSURANCE ACTIVITIES.—

(A) IN GENERAL.—Any punitive or exemplary damages awarded in a medical malpractice liability action shall be paid to the State in which the action is brought or, in a case brought in Federal court, in the State in which the health care services that caused the injury that is the subject of the action were provided.

(B) ACTIVITIES DESCRIBED.—A State shall use amounts paid pursuant to subparagraph (A) to carry out activities to assure the safety and quality of health care services provided in the State, including (but not limited to)—

(i) licensing or certifying health care professionals and health care providers in the State;

(ii) operating alternative dispute resolution systems;

(iii) carrying out public education programs relating to medical malpractice and the availability of alternative dispute resolution systems in the State; and

(iv) carrying out programs to reduce malpractice-related costs for retired providers or other providers volunteering to provide services in medically underserved areas.

(C) MAINTENANCE OF EFFORT.—A State shall use any amounts paid pursuant to subparagraph (A) to supplement and not to replace amounts spent by the State for the activities described in subparagraph (B).

(c) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any medical malpractice liability action in which the damages awarded for future economic loss exceeds $100,000, a defendant may not be required to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(2) WAIVER.—A court may waive the application of paragraph (1) with respect to a defendant if the court determines that it is not in the best interests of the plaintiff to receive payments for damages on such a periodic basis.

(d) MANDATORY OFFSETS FOR DAMAGES PAID BY A COLLATERAL SOURCE.—

(1) IN GENERAL.—With respect to a medical malpractice liability claim or action, the total amount of damages received by an individual under such claim or action shall be reduced, in accordance with paragraph (2), by any other payment that has been, or will be, made to an individual to compensate such individual for the injury that was the subject of such claim or action.

(2) AMOUNT OF REDUCTION.—The amount by which an award of damages to an individual for an injury shall be reduced under paragraph (1) shall be—

(A) the total amount of any payments (other than such award) that have been made or that will be made to such individual to pay costs of or compensate such individual for the injury that was the subject of the claim or action; minus

(B) the amount paid by such individual (or by the spouse, parent, or legal guardian of such individual) to secure the payments described in subparagraph (A).

SEC. 2013. TREATMENT OF ATTORNEY'S FEES AND OTHER COSTS.

(a) LIMITATION ON AMOUNT OF CONTINGENCY FEES.—

(1) IN GENERAL.—An attorney who represents, on a contingency fee basis, a claimant in a medical malpractice liability claim may not charge, demand, receive, or collect for services rendered in connection with such claim in excess of the following amount recovered by judgment or settlement under such claim:

(A) 25 percent of the first $150,000 (or portion thereof) recovered, plus

(B) 10 percent of any amount in excess of $150,000 recovered.

(2) CALCULATION OF PERIODIC PAYMENTS.—In the event that a judgment or settlement includes periodic or future payments of damages, the amount recovered for purposes of computing the limitation on the contingency fee under paragraph (1) shall be based on the cost of the annuity or trust established to make the payments. In any case in which an annuity or trust is not established to make such payments, such amount shall be based on the present value of the payments.

(b) REQUIRING PARTY CONTESTING ADR RULING TO PAY ATTORNEY'S FEES AND OTHER COSTS.—

(1) IN GENERAL.—The court in a medical malpractice liability action shall require the party that (pursuant to section 2011(c)(1)) contested the ruling of the alternative dispute resolution system with respect to the medical malpractice liability claim that is the subject of the action to pay to the opposing party the costs incurred by the opposing party under the action, including attorney's fees, fees paid to expert witnesses, and other litigation expenses (but not including court costs, filing fees, or other expenses paid directly by the party to the court, or any fees or costs associated with the resolution of the claim under the alternative dispute resolution system), but only if—

(A) in the case of an action in which the party that contested the ruling is the claimant, the amount of damages awarded to the party under the action does not exceed the amount of damages awarded to the party under the ADR system by at least 10 percent; and

(B) in the case of an action in which the party that contested the ruling is the defendant, the amount of damages assessed against the party under the action is not at least 10 percent less than the amount of damages assessed under the ADR system.

(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

(A) the party contesting the ruling made under the previous alternative dispute resolution system shows that—

(i) the ruling was procured by corruption, fraud, or undue means,

(ii) there was partiality or corruption under the system,

(iii) there was other misconduct under the system that materially prejudiced the party's rights, or

(iv) the ruling was based on an error of law;

(B) the party contesting the ruling made under the alternative dispute resolution system presents new evidence before the trier of fact that was not available for presentation under the ADR system;

(C) the medical malpractice liability action raised a novel issue of law; or

(D) the court finds that the application of such paragraph to a party would constitute an undue hardship, and issues an order waiving or modifying the application of such paragraph that specifies the grounds for the court's decision.

(3) REQUIREMENT FOR PERFORMANCE BOND.—The court in a medical malpractice liability action shall require the party that (pursuant to section 2011(c)(1)) contested the ruling of the alternative dispute resolution system with respect to the medical malpractice liability claim that is the subject of the action to post a performance bond (in such amount and consisting of such funds and assets as the court determines to be appropriate), except that the court may waive the application of such requirement to a party if the court determines that the posting of such a bond is not necessary to ensure that the party shall meet the requirements of this subsection to pay the opposing party the costs incurred by the opposing party under the action.

(4) LIMIT ON ATTORNEY'S FEES PAID.—Attorneys' fees that are required to be paid under paragraph (1) by the contesting party shall not exceed the amount of the attorneys' fees incurred by the contesting party in the action. If the attorneys' fees of the contesting party are based on a contingency fee agreement, the amount of attorneys' fees for purposes of the preceding sentence shall not exceed the reasonable value of those services.

(5) RECORDS.—In order to receive attorneys' fees under paragraph (1), counsel of record in the medical malpractice liability action involved shall maintain accurate, complete records of hours worked on the action, regardless of the fee arrangement with the client involved.

(c) CONTINGENCY FEE DEFINED.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 2014. JOINT AND SEVERAL LIABILITY.

A defendant may be held severally but not jointly liable in a medical malpractice action. A person found liable for damages in any such action may be found liable, if at all, only for those damages directly attributable to the person's proportionate share of fault or responsibility for the injury, and may not be found liable for damages attributable to the proportionate share of fault or responsibility of any other person (without regard to whether that person is a party to the action) for the injury, including any person bringing the action.

SEC. 2015. STATUTE OF LIMITATIONS.

A medical malpractice liability claim may not be brought after the expiration of the 7-year period that begins on the date the alleged injury that is the subject of the claim occurred. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

SEC. 2016. UNIFORM STANDARD FOR DETERMINING NEGLIGENCE.

A defendant in a medical malpractice liability action may not be found to have acted negligently unless the defendant's conduct at the time of providing the health care services that are the subject of the action was not reasonable.

SEC. 2017. SPECIAL PROVISION FOR CERTAIN OBSTETRIC SERVICES.

(a) IMPOSITION OF HIGHER STANDARD OF PROOF.—In the case of a medical malpractice liability claim relating to services provided during labor or the delivery of a baby, if the health care professional against whom the claim is brought did not previously treat the individual alleged to have been injured for the pregnancy, the trier of fact may not find that the defendant committed malpractice and may not assess damages against the health care professional unless the malpractice is proven by clear and convincing evidence.

(b) APPLICABILITY TO GROUP PRACTICES OR AGREEMENTS AMONG PROVIDERS.—For purposes of subsection (a), a health care professional shall be considered to have previously treated an individual for a pregnancy if the professional is a member of a group practice whose members previously treated the individual for the pregnancy or is providing services to the individual during labor or the delivery of a baby pursuant to an agreement with another health care professional.

(c) EFFECTIVE DATE.—This section shall apply with respect to claims accruing or actions brought on or after the expiration of the 2-year period that begins on the date of the enactment of this Act.

PART 3—REQUIREMENTS FOR STATE ALTERNATIVE DISPUTE RESOLUTION SYSTEMS (ADR)

SEC. 2031. BASIC REQUIREMENTS.

(a) IN GENERAL.—A State's alternative dispute resolution system meets the requirements of this section if the system—

(1) applies to all medical malpractice liability claims under the jurisdiction of the courts of that State;

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) requires that a written opinion resolving the dispute be issued not later than 6 months after the date by which each party against whom the claim is filed has received notice of the claim (other than in exceptional cases for which a longer period is required for the issuance of such an opinion), and that the opinion contain—

(A) findings of fact relating to the dispute, and

(B) a description of the costs incurred in resolving the dispute under the system (including any fees paid to the individuals hearing and resolving the claim), together with an appropriate assessment of the costs against any of the parties;

(3) requires individuals who hear and resolve claims under the system to meet such qualifications as the State may require (in accordance with regulations of the Secretary);

(4) is approved by the State or by local governments in the State;

(5) with respect to a State system that consists of multiple dispute resolution procedures—

(A) permits the parties to a dispute to select the procedure to be used for the resolution of the dispute under the system, and

(B) if the parties do not agree on the procedure to be used for the resolution of the dispute, assigns a particular procedure to the parties;

(6) provides for the transmittal to the State agency responsible for monitoring or disciplining health care professionals and health care providers of any findings made under the system that such a professional or provider committed malpractice, unless, during the 90-day period beginning on the date the system resolves the claim against the professional or provider, the professional or provider brings an action contesting the decision made under the system; and

(7) provides for the regular transmittal to the Administrator for Health Care Policy and Research of information on disputes resolved under the system, in a manner that assures that the identity of the parties to a dispute shall not be revealed.

(b) APPLICATION OF MALPRACTICE LIABILITY STANDARDS TO ALTERNATIVE DISPUTE RESOLUTION.—The provisions of part 2 shall apply with respect to claims brought under a State alternative dispute resolution system or the alternative Federal system in the same manner as such provisions apply with respect to medical malpractice liability actions brought in the State.

SEC. 2032. CERTIFICATION OF STATE SYSTEMS; APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.

(a) CERTIFICATION.—

(1) IN GENERAL.—Not later than October 1 of each year (beginning with 1995), the Secretary, in consultation with the Attorney General, shall determine whether a State's alternative dispute resolution system meets the requirements of this part for the following calendar year.

(2) BASIS FOR CERTIFICATION.—The Secretary shall certify a State's alternative dispute resolution system under this subsection for a calendar year if the Secretary determines under paragraph (1) that the system meets the requirements of section 2031.

(b) APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.—

(1) ESTABLISHMENT AND APPLICABILITY.—Not later than October 1, 1995, the Secretary, in consultation with the Attorney General, shall establish by rule an alternative Federal ADR system for the resolution of medical malpractice liability claims during a calendar year in States that do not have in effect an alternative dispute resolution system certified under subsection (a) for the year.

(2) REQUIREMENTS FOR SYSTEM.—Under the alternative Federal ADR system established under paragraph (1)—

(A) paragraphs (1), (2), (6), and (7) of section 2031(a) shall apply to claims brought under the system;

(B) if the system provides for the resolution of claims through arbitration, the claims brought under the system shall be heard and resolved by arbitrators appointed by the Secretary in consultation with the Attorney General; and

(C) with respect to a State in which the system is in effect, the Secretary may (at the State's request) modify the system to take into account the existence of dispute resolution procedures in the State that affect the resolution of medical malpractice liability claims.

(3) TREATMENT OF STATES WITH ALTERNATIVE SYSTEM IN EFFECT.—If the alternative Federal ADR system established under this subsection is applied with respect to a State for a calendar year—

(A) the State shall reimburse the United States (at such time and in such manner as the Secretary may require) for the costs incurred by the United States during the year as a result of the application of the system with respect to the State; and

(B) notwithstanding any other provision of law, no funds may be paid to the State (or to any unit of local government in the State) or to any entity in the State pursuant to the Public Health Service Act.

SEC. 2033. REPORTS ON IMPLEMENTATION AND EFFECTIVENESS OF ALTERNATIVE DISPUTE RESOLUTION SYSTEMS.

(a) IN GENERAL.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a report describing and evaluating State alternative dispute resolution systems operated pursuant to this part and the alternative Federal system established under section 2032(b).

(b) CONTENTS OF REPORT.—The Secretary shall include in the report prepared and submitted under subsection (a)—

(1) information on—

(A) the effect of the alternative dispute resolution systems on the cost of health care within each State,

(B) the impact of such systems on the access of individuals to health care within the State, and

(C) the effect of such systems on the quality of health care provided within the State; and

(2) to the extent that such report does not provide information on no-fault systems operated by States as alternative dispute resolution systems pursuant to this part, an analysis of the feasibility and desirability of establishing a system under which medical malpractice liability claims shall be resolved on a no-fault basis.

PART 4—OTHER PROVISIONS RELATING TO MEDICAL MALPRACTICE LIABILITY

SEC. 2041. PERMITTING STATE PROFESSIONAL SOCIETIES TO PARTICIPATE IN DISCIPLINARY ACTIVITIES.

(a) ROLE OF PROFESSIONAL SOCIETIES.—Notwithstanding any other provision of State or Federal law, a State agency responsible for the conduct of disciplinary actions for a type of health care practitioner may enter into agreements with State or county professional societies of such type of health care practitioner to permit such societies to participate in the licensing of such health care practitioner, and to review any health care malpractice action, health care malpractice claim or allegation, or other information concerning the practice patterns of any such health care practitioner. Any such agreement shall comply with subsection (b).

(b) REQUIREMENTS OF AGREEMENTS.—Any agreement entered into under subsection (a) for licensing activities or the review of any health care malpractice action, health care malpractice claim or allegation, or other information concerning the practice patterns of a health care practitioner shall provide that—

(1) the health care professional society conducts such activities or review as expeditiously as possible;

(2) after the completion of such review, such society shall report its findings to the State agency with which it entered into such agreement;

(3) the conduct of such activities or review and the reporting of such findings be conducted in a manner which assures the preservation of confidentiality of health care information and of the review process; and

(4) no individual affiliated with such society is liable for any damages or injury directly caused by the individual's actions in conducting such activities or review.

(c) AGREEMENTS NOT MANDATORY.—Nothing in this section may be construed to require a State to enter into agreements with societies described in subsection (a) to conduct the activities described in such subsection.

(d) EFFECTIVE DATE.—This section shall take effect 2 years after the date of the enactment of this Act.

SEC. 2042. STUDY OF INCENTIVES TO ENCOURAGE VOLUNTARY SERVICE BY PHYSICIANS.

(a) STUDY.—The Secretary shall conduct a study analyzing the existence and effectiveness of incentives adopted by State and local governments, insurers, medical societies, and other entities to encourage physicians (whether practicing or retired) to volunteer to provide health care services in medically underserved areas.

(b) REPORTS.—(1) Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit an interim report to Congress on the study conducted under subsection (a), together with the Secretary's recommendations for actions to increase the number of physicians volunteering to provide health care services in medically underserved areas.

(2) Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit a final report to the Congress on the study conducted under subsection (a) (taking into account the effects of this subtitle on the incidence and costs of medical malpractice), together with the Secretary's recommendations for actions to increase the number of physicians volunteering to provide health care services in medically underserved areas.

SEC. 2043. REQUIREMENTS FOR RISK MANAGEMENT PROGRAMS.

(a) REQUIREMENTS FOR PROVIDERS.—Each State shall require each health care professional and health care provider providing services in the State to participate in a risk management program to prevent and provide early warning of practices which may result in injuries to patients or which otherwise may endanger patient safety.

(b) REQUIREMENTS FOR INSURERS.—Each State shall require each entity which provides health care professional or provider liability insurance to health care professionals and health care providers in the State to—

(1) establish risk management programs based on data available to such entity or sanction programs of risk management for health care professionals and health care providers provided by other entities; and

(2) require each such professional or provider, as a condition of maintaining insurance, to participate in one program described in paragraph (1) at least once in each 3-year period.

(c) EFFECTIVE DATE.—This section shall take effect 2 years after the date of the enactment of this Act.

SEC. 2044. GRANTS FOR MEDICAL SAFETY PROMOTION.

(a) RESEARCH ON MEDICAL INJURY PREVENTION AND COMPENSATION.—

(1) IN GENERAL.—The Secretary shall make grants for the conduct of basic research in the prevention of and compensation for injuries resulting from health care professional or health care provider malpractice, and research of the outcomes of health care procedures.

(2) PREFERENCE FOR RESEARCH ON CERTAIN ACTIVITIES.—In making grants under paragraph (1), the Secretary shall give preference to applications for grants to conduct research on the behavior of health care providers and health care professionals in carrying out their professional duties and of other participants in systems for compensating individuals injured by medical malpractice, the effects of financial and other incentives on such behavior, the determinants of compensation system outcomes, and the costs and benefits of alternative compensation policy options.

(3) APPLICATION.—The Secretary may not make a grant under paragraph (1) unless an applicant submits an application to the Secretary at such time, in such form, in such manner, and containing such information as the Secretary may require.

(b) GRANTS FOR LICENSING AND DISCIPLINARY ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall make grants to States to assist States in improving the State's ability to license and discipline health care professionals.

(2) USES FOR GRANTS.—A State may use a grant awarded under subsection (a) to develop and implement improved mechanisms for monitoring the practices of health care professionals or for conducting disciplinary activities.

(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States receiving grants under paragraph (1) to assist them in evaluating their medical practice acts and procedures and to encourage the use of efficient and effective early warning systems and other mechanisms for detecting practices which endanger patient safety and for disciplining health care professionals.

(4) APPLICATIONS.—The Secretary may not make a grant under paragraph (1) unless the applicant submits an application to the Secretary at such time, in such form, in such manner, and containing such information as the Secretary shall require.

(c) GRANTS FOR PUBLIC EDUCATION PROGRAMS.—

(1) IN GENERAL.—The Secretary shall make grants to States and to local governments, private nonprofit organizations, and health professional schools (as defined in paragraph (3)) for—

(A) educating the general public about the appropriate use of health care and realistic expectations of medical intervention;

(B) educating the public about the resources and role of health care professional licensing and disciplinary boards in investigating claims of incompetence or health care malpractice; and

(C) developing programs of faculty training and curricula for educating health care professionals in quality assurance, risk management, and medical injury prevention.

(2) APPLICATIONS.—The Secretary may not make a grant under paragraph (1) unless the applicant submits an application to the Secretary at such time, in such form, in such manner, and containing such information as the Secretary shall require.

(3) HEALTH PROFESSIONAL SCHOOL DEFINED.—In paragraph (1), the term "health professional school" means a school of nursing (as defined in section 853(2) of the Public Health Service Act) or a school or program under section 799(1) of such Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated not more than $15,000,000 for each of the first 5 fiscal years beginning on or after the date of the enactment of this Act for grants under this section.

Subtitle B—Administrative Cost Savings and Fair Health Information Practices

PART 1—ADMINISTRATIVE COST SAVINGS

SEC. 2100. PURPOSE.

It is the purpose of this part to improve the efficiency and effectiveness of the health care system, including the medicare program under title XVIII of the Social Security Act and the medicaid program under title XIX of such Act, by encouraging the development of a health information network through the adoption of standards and the establishment of requirements for the electronic transmission of certain health information.

SEC. 2101. DEFINITIONS.

For purposes of this part:

(1) CODE SET.—The term "code set" means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

(2) COORDINATION OF BENEFITS.—The term "coordination of benefits" means determining and coordinating the financial obligations of plan sponsors when health care benefits are payable by more than one such sponsor.

(3) EMPLOYER.—The term "employer" has the meaning given such term in section 3(5) of the Employee Retirement Income Security Act of 1974.

(4) HEALTH INFORMATION.—The term "health information" means any information that relates to the past, present, or future physical or mental health or condition or functional status of an individual, the provision of health care to an individual, or payment for the provision of health care to an individual.

(5) HEALTH INFORMATION NETWORK.—The term "health information network" means the health information system that is formed through the application of the requirements and standards established under this part.

(6) HEALTH INFORMATION NETWORK SERVICE.—The term "health information network service"—

(A) means a private entity or an entity operated by a State that enters into contracts—

(i) to process or facilitate the processing of nonstandard data elements of health information into standard data elements;

(ii) to provide the means by which persons are connected to the health information network for purposes of meeting the requirements of this part, including the holding of standard data elements of health information;

(iii) to provide authorized access to health information through the health information network; or

(iv) to provide specific information processing services, such as automated coordination of benefits and claims transaction routing; and

(B) includes a health information protection service.

(7) HEALTH INFORMATION PROTECTION SERVICE.—The term "health information protection service" means a private entity or an entity operated by a State that accesses standard data elements of health information through the health information network, processes such information into nonidentifiable health information, and may store such information.

(8) HEALTH PROVIDER.—The term "health provider" includes a provider of services (as defined in section 1861(u) of the Social Security Act), a provider of medical or other health services (as defined in section 1861(s) of such Act), and any other person (other than a plan sponsor) furnishing health care items or services.

(9) NON-IDENTIFIABLE HEALTH INFORMATION.—The term "non-identifiable health information" means health information that is not protected health information (as defined in part 2).

(10) PLAN SPONSOR.—The term "plan sponsor" means—

(A) a plan (as defined in section 1033(6)(B));

(B) an insurer (as defined in section 1131(6)) providing health insurance coverage (as defined in section 1131(4)); and

(C) a State, or the Federal Government, acting in a capacity as a provider of health benefits to eligible individuals that is equivalent to that of an insurer.

(11) PURCHASING ARRANGEMENT.—The term "purchasing arrangement" means a voluntary health purchasing arrangement described in part 3 of subtitle B of title I.

(12) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(13) STANDARD.—The term "standard", when used with reference to a transaction or to data elements of health information, means that the transaction or data elements meet any standard adopted by the Secretary under subpart A that applies to the transaction or data elements.

Subpart A—Standards for Data Elements and Transactions

SEC. 2103. GENERAL REQUIREMENTS ON SECRETARY.

(a) IN GENERAL.—The Secretary shall adopt standards and modifications to standards under this part that are—

(1) consistent with the objective of reducing the costs of providing and paying for health care; and

(2) in use and generally accepted, developed, or modified by the standard-setting organizations accredited by the American National Standard Institute.

(b) INITIAL STANDARDS.—The Secretary may develop an expedited process for the adoption of initial standards under this subpart.

(c) PROTECTION OF COMMERCIAL INFORMATION.—In adopting standards under this part, the Secretary may not require disclosure of trade secrets and confidential commercial information by any person.

SEC. 2104. STANDARDS FOR DATA ELEMENTS OF HEALTH INFORMATION.

(a) IN GENERAL.—The Secretary shall adopt standards necessary to make uniform and

VOL 140 PT 15 AG 10 — 11 1994 UMI

compatible for electronic transmission through the health information network the data elements of any health information that the Secretary determines is appropriate for transmission in connection with a transaction described in section 2111.

(b) ADDITIONS.—The Secretary may make additions to any set of data elements adopted under subsection (a) as the Secretary determines appropriate in a manner that minimizes the disruption and cost of compliance with such additions.

(c) CERTAIN DATA ELEMENTS.—

(1) UNIQUE HEALTH IDENTIFIERS.—The Secretary shall establish a system to provide for a standard unique health identifier for each individual, employer, plan sponsor, and health provider for use in the health care system.

(2) CODE SETS.—

(A) IN GENERAL.—The Secretary, in consultation with experts from the private sector and Federal agencies, shall—

(i) select code sets for appropriate data elements from among the code sets that have been developed by private and public entities; or

(ii) establish code sets for such data elements if no code sets for the data elements have been developed.

(B) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution of code sets and modifications to code sets.

SEC. 2105. INFORMATION TRANSACTION STANDARDS.

(a) IN GENERAL.—The Secretary shall adopt technical standards that are consistent with part 2 relating to the method by which standard data elements of health information may be transmitted electronically, including standards with respect to the format in which such data elements may be transmitted.

(b) SPECIAL RULE FOR COORDINATION OF BENEFITS.—Any standard adopted by the Secretary under paragraph (1) that relates to coordination of benefits shall provide that a claim for reimbursement for health services furnished shall be tested, by an algorithm specified by the Secretary, against all records of enrollment and eligibility for the individual who received such services that are available to the recipient of the claim through the health information network to determine any primary and secondary obligors for payment.

(c) ELECTRONIC SIGNATURE.—The Secretary, in coordination with the Secretary of Commerce, shall promulgate regulations specifying procedures for the electronic transmission and authentication of signatures, compliance with which shall be deemed to satisfy State and Federal statutory requirements for written signatures with respect to transactions described in section 2111 and written signatures on health records and prescriptions.

(d) STANDARDS FOR CLAIMS FOR CLINICAL LABORATORY TESTS.—The standards under this section shall provide that claims for clinical laboratory tests for which benefits are payable by a plan sponsor shall be submitted directly by the person or entity that performed (or supervised the performance of) the tests to the sponsor in a manner consistent with and subject to such exceptions as are provided under) the requirement for direct submission of such claims under the medicare program.

SEC. 2106. TIMETABLES FOR ADOPTION OF STANDARDS.

(a) INITIAL STANDARDS FOR DATA ELEMENTS.—The Secretary shall adopt standards relating to—

(1) the data elements for the information described in section 2104(a) not later than 9 months after the date of the enactment of this Act (except in the case of standards with respect to data elements for claims attachments, which shall be adopted not later than 24 months after the date of the enactment of this Act); and

(2) any addition to a set of data elements, in conjunction with making such an addition.

(b) INITIAL STANDARDS FOR INFORMATION TRANSACTIONS.—The Secretary shall adopt standards relating to information transactions under section 2105 not later than 9 months after the date of the enactment of this Act (except in the case of standards for claims attachments, which shall be adopted not later than 24 months after the date of the enactment of this Act).

(c) MODIFICATIONS TO STANDARDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under this subpart and shall adopt modified standards as determined appropriate, but not more frequently than once every 6 months. Any modification to standards shall be completed in a manner which minimizes the disruption to, and costs of compliance incurred by, a plan sponsor, health provider, or purchasing arrangement that is required to comply with subpart B.

(2) SPECIAL RULES.—

(A) MODIFICATIONS DURING FIRST 12-MONTH PERIOD.—Except with respect to additions and modifications to code sets under subparagraph (B), the Secretary may not adopt any modification to a standard adopted under this subpart during the 12-month period beginning on the date the standard is adopted, unless the Secretary determines that the modification is necessary in order to permit a plan sponsor, a health provider, or a purchasing arrangement to comply with subpart B.

(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

(ii) ADDITIONAL RULES.—If a code set is modified under this subsection, the modified code set shall include instructions on how data elements that were encoded prior to the modification are to be converted or translated so as to preserve the value of the data elements. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption to, and costs of compliance incurred by, a plan sponsor, health provider, or purchasing arrangement that is required to comply with subpart B.

(d) EVALUATION OF STANDARDS.—The Secretary may establish a process to measure or verify the consistency of standards adopted or modified under this subpart. Such process may include demonstration projects and analyses of the cost of implementing such standards and modifications.

Subpart B—Requirements With Respect to Certain Transactions and Information

SEC. 2111. STANDARD TRANSACTIONS AND INFORMATION.

(a) TRANSACTIONS BY SPONSORS.—

(1) TRANSACTIONS WITH PROVIDERS.—If a plan sponsor conducts any of the transactions described in paragraph (3) with a health provider—

(A) the transaction shall be a standard transaction; and

(B) the health information transmitted by the sponsor to the provider or by the provider to the sponsor in connection with the transaction shall be in the form of standard data elements.

(2) TRANSACTIONS WITH SPONSORS.—If a plan sponsor conducts any of the transactions described in paragraph (3) with another plan sponsor—

(A) the transaction shall be a standard transaction; and

(B) the health information transmitted by either sponsor in connection with the transaction shall be in the form of standard data elements.

(3) TRANSACTIONS.—The transactions referred to in paragraphs (1) and (2) are the following:

(A) Verification of eligibility for benefits.
(B) Coordination of benefits.
(C) Claim submission.
(D) Claim attachment submission.
(E) Claim status notification.
(F) Claim status verification.
(G) Claim adjudication.
(H) Payment and remittance advice.
(I) Certification or authorization of a referral to a health provider who is not part of the defined set of providers providing items and services under a network plan (as defined in section 1131(5)).

(b) TRANSACTIONS BY PURCHASING ARRANGEMENTS.—

(1) IN GENERAL.—If a purchasing arrangement conducts any of the transactions described in paragraph (2) with a plan sponsor—

(A) the transaction shall be a standard transaction; and

(B) the health information transmitted by the arrangement to the sponsor or by the sponsor to the arrangement in connection with the transaction shall be in the form of standard data elements.

(2) TRANSACTIONS.—The transactions referred to in paragraph (1) are the following:

(A) Enrollment and disenrollment.
(B) Premium payment.

(c) USE OF HEALTH INFORMATION NETWORK SERVICES.—A plan sponsor, a health provider, or a purchasing arrangement may comply with any provision of this section by entering into an agreement or other arrangement with a health information network service certified under section 2121 pursuant to which the service undertakes the duties applicable to the sponsor, provider, or arrangement under the provision.

SEC. 2112. ACCESSING HEALTH INFORMATION FOR AUTHORIZED PURPOSES.

(a) PROCUREMENT RULE FOR GOVERNMENT AGENCIES.—

(1) IN GENERAL.—A health information protection service that is certified under section 2121 shall make available to a Federal or State agency, pursuant to a cost-type contract (as defined under the Federal Acquisition Regulation), any non-identifiable health information, including non-identifiable health information that is derived from protected health information, that—

(A) is held by the service or may be obtained by the service under paragraph (2) or subsection (b);

(B) consists of data elements that are subject to a standard under subpart A; and

(C) is requested by the agency to fulfill a requirement under this Act.

(2) CERTAIN INFORMATION AVAILABLE AT LOW COST.—If a health information protection service requires health information consisting of data elements that are subject to a standard under subpart A from a plan sponsor or a health provider in order to comply with a request made by a Federal or State agency under paragraph (1), the sponsor or provider shall make such information available to such organization for a charge that does not exceed the reasonable cost of transmitting the information.

(b) PROCUREMENT RULE FOR INFORMATION PROTECTION SERVICES.—A health information protection service that makes non-identifiable health information available to a Federal or State agency under subsection (a) shall make such non-identifiable information available, for a charge that does not exceed the reasonable cost of transmitting the information, to any other health information protection service that—

(A) is certified under section 2121; and

(B) requests the information.

SEC. 2113. ENSURING AVAILABILITY OF INFORMATION.

The Secretary shall establish a procedure under which a plan sponsor or health provider that does not have the ability to transmit standard data elements directly, and does not have access to a health information network service certified under section 2121, may comply with the provisions of this subpart.

SEC. 2114. TIMETABLES FOR COMPLIANCE WITH REQUIREMENTS.

(a) INITIAL COMPLIANCE.—

(1) IN GENERAL.—Not later than 12 months after the date on which standards are adopted under subpart A with respect to a type of transaction, or data elements for a type of health information, a plan sponsor, health provider, or purchasing arrangement shall comply with the requirements of this subpart with respect to such transaction or information.

(2) ADDITIONAL DATA ELEMENTS.—Not later than 12 months after the date on which the Secretary adopts an addition to a set of data elements for health information under section 2104, a plan sponsor, health provider, or purchasing arrangement shall comply with the requirements of this subpart using such data elements.

(b) COMPLIANCE WITH MODIFIED STANDARDS.—

(1) IN GENERAL.—If the Secretary adopts a modified standard under section 2106(c), a plan sponsor, health provider, or purchasing arrangement shall comply with the modified standard at such time as the Secretary determines appropriate, taking into account the time needed to comply due to the nature and extent of the modification.

(2) SPECIAL RULE.—In the case of a modification to a standard that does not occur within the 12-month period beginning on the date the standard is adopted, the time determined appropriate by the Secretary under paragraph (1) may not be—

(A) earlier than the last day of the 90-day period beginning on the date the modified standard is adopted; or

(B) later than the last day of the 12-month period beginning on the date the modified standard is adopted.

Subpart C—Miscellaneous Provisions

SEC. 2121. STANDARDS AND CERTIFICATION FOR HEALTH INFORMATION NETWORK SERVICES.

(a) STANDARDS FOR OPERATION.—The Secretary shall establish standards with respect to the operation of health information network services, including standards ensuring that such services—

(1) develop, operate, and cooperate with one another to form the health information network;

(2) meet all of the requirements under part 2 that are applicable to the services;

(3) make public information concerning their performance, as measured by uniform indicators such as accessibility, transaction responsiveness, administrative efficiency, reliability, dependability, and any other indicator determined appropriate by the Secretary;

(4) have security procedures that are consistent with the requirements under part 2, including secure methods of accessing and transmitting data; and

(5) if they are part of a larger organization, have policies and procedures in place which isolate their activities with respect to processing information in a manner that prevents access to such information by such larger organization.

(b) CERTIFICATION BY THE SECRETARY.—

(1) ESTABLISHMENT.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall establish a certification procedure for health information network services which ensures that certified services are qualified to meet the requirements of this part and the standards established by the Secretary under this section. Such certification procedure shall be implemented in a manner that minimizes the costs and delays of operations for such services.

(2) APPLICATION.—Each entity desiring to be certified as a health information network service shall apply to the Secretary for certification in a form and manner determined appropriate by the Secretary.

(3) AUDITS AND REPORTS.—The procedure established under paragraph (1) shall provide for audits by the Secretary and reports by an entity certified under this section as the Secretary determines appropriate in order to monitor such entity's compliance with the requirements of this part, part 2, and the standards established by the Secretary under this section.

(4) RECERTIFICATION.—A health information network service shall be recertified under this subsection at least every 3 years.

(c) LOSS OF CERTIFICATION.—

(1) MANDATORY TERMINATION.—Except as provided in paragraph (2), if a health information network service violates a requirement imposed on such service under part 2, its certification under this section shall be terminated unless the Secretary determines that appropriate corrective action has been taken.

(2) CONDITIONAL CERTIFICATION—The Secretary may establish a procedure under which a health information network service may remain certified on a conditional basis if the service is operating consistently with a plan intended to correct any violations described in paragraph (1). Such procedure may provide for the appointment of a trustee to continue operation of the service until the requirements for full certification are met.

(d) CERTIFICATION BY PRIVATE ENTITIES.—The Secretary may designate private entities to conduct the certification procedures established by the Secretary under this section. A health information network service certified by such an entity in accordance with such designation shall be considered to be certified by the Secretary.

(e) INFORMATION HELD BY HEALTH INFORMATION NETWORK SERVICES.—If a health information network service certified under this section loses its certified status or takes any action that would threaten the continued availability of the standard data elements of health information held by such service, such data elements shall be transferred to another health information network service certified under this section that has been designated by the Secretary.

SEC. 2122. IMPOSITION OF ADDITIONAL REQUIREMENTS.

(a) IN GENERAL.—Except as provided in subsection (c), after the Secretary has established standards under section 2104 that are necessary to make uniform and compatible for electronic transmission the data elements that the Secretary determines are appropriate for transmission in connection with a transaction described in subpart B, an individual or entity may not require an individual or entity, to provide in any manner any additional data element in connection with—

(1) the transaction; or

(2) an inquiry with respect to the transaction.

(b) TRANSMISSION METHOD.—Except as provided in subsection (c), after the Secretary has established standards under section 2105 relating to the method by which data elements that the Secretary determines are appropriate for transmission in connection with a transaction described in subpart B may be transmitted electronically, an individual or entity may not require an individual or entity to transmit any data element in a manner inconsistent with the standards in connection with—

(1) the transaction; or

(2) an inquiry with respect to the transaction.

(c) EXCEPTION.—Subsections (a) and (b) do not apply if—

(1) an individual or entity voluntarily agrees to provide the additional data element; or

(2) a waiver is granted under subsection (d) to permit the requirement.

(d) CONDITIONS FOR WAIVERS.—

(1) IN GENERAL.—An individual or entity may request a waiver from the Secretary in order to impose on an individual or entity a requirement otherwise prohibited under subsection (a) or (b).

(2) CONSIDERATION OF WAIVER REQUESTS.—A waiver may not be granted under this subsection to impose an otherwise prohibited requirement unless the Secretary determines that the value of any additional information to be provided under the requirement for research or other purposes significantly outweighs the administrative cost of the imposition of the requirement, taking into account the burden of the timing of the imposition of the requirement.

(3) ANONYMOUS REPORTING.—If an individual or entity attempts to impose on an individual or entity a requirement prohibited under subsection (a) or (b), the individual or entity on whom the requirement is being imposed may contact the Secretary. The Secretary shall develop a procedure under which an individual or entity that contacts the Secretary under the preceding sentence shall remain anonymous. The Secretary shall notify the individual or entity imposing the requirement that the requirement may not be imposed unless the other individual or entity voluntarily agrees to such requirement or a waiver is obtained under this subsection.

SEC. 2123. EFFECT ON STATE LAW.

(a) IN GENERAL.—Except as otherwise provided in this section, a provision, requirement, or standard under this part shall supersede any contrary provision of State law.

(b) STATE "QUILL AND PEN" LAWS.—A State may not establish, continue in effect, or enforce any provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form, except where the Secretary determines that the provision is necessary to

79-059 O—97 Vol. 140 (Pt. 15) 21

VOL 140 PT 15 AG 10 — 11 1994 UMI

prevent fraud and abuse, with respect to controlled substances, or for other purposes.

(c) PUBLIC HEALTH REPORTING.—Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

(d) PUBLIC USE FUNCTIONS.—Nothing in this part shall be construed to limit the authority of a Federal or State agency to make non-identifiable health information available for public use.

(e) PAYMENT FOR HEALTH CARE SERVICES OR PREMIUMS.—Nothing in this part shall be construed to prohibit a consumer from paying for health care items or services, or plan or health insurance coverage premiums, by debit, credit, or other payment cards or numbers or other electronic payment means.

SEC. 2124. GRANTS FOR DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary may make grants for demonstration projects to promote the development and use of electronically integrated community-based clinical information systems and computerized patient medical records.

(b) APPLICATIONS.—

(1) SUBMISSION.—To apply for a grant under this section for any fiscal year, an applicant shall submit an application to the Secretary in accordance with the procedures established by the Secretary.

(2) CRITERIA FOR APPROVAL.—The Secretary may not approve an application submitted under paragraph (1) unless the application includes assurances satisfactory to the Secretary regarding the following:

(A) USE OF EXISTING TECHNOLOGY.—Funds received under this section will be used to apply telecommunications and information systems technology that is in existence on the date the application is submitted in a manner that improves the quality of health care, reduces the costs of such care, and protects the privacy and confidentiality of information relating to the physical or mental condition of an individual.

(B) USE OF EXISTING INFORMATION SYSTEMS.—Funds received under this section will be used—

(i) to enhance telecommunications or information systems that are operating on the date the application is submitted;

(ii) to integrate telecommunications or information systems that are operating on the date the application is submitted; or

(iii) to connect additional users to telecommunications or information networks or systems that are operating on the date the application is submitted.

(C) MATCHING FUNDS.—The applicant shall make available funds for the demonstration project in an amount that equals at least 20 percent of the cost of the project.

(c) GEOGRAPHIC DIVERSITY.—In making any grants under this section, the Secretary shall, to the extent practicable, make grants to persons representing different geographic areas of the United States, including urban and rural areas.

(d) REVIEW AND SANCTIONS.—The Secretary shall review at least annually the compliance of a person receiving a grant under this section with the provisions of this section. The Secretary shall establish a procedure for determining whether such a person has failed to comply substantially within the provisions of this section and the sanctions to be imposed for any such noncompliance.

(e) ANNUAL REPORT.—The Secretary shall submit an annual report to the President for transmittal to Congress containing a description of the activities carried out under this section.

Subpart D—Assistance to the Secretary

SEC. 2131. GENERAL REQUIREMENT ON SECRETARY.

In complying with any requirements imposed on the Secretary under this part, the Secretary shall rely on recommendations of the Health Information Advisory Committee established under section 2132 and shall consult with appropriate Federal agencies.

SEC. 2132. HEALTH INFORMATION ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established a committee to be known as the Health Care Information Advisory Committee.

(b) DUTY.—

(1) IN GENERAL.—The committee shall—

(A) provide assistance to the Secretary in complying with the requirements imposed on the Secretary under this part and part 2;

(B) be generally responsible for advising the Secretary and the Congress on the status of the health information network; and

(C) make recommendations to correct any problems that may occur in the network's implementation and ongoing operations and to refine and improve the network.

(2) TECHNICAL ASSISTANCE.—In performing its duties under this subsection, the committee shall receive technical assistance from appropriate Federal agencies.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The committee shall consist of 15 members to be appointed by the President not later than 60 days after the date of the enactment of this part. The President shall designate 1 member as the Chair.

(2) EXPERTISE.—The membership of the committee shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the committee.

(3) TERMS.—Each member of the committee shall be appointed for a term of 5 years, except that the members first appointed shall serve staggered terms such that the terms of no more than 3 members expire at one time.

(4) VACANCIES.—

(A) IN GENERAL.—A vacancy on the committee shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(C) EXPIRATION OF TERMS.—The term of any member shall not expire before the date on which the member's successor takes office.

(5) CONFLICTS OF INTEREST.—Members of the committee shall disclose upon appointment to the committee or at any subsequent time that it may occur, conflicts of interest.

(d) MEETINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the committee shall meet at the call of the Chair.

(2) INITIAL MEETING.—Not later than 30 days after the date on which all members of the committee have been appointed, the committee shall hold its first meeting.

(3) QUORUM.—A majority of the members of the committee shall constitute a quorum, but a lesser number of members may hold hearings.

(e) POWER TO HOLD HEARINGS.—The committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the committee considers advisable to carry out the purposes of this section.

(f) OTHER ADMINISTRATIVE PROVISIONS.—Subparagraphs (C), (D), and (H) of section 1886(e)(6) of the Social Security Act shall apply to the committee in the same manner as they apply to the Prospective Payment Assessment Commission.

(g) REPORTS.—

(1) IN GENERAL.—The committee shall annually prepare and submit to Congress and the Secretary a report including at least an analysis of—

(A) the status of the health information network established under this part, including whether the network is fulfilling the purpose described in section 2100;

(B) the savings and costs of the network;

(C) the activities of health information network services certified under section 2121, health providers, and plan sponsors under this part;

(D) the extent to which entities described in subparagraph (C) are meeting the standards adopted under this part and working together to form an integrated network that meets the needs of its users;

(E) the extent to which entities described in subparagraph (C) are meeting the privacy and security protections of part 2;

(F) whether the Federal Government and State Governments are receiving information of sufficient quality to meet their responsibilities under this Act;

(G) any problems with respect to implementation of the network;

(H) the extent to which timetables under this part for the adoption and implementation of standards are being met; and

(I) any legislative recommendations related to the health information network.

(2) AVAILABILITY TO THE PUBLIC.—Any information in the report submitted to Congress under paragraph (1) shall be made available to the public, unless such information may not be disclosed by law.

(h) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, the committee shall continue in existence until otherwise provided by law.

PART 2—FAIR HEALTH INFORMATION PRACTICES

SEC. 2140. DEFINITIONS.

(a) DEFINITIONS RELATING TO PROTECTED HEALTH INFORMATION.—For purposes of this part:

(1) DISCLOSE.—The term "disclose", when used with respect to protected health information that is held by a health information trustee, means to provide access to the information, but only if such access is provided by the trustee to a person other than—

(A) the trustee or an officer or employee of the trustee;

(B) an affiliated person of the trustee; or

(C) a protected individual who is a subject of the information.

(2) DISCLOSURE.—The term "disclosure" means the act or an instance of disclosing.

(3) PROTECTED HEALTH INFORMATION.—The term "protected health information" means any information, whether oral or recorded in any form or medium—

(A) that is created or received in a State by—

(i) a health care provider;

(ii) a health benefit plan sponsor;

(iii) a health oversight agency;

(iv) a health information service organization; or

(v) a public health authority;

(B) that relates in any way to the past, present, or future physical or mental health

or condition or functional status of a protected individual, the provision of health care to a protected individual, or payment for the provision of health care to a protected individual; and

(C) that—

(i) identifies the individual; or

(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

(4) PROTECTED INDIVIDUAL.—The term "protected individual" means an individual who, with respect to a date—

(A) is living on the date; or

(B) has died within the 2-year period ending on the date.

(5) USE.—The term "use", when used with respect to protected health information that is held by a health information trustee, means—

(A) to use, or provide access to, the information in any manner that does not constitute a disclosure; or

(B) any act or instance of using, or providing access, described in subparagraph (A).

(b) DEFINITIONS RELATING TO HEALTH INFORMATION TRUSTEES.—For purposes of this part:

(1) CARRIER.—The term "carrier" means a licensed insurance company, a hospital or medical service corporation (including an existing Blue Cross or Blue Shield organization, within the meaning of section 833(c)(2) of the Internal Revenue Code of 1986), a health maintenance organization, or other entity licensed or certified by a State to provide health insurance or health benefits.

(2) HEALTH BENEFIT PLAN.—The term "health benefit plan" means—

(A) any contract of health insurance, including any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract, that is provided by a carrier; and

(B) an employee welfare benefit plan or other arrangement insofar as the plan or arrangement provides health benefits and is funded in a manner other than through the purchase of one or more policies or contracts described in subparagraph (A).

(3) HEALTH BENEFIT PLAN SPONSOR.—The term "health benefit plan sponsor" means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a carrier providing a health benefit plan;

(B) any other provider of a health benefit plan, including any public entity that provides payments for health care items and services under a health benefit plan that are equivalent to payments provided by a private person under such a plan; or

(C) an officer or employee of a person described in subparagraph (A) or (B).

(4) HEALTH CARE PROVIDER.—The term "health care provider" means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a person who is licensed, certified, registered, or otherwise authorized by law to provide an item or service that constitutes health care in the ordinary course of business or practice of a profession;

(B) a Federal or State program that directly provides items or services that constitute health care to beneficiaries; or

(C) an officer or employee of a person described in subparagraph (A) or (B).

(5) HEALTH INFORMATION SERVICE ORGANIZATION.—The term "health information service organization" means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a person, other than an affiliated person, who performs specific functions for which the Secretary has authorized (by means of a designation or certification) the person to receive access to health care data in electronic or magnetic form that are regulated by this Act; or

(B) an officer or employee of a person described in subparagraph (A).

(6) HEALTH INFORMATION TRUSTEE.—The term "health information trustee" means—

(A) a health care provider;

(B) a health information service organization;

(C) a health oversight agency;

(D) a health benefit plan sponsor;

(E) a public health authority;

(F) a health researcher;

(G) a person who, with respect to a specific item of protected health information, is not described in subparagraphs (A) through (F) but receives the information—

(i) pursuant to—

(I) section 2157 (relating to emergency circumstances);

(II) section 2158 (relating to judicial and administrative purposes);

(III) section 2159 (relating to law enforcement); or

(IV) section 2160 (relating to subpoenas, warrants, and search warrants); or

(ii) while acting in whole or in part in the capacity of an officer or employee of a person described in clause (i).

(7) HEALTH OVERSIGHT AGENCY.—The term "health oversight agency" means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) a person who performs or oversees the performance of an assessment, evaluation, determination, or investigation relating to the licensing, accreditation, or certification of health care providers;

(B) a person who—

(i) performs or oversees the performance of an audit, assessment, evaluation, determination, or investigation relating to the effectiveness of, compliance with, or applicability of, legal, fiscal, medical, or scientific standards or aspects of performance related to the delivery of, or payment for, health care; and

(ii) is a public agency, acting on behalf of a public agency, acting pursuant to a requirement of a public agency, or carrying out activities under a State or Federal statute regulating the assessment, evaluation, determination, or investigation; or

(C) an officer or employee of a person described in subparagraph (A) or (B).

(8) HEALTH RESEARCHER.—The term "health researcher" means a person who, with respect to a specific item of protected health information, receives the information—

(A) pursuant to section 2156 (relating to health research); or

(B) while acting in whole or in part in the capacity of an officer or employee of a person described in subparagraph (A).

(9) PUBLIC HEALTH AUTHORITY.—The term "public health authority" means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of—

(A) an authority of the United States, a State, or a political subdivision of a State that is responsible for public health matters;

(B) a person acting under the direction of such an authority; or

(C) an officer or employee of a person described in subparagraph (A) or (B).

(c) OTHER DEFINITIONS.—For purposes of this part:

(1) AFFILIATED PERSON.—The term "affiliated person" means a person who—

(A) is not a health information trustee;

(B) is a contractor, subcontractor, associate, or subsidiary of a person who is a health information trustee; and

(C) pursuant to an agreement or other relationship with such trustee, receives, creates, uses, maintains, or discloses protected health information.

(2) APPROVED HEALTH RESEARCH PROJECT.—The term "approved health research project" means a biomedical, epidemiological, or health services research or statistics project, or a research project on behavioral and social factors affecting health, that has been approved by a certified institutional review board.

(3) CERTIFIED INSTITUTIONAL REVIEW BOARD.—The term "certified institutional review board" means a board—

(A) established by an entity to review research involving protected health information and the rights of protected individuals conducted at or supported by the entity;

(B) established in accordance with regulations of the Secretary under section 2156(e)(1); and

(C) certified by the Secretary under section 2156(e)(2).

(4) HEALTH CARE.—The term "health care"—

(A) means—

(i) any preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, counseling, service, or procedure—

(I) with respect to the physical or mental condition, or functional status, of an individual; or

(II) affecting the structure or function of the human body or any part of the human body, including banking of blood, sperm, organs, or any other tissue; or

(ii) any sale or dispensing of a drug, device, equipment, or other item to an individual, or for the use of an individual, pursuant to a prescription; but

(B) does not include any item or service that is not furnished for the purpose of maintaining or improving the health of an individual.

(5) LAW ENFORCEMENT INQUIRY.—The term "law enforcement inquiry" means a lawful investigation or official proceeding inquiring into a violation of, or failure to comply with, any criminal or civil statute or any regulation, rule, or order issued pursuant to such a statute.

(6) PERSON.—The term "person" includes an authority of the United States, a State, or a political subdivision of a State.

Subpart A—Duties of Health Information Trustees

SEC. 2141. INSPECTION OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (b), a health information trustee described in subsection (g)—

(1) shall permit a protected individual to inspect any protected health information about the individual that the trustee maintains, any accounting with respect to such information required under section 2144, and any copy of an authorization required under

VOL 140 PT 15 AG 10 — 11 1994 UMI

section 2152 that pertains to such information;

(2) shall provide the protected individual with a copy of the information upon request by the individual and subject to any conditions imposed by the trustee under subsection (d);

(3) shall permit a person who has been designated in writing by the protected individual to inspect the information on behalf of the individual or to accompany the individual during the inspection; and

(4) may offer to explain or interpret information that is inspected or copied under this subsection.

(b) EXCEPTIONS.—A health information trustee is not required by this section to permit inspection or copying of protected health information by a protected individual if any of the following conditions apply:

(1) MENTAL HEALTH TREATMENT NOTES.—The information consists of psychiatric, psychological, or mental health treatment notes about the individual, the trustee determines in the exercise of reasonable professional judgment that inspection or copying of the notes would cause sufficient harm to the protected individual so as to outweigh the desirability of permitting access, and the trustee does not disclose the notes to any person not directly engaged in treating the individual, except with the authorization of the individual or under compulsion of law.

(2) INFORMATION ABOUT OTHERS.—The information relates to an individual, other than the protected individual or a health care provider, and the trustee determines in the exercise of reasonable professional judgment that inspection or copying of the information would cause sufficient harm to one or both of the individuals so as to outweigh the desirability of permitting access.

(3) ENDANGERMENT TO LIFE OR SAFETY.—Inspection or copying of the information could reasonably be expected to endanger the life or physical safety of an individual.

(4) CONFIDENTIAL SOURCE.—The information identifies or could reasonably lead to the identification of an individual (other than a health care provider) who provided information under a promise of confidentiality to a health care provider concerning a protected individual who is a subject of the information.

(5) ADMINISTRATIVE PURPOSES.—The information—

(A) is used by the trustee solely for administrative purposes and not in the provision of health care to a protected individual who is a subject of the information; and

(B) is not disclosed by the trustee to any person.

(6) DUPLICATIVE INFORMATION.—The information duplicates information available for inspection under subsection (a).

(7) INFORMATION COMPILED IN ANTICIPATION OF LITIGATION.—The information is compiled principally—

(A) in anticipation of a civil, criminal, or administrative action or proceeding; or

(B) for use in such an action or proceeding.

(c) INSPECTION AND COPYING OF SEGREGABLE PORTION.—A health information trustee shall permit inspection and copying under subsection (a) of any reasonably segregable portion of a record after deletion of any portion that is exempt under subsection (b).

(d) CONDITIONS.—A health information trustee may—

(1) require a written request for the inspection and copying of protected health information under this section; and

(2) charge a reasonable cost-based fee for—

(A) permitting inspection of information under this section; and

(B) providing a copy of protected health information under this section.

(e) STATEMENT OF REASONS FOR DENIAL.—If a health information trustee denies in whole or in part a request for inspection or copying under this section, the trustee shall provide the protected individual who made the request with a written statement of the reasons for the denial.

(f) DEADLINE.—A health information trustee shall comply with or deny a request for inspection or copying of protected health information under this section within the 30-day period beginning on the date the trustee receives the request.

(g) APPLICABILITY.—This section applies to a health information trustee who is—

(1) a health benefit plan sponsor;

(2) a health care provider;

(3) a health information service organization;

(4) a health oversight agency; or

(5) a public health authority.

SEC. 2142. AMENDMENT OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—A health information trustee described in subsection (f) shall, within the 45-day period beginning on the date the trustee receives from a protected individual about whom the trustee maintains protected health information a written request that the trustee correct or amend the information, complete the duties described in one of the following paragraphs:

(1) CORRECTION OR AMENDMENT AND NOTIFICATION.—The trustee shall—

(A) make the correction or amendment requested;

(B) inform the protected individual of the amendment or correction that has been made;

(C) make reasonable efforts to inform any person who is identified by the protected individual, who is not an employee of the trustee, and to whom the uncorrected or unamended portion of the information was previously disclosed of the correction or amendment that has been made; and

(D) at the request of the individual, make reasonable efforts to inform any known source of the uncorrected or unamended portion of the information about the correction or amendment that has been made.

(2) REASONS FOR REFUSAL AND REVIEW PROCEDURES.—The trustee shall inform the protected individual of—

(A) the reasons for the refusal of the trustee to make the correction or amendment;

(B) any procedures for further review of the refusal; and

(C) the individual's right to file with the trustee a concise statement setting forth the requested correction or amendment and the individual's reasons for disagreeing with the refusal of the trustee.

(b) STANDARDS FOR CORRECTION OR AMENDMENT.—A trustee shall correct or amend protected health information in accordance with a request made under subsection (a) if the trustee determines that the information is not accurate, relevant, timely, or complete for the purposes for which the information may be used or disclosed by the trustee.

(c) STATEMENT OF DISAGREEMENT.—After a protected individual has filed a statement of disagreement under subsection (a)(2)(C), the trustee, in any subsequent disclosure of the disputed portion of the information, shall include a copy of the individual's statement and may include a concise statement of the trustee's reasons for not making the requested correction or amendment.

(d) CONSTRUCTION.—This section may not be construed to require a health information trustee to conduct a hearing or proceeding concerning a request for a correction or amendment to protected health information the trustee maintains.

(e) CORRECTION.—For purposes of subsection (a), a correction is deemed to have been made to protected health information when—

(1) information that is not timely, accurate, relevant, or complete is clearly marked as incorrect; or

(2) supplementary correct information is made part of the information and adequately cross-referenced.

(f) APPLICABILITY.—This section applies to a health information trustee who is—

(1) a health benefit plan sponsor;

(2) a health care provider;

(3) a health information service organization;

(4) a health oversight agency; or

(5) a public health authority.

SEC. 2143. NOTICE OF INFORMATION PRACTICES.

(a) PREPARATION OF NOTICE.—A health information trustee described in subsection (d) shall prepare a written notice of information practices describing the following:

(1) The rights under this part of a protected individual who is the subject of protected health information, including the right to inspect and copy such information and the right to seek amendments to such information, and the procedures for authorizing disclosures of protected health information and for revoking such authorizations.

(2) The procedures established by the trustee for the exercise of such rights.

(3) The uses and disclosures of protected health information that are authorized under this part.

(b) DISSEMINATION OF NOTICE.—A health information trustee—

(1) shall, upon request, provide any person with a copy of the trustee's notice of information practices (described in subsection (a)); and

(2) shall make reasonable efforts to inform persons in a clear and conspicuous manner of the existence and availability of such notice.

(c) MODEL NOTICES.—Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment, shall develop and disseminate model notices of information practices for use by health information trustees under this section.

(d) APPLICABILITY.—This section applies to a health information trustee who is—

(1) a health benefit plan sponsor;

(2) a health care provider;

(3) a health information service organization; or

(4) a health oversight agency.

SEC. 2144. ACCOUNTING FOR DISCLOSURES.

(a) IN GENERAL.—Except as provided in subsection (b) and section 2154, each health information trustee shall create and maintain, with respect to any protected health information the trustee discloses, a record of—

(1) the date and purpose of the disclosure;

(2) the name of the person to whom the disclosure was made;

(3) the address of the person to whom the disclosure was made or the location to which the disclosure was made; and

(4) where practicable, a description of the information disclosed.

(b) REGULATIONS.—Not later than July 1, 1996, the Secretary shall promulgate regulations that exempt a health information trustee from maintaining a record under subsection (a) with respect protected health information disclosed by the trustee for purposes of peer review, licensing, certification, accreditation, and similar activities.

SEC. 2145. SECURITY.

(a) IN GENERAL.—Each health information trustee who receives or creates protected health information that is subject to this part shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

(1) to ensure the integrity and confidentiality of the information;

(2) to protect against any reasonably anticipated—

(A) threats or hazards to the security or integrity of the information; and

(B) unauthorized uses or disclosures of the information; and

(3) otherwise ensure compliance with this part by the trustee and the officers and employees of the trustee.

(b) GUIDELINES.—Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment, shall develop and disseminate guidelines for the implementation of this section. The guidelines shall take into account—

(1) the technical capabilities of record systems used to maintain protected health information;

(2) the costs of security measures;

(3) the need for training persons who have access to protected health information; and

(4) the value of audit trails in computerized record systems.

Subpart B—Use and Disclosure of Protected Health Information

SEC. 2151. GENERAL LIMITATIONS ON USE AND DISCLOSURE.

(a) USE.—Except as otherwise provided under this part, a health information trustee may use protected health information only for a purpose—

(1) that is compatible with and directly related to the purpose for which the information—

(A) was collected; or

(B) was received by the trustee; or

(2) for which the trustee is authorized to disclose the information under this part.

(b) DISCLOSURE.—A health information trustee may disclose protected health information only as authorized under this part.

(c) SCOPE OF USES AND DISCLOSURES.—

(1) IN GENERAL.—A use or disclosure of protected health information by a health information trustee shall be limited, when practicable, to the minimum amount of information necessary to accomplish the purpose for which the information is used or disclosed.

(2) GUIDELINES.—Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment, shall issue guidelines to implement paragraph (1), which shall take into account the technical capabilities of the record systems used to maintain protected health information and the costs of limiting use and disclosure.

(d) IDENTIFICATION OF DISCLOSED INFORMATION AS PROTECTED INFORMATION.—Except with respect to protected health information that is disclosed under section 2154 (relating to next of kin and directory information), a health information trustee may disclose protected health information only if the recipient has been notified that the information is subject to this part.

(e) AGREEMENT TO LIMIT USE OR DISCLOSURE.—A health information trustee who receives protected health information from any person pursuant to a written agreement to restrict use or disclosure of the information to a greater extent than otherwise would be required under this part shall comply with the terms of the agreement, except where use or disclosure of the information in violation of the agreement is required by law. A trustee who fails to comply with the preceding sentence shall be subject to section 2191 (relating to civil actions) with respect to such failure.

(f) NO GENERAL REQUIREMENT TO DISCLOSE.—Nothing in this part shall be construed to require a health information trustee to disclose protected health information not otherwise required to be disclosed by law.

SEC. 2152. AUTHORIZATIONS FOR DISCLOSURE OF PROTECTED HEALTH INFORMATION.

(a) WRITTEN AUTHORIZATIONS.—A health information trustee, other than a health information service organization, may disclose protected health information pursuant to an authorization executed by the protected individual who is the subject of the information, if each of the following requirements is satisfied:

(1) WRITING.—The authorization is in writing, signed by the individual, and dated on the date of such signature.

(2) SEPARATE FORM.—The authorization is not on a form used to authorize or facilitate the provision of, or payment for, health care.

(3) TRUSTEE DESCRIBED.—The trustee is specifically named or generically described in the authorization as authorized to disclose such information.

(4) RECIPIENT DESCRIBED.—The person to whom the information is to be disclosed is specifically named or generically described in the authorization as a person to whom such information may be disclosed.

(5) STATEMENT OF INTENDED USES AND DISCLOSURES RECEIVED.—The authorization contains an acknowledgment that the individual has received a statement described in subsection (b) from such person.

(6) INFORMATION DESCRIBED.—The information to be disclosed is described in the authorization.

(7) AUTHORIZATION TIMELY RECEIVED.—The authorization is received by the trustee during a period described in subsection (c)(1).

(8) DISCLOSURE TIMELY MADE.—The disclosure occurs during a period described in subsection (c)(2).

(b) STATEMENT OF INTENDED USES AND DISCLOSURES.—

(1) IN GENERAL.—A person who wishes to receive from a health information trustee protected health information about a protected individual pursuant to an authorization executed by the individual shall supply the individual, in writing and on a form that is distinct from the authorization, with a statement of the uses for which the person intends the information and the disclosures the person intends to make of the information. Such statement shall be supplied before the authorization is executed.

(2) ENFORCEMENT.—If the person uses or discloses the information in a manner that is inconsistent with such statement, the person shall be subject to section 2191 (relating to civil actions) with respect to such failure, except where such use or disclosure is required by law.

(3) MODEL STATEMENTS.—Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment, shall develop and disseminate model statements of intended uses and disclosures of the type described in paragraph (1).

(c) TIME LIMITATIONS ON AUTHORIZATIONS.—

(1) RECEIPT BY TRUSTEE.—For purposes of subsection (a)(7), an authorization is timely received if it is received by the trustee during—

(A) the 1-year period beginning on the date that the authorization is signed under subsection (a)(1), if the authorization permits the disclosure of protected health information to—

(i) a health benefit plan sponsor;

(ii) a health care provider;

(iii) a health oversight agency;

(iv) a public health authority;

(v) a health researcher; or

(vi) a person who provides counseling or social services to individuals; or

(B) the 30-day period beginning on the date that the authorization is signed under subsection (a)(1), if the authorization permits the disclosure of protected health information to a person other than a person described in subparagraph (A).

(2) DISCLOSURE BY TRUSTEE.—For purposes of subsection (a)(8), a disclosure is timely made if it occurs before—

(A) the date or event (if any) specified in the authorization upon which the authorization expires; and

(B) the expiration of the 6-month period beginning on the date the trustee receives the authorization.

(d) REVOCATION OR AMENDMENT OF AUTHORIZATION.—

(1) IN GENERAL.—A protected individual in writing may revoke or amend an authorization described in subsection (a), in whole or in part, at any time, except insofar as—

(A) disclosure of protected health information has been authorized to permit validation of expenditures based on health condition by a government authority; or

(B) action has been taken in reliance on the authorization.

(2) NOTICE OF REVOCATION.—A health information trustee who discloses protected health information in reliance on an authorization that has been revoked shall not be subject to any liability or penalty under this part if—

(A) the reliance was in good faith;

(B) the trustee had no notice of the revocation; and

(C) the disclosure was otherwise in accordance with the requirements of this section.

(e) ADDITIONAL REQUIREMENTS OF TRUSTEE.—A health information trustee may impose requirements for an authorization that are in addition to the requirements in this section.

(f) COPY.—A health information trustee who discloses protected health information pursuant to an authorization under this section shall maintain a copy of the authorization.

(g) CONSTRUCTION.—This section may not be construed—

(1) to require a health information trustee to disclose protected health information; or

(2) to limit the right of a health information trustee to charge a fee for the disclosure or reproduction of protected health information.

(h) SUBPOENAS, WARRANTS, AND SEARCH WARRANTS.—If a health information trustee discloses protected health information pursuant to an authorization in order to comply with an administrative subpoena or warrant or a judicial subpoena or search warrant, the authorization—

(1) shall specifically authorize the disclosure for the purpose of permitting the trustee to comply with the subpoena, warrant, or search warrant; and

(2) shall otherwise meet the requirements in this section.

SEC. 2153. TREATMENT, PAYMENT, AND OVERSIGHT.

(a) DISCLOSURES BY PLANS, PROVIDERS, AND OVERSIGHT AGENCIES.—A health information trustee described in subsection (d) may disclose protected health information to a

VOL 140 PT 15 AG 10 — 11 1994 UMI

health benefit plan sponsor, health care provider, or health oversight agency if the disclosure is—

(1) for the purpose of providing health care and a protected individual who is a subject of the information has not previously objected to the disclosure in writing;

(2) for the purpose of providing for the payment for health care furnished to an individual; or

(3) for use by a health oversight agency for a purpose that is described in subparagraph (A) or (B)(i) of section 2140(b)(7).

(b) DISCLOSURES BY CERTAIN OTHER TRUSTEES.—A health information trustee may disclose protected health information to a health care provider if—

(1) the disclosure is for the purpose described in subsection (a)(1); and

(2) the trustee—

(A) is a public health authority;

(B) received protected health information pursuant to section 2157 (relating to emergency circumstances); or

(C) is an officer or employee of a trustee described in subsection (B).

(c) USE IN ACTION AGAINST INDIVIDUAL.—A person who receives protected health information about a protected individual through a disclosure under this section may not use or disclose the information in any administrative, civil, or criminal action or investigation directed against the individual, except an action or investigation arising out of and related to receipt of health care or payment for health care.

(d) APPLICABILITY.—A health information trustee referred to in subsection (a) is any of the following:

(1) A health benefit plan sponsor.

(2) A health care provider.

(3) A health oversight agency.

(4) A health information service organization.

SEC. 2154. NEXT OF KIN AND DIRECTORY INFORMATION.

(a) NEXT OF KIN.—A health information trustee who is a health care provider, who received protected health information pursuant to section 2157 (relating to emergency circumstances), or who is an officer or employee of such a recipient may orally disclose protected health information about a protected individual to the next of kin of the individual (as defined under State law), or to a person with whom the individual has a close personal relationship, if—

(1) the trustee has no reason to believe that the individual would consider the information especially sensitive;

(2) the individual has not previously objected to the disclosure;

(3) the disclosure is consistent with good medical or other professional practice; and

(4) the information disclosed is limited to information about health care that is being provided to the individual at or about the time of the disclosure.

(b) DIRECTORY INFORMATION.—

(1) IN GENERAL.—A health information trustee who is a health care provider, who received protected health information pursuant to section 2157 (relating to emergency circumstances), or who is an officer or employee of such a recipient may disclose to any person the information described in paragraph (2) if—

(A) a protected individual who is a subject of the information has not objected in writing to the disclosure;

(B) the disclosure is otherwise consistent with good medical and other professional practice; and

(C) the information does not reveal specific information about the physical or mental condition or functional status of a protected individual or about the health care provided to a protected individual.

(2) INFORMATION DESCRIBED.—The information referred to in paragraph (1) is the following:

(A) The name of an individual receiving health care from a health care provider on a premises controlled by the provider.

(B) The location of the individual on such premises.

(C) The general health status of the individual, described in terms of critical, poor, fair, stable, satisfactory, or terms denoting similar conditions.

(c) NO ACCOUNTING REQUIRED.—A health information trustee who discloses protected health information under this section is not required to maintain an accounting of the disclosure under section 2144.

(d) RECIPIENTS.—A person to whom protected health information is disclosed under this section shall not, by reason of such disclosure, be subject to any requirement under this part.

SEC. 2155. PUBLIC HEALTH.

(a) IN GENERAL.—A health information trustee who is a health care provider or a public health authority may disclose protected health information to—

(1) a public health authority for use in legally authorized—

(A) disease or injury reporting;

(B) public health surveillance; or

(C) public health investigation or intervention; or

(2) an individual who is authorized by law to receive the information in a public health intervention.

(b) USE IN ACTION AGAINST INDIVIDUAL.—A public health authority who receives protected health information about a protected individual through a disclosure under this section may not use or disclose the information in any administrative, civil, or criminal action or investigation directed against the individual, except where the use or disclosure is authorized by law for protection of the public health.

(c) INDIVIDUAL RECIPIENTS.—An individual to whom protected health information is disclosed under subsection (a)(2) shall not, by reason of such disclosure, be subject to any requirement under this part.

SEC. 2156. HEALTH RESEARCH.

(a) IN GENERAL.—A health information trustee described in subsection (d) may disclose protected health information to a person if—

(1) the person is conducting an approved health research project;

(2) the information is to be used in the project; and

(3) the project has been determined by a certified institutional review board to be—

(A) of sufficient importance so as to outweigh the intrusion into the privacy of the protected individual who is the subject of the information that would result from the disclosure; and

(B) impracticable to conduct without the information.

(b) DISCLOSURES BY HEALTH INFORMATION SERVICE ORGANIZATIONS.—A health information service organization may disclose protected health information under subsection (a) only if the certified institutional review board referred to in subsection (a)(3) has been certified as being qualified to make determinations under such subsection with respect to disclosures by such organizations.

(c) LIMITATIONS ON USE AND DISCLOSURE; OBLIGATIONS OF RECIPIENT.—A health researcher who receives protected health information about a protected individual pursuant to subsection (a)—

(1) may use the information solely for purposes of an approved health research project;

(2) may not use or disclose the information in any administrative, civil, or criminal action or investigation directed against the individual; and

(3) shall remove or destroy, at the earliest opportunity consistent with the purposes of the approved health research project in connection with which the disclosure was made, information that would enable an individual to be identified, unless a certified institutional review board has determined that there is a health or research justification for retention of such identifiers and there is an adequate plan to protect the identifiers from use and disclosure that is inconsistent with this part.

(d) APPLICABILITY.—A health information trustee referred to in subsection (a) is any health information trustee other than a person who, with respect to the specific protected health information to be disclosed under such subsection, received the information—

(1) pursuant to—

(A) section 2158 (relating to judicial and administrative purposes);

(B) paragraph (1), (2), or (3) of section 2159(a) (relating to law enforcement); or

(C) section 2160 (relating to subpoenas, warrants, and search warrants); or

(2) while acting in whole or in part in the capacity of an officer or employee of a person described in paragraph (1).

(e) REQUIREMENTS FOR INSTITUTIONAL REVIEW BOARDS.—

(1) REGULATIONS.—Not later than July 1, 1996, the Secretary, after opportunity for notice and comment, shall promulgate regulations establishing requirements for certified institutional review boards under this part. The regulations shall be based on regulations promulgated under section 491(a) of the Public Health Service Act and shall ensure that certified institutional review boards are qualified to assess and protect the confidentiality of research subjects. The regulations shall include specific requirements for certified institutional review boards that make determinations under subsection (a)(3) with respect to disclosures by health information service organizations.

(2) CERTIFICATION.—The Secretary shall certify that an institutional review board satisfies the requirements of the regulations promulgated under paragraph (1).

SEC. 2157. EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—A health information trustee may disclose protected health information if the trustee believes, on reasonable grounds, that the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of an individual.

(b) USE IN ACTION AGAINST INDIVIDUAL.—A person who receives protected health information about a protected individual through a disclosure under this section may not use or disclose the information in any administrative, civil, or criminal action or investigation directed against the individual, except an action or investigation arising out of and related to receipt of health care or payment for health care.

SEC. 2158. JUDICIAL AND ADMINISTRATIVE PURPOSES.

(a) IN GENERAL.—A health information trustee described in subsection (d) may disclose protected health information—

(1) pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, or comparable rules of other courts or administrative agencies in connection with litigation or proceedings to which a protected individual who is a subject of the information is a party and in which the individual has placed the individual's physical or mental condition or functional status in issue;

(2) if directed by a court in connection with a court-ordered examination of an individual; or

(3) to assist in the identification of a dead individual.

(b) WRITTEN STATEMENT.—A person seeking protected health information about a protected individual held by health information trustee under—

(1) subsection (a)(1)—

(A) shall notify the protected individual or the attorney of the protected individual of the request for the information;

(B) shall provide the trustee with a signed document attesting—

(i) that the protected individual is a party to the litigation or proceedings for which the information is sought;

(ii) that the individual has placed the individual's physical or mental condition or functional status in issue; and

(iii) the date on which the protected individual or the attorney of the protected individual was notified under subparagraph (A); and

(C) shall not accept any requested protected health information from the trustee until the termination of the 10-day period beginning on the date notice was given under subparagraph (A); or

(2) subsection (a)(3) shall provide the trustee with a written statement that the information is sought to assist in the identification of a dead individual.

(c) USE AND DISCLOSURE.—A person to whom protected health information is disclosed under this section may use and disclose the information only to accomplish the purpose for which the disclosure was made.

(d) APPLICABILITY.—A health information trustee referred to in subsection (a) is any of the following:

(1) A health benefit plan sponsor.

(2) A health care provider.

(3) A health oversight agency.

(4) A person who, with respect to the specific protected health information to be disclosed under such subsection, received the information—

(A) pursuant to—

(i) section 2157 (relating to emergency circumstances); or

(ii) section 2160 (relating to subpoenas, warrants, and search warrants); or

(B) while acting in whole or in part in the capacity of an officer or employee of a person described in subparagraph (A).

SEC. 2159. LAW ENFORCEMENT.

(a) IN GENERAL.—A health information trustee, other than a health information service organization, may disclose protected health information to a law enforcement agency, other than a health oversight agency—

(1) if the information is disclosed for use in an investigation or prosecution of a health information trustee;

(2) in connection with criminal activity committed against the trustee or an affiliated person of the trustee or on premises controlled by the trustee; or

(3) if the information is needed to determine whether a crime has been committed and the nature of any crime that may have been committed (other than a crime that may have been committed by the protected individual who is the subject of the information).

(b) ADDITIONAL AUTHORITY OF CERTAIN TRUSTEES.—A health information trustee who is not a health information service organization, a public health authority, or a health researcher may disclose protected health information to a law enforcement agency (other than a health oversight agency)—

(1) to assist in the identification or location of a victim, fugitive, or witness in a law enforcement inquiry;

(2) pursuant to a law requiring the reporting of specific health care information to law enforcement authorities; or

(3) if the information is specific health information described in paragraph (2) and the trustee is operated by a Federal agency;

(c) CERTIFICATION.—Where a law enforcement agency requests a health information trustee to disclose protected health information under subsection (a) or (b)(1), the agency shall provide the trustee with a written certification that—

(1) is signed by a supervisory official of a rank designated by the head of the agency;

(2) specifies the information requested; and

(3) states that the information is needed for a lawful purpose under this section.

(d) RESTRICTIONS ON DISCLOSURE AND USE.—A person who receives protected health information about a protected individual through a disclosure under this section may not use or disclose the information—

(1) in any administrative, civil, or criminal action or investigation directed against the individual, except an action or investigation arising out of and directly related to the action or investigation for which the information was obtained; and

(2) otherwise unless the use or disclosure is necessary to fulfill the purpose for which the information was obtained and is not prohibited by any other provision of law.

SEC. 2160. SUBPOENAS, WARRANTS, AND SEARCH WARRANTS.

(a) IN GENERAL.—A health information trustee described in subsection (g) may disclose protected health information if the disclosure is pursuant to any of the following:

(1) A subpoena issued under the authority of a grand jury and the trustee is provided a written certification by the grand jury that the grand jury has complied with the applicable access provisions of section 2171.

(2) An administrative subpoena or warrant or a judicial subpoena or search warrant and the trustee is provided a written certification by the person seeking the information that the person has complied with the applicable access provisions of section 2171 or 2173(a).

(3) An administrative subpoena or warrant or a judicial subpoena or search warrant and the disclosure otherwise meets the conditions of one of sections 2153 through 2159.

(b) AUTHORITY OF ALL TRUSTEES.—Any health information trustee may disclose protected health information if the disclosure is pursuant to subsection (a)(3).

(c) RESTRICTIONS ON USE AND DISCLOSURE.—Protected health information about a protected individual that is disclosed by a health information trustee pursuant to—

(1) subsection (a)(2) may not be otherwise used or disclosed by the recipient unless the use or disclosure is necessary to fulfill the purpose for which the information was obtained; and

(2) subsection (a)(3) may not be used or disclosed by the recipient unless the recipient complies with the conditions and restrictions on use and disclosure with which the recipient would have been required to comply if the disclosure by the trustee had been made under the section referred to in subsection (a)(3) the conditions of which were met by the disclosure.

(d) RESTRICTIONS ON GRAND JURIES.—Protected health information that is disclosed by a health information trustee under subsection (a)(1)—

(1) shall be returnable on a date when the grand jury is in session and actually presented to the grand jury;

(2) shall be used only for the purpose of considering whether to issue an indictment or report by that grand jury, or for the purpose of prosecuting a crime for which that indictment or report is issued, or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure or a comparable State rule;

(3) shall be destroyed or returned to the trustee if not used for one of the purposes specified in paragraph (2); and

(4) shall not be maintained, or a description of the contents of such information shall not be maintained, by any government authority other than in the sealed records of the grand jury, unless such information has been used in the prosecution of a crime for which the grand jury issued an indictment or presentment or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure or a comparable State rule.

(e) USE IN ACTION AGAINST INDIVIDUAL.—A person who receives protected health information about a protected individual through a disclosure under this section may not use or disclose the information in any administrative, civil, or criminal action or investigation directed against the individual, except an action or investigation arising out of and directly related to the inquiry for which the information was obtained;

(f) CONSTRUCTION.—Nothing in this section shall be construed as authority for a health information trustee to refuse to comply with a valid administrative subpoena or warrant or a valid judicial subpoena or search warrant that meets the requirements of this part.

(g) APPLICABILITY.—A health information trustee referred to in subsection (a) is any trustee other than the following:

(1) A health information service organization.

(2) A public health authority.

(3) A health researcher.

SEC. 2161. HEALTH INFORMATION SERVICE ORGANIZATIONS.

A health information trustee may disclose protected health information to a health information service organization for the purpose of permitting the organization to perform a function for which the Secretary has authorized (by means of a designation or certification) the organization to receive access to health care data in electronic or magnetic form that are regulated by this Act .

Subpart C—Access Procedures and Challenge Rights

SEC. 2171. ACCESS PROCEDURES FOR LAW ENFORCEMENT SUBPOENAS, WARRANTS, AND SEARCH WARRANTS.

(a) PROBABLE CAUSE REQUIREMENT.—A government authority may not obtain protected health information about a protected individual from a health information trustee under paragraph (1) or (2) of section 2160(a) for use in a law enforcement inquiry unless there is probable cause to believe that the information is relevant to a legitimate law enforcement inquiry being conducted by the government authority.

(b) WARRANTS AND SEARCH WARRANTS.—A government authority that obtains protected

VOL 140 PT 15 AG 10 — 11 1994 UMI

health information about a protected individual from a health information trustee under circumstances described in subsection (a) and pursuant to a warrant or search warrant shall, not later than 30 days after the date the warrant was served on the trustee, serve the individual with, or mail to the last known address of the individual, a copy of the warrant.

(c) SUBPOENAS.—Except as provided in subsection (d), a government authority may not obtain protected health information about a protected individual from a health information trustee under circumstances described in subsection (a) and pursuant to a subpoena unless a copy of the subpoena has been served by hand delivery upon the individual, or mailed to the last known address of the individual, on or before the date on which the subpoena was served on the trustee, together with a notice (published by the Secretary under section 2175(1)) of the individual's right to challenge the subpoena in accordance with section 2172, and—

(1) 30 days have passed from the date of service, or 30 days have passed from the date of mailing, and within such time period the individual has not initiated a challenge in accordance with section 2172; or

(2) disclosure is ordered by a court under section 2172.

(d) APPLICATION FOR DELAY.—

(1) IN GENERAL.—A government authority may apply to an appropriate court to delay (for an initial period of not longer than 90 days) serving a copy of a subpoena and a notice otherwise required under subsection (c) with respect to a law enforcement inquiry. The government authority may apply to the court for extensions of the delay.

(2) REASONS FOR DELAY.—An application for a delay or extension of a delay, under this subsection shall state, with reasonable specificity, the reasons why the delay or extension is being sought.

(3) EX PARTE ORDER.—The court shall enter an ex parte order delaying, or extending the delay of, the notice and an order prohibiting the trustee from revealing the request for, or the disclosure of, the protected health information being sought if the court finds that—

(A) the inquiry being conducted is within the lawful jurisdiction of the government authority seeking the protected health information;

(B) there is probable cause to believe that the protected health information being sought is relevant to a legitimate law enforcement inquiry being conducted by the government authority;

(C) the government authority's need for the information outweighs the privacy interest of the protected individual who is the subject of the information; and

(D) there are reasonable grounds to believe that receipt of a notice by the individual will result in—

(i) endangering the life or physical safety of any individual;

(ii) flight from prosecution;

(iii) destruction of or tampering with evidence or the information being sought; or

(iv) intimidation of potential witnesses.

(4) SERVICE OF APPLICATION ON INDIVIDUAL.—Upon the expiration of a period of delay of notice under this subsection, the government authority shall serve upon the individual, with the service of the subpoena and the notice, a copy of any applications filed and approved under this subsection.

SEC. 2172. CHALLENGE PROCEDURES FOR LAW ENFORCEMENT SUBPOENAS.

(a) MOTION TO QUASH SUBPOENA.—Within 30 days of the date of service, or 30 days of the date of mailing, of a subpoena of a government authority seeking protected health information about a protected individual from a health information trustee under paragraph (1) or (2) of section 2160(a) (except a subpoena to which section 2173 applies), the individual may file (without filing fee) a motion to quash the subpoena—

(1) in the case of a State judicial subpoena, in the court which issued the subpoena;

(2) in the case of a subpoena issued under the authority of a State that is not a State judicial subpoena, in a court of competent jurisdiction;

(3) in the case of a subpoena issued under the authority of a Federal court, in any court of the United States of competent jurisdiction; or

(4) in the case of any other subpoena issued under the authority of the United States, in—

(A) the United States district court for the district in which the individual resides or in which the subpoena was issued; or

(B) another United States district court of competent jurisdiction.

(b) COPY.—A copy of the motion shall be served by the individual upon the government authority by delivery of registered or certified mail.

(c) AFFIDAVITS AND SWORN DOCUMENTS.—The government authority may file with the court such affidavits and other sworn documents as sustain the validity of the subpoena. The individual may file with the court, within 5 days of the date of the authority's filing, affidavits and sworn documents in response to the authority's filing. The court, upon the request of the individual, the government authority, or both, may proceed in camera.

(d) PROCEEDINGS AND DECISION ON MOTION.—The court may conduct such proceedings as it deems appropriate to rule on the motion. All such proceedings shall be completed, and the motion ruled on, within 10 calendar days of the date of the government authority's filing.

(e) EXTENSION OF TIME LIMITS FOR GOOD CAUSE.—The court, for good cause shown, may at any time in its discretion enlarge the time limits established by subsections (c) and (d).

(f) STANDARD FOR DECISION.—A court may deny a motion under subsection (a) if it finds that there is probable cause to believe that the protected health information being sought is relevant to a legitimate law enforcement inquiry being conducted by the government authority, unless the court finds that the individual's privacy interest outweighs the government authority's need for the information. The individual shall have the burden of demonstrating that the individual's privacy interest outweighs the need established by the government authority for the information.

(g) SPECIFIC CONSIDERATIONS WITH RESPECT TO PRIVACY INTEREST.—In determining under subsection (f) whether an individual's privacy interest outweighs the government authority's need for the information, the court shall consider—

(1) the particular purpose for which the information was collected by the trustee;

(2) the degree to which disclosure of the information will embarrass, injure, or invade the privacy of the individual;

(3) the effect of the disclosure on the individual's future health care;

(4) the importance of the inquiry being conducted by the government authority, and the importance of the information to that inquiry; and

(5) any other factor deemed relevant by the court.

(h) ATTORNEY'S FEES.—In the case of any motion brought under subsection (a) in which the individual has substantially prevailed, the court, in its discretion, may assess against a government authority a reasonable attorney's fee and other litigation costs (including expert fees) reasonably incurred.

(i) NO INTERLOCUTORY APPEAL.—A court ruling denying a motion to quash under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the individual. An appeal of such a ruling may be taken by the individual within such period of time as is provided by law as part of any appeal from a final order in any legal proceeding initiated against the individual arising out of or based upon the protected health information disclosed.

SEC. 2173. ACCESS AND CHALLENGE PROCEDURES FOR OTHER SUBPOENAS.

(a) IN GENERAL.—A person (other than a government authority seeking protected health information under circumstances described in section 2171(a)) may not obtain protected health information about a protected individual from a health information trustee pursuant to a subpoena under section 2160(a)(2) unless—

(1) a copy of the subpoena has been served upon the individual or mailed to the last known address of the individual on or before the date on which the subpoena was served on the trustee, together with a notice (published by the Secretary under section 2175(2)) of the individual's right to challenge the subpoena, in accordance with subsection (b); and

(2) either—

(A) 30 days have passed from the date of service or 30 days have passed from the date of the mailing and within such time period the individual has not initiated a challenge in accordance with subsection (b); or

(B) disclosure is ordered by a court under such subsection.

(b) MOTION TO QUASH.—Within 30 days of the date of service or 30 days of the date of mailing of a subpoena seeking protected health information about a protected individual from a health information trustee under subsection (a), the individual may file (without filing fee) in any court of competent jurisdiction, a motion to quash the subpoena, with a copy served on the person seeking the information. The individual may oppose, or seek to limit, the subpoena on any grounds that would otherwise be available if the individual were in possession of the information.

(c) STANDARD FOR DECISION.—The court shall grant an individual's motion under subsection (b) if the person seeking the information has not sustained the burden of demonstrating that—

(1) there are reasonable grounds to believe that the information will be relevant to a lawsuit or other judicial or administrative proceeding; and

(2) the need of the person for the information outweighs the privacy interest of the individual.

(d) SPECIFIC CONSIDERATIONS WITH RESPECT TO PRIVACY INTEREST.—In determining under subsection (c) whether the need of the person for the information outweighs the privacy interest of the individual, the court shall consider—

(1) the particular purpose for which the information was collected by the trustee;

(2) the degree to which disclosure of the information will embarrass, injure, or invade the privacy of the individual;

(3) the effect of the disclosure on the individual's future health care;

(4) the importance of the information to the lawsuit or proceeding; and

(5) any other factor deemed relevant by the court.

(e) ATTORNEY'S FEES.—In the case of any motion brought under subsection (b) by an individual against a person in which the individual has substantially prevailed, the court, in its discretion, may assess against the person a reasonable attorney's fee and other litigation costs (including expert fees) reasonably incurred.

SEC. 2174. CONSTRUCTION OF SUBPART; SUSPENSION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Nothing in this subpart shall affect the right of a health information trustee to challenge a request for protected health information. Nothing in this subpart shall entitle a protected individual to assert the rights of a health information trustee.

(b) EFFECT OF MOTION ON STATUTE OF LIMITATIONS.—If an individual who is the subject of protected health information files a motion under this subpart which has the effect of delaying the access of a government authority to such information, the period beginning on the date such motion was filed and ending on the date on which the motion is decided shall be excluded in computing any period of limitations within which the government authority may commence any civil or criminal action in connection with which the access is sought.

SEC. 2175. RESPONSIBILITIES OF SECRETARY.

Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment, shall develop and disseminate brief, clear, and easily understood model notices—

(1) for use under subsection (c) of section 2171, detailing the rights of a protected individual who wishes to challenge, under section 2172, the disclosure of protected health information about the individual under such subsection; and

(2) for use under subsection (a) of section 2173, detailing the rights of a protected individual who wishes to challenge, under subsection (b) of such section, the disclosure of protected health information about the individual under such section.

Subpart D—Miscellaneous Provisions

SEC. 2181. PAYMENT CARD AND ELECTRONIC PAYMENT TRANSACTIONS.

(a) PAYMENT FOR HEALTH CARE THROUGH CARD OR ELECTRONIC MEANS.—If a protected individual pays a health information trustee for health care by presenting a debit, credit, or other payment card or account number, or by any other electronic payment means, the trustee may disclose to a person described in subsection (b) only such protected health information about the individual as is necessary for the processing of the payment transaction or the billing or collection of amounts charged to, debited from, or otherwise paid by, the individual using the card, number, or other electronic payment means.

(b) TRANSACTION PROCESSING.—A person who is a debit, credit, or other payment card issuer, is otherwise directly involved in the processing of payment transactions involving such cards or other electronic payment transactions, or is otherwise directly involved in the billing or collection of amounts paid through such means, may only use or disclose protected health information about a protected individual that has been disclosed in accordance with subsection (a) when necessary for—

(1) the authorization, settlement, billing or collection of amounts charged to, debited from, or otherwise paid by, the individual using a debit, credit, or other payment card or account number, or by other electronic payment means;

(2) the transfer of receivables, accounts, or interest therein;

(3) the audit of the credit, debit, or other payment card account information;

(4) compliance with Federal, State, or local law; or

(5) a properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

SEC. 2182. ACCESS TO PROTECTED HEALTH INFORMATION OUTSIDE OF THE UNITED STATES.

(a) IN GENERAL.—Notwithstanding the provisions of subpart B, and except as provided in subsection (b), a health information trustee may not permit any person who is not in a State to have access to protected health information about a protected individual unless one or more of the following conditions exist:

(1) SPECIFIC AUTHORIZATION.—The individual has specifically consented to the provision of such access outside of the United States in an authorization that meets the requirements of section 2152.

(2) EQUIVALENT PROTECTION.—The provision of such access is authorized under this part and the Secretary has determined that there are fair information practices for protected health information in the jurisdiction where the access will be provided that provide protections for individuals and protected health information that are equivalent to the protections provided for by this part.

(3) ACCESS REQUIRED BY LAW.—The provision of such access is required under—

(A) a Federal statute; or

(B) a treaty or other international agreement applicable to the United States.

(b) EXCEPTIONS.—Subsection (a) does not apply where the provision of access to protected health information—

(1) is to a foreign public health authority;

(2) is authorized under section 2154 (relating to next of kin and directory information), 2156 (relating to health research), or 2157 (relating to emergency circumstances); or

(3) is necessary for the purpose of providing for payment for health care that has been provided to an individual.

SEC. 2183. STANDARDS FOR ELECTRONIC DOCUMENTS AND COMMUNICATIONS.

(a) STANDARDS.—Not later than July 1, 1996, the Secretary, after notice and opportunity for public comment and in consultation with appropriate private standard-setting organizations and other interested parties, shall establish standards with respect to the creation, transmission, receipt, and maintenance, in electronic and magnetic form, of each type of written document specifically required or authorized under this part. Where a signature is required under any other provision of this part, such standards shall provide for an electronic or magnetic substitute that serves the functional equivalent of a signature.

(b) TREATMENT OF COMPLYING DOCUMENTS AND COMMUNICATIONS.—An electronic or magnetic document or communication that satisfies the standards established under subsection (a) with respect to such document or communication shall be treated as satisfying the requirements of this part that apply to an equivalent written document.

SEC. 2184. DUTIES AND AUTHORITIES OF AFFILIATED PERSONS.

(a) REQUIREMENTS ON TRUSTEES.—

(1) PROVISION OF INFORMATION.—A health information trustee may provide protected health information to a person who, with respect to the trustee, is an affiliated person and may permit the affiliated person to use such information, only for the purpose of conducting, supporting, or facilitating an activity that the trustee is authorized to undertake.

(2) NOTICE TO AFFILIATED PERSON.—A health information trustee shall notify a person who, with respect to the trustee, is an affiliated person of any duties under this part that the affiliated person is required to fulfill and of any authorities under this part that the affiliated person is authorized to exercise.

(b) DUTIES OF AFFILIATED PERSONS.—

(1) IN GENERAL.—An affiliated person shall fulfill any duty under this part that—

(A) the health information trustee with whom the person has an agreement or relationship described in section 2140(c)(1)(C) is required to fulfill; and

(B) the person has undertaken to fulfill pursuant to such agreement or relationship.

(2) CONSTRUCTION OF OTHER SUBPARTS.—With respect to a duty described in paragraph (1) that an affiliated person is required to fulfill, the person shall be considered a health information trustee for purposes of this part. The person shall be subject to subpart E (relating to enforcement) with respect to any such duty that the person fails to fulfill.

(3) EFFECT ON TRUSTEE.—An agreement or relationship with an affiliated person does not relieve a health information trustee of any duty or liability under this part.

(b) AUTHORITIES OF AFFILIATED PERSONS.—

(1) IN GENERAL.—An affiliated person may only exercise an authority under this part that the health information trustee with whom the person is affiliated may exercise and that the person has been given by the trustee pursuant to an agreement or relationship described in section 2140(c)(1)(C). With respect to any such authority, the person shall be considered a health information trustee for purposes of this part. The person shall be subject to subpart E (relating to enforcement) with respect to any act that exceeds such authority.

(2) EFFECT ON TRUSTEE.—An agreement or relationship with an affiliated person does not affect the authority of a health information trustee under this part.

SEC. 2185. AGENTS AND ATTORNEYS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), a person who is authorized by law (on grounds other than an individual's minority), or by an instrument recognized under law, to act as an agent, attorney, proxy, or other legal representative for a protected individual or the estate of a protected individual, or otherwise to exercise the rights of the individual or estate, may, to the extent authorized, exercise and discharge the rights of the individual or estate under this part.

(b) HEALTH CARE POWER OF ATTORNEY.—A person who is authorized by law (on grounds other than an individual's minority), or by an instrument recognized under law, to make decisions about the provision of health care to an individual who is incapacitated may exercise and discharge the rights of the individual under this part to the extent necessary to effectuate the terms or purposes of the grant of authority.

(c) NO COURT DECLARATION.—If a health care provider determines that an individual, who has not been declared to be legally incompetent, suffers from a medical condition that prevents the individual from acting knowingly or effectively on the individual's

VOL 140 PT 15 AG 10 — 11 1994 UMI

own behalf, the right of the individual to authorize disclosure under section 2152 may be exercised and discharged in the best interest of the individual by—

(1) a person described in subsection (b) with respect to the individual;

(2) a person described in subsection (a) with respect to the individual, but only if a person described in paragraph (1) cannot be contacted after a reasonable effort;

(3) the next of kin of the individual, but only if a person described in paragraph (1) or (2) cannot be contacted after a reasonable effort; or

(4) the health care provider, but only if a person described in paragraph (1), (2), or (3) cannot be contacted after a reasonable effort.

SEC. 2186. MINORS.

(a) INDIVIDUALS WHO ARE 18 OR LEGALLY CAPABLE.—In the case of an individual—

(1) who is 18 years of age or older, all rights of the individual shall be exercised by the individual, except as provided in section 2185; or

(2) who, acting alone, has the legal capacity to apply for and obtain health care and has sought such care, the individual shall exercise all rights of an individual under this part with respect to protected health information relating to such care.

(b) INDIVIDUALS UNDER 18.—Except as provided in subsection (a)(2), in the case of an individual who is—

(1) under 14 years of age, all the individual's rights under this part shall be exercised through the parent or legal guardian of the individual; or

(2) 14, 15, 16, or 17 years of age, the right of inspection (under section 2141), the right of amendment (under section 2142), and the right to authorize disclosure of protected health information (under section 2152) of the individual may be exercised either by the individual or by the parent or legal guardian of the individual.

SEC. 2187. MAINTENANCE OF CERTAIN PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—A State shall establish a process under which the protected health information described in subsection (b) that is maintained by a person described in subsection (c) is delivered to, and maintained by, the State or an individual or entity designated by the State.

(b) INFORMATION DESCRIBED.—The protected health information referred to in subsection (a) is protected health information that—

(1) is recorded in any form or medium;

(2) is created by—

(A) a health care provider; or

(B) a health benefit plan sponsor that provides benefits in the form of items and services to enrollees and not in the form of reimbursement for items and services; and

(3) relates in any way to the past, present, or future physical or mental health or condition or functional status of a protected individual or the provision of health care to a protected individual.

(c) PERSONS DESCRIBED.—A person referred to in subsection (a) is any of the following:

(A) A health care facility previously located in the State that has closed.

(B) A professional practice previously operated by a health care provider in the State that has closed.

(C) A health benefit plan sponsor that—

(i) previously provided benefits in the form of items and services to enrollees in the State; and

(ii) has ceased to do business.

Subpart E—Enforcement

SEC. 2191. CIVIL ACTIONS.

(a) IN GENERAL.—Any individual whose right under this part has been knowingly or negligently violated—

(1) by a health information trustee, or any other person, who is not described in paragraph (2), (3), (4), or (5) may maintain a civil action for actual damages and for equitable relief against the health information trustee or other person;

(2) by an officer or employee of the United States while the officer or employee was acting within the scope of the office or employment may maintain a civil action for actual damages and for equitable relief against the United States;

(3) by an officer or employee of any government authority of a State that has waived its sovereign immunity to a claim for damages resulting from a violation of this part while the officer or employee was acting within the scope of the office or employment may maintain a civil action for actual damages and for equitable relief against the State government;

(4) by an officer or employee of a government of a State that is not described in paragraph (3) may maintain a civil action for actual damages and for equitable relief against the officer or employee; or

(5) by an officer or employee of a government authority while the officer or employee was not acting within the scope of the office or employment may maintain a civil action for actual damages and for equitable relief against the officer or employee.

(b) KNOWING VIOLATIONS.—Any individual entitled to recover actual damages under this section because of a knowing violation of a provision of this part (other than subsection (c) or (d) of section 2151) shall be entitled to recover the amount of the actual damages demonstrated or $5000, whichever is greater.

(c) ACTUAL DAMAGES.—For purposes of this section, the term "actual damages" includes damages paid to compensate an individual for nonpecuniary losses such as physical and mental injury as well as damages paid to compensate for pecuniary losses.

(d) PUNITIVE DAMAGES; ATTORNEY'S FEES.—In any action brought under this section in which the complainant has prevailed because of a knowing violation of a provision of this part (other than subsection (c) or (d) of section 2151), the court may, in addition to any relief awarded under subsections (a) and (b), award such punitive damages as may be warranted. In such an action, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

(e) LIMITATION.—A civil action under this section may not be commenced more than 2 years after the date on which the aggrieved individual discovered the violation or the date on which the aggrieved individual had a reasonable opportunity to discover the violation, whichever occurs first.

(f) INSPECTION AND AMENDMENT.—If a health information trustee has established a formal internal procedure that allows an individual who has been denied inspection or amendment of protected health information to appeal the denial, the individual may not maintain a civil action in connection with the denial until the earlier of—

(1) the date the appeal procedure has been exhausted; or

(2) the date that is 4 months after the date on which the appeal procedure was initiated.

(g) NO LIABILITY FOR PERMISSIBLE DISCLOSURES.—A health information trustee who makes a disclosure of protected health information about a protected individual that is permitted by this part and not otherwise prohibited by State or Federal statute shall not be liable to the individual for the disclosure under common law.

(h) NO LIABILITY FOR INSTITUTIONAL REVIEW BOARD DETERMINATIONS.—If the members of a certified institutional review board have in good faith determined that an approved health research project is of sufficient importance so as to outweigh the intrusion into the privacy of an individual pursuant to section 2156(a)(1), the members, the board, and the parent institution of the board shall not be liable to the individual as a result of such determination.

(i) GOOD FAITH RELIANCE ON CERTIFICATION.—A health information trustee who relies in good faith on a certification by a government authority or other person and discloses protected health information about an individual in accordance with this part shall not be liable to the individual for such disclosure.

SEC. 2192. CIVIL MONEY PENALTIES.

(a) VIOLATION.—Any health information trustee who the Secretary determines has demonstrated a pattern or practice of failure to comply with the provisions of this part shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $10,000 for each such failure. In determining the amount of any penalty to be assessed under the procedures established under subsection (b), the Secretary shall take into account the previous record of compliance of the person being assessed with the applicable requirements of this part and the gravity of the violation.

(b) PROCEDURES FOR IMPOSITION OF PENALTIES.—The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to the imposition of a civil monetary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1128A of such Act.

SEC. 2193. ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—Not later than July 1, 1996, the Secretary shall, by regulation, develop alternative dispute resolution methods for use by individuals, health information trustees, and other persons in resolving claims under section 2191.

(b) EFFECT ON INITIATION OF CIVIL ACTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the regulations established under subsection (a) may provide that an individual alleging that a right of the individual under this part has been violated shall pursue at least one alternative dispute resolution method developed under such subsection as a condition precedent to commencing a civil action under section 2191.

(2) LIMITATION.—Such regulations may not require an individual to refrain from commencing a civil action to pursue one or more alternative dispute resolution method for a period that is greater than 6 months.

(3) SUSPENSION OF STATUTE OF LIMITATIONS.—The regulations established by the Secretary under subsection (a) may provide that a period in which an individual described in paragraph (1) pursues (as defined by the Secretary) an alternative dispute resolution method under this section shall be excluded in computing the period of limitations under section 2191(e).

(c) METHODS.—The methods under subsection (a) shall include at least the following:

(1) ARBITRATION.—The use of arbitration.

(2) MEDIATION.—The use of mediation.

(3) EARLY OFFERS OF SETTLEMENT.—The use of a process under which parties make early offers of settlement.

(d) STANDARDS FOR ESTABLISHING METHODS.—In developing alternative dispute resolution methods under subsection (a), the Secretary shall ensure that the methods promote the resolution of claims in a manner that—

(1) is affordable for the parties involved;

(2) provides for timely and fair resolution of claims; and

(3) provides for reasonably convenient access to dispute resolution for individuals.

SEC. 2194. AMENDMENTS TO CRIMINAL LAW.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 89 the following:

"CHAPTER 90—PROTECTED HEALTH INFORMATION

"Sec.
"1831. Definitions.
"1832. Obtaining protected health information under false pretenses.
"1833. Monetary gain from obtaining protected health information under false pretenses.
"1834. Knowing and unlawful obtaining of protected health information.
"1835. Monetary gain from knowing and unlawful obtaining of protected health information.
"1836. Knowing and unlawful use or disclosure of protected health information.
"1837. Monetary gain from knowing and unlawful sale, transfer, or use of protected health information.

"§ 1831. Definitions

"As used in this chapter—

"(1) the term 'health information trustee' has the meaning given such term in section 2140(b)(6) of the Affordable Health Care Now Act of 1994;

"(2) the term 'protected health information' has the meaning given such term in section 2140(a)(3) of such Act; and

"(3) the term 'protected individual' has the meaning given such term in section 2140(a)(4) of such Act.

"§ 1832. Obtaining protected health information under false pretenses

"Whoever under false pretenses—

"(1) requests or obtains protected health information from a health information trustee; or

"(2) obtains from a protected individual an authorization for the disclosure of protected health information about the individual maintained by a health information trustee;

shall be fined under this title or imprisoned not more than 5 years, or both.

"§ 1833. Monetary gain from obtaining protected health information under false pretenses

"Whoever under false pretenses—

"(1) requests or obtains protected health information from a health information trustee with the intent to sell, transfer, or use such information for profit or monetary gain; or

"(2) obtains from a protected individual an authorization for the disclosure of protected health information about the individual maintained by a health information trustee with the intent to sell, transfer, or use such authorization for profit or monetary gain;

and knowingly sells, transfers, or uses such information or authorization for profit or monetary gain shall be fined under this title or imprisoned not more than 10 years, or both.

"§ 1834. Knowing and unlawful obtaining of protected health information

"Whoever knowingly obtains protected health information from a health information trustee in violation of part 2 of subtitle B of title II of the Affordable Health Care Now Act of 1994, knowing that such obtaining is unlawful, shall be fined under this title or imprisoned not more than 5 years, or both.

"§ 1835. Monetary gain from knowing and unlawful obtaining of protected health information

"Whoever knowingly—

"(1) obtains protected health information from a health information trustee in violation of part 2 of subtitle B of title II of the Affordable Health Care Now Act of 1994, knowing that such obtaining is unlawful and with the intent to sell, transfer, or use such information for profit or monetary gain; and

"(2) knowingly sells, transfers, or uses such information for profit or monetary gain;

shall be fined under this title or imprisoned not more than 10 years, or both.

"§ 1836. Knowing and unlawful use or disclosure of protected health information

"Whoever knowingly uses or discloses protected health information in violation of part 2 of subtitle B of title II of the Affordable Health Care Now Act of 1994, knowing that such use or disclosure is unlawful, shall be fined under this title or imprisoned not more than 5 years, or both.

"§ 1837. Monetary gain from knowing and unlawful sale, transfer, or use of protected health information

"Whoever knowingly sells, transfers, or uses protected health information in violation of part 2 of subtitle B of title II of the Affordable Health Care Now Act of 1994, knowing that such sale, transfer, or use is unlawful, shall be fined under this title or imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 89 the following:

"90. Protected health information ..... 1831".

Subpart F—Amendments to Title 5, United States Code

SEC. 2195. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) NEW SUBSECTION.—Section 552a of title 5, United States Code, is amended by adding at the end the following:

"(w) MEDICAL EXEMPTIONS.—The head of an agency that is a health information trustee (as defined in section 2140(b)(6) of the Affordable Health Care Now Act of 1994) shall promulgate rules, in accordance with the requirements (including general notice) of subsections (b)(1), (b)(2), (b)(3), (c), and (e) of section 553 of this title, to exempt a system of records within the agency, to the extent that the system of records contains protected health information (as defined in section 2140(a)(3) of such Act), from all provisions of this section except subsections (e)(1), (e)(2), subparagraphs (A) through (C) and (E) through (I) of subsection (e)(4), and subsections (e)(5), (e)(6), (e)(9), (e)(12), (l), (n), (o), (p), (q), (r), and (u).".

(b) REPEAL.—Section 552a(f)(3) of title 5, United States Code, is amended by striking "pertaining to him," and all that follows through the semicolon and inserting "pertaining to the individual;".

Subpart G—Regulations, Research, and Education; Effective Dates; Applicability; and Relationship to Other Laws

SEC. 2196. REGULATIONS; RESEARCH AND EDUCATION.

(a) REGULATIONS.—Not later than July 1, 1996, the Secretary shall prescribe regulations to carry out this part.

(b) RESEARCH AND TECHNICAL SUPPORT.—The Secretary may sponsor—

(1) research relating to the privacy and security of protected health information;

(2) the development of consent forms governing disclosure of such information; and

(3) the development of technology to implement standards regarding such information.

(c) EDUCATION.—The Secretary shall establish education and awareness programs—

(1) to foster adequate security practices by health information trustees;

(2) to train personnel of health information trustees respecting the duties of such personnel with respect to protected health information; and

(3) to inform individuals and employers who purchase health care respecting their rights with respect to such information.

SEC. 2197. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this part, and the amendments made by this part, shall take effect on January 1, 1997.

(b) PROVISIONS EFFECTIVE IMMEDIATELY.—A provision of this part shall take effect on the date of the enactment of this Act if the provision—

(1) imposes a duty on the Secretary to develop, establish, or promulgate regulations, guidelines, notices, statements, or education and awareness programs; or

(2) authorizes the Secretary to sponsor research or the development of forms or technology.

SEC. 2198. APPLICABILITY.

(a) PROTECTED HEALTH INFORMATION.—Except as provided in subsections (b) and (c), the provisions of this part shall apply to any protected health information that is received, created, used, maintained, or disclosed by a health information trustee in a State on or after January 1, 1997, regardless of whether the information existed or was disclosed prior to such date.

(b) EXCEPTION.—

(1) IN GENERAL.—The provisions of this part shall not apply to a trustee described in paragraph (2), except with respect to protected health information that is received by the trustee on or after January 1, 1997.

(2) APPLICABILITY.—A trustee referred to in paragraph (1) is—

(A) a health researcher; or

(B) a person who, with respect to specific protected health information, received the information—

(i) pursuant to—

(I) section 2157 (relating to emergency circumstances);

(II) section 2158 (relating to judicial and administrative purposes);

(III) section 2159 (relating to law enforcement); or

(IV) section 2160 (relating to subpoenas, warrants, and search warrants); or

(ii) while acting in whole or in part in the capacity of an officer or employee of a person described in clause (i).

(c) AUTHORIZATIONS FOR DISCLOSURES.—An authorization for the disclosure of protected health information about a protected individual that is executed by the individual before January 1, 1997, and is recognized and valid under State law on December 31, 1996,

VOL 140 PT 15 AG 10 — 11 1994 UMI

shall remain valid and shall not be subject to the requirements of section 2152 until January 1, 1994, or the occurrence of the date or event (if any) specified in the authorization upon which the authorization expires, whichever occurs earlier.

SEC. 2199. RELATIONSHIP TO OTHER LAWS.

(a) STATE LAW.—Except as otherwise provided in subsections (b), (c), (d), and (f), a State may not establish, continue in effect, or enforce any State law to the extent that the law is inconsistent with, or imposes additional requirements with respect to, any of the following:

(1) A duty of a health information trustee under this part.

(2) An authority of a health information trustee under this part to disclose protected health information.

(3) A provision of subpart C (relating to access procedures and challenge rights), subpart D (miscellaneous provisions), or subpart (E) (relating to enforcement).

(b) LAWS RELATING TO PUBLIC HEALTH AND MENTAL HEALTH.—This part does not preempt, supersede, or modify the operation of any State law regarding public health or mental health to the extent that the law prohibits or regulates a disclosure of protected health information that is permitted under this part.

(c) CRIMINAL PENALTIES.—A State may establish and enforce criminal penalties with respect to a failure to comply with a provision of this part.

(d) PRIVILEGES.—A privilege that a person has under law in a court of a State or the United States or under the rules of any agency of a State or the United States may not be diminished, waived, or otherwise affected by—

(1) the execution by a protected individual of an authorization for disclosure of protected health information under this part, if the authorization is executed for the purpose of receiving health care or providing for the payment for health care; or

(2) any provision of this part that authorizes the disclosure of protected health information for the purpose of receiving health care or providing for the payment for health care.

(e) DEPARTMENT OF VETERANS AFFAIRS.—The limitations on use and disclosure of protected health information under this part shall not be construed to prevent any exchange of such information within and among components of the Department of Veterans Affairs that determine eligibility for or entitlement to, or that provide, benefits under laws administered by the Secretary of Veterans Affairs.

(f) CERTAIN DUTIES UNDER STATE OR FEDERAL LAW.—This part shall not be construed to preempt, supersede, or modify the operation of any of the following:

(1) Any law that provides for the reporting of vital statistics such as birth or death information.

(2) Any law requiring the reporting of abuse or neglect information about any individual.

(3) Subpart II of part E of title XXVI of the Public Health Service Act (relating to notifications of emergency response employees of possible exposure to infectious diseases).

(4) The Americans with Disabilities Act of 1990.

(5) Any Federal or State statute that establishes a privilege for records used in health professional peer review activities.

(g) SECRETARIAL AUTHORITY.—

(1) SECRETARY OF HEALTH AND HUMAN SERVICES.—A provision of this part does not preempt, supersede, or modify the operation of section 543 of the Public Health Service Act, except to the extent that the Secretary of Health and Human Services determines through regulations promulgated by such Secretary that the provision provides greater protection for protected health information, and the rights of protected individuals, than is provided under such section 543.

(2) SECRETARY OF VETERANS AFFAIRS.—A provision of this part does not preempt, supersede, or modify the operation of section 7332 of title 38, United States Code, except to the extent that the Secretary of Veterans Affairs determines through regulations promulgated by such Secretary that the provision provides greater protection for protected health information, and the rights of protected individuals, than is provided under such section 7332.

Subtitle C—Deduction for Cost of Catastrophic Health Plan; Medical Savings Accounts

SEC. 2201. INDIVIDUALS ALLOWED DEDUCTION FROM GROSS INCOME FOR COST OF CATASTROPHIC HEALTH PLAN.

(a) IN GENERAL.—Subsection (a) of section 62 of the Internal Revenue Code of 1986, as amended by title I, is amended by inserting after paragraph (16) the following new paragraph:

"(17) MEDICAL EXPENSES ATTRIBUTABLE TO CATASTROPHIC HEALTH PLAN COVERAGE.—

"(A) IN GENERAL.—The deduction allowed by section 213 to the extent attributable to coverage under a catastrophic health plan (as defined in section 220(c)(2)).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to coverage of an individual who has coverage described in section 220(c)(1)(B)(i).".

(b) COORDINATION WITH DEDUCTION FOR OTHER MEDICAL EXPENSES.—Subsection (a) of section 213 of such Code is amended to read as follows:

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the expenses paid during the taxable year, not compensated by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent (as defined in section 152) in an amount equal to the sum of—

"(1) the portion of such expenses attributable to coverage under a catastrophic health plan (as defined in section 220(c)(2)), and

"(2) the excess of such expenses (other than expenses described in paragraph (1)) over 7.5 percent of the adjusted gross income of the taxpayer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2202. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. MEDICAL SAVINGS ACCOUNTS.

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a deduction the applicable percentage of the amounts paid in cash during the taxable year by or on behalf of such individual to a medical savings account for the benefit of such individual and (if any) such individual's spouse and dependents if such spouse and dependents are eligible individuals.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 25 percent for taxable years beginning in 1994 or 1995,

"(B) 50 percent for taxable years beginning in 1996 or 1997, and

"(C) 100 percent for taxable years beginning after 1997.

"(b) LIMITATIONS.—

"(1) ONLY 1 ACCOUNT PER FAMILY.—Except as provided in regulations prescribed by this Secretary, no deduction shall be allowed under subsection (a) for amounts paid to any medical savings account for the benefit of an individual, such individual's spouse, or any dependent of such individual or spouse if such individual, spouse, or dependent is a beneficiary of any other medical savings account.

"(2) DOLLAR LIMITATION.—The amount allowable as a deduction under subsection (a) for the taxable year shall not exceed whichever of the following is the least:

"(A) The lowest deductible under any catastrophic health plan providing coverage to any beneficiary of the medical savings account.

"(B) $2,500 ($5,000 if the catastrophic health plan covering the taxpayer provides coverage for more than 1 individual).

"(C) The excess of—

"(i) the applicable target actuarial value for standard coverage established under section 1102(c)(2) of the Affordable Health Care Now Act of 1994, over

"(ii) the deduction allowed by section 213 for the taxable year to the extent attributable to coverage under a catastrophic health plan.

Under rules of the Secretary, the target actuarial value under subparagraph (C)(i) shall be made applicable to individual and family coverage. A beneficiary of such account who has attained age 65 before the close of the taxable year shall not be taken into account in determining the limitation under the preceding sentence.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means any individual who is covered under a catastrophic health plan throughout the calendar year in which or with which the taxable year ends.

"(B) LIMITATIONS.—Such term does not include—

"(i) an individual who is 65 years of age or older, unless the individual is covered under a catastrophic health plan that is a primary plan (within the meaning of section 1862(b)(2)(A) of the Social Security Act); and

"(ii) an individual who has coverage under a group health plan or health insurance plan (other than a plan described in 1131(4)(B) of the Affordable Health Care Now Act of 1994) that has either a deductible that is less than the minimum deductible required under a catastrophic health plan (as defined in paragraph (2)) or has an actuarial value that is greater than the value for MedAccess catastrophic coverage (as provided in section 1102(d) of such Act).

"(C) DEDUCTION NOT ALLOWED BEFORE 1999 TO INDIVIDUALS ELIGIBLE FOR EMPLOYER-SUBSIDIZED COVERAGE.—In the case of any taxable year beginning before January 1, 1999, such term does not include an individual—

"(i) who is eligible to participate in any subsidized health plan maintained by an employer of such individual or the spouse of such individual, or

"(ii) who is (or whose spouse is) a member of a subsidized class of employees of an employer.

The rules of subparagraphs (B) and (C) of section 213(f)(3) shall apply for purposes of this preceding sentence.

"(2) CATASTROPHIC HEALTH PLAN.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'catastrophic health plan' means a health plan covering specified expenses incurred by an individual for medical care for such individual and the spouse and dependents (as defined in section 152) of such individual only to the extent such expenses covered by the plan for any calendar year exceed $1,800 ($3,600 if the catastrophic health plan covering the taxpayer provides coverage for more than 1 individual) or such higher amounts as may be specified by the plan.

"(B) COST-OF-LIVING ADJUSTMENT.—In the case of any calendar year after 1994, each dollar amount in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(d) MEDICAL SAVINGS ACCOUNTS.—For purposes of this section—

"(1) MEDICAL SAVINGS ACCOUNT.—

"(A) IN GENERAL.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the medical expenses of the beneficiaries of such trust, but only if the written governing instrument creating the trust meets the following requirements:

"(i) Except in the case of a rollover contribution described in subsection (e)(4), no contribution will be accepted unless it is in cash, and contributions will not be accepted in excess of the amount allowed as a deduction under this section for the taxable year (or would be allowed as such a deduction but for subsection (c)(1)(C)).

"(ii) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(iii) No part of the trust assets will be invested in life insurance contracts.

"(iv) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(v) The interest of an individual in the balance in his account is nonforfeitable.

"(vi) Under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) shall apply to the distribution of the entire interest of beneficiaries of such trust.

"(B) TREATMENT OF COMPARABLE ACCOUNTS HELD BY INSURANCE COMPANIES.—For purposes of this section, an account held by an insurance company in the United States shall be treated as a medical savings account (and such company shall be treated as a bank) if—

"(i) such account is part of a health insurance plan that includes a catastrophic health plan (as defined in subsection (c)(2)),

"(ii) such account is exclusively for the purpose of paying the medical expenses of the beneficiaries of such account who are covered under such catastrophic health plan, and

"(iii) the written instrument governing the account meets the requirements of clauses (i), (v), and (vi) of subparagraph (A).

"(2) MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'medical expenses' means, with respect to an individual, amounts paid or incurred by such individual for—

"(i) medical care (as defined in section 213), or

"(ii) long-term care (as defined in paragraph (3)),

for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

"(B) HEALTH PLAN COVERAGE MAY NOT BE PURCHASED FROM ACCOUNT.—

"(i) IN GENERAL.—Such term shall not include any amount paid for coverage under a health plan.

"(ii) EXCEPTION.—Clause (i) shall not apply—

"(I) in the case of coverage of an individual under 65 years of age under a catastrophic health plan or under a long-term care insurance plan, or

"(II) in the case of coverage of an individual 65 years of age or older under a medicare supplemental policy or under a long-term care insurance plan or for payment of premiums under part A or part B of title XVIII of the Social Security Act.

"(3) LONG-TERM CARE.—

"(A) IN GENERAL.—The term 'long-term care' means diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services which are required by, and provided to, a chronically ill individual, which have as their primary purpose the direct provision of needed assistance with 1 or more activities of daily living (or the alleviation of the conditions necessitating such assistance) that the individual is certified under subparagraph (B) as being unable to perform, and which are provided in a setting other than an acute care unit of a hospital pursuant to a continuing plan of care prescribed by a physician or registered professional nurse. Such term does not include food or lodging provided in an institutional or other setting, or basic living services associated with the maintenance of a household or participation in community life, such as case management, transportation or legal services, or the performance of home maintenance or household chores.

"(B) CHRONICALLY ILL INDIVIDUAL.—The term 'chronically ill individual' means an individual who is certified by a physician or registered professional nurse as being unable to perform at least 3 activities of daily living without substantial assistance from another individual. For purposes of this paragraph, the term 'activities of daily living' means bathing, dressing, eating, toileting, transferring, and walking.

"(4) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A contribution shall be deemed to be made on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(e) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any amount paid or distributed out of a medical savings account shall be included in the gross income of the individual for whose benefit such account was established unless such amount is used exclusively to pay the medical expenses of such individual.

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account to the extent that such contribution exceeds the amount allowable as a deduction under subsection (a) if—

"(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) PENALTY FOR DISTRIBUTIONS NOT USED FOR MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a medical savings account which is not used to pay the medical expenses of the individual for whose benefit the account was established shall be increased by 10 percent of the amount of such payment or distribution which is includible in gross income under paragraph (1).

"(B) ACCOUNT BALANCE LIMITATION.—If—

"(i) the tax imposed by this chapter is required to be increased under subparagraph (A) by reason of a distribution, and

"(ii) after such distribution, the aggregate balance of all medical savings accounts established for the benefit of the individual, is less than the amount of the deductible under the catastrophic health plan covering such individual

subparagraph (A) shall be applied by substituting '50 percent' for '10 percent'.

"(4) ROLLOVERS.—Paragraph (1) shall not apply to any amount paid or distributed out of a medical savings account to the individual for whose benefit the account is maintained if the entire amount received (including money and any other property) is paid into another medical savings account for the benefit of such individual not later than the 60th day after the day on which he received the payment or distribution.

"(5) PENALTY FOR MANDATORY DISTRIBUTIONS NOT MADE FROM ACCOUNT.—

"(A) IN GENERAL.—If during any taxable year—

"(i) there is a payment of a mandatory distribution expense incurred by a beneficiary of a medical savings account, and

"(ii) the person making such payment is not reimbursed for such payment with a distribution from such account before the 60th day after such payment

the taxpayer's tax imposed by this chapter for such taxable year shall be increased by 100 percent of the excess of the amount of such payment over the amount of reimbursement made before such 60th day.

"(B) MANDATORY DISTRIBUTION EXPENSE.—For purposes of subparagraph (A), the term 'mandatory distribution expense' means—

"(i) any expense incurred which may be counted towards a deductible, or for a copayment or coinsurance, under the catastrophic health plan covering such beneficiary, and

"(ii) in the case of a beneficiary who has attained age 65, any expense for coverage described in subsection (d)(2)(B)(ii)(II) and any expense incurred which may be counted toward a deductible, or for a copayment or coinsurance, under title XVIII of the Social Security Act.

"(f) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—Any medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by

VOL 140 PT 15 AG 10 — 11 1994 UMI

reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT TERMINATES IF INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of the individual for whose benefit the medical savings account was established, such individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be a medical savings account as of the first day of that taxable year.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a medical savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (e) shall be applied as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day) and no portion of such distribution were used to pay medical expenses.

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit a medical savings account was established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual and not used to pay medical expenses.

"(g) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if—

"(1) the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which he will administer the account will be consistent with the requirements of this section, and

"(2) the custodial account would, except for the fact that it is not a trust, constitute a medical savings account described in subsection (d).

For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(h) REPORTS.—The trustee of a medical savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (17) the following new paragraph:

"(18) MEDICAL SAVINGS ACCOUNTS.—The deduction allowed by section 220."

(c) DISTRIBUTIONS FROM MEDICAL SAVINGS ACCOUNTS NOT ALLOWED AS MEDICAL EXPENSE DEDUCTION.—Section 213 of such Code is amended by adding at the end thereof the following new subsection:

"(g) COORDINATION WITH MEDICAL SAVINGS ACCOUNTS.—The amount otherwise taken into account under subsection (a) as expenses paid for medical care shall be reduced by the amount (if any) of the distributions from any medical savings account of the taxpayer during the taxable year which is not includible in gross income by reason of being used for medical care."

(d) EXCLUSION OF EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS FROM EMPLOYMENT TAXES.—

(1) SOCIAL SECURITY TAXES.—

(A) Subsection (a) of section 3121 of such Code is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) remuneration paid to or on behalf of an employee if (and to the extent that) at the time of payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 220."

(B) Subsection (a) of section 209 of the Social Security Act is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) remuneration paid to or on behalf of an employee if (and to the extent that) at the time of payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 220 of the Internal Revenue Code of 1986."

(2) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 of such Code is amended by adding at the end thereof the following new paragraph:

"(10) EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—The term 'compensation' shall not include any payment made to or on behalf of an employee if (and to the extent that) at the time of payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 220."

(3) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 of such Code is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) remuneration paid to or on behalf of an employee if (and to the extent that) at the time of payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 220."

(4) WITHHOLDING TAX.—Subsection (a) of section 3401 of such Code is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) remuneration paid to or on behalf of an employee if (and to the extent that) at the time of payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 220."

(e) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "medical savings accounts," after "accounts," in the heading of such section,

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 220(d)),",

(3) by striking "or" at the end of paragraph (1) of subsection (a), and

(4) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings account (within the meaning of section 220(d)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount excludable from gross income under section 220 for such taxable year. For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 220(e)(2) applies shall be treated as an amount not contributed."

(f) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 220(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 220(e)(2)(A) to such account.", and

(2) by inserting "or a medical savings account described in section 220(d)" in subsection (e)(1) after "described in section 408(a)".

(g) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "or on medical savings accounts" after "annuities" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 220(h) to file a report regarding a medical savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause."

(h) CLERICAL AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 220. Medical savings accounts.

"Sec. 221. Cross reference."

(2) The table of sections for chapter 43 of such Code is amended by striking the item relating to section 4973 and inserting the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, medical savings accounts, certain 403(b) contracts, and certain individual retirement annuities."

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting "or on medical savings accounts" after "annuities" in the item relating to section 6693.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subtitle D—Anti-Fraud

PART 1—ESTABLISHMENT OF ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM

SEC. 2301. ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM.

(a) IN GENERAL.—Not later than January 1, 1996, the Attorney General shall establish a program—

(1) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(2) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States, and

(3) in consultation with the Inspector General of the Department of Health and Human Services, to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse.

(b) COORDINATION WITH LAW ENFORCEMENT AGENCIES.—In carrying out the program under subsection (a), the Attorney General shall consult with, and arrange for the sharing of data and resources with Federal, State and local law enforcement agencies, State Medicaid Fraud Control Units, and State agencies responsible for the licensing and certification of health care providers.

(c) COORDINATION WITH THIRD PARTY INSURERS.—In carrying out the program established under subsection (a), the Attorney General shall consult with, and arrange for the sharing of data with representatives of private sponsors of health benefit plans and other providers of health insurance.

(d) REGULATIONS.—

(1) IN GENERAL.—The Attorney General shall by regulation establish standards to carry out the program under subsection (a).

(2) INFORMATION STANDARDS.—

(A) IN GENERAL.—Such standards shall include standards relating to the furnishing of information by health insurers (including self-insured health benefit plans), providers, and others to enable the Attorney General to carry out the program (including coordination with law enforcement agencies under subsection (b) and third party insurers under subsection (c)).

(B) CONFIDENTIALITY.—Such standards shall include procedures to assure that such information is provided and utilized in a manner that protects the confidentiality of the information and the privacy of individuals receiving health care services.

(C) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Attorney General under the program under this section, with respect to the Attorney General's performance of duties under the program, in the same manner as such section applies to information provided to organizations with a contract under part B of title XI of such Act, with respect to the performance of such a contract.

SEC. 2302. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.

In addition to any other amounts authorized to be appropriated to the Attorney General for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated such sums as may be necessary to enable the Attorney General to conduct investigations of allegations of health care fraud and otherwise carry out the program established under section 2301 in a fiscal year.

SEC. 2303. ESTABLISHMENT OF ANTI-FRAUD AND ABUSE TRUST FUND.

(a) ESTABLISHMENT.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Anti-Fraud and Abuse Trust Fund" (in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be deposited in, or appropriated to, such Trust Fund as provided in this part and section 1128A(f)(3) of the Social Security Act.

(b) MANAGEMENT.—

(1) IN GENERAL.—The Trust Fund shall be managed by the Attorney General through a Managing Trustee designated by the Attorney General.

(2) INVESTMENT OF FUNDS.—It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in the trustee's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month, except that where such average is not a multiple of ⅛ of 1 percent, the rate of interest on such obligations shall be the multiple of ⅛ of 1 percent nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where the Trustee determines that the purchase of such other obligations is in the public interest.

(3) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(4) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(5) The receipts and disbursements of the Attorney General in the discharge of the functions of the Attorney General shall not be included in the totals of the budget of the United States Government. For purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, the Attorney General and the Trust Fund shall be treated in the same manner as the Federal Retirement Thrift Investment Board and the Thrift Savings Fund, respectively. The United States is not liable for any obligation or liability incurred by the Trust Fund.

(c) USE OF FUNDS.—Of the amounts in the Trust Fund—

(1) not less than 60 percent shall be used to support educational activities to prevent the occurrence of violations of anti-fraud and abuse laws, including the issuance of advisory opinions under section 1129 and 1877(i) of the Social Security Act (as added by part 4) and fraud alerts, seminars for providers, and program updates; and

(2) any amounts remaining after use for activities under paragraph (1) shall be used to assist the Attorney General in carrying out the all-payor fraud and abuse control program established under section 2301(a) in the fiscal year involved.

(d) DEPOSIT OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE PENALTIES INTO TRUST FUND.—Section 1128A(f)(3) of the Social Security Act (42 U.S.C. 1320a-7a(f)(3)) is amended by striking "as miscellaneous receipts of the Treasury of the United States" and inserting "in the Anti-Fraud and Abuse Trust Fund established under section 2303(a) of the Affordable Health Care Now Act of 1994".

(e) USE OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE PENALTIES TO REPAY BENEFICIARIES FOR COST-SHARING.—Section 1128A(f) of the Social Security Act (42 U.S.C. 1320a-7a(f)) is amended in the matter preceding paragraph (1) by striking "Secretary and disposed of as follows:" and inserting the following: "Secretary. If the person against whom such a penalty or assessment was assessed collected a payment from an individual for providing to the individual the service that is the subject of the penalty or assessment, the Secretary shall pay a portion of the amount recovered to the individual in the nature of restitution in an amount equal to the payment so collected. The Secretary shall dispose of any remaining amounts recovered under this section as follows:".

PART 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 2311. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted, under Federal or State law, in connection with the delivery of a health care item or service on or after the date of the enactment of this paragraph, or with respect to any act or omission on or after such date in a program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) of such Act (42 U.S.C. 1320a-7(b)(1)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) of such Act (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 2312. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year".

SEC. 2313. REVISIONS TO CRIMINAL PENALTIES.

(a) CLARIFICATION OF DISCOUNT EXCEPTION TO ANTI-KICKBACK PROVISIONS.—Section 1128B(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)(A)) is amended—

(1) by inserting "(regardless of its timing or availability)" after "in price"; and

(2) by striking "program;" and inserting "program and is not paid in the form of currency or coin;".

(b) EXEMPTION FROM ANTI-KICKBACK PENALTIES FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if—

"(A) the item or service is provided through an organization described in section 1877(b)(3), or

"(B) the item or service is provided through such an organization on behalf of another entity (including but not limited to a self-insured employer or indemnity plan) that assumes financial risk for the provision of the item or service.".

(c) EXEMPTION FROM ANTI-KICKBACK PENALTIES FOR CERTAIN PROTECTED FINANCIAL RELATIONSHIPS.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a–7b(b)(3)), as amended by subsection (b), is further amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(G) any amount in a financial relationship of a physician (or an immediate family member of such physician) with an entity specified in section 1877(a)(2), if section 1877(a)(1) does not apply to that amount or financial relationship.".

SEC. 2315. REVISIONS TO LIMITATIONS ON PHYSICIAN SELF-REFERRAL.

(a) CLARIFICATION OF COVERAGE OF RADIOLOGY OR DIAGNOSTIC SERVICES.—Section 1877(h)(6) of the Social Security Act (42 U.S.C. 1395nn(h)(6)) is amended by striking subparagraph (D).

(b) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—Section 1877(b) of such Act (42 U.S.C. 1395nn(b)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) SHARED FACILITY SERVICES.—

"(A) IN GENERAL.—In the case of a shared facility service of a shared facility—

"(i) that is furnished—

"(I) personally by the referring physician who is a shared facility physician or personally by an individual directly employed by such a physician,

"(II) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physician that are unrelated to the furnishing of shared facility services, and

"(III) to a patient of a shared facility physician; and

"(ii) that is billed by the referring physician.

"(B) SHARED FACILITY RELATED DEFINITIONS.—

"(i) SHARED FACILITY SERVICE.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.

"(ii) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

"(iii) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician who has a financial relationship under a shared facility arrangement with the facility.

"(iv) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

"(I) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

"(II) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(III) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(c) REVISION TO RURAL PROVIDER EXCEPTION.—Section 1877(d)(2) of such Act (42 U.S.C. 1395nn(d)(2)) is amended by striking "substantially all" and inserting "not less than 75 percent (as determined in accordance with regulations of the Secretary)".

(d) CLARIFICATION OF REFERRALS BY NEPHROLOGISTS.—Section 1877(h)(5)(C) of such Act (42 U.S.C. 1395nn(H)(5)(C)) is amended—

(1) by striking "and a request" and inserting "a request";

(2) by inserting after "radiation therapy," the following: "and a request by a nephrologist for items or services related to renal dialysis,"; and

(3) by striking "or radiation oncologist" and inserting "radiation oncologist, or nephrologist".

(e) REVISION OF REPORTING REQUIREMENTS.—Section 1877(f) of such Act (42 U.S.C. 1395nn(f)) is amended—

(1) by striking "Each entity" and all that follows through paragraph (2) and inserting the following: "The Secretary may require each entity (other than a physician or physician group practice) providing designated health services to provide the Secretary with the following information concerning the entity's ownership, investment, and compensation arrangements:

"(1) the designated health services provided by the entity; and

"(2) the names and unique physician identifier numbers of all physicians with an ownership or investment interest (as described in subsection (a)(2)(A)) or with a compensation interest (as described in subsection (a)(2)(B)) in the entity, or whose immediate relatives have such an ownership, investment, or compensation interest in the entity."; and

(2) by striking the fifth sentence.

(f) EXCEPTION FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1877(b)(3) of such Act (42 U.S.C. 1395nn(b)(3)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a comma; and

(3) by adding at the end the following new subparagraphs:

"(E) with a contract with a State to provide services under the State plan under title XIX (in accordance with section 1903(m)); or

"(F) which meets State regulatory requirements applicable to health maintenance organizations and which—

"(i) provides designated health services directly or through contractual arrangements with providers;

"(ii) assumes financial risk for the provision of services or provides services on behalf of another individual or entity (including but not limited to a self-insured employer, indemnity plan, physician, or physician group) that assumes financial risk for the provision of the item or service; and

"(iii) subjects the services to a program of utilization review offered by an organization described in a preceding subparagraph, an organization meeting State regulatory requirements applicable to utilization review, or an organization accredited to perform utilization review considered appropriate by the Secretary.".

(g) PREEMPTION OF STATE LAW.—Section 1877(g) of such Act (42 U.S.C. 1395nn(g)) is amended by adding at the end the following new paragraph:

"(6) PREEMPTION OF STATE LAW.—The provisions of this section shall supersede any State law to the extent State law prohibits a physician from making a referral, or an entity from presenting a bill, for the furnishing of a service which is not subject to the restrictions applicable under paragraph (1).".

(h) REVISION OF EFFECTIVE DATE EXCEPTION PROVISION.—Section 13562(b)(2) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) the second sentence of subsection (a)(2), and subsections (b)(2)(B) and (d)(2), of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of the corresponding provisions in section 1877 (as amended by this Act);

"(B) section 1877(b)(4) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply;

"(C) the requirements of section 1877(c)(2) of the Social Security Act (as amended by this Act) shall not apply to any securities of a corporation that meets the requirements of section 1877(c)(2) of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(D) section 1877(e)(3) of the Social Security Act (as amended by this Act) shall apply, except that it shall not apply to any arrangement that meets the requirements of subsection (e)(2) or subsection (e)(3) of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(E) the requirements of clauses (iv) and (v) of section 1877(h)(4)(A), and of clause (i) of section 1877(h)(4)(B), of the Social Security Act (as amended by this Act) shall not apply; and

"(F) section 1877(h)(4)(B) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of section 1877(h)(4)(A)(ii) of such Act (as amended by this Act).".

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to referrals made on or after January 1, 1995, except that the amendments made by subsection (h) shall apply as if included in the enactment of the Omnibus Budget Reconciliation Act of 1993.

SEC. 2316. MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) STUDY ON COSTS OF PEER REVIEW CONTRACTS FOR MEDICARE HMOS.—The Comptroller General shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of the Social Security Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary of Health and Human Services to assess the quality of services provided by such eligible organizations.

(b) REPORT TO CONGRESS.—Not later than July 1, 1997, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subsection (a).

SEC. 2317. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this part shall take effect January 1, 1996.

PART 3—AMENDMENTS TO CRIMINAL LAW

SEC. 2321. PENALTIES FOR HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health care plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be guilty of a felony, and fined under this title or imprisoned not more than 5 years, or both.

"(b) In determining the amount or scope of any penalty or assessment, the court shall take into account:

"(1) the nature of the false or fraudulent claims and the circumstances under which they are presented;

"(2) the degree of culpability and history of prior offenses by the convicted health care provider;

"(3) the extent to which restitution is paid; and

"(4) such other matters as justice may require.

"(c) A principal is liable for penalties and assessments under this section for the acts of the principal's agents acting within the scope of the agency.

"(d) For purposes of this section, the term 'health care plan' means a Federally-funded public program or private program for the delivery of or payment for health care items or services.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 2322. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1347.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment.

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

SEC. 2323. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

PART 4—ADVISORY OPINIONS

SEC. 2331. AUTHORIZING THE SECRETARY OF HEALTH AND HUMAN SERVICES TO ISSUE ADVISORY OPINIONS UNDER TITLE XI.

Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"ADVISORY OPINIONS

"SEC. 1129. (a) ISSUANCE OF ADVISORY OPINIONS.—The Secretary shall issue advisory opinions as provided in this section.

"(b) MATTERS SUBJECT TO ADVISORY OPINIONS.—The Secretary shall issue advisory opinions as to the following matters:

"(1) What constitutes prohibited remuneration within the meaning of section 1128B(b).

"(2) Whether an arrangement or proposed arrangement satisfies the criteria set forth in section 1128B(b)(3) for activities which do not result in prohibited remuneration.

"(3) Whether an arrangement or proposed arrangement satisfies the criteria which the Secretary has established, or shall establish by regulation for activities which do not result in prohibited remuneration.

"(4) What constitutes an inducement to reduce or limit services to individuals entitled to benefits under title XVIII or title XIX within the meaning of section 1128B(b).

"(5) Whether an arrangement, activity or proposed arrangement or proposed activity violates any other provision of this Act.

"(c) MATTERS NOT SUBJECT TO ADVISORY OPINIONS.—Such advisory opinions shall not address the following matters:

"(1) Whether the fair market value shall be, or was paid or received for any goods, services or property.

"(2) Whether an individual is a bona fide employee within the requirements of section 3121(d)(2) of the Internal Revenue Code of 1986.

"(d) EFFECT OF ADVISORY OPINIONS.—

"(1) Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(2) The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A, or 1128B.

"(e) REGULATIONS.—The Secretary within 180 days of the date of enactment, shall issue regulations establishing a system for the issuance of advisory opinions. Such regulations shall provide for—

"(1) the procedure to be followed by a party applying for an advisory opinion;

"(2) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

"(3) the interval in which the Secretary shall respond;

"(4) the reasonable fee to be charged to the party requesting an advisory opinion; and

"(5) the manner in which advisory opinions will be made available to the public.

"(f) INTERVAL FOR ISSUANCE OF ADVISORY OPINIONS.—Under no circumstances shall the interval in which the Secretary shall respond to a party requesting an advisory opinion exceed 30 days.".

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 2332. AUTHORIZING THE SECRETARY OF HEALTH AND HUMAN SERVICES TO ISSUE ADVISORY OPINIONS RELATING TO PHYSICIAN OWNERSHIP AND REFERRAL.

Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended by the addition of the following new subsection:

"(i) ADVISORY OPINIONS.—

"(1) IN GENERAL.—The Secretary shall issue advisory opinions on whether an arrangement or proposed arrangement will result in a prohibited referral within the meaning of this section.

"(2) EFFECT OF ADVISORY OPINIONS.—

"(A) Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(B) The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of this section.

"(3) REGULATIONS.—The Secretary within one hundred and eighty days of the date of enactment, shall issue regulations establishing a system for the issuance of advisory opinions. Such regulations shall provide for—

"(A) the procedure to be followed by a party applying for an advisory opinion;

"(B) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

"(C) the interval in which the Secretary shall respond;

"(D) the reasonable fee to be charged to the party requesting an advisory opinion; and

"(E) the manner in which advisory opinions will be made available to the public.

"(4) INTERVAL FOR ISSUANCE OF ADVISORY OPINIONS.—Under no circumstances shall the interval in which the Secretary shall respond to a party requesting an advisory opinion exceed thirty days.".

SEC. 2333. EFFECTIVE DATE.

Unless otherwise specified, the amendments made by this part shall be effective upon the enactment of this Act.

Subtitle E—Increased Medicare Beneficiary Choice; Additional Medicare Reforms

PART 1—INCREASED MEDICARE BENEFICIARY CHOICE

SEC. 2401. REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS UNDER MEDICARE.

(a) USE OF METROPOLITAN STATISTICAL AREAS TO DETERMINE ADJUSTED AVERAGE PER CAPITA COST.—Section 1876(a)(4) of such Act (42 U.S.C. 1395mm(a)(4)) is amended by striking "is a geographic area served by an eligible organization or in a similar area" and inserting "in the metropolitan statistical area (as defined by the Office of Management and Budget) in which the individual resides, or in the entire portion of the State in which the individual resides which is not located in a metropolitan statistical area in the case of an individual who does not reside in a metropolitan statistical area".

(b) DETERMINATION OF MODEL ADDITIONAL HEALTH BENEFIT PACKAGES.—Section 1876(g) of such Act (42 U.S.C. 1395mm(g)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) The Secretary shall develop the following model packages of additional health benefits (referred to in paragraph (3)(B)) which an eligible organization may provide (at its option) under paragraph (2):

"(A) Coverage for catastrophic illness (subject to a limit on out-of-pocket expenditures).

"(B) Coverage for prescription drugs.

"(C) Coverage for preventive services.".

(c) REVISION OF MEMBERSHIP LIMITATION.—Section 1876(f) of the Social Security Act (42 U.S.C. 1395mm(f)) is amended—

(1) in paragraph (1), by striking "one-half" and inserting "25 percent"; and

(2) in paragraph (2)(A), by striking "50 percent" and inserting "75 percent".

(d) ENROLLMENT PERIODS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.—

(1) UNIFORM OPEN ENROLLMENT PERIOD.—Section 1876(c)(3)(A)(i) of such Act (42 U.S.C. 1395mm(c)(3)(A)(i)) is amended by striking "must have" and all that follows through "and including" and inserting the following: "shall have open enrollment during an annual uniform open enrollment period established by the Secretary for all eligible organizations, together with".

(2) OPEN ENROLLMENT FOR CERTAIN DISENROLLED INDIVIDUALS.—Section 1876(c)(3)(A)(ii)(I) of such Act (42 U.S.C. 1395mm(c)(3)(A)(ii)(I)) is amended by adding at the end the following: "Each eligible organization with a risk-sharing contract under this section shall have an open enrollment period for individuals residing in the organization's service area who disenroll from another eligible organization with a risk-sharing contract under this section on the grounds that the individual's primary care physician is no longer a member of the organization's provider network or for cause (in accordance with such standards, and as demonstrated through an appeals process that meets such requirements, as the Secretary may establish).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into on or after the date of the enactment of this Act.

SEC. 2402. EXPANSION AND REVISION OF MEDICARE SELECT POLICIES.

(a) PERMITTING MEDICARE SELECT POLICIES IN ALL STATES.—

(1) IN GENERAL.—Subsection (c) of section 4358 of the Omnibus Budget Reconciliation Act of 1990 (hereafter referred to as "OBRA-1990") is hereby repealed.

(2) CONFORMING AMENDMENT.—Section 4358 of OBRA-1990 is amended by redesignating subsection (d) as subsection (c).

(b) REQUIREMENTS OF MEDICARE SELECT POLICIES.—Section 1882(t)(1) of the Social Security Act (42 U.S.C. 1395ss(t)(1)) is amended to read as follows:

"(1)(A) If a medicare supplemental policy meets the 1991 NAIC Model Regulation or 1991 Federal Regulation and otherwise complies with the requirements of this section except that—

"(i) the benefits under such policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), and

"(ii) in the case of a policy described in subparagraph (C)(i)—

"(I) the benefits under such policy are not one of the groups or packages of benefits described in subsection (p)(2)(A),

"(II) except for nominal copayments imposed for services covered under part B of this title, such benefits include at least the core group of basic benefits described in subsection (p)(2)(B), and

"(III) an enrollee's liability under such policy for physician's services covered under part B of this title is limited to the nominal copayments described in subclause (II),

the policy shall nevertheless be treated as meeting those standards if the policy meets the requirements of subparagraph (B).

"(B) A policy meets the requirements of this subparagraph if—

"(i) full benefits are provided for items and services furnished through a network of entities which have entered into contracts or agreements with the issuer of the policy,

"(ii) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network,

"(iii) the network offers sufficient access,

"(iv) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network,

"(v)(I) the issuer of the policy provides to each enrollee at the time of enrollment an explanation of—

"(aa) the restrictions on payment under the policy for services furnished other than by or through the network,

"(bb) out of area coverage under the policy,

"(cc) the policy's coverage of emergency services and urgently needed care, and

"(dd) the availability of a policy through the entity that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation without regard to this subsection and the premium charged for such policy, and

"(II) each enrollee prior to enrollment acknowledges receipt of the explanation provided under subclause (I), and

"(vi) the issuer of the policy makes available to individuals, in addition to the policy described in this subsection, any policy (otherwise offered by the issuer to individuals in the State) that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation and other requirements of this section without regard to this subsection.

"(C)(i) A policy described in this subparagraph—

"(I) is offered by an eligible organization (as defined in section 1876(b)),

"(II) is not a policy or plan providing benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, and

"(III) provides benefits which, when combined with benefits which are available under this title, are substantially similar to benefits under policies offered to individuals who are not entitled to benefits under this title.

"(ii) In making a determination under subclause (III) of clause (i) as to whether certain benefits are substantially similar, there shall not be taken into account, except in the case of preventive services, benefits provided under policies offered to individuals who are not entitled to benefits under this title which are in addition to the benefits covered by this title and which are benefits an entity must provide in order to meet the definition of an eligible organization under section 1876(b)(1).".

(c) RENEWABILITY OF MEDICARE SELECT POLICIES.—Section 1882(q)(1) of the Social Security Act (42 U.S.C. 1395ss(q)(1)) is amended—

(1) by striking "(1) Each" and inserting "(1)(A) Except as provided in subparagraph (B), each";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (ii), in the case of a policy that meets the requirements of subsection (t), an issuer may cancel or nonrenew such policy with respect to an individual who leaves the service area of such policy.

"(ii) If an individual described in clause (i) moves to a geographic area where an issuer described in clause (i), or where an affiliate of such issuer, is issuing medicare supplemental policies, such individual must be permitted to enroll in any medicare supplemental policy offered by such issuer or affiliate that provides benefits comparable to or less than the benefits provided in the policy being canceled or nonrenewed. An individual whose coverage is canceled or nonrenewed under this subparagraph shall, as part of the notice of termination or nonrenewal, be notified of the right to enroll in other medicare supplemental policies offered by the issuer or its affiliates.

"(iii) For purposes of this subparagraph, the term 'affiliate' shall have the meaning given such term by the 1991 NAIC Model Regulation.".

(d) CIVIL MONEY PENALTY.—Section 1882(t)(2) of the Social Security Act (42 U.S.C. 1395ss(t)(2)) is amended—

(1) by striking "(2)" and inserting "(2)(A)";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(3) in clause (iv), as so redesignated—

(A) by striking "paragraph (1)(E)(i)" and inserting "paragraph (1)(B)(v)(I), and

(B) by striking "paragraph (1)(E)(ii)" and inserting "paragraph (1)(B)(v)(II)";

(4) by striking "the previous sentence" and inserting "this subparagraph"; and

(5) by adding at the end the following new subparagraph:

"(B) If the Secretary determines that an issuer of a policy approved under paragraph (1) has made a misrepresentation to the Secretary or has provided the Secretary with false information regarding such policy, the issuer is subject to a civil money penalty in an amount not to exceed $100,000 for each such determination. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(e) EFFECTIVE DATES.—

(1) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (hereafter in this subsection referred to as the "NAIC") makes changes in the 1991 NAIC Model Regulation (as defined in section 1882(p)(1)(A) of the Social Security Act) to incorporate the additional requirements imposed by the amendments made by this section, section 1882(g)(2)(A) of such Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed under this paragraph (such changed Regulation referred to in this subsection as the "1994 NAIC Model Regulation").

(2) SECRETARY STANDARDS.—If the NAIC does not make changes in the 1991 NAIC Model Regulation (as so defined) within the 6-month period specified in paragraph (1), the Secretary of Health and Human Services (in this subsection as the "Secretary") shall promulgate a regulation and section 1882(g)(2)(A) of the Social Security Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted in June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed by the Secretary under this paragraph (such changed Regulation referred to in this subsection as the "1994 Federal Regulation").

(3) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State adopts the 1994 NAIC Model Regulation or the 1994 Federal Regulation; or

(ii) 1 year after the date the NAIC or the Secretary first adopts such regulations.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the 1994 NAIC Model Regulation or the 1994 Federal Regulation, but

(ii) having a legislature which is not scheduled to meet in 1995 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1995. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 2403. INCLUDING NOTICE OF AVAILABLE HEALTH MAINTENANCE ORGANIZATIONS IN ANNUAL NOTICE TO BENEFICIARIES.

Section 1804 of the Social Security Act (42 U.S.C. 1395b-2) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ", and"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) with respect to the area in which the individual receiving the notice resides, a description of the eligible organizations under section 1833(a)(1) or section 1876 and the carriers offering a medicare supplemental policy described in section 1882(t)(1) which serve the area in which the individual receiving the notice resides.".

SEC. 2404. LEGISLATIVE PROPOSAL ON ENROLLING MEDICARE BENEFICIARIES IN QUALIFIED HEALTH PLANS.

(a) IN GENERAL.—

(1) LEGISLATIVE PROPOSAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and submit to Congress a proposal for legislation which provides for the enrollment of medicare beneficiaries in private health insurance plans (including medisave coverage described in section 1102(e)).

(2) MEDICARE BENEFICIARY.—For purposes of this section, the term "medicare beneficiary" means an individual who is eligible for benefits under part A of title XVIII of the Social Security Act and is enrolled under part B of such title.

(b) CONTENTS OF THE PROPOSAL.—A proposal for legislation submitted under subsection (a) shall—

(1) provide for an appropriate methodology by which the Secretary shall make payment to private health insurance plans for the enrollment of medicare beneficiaries;

(2) provide individuals the opportunity to remain enrolled in such a plan without an interruption in coverage upon becoming medicare beneficiaries; and

(3) provide medicare beneficiaries with the opportunity to enroll in a private health insurance plan.

SEC. 2405. OPTIONAL INTERIM ENROLLMENT OF MEDICARE BENEFICIARIES IN PRIVATE HEALTH PLANS.

(a) INTERIM ENROLLMENT OF MEDICARE BENEFICIARIES IN QUALIFIED HEALTH PLANS.—

(1) IN GENERAL.—Notwithstanding title XVIII of the Social Security Act, the Secretary shall provide for a monthly payment as provided under subsection (b)(1) to a private health insurance plan on behalf of enrolled medicare beneficiaries who choose to enroll in such a plan.

(2) MEDICARE BENEFICIARY.—For purposes of this section, the term "medicare beneficiary" means an individual who is eligible for benefits under part A of title XVIII of the Social Security Act and is enrolled under part B of such title.

(b) PAYMENT SPECIFIED.—

(1) FEDERAL PAYMENT.—

(A) IN GENERAL.—The amount of payment specified in this paragraph for an individual who is enrolled in a private health insurance plan is the lesser of—

(i) the applicable rate specified in section 1876(a)(1)(C) of the Social Security Act (but at 100 percent, rather than 95 percent, of the applicable amount); or

(ii) the monthly premium charged the individual for coverage under the private health insurance plan.

(B) SOURCE OF PAYMENT.—The payment to a private health insurance plan under this paragraph for individuals entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, with the allocation to be determined by the Secretary.

(2) INDIVIDUAL'S SHARE.—If the monthly premium for the private plan in which the individual is enrolled is greater than the amount specified under paragraph (1)(A)(i), the individual shall be responsible for paying to the plan the difference between the monthly premium charged the individual for coverage under the plan and the amount specified in paragraph (1)(A)(i).

(c) PAYMENTS UNDER THIS SECTION AS SOLE MEDICARE BENEFITS.—Payments made under this section shall be instead of the amounts that would otherwise be payable, pursuant to sections 1814(b) and 1833(a) of the Social Security Act, for services furnished to medicare beneficiaries.

(d) INCLUSION IN ANNUAL NOTICE TO BENEFICIARIES.—Section 1804 of the Social Security Act (42 U.S.C. (42 U.S.C. 1395b-2), as amended by section 2403, is amended

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ", and"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) a description of the option provided pursuant to section 2405 of the Affordable Health Care Now Act of 1994 for payment to be made by the Secretary on the individual's behalf for enrollment in a private health insurance plan.".

VOL 140 PT 15 AG 10 — 11 1994 UMI

PART 2—MEDICARE PART B PREMIUM; OTHER MEDICARE PAYMENT CHANGES

SEC. 2411. EXTENSION OF CURRENT RULES FOR COMPUTING MEDICARE PART B PREMIUM.

Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by striking "January 1999" and inserting "January 2005"; and

(2) in paragraph (2), by striking "January 1998" and inserting "January 2004".

SEC. 2412. INCREASE IN MEDICARE PART B PREMIUM FOR INDIVIDUALS WITH HIGH INCOME.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

"PART VIII—MEDICARE PART B PREMIUMS FOR HIGH-INCOME INDIVIDUALS

"Sec. 59B. Medicare part B premium tax.

"SEC. 59B. MEDICARE PART B PREMIUM TAX.

"(a) IMPOSITION OF TAX.—In the case of an individual to whom this section applies for the taxable year, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax for such taxable year equal to the aggregate of the Medicare part B premium taxes for each of the months during such year that such individual is covered by Medicare part B.

"(b) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for any taxable year if—

"(1) such individual is covered under Medicare part B for any month during such year, and

"(2) the modified adjusted gross income of the taxpayer for such taxable year exceeds the threshold amount.

"(c) MEDICARE PART B PREMIUM TAX FOR MONTH.—

"(1) IN GENERAL.—The Medicare part B premium tax for any month is ⅔ the amount equal to the excess of—

"(A) 150 percent of the monthly actuarial rate for enrollees age 65 and over determined for that calendar year under section 1839(b) of the Social Security Act, over

"(B) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(2) PHASE-IN OF TAX.—If the modified adjusted gross income of the taxpayer for any taxable years exceeds the threshold amount by less than $50,000, the Medicare part B premium tax for any month during such taxable year shall be an amount which bears the same ratio to the amount determined under paragraph (1) (without regard to this paragraph) as such excess bears to $50,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $100,000,

"(B) $125,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married at the close of the taxable year but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 135, 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) MEDICARE PART B COVERAGE.—An individual shall be treated as covered under Medicare part B for any month if a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part for the month.

"(4) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part VIII. Medicare Part B Premiums For High-Income Individuals."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 1994 in taxable years ending after December 31, 1994.

SEC. 2413. IMPROVED EFFICIENCY THROUGH CONSOLIDATION OF ADMINISTRATION OF PARTS A AND B.

(a) IN GENERAL.—The Secretary of Health and Human Services shall take such steps as may be necessary to consolidate the administration (including processing systems) of parts A and B of the medicare program (under title XVIII of the Social Security Act) including over a 5-year period.

(b) COMBINATION OF INTERMEDIARY AND CARRIER FUNCTIONS.—In taking such steps, the Secretary shall contract with a single entity that combines the fiscal intermediary and carrier functions in each area except where the Secretary finds that special regional or national contracts are appropriate.

(c) SUPERSEDING CONFLICTING REQUIREMENTS.—The provisions of sections 1816 and 1842 of the Social Security Act (including provider nominating provisions in such section 1816) are superseded to the extent required to carry out this section.

SEC. 2414. EXTENSION OF MEDICARE SECONDARY PAYMENT PROVISIONS.

(a) EXTENSION OF DATA MATCH.—

(1) Section 1862(b)(5)(C)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "1998" and inserting "2004".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking "1998" and inserting "2004",

(B) in clause (ii)(I), by striking "1997" and inserting "2003", and

(C) in clause (ii)(II), by striking "1998" and inserting "2004".

(b) EXTENSION OF MEDICARE SECONDARY PAYER TO DISABLED BENEFICIARIES.—Section 1862(b)(1)(B)(iii) of such Act (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "1998" and inserting "2004".

(c) EXTENSION OF PERIOD FOR END STAGE RENAL DISEASE BENEFICIARIES.—Section 1862(b)(1)(C) of such Act (42 U.S.C. 1395y(b)(1)(C)) is amended in the second sentence by striking "1998" and inserting "2004".

Subtitle F—Health Care Antitrust Improvements

SEC. 2501. PROTECTION FROM ANTITRUST LAWS FOR CERTAIN COMPETITIVE AND COLLABORATIVE ACTIVITIES.

(a) PROTECTIONS DESCRIBED.—An activity relating to the provision of health care services shall receive the following protection from the antitrust laws:

(1) If the activity is within a safe harbor designated by the Attorney General under section 2502, the safe harbor shall be a defense to all antitrust claims, except for claims for injunctive relief asserted by the Attorney General or the Chair of the Federal Trade Commission in extraordinary circumstances.

(2) If the activity is specified in and in compliance with the terms of a certificate of review issued by the Attorney General under section 2503 and the activity occurs while the certificate is in effect, the certificate shall be a defense to antitrust claims, other than claims for injunctive relief.

(b) AWARD OF ATTORNEY'S FEES AND COSTS OF SUIT.—

(1) IN GENERAL.—If any person brings an action alleging a claim under the antitrust laws and the activity on which the claim is based is found by the court to be protected from such laws under subsection (a), the court shall, at the conclusion of the action—

(A) award to a substantially prevailing claimant the cost of suit attributable to such claim, including a reasonable attorney's fee, or

(B) award to a substantially prevailing party defending against such claim the cost of such suit attributable to such claim, including reasonable attorney's fee, if the claim, or the claimant's conduct during litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(2) OFFSET IN CASES OF BAD FAITH.—The court may reduce an award made pursuant to paragraph (1) in whole or in part by an award in favor of another party for any part of the cost of suit (including a reasonable attorney's fee) attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

SEC. 2502. DESIGNATION OF SAFE HARBORS.

(a) IN GENERAL.—

(1) DESIGNATION BY ATTORNEY GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services and the Chair, shall develop and designate pursuant to paragraph (C) safe harbors for purposes of section 2501(a)(1) relating to—

(A) each category of activities referred to in paragraph (2); and

(B) such other categories of activities as the Attorney General may designate in accordance with the process described in this section.

(2) REQUIRED CATEGORIES OF ACTIVITIES SUBJECT TO SAFE HARBORS.—The categories of activities referred to in this paragraph are as follows:

(A) JOINT PURCHASING OF HEALTH CARE SERVICES.—Providing the terms under which consumers of health care services (patients or others acting on their behalf) may jointly negotiate and purchase health care services.

(B) SMALL HOSPITAL MERGERS.—Providing for small hospitals lawfully to merge under the antitrust laws without undue delay or review, taking into account the special needs and circumstances of rural health care markets.

(C) NETWORK FORMATION AND OPERATION.—Permitting activities related to the startup and operation of collaborations between State-licensed providers through partial or full integration, including multi-provider networks, hospital networks, physician-hospital organizations, and other efforts to provide health care services more efficiently.

(D) ACTIVITIES OF MEDICAL SELF-REGULATORY ENTITIES.—Permitting standard setting and enforcement activities by medical self-regulatory entities (such as hospital boards and medical societies) to promote health care quality, except that a safe harbor under this paragraph may not provide protection for any activity undertaken for financial gain or for anticompetitive reasons.

(E) PROVISION OF INFORMATION TO BUYERS AND CONSUMERS.—Permitting health care providers collectively to supply non-price medical information to buyers and consumers relating to the type, quality and efficiency of treatment, including joint views on procedures that should be covered by purchasers and medical protocols, except that a safe harbor under this subparagraph may not provide protection for any collective refusals to deal or collective attempts at coercion.

(F) PARTICIPATION IN SURVEYS.—Providing the terms under which health care providers may lawfully participate in written surveys of prices of services, reimbursements received, employee compensation, and other relevant areas.

(G) HIGH-TECHNOLOGY AND TERTIARY CARE JOINT VENTURES.—Permitting activities of health care joint ventures to purchase or use new or existing high technology or costly equipment, or to provide advanced tertiary care services.

(H) MARKET POWER SCREENS.—Providing market power screens at appropriate levels below which combinations of health care providers are too small to pose a realistic antitrust threat. There may be different levels for different activities and markets, taking into account the special needs of rural health care markets.

(I) JOINT PURCHASING ARRANGEMENTS.—Providing the terms under which health care providers may make joint purchases of products and services.

(J) GOOD FAITH NEGOTIATIONS.—Providing the terms under which health care providers may engage in discussions relating to legitimate collaborative activities contemplated by the safe harbors.

(b) PROCESS FOR DESIGNATION OF ADDITIONAL CATEGORIES OF ACTIVITIES.—

(1) SOLICITATION OF PROPOSALS.—Not later than 30 days after the date of the enactment of this Act, the Attorney General shall publish a notice in the Federal Register soliciting proposals for safe harbors.

(2) REVIEW OF PROPOSED SAFE HARBORS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General (in consultation with the Secretary and the Chair) shall review the proposed safe harbors submitted under paragraph (1) and include a description of the safe harbors in the report under subsection (d).

(3) ADDITIONAL SAFE HARBORS.—After submitting the report under subsection (d), the Attorney General (in consultation with the Secretary and the Chair) may from time to time add additional safe harbors in accordance with the procedures described in this subsection.

(c) EFFECTIVE DATE OF SAFE HARBORS.—

(1) PUBLICATION.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall publish in the Federal Register for public comment the safe harbors proposed for designation under this section. Not later than 180 days after publishing such proposed safe harbors in the Federal Register, the Attorney General shall issue final rules establishing such safe harbors.

(2) EFFECTIVE DATE.—The safe harbors established under the final rules issued under paragraph (1) shall take effect 90 days after issuance, unless disapproved by the Congress.

(d) REPORT ON PROPOSED SAFE HARBORS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General (in consultation with the Secretary and the Chair) shall submit a report to Congress describing the proposals from subsections (a) and (b)(1) to be included in the publication of safe harbors described in subsection (c)(1) and the proposals from subsection (b)(1) that are not to be so included, together with explanations therefor.

(e) MODIFICATION OR REMOVAL OF SAFE HARBORS.—The Attorney General (in consultation with the Secretary and the Chair) may modify or remove a safe harbor following notice and comment upon a determination that the safe harbor does not meet the criteria of subsection (f).

(f) CRITERIA FOR SAFE HARBORS.—In establishing safe harbors under this section, the Attorney General shall take into account the following:

(1) The extent to which a competitive or collaborative activity will accomplish any of the following:

(A) An increase in access to health care services.

(B) The enhancement of the quality of health care services.

(C) The establishment of cost efficiencies that will be passed on to consumers, including economies of scale and reduced transaction and administrative costs.

(D) An increase in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(E) An improvement in the utilization of health care resources or the reduction in the inefficient duplication of the use of such resources.

(2) Whether the designation of an activity as a safe harbor will result in the following outcomes:

(A) Health plans and other health care insurers, consumers of health care services, and health care providers will be better able to negotiate payment and service arrangements which will reduce costs to consumers.

(B) Taking into consideration the characteristics of the particular purchasers and providers involved, competition will not be unduly restricted.

(C) Equally efficient and less restrictive alternatives do not exist to meet the criteria described in paragraph (1).

(D) The activity will not unreasonably foreclose competition by denying competitors a necessary element of competition.

SEC. 2503. CERTIFICATES OF REVIEW.

(a) ESTABLISHMENT OF PROGRAM.—In consultation with the Secretary, the Attorney General shall (not later than 180 days after the date of the enactment of this Act) issue certificates of review in accordance with this section for providers of health care services and advise and assist any person with respect to applying for such a certificate of review.

(b) PROCEDURES FOR APPLICATION FOR CERTIFICATE.—

(1) SUBMISSION OF APPLICATION.—

(A) FORM; CONTENT.—To apply for a certificate of review, a person shall submit to the Attorney General a written application which—

(i) specifies the activities relating to the provision of health care services which satisfy the criteria described in section 2502(e) and which will be included in the certificate; and

(ii) is in a form and contains any information, including information pertaining to the overall market in which the applicant operates, required by rule or regulation promulgated under section 2506.

(B) FILING FEE.—The Attorney General may require a filing fee to be submitted with the application to cover the cost of publication and the cost of review required by this section. The amount of the filing fee shall be determined on a sliding scale established by the Attorney General (based on the monetary size of the transaction involved), except that such fee may not exceed $5,000.

(2) PUBLICATION OF NOTICE IN FEDERAL REGISTER.—Within 10 days after an application submitted under paragraph (1) is received by the Attorney General, the Attorney General shall publish in the Federal Register a notice that announces that an application for a certificate of review has been submitted, identifies each person submitting the application, and describes the conduct for which the application is submitted.

(3) ESTABLISHMENT OF PROCEDURES FOR ISSUANCE OF CERTIFICATE.—In consultation with the Chair and the Secretary, the Attorney General shall establish procedures to be used in applying for and in determining whether to approve an application for a certificate of review under this title. Under such procedures the Attorney General, in consultation with the Secretary, shall approve an application if the Attorney General determines that the activities to be covered under the certificate will satisfy the criteria described in section 2502(f) for safe harbors designated under such section and that the benefits of the issuance of the certificate will outweigh any disadvantages that may result from reduced competition. If the Attorney General, with the concurrence of the Secretary, determines that the requirements for a certificate are met, the Attorney General shall issue to the applicant a certificate of review. The certificate of review shall specify—

(i) the health care market activities to which the certificate applies,

(ii) the person to whom the certificate of review is issued, and

(iii) any terms and conditions the Attorney General or the Secretary deems necessary to assure compliance with the applicable procedures described in paragraph (3).

(4) TIMING FOR DECISION ON APPLICATION.—Within 90 days after the Attorney General receives an application for a certificate of review, the Attorney General shall determine whether to grant or deny the certificate.

(5) NOTIFICATION OF DECISION.—The Attorney General shall notify the applicant of the Attorney General's determination and if the application is denied, the reasons for the denial.

(6) FRAUDULENT PROCUREMENT.—A certificate of review shall be void ab initio with respect to any health care market activities for which the certificate was procured by fraud.

(c) AMENDMENT AND REVOCATION OF CERTIFICATES.—

(1) NOTIFICATION OF CHANGES.—Any applicant who receives a certificate of review—

(A) shall promptly report to the Attorney General any change relevant to the matters specified in the certificate; and

(B) may submit to the Attorney General an application to amend the certificate to reflect the effect of the change on the conduct specified in the certificate.

(2) AMENDMENT TO CERTIFICATE.—An application for an amendment to a certificate of review shall be treated as an application for the issuance of a certificate. The effective date of an amendment shall be the date on which the application for the amendment is received by the Attorney General.

(3) REVOCATION.—

(A) GROUNDS FOR REVOCATION.—In accordance with this paragraph, the Attorney General, in consultation with the Secretary,

VOL 140 PT 15 AG 10 — 11 1994 UMI

may revoke in whole or in part a certificate of review issued under this section. There shall be considered as grounds for the revocation of a certificate the fact that—

(i) after the expiration of the 2-year period beginning on the date a person's certificate is issued, the activities of the person have not substantially accomplished the purposes for the issuance of the certificate;

(ii) the person has failed to comply with any of the terms or conditions imposed under the certificate by the Attorney General or the Secretary under subsection (b)(4); or

(iii) the activities covered under the certificate no longer satisfy the criteria set forth in section 2502(f).

(B) REQUEST FOR COMPLIANCE INFORMATION.—If the Attorney General or the Secretary has reason to believe that any of the grounds for revocation of a certificate of review described in subparagraph (A) may apply to a person holding the certificate, the Attorney General shall request such information from such person as the Attorney General or the Secretary deems necessary to resolve the matter of compliance. Failure to comply with such request shall be grounds for revocation of the certificate under this paragraph.

(C) PROCEDURES FOR REVOCATION.—If the Attorney General or the Secretary determines that any of the grounds for revocation of a certificate of review described in subparagraph (A) apply to a person holding the certificate, or that such person has failed to comply with a request made under subparagraph (B), the Attorney General shall give written notice of the determination to such person. The notice shall include a statement of the circumstances underlying, and the reasons in support of, the determination. In the 60-day period beginning 30 days after the notice is given, the Attorney General shall revoke the certificate or modify it as the Attorney General or the Secretary deems necessary to cause the certificate to apply only to activities that meet the criteria set forth in section 2502(f).

(D) INVESTIGATION AUTHORITY.—For purposes of carrying out this paragraph, the Attorney General may conduct investigations in the same manner as the Attorney General conducts investigations under section 3 of the Antitrust Civil Process Act, except that no civil investigative demand may be issued to a person to whom a certificate of review is issued if such person is the target of such investigation.

(d) REVIEW OF DETERMINATIONS.—

(1) AVAILABILITY OF REVIEW FOR CERTAIN ACTIONS.—If the Attorney General denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or modifies a certificate pursuant to paragraph (3), the applicant or certificate holder (as the case may be) may, within 30 days of the denial or revocation, bring an action in the United States District Court for the District of Columbia to set aside the determination on the ground that such determination is clearly erroneous.

(2) NO OTHER REVIEW PERMITTED.—Except as provided in paragraph (1), no action by the Attorney General, the Chair, or the Secretary pursuant to this subtitle shall be subject to judicial review.

(3) EFFECT OF REJECTED APPLICATION.—If the Attorney General denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or amends a certificate, neither the negative determination nor the statement of reasons therefore shall be admissible in evidence, in any administrative or judicial proceeding, concerning any claim under the antitrust laws.

(e) PUBLICATION OF DECISIONS.—The Attorney General shall publish a notice in the Federal Register on a timely basis of each decision made with respect to an application for a certificate of review under this section or the amendment or revocation of such a certificate, in a manner that protects the confidentiality of any proprietary information relating to the application.

(f) ANNUAL REPORTS.—Every person to whom a certificate of review is issued shall submit to the Attorney General an annual report, in such form and at such time as the Attorney General may require, that contains any necessary updates to the information required under subsection (b) and a description of the activities of the holder under the certificate during the preceding year.

(g) RESTRICTIONS ON DISCLOSURE OF INFORMATION.—

(1) WAIVER OF DISCLOSURE REQUIREMENTS UNDER ADMINISTRATIVE PROCEDURE ACT.—Information submitted by any person in connection with the issuance, amendment, or revocation of a certificate of review shall be exempt from disclosure under section 552 of title 5, United States Code.

(2) RESTRICTIONS ON DISCLOSURE OF COMMERCIAL OR FINANCIAL INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no officer or employee of the United States shall disclose commercial or financial information submitted in connection with the issuance, amendment, or revocation of a certificate of review if the information is privileged or confidential or if disclosure of the information would cause harm to the person who submitted the information.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to information disclosed—

(i) upon a request made by the Congress or any committee of the Congress,

(ii) in a judicial or administrative proceeding, subject to appropriate protective orders,

(iii) with the consent of the person who submitted the information,

(iv) in the course of making a determination with respect to the issuance, amendment, or revocation of a certificate of review, if the Attorney General deems disclosure of the information to be necessary in connection with making the determination,

(v) in accordance with any requirement imposed by a statute of the United States, or

(vi) in accordance with any rule or regulation promulgated under subsection (i) permitting the disclosure of the information to an agency of the United States or of a State on the condition that the agency will disclose the information only under the circumstances specified in clauses (i) through (v).

(3) PROHIBITION AGAINST USE OF INFORMATION TO SUPPORT OR ANSWER CLAIMS UNDER ANTITRUST LAWS.—Any information disclosed in an application for a certificate of review under this section shall only be admissible into evidence in a judicial or administrative proceeding for the sole purpose of establishing whether a person is entitled to the protections provided by such a certificate.

SEC. 2504. NOTIFICATIONS PROVIDING REDUCTION IN CERTAIN PENALTIES UNDER ANTITRUST LAW FOR HEALTH CARE JOINT VENTURES.

(a) NOTIFICATIONS DESCRIBED.—

(1) SUBMISSION OF NOTIFICATION BY VENTURE.—Any party to a health care joint venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture or not later than 90 days after the date of the enactment of this Act, whichever is later, file with the Attorney General a written notification disclosing—

(A) the identities of the parties to such venture,

(B) the nature and objectives of such venture, and

(C) such additional information as the Attorney General may require by regulation.

(2) FILING FEE.—The Attorney General may require a filing fee to be submitted with the notification to cover the cost of publication and the cost of administering this section, except that the amount of such fee shall not exceed $250.

(3) SUBMISSION OF ADDITIONAL INFORMATION.—

(A) REQUEST OF ATTORNEY GENERAL.—At any time after receiving a notification filed under paragraph (1), the Attorney General may require the submission of additional information or documentary material relevant to the proposed health care joint venture.

(B) PARTIES TO VENTURE.—Any party to a health care joint venture may submit such additional information on the venture's behalf as may be appropriate to ensure that the venture will receive the protections provided under subsection (b).

(C) REQUIRED SUBMISSION OF INFORMATION ON CHANGES TO VENTURE.—A health care joint venture for which a notification is in effect under this section shall submit information on any change in the membership of the venture not later than 90 days after such change occurs.

(4) PUBLICATION OF NOTIFICATION.—

(A) INFORMATION MADE PUBLICLY AVAILABLE.—Not later than 30 days after receiving a notification with respect to a venture under paragraph (1), the Attorney General shall publish in the Federal Register a notice with respect to the venture that identifies the parties to the venture and generally describes the purpose and planned activity of the venture. Prior to its publication, the contents of the notice shall be made available to the parties to the venture.

(B) RESTRICTION ON DISCLOSURE OF OTHER INFORMATION.—All information and documentary material submitted pursuant to this section and all information obtained by the Attorney General in the course of any investigation or case with respect to a potential violation of the antitrust laws by the health care joint venture (other than information and material described in subparagraph (A)) shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not be made publicly available by any agency of the United States to which such section applies except in a judicial proceeding in which such information and material is subject to any protective order.

(5) WITHDRAWAL OF NOTIFICATION.—Any person who files a notification pursuant to this section may withdraw such notification before a publication by the Attorney General pursuant to paragraph (4).

(6) NO JUDICIAL REVIEW PERMITTED.—Any action taken or not taken by the Attorney General with respect to notifications filed pursuant to this subsection shall not be subject to judicial review.

(b) PROTECTIONS FOR VENTURES SUBJECT TO NOTIFICATION.—

(1) IN GENERAL.—

(A) PROTECTIONS DESCRIBED.—Except as provided in subsection (c), the provisions of paragraphs (2), (3), (4), and (5) shall apply with respect to any action under the antitrust laws challenging conduct within the scope of a notification which is in effect pursuant to subsection (a)(1).

(B) TIMING OF PROTECTIONS.—The protections described in this subsection shall apply to the venture that is the subject of a notification under subsection (a)(1) as of the earlier of—

(i) the date of the publication in the Federal Register of the notice published with respect to the notification; or

(ii) if such notice is not published during the period required under subsection (a)(4), the expiration of the 30-day period that begins on the date the Attorney General receives any necessary information required to be submitted under subsection (a)(1) or any additional information required by the Attorney General under subsection (a)(3)(A).

(2) APPLICABILITY OF RULE OF REASON STANDARD.—In any action under the antitrust laws, the conduct of any person which is within the scope of a notification filed under subsection (a) shall not be deemed illegal per se, but shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including, but not limited to, effects on competition in relevant markets.

(3) LIMITATION ON RECOVERY TO ACTUAL DAMAGES AND INTEREST.—Notwithstanding section 4 of the Clayton Act, any person who is entitled to recovery under the antitrust laws for conduct that is within the scope of a notification filed under subsection (a) shall recover the actual damages sustained by such person and interest calculated at the rate specified in section 1961 of title 28, United States Code, for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust under the circumstances.

(4) AWARD OF ATTORNEY'S FEES AND COSTS OF SUIT.—

(A) IN GENERAL.—In any action under the antitrust laws brought against a health care joint venture for conduct that is within the scope of a notification filed under subsection (a), the court shall, at the conclusion of the action—

(i) award to a substantially prevailing claimant the cost of suit attributable to such claim, including a reasonable attorney's fee, or

(ii) award to a substantially prevailing party defending against such claim the cost of such suit attributable to such claim, including reasonable attorney's fee, if the claim, or the claimant's conduct during litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(B) OFFSET IN CASES OF BAD FAITH.—The court may reduce an award made pursuant to subparagraph (A) in whole or in part by an award in favor of another party for any part of the cost of suit (including a reasonable attorney's fee) attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

(5) RESTRICTIONS ON ADMISSIBILITY OF INFORMATION.—

(A) IN GENERAL.—Any information disclosed in a notification submitted under subsection (a)(1) and the fact of the publication of a notification by the Attorney General under subsection (a)(4) shall only be admissible into evidence in a judicial or administrative proceeding for the sole purpose of establishing whether a party to a health care joint venture is entitled to the protections described in this subsection.

(B) ACTIONS OF ATTORNEY GENERAL.—No action taken by the Attorney General pursuant to this section shall be admissible into evidence in any judicial or administrative proceeding for the purpose of supporting or answering any claim under the antitrust laws.

(c) EXCEPTION FOR CERTAIN ACTIVITIES.—

(1) ACTIVITIES DESCRIBED.—The protections described in subsection (b) shall not apply to conduct which constitutes price-fixing, bid-rigging, or market allocation, unless such conduct is related to procompetitive aspects of a health care joint venture (as determined in accordance with the process described in paragraph (2)).

(2) PROCESS.—If conduct of a health care joint venture which is subject to a notification under subsection (a)(1) is challenged for price-fixing, bid-rigging, or market allocation, any party to the joint venture shall be entitled to show the procompetitive aspects of such conduct. The protections described in subsection (b) shall not apply to the conduct if the party is unable to show that the conduct is not mere price-fixing, bid-rigging, or market allocation.

SEC. 2505. REVIEW AND REPORTS ON SAFE HARBORS, CERTIFICATES OF REVIEW, AND NOTIFICATIONS.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary and the Chair, shall periodically review the safe harbors designated under section 2502, the certificates of review issued under section 2503, and notification received under section 2504, and—

(1) with respect to the safe harbors, issue modifications to such safe harbors in such manner as the Attorney General considers appropriate in accordance with the requirements of section 2502, which modifications shall take effect 90 days after issuance, unless disapproved by the Congress; and

(2) with respect to the certificates of review and notifications, submit a report to Congress on the issuance of such certificates and receipt of notifications, including a description of the effect of such certificates and notifications on increasing access to high quality health care services at reduced costs.

(b) RECOMMENDATIONS FOR LEGISLATION.—The Attorney General shall include in the reports submitted under subsection (a)(2) any recommendations of the Attorney General for legislation to improve the programs for the issuance of certificates of review and receipt of notifications established under this subtitle.

SEC. 2506. RULES, REGULATIONS, AND GUIDELINES.

(a) SAFE HARBORS, CERTIFICATES, AND NOTIFICATIONS.—The Attorney General, in consultation with the Secretary and the Chair, shall promulgate such rules, regulations, and guidelines as are necessary to carry out sections 2502, 2503, and 2504.

(b) GUIDANCE FOR PROVIDERS.—

(1) IN GENERAL.—To promote greater certainty regarding the application of the antitrust laws to activities in the health care market, the Attorney General, in consultation with the Secretary and the Chair, shall (not later than 1 year after the date of the enactment of this Act), taking into account the criteria used to designate safe harbors under section 2502 and grant certificates of review under section 2503, publish guidelines—

(A) to define or provide assistance in determining relevant geographic and product markets for health care services and providers of health care services;

(B) to further collaborative activities which may be helpful to enhance services in underserved and geographically disadvantaged areas such as rural markets and inner cities;

(C) to assist collaboration between providers (such as hospital networks, physician-hospital organizations, and other groups of providers) which will help provide health care services more efficiently;

(D) to further activities by which public health clinics (including community health centers and migrant health centers under title III of the Public Health Service Act) may participate in networks and other collaborative activities in order to enhance services in underserved areas;

(E) to assist providers of health care services in analyzing whether the activities of such providers may be subject to a safe harbor under section 2502;

(F) to provide clarification for activities in the general subject matter areas described in the safe harbors in section 2502, but which fall outside the safe harbors; and

(G) to describe specific types of activities which would meet the requirements for issuance of a certificate of review under section 2503, and summarizing the factual and legal bases on which the activities would meet the requirements.

(2) PERIODIC UPDATE.—The Attorney General shall periodically update the guidelines published under paragraph (1) as the Attorney General considers appropriate.

(3) WAIVER OF ADMINISTRATIVE PROCEDURE ACT.—Section 553 of title 5, United States Code, shall not apply to the issuance of guidelines under paragraph (1).

SEC. 2507. ESTABLISHMENT OF HHS OFFICE OF HEALTH CARE COMPETITION POLICY.

(a) IN GENERAL.—There is established within the Department of Health and Human Services an Office to be known as the Office of Health Care Competition Policy (hereafter in this section referred to as the "Office"). The Office shall be headed by a director, who shall be appointed by the Secretary.

(b) DUTIES.—The Office shall coordinate the responsibilities of the Secretary under this subtitle and otherwise assist the Secretary in developing policies relating to the competitive and collaborative activities of providers of health care services.

SEC. 2508. DEFINITIONS.

In this subtitle:

(1) The term "antitrust laws"—

(A) has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in subparagraph (A).

(2) The term "Chair" means the Chair of the Federal Trade Commission.

(3) The term "health benefit plan" means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance subscriber contract, or a multiple employer welfare arrangement or employee benefit plan (as defined under the Employee Retirement Income Security Act of 1974) which provides benefits with respect to health care services.

(4) The term "health care joint venture" means a joint venture of 2 or more persons formed for the purpose of providing health care services, including attempts to enter into or perform a contract or agreement to provide such services.

(5) The term "health care services" means any services for which payment may be made

VOL 140 PT 15 AG 10 — 11 1994 UMI

under a health benefit plan, including services related to the delivery or administration of such services.

(6) The term "medical self-regulatory entity" means a medical society or association, a specialty board, a recognized accrediting agency, or a hospital medical staff, and includes the members, officers, employees, consultants, and volunteers or committees of such an entity.

(7) The term "person" includes a State or unit of local government.

(8) The term "provider of health care services" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(9) The term "Secretary" means the Secretary of Health and Human Services.

(10) The term "specialty group" means a medical specialty or subspecialty in which a provider of health care services may be licensed to practice by a State (as determined by the Secretary in consultation with the certification boards for such specialties and subspecialties).

(11) The term "standard setting and enforcement activities" means—

(A) accreditation of health care practitioners, health care providers, medical education institutions, or medical education programs,

(B) technology assessment and risk management activities,

(C) the development and implementation of practice guidelines or practice parameters, or

(D) official peer review proceedings undertaken by a hospital medical staff (or committee thereof) or a medical society or association for purposes of evaluating the professional conduct or quality of health care provided by a medical professional.

Subtitle G—Encouraging Enforcement Activities of Medical Self-Regulatory Entities

PART 1—APPLICATION OF THE CLAYTON ACT TO MEDICAL SELF-REGULATORY ENTITIES

SEC. 2601. ANTITRUST EXEMPTION FOR MEDICAL SELF-REGULATORY ENTITIES.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), no damages, interest on damages, cost of suit, or attorney's fee may be recovered under section 4, 4A, or 4C of the Clayton Act (15 U.S.C. 15, 15a, 15c), or under any State law similar to such section, from any medical self-regulatory entity (including its members, officers, employees, consultants, and volunteers or committees thereof) as a result of engaging in standard setting or enforcement activities that are—

(A) designed to promote the quality of health care provided to patients, and

(B) not conducted for purposes of financial gain.

(2) Paragraph (1) shall not prohibit the recovery of actual damages, interest on damages, the cost of suit, or a reasonable attorney's fee under section 4 or 4A of the Clayton Act (15 U.S.C. 15, 15a), or under any State law similar to such section, by a State or the United States from a medical self-regulatory entity (including its members, officers, employees, consultants, and volunteers or committees thereof) for injury sustained as a result of engaging in the conduct described in such paragraph.

(b) FEES.—In any action under section 4, 4C, or 16 of the Clayton Act (15 U.S.C. 15, 15c, 26), or under a similar State law, brought against any medical self-regulatory entity (including its members, officers, employees, consultants, and volunteers or committees thereof) as a result of engaging in conduct described in subsection (a)(1), the court shall award the cost of suit, including a reasonable attorney's fee, to a substantially prevailing defendant.

SEC. 2602. DEFINITIONS.

For purposes of this subtitle:

(1) The term "medical self-regulatory entity" means a medical society or association, a specialty board, a recognized accrediting agency, or a hospital medical staff.

(2) The term "standard setting and enforcement activities" means—

(A) accreditation of health care practitioners, health care providers, medical education institutions, or medical education programs,

(B) technology assessment and risk management activities,

(C) the development and implementation of practice guidelines or practice parameters, or

(D) official peer review proceedings undertaken by a hospital medical staff (or committee thereof) or a medical society or association for purposes of evaluating the quality of health care provided by a medical professional.

PART 2—CONSULTATION BY FEDERAL AGENCIES

SEC. 2611. CONSULTATION WITH MEDICAL SELF-REGULATORY ENTITIES RESPECTING MEDICAL PROFESSIONAL GUIDELINES AND STANDARDS.

Any Federal agency engaged in the establishment of medical professional standards shall consult with appropriate medical societies or associations, specialty boards, or recognized accrediting agencies, if available, in carrying out medical professional standard setting and guidelines or standards relating to the practice of medicine.

Subtitle H—Reform of Clinical Laboratory Requirements for Simple Tests

SEC. 2701. ELIMINATING CLIA REQUIREMENT FOR CERTIFICATE OF WAIVER FOR SIMPLE LABORATORY EXAMINATIONS AND PROCEDURES.

(a) IN GENERAL.—Section 353 of the Public Health Service Act (42 U.S.C. 263a) is amended—

(1) in subsection (b), by inserting before the period at the end the following: "or unless the laboratory is exempt from the certificate requirement under subsection (d)(2)";

(2) by amending paragraph (2) of subsection (d) to read as follows:

"(2) EXEMPTION FROM CERTIFICATE REQUIREMENT FOR LABORATORIES PERFORMING ONLY SIMPLE EXAMINATIONS AND PROCEDURES.—A laboratory which performs only laboratory examinations and procedures described in paragraph (3) is not required to have in effect a certificate under this section.";

(3) by striking paragraph (4) of subsection (d); and

(4) in subsection (m)(1), by striking ", except that the Secretary" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning after the date of the enactment of this Act.

SEC. 2702. AMENDMENT RELATED TO SIMPLE LABORATORY EXAMINATIONS.

Section 353(d) of the Public Health Service Act (42 U.S.C. 263) is amended by striking paragraph (3) and inserting the following:

"(3) EXAMINATIONS AND PROCEDURES.—The examinations and procedures identified in paragraph (2) are simple laboratory examinations and procedures which have an insignificant risk of an erroneous result and include those which—

"(A) have been approved by the Food and Drug Administration for home use,

"(B) employ methodologies that are so simple and accurate as to render the likelihood of erroneous results negligible,

"(C) the Secretary has determined pose no reasonable risk of serious harm to the patient if performed incorrectly, or

"(D)(I) are performed by or under the direction or supervision of or in collaboration with a doctor of medicine or osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located, or by an individual qualified to direct, supervise, or perform examinations and procedures under State laws or such standards as the Secretary may establish; and

"(ii) the patient is available for clinical observation; and

"(iii) prompt results are needed to evaluate, diagnose, and treat the patient or to avoid additional burdens on the patient that could result from not performing the test.

"(4) DEFINITION.—As used in this section, the term 'simple laboratory examinations and procedures' includes dipstick tests for total and allergen-specific IgE; microscopic examination of nasal smears (for celis and bacteria); mono spot tests; testing for theophylline using the Accu-Level method; microscopic urinalysis; vaginal wet mount; KOH prep, scabies prep; rapid strep antigen; nonautomated qualitative and quantitative semen analysis; pin worm; prostate smears; synovial fluid analysis for inflammation and infection; post coital test; fern test; occult blood; Gram stain; qualitative drug screen; pulse oximetry; hemoglobin (by hand-held hemoglobinometer); ASO, CRP, RF, and mono screen; sickle cell screen; white blood cell count by manual chamber count; peripheral blood smears; sputum eosinophil; urine culture colony; urine sensitivities; microscopic examination of hair morphology; molluscum smear; fungal cultures, including dermatophyte test medium; Tzank smear; Darkfield examination; agglutination pregnancy test; urethral gram stains, and centrifigal hematology, including white blood cell count, hematocrit, differential, and platelet count.".

SEC. 2703. AMENDMENT RELATED TO STUDY.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Centers for Disease Control and Prevention, shall use existing appropriations to conduct the study required by section 4 of the Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. 263a note). The Secretary shall report the results of such study to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Committee on Labor and Human Resources of the Senate not later than May 1, 1996.

(b) SUNSET.—If the results of the study described in subsection (a) are not reported to the committees of Congress by May 1, 1996, section 353 of the Public Health Service Act shall not be in effect after May 1, 1996.

SEC. 2704. AMENDMENTS RELATED TO THE CLINICAL LABORATORY IMPROVEMENT ADVISORY COMMITTEE.

The Secretary of Health and Human Services shall revise the membership of the Clinical Laboratory Improvement Advisory Committee established by the Secretary in regulations to implement section 353 of the Public Health Service Act (subpart T of part 493 of title 42 Code of Federal Regulations) to contain, in the membership which does not include ex-officio members or officers or employees of the Federal Government, a number of practicing physicians which is proportionate to the number of physician laboratories regulated under such section 353. For purposes of this section, the term "practicing physician" means a licensed doctor of medicine or osteopathy who spends at least 80 percent of the physician's professional time in direct patient care and who directs an in-office clinical laboratory for the physician's patients.

Subtitle I—Miscellaneous Provisions

SEC. 2801. REQUIREMENT THAT CERTAIN AGENCIES PREFUND GOVERNMENT HEALTH BENEFITS CONTRIBUTIONS FOR THEIR ANNUITANTS.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term "agency" means any agency or other instrumentality within the executive branch of the Government, the receipts and disbursements of which are not generally included in the totals of the budget of the United States Government submitted by the President;

(2) the term "health benefits plan" means, with respect to an agency, a health benefits plan, established by or under Federal law, in which employees or annuitants of such agency may participate;

(3) the term "health-benefits coverage" means coverage under a health benefits plan";

(4) an individual shall be considered to be an "annuitant of an agency" if such individual is entitled to an annuity, under a retirement system established by or under Federal law, by virtue of—

(A) such individual's service with, and separation from, such agency; or

(B) being the survivor of an annuitant under subparagraph (A) or of an individual who died while employed by such agency; and

(5) the term "Office" means the Office of Personnel Management.

(b) PREFUNDING REQUIREMENT.—

(1) IN GENERAL.—Effective as of October 1, 1994, each agency (or February 1, 1995, in the case of the agency with the greatest number of employees, as determined by the Office) shall be required to prepay the Government contributions which are or will be required in connection with providing health-benefits coverage for annuitants of such agency.

(2) REGULATIONS.—The Office shall prescribe such regulations as may be necessary to carry out this section. The regulations shall be designed to ensure at least the following:

(A) Amounts paid by each agency shall be sufficient to cover the amounts which would otherwise be payable by such agency (on a "pay-as-you-go" basis), on or after the applicable effective date under paragraph (1), on behalf of—

(i) individuals who are annuitants of the agency as of such effective date; and

(ii) individuals who are employed by the agency as of such effective date, or who become employed by the agency after such effective date, after such individuals have become annuitants of the agency (including their survivors).

(B)(i) For purposes of determining any amounts payable by an agency—

(I) this section shall be treated as if it had taken effect at the beginning of the 20-year period which ends on the effective date applicable under paragraph (1) with respect to such agency; and

(II) in addition to any amounts payable under subparagraph (A), each agency shall also be responsible for paying any amounts for which it would have been responsible, with respect to the 20-year period described in subclause (I), in connection with any individuals who are annuitants or employees of the agency as of the applicable effective date under paragraph (1).

(ii) Any amounts payable under this subparagraph for periods preceding the applicable effective date under paragraph (1) shall be payable in equal installments over the 20-year period beginning on such effective date.

(c) FASB STANDARDS.—Regulations under subsection (b) shall be in conformance with the provisions of standard 106 of the Financial Accounting Standards Board, issued in December 1990.

(d) CLARIFICATION.—Nothing in this section shall be considered to permit or require duplicative payments on behalf of any individuals.

(e) DRAFT LEGISLATION.—The Office shall prepare and submit to Congress any draft legislation which may be necessary in order to carry out this section.

SEC. 2802. INELIGIBILITY OF ALIENS FOR SSI AND MEDICAID.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsections (b) and (c), no alien shall be eligible for any program referred to in subsection (d).

(b) EXCEPTIONS.—

(1) REFUGEE EXCEPTION.—Subsection (a) shall not apply to an alien admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 6 years after the date of such alien's arrival into the United States.

(2) AGED EXCEPTION.—Subsection (a) shall not apply to an alien who—

(A) has been lawfully admitted to the United States for permanent residence;

(B) is over 75 years of age; and

(C) has resided in the United States for at least 5 years.

(3) CURRENT RESIDENT EXCEPTION.—Subsection (a) shall not apply to the eligibility of an alien for a program referred to in subsection (d) until 1 year after the date of the enactment of this Act if, on such date of enactment, the alien is residing in the United States and is eligible for the program.

(c) PROGRAMS FOR WHICH ALIENS MAY BE ELIGIBLE.—The limitation under subsection (a) shall not apply to medical assistance with respect to emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act).

(d) PROGRAMS FOR WHICH ALIENS ARE INELIGIBLE.—The programs referred to in this subsection are the following:

(1) The program of medical assistance under title XIX of the Social Security Act, except emergency services as provided in subsection (c).

(2) The supplemental security income program under title XVI of the Social Security Act.

(e) NOTIFICATION OF ALIENS.—Any Federal agency that administers a program referred to in subsection (d) shall, directly or through the States, notify each alien receiving benefits under the program whose eligibility for the program is or will be terminated by reason of this section.

SEC. 2803. LIMITATION ON SSI BENEFITS FOR DRUG AND ALCOHOL ADDICTS.

(a) IN GENERAL.—

(1) LIMITATION DESCRIBED.—Section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a)) is amended by adding at the end the following:

"(5)(A) The Secretary shall identify all recipients of benefits under this title by reason of disability whose disability is a result of addiction to illegal drugs.

"(B) The Secretary shall periodically, on a random basis, test each recipient identified under subparagraph (A) to determine whether the recipient is using illegal drugs.

"(C)(i) Notwithstanding any other provision of this title, any individual who is determined under subparagraph (B) to be using illegal drugs, or who refuses to submit to testing as provided for under subparagraph (B), shall not be eligible for benefits under this title for a period of at least 1 year.

"(ii) The period of ineligibility under clause (i) shall terminate (after the last day of such 1-year period) if the individual has 2 tests (at least 2 months apart and not paid for through Federal funds) which establish that the recipient is not using illegal drugs.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to quarters beginning after the expiration of the 6-month period that begins on the date of the enactment of this Act.

(b) REPRESENTATIVE PAYEE REFORMS.—

(1) AUTHORITY OF GOVERNMENT AGENCIES TO BECOME PAID REPRESENTATIVE PAYEES.—Section 1631(a)(2)(D)(ii) of such Act (42 U.S.C. 1383(a)(2)(D)(ii)) is amended by adding at the end the following: "The term 'qualified organization' also includes any government agency that meets the requirements of items (aa) and (bb) of subclause (II).".

(2) MAXIMUM FEE PAYABLE TO REPRESENTATIVE PAYEES.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended by striking "the lesser of—" and all that follows and inserting "10 percent of the monthly benefit involved.".

TITLE III—LONG-TERM CARE

TABLE OF CONTENTS OF TITLE

Subtitle A—Tax Treatment of Long-term Care Insurance

Sec. 3001. Treatment of long-term care insurance or plans.
Sec. 3002. Exclusion for benefits provided under long-term care insurance; inclusion of employer-provided coverage.
Sec. 3003. Qualified long-term services treated as medical care.
Sec. 3004. Effective date.

Subtitle B—Establishment of Federal Standards for Long-term Care Insurance

Sec. 3101. Establishment of Federal standards for long-term care insurance.

"TITLE XXVII—LONG-TERM CARE INSURANCE STANDARDS

"PART A—PROMULGATION OF STANDARDS AND MODEL BENEFITS

"Sec. 2701. Standards.

"PART B—ESTABLISHMENT AND IMPLEMENTATION OF LONG-TERM CARE INSURANCE POLICY STANDARDS

"Sec. 2711. Implementation of policy standards.
"Sec. 2712. Regulation of sales practices.
"Sec. 2713. Additional responsibilities for carriers.
"Sec. 2714. Renewability standards for issuance, and basis for cancellation of policies.
"Sec. 2715. Benefit standards.
"Sec. 2716. Nonforfeiture.
"Sec. 2717. Limit of period of contestability and right to return.
"Sec. 2718. Civil money penalty.

"PART C—LONG-TERM CARE INSURANCE POLICIES, DEFINITION AND ENDORSEMENTS

"Sec. 2721. Long-term care insurance policy defined.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"Sec. 2722. Code of conduct with respect to endorsements.
"PART D—MISCELLANEOUS PROVISIONS
"Sec. 2731. Funding for long-term care insurance information, counseling, and assistance.
"Sec. 2732. Definitions.
Subtitle C—Protection of Assets Under Medicaid Through Use of Qualified Long-term Care Insurance
Sec. 3201. Protection of assets through use of qualified long-term care insurance.
Subtitle D—Studies
Sec. 3301. Feasibility of encouraging health care providers to donate services to homebound patients.
Sec. 3302. Feasibility of tax credit for heads of households who care for elderly family members in their homes.
Sec. 3303. Case management of current long-term care benefits.
Subtitle E—Volunteer Service Credit Demonstration Projects
Sec. 3401. Amendment to the Older Americans Act of 1965.

Subtitle A—Tax Treatment of Long-term Care Insurance

SEC. 3001. TREATMENT OF LONG-TERM CARE INSURANCE OR PLANS.

(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 818 the following new section:

"SEC. 818A. TREATMENT OF LONG-TERM CARE INSURANCE OR PLANS.

"(a) GENERAL RULE.—For purposes of this part, a long-term care insurance contract shall be treated as an accident or health insurance contract.

"(b) LONG-TERM CARE INSURANCE CONTRACT.—

"(1) IN GENERAL.—For purposes of this part, the term 'long-term care insurance contract' means any insurance contract issued if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services and benefits incidental to such coverage,

"(B) the maximum benefit under the policy for expenses incurred for any day does not exceed $200,

"(C) such contract does not cover expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(D) such contract is guaranteed renewable,

"(E) such contract does not have any cash surrender value, and

"(F) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be treated as described in paragraph (1)(A) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) CONTRACT MAY COVER MEDICARE REIMBURSABLE EXPENSES WHERE MEDICARE IS SECONDARY PAYOR.—Paragraph (1)(C) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(F) shall not apply to any refund of premiums on surrender or cancellation of the contract.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual in a qualified facility, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i)(I) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined in subparagraph (B)) for a period of at least 90 days due to a loss of functional capacity, or

"(II) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in subclause (I), or

"(ii) having a similar level of disability due to cognitive impairment.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) MOBILITY.—The process of walking or wheeling on a level surface which may include the use of an assistive device such as a cane, walker, wheelchair, or brace.

"(ii) DRESSING.—The overall complex behavior of getting clothes from closets and drawers and then getting dressed.

"(iii) TOILETING.—The act of going to the toilet room for bowel and bladder function, transferring on and off the toilet, cleaning after elimination, and arranging clothes or the ability to voluntarily control bowel and bladder function, or in the event of incontinence, the ability to maintain a reasonable level of personal hygiene.

"(iv) TRANSFER.—The process of getting in and out of bed or in and out of a chair or wheelchair.

"(v) EATING.—The process of getting food from a plate or its equivalent into the mouth.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means—

"(A) a nursing, rehabilitative, hospice, or adult day care facility (including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution)—

"(i) which is licensed under State law, or

"(ii) which is a certified facility for purposes of title XVIII or XIX of the Social Security Act, or

"(B) an individual's home if a licensed health care practitioner certifies that without home care the individual would have to be cared for in a facility described in subparagraph (A).

"(4) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is to provide needed assistance with any of the activities of daily living described in paragraph (2)(B).

"(5) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) CONTINUATION COVERAGE EXCISE TAX NOT TO APPLY.—This section shall not apply in determining whether section 4980B (relating to failure to satisfy continuation coverage requirements of group health plans) applies.

"(e) INFLATION ADJUSTMENT OF $200 BENEFIT LIMIT.—

"(1) IN GENERAL.—In the case of a calendar year after 1994, the $200 amount contained in subsection (b)(1)(B) shall be increased for such calendar year by the medical care cost adjustment for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(2) MEDICAL CARE COST ADJUSTMENT.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(B) such component for August of 1993."

(b) RESERVES.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a long-term care insurance contract within the meaning of section 818A)" after "contract".

(c) CLERICAL AMENDMENT.—The table of sections for such subpart E is amended by inserting after the item relating to section 818 the following new item:

"Sec. 818A. Treatment of long-term care insurance or plans."

SEC. 3002. EXCLUSION FOR BENEFITS PROVIDED UNDER LONG-TERM CARE INSURANCE; INCLUSION OF EMPLOYER-PROVIDED COVERAGE.

(a) IN GENERAL.—Subsection (a) of section 104 of the Internal Revenue Code of 1986 (relating to compensation for injuries or sickness) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by inserting after paragraph (4) the following new paragraph:

"(6) benefits under a long-term care insurance contract (as defined in section 818A(b)).".

(b) INCLUSION OF EMPLOYER-PROVIDED COVERAGE.—Section 106 of such Code (relating to contributions by employer to accident and health plans) is amended by adding at the end thereof the following sentence: "The preceding sentence shall not apply to any plan providing coverage for long-term care services."

SEC. 3003. QUALIFIED LONG-TERM SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) of the Internal Revenue Code of 1986 (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 818A(c)), or".

(b) DEDUCTION FOR LONG-TERM CARE EXPENSES FOR PARENT OR GRANDPARENT.—Section 213 of such Code (relating to deduction for medical expenses) is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN LONG-TERM CARE EXPENSES.—For purposes of subsection (a), the term 'dependent' shall include any parent or grandparent of the taxpayer for whom the taxpayer has expenses for long-term care services described in section 818A(c), but only to the extent of such expenses."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) of such Code (as redesignated by subsection (a)) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(2)(A) Paragraph (1) of section 213(d) of such Code is amended by adding at the end thereof the following new flush sentence:

"In the case of a long-term care insurance contract (as defined in section 818A), only eligible long-term care premiums (as defined in paragraph (10)) shall be taken into account under subparagraph (D)."

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(10) ELIGIBLE LONG-TERM CARE PREMIUMS.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any long-term care insurance contract (as defined in section 818A) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	$200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	1,600
More than 70	2,000.

"(B) INDEXING.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1993, each dollar amount contained in paragraph (1) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1991."

(3) Paragraph (6) of section 213(d) of such Code is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) of such Code is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

SEC. 3004. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1994.

Subtitle B—Establishment of Federal Standards for Long-term Care Insurance

SEC. 3101. ESTABLISHMENT OF FEDERAL STANDARDS FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) by redesignating title XXVII (42 U.S.C. 300cc et seq.) as title XXVIII; and

(2) by inserting after title XXVI the following new title:

"TITLE XXVII—LONG-TERM CARE INSURANCE STANDARDS

"PART A—PROMULGATION OF STANDARDS AND MODEL BENEFITS

"SEC. 2701. STANDARDS.

"(a) APPLICATION OF STANDARDS.—

"(1) NAIC.—The Secretary shall request that the National Association of Insurance Commissioners (hereinafter in this title referred to as the 'NAIC')—

"(A) develop specific standards that incorporate the requirements of this title; and

"(B) report to the Secretary on such standards,

by not later than 12 months after enactment of this title. If the NAIC develops such model standards that incorporate the requirements of this title within such period and the Secretary finds that such standards implement the requirements of this title, such standards shall be the standards applied under this title.

"(2) DEFAULT.—If the NAIC does not promulgate the model standards under paragraph (1) by the deadline established in that paragraph, the Secretary shall promulgate, within 12 months after such deadline, a regulation that provides standards that incorporate the requirements of this title and such standards shall apply as provided for in this title.

"(3) RELATION TO STATE LAW.—Nothing in this title shall be construed as preventing a State from applying standards that provide greater protection to policyholders of long-term care insurance policies than the standards promulgated under this title, except that such State standards may not be inconsistent or in conflict with any of the requirements of this title.

"(b) DEADLINE FOR APPLICATION OF STANDARDS.—

"(1) IN GENERAL.—Subject to paragraph (2), the date specified in this subsection for a State is—

"(A) the date the State adopts the standards established under subsection (a)(1); or

"(B) the date that is 1 year after the first day of the first regular legislative session that begins after the date such standards are first established under subsection (a)(2);

whichever is earlier.

"(2) STATE REQUIRING LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(A) requiring State legislation (other than legislation appropriating funds) in order for the standards established under subsection (a) to be applied; but

"(B) having a legislature which is not scheduled to meet within 1 year following the beginning of the next regular legislative session in which such legislation may be considered;

the date specified in this subsection is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1994. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(c) ITEMS INCLUDED IN STANDARDS.—The standards promulgated under subsection (a) shall include—

"(1) minimum Federal standards for long-term care insurance consistent with the provisions of this title;

"(2) standards for the enhanced protection of consumers with long-term care insurance;

"(3) procedures for the modification of the standards established under paragraph (1) in a manner consistent with future laws to expand existing Federal or State long-term care benefits or establish a comprehensive Federal or State long-term care benefit program; and

"(4) other activities determined appropriate by Congress.

"(d) CONSULTATION.—In establishing standards and models of benefits under this section, the Secretary shall provide for and consult with an advisory committee to be chosen by the Secretary, and composed of—

"(1) three individuals who are representatives of carriers;

"(2) three individuals who are representatives of consumer groups;

"(3) three representatives who are representatives of providers of long-term care services;

"(4) three other individuals who are not representatives of carriers or of providers of long-term care services and who have expertise in the delivery and financing of such services; and

"(5) the Secretary of Veterans Affairs.

"(e) DUTIES.—The advisory committee established under subsection (d) shall—

"(1) recommend the appropriate inflationary index to be used with respect to the inflation protection benefit portion of the standards;

"(2) recommend the uniform needs assessment mechanism to be used in determining the eligibility of individuals for benefits under a policy;

"(3) recommend appropriate standards for benefits under section 2715(c); and

"(4) perform such other activities as determined appropriate by the Secretary.

"(f) ADMINISTRATIVE PROVISIONS.—The following provisions of section 1886(e)(6) of the Social Security Act shall apply to the advisory committee chosen under subsection (d) in the same manner as such provisions apply under such section:

"(1) Subparagraph (C) (relating to staffing and administration).

"(2) Subparagraph (D) (relating to compensation of members).

"(3) Subparagraph (F) (relating to access to information).

"(4) Subparagraph (G) (relating to use of funds).

"(5) Subparagraph (H) (relating to periodic GAO audits).

"(6) Subparagraph (J) (relating to requests for appropriations).

"PART B—ESTABLISHMENT AND IMPLEMENTATION OF LONG-TERM CARE INSURANCE POLICY STANDARDS

"SEC. 2711. IMPLEMENTATION OF POLICY STANDARDS.

"(a) IN GENERAL.—

"(1) REGULATORY PROGRAM.—No long-term care policy (as defined in section (2721)) may be issued, sold, or offered for sale as a long-term care insurance policy in a State on or after the date specified in section 2701(b) unless—

"(A) the Secretary determines that the State has established a regulatory program that—

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(i) provides for the application and enforcement of the standards established under section 2701(a); and

"(ii) complies with the requirements of subsection (b);

by the date specified in section 2701(b), and the policy has been approved by the State commissioner or superintendent of insurance under such program; or

"(B) if the State has not established such a program or if the State's regulatory program has been decertified, the policy has been certified by the Secretary (in accordance with such procedures as the Secretary may establish) as meeting the standards established under section 2701(a) by the date specified in section 2701(b).

For purposes of this subsection, the advertising or soliciting with respect to a policy, directly or indirectly, shall be deemed the offering for sale of the policy.

"(2) REVIEW OF STATE REGULATORY PROGRAMS.—The Secretary periodically shall review regulatory programs described in paragraph (1)(A) to determine if they continue to provide for the application and enforcement of the standards and procedures established under section 2701(a) and (b). If the Secretary determines that a State regulatory program no longer meets such standards and requirements, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the program to continue to meet such standards and requirements. If the Secretary makes a final determination that the State regulatory program, after such an opportunity, fails to meet such standards and requirements, the Secretary shall assume responsibility under paragraph (1)(B) with respect to certifying policies in the State and shall exercise full authority under section 2701 for carriers, agents, or associations or its subsidiary in the State plans in the State.

"(b) ADDITIONAL REQUIREMENTS FOR APPROVAL OF STATE REGULATORY PROGRAMS.—For purposes of subsection (a)(1)(A)(ii), the requirements of this subsection for a State regulatory program are as follows:

"(1) ENFORCEMENT.—The enforcement under the program—

"(A) shall be designed in a manner so as to secure compliance with the standards within 30 days after the date of a finding of noncompliance with such standards; and

"(B) shall provide for notice in the annual report required under paragraph (5) to the Secretary of cases where such compliance is not secured within such 30-day period.

"(2) PROCESS.—The enforcement process under each State regulatory program shall provide for—

"(A) procedures for individuals and entities to file written, signed complaints respecting alleged violations of the standards;

"(B) responding on a timely basis to such complaints;

"(C) the investigation of—

"(i) those complaints which have a reasonable probability of validity, and

"(ii) such other alleged violations of the standards as the program finds appropriate; and

"(D) the imposition of appropriate sanctions (which include, in appropriate cases, the imposition of a civil money penalty as provided for in section 2718) in the case of a carrier, agent, or association or its subsidiary determined to have violated the standards.

"(3) CONSUMER ACCESS TO COMPLIANCE INFORMATION.—

"(A) IN GENERAL.—A State regulatory program must provide for consumer access to complaints filed with the State commissioner or superintendent of insurance with respect to long-term care insurance policies.

"(B) CONFIDENTIALITY.—The access provided under subparagraph (A) shall be limited to the extent required to protect the confidentiality of the identity of individual policyholders.

"(4) PROCESS FOR APPROVAL OF PREMIUMS.—

"(A) IN GENERAL.—Each State regulatory program shall—

"(i) provide for a process for approving or disapproving proposed premium increases or decreases with respect to long-term care insurance policies; and

"(ii) establish a policy for receipt and consideration of public comments before approving such a premium increase or decrease.

"(B) CONDITIONS FOR APPROVAL.—No premium increase shall be approved (or deemed approved) under subparagraph (A) unless the proposed increase is accompanied by an actuarial memorandum which—

"(i) includes a description of the assumptions that justify the increase;

"(ii) contains such information as may be required under the Standards; and

"(iii) is made available to the public.

"(C) APPLICATION.—Except as provided in subparagraph (D), this paragraph shall not apply to a group long-term care insurance policy issued to a group described in section 4(E)(1) of the NAIC Long Term Care Insurance Model Act (effective January 1991), except that such group policy shall, pursuant to guidelines developed by the NAIC, provide notice to policyholders and certificate holders of any premium change under such group policy.

"(D) EXCEPTION.—Subparagraph (C) shall not apply to—

"(i) group conversion policies;

"(ii) the group continuation feature of a group policy if the insurer separately rates employee and continuation coverages; and

"(iii) group policies where the function of the employer is limited solely to collecting premiums (through payroll deductions or dues checkoff) and remitting them to the insurer.

"(E) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the NAIC from promulgating standards, or a State from enacting and enforcing laws, with respect to premium rates or loss ratios for all, including group, long-term care insurance policies.

"(5) ANNUAL REPORTS.—Each State regulatory program shall provide for annual reports to be submitted to the Secretary on the implementation and enforcement of the standards in the State, including information concerning violations in excess of 30 days.

"(6) ACCESS TO OTHER INFORMATION.—The State regulatory program must provide for consumer access to actuarial memoranda provided under paragraph (4).

"(7) DEFAULT.—In the case of a State without a regulatory program approved under subsection (a), the Secretary shall provide for the enforcement activities described in subsection (c).

"(c) SECRETARIAL ENFORCEMENT AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall exercise authority under this section in the case of a State that does not have a regulatory program approved under this section.

"(2) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

"(A) for individuals and entities to file written, signed complaints respecting alleged violations of the requirements of this title;

"(B) for responding on a timely basis to such complaints; and

"(C) for the investigation of—

"(i) those complaints that have a reasonable probability of validity; and

"(ii) such other alleged violations of the requirements of this title as the Secretary determines to be appropriate.

In conducting investigations under this subsection, agents of the Secretary shall have reasonable access necessary to enable such agents to examine evidence of any carrier, agent, or association or its subsidiary being investigated.

"(3) HEARINGS.—

"(A) IN GENERAL.—Prior to imposing an order described in paragraph (4) against a carrier, agent, or association or its subsidiary under this section for a violation of the requirements of this title, the Secretary shall provide the carrier, agent, association or subsidiary with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary by regulation) of the date of the notice, a hearing respecting the violation.

"(B) CONDUCT OF HEARING.—Any hearing requested under subparagraph (A) shall be conducted before an administrative law judge. If no hearing is so requested, the Secretary's imposition of the order shall constitute a final and unappealable order.

"(C) AUTHORITY IN HEARINGS.—In conducting hearings under this paragraph—

"(i) agents of the Secretary and administrative law judges shall have reasonable access necessary to enable such agents and judges to examine evidence of any carrier, agent, or association or its subsidiary being investigated; and

"(ii) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this subparagraph and upon application of the Secretary, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(D) ISSUANCE OF ORDERS.—If an administrative law judge determines in a hearing under this paragraph, upon the preponderance of the evidence received, that a carrier, agent, or association or its subsidiary named in the complaint has violated the requirements of this title, the administrative law judge shall state the findings of fact and issue and cause to be served on such carrier, agent, association, or subsidiary an order described in paragraph (4).

"(4) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY.—

"(A) IN GENERAL.—Subject to the provisions of subparagraphs (B) through (F), an order under this paragraph—

"(i) shall require the agent, association or its subsidiary, or a carrier—

"(I) to cease and desist from such violations; and

"(II) to pay a civil penalty in an amount not to exceed $15,000 in the case of each agent, and not to exceed $25,000 for each association or its subsidiary or a carrier for each such violation; and

"(ii) may require the agent, association or its subsidiary, or a carrier to take such other remedial action as is appropriate.

"(B) CORRECTIONS WITHIN 30 DAYS.—No order shall be imposed under this paragraph

by reason of any violation if the carrier, agent, or association or its subsidiary establishes to the satisfaction of the Secretary that—

"(i) such violation was due to reasonable cause and was not intentional and was not due to willful neglect; and

"(ii) such violation is corrected within the 30-day period beginning on the earliest date the carrier, agent, association, or subsidiary knew, or exercising reasonable diligence could have known, that such a violation was occurring.

"(C) WAIVER BY SECRETARY.—In the case of a violation under this title that is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the civil money penalty imposed under subparagraph (A)(i)(II) to the extent that payment of such penalty would be grossly excessive relative to the violation involved and to the need for deterrence of violations.

"(D) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge under this paragraph shall become the final agency decision and order of the Secretary unless, within 30 days, the Secretary modifies or vacates the decision and order, in which case the decision and order of the Secretary shall become a final order under this paragraph.

"(E) JUDICIAL REVIEW.—A carrier, agent, or association or its subsidiary or any other individual adversely affected by a final order issued under this paragraph may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(F) ENFORCEMENT OF ORDERS.—If a carrier, agent, or association or its subsidiary fails to comply with a final order issued under this paragraph against the carrier, agent, association or subsidiary after opportunity for judicial review under subparagraph (E), the Secretary shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

"(d) DEMONSTRATION GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary may award grants to States for the establishment of demonstration programs to improve the enforcement within such States of long-term care insurance standards applicable under this title.

"(2) APPLICATION.—To be eligible to receive a grant under paragraph (1), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the program for which the State intends to use the amounts provided under the grant.

"(3) MINIMUM AMOUNT OF GRANTS.—The amount of a grant awarded under this subsection shall not be less than $100,000.

"(4) EVALUATION.—A State that receives a grant under this subsection shall comply with such evaluation procedures as the Secretary shall by regulation establish. The Secretary shall utilize such evaluations to conduct an overall evaluation of the results of the demonstration programs established under this section.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $5,000,000 for each of the fiscal years 1996 through 2000.

"SEC. 2712. REGULATION OF SALES PRACTICES.

"(a) DUTY OF GOOD FAITH AND FAIR DEALING.—

"(1) IN GENERAL.—Each agent (as defined in section 2733) or association that is selling or offering for sale a long-term care insurance policy has the duty of good faith and fair dealing to the purchaser or potential purchaser of such a policy.

"(2) PROHIBITED PRACTICES.—An agent or association is considered to have violated paragraph (1) if the agent or association engages in any of the following practices:

"(A) TWISTING.—

"(i) IN GENERAL.—Knowingly making any misleading representation (including the inaccurate completion of medical histories) or incomplete or fraudulent comparison of any long-term care insurance policy or insurers for the purpose of inducing, or tending to induce, any person to retain or effect a change with respect to a long-term care insurance policy.

"(ii) POLICY REPLACEMENT FORM.—With respect to any person who elects to replace or effect a change in a long-term care insurance policy, the individual that is selling such policy shall ensure that such person completes a policy replacement form developed by the NAIC. A copy of such form shall be provided to such person and additional copies shall be delivered by the selling individual to the old policy issuer and the new issuer and kept on file for inspection by the State regulatory agency.

"(B) HIGH PRESSURE TACTICS.—Employing any method of marketing having the effect of, or intending to, induce the purchase of long-term care insurance policy through force, fright, threat or undue pressure, whether explicit or implicit.

"(C) COLD LEAD ADVERTISING.—Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

"(D) OTHERS.—Engaging in such other practices determined inappropriate under guidelines issued by the NAIC.

"(b) FINANCIAL STANDARDS.—The NAIC shall develop recommended financial minimum standards (including both income and asset criteria) for the purpose of advising individuals considering the purchase of a long-term care insurance policy.

"(c) PROHIBITION OF SALE OR ISSUANCE TO MEDICAID BENEFICIARIES.—An agent, an association, or a carrier may not knowingly sell or issue a long-term care insurance policy to an individual who is eligible for medical assistance under title XIX of the Social Security Act.

"(d) PROHIBITION OF SALE OR ISSUANCE OF DUPLICATE SERVICE BENEFIT POLICIES.—An agent, association or its subsidiary, or a carrier may not sell or issue a service-benefit long-term care insurance policy to an individual—

"(1) knowing that the policy provides for coverage that duplicates coverage already provided in another service-benefit long-term care insurance policy held by such individual (unless the policy is intended to replace such other policy); or

"(2) for the benefit of an individual unless the individual (or a representative of the individual) provides a written statement to the effect that the coverage—

"(A) does not duplicate other coverage in effect under a service-benefit long-term care insurance policy; or

"(B) will replace another service-benefit long-term care insurance policy.

In this subsection, the term 'service-benefit long-term care insurance policy' means a long-term care insurance policy which provides for benefits based on the type and amount of services furnished.

"(e) PROHIBITION BASED ON ELIGIBILITY FOR OTHER BENEFITS.—A carrier may not sell or issue a long-term care insurance policy that reduces, limits or coordinates the benefits provided under the policy on the basis that the policyholder has or is eligible for other long-term care insurance coverage or benefits.

"(f) PROVISION OF OUTLINE OF COVERAGE.—No agent, association or its subsidiary, or carrier may sell or offer for a sale a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) without providing to the purchaser or potential purchaser (or representative) an outline of coverage that complies with the standards established under section 2701(a).

"(g) PENALTIES.—Any agent who sells, offers for sale, or issues a long-term care insurance policy in violation of this section may be imprisoned not more than 5 years, or fined in accordance with title 18, United States Code, and, in addition, is subject to a civil money penalty of not to exceed $15,000 for each such violation. Any association or its subsidiary or carrier that sells, offers for sale, or issues a long-term care insurance policy in violation of this section may be fined in accordance with title 18, United States Code, and in addition, is subject to a civil money penalty of not to exceed $25,000 for each violation.

"(h) AGENT TRAINING AND CERTIFICATION REQUIREMENTS.—The NAIC, shall establish requirements for long-term care insurance agent training and certification that—

"(1) specify requirements for training insurance agents who desire to sell or offer for sale long-term care insurance policies; and

"(2) specify procedures for certifying agents who have completed such training and who are as qualified to sell or offer for sale long-term care insurance policies.

"SEC. 2713. ADDITIONAL RESPONSIBILITIES FOR CARRIERS.

"(a) REFUND OF PREMIUMS.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is denied or an applicant returns a policy or certificate within 30 days of the date of its issuance pursuant to subsection 2717, the carrier shall refund directly to the applicant, or in the case of an employer to whomever remits the premium, and not by delivery by the agent, not later than 30 days after the date of the denial or return, any premiums paid with respect to such a policy (or certificate).

"(b) MAILING OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the carrier shall provide the applicant, or in the case of a group plan the employer, the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(c) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the carrier shall, within 30 days of the date of a written request by the policyholder or certificate holder (or representative)—

"(1) provide a written explanation of the reasons for the denial; and

"(2) make available all medical and patient records directly relating to such denial.

Except as provided in subsection (e) of section 2715, no claim under such a policy may be denied on the basis of a failure to disclose a condition at the time of issuance of the policy if the application for the policy failed to request information respecting the condition.

"(d) REPORTING OF INFORMATION.—A carrier that issues one or more long-term care insurance policies shall periodically (not less

VOL 140 PT 15 AG 10 — 11 1994 UMI

often than annually) report, in a form and in a manner determined by the NAIC, to the Commissioner, superintendent or director of insurance of each State in which the policy is delivered, and shall make available to the Secretary upon request, information in a form and manner determined by the NAIC concerning—

"(1) the long-term care insurance policies of the carrier that are in force;

"(2) the most recent premiums for such policies and the premiums imposed for such policies since their initial issuance;

"(3) the lapse rate, replacement rate, and rescission rates by policy;

"(4) the names of that 10 percent of its agents that—

"(A) have the greatest lapse and replacement rate; and

"(B) have produced at least $50,000 of long-term care insurance sales in the previous year; and

"(5) the claims denied (expressed as a number and as a percentage of claims submitted) by policy.

Information required under this subsection shall be reported in a format specified in the standards established under section 2701(a). For purposes of paragraph (3), there shall be included (but reported separately) data concerning lapses due to the death of the policyholder. For purposes of paragraph (4), there shall not be included as a claim any claim that is denied solely because of the failure to meet a deductible, waiting period, or exclusionary period.

"(e) STANDARDS ON COMPENSATION FOR SALE OF POLICIES.—

"(1) IN GENERAL.—A carrier that issues one or more long-term care insurance policies may provide a commission or other compensation to an agent or other representative for the sale of such a policy only if the first year commission or other first year compensation to be paid does not exceed 200 percent of the commission or other compensation paid for selling or servicing the policy in the second year, or if the first year commission or other compensation to be paid does not exceed 50 percent of the premium paid on the first year policy, until the NAIC promulgates mandatory standards concerning compensation for the sale of such policies.

"(2) SUBSEQUENT YEARS.—The commission or other compensation provided for the sale of long-term care insurance policies in years subsequent to the first year of the policy shall be the same as that provided in the second subsequent year and shall be provided for no fewer than 5 subsequent years.

"(3) LIMITATION.—No carrier shall provide compensation to its agents for the sale of a long-term care insurance policy and no agent shall receive compensation greater than the renewal compensation payable by the replacing carrier on renewal policies if an existing policy is replaced.

"(4) COMPENSATION DEFINED.—As used in this subsection, the term 'compensation' includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy, including but not limited to deferred compensation, bonuses, gifts, prizes, awards, and finders fees.

"SEC. 2714. RENEWABILITY STANDARDS FOR ISSUANCE, AND BASIS FOR CANCELLATION OF POLICIES.

"(a) IN GENERAL.—No long-term care insurance policy may be canceled or nonrenewed for any reason other than nonpayment of premium, material misrepresentation or fraud.

"(b) CONTINUATION AND CONVERSION RIGHTS FOR GROUP POLICIES.—

"(1) IN GENERAL.—Each group long-term care insurance policy shall provide covered individuals with a basis for continuation or conversion in accordance with this subsection.

"(2) BASIS FOR CONTINUATION.—For purposes of paragraph (1), a policy provides a basis for continuation of coverage if the policy maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. A group policy which restricts provision of benefits and services to or contains incentives to use certain providers or facility, may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy.

"(3) BASIS FOR CONVERSION.—For purposes of paragraph (1), a policy provides a basis for conversion of coverage if the policy entitles each individual—

"(A) whose coverage under the group policy would otherwise be terminated for any reason; and

"(B) who has been continuously insured under the policy (or group policy which was replaced) for at least 6 months before the date of the termination;

to issuance of a policy providing benefits identical to, substantially equivalent to, or in excess of, those of the policy being terminated, without evidence of insurability.

"(4) TREATMENT OF SUBSTANTIAL EQUIVALENCE.—In determining under this subsection whether benefits are substantially equivalent, consideration should be given to the difference between managed care and non-managed care plans.

"(5) GROUP REPLACEMENT OF POLICIES.—If a group long-term care insurance policy is replaced by another long-term care insurance policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

"(c) STANDARDS FOR ISSUANCE.—

"(1) IN GENERAL.—

"(A) GUARANTEE.—An agent, association or carrier that sells or issues long-term care insurance policies shall guarantee that such policies shall be sold or issued to an individual, or eligible individual in the case of a group plan, if such individual meets the minimum medical underwriting requirements of such policy.

"(B) PREMIUM FOR CONVERTED POLICY.—If a group policy from which conversion is made is a replacement for a previous group policy, the premium for the converted policy shall be calculated on the basis of the insured's age at the inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

"(2) UPGRADE FOR CURRENT POLICIES.—The NAIC shall establish standards, including those providing guidance on medical underwriting and age rating, with respect to the access of individuals to policies offering upgraded benefits.

"(d) EFFECT OF INCAPACITATION.—

"(1) IN GENERAL.—

"(A) PROHIBITION.—Except as provided in paragraph (2), a long-term care insurance policy in effect as of the effective date of the standards established under section 2701(a) may not be canceled for nonpayment if the policy holder is determined by a long-term care provider, physician or other health care provider, independent of the issuer of the policy, to be cognitively or mentally incapacitated so as to not make payments in a timely manner.

"(B) REINSTATEMENT.—A long-term care policy shall include a provision that provides for the reinstatement of such coverage, in the event of lapse, if the insurer is provided with proof of cognitive or mental incapacitation. Such reinstatement option shall remain available for a period of not less than 5 months after termination and shall allow for the collection of past due premium.

"(2) PERMITTED CANCELLATION.—A long-term care insurance policy may be canceled under paragraph (1) for nonpayment if—

"(A) the period of such nonpayment is in excess of 30 days; and

"(B) notice of intent to cancel is provided to the policyholder or designated representative of the policy holder not less than 30 days prior to such cancellation, except that notice may not be provided until the expiration of 30 days after a premium is due and unpaid.

Notice under this paragraph shall be deemed to have been given as of 5 days after the mailing date.

"SEC. 2715. BENEFIT STANDARDS.

"(a) USE OF STANDARD DEFINITIONS AND TERMINOLOGY, UNIFORM FORMAT, AND STANDARD BENEFITS.—Each long-term care insurance policy shall, with respect to services, providers or facilities, pursuant to standards established under section 2701(a)—

"(1) use uniform language and definitions, except that such language and definitions may take into account the differences between States with respect to definitions and terminology used for long-term care services and providers;

"(2) use a uniform format for presenting the outline of coverage under such a policy; and

"(3) provide coverage for at least one standard benefits package (of those developed by the NAIC) that shall include the limitations on the amount of payments per day and the lengths of covered stays for nursing facility and home health care services;

as prescribed under guidelines issued by the NAIC and periodically updated.

"(b) DISCLOSURE.—

"(1) OUTLINE OF COVERAGE.—

"(A) REQUIREMENT.—Each carrier that sells or offers for sale a long-term care insurance policy shall provide an outline of coverage under such policy that meets the applicable standards established pursuant to section 2701(a), complies with the requirements of subparagraph (B), and is in a uniform format as prescribed in guidelines issued by the NAIC and periodically updated.

"(B) CONTENTS.—The outline of coverage for each long-term care insurance policy shall include at least the following:

"(i) A description of the principal benefits and coverage under the policy.

"(ii) A statement of the principal exclusions, reductions, and limitations contained in the policy.

"(iii) A statement of the terms under which the policy (or certificate) may be continued in force or discontinued, the terms for continuation or conversion, and any reservation in the policy of a right to change premiums.

"(iv) A statement, in bold face type on the face of the document in language that is understandable to an average individual, that the outline of coverage is a summary only, not a contract of insurance, and that the policy (or master policy) contains the contractual provisions that govern, except that such summary shall substantially and accurately reflect the contents of the policy or the master policy.

"(v) A description of the terms, specified in section 2717, under which a policy or certificate may be returned and premium refunded.

"(vi) Information on national average costs for nursing facility and home health care and information (in graphic form) on the relationship of the value of the benefits provided under the policy to such national average costs and State average costs, where available.

"(vii) A statement of the percentage limit on annual premium increases that is provided under the policy pursuant to this section.

"(2) CERTIFICATES.—A certificate issued pursuant to a group long-term care insurance policy shall include—

"(A) a description of the principal benefits and coverage provided in the policy;

"(B) a statement of the principal exclusions, reductions, and limitations contained in the policy; and

"(C) a statement that the group master policy determines governing contractual provisions.

"(3) LONG-TERM CARE AS PART OF LIFE INSURANCE.—In the case of a long-term care insurance policy issued as a part of, or a rider on, a life insurance policy, at the time of policy delivery there shall be provided a policy summary that includes—

"(A) an explanation of how the long-term care benefits interact with other components of the policy (including deductions from death benefits);

"(B) an illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits (if any) for each covered person; and

"(C) any exclusions, reductions, and limitations on benefits of long-term care.

"(4) ADDITIONAL INFORMATION.—The NAIC shall develop recommendations with respect to informing consumers of the long-term economic viability of carriers issuing long-term care insurance policies.

"(c) LIMITING CONDITIONS ON BENEFITS; MINIMUM BENEFITS.—

"(1) IN GENERAL.—A long-term care insurance policy may not condition or limit eligibility—

"(A) for benefits for a type of services to the need for or receipt of any other services;

"(B) for any benefit on the medical necessity for such benefit;

"(C) for benefits furnished by licensed or certified providers in compliance with conditions which are in addition to those required for licensure or certification under State law, except that if no State licensure or certification laws exists, in compliance with qualifications developed by the NAIC; or

"(D) for residential care (if covered under the policy) only—

"(i) to care provided in facilities which provide a higher level of care; or

"(ii) to care provided in facilities which provide for 24-hour or other nursing care not required in order to be licensed by the State.

"(2) HOME HEALTH CARE OR COMMUNITY-BASED SERVICES.—If a long-term care insurance policy provides benefits for the payment of specified home health care or community-based services, the policy—

"(A) may not limit such benefits to services provided by registered nurses or licensed practical nurses;

"(B) may not require benefits for such services to be provided by a nurse or therapist that can be provided by a home health aide or licensed or certified home care worker, except that if no State licensure or certification laws exists, in compliance with qualifications developed by the NAIC;

"(C) may not limit such benefits to services provided by agencies or providers certified under title XVIII of the Social Security Act; and

"(D) must provide, at a minimum, benefits for personal care services (including home health aide and home care worker services as defined by the NAIC) home health services, adult day care, and respite care in an individual's home or in another setting in the community, or any of these benefits on a respite care basis.

"(3) NURSING FACILITY SERVICES.—If a long-term care insurance policy provides benefits for the payment of specified nursing facility services, the policy must provide such benefits with respect to all nursing facilities (as defined in section 1919(a) of the Social Security Act or until such time as subsequently provided for by the NAIC in establishing uniform language and definitions under section 2715(a)(1)) in the State.

"(4) PER DIEM POLICIES.—

"(A) DEFINITION.—For purposes of this title, the term 'per diem long-term care insurance policy' means a long-term care insurance policy (or certificate under a group long-term care insurance policy) that provides for benefit payments on a periodic basis due to cognitive impairment or loss of functional capacity without regard to the expenses incurred or services rendered during the period to which the payments relate.

"(B) LIMITATION.—No per diem long-term care insurance policy (or certificate) may condition or otherwise exclude benefit payments based on the receipt of any type of nursing facility, home health care or community-based services.

"(d) PROHIBITION OF DISCRIMINATION.—A long-term care insurance policy may not treat benefits under the policy in the case of an individual with Alzheimer's disease, with any related progressive degenerative dementia of an organic origin, with any organic or inorganic mental illness, or with mental retardation or any other cognitive or mental impairment differently from an individual having another medical condition for which benefits may be made available.

"(e) LIMITATION ON USE OF PREEXISTING CONDITION LIMITS.—

"(1) INITIAL ISSUANCE.—

"(A) IN GENERAL.—Subject to subparagraph (B), a long-term care insurance policy may not exclude or condition benefits based on a medical condition for which the policyholder received treatment or was otherwise diagnosed before the issuance of the policy.

"(B) 6-MONTH LIMIT.—

"(i) IN GENERAL.—No long-term care insurance policy or certificate issued under this title shall utilize a definition of 'preexisting condition' that is more restrictive than the following: The term 'preexisting condition' means a condition for which medical advice or treatment was recommended by, or received from a provider of, health care services, within 6 months preceding the effective date of coverage of an insured individual.

"(ii) PROHIBITION ON EXCLUSION OF COVERAGE.—No long-term care insurance policy or certificate may exclude coverage for a loss or confinement that is the result of a preexisting condition unless such loss or confinement begins within 6 months following the effective date of the coverage of the insured individual.

"(2) REPLACEMENT POLICIES.—If a long-term care insurance policy replaces another long-term care insurance policy, the issuer of the replacing policy shall waive any time periods applicable to preexisting conditions, waiting period, elimination periods and probationary periods in the new policy for similar benefits to the extent such time was spent under the original policy.

"(f) ELIGIBILITY FOR BENEFITS.—

"(1) LONG-TERM CARE POLICIES.—Each long-term care insurance policy shall—

"(A) describe the level of benefits available under the policy; and

"(B) specify in clear, understandable terms, the level (or levels) of physical, cognitive, or mental impairment required in order to receive benefits under the policy.

"(2) FUNCTIONAL ASSESSMENT.—In order to submit a claim under any long-term care insurance policy, each claimant shall have a professional functional assessment of his or her physical, cognitive, and mental abilities. Such initial assessment shall be conducted by an individual or entity, meeting the qualifications established by the NAIC to assure the professional competence and credibility of such individual or entity and that such individual meets any applicable State licensure and certification requirements. The individual or entity conducting such assessment may not control, or be controlled by, the issuer of the policy. For purposes of this paragraph and paragraph (4), the term 'control' means the direct or indirect possession of the power to direct the management and policies of a person. Control is presumed to exist, if any person directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 percent of the voting securities of another person.

"(3) CLAIMS REVIEW.—Except as provided in paragraph (4), each long-term care insurance policy shall be subject to final claims review by the carrier pursuant to the terms of the long-term care insurance policy.

"(4) APPEALS PROCESS.—

"(A) IN GENERAL.—Each long-term care insurance policy shall provide for a timely and independent appeals process, meeting standards established by the NAIC, for individuals who dispute the results of the claims review, conducted under paragraph (3), of the claimant's functional assessment, conducted under paragraph (2).

"(B) INDEPENDENT ASSESSMENT.—An appeals process under this paragraph shall include, at the request of the claimant, an independent assessment of the claimant's physical, cognitive or mental abilities.

"(C) CONDUCT.—An independent assessment under subparagraph (B) shall be conducted by an individual or entity meeting the qualifications established by the NAIC to assure the professional competence and credibility of such individual or entity and any applicable State licensure and certification requirements and may not be conducted—

"(i) by an individual who has a direct or indirect significant or controlling interest in, or direct affiliation or relationship with, the issuer of the policy;

"(ii) by an entity that provides services to the policyholder or certificateholder for which benefits are available under the long-term care insurance policy; or

"(iii) by an individual or entity in control of, or controlled by, the issuer of the policy.

"(5) STANDARD ASSESSMENTS.—Not later than 2 years after the date of enactment of this title, the advisory committee established under section 2701(d) shall recommend uniform needs assessment mechanisms for the determination of eligibility for benefits under such assessments.

"(g) INFLATION PROTECTION.—

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(1) OPTION TO PURCHASE.—A carrier may not offer a long-term care insurance policy unless the carrier also offers to the proposed policyholder, including each group policyholder, the option to purchase a policy that provides for increases in benefit levels, with benefit maximums or reasonable durations that are meaningful, to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. A carrier may not offer to a policyholder an inflation protection feature that is less favorable to the policyholder than one of the following:

"(A) With respect to policies that provide for automatic periodic increases in benefits, the policy provides for an annual increase in benefits in a manner so that such increases are computed annually at a rate of not less than 5 percent.

"(B) With respect to policies that provide for periodic opportunities to elect an increase in benefits, the policy guarantees that the insured individual will have the right to periodically increase the benefit levels under the policy without providing evidence of insurability or health status so long as the option for the previous period was not declined. The amount of any such additional benefit may not be less than the difference between—

"(i) the existing policy benefit; and

"(ii) such existing benefit compounded annually at a rate of at least 5 percent for the period beginning on the date on which the existing benefit is purchased and extending until the year in which the offer of increase is made.

"(C) With respect to service benefit policies, the policy covers a specified percentage of the actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

"(2) EXCEPTION.—The requirements of paragraph (1) shall not apply to life insurance policies or riders containing accelerated long-term care benefits.

"(3) REQUIRED INFORMATION.—Carriers shall include the following information in or together with the outline of coverage provided under this title:

"(A) A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. Such comparison shall show benefit levels over not less than a 20-year period.

"(B) Any expected premium increases or additional premiums required to pay for any automatic or optional benefit increases, whether the individual who purchases the policy obtains the inflation protection initially or whether such individual delays purchasing such protection until a future time.

"(4) CONTINUATION OF PROTECTION.—Inflation protection benefit increases under this subsection under a policy that contains such protection shall continue without regard to an insured's age, claim status or claim history, or the length of time the individual has been insured under the policy.

"(5) CONSTANT PREMIUM.—An offer of inflation protection under this subsection that provides for automatic benefit increases shall include an offer of a premium that the carrier expects to remain constant. Such offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

"(6) REJECTION.—Inflation protection under this subsection shall be included in a long-term care insurance policy unless a carrier obtains a written rejection of such protection signed by the policyholder.

"SEC. 2716. NONFORFEITURE.

"(a) IN GENERAL.—Each long-term care insurance policy (or certificate) shall provide that if the policy lapses after the policy has been in effect for a minimum period (specified under the standards under section 2701(a)), the policy will provide, without payment of any additional premiums, nonforfeiture benefits as determined appropriate by the NAIC.

"(b) ESTABLISHMENT OF STANDARDS.—The standards under section 2701(a) shall provide that the percentage or amount of benefits under subsection (a) must increase based upon the policyholder's equity in the policy.

"SEC. 2717. LIMIT OF PERIOD OF CONTESTABILITY AND RIGHT TO RETURN.

"(a) CONTESTABILITY.—A carrier may not cancel or renew a long-term care insurance policy or deny a claim under the policy based on fraud or material misrepresentation relating to the issuance of the policy unless notice of such fraud or material misrepresentation is provided within a time period to be determined by the NAIC.

"(b) RIGHT TO RETURN.—Each applicant for a long-term care insurance policy shall have the right to return the policy (or certificates) within 30 days of the date of its delivery (and to have the premium refunded) if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

"SEC. 2718. CIVIL MONEY PENALTY.

"(a) CARRIER.—Any carrier, association or its subsidiary that sells or offers for sale a long-term care insurance policy and that—

"(1) fails to make a refund in accordance with section 2713(a);

"(2) fails to transmit a policy in accordance with section 2713(b);

"(3) fails to provide, make available, or report information in accordance with subsections (c) or (d) of section 2713;

"(4) provides a commission or compensation in violation of section 2713(e);

"(5) fails to provide an outline of coverage in violation of section 2715(b)(1); or

"(6) issues a policy without obtaining certain information in violation of section 2715(f);

is subject to a civil money penalty of not to exceed $25,000 for each such violation.

"(b) AGENTS.—Any agent that sells or offers for sale a long-term care insurance policy and that—

"(1) fails to make a refund in accordance with section 2713(a);

"(2) fails to transmit a policy in accordance with section 2713(b);

"(3) fails to provide, make available, or report information in accordance with subsections (c) or (d) of section 2713;

"(4) fails to provide an outline of coverage in violation of section 2715(b)(1); or

"(5) issues a policy without obtaining certain information in violation of section 2715(f);

is subject to a civil money penalty of not to exceed $15,000 for each such violation.

"PART C—LONG-TERM CARE INSURANCE POLICIES, DEFINITION AND ENDORSEMENTS

"SEC. 2721. LONG-TERM CARE INSURANCE POLICY DEFINED.

"(a) IN GENERAL.—As used in this section, the term 'long-term care insurance policy' means any insurance policy, rider or certificate advertised, marketed, offered or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity prepaid or other basis, for one or more necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes—

"(1) group and individual annuities and life insurance policies, riders or certificates that provide directly, or that supplement long-term care insurance; and

"(2) a policy, rider or certificates that provides for payment of benefits based on cognitive impairment or the loss of functional capacity.

"(b) ISSUANCE.—Long-term care insurance policies may be issued by—

"(1) carriers;

"(2) fraternal benefit societies;

"(3) nonprofit health, hospital, and medical service corporations;

"(4) prepaid health plans;

"(5) health maintenance organizations; or

"(6) any similar organization to the extent they are otherwise authorized to issue life or health insurance.

"(c) POLICIES EXCLUDED.—The term 'long-term care insurance policy' shall not include any insurance policy, rider or certificate that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage. With respect to life insurance, such term shall not include life insurance policies, riders or certificates that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

"(d) APPLICATIONS.—Notwithstanding any other provision of this title, this title shall apply to any product advertised, marketed or offered as a long-term insurance policy, rider or certificate.

"SEC. 2722. CODE OF CONDUCT WITH RESPECT TO ENDORSEMENTS.

"Not later than 1 year after the date of enactment of this title the NAIC shall issue guidelines that shall apply to organizations and associations, other than employers and labor organizations that do not accept compensation, and their subsidiaries that provide endorsements of long-term care insurance policies, or that permit such policies to be offered for sale through the organization or association. Such guidelines shall include at minimum the following:

"(1) In endorsing or selling long-term care insurance policies, the primary responsibility of an organization or association shall be to educate their members concerning such policies and assist such members in making informed decisions. Such organizations and associations may not function primarily as sales agents for insurance companies.

"(2) Organizations and associations shall provide objective information regarding long-term care insurance policies sold or endorsed by such organizations and associations to ensure that members of such organizations and associations have a balanced and complete understanding of both the strengths and weaknesses of the policies that are being endorsed or sold.

"(3) Organizations and associations selling or endorsing long-term care insurance policies shall disclose in marketing literature provided to their members concerning such policies the manner in which such policies and the insurance company issuing such policies were selected. If the organization or association and the insurance company have interlocking directorates, the organization or association shall disclose such fact to their members.

"(4) Organizations and associations selling or endorsing long-term care insurance policies shall disclose in marketing literature provided to their members concerning such policies the nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support that the organization or association receives) from the endorsement or sale of the policy to its members.

"(5) The Boards of Directors of organizations and associations selling or endorsing long-term care insurance policies, if such organizations and associations have a Board of Directors, shall review and approve such insurance policies, the compensation arrangements and the marketing materials used to promote sales of such policies.

"PART D—MISCELLANEOUS PROVISIONS

"SEC. 2731. FUNDING FOR LONG-TERM CARE INSURANCE INFORMATION, COUNSELING, AND ASSISTANCE.

"(a) IN GENERAL.—The Secretary, acting through the Public Health Service, may award grants to States, and national organizations with demonstrated experience in long-term care insurance, for the establishment of programs to provide information, counseling, and assistance relating to the procurement of adequate and appropriate long-term care insurance.

"(b) APPLICATION.—To be eligible to receive a grant under subsection (a), a State or national organization shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the program for which the State or organization intends to use the amounts provided under the grant.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated for grants to States under subsection (a), $10,000,000 for each of the fiscal years 1996 through 1998.

"(2) NATIONAL ORGANIZATIONS.—There are authorized to be appropriated for grants to national organizations under subsection (a), $1,000,000 for each of the fiscal years 1996 through 1998.

"SEC. 2732. DEFINITIONS.

"As used in this title:

"(1) AGENT.—The term 'agent' means—

"(A) prior to 2 years after the date of enactment of this Act, an individual who sells or offers for sale a long-term care insurance policy subject to the requirements of this title and is licensed or required to be licensed under State law for such purpose; and

"(B) after the date referred to in subparagraph (A), an individual who meets the training and certification requirements established under section 2712(f).

"(2) ASSOCIATION.—The term 'association' includes the association and its subsidiaries.

"(3) CARRIER.—The term 'carrier' means any person that offers a health benefit plan, whether through insurance or otherwise, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, a self-insured carrier, a reinsurance carrier, and a multiple employer welfare arrangement (a combination of employers associated for the purpose of providing health benefit plan coverage for their employees).".

(b) CONFORMING AMENDMENTS.—

(1) Sections 2701 through 2714 of the Public Health Service Act (42 U.S.C. 300cc through 300cc–15) are redesignated as sections 2801 through 2814, respectively.

(2) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289(f)) are amended by striking "2701" each place that such appears and inserting "2801".

Subtitle C—Protection of Assets Under Medicaid Through Use of Qualified Long-term Care Insurance

SEC. 3201. PROTECTION OF ASSETS THROUGH USE OF QUALIFIED LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Title XIX of the Social Security Act, as amended by sections 1601(a) and 1701(a), is amended—

(1) by redesignating section 1933 as section 1934; and

(2) by inserting after section 1932 the following new section:

"SPECIAL RULES FOR ASSET DISREGARD IN THE CASE OF QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS

"SEC. 1933. (a) IN GENERAL.—Each State plan under this title may provide, subject to subsection (d), that in determining the eligibility of an individual for medical assistance under the plan with respect to such services there shall be disregarded some or all of the individual's assets which are attributable (as determined under subsection (c)(2)) to coverage under a qualified long-term care insurance contract (as defined in subsection (b)).

"(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT DEFINED.—In this section, the term 'qualified long-term care insurance contract' means, with respect to a State, a long-term care insurance contract (as defined in section 818A(b) of the Internal Revenue Code of 1986) which—

"(1) provides such protection against the costs of receiving long-term care services as the State may require by law;

"(2) provides that benefits under the contract shall be paid without regard to eligibility for medical assistance under this title; and

"(3) meets such other requirements (such as requirements relating to premiums, disclosure, minimum benefits, rights of conversion, and standards for claims processing) as the State may determine to be appropriate.

"(c) OTHER DEFINITIONS.—In this section:

"(1) LONG-TERM CARE SERVICES.—The term 'long-term care services' means nursing facility services, home health care services, and home and community-based services, and includes such other similar items and services described in section 1905(a) as a State may specify.

"(2) ATTRIBUTION RULES.—An individual's assets are considered to be 'attributable' to a qualified long-term care insurance contract to the extent specified under the State plan. Such a plan shall provide for at least one of the following:

"(A) All assets are considered attributable if the insurance contract provides coverage for at least a specified period of coverage (of not less than 3 years and of not more than 6 years) for long-term care services.

"(B) An amount of assets, up to the dollar limitation on benefits for long-term care services under the contract, is considered attributable to the contract.

"(d) LIMITATION.—In no case shall this section result in (1) the total Federal payments to the State for the quarter under this title (including payments attributable to this section), exceeding (2) the total Federal payments that the Secretary estimates would have been paid under this title to the State for the quarter if the State did not provide for the determination of eligibility in accordance with subsection (a).".

(b) CONFORMING AMENDMENT.—Section 1902(a)(17)(A) of such Act (42 U.S.C. 1396a(a)(17)(A)) is amended by inserting "and section 1932" after "objectives of this title".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply (except as provided under paragraph (2)) to payments to States under title XIX of the Social Security Act for calendar quarters beginning on or after one year after the date of the enactment of this Act, without regard to whether regulations to implement such amendment are promulgated by such date.

(2) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subtitle D—Studies

SEC. 3301. FEASIBILITY OF ENCOURAGING HEALTH CARE PROVIDERS TO DONATE SERVICES TO HOMEBOUND PATIENTS.

The Comptroller General of the United States shall conduct a study on the feasibility of encouraging health care providers to donate their services to homebound patients. Such study shall include an examination of the effects of qualifying such services as a charitable contribution.

SEC. 3302. FEASIBILITY OF TAX CREDIT FOR HEADS OF HOUSEHOLDS WHO CARE FOR ELDERLY FAMILY MEMBERS IN THEIR HOMES.

The Comptroller General of the United States shall conduct a study on the feasibility of providing heads of households who care for elderly family members in their homes with a tax credit. Such study shall estimate the cost of such a tax credit which would apply to expenses incurred in the custodial care of such an elderly family member to the extent such expenses exceed 5 percent of adjusted gross income.

SEC. 3303. CASE MANAGEMENT OF CURRENT LONG-TERM CARE BENEFITS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of the feasibility of encouraging or requiring the use of a single designated public or nonprofit agency (such as an area agency on aging) to coordinate, through case management, the provision of long-term care benefits under current Federal, State, and local programs in a geographic area.

(b) REPORT.—The Secretary shall submit to Congress a report on the study conducted under subsection (a) by not later than 1 year after the date of the enactment of this Act.

79-059 O—97 Vol. 140 (Pt. 15) 22

VOL 140 PT 15 AG 10 — 11 1994 UMI

Such report shall include such recommendations regarding changes in legislation to encourage or require the use (described in subsection (a)) of an agency to coordinate long-term care benefits as may be appropriate.

Subtitle E—Volunteer Service Credit Demonstration Projects

SEC. 3401. AMENDMENT TO THE OLDER AMERICANS ACT OF 1965.

(a) IN GENERAL.—Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035r) is amended by adding at the end the following:

"SEC. 429K. VOLUNTEER SERVICE CREDIT DEMONSTRATION PROJECTS.

"(a) REQUIREMENTS.—The Commissioner shall—

"(1) establish and operate (directly, or through the State agency on aging or one or more area agencies on aging) a volunteer service credit demonstration project in all or part of each State;

"(2) establish criteria for selecting individuals to whom volunteer services will be provided under volunteer service credit demonstration projects operated under paragraph (1);

"(3) recruit and train (directly or through State agencies on aging or area agencies on aging) individuals who volunteer to provide services through such projects;

"(4) establish a minimum standard for each service to be provided by volunteers through such projects;

"(5) monitor services provided by volunteers through such projects to ensure that standards established under paragraph (4) are met; and

"(6) maintain (directly or through State agencies on aging or area agencies on aging) with respect to each individual who provides services through a volunteer service credit demonstration project operated under paragraph (1) a separately identifiable account showing the number of hours such individual provided such services.

"(b) DEFINITION.—For purposes of subsection (a), the term 'volunteer service credit demonstration project' means a demonstration project through which homemaker services, respite care for families, adult day care, and educational, transportation, and home-delivery services are provided by—

"(1) volunteer older individuals for the benefit of older individuals or low-income children; or

"(2) volunteer individuals of any age for the benefit of older individuals;

in return for the receipt of similar services under any such demonstration project (that is established under this section) at a time at which such volunteers are older individuals in need of such services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1995.

AMENDMENT TO H.R. 3600, AS REPORTED TO BE OFFERED BY REPRESENTATIVE PETRI

Strike all after the enacting clause and insert in lieu thereof the text of H.R. 4469 (as introduced).

Amendment To H.R. 3600 Offered By Mr. Rowland of Georgia

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF TITLES AND SUBTITLES.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Health Care Reform Act of 1994".

(b) TABLE OF TITLES AND SUBTITLES IN ACT.—The following are the titles and subtitles contained in this Act:

TITLE I—ASSURING AVAILABILITY AND CONTINUITY OF HEALTH COVERAGE
Subtitle A—Insurance Reforms
Subtitle B—Benefits
Subtitle C—Employer Responsibilities
Subtitle D—Definitions; General Provisions
TITLE II—REMOVAL OF FINANCIAL BARRIERS TO ACCESS
Subtitle A—Tax Deductibility for Individuals and Self-Employed
Subtitle B—Low-Income Subsidies and Medicaid Reform
Subtitle C—Report and Recommendations on Health Coverage and Access
TITLE III—ACCESS IMPROVEMENTS
Subtitle A—Expanding Access in Underserved Areas
Subtitle B—Improved Access in Rural Areas
Subtitle C—Academic Health Centers
Subtitle D—United States-Mexico Border Health Commission
TITLE IV—HEALTH CARE QUALITY ENHANCEMENT
Subtitle A—Performance Measures for Quality Assurance
Subtitle B—Primary Care Provider Education
Subtitle C—Other Medical Education Grants and Programs
TITLE V—MARKET INCENTIVES TO CONTAINING COSTS
Subtitle A—Facilitating Establishment of Health Plan Purchasing Organization (HPPOs) and Health Risk Pools
Subtitle B—Preemption of State Benefit Mandates and Anti-Managed Care Laws
Subtitle C—Malpractice Reform
Subtitle D—Paperwork Reduction and Administrative Simplication
Subtitle E—Antitrust
Subtitle F—Fraud and Abuse
Subtitle G—Billing for Laboratory Services
TITLE VI—MEDICARE AND MEDICAID
Subtitle A—Increased Medicare Beneficiary Choice; Improved Program Efficiency
Subtitle B—Savings in Medicare and Medicaid
TITLE VII—INCENTIVES TO PURCHASE LONG-TERM CARE INSURANCE
Subtitle A—Establishment of Federal Standards for Long-term Care Insurance
Subtitle B—Tax Treatment of Long-term Care Insurance
TITLE VIII—MISCELLANEOUS SAVINGS PROVISIONS
TITLE IX—DEPARTMENT OF VETERANS AFFAIRS
TITLE X—AUTOMOBILE INSURANCE COORDINATION
TITLE I—ASSURING AVAILABILITY AND CONTINUITY OF HEALTH COVERAGE
TABLE OF CONTENTS OF TITLE
Subtitle A—Insurance Reform
PART 1—GUARANTEED ACCESS TO HEALTH COVERAGE
Sec. 1001. Guaranteed offer by carriers.
Sec. 1002. Guaranteed issue by carriers.
Sec. 1003. Guaranteed renewal.
Sec. 1004. Prohibiting preexisting condition exclusions.
Sec. 1005. Assuring choice of coverage through open enrollment.
PART 2—PROVISION OF BENEFITS
Sec. 1011. Standards for managed care arrangements.
Sec. 1012. Utilization review.
Sec. 1013. Requirements for arrangements with essential community providers.
Sec. 1014. Medical savings accounts.
PART 3—FAIR RATING PRACTICES
Sec. 1021. Use of fair rating practices.
Sec. 1022. Coordination with premium assistance certificate program.
Sec. 1023. Establishment of risk adjustment mechanisms.
PART 4—CONSUMER PROTECTIONS
Sec. 1031. Requirement for provision of information.
Sec. 1032. Prohibition of improper incentives.
Sec. 1033. Written policies and procedures respecting advance directives.
PART 5—STANDARDS AND CERTIFICATION; ENFORCEMENT; PREEMPTION; GENERAL PROVISIONS
Sec. 1051. Establishment of standards.
Sec. 1052. Application of standards to carriers through States.
Sec. 1053. Application to group health plans.
Sec. 1054. Enforcement.
Sec. 1055. Limitation on self insurance for small employers.
PART 6—MULTIPLE EMPLOYER HEALTH BENEFITS PROTECTIONS
Sec. 1071. Limited exemption from certain restrictions on erisa preemption of State law for health plans maintained by multiple employers subject to certain Federal standards.
"PART 7—MULTIPLE EMPLOYER HEALTH PLANS
"Sec. 701. Definitions.
"Sec. 702. Certified multiple employer health plans relieved of certain restrictions on preemption of State law and treated as employee welfare benefit plans.
"Sec. 703. Certification procedure.
"Sec. 704. Eligibility requirements.
"Sec. 705. Additional requirements applicable to certified multiple employer health plans.
"Sec. 706. Disclosure to participating employers by arrangements providing medical care.
"Sec. 707. Maintenance of reserves.
"Sec. 708. Corrective actions.
"Sec. 709. Expiration, suspension, or revocation of certification.
"Sec. 710. Review of actions of the Secretary.
Sec. 1072. Clarification of scope of preemption rules.
Sec. 1073. Clarification of treatment of single employer arrangements.
Sec. 1074. Clarification of treatment of certain collectively bargained arrangements.
Sec. 1075. Employee leasing health care arrangements.
Sec. 1076. Enforcement provisions relating to multiple employer welfare arrangements and employee leasing health care arrangements.
Sec. 1077. Filing requirements for multiple employer welfare arrangements providing health benefits.
Sec. 1078. Cooperation between Federal and State authorities.
Sec. 1079. Effective date; transitional rules.
PART 7—SIMPLIFYING FILING OF REPORTS FOR EMPLOYERS COVERED UNDER MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING FULLY INSURED COVERAGE CONSISTING OF MEDICAL CARE
Sec. 1081. Single annual filing for all participating employers.

SUBTITLE B—BENEFITS
Sec. 1101. Qualified health coverage.
Sec. 1102. Standard coverage.
Sec. 1103. High-deductible coverage.
Sec. 1104. Actuarial valuation of benefits.
Sec. 1105. Anti-discrimination rule.
Sec. 1106. Family coverage option; supplemental coverage.
Sec. 1107. Level playing field for providers.
SUBTITLE C—EMPLOYER RESPONSIBILITIES
Sec. 1201. Requiring employers to offer option of coverage.
Sec. 1202. Nondiscrimination under group health plans.
Sec. 1203. Effective dates.
SUBTITLE D—DEFINITIONS; GENERAL PROVISIONS
Sec. 1901. General definitions.
Sec. 1902. Definitions relating to employment.
Sec. 1903. Definitions relating to health coverage, plans, and carriers.
Sec. 1904. Definitions relating to residence and immigration status.
Sec. 1905. Effective dates.

Subtitle A—Insurance Reform

PART 1—GUARANTEED ACCESS TO HEALTH COVERAGE

SEC. 1001. GUARANTEED OFFER BY CARRIERS.

(a) IN GENERAL.—Each carrier that offers health insurance coverage in the individual or small group market in a service area shall make available, to each qualifying individual or small employer (covered in such market) in the service area—

(1) qualified standard coverage consistent with section 1102, and

(2) subject to subsection (b), qualified high-deductible coverage consistent with section 1103.

(b) HIGH-DEDUCTIBLE COVERAGE.—.

(1) EXCEPTION TO OFFER REQUIREMENT FOR HEALTH MAINTENANCE ORGANIZATIONS.—The requirements of subsection (a)(2) shall not apply with respect to a health insurance coverage that—

(A) is provided by a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act), or

(B) is not provided by such an organization but is provided by an organization recognized under State law as a health maintenance organization or managed care organization or a similar organization regulated under State law for solvency.

(2) OPTION TO OFFER MEDISAVE COVERAGE.—The offer of high-deductible coverage under subsection (a)(2) may be accompanied by the contribution by an employer to a medical savings account (in accordance with section 7705 of the Internal Revenue Code of 1986).

(c) ESTABLISHMENT OF SERVICE AREAS.—

(1) IN GENERAL.—Each carrier shall establish one or more service areas with respect to qualified insurance coverage it provides in a State.

(2) NONDISCRIMINATION.—The establishment of such service areas shall be subject to approval of the appropriate regulatory authority and shall not be established in a discriminatory manner.

(3) COVERAGE OF AREA.—With respect to each service area, the carrier shall provide for coverage of benefits for items and services furnished throughout the service area.

(d) FAMILY COVERAGE OPTION.—The offer of coverage under this section with respect to an individual shall include the option of coverage of family members of the individual.

(e) LIMITATION ON CARRIERS.—A carrier may not require an employer under a group health plan to impose or otherwise to impose through a waiting period for health coverage under a plan or similar requirement a limitation or condition on health coverage or benefits based on the health status of an individual, claims experience of an individual, receipt of health care by an individual, medical history of an individual, receipt of public subsidies by an individual, or lack of evidence of insurability of an individual.

SEC. 1002. GUARANTEED ISSUE BY CARRIERS.

(a) IN GENERAL.—Subject to subsections (b) and (c) and section 1003, each carrier that offers health insurance coverage in the individual and small group market in a service area—

(1) must accept every small employer in the service area that applies for such coverage during an enrollment period provided under section 1005; and

(2) must accept for enrollment under such coverage every qualifying individual (and family member of such an individual) who applies for enrollment during an enrollment period provided under section 1005 and may not place any restriction on the eligibility of an individual to enroll so long as such individual is a qualifying individual.

(b) SPECIAL RULES FOR MANAGED CARE ARRANGEMENTS.—In the case of coverage offered by an carrier or under a group health plan that provides benefits through a managed care arrangement, the carrier or plan may—

(1) limit the employers that may apply for such coverage to those with qualifying individuals residing in the service area in which the coverage is provided;

(2) limit the individuals who may be enrolled under such coverage to those who reside in such service area; and

(3) within such service area, deny such coverage to such employers or individuals if the organization demonstrates to the applicable regulatory authority that—

(A) it will not have the capacity to deliver services adequately to enrollees of any additional groups or additional enrollees because of its obligations to existing group contract holders and enrollees, and

(B) it is applying this paragraph uniformly to all employers and individuals without regard to the health status, claims experience, or duration of coverage of those employers and their employees.

(c) SPECIAL RULE FOR FINANCIAL CAPACITY LIMITS.—In the case of coverage offered by any carrier, the carrier may deny coverage to a small employer or individual if the carrier demonstrates to the applicable regulatory authority that—

(1) it does not have the financial reserves necessary to underwrite additional coverage, and

(2) it is applying this subsection uniformly to all employers and individuals without regard to the health status, claims experience, or duration of coverage of those employers and their employees.

SEC. 1003. GUARANTEED RENEWAL.

(a) LIMITATION ON TERMINATION BY CARRIERS.—Subject to subsection (c), a carrier may deny, cancel, or not renew health coverage of a qualifying individual or eligible employer only on the basis of—

(1) nonpayment of premiums,

(2) fraud or misrepresentation, or

(3) subject to subsection (b), because the carrier is ceasing to provide any health insurance coverage in the individual and small group markets a State, or, in the case of a health maintenance organization, in a geographic area.

(b) LIMITATIONS ON MARKET EXIT BY CARRIERS.—

(1) NOTICE, ETC.—Subsection (a)(3) shall not apply to a carrier ceasing to provide health insurance coverage unless—

(A) such termination of coverage takes effect at the end of a contract year, and

(B) the carrier provides notice of such termination to employers and individuals covered at least 30 days before the date of an annual open enrollment period established with respect to the employer or individual under section 1005

(3) LIMITATION ON REENTRY IN INDIVIDUAL AND SMALL GROUP MARKET.—If a carrier ceases to offer or provide health insurance coverage in an area with respect to the individual or small group market, the insurer may not offer such health insurance coverage in the area in such market until 5 years after the date of the termination.

(c) RULE FOR MULTIEMPLOYER PLANS.—A multiemployer plan and a certified multiple employer health plan may not cancel coverage or deny renewal of coverage under such a plan with respect to an employer other than—

(1) for nonpayment of contributions,

(2) for fraud or other misrepresentation by the employer, or

(3) because the plan is ceasing to provide any coverage in a geographic area.

SEC. 1004. PROHIBITING PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—Except as provided in this section, a carrier or group health plan providing qualified health coverage may not exclude health coverage with respect to services related to treatment of a condition based on the fact that the condition existed before the effective date of coverage of the individual.

(b) LIMITATION ON DURATION OF EXCLUSION TO 6 MONTHS; CREDITING OF PREVIOUS COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the period of an exclusion under subsection (a) may not exceed 6 months beginning on the date of coverage.

(2) CREDITING OF PREVIOUS COVERAGE.—A carrier or group health plan providing qualified health coverage shall provide that if a covered individual is in a period of continuous coverage (as defined in paragraph (4)) as of the date of initial coverage, any period of exclusion of coverage with respect to a preexisting condition (as defined in paragraph (3)) for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

(3) PREEXISTING CONDITION DEFINED.—In this subsection, the term "preexisting condition" means, with respect to health coverage, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

(4) PERIOD OF CONTINUOUS COVERAGE.—In this subsection, subject to paragraphs (5) and (6), the term "period of continuous coverage" means the period beginning on the date an individual has health coverage (or coverage under a public plan providing medical benefits) and ends on the date the individual does not have such coverage for a continuous period of more than 3 months.

(5) EXCEPTIONS FOR CHILDREN.—A child who is covered at the time of birth or adoption is considered to be in a period of continuous coverage as of the date of birth or adoption.

(6) TRANSITIONAL AMNESTY AT TIME OF INITIAL ENROLLMENT.—For purposes of this paragraph, each individual who—

(A) has health coverage as of the first day of an amnesty period described in section 1105(a)(1) shall be considered to have had a

VOL 140 PT 15 AG 10 — 11 1994 UMI

period of continuous coverage during the previous 6 months, or

(B) does not have health coverage as of the first day of such an amnesty period but obtains such coverage during the period, shall be considered to have had a period of continuous coverage during the 6 months preceding the effective date of the coverage.

(c) EXCLUSION NOT APPLICABLE TO PREGNANCY.—The exclusion of coverage shall not apply if the exclusion relates to pregnancy.

(d) APPLICATION OF RULES BY CERTAIN HEALTH MAINTENANCE ORGANIZATIONS.—A health maintenance organization that provides health insurance coverage shall not be considered as failing to meet the requirements of section 1301 of the Public Health Service Act notwithstanding that it provides for an exclusion of the coverage based on a preexisting condition consistent with the provisions of this part so long as such exclusion is applied consistent with the provisions of this part.

SEC. 1005. ASSURING CHOICE OF COVERAGE THROUGH OPEN ENROLLMENT.

(a) OPEN ENROLLMENT PERIODS.—

(1) AMNESTY PERIODS.—

(A) INITIAL PERIOD.—There shall be an initial amnesty and open enrollment period, with respect to individuals who are residents of a State during the 60-day period beginning on January 1, 1997.

(B) CONTINUOUS OPEN ENROLLMENT FOR FULLY SUBSIDIZED INDIVIDUALS.—There shall be an individual amnesty and continuous open enrollment period, with respect to an individual at any time the individual is eligible for the full amount of the premium assistance under part A of title XXI of the Social Security Act and does not have qualified health coverage.

(C) NEWLY ELIGIBLE FOR SUBSIDIES.—There shall be an individual amnesty and open enrollment period, with respect to an individual not described in subparagraph (B) at the time the individual first becomes eligible for premium assistance under part A of title XXI of the Social Security Act, during the 60-day period beginning on the first date the individual becomes so eligible.

(2) OTHER OPEN ENROLLMENT PERIODS.—Each carrier and each group health plan providing health coverage (and each health plan purchasing organization under subtitle A of title V) in the individual and small group market shall provide for at least one period (of not less than 30 days) each year during which qualifying individuals and eligible employers may obtain qualified health coverage from the carrier or group. Such period shall be in addition to the amnesty periods under paragraph (1).

(b) SPECIAL ENROLLMENT PERIODS.—

(1) NEWLY ELIGIBLE IN AN AREA.—For each qualifying individual, at the time the individual moves outside the service area of coverage provided by a carrier to the individual, there shall be an open enrollment period (of not less than 30 days) during which the individual may enroll in health insurance coverage.

(2) FAMILY OR EMPLOYMENT CHANGES.—In the case of a qualifying individual who—

(A) through marriage, divorce, birth or adoption of a child, or similar circumstances, experience a change in family composition, or

(B) experience a change in employment status (including a significant change in the terms and conditions of employment or the terms and conditions of employment of a spouse),

the individual shall have a period (of at least 30 days) in which the individual is permitted to change the individual or family basis of coverage or the health coverage in which the individual is enrolled. The circumstances under which such special enrollment periods are required and the duration of such periods shall be specified by the Secretary.

(3) ENROLLMENT DUE TO LOSS OF PREVIOUS COVERAGE.—In the case of a qualifying individual who—

(A) had health coverage at the time of the individual's initial enrollment period,

(B) stated at the time of the initial enrollment period that having other health coverage was the reason for declining enrollment, and

(C) lost the other health coverage as a result of the termination of the coverage, termination or reduction of employment, or other reason, except termination at the option of the individual,

there shall be a special enrollment period during the 30-day period beginning on the date of termination of the other coverage.

(4) EXCEPTION FOR COURT ORDERS.—If a court has ordered that coverage be provided for a spouse or child of an employee under a covered employee's group health plan, there shall be a special enrollment period during the 30-day period beginning on the date of issuance of the court order.

(5) ENROLLMENT OF FAMILY MEMBERS.—There shall be an open enrollment period with respect to family members of an individual (including children of a spouse) during the 30-day period beginning on the date of the marriage or of the date of the birth or adoption of a child, if family coverage is available as of such date.

(c) PERIOD OF COVERAGE.—

(1) OPEN ENROLLMENT PERIODS.—In the case of a qualifying individual who enrolls under health coverage during a general enrollment period under subsection (a), the coverage shall begin on the first day of the first month beginning at least 15 days after the end of such period.

(2) SPECIAL ENROLLMENT PERIODS.—

(A) IN GENERAL.—In the case of a qualifying individual who enrolls under health coverage during a special enrollment period under subsection (b), coverage shall begin on such date (not later than the first day of the first month that begins at least 15 days after the date of enrollment) as the Secretary shall specify, consistent with this paragraph.

(B) COVERAGE OF FAMILY MEMBERS.—The Secretary shall provide for coverage of family members to begin as soon as possible on or after the date of the event that gives rise to the special enrollment period (or, in the case of birth or adoption, as of the date of birth or adoption).

PART 2—PROVISION OF BENEFITS

SEC. 1011. STANDARDS FOR MANAGED CARE ARRANGEMENTS.

(a) APPLICATION OF REQUIREMENTS.—Each group health plan, and each carrier providing health insurance coverage, that provides for health care through a managed care arrangement (as defined in section 1903) shall comply with the applicable requirements of this section.

(b) SCOPE OF ARRANGEMENTS WITH PROVIDERS.—

(1) ACCESS TO CARE.—The entity providing for a managed care arrangement with respect to health coverage shall enter into such agreements with health care providers (including primary and specialty providers, such as providers for children) or have such other arrangements as may be necessary to assure that covered individuals have reasonably prompt access through the entity's provider network to all items and services contained in the package of benefits for which coverage is provided (including access to emergency services on a 24-hour basis where medically necessary), in a manner that assures the continuity of the provision of such items and services. Such access shall take into account the diverse needs of enrollees and proximity to the workplaces or residences of enrollees.

(2) ACCESS TO CENTERS OF EXCELLENCE.—

(A) IN GENERAL.—The entity providing for a managed care arrangement under health coverage shall demonstrate that covered individuals (including individuals with chronic diseases) have access through the entity's provider network to specialized treatment expertise. Such entity may demonstrate such access through contracts with centers of excellence described in subparagraph (B).

(B) DESIGNATION OF CENTERS OF EXCELLENCE.—The Secretary shall establish a process for the designation of facilities, including children's hospitals and other pediatric facilities, as centers of excellence for purposes of this paragraph. A facility may not be designated unless the facility is determined—

(i) to provide specialty care,

(ii) to deliver care for complex cases requiring specialized treatment and for individuals with chronic diseases, and

(iii) to meet other requirements that may be established by the Secretary relating to specialized education and training of health professionals, participation in peer-reviewed research, or treatment of patients from outside the geographic area of the facility.

(3) CHOICE OF PERSONAL PHYSICIAN.—The entity providing for a managed care arrangement under health coverage shall permit each enrollee to choose a personal physician from among participating physicians and change that selection as appropriate.

(c) PROVISION OF EMERGENCY CARE SERVICES.—

(1) IN GENERAL.—The entity providing for a managed care arrangement under health coverage must cover medically necessary emergency care services provided to covered individuals (including trauma services, such as those provided by designated trauma centers), without regard to whether or not the provider furnishing such services has a contractual (or other) arrangement with the entity to provide items or services to covered individuals and, in the case of services furnished for the treatment of an emergency medical condition (as defined in section 1867(e)(1) of the Social Security Act), without regard to prior authorization.

(2) DESIGNATED TRAUMA CENTERS DEFINED.—In paragraph (1), the term "designated trauma center"—

(A) has the meaning given such term in section 1231 of the Public Health Service Act, and

(B) includes (for years prior to 2001) a trauma center that—

(i) is located in a State that has not designated trauma centers under section 1213 of such Act, and

(ii) the Secretary finds meets the standards under such section to be a designated trauma center.

(d) DUE PROCESS STANDARDS RELATING TO PROVIDER NETWORKS.—

(1) STANDARDS FOR SELECTION OF PROVIDERS FOR NETWORK.—

(A) ESTABLISHMENT.—The entity providing for a managed care arrangement under health coverage shall establish standards (including competitive criteria for quality, efficiency, credentialing, and services) to be used by the entity for contracting with health care providers with respect to the entity's provider network. Such standards shall be established in consultation with providers who are members of the network.

(B) DISTRIBUTION OF INFORMATION.—Descriptive information regarding these standards and criteria shall be made available to enrollees, providers who are members of the network, and prospective enrollees and prospective participating providers, including notice of when applications for participation will be accepted.

(C) NOTICE OF DENIALS.—The entity shall provide written notice of any denial of an application to participate in the provider network.

(2) NOTICE REQUIREMENT.—

(A) IN GENERAL.—The entity may not terminate or refuse to renew an agreement with a provider to participate in the entity's provider network unless the entity provides written notification to the provider of the entity's decision to terminate or refuse to renew the agreement. The notification shall include a statement of the reasons for the entity's decision, consistent with the standards established under paragraph (1).

(B) TIMING OF NOTIFICATION.—The entity shall provide the notification required under subparagraph (A) at least 45 days prior to the effective date of the termination or expiration of the agreement (whichever is applicable). The previous sentence shall not apply if failure to terminate the agreement prior to the deadline would adversely affect the health or safety of a covered individual.

(3) REVIEW PROCESS.—

(A) IN GENERAL.—The entity shall provide a process under which the provider may request a review of the entity's decision to terminate or refuse to renew the provider's participation agreement. Such review shall be conducted by a group of individuals the majority of whom are health care providers who are members of the entity's provider network or employees of the entity, and who are members of the same profession as the provider who requests the review.

(B) COUNSEL.—If the provider requests in advance, the entity shall permit an attorney representing the provider to be present at the provider's review.

(C) REVIEW ADVISORY.—The findings and conclusions of a review under this paragraph shall be advisory and non-binding.

(4) ADVISORY COMMITTEE.—The entity shall establish an advisory committee of participating physicians with whom it consults, on an advisory basis, on the termination of physicians who have been participating in the provider network. In making recommendations to the entity, such an advisory committee may consider such features of the physician's practice, relating to case mix and age of patients, as may lead the physician to have higher than expected treatment costs for the patients of the physician who are enrollees.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to affect any other provision of law that provides an appeals process or other form of relief to a provider of health care services.

(e) REFERENCE TO PREEMPTION OF STATE LAWS RESTRICTING UTILIZATION REVIEW PROGRAMS.—For preemption of States laws restricting utilization review programs, see section 5103.

SEC. 1012. UTILIZATION REVIEW.

(a) REQUIRING REVIEW TO MEET STANDARDS.—A group health plan or insurer providing health insurance coverage may not deny coverage of or payment for items and services on the basis of a utilization review program unless the program meets the standards established by the Secretary under this section.

(b) ESTABLISHMENT OF STANDARDS BY SECRETARY.—The Secretary shall establish standards for utilization review programs, consistent with subsection (b), and shall periodically review and update such standards to reflect changes in the delivery of health care services. The Secretary shall establish such standards in consultation with appropriate parties.

(c) REQUIREMENTS FOR STANDARDS.—Under the standards established under subsection (a)—

(1) individuals performing utilization review may not receive financial compensation based upon the number of denials of coverage;

(2) negative determinations of the medical necessity or appropriateness of services or the site at which services are furnished may be made only by clinically qualified personnel;

(3) the utilization review program shall provide for a process under which an enrollee or provider may obtain timely review of a denial of coverage, including upon request a review conducted by the medical director of the carrier or plan or a physician designated by the carrier or plan;

(4) utilization review shall be conducted in accordance with uniformly applied standards that are based on currently available medical evidence; and

(5) providers shall participate in the development of the utilization review program.

(d) PREEMPTION.—For provision preempting State laws relating to utilization review, see subtitle B of title V.

SEC. 1013. REQUIREMENTS FOR ARRANGEMENTS WITH ESSENTIAL COMMUNITY PROVIDERS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Subject to subsection (d), each group health plan and each carrier providing qualified health coverage shall, with respect to at least one essential community provider (as defined in subsection (c)) within each class of such a provider (as described in paragraph (2)) located within the service area with respect to the plan or coverage, enter into a written provider participation agreement (described in subsection (b)) with the provider.

(2) CLASS DEFINED.—For purposes of the paragraph (1), providers described in each paragraph of subsection (c) shall constitute a separate "class" of providers.

(b) PARTICIPATION AGREEMENT.—A participation agreement between a group health plan or carrier and an essential community provider under this subsection shall provide that the plan or carrier agrees to treat the provider in accordance with terms and conditions at least as favorable as those that are applicable to other providers with a participation agreement with the plan or carrier with respect to the scope of services for which payment is made by the plan or carrier to the provider.

(c) ESSENTIAL COMMUNITY PROVIDERS DESCRIBED.—In this section, an "essential community provider" means any of the following:

(1) CERTAIN MEDICARE DISPROPORTIONATE SHARE HOSPITALS.—A hospital—

(A) described in section 1886(d)(5)(F)(i)(II) of the Social Security Act;

(B) described in section 1886(d)(5)(F)(iv)(I) of such Act with a disproportionate patient percentage (as defined in section 1886(d)(5)(F)(vi) of such Act) greater than 20.2; or

(C) that would be described in subparagraph (A) or (B) if—

(i) the hospital were a subsection (d) hospital (as defined in section 1886(d)(1)(B) of such Act), or

(ii) in the case of a hospital whose inpatients are predominantly individuals under 18 years of age, if the hospital were a subsection (d) hospital with more than 100 beds.

(2) SOLE COMMUNITY HOSPITALS.—A sole community hospital (as described in section 1886(d)(5)(D)(iii) of such Act).

(3) MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.—A medicare-dependent, small rural hospital (as described in section 1886(d)(5)(G)(iii) of such Act), or a hospital that would be a medicare-dependent, small rural hospital if the hospital were a subsection (d) hospital (as defined in section 1886(d)(1)(B) of such Act).

(4) FEDERALLY QUALIFIED HEALTH CENTERS.—A Federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act) or an entity that would be such a center but for its failure to meet the requirement described in section 329(f)(2)(G)(i) of the Public Health Service Act or the requirement described in section 330(e)(3)(G)(i) of such Act (relating to the composition of the entity's governing board).

(5) RURAL HEALTH CLINICS.—A rural health clinic (as defined in section 1861(aa)(2) of the Social Security Act).

(6) LOCAL HEALTH DEPARTMENTS.—A health department of a unit of State or local government which provides health services directly to individuals.

(d) SUNSET.—The requirement of subsection (a) shall not apply to health coverage provided after December 31, 1999.

SEC. 1014. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Chapter 79 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 7705. MEDICAL SAVINGS ACCOUNTS.

"(a) GENERAL RULE.—For purposes of this title, the term 'medical savings account' means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written instrument creating the trust meets the following requirements:

"(1) Except in the case of a rollover contribution described in subsection (d)(3), no contribution will be accepted unless—

"(A) it is in cash, and

"(B) such individual is an eligible employee for the period for which such contribution is made.

"(2) The trustee is a bank (as defined in section 408(n)), insurance company (as defined in section 816), or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

"(3) No part of the trust funds will be invested in life insurance contracts.

"(4) The interest of an individual in the balance of the account is nonforfeitable.

"(5) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(b) ELIGIBLE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible employee' means any employee who has high-deductible coverage (as defined in section 1103 of the Bipartisan Health Care Reform Act of 1994) offered by the employer.

"(2) EXCEPTION.—An employee shall be treated as not being an eligible employee for any calendar year if, for any month during such year, it is reasonably expected that such employee—

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(A) will have adjusted gross income that is less than 100 percent of the income official poverty line (as determined by the Director of the Office of Management and Budget) for a family of the size involved; or

"(B) is an AFDC recipient or SSI recipient.

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) AFDC RECIPIENT.—The term 'AFDC recipient' means, for a month, an individual who is receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV, of the Social Security Act for the month.

"(B) SSI RECIPIENT.—The term 'SSI recipient' means, for a month, an individual—

"(i) with respect to whom supplemental security income benefits are being paid under title XVI of the Social Security Act for the month,

"(ii) who is receiving a supplementary payment under section 1616 of such Act or under section 212 of Public Law 93–66 for the month,

"(iii) who is receiving monthly benefits under section 1619(a) of the Social Security Act (whether or not pursuant to section 1616(c)(3) of such Act) for the month, or

"(iv) who is treated under section 1619(b) of the Social Security Act as receiving supplemental security income benefits in a month for purposes of title XIX of such Act.

"(c) TAX TREATMENT OF ACCOUNTS.—

"(1) ACCOUNT TAXED AS GRANTOR TRUST.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the account beneficiary of a medical savings account shall be treated for purposes of this title as the owner of such account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

"(B) TREATMENT OF CAPITAL LOSSES.—With respect to assets held in a medical savings account, any capital loss for a taxable year from the sale or exchange of such an asset shall be allowed only to the extent of capital gains from such assets for such taxable year. Any capital loss which is disallowed under the preceding sentence shall be treated as a capital loss from the sale or exchange of such an asset in the next taxable year. For purposes of this subparagraph, all medical savings accounts of the account beneficiary shall be treated as 1 account.

"(2) ACCOUNT TERMINATES IF INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of the account beneficiary, such beneficiary engages in any transaction prohibited by section 4975 with respect to the account, the account shall cease to be a medical savings account as of the first day of such taxable year,

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a medical savings account by reason of subparagraph (A) on the first day of any taxable year, subsection (d) shall be applied as if—

"(i) there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day), and

"(ii) no portion of such distribution were used to pay qualified medical expenses.

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the account beneficiary uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed and not used to pay qualified medical expenses.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account beneficiary or of the spouse or dependents (as defined in section 152) of such beneficiary shall be included in the gross income of such beneficiary to the extent such amount does not exceed the excess of—

"(i) the aggregate contributions to such account which were not includible in gross income by reason of section 106(2), over

"(ii) the aggregate prior payments or distributions from such account which were includible in gross income under this paragraph.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all medical savings accounts of the account beneficiary shall be treated as 1 account,

"(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(2) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by chapter 1 on the account beneficiary for any taxable year in which there is a payment or distribution from a medical savings account of such beneficiary which is includible in gross income under paragraph (1) shall be increased by 100 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISTRIBUTIONS AFTER AGE 65.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account beneficiary attains age 65.

"(C) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies.

"(3) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (1) shall not apply to any amount paid or distributed from a medical savings account to the account beneficiary to the extent the amount received is paid into a medical savings account for the benefit of such beneficiary not later than the 60th day after the day on which he receives the payment or distribution.

"(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in his gross income because of the application of this paragraph.

"(4) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care to the extent of the amount of such payment or distribution which is excludable from gross income solely by reason of paragraph (1)(A).

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED MEDICAL EXPENSES.—The term 'qualified medical expenses' means any expense for medical care (as defined in section 213(d)); except that such term shall not include any amount paid for insurance.

"(2) ACCOUNT BENEFICIARY.—The term 'account beneficiary' means the individual for whose benefit the medical savings account is maintained.

"(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if—

"(1) the assets of such account are held by a bank (as defined in section 408(n)), insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which he will administer the account will be consistent with the requirements of this section, and

"(2) the custodial account would, except for the fact that it is not a trust, constitute a medical savings account described in subsection (a).

For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) REPORTS.—The trustee of a medical savings account shall keep such records and make such reports regarding such account to the Secretary and to the account beneficiary with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by such regulations."

(b) INCOME AND EMPLOYMENT TAX TREATMENT OF EMPLOYER CONTRIBUTIONS.—

(1) EMPLOYER PAYMENTS EXCLUDED FROM GROSS INCOME.—The text of section 106 of such Code is amended to read as follows:

"Gross income of an employee does not include—

"(1) employer-provided coverage under an accident or health plan, and

"(2) employer contributions to any medical savings account (as defined in section 7705) of an eligible employee, but only to the extent that the amount contributed does not exceed the excess of premium for standard coverage over the premium for high-deductible coverage (as such terms are defined in section 1903 of the Bipartisan Health Care Reform Act of 1994)."

(2) EMPLOYER PAYMENTS EXCLUDED FROM EMPLOYMENT TAX BASE.—

(A) SOCIAL SECURITY TAXES.—

(i) Subsection (a) of section 3121 of such Code is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(2)."

(ii) Subsection (a) of section 209 of the Social Security Act is amended by striking "or" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting "; or", and by inserting after paragraph (19) the following new paragraph:

"(20) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(2) of the Internal Revenue Code of 1986."

(B) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 of such Code is amended by adding at the end the following new paragraph:

"(10) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(2)."

(C) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 of such Code is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(2)."

(D) WITHHOLDING TAX.—Subsection (a) of section 3401 of such Code is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(2)."

(c) TECHNICAL AMENDMENTS.—

(1) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(A) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 7705) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 7705(c)(2)(A) to such account.", and

(B) by inserting "or a medical savings account described in section 7705" in subsection (e)(1) after "described in section 408(a)".

(2) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(A) by inserting "**OR ON MEDICAL SAVINGS ACCOUNTS**" after "**ANNUITIES**" in the heading of such section, and

(B) by adding at the end of subsection (a) the following: "The person required by section 7705(g) to file a report regarding a medical savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause."

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for chapter 79 of such Code is amended by adding at the end the following:

"Sec. 7705. Medical savings accounts."

(B) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting "or on medical savings accounts" after "annuities" in the item relating to section 6693.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

PART 3—FAIR RATING PRACTICES

SEC. 1021. USE OF FAIR RATING PRACTICES.

(a) USE OF FAIR RATING PRACTICES.—The premium rate established by a carrier for health insurance coverage in the individual and small group market may not vary within a benefit design except by the following:

(1) AGE.—By age, based on classes of age established by the Secretary, in consultation with the NAIC, consistent with subsection (b).

(2) GEOGRAPHIC AREA.—By geographic area, as identified by a State consistent with subsection (c).

(3) FAMILY SIZE.—Family size, based on the following 4 classes of family coverage: individual, individual with one or more children, married couple without children, and married couple with children.

(b) LIMITATION ON VARIATION BY AGE.—

(1) IN GENERAL.—Any variation in premium rates by age under subsection (a)(1) may not result in the ratio of the highest age rate to the lowest age rate exceeding the limiting ratio described in paragraph (2).

(2) LIMITING RATIO.—For purposes of paragraph (1), the limiting ratio described in this paragraph is—

(A) 4-to-1, for premiums for months in 1997,

(B) 3.67-to-1, for premiums for months in 1998,

(C) 3.33-to-1, for premiums for months in 1999, and

(D) 3-to-1, for premiums for months in 2000 and any succeeding year.

(3) PREEMPTION.—For preemption of State laws relating to establishment of premium rates, see section 5105.

(c) GEOGRAPHIC AREA VARIATIONS.—For purposes of subsection (a)(2), a State—

(1) may not identify an area that divides a 3-digit zip code, a county or all portions of a metropolitan statistical area within the State, and

(2) may, upon agreement with one or more adjacent States, identify multi-state geographic areas consistent with paragraph (1).

(d) PREMIUM RATING IN GROUP HEALTH PLANS.—The premium rate established under a group health plan for health insurance coverage may not vary within a benefit design except by the factors described in subsection (a) and subject to the limitation specified in subsection (b).

(e) ACTUARIAL CERTIFICATION.—Each carrier that offers health insurance coverage in a State shall file annually with the State commissioner of insurance a written statement by a member of the American Academy of Actuaries (or other individual acceptable to the commissioner) that, based upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of the insurer and methods used by the insurer in establishing premium rates for applicable health insurance coverage—

(1) the carrier is in compliance with the applicable provisions of this section, and

(2) the rating methods are actuarially sound.

Each such carrier shall retain a copy of such statement for examination at its principal place of business.

SEC. 1022. COORDINATION WITH PREMIUM ASSISTANCE CERTIFICATE PROGRAM.

Each carrier or group health plan providing qualified health coverage shall accept and apply (as a reduction against premiums otherwise imposed) any premium certificate issued under a State premium assistance program under part A of title XXI of the Social Security Act.

SEC. 1023. ESTABLISHMENT OF RISK ADJUSTMENT MECHANISMS.

(a) ESTABLISHMENT OF STANDARDS.—

(1) DEVELOPMENT OF MODELS.—

(A) IN GENERAL.—The Secretary shall request the NAIC to develop, within 9 months after the date of the enactment of this Act, one or more model risk adjustment systems (each in this section referred to as a "risk adjustment mechanism") under which premiums applicable to health insurance coverage in the individual and small group market would be adjusted to take into account such factors as may be appropriate to predict the future need and use of services by covered individuals in the market. Such factors may include the age, gender, geographic residence, health status, socio-economic status, or other demographic characteristics of individuals enrolled in such plans.

(B) REVIEW AND APPLICATION.—If the NAIC develops such models within such period, the Secretary shall review such models to determine if they provide for an effective risk adjustment mechanism. Such review shall be completed within 90 days after the date the models are developed. Unless the Secretary determines within such period that such a model is not an effective risk adjustment mechanism, such remaining models shall serve as the models under this section, with such amendments as the Secretary deems necessary.

(2) CONTINGENCY.—If the NAIC does not develop such models within such period or the Secretary determines that all such models do not provide for an effective risk adjustment mechanism, the Secretary shall specify, within 15 months after the date of the enactment of this Act, models to carry out this section.

(b) IMPLEMENTATION OF RISK ADJUSTMENT MECHANISMS.—Each State shall establish and maintain one or more risk adjustment mechanisms that are consistent with a model established under subsection (a) by not later than January 1, 1997. A State may establish and maintain such a mechanism jointly with one or more other States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to prohibit risk adjustment, reinsurance, or allocation of risk arrangements relating to health insurance coverage, whether on a State or multi-State basis, not required under this section.

PART 4—CONSUMER PROTECTIONS

SEC. 1031. REQUIREMENT FOR PROVISION OF INFORMATION.

(a) CARRIERS.—Each carrier that offers health insurance coverage to small employers (or eligible employees of small employers) or qualifying individuals must disclose to such prospective enrollees, to brokers, and to health plan purchasing organizations the information that the Secretary may specify relating to the performance of the carrier in providing such coverage, consistent with any quality measures established under section 4002.

(b) GROUP HEALTH PLANS.—Each group health plan that provides health coverage must disclose to enrollees and potential enrollees information, similar to the information described in subsection (a), relating to performance of the plan in providing such coverage, consistent with any quality measures established under section 4002.

SEC. 1032. PROHIBITION OF IMPROPER INCENTIVES.

(a) LIMITATION ON FINANCIAL INCENTIVES.—No carrier that provides health insurance coverage may vary the commission or financial or other remuneration to a person based on the claims experience or health status of

VOL 140 PT 15 AG 10 — 11 1994 UMI

individuals enrolled by or through the person.

(b) NONDISCRIMINATION IN AGENT COMPENSATION.—A carrier—

(1) may not vary or condition the compensation provided to an agent or broker related to the sale or renewal of health insurance coverage because of the health status or claims experience of any individuals enrolled with the carrier through the agent or broker; and

(2) may not terminate, fail to renew, or limit its contract or agreement of representation with an agent or broker for any reason related to the health status or claims experience of any individuals enrolled with the carrier through the agent or broker.

(c) PROHIBITION OF TIE-IN ARRANGEMENTS.—No carrier that offers health insurance coverage may require the purchase of any other insurance or product as a condition for the purchase of such coverage.

SEC. 1033. WRITTEN POLICIES AND PROCEDURES RESPECTING ADVANCE DIRECTIVES.

An insurer and a group health plan offering health coverage shall meet the requirements of section 1866(f) of the Social Security Act (relating to maintaining written policies and procedures respecting advance directives), insofar as such requirements would apply to the insurer or plan if the insurer or plan were an eligible organization.

PART 5—STANDARDS AND CERTIFICATION; ENFORCEMENT; PREEMPTION; GENERAL PROVISIONS

SEC. 1051. ESTABLISHMENT OF STANDARDS.

(a) ROLE OF NAIC.—

(1) IN GENERAL.—The Secretary shall request the NAIC to develop, within 9 months after the date of the enactment of this Act, model regulations that specify standards with respect to the requirements of this subtitle.

(2) REVIEW OF STANDARDS.—If the NAIC develops recommended regulations specifying such standards within such period, the Secretary shall review the standards. Such review shall be completed within 60 days after the date the regulations are developed. Unless the Secretary determines within such period that the standards do not meet the requirements, such standards shall serve as the standards under this part, with such amendments as the Secretary deems necessary.

(b) CONTINGENCY.—If the NAIC does not develop such model regulations within such period or the Secretary determines that such regulations do not specify standards that meet the requirements described in subsection (a), the Secretary shall specify, within 15 months after the date of the enactment of this Act, standards to carry out those requirements.

SEC. 1052. APPLICATION OF STANDARDS TO CARRIERS THROUGH STATES.

(a) APPLICATION OF STANDARDS.—

(1) IN GENERAL.—Each State shall submit to the Secretary, by the deadline specified in paragraph (3), a report on steps the State is taking to implement and enforce the standards established under section 1051 with respect to carriers and health insurance coverage offered not later than such deadline.

(2) DEADLINE FOR REPORT.—The deadline under this paragraph is 1 year after the date the standards are established under section 1051.

(b) FEDERAL ROLE.—

(1) NOTICE OF DEFICIENCY.—If the Secretary determines that a State has failed to submit a report by the deadline specified under subsection (a) or finds that the State has not implemented and provided adequate enforcement of the standards under such subsection, the Secretary shall notify the State and provide the State a period of 60 days in which to submit such report or to implement and enforce such standards under such subsection.

(2) IMPLEMENTATION OF ALTERNATIVE.—

(A) IN GENERAL.—If, after such 60-day period, the Secretary finds that such a failure has not been corrected, the Secretary shall provide for such mechanism for the implementation and enforcement of such standards in the State as the Secretary determines to be appropriate.

(B) EFFECTIVE PERIOD.—Such implementation and enforcement shall take effect with respect to carriers, and health insurance coverage offered or renewed, on or after 3 months after the date of the Secretary's finding under the previous sentence, and until the date the Secretary finds that such a failure has been corrected.

SEC. 1053. APPLICATION TO GROUP HEALTH PLANS.

(a) IN GENERAL.—Subject to subsection (b), section 1051 and 1052 shall apply to group health plans providing health coverage in the same manner as they apply to carriers providing health insurance coverage.

(b) SUBSTITUTION OF FEDERAL OFFICIALS.—For purposes of subsection (a), any reference in section 1051 or 1052 to—

(1) a State or the Secretary of Health and Human Services is deemed a reference to the Secretary of Labor, and

(2) any reference to a carrier or health insurance coverage is deemed a reference to a group health plan and health coverage, respectively.

SEC. 1054. ENFORCEMENT.

(a) ENFORCEMENT BY DEPARTMENT OF LABOR FOR EMPLOYERS AND GROUP HEALTH PLANS.—

(1) IN GENERAL.—For purposes of part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of this title insofar as they relate to group health plans or employers shall be deemed to be provisions of title I of such Act irrespective of exclusions under section 4(b) of such Act.

(2) REGULATORY AUTHORITY.—With respect to the regulatory authority of the Secretary of Labor under this subtitle pursuant to paragraph (1), section 505 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1135) shall apply.

(b) ENFORCEMENT BY EXCISE TAX FOR CARRIERS.—

(1) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980C. FAILURE OF CARRIER TO COMPLY WITH HEALTH INSURANCE STANDARDS.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed a tax on the failure of an insurer to comply with the requirements applicable to the insurer under parts 1 through 4 of subtitle A and subtitle B of title I of the Bipartisan Health Care Reform Act of 1994.

"(2) EXCEPTION.—Paragraph (1) shall not apply to a failure by a carrier in a State if the Secretary of Health and Human Services determines that the State has in effect a regulatory enforcement mechanism that provides adequate sanctions with respect to such a failure by such an carrier.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each individual to which such failure relates. A rule similar to the rule of section 4980B(b)(3) shall apply for purposes of this section.

"(2) LIMITATION.—The amount of the tax imposed by subsection (a) for a carrier with respect to health insurance coverage shall not exceed 25 percent of the amounts received for such coverage during the period such failure persists.

"(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the carrier.

"(d) EXCEPTIONS.—

"(1) CORRECTIONS WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) by reason of any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected within the 30-day period beginning on the earliest date the insurer knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of such tax would be excessive relative to the failure involved.

"(e) DEFINITIONS.—For purposes of this section, the terms 'health insurance coverage' and 'carrier' have the respective meanings given such terms in section 1903 of the Bipartisan Health Care Reform Act of 1994."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end thereof the following new items:

"Sec. 4980C. Failure of carrier to comply with health insurance standards."

SEC. 1055. LIMITATION ON SELF INSURANCE FOR SMALL EMPLOYERS.

(a) IN GENERAL.—A single employer plan (as defined in section 1213 of the Employee Retirement Income Security Act of 1974) may not offer health coverage other than through a carrier unless the plan has at least 100 eligible employees.

(b) REFERENCE TO SMALL EMPLOYER POOLING ARRANGEMENTS.—For provisions providing for small employer pooling arrangements, see section 5011.

PART 6—MULTIPLE EMPLOYER HEALTH BENEFITS PROTECTIONS

SEC. 1071. LIMITED EXEMPTION FROM CERTAIN RESTRICTIONS ON ERISA PREEMPTION OF STATE LAW FOR HEALTH PLANS MAINTAINED BY MULTIPLE EMPLOYERS SUBJECT TO CERTAIN FEDERAL STANDARDS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new part:

"PART 7—MULTIPLE EMPLOYER HEALTH PLANS

"SEC. 701. DEFINITIONS.

"For purposes of this part—

"(1) INSURER.—The term 'insurer' means an insurance company, insurance service, or insurance organization, licensed to engage in the business of insurance by a State.

"(2) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a multiple employer welfare arrangement, any employer if any of its employees, or any of the dependents of its employees, are or were covered under such arrangement in connection with the employment of the employees.

"(3) EXCESS/STOP LOSS COVERAGE.—The term 'excess/stop loss coverage' means, in connection with a multiple employer welfare arrangement, a contract under which an insurer provides for payment with respect to claims under the arrangement, relating to participants or beneficiaries individually or otherwise, in excess of an amount or amounts specified in such contract.

"(4) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation.

"(5) SPONSOR.—The term 'sponsor' means, in connection with a multiple employer welfare arrangement, the association or other entity which establishes or maintains the arrangement.

"(6) STATE INSURANCE COMMISSIONER.—The term 'State insurance commissioner' means the insurance commissioner (or similar official) of a State.

"(7) DOMICILE STATE.—The term 'domicile State' means, in connection with a multiple employer welfare arrangement, the State in which, according to the application for a certification under this part, most individuals to be covered under the arrangement are located, except that, in any case in which information contained in the latest annual report of the arrangement filed under this part indicates that most individuals covered under the arrangement are located in a different State, such term means such different State.

"(8) FULLY INSURED.—Coverage under a multiple employer welfare arrangement is 'fully insured' if one or more insurers, health maintenance organizations, similar organizations regulated under State law for solvency, or any combination thereof are liable under one or more insurance policies or contracts for all benefits under the arrangement (irrespective of any recourse they may have against other parties).

"(9) CERTIFIED MULTIPLE EMPLOYER HEALTH PLAN.—The term 'certified multiple employer health plan' means a multiple employer welfare arrangement treated as an employee welfare benefit plan by reason of certification under this part.

"SEC. 702. CERTIFIED MULTIPLE EMPLOYER HEALTH PLANS RELIEVED OF CERTAIN RESTRICTIONS ON PREEMPTION OF STATE LAW AND TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.

"(a) IN GENERAL.—Subject to subsection (b), a multiple employer welfare arrangement under which coverage is not fully insured and with respect to which there is in effect a certification granted by the Secretary under this part (or with respect to which there is pending a complete application for such an certification and the Secretary determines that provisional protection under this part is appropriate)—

"(1) shall be treated for purposes of subtitle A and the preceding parts of this subtitle as an employee welfare benefit plan, irrespective of whether such arrangement is an employee welfare benefit plan, and

"(2) shall be exempt from section 514(b)(6)(A)(ii).

"(b) BENEFITS MUST CONSIST OF MEDICAL CARE.—Subsection (a) shall apply to a multiple employer welfare arrangement only if the benefits provided thereunder consist solely of medical care described in section 607(1) (disregarding such incidental benefits as the Secretary shall specify by regulation).

"(c) RESTRICTION ON COMMENCEMENT OF NEW ARRANGEMENTS.—A multiple employer welfare arrangement providing benefits which consist of medical care described in section 607(1) which has not commenced operations as of January 1, 1995, may commence operations only if a certification granted to the arrangement under this part is in effect (or there is pending with respect to the arrangement a complete application for such a certification and the Secretary determines that provisional protection under this part is appropriate).

"SEC. 703. CERTIFICATION PROCEDURE.

"(a) IN GENERAL.—The Secretary shall grant a certification described in section 702(a) to a multiple employer welfare arrangement if—

"(1) an application for such certification with respect to such arrangement, identified individually or by class, has been duly filed in complete form with the Secretary in accordance with this part,

"(2) such application demonstrates compliance with the requirements of section 704 with respect to such arrangement, and

"(3) the Secretary finds that such certification is—

"(A) administratively feasible,

"(B) not adverse to the interests of the individuals covered under the arrangement, and

"(C) protective of the rights and benefits of the individuals covered under the arrangement.

"(b) NOTICE AND HEARING.—Before granting a certification under this section, the Secretary shall publish notice in the Federal Register of the pendency of the certification, shall require that adequate notice be given to interested persons, including the State insurance commissioner of each State in which covered individuals under the arrangement are, or are expected to be, located, and shall afford interested persons opportunity to present views. The Secretary may not grant an certification under this section unless the Secretary affords an opportunity for a hearing and makes a determination on the record with respect to the findings required under subsection (a)(3). The Secretary shall, to the maximum extent practicable, make a final determination with respect to any application filed under this section in the case of a newly established arrangement within 90 days after the date which the Secretary determines is the date on which such application is filed in complete form.

"SEC. 704. ELIGIBILITY REQUIREMENTS.

"(a) APPLICATION FOR CERTIFICATION.—

"(1) IN GENERAL.—A certification may be granted by the Secretary under this part only on the basis of an application filed with the Secretary in such form and manner as shall be prescribed in regulations of the Secretary. Any such application shall be signed by the operating committee and the sponsor of the arrangement.

"(2) FILING FEE.—The arrangement shall pay to the Secretary at the time of filing an application under this section a filing fee in the amount of $5,000, which shall be available, to the extent provided in appropriation Acts, to the Secretary for the sole purpose of administering the certification procedures under this part.

"(3) INFORMATION INCLUDED.—An application filed under this section shall include, in a manner and form prescribed in regulations of the Secretary, at least the following information:

"(A) IDENTIFYING INFORMATION.—The names and addresses of—

"(i) the sponsor, and

"(ii) the members of the operating committee of the arrangement.

"(B) STATES IN WHICH ARRANGEMENT INTENDS TO DO BUSINESS.—The States in which individuals covered under the arrangement are to be located and the number of such individuals expected to be located in each such State.

"(C) BONDING REQUIREMENTS.—Evidence provided by the operating committee that the bonding requirements of section 412 will be met as of the date of the application.

"(D) PLAN DOCUMENTS.—A copy of the documents governing the arrangement (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits and coverage that will be provided to individuals covered under the arrangement.

"(E) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the arrangement and contract administrators and other service providers.

"(F) FUNDING REPORT.—A report setting forth information determined as of a date within the 120-day period ending with the date of the application, including the following:

"(i) RESERVES.—A statement, certified by the operating committee of the arrangement, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 707 are or will be met in accordance with regulations which the Secretary shall prescribe.

"(ii) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the arrangement for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the arrangement. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

"(iii) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the arrangement and a projection of the assets, liabilities, income, and expenses of the arrangement for the 12-month period referred to in clause (ii). The income statement shall identify separately the arrangement's administrative expenses and claims.

"(iv) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the arrangement.

"(v) OTHER INFORMATION.—Any other information which may be prescribed in regulations of the Secretary as necessary to carry out the purposes of this part.

"(b) OTHER REQUIREMENTS.—A complete application for a certification under this part shall include information which the Secretary determines to be complete and accurate and sufficient to demonstrate that the following requirements are met with respect to the arrangement:

"(1) SPONSOR.—

"(A) IN GENERAL.—Except in a case to which subparagraph (B) applies, the sponsor is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 3 years before the date of the application, organized and maintained in good faith, with a constitution and bylaws

VOL 140 PT 15 AG 10 — 11 1994 UMI

specifically stating its purpose, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group), for substantial purposes other than that of obtaining or providing medical care described in section 607(1), and the applicant demonstrates to the satisfaction of the Secretary that the sponsor is established as a permanent entity which receives the active support of its members.

"(B) SPECIAL RULE FOR EMPLOYERS IN THE SAME TRADE OR BUSINESS.—In the case of an arrangement under which all participating employers are engaged in a common type of trade or business, the sponsor is the operating committee of the arrangement.

"(2) OPERATING COMMITTEE.—The arrangement is operated, pursuant to a trust agreement, by an operating committee which has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement, and the operating committee has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the arrangement and to meet all requirements of this title applicable to the arrangement. The members of the committee are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business. No such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the arrangement, except that officers or employees of a sponsor which is a service provider (other than a contract administrator) to the arrangement may be members of the committee if they constitute not more than 25 percent of the membership of the committee and they do not provide services to the arrangement other than on behalf of the sponsor. The committee has sole authority to approve applications for participation in the arrangement and to contract with a service provider to administer the day-to-day affairs of the arrangement.

"(3) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the arrangement include a written instrument, meeting the requirements of an instrument required under section 5022(a)(1), which—

"(A) provides that the committee serves as the named fiduciary required for plans under section 5022(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)),

"(B) provides that the sponsor is to serve as plan sponsor (referred to in section 3(16)(B)),

"(C) incorporates the requirements of section 707, and

"(D) provides that, effective upon the granting of a certification under this part—

"(i) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer, and

"(ii) all individuals thereafter commencing coverage under the arrangement must be—

"(I) active or retired owners, officers, directors, or employees of, or partners in, participating employers, or

"(II) the beneficiaries of individuals described in subclause (I).

"(4) CONTRIBUTION RATES.—The contribution rates referred to in subsection (a)(3)(F)(ii) are adequate.

"(5) REGULATORY REQUIREMENTS.—Such other requirements as the Secretary may prescribe by regulation as necessary to carry out the purposes of this part.

"(c) TREATMENT OF PARTY SEEKING CERTIFICATION WHERE PARTY IS SUBJECT TO DISQUALIFICATION.—

"(1) IN GENERAL.—In the case of any application for a certification under this part with respect to a multiple employer welfare arrangement, if the Secretary determines that the sponsor of the arrangement or any other person associated with the arrangement is subject to disqualification under paragraph (2), the Secretary may deny the certification with respect to such arrangement.

"(2) DISQUALIFICATION.—A person is subject to disqualification under this paragraph if such person—

"(A) has intentionally made a material misstatement in the application for certification;

"(B) has obtained or attempted to obtain a certification under this part through misrepresentation or fraud;

"(C) has misappropriated or converted to such person's own use, or improperly withheld, money held under a plan or any multiple employer welfare arrangement;

"(D) is prohibited (or would be prohibited if the arrangement were a plan) from serving in any capacity in connection with the arrangement under section 411,

"(E) has failed to appear without reasonable cause or excuse in response to a subpoena, examination, warrant, or any other order lawfully issued by the Secretary compelling such response,

"(F) has previously been subject to a determination under this part resulting in the denial, suspension, or revocation of a certification under this part on similar grounds, or

"(G) has otherwise violated any provision of this title with respect to a matter which the Secretary determines of sufficient consequence to merit disqualification for purposes of this part.

"(d) FRANCHISE NETWORKS.—In the case of a multiple employer welfare arrangement established and maintained by a franchisor for a franchise network consisting of its franchisees, such franchisor shall be treated as the sponsor referred to in the preceding provisions of this section, such network shall be treated as an association referred to in such provisions, and each franchisee shall be treated as a member (of the association and the sponsor) referred to in such provisions, if all participating employers are such franchisees and the requirements of subsection (b)(1) with respect to a sponsor are met with respect to the network.

"(e) CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.—In applying the preceding provisions of this section in the case of a multiple employer welfare arrangement which would be described in section 3(40)(A)(i) but for the failure to meet any requirement of section 3(40)(C)—

"(1) paragraphs (1) and (2) of subsection (b) and subparagraphs (A), (B), and (D) of paragraph (3) of subsection (b) shall be disregarded, and

"(2) the joint board of trustees shall be considered the operating committee of the arrangement.

"(f) CERTAIN ARRANGEMENTS NOT MEETING SINGLE EMPLOYER REQUIREMENT.—

"(1) IN GENERAL.—In any case in which the majority of the employees covered under a multiple employer welfare arrangement are employees of a single employer (within the meaning of clauses (i) and (ii) of section 3(40)(B)), if all other employees covered under the arrangement are employed by employers who are related to such single employer, subsection (b)(3)(D) shall be disregarded.

"(2) RELATED EMPLOYERS.—For purposes of paragraph (1), employers are 'related' if there is among all such employers a common ownership interest or a substantial commonality of business operations based on common suppliers or customers.

"SEC. 705. ADDITIONAL REQUIREMENTS APPLICABLE TO CERTIFIED MULTIPLE EMPLOYER HEALTH PLANS.

"(a) NOTICE OF MATERIAL CHANGES.—In the case of any certified multiple employer health plan, descriptions of material changes in any information which was required to be submitted with the application for the certification granted under this part shall be filed in such form and manner as shall be prescribed in regulations of the Secretary. The Secretary may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

"(b) REPORTING REQUIREMENTS.—Under regulations of the Secretary, the requirements of sections 102, 103, and 104 shall apply with respect to any multiple employer welfare arrangement which is or has been a certified multiple employer health plan in the same manner and to the same extent as such requirements apply to employee welfare benefit plans, irrespective of whether such certification continues in effect. The annual report required under section 103 for any plan year in the case of any such multiple employer welfare arrangement shall also include information described in section 704(a)(3)(F) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed not later than 90 days after the close of the plan year.

"(c) ENGAGEMENT OF QUALIFIED ACTUARY.—The operating committee of each multiple employer welfare arrangement which is or has been a certified multiple employer health plan shall engage, on behalf of all covered individuals, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the arrangement and to reasonable expectations, and

"(2) represent such actuary's best estimate of anticipated experience under the arrangement.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"(d) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted to a multiple employer welfare arrangement under this part shall not be effective unless written notice of such certification is filed with the State insurance commissioner of each State in which at least 5 percent of the individuals covered under the arrangement are located. For purposes of this paragraph, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed. The Secretary may by regulation provide in specified cases for the application of the preceding sentence with lesser percentages in lieu of such 5 percent amount.

"SEC. 706. DISCLOSURE TO PARTICIPATING EMPLOYERS BY ARRANGEMENTS PROVIDING MEDICAL CARE.

"(a) IN GENERAL.—A multiple employer welfare arrangement providing benefits consisting of medical care described in section 607(1) shall issue to each participating employer—

"(1) a document equivalent to the summary plan description required of plans under part 1,

"(2) information describing the contribution rates applicable to participating employers, and

"(3) a statement indicating—

"(A) that the arrangement is not a licensed insurer under the laws of any State,

"(B) whether coverage under the arrangement is fully insured,

"(C) if coverage under the arrangement if not fully insured, (i) whether the arrangement is (or has ceased to be) an certified multiple employer health plan, and (ii) if such an arrangement is an certified multiple employer health plan, that such arrangement is treated as an employee welfare benefit plan under this title.

"(b) TIME FOR DISCLOSURE.—Such information shall be issued to employers within such reasonable period of time before becoming participating employers as may be prescribed in regulations of the Secretary.

"SEC. 707. MAINTENANCE OF RESERVES.

"(a) IN GENERAL.—Each multiple employer welfare arrangement which is or has been an certified multiple employer health plan and under which coverage is not fully insured shall establish and maintain reserves, consisting of—

"(1) a reserve for unearned contributions,

"(2) a reserve for payment of claims reported and not yet paid and claims incurred but not yet reported, and for expected administrative costs with respect to such claims, and

"(3) a reserve, in an amount recommended by the qualified actuary, for any other obligations of the arrangement.

"(b) MINIMUM AMOUNT FOR CERTAIN RESERVES.—The total of the reserves described in subsection (a)(2) shall not be less than an amount equal to 25 percent of expected incurred claims and expenses for the plan year.

"(c) REQUIRED MARGIN.—In determining the amounts of reserves required under this section in connection with any multiple employer welfare arrangement, the qualified actuary shall include a margin for error and other fluctuations taking into account the specific circumstances of such arrangement.

"(d) ADDITIONAL REQUIREMENTS.—The Secretary may provide such additional requirements relating to reserves and excess/stop loss coverage as the Secretary considers appropriate. Such requirements may be provided, by regulation or otherwise, with respect to any arrangement or any class of arrangements.

"(e) ADJUSTMENTS FOR EXCESS/STOP LOSS COVERAGE.—The Secretary may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any arrangement or class of arrangements to take into account excess/stop loss coverage provided with respect to such arrangement or arrangements.

"(f) ALTERNATIVE MEANS OF COMPLIANCE.—The Secretary may permit an arrangement to substitute, for all or part of the reserves required under subsection (a), such security, guarantee, or other financial arrangement as the Secretary determines to be adequate to enable the arrangement to fully meet all its financial obligations on a timely basis.

"SEC. 708. CORRECTIVE ACTIONS.

"(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—A multiple employer welfare arrangement with respect to which there is or has been in effect a certification granted under this part shall continue to meet the requirements of section 707, irrespective of whether such certification continues in effect. The operating committee of such arrangement shall determine semiannually whether the requirements of section 707 are met. In any case in which the committee determines that there is reason to believe that there is or will be a failure to meet such requirements, or the Secretary makes such a determination and so notifies the committee, the committee shall immediately notify the qualified actuary engaged by the arrangement, and such actuary shall, not later than the end of the next following month, make such recommendations to the committee for corrective action as the actuary determines necessary to ensure compliance with section 707. Not later than 10 days after receiving from the actuary recommendations for corrective actions, the committee shall notify the Secretary (in such form and manner as the Secretary may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the committee has taken or plans to take in response to such recommendations. The committee shall thereafter report to the Secretary, in such form and frequency as the Secretary may specify to the committee, regarding corrective action taken by the committee until the requirements of section 707 are met.

"(b) TERMINATION.—

"(1) NOTICE OF TERMINATION.—In any case in which the operating committee of a multiple employer welfare arrangement which is or has been an certified multiple employer health plan determines that there is reason to believe that the arrangement will terminate, the committee shall so inform the Secretary, shall develop a plan for winding up the affairs of the arrangement in connection with such termination in a manner which will result in timely payment of all benefits for which the arrangement is obligated, and shall submit such plan in writing to the Secretary. Actions required under this paragraph shall be taken in such form and manner as may be prescribed in regulations of the Secretary.

"(2) ACTIONS REQUIRED IN CONNECTION WITH TERMINATION.—In any case in which—

"(A) the Secretary has been notified under subsection (a) of a failure of a multiple employer welfare arrangement which is or has been an certified multiple employer health plan to meet the requirements of section 707 and has not been notified by the operating committee of the arrangement that corrective action has restored compliance with such requirements, and

"(B) the Secretary determines that the continuing failure to meet the requirements of section 707 can be reasonably expected to result in a continuing failure to pay benefits for which the arrangement is obligated,

the operating committee of the arrangement shall, at the direction of the Secretary, terminate the arrangement and, in the course of the termination, take such actions as the Secretary may require as necessary to ensure that the affairs of the arrangement will be, to the maximum extent possible, wound up in a manner which will result in timely payment of all benefits for which the arrangement is obligated.

"SEC. 709. EXPIRATION, SUSPENSION, OR REVOCATION OF CERTIFICATION.

"(a) EXPIRATION AND RENEWAL OF CERTIFICATION.—A certification granted to a multiple employer welfare arrangement under this part shall expire 3 years after the date on which the certification is granted. A certification which has expired may be renewed by means of application for a certification in accordance with section 704.

"(b) SUSPENSION OR REVOCATION OF CERTIFICATION BY SECRETARY.—The Secretary may suspend or revoke a certification granted to a multiple employer welfare arrangement under this part—

"(1) for any cause that may serve as the basis for the denial of an initial application for such a certification under section 704, or

"(2) if the Secretary finds that—

"(A) the arrangement, or the sponsor thereof, in the transaction of business while under the certification, has used fraudulent, coercive, or dishonest practices, or has demonstrated incompetence, untrustworthiness, or financial irresponsibility,

"(B) the arrangement, or the sponsor thereof, is using such methods or practices in the conduct of its operations, so as to render its further transaction of operations hazardous or injurious to participating employers, or covered individuals,

"(C) the arrangement, or the sponsor thereof, has refused to be examined in accordance with this part or to produce its accounts, records, and files for examination in accordance with this part, or

"(D) any of the officers of the arrangement, or the sponsor thereof, has refused to give information with respect to the affairs of the arrangement or the sponsor or to perform any other legal obligation relating to such an examination when required by the Secretary in accordance with this part.

Any such suspension or revocation under this subsection shall be effective only upon a final decision of the Secretary made after notice and opportunity for a hearing is provided in accordance with section 710.

"(c) SUSPENSION OR REVOCATION OF CERTIFICATION UNDER COURT PROCEEDINGS.—A certification granted to a multiple employer welfare arrangement under this part may be suspended or revoked by a court of competent jurisdiction in an action by the Secretary brought under paragraph (2), (5), or (6) of section 502(a), except that the suspension or revocation under this subsection shall be effective only upon notification of the Secretary of such suspension or revocation.

"(d) NOTIFICATION OF PARTICIPATING EMPLOYERS.—All participating employers in a multiple employer welfare arrangement shall be notified of the expiration, suspension, or revocation of a certification granted to such arrangement under this part, by such persons and in such form and manner as shall be prescribed in regulations of the Secretary, not later than 20 days after such expiration or after receipt of notice of a final decision requiring such suspension or revocation.

"(e) PUBLICATION OF EXPIRATIONS, SUSPENSIONS, AND REVOCATIONS.—The Secretary shall publish all expirations of, and all final decisions to suspend or revoke, certifications granted under this part.

"SEC. 710. REVIEW OF ACTIONS OF THE SECRETARY.

"(a) IN GENERAL.—Any decision by the Secretary which involves the denial of an application by a multiple employer welfare arrangement for a certification under this part

VOL
140
PT
15
AG
10
—
11
1994
UMI

or the suspension or revocation of such a certification shall contain a statement of the specific reason or reasons supporting the Secretary's action, including reference to the specific terms of the certification and the statutory provision or provisions relevant to the determination.

"(b) DENIALS OF APPLICATIONS.—In the case of the denial of an application for a certification under this part, the Secretary shall send a copy of the decision to the applicant by certified or registered mail at the address specified in the records of the Secretary. Such decision shall constitute the final decision of the Secretary unless the arrangement, or any party that would be prejudiced by the decision, files a written appeal of the denial within 30 days after the mailing of such decision. The Secretary may affirm, modify, or reverse the initial decision. The decision on appeal shall become final upon the mailing of a copy by certified or registered mail to the arrangement or party that filed the appeal.

"(c) SUSPENSIONS OR REVOCATIONS OF CERTIFICATION.—In the case of the suspension or revocation of a certification granted under this part, the Secretary shall send a copy of the decision to the arrangement by certified or registered mail at its address, as specified in the records of the Secretary. Upon the request of the arrangement, or any party that would be prejudiced by the suspension or revocation, filed within 15 days of the mailing of the Secretary's decision, the Secretary shall schedule a hearing on such decision by written notice, sent by certified or registered mail to the arrangement or party requesting such hearing. Such notice shall set forth—

"(1) a specific date and time for the hearing, which shall be within the 10-day period commencing 20 days after the date of the mailing of the notice, and

"(2) a specific place for the hearing, which shall be in the District of Columbia or in the State and county thereof (or parish or other similar political subdivision thereof) in which is located the arrangement's principal place of business.

The decision as affirmed or modified in such hearing shall constitute the final decision of the Secretary, unless such decision is reversed in such hearing."

(b) CONFORMING AMENDMENT TO DEFINITION OF PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 1002(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes the sponsor (as defined in section 701(5)) of a multiple employer welfare arrangement which is or has been a certified multiple employer health plan (as defined in section 701(9)).".

(c) ALTERNATIVE MEANS OF DISTRIBUTION OF SUMMARY PLAN DESCRIPTIONS.—Section 110 of such Act (29 U.S.C. 1030) is amended by adding at the end the following new subsection:

"(c) The Secretary shall prescribe, as an alternative method for distributing summary plan descriptions in order to meet the requirements of section 104(b)(1) in the case of multiple employer welfare arrangements providing benefits consisting of medical care described in section 607(1), a means of distribution of such descriptions by participating employers.".

(d) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 608 the following new items:

"PART 7—MULTIPLE EMPLOYER HEALTH PLANS

"Sec. 701. Definitions.
"Sec. 702. Certified multiple employer health plans relieved of certain restrictions on preemption of State law and treated as employee welfare benefit plans.
"Sec. 703. Certification procedure.
"Sec. 704. Eligibility requirements.
"Sec. 705. Additional requirements applicable to certified multiple employer health plans.
"Sec. 706. Disclosure to participating employers by arrangements providing medical care.
"Sec. 707. Maintenance of reserves.
"Sec. 708. Corrective actions.
"Sec. 709. Expiration, suspension, or revocation of certification.
"Sec. 710. Review of actions of the secretary.".

SEC. 1072. CLARIFICATION OF SCOPE OF PREEMPTION RULES.

(a) IN GENERAL.—Section 514(b)(6)(A)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(6)(A)(ii)) is amended by inserting ", but only, in the case of an arrangement which provides medical care described in section 607(1) and with respect to which a certification under part 7 is not in effect," before "to the extent not inconsistent with the preceding sections of this title".

(b) CROSS-REFERENCE.—Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) For additional rules relating to certification from subparagraph (A)(ii) of multiple employer welfare arrangements providing medical care, see part 7.".

SEC. 1073. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of any such other arrangement," after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "common control";

(2) in clause (iii), by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control", and by striking "and" at the end,

(3) by redesignating clause (iv) as clause (v), and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, at the time the determination under clause (i) is made, the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 95 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement.".

SEC. 1074. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i) under or pursuant to one or more collective bargaining agreements,".

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

"(C) Clause (i) of subparagraph (A) shall apply only if—

"(i) the plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

"(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement, or

"(II) pay a commission or any other type of compensation to a person that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement,

"(ii) not less than 85 percent of the covered individuals under the plan or other arrangement are individuals who—

"(I) are employed within a bargaining unit covered by at least one of the collective bargaining agreements with a participating employer (or are covered on the basis of an individual's employment in such a bargaining unit), or

"(II) are present or former employees of the sponsoring employee organization, of an employer who is or was a party to at least one of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (or are covered on the basis of such present or former employment),

"(iii) the plan or other arrangement does not provide benefits to individuals (other than individuals described in clause (ii)(II)) who work outside the standard metropolitan statistical area in which the sponsoring employee organization represents employees (or to individuals (other than individuals described in clause (ii)(II)) on the basis of such work by others), except that in the case of a sponsoring employee organization that represents employees who work outside of any standard metropolitan statistical area, this clause shall be applied by reference to the State in which the sponsoring organization represents employees,

"(iv) the employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed in regulations of the Secretary—

"(I) that the plan or other arrangement meets the requirements of clauses (i), (ii), and (iii), and

"(II) if, for any year, 10 percent or more of the covered individuals under the plan are individuals not described in subclause (I) or (II) of clause (ii), the total number of covered individuals and the total number of covered individuals not so described.

"(D)(i) Clause (i) of subparagraph (A) shall not apply to a plan or other arrangement that is established or maintained pursuant to one or more collective bargaining agreements which the National Labor Relations Boards determines to have been negotiated or otherwise agreed to in a manner or through conduct which violates section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)).

"(ii)(I) Whenever a State insurance commissioner has reason to believe that this subparagraph is applicable to part or all of a plan or other arrangement, the State insurance commissioner may file a petition with the National Labor Relations Board for a determination under clause (i), along with sworn written testimony supporting the petition.

"(II) The Board shall give any such petition priority over all other petitions and cases, other than other petitions under subclause (I) or cases given priority under section 10 of the National Labor Relations Act (29 U.S.C. 160).

"(III) The Board shall determine, upon the petition and any response, whether, on the facts before it, the plan or other arrangement was negotiated, created, or otherwise agreed to in a manner or through conduct which violates section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)). Such determination shall constitute a final determination for purposes of this subparagraph and shall be binding in all Federal or State actions with respect to the status of the plan or other arrangement under this subparagraph.

"(IV) A person aggrieved by the determination of the Board under subclause (III) may obtain review of the determination in any United States court of appeals in the circuit in which the collective bargaining at issue occurred. Commencement of proceedings under this subclause shall not, unless specifically ordered by the court, operate as a stay of any State administrative or judicial action or proceeding related to the status of the plan or other arrangement, except that in no case may the court stay, before the completion of the review, an order which prohibits the enrollment of new individuals into coverage under a plan or arrangement.".

SEC. 1075. EMPLOYEE LEASING HEALTH CARE ARRANGEMENTS.

(a) EMPLOYEE LEASING HEALTH CARE ARRANGEMENT DEFINED.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(43) EMPLOYEE LEASING HEALTH CARE ARRANGEMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'employee leasing health care arrangement' means any labor leasing arrangement, staff leasing arrangement, extended employee staffing or supply arrangement, or other arrangement under which—

"(i) one business or other entity (hereinafter in this paragraph referred to as the 'lessee'), under a lease or other arrangement entered into with any other business or other entity (hereinafter in this paragraph referred to as the 'lessor'), receives from the lessor the services of individuals to be performed under such lease or other arrangement, and

"(ii) benefits consisting of medical care described in section 607(1) are provided to such individuals or such individuals and their dependents as participants and beneficiaries.

"(B) EXCEPTION.—Such term does not include an arrangement described in subparagraph (A) if, under such arrangement, the lessor retains, both legally and in fact, a complete right of direction and control within the scope of employment over the individuals whose services are supplied under such lease or other arrangement, and such individuals perform a specified function for the lessee which is separate and divisible from the primary business or operations of the lessee.".

(b) TREATMENT OF EMPLOYEE LEASING HEALTH CARE ARRANGEMENTS AS MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) (as amended by the preceding provisions of this title) is further amended by adding at the end the following new subparagraph:

"(E) The term 'multiple employer welfare arrangement' includes any employee leasing health care arrangement.".

(c) SPECIAL RULES FOR EMPLOYEE LEASING HEALTH CARE ARRANGEMENTS.—

(1) IN GENERAL.—Part 7 of subtitle B of title I of such Act (as added by the preceding provisions of this Act) is amended by adding at the end the following new section:

"SEC. 712. SPECIAL RULES FOR EMPLOYEE LEASING HEALTH CARE ARRANGEMENTS.

"(a) IN GENERAL.—The requirements of paragraphs (1), (2), and (3) of section 704(b) shall be treated as satisfied in the case of a multiple employer welfare arrangement that is an employee leasing health care arrangement if the application for certification includes information which the Secretary determines to be complete and accurate and sufficient to demonstrate that the following requirements are met with respect to the arrangement:

"(1) 3-YEAR TENURE.—The lessor has been in operation for not less than 3 years.

"(2) SOLICITATION RESTRICTIONS.—Employee leasing services provided under the arrangement are not solicited, advertised, or marketed through licensed insurance agents or brokers acting in such capacity.

"(3) CREATION OF EMPLOYMENT RELATIONSHIP.—

"(A) DISCLOSURE STATEMENT.—Written notice is provided to each applicant for employment subject to coverage under the arrangement, at the time of application for employment and before commencing coverage under the arrangement, stating that the employer is the lessor under the arrangement.

"(B) INFORMED CONSENT.—Each such applicant signs a written statement consenting to the employment relationship with the lessor.

"(C) INFORMED RECRUITMENT OF LESSEE'S EMPLOYEES.—In any case in which the lessor offers employment to an employee of a lessee under the arrangement, the lessor informs each employee in writing that his or her acceptance of employment with the lessor is voluntary and that refusal of such offer will not be deemed to be resignation from or abandonment of current employment.

"(4) REQUISITE EMPLOYER-EMPLOYEE RELATIONSHIP UNDER ARRANGEMENT.—Under the employer-employee relationship with the employees of the lessor—

"(A) the lessor retains the ultimate authority to hire, terminate, and reassign such employees,

"(B) the lessor is responsible for the payment of wages, payroll-related taxes, and employee benefits, without regard to payment by the lessee to the lessor for its services,

"(C) the lessor maintains the right of direction and control over its employees, except to the extent that the lessee is responsible for supervision of the work performed consistent with the lessee's responsibility for its product or service, and

"(D) in accordance with section 301(a) of the Labor Management Relations Act, 1947 (29 U.S.C. 185(a)), the lessor retains in the absence of an applicable collective bargaining agreement, the right to enter into arbitration and to decide employee grievances, and

"(E) no owner, officer, or director of, or partner in, a lessee is an employee of the lessor, and not more than 10 percent of the individuals covered under the arrangement consist of owners, officers, or directors of, or partners in, such a lessee (or any combination thereof).

"(b) DEFINITIONS.—For purposes of this section—

"(1) LESSOR.—The term 'lessor' means the business or other entity from which services of individuals are obtained under an employee leasing health care arrangement.

"(2) LESSEE.—The term 'lessee' means a business or other entity which receives the services of individuals provided under an employee leasing health care arrangement.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (as amended by the preceding provisions of this title) is further amended by inserting after the item relating to section 710 the following new item:

"Sec. 712. Employee leasing health care arrangements.".

SEC. 1076. ENFORCEMENT PROVISIONS RELATING TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS AND EMPLOYEE LEASING HEALTH CARE ARRANGEMENTS.

(a) ENFORCEMENT OF FILING REQUIREMENTS.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6), by striking "subsection (c)(2) or (i) or (l)" and inserting "paragraph (2) or (4) of subsection (c) or subsection (i) or (l)"; and

(2) by adding at the end of subsection (c) the following new paragraph:

"(4) The Secretary may assess a civil penalty against any person of up to $1,000 a day from the date of such person's failure or refusal to file the information required to be filed with the Secretary under section 101(e).".

(b) ACTIONS BY STATES IN FEDERAL COURT.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(7) by a State official having authority under the law of such State to enforce the laws of such State regulating insurance, to enjoin any act or practice which violates any provision of part 7 which such State has the power to enforce under part 7.".

(c) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of such Act (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "SEC. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who, either willfully or with willful blindness, falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, an arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being an certified multiple employer welfare arrangement (as defined in section 701(9)),

"(2) being an employee leasing health care arrangement under a certification granted under part 7, or

"(3) having been established or maintained under or pursuant to a collective bargaining agreement,

shall, upon conviction, be imprisoned not more than five years, be fined under title 18, United States Code, or both.".

(d) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(m)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of a multiple

VOL 140 PT 15 AG 10 — 11 1994 UMI

employer welfare arrangement providing benefits consisting of medical care described in section 607(1) that—

"(A) is not licensed, registered, or otherwise approved under the insurance laws of the States in which the arrangement offers or provides benefits, or

"(B) is not operating in accordance with the terms of a certification granted by the Secretary under part 7,

a district court of the United States shall enter an order requiring that the arrangement cease activities.

"(2) Paragraph (1) shall not apply in the case of a multiple employer welfare arrangement if the arrangement shows that—

"(A) coverage under it is fully insured, within the meaning of section 701(8),

"(B) it is licensed, registered, or otherwise approved in each State in which it offers or provides benefits, except to the extent that such State does not require licensing, registration, or approval of multiple employer welfare arrangements under which all coverage is fully insured, and

"(C) with respect to each such State, it is operating in accordance with applicable State insurance laws that are not superseded under section 514.

"(3) The court may grant such additional equitable or remedial relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the arrangement.".

(e) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by adding at the end (after and below paragraph (2)) the following new sentence: "The terms of each multiple employer welfare arrangement to which this section applies and which provides benefits consisting of medical care described in section 607(1) shall require the operating committee or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the arrangement.".

SEC. 1077. FILING REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING HEALTH BENEFITS.

Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) Each multiple employer welfare arrangement shall file with the Secretary a registration statement described in paragraph (2) within 60 days before commencing operations (in the case of an arrangement commencing operations on or after January 1, 1995) and no later than February 15 of each year (in the case of an arrangement in operation since the beginning of such year), unless, as of the date by which such filing otherwise must be made, such arrangement provides no benefits consisting of medical care described in section 607(1).

"(2) Each registration statement—

"(A) shall be filed in such form, and contain such information concerning the multiple employer welfare arrangement and any persons involved in its operation (including whether coverage under the arrangement is fully insured), as shall be provided in regulations which shall be prescribed by the Secretary, and

"(B) if coverage under the arrangement is not fully insured, shall contain a certification that copies of such registration statement have been transmitted by certified mail to—

"(i) in the case of an arrangement which is an certified multiple employer health plan (as defined in section 701(9)), the State insurance commissioner of the domicile State of such arrangement, or

"(ii) in the case of an arrangement which is not an certified multiple employer health plan, the State insurance commissioner of each State in which the arrangement is located.

"(3) The person or persons responsible for filing the annual registration statement are—

"(A) the trustee or trustees so designated by the terms of the instrument under which the multiple employer welfare arrangement is established or maintained, or

"(B) in the case of a multiple employer welfare arrangement for which the trustee or trustees cannot be identified, or upon the failure of the trustee or trustees of an arrangement to file, the person or persons actually responsible for the acquisition, disposition, control, or management of the cash or property of the arrangement, irrespective of whether such acquisition, disposition, control, or management is exercised directly by such person or persons or through an agent designated by such person or persons.

"(4) Any agreement entered into under section 506(c) with a State as the primary domicile State with respect to any multiple employer welfare arrangement shall provide for simultaneous filings of reports required under this subsection with the Secretary and with the State insurance commissioner of such State.".

SEC. 1078. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) RESPONSIBILITY WITH RESPECT TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—

"(1) STATE ENFORCEMENT.—

"(A) AGREEMENTS WITH STATES.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority under sections 502 and 504 to enforce the provisions of this title applicable to multiple employer welfare arrangements which are or have been certified multiple employer health plans (as defined in section 701(9)). The Secretary shall enter into the agreement if the Secretary determines that the delegation provided for therein would not result in a lower level or quality of enforcement of the provisions of this title.

"(B) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

"(C) CONCURRENT AUTHORITY OF THE SECRETARY.—If the Secretary delegates authority to a State in an agreement entered into under subparagraph (A), the Secretary may continue to exercise such authority concurrently with the State.

"(D) RECOGNITION OF PRIMARY DOMICILE STATE.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular multiple employer welfare arrangement, as the primary domicile State to which authority has been delegated pursuant to such agreements.

"(2) ASSISTANCE TO STATES.—The Secretary shall—

"(A) provide enforcement assistance to the States with respect to multiple employer welfare arrangements, including, but not limited to, coordinating Federal and State efforts through the establishment of cooperative agreements with appropriate State agencies under which the Pension and Welfare Benefits Administration keeps the States informed of the status of its cases and makes available to the States information obtained by it,

"(B) provide continuing technical assistance to the States with respect to issues involving multiple employer welfare arrangements and this Act,

"(C) assist the States in obtaining from the Office of Regulations and Interpretations timely and complete responses to requests for advisory opinions on issues described in subparagraph (B), and

"(D) distribute copies of all advisory opinions described in subparagraph (C) to the State insurance commissioner of each State.".

SEC. 1079. EFFECTIVE DATE; TRANSITIONAL RULES.

(a) EFFECTIVE DATE.—The amendments made by this part shall take effect January 1, 1996, except that the Secretary of Labor may issue regulations before such date under such amendments. The Secretary shall issue all regulations necessary to carry out the amendments made by this title before the effective date thereof.

(b) TRANSITIONAL RULES.—If the sponsor of a multiple employer welfare arrangement which, as of January 1, 1996, provides benefits consisting of medical care described in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)) files with the Secretary of Labor an application for a certification under part 7 of subtitle B of title I of such Act within 180 days after such date and the Secretary has not, as of 90 days after receipt of such application, found such application to be materially deficient, section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) shall not apply with respect to such arrangement during the 18-month period following such date. If the Secretary determines, at any time after the date of enactment of this Act, that any such exclusion from coverage under the provisions of such section 514(b)(6)(A) of such Act of a multiple employer welfare arrangement would be detrimental to the interests of individuals covered under such arrangement, such exclusion shall cease as of the date of the determination. Any determination made by the Secretary under this subsection shall be in the Secretary's sole discretion.

PART 7—SIMPLIFYING FILING OF REPORTS FOR EMPLOYERS COVERED UNDER MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING FULLY INSURED COVERAGE CONSISTING OF MEDICAL CARE

SEC. 1081. SINGLE ANNUAL FILING FOR ALL PARTICIPATING EMPLOYERS.

(a) IN GENERAL.—Section 110 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1030), as amended by section 5021(c) of this subtitle, is amended by adding at the end the following new subsection:

"(d) The Secretary shall prescribe by regulation or otherwise an alternative method providing for the filing of a single annual report (as referred to in section 104(a)(1)(A)) with respect to all employers who are participating employers under a multiple employer welfare arrangement under which all coverage consists of medical care (described in section 607(1)) and is fully insured (as defined in section 701(9)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The Secretary of Labor shall prescribe the alternative method referred to in section 110(d) of the Employee Retirement Income Security Act of 1974, as added by such amendment, within 90 days after the date of the enactment of this Act.

Subtitle B—Benefits

SEC. 1101. QUALIFIED HEALTH COVERAGE.

In this Act, the term "qualified health coverage" means health coverage that—

(1) provides—

(A) at least standard coverage consistent with section 1102, or

(B) at least high-deductible coverage consistent with section 1103; and

(2) meets other requirements of subtitle A applicable to the coverage and the carrier or group health plan providing the coverage.

SEC. 1102. STANDARD COVERAGE.

(a) IN GENERAL.—Health insurance coverage is considered to provide standard coverage consistent with this subsection if—

(1) benefits under such coverage are provided within at least each of the required categories of benefits described in paragraph (1) of subsection (b) and consistent with such subsection;

(2) the actuarial value of the benefits meets the requirements of subsection (c),

(3) the benefits comply with the minimum requirements specified in subsection (d), and

(4) the benefits do not violate the anti-discrimination rules described in section 1105.

(b) REQUIRED CATEGORIES OF COVERED BENEFITS.—

(1) IN GENERAL.—The categories of covered benefits described in this paragraph are the types of benefits specified in subparagraphs (A), (B), (C), (D), and (F) of paragraph (1), and subparagraphs (E) and (F) of paragraph (2), of section 8904(a) of title 5, United States Code (relating to types of benefits required to be in health insurance offered to Federal employees).

(2) COVERAGE OF TREATMENTS IN APPROVED RESEARCH TRIALS.—

(A) IN GENERAL.—Coverage of the routine medical costs (as defined in subparagraph (B)) associated with the delivery of treatments shall be considered to be medically appropriate only if the treatment is part of an approved research trial (as defined in subparagraph (C)).

(B) ROUTINE MEDICAL COSTS DEFINED.—In subparagraph (A), the term "routine medical costs" means the cost of health services required to provide treatment according to the design of the trial, except those costs normally paid for by other funding sources (as defined by the Secretary). Such costs do not include the cost of the investigational agent, devices or procedures themselves, the costs of any nonhealth services that might be required for a person to receive the treatment, or the costs of managing the research.

(C) APPROVED RESEARCH TRIAL DEFINED.—In subparagraph (A), the term "approved research trial" means a trial—

(i) conducted for the primary purpose of determining the safety, effectiveness, efficacy, or health outcomes of a treatment, compared with the best available alternative treatment, and

(ii) approved by the Secretary.

A trial is deemed to be approved under clause (ii) if it is approved by the National Institutes of Health, the Food and Drug Administration (through an investigational new drug exemption), the Department of Veterans Affairs, or by a qualified nongovernmental research entity (as identified in guidelines issued by one or more of the National Institutes of Health).

(3) COVERAGE OF OFF-LABEL USE.—An off-label use for a drug that has been found to be safe and effective under section 505 of the Federal Food, Drug, and Cosmetic Act shall be covered if the medical indication for which it is used is listed in one of the following 3 compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, and the United States Pharmacopeia-Drug Information.

(c) STANDARD ACTUARIAL VALUE.—

(1) IN GENERAL.—The actuarial value of the benefits under standard coverage in a fair rating area (as identified under section 1021(c)) meets the requirements of this subsection if such value is equivalent to the standard actuarial value described in paragraph (2) for the area, as adjusted for inflation under paragraph (4). The actuarial value of benefits under standard coverage shall be determined using the standardized population and set of standardized utilization and cost factors described in paragraph (3).

(2) STANDARD ACTUARIAL VALUE DESCRIBED.—The standard actuarial value described in this paragraph for coverage in a geographic area is the actuarial value of benchmark coverage during 1994 in such area. Such actuarial value shall be determined using the standardized population and set of standardized utilization and cost factors described in paragraph (3).

(3) ADJUSTMENTS FOR STANDARDIZED POPULATION, STANDARDIZED UTILIZATION AND COST FACTORS, AND GEOGRAPHIC AREA.—The adjustment under this paragraph—

(A) for a standardized population shall be made by not taking into account individuals 65 years of age or older, employees of the United States Postal Service, and retirees; and

(B)(i) except as provided in clause (ii), for a geographic area shall be made in a manner that reflects the ratio of the actuarial value of benchmark coverage in such geographic area (as adjusted under subparagraph (A)) to such actuarial value for such benchmark coverage for the United States as a whole, taking into account standardized actuarial utilization and cost factors, and

(ii) in the case of a group health plan operating in more than one geographic area, the ratio described in clause (i) shall be determined in accordance with regulations promulgated by the Secretary.

At the election of a group health plan under subparagraph (B)(ii), the ratio under such subparagraph shall be 1.

(4) ADJUSTMENT FOR INFLATION.—

(A) IN GENERAL.—The adjustment under this paragraph for a year (beginning with 1995) is the FEHBP national rolling increase percentage for the year involved, compounded by such increase for each preceding year after 1994.

(B) FEHBP NATIONAL ROLLING INCREASE PERCENTAGE.—For purposes of this paragraph, the term "FEHBP national rolling increase percentage" means, for a year, the 5-year average of the annual national percentage increase in the premiums for health plans offered under the Federal Employees Health Benefits Program (under chapter 89 of title 5, United States Code) for the period ending with the previous year. Such increase shall be determined by the Secretary in consultation with the Director of Office of Personnel Management based on the best information available.

(d) MINIMUM REQUIREMENTS WITHIN A CATEGORY.—Benefits offered in the standard plan within any category shall be not less than the narrowest scope and shortest duration of benefits so offered within that category, in an approved health benefits plan under chapter 89 of title 5, United States Code (relating to Federal Employees Health Benefits Program).

(e) NO COVERAGE OF SPECIFIC TREATMENT, PROCEDURES, OR CLASSES REQUIRED.—Nothing in this section (or section 1103) may be construed to require the coverage of any specific procedure or treatment or class of service in health coverage under this Act or through regulation.

(f) CONSTRUCTION.—Nothing in this section (or section 1103) shall be construed as requiring coverage to include benefits for items and services that are not medically necessary or appropriate.

SEC. 1103. HIGH-DEDUCTIBLE COVERAGE.

Health insurance coverage is considered to provide high-deductible coverage consistent with this section if—

(1) benefits under such coverage comply with requirements described in section 1102(b) and 1102(d);

(2) the deductible amount is the amount established under section 1104(b)(1);

(3) benefits under the coverage in any year are covered only to the extent expenses incurred for items and services included in the coverage for the year exceed the deductible amount specified in paragraph (2);

(4) the actuarial value of the coverage (as determined under rules consistent with section 1102(c)) is equivalent to 80 percent of the actuarial value established under such section for standard coverage; and

(5) the benefits do not violate the anti-discrimination rules described in section 1105.

SEC. 1104. ACTUARIAL VALUATION OF BENEFITS.

(a) IN GENERAL.—The Secretary, in consultation with the National Association of Insurance Commissioners and the American Academy of Actuaries, shall establish (and may from time to time modify) procedures by which health insurance benefits are valued for purposes of this subtitle.

(b) DEDUCTIBLE; MODEL BENEFIT PACKAGES.—The Secretary, in consultation with the National Association of Insurance Commissioners and the American Academy of Actuaries, shall establish—

(1) the deductible amount for high-deductible coverage for the purposes of section 1103(2) such that the actuarial value of high-deductible coverage described in section 1103 is 20 percent less than the actuarial value of standard coverage described in section 1102; and

(2) model benefit packages that may be treated, for purposes of this title, as meeting the requirements for standard or high-deductible coverage under sections 1102 and 1103, respectively, and which shall include model cost sharing arrangements for fee-for-service options, managed care options, and point-of-service options.

SEC. 1105. ANTI-DISCRIMINATION RULE.

A carrier and a group health plan providing health coverage may not establish a limitation on benefits covered in a manner that has the effect of differentiating with respect to different serious illnesses or conditions or limiting the duration of or reimbursement for such an illness or condition.

SEC. 1106. FAMILY COVERAGE OPTION; SUPPLEMENTAL COVERAGE.

(a) FAMILY COVERAGE OPTION.—Each carrier and group health plan that offers health

VOL 140 PT 15 AG 10 — 11 1994 UMI

insurance coverage shall provide for an option under which children under 26 years of age (without regard to whether they are full-time students or disabled) will be treated (with respect to family coverage) as family members. The carrier or plan may impose an additional premium for such option.

(b) CONSTRUCTION.—Nothing in this title shall be construed as limiting the benefits that may be offered as part of a group health plan or health insurance coverage.

SEC. 1107. LEVEL PLAYING FIELD FOR PROVIDERS.

(a) IN GENERAL.—Nothing in this subtitle may be construed to require or prohibit the use of a particular class of provider, among the providers that are legally authorized to provide such treatment.

(b) COVERAGE OF CERTAIN OTHER PROVIDERS.—

(1) IN GENERAL.—For purposes of this subtitle, benefits under standard coverage shall include the following:

(A) Coverage provided at an individual's home by a Christian Science practitioner or Christian Science nurse.

(B) Coverage provided in a Christian Science Sanitorium (as defined in section 1861(y) of the Social Security Act), including coverage provided by a Christian Science practitioner.

(2) QUALIFICATIONS OF PROVIDERS.—A Christian Science practitioner or Christian Science nurse is qualified for purposes of paragraph (1) if the practitioner or nurse is listed as such a practitioner or nurse by the First Church of Christ, Scientist, in Boston, Massachusetts.

Subtitle C—Employer Responsibilities

SEC. 1201. REQUIRING EMPLOYERS TO OFFER OPTION OF COVERAGE.

(a) IN GENERAL.—Subject to subsections (c) and (d), each employer shall make available with respect to each qualifying employee health coverage under a group health plan (whether fully-insured or self-insured) which meets the following requirements (and the applicable requirements of subtitle A):

(1) ANNUAL OFFERING.—The employee may elect health coverage for the employee and family members on an annual basis for each plan year and at such other times as may be specified by the Secretary of Labor, in a manner consistent with the standards established to carry out section 1105.

(2) CHOICE OF COVERAGE.—

(A) IN GENERAL.—Subject to subsection (c), such coverage is provided for at least—

(i) a competing choice of qualified standard coverage (consistent with section 1102), including at least one option (either a fee-for-service option or a point-of-service option) that permits covered individuals an unrestricted choice of the lawful providers for which benefits are made available; and

(ii) high-deductible coverage (consistent with section 1103).

(B) COVERAGE FLOOR.—Any such coverage (other than coverage for supplemental benefits) shall include benefits the actuarial value of which is not less than the actuarial value of high-deductible coverage if such coverage is consistent with the requirements specified in paragraph (1), (3), and (4) of section 1102(a).

(C) DISCLOSURE FOR CERTAIN COVERAGE.—If an employer offers coverage the actuarial value of which is more than the actuarial value for high-deductible coverage but less than such value for standard coverage, the employer must disclose to the employees detailed information on how the coverage offered compares to the standard and high-deductible coverage offered by the employer.

(D) USE OF STANDARDIZED FACTORS.—For purposes of this paragraph, actuarial value of coverage shall be determined using the standardized population and standardized utilization and cost factors described in section 1102(c)(4).

(E) FAMILY COVERAGE OPTION.—The offer of coverage under this section with respect to a qualifying employee shall include the option of coverage of family members of the employee.

(3) PAYROLL WITHHOLDING.—The employee electing such coverage may elect to have any premiums owed by the employee collected through payroll deduction.

(4) NONDISCRIMINATION IN CONTRIBUTIONS BASED ON PRICE OF COVERAGE SELECTED.—

(A) IN GENERAL.—The employer may not vary the amount of any employer contribution, within a class of family coverage, with respect to such coverage, on the basis of the total premium price of the coverage selected.

(B) SPECIAL RULES.—In applying subparagraph (A)—

(i) the "total premium price" shall include, in the case of high-deductible coverage, amounts paid by an employer into a medical savings account (established under section 7705 of the Internal Revenue Code of 1986); and

(ii) if the employee selects health coverage the premium for which is less than the amount of the employer contribution, the employer shall pay the amount of such difference to the employee (or, at the employee's option in the case of an employee who has high-deductible coverage, to such a medical savings account).

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring the amount of contributions to be the same for employees in different geographic areas or classes of family coverage.

(b) NO EMPLOYER MANDATE.—Subject to subsection (a)(4) (relating to equal contribution rule), an employer is not required under this section to make any contribution to the cost of health coverage.

(c) GRANDFATHER FOR EXISTING CONTRACTS.—

(1) IN GENERAL.—The requirement of subsection (a)(2) shall not apply to a group health plan for a plan year if—

(A) the group health plan is in effect in the plan year in which July 1, 1994, occurs, and

(B) the employer makes (or offers to make), in such plan year and the plan year involved, a contribution to the plan on behalf of each employee who is eligible to participate in the plan.

(2) SUNSET.—Paragraph (1) shall only apply to a group health plan until the expiration of a contract in effect on the date of the enactment of this Act or, if earlier, January 1, 2000.

(d) SPECIAL RULES.—

(1) EMPLOYERS CONTRACTING WITH VOLUNTARY PURCHASING ARRANGEMENTS, ETC.—An employer is deemed to have satisfied the requirements of subsection (a) with respect to an employee if the employer enters into a contract with a health plan purchasing organization (established under subtitle A of title V), a small employer pooling arrangement (described in section 5011), a multiemployer plan providing health benefits, or a certified multiple employer health plan (as defined in section 701(9) of the Employee Retirement Income Security Act of 1974) to offer coverage with respect to the employee.

(2) EXCLUSION OF NEW EMPLOYERS AND CERTAIN SMALL EMPLOYERS.—Subsection (a) shall not apply to any small employer for any plan year if, as of the beginning of such plan year—

(A) such employer (including any predecessor thereof) has been an employer for less than 1 year,

(B) such employer has no more than 2 qualifying employees, or

(C) no more than 2 qualifying employees of the employer are not covered under any group health plan.

(3) EXCLUSION OF FAMILY MEMBERS.—Under such procedures as the Secretary may prescribe, any relative of an employer may be, at the election of the employer, excluded from consideration as an qualifying employee for purposes of applying the requirements of subsection (a). In the case of an employer that is not an individual, an employee who is a relative of a key employee (as defined in section 416(i)(1) of the Internal Revenue Code of 1986) of the employer may, at the election of the key employee, be considered a relative excludable under this paragraph.

(e) CONSTRUCTION ON RANGE OF COVERAGE OFFERINGS.—Nothing in this section shall be construed—

(1) as limiting the number of standard and high-deductible coverage options that an employer may offer to an employee,

(2) as preventing employers from offering supplemental benefits (as defined in section 1101(f)), or

(3) as preventing an employer from providing for contributions to a medical savings account in connection with the offering of high-deductible coverage, subject to subsection (a)(4) and the requirements of section 7705 of the Internal Revenue Code of 1986.

SEC. 1202. NONDISCRIMINATION UNDER GROUP HEALTH PLANS.

(a) APPLICATION OF RULES SIMILAR TO MEDICARE NONDISCRIMINATION RULES.—Subject to paragraph (2), the provisions of paragraphs (1)(A), (1)(D), (1)(E), (3)(A), and (3)(C) of section 1862(b) of the Social Security Act shall apply to an individual eligible for low-income assistance under subtitle A of title II in relation to an employer in the same manner as such provisions apply to an individual age 65 or over who is entitled to benefits under title XVIII of such Act under section 226(a) of such Act in relation to such employer.

(b) RULES OF APPLICATION.—In applying subsection (a)—

(1) in applying clauses (ii) and (iii) of section 1862(b)(1)(A) of the Social Security Act, any reference to "20 or more employees" is deemed a reference to "5 or more employees";

(2) clause (iv) of section 1862(b)(1)(A) of such Act shall not apply; and

(3) any reference to title XVIII of such Act is deemed a reference to assistance under title XXI of such Act (as added by subtitle A of title II of this Act).

(c) ENFORCEMENT.—

(1) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on qualified pension, etc. plans) is amended by inserting after section 5000 the following new section:

"SEC. 5000A. EMPLOYER REQUIREMENTS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any employer to comply with the requirements of section 1201 and section 1202 of the Bipartisan Health Care Reform Act of 1994.

"(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be equal to $100 for each day for each individual for which such a failure occurs.

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the 1st date any of the individuals on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.".

(2) CLERICAL AMENDMENT.—The table of sections for such chapter 47 is amended by adding at the end the following new item:

"Sec. 5000A. Employer requirements.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1997.

SEC. 1203. EFFECTIVE DATES.

Except as otherwise provided, the requirements of sections 1201 and 1202 shall apply to plan years beginning after December 31, 1996.

Subtitle D—Definitions; General Provisions

SEC. 1901. GENERAL DEFINITIONS.

For purposes of this Act:

(1) APPLICABLE REGULATORY AUTHORITY.—The term "applicable regulatory authority" means, with respect to a carrier operating in a State—

(A) the State insurance commissioner, or

(B) the Secretary, in the case described in section 1052(b).

(2) FAMILY MEMBER.—

(A) IN GENERAL.—Individuals are considered to be members of a family if—

(i) they are married, or

(ii) they have a legal parent-to-child relationship (whether by natural birth or adoption), if the child is—

(I) under 19 years of age,

(II) is under 25 years of age and a full-time student, or

(III) an unmarried dependent regardless of age who is incapable of self-support because of mental or physical disability which existed before age 22.

(B) SPECIAL RULES.—Family members—

(i) include an adopted child and a recognized natural child;

(ii) include a stepchild or foster child with respect to an individual but only if the child lives with the individual in a regular parent-child relationship; and

(iii) include such other children as the Secretary may specify, but shall not include an emancipated minor.

(3) PRISONER.—The term "prisoner" means, as specified by the Secretary, an individual during a period of imprisonment under Federal, State, or local authority after conviction as an adult.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(5) STATE.—The term "State" means the 50 States and the District of Columbia

SEC. 1902. DEFINITIONS RELATING TO EMPLOYMENT.

(a) APPLICATION OF ERISA DEFINITIONS.—Except as otherwise provided in this Act, terms used in this Act shall have the meanings applicable to such terms under section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(b) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) COUNTABLE EMPLOYEE.—The term "countable employee" means, with respect to an employer for a month, any employee other than an employee whose normal work week is less than 10 hours.

(2) LARGE EMPLOYER.—The term "large employer" means an employer that is not a small employer (as defined in paragraph (4)).

(3) QUALIFYING EMPLOYEE.—

(A) IN GENERAL.—The term "qualifying employee" means, with respect to an employer for a month, any employee other than—

(i) a part-time, seasonal, or temporary employee (as defined in subparagraph (B)); or

(ii) an employee who is a child described in section 1901(2)(A)(ii).

(B) PART-TIME, SEASONAL, OR TEMPORARY EMPLOYEE DEFINED.—For purposes of subparagraph (A), the term "part-time, seasonal, or temporary employee" means any of the following employees with respect to a month:

(i) CERTAIN PART-TIME EMPLOYEES.—Any employee whose normal work week is reasonably expected as of the 1st day of such month to be less than 20 hours.

(ii) SEASONAL OR TEMPORARY EMPLOYEES.—Any employee who is not reasonably expected as of the 1st day of such month to be employed by the employer for a period of 120 consecutive days during any 365-day period that includes such 1st day.

(iii) DELAY FOR CERTAIN PART-TIME EMPLOYEES.—Any employee whose normal work week is reasonably expected as of the 1st day of such month to be at least 20 hours, but less than 35 hours, and the normal work week of the employee during the preceding 3 months was less than 20 hours.

(4) SMALL EMPLOYER.—The term "small employer" means, with respect to a calendar year, an employer that normally employs more than 1 but less than 100 countable employees on a typical business day. For the purposes of this paragraph, the term "employee" includes a self-employed individual. For purposes of determining if an employer is a small employer, rules similar to the rules of subsection (b) and (c) of section 414 of the Internal Revenue Code of 1986 shall apply.

SEC. 1903. DEFINITIONS RELATING TO HEALTH COVERAGE, PLANS, AND CARRIERS.

Except as otherwise provided, for purposes of this Act:

(1) BENCHMARK COVERAGE.—The term "benchmark coverage" means the standard option of the Blue Cross-Blue Shield plan offered under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code, as in effect during 1994.

(2) CARRIER.—The term "carrier" means a licensed insurance company, an entity offering prepaid hospital or medical services, and a health maintenance organization offering such services to an employer, and includes a similar organization regulated under State law for solvency.

(3) CERTIFIED MULTIPLE EMPLOYER HEALTH PLAN.—The term "certified multiple employer health plan" means a multiple employer welfare arrangement treated as an employee welfare benefit plan by reason of an certification under part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by part 6 of this subtitle).

(4) CLASS OF FAMILY COVERAGE.—The term "class of family coverage" means the 4 classes described in section 1021(a)(3).

(5) GROUP HEALTH PLAN.—The term "group health plan" means an employee welfare benefit plan providing medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) to participants or beneficiaries directly or through insurance, reimbursement, or otherwise, but does not include any type of coverage excluded from the definition of a health insurance coverage under paragraph (7)(B).

(6) HEALTH COVERAGE.—The term "health coverage" means health insurance coverage provided by a carrier or medical care provided under a group health plan.

(7) HEALTH INSURANCE COVERAGE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "health insurance coverage" means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by a carrier.

(B) EXCEPTION.—Such term does not include any of the following (or any combination of the following):

(i) Coverage only for accident, dental, vision, disability income, or long-term care insurance, or any combination thereof.

(ii) Medicare supplemental health insurance.

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers' compensation or similar insurance.

(vi) Automobile medical-payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) A hospital or fixed indemnity policy.

(ix) Coverage provided exclusively to individuals who are not eligible individuals.

(8) HEALTH MAINTENANCE ORGANIZATION.—The term "health maintenance organization" includes, as defined in standards established under section 1103, a an organization that provides health insurance coverage which meets specified standards and under which health services are offered to be provided on a prepaid, at-risk basis primarily through a defined set of providers.

(9) HEALTH PLAN PURCHASING ORGANIZATION.—The term "health plan purchasing organization" means an organization established under subtitle A of title V.

(10) INDIVIDUAL MARKET.—The term "individual market" means the insurance market offered to individuals seeking health insurance coverage for standard coverage or high-deductible coverage on behalf of themselves (and their dependents) and not seeking coverage on the basis of employment, membership in a organization, or through any group purchasing arrangement.

(11) MANAGED CARE ARRANGEMENTS.—

(A) MANAGED CARE ARRANGEMENT.—The term "managed care arrangement" means, with respect to an arrangement under a group health plan or under health insurance coverage, providers who have entered into an agreement under the arrangement under which such providers are obligated to provide items and services covered under the arrangement to individuals covered under the plan or who have such coverage.

(B) PROVIDER NETWORK.—The term "provider network" means, with respect to a group health plan or health insurance coverage, providers who have entered into an agreement described in subparagraph (A) under a managed care arrangement.

(12) MULTIPLE EMPLOYER WELFARE ARRANGEMENT.—The term "multiple employer welfare arrangement" shall have the meaning applicable under section 3(40) of the Employee Retirement Income Security Act of 1974.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(13) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(14) OPTIONS.—

(A) FEE-FOR-SERVICE OPTION.—Standard coverage is considered to provide a "fee-for-service option" if benefits with respect to the covered items and services in the coverage are made available for such items and services provided through any lawful provider of such covered items and services.

(B) MANAGED CARE OPTION.—Standard coverage is considered to provide a "managed care option" if benefits with respect to the covered items and services in the coverage are made available exclusively through a managed care arrangement, except in the case of emergency services and as otherwise required under law.

(C) POINT-OF-SERVICE OPTION.—Standard coverage is considered to provide a "point-of-service option" if the benefits with respect to covered items and services in the coverage are made available principally through a managed care arrangement, with the choice of the enrollee to obtain such benefits for items and services provided through any lawful provider of such covered items and services. The coverage may provide for different cost sharing schedules based on whether the items and services are provided through such an arrangement or outside such an arrangement.

(15) QUALIFIED HEALTH COVERAGE.—The term "qualified health coverage" has the meaning given such term in section 1101.

(16) SMALL GROUP MARKET.—The term "small group market" means the insurance market offered to small employers seeking health insurance coverage on behalf of their employees and their dependents).

(17) STANDARD COVERAGE.—The term "standard coverage" means coverage provided consistent with section 1102.

(18) STATE COMMISSIONER OF INSURANCE.—The term "State commissioner of insurance" includes a State superintendent of insurance.

SEC. 1904. DEFINITIONS RELATING TO RESIDENCE AND IMMIGRATION STATUS.

Except as otherwise provided, for purposes of this Act:

(1) ALIEN PERMANENTLY RESIDING IN THE UNITED STATES UNDER COLOR OF LAW.—The term "alien permanently residing in the United States under color of law" means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act), and includes any of the following (such status not having changed):

(A) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is withheld under section 243(h) of such Act.

(D) An alien whose deportation is suspended pursuant to section 244 of such Act.

(E) An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect before April 1, 1980.

(F) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

(E) An alien who is within a class of aliens lawfully present in the United States pursuant to any other provision of such Act, if (i) the Attorney General determines that the continued presence of such class of aliens serves a humanitarian or other compelling public interest, and (ii) the Secretary determines that such interest would be further served by treating each such alien within such class as an "legal permanent resident" for purposes of this Act or who has been granted extended voluntary departure as a member of a nationality group.

(F) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent residence is pending.

(G) An alien within such other classification of permanent resident aliens as the Secretary may establish by regulation.

(2) LONG-TERM NONIMMIGRANT.—The term "long-term nonimmigrant" means a nonimmigrant described in subparagraph (E), (H), (I), (K), (L), (N), (O), (Q), or (R) of section 101(a)(15) of the Immigration and Nationality Act.

(3) QUALIFYING INDIVIDUAL.—The term "qualifying individual" means, an individual who is a resident of the United States, who is not a prisoner, and is—

(A) a citizen or national of the United States;

(B) an alien permanently residing in the United States under color of law (as defined in paragraph (1)); or

(C) a long-term nonimmigrant (as defined in paragraph (2)).

SEC. 1905. EFFECTIVE DATES.

The requirements of this title shall apply with respect to—

(1) group health plans for plan years beginning on or after January 1, 1997, and

(2) carriers (with respect to coverage other than under a group health plan) as of January 1, 1997.

TITLE II—REMOVAL OF FINANCIAL BARRIERS TO ACCESS

TABLE OF CONTENTS OF TITLE

TITLE II—REMOVAL OF FINANCIAL BARRIERS TO ACCESS

Subtitle A—Tax Deductibility for Individuals and Self-Employed

Sec. 2101. Deduction for health insurance costs of self-employed individuals increased and made permanent.

Sec. 2102. Deduction for health insurance costs of individuals who are not self-employed.

Subtitle B—Low Income Subsidies and Medicaid Reform

Sec. 2100. Description of transition from current medicaid system to new acute care low-income assistance program.

PART 1—PREMIUM SUBSIDY AND SUPPLEMENTAL BENEFIT PROGRAMS FOR LOW-INCOME INDIVIDUALS

Sec. 2101. State premium subsidy programs.

"TITLE XXI—STATE PREMIUM AND COST-SHARING SUBSIDY PROGRAMS FOR LOW-INCOME INDIVIDUALS; STATE SUPPLEMENTAL BENEFITS PROGRAMS; FINANCING FAILSAFE MECHANISM

"PART A—STATE PREMIUM AND COST-SHARING SUBSIDY PROGRAMS

"Sec. 2101. Establishment of State programs.

"Sec. 2102. Eligibility.

"Sec. 2103. Premium and cost-sharing assistance.

"Sec. 2104. Eligibility determinations.

"Sec. 2105. End-of-year reconciliation for premium assistance.

"Sec. 2106. Payments to States.

"Sec. 2107. Health care assurance trust fund.

"Sec. 2108. Requirement of State maintenance-of-effort payments.

"Sec. 2109. Definitions and determinations of income.

"PART B—STATE SUPPLEMENTAL BENEFITS PROGRAMS

"Sec. 2131. Establishment of State supplemental benefits programs.

"Sec. 2132. Eligibility.

"Sec. 2133. Scope and provision of benefits; benefits administration.

"Sec. 2134. Payments to States.

"Sec. 2135. Limitation on payments to States.

"Sec. 2136. State maintenance of effort requirement.

"PART C—FINANCING FAILSAFE MECHANISM

"Sec. 2151. Financing failsafe mechanism.

PART 2—IMMEDIATE MEDICAID REFORMS

Sec. 2111. Modification of Federal requirements to allow States more flexibility in contracting for coordinated care services under medicaid.

Sec. 2112. Continuation of State medicaid eligibility categories.

PART 3—INTEGRATION OF AFDC AND NON-CASH MEDICAID BENEFICIARIES INTO STATE PREMIUM SUBSIDY PROGRAM

Sec. 2121. Division of medicaid benefits into 2 groups; requirement for integration of AFDC recipients and non-cash medicaid beneficiaries into State premium subsidy programs.

Sec. 2122. 25 percent reduction in amount of payment adjustments for disproportionate share hospitals.

Subtitle C—Report and Recommendations on Health Coverage and Access

Sec. 2201. Objective of full access and coverage.

Sec. 2202. Report and recommendations on achievement of objective for health coverage and access.

Subtitle A—Tax Deductibility for Individuals and Self-Employed

SEC. 2101. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED AND MADE PERMANENT.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "25 percent" and inserting "the applicable percentage".

(b) DEDUCTION MADE PERMANENT; APPLICABLE PERCENTAGE.—Paragraph (6) of section 162(l) of such Code is amended to read as follows:

"(6) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

In the case of taxable years beginning in calendar year:	The applicable percentage is:
1996, 1997, or 1998	25 percent
1999	50 percent
2000 or thereafter ...	100 percent."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 2102. DEDUCTION FOR HEALTH INSURANCE COSTS OF INDIVIDUALS WHO ARE NOT SELF-EMPLOYED.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. HEALTH INSURANCE COSTS OF INDIVIDUALS WHO ARE NOT SELF-EMPLOYED.

"(a) IN GENERAL.—In the case of an individual who is not a self-employed individual (as defined in section 401(c)(1)), there shall be allowed as a deduction an amount equal to 25 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(b) COORDINATION WITH DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS.—The amount which would (but for this paragraph) be allowed as a deduction under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount (if any) allowed as a deduction under section 162(l) for such taxable year.

"(c) OTHER COVERAGE.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer.

"(d) COORDINATION WITH MEDICAL DEDUCTION, ETC.—Any amount paid by a taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by adding at the end the following new paragraph:

"(16) HEALTH INSURANCE COSTS.—The deduction allowed by section 220."

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

"Sec. 220. Health insurance costs of individuals who are not self-employed.

"Sec. 221. Cross reference."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle B—Low Income Subsidies and Medicaid Reform

SEC. 2100. DESCRIPTION OF TRANSITION FROM CURRENT MEDICAID SYSTEM TO NEW ACUTE CARE LOW-INCOME ASSISTANCE PROGRAM.

This subtitle provides for a transition from the current medicaid system to a new system of acute care low-income assistance through the following:

(1) IMMEDIATE MEDICAID REFORMS.—During 1995, 1996, and 1997, States are permitted to enroll medicaid recipients under coordinated care arrangements, but are restricted from eliminating eligibility categories currently in effect.

(2) SUBSTITUTION OF NEW PREMIUM AND COST-SHARING ASSISTANCE PROGRAM FOR AFDC AND NON-CASH BENEFICIARIES.—Beginning January 1, 1998—

(A) States are required to establish a new premium assistance program under title XXI of the Social Security Act, and

(B) with respect to AFDC and non-cash medicaid beneficiaries and other low-income individuals—

(i) States are required to provide for premium assistance for standard benefits through that program and additional benefits through a supplemental benefits grant program, and

(ii) States will no longer provide such individuals with medicaid coverage for standard acute care services.

PART 1—PREMIUM SUBSIDY AND SUPPLEMENTAL BENEFIT PROGRAMS FOR LOW-INCOME INDIVIDUALS

SEC. 2101. STATE PREMIUM SUBSIDY PROGRAMS.

(a) MEDICAID STATE PLAN REQUIREMENT.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 6111(1), is amended by inserting after paragraph (61) the following new paragraph:

"(62) provide for a State program furnishing premium subsidies for low-income individuals in accordance with part A of title XXI.".

(2) EFFECTIVE DATE.—The requirement of section 1902(a)(62) of the Social Security Act shall apply to Federal financial participation for calendar quarters beginning on or after January 1, 1998.

(b) REQUIREMENTS FOR STATE PREMIUM SUBSIDY PROGRAMS FOR LOW-INCOME INDIVIDUALS.—Such Act is further amended by adding at the end the following new title:

"TITLE XXI—STATE PREMIUM AND COST-SHARING SUBSIDY PROGRAMS FOR LOW-INCOME INDIVIDUALS; STATE SUPPLEMENTAL BENEFITS PROGRAMS; FINANCING FAILSAFE MECHANISM

"PART A—STATE PREMIUM AND COST-SHARING SUBSIDY PROGRAMS

"SEC. 2101. ESTABLISHMENT OF STATE PROGRAMS.

"(a) IN GENERAL.—As a requirement under section 1902(a)(62), effective January 1, 1998, each State shall establish and maintain a premium and cost-sharing subsidy program (in this title referred to as a 'State subsidy program') that provides for—

"(1) premium assistance described in section 2103 to premium subsidy eligible individuals described in section 2102 in accordance with this part, and

"(2) State maintenance-of-effort contributions in accordance with section 2108.

"(b) AVAILABILITY OF FUNDS.—Each State with a State subsidy program approved under this part is entitled, for calendar quarters beginning on or after January 1, 1998, to payment under section 2106.

"(c) APPROVAL OF STATE PROGRAMS.—The Secretary may not approve a State subsidy program unless the State has submitted a detailed description of the form and manner in which it will carry out the program and the Secretary finds that the program meets the applicable requirements of this part.

"(d) DESIGNATION OF STATE AGENCY.—A State may designate any appropriate State agency to administer the state subsidy program.

"SEC. 2102. ELIGIBILITY.

"(a) ASSISTANCE.—

"(1) PREMIUM SUBSIDY.—Each premium subsidy eligible individual (as defined in subsection (b)) is entitled to premium assistance under section 2103(a)(1).

"(2) COST-SHARING SUBSIDY.—Each cost-sharing subsidy eligible individual (as defined in subsection (c)) is entitled to cost-sharing assistance described in section 2103(a)(2).

"(b) PREMIUM SUBSIDY ELIGIBLE INDIVIDUAL DEFINED.—

"(1) IN GENERAL.—In this title, subject to the succeeding provisions of this section and part C, the term 'premium subsidy eligible individual' means a individual who has been determined under section 2104 to have family modified adjusted income below the following applicable percentage of the applicable poverty line (for a family of the size involved):

"Calendar year:	Applicable applicable percentage:
1998	100
1999	115
2000	130
2001	145
2002	160
2003	175
2004	200

"(2) SPECIAL RULE FOR CHILDREN.—In this title, subject to the succeeding provisions of this section and part C, the term 'premium subsidy eligible individual' includes a child under 18 years of age who has been determined under section 2104 to have family modified adjusted income below the following applicable percentage of the applicable poverty line (for a family of the size involved):

"Calendar year:	Applicable applicable percentage:
1998	140
1999	150
2000	160
2001	170
2002	180
2003	200
2004	240

"(3) SPECIAL RULE FOR PREGNANT WOMEN.—In this title, subject to the succeeding provisions of this section and part C, the term 'premium subsidy eligible individual' includes a pregnant woman who has been determined under section 2104 to have family modified adjusted income below the following applicable percentage of the applicable poverty line (for a family of the size involved):

"Calendar year:	Applicable applicable percentage:
1998	140
1999	150
2000	160
2001	170
2002	180
2003	200
2004	240

"(4) ADJUSTMENT OF PERCENTAGES BASED ON FAILSAFE MECHANISM.—The percentages specified in paragraphs (1), (2), and (3) are subject to adjustment under part C of this title.

"(c) COST-SHARING SUBSIDY ELIGIBLE INDIVIDUAL DEFINED.—

"(1) IN GENERAL.—In this title, subject to the succeeding provisions of this section and part C, the term 'cost-sharing subsidy eligible individual' means an individual who has been determined under section 2104 to have family modified adjusted income below 100 percent of the applicable poverty line (for a family of the size involved).

"(2) ADJUSTMENT OF PERCENTAGE BASED ON FAILSAFE MECHANISM.—The percentage specified in paragraph (1) shall in no case be greater than the percentage specified in subsection (b).

"(d) EXCLUSION OF CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—The terms 'premium subsidy eligible individual' and 'cost-sharing subsidy eligible individual' do not include, with respect to a month, any of the following individuals:

"(A) MEDICARE BENEFICIARY.—An individual who is entitled to benefits under part A or B of title XVIII for the month.

"(B) SSI RECIPIENT.—An individual who is an SSI recipient (as defined in paragraph (3)) for the month.

"(C) INMATES.—An individual who as of the first day of the month is an inmate of a public institution (except as a patient of a medical institution).

"(D) CERTAIN ALIENS.—An individual who is neither a citizen or national of the United

VOL
140
PT
15
AG
10
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11
1994
UMI

States or an alien permanently residing in the United States under color of law (as defined in paragraph (2).

"(E) NONRESIDENTS.—An individual who is not residing in the United States.

"(2) ALIEN PERMANENTLY RESIDING IN THE UNITED STATES UNDER COLOR OF LAW.—The term 'alien permanently residing in the United States under color of law' means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act), and includes any of the following:

"(A) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

"(B) An alien who is granted asylum under section 208 of such Act.

"(C) An alien whose deportation is withheld under section 243(h) of such Act.

"(D) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

"(E) An alien who has been paroled into the United States under section 212(d)(5) of such Act for an indefinite period or who has been granted extended voluntary departure as a member of a nationality group.

"(F) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent residence is pending.

"(3) SSI RECIPIENT.—In this subsection, the term 'SSI recipient' means, for a month, an individual—

"(A) with respect to whom supplemental security income benefits are being paid under title XVI for the month,

"(B) who is receiving a supplemental payment under section 1616 or under section 212 of Public Law 93–66 for the month,

"(C) who is receiving monthly benefits under section 1619(a) (whether or not pursuant to section 1616(c)(3)) for the month, or

"(D) who is treated under section 1619(b) as receiving supplemental security income benefits in a month for purposes of title XIX.

"(e) PROTECTION OF CURRENT BENEFICIARIES.—The term 'premium subsidy eligible individual' also includes, with respect to a State as of December 31, 1997, an individual who—

"(1) is not excluded under subsection (d),

"(2) is entitled to receive medical assistance under the State plan under title XIX (and for which Federal financial participation was available) as of December 31, 1997, and

"(3) would remain eligible for medical assistance under the State plan under title XIX but for amendments made by the Bipartisan Health Care Reform Act of 1994.

"SEC. 2103. PREMIUM AND COST-SHARING ASSISTANCE.

"(a) IN GENERAL.—

"(1) PREMIUM ASSISTANCE.—The premium assistance under a State subsidy program shall be in the form of a premium reduction certificate with an amount equal to the premium assistance computed under subsection (b). A carrier providing health insurance coverage or a group health plan that is tendered such a certificate with respect to an individual shall reduce the amount of the premium by the amount of the certificate. For purposes of this part, VA health coverage (as defined in section 1801(2) of title 38, United States Code) provided by the Department of Veterans Affairs shall be considered to be health insurance coverage provided by a carrier.

"(2) COST-SHARING ASSISTANCE.—The cost-sharing assistance under a State subsidy program shall be in the form of a cost-sharing reduction certificate (or other means). A carrier providing health insurance coverage or a group health plan that is tendered such a certificate with respect to an individual shall reduce the cost-sharing otherwise imposed with respect to health coverage to amounts that are nominal (as specified by the State, consistent with the regulations established to carry out section 1916(a)(3)).

"(3) CONSOLIDATED AND ELECTRONIC CERTIFICATES.—Nothing in this section shall be construed as preventing a State from—

"(A) in the case of an individual who is both a premium subsidy eligible individual and a cost-sharing eligible individual, from consolidating the premium and cost-sharing certificates of the individual, and

"(B) providing premium and cost-sharing certificates through electronic or other means.

"(b) AMOUNT OF PREMIUM ASSISTANCE.—

"(1) IN GENERAL.—Except as provided in paragraph (4), the amount of premium assistance for a month for a premium subsidy eligible individual is the lesser of—

"(A) the premium assistance amount determined under paragraph (2); or

"(B) the amount of the premium for qualified standard health coverage provided the individual,

reduced by the amount of any contribution made by an employer with respect to coverage of the individual.

"(2) PREMIUM ASSISTANCE AMOUNT DETERMINED.—

"(A) IN GENERAL.—The premium assistance amount determined under this paragraph is an amount equal to the subsidy percentage specified in paragraph (3) multiplied by ½ of the lesser of—

"(i) the annual premium for qualified standard health coverage provided the individual, or

"(ii) the weighted average annual premium for the individual's class of enrollment (determined in accordance with subparagraph (B)) for standard health insurance coverage offered in the geographic area (identified under 1021(c) of the Bipartisan Health Care Reform Act of 1994) in the individual and small group market in which the individual resides.

"(B) DETERMINATION OF WEIGHTED AVERAGE ANNUAL PREMIUM.—For purposes of subparagraph (A)(ii), the weighted average annual premium for a class of enrollment for coverage described in subparagraph (A)(i) shall be based on the number of families and individuals covered in the class and area involved.

"(C) CLASS OF ENROLLMENT.—In this title, the term 'class of enrollment' means the classes described in section 1021(a)(3) of the Bipartisan Health Care Reform Act of 1994.

"(3) SUBSIDY PERCENTAGE.—For purposes of paragraph (2), the term 'subsidy percentage' means 100 percent reduced (but not below zero) by the number of percentage points (rounded to the nearest whole number) by which such individual's family income (expressed as a percent) exceeds 100 percent of the poverty line.

"(c) PAYMENTS OF ASSISTANCE.—

"(1) PREMIUM ASSISTANCE.—

"(A) IN GENERAL.—The State issuing a premium assistance certificate shall, upon tender to the State of such certificate by the carrier or group health plan providing coverage, pay the carrier or plan the amount of the certificate.

"(B) TIMING OF PAYMENTS.—Payments under this paragraph shall commence in the first month during which the individual obtains qualified standard health coverage and is determined under section 2104 to be a premium subsidy eligible individual.

"(C) TREATMENT OF SURPLUSES AND DEFICITS.—If the premium for coverage is greater than the amount of the premium assistance for an individual, the individual is responsible for payment of any difference. If the premium for coverage is less than the amount of the premium assistance for an individual, the difference shall not be paid to the individual or the carrier or plan but shall revert to the Federal Government.

"(2) COST-SHARING ASSISTANCE.—

"(A) IN GENERAL.—The State issuing a cost-sharing assistance certificate shall, upon presentation to the State of evidence of such certificate by the carrier or group health plan providing coverage and evidence of cost-sharing amounts otherwise incurred for which a reduction is available under the certificate, pay the carrier or plan the amount of the reduction certificate.

"(B) TIMING OF PAYMENTS.—Payments under this paragraph shall commence in the first month during which the individual obtains qualified standard health coverage and is determined under section 2104 to be a premium subsidy eligible individual.

"(3) ADMINISTRATIVE ERRORS.—A State is financially responsible for premium or cost-sharing assistance paid based on an eligibility determination error to the extent the State's error rate for eligibility determinations exceeds a maximum permissible error rate to be specified by the Secretary.

"SEC. 2104. ELIGIBILITY DETERMINATIONS.

"(a) IN GENERAL.—The Secretary shall promulgate regulations specifying requirements for State subsidy programs with respect to determining eligibility for premium and cost-sharing assistance, including requirements with respect to—

"(1) application procedures;

"(2) information verification procedures;

"(3) timeliness of eligibility determinations;

"(4) procedures for applicants to appeal adverse decisions; and

"(5) any other matters determined appropriate by the Secretary.

"(b) SPECIFICATIONS FOR REGULATIONS.—The regulations promulgated by the Secretary under subsection (a) shall include the following requirements:

"(1) FREQUENCY OF APPLICATIONS.—A State program shall provide that an individual may file an application for assistance with an agency designated by the State at any time, in person.

"(2) APPLICATION FORM.—A State program shall provide for the use of an application form developed by the Secretary under subsection (c).

"(3) DISTRIBUTION OF APPLICATIONS.—A State program shall distribute applications for assistance through employers, health plan purchasing organizations, and appropriate public agencies.

"(4) CONVENIENT LOCATION TO SUBMIT APPLICATIONS.—A State program shall provide convenient locations for premium subsidy eligible individuals to apply for premium and cost-sharing assistance.

"(4) REQUIREMENT TO SUBMIT REVISED APPLICATION.—A State program shall, in accordance with regulations promulgated by the Secretary, require individuals to submit revised applications during a year to reflect changes in estimated family incomes, including changes in employment status of family members, during the year. The State shall revise the amount of any premium and cost-sharing assistance based on such a revised application.

"(5) AFDC APPLICANTS.—A State program shall include a procedure under which individuals applying for benefits under title IV shall have an opportunity to apply for assistance under this part in connection with such application.

"(6) VERIFICATION.—A State program shall provide for verification of the information supplied in applications under this part. Such verification may include examining return information disclosed to the State for such purpose under section 6103(l)(15) of the Internal Revenue Code of 1986.

"(c) ADMINISTRATION OF STATE PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall establish standards for States operating programs under this part which ensure that such programs are operated in a uniform manner with respect to application procedures, data processing systems, and such other administrative activities as the Secretary determines to be necessary.

"(2) APPLICATION FORMS.—The Secretary shall develop an application form for assistance which shall—

"(A) be simple in form and understandable to the average individual;

"(B) require the provision of information necessary to make a determination as to whether an individual is a premium or cost-sharing subsidy eligible individual including a declaration of estimated income by the individual based, at the election of the individual—

"(i) on multiplying by a factor of 4 the individual's family income for the 3-month period immediately preceding the month in which the application is made, or

"(ii) on estimated income for the entire year for which the application is submitted; and

"(C) require attachment of such documentation as deemed necessary by the Secretary in order to ensure eligibility for assistance.

"(3) OUTREACH ACTIVITIES.—A State operating a program under this part shall conduct such outreach activities as the Secretary determines appropriate.

"(d) EFFECTIVENESS OF ELIGIBILITY FOR PREMIUM AND COST-SHARING ASSISTANCE.—A determination by a State that an individual is a premium or cost-sharing subsidy eligible individual shall be effective for the calendar year for which such determination is made unless a revised application submitted under subsection (b)(4) indicates that an individual is no longer eligible for premium or cost-sharing assistance.

"(e) PENALTIES FOR MATERIAL MISREPRESENTATIONS.—

"(1) IN GENERAL.—Any individual who knowingly makes a material misrepresentation of information in an application for assistance under this part shall be liable to the Federal Government for the amount any premium assistance and cost-sharing assistance received by an individual on the basis of a misrepresentation and interest on such amount at a rate specified by the Secretary, and shall, in addition, be liable to the Federal Government for $2,000 or, if greater, 3 times the amount any premium assistance and cost-sharing assistance provided on the basis of a misrepresentation.

"(2) COLLECTION OF PENALTY AMOUNTS.—A State which receives an application for assistance with respect to which a material misrepresentation has been made shall collect the penalty amount required under paragraph (1) and submit 50 percent of such amount to the Secretary in a timely manner.

"SEC. 2105. END-OF-YEAR RECONCILIATION FOR PREMIUM ASSISTANCE.

"(a) IN GENERAL.—

"(1) REQUIREMENT TO FILE STATEMENT.—An individual who received premium assistance under this part from a State for any month in a calendar year shall file with the State an income reconciliation statement to verify the individual's family income for the year. Such a statement shall be filed at such time, and contain such information, as the State may specify in accordance with regulations promulgated by the Secretary.

"(2) NOTICE OF REQUIREMENT.—A State shall provide a written notice of the requirement under paragraph (1) at the end of the year to an individual who received premium assistance under this part from such State in any month during the year.

"(b) RECONCILIATION OF PREMIUM ASSISTANCE BASED ON ACTUAL INCOME.—

"(1) IN GENERAL.—Based on and using the income reported in the reconciliation statement filed under subsection (a) with respect to an individual, the State shall compute the amount of premium assistance that should have been provided under this part with respect to the individual for the year involved.

"(2) OVERPAYMENT OF ASSISTANCE.—If the total amount of the premium assistance provided was greater than the amount computed under paragraph (1), the excess amount shall be treated as an underpayment of a tax imposed by chapter 1 of the Internal Revenue Code of 1986 and paid by the Secretary of the Treasury to the taxpayer involved.

"(3) UNDERPAYMENT OF ASSISTANCE.—If the total amount of the premium assistance provided was less than the amount computed under paragraph (1), the amount of the difference shall be treated as an overpayment of tax imposed by such chapter, or in the event the taxpayer involved is entitled to a refund of such a tax, subject to the provisions of section 6402(d) of such Code.

"(c) VERIFICATION.—Each State may use such information as it has available to verify income of individuals with applications filed under this part, including return information disclosed to the State for such purpose under section 6103(l)(15) of the Internal Revenue Code of 1986.

"(d) PENALTIES FOR FAILURE TO FILE.—In the case of an individual who is required to file a statement under this section in a year who fails to file such a statement by such date as the Secretary shall specify in regulations, the entire amount of the premium assistance provided in such year shall be considered an excess amount under subsection (b)(2) and such individual shall not be eligible for premium assistance under this part until such statement is filed. A State, using rules established by the Secretary, shall waive the application of this subsection if the individual establishes, to the satisfaction of the State under such rules, good cause for the failure to file the statement on a timely basis.

"(e) PENALTIES FOR FALSE INFORMATION.—Any individual who provides false information in a statement filed under subsection (a) is subject to the same penalties as are provided under section 2104(e) for a misrepresentation of material fact described in such section.

"(f) NO RECONCILIATION FOR COST-SHARING REDUCTIONS.—No reconciliation statement is required under this section with respect to cost-sharing assistance.

"SEC. 2106. PAYMENTS TO STATES.

"(a) IN GENERAL.—

"(1) PAYMENTS FOR PREMIUM AND COST-SHARING ASSISTANCE.—Subject to paragraph (3) and section 2151, the Secretary shall provide for payment to each State operating a State subsidy program in an amount equal to—

"(A) the sum of—

"(i) the amount of premium assistance paid on behalf of premium subsidy eligible individuals, and

"(ii) the amount of the cost-sharing assistance paid on behalf of cost-sharing subsidy eligible individuals; less

"(B) the amount of any maintenance-of-effort payments that the State has failed to pay under section 2108.

Such payments shall be made at such time and in such form as provided in regulations promulgated by the Secretary, based on the form and manner in which payments are made under section 1903.

"(2) MATCHING PAYMENTS FOR ADMINISTRATIVE EXPENSES.—

"(A) IN GENERAL.—Subject to section 2151 and subparagraphs (B) and (C), the Secretary shall pay to each State operating a State subsidy program, for each quarter beginning with the quarter commencing January 1, 1998, an amount equal to 50 percent of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State subsidy program.

"(B) LIMITATION.—The amount of funds which the Secretary is otherwise obligated to pay a State during a quarter under subparagraph (A) shall not exceed 1.5 percent of the total expenditures under the State subsidy program in the quarter.

"(C) EXCEPTION FOR FAILURE TO ESTABLISH AND MAINTAIN RISK ADJUSTMENT MECHANISM.—No amounts are payable to a State under subparagraph (A) if the State has failed to establish and maintain a risk adjustment mechanism in accordance with section 1023(b) of the Bipartisan Health Care Reform Act of 1994.

"(3) LIMITATION.—The total amount of payments made under paragraph (1) with respect to a State for all quarters in a year may not exceed the amount of the limitation that would be imposed under section 2135 with respect to Federal payments to the State for the quarter if any reference in such section to supplemental benefits were treated as a reference to core benefits.

"(4) STATE ENTITLEMENT.—This subsection constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide payments to States under this part in accordance with this subsection.

"(b) FUNDING.—The amount paid to States under subsection (a) shall be paid by the Secretary from the Health Care Assurance Trust Fund (established under section 2107).

"(c) AUDITS.—The Secretary shall conduct regular audits of the activities under the State programs conducted under this part.

"SEC. 2107. HEALTH CARE ASSURANCE TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Health Care Assurance Trust Fund' (in this section referred to as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to it under this section.

"(b) TRANSFERS TO THE TRUST FUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(A) the amount determined by the Secretary, after consultation with the Secretary of Health and Human Services, to be equal to the sum of—

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(i) the decrease in Federal expenditures under title XIX of the Social Security Act by reason of the provisions of, and the amendments made by, the Bipartisan Health Care Reform Act of 1994, and

"(ii) any reduction in payments to States under such title by reason of the State maintenance-of-effort requirement under section 2108, and

"(C) amounts equivalent to the following amounts received in the Treasury:

"(i) Criminal fines imposed and collected, and amounts resulting from the forfeiture of property, in cases involving a Federal health care offense (as defined in section 1128D of the Social Security Act).

"(ii) Penalties and damages imposed and collected under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution).

"(iii) Administrative penalties and assessments imposed and collected under section 1128A of the Social Security Act (except as otherwise provided by law).

"(2) TRANSFERS FROM OTHER TRUST FUNDS.—The Secretary of Health and Human Services shall transfer each fiscal year to the Trust Fund from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund the amount which the Secretary estimates is equal to the decrease in expenditures in each such trust fund attributable to the provisions of title VI of the Bipartisan Health Care Reform Act of 1994.

"(3) TRANSFERS FROM CERTAIN RECOVERED AMOUNTS AND GIFTS.—The Secretary of Health and Human Services shall transfer each fiscal year to the Trust Fund—

"(A) the portion of amounts recovered under section 1128A(a) with respect to a qualified health coverage or qualified long-term care policy which is not repaid to the plan or policy, or

"(B) any money gifts or bequests made to or on behalf of the United States for allocation to the Trust Fund.

"(c) EXPENDITURES.—Amounts in the Trust Fund are appropriated to the Secretary to carry out the health insurance premium assistance program and the cost-sharing grant program established under part B of title XIX of the Social Security Act, and to the extent any such amount is not expended during any fiscal year, such amount shall be available for such purpose for subsequent fiscal years.

"SEC. 2108. REQUIREMENT OF STATE MAINTENANCE-OF-EFFORT PAYMENTS.

"(a) IN GENERAL.—As a condition of payment of amounts to a State under section 2106, each State shall provide for payments to the Secretary, in a form, manner, and time specified by the Secretary, of the maintenance of effort amount computed under subsection (b)(1) for the State. The Secretary shall permit payment of such amounts as an offset against the amounts otherwise payable to the State under section 2106.

"(b) MAINTENANCE OF EFFORT AMOUNT.—The maintenance of effort amount computed under this paragraph for a State for a quarter in a year is equal to the product of—

"(1) the amount that would be computed as the limit on Federal expenditures under section 2106(a)(2) for the State for the quarter if the FEHBP State rolling increase percentage (as defined in section 2136(b)(2)) were substituted for the FEHBP national rolling increase percentage in section 2135(a)(2)(B) and 2135(b)(1); and

"(2) the Federal-to-State conversion factor (specified under section 2135(b)(3)).

"(c) CREDITING.—Payments made under this section shall be deposited by the Secretary to the credit of the Bipartisan Health Insurance Trust Fund.

"SEC. 2109. DEFINITIONS AND DETERMINATIONS OF INCOME.

"For purposes of this part:

"(1) QUALIFIED STANDARD HEALTH PLAN.—The term 'qualified standard health plan' has the meaning given such term in section ___ of the Bipartisan Health Care Reform Act of 1994.

"(2) DETERMINATIONS OF INCOME.—

"(A) FAMILY INCOME.—The term 'family income' means, with respect to an individual who—

"(i) is not a dependent (as defined in subparagraph (B)) of another individual, the sum of the modified adjusted gross incomes (as defined in subparagraph (D)) for the individual, the individual's spouse, and dependents of the individual; or

"(ii) is a dependent of another individual, the sum of the modified adjusted gross incomes for the other individual, the other individual's spouse, and dependents of the other individual.

"(B) DEPENDENT.—The term 'dependent' shall have the meaning given such term under paragraphs (1) or (2) of section 152(a) of the Internal Revenue Code of 1986.

"(C) SPECIAL RULE FOR FOSTER CHILDREN.—For purposes of subparagraph (A), a child who is placed in foster care by a State agency shall not be considered a dependent of another individual.

"(D) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986)—

"(i) determined without regard to sections 135, 162(l), 911, 931, and 933 of such Code, and

"(ii) increased by—

"(I) the amount of interest received or accrued by the individual during the taxable year which is exempt from tax,

"(II) the amount of the social security benefits (as defined in section 86(d) of such Code) received during the taxable year to the extent not included in gross income under section 86 of such Code,

"(III) the amount of aid to families with dependent children received during the taxable year under part A of title IV to the extent not included in gross income under such Code, and

"(IV) the amount of any supplemental security income benefits provided under title XVI.

The determination under the preceding sentence shall be made without regard to any carryover or carryback.

"(3) MEDICAL CONSUMER PRICE INDEX.—The term 'medical consumer price index' means the medical care services component of the consumer price index (for urban consumers) as determined by the Bureau of Labor Statistics.

"(4) POVERTY LINE.—The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that—

"(A) in the case of a family of less than five individuals, is applicable to a family of the size involved; and

"(B) in the case of a family of more than four individuals, is applicable to a family of four persons.

"(5) PREGNANT WOMAN.—The term 'pregnant woman' means a woman described in section 1902(l)(1)(A).

"(6) PREMIUM.—Any reference to the term 'premium' includes a reference to premium equivalence for self-insured plans.

"(7) STATE.—The term 'State' means each of the 50 States and the District of Columbia.

"PART B—STATE SUPPLEMENTAL BENEFITS PROGRAMS

"SEC. 2131. ESTABLISHMENT OF STATE SUPPLEMENTAL BENEFITS PROGRAMS.

"(a) IN GENERAL.—Each State shall establish a State supplemental benefits program (in this title referred to as the 'State supplemental benefits program') that provides supplemental medical benefits for supplemental benefit eligible individuals.

"(b) AVAILABILITY OF FUNDS.—Each State with a State supplemental benefits program approved under this part is entitled, for calendar quarters beginning on or after January 1, 1998, to payment under section 2136.

"(c) APPROVAL OF STATE PROGRAMS.—The Secretary may not approve a State supplemental benefits program unless the State has submitted a detailed description of the form and manner in which it will carry out the program and the Secretary finds that the program meets the applicable requirements of this part.

"SEC. 2132. ELIGIBILITY.

"(a) IN GENERAL.—In this part, the term 'supplemental benefit eligible individual' means an individual who, as of the time of provision of supplemental medical benefits, is—

"(1) a premium subsidy eligible individual (as defined in section 2102(b)), or

"(2) a pregnant woman or child who would be eligible for medical assistance under section 1902(l) or otherwise but for the elimination of coverage under such section.

"(b) PROTECTION OF CURRENT BENEFICIARIES.—The term 'supplemental benefit eligible individual' also includes, with respect to a State as of December 31, 1997, an individual who—

"(1) is not described in section 2102(d),

"(2) is entitled to receive medical assistance under the State plan under title XIX (and for which Federal financial participation was available) as of December 31, 1997, and

"(3) would remain eligible for medical assistance under the State plan under title XIX but for amendments made by the Bipartisan Health Care Reform Act of 1994.

"(c) CONSTRUCTION.—Nothing in this part shall be construed to create an entitlement for supplemental benefit eligible individuals. The provisions of section 2105 (relating to reconciliation) shall not apply to any assistance provided under this part.

"SEC. 2133. SCOPE AND PROVISION OF BENEFITS; BENEFITS ADMINISTRATION.

"(a) IN GENERAL.—The supplemental medical benefits that may be made available under a State supplemental benefits program may include benefits included in the supplemental medical benefits group described in section 1932(b)(2).

"(b) COVERAGE OF BENEFITS.—

"(1) IN GENERAL.—Each State supplemental benefits program shall include, in the document submitted to the Secretary describing the program, a description of—

"(A) the methods and standards used to select the types, and the amount, duration, and scope, of supplemental medical benefits included in the program and to assure access to, and the quality of, services included in such benefits;

"(B) the nondiscriminatory manner or basis under which such benefits are to be made available to and allocated among supplemental benefits eligible individuals;

"(C) the manner in which such benefits are coordinated with each other and with benefits provided under qualified health plans for supplemental benefits eligible individuals; and

"(D) the manner in which the program will not duplicate benefits available under health insurance plans or other health benefit programs for which supplemental benefit eligible individuals may qualify.

"(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Nothing in paragraph (1) shall be construed as preventing a State supplemental benefits program from varying the benefits available under the program based on individual needs.

"(3) LIMITATION ON USE OF FUNDS FOR ABORTIONS.—None of the funds appropriated to carry out this title shall be expended for any abortion except where the procedure is necessary to save the life of the mother or where the pregnancy is the result of an act of rape or incest.

"(c) PAYMENT METHODS.—Benefits under a program may be made available in the form of direct provision of services, reimbursement of providers, prepayment to providers or health plans on a capitation basis, reimbursement of supplemental benefit eligible individuals for expenses incurred for expenses included in supplemental medical benefits, or a combination of these methods.

"(d) ADMINISTRATION.—

"(1) STATE AGENCY.—Each State supplemental benefits program shall designate the State agency designated under section 2101(d) to administer the State premium and cost-sharing assistance program under part A.

"(2) ADMINISTRATIVE EXPENDITURES.—Each State supplemental benefits program shall contain assurances that not more than 3 percent of expenditures under the program for all quarters in any fiscal year shall be for administrative costs.

"(3) COORDINATION.—The State supplemental benefits program shall specify how the program—

"(A) will be integrated with the State medicaid plan, titles V and XX of the Social Security Act, part A of this title, and any other Federal or State programs that provide services or assistance targeted to supplemental benefit eligible individuals, and

"(B) will be coordinated with qualified health plans.

"(e) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—Each State supplemental benefits program shall furnish to the Secretary—

"(1) such reports, and cooperate with such audits, as the Secretary determines are needed concerning the State's administration of program under this part, including the processing of any claims under the plan, and

"(2) such data and information as the Secretary may require in order to carry out the Secretary's responsibilities.

"(f) USE OF STATE FUNDS FOR MATCHING.—Each State supplemental benefits program shall provide assurances satisfactory to the Secretary that Federal funds will not be used to provide for the State share of expenditures under this part.

"SEC. 2134. PAYMENTS TO STATES.

"(a) MATCHING PAYMENTS.—Subject to sections 2133(d)(2), 2135(a), 2136, and 2151, for each quarter beginning with the quarter commencing January 1, 1996, the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with an approved State supplemental benefits program under this part, an amount equal to the sum of—

"(1) the Federal medical assistance percentage (as defined in section 1905(b)) of amount demonstrated by State to have been expended under the program during the quarter for supplemental medical benefits for supplemental benefit eligible individuals; and

"(2) an amount equal to 50-percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the program.

This subsection constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide payments to States under this part in accordance with this subsection.

"(b) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

"(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

"(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid.

"(c) FUNDING.—The amount paid to States under subsection (a) shall be paid by the Secretary from amounts made available under the Health Care Assurance Trust Fund established under section 2107.

"(d) AUDITS.—The Secretary shall conduct regular audits of the activities under the State programs conducted under this title.

"SEC. 2135. LIMITATION ON PAYMENTS TO STATES.

"(a) LIMITATION.—

"(1) COMPUTATION OF BASELINE FOR CALENDAR YEAR.—The baseline under this paragraph for 1997 is the product of—

"(A) ¼ of the State's per capita Federal supplemental allotment (determined under subsection (b)) for 1994, increased (on a compounded basis) by the FEHBP national rolling increase percentage for 1995, 1996, and 1997, and

"(B) the average monthly number of AFDC recipients and non-cash medicaid beneficiaries in the State in 1997.

"(2) LIMITATION.—

"(A) IN GENERAL.—Subject to section 2151 and paragraph (3), the total amount of payments that may be made to a State under section 2134 for a quarter in a year (beginning with 1998) is ¼ of the product described in this subparagraph (or paragraph (1)) for the previous year, increased by the supplemental benefit factor under subparagraph (B) for the year.

"(B) SUPPLEMENTAL BENEFIT FACTOR DESCRIBED.—For purposes of subparagraph (A), the 'supplemental benefit factor' for a year for a State is equal to the sum of—

"(i) FEHBP national rolling increase factor (described in paragraph (2)) for the year,

"(ii) the annual percentage increase in the population of the State (as estimated by the Secretary), and

"(iii)(I) 1 percentage point for the first 4 quarters in which this paragraph applies,

"(II) .67 percentage points for the next 4 quarters,

"(III) .33 percentage points for the next 4 quarters, and

"(IV) 0 percentage points thereafter.

"(2) FEHBP NATIONAL ROLLING INCREASE PERCENTAGE.—For purposes of this section, the term 'FEHBP national rolling increase percentage' means, for a year, the 5-year average of the annual national percentage increase in the premiums for health plans offered under the Federal Employees Health Benefits Program (under chapter 89 of title 5, United States Code) for the period ending with the previous year. Such increase shall be determined by the Secretary in consultation with the Director of Office of Personnel Management based on the best information available and shall be adjusted to take into account the age distribution in the Federal workforce and to disregard any changes due to changes in the benefit package under such chapter after 1994.

"(3) ADJUSTMENT FOR AVAILABILITY OF ADDITIONAL FUNDS.—If the Secretary determines for a year that the total amount of the Federal payments under section 2134 for a year for all the States is less than the sum of the limitations for the year for all the States established under paragraph (1), the limitation for each State under this subsection shall be increased in a pro-rata manner by such an amount as will not result in such total Federal payments under section 2134 exceeding the sum of such limits for all the States for the year.

"(b) PER CAPITA FEDERAL SUPPLEMENTAL ALLOTMENT DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the 'per capita Federal supplemental allotment' for a State for a year is equal to the base per capita allotment (described in paragraph (2)), increased by the FEHBP national rolling increase percentage (as defined in subsection (a)(4)) for the year involved.

"(2) BASE PER CAPITA ALLOTMENT.—The 'base per capita allotment' described in this paragraph, for a State, is—

"(A) the baseline Federal medicaid supplemental expenditures (as defined in paragraph (3)) for the State, divided by

"(B) the number of AFDC recipients and non-cash medicaid beneficiaries enrolled in the State medicaid plan under title XIX in 1994, as determined under paragraph (4).

"(3) DETERMINATION OF BASELINE FEDERAL MEDICAID EXPENDITURES.—

"(A) IN GENERAL.—For purposes of paragraph (2)(A), the 'baseline medicaid supplemental expenditures' for a State is the amount of Federal payments made under section 1903(a)(1) under the State medicaid plan under title XIX with respect to medical assistance furnished for items and services included in the supplemental medical benefits group (described in section 1932(b)(2)) for AFDC recipients and non-cash medicaid beneficiaries for all calendar quarters in 1994.

"(B) DISPROPORTIONATE SHARE PAYMENTS NOT INCLUDED.—In applying subparagraph (A), payments attributable to section 1923 shall not be counted in the amount of payments.

"(C) TREATMENT OF DISALLOWANCES.—The amount determined under this paragraph shall take into account amounts (or an estimate of amounts) disallowed.

"(4) DETERMINATION OF NUMBER OF AFDC RECIPIENTS AND NON-CASH MEDICAID BENEFICIARIES.—For purposes of paragraph (2)(B), the number of AFDC recipients and non-cash medicaid beneficiaries for a State for 1994 shall be determined based on actual reports submitted by the State to the Secretary. In

VOL 140 PT 15 AG 10 — 11 1994 UMI

the case of individuals who were not recipients or beneficiaries for the entire fiscal year, the number shall take into account only the portion of the year in which they were such recipients. The Secretary may audit such reports.

"(5) APPLICATION TO PARTICULAR ITEMS AND SERVICES.—For purposes of this subsection, in determining the per capita Federal supplemental allotment for a category of items and services (within the supplemental medical benefits group) furnished in a State, there shall be counted only that proportion of such expenditures (determined only with respect to medical assistance furnished to AFDC recipients and non-cash medicaid beneficiaries) that were attributable to items and services included in the group (taking into account any limitation on amount, duration, or scope of items and services included in such package).

"SEC. 2136. STATE MAINTENANCE OF EFFORT REQUIREMENT.

"(a) IN GENERAL.—Payment to a State under section 2134 for a quarter (beginning after 1995) is conditioned upon the State making expenditures for supplemental benefits under this part for AFDC recipients and non-cash beneficiaries equal to at least the maintenance of effort amount computed under subsection (b).

"(b) MAINTENANCE OF EFFORT AMOUNT.—

"(1) IN GENERAL.—The maintenance of effort amount computed under this subsection for a State for a quarter in a year is equal to the product of—

"(A) the amount that would be computed as the minimum limitation under section 2135 for the State for the quarter (determined without regard to subsection (a)(5)) if the FEHBP State rolling increase percentage (as defined in paragraph (2)) were substituted for the FEHBP national rolling increase percentage in section 2135(a)(2)(B) and 2135(b)(1); and

"(B) the Federal-to-State conversion factor (specified under paragraph (3)).

"(2) FEHBP STATE ROLLING INCREASE PERCENTAGE.—For purposes of this section, the term 'FEHBP State rolling increase percentage' means, for a year with respect to a State, the 5-year average of the annual percentage increase in the premiums for health plans offered under the Federal Employees Health Benefits Program (under chapter 89 of title 5, United States Code) for the period ending with the previous year, based upon health plans offered in the State. Such increase shall be determined by the Secretary in consultation with the Director of Office of Personnel Management based on the best information available and shall be adjusted to take into account the age distribution in the Federal workforce (in relation to the State workforce) and to disregard any changes due to changes in the benefit package under such chapter after 1994.

"(3) FEDERAL-TO-STATE CONVERSION FACTOR.—For purposes of paragraph (1), the 'Federal-to-State conversion factor' for a State is equal to the ratio of—

"(A) 1 minus the Federal medical assistance percentage for the State for 1994, to

"(B) such Federal medical assistance percentage.

"PART C—FINANCING FAILSAFE MECHANISM

"SEC. 2151. FINANCING FAILSAFE MECHANISM.

"(a) PURPOSE.—

"(1) IN GENERAL.—The purpose of this section is to ensure that the amount of the additional targeted expenditures provided under the Bipartisan Health Care Reform Act of 1994 do not exceed the amount of the health care expenditure reductions achieved under such Act and, thus, do not result in an increase in the Federal deficit.

"(2) ADDITIONAL TARGETED EXPENDITURES DEFINED.—In this section, the term 'additional targeted expenditures' means the following:

"(A) PREMIUM AND COST-SHARING SUBSIDIES AND SUPPLEMENTAL BENEFITS.—Payments to States under parts A and B of this title.

"(B) TAX EXPENDITURES FOR PREMIUM DEDUCTIONS, ETC..—Reductions in revenues attributable to the amendments made to section 162 of the Internal Revenue Code of 1986 (by section 2101 of the Bipartisan Health Care Reform Act of 1994) and the addition of section 220 to such Code (as added by section 2202 of this Act).

"(3) HEALTH CARE EXPENDITURE REDUCTIONS.—In this section, the term 'health care expenditure reductions' means net reductions in Federal payments under titles XVIII and XIX resulting from the amendments by the Bipartisan Health Care Reform Act of 1994.

"(4) CONTINGENCY.—Any direct payment authority provided under part A or B to premium and cost-sharing assistance or supplemental medical benefits is subject to the operation of this section.

"(b) DETERMINATION OF UNFINANCED HEALTH SPENDING.—

"(1) CURRENT HEALTH SPENDING ESTIMATE.—

"(A) FISCAL YEARS THROUGH 2004.—Not later than the date that is 60 days after the date of enactment of this Act, the President shall issue an executive order setting forth the current health spending estimate for fiscal year 1995 and for each subsequent fiscal year through 2004, which shall consist of estimates (for each year) projecting what Federal outlays or revenues would have been if this Act had not been enacted, for the following:

"(i) total Federal outlays under titles XVIII and XIX of the Social Security Act (including administrative costs and offsetting receipts); and

"(ii) revenue losses attributable to section 162(1) of the Internal Revenue Code of 1986.

"(B) FISCAL YEARS AFTER 2004.—For each fiscal year following fiscal year 2004, the current health spending estimate is the estimate set forth in the executive order for fiscal year 2004, modified by an annual adjustment factor set forth in such order.

"(2) PRESIDENT TO TRANSMIT HEALTH REFORM ESTIMATES.—

"(A) ESTIMATES FOR UPCOMING FISCAL YEAR AND CURRENT YEAR.—By January 31 before the beginning of each fiscal year (beginning with fiscal year 1997), the President shall transmit to Congress a report that includes a health reform estimate (as specified in paragraph (3)) with respect to the upcoming fiscal year and the current fiscal year.

"(B) DETERMINATIONS FOR PRIOR FISCAL YEAR.—By January 31 before the beginning of each fiscal year (beginning with fiscal year 1998), the President shall transmit to Congress a report that includes determinations for the fiscal year which ended the prior September, with respect to the items specified in the health reform estimate (as specified in paragraph (3)).

"(3) HEALTH REFORM ESTIMATE.—

"(A) IN GENERAL.—The health reform estimate is a calculation, for the applicable fiscal year, of—

"(i) updated projections for the applicable fiscal year for each item set forth in the current health estimate (as set forth in paragraph (1)); plus

"(ii) the health reform outlays set forth in subparagraph (B); minus

"(iii) the net health reform revenues set forth in subparagraph (C).

"(B) HEALTH REFORM OUTLAYS.—Health reform outlays equal total outlays under parts A and B (including administrative costs) projected for the fiscal year.

"(C) NET HEALTH REFORM REVENUES.— Net health reform revenues equal total revenue losses projected for the applicable fiscal year due to the amendments made to section 162 of the Internal Revenue Code of 1986 (by section 2101 of the Bipartisan Health Care Reform Act of 1994) and the addition of section 220 to such Code (as added by section 2202 of this Act).

"(4) DETERMINATION OF UNFINANCED HEALTH SPENDING AND EXCESS HEALTH FINANCING.—

"(A) IN GENERAL.—Each health reform estimate required by this subsection shall be accompanied by a comparison of such estimate with the current health spending estimate for the applicable fiscal year.

"(B) DEFICIT.—If the applicable health reform estimate exceeds the applicable current health spending estimate, the President shall report the amount of the excess as unfinanced health spending for the applicable fiscal year.

"(C) EXCESS.—If the applicable health reform estimate is less than the applicable current health spending estimate, the President shall report such difference as excess health financing for the applicable fiscal year.

"(d) OFFSETTING UNFINANCED HEALTH SPENDING.—

"(1) REQUIREMENT TO FULLY OFFSET UNFINANCED HEALTH SPENDING.—If the President's report includes a determination of unfinanced health spending pursuant to subsection (c)(4) for the upcoming fiscal year, the current fiscal year, or the fiscal year which ended the prior October, such determination shall be accompanied by an executive order effective on October 1 of that calendar year which fully offsets in the fiscal year beginning October 1 the sum of such unfinanced health spending (for the upcoming fiscal year, the current fiscal year, and the prior fiscal year) in the manner provided in this subsection. Such executive order shall be accompanied by such regulations as are required under subsection (d)(4).

"(2) OFFSETS.—The offsets required by this subsection shall be accomplished through a combination of—

"(A) reducing the applicable percentages specified in the tables under section 2102(b), and

"(B) reducing the limitation on payments to each State under section 2135 by an equal percentage.

"(3) PROPORTIONAL REDUCTION.—The President shall apply the offset mechanisms described in subparagraphs (A) and (B) of paragraph (2) proportionally so as to result in a reduction in Federal expenditures under part A and part B of this title in the same ratio as the ratio of the total amount of Federal payments that are estimated would otherwise be made under part A to such amount under part B for the fiscal year involved. The reduction in percentages under paragraphs (1), (2), and (3) of section 2102(b) shall be done in a pro-rata manner reflecting the percentages specified in the tables in such respective paragraphs.

"(4) CONSULTATION.—In making the determinations required by this subsection, the President shall consult with the Director of the Office of Management and Budget, the Secretary of the Treasury, and the Director of the Congressional Budget Office.

"(e) APPLICATION OF EXCESS HEALTH FINANCING.—

"(1) INCREASE IN APPLICABLE PERCENTAGES.—If the President's report includes a determination of excess health financing pursuant to subsection (c)(4) for a fiscal year, such determination shall be accompanied by an executive order effective on October 1 of that calendar year which provides for an increase in the fiscal year beginning October 1 in the applicable percentages provided under paragraphs (1), (2), and (3) of section 2102(b) in the manner provided in this subsection. Such executive order shall be accompanied by such regulations as are required under subsection (d)(4).

"(2) PROPORTIONAL INCREASE.—The President the increase described in paragraph (1) shall apply under paragraphs (1), (2), and (3) of section 2102(b) in a pro-rata manner reflecting the percentages specified in the tables in such respective paragraphs.

"(3) CONSULTATION.—In making the determinations required by this subsection, the President shall consult with the Director of the Office of Management and Budget, the Secretary of the Treasury, and the Director of the Congressional Budget Office.

"(f) GAO AUDIT OF REDUCTIONS.—If the President has issued an executive order under subsection (d)(1), the General Accounting Office shall report to Congress, as soon thereafter as possible following the date of transmittal of the President's report, an analysis of whether the executive order has fully complied with the requirements of this section.".

(b) APPLICATION OF SAVE PROVISIONS.—Section 1137(b) of the Social Security Act (42 U.S.C. 1320b–7(b)) is amended—

(1) by striking "and" at the end of paragraph (4),

(2) by striking the period at the end of paragraph (5) and inserting "; and", and

(3) by adding at the end the following:

"(6) a State premium and cost-sharing assistance program under part A of title XXI.".

PART 2—IMMEDIATE MEDICAID REFORMS

SEC. 2111. MODIFICATION OF FEDERAL REQUIREMENTS TO ALLOW STATES MORE FLEXIBILITY IN CONTRACTING FOR COORDINATED CARE SERVICES UNDER MEDICAID.

(a) IN GENERAL.—

(1) PAYMENT PROVISIONS.—Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended to read as follows:

"(m)(1) No payment shall be made under this title to a State with respect to expenditures incurred by such State for payment to an entity which is at risk (as defined in section 1932(a)(4)) for services provided by such entity to individuals eligible for medical assistance under the State plan under this title, unless the entity is a risk contracting entity (as defined in section 1932(a)(3)) and the State and such entity comply with the applicable provisions of section 1932.

"(2) No payment shall be made under this title to a State with respect to expenditures incurred by such State for payment for services provided to an individual eligible for medical assistance under the State plan under this title if such payment by the State is contingent upon the individual receiving such services from a specified health care provider or subject to the approval of a specified health care provider, unless the entity receiving payment is a primary care case management entity (as defined in section 1932(a)(2)) and the State and such entity comply with the applicable provisions of section 1932.".

(2) REQUIREMENTS FOR COORDINATED CARE SERVICES.—Title XIX of such Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1931 as section 1932 and by inserting after section 1930 the following new section:

"REQUIREMENTS FOR COORDINATED CARE SERVICES

"SEC. 1932. (a) DEFINITIONS.—For purposes of this title—

"(1) PRIMARY CARE CASE MANAGEMENT PROGRAM.—The term 'primary care case management program' means a program operated by a State agency under which such State agency enters into contracts with primary care case management entities for the provision of health care items and services which are specified in such contracts and the provision of case management services to individuals who are—

"(A) eligible for medical assistance under the State plan,

"(B) enrolled with such primary care case management entities, and

"(C) entitled to receive such specified health care items and services and case management services only as approved and arranged for, or provided, by such entities.

"(2) PRIMARY CARE CASE MANAGEMENT ENTITY.—The term 'primary care case management entity' means a health care provider which—

"(A) must be a physician, group of physicians, a Federally qualified health center, a rural health clinic, a community health authority (under section 1934), or an entity employing or having other arrangements with physicians operating under a contract with a State to provide services under a primary care case management program,

"(B) receives payment on a fee for service basis (or, in the case of a Federally qualified health center or a rural health clinic, on a reasonable cost per encounter basis) for the provision of health care items and services specified in such contract to enrolled individuals,

"(C) receives an additional fixed fee per enrollee for a period specified in such contract for providing case management services (including approving and arranging for the provision of health care items and services specified in such contract on a referral basis) to enrolled individuals, and

"(D) is not an entity that is at risk (as defined in paragraph (4)) for such case management services.

"(3) RISK CONTRACTING ENTITY.—The term 'risk contracting entity' means an entity which has a contract with the State agency (or a health insuring organization described in subsection (n)(2)) under which the entity—

"(A) provides or arranges for the provision of health care items or services which are specified in such contract to individuals eligible for medical assistance under the State plan, and

"(B) is at risk (as defined in paragraph (4)) for part or all of the cost of such items or services furnished to individuals eligible for medical assistance under such plan.

"(4) AT RISK.—The term 'at risk' means an entity which—

"(A) has a contract with the State agency under which such entity is paid a fixed amount for providing or arranging for the provision of health care items or services specified in such contract to an individual eligible for medical assistance under the State plan and enrolled with such entity, regardless of whether such items or services are furnished to such individual, and

"(B) is liable for all or part of the cost of furnishing such items or services, regardless of whether such cost exceeds such fixed payment.

"(b) GENERAL REQUIREMENTS FOR RISK CONTRACTING ENTITIES.—

"(1) ORGANIZATION.—A risk contracting entity meets the requirements of this section only if such entity—

"(A)(i) is a qualified health maintenance organization as defined in section 1310(d) of the Public Health Service Act, as determined by the Secretary pursuant to section 1312 of such Act; or

"(ii) is described in subparagraph (C), (D), (E), (F), or (G) of subsection (e)(4);

"(B) is a Federally qualified health center, a rural health clinic, or a community health authority (under section 1934) which has made adequate provision against the risk of insolvency (pursuant to the guidelines and regulations issued by the Secretary under this section), and ensures that individuals eligible for medical assistance under the State plan are not held liable for such entity's debts in case of such entity's insolvency; or

"(C) is an entity which meets all applicable State licensing requirements and has made adequate provision against the risk of insolvency (pursuant to the guidelines and regulations issued by the Secretary under this section), and ensures that individuals eligible for medical assistance under the State plan are not held liable for such entity's debts in case of such entity's insolvency.

"(2) GUARANTEES OF ENROLLEE ACCESS.—A risk contracting entity meets the requirements of this section only if—

"(A) the geographic locations, hours of operation, patient to staff ratios, and other relevant characteristics of such entity are sufficient to afford individuals eligible for medical assistance under the State plan access to such entities that is at least equivalent to the access to health care providers that would be available to such individuals if such individuals were not enrolled with such entity;

"(B) such entity has reasonable and adequate hours of operation, including 24-hour availability of—

"(i)(I) treatment for an unforeseen illness, injury, or condition of an individual eligible for medical assistance under the State plan and enrolled with such entity; or

"(II) referral to other health care providers for such treatment; and

"(ii) other information, as determined by the Secretary or the State; and

"(C) such entity complies with such other requirements relating to access to care as the Secretary or the State may impose.

"(3) CONTRACT WITH STATE AGENCY.—A risk contracting entity meets the requirements of this section only if such entity has a written contract with the State agency which provides—

"(A) that the entity will comply with all applicable provisions of this section, that the State has the right to penalize the entity for failure to comply with such requirements and to terminate the contract in accordance with subsection (j), and that the entity will be subject to penalties imposed by the Secretary under subsection (i) for failure to comply with such requirements;

"(B) for a payment methodology based on experience rating or another actuarially sound methodology approved by the Secretary, which guarantees (as demonstrated by such models or formulas as the Secretary may approve) that—

"(i) payments to the entity under the contract shall not exceed an amount equal to 100 percent of the costs (which shall include administrative costs and which may include costs for inpatient hospital services that would have been incurred in the absence of such contract) that would have been incurred by the State agency in the absence of the contract; and

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(ii) the financial risk for inpatient hospital services is limited to an extent established by the State;

"(C) that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the entity (and of any subcontractor) that pertain—

"(i) to the ability of the entity (or a subcontractor) to bear the risk of potential financial losses; or

"(ii) to services performed or determinations of amounts payable under the contract;

"(D) that in the entity's enrollment, reenrollment, or disenrollment of individuals eligible for medical assistance under the State plan and eligible to enroll, reenroll, or disenroll with the entity pursuant to the contract, the entity will not discriminate among such individuals on the basis of such individuals' health status or requirements for health care services;

"(E)(i) individuals eligible for medical assistance under the State plan who have enrolled with the entity are permitted to terminate such enrollment without cause as of the beginning of the first calendar month (or in the case of an entity described in subsection (e)(4), as of the beginning of the first enrollment period) following a full calendar month after a request is made for such termination;

"(ii) that when an individual has relocated outside the entity's service area, and the entity has been notified of the relocation, services (within reasonable limits) furnished by a health care provider outside the service area will be reimbursed either by the entity or by the State agency; and

"(iii) for written notification of each such individual's right to terminate enrollment, which shall be provided at the time of such individual's enrollment, and, in the case of a child with special health care needs as defined in subsection (e)(1)(B)(ii), at the time the entity identifies such a child;

"(F) in the case of services immediately required to treat an unforeseen illness, injury, or condition, of an individual eligible for medical assistance under the State plan and enrolled with the entity—

"(i) that such services shall not be subject to a preapproval requirement; and

"(ii) where such services are furnished by a health care provider other than the entity, for reimbursement of such provider either by the entity or by the State agency;

"(G) for disclosure of information in accordance with subsection (h) and section 1124;

"(H) that any physician incentive plan operated by the entity meets the requirements of section 1876(i)(8);

"(I) for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients;

"(J) that the entity will comply with the requirement of section 1902(w) with respect to each enrollee;

"(K) that the entity will implement a grievance system, inform enrollees in writing about how to use such grievance system, ensure that grievances are addressed in a timely manner, and report grievances to the State at intervals to be determined by the State;

"(L) that contracts between the entity and each subcontractor of such entity will require each subcontractor—

"(i) to cooperate with the entity in the implementation of its internal quality assurance program under paragraph (4) and adhere to the standards set forth in the quality assurance program, including standards with respect to access to care, facilities in which patients receive care, and availability, maintenance, and review of medical records;

"(ii) to cooperate with the Secretary, the State agency and any contractor to the State in monitoring and evaluating the quality and appropriateness of care provided to enrollees as required by Federal or State laws and regulations; and

"(iii) where applicable, to adhere to regulations and program guidance with respect to reporting requirements under section 1905(r);

"(M) that, where the State deems it necessary to ensure the timely provision to enrollees of the services listed in subsection (f)(2)(C)(ii), the State may arrange for the provision of such services by health care providers other than the entity and may adjust its payments to the entity accordingly;

"(N) that the entity and the State will comply with guidelines and regulations issued by the Secretary with respect to procedures for marketing and information that must be provided to individuals eligible for medical assistance under the State plan;

"(O) that the entity must provide payments to hospitals for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not attained the age of 6 years and who receive such services in a disproportionate share hospital, in accordance with paragraphs (2) and (3) of section 1902(s);

"(P) that the entity shall report to the State, at such time and in such manner as the State shall require, on the rates paid for hospital services (by type of hospital and type of service) furnished to individuals enrolled with the entity;

"(Q) detailed information regarding the relative responsibilities of the entity and the State, for providing (or arranging for the provision of), and making payment for, the following items and services:

"(i) immunizations;

"(ii) the purchase of vaccines;

"(iii) lead screening and treatment services;

"(iv) screening and treatment for tuberculosis;

"(v) screening and treatment for, and preventive services related to, sexually transmitted diseases, including HIV infection;

"(vi) screening, diagnostic, and treatment services required under section 1905(r);

"(vii) family planning services;

"(viii) services prescribed under—

"(I) an Individual Education Plan or Individualized Family Service Plan under part B or part H of the Individuals with Disabilities Education Act; and

"(II) any other individual plan of care or treatment developed under this title or title V;

"(ix) transportation needed to obtain services to which the enrollee is entitled under the State plan or pursuant to an individual plan of care or treatment described in subclauses (I) and (II) of clause (viii); and

"(x) such other services as the Secretary may specify;

"(R) detailed information regarding the procedures for coordinating the relative responsibilities of the entity and the State to ensure prompt delivery of, compliance with any applicable reporting requirements related to, and appropriate record keeping with respect to, the items and services described in subparagraph (Q); and

"(S) such other provisions as the Secretary may require.

"(4) INTERNAL QUALITY ASSURANCE.—A risk contracting entity meets the requirements of this section only if such entity has in effect a written internal quality assurance program which includes a systematic process to achieve specified and measurable goals and objectives for access to, and quality of, care, which—

"(A) identifies the organizational units responsible for performing specific quality assurance functions, and ensures that such units are accountable to the governing body of the entity and that such units have adequate supervision, staff, and other necessary resources to perform these functions effectively,

"(B) if any quality assurance functions are delegated to other entities, ensures that the risk contracting entity remains accountable for all quality assurance functions and has mechanisms to ensure that all quality assurance activities are carried out,

"(C) includes methods to ensure that physicians and other health care professionals under contract with the entity are licensed or certified as required by State law, or are otherwise qualified to perform the services such physicians and other professionals provide, and that these qualifications are ensured through appropriate credentialing and recredentialing procedures,

"(D) provides for continuous monitoring of the delivery of health care, through—

"(i) identification of clinical areas to be monitored, including immunizations, prenatal care, services required under section 1905(r), and other appropriate clinical areas, to reflect care provided to enrollees eligible for medical assistance under the State plan,

"(ii) use of quality indicators and standards for assessing the quality and appropriateness of care delivered, and the availability and accessibility of all services for which the entity is responsible under such entity's contract with the State,

"(iii) use of epidemiological data or chart review, as appropriate, and patterns of care overall,

"(iv) patient surveys, spot checks, or other appropriate methods to determine whether—

"(I) enrollees are able to obtain timely appointments with primary care providers and specialists, and

"(II) enrollees are otherwise guaranteed access and care as provided under paragraph (2),

"(v) provision of written information to health care providers and other personnel on the outcomes, quality, availability, accessibility, and appropriateness of care, and

"(vi) implementation of corrective actions,

"(E) includes standards for timely enrollee access to information and care which at a minimum shall incorporate standards used by the State or professional or accreditation bodies for facilities furnishing perinatal and neonatology care and other forms of specialized medical and surgical care,

"(F) includes standards for the facilities in which patients receive care,

"(G) includes standards for managing and treating medical conditions prevalent among such entity's enrollees eligible for medical assistance under the State plan,

"(H) includes mechanisms to ensure that enrollees eligible for medical assistance under the State plan receive services for which the entity is responsible under the contract which are consistent with standards established by the applicable professional societies or government agencies,

"(I) includes standards for the availability, maintenance, and review of medical records consistent with generally accepted medical practice,

"(J) provides for dissemination of quality assurance procedures to health care providers under contract with the entity, and

"(K) meets any other requirements prescribed by the Secretary or the State.

"(5) TRANSITIONAL AGREEMENTS WITH ESSENTIAL COMMUNITY PROVIDERS.—A risk contracting entity meets the requirements of this section only if such entity complies with the requirements of section 1013 of the Bipartisan Health Care Reform Act of 1994 (subject to the sunset contained in subsection (j) of such section).

"(c) GENERAL REQUIREMENTS FOR PRIMARY CARE CASE MANAGEMENT PROGRAMS.—A primary care case management program implemented by a State under this section shall—

"(1) provide that each primary care case management entity participating in such program has a written contract with the State agency,

"(2) include methods for selection and monitoring of participating primary care case management entities to ensure—

"(A) that the geographic locations, hours of operation, patient to staff ratio, and other relevant characteristics of such entities are sufficient to afford individuals eligible for medical assistance under the State plan access to such entities that is at least equivalent to the access to health care providers that would be available to such individuals if such individuals were not enrolled with such entity,

"(B) that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance, and

"(C) that such entities—

"(i) provide timely and appropriate primary care to such enrollees consistent with standards established by applicable professional societies or governmental agencies, or such other standards prescribed by the Secretary or the State, and

"(ii) where other items and services are determined to be medically necessary, give timely approval of such items and services and referral to appropriate health care providers,

"(3) provide that no preapproval shall be required for emergency health care items or services, and

"(4) permit individuals eligible for medical assistance under the State plan who have enrolled with a primary care case management entity to terminate such enrollment without cause not later than the beginning of the first calendar month following a full calendar month after the request is made for such termination.

"(d) EXEMPTIONS FROM STATE PLAN REQUIREMENTS.—A State plan may permit or require an individual eligible for medical assistance under such plan to enroll with a risk contracting entity or a primary care case management entity without regard to the requirements set forth in the following paragraphs of section 1902(a):

"(1) Paragraph (1) (concerning statewideness).

"(2) Paragraph (10)(B) (concerning comparability of benefits), to the extent benefits not included in the State plan are provided.

"(3) Paragraph (23) (concerning freedom of choice of provider), except with respect to services described in section 1905(a)(4)(C) and except as required under subsection (e).

"(e) STATE OPTIONS WITH RESPECT TO ENROLLMENT AND DISENROLLMENT.—

"(1) MANDATORY ENROLLMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State plan may require an individual eligible for medical assistance under such plan to enroll with a risk contracting entity or a primary care case management entity only if the individual is permitted a choice within a reasonable service area (as defined by the State)—

"(i) between or among 2 or more risk contracting entities,

"(ii) among a risk contracting entity and a primary care case management program, or

"(iii) among primary care case management entities.

"(B) SPECIAL NEEDS CHILDREN.—

"(i) IN GENERAL.—A State may not require a child with special health care needs (as defined in clause (ii)) to enroll with a risk contracting entity or a primary care case management entity.

"(ii) DEFINITION.—For purposes of this subparagraph, the term 'child with special health care needs' refers to an individual eligible for supplemental security income under title XVI, a child described under section 501(a)(1)(D), or a child described in section 1902(e)(3).

"(2) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—In the case of an individual who—

"(A) in a month is eligible for medical assistance under the State plan and enrolled with a risk contracting entity with a contract under this section,

"(B) in the next month (or next 2 months) is not eligible for such medical assistance, but

"(C) in the succeeding month is again eligible for such benefits,

the State agency (subject to subsection (b)(3)(E)) may enroll the individual for that succeeding month with such entity, if the entity continues to have a contract with the State agency under this subsection.

"(3) DISENROLLMENT.—

"(A) RESTRICTIONS ON DISENROLLMENT WITHOUT CAUSE.—Except as provided in subparagraph (C), a State plan may restrict the period in which individuals enrolled with risk contracting entities described in paragraph (4) may terminate such enrollment without cause to the first month of each period of enrollment (as defined in subparagraph (B)), but only if the State provides notification, at least once during each such enrollment period, to individuals enrolled with such entity of the right to terminate such enrollment and the restriction on the exercise of this right. Such restriction shall not apply to requests for termination of enrollment for cause.

"(B) PERIOD OF ENROLLMENT.—For purposes of this paragraph, the term 'period of enrollment' means—

"(i) a period not to exceed 6 months in duration, or

"(ii) a period not to exceed 1 year in duration, in the case of a State that, on the effective date of this paragraph, had in effect a waiver under section 1115 of requirements under this title under which the State could establish a 1-year minimum period of enrollment with risk contracting entities.

"(C) SPECIAL NEEDS CHILDREN.—A State may not restrict disenrollment of a child with special health care needs (as defined in paragraph (1)(B)(ii)).

"(4) ENTITIES ELIGIBLE FOR DISENROLLMENT RESTRICTIONS.—A risk contracting entity described in this paragraph is—

"(A) a qualified health maintenance organization as defined in section 1310(d) of the Public Health Service Act,

"(B) an eligible organization with a contract under section 1876,

"(C) an entity that is receiving (and has received during the previous 2 years) a grant of at least $100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act,

"(D) an entity that—

"(I) received a grant of at least $100,000 under section 329(d)(1)(A) or section 330(d)(1) of the Public Health Service Act in the fiscal year ending June 30, 1976, and has been a grantee under either such section for all periods after that date, and

"(ii) provides to its enrollees, on a prepaid capitation or other risk basis, all of the services described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1905(a) (and the services described in section 1905(a)(7), to the extent required by section 1902(a)(10)(D)),

"(E) an entity that is receiving (and has received during the previous 2 years) at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965,

"(F) a nonprofit primary health care entity located in a rural area (as defined by the Appalachian Regional Commission)—

"(I) which received in the fiscal year ending June 30, 1976, at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, and

"(ii) which, for all periods after such date, either has been the recipient of a grant, subgrant, or subcontract under such Act or has provided services on a prepaid capitation or other risk basis under a contract with the State agency initially entered into during a year in which the entity was the recipient of such a grant, subgrant, or subcontract,

"(G) an entity that had contracted with the State agency prior to 1970 for the provision, on a prepaid risk basis, of services (which did not include inpatient hospital services) to individuals eligible for medical assistance under the State plan,

"(H) a program pursuant to an undertaking described in subsection (n)(3) in which at least 25 percent of the membership enrolled on a prepaid basis are individuals who—

"(i) are not insured for benefits under part B of title XVIII or eligible for medical assistance under the State plan, and

"(ii) (in the case of such individuals whose prepayments are made in whole or in part by any government entity) had the opportunity at the time of enrollment in the program to elect other coverage of health care costs that would have been paid in whole or in part by any governmental entity,

"(I) an entity that, on the date of enactment of this provision, had a contract with the State agency under a waiver under section 1115 or 1915(b) and was not subject to a requirement under this title to permit disenrollment without cause, or

"(J) an entity that has a contract with the State agency under a waiver under section 1915(b)(5).

"(f) STATE MONITORING AND EXTERNAL REVIEW.—

"(1) STATE GRIEVANCE PROCEDURE.—A State contracting with a risk contracting entity or a primary care case management entity under this section shall provide for a grievance procedure for enrollees of such entity with at least the following elements:

"(A) A toll-free telephone number for enrollee questions and grievances.

"(B) Periodic notification of enrollees of their rights with respect to such entity or program.

"(C) Periodic sample reviews of grievances registered with such entity or program or with the State.

"(D) Periodic survey and analysis of enrollee satisfaction with such entity or program, including interviews with individuals who disenroll from the entity or program.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(2) STATE MONITORING OF QUALITY AND ACCESS.—

"(A) RISK CONTRACTING ENTITIES.—A State contracting with a risk contracting entity under this section shall provide for ongoing monitoring of such entity's compliance with the requirements of subsection (b), including compliance with the requirements of such entity's contract under subsection (b)(3), and shall undertake appropriate followup activities to ensure that any problems identified are rectified and that compliance with the requirements of subsection (b) and the requirements of the contract under subsection (b)(3) is maintained.

"(B) PRIMARY CARE CASE MANAGEMENT ENTITIES.—A State electing to implement a primary care case management program shall provide for ongoing monitoring of the program's compliance with the requirements of subsection (c) and shall undertake appropriate followup activities to ensure that any problems identified are rectified and that compliance with subsection (c) is maintained.

"(C) SERVICES.—

"(i) IN GENERAL.—The State shall establish procedures (in addition to those required under subparagraphs (A) and (B)) to ensure that the services listed in clause (ii) are available in a timely manner to an individual enrolled with a risk contracting entity or a primary care case management entity. Where necessary to ensure the timely provision of such services, the State shall arrange for the provision of such services by health care providers other than the risk contracting entity or the primary care case management entity in which an individual is enrolled.

"(ii) SERVICES LISTED.—The services listed in this clause are—

"(I) prenatal care;

"(II) immunizations;

"(III) lead screening and treatment;

"(IV) prevention, diagnosis and treatment of tuberculosis, sexually transmitted diseases (including HIV infection), and other communicable diseases; and

"(V) such other services as the Secretary may specify.

"(iii) REPORT.—The procedures referred to in clause (i) shall be described in an annual report to the Secretary provided by the State.

"(3) EXTERNAL INDEPENDENT REVIEW.—

"(A) IN GENERAL.—Except as provided in paragraph (4), a State contracting with a risk contracting entity under this section shall provide for an annual external independent review of the quality and timeliness of, and access to, the items and services specified in such entity's contract with the State agency. Such review shall be conducted by a utilization control and peer review organization with a contract under section 1153 or another organization unaffiliated with the State government or with any risk contracting entity and approved by the Secretary.

"(B) CONTENTS OF REVIEW.—An external independent review conducted under this paragraph shall include the following:

"(i) A review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment.

"(ii) A review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care.

"(iii) Notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization).

"(iv) Other activities as prescribed by the Secretary or the State.

"(C) AVAILABILITY.—The results of each external independent review conducted under this paragraph shall be available to the public consistent with the requirements for disclosure of information contained in section 1160.

"(4) DEEMED COMPLIANCE WITH EXTERNAL INDEPENDENT QUALITY OF CARE REVIEW REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may deem the State to have fulfilled the requirement for independent external review of quality of care with respect to an entity which has been accredited by an organization described in subparagraph (B) and approved by the Secretary.

"(B) ACCREDITING ORGANIZATION.—An accrediting organization described in this subparagraph must—

"(i) exist for the primary purpose of accrediting coordinated care organizations;

"(ii) be governed by a group of individuals representing health care providers, purchasers, regulators, and consumers (a minority of which shall be representatives of health care providers);

"(iii) have substantial experience in accrediting coordinated care organizations, including an organization's internal quality assurance program;

"(iv) be independent of health care providers or associations of health care providers;

"(v) be a nonprofit organization; and

"(vi) have an accreditation process which meets requirements specified by the Secretary.

"(5) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to paragraph (3) and shall monitor the effectiveness of the State's monitoring and followup activities required under subparagraph (A) of paragraph (2). If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of paragraph (2) are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

"(g) PARTICIPATION OF CERTAIN PROVIDERS.—Each risk contracting entity shall meet the requirements of section 1013 of the Bipartisan Health Care Reform Act of 1994 in the same manner as they would apply to a group health plan (when such section becomes effective).

"(h) TRANSACTIONS WITH PARTIES IN INTEREST.—

"(1) IN GENERAL.—Each risk contracting entity which is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) must report to the State and, upon request, to the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General of the United States a description of transactions between the entity and a party in interest (as defined in section 1318(b) of such Act), including the following transactions:

"(A) Any sale or exchange, or leasing of any property between the entity and such a party.

"(B) Any furnishing for consideration of goods, services (including management services), or facilities between the entity and such a party, but not including salaries paid to employees for services provided in the normal course of their employment.

"(C) Any lending of money or other extension of credit between the entity and such a party.

The State or the Secretary may require that information reported with respect to a risk contracting entity which controls, or is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the risk contracting entity and such entity.

"(2) AVAILABILITY OF INFORMATION.—Each risk contracting entity shall make the information reported pursuant to paragraph (1) available to its enrollees upon reasonable request.

"(i) REMEDIES FOR FAILURE TO COMPLY.—

"(1) IN GENERAL.—If the Secretary determines that a risk contracting entity or a primary care case management entity—

"(A) fails substantially to provide services required under section 1905(r), when such an entity is required to do so, or provide medically necessary items and services that are required to be provided to an individual enrolled with such an entity, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes premiums on individuals enrolled with such an entity in excess of the premiums permitted under this title;

"(C) acts to discriminate among individuals in violation of the provision of subsection (b)(3)(D), including expulsion or refusal to reenroll an individual or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the entity whose medical condition or history indicates a need for substantial future medical services;

"(D) misrepresents or falsifies information that is furnished—

"(i) to the Secretary or the State under this section; or

"(ii) to an individual or to any other entity under this section; or

"(E) fails to comply with the requirements of section 1876(i)(8),

the Secretary may provide, in addition to any other remedies available under law, for any of the remedies described in paragraph (2).

"(2) ADDITIONAL REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1), or, with respect to a determination under subparagraph (C) or (D)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(C), $15,000 for each individual not enrolled as a result of a practice described in such paragraph, or

"(B) denial of payment to the State for medical assistance furnished by a risk contracting entity or a primary care case management entity under this section for individuals enrolled after the date the Secretary notifies the entity of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(j) TERMINATION OF CONTRACT BY STATE.—Any State which has a contract with a risk contracting entity or a primary care case management entity may terminate such contract if such entity fails to comply with the terms of such contract or any applicable provision of this section.

"(k) FAIR HEARING.—Nothing in this section shall affect the rights of an individual eligible to receive medical assistance under the State plan to obtain a fair hearing under section 1902(a)(3) or under applicable State law.

"(l) DISPROPORTIONATE SHARE HOSPITALS.—Nothing in this section shall affect any requirement on a State to comply with section 1923.

"(m) REFERRAL PAYMENTS.—For 1 year following the date on which individuals eligible for medical assistance under the State plan in a service area are required to enroll with a risk contracting entity or a primary care case management entity, Federally qualified health centers and rural health centers located in such service area or providing care to such enrollees, shall receive a fee for educating such enrollees about the availability of services from the risk contracting entity or primary care case management entity with which such enrollees are enrolled.

"(n) SPECIAL RULES.—

"(1) NONAPPLICABILITY OF CERTAIN PROVISIONS TO CERTAIN RISK CONTRACTING ENTITIES.—

In the case of any risk contracting entity which—

"(A)(i) is an individual physician or a physician group practice of less than 50 physicians, and

"(ii) is not described in paragraphs (A) and (B) of subsection (b)(1), and

"(B) is at risk only for the health care items and services directly provided by such entity,

paragraphs (3)(K), (3)(L), (3)(O), (3)(P), and (4) of subsection (b), and paragraph (3) of subsection (f), shall not apply to such entity.

"(2) EXCEPTION FROM DEFINITION OF RISK CONTRACTING ENTITY.—For purposes of this section, the term 'risk contracting entity' shall not include a health insuring organization which was used by a State before April 1, 1986, to administer a portion of the State plan of such State on a statewide basis.

"(3) NEW JERSEY.—The rules under section 1903(m)(6) as in effect on the day before the effective date of this section shall apply in the case of an undertaking by the State of New Jersey (as described in such section 1903(m)(6)).

"(o) CONTINUATION OF CERTAIN COORDINATED CARE PROGRAMS.—The Secretary may provide for the continuation of any coordinated care program operating under section 1115 or 1915 without requiring compliance with any provision of this section which conflicts with the continuation of such program and without requiring any additional waivers under such sections 1115 and 1915 if the program has been successful in assuring quality and containing costs (as determining by the Secretary) and is likely to continue to be successful in the future.

"(p) GUIDELINES, REGULATIONS, AND MODEL CONTRACT.—

"(1) GUIDELINES AND REGULATIONS ON SOLVENCY.—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines and regulations shall take into account characteristics that may differ among risk contracting entities including whether such an entity is at risk for inpatient hospital services.

"(2) GUIDELINES AND REGULATIONS ON MARKETING.—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning—

"(A) marketing undertaken by any risk contracting entity or any primary care case management program to individuals eligible for medical assistance under the State plan, and

"(B) information that must be provided by States or any such entity to individuals eligible for medical assistance under the State plan with respect to—

"(i) the options and rights of such individuals to enroll with, and disenroll from, any such entity, as provided in this section, and

"(ii) the availability of services from any such entity (including a list of services for which such entity is responsible or must approve and information on how to obtain services for which such entity is not responsible). In developing the guidelines and regulations under this paragraph, the Secretary shall address the special circumstances of children with special health care needs (as defined in subsection (e)(1)(B)(ii)) and other individuals with special health care needs.

"(3) MODEL CONTRACT.—The Secretary shall develop a model contract to reflect the requirements of subsection (b)(3) and such other requirements as the Secretary determines appropriate.".

(b) WAIVERS FROM REQUIREMENTS ON COORDINATED CARE PROGRAMS.—Section 1915(b) of such Act (42 U.S.C. 1396n) is amended—

(1) in the matter preceding paragraph (1), by striking "as may be necessary" and inserting ", and section 1932 as may be necessary";

(2) in paragraph (1), by striking "a primary care case management system or";

(3) by striking "and" at the end of paragraph (3);

(4) by striking the period at the end of paragraph (4) and inserting ", and"; and

(5) by inserting after paragraph (4) the following new paragraph:

"(5) to permit a risk contracting entity (as defined in section 1932(a)(3)) to restrict the period in which individuals enrolled with such entity may terminate such enrollment without cause in accordance with section 1932(e)(3)(A).".

(c) STATE OPTION TO GUARANTEE MEDICAID ELIGIBILITY.—Section 1902(e)(2) of such Act (42 U.S.C. 1396a(e)(2)) is amended—

(1) in subparagraph (A), by striking all that precedes "(but for this paragraph)" and inserting "In the case of an individual who is enrolled—

"(i) with a qualified health maintenance organization (as defined in title XIII of the Public Health Service Act) or with a risk contracting entity (as defined in section 1932(a)(3)), or

"(ii) with any risk contracting entity (as defined in section 1932(a)(3)) in a State that, on the effective date of this provision, had in effect a waiver under section 1115 of requirements under this title under which the State could extend eligibility for medical assistance for enrollees of such entity, or

"(iii) with an eligible organization with a contract under section 1876,

and who would",

(2) in subparagraph (B), by striking "organization or" each place it appears, and

(3) by adding at the end the following new subparagraph:

"(C) The State plan may provide, notwithstanding any other provision of this title, that an individual shall be deemed to continue to be eligible for benefits under this title until the end of the month following the month in which such individual would (but for this paragraph) lose such eligibility because of excess income and resources, if the individual is enrolled with a risk contracting entity or primary care case management entity (as those terms are defined in section 1932(a)).".

(d) ENHANCED MATCH RELATED TO QUALITY REVIEW.—Section 1903(a)(3)(C) of such Act (42 U.S.C. 1396b(a)(3)(C)) is amended—

(1) by striking "organization or by" and inserting "organization, by"; and

(2) by striking "section 1152, as determined by the Secretary," and inserting "section 1152, as determined by the Secretary, or by another organization approved by the Secretary which is unaffiliated with the State government or with any risk contracting entity (as defined in section 1932(a)(3)),".

(e) ACCUMULATION OF RESERVES BY CERTAIN ENTITIES.—Any organization referred to in section 329, 330, or 340, of the Public Health Service Act which has contracted with a State agency as a risk contracting entity under section 1932(g)(3)(A) of the Social Security Act may accumulate reserves with respect to payments made to such organization under section 1932(g)(3)(C) of such Act.

(f) CONFORMING AMENDMENTS.—

(1) Section 1128(b)(6)(C)(i) of such Act (42 U.S.C. 1320a-7(b)(6)(C)(i)) is amended by striking "health maintenance organization" and inserting "risk contracting entity".

(2) Section 1902(a)(23) of such Act (42 U.S.C. 1396a(a)(23)) is amended by striking "primary care-case management system (described in section 1915(b)(1)), a health maintenance organization," and inserting "primary care case management program (as defined in section 1932(a)(1)), a risk contracting entity (as defined in section 1932(a)(3)),".

(3) Section 1902(a)(30)(C) of such Act (42 U.S.C. 1396a(a)(30)(C)) is amended by striking "use a utilization" and all that follows through "with the results" and inserting "provide for independent review and quality assurance of entities with contracts under section 1932, in accordance with subsection (f) of such section 1932, with the results".

(4) Section 1902(a)(57) of such Act (42 U.S.C. 1396a(a)(57)) is amended by striking "or health maintenance organization (as defined in section 1903(m)(1)(A))" and inserting "risk contracting entity, or primary care case management entity (as defined in section 1932(a))".

(5) Section 1902(a) of such Act (42 U.S.C. 1396a), as amended by sections 6001(a) and 6011(b), is amended—

(A) by striking "and" at the end of paragraph (63);

(B) by striking the period at the end of paragraph (64) and inserting "; and"; and

(C) by adding at the end the following new paragraphs:

"(65) at State option, provide for a primary care case management program in accordance with section 1932; and

"(66) at State option, provide for a program under which the State contracts with risk contracting entities in accordance with section 1932.".

(6) Section 1902(p)(2) of such Act (42 U.S.C. 1396a(p)(2)) is amended by striking "health maintenance organization (as defined in section 1903(m))" and inserting "risk contracting entity (as defined in section 1932(a)(3))".

(7) Section 1902(w) of such Act (42 U.S.C. 1396a(w)) is amended—

VOL 140 PT 15 AG 10 — 11 1994 UMI

(A) in paragraph (1), by striking "section 1903(m)(1)(A)" and inserting "section 1932(a)(3)", and

(B) in paragraph (2)(E)—

(i) by striking "health maintenance organization" and inserting "risk contracting entity", and

(ii) by striking "organization" and inserting "entity".

(8) Section 1903(k) of such Act (42 U.S.C. 1396b(k)) is amended by striking "health maintenance organization which meets the requirements of subsection (m) of this section" and inserting "risk contracting entity which meets the requirements of section 1932".

(9) Section 1903(w)(7)(A)(viii) of such Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended by striking "health maintenance organizations (and other organizations with contracts under section 1903(m))" and inserting "risk contracting entities with contracts under section 1932".

(10) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter preceding clause (1), by inserting "(which may be on a prepaid capitation or other risk basis)" after "payment".

(11) Section 1916(b)(2)(D) of such Act (42 U.S.C. 1396o(b)(2)(D)) is amended by striking "health maintenance organization (as defined in section 1903(m))" and inserting "risk contracting entity (as defined in section 1932(a)(3))".

(12) Section 1925(b)(4)(D)(iv) of such Act (42 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended—

(A) in the heading, by striking "hmo" and inserting "risk contracting entity",

(B) by striking "health maintenance organization (as defined in section 1903(m)(1)(A))" and inserting "risk contracting entity (as defined in section 1932(a)(3))", and

(C) by striking "health maintenance organization in accordance with section 1903(m)" and inserting "risk contracting entity in accordance with section 1932".

(13) Paragraphs (1) and (2) of section 1926(a) of such Act (42 U.S.C. 1396r-7(a)) are each amended by striking "health maintenance organizations under section 1903(m)" and inserting "risk contracting entities under section 1932".

(14) Section 1927(j)(1) of such Act is amended by striking "* * * Health Maintenance Organizations, including those organizations that contract under section 1903(m)" and inserting "risk contracting entities (as defined in section 1932(a)(3))".

(g) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to calendar quarters beginning on or after January 1, 1995.

SEC. 2112. CONTINUATION OF STATE MEDICAID ELIGIBILITY CATEGORIES.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1369a(a)), as amended by sections 6111(1) and 2101(a)(1), is amended—

(1) by striking "and" at the end of paragraph (62);

(2) by striking the period at the end of paragraph (63) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(64) subject to section 1932(c), provide for the continuation through December 31, 1997, of eligibility for medical assistance under section 1902(a)(10)(A) of any class or category of individuals eligible for medical assistance under such section during fiscal year 1994.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments for calendar quarters beginning on or after January 1, 1995.

PART 3—INTEGRATION OF AFDC AND NON-CASH MEDICAID BENEFICIARIES INTO STATE PREMIUM SUBSIDY PROGRAM

SEC. 2121. DIVISION OF MEDICAID BENEFITS INTO 2 GROUPS; REQUIREMENT FOR INTEGRATION OF AFDC RECIPIENTS AND NON-CASH MEDICAID BENEFICIARIES INTO STATE PREMIUM SUBSIDY PROGRAMS.

(a) IN GENERAL.—Title XIX of the Social Security Act, as amended by section 2111(a)(2), is amended by redesignating section 1933 as section 1934 and by inserting after section 1932 the following new section:

"TRANSITIONAL MEDICAID REFORM RULES FOR BENEFITS FOR ACUTE MEDICAL SERVICES FOR AFDC RECIPIENTS AND NON-CASH MEDICAID BENEFICIARIES

"SEC. 1933. (a) APPLICATION OF SECTION.—This section applies with respect to medical assistance for acute medical services (as defined in subsection (f)) under State plans under this title for calendar quarters during 1995, 1996, and 1997 to AFDC recipients and non-cash medicaid categorical beneficiaries. To the extent this section applies, it supersedes provisions of this title (and other applicable law) to the contrary.

"(b) DIVISION OF ACUTE MEDICAL SERVICE BENEFITS.—The Secretary shall divide the class of benefits for acute medical services into—

"(1) a group of those benefits with respect to such services typically included in the services covered under a qualified standard health plan (in this section referred to as 'core benefits'), and

"(2) a group of benefits with respect to such services (in this section referred to as 'supplemental medical benefits').

"(c) SUNSET IN MEDICAL ASSISTANCE.—For calendar quarters beginning on or after January 1, 1998, with respect to any individual who is AFDC recipient or non-cash medicaid beneficiary and who is a premium subsidy eligible individual under part A of title XXI—

"(1) the individual is not entitled to receive medical assistance for core benefits under the State plan, and

"(2) Federal financial participation under section 1903(a) shall not be paid to the State to the extent that expenditures for such assistance.

"(d) STATE MAINTENANCE OF EFFORT REQUIRED.—

"(1) IN GENERAL.—Payment to a State under section 1903(a) for a quarter (beginning after 1997) is conditioned upon the State making expenditures under this title for core benefits for AFDC recipients and non-cash beneficiaries equal to at least the maintenance of effort amount computed under paragraph (2).

"(2) MAINTENANCE OF EFFORT AMOUNT.—The maintenance of effort amount computed under this paragraph for a State for a quarter in a year is equal to the product of—

"(A) the amount that would be computed as the per capita core benefits expenditure limit under subsection (c)(2) for the State for the quarter if the FEHBP State rolling increase percentage (as defined in section 2136(b)(2)) were substituted for the FEHBP national rolling increase percentage in section 2135(a)(2)(B) and 2135(b)(1); and

"(B) the Federal-to-State conversion factor (specified under section 2135(b)(3)).

"(e) REFERENCE TO PAYMENTS UNDER NEW STATE SUPPLEMENTARY MEDICAL BENEFITS PROGRAM.—For payments to States for operation of State supplementary benefit programs, see part B of title XXI.

"(f) DEFINITIONS.—In this section:

"(1) ACUTE MEDICAL SERVICES.—"The term 'acute medical services' means items and services described in section 1905(a) other than the following:

"(A) Nursing facility services (as defined in section 1905(f)).

"(B) Intermediate care facility for the mentally retarded services (as defined in section 1905(d)).

"(C) Personal care services (as described in section 1905(a)(24)).

"(D) Private duty nursing services (as referred to in section 1905(a)(8)).

"(E) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(F) Home and community care furnished to functionally disabled elderly individuals under section 1929.

"(G) Community supported living arrangements services under section 1930.

"(H) Case-management services (as described in section 1915(g)(2)).

"(I) Home health care services (as referred to in section 1905(a)(7)), clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that qualifies the individual to receive any of the services described in a previous subparagraph.

"(J) Hospice care.

"(2) AFDC RECIPIENT.—The term 'AFDC recipient' means an individual who is receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV.

"(3) NON-CASH MEDICAID BENEFICIARY.—The term 'non-cash medicaid beneficiary' means an individual described in section 1902(a)(10)(A) who is not an AFDC recipient or an SSI recipient.

"(4) SSI RECIPIENT.—The term 'SSI recipient' means, for a month, an individual—

"(A) with respect to whom supplemental security income benefits are being paid under title XVI of the Social Security Act for the month,

"(B) who is receiving a supplementary payment under section 1616 of such Act or under section 212 of Public Law 93-66 for the month,

"(C) who is receiving monthly benefits under section 1619(a) of the Social Security Act (whether or not pursuant to section 1616(c)(3) of such Act) for the month, or

"(D) who is treated under section 1619(b) of the Social Security Act as receiving supplemental security income benefits in a month for purposes of title XIX of such Act.

"(5) STATE.—This section shall only apply with respect to the 50 States and the District of Columbia.".

SEC. 2122. 25 PERCENT REDUCTION IN AMOUNT OF PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(a) IN GENERAL.—Section 1923 of the Social Security Act (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(h) REDUCTION IN FEDERAL FINANCIAL PARTICIPATION FOR DISPROPORTIONATE SHARE ADJUSTMENTS.—Notwithstanding any other provision of this section, the amount of payments under section 1903(a) with respect to any payment adjustment made under this section for hospitals in a State for quarters in a fiscal year shall not exceed the following percent of the amount otherwise determined under subsection (f):

"(1) For fiscal years 1997 and 1998, 75 percent.

"(2) For fiscal years 1999 and 2000, 70 percent.

"(3) For fiscal years 2001 and thereafter 2004, 65 percent.".

(b) CONFORMING AMENDMENT.—Section 1923(c) of such Act (42 U.S.C. 1396r-4(c)) is amended in the matter preceding paragraph (1) by striking "(f) and (g)" and inserting "(f), (g), and (h)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to quarters in fiscal years beginning on or after October 1, 1996.

Subtitle C—Report and Recommendations on Health Coverage and Access

SEC. 2201. OBJECTIVE OF FULL ACCESS AND COVERAGE.

It is an objective of this Act to assure by 2002 that—

(1) all eligible individuals in the United States have access to private or public health coverage, and

(2) at least 95 percent of such individuals have such coverage.

SEC. 2202. REPORT AND RECOMMENDATIONS ON ACHIEVEMENT OF OBJECTIVE FOR HEALTH COVERAGE AND ACCESS.

(a) STUDY.—The Secretary shall monitor and evaluate the extent to which eligible individuals in the United States have access to health coverage and have health coverage.

(b) REPORT.—Not later than January 31, 2002, the Secretary shall submit to Congress a report on the evaluation conducted under subsection (a). The Secretary shall include in the report a determination of whether the objective described in section 2201 has been met.

(c) RECOMMENDATIONS.—If the Secretary determines that such objective has not been met, the Secretary shall include in the report such recommendations as may be appropriate to achieve the objective at the earliest possible date.

TITLE III—ACCESS IMPROVEMENTS

TABLE OF CONTENTS OF TITLE

Subtitle A—Expanding Access in Underserved Areas

Sec. 3001. Community health authorities demonstration projects.
Sec. 3002. Health center program amendments.

Subtitle B—Improved Access in Rural Areas

PART 1—GRANTS TO ENCOURAGE COMMUNITY RURAL HEALTH NETWORKS

Sec. 3101. Assistance for development of access plans for chronically underserved areas.
Sec. 3102. Technical assistance grants for networks.
Sec. 3103. Development grants for networks.
Sec. 3104. Definitions.

PART 2—INCENTIVES FOR HEALTH PROFESSIONALS TO PRACTICE IN RURAL AREAS

Subpart A—National Health Service Corps Program

Sec. 3111. National Health Service Corps loan repayments excluded from gross income.
Sec. 3112. Modification in criteria for designation as health professional shortage area.
Sec. 3113. Other provisions regarding National Health Service Corps.

Subpart B—Incentives Under Other Programs

Sec. 3121. Extension of additional payment under medicare for physicians' services furnished in former shortage areas.
Sec. 3122. Refinement of geographic adjustment factor for medicare physicians' services.
Sec. 3123. Development of model State scope of practice law.

PART 3—ASSISTANCE FOR INSTITUTIONAL PROVIDERS

Subpart A—Community and Migrant Health Centers

Sec. 3131. Community and migrant health centers.

Subpart B—Emergency Medical Systems

Sec. 3141. Emergency medical services.
Sec. 3142. Grants to States regarding aircraft for transporting rural victims of medical emergencies.

Subpart C—Assistance to Rural Providers Under Medicare

Sec. 3151. Amendments to essential access community hospital (EACH) program under medicare.
Sec. 3152. Rural emergency access care hospitals described.
Sec. 3153. Coverage of and payment for services.
Sec. 3154. Effective date.

Subpart D—Demonstration Projects to Encourage Primary Care and Rural-Based Graduate Medical Education

Sec. 3161. State and consortium demonstration projects.
Sec. 3162. Goals for projects.
Sec. 3163. Definitions.

PART 4—HOSPITAL AFFILIATED PRIMARY CARE CENTER

Sec. 3171. Hospital-affiliated primary care centers.

Subtitle C—Academic Health Centers

Sec. 3201. Study of payments for medical education at sites other than hospitals.

Subtitle D—United States-Mexico Border Health Commission

Sec. 3301. Agreement to establish binational commission.
Sec. 3302. Duties.
Sec. 3303. Other authorized functions.
Sec. 3304. Membership.
Sec. 3305. Regional offices.
Sec. 3306. Reports.
Sec. 3307. Definitions.

Subtitle A—Expanding Access in Underserved Areas

SEC. 3001. COMMUNITY HEALTH AUTHORITIES DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Title XIX of the Social Security Act, as amended by sections 2111(a) and 2121(a), is amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1933 the following new section:

"COMMUNITY HEALTH AUTHORITIES DEMONSTRATION PROJECTS

"SEC. 1934. (a) IN GENERAL.—In order to test the effectiveness of various innovative health care delivery approaches through the operation of community health authorities, the Secretary shall operate a program under which States establish projects to demonstrate the effectiveness of such approaches in providing access to cost-effective preventive and primary care and related services for various areas and populations, including low-income residents of medically underserved areas or for medically underserved populations. A State may operate more than one such project.

"(b) SELECTION OF STATE PROJECTS.—

"(1) IN GENERAL.—A State is eligible to participate in the program, and establish a demonstration project, under this section only if—

"(A) the State submits to the Secretary an application, at such time and in such form as the Secretary may require, for participation in the program; and

"(B) the Secretary finds that—

"(i) the application contains assurances that the State will support the development of a community health authority that meets the requirements of this section,

"(ii) the community health authority will meet the requirements for such an authority under subsection (c),

"(iii) the State provides sufficient assurances that the demonstration project of a community health authority meets (or, when operational, will meet) the requirements of subsection (d), and

"(iv) the State will comply with the requirements of subsections (g) and (h).

"(2) CONTENTS OF APPLICATION.—Each application submitted under paragraph (1) for a demonstration project shall include at least the following:

"(A) A description of the proposed community health authority and of the area or population that the authority will serve.

"(B) A demonstration that the CHA will serve at least one geographic area or population group that is designated as medically underserved under section 330 of the Public Health Service Act or as having a shortage of health professionals under section 332 of such Act.

"(C) An assessment of the area's or population's need for services and an assurance that the services of the CHA will be responsive to those needs.

"(D) A list of the items and services to be furnished by the CHA under the project, broken down by those items and services that are treated as medical assistance under the State plan under this title and other items and services that will be provided by the CHA (either directly or through coordination with other entities).

"(E) An assurance that the CHA has entered into (or plans to enter into) written participation agreements with a sufficient number of providers to enable the CHA to furnish all of such items and services to enrolled individuals.

"(F) An assurance that the State plan under this title will provide payment to the authority in accordance with subsection (e).

"(G) Evidence of support and assistance from other State agencies with responsibility for providing or supporting the provision of preventive and primary care services to underserved and at-risk populations.

"(H) A proposed budget for the CHA.

"(3) PERIOD OF APPROVAL.—Each project approved under this section shall be approved for a period of not less than 3 years, subject to renewal for subsequent periods unless such approval is withdrawn for cause by the Secretary or at the request of the State.

"(c) COMMUNITY HEALTH AUTHORITY (CHA) DEFINED.—In this section, the terms 'community health authority' and 'CHA' mean a nonprofit entity that meets the following requirements:

"(1) The entity serves (or will serve at the time it becomes operational under a project) a geographic area or population group that includes those designated—

"(A) under section 330 of the Public Health Service Act as medically underserved, or

"(B) under section 332 of such Act as a health professions shortage area.

"(2) The entity enrolls—

"(A) individuals and families who are medicaid-eligible;

"(B) within the limits of its available resources and capacity, other individuals who

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have incomes below 200 percent of the Federal official poverty level; and

"(C) within the limits of its available resources and capacity, other individuals and families who are able to pay the costs of enrollment.

"(3) Through its participating providers, the entity provides or, through contracts, arranges for the provision of (or, by the time it become operational, will so provide or arrange for the provision of) at least preventive services, primary care services, inpatient and outpatient hospital services, and any other service provided by a participating provider for which payment may be made under the State plan under this title to enrolled individuals.

"(4) The entity must include (to the maximum extent practicable) as participating providers any of the following providers that furnish services provided by (or arranged by) the entity that are located in or serve the area or population to be covered:

"(A) Federally-qualified health centers.

"(B) Rural health clinics.

"(C) Local public health agencies that furnish such services.

"(D) A hospital (or other provider of inpatient or outpatient hospital services) which has a participation agreement in effect with the State under its plan under this title, which is located in or serving the area or population to be served.

"(5) The entity may include as participating providers other providers (which may include private physicians or group practice offices, other community clinics, limited service providers (such as prenatal clinics), and health professionals teaching programs (such as area health educational centers)) and take other appropriate steps, to the extent needed to assure that the network is reasonable in size and able to provide (or arrange for the provision of) the services it proposes to furnish to its enrollees.

"(6) The entity must maintain written agreements with each participating provider under which the provider agrees to participate in the CHA and agrees to accept payment from the CHA as payment in full for services furnished to individuals enrolled with the CHA.

"(7) Under the written agreements described in paragraph (6), if a majority of the board of directors of the entity has determined that a participating provider is failing to meet any of the requirements of the participation agreement, the board may terminate the provider's participation agreement in accordance with the following requirements:

"(A) Subject to subparagraph (B), prior to any termination of a provider's participation agreement, the provider shall be entitled to 30 days prior notice, a reasonable opportunity to correct any deficiencies, and an opportunity for a full and fair hearing conducted by the entity to dispute the reasons for termination. The provider shall be entitled to appeal the board of directors' decision directly to a committee consisting of representatives of all of the entity's participating providers.

"(B) If a majority of the board of directors of the entity determines that the continued participation of a provider presents an immediate threat to the health and safety of patients or a substantial risk of improper diversion of funds, the board may suspend the provider's participation agreement (including the receipt of funds under the agreement) for a period of up to 60 days. During this period, the entity shall take steps to ensure that patients who were assigned to or cared for by the suspended provider are appropriately assigned or referred to alternative participating providers. The suspended provider shall be entitled to a hearing within the period of the suspension to show cause why the suspension should be lifted and its participation agreement restored. If dissatisfied with the board's decision, the provider shall be entitled to appeal the decision directly to a committee consisting of representatives of all of the entity's participating providers.

"(C) For all other disputes between the entity and its participating providers (including disputes over the amounts due or interim rates to be paid to a provider), the entity shall provide an opportunity for a full and fair hearing.

"(8) The entity must be governed by a board of directors that includes representatives of the participating providers and, as appropriate, other health professionals, civic or business leaders, elected officials, and residents of the area or population served. Not less than 51 percent of such board shall be composed of individuals who are enrolled in the CHA and who are representatives of the community served.

"(d) DEMONSTRATION PROJECT REQUIREMENTS.—The requirements of this subsection, with respect to a demonstration project of a CHA under this section, are as follows:

"(1)(A) All services furnished by the CHA under the project shall be available and accessible to all enrolled individuals and, except as provided in subparagraph (B), must be available without regard to an individual's ability to pay for such services.

"(B) A CHA shall prepare a schedule of discounts to be applied to the payment of premiums by individuals who are not medicaid-eligible individuals which shall be adjusted on the basis of the individual's ability to pay.

"(2) The CHA shall take appropriate steps to emphasize the provision of preventive and primary care services, and shall ensure that each enrolled individual is assigned to a primary care physician (to the greatest extent appropriate and feasible), except that the CHA shall establish a process through which an enrolled individual may be assigned to another primary care physician for good cause shown.

"(3) The CHA must make reasonable efforts to reduce the unnecessary or inappropriate use of hospital or other high-cost services through an emphasis on preventive and primary care services, the implementation of utilization review or other appropriate methods.

"(4) The State must regularly provide the CHA with information on other medical, health, and related benefits that may be available to individuals enrolled with the CHA under programs other than the State plan under this title, and the CHA must provide its enrolled individuals with enrollment information and other non-cash assistance to assist them in obtaining such benefits.

"(5) The State and the CHA must meet such financial standards and requirements and reporting requirements as the Secretary specifies and must prepare and submit to the Secretary an annual independent financial audit conducted in accordance with requirements specified by the Secretary.

"(6) In collaboration with the State, the CHA must adopt and use community-oriented, patient-responsive quality assurance and control systems in accordance with requirements specified by the Secretary. Such systems must include at least an ongoing quality assurance program that measures consumer satisfaction with the care provided under the network, stresses improved health outcomes, and operates a community health status improvement process that identifies and investigates community health problems and implements measures designed to remedy them.

"(e) CAPITATION PAYMENTS.—

"(1) IN GENERAL.—Under a demonstration project under this section, the State shall enter into an annual contract with the CHA under which the State shall make monthly payments to the CHA for covered services furnished through the CHA to individuals entitled to medical assistance under this title in the amount specified in paragraph (2). Payment shall be made at the beginning of each month on the basis of estimates of the amounts payable and amounts subsequently paid are subject to adjustment to reflect the amounts by which previous payments were greater or less than the amount of payments that should have been made.

"(2) AMOUNT OF CAPITATION PAYMENT.—The amount of a monthly payment under paragraph (1) during a contract year, shall be not less than 1/12 of the product of—

"(A)(i) the average per capita amounts expended under this title under the State plan for covered services to be furnished under the demonstration project for similar Medicaid-eligible individuals for the most recent 12-month period ending before the date of the enactment of this section, increased by (ii) the percentage change in the consumer price index for all urban consumers (all items; U.S. city average) during the period that begins upon the expiration of such 12-month period and ends upon the expiration of the most recent 12-month period ending before the first month of the contract year for which complete financial data on such index is available, and

"(B) the number of Medicaid-eligible individuals enrolled under the project as of the 15th day of the month prior to the first month of the contract year (or, in the case of the first year for which a contract is in effect under this subsection, the CHA's reasonable estimate of the number of such individuals who will be enrolled in the project as of the 15th day of such month).

"(f) ADDITIONAL STATE ASSISTANCE FOR PLANNING, DEVELOPMENT, AND OPERATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), in addition to the payments under subsection (e), demonstration projects approved under this section are eligible to have approved expenditures described in paragraph (3) treated, for purposes of section 1903(a)(7), as expenditures found necessary by the Secretary for the proper and efficient administration of the State plan under this title.

"(2) SPECIAL RULES.—

"(A) LIMITATION WITH RESPECT TO ANY COMMUNITY HEALTH AUTHORITY.—The total amount of expenditures with respect to any CHA that may be treated as expenditures for medical assistance under paragraph (1) for any 12-month period shall not exceed $250,000.

"(B) Limitation on number of years.—The number of 12-month periods for which expenditures are treated as expenditures for medical assistance under paragraph (1) for a CHA shall not exceed—

"(i) 2 for expenditures for planning and development assistance, described in paragraph (3)(A), and

"(ii) 2 for expenditures for operational assistance, described in paragraph (3)(B).

"(C) NO RESULTING REDUCTION IN AMOUNTS PROVIDED UNDER PHSA GRANTS.—No grant to a CHA or one of its participating providers under the Public Health Service Act or this Act may be reduced on the ground that activities of the CHA that are considered approved expenditures under paragraph (3) are activities for which the CHA or the participating providers received funds under such Act.

"(3) APPROVED EXPENDITURES.—The approved expenditures described in this paragraph are as follows:

"(A) PLANNING AND DEVELOPMENT.—Expenditures for planning and development with respect to a CHA, including—

"(i) developing internal management, legal and financial and clinical, information, and reporting systems for the CHA, and carrying out other operating activities of the CHA;

"(ii) recruiting, training and compensating management staff of the CHA and, as appropriate and necessary, management and clinical staff of any participating provider;

"(iii) purchasing essential equipment and acquiring, modernizing, expanding, or (if cost-effective) renovating facilities for the CHA and for participating providers (including amortization costs and payment of interest on loans); and

"(iv) entering into arrangements to obtain or participate in emerging medical technologies, including telemedicine.

"(B) OPERATIONS.—Expenditures in support of the operations of a CHA, including—

"(i) the ongoing management of the CHA, including daily program administration, recordkeeping and reporting, assurance of proper financial management (including billings and collections) and oversight of program quality;

"(ii) developing and operating systems to enroll eligible individuals in the CHA;

"(iii) data collection, in collaboration with the State medicaid agency and the State health department, designed to measure changes in patient access to care, the quality of care furnished, and patient health status, and health care outcomes;

"(iv) ongoing community outreach and community education to all residents of the area or population served, to promote the enrollment of eligible individuals and the appropriate utilization of health services by such individuals;

"(v) the establishment of necessary reserves or purchase of stop-loss coverage; and

"(vi) activities relating to health professions training, including residency training at participating provider sites.

"(g) ADDITIONAL REQUIREMENTS.—

"(1) MANDATORY ENROLLMENT OF MEDICAID-ELIGIBLE INDIVIDUALS.—Notwithstanding any provision of section 1903(m), a State participating in a demonstration project under this section may, until December 31, 1997, require that each medicaid-eligible resident in the service area of a CHA operating under the project is not eligible to receive any medical assistance under the State plan that may be obtained through enrollment with the CHA unless the individual receives such assistance through enrollment with the CHA.

"(2) CONTINUED ENTITLEMENT TO ADDITIONAL BENEFITS.—In the case of a medicaid-eligible individual enrolled with a CHA under a demonstration project under this section, the individual shall remain entitled to medical assistance for services which are not covered services under the project, until December 31, 1997.

"(3) HMO-RELATED REQUIREMENTS.—A CHA under this section shall be deemed to meet the requirements of section 1903(m) (subject to paragraph (1)) in the same manner as an entity listed under section 1903(m)(2)(G).

"(4) OUTSTATIONING ELIGIBILITY WORKERS.—Under the project, the State may (in addition to meeting the requirements of section 1902(a)(55)) provide for, or pay the reasonable costs of, stationing eligibility workers at appropriate service sites under the project, and may permit medicaid-eligible individuals to be enrolled under the State plan at such a CHA or at such a site.

"(5) PURCHASE OF STOP-LOSS COVERAGE.—The State shall ensure that the CHA has purchased stop-loss coverage to protect against default on its obligations under the project. If an entity otherwise qualified to serve as a CHA is prohibited under State law from purchasing such coverage, the State shall waive the application of such law to the extent necessary to permit the entity to purchase such coverage.

"(h) EVALUATION AND REPORTING.—

"(1) CHA.—Each CHA in a State with a demonstration project approved under this section shall prepare and submit to the State an annual report on its activities during the previous year.

"(2) STATE.—Taking into account the reports submitted pursuant to paragraph (1), each State with a demonstration project approved under this section shall prepare and submit to the Secretary an annual evaluation of its activities and services under this section. Such evaluation shall include an analysis of the effectiveness of the project in providing cost-effective health care to enrolled individuals.

"(3) REPORT TO CONGRESS.—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit to Congress a report on the demonstration projects conducted under this section. Such report shall include an analysis of the effectiveness of such projects in providing cost-effective health care for the areas or populations served.

"(i) COLLABORATION IN ADMINISTRATION.—In carrying out this section, the Secretary shall assure the highest possible level of collaboration between the Health Care Financing Administration and the Public Health Service. Such collaboration may include (if appropriate and feasible) any of the following:

"(1) The provision by the Public Health Service of new or increased grant support to eligible entities participating in a CHA, in order to expand the availability of services (particularly preventive and primary care services).

"(2) The placement of health professionals at eligible locations and collaboration with Federally-assisted health professions training programs located in or near the areas served by community health authorities.

"(3) The provision of technical and other nonfinancial assistance.

"(j) DEFINITIONS.—In this section:

"(1) MEDICAID-ELIGIBLE INDIVIDUAL.—The term 'medicaid-eligible individual' means an individual described in section 1902(a)(10)(A) and entitled to medical assistance under the State plan.

"(2) PARTICIPATING PROVIDER.—The term 'participating provider' means, with respect to a CHA, a provider that has entered into an agreement with the CHA for the provision of covered services under a project under this section.

"(3) PREVENTIVE AND PRIMARY CARE SERVICES.—'Preventive' and 'primary' services include those services described in section 1905(l)(2)(A) and included as Federally-qualified health center services.".

(b) EXCEPTION TO ANTI-KICKBACK LAW.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting "; and", and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration paid, or received, by a Federally qualified health center, rural health clinic, or other entity which is a participating provider under a demonstration project under section 1934 as part of an arrangement for the procurement of goods or services or the referral of patients or the lease or purchase of space or equipment.".

(c) TRANSITION.—A premium subsidy eligible individual may use premium assistance certificates issued under title XXI of the Social Security Act to purchase coverage offered by a community health authority.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1994.

SEC. 3002. HEALTH CENTER PROGRAM AMENDMENTS.

(a) AUTHORIZATION OF GRANTS FOR NETWORK DEVELOPMENT.—

(1) MIGRANT HEALTH CENTERS.—

(A) IN GENERAL.—Section 329 of the Public Health Service Act (42 U.S.C. 254b) is amended by adding at the end the following:

"(j)(1) The Secretary may make a grant, to an entity receiving a grant under this section or to a group of such entities, to support the planning and development of health service networks (as defined in paragraph (3)) which will serve high impact areas, medically underserved areas, or medically underserved populations within the area they serve (or propose to serve).

"(2) A grant under this subsection for the planning and development of a health service network may be used for the following costs:

"(A) The costs of developing the network corporate entity, including planning and needs assessment.

"(B) The costs of developing internal management for the network, as well as costs of developing legal, financial, clinical, information, billing, and reporting systems, and other costs necessary to achieve operational status.

"(C) The costs of recruitment, training, and compensation of management staff of the network and, as appropriate and necessary, the management and clinical staff of any participating provider.

"(D) The costs of developing additional primary health and related service sites, including costs related to purchase of essential equipment, acquisition, modernization, expansion, or, if cost-effective, construction of facilities.

"(3) In this subsection, the term 'health service network' means a nonprofit private entity that—

"(A) through its participating providers (which may provide services directly or through contract) assures the provision of primary health and related services and, as appropriate, supplemental health services to residents of the high impact area or medically underserved area or members of the medically underserved population covered by the network,

"(B) includes, as participating providers, at least all recipients of grants under this section or section 330, 340, or 340A that provide primary health and related services to the residents of the area it serves (or proposes to serve), and that may include, at the entity's option, any other providers of primary health or supplemental health services to residents of the high impact area or medically underserved area or members of the medically underserved population covered by

VOL 140 PT 15 AG 10 — 11 1994 UMI

the network, but only if such participating providers agree to provide services without regard to an individual's ability to pay, and

"(C) is governed by individuals a majority of whom are patients, employees, or board members of its participating providers that receive grants under this section or section 330, 340, or 340A.".

(B) CONFORMING CHANGE.—Section 329(h)(1)(A) of such Act (42 U.S.C. 254b(h)(1)(A)) is amended by inserting "and subsection (j)" after "through (e)".

(2) COMMUNITY HEALTH CENTERS.—Section 330 of such Act (42 U.S.C. 254c) is amended by adding at the end the following:

"(i)(1) The Secretary may make a grant, to an entity receiving a grant under this section or to a group of such entities, to support the planning and development of health service networks (as defined in section 329(j)(3)) which will serve high impact areas, medically underserved areas, or medically underserved populations within the area they serve (or propose to serve).

"(2) A grant under this subsection for the planning and development of a health service network may be used for the costs described in section 329(j)(2).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—For extension of authorization of appropriations for migrant health centers and community health centers, see section 3131.

Subtitle B—Improved Access in Rural Areas

PART 1—GRANTS TO ENCOURAGE COMMUNITY RURAL HEALTH NETWORKS

SEC. 3101. ASSISTANCE FOR DEVELOPMENT OF ACCESS PLANS FOR CHRONICALLY UNDERSERVED AREAS.

(a) AVAILABILITY OF FINANCIAL ASSISTANCE TO IMPLEMENT ACTION PLANS TO INCREASE ACCESS.—

(1) IN GENERAL.—The Secretary shall provide grants (in amounts determined in accordance with paragraph (3)) over a 3-year period to an eligible State for the development of plans to increase access to health care services during such period for residents of areas in the State that are designated as chronically underserved areas in accordance with subsection (b).

(2) ELIGIBILITY REQUIREMENTS.—A State is eligible to receive grants under this section if the State submits to the Secretary (at such time and in such form as the Secretary may require) assurances that the State has developed (or is in the process of developing) a plan to increase the access of residents of a chronically underserved area to health care services that meets the requirements of subsection (c), together with such other information and assurances as the Secretary may require.

(3) AMOUNT OF ASSISTANCE.—

(A) IN GENERAL.—Subject to subparagraph (B), the amount of assistance provided to a State under this subsection with respect to any plan during a 3-year period shall be equal to—

(i) for the first year of the period, an amount equal to 100% of the amounts expended by the State during the year to implement the plan described in paragraph (1) (as reported to the Secretary in accordance with such requirements as the Secretary may impose);

(ii) for the second year of the period, an amount equal to 50% of the amounts expended by the State during the year to implement the plan; and

(iii) for the third year of the period, an amount equal to 33% of the amounts expended by the State during the year to implement the plan.

(B) AGGREGATE PER PLAN LIMIT.—The amount of assistance provided to a State under this subsection with respect to any plan may not exceed $100,000 during any year of the 3-year period for which the State receives assistance.

(b) DESIGNATION OF AREAS.—

(1) DESIGNATION BY GOVERNOR.—In accordance with the guidelines developed under paragraph (2), the Governor of a State may designate an area in the State as a chronically underserved area for purposes of this section upon the request of a local official of the area or upon the Governor's initiative.

(2) GUIDELINES FOR DESIGNATION.—

(A) DEVELOPMENT BY SECRETARY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop guidelines for the designation of areas as chronically underserved areas under this section.

(B) FACTORS CONSIDERED IN DEVELOPMENT OF GUIDELINES.—In developing guidelines under paragraph (1), the Secretary shall consider the following factors:

(i) Whether the area (or a significant portion of the area)—

(I) is designated as a health professional shortage area (under section 332(a) of the Public Health Service Act), or meets the criteria for designation as such an area; or

(II) was previously designated as such an area or previously met such criteria for an extended period prior to the designation of the area under this section (in accordance with criteria established by the Secretary).

(ii) The availability and adequacy of health care providers and facilities for residents of the area.

(iii) The extent to which the availability of assistance under other Federal and State programs has failed to alleviate the lack of access to health care services for residents of the area.

(iv) The percentage of residents of the area whose income is at or below the poverty level.

(v) The percentage of residents of the area who are age 65 or older.

(vi) The existence of cultural or geographic barriers to access to health care services in the area, including weather conditions.

(3) REVIEW BY SECRETARY.—No designation under paragraph (1) shall take effect under this section unless the Secretary—

(A) has been notified of the proposed designation; and

(B) has not, within 60 days after the date of receipt of the notice, disapproved the designation.

(4) PERIOD OF DESIGNATION.—A designation under this section shall be effective during a period specified by the Governor of not longer than 3 years. The Governor may extend the designation for additional 3-year periods, except that a State may not receive assistance under subsection (a)(3) for amounts expended during any such additional periods.

(c) REQUIREMENTS FOR STATE ACCESS PLANS.—A State plan to increase the access of residents of chronically underserved areas to health care services meets the requirements of this section if the Secretary finds that the plan was developed with the participation of health care providers and facilities and residents of the area that is the subject of the plan, together with such other requirements as the Secretary may impose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for assistance under this section $10,000,000 for each of the first 3 fiscal years beginning after the date on which the Secretary develops guidelines for the designation of areas as chronically underserved areas under subsection (b)(2).

SEC. 3102. TECHNICAL ASSISTANCE GRANTS FOR NETWORKS.

(a) IN GENERAL.—The Secretary shall make funds available under this section to provide technical assistance (including information regarding eligibility for other Federal programs) and advice for entities described in subsection (b) seeking to establish or enhance a community rural health network in an underserved rural area.

(b) ENTITIES ELIGIBLE TO RECEIVE FUNDS.—The following entities are eligible to receive funds for technical assistance under this section:

(1) An entity receiving a grant under section 3103.

(2) A State or unit of local government.

(3) An entity providing health care services (including health professional education services) in the area involved.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available under this section may be used—

(A) for planning a community health network and the submission of the plan for the network to the Secretary under section 3103(c) (subject to the limitation described in paragraph (2));

(B) to provide assistance in conducting community-based needs and prioritization, identifying existing regional health resources, and developing networks, utilizing existing local providers and facilities where appropriate;

(C) to provide advice on obtaining the proper balance of primary and secondary facilities for the population served by the network;

(D) to provide assistance in coordinating arrangements for tertiary care;

(E) to provide assistance in recruitment and retention of health care professionals;

(F) to provide assistance in coordinating the delivery of emergency services with the provision of other health care services in the area served by the network;

(G) to provide assistance in coordinating arrangements for mental health and substance abuse treatment services; and

(H) to provide information regarding the area or proposed network's eligibility for Federal and State assistance for health care-related activities, together with information on funds available through private sources.

(2) LIMITATION ON AMOUNT AVAILABLE FOR DEVELOPMENT OF NETWORK.—The amount of financial assistance available for activities described in paragraph (1) may not exceed $50,000 and may not be available for a period of time exceeding 1 year.

(d) USE OF RURAL HEALTH OFFICES.—In carrying out this section with respect to entities in rural areas, the Secretary shall make funds available through—

(1) not more than 10 regional centers acting as clearinghouses for the distribution of such funds;

(2) State Offices of Rural Health, or any combination of such centers and Offices.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of fiscal years 1996 through 2000 to carry out this section. Amounts appropriated under this section shall be available until expended.

SEC. 3103. DEVELOPMENT GRANTS FOR NETWORKS.

(a) IN GENERAL.—The Secretary shall provide financial assistance to eligible entities in order to provide for the development and implementation of community rural health networks.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity is eligible to receive financial assistance under this section only if the entity—

(A) is (i) based in a rural area or (ii) is described in paragraph (2), (3), or (4) of section 3102(b),

(B) is undertaking to develop and implement a community rural health network in an underserved rural area (or underserved rural areas) with the active participation of at least 3 health care providers or facilities in the area, and

(C) has consulted with the local governments of the area to be served by the network and with individuals who reside in the area.

(2) COORDINATION WITH PROVIDERS OUTSIDE OF AREA PERMITTED.—Nothing in this section shall be construed as preventing an entity that coordinates the delivery of services in an underserved rural area with an entity outside the area from qualifying for financial assistance under this section, or as preventing an entity consisting of a consortia of members located in adjoining States from qualifying for such assistance.

(3) PERMITTING ENTITIES NOT RECEIVING FUNDING FOR DEVELOPMENT OF PLAN TO RECEIVE FUNDING FOR IMPLEMENTATION.—An entity that is eligible to receive financial assistance under this section may receive assistance to carry out activities described in subsection (c)(1)(B) notwithstanding that the entity does not receive assistance to carry out activities described in subsection (c)(1)(A).

(c) USE OF FUNDS.—

(1) IN GENERAL.—Financial assistance made available to eligible entities under this section may be used only—

(A) for the development of a community health network and the submission of the plan for the network to the Secretary; and

(B) after the Secretary approves the plan for the network, for activities to implement the network, including (but not limited to)—

(i) establishing information systems, including telecommunications,

(ii) recruiting health care providers,

(iii) providing services to enable individuals to have access to health care services, including transportation and language interpretation services (including interpretation services for the hearing-impaired), and

(iv) establishing and operating a community health advisor program described in paragraph (2).

(2) COMMUNITY HEALTH ADVISOR PROGRAM.—

(A) PROGRAM DESCRIBED.—In paragraph (1), a "community health advisor program" is a program under which community health advisors carry out the following activities:

(i) Collaborating efforts with health care providers and related entities to facilitate the provision of health services and health-related social services.

(ii) Providing public education on health promotion and disease prevention and efforts to facilitate the use of available health services and health-related social services.

(iii) Providing health-related counseling.

(iv) Making referrals for available health services and health-related social services.

(v) Improving the ability of individuals to use health services and health-related social services under Federal, State, and local programs through assisting individuals in establishing eligibility under the programs.

(vi) Providing outreach services to inform the community of the availability of the services provided under the program.

(B) COMMUNITY HEALTH ADVISOR DEFINED.—In subparagraph (A), the term "community health advisor" means, with respect to a community health advisor program, an individual—

(i) who has demonstrated the capacity to carry out one or more of the activities carried out under the program; and

(ii) who, for not less than one year, has been a resident of the community in which the program is to be operated.

(3) LIMITATIONS ON ACTIVITIES FUNDED.—Financial assistance made available under this section may not be used for any of the following:

(A) For a telecommunications system unless such system is coordinated with, and does not duplicate, a system existing in the area.

(B) For construction or remodeling of health care facilities.

(4) LIMITATION ON AMOUNT AVAILABLE FOR DEVELOPMENT OF NETWORK.—The amount of financial assistance available for activities described in paragraph (1)(A) may not exceed $50,000 and may not be made available for a period of time exceeding 1 year.

(d) APPLICATION.—

(1) IN GENERAL.—No financial assistance shall be provided under this section to an entity unless the entity has submitted to the Secretary, in a time and manner specified by the Secretary, and had approved by the Secretary an application.

(2) INFORMATION TO BE INCLUDED.—Each such application shall include—

(A) a description of the community rural health network, including service area and capacity, and

(B) a description of how the proposed network will utilize existing health care facilities in a manner that avoids unnecessary duplication.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $100,000,000 for each of fiscal years 1996 through 2000 to carry out this section. Amounts appropriated under this section shall be available until expended.

(2) INTEGRATION OF OTHER AUTHORIZATIONS.—In order to provide for the authorization of appropriations under paragraph (1), notwithstanding any other provision of law, no funds are authorized to be appropriated to carry out the following programs in fiscal years after fiscal year 1994:

(A) The rural health transition grant program (under section 4005(e) of the Omnibus Budget Reconciliation Act of 1987).

(B) The rural health outreach program (for which appropriations were annually provided under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Acts).

(3) ANNUAL LIMIT ON ASSISTANCE TO GRANTEE.—The amount of financial assistance provided to an entity under this section during a year may not exceed $250,000.

SEC. 3104. DEFINITIONS.

For purposes of this part:

(1) COMMUNITY RURAL HEALTH NETWORK.—The term "community rural health network" means a formal cooperative arrangement between participating hospitals, physicians, and other health care providers which—

(A) is located in an underserved rural area;

(B) furnishes health care services to individuals residing in the area; and

(C) is governed by a board of directors selected by participating health care providers and residents of the area.

(2) RURAL AREA.—The term "rural area" has the meaning given such term in section 1886(d)(2)(D) of the Social Security Act.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(5) UNDERSERVED RURAL AREA.—The term "underserved rural area" means a rural area designated—

(A) as a health professional shortage area under section 332(a) of the Public Health Service Act; or

(B) as a chronically underserved area under section 3101.

PART 2—INCENTIVES FOR HEALTH PROFESSIONALS TO PRACTICE IN RURAL AREAS

Subpart A—National Health Service Corps Program

SEC. 3111. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:"

SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include any qualified loan repayment.

"(b) QUALIFIED LOAN REPAYMENT.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking "Federal, State, or local" and inserting "State or local".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. National Health Service Corps loan repayments.

"Sec. 138. Cross references to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 3112. MODIFICATION IN CRITERIA FOR DESIGNATION AS HEALTH PROFESSIONAL SHORTAGE AREA.

(a) CONSIDERATIONS REGARDING MEDICARE AND MEDICAID PROGRAMS AS MEANS OF PAYMENT.—Section 332(b) of the Public Health Service Act (42 U.S.C. 254e(b)) is amended by adding at the end the following paragraph:

"(4) With respect to determining the need for health services through the indicators of need under paragraphs (1) and (2), consideration of the following:

"(A) The number of individuals in the population involved whose means of payment for health services is the program under title XVIII of the Social Security Act.

"(B) The number of individuals in the population whose means of payment for health services is the program under title XIX of such Act.

"(C) The number of individuals in the population who are uninsured with respect to health policies or plans.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(D) The percentage of the population constituted by the aggregate number of individuals under subparagraphs (A) through (C).

"(E) In the case of community-based physicians who provide primary health services and who are accepting additional patients whose means of payment is through the program established in title XVIII or XIX of the Social Security Act, the percentage constituted by the ratio of the number of such physicians to the number of individuals in the population.".

(b) RELEVANCE OF TRAVEL TIMES WITHIN FRONTIER AREAS.—Section 332(a) of the Public Health Service Act (42 U.S.C. 215e(a)) is amended by adding at the end the following new paragraph:

"(4) With respect to meeting the criteria under paragraph (1)(A) for an area to be designated as a health professional shortage area, the Secretary shall, in the case of a frontier area, make the determination of whether the frontier area is a rational area for the delivery of health services without regard to—

"(A) the travel time between population centers in the frontier area; or

"(B) the travel time to contiguous area resources in the frontier area.".

(c) AGENCY RECOMMENDATIONS FOR IMPROVEMENTS.—Not later than July 1, 1995, the Secretary of Health and Human Services shall submit to the Congress a report specifying the recommendations of the Secretary for improving the manner of determining the extent to which a geographic area has a need for assignments of members of the National Health Service Corps, and for equitably allocating such assignments among the geographic areas with a need for such assignments.

(d) EFFECTIVE DATE.—This section shall take effect on October 1, 1994, or upon the date of the enactment of this Act, whichever occurs later.

SEC. 3113. OTHER PROVISIONS REGARDING NATIONAL HEALTH SERVICE CORPS.

(a) SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 338B(b)(1) of the Public Health Service Act (42 U.S.C. 254q(b)(1)) is amended—

(A) by striking "and" after "1991,"; and

(B) by striking "through 2000." and inserting "through 1999, $175,000,000 for fiscal year 1996, $180,000,000 for fiscal year 1997, $185,000,000 for fiscal year 1998, $190,000,000 for fiscal year 1999, and $195,000,000 for fiscal year 2000.".

(2) ALLOCATION FOR PARTICIPATION OF NURSES IN SCHOLARSHIP PROGRAM.—Section 338H(b)(2) of the Public Health Service Act (42 U.S.C. 254q(b)(2)) is amended by adding at the end the following subparagraph:

"(C) Of the amounts appropriated under paragraph (1) for fiscal year 1995 and subsequent fiscal years, the Secretary shall reserve such amounts as may be necessary to ensure that, of the aggregate number of individuals who are participants in the Scholarship Program, the total number who are being educated as nurses or are serving as nurses, respectively, is increased to 20 percent.".

(b) INCREASE IN NUMBER OF MENTAL HEALTH PROFESSIONALS IN SHORTAGE AREAS.—

(1) IN GENERAL.—Section 338H(b) of the Public Health Service Act (42 U.S.C. 254q(b)) is amended by adding at the end the following paragraph:

"(3) MENTAL HEALTH PROFESSIONALS.—In providing contracts under this subpart for scholarships and loan repayments, the Secretary shall ensure that an appropriate number of mental health professionals is assigned under section 333 for health professional shortage areas.".

(2) APPLICABILITY.—With respect to contracts for scholarships and loan repayments under subpart III of part D of title III of the Public Health Service Act, the amendment made by subsection (a) applies with respect to contracts entered into on or after October 1, 1994.

Subpart B—Incentives Under Other Programs

SEC. 3121. EXTENSION OF ADDITIONAL PAYMENT UNDER MEDICARE FOR PHYSICIANS' SERVICES FURNISHED IN FORMER SHORTAGE AREAS.

(a) IN GENERAL.—Section 1833(m) of the Social Security Act (42 U.S.C. 1395l(m)) is amended by striking "area," and inserting "area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to physicians' services furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1995.

SEC. 3122. REFINEMENT OF GEOGRAPHIC ADJUSTMENT FACTOR FOR MEDICARE PHYSICIANS' SERVICES.

(a) DEADLINE FOR INITIAL REVIEW AND REVISION.—Section 1848(e)(1)(C) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)(C)) is amended by adding at the end the following: "The first such review and revision shall apply to services furnished on or after January 1, 1995.".

(b) AUTHORITY TO ADJUST INDEX VALUE FOR INPUT COMPONENT UNDER CERTAIN CIRCUMSTANCES.—(1) Section 1848(e)(1) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)) is amended—

(A) in subparagraph (A), by striking "(B) and (C)" and inserting "(B), (C), and (D)";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) SPECIAL ADJUSTMENT TO CORRECT FOR UNIQUE LOCAL CIRCUMSTANCES.—The Secretary may adjust the value assigned to an input component of an index in a fee schedule area if the Secretary determines that the value that would otherwise apply in such area does not accurately reflect the relative costs of such input for such area because of unique local circumstances.".

(2) Section 1848(i)(1)(D) of the Social Security Act (42 U.S.C. 1395w-4(i)(1)(D)) is amended by inserting "(including any adjustment under subparagraph (C) thereof)" after "subsection (e)".

(c) REPORT ON REVIEW PROCESS.—Not later than April 1, 1996, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall study and report to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on—

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data sources.

(d) STUDY ON LOW-VOLUME ADJUSTMENT IN ISOLATED AREAS.—(1) Not later than July 1, 1996, the Physician Payment Review Commission shall study and report to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on the feasibility and desirability of providing for a special adjustment to the index value of the medical equipment and supplies input component of the index used under section 1848(e) of the Social Security Act with respect to services described in paragraph (2).

(2) Services described in this paragraph are services—

(A) furnished by a physician who practices in an isolated area;

(B) requiring the presence of expensive medical equipment and supplies in the physician's office; and

(C) with respect to which the cost per service of operating the equipment is increased because of the low volume of patients of such physician.

SEC. 3123. DEVELOPMENT OF MODEL STATE SCOPE OF PRACTICE LAW.

(a) IN GENERAL.—The Secretary of Health and Human Services shall develop and publish a model law that may be adopted by States to increase the access of individuals residing in underserved rural areas to health care services by expanding the services which non-physician health care professionals may provide in such areas.

(b) DEADLINE.—The Secretary shall publish the model law developed under subsection (a) not later than 1 year after the date of the enactment of this Act.

PART 3—ASSISTANCE FOR INSTITUTIONAL PROVIDERS

Subpart A—Community and Migrant Health Centers

SEC. 3131. COMMUNITY AND MIGRANT HEALTH CENTERS.

(a) MIGRANT HEALTH CENTERS.—Section 329(h)(1)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(1)(A)) is amended—

(1) by striking "and" after "1991,"; and

(2) by inserting before the period the following: ", $75,000,0000 for fiscal year 1996, $80,000,0000 for fiscal year 1997, $85,000,0000 for fiscal year 1998, $90,000,0000 for fiscal year 1999, and $95,000,0000 for fiscal year 2000".

(b) COMMUNITY HEALTH CENTERS.—Section 330(g)(1)(A) of the Public Health Service Act (42 U.S.C. 254c(g)(1)(A)) is amended—

(1) by striking "and" after "1991,"; and

(2) by inserting before the period the following: ", $650,000,0000 for fiscal year 1996, $675,000,0000 for fiscal year 1997, $700,000,0000 for fiscal year 1998, $725,000,0000 for fiscal year 1999, and $750,000,0000 for fiscal year 2000".

Subpart B—Emergency Medical Systems

SEC. 3141. EMERGENCY MEDICAL SERVICES.

(a) ESTABLISHMENT OF FEDERAL OFFICE.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended—

(1) in the heading for the title, by striking "**TRAUMA CARE**" and inserting "**EMERGENCY MEDICAL AND TRAUMA CARE SERVICES**";

(2) in the heading for part A, by striking "General" and all that follows and inserting "General Authorities and Duties"; and

(3) by amending section 1201 to read as follows:

"SEC. 1201. ESTABLISHMENT OF OFFICE OF EMERGENCY MEDICAL AND TRAUMA CARE SERVICES.

"(a) IN GENERAL.—The Secretary shall establish an office to be known as the Office of Emergency Medical and Trauma Care Services, which shall be headed by a director appointed by the Secretary. The Secretary shall carry out this title acting through the Director of such Office.

"(b) GENERAL AUTHORITIES AND DUTIES.—With respect to emergency medical services (including trauma care), the Secretary shall—

"(1) conduct and support research, training, evaluations, and demonstration projects;

"(2) foster the development of appropriate, modern systems of such services through the sharing of information among agencies and individuals involved in the study and provision of such services;

"(3) foster the development of regional systems for the provision of such services;

"(4) sponsor workshops and conferences;

"(5) as appropriate, disseminate to public and private entities information obtained in carrying out paragraphs (1) through (4);

"(6) provide technical assistance to State and local agencies;

"(7) coordinate activities of the Department of Health and Human Services; and

"(8) as appropriate, coordinate activities of such Department with activities of other Federal agencies.

"(c) CERTAIN REQUIREMENTS.—With respect to emergency medical services (including trauma care), the Secretary shall ensure that activities under subsection (b) are carried out regarding—

"(1) maintaining an adequate number of health professionals with expertise in the provision of the services, including hospital-based professionals and prehospital-based professionals;

"(2) developing, periodically reviewing, and revising as appropriate, in collaboration with appropriate public and private entities, guidelines for the provision of such services (including, for various typical circumstances, guidelines on the number and variety of professionals, on equipment, and on training);

"(3) the appropriate use of available technologies, including communications technologies; and

"(4) the unique needs of underserved inner-city areas and underserved rural areas.

"(d) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—In carrying out subsections (b) and (c), the Secretary may make grants and enter into cooperative agreements and contracts.

"(e) DEFINITIONS.—For purposes of this part:

"(1) The term 'hospital-based professional' means a health professional (including an allied health professional) who has expertise in providing one or more emergency medical services and who normally provides the services at a medical facility.

"(2) The term 'prehospital-based professional' means a health professional (including an allied health professional) who has expertise in providing one or more emergency medical services and who normally provides the services at the site of the medical emergency or during transport to a medical facility.".

(b) STATE OFFICES OF EMERGENCY MEDICAL SERVICES; DEMONSTRATION PROGRAM REGARDING TELECOMMUNICATIONS.—Part A of title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as amended by section 601(b) of Public Law 103-183 (107 Stat. 2238), is amended—

(1) by redesignating sections 1202 and 1203 as sections 1203 and 1204, respectively;

(2) by inserting after section 1201 the following section:

"SEC. 1202. STATE OFFICES OF EMERGENCY MEDICAL SERVICES.

"(a) PROGRAM OF GRANTS.—The Secretary may make grants to States for the purpose of improving the availability and quality of emergency medical services through the operation of State offices of emergency medical services.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, to provide non-Federal contributions toward such costs in an amount that—

"(A) for the first fiscal year of payments under the grant, is not less than $1 for each $3 of Federal funds provided in the grant;

"(B) for any second fiscal year of such payments, is not less than $1 for each $1 of Federal funds provided in the grant; and

"(C) for any third fiscal year of such payments, is not less than $3 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(A) Subject to subparagraph (B), non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) The Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(i) for the first fiscal year of payments under the grant, 100 percent or less of the non-Federal contributions required in paragraph (1) will be provided in the form of in-kind contributions;

"(ii) for any second fiscal year of such payments, not more than 50 percent of such non-Federal contributions will be provided in the form of in-kind contributions; and

"(iii) for any third fiscal year of such payments, such non-Federal contributions will be provided solely in the form of cash.

"(c) CERTAIN REQUIRED ACTIVITIES.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that activities carried out by an office operated pursuant to such subsection will include—

"(1) coordinating the activities carried out in the State that relate to emergency medical services;

"(2) activities regarding the matters described in paragraphs (1) through (4) section 1201(b); and

"(3) identifying Federal and State programs regarding emergency medical services and providing technical assistance to public and nonprofit private entities regarding participation in such programs.

"(d) REQUIREMENT REGARDING ANNUAL BUDGET FOR OFFICE.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, for any fiscal year for which the State receives such a grant, the office operated pursuant to subsection (a) will be provided with an annual budget of not less than $50,000.

"(e) CERTAIN USES OF FUNDS.—

"(1) RESTRICTIONS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(A) if research with respect to emergency medical services is conducted pursuant to the grant, not more than 10 percent of the grant will be expended for such research; and

"(B) the grant will not be expended to provide emergency medical services (including providing cash payments regarding such services).

"(2) ESTABLISHMENT OF OFFICE.—Activities for which a State may expend a grant under subsection (a) include paying the costs of establishing an office of emergency medical services for purposes of such subsection.

"(f) REPORTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees to submit to the Secretary reports containing such information as the Secretary may require regarding activities carried out under this section by the State.

"(g) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section."; and

(3) in section 1204 (as redesignated by paragraph (1) of this subsection)—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

"(c) DEMONSTRATION PROGRAM REGARDING TELECOMMUNICATIONS.—

"(1) LINKAGES FOR RURAL FACILITIES.—Projects under subsection (a)(1) shall include demonstration projects to establish telecommunications between rural medical facilities and medical facilities that have expertise or equipment that can be utilized by the rural facilities through the telecommunications.

"(2) MODES OF COMMUNICATION.—The Secretary shall ensure that the telecommunications technologies demonstrated under paragraph (1) include interactive video telecommunications, static video imaging transmitted through the telephone system, and facsimiles transmitted through such system.".

(c) FUNDING.—Section 1232 of the Public Health Service Act (42 U.S.C. 300d-32) is amended by striking subsections (a) and (b) and inserting the following:

"(a) EMERGENCY MEDICAL SERVICES GENERALLY.—For the purpose of carrying out section 1201 other than with respect to trauma care, and for the purpose of carrying out section 1204(c), there are authorized to be appropriated $2,000,000 for each of the fiscal years 1996, 1997, and 1998.

"(b) STATE OFFICES.—For the purpose of carrying out section 1202, there are authorized to be appropriated $3,000,000 for each of the fiscal years 1996, 1997, and 1998.".

SEC. 3142. GRANTS TO STATES REGARDING AIRCRAFT FOR TRANSPORTING RURAL VICTIMS OF MEDICAL EMERGENCIES.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is

VOL 140 PT 15 AG 10 — 11 1994 UMI

amended by adding at the end the following new section:

"SEC. 1282. GRANTS FOR SYSTEMS TO TRANSPORT RURAL VICTIMS OF MEDICAL EMERGENCIES.

"(a) IN GENERAL.—The Secretary shall make grants to States to assist such States in the creation or enhancement of air medical transport systems that provide victims of medical emergencies in rural areas with access to treatments for the injuries or other conditions resulting from such emergencies.

"(b) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application in such form, made in such manner, and containing such agreements, assurances, and information, including a State plan as required in paragraph (2), as the Secretary determines to be necessary to carry out this section.

"(2) STATE PLAN.—An application submitted under paragraph (1) shall contain a State plan that shall—

"(A) describe the intended uses of the grant proceeds and the geographic areas to be served;

"(B) demonstrate that the geographic areas to be served, as described under subparagraph (A), are rural in nature;

"(C) demonstrate that there is a lack of facilities available and equipped to deliver advanced levels of medical care in the geographic areas to be served;

"(D) demonstrate that in utilizing the grant proceeds for the establishment or enhancement of air medical services the State would be making a cost-effective improvement to existing ground-based or air emergency medical service systems;

"(E) demonstrate that the State will not utilize the grant proceeds to duplicate the capabilities of existing air medical systems that are effectively meeting the emergency medical needs of the populations they serve;

"(F) demonstrate that in utilizing the grant proceeds the State is likely to achieve a reduction in the morbidity and mortality rates of the areas to be served, as determined by the Secretary;

"(G) demonstrate that the State, in utilizing the grant proceeds, will—

"(i) maintain the expenditures of the State for air and ground medical transport systems at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received; and

"(ii) ensure that recipients of direct financial assistance from the State under such grant will maintain expenditures of such recipients for such systems at a level at least equal to the level of such expenditures maintained by such recipients for the fiscal year preceding the fiscal year for which the financial assistance is received;

"(H) demonstrate that persons experienced in the field of air medical service delivery were consulted in the preparation of the State plan; and

"(I) contain such other information as the Secretary may determine appropriate.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—In determining whether to award a grant to a State under this section, the Secretary shall—

"(1) consider the rural nature of the areas to be served with the grant proceeds and the services to be provided with such proceeds, as identified in the State plan submitted under subsection (b); and

"(2) give preference to States with State plans that demonstrate an effective integration of the proposed air medical transport systems into a comprehensive network or plan for regional or statewide emergency medical service delivery.

"(d) STATE ADMINISTRATION AND USE OF GRANT.—

"(1) IN GENERAL.—The Secretary may not make a grant to a State under subsection (a) unless the State agrees that such grant will be administered by the State agency with principal responsibility for carrying out programs regarding the provision of medical services to victims of medical emergencies or trauma.

"(2) PERMITTED USES.—A State may use amounts received under a grant awarded under this section to award subgrants to public and private entities operating within the State.

"(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make a grant to a State under subsection (a) unless that State agrees that, in developing and carrying out the State plan under subsection (b)(2), the State will provide public notice with respect to the plan (including any revisions thereto) and facilitate comments from interested persons.

"(e) NUMBER OF GRANTS.—The Secretary shall award grants under this section to not less than 7 States.

"(f) REPORTS.—

"(1) REQUIREMENT.—A State that receives a grant under this section shall annually (during each year in which the grant proceeds are used) prepare and submit to the Secretary a report that shall contain—

"(A) a description of the manner in which the grant proceeds were utilized;

"(B) a description of the effectiveness of the air medical transport programs assisted with grant proceeds; and

"(C) such other information as the Secretary may require.

"(2) TERMINATION OF FUNDING.—In reviewing reports submitted under paragraph (1), if the Secretary determines that a State is not using amounts provided under a grant awarded under this section in accordance with the State plan submitted by the State under subsection (b), the Secretary may terminate the payment of amounts under such grant to the State until such time as the Secretary determines that the State comes into compliance with such plan.

"(g) DEFINITION.—As used in this section, the term 'rural areas' means geographic areas that are located outside of standard metropolitan statistical areas, as identified by the Secretary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $15,000,000 for each of the fiscal years 1996, 1997, and 1998.".

Subpart C—Assistance to Rural Providers Under Medicare

SEC. 3151. AMENDMENTS TO ESSENTIAL ACCESS COMMUNITY HOSPITAL (EACH) PROGRAM UNDER MEDICARE.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) of the Social Security Act (42 U.S.C. 1395i–4(a)(1)) is amended by striking "7" and inserting "9".

(b) TREATMENT OF INPATIENT HOSPITAL SERVICES PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

(1) IN GENERAL.—Section 1820(f)(1)(F) of such Act (42 U.S.C. 1395i–4(f)(1)(F)) is amended to read as follows:

"(F) subject to paragraph (4), provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care to patients requiring stabilization before discharge or transfer to a hospital, except that the facility may not provide any inpatient hospital services—

"(i) to any patient whose attending physician does not certify that the patient may reasonably be expected to be discharged or transferred to a hospital within 72 hours of admission to the facility; or

"(ii) consisting of surgery or any other service requiring the use of general anesthesia (other than surgical procedures specified by the Secretary under section 1833(i)(1)(A)), unless the attending physician certifies that the risk associated with transferring the patient to a hospital for such services outweighs the benefits of transferring the patient to a hospital for such services.".

(2) LIMITATION ON AVERAGE LENGTH OF STAY.—Section 1820(f) of such Act (42 U.S.C. 1395i–4(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION ON AVERAGE LENGTH OF INPATIENT STAYS.—The Secretary may terminate a designation of a rural primary care hospital under paragraph (1) if the Secretary finds that the average length of stay for inpatients at the facility during the previous year in which the designation was in effect exceeded 72 hours. In determining the compliance of a facility with the requirement of the previous sentence, there shall not be taken into account periods of stay of inpatients in excess of 72 hours to the extent such periods exceed 72 hours because transfer to a hospital is precluded because of inclement weather or other emergency conditions.".

(3) CONFORMING AMENDMENT.—Section 1814(a)(8) of such Act (42 U.S.C. 1395f(a)(8)) is amended by striking "such services" and all that follows and inserting "the individual may reasonably be expected to be discharged or transferred to a hospital within 72 hours after admission to the rural primary care hospital.".

(4) GAO REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit reports to Congress on—

(A) the application of the requirements under section 1820(f) of the Social Security Act (as amended by this subsection) that rural primary care hospitals provide inpatient care only to those individuals whose attending physicians certify may reasonably be expected to be discharged within 72 hours after admission and maintain an average length of inpatient stay during a year that does not exceed 72 hours; and

(B) the extent to which such requirements have resulted in such hospitals providing inpatient care beyond their capabilities or have limited the ability of such hospitals to provide needed services.

(c) DESIGNATION OF HOSPITALS.—

(1) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—

(A) IN GENERAL.—Section 1820 of such Act (42 U.S.C. 1395i–4) is amended—

(i) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5);

(ii) in subsection (e)(1)(A) (as redesignated by subparagraph (A))—

(I) by striking "is located" and inserting "except in the case of a hospital located in an urban area, is located",

(II) by striking ", (ii)" and inserting "or (ii)", and

(III) by striking "or (iii)" and all that follows through "section,"; and

(iii) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) of such Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in clause (iii)(III), by inserting "located in a rural area and" after "that is", and

(ii) in clause (v), by inserting "located in a rural area and" after "in the case of a hospital".

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(A) IN GENERAL.—Section 1820 of such Act (42 U.S.C. 1395i-4) is amended—

(i) by redesignating subsection (k) as subsection (l); and

(ii) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

"(3) a hospital or facility designated pursuant to this subsection shall be eligible to receive a grant under subsection (a)(2).".

(B) CONFORMING AMENDMENTS.—(i) Section 1820(c)(1) of such Act (42 U.S.C. 1395i-4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(ii) Paragraphs (1)(A) and (2)(A) of section 1820(i) of such Act (42 U.S.C. 1395i-4(i)) are each amended—

(I) in clause (i), by striking "(a)(1)" and inserting "(a)(1) (except as provided in subsection (k))", and

(II) in clause (ii), by striking "subparagraph (B)" and inserting "subparagraph (B) or subsection (k)".

(d) SKILLED NURSING SERVICES IN RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(3) of such Act (42 U.S.C. 1395i-4(f)(3)) is amended by striking "because the facility" and all that follows and inserting the following: "because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.".

(e) DEADLINE FOR DEVELOPMENT OF PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—Section 1814(l)(2) of such Act (42 U.S.C. 1395f(l)(2)) is amended by striking "January 1, 1993" and inserting "January 1, 1996".

(f) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—Section 1834(g) of such Act (42 U.S.C. 1395m(g)) is amended—

(A) in paragraph (1), by striking "during a year before 1993" and inserting "during a year before the prospective payment system described in paragraph (2) is in effect"; and

(B) in paragraph (2), by striking "January 1, 1993," and inserting "January 1, 1996,".

(2) NO USE OF CUSTOMARY CHARGE IN DETERMINING PAYMENT.—Section 1834(g)(1) of such Act (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following new flush sentence: "The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.".

(g) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) of such Act (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(h) TECHNICAL AMENDMENTS RELATING TO PART A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) of such Act (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) of such Act (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services".

(4) Section 1861(a) of such Act (42 U.S.C. 1395x(a)) is amended—

(A) in paragraph (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 1820(l) of such Act (42 U.S.C. 1395i-4(l)), as redesignated by subsection (c)(2)(A), is amended by striking "1990, 1991, and 1992" and inserting "1990 through 2000".

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3152. RURAL EMERGENCY ACCESS CARE HOSPITALS DESCRIBED.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and negative operating losses, and the closure of the facility would limit the access of individuals residing in the facility's service area to emergency services.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' was deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital:

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 3153. COVERAGE OF AND PAYMENT FOR SERVICES.

(a) COVERAGE UNDER PART B.—Section 1832(a)(2) of the Social Security Act (42 U.S.C. 1395k(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(b) PAYMENT BASED ON PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IN GENERAL.—Section 1833(a)(6) of the Social Security Act (42 U.S.C. 1395l(a)(6)) is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(2) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) of such Act (42 U.S.C. 1395m(g)) is amended—

(A) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(B) in paragraph (1), by striking "during a year before 1993" and inserting "during a year before the prospective payment system described in paragraph (2) is in effect";

(C) in paragraph (1), by adding at the end the following: "The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.";

(D) in paragraph (2), by striking "January 1, 1993," and inserting "January 1, 1996,"; and

(E) by adding at the end the following new paragraph:

"(3) APPLICATION OF METHODS TO PAYMENT FOR RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES.—The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

SEC. 3154. EFFECTIVE DATE.

The amendments made by this subpart shall apply to fiscal years beginning on or after October 1, 1994.

Subpart II—Demonstration Projects to Encourage Primary Care and Rural-Based Graduate Medical Education

SEC. 3161. STATE AND CONSORTIUM DEMONSTRATION PROJECTS.

(a) IN GENERAL.—

(1) PARTICIPATION OF STATES AND CONSORTIA.—The Secretary shall establish and conduct a demonstration project to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice under which the Secretary shall make payments in accordance with subsection (d)—

(A) to not more than 10 States for the purpose of testing and evaluating mechanisms to meet the goals described in section 3162; and

(B) to not more than 10 health care training consortia for the purpose of testing and evaluating mechanisms to meet such goals.

(2) EXCLUSION OF CONSORTIA IN PARTICIPATING STATES.—A consortia may not receive payments under the demonstration project under paragraph (1)(B) if any of its members is located in a State receiving payments under the project under paragraph (1)(A).

(b) APPLICATIONS.—

(1) IN GENERAL.—Each State and consortium desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require to assure that the State or consortium will meet the goals described in section 3162. In the case of an application of a State, the application shall include—

(A) information demonstrating that the State has consulted with interested parties with respect to the project, including State medical associations, State hospital associations, and medical schools located in the State;

(B) an assurance that no hospital conducting an approved medical residency training program in the State will lose more than 10 percent of such hospital's approved medical residency positions in any year as a result of the project; and

(C) an explanation of a plan for evaluating the impact of the project in the State.

(2) APPROVAL OF APPLICATIONS.—A State or consortium that submits an application under paragraph (1) may begin a demonstration project under this subsection—

(A) upon approval of such application by the Secretary; or

(B) at the end of the 60-day period beginning on the date such application is submitted, unless the Secretary denies the application during such period.

(3) NOTICE AND COMMENT.—A State or consortium shall issue a public notice on the date it submits an application under paragraph (1) which contains a general description of the proposed demonstration project. Any interested party may comment on the proposed demonstration project to the State or consortium or the Secretary during the 30-day period beginning on the date the public notice is issued.

(c) SPECIFIC REQUIREMENTS FOR PARTICIPANTS.—

(1) REQUIREMENTS FOR STATES.—Each State participating in the demonstration project under this subtitle shall use the payments provided under subsection (d) to test and evaluate either of the following mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice:

(A) USE OF ALTERNATIVE WEIGHTING FACTORS.—

(i) IN GENERAL.—The State may make payments to hospitals in the State for direct graduate medical education costs in amounts determined under the methodology provided under section 1886(h) of the Social Security Act, except that the State shall apply weighting factors that are different than the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(ii) USE OF PAYMENTS FOR PRIMARY CARE RESIDENTS.—In applying different weighting factors under clause (i), the State shall ensure that the amount of payment made to hospitals for costs attributable to primary care residents shall be greater than the amount that would have been paid to hospitals for costs attributable to such residents if the State had applied the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(B) PAYMENTS FOR MEDICAL EDUCATION THROUGH CONSORTIUM.—The State may make payments for graduate medical education costs through payments to a health care training consortium (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium) that is established in the State but that is not otherwise participating in the demonstration project.

(2) REQUIREMENTS FOR CONSORTIUM.—

(A) IN GENERAL.—In the case of a consortium participating in the demonstration project under this subtitle, the Secretary shall make payments for graduate medical education costs through a health care training consortium whose members provide medical residency training (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium).

(B) USE OF PAYMENTS.—

(i) IN GENERAL.—Each consortium receiving payments under subparagraph (A) shall use such funds to conduct activities which test and evaluate mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice, and may use such funds for the operation of the consortium.

(ii) PAYMENTS TO PARTICIPATING PROGRAMS.—The consortium shall ensure that the majority of the payments received under subparagraph (A) are directed to consortium members for primary care residency programs, and shall designate for each resident assigned to the consortium a hospital operating an approved medical residency training program for purposes of enabling the Secretary to calculate the consortium's payment amount under the project. Such hospital shall be the hospital where the resident receives the majority of the resident's hospital-based, nonambulatory training experience.

(d) ALLOCATION OF PORTION OF MEDICARE GME PAYMENTS FOR ACTIVITIES UNDER PROJECT.—Notwithstanding any provision of title XVIII of the Social Security Act, the following rules apply with respect to each State and each health care training consortium participating in the demonstration project established under this section during a year:

(1) In the case of a State—

(A) the Secretary shall reduce the amount of each payment made to hospitals in the State during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(B) the Secretary shall pay the State an amount equal to the Secretary's estimate of the sum of the reductions made during the year under subparagraph (A) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(2) In the case of a consortium—

(A) the Secretary shall reduce the amount of each payment made to hospitals who are members of the consortium during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(B) the Secretary shall pay the consortium an amount equal to the Secretary's estimate of the sum of the reductions made during the year under subparagraph (A) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(e) ADDITIONAL GRANT FOR PLANNING AND EVALUATION.—

(1) IN GENERAL.—The Secretary may award grants to States and consortia participating in the demonstration project under this section for the purpose of developing and evaluating such projects. A State or consortia may conduct such an evaluation or contract with a private entity to conduct the evaluation. Each State and consortia desiring to receive a grant under this paragraph shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for grants under this paragraph for fiscal years 1996 through 2000.

(f) DURATION.—A demonstration project under this section shall be conducted for a period not to exceed 5 years. The Secretary may terminate a project if the Secretary determines that the State or consortium conducting the project is not in substantial compliance with the terms of the application approved by the Secretary.

(g) EVALUATIONS AND REPORTS.—

(1) EVALUATIONS.—Each State or consortium participating in the demonstration project shall submit to the Secretary a final evaluation within 360 days of the termination of the State or consortium's participation and such interim evaluations as the Secretary may require.

(2) REPORTS TO CONGRESS.—Not later than 360 days after the first demonstration project under this subtitle begins, and annually thereafter for each year in which such a project is conducted, the Secretary shall submit a report to Congress which evaluates the effectiveness of the State and consortium activities conducted under such projects and includes any legislative recommendations determined appropriate by the Secretary.

(h) MAINTENANCE OF EFFORT.—Any funds available for the activities covered by a demonstration project under this subtitle shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

SEC. 3162. GOALS FOR PROJECTS.

The goals referred to in this section for a State or consortium participating in the demonstration project under this subtitle are as follows:

(1) The training of an equal number of physician and non-physician primary care providers.

(2) The recruiting of residents for graduate medical education training programs who received a portion of undergraduate training in a rural area.

(3) The allocation of not less than 50 percent of the training spent in a graduate medical residency training program at sites at which acute care inpatient hospital services are not furnished.

(4) The rotation of residents in approved medical residency training programs among practices that serve residents of rural areas.

(5) The development of a plan under which, after a 5-year transition period, not less than 50 percent of the residents who begin an initial residency period in an approved medical residency training program shall be primary care residents.

SEC. 3163. DEFINITIONS.

In this subpart:

(1) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term "approved medical residency training program" has the meaning given such term in section 1886(h)(5)(A) of the Social Security Act.

(2) HEALTH CARE TRAINING CONSORTIUM.—The term "health care training consortium" means a State, regional, or local entity consisting of at least one of each of the following:

(A) A hospital operating an approved medical residency training program at which residents receive training at ambulatory training sites located in rural areas.

(B) A school of medicine or osteopathic medicine.

(C) A school of allied health or a program for the training of physician assistants (as such terms are defined in section 799 of the Public Health Service Act).

(D) A school of nursing (as defined in section 853 of the Public Health Service Act).

(3) PRIMARY CARE.—The term "primary care" means family practice, general internal medicine, general pediatrics, and obstetrics and gynecology.

(4) RESIDENT.—The term "resident" has the meaning given such term in section 1886(h)(5)(H) of the Social Security Act.

(5) RURAL AREA.—The term "rural area" has the meaning given such term in section 1886(d)(2)(D) of the Social Security Act.

PART 4—HOSPITAL AFFILIATED PRIMARY CARE CENTER

SEC. 3171. HOSPITAL-AFFILIATED PRIMARY CARE CENTERS.

(a) DEFINITIONS.—For purposes of this section:

(1) COMMUNITY HOSPITAL.—The term "community hospital" means a public general hospital, owned and operated by a State, county or local unit of government, or a private community hospital that—

(A) has less than 50 beds; and

(B) primarily serves a medically underserved population as defined in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254c(b)(3)) or a health professional shortage area as defined in section 322(a)(1) of such Act (42 U.S.C. 254c(a)(1).

(2) HOSPITAL-AFFILIATED PRIMARY CARE CENTER.—The term "hospital-affiliated primary care center" (referred to in this section as a "primary care center") means a distinct administrative unit of a community hospital, located in, or adjacent to, the hospital, that—

(A) delivers primary health services as defined in section 330(b)(1) of such Act (42 U.S.C. 354c(b)(1)) to a catchment area determined by the hospital and approved by the Secretary; and

(B) provides referrals to providers of supplemental health services as defined in section 330(b)(2) of such Act (42 U.S.C. 354c(b)(2)).

(3) PRIMARY CARE GROUP PRACTICE.—

(A) The term "primary care group practice" means any combination of 3 or more primary care physicians who are—

(i) organized to provide primary health services in a manner that is consistent with the needs of the population served;

(ii) located in, or adjacent to, the community hospital;

(iii) who have admitting privileges at the community hospital; and

(iv)(I) who are salaried by the hospital such that a majority of the members of the group practice is full time in the primary care center; or

(II) who are organized into a legal entity (partnership, corporation, or professional association) that has a contract approved by the Secretary with the community hospital to provide primary health services.

(B) SPECIAL RULE FOR HPSAS AND NEAR-HPSAS.—In the case of a group that is located in an area that—

(i) is designated as a primary care health professional shortage area under section 332 of the Public Health Service Act (42 U.S.C. 254e); or

(ii) would meet the requirements for designation as a primary care health professional shortage area if there were 25 percent fewer physicians in the area;

the requirement that a group practice have 3 or more primary care physicians may be met by substituting a nurse practitioner or a physician assistant for 1 member of the group.

(C) SPECIAL RULE FOR FRONTIER AREAS.—In the case of a group that is located in a frontier area, subparagraph (A) shall be applied by substituting "two" for "three" in the matter preceding clause (i).

(D) OTHER REQUIREMENTS FOR GROUP.—

(i) physicians in specialties other than primary care specialties may become members of a primary care group practice as needed, but may not be used to satisfy the requirement of subsection (b)(2)(D); and

(ii) nonphysician providers, particularly physician assistants, certified nurse midwives, and nurse practitioners, shall be used where practicable in concert with the physicians of a primary care group practice.

(4) FRONTIER AREA.—The term "frontier area" means a county in which there are 6 or fewer individuals residing per square mile.

(5) PRIMARY CARE PHYSICIAN.—The term "primary care physician" means a physician in the specialty of family practice, general internal medicine, general pediatrics, or obstetrics and gynecology.

(6) PRIMARY CARE RESIDENT.—The term "primary care resident" means a graduate physician in training, whose training program is approved by appropriate certifying bodies and is in a primary care specialty.

(b) ESTABLISHMENT OF GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall make grants to community hospitals to assist such hospitals in planning, developing, and operating primary care services in medically underserved areas. In making such grants, the Secretary shall avoid duplication of efforts in areas where existing community health centers, migrant health centers, rural emergency access care hospitals, federally qualified health centers, and other facilities are adequate to meet the needs of the medically underserved population.

(2) ELIGIBILITY FOR GRANTS.—In order to be eligible for a grant under this subsection, a community hospital shall submit an application that contains or is supported by assurances, satisfactory to the Secretary, that—

(A) the services of the primary care center will be delivered through a primary care group practice;

(B) to the extent practicable, primary health services in the community hospital will be delivered only through the primary care center;

(C) qualified personnel trained in triage will be placed in the emergency room, the outpatient department, and the primary care center to screen and direct patients to the appropriate location for care;

(D) each patient of the primary care center will have an identified member of the group practice responsible for continuous management of the patient, including emergency services and referrals of the patients for inpatient or outpatient services;

(E) to the extent practicable, excess facilities and equipment in or owned by the community hospital will be covered for use in the primary care center;

(F) the hospital and the primary care center will avoid unnecessary duplication of facilities and equipment, except that the primary care center may install appropriate support equipment for routine primary health services;

(G) the primary care center will be maintained as a separate and distinct cost and revenue center for accounting purposes;

VOL 140 PT 15 AG 10 — 11 1994 UMI

(H) the primary care center will be operated in accordance with all of the requirements specified for community health centers in section 330(e)(3) of the Public Health Service Act (other than subparagraph (G));

(I) the hospital has an advisory committee that—

(i) is composed of individuals, a majority of whom are health consumers in the catchment area of the hospital; and

(ii) meets at least 6 times a year to review the operations of the primary care center and develop recommendations to the governing board of the hospital about the operation of the center and the types of services to be provided;

(J) the primary care center will maintain an information program for its patients that fully discloses—

(i) the covered professional services and referral capabilities offered by the primary care center; and

(ii) the method by which patients of the primary care center may resolve grievances about billing for covered professional services and the quality of such services.

(3) OTHER REQUIREMENTS.—

(A) USE OF PRIMARY CARE RESIDENTS.—(i) Primary health services may be delivered by primary care residents if such services are delivered under the supervision of a member of the group practice.

(ii)(I) Medical and other health science students may receive primary care training in the primary care center, except that no full-time member of the group practice may also spend full time in the teaching of residents and students.

(II) The Secretary shall issue regulations to assure that teaching does not detract significantly from the actual delivery of service in the primary care center.

(B) COSTS OF PRIMARY CARE CENTERS.—(i) Only costs clearly associated with the provision of services in the primary care setting may be assigned to a primary care center.

(ii) Inpatient-related costs may not be included in the costs of operating a primary care center.

(iii) Costs associated with the education and training of residents, medical, and other health science students may not be included in the costs of operating a primary care center, except that salaries and other costs associated with the delivery of services by residents may be included in such costs as long as such costs are prorated based on the actual percentage of time spent by the resident in the primary care center.

(C) ADVISORY COMMITTEE.—(i) The advisory committee referred to in paragraph (2)(I) shall participate in the development of an application for a grant under this section and the development of any grant renewal application.

(ii) The Secretary may not approve the application for a grant under this subsection unless the application has been approved by the advisory committee.

(4) USE OF GRANTS.—(A) A grant under this subsection may be used to cover costs associated with (i) planning, (ii) developing (including modernization and renovation of space), and (iii) operating, primary care centers.

(B) Not more than 25 percent of any grant may be used for the purposes specified in subparagraph (A)(ii).

(c) TECHNICAL ASSISTANCE.—The Secretary shall, upon request, provide technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to a community hospital to assist it in developing plans for, and in operating, a primary care center. Funds appropriated under this section may be used to carry out the purposes of this section.

(d) RETENTION OF EARNED INCOME.—The Secretary shall establish, by regulation, a plan to allow primary care centers to retain earned income from the operation of the center if the income is used to—

(1) expand or improve the services of the center;

(2) expand the population eligible to utilize the services of the center;

(3) make managerial or physical improvements to the center; or

(4) establish a reserve fund for conversion to a prepaid reimbursement methodology.

(e) USE OF APPROPRIATIONS.—For a fiscal year after 1995, not more than 35 percent of the excess of the amount appropriated for such fiscal year under section 330(g)(1)(A) of the Public Health Service Act (42 U.S.C. 254c(g)(1)(A)) over the amount appropriated under such section for fiscal year 1995 may be used by the Secretary for the purpose of making grants under subsection (b).

Subtitle C—Academic Health Centers

SEC. 3201. STUDY OF PAYMENTS FOR MEDICAL EDUCATION AT SITES OTHER THAN HOSPITALS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the feasibility and desirability of making payments to facilities that are not hospitals for the direct and indirect costs of graduate medical education attributable to residents trained at such facilities. In conducting the study, the Secretary shall evaluate new payment methodologies—

(1) under which each entity which incurs costs of graduate medical education shall receive reimbursement for such costs; and

(2) which would encourage the training of primary care physicians.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to Congress a report on the study conducted under subsection (a), and shall include in the report such recommendations as the Secretary considers appropriate.

Subtitle D—United States-Mexico Border Health Commission

SEC. 3301. AGREEMENT TO ESTABLISH BINATIONAL COMMISSION.

The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

SEC. 3302. DUTIES.

It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico border area for the purposes of identifying, evaluating, preventing, and resolving health problems that affect the general population of the area;

(2) to implement the actions recommended by the needs assessment by—

(A) assisting in the coordination of the efforts of public and private entities to prevent and resolve such health problems,

(B) assisting in the coordination of the efforts of public and private entities to educate such population concerning such health problems, and

(C) assisting in the development and implementation of programs to prevent and resolve such health problems and (where necessary) to educate such population concerning such health programs; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country would reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service.

SEC. 3303. OTHER AUTHORIZED FUNCTIONS.

In addition to the duties described in section 3302, the Commission should be authorized to perform the following additional functions as the Commission determines to be appropriate:

(1) To conduct or sponsor investigations, research, or studies designed to identify, study, and monitor health problems that affect the general population in the United States-Mexico border area.

(2) To provide financial, technical, or administrative assistance to public or private entities who act to prevent, resolve, or educate such population concerning such health problems.

SEC. 3304. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or such individual's delegate.

(2) The commissioners of health from the States of Texas, New Mexico, California, and Arizona or such individuals' delegates.

(3) 2 individuals from each of the States of Texas, New Mexico, California, and Arizona who are nominated by the chief executive officer of one of such States and are appointed by the President from among individuals who have demonstrated ties to community-based organizations and have a demonstrated interest in health issues of the United States-Mexico border area.

(b) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

SEC. 3305. REGIONAL OFFICES.

The Commission should establish no fewer than 2 regional border offices in locations selected by the Commission.

SEC. 3306. REPORTS.

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

SEC. 3307. DEFINITIONS.

For purposes of this subtitle:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission authorized in section 3301.

(2) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air and water quality.

(3) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico border area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

TITLE IV—HEALTH CARE QUALITY ENHANCEMENT

TABLE OF CONTENTS OF TITLE

Subtitle A—Performance Measures for Quality Assurance

Sec. 4001. Health Quality Advisory Council.
Sec. 4002. Assessment of health plans using performance measures.

Subtitle B—Primary Care Provider Education

Sec. 4101. Area health education centers.
Sec. 4102. Public health and preventive medicine.
Sec. 4103. Family medicine.
Sec. 4104. General internal medicine and pediatrics.
Sec. 4105. Physician assistants.
Sec. 4106. Allied health project grants and contracts.
Sec. 4107. Nurse practitioner and nurse midwife programs.

Subtitle C—Other Medical Education Grants and Programs

Sec. 4201. Scholarship and loan repayment programs of National Health Service Corps.
Sec. 4202. Area health education centers.
Sec. 4203. Public health and preventive medicine.
Sec. 4204. Family medicine.
Sec. 4205. General internal medicine and pediatrics.
Sec. 4206. Physician assistants.
Sec. 4207. Allied health project grants and contracts.
Sec. 4208. Nurse allied health project grants and contracts.
Sec. 4209. Nurse practitioner and nurse midwife programs.

Subtitle A—Performance Measures for Quality Assurance

SEC. 4001. HEALTH QUALITY ADVISORY COUNCIL.

(a) ESTABLISHMENT.—The Secretary shall provide for the establishment of an advisory council to be known as the "Health Quality Advisory Council" (in this subtitle referred to as the "Council").

(b) DUTIES.—

(1) INITIAL PERFORMANCE MEASURES.—

(A) DEVELOPMENT.—The Council shall develop an initial set of performance measures to be used to assess the quality of health plans. The performance measures shall include measures that provide information with respect to a health plan on the following subjects:

(i) Outcomes of care for specified medical conditions.

(ii) Health status of enrollees.

(iii) Health promotion activities.

(iv) Prevention of diseases, disorders, disabilities, injuries, and other adverse health conditions.

(v) Risk management and reduction.

(vi) Consumer satisfaction with the plan, services, providers, and care provided.

(B) RECOMMENDATIONS.—Not later than the date that is 9 months from the date of the enactment of this Act, the Council shall recommend to the Secretary the initial set of measures developed under subparagraph (A), along with a recommended schedule for phasing in the assessment of health plans using the measures.

(2) UPDATING MEASURES.—The Council shall make recommendations to the Secretary with respect to updating, as additional health care data with respect to health plans becomes valid and available, any set of performance measures selected by the Secretary under section 4002.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall, in accordance with this subsection, be composed of appointed members and ex officio members. All members of the Council shall be voting members, other than officials designated under paragraph (3)(B) as ex officio members of the Council.

(2) APPOINTED MEMBERS.—The Secretary shall appoint to the Council 9 appropriately qualified individuals who are not officers or employees of the United States. Members appointed under this paragraph shall include—

(A) individuals distinguished in the field of health outcomes;

(B) representatives of health plans;

(C) health care providers; and

(D) consumers of health care.

(3) EX OFFICIO MEMBERS.—The Secretary shall designate as ex officio members of the Council the Director of the National Institutes of Health, the Director of the Centers for Disease Control, the Administrator of the Health Care Financing Administration, the Assistant Secretary of Defense (Health Affairs), and the Chief Medical Officer of the Department of Veterans Affairs.

(d) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Council appointed under subsection (c)(2) shall serve for a term of 3 years.

(2) STAGGERED ROTATION.—Of the members first appointed to the Council under subsection (c)(2), the Secretary shall appoint 3 members to serve for a term of 3 years, 3 members to serve for a term of 2 years, and 3 members to serve for a term of 1 year.

(3) SERVICE BEYOND TERM.—A member of the Council appointed under subsection (c)(2) may continue to serve after the expiration of the term of the member until a successor is appointed.

(e) VACANCIES.—If a member of the Council appointed under subsection (c)(2) does not serve the full term applicable under subsection (d), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(f) CHAIR.—The Secretary shall, from among the members of the Council appointed under subsection (c)(2), designate an individual to serve as the chair of the Council.

(g) MEETINGS.—The Council shall meet not less than once during each discrete 4-month period and shall otherwise meet at the call of the Administrator or the chair.

(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

(1) APPOINTED MEMBERS.—Members of the Council appointed under subsection (c)(2) shall receive compensation for each day (including traveltime) engaged in carrying out the duties of the Council. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

(2) EX OFFICIO MEMBERS.—Officials designated under subsection (c)(3) as ex officio members of the Council may not receive compensation for service on the Council in addition to the compensation otherwise received for duties carried out as officers of the United States.

(i) STAFF.—The Secretary shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

(j) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, the Council shall continue in existence until otherwise provided by law.

SEC. 4002. ASSESSMENT OF HEALTH PLANS USING PERFORMANCE MEASURES.

(a) SELECTION OF INITIAL PERFORMANCE MEASURES.—

(1) EVALUATION OF RECOMMENDATIONS.—If the Council recommends an initial set of performance measures and an implementation schedule to the Secretary not later than the deadline in section 4001(b)(1)(B), the Secretary shall evaluate the set and schedule to determine whether they will provide for effective measurement of the quality of health plans. The Secretary shall complete such evaluation not later than the date that is 90 days from the date on which the Secretary receives the recommendations of the Council.

(2) MODIFICATION.—Prior to the initiation of the rule making under paragraph (3), the Secretary may modify the recommended set of performance measures, or the implementation schedule with respect to the set, as the Secretary determines appropriate from the evaluation under paragraph (1).

(3) RULE MAKING.—After notice and opportunity for public comment, the Secretary shall promulgate a rule that—

(A) establishes an initial set of performance measures and a schedule for phasing in the assessment of health plans using the measures;

(B) specifies the amount and nature of the data that health plans will be required to transmit under subsection (b) in order to permit States to conduct assessments under the subsection; and

(C) specifies the frequency with which, and the method by which, such data will be required to be transmitted.

(b) ASSESSMENT OF COMPLIANCE BY STATES.—

(1) DATA TRANSMISSION.—A health plan shall transmit to a State the data determined to be necessary by the Secretary under subsection (a)(3).

(2) ASSESSMENT.—Each State shall assess the completeness, accuracy, and validity of the data supplied by each health plan offered in the State. A State may satisfy this requirement by entering into a contract or other agreement with any appropriate individual or entity.

(3) ENSURING COMPLIANCE.—A State may take appropriate action to ensure compliance by health plans offered in the State with the requirements of paragraph (1). Such action may include the imposition of a penalty on a health plan that transmits incomplete, false, or misleading data to the State.

(4) PUBLICATION OF RESULTS.—Each health plan shall publish a report on the performance measures as required and shall send the report to employers, brokers, health plan purchasing organizations, and consumers in its service area.

(c) UPDATING MEASURES.—The Secretary, after receiving the recommendations of the Council and after notice and opportunity for public comment, may update a set of performance measures or an implementation schedule established under this section.

Subtitle B—Primary Care Provider Education

SEC. 4101. AREA HEALTH EDUCATION CENTERS.

Section 746(i)(1)(A) of the Public Health Service Act (42 U.S.C. 293j(i)(1)(A)) is amended by striking "through 1995" and inserting "through 1994 and $30,000,000 for each of the fiscal years 1995 through 1999".

SEC. 4102. PUBLIC HEALTH AND PREVENTIVE MEDICINE.

Section 765(a) of the Public Health Service Act (42 U.S.C. 294c(a)) is amended by striking "through 1995" and inserting "through 1999".

VOL
140
PT
15
AG
10
11
1994
UMI

SEC. 4103. FAMILY MEDICINE.
Section 747(d)(1) of the Public Health Service Act (42 U.S.C. 293k(d)(1)) is amended by striking "through 1995" and inserting "through 1999".
SEC. 4104. GENERAL INTERNAL MEDICINE AND PEDIATRICS.
Section 748(c) of the Public Health Service Act (42 U.S.C. 293l(c)) is amended by striking "through 1995" and inserting "through 1999".
SEC. 4105. PHYSICIAN ASSISTANTS.
Section 750(d)(1) of the Public Health Service Act (42 U.S.C. 293n(d)(1)) is amended by striking "through 1995" and inserting "through 1999".
SEC. 4106. ALLIED HEALTH PROJECT GRANTS AND CONTRACTS.
Section 767(d) of the Public Health Service Act (42 U.S.C. 294e(d)) is amended by striking "through 1995" and inserting "through 1999".
SEC. 4107. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.
Section 822(d) of the Public Health Service Act (42 U.S.C. 296m(d)) is amended by striking "and 1994" and inserting "through 1999".
Subtitle C—Other Medical Education Grants and Programs
SEC. 4201. SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS OF NATIONAL HEALTH SERVICE CORPS.
Section 338H(b)(1) of the Public Health Service Act (42 U.S.C. 254q(b)(1)) is amended—
(1) by striking "and" after "1991,"; and
(2) by striking "through 2000." and inserting "through 1994, $150,000,000 for fiscal year 1995, $175,000,000 for fiscal year 1996, $200,000,000 for fiscal year 1997, $225,000,000 for fiscal year 1998, and $250,000,000 for fiscal year 1999.".
SEC. 4202. AREA HEALTH EDUCATION CENTERS.
Section 746(i)(1)(A) of the Public Health Service Act (42 U.S.C. 293j(i)(1)(A)) is amended by striking "through 1995" and inserting "through 1994 and $30,000,000 for each of the fiscal years 1995 through 1999".
SEC. 4203. PUBLIC HEALTH AND PREVENTIVE MEDICINE.
Section 765(a) of the Public Health Service Act (42 U.S.C. 294c(a)) is amended by striking "through 1995" and inserting "through 1999".
SEC. 4204. FAMILY MEDICINE.
Section 747(d)(1) of the Public Health Service Act (42 U.S.C. 293k(d)(1)) is amended by striking "through 1995" and inserting "through 1999".
SEC. 4205. GENERAL INTERNAL MEDICINE AND PEDIATRICS.
Section 748(c) of the Public Health Service Act (42 U.S.C. 293l(c)) is amended by striking "through 1995" and inserting "through 1999".
SEC. 4206. PHYSICIAN ASSISTANTS.
Section 750(d)(1) of the Public Health Service Act (42 U.S.C. 293n(d)(1)) is amended by striking "through 1995" and inserting "through 1999".
SEC. 4207. ALLIED HEALTH PROJECT GRANTS AND CONTRACTS.
Section 767(d) of the Public Health Service Act (42 U.S.C. 294e(d)) is amended by striking "through 1995" and inserting "through 1999".
SEC. 4208. NURSE ALLIED HEALTH PROJECT GRANTS AND CONTRACTS.
Section 767(d) of the Public Health Service Act (42 U.S.C. 294e(d)) is amended by striking "through 1995" and inserting "through 1999".
SEC. 4209. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.
Section 822(d) of the Public Health Service Act (42 U.S.C. 296m(d)) is amended by striking "and 1994" and inserting "through 1999".
TITLE V—MARKET INCENTIVES TO CONTAINING COSTS
TABLE OF CONTENTS OF TITLE
Subtitle A—Facilitating Establishment of Health Plan Purchasing Organization (HPPOs) and Health Risk Pools
PART 1—HEALTH PLAN PURCHASING ORGANIZATIONS
Sec. 5001. Establishment and organization.
Sec. 5002. Agreements to offer qualified health coverage.
Sec. 5003. Provision of information.
Sec. 5004. Enrolling eligible employees and qualifying individuals for qualified health coverage through a purchasing organization.
Sec. 5005. Restriction on charges.
Sec. 5006. State report on establishment of purchasing organizations.
PART 2—SMALL EMPLOYER POOLING ARRANGEMENTS
Sec. 5011. Small employer pooling arrangements.
PART 3—ENCOURAGEMENT OF MULTIPLE EMPLOYER ARRANGEMENTS PROVIDING BASIC HEALTH BENEFITS
Sec. 5021. Eliminating commonality of interest or geographic location requirement for tax exempt trust status.
PART 4—TAX EXEMPTION FOR HIGH RISK POOLS
Sec. 5031. Tax exemption for high risk insurance pools.
Subtitle B—Preemption of State Benefit Mandates and Anti-Managed Care Laws
Sec. 5101. Preemption from State benefit mandates.
Sec. 5102. Preemption of State law restrictions on managed care arrangements.
Sec. 5103. Preemption of State laws restricting utilization review programs.
Sec. 5104. Prohibition of provisions prohibiting employer groups from purchasing health insurance.
Sec. 5105. Preemption relating to different insurance standards.
Sec. 5106. GAO study on managed care.
Subtitle C—Malpractice Reform
PART 1—UNIFORM STANDARDS FOR MALPRACTICE CLAIMS
Sec. 5201. Applicability.
Sec. 5202. Requirement for initial resolution of action through alternative dispute resolution.
Sec. 5203. Optional application of practice guidelines.
Sec. 5204. Treatment of noneconomic and punitive damages.
Sec. 5205. Periodic payments for future losses.
Sec. 5206. Treatment of attorney's fees and other costs.
Sec. 5207. Uniform statute of limitations.
Sec. 5208. Special provision for certain obstetric services.
Sec. 5209. Uniform standard for determining liability in actions based on negligence.
Sec. 5210. Jurisdiction of Federal courts.
Sec. 5211. Preemption.
PART 2—REQUIREMENTS FOR STATE ALTERNATIVE DISPUTE RESOLUTION SYSTEMS (ADR)
Sec. 5221. Basic requirements.
Sec. 5222. Certification of State systems; applicability of alternative Federal system.
Sec. 5223. Reports on implementation and effectiveness of alternative dispute resolution systems.
PART 3—DEFINITIONS
Sec. 5231. Definitions.
Subtitle D—Paperwork Reduction and Administrative Simplification
Sec. 5301. Preemption of State "quill and pen" laws.
Sec. 5302. Confidentiality of electronic health care information.
Sec. 5303. Standardization of electronic receipt and transmission of claims and eligibility information.
Sec. 5304. Use of uniform health claims forms and identification numbers.
Sec. 5305. Priority among carriers, group health plans, and multiple employer welfare arrangements.
Sec. 5306. Exchange of information among carriers, group health plans, and multiple employer welfare arrangements.
Sec. 5307. Failure to satisfy certain health plan requirements.
Sec. 5308. Definition.
Subtitle E—Antitrust
Sec. 5401. Publication of antitrust guidelines on activities of health plans.
Sec. 5402. Issuance of health care certificates of public advantage.
Sec. 5403. Study of impact on competition.
Subtitle F—Fraud and Abuse
PART 1—ESTABLISHMENT OF ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM
Sec. 5501. All-payer health care fraud and abuse control program.
Sec. 5502. Authorization of additional appropriations for investigators and other personnel.
Sec. 5503. Establishment of anti-fraud and abuse trust fund.
PART 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE
Sec. 5511. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 5512. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 5513. Revisions to criminal penalties.
Sec. 5515. Revisions to limitations on physician self-referral.
Sec. 5516. Medicare health maintenance organizations.
Sec. 5517. Effective date.
PART 3—AMENDMENTS TO CRIMINAL LAW
Sec. 5521. Penalties for health care fraud.
Sec. 5522. Rewards for information leading to prosecution and conviction.
Sec. 5523. Broadening application of mail fraud statute.
PART 4—ADVISORY OPINIONS
Sec. 5531. Authorizing the Secretary of Health and Human Services to issue advisory opinions under Title XI.
Sec. 5532. Authorizing the Secretary of Health and Human Services to issue advisory opinions relating to physician ownership and referral.
Sec. 5533. Effective date.
PART 5—PAYMENTS FOR STATE HEALTH CARE FRAUD CONTROL UNITS
Sec. 5541. Establishment of State fraud units.
Sec. 5542. Requirements for State fraud units.
Sec. 5543. Scope and purpose.
Sec. 5544. Payments to States.
Subtitle G—Billing for Laboratory Services
Sec. 5601. Easing restrictions on billing for laboratory and other services.
"TITLE XXVII—RESTRICTIONS ON BILLING
"Sec. 2701. Prohibition.
"Sec. 2702. Exceptions.
"Sec. 2703. Sanctions.
"Sec. 2704. Regulations.
"Sec. 2705. Definitions.
Sec. 5602. Effective date.

Subtitle A—Facilitating Establishment of Health Plan Purchasing Organization (HPPOs) and Health Risk Pools

PART 1—HEALTH PLAN PURCHASING ORGANIZATIONS

SEC. 5001. ESTABLISHMENT AND ORGANIZATION.

(a) IN GENERAL.—Health plan purchasing organizations (each in this part referred to as a "purchasing organization") may be established in accordance with this part. Each purchasing organization shall be chartered under State law and operated as a not-for-profit corporation. A carrier may not form, underwrite, or possess a majority vote of a purchasing organization, but may administer such an organization.

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each purchasing organization shall be governed by a Board of Directors. Such Board shall initially be appointed under procedures established by the State in which it operates. Subsequently, the Board shall be elected by the members of the organization in accordance with paragraph (3). Such Board shall be composed of individuals who are small employers (or representatives of small employers), eligible employees of small employers (or representatives of such employees), and qualifying individuals in the area in which the organization operates.

(2) MEMBERSHIP.—A purchasing organization shall accept all small employers and eligible employees and other individuals who are in the individual or small employer market sector within the area served by the organization as members if such employers, employees, or individuals request such membership.

(3) VOTING.—Members of a purchasing organization shall have voting rights consistent with the rules established under the bylaws governing the organization.

(c) DUTIES OF PURCHASING ORGANIZATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), each purchasing organization shall—

(A) market health insurance coverage to members throughout the entire area served by the organization;

(B) enter into agreements under section 5002 with carriers offering qualified health coverage under this subtitle;

(C) enter into agreements with small employers under section 5003;

(D) enroll individuals with carriers offering qualified health coverage, only in accordance with section 5004; and

(E) carry out other functions provided for under this part.

(2) LIMITATION ON ACTIVITIES.—A purchasing organization shall not—

(A) perform any activity (including review, approval, or enforcement) relating to payment rates for providers;

(B) perform any activity (including certification or enforcement) relating to compliance of carriers (and health coverage provided by carriers) with the requirements of subtitle A of title I;

(C) assume financial risk in relation to any such carrier; or

(D) perform other activities identified by the State as being inconsistent with the performance of its duties under paragraph (1).

(3) CHARACTERISTICS OF SERVICE AREA.—

(A) IN GENERAL.—A purchasing organization need not serve areas that are contiguous, but the geographic boundaries of such areas shall be consistent with the boundaries established under section 1021 for geographic areas used in establishing premium rates in the individual and small group market sectors.

(B) SERVICE OF ENTIRE METROPOLITAN STATISTICAL AREA.—If a purchasing organization serves a part of a metropolitan statistical area the organization shall serve the entire area.

(d) ESTABLISHMENT NOT REQUIRED.—Nothing in this section shall be construed as requiring—

(1) that a purchasing organization be established in each area of a State in which it operates; and

(2) that there be only one purchasing organization established with respect to any area.

SEC. 5002. AGREEMENTS TO OFFER QUALIFIED HEALTH COVERAGE.

(a) AGREEMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (3), each purchasing organization for an area shall enter into an agreement under this section with each carrier that desires to provide qualified health coverage to be made available through the purchasing organization (consistent with any procedures established by the State).

(2) TERMINATION OF AGREEMENT.—An agreement under paragraph (1) shall remain in effect for a 12-month period, except that the purchasing organization may terminate an agreement under paragraph (1) if the carrier's license or certification under State law is terminated or for other good cause shown.

(3) LIMITATION ON RENEWAL OF AGREEMENTS.—Subsequent to the 12-month period described in paragraph (2), a purchasing organization may—

(A) refuse to enter into a subsequent agreement with a carrier if the organization determines that the number of enrollees or the premium for coverage is too low, and

(B) if a previous agreement with a carrier was terminated for good cause and the organization determines appropriate actions have not been taken to correct the problems, refuse to enter into a subsequent agreement with the carrier.

(b) RECEIPT OF PREMIUMS ON BEHALF OF CARRIERS.—

(1) IN GENERAL.—Under an agreement under this section between a purchasing organization and a carrier—

(A) premiums shall be payable, and

(B) payment of premiums may be made by individuals (or employers on their behalf) directly to the purchasing organization for the benefit of the carrier.

(2) TIMING OF PAYMENT OF PREMIUMS.—Premiums may be payable on a monthly basis (or, at the option of an eligible employee or individual, on a quarterly basis). The purchasing organization may provide for reasonable penalties and grace periods for late payment.

(3) CARRIERS RETAIN RISK OF NONPAYMENT.—Nothing in this subsection shall be construed as placing upon a purchasing organization any risk associated with the failure of individuals and employers to make prompt payment of premiums (other than the portion of the premium representing the purchasing organization administrative fee under section 5005). Each small employer and qualifying individual who enrolls with a carrier providing qualified health coverage through the purchasing organization is liable to the carrier for premiums.

(c) FORWARDING OF PREMIUMS.—

(1) IN GENERAL.—If, under an agreement under subsection (a), premium payments for qualified health coverage are made to the purchasing organization, the purchasing organization shall forward to the carrier the amount of the premiums.

(2) PAYMENTS.—Payments shall be made by the purchasing organization under this subsection within a period of days (specified by the Secretary and not to exceed 7 days) after receipt of the premium from the small employer of the eligible employee or the qualifying individual, as the case may be.

SEC. 5003. PROVISION OF INFORMATION.

(a) IN GENERAL.—Each purchasing organization for an area shall make available to small employers that employ individuals in the area and to qualifying individuals who reside in the area—

(1) information provided to the purchasing organization by the State or carriers, and

(2) the opportunity to enter into an agreement with the organization for the purchase of qualified health coverage.

(b) FORWARDING INFORMATION AND PAYROLL DEDUCTIONS.—As part of an agreement entered into under this section, a small employer shall forward the information and make the payroll deductions required under section 1201(a).

SEC. 5004. ENROLLING ELIGIBLE EMPLOYEES AND QUALIFYING INDIVIDUALS FOR QUALIFIED HEALTH COVERAGE THROUGH A PURCHASING ORGANIZATION.

A purchasing organization shall offer, on behalf of each carrier with which an agreement was entered into under section 5002 and in accordance with the enrollment procedures of such carriers and the open enrollment periods provided under 1005, enrollment for the coverage only to—

(1) all eligible employees employed by small employers in the area served by the purchasing organization; and

(2) all qualifying individuals residing in such area.

SEC. 5005. RESTRICTION ON CHARGES.

(a) IN GENERAL.—A purchasing organization may impose an administrative fee with respect to an eligible employee or qualifying individual enrolled for qualified health coverage offered through the purchasing organization.

(b) FEE.—A purchasing organization that elects to impose a fee under subsection (a) shall ensure that such fee is set as a percentage of the premium for each such coverage option, is imposed uniformly with respect to all coverage options offered through the organization, and is disclosed explicitly as an addition to the premium.

SEC. 5006. STATE REPORT ON ESTABLISHMENT OF PURCHASING ORGANIZATIONS.

(a) IN GENERAL.—Not later than January 1, 2000, each State shall conduct a review of access of residents of the State who are not employees of large employers or medicare beneficiaries to obtaining standard health insurance coverage through a purchasing organization.

(b) RESPONSE.—If the State determines, based on such review, that such residents are unable to obtain such coverage through such an organization, the State shall take such actions as the State determines appropriate to ensure public or private entities provide

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access to such an organization by such residents.

PART 2—SMALL EMPLOYER POOLING ARRANGEMENTS

SEC. 5011. SMALL EMPLOYER POOLING ARRANGEMENTS.

(a) REQUIREMENTS FOR SEPAs APPLICABLE WHERE SIGNIFICANT NUMBER OF SMALL EMPLOYERS PARTICIPATE.—In any case in which coverage is provided for the current plan year under a multiple employer health plan and more than 10 percent of the participating employers in the arrangement are small employers (as defined in section 1902), the entity sponsoring such arrangement shall ensure that such arrangement is maintained for such year in the form of a small employer pooling arrangement.

(b) REQUIREMENTS FOR SMALL EMPLOYER POOLING ARRANGEMENTS.—For purposes of this title, an arrangement is maintained in the form of a small employer pooling arrangement for any applicable fiscal year, if—

(1) the benefits under the arrangement consist solely of medical care described in section 607(1) of the Employee Retirement Income Security Act of 1974 (disregarding such incidental benefits as the Secretary of Labor shall specify by regulations),

(2) the general requirements of subsection (c) are met with respect to the arrangement, and

(3) the following requirements are met with respect to the arrangement:

(A) in the case of an arrangement under which all coverage is fully-insured, the requirements of subsection (d) are met with respect to carriers providing coverage under the arrangement, or

(B) in the case of an arrangement under which some or all coverage is not fully-insured, the arrangement constitutes an exempted multiple employer health plan, and the requirements of subsection (e) are met with respect to the arrangement.

(c) GENERAL REQUIREMENTS.—The general requirements of this subsection with respect to a multiple employer welfare arrangement are the following:

(1) REQUIRED COVERAGE.—The coverage provided under the arrangement consists of at least the forms of health coverage required to be offered by employers under section 1201(a)(2).

(2) APPLICABILITY OF CERTAIN HEALTH INSURANCE MARKETPLACE REFORMS.—The coverage provided under the arrangement complies with the requirements of sections 1003 through 1005.

(3) EMPLOYEE AND INDIVIDUAL ELIGIBILITY.—Under the arrangement, each eligible employee and each qualifying individual with respect to each participating employer is made eligible for coverage required under this section.

(d) REQUIREMENTS FOR ARRANGEMENTS PROVIDING SELF-INSURED COVERAGE.—

(1) IN GENERAL.—The requirements of this subsection with respect to a multiple employer welfare arrangement under which some or all coverage is not fully-insured are (in addition to the requirements for exempted multiple employer welfare arrangements under part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (added by this Act)) the following:

(A) the arrangement meets the requirements of section 1002 (relating to guaranteed issue), irrespective of the type coverage provided, as if the arrangement were a carrier,

(B) the arrangement meets the requirements of sections 1021 and 1022 (relating to premiums), as if the arrangement were a carrier, and

(C) the arrangement participates in any risk adjustment mechanisms established under section 1024, and

(D) under the arrangement, with respect to all participating employers as of the beginning of each plan year, the total number of eligible employees is not less than 100.

(2) REQUIRED SCOPE OF ELIGIBILITY FOR PARTICIPATING EMPLOYERS.

(A) IN GENERAL.—Under the terms of the written instruments governing the arrangement, all restrictions on the eligibility of employers to be participating employers in the arrangement are specifically set forth and consist solely of criteria described in subparagraph (B), and all employers with respect to whom such criteria are met may be participating employers. No such restrictions under the arrangement shall be considered enforceable unless they are so specified.

(B) CRITERIA FOR RESTRICTIONS ON PARTICIPATING EMPLOYERS.—The terms of the arrangement shall define restrictions on eligibility of employers to be participating employers only by reference to one or more of the following criteria:

(i) Participating employers are restricted to those located in one or more specified geographic locations.

(ii) Participating employers are restricted to those who are (or whose owners, officers, or employees are) members of one or more trade associations, industry associations, professional associations, or chambers of commerce (or similar business groups).

(iii) Participating employers are restricted to those who are otherwise related by specified supply contracts, franchise arrangements, or common ownership interests.

(iv) Participating employers are restricted to employers whose employees are covered under one or more specified collective bargaining agreements.

(e) REFERENCE TO LIMITATION ON SELF-INSURANCE BY SMALL EMPLOYERS.—For restriction on self-insurance by small employers, see section 1055.

PART 3—ENCOURAGEMENT OF MULTIPLE EMPLOYER ARRANGEMENTS PROVIDING BASIC HEALTH BENEFITS

SEC. 5021. ELIMINATING COMMONALITY OF INTEREST OR GEOGRAPHIC LOCATION REQUIREMENT FOR TAX EXEMPT TRUST STATUS.

(a) IN GENERAL.—Paragraph (9) of section 501(c) of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended—

(1) by inserting "(A)" after "(9)"; and

(2) by adding at the end the following:

"(B) Any determination of whether a multiple employer health plan (as defined in section 701(10) of the Employee Retirement Income Security Act of 1974) or an insured multiple employer health plan (as defined in section 701(11) of such Act) is a voluntary employees' beneficiary association meeting the requirements of this paragraph shall be made without regard to any determination of commonality of interest or geographic location if—

"(i) such plan provides at least standard coverage (consistent with section 1102 of the Bipartisan Health Care Reform Act of 1994), and

"(ii) in the case of an insured multiple employer health plan, it meets the requirements enforceable under section 514(b)(6)(B)(i) of the Employee Retirement Income Security Act of 1974 to the extent not preempted by section 5104 of the Bipartisan Health Care Reform Act of 1994.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to determinations made on or after January 1, 1996.

PART 4—TAX EXEMPTION FOR HIGH RISK POOLS

SEC. 5031. TAX EXEMPTION FOR HIGH RISK INSURANCE POOLS.

(a) IN GENERAL.—Subsection (c) of section 501 of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

"(27) In the case of taxable years beginning before January 1, 1997, any corporation, association, or similar legal entity which is created by any State or political subdivision thereof to establish a risk pool to provide health insurance coverage to any person unable to obtain health insurance coverage in the private insurance market because of health conditions and no part of the net earnings of which inures to the benefit of any private shareholder, member, or individual."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

Subtitle B—Preemption of State Benefit Mandates and Anti-Managed Care Laws

SEC. 5101. PREEMPTION FROM STATE BENEFIT MANDATES.

Effective as of January 1, 1997, no State shall establish or enforce any law or regulation that—

(1) requires the offering, as part of health insurance coverage, of any services, category of care, or services of any class or type of provider; or

(2) specifies the individuals to be provided health insurance coverage or the duration of such coverage.

SEC. 5102. PREEMPTION OF STATE LAW RESTRICTIONS ON MANAGED CARE ARRANGEMENTS.

(a) LIMITATION ON RESTRICTIONS ON NETWORK PLANS.—Effective as of January 1, 1997—

(1) a State may not prohibit or limit a carrier or group health plan providing health coverage from including incentives for enrollees to use the services of participating providers;

(2) a State may not prohibit or limit such a carrier or plan from limiting coverage of services to those provided by a participating provider;

(3) a State may not prohibit or limit the negotiation of rates and forms of payments for providers by such a carrier or plan with respect to health coverage;

(4) a State may not prohibit or limit such a carrier or plan from limiting the number of participating providers;

(5) a State may not prohibit or limit such a carrier or plan from requiring that services be provided (or authorized) by a practitioner selected by the enrollee from a list of available participating providers; and

(6) a State may not prohibit or limit the corporate practice of medicine.

(b) DEFINITIONS.—In this section:

(1) MANAGED CARE COVERAGE.—The term "managed care coverage" means health coverage to the extent the coverage is provided through a managed care arrangement (as defined in section 1903(11)(A)) that meets the applicable requirements of such section.

(2) PARTICIPATING PROVIDER.—The term "participating provider" means an entity or individual which provides, sells, or leases health care services as part of a provider network (as defined in section 1903(11)(B)).

(c) REFERENCE TO STANDARDS FOR MANAGED CARE ARRANGEMENTS.—For requirements relating to managed care arrangements, see section 1011.

SEC. 5103. PREEMPTION OF STATE LAWS RESTRICTING UTILIZATION REVIEW PROGRAMS.

(a) IN GENERAL.—Effective January 1, 1997, no State law or regulation shall prohibit or regulate activities under a utilization review program (as defined in subsection (b)).

(b) UTILIZATION REVIEW PROGRAM DEFINED.—In this section, the term "utilization review program" means a system of reviewing the medical necessity and appropriateness of patient services (which may include inpatient and outpatient services) using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

SEC. 5104. PROHIBITION OF PROVISIONS PROHIBITING EMPLOYER GROUPS FROM PURCHASING HEALTH INSURANCE.

No provision of State or local law shall apply that prohibits 2 or more employers from obtaining coverage under an insured multiple employer health plan.

SEC. 5105. PREEMPTION RELATING TO DIFFERENT INSURANCE STANDARDS.

A State may not establish or enforce standards for health insurance coverage made available in the individual and small group markets that are different from the standards established under title I.

SEC. 5106. GAO STUDY ON MANAGED CARE.

(a) IN GENERAL.—The Comptroller General shall conduct a study of the benefits and cost effectiveness of the use of managed care in the delivery of health services.

(b) REPORT.—By not later than 4 years after the date of the enactment of this Act, the Comptroller General shall submit a report to Congress on the study conducted under subsection (a) and shall include in the report such recommendations as may be appropriate.

Subtitle C—Malpractice Reform

PART 1—UNIFORM STANDARDS FOR MALPRACTICE CLAIMS

SEC. 5201. APPLICABILITY.

Except as provided in section 5221, this part shall apply to any medical malpractice liability action brought in a Federal or State court, and to any medical malpractice claim subject to an alternative dispute resolution system, that is initiated on or after January 1, 1996.

SEC. 5202. REQUIREMENT FOR INITIAL RESOLUTION OF ACTION THROUGH ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—

(1) STATE CASES.—A medical malpractice liability action may not be brought in any State court during a calendar year unless the medical malpractice liability claim that is the subject of the action has been initially resolved under an alternative dispute resolution system certified for the year by the Secretary under section 5212(a), or, in the case of a State in which such a system is not in effect for the year, under the alternative Federal system established under section 5222(b).

(2) FEDERAL DIVERSITY ACTIONS.—A medical malpractice liability action may not be brought in any Federal court under section 1332 of title 28, United States Code, during a calendar year unless the medical malpractice liability claim that is the subject of the action has been initially resolved under the alternative dispute resolution system referred to in paragraph (1) that applied in the State whose law applies in such action.

(3) CLAIMS AGAINST UNITED STATES.—

(A) ESTABLISHMENT OF PROCESS FOR CLAIMS.—The Attorney General shall establish an alternative dispute resolution process for the resolution of tort claims consisting of medical malpractice liability claims brought against the United States under chapter 171 of title 28, United States Code. Under such process, the resolution of a claim shall occur after the completion of the administrative claim process applicable to the claim under section 2675 of such title.

(B) REQUIREMENT FOR INITIAL RESOLUTION UNDER PROCESS.—A medical malpractice liability action based on a medical malpractice liability claim described in subparagraph (A) may not be brought in any Federal court unless the claim has been initially resolved under the alternative dispute resolution process established by the Attorney General under such subparagraph.

(b) INITIAL RESOLUTION OF CLAIMS UNDER ADR.—For purposes of subsection (a), an action is "initially resolved" under an alternative dispute resolution system if—

(1) the ADR reaches a decision on whether the defendant is liable to the plaintiff for damages; and

(2) if the ADR determines that the defendant is liable, the ADR reaches a decision on the amount of damages assessed against the defendant.

(c) PROCEDURES FOR FILING ACTIONS.—

(1) NOTICE OF INTENT TO CONTEST DECISION.—Not later than 60 days after a decision is issued with respect to a medical malpractice liability claim under an alternative dispute resolution system, each party affected by the decision shall submit a sealed statement to a court of competent jurisdiction indicating whether or not the party intends to contest the decision.

(2) DEADLINE FOR FILING ACTION.—A medical malpractice liability action may not be brought by a party unless—

(A) the party has filed the notice of intent required by paragraph (1); and

(B) the party files the action in a court of competent jurisdiction not later than 90 days after the decision resolving the medical malpractice liability claim that is the subject of the action is issued under the applicable alternative dispute resolution system.

(3) COURT OF COMPETENT JURISDICTION.—For purposes of this subsection, the term "court of competent jurisdiction" means—

(A) with respect to actions filed in a State court, the appropriate State trial court; and

(B) with respect to actions filed in a Federal court, the appropriate United States district court.

(d) LEGAL EFFECT OF UNCONTESTED ADR DECISION.—The decision reached under an alternative dispute resolution system shall, for purposes of enforcement by a court of competent jurisdiction, have the same status in the court as the verdict of a medical malpractice liability action adjudicated in a State or Federal trial court. The previous sentence shall not apply to a decision that is contested by a party affected by the decision pursuant to subsection (c)(1).

SEC. 5203. OPTIONAL APPLICATION OF PRACTICE GUIDELINES.

(a) DEVELOPMENT AND CERTIFICATION OF GUIDELINES.—Each State may develop, for certification by the Secretary, a set of specialty clinical practice guidelines, based on recommended guidelines developed by the Agency for Health Care Policy and Research.

(b) PROVISION OF HEALTH CARE UNDER GUIDELINES.—Notwithstanding any other provision of law, in any medical malpractice liability action arising from the conduct of a health care provider or health care professional, if such conduct was in accordance with a guideline developed by the State in which the conduct occurred and certified by the Secretary under subsection (a), the guideline—

(1) may be introduced by any party to the action (including a health care provider, health care professional, or patient); and

(2) if introduced, shall establish a rebuttable presumption that the conduct was in accordance with the appropriate standard of medical care, which may only be overcome by the presentation of clear and convincing evidence on behalf of the party against whom the presumption operates.

SEC. 5204. TREATMENT OF NONECONOMIC AND PUNITIVE DAMAGES.

(a) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant and the members of the claimant's family for losses resulting from the injury which is the subject of a medical malpractice liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(b) NO AWARD OF PUNITIVE DAMAGES AGAINST MANUFACTURER OF MEDICAL PRODUCT.—In the case of a medical malpractice liability action in which the plaintiff alleges a claim against the manufacturer of a medical product, no punitive or exemplary damages may be awarded against such manufacturer.

(c) JOINT AND SEVERAL LIABILITY FOR NONECONOMIC DAMAGES.—The liability of each defendant for noneconomic damages shall be several only and shall not be joint, and each defendant shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the defendant's percentage of responsibility (as determined by the trier of fact).

(d) USE OF PUNITIVE DAMAGE AWARDS FOR OPERATION OF ADR SYSTEMS IN STATES.—

(1) IN GENERAL.—The total amount of any punitive damages awarded in a medical malpractice liability action shall be paid to the State in which the action is brought (or, in a case brought in Federal court, in the State in which the health care services that caused the injury that is the subject of the action were provided), and shall be used by the State solely to implement and operate the State alternative dispute resolution system certified by the Secretary under section 5222 (except as provided in paragraph (2)).

(2) USE OF REMAINING AMOUNTS FOR PROVIDER LICENSING AND DISCIPLINARY ACTIVITIES.—If the amount of punitive damages paid to a State under paragraph (1) for a year is greater than the State's costs of implementing and operating the State alternative dispute resolution system during the year, the balance of such punitive damages paid to the State shall be used solely to carry out activities to assure the safety and quality of health care services provided in the State, including (but not limited to)—

(A) licensing or certifying health care professionals and health care providers in the State; and

(B) carrying out programs to reduce malpractice-related costs for providers volunteering to provide services in medically underserved areas.

(3) MAINTENANCE OF EFFORT.—A State shall use any amounts paid pursuant to paragraph (1) to supplement and not to replace amounts spent by the State for implementing and operating the State alternative dispute resolution system or carrying out the activities described in paragraph (2).

VOL 140 PT 15 AG 10 — 11 1994 UMI

SEC. 5205. PERIODIC PAYMENTS FOR FUTURE LOSSES.

(a) IN GENERAL.—In any medical malpractice liability action in which the damages awarded for future economic loss exceeds $100,000, a defendant may not be required to pay such damages in a single, lump-sum payment, but may be permitted to make such payments on a periodic basis. The periods for such payments shall be determined by the court, based upon projections of when such expenses are likely to be incurred.

(b) WAIVER.—A court may waive the application of subsection (a) with respect to a defendant if the court determines that it is not in the best interests of the plaintiff to receive payments for damages on such a periodic basis.

SEC. 5206. TREATMENT OF ATTORNEY'S FEES AND OTHER COSTS.

(a) REQUIRING PARTY CONTESTING ADR RULING TO PAY ATTORNEY'S FEES AND OTHER COSTS.—

(1) IN GENERAL.—The court in a medical malpractice liability action shall require the party that (pursuant to section 5202(c)(1)) contested the ruling of the alternative dispute resolution system with respect to the medical malpractice liability claim that is the subject of the action to pay to the opposing party the costs incurred by the opposing party under the action, including attorney's fees, fees paid to expert witnesses, and other litigation expenses (but not including court costs, filing fees, or other expenses paid directly by the party to the court, or any fees or costs associated with the resolution of the claim under the alternative dispute resolution system), but only if—

(A) in the case of an action in which the party that contested the ruling is the claimant, the amount of damages awarded to the party under the action is less than the amount of damages awarded to the party under the ADR system; and

(B) in the case of an action in which the party that contested the ruling is the defendant, the amount of damages assessed against the party under the action is greater than the amount of damages assessed under the ADR system.

(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

(A) the party contesting the ruling made under the previous alternative dispute resolution system shows that—

(i) the ruling was procured by corruption, fraud, or undue means,

(ii) there was partiality or corruption under the system,

(iii) there was other misconduct under the system that materially prejudiced the party's rights, or

(iv) the ruling was based on an error of law;

(B) the party contesting the ruling made under the alternative dispute resolution system presents new evidence before the trier of fact that was not available for presentation under the ADR system;

(C) the medical malpractice liability action raised a novel issue of law; or

(D) the court finds that the application of such paragraph to a party would constitute an undue hardship, and issues an order waiving or modifying the application of such paragraph that specifies the grounds for the court's decision.

(3) LIMIT ON ATTORNEY'S FEES PAID.—Attorneys' fees that are required to be paid under paragraph (1) by the contesting party shall not exceed the amount of the attorneys' fees incurred by the contesting party in the action. If the attorneys' fees of the contesting party are based on a contingency fee agreement, the amount of attorneys' fees for purposes of the preceding sentence shall not exceed the reasonable value of those services.

(4) RECORDS.—In order to receive attorneys' fees under paragraph (1), counsel of record in the medical malpractice liability action involved shall maintain accurate, complete records of hours worked on the action, regardless of the fee arrangement with the client involved.

(b) CONTINGENCY FEE DEFINED.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 5207. UNIFORM STATUTE OF LIMITATIONS.

(a) IN GENERAL.—No medical malpractice claim may be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of such claim was discovered, but in no event may such a claim be initiated after the expiration of the 4-year period that begins on the date on which the alleged injury that is the subject of such claim occurred.

(b) EXCEPTION FOR MINORS.—In the case of an alleged injury suffered by a minor who has not attained 6 years of age, a medical malpractice claim may not be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of such claim was discovered or should reasonably have been discovered, but in no event may such a claim be initiated after the date on which the minor attains 12 years of age.

SEC. 5208. SPECIAL PROVISION FOR CERTAIN OBSTETRIC SERVICES.

(a) IN GENERAL.—In the case of a medical malpractice claim relating to services provided during labor or the delivery of a baby, if the health care professional or health care provider against whom the claim is brought did not previously treat the claimant for the pregnancy, the trier of fact may not find that such professional or provider committed malpractice and may not assess damages against such professional or provider unless the malpractice is proven by clear and convincing evidence.

(b) APPLICABILITY TO GROUP PRACTICES OR AGREEMENTS AMONG PROVIDERS.—For purposes of subsection (a), a health care professional shall be considered to have previously treated an individual for a pregnancy if the professional is a member of a group practice whose members previously treated the individual for the pregnancy or is providing services to the individual during labor or the delivery of a baby pursuant to an agreement with another professional.

SEC. 5209. UNIFORM STANDARD FOR DETERMINING LIABILITY IN ACTIONS BASED ON NEGLIGENCE.

(a) STANDARD OF REASONABLENESS.—Except as provided in subsection (b), a defendant in a medical malpractice liability action may not be found to have committed malpractice unless the defendant's conduct at the time of providing the health care services that are the subject of the action was not reasonable.

(b) ACTIONS BROUGHT UNDER STRICT LIABILITY.—Subsection (a) shall not apply with respect to a medical malpractice action if (in accordance with applicable State law) the theory of liability upon which the action is based is a theory of strict liability.

SEC. 5210. JURISDICTION OF FEDERAL COURTS.

Nothing in this part shall be construed to establish any jurisdiction over any medical malpractice liability action in the district courts of the United States on the basis of sections 1331 or 1337 of title 28, United States Code.

SEC. 5211. PREEMPTION.

(a) IN GENERAL.—The provisions of this part shall preempt any State law to the extent such law is inconsistent with the limitations contained in such provisions. The provisions of this part shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this part, places greater limitations on the amount of attorneys' fees that can be collected, or otherwise imposes greater restrictions than those provided in this part.

(b) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this part shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground in inconvenient forum.

PART 2—REQUIREMENTS FOR STATE ALTERNATIVE DISPUTE RESOLUTION SYSTEMS (ADR)

SEC. 5221. BASIC REQUIREMENTS.

(a) IN GENERAL.—A State's alternative dispute resolution system meets the requirements of this section if the system—

(1) applies to all medical malpractice liability claims under the jurisdiction of the courts of that State;

(2) requires that a written opinion resolving the dispute be issued not later than 6 months after the date by which each party against whom the claim is filed has received notice of the claim (other than in exceptional cases for which a longer period is required for the issuance of such an opinion), and that the opinion contain—

(A) findings of fact relating to the dispute, and

(B) a description of the costs incurred in resolving the dispute under the system (including any fees paid to the individuals hearing and resolving the claim), together with an appropriate assessment of the costs against any of the parties;

(3) requires individuals who hear and resolve claims under the system to meet such qualifications as the State may require (in accordance with regulations of the Secretary);

(4) is approved by the State or by local governments in the State;

(5) with respect to a State system that consists of multiple dispute resolution procedures—

(A) permits the parties to a dispute to select the procedure to be used for the resolution of the dispute under the system, and

(B) if the parties do not agree on the procedure to be used for the resolution of the dispute, assigns a particular procedure to the parties;

(6) provides for the transmittal to the State agency responsible for monitoring or disciplining health care professionals and health care providers of any findings made under the system that such a professional or provider committed malpractice, unless, during the 90-day period beginning on the date the system resolves the claim against the professional or provider, the professional or provider brings an action contesting the decision made under the system; and

(7) provides for the regular transmittal to the Administrator for Health Care Policy and Research of information on disputes resolved under the system, in a manner that assures that the identity of the parties to a dispute shall not be revealed.

(b) APPLICATION OF MALPRACTICE LIABILITY STANDARDS TO ALTERNATIVE DISPUTE RESOLUTION.—The provisions of part 1 (other than section 5202) shall apply with respect to claims brought under a State alternative dispute resolution system or the alternative Federal system in the same manner as such provisions apply with respect to medical malpractice liability actions brought in the State.

SEC. 5222. CERTIFICATION OF STATE SYSTEMS; APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.

(a) CERTIFICATION.—

(1) IN GENERAL.—Not later than October 1 of each year (beginning with 1995), the Secretary, in consultation with the Attorney General, shall determine whether a State's alternative dispute resolution system meets the requirements of this part for the following calendar year.

(2) BASIS FOR CERTIFICATION.—The Secretary shall certify a State's alternative dispute resolution system under this subsection for a calendar year if the Secretary determines under paragraph (1) that the system meets the requirements of section 5221, including the requirement described in section 5204 that punitive damages awarded under the system are paid to the State for the uses described in such section.

(b) APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.—

(1) ESTABLISHMENT AND APPLICABILITY.—Not later than October 1, 1995, the Secretary, in consultation with the Attorney General, shall establish by rule an alternative Federal ADR system for the resolution of medical malpractice liability claims during a calendar year in States that do not have in effect an alternative dispute resolution system certified under subsection (a) for the year.

(2) REQUIREMENTS FOR SYSTEM.—Under the alternative Federal ADR system established under paragraph (1)—

(A) paragraphs (1), (2), (6), and (7) of section 5221(a) shall apply to claims brought under the system;

(B) if the system provides for the resolution of claims through arbitration, the claims brought under the system shall be heard and resolved by arbitrators appointed by the Secretary in consultation with the Attorney General; and

(C) with respect to a State in which the system is in effect, the Secretary may (at the State's request) modify the system to take into account the existence of dispute resolution procedures in the State that affect the resolution of medical malpractice liability claims.

(3) TREATMENT OF STATES WITH ALTERNATIVE SYSTEM IN EFFECT.—If the alternative Federal ADR system established under this subsection is applied with respect to a State for a calendar year, the State shall make a payment to the United States (at such time and in such manner as the Secretary may require) in an amount equal to 110 percent of the costs incurred by the United States during the year as a result of the application of the system with respect to the State.

SEC. 5223. REPORTS ON IMPLEMENTATION AND EFFECTIVENESS OF ALTERNATIVE DISPUTE RESOLUTION SYSTEMS.

(a) IN GENERAL.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a report describing and evaluating State alternative dispute resolution systems operated pursuant to this part and the alternative Federal system established under section 5222(b).

(b) CONTENTS OF REPORT.—The Secretary shall include in the report prepared and submitted under subsection (a)—

(1) information on—

(A) the effect of the alternative dispute resolution systems on the cost of health care within each State,

(B) the impact of such systems on the access of individuals to health care within the State, and

(C) the effect of such systems on the quality of health care provided within the State; and

(2) to the extent that such report does not provide information on no-fault systems operated by States as alternative dispute resolution systems pursuant to this part, an analysis of the feasibility and desirability of establishing a system under which medical malpractice liability claims shall be resolved on a no-fault basis.

PART 3—DEFINITIONS

SEC. 5231. DEFINITIONS.

As used in this subtitle:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM.—The term "alternative dispute resolution system" means a system that is enacted or adopted by a State to resolve medical malpractice claims other than through a medical malpractice liability action.

(2) CLAIMANT.—The term "claimant" means any person who brings a health care liability action and, in the case of an individual who is deceased, incompetent, or a minor, the person on whose behalf such an action is brought.

(3) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, except that such measure or degree of proof is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(4) ECONOMIC DAMAGES.—The term "economic damages" means damages paid to compensate an individual for losses for hospital and other medical expenses, lost wages, lost employment, and other pecuniary losses.

(5) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by State law or regulation to be licensed or certified by the State to provide such services in the State.

(6) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(7) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice claim.

(8) MEDICAL MALPRACTICE LIABILITY ACTION.—The term "medical malpractice liability action" means any civil action brought pursuant to State law in which a plaintiff alleges a medical malpractice claim against a health care provider or health care professional, but does not include any action in which the plaintiff's sole allegation is an allegation of an intentional tort.

(9) MEDICAL MALPRACTICE CLAIM.—The term "medical malpractice claim" means any claim relating to the provision of (or the failure to provide) health care services or the use of a medical product, without regard to the theory of liability asserted, and includes any third-party claim, cross-claim, counterclaim, or contribution claim in a medical malpractice liability action.

(10) MEDICAL PRODUCT.—

(A) IN GENERAL.—The term "medical product" means, with respect to the allegation of a claimant, a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) if—

(i) such drug or device was subject to premarket approval under section 505, 507, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 357, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which is the subject of the claimant's allegation or the adequacy of the packaging or labeling of such drug or device, and such drug or device is approved by the Food and Drug Administration; or

(ii) the drug or device is generally recognized as safe and effective under regulations issued by the Secretary of Health and Human Services under section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)).

(B) EXCEPTION IN CASE OF MISREPRESENTATION OR FRAUD.—Notwithstanding subparagraph (A), the term "medical product" shall not include any product described in such subparagraph if the claimant shows that the product is approved by the Food and Drug Administration for marketing as a result of withheld information, misrepresentation, or an illegal payment by manufacturer of the product.

(11) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to compensate an individual for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary losses, but does not include punitive damages.

(12) PUNITIVE DAMAGES.—The term "punitive damages" means compensation, in addition to compensation for actual harm suffered, that is awarded for the purpose of punishing a person for conduct deemed to be malicious, wanton, willful, or excessively reckless.

(13) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(14) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

Subtitle D—Paperwork Reduction and Administrative Simplification

SEC. 5301. PREEMPTION OF STATE "QUILL AND PEN" LAWS.

(a) IN GENERAL.—Any provision of State law that requires medical or health insurance records (including billing information) to be maintained in written, rather than electronic, form is deemed to be satisfied if the records are maintained in an electronic form that meets standards established by the Secretary under subsection (b).

VOL 140 PT 15 AG 10 — 11 1994 UMI

(b) SECRETARIAL AUTHORITY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations to carry out subsection (a). The regulations shall provide for an electronic substitute that is in the form of a unique identifier (assigned to each authorized individual) that serves the functional equivalent of a signature. The regulations may provide for such exceptions to subsection (a) as the Secretary determines to be necessary to prevent fraud and abuse, to prevent the illegal distribution of controlled substances, and in such other cases as the Secretary deems appropriate.

(c) EFFECTIVE DATE.—Subsection (a) shall take effect on the first day of the first month that begins more than 30 days after the date the Secretary issues the regulations referred to in subsection (b).

SEC. 5302. CONFIDENTIALITY OF ELECTRONIC HEALTH CARE INFORMATION.

(a) PROMULGATION OF REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall promulgate, and may modify from time to time, requirements to facilitate and ensure the uniform, confidential treatment of individually identifiable health information in electronic environments.

(2) DEFINITION.—For purposes of this subtitle, the term "individually identifiable health information" means information that—

(A) relates in any way to—

(i) the past, present, or future physical or mental health or condition or functional status of an individual;

(ii) the provision of health care to an individual; or

(iii) payment for the provision of such care; and

(B) identifies the individual or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

(3) ITEMS TO BE INCLUDED.—The requirements under this subsection—

(A) shall provide for the preservation of confidentiality and privacy rights during the processes of electronic health care claims processing and payment;

(B) shall apply to the collection, storage, handling, and transmission (including initial and subsequent disclosures) of individually identifiable health care data in electronic form by all carriers, group health plans, and multiple employer welfare arrangements providing health coverage, public third-party payers, providers, and all other entities involved in the collection, storage, handling, or transmission of such information;

(C) may not apply to public health reporting required under State or Federal law;

(D) shall delineate protocols for securing electronic storage, processing, and transmission of individually identifiable health information;

(E) shall specify fair information practices that—

(i) create a proper balance between what individually identifiable health information an individual is expected to divulge to a record-keeping organization and what information the individual may obtain from such an organization;

(ii) minimize the extent to which individually identifiable health information is used against an individual; and

(iii) create and define obligations respecting the uses and disclosures that may be made of such information;

(F) shall require publication of a list of data banks containing individually identifiable health information;

(G) shall establish appropriate protections for highly sensitive individually identifiable health information (such as data concerning mental health, substance abuse, and communicable and genetic diseases);

(H) shall encourage the use of alternative dispute resolution mechanisms (where appropriate) to resolve disputes concerning the use and disclosure of individually identifiable health information;

(I) shall provide for the deletion of individually identifiable health information that is no longer needed to carry out the purpose for which the information was collected, or a related purpose; and

(J) shall specify an effective date for the requirements.

(4) CONSULTATION WITH WORKING GROUP.—In promulgating and modifying requirements under this subsection, the Secretary shall consult with a working group of knowledgeable individuals representing all interested parties (including carriers, group health plans, and multiple employer welfare arrangements, public third-party payers, providers, consumers, employers, information managers, and technical experts).

(5) DEADLINE.—The Secretary shall first promulgate requirements under this subsection by not later than 12 months after the date of the enactment of this Act.

(b) APPLICATION OF REQUIREMENTS.—

(1) STATE ENFORCEMENT OF SIMILAR REQUIREMENTS.—The requirements promulgated under subsection (a) shall not apply to individually identifiable health information in a State if—

(A) the State has applied to the Secretary for a determination that the State has in effect a law that provides for the application of requirements with respect to such information (and enforcement provisions with respect to such requirements) consistent with the requirements promulgated under subsection (a) and the enforcement provisions of subsection (d); and

(B) the Secretary determines that the State has such a law in effect.

(2) APPLICATION TO CURRENT INFORMATION.—The Secretary shall specify the extent to which (and manner in which) the requirements promulgated under subsection (a) shall apply to individually identifiable health information created or received before the effective date of the requirements.

(c) DEFENSE FOR PROPER DISCLOSURES.—An individual or entity that establishes that the individual or entity has disclosed individually identifiable health information in accordance with the requirements promulgated under subsection (a) has established a defense in an action brought under subsection (d) for improper disclosure of such information.

(d) PENALTIES FOR VIOLATIONS.—An individual or entity that receives, stores, handles, transmits, or discloses individually identifiable health information in violation of the requirements promulgated under this section shall be liable in a civil action to any person aggrieved by such violation for compensatory damages, appropriate equitable relief, and attorneys' fees (if appropriate), in accordance with regulations of the Secretary.

SEC. 5303. STANDARDIZATION OF ELECTRONIC RECEIPT AND TRANSMISSION OF CLAIMS AND ELIGIBILITY INFORMATION.

(a) GOALS.—The Secretary shall establish national goals, and time frames for such goals, respecting the progress to be made by the health care industry in eliminating unnecessary paperwork, and achieving appropriate standardization, consistent with the requirements promulgated under section 5302, in the areas of electronic—

(A) receipt and transmission of health care claims; and

(B) verification of eligibility for health coverage.

(b) CONTINGENT REQUIREMENTS.—If the Secretary determines that the health care industry has failed to meet the goals established under subsection (a) in the time frames established under such subsection, the Secretary shall promulgate (and may, from time to time, modify) standards and requirements to achieve such goals.

(c) CONSULTATION.—The Secretary shall conduct activities under this section in consultation with the American National Standards Institute, carriers, group health plans, and multiple employer welfare arrangements providing health coverage, public third-party payers, providers, and others.

SEC. 5304. USE OF UNIFORM HEALTH CLAIMS FORMS AND IDENTIFICATION NUMBERS.

(a) GOALS.—The Secretary shall establish national goals, and time frames for such goals, respecting the progress to be made by the health care industry in achieving uniformity—

(1) in the format and content of basic paper claims forms for health care coverage;

(2) in the use of common identification numbers for individuals, and common identification numbers for providers, to be used for all health-related purposes.

(b) CONTINGENT REQUIREMENTS.—If the Secretary determines that the health care industry has failed to meet the goals established under subsection (a) in the time frames established by the Secretary under such subsection, the Secretary shall promulgate (and may, from time to time, modify) standards and requirements to achieve such goals.

(c) CONSULTATION.—The Secretary shall conduct activities under this section in consultation with the Workgroup for Electronic Data Interchange and with carriers, group health plans, and multiple employer welfare arrangements providing health coverage, public third-party payers, providers, and others.

SEC. 5305. PRIORITY AMONG CARRIERS, GROUP HEALTH PLANS, AND MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

(a) GOALS.—The Secretary shall establish national goals, and time frames for such goals, respecting the progress to be made by the health care industry in achieving uniformity in the rules for determining the liability of carriers, group health plans, and multiple employer welfare arrangements when health benefits with respect to an individual are payable by 2 or more such parties.

(b) CONTINGENT REQUIREMENTS.—If the Secretary determines that the health care industry has failed to meet the goals established under subsection (a) in the time frames established by the Secretary under such subsection, the Secretary shall promulgate (and may, from time to time, modify) rules described in such subsection.

(c) CONSULTATION.—The Secretary shall conduct activities under this section in consultation with carriers, group health plans, and multiple employer welfare arrangements.

SEC. 5306. EXCHANGE OF INFORMATION AMONG CARRIERS, GROUP HEALTH PLANS, AND MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

(a) GOALS.—The Secretary shall establish national goals, and time frames for such goals, respecting the progress to be made by

the health care industry in achieving uniformity with respect to the exchange of information among carriers, group health plans, and multiple employer welfare arrangements when health benefits with respect to an individual may be payable by 2 or more such parties.

(b) CONTINGENT REQUIREMENTS.—If the Secretary determines that the health care industry has failed to meet the goals established under subsection (a) in the time frames established by the Secretary under such subsection, the Secretary shall promulgate (and may, from time to time, modify) requirements concerning the exchange among carriers, group health plans, and multiple employer welfare arrangements (and annual updating) of appropriate information (which may include requirements for the use of common identification numbers and for the listing of all individuals having health care coverage).

(c) CONSULTATION.—The Secretary shall conduct activities under this section in consultation with carriers, group health plans, and multiple employer welfare arrangements.

SEC. 5307. FAILURE TO SATISFY CERTAIN HEALTH PLAN REQUIREMENTS.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to taxes on group health plans), as amended by section 1002(c)(1), is amended by adding at the end the following new section:

"SEC. 5000B. FAILURE TO SATISFY CERTAIN HEALTH PLAN REQUIREMENTS.

"(a) GENERAL RULE.—There is hereby imposed, on any administrator of a health plan, a tax on any failure to comply with an applicable requirement of sections 5303 through 5306 of the Bipartisan Health Care Reform Act of 1994.

"(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) which an administrator fails to comply with a requirement described in that subsection shall be equal to $100 for each such failure.

"(c) LIMITATIONS ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person liable for tax did not know, and by exercising reasonable diligence would not have known, that the failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) the failure was due to reasonable cause and not to willful neglect, and

"(B) the failure is corrected during the 30-day period beginning on the 1st date the person liable for the tax knew, or by exercising reasonable diligence would have known, that the failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of that tax would be excessive relative to the failure involved."

(b) NONDEDUCTIBILITY OF TAX.—Paragraph (6) of section 275(a) of that Code (relating to nondeductibility of certain taxes) is amended by inserting "47," after "46,".

(c) CLERICAL AMENDMENTS.—The table of sections for chapter 47 of that Code, as amended by section 1002(c)(2), is amended by adding at the end the following new item:

"5000B. Failure to satisfy certain health plan requirements.".

SEC. 5308. DEFINITION.

For purposes of this subtitle, the term "provider" means a physician, hospital, pharmacy, laboratory, or other person licensed or otherwise authorized under applicable State laws to furnish health care items or services.

Subtitle E—Antitrust

SEC. 5401. PUBLICATION OF ANTITRUST GUIDELINES ON ACTIVITIES OF HEALTH PLANS.

(a) IN GENERAL.—The Attorney General shall provide for the development and publication of explicit guidelines on the application of antitrust laws to the activities of health plans. The guidelines shall be designed to facilitate development and operation of plans, consistent with the antitrust laws.

(b) REVIEW PROCESS.—The Attorney General shall establish a review process under which the administrator or sponsor of a health plan (or organization that proposes to administer or sponsor a health plan) may submit a request to the Attorney General to obtain a prompt opinion (but in no event later than 90 days after the Attorney General receives the request) from the Department of Justice on the plan's conformity with the Federal antitrust laws.

(c) DEFINITIONS.—In this section—

(1) the term "antitrust laws"—

(A) has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition, and

(B) includes any State law similar to the laws referred to in subparagraph (A); and

(2) the term "health plan" means any contract or arrangement under which an entity bears all or part of the cost of providing health care items and services, including a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance subscriber contract, but does not include—

(A) coverage only for accident, dental, vision, disability, or long term care, medicare supplemental health insurance, or any combination thereof,

(B) coverage issued as a supplement to liability insurance,

(C) workers' compensation or similar insurance, or

(D) automobile medical-payment insurance.

SEC. 5402. ISSUANCE OF HEALTH CARE CERTIFICATES OF PUBLIC ADVANTAGE.

(a) ISSUANCE AND EFFECT OF CERTIFICATE.—The Attorney General, after consultation with the Secretary, shall issue in accordance with this section a certificate of public advantage to each eligible health care collaborative activity that complies with the requirements in effect under this section on or after the expiration of the 1-year period that begins on the date of the enactment of this Act (without regard to whether or not the Attorney General has promulgated regulations to carry out this section by such date). Such activity, and the parties to such activity, shall not be liable under any of the antitrust laws for conduct described in such certificate and engaged in by such activity if such conduct occurs while such certificate is in effect.

(b) REQUIREMENTS APPLICABLE TO ISSUANCE OF CERTIFICATES.—

(1) STANDARDS TO BE MET.—The Attorney General shall issue a certificate to an eligible health care collaborative activity if the Attorney General finds that—

(A) the benefits that are likely to result from carrying out the activity outweigh the reduction in competition (if any) that is likely to result from the activity, and

(B) such reduction in competition is necessary to obtain such benefits.

(2) FACTORS TO BE CONSIDERED.—

(A) WEIGHING OF BENEFITS AGAINST REDUCTION IN COMPETITION.—For purposes of making the finding described in paragraph (1)(A), the Attorney General shall consider whether the activity is likely —

(i) to maintain or to increase the quality of health care by providing new services not currently offered in the relevant market,

(ii) to increase access to health care,

(iii) to achieve cost efficiencies that will be passed on to health care consumers, such as economies of scale, reduced transaction costs, and reduced administrative costs, that cannot be achieved by the provision of available services and facilities in the relevant market,

(iv) to preserve the operation of health care facilities located in underserved geographical areas,

(v) to improve utilization of health care resources, and

(vi) to reduce inefficient health care resource duplication.

(B) NECESSITY OF REDUCTION IN COMPETITION.—For purposes of making the finding described in paragraph (1)(B), the Attorney General shall consider—

(i) the ability of the providers of health care services that are (or likely to be) affected by the health care collaborative activity and the entities responsible for making payments to such providers to negotiate societally optimal payment and service arrangements,

(ii) the effects of the health care collaborative activity on premiums and other charges imposed by the entities described in clause (i), and

(iii) the availability of equally efficient, less restrictive alternatives to achieve the benefits that are intended to be achieved by carrying out the activity.

(c) ESTABLISHMENT OF CRITERIA AND PROCEDURES.—Subject to subsections (d) and (e), not later than 1 year after the date of the enactment of this Act, the Attorney General and the Secretary shall establish jointly by rule the criteria and procedures applicable to the issuance of certificates under subsection (a). The rules shall specify the form and content of the application to be submitted to the Attorney General to request a certificate, the information required to be submitted in support of such application, the procedures applicable to denying and to revoking a certificate, and the procedures applicable to the administrative appeal (if such appeal is authorized by rule) of the denial and the revocation of a certificate. Such information may include the terms of the health care collaborative activity (in the case of an activity in existence as of the time of the application) and implementation plan for the collaborative activity.

(d) ELIGIBLE HEALTH CARE COLLABORATIVE ACTIVITY.—To be an eligible health care collaborative activity for purposes of this section, a health care collaborative activity shall submit to the Attorney General an application that complies with the rules in effect under subsection (c) and that includes—

(1) an agreement by the parties to the activity that the activity will not foreclose competition by entering into contracts that prevent health care providers from providing health care in competition with the activity,

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) an agreement that the activity will submit to the Attorney General annually a report that describes the operations of the activity and information regarding the impact of the activity on health care and on competition in health care, and

(3) an agreement that the parties to the activity will notify the Attorney General and the Secretary of the termination of the activity not later than 30 days after such termination occurs.

(e) REVIEW OF APPLICATIONS FOR CERTIFICATES.—Not later than 90 days after an eligible health care collaborative activity submits to the Attorney General an application that complies with the rules in effect under subsection (c) and with subsection (d), the Attorney General shall issue or deny the issuance of such certificate. If, before the expiration of such 90-day period, the Attorney General may extend the time for issuance for good cause.

(f) REVOCATION OF CERTIFICATE.—Whenever the Attorney General finds that a health care collaborative activity with respect to which a certificate is in effect does not meet the standards specified in subsection (b), the Attorney General shall revoke such certificate.

(g) WRITTEN REASONS; JUDICIAL REVIEW.—

(1) DENIAL AND REVOCATION OF CERTIFICATES.—If the Attorney General denies an application for a certificate or revokes a certificate, the Attorney General shall include in the notice of denial or revocation a statement of the reasons relied upon for the denial or revocation of such certificate.

(2) JUDICIAL REVIEW.—

(A) AFTER ADMINISTRATIVE PROCEEDING.—(i) If the Attorney General denies an application submitted or revokes a certificate issued under this section after an opportunity for hearing on the record, then any party to the health care collaborative activity involved may commence a civil action, not later than 60 days after receiving notice of the denial or revocation, in an appropriate district court of the United States for review of the record of such denial or revocation.

(ii) As part of the Attorney General's answer, the Attorney General shall file in such court a certified copy of the record on which such denial or revocation is based. The findings of fact of the Attorney General may be set aside only if found to be unsupported by substantial evidence in such record taken as a whole.

(B) DENIAL OR REVOCATION WITHOUT ADMINISTRATIVE PROCEEDING.—If the Attorney General denies an application submitted or revokes a certificate issued under this section without an opportunity for hearing on the record, then any party to the health care collaborative activity involved may commence a civil action, not later than 60 days after receiving notice of the denial or revocation, in an appropriate district court of the United States for de novo review of such denial or revocation.

(h) EXEMPTION.—A person shall not be liable under any of the antitrust laws for conduct necessary—

(1) to prepare, agree to prepare, or attempt to agree to prepare an application to request a certificate under this section, or

(2) to attempt to enter into any health care collaborative activity with respect to which such a certificate is in effect.

(i) DEFINITIONS.—In this section:

(1) The term "antitrust laws" has the meaning given it in section 5401(c)(1).

(2) The term "certificate" means a certificate of public advantage authorized to be issued under subsection (a).

(3) The term "health care collaborative activity" means an agreement (whether existing or proposed) between 2 or more providers of health care services that is entered into solely for the purpose of sharing in the provision and coordination of health care services and that involves substantial integration and financial risk-sharing between the parties, but does not include the exchanging of information, the entering into of any agreement, or the engagement in any other conduct that is not reasonably required to carry out such agreement.

(4) The term "health care services" includes services related to the delivery or administration of health care services.

(5) The term "liable" means liable for any civil or criminal violation of the antitrust laws.

(6) The term "provider of health care services" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

SEC. 5403. STUDY OF IMPACT ON COMPETITION.

The Attorney General, in consultation with the Chairman of the Federal Trade Commission, annually shall submit to the Congress a report as part of the annual budget oversight proceedings concerning the Antitrust Division of the Department of Justice. The report shall enable the Congress to determine how enforcement of antitrust laws is affecting the formation of efficient, cost-saving joint ventures and if the certificate of public advantage procedure set forth in section 5402 has resulted in undesirable reduction in competition in the health care marketplace. The report shall include an evaluation of the factors set forth in paragraphs (2)(A) and (2)(B) of section 5402(b).

Subtitle F—Fraud and Abuse

PART 1—ESTABLISHMENT OF ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM

SEC. 5501. ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM.

(a) IN GENERAL.—Not later than January 1, 1996, the Attorney General shall establish a program—

(1) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(2) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States, and

(3) in consultation with the Inspector General of the Department of Health and Human Services, to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse.

(b) COORDINATION WITH LAW ENFORCEMENT AGENCIES.—In carrying out the program under subsection (a), the Attorney General shall consult with, and arrange for the sharing of data and resources with Federal, State and local law enforcement agencies, State Medicaid Fraud Control Units, and State agencies responsible for the licensing and certification of health care providers.

(c) COORDINATION WITH THIRD PARTY INSURERS.—In carrying out the program established under subsection (a), the Attorney General shall consult with, and arrange for the sharing of data with representatives of private sponsors of health benefit plans and other providers of health insurance.

(d) REGULATIONS.—

(1) IN GENERAL.—The Attorney General shall by regulation establish standards to carry out the program under subsection (a).

(2) INFORMATION STANDARDS.—

(A) IN GENERAL.—Such standards shall include standards relating to the furnishing of information by health insurers (including self-insured health benefit plans), providers, and others to enable the Attorney General to carry out the program (including coordination with law enforcement agencies under subsection (b) and third party insurers under subsection (c)).

(B) CONFIDENTIALITY.—Such standards shall include procedures to assure that such information is provided and utilized in a manner that protects the confidentiality of the information and the privacy of individuals receiving health care services.

(C) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Attorney General under the program under this section, with respect to the Attorney General's performance of duties under the program, in the same manner as such section applies to information provided to organizations with a contract under part B of title XI of such Act, with respect to the performance of such a contract.

SEC. 5502. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.

In addition to any other amounts authorized to be appropriated to the Attorney General for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated such sums as may be necessary to enable the Attorney General to conduct investigations of allegations of health care fraud and otherwise carry out the program established under section 5501 in a fiscal year.

SEC. 5503. ESTABLISHMENT OF ANTI-FRAUD AND ABUSE TRUST FUND.

(a) ESTABLISHMENT.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Anti-Fraud and Abuse Trust Fund" (in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be deposited in, or appropriated to, such Trust Fund as provided in this part and section 1128A(f)(3) of the Social Security Act.

(b) MANAGEMENT.—

(1) IN GENERAL.—The Trust Fund shall be managed by the Attorney General through a Managing Trustee designated by the Attorney General.

(2) INVESTMENT OF FUNDS.—It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in the trustee's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month, except that where such average is not a multiple of ⅛ of 1 percent, the rate of interest on such obligations shall be the multiple of ⅛ of 1 percent nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where the Trustee determines that the purchase of such other obligations is in the public interest.

(3) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(4) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(5) The receipts and disbursements of the Attorney General in the discharge of the functions of the Attorney General shall not be included in the totals of the budget of the United States Government. For purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, the Attorney General and the Trust Fund shall be treated in the same manner as the Federal Retirement Thrift Investment Board and the Thrift Savings Fund, respectively. The United States is not liable for any obligation or liability incurred by the Trust Fund.

(c) USE OF FUNDS.—Of the amounts in the Trust Fund—

(1) not less than 60 percent shall be used to support educational activities to prevent the occurrence of violations of anti-fraud and abuse laws, including the issuance of advisory opinions under section 1129 and 1877(i) of the Social Security Act (as added by part 4) and fraud alerts, seminars for providers, and program updates; and

(2) any amounts remaining after use for activities under paragraph (1) shall be used to assist the Attorney General in carrying out the all-payor fraud and abuse control program established under section 5501(a) in the fiscal year involved.

(d) DEPOSIT OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE PENALTIES INTO TRUST FUND.—Section 1128A(f)(3) of the Social Security Act (42 U.S.C. 1320a-7a(f)(3)) is amended by striking "as miscellaneous receipts of the Treasury of the United States" and inserting "in the Anti-Fraud and Abuse Trust Fund established under section 5503(a) of the Bipartisan Health Care Reform Act of 1994".

(e) USE OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE PENALTIES TO REPAY BENEFICIARIES FOR COST-SHARING.—Section 1128A(f) of the Social Security Act (42 U.S.C. 1320a-7a(f)) is amended in the matter preceding paragraph (1) by striking "Secretary and disposed of as follows:" and inserting the following: "Secretary, if the person against whom such a penalty or assessment was assessed collected a payment from an individual for providing to the individual the service that is the subject of the penalty or assessment, the Secretary shall pay a portion of the amount recovered to the individual in the nature of restitution in an amount equal to the payment so collected. The Secretary shall dispose of any remaining amounts recovered under this section as follows:".

PART 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 5511. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted, under Federal or State law, in connection with the delivery of a health care item or service on or after the date of the enactment of this paragraph, or with respect to any act or omission on or after such date in a program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) of such Act (42 U.S.C. 1320a-7(b)(1)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) of such Act (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 5512. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 5513. REVISIONS TO CRIMINAL PENALTIES.

(a) CLARIFICATION OF DISCOUNT EXCEPTION TO ANTI-KICKBACK PROVISIONS.—Section 1128B(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a-7b(b)(3)(A)) is amended—

(1) by inserting "(regardless of its timing or availability)" after "in price"; and

(2) by striking "program;" and inserting "program and is not paid in the form of currency or coin;".

(b) EXEMPTION FROM ANTI-KICKBACK PENALTIES FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if—

"(A) the item or service is provided through an organization described in section 1877(b)(3), or

"(B) the item or service is provided through such an organization on behalf of another entity (including but not limited to a self-insured employer or indemnity plan) that assumes financial risk for the provision of the item or service.".

(c) EXEMPTION FROM ANTI-KICKBACK PENALTIES FOR CERTAIN PROTECTED FINANCIAL RELATIONSHIPS.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a-7b(b)(3)), as amended by subsection (b), is further amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(G) any amount in a financial relationship of a physician (or an immediate family member of such physician) with an entity specified in section 1877(a)(2), if section 1877(a)(1) does not apply to that amount or financial relationship.".

(d) EXEMPTION FROM ANTI-KICKBACK PENALTIES FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED PERSONS.—

(1) IN GENERAL.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a-7b(b)(3)), as amended by subsections (b) and (c), is further amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) any remuneration paid by or to a recipient or subrecipient of Federal grant funds under or in connection with an arrangement for the procurement of goods or services by the recipient or subrecipient, the referral of patients, or the lease or purchase of space or equipment, if—

"(i) the arrangement is in writing and signed by the parties;

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(ii) the arrangement will result in the savings of Federal grant funds or increased revenues to the recipient or subrecipient that will be used to increase the availability or accessibility of services to a medically underserved population served by the recipient or subrecipient or an improvement in the quality of services to such population, except that the recipient or subrecipient may seek a prior determination from the Public Health Service that this requirement is met and, if the recipient or subrecipient does so, Public Health Service approval shall be conclusive and binding on the Federal Government;

"(iii) the arrangement will not result in private inurement to any current employees or members of the Board of Directors of the recipient or subrecipient, or to agents of the recipient or subrecipient who were involved in recommending or negotiating the arrangement;

"(iv) with respect to an arrangement under which a recipient or subrecipient is procuring goods or services, the provider of the goods or services is the only provider able to supply such goods or services, or the recipient or subrecipient has engaged in a competitive process to procure the goods or services that meets the requirements for competition under Federal grant awards;

"(v) with respect to an arrangement for a referral of patients, the arrangement will assure that all patients covered or affected by the arrangement are advised that they may request a referral to any person or entity of their choosing, subject to appropriate contractual limitations under which the recipient or subrecipient may operate as a health plan or as a contract health plan provider and such limitations as the patient may be under as an enrollee of a health plan;

"(vi) with respect to an arrangement for a referral of patients, the arrangement will not interfere with the discretion of health professionals to refer patients in a manner they believe will most appropriately deal with a patient's particular circumstances, subject to appropriate contractual limitations under which the recipient or subrecipient may operate as a health plan or as a contract health plan provider and such limitations as the patient may be under as an enrollee of a health plan; and

"(vii) with respect to an arrangement that does not meet the requirements of any of the preceding clauses, the recipient or subrecipient of Federal grant funds involved has applied to the Secretary for approval of the arrangement and the Secretary, after consultation with the Inspector General of the Department of Health and Human Services, has approved the arrangement based upon a finding that the arrangement will produce a substantial benefit to a medically underserved population that outweighs the arrangement's failure to fully satisfy all of the above requirements.

In this subparagraph, a 'recipient' means a public or nonprofit private entity that receives a grant or cooperative agreement under the Public Health Service Act or title V, and a 'subrecipient' means a public or nonprofit private entity that performs substantive work under a grant or cooperative agreement under the Public Health Service Act or title V to a recipient.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect after the expiration of the 6-month period that begins on the date of the enactment of this Act.

SEC. 5515. REVISIONS TO LIMITATIONS ON PHYSICIAN SELF-REFERRAL.

(a) CLARIFICATION OF COVERAGE OF RADIOLOGY OR DIAGNOSTIC SERVICES.—Section 1877(h)(6) of the Social Security Act (42 U.S.C. 1395nn(h)(6)) is amended by striking subparagraph (D).

(b) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—Section 1877(b) of such Act (42 U.S.C. 1395nn(b)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) SHARED FACILITY SERVICES.—

"(A) IN GENERAL.—In the case of a shared facility service of a shared facility—

"(i) that is furnished—

"(I) personally by the referring physician who is a shared facility physician or personally by an individual directly employed by such a physician,

"(II) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physician that are unrelated to the furnishing of shared facility services, and

"(III) to a patient of a shared facility physician; and

"(ii) that is billed by the referring physician.

"(B) SHARED FACILITY RELATED DEFINITIONS.—

"(i) SHARED FACILITY SERVICE.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.

"(ii) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

"(iii) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician who has a financial relationship under a shared facility arrangement with the facility.

"(iv) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

"(I) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

"(II) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(III) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(c) REVISION TO RURAL PROVIDER EXCEPTION.—Section 1877(d)(2) of such Act (42 U.S.C. 1395nn(d)(2)) is amended by striking "substantially all" and inserting "not less than 75 percent (as determined in accordance with regulations of the Secretary)".

(d) CLARIFICATION OF REFERRALS BY NEPHROLOGISTS.—Section 1877(h)(5)(C) of such Act (42 U.S.C. 1395nn(H)(5)(C)) is amended—

(1) by striking "and a request" and inserting "a request";

(2) by inserting after "radiation therapy," the following: "and a request by a nephrologist for items or services related to renal dialysis,"; and

(3) by striking "or radiation oncologist" and inserting "radiation oncologist, or nephrologist".

(e) REVISION OF REPORTING REQUIREMENTS.—Section 1877(f) of such Act (42 U.S.C. 1395nn(f)) is amended—

(1) by striking "Each entity" and all that follows through paragraph (2) and inserting the following: "The Secretary may require each entity (other than a physician or physician group practice) providing designated health services to provide the Secretary with the following information concerning the entity's ownership, investment, and compensation arrangements:

"(1) the designated health services provided by the entity; and

"(2) the names and unique physician identifier numbers of all physicians with an ownership or investment interest (as described in subsection (a)(2)(A)) or with a compensation interest (as described in subsection (a)(2)(B)) in the entity, or whose immediate relatives have such an ownership, investment, or compensation interest in the entity."; and

(2) by striking the fifth sentence.

(f) EXCEPTION FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1877(b)(3) of such Act (42 U.S.C. 1395nn(b)(3)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a comma; and

(3) by adding at the end the following new subparagraphs:

"(E) with a contract with a State to provide services under the State plan under title XIX (in accordance with section 1903(m)); or

"(F) which meets State regulatory requirements applicable to health maintenance organizations and which—

"(i) provides designated health services directly or through contractual arrangements with providers;

"(ii) assumes financial risk for the provision of services or provides services on behalf of another individual or entity (including but not limited to a self-insured employer, indemnity plan, physician, or physician group) that assumes financial risk for the provision of the item or service; and

"(iii) subjects the services to a program of utilization review offered by an organization described in a preceding subparagraph, an organization meeting State regulatory requirements applicable to utilization review, or an organization accredited to perform utilization review considered appropriate by the Secretary.".

(g) PREEMPTION OF STATE LAW.—Section 1877(g) of such Act (42 U.S.C. 1395nn(g)) is amended by adding at the end the following new paragraph:

"(6) PREEMPTION OF STATE LAW.—The provisions of this section shall supersede any State law to the extent State law prohibits a physician from making a referral, or an entity from presenting a bill, for the furnishing of a service which is not subject to the restrictions applicable under paragraph (1).".

(h) REVISION OF EFFECTIVE DATE EXCEPTION PROVISION.—Section 13562(b)(2) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) the second sentence of subsection (a)(2), and subsections (b)(2)(B) and (d)(2), of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of the corresponding provisions in section 1877 (as amended by this Act);

"(B) section 1877(b)(4) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply;

"(C) the requirements of section 1877(c)(2) of the Social Security Act (as amended by this Act) shall not apply to any securities of a corporation that meets the requirements of

section 1877(c)(2) of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(D) section 1877(e)(3) of the Social Security Act (as amended by this Act) shall apply, except that it shall not apply to any arrangement that meets the requirements of subsection (e)(2) or subsection (e)(3) of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(E) the requirements of clauses (iv) and (v) of section 1877(h)(4)(A), and of clause (i) of section 1877(h)(4)(B), of the Social Security Act (as amended by this Act) shall not apply; and

"(F) section 1877(h)(4)(B) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of section 1877(h)(4)(A)(ii) of such Act (as amended by this Act).".

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to referrals made on or after January 1, 1995, except that the amendments made by subsection (h) shall apply as if included in the enactment of the Omnibus Budget Reconciliation Act of 1993.

SEC. 5516. MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) STUDY ON COSTS OF PEER REVIEW CONTRACTS FOR MEDICARE HMO'S.—The Comptroller General shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of the Social Security Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary of Health and Human Services to assess the quality of services provided by such eligible organizations.

(b) REPORT TO CONGRESS.—Not later than July 1, 1997, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subsection (a).

SEC. 5517. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this part shall take effect January 1, 1996.

PART 3—AMENDMENTS TO CRIMINAL LAW

SEC. 5521. PENALTIES FOR HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health care plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be guilty of a felony, and fined under this title or imprisoned not more than 5 years, or both.

"(b) In determining the amount or scope of any penalty or assessment, the court shall take into account:

"(1) the nature of the false or fraudulent claims and the circumstances under which they are presented;

"(2) the degree of culpability and history of prior offenses by the convicted health care provider;

"(3) the extent to which restitution is paid; and

"(4) such other matters as justice may require.

"(c) A principal is liable for penalties and assessments under this section for the acts of the principal's agents acting within the scope of the agency.

"(d) For purposes of this section, the term 'health care plan' means a Federally-funded public program or private program for the delivery of or payment for health care items or services.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 5522. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1347.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment.

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

SEC. 5523. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

PART 4—ADVISORY OPINIONS

SEC. 5531. AUTHORIZING THE SECRETARY OF HEALTH AND HUMAN SERVICES TO ISSUE ADVISORY OPINIONS UNDER TITLE XI.

Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"ADVISORY OPINIONS

"SEC. 1129. (a) ISSUANCE OF ADVISORY OPINIONS.—The Secretary shall issue advisory opinions as provided in this section.

"(b) MATTERS SUBJECT TO ADVISORY OPINIONS.—The Secretary shall issue advisory opinions as to the following matters:

"(1) What constitutes prohibited remuneration within the meaning of section 1128B(b).

"(2) Whether an arrangement or proposed arrangement satisfies the criteria set forth in section 1128B(b)(3) for activities which do not result in prohibited remuneration.

"(3) Whether an arrangement or proposed arrangement satisfies the criteria which the Secretary has established, or shall establish by regulation for activities which do not result in prohibited remuneration.

"(4) What constitutes an inducement to reduce or limit services to individuals entitled to benefits under title XVIII or title XIX within the meaning of section 1128B(b).

"(5) Whether an arrangement, activity or proposed arrangement or proposed activity violates any other provision of this Act.

"(c) MATTERS NOT SUBJECT TO ADVISORY OPINIONS.—Such advisory opinions shall not address the following matters:

"(1) Whether the fair market value shall be, or was paid or received for any goods, services or property.

"(2) Whether an individual is a bona fide employee within the requirements of section 3121(d)(2) of the Internal Revenue Code of 1986.

"(d) EFFECT OF ADVISORY OPINIONS.—

"(1) Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(2) The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A, or 1128B.

"(e) REGULATIONS.—The Secretary within 180 days of the date of enactment, shall issue regulations establishing a system for the issuance of advisory opinions. Such regulations shall provide for—

"(1) the procedure to be followed by a party applying for an advisory opinion;

"(2) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

"(3) the interval in which the Secretary shall respond;

"(4) the reasonable fee to be charged to the party requesting an advisory opinion; and

"(5) the manner in which advisory opinions will be made available to the public.

"(f) INTERVAL FOR ISSUANCE OF ADVISORY OPINIONS.—Under no circumstances shall the interval in which the Secretary shall respond to a party requesting an advisory opinion exceed 30 days.".

SEC. 5532. AUTHORIZING THE SECRETARY OF HEALTH AND HUMAN SERVICES TO ISSUE ADVISORY OPINIONS RELATING TO PHYSICIAN OWNERSHIP AND REFERRAL.

Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended by the addition of the following new subsection:

"(i) ADVISORY OPINIONS.—

"(1) IN GENERAL.—The Secretary shall issue advisory opinions on whether an arrangement or proposed arrangement will result in

VOL
140
PT
15
AG
10
—
11
1994
UMI

a prohibited referral within the meaning of this section.

"(2) EFFECT OF ADVISORY OPINIONS.—

"(A) Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(B) The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of this section.

"(3) REGULATIONS.—The Secretary within one hundred and eighty days of the date of enactment shall issue regulations establishing a system for the issuance of advisory opinions. Such regulations shall provide for—

"(A) the procedure to be followed by a party applying for an advisory opinion;

"(B) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

"(C) the interval in which the Secretary shall respond;

"(D) the reasonable fee to be charged to the party requesting an advisory opinion; and

"(E) the manner in which advisory opinions will be made available to the public.

"(4) INTERVAL FOR ISSUANCE OF ADVISORY OPINIONS.—Under no circumstances shall the interval in which the Secretary shall respond to a party requesting an advisory opinion exceed thirty days.".

SEC. 5533. EFFECTIVE DATE.

Unless otherwise specified, the amendments made by this part shall be effective upon the enactment of this Act.

PART 5—PAYMENTS FOR STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 5541. ESTABLISHMENT OF STATE FRAUD UNITS.

(a) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL UNIT.—The Governor of each State shall, consistent with State law, establish and maintain in accordance with subsection (b) a State agency to act as a Health Care Fraud and Abuse Control Unit for purposes of this part.

(b) DEFINITION.—In this section, a "State Fraud Unit" means a Health Care Fraud and Abuse Control Unit designated under subsection (a) that the Attorney General certifies meets the requirements of this part.

SEC. 5542. REQUIREMENTS FOR STATE FRAUD UNITS.

(a) IN GENERAL.—The State Fraud Unit must—

(1) be a single identifiable entity of the State government;

(2) be separate and distinct from any State agency with principal responsibility for the administration of any Federally-funded or mandated health care program;

(3) meet the other requirements of this section.

(b) SPECIFIC REQUIREMENTS DESCRIBED.—The State Fraud Unit shall—

(1) be a Unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

(2) if it is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, (A) assure its referral of suspected criminal violations to the appropriate authority or authorities in the State for prosecution, and (B) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

(3) have a formal working relationship with the office of the State Attorney General or the appropriate authority or authorities for prosecution and have formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the Fraud Unit and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to any Federally-funded or mandated health care programs.

(c) STAFFING REQUIREMENTS.—The Fraud Unit must—

(1) employ attorneys, auditors, investigators and other necessary personnel; and

(2) be organized in such a manner and provide sufficient resources as is necessary to promote the effective and efficient conduct of Fraud Unit activities.

(d) COOPERATIVE AGREEMENTS; MEMORANDA OF UNDERSTANDING.—The Fraud Unit must have cooperative agreements with—

(1) Federally-funded or mandated health care programs;

(2) similar Fraud Units in other States, as exemplified through membership and participation in the National Association of Medicaid Fraud Control Units or its successor; and

(3) the Attorney General of the United States.

(e) REPORTS.—The Fraud Unit shall submit to the Attorney General an application and an annual report containing such information as the Attorney General determines to be necessary to determine whether the Fraud Unit meets the requirements of this section.

(f) FUNDING SOURCE; PARTICIPATION IN ALL-PAYER PROGRAM.—The Fraud Unit may receive funding for its activities from such sources as the State considers appropriate. The Fraud Unit shall participate in the all-payer fraud and abuse control program established under section 5501.

SEC. 5543. SCOPE AND PURPOSE.

The Fraud Unit shall carry out the following activities:

(1) The Fraud Unit shall conduct a statewide program for the investigation and prosecution (or referring for prosecution) of violations of all applicable state laws regarding any and all aspects of fraud in connection with any aspect of the administration and provision of health care services and activities of providers of such services under any Federally-funded or mandated health care programs;

(2) The Fraud Unit shall have procedures for reviewing complaints of the abuse or neglect of patients of facilities (including patients in residential facilities and home health care programs) that receive payments under any Federally-funded or mandated health care programs, and, where appropriate, to investigate and prosecute such complaints under the criminal laws of the State or for referring the complaints to other State agencies for action.

(3) The Fraud Unit shall provide for the collection, or referral for collection to the appropriate agency, of overpayments that are made under any Federally-funded or mandated health care program and that are discovered by the Fraud Unit in carrying out its activities.

SEC. 5544. PAYMENTS TO STATES.

(a) IN GENERAL.—

(1) MATCHING PAYMENTS TO STATES.—Subject to subsection (c), for each year for which a State has a Fraud Unit approved under section 5542(b) in operation the Attorney General shall pay to the State for each quarter in a fiscal year an amount equal to the applicable percentage of the sums expended during the quarter by the Fraud Unit.

(2) TIME OF PAYMENT.—The Attorney General shall make a payment under paragraph (1) for a quarter by not later than 30 days after the end of the quarter.

(b) APPLICABLE PERCENTAGE DEFINED.—

(1) IN GENERAL.—In subsection (a), the "applicable percentage" with respect to a State for a fiscal year is—

(A) 90 percent, for quarters occurring during the first 3 years for which the Fraud Unit is in operation; or

(B) 75 percent, for any other quarters.

(2) TREATMENT OF STATES WITH MEDICAID FRAUD CONTROL UNITS.—In the case of a State with a State medicaid fraud control in operation prior to or as of the date of the enactment of this Act, in determining the number of years for which the State's Fraud Unit under this part has been in operation, there shall be included the number of years for which such State medicaid fraud control unit was in operation.

(c) LIMIT ON PAYMENT.—Notwithstanding subsection (a), the total amount of payments made to a State under this section for a fiscal year may not exceed—

(1) for fiscal year 1996, 4 times the amount paid to the State under section 1903(a)(6) of the Social Security Act during the first quarter of 1995; and

(2) for each succeeding fiscal year, the amount determined under this subsection in the previous fiscal year, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the year.

Subtitle G—Billing for Laboratory Services

SEC. 5601. EASING RESTRICTIONS ON BILLING FOR LABORATORY AND OTHER SERVICES.

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) by redesignating title XXVII (42 U.S.C. 300cc et seq.) as title XXVIII; and

(2) by inserting after title XXVI the following new title:

"TITLE XXVII—RESTRICTIONS ON BILLING

"SEC. 2701. PROHIBITION.

"(a) BILLING OF OTHERS FOR ANCILLARY HEALTH SERVICES.—Except as provided in section 2702, it shall be unlawful for any person (including any individual or entity) who furnishes ancillary health services (as defined in section 2705(1)) to present or cause to be presented, a claim, bill, or demand for payment to any person other than the patient receiving such services.

"(b) BILLING OF RECIPIENT OF SERVICES.—Except as provided in section 2702, it shall be unlawful for any physician, or the agent of any physician, to present, or cause to be presented, a claim, bill, or demand for payment for ancillary health services to any recipient of such services unless the services covered by the claim, bill, or demand were furnished—

"(1) personally by, or under the supervision of, the referring physician;

"(2) personally by, or under the supervision of, a physician who is a member of the same group practice as the referring physician; or

"(3) personally by individuals who are employed by such physician or group practice and who are personally supervised by the physician or by another physician in the group practice.

"(c) GENERAL EXCEPTION FOR SERVICES UNDER MEDICARE.—This section does not apply with respect to any ancillary health services for which payment may be made under title XVIII of the Social Security Act.

"SEC. 2702. EXCEPTIONS.

"Notwithstanding the provisions of section 2701, a person who furnishes ancillary health services to an individual may present, or cause to be presented, for payment for actual services rendered a claim, bill, or demand to—

"(1) an immediate family member of the recipient of the services or any other person legally responsible for the debts or care of the recipient of the services;

"(2) a third party payor designated by the recipient of the services;

"(3) a health maintenance organization, or other health plan providing coverage through a managed care arrangement, in which the recipient of the services is enrolled;

"(4) a hospital or skilled nursing facility where the recipient of the services was an inpatient or outpatient at the time the services were provided;

"(5) an employer where the recipient of the services is an employee of such employer and the employer is responsible for payment for the services;

"(6) a governmental agency or specified agent, on behalf of the recipient of the services;

"(7) a substance abuse program where the clients of such a program were the recipient of the services;

"(8) a clinic or other health care provider that has been designated (or that is operated by an organization that has been designated) as tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 whose purpose is the promotion of public health, if the services rendered relate to testing for sexually transmitted disease, acquired immune deficiency syndrome, pregnancy, pregnancy termination, or other conditions where the Secretary has determined that compliance with section 2701 could seriously compromise the recipient's need for confidentiality;

"(9) a person engaged in bona fide research studies;

"(10) the party requesting the ancillary health services where Federal, State, or local law requires that the identity of the recipient be kept confidential;

"(11) another person furnishing the same ancillary health services for which payment is sought (hereafter referred to in this paragraph as the 'requesting party') where the person presenting, or causing to be presented, the claim, bill, or demand for payment furnished the services at the request of the requesting party, except that the requesting party may not be a facility owned or operated by the physician requesting the ancillary health service; and

"(12) an entity approved to receive such claims, bills or demands by the Secretary in regulations.

The persons described in paragraphs (1) through (12) who have received a claim, bill, or demand for payment for such ancillary health services may present, or cause to be presented, such claim, bill, or demand to the responsible party.

"SEC. 2703. SANCTIONS.

"(a) PAYMENT.—No payment may be made for a service that is provided in violation of section 2701.

"(b) COLLECTION OF AMOUNTS.—

"(1) LIABILITY ON COLLECTION.—If a person collects any amounts that were billed in violation of section 2701(a), such person shall be liable for, and shall refund on a timely basis to the individual whom such amounts were collected, any amounts so collected.

"(2) COLLECTION BY PHYSICIAN.—If a physician collects any amounts from a recipient of services, or from another person on behalf of the recipient of services (including a third-party payor) that were billed in violation of section 2701(b), such physician shall be liable for, and shall refund on a timely basis to the recipient or person, any amounts so collected.

"(c) REPEATED CLAIMS.—Any person that presents, or causes to be presented, on a repeated basis, a bill or a claim that such person knows, or should have known, is for a service for which payment may not be made under subsection (a), or for which a refund has not been made under subsection (b), shall be subject to a civil money penalty of not more than $5,000 for each such bill or claim. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and subsection (b)) shall apply to a civil money penalty assessed under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under such section 1128A(a).

"(d) SUSPENSION OF LABORATORY CERTIFICATION.—If the Secretary finds, after reasonable notice and opportunity for a hearing, that a laboratory which holds a certificate pursuant to section 353 has violated section 2701, the Secretary may suspend, revoke or limit such certification in accordance with the procedures established in section 353(k).

"(e) EXCLUSION FROM OTHER PROGRAMS.—

"(1) AUTHORITY.—The Secretary may exclude from participation in any program under title XVIII of the Social Security Act, any individual or entity that the Secretary determines has violated section 2701 and may direct that such individual and entity be excluded from participation in any State health care program receiving Federal funds.

"(2) APPLICATION OF OTHER LAW.—The provisions of section 1128(e) of the Social Security Act shall apply to any exclusion under paragraph (1) in the same manner as such provisions apply to a proceeding under such section 1128.

"SEC. 2704. REGULATIONS.

"The Secretary shall by regulation impose such other requirements as may be necessary to implement the purposes of this title.

"SEC. 2705. DEFINITIONS.

"As used in this title:

"(1) ANCILLARY HEALTH SERVICES.—The term 'ancillary health services' means—

"(A) clinical laboratory services;

"(B) diagnostic x-ray tests and other diagnostic imaging services including CT and magnetic resonance imaging services;

"(C) other diagnostic tests;

"(D) durable medical equipment; and

"(E) physical therapy services.

"(2) GROUP PRACTICES.—The term 'group practice' means a group of 2 or more physicians legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association—

"(A) in which each physician who is a member of the group provides substantially the full range of services that the physician routinely provides (including medical care, consultation, diagnosis, or treatment) through the joint use of shared office space, facilities, equipment, and personnel;

"(B) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group;

"(C) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group; and

"(D) which meets such other standards as the Secretary may impose by regulation.

In the case of a faculty practice plan associated with a hospital with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group (as well as perform other tasks, such as research), the definition of such term shall be limited with respect to the services provided outside of the faculty practice plan.

"(3) IMMEDIATE FAMILY MEMBER.—The term 'immediate family member' shall include spouses, natural and adoptive parents, natural and adoptive children, natural and adopted siblings, stepparents, stepchildren and stepsiblings, fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, sons-in-law and daughters-in-law, grandparents and grandchildren, and such additional family members as may be specified in regulations adopted by the Secretary.

"(4) PHYSICIAN.—The term 'physician' means—

"(A) a doctor of medicine or osteopathy legally authorized to practice medicine and perform surgery by the State in which such individual performs such function or action;

"(B) a doctor of dental surgery or of dental medicine who is legally authorized to practice dentistry in the State in which such individual performs such functions;

"(C) a doctor of podiatric medicine;

"(D) a doctor of optometry; or

"(E) a chiropractor.

"(5) THIRD PARTY PAYOR.—The term 'third party payor' means any health care insurer, including any hospital services corporation, health services corporation, medical expense indemnity corporation, mutual insurance company, or self-insured corporation, that provides coverage for health or health-related items or service.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 2701 through 2714 of the Public Health Service Act (42 U.S.C. 300cc through 300cc–15) are redesignated as sections 2801 through 2814, respectively.

(2)(A) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289) are amended by striking out "2701" each place that such appears and inserting in lieu thereof "2801".

(B) Section 305(i) of such Act (42 U.S.C. 242c(i)) is amended by striking out "2711" each place that such appears and inserting in lieu thereof "2811".

SEC. 5602. EFFECTIVE DATE.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act, as added by section 5601(a), shall become effective December 31, 1994.

(b) REGULATIONS.—Not later than July 1, 1995, the Secretary of Health and Human Services shall promulgate such regulations as may be appropriate to carry out such title.

TITLE VI—MEDICARE AND MEDICAID

TABLE OF CONTENTS OF SUBTITLE

Subtitle A—Increased Medicare Beneficiary Choice; Improved Program Efficiency

PART 1—INCREASED MEDICARE BENEFICIARY CHOICE

Sec. 6001. Requirements for health maintenance organizations under medicare.
Sec. 6002. Expansion and revision of medicare select policies.
Sec. 6003. Including notice of available health maintenance organizations in annual notice to beneficiaries.
Sec. 6004. Legislative proposal on enrolling medicare beneficiaries in qualified health plans.
Sec. 6005. Optional interim enrollment of medicare beneficiaries in private health plans.

VOL 140 PT 15 AG 10 — 11 1994 UMI

PART 2—IMPROVED PROGRAM EFFICIENCY
Sec. 6011. Improved efficiency through consolidation of administration of parts A and B.
PART 3—NOTICE OF ADVANCE DIRECTIVE RIGHTS
Sec. 6021. Providing notice of rights regarding medical care to individuals entering medicare.

Subtitle B—Savings in Medicare and Medicaid

PART 1—SAVINGS RELATING TO MEDICARE PART A
Sec. 6101. Reduction in update for payments for inpatient hospital services.
Sec. 6102. Reduction in payments for capital-related costs for inpatient hospital services.
PART 2—SAVINGS RELATING TO MEDICARE PART B
Sec. 6111. Establishment of cumulative expenditure goals for physician services.
Sec. 6112. Imposition of coinsurance on laboratory services.
Sec. 6113. Increase in medicare part B premium for individuals with high income.
Sec. 6114. Extension of 25 percent part B premium.
Sec. 6115. Reduction in hospital outpatient services through establishment of prospective payment system.
PART 3—SAVINGS RELATING TO MEDICARE PARTS A AND B
Sec. 6121. Reduction in home health services through establishment of prospective payment system.
Sec. 6122. Medicare secondary payer.
PART 4—SAVINGS IN MEDICAID
Sec. 6131. Elimination of medicaid pediatric immunization program.
Sec. 6132. 25 percent reduction in amount of payment adjustments for disproportionate share hospitals.
Sec. 6133. Denial of medicaid eligibility for certain aliens.
Sec. 6134. Elimination of medically needy program for individuals not in an institution.

Subtitle A—Increased Medicare Beneficiary Choice; Improved Program Efficiency

PART 1—INCREASED MEDICARE BENEFICIARY CHOICE

SEC. 6001. REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS UNDER MEDICARE.

(a) USE OF METROPOLITAN STATISTICAL AREAS TO DETERMINE ADJUSTED AVERAGE PER CAPITA COST.—Section 1876(a)(4) of the Social Security Act (42 U.S.C. 1395mm(a)(4)) is amended by striking "in a geographic area served by an eligible organization or in a similar area" and inserting "in the metropolitan statistical area (as defined by the Office of Management and Budget) in which the individual resides, or in the entire portion of the State in which the individual resides which is not located in a metropolitan statistical area in the case of an individual who does not reside in a metropolitan statistical area".

(b) DETERMINATION OF MODEL ADDITIONAL HEALTH BENEFIT PACKAGES.—Section 1876(g) of such Act (42 U.S.C. 1395mm(g)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) The Secretary shall develop the following model packages of additional health benefits (referred to in paragraph (3)(B)) which an eligible organization may provide (at its option) under paragraph (2):

"(A) Coverage for catastrophic illness (subject to a limit on out-of-pocket expenditures).

"(B) Coverage for prescription drugs.

"(C) Coverage for preventive services.".

(c) REVISION OF MEMBERSHIP LIMITATION.—Section 1876(f) of such Act (42 U.S.C. 1395mm(f)) is amended—

(1) in paragraph (1), by striking "one-half" and inserting "25 percent"; and

(2) in paragraph (2)(A), by striking "50 percent" and inserting "75 percent".

(d) ENROLLMENT PERIODS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.—

(1) UNIFORM OPEN ENROLLMENT PERIOD.—Section 1876(c)(3)(A)(i) of such Act (42 U.S.C. 1395mm(c)(3)(A)(i)) is amended by striking "must have" and all that follows through "and including" and inserting the following: "shall have open enrollment during an annual uniform open enrollment period established by the Secretary for all eligible organizations, together with".

(2) OPEN ENROLLMENT FOR CERTAIN DISENROLLED INDIVIDUALS.—Section 1876(c)(3)(A)(ii)(I) of such Act (42 U.S.C. 1395mm(c)(3)(A)(ii)(I)) is amended by adding at the end the following: "Each eligible organization with a risk-sharing contract under this section shall have an open enrollment period for individuals residing in the organization's service area who disenroll from another eligible organization with a risk-sharing contract under this section on the grounds that the individual's primary care physician is no longer a member of the organization's provider network or for cause (in accordance with such standards, and as demonstrated through an appeals process that meets such requirements, as the Secretary may establish).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into on or after the date of the enactment of this Act.

SEC. 6002. EXPANSION AND REVISION OF MEDICARE SELECT POLICIES.

(a) PERMITTING MEDICARE SELECT POLICIES IN ALL STATES.—

(1) IN GENERAL.—Subsection (c) of section 4358 of the Omnibus Budget Reconciliation Act of 1990 (hereafter referred to as "OBRA-1990") is hereby repealed.

(2) CONFORMING AMENDMENT.—Section 4358 of OBRA-1990 is amended by redesignating subsection (d) as subsection (c).

(b) REQUIREMENTS OF MEDICARE SELECT POLICIES.—Section 1882(t)(1) of the Social Security Act (42 U.S.C. 1395ss(t)(1)) is amended to read as follows:

"(1)(A) If a medicare supplemental policy meets the 1991 NAIC Model Regulation or 1991 Federal Regulation and otherwise complies with the requirements of this section except that—

"(i) the benefits under such policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), and

"(ii) in the case of a policy described in subparagraph (C)(i)—

"(I) the benefits under such policy are not one of the groups or packages of benefits described in subsection (p)(2)(A),

"(II) except for nominal copayments imposed for services covered under part B of this title, such benefits include at least the core group of basic benefits described in subsection (p)(2)(B), and

"(III) an enrollee's liability under such policy for physician's services covered under part B of this title is limited to the nominal copayments described in subclause (II),

the policy shall nevertheless be treated as meeting those standards if the policy meets the requirements of subparagraph (B).

"(B) A policy meets the requirements of this subparagraph if—

"(i) full benefits are provided for items and services furnished through a network of entities which have entered into contracts or agreements with the issuer of the policy,

"(ii) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network,

"(iii) the network offers sufficient access,

"(iv) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network,

"(v)(I) the issuer of the policy provides to each enrollee at the time of enrollment an explanation of—

"(aa) the restrictions on payment under the policy for services furnished other than by or through the network,

"(bb) out of area coverage under the policy,

"(cc) the policy's coverage of emergency services and urgently needed care, and

"(dd) the availability of a policy through the entity that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation without regard to this subsection and the premium charged for such policy, and

"(II) each enrollee prior to enrollment acknowledges receipt of the explanation provided under subclause (I), and

"(vi) the issuer of the policy makes available to individuals, in addition to the policy described in this subsection, any policy (otherwise offered by the issuer to individuals in the State) that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation and other requirements of this section without regard to this subsection.

"(C)(i) A policy described in this subparagraph—

"(I) is offered by an eligible organization (as defined in section 1876(b)),

"(II) is not a policy or plan providing benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, and

"(III) provides benefits which, when combined with benefits which are available under this title, are substantially similar to benefits under policies offered to individuals who are not entitled to benefits under this title.

"(ii) In making a determination under subclause (III) of clause (i) as to whether certain benefits are substantially similar, there shall not be taken into account, except in the case of preventive services, benefits provided under policies offered to individuals who are not entitled to benefits under this title which are in addition to the benefits covered by this title and which are benefits an entity must provide in order to meet the definition of an eligible organization under section 1876(b)(1).".

(c) RENEWABILITY OF MEDICARE SELECT POLICIES.—Section 1882(q)(1) of the Social Security Act (42 U.S.C. 1395ss(q)(1)) is amended—

(1) by striking "(1) Each" and inserting "(1)(A) Except as provided in subparagraph (B), each";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (ii), in the case of a policy that meets the requirements of subsection (t), an issuer may cancel or nonrenew such policy with respect to an individual who leaves the service area of such policy.

"(ii) If an individual described in clause (i) moves to a geographic area where an issuer described in clause (i), or where an affiliate of such issuer, is issuing medicare supplemental policies, such individual must be permitted to enroll in any medicare supplemental policy offered by such issuer or affiliate that provides benefits comparable to or less than the benefits provided in the policy being canceled or nonrenewed. An individual whose coverage is canceled or nonrenewed under this subparagraph shall, as part of the notice of termination or nonrenewal, be notified of the right to enroll in other medicare supplemental policies offered by the issuer or its affiliates.

"(iii) For purposes of this subparagraph, the term 'affiliate' shall have the meaning given such term by the 1991 NAIC Model Regulation.".

(d) CIVIL MONEY PENALTY.—Section 1882(t)(2) of the Social Security Act (42 U.S.C. 1395ss(t)(2)) is amended—

(1) by striking "(2)" and inserting "(2)(A)";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(3) in clause (iv), as so redesignated—

(A) by striking "paragraph (1)(E)(i)" and inserting "paragraph (1)(B)(v)(I)", and

(B) by striking "paragraph (1)(E)(ii)" and inserting "paragraph (1)(B)(v)(II)";

(4) by striking "the previous sentence" and inserting "this subparagraph"; and

(5) by adding at the end the following new subparagraph:

"(B) If the Secretary determines that an issuer of a policy approved under paragraph (1) has made a misrepresentation to the Secretary or has provided the Secretary with false information regarding such policy, the issuer is subject to a civil money penalty in an amount not to exceed $100,000 for each such determination. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(e) EFFECTIVE DATES.—

(1) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (hereafter in this subsection referred to as the "NAIC") makes changes in the 1991 NAIC Model Regulation (as defined in section 1882(p)(1)(A) of the Social Security Act) to incorporate the additional requirements imposed by the amendments made by this section, section 1882(g)(2)(A) of such Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed under this paragraph (such changed Regulation referred to in this subsection as the "1994 NAIC Model Regulation").

(2) SECRETARY STANDARDS.—If the NAIC does not make changes in the 1991 NAIC Model Regulation (as so defined) within the 6-month period specified in paragraph (1), the Secretary of Health and Human Services (in this subsection as the "Secretary") shall promulgate a regulation and section 1882(g)(2)(A) of the Social Security Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted in June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed by the Secretary under this paragraph (such changed Regulation referred to in this subsection as the "1994 Federal Regulation").

(3) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State adopts the 1994 NAIC Model Regulation or the 1994 Federal Regulation; or

(ii) 1 year after the date the NAIC or the Secretary first adopts such regulations.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the 1994 NAIC Model Regulation or the 1994 Federal Regulation, but

(ii) having a legislature which is not scheduled to meet in 1995 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1995. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6003. INCLUDING NOTICE OF AVAILABLE HEALTH MAINTENANCE ORGANIZATIONS IN ANNUAL NOTICE TO BENEFICIARIES.

Section 1804 of the Social Security Act (42 U.S.C. 1395b-2) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ", and"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) with respect to the area in which the individual receiving the notice resides, a description of the eligible organizations under section 1833(a)(1) or section 1876 and the carriers offering a medicare supplemental policy described in section 1882(t)(1) which serve the area in which the individual receiving the notice resides.".

SEC. 6004. LEGISLATIVE PROPOSAL ON ENROLLING MEDICARE BENEFICIARIES IN QUALIFIED HEALTH PLANS.

(a) IN GENERAL.—

(1) LEGISLATIVE PROPOSAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and submit to Congress a proposal for legislation which provides for the enrollment of medicare beneficiaries in private health insurance plans.

(2) MEDICARE BENEFICIARY.—For purposes of this section, the term "medicare beneficiary" means an individual who is eligible for benefits under part A of title XVIII of the Social Security Act and is enrolled under part B of such title.

(b) CONTENTS OF THE PROPOSAL.—A proposal for legislation submitted under subsection (a) shall—

(1) provide for an appropriate methodology by which the Secretary shall make payment to private health insurance plans for the enrollment of medicare beneficiaries;

(2) provide individuals the opportunity to remain enrolled in such a plan without an interruption in coverage upon becoming medicare beneficiaries; and

(3) provide medicare beneficiaries with the opportunity to enroll in a private health insurance plan.

SEC. 6005. OPTIONAL INTERIM ENROLLMENT OF MEDICARE BENEFICIARIES IN PRIVATE HEALTH PLANS.

(a) INTERIM ENROLLMENT OF MEDICARE BENEFICIARIES IN QUALIFIED HEALTH PLANS.—

(1) IN GENERAL.—Notwithstanding title XVIII of the Social Security Act, the Secretary shall provide for a monthly payment as provided under subsection (b)(1) to a private health insurance plan on behalf of enrolled medicare beneficiaries who choose to enroll in such a plan.

(2) MEDICARE BENEFICIARY.—For purposes of this section, the term "medicare beneficiary" means an individual who is eligible for benefits under part A of title XVIII of the Social Security Act and is enrolled under part B of such title.

(b) PAYMENT SPECIFIED.—

(1) FEDERAL PAYMENT.—

(A) IN GENERAL.—The amount of payment specified in this paragraph for an individual who is enrolled in a private health insurance plan is the lesser of—

(i) the applicable rate specified in section 1876(a)(1)(C) of the Social Security Act (but at 100 percent, rather than 95 percent, of the applicable amount); or

(ii) the monthly premium charged the individual for coverage under the private health insurance plan.

(B) SOURCE OF PAYMENT.—The payment to a private health insurance plan under this paragraph for individuals entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, with the allocation to be determined by the Secretary.

(2) INDIVIDUAL'S SHARE.—If the monthly premium for the private plan in which the individual is enrolled is greater than the amount specified under paragraph (1)(A)(i), the individual shall be responsible for paying to the plan the difference between the monthly premium charged the individual for coverage under the plan and the amount specified in paragraph (1)(A)(i).

(c) PAYMENTS UNDER THIS SECTION AS SOLE MEDICARE BENEFITS.—Payments made under this section shall be instead of the amounts that would otherwise be payable, pursuant to sections 1814(b) and 1833(a) of the Social Security Act, for services furnished to medicare beneficiaries.

(d) INCLUSION IN ANNUAL NOTICE TO BENEFICIARIES.—Section 1804 of the Social Security Act (42 U.S.C. 1395b-2), as amended by section 6003, is amended

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ", and"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) a description of the option provided pursuant to section 6005 of the Bipartisan Health Care Reform Act of 1994 for payment to be made by the Secretary on the individual's behalf for enrollment in a private health insurance plan.".

VOL 140 PT 15 AG 10 — 11 1994 UMI

PART 2—IMPROVED PROGRAM EFFICIENCY

SEC. 6011. IMPROVED EFFICIENCY THROUGH CONSOLIDATION OF ADMINISTRATION OF PARTS A AND B.

(a) IN GENERAL.—The Secretary of Health and Human Services shall take such steps as may be necessary to consolidate the administration (including processing systems) of parts A and B of the medicare program (under title XVIII of the Social Security Act) including over a 5-year period.

(b) COMBINATION OF INTERMEDIARY AND CARRIER FUNCTIONS.—In taking such steps, the Secretary shall contract with a single entity that combines the fiscal intermediary and carrier functions in each area except where the Secretary finds that special regional or national contracts are appropriate.

(c) SUPERSEDING CONFLICTING REQUIREMENTS.—The provisions of sections 1816 and 1842 of the Social Security Act (including provider nominating provisions in such section 1816) are superseded to the extent required to carry out this section.

PART 3—NOTICE OF ADVANCE DIRECTIVE RIGHTS

SEC. 6021. PROVIDING NOTICE OF RIGHTS REGARDING MEDICAL CARE TO INDIVIDUALS ENTERING MEDICARE.

(a) IN GENERAL.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting ", and"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a description of an individual's rights under State law to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in section 1866(f)(3))."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to notices provided under section 1804 of the Social Security Act on or after January 1 of the first year beginning after the date of the enactment of this Act.

Subtitle B—Savings in Medicare and Medicaid

PART 1—SAVINGS RELATING TO MEDICARE PART A

SEC. 6101. REDUCTION IN UPDATE FOR PAYMENTS FOR INPATIENT HOSPITAL SERVICES.

Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) in subclause (XII)—

(A) by striking "fiscal year 1997" and inserting "for each of the fiscal years 1997 through 2000", and

(B) by striking "0.5 percentage point" and inserting "2.0 percentage points"; and

(2) in subclause (XIII), by striking "fiscal year 1998" and inserting "fiscal year 2005".

SEC. 6102. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—

(1) REDUCTION IN BASE PAYMENT RATES.—Section 1886(g)(1)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.31 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Bipartisan Health Care Reform Act of 1994) and shall reduce by 10.41 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on the date of the enactment of the Health Security Act).".

(2) REDUCTION IN UPDATE.—Section 1886(g)(1) of such Act (42 U.S.C. 1395ww(g)(1)) is amended—

(A) in subparagraph (B)(i)—

(i) by striking "and (II)" and inserting "(II)", and

(ii) by striking the semicolon at the end and inserting the following: ", and (III) an annual update factor established for the prospective payment rates applicable to discharges in a fiscal year which (subject to reduction under subparagraph (C)) will be based upon such factor as the Secretary determines appropriate to take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality;";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C)(i) With respect to payments attributable to portions of cost reporting periods or discharges occurring during each of the fiscal years 1996 through 2005, the Secretary shall include a reduction in the annual update factor established under subparagraph (B)(i)(III) for discharges in the year equal to the applicable update reduction described in clause (ii) to adjust for excessive increases in capital costs per discharge for fiscal years prior to fiscal year 1992 (but in no event may such reduction result in an annual update factor less than zero).

"(ii) In clause (i), the term 'applicable update reduction' means, with respect to the update factor for a fiscal year—

"(I) 4.9 percentage points; or

"(II) if the annual update factor for the previous fiscal year was less than the applicable update reduction for the previous year, the sum of 4.9 percentage points and the difference between the annual update factor for the previous year and the applicable update reduction for the previous year.".

(b) PPS-EXEMPT HOSPITALS.—Section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) is further amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal years 1996 through 2005.".

PART 2—SAVINGS RELATING TO MEDICARE PART B

SEC. 6111. ESTABLISHMENT OF CUMULATIVE EXPENDITURE GOALS FOR PHYSICIAN SERVICES.

(a) USE OF CUMULATIVE PERFORMANCE STANDARD.—Section 1848(f)(2) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)) is amended—

(1) in subparagraph (A)—

(A) in the heading, by striking "IN GENERAL" and inserting "FISCAL YEARS 1991 THROUGH 1994.—",

(B) in the matter preceding clause (i), by striking "a fiscal year (beginning with fiscal year 1991)" and inserting "fiscal years 1991, 1992, 1993, and 1994", and

(C) in the matter following clause (iv), by striking "subparagraph (B)" and inserting "subparagraph (C)";

(2) in subparagraph (B), by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)";

(3) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D); and

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) FISCAL YEARS BEGINNING WITH FISCAL YEAR 1995.—Unless Congress otherwise provides, the performance standard rate of increase, for all physicians' services and for each category of physicians' services, for a fiscal year beginning with fiscal year 1995 shall be equal to the performance standard rate of increase determined under this paragraph for the previous fiscal year, increased by the product of—

"(i) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians' services or for the category of physicians' services, respectively, under this part for portions of calendar years included in the fiscal year involved,

"(ii) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in the average number of individuals enrolled under this part (other than HMO enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the average annual percentage growth (divided by 100) in volume and intensity of all physicians' services or of the category of physicians' services, respectively, under this part for the 5-fiscal-year period ending with the preceding fiscal year (based upon information contained in the most recent annual report made pursuant to section 1841(b)(2)), and

"(iv) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in expenditures for all physicians' services or of the category of physicians' services, respectively, in the fiscal year (compared with the previous fiscal year) which are estimated to result from changes in law or regulations affecting the percentage increase described in clause (i) and which is not taken into account in the percentage increase described in clause (i),

minus 1, multiplied by 100, and reduced by the performance standard factor (specified in subparagraph (C)).".

(b) TREATMENT OF DEFAULT UPDATE.—

(1) IN GENERAL.—Section 1848(d)(3)(B) of such Act (42 U.S.C. 1395w–4(d)(3)(B)) is amended—

(A) in clause (i)—

(i) in the heading, by striking "IN GENERAL" and inserting "1992 THROUGH 1996", and

(ii) by striking "for a year" and inserting "for 1992, 1993, 1994, 1995, and 1996"; and

(B) by adding after clause (ii) the following new clause:

"(iii) YEARS BEGINNING WITH 1997.—

"(I) IN GENERAL.—The update for a category of physicians' services for a year beginning with 1997 provided under subparagraph (A) shall be increased or decreased by the same percentage by which the cumulative percentage increase in actual expenditures for such category of physicians' services for such year was less or greater, respectively, than the performance standard rate of increase (established under subsection (f)) for such category of services for such year.

"(II) CUMULATIVE PERCENTAGE INCREASE DEFINED.—In subclause (I), the 'cumulative percentage increase in actual expenditures' for

a year shall be equal to the product of the adjusted increases for each year beginning with 1995 up to and including the year involved, minus 1 and multiplied by 100. In the previous sentence, the 'adjusted increase' for a year is equal to 1 plus the percentage increase in actual expenditures for the year.".

(2) CONFORMING AMENDMENT.—Section 1848(d)(3)(A)(i) of such Act (42 U.S.C. 1395w–4(d)(3)(A)(i)) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(c) USE OF REAL GDP TO ADJUST FOR VOLUME AND INTENSITY.—Section 1848(f)(2)(B)(iii) of such Act (42 U.S.C. 1395w–4(f)(2)(B)(iii)), as added by subsection (a), is amended to read as follows:

"(iii) 1 plus the average per capita growth in the real gross domestic product (divided by 100) for the 5-fiscal-year period ending with the previous fiscal year (increased by 1.5 percentage points for the category of services consisting of primary care services), and".

(d) REPEAL OF RESTRICTION ON MAXIMUM REDUCTION.—Section 1848(d)(3)(B)(ii) of such Act (42 U.S.C. 1395w–4(d)(3)(B)(ii)) is amended—

(1) in the heading, by inserting "IN CERTAIN YEARS" after "ADJUSTMENT";

(2) in the matter preceding subclause (I), by striking "for a year";

(3) in subclause (I), by adding "and" at the end;

(4) in subclause (II), by striking ", and" and inserting a period; and

(5) by striking subclause (III).

(e) REPEAL OF PERFORMANCE STANDARD FACTOR.—

(1) IN GENERAL.—Section 1842(f)(2) of such Act, as amended by subsection (a)(3), is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(2) CONFORMING AMENDMENT.—Section 1842(f)(2)(B) of such Act, as added by subsection (a), is amended in the matter following clause (iv) by striking "1, multiplied by 100" and all that follows through "subparagraph (C))" and inserting "1 and multiplied by 100".

(f) REDUCTION IN CONVERSION FACTOR FOR PHYSICIAN FEE SCHEDULE FOR 1995.—Section 1848(d)(1) of the Social Security Act (42 U.S.C. 1395w–4(d)(1)) is amended—

(1) in subparagraph (A), by inserting after "subparagraph (B)" the following: ", and, in the case of 1995, specified in subparagraph (C)";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL PROVISION FOR 1995.—For purposes of subparagraph (A), the conversion factor specified in this subparagraph for 1995 is—

"(i) in the case of physicians' services included in the category of primary care services (as defined in subsection (j)(1)), the conversion factor established under this subsection for 1994 adjusted by the update established under paragraph (3) for 1995; and

"(ii) in the case of any other physicians' services, the conversion factor established under this subsection for 1994 reduced by 3 percent and adjusted by the update established under paragraph (3) for 1995.".

SEC. 6112. IMPOSITION OF COINSURANCE ON LABORATORY SERVICES.

(a) IN GENERAL.—Paragraphs (1)(D) and (2)(D) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended—

(1) by striking "(or 100 percent" and all that follows through "the first opinion))"; and

(2) by striking "100 percent of such negotiated rate" and inserting "80 percent of such negotiated rate".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to tests furnished on or after January 1, 1995.

SEC. 6113. INCREASE IN MEDICARE PART B PREMIUM FOR INDIVIDUALS WITH HIGH INCOME.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

"PART VIII—MEDICARE PART B PREMIUMS FOR HIGH-INCOME INDIVIDUALS

"Sec. 59B. Medicare part B premium tax.

"SEC. 59B. MEDICARE PART B PREMIUM TAX.

"(a) IMPOSITION OF TAX.—In the case of an individual to whom this section applies for the taxable year, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax for such taxable year equal to the aggregate of the Medicare part B premium taxes for each of the months during such year that such individual is covered by Medicare part B.

"(b) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for any taxable year if—

"(1) such individual is covered under Medicare part B for any month during such year, and

"(2) the modified adjusted gross income of the taxpayer for such taxable year exceeds the threshold amount.

"(c) MEDICARE PART B PREMIUM TAX FOR MONTH.—

"(1) IN GENERAL.—The Medicare part B premium tax for any month is the applicable percentage (as defined in paragraph (2)) of the amount equal to the excess of—

"(A) 150 percent of the monthly actuarial rate for enrollees age 65 and over determined for that calendar year under section 1839(b) of the Social Security Act, over

"(B) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(2) PHASE-IN OF TAX.—If the modified adjusted gross income of the taxpayer for any taxable years exceeds the threshold amount by—

"(A) less than $25,000, the applicable percentage under this paragraph is 33⅓ percent;

"(B) at least $25,000, but less than $50,000, the applicable percentage under this paragraph is 66⅔ percent,

"(C) at least $50,000, but less than $75,000, the applicable percentage under this paragraph is 65/75 (expressed as a percent), or

"(D) at least $75,000, the applicable percentage under this paragraph is 100 percent.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $75,000,

"(B) $100,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married at the close of the taxable year but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 135, 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) MEDICARE PART B COVERAGE.—An individual shall be treated as covered under Medicare part B for any month if a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part for the month.

"(4) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part VIII. Medicare Part B Premiums For High-Income Individuals.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 1995 in taxable years ending after December 31, 1995.

SEC. 6114. EXTENSION OF 25 PERCENT PART B PREMIUM.

Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by striking "after after December 1995 and prior to January 1999" and inserting "after December 1995";

(2) by striking "(1)(A)" and inserting "(1)";

(3) by striking paragraph (2); and

(4) by redesignating subparagraph (B) of paragraph (1) as paragraph (2) (and redesignating the clauses of such subparagraph accordingly).

SEC. 6115. REDUCTION IN HOSPITAL OUTPATIENT SERVICES THROUGH ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1833(a)(2)(B) of the Social Security Act (42 U.S.C. 1395l(a)(2)(B)) is amended by striking "section 1886)—" and all that follows and inserting the following: "section 1886), an amount equal to a prospectively determined payment rate established by the Secretary that provides for payments for such items and services to be based upon a national rate adjusted to take into account the relative costs of furnishing such items and services in various geographic areas, except that for items and services furnished during cost reporting periods (or portions thereof) in years beginning with 1996, such amount shall be equal to 95 percent of the amount that would otherwise have been determined:".

(b) ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM.—Not later than July 1, 1995, the Secretary of Health and Human Services shall establish the prospective payment system for hospital outpatient services necessary to carry out section 1833(a)(2)(B) of the Social Security Act (as amended by subsection (a)).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 1996.

PART 3—SAVINGS RELATING TO MEDICARE PARTS A AND B

SEC. 6121. REDUCTION IN HOME HEALTH SERVICES THROUGH ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1833(a)(2)(A) of the Social Security Act (42 U.S.C. 1395l(a)(2)(A)) is amended by striking "section 1861(s)(10)(A), the lesser of—" and all that follows and inserting the following: "section 1861(s)(10)(A), an amount equal to a prospectively determined payment rate established by the Secretary that provides for payments for such services to be based upon

VOL 140 PT 15 AG 10 — 11 1994 UMI

a national rate adjusted to take into account the relative costs of furnishing such services in various geographic areas, except that for services furnished during cost reporting periods (or portions thereof) in years beginning with 1996, such amount shall be equal to 95 percent of the amount that would otherwise have been determined;".

(b) ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM.—Not later than July 1, 1995, the Secretary of Health and Human Services shall establish the prospective payment system for home health services necessary to carry out section 1833(a)(2)(A) of the Social Security Act (as amended by subsection (a)).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 1996.

SEC. 6122. MEDICARE SECONDARY PAYER.

(a) DELAY IN SUNSET OF DATA MATCHING REQUIREMENTS.—(1) Section 1862(b)(5)(C)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "1998" and inserting "2005".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking "1998" and inserting "2006",

(B) in clause (ii)(I), by striking "1997" and inserting "2004", and

(C) in clause (ii)(II), by striking "1998" and inserting "2005".

(b) EXTENSION OF MEDICARE SECONDARY PAYER TO DISABLED BENEFICIARIES.—Section 1862(b)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "1998" and inserting "2005".

(c) EXTENSION OF COVERAGE FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) of such Act (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the second sentence, by striking "October 1, 1998" and inserting "October 1, 1995"; and

(2) by adding at the end the following: "Effective for items and services furnished on or after October 1, 1995, and before October 1, 2005 (with respect to periods beginning on or after April 1, 1994), clauses (i) and (ii) shall be applied by substituting '24-month' for '12-month' each place it appears.".

PART 4—SAVINGS IN MEDICAID

SEC. 6131. ELIMINATION OF MEDICAID PEDIATRIC IMMUNIZATION PROGRAM.

Effective as if included in the enactment of the 13621 of the Omnibus Budget Reconciliation Act of 1993, title XIX of the Social Security Act is amended as follows:

(1) Section 1902(a) (42 U.S.C. 1396a(a)) is amended by striking paragraph (62).

(2) Section 1928 (42 U.S.C. 1396s) is repealed.

(3) Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) by inserting "or" at the end of paragraph (12),

(B) by striking the semicolon at the end of paragraph (13) and inserting a period, and

(C) by striking paragraphs (14) and (15).

(4) Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)) is amended—

(A) by adding "and" at the end of subparagraph (B),

(B) by striking "; and" at the end of subparagraph (C) and inserting a period, and

(C) by striking subparagraph (D).

(5) Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (11)(B)—

(ii) by inserting "and" before "(ii)", and

(iii) by striking "to the individual under section 1928, and (iii) providing for coordination of information and education on pediatric vaccinations and delivery of immunization services" and inserting "to him under section 1903";

(B) in paragraph (11)(C), by striking ", including the provision of information and education on pediatric vaccinations and the delivery of immunization services," and

(C) in paragraph (43)(A), by striking "and the need for age-appropriate immunizations against vaccine-preventable diseases".

(6) Section 1905(r)(1) (42 U.S.C. 1396d(r)(1)) is amended—

(A) in subparagraph (A)(i), by striking "and, with respect to immunizations under subparagraph (B)(iii), in accordance with the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines"; and

(B) in subparagraph (B)(iii), by striking "(according to the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines)".

SEC. 6132. 25 PERCENT REDUCTION IN AMOUNT OF PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(a) IN GENERAL.—Section 1923 of the Social Security Act (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(h) REDUCTION IN FEDERAL FINANCIAL PARTICIPATION FOR DISPROPORTIONATE SHARE ADJUSTMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the amount of payments under section 1903(a) with respect to any payment adjustment made under this section for hospitals in a State for quarters in a fiscal year shall not the applicable percentage of the amount otherwise determined under subsection (f)

"(2) APPLICABLE PERCENTAGE DEFINED.—In paragraph (1), the applicable percentage for a fiscal year is as follows:

"(A) For each of the fiscal years 1997 and 1998, 75 percent.

"(B) For fiscal year 1999, 70 percent.

"(C) For fiscal year 2000 and each succeeding fiscal year, 65 percent.".

(b) CONFORMING AMENDMENT.—Section 1923(c) of such Act (42 U.S.C. 1396r-4(c)) is amended in the matter preceding paragraph (1) by striking "(f) and (g)" and inserting "(f), (g), and (h)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to quarters in fiscal years beginning on or after October 1, 1995.

SEC. 6133. DENIAL OF MEDICAID ELIGIBILITY FOR CERTAIN ALIENS.

(a) IN GENERAL.—Section 1903(v) of the Social Security Act (42 U.S.C. 1396b(v)(1)) is amended—

(1) in paragraph (1)—

(A) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)", and

(B) by striking "who is not lawfully admitted" and all that follows and inserting a period;

(2) in paragraph (2), by striking "described in paragraph (1)"; and

(3) by adding at the end the following new paragraph:

"(4) The limitation on payments provided under paragraph (1) shall not apply with respect to medical assistance furnished to an alien—

"(A) who is 75 years of age or older;

"(B) in the case of an alien who has qualified for conditional entry pursuant to section 207 or 208 of the Immigration and Nationality Act, during the 5-year period beginning on the date such alien enters the United States; or

"(C) in the case of any other alien, during the 1-year period beginning on the date such alien enters the United States.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished during quarters beginning on or after the expiration of the 1-year period that begins on the date of the enactment of this Act, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 6134. ELIMINATION OF MEDICALLY NEEDY PROGRAM FOR INDIVIDUALS NOT IN AN INSTITUTION.

(a) IN GENERAL.—Section 1902(a)(10)(C) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)) is amended by inserting "such assistance is restricted to individuals in institutions and" after ", then".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to calendar quarters beginning on or after January 1, 1998.

TITLE VII—INCENTIVES TO PURCHASE LONG-TERM CARE INSURANCE

TABLE OF CONTENTS OF TITLE

TITLE VII—INCENTIVES TO PURCHASE LONG-TERM CARE INSURANCE

Subtitle A—Establishment of Federal Standards for Long-term Care Insurance

Sec. 7001. Establishment of Federal standards for long-term care insurance.

"TITLE XXVII—LONG-TERM CARE INSURANCE STANDARDS

"PART A—PROMULGATION OF STANDARDS AND MODEL BENEFITS

"Sec. 2701. Standards.

"PART B—ESTABLISHMENT AND IMPLEMENTATION OF LONG-TERM CARE INSURANCE POLICY STANDARDS

"Sec. 2711. Implementation of policy standards.
"Sec. 2712. Regulation of sales practices.
"Sec. 2713. Additional responsibilities for carriers.
"Sec. 2714. Renewability standards for issuance, and basis for cancellation of policies.
"Sec. 2715. Benefit standards.
"Sec. 2716. Nonforfeiture.
"Sec. 2717. Limit of period of contestability and right to return.
"Sec. 2718. Civil money penalty.

"PART C—LONG-TERM CARE INSURANCE POLICIES, DEFINITION AND ENDORSEMENTS

"Sec. 2721. Long-term care insurance policy defined.
"Sec. 2722. Code of conduct with respect to endorsements.

"PART D—MISCELLANEOUS PROVISIONS

"Sec. 2731. Definitions.

Subtitle B—Tax Treatment of Long-term Care Insurance

Sec. 7101. Treatment of long-term care insurance or plans.
Sec. 7102. Exclusion for benefits provided under long-term care insurance; inclusion of employer-provided coverage.
Sec. 7103. Qualified long-term services treated as medical care.
Sec. 7104. Exclusion from gross income for amounts otherwise includible on the surrender or cancellation of any life insurance policy which are used for long-term care insurance premiums.
Sec. 7105. Effective date.

Subtitle C—Studies

Sec. 7201. Feasibility of encouraging health care providers to donate services to homebound patients.
Sec. 7202. Feasibility of tax credit for heads of households who care for elderly family members in their homes.
Sec. 7203. Case management of current long-term care benefits.
Sec. 7204. Subacute care study.
Sec. 7205. Study of long-term care insurance.

Subtitle A—Establishment of Federal Standards for Long-term Care Insurance

SEC. 7001. ESTABLISHMENT OF FEDERAL STANDARDS FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) by redesignating title XXVII (42 U.S.C. 300cc et seq.) as title XXVIII; and

(2) by inserting after title XXVI the following new title:

"TITLE XXVII—LONG-TERM CARE INSURANCE STANDARDS

"PART A—PROMULGATION OF STANDARDS AND MODEL BENEFITS

"SEC. 2701. STANDARDS.

"(a) APPLICATION OF STANDARDS.—

"(1) NAIC.—The Secretary shall request that the National Association of Insurance Commissioners (hereinafter in this title referred to as the 'NAIC')—

"(A) develop specific standards that incorporate the requirements of this title; and

"(B) report to the Secretary on such standards,

by not later than 12 months after enactment of this title. If the NAIC develops such model standards that incorporate the requirements of this title within such period and the Secretary finds that such standards implement the requirements of this title, such standards shall be the standards applied under this title.

"(2) DEFAULT.—If the NAIC does not promulgate the model standards under paragraph (1) by the deadline established in that paragraph, the Secretary shall promulgate, within 12 months after such deadline, a regulation that provides standards that incorporate the requirements of this title and such standards shall apply as provided for in this title.

"(3) RELATION TO STATE LAW.—Nothing in this title shall be construed as preventing a State from applying standards that provide greater protection to policyholders of long-term care insurance policies than the standards promulgated under this title, except that such State standards may not be inconsistent or in conflict with any of the requirements of this title.

"(b) DEADLINE FOR APPLICATION OF STANDARDS.—

"(1) IN GENERAL.—Subject to paragraph (2), the date specified in this subsection for a State is—

"(A) the date the State adopts the standards established under subsection (a)(1); or

"(B) the date that is 1 year after the first day of the first regular legislative session that begins after the date such standards are first established under subsection (a)(2);

whichever is earlier.

"(2) STATE REQUIRING LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(A) requiring State legislation (other than legislation appropriating funds) in order for the standards established under subsection (a) to be applied; but

"(B) having a legislature which is not scheduled to meet within 1 year following the beginning of the next regular legislative session in which such legislation may be considered;

the date specified in this subsection is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1995. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(c) ITEMS INCLUDED IN STANDARDS.—The standards promulgated under subsection (a) shall include—

"(1) minimum Federal standards for long-term care insurance consistent with the provisions of this title;

"(2) standards for the enhanced protection of consumers with long-term care insurance;

"(3) procedures for the modification of the standards established under paragraph (1) in a manner consistent with future laws to expand existing Federal or State long-term care benefits or establish a comprehensive Federal or State long-term care benefit program; and

"(4) other activities determined appropriate by Congress.

"(d) CONSULTATION.—In establishing standards and models of benefits under this section, the Secretary shall provide for and consult with an advisory committee to be chosen by the Secretary, and composed of—

"(1) three individuals who are representatives of carriers;

"(2) three individuals who are representatives of consumer groups;

"(3) three representatives who are representatives of providers of long-term care services;

"(4) three other individuals who are not representatives of carriers or of providers of long-term care services and who have expertise in the delivery and financing of such services; and

"(5) the Secretary of Veterans Affairs.

"(e) DUTIES.—The advisory committee established under subsection (d) shall—

"(1) recommend the appropriate inflationary index to be used with respect to the inflation protection benefit portion of the standards;

"(2) recommend the uniform needs assessment mechanism to be used in determining the eligibility of individuals for benefits under a policy;

"(3) recommend appropriate standards for benefits under section 2715(c); and

"(4) perform such other activities as determined appropriate by the Secretary.

"(f) ADMINISTRATIVE PROVISIONS.—The following provisions of section 1886(e)(6) of the Social Security Act shall apply to the advisory committee chosen under subsection (d) in the same manner as such provisions apply under such section:

"(1) Subparagraph (C) (relating to staffing and administration).

"(2) Subparagraph (D) (relating to compensation of members).

"(3) Subparagraph (F) (relating to access to information).

"(4) Subparagraph (G) (relating to use of funds).

"(5) Subparagraph (H) (relating to periodic GAO audits).

"(6) Subparagraph (J) (relating to requests for appropriations).

"PART B—ESTABLISHMENT AND IMPLEMENTATION OF LONG-TERM CARE INSURANCE POLICY STANDARDS

"SEC. 2711. IMPLEMENTATION OF POLICY STANDARDS.

"(a) IN GENERAL.—

"(1) REGULATORY PROGRAM.—No long-term care policy (as defined in section (2721)) may be issued, sold, or offered for sale as a long-term care insurance policy in a State on or after the date specified in section 2701(b) unless—

"(A) the Secretary determines that the State has established a regulatory program that—

"(i) provides for the application and enforcement of the standards established under section 2701(a); and

"(ii) complies with the requirements of subsection (b);

by the date specified in section 2701(b), and the policy has been approved by the State commissioner or superintendent of insurance under such program; or

"(B) if the State has not established such a program, or if the State's regulatory program has been decertified, the policy has been certified by the Secretary (in accordance with such procedures as the Secretary may establish) as meeting the standards established under section 2701(a) by the date specified in section 2701(b).

For purposes of this subsection, the advertising or soliciting with respect to a policy, directly or indirectly, shall be deemed the offering for sale of the policy.

"(2) REVIEW OF STATE REGULATORY PROGRAMS.—The Secretary periodically shall review regulatory programs described in paragraph (1)(A) to determine if they continue to provide for the application and enforcement of the standards and procedures established under section 2701(a) and (b). If the Secretary determines that a State regulatory program no longer meets such standards and requirements, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the program to continue to meet such standards and requirements. If the Secretary makes a final determination that the State regulatory program, after such an opportunity, fails to meet such standards and requirements, the Secretary shall assume responsibility under paragraph (1)(B) with respect to certifying policies in the State and shall exercise full authority under section 2701 for carriers, agents, or associations or its subsidiary in the State plans in the State.

"(b) ADDITIONAL REQUIREMENTS FOR APPROVAL OF STATE REGULATORY PROGRAMS.—For purposes of subsection (a)(1)(A)(ii), the requirements of this subsection for a State regulatory program are as follows:

"(1) ENFORCEMENT.—The enforcement under the program—

"(A) shall be designed in a manner so as to secure compliance with the standards within 30 days after the date of a finding of noncompliance with such standards; and

"(B) shall provide for notice in the annual report required under paragraph (5) to the Secretary of cases where such compliance is not secured within such 30-day period.

"(2) PROCESS.—The enforcement process under each State regulatory program shall provide for—

"(A) procedures for individuals and entities to file written, signed complaints respecting alleged violations of the standards;

"(B) responding on a timely basis to such complaints;

"(C) the investigation of—

"(i) those complaints which have a reasonable probability of validity, and

"(ii) such other alleged violations of the standards as the program finds appropriate; and

"(D) the imposition of appropriate sanctions (which include, in appropriate cases, the imposition of a civil money penalty as

VOL 140 PT 15 AG 10 — 11 1994 UMI

provided for in section 2718) in the case of a carrier, agent, or association or its subsidiary determined to have violated the standards.

"(3) CONSUMER ACCESS TO COMPLIANCE INFORMATION.—

"(A) IN GENERAL.—A State regulatory program must provide for consumer access to complaints filed with the State commissioner or superintendent of insurance with respect to long-term care insurance policies.

"(B) CONFIDENTIALITY.—The access provided under subparagraph (A) shall be limited to the extent required to protect the confidentiality of the identity of individual policyholders.

"(4) PROCESS FOR APPROVAL OF PREMIUMS.—

"(A) IN GENERAL.—Each State regulatory program shall—

"(i) provide for a process for approving or disapproving proposed premium increases or decreases with respect to long-term care insurance policies; and

"(ii) establish a policy for receipt and consideration of public comments before approving such a premium increase or decrease.

"(B) CONDITIONS FOR APPROVAL.—No premium increase shall be approved (or deemed approved) under subparagraph (A) unless the proposed increase is accompanied by an actuarial memorandum which—

"(i) includes a description of the assumptions that justify the increase;

"(ii) contains such information as may be required under the Standards; and

"(iii) is made available to the public.

"(C) APPLICATION.—Except as provided in subparagraph (D), this paragraph shall not apply to a group long-term care insurance policy issued to a group described in section 4(E)(1) of the NAIC Long Term Care Insurance Model Act (effective January 1991), except that such group policy shall, pursuant to guidelines developed by the NAIC, provide notice to policyholders and certificate holders of any premium change under such group policy.

"(D) EXCEPTION.—Subparagraph (C) shall not apply to—

"(i) group conversion policies;

"(ii) the group continuation feature of a group policy if the insurer separately rates employee and continuation coverages; and

"(iii) group policies where the function of the employer is limited solely to collecting premiums (through payroll deductions or dues checkoff) and remitting them to the insurer.

"(E) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the NAIC from promulgating standards, or a State from enacting and enforcing laws, with respect to premium rates or loss ratios for all, including group, long-term care insurance policies.

"(5) ANNUAL REPORTS.—Each State regulatory program shall provide for annual reports to be submitted to the Secretary on the implementation and enforcement of the standards in the State, including information concerning violations in excess of 30 days.

"(6) ACCESS TO OTHER INFORMATION.—The State regulatory program must provide for consumer access to actuarial memoranda provided under paragraph (4).

"(7) DEFAULT.—In the case of a State without a regulatory program approved under subsection (a), the Secretary shall provide for the enforcement activities described in subsection (c).

"(c) SECRETARIAL ENFORCEMENT AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall exercise authority under this section in the case of a State that does not have a regulatory program approved under this section.

"(2) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

"(A) for individuals and entities to file written, signed complaints respecting alleged violations of the requirements of this title;

"(B) for responding on a timely basis to such complaints; and

"(C) for the investigation of—

"(i) those complaints that have a reasonable probability of validity; and

"(ii) such other alleged violations of the requirements of this title as the Secretary determines to be appropriate.

In conducting investigations under this subsection, agents of the Secretary shall have reasonable access necessary to enable such agents to examine evidence of any carrier, agent, or association or its subsidiary being investigated.

"(3) HEARINGS.—

"(A) IN GENERAL.—Prior to imposing an order described in paragraph (4) against a carrier, agent, or association or its subsidiary under this section for a violation of the requirements of this title, the Secretary shall provide the carrier, agent, association or subsidiary with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary by regulation) of the date of the notice, a hearing respecting the violation.

"(B) CONDUCT OF HEARING.—Any hearing requested under subparagraph (A) shall be conducted before an administrative law judge. If no hearing is so requested, the Secretary's imposition of the order shall constitute a final and unappealable order.

"(C) AUTHORITY IN HEARINGS.—In conducting hearings under this paragraph—

"(i) agents of the Secretary and administrative law judges shall have reasonable access necessary to enable such agents and judges to examine evidence of any carrier, agent, or association or its subsidiary being investigated; and

"(ii) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this subparagraph and upon application of the Secretary, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(D) ISSUANCE OF ORDERS.—If an administrative law judge determines in a hearing under this paragraph, upon the preponderance of the evidence received, that a carrier, agent, or association or its subsidiary named in the complaint has violated the requirements of this title, the administrative law judge shall state the findings of fact and issue and cause to be served on such carrier, agent, association, or subsidiary an order described in paragraph (4).

"(4) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY.—

"(A) IN GENERAL.—Subject to the provisions of subparagraphs (B) through (F), an order under this paragraph—

"(i) shall require the agent, association or its subsidiary, or a carrier—

"(I) to cease and desist from such violations; and

"(II) to pay a civil penalty in an amount not to exceed $15,000 in the case of each agent, and not to exceed $25,000 for each association or its subsidiary or a carrier for each such violation; and

"(ii) may require the agent, association or its subsidiary, or a carrier to take such other remedial action as is appropriate.

"(B) CORRECTIONS WITHIN 30 DAYS.—No order shall be imposed under this paragraph by reason of any violation if the carrier, agent, or association or its subsidiary establishes to the satisfaction of the Secretary that—

"(i) such violation was due to reasonable cause and was not intentional and was not due to willful neglect; and

"(ii) such violation is corrected within the 30-day period beginning on the earliest date the carrier, agent, association, or subsidiary knew, or exercising reasonable diligence could have known, that such a violation was occurring.

"(C) WAIVER BY SECRETARY.—In the case of a violation under this title that is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the civil money penalty imposed under subparagraph (A)(i)(II) to the extent that payment of such penalty would be grossly excessive relative to the violation involved and to the need for deterrence of violations.

"(D) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge under this paragraph shall become the final agency decision and order of the Secretary unless, within 30 days, the Secretary modifies or vacates the decision and order, in which case the decision and order of the Secretary shall become a final order under this paragraph.

"(E) JUDICIAL REVIEW.—A carrier, agent, or association or its subsidiary or any other individual adversely affected by a final order issued under this paragraph may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(F) ENFORCEMENT OF ORDERS.—If a carrier, agent, or association or its subsidiary fails to comply with a final order issued under this paragraph against the carrier, agent, association or subsidiary after opportunity for judicial review under subparagraph (E), the Secretary shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

"SEC. 2712. REGULATION OF SALES PRACTICES.

"(a) DUTY OF GOOD FAITH AND FAIR DEALING.—

"(1) IN GENERAL.—Each agent (as defined in section 2733) or association that is selling or offering for sale a long-term care insurance policy has the duty of good faith and fair dealing to the purchaser or potential purchaser of such a policy.

"(2) PROHIBITED PRACTICES.—An agent or association is considered to have violated paragraph (1) if the agent or association engages in any of the following practices:

"(A) TWISTING.—

"(i) IN GENERAL.—Knowingly making any misleading representation (including the inaccurate completion of medical histories) or incomplete or fraudulent comparison of any long-term care insurance policy or insurers for the purpose of inducing, or tending to induce, any person to retain or effect a change with respect to a long-term care insurance policy.

"(ii) POLICY REPLACEMENT FORM.—With respect to any person who elects to replace or effect a change in a long-term care insurance policy, the individual that is selling such policy shall ensure that such person completes a policy replacement form developed by the NAIC. A copy of such form shall be provided to such person and additional copies shall be delivered by the selling individual to the old policy issuer and the new issuer and kept on file for inspection by the State regulatory agency.

"(B) HIGH PRESSURE TACTICS.—Employing any method of marketing having the effect of, or intending to, induce the purchase of long-term care insurance policy through force, fright, threat or undue pressure, whether explicit or implicit.

"(C) COLD LEAD ADVERTISING.—Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

"(D) OTHERS.—Engaging in such other practices determined inappropriate under guidelines issued by the NAIC.

"(b) FINANCIAL STANDARDS.—The NAIC shall develop recommended financial minimum standards (including both income and asset criteria) for the purpose of advising individuals considering the purchase of a long-term care insurance policy.

"(c) PROHIBITION OF SALE OR ISSUANCE TO MEDICAID BENEFICIARIES.—An agent, an association, or a carrier may not knowingly sell or issue a long-term care insurance policy to an individual who is eligible for medical assistance under title XIX of the Social Security Act.

"(d) PROHIBITION OF SALE OR ISSUANCE OF DUPLICATE SERVICE BENEFIT POLICIES.—An agent, association or its subsidiary, or a carrier may not sell or issue a service-benefit long-term care insurance policy to an individual—

"(1) knowing that the policy provides for coverage that duplicates coverage already provided in another service-benefit long-term care insurance policy held by such individual (unless the policy is intended to replace such other policy); or

"(2) for the benefit of an individual unless the individual (or a representative of the individual) provides a written statement to the effect that the coverage—

"(A) does not duplicate other coverage in effect under a service-benefit long-term care insurance policy; or

"(B) will replace another service-benefit long-term care insurance policy.

In this subsection, the term 'service-benefit long-term care insurance policy' means a long-term care insurance policy which provides for benefits based on the type and amount of services furnished.

"(e) PROHIBITION BASED ON ELIGIBILITY FOR OTHER BENEFITS.—A carrier may not sell or issue a long-term care insurance policy that reduces, limits or coordinates the benefits provided under the policy on the basis that the policyholder has or is eligible for other long-term care insurance coverage or benefits.

"(f) PROVISION OF OUTLINE OF COVERAGE.—No agent, association or its subsidiary, or carrier may sell or offer for a sale a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) without providing to the purchaser or potential purchaser (or representative) an outline of coverage that complies with the standards established under section 2701(a).

"(g) PENALTIES.—Any agent who sells, offers for sale, or issues a long-term care insurance policy in violation of this section may be imprisoned not more than 5 years, or fined in accordance with title 18, United States Code, and, in addition, is subject to a civil money penalty of not to exceed $15,000 for each such violation. Any association or its subsidiary or carrier that sells, offers for sale, or issues a long-term care insurance policy in violation of this section may be fined in accordance with title 18, United States Code, and in addition, is subject to a civil money penalty of not to exceed $25,000 for each violation.

"(h) AGENT TRAINING AND CERTIFICATION REQUIREMENTS.—The NAIC, shall establish requirements for long-term care insurance agent training and certification that—

"(1) specify requirements for training insurance agents who desire to sell or offer for sale long-term care insurance policies; and

"(2) specify procedures for certifying agents who have completed such training and who are as qualified to sell or offer for sale long-term care insurance policies.

"SEC. 2713. ADDITIONAL RESPONSIBILITIES FOR CARRIERS.

"(a) REFUND OF PREMIUMS.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is denied or an applicant returns a policy or certificate within 30 days of the date of its issuance pursuant to subsection 2717, the carrier shall refund directly to the applicant, or in the case of an employer to whomever remits the premium, and not by delivery by the agent, not later than 30 days after the date of the denial or return, any premiums paid with respect to such a policy (or certificate).

"(b) MAILING OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the carrier shall provide the applicant, or in the case of a group plan the employer, the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(c) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the carrier shall, within 30 days of the date of a written request by the policyholder or certificate holder (or representative)—

"(1) provide a written explanation of the reasons for the denial; and

"(2) make available all medical and patient records directly relating to such denial.

Except as provided in subsection (e) of section 2715, no claim under such a policy may be denied on the basis of a failure to disclose a condition at the time of issuance of the policy if the application for the policy failed to request information respecting the condition.

"(d) REPORTING OF INFORMATION.—A carrier that issues one or more long-term care insurance policies shall periodically (not less often than annually) report, in a form and in a manner determined by the NAIC, to the Commissioner, superintendent or director of insurance of each State in which the policy is delivered, and shall make available to the Secretary, upon request, information in a form and manner determined by the NAIC concerning—

"(1) the long-term care insurance policies of the carrier that are in force;

"(2) the most recent premiums for such policies and the premiums imposed for such policies since their initial issuance;

"(3) the lapse rate, replacement rate, and rescission rates by policy;

"(4) the names of that 10 percent of its agents that—

"(A) have the greatest lapse and replacement rate; and

"(B) have produced at least $50,000 of long-term care insurance sales in the previous year; and

"(5) the claims denied (expressed as a number and as a percentage of claims submitted) by policy.

Information required under this subsection shall be reported in a format specified in the standards established under section 2701(a). For purposes of paragraph (3), there shall be included (but reported separately) data concerning lapses due to the death of the policyholder. For purposes of paragraph (4), there shall not be included as a claim any claim that is denied solely because of the failure to meet a deductible, waiting period, or exclusionary period.

"(e) STANDARDS ON COMPENSATION FOR SALE OF POLICIES.—

"(1) IN GENERAL.—A carrier that issues one or more long-term care insurance policies may provide a commission or other compensation to an agent or other representative for the sale of such a policy only if the first year commission or other first year compensation to be paid does not exceed 200 percent of the commission or other compensation paid for selling or servicing the policy in the second year, or if the first year commission or other compensation to be paid does not exceed 50 percent of the premium paid on the first year policy, until the NAIC promulgates mandatory standards concerning compensation for the sale of such policies.

"(2) SUBSEQUENT YEARS.—The commission or other compensation provided for the sale of long-term care insurance policies in years subsequent to the first year of the policy shall be the same as that provided in the second subsequent year and shall be provided for no fewer than 5 subsequent years.

"(3) LIMITATION.—No carrier shall provide compensation to its agents for the sale of a long-term care insurance policy and no agent shall receive compensation greater than the renewal compensation payable by the replacing carrier on renewal policies if an existing policy is replaced.

"(4) COMPENSATION DEFINED.—As used in this subsection, the term 'compensation' includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy, including but not limited to deferred compensation, bonuses, gifts, prizes, awards, and finders fees.

"SEC. 2714. RENEWABILITY STANDARDS FOR ISSUANCE, AND BASIS FOR CANCELLATION OF POLICIES.

"(a) IN GENERAL.—No long-term care insurance policy may be canceled or nonrenewed for any reason other than nonpayment of premium, material misrepresentation or fraud.

"(b) CONTINUATION AND CONVERSION RIGHTS FOR GROUP POLICIES.—

"(1) IN GENERAL.—Each group long-term care insurance policy shall provide covered individuals with a basis for continuation or conversion in accordance with this subsection.

"(2) BASIS FOR CONTINUATION.—For purposes of paragraph (1), a policy provides a basis for continuation of coverage if the policy maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. A group policy which restricts provision of benefits and services to or contains incentives to use certain providers or facility, may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(3) BASIS FOR CONVERSION.—For purposes of paragraph (1), a policy provides a basis for conversion of coverage if the policy entitles each individual—

"(A) whose coverage under the group policy would otherwise be terminated for any reason; and

"(B) who has been continuously insured under the policy (or group policy which was replaced) for at least 6 months before the date of the termination;

to issuance of a policy providing benefits identical to, substantially equivalent to, or in excess of, those of the policy being terminated, without evidence of insurability.

"(4) TREATMENT OF SUBSTANTIAL EQUIVALENCE.—In determining under this subsection whether benefits are substantially equivalent, consideration should be given to the difference between managed care and non-managed care plans.

"(5) GROUP REPLACEMENT OF POLICIES.—If a group long-term care insurance policy is replaced by another long-term care insurance policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

"(c) STANDARDS FOR ISSUANCE.—

"(1) IN GENERAL.—

"(A) GUARANTEE.—An agent, association or carrier that sells or issues long-term care insurance policies shall guarantee that such policies shall be sold or issued to an individual, or eligible individual in the case of a group plan, if such individual meets the minimum medical underwriting requirements of such policy.

"(B) PREMIUM FOR CONVERTED POLICY.—If a group policy from which conversion is made is a replacement for a previous group policy, the premium for the converted policy shall be calculated on the basis of the insured's age at the inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

"(2) UPGRADE FOR CURRENT POLICIES.—The NAIC shall establish standards, including those providing guidance on medical underwriting and age rating, with respect to the access of individuals to policies offering upgraded benefits.

"(d) EFFECT OF INCAPACITATION.—

"(1) IN GENERAL.—

"(A) PROHIBITION.—Except as provided in paragraph (2), a long-term care insurance policy in effect as of the effective date of the standards established under section 2701(a) may not be canceled for nonpayment if the policy holder is determined by a long-term care provider, physician or other health care provider, independent of the issuer of the policy, to be cognitively or mentally incapacitated so as to not make payments in a timely manner.

"(B) REINSTATEMENT.—A long-term care policy shall include a provision that provides for the reinstatement of such coverage, in the event of lapse, if the insurer is provided with proof of cognitive or mental incapacitation. Such reinstatement option shall remain available for a period of not less than 5 months after termination and shall allow for the collection of past due premium.

"(2) PERMITTED CANCELLATION.—A long-term care insurance policy may be canceled under paragraph (1) for nonpayment if—

"(A) the period of such nonpayment is in excess of 30 days; and

"(B) notice of intent to cancel is provided to the policyholder or designated representative of the policyholder not less than 30 days prior to such cancellation, except that notice may not be provided until the expiration of 30 days after a premium is due and unpaid.

Notice under this paragraph shall be deemed to have been given as of 5 days after the mailing date.

"SEC. 2715. BENEFIT STANDARDS.

"(a) USE OF STANDARD DEFINITIONS AND TERMINOLOGY, UNIFORM FORMAT, AND STANDARD BENEFITS.—Each long-term care insurance policy shall, with respect to services, providers or facilities, pursuant to standards established under section 2701(a)—

"(1) use uniform language and definitions, except that such language and definitions may take into account the differences between States with respect to definitions and terminology used for long-term care services and providers;

"(2) use a uniform format for presenting the outline of coverage under such a policy; and

"(3) provide coverage for at least one standard benefits package (of those developed by the NAIC) that shall include the limitations on the amount of payments per day and the lengths of covered stays for nursing facility and home health care services;

as prescribed under guidelines issued by the NAIC and periodically updated.

"(b) DISCLOSURE.—

"(1) OUTLINE OF COVERAGE.—

"(A) REQUIREMENT.—Each carrier that sells or offers for sale a long-term care insurance policy shall provide an outline of coverage under such policy that meets the applicable standards established pursuant to section 2701(a), complies with the requirements of subparagraph (B), and is in a uniform format as prescribed in guidelines issued by the NAIC and periodically updated.

"(B) CONTENTS.—The outline of coverage for each long-term care insurance policy shall include at least the following:

"(i) A description of the principal benefits and coverage under the policy.

"(ii) A statement of the principal exclusions, reductions, and limitations contained in the policy.

"(iii) A statement of the terms under which the policy (or certificate) may be continued in force or discontinued, the terms for continuation or conversion, and any reservation in the policy of a right to change premiums.

"(iv) A statement, in bold face type on the face of the document in language that is understandable to an average individual, that the outline of coverage is a summary only, not a contract of insurance, and that the policy (or master policy) contains the contractual provisions that govern, except that such summary shall substantially and accurately reflect the contents of the policy or the master policy.

"(v) A description of the terms, specified in section 2717, under which a policy or certificate may be returned and premium refunded.

"(vi) Information on national average costs for nursing facility and home health care and information (in graphic form) on the relationship of the value of the benefits provided under the policy to such national average costs and State average costs, where available.

"(vii) A statement of the percentage limit on annual premium increases that is provided under the policy pursuant to this section.

"(2) CERTIFICATES.—A certificate issued pursuant to a group long-term care insurance policy shall include—

"(A) a description of the principal benefits and coverage provided in the policy;

"(B) a statement of the principal exclusions, reductions, and limitations contained in the policy; and

"(C) a statement that the group master policy determines governing contractual provisions.

"(3) LONG-TERM CARE AS PART OF LIFE INSURANCE.—In the case of a long-term care insurance policy issued as a part of, or a rider on, a life insurance policy, at the time of policy delivery there shall be provided a policy summary that includes—

"(A) an explanation of how the long-term care benefits interact with other components of the policy (including deductions from death benefits);

"(B) an illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits (if any) for each covered person; and

"(C) any exclusions, reductions, and limitations on benefits of long-term care.

"(4) ADDITIONAL INFORMATION.—The NAIC shall develop recommendations with respect to informing consumers of the long-term economic viability of carriers issuing long-term care insurance policies.

"(c) LIMITING CONDITIONS ON BENEFITS; MINIMUM BENEFITS.—

"(1) IN GENERAL.—A long-term care insurance policy may not condition or limit eligibility—

"(A) for benefits for a type of services to the need for or receipt of any other services;

"(B) for any benefit on the medical necessity for such benefit;

"(C) for benefits furnished by licensed or certified providers in compliance with conditions which are in addition to those required for licensure or certification under State law, except that if no State licensure or certification laws exists, in compliance with qualifications developed by the NAIC; or

"(D) for residential care (if covered under the policy) only—

"(i) to care provided in facilities which provide a higher level of care; or

"(ii) to care provided in facilities which provide for 24-hour or other nursing care not required in order to be licensed by the State.

"(2) HOME HEALTH CARE OR COMMUNITY-BASED SERVICES.—If a long-term care insurance policy provides benefits for the payment of specified home health care or community-based services, the policy—

"(A) may not limit such benefits to services provided by registered nurses or licensed practical nurses;

"(B) may not require benefits for such services to be provided by a nurse or therapist that can be provided by a home health aide or licensed or certified home care worker, except that if no State licensure or certification laws exists, in compliance with qualifications developed by the NAIC;

"(C) may not limit such benefits to services provided by agencies or providers certified under title XVIII of the Social Security Act; and

"(D) must provide, at a minimum, benefits for personal care services (including home health aide and home care worker services as defined by the NAIC) home health services, adult day care, and respite care in an individual's home or in another setting in the community, or any of these benefits on a respite care basis.

"(3) NURSING FACILITY SERVICES.—If a long-term care insurance policy provides benefits for the payment of specified nursing facility services, the policy must provide such benefits with respect to all nursing facilities (as defined in section 1919(a) of the Social Security Act or until such time as subsequently provided for by the NAIC in establishing uniform language and definitions under section 2715(a)(1)) in the State.

"(4) PER DIEM POLICIES.—

"(A) DEFINITION.—For purposes of this title, the term 'per diem long-term care insurance policy' means a long-term care insurance policy (or certificate under a group long-term care insurance policy) that provides for benefit payments on a periodic basis due to cognitive impairment or loss of functional capacity without regard to the expenses incurred or services rendered during the period to which the payments relate.

"(B) LIMITATION.—No per diem long-term care insurance policy (or certificate) may condition or otherwise exclude benefit payments based on the receipt of any type of nursing facility, home health care or community-based services.

"(d) PROHIBITION OF DISCRIMINATION.—A long-term care insurance policy may not treat benefits under the policy in the case of an individual with Alzheimer's disease, with any related progressive degenerative dementia of an organic origin, with any organic or inorganic mental illness, or with mental retardation or any other cognitive or mental impairment differently from an individual having another medical condition for which benefits may be made available.

"(e) LIMITATION ON USE OF PREEXISTING CONDITION LIMITS.—

"(1) INITIAL ISSUANCE.—

"(A) IN GENERAL.—Subject to subparagraph (B), a long-term care insurance policy may not exclude or condition benefits based on a medical condition for which the policyholder received treatment or was otherwise diagnosed before the issuance of the policy.

"(B) 6-MONTH LIMIT.—

"(i) IN GENERAL.—No long-term care insurance policy or certificate issued under this title shall utilize a definition of 'preexisting condition' that is more restrictive than the following: The term 'preexisting condition' means a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within 6 months preceding the effective date of coverage of an insured individual.

"(ii) PROHIBITION ON EXCLUSION OF COVERAGE.—No long-term care insurance policy or certificate may exclude coverage for a loss or confinement that is the result of a preexisting condition unless such loss or confinement begins within 6 months following the effective date of the coverage of the insured individual.

"(2) REPLACEMENT POLICIES.—If a long-term care insurance policy replaces another long-term care insurance policy, the issuer of the replacing policy shall waive any time periods applicable to preexisting conditions, waiting period, elimination periods and probationary periods in the new policy for similar benefits to the extent such time was spent under the original policy.

"(f) ELIGIBILITY FOR BENEFITS.—

"(1) LONG-TERM CARE POLICIES.—Each long-term care insurance policy shall—

"(A) describe the level of benefits available under the policy; and

"(B) specify in clear, understandable terms, the level (or levels) of physical, cognitive, or mental impairment required in order to receive benefits under the policy.

"(2) FUNCTIONAL ASSESSMENT.—In order to submit a claim under any long-term care insurance policy, each claimant shall have a professional functional assessment of his or her physical, cognitive, and mental abilities. Such initial assessment shall be conducted by an individual or entity, meeting the qualifications established by the NAIC to assure the professional competence and credibility of such individual or entity and that such individual meets any applicable State licensure and certification requirements. The individual or entity conducting such assessment may not control, or be controlled by, the issuer of the policy. For purposes of this paragraph and paragraph (4), the term 'control' means the direct or indirect possession of the power to direct the management and policies of a person. Control is presumed to exist, if any person directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 percent of the voting securities of another person.

"(3) CLAIMS REVIEW.—Except as provided in paragraph (4), each long-term care insurance policy shall be subject to final claims review by the carrier pursuant to the terms of the long-term care insurance policy.

"(4) APPEALS PROCESS.—

"(A) IN GENERAL.—Each long-term care insurance policy shall provide for a timely and independent appeals process, meeting standards established by the NAIC, for individuals who dispute the results of the claims review, conducted under paragraph (3), of the claimant's functional assessment, conducted under paragraph (2).

"(B) INDEPENDENT ASSESSMENT.—An appeals process under this paragraph shall include, at the request of the claimant, an independent assessment of the claimant's physical, cognitive or mental abilities.

"(C) CONDUCT.—An independent assessment under subparagraph (B) shall be conducted by an individual or entity meeting the qualifications established by the NAIC to assure the professional competence and credibility of such individual or entity and any applicable State licensure and certification requirements and may not be conducted—

"(i) by an individual who has a direct or indirect significant or controlling interest in, or direct affiliation or relationship with, the issuer of the policy;

"(ii) by an entity that provides services to the policyholder or certificateholder for which benefits are available under the long-term care insurance policy; or

"(iii) by an individual or entity in control of, or controlled by, the issuer of the policy.

"(5) STANDARD ASSESSMENTS.—Not later than 2 years after the date of enactment of this title, the advisory committee established under section 2701(d) shall recommend uniform needs assessment mechanisms for the determination of eligibility for benefits under such assessments.

"(g) INFLATION PROTECTION.—

"(1) OPTION TO PURCHASE.—A carrier may not offer a long-term care insurance policy unless the carrier also offers to the proposed policyholder, including each group policyholder, the option to purchase a policy that provides for increases in benefit levels, with benefit maximums or reasonable durations that are meaningful, to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. A carrier may not offer to a policyholder an inflation protection feature that is less favorable to the policyholder than one of the following:

"(A) With respect to policies that provide for automatic periodic increases in benefits, the policy provides for an annual increase in benefits in a manner so that such increases are computed annually at a rate of not less than 5 percent.

"(B) With respect to policies that provide for periodic opportunities to elect an increase in benefits, the policy guarantees that the insured individual will have the right to periodically increase the benefit levels under the policy without providing evidence of insurability or health status so long as the option for the previous period was not declined. The amount of any such additional benefit may not be less than the difference between—

"(i) the existing policy benefit; and

"(ii) such existing benefit compounded annually at a rate of at least 5 percent for the period beginning on the date on which the existing benefit is purchased and extending until the year in which the offer of increase is made.

"(C) With respect to service benefit policies, the policy covers a specified percentage of the actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

"(2) EXCEPTION.—The requirements of paragraph (1) shall not apply to life insurance policies or riders containing accelerated long-term care benefits.

"(3) REQUIRED INFORMATION.—Carriers shall include the following information in or together with the outline of coverage provided under this title:

"(A) A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. Such comparison shall show benefit levels over not less than a 20-year period.

"(B) Any expected premium increases or additional premiums required to pay for any automatic or optional benefit increases, whether the individual who purchases the policy obtains the inflation protection initially or whether such individual delays purchasing such protection until a future time.

"(4) CONTINUATION OF PROTECTION.—Inflation protection benefit increases under this subsection under a policy that contains such protection shall continue without regard to an insured's age, claim status or claim history, or the length of time the individual has been insured under the policy.

"(5) CONSTANT PREMIUM.—An offer of inflation protection under this subsection that provides for automatic benefit increases shall include an offer of a premium that the carrier expects to remain constant. Such offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

"(6) REJECTION.—Inflation protection under this subsection shall be included in a long-term care insurance policy unless a carrier obtains a written rejection of such protection signed by the policyholder.

"SEC. 2716. NONFORFEITURE.

"(a) IN GENERAL.—Each long-term care insurance policy (or certificate) shall provide that if the policy lapses after the policy has been in effect for a minimum period (specified under the standards under section 2701(a)), the policy will provide, without payment of any additional premiums, nonforfeiture benefits as determined appropriate by the NAIC.

"(b) ESTABLISHMENT OF STANDARDS.—The standards under section 2701(a) shall provide that the percentage or amount of benefits

VOL 140 PT 15 AG 10 — 11 1994 UMI

under subsection (a) must increase based upon the policyholder's equity in the policy.

"SEC. 2717. LIMIT OF PERIOD OF CONTESTABILITY AND RIGHT TO RETURN.

"(a) CONTESTABILITY.—A carrier may not cancel or renew a long-term care insurance policy or deny a claim under the policy based on fraud or material misrepresentation relating to the issuance of the policy unless notice of such fraud or material misrepresentation is provided within a time period to be determined by the NAIC.

"(b) RIGHT TO RETURN.—Each applicant for a long-term care insurance policy shall have the right to return the policy (or certificates) within 30 days of the date of its delivery (and to have the premium refunded) if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

"SEC. 2718. CIVIL MONEY PENALTY.

"(a) CARRIER.—Any carrier, association or its subsidiary that sells or offers for sale a long-term care insurance policy and that—

"(1) fails to make a refund in accordance with section 2713(a);

"(2) fails to transmit a policy in accordance with section 2713(b);

"(3) fails to provide, make available, or report information in accordance with subsections (c) or (d) of section 2713;

"(4) provides a commission or compensation in violation of section 2713(e);

"(5) fails to provide an outline of coverage in violation of section 2715(b)(1); or

"(6) issues a policy without obtaining certain information in violation of section 2715(f);

is subject to a civil money penalty of not to exceed $25,000 for each such violation.

"(b) AGENTS.—Any agent that sells or offers for sale a long-term care insurance policy and that—

"(1) fails to make a refund in accordance with section 2713(a);

"(2) fails to transmit a policy in accordance with section 2713(b);

"(3) fails to provide, make available, or report information in accordance with subsections (c) or (d) of section 2713;

"(4) fails to provide an outline of coverage in violation of section 2715(b)(1); or

"(5) issues a policy without obtaining certain information in violation of section 2715(f);

is subject to a civil money penalty of not to exceed $15,000 for each such violation.

"PART C—LONG-TERM CARE INSURANCE POLICIES, DEFINITION AND ENDORSEMENTS

"SEC. 2721. LONG-TERM CARE INSURANCE POLICY DEFINED.

"(a) IN GENERAL.—As used in this section, the term 'long-term care insurance policy' means any insurance policy, rider or certificate advertised, marketed, offered or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity prepaid or other basis, for one or more necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes—

"(1) group and individual annuities and life insurance policies, riders or certificates that provide directly, or that supplement long-term care insurance; and

"(2) a policy, rider or certificates that provides for payment of benefits based on cognitive impairment or the loss of functional capacity.

"(b) ISSUANCE.—Long-term care insurance policies may be issued by—

"(1) carriers;

"(2) fraternal benefit societies;

"(3) nonprofit health, hospital, and medical service corporations;

"(4) prepaid health plans;

"(5) health maintenance organizations; or

"(6) any similar organization to the extent they are otherwise authorized to issue life or health insurance.

"(c) POLICIES EXCLUDED.—The term 'long-term care insurance policy' shall not include any insurance policy, rider or certificate that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage. With respect to life insurance, such term shall not include life insurance policies, riders or certificates that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

"(d) APPLICATIONS.—Notwithstanding any other provision of this title, this title shall apply to any product advertised, marketed or offered as a long-term insurance policy, rider or certificate.

"SEC. 2722. CODE OF CONDUCT WITH RESPECT TO ENDORSEMENTS.

"Not later than 1 year after the date of enactment of this title the NAIC shall issue guidelines that shall apply to organizations and associations, other than employers and labor organizations that do not accept compensation, and their subsidiaries that provide endorsements of long-term care insurance policies, or that permit such policies to be offered for sale through the organization or association. Such guidelines shall include at minimum the following:

"(1) In endorsing or selling long-term care insurance policies, the primary responsibility of an organization or association shall be to educate their members concerning such policies and assist such members in making informed decisions. Such organizations and associations may not function primarily as sales agents for insurance companies.

"(2) Organizations and associations shall provide objective information regarding long-term care insurance policies sold or endorsed by such organizations and associations to ensure that members of such organizations and associations have a balanced and complete understanding of both the strengths and weaknesses of the policies that are being endorsed or sold.

"(3) Organizations and associations selling or endorsing long-term care insurance policies shall disclose in marketing literature provided to their members concerning such policies the manner in which such policies and the insurance company issuing such policies were selected. If the organization or association and the insurance company have interlocking directorates, the organization or association shall disclose such fact to their members.

"(4) Organizations and associations selling or endorsing long-term care insurance policies shall disclose in marketing literature provided to their members concerning such policies the nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support that the organization or association receives) from the endorsement or sale of the policy to its members.

"(5) The Boards of Directors of organizations and associations selling or endorsing long-term care insurance policies, if such organizations and associations have a Board of Directors, shall review and approve such insurance policies, the compensation arrangements and the marketing materials used to promote sales of such policies.

"PART D—MISCELLANEOUS PROVISIONS

"SEC. 2731. DEFINITIONS.

"As used in this title:

"(1) AGENT.—The term 'agent' means—

"(A) prior to 2 years after the date of enactment of this Act, an individual who sells or offers for sale a long-term care insurance policy subject to the requirements of this title and is licensed or required to be licensed under State law for such purpose; and

"(B) after the date referred to in subparagraph (A), an individual who meets the training and certification requirements established under section 2712(f).

"(2) ASSOCIATION.—The term 'association' includes the association and its subsidiaries.

"(3) CARRIER.—The term 'carrier' means any person that offers a health benefit plan, whether through insurance or otherwise, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, a self-insured carrier, a reinsurance carrier, and a multiple employer welfare arrangement (a combination of employers associated for the purpose of providing health benefit plan coverage for their employees).".

(b) CONFORMING AMENDMENTS.—

(1) Sections 2701 through 2714 of the Public Health Service Act (42 U.S.C. 300cc through 300cc–15) are redesignated as sections 2801 through 2814, respectively.

(2) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289(f)) are amended by striking "2701" each place that such appears and inserting "2801".

Subtitle B—Tax Treatment of Long-term Care Insurance

SEC. 7101. TREATMENT OF LONG-TERM CARE INSURANCE OR PLANS.

(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 818 the following new section:

"SEC. 818A. TREATMENT OF LONG-TERM CARE INSURANCE OR PLANS.

"(a) GENERAL RULE.—For purposes of this part, a long-term care insurance contract shall be treated as an accident or health insurance contract.

"(b) LONG-TERM CARE INSURANCE CONTRACT.—

"(1) IN GENERAL.—For purposes of this part, the term 'long-term care insurance contract' means any insurance contract issued if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services and benefits incidental to such coverage,

"(B) the maximum benefit under the policy for expenses incurred for any day does not exceed $200,

"(C) such contract does not cover expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(D) such contract is guaranteed renewable,

"(E) such contract does not have any cash surrender value, and

"(F) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be treated as described in paragraph (1)(A) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) CONTRACT MAY COVER MEDICARE REIMBURSABLE EXPENSES WHERE MEDICARE IS SECONDARY PAYOR.—Paragraph (1)(C) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(F) shall not apply to any refund of premiums on surrender or cancellation of the contract.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual in a qualified facility, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i)(I) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined in subparagraph (B)) for a period of at least 90 days due to a loss of functional capacity, or

"(II) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in subclause (I), or

"(ii) having a similar level of disability due to cognitive impairment.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) MOBILITY.—The process of walking or wheeling on a level surface which may include the use of an assistive device such as a cane, walker, wheelchair, or brace.

"(ii) DRESSING.—The overall complex behavior of getting clothes from closets and drawers and then getting dressed.

"(iii) TOILETING.—The act of going to the toilet room for bowel and bladder function, transferring on and off the toilet, cleaning after elimination, and arranging clothes or the ability to voluntarily control bowel and bladder function, or in the event of incontinence, the ability to maintain a reasonable level of personal hygiene.

"(iv) TRANSFER.—The process of getting in and out of bed or in and out of a chair or wheelchair.

"(v) EATING.—The process of getting food from a plate or its equivalent into the mouth.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means—

"(A) a nursing, rehabilitative, hospice, or adult day care facility (including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution)—

"(i) which is licensed under State law, or

"(ii) which is a certified facility for purposes of title XVIII or XIX of the Social Security Act, or

"(B) an individual's home if a licensed health care practitioner certifies that without home care the individual would have to be cared for in a facility described in subparagraph (A).

"(4) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is to provide needed assistance with any of the activities of daily living described in paragraph (2)(B).

"(5) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) CONTINUATION COVERAGE EXCISE TAX NOT TO APPLY.—This section shall not apply in determining whether section 4980B (relating to failure to satisfy continuation coverage requirements of group health plans) applies.

"(e) INFLATION ADJUSTMENT OF $200 BENEFIT LIMIT.—

"(1) IN GENERAL.—In the case of a calendar year after 1994, the $200 amount contained in subsection (b)(1)(B) shall be increased for such calendar year by the medical care cost adjustment for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(2) MEDICAL CARE COST ADJUSTMENT.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(B) such component for August of 1993."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart E is amended by inserting after the item relating to section 818 the following new item:

"Sec. 818A. Treatment of long-term care insurance or plans."

SEC. 7102. EXCLUSION FOR BENEFITS PROVIDED UNDER LONG-TERM CARE INSURANCE; INCLUSION OF EMPLOYER-PROVIDED COVERAGE.

(a) IN GENERAL.—Subsection (a) of section 104 of the Internal Revenue Code of 1986 (relating to compensation for injuries or sickness) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by inserting after paragraph (4) the following new paragraph:

"(6) benefits under a long-term care insurance contract (as defined in section 818A(b)),"

(b) INCLUSION OF EMPLOYER-PROVIDED COVERAGE.—Section 106 of such Code (relating to contributions by employer to accident and health plans) is amended by adding at the end thereof the following sentence: "The preceding sentence shall not apply to any plan providing coverage for long-term care services."

SEC. 7103. QUALIFIED LONG-TERM SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) of the Internal Revenue Code of 1986 (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 818A(c)), or".

(b) DEDUCTION FOR LONG-TERM CARE EXPENSES FOR PARENT OR GRANDPARENT.—Section 213 of such Code (relating to deduction for medical expenses) is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN LONG-TERM CARE EXPENSES.—For purposes of subsection (a), the term 'dependent' shall include any parent or grandparent of the taxpayer for whom the taxpayer has expenses for long-term care services described in section 818A(c), but only to the extent of such expenses."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) of such Code (as redesignated by subsection (a)) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(2)(A) Paragraph (1) of section 213(d) of such Code is amended by adding at the end thereof the following new flush sentence:

"In the case of a long-term care insurance contract (as defined in section 818A), only eligible long-term care premiums (as defined in paragraph (10)) shall be taken into account under subparagraph (D)."

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(10) ELIGIBLE LONG-TERM CARE PREMIUMS.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any long-term care insurance contract (as defined in section 818A) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	$200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	1,600
More than 70	2,000.

"(B) INDEXING.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1993, each dollar amount contained in paragraph (1) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1991."

VOL 140 PT 15 AG 10 — 11 1994 UMI

(3) Paragraph (6) of section 213(d) of such Code is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) of such Code is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

SEC. 7104. EXCLUSION FROM GROSS INCOME FOR AMOUNTS OTHERWISE INCLUDIBLE ON THE SURRENDER OR CANCELLATION OF ANY LIFE INSURANCE POLICY WHICH ARE USED FOR LONG-TERM CARE INSURANCE PREMIUMS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. AMOUNTS RECEIVED ON CANCELLATION, ETC., OF LIFE INSURANCE CONTRACTS AND USED TO PAY PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE.

"No amount which would (but for this section) be includible in the gross income of an individual shall be included in gross income on the whole or partial surrender, cancellation, or exchange of any life insurance contract during the taxable year if—

"(1) such individual has attained age 65 on or before the date of the transaction, and

"(2) the amount otherwise includible in gross income is used during such year to pay premiums for any qualified long-term care insurance policy (as defined in section 2721(a) of the Public Health Service Act) for the benefit of such individual or the spouse of such individual if such spouse has attained age 65 on or before the date of the transaction.".

(b) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking the last item and inserting the following new items:

"Sec. 137. Amounts received on cancellation, etc., of life insurance contracts and used to pay premiums for qualified long-term care insurance.

"Sec. 138. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7105. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Studies

SEC. 7201. FEASIBILITY OF ENCOURAGING HEALTH CARE PROVIDERS TO DONATE SERVICES TO HOMEBOUND PATIENTS.

The Comptroller General of the United States shall conduct a study on the feasibility of encouraging health care providers to donate their services to homebound patients. Such study shall include an examination of the effects of qualifying such services as a charitable contribution.

SEC. 7202. FEASIBILITY OF TAX CREDIT FOR HEADS OF HOUSEHOLDS WHO CARE FOR ELDERLY FAMILY MEMBERS IN THEIR HOMES.

The Comptroller General of the United States shall conduct a study on the feasibility of providing heads of households who care for elderly family members in their homes with a tax credit. Such study shall estimate the cost of such a tax credit which would apply to expenses incurred in the custodial care of such an elderly family member to the extent such expenses exceed 5 percent of adjusted gross income.

SEC. 7203. CASE MANAGEMENT OF CURRENT LONG-TERM CARE BENEFITS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of the feasibility of encouraging or requiring the use of a single designated public or nonprofit agency (such as an area agency on aging) to coordinate, through case management, the provision of long-term care benefits under current Federal, State, and local programs in a geographic area.

(b) REPORT.—The Secretary shall submit to Congress a report on the study conducted under subsection (a) by not later than 1 year after the date of the enactment of this Act. Such report shall include such recommendations regarding changes in legislation to encourage or require the use (described in subsection (a)) of an agency to coordinate long-term care benefits as may be appropriate.

SEC. 7204. SUBACUTE CARE STUDY.

(a) STUDY.—The Secretary of Health and Human Services shall—

(1) define the level and type of care that should constitute subacute care;

(2) determine the appropriateness of furnishing subacute care in different settings by evaluating the quality of care and patient outcomes;

(3) determine the cost and effectiveness of providing subacute care under the medicare program under title XVIII of the Social Security Act to individuals who are eligible for benefits under part A of such title;

(4) determine the extent to which hospital DRG prospective payment rates under section 1886(d) of such Act (42 U.S.C. 1395ww(d)) are appropriate for the less restrictive institutional settings that provide subacute care; and

(5) study the relationships between institutions and their payment methodologies in order to develop ways in which to maximize the continuity of care for each patient episode in which subacute care is furnished.

(b) REPORT.—Not later than October 1, 1996, the Secretary shall submit to the Congress a report on the matters described in subsection (a).

SEC. 7205. STUDY OF LONG-TERM CARE INSURANCE.

(a) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Congress on alternatives for extending access to long-term care through the private insurance market. The Secretary shall specifically study the cost of current policies, their effectiveness in providing care and their availability to the general population.

(b) RECOMMENDATIONS.—The Secretary shall recommend any changes in Federal law which may be necessary to increase access to long-term care for all Americans through the private insurance market. In conducting this study, the Secretary shall consult with the National Association of Insurance Commissioners and other private entities with expertise in private health insurance and long-term care.

TITLE VIII—MISCELLANEOUS SAVINGS PROVISIONS

TABLE OF CONTENTS OF TITLE

Sec. 8001. Requirement that certain agencies prefund government health benefits contributions for their annuitants.
Sec. 8002. Ineligibility of aliens for SSI and medicaid.
Sec. 8003. Limitation on SSI benefits for drug and alcohol addicts.

SEC. 8001. REQUIREMENT THAT CERTAIN AGENCIES PREFUND GOVERNMENT HEALTH BENEFITS CONTRIBUTIONS FOR THEIR ANNUITANTS.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term "agency" means any agency or other instrumentality within the executive branch of the Government, the receipts and disbursements of which are not generally included in the totals of the budget of the United States Government submitted by the President;

(2) the term "health benefits plan" means, with respect to an agency, a health benefits plan, established by or under Federal law, in which employees or annuitants of such agency may participate;

(3) the term "health-benefits coverage" means coverage under a health benefits plan";

(4) an individual shall be considered to be an "annuitant of an agency" if such individual is entitled to an annuity, under a retirement system established by or under Federal law, by virtue of—

(A) such individual's service with, and separation from, such agency; or

(B) being the survivor of an annuitant under subparagraph (A) or of an individual who died while employed by such agency; and

(5) the term "Office" means the Office of Personnel Management.

(b) PREFUNDING REQUIREMENT.—

(1) IN GENERAL.—Effective as of October 1, 1994, each agency (or February 1, 1995, in the case of the agency with the greatest number of employees, as determined by the Office) shall be required to prepay the Government contributions which are or will be required in connection with providing health-benefits coverage for annuitants of such agency.

(2) REGULATIONS.—The Office shall prescribe such regulations as may be necessary to carry out this section. The regulations shall be designed to ensure at least the following:

(A) Amounts paid by each agency shall be sufficient to cover the amounts which would otherwise be payable by such agency (on a "pay-as-you-go" basis), on or after the applicable effective date under paragraph (1), on behalf of—

(i) individuals who are annuitants of the agency as of such effective date; and

(ii) individuals who are employed by the agency as of such effective date, or who become employed by the agency after such effective date, after such individuals have become annuitants of the agency (including their survivors).

(B)(i) For purposes of determining any amounts payable by an agency—

(I) this section shall be treated as if it had taken effect at the beginning of the 20-year period which ends on the effective date applicable under paragraph (1) with respect to such agency; and

(II) in addition to any amounts payable under subparagraph (A), each agency shall also be responsible for paying any amounts for which it would have been responsible, with respect to the 20-year period described in subclause (I), in connection with any individuals who are annuitants or employees of the agency as of the applicable effective date under paragraph (1).

(ii) Any amounts payable under this subparagraph for periods preceding the applicable effective date under paragraph (1) shall be payable in equal installments over the 20-year period beginning on such effective date.

(c) FASB STANDARDS.—Regulations under subsection (b) shall be in conformance with the provisions of standard 106 of the Financial Accounting Standards Board, issued in December 1990.

(d) CLARIFICATION.—Nothing in this section shall be considered to permit or require duplicative payments on behalf of any individuals.

(e) DRAFT LEGISLATION.—The Office shall prepare and submit to Congress any draft legislation which may be necessary in order to carry out this section.

SEC. 8002. INELIGIBILITY OF ALIENS FOR SSI AND MEDICAID.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsections (b) and (c), no alien shall be eligible for any program referred to in subsection (d).

(b) EXCEPTIONS.—

(1) REFUGEE EXCEPTION.—Subsection (a) shall not apply to an alien admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 6 years after the date of such alien's arrival into the United States.

(2) AGED EXCEPTION.—Subsection (a) shall not apply to an alien who—

(A) has been lawfully admitted to the United States for permanent residence;

(B) is over 75 years of age; and

(C) has resided in the United States for at least 5 years.

(3) CURRENT RESIDENT EXCEPTION.—Subsection (a) shall not apply to the eligibility of an alien for a program referred to in subsection (d) until 1 year after the date of the enactment of this Act if, on such date of enactment, the alien is residing in the United States and is eligible for the program.

(c) PROGRAMS FOR WHICH ALIENS MAY BE ELIGIBLE.—The limitation under subsection (a) shall not apply to medical assistance with respect to emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act).

(d) PROGRAMS FOR WHICH ALIENS ARE INELIGIBLE.—The programs referred to in this subsection are the following:

(1) The program of medical assistance under title XIX of the Social Security Act, except emergency services as provided in subsection (c).

(2) The supplemental security income program under title XVI of the Social Security Act.

(e) NOTIFICATION OF ALIENS.—Any Federal agency that administers a program referred to in subsection (d) shall, directly or through the States, notify each alien receiving benefits under the program whose eligibility for the program is or will be terminated by reason of this section.

SEC. 8003. LIMITATION ON SSI BENEFITS FOR DRUG AND ALCOHOL ADDICTS.

(a) IN GENERAL.—

(1) LIMITATION DESCRIBED.—Section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a)) is amended by adding at the end the following:

"(5)(A) The Secretary shall identify all recipients of benefits under this title by reason of disability whose disability is a result of addiction to illegal drugs.

"(B) The Secretary shall periodically, on a random basis, test each recipient identified under subparagraph (A) to determine whether the recipient is using illegal drugs.

"(C)(i) Notwithstanding any other provision of this title, any individual who is determined under subparagraph (B) to be using illegal drugs, or who refuses to submit to testing as provided for under subparagraph (B), shall not be eligible for benefits under this title for a period of at least 1 year.

"(ii) The period of ineligibility under clause (i) shall terminate (after the last day of such 1-year period) if the individual has 2 tests (at least 2 months apart and not paid for through Federal funds) which establish that the recipient is not using illegal drugs.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to quarters beginning after the expiration of the 6-month period that begins on the date of the enactment of this Act.

(b) REPRESENTATIVE PAYEE REFORMS.—

(1) AUTHORITY OF GOVERNMENT AGENCIES TO BECOME PAID REPRESENTATIVE PAYEES.—Section 1631(a)(2)(D)(ii) of such Act (42 U.S.C. 1383(a)(2)(D)(ii)) is amended by adding at the end the following: "The term 'qualified organization' also includes any government agency that meets the requirements of items (aa) and (bb) of subclause (II).".

(2) MAXIMUM FEE PAYABLE TO REPRESENTATIVE PAYEES.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended by striking "the lesser of—" and all that follows and inserting "10 percent of the monthly benefit involved.".

TITLE IX—DEPARTMENT OF VETERANS AFFAIRS

TABLE OF CONTENTS OF TITLE

Sec. 9001. Benefits and eligibility through Department of Veterans Affairs medical system.
"CHAPTER 18—ELIGIBILITY AND BENEFITS UNDER ENROLLMENT-BASED SYSTEM
"SUBCHAPTER I—GENERAL
"1801. Definitions.
"SUBCHAPTER II—ENROLLMENT
"1811. Enrollment: veterans.
"1812. Enrollment: CHAMPVA eligibles.
"1813. Enrollment: family members.
"SUBCHAPTER III—BENEFITS
"1821. Benefits for VA enrollees.
"1822. Chapter 17 benefits.
"1823. Supplemental benefits packages and policies.
"1824. Limitation regarding veterans who elect not to enroll to obtain VA health coverage.
"1825. Limitation on use of funds for abortions.
"SUBCHAPTER IV—FINANCIAL MATTERS
"1831. Premiums, copayments, etc.
"1832. Recovery of cost of certain care and services.
"1833. Health Coverage Fund.
Sec. 9002. Organization of Department of Veterans Affairs facilities as facilities offering qualified health coverage.
"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM
"7341. Organization of health care facilities as facilities offering qualified health coverage.
"7342. Operation of health care facilities within States operating as single payer areas.
"7343. Health care resource agreements.
"7344. Administrative and personnel flexibility.
"7345. Veterans Health Care Transition Fund.
"7346. Funding provisions: grants and other sources of assistance.
Sec. 9003. Eligibility for Chapter 17 care.
Sec. 9004. Authority to provide health care for herbicide and radiation exposure.
Sec. 9005. Extension of authority to provide priority outpatient health care for exposure to environmental hazards.
Sec. 9006. Report on waiving cost-sharing for certain medical care for dependents of Persian Gulf veterans who may have been exposed to environmental hazards.
Sec. 9007. Study of the effect of telemedicine on the delivery of VA health care services.
Sec. 9008. Legislative proposal on VA health coverage for medicare beneficiaries.

SEC. 9001. BENEFITS AND ELIGIBILITY THROUGH DEPARTMENT OF VETERANS AFFAIRS MEDICAL SYSTEM.

(a) DVA AS A PARTICIPANT IN HEALTH CARE REFORM.—

(1) IN GENERAL.—Title 38, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—ELIGIBILITY AND BENEFITS UNDER ENROLLMENT-BASED SYSTEM

"SUBCHAPTER I—GENERAL
"1801. Definitions.
"SUBCHAPTER II—ENROLLMENT
"1811. Enrollment: veterans.
"1812. Enrollment: CHAMPVA eligibles.
"1813. Enrollment: family members.
"SUBCHAPTER III—BENEFITS
"1821. Benefits for VA enrollees.
"1822. Chapter 17 benefits.
"1823. Supplemental benefits packages and policies.
"1824. Limitation regarding veterans who elect not to enroll with a VA health plan.
"SUBCHAPTER IV—FINANCIAL MATTERS
"1831. Premiums, copayments, etc..
"1832. Medicare coverage and reimbursement.
"1833. Recovery of cost of certain care and services.
"1834. Health Plan Fund.
"1835. Guaranteed funding of Government costs

"SUBCHAPTER I—GENERAL

"§ 1801. Definitions

"For purposes of this chapter:

"(1) The term 'qualified health coverage' has the meaning given such term in section 1101 of the Bipartisan Health Care Reform Act of 1994.

"(2) The term 'VA health coverage' means qualified health coverage provided by the Secretary under section 7341 of this title.

"(3) The term 'VA enrollee' means an individual enrolled under subchapter II of this chapter with VA health coverage.

"(4) The term 'standard coverage' has the meaning given such term in section 1102 of the Bipartisan Health Care Reform Act of 1994.

"SUBCHAPTER II—ENROLLMENT

"§ 1811. Enrollment: veterans

"Each veteran residing in the United States may enroll to obtain VA health coverage. A veteran who wants to receive the standard coverage through the Department shall enroll to obtain VA health coverage.

"§ 1812. Enrollment: CHAMPVA eligibles

"(a) ELIGIBILITY.—An individual described in subsection (b) who resides in the United States may enroll to obtain VA health coverage.

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(b) APPLICABILITY.—This section applies to the following individuals who are not otherwise eligible for medical care under chapter 55 of title 10 (CHAMPUS):

"(1) The surviving spouse or child of a veteran who (A) died as a result of a service-connected disability, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability.

"(2) The surviving spouse or child of a person who died in the active military, naval, or air service in the line of duty and not due to such person's own misconduct.

"(c) DEFINITION OF CHILD.—For purposes of this section, the term 'child' means a child described in section 1901(2)(B) of the Bipartisan Health Care Reform Act of 1994.

"§ 1813. Enrollment: family members

"(a) ELIGIBILITY.—The Secretary shall authorize the Secretary to enroll members of the family of an enrollee under section 1811 or 1812 of this title. The enrollee shall have the option of enrolling to obtain VA health coverage as an individual or with family members. If the enrollee chooses to enroll to obtain VA health coverage with family members, all such family members must be so enrolled.

"(b) REQUIRED PAYMENTS.—Any family member with VA health coverage shall (except as provided in section 1831(c)(2)(B) of this title) be subject to payment of premiums, deductibles, copayments, and coinsurance in accordance with the Bipartisan Health Care Reform Act of 1994.

"(c) ENROLLMENT ELIGIBILITY TO SURVIVE DEATH OF VETERAN.—An individual with VA health coverage pursuant to subsection (a) as a member of the family of a veteran enrolled under section 1811 of this title shall not lose eligibility to obtain such coverage by reason of the death of that veteran.

"(d) MEMBERS OF FAMILY.—For purposes of this section, the members of the family of an enrollee are those individuals (other than the enrollee) included within the term 'family' as defined in section 1901(2) of the Bipartisan Health Care Reform Act of 1994.

"SUBCHAPTER III—BENEFITS

"§ 1821. Benefits for VA enrollees

"The Secretary shall ensure that each individual enrolled with VA health coverage is provided the items and services in standard coverage under the Bipartisan Health Care Reform Act of 1994.

"§ 1822. Chapter 17 benefits

"(a) CARE AND SERVICES NOT INCLUDED IN STANDARD COVERAGE.—In the case of care and services that may be provided under chapter 17 of this title that are not included in standard coverage, the Secretary shall provide to any veteran (whether or not enrolled with qualified health coverage) the care and services authorized under that chapter in accordance with the terms and conditions applicable to that veteran and that care under that chapter.

"(b) VETERANS WHO ARE NOT ELIGIBLE TO ENROLL UNDER THE BIPARTISAN HEALTH CARE REFORM ACT OF 1994.—In the case of a veteran who is not eligible for enrollment under this chapter, the Secretary shall provide to the veteran the care and services that may be provided under chapter 17 of this title through any facility of the department, whether or not the facility is operating pursuant to VA health coverage.

"(c) PRESERVATION OF SPECIALIZED DVA TREATMENT CAPACITIES.—In carrying out subsection (a), the Secretary shall ensure that the Department maintains the capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans (including veterans with spinal cord dysfunction, blindness, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that affords those veterans reasonable access to care and services for those specialized needs. The Secretary shall ensure that overall capacity of the Department to provide such specialized services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this chapter. Nothing in this subsection precludes the Secretary from expanding the number or type of facilities or programs that provide treatment and rehabilitation services for the specialized needs of such veterans, including provision of specialized services on an outpatient basis.

"(d) ANNUAL REPORT.—Not later than March 1 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the actions the Secretary has taken to carry out subsection (c) during the preceding fiscal year. Each such report shall include a statement of the number of veterans to whom the Department provided specialized services that are covered by the report and the expense of providing those services, and a description of the alternatives available in the private sector for the provision of those services to veterans.

"§ 1823. Supplemental benefits packages and policies

"VA health coverage may include supplemental health benefits packages and supplemental cost sharing policies consistent with the Bipartisan Health Care Reform Act of 1994. However, such coverage may not include a supplemental health benefits package to a veteran that provides coverage for services that the Department is required to provide to that veteran under chapter 17 of this title.

"§ 1824. Limitation regarding veterans who elect not to enroll to obtain VA health coverage

"(a) REIMBURSEMENT REQUIRED.—A veteran who is residing in an area in which the Department offers VA health coverage and who elects not to enroll to obtain such coverage may be provided the items and services in standard coverage through VA health coverage offered in that area only if (except as provided in subsection (b)) the plan is reimbursed for the cost of the care provided.

(b) EXCEPTION.—The Secretary may not impose on or collect from a veteran described in subsection (a) a cost-share charge of any kind in the case of treatment for a service-connected disability that (as determined by the Secretary) requires a specialized treatment capacity for which the Department has particular expertise.

"§ 1825. Limitation on use of funds for abortions

"None of the funds appropriated to carry out this title shall be expended for any abortion except when it is made known to the Secretary that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

"SUBCHAPTER IV—FINANCIAL MATTERS

"§ 1831. Premiums, copayments, etc.

"(a) EXEMPTION OF CERTAIN VETERANS.—Subject to subsection (f), in the case of a veteran described in subsection (b) who is a VA enrollee, there may not be imposed or collected from the veteran a cost-share charge of any kind (whether a premium, copayment, deductible, coinsurance charge, or other charge) for items and services in standard coverage that are provided to the veteran by the Secretary within a VA plan provider network.

"(b) VETERANS EXEMPT FROM CHARGES.—The veterans referred to in subsection (a) are the following:

"(1) Any veteran with a service-connected disability rated at 10 percent or greater.

"(2) Any veteran whose discharge or release from the active military, naval or air service was for a disability incurred or aggravated in the line of duty.

"(3) Any veteran who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such a veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section.

"(4) Any veteran who is a former prisoner of war.

"(5) Any veteran of the Mexican border period or World War I.

"(6) Any veteran who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(c) OTHER ENROLLEES.—(1) In the case of a VA enrollee who is not described in subsection (b), the Secretary shall (except as provided in paragraph (2)) charge premiums and shall establish copayments, deductibles, and coinsurance amounts.

"(2) The Secretary may not collect from an enrollee a premium in the case of—

"(A) an individual with VA health coverage by reason of eligibility under section 1812 of this title; or

"(B) an individual with VA health coverage by reason of eligibility under section 1813 of this title and who is described in paragraph (1) of section 1713(a) of this title.

"(3) The Secretary may not charge a copayment, deductible, or other coinsurance amount in the case of care for any disease covered under section 1710(e)(1) of this title.

"(d) ESTABLISHMENT OF RATES.—The premium rate, and the rates for deductibles and copayments, applicable under VA health coverage shall be established by such coverage based on rules applicable to all health coverage offered in the geographic area in which such VA health coverage is offered.

"(e) DUTIES OF EMPLOYERS.—The obligations (including obligations with respect to payment of premiums) under the Bipartisan Health Care Reform Act of 1994 of an employer with respect to employees with VA health coverage, and with respect to such a plan, shall be the same as those that apply with respect to other employees and other health coverage.

"(f) ACCEPTANCE OF PREMIUM CERTIFICATES.—In the case of a veteran who has been issued a premium certificate or voucher under the Bipartisan Health Care Reform Act of 1994, the Secretary may require the veteran to tender the certificate to the Secretary as a condition of enrollment and the Secretary may accept the certificate.

"§ 1832. Recovery of cost of certain care and services

"(a) RECOVERY FROM THIRD PARTIES.—In the case of an individual provided care or services through VA health coverage who has coverage under any supplemental health insurance policy, including a Medicare supplemental health insurance plan, the Secretary has the right to recover or collect charges for care or services (as determined by the Secretary, but not including care or services for a service-connected disability) from the party providing that coverage to the extent that the individual (or the provider of the care or services) would be eligible to receive payment for such care or services from such party if the care or services had not been furnished by a department or agency of the United States.

"(b) PROCEDURES.—The provisions of subsections (b) through (f) of section 1729 of this title shall apply with respect to claims by the United States under subsection (a) in the same manner as they apply to claims under subsection (a) of that section.

"§ 1833. Health Coverage Fund

"(a) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury a revolving fund to be known as the 'Department of Veterans Affairs Health Coverage Fund'.

"(b) CREDITING OF AMOUNTS TO FUND.—There shall be credited to the revolving fund any amount received by the Department by reason of the furnishing of health care under VA health coverage and any amount received by the Department by reason of the enrollment of an individual with VA health coverage (including amounts received as premiums, premium certificates or vouchers, copayments or coinsurance, and deductibles), any amount received as a third-party reimbursement, and any amount received as a reimbursement from other health coverage for care furnished to one of its enrollees.

"(c) CREDITING TO TREASURY.—Any amounts deposited to the revolving fund that are attributable to amounts received by the Department as a premium, including a premium certificate or voucher, by reason of the enrollment with VA health coverage of a veteran described in section 1831(b) of this title shall be covered into the General Fund of the Treasury.

"(d) AMOUNTS NOT PERMITTED TO BE RETAINED.—Notwithstanding subsection (b), the Department may not retain amounts received for care furnished to a VA enrollee in a case in which the costs of such care have been covered by appropriations. Such amounts shall be deposited in the General Fund of the Treasury.

"(e) AVAILABILITY OF FUNDS.—Amounts in the revolving fund are hereby made available for all expenses, both direct and indirect, related to the delivery through VA health coverage of the items and services in standard coverage and any supplemental benefits package or policy offered through such coverage.".

(b) PRESERVATION OF EXISTING BENEFITS FOR FACILITIES NOT OFFERING SERVICES THROUGH QUALIFIED HEALTH COVERAGE.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new section:

"§ 1705. Facilities not offering qualified health coverage; veterans not eligible to enroll to obtain coverage

"The provisions of this chapter shall apply with respect to the furnishing of care and services—

"(1) by any facility of the Department that (A) is not offering qualified health coverage under the Bipartisan Health Care Reform Act of 1994, and (B) is not located in a State (or portion of a State) that is a single payer area; and

"(2) by any facility of the Department (whether or not offering qualified health coverage under the Bipartisan Health Care Reform Act of 1994) in the case of a veteran who is not an eligible for enrollment under chapter 18 of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1704 the following new item:

"1705. Facilities not offering qualified health coverage; veterans not eligible to enroll to obtain coverage.".

SEC. 9002. ORGANIZATION OF DEPARTMENT OF VETERANS AFFAIRS FACILITIES AS FACILITIES OFFERING QUALIFIED HEALTH COVERAGE.

(a) IN GENERAL.—Chapter 73 of title 38, United States Code, is amended—

(1) by redesignating subchapter IV as subchapter V; and

(2) by inserting after subchapter III the following new subchapter:

"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM

"§ 7341. Organization of health care facilities as facilities offering qualified health coverage

"(a) Except as provided in section 7342 of this title, the Secretary shall organize Department plans and facilities as plans and facilities offering qualified health coverage under the Bipartisan Health Care Reform Act of 1994 subject to adjustment under subsection (g). The Secretary shall prescribe regulations establishing standards for the operation of Department health care facilities as facilities offering qualified health coverage under the Bipartisan Health Care Reform Act of 1994. In prescribing those standards, the Secretary shall assure that they conform, to the maximum extent practicable, to the requirements for qualified health coverage generally set forth in the Bipartisan Health Care Reform Act of 1994.

"(b) Within a geographic area or region, health care facilities of the Department located within that area or region may be organized to operate as a single entity offering qualified health coverage encompassing all Department facilities within that area or region or may be organized to operate as several entities offering qualified health coverage.

"(c) Within a geographic area or region other than a State (or portion of a State) that operates as a single payer area, any health insurance purchasing cooperative, or similar entity that offer health insurance plans shall offer as an option to eligible individuals enrollment to obtain VA health coverage that is offered in that area or region.

"(d) Any health insurance program that is provided for Federal employees shall include enrollment to obtain VA health coverage as enrollment options for eligible individuals. Premiums shall be paid for VA health coverage under any such insurance program based upon enrollment with that plan in the same manner as to any other health coverage.

"(e)(1) In establishing and operating standard health coverage, the Secretary, in consultation with the Comptroller General, shall take appropriate steps to ensure the financial solvency and stability of the VA health coverage and of contractors and subcontractors providing services pursuant to section 7343 of this title.

"(2) In carrying out paragraph (1), the Secretary may purchase from commercial sources insurance to insure the Department against the financial risks involved in the offering of VA health coverage.

"(3) Notwithstanding any other provision of law, there shall be no requirements applicable to the offering of VA health coverage with respect to the maintenance of a reserve fund, requirements to reinsure, or payments into any other financial integrity fund other than as established pursuant to paragraph (1).

"(f) In carrying out responsibilities under the Bipartisan Health Care Reform Act of 1994, a State (or a State-established entity)—

"(1) may not impose any standard or requirement on VA health coverage that is inconsistent with this section or any regulation prescribed under this section or other Federal laws regarding the operation of this section; and

"(2) may not deny certification of VA health coverage under the Bipartisan Health Care Reform Act of 1994 on the basis of a conflict between a rule of a State (or State-established entity) and this section or regulations prescribed under this section or other Federal laws regarding the operation of this section.

"(g) Notwithstanding any provision of the Bipartisan Health Care Reform Act of 1994 or this subchapter, any reference in this subchapter to 'qualified health coverage' under such Act shall be considered a reference to coverage of a standardized package of benefits established by the Secretary with an actuarial value not less than the actuarial value of qualified health coverage under such Act.

"§ 7342. Operation of health care facilities within States operating as single payer areas

"(a) In a State (or portion of a State) that operates as a single payer system, Department health care facilities in that State (or portion of a State) shall serve as providers to individuals residing in that State (or portion of a State) who would be eligible to enroll under chapter 18 of this title to obtain VA health coverage if they were residing in an area where qualified health coverage was offered under the Bipartisan Health Care Reform Act of 1994. Such facilities may provide those individuals any covered service in standard coverage.

"(b) A Department facility providing care to residents of a single payer area pursuant to subsection (a) shall be reimbursed for that care on the same basis as any other provider furnishing the same services in that area.

"(c) A veteran described in section 1831(b) of this title shall be exempt from any otherwise applicable charges for such care. Any other individual provided care pursuant to subsection (a) shall be subject to all applicable requirements respecting copayments, deductibles, and coinsurance. Notwithstanding the preceding sentence, section 1831(c)(3) of this title shall apply to any such charge.

"§ 7343. Health care resource agreements

"(a)(1) In accordance with policies established under subsection (b), an official specified in paragraph (2) may, without regard to any law or regulation specified in paragraph (3), enter into agreements with health care plans, with insurers, and with health care providers, and with any other entity or individual, to furnish or obtain any health-care resource.

"(2) An official specified in this paragraph is any of the following:

"(A) The head official offering VA health coverage.

"(B) The director of a Department health care facility that is providing service through VA health coverage.

"(C) The director of a Department health care facility that is operating in a State (or portion of a State) that is operating under a single payer system.

"(3) A law or regulation specified in this paragraph is any of the following:

VOL 140 PT 15 AG 10 — 11 1994 UMI

"(A) Section 1703 of this title.

"(B) Any other law or regulation pertaining to—

"(i) competitive procedures;

"(ii) acquisition procedures or policies (other than contract dispute settlement procedures); or

"(iii) bid protests.

"(4) For purposes of this subsection, the term 'health-care resource' has the meaning given that term in section 8152 of this title.

"(b) Policies established by the Secretary under subsection (a) shall include appropriate provisions to ensure that procurements under that subsection are carried out in a manner consistent with (1) Federal acquisition policies regarding nondiscrimination, equal opportunity, business integrity, and safeguarding against fraud and abuse, and (2) the goal of a streamlined process for the acquisition of health-care resources.

"(c) Any proceeds to the Government received from an agreement under subsection (a) shall be credited to the Department of Veterans Affairs Health Coverage Fund established under section 1834 of this title and to funds that have been allotted to the facility that furnished the resource involved.

"§ 7344. Administrative and personnel flexibility

"(a) In order to carry out this subchapter, the Secretary may—

"(1) subject to section 1822(c) of this title, carry out administrative reorganizations of the Department without regard to those provisions of section 510 of this title following subsection (a) of that section; and

"(2) when the Secretary finds it is cost-effective or necessary in order to provide health care services in a timely manner—

"(A) enter into contracts for procurement of any commercially available item at a cost of under $100,000 without regard to any provision of law or regulation (i) requiring competitive procedures; (ii) mandating or giving priority to any source of supply; or (iii) pertaining to protests; and

"(B) enter into contracts without regard to section 8110(c) of this title for the performance of services previously performed by employees of the Department.

"(b)(1) The Secretary may establish alternative personnel systems or procedures for personnel at facilities offering qualified health coverage under this title, or for personnel at facilities operating in a State (or portion of a State) that is operating under a single payer system, whenever the Secretary considers such action necessary, except that the Secretary shall provide for preference eligibles (as defined in section 2108 of title 5) in a manner comparable to the preference for such eligibles under subchapter I of chapter 33, and subchapter I of chapter 35, of such title.

"(2) In establishing alternative personnel systems or procedures under this subsection, the Secretary shall include the following:

"(A) A system that ensures that applicants for employment and employees are appointed, promoted, and assigned on the basis of merit and fitness.

"(B) An equal employment opportunity program.

"(C) Compensation systems which will be used to set rates of pay that are competitive with rates of pay paid by health-care providers other than the Department and that take into consideration the difficulty, responsibility, and qualification requirements of the work performed.

"(D) A formal performance appraisal system.

"(E) A system to address unacceptable conduct and performance by employees, including a general statement of violations, sanctions, and procedures which shall be made known to all employees, and a dispute resolution procedure.

"(F) A formal policy regarding the accrual and use of sick leave and annual leave.

"(c) The Secretary may carry out appropriate promotional, advertising, and marketing activities to inform individuals of the availability of facilities of the Department offering qualified health coverage.

"§ 7345. Veterans Health Care Transition Fund

"(a) For each of fiscal years 1995 and 1996, the Secretary of the Treasury shall credit to a special fund (in this section referred to as the 'Fund') of the Treasury an amount equal to—

"(1) $1,200,000,000 for fiscal year 1995; and

"(2) $800,000,000 for fiscal year 1996.

"(b) Amounts in the Fund shall be available to the Secretary only for VA health coverage authorized under this chapter. Such amounts are available without fiscal year limitation for costs of commencing the offering of VA health coverage, including consulting services, equipment, marketing, and other costs, minor construction, and (subject to section 8104 of this title) major construction.

"(c) The Secretary shall submit to Congress, no later than March 1, 1996, a report concerning the operation of the Department of Veterans Affairs health care system in preparing for, and operating under, national health care reform under the Bipartisan Health Care Reform Act of 1994 during fiscal years 1995 and 1996. The report shall include a discussion of—

"(1) the adequacy of amounts in the Fund for the offering of VA health coverage;

"(2) the quality of care provided by such plans; and

"(3) the ability of such plans to attract patients.

"§ 7346. Funding provisions: grants and other sources of assistance

"The Secretary may apply for and accept, if awarded, any grant or other source of funding that is intended to meet the needs of special populations and that but for this section is unavailable to facilities of the Department or to qualified health coverage offered by the Government if funds obtained through the grant or other source of funding will be used through a facility of the Department offering qualified health coverage.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by striking out the item relating to the heading for subchapter IV and inserting in lieu thereof the following:

"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM

"7341. Organization of health care facilities as facilities offering qualified health coverage

"7342. Operation of health care facilities within States operating as single payer areas.

"7343. Health care resource agreements.

"7344. Administrative and personnel flexibility.

"7345. Veterans Health Coverage Transition Fund.

"7346. Funding provisions: grants and other sources of assistance.

"SUBCHAPTER V—RESEARCH CORPORATIONS".

SEC. 9003. ELIGIBILITY FOR CHAPTER 17 CARE.

(a) NURSING HOME CARE—Section 1710(a)(1) of title 38, United States Code, is amended by inserting "(or, in the case of a veteran described in subparagraph (A) or (D) below, shall furnish nursing home care)" after "may furnish nursing home care".

(b) OUTPATIENT CARE FOR ENROLLED VETERANS.—Paragraph (1) of section 1712(a) of such title is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(E) to any veteran described in section 1831(b) of this title who is enrolled under section 1811 of this title and the Bipartisan Health Care Reform Act of 1994 with VA health coverage (as defined in section 1801 of this title), for any disability to the extent that care and treatment of that disability is not included within standard coverage (as defined in section 1801 of this title);".

(c) OBVIATE-THE-NEED OUTPATIENT CARE.—(1) Paragraph (2) of such section is amended by striking out "The Secretary" and all that follows through "this subsection—" and inserting in lieu thereof "Except as provided in subsection (b) of this section, the Secretary shall furnish on an ambulatory or outpatient basis such medical services as the Secretary determines are needed—".

(2) Paragraph (4) of such section is amended by striking out "medical services for a purpose described in paragraph (5) of this subsection" and inserting in lieu thereof ", to the extent that facilities are available, such medical services as the Secretary determines are needed".

(3) Such section is further amended—

(A) by striking out paragraph (5); and

(B) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(d) CONFORMING AMENDMENTS.—(1) Section 1701(6)(A)(i) of such title is amended by striking out "(except under the conditions described in section 1712(a)(5)(A) of this title)".

(2) Section 1701(6)(B)(i)(II) of such title is amended by striking "section 1712(a)(5)(B)" and inserting in lieu thereof "section 1712".

(3) Section 1703(a)(2)(B) of such title is amended by striking out "for a purpose described in section 1712(a)(5)(B) of this title" and inserting in lieu thereof "to complete treatment incident to hospital, nursing home, or domiciliary care that has been provided by the Department".

(4) Section 1712A(b)(1) of such title is amended by striking out "section 1712(a)(5)(B)" and inserting in lieu thereof "section 1703(a)(2)(B)".

SEC. 9004. AUTHORITY TO PROVIDE HEALTH CARE FOR HERBICIDE AND RADIATION EXPOSURE.

(a) AUTHORIZED INPATIENT CARE.—Section 1710(e) of title 38, United States Code, is amended to read as follows:

"(e)(1)(A) Subject to paragraph (4), a herbicide-exposed veteran is eligible for hospital care and nursing home care under subsection (a)(1)(G) for any disease specified in subparagraph (B).

"(B) The diseases referred to in subparagraph (A) are those for which the National Academy of Sciences, in a report issued in accordance with section 2 of the Agent Orange Act of 1991, has determined—

"(i) that there is sufficient evidence to conclude that there is a positive association between occurrence of the disease in humans and exposure to a herbicide agent;

"(ii) that there is evidence which is suggestive of an association between occurrence of the disease in humans and exposure to a herbicide agent, but such evidence is limited in nature; or

"(iii) that available studies are insufficient to permit a conclusion about the presence or absence of an association between occurrence of the disease in humans and exposure to a herbicide agent.

"(2) A radiation-exposed veteran is eligible for hospital care and nursing home care under subsection (a)(1)(G) for—

"(A) any disease listed in section 1112(c)(2) of this title; and

"(B) any other disease for which the Secretary, based on the advice of the Advisory Committee on Environmental Hazards, determines that there is credible evidence of a positive association between occurrence of the disease in humans and exposure to ionizing radiation.

"(3) Subject to paragraph (4), a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability which becomes manifest before October 1, 1996, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

"(4) Hospital and nursing home care may not be provided under or by virtue of paragraph (1) after September 30, 1996, or, in the case of a veteran described in paragraph (3), after September 30, 1998.

"(5) For purposes of this subsection and section 1712 of this title—

"(A) the term 'herbicide-exposed veteran' means a veteran (i) who served on active duty in the Republic of Vietnam during the Vietnam era, and (ii) who the Secretary finds may have been exposed during such service to a herbicide agent;

"(B) the term 'herbicide agent' has the meaning given that term in section 1116(a)(4) of this title; and

"(C) the term 'radiation-exposed veteran' has the meaning given that term in section 1112(c)(4) of this title.".

(b) AUTHORIZED OUTPATIENT CARE.—Section 1712 of such title is amended—

(1) in subsection (a)(1) (as amended by section 9003(b)), by adding at the end the following:

"(F) during the period before October 1, 1996, to any herbicide-exposed veteran for any disease listed in section 1710(e)(1)(B) of this title; and

"(G) to any radiation-exposed veteran for any disease covered under section 1710(e)(1)(C) of this title."; and

(2) in subsection (i)(3)—

(A) by striking out "(A)"; and

(B) by striking out ", or (B)" and all that follows through "title".

(c) SAVINGS PROVISION.—The provisions of sections 1710(e) and 1712(a) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall apply with respect to hospital care, nursing home care, and medical services in the case of any veteran furnished care or services before such date of enactment on the basis of presumed exposure to a substance or radiation under the authority of those provisions.

SEC. 9005. EXTENSION OF AUTHORITY TO PROVIDE PRIORITY OUTPATIENT HEALTH CARE FOR EXPOSURE TO ENVIRONMENTAL HAZARDS.

Section 1712(a)(1)(D) of title 38, United States Code, is amended by striking out "December 31, 1994, for any disability" and inserting in lieu thereof "October 1, 1998, for any disability which becomes manifest before October 1, 1996,".

SEC. 9006. REPORT ON WAIVING COST-SHARING FOR CERTAIN MEDICAL CARE FOR DEPENDENTS OF PERSIAN GULF VETERANS WHO MAY HAVE BEEN EXPOSED TO ENVIRONMENTAL HAZARDS.

(a) REPORT.—The Secretary of Veterans Affairs shall submit to Congress a report on the desirability and the feasibility of waiving any requirement for cost-sharing in the case of medical care described in subsection (b) that is provided through VA health coverage under chapter 18 of title 38, United States Code (as added by section 9001), to an individual who is a VA enrollee enrolled under family-member eligibility under section 1813 of that chapter.

(b) PERSIAN GULF WAR ILLNESS.—Medical care referred to in subsection (a) is medical care provided to a family member of a veteran described in subparagraph (C) of section 1710(e)(1) of title 38, United States Code, for any disease or disability occurring in that family member which the Secretary finds may be related to the service of the veteran in the Southwest Asia theater of operations during the Persian Gulf War.

(c) MATTERS TO BE CONSIDERED.—In preparing the report under subsection (a), the Secretary shall consider relevant studies, including those that have been (or that are being) conducted by the Department of Veterans Affairs, the Department of Defense, the National Institutes of Health, the National Academy of Sciences, and private health care providers.

(d) SUBMISSION OF REPORT.—The report under subsection (a) shall be submitted not later than 60 days after the date of the enactment of this Act.

SEC. 9007. STUDY OF THE EFFECT OF TELEMEDICINE ON THE DELIVERY OF VA HEALTH CARE SERVICES.

(a) IN GENERAL.—During each of fiscal years 1995 through 1997, the Secretary of Veterans Affairs shall carry out a study of the effect of telemedicine on the delivery, accessibility, and quality of health care services available to individuals who are eligible for enrollment in a Department of Veterans Affairs health care plan.

(b) REPORTS.—Not later than 120 days after the date of the enactment of this Act and annually thereafter through 1998, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report, including descriptions of the telemedicine applications benefiting veterans, relating to the study conducted under subsection (a).

(c) CONSULTATION.—Each study under subsection (a) shall be carried out in consultation with the Secretary of Health and Human Services, the Secretary of Defense, the Chair of the White House Information Infrastructure Task Force, and the Director of High Performance Computing and Communications in the Executive Office of the President.

SEC. 9008. LEGISLATIVE PROPOSAL ON VA HEALTH COVERAGE FOR MEDICARE BENEFICIARIES.

(a) IN GENERAL.—

(1) LEGISLATIVE PROPOSAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and submit to Congress a proposal for legislation which provides for obtaining VA health coverage for medicare beneficiaries who are veterans.

(2) MEDICARE BENEFICIARY.—For purposes of this section, the term "medicare beneficiary" means an individual who is eligible for benefits under part A of title XVIII of the Social Security Act and is enrolled under part B of such title.

(b) CONTENTS OF THE PROPOSAL.—A proposal for legislation submitted under subsection (a) shall—

(1) provide for an appropriate methodology by which the Secretary shall make payment to the Secretary of Veterans Affairs for the enrollment of medicare beneficiaries;

(2) provide individuals the opportunity to remain enrolled to obtain VA health coverage without an interruption in coverage upon becoming medicare beneficiaries; and

(3) provide medicare beneficiaries who are veterans with the opportunity to enroll to obtain VA health coverage as an individual or with family members.

TITLE X—AUTOMOBILE INSURANCE COORDINATION

TABLE OF CONTENTS OF TITLE

Sec. 10001. Definitions.
Sec. 10002. Provision of automobile insurance medical services through health plans.
Sec. 10003. Payment for automobile insurance medical services.
Sec. 10004. Payment facilitation.
Sec. 10005. Construction.

SEC. 10001. DEFINITIONS.

In this title—

(1) INJURED INDIVIDUAL.—The term "injured individual" means an individual who has a bodily injury or illness sustained in an automobile accident and who is entitled to receive automobile insurance medical services from a health plan.

(2) AUTOMOBILE INSURANCE MEDICAL SERVICES.—The term "automobile insurance medical services" means services and items covered by automobile insurance that are medically necessary or appropriate for treatment of bodily injuries or illnesses sustained in automobile accidents and that are within the scope of the benefits to which an injured individual is entitled under his or her health plan.

(3) AUTOMOBILE INSURANCE CARRIER.—The term "automobile insurance carrier" means an insurance company, employer, or fund that is liable for payment for automobile insurance medical services based either on a direct contractual obligation to an injured individual or an obligation on behalf of a person responsible for causation of an injured individual's bodily injury or illness.

(4) HEALTH PLAN.—The term "health plan" means a plan or organization that pays for the services of health care providers and is subject to Federal or State regulation.

SEC. 10002. PROVISION OF AUTOMOBILE INSURANCE MEDICAL SERVICES THROUGH HEALTH PLANS.

(a) IN GENERAL.—An individual enrolled in a health plan shall receive automobile insurance medical services exclusively through the provision (or arrangement for the provision) of such services by the health plan. Such services shall be subject to all quality, cost containment, and anti-fraud and abuse provisions that apply generally to medical services provided by or through health plans.

(b) ALTERNATIVE PERMITTED.—

(1) BY AGREEMENT.—Subsection (a) shall not prevent an individual and an automobile insurance carrier from agreeing that treatment for bodily injury or illness sustained in an automobile accident shall be provided other than by or through the health plan in which the individual is enrolled. Notice of any such agreement shall be filed with the injured individual's health plan. Upon receipt of such notice, the health plan shall be absolved of all responsibility for payment of any services covered by the agreement.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(2) MEDICARE AND MEDICAID.—Subsection (a) shall not prevent a State from requiring automobile insurance carrier to make direct payment to health care providers for automobile insurance medical services that are covered both by (A) medicare or medicaid, and (B) and automobile insurance contract that is required by law and provides for direct payment of medical services regardless of fault. Payment for automobile insurance medical services in such circumstances shall be made to the extent of the automobile insurance carrier's liability under the applicable contract, in accordance with fee schedules prescribed under section 10003(d), and such services shall be subject to all quality, cost containment, and anti-fraud and abuse provisions that apply generally to medical services provided by or through health plans.

SEC. 10003. PAYMENT FOR AUTOMOBILE INSURANCE MEDICAL SERVICES.

(a) PAYMENT TO HEALTH PLANS.—Each automobile insurance carrier that is liable for payment for automobile insurance medical services provided to an injured individual by a health plan shall make payment to the health plan for such services to the extent of its obligations under the applicable automobile insurance contract. Any federally funded health care plan shall have first priority, over the right of any other person, to receive payment pursuant to any obligation under an automobile insurance policy covering automobile insurance medical services.

(b) REIMBURSEMENT FOR COST SHARING.—Each automobile insurance carrier shall remain liable, to the extent of its obligations under the applicable automobile insurance contract, for reimbursement of any deductibles or coinsurance paid by an injured individual for automobile insurance medical services.

(c) LIMITATION OF LIABILITY.—Except with respect to payments to health plans as required by subsection (a) and to reimbursement of deductibles and coinsurance in accordance with subsection (b), nothing in this title or any other provision of law shall require an automobile insurance carrier or any person insured by such a carrier to make any payment to a health plan, health care provider, or any other person for (1) automobile insurance medical services, or (2) other health care services or items used to treat an injury or illness sustained in an automobile accident that are not medically necessary or appropriate.

(d) USE OF FEE SCHEDULES.—

(1) IN GENERAL.—Irrespective of the type of health plan providing automobile insurance medical services, payment by automobile insurance carriers for such services shall be made to the plan in accordance with any fee schedule or schedules established for health care services generally. Each State shall develop or approve a fee schedule applicable to payment for any automobile insurance medical services that are not covered by a generally applicable fee schedule or schedules.

(2) ALTERNATIVE PAYMENT METHODOLOGIES.—Fee schedules shall not be required in any case in which an automobile insurance carrier and a health plan have agreed on an alternative payment arrangement.

(e) REIMBURSEMENT FOR PAYMENTS MADE.—Nothing in this title or any other provision of law shall impair the right of a health plan or automobile insurance carrier to seek reimbursement from any person liable for a bodily injury or illness sustained in an automobile accident for payments made for automobile insurance medical services to treat such injury or illness.

(f) RIGHTS TO COVERAGE FOR ADDITIONAL TREATMENT.—Subject to the provisions of subsection (c), nothing in this title shall impair any rights with respect to medically necessary or appropriate services and items to which an individual injured in an automobile accident is entitled that are not automobile insurance medical services as defined in this title.

SEC. 10004. PAYMENT FACILITATION.

(a) IN GENERAL.—In each State, an efficient and effective system shall be established for prompt payment for automobile insurance medical services by automobile insurance carriers to health plans. Such systems shall require automobile insurance carriers and health plans to interface effectively, including through the use of cost-effective computer data programs, in order to specify the automobile insurance carrier or carriers liable for payment for automobile insurance medical services. Such systems also shall include mechanisms for resolution, including arbitration, of any issues or disputes that may arise in connection with such payment. The results of the resolution of issues and disputes under the mechanisms prescribed pursuant to this subsection, including the use of any fee schedule under section 10003(d), shall be admissible in evidence only for purposes of recovery under section 10003(e).

(b) SANCTIONS.—In each State, appropriate sanctions shall be prescribed for the failure of a health plan, an automobile insurance carrier, or any other person to comply with the requirements established pursuant to subsection (a). Such sanctions shall include a penalty for late payment, which shall be imposed on any automobile insurance carrier that delays payment to a health plan after the amount of reimbursement is established pursuant to the procedures prescribed under subsection (a).

SEC. 10005. CONSTRUCTION.

(a) COORDINATION WITH OTHER PROVISIONS OF THIS ACT.—The provisions of this title shall be construed to be consistent with and shall be implemented in accordance with the other provisions of this Act.

(b) EFFECT ON WORKERS' COMPENSATION LAW.—Nothing in this title shall affect rights or obligations under workers' compensation law.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BE OFFERED BY REPRESENTATIVE STEARNS OF FLORIDA

Strike out all after the enacting clause and insert in lieu thereof the text of H.R. 4550 (as introduced.).

EXTENSIONS OF REMARKS

ENTITLEMENTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, August 10, 1994 into the CONGRESSIONAL RECORD.

ENTITLEMENTS

When constituents tell me their concern about our growing national debt, they sometimes ask why, after the recent defense reductions, the elimination of 100,000 federal jobs, and the renewed efforts to trim wasteful projects, is the budget deficit still $200 billion in 1994? Much of the answer lies in the growth of federal entitlement programs, which have increased from $36 billion in 1965 to more than $800 billion this year.

WHAT ARE ENTITLEMENTS?

Entitlements are federal benefits established by law to be provided to any person who meets the eligibility requirements. They include need-based benefits such as food stamps, Aid to Families with Dependent Children (AFDC), and Supplemental Security Income, as well as work-related benefits, such as Social Security, veterans' benefits, unemployment compensation, and farm payments. The Congressional Budget Office estimates that entitlements will cost $803 billion in 1994—over half of all federal spending—and predicts they will grow by another $300 billion by 1999. Among the 400 or so entitlements, the largest are Social Security ($318 billion), and Medicare ($160 billion), and Medicaid ($86 billion). Two striking facts about entitlements are their huge costs and that, while they do prevent poverty, most entitlement spending is not for the poor.

GROWTH OF SPENDING

One way of dividing up the federal budget is into discretionary spending and entitlements. Discretionary spending is spending that Congress must specifically vote to approve each year, and it includes defense spending as well as a variety of domestic programs such as the national park system, the FBI, federal highways, and medical research. In recent years Congress and the President have done a fairly good job of reining in discretionary spending. Once growing rapidly, total discretionary spending is now basically flat. Tight caps through 1998 will allow virtually no growth.

We are not doing nearly so well with entitlements. Basically all of the growth in federal spending in recent years has come from entitlements—and they have grown rapidly. Because entitlements are not directly controlled through the annual appropriations process, they can grow without congressional approval as more individuals become eligible for the programs and as benefit costs rise. Most of the entitlement growth comes from federal health insurance programs—Medicare and Medicaid. They are the two fastest growing federal programs, and will account for more than half of all entitlement growth through 1997.

Largely because of the expected entitlement growth, the deficit is projected to rise again in 1997 and exceed $300 billion six years after that. An example helps show the importance of curbing entitlement growth: If all welfare recipients returned to work now and the AFDC and food tamp programs no longer cost anything, the savings would be lost in a year due to growth in other entitlements.

WHAT HAS BEEN TRIED?

Congress has taken some steps to rein in entitlements. Last year it passed a deficit reduction package curtailing entitlement spending by some $80 billion over the next five years. The largest share of savings comes from reduced payments to hospitals and physicians, as well as trimming federal employees' retirement costs. Similar cutbacks were made in the 1990 deficit reduction act. After-tax benefits for relatively better-off Social Security beneficiaries were also trimmed. Congress has also enacted pay-as-you-go requirements for all new entitlement programs: Any new entitlement program must be paid for by cutting some other spending or finding revenues to pay for it. But since this only applies to new programs and not to increases in existing entitlements, it has had limited impact on entitlement growth.

ADDITIONAL STEPS

Various approaches have been proposed for better restraining entitlement spending. One approach would be to place spending caps on entitlements. Because the caps Congress placed on discretionary spending in 1990 have worked reasonably well, some have suggested also placing caps on entitlements—which would mean putting an overall ceiling on the amount that could be spent each year on entitlements. But recent attempts to cap entitlements have failed to pass Congress because of concerns about how caps would be implemented. For example, once the cap is reached, would benefits be reduced or would new applicants be denied access to the programs? Would exceeded caps in one program require across-the-board cuts in all programs? Caps can help put a brake on spending, but they do not solve the real problem of making specific policy changes in specific entitlements to reduce future costs.

A second approach would be to apply need-based criteria to more entitlement programs. Although some entitlements such as welfare (AFDC) are means tested—which means that only those below a certain income receive benefits—most entitlements are not. In 1991 nearly one quarter of all federal entitlements dollar went to households with incomes over $50,000.

A third way to trim entitlements is to look program by program for ways to trim costs. This is what is happening to some extent with the current debate over health care reform, as ways are sought to curb future Medicare and Medicaid increases. Evaluating each program according to its own merits and cost makes good sense but is difficult to do because of the popularity of some of the programs. In July I supported a bill that will help Congress monitor the total costs of entitlement spending and that requires the President and Congress to address spending that exceeds budget targets. This will formalize and strengthen steps that now exist in a presidential Executive Order. In addition, later this year the President's Bipartisan Commission on entitlements will report their findings and make recommendations for reform. This report should open up discussion about individual programs and present realistic options for curbing entitlements.

CONCLUSION

One of our top priorities as a nation should be getting the federal budget deficit under control, and to a large extent that means getting entitlements—particularly federal health insurance costs—under control. The projections of entitlement growth and the resulting burden placed on our economy are indisputable. Making the difficult choices will not be easy, but they are essential for the long-term economic strength of our country. An entitlement system that provides affordable benefits when we need them is important, but we must also save and invest more for the future of ourselves and our children.

TRIBUTE TO THE LATE KATE REED ESTES

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. HALL of Texas. Mr. Speaker, I am honored to have the privilege today to pay tribute to the late Kate Reed Estes of Trenton, TX. Kate was born June 28, 1917, in Trenton, died on June 29, 1994, and in the intervening years enjoyed a rich and rewarding life. She was known throughout North Texas for her two loves, politics and jazz music. She was very special to me and to my family.

Kate Reed Estes was the daughter of Burgher Reed and Lucille Morrow Reed. Her father was one of the five founding fathers of REA in Fannin County, and her family was close to the late Speaker of the House of Representatives, Sam Rayburn. A lifelong Democral and Democratic party leader, Kate was a former employee of mine during my tenure in the Texas Senate. She also worked for and supported the late Congressman Ray Roberts. Her professional and political skills were invaluable in my office, and I appreciated very much her years of service. Above all, she was loyal. She loved her home, her city of Trenton, the United Methodist Church, and all of Fannin County. Kate knew so many people. Each friend was a part of her, and all of us considered her as family.

Kate held the distinction of being the only female jazz pianist ever to play with the One O'Clock Lab Band at North Texas State University. She also was the first woman to graduate from the jazz department at North Texas State. She was a professional musician and a former member of American Federation of Musicians. As a jazz musician she played with

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 140 PT 15 AG 10 — 11 1994 UMI

such greats as Tennessee Ernie Ford, Frankie Carle, Gene Hall, and Leon Breeden. She also played for Arthur Godfrey and Cactus Pryor and played at almost every major club in Texas at one time or another.

As a retired public school teacher, political leader, and jazz musician, Kate was an inspiration to those who were fortunate to know her. She was a good friend and will be greatly missed by all those whose lives she touched.

COMMEMORATING THE 50TH ANNIVERSARY OF THE HALYARD MISSION

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. KOLBE. Mr. Speaker, today marks the 50th anniversary of one of the most courageous rescues of American servicemembers in our Nation's history, and I want to take this opportunity to pay tribute to those involved in the Halyard Mission—the largest rescue of American lives from behind enemy lines in American history.

Hundreds of American servicemembers from the Office of Strategic Services and the U.S. Army Air Force were shot down in Nazi-occupied Yugoslavia during their return from raids on Axis communications facilities and the Ploesti oil complex in Romania—Hitler's most important source of oil during World War II. But instead of being captured by Axis forces, the American airmen were escorted to safe haven by Yugoslavian Chetniks.

The Chetniks were members of a Yugoslavian resistance force, led by Gen. Draza Mihailovich, who orchestrated one of the largest rescue missions, of World War II. After providing safe haven for American and Allied airmen, Mihailovich made it possible for three waves of C-47's to rescue all 432 airmen by use of makeshift, secret airstrips a mere 80 miles from Belgrade.

It is important that this day be remembered, and I appreciate the efforts of the National Committee of American Airmen Rescued by General Mihailovich, Inc., who have worked diligently to inform the public about the Halyard Mission and the contribution of General Mihailovich.

Mr. Speaker, this year has been marked with numerous celebrations for our World War II veterans, and I want to be sure that the survivors and rescuers of the Halyard Mission are remembered.

CRIME BILL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. PACKARD. Mr. Speaker, Americans are outraged by the crime wave gripping our Nation—evidence of the social meltdown in our communities. At the core of the pessimism is the feeling that our country is suffering a moral and spiritual decline. The answer to our crime problem lies in the restoration of the family; the revival of the work ethic; and most important, the renewal of moral conduct.

However, the $33 billion crime bill now before us denies us the right to fill the very spiritual void which is responsible for our crime crisis. It makes it virtually impossible to impart to our young people the such basic values as the Ten Commandments.

The $630 million Family and Community Endeavor Schools Grant Program, more commonly known as FACE, funds crime prevention programs designed to reach the most vulnerable members of our communities—our kids. The bill's language states that none of the money may be used for religious worship or instruction. This means that teaching kids the Ten Commandments is prohibited.

When we see 14 year olds selling drugs to 12 year olds; 16 year olds stealing from 14 year olds; and 18 year olds killing 16 year olds; I think that teaching things like 'Thou Shall Not Kill' 'Thou Shall Not Steal'; and 'Thou Shall Love Your Neighbor as Thyself' is critical.

Our children need to understand that values are important; respect for others is paramount; and community participation is vital. If we fail to teach these lessons we doom the future of this country to the fatal grip of lawlessness and violence.

TRIBUTE TO CAMP DUDLEY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. SOLOMON. Mr. Speaker, I rise to pay tribute to an institution which this summer celebrates its 110th Anniversary as the oldest camp for boys in the United States—Camp Dudley in Westport, NY, on Lake Champlain. I am personally acquainted with Camp Dudley since two of my sons attended camp there in the 1970's and since my friend Dr. William J. Schmidt, is retiring after 20 years of dedicated service as Dudley's director.

Camp Dudley was founded by Sumner F. Dudley in 1885 and as a nonprofit institution has been affiliated with the YMCA of the United States. Dudley is truly a national camp which is committed to imparting the value "the other fellow first" to the more than 16,375 boys of all races and creeds who have attended over those years. On this historic occasion it is my pleasure to have been personally invited to address the celebration of this 110th anniversary and to pay tribute to Willie and Lois Schmidt as they depart to resume their careers in education. I also take this occasion to extend to Dr. Wheaton Griffin, the newly appointed director, and to his wife Eileen my very best wishes for the future success of this important institution.

Members of the House, please join me in saluting this fine institution and its 110th year of outstanding character building service to so many young children who have gone on to be solid American citizens.

75TH ANNIVERSARY OF THE JEWISH BIG BROTHER & BIG SISTER ASSOCIATION OF GREATER BOSTON

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. FRANK of Massachusetts. Mr. Speaker, on November 4 of this year, the Jewish Big Brother & Big Sister Association of Greater Boston will celebrate its 75th anniversary. This valuable organization, which has served thousands of needy children over the years of its existence, is the oldest organization of its kind in Massachusetts, and one of the oldest in the country.

When it was founded, the association did not have extensive resources, but the founders had a great commitment and dedication to bringing disadvantaged, parentless youngsters into the mainstream of society. Initially, the program—one of the 13 original Big Brother groups which established the national association—focused on the needs of delinquent boys. Over the years, in addition to broadening its focus to include the challenges faced by young girls, the Jewish Big Brother & Big Sister Association of Greater Boston expanded its services to include family advocacy, crisis intervention, college scholarships, and family discussion groups. Throughout its 75 years, the Association has consistently provided troubled youth with positive role models and mentors, and it now serves some 200 children a year, primarily those living in single parent families.

Mr. Speaker, this lengthy history of contributing to the community by encouraging young people to excel to the best of their ability both academically and socially is obviously valuable in and of itself. But, the organization also provides a valuable collateral benefit to its adult volunteers. Offering adults who wish to give something back to their community the chance to engage in the rewarding work of fostering positive growth in young people often leads the volunteers to find more meaning in their own lives. This combined impact makes the work of the Jewish Big Brother & Big Sister Association of Greater Boston doubly important. For its valuable contributions over the last 75 years and for demonstrating that the spirit of volunteerism is alive and well today, I ask my colleagues to join me in recognizing the Association's service to the community and in looking ahead to the next 75 years.

WORLD WAR II/PELELIEU

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. UNDERWOOD. Mr. Speaker, for the last few weeks, you and most of our colleagues have been witnesses to the efforts I have made in order to bring attention to a largely neglected aspect of the Second World War, the battles of the Pacific. Amid feelings of neglect from islanders who suffered during the war and widespread sympathy, support and concern among our Nation's veterans, I would like to cite yet another example of a World War II battle which will remain not properly recognized—Pelelieu.

Located in the Pacific, southwest of Guam and 500 miles southeast of the Philippines, the island of Pelelieu, by any other standard, would be considered no more than a puny little dot in our normally complex and ever-changing scheme of things. Now a part of the Republic of Palau, this beautiful but small island ordinarily would have been inhabited by fewer than 600 native Palauans. Nevertheless, more than 40,000 people were amassed here 50 years ago, struggling in inhumane conditions within the island's limited living space, in order to fight for control over a Japanese airstrip.

At the close of the Marianas campaign, a substantial part of the Navy set out toward the Palau Islands, a major Japanese naval stronghold. On September 15, 1944, Admiral Nimitz struck Pelelieu. The Marines of the 3d Amphibious Corps met tough resistance from the Japanese defensive forces. When the smoke cleared, more than 12,000 soldiers were left dead and the once lush islands were reduced to bare limestone. Needless to say, American forces eventually took the islands, Imperial Japanese command was demolished and the destiny of Palau was changed forever.

However, the Palauans were still determined to regain their birthrights. The strains of occupation and the ravages of war did not break their spirit. The survivors were able to recover their culture and control of their natural resources during the ensuing years. In 1947, the islands became part of the U.N. Trust Territory of the Pacific Islands under U.S. administration. After two referendums, a constitution was adopted in 1981 and elections were held later that year. The islands became internally self-governing and a Compact of Free Association with the United States was signed in 1982. This Compact provided for an option for full independence or an alteration of its status with the United States at any time based upon approval of such changes through plebiscite.

As we celebrate the 50th anniversary of World War II in Palau, an international conference will record, for Palauans and for the world, the historical, political economic, environmental, educational, and cultural effects of the Second World War in Palau and the Pacific. Presenters will include Palauan war survivors, local planning experts, and international scholars. The conference will be held in Koror, Palau from the 6th through the 9th of this coming September. The National Museum of Palau should be congratulated for sponsoring this combination of scholarship and commemoration of a great historical drama.

The Palauan Islands are now the last Trust Territory in the world and they are scheduled to become a fully independent nation in free association with the United States this coming October 1st; that is a fitting testimony to the commemoration of the 50th anniversary of World War II in Palau.

A TRIBUTE TO GENERAL AND MRS. RUSSELL SUTTON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of two extraordinary indivlduals, Brigadier General and Mrs. Russell Sutton, of Twentynine Palms, CA. Since June 1992, General and Mrs. Sutton have developed and championed a remarkably close relationship between the Marine Corps Air Ground Combat Center at Twentynine Palms and the city of Twentynine Palms and other communities in the Morongo Basin. After a distinguished military career spanning 30 years, General Sutton is retiring and will be presented with the Distinguished Service Medal at his retirement ceremony by General Mundy, Commandant of the U.S. Marine Corps.

General Sutton was born in Nashville, TN, and graduated from the University of Alabama with a MS degree in physical education, and was commissioned a second lieutenant in the Marine Corps in 1964. During the course of his long and distinguished career, General Sutton has been promoted extensively while serving tours of duty in Vietnam, the United Kingdom, Malta, Korea, and Thailand, as well as numerous locations throughout the United States.

General Sutton has been widely decorated during his career, having received a Bronze Star medal with Combat V and three gold stars; Purple Heart with gold star; Defense Meritorious Medal; Meritorious Service Medal; Joint Service Commendation Medal; Navy Commendation Medal with Combat V; and the Combat Action Ribbon.

Sutton was named commanding general of the Marine Corps Air Ground Combat Center in June 1992. During his command, he has made significant contributions to personnel at the combat center as well as citizens of the local community. Major successful efforts have also been made toward improving military training, the quality of life, environmental affairs, family services, and community relations.

Since arriving in Twentynine Palms, General Sutton and his wife, Linda, have worked together as a team playing an extraordinary role in building bridges and strengthening ties between the combat center and the local community. Their active involvement with the local chamber of commerce, Pioneer Days, and other worthwhile local charities and activities has been well received by people both on and off the base.

According to the local newspaper, the Twentynine Palms Desert Trail, "With Brig. General Sutton at the helm of the Combat Center, relationships between the community and the base are undoubtedly bright. Both the general and his wife should be commended for recognizing and being leaders in the whole community—not just the military side, but the civilian side as well."

Mr. Speaker, I ask that you join me, our colleagues, and the Sutton's many dear friends in recognizing their outstanding work and selfless contributions. During their time in Twentynine Palms, General and Mrs. Sutton have touched the lives of many people in our community and it is only fitting that the House honor them both today.

MARY DeNOVA IS HONORED

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. KLEIN. Mr. Speaker, it is with great pleasure that I rise today to join the congregation of the Church of the Blessed Sacrament in honoring Mary Tolomeo DeNova. Mrs. DeNova is a lifetime resident of Paterson, NJ, and a dedicated member of this community.

Born on September 11, 1907, Mary DeNova has seen the city of Paterson take shape before her eyes. In her first Home on 138 East 18th Street, her parents Dominic and Catherine Tolomeo raised 12 children. Their already crowded two-family house became a welcome stop for Italian immigrants from the providence of Salerno. She fondly recalls the era of trolley cars, when her parents' home was festive, food seemed to be plentiful, and the table was always adorned with homemade wine.

After finishing her formal education in the Paterson public schools at the age of 14, Mary began to work in the factories so prevalent in the Riverside section of Paterson. One such place, owned by Max, Sam, and Izzy Bornstein, was where a long and loving relationship began. It was at the silk mill that she met the foreman, Tony DeNova, to whom she was later married at St. Anthony's Church by Father Valenti in 1928.

Mr. and Mrs. DeNova raised their three sons in Riverside. After World War II, the family bought and managed a corner store in which Mrs. DeNova worked for 41 years. She has a sense of compassion for the community which did not go unnoticed; her sons called her Welfare Mary for her ability to know who was down and out and make sure that they received what they needed.

In addition to her 11 grandchildren and 11 great grandchildren, Mrs. DeNova has been involved in a countless number of clubs and organizations, including a Charter Member of School No. 18, Riverside Vets Leisure Club, Passaic County Democratic Club, Catholic Council of Women, Blessed Sacrament Rosary Society, Blessed Sacrament Leisure Club, All Wags A.C. Auxiliary, the 5th Avenue Democratic Club, and many more. In fact, Mary still treks to her spot at the polls every election day, including primaries, making sure Democrats get a fair shake.

Mary has seen many mayors and many priests come and go, but Father Richard Rusconi, the priest at Blessed Sacrament, and Mayor William J. Pascrell, Jr., a parishioner, could not be more proud of their longtime friend. The history of Paterson, NJ, cannot be written without including the life and times of Mary DeNova. I am very honored to ask my colleagues to pay tribute to Mrs. DeNova, and I wish her the best of luck in the future.

VOL 140 PT 15 AG 10 — 11 1994 UMI

IDEA IMPROVEMENT ACT OF 1994

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. BALLENGER. Mr. Speaker, today, I am introducing the IDEA Improvement Act of 1994, a bill that makes various amendments to the Individuals with Disabilities Education Act [IDEA].

In putting this bill together, my colleagues and I received a great deal of input from parents, teachers, administrators, legal advocates, and other special education experts. We did not try to represent one particular group's point of view, but instead, have tried to find a solid, reasoned approach that will play a constructive role in improving the education of children with disabilities.

To accomplish the best for these children, this bill carefully balances three priorities: increasing student achievement and accountability; increasing parents' involvement in their children's education; and, encouraging informal dispute resolution.

We need an increased emphasis on student achievement because we know that, too often, special education is more process oriented than results oriented. We need increased parental involvement because parents care the most about their child's well-being and must be a full partner in the educational process. And finally, we need to encourage informal dispute resolution so that special education is focused on successfully educating children, not fighting costly legal battles.

Our legislation includes the following key provisions:

It focuses on measuring educational achievement and ensuring that special education services are targeted to support the student's academic performance;

It gives parents the opportunity to be involved in more school meetings relating to their child's education;

It helps parents be better informed about their child's disabilities and how the special education system works;

It offers voluntary mediation to help settle disputes between parents and schools without costly litigation;

It establishes agreements between State agencies to define payment responsibilities for special education and related services;

It encourages special education programs to coordinate with programs like Even Start and Head Start that offer family literacy services; and,

It allows a judge to reduce parental attorney's fees if the parent did not first try to informally resolve the dispute.

Over the last year, there has been a lot of discussion about the complex issues surrounding the IDEA. Discussion is fine, my colleagues and I believe it is time to move this discussion to a more specific level and put some concrete proposals on the table.

We don't assume to have all the solutions for the problems that have been identified with the IDEA, but today we are making an honest attempt to face these issues with specific proposals. In that spirit, we look forward to continued input from our colleagues and also from the parents, teachers, and administrators that deal with the IDEA on a daily basis.

IDEA IMPROVEMENT ACT OF 1994

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. GOODLING. Mr. Speaker, today, I am pleased to join as an original cosponsor of the IDEA Improvement Act of 1994 which is being introduced by Representative CASS BALLENGER.

Over the last year, my Republican colleagues and I on the Subcommittee on Select Education and Civil Rights have heard from parents, teachers, administrators, and State officials about the successes and challenges within special education under the Individuals with Disabilities Education Act [IDEA]. In examining these issues, three themes have emerged that we believe need attention: increasing the achievement of students with disabilities in school; helping parents be more involved in their children's education; and, finding ways to avoid costly and adversarial litigation.

Opportunities for individuals with disabilities have opened up significantly over the last several years. Unless the quality of education disabled students receive also improves, many of these students won't have the skills and confidence they need to take advantage of these new opportunities. The changes in this bill will hopefully place a greater focus on quality education and achievement for children with disabilities.

We also include provisions that strengthen the role of parents in their children's education. One provision of particular interest to me would encourage special education programs to coordinate with programs like Even Start and Head Start that offer family literacy services. A significant number of children being served by special education have a disability related to their difficulty in learning to read. If one or both of the child's parents also suffer from difficulty in reading, then it will be doubly hard for them to help their child overcome their reading difficulty. By improving coordination between special education and family literacy programs in specific circumstances, we can encourage more effective strategies to assist disabled children and their parents.

I believe both the mediation proposal and the requirement that parents try to work out disputes before filing a formal complaint in order to have attorney fees reimbursed are important provisions to encourage disputes to be resolved in an informal manner that avoids unnecessary and costly litigation.

I am also very pleased that we have written this bill in a way that helps move IDEA in a positive direction, but does not create new federal mandates or require excessive Federal intervention in the ways schools operate their special education programs.

I want to express my thanks to Mr. BALLENGER for introducing this valuable legislation, and I look forward to working with him to see that these provisions are included as improvement to the Individuals with Disabilities Education Act.

DR. LOIS GIBSON—AMERICAN SUCCESS STORY

HON. WALTER R. TUCKER III

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. TUCKER. Mr. Speaker, I rise today to salute an American success story, and Women's History Month honoree, Dr. Lois Gibson.

Mr. Speaker, each year, the Mayor's Commission on the Status of Women recognizes women in the Jacksonville community that have made a lasting contribution. One of only five women selected this year is, Dr. Lois Gibson.

Mr. Speaker, Dr. Gibson is special to me because she is the mother of my district administrator, Audrey Gibson. Each honoree was presented with a watercolor poster depicting the 1994 honorees, by Mayor Ed Austin and Betty Davis. The theme of the dinner which was held at the Omni Hotel on March 1, was to Celebrate Women: Builders of Dreams. Besides Mayor Austin and Mrs. Davis, others in the dinner program were Susan Main, Girl Scout Troop No. 374, Anne Witherspoon, Christine Tyler, Madeline Seals-Taylor, and Dr. Bertice Berry. Dr. Berry is an award-winning lecturer, stand-up comedienne, and now host of her own syndicated talk show.

Dr. Gibson is the 12th African-American to be selected by the Mayor's Commission on the Status of Women. The other African-American women so honored were: Willye F. Dennis, Mary White Bocker, Mary Singleton, Marva Williams, I.E. Williams, Sally Mathis, Florida Dwight, Gertrude Peele and Janet Johnson.

Dr. Gibson is a native of Jacksonville, FL. She graduated from Stanton Senior High School. She obtained her nursing diploma from Grady Memorial Hospital, her B.S.N. degree from Tuskegee Institute, her master's from Boston University, and an Ed.D from Nova University.

Mr. Speaker, Dr. Gibson has been a member of 14 professional affiliations, including the American Nurses Association, Florida Nurses Association, and Sigma Theta Tau National Honor Society for Nursing Educators. She is very involved in civic and religions activities. She is a past president of Delta Sigma Theta Sorority, Inc., Chi Eta Phi Nursing Sorority, and the Jacksonville chapter of the Links, Inc. She is also a member of the Jacksonville Women's Network, life member of the National Council of Negro Women, YWCA Board of Directors, Catholic Women's Club, and St. Pius Catholic Church.

While she was dean of nursing at the Florida Community College at Jacksonville, she developed a $3 million proposal for a nursing construction grant to expand the associate degree nursing program. Dr. Gibson has received many awards. A few of them are the Eve Award in Education, the NENW Outstanding Service in the Jacksonville Community Award, and the Northeast Florida Organization of Nursing Educators' Outstanding and Valuable Contribution Award.

Mr. Speaker, Dr. Lois Gibson is truly an American success story and I am proud to associate myself with her.

THE GULF OF MAINE CONSERVATION AND COOPERATION ACT

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Ms. SNOWE. Mr. Speaker, the Gulf of Maine stretches from the Bay of Fundy in Canada to Cape Cod in Massachusetts, and out to Georges Bank. It represents one of the richest marine ecosystems in the United States. It supports over 100 species of birds, 73 species of fish, 26 species of whales, dolphins, and porpoises, and endangered species such as the bald eagle, the roseate tern, the humpback whale, and the sperm whale.

The gulf also provides abundant economic and recreational benefits to the people of the region. Its commercial fishing industry, including aquaculture, produces more than $800 million in revenues annually, and employs 20,000 people. Tourism and recreation in the Gulf of Maine region also generate millions of dollars and employs thousands.

Fortunately, the gulf remains productive, but danger signs are beginning to appear. High levels of toxic contaminants have been detected in the gulf's deep basin sediments, indicating that pollutants are distributed throughout the region. Bacterial contamination has led to the closure of one-third of Maine's shellfish beds. And fish and wildlife habitat is declining.

These problems can be arrested before the gulf's natural resources degrade too far, but it will require cooperation and commitment from the region's citizens, local governments, State and provincial governments, and Federal Governments. The States and provinces wisely recognized that the gulf's resources transcend political boundaries, and the Governors and premiers formed the Gulf of Maine Council on the Marine Environment in 1989 to develop joint solutions to the gulf's environmental and economic problems. Since its creation, the council has developed constructive programs to protect and manage the natural resources of the gulf while enabling the economies of the region to grow.

The missing piece of the effort is the U.S. Government. Agencies like the Commerce Department, the EPA, the Interior Department, and the Army Corps of Engineers already conduct resource management, research, and economic development programs in the region—and these programs often make a positive difference—but these programs can be disconnected and uncoordinated, both within the Federal bureaucracy and without. Consequently, we lost opportunities to pool resources, coordinate, and maximize the effectiveness of our collective efforts in spite of limited budgets.

To help the Federal Government become more involved in this regional cooperative process in the Gulf of Maine, I have introduced a bill, the Gulf of Maine Conservation and Cooperation Act. The bill issues a statement of policy that Federal resource conservation efforts in the region should be maintained and strengthened. It establishes a Gulf of Maine Interagency Task Force consisting of representatives from the Commerce Department, EPA, Interior, and the corps, whose mission is to identify opportunities for interagency cooperation and coordination of activities in order to make efficient use of Federal resources in the gulf region. The bill also requires Federal resource agencies to cooperate and coordinate, to the maximum extent practicable, with the Gulf of Maine Council and the States, and it authorizes Federal financial contributions to the council for joint programs.

The Gulf of Maine Conservation and Cooperation Act does not create any new programs or bureaucracies, promulgate new regulations, or impose new mandates on the States. It does not seek to solve all of the ecological problems of the gulf with one wave of a magic legislative wand. Instead, it seeks only to move the Federal Government in a more constructive direction on issues relating to the health of the Gulf of Maine. It offers a rational, flexible, and inexpensive approach to problem-solving in the gulf, an approach supported by my home State of Maine. I hope my colleagues will support this approach as well.

TRIBUTE TO J. THOMAS RITTER

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. LEHMAN. Mr. Speaker, I rise before my colleagues today to pay tribute to J. Thomas Ritter who has retired after 5 years as superintendent of Sequoia and Kings Canyon National Parks and a distinguished career in the premier areas of the National Park Service.

Tom's retirement caps a career that spans 35 years of dedicated service with the National Park Service. Mesa Verde National Park marked the beginning of Tom's park service career. Following that was other seasonal experiences in San Juan National Forest, Glacier National Park, Rocky Mountain National Park and Saguaro National Monument.

His first permanent position was at Lake Mead National Recreation Area, followed by tours at Timpanagos Cave, National Monument, Mount McKinley National Park, Anchorage General Office, Glacier Bay National Monument, Voyageurs National Park, the Washington office and finally, Sequoia and Kings Canyon National Park.

I'm proud when Tom says that the greatest time of his career has been working at Sequoia and Kings Canyon National Parks, two jewels in the National Park system that are located in my backyard in my congressional district.

It's to Tom's credit and a tribute to his work that in 1992 he was named Superintendent of the Year for Natural Resources Stewardship for the western region of the Park Service.

And Tom was also the recipient of the Glenn O. Hendrix Award for quality in planning and construction while at Sequoia Kings Canyon. Tom was deeply involved in an era of change at Sequoia and Kings Canyon. The move from Giant Forest to Wuksachi Village, the renovation of the Generals Highway, the wastewater problems and potential closure of Giant Forest are examples of significant issues that he has dealt with exceptionally well.

In addition to dealing with change and inspiring a team approach to management in Sequoia and Kings Canyon, Tom served on numerous service-wide and regional task forces during his 5-year tenure there. His contributions to the Western Region Natural Resources Management and Science Task Force were also valuable.

I want to thank Tom for his stewardship of our Nation's resources and for all his achievements on behalf of park visitors from around the world. He has truly made a difference. For that he will be missed.

THREE CHEERS FOR CAPITALISM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. CRANE. Mr. Speaker, as Congress nears consideration of a Government-run health care system, I believe that Members need to be reminded of the proven inefficiencies of a centrally planned economy. The free market and capitalism have been tested through history and have shown that they are the best method for distributing everything from pins to health care. The United States is the world leader in health care because the Government has been largely absent from the decisionmaking in that service. We have also noted that when the Federal Government becomes involved in a service, like the U.S. Postal Service, performance is subpar compared to free market alternatives, like United Parcel Service.

I am enclosing the September 1993 issue of "Imprimis" in which Malcolm S. Forbes, Jr., describes the free market as the most moral economic system known to mankind. I commend this article to the attention of my colleagues and urge them to heed the advice of Mr. Forbes as we begin debate on health care.

[From Imprimis, September 1993]

THREE CHEERS FOR CAPITALISM

(By Malcolm S. Forbes, Jr.)

Living in the 1990s, we are uniquely able to judge what the American economy has achieved in the 20th century. For this reason, we ought to give three cheers for capitalism. By the term, I mean "democratic capitalism," which is as fundamentally different from the "managed capitalism" of modern-day central planners as it is from the "state capitalism" of old-style fascists, socials, and communists.

Capitalism works better than any of us can conceive. It is also the only truly moral system of exchange. It encourages individuals to freely devote their energies and impulses to peaceful pursuits, to the satisfaction of others' wants and needs, and to constructive action for the welfare of all. The basis for capitalism is not greed. You don't see misers creating Walmarts and Microsofts.

Think about it for a moment. Capitalism is truly miraculous. What other system enables us to cooperate with millions of other ordinary people—whom we will never meet but whom we will gladly provide with goods and services—in an incredible, complex web of commercial transactions? And what other system perpetuates itself, working every day, year in, year out, with no single hand guiding it?

Capitalism is a moral system if only because it is based on trust. When we turn on

VOL 140 PT 15 AG 10 — 11 1994 UMI

a light, we assume that there will be electricity. When we drive into a service station, we assume that there will be fuel. When we walk into a restaurant, we assume that there will be food. If we were to make a list of all the basic things that capitalism provides—things that we take for granted—it would fill an encyclopedia.

HOW TO BECOME SUCCESSFUL CAPITALISTS

How do we become successful capitalists? The answer sounds simple, but it is often overlooked in places where you would think they would know better. (I am referring, of course, to government, the media, and our most elite business schools and economics departments.) We succeed as capitalists by offering goods and services that others are willing to buy. Many capitalists do not make correct assumptions about what to offer and fail, but that is as it should be. There is no guarantee of success in any area of life, including business—there is always risk. The particular advantage of capitalism is that failed businesses don't necessarily equal a failed economy; they make way for successful businesses.

But even the most successful businesses can't afford to forget about market principles. AT&T is a case in point. In the 1970s, fiber-optic technology was available, but AT&T decided that it would delay fully converting for perhaps 30 to 40 years. It wanted to fully depreciate its old plants and equipment, and, because it enjoyed a virtual monopoly over its customers, it saw no reason to spend a lot of money on a new long distance calling system. But then an upstart company, MCI, raised a couple billion dollars through the much-maligned "junk bonds" market in order to set up its own fiber-optic network. AT&T had no choice but to keep up with its competition, and, as a result, the U.S. experienced an enormous advance in communications that has put it ahead of its foreign competitors and that has benefited hundreds of millions of consumers.

About twenty-five years ago, the federal government filed an antitrust suit against IBM because it had grown so successful that its name had become virtually synonymous with the computer industry. But the would-be trustbusters underestimated the vitality of an open marketplace. IBM's dominance of mainframe computers, microchips, and software did not prevent the rise of rival companies such as Digital Equipment, Apple Computer, Sun Microsystems, and Microsoft. Today, IBM's very existence is in jeopardy.

Around the same time, John Kenneth Galbraith wrote The New Industrial State, in which he argued that though the Ford Motor Company was no longer the biggest of the auto companies (GM had roughly 50 percent of all sales), Ford was so large that it did not have to pay particular attention to its shareholders or its customers. Apparently, Japanese automakers did not read John Kenneth Galbraith, or the reports of countless other "experts" who claimed that it was impossible to compete against Ford, GM, and Chrysler. They even ignored their own early failures to storm the U.S. market in the 1950s and early 1960s. Finally, after years of trying, Japanese automakers succeeded—and succeeded to an extent that no one could have predicted—in challenging the hegemony of the "giants" in Detroit.

Then there is Sears & Roebuck. What more mundane business could there be than retailing? Yet, around the turn of the century, Sears made retailing truly exciting, reaching out to millions of people with new marketing methods and new products. By the end of the 1940s, it dwarfed all competitors. In the last several decades, however, the company lost its way and became a self-serving, insulated bureaucracy. Now it is closing its doors on numerous stores. Its market share has plunged—and its profits have almost disappeared.

Why, by contrast, has another retail firm, Walmart, achieved its phenomenal success? Not because its founder Sam Walton used to ride around in a pickup truck visiting his stores, though that was good publicity. It was because he recognized the importance of computer technology and had systems devised that help store operators respond to inventory information on a weekly and even daily basis. Sam Walton knew that success, even once it was achieved, was something that couldn't be taken for granted.

What should be clear from each of these examples is that capitalism is not a top-down system—it cannot be mandated or centrally planned. It operates from the bottom up, through individuals—individuals who take risks, who often "don't know any better," who venture into areas where, according to conventional wisdom, they have no business going, who see vast potential where others see nothing.

Often, these individuals literally stumble across ideas that never would have occurred to them if they were forced to work in a top-down system. And they take supposedly "worthless" substances and turn them into infinitely valuable ones. Look at penicillin. Whoever thought that stale bread could be good for anything? The same goes for oil before the invention of the gasoline engine and the automobile and for sand before the invention of glass, fiber-optics, and the microchip.

There is another important thing to remember about capitalism: Failure is not a stigma or a permanent obstacle. It is a spur to learn and try again. Edison invented the light bulb on, roughly, his ten-thousandth attempt. If we had depended on central planners to direct his experiments, we would all be sitting around in the dark today.

OPEN VERSUS MANAGED COMPETITION

This leads to the next question regarding capitalism: What is the market? Central planners don't like the word; they prefer to say, "market forces," as if describing aliens from outer space. But nothing could be further from the truth. The market is people. All of us. We decide what to do and what not to do, where to shop and where not to shop, what to buy and what not to buy. So when central planners trash "market forces," they are really trashing us.

Unfortunately, they are the ones who seem to be calling the shots today on a number of issues that should be left up to the market, i.e., up to us. One such issue is the spiraling costs of health care. Not surprisingly, central planners advocate a top-down approach to reform. With unconscious irony, they call it "managed competition."

But we have already tried managed competition, in fact, it is managed competition that has caused so many problems in the health care industry in the first place. Specifically, the tax code penalizes individuals who want to buy medical insurance by making them pay for it with after-tax dollars, even if they are self-employed. Only 25 percent of their premiums are deductible. But companies may buy health insurance with pre-tax dollars. So they, instead of their employees, have become the primary purchasers of insurance. This drives a wedge between the real customers and the real providers and obscures the real costs of such features of the system as low deductibles. Imagine if every time you went to the supermarket you gave the cash register receipt to your employer, who then submitted it to the insurance company for a claim. What would happen to food prices? They would skyrocket, because you wouldn't care whether a bottle of soda cost $10, $100, or $1,000.

The problem doesn't stop there. Growth in demand and improvements in technology—key ingredients to success in any other business—have instead led to crisis in the health care industry. More people are receiving better treatment than ever before and leading longer, healthier lives, but perversely this has sent costs up rather than down and has overloaded the delivery system.

If we want genuine health care reform, we must return to open competition. The tax code must be revised so that individuals can buy health insurance with pre-tax dollars and set up medical IRAs for their families that can be used to finance routine medical expenses. There is no doubt that a majority of Americans would choose this option. They want to have control over their own health care decisions. Many would choose policies with higher deductibles. Premiums would go down and so would paperwork. Physicians and hospitals would see their patient load come under control and would be induced to offer competitive rates and services. The potential benefits are enormous.

A couple of years ago, Forbes Inc. faced yet another round of steeply rising costs for health care. We wanted to do something that enabled our employees to police those costs in a way we, the employer, were unable to do. So we gave them a stake in the process. We offered them a bonus: They could keep the difference between their claims and $500—and we would double the amount. Thus, if they went through a calendar year without filing any health claims on the insurance company, we would pay them as much as $1000, tax free.

What happened? Suddenly, every employee became cost-conscious. On major medical and dental expenses, claims went down 30 percent. These savings financed the bonuses and our total health care costs went up zero percent last year. This was not because we compelled millions of people to participate in some "managed competition" scheme, but because we let a few hundred individuals make their own health care decisions.

LETTING INDIVIDUALS MAKE THEIR OWN DECISIONS

Letting individuals make their own decisions is what capitalism is all about, but virtually all central planners (now in their heyday under the Clinton administration) and a good many members of the U.S. Congress (Republicans as well as Democrats) fail to realize it. They do not, for example, realize that it is the decisions of individuals that really decide how much tax revenue the government collects and how well the economy prospers. Between 1982 and 1986, the American private sector created well over 18 million new jobs, including a record number of high-paying positions. Of these, 14 million were created by new businesses. But, in 1987, Congress raised the capital gains tax to one of the highest levels in the industrial world. What happened? New business and job creation declined sharply. The nation was hit with a recession. And tax revenues, which were supposed to rise, went down. All this occurred because individuals made the decision not to invest. Today, there is almost $7 trillion of unrealized capital gains that is going begging because of high taxes. If Congress lowered the capital gains rate, it would mean more not less tax revenues. It also would overwhelm any stimulus package Washington could concoct for revitalizing the economy.

Central planners also tend to be big fans of "industrial planning," whereby government picks the "winners" in the marketplace through subsidization of select companies and technologies. They ignore the fact that this will obliterate incentives for companies to remain competitive, breed corruption and special interests, and penalize the small businesses that are the backbone of the economy.

And they want to micromanage the monetary system, knocking down the value of the dollar against the yen or raising it against some other currency in closed-door meetings with bureaucrats from other industrialized nations. They do not realize that one of the most important functions of money is to serve as a constant, reliable measure. A ruler is supposed to be 12 inches long, but they want to change it to 11 or 13 inches whenever it suits their political strategy. You and I might call this a swindle, but in Washington it is called sophisticated economic management.

Even such a simple word as "change" takes on a whole new definition in Washington, meaning change directed from above by well-intended central planners and politicians who think that they "know better" than most people when it comes to making decisions. But, in truth, the most revolutionary sweeping agent of change is capitalism. Look at what has happened in Eastern Europe, the Soviet Union, Latin America, and Asia. When people are free to make their own decisions, they have a stake in the economy, and when they have a stake in the economy, they have a stake in serving others, and when they have a stake in serving others, they have a stake in fighting for freedom.

Capitalism is the real enemy of tyranny. It stands not for accumulated wealth or greed but for human innovation, imagination, and risk-taking. It cannot be measured in mathematical models or quantified in statistical terms, which is why central planners and politicians always underestimate it. As I noted at the outset, it is up to us, then, to give three cheers for capitalism. Who knows? If we cheer loud enough, perhaps even they will listen.

TRIBUTE TO CHARLES COST

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Charles Cost of Troop One in North Scituate, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Charles performed community service in the town of Foster under the direction of the public works director.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Charles Cost. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Charles Cost will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

TRIBUTE TO ANN MARGARET GALLIGAN DeNOIA

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. GEJDENSON. Mr. Speaker, Ann Margaret Galligan DeNoia, who died on August 3, 1994, at St. Francis Hospital in Hartford, CT, gave real meaning to term "public servant."

Her Irish wit added to the warm personality she brought to her assignments in government at the State and Federal levels over more than three decades.

For 10 years, between 1981 and 1991, she served as executive assistant to Gov. William O'Neill, handling the myriad of duties in an efficient and kindly manner.

Describing her work in its obituary, the Hartford Current noted that "she handled visitors (to the Governor's office) with the charms of a small-time diner waitress but could sternly get rid of the most persistent visitors, too."

Mrs. DeNoia's career included a tenure in the early 1960's on the staff of Abraham A. Ribicoff when he was Secretary of the U.S. Department of Health, Education, and Welfare. She also worked with Mr. O'Neill during his service to Connecticut in the General Assembly and as Lieutenant Governor between 1971 and 1981. For 3 years before her death, she worked for the Connecticut Housing Finance Authority.

She had been active in Democratic Party operations since her teenage years when she started as a volunteer in the campaign of her brother, William Galligan of West Hartford, who ran for the general assembly. Subsequently, she assisted the Democratic entities and programs.

Government produces many good people and some great people. Ann Margaret Galligan DeNoia was one of the great, great individuals to bless government with her presence. Ann was a close personal friend whom I and many others will miss—we share the loss with her husband, Dick.

IN RECOGNITION OF ANGEL FLIGHT, INC.

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a singular charitable organization called Angel Flight, Inc. This nonprofit corporation is dedicated to the free air transportation of medical patients, blood, and medical cargoes for those who cannot access such transportation by ordinary commercial means.

Angel Flight is composed of volunteers whose time, talent, money, and aircraft are donated free of charge. In 1993 volunteer pilots produced 300 missions that required over 2,000 hours for a total of 160,000 nautical miles. Areas served include Texas, Arkansas, Oklahoma, Louisiana, Mississippi, Tennessee, Alabama, and Nebraska. The pilot base has increased to more than 250 pilots.

Angel Flight is a member of Air Care Alliance, an organization that supplies information throughout the United States for contacting organizations that provide the services of general aviation pilots and aircraft. A coordinator makes the necessary arrangements for each flight, and users must be qualified by either a physician or social worker.

Some of the medical facilities served include M. D. Anderson Hospital in Houston, Scott & White Hospital in Temple, Wadley Blood Center in Dallas, Cancer Therapy & Research Center in San Antonio, University of Texas Medical Branch in Galveston, Mayo Hospital in Minnesota, and Shrine Hospital in Chicago.

Each pilot must adhere to FAA regulations, provide insurance coverage, and have a minimum of 200 hours of flight time. Angel Flight is financially supported primarily by these volunteer pilots, who donate the use of their airplanes and operating expenses, and by contributions from individuals, service clubs, and other groups. The corporation receives no financial aid from any government entity.

From transporting a cancer patient for an experimental drug treatment to flying a young child to a specialist for a series of cosmetic surgeries, Angel Flight is in the business of helping provide medical care for those in need. Mr. Speaker, during this time when our Nation is focused on quality health care and health care costs, I wish to salute the heroic efforts of these volunteers who are doing their part to provide quality of care for patients at no cost to the taxpayer or government. Their efforts deserve our recognition and our thanks.

VOL 140 PT 15 AG 10 — 11 1994 UMI

A TRIBUTE TO SAM AND YVONNE MARIE ANDERSON—AN AMERICAN SUCCESS STORY

HON. WALTER R. TUCKER III

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. TUCKER. Mr. Speaker, I rise today to salute an American success story, and congratulate Sam Anderson and Yvonne Marie Anderson. Sam and Yvonne are special to me because they are the aunt and uncle of my wife, Robin M. Tucker.

Mr. Speaker, these two exceptional people are to be commended for their work in the field of education. Both being educators, they have given tirelessly of themselves and displayed true dedication to the students of the Los Angeles Unified School District.

Sam Anderson, born in Dallas, TX, came to Los Angeles, and eventually received his B.A. degree from Pepperdine University. His 36 years in the Los Angeles Unified School District/High School Division, included teaching history for 18 years at Jordan High School, and being actively involved with the High School Work Experience Program and Youth Services for the last 12 years.

Yvonne Marie Anderson, hailing from Ft. Worth, TX, attended Woodbury Business College. She was employed for 25 years in the Los Angeles Unified School District/Adult Division at the Jordan/Locke Community Adult School. Mrs. Anderson taught business education for the Employment Preparation Center, was a teacher's advisor for two successive terms and was the business education chairman for three consecutive terms.

Mr. Speaker, Mr. Sam Anderson's commitment to the advancement of high school students and their preparation for the work force, and Mrs. Yvonne Marie Anderson's commitment to the development of adults in preparation for jobs in the business field, along with their active participation in numerous school organizations and educational associations, is to be lauded, for they are truly an American success story, and I am proud to associate myself with them.

LEGISLATION CONCERNING NEGOTIATED RULEMAKING AND THE NEW ENGLAND GROUNDFISH INDUSTRY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Ms. SNOWE. Mr. Speaker, over the past 6 months, the national press has been full of stories about the decline of the New England groundfish populations. The stories generally follow a similar pattern: The groundfish have been terribly overfished, tough regulations to eliminate overfishing have finally been approved, and the fishermen are resisting them prior to losing their jobs. The stories offer a distinct and clear picture in black and white. But this kind of portrayal, while accurate in some respects, contains a critical flaw: The groundfish issue is actually more muddled. It contains different shades of gray as well as black and white.

Few people in New England will doubt that the groundfish stocks are down and that substantive measures to conserve and rebuild the stocks are in order. The question is not the end but the means. Fishermen think that they know something about the means. As inheritors and practitioners of a 300-year tradition—perhaps the oldest industry in New England—they argue that their experience and knowledge of the fishery resource can yield important insights into the resource that will aid considerably in the development of a fishery management plan for groundfish.

A fishery management plan, amendment 5 to the Northeast Multispecies Fishery Management Plan, has indeed been developed and approved by the New England Fishery Management Council and the Commerce Department, but the fishermen believe that it will unnecessarily put many members of the industry out of work without achieving its conservation objectives. The council held public hearings throughout New England prior to completing amendment 5, but the final amendment incorporates only a few of their recommendations. Its central provision will reduce the number of days that fishermen can fish by 50 percent over 5 years—a provision that was bitterly opposed by the industry during the hearing period.

One thing is certain about amendment 5: A lot of people will lose jobs in Maine and other New England States. But most of the job losses will probably not occur until year 3 of the program, in 1996. In the meantime, there is an opportunity to make every effort to ensure, before the Federal Government forces people out of the fishing industry, that no other, less disruptive set of fishery management alternatives to the controversial provisions of amendment 5 exists.

I have introduced two bills designed to bring the fishermen, the Commerce Department, and other stakeholders to the table to try to find some common ground on less costly management alternatives before it's too late. This process is known as negotiated rulemaking, and it was authorized for Federal agencies under the Negotiated Rulemaking Act of 1990. It provides a collaborative, consensus-based dispute resolution tool that agencies can use to develop potentially controversial regulations. Representatives of all interests with a stake in a particular issue sit down and negotiate with the aid of a facilitator over a set time period. If consensus is reached, the head of the agency can then propose that consensus document as a new rule.

My first bill gives the Secretary of Commerce the explicit authority to use negotiated rulemaking to develop fishery management plans or plan amendments. Under the Magnuson Act, the Secretary can only submit management plans or plan amendments under limited circumstances which preclude his flexibility in using this important tool. Also, negotiated rulemaking is specifically used to develop rules, but fishery management plans are not technically rules. My bill removes these potential obstacles and clears the way for the Secretary to use this dispute resolution tool.

The second bill that I have introduced today directs the Secretary to use negotiated rulemaking in the specific case of the groundfish fishery. Alternative dispute resolution is used more and more commonly in lieu of the traditional adversarial regulatory process. I firmly believe that it needs to be tried in the case of the New England groundfish issue.

My legislation does not approve or disapprove any particular conservation program, or impose particular management measures on the groundfish fishery. It only offers another route for developing conservation measures, a route that may produce measures that yield the necessary conservation gains without causing so much disruption to the economies and coastal communities of our region.

TRIBUTE TO YVONNE J. SETENCICH

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. LEHMAN. Mr. Speaker, I rise before my colleagues today to pay tribute to Yvonne J. Setencich, who has served her county well, laboring behind the scenes and working to ensure a better government for all of us.

For 6 years Yvonne has served on the Fresno County grand jury, a tenure that is unprecedented in Fresno County history. Yvonne, who happens to live in Sanger, the small farming community that is my birthplace, capped her career as a member of this government watchdog organization by serving as foreman in 1993–94.

I have known Yvonne for many years, both as a constituent and, more importantly, as a friend, together with her husband, Eli. Although grand jury proceedings are secret, I know her to be a tireless worker, conscientious and organized in the way she goes about the tasks that are before her.

Yvonne has unselfishly given her time and served Fresno County and its citizens with distinction. I am proud to call Yvonne my friend, and I commend her for the years of valuable service she has provided toward a better and more efficient government.

REFORM OF MUSIC LICENSING FEES FOR SMALL BUSINESSES

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. REED. Mr. Speaker, today, along with my colleagues Mr. SENSENBRENNER, Mr. SYNAR, Mr. ROSE, Mr. GEKAS, and Mr. ZELIFF, I am introducing legislation that will help level the playing field between small businesses and music licensing organizations.

Under current law, music licensing organizations such as the American Society of Composers, Authors, and Publishers [ASCAP], Broadcast Music Inc [BMI], and the Society of European Stage Authors and Composers [SESAC] are permitted to collect fees from business people who choose to play music in their establishments, whether it be from television commercial jingles, radio, tapes, or CD's. This applies to restaurants, shoe stores—even children singing Christmas carols in shopping centers.

The House Judiciary Committee Subcommittee on Intellectual Property and Judicial Administration held a hearing in February to examine the music licensing practices of these societies. One of the witnesses was a constituent of mine, John Deion, who owns the Last Call Saloon in Providence, RI. Mr. Deion joined other small businessmen who aired concerns about the arbitrary nature of the fees, the inability of business owners to determine which organization licenses which work, and the lack of an adequate forum to resolve fee disputes.

My legislation addresses their concerns. Specifically, it does the following:

Expands the current exemption for certain radio or television sets. This has been the most litigated exemption of the Copyright Act and should be clarified to exempt all radios and televisions, provided no charge is made to see or hear the transmission.

Establishes a court-annexed arbitration process for fee disputes. Currently, in order to dispute the amount of the fee, a small business owner must hire an attorney in the state of New York because that is the only place and the only court which hears disputes over music licensing fees. Most business cannot afford to do this.

Requires free on line access to repertoire. Currently, it is difficult to determine which organization licenses which work—a practice that forces business owners to pay all three groups. Individuals should be able to choose to play music from only one music licensing group and only pay fees to one organization instead of all three.

Creates a new exemption for nonprofit educational choral groups who perform for free.

I strongly believe artists deserve compensation for the use of their works. But I also believe that small business owners deserve to operate under a system that is reasonable and fair.

SPECIAL WORDS FOR A VERY SPECIAL CONGRESSMAN

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. APPLEGATE. Mr. Speaker, last May a giant of a man and a former member of the House of Representatives passed away at the age of 90, Robert T. Secrest of Cambridge, OH.

Bob Secrest came to Congress in 1933, joined by Jennings Randolph of West Virginia, the last remaining elected official who accompanied Franklin Delano Roosevelt in heralding in the New Deal era.

Bob Secrest was the first Member to leave Congress and join the Armed Forces at the outbreak of World War II, entering the U.S. Navy. Bob Secrest served a total of 20 years in the House during three separate occasions, the only Member of Congress ever to do so. Bob also served on the Federal Trade Commission and was a former member of the Ohio House of Representatives and the Ohio Senate. He also served as the director of the Ohio Department of Commerce.

Mr. Speaker, a good friend of mine from Youngstown, OH, Thomas P. Gilmartin, Sr., an admirer of Robert Secrest, recently sent to me a poem he wrote as a tribute to our former colleague. I would like to take this opportunity to share these thoughtful words with the members of the House:

A TRIBUTE TO BOB SECREST

(By Tom Gilmartin, Sr.)

Bob Secrest tall and straight
Could look anyone in the face and tell them
the way things should be
A decent man through and through
Did his duty with delight
Never ducked from any fight
Veteran-Legislature a statesman too
A gentle man with sparkling eyes
Quick, could think on his feet
Never abusive or mean
Never grumbled or complained
Spoke his mind with humor-wit
Always right with friend or foe
Gee, I'm sorry to see him go.

TRIBUTE TO ALBERT STAEHLE: CREATOR OF SMOKEY BEAR

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mrs. MEEK. Mr. Speaker, this year we are celebrating the 50th anniversary of Smokey Bear. For the past 50 years, Smokey Bear has been a symbol of fire prevention for the U.S. Department of Agriculture Forest Service. He has instilled in generations of Americans the message—Remember—Only you can prevent Forest Fires!—a message of personal responsibility in the fight against carelessly caused wildfires.

The original Smokey Bear was born from the imagination and pen of the late Albert Staehle, considered America's greatest animal illustrator. In 1944, the USDA Forest Service asked Albert Staehle to create a mascot for its wartime fire prevention campaign. After considerable deliberation, he finally settled on a bear. The bear, he felt, could be portrayed as the father of the forest. The bear was fitted with a ranger's hat, blue jeans, a badge, and a bucket of water to put out fires.

Albert Staehle's creation, much to the benefit of our forests, is now the most recognizable animal figure in modern American history. Little did he know at the time that his creation would become a legend and constant reminder of the importance of preserving our precious forests.

During his lifetime, Mr. Staehle created such memorable animal figures as "Butch," the lovable cocker-spaniel who graced the covers of The Saturday Evening Post, Borden's Elsie the Cow and of course, the Forest Service's Smokey Bear. However, his work was not just confined to the animal kingdom. His genius was displayed in a variety of media including posters, magazine advertisements and house organs. He also designed war posters that were considered to be quite striking. His posters were consistent prize winners, in 1938–40 winning the prestigious Kerwin H. Fulton Medal for the Advancement of Art in Outdoor Advertising. He also won awards for his art from the Chicago Outdoor Advertising Association and the Art Directors Club of Philadelphia.

Albert Staehle was born in Munich, Germany, and came to New York when he was 14. He was a third-generation artist. He is the late husband of Marjory Staehle, a resident of the 17th Congressional District of Florida.

Mr. Speaker, until this year, Mr. Staehle has not been given the recognition he deserves for his contribution to the Smokey Bear campaign against forest fires. The American public was unaware and the U.S. Government has overlooked Albert Staehle's contribution.

Mr. Speaker, I applaud the Department of Agriculture Forest Service decision to recognize Albert Staehle for the significant contribution he made to our national heritage.

INTRODUCTION OF H.R. 4927, THE NORTHERN MARIANAS DELEGATE ACT

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. UNDERWOOD. Mr. Speaker, today I have introduced H.R. 4927, the Northern Marianas Delegate Act, to provide for a nonvoting Delegate to the House of Representatives to represent the Commonwealth of the Northern Mariana Islands.

The Commonwealth of the Northern Mariana Islands became the newest territory of the United States and an American commonwealth in 1976. This commonwealth is comprised of the northern islands in the Mariana Island chain, the principal islands being Saipan, Tinian, and Rota. Guam is also a part of the Mariana Island chain, and it is fitting that the people of Guam have the honor today to share in the introduction of this bill for our Pacific neighbors, and for our brothers and sisters of Chamoru heritage in the Northern Marianas who share Guam's indigenous identity.

It is important that the Northern Marianas be accorded representation in Congress, not just for fair and just representation of an American community whose interests are affected by the actions of Congress, but more importantly for what the people of Northern Marianas can contribute to the Nation through their Delegate.

The American relationship with the Northern Marianas began just over 50 years ago when American forces fought on the beaches of Saipan and Tinian, and at great human cost, expelled a colonial power that had acquired these islands as part of a Pacific empire. The Americans, in the years to come, established the seeds of democracy that have resulted in this new American commonwealth. This commonwealth, whose roots to America are traced to a violent military encounter in World War II, is the first American soil acquired by conquest in this century. That the people of the Northern Marianas have freely chosen to become a part of the American family is a great credit to

VOL 140 PT 15 AG 10 — 11 1994 UMI

the United States; that they do not enjoy full participation in the political process as citizens should be a matter of great concern to all of us.

Today the American citizens who live in the Northern Marianas contribute to the Nation and participate in the life of our Nation in all the same ways that every other American citizen does in his own community. They pay taxes, serve in the military, and work hard for the progress of their communities. They are part of the fabric of our great Nation.

Participation in this American democracy is not based on a particular citizen's tax contribution to the Treasury and it is not based on a preordained size of a community. It is based on a community's commitment to our democratic form of government and our Nation. Our American citizenship has as its foundation a promise of fair and equal treatment by our Government and that promise extends to Congress where fair and equal treatment demands that the Northern Marianas be represented by a Delegate.

The bill that I have introduced today mirrors the legislation which granted Guam and the United States Virgin Islands representation in 1972 and the legislation which granted American Samoa representation in 1980. The Northern Marianas will join the ranks of Delegates representing these islands, Puerto Rico, and the District of Columbia, and the Northern Marianas will add its voice to those who represent American citizens who do not reside in the 50 States, but who do reside in a diverse group of American communities on American soil.

In introducing this bill today I commend the work of the Resident Representative of the Commonwealth of the Northern Mariana Islands, Mr. Juan N. Babauta, and his staff. I also commend the unity of purpose in the leadership of the Northern Marianas expressed by Governor Froilan C. Tenorio in his support of this bill. I hope that the House of Representatives and the Senate will act on this legislation in this session, and I urge my colleagues to cosponsor H.R. 4927, the Northern Marianas Delegate Act.

H.R. 4535, THE UNLISTED TRADING PRIVILEGES ACT OF 1994

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mrs. COLLINS of Illinois. Mr. Speaker, as an original cosponsor of H.R. 4535, the Unlisted Trading Privileges Act of 1994, I am pleased that this important legislation was passed by the full House under suspension of the rules on August 1, 1994. Unfortunately, due to other pressing congressional business, I was unable to participate in the debate on this bill.

Regional stock exchanges, such as the Chicago exchange in my congressional district, serve a vital role in the present and future strength of our world financial markets. These exchanges are a driving force in providing necessary capital formation for both the American and global economies.

Much of the success of the New York and American exchanges is owed to constant innovation and relentless competition from their regional counterparts. The regional exchanges often have been able to provide cheaper and more efficient transactions, with innovative clearing techniques. These improvements were then adapted by the larger exchanges, benefiting the entire economy.

The Chicago Stock Exchange in particular is important in this regard. It is part of the creative Chicago financial and business community which includes the Chicago Mercantile Exchange and the Chicago Board of Trade and is especially important to the Midwest of our country. The Chicago Stock Exchange is also the largest of the Nation's regional exchanges.

Because of the historical importance of our regional stock exchanges, it is imperative that we in Congress ensure that the most equitable competition exists among all exchanges if we expect the United States to remain the leader in efficient and productive capital formation. A level playing field is necessary to guarantee the new products and services will continually be offered to the American investor.

As you know, H.R. 4535 will help to achieve this goal. The legislation will finally permit regional stock exchanges to trade stocks listed on the New York or American exchanges the moment they become listed and registered on those exchanges.

H.R. 4535 will correct what has long been an outdated provision of the Securities Exchange Act of 1934 that requires regional exchanges to wait up to 60 days for SEC approval to initiate trading in these listed securities while other Wall Street brokerage firms that deal in NYSE listed stocks are able to trade these stocks absent any similar SEC oversight.

H.R. 4535 will also grant the SEC the authority to issue a rulemaking to further explore the granting of unlisted trading privileges in initial public offerings [IPO's] of securities in a company approved for listing on the primary exchanges.

Mr. Speaker, I am extremely pleased that my colleagues in the House supported H.R. 4535 and look forward to similar support from the Senate.

TRIBUTE TO ARMANDO MORA AND LARRY SANDOVAL MEMORIAL SCHOLARSHIP CONCERT TASK FORCE MEMBERS, CITY OF SANTA FE SPRINGS, ANHEUSER-BUSCH, INC., TRIANGLE/BUDWEISER DISTRIBUTING AND SANTA FE SPRINGS NEWS

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. TORRES. Mr. Speaker, today, more than ever, we must make available resources for our youth to attend college. All too often, without scholarships and other means of financial assistance, students are unable to pursue a college degree.

For this reason, under the leadership of the city of Santa Fe Springs, Anheuser-Busch, Inc., Triangle/Budweiser Distributing, and the Santa Fe Springs News an effort is underway to raise money for the Armando Mora and Larry Sandoval Memorial Scholarship programs. These scholarship programs provide college scholarships for our local youth. The fundraising vehicle for this project is provided by the city through its Stargaze Concert Series. Artists for the Stargaze Concert Series are the Righteous Brothers, Englebert Humperdinck, and the Temptations.

The scholarship programs are dedicated to the memory of deceased Santa Fe Springs Councilmen Armando Mora and Larry Sandoval. Since the two memorial scholarship programs began, 25 deserving students from Santa Fe High School have received financial assistance. The Armando Mora Scholarship was established in 1986 and the Larry Sandoval Scholarship in 1991.

Youth who have received scholarships include: Tho Huu Lam; Patricia Shultz; Elisabeth Sanchez; Maria Lisa Garcia; Richard Brown; Shelby Lundahl; Quoc Thoung La; Matthew Olsen; Guade Paez; Dyann Renee Collins; Quyen La; Eugenia Mares; Christina Ann Bradberry; Jose L. Garcia, Jr.; Daniel Trejo; Christopher Rublacava; Segio Holling; Jaime Castaneda; Mark Kotsay; and Jeffrey Scott Gibson.

Anheuser-Busch, Inc., and Don Heinmark, president of Triangle/Budweiser Distributing Co., have committed $85,000 over a 5-year period to the Mora/Sandoval Scholarship funds. Ric Trent, publisher of the WAVE Newspaper Group, and Art Aguilar, publisher of the Santa Fe Springs News, have committed more than $75,000 in support for the scholarship fundraising effort and the city of Santa Fe Springs, as the Stargaze Concert promoter, is underwriting concert expenses, including use of the Town Center Plaza for the series.

Other businesses who have joined the city of Santa Fe Springs, Budweiser, the newspapers, and the Chamber of Commerce to support the scholarship program include: W.T. Billard, Inc.; McMaster-Carr Supply; Valverde Construction Co.; Consolidated Disposal; Continental Cablevision; Chris 'n Pitts Restaurants; Presbyterian Intercommunity Hospital; Santa Fe Springs Promenade Shopping Center; Murray's Landscaping; Health First Medical Group; California Industrial Products; Parkhouse Tires; the Santa Fe Springs Lions Club; and PDQ Rentals.

Members of the Armando Mora/Larry Sandoval Scholarship Concert task force are: Sandy Thorstenson, principal of Santa Fe High School; Richard Layne, resident; Rick Mourey, president of W.M.C. Grinding; Judy Boswell, Comp Print; Jeannie Carbajal, Santa Fe Springs News; Ken Okajima, Santa Fe Springs Promenade Shopping Center; Katie Heimark, Triangle/Budweiser; Carlos Sidney, Jr., concerned citizen; Sally Lagos, Norwalk Sheraton Hotel; and Jim Wood, Triangle/Budweiser.

Mr. Speaker, this partnership is a commendable effort by individuals, businesses, and government to support educational opportunities for our youth. I ask my colleagues to join me in applauding this effort and in wishing members of the task force well in their endeavors.

BIPARTISAN LEGISLATIVE ACCOMPLISHMENTS THIS CENTURY

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. EHLERS. Mr. Speaker, I have received many requests from my colleagues for the chart I have used to illustrate the vote counts in the House of Representatives on a number of major pieces of legislation passed by Congress this century.

I want to point out that this issue was first brought to our attention in a Dear Colleague from Republican TIM PENNY earlier this week. This chart points out that the bitter partisan path down which we now find ourselves headed is both tragically unnecessary and regrettably uncharacteristic in this deliberative body. It is my sincere hope that we will be able to halt this headlong rush into partisan tyranny on health care so that we will one day be able to proudly add this issue to the list of bipartisan accomplishments of this body.

	Percent House supporting		House vote
	Democrats	Republicans	
Social Security Act (1935)	96	83	372–33
Federal Highway Act (1956)	93	97	388–19
Civil Rights Act (1964)	62	81	290–130
Medicare (1965)	96	47	313–115
Clean Air Act Amendments (1970)	100	99	375–1
Water Pollution Control Act (1972)	99	93	380–14
Health Care (1994?)	83??	2??	

STANDING UP TO GANG VIOLENCE

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Mr. COOPER. Mr. Speaker, today, all of us—parents, community leaders, concerned citizens—are in a critical struggle.

We are in a struggle we must win. A struggle for the lives of our very own children.

Tennessee communities like Memphis are being invaded by outside forces—by teen gangs from Los Angeles and from Chicago. These gangs want to pull our children away. They want to pull our children away from our homes, away from our families, away from the safety we want to provide all children.

Today, Memphis has taken an important step to protect our children from this tragedy.

Sara Lewis and everyone involved in this historic Memphis and Shelby County Communitywide Conference on Youth Gangs have sent a clear message: Memphis and Shelby County citizens are going to stand up to gang violence.

I have supported legislation that would help by making gang violence a Federal crime. This measure, like the conference today, is a first step. And, like this conference, it sends a strong message: Tennesseans will unite to fight for the safety of our children.

I congratulate all participants in the Memphis and Shelby County Communitywide Conference on Youth Gangs on their leadership in solving this problem and I join them in the fight. All Tennesseeans, all Americans, must follow their lead. We must continue to stand up for our children by standing up to gang violence.

TRIBUTE TO JUSTICE BLACKMUN

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 10, 1994

Ms. WOOLSEY. Mr. Speaker, all those who love freedom in America are mourning the retirement of Supreme Court Justice Harry A. Blackmun. He did a great service to this Nation and to the principles of justice and liberty during his tenure on the bench, and his vast knowledge and ideals will be sorely missed.

Sarah Weddington, the winning attorney in the landmark Roe v. Wade case, has written a moving tribute to the great Justice Blackmun. I ask for you to have those words inserted into the RECORD, and I hope that all of my colleagues will take the time to read them.

[From the American University Law Review, Spring 1994]

PARTING PRAISE FOR JUSTICE HARRY A. BLACKMUN

(By Sarah Weddington)

United States Supreme Court Justice Harry A. Blackmun has had a greater impact on the lives of American women than any other person in at least the past half century. For twenty-one years, the 7–2 opinion he authored, Roe v. Wade,[1] has been the epicenter of personal, social, and political change. Because of it, women in the United States have had the right to decide whether to continue or terminate a pregnancy and therefore to determine many other aspects of their lives.

I was reminded of the powerful impact of his opinion recently while in Orlando, Florida to speak to the B'nai B'rith Women Biennial Convention. My remarks included comments about the past and future of the abortion issue and about Justice Blackmun's retirement. Once we feared this moment, but with President Clinton making the appointment, it is predictable that a pro-*Roe* Justice will take that seat. For the near future, I believe abortion will continue to be legal; the question is whether it will be available.

Among those in Orlando who crowded around me afterwards for discussion and future questions was a dark-haired woman with a sparkling personality, a leader in her local young-adult chapter. As she began to talk to me, her eyes filled with tears and her voice choked. She was finally able to lean forward and say in my ear, "Thank you for *Roe v. Wade*. You saved my life." I do not know the specifics of her situation; I do not inquire in front of others about information not volunteered.

As I think of her, other faces that have leaned forward through the years flood back to me. Today I wish that I had a videotape of those people to send to Justice Blackmun as he retires. I wish I could share with him their heart-felt comments about what a positive force *Roe* has been in their lives.

I saw Justice Blackmun for the first time on December 13, 1971, the day of the first *Roe* oral argument and again on October 11, 1972, the second argument. The group of lawyers asking the Court to declare the Texas statute outlawing abortion (except to save the life of the woman) unconstitutional had worked to include arguments that would appeal to each Justice. We were aware that Justice Blackmun had previously been counsel for the Mayo Clinic, an outstanding medical facility in Minnesota. We had no information about what Justice Blackmun's position on the case was likely top be, but he was the Justice we had in mind as we crowded medically related information into the primary brief and organized a separate *amicus curiae* brief signed by leading doctors and medical professors.

The drama of the Supreme Court's consideration of the abortion issue drew key participants in the debate from far and wide. I was a young lawyer of twenty-six arguing my first contested case, a case I wanted desperately to win. My memory of Justice Blackmun is of a kindly, reserved man with greying hair, dark-framed glasses, and a soft voice. His questions were scholarly and inquiring but neither belligerent nor friendly. I was especially alert to his questions during the second hearing because, by then, rumors were flying that Justice Blackmun was writing the opinion, that he had spent part of the 1972 summer at Mayo Clinic researching case issues, and that the Court was preparing to overturn the Texas statute.

On January 22, 1973, Justice Blackmun read the Roe opinion from the Supreme Court bench. It concluded that a woman's fundamental right of personal privacy was "broad enough to encompass a woman's decision whether or not to terminate her pregnancy." It also held that the State of Texas had not proven a compelling reason to regulate abortion. The immediate effect of the decision was to overturn anti-abortion statutes in forty-six of the fifty states. Later I pictured the decisionmaking ability of women expanding exponentially as Justice Blackmun read the words of Roe.

I learned about the decision when a reporter from Washington, D.C. called my Austin office. Moments later I received a three-line telegram from the Court—collect. I don't remember to cost. My phones went crazy: reporters wanted comments, supporters called to celebrate and the curious called to see exactly what the opinion said. Many people tell me that they can still remember exactly where they were and what they were doing when they heard about the decision in Roe v. Wade.

Surely that day Justice Blackmun never expected the Roe opinion to be headline news at the time of his retirement. He, like I, probably thought the basic issue was settled that day in 1973. A year after the decision, I wrote to thank him for his role as draftsman. In his response, Justice Blackmun wrote: "It meant much to have this supportive letter from you at this time. There is always controversy round about us, and this one seems to be particularly deep."[2] How prophetic his words were. With hindsight we now know that defending the decision and its impact would occupy a great deal of judicial time throughout his career.

For example, the issue of financial access to abortion has been before the Supreme Court. In Beal v. Doe,[3] the Court held that Medicaid did not require states to pay for poor women's abortions. In his dissent, Justice Blackmun demonstrated his understanding of the viewpoint of women in poverty:

"The Court concedes the existence of a constitutional right, but denies the realization and enjoyment of that right on the ground that realization and enjoyment are

Footnotes at end of article.

VOL 140 PT 15 AG 10 — 11 1994 UMI

separate and distinct. For the individual woman concerned, indigent and financially helpless, as the Court's opinions . . . concede her to be, the result is punitive and tragic. Implicit in the Court's holdings is the condescension that she may go elsewhere for her abortion. I find that disingenuous and alarming, almost reminiscent of: "Let them eat cake."[4]

By 1989, the lasting power of Roe seemed tenuous because of Supreme Court appointments made by anti-Roe Presidents Ronald Reagan and George Bush. Justice Blackmun must have felt under siege as he valiantly sought to defend Roe. In Webster v. Reproductive Health Services,[5] the Supreme Court approved new state restrictions on abortion procedures and signaled that it might overturn Roe. Justice Blackmun wrote in dissent:

"I fear for the future. I fear for the liberty and equality of the millions of women who have lived and come of age in the 16 years since Roe was decided."[6]

Many citizens shared his fear. Blackmun, the oldest Justice, and John Paul Stevens were the only Justices defending the original Roe decision, four others were saying, "Let's get rid of Roe," and the remaining three Justices were essentially saying, "We're not ready to overturn Roe, but we are prepared to weaken it." One more anti-Roe Justice could doom the decision. Justice Blackmun had commented that he could not last forever.[7] I believe many voters had Blackmun's comment in mind as they cast their 1992 ballots for the presidential candidate who pledged to protect privacy, Bill Clinton.[8]

Even as this Tribute goes to press, Justice Blackmun will once again participate in deciding a case regarding access. In Madsen v. Women's Health Center Inc.,[9] the Court will review a Florida case involving restrictions placed on clinic picketers who sought to hamper access to an abortion clinic and to disrupt the doctors and patients inside.

At what cost has Justice Blackmun defended privacy and women's right to make choices? He has read over 60,000 pieces of "hate mail" received in the intervening years. He has been picketed, cursed, threatened, and denounced. Even in announcing his retirement, he commented that a Justice can choose when to retire but not the "tag" assigned him or her. "Author of the abortion decision," he once said. "We all pick up tags. I'll carry this one to my grave."[10]

I hope it is a tag that he wears with pride. His opinion, to a significant degree, has been the source of expanded roles for women in such areas as education, employment, and politics since 1973. As Justice Blackmun retires, I wish we could fire a 21-gun salute, the tribute this country extends to its highest and bravest. Then I wish I could give him a videotape of the comments of millions of women, and those who care about them, who thank him for the choices that were theirs, not those of strangers or of government. Their faces have kept me going all these years.

In this issue, various writers laud a diverse collection of characteristics and opinions of Justice Harry A. Blackmun. I write in praise of Justice Blackmun and his opinion in Roe v. Wade. Many prior Justices have been forgotten, but history and especially American women will never forget his work as a U.S. Supreme Court Justice. On behalf of many, I send a hug and a heart-felt "Thank you, we're glad you were there." May your days of retirement pleasures be many, and may you always know and relish the valuable difference you have made in the lives of so many.

FOOTNOTES

[1] 410 U.S. 113 (1973).

[2] Letter from Justice Harry A. Blackmun to Sarah Weddington, Representative, Texas House of Representatives 1 (Mar. 8, 1974) (on file with "The American University Law Review").

[3] 432 U.S. 438 (1977).

[4] Beal v. Doe, 432 U.S. 438, 462 (1977) (Blackmun, J., dissenting).

[5] 492 U.S. 490 (1989).

[6] Webster v. Reproductive Health Servs., 492 U.S. 490, 538 (1989) (Blackmun, J., dissenting).

[7] Planned Parenthood v. Casey, 112 S. Ct. 2791, 2854 (1992) (Blackmun, J., dissenting).

[8] Mitchell Locin, "With Court Choice, Clinton Gets a Chance to Regain Momentum," Chi. Trib., Apr. 7, 1994, at A15 ("[M]any—particularly women—. . . voted for (Clinton) . . . because they did not want a Republican president to nominate any more justices.").

[9] Operation Rescue v. Women's Health Ctr. Inc., 626 So. 2d 664 (Fla. 1993), cert. granted, Madsen v. Women's Health Ctr. Inc., 114 S. Ct. 907 (1994) (No. 93-880).

[10] "Blackmun Accepts Aftermath of Writing Abortion Opinion," N.Y. Times, Jan. 18, 1983, at A20.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, August 11, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 12

8:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, Conservation, Forestry and General Legislation Subcommittee
To hold hearings on the Administration's proposed legislation on meat and poultry inspection.
SR-385

10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold joint hearings with the House Committee on the Judiciary's Subcommittee on Intellectual Property and Judicial Administration on the implementation of the intellectual property provisions of the General Agreement on Tariffs and Trade (GATT).
2237 Rayburn Building

11:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To hold a closed briefing on the Moscow Embassy.
S-407, Capitol

CANCELLATIONS

AUGUST 11

8:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, Conservation, Forestry and General Legislation Subcommittee
To hold hearings on the Administration's proposed legislation on meat and poultry inspection.
SR-332

POSTPONEMENTS

AUGUST 12

2:00 p.m.
Veterans' Affairs
Business meeting, to consider the nomination of Linda Marie Hooks, of Georgia, to be an Assistant Secretary of Veterans Affairs (Acquisition and Facilities), and to mark up pending legislation.
SR-418

SENATE—*Thursday, August 11, 1994*

The Senate met at 9:30 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights * * * to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed. * * **—Declaration of Independence.

God of Abraham, Isaac, and Israel, God of all people, Lord of Heaven and Earth, our Nation was conceived in the hearts and minds of men who believed in a God who created all people and endowed them with "certain unalienable rights." Thomas Jefferson believed that those rights would not be secure if the people no longer believed that they were a gift of God.

The prophet Jeremiah wrote:

For my people have committed two evils; they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water.—Jeremiah 2:13, KJ.

Forgive our naivete, Lord, that we can build a perfect society without regard for God.

In His name who is the Forgiveness of God incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 11, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

SCHEDULE

Mr. MITCHELL. Mr. President, under a previous agreement, there will be 4 hours for debate on the health care legislation. The time will be divided as follows: The first half hour will be Democratic Senators. Then there will be 2 hours allocated to the Republican side. And then the final 90 minutes, or 1½ hours, will be on the Democratic side. I believe that has been worked out by Senators PACKWOOD and KENNEDY.

Mr. PACKWOOD. It worked out. When I talked with Senator KENNEDY last night, he indicated the Democrats want to run a bunch of speakers on a theme. That was fine. I had no objection.

I just discovered my 10 o'clock speaker may not be here, but I will try to get to him before that. I think we will work it out.

Mr. MITCHELL. Then we will proceed as suggested, 30 minutes on our side, then 2 hours on their side, then the last hour and a half on our side.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

HEALTH SECURITY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2351, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate resumed consideration of the bill.

Mr. MITCHELL. Mr. President, I will yield to Senator KENNEDY, now, to allocate time.

With Senator KENNEDY's concurrence, and in Senator MOYNIHAN's behalf, I yield 10 minutes to the Senator from Michigan.

Mr. RIEGLE. Mr. President, I understand I have been recognized for 10 minutes. I want to try in that period of time to cover many things. First of all, I want to congratulate Senator MOYNIHAN, Senator KENNEDY, and Senator MITCHELL for their extraordinary leadership in bringing this issue forward. It is a very complex issue. It is 14 percent of the American economy in financial terms, but it goes right to the heart of what America is all about.

As we have listened to the debate over the last 2 or 3 days, anyone following it has heard a lot of the technical detail of the various ways to try to improve and strengthen America's health care system to see that everybody has coverage, that it is coverage they can afford, and that—critically important—when they most need it, it is not going to disappear as it often does. We find very often when people get sick, the insurance, one way or another, disappears at the very time they need it most.

So today, I want to just spend a short period of time talking about what I think is really at stake here in this discussion. We all love our country. We have been around, now, over 200 years. We are still a young nation, as nations go. Yet we are the oldest surviving democracy. But there are certain things we need to do, I think, to strengthen our country and to pull us together as a people. Those things, when we stop and think about it, are basic things, like making sure educational opportunity is there for every person; to see to it the job environment is such that people who want to work and need to work have the opportunity to go out and apply their talents and earn a living to support themselves and their families.

In that same vein, health protection, to be able to try to have good health, to restore your health when you are sick, for parents to care for a sick child and to try to heal that child or to care for a sick parent or grandparent, to try to heal them, or to have a spouse in a family who is stricken with cancer or some other problem—when these issues strike, and they do in every family sooner or later, being able to have the health care that we need both to try to prevent serious things from happening, but then to try to deal with those problems when they arise. This strikes right at the very heart of life itself and right at the heart of the family structure, and I think right at the heart of our Nation.

It is ironic. At this time in history, all of the other major industrial nations have managed one way or another to come up with a health care system so everybody in their society has that kind of protection. We want that because it is humane and it is sensible and it is good economics. But we also want it because we cannot really function very well if we have a sort of hit-or-miss system where many people cannot get insurance, many people who have it cannot afford to keep it because it is becoming more expensive, or, as I said before, at the very time when you need the health insurance the most—when someone gets sick—the insurance company withdraws the coverage and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL 140 PT 15 AG 10 — 11 1994 UMI

says you are no longer insurable. Then you are really in a situation that many people cannot manage by themselves.

I have talked about many of these cases here on the floor. In fact, now, for over 2 years, I have been coming to the floor and I have a little booklet I put together of the faces of families and people in Michigan who illustrate this problem. These are people of all ages and all circumstances who have been devastated by medical circumstances that they could not manage, because either they could not get health care coverage or they could not afford to keep it, or when they needed it most it disappeared out from under them.

One case I want to talk about today just for a moment is the case of a young woman named Cheryl Eichler. I did not know Cheryl Eichler. I met her at one point when we were having a hearing on health care reform in Michigan. She volunteered to come forward as a witness. She was a young woman suffering from Crohn's disease, which is a very painful, difficult, and life-threatening problem. Many Americans have this problem. One of George Bush's sons has this problem, and is struggling with it at this very time.

In any case, Cheryl Eichler was the manager of a 7-Eleven store, earning about $12,000 a year. She had no health insurance coverage through her workplace, and she did not earn enough to be able to buy health insurance on the outside.

Plus, the insurance companies did not want to sell her a policy because she had this Crohn's disease problem. So the day we had our hearing in Michigan, she was actually in the hospital. She left the hospital bed to come in to testify about not just her problem but the problem facing so many people in America who need health care and cannot afford it and, as a result, are in desperate circumstances.

Within a few months of the time that she testified—and she gave magnificent testimony that day—she died at the age of 29. I am convinced that Cheryl Eichler would be alive today if she had gotten the health care she needed when she needed it. Many times she was delayed going to the doctor because she did not have the money to pay for treatment.

Frankly, most places, if you do not have the money to pay, you do not get the treatment, not unless you are on welfare, public assistance, and then you qualify for Medicaid. You should not have to go on welfare in America to get health coverage, if you desperately need it or if your family members need it. That is what happened to Cheryl Eichler. So she is in an early grave. And so many, many people that has happened to over the decades because they were not able to afford the health care that they needed when they needed it.

That does not help America. It does not make us a stronger nation. It is one thing to rally together to fight wars overseas—we have done that many times—or rally to get into the space program and send people to the Moon and bring them back safely, and these are extraordinary national efforts and achievements. But why is it not as important, if not more important, to rally around as a nation—Democrats and Republicans—to try to reform and improve our health care system so everybody in the country has the chance to try to establish good health for themselves and then to be able to maintain it for themselves and the members of their family?

We want people to work. How can you work if you are sick? I mean, we want a healthy nation. We want our people to be strong and well and healthy. That is why we need health care protection that provides both preventive care and then, when people get sick, to try to get them restored as quickly as possible. That is what makes America strong, when our people are strong and when they are not in terrible conditions that overwhelm them financially, as so often is the case with people with these health problems.

I want to just show you one article that ran in the Detroit News some time back about a single parent, working mother, Cynthia Fyfe. She earns not a great amount of money. She gets a little bit of health insurance at the workplace for herself, but none for her son, Anthony, who at the time of this article was 6 years old. You can see a picture of him here. Cute little fellow with glasses on. She has no money to insure her own child.

One way she could get insurance for Anthony is to quit her job and go on welfare. Then she would qualify for Medicaid and Anthony would have health insurance. Is this the way we want to have it in America where somebody that works cannot afford health insurance and their children go uninsured, whereas if that same person would quit their job, go on welfare, then their child will have health insurance?

That does not make any sense. That is not good social policy. That is not helping these people. This little guy right here is America's child. He belongs to us. We ought to care about him. We want him to love his country. We ought to let him know that our country loves him. We do not have to know him to care about him. He is part of our national family, and we ought to cover these children. Why? Because they are important. They are the most important asset we have.

Mr. GREGG. Will the Senator yield?

Mr. RIEGLE. I will when I finish. The most important thing we have are our people and, as these children come along, as precious as they are, do we want to have a situation where if one is stricken with appendicitis, as my little daughter was, or as some other problem that arises that the parent or parents hesitate to go to the doctor or cannot go to the doctor promptly and quickly for the care that child needs? No, that is not what we want. We are not that poverty stricken. We are not Somalia or any other country.

We are in the position to see to it that we meet the health needs of our people. In fact, if we do it, we will save money because we do not avoid these problems. If a person gets sick and becomes far sicker than they need to be, they will eventually get care, but it is the highest cost care and often it is too late and there is a tragedy involved, terrible suffering and hardship for families.

Why do we want to impose that on ourselves? Why do we not have a bigger vision? Why do we not care enough about each other to help create a system in which we can keep these costs down so that people do not keep losing their insurance who now have it or find it so expensive that in order to have it they cannot have anything else in their lives, like money to put aside for a child's college education or buying a house?

And then what about the 40 million people who do not have any insurance at all? What about little Anthony Fyfe here? What about him? Where does he fit into the picture? Right now he does not fit into the picture, although I will say this: In the bill that came out of the Finance Committee, with bipartisan support, there is an amendment in there that I offered which was included to provide health care now for young children in this country under the age of 18 like Anthony Fyfe. It would cover them all, and it would make sure that expectant mothers would also receive proper prenatal care so their children, as they are being born and they are carried during the 9-month term of pregnancy, would be getting the kind of prenatal care and monitoring they need so they can go to full term, so that a baby does not come 6 or 8 weeks premature and maybe cost $100,000 in an infant care ward in the hospital in order to just get up to a normal birth weight.

We can avoid that in many cases if we just provide prenatal care to these expectant mothers.

Why is that not good for America? It is good for America. If we can find the money to fight these foreign wars and to send money off in foreign assistance and to build this huge defense establishment, can we not protect our people? Can we not help our people help themselves? We want people to work. I believe in that, and people want to work. But they cannot work if they are sick, or they cannot work if they have to take time off to go home and attend a sick family member who is sicker

than they might be because they did not have health care protection.

Let me just finish by saying this: I think it is time for the Senate and the Congress to rise to this occasion. I know there is a lot of partisanship in this. There is a lot of partisanship in it, and President Clinton, to his great credit, and the First Lady have brought this issue forward. There are a lot of cross-currents, a lot of television ads, so forth, that have been swirling around over the past months. But let us not lose sight of this fact: We are talking about the health and well-being of our country—whether we make our country stronger or whether we leave it in an impaired condition.

It is time for us to act. Let us pass the best bill we can, and let us do it on a bipartisan basis.

Mr. GREGG. Will the Senator yield for a question?

Mr. RIEGLE. Whatever time is left I will be prepared to do it.

The ACTING PRESIDENT pro tempore. The Senator has spoken for 10 minutes.

Mr. GREGG. Mr. President, the Senator mentioned—and it is an important issue—the fact that the child's mother would have to quit work in order to get the care that she felt was necessary for the child. But in reading the CBO report, relative to the Mitchell bill, I noticed the CBO report says that Senator MITCHELL's proposal—I am quoting:

> Senator MITCHELL's proposal would discourage certain low-income people from working more hours or, in some cases, from working at all.

That is a direct quote. Then it goes on to say:

> In the year 2000, the effective marginal rate on labor compensation could increase by as much as 30 to 55 percentage points for workers with family income in the phaseout range. Moreover, those levies would be added to the explicit and implicit marginal taxes that such workers already pay through the income tax, the payroll tax and the phaseout of the earned income tax credit. In the end—

Under the Mitchell bill—

> In the end, some low-wage workers would keep as little as 15 cents of every additional dollar they earn.

It seems to me there is a fundamental flaw here. I recognize what you are trying to get to, and I think it is an appropriate goal. It seems to me the Mitchell bill has some concerns.

Mr. RIEGLE. Mr. President, let me say to the Senator—and I do not know whose time we are on—I invite you—and I know you love the children in New Hampshire as I do the children in Michigan—I urge you to offer a constructive amendment to improve that area of the bill if you think it falls short.

What I hope would not happen, it is very easy to criticize the other fellow's bill whether it is Senator MITCHELL's bill or somebody else's. The problem we face today in America is the system is not working for many of our people. We have an obligation here, not to find fault with the other fellow's plan but to make sure we have a plan that is going to get the job done. And I say let us do that on a bipartisan basis.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator has spoken for 10 minutes. His time is up. Who yields time?

Mr. KENNEDY. Mr. President, I yield 8 minutes to the Senator from Illinois.

The ACTING PRESIDENT pro tempore. Eight minutes has been yielded to the Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, I have heard twice now speeches saying we are rushing to judgment on this matter of health care. As Senator KENNEDY pointed out on the floor 2 nights ago, I believe it was, this idea was first suggested early in this century by Theodore Roosevelt. We have not exactly been rushing to judgment.

Listen to this speech given by Harry Truman in 1945:

> Millions of our citizens do not now have a full measure of opportunity to achieve and enjoy good health. Millions do not now have protection or security against the economic benefits of sickness. The time has arrived for action to help them attain that opportunity and that protection.

Harry Truman, 49 years ago, and we are still waiting for action. We do not need to wait that long. Frankly, I would love to see the Mitchell bill move much more quickly than it is. I would like to have seen the Clinton bill move much more quickly.

It is very interesting—and the Presiding Officer, Senator KOHL, may be too young to remember these days—that on May 6, 1935, by Executive order, FDR established the WPA. By November of that year, a few months later, 2.6 million Americans were working. He created a totally new program. We are not fashioning anything that dramatically new.

Medicare, within 1 year of its enactment in 1965, had enrolled 19.1 million older Americans.

We are not rushing to judgment. We had, not too long ago, a great flood in the Midwest. It affected Wisconsin a little; it affected Illinois, Missouri, and Iowa much more. Hundreds of thousands of people were affected, and this body responded, as we should, as we responded when Florida and Louisiana had problems.

Thirty-eight million Americans do not have health insurance. Many of them face urgent problems, and we are not responding. We have to respond.

Let me just tell three stories, two from a small town, Troy, IL, where I lived for 26 years. When I was maybe 20 years old, I can remember a man—I have been unable to contact the two families. I did not want to use their names without their permission. But a man I knew, who I thought at that time he was fairly old—he was probably 55 or 60. Since I am 65 now, I am sure I would view him as very young—said to me, "I have cancer. I do not have insurance. I have struggled and worked hard to pay for my house, and if I go ahead and have an operation I might live, I might live another year. But, frankly, it will take the house away from my wife or put a heavy mortgage on it. I have decided to die." And he did.

That would not happen in France. That would not happen in Germany. That would not happen in Great Britain. That would not happen in Italy. Why do we not protect people like that?

A somewhat similar story. A few years later, I was in the State legislature. The man who lived just down the street from me came into my kitchen and said, "I have kidney disease. I am going to have to go through renal dialysis. But if I go through it"—and this was still in its primitive stages then—"If I go through it, I may live a few years longer but I may not. And I am going to deprive my family of our house." And he said, "I've decided to die," almost the same words as the other man used. And he did die. That should not happen in our country.

In Monroe County, when I was in the House of Representatives across the Rotunda here, I used to hold these open office hours, and this man came in who had worked for the State of Illinois, then took a job with a grocery chain, and he had to work there 6 months before he would be eligible for health coverage.

Before the 6 months was up, it was discovered he had a serious heart problem. He and his wife came in and talked to me, and he said, "I can't afford to have heart surgery that the doctor says I need." His wife was with him. She was crying. And she said, "If he doesn't have it, the doctor says he's going to die."

Well, frankly, I was able in that case to contact the Illinois State Medical Society, and we got it worked out. But that is not how we should protect our citizens.

We spend more as a percentage of our gross national product for health insurance and health coverage than any nation, by far—14 percent of $6.5 trillion. That amounts to, if my calculation is correct, $910 billion a year we are spending. Are we getting our money's worth? Well, we are, those of us in the Senate, because all 100 are covered. But 38 million Americans are not covered. We just cannot continue that.

I heard, I believe it was the Senator from Oregon, saying this is a shift of cost to employers. Richard Nixon, not a Democrat, as I recall, suggested a health care plan where employers would pay 75 percent and employees 25 percent. But those are things that we can negotiate. What we should not negotiate is that we are going to cover all Americans.

VOL
140
PT
15
AG
10
—
11
1994
UMI

Our friends on the other side introduced a bill, Senators CHAFEE, DOLE, BOND, HATFIELD, BENNETT, HATCH, DANFORTH, BROWN, GORTON, SIMPSON, STEVENS, COHEN, KASSEBAUM, WARNER, SPECTER, FAIRCLOTH, DOMENICI, LUGAR, GRASSLEY, and DURENBERGER introduced the Chafee bill that said "let's have universal coverage."

Let us not back off on that. This should not be partisan. We ought to protect every American. My friend from Oregon yesterday talked about a hidden payroll tax. I would be willing to vote for a payroll tax. Do not make it hidden. I do not know how we do this. But we ought to cover all Americans. What is wrong with this country when we do not do it?

Mr. President, we ought to act. We ought to do the responsible thing; we ought to do the sensible thing and the compassionate thing, and I hope that we respond to the American people.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MOYNIHAN. Mr. President, I yield 10 minutes to the distinguished Senator from New Mexico.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico [Mr. BINGAMAN] is recognized for 10 minutes.

Mr. BINGAMAN. I thank the Chair. I thank the Senator from New York for yielding time.

I appreciate the excellent work he has done as chairman of the Finance Committee, and of course the excellent work my own chairman, Senator KENNEDY, has done as chairman of the Labor and Human Resources Committee to put together the bills which made up the basis upon which our majority leader, Senator MITCHELL, has proposed his own legislation.

The first question that I had to deal with in deciding how much of my time and effort to put into this issue of health care reform was: Why should it matter to a Senator from New Mexico? Is it important for my State that something be done in this area?

I began to research the issue. Mr. President, New Mexico is one of those States in which a great many people are not presently covered. We have a low per capita income. The estimate is that about 22 percent of our State does not have health care coverage. That is more than 1 out of 5 people in my State at the present time—350,000 people in a state of 1.6 million. And 36 percent of the people who are not covered are children 18 years of age or less.

Ours is a State of small businesses, and primarily the people who work for those small businesses are the ones who are not covered. I think one of the great misunderstandings that has existed throughout the country is whether or not this was an effort to extend coverage to the very poor. Was this another type of disguised welfare expansion that we were engaged in here? I am satisfied, when you look at the reality of the situation, this is not an effort to extend coverage to the very poor. The very poor have coverage today. The very poor are covered by Medicaid. This is an effort to extend coverage primarily to those working families, those young working families with children who do not have coverage because they are working for relatively low wages. They are working for employers who find it impossible financially for them to provide that coverage.

Again, this is an important issue in my State. It is important because more than 120,000 children in New Mexico do not have health care coverage today.

That is the reason I am on the Senate floor urging my colleagues to move ahead with some type of significant health care reform legislation. We have heard arguments, and will continue to hear them, against our taking action or against our seriously considering the provisions in Senator MITCHELL's bill. One argument is that the Government should stay out of this whole area; it is not Government's problem that 120,000 children in my State have no health care coverage; that it is the private sector's problem; that is someone else's problem; the Government should not be concerned.

Clearly, it is the families' problem first and foremost. But if we have a system which over many decades has not been able to expand coverage to the most vulnerable in our society, those children then, in my view, are a concern of Government. They are a legitimate concern of Government. This is a problem that we can address here in the Congress, and we can do it in a way that does not interject Government more than is necessary, but that does interject Government to the extent necessary, to protect that vulnerable population.

Another argument that we hear is that we as a nation cannot afford to expand coverage. We cannot afford to deal with this problem. I just do not believe that, Mr. President. I work here in the Senate, as my colleagues do, and we vote on bills day after day. We have a defense appropriations bill on the floor today, which, hopefully, we will complete action on tonight. I support that bill. It provides $265 billion in expenditures for our national defense. It is money that needs to be spent. We are not one of the nations that can claim poverty. We have a very rich economy. We have the strongest economy in the world, and clearly we need to look after the health and welfare of the people who keep that economy strong.

Another argument I have heard is that this is too complex a problem for the Congress to deal with in this session of the Congress; we need to put it off. Again, I do not believe this thing will get simpler as we go further on. We need to act now. Clearly, we do not have all the answers. But we have many of the answers. We cannot afford to continue to wait until a perfect solution is at hand, until a solution is at hand that every Senator will agree with.

I believe the opportunity is now. We can get many things right. We will make some mistakes. We will do some things in the legislation that will have unintended consequences. But we will make major mistakes if we do not pass a comprehensive health care reform bill.

Let me mention some of the things I know we can do correctly and do right in this legislation. We can require that coverage is available to everyone in our society regardless of whether that person is sick or has a preexisting condition. We can require that insurance companies maintain coverage and maintain it at a reasonable price so that when illness does strike, the price of coverage, the price of health care, does not go through the ceiling. We can ensure that the average person has the ability to provide coverage without having to pay enormous commissions.

One of the main objections I have heard about Senator MITCHELL's plan is that there is an opportunity for people to buy through a purchasing cooperative and that somehow undermines the free enterprise system. I do not think it hurts the free enterprise system to give people an opportunity to buy another way. If they do not choose to exercise that opportunity, fine. They can continue to buy through their existing carrier, through their existing agent. But giving them that opportunity, to me, seems a very reasonable thing to do.

We can do a better job of controlling costs in health care. We can provide prescription drugs for senior citizens. We can begin to deal with the needs that many of our seniors have for long-term care. We can expand health care delivery into our rural areas, and we can provide coverage for pregnant women and for children in this country. These are not too ambitious a goal for us to take on.

We need to get on with it. If there are necessary amendments, I hope they will be proposed. I certainly expect to propose amendments of my own. I ask my colleagues to seriously consider the amendments I propose, and I pledge to seriously consider any amendment proposed by other Senators. But I do hope that we can proceed to consider this legislation in a serious, nonpartisan way. We can do the best we know how to improve our health care system so that health care is available at a reasonable price to each of our citizens.

I thank you, Mr. President.

I yield the floor.

Mr. PACKWOOD. Mr. President, I yield such time as the Senator from Texas may desire.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank you for your recognition. I thank our dear colleague from Oregon.

I want to deviate from my speech for a moment to respond to our dear colleague from Illinois. I can hardly believe my ears when the health care system of the United States of America is compared unfavorably to the health care systems of Canada, Great Britain, and Germany. Last year, more heart patients died in Canada waiting to get into the operating room than died on the operating table. People all over the world under government-dominated systems are dying because health care that is readily available in America is not available in those countries.

Since everybody is talking about what we supposedly are going to gain by vastly expanding the role of Government in making health care decisions, I want to start by talking about what we stand to lose.

Mr. KENNEDY. Will the Senator yield?

Mr. GRAMM. I do not yield.

Mr. KENNEDY. On that point?

Mr. GRAMM. I do not yield. I would like to speak, and then I will be very happy at some later point to debate the Senator from Massachusetts at length.

First of all, we have in the United States of America the greatest health care system in the history of the world. In the last 25 years, 90 percent of all the pharmaceuticals, 95 percent of all the medical procedures, 90 percent of the routine miracles that we expect every time we go to the doctor and every time we go to the hospital, have been developed by Americans.

It is very interesting to me that so many of my colleagues, when they think of medical perfection, look to the north, to Canada, and yet I notice that when they and the people they love get sick, they never ever go to Canada to try to get well. Yet, on any given day in America, in any referral hospital—and I would ask my colleagues today to go to nearby Johns Hopkins University, a great medical center—they will find that those referral wards are full of rich or politically powerful Canadians. They are full of people who have had an opportunity to look socialized medicine in the face in Great Britain, or Germany or elsewhere and have found that face to be an ugly, uncaring face, and they have come to the United States of America to get health care. That may not tell some people anything. But it tells me something, and that is we have a lot to lose in this debate as well as a lot to gain.

I am not going to support tearing down the greatest medical care system in the history of the world to rebuild it in the image of the Post Office. And I would like to try in my speech——

(Applause in the gallery.)

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. There will be order in the gallery. If the Senator from Texas will please withhold while I ask the gallery to please refrain from any demonstrations.

Mr. GRAMM. To try in my speech to explain why in fact that is what this debate is about. But let me first go back and talk about the problem, because in our zeal to pass a health care bill—any bill—we, it seems to me, have forgotten what this debate is all about.

First, it is about access to health insurance. And, second, it is about cost. Let me talk about access. The President's original bill, 1,342 pages long, had only 19 pages about access. The President talks incessantly about universal coverage, about insurance that will always be there. But 1,323 pages of the President's bill had nothing to do with that issue. It simply had to do with the Government taking over and running the health care system. But let me talk about access because access is an area where there is a great deal of agreement, and that has all been forgotten in this debate.

First of all, we have had now some two dozen bills introduced, and every one of these bills tries to deal with a problem we call portability. Every one of these bills tries to make it easier for people to change jobs without losing their health insurance.

When we talk about the 37 million Americans last year who did not have health insurance on at least 1 day, over 75 percent of those people, by some studies, did not have health insurance for one reason: They changed jobs. When you change jobs in America, you lose the insurance through the employer you are with, and often you do not get insurance on the new job until you have been there for 30 days.

We can solve 75 percent of the problem of people not having insurance on a provision that, as far as I know, every single Member of the Senate supports: Make it easier for people to change jobs without losing their health insurance. That was in the two bills I introduced, it was in the Dole bill, it is in the Mitchell bill, it is in the Clinton bill, it is in the Gephardt bill, it is in everybody's bill. That is not what we are debating here.

Every bill that has been introduced, as far as I am aware, deals with the problem of permanence. When I was growing up in the late 1950's, my mama got an insurance policy and she paid on that policy for about 4 years. She then had a major ailment. The insurance company paid for the first episode and then promptly canceled her policy. What good is health insurance if you do not have it when you need it? Thank God, that does not happen very much in 1994. But 100 Members of the Senate want to make sure it does not happen—ever—to anybody again. There is no dispute about that issue. That is something we all agree on.

Then what problems remain if you deal with permanence and portability? The next problem has to do with people who are already sick, people who have what are called preexisting conditions.

In listening to the White House, and in listening to some of my colleagues, it sounds as if they believe that by passing laws we can eliminate preexisting conditions. Only God can eliminate preexisting conditions. If the risk of insuring people is high because those people are sick, have been sick, and are likely to be sick in the future, we cannot pass a law changing that. What we can do is try to find a way to distribute those costs.

The other night the President said in his speech: Ask the Republicans if they are willing to give every American health insurance. How can the Congress give the American people anything? We are incapable of giving the American people anything. All we can do is take money away from some people and give it to others. But we are not capable of giving people anything. We do not create wealth here. We redistribute it, we destroy it, and we stifle it, but we do not create it.

There are a lot of ways to deal with preexisting conditions. When the distinguished majority leader talked about this issue, he referred to risk pools for insurance on automobiles. I would rather deal with preexisting conditions by creating a risk pool. For people who have high insurance costs because they are already sick, I would like to try to help them directly. Others want to collectivize all insurance rates. But the point is this: In the dozens of bills that have been introduced, every one of those bills tries to deal with the problem of preexisting conditions. That is not really an issue in this debate.

The final issue with regard to access is how do you help people who do not have private health insurance? There is an incredible anomaly in America today. If you do not work in America, chances are you qualify for Medicaid. But if you do work and make a modest income, you often do not have private health insurance and you are not eligible for Medicaid. We have a system today that treats the people who are riding in the wagon in America better than we treat the people who are pulling the wagon, and we marvel that 62 million people are riding in the wagon. It is amazing to me that we do not have twice that number of people riding in the wagon.

What I would like to do is reform Medicaid and ask for a copayment from Medicaid recipients. Take the average working family and look at the copayments they make when buying health care. Then, on a pro rata basis, based on income, look at the people on Medicaid and require copayments relative

VOL 140 PT 15 AG 10 — 11 1994 UMI

to their income. Does it make sense to have people on Medicaid go to the emergency room for a sore throat, when it can cost $150 or $200 a visit? I say no. Instead, they should go to the doctor like everybody else. I think we need a higher copayment to go to the emergency room with a sore throat than to go to the doctor with a sore throat. I want to reform Medicaid and have a modest copayment like most other Americans face. Let the States run the Medicaid Program and use those savings to fund a refundable tax credit so working, low-income people can buy their own private health insurance through the private sector of the economy.

What is the alternative being proposed in President Clinton's bill, in the Gephardt-Clinton bill, and in the Mitchell-Clinton bill? Their alternative is a massive Federal subsidy. Their alternative is to give—as in the Mitchell bill—about 100 to 110 million Americans Federal subsidies. That is almost half the population of the United States. The debate here is: Do we want to do that, and can we afford it?

The Congressional Budget Office, in its study the other day, concluded that when in full force, the Mitchell plan would cost $194.3 billion a year to fund. Here is the question: Can we afford to do that? I noticed the other day we had a report—in fact, it was the day before yesterday. This so-called Entitlement Commission that we have put together came out with its study about the problems we have with the country going bankrupt. Here is what they concluded without considering the Mitchell plan or Clinton plan or anybody else's health care plan:

If we do not act by 2030—

That is 35 years from now, since we are basically looking into fiscal year 1995.

this country will be forced to choose between doubling every Federal tax and cutting more than half of every Federal program and entitlement to balance total Federal outlays and revenues.

That is only considering programs under current law. In 1950, the average American family with two children sent $1 out of every $50 it earned to Washington, DC. Today it is sending $1 out of every $4 to Washington, DC.

When fully implemented, the health care bill before us, or the original Clinton plan, or the Gephardt-Clinton plan—they are all basically the same plan, as I will explain—when fully implemented, the average American family with two children is going to be sending one out of every $3 it earns to Washington, DC.

Do we really want to do that, when the country is going bankrupt by what we are already spending? Do we want to start now a program that has the potential of becoming the largest new spending program in the history of the United States of America? Can we really afford to add another burden on the back of the working American family by making them pay part of the health care bills for half the population of the country? I say no. I say we ought to try to help working people get health insurance but do it by cutting existing programs.

Here is my point. If this debate were really about access, we could have a meeting in a room one quarter the size of this Chamber. We could have Democrats and Republicans sit around the same table. We could have the administration represented. And within 2 days we could work out a compromise.

This debate is not about access, and it has never been about access. The White House asks how you can be opposed to this bill and be in favor of Medicare. Medicare was a subsidy to help elderly people buy health care. It was not a program that told them how to consume it or told people how to produce it or set up a separate health care system.

If the issue was about access, we could easily work out a compromise. But this issue is not about access. This issue is about something far more fundamental. This issue is about the role of Government in a free society. This issue is about how to deal with costs. And on this issue, there is a fundamental philosophical division, and it is a very difficult division to compromise on because asking us to compromise on this issue is like asking the bullfighter and the bull to compromise. Here there is a gulf of difference.

What is the problem with cost in American health care? Part of the problem is medical liability. We have some studies that indicate that as much as 20 cents out of every $1 spent on health care goes to try to keep people out of the court house instead of trying to keep people out of the hospital and out of the grave.

What do the bills before us do? The Mitchell bill and the Gephardt bill, as the second iteration of the Clinton bill, not only have no real reform on medical liability, but they go back and overturn actions that the States have already taken.

How many Americans understand that the health care bills before Congress would overturn the actions of 20 State legislatures that have tried to deal with medical liability? Let me read you a quote on this:

[This] medical liability amendment to the health care bill . . . can only be described as a disaster for the public and a windfall for the trial lawyers. Through their lobbyists and political contributions, the trial lawyers have inserted language that would actually overturn some of the reform the States have worked on for over 20 years by substituting less effective Federal language. The amendment would, if passed, add to the cost of health care while limiting patients' access to the care they need.

Who do you think said that? Do you think that was PHIL GRAMM or BOB DOLE? No. That was George McGovern in today's Wall Street Journal.

Mr. President, if our objective is to deal with cost, what in the world are we doing overriding the actions of 20 States that have tried to deal with medical liability? We would be adding to the cost of health care. That is the kind of provision that is hidden away in these bills which nobody really knows much about.

Now, let me deal with the big issue of cost. Why is the medical market so different than other markets? I can tell you very simply with an analogy. When you go to the hospital today in America, someone else pays 95 percent of your costs. That someone else is generally a third-party-payment health insurance policy. Or maybe it is Medicare, Medicaid, or it maybe the county through its indigent care system. The bottom line is that when an American goes to the hospital today, somebody else pays 95 percent of that American's cost.

When you are spending someone else's money, you do not behave the same way you do when you are spending your own money. If I bought groceries the way I buy health care, I would eat differently and so would my dog.

Imagine for a moment that you had a grocery insurance policy and you paid it once a month, and when you went to the grocery store, 95 percent of all the groceries you put in your market basket would be paid for by that insurance policy. If 85 percent of Americans had that insurance policy for groceries, the grocery store, as we know it today, would not exist. No grocery store in America would sell dog food. Ten or 20 times as many people would work in the grocery store as work in the grocery store today. We would be buying all kinds of specialty items and all kinds of precooked items. Groceries would be exploding in cost. The President would be saying groceries are the right of every American. We would have the committees of this Congress investigating the grocery insurance rip-off. We would be debating in earnest today collectivizing the wholesale and retail distribution for groceries in America. Thank goodness, we do not buy groceries the way we buy health care.

Now, that analogy is a pretty good analogy of health care. I think the President would agree with that analogy. I think probably the distinguished Senator from New York agrees with that analogy.

But where we differ is, how do you fix it? And it is not an easy problem to fix. This is where the fundamental philosophical difference is. The President says to fix it by letting the Government make fundamental decisions about health care.

Under the President's plan, despite all the wonderful, soothing rhetoric which is at great variance with the President's plan, if you do not work for the Federal Government or if you do not work for a giant company that can afford to ransom you out of the Government-mandated health care plan with a 1 percent payroll tax, your private health insurance is canceled. You will be forced to buy health care through a Government-run cooperative, governed by a seven-member board in Washington, DC, that decides how much money is spent on health care, how the money is spent, and what choices you can make. They will set out the parameters for practicing medicine, and will have extraordinary powers to impose taxes on people in States, to change your insurance policy, to reduce reimbursements, and to basically ratchet down through Government to control your access to health care and everybody's access to health care.

Now, we have heard at great length how different these plans are that we are looking at in the House and Senate. In fact, our dear majority leader, when he had his press conference to tell the world about his first bill—which has now been substituted by a second bill, and I understand there is a third bill coming today, and every title of this original bill was changed in the bill we were given yesterday—when he had his press conference to expose his first bill to the world, he did not mention Bill Clinton's name once.

So you get the idea it is a different bill. It is not a different bill. It does the same things in different ways. It tries to limit our freedom of choice in health care.

The way I figure it, a minimum of 80 percent and probably 90 percent of all Americans will have their current health insurance changed by the Mitchell bill. The Mitchell bill tells people what kind of health insurance they can have. It mandates that they buy coverage for benefits that most Americans are not going to want. The alcohol and drug rehabilitation provision, when it was implemented by law in Virginia, sent insurance rates up by 12 percent. Why should an old widower be forced to pay an additional 12 percent for alcohol and drug rehabilitation if he does not want it?

Unlimited care in areas that have traditionally not been covered by insurance policies will send costs through the ceiling. Why should the Government tell us what kind of health insurance we should have in America?

But then you get to the parts of the bill that are even worse. If you have a provision in your health insurance that you want but that the Mitchell bill does not want you to have, there is up to a 66 percent tax on that benefit. How many Americans know that under the bill before us, there are now four different taxes on your private health insurance? And listen to how it tries to control costs. It gave up the original bureaucracy that wrenched down on the health care system. But look at what it substitutes for it. If you have an insurance policy and the cost of your insurance goes up by more than 2 percent in real terms, the Government taxes your policy and the increase with a 25 percent tax.

Now, I ask my colleagues, what is amazing here? It is as if the authors of the bill believe that a person is able to keep their insurance premium from going up.

It is as if, by threatening to penalize the working man and the working woman, somehow they will be able to keep their insurance premiums from going up. Does that make any sense whatsoever?

And if you have a benefit that is important to your family but the Mitchell bill says it is not in the national interest for you to have, the company sponsor has to pay a 35-percent tax on that benefit, and you have to pay taxes at your income tax rate. And so, while the Government does not say you cannot have the benefit, by imposing a 66-percent tax on it, the Government takes away your right to choose.

No matter how you cut it, no matter how you define it, what this debate is about is a conviction held by the President, and by many Democrats in this Chamber that Government control of health care is the only way to deal with rising costs.

What is amazing about their assertion, Mr. President, is that nowhere is there any data given to substantiate the claim. In all the world, not one example is given in 5,000 years of recorded history. I am not aware of a single case where Government control of anything has made it cheaper, has raised the quality, and has broadened the access in real terms when considering the limits imposed to expand that access.

Interestingly enough, there is an alternative that has never failed, and the alternative is competition. Ten years ago, almost every American bought health care through some third party payment system, generally through a private health insurance policy where they paid a monthly premium and they bought fee-for-service medicine and nobody had an interest in controlling cost.

Today, 10 years later, 100 million Americans are buying health care through systems where somebody has an incentive to control cost. Whether it is a health maintenance organization or whether it is a preferred provider organization or whether it is a new innovation called medical savings accounts, we are seeing the evolution in the private market system of cost-conscious alternatives that are holding down costs and that are preserving freedom.

What I want to do is to encourage those innovations. I want to allow people to have a medical savings account tax free. Let them buy a high deductible insurance policy and put their savings into a tax-free medical savings account out of which they could pay the deductibles. But at end of the year they could keep the money they have not spent.

We can expand coverage. We can make the system work better, but we cannot improve the system by lessening the freedom of our people.

People cannot seem to understand why there is so much passion on our side of the aisle about this. Well, my passion comes from the fact that I believe in freedom.

When my momma gets sick, I want her to talk to a doctor and not some Government bureaucrat. I do not want the Government to make decisions for my family, and I do not want them to make decisions for other American families. In the end, Government-run health care fails. In the end, it does not work. And that is hard for some to accept. It is very hard to accept.

But it is going to be impossible to accept a Government-run system when we do not get to make decisions for our families, when we have now some 40 different Government agencies and bureaucracies that are created by this bill that are going to help make the decisions for us, at best, and that are going to make them for us, at worst.

I want to preserve freedom. There has to be a way. There is a way to preserve our freedom and yet help people get and keep good private health insurance.

Let me conclude by saying what I am for and what I am against.

I want to pass a health care bill this year. I think the worst thing we could do is let an issue fester, thereby allowing people who have a political agenda to expand the power of Government and convince people that their solution is the only one. Their solution is to adopt a medical care system that half the world is trying to reject.

Is it not an incredible paradox, when half the world today is trying to get out of Government-run medicine, that we are the only country on the planet that is trying to get into it?

I want to make insurance portable so that you can change jobs without losing it. I want to make insurance permanent so it cannot be canceled if you get sick. I want to deal with medical liability. I want to help working people get good health insurance. And I want to fund it by cutting existing programs and reforming programs like Medicaid. And I am willing to work with anybody at any time, anywhere to do that.

But I am not willing to raise taxes on the American people by another $194 billion a year. I am not willing to do that, and I am not going to do it, and it is not going to be done unless every right I have as a Senator is overridden by the ability of the majority to stop this debate.

VOL 140 PT 15 AG 10 — 11 1994 UMI

I am willing to try to improve the system, but I will not participate in tearing down the greatest health care system in the history of the world and rebuilding it in the image of some Government agency here in Washington, DC.

And how committed am I to that? The media has run around for 3 or 4 days asking, "Are you going to filibuster? Are you willing to filibuster?" I want to legislate. I want to pass a bill to fix what is broken in the system.

But if you are asking me, if I am willing to use every power I have as a Member of the Senate to stop a Government takeover of the health care system, to stop the continual reaching into the pockets and breaking the backs of the working people of this country with a growing tax burden, the answer is, "You bet your life I am." Whatever I can do to stop this, I am going to do. It is vitally important to the future of America.

Here is my concluding point: Why is this so important? This is so important because, if we adopt anything like the Clinton health care plan, we cannot fix it. If we adopt anything like the Clinton health care plan, we are not going to be able to take back all these promises. Once we make all these promises, we will never be able to take them back. We will never be able to pay for them. We will go back and forth between bankrupting the Government and rationing health care. In the end, we will destroy both the economy and the greatest health care system in history.

It is important, if we cannot fix something, that we not break it. And I am going to do everything I can to see that we do not break this system.

I want to work with people. I want to fix what is broken. But there will be no Government takeover of health care on a watch that I share with colleagues who also do not believe that Government is the answer. If the 20th century shows us anything, if anything is proven by the experience of mankind on this planet in the 20th century, it is that big Government does not work; that Government cannot deliver the goods; and that Government will not respect the rights of the individual. And it was true in the worst government on the planet and it is true in the best government on the planet, which is this Government.

So this is a critically important issue. The future of America is going to depend on the outcome of this debate. And we are going to debate it and we are going to fight it out as if the future of America depends on it. It does.

I believe that when the debate is over, when people understand that unions are treated differently for tax purposes than people who are not members of unions; that, in determining whether a State like my State has these employer mandates which are payroll taxes imposed on its employers, health insurance for illegal aliens is included; when people understand that we are overturning medical liability reform, which is critical to controlling cost; when all these amendments are presented and when the American people know all the little special interest provisions in these bills, they are going to reject these bills by overwhelming margins.

Washington is isolated from America. I understand that. If this decision was going to be made in America, I would be absolutely confident. But it is going to be made in Washington, and it scares me to death. But in the end the system works and in the end the Mitchell bill will fail. The Mitchell bill will not fail because there is not a problem in health care. It will fail because the Mitchell-Clinton bill, the Government domination approach, will not solve the problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas yields. Who yields time?

Mr. PACKWOOD. I yield to the Senator from Utah such time as he would like.

The PRESIDING OFFICER. The Senator from Utah [Mr. BENNETT] is recognized.

Mr. BENNETT. Mr. President, I will have a more lengthy statement on health care later on when the appropriate time arises for me to give that. But I have something to say today that I think is applicable. I have just a little bit of temerity about saying it because the distinguished scholar who Chairs the Finance Committee is on the floor. I have had the experience of quoting things from America's past in his presence before and have found that he has been called upon to further add to my education and correct me.

Rather than be embarrassed, I have been enlightened by that experience. So I will share again with the Senate an observation from America's past history and say to the distinguished Senator from New York that if I need further enlightenment I will welcome it in the same fashion that I have had it in the past.

One of the documents that I have read from time to time, ever since I was a college student, which I think still has much to teach us, has been the Federalist Papers. The Federalist Papers were basically a political document, written in a political fight. They were tracts, written to convince the good people of New York that they ought to support the ratification of the Constitution. But in the process of going through that, the authors of the Federalist Papers gave us some pearls of wisdom, one of which I will quote here today on the floor, that I think summarizes what we are faced with. From the 62d Federalist, James Madison, the author of that particular document, has this to say about what he calls mutable policy. I am assuming mutable is a 19th century word for something bad. I am not sure exactly what it means. Mr. Madison says this:

> The internal effects of a mutable policy are still more calamitous. It poisons the blessings of liberty itself. It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow. Law is defined to be a rule of action; but how can it be a rule, which is little known, and less fixed?

A quote from Mr. Madison. This strikes a very respondent chord in my mind. He talks about "laws be so voluminous that they cannot be read." I took upon myself the task of reading all 1,400 pages of the majority leader's bill. I must confess I found that it was a wonderful cure for insomnia, and convinced me once again of the wisdom of my decision not to go to law school and therefore not to be trained to talk like that.

I got about 100-and-some-odd pages into the bill when it was changed. "So voluminous they cannot be read, or so incoherent they cannot be understood," and "revised before they are promulgated." I have to start all over again, the first hundred-and-some-odd pages that I read no longer apply because we have a new version. I am going to forgo reading the new version, I will publicly admit, for fear that it, too, will be changed before it is promulgated and incoherent to be not understood. And I will be dependent upon the staff analysis of where it is and what it says.

Enough classical allusions. What are we told in today's paper—that applies to this circumstance in language a little less orotund than that of the Founding Fathers—the Congressional Budget Office has this to say on this same philosophical topic. Referring to the Mitchell bill it says:

> For the proposed system to function effectively, new data would have to be collected.

Stop and think of the implications of that. For it "to function effectively, new data would have to be collected." In other words, the present data does not tell us what is going to happen.

> . . . new procedures and administrative mechanisms developed, and new institutions and administrative capabilities created. In preparing the quantitative estimates presented in this assessment, the Congressional Budget Office has assumed not only that all those things could be done [in other words, they are giving the very best possible odds that this will all work, and that is an assumption] but also that they could be accomplished in the timeframe laid out in the proposal.

There are two assumptions. One that it could be done, and, number two, that it could be done in the timeframe. And I will get to the timeframe in just a moment.

"There is a significant chance"—there is a phrase pregnant with meaning—

> There is a significant chance that the substantial changes required by this proposal could not be achieved as assumed.

What are we doing here? Taking a significant chance, in the words of the Congressional Budget Office, that these substantial changes required by this proposal could not be achieved as assumed. Are we falling under the condemnation that Mr. Madison gave us, about laws that are "little known and less fixed"?

There is one thing in this bill that is fixed, and that is the trigger. Trigger is not a word that I think Madison would recognize. It comes from a mechanism, perhaps, that was invented since his day. But it is one of the most pernicious concepts that I can think of, where we are saying in this law, if things do not work out the way we hope they will, if things do not work out the way we assume they might, we in 1994 will legislate what will happen in 2002. I can think of nothing more arrogant on the part of this Congress than to say that we know what should be done in 2002 if things do not work out the way we think they might in 1994. I think we need a strong dose of reality and a strong dose of humility, as we approach the enormousness of the task facing us. And we ought to approach this from the standpoint of doing what we think we can do now, based on the best data we have, and trusting to future Congresses to do what they can do based on the data before them as the data become available.

I close with this observation. I serve on the Joint Economic Committee. One day before that committee Dr. Uwe Reinhardt, Princeton University, came before us to talk about health care. He is recognized as one of the great gurus of this debate throughout the country.

I said to him, in effect, why are we convinced that we have to do the whole thing in a single bill in a single Congress? What arrogance there is connected with that. Why do we not say this much we know, therefore this much we can fix and let us fix that and then see what happens and come back in the next Congress with those data before us and fix some more as we move along? That is, to me, the logical way to solve this kind of problem.

He said in effect: Senator, of course that is the logical way to proceed. I agree with you completely. But, he said, those of us who have spent our lives focusing on this issue are convinced that if we do not get it done this year it will be another 30 years before we get a chance to address it.

I said that is absurd. Surely this Congress and future Congresses will not be so irresponsible as to not address this issue in the future.

And he said to me, "Senator, would you commit to address this issue again next year if we don't get it all done this year?"

I said, "Of course, I will."

He said, "Well, if the Senate would commit to do that, then we wouldn't have to do all of this all at once."

So that is my plea, Mr. President. Let us commit to the American people that we will do that which, according to the polls, 65 percent of them want us to do, which is address the issue this year, as well as next year and the year after that and the Congress after that and the Congress after that until, in a series of intelligent, well-informed, proper steps we finally get this problem solved.

To try to say it must be done between now and the time we go on recess, and it must bind future Congresses all the way to the year 2002, and it must be based on a series of assumptions which, according to the Congressional Budget Office, there is a significant chance they will not come to pass is, in my view, irresponsible. And I do not want to be part of that irresponsibility as passionately as I do want to be part of an intelligent solution to this problem.

As I say, I will have more to say about this in a complete statement that I will give later in the week, but I wanted to take advantage of the opportunity in the presence of the chairman of the Finance Committee and the comments in this morning's paper from the Congressional Budget Office to bring these thoughts to the attention of the Senator. I thank the Chair.

Mr. MOYNIHAN. Mr. President, may I congratulate my learned friend from Utah on his citations on the Federalist Papers? Indeed, Madison, Hamilton in particular, and Jay would, if you had said to them our statutes would be what they are today, they would have said they were, indeed, voluminous and incoherent. They would not have anticipated our data processing capacities, and 50 years ago neither did we.

But it is a problem. We are one of the few nations on Earth which allows the citizen to assess his own taxes. It works pretty well. A subject of the Queen is not allowed to decide how much tax he or she owes. The Queen decides. He can sue as much as he wants, but he never wins.

The Tax Code has become near incomprehensible, save for specialists. We have 300,000 pages of Medicare regulations. As we proceed in the manner we are discussing, I think the idea of simplicity needs to be very much—accessibility, not just to insurance but to the information about insurance. If the regulations are incomprehensible, access is, at the very least, dubious. A good point and a timely reminder. Thank you.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, I just want to make sure of our time situation. Do we have a unanimous-consent that Senator SPECTER will have an hour at 11 o'clock? I cannot remember.

The PRESIDING OFFICER. There is no consent agreement to that effect.

Mr. MOYNIHAN. Mr. President, may I inquire of Senator WOFFORD, is he ready to speak? He has been very patient. I yield the Senator—I believe the Senator wanted about 5 minutes.

Mr. WOFFORD. Yes.

Mr. MOYNIHAN. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. WOFFORD].

Mr. WOFFORD. Mr. President, it has been good to hear Senator CHAFEE and others on the other side of the aisle reach out in a constructive spirit and with the conviction that this Congress this year can and should come together to find a common sense, common ground for health care reform.

But, Mr. President, I have been alarmed by some of the other voices in this debate. In yesterday morning's Washington Post, one of my Republican colleagues was quoted as saying "health care is too important"—get those words—"health care is too important for this Congress to pass a reform bill now. Instead of acting," he says, "we should commission a study"—a study.

Mr. President, we have had years of studies, mountains of studies. We do not need another study to tell us what is wrong with this system. We need the backbone to fix it, not after the next election, not some time in the next century—now. Health care delayed is health care denied.

To those advocates of delay who say the remedy offered by Senator MITCHELL is too complicated to understand without a study, that the remedy offered by Senator MOYNIHAN on the Finance Committee, now incorporated in great part in the bill we will be considering from Senator MITCHELL, is too complicated to understand without a study, I say study this. This is the Federal employee benefits plan. It is a model of what we are proposing to do to guarantee all Americans the kind of private, affordable coverage, the choice of private health plans, not Government-run plans, your own doctor plans, HMO's, your choice that Members of Congress have arranged for themselves. What is so complicated about that?

When I came to the Senate 3 years ago, I said Congress could not understand the health care problems working families face while we got free medical care from the Office of the Attending Physician. So we fixed that. We now pay the fair market value of that extra service, in addition to having our choice of private health insurance plans. But apparently some of us still do not understand what real families

79-059 O—97 Vol. 140 (Pt. 15) 25

VOL
140
PT
15
AG
10
—
11
1994
UMI

go through, why it is true that health care delayed is health care denied.

If Members of this Congress want more time to study, let them study what it is like to be a middle-class American caught up in the health insurance mess. Let them study what it is like to try to buy insurance on the open market without the help of their employer.

So I am serving notice that if the defenders of the status quo succeed in blocking this, in causing further delay or study, I will offer an amendment that will disqualify every Member of Congress from participating in the Federal Employees Health Benefits Plan until we pass a bill which will do four things:

First, put us on a certain path to universal coverage; second, open the Federal Employees Health Benefits Plan to the American people and to small businesses; third, end insurance discrimination, meaning real portability, meaning an end to preexisting condition exclusions—Senator GRAMM said only God can end a preexisting condition. This Congress in the bill we are seeking can end preexisting condition exclusions—an end to lifetime caps on benefits and an end to discrimination against older Americans; and, fourth, contains real serious, effective measures to control health care costs so we do not increase the deficit.

Mr. President, do you know what would happen to us, to Members of Congress, if we had to deal with the health insurance nightmares that haunt so many Americans? Very soon, each one of us would be getting a letter from our insurance company saying, in effect, after all the doubletalk, "You're out of luck. That insurance you thought you had wasn't real insurance, it was phony."

We would get a letter saying, "You're out of luck, you've reached your lifetime cap on benefits."

"You're out of luck, we won't pay for the services you need because of that preexisting condition you have."

The problem with our present system of health insurance is that so much of it is phony. You pay and pay and then just when you need it, it is not there.

Yesterday, the House overwhelmingly approved a bill that would require Congress to live by the rules it makes concerning workers' rights. The point there is to make Congress understand the consequences of its action. My amendment, if and when it has to be enacted, would force us to understand the consequences of failing to act. I have heard Members of Congress say that doing nothing on health care does not hurt me at all. Well, it should. It should hurt every one of us if we fail to act because it sure is going to hurt the American people and the American economy.

Mr. President, Americans did not start debating health care last week, last month, last year. We have been at this debate for decades.

And when I hear from hard-working men and women in my State about the problems they are having with health care, I remember the words of Martin Luther King at the Lincoln Memorial when he talked about the fierce urgency of now. Now is the time the people need help. Now is the time for the people's representatives to act.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Oregon.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Pennsylvania for his eloquent and concise statement and his very appropriate threat.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. On my time, would the Senator from Pennsylvania yield to a question?

Mr. WOFFORD. Yes.

Mr. PACKWOOD. As I indicated in my opening speech, I spent the better part of a weekend reading this bill about cost containment. I am not sure I have got it figured out yet. But last night I spent time reading this bill—I refer to the Mitchell bill now, not the Finance Committee bill—on risk adjustment between plans. There is nobody that is more informed on health in this body than the Senator from Pennsylvania. It was the main campaign issue when he was elected, and he knows the subject well.

I cannot find anything in the Federal Employees Health Benefit Plan—they have lots of plans. We have a choice of plans—on risk adjustment. Would the Senator briefly explain it, because I do not understand how the risk adjustment in the Mitchell bill works?

Mr. WOFFORD. Mr. President, I say to Senator PACKWOOD, first I wish to make it clear that I am not proposing that the Federal Employees Benefit Plan be the cure-all or the only health reform we are talking about. I am proposing that one of a number of options be the Federal Employees Benefit Plan, that voluntary purchasing cooperatives be one of the options for the American people and for small business particularly, that directly getting your own insurance from Blue Cross/Blue Shield, HMO's, be one of your options, and that your employer may provide that insurance in a variety of ways. One of the ways is the voluntary purchasing cooperatives, the degree to which we have community rating in which we have the whole pool in the community as the pool on which the risk is carried.

Just where that limit is, how many employers, what size and what people are in the community-rated pool we are going to have to discuss and understand and work together on to set the right margin. There are different reasonable approaches to that, which I am looking at with some of my colleagues.

But within the community-rated pool, however we decide it, there is a serious problem of how do you adjust the risks to prevent some plans that are participating in it, some insurance carriers, from having a far greater burden of the higher risks. And if we are going to have community rating, we are going to have to develop, in a constructive fashion, a risk adjustment procedure, and the Mitchell bill proposes one very specific way of doing it.

Mr. PACKWOOD. Well, as I understand the Mitchell bill, it has mandatory cooperatives and it eliminates the Federal Employees Health Benefit program as we know it.

Mr. WOFFORD. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. WOFFORD. Did I hear the Senator say there would be mandatory cooperatives?

That horse of mandatory alliances left the field months ago, and neither the Senate Labor Committee nor the Senate Finance Committee has a mandatory alliance. Voluntary purchasing cooperatives.

Mr. PACKWOOD. Mandatory cooperatives appear to be back.

Mr. WOFFORD. I say to the Senator, the horse has not come back on the field that I found.

Mr. PACKWOOD. Well, I thank my good friend. There is the problem. We are on the Finance Committee bill. But we all talk about this bill, S. 2357, the Mitchell bill. That was introduced—14 pounds—last Thursday, I think. Then the night before last, we have this bill. It does not have a number yet. It has not been introduced yet. It has been printed. This is the second Mitchell bill, and with it came a list of sections affected, and it says, "The following sections have been modified" since the initial printing of his bill last week. Every single title in the bill, his original bill, is amended, but we do not know what. All we have is this sheet that gives us numbers. And what you have to do is then go to the new bill and attempt to correspond to the numbers in the old bill, and the numbers do not correspond.

Now, yesterday, we discovered—I was talking to my good friend from New York, Senator MOYNIHAN, about a provision that he and I jointly dislike, which is how many residents medical schools can have and what kind they can have. Senator ROCKEFELLER kindly informed me that that provision was no longer in the second Mitchell bill. I did not know that. I did not know it had been taken out.

Now I discover there is going to be a third bill, or at least a great variety of changes again. I was prepared to make a rather lengthy speech this morning on the 25-percent tax on the so-called high-cost plans. I now hear rumors—I do not know if this is true—that that is out in the new provisions that are coming along. I do not know if they are out or not.

Mr. President, is this the way to legislate? I am telling you something, somebody called my office and talked to me the other day and talked about this first Mitchell bill. They are absolutely enraptured by it. They referred to it as the "War and Peace" of health care legislation. It is not war and peace; they got the wrong medium. The medium is film. This is "Lethal Weapon I".

This is "Lethal Weapon II."

Apparently we are about to have "Lethal Weapon III," and we do not know what is in it.

Well, if that is the way we are going to legislate, I am going to try to be "The Terminator," and we are not going to have these bills. We are not going to legislate 1,400 pages at a time, 14 pounds at a time, changing it every day, trying to figure out what is in it, spending hours and hours and weekends and weekends and staff time and staff time going through this bill trying to dredge out the truly awful parts from the just awful parts, trying to figure out a way to get rid of them, then finding out they may be in it or they may not be out or we are going to be on something different the next day.

Mr. WOFFORD. Will the Senator yield for a question?

Mr. PACKWOOD. No; not now. I am not done yet. The reason I am not going to yield is because Senator SPECTER is due to speak, and he is here. But I am simply asking the Chair—and the Senator from Pennsylvania is as confused as I am when he says the mandatory alliances are out, and I am saying the mandatory co-ops are back yesterday—yesterday. I do not know if they are back today or not. They were out for a while and they were back. That I found. I have not seen the amendments—the revisions. We have not gotten amendments—that are coming today.

But considering that we are affecting one-seventh of the entire economy, considering that if the Clinton bill, as we initially had it passed, if the Congressional Budget Office was right, we would have seen the percentage of our gross domestic product that went for health go from 14 percent of all the money and everything we had to 19.5 percent. To call that progress, to me, redefines the word.

But at this stage, I see my good friend from Pennsylvania is here, and if he is ready, I am prepared to yield to the Senator from Pennsylvania as much time as he might want.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

Mr. SPECTER. I thank my distinguished colleague from Oregon for yielding.

I appreciate the time to present my views on the pending health care legislation.

This debate, Mr. President, has been classified as a historic debate, and I believe that is an accurate characterization. There have been frequent references made to the fact that the debate goes back to President Truman's time, and I reflected on that and recollected that when I was a high school debater in 1946, the subject was health care legislation. I consulted with the Congressional Library and found the old high school debate manual from the fall of 1946, where the high school debate topic was "Resolve, that the Federal Government should provide a system of complete medical care available to all citizens at public expense." That was shortly before the time Senator PACKWOOD was in high school—not too much before, but a little before.

I will not read much of this book. But there is a notation here that the annual cost for medical care in the United States is $3.656 billion, which is a long way from the current level of $1 trillion.

I recall debating the subject and getting involved in the questions of medical care and group practice and the needs of the country. I have been an observer of this subject since my high school days, and for the last 14 years in the U.S. Senate I have been an active participant in the ongoing debate through my participation on the Appropriations Subcommittee of Health and Human Services, where for the past 5 years, I have been the ranking Republican working with Senator HARKIN and others on a budget which is now $70 billion a year on discretionary spending.

During my 14 years here, I have had occasion to introduce some 20 bills on health care matters, and have considered this at the top of my own agenda. And certainly it is at the top of the national agenda.

I intend to discuss five major subjects today, Mr. President. The first is the present health care system, its good points and its bad points; second, my legislative proposal, which has been on the table for more than 18 months; third, the proposals offered by President Clinton and Senator MITCHELL; and fourth, the politics of health care in this Chamber and in the Congress today, and the question of the timetable, as to how we ought to proceed.

Mr. President, I believe that while there are needs for reform and needs for correction, we Americans enjoy the best health care system in the world, and the best health care system in the history of the world. I base that on what I have observed and what I have seen in my own family, recalling the days when my father, Harry Specter, was a patient at the Veterans Administration hospital in Wichita, KS, in the late 1930's; and when I saw my mother in the hospital with a gall bladder operation at Mount Sinai in South Philadelphia around 1950; and when I saw the extensive care my brother, Morton Specter, got in Wichita, KS, when he was terminally ill last October.

And I think about my own care that I received a little more than a year ago when I was diagnosed by an MRI, a machine which had not even been in existence for 10 years. In the face of symptoms which doctors could not figure out, I asked for an MRI. I had a little opposition from my doctor, but I got one; they found a golf ball inside my head, and I had an operation. I have had a full recovery and I am very grateful for the kind of medical care we have in this country.

I hear people talk about the Canadian system, and I know that when Canadians have very serious problems they come to the United States. And I hear about the system in England and how there are limitations for people over 60 to get remedial surgery. I hear of other stories of systems around the world. I think that we should not lose sight of the quality of care we have in the United States. But, having said that, I believe there is a need for improvements. There is a need for reform.

I believe that we need to have universal coverage. I agree with President Clinton's objective to have comprehensive health care for all Americans, and not just 95 percent of Americans, but all Americans. I compliment the President for having brought health care to the center stage so that it is receiving the undivided attention of the Congress. That is not quite true, but we are focusing on health care in a very concerted way.

I believe that we need to have coverage for preexisting conditions. I think we spend more money on lawyers fighting about what is preexisting than it would cost to hire the doctors to give the appropriate medical attention.

I think we need to have portability, a fancy word for coverage when people move from one job to another. And I think we need to deal with the problem of spiraling health care costs, which is not sufficiently addressed, in my opinion, by the President's plan or by Senator MITCHELL's plan.

Mr. President, I offered Senate bill 18 on the first day of the 103d Congress, on January 21, 1993. And it is a modest bill by comparison to the Mitchell bill. It is a thin bill. My staff and I worked on it for the better part of 2 years to refine it and come down to what I consider are the essentials of what we ought to enact at the present time.

It differs from the President's proposal and Senator MITCHELL's proposal in that it relies on the market system which has brought the best health care in the world to 86.1 percent of the American people, and it has some limited governmental action. I disagree with those who think the Government should do nothing. It is limited governmental action, but it is not the massive bureaucracy which would be brought into play by the President's plan or by Senator MITCHELL's plan.

I will discuss that in due course. But first, I want to accentuate the positive,

VOL 140 PT 15 AG 10 — 11 1994 UMI

and talk about what I think America needs.

This is a matter of overwhelming importance. We are dealing with a health care system which approximates $1 trillion. That is a telephone number. Nobody really knows what that means. We talk about it in terms of 14 percent of the gross national product. Again, that is a constant that is really hard to bring down to Earth. But people do know that almost every day, every man, woman, and child in America has some ache or pain and is concerned about their health, and they see a doctor. The doctor-patient relationship is one of the most important of all relationships.

Early on, the common law gave a privilege to what a patient tells a doctor. And it was second only to the husband-wife privilege where marital communications are sacrosanct, and cannot be inquired into. The law accorded that kind of privilege between the patient and the doctor so that a patient would feel free to tell the doctor exactly what was on the patient's mind, knowing that could not be repeated. The ability to choose one's own doctor, that choice is fundamental and has to be preserved. When a patient goes to a doctor, as I go to my doctor, as Americans go to their doctors every day, there is a confidence that if something can be done, it will be done, because of that personal relationship.

So I think what we need to do is build on the present system. The legislation which I proposed starts off with proposals to cover the Americans who are now not covered, and the first line is to have full deductibility for the self-employed.

As of December 31, 1993, if you are self-employed, you receive no tax deduction for the cost of your insurance premiums. But if you are an employer you can deduct the full amount of your contributions to your employees' health insurance coverage and the beneficiary, the employee, is not taxed at all. That is a unique aspect of our tax laws, and it is designed as a matter of public policy to encourage coverage of health care. That is what has led to so much health coverage, 86.1 percent of the American people.

My legislation would give full deductibility to those who are now not receiving this, the self-employed. It is hard to say how many people would then be covered, but maybe 4, 5, or 6 million. It might be more. We will not know until we try it out.

A second key proposal in my legislation is insurance market reform and small employer purchasing groups, which would enable small business people to get together, pool their purchasing power and get reduced premiums. Here again, there would be substantial additional coverage in America—how many people precisely, again, we do not know for sure; perhaps 6, 7, 8, 9 million people.

I brought these two points to the floor, Mr. President, back on July 29, 1992. I brought these matters to the floor because it seemed to me that we should have been legislating in this field a long time ago. The majority leader came to the floor when we were debating an energy bill, as the Presiding Officer knows, and as we Senators know. But the American people do not understand all of our procedural rules, one being that any Senator can offer an amendment to any bill at any time. But only the majority leader can control the calendar and decide when health care would be brought up.

The majority leader came to the floor and said, "This health care amendment does not belong on an energy bill." I said to the majority leader, "I will agree with you, and I will be glad to take it down voluntarily if the majority leader will give me a date certain when he will take it up." He said he would not do that. I reminded him that he had given a date certain to products liability legislation, which was the day after Labor Day. But he declined to give me a date certain, and it was pretty much a party line vote and my amendment was tabled.

I think, Mr. President, that what we need to do is to take health care reform one step at a time. I call it "trial and correction." I do not call it "trial and error" because I do not think there is an error when you try and you are uncertain as to the outcome, because it is so unpredictable as to precisely what will happen. But those items—full deductibility, insurance market reforms, and group purchasing for the small group market—have been agreed upon in the Congress for a long time. They were not original ideas with ARLEN SPECTER, but I wanted to get them enacted. They were opposed on the basis of "let us not do piecemeal reform because that will defeat comprehensive reform." But had we enacted those provisions in 1992, we would now have some idea as to what they could do, and we would be prepared, in a careful way, to move ahead with other proposals.

My legislation, Senate bill 18, which has been pending for a year and a half, has as its second title "Primary and Preventative Care Service," which provides maternal and infant care coordination, school health care education, and early childhood education.

Title III of my program called for important information to be given to beneficiaries under Medicare and Medicaid. One of the provisions in my legislation on preventative care deals with low birthweight babies. I was amazed, Mr. President, when I saw for the first time a 1-pound baby. I saw that child when I was visiting a health clinic in Pittsburgh and was astounded to find that in a city like Pittsburgh; no city has finer health care delivery than Pittsburgh. Yet, Pittsburgh had the highest infant mortality rate among African-American children. More African-American children died as infants there than in any other city. I saw a 1-pound baby that was as big as the size of my hand, 16 ounces or 18 ounces. It is tough enough coming into this world weighing 8 pounds 10 ounces, as I did. But for those who are born weighing 1 pound, it is a human tragedy for the child carrying those scars for a lifetime, and it is a financial disaster for the country. And it is a multibillion-dollar cost to America not to take care of low birthweight babies.

I have moved ahead on that, Mr. President, working to get the program, Healthy Start, which now receives appropriations through the Labor, Health and Human Services Subcommittee, where I serve as ranking member. We have a program which is in effect—it is not widespread enough, but it is in effect. Within the past 2 weeks, I offered an amendment to the Elementary and Secondary Education Reauthorization bill, which was adopted, providing that schools would be required to inform pregnant young women about prenatal care, modeled after the plan of Dr. Koop, former Surgeon General. We are taking very slow steps, but we ought to be doing a great deal more on prenatal care, which would eliminate the tragedy of premature, 1-pound babies. It would be a multibillion-dollar saving for the United States on preventative health care. That is one of the provisions of Senate bill 18.

Another key provision is title IV which provides for the patient's right to decline medical treatment. Mr. President, we know that statistics demonstrate that more money is spent in the last few hours or days of a person's life on terminal health care costs than is spent in the balance of someone's lifetime. And I had an opportunity to observe that firsthand with my brother, as I have referred to earlier, his terminal health care costs in Wichita last October.

I believe it is very important to make it plain that no person should decide for any other person what kind of terminal health care services that person will get, as that person approaches death. But we have done an insufficient amount in this country to ensure the use of so-called living wills. A living will is a document or permanent record where the person designates what they want by way of terminal health care services as they near death—or in the case of durable power of attorney, a person gives that power to their children or other trusted family or friends. My wife acquainted me with it a long time ago, and we have living wills. It would be an enormous savings if this kind of information was distributed to all people to have the opportunity to make this choice. The amount of savings here, again, is impossible to calculate. My staff and I have tried to get

figures on it, and nobody knows what it would save. I think, conservatively, it is in the high billions.

Another title of Senate bill 18—and I am not going to go through the whole bill, but I will make it part of the RECORD.

In fact, I ask unanimous consent that the index to Senate bill 18 be printed in the RECORD at the conclusion of my oral presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Another key part of cost containment relates to drug clinical trial programs and to medical treatment effectiveness, which sets up a small amount of money set aside on insurance premiums for an analysis of effectiveness of certain treatments and certain drugs, which is not done today. Regrettably, we do not know of any systematic way where there is information available for all doctors and hospitals as to what is effective. This bill sets forth a program in that respect, which would be very, very important for cost containment.

Another provision of the bill would require hospitals and doctors to give a fee schedule. There was recently a celebrated analysis in my State of Pennsylvania on how much less expensive it was to have open-heart surgery in Lancaster as opposed to some of the hospitals in Philadelphia.

And this information, which would be required under my bill, would give consumers an opportunity to make a selection based upon competition and lower costs.

The provisions of my legislation would further require that there be available information on malpractice judgments against doctors or hospitals so that patients would have easily obtainable information on who had been convicted of malpractice among doctors, which hospitals had been found to be guilty of malpractice, so that the consumer would have an opportunity to make an informed judgment as to whether the consumer wanted to go to that hospital or to that doctor.

Another important part of my legislation are the proposals for managed health care, and this is a field which has much to recommend, but is not totally good. But, on balance, I think it is worth implementing to a substantial extent.

The problem with managed health care is whether managers are going to be too restrictive on the kinds of medical care which they will allow those in their program to have. And that is a judgment call. But from what I have seen of managed health care, its benefits substantially outweigh its disadvantages, because it provides for preventive medicine. It provides for regular checkups. It provides for some supervision by the managed health care company on what the doctors would be doing. However, the tough judgment call is to have sufficient supervision without being overly restrictive.

Almost 4 years ago, I had occasion to visit the operations of U.S. Health Care, Inc. at their headquarters in Blue Bell, PA. I was enormously impressed with what I saw. When I have left U.S. Health Care, after visiting with its president, Mr. Leonard Abramson, and others, at the installation, I picked up my car telephone and dictated a letter to Dr. Louis Sullivan, Secretary of Health and Human Services. On a suggestion which Leonard Abramson, president of the U.S. Health Care, had made my letter proposed to the Department of Health and Human Services to take 100,000 Medicare patients and have their care managed by his company without charge and then to contrast that with what would happen to another sample group of 100,000 Medicare patients. Mr. Abramson said that he was confident that his proposal would lead to a 20-percent reduction in costs through managed health care.

Mr. President, I worked with Dr. Sullivan and his Department, and regrettably we could not cut through the mass of redtape because they wanted to give Mr. Abramson and U.S. Health Care a grant. Mr. Abramson did not want the grant. He wanted to run a test program with 100,000 patients under his charge, contrasted with another 100,000. And I am not going to speak at any great length. Each one of these subjects could constitute a lengthy speech.

Mr. President, I ask unanimous consent to print in the RECORD at the conclusion of my comments my letter to Secretary Sullivan, dated October 31, 1990; my follow-up, dated April 8, 1991; Dr. Sullivan's reply to me dated April 19, 1991; and his reply to me dated June 4, 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. Mr. President, the upshot was that we could not do much with the Department of Health and Human Services on getting managed care under this test program.

But my own view is that if we were to have managed care to a greater extent in this country, we could save very substantial money. I think it could possibly save up to 20 percent. If we could save 20 percent of the current health care costs of Americans, some $1 trillion, that mathematically would be $200 billion which would be more than enough money to cover the 37 million to 40 million Americans who are now not covered.

My approach is to take health care in America one step at a time, to extend full deductibility, and pick up several million people who would be covered, to have insurance market reform and enable small business to have group payments and see how many more would be covered.

I believe that it is going to be necessary to have certain subsidies for people at the poverty level, and I agree with the generalized approach of a full subsidy at the poverty level, graduated and eliminated as you move to 200 or 250 percent of the poverty level.

But the question as to how we are going to pay for this additional coverage is one which we have to confront directly, and we have not confronted it directly. I believe that by the kinds of proposals that I suggest in Senate bill 18, prenatal care for low birthweight babies, increased use of living wills, and greater use of managed health care, we would see in the course of a reasonably brief period of time very substantial savings which we could use to extend health care coverage to the people who are not covered.

I believe that if you moved ahead with insurance market reform and full deductibility, we might cover a third to one half of the 37 million to 40 million people now not covered. Then with the saving we could cover the remainder of Americans so all people would be covered by health care.

Mr. President, I believe that the American people are looking for answers on the problem of health care reform. Walt Whitman heard America singing. I hear America worried about what is going to happen in Congress on the pending health care legislation.

When President Clinton traveled to Ambridge, PA, in November of last year, I accepted his invitation and went with him and joined him on the speaker's podium and said that I agreed with the President's overall objective of comprehensive health care for all Americans. That was only a few days after he had announced his plan. And I made a qualification that I was not endorsing his plan but I agreed with his overall objective. As a Republican Senator, I was criticized by some of the newspaper editorials for going with a Democratic President to Ambridge and lending him that kind of support.

But I think that on health care, Mr. President, we have to put politics aside as we do on the crime bill which is now pending in the House of Representatives. That is another subject. But it is worth a parenthetical comment. I think the crime bill on balance is good. There are some problems with it, but I think providing for the death penalty, providing for more prisons, providing for more police, and providing for realistic rehabilitation, those are advantages which outweigh the disadvantages.

When some people say we cannot pass the crime bill to give the President the credit, I say this: They are wrong. I do not think we get much credit in Washington for whatever we do. I think if there is any credit going to the President, so be it.

I went with the President, as I say, to Ambridge, PA, and when Mrs. Clinton

VOL 140 PT 15 AG 10 — 11 1994 UMI

went to Children's Hospital in Philadelphia in early February I went with her at that time and had a chance to talk to her about Senate bill 18, as I talked to the President about my own ideas in my bill.

She said, "Well, how about the underinsured?" I said: "You've got a good point. We ought to cover the underinsured as well."

I think it is regrettable that we have not sat down in a more bipartisan way, and I hear a lot of concerns about the bickering and the gridlock that goes on in Washington. I read in the Philadelphia Inquirer on Sunday that if health care reform was going to be passed there would be little or no help from Republicans.

Mr. President, I think that is a widespread public perception, but it is inaccurate. When the health care bill came out of Labor and Human Resources, there was bipartisan support. One Republican, Senator JEFFORDS, voted for that bill, and there was Republican support for some of the measures. There was one important matter introduced by Senator BINGAMAN which had a 17-to-0 vote. In the Finance Committee, there have been three Republican Senators, Senators CHAFEE, DANFORTH, and DURENBERGER who have worked in a bipartisan context.

Senator KENNEDY approached me on support for his legislation, and we discussed it at length. I told him what my interests were and what my concerns were. We sent a joint letter on April 6, 1994, to the Congressional Budget Office asking that my bill, S. 18, be costed out so we could see what might be done by incorporating some of the provisions which I have discussed. Regrettably, Mr. President, we never received an answer from the Congressional Budget Office on this point.

This is another long subject which I intended to touch on only very, very briefly.

But for purposes of the record, Mr. President, I ask unanimous consent that the letter that Senator KENNEDY and I sent to the Congressional Budget Office, dated April 6, along with a letter which I sent to the Congressional Budget Office on July 27, 1994, and the reply from the Congressional Budget Office, dated August 1, 1994, and also my letter to the Congressional Budget Office, dated April 2, 1993, and my second letter to him, dated May 3, 1993, and his response to both letters, dated May 17, 1993, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 6, 1994.

Mr. ROBERT D. REISCHAUER,
Director, Congressional Budget Office, Washington, DC.

DEAR DIRECTOR REISCHAUER: We are concerned that, in costing comprehensive health reform legislation, the CBO may not be adequately assessing offsetting savings from some proposals directed at reducing health care costs. Such savings are often not factored into actuarial estimates of insurance premiums for a variety of reasons, including difficulty in tracing the impact of the savings on a plan-by-plan basis, short time horizons used in constructing the actuarial estimates, and reduction in health expenditures that may not directly affect spending by the plan itself. Nonetheless, a realistic assessment of such savings is vital to assessing the impact of health reform proposals on both Federal and private spending.

We would appreciate your providing our offices with a costing of a number of important savings proposals, with whatever justification is available to substantiate the estimates. The specific items we would like reviewed include the following proposals from S. 18:

1) Reducing low birth-weight births through expanding access to, and utilization of, prenatal care for high risk women;

2) Reducing "end of life" health care costs through increased utilization of advanced directives and "living wills;"

3) Expanding the utilization of non-physician providers within the Medicare and Medicaid programs; and,

4) Providing disclosure of information to consumers by providers in order to enable consumers to make better comparisons on cost and quality.

We think that items 1 and 2 should certainly be accessible for scoring on savings, and that 3 and 4 ought to be within the ambit of scoring as well.

As set forth in the floor statement for Senate Bill 18 (copy enclosed) and an updated version which has yet to be formally filed (copy enclosed), staff cost estimates suggest that substantial savings could be achieved from many of these proposals.

In addition, we would like you to estimate the independent cost impact of several proposals included in the Administration proposal, including:

Universal availability of preventive services without cost-sharing or deductibles;

Expanded availability of substance abuse treatment services;

Expanded investment in outcomes research and practice guidelines development;

Reform of medical malpractice; and

Reduction in nursing home utilization under Medicaid as the result of availability of home care services.

We would appreciate your careful review of this request and your expedited analysis of these proposals.

Sincerely,

EDWARD M. KENNEDY,
ARLEN SPECTER.

U.S. SENATE,
Washington, DC, July 27, 1994.

ROBERT D. REISCHAUER,
Director, Congressional Budget Office, Washington, DC.

DEAR BOB: I am writing regarding my prior correspondence to you requesting the Congressional Budget Office (CBO) to provide cost estimates of health care reform legislation I have introduced. To date, I have not received a scoring on the specific provisions of my legislation: S. 18, the "Comprehensive Health Care Act of 1993, and S. 631, the "Comprehensive Access and Affordability Health Care Act of 1993."

While I recognize that the CBO has received numerous requests for cost estimates, I am nonetheless, troubled that my long-standing requests have not yet been fulfilled. In view of the impending debate of health care legislation on the Senate floor and concerns with the impact reform legislation will have on the budget, I will be disadvantaged in proceeding with my amendments without CBO cost estimates. I would appreciate, therefore, your prompt attention and response to my request.

To facilitate your analysis, I am again enclosing specific provisions from my legislation which I expect to offer as amendments. They are:

(1) Health Care Cost Containment and Quality Grant Program to provide federal standards and award grants to states to develop health care cost containment information systems similar to Pennsylvania's Health Care Cost Containment Council.

(2) Primary and Preventive Care Services to establish a maternal and infant care federal grant program for prenatal care and early childhood health education programs.

(3) Patient Self Determination Act amendment to improve portability of advance directives and durable power of attorney.

(4) Reimbursement for non-physician providers to allow for direct reimbursement under Medicare and Medicaid programs to nurse practitioners, physician assistants, and certified midwives.

Excepting the first provision, these provisions were provided to you by letter dated April 6, 1994 from Senator Kennedy and me.

Again, it is important that I receive your estimates as soon as possible. If your staff has any questions they should contact Doug Loon or Rebecca Jones of my staff at 224–4254.

Sincerely,

ARLEN SPECTER.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1994.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR: Thank you for your letter of July 27, 1994, seeking cost estimates of the health care reform legislation you have introduced. I also acknowledge that you sent an earlier letter requesting estimates of specific provisions in S. 18 and S. 631.

Because heavy demands have been made this year for CBO analysis on a wide range of health plans, we sought guidance and direction from the leadership of both parties on how to establish priorities for these tasks. Working under their recommendations, to date we have analyzed the Administration's health proposal, the Managed Competition Act, and H.R. 1200 creating a single-payer program. We have also completed preliminary analyses of two reported bills—the Health Security Acts reported by the Senate Committee on Finance and the House Committee on Ways and Means.

As you know, in keeping with CBO's statutory charter, our mandated task is to provide cost estimates of those measures reported by committees. At this time, we do not have the capability of responding to all requests for cost analyses of health care proposals. We have had to inform a number of Members in both the Senate and the House that, while it is our intention to be helpful, we must place priority on a limited number of health reform proposals as directed by the leadership.

Consequently, at this time I cannot give you specific dates when responses to your requests can be provided. I realize the importance of your concern, and we will certainly make every effort to accommodate you, given the current constraints on our resources.

Sincerely,

ROBERT D. REISCHAUER.

U.S. SENATE,
Washington, DC, April 2, 1993.

ROBERT D. REISCHAUER,
Director, Congressional Budget Office, Washington, DC.

DEAR MR. REISCHAUER: This letter is to request that the Congressional Budget Office score the cost of Senate bill 631, the "Comprehensive Access and Affordability Health Care Act of 1993" which I introduced on March 23, 1993. A copy of the bill text is enclosed.

Please forward your reply to the attention of Sharon Helfant of my staff and do not hesitate to contact her at 224–4254 regarding any questions or comments.

Thank you for your timely consideration to this matter.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, May 3, 1993.

ROBERT D. REISCHAUER,
Director, Congressional Budget Office, Washington, DC.

DEAR MR. REISCHAUER: This letter is regarding my April 2 correspondence to CBO requesting a cost estimate of Senate bill S. 631, the "Comprehensive Access and Affordability Health Care Act of 1993".

To date, I have not received any response. It is very difficult for me to respond to inquiries regarding the cost of my legislation without any response or information—in part or in full—from your office.

As you know, Congress depends upon CBO as a primary source for scoring proposed legislation, and given the high priority of health care reform, I would like to know why you have not responded to a request that was made over one month ago, and when I may expect one.

Thank you for your attention to this matter.

Sincerely,

ARLEN SPECTER.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 17, 1993.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR: I regret that the Congressional Budget Office was unable to prepare a spending estimate for your bill S. 631, the Comprehensive Access and Affordability Health Care Act of 1993. S. 641 is a major health reform bill and it will be a difficult and time-consuming task to estimate its costs.

Your April 2nd request arrived just as we began the very intensive period when we estimate the savings associated with the Congressional committees' responses to their reconciliation instructions. As you know, the Budget Resolution for 1994 requires committees to submit reconciliation provisions by May 14th in the House and by mid-June in the Senate. Because of the many committee requests in April and May, we have not been able to handle Members' requests for major cost estimating work in the health care area.

While we would like to be able to serve all Members all of the time, our resources are such that during periods of intensive legislative activity, we have to give priority to bills that are being considered by committees. I have asked Charles Seagrave (226–2820), who is in charge of cost estimating in the human resources area, to keep your staff apprised of our progress on estimating major health care reform proposals.

Finally, I regret the difficulties that lack of a CBO cost estimate caused during floor debate and hope that when you need CBO analytical assistance in the future, circumstances are such that we will be able to be fully responsive to your request.

Sincerely,

ROBERT D. REISCHAUER.

Mr. SPECTER. The upshot of the request, Mr. President, is that I never received an answer to any of my requests for scoring.

The people who may be watching on C–SPAN2 do not understand all of our procedures, but before an amendment can be offered on the floor, it has to be scored; that is, there has to be an estimate as to what it would cost so that we do not spend more than is allowed, that there is an offset, and that information has to be provided by the Congressional Budget Office.

I understand that the Congressional Budget Office gets a lot of requests. The thrust of their reply to me was that they did not have time to do it as they had to spend their time on committee bills.

But when I seek to offer an amendment on this very important subject, I am barred from doing so unless I have a Congressional Budget Office response. And when my letter goes out, along with the signature of Senator KENNEDY, who is the chairman of a key committee, you would think there would be a response—but there was not—as to what the scoring is. It was impossible for Senator KENNEDY and me to continue our discussions as to what cooperation I might give and how the ideas I had in S. 18 might have been incorporated at that early stage, long before Senator KENNEDY's committee reported out a bill. So that is part of the problem.

Mr. President, I really seek to accentuate the positive, as I have done here today in talking about what I think ought to be done. But we cannot overlook the legislative proposals which are pending, either on President Clinton's legislative proposal or on the substitute which has now been offered by Senator MITCHELL.

It is my view, and I say this as much as I can in a constructive way, that the legislation offered by President Clinton was much too bureaucratic and massive and too much of a change to provide the right answer for reform of health care in America. I think the same problem is present with Senator MITCHELL's program. It is much too bureaucratic and massive to provide the right answer for America's health care reform needs, contrasted with retaining the present system and targeting the specific problems, as I have suggested in my proposed legislation.

When I read President Clinton's health care proposal last fall, I was amazed by the number of agencies, boards, and commissions which were created in the Clinton health care bill. So I asked my staffer to make me a list of all of the agencies, boards, and commissions. Instead of making a list, my staffer made a chart. And the chart became somewhat famous when Senator DOLE used it in his reply to President Clinton's State of the Union speech last January.

I want to refer to the chart. I have done it before, so I will not do it for too long today. But most people have not seen my chart yet.

This is the Clinton plan, S. 1757, which shows the bureaucracy of President Clinton's health care plan. Every box in red is a new agency board or commission, and there are 105 new boards, agencies, councils, and commissions. The boxes in green are existing agencies which have expanded responsibilities.

I assigned the responsibility to make a list to my staffer, Sharon Helfant. She made the list and she made it in a very careful way through a chart.

Nobody paid much attention to it until Senator DOLE made his speech in his reply to the State of the Union. After that, the White House paid a great deal of attention. They gave it more publicity and popularity than I ever could have or Senator DOLE could have. They said it was a chart of the New York subway system, but the New York subway system is not this complicated.

Then they said it was a Republican plot. So the Washington Post went out and interviewed Sharon Helfant, the person who made the chart. Sharon Helfant told them things I did not know—that she was a Democrat; that she was a big fan of Hillary Clinton; that she had voted for the President; and that when she made up the chart she had taken a piece of paper, 8½ by 11, and had tried to put the chart on it, but it is was too big, so she had to Scotch tape paper together. And that is what you call a well-financed Republican conspiracy.

I do not know if it was coincidence or not, but shortly after Senator DOLE made this chart available in his nationally televised speech, President Clinton's health care proposal started to take a nose dive. Senator DOLE said it was his speech. I disagree with him. I think it was my chart that did it.

But it is plain that when this proposal was put forward, there were many, many people who liked it and wanted to have it adopted. But, as time has passed, there has been a consensus that it is too bureaucratic and simply too much.

That then led health care reform being considered by the Finance Committee and the Committee on Labor and Human Resources, and now Senator MITCHELL has taken on the responsibility of his own health care program.

And John McCann, an intern in my office, and Rebecca Jones of my staff, worked on a chart to put at one glance Senator MITCHELL's health care proposals.

VOL 140 PT 15 AG 10 — 11 1994 UMI

This is the chart on the bill by Senator MITCHELL, S. 2357. Again, the graph is the same. Every box in red is a new agency, board, commission, or function and there are 170 new boards, agencies, councils, commissions, programs, and bureaucratic responsibilities. In green, there are the existing agencies which have new responsibilities.

Again, Mr. President, I believe that this program is much too costly and much too bureaucratic. It really throws out the baby with the bath water in not retaining the valuable points of the present system and working on targeting the specific problems.

Senator PACKWOOD has already made the point, and I shall not repeat it, about the changes in what Senator MITCHELL has already done. I compliment Senator MITCHELL on his effort. It is a massive job to try to bring forward a health care plan. The first draft I saw was in looseleaf form which was last Thursday, and John McCann, the intern from the Fells Institute at the University of Pennsylvania, went to work to put together the chart. Then we had a bill which was put out on Friday which may have been the same or may have been different. It was renumbered. Then we have a separate bill which has just been put out. And Senator PACKWOOD comments there is talk about putting out another bill.

The Washington Post reported yesterday, "Since Senator MITCHELL unveiled his plan last week, the legislation has been rewritten hundreds of times."

And there has been an evaluation by the Congressional Budget Office, which is the agency which tells us how much the plan is going to cost and how effective it is. On August 9, the day before yesterday, the Congressional Budget Office published what they call "a preliminary analysis of Senator MITCHELL's health care proposals". My suggestion to my colleagues and to the American people is that what we do on health care is much too important to handle by a preliminary analysis on legislation which is still being rewritten.

I ask unanimous consent that the full text of this Congressional Budget Office report appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. SPECTER. Again, this would be a very lengthy speech all by itself. But I would make reference to just a couple of comments here. I think the Congressional Budget Office is trying to be as kindly disposed and gently disposed to the bill by Senator MITCHELL as they can, but there are a lot of very serious questions and critiques raised in this report. For example, at page 11 the comment is made about the system of multiple subsidies:

Integrating these three subsidies in a sensible and administrable fashion would be extremely difficult, especially if some families receive subsidies from more than one program.

At page 14 the report comments:

Because of the disruptions, complications and inequities that would result, CBO does not believe it would be feasible to implement the mandated system in some States but not in others. The system would have to include all States or none.

And, on the mandate provision, that is a very, very key factor.

Then they come to the question of work incentives—and this is a subject which is being considered by Congress in trying to reform the welfare system, which is a priority item on the President's agenda and on mine, too, to try to find ways to take people off welfare and into good jobs. This is what the Congressional Budget Office report says on page 16.

Senator MITCHELL's proposal would discourage certain low-income people from working more hours, and in some cases from working at all, because subsidies would be phased out as family income increased.

As you take a look at this proposal, there are just an enormous number of questions which are raised and unanswered. When I went back to Pennsylvania last weekend, after reviewing the preliminarily draft of Senator MITCHELL's proposal, I heard a great many questions on the street. I ride Amtrak, and no sooner am I on Amtrak than people are saying, "Hey, what's going on with health care? What is Senator MITCHELL doing?"

That is the same question I am asked at the shopping mall in King of Prussia; the same question I get going out to the Phillies' baseball game. When I came back to Washington on Monday of this week and took the floor to manage, with Senator HARKIN, the final phases of our appropriations subcommittee report for appropriations for Labor, Health and Human Services, I made a statement that, although I had said many times in the past weeks and months that I would oppose any effort at a filibuster, I said I was not quite so sure, and I was rethinking it.

And I made a comment in my floor statement on Friday about a telephone call which I had made to my Aunt Rose over the weekend. My aunt Rose was an 18-year-old Secretary in Wichita, KS, when I was born, and has been sort of a surrogate mother to me for many years. I made a brief comment on the floor, which is worth just a moment. When the 1986 tax bill was considered, the creation of Senator PACKWOOD and Senator BRADLEY—Senator PACKWOOD is on the floor—I came to the floor and debated Senator BRADLEY about the flat tax, 28 percent. I asked Senator BRADLEY a question which my Aunt Rose had asked me, which is why should she pay 28 percent, the same rate as millionaires?

Senator BRADLEY did not give me a very good answer. Maybe Senator PACKWOOD has a better answer. Senator PACKWOOD is on the floor.

I think we made some mistakes—I say this respectfully—on that tax bill. We should have listened to Aunt Rose. But I made a comment on the Thursday night before we started the questioning of Professor Hill. My aunt called me and said, "I heard on television you are going to question Professor Hill." And she gave me some advice I did not take. So this time I called her and said, "What do you think about health care, Aunt Rose?"

She said, "I am very worried about it." She said, "I now have good coverage." She told me about a series of tests she had. I will not tell how old she is. She was 18 when I was born, but I will not say how old I am, either. She said, "I pay $91 a month and I like the care I am getting. I would like to see poor people covered, but I am worried about what is going on."

So after talking with a lot of people, including my Aunt Rose, I decided I was going to rethink this idea of a filibuster.

That thought was short-lived because—I do not want to get too personal with my family, but I have a good network that tells me what is going on with America. My aunt Ann called me from Chicago, IL—some press will probably call Aunt Ann Rosenberg—and said, "Don't get involved in a filibuster." Actually I got this message through my secretary. "We need health care legislation."

I will agree we do need health care legislation, and I have decided not to join in any filibuster attempt, but take up Senator MITCHELL's bill and see what we can do with it, and hopefully to craft a proposal which is a step at a time, and which does not undertake the enormous changes which Senator MITCHELL's bill would have.

On the timetable, I hear the talk about the necessity to get this legislation finished during this session of Congress so that it is a done deal before the November elections. I do not believe that we ought to have a timetable to serve either political party. I do not believe we ought to have a timetable for a filibuster which would stop the consideration of this bill. Although if at some point we come to the judgment that we have a monstrosity, something which is really awful for America, and something which can be controlled by the Democrats because they control the White House and both Houses of Congress, then we might have to reconsider whether we would prolong the debate and stop legislation which would be an anathema and really terrible for the American people.

I do not think we ought to do that at this point. But I do think we have to take our time. And it has to include consideration and input from the American people.

It would be very useful to have hearings on Senator MITCHELL's bill, but I do not think that is indispensable. But I do think it is necessary that there be talk in the country about what this legislation means; that there would be a time for analysis by the newspapers and a digestion by the American people; and the chance for editorial comment. Already the op-ed pages are containing comments about, "Let's not rush to do it this year. Let's wait until next year."

I am not saying they are right about waiting until next year. I think the Congress ought to take up the bill to see if we can do it in a nonpartisan way with Democrats reaching across the aisle to Republicans, Republicans reaching across the aisle to Democrats, to do it. But we ought not to be on any timetable.

If we have to sit through all of the August recess, so be it. And if we have to move beyond October 7, when we are scheduled to adjourn, so be it. We ought to take our time. If we cannot do it right, we should not do it at all. We ought to do what is good for America.

Mr. President, the cost of administration of these health care proposals is totally unpredictable. Senator HARKIN and I, in our capacities as chairman and ranking member of the Subcommittee on Health and Human Services, asked for the General Accounting Office to give us an estimate of what it would cost to set up the Clinton health care proposal.

At this time, I ask unanimous consent that the letter from Senator HARKIN and myself to the GAO dated November 30, 1993, and the reply from the General Accounting Office dated June 15, 1994, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, November 30, 1993.

Mr. CHARLES A. BOWSHER,
Comptroller General, General Accounting Office, General Accounting Office Building, Washington, DC.

DEAR MR. BOWSHER: We are writing concerning the recent introduction of the Health Security Act, the President's comprehensive legislative proposal to extend affordable health care coverage to all Americans and to implement reforms to improve the quality and efficiency of the health care system. While we concur in the broad objectives outlined in the plan and look forward to working with the President and the relevant legislative committees, we believe that a careful analysis of all aspects of the proposal is essential.

As the Chairman and Ranking Member of the Senate Appropriations Subcommittee which has jurisdiction over funding for discretionary health programs, we are particularly interested in an analysis of the federal costs required to set up, administer and support the programs authorized in the legislation. This analysis is especially important given the action by the Congress to freeze discretionary appropriations over the next 4 years. We, therefore, request that the General Accounting Office conduct an in depth analysis by agency of the federal costs of administering the new health care system, and of fully funding the new and expanded authorizations of discretionary programs outlined in the legislation. The study should also examine the impact to these expenditures on overall health care spending.

Your prompt attention to this request is appreciated.

Sincerely,

TOM HARKIN,
Chairman,
Labor, HHS and Education Subcommittee.
ARLEN SPECTER,
Ranking Member.

U.S. GENERAL ACCOUNTING OFFICE,
HEALTH, EDUCATION AND HUMAN SERVICES DIVISION
Washington, DC, June 15, 1994.

Hon. ARLEN SPECTER,
Ranking Minority Member, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Committee on Appropriations U.S. Senate.

DEAR SENATOR SPECTER: In November 1993, the President released his detailed legislative proposal for national health care reform. The proposed Health Security Act (HSA) is a comprehensive plan to provide universal health insurance for a broad range of services. The President's 1995 budget request to the Congress includes a $5.4 billion estimate of the federal expense to start up and administer the proposed new health care system over 6 years.

Concerned about how the administrative costs of implementing the proposed new health care system would be funded, given the limit Congress placed on discretionary appropriations,[1] you asked that we determine what justifications the administration used to support the federal administrative cost estimates that appear in the President's 1995 budget. Specifically, you asked that we identify the federal administrative functions that were considered and determine the underlying assumptions used to derive the estimated costs. On April 29, 1994, we briefed your staff on the results of our work.

In summary, the Office of Management and Budget (OMB) identified the federal functions required to implement the proposed HSA and estimated the federal administrative costs of starting up and supporting these functions over 6 years. OMB staff said that pricing out the proposed HSA was difficult. The staff attributed the difficulty in estimating the federal administrative costs to primarily two factors: (1) decisions had not been made about what entity would carry out some of the functions and (2) the staff was given a very short time frame to develop the estimates. The staff said that they did not document the assumptions they used and, in our discussions with them, they would not fully discuss the details of their estimating strategy. As a result, we could not reconstruct the information for you.

FEDERAL ADMINISTRATIVE COSTS TO IMPLEMENT HSA

OMB was responsible for identifying the federal administrative functions to implement the proposed HSA and for developing the administrative cost estimates that appear in the President's fiscal year 1995 budget. Normally, OMB does not independently prepare cost estimates for proposed legislation.[2] In this instance, however, OMB's budget examiners, not the executive branch departments or agencies, estimated the federal administrative costs for the administration. Moreover, while these estimates of federal costs appeared in the President's fiscal year 1995 budget, preparing them was conducted outside OMB's normal budget estimating processes.[3] OMB staff stated that they were asked to estimate the cost of the proposed bill in a very short time frame. Also, there was some uncertainty about whether some of the functions under the proposed new health care system would be carried out by the federal government, the states, or the proposed alliances. OMB staff stressed that these factors made estimating the federal administrative costs very difficult.

FUNCTIONS IDENTIFIED AND ANNUAL COSTS ESTIMATED FOR 6 YEARS

OMB staff identified the specific detailed federal administrative functions required under HSA and estimated the implementation cost of these functions rather than by a department or other entity such as the National Health Board (NHB) that would be responsible for the function. OMB did not provide cost estimates for each detailed federal administrative function. Instead, OMB grouped the detailed administrative functions and provided us annual federal cost estimates by four functional categories: (1) Information Systems and Quality Assurance, (2) Monitoring of States and Alliances, (3) Program Oversight and Financial Management, and (4) Transition to the New System. The estimates are of new or add-on costs. Table 1 shows, by these four functional categories, OMB's estimates of the federal administrative costs for implementing HSA over 6 years. Estimates of federal administrative costs for 1995 through the year 2000 totaled $5.4 billion. OMB staff did not determine federal full-time-equivalent employee requirements for HSA implementation.

TABLE 1.—PROPOSED HEALTH SECURITY ACT—OMB'S ADMINISTRATIVE COST ESTIMATES FOR FEDERAL FUNCTIONS

[In millions of dollars]

Functional Categories	Fiscal Years—						1995–2000
	1995	1996	1997	1998	1999	2000 [a]	
Information systems and quality assurance [1]	915	95	94	81	81	81	1,347
Monitoring of States and alliances [2]	40	92	174	241	272	279	1,098
Program oversight and financial management [3]	77	178	194	226	226	230	1,131
Transition to the new system [4]	247	527	726	353	7	8	1,868

Footnotes at end of article.

VOL 140 PT 15 AG 10 — 11 1994 UMI

TABLE 1.—PROPOSED HEALTH SECURITY ACT—OMB'S ADMINISTRATIVE COST ESTIMATES FOR FEDERAL FUNCTIONS—Continued

[In millions of dollars]

Functional Categories	Fiscal Years—						1995–2000
	1995	1996	1997	1998	1999	2000	
Total, HSA start-up and administration	1,279	892	1,188	901	586	598	5,444

[1] HSA specifies that the federal government would help develop and maintain a health information network; establish a National Quality Management Program; provide technical assistance to alliances, states, and health plans; and set standards to implement privacy protections, malpractice reforms, and administrative simplification measures.

[2] Under HSA, the federal government would oversee key state and alliance functions. The federal government would monitor alliance financial operations (including audits of alliances); ensure that plans and alliances conform to applicable regulatory requirements, make certain that employers make premium contributions and provide insurance through qualified plans; oversee the administration of premium targets; monitor and audit employer subsidies; and back up state guaranteed funds.

[3] Federal responsibilities under HSA would include development of rules and standards for and overall financial oversight of the new system. The pricing reflects several oversight functions, including update of the comprehensive benefits package, examination of new drug prices, development of rules for health plans, monitoring of alliance grievance procedures, development of a risk adjustment system, monitoring health care prices and expenditures, and supporting antitrust reform and fraud and abuse prevention activities.

[4] The federal government would help states make the transition to the new system. The federal government would administer planning and start-up grants, issue standards for health plans during the transition, process state waivers, and administer a national risk pool for the uninsured during the period prior to phase-in of universal coverage.

Sources.—Analytic Perspectives, Budget of the United States Government, fiscal year 1995; and OMB staff.

In discussions with us, OMB staff added the following qualifiers to the federal cost estimates they developed for HSA start-up and administration:

Administrative costs associated with providing health security cards are not included in the estimates because OMB staff assumed this would be an alliance function rather than a federal function.

Start-up costs are reflected in the first 2 years (1995 and 1996).

The $1.279 billion estimate for 1995 costs was designated PAYGO.[4] OMB staff told us that this was done because the estimated costs would exceed the discretionary spending cap for that year. The administration suggested that revenue from a tobacco tax would be used to fund these costs.

NO RECORD OF ESTIMATING ASSUMPTIONS

OMB staff told us that they did not document the assumptions they used to estimate federal costs for HSA start-up and administration, and they would not reconstruct the information for us. In discussions with us, OMB staff provided sketchy information about the assumptions used to cost-out the detailed federal administrative functions they identified in the proposed HSA. In some cases, they extrapolated from existing functions. Where they extrapolated or used proxy measures, however, they did not disclose any dollar values associated with their analyses. Furthermore, they did not provide any information on analyses they conducted that showed the difference in magnitude, if any, between the proxies they used and the proposed federal administrative functions. OMB staff provided some information about their estimating assumptions and the rationale they used in costing out the federal administrative functions for implementing the proposed HSA (see enclosure).

In conclusion, OMB staff did not provide us complete information about the underlying assumptions they used to estimate the federal costs for HSA start-up and administration. The staff stated that they did not follow their normal budget estimating process. They made the budget estimates in a short time frame and based them on proposed legislation that did not have responsibilities for some of the functions clearly defined. OMB staff said they did not document their estimating assumptions and were reluctant to discuss the details of their work.

To identify the federal functions and determine the estimating assumptions the administration used, we met with staff from OMB and the Department of Health and Human Services (HHS).[5] HHS officials told us they had no involvement in estimating the federal costs and did not know what estimating assumptions OMB used. As agreed with your staff, we did not attempt independently to estimate the federal costs of administering the proposed new system or measure the impact of the expenditures on overall health care spending. Also, we did not evaluate the appropriateness of the estimating assumptions used. We conducted our work from February to May 1994, in accordance with generally accepted government auditing standards.

OMB officials reviewed a draft of this correspondence and offered some technical changes. We made the technical changes as appropriate.

We are sending copies of this correspondence to the Chairman of the Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Senate Committee on Appropriations, and the Director of the Office of Management and Budget. We will also make copies available to others on request.

Please contact James O. McClyde, Assistant Director, at (202) 512–7119, if you have any questions about this letter.

Sincerely yours,

SARAH F. JAGGAR
(For Mark V. Nadel).

Enclosure.

PROPOSED HEALTH SECURITY ACT—INFORMATION OMB PROVIDED ABOUT ESTIMATING ASSUMPTIONS THEY USED TO COST OUT FEDERAL ADMINISTRATIVE FUNCTIONS

(By functional category)

Information Systems and Quality Assurance:

About 60 percent of 1995 costs is for start-up of this function.

Standard-setting would be a major part of this function.

The federal government would not build new data systems because existing systems can be expanded.

Private sector data systems that could be used include Blue Cross and Blue Shield's electronic claims system.

Analogues considered in pricing this function were resources of the Health Care Financing Administration (information systems) and the Social Security Administration (system resources), and data from the Agency for Health Care Policy and Research (quality management data) and the Aid to Families With Dependent Children program (quality control data).

NHB will probably contract out any additional work it is responsible for under this function.

DOL's responsibilities would be very small.

Monitoring of States and Alliances:

About 50 to 75 percent of 1995 costs would be for standard-setting.

Most of the total cost would be for federal staff to monitor alliances and employers.

It is not very likely that DOL would have to take over corporate alliances, so a very small cost was included for readiness.

Program Oversight and Financial Management:

About 10 percent or less of 1995 costs would be for start-up.

Many main NHB functions would be included.[6]

Some standard-setting would be included along with ongoing activities such as updating the benefits package.

Most of the costs would be for federal staff, including a small HHS staff to monitor health care prices and expenditures[7] and the HHS Inspector General's office to conduct fraud and abuse reviews.

It is not very likely that HHS would have to take over alliances, so a small cost was included for readiness.

Transition to the New System:

About 90 percent of the costs would be associated with setting up and administering a national risk pool and for grant administration.

FOOTNOTES

[1] The Budget Enforcement Act of 1990 (BEA) contains procedures designed to enforce the deficit reduction agreement. The act divides the budget into two mutually exclusive categories: (1) discretionary programs and (2) direct spending. The act also provides pay-as-you-go (PAYGO) procedures for legislation affecting direct spending or receipts. For 1991 through 1995, among other provisions, the act limits discretionary spending. The Omnibus Budget Reconciliation Act of 1993 extended the discretionary spending limits through 1998.

[2] OMB is responsible for cost estimates used in the President's budget and for enacted legislation to meet the requirements of BEA. OMB is also responsible for pricing legislative proposals on behalf of the administration. However, in fulfilling these responsibilities, OMB generally relies on executive branch agencies to prepare initial cost estimates. OMB budget examiners then review and modify these estimates as needed.

[3] Under the normal executive budget formulation process, beginning in the fall, OMB works closely with agencies to prepare cost estimates of agency activities to be incorporated in the President's budget. As agencies prepare their budgets for submission to OMB, they maintain continuing contact with OMB budget examiners. OMB also provides agencies detailed instructions for preparing submissions through Circular A–11. This process is more fully described in appendix I of A Glossary of Terms Used in the Federal Budget Process (GAO/AFMD–2.1.1).

[4] Under BEA, PAYGO requirements stipulate that any new legislation that increases direct (mandatory) spending or decreases receipts be deficit neutral (that is, not increase the deficit). For discretionary programs, the act establishes discretionary spending caps or limits. These measures are designed to reduce or limit the growth in the federal budget deficit. BEA rules require that new accounts or activities be categorized in consultation with the House and Senate Committees on Appropriations and the Budget.

[5] We interviewed officials from HHS' Offices of the Assistant Secretary for Program Evaluation and Assistant Secretary for Management and Budget.

[6] OMB did not use analogues/proxies for estimating NHB costs. They assumed a staff of about 30 people and one auditor per alliance for financial monitoring. OMB officials talked about the Federal Reserve Board and the Securities Exchange Commission as possible models for costing-out the NHB financial management responsibilities.

[7] The Health Care Financing Administration already publishes some health care price data.

(Mr. KERREY assumed the chair.)

Mr. SPECTER. Mr. President, again, this would be the topic of a long speech all by itself. I think it is important and I want to make a brief comment about it.

The General Accounting Office said they went to the OMB staff and they could not tell us what the overhead administrative costs would be of President Clinton's health care program. Quoting from page 5 of the report by the General Accounting Office:

OMB staff told us they could not document the assumptions they used to estimate Federal costs for the Health Security Act's —

President Clinton's act,

startup and administration, and they would not reconstruct the information for us. The staff stated that they did not follow their normal budget estimate process. OMB staff said they did not document their estimating assumptions and were reluctant to discuss the details of their work.

I think these are questions which need to be answered. The cost of President Clinton's bill is no longer relevant, but the cost of Senator MITCHELL's bill is relevant.

Mr. President, when we talk about estimates, and we have the comments by the Congressional Budget Office, I think it is very important to focus on the undisputed facts that these estimates often go awry, are invariably wrong, and invariably understate what the cost would be.

Information provided to me—and one of the difficulties, as I said before, is knowing what is exactly accurate, but I believe these figures to be accurate—show the enormous increase in costs of Medicare and Medicaid over what was originally projected.

Medicare was projected in 1965 to total $9 billion in spending in 1990. Instead, the cost of Medicare was $106 billion. That is more than 11 times the estimated cost. Or on a percent basis, 1,177 percent.

When Medicaid was started, it was projected in 1965 to cost less than $1 billion in spending in 1990. Instead, Medicaid costs $76 billion a year, or 76 times the cost, or as a percentage, 7,600 percent.

One of the things we have to do in our consideration of health care legislation is accommodate the interests of senior citizens—and I think we need long-term health care and prescription drugs. And we have to consider the next generation and what we are doing to the deficit. The one subject which has been discussed more than any other in the 14 years that I have been here has been the deficit.

No matter what we try to do, we cannot seem to get the annual deficit under $250 billion. The national debt is now $4.5 trillion. None of us would think of taking our children's credit cards or our grandchildren's credit cards and going out on a spending spree. I am not saying this is necessarily a spending spree, but it is money which we do not have.

The entitlement program which is present under Senator MITCHELL's legislation is an enormous entitlement program which will involve, under current projections, enormous deficits and, by the experience with Medicare and Medicaid, are totally out of sight.

It is curious that 1 day earlier than the Congressional Budget Office's preliminary analysis, we have the Bipartisan Commission on Entitlements and Tax Reform issuing a statement about the danger to America. This can be capsulated in one sentence, and this again is a matter for very extensive analysis and consideration:

The Bipartisan Commission on Entitlement and Tax Reform today adopted an interim report to the President starkly depicting the need for the President and a bipartisan coalition in Congress to enact entitlement reforms to preserve the standard of living of future generations of Americans.

I note the change of the hour, which reminds me that I have been going on a little long. I am about to conclude. "In conclusion" are the two most popular words of any speech.

I note there has been a change in the Presiding Officer to the distinguished Senator from Nebraska, Senator KERREY, who is a cochairman of this Commission. We are struggling to limit entitlements and expenditures, and if we are to preserve financial stability in America, so says this bipartisan Commission report, we have to get entitlements under control.

The legislative proposals put forward by Senator NUNN and Senator DOMENICI were drawing more votes from Senators. Several years ago, they got about 28 votes; last year, about 45 votes. We have to know what we are doing when we move ahead with health care reform.

So my view is that the massive bureaucracies which the President suggests and which Senator MITCHELL suggests are not the answer for Americans. The answer is to retain the current system, which provides the best health care in the world to 86.1 percent of the American people, and to target specific reforms such as contained in S. 18.

I am sorry to have taken so long. There is a great deal more I would like to say, but there are others on the floor who are awaiting recognition. I think this will be a historic debate, Mr. President. I am hopeful that we can come to agreement in a bipartisan way, and reach the goal many were talking about: A health care bill that 70 or more Senators can agree to which would not bankrupt America but which would reform the health care system and take care of the problems of coverage, portability, preexisting conditions, and spiraling health care costs.

I yield the floor.

EXHIBIT 1

TITLE I—HEALTH CARE INSURANCE REFORM PROVISIONS

Subtitle A—Model Health Care Insurance Benefits Plan

Sec. 101. Model health care insurance benefits plan.
Sec. 102. Definitions

Subtitle B—Managed Care

Sec. 111. Development of standards for managed care plans.
Sec. 112. Preemption of provisions relating to managed care.

Subtitle C—Small Employer Purchasing Groups

Sec. 121. Qualified small employer purchasing groups.
Sec. 122. Preemption from insurance mandates for small employer purchasing groups.

Subtitle D—Insurance Market Reform

Sec. 131. Failure to satisfy certain standards for health care insurance provided to small employers.

Subtitle E—Deduction for Health Insurance Costs of Self-Employed Individuals

Sec. 141. Increase in deductible health insurance costs for self-employed individuals.

TITLE II—PRIMARY AND PREVENTIVE CARE SERVICES

Sec. 201. Maternal and infant care coordination.
Sec. 202. Reauthorization of certain programs providing primary and preventive care.
Sec. 203. Comprehensive school health education program.
Sec. 204. Comprehensive early childhood health education program.

TITLE III—DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS

Sec. 301. Regulations requiring disclosure of certain information to beneficiaries under the medicare and medicaid programs.
Sec. 302. Outreach activities.

TITLE IV—PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT

Sec. 401. Right to decline medical treatment.
Sec. 402. Federal right enforceable in Federal courts.
Sec. 403. Suicide and homicide.
Sec. 404. Rights granted by States.
Sec. 405. Effect on other laws.
Sec. 406. Information provided to certain individuals.
Sec. 407. Recommendations to the Congress on issues relating to a patient's right of self-determination.
Sec. 408. Effective date.

TITLE V—PRIMARY AND PREVENTIVE CARE PROVIDERS

Sec. 501. Increasing payments to certain nonphysician providers under the medicare program.
Sec. 502. Requiring coverage of certain nonphysician providers under the medicaid program.
Sec. 503. Medical student tutorial program grants.
Sec. 504. General medical practice grants.
Sec. 505. Payments for direct and indirect graduate medical education costs.

VOL 140 PT 15 AG 10 — 11 1994 UMI

TITLE VI—MEDICARE PREFERRED PROVIDER DEMONSTRATION PROJECTS
Sec. 601. Establishment of medicare primary and specialty preferred provider organization demonstration projects.
TITLE VII—COST CONTAINMENT
Sec. 701. New drug clinical trials program.
Sec. 702. Medical treatment effectiveness.
Sec. 703. Health care cost control—expenditure targets.
TITLE VIII—LONG-TERM CARE
Subtitle A—Tax Treatment of Qualified Long-Term Care Insurance Policies
Sec. 801. Amendment of 1986 Code.
Sec. 802. Definitions of qualified long-term care insurance and premiums.
Sec. 803. Treatment of qualified long-term care insurance as accident and health insurance for purposes of taxation of insurance companies.
Sec. 804. Treatment of accelerated death benefits under life insurance contracts.
Subtitle B—Tax Incentives for Purchase of Qualified Long-Term Care Insurance
Sec. 811. Credit for qualified long-term care premiums.
Sec. 812. Deduction for expenses relating to qualified long-term care.
Sec. 813. Exclusion from gross income of benefits received under qualified long-term care insurance.
Sec. 814. Employer deduction for contributions made for long-term care insurance.
Sec. 815. Inclusion of qualified long-term care insurance in cafeteria plans.
Sec. 816. Exclusion from gross income for amounts withdrawn from individual retirement plans and section 401(k) plans for qualified long-term care premiums and expenses.
Sec. 817. Exclusion from gross income for amounts received on cancellation of life insurance policies and used for qualified long-term care insurance.
Sec. 818. Use of gain from sale of principal residence for purchase of qualified long-term health care insurance.
Subtitle C—Medicaid Amendments
Sec. 821. Expansion of medicaid eligibility for long-term care benefits
Sec. 822. Effective date.

EXHIBIT 2

U.S. SENATE,
Washington, DC, October 31, 1990.

Hon. LOUIS W. SULLIVAN,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR LOU: Today, I visited Mr. Leonard Abramson, President of U.S. Healthcare, Inc., at their operations in Bluebell, Pennsylvania.

After touring U.S. Healthcare's highly automated and computerized facility, I then discussed with Mr. Abramson in some detail their methods of containing costs. I then asked Mr. Abramson if his success could be applied to federal health care expenditures and he replied that they could be in Medicare.

Mr. Abramson suggested a pilot program by asking 100,000 volunteer Medicare patients, perhaps based in the Philadelphia area, to be subject to the test procedures contrasted with another 100,000, again in the Philadelphia area, who were a control group but not subject to the test procedures.

Mr. Abramson felt that it would be realistic to save as much as 20% by using the methods for his company employees.

He said that he would be willing to administer the test program without any fixed charges with the fee of 5% of the savings actually realized.

I strongly believe that this is an idea worth pursuing.

Obviously, the U.S. government would have nothing to lose if there were no savings and much to gain if the procedures of Mr. Abramson's company could set a pattern with significant cost reduction which could be applicable nationwide.

I am asking Mr. Pat Meehan, the Executive Director of my Philadelphia office, to contact your Administrative Assistant early next week to pursue this proposal.

My best.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, April 8, 1991.

Hon. LOUIS W. SULLIVAN,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR LOU: Last October 31 I wrote to you (copy enclosed) concerning a suggestion by Mr. Leonard Abramson, President of U.S. Healthcare, Inc. on reducing Medicare costs.

There have been a number of meetings between Mr. Abramson and his representatives with personnel from your Department; but Mr. Abramson's suggestions have not been carried out because of bureaucratic red tape.

Your Department wants to give Mr. Abramson's company a grant which he does not want and the forms and protocol seem to be defeating his extraordinary suggestion.

Based on his tremendous success in this field, Mr. Abramson is convinced that he could save Medicare 20 percent which would constitute a savings approaching $20,000,000,000.

I called Mr. Abramson again today and he would be willing to reduce the sample from 100,000 to 25,000 and would be willing to forego the fee of five percent of the savings actually realized which had been originally suggested.

Mr. Abramson would like to participate in any follow-up programming with a reasonable fee for his services; but, as I understand it, he would be willing to await the outcome of this project to discuss that arrangement with your Department.

If your personnel and Mr. Abramson with his personnel cannot work this out, then I would like to have the three of us, you, Mr. Abramson and me, sit down to try to work out this important proposal on the issue of medical costs which is at the forefront of our nation's problems.

Sincerely,

ARLEN SPECTER.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, April 19, 1991.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR ARLEN: Thank you for your recent letter of April 8, 1991, on behalf of Mr. Leonard Abramson, regarding medicare.

We will be responding to the issues you raised as quickly as possible.

Thank you for bringing your concerns to my attention.

Sincerely,

LOUIS W. SULLIVAN, M.D.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, June 4, 1991.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR ARLEN: I am responding to your letter concerning the Department's response to a suggestion offered by Mr. Leonard Abramson, President of U.S. Healthcare, Inc., to reduce Medicare cost.

I have been advised that staff from the Office of Research and Demonstrations (ORD) within the Health Care Financing Administration (HCFA) met with Mr. Abramson on December 14, 1990. At this meeting Mr. Abramson and his staff presented a broad concept for providing specialized medical care through a preferred provider network. HCFA staff expressed considerable interest in the concept and offered to provide assistance as he worked out details of the formal proposal necessary for approval and implementation of a demonstration project.

HCFA staff subsequently met with Dr. Steven Zatz of U.S. Healthcare on January 24, 1991, to further discuss the Medicare applicability of the concept and to describe the process for carrying out a Medicare demonstration. Dr. Zatz indicated that he would initiate ongoing dialogue with HCFA if U.S. Healthcare decided to pursue a demonstration proposal. HCFA staff have not been contacted since the January 24 meeting.

Because this type of demonstration would apparently affect Medicare beneficiaries' choice of providers and could require new payment provisions, a formal process for awarding Medicare research and demonstration waivers and development of a contractual arrangement with U.S. Healthcare is required. HCFA advises it will try to make the required process expedient and informational.

Another avenue for U.S. Healthcare, Inc., might be the President's proposal in the Fiscal Year 1992 Budget for a new Medicare coordinated care option called "Point of Service." We are still developing the details of the proposal. You should hear more about this in the near future.

HCFA would welcome renewed discussions with U.S. Healthcare of our mutual interests in innovative coordinated care delivery systems for the Medicare program and will contact Mr. Abramson to reaffirm the offer of assistance.

I appreciate your interest in the Department's research and demonstration initiatives in the Medicare program.

Sincerely,

LOUIS W. SULLIVAN, M.D.

EXHIBIT 3

A PRELIMINARY ANALYSIS OF SENATOR MITCHELL'S HEALTH PROPOSAL, AUGUST 9, 1994

(By the Congressional Budget Office)

INTRODUCTION

The Congress Budget Office (CBO) and the Joint Committee on Taxation (JCT) have prepared this preliminary analysis of Senate Majority Leader George Mitchell's health proposal, as introduced on August 9, 1994. The analysis is based on the text of S. 2357 as printed on August 3 and subsequent revisions specified by the Majority Leader's staff. Because the estimate does not reflect detailed specifications for all provisions or final legislative language, it must be regarded as preliminary.

The first part of the analysis is a review of the financial impact of the proposal. The financial analysis includes estimates of the proposal's effects on the federal budget, the budgets of state and local governments, health insurance coverage, and national health expenditures. It also includes a description of the aspects of the proposal that differ from S. 2357, as well as other major assumptions that affect the estimate.

The second part of the analysis comprises a brief assessment of considerations arising from the proposal's design that could affect its implementation. The issues examined in this discussion are similar to those considered in Chapters 4 and 5 of CBO's analyses of the Administration's health proposal and the Managed Competition Act.

FINANCIAL IMPACT OF THE PROPOSAL

Senator Mitchell's proposal aims to increase health insurance coverage by reforming the market for health insurance and by subsidizing its purchase. If these changes failed to increase health insurance coverage to 95 percent of the population by January 1, 2000, coverage would become mandatory in 2002 in states that fell short of the goal. Individuals in those states would be required to purchase insurance, and employers with 25 or more workers would be required to pay half of the cost of insurance for them and their families.

In CBO's estimation, the proposal would just meet its target of 95 percent coverage without imposing a mandate. Because the actual outcome could easily fall short of the estimate, however, this analysis shows the effects of the proposal both without the mandate and with the mandate in effect nationwide. In both cases, the proposal would slightly reduce the federal budget deficit, and it would ultimately reduce the pressure on state and local budgets as well. But the expansion of coverage would add to national health expenditures.

The estimated effects of the proposal are displayed in the six tables at the end of this document. Tables 1 and 2 show the effects on federal outlays, revenues, and the deficit. Tables 3 and 4 show the effects on the budgets of state and local governments. Tables 5 and 6 provide projections of health insurance coverage and national health expenditures, respectively.

Like the estimates of other proposals for comprehensive reform—such as the single-payer plan, the Administration's proposal, the Managed Competition Act, and the bills reported by the Committee on Finance and Ways and Means—CBO's estimates of the effects of this proposal are unavoidably uncertain. Nonetheless, the estimates provide useful comparative information on the relative costs and savings of the different proposals. In estimating Senator Mitchell's proposal, CBO and JCT have made the following major assumptions about its provisions.[1]

Health Insurance Benefits and Premiums

Senator Mitchell's proposal would establish a standard package of health insurance benefits, whose actuarial value would be based on that of the Blue Cross/Blue Shield Standard Option under the Federal Employees Health Benefits program. The Congressional Research Service and CBO estimate that such a benefit package would initially be 3 percent less costly than the average benefit of privately insured people today and 8 percent less costly than the benefit package in the Administration's proposal.

The proposal adopts the four basic types of health insurance units included in the Administration's proposal—single adult, married couple, one-parent family, and two-parent family. In addition, separate policies would be available for children eligible for subsidies, as explained below.

In general, workers in firms with fewer than 500 full-time-equivalent employees (and their dependents) and people in families with no connection to the labor force would purchase health insurance in a community-rated market. Firms employing 500 or more workers would be experience-rated. States would operate a risk-adjustment mechanism covering both community-rated and experience-rated plans, thereby narrowing the differences between the average premiums in the two insurance pools. The estimated average premiums in 1994 for the standard benefit package for the four types of policies in both pools are as follows:

Single Adult—$2,220.
Married Couple—$4,440.
One-Parent Family—$4,329.
Two-Parent Family—$5,883.

Supplementary insurance would be available to cover cost-sharing amounts and services not included in the standard benefit package.

Subsidies

Starting in 1997, the proposal would provide subsidies for low-income people and certain firms to facilitate the purchase of health insurance. The system of subsidies would change somewhat if a mandate to purchase insurance went into effect. States would determine eligibility for subsidies and distribute subsidy payments to health plans.

Without a Mandate in Effect. The proposal would make low-income families eligible for premium subsidies. Recipients of Aid to Families with Dependent Children (AFDC) and families with income below 100 percent of the poverty level would be eligible for full subsidies, and those with income between 100 percent and 200 percent of poverty would be eligible for partial subsidies. For children and pregnant women, full subsidies would extend to 185 percent of the poverty level and partial subsidies to 300 percent of poverty. In addition, workers who become temporarily unemployed would be eligible for special subsidies for up to six months. Families could become eligible for more than one type of subsidy at the same time. Families could use the special subsidies for children and pregnant women to help purchase coverage for the entire family, or they could purchase coverage only for the eligible individuals.

States would be required to establish and administer a program of enrollment outreach that would allow people eligible for full subsidies of their premium to sign up for health insurance with health care providers whenever they sought health care services. People eligible for health insurance under this provision would be counted as insured in determining whether the target of 95 percent coverage is met.

In determining eligibility for premium subsidies, a family's income would be compared with the federal poverty level for that family's size. The maximum amount of the subsidy would be based on family income relative to the poverty level and on the weighted average premium for community-rated health plans in the area. The estimate assumes that a family's subsidy could not exceed the amount it paid for coverage in a qualified health plan. Therefore, if an employer paid a portion of the premium, the subsidy could at most equal the family's portion of the premium.

People with income up to 150 percent of the poverty level, as well as AFDC recipients, would be eligible for reduction cost sharing if they were unable to enroll in a plan proving a low or combination cost-sharing schedule. AFDC recipients in low or combination cost-sharing plans would also be eligible for cost-sharing assistance. The amount of assistance would vary slightly for the two groups. In both cases, health insurance plans would be required to absorb the cost of the reduced cost sharing.

Employers who voluntarily expanded health insurance coverage to classes of workers whom they previously did not cover could also receive temporary subsidies. Employers would become eligible for a subsidy if they began paying at least 50 percent of the cost of coverage for an additional class of worker. In the first year, the amount of the subsidy for each worker would equal the difference between half of the average insurance premium in the area (or in the worker's plan, if lower) and 8 percent of the worker's wage. Over the following years, the subsidy would be gradually phased out.

With Mandate in Effect

If a mandate to purchase insurance went into effect in a state, the system of subsidy would change. Subsidies for families with income up to 200 percent of the poverty level would remain, as would subsidies for people who were temporarily unemployed. The special subsidies for children and pregnant women would be eliminated, however, as would the subsidies for employers who voluntarily expanded coverage.

Medicaid and Medicare

Medicaid beneficiaries not receiving Supplemental Security Income or Medicare would be integrated into the general program of health care reform and would be eligible for federal subsidies in the same way as other low-income people. For these people, Medicaid would continue to cover services not included in the standard benefit package. For children, Medicaid would also continue to cover services whose scope or duration exceeded that in the standard package. States would be required to make maintenance-of-effort payments to the federal government based on the amount by which their Medicaid spending was reduced in the first year. The proposal would phase out federal Medicaid payments to disproportionate share hospitals and replace them with a program to make payments to financially vulnerable hospitals.

The proposal would expand Medicare by adding a prescription drug benefit for outpatients starting in 1999. The Secretary of Health and Human Services would set the deductible so that the net incurred cost of the benefit would total $13.4 billion in the first year. In CBO's estimation, the initial deductible would be about $700. The deductible would be indexed in later years so as to hold constant the proportion of Medicare beneficiaries receiving some drug benefit.

Reductions in Medicare spending would provide a major part of the funding for the proposal. The growth in reimbursement rates for hospitals covered by Medicare's prospective payment system would be reduced by 1 percentage point in 1997 and by 2 percentage points each year from 1998 through 2004. Payments to disproprtionate share hospitals would be cut in half. Reimbursements to physicians and other providers of health care services would also be restrained. Beneficiaries would be required to pay higher premiums for Supplementary Medical Insurance (SMI) and part of the cost of laboratory services and home health care.

[1] For descriptions of CBO's estimating methodology, see Congressional Budget Office, An Analysis of the Administration's Health Proposal (February 1994), and An Analysis of the Managed Competition Act (April 1994).

VOL 140 PT 15 AG 10 — 11 1994 UMI

Other Spending

The proposal would restructure the system of subsidies for medical education and academic health centers. Current payments from Medicare for direct and indirect medical education would be terminated. New programs would provide assistance for academic health centers, graduate medical education, graduate training for nurses, medical schools, schools of public health, and dental schools.

The proposal would create several additional mandatory spending programs. A capped entitlement program would help states finance home- and community-based care for the severely disabled; spending for this program would be limited to $48 billion over the 1996-2004 period. A biomedical and behavioral research trust fund would be financed by a portion of the assessment on private health insurance premiums starting in 1997. The proposal would also provide direct spending authority for a variety of public health initiatives totaling almost $10 billion in the 1996-1999 period and almost $15 billion in the 1996-2004 period.

The assurance of access to health insurance and the provision of subsidies to low-income families would encourage some older workers to retire earlier and would raise outlays for Social Security retirement benefits. Over the long term, Social Security would incur no additional costs, because benefits are actuarially reduced for early retirement.

Revenues

The Joint Committee on Taxation has estimated the impact of the provsions of the proposal that would affect federal revenues. The bulk of the additional revenues would stem from an increase in the tax on tobacco, a 1.75 percent excise tax on private health insurance premiums, and a tax on health plans whose premiums grew by more than a specified rate. The proposal would also increase SMI premiums for single individuals with income over $80,000 and couples with income over $100,000.

Fail-Safe Mechanism

The proposal would scale back eligibility for premium subsidies, increase the deductible for the Medicare drug benefit, and reduce every other new direct spending program as necessary to offset an increase of more than $10 billion in the cost of the bill and the Medicare and Medicaid compared with the initial estimate. Because the reductions would be applied proportionately, to the extent possible, to all the direct spending programs in the proposal, the bulk of any savings would have to come from limiting eligibility for subsidies. As a result, application of the fail-safe mechanism could make previously eligible people ineligible for subsidies and would, in the absence of a mandate, reduce the extent of health insurance coverage.

Budgetary Treatment of the Mandate

A mandate requiring that individuals purchase health insurance would be an unprecedented form of federal action. The government has never required individuals to purchase any good or service as a condition of lawful residence in the United States. Therefore, neither existing budgetary precedents nor concepts provide conclusive guidance about the appropriate budgetary treatment of a mandate. Good arguments can be made both for and against including in the federal budget the costs to individuals and firms of complying with the mandate. It is only appropriate, therefore, for policymakers to resolve the issue through legislation.

Some budget analysis argue that the costs of the mandate should be included in the Federal budget because these transactions would be predominantly public in nature. A second argument for inclusion, closely related to the first, is that the premiums that people would have to pay to comply with the mandate would be compulsory payments and should therefore be recorded as governmental receipts. A third argument is that including these costs in the budget would preserve the federal budget as a comprehensive measure of the amount of resources allocated through collective political choice at the national level.

There are also cogent arguments against including the costs of complying with the mandate in the budget. First, the costs would not flow through federal agencies or other entities established by federal law. Unlike the Administration's proposal, this proposal would not require participation in federally mandated health alliances. Second, this approach would be consistent with the current practice of excluding from the budget the costs to private firms of federal regulatory mandates. Third, the costs of compliance could not be directly observed and would not flow through the federal Treasury.

OTHER CONSIDERATIONS

Like other fundamental reform proposals, Senator Mitchell's would require many changes in the current system of health insurance. For the proposed system to function effectively, new data would have to be collected, new procedures and administrative mechanisms developed, and new institutions and administrative capabilities created. In preparing the quantitative estimates presented in this assessment, the Congressional Budget Office has assumed not only that all those things could be done but also that they could be accomplished in the time frame laid out in the proposal.

There is a significant chance that the substantial changes required by this proposal—and by other systemic reform proposals—could not be achieved as assumed. The following discussion summarizes the major areas of potential difficulty as well as some other possible consequences of the proposal.

Risk Adjustment

Most health care proposals that would create community-rated markets for health insurance also incorporates provisions to adjust health plans' premiums for the actuarial risk of their enrollees. These provisions are intended to redistribute premium payments among health plans, compensating them for differences in risk. Although effective risk-adjustment mechanisms would be essential for the functioning of community-rated markets, the feasibility of developing and implementing such mechanisms successfully in the near future is highly uncertain.

The risk-adjustment mechanism in this proposal is more complex than those in other proposals analyzed by CBO. Most other proposals would restrict risk adjustment to the community-rated market; in Senator Mitchell's proposal, risk adjustment would operate in both the community-rated and the experienced-rated markets in each community-rating area. The risk-adjustment mechanism would attempt to recompense plans for the higher costs associated with certain groups of enrollees. It would also adjust payments to health plans to reflect the cost-sharing subsidies for low-income participants that health plans would have to absorb. Such transfers would ensure that plans enrolling large numbers of low-income people were not placed at a cost disadvantage. As discussed below, implementing the risk-adjustment process would be a major undertaking for the states.

States' Responsibilities

Most proposals to restructure the health care system incorporate major additional administrative and regulatory functions that new or existing agencies or organizations would have to undertake. Like several other proposals, this one would place significant responsibility on the states for developing and implementing the new system. It is doubtful that all states would be ready to assume their new responsibilities in the time frame envisioned in the proposal.

Under the voluntary system, the states' primary responsibilities would fall into four major areas:

determining eligibility for the new subsidies and the continuing Medicaid program;

administering the subsidy and Medicaid programs;

establisbing the infrastructure for the effective functioning of health care markets; and

regulating and monitoring the health insurance industry.

States would also have to prepare for the possibility that mandates requiring firms with 25 or more employees to provide insurance and all individuals to obtain coverage might be invoked in 2002. If that occurred, those states with coverage rates below 95 percent would need to have the necessary infrastructure already in place. In addition, they would have to be prepared to expand their regulatory and monitoring functions considerably.

Determining Eligibility for Subsidies and Medicaid. As with other proposals, determining eligibility for subsidies would be an enormous task for the state, made more complicated by the three different subsidy programs for premiums that would be in effect: regular subsidies for low-income individuals and families; special subsidies for children and pregnant women; and special subsidies for people who were temporarily unemployed. The eligibility criteria would be different for each of these programs and would also differ from those of the Medicaid program. (The role of the Medicaid program in paying for acute care services would be significantly reduced. The program would, however, cover wraparound benefits for these subsidized families who would be eligible for Medicaid under current law. It would also pay for emergency services for illegal aliens and would continue to cover beneficiaries of the Supplemental Security Income program and Medicare beneficiaries who qualified for Medicaid.) Some families would be eligible to participate in more than one subsidy program concurrently, and this proposal would allow them to do so in certain circumstances. They might also be entitled to receive Medicaid wraparound benefits.

States would bear the responsibility for the required end-of-year reconciliation process in which the income of a subsidized family was checked to ensure that the family received the appropriate premium subsidy. Reconciliation would be a major undertaking since, even if federal income tax information could be used, many of the families receiving subsidies would not be tax filers. Tracking people who moved from one state to another during the year would also be difficult and would require extensive cooperation among the states.

Administering the Subsidy and Medicaid Programs. The states would have other major administrative responsibilities for the subsidy and Medicaid programs. In particular, they would make payments for premium subsidies to health plans and would be required to develop and implement a complex outreach initiative to expand enrollment.

The outreach program would be designed to ensure that people eligible for full subsidies would be able to enroll in health plans on a year-round basis and would not be denied coverage for preexisting conditions. They would also be able to have their eligibility for subsidies established presumptively by certain health care providers at the point of service, enabling them to enroll in health plans and receive full premium subsidies for a period of 60 days during which they could apply for continuing assistance. States would not be held responsible for premium assistance provided to low-income families on a presumptive basis, if those families subsequently proved to be ineligible for full subsidies. Instead, the federal government would bear the costs.

The program would guarantee that poor families, as well as children and pregnant women with income up to 185 percent of the poverty level, had financial access to the health care system when they needed care. It would, however, be difficult to administer, and its success in enrolling low-income families in health plans on a permanent basis would depend on extensive outreach efforts by the states to ensure that people declared presumptively eligible completed the full process for determining eligibility. The program would be considerably more complex than the current presumptive eligibility programs for pregnant women that are operated by Medicaid programs in about 30 states. Those programs are dealing with a clearly defined target population of individuals and only one health plan—the Medicaid program. By contrast, the system envisioned under the proposal would be dealing with the enrollment of individuals plus their families in their choice of health plan.

Establishing the Infrastructure for the Effective Functioning of Health Care Markets. States would designate the geographic boundaries for the community-rating areas as well as the service areas for carrying out the provisions regarding essential community providers. They would also have ongoing responsibilities for ensuring that health care markets functioned effectively. Those responsibilities would include developing and implementing the complex risk-adjustment and reinsurance system and providing information and assistance to consumers.

Each state would be required to establish a risk-adjustment organization. That agency would determine the adjustments to be made to premiums for all community-rated and experience-rated plans in each community-rating area in the state. The agency would collect assessments from health plans and redistribute the payments to community-rated and experience-rated plans whose expected expenditures exceeded the average for enrollees in standard health plans.

State risk-adjustment organizations would also have to address the special issues raised by multistate plans. When such plans owed risk-adjustment assessments, they would make payments on behalf of all their enrollees in different states to a single state risk-adjustment organization. The designated organization would determine the applicable assessments for the plan's enrollees in each community-rating area across the country and would make payments to other state risk-adjustment organizations as required.

Another responsibility of the states would be to provide consumers with the necessary information to make informed choices among health plans. States would be required to produce annual standardized reports comparing the performance of all health plans in the state, using data from surveys designed and carried out by the federal government. To do so effectively would require states to establish systems for analyzing data and qualitative information. In each state, a private nonprofit organization under contract to the federal government would distribute the reports, educate and provide outreach to consumers, and help them to enroll in health plans. States would also be required to establish an office in each community-rating area to provide a forum for resolving disputes over claims or benefits.

Regulating and Monitoring the Health Insurance Industry. Like most other health care proposals, this one would place major new responsibilities on state health insurance departments. They would have to certify standard health plans and health insurance purchasing cooperatives (HIPCs), establish separate guaranty funds for community-rated and self-insured health plans, monitor variation in the marketing fees of HIPCs and other systems for purchasing insurance, and ensure that carries met minimum capital requirements. Moreover, the standards that health plans would have to meet would be largely federally determined and would include areas, such as data collection and reporting, that are outside the traditional purview of insurance regulators. It is doubtful that all states could develop the capabilities to perform these functions effectively in the near future.

Preparing for and Implementing Individual and Employer Mandates. If insurance coverage nationwide was below 95 percent in 2000, those states in which the coverage rate was below 95 percent would have to be prepared to implement individual and employer mandates in 2002—the year that those mandates would go into effect. The affected states would have to establish mechanisms—possible through designated HIPCs—to collect and redistribute premium payments from employers with workers enrolled in other employers' health plans. They would have to set up systems to ensure that employers and families complied with the mandates, and they would have to prepare low-income families for the possibility that their subsidies could change significantly.

The System of Multiple Subsidies

In order to maximize voluntary enrollment in health plans, Senator Mitchell's proposal would establish multiple schedules of subsidies for premiums, targeting special populations as well as low-income families in general. The basic system of subsidies would cover individuals and families with income up to 200 percent of the poverty level. Added to this would be subsidies for children and pregnant women with family income up to 300 percent of the poverty level. In addition, a special initiative would provide subsidies for workers and their families when the workers were temporarily unemployed; the subsidies would be available for a period of unemployment not to exceed six months. Integrating these three subsidies in a sensible and administrable fashion would be extremely difficult, especially as some families could receive subsidies from more than one program.

The subsidies for people who were temporarily unemployed would be particularly hard to administer and monitor. It would be difficult, for example, to determine whether people had left their jobs voluntarily or involuntarily, or whether they could receive employer contributions for health insurance through an employed spouse. Moreover, because of the way these subsidies would be structured, significant horizontal inequities could result. That is, families with similar income could receive quite different subsidy amounts. In determining their eligibility for subsidies, people who were temporarily unemployed could subtract from their family income the lesser of their gross wages or a flat amount equal to 75 percent of the poverty-level income for an individual for each month the worker was employed. In addition, they could subtract any unemployment compensation they received while unemployed. Consequently, people who were unemployed for several months could receive larger subsidies than year-round workers with similar annual income. Workers in seasonal businesses—construction workers and resort employees, for example—would be particularly favored. The incentives inherent in this subsidy could increase unemployment slightly.

The Tax on High-Cost Health Plans

Like the tax contained in the bill reported by the Committee on Finance, the tax on the premiums of "high-cost" health plans in Senator Mitchell's proposal would be difficult to implement. In addition, its contribution to containing health care costs would be limited, and it might be considered inequitable and an impediment to expanding coverage.

The tax would be a 25 percent levy on the amount by which health insurance premiums for a standard health plan exceeded a "reference" premium. Separate reference premiums would be established annually by the Secretary of the Treasury for each class of coverage in each community-rating area and for each experience-rated plan. These determinations would be extremely complex and difficult to make, requiring adjustments for demographic characteristics (age, sex, and socioeconomic status), health status, current levels of health care expenditures, uninsurance and underinsurance, the presence of academic health centers, and other factors. Little reliable information of this sort is available, and the Secretary would have to collect a mass of new information. With the reference premiums affecting not only tax liability but also premium levels, the process could prove to be quite controversial.

Although the tax would not be imposed on community-rated plans operating in areas where the average premium did not exceed the national average reference premium, few if any areas would meet that test for more than the first year or two because the reference premiums would be constrained to grow far more slowly than the expected growth of health insurance premiums. In community-rating areas, the growth would be 3 percentage points over the consumer price index in 1997, declining to 2 percentage points over the CPI by 1999.

Unlike the taxes contained in the Managed Competition Act and the bill reported by the Committee on Finance, which would not affect the lowest-cost plans, virtually all plans would be subject to the assessment called for in Senator Mitchell's proposal. Such an assessment would increase premiums, and higher premiums would discourage participation during the voluntary period. The tax would be imposed in 1997 on plans in the community-rated market, in which small firms and most of the uninsured would obtain coverage. In contrast, the experienced-rated market would not be subject to the tax until 2000, and that differential treatment might be viewed as inequitable.

Although the proposal would provide sponsors of health plans with the right to recover half of the tax from health care providers,

VOL
140
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1994
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providers would incorporate their portion of the expected tax into their charges, so the right of recovery would be unlikely to have any real effect on the cost of health insurance. Moreover, because the mechanics of enforcing the right of recovery are unclear, the provision might lead to costly and unproductive litigation.

The proposal would be, in effect, a tax cap, but one imposed on the providers of health insurance rather than its consumers. A tax cap is an important element in the managed competition approach to controlling health care costs, and a tax on providers could serve this purpose effectively. However, this tax, by exempting cost-sharing and other supplemental policies, would provide much less incentive for containing costs.

Research by the RAND Corporation and others indicates that a tax cap might constrain costs in either of two primary ways: by encouraging consumers to choose health insurance plans with greater cost sharing (that is, higher copayments and deductibles) or by encouraging the use of managed care providers like health maintenance organizations (HMOs) that can control costs more effectively than fee-for-service plans. This tax, however, would not apply to supplemental insurance policies that cover cost sharing. Workers whose employers provided cost-sharing supplements would pay less tax than workers whose employers did not and instead paid higher wages, and the average employee probably would pay lower copayments and deductibles under the proposal than under a tax cap that applied to supplements as well as to basic insurance. Furthermore, HMOs and similar types of managed care arrangements, which build the cost of the low copayments and deductibles into their premiums, would be placed at a tax disadvantage compared with less cost-effective fee-for-service plans in which the cost-sharing supplements would be tax-fee.

A final reason that the tax's promise of cost containment would remain far below its potential relates to the method for calculating reference premiums for experience-rated plans. These premiums would be calculated based on actual expenditures during the 1997–1999 period, which could undermine the incentive for experience-rated plans to economize before the tax took effect in 2000.

The Effects of Invoking Mandates

If less than 95 percent of the population had insurance coverage on January 1, 2000, and if the Congress did not enact alternative legislation before the end of that year, mandates on employees and consumers would automatically come into effect in 2002. The proposed mandatory system would be problematic for several reasons.

The mandates would be imposed only in states that had failed to meet the 95 percent threshold for coverage. In those states, all firms with 25 or more workers would be required to contribute to the costs of health insurance for their employees, and all individuals and families would be required to obtain coverage. These requirements would produce inefficient reallocations of business activity. Some firms that did not wish to provide insurance would migrate to states that were not included in the mandate. Furthermore, because the transitional subsidies for employers that voluntarily expanded coverage to additional workers would terminate in mandated states, some firms might be attracted to nonmandated states where these temporary subsidies would still be available.

Moreover, the practical problems of implementing mandates in some states and not in others could be overwhelming, especially in border markets. What, for example, would happen to individuals who lived in mandated states but worked for employers that did not contribute to the cost of insurance in neighboring, nonmandated states?

The system of subsidies for families would also change significantly in the mandated states, raising concerns about affordability and equity. The special subsidies for low-income children and pregnant women would be dropped, making health insurance more expensive for some low-income families without an employer contribution, even though they would now be required to purchase coverage. (for example, a family with income at 150 percent of the poverty level and no employer contribution in a mandated state would have to pay 50 percent of a family premium. A similar family in a nonmandated state might be able to combine regular subsidies and special subsidies and pay far less than 50 percent of the premium for a family policy.) Concerns about the affordability of health insurance under a mandate would be heightened because the incentives to contain costs in their proposal are limited.

Because of the disruptions, complications, and inequities that would result, CBO does not believe that it would be feasible to implement the mandated system in some states but not in others; the system would have to include either all states or none. Accordingly, CBO's cost estimates of the mandated system assume that a nationwide mandate would be in effect.

Reallocation of Workers Among Firms

Senator Mitchell's proposal, like many other reform bills, would encourage a reallocation of workers among firms in ways that would increase its budgetary cost. That process would occur gradually as employment expanded in some firms and contracted in others and as workers sought the jobs that would provide them with the largest combined amount of wages and premium subsidies.

In the voluntary system, this sorting would occur because the family subsidies would be reduced by up to the amount that employers contributed for insurance; therefore, a worker employed by a firm that did not pay for health insurance would receive a larger subsidy than a worker earning the same wage at a firm that did pay. (In addition to this reallocation, some companies might stop paying for insurance, but the number of firms that would do so would be limited because high-wage workers in those firms would lose the benefit of excluding health insurance from their taxable income.) Some sorting would also occur because firms that expanded insurance coverage to classes of workers not previously covered would be eligible for temporary subsidies; workers employed by those firms could receive higher take-home pay for a few years than could workers at firms that currently provide them with insurance coverage.

In the mandated system, reallocation of workers would occur because some workers would pay less for health insurance if they were employed by small firms excluded from the mandate than they would if they were employed by firms covered by the mandate. For example, many low-wage workers could receive a larger subsidy for their insurance costs in uncovered firms than in covered firms. In addition, married couples with both spouses working would have an incentive under the proposal to have one spouse employed by an uncovered firm, because if both spouses worked in covered firms, they would each have to pay something for insurance. A similar incentive exists in the current system, but by requiring more firms to provide insurance coverage than they do now, the proposal would affect more people.

Under both the voluntary and mandated systems, some workers could gain several thousand dollars in higher wages by moving between firms, and over time a significant number of them would probably do so. This reallocation of workers among firms accounts for about $14 billion of the cost of the subsidies in 2004 under the voluntary system and for about $8 billion in 2004 under the mandated system. In addition to raising the government's costs, the reallocation of workers could reduce the efficiency of the labor market.

Finally, the subsidy system would not treat people with similar incomes and family circumstances alike. Under the voluntary system, for example, workers eligible for subsidies who worked at firms that paid for insurance would face larger costs for their insurance when the reduction in their cash wages is taken into account than similar workers at firms that did not pay.

Work Disincentives

Senator Mitchell's proposal would discourage certain low-income people from working more hours or, in some cases, from working at all, because subsidies would be phased out as family income increased. It is important to note that work disincentives are an inherent element of all health proposals that target subsidies toward the poor and near-poor, and that these subsidies would significantly improve the well-being of many low-income people by assisting their purchase of health insurance.

In both the voluntary and mandated systems, many workers who earned more money within the phaseout range would have to pay more for health insurance, which would cut into the increase in their take-home wage. In essence, these workers would face an implicit tax on their economic advancement. Changing the design of the subsidy systems in this proposal could reduce the marginal levy on some people's income, but it might raise the marginal levy faced by other people or make insurance unaffordable for some people.

The Voluntary System. Estimating the precise magnitude of the implicit tax rates in the voluntary system requires information that is not readily available, but rough calculations suggest that the rates could be extremely high for some families. For workers whose employers did not pay for insurance, the implicit marginal rates from the phaseout of subsidies for low-income families would apply to income between 100 percent and 200 percent of the poverty level, and the phaseout of subsidies for children and pregnant women would apply to income between 185 percent and 300 percent of poverty.

In 2000, the effective marginal tax on labor compensation (wages and benefits) could increase by as much as 30 to 55 percentage points for workers with family income in the phaseout range. Moreover, those levies would be added to the explicit and implicit marginal taxes that such workers already pay through the income tax, the payroll tax, and the phaseout of the earned income tax credit. In the end, some low-wage workers would keep as little as 15 cents of every additional dollar they earned.

For workers whose employers paid some of the costs for insurance, these marginal levies would apply to income in a much smaller range. However, such treatment of employer payments would also create the previously described incentive for workers to move to firms that did not pay for insurance.

The Mandated System. Rough calculations suggest that the implicit marginal rates from the phaseout of subsidies under the mandated system could also be extremely high for some families. These rates would apply to income between 100 percent and 200 percent of the poverty level for workers in uncovered firms. For workers in covered firms, these marginal levies would apply to workers in a smaller income range. In 2002, the effective marginal tax on labor compensation could increase by as much as 35 to 55 percentage points for workers who received subsidies. As in the voluntary system, this new levy would be added to the explicit and implicit marginal taxes that these workers already face, producing total marginal tax rates of more than 95 percent for some workers.

The mandated system would also discourage some people who have spouses working at covered firms from participating in the labor force or at least from taking a job at a firm with more than 25 employees. If those people took a job at a covered firm, their wages would be reduced by the additional cost for insurance but they would receive no additional benefits. The current system also discourages some of these people from working at firms that pay for insurance, but by requiring more firms to provide insurance coverage, the proposal would increase the number of people who were affected.

In the mandated system, the combination of the subsidies and the requirement to purchase insurance would increase the effective income of people who wanted insurance at the net-of-subsidy price, but would reduce the economic well-being of people who would have preferred not to buy insurance. Because the net-of-subsidy price (including employer payments) would be high for many families, the number of people who valued insurance at less than its cost could be large. For example, for a family of two adults (one working in a covered firm) and two children, with income just below the poverty threshold in 2002, the firm contributing 50 percent of the premium would pay more than $5,000 on the worker's behalf for insurance; that would represent roughly one-quarter of the family's income.

Effect on Employment

If the voluntary system in Senator Mitchell's proposal did not result in insurance coverage for 95 percent of the population, mandates would be triggered unless the Congress adopted an alternative approach. Under the mandated system, firms with more than 25 employees would be required to contribute to each worker's health insurance. The imposition of the mandate would raise the cost of employing workers at firms that do not currently provide insurance. Economic theory and empirical research both imply that most of this increased cost would be passed back to workers over time in the form of lower take-home wages. Such shifting would not be possible, however, for workers whose wages were close to the federally regulated minimum wage. Therefore, the net cost of employing those workers would be raised by the mandate, and some of them would lose their jobs.

Nevertheless, the quantitative effect of the mandate in this proposal would probably be quite small because the mandate would not be implemented until 2002. Market wages for low-income workers will rise over time, reflecting general inflation, and, probably, some share of the nation's real economic growth. As a result, few workers will be earning the current minimum wage by 2002. If the Congress did not raise the minimum wage, loss of jobs from this mandate would likely be very limited.

Employment would also be affected by the implicit taxes on work described above. In both the voluntary and mandated systems, some workers would voluntarily withdraw from the labor force in response to the new incentives they faced.

UMI 1994 10 — 11 AG 15 PT VOL 140

TABLE 1. PRELIMINARY ESTIMATES OF THE FEDERAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITHOUT MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
MANDATORY OUTLAYS										
Medicaid										
1 Discontinued Coverage of Acute Care	0	0	-23.8	-35.6	-39.7	-44.4	-49.6	-55.2	-61.2	-67.6
2 State Maintenance-of-Effort Payments	0	0	-18.5	-26.5	-28.7	-31.1	-33.6	-36.3	-39.3	-42.4
3 Disproportionate Share Hospital Payments	0	0	-8.6	-13.4	-14.8	-15.6	-18.8	-20.7	-22.9	-25.2
4 Increase Asset Disregard to $4000 for Home and Community Based Services	*	*	*	*	*	*	*	0.1	0.1	0.1
5 Offset to Medicare Prescription Drug Program	0	0	0	0	-0.7	-1.5	-1.6	-1.9	-2.1	-2.3
6 Administrative Savings	0	0	-0.3	-0.5	-0.5	-0.6	-0.7	-0.6	-0.8	-0.9
Total - Medicaid	*	*	-51.4	-76.0	-84.4	-93.2	-104.3	-114.8	-126.2	-138.3
Medicare										
7 Part A Reductions										
Inpatient PPS Updates	0	0	-0.3	-1.6	-3.4	-5.6	-8.0	-10.7	-13.8	-17.4
Capital Reductions	0	-0.8	-1.0	-1.2	-1.6	-2.1	-2.2	-2.4	-2.7	-2.9
Disproportionate Share Hospital Reductions	0	0	-1.7	-2.1	-2.3	-2.5	-2.8	-3.1	-3.4	-3.7
Skilled Nursing Facility Limits	0	-0.1	-0.1	-0.2	-0.2	-0.2	-0.2	-0.2	-0.3	-0.3
Long Term Care Hospitals	*	*	-0.1	-0.1	-0.1	-0.2	-0.2	-0.3	-0.3	-0.4
Medicare Dependent Hospitals	*	0.1	0.1	0.1	*	*	0	0	0	0
Sole Community Hospitals	*	*	*	*	*	*	*	*	*	*
Part A Interactions	0	0	0.1	0.2	0.4	0.6	0.7	0.9	1.1	1.3
8 Essential Access Community Hospitals										
Medical Assistance Facility Payments	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Rural Primary Care Hospitals (RPCH) Pmts	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2
9 Part B Reductions										
Updates for Physician Services	-0.4	-0.6	-0.6	-0.7	-0.6	-0.8	-0.9	-1.0	-1.0	-1.1
Real GDP for Volume and Intensity	0	0	-0.3	-0.8	-1.6	-2.5	-3.3	-4.2	-5.3	-6.6
Eliminate Formula Driven Overpayments	-0.8	-1.0	-1.3	-1.8	-2.3	-3.2	-4.2	-5.5	-7.1	-9.1
Competitive Bid for Part B	*	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2	-0.2
Competitive Bid for Clinical Lab Services	*	-0.2	-0.3	-0.3	-0.3	-0.4	-0.4	-0.5	-0.5	-0.6
Elimination of Balance Billing	0	0.1	0.2	0.2	0.2	0.2	0.3	0.3	0.3	0.3
Laboratory Coinsurance	-0.7	-1.1	-1.3	-1.4	-1.6	-1.8	-2.0	-2.3	-2.6	-2.9
Correct MVPS Upward Bias	0	0	0	0	-0.2	-0.6	-1.4	-2.6	-3.9	-5.5
Eye & Eye/Ear Specialty Hospitals	*	*	*	0	0	0	0	0	0	0
Nurse Pract/Phys Asst Direct Payment	0	0	0.1	0.2	0.3	0.3	0.4	0.5	0.6	0.7
High Cost Hospitals	0	0	0	-0.5	-0.8	-0.8	-0.8	-0.9	-1.0	-1.0
Durable Medical Equipment Price Reduction	*	*	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2
Permanent Extension of 25% Part B Premium	0	0.6	0.9	1.4	0.6	-1.0	-2.8	-5.0	-7.7	-9.8

TABLE 1. PRELIMINARY ESTIMATES OF THE FEDERAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITHOUT MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
10 Parts A and B Reductions										
Home Health Copayments (20%)	-0.7	-3.4	-4.2	-4.6	-5.0	-5.5	-5.9	-6.4	-7.0	-7.6
Medicare Secondary Payer	0	0	0	0	-1.2	-1.8	-1.9	-2.0	-2.2	-2.3
Home Health Limits	0	0	-0.3	-0.6	-0.7	-0.7	-0.8	-0.9	-1.0	-1.0
Expand Centers of Excellence	0	-0.1	-0.1	-0.1	-0.1	-0.1	*	*	0	0
Extend ESRD Secondary Payer to 24 Months	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2
11 Medicare Outpatient Prescription Drug Benefit	0	0	0	0	6.2	14.4	15.7	17.5	19.7	21.5
Total - Medicare	-2.4	-6.6	-10.2	-14.1	-14.7	-14.3	-21.1	-28.9	-38.1	-48.4
Subsidies										
12 Persons between 0-200% of Poverty	0	0	66.7	95.4	105.3	116.8	129.3	142.7	157.3	172.3
13 Pregnant Women and Kids 0-300% of Poverty				----------	Included in Line 12	----------				
14 Temporarily Unemployed	0	0	0.0	5.0	7.1	7.7	8.3	9.0	9.8	10.6
15 Enrollment Outreach	0	0	1.3	3.3	5.2	6.9	8.4	9.9	10.8	11.3
Total - Subsidies	0	0	68.0	103.7	117.6	131.3	146.1	161.6	177.9	194.3
Other Health Programs										
16 Vulnerable Hospital Payments	0	0	0	2.5	2.5	2.5	2.5	2.5	2.5	2.5
17 Veterans' Programs	0	0	-1.4	-1.4	-1.7	-1.8	-1.9	-2.0	-2.0	-2.1
18 Home and Community Based Care ($48 bil. cap)	0	0	0	1.8	2.9	3.6	5.0	7.9	11.4	15.4
19 Life Care	0	0	-0.6	-1.1	-1.1	-0.3	-0.3	-0.3	-0.3	-0.3
20 Academic Health Centers	0	0	4.7	7.0	8.0	9.1	10.3	11.0	11.5	12.1
21 Graduate Medical and Nursing Education	0	0	2.6	3.9	5.8	6.4	6.6	6.8	7.2	7.5
22 Medicare Transfer - Direct Medical Education	0	0	-1.6	-2.4	-2.5	-2.6	-2.8	-2.9	-3.1	-3.3
23 Medicare Transfer - Indirect Medical Education	0	0	-3.4	-4.9	-5.4	-5.9	-6.5	-7.2	-7.9	-8.7
24 Public Health Schools; Dental Schools	0	0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
25 Women, Infants and Children	0	0.3	0.5	0.5	0.5	0.5	*	0	0	0
26 Administration of Enrollment Outreach	0	0	0.4	0.7	0.9	1.0	1.1	1.3	1.4	1.4
Total - Other Health Programs	0	0.3	1.3	6.7	10.0	12.6	14.1	17.2	20.6	24.6
Public Health Initiative										
27 Biomedical and Behavioral Research Trust Fund	0	0	0.9	1.4	1.5	1.6	1.7	1.9	2.1	2.2
28 Health Professions	0	0.1	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.0
29 Core Public Health	0	0.1	0.3	0.3	0.4	0.4	0.3	0.2	0.1	0.1
30 Prevention	0	0.1	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.0
31 Capacity Building and Capital	0	0.3	0.5	0.5	0.4	0.2	0.1	0.1	0.0	0.0

Continued

UMI 1994 10 — 11 AG 15 PT 140 VOL

TABLE 1. PRELIMINARY ESTIMATES OF THE FEDERAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITHOUT MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
32 OSHA and Workforce	0	0.3	0.4	0.3	0.3	0.2	0.2	0.1	0.1	0.1
33 Supplemental Services	0	0.1	0.2	0.2	0.2	0.2	0.1	0.1	0.1	0.0
34 Enabling Services	0	0.1	0.2	0.3	0.3	0.3	0.2	0.2	0.1	0.1
35 National Health Service Corps (NHSC)	0	0.1	0.1	0.2	0.2	0.2	0.1	0.1	0.1	0.0
36 Mental Health & Substance Abuse (CMMH&SA)	0	0.1	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.0
37 School Clinics	0	0.1	0.2	0.3	0.4	0.4	0.3	0.2	0.1	0.1
38 Indian Health Service	0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Total - Public Health Initiatives	0	1.4	3.2	3.9	4.0	3.9	3.5	3.0	2.6	2.9
39 Social Security Benefits	0	0	0.2	0.5	0.9	0.9	0.9	0.9	0.8	0.8
MANDATORY OUTLAY CHANGES	-2.4	-4.9	11.1	24.7	33.4	41.3	39.2	39.0	37.9	35.9
DISCRETIONARY OUTLAYS										
Health Programs										
40 Veterans' Programs	1.2	0.6	-2.9	-4.8	-4.9	-5.1	-5.2	-5.4	-5.6	-5.8
41 Indian Health Supplementary Services	0.7	1.2	1.5	1.6	1.6	1.6	1.6	1.6	1.7	1.7
42 Misc. Public Health Service Grants	*	*	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Total Health Programs	1.9	1.8	-1.4	-3.1	-3.3	-3.4	-3.6	-3.7	-3.9	-4.1
Administrative Expenses										
43 Administrative Costs	0.5	0.9	1.0	1.0	1.0	1.0	1.1	1.1	1.1	1.2
44 Costs to Administer the Mandate	0	0	0	0	0	2.0	2.0	0	0	0
45 Planning and Start-Up Grants	0.1	0.4	0.6	0.3	0	0	0	0	0	0
Total Studies, Administrative Expenses	0.6	1.3	1.6	1.3	1.0	3.0	3.1	1.1	1.1	1.2
Studies, Research, & Demonstrations										
46 EACH/MAF/Rural Transition Demonstrations	*	0.1	0.1	0.1	*	*	*	*	*	*
Total Studies, Research, & Demonstrations	*	0.1	0.1	0.1	*	*	*	*	*	*
DISCRETIONARY OUTLAY CHANGES	2.5	3.2	0.3	-1.7	-2.3	-0.4	-0.6	-2.6	-2.8	-2.9
TOTAL OUTLAY CHANGES	0.1	-1.6	11.4	22.9	31.1	40.9	38.7	36.3	35.1	33.0

Continued

TABLE 1. PRELIMINARY ESTIMATES OF THE FEDERAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITHOUT MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
RECEIPTS										
47 Increase in Tobacco Tax	0.7	2.7	4.5	6.1	7.6	7.4	7.1	6.9	6.8	6.7
48 1.75% Excise Tax on Private Health Ins Premiums	0	3.5	6.1	7.1	7.7	8.4	9.1	9.9	10.8	11.7
49 Addl Medicare Part B Premiums for High-Income Individuals ($80,000/$100,000)	0	0	2.0	2.0	2.8	3.5	4.4	5.5	6.9	8.7
50 Increase Excise Tax on Hollow-Point Bullets	---------- Negligible Revenue Loss ----------									
51 Include Certain Service-Related Income in SECA/ Excl Certain Inven-Related Income from SECA										
a) General Fund Effect	0	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1
b) OASDI Effect	0	0.1	0.2	0.2	0.2	0.3	0.3	0.3	0.3	0.3
52 Extend Medicare Coverage & HI Tax to All State and Local Government Employees	0	1.6	1.6	1.5	1.5	1.4	1.4	1.3	1.2	1.2
53 Impose Excise Tax with Respect to Plans Failing to Satisfy Voluntary Contribution Rules	0	*	*	*	*	*	*	*	*	*
54 Provide that Health Benefits Cannot be Provided thru a Cafeterie Plan/Flex Spend Arrangements	0	0.5	2.5	3.9	4.8	5.6	6.3	7.0	7.7	8.5
55 Extend/Increase 25% Deduction for Health Insurance Costs of Self-Employed Individuals	-0.5	-0.6	-1.2	-1.3	-1.4	-1.5	-1.6	-1.8	-2.0	-2.1
56 Limit on Prepayment of Medical Premiums	---------- Negligible Revenue Gain ----------									
57 Non-Profit Health Care Orgns/Taxable Orgns Providing Health Ins & Prepd Health Care Svcs	---------- Negligible Revenue Effect ----------									
58 Trmt of Certain Ins Companies Under Sect 833	0	0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
59 Grant Tax Exempt Status to State Ins Risk Pools	*	*	0	0	0	0	0	0	0	0
60 Remove $150 Million Bond Cap on Non-Hospital 501(c)(3) Bonds	*	*	*	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2	-0.2
61 Qualified Long-Term Care Benefits Treated as Medical Care; Clarify Tax Treatment of Long-Term Care Insurance and Services	0	*	-0.2	-0.3	-0.2	-0.3	-0.3	-0.3	-0.4	-0.4
62 Tax Treatment of Accelerated Death Benefits Under Life Insurance Contracts	*	*	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1
63 Increase in Reporting Penalties for Nonemployees	0	*	*	*	*	*	*	*	*	*

Continued

UMI 1994 AG 10 – 11 15 PT 140 VOL

TABLE 1. PRELIMINARY ESTIMATES OF THE FEDERAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITHOUT MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
64 Post-Retirement Medical/Life Insurance Reserves					Negligible Revenue Effect					
65 Tax Credit for Practitioners in Underserved Areas	a	-0.1	-0.2	-0.2	-0.2	-0.2	-0.1	a	a	a
66 Increase Expensing Limit for Certain Med Equip	a	a	a	a	a	a	a	a	a	a
67 Tax Credit for Cost of Personal Assistance Svcs Required by Employed Individuals	0	a	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2	-0.2
68 Disclosure of Return Information to State Agencies					No Revenue Effect					
69 Impose Premium Tax with Respect to Certain High Cost Plans	0	a	0.9	2.2	3.3	6.1	9.5	12.5	16.0	19.9
70 Limit Exclusion for Employer-Paid Health Benefits	0	0	0	0	0	0	0	0	0	0.9
71 Indirect Tax Effects of Changes in Tax Treatment of Employer & Household Health Ins Spending	0	-0.5	-0.3	-0.7	-1.3	-2.0	-2.4	-3.0	-3.3	-3.7
TOTAL RECEIPT CHANGES	0.1	7.1	16.7	20.2	24.5	28.3	33.4	37.8	43.5	51.2
DEFICIT										
MANDATORY CHANGES	-2.5	-12.0	-4.6	4.5	8.9	13.0	5.8	1.2	-5.6	-15.3
CUMULATIVE MANDATORY TOTAL	-2.5	-14.5	-19.2	-14.7	-5.8	7.2	13.0	14.1	8.6	-6.7
TOTAL CHANGES	-0	-8.7	-4.3	2.7	8.6	12.6	5.3	-1.5	-8.4	-18.2
CUMULATIVE DEFICIT EFFECT	-0	-8.8	-13.1	-10.3	-3.7	8.9	14.2	12.7	4.4	-13.8

SOURCES: Congressional Budget Office; Joint Committee on Taxation

NOTES:

The figures in this table include changes in authorizations of appropriations and in Social Security that would not be counted for pay-as-you-go scoring under the Budget Enforcement Act of 1990.

Provisions with no cost have been excluded from this table.

a. Less than $50 million.

TABLE 2. PRELIMINARY ESTIMATES OF THE FEDERAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITH MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
MANDATORY OUTLAYS										
Medicaid										
1 Discontinued Coverage of Acute Care	0	0	-23.8	-35.6	-39.7	-44.4	-49.6	-55.2	-61.2	-67.6
2 State Maintenance-of-Effort Payments	0	0	-18.5	-26.5	-28.7	-31.1	-33.6	-36.3	-39.3	-42.4
3 Disproportionate Share Hospital Payments	0	0	-8.8	-13.4	-14.8	-15.6	-16.8	-20.7	-22.9	-25.2
4 Increase Asset Disregard to $4000 for Home and Community Based Services	a	a	a	a	a	a	a	0.1	0.1	0.1
5 Offset to Medicare Prescription Drug Program	0	0	0.0	0.0	-0.7	-1.5	-1.6	-1.9	-2.1	-2.3
6 Administrative Savings	0	0	-0.3	-0.5	-0.5	-0.6	-0.7	-0.6	-0.8	-0.9
Total - Medicaid	a	a	-51.4	-76.0	-84.4	-93.2	-104.3	-114.6	-126.2	-136.3
Medicare										
7 Part A Reductions										
Inpatient PPS Updates	0	0	-0.3	-1.8	-3.4	-5.6	-8.0	-10.7	-13.8	-17.4
Capital Reductions	0	-0.8	-1.0	-1.2	-1.6	-2.1	-2.2	-2.4	-2.7	-2.9
Disproportionate Share Hospital Reductions	0	0	-1.7	-2.1	-2.3	-2.5	-2.8	-3.1	-3.4	-3.7
Skilled Nursing Facility Limits	0	-0.1	-0.1	-0.2	-0.2	-0.2	-0.2	-0.2	-0.3	-0.3
Long Term Care Hospitals	a	a	-0.1	-0.1	-0.1	-0.2	-0.2	-0.3	-0.3	-0.4
Medicare Dependent Hospitals	a	0.1	0.1	0.1	a	a	0	0	0	0
Sole Community Hospitals	a	a	a	a	a	a	a	a	a	a
Part A Interactions	a	a	0.1	0.2	0.4	0.6	0.7	0.9	1.1	1.3
8 Essential Access Community Hospitals										
Medical Assistance Facility Payments	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Rural Primary Care Hospitals (RPCH) Pmts	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2
9 Part B Reductions										
Updates for Physician Services	-0.4	-0.6	-0.6	-0.7	-0.8	-0.8	-0.9	-1.0	-1.0	-1.1
Real GDP for Volume and Intensity	0	0.0	-0.3	-0.8	-1.6	-2.5	-3.3	-4.2	-5.3	-6.6
Eliminate Formula Driven Overpayments	-0.8	-1.0	-1.3	-1.8	-2.3	-3.2	-4.2	-5.5	-7.1	-9.1
Competitive Bid for Part B	a	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2	-0.2
Competitive Bid for Clinical Lab Services	a	-0.2	-0.3	-0.3	-0.3	-0.4	-0.4	-0.5	-0.5	-0.6
Elimination of Balance Billing	0	0.1	0.2	0.2	0.2	0.2	0.3	0.3	0.3	0.3
Laboratory Coinsurance	-0.7	-1.1	-1.3	-1.4	-1.8	-1.8	-2.0	-2.3	-2.6	-2.9
Correct MVPS Upward Bias	0	0	0	0	-0.2	-0.6	-1.4	-2.6	-3.9	-5.5
Eye & Eye/Ear Specialty Hospitals	a	a	a	0	0	0	0	0	0	0
Nurse Pract/Phys Asst Direct Payment	0	0	0.1	0.2	0.3	0.3	0.4	0.5	0.6	0.7
High Cost Hospitals	0	0	0	-0.5	-0.8	-0.8	-0.8	-0.9	-1.0	-1.0
Durable Medical Equipment Price Reduction	a	a	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2
Permanent Extension of 25% Part B Premium	0	0.6	0.9	1.4	0.6	-1.0	-2.8	-5.0	-7.7	-9.8

Continued

UMI 1994 10-11 AG 15 PT 140 VOL

TABLE 2. PRELIMINARY ESTIMATES OF THE FEDERAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITH MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
10 Parts A and B Reductions										
Home Health Copayments (20%)	-0.7	-3.4	-4.2	-4.6	-5.0	-5.5	-5.9	-6.4	-7.0	-7.6
Medicare Secondary Payer	0	0	0	0	-1.2	-1.8	-1.9	-2.0	-2.2	-2.3
Home Health Limits	0	0	-0.3	-0.6	-0.7	-0.7	-0.8	-0.9	-1.0	-1.0
Expand Centers of Excellence	0	-0.1	-0.1	-0.1	-0.1	-0.1	*	*	0	0
Extend ESRD Secondary Payer to 24 Months	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2
11 Medicare Outpatient Prescription Drug Benefit	0	0	0	0	6.2	14.4	15.7	17.5	19.7	21.5
Total - Medicare	-2.4	-6.6	-10.2	-14.1	-14.7	-14.3	-21.1	-28.9	-38.1	-48.4
Subsidies										
12 Persons between 0-200% of Poverty before Mandate	0	0	66.7	95.4	105.3	116.8	129.3	33.1	0	0
13 Persons between 0-200% of Poverty after Mandate	0	0	0	0	0	0	0	96.1	137.2	149.6
14 Pregnant Women and Kids 0-300% of Poverty				---------- Included in Line 12 ----------						
15 Temporarily Unemployed	0	0	0.0	5.0	7.1	7.7	8.3	12.5	14.7	15.9
16 Enrollment Outreach	0	0	1.3	3.3	5.2	6.9	8.4	2.5	0	0
Total - Subsidies	0	0	68.0	103.7	117.6	131.3	146.1	144.2	151.9	165.5
Other Health Programs										
17 Vulnerable Hospital Payments	0	0	0	2.5	2.5	2.5	2.5	2.5	2.5	2.5
18 Veterans' Programs	0	0	-1.4	-1.4	-1.7	-1.8	-1.9	-2.0	-2.0	-2.1
19 Home and Community Based Care	0	0	0	1.8	2.9	3.6	5.0	7.9	11.4	15.4
20 Life Care	0	0	-0.6	-1.1	-1.1	-0.3	-0.3	-0.3	-0.3	-0.3
21 Academic Health Centers	0	0	4.7	7.0	8.0	9.1	10.3	11.0	11.5	12.1
22 Graduate Medical and Nursing Education	0	0	2.8	3.9	5.8	6.4	6.6	6.8	7.2	7.5
23 Medicare Transfer - Direct Medical Education	0	0	-1.6	-2.4	-2.5	-2.6	-2.8	-2.9	-3.1	-3.3
24 Medicare Transfer - Indirect Medical Education	0	0	-3.4	-4.9	-5.4	-5.9	-6.5	-7.2	-7.9	-8.7
25 Public Health Schools; Dental Schools	0	0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
26 Women, Infants and Children	0	0.3	0.5	0.5	0.5	0.5	*	0	0	0
27 Administration of Enrollment Outreach	0	0	0.4	0.7	0.9	1.0	1.1	1.3	1.4	1.4
Total - Other Health Programs	0	0.3	1.3	6.7	10.0	12.6	14.1	17.2	20.6	24.8
Public Health Initiative										
28 Biomedical and Behavioral Research Trust Fund	0	0	0.9	1.3	1.5	1.6	1.7	2.0	2.2	2.4
29 Health Professions	0	0.1	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.0
30 Core Public Health	0	0.1	0.3	0.3	0.4	0.4	0.3	0.2	0.1	0.1
31 Prevention	0	0.1	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.0

TABLE 2. PRELIMINARY ESTIMATES OF THE FEDERAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITH MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
32 Capacity Building and Capital	0	0.3	0.5	0.5	0.4	0.2	0.1	0.1	0.0	0.0
33 OSHA and Workforce	0	0.3	0.4	0.3	0.3	0.2	0.2	0.1	0.1	0.1
34 Supplemental Services	*	0.1	0.2	0.2	0.2	0.2	0.1	0.1	0.1	0.0
35 Enabling Services	0	0.1	0.2	0.3	0.3	0.3	0.2	0.2	0.1	0.1
36 National Health Service Corps (NHSC)	0	0.1	0.1	0.2	0.2	0.2	0.1	0.1	0.1	0.0
37 Mental Health & Substance Abuse (CMMH&SA)	*	0.1	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.0
38 School Clinics	*	0.1	0.2	0.3	0.4	0.4	0.3	0.2	0.1	0.1
39 Indian Health Service	0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Total - Public Health Initiatives	*	1.4	3.2	3.9	4.0	3.9	3.5	3.1	3.0	3.0
40 Social Security Benefits	0	0	0.2	0.5	0.9	0.9	0.9	0.9	0.6	0.6
MANDATORY OUTLAY CHANGES	-2.4	-4.9	11.0	24.7	33.4	41.3	39.2	21.7	12.1	7.2
DISCRETIONARY OUTLAYS										
Health Programs										
41 Veterans' Programs	1.2	0.6	-2.9	-4.8	-4.9	-5.1	-5.2	-5.4	-5.6	-5.8
42 Indian Health Supplementary Services	0.7	1.2	1.5	1.6	1.6	1.6	1.6	1.6	1.7	1.7
43 Misc. Public Health Service Grants	*	*	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Total Health Programs	1.9	1.8	-1.4	-3.1	-3.3	-3.4	-3.6	-3.7	-3.9	-4.1
Administrative Expenses										
44 Administrative Costs	0.5	0.9	1.0	1.0	1.0	1.0	1.1	1.1	1.1	1.2
45 Costs to Administer the Mandate	0	0	0	0	0	2.0	2.0	2.0	2.0	2.0
46 Planning and Start-Up Grants	0.1	0.4	0.6	0.3	0	0	0	0	0	0
Total Studies, Administrative Expenses	0.6	1.3	1.6	1.3	1.0	3.0	3.1	3.1	3.1	3.2
Studies, Research, Demonstrations, Other										
47 EACH/MAF/Rural Transition Demonstrations	*	0.1	0.1	0.1	*	*	*	*	*	*
Total Studies, Research, Demonstrations, Other	*	0.1	0.1	0.1	*	*	*	*	*	*
DISCRETIONARY OUTLAY CHANGES	2.6	3.2	0.3	-1.7	-2.3	-0.4	-0.5	-0.6	-0.8	-0.9
TOTAL OUTLAY CHANGES	0.1	-1.6	11.4	22.9	31.1	40.9	38.7	21.1	11.3	6.3

Continued

UMI 1994 AG 10 – 11 PT 15 VOL 140

TABLE 2. PRELIMINARY ESTIMATES OF THE FEDERAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITH MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
RECEIPTS										
48 Increase in Tobacco Tax	0.7	2.7	4.5	6.1	7.6	7.4	7.1	6.9	6.8	6.7
49 1.75% Excise Tax on Private Health Ins Premiums	0	3.5	6.1	7.1	7.7	8.4	9.1	10.4	11.5	12.4
50 Addl Medicare Part B Premiums for High-Income Individuals ($80,000/$100,000)	0	0	2.0	2.0	2.8	3.5	4.4	5.5	6.9	8.7
51 Increase Excise Tax on Hollow-Point Bullets	---------- Negligible Revenue Loss ----------									
52 Include Certain Service-Related Income in SECA/ Excl Certain Inven-Related Income from SECA										
a) General Fund Effect	0	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1
b) OASDI Effect	0	0.1	0.2	0.2	0.2	0.3	0.3	0.3	0.3	0.3
53 Extend Medicare Coverage & HI Tax to All State and Local Government Employees	0	1.6	1.6	1.5	1.5	1.4	1.4	1.3	1.2	1.2
54 Impose Excise Tax with Respect to Plans Failing to Satisfy Voluntary Contribution Rules	0	a	a	a	a	a	a	a	a	a
55 Provide that Health Benefits Cannot be Provided thru a Cafeteria Plan/Flex Spend Arrangements	0	0.5	2.5	3.9	4.6	5.6	6.3	8.2	9.5	10.5
56 Extend/Increase 25% Deduction for Health Insurance Costs of Self-Employed Individuals	-0.5	-0.6	-1.2	-1.3	-1.4	-1.5	-1.6	-1.8	-2.0	-2.0
57 Limit on Prepayment of Medical Premiums	---------- Negligible Revenue Gain ----------									
58 Non-Profit Health Care Orgns/Taxable Orgns Providing Health Ins & Prepd Health Care Svcs	---------- Negligible Revenue Effect ----------									
59 Trmt of Certain Ins Companies Under Sect 833	0	0	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
60 Grant Tax Exempt Status to State Ins Risk Pools	a	a	0	0	0	0	0	0	0	0
61 Remove $150 Million Bond Cap on Non-Hospital 501(c)(3) Bonds	a	a	a	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2	-0.2
62 Qualified Long-Term Care Benefits Treated as Medical Care; Clarify Tax Treatment of Long-Term Care Insurance and Services	0	a	-0.2	-0.3	-0.2	-0.3	-0.3	-0.3	-0.4	-0.4
63 Tax Treatment of Accelerated Death Benefits Under Life Insurance Contracts	a	a	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1
64 Increase in Reporting Penalties for Nonemployees	0	a	a	a	a	a	a	a	a	a

Continued

TABLE 2. PRELIMINARY ESTIMATES OF THE FEDERAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITH MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
65 Post-Retirement Medical/Life Insurance Reserves	---------- Negligible Revenue Effect ----------									
66 Tax Credit for Practitioners in Underserved Areas	a	-0.1	-0.2	-0.2	-0.2	-0.2	-0.1	a	a	a
67 Increase Expensing Limit for Certain Med Equip	a	a	a	a	a	a	a	a	a	a
68 Tax Credit for Cost of Personal Assistance Svcs Required by Employed Individuals	0	a	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2	-0.2
69 Disclosure of Return Information to State Agencies	---------- No Revenue Effect ----------									
70 Impose Premium Tax with Respect to Certain High Cost Plans	0	a	0.9	2.2	3.3	6.1	9.5	10.2	11.2	14.7
71 Limit Exclusion for Employer-Paid Health Benefits	0	0	0	0	0	0	0	0	0	0.9
72 Indirect Tax Effects of Changes in Tax Treatment of Employer & Household Health Ins Spending	0	-0.3	-0.3	-0.7	-1.4	-2.1	-2.6	-11.1	-15.9	-19.0
TOTAL RECEIPT CHANGES	**0.2**	**7.3**	**15.7**	**20.2**	**24.4**	**28.3**	**33.2**	**29.1**	**28.6**	**33.6**
DEFICIT										
MANDATORY CHANGES	**-2.6**	**-12.2**	**-4.7**	**4.5**	**9.0**	**13.0**	**6.0**	**-7.4**	**-16.5**	**-26.3**
CUMULATIVE MANDATORY TOTAL	**-2.6**	**-14.8**	**-19.5**	**-15.0**	**-6.0**	**7.0**	**13.0**	**5.6**	**-10.9**	**-37.3**
TOTAL CHANGES	**-0.1**	**-8.9**	**-4.3**	**2.7**	**6.7**	**12.6**	**6.5**	**-8.0**	**-17.3**	**-27.2**
CUMULATIVE DEFICIT EFFECT	**-0.1**	**-9.1**	**-13.4**	**-10.6**	**-3.9**	**8.7**	**14.2**	**6.2**	**-11.1**	**-38.3**

SOURCES: Congressional Budget Office; Joint Committee on Taxation

NOTES:

The budgetary treatment of mandatory premium payments is under review.

The figures in this table include changes in authorizations of appropriations and in Social Security that would not be counted for pay-as-you-go scoring under the Budget Enforcement Act of 1990.

Provisions with no cost have been excluded from this table.

a. Less than $50 million.

UMI 1994 10 — 11 AG 15 PT VOL 140

TABLE 3. PRELIMINARY ESTIMATES OF THE STATE & LOCAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITHOUT MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
OUTLAYS										
Medicaid										
1 Discontinued Coverage of Acute Care	0	0	-17.9	-26.7	-29.8	-33.3	-37.2	-41.4	-45.9	-50.7
2 State Maintenance-of-Effort Payments	0	0	18.5	26.5	28.7	31.1	33.6	36.3	39.3	42.4
3 Disproportionate Share and Vulnerable Hospital Payments a/	0	0	1.1	-0.8	-0.6	-0.5	-0.1	0.2	0.5	0.8
4 Increase Asset Disregard to $4000 for Home and Community Based Services	*	*	*	*	*	*	*	*	*	*
5 Offset to Medicare Prescription Drug Program	0	0	0	0	-0.5	-1.1	-1.2	-1.4	-1.6	-1.7
6 Administrative Savings	0	0	-0.2	-0.4	-0.4	-0.5	-0.5	-0.6	-0.6	-0.7
Total - Medicaid	*	*	1.6	-1.4	-2.6	-4.3	-5.4	-6.9	-8.3	-9.9
Administrative Expenses										
7 Expenses Associated with Subsidies	0	0	3.6	5.1	5.5	6.0	6.5	7.1	7.7	8.3
8 General Administrative and Start Up Costs	0	0	1.0	1.1	1.1	1.2	1.3	1.4	1.5	1.6
9 Automobile Insurance Coordination	0	0.3	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Total - Administrative Expenses	0	0.3	4.7	6.3	6.7	7.3	7.9	8.6	9.3	10.0
Public Health Initiatives										
10 School Health Clinics	0	0.1	0.1	0.2	0.3	0.5	0.5	0.5	0.3	0.2
TOTAL OUTLAY CHANGES	*	0.3	6.4	5.1	4.4	3.5	3.1	2.2	1.3	0.3
RECEIPTS										
11 Revenue Collected for Subsidy Administration	0	0	3.6	5.1	5.5	6.0	6.5	7.1	7.7	8.3
Total State Changes	*	0.3	2.8	-0.0	-1.1	-2.5	-3.4	-4.9	-6.4	-8.0

SOURCE: Congressional Budget Office.

a. The estimate assumes that states will continue to provide some assistance to hospitals serving disproportionately large numbers of uninsured or underinsured people.

August 11, 1994 CONGRESSIONAL RECORD—SENATE

TABLE 3. PRELIMINARY ESTIMATES OF THE STATE & LOCAL BUDGETARY EFFECTS OF SENATOR MITCHELL'S PROPOSAL WITHOUT MANDATE IN EFFECT

(By fiscal year, in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
OUTLAYS										
Medicaid										
1 Discontinued Coverage of Acute Care	0	0	-17.9	-26.7	-29.8	-33.3	-37.2	-41.4	-45.9	-50.7
2 State Maintenance-of-Effort Payments	0	0	18.5	26.5	28.7	31.1	33.6	36.3	39.3	42.4
3 Disproportionate Share and Vulnerable Hospital Payments a/	0	0	1.1	-0.8	-0.6	-0.5	-0.1	0.2	0.5	0.8
4 Increase Asset Disregard to $4000 for Home and Community Based Services	*	*	*	*	*	*	*	*	*	*
5 Offset to Medicare Prescription Drug Program	0	0	0	0	-0.5	-1.1	-1.2	-1.4	-1.6	-1.7
6 Administrative Savings	0	0	-0.2	-0.4	-0.4	-0.5	-0.5	-0.6	-0.6	-0.7
Total - Medicaid	*	*	1.6	-1.4	-2.6	-4.3	-5.4	-6.9	-8.3	-9.9
Administrative Expenses										
7 Expenses Associated with Subsidies	0	0	3.6	5.1	5.5	6.0	6.5	7.1	7.7	8.3
8 General Administrative and Start Up Costs	0	0	1.0	1.1	1.1	1.2	1.3	1.4	1.5	1.6
9 Automobile Insurance Coordination	0	0.3	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Total - Administrative Expenses	0	0.3	4.7	6.3	6.7	7.3	7.9	8.6	9.3	10.0
Public Health Initiatives										
10 School Health Clinics	0	0.1	0.1	0.2	0.3	0.5	0.5	0.5	0.3	0.2
TOTAL OUTLAY CHANGES	*	0.3	6.4	5.1	4.4	3.5	3.1	2.2	1.3	0.3
RECEIPTS										
11 Revenue Collected for Subsidy Administration	0	0	3.6	5.1	5.5	6.0	6.5	7.1	7.7	8.3
Total State Changes	*	0.3	2.8	-0.0	-1.1	-2.5	-3.4	-4.9	-6.4	-8.0

SOURCE: Congressional Budget Office.

a. The estimate assumes that states will continue to provide some assistance to hospitals serving disproportionately large numbers of uninsured or underinsured people.

VOL
140
PT
15
AG
10
—
11
1994
UMI

Table 5. Health Insurance Coverage
(By calendar year, in millions of people)

	1997	1998	1999	2000	2001	2002	2003	2004
Baseline								
Insured	224	226	228	229	230	232	233	234
Uninsured	40	40	40	41	42	43	43	44
Total	264	266	268	270	272	274	276	278
Uninsured as Percentage of Total	15	15	15	15	15	16	16	16
Senator Mitchell's Proposal—Without Mandate in Effect								
Insured[a]	250	253	255	257	259	261	262	264
Uninsured	13	13	13	14	14	14	14	14
Total	264	266	268	270	272	274	276	278
Uninsured as Percentage of Total	5	5	5	5	5	5	5	5
Senator Mitchell's Proposal—With Mandate in Effect								
Insured	250	253	255	257	259	274	276	278
Uninsured	13	13	13	14	14	0	0	0
Total	264	266	268	270	272	274	276	278
Uninsured as Percentage of Total	5	5	5	5	5	0	0	0

SOURCE: Congressional Budget Office.

a. Includes people eligible for coverage under the enrollment outreach provisions of the proposal.

Table 6. Projections of National Health Expenditures
(By calendar year, in billions of dollars)

	1997	1998	1999	2000	2001	2002	2003	2004
Baseline	1,263	1,372	1,488	1,613	1,748	1,894	2,052	2,220
Senator Mitchell's Proposal—Without Mandate in Effect								
Proposal	1,301	1,401	1,519	1,647	1,779	1,923	2,079	2,246
Change from Baseline	38	29	31	33	31	29	27	25
Senator Mitchell's Proposal—With Mandate in Effect								
Proposal	1,301	1,401	1,519	1,647	1,779	1,943	2,093	2,254
Change from Baseline	38	29	31	33	31	48	41	34

SOURCE: Congressional Budget Office.

VOL
140
PT
15
AG
10
—
11
1994
UMI

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, let me thank my good friend from Pennsylvania. "A picture is better than a thousand words" is true. You look at that chart and say, how on Earth can we do this to the American medical system? I do not mean doctors and hospitals, I mean the American medical system.

I know the Senator indicated he ran out of time now—that is true—and he has much more to say. I encourage him to come back, because after today, we have no unanimous consent agreement on time, and I would appreciate it if he would come back and continue.

Mr. SPECTER. I thank my colleague for those kind remarks.

Mr. PACKWOOD. I yield the floor.

Mr. MOYNIHAN. Mr. President, I am happy to yield 10 minutes to the distinguished Senator from South Dakota, who is the chairman of the Democratic Policy Committee.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. I thank the Senator.

I commend the Senator from Pennsylvania for much of what he has said this morning.

I must say, however, that I am surprised, given the Senator's admission yesterday that he had not had time to read the bill offered by the majority leader, that he has had time to diagram the bill as it is now portrayed in one of his charts.

I have had a chance to look at some of the charts, and I am surprised that many of the existing programs that we have in our current health system are listed on his chart as new programs. Standard health plan sponsors are listed as a new entity on this chart, even though the private health insurance companies of today will certainly exist as they are, tomorrow. I certainly do not think he is proposing that we eliminate these "bureaucracies."

Guaranteed funds are listed as a new function even though every State in the country already has such funds to protect consumers.

ERISA enforcement mechanisms are listed as some new bureaucratic scheme. That sounds large and bureaucratic until you realize the chart is referring to existing law that allows the Federal Government to investigate and enforce civil and criminal activities such as embezzlement and health insurance scams.

There are many ways to chart the current systems; I wish we could have a chart to compare the current system with what our colleague from Pennsylvania has depicted in the Chamber.

What is not depicted, of course, are the 38 million Americans who have no insurance, including more than a million people in Pennsylvania today without insurance; 58 million Americans who have preexisting conditions are not listed anywhere on the charts.

I wonder how we would chart electricity today. Americans go into a bedroom, or a kitchen, or a living room and flick on a switch and they have electricity. I doubt many know how they got the electricity into their house, but they sure know it works. And they depend on it. It is there when they need it. But certainly people recognize that electricity is complicated, and that electricity would take a lot of boxes and charts and graphs and grids. The fact is, it is there.

Time after time, you can put charts together to reflect the complexity of whatever it is we use. Take for another example the automobile. I guarantee you the Senator from Pennsylvania, the Senator from South Dakota, the Senator in the chair, and the distinguished Presiding Officer from Nebraska, could not today write down how an automobile works. We could not depict the engine and all of its parts. But when I turn the key on, I expect it to work.

That I think is what we are attempting to do with health care. Let us make it work better. Let us make sure the parts work. Let us not make it any more complicated than it has to be, but let us recognize that it is complex.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I would be happy to yield.

Mr. KENNEDY. Does the Senator not agree with me that, first of all, if we just accept the argument that we see, we cannot predict projected costs of medical needs, that could just lead us to paralysis?

On the other hand, does the Senator not agree with me that we can project what it is going to cost if we do not take any action, that we are going to be approximately $1 trillion this year and $2 trillion by the year 2000? We know that. We know it is going to be $100 billion more this year over what it was last year. We can predict those escalations of cost, can we not?

When we are talking about where it was a number of years ago and how Medicare started off, we understand that, No. 1, we have much better ways of predicting and projecting costs certainly today than we had at that time, and second, we do know what is going to happen if we do not take any action at all. Those numbers are virtually certain in terms of the escalation of costs without taking any action.

Does the Senator think that is something we ought to take note of as well?

Mr. DASCHLE. The Senator is absolutely correct. We do need to take note of the cost of doing nothing. Let us try to find a chart depicting the incredible obstacles people have today in trying to achieve meaningful health care. These are the people whose faces we see on the steps of the Capitol and the people who write and call our offices. These people are extraordinarily frustrated with the current system because of its complexity, because of their inability to access the system, and because they do not have the resources that some of the wealthy in this country have to get health care. There are a lot of people in this country who simply cannot get through the maze that we have in our current system, and that is in itself a tragedy and something that we have to address.

Mr. KENNEDY. Just one final question. We knew we were to spend a good deal of time here on the issue of cost. But how do we cost out the anxiety of those mothers or fathers of the close to 10 million children that are not either being covered by Medicaid or covered by good health insurance? How do you measure out the anxiety that they have every night when they go to bed and wonder about whether their child is going to get sick? How do we measure the costs of those parents that say I am not going to let my child ride a bicycle today—all the other children are going—because that child might break his or her arm and we have not the money to do it. I am not going to let them go skating in the wintertime; I am not going to let them go sledding because we cannot afford it.

Around here, we begin to look very quickly at the cost of everything, and we begin to loose the value of some other parts.

I am just wondering if the Senator does not agree with me that there is a lot we have to deal with on the issue of cost, but we also ought to think about what the costs are in terms of families, working families, that suddenly lose their job and lose the coverage when they have children that have special needs, that cannot afford a pair of glasses when their children go to school—and we provide glass care and some dental care in this program—and those children are reading the charts and are slow in learning. What is the cost of that? For all those who say, "Oh, well, we can't."

We have a big chart here. We have a big chart. Let us put up the chart for the Federal employees insurance—I daresay it would be as big as any one of those—and find out how many of these members do not want to get covered. Let us get real in terms of some of these matters. I see other colleagues here.

Mr. REID. Will the Senator from South Dakota yield?

Mr. DASCHLE. The Senator from Massachusetts made a very important point. The Senator from Massachusetts drew the distinction between cost and value. We know what it costs; we can even project how much this system is going to cost our country and the average American family in the future. But what is the value today to a family that would like to have the opportunity to have access to good medical care? How much do we value having health security that can never be taken away? It is incalculable.

And so the distinguished Senator from Massachusetts makes a very important point. We can calculate the cost. It is difficult for us to calculate the value.

I yield to the Senator from Nevada.

Mr. REID. Our colleague from Massachusetts reminded me of something that is so important, I believe. Twenty-four years ago, I was elected Lieutenant Governor of the State of Nevada. One of the first meetings I had, having been elected, was a woman working for the State welfare department. She came over to see me to talk about dental care. She explained to me how important dental care was to children especially, that a child who has crooked teeth, rotting teeth, may talk during their whole childhood like this. They are afraid to talk. They develop speech impairment.

Now, that was 24 years ago, and we as a nation still do not have decent dental care for children. In the Mitchell plan, there is dental care up through the 21st year. Do you realize how important this is to somebody who grows up with teeth that are crooked?

When I grew up in a small rural community, I was very fortunate; my teeth turned out OK. I did not go to a dentist until I was 16 years old. My teeth are fairly straight. But I am only lucky.

Today, in America, the public should be advised if we pass the Mitchell bill, up through age 21, no matter how rich you are, no matter how poor you are, you can go to a dentist and have your teeth taken care of. That is not the case with the bill across the aisle. Dental care is null.

Mr. WELLSTONE. Will the Senator yield?

Mr. DASCHLE. I think the Senator from Nevada makes a very important point.

I wanted to talk a little bit more about the comparison we have between the Mitchell and Dole bills. I would be happy to yield to the Senator from Minnesota.

Mr. WELLSTONE. I appreciate it. It is more a comment about what the Senator from Massachusetts just said with a tremendous amount of power and passion.

The PRESIDING OFFICER. The Chair would notify the distinguished Senator from South Dakota that the 10 minutes allocated to him has expired.

Mr. MOYNIHAN. Mr. President, I yield another 5 minutes to the Senator from South Dakota.

Mr. WELLSTONE. I do not want to take up 5 minutes. The Senator from South Dakota can go ahead.

Mr. KENNEDY. Mr. President, how much time remains? This is a rather interesting debate.

Mr. MOYNIHAN. We are not short of time, Mr. President.

79-059 O—97 Vol 140 (Pt. 15) 26

The PRESIDING OFFICER. The remaining time allocated to the distinguished Senator from New York is 70 minutes.

Mr. WELLSTONE. Mr. President, I wonder if I could ask the Senator. I have one comment that will take about a minute, and then I would be pleased to yield, but only if the Senator from South Dakota will have more time.

Mr. DASCHLE. I think the chairman has indicated we would have plenty of time.

Mr. WELLSTONE. This is said more in the spirit of reflection.

I would say to the Senator from Massachusetts that I remember when we had before the committee a group of citizens from Kentucky, and none of them had health insurance. They worked for Kentucky Fried Chicken, and Pizza Hut. It was very moving to me because that is where my wife is from. I had been just looking at all the statistics about all the big campaign contributions. But these people get hurt. I mean, in some sort of an awful way they are getting left out of the picture. I think the Senator from Massachusetts was really speaking for them. Their testimony was so compelling.

So when I debated Senator MCCONNELL this morning on a show—this is not a criticism of him at all. We had very little time. At one point I said, "What is the alternative?"

When I looked at the distinguished Republican leader's plan, those people, I say to my colleague from Massachusetts, that came all the way to Washington to lay bare their personal lives, they are out of luck. I mean 30 million people still are without any insurance, and some 6 million children are still without any insurance. Older people still have to live with the terror of either not being covered because of a sickness or having to pay four times what others pay. They are just out of luck.

So I think we should be clear about what is at stake here. For those who are saying no, no, no, this is awful, awful, awful, bureaucracy, bureaucracy, bureaucracy, et cetera, et cetera that we have heard over the years, what is the alternative to make sure that we can provide dignified health care for citizens in our country? The vast majority of people in the United States of America with their goodness of heart have said we believe everybody should be covered, and we believe employers should pay their fair share, and we believe it should be as good a plan as Senators and representatives have.

I think that is what the Senator just said.

I thank my friend from South Dakota.

Mr. DASCHLE. I thank the Senator from Minnesota. I certainly agree with his comments. Obviously, that is really what this debate ought to be about, to flush out the differences. That is why I asked to take the floor this morning.

I have had the good fortune to serve on the Finance Committee since I came to the Senate. I certainly have developed a profound respect for the Republican leader, and have noted with great interest his extraordinary attendance in the committee as we have attempted to address the issue of health reform. He has been an extraordinary participant in the health care debate now for many, many months. I know he is as troubled as we are about trying to arrive at a consensus on meaningful health reform this year.

Two nights ago, the Republican leader introduced his version of health reform. We are just beginning to understand what is in it, what it does, and what its impact would be on the American people. Obviously, we are going to have a lot more to say about that in the coming days. We have just had the opportunity over the last 24 hours to examine it in any detail. I must say, after a preliminary look, I think it is fair to state that this bill falls far short of the goals enumerated even by the Republican leader himself.

Unlike the Mitchell bill, which provides a road to universal coverage, the Dole bill provides no one with guaranteed coverage. No one has the assurance that they are going to be protected in the future. Lewin VHI, one of the most respected private analytical firms, estimates that more than 30 million people, 75 percent of those uncovered now, will still be uncovered if the Dole bill were to pass. Six point two million children are left uncovered under the Dole bill. It does nothing to reverse the trend among employers to drop back family coverage to covering only one worker, a trend that is happening all across the country today.

In order to cut costs, businesses are saying we will insure you but we simply cannot afford to insure your families anymore. There is nothing in the Dole bill that addresses that problem. We are leaving millions of children at risk of losing the coverage that they have now as a result of that trend.

Mr. President, 30 million people with no coverage means we are going from about 80 percent coverage to 88 percent; not 100 percent as the President proposed, not even 95 percent as our majority leader proposed by the year 2000; in fact, not even 92 percent as the Finance Committee bill would propose; 12 percent of the American people would be left without coverage if this bill were to pass.

The Dole bill is not health security. No one should be misled. If every other industrialized country in the world can reach 100 percent, Mr. President, why can't we? Why do we have to tell millions of Americans in 1994 that they are out of luck? It is not just a matter of health security. It is also a matter of responsibility.

VOL 140 PT 15 AG 10 — 11 1994 UMI

The message is loud and clear. If we were to pass the Dole bill, the message is simple. If you want someone else to pick up your health care costs, go right ahead. Just quit paying premiums. Do not worry about it. Somebody else will take care of it. We can shift those costs on to those who do pay. So do not worry. You do not have to pay your health care premiums. That is how things are now. And we will continue that practice as far into the future as we can see under the Dole bill.

Let those conscientious businesses who now pay pick up your costs take heed. Conscientious businessmen paid $35 billion more in additional costs just this year as a result of the cost shifting currently in place.

We all talk about ending cost shifting. It's easy to talk about. But this bill is an open-ended invitation to accelerated cost shifting, Mr. President. So if you are a business paying premiums, hoping that everyone will pay their fair share, you, too, are out of luck. Luck just runs out, especially if you are a small or a medium-sized business.

The Dole bill would continue to permit insurers to charge different rates to small employers because of their size. The smaller you are, the more you might pay. It discriminates against small employers who already pay more. Unlike the Mitchell bill, there is no discount to small business.

You have a situation where small businesses may actually be required to pay more because they are small and because there may be an additional risk associated in some cases with smaller business. But then in many cases the Dole bill says insurance companies do not have to sell to small businesses at all. Insurance companies can sell whenever and wherever they want.

So the bottom line is there is little new coverage, and, most probably, much higher premiums.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. DASCHLE. I would be happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. Just on this issue about the cost, on this chart I have, the comparison between what would be the amounts under the Mitchell and under the Dole program, it is here in the bill itself. There are provisions in the bill that outline the subsidy provisions.

It talks about, on page 28, in "general purposes of this part," the term "premium subsidy." "Eligible family" means a family income determined under the various provisions, and then it outlines it later on. I hope we will have a chance to go through this because I hope those who are supporters of the Dole bill will find someplace in its 600 pages where the opportunity for choice is available. There is no opportunity for choice of a doctor.

Let us just talk about, as the Senator was talking about, the availability. Once you reach the 150 percent, you are on your own. So these are for the income of $22,000. You are talking about the premiums here. This is percent of income, 27 percent; 23 percent; 20 percent. So we are talking here about hardworking men and women. Under the Dole proposal, they will have access to health care if they get that kind of funds, if they have that amount. If they want to pay 23 or 27 percent of their income, they will be able to buy that, as compared to the shared responsibility program.

Mr. DASCHLE. What you are saying is that somebody who is making $22,000 a year would pay $6,075, about 27 percent of their income; it is 27 percent of the income under the Dole plan, is that what the table says?

Mr. KENNEDY. Exactly. Based on CBO estimates from the Mitchell bill and the Finance bill. We have been listening to the debate and discussion about how we are not going to permit the Federal Government to sort of take over. Well, you do not have to worry with the Dole bill, because how many of the families are going to be able to afford that outcome? At least in the Mitchell bill we are talking about the shared responsibility. Under the Dole bill, we see even when you are down to $14,000, you will pay $1,000 for your program, at 6.8 percent. I think what this shows is you can have all the words that you want, but it just does not begin to show.

The other part of the program here is on page 54. Under the State program, it says a State program shall require each health plan sponsor to make available to each community-rated individual the opportunity to enroll, directly or indirectly through a purchasing cooperative, in a certified health plan which provides Fed-med benefits. There is nothing in here about choice or individual choice.

Mr. REID. Will the Senator yield?

Mr. DASCHLE. Yes.

Mr. REID. I say to my two friends who are here on this colloquy now that it seems to me that the Dole proposal keeps things the way they are, because now we have universal access. If somebody gets hurt or sick, they can go to the emergency room. But that is different than universal coverage, is that not true?

Mr. DASCHLE. It is different. Universal access is the opportunity to walk into the show room, but you may be unable to buy the car.

Mr. REID. We have that now.

Mr. KENNEDY. Certainly. As you see under the Dole program, for working families with $25,000 to $29,000 in income, that is pretty good, but it is right in there for hardworking men and women, factory workers, school teachers, construction workers. You will be able to pay $6,000—20 percent or 23 percent or 27 percent—at an income of $22,000. That is a wonderful program. To think that that is going to reach universality, I think, defies logic and understanding of the real purchasing ability of families. Most families in these areas are hardworking, having a difficult time paying a mortgage, putting their kids in school, putting food on the table, and providing heating oil for themselves up in my part of the country. I thank the Senator for yielding for that purpose.

Mr. DASCHLE. I appreciate the Senator's contribution.

There are two other stories to tell from this chart. First of all, these are 1994 figures. That does not tell the story of a 15- or 20-percent increase, the inflationary costs, in premiums every year. What will it be in the year 2000? Nor does it say what a sick family will pay or what an old family will pay. This chart assumes a healthy family. The Dole bill has a modified community rate. Insurance premiums under the Dole bill actually get more expensive the older you are or the sicker you are.

A Newsweek magazine article on the 25th of July, on page 19, said the Dole plan "will increase premiums for middle-class people and could increase the number of uninsured." It could increase premiums for the middle class. I think that is really what this chart is all about. It is really remarkable. There is less coverage and more cost. So if you are in the middle class, Mr. President, you, too, are out of luck.

You are especially out of luck if you are one who is seeking worker protection. If you are unemployed or if you lose your job, you are in particularly difficult circumstances. If you lose your job, you cannot take your insurance plan with you. If you are unemployed you have to pay the entire premium yourself if you want to have the protection you had on your job. So you are out of luck as well if you lose your job or are unemployed.

Not only are working people out of luck with this proposal but, frankly, so are retired people. We talked earlier about the chart's implications for those who are older. Well, the Dole bill relies heavily on savings from Medicare. Unlike the Mitchell bill, it gives nothing back to older Americans. Medicare cuts provide the savings, but, unlike the Mitchell bill, there is no help with prescription drug costs. Or with long-term care costs. The Dole bill ignores the fact that drug costs are the highest out-of-pocket expense for three out of four seniors in the country today; that 31 million Americans under the age of 65 would have no protection for prescriptive drugs under the Dole bill; and that 18 million people over the age of 65 would be denied drug coverage.

AARP said it probably as succinctly as you can: "The Dole bill is a harmful prescription for older Americans. Unlike the Mitchell proposal, which invests $50 billion in new home- and community-based long-term care, the Dole bill does virtually nothing for long-term care."

Small firms with more than 50 employees will remain at the mercy of insurance companies who charge even higher rates for sick and older workers, and even raise rates when one employee gets sick. That means older workers will have jobs at risk when their employers look closely at the insurance premiums.

So, if you are a sick or older person, you are in particular jeopardy under the Dole bill. There is nothing, in my view, to rein in the bureaucracy that the Senator from Pennsylvania talked about earlier. More workers today are the victims of administrative costs and bureaucracy than in any other system anywhere else in the world. We have a 20-percent administrative cost today associated with the current system, and we have not yet found anything in the Dole bill that deals with the extraordinary administrative costs.

So bureaucracy is likely to grow under the Dole bill. The bill does nothing to stop the flow of tax dollars into the health system. We are told we can see a proliferation of costs over the next 10 years which would double the cost of health care. I am, frankly, very concerned about the cost implications of the Dole bill. It is very simple. If the Dole bill passes, millions of Americans are just out of luck—if you are uninsured; if you lose your job; if you are a senior citizen; if you are a business-paid insurance; if you are a small business; or if you are a taxpayer. During the last 24 hours we have had a chance to examine what will happen if the Dole bill were to pass; we are beginning to come to some very concrete conclusions.

We can do better than this. If this had been our attitude 30 years ago at NASA, JOHN GLENN would still be waiting to make his first orbit. If other countries had not addressed this issue more effectively, then they too would be suffering the consequences of failure that we in the United States do in 1994.

We can do better than this. We can solve this problem. We all agree we must go slowly, step by step as the Mitchell bill has laid out, but we need a plan; we need a blueprint; we need to know exactly how it is we are going to get from here to there.

Will we change it along the way? Of course we will. Do we need to modify as we understand implications of this growth in coverage? Absolutely. But there is a big difference between doing it slowly and not doing it at all.

I know I have used more than my share of the time. I appreciate the time.

Mr. MOYNIHAN. Mr. President, the Senator did very well indeed.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, how much time does the Senator from Nevada desire?

Mr. REID. Fifteen minutes.

Mr. MOYNIHAN. Could he make that 12½ minutes?

Mr. REID. I am happy to.

Mr. MOYNIHAN. That is because we have a fixed amount of time, and we have many of our friends and colleagues waiting.

Mr. President, I yield 12½ minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, this morning on a telephone call I was asked why I am supporting the Mitchell bill. It was an opportune question asked this morning because I had just been through a relatively traumatic experience dealing with a woman from the State of Nevada. Her name is Erin Dowell. I met Erin in Washington less than a year ago. She was here to testify about the high cost of health care. Her bills were, at that time, about a half million dollars. She is 27 years old, a vivacious young woman.

A week later I saw her in Reno, bedridden, a blanket wrapped around her, trying to stay warm even though it was warm in the house. You see, Mr. President, she is one of the people, one of the faces, a real human being, that the Mitchell plan will take care of and the Dole plan will not.

The reason this was an opportune time for me to be asked that question was because yesterday we were told by Erin that she is now in a hospice. Erin is going to die in a matter of a few days, maybe a couple weeks.

She has given up medical treatment. She is, as I indicated, one of those people who fell through the cracks. She had an industrial accident. From the time that she was treated for the industrial accident until the time she got another job, with no insurance, she got leukemia, cancer of the blood. During this period of time she had time to be cured but could not get the programs worked out. She was not able to take the insurance that she had with her, to take care of her medical condition.

You see, Mr. President, what we are talking about here in this historic debate—one of the most important debates in the history of this country—are the Erin Dowells of the world, people who have fallen through the cracks and are not being taken care of. We have the opportunity, after 50 years of debate and six or seven Presidents, to provide health security for the Erin Dowells of the world, my world, the State of Nevada, and our country.

I enter this debate encouraged and committed to passing a bill that the majority leader has put forth. A perfect bill? No. There are things in the bill that I do not like, but I am going to support the Mitchell legislation because it does so much good, because it is the best that we can do. And if there are amendments that improve the bill, I will support those as well.

I am charged for action because the people of Nevada cannot afford any more delay. Almost 300,000 people in Nevada make between $20,000 and $75,000 a year. It does not sound a lot by the standards of New York. It is a lot of money by the standards of South Dakota, and not a lot by the standards of California. But it is 300,000 people who, if we do not do something, their insurance premiums will escalate. Next year they will go up about $700, and after that even more.

Since 1986, health insurance premiums in this country have gone up almost 120 percent, and they will continue to go up if we do not do something. The average for people who have no insurance and are working is about 60 percent. In the State of Nevada it is 83 percent. In the State of Nevada, 83 percent of the people that have no insurance are workers. They work. This legislation will help. The Dole legislation will not.

Erin Dowell, if the Mitchell plan were in effect, would be OK. Under the Dole plan she would not be OK.

As Newsweek magazine predicted on July 25, the Dole plan will increase premiums for the middle class and could increase the number of insured.

Mr. DASCHLE. Mr. President, will the Senator yield?

Mr. REID. I yield.

Mr. DASCHLE. What does the Senator think happens in Nevada when the costs continue to escalate? Is he finding the same thing in Nevada that we find in South Dakota?

Mr. REID. The uninsureds skyrocket.

Mr. DASCHLE. I understand that every minute 48 people lose health insurance.

Mr. REID. That is right, permanently. There are more who lose their insurance. Two million people a month lose their insurance in this country; 100,000 of the 2 million each month, permanently. When we put those to numbers, it is thousands and thousands of people a day.

Mr. DASCHLE. Is that not the big concern? If we do not contain costs, if we do not find a way to get down into the single digits, we are going to ultimately have a higher percentage of people in Nevada uninsured than there are insured simply because they cannot afford it.

Mr. REID. I say to my friend from South Dakota, there will be no Erin Dowells in the world. We have here, if you lose your job, you are out of luck, and that is what they are saying about the Dole plan. The Dole plan does nothing to change the law as it now exists.

Now, as we have talked before with the Senator from Massachusetts, there is universal access. Sure, if you have money you can go to any doctor or hospital in the country. But the Mitchell

VOL 140 PT 15 AG 10 — 11 1994 UMI

plan does more. It allows portability so Erin Dowell, when she lost her industrial job that she got hurt on, would have been able to carry the insurance with her automatically, because she is out of work. And this will allow someone out of work to make the premiums on their private insurance. This is not a Government-run program.

That is another thing that kind of irritates me, and I am trying to educate the people of Nevada. This is not a Government-run program. The program we are developing, we are going to privatize Medicaid. Does that not sound good?

Mr. DASCHLE. If the Senator will yield, I appreciate his raising that issue because we hear so often that we are adding to the bureaucracy and we are somehow adding to governmental controls when, in fact, we are doing just the opposite. We are moving away from Government controls and more to the privatized system, providing the incentives in the system itself to work. We are privatizing Medicaid. We are giving opportunities to senior citizens that they do not have today, to buy adequate prescription drugs. We are using the competitive method to achieve effective cost containment.

So I appreciate the Senator raising the issue, and I hope over the course of this debate, at least on that point, we can clarify what it is that the American people can expect when it comes to passage of the Mitchell bill.

Mr. REID. Let me say to my friend from South Dakota, while talking about myths, could I discuss another myth that just irritates me because it is not true?

We have heard a number of statements. In fact, one of our colleagues on the other side of the aisle read a letter from a doctor constituent saying "My boy nearly drowned." That if the Mitchell plan had been in effect, the doctor would have been put in jail—or words to that effect—for treating my son because he was not part of an approved plan. That you cannot give doctors money unless they are part of this little program.

That is simply not true. If you look on page 23 of Senator MITCHELL's bill, you can pay a doctor anything you want. You can pay him in South Dakota a bale of hay, or in Nevada maybe they could go to one of the gaming tables for a while. You can pay. Or you can pay him in cash or check or credit card. There is no limitation what you can do doctor/patient.

So I think that is a myth we need to get rid of here. The fact is it is not going to take away the choice factor.

Mr. DASCHLE. If the Senator will yield, there is a point that oftentimes is raised about fines that are generated as a result of misusing the system. I think there is a significant degree of confusion about what it is we are talking about with regard to these fines.

There are fines directly written into the bills. Those fines are very easily understood if you read the bill as you should. Those fines simply go to the concern raised on countless occasions before the Finance Committee about the tremendous amount of fraud that currently exists in the system; $70 billion of fraud today.

So clearly if we are going to rid ourselves of that fraud, there has to be a penalty associated with those who are perpetrating fraud.

This is what this bill does. It addresses, in ways that we do not do in the current system, effective methods of fraud prevention. I hope that too is something we can address in the debate in the future?

Mr. REID. I appreciate my friend from South Dakota.

I would also like to say two other things I think are important. In Nevada—a small State populationwise, large in area—right now there are 400,000 Nevadans who have insurance that have lifetime limits; that is, they reach a certain amount they lose their insurance. So if they get a dreaded disease, they have to live in fear of losing their insurance.

And I am sure the numbers are significantly high in South Dakota and in California and in New York. The Mitchell plan would do away with lifetime limits. That is important.

I mentioned earlier, and I wanted to touch on it again, dental coverage. Do we realize how important it is, especially for young people, to be able to have their rotting teeth, their crooked teeth, taken care of? It changes people's personalities; it changes their ability to learn; it changes their whole outlook on life.

Under the Mitchell plan, if you are 22 years of age or younger, everybody can see a dentist. Is that not important? With the bill that is sponsored by the minority leader, my friend, it does not do that. There is no dental coverage. I think that is a significant difference between these two pieces of legislation.

I also suggest that one reason, in addition to Erin Dowell, that I feel we have to do something, is that in Nevada we have almost 80,000 children that will no longer go without health insurance. And preexisting conditions, in the State of Nevada, we have over 350,000 Nevadans who will no longer be denied coverage based on a preexisting condition. If you get insurance under the present system and you get sick, you do not want to leave that job, because if you go get another job they can deny you coverage because you have a bad back, because you had a heart attack, because you developed diabetes.

So, Mr. President, this legislation is important legislation. It is important because it will change not only how it deals with the Erin Dowells of the world, but it is also important how it deals with small businesses.

Why should a small business that wants to insure its employees pay 35 percent more for the same coverage that big business gives its employees? There is no reason. Why should small business have to pay 50 percent higher insurance premium rates every year than big business? There is no good reason. And that is why small businesses are, right and left, dropping their insurance.

So I hope that, as this debate develops, Mr. President, we will understand that it is individuals that we are dealing with. We want to make sure that human beings in America are taken care of when they get sick or are injured, and are not denied treatment where and when they want to be treated.

We all receive letters and we receive telephone communications about people who are sick.

Mr. President, I want to tell you about a woman who wrote me a letter saying that her husband is one of the uninsured in the State of Nevada. He is retired; too young to qualify for Medicare. As a result of his symptoms for diabetes, he tried to go to a doctor. "Nobody will take a patient who is uninsured," she writes, "especially when hundreds of dollars' worth of tests need to be taken before that doctor can arrive at a decision."

This woman writes to me saying that she could not receive treatment for her husband. Time and time again, she tried. She closes her letter by saying, "Hopefully, this letter will encourage you to see that somebody else's loved one does not have to suffer needlessly just because he does not have the money or insurance."

That is why the Mitchell bill needs to pass and the Dole bill needs to be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I thank the Senator from Nevada for his very fine statement.

Mr. PACKWOOD. Mr. President, I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized

Mr. MCCAIN. Mr. President, we learned yesterday that the American Association of Retired Persons has endorsed the Clinton-Mitchell health reform bill. This announcement should sound a trumpet of alarm to the American people, particularly to our seniors.

Mr. President, in the words of Yogi Berra, it is deja vu all over again.

History—the great predictor of the future—tells us that when it comes to determining whether a piece of legislation is best for older Americans, the position of the AARP in Washington in no way illuminates the answer.

We might remember the Medicare Catastrophic Coverage Act of 1988. That bill was conceived, written, and pushed by AARP's Washington lobbyists. As we all know, when seniors were finally privy to the practical impacts of the catastrophic bill a veritable revolt among the beneficiaries forced Congress to repeal the act.

Notwithstanding the ground-swell of opposition by seniors to the catastrophic bill when they learned what it was really all about; and notwithstanding the repudiation of the national AARP by its local chapters, including every chapter in Arizona, the organization's Washington leadership fought repeal of the mistake every step of the way in an enlightening demonstration of just how painfully out of step they are with their members. Mr. President, that is a fact.

The same indifference to the interests of their members characterizes the AARP hierarchy's lack of vision and leadership on the Social Security earnings test, which overwhelmingly the seniors of this country want to repeal and they continue to oppose.

Mr. President, the fact is, my phones are ringing off the hook from members of the AARP in Arizona. AARP's phones are ringing off the hook from outraged citizens who want to know what they purport to represent, because they are not representing the views of senior Americans, as they did not on catastrophic health care, as they do not on the repeal of the Social Security earnings test, nor do they on this issue.

Great stock is placed in where this group or that group comes down on a piece of legislation. But let us not make the mistake of confusing an association's leadership for its membership. The AARP's famous pattern of being grossly out of touch with seniors should be sobering, as should their endorsement of the Mitchell-Clinton health bill.

Mr. President, I fear that with the Clinton-Mitchell bill we are headed down the same garden path as the catastrophic bill—legislation where motives were good and intentions honorable but the views of the public were grossly miscalculated and real world outcomes were woefully ignored.

It is time for groups like AARP to put the prerogatives of the people they represent ahead of their politics.

The AARP's endorsement of the Clinton-Mitchell plan is another eerie reminder of the catastrophic experience. Let us hope we learned from the experience, and that our vision will be clearer and the outcome more enlightened.

Mr. President, I reserve the remainder of the time for the Senator from Oregon.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I yield myself some time. I will be very brief.

Mr. President, I rise to correct any possible misunderstanding that my colleagues may have about the provisions in the majority leader's proposal dealing with medical residency training.

In my opening statement, I made clear my concern about attempts to control either the number of training positions available for medical residents in this country or the distribution of those positions as between general practitioners and specialists. In my judgment, it would be an act of hubris for the U.S. Senate to presume to know what the future course of medical science will be, let alone to try to dictate that course through regulatory controls.

My concern is that while the majority leader has now deleted the specific numerical limits of his first version, there is still a clear mandate to reduce residencies by an unspecified number. On page 495 of the most recent version, it states that the "total of the respective annual numbers" of residencies "shall be reduced by a percentage determined by" the new National Council on Graduate Medical Education—for each year between 1998 and 2001; reduced over the same period in which they were stipulated to go from 134 to 110 in the earlier version.

Hence, a distinction without a difference. With or without a target of 110 percent or any other number, the purpose is clear, the statute would be straightforward: cut the number of residency training positions, and do so soon. Any such mandate to reduce medical residency positions would be an unprecedented intrusion into the science of medicine.

Morever, the newest proposal still includes specific requirements that would reduce the number of residencies in specialties other than primary care to no more than 45 percent of the total. Here, surely, we encounter social engineering at its most audacious and problematic.

I am much impressed by the analysis of this subject by Dr. Richard Cooper, who is dean of the Medical College of Wisconsin. In an article entitled "Regulation Won't Solve Our Workforce Problems," published in the medical journal The Internist in March of this year, Dr. Cooper observes that the considerations that go into determining how many primary care doctors a society needs are altogether different from those that determine how many physicians are needed in other specialties.

He states that "Primary care needs are based on demographic considerations" and that 80 to 85 primary care physicians per 100,000 population should be adequate and could be "assured if approximately 35 percent of medical graduates entered the primary care disciplines."

The need for specialists in other fields, however, is not so easily predictable "because it is so diverse"—again, I quote Dr. Cooper from a recent speech, "and because the development of the technology that underlies much of specialty medicine is so unpredictable—the appropriate size of the specialty work force is difficult to relate to any standard or proportional characteristic, such as population."

There you have it plain and simple. Primary care needs are based on demography, and specialty needs are based on science. Even if our projections with respect to population are correct—and in the near term they are very dependable now—we simply cannot predict developments in science. Who will tell you when the first breakthrough in Alzheimer's disease will come? Or AIDS? Or Parkinson's disease and such like, as others have come in the past?

Science does not proceed in predictable ways. It proceeds by insight and innovation that cannot be scripted.

We are now in the great age of medical science and it is centered here in the United States. The innovations come tumbling.

Dr. Cooper notes that artificial hip replacements became widely available in 1970, knee replacements in 1975, autologous bone marrow, liver and heart transplants in 1980. Oncology was scarcely a science until the advent of combination chemotherapy in the 1960's. You can reach out and touch those moments that changed the history of science and medicine—and they were not regulated.

Regulatory controls on specialists pose a threat of cutting off widespread access to such breakthroughs in the future. For that reason alone they are seriously ill-advised in my opinion. Moreover, in New York as elsewhere, academic health centers are located in urban areas that often have no other source of medical care. Reductions in the number of residents trained threatens access to basic as well as advanced medical care in those areas.

I reiterate my objections to these provisions. We should do everything we can to sustain the miracle of modern medicine that is found in our academic health centers and teaching hospitals. We should not tinker with matters so profound as the future of science or the academic freedom of our medical schools and teaching hospitals.

I thank the Chair.

Mr. BOREN. Will the Senator yield for a question? A comment?

Mr. MOYNIHAN. I am happy to yield.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from Oklahoma.

Mr. BOREN. Madam President, I compliment my colleague, the distinguished chairman, for the comments which he just made. I associate myself with those comments.

It would indeed be a tragedy for us to take legislative action that would curtail the progress in the field of science, progress which none of us can predict at this point. And it would be a very serious mistake.

VOL 140 PT 15 AG 10 — 11 1994 UMI

The Senator has spoken with great wisdom. I compliment him on his remarks and I associate myself with him.

Mr. MOYNIHAN. I thank my friend from Oklahoma.

Madam President, I yield 12½ minutes to the distinguished and able junior Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the chairman of the Finance Committee for yielding.

Madam President, before I give a few remarks on health care in general, I want to address the issue the Republican Senator from Arizona raised, which to me is another way of trying to scare senior citizens, much like Republicans did in the years when Medicare was brought into being.

I quoted just the other day a Senator from Nebraska, a Republican Senator in the 1960's, who said in his opposition to Medicare, "This is something the Senate is doing to the elderly, not for the elderly." Of course that was a discussion about Medicare, which is one of the most popular programs in this Nation.

I have to say it is not surprising the American Association of Retired Persons would endorse this. Look what is happening to seniors under the Mitchell bill. They get to keep Medicare exactly as they have it, exactly as they like it, and they get two new things. One thing they get is a prescription drug benefit which they desperately want and need. And second, for the first time we will have a long-term care benefit.

On a very personal note, when my mother passed away it was in a nursing home. She lost her last ounce of dignity because her last dollar that she had saved for her grandchildren went to pay that nursing home. It was very ironic that on the day my mother died, that was the day that she had given her last penny. And my mother was too prideful—too prideful—to take support from her family and she just checked out. I am convinced of that.

I said when I ran for the Senate that this had happened to me, I had seen this happen to my mother, and I did not want to ever see it happen to any other grandma or grandpa.

Frankly, I am so happy that the Senator from Massachusetts in his work, worked so hard on that issue and we do have the start of a long-term care benefit in the Mitchell plan.

So I hope when the Senator from Arizona, my friend Senator MCCAIN, gets up again that he will recognize that the fact that the AARP supports this is not such a surprise.

Mr. KENNEDY. Will the Senator yield for a brief comment?

Mrs. BOXER. I will be very happy to yield.

Mr. KENNEDY. Madam President, the Senator is describing an enormously touching, sad and all-too familiar tale of life for many of our senior citizens, because appropriate long-term care is not available. As someone who is blessed with a mother who is 104, we are doubly blessed in being able to care for her at home.

As a society, we are trying to find a way to provide more options for the elderly. Where an individual would like to stay at home and can do so with appropriate help, we should make that help available by providing home care. A second option is community-based care, which can enable people to live at home and obtain needed services in local centers. Many others will need nursing home care, and that ought to be available too. The Mitchell proposal offers many of these protections. It ensures that appropriate care will be available, without requiring senior citizens to pauperize themselves.

People wonder about these debates and whether the country is really watching. We have been talking about long-term care, and I received a wonderful communication just an hour ago from a person who has been watching the debate. It is a sheet called "Health Care Tips During Floor Debate on S. 2351." It has a picture of a little hot water bottle up here in the right front corner of the page. It is from Lou Swan of Elder Home Care, 1241 Main Street in Worcester, MA. He says:

Don't allow your colleagues to swallow the line that the Mitchell bill is a big government take-over. Families in Massachusetts are being taken-over by the high cost of health care insurance.

He says:

Filibuster is just another word for gridlock. To those who say we cannot afford health reform—gridlock is more expensive. That's a pretty good comment.

He says:

Back in 1964, some of the same anti-reform forces tried to block Medicare by saying it was socialized Medicine. Fortunately, they lost—and millions of Americans today have Medicare.

The Senator from California was commenting about her mother and talking about her dignity. Here is what Lou Swan says: "We have been waiting for 30 years for Congress to take the third step to dignity—Social Security, Medicare, long-term care. Don't let the spin-doctors extract long-term care from S. 2351," he says.

And then Lou Swan goes on to say:

Support language in the Mitchell bill which prevents providers of long-term care, like hospitals and home health agencies, from self-dealing and self-referring. Keep independent assessment and care planning for long-term care in the Mitchell bill.

That is excellent advice, and Congress ought to heed it.

Finally, Lou Swan concludes by saying, "The elderly of Massachusetts want a health care reform bill with long-term care and prescription drugs. A filibuster won't pay anyone's home care bills." He is absolutely right.

People like Lou Swan are listening to this debate. People are watching around the country, in Massachusetts and every other State. They know how important these hours of debate these votes in the Senate are going to be.

I thank the Senator for permitting me to make these comments. The Senator was sharing a very touching and very human story with the Senate and with the American people about what is really happening in rural America.

Mr. MOYNIHAN. Madam President, may I yield an additional 5 minutes to the junior Senator because we have had a very important exchange here and wanted to have that.

Mrs. BOXER. Madam President, I thank the chairman. I want to thank the Senator from Massachusetts, chairman of the Labor Committee, and say that I so well remember that in keeping my mother home, she needed 24-hour attention. It was $240 a day, and we did it as long as we could. And so our seniors out there who are listening to this debate—and not only our seniors, but the children and the grandchildren of those—should be calling our offices in droves and saying we need to support long-term care, we need to support the Mitchell bill because it is in the Mitchell bill.

In my State of California, 6 million people live without the security of health insurance—6 million people. One in four Californians under the age of 65 is uninsured; 59 percent of those without health insurance are in families headed by someone who works. So these are working families; 1.3 million are children.

My State's uninsured rate is 5 points above the national average, making my State the eighth worst among the 50 States and DC. These statistics are chilling. In 4 years, the number of uninsured in my State exploded by more than 1 million people.

So when I hear the Republican pundits, Bill Kristol to name one, say there is no health care crisis, well, Madam President, maybe there is not one for him and his friends who may well be wealthy, but for ordinary citizens in our country—and that is most of the citizens in our country—they have trouble, they have problems, they are worried that their own health insurance could be canceled at a moment's notice when they need it the most. They are worried that their young children, when they move outside of school age, will not be able to get their insurance. They are worried that if their benefits are capped and someone gets a catastrophic illness, they are out of the ball park, they are finished, they will go broke. And we have seen it again and again.

So let us put to bed this notion that we do not have a problem in America. You have to be, frankly, completely insensitive and, frankly, out of touch to say that this is not a problem.

It goes well beyond the uninsured, as I have pointed out, because those of us with insurance are walking on a tightrope. It is like Russian roulette. What is going to happen? Who is going to pull the trigger? Will my body get a disease that takes me out of the insurance pool? We have to stop this. It is un-American.

I am so proud, as Senator MOYNIHAN predicted in the last colloquy we had—I think it was last night or the night before, these days are blending—he predicted that we would vote not to delay; that we would defeat the Helms amendment, and he was right on target. We defeated the Helms amendment. I think that vote was important, although I do not know how much the press discussed it.

But I think the crunch time is coming, and I think to delay would be cowardly, to filibuster would be cowardly, and it is time to stand up and be counted on an issue we should be proud to be involved in.

Does that mean that the Mitchell bill is perfect? I do not think it is perfect. I think we can fix it. I have talked to Chairman MOYNIHAN and Chairman KENNEDY about things I think we can do to make it better. And frankly, I think we are going to make it better. I am one of those optimistic people who thinks we will make it better, but we have to begin soon to start offering those amendments and getting down to those tough votes.

I want to tell you that after listening to Harry and Louise for several months now, I decided to find out about Harry and Louise in real life. Who are these people? They are actors. They do a great job. Terrific. They get on television and they act like they are just ordinary folk and they are afraid of any change, and they scare people.

Harry and Louise in real life are very highly paid actors, and they are good. They have terrific insurance. Do you know they belong to a union, Madam President, and have terrific insurance? So what do they care if we do nothing? They are fine.

I like to think America is about more than just speaking out for things when you need it. I hope we would be more of a community. I have already shown you by telling you the problems that we face—those of us with insurance—that it really is our problem anyway. Why do you think we pay $5 or $10 for aspirin in the hospital? It does not make any sense on its face. But the reason we pay $5 or $10 in a hospital when we are insured is because there are so many uninsured Americans who are using the emergency room, it is so expensive, they do not carry their weight and we, those of us who are insured, have to carry their weight. So we need to insure as many Americans as possible. That is what the Mitchell bill tries to do.

People who quibble 95 percent, 98 percent, 96, let us face it, we are in the eighties now. If we can get to 95 percent with the Mitchell bill without any mandates, which is what that bill does, that is a huge step forward.

Would I like to get to 99? Yes. Theoretically, I would like to get to 100 percent. As I understand it, no program gets to 100 percent. With Social Security, there is an argument about whether it is 96, 97 or 98. Somebody told me it might be 99. I doubt that. But the fact is if we are getting high up into the nineties, we are doing an enormous amount for an enormous number of people.

The fact is we who have insurance are paying 30 percent more than our actual health care costs because we are carrying the burden of those uninsured.

Madam President, I want to tell you a story about when I was in the House. I was chairperson of a committee on health for the Budget Committee working under now chief of staff Leon Panetta. It was a privilege to work with him. He said, "Barbara, you go out there to the country and you find out about our health care system." This was some years ago.

What I found out is what we now all know to be true: That in America, we practice emergency-room medicine. I found a particular case in San Diego, and I will never forget it. A little child who did not get a measles vaccine, a little baby, 2 years old, no measles vaccine, gets the measles and gets very sick. The county and the city of San Diego, through their health care system, pumped $800,000 into that little child who did not get a $14 vaccine. And $800,000 later we lost the baby.

So what are we doing? We should be embracing the notion that if we invest in our children, not only is it morally right but it saves money, not condemning the notion that preventive care does not make any sense and it is too expensive. I will tell you it is the cheapest thing we can do to vaccinate those babies, and the Mitchell bill goes further. It says that children in our country will be covered.

There are a lot of people around here who talk about our children are our future, they are our best asset; without our children, where are we? We have a chance to prove it, Madam President, because the Mitchell bill covers every child and the Dole bill does not. So maybe we can stop the rhetoric.

I already talked about the fact that prescription drugs is a very important benefit for our elderly, but it is important for everyone. And in the Mitchell bill we will have a prescription drug benefit. It reminds me of another story.

In a small town in California, an elderly woman was a nurse who got very sick. She had a very complicated operation and needed $10,000 a month for her medicine. That was the difference between life and death.

The last time I saw her, she was selling off furniture in the house, and her children, whom she loved and to whom she wanted to leave her money, were having bake sales to get money for her medicine.

This is the kind of situation we have in our country—real stories about real people. So I hope, Madam President, that as we move forward, we are going to keep those people in mind. It makes so much sense for us to take people out of the shadows and bring them into the light of day and say we have a problem; it is a problem for all of us; it is a problem for our grandmas and grandpas, our moms and dads, and it is about us.

I truly think that some of the choices that families face today are barbaric. I went to a hearing with disabled children. The Senator from Massachusetts was there. The First Lady was there. There was not a dry eye in the place. We saw babies who could barely control their muscles, and we heard stories from parents who said they had to give up children because if they did not give up their children, they would go bankrupt, they would have nothing.

This is barbaric, and anyone who says we have to study more, we do not know what the problems are, simply is not alive and paying attention to life. I think the Mitchell bill is a fantastically intelligent step forward. I think we can improve it. I think we can improve it for California and for the other States. I look forward to working on it.

I close with this. Any American who is watching today, please listen for certain things. Listen for the scare tactics. Listen to the facts. Make up your own mind and let your voice be heard because we are still threatened by a filibuster, a filibuster that would mean we could not move forward on this issue, and this whole issue of health reform will languish into the next century and, who knows, the century after.

So I wish to thank the leaders on the Democratic side who have played such a positive role in this: Senator KENNEDY, Senator MOYNIHAN, the majority leader, Senator MITCHELL, Senator DASCHLE. I say to them I will be here as long as it takes, as late as it takes to be in attendance, to do what I can to help bring this to fruition. I think we will be proud when that moment comes that we send a bill to the President of the United States and we can say, when we are old and very gray, to our children and our grandchildren and our great grandchildren we did something to help the people of America.

I yield the floor, and I thank the chairman.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. May I thank the Senator from California. May I note the advantages of having on our side of the aisle someone who represents Hollywood and knows about the actors' union.

VOL
140
PT
15
AG
10
—
11
1994
UMI

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. The Senator from California is giving California a left and right body blow. First, she is going to levy a 1.75 percent tax on every local government that spends money on health premiums in California, which is all of them, the State and local governments.

Second, everyone with under 500 employees is going to be thrown into a different system. And CalPERS, as it is known, has perhaps one of the best health insurance purchasing organizations in the United States. All of the California municipalities with under 500 employees will no longer be allowed to belong. They go into a different system. And that is going to be a body blow to the California retirement system.

I thank the Chair.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I have two requests. First, I ask unanimous consent that when this morning's debate expires at 1:35, approximately, it be extended to 2 o'clock, the additional time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Madam President, I yield 10 minutes to the able Senator from Wisconsin [Mr. KOHL], followed by 10 minutes to my good friend and fellow committee member, the Senator from Oklahoma [Mr. BOREN].

Mr. KOHL. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Madam President, today our government is on trial. There is a widespread belief in America that Congress can not act when it needs to. We run the risk of confirming yet again this belief if we fail to enact health reform, that will be broadly accepted across our country.

The nation is watching, because we are addressing a problem that affects every American. They will hold us accountable for the outcome of this debate. They know that this is the most important piece of legislation we have considered in 30 years. And they know that our health system has needed reform for even longer.

On this we all agree. Whether we call it a crisis, a problem, or a catastrophe, we all agree the current health care system is too expensive, and not inclusive enough.

So why is so much of the debate about political parties and not about principles? How can we seriously discuss delay? And why does it appear that special interests and big money control this debate?

I believe the answer is that we are letting partisanship and politics get in the way of doing our job. And this only confirms people's views that we are not able to work together, in a mature and civilized way, to address the real problems of health care.

We must have bipartisanship, because without broad acceptance, reform will not be successful. Health reform touches every one of the people we are here to represent. If 100 of us can not put aside our differences, how can we develop a plan for 250 million?

We have to address Health Reform in a constructive, not a destructive, way. If we fail, the people's judgement will be severe.

This debate then is about more than health care. This is about whether we can govern.

Senator MITCHELL's bill is a good place to begin a constructive debate on health reform, because it addresses the basic problems the American people are concerned about—(1) knowing that their health insurance can never be taken away; (2) controlling costs; and (3) moving toward universal coverage.

The Mitchell bill reforms some of the worst abuses of the current health insurance system. 37,000 Wisconsinites lose their health insurance every month. While progress has been made, over 450,000 Wisconsinites still lack health insurance. Under the Mitchell bill, those who have insurance now will not lose it if they have a preexisting condition or change their job. This is what Americans want, need, and deserve.

The Mitchell bill moves toward universal coverage in a responsible way. Instead of forcing business to provide coverage, the Mitchell bill lets insurance reforms, State reforms, and market reforms work. Only if these reforms do not achieve universal coverage does this plan ask some businesses to contribute. And even then, only businesses in States that have not reached the goal of 95 percent coverage. That is an immense improvement over the President's original plan.

I believe we can make the Mitchell bill a strong, bipartisan bill—if we pay attention to what people do not want in the health reform bill.

People do not want government making their health care choices for them. Washington has an obligation to set the boundaries for a system that will produce decent, affordable, and accessible health care. But Washington should not run that system. People are frightened—I think rightly—about how a government that cannot balance its books can be expected to balance the myriad of health care choices that each individual faces.

For example, the Mitchell bill requires that all businesses with fewer than 500 employees contract with State-regulated purchasing cooperatives. I believe voluntary cooperatives—where businesses pool their purchasing power to get the best health care deals—have proven their worth. I am concerned that the Mitchell bill is moving away from these sort of voluntary choices and toward government solutions.

Second, people do not want to continue to pay ever-increasing amounts for health care. Until health care is affordable, universal coverage is only a slogan—and deficit reduction a dream. We must contain health care costs.

The Mitchell bill hampers efforts to constrain spiraling health care costs by tampering with the decisionmaking process of managed care networks. As the New York Times put it in an editorial 2 days ago, the bill would require.

* * * health plans to do business with a long list of community providers—even if they give poor treatment, or if the health plan offered better ways to treat the population. The Mitchell bill would also force health plans to hire every type of specialist [on its list] even if such services were unneeded and costly.

Do we need to hobble our chance to contain health care costs with such government intrusion, in effect picking winners and loser before the competition starts? I do not think so.

I am also concerned about the Mitchell tax on high-cost plans that might not actually tax high-cost plans. It could easily penalize plans that have kept their costs low in the past, we certainly want to avoid this.

And third, people do not want new bureaucracies, unnecessary programs, and entitlements targeted toward special interests. We fool ourselves if we believe the American people want us to create scores of new and expensive programs. This legislation is an historic opportunity to bring affordable and stable health insurance to all Americans. It should not become a Trojan Horse, hiding pet programs, bits of legislative pork, or unnecessary new entitlements.

The bill creates over 20 new entitlements in addition to the low-income subsidies. This bill ignores an important fact: until we get the deficit under control we have no business creating new entitlements.

And some of the entitlements in this bill are not essential to achieving universal coverage or containing costs. Why do we need an entitlement for schools of public health? Why do we need an entitlement for dental schools? Why do we need an entitlement for OSHA to conduct education and training? These may be remotely connected to health reform, but health reform is too important to treat that way. I think the American people expect more of us.

I think they will be even more upset about these entitlements when they find out they are partially funded with an estimated $100 tax on every family's health insurance premium. This should not be acceptable. I will fight to get this deal out of the bill.

Our country needs health reform now. I will work with the majority leader, the committee chairmen, and my colleagues in the bipartisan mainstream coalition to improve the Mitchell bill.

The way we can do it is to remember where we agree, argue about where we differ, and move together toward a health care system that provides every American with affordable and fair health care coverage. Those of us responsible for drafting this bill will all have to give up something of significance to get a bill we can all agree on.

America is watching. We can fight each other, or we can fight for our country. I think the choice is clear.

I thank the Chair.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. BOREN] is recognized.

Mr. BOREN. Madam President, I am very glad that I was in the Chamber to hear the remarks of my friend and colleague from Wisconsin. He has struck some themes that resonate with each and every Member of this Chamber on both sides of the aisle. I want to commend him for his appeal for bipartisanship.

When I go home and talk with my constituents, they say to me very bluntly:

We don't want a Democratic health care bill and we don't want a Republican health care bill. We want an American health care bill, one that is the product of cooperation from both sides of the aisle, one that represents a consensus on both sides of the aisle. We know if we have that consensus there will be a blueprint that will not be changed, a blueprint upon which we can rely and make future decisions.

Those hospitals, those who are the health care providers, those in the insurance business, and average citizens seeking to obtain health insurance coverage, all need some certainty about the rules of the game.

We are embarking upon major changes in health care for this country that will take at least a decade to carry through. The only way to stay on the right path, on the same path, so there can be certainty for the American people, is to come to a bipartisan consensus. The American people must know that the decisions we have reached will not be reversed and changed with every succeeding election.

If we have a Democratic plan, and the next election tilts toward the Republicans, there will be major changes in it. If we have a Republican plan, and the next election tilts towards the Democrats, there will be major changes in the other direction. The people in America will be left with uncertainty about where we are going.

So I want to commend the Senator from Wisconsin for his appeal to bipartisanship.

I came to this Chamber today, I must confess, with something of a heavy heart because I believe we are on the wrong path. Senator MCCAIN quoted Yogi Berra a few moments ago when he said, "deja vu all over again."

A little over a year ago, I think we made a tragic mistake in this country by passing the budget of the U.S. Government for the first time in modern memory totally along a party line vote with 51 votes in the Senate, a tie-breaking vote all from one party with all of the other party in opposition. The same happened in the House of Representatives.

What a tragedy that is for the country because, like the changes that will come in health care, the need to bring down the deficit of this country will take a long, sustained joint partnership on the part of all of the American people. While we have made some progress toward getting the deficit down, the job is far from over. The administration's own figures indicate that with the additions to the deficit that are anticipated under the budgets that we have passed, shortly into the next century we will reach the point in which all of the private savings, 100 percent of the private savings in this country, will be used just to pay the interest on the national debt.

That, Madam President, will mean that our economic growth in this country is imperiled, and our future will be subject to the decisions of investors in other countries, not in this country.

The only way we are ever going to get the deficit under control and to sustain a long-range approach is to have a bipartisan plan, one that will have the support of the vast majority of the American people in both of our political parties. And the only way, Madam President, that we are going to have health care carried through in an efficient and in an effective way is to reach a bipartisan consensus so that plan can be sustained for many years.

When I had the opportunity to study in Great Britain, I saw what happened in that country. They nationalized some of the basic industries when one of the parties got in power. When the other party got into power the next election, they denationalized the industries. When the other party won, they renationalized the industries. Then they denationalized it again. By the time it was all over, there was precious little left of the basic industries like the steel industry of that country.

If we ram a bill through this Congress—and I hope my colleagues will hear me, I pray that they will hear me, I plead with them to hear me. We have to stop this train right now and get off, go back to the drawing boards, and start on the basis of trying to get something done together.

Let us not destroy the quality of health care in this country by passing a bill along party lines, by having 51 votes and ramming it through, and then waiting until the next election and have it reversed as the political fortunes of one party or another change.

Nothing discourages me more, Madam President, than to read that the First Lady, in a press conference 2 days ago said, "I have a lot of confidence in the outcome, and, if it is a 51-vote outcome, fine." And she went on to say, "That is what we had on the budget," and it was fine then.

Madam President, it was not fine. And it will not be fine either if we have a 51-vote outcome in this situation.

Recent polling data indicates that only one out of five Americans has confidence in the Congress of the United States; one out of five. The data indicates reasons for it, and there are several reasons. They do not like the way we finance campaigns. They do not like the fact that more and more money is being poured by special interest groups into political campaigns. They do not like the fact that Congress has not reformed itself institutionally. But above all—above all—the American people say they do not have confidence in Congress because they think too many Members of Congress put party ahead of country. They say they are sick and tired of seeing Democrats and Republicans bicker with each other like children on the school ground instead of getting together to work together as Americans. And at the very moment that more Americans now consider themselves to be independent, not firmly aligned with one party or another, the U.S. Congress becomes more and more and more polarized on a party line basis.

Madam President, I will not be part of that process. I wish I could stand here in the middle, in the center of this aisle to make this speech and to share these thoughts with my colleagues because I plead; let us move across this aisle and work with each other to do something.

I can feel what is happening here. I feel it. I felt it on the budget and I feel it now. People are saying, "They are dividing now on party lines." We are saying, "We have to get together to make sure our team wins." Our majority leader has presented a bill; our President has asked that it be passed, and therefore those of us on our side of the aisle must get together on our team and make sure that our team wins.

Madam President, I do not say what I have just said out of any disrespect to any Senator, particularly the majority leader. He has a very difficult task. If you were to ask me to name five Members of this body for whom I have the greatest personal admiration and respect, the majority leader of the U.S. Senate would be on that list. I have enormous respect for him and his personal integrity.

But, with all due respect, my duty is not to help the majority leader pass a bill or to help the administration pass

VOL
140
PT
15
AG
10
—
11
1994
UMI

a bill. It is to make sure that this is the right product for the American people.

I talked to one of my constituents last night, and he said, "Do you know what it sounds like to me when I tune in to the radio or watch the television? You people are working yourselves into a mindset that we have to have a bill, saying we have to pass something, and if we do not pass something, we will have failed." He said, "I hope you will stop and think what the people back home want you to do is not pass something; they want you to take an intelligent step toward health care reform for the American people."

Let me say, with all due respect to some of my colleagues on the other side of the aisle, who feel this is a chance to hand the President another defeat if they can stop anything from happening in the health care field, that is not what the American people want, either. It is not about embracing the President, and it is not about embarrassing the President. It is about getting together—getting together to write a health care bill that will work.

Madam President, with all due respect, I do not believe that the proposal now before us will work. I cannot support it, nor will I be the 51st vote on any bill or the 50th vote on any bill because, as a matter of principle, I believe it is a serious mistake.

Madam President, I do not think this approach is going to work. This bill sets up employer mandates in the year 2002. We do not know where we will be in 2002. Let us be honest. We have so little experience in the health care field in terms of the impact and unintended consequences that can flow from any piece of major legislation we pass that we have no idea where this country will stand in the year 2002, or what it would be wise for us to do at that time.

Why tie our hands in the future? Why pass a bill that sets up 13 new Federal boards and commissions and puts more regulatory burdens on the States, as well? Why pass a bill that will increase the amount of litigation by dramatically increasing the rights of people to press their claims in legal forums? Why pass a bill that does not have an efficient and effective standby mechanism to make sure costs are brought under control if, in fact, the costs exceed our estimates?

Madam President, the American people are way ahead of us. They know that the Government is notoriously bad when it comes to estimating what things are going to cost. They know that the Government of the United States does not have a good track record in running huge Government programs. Therefore, Madam President, what I think the American people want us to do is, first, get together. I wish the President would suspend this debate and call the leadership of both the Republican and Democratic parties together and say: Let us find those areas in which there is agreement. I think we can get broad agreement on insurance reform to make sure people who have preexisting medical conditions can get health insurance; make sure those people will still have coverage when they change jobs or lose jobs; provide subsidies for low-income people to help them purchase insurance; provide pooling for small businesses to get their costs down; provide tax credits for the self-employed to make sure more of them get coverage. These are significant first steps. I believe we can get 70 or 80 votes for that package of reforms.

Let us stop this train. Let us stop this mistake. Let us stop choosing up sides and asking "Are you a Democrat or Republican?" Let us be Americans, and let us find out what we can agree about. And then let us take a reasonable, important major step; and then 2 or 3 years later, let us see where we are and see how much it costs. Let us see what we ought to do next and take the second step together—as Americans.

Let us not try to ram something through on a party-line basis, with provisions to take effect in the year 2002, when we do not know what is going to be happening in this country or how much this program will have cost. Let us not do it. Let us go back to the boards. Let us prove once and for all that we can surprise the American people by having as much common sense in the Senate of the United States as they have back at the grassroots. We know we should work together, we know we should start on those things upon which we can agree. Instead of trying to revolutionize something all at once that we do not know much about, we can take a major and important step toward reform, cover more people, and take care of the glaring abuses. Then, let us evaluate where we are.

I plead with my colleagues, let us go back to the boards before we try to ram this through.

Mr. MOYNIHAN. Madam President, I would like to say to the Senator from Oklahoma, on a bipartisan note, and inform the Chamber, that even as he was speaking about bipartisanship, the House of Representatives, on a rollcall vote, was unanimously adopting the proposal for an independent Social Security Administration, which Senator PACKWOOD and I proposed on this floor about 3 weeks ago. After 15 years of debate, that is done, and well done. Did the Senator from Oregon wish to say something?

Mr. PACKWOOD. Madam President, I would like to add that the Senator is very kind to say "Senator PACKWOOD" and him, but no one deserves greater credit for that, and no one has worked longer for this time, than the chairman of the Finance Committee—even before he was chairman. I take my hat off to him and congratulate him.

Mr. MOYNIHAN. I thank the Senator.

I yield 10 minutes to the Senator from Nebraska, Mr. KERREY.

The PRESIDING OFFICER. The Chair advises the Senator that there are 18 seconds remaining.

Mr. PACKWOOD. I have no objection to extending the time, if we can extend it equally on each side.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the time be extended until 2:15.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Where does that leave us? How much time do we have left now?

The PRESIDING OFFICER. The Senator from Oregon controls approximately 13 minutes.

Mr. PACKWOOD. I will get half of the time after 2 o'clock, then?

The PRESIDING OFFICER. Yes.

The Senator from Nebraska is recognized.

Mr. KERREY. I thank my friend, the chairman of the Finance Committee.

Madam President, following on the remarks made by the distinguished Senator from Oklahoma in an appeal for a bipartisan bill, I would like to describe what I think are ways for us to close the differences between the Republicans and the Democrats on this very important piece of legislation.

I will begin with an observation that two people who are apparently a long way apart—at least, I think observers would say that we are a long way apart on this issue of health care—are much closer than what meets the eye.

In this case, it is the Republican leader, Senator DOLE, and I who share a very similar experience. His is a bit more visible than mine. Fully dressed, you can hardly tell that I have been the recipient of health care that saved my life, and without which I would not be here today—which might trouble some in this country. Nonetheless, it is important to note that similarity.

I have read Senator DOLE's bill. It has the name of the Senator from Oregon on it. It is S. 2374. Unlike some who have urged me to say it is a sham, I do not believe it is a sham. I see principles in this bill that are similar to principles that I have, as well. Indeed, I think it is quite fair to say that the mainstream group has worked very closely with Majority Leader MITCHELL, the distinguished Senator from New York, and the distinguished Senator from Massachusetts, in trying to fashion an amendment that would strike many of the Government provisions that have been identified so eloquently—and sometimes, I might say, a bit preposterously by those who would like to describe the Mitchell bill as a "Government takeover" of health care.

I note with some pride that yesterday's speech by the distinguished Senator from Rhode Island, Senator CHAFEE, identified 10 areas where he is prepared to make changes where he wants changes made to my bill. And I noted with some considerable excitement the distinguished Senator from Massachusetts immediately went and spoke for a considerable period of time.

My understanding is there is a possibility of agreement between those two distinguished Senators, apparently of opposite parties and apparently of opposite views.

Apparently as well, they are preparing to resolve the conflicts that they have about the Mitchell bill. If we can resolve those conflicts, we will have taken a very big step forward. We would have taken a lot of the Government intrusion out of this thing, and perhaps we can come to the floor and talk about some other things, some other differences that we have with one another.

I suspect that the distinguished Senator from Kansas, the Republican leader, and representing the good State of Kansas, looks in Kansas and sees the same sort of things or similar sorts of problems that I see in Nebraska. There is a serious problem with preexisting conditions. The distinguished Senator from Kansas, the Republican leader, and the Republicans—I believe there are 40 Republicans, are there not, on this bill S. 2374? Could the distinguished Senator verify that?

Mr. PACKWOOD. There are 39.

Mr. KERREY. There are 39 Republicans.

I would point out to my colleagues that the last time I got on a Republican bill, Senator CHAFEE's bill, there were 20-some Members on that bill. And I hope the same fate does not occur on this occasion. The last time I got on a Republican bill, Senator DOLE got off it the next day. I hope that does not happen in this case. Indeed, I do not think it will.

We are in the end game here. We know there is a problem. Senator DOLE does not come to the Senator and say there is no problem. He sees a problem with preexisting conditions. He sees a serious problem with cost. He sees a serious problem with regulation, a serious problem with insecurity that exists today in Kansas, as it does in Nebraska, with working families not able to pay the bills.

This bill, S. 2374, begins with the premise that we are prepared to subsidize people. Senator DOLE and I do not disagree on that. We do not disagree that there are times when we have to pass the collective hatch through our tax system or whatever system we want to use, when there are people who cannot afford to pay the bills.

There is a difference between how far we go between Senator MITCHELL and Senator DOLE, but we have to sit down and agree how we are going to settle that.

By the way, the problem here is not ideological so that citizens of the United States understand. This is not an ideological problem. When a man or woman tells you very often that the issue is a principle, it typically is money. That is what is going on here. It is a money problem, Madam President.

From last year to this year, the Federal Government spent $38 billion more on Federal spending on health care, $38 billion more. We spent $318 billion this year, and we spent about $280 billion last year. That is a substantial increase, I would say, indeed. It leaves us with a great deal of difficulty. It leaves us with a big problem.

That is when Senator DOLE and I have agreed and the distinguished Senator from Oregon and I have agreed that we are prepared to subsidize people. We do not have much money to provide that subsidy. We are a little short of cash, and the problem here, it seems to me, is a lot smaller than meets the eye.

I have the bill marked up with many other problems that I have with this legislation—legitimate differences. I do not come and say that the distinguished Senator from Oregon has introduced a sham bill. I am not going to stack up a chart back here showing the complexity of this thing, the difficulty of understanding. This bill is 614 pages long.

I would suggest the Senator get a table of contents, by the way. It is not easy to read. The table of contents will add a few pages, I know, and we are all trying to keep it as small as possible. For those of us trying to understand, legitimately trying to bridge the differences, we need the table of contents.

I do not want to get the Senator in trouble having to introduce a new bill, and that sort of thing. It would help to try to figure it out.

This piece of legislation is not a sham proposal. It is, in my judgment, up to us as representatives of the people to say we know there is a problem in the United States with health care. We see it. We all see that there are people that right now cannot afford to pay the bills and live a radically different life than all of us do in this Senate.

Senator DOLE and I understand what it is like to have high quality health care there when you need it. We know it. Our deductible is somewhat higher than most people's deductibles for health care. But we know how important it is to have it there. We agree on that as a foundation.

The principles I believe that have guided the writing of S. 2374 are principles that I myself hold dear. My hope is that this debate now will not be a debate where people come down with charts and show how terrible the other person's proposal is and make a list of things that are terrible about what is in the other person's proposal.

Now is the time, Madam President, on behalf of all those American people who want us to pass legislation to fix those things that are broken in an otherwise excellent health care system, on behalf of all those Americans who want us to come together and act, now is the time not to come and exaggerate the proposal of someone else but to come and say—as I believe the distinguished Senator from Kansas is first and foremost a patriot. He is a patriot before he is a Republican. I have seen him lay aside his party concerns for his concerns for this Nation on many occasions. And I believe sincerely and genuinely that he is prepared to do it again now.

I intend to participate not only with the distinguished Senator from Kansas but with other Members from this body who see a problem in this country and are urgently prepared to work to try to solve it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Madam President, may I just express my gratitude for those noble words from the Senator from Nebraska in the U.S. Senate. They have the capacity to change the course of this debate, and I hope they will do so.

Mr. PACKWOOD. Madam President, I add that based upon that speech, I will personally handwrite a table of contents.

Mr. MOYNIHAN. A table of contents.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. PACKWOOD. I ask for another 20 minutes.

Mr. MOYNIHAN. Madam President, I ask unanimous consent for an additional 20 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Madam President, I yield 10 of those minutes to the Senator from Rhode Island, the distinguished chairman.

Mr. PELL. I thank the Senator.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Madam President, never in my years in the Senate has a moment arrived so full of promise and opportunity. In the next few weeks, we will collectively make history. But whether the history we make will show that we took on the special interests and made our Nation's health care system work for all our people, or whether it will show that we failed to rise to the challenge of leadership that we were elected to assume—is yet to be decided. And though our thoughts and views during this debate may be reported by the media largely through 30-second sound bites, the history books will record what we really do, and will—without the editing of modern technology—reveal the truth of whether we were consistent or hypocritical,

VOL
140
PT
15
AG
10
11
1994
UMI

helpful or obstructionist, altruistic or mired in the greed of the status quo.

Madam President, as I have said before, health care reform is an issue whose time has finally come. Honest debate is welcome, but delay and obstruction for political or grandstanding purposes is an obstruction to the American people and should not be tolerated. Because Madam President, while others have a political agenda for delay, I—and I hope many of my colleagues—have an agenda for action for the millions of good people who have waited too long for us to act.

Some of these people are people whom we know. Judging by statistics alone, every American surely knows someone who does not have health insurance. With 37 million uninsured people in a country of 250 million people, this means that one out of every six people has no health insurance. So the next time you go to the supermarket, or stop at the gas station, or walk in the park, or go to a shopping mall, remember that one of every six people you see may not be able to go to a doctor when they are sick. They do not have an insurance card to present to the desk when they need to go to a hospital or buy a prescription drug. They often cannot get early preventive care, and many of them wait so long for care that—when they do seek care—they need emergency care. These are people who worry every day that they might get sick, or injured, or that their children might get sick or injured. Most of these people are employed, or are the children or spouses of people who work, yet they are often a paycheck away from financial disaster should an illness or injury occur.

Madam President, when we begin to think about who has no health insurance coverage, we realize that this is a topic that simply does not come up outside of two very specific and limited settings—a doctor's office or hospital when the discussion turns to billing, and during the debate on national health care reform. Who goes to a summer cookout, or a family gathering, or out to dinner or a movie, and mentions that they do not have health insurance? It is something that people do not discuss; it is a private—and for many people—a painful matter.

So it did not come entirely as a surprise to me to learn from a member of my own staff—a bright and capable member of my staff—that he just discovered that his own mother does not have health insurance. His parents are upstanding citizens who have played by the rules. His father worked for many years and then retired. He has health insurance. But the family cannot afford coverage for the mother, a woman in her fifties who knows she should be getting regular medical care but who lives on a limited income and has difficult choices to make. This woman is a Rhode Islander who has raised healthy, successful children and contributed to her community in many ways. Why should she have to fear what will happen to her and her family if she gets sick? Why should she have to fear that she will lose her home if she cannot pay her medical bills? Why should she fear that she could lose her home—as another member of her family already has—in order to pay for an operation that she needed? How can this happen in a society as rich and generous and compassionate as ours? Something is wrong with a system that fails to protect these Rhode Islanders, and the millions of people like her all across the Nation.

During this debate, we will hear much about the health and vitality of American business. I am second to no one in wanting to create an economic climate in which our industries can thrive. But I urge my colleagues—and the millions of Americans who are watching or tuning in to this debate—to remember that there is a difference between advocacy and fact—that there is a wide gap between profits and bankruptcy—and that the business community is very much divided on the issue of national health reform. A very wise Rhode Islander named Larry LaTour—whom I have come to know and respect in the last 9 months and who has become an eloquent spokesman for many business-people—illustrated this point very well in a letter he wrote to me last September, and from which I quote:

> DEAR SENATOR PELL: Being a member of the NFIB [National Federation of Independent Business], I am periodically urged to write and express my opinion on the various issues that affect small business. This month is no different as I have been requested to write and take an adverse position on President Clinton's proposed health care reform program. I certainly cannot speak for the majority of NFIB members. However, I am sure that there are many small business owners who favor mandatory employer-backed health coverage as does L&G Engineering. It is moral, ethical, humane, and practical. By passing the mandate, you will help level the playing fleld.

So, Madam President, as we debate health care reform, let us forget about Harry and Louise, who are actors hired by the Health Insurance Association of America to advertise their viewpoint, and let us think about those two Rhode Island mothers without health insurance, and Larry LaTour, the Rhode Island businessman who does provide health insurance. Let us focus this debate on real people who have real problems and real fears of American families. And I urge every American to listen carefully to this debate, to look beyond the flowery words of their Senators and see if their votes match the positions they espouse. If they do, we may soon see sensible, quality health care reform legislation come to be.

I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I thank the distinguished and learned chairman of the Committee on Foreign Relations, my friend from Rhode Island.

Mr. President, I believe our time has expired.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator has 2 minutes and 44 seconds.

Mr. MOYNIHAN. I yield those 2 minutes to the distinguished gracious Senator from Illinois, whose time was cut short because she had to preside over the Senate on an occasion when she was about to address the Senate.

I want to congratulate her on the birthday of her son. I believe she would like to speak to him in her remarks.

Ms. MOSELEY-BRAUN. I thank the Senator from New York very much, and the Senator from Oregon, as well.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

HAPPY BIRTHDAY MATT

Ms. MOSELEY-BRAUN. Mr. President, I had prepared to deliver a speech this afternoon. I know that we will have ample opportunity, given the length and the importance of the health care debate, and so I will file my statement for today and deliver a speech on this issue at a later time.

But I did want to take this special opportunity.

Unfortunately, I am here doing my job in Washington, but my son is 17 years old today. He is in Chicago and it is his birthday. I just wanted say happy birthday, Matt.

I thank the chairman again.

Mr. MOYNIHAN. And we will all say happy birthday. Let it be so ordered.

Mr. President, I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, we are in the midst of a historic debate in Congress this summer.

Many believed that this time would never come. The naysayers and those who believe in the status quo have made the road to reform a difficult one.

Many continue to say that we need to go slow, take our time and not rush congressional consideration.

I disagree—the Finance and Labor Committees have held over 100 hearings on health care reform and as Senator MITCHELL said the other day:

> President Truman proposed reform in the 1940's; President Nixon proposed it in the 1970's and I don't think 50 years is rushing anything.

I do agree that reforming our Nation's health care system is an enormous and complex task. But we were elected to tackle complex tasks and we have a job to do.

One of the reasons so many new faces were elected to Congress in 1992, was because the American people were tired of the status quo and wanted change.

We continually hear that Americans are happy with their health care and do not want reform.

And this morning we have heard so many horror stories of the Mitchell plan there is no wonder. What I would say, however, is that the Republicans have diverted back to a past-failed policy and are now engaged in the 1,000 points of fright.

Let me start with some facts.

I have always said that America has the best health care system in the world if you can afford it.

For far too many, there is a deepening anxiety about the cost and availability of health care among the middle class.

With good reason, each year fewer and fewer Americans can afford health care coverage. Since 1988 the number of uninsured has increased steadily each year from 33.9 to 37.5 million in 1992.

I recently received a letter from a constituent that described her family's experience in obtaining insurance. The Pascals are self-employed with three healthy children. Over the past 8 years they have been forced to change insurance carriers six times. The first company increased the rates on their individual family policy 600 percent in a 5-year period. Finding the cost of that plan prohibitive, the Pascals joined a group plan to lower their costs. Unfortunately, the group was dropped because one member became sick. The family then moved back to an individual policy, but due to a 65-percent rate increase after the first year, could no longer afford it. In desperation the family settled on a catastrophic coverage plan—no preventive care; a $5,000 deductible; and limits on providers. The Pascals can no longer take their children to their pediatrician of 12 years.

This family has done everything right. They've even managed not to get sick, but affordable comprehensive coverage is still beyond their reach. Clearly, our system should not work this way. Not for the self-employed and not for the employed with employer-provided coverage.

Statistics indicate, however, that over half of employed Americans who receive coverage through their employer, have had their health benefits cut back or have had their employee contribution increased during the last 2 years.

No wonder a poll taken by the Los Angeles Times last week showed that 60 percent of the respondents were worried about losing their current coverage.

Some say, "if it ain't broke don't fix it." Those are the folks who benefit from the status quo.

There are problems in the system and cosmetic surgery won't do the trick. Our current health care system is simply unaffordable.

Millions of Americans like the Pascal family cannot afford it, our Government cannot afford it and our Nation cannot afford it.

Last year we spent $1 out of every $7 on health care. That amounts to 14.3 percent of GDP and a total of $898 billion.

Health care costs are rising at twice the rate of inflation.

Medicare and Medicaid, the two Federal programs financed in part by the Federal Government eat up nearly one-fourth of the entire Federal budget.

Since 1980 Medicare has increased from $32 to $131 billion in 1993, an average annual growth rate of 11.5 percent.

Not only has Medicaid become one of the fastest growing components of the Federal Government, many State budgets, including my home State of Illinois are being crippled by rising Medicaid costs.

These exploding governmental health care system costs not only add to government deficits and debt, they make government less able to meet other important social needs. Take education for example. Last year, for the very first time, State governments spent more on Medicaid than they spent on education.

If you want U.S. businesses to be able to compete against their foreign competitors, health care reform is essential. If you want to see real deficit reduction, health care reform is essential.

And finally, if you want to find the money to deal with the problems plaguing our cities—education, welfare, job training, and crime—health care reform is essential.

What this means is that every American has an interest in fundamental comprehensive reform of our health care system.

Curing our sick health care system is the biggest challenge of this decade, maybe even this century. It is time to act.

Now it is time to take a look at the entire system and take a comprehensive approach.

The Congress has a window of opportunity to move forward in an area that has a profound impact on each and every American and the economy of this Nation.

This morning the Republicans have spent the majority of their time bashing the Mitchell bill, but very few have even mentioned the plan that they advocate.

As I see it we have two options. One is to use the Mitchell bill as a base for building health care security for the American people, the other is to use the Dole plan signed onto by the majority of the Republicans in this body.

I have believed from the beginning that in order to be successful health care reform must include four essential elements: universal coverage; choice; high quality care; and, cost containment.

Let us take a moment to contrast the two plans:

The Mitchell bill puts us on the road toward universal coverage. According to the CBO, the Mitchell bill will reach 95 percent coverage by 1997 and the employer-mandate provision will result in universal coverage by 2002.

The Dole bill does not seek to achieve universal coverage and will leave 30 million Americans uninsured.

The Mitchell plan significantly improves and expands coverage for millions of Americans: All children and pregnant women up to 300 percent—$44,000—of the poverty level would be covered; preexisting conditions exclusions will be eliminated; coverage would be portable; insurance discrimination based on age and geographic location will be eliminated.

Under the Dole bill children will not be guaranteed coverage, insurance discrimination will continue, including preexisting condition exclusions, and coverage will only be portable if you can pay 100 percent of the premium. The Mitchell bill also guarantees choice.

Every American will have a choice of at least three private insurance plans—fee for service, HMO, point of service plan.

The Federal Employees Health Benefits Program [FEHBP], available now to the Congress and Federal employees, will be available to many more Americans.

High quality care will be maintained. Funds will be made available through an assessment on premiums for graduate medical education and for biomedical research—NIH Trust Fund—and health care services research.

A National Quality Council will be established to set national quality goals/standards and performance standards for health plans.

Consumer information and advocacy centers will be created to disseminate information, hear grievances, and provide consumer education.

Health plans must ensure that enrollees have access to specialty care.

The Dole plan does not even address the quality issue.

The Mitchell plan has included cost containment measures.

The Dole plan relies on capping Medicaid, and reducing Medicare reimbursement to doctors and hospitals.

Medicare already pays providers less than the cost of care. If these cuts were to go into effect, Illinois would see a reduction of $1.28 billion in reimbursement to Illinois providers in the first 5 years of the Dole plan.

There is no question that the Mitchell bill is a better alternative.

Many wonder what this plan means for real people. Some on the other side of the aisle would have you believe that the bill would create a bureaucratic maze that bankrupts the American people.

VOL
140
PT
15
AG
10
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11
1994
UMI

Let me, for a moment, add a real life example to the mix—the Pascal family I mentioned earlier. The Mitchell bill would vastly improve their coverage.

The Pascal family could join a health insurance purchasing cooperative or HIPC. They would be a part of a large pool, pay much less in premiums than they do now, and could not be dropped because some members of the pool became sick.

They could choose from at least three types of health plans. They could even choose to enter the FEHBP program, available to Congress. All of their choices would offer comprehensive care.

They could choose a plan that allows them to pick their favorite providers.

The Mitchell plan will also afford them what so many Americans lack right now—peace of mind. No longer would they worry about their ability to afford care if one of their children becomes sick.

An analysis of the Dole plan reported in Newsweek last week found that premiums would probably increase for the middle class under the Dole plan. For the Pascal family that would mean higher premiums, no more choice than they have now, and no health care security.

The Mitchell plan takes care of middle-class Americans like the Pascal family. They, and millions of other Americans, cannot wait for reform. We must act now.

The choice is clear—if you want the status quo, to pay more for health care, leave millions of uninsured, and continue the upward spiral of our health care costs, choose the Dole plan.

For an alternative that increases coverage, improves the quality of health care, and affords Americans choice, then you start with the Mitchell bill.

There will be changes to the Mitchell bill and there are several areas that I believe can be strengthened.

For the next few weeks I will be working with my colleagues to ensure that the bill passed by the Senate is the best bill possible.

The time to act is now. Let's not squander the chance.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

The Senator from Oregon has 29½ minutes remaining.

Mr. PACKWOOD. I thank the Chair.

Mr. President, one of the joys of dealing with this bill is the perpetual surprises that you get, not just day to day, but from hour to hour.

I noticed when the distinguished Senator from South Dakota was speaking earlier, he had a chart, or maybe it was the Senator from Massachusetts, as to how much you would pay under the Dole bill and how much you would pay under the Mitchell bill.

And I noted that they subsidized individuals, the Mitchell bill, up to 300 percent of poverty. Now that was news to me; it was the first time I knew that. That figure at one time was 240 percent, but only for certain categories of children; 200 percent for others.

That is one of the difficulties of trying to keep track of what is going on.

I mentioned earlier the shifting of the bills. If they were smaller, I would say shifting them around under the shells.

But this does not fit under any normal shell. This is the bill I referred to earlier as Lethal Weapon 1, which was introduced last week for the first time. We have had this in our possession now—1,400 pages—we have had it about a week, give or take a few hours. It contained lots of things we had never seen before. In theory, we are still on the Finance Committee bill. As a matter of fact, we seem to be on the majority leader's bill.

But the night before last, we received this. It has no number on it yet. It has been printed. It has not been introduced. It is what I call Lethal Weapon 2. And there are things in this different from Lethal Weapon 1.

And I am now told that there is going to be another bill. I do not know if it will be as big as that, with numerous changes, things I have discovered today are going to be dropped out of the bill, or maybe added to the bill.

I understand now that Congressman GEPHARDT has added back into the Gephardt bill the retiree health insurance provision, where the Federal Government is going to pick up 75 or 80 percent of all the retirement health costs of people age 55 and up who have retired. That was out of the bill. Now it is back in. Maybe it is back in the Clinton-Mitchell bill. I do not know.

So as I address myself to a particular subject at the moment, I apologize to the Chair if it is not in the bill we are finally going to consider. All I can do is go on what we do have and, at the moment, I am going to have to go on the first bill, Lethal Weapon 1.

I want to talk about a subject that is called essential community providers. I also call it a shirttail relative to any willing provider. Any willing provider really applies to doctors or individuals who provide health services. Essential community providers essentially relates to things—clinics, Indian health service, something like that.

Now here is the situation. This country is moving fast toward what we call managed care. We have had it for years in the West. It is much more prevalent in the West than it is in the East.

Managed care is a simple concept. It is most easily illustrated by the Kaiser Health Plan in the West.

Under the Kaiser Health Plan and managed care, they make a deal with you. They make a contract with you.

They say, "Mr. Jones, Ms. Smith, for a fixed dollar amount, we will provide you all of your health care. And it is up to us to live up to"—us, Kaiser health clinic—"up to us to live within the amount of money we said we'll charge you."

Let us say they are going to charge you $250 a month. And if you do not go this month, do not go to them at all, you still pay them $250. If you do not go next month, you still pay them $250.

If you do not go for a year, you pay them $3,000. Now, the second year you have a bad auto accident. You are in the Kaiser hospital for 6 or 7 days and you run up $10,000 or $12,000 in bills and you are still paying them $3,000 a year.

In exchange, you have to use Kaiser facilities, the Kaiser doctors, the Kaiser hospital, because that is the way they can attempt to get a long medical history of you. You are using them all the time. They have your records. Their doctors have treated you. They know if you have any adverse reactions to prescriptions. They have an entire medical history, and they are very good at working at preventive health.

I remember years ago, this was 35 years ago, when I first became familiar with Kaiser, even then they were very good about trying to get all the people enrolled to do annual physicals and everything they could to prevent hospitalization. They once admitted in a hearing in the Oregon legislature when I was in the legislature 30 years ago that they really were not any better than anybody else at actual hospital costs when you were finally hospitalized. What they were better at is keeping you from being hospitalized. And we all know it is infinitely cheaper to treat somebody out of a hospital than in a hospital.

We all know the existing practice, good preventive care, annual physicals and catch things early—it is cheaper catching things like that. They were good. They are good. They were the forerunner. But now managed care is running rampant throughout this country, and I use that as a good term. I will use Blue Cross/Blue Shield in Oregon as an example. We have 2.9 million people in Oregon. Blue Cross/Blue Shield insures 1.1 million. That is a large carrier in a State of 2.9 million.

Ten years ago Blue Cross/Blue Shield had no managed care. Everything was what we called indemnity insurance. You bought a policy from Blue Cross. There were some deductibles, maybe you paid the first $200, there were some copayments—if the doctors visit was $25 you paid $2 or $3 or $5 of it and they paid a certain amount over a certain amount—but they reimbursed the doctors and the hospitals on basically a cost basis. What did it cost you to do the operation? $20,000. All right, here is your $20,000. There were no efforts to control costs. You were just reimbursed on cost.

It is not unlike what the Federal Government did during World War II when we were in an urgent situation. We needed to build ships. We needed to build tanks. We just told industry, "Go ahead, do not worry about the cost; we will reimburse you on a cost-plus basis. Get it done."

It is no wonder that health costs went absolutely through the roof. If there was no restraint on what you charged and if the insurance company paid what you charged and the individual was not paying it—who cared? Until finally medical costs and insurance premiums got so high that people began to care. Insurance companies began to care and we started through this managed care process.

I said 10 years ago Blue Cross/Blue Shield in Oregon had zero managed care. It was all indemnity, it was all cost reimbursement. Today Blue Cross/Blue Shield in Oregon has 62 percent of its enrollees in managed care. They expect that to be 90 percent by 1998.

Remember what I said the tradeoff is, though, for managed care. In exchange for a guarantee that all of your expenses, all of your medical costs will be covered barring very minor exceptions, you agree to use the facilities of Kaiser, in the case of Kaiser. They actually have hospitals and they actually have doctors they employ. In the case of insurance companies, they normally contract with a certain group of doctors or they will contract with a certain hospital. They do not actually run the hospital themselves, the insurance company, but they contract for it and say, "We have 100,000 enrollees on average, Mr. or Ms. Hospital Administration. Out of 100,000 we figure that is 5,000 patient days a year. Your hospital has been charging $600 a day. We will guarantee you 5,000 patient days a year but we are not going to pay you $600, we will pay you $400, and we will pay it whether we send you 4,000 people or 6,000 people, but we will pay you up front, quarterly, and you will be guaranteed that amount of money."

The hospital administrator thinks to itself, "We are running 30 percent uncollectibles and a third of our beds are empty. Why not? $400 is better than nothing and it is payment 100 percent guaranteed."

So the hospital and the doctors bargain with the insurance company. That is a form of managed care. But the key to making it work is that the Kaisers of the world, or the insurance companies of the world, have control over the delivery of the care so they can manage it. That is where the name comes from.

Now we come down to this issue of any willing provider, or essential community providers. Any willing providers being doctors and nurses and what not. Essential community providers being the hospitals or the clinics.

Managed care has become so successful and so prevalent in this country that many doctors and many hospitals now object if they are left out of the reimbursement system from some particular insurance company. They want to be inside. They want to be able to say, "I am a willing provider. If you are only reimbursing $800 for an appendectomy instead of $1,000, I will do it for $800 and I demand—because I am willing to do it for $800, you have to let me in your system.

The insurance company says, "We do not need any more doctors in the system, we have all we need to do appendectomies. We know who they are, we have a long history on them, and we think they are qualified and we do not need any more people."

So the doctors ask the legislatures and ask the Congresses to pass any willing provider laws that say they have to be let in.

Think to yourself, in a situation which would be more common to all of us, what would you do in this situation? You go out and buy a new dishwasher and with the dishwasher comes a little piece of paper that says, "If you would like us to service this dishwasher for the next 3 years or 5 years, it will cost you $30 a year. If you want to sign this contract send it back with your purchase, we will take care of all your repairs for nothing." So you sign it and send it back to General Electric dishwasher.

The only people who will repair it for nothing are the people that GE has contracted with. There may be 1,000 repair shops in the area that would be willing to repair your dishwasher, but GE has said we are going to use this 30 and, Mr. or Ms. Jones, if you bought our dishwasher and bought our service contract, here are the 30 you can use. The other 970 say, "We would like to be in on the deal also," and GE says, "We do not need 1,000 people to repair it, we need 30 good ones we can keep track of."

Under the equivalent of an any willing provider statute, all the other 970 repair shops could be let in. Now GE has to keep track of 1,000 of them and decide which ones they want to use. That is in essence the concept of any willing provider.

Picture the same thing again with car repairs. You buy your car, get a service contract on it, but you have to get it repaired where the person you contract with, the company you contract with, says to get it repaired. You do not have to sign up with them, but if you do, that is the trade-off.

Now we come to this bill, at least the one that is before us—this is not even before us yet, this one that was given to us last week. It is not before us technically, but we are discussing it as if it were. We take this bill and we come to a particular section—this is one of the reasons it is so hard to figure out what the bill means—section 1462: Categories of Providers Automatically Certified.

(a) IN GENERAL.—The categories of providers and organizations, including subrecipients, specified in this subsection are as follows:

(1) CATEGORY 1 ENTITIES.—The following entities shall be considered category 1 entities:

(A) Covered entities as defined in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)), except that subsections (a)(4)(L)(ii) and (a)(7) of such section shall not apply.

That tells you a lot. It does not tell you anything. That is why it is hard to go through this bill. So let me tell you what that section means.

Every single health plan in the country—every Blue Cross plan, every Blue Shield plan, every Metropolitan Life, every Kaiser plan, every self-insured company that insures themselves, will have to contract for the provision of services with an absolute litany of organizations. They must contract with them. They can no longer say, "If you sign up with us, as Kaiser, and you pay us $250 a month and we take care of all of your needs, but you must come to us." You can no longer say that.

Now, if you contract to provide coverage, here are the additional organizations that you have to allow, in essence, to be willing providers:

One, federally qualified health centers;

Two, public housing clinics;

Three, Indian Health Service clinics;

Four, urban Indian health clinics;

Five, Ryan White Act HIV disease clinics;

Six, maternal and child health clinics;

Seven, school health service centers;

Eight, black lung clinics;

Nine, comprehensive hemophilia diagnostic treatment centers;

Ten, native Hawaiian health centers;

Eleven, sexually-transmitted disease clinics;

Twelve, tuberculosis clinics;

Thirteen, Medicare disproportionate share hospitals,

Fourteen, hospitals that serve a high proportion of the poor. That is the definition, hospitals that serve a high proportion of the poor.

Fifteen, mental health and substance abuse clinics;

Sixteen, runaway homeless youth centers or transitional living programs for homeless youth;

Seventeen, rural health clinics; and

Eighteen, children's hospitals.

Every health plan has to contract with every one of those organizations. Anybody they cover that goes to one of these organizations, they have to pay them the same amount as if they went to the organization that the organization runs.

Kaiser would have to say—let us say they have 100,000 people. Kaiser has actually 400,000 in Oregon. At the moment, they all must go to the Kaiser

VOL 140 PT 15 AG 10 — 11 1994 UMI

clinics. Kaiser has two hospitals, almost 600 doctors and close to 6,000 employees.

But now for your $250 a month, you can go to any one of these and Kaiser must reimburse them. How on Earth is Kaiser or Blue Cross or Metropolitan Life or Aetna supposed to manage this care when you have all of these organizations over whom they have no management control, free to come and pick off your patients and say, "Kaiser, pay us." That is one of the little hidden subsections in this bill.

Why is it in the bill? You think to yourself, "That doesn't make any sense. Why is it in the bill?" It is in the bill for a simple reason: Many of these organizations do serve the poor, and they fear that as we move toward managed care, they will not have a method of collecting money sufficient to keep their organizations going.

A good example would be New York. The State of New York allows Medicaid recipients—this is the poorest of the poor—if the Medicaid recipient wants to take the Medicaid money that they are entitled to and purchase a managed care contract rather than going to the local public hospital, free hospital, almost 90 percent of the last 300,000 Medicaid recipients who have made a choice have chosen managed care.

There is a wonderful story in the New York Times about the public hospitals—they pay no taxes; they are supported by the taxpayers—saying that the very poor that they treated, that no one else used to want, are now going elsewhere under managed care contracts to private hospitals.

They do this as a matter of choice. No one compels them to do this. And the poor are not dumb. They are just poor. They know where they get better service. They know where they get better quality, faster treatment. So they are leaving the Government system, the New York municipal hospital system, in droves and going to the equivalent of the Blue Cross/Blue Shield managed care programs or the Kaisers of New York City.

So many of these organizations have said to Senator MITCHELL, the majority leader, "Please put us in your bill so that we are guaranteed if we can drain off some of the patients of Kaiser or Blue Cross/Blue Shield that they will have to pay us."

Mr. President, that is going to be the breakdown of the managed care system.

Mr. GREGG. Will the Senator yield for a question?

Mr. PACKWOOD. I will be happy to.

Mr. GREGG. I am not sure I completely understand this. Basically what you are saying is that instead of this bill generating an incentive for cost control through allowing managed competition and HMO-type of facilities within managed competition to determine who can best provide and most efficiently deliver the health care, what this bill does is basically punch large holes in the opportunity for cost control by creating really nonmarketplace expenditures being put on the backs of those who might want to contract with an HMO.

So it puts a stake through the idea of cost control, does it not?

Mr. PACKWOOD. It is bigger than a stake; it is bigger than a hole. This absolutely rips apart the concept that you are going to manage the care of these 100,000 people you have.

If any organization in this list wants a contract with the HMO, they get one—and I cannot think of any other organizations that would not fit in this list. I have not gotten to the doctors yet, these are just the organizations—if any one of them can come to you, do you know what they are going to try to do? They are going to try to pick off your best patients, your healthiest patients, the ones that are not going to cost them $250 a month and you have to pay. You no longer have any control over them. You have it exactly right.

Mr. GREGG. If the Senator will yield, will this not sort of generate like a cottage industry of these types of entities growing up, that basically will be able to come in and demand payment as, basically, a way of tapping into this revenue stream rather than trying to contract the revenue stream? It is going to explode the demand on the system.

Mr. PACKWOOD. I think you are right. I am not sure how long we have had some of these clinics. Runaway homeless youth centers or transitional living programs for homeless youth I do not think would have been a normal medical provider 10 years ago. Sexually transmitted disease clinics, comprehensive hemophilia diagnostic treatment centers—Kaiser can do all these things. It is not a question of a need that has never been filled before.

The mind of men and women, given an incentive, is amazing, and as long as you have this definition of what an essential community provider is, my hunch is a lot of people will figure out a way to become an essential community provider.

Mr. GREGG. If the Senator will yield further, it is sort of as if you put this huge trough out there and then you arbitrarily allowed anybody to be issued a bucket.

Mr. PACKWOOD. Yes.

Mr. GREGG. You wanted to run for the trough.

Mr. PACKWOOD. You have it.

Mr. GREGG. I was looking at the CBO estimate of the Mitchell bill, and I noticed it estimates the baseline goes from $1.2 trillion in health care spending—I am sorry. The Mitchell bill goes from $1.3 trillion to $2.24 trillion in spending. Is that rather dramatic increase in spending over a 7-year period probably in part due to this sort of lack of cost control within the bill?

Mr. PACKWOOD. That is a bigger projected increase in spending than if we do nothing. The bill actually causes us to spend more than we would spend if we do nothing.

Mr. GREGG. Because the marketplace today is actually functioning with some cost controls which are generated by managed care which comes through HMO's, which will basically no longer function under this bill.

Mr. PACKWOOD. Just as we are starting to see this deluge—and again I use that word happily—of movement toward managed care, we really have only had competition in health delivery in the last 10 years. Even Medicare, up until 10 years ago, we reimbursed on cost. "Tell us your cost, hospital, here's the money."

Mr. GREGG. Cost plus care.

Mr. PACKWOOD. Cost plus care. You got it. "Your cost went up 20 percent last year? Here is your extra 20 percent."

Just as it is working—you are right—we want to drive the stake into the heart of the system that is holding down costs.

I will give you another example. In the metropolitan Portland area—and again this is a voluntary basis—56 percent of those eligible for Medicare have voluntarily signed up with managed care organizations. We have eight major—we are only a small State; we only have 2.9 million people—we have eight major HMOs in Oregon. Five of them have managed care Medicare programs. Of those five, three have had no premium increase for 4 years, and they are still surviving. It is working, and no one has to join. And yet 56 percent of the Medicare recipients in the Portland metropolitan area—it is about a million people—have voluntarily signed up, which proves they are satisfied with the service, they are hearing about it from their neighbors, and they are signing up.

Mr. GREGG. If the Senator will yield further. But this bill essentially creates a mandate, it is a mandate on the local HMO. It would undermine that sort of cost control activity.

Mr. PACKWOOD. Absolutely right. They have to contract with these. And they have to contract with every one of these that exist in their areas. You may have—I said the first one is federally qualified health center. You may have a number of these in the area, in which case you contract with all of them. That is just the first definition.

Mr. GREGG. I thank the Senator.

Mr. PACKWOOD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. PACKWOOD. How many?

The PRESIDING OFFICER. Four minutes.

Mr. PACKWOOD. I thank the Chair. I believe I finished. I yield to the minority leader.

The PRESIDING OFFICER. The Chair would indicate the Republican leader has 10 minutes of leader time.

Mr. DOLE. I thank the Chair, and I thank my colleague from Oregon.

I know my colleague from Hawaii, Senator INOUYE, and Senator STEVENS want to begin very quickly on the DOD appropriations bill. So I will not take but a few moments.

I first want to personally thank my colleague from Nebraska, Senator KERREY. I was not on the floor when he spoke, but I did pick up some of his comments just at a personal level, not anything to do with any legislation pending. I appreciated very much his words because of his understanding that maybe few have of some of the problems that we have to face up to in the next few weeks.

I also wanted to just take slight issue with some of my friends, and I hope we do not get this game of "if ours is bad, why, yours is worse" and whatever. I think we have a lot of debate that is going to happen here, a lot of things need to be discussed. But I sort of felt like I was watching "Dr. Jekyll and Mr. Hyde." Senators BOREN, KERREY, and KOHL spoke about the need to be constructive rather than destructive, and the need to search for a bipartisan solution rather than a bill that splits the Senate down party lines, and I agree.

I think there is a lot of agreement in the Senate on that general theme. Now, maybe we cannot get there. Maybe we ought to try. And it is not enough to say we have tried to pass because we have never really tried. But moments before these calls for cooperation and consensus, a number of my friends on the other side led at least a rather partisan attack—and that is not without precedent in this body. I assume there may be a lot of it on both sides in the next few weeks—a bit misleading attack about the American option, the Dole-Packwood bill, and I want to take just a few moments to respond to some of the statements that were made.

I guess, first, I should admit that they now say we have a bill. So we stipulate that. There is a bill. There is a Republican bill. It is Dole-Packwood and 38 other Republicans. But we have not tried to make it a partisan bill. We think there is still opportunities there for bipartisanship, and we are not going to close that door until the final moment.

I think it also indicates that we have been trying to propose real solutions to real problems. My friend from South Dakota, Senator DASCHLE, stated there was, and I quote, "a significant degree of confusion" about Senator Mitchell's bill. And that is part of the problem. The American people are confused, Members of the Senate are confused, and even the authors of the bill are confused as new provisions are introduced almost by the hour.

That is the confusion about the majority leader's bill. Also there was a bit of confusion about the Dole-Packwood bill. Senator DASCHLE claimed ours does not do anything to reduce bureaucracy, which I thought was rather startling. But maybe he means we did not make it grow, it did not expand, which it does not do.

It is sort of ironic that anyone who may be supporting the majority leader's bill and maybe supported the original Clinton bill proclaims their concern about the size of bureaucracy. We hope that ours is fairly free of any expanding bureaucracy. That was one of the efforts.

I would point out that the largest section of the Dole-Packwood bill is the one that deals directly with administrative simplification because we believe most American people believe it is too complicated, it is too complex, and there should be an effort by all of us to make it much less complicated.

The Senator from South Dakota also quoted CBO estimates of the cost of the Dole-Packwood bill. I wish we had the same pipeline into the CBO that the Senator from South Dakota has, but we have not received any CBO estimates, and we called Mr. Reischauer, who said that nobody has been given any CBO estimates on our bill. And it seems to me that if Senator DASCHLE has CBO estimates, maybe he would be happy to share them with us. We would be happy to have those estimates because we think it is necessary before we proceed here that we do have estimates on all these bills and all the changes and all the modifications. We believe it is very important.

Senator REID said that the Dole-Packwood bill does not cover dental care. That may be true, it may not, but the Dole-Packwood bill does not have a one-size-fits-all Government-mandated basic benefits package. We leave decisions such as dental coverage up to the consumer. Why not leave it up to the consumer? Let them determine whether they want dental coverage or substance abuse coverage and the like. We let the American people decide what plan best fits their need and pocketbook. That is the way we ought to do it.

Another statement was that our bill still allows for discrimination in dealing with preexisting conditions. It seems to me this is one area we are all in agreement on. I did not know there was any disagreement until earlier today.

We talk about market reforms and things we ought to do and things we agree on. Under the Dole-Packwood bill, insurers would not be allowed to deny coverage because of preexisting conditions. It is that simple. That is it. That is it. It is what we have been saying.

And all we are doing is maintaining the status quo. I guess that is another charge. In reality, we do not want to disturb the 85 percent, the millions of Americans who are fairly well satisfied with their health care. We do not want Government intervention. We do not want to add about $500 per family for costs. There are a lot of things we do not want to do.

So if we are being charged with being for the status quo, then we will plead guilty to that. But it seems to me that we are addressing the concerns many people want to address. The Senator from Nebraska indicated many things he would like to address. We believe they are addressed in our bill.

The Senator from Nebraska went on to say he did not like everything in our bill, but he thought it had a lot of merit. We believe it does. We are not a bit defensive about our proposal. Maybe it can be modified. Maybe it can be changed. It certainly can be made better. But if better means more Government, more bureaucracy, more mandates, more price controls or more taxes, then we do not want to make it better. That is not better for most Americans. I think that is the bottom line.

We will admit when it comes to the status quo, our bill does not weigh as much as the others. It has about half the number of pages, or less. We left out taxes, and we left out mandates, and we left out price controls; we left out new agencies. But our 641-page bill does a lot more than just maintain the status quo. We think it makes health care more accessible and more affordable to millions of Americans and that is the goal we hope we can reach.

And if we reach 91, 92, or 93 percent without mandates and without new taxes and without price controls, then I think we come back and see where we are and find out what we need to do at that point. And I certainly believe if the majority leader finds somebody out here saying something has no relevance, no basis in fact to his bill, he will probably be on his feet.

I want to mention just one other thing, and then I will be happy to yield the floor.

I think there is another concern, and I am now checking with my Governor, a Democrat, from the State of Kansas, Governor Finney, because I remember when the Dole-Packwood bill was introduced, we had a letter within a few days from the Governors Association saying, "Wait a minute; we don't like your Medicaid cap." I was told that also in Boston when I went up to address the Governors what, a month ago, I guess, 3 weeks ago. And so we worked with the Governors. And we resolved our problems. We will have a letter today hopefully from all Governors, not just Republican Governors, saying they do not have a problem with those aspects of the American option, with the Dole-Packwood bill.

But I think they have a lot of problems—I do not know that to be a fact,

VOL 140 PT 15 AG 10 — 11 1994 UMI

but I believe that they may have a lot of concerns with reference to other bills that are pending. And if I read the Washington Post as any guide, the article entitled "Health Bill 'Death' to D.C.," which quotes delegate ELEANOR HOLMES NORTON as saying the Mitchell bill is death to the District, I guess the particular issue raised is how the insurance reforms will be implemented and whether the cost of insurance to the District will become prohibitive and the number of uninsured increased. That is the way she sees it.

I think we have to take a look at how this impacts on various States. I had a phone conversation, I guess night before last, with the Governor of Wisconsin, Governor Thompson, who has been very active in the Governors' Association with the Democrats and Republicans on health care. In fact, you could go back and take a look at the health care principles outlined by Democratic and Republican Governors about 8 months ago. It is pretty much like the Dole-Packwood bill. The thing that they did not like in the Dole-Packwood bill was the Medicaid cap, and other things they did not like concerning ERISA. But the principal thing is the Medicaid cap.

So they identified a number of concerns in our proposal. Their biggest concern was the potential increase in their Medicaid costs as a result of the cap on Medicaid which we considered earlier. We think we have solved that problem.

But it does appear that perhaps some of the bills, including the majority leader's, would also add burdens on the States. The Governor of Wisconsin indicates after a quick look at the majority leader's bill that there are additional costs, at least $800 million to $850 million in the State of Wisconsin over a period of years. These increased burdens come in the form of 177 new administrative responsibilities, and additional Medicaid cost as a result of the maintenance of effort provision in the bill, as a result of the new 1.75 percent tax on health care insurance costs for their State and local employees. Of course, we can estimate the cost to the States is the loss of jobs, if and when employer mandates kick in, particularly if you have different States kicking in at different times. Some States are never going to kick in. As indicated by the CBO, it is going to be very hard to implement.

So we are waiting to hear from our Governor, and I am certain that many Governors are hoping to get a State-by-State analysis from the Governors Association because the Governors are there every day. They are on the firing line every day. They are talking with their taxpayers every day, and they are going to be very concerned about what any of us do, Republicans or Democrats. I think they have been fairly objective and fairly nonpartisan in addressing concerns in the so-called Dole-Packwood bill, and I assume they will do the same with the majority leader's bill unless everything is resolved.

We sort of looked at the States. And we have former Governors in our midst right now, Senator CRAIG of New Hampshire, Senator BOND, and there are a number of former Governors on the Democratic side. And I think they watch very closely at what happens in Congress, particularly something like health care that is going to affect everyone.

I think we also have to ask about the implications of the rules for mandatory costs as envisioned in the Mitchell bill. Those States like California, Florida, Iowa, and Texas, which will put in place purchasing alliances will be permitted to ask this question. I think this is a fair question. And the preliminary CBO report projects that a State-by-State mandate would produce inefficient reallocations of business activity moving across State lines. Maybe that is true. Maybe it is not. But it is raised in the CBO report, not some Republican newsletter.

I think all of these are questions that we must ask our Governors. And, as I said, I think they may have as much or more at stake than we have. We pass the legislation. We pass mandates. The thing that the Governors hate is unfunded mandates. We say, "OK. You go ahead and do it. We don't have any money. But there is a mandate. You figure out how you can do it." And I must say that the President has indicated his opposition to any mandates. I think most every Senator knows that we have to be very careful in whatever we may pass; that we listen carefully to Governors, whether they be Democrats or Republicans.

Finally, I would say the Capitol is filled with rumors about maybe the House is not taking up health care next week, and maybe not for the next couple of weeks. The majority leader is here. He may have more information than I have.

I just ask the question. I think it is because of the question Senator HELMS raised. Some were chuckling about Senator HELMS' amendment. The reason they cannot take up the House bill, as I understand it, is because they do not have CBO numbers.

That is precisely what Senator HELMS was suggesting—that we not proceed until we had numbers. We do not have numbers on our bill yet. I am not certain we have all the numbers on the majority leader's most recent entry.

It is very important that we have at least some guideline as to what it is going to cost and who it is going to cost, and all the other things that the CBO should provide to us.

So I understand there may be a meeting at 4 o'clock. Maybe at that time we will be informed of what may be the pleasure of the House. That may not affect our schedule directly. But I think it will have a big impact indirectly.

Mr. MITCHELL. Mr. President, I listened with interest to the remarks of my friend, the distinguished Republican leader, and I, perhaps better than any other Member of the Senate, can understand his sensitivity to the criticism of his bill. Everything in life is relative. Before he becomes too defensive, and if he wants to feel better, I would suggest that he take the CONGRESSIONAL RECORD of the past few days and read what his colleagues have been saying about me and my bill.

I think it will make him feel a little bit better because the words were far more critical, and indeed in some respects inflammatory, than anything I believe that has been said about his bill.

So on the theory that misery loves company, I commend to him the CONGRESSIONAL RECORD for the last few days to read some of the words that his colleagues have said about me, and perhaps he will not feel quite as badly about any criticism of his bill.

Mr. President, I have not heard the so-called rumor about the House of Representatives, except from the minority leader. So he may have a better pipeline than I do into the House leadership. But I will be talking with the House leaders later today.

In any event, I think it clear given the different rules of the two bodies that the length of consideration of any bill will be much greater in the Senate, that it is going to take some weeks for the Senate to consider this important matter. By contrast, the House under their rules can obtain a rule which would permit consideration in a matter of a few days, if they like. Therefore, I think it appropriate, and I think the most prudent course of action is for the Senate to proceed in an effort to complete action irrespective of what the House does because the fact of the matter is whenever they begin they might well finish before we do even though we start a lot earlier.

But I will be meeting later today with the House leadership and will of course, as is my practice, discuss that with the Republican leader following that meeting.

Mr. President, is it in order now for the Department of Defense bill to be reported for further consideration by the Senate?

The PRESIDING OFFICER. That is the regular order. The majority leader also has the right to use his leader time, if he so desires.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

Mr. MITCHELL. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending Sepember 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole Amendment No. 2479, to provide for the termination of the United States arms embargo of the Government of Bosnia and Herzegovina no later than November 15, 1994.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I had hoped that we could return to the Department of Defense authorization bill by 1:30. We are obviously not on that schedule. But we are back on it now, and will continue.

It is my intention that the Senate complete action on that bill today, and if possible take up other measures and then turn to the health care legislation tomorrow at a time and under circumstances which I will, of course, discuss further with the Republican leader as is my practice before making a final decision.

Mr. President, I yield the floor. I believe the managers are ready to proceed with the Department of Defense appropriations bill.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 2510

(Purpose: To require the strengthening of Department of Defense procedures for matching disbursements to particular obligations)

Mr. GRASSLEY. My amendment is at the desk. I would ask to call up 2510. It deals with the subject of matching disbursements. I will probably only speak about 5 minutes. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 2510.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . (a)(1) The Secretary of Defense shall develop a plan for establishing and implementing a requirement for disbursing officials of the Department of Defense to match disbursements to particular obligations before making the disbursements. The Secretary shall transmit the plan to Congress not later than March 1, 1995.

(2) The Inspector General of the Department of Defense shall review the plan and submit the Inspector General's independent assessment of the plan to the congressional defense committees.

(b)(1) Not later than July 1, 1995, the Secretary of Defense shall require that each disbursement by the Department of Defense in an amount in excess of $5,000,000 be matched to a particular obligation before the disbursement is made.

(2) Not later than October 1, 1995, the Secretary of Defense shall require that each disbursement by the Department of Defense in an amount in excess of $1,000,000 be matched to a particular obligation before the disbursement is made.

(c) The Secretary shall ensure that a disbursement in excess of the threshold amount applicable under subsection (b) is not divided into multiple disbursements of less than that amount for the purpose of avoiding the applicability of such subsection to that disbursement.

(d) The Secretary of Defense may waive a requirement for advance matching of a disbursement of the Department of Defense with a particular obligation in the case of (1) a disbursement involving deployed forces, (2) a disbursement for an operation in a war declared by Congress or a national emergency declared by the President or Congress, or (3) a disbursement under any other circumstances for which the waiver is necessary in the national security interests of the United States, as determined by the Secretary and certified by the Secretary to the congressional defense committees.

(3) This section shall not be construed to limit the authority of the Secretary of Defense to require that a disbursement not in excess of the amount applicable under subsection (b) be matched to a particular obligation before the disbursement is made.

Mr. GRASSLEY. Mr. President, this amendment addresses the continuing financial mismanagement at the Department of Defense. This is something that I have spoken about on this floor many times in the last year and a half. My colleague from Hawaii has been very cooperative in the past, and he is likewise cooperative this time. I thank him for that.

This amendment is going to restore some accountability over the Department of Defense appropriations. It follows up on an initiative launched last year with the help of my good friend from Hawaii. It is the direct result of one particularly troublesome incident, but this incident is just an example of a greater problem. That was the disappearance, Mr. President, mind you, of $649.1 million. I spoke on this issue on several occasions last year.

The Defense Department inspector general discovered that the Air Force accounting records maintained by the Defense Finance and Accounting Service—I am going to refer to that as DFAS—were out of whack by $649.1 million. They were out of whack because DFAS's bookkeeping operations are in shambles. Instead of recording obligations and expenditures in a ledger as they occur—and that is commonsense bookkeeping or accounting, or whatever you want to call it—DFAS and the Air Force were using algorithms—mathematical equations—to estimate the missing accounts.

Well, Mr. President, any first year accounting student knows that is no way to do accounting.

When I brought this problem up to the attention of my colleagues, about 1 year ago now, my friend from Hawaii, the distinguished chairman of this subcommittee, agreed to ask the Department of Defense IG to review base-level records—that is, at the grassroots—to pinpoint this problem.

Well, the IG has just completed the review ordered by Senator INOUYE and, quite frankly, after 1 year of review, it is the very same story.

This IG report is entitled—I give you these titles and references because I want people to read them, as we do—"Air Force Merged Account Obligations," No. 94-139, dated June 17, 1994. The report tells us that we can expect more of the same in the future. The systemic problems that produced the $649.1 million fiasco are still working full bore. The IG auditors discovered that DFAS accountants are still using mathematical equations to generate phony bookkeeping entries.

I refer here to page 13 of the report under the heading "Contractor Billing and DFAS Paying Practices." I will summarize the information and place it into the RECORD. This particular problem arose at the DFAS Center in Columbus, OH.

When accounting clerks—get this, this is how IG lays it out, not how I as a political leader describe it—receive an invoice that does not identify the account or contract to be charged, they do not even bother to do the leg work necessary to get the right information. They simply use a formula to spread the payments across any appropriation, if that appropriation still has positive balances. There is no attempt to post payments to the correct account. In fact, they deliberately force payments onto the wrong accounts. This is a random allocation process. It is completely inconsistent with the laws governing the use of appropriations.

This is the very same kind of procedure that led to the $649.1 million mismatch—just a $649.1 million mismatch.

It is the kind of flawed procedure that gave the Department of Defense a whole great big $41 billion headache, by what they term "unmatched disbursements." So the $649.1 million is just a small part of a $41 billion big problem entitled "unmatched disbursements."

Matching disbursements with obligations is a very fundamental tool for internal financial management. If you do not match disbursements with obligations, your accounts are vulnerable to theft and abuse. I have spoken about millions being stolen by fake organizations like the one operated by Mr. McGill in Norfolk, VA.

I ask unanimous consent to have printed in the RECORD that section of the IG report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Contractor Billing and DFAS Paying Practices. We discussed billing and paying problems with accounting officials at the DFAS-

VOL 140 PT 15 AG 10 — 11 1994 UMI

Columbus Center. They stated that when contractors did not include the ACRN and CLIN on bills submitted to the DFAS, accounting clerks had to make a decision as to which appropriation's unliquidated obligations the disbursement should be recorded against. The accounting clerks also stated that if they could not specifically identify the ACRN and CLIN that should be paid on a particular invoice, the Mechanization of Contract Administrative Services system used a formula to charge disbursement to all appropriations with unliquidated obligations for the contract at the time of the disbursement and not to the specific appropriation that was obligated.

However, even when the ACRN and CLIN were shown on the invoice, the payment was not always charged to the correct account. For example, we found one contract for which $11.2 million was disbursed and charged to the "M" account that should have been charged to the FY 1988 3010 (Aircraft Procurement) account.

The DFAS accounting clerks were concerned with paying the invoices promptly to avoid interest penalties and lost discounts; therefore, they used whatever funds were readily available when no specific funds were specified through use of the appropriate ACRN and CLIN. Accordingly, as time passed and more and more progress payments were made, visibility over appropriation accounting decreased, and reconciliation required more time to complete.

Mr. GRASSLEY. I compliment the new Department of Defense Comptroller, John Hamre. He is struggling with the problem. He has succeeded in reducing the number of unmatched disbursements.

But there is another problem. No one really knows for sure how big the problem really is. We think it is $41 billion, but is it bigger? It is just a guess. But the best available guess says that that number now, because of Mr. Hamre's work, may be down from $41 billion to $34 billion. I suppose in this town that is progress.

But Mr. Hamre is still wrestling with a $21 billion problem in disbursements that cannot be matched at all. They may never be matched.

The Deputy DOD IG, Mr. Derek Vander Schaaf, has suggested that the problem of this $21 billion may be so bad and the documentation so poor that it may be necessary just simply to "write off" those unmatched disbursements. This kind of thing must come to a screeching halt.

If DOD asks Congress for authority to "write off" $10 billion to $20 billion in unmatched disbursements, then I think heads should roll.

As legislators, we have a responsibility to correct the problem. We were assured that DFAS would fix the problem, but it has not been fixed. It must be fixed.

Mr. President, I look to my friend from Hawaii for leadership and advice on how to proceed, and he has been very helpful in that area.

I had another amendment, other than the one before us, that would have imposed very stringent measures immediately. And I would hold DFAS Director Springett accountable for continuing financial mismanagement by cutting off his salary, effective December 31, 1994. I suppose that sounds like a bill of attainder, but something has to be done.

The chairman of the subcommittee now has developed what we have before us. We worked together on this to develop a more orderly approach for phasing in new procedures for matching disbursements with obligations. His solution is very acceptable to me, Mr. President. It is a good compromise. It will keep the pressure on. I think it sends a right signal to the Department of Defense managers.

The chairman's compromise would provide the following: By March 1, 1995, DOD would have to submit a plan to Congress requiring that disbursing officers match disbursements; the IG would provide an independent assessment of the plan; by July 1, next year, all disbursements over $5 million would have to be matched; by October 1, 1995, all disbursements over $1 million would have to be matched; DOD would be prohibited from breaking down disbursements to evade thresholds; requirements could be waived in a national emergency; and DOD would have authority to lower thresholds. In other words, as you have just heard, rather than taking a one-step, drastic approach, as I suggested in my original amendment, our distinguished chairman has helped us work out a very phased approach to getting all of these unmatched disbursements accounted for. Next year, after we have had an opportunity to assess the plan, then we should be in a better position to refine the procedures and lower the threshold, if that is necessary.

I think this is an excellent beginning, and I thank the chairman, and particularly his staff assistant, David Morrison, for his help and cooperation in this effort.

I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUYE. Mr. President, as manager of the bill, I wish to commend my good friend, Senator GRASSLEY, for his diligent leadership in this very important area of military financing. His intent is a very simple one: to do business in a businesslike manner.

I believe that this step, this proposal will eventually lead the Department of Defense to that goal.

So if I may in behalf of the managers of the bill we are prepared to accept the amendment.

Mr. GRASSLEY. I am ready for a vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2510) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2519

Mr. INOUYE. Mr. President, I call up Amendment No. 2519, an amendment by Senator COHEN.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. COHEN proposes an amendment numbered 2519.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following section:

SEC. . SENATE ADVICE AND CONSENT TO CHANGES IN OBLIGATIONS UNDER THE CFE TREATY.

(a) FINDINGS.—

(1) On November 25, 1991, the Senate gave its advice and consent to ratification of the CFE Treaty.

(2) The President would need to seek the Senate's advice and consent to any change in obligation of the states parties under the CFE Treaty, unless such change were a minor matter of an administrative or technical nature.

(3) A change in the allowed holdings of treaty limited equipment in the area of application or any geographic sub-zone of the area of application would constitute a change in obligation for which the Senate's advice and consent would be required.

(b) REAFFIRMATION OF SENATE'S TREATY-MAKING POWERS.—The President shall submit for the Senate's advice and consent any change in the obligations of any state party under the CFE Treaty, unless such change is a minor matter of an administrative or technical nature.

(c) CFE TREATY DEFINED.—For the purpose of this section, the CFE Treaty means the Treaty on Conventional Armed Forces in Europe, signed in Paris on November 19, 1990, and associated protocols.

Mr. INOUYE. Mr. President, on behalf of Senator COHEN I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

So the amendment (No. 2519) was withdrawn.

AMENDMENT NO. 2523

Mr. INOUYE. Mr. President, I call up Amendment No. 2523 proposed by Senator MCCONNELL.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] for Mr. MCCONNELL, proposes an amendment numbered 2523.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. .

(a.) Within 60 days of enactment of this Act, the President, in consultation with NATO, shall submit a report to the Committee on Appropriations defining specific military, economic, and political standards required to gain admission to NATO; *Provided further*, that such report shall not be limited to the principles enunciated in the Partnership for Peace; *Provided further*, such report shall include an assessment of measures which would be necessary to guarantee the armed services of Poland, Hungary, the Czech Republic, Slovakia, Lithuania, Latvia and Estonia are capable of military cooperation and interoperability with NATO and fulfilling other member responsibilities.

Mr. INOUYE. Mr. President, on behalf of Senator MCCONNELL, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

So the amendment (No. 2523) was withdrawn.

AMENDMENT NO. 2529

(Purpose: To authorize assistance to promote the peaceful resolution of conflicts in Africa)

Mr. INOUYE. Mr. President, I call up Amendment No. 2529 proposed by Senator SIMON.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] for Mr. SIMON, for himself, Mr. JEFFORDS, and Mr. HELMS, proposes an amendment numbered 2529.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE—AFRICAN CONFLICT RESOLUTION

SEC. 01. SHORT TITLE.

This Act may be cited as the "African Conflict Resolution Act".

SEC. 02. FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) It is in the national interest of the United States to help build African capability in conflict resolution. A relatively small investment of assistance in promoting African conflict resolution—

(A) would reduce the enormous human suffering which is caused by wars in Africa;

(B) would help the United States avoid huge future expenditures necessitated by Somalia-like humanitarian disasters; and

(C) would reduce the need for United Nations intervention as African institutions develop the ability to resolve African conflicts.

(2) Africa, to a greater extent than any other continent, is afflicted by war. Africa has been marred by more than 20 major civil wars since 1960. Rwanda, Somalia, Angola, Sudan, Liberia, and Burundi are among those countries that have recently suffered serious armed conflict.

(3) In the last decade alone, between 2,000,000 and 4,000,000 Africans have died because of war. There were 5,200,000 refugees and 13,100,000 displaced people in Africa in 1993. In Angola, relief organizations estimated that 1,000 people were dying each day at the end of 1993. In Rwanda, more than 200,000 people died in less than 5 weeks of fighting during 1994, while 300,000 people fled to other countries to escape war.

(4) Millions more Africans are currently at risk of war-related death. Looming or ongoing conflicts in Zaire, Angola, Sudan, Rwanda, and other countries threaten Africa's future.

(5) War has caused untold economic and social damage to the countries of Africa. Food production is impossible in conflict areas, and famine often results. Widespread conflict has condemned many of Africa's children to lives of misery and, in certain cases, has threatened the existence of traditional African cultures.

(6) Conflict and instability in Africa, particularly in large, potentially rich countries such as Angola, Sudan, and Zaire, deprive the global economy of resources and opportunities for trade and investment. Peace in these countries could make a significant contribution to global economic growth, while creating new opportunities for United States businesses.

(7) Many African armies are far too large, threatening political and economic stability while diverting scarce resources from development needs. Military expenditures in Africa average over twice the level in Latin America. Demobilization and other measures to reduce military expenditures are thus a critical need for many African countries.

(8) Conflict prevention, mediation, and demobilization are prerequisites to the success of development assistance programs. Nutrition and education programs, for example, cannot succeed in a nation at war. Billions of dollars of development assistance have been virtually wasted in war-ravaged countries such as Liberia, Somalia, and Sudan.

(9) Africans have a long tradition of informal mediation. This tradition should be built upon to create effective institutions through which Africans can resolve African conflicts.

(10) The Organization of African Unity, under the leadership of Secretary General Salim Salim, has established a conflict resolution mechanism and has been active in mediation and conflict resolution in several African countries. Various subregional organizations have also become active in conflict resolution efforts. These are encouraging developments.

(b) UNITED STATES POLICY.—The Congress declares, therefore, that a key goal for United States foreign policy should be to help institutionalize conflict resolution capability in Africa.

SEC. 03. IMPROVING THE CONFLICT RESOLUTION CAPABILITIES OF THE ORGANIZATION OF AFRICAN UNITY.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capability of the Organization of African Unity, as follows:

(1) Funds may be provided to the Organization of African Unity for use in supporting its conflict resolution capability.

(2) Funds may be used for expenses of sending individuals with expertise in conflict resolution to work with the Organization of African Unity.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, significant sums for each of the fiscal years 1995 through 1998 should be used to carry out subsection (a).

SEC. 04. IMPROVING CONFLICT RESOLUTION CAPABILITIES OF MULTILATERAL SUBREGIONAL ORGANIZATIONS IN AFRICA.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capabilities of subregional organizations established by countries in sub-Saharan Africa, as follows:

(1) Funds may be provided to such an organization for use in supporting its conflict resolution capability.

(2) Funds may be used for the expenses of sending individuals with expertise in conflict resolution to work with such an organization.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, up to $1,500,000 for each of the fiscal years 1995 through 1998 may be used to carry out subsection (a).

SEC. 05. AFRICAN DEMOBILIZATION AND RETRAINING PROGRAM.

(a) AUTHORIZATION OF ASSISTANCE.—In order to facilitate reductions in the size of the armed forces of countries of sub-Saharan Africa, the President is authorized to provide assistance for—

(1) encampment and related activities associated with demobilization of such forces, and

(2) the retraining for civilian occupations of military personnel who have been demobilized.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, up to $25,000,000 for each of the fiscal years 1995 and 1996 should be used for the assistance described in subsection (a), if conditions permit.

SEC. 06. TRAINING FOR AFRICANS IN CONFLICT RESOLUTION AND PEACEKEEPING.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to establish a program to provide education and training in conflict resolution and peacekeeping for civilian and military personnel of countries in sub-Saharan Africa.

(b) FUNDING.—Funds made available for military education and training activities under chapter 5 of part II of the Foreign Assistance Act of 1961 may be used to carry out the program provided for in subsection (a).

SEC. 07. BUILDING MEDIATION CAPABILITY IN AFRICA.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to nongovernmental organizations that are engaged in mediation and reconciliation efforts in Africa.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, funds for each of the fiscal years 1995 and 1996 should be used to carry out subsection (a).

SEC. 08. DEFINITION.

As used in this title, the term "foreign assistance funds" means funds made available—

(1) under chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 (relating to development assistance and the Development Fund for Africa),

(2) under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), and

(3) under section 23 of the Arms Export Control Act (relating to foreign military financing),

and includes unobligated funds in such accounts which remain available from previous fiscal years.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Mr. INOUYE. Mr. President, on behalf of Senator SIMON, I wish to withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

So the amendment (No. 2529) was withdrawn.

AMENDMENT NO. 2548

Mr. INOUYE. Mr. President, I call up Amendment No. 2548, an amendment proposed by Senator COHEN.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. COHEN, proposes an amendment numbered 2548.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following section:

SEC. . SENATE ADVICE AND CONSENT TO CHANGES IN OBLIGATIONS UNDER THE CFE TREATY.

(a) FINDINGS.—

(1) On November 25, 1991, the Senate gave its advice and consent to ratification of the CFE Treaty.

(2) The President would need to seek the Senate's advice and consent to any change in obligation of the states parties under the CFE Treaty, unless such change were a minor matter of an administrative or technical nature.

(3) A change in the allowed holdings of treaty limited equipment in the area of application or any geographic sub-zone of the area of application would constitute a change in obligation for which the Senate's advice and consent would be required.

(b) REAFFIRMATION OF SENATE'S TREATY-MAKING POWERS.—The President shall submit for the Senate's advice and consent any change in the obligations of any state party under the CFE Treaty, unless such change is a minor matter of an administrative or technical nature.

(c) CFE TREATY DEFINED.—For the purpose of this section, the CFE Treaty means the Treaty on Conventional Armed Forces in Europe, signed in Paris on November 19, 1990, and associated protocols.

Mr. INOUYE. Mr. President, I ask that the amendment be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

So the amendment (No. 2548) was withdrawn.

AMENDMENT NO. 2516

Mr. INOUYE. Mr. President, I call up amendment No. 2516 on behalf of Senator COHEN.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. COHEN, proposes an amendment numbered 2516.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following section:

SEC. . SENATE ADVICE AND CONSENT TO CHANGES IN OBLIGATIONS UNDER THE CFE TREATY.

(A) FINDINGS.—

(1) On November 25, 1991, the Senate gave its advice and consent to ratification of the CFE Treaty.

(2) The President would need to seek the Senate's advice and consent to any change in obligation of the states parties under the CFE Treaty, unless such change were a minor matter of an administrative or technical nature.

(3) A change in the allowed holdings of treaty limited equipment in the area of application or any geographic sub-zone of the area of application would constitute a change in obligation for which the Senate's advice and consent would be required.

(b) REAFFIRMATION OF SENATE'S TREATY-MAKING POWERS.—The President shall submit for the Senate's advice and consent any change in the obligations of any state party under the CFE Treaty, unless such change is a minor matter of an administrative or technical nature.

(c) CFE TREATY DEFINED.—For the purpose of this section, the CFE Treaty means the Treaty on Conventional Armed Forces in Europe, signed in Paris on November 19, 1990, and associated protocols.

Mr. INOUYE. Mr. President, this matter has been studied by both managers and we find the amendment acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2516) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2525

(Purpose: To state the sense of Congress on negotiation of limitations on nuclear weapons testing)

Mr. INOUYE. Mr. President, I ask that we take up for immediate consideration Amendment No. 2525.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. HARKIN, proposes an amendment numbered 2525.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. 8121. SENSE OF CONGRESS ON NEGOTIATION OF LIMITATIONS ON NUCLEAR WEAPONS TESTING.

(a) FINDINGS.—Congress finds the following:

(1) On January 25, 1994, the United States joined with 37 other nations to begin negotiations for a comprehensive treaty to ban permanently all nuclear weapons testing.

(2) On March 14, 1994, the President decided to extend the current United States nuclear testing moratorium at least through September 1995.

(3) Germany and the Group of 21 Non-Aligned States have publicly stated their support for the completion of a comprehensive nuclear test ban treaty by 1995.

(4) On June 6, 1994, the People's Republic of China conducted its second nuclear weapons test explosion since the United States, Russia, and France initiated their current nuclear test moratoria.

(5) On September 7, 1994, the third and final test ban negotiating session of the year will end.

(6) While some progress toward a comprehensive nuclear test ban treaty has been achieved, there is little chance that an agreement will be reached before April 1995 at the current rate of negotiation.

(7) The United States is seeking to extend indefinitely the Non-Proliferation Treaty at the April 1995 Extension Conference.

(8) Conclusion of a comprehensive nuclear test ban treaty could contribute toward successful negotiations to extend the Non-Proliferation Treaty.

(9) Agreements to eliminate nuclear testing and control the spread of nuclear weapons could contribute to national security of the United States, its allies, and other nations around the world.

(b) SENSE OF CONGRESS.—The Congress—

(1) applauds the President for maintaining the United States nuclear testing moratorium and for supporting the negotiation of a comprehensive nuclear test ban treaty;

(2) encourages the People's Republic of China and all other nuclear powers to refrain from conducting nuclear explosions prior to conclusion of a comprehensive nuclear test ban treaty; and

(3) urges the President and the other nuclear powers to take measures necessary to achieve a multilateral comprehensive nuclear test ban treaty before the Non-Proliferation Treaty Extension Conference.

(c) DEFINITION.—As used in this section, the term "Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968 (21 U.S.T. 483).

Mr. HATFIELD. Mr. President, negotiations are currently underway to draft a Comprehensive Test Ban Treaty [CTBT] and I commend the Senator from Iowa [Mr. HARKIN] for bringing this resolution before the Senate. I ask that he include me as a cosponsor of his resolution.

Two years ago, the Congress ended underground nuclear testing. That action paved the way for the negotiations which are being held in Geneva today. Strong interest by Members of the Senate, the House, and by the President are vital to the effort to swiftly agree on a treaty. Several Senators, including myself, have tracked these negotiations closely and I hope that the message we send today will redouble the resolve of the U.S. negotiators and send a strong signal to other, participating nations that the United States wants a CTBT as soon as possible.

I would ask that included in my remarks be printed a copy of a speech delivered by the U.S. Director of the Arms Control and Disarmament Agency, John Holum. As he says in his speech before the Conference on Disarmament, which is sponsoring the negotiations, "A Comprehensive Test Ban Treaty is an opportunity whose time has arrived." By approving this resolution today, the Senate is sending that very same message.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE HONORABLE JOHN D. HOLUM, DIRECTOR, U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Thank you, Mr. President. I am pleased to have this opportunity to address the Conference on Disarmament again during its session this year. First, Mr. President, may I congratulate you on the skillful way in which you have conducted the business of the CD during your presidency; I know that the U.S. Delegation has provided you with its fullest cooperation. I would also like to extend once again my greetings to Mr. Petrovsky, the CD Secretary General, and to his Deputy, Mr. Bensmail. We appreciate the efforts you are making on behalf of all of us in facilitating our negotiations.

Mr. President, the Conference on Disarmament has accomplished a great deal in recent years—and much since the opening of the January session.

In one sense our progress in the CD is more than any of us had a right to expect—a testament to the abilities of this body.

But in another sense our recent efforts are not enough. The United States is more committed than ever to concluding a comprehensive test ban treaty at the earliest possible time. None of us can rest—none can be satisfied by our noteworthy progress to date—until the world's nations have agreed once and for all to stop testing nuclear weapons.

So I am here neither to criticize the CD nor praise it unconditionally—but rather to exhort it.

Last January I was privileged to report to you President Clinton's commitment to achievement of a comprehensive test ban "at the earliest possible time." Six months later, he has asked me to return here to tell you that these instructions remain fully in effect—and that "earliest possible time" means just what it says. It most assuredly is not diplomatic code for a "relaxed pace." It does not mean take all the time allowed by U.S. law. It means take only the time necessary, negotiating diligently and in good faith, to write a sound treaty.

President Clinton's commitment to the test ban is authenticated by another decision—our continued moratorium on nuclear testing. Despite China's tests, President Clinton has extended our moratorium for a third year, through September of 1995.

I ask you to consider carefully what this means.

The President's decision to extend the testing moratorium balanced the potential value of additional tests against (1) restraint by others, (2) the impact on our nonproliferation goals, and (3) progress in the test ban negotiations here.

In practical effect, this means that where the United States is concerned, the central and profound policy decision that many seek has already been made. If things here and elsewhere go as we hope, the testing moratorium the United States adopted in 1992 will last forever.

This practical reality is underscored by the President's definitive declaration to the UNGA last September, when he said, "In the face of disturbing signs, I renew my call on the nuclear states to abide by that moratorium as we negotiate to stop nuclear testing for all time."

Simply put, we are prepared for the conclusion that the United States has already conducted its last nuclear test—that we will never test again.

As we contemplate that reality, these negotiations—and other developments, including preparations for the NPT Conference next year—should be given even greater energy and purpose.

The United States seeks a CTBT that will bring an end to all nuclear explosions—period. No thresholds. No exceptions. And by that I mean not just all explosions, but all states. Success demands in particular the full support and participation of all five nuclear-weapon states. And we seek universal adherence.

Of course the United States and the other nuclear-weapon states bear a special responsibility in this negotiation, and of course we also have special experience and knowledge that can aid it considerably. So we will continue to seek closely with the other nuclear-weapon states to propel this effort toward fruition.

I wish to commend Ambassador Marin Bosch, Chairman of the NTB Ad Hoc Committee, as he accelerates the Committee's work. The United States supports his efforts to develop a complete text from contributions developed in the Working Groups on Verification and on Legal and Institutional Issues under the leadership, respectively, of Ambassadors Hoffman and Dembinski. Nevertheless, much time has passed and much work remains to be done. We need a document that will both focus and energize our work. And we look to the committee Chairman for his leadership to bring this about.

Now when I last spoke to you I said the United States would be out front pulling in these negotiations, rather than in the back dragging its heels. We plan to persist in—and indeed, to intensify—our efforts to fulfill our President's instructions.

So I urge the Conference to make use of all time possible available to it, even outside the normal term of the CD, to move these negotiations forward. The U.S. delegation is prepared to work continuously in the NTS Committee and its working groups in the period after the September 7 end of session and the opening of the 1995 session so as to make all possible progress this year and prior to the start of the NPT Extension Conference in April 1995.

A kind of linkage has grown in the minds of some between the NPT Extension Conference and progress in other areas. All parts of the international arms control, nonproliferation, and disarmament architecture are, of course, interrelated. But it is a disservice to major regimes or initiatives to posit any kind of rigid "quid-pro-quo" relationship between them.

The NPT should be extended because of its own intense merits to world peace. A comprehensive Nuclear Test Ban Treaty is an opportunity whose time has arrived. We should seize it not because it goes well with NPT extension, but because it deserves to be done.

Mr. President, President John Kennedy was fond of saying that from those to whom much has been given, much is expected.

The CD's remarkable success with the CWC and its notable progress on the CTBT prove it is a body of great ability. And so the world expects much of it—of you.

One of the encouraging trends of these times has been an ability of the international community to clear away much of the divisive ideological and political underbrush that occupied so much time, to so little effect, during the era of maximum East-West and North-South confrontation. Of course those habits have not entirely disappeared. My appeal to you is that to the extent such inclinations persist, this is the last place they should be exercised. For the CD is not a place for scoring political points, but for doing serious work—and producing tangible results.

Indeed, in a world where even bilateral arms control has become multilateral, this institution, the able statesmen and experts who labor here, and the extraordinary and intricate methods of diplomacy you have mastered here, have become the wave of the future—and the embodiment of our hopes for a safer world.

With the end of the Cold War, nuclear proliferation pressures may be more substantial than ever. Such pressures, as you know, can be vertical as well as horizontal. So this is at once the best time to buttress international security—and the most essential. Now especially—with the largest nuclear-weapon powers finally able to deemphasize nuclear weapons in their defense planning—this is no time to revert to old habits.

We have now had five decades of nuclear testing—and are in the fifth decade of calls to stop it. By any fair description, the world's pursuit of a CTBT has been a long-distance race.

But such races are not won by limping across the finish line, or even by being satisfied with moderate progress. They are won with concluding surges of energy and commitment.

We are in the final stages of our race. The finish line is within our view. We must pick up the pace. We must agree to cease nuclear explosive testing, without exceptions, without artificial linkages, without delay—to conclude a CTBT before the chance of our lifetime has passed.

Mr. President, it is an intriguing historical coincidence that the fiftieth anniversary of the first nuclear explosion and the twenty-fifth anniversary of the entry into force of the NPT fall in the same year—1995. I hope our efforts can make this coincidence into an important signpost of progress.

From the very first atomic blast at Alamagordo, mankind has been struggling to free itself from the ferocious beast unleashed there. Since then, thousands of women and men of good will and intellect have pursued—passionately, painstakingly—the compelling mission of our age. Working together, let us rededicate ourselves to that mission: to shepherd this beast back into its cage—to bring what was unleashed in a blinding blast of heat in the New Mexico desert to a fitting end in the cool atmosphere of reason in Geneva—to ensure that our first half-century of nuclear explosions is our last.

Mr. INOUYE. This amendment has been studied by both managers and we find it acceptable.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2525) was agreed to.

AMENDMENT NO. 2526

Mr. INOUYE. Mr. President, I call up Amendment No. 2526, an amendment by Senator LIEBERMAN.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. LIEBERMAN, for himself, and Mr. HATCH, proposes an amendment numbered 2526.

VOL
140
PT
15
AG
10
—
11
1994
UMI

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, after the words "such section" on line 2, insert: ": *Provided further*, That of the funds appropriated in this paragraph, not less than $2,000,000 shall be made available for International Cooperative projects to be funded under the Counterterror Technical Support program element.

Mr. INOUYE. Mr. President, the managers of the bill have discussed this matter and studied it. We find it acceptable.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment.

The amendment (No. 2526) was agreed to.

AMENDMENT NO. 2527

(Purpose: To set aside operation and maintenance funds of the Air Force for the Core Automated Maintenance System/Reliability and Maintainability Information System (CAMS/REMIS))

Mr. INOUYE. Mr. President, I ask that the Senate take up Amendment No. 2527, an amendment by Senator SHELBY.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. SHELBY, for himself, Mr. COCHRAN, and Mr. LOTT, proposes an amendment numbered 2527.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 17, before the period insert the following: "*Provided*, That, of the amount appropriated under this paragraph, not less than $8,000,000 shall be available only for the upgrading of the Air Force's Core Automated Maintenance System/Reliability and Maintainability Information system (CAMS/REMIS)"

Mr. INOUYE. Mr. President, the managers have studied this amendment, and we find it acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2527) was agreed to.

AMENDMENT NO. 2533

(Purpose: To add $1.296 million to the Air Force F-111 squadrons program element)

Mr. INOUYE. Mr. President, I ask that we take up amendment No. 2533.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. BINGAMAN, for himself and Mr. DOMENICI, proposes an amendment numbered 2533.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, line 21 of the committee reported bill, before the period insert the following: ": *Provided further*, That of the funds appropriated in this paragraph, $2,800,000 shall be made available only for the F-111 Squadrons program element".

Mr. INOUYE. Mr. President, the managers have studied the amendment, and we find it acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2533) was agreed to.

AMENDMENT NO. 2543

(Purpose: To authorize that Secretaries of the military departments to contract for commercial or proprietary credit card services for use by nonappropriated fund instrumentalities of the United States that are under the jurisdiction of such Secretaries)

Mr. INOUYE. Mr. President, I ask that we consider Amendment No. 2543, an amendment by Senator JOHNSTON.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. JOHNSTON, proposes an amendment numbered 2543.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . (a) Notwithstanding any other provision of law, the Secretary of a military department may enter into a contract for use of commercial or proprietary credit card services for augmenting or replacing any in-house account receivable system in use by a nonappropriated fund instrumentality under the jurisdiction of that Secretary if the Secretary determines that such contract is in the best interest of that department.

(b) No official of the Department of Defense outside a military department may, by regulation or otherwise, limit or control the exercise of authority under this section by the Secretary of that military department.

Mr. INOUYE. Mr. President, the managers have studied this amendment, and we find it acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2543) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, may I ask that the Senator from Alaska be recognized.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the floor leader for allowing me to offer my amendment at this time, the distinguished senior Senator from Hawaii.

AMENDMENT NO. 2511

(Purpose: To prohibit the availability of any funds for North Korea unless certain conditions are met)

Mr. MURKOWSKI. Mr. President, I call up an amendment numbered 2511.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself and Mr. DOLE, proposes an amendment numbered 2511.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PROHIBITION ON ASSISTANCE FOR NORTH KOREA.

(a) PROHIBITION.—No funds appropriated under this Act or any other Act may be made available to the Democratic People's Republic of Korea until the President certifies and reports to Congress that the Democratic People's Republic of Korea—

(1) does not possess nuclear weapons;

(2) has halted its nuclear weapons program; and

(3) is not exporting weapons-grade plutonium.

(b) NATIONAL SECURITY WAIVER.—The President may waive the prohibition in this section if he determines and certifies in writing to the Congress that to do is vital to the national security interest of the United States, and notifies the appropriate Committee of Congress 15 days in advance in accordance with the regular notification procedures of such Committees. Such notification shall include the nature, purpose and amount of the proposed assistance.

AMENDMENT NO. 2511, AS MODIFIED

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to send a modification to the desk at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the amendment is modified.

So the amendment (No. 2511) was modified, as follows:

At the appropriate place in the bill, insert the following new section:

(a) PROHIBITION.—No funds appropriated under this Act may be made available to the Democratic People's Republic of Korea until the President certifies and reports to Congress that the Democratic People's Republic of Korea—

(1) does not possess nuclear weapons;

(2) has halted its nuclear weapons program; and

(3) is not exporting weapons-grade plutonium.

(b) NATIONAL SECURITY WAIVER.—The President may waive the prohibition in this section if he determines and certifies in writing to the Congress that to do is vital to the national security interest of the United States, and notifies the appropriate Committee of Congress 15 days in advance in accordance with the regular notification procedures of such Committees. Such notification shall include the nature, purpose and amount of the proposed assistance.

Mr. MURKOWSKI. I thank the Chair.

Mr. President. On July 15, this body unanimously approved an amendment I offered on behalf of myself and the distinguished minority leader, Senator DOLE, to the foreign operations appropriations bill. The amendment barred United States aid to North Korea until President Clinton certified to Congress that certain conditions about North Korea's nuclear weapons program were met.

The amendment was adopted 95–0 on a rollcall vote, representing, I think, the widespread feeling in this body that United States taxpayer dollars should not be used to subsidize this rogue regime until the President can certify that North Korea is no longer a nuclear threat. Not one person spoke against my amendment.

I was dismayed, therefore, to learn that the final conference report did not contain the North Korea language. I am told that the House conferees, under pressure from the Clinton administration, objected to including the North Korea amendment in the final package.

I am here today to offer this amendment again, with slight modifications, and to ask the managers to fight for this bill at conference.

The amendment, offered on behalf of Senator DOLE and myself, says that this body will not provide any aid to North Korea until the President certifies that three conditions have been met:

First, that North Korea does not possess nuclear weapons. If North Korea possesses a nuclear weapon already, the weapons must be destroyed.

Second, that North Korea has halted its nuclear weapons program. This includes full compliance with the terms of the Nuclear Proliferation Treaty and the January 30, 1992, full scope safeguards agreement between the IAEA and North Korea.

Third, that North Korea is not exporting weapons-grade plutonium to other countries on missiles or otherwise.

The amendment also contains a provision allowing the President to waive the provisions of the amendment if he finds that is vital to the national security interest of the United States, and notifies Congress accordingly.

I remind my colleagues of the history of this regime in contemplating whether such assurances are necessary before giving the North Koreans aid.

This was the regime which launched the invasion of South Korea in 1950 resulting in the deaths of 3 million of their countrymen and more than 33,000 American troops; a regime whose agents detonated a bomb in Rangoon killing 16 South Korean officials; a regime which sanctioned the bombing of a Korean Airlines flight killing 115 passengers and crew; and a regime whose military hacked American personnel to death in the DMZ.

Kim Il-song leaves a very unpredictable legacy, and he leaves it to a very unpredictable son. I have not met with anyone in the U.S. intelligence community who has first-hand information about Kim Chong-Il. There are reports that it was Kim Chong-Il who actually orchestrated the Korean Airlines bombing.

I would also like to remind my colleagues of the ominous announcement in Seoul by Kang Myong Do, a defector identified as the son-in-law of North Korea's Prime Minister. Kang indicated first, that Pyongyang has developed five nuclear warheads and second, that North Korea is purposely delaying international inspection of its nuclear sites by stalling talks with the United States and South Korea. The accuracy of the defector's claims are disputed by the State Department, but the mere fact that our intelligence cannot readily confirm nor dispute his allegations illustrate how dangerous the North Korean nuclear situation has become.

Now, more than ever, the United States must demand that North Korea come clean on past nuclear activities and follow through on past commitments to allow IAEA inspectors complete access to nuclear facilities, both suspected and declared.

As this amendment makes clear, it is up to the Administration, as the party directly negotiating with the North Koreans, to send a clear and strong message that the United States is prepared to offer incentives for North Korea, but on our terms.

Unfortunately, up to now, our strategy with North Korea has been less than consistent. Everyone who has negotiated deals in the Asia Pacific understand a key point that I think the U.S. negotiators have missed—Asians understand strength and consistency. Our policy has lacked both.

For more than 2 years Kim Il-song has dictated and our negotiators have conceded.

North Korea extracted concessions from the United States:

United Stated agreed to high-level talks; United States suspended joint military exercises team spirit; United States delayed sending Patriot missiles requested by General; The North Koreans got another year to work on their nuclear capability; and the North Koreans moved fuel rods into the cooling pond without IAEA monitoring procedures in place.

What did the United States get, nothing. The IAEA is still unable to verify whether nuclear activity is taking place. Two suspected nuclear sites remain off limits. And North Korea is a month or so away from being able to reprocess the spent fuel rods into weapons grade plutonium for perhaps four to six more bombs.

It is more than 2 years since North Korea signed the Nuclear Non-Proliferation Treaty Safeguards agreement that requires regular inspections of its nuclear facilities.

It is more than 1 year since North Korea threatened to pull out of the NPT because IAEA was demanding access to the two undeclared nuclear sites and we are no further along in halting their nuclear weapons program.

Mr. President, I have charts, but in view of the fact both sides have looked at the merits of the amendment, I will defer from going through the charts.

However, I think it is important to recognize that since North Korea threatened to pull out of the IAEA in June, five significant events have occurred:

First, the United States declared it would seek U.N. sanctions against North Korea;

Second, Jimmy Carter visited Kim Il-song,

Third, United States agreed to resume high-level negotiations with North Korea on July 8, but then postponed the talks because of the death of Kim Il-song;

Fourth North and South agreed to hold a summit scheduled for July 25 to 27, but now postponed; and

Fifth, the United States and North Korea resumed high-level negotiations in Geneva on August 8 which are ongoing.

Mr. President, Dr. Davis, the assistant secretary for political/military affairs at the State Department testified before the Foreign Relations Committee in March of this year that she was not concerned about this loss of time because North Koreans told us their program was frozen. Mr. President, I am concerned.

By allowing North Korea to continue their drive toward nuclear capability we face a more ominous enemy than we did just last year.

If the new North Korea regime is ready to put aside its drive for nuclear arms and to move toward the family of nations, then I believe the United States should rightfully welcome such a move and offer rewards. However, I strongly believe that North Korea must offer the concessions, and not the other way around.

For too long, we let Kim Il-song dictate the terms of the negotiations, while he gained valuable time to push the suspected nuclear program ahead. From the track record, it was hard to tell which country was a tiny, isolated, terrorist regime violating international agreements and which country was a superpower that was pulling the weight for the international community. This must change.

This amendment sets goalposts for the new leadership in North Korea and signals the United States Administration that this body is ready to provide carrots to North Korea only after explicit guarantees about their nuclear weapons program are met.

VOL
140
PT
15
AG
10
11
1994
UMI

Why did the administration oppose the amendment? Is the United States prepared to offer North Korea economic assistance at the high-level negotiations ongoing in Geneva without ensuring that North Korea will abandon its nuclear intentions? Comments made by North Korean and American officials indicate that economic concessions are on the table.

What types of concessions might the administration be considering? It has been widely reported that North Korea is demanding light-water-based nuclear reactors [LWR's] to replace the outmoded graphite-moderated reactors that they currently possess. I do not doubt that the United States negotiators view this technology upgrade as a significant carrot to offer North Korea.

My concern is that the United States will give this carrot away without gaining tangible concessions from North Korea on its nuclear program. I am also concerned that the long-term nature of this project has not been sufficiently thought through by our negotiators. I refer my colleagues to a Washington Post op ed by Victor Gilinsky, a former member of the Nuclear Regulatory Commission, entitled "No Quick Fix on Korea", which I included in the RECORD on August 8. I believe that Mr. Gilinsky exposes some of the fallacies in believing that LWRs will solve the nuclear issue. As Mr. Gilinsky observes:

In the end, what is wrong with the LWR proposal is that it presumes a level of goodwill on North Korea's part that, were it present, would obviate the need for the proposal. If the North Koreans are interested in electricity, there are much cheaper, better and safer ways to provide it. If they insist on a prestige nuclear project, we can be sure the deal is, in fact, too good to be true. There are no neat technological fixes to the present impasse. What is needed is change in North Korea.

The administration's written position paper on the Murkowski-Dole amendment listed six examples of possible assistance to North Korea that would be precluded by the language of the amendment. I would remind the administration that this amendment would not preclude any of these examples of assistance, if North Korea lived up to the conditions on nuclear concessions.

It is appropriate to note that on November 7, 1993, President Clinton stated: "North Korea cannot be allowed to develop a nuclear weapon."

I agree. And this is exactly what this amendment is about. The President must certify that North Korea does not possess a nuclear weapon at such time as we consider giving them any type of United States aid or assistance.

After watching the administration negotiate with the North Koreans over the last year, I continue to believe that economic concessions for anything short of nuclear concessions would be a mistake. Rewarding North Korea for empty words and promises brings us no closer to a resolution of the nuclear issue. For example, the United States agreed to resume high-level negotiations with North Korea after former leader Kim Il-song promised former President Carter that the spent fuel rods at its Yongbyon reactor would not be reprocessed.

But this promise was merely empty words. The fuel rods cannot be reprocessed for 2 months whether we negotiate or not because the rods are too "hot" with radioactive material. The promise that meant something was the promise the North Koreans did not keep, the promise to not move the fuel rods into the pond in the first place.

Allowing IAEA [International Atomic Energy Agency] inspectors full and unhindered access to the two suspected and seven declared nuclear sites would distinguish this regime from the rogue tactics of the last. This come clean approach was taken in 1991 by South Africa's former President F.W. de Klerk when his country opened up its program to reveal past nuclear activities. We should expect no less from North Korea.

And what should the American people and Congress expect from the Clinton administration during these negotiations? We should expect that the administration will use its leverage as the sole superpower to refrain from rewarding North Korea with taxpayer dollars until the President can certify that the nuclear threat on the Korean peninsula is eliminated. Economic concessions should be made only for good deeds, not just good words.

Unfortunately, the administration's opposition to my amendment leads me to believe that the administration is betting, once again, that rewards given now will lead to good behavior in the future. Every other time the administration has made such a bet, it has lost. This time, North Korean concessions should come first.

I think Congress would be irresponsible to write the President a blank check for any other approach.

Mr. President, I ask unanimous consent that an article appearing in today's issue of the Washington Times, entitled, "Don't Bribe North Korea," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Aug. 11, 1994]

DON'T BRIBE NORTH KOREA

(By Frank H. Murkowski)

The United States late last week resumed high-level negotiations with North Korea, seeking to encourage the North to abandon its nuclear intentions. While I support the administration's decision to talk, I'm afraid that I may not agree with part of what the administration may be saying.

Comments by North Korean and American officials indicate that the United States may be moving to offer economic concessions to push the North to abandon its nuclear intentions. I believe that economic concessions for anything short of true nuclear concessions would be a mistake, but unfortunately, some in Congress apparently favor writing the president a blank check for this approach.

In response to administration pressure, House and Senate conferees for the Foreign Operations Appropriation bill dropped my amendment, which had been unanimously approved (95-0) by the Senate on July 15. The amendment stated that North Korea would receive no United States foreign assistance until the president certified to Congress that the following three conditions had been met:

North Korea does not possess nuclear weapons. If North Korea possesses a nuclear weapon already, then the weapon must be destroyed.

North Korea has halted its nuclear weapons program. The program must be halted, not frozen. This means full compliance with the terms of the Nuclear Non-Proliferation Treaty and the Jan. 30, 1992, full-scope safeguards agreement between the International Atomic Energy Agency and North Korea.

North Korea has not exported weapons-grade plutonium to other countries on missiles or by other methods.

The administration's opposition to my amendment can only fuel speculation by critics of the president's foreign policy that U.S. officials are prepared to reward North Korea with economic concessions for something far short of the conditions outlined by my amendment. This would be a mistake.

The United States must present North Korea with clear alternatives: Either drop its nuclear intentions and gain the economic and diplomatic benefits of membership in the community of nations, or continue down its current perceived nuclear path and face the consequences of heightened economic and diplomatic isolation.

Rewarding North Korea for empty words and promises brings us no closer to a resolution of the nuclear issue. For example, the United States agreed to resume high-level negotiations with North Korea after former leader Kim Il-sung "promised" not to reprocess the spent fuel rods at its Yongbyon reactor during these talks. But this was an empty promise—the North Koreans could not move these rods for two months in any event because they are "hot" with radioactive material.

Now, administration officials indicate that negotiators are considering North Korea's request for lightwater nuclear reactors. This project would involve a significant commitment of U.S. technology, financial assistance and time. Such a perk might be appropriate at some stage in the negotiations, but I would caution that North Korea should first make tangible concessions. Granting a technological perk to a country that is in violation of international nuclear standards tells the other rulebreakers (Iran, Iraq, Libya) that the rulemakers are prepared to reward intransigence.

The world wants the nuclear impasse created by North Korea's refusal to abide by the terms and conditions of the Nuclear Non-Proliferation Treaty to end. But it should end on our terms.

Kim Jong-il has a historic opportunity to end the impasse and to begin a new era for his people. He can start by announcing that North Korea is prepared to come clean on its past and present nuclear activities. While Kim Il-sung may have felt that he would lose face by revealing hidden activities, the new leader need not be bound by the deeds of his father.

Allowing International Atomic Energy Agency inspectors full and unhindered access to suspected and declared nuclear sites would distinguish this regime from the rogue tactics of the past. This approach was taken in 1991 by South Africa's former president, F.W. DeKlerk, when his country opened up its program to reveal past nuclear transgressions. The United States should expect no less from North Korea.

And what should the American people and the U.S. Congress expect from the Clinton administration during this new round of negotiations? We should expect the administration to use its leverage as the sole superpower to refrain from "rewarding" North Korea with taxpayer dollars until the president can certify to the American people and Congress that the nuclear threat is eliminated.

Mr. MURKOWSKI. Mr. President, I would be happy to respond to any questions by the floor leaders on the merits of my amendment.

Mr. INOUYE. Mr. President, I wish to commend my friend from Alaska for his diligence and leadership in this area. With the modification, we are able to send a strong and clear message to the dictatorial regime on the Korean peninsula.

On behalf of the managers, I am pleased to accept the amendment. And may I, with the acceptance, assure my friend from Alaska that we will do our best to see that it remains in the bill during conference.

Mr. MURKOWSKI. I am most appreciative. I thank my good friend from Hawaii. I do look forward to his assurance that he will do the very best he can in conference on this matter.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2511), as modified, was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2509

Mr. INOUYE. Mr. President, I ask that the pending amendment be set aside and wish to call up amendment No. 2509, an amendment by Senator CHAFEE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. CHAFEE, proposes an amendment numbered 2509.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

From the Defense Environmental Restoration Account, $1 million for environmental restoration of the Derecktor Shipyard, Newport, Rhode Island, owned by the U.S. Department of the Navy.

Mr. INOUYE. Mr. President, I send to the desk a modification of the amendment on behalf of Senator CHAFEE.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 2509), as modified, is as follows:

On page 9, line 13, before the period, insert: ": *Provided further*, That of the funds appropriated under this heading, not less than $1,000,000 shall be made available only for environmental hazard response and remediation activities at facilities owned by the Department of the Navy at the Derecktor Shipyard, Newport, Rhode Island".

Mr. CHAFEE. Mr. President, the managers of the bill have informed me that they are both supportive of my amendment.

The amendment I offer today in the Senate would make $1 million in funding available for cleanup of environmental contamination at the Derecktor Shipyard in Newport, RI. The Derecktor site is seriously contaminated with PCB's and other hazardous substances. The Navy has indicated to me that it will not fund cleanup of the site until an administrative process to include the shipyard within an existing Superfund site is complete. Well, Mr. President, in my view, the cleanup cannot wait until the shipyard is put on the proper list. The time for cleanup is now, and I am pleased to be able to help start the process.

I thank the managers of the bill for working with me to develop this worthwhile amendment.

Mr. INOUYE. Mr. President, with the modification, the managers are pleased to accept the modified amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 2509), as modified, was agreed.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2512

(Purpose: Regarding Aviation Continuation Pay)

Mr. INOUYE. Mr. President, I ask that the pending amendment be set aside and I call up amendment No. 2512, an amendment by Senator HATCH.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. HATCH, proposes an amendment numbered 2512.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

"SEC. . Notwithstanding any other provision of law, the Department of Defense shall pay the appropriate amount of Aviation Continuation Pay authorized by 37 U.S.C. Sec. 301(b) to the survivors of persons who have signed reenlistment contracts but whose service connected death predates the effective date of such reenlistment contract by less than 14 days."

Mr. INOUYE. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 2512), as modified, is as follows:

SEC. . Notwithstanding any other provision of law, within the funds made available by the Act, the Department of Defense shall pay the appropriate amount of Aviation Continuation Pay authorized by 37 U.S.C. Sec. 301(b) to the survivors of persons who have signed reenlistment contracts on or after January 1, 1994, but whose service connected death predates the effective date of such reenlistment contract by less than 14 days.

Mr. HATCH. Mr. President, I am deeply moved on this day to pay tribute to Capt. John R. Kindred, a U.S. Air Force pilot, who died in the line of duty in a midair collision on May 6, 1994, over the Yellow Sea, west of South Korea. Captain Kindred, of course, is only one of our brave military men and women who have given their lives in service to our country.

However, my amendment was prompted by an unusual circumstance in the case of Captain Kindred. Captain Kindred had just reenlisted in the U.S. Air Force to serve another 7 years when his untimely death occurred. Although he had signed an agreement to serve under the Aviation Continuation Pay Program, he was not protected by this contract when he died 13 days short of the effective date of his contract. He was in an interim status of completing his old enlistment and beginning his new enlistment period when the collision occurred. Had he not chosen to reenlist, he would have been grounded and would not have been flying in preparation for possible conflict with North Korea on the tragic day of his death.

I have, therefore, offered an amendment to H.R. 4650, the Department of Defense appropriations bill, which will pay the appropriate amount of aviation continuation pay authorized by 37 United States Code section 301(b) to the surviving members of his immediate family, his wife, Lori K. Kindred, and their 2-year-old daughter, Bryndel Kindred.

I thank Senator INOUYE and Senator STEVENS for their support of this amendment.

Mr. INOUYE. With the modification, Mr. President, the managers find the modified amendment to be acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 2512), as modified, was agreed to.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2530

(Purpose: To include the military services more actively in defense technology reinvestment programs)

Mr. INOUYE. Mr. President, I ask the pending amendment be set aside, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. BINGAMAN, for himself, and Mr. PRYOR, proposes an amendment numbered 2530.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 8096 and insert in lieu thereof:

Amendment No. : None of the funds appropriated or otherwise made available by this Act may be used for a defense technology reinvestment project that is not selected pursuant to the applicable competitive selection and other procedures set forth in chapter 148 of title 10, United States Code: *Provided*, That notwithstanding any other provision of law, funds appropriated for defense reinvestment programs under the heading "Research, Development, Test and Evaluation, Defense-Wide" shall not be obligated until the Secretary of Defense has ensured that the Assistant Secretaries for Research, Development, and Acquisition of the separate Military Departments are full members of the Defense Technology Conversion Council: *Provided further*, That notwithstanding any other provision of law, of the funds appropriated for defense reinvestment programs under the heading "Research, Development, Test and Evaluation, Defense-Wide", $150,000,000 may only be obligated for projects selected as a result of a focused competition held in subject areas selected by the Assistant Secretaries for Research, Development, and Acquisition of the separate Military Departments in coordination with the Director of the Advanced Research Projects Agency: *Provided further*, That in addition to the restriction contained in the preceding provisos, the focused competitions shall be conducted in accordance with other unaffected statutory provisions of the Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993.

AMENDMENT NO. 2530, AS MODIFIED

Mr. INOUYE. Mr. President, I send to the desk a modification in behalf of Senator BINGAMAN.

The PRESIDING OFFICER. Without objection the amendment will be modified.

The amendment (No. 2530), as modified, is as follows:

In Sec. 8096, on page 113, line 4, strike ": *Provided*," and all the text that follows through "Amendments of 1993", on line 2, page 114, and insert in lieu thereof: ": *Provided*, That notwithstanding any other provision of law, funds appropriated for the Advanced Research Projects Agency defense reinvestment program element under the heading "Research, Development, Test and Evaluation, Defense-Wide" shall not be obligated until the Secretary of Defense has ensured that the Assistant Secretaries for Research, Development, and Acquisition of the separate Military Department are full members of the Defense Technology Conversion Council and are fully integrated into the process of selecting dual-use technology focus areas for such programs and evaluating proposals for such projects: Provided further, That notwithstanding any other provision of law, of the funds appropriated for defense reinvestment programs under the heading "Research, Development, Test and Evaluation, Defense-Wide", $150,000,000 may only be obligated for projects selected as a result of a competition held by the Advanced Research Projects Agency in focus areas selected exclusively by the Assistant Secretaries for Research, Development, and Acquisition of the separate Military Departments: *Provided further*, That in addition to the restriction contained in the preceding provisos, the competition in focus areas shall be conducted in accordance with other unaffected statutory provisions of the Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993."

Mr. BINGAMAN. Mr. President, on behalf of Senator PRYOR and myself, I am offering an amendment to clarify provisions in the bill with regard to involving the military departments more in the technology reinvestment program run by ARPA.

I first want to note that I agree with the thrust of the provision in the bill. It is vital that the dual-use approach to technology development be inculcated more deeply into the service acquisition systems. We will soon conclude a conference on S. 1587, the most far reaching acquisition reform bill in at least 20 years, and the heart of that bill is the commercial-military integration paradigm espoused by Secretary Perry at least since he was a member of the Packard Commission. DOD should move away from military specifications and toward greater use of commercial products wherever possible, particularly at the subtier industries such as electronics, materials, machine tools, manufacturing technology, communications, and computers. Secretary Perry has spoken eloquently about the opposition this paradigm shift is likely to face from those comfortable with the defense-unique or autarkic strategy DOD has followed too often in the past at great expense in its acquisition system.

So I commend the Senator from Hawaii for the strong support he has shown for the ARPA technology reinvestment program in this bill and for his support for better integrating the services into this program, which is really the flagship of Secretary Perry's and Deputy Secretary Deutch's new dual-use model.

Over the past few days our staffs have had very productive discussions as to how best to achieve the Senator from Hawaii's and our mutual goal in this area. The amendment before us would make the Service acquisition executives full members of the Defense Technology Conversion Council, along with the Director of ARPA and representatives of DOE, the Commerce Department, NASA and the National Science Foundation, and fully integrate them into the technology reinvestment program, including selecting focus areas for competitions and evaluating the proposals that come in as a result of those competitions. We feel that this will better achieve our goal than having an additional step at the end of the selection process involving the service acquisition executives as had been proposed.

The amendment also clarifies that while the service acquisition executives will select the focus areas for $150,000,000 of the funds in the technology reinvestment program element, ARPA will hold the competition for these focus areas and remain the leader of the overall effort.

I believe that this amendment is a step in the right direction compared to the provision currently in the bill. It will both better propagate this new way of doing business into the services and better protect the program from the sort of criticism it received in last night's debate that the program is insufficiently attentive to defense needs, criticism which I believe is wrong. If we have all three service acquisition executives fully involved as stakeholders in this program, as our amendment would do, it will be a better and stronger program.

I understand the amendment is acceptable to the Senator from Hawaii and urge its adoption.

Mr. INOUYE. Mr. President, with the modification the managers find the amendment to be acceptable.

Mr. PRYOR. Mr. President, I rise today to offer an amendment with Senator BINGAMAN that would include the military services more actively in our Federal Government's defense technology reinvestment programs.

This amendment would replace language previously included in this bill that would have required the military services to certify that each technology reinvestment program addresses a bona fide defense need. The language offered by Senator BINGAMAN and myself would remove this certification and replace it with language that places a representative from each military department on the Defense Technology Conversion Council—the guiding body of the Clinton administration's technology reinvestment project that, among other things, selects focus areas, evaluates proposals, and ensures that each program addresses a bona fide defense need.

Although I personally feel that the military departments are currently well represented in the Technology Reinvestment Program [TRP], I acknowledge that the distinguished chairman, Senator INOUYE, and others in Congress wish to see a greater participation of the military departments in this important dual use initiative, to help ensure that each project addresses a true military need.

I would like to express my extreme displeasure with one portion of this bill, relative to the technology reinvestment project. The appropriators have included language that would allow the military departments to select focus areas for $150 million of the $625 million technology reinvestment project. Mr. President, this is a direct violation of the intent and spirit of the TRP. TRP encourages partnerships in a bold effort to integrate military and commercial technology initiatives. To set an example for these partnerships, the Federal Government has assembled five agencies, each working together to foster dual-use technologies and competitiveness. This bill requires the military departments to select focus areas on 40 percent of the TRP without any input or consultation from the other agencies involved in this important initiative. I strongly oppose this shortsighted proposal.

Mr. President, aside from my opposition to this provision, I feel compelled to acknowledge that, for the first time, all four congressional defense committees have provided funds for the Clinton administration's technology reinvestment project. I applaud Senator INOUYE for his leadership in appropriating $625 million for TRP in the Senate version of the fiscal year 1995 Defense Appropriations bill. I also applaud Senator INOUYE for upholding the integrity of our technology reinvestment programs by discouraging the deplorable practice of earmarking specific projects with funds that are designed to be awarded via a merit-based process. Finally, I thank the distinguished Senator for accepting our amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2530), as modified, was agreed to.

AMENDMENT NO. 2532

Mr. INOUYE. Mr. President, I ask the pending amendment be set aside, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. WELLSTONE, proposes an amendment numbered 2532.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . The Senate finds:

a. In 1953, the U.S. Army conducted chemical and biological warfare tests in Minneapolis, MN, involving the spraying of zinc cadmium sulfide particles.

b. Members of the Senate have requested the Department of Defense to provide full disclosure of all documents pertaining to this and similar tests conducted nationwide.

c. The Department of Defense has thus far failed to provide even a time certain at which such documents will be made available.

SEC. . It is the sense of the Senate that the Department of Defense shall immediately provide, in writing, a schedule of production for the requested documents.

AMENDMENT NO. 2532, AS MODIFIED

Mr. INOUYE. Mr. President, I send to the desk a modification in behalf of Senator WELLSTONE.

The PRESIDING OFFICER. Without objection the amendment is modified.

The amendment (No. 2532), as modified, is as follows:

SEC. . It is the sense of the Senate that not later than 90 days after the enactment of this Act, the Department of Defense shall submit all documents pertaining to any and all Department of Defense chemical and biological warfare tests involving the use of zinc cadmium sulfide conducted anywhere in the United States.

Mr. WELLSTONE. Mr. President, in 1953 the U.S. Army conducted chemical and biological warfare experiments in Minneapolis that involved the spraying of a potentially dangerous compound called zinc cadmium sulfide over the city. On June 10, 1994, I sent a letter to Defense Secretary Perry asking for all documents relating to these experiments, and since then, I have learned that similar tests were carried out using different materials in various locations throughout Minnesota and most of the United States.

I offer this amendment not to make any judgments about the appropriateness of the experiments. I offer this amendment to ensure that the American people get the full disclosure they deserve. When the Army conducted its testing in Minneapolis and other cities, they made up a cover story so that the citizens wouldn't know what the tests really were. That was a long time ago and most of the people who directed those tests are probably no longer with the Department, but the American people still deserve to know what happened during the cold war. That is why I have requested documents and made those documents available to the public as I have received them.

As I have said, my first request for disclosure was a letter to Defense Secretary Perry dated June 10, 1994. The letter asked for all documents relating to zinc cadmium sulfide spraying in Minneapolis and throughout the United States.

On June 14, when I received a briefing from Army officials, I made it clear that I wanted full disclosure by the DOD of all documents involving zinc cadmium sulfide spraying in the United States, as well as involving any other chemical and biological warfare testing that occurred in Minnesota, even if zinc cadmium sulfide was not involved. The officials promised full disclosure and presented me with some very general documents, previously released in 1977. They also agreed to provide a timeline for the production of the rest of the documents.

Over the next month, DOD provided my office with a number of very specific documents, detailing spraying experiments in Minneapolis, St. Louis, and Winnipeg in 1953.

At a briefing July 15, DOD officials provided a health effects assessment of the Minneapolis spraying and promised to provide all documentation relevant to experiments in Minnesota and zinc cadmium sulfide spraying in the rest of the United States by August 15.

In a July 28 telephone discussion, we were informed that DOD would not be able to provide anything but the Minnesota-related documentation by the August 15 deadline, and that the U.S.-wide documentation would not be available until some unspecified time in the future. DOD was requested to write a letter explaining their failure to meet the deadline. The letter was to be provided by August 9. No such letter has been received.

DOD apparently still plans to provide the Minnesota-related documents by August 15, but I have no idea when I will see the rest of them, including those involving tests conducted in the rest of the country.

This is an issue of public accountability. For some reason the Department seems incapable or unwilling to give me a time certain for delivery of these documents. They made a commitment, and then failed to keep it, without even providing a reason.

This amendment assumes that the Department will keep its earlier commitment to make all Minnesota-specific documents available on August 15, 1994. The amendment sets a 90-day deadline for DOD to provide the rest.

Mr. INOUYE. Mr. President, as modified the managers find the amendment to be acceptable.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2532), as modified, was agreed to.

AMENDMENT NO. 2544

(Purpose: To limit funds to ensure the operation of Fort Chaffee, AR, in accordance with the report of the 1991 Base Realignment and Closure Commission)

Mr. INOUYE. Mr. President, I ask the pending amendment be set aside to consider amendment No. 2544, an amendment by Senator BUMPERS. I send the amendment to the desk and ask for its immediate consideration.

VOL
140
PT
15
AG
10
—
11
1994
UMI

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. BUMPERS, proposes an amendment numbered 2544.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, and the following:

"SEC. . None of the funds made available under this Act may be obligated or expended for the relocation or reduction of the functions specified in the 1991 Report to the President of the Defense Base Closure and Realignment Commission to be maintained at Fort Chaffee, Arkansas, including ndall civilian management, support personnel and operations associated with these functions that are in existence as of September 30, 1994."

AMENDMENT NO. 2544, AS MODIFIED

Mr. INOUYE. I send to the desk a modification to this amendment in Senator BUMPERS' behalf.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment No. 2544, as modified, is as follows:

At the appropriate place in the bill, and the following:

"SEC. . None of the funds made available under this Act may be obligated or expended for the relocation or reduction of the functions specified in the 1991 and 1993 Reports to the President of the Defense Base Closure and Realignment Commission to be maintained at Fort Chaffee, Arkansas, including all civilian management, support personnel and operations associated with these functions that are in existence as of September 30, 1994."

Mr. INOUYE. With such modification the managers find the amendment to be acceptable.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2544), as modified, was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2506

Mr. INOUYE. Mr. President, I ask the pending amendment be set aside and we consider amendment No. 2506, an amendment submitted by Senator DOMENICI. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. DOMENICI, for himself and Mr. BINGAMAN, proposes an amendment numbered 2506.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert:

SEC. . No funds appropriated by this Act may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B–52H, B–1B, or F–111 bomber aircraft.

Mr. DOMENICI. Mr. President, this amendment would prohibit the expenditure of Department of Defense funds to retire, or prepare to retire, B–52H, B–1B, or F–111 bomber aircraft in fiscal year 1995. The language in this bill can also be found in this year's Defense authorization bill.

The F–111 fighter bomber played a critical role in the Persian Gulf war in delivering precision-guided munitions deep behind enemy lines against high value targets. The F–111s at Cannon Air Force Base continue to demonstrate their prowess in exercises. Should they be called upon again to support our forces anywhere in the world they would be ready and they would make a tremendous contribution.

The August 8 edition of Defense News contains an article dealing with F–111 force structure. It begins with the statement, "Senior uniformed U.S. Air Force officials are opposing a plan to retire the F–111 long-range strike aircraft by 1996, citing a gap in combat capability."

Mr. President, the Air Force officers referenced in the Defense News article are right. Their comments echo the Bottom-Up Review which says that the F–111 is necessary to carry out the missions of the Department of Defense through fiscal year 1999. This amendment is a step in the right direction. I thank the managers for the consideration of this amendment.

Mr. INOUYE. This amendment has been authorized and accordingly the managers have no objection to its acceptance.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2506) was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask the pending matter be temporarily set aside and that the Chair recognize the Senator from Ohio [Mr. METZENBAUM].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

UNANIMOUS CONSENT AGREEMENT

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from Ohio and the Senator from Utah be permitted to offer a bill at this time, which I send to the desk and ask that the bill be placed on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM. I thank the Chair.

(The remarks of Mr. METZENBAUM and Mr. HATCH pertaining to the introduction of S. 2380 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MEASURE READ FOR THE FIRST TIME—S. 2380

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the previous unanimous consent agreement relating to placing on the calendar S. 2380 be vitiated, and I now ask for its first reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 2380) to encourage serious negotiations between major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that the fans will be able to enjoy the remainder of the baseball season, the playoffs, and the World Series.

Mr. METZENBAUM. Mr. President, I now ask for its second reading.

Mr. HATCH. Objection.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. I object.

The PRESIDING OFFICER. Objection is heard. The bill will be given its second reading the next legislative day.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE REFORM

Mr. PRESSLER. Mr. President, all of us are very concerned about helping those Americans without health insurance. We want to ensure that they get insurance benefits. In my State a survey in one of our leading newspapers found that about 75 percent of our people were satisfied with the present health insurance and health care system. This does not mean that people do not want any change. Rather, it means they only want us to fix that which is broken.

I lived in England many years ago as a student, and I found that there were people unhappy with the health care system there. There are people unhappy with the health care system in Canada, in Germany. There is no perfect way to deliver those kinds of services and have everybody happy.

The point is we have the best health care system in the world, and the one that produces the most new drugs and the most new medical procedures. I think we should move very cautiously before we change the basic type of health care system we have. That does not mean we do not need to improve things in certain areas.

Now, the President and the First Lady have done a good job of raising this subject. They deserve a great deal of credit. What happens in most of their seminars and meetings is that three or four people who have suffered from great health problems are showcased. We sympathize with those people who suffered. We would like to solve their problems. Everybody leaves the room and the meeting, and the implication is that everybody's problems would be solved if we just passed the Clinton health care plan or the Mitchell health care plan.

But that is not true. There is much misunderstanding about what is in these bills, and it is part of my purpose to try to increase the understanding.

For example, the health bill, according to the Washington Post, the Mitchell bill, the 1,410 page bill—and this is as reported in the Washington Post—"would create dozens of new Federal and State agencies. They would have untested authority to centralize, reorganize, monitor and enforce the way medical care is bought, sold and, to a lesser extent, practiced in this country."

In other words, we are setting up Government health insurance, and we should remember that, because that is exactly what it is.

I cite another article from the Philadelphia Inquirer. "Health bills increase taxes of middle class." According to the Philadelphia Inquirer, this is one of the largest tax increases aimed at the middle class in American history. "The bottom line," it says, "most people who now have generous health-insurance plans would end up paying more for reduced benefits, said Joseph Walshe, a benefits specialist with the Coopers & Lybrand accounting firm.

Families in the $50,000 annual income range may see their insurance costs rise by several hundred dollars per year, Walshe said; actual costs would vary depending on a host of individual circumstances.

Mr. President, I have long felt that my principal job here is to represent the middle class. Of course, we are concerned about the very rich and the very poor, and we want to take care of the very poor and help them. But most people that I represent are middle-class Americans. You do not get any medals, I guess, for representing the middle class or being in the middle class, but the point is this health care bill is a massive tax increase for the middle class.

The Philadelphia Inquirer article lists four major new taxes on the middle class. First of all, it would "impose a new tax on health insurance premiums—2 percent in the House bill and 1.75 percent in the Senate plan." Most middle-class Americans have their own health insurance premiums, so most middle-class Americans would be paying that new tax.

Second of all, the bill ends "current tax breaks for 'flexible spending accounts' in so-called cafeteria-style benefit option plans. This probably would affect more ordinary taxpayers than any other proposed tax change." That is another heavy tax on the middle class.

Third, there is "a 25 percent penalty tax on 'high cost' insurance plans that 'would be difficult to implement' and 'might be considered inequitable.'" That is another tax on the middle class.

Finally, there is an "extension of the Social Security tax on non-wage income to owners of 'S corporations,' a tax category of service businesses."

So the point I am trying to make here is that the middle class' taxes are going to be substantially increased in this bill, and that should be understood. The very rich will pay the same increase, but it will be incrementally much smaller. But to a family of four on an income of $40,000- to $50,000 a year, that is a heavy tax increase on a percentage basis. And we should not apologize about representing people who make $30,000- or $40,000 a year or $50,000 a year. They are American citizens. They deserve representation. They should be told what is in this bill. It is a major tax increase on middle-class Americans, those Americans who take care of themselves, those Americans who obey the laws, pay their taxes, and carry out the duties of citizenship in this country. I think that has been overlooked, where the incidence of this tax increase falls. These new taxes fall on the middle class.

I know there is very little sympathy in this Chamber from some of my friends for the middle class. To be very wealthy is very fashionable. To help the very poor is compassionate and you get awards and medals for it. But everybody forgets about the middle class, those people out here who are working, doing their jobs, who insure themselves, take care of themselves and their families, contribute to their communities. And this bill hits them hardest. It punishes the middle class. I think we should look at the new taxes that are in it and see if this is what we really want.

Also, we must take a very careful look at the dozens of new Federal and State agencies that are being created, because once these new agencies are created there will be 98,000 new Federal employees and we all know what happens when there are new Federal employees—it keeps growing and growing and growing. And again, the taxpayers of America must pay.

It has been said that our country is something like a wagon. There are only so many people pulling the wagon. Some people must ride in the wagon because they are handicapped or they are disadvantaged or they are poor. But more and more people are getting of the philosophy that they will ride in the wagon rather than pull the wagon. We are penalizing those people who pull the wagon—the backbone of our country. The way the taxes are built in this health care bill, the way the taxes will fall, they fall the hardest on the hardworking, honest, middle-class people of this country. And I make no apologies about standing up and speaking for them because I do not think they are spoken for enough.

Now, this bill is put forth that it is going to solve all the problems and that somehow it is free. There is a tendency here to promise all these things in 1998 and the year 2000 and 2002. The balanced budgets are being promised, and the President talks about the benefits and the other goodies. But we really do not have good CBO figures. How much is it going to cost? Yesterday, we had a resolution in the Senate saying we should have the CBO figures, real budget figures before we act on such a major piece of legislation.

The American middle-class taxpayer is being locked into a heavy load of taxes on a whole series of promises that are going to come into effect.

Now, none of these taxes will come into effect until after the next Presidential election. That is another phenomena of this bill. If the President and the people advocating this health care reform were sincere and they thought we needed it, they should make it effective today. People would know what the rate of taxation would be during the next Presidential election. They are not going to find out because it very carefully takes us beyond 1996. It takes us on to 1998. Indeed, the biggest taxes come into effect in 2002, the employer mandates. By that time, we will have had two Presidential elections.

So what this Congress is doing is putting a burden on future generations It is promising people a whole bunch of things that are not going to be delivered until 2002, but meanwhile the taxes are creeping in. And it is doing it

VOL 140 PT 15 AG 10 — 11 1994 UMI

without a budget estimate, which is just absolutely amazing. So that is not a good management way to do business.

I have frequently been a critic of Congress because of the way we do our business and how we are organized. But we should have a budget estimate before we go into something like this. If we are going to increase people's taxes, we should tell them how much and when. Those are some of the things that we must do.

Mr. President, I ask unanimous consent to place the article from the Washington Post about the dozens of new Federal and State agencies into the RECORD, and also from the Philadelphia Inquirer titled "Health bill increase taxes of middle class." This is from a very liberal paper that is writing that. I do not usually cite liberal papers, but when they write the truth I do.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 7, 1994]

HEALTH BILLS MAY HAVE NO SUBSTITUTE FOR BUREAUCRACY

(By Dana Priest)

President Clinton and members of Congress last week hailed the Senate Democratic leadership's health bill as a vast improvement over the bureaucracy-laden 1,462-page plan produced by the White House.

But the 1,410-page bill proposed by Senate Majority Leader George J. Mitchell (D-Maine) also would create dozens of new federal and state agencies. They would have untested authority to centralize, reorganize, monitor and enforce the way medical care is bought, sold and, to a lesser extent, practiced in this country.

New bureaucracy is unavoidable in legislation that sets out to tackle the job of reforming the health care system, which makes up one-seventh of the economy, policy analysts say.

"While it appears as more bureaucracy, it's actually less than the current system," said David Kendall, a health policy expert with the Progressive Policy institute, a conservative Democratic think tank. "Having one purchasing group buying insurance for 1 million people is a lot more efficient than having 10,000 employers do it."

Even so, the Mitchell bill substitutes government bureaucracy for private in some instances, challenging states and federal agencies to set up new agencies with complex responsibilities never before performed on the same scale by public or private enterprise.

The Mitchell bill would require states to enforce complex new insurance industry laws designed to prevent companies from discriminating against the old and sick.

It would obligate states to verify that health plans had the ability to care for patients in the way the law requires and were financially sound.

And it would force states to monitor the transfer of billions of dollars in insurance premiums paid by employers and individuals to private insurers.

States also would set up at least three new, multibillion-dollar government subsidy programs for low-income people. One would be for people temporarily unemployed. Another would be for low-income pregnant women and children. The third would be for hard-to-reach low-income groups like the homeless.

In addition, states would have to dismantle Medicaid, the current federal-state health insurance program for the poor, and give money to those same people to buy private insurance.

Moreover, the states would be asked to collect new data in each community on patient care, health spending and on the functioning and efficiency of health plans. The data would be used to compile a report card on each health plan that consumers would use to select a plan every year. it also would be used by each insurance company to set standard prices in each community.

"It's so much at one time," said Raymond C. Scheppach, executive director for the National Governors' Association. "You're trying to build a very different delivery system at the same time there's a new low-income program, and then you have to worry about waste, fraud and abuse because you're reshuffling so much money."

Mitchell's requirement that states collect insurance and health data, for example, also would be necessary to make sure no health plan collapsed financially. This could occur if a disproportionately large number of sick people enrolled in one particular plan.

To protect against this possibility, states would be required to do something called "risk adjustment," a task no one has carried out successfully anywhere on a large scale. It involves figuring how much more one particular health plan spent because it had more sick people than the average plan in a given community and then giving it money to make up the difference attributable to the disparity.

In Mitchell's bill, large companies allowed to keep their own health plans would be required to contribute toward the overall cost of health care for people in the community beyond their employees. Senate aides believe large companies would be required to pay less than a 1 percent payroll tax.

The Congressional Budget Office recently said, "The feasibility of developing and successfully implementing such a mechanism in the forseeable future is highly uncertain."

Proponents of the Democratic leadership bills argue the new bureaucracies are a necessary part of fixing the health care system and they have designed them in the least disruptive way.

"It requires a lot of administrative work, and we don't know whether they can be done, especially by the states," Mitchell said at a news conference last week. "That states have been the laboratories of democracy in health care . . . and the alternative to the states doing it are two: the federal government doing it or doing nothing."

Opponents say the bills are another example of government run-amok lawmaking. "With 17 new taxes and 20 new bureaucracies, the Mitchell plan is enormously irresponsible and expensive," said Sen. Don Nickles (R-Okla.).

Nickles 17 "new taxes" include increases in penalties for not complying with proposed new rules and changes in how the tax code treats some health benefits. It also includes some taxes Republicans have championed, such as taxing wealthy Medicare beneficiaries for part of the Medicare benefits they receive.

Scheppach of the governors' group said states would need a three- to five-years period of phase in the new system before being judged on whether the reforms reduced health spending and provided insurance to more people.

Under the Mitchell bill, employers in a state that did not reach 95 percent coverage by 2000 might then be required to pay 50 percent of their workers' health insurance. Employees would be required to pay the rest.

In the Mitchell bill, for example, small businesses that voluntarily pay workers' insurance would no longer have to search out health companies to insure their workers. The company simply would send the money to the health plan or Health Insurance Purchasing Cooperative that it employees choose.

The cooperatives, new nonprofit agencies monitored by the states, would be responsible for enrolling individuals, collecting and distributing premium payments to health plans and providing consumer information on plans' quality and costs. In regions where no nonprofit organization took on that task, states would be required to run a cooperative for consumers.

States also would have to offer employees in every community the chance to enroll in the federal employee health program. And if no such program existed in a given region, the federal Office of Personnel Management would have to set up and run one there.

People on all sides of the health care debate criticize the massive amount of red tape in the current system. Health experts say paperwork and overhead add 30 percent to the cost of insurance for small businesses. Consumers complain frequently about the paperwork and coverage battles with insurance companies, and standardizing the system requires new regulations. The question is whether the government can, and can be trusted to, oversee a health system in an efficient and cost-effective way. As everything else in health care reform, that will be a much-debated point. "To us, it's the Clinton alliances all over again," said Mary Nell Lehnhard, senior vice president of the Blue Cross Blue Shield Association, referring to the much-maligned insurance purchasing cooperatives in the original Clinton plan that were denounced by all sides.

In addition to the expanded role for the states, the federal government also would have new responsibilities under the Mitchell plan. It calls for a new National Health Care Cost and Coverage Commission, a seven-member presidentially appointed panel empowered to monitor and recommend ways to cover more people and reduce health spending. It mandates a National Health Benefits Board, also seven members, set up to decide the scope of medical services guaranteed in the standard benefit package each health plan must sell.

There is the National Council on Graduate Medical Education, which would reorganize medical education so 55 percent of the residency students were working in primary care by 2001.

And there is the National Quality Council, which would set quality standards and performance measurements for health plans. And then, there is the House bill drafted by Majority Leader Richard A. Gephardt (D-Mo.). It contains many elements of the Mitchell plan, plus others.

HEALTH BILLS HIKE TAXES OF MIDDLE CLASS

(By Robert A. Rankin)

WASHINGTON.—The two main health-reform bills moving through Congress contain several provisions that would raise the taxes of middle-class Americans as a tradeoff for providing universal insurance coverage.

Every income group would be affected by the most-publicized tax contained in both bills: a 45-cent-per pack increase in the cigarette tax, which would rise to 69 cents per pack by 1999.

But other less-noticed terms largely would hit the middle class. The bills would end current tax breaks for employee health insurance, add taxes on health-insurance premiums and, in the Senate version, slap a 3 percent income tax increase on many small-business owners.

The bottom line: Most people who now have generous health-insurance plans would end up paying more for reduced benefits, said Joseph Walshe, a benefits specialist with the Coopers & Lybrand accounting firm.

Families in the $50,000 annual-income range may see their insurance costs rise by several hundred dollars per year, Walshe said; actual costs would vary depending on a host of individual circumstances.

New taxes are never popular, but their proponents say these are necessary to provide universal health insurance to the 39 million Americans who lack coverage and to finance standard benefits for everyone.

The effect on individuals would vary considerably by region, by plan and by the demographic profile of clients sharing in group plans, said Bill Custer, research director for the Employee Benefit Research Institute, a nonpartisan, nonprofit study center.

In addition to raising the cigarette tax, the plans sponsored by House Democratic Leader Richard A. Gephardt of Missouri and Senate Democratic Leader George J. Mitchell of Maine would:

Impose a new tax on health-insurance premiums—2 percent in the House bill, 1.75 percent in the Senate plan. While insurers would pay the tax initially, "it's clear the effect of that tax is either going to be a reduction in benefits or simply passed along [to policyholders] as higher premiums," said Custer.

End current tax breaks for "flexible spending accounts" and so-called cafeteria-style benefit option plans.

This probably would affect more ordinary taxpayers than any other proposed tax change, said Clint Stretch of the Deloitte & Touche accounting firm. Reformers hope to make consumers more aware of the full costs of their health-care spending—in hope of encouraging more cost-efficient spending—but this change would pinch the middle class.

About 40 percent of corporate employees now take advantage of flexible accounts, through which they set aside pre-tax dollars to cover their insurance plan's annual deductible fee, and co-payments for medical services. About 8 percent use cafeteria-style option plans, which let employees use pre-tax dollars either for insurance or other expenses such as child care.

A family in the 28 percent tax bracket that sets aside $400 in a pre-tax "flex" account can cut its income tax by $112. Ending that break "is a tax increase, in effect," said Custer.

He warns that as employers lose their tax incentives to offer such health-care plans, they also may drop the rest of their "cafeteria" offerings on the ground that they are more administrative trouble than they are worth.

Gephardt's chief reform-financing tool is to impose a mandate on employers to pay 80 percent of their employees' health insurance. Economists call this an indirect tax; politicians call it dynamite because business groups oppose it so vehemently.

To avoid the political explosion from that proposal, Mitchell backed several other taxes, including:

A 25 percent penalty tax on "high-cost" insurance plans that "would be difficult to implement" and "might be considered inequitable," as determined by complex formulas. Like the small tax both bills would impose on premiums, insurers also would pass this 25 percent tax along to consumers one way or the other, analysts agree.

"A lot of plans will try to keep under the [25 percent] cap by skimping on benefits and other ways to keep costs down," said Custer. He said the pace of medical inflation was so hard to restrain that it eventually would push nearly all insurance plans into triggering Mitchell's 25 percent tax.

Extension of the Social Security tax on non-wage income to owners of "S Corporations," a tax category of service businesses.

"A lot of small-business owners are S Corps," said Pamela Pecarich, director of tax policy for Coopers & Lybrand. "For them this is going to be a big hit, because it's a 2.9 percent tax on their total income."

The biggest taxes in both bills, however, are the ones economists call "indirect." Like Gephardt's employer mandate, these are "taxes" because they involve the government confiscating private money for a public purpose.

Another indirect tax on both bills stems from their deep cuts in Medicare's projects payments to doctors and hospitals.

Medicare already pays doctors and hospitals less than their true costs for treating the elderly. Doctors and hospitals make up these losses by shifting the unpaid expenses to bills of the privately insured.

Mr. PRESSLER. Let me also indicate what I am for. Meaningful reform must include: malpractice reforms, insurance reforms—making insurance permanent and portable, preventing insurance companies from denying benefits to individuals with a pre-existing condition, antitrust reform, paperwork reduction, reduction of Federal regulation, medical savings accounts, tax fairness to the self-employed, and voluntary purchasing pools.

I yield the floor.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. INOUYE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the first committee amendment.

AMENDMENT NO. 2534

(Purpose: To limit the use of funds for a joint program for the development of an advanced threat radar jammer with a foreign government, other than a major ally of the United States, or with an entity controlled by a foreign government, other than such an ally)

Mr. INOUYE. Mr. President, I ask that the amendment be set aside, and I ask that amendment No. 2534, an amendment by Senator FEINSTEIN, be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mrs. FEINSTEIN, for herself, Mr. SASSER, Mr. BINGAMAN, and Mr. ROTH, proposes an amendment numbered 2534.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . (a) None of the funds available to the Department of Defense during fiscal year 1995 may be used for negotiating or entering into any agreement with, nor for accepting funds from, a foreign government or an entity controlled by a foreign government for a joint program for the development of an advanced threat radar jammer for combat helicopters until 30 days after the Secretary of Defense, in consultation with the Secretary of State, the Secretary of the Army, and the Director of the Defense Security Assistance Agency, conducts a comprehensive review of the program and submits a report on the results of that review to the congressional defense committees.

(b) This section does not apply with respect to a major ally of the United States.

(c) In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

(B) any individual acting on behalf of a foreign government, as determined by the Secretary of Defense. Such term does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(2) The term "major ally of the United States" has the meaning given such term in section 2350a(i)(2) of title 10, United States Code.

Mr. INOUYE. Mr. President, the managers find this amendment to be acceptable.

Mrs. FEINSTEIN. Mr. President, I rise today to support my amendment that would require the Secretary of Defense to report to Congress on a very important issue that involves not only congressional oversight of a defense program, but also proliferation concern and stability in the Middle East: a Department of Defense proposal to codevelop the Advanced Threat Radar Jammer [ATRJ] with the United Arab Emirates [UAE].

I understand that the U.S. Army and Defense Security Assistance Agency [DSAA] are prepared to offer the UAE a proposal to codevelop the ATRJ—the Army's next generation radar receiver and jamming system. Under this proposal, the UAE would provide funding for research and development of the ATRJ and then be allowed to purchase the sophisticated systems for installation on recently acquired AH-64 Apache helicopters.

I and many of my colleagues are concerned about this proposal for several reasons. First, this agreement would establish an arrangement wherein a foreign nation would fund a U.S. defense program in an apparent circumvention of the normal authorization and appropriations process, and

VOL 140 PT 15 AG 10 — 11 1994 UMI

beyond the effective oversight of Congress. The Congress has repeatedly voiced its objections to executive branch efforts to solicit funds in support of U.S. foreign policy or defense initiatives that were not first made subject to the scrutiny of the legislative branch.

Second, I believe this agreement would undermine the President's own efforts to constrain weapons proliferation. It provides the UAE with a quantum improvement in its war fighting capability which could provoke other hostile nations to seek advanced systems to counter the new perceived UAE threat.

Third, this arrangement would violate a departmental policy, recently reaffirmed by the Deputy Secretary of Defense on March 15, 1994, which states that:

The Department of Defense remains committed to the policy of no foreign military sales or commitments for foreign sales of defense systems prior to the successful completion of OT&E [operational test and evaluation], and the specific approval of the Under Secretary of Defense. This policy remains in effect today.

Finally, I am deeply concerned that if this new weapons system were introduced into a volatile region and ever fell into the hands of a U.S. adversary, its state-of-the-art jamming capability could pose a serious threat to U.S. forces. When fully operational, this system will be capable of friend or foe identification, pulsed radar jamming, extreme radio frequency sensitivity and processing capability, as well as multiband situational awareness.

I see little justification for proceeding with an arrangement that is fraught with so many questionable funding practices and policy implications. While I and many of my colleagues believe that the United States shares an interest in the security of the UAE, the ATRJ would provide a level of jamming capability significantly greater than that possessed by many of our close NATO and major non-NATO allies. The possible threats to the UAE are no greater than those faced by other nations in the region, none of which have been asked to participate in the ATRJ program.

I have already contacted the Defense Department on this issue, expressing my concern over the codevelopment of the ATRJ with the UAE. Unfortunately, I found the response to my concerns to be inadequate.

Therefore, I have offered this amendment that directs the Department of Defense not proceed to with the codevelopment of the ATRJ with any foreign entity until the Department has fully consulted with Congress, and evaluated both legal and policy implications. The amendment exempts our NATO and major non-NATO allies.

Specifically, the report to be submitted by the Secretary of Defense should include the following:

First, the legal basis for seeking for the program funds that are neither authorized to be appropriated nor appropriated.

Second, the consistency of the program with the Department of Defense policy that no foreign military sale of a defense system, and no commitment to foreign military sale of a defense system, be made before operational test and evaluation of the system is successfully completed and the Under Secretary of Defense for Acquisition and Technology has specifically approved the system for sale to a foreign government.

Third, the mission requirement for an advanced threat radar jammer for combat helicopters.

Fourth, an assessment of each threat for which an advanced threat radar jammer would be developed, particularly with regard to each threat to a foreign country with which the United States would jointly develop an advanced threat radar jammer.

Fifth, the potential for sensitive electronic warfare technology to be made available to potential adversaries of the United States as a result of U.S. participation in the program.

Sixth, the availability of other nondevelopmental items and less sophisticated technologies for countering the emerging radar detection threats to U.S. combat helicopters and combat helicopters of U.S. allies.

Seventh, a capability assessment of similar technologies available from other foreign countries and the consequences of proliferation of such technology.

I urge my colleagues to support this commonsense amendment and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 2534) was agreed to.

AMENDMENT NO. 2539

(Purpose: Limitations on military assistance for the Sandinista Popular Army of Nicaragua)

Mr. INOUYE. Mr. President, I ask that the pending amendment be set aside, and I ask for the immediate consideration of amendment No. 2539, an amendment by Senator HELMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. HELMS, proposes an amendment numbered 2539.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Committee amendment, insert the following:

SEC. . LIMITATION ON THE USE OF FUNDS FOR THE SANDINISTA POPULAR ARMY AND SECURITY FORCES OF NICARAGUA.

(a) IN GENERAL—None of the funds appropriated under this Act may be obligated or expended for the armed forces or security forces of Nicaragua, and none of the funds appropriated by this Act may be obligated or expanded to pay the salaries of United States military personnel to provide assistance for the armed forces or security forces of Nicaragua, until the President determines and certifies to the Congress that—

(1) Nicaraguan military officers implicated for committing human rights violations, including those involved in the murders of Enrique Bermudez, Arges Sequeira, and Jean Paul Genie, have been removed or suspended from the military and judicial proceedings have commenced;

(2) officers of the Nicaraguan armed forces or security forces are not involved in the illicit trafficking of military equipment, including those seized by Colombian authorities on the San Andres Islands on July 24, 1994;

(3) civilian control over the military and security forces, including control over the budget and expenditures of such forces, has been clearly established; and

(4) there has been a full and independent investigation conducted relating to issues raised by the May 23, 1993 discovery of the Santa Rosa arms cache of the existence of a terrorist/kidnapping ring and any individuals identified by the investigation as being part of such ring are being prosecuted.

NO MILITARY AID TO THE SANDINISTA POPULAR ARMY

Mr. HELMS. Mr. President, one would assume that the dismal record of the Sandinista Popular Army would preclude the United States from providing them with military aid—at least until serious and genuine reform has occurred. I have learned, however, that there are some in the administration who advocate U.S. cooperation with the Sandinista Popular Army some time in the future, the theory being that the U.S. military can somehow reform the Sandinista Popular Army, which of course is the militia of the Sandinista Communist Party.

That mistake must not be allowed to happen and that's why the pending amendment is important.

This amendment prohibits assistance from Department of Defense funds to the Nicaraguan Armed Forces or security forces—unless certain conditions are met, relating to: First, human rights; second, illicit trafficking of weapons; third, civilian control over the military; and fourth, an investigation into allegations of a terrorist-kidnaping network operating in Nicaragua with the knowledge and approval of the Sandinista Popular Army.

Mr. President, the so-called Sandinista Popular Army, and those associated with it, have compiled a record of assassinations that should provoke cries of death squads. Take the case of Frank Ibarra, a former Sandinista army officer. He publicly claimed credit for the assassination of property rights advocate and leading Sandinista critic Agres Sequeira. And the Sandinista Popular Army still shelters Frank Ibarra.

Then there is the tragic case of Jean Paul Genie, a 16-year-old who was killed by Gen. Humberto Ortega's bodyguards. The Sandinista military court, beholden to General Ortega, absolved his bodyguards of guilt. So, there's still no justice for Jean Paul Genie and his family.

Last year, I reported to the Senate that nearly 300 demobilized and disarmed former resistance members had been murdered by the Sandinistas since Mrs. Chamorro's election. At the time, only two civilians were in jail. And since then, more former resistance members have been murdered. Just 2 weeks ago, I met with our Ambassador to Nicaragua, John Maisto, and he told me that the Sandinista Popular Army and the Nicaraguan police continue to resist any accountability for their crimes.

Mr. President, there are other important issues in addition to human rights that this amendment addresses. For example, there has been no thorough and impartial investigation into terrorist activities in Nicaragua, as required by section 562 of the fiscal year 1994 Foreign Operations Appropriations Act. The Sandinista-controlled National Police have been conducting the so-called investigation, so Mrs. Chamorro has put the fox in charge of the henhouse. The investigation is so blatantly a farce that even the State Department isn't fooled. U.S. officials have admitted to me that no progress had been made on the investigation.

I have serious concerns about continuing Sandinista support for the few remaining Communist guerrilla movements. As recently as July 24 in the San Andres Islands, Colombian authorities seized weapons shipped from Nicaragua that were bound for the guerrillas in Colombia. There are indications that the Sandinista Popular Army was involved in this illicit arms transfer. On July 29, I asked Secretary Christopher to look into this situation, and I look forward to hearing what he finds. But, Congress should make it clear that the U.S. Government will not aid the Sandinista military as long as it supplies weapons to terrorists.

Mr. President, there is no civilian control over the military. General Ortega—the Al Capone of Nicaragua—is still head of the Sandinista Popular Army. Nothing has been done to put the National Police—still staffed with Sandinista personnel—under effective civilian control.

The United States should not even consider establishing official relations with, or providing military aid to the Sandinista Popular Army, until it accepts genuine civilian control, adjudicates those implicated in human rights abuses, and stops supporting terrorist and Communist guerrilla movements. And that is all that the pending amendment requires. Let us not legitimize Gen. Humberto Ortega and the Sandinista Popular Army.

Mr. INOUYE. Mr. President, the managers find this amendment to be acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 2539) was agreed to.

AMENDMENT NO. 2508

(Purpose: To require congressional notification prior to the expenditure of certain Department of Defense funds)

Mr. INOUYE. Mr. President, I ask that the pending amendment be set aside, and that we consider amendment 2508, introduced by Senator HELMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. HELMS, proposes an amendment numbered 2508.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the committee amendment, insert the following:

SEC. . None of the funds appropriated to the Department of Defense may be used to enter into any agreement or to pay any logistical or support costs, including air transportation, for foreign military participation in any multilateral military activity or in any United Nations sanctioned multilateral force unless the President provides notification 5 days in advance to the appropriate Committees of Congress.

Mr. INOUYE. The managers have considered the amendment.

May we withdraw it?

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is withdrawn.

The amendment (No. 2508) was withdrawn.

AMENDMENT NO. 2540

(Purpose: To prohibit U.S. military participation in any multilateral military force which includes Nicaraguan military or security forces)

Mr. INOUYE. Mr. President, I call up amendment No. 2540, and ask that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. HELMS, proposes an amendment numbered 2540.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the committee amendment, insert the following:

SEC. . PROHIBITION ON U.S. MILITARY PARTICIPATION IN ANY MULTILATERAL MILITARY FORCE WHICH INCLUDES NICARAGUA ARMED FORCES.

None of the funds appropriated or otherwise made available by this Act may be provided for any U.S. military participation in any multilateral operation which also involves elements of the military or security forces of Nicaragua unless the President certifies and reports in writing to the Congress that—

(1) Nicaraguan military officers implicated in human rights abuses by the Tripartite Commission, the Inter-American Commission on Human Rights, the Nicaraguan Association for Human Rights, the Permanent Commission for Human Rights, or the judiciary in Nicaragua, have been removed or suspended from military service, as the case may be, and judicial/legal proceedings have commenced;

(2) officers of the Nicaraguan armed forces or security forces are not involved in the illicit sale, transport, or trafficking of weapons and military equipment, including those seized by Colombian authorities on the San Andres Islands on July 24, 1994;

(3) civilian control over the military and security forces by the democratically-elected President and Congress of Nicaragua, including control over the budget and expenditures of the military and security forces, has been clearly established and evidence that such control is respected by such forces; and

(4) fair and impartial civilian judicial proceedings have been completed against those involved in the murders of Enrique Bermudez, Arges Sequeira, and Jean Paul Genie.

Mr. INOUYE. In behalf of Senator HELMS, I withdraw his amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 2540) was withdrawn.

AMENDMENT NOS. 2518 AND 2524

Mr. INOUYE. Mr. President, I believe the Senator from Connecticut wishes to be recognized. Mr. President, I believe that this is part of the unanimous-consent agreement that was reached last evening. We are now taking up amendment 2518 on Bosnia and 2524 also on Bosnia.

Mr. President, am I correct that the time on these two amendments will run concurrently for 2 hours?

The PRESIDING OFFICER. The Senator is correct.

Mr. INOUYE. Mr. President, I have been advised that the DOLE amendment on Bosnia is designated as amendment No. 2479.

The PRESIDING OFFICER. The Senator is correct.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. I thank my distinguished colleague from Hawaii.

Mr. President, I yield myself 10 minutes from the time allocated.

VOL 140 PT 15 AG 10 — 11 1994 UMI

The PRESIDING OFFICER. Without objection, the two amendments will be pending simultaneously under the order.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, once again we gather in this Chamber to debate the question of lifting the arms embargo against the Government of Bosnia.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that Debra Shelton of my staff be granted floor privileges for the duration of debate on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, once again I am privileged to join with the Senate Republican leader in a remarkably diverse, encouragingly diverse, group of colleagues who support the ultimate unilateral lifting of the arms embargo against Bosnia. Those colleagues include Senators MCCAIN, MOYNIHAN, WELLSTONE, EXON, FEINGOLD, HATCH, DECONCINI, LUGAR, and HELMS.

Mr. President, this is not the first time we have debated this matter. It seems that in the previous debates in which we have come very close—in fact on the last occasion a tie vote—to lifting the arms embargo, a clear majority of Members of this Chamber has expressed the desire to lift what I consider to be the immoral, ineffective, insensible arms embargo against the people of Bosnia. But on each occasion there seems to be some reason, some excuse given for not doing it quite this time. I am encouraged, although I will not be confident until the vote is cast, that we are approaching that moment when the Senate of the United States will express its opposition to the arms embargo against Bosnia.

Mr. President, this embargo was imposed in 1991 by the Government of the United States against the former country of Yugoslavia as an attempt to keep arms out of that smoldering region—at that time it was smoldering, but it has since caught fire—as a way to avoid the conflict that we feared would result. The fact is, as we know, there was then aggression by Serbia against its neighbors, most viciously against the people of Bosnia, and specifically against the Moslem population of Bosnia. People were harmed not for military purposes but simply because of their identity, because of their status, because they were Moslems, pushing them out of their homes, putting them into concentration camps, subjecting them to murder, to systematic, systemic use of rape as an instrument of war. These were horrible acts of violence against a people.

The original hope and premise behind the arms embargo was not realized. War broke out. But we continued to maintain the arms embargo with its effect falling almost totally on the people of Bosnia, while the Bosnian-Serb soldiers have been supplied by the munitions factories in Serbia. They have been very well armed, and they have acted as the rest of the world has allowed them to act—without fear—because they had nothing to fear, over and over again, taking aggressive action, moving with tanks into a city only to meet opposition from light arms, light gunfire.

On each occasion when Senator DOLE and I and others have brought this amendment to the floor, there has always been some reason of statecraft, some reason of diplomacy that took us away from our moral and strategic responsibilities—which I think a majority of the Members of this Chamber feels—against the embargo to the tepid and inconclusive language of diplomacy.

Well, now in the most recent chapter, the so-called "contact group" comes up with a peace plan that, in fact, validates, acknowledges, and accepts the taking of land from the Bosnian Moslems by force, contrary to all the principles of international law and the premises of the United Nations; and the Bosnian Moslems have accepted the contact group's peace plan. But the Bosnian Serbs, as Members of this Chamber know well, consistently refuse to accept the plan and have found various excuses to put it off. They have thumbed their noses at the international community.

Mr. President, I fear that we are moving again toward a wider war in the Balkans. In this instance, as we ask the Senate once again to lift the arms embargo—unilaterally, if necessary—against the Bosnian Moslems, we are saying that it would not only not be in our strategic interest, but also in our interest in security in Europe, our interest in deterring those who would in the future seek to take land by force, and our interest in the moral principle of not standing by while genocide occurs. It is in those interests that we come, once again, to say that it is time for the United States to set down its marker—a strategic and moral marker—and say: If the nations of the world do not multilaterally lift this arms embargo, we will do so unilaterally, because as this wider war begins, which I fear will break out in the Balkans, do we really want to be following a policy that effectively denies the victims of aggression and genocide the arms to defend themselves and their families and their country? I say, in all that is good about America, the answer to that is, no, we do not want to be part of imposing that policy.

Mr. President, this amendment to unilaterally lift the arms embargo is an expression of the policy the Clinton administration outlined more than a year ago of lifting the embargo and striking from the air. It was not implemented. The European allies expressed their opposition.

There are two amendments before this Chamber: The one Senator DOLE and the bipartisan group and I have introduced, and another introduced by Senators NUNN, WARNER, and others. The other amendment expresses the language of the conference report on the DOD authorization bill. I am, frankly, disappointed with that language, resulting, as it does, from a process in which this Chamber tied, 50–50, on the question of an early lifting of the arms embargo unilaterally—and the House actually adopted a directive that this administration lift the arms embargo unilaterally by a margin of 66 votes.

As disappointed as I am, though, I must say that the language in the Nunn-Mitchell-Warner amendment, which expresses the DOD conference report language, at least moves toward lifting the embargo. It directs the President, and he acknowledges in a letter to Senator NUNN that he will go to the United Nations to seek a multilateral lifting of the embargo if the contact group's plan is not accepted by the Bosnian Serbs by the middle of October. And if that plan is not accepted, the Nunn-Mitchell-Warner amendment at least removes the hands of the United States from enforcing this embargo.

The embargo is not just a policy statement that bounces around the State Department or the United Nations. The arms embargo is an actual policy which military personnel of the United States are enforcing on ships in the Adriatic and on the access points on the ground into Bosnia. We are enforcing an ineffective, immoral policy. At least the Nunn-Mitchell-Warner amendment moves in that direction, but it does not go far enough.

This process has to end with a clear statement to the world of where America is, a clear statement of American leadership, and a clear statement to the Serbian aggressors that they are now on a limited string, and if they do not accept the peace plan of the contact group, and the arms embargo is not lifted by the United Nations, then the arms embargo will be unilaterally lifted by the United States of America on November 15 of this year.

So while I say that the Nunn-Mitchell-Warner amendment is a step forward from where we have been, it goes from a sense of the Senate in the previous Nunn-Mitchell-Warner amendment to a directive that clearly does not go far enough. I see the amendment, No. 2479, that I am privileged to cosponsor, as consistent with the other amendment. But more than consistent, it gives it the ultimate teeth, it puts in the moral content, it draws a final line in the Balkans for the Serbian aggressors.

A final point: We have been concerned about our allies—the British and French particularly—who are on the ground as part of United Nations

forces in Bosnia. Secretary Boutros-Ghali has recently said he thinks the U.N. forces probably should be removed, that it is a mission to be undertaken by the forces of the contact group. We have been told by Ambassador Redman, and others, that the allied forces need 60 to 90 days to get out. What is going to happen to the Bosnian Moslems during that period? When the U.N. forces pull out, the Bosnian Serbs have full access to weapons of aggression, and the Bosnian Moslems do not have the arms with which to defend themselves. This policy has to end somewhere. I hope it ends and that the beginning of the end is today.

Again, every time we have spoken to the leaders of Bosnia, they have said to us, "We are not asking for your American soldiers on the ground." This amendment not only does not call for American soldiers on the ground, it says specifically that nothing in it shall be interpreted as authorization for deployment of U.S. forces in the territory of Bosnia and Herzegovina for any purpose, including training, support, or delivery of military equipment.

No, the Bosnians do not want our soldiers there. They know this is their fight. They are spirited and courageous, and they want to defend their families and their land. But they do not have the weapons to do so.

This amendment will give them the wherewithal to fight the fight that I fear they will have to fight, and it will do so in a way that puts America, once again, clearly on the right side.

I thank the Chair, and I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Senator from Kansas is recognized.

Mr. DOLE. I thank the distinguished Senator from Connecticut. We have had this debate a number of times, and I hope this may be the last time, but it may not be.

Today the Sarajevo airlift is again suspended, after two planes delivering humanitarian aid were hit by small-arms fire. There had been no flights into Sarajevo for 18 days prior to Tuesday's resumption of the airlift, and relief officials say that the city's food stocks are dangerously low—at only 30 percent of the city's food needs for the next two weeks.

This rapid deterioration of conditions in Sarajevo and throughout Bosnia and Herzegovina is the reality and the context in which we need to consider the amendments before us today.

That is what is happening today. The airlift has been suspended. They are short of food. So that is where we are today. It is not as if we are talking about something that may happen 6 months or 1 or 2 years from now—it is today.

Almost everyone in this body would say that they support lifting the arms embargo in Bosnia and Herzegovina, not just the supporters of this amendment but the supporters of the Nunn-Mitchell amendment as well.

Those who oppose our amendment, the amendment of myself, the Senator from Connecticut, and the Senator from Minnesota, we are pleased to say, and others who joined with us that support the Nunn-Mitchell amendment will probably say, the difference is on how the embargo is lifted. The difference is more likely to be whether it is lifted, not how, but whether it is going to be lifted.

We believe our amendment is fairly simple. We listened to some critics and tried to move in that direction, and maybe the criticism was valid. I am not suggesting it was not.

So the amendment is very simple. It sets a firm and definite deadline for terminating the U.S. embargo on Bosnia. The Government of Bosnia and Herzegovina will no longer be denied its inherent right to self-defense as of November 15, 1994—no ifs, ands, or buts. That is all the amendment says. The reason we chose the mid-November date is that some of our allies with troops in Bosnia have told United States officials they need up to 90 days to redeploy or withdraw. Plus, we heard that from our colleagues on both sides of the aisle in previous debates that we were not giving enough time. Plus, this gives the administration a lot of time to try to figure out some multilateral lifting of the arms embargo. But aside from the date, there are no conditions. The objective, like the language of our amendment, is straightforward: To allow the Bosnians to defend themselves against aggression come November 15, at the latest. That is it.

It does not seem like it is too much to ask to allow someone to defend themselves, particularly in light of what is happening there today.

Mr. President, the message this amendment sends to Bosnian Serbs is that time is running out. This message is not being sent by the United States and the so-called contact group. The message being sent to Bosnian Serbs by the contact group is: Take more time to accept our July 6 proposal because we are not ready to do anything more than talk.

It seems to me that the administration claims there is a lot of pressure on the Bosnian Serbs. Maybe I am missing something, but I do not see a lot of pressure on the Bosnian Serbs. I do not see the tough action that the contact group promised in its meeting 2 weeks ago.

At the same time, I want to commend the distinguished chairman of the Armed Services Committee, Senator NUNN, for recognizing the weaknesses of the administration's approach and for his efforts to move the administration toward setting a timeline for real action.

But I do not think the amendment goes far enough, and I have had a discussion personally with Senator NUNN, and I think he pretty much agrees with us, and I think at the same time he feels a certain obligation to the administration. I do not quarrel with that. It is not an effort to embarrass the administration. But, although it urges the President to go to the U.N. Security Council to lift the arms embargo, which I support, there are no guarantees that it is going to be lifted.

Again, I refer to the letter received by the chairman from the President, dated August 10, which talks about a reasonable time. I do not know how long the U.N. action takes. It seems to me it does not set any mandatory deadline.

According to the Nunn-Mitchell-Warner amendment, if the Bosnian Serbs do not accept the contact group proposal by October 15, the President should, and the President said he will. In fairness to the President, he says in this letter he will go to the U.N. Security Council to seek termination of the arms embargo on Bosnia. So that letter has been received, and the President states that it is his intention to propose a resolution in the U.N. Security Council by the end of October if the Bosnian Serbs have not accepted the July 6 peace plan.

Mr. President, we should ask ourselves why give the Bosnian Serbs 2 more months? They have already rejected the contact group proposal four times. They have ambushed and stopped U.N. convoys. They continue violating NATO exclusion zones, and they continue the reprehensible practice of ethnic cleansing. Why does not President Clinton go to the U.N. Security Council right now? In fact, we have urged that in the last two times we had this vote. That has been one of the provisions, that the President be urged to go to the U.N. Security Council in an effort to have a multilateral lifting of the arms embargo.

Now, according to the Nunn-Mitchell-Warner amendment, if such a Security Council resolution fails, or no later than November 15, a prohibition on Department of Defense funding for enforcing the U.N. arms embargo will go into effect, not the lifting, but we just want to enforce the embargo. It is limited to the Department of Defense. It does not include Customs personnel overseas or cover intelligence that is outside the Defense Department.

The Nunn-Mitchell amendment also includes a Presidential waiver for United States personnel serving in NATO headquarters.

At present, the U.N. embargo is being enforced by NATO forces, not by the United States independently. Therefore, if the waiver is invoked, it could undermine the intended effect of this provision, which is already weakened as a result of the funding restriction

VOL 140 PT 15 AG 10 — 11 1994 UMI

being limited to the Pentagon. Let me give you an example. Theoretically, if the CIA picks up some intelligence on an arms shipment to the Bosnians, it could share it with NATO, and other NATO allies, such as the British and French who support the U.N. arms embargo on Bosnia—who could then respond by enforcing the embargo—without violating this provision. In short, this provision looks far more significant on paper than it would likely be in practice and thus is no substitute for lifting the arms embargo on the Bosnians.

The Nunn-Mitchell-Warner amendment also requires, in the event a United States resolution to lift the arms embargo fails in the U.N. Security Council, that the President submit a plan to Congress and consult with Congress on providing training to the Bosnians and lifting the embargo unilaterally.

The fact is that by the time October 15 rolls around, we are not going to be here. Congress will probably be in recess by then. There will be a lot of Members of the Senate and House running for reelection, the election in November. We do not think we are going to just stay here for that purpose, which means we will be waiting, if we do not come back until January—unless there is a special session, it means we can wait a full 2 years after President Clinton was sworn into office, and he came into office saying lift the arms embargo, have air strikes, a lot of things which I supported which are no longer probably viable, and we still would not have lifted the embargo.

It just seems to me we do not need any more plans, we do not need any more consultation. We need to do something. We are not talking about American troops; we are not talking about air strikes; we are not talking about endangering any NATO forces. We are talking about doing something, and that is lifting the arms embargo.

In January of this year—it is now mid-August—in January of this year Congress passed a nonbinding amendment urging the President to lift the arms embargo unilaterally. In May, the Senate passed S. 2042, which terminated the embargo. In June, the House passed the McCloskey-Gilman amendment to the defense authorization bill which would have immediately ended the U.S. arms embargo. And although the Dole-Lieberman amendment failed in July, it was on a tie vote.

So we have this debate time after time—January, May, June—and nobody has responded in the administration. So it seems to me that it is time to do what we should have done some time ago. I think the bottom line is the majority of Congress, Democrats and Republicans, support ending this illegal and unjust arms embargo on the Bosnians.

So it seems to me we prefer to listen to the French and British and the Russians. Certainly they are allies; we should listen to them. But in this case it seems to me that we ought to take the moral high ground, and we ought to be providing the leadership, and we still have one more opportunity to do it.

I think setting the definite date is very, very important. So, I think if we make the decision, if we stand up and provide the leadership, I think it adds a very positive impact on what might happen in NATO. Historically our leadership has been the source of NATO's strength. It is the lack of this leadership and willingness by this administration to go long with failed policies that damaged NATO's credibility.

I say there have been some improvements in the conference report. I know the Senator from Georgia and the Senator from Virginia were well-intentioned, but it seems to me that it is not going to happen. So the President's request for multilateral lifting of the arms embargo does not happen. Then the President consults with Congress, it is October, Congress is not in session, probably will not be in session until sometime around January 20, 1995. I do not know what happens in the meantime. So I guess the President could do it on his own, or he may consult with the leaders in the Congress even though we are not in session.

But I want to just make one final point. A vote in support of the pending amendment means that the U.S. arms embargo in Bosnia will end by mid-November. August, September, October, November.

It means that the President has plenty of time to go to the United Nations, but finally it means that we are committed to doing what is morally and legally right.

And there is a real chance, if our amendment is not adopted and the other amendment is adopted, we will be here next year debating this amendment. The only difference is, we will be in the third year of debate and thousands more Bosnians will have been driven from their homes and killed and our credibility and global leadership will be further eroded.

This is a bipartisan effort. It has been from the start. There is no effort—and I say this in all sincerity —to in any way embarrass the administration.

It just seems to me, notwithstanding the good efforts made by some in the Armed Services Committee, that they are not good enough and we should recognize once and for all what our obligations are.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an editorial which appeared in this morning's Washington edition of the Los Angeles Times, dated August 10, 1994, which is entitled, "Why U.S. Should Lift Bosnian Embargo." And they have been slow in coming to this position, I might add.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, August 1994]

WHY U.S. SHOULD LIFT BOSNIAN EMBARGO

The time has come for a unilateral U.S. lifting of the arms embargo on Bosnia-Herzegovina. The Clinton Administration has preserved the Serbs' arms advantage for two years, deferring to the wishes of the British and French and ignoring the stated preference of Congress. The result has been a sorry disappointment.

When the Bosnian Serbs defied a July 20 ultimatum for the acceptance of a peace plan, the five powers that had issued the ultimatum responded with only a minor tightening of economic sanctions on Serbia proper. Several other threats the five had made turned out to be empty.

Even leaky sanctions (Russia has ignored them) hurt in the long run, however, and Serbia has sought an end to the sanctions by suddenly stopping traffic with Serbian Bosnia and denouncing its recalcitrance. But in the Stalinist manner of old, President Slobodan Milosevic controls both policy and media. Yesterday's dogma is today's heresy and may be dogma again tomorrow.

The Serbian action that matters is the action being taken in Bosnia. Momcilo Krajisnik, speaker of the Bosnian Serb assembly, has declared that the Serbs will not settle for less than 64% of Bosnian territory—as against the 49% assigned them in the five-power plan. Consistent with this view, the Bosnian Serbs are continuing their notorious ethnic cleansing. Within the past few days, according to reports confirmed by the Red Cross, the Serbs have sent 100 Muslim men to a labor camp in the Bosnian northeast and expelled more than 300 Muslim women and children from a town in the area.

In the NATO heavy-weapons exclusion zones around Sarajevo and Corazde, the Serbs, undeterred by a pinprick NATO air attack, have escalated their attacks with virtual impunity. The U.N. commander, British Lt. Gen. Sir Michael Rose, declined to call for NATO retaliation in Gorazde on Monday even after Serb forces fired anti-aircraft rounds in the exclusion zone and repeatedly attacked his forces there.

Sarajevo is the soul and the symbol of ethnically mixed Bosnia. The lifting of the arms embargo should not mean an end to the NATO exclusion zone there. That zone should be enforced by vigorous retaliation against, among other targets, the Bosnian Serb capital, Pale. But given Rose's refusal to enforce the zone, his call for a broader demilitarization of Sarajevo rings hollow.

Elsewhere in the country, in any event, only the Bosnians themselves can deter further aggression; and they can only do so if they bring their forces into parity with those of the Serbs. The lifting of the arms embargo will take months to have any effect and can be reimposed if needed, but the moment for the change is now. Given the isolation of the Bosnian Serbs, the risk to the U.N. troops will never be smaller. And even that risk cannot be overwhelming in view of the reluctance of the United Nations to avail itself even of the NATO protection already available.

Mr. DOLE. Mr. President, it says:

The time has come for a unilateral U.S. lifting of the arms embargo on Bosnia and Herzegovina. The Clinton Administration has preserved the Serbs' arms advantage for 2 years, deferring to the wishes of the British and the French and ignoring the stated preference of Congress. The result has been a sorry disappointment.

I will not read the entire editorial, but I think it makes a point that this is an opportunity for us to end this disadvantage the Serbs have had and it gives the Bosnians a chance to defend themselves. They are an independent nation. They are a member of United Nations. Under article 51 of the U.N. Charter, they have that right.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield to the Senator from Minnesota as much time as he may consume.

The PRESIDING OFFICER. Senator WELLSTONE is recognized for as much time as he may consume.

Mr. WELLSTONE. I thank the Republican leader. I will be relatively brief.

Mr. President, I want to say first that I am pleased and proud to be an original cosponsor of this amendment. But I must say, I am sad that it has come to this point, Mr. President.

I also believe—and I said this to Senator NUNN a few minutes ago—that the Nunn-Warner-Mitchell amendment goes in the same policy direction as the Dole-Lieberman amendment, and I intend to support that initiative, as well. I believe that, when taken as a whole, they are complementary, not contradictory. Approving both today would provide an opportunity for the administration and our allies including U.N. forces in the region, to prepare for the unavoidable lifting of the embargo while setting a firm deadline for this action.

Mr. President, I want to talk a little bit about my own journey on this, because back on July 1, we had a very close vote on this issue—in fact a tie vote that was broken by Vice President GORE. And I want to give the Republican leader a tremendous amount of credit for his conviction and consistency on this issue.

Rarely have I agonized more over a vote than I have over this one. I had briefings from all sorts of different people in the U.S. Government who work in the region, including our Ambassador in Croatia, Peter Galbraith, for whom I have a tremendous amount of respect. I talked to the President, the Vice President, others in the State Department, I had as many briefings as I could about the situation—what kind of arms did the Muslims have now, what was the situation on the ground, what were the prospects for the contact group discussions, and the like.

Ultimately, I decided then the timing was such that the contact group's proposal should be given a chance. I believed that we ought not to make important and far-reaching policy decisions based on anything but the situation on the ground and our interests in peacefully resolving the conflict, and not simply on the fact that the defense bill happened to be on the Senate floor.

I was not optimistic, but I was hoping and praying—as I think many Americans and others were—that that proposal would be accepted by the Bosnian Serbs. But it is quite clear that that is not going to be the case.

But even in early July, Mr. President, I did not decide until the very end, when I received a letter from Strobe Talbott with a commitment from the administration that if the contact group's peace proposal was rejected, they would go to the United Nations and that if our allies balked and we could not get Security Council approval, then the administration would come and consult with the Congress on lifting the embargo unilaterally. Even back then, I felt that commitment from the administration was necessary to me in terms of securing my vote.

But now the Serbs have turned down the contact group plan, and we are seeing increased sniping in Sarajevo, and unprovoked attacks on U.N. forces in the region.

It just seems to me, Mr. President, that it is time for the U.S. Senate to convey a very strong message to the Bosnian Serbs.

For my own part, I support a clear deadline of November 15, 1994. I think it is the right thing to do. I also believe that we should step up our efforts to enforce safe havens. If necessary, we should take additional military action from the air against targets, in retaliation for any further provocations.

I do not want to see our troops directly involved on the ground. But, Mr. President, I think most of us are agreed, one way or another, the Muslims have a right to defend themselves.

I want to conclude with two points. The first is that: I hope and I pray that the Bosnian Serbs will accept the contact group's peace proposal, and if they do, lifting the embargo may not be necessary. There is nothing that I want to see happen more than Serb acceptance of this plan, followed by tough, strict enforcement of the agreement by NATO and the United Nations.

Mr. President, I think that if they do not, and if what we end up doing—and I believe we will, because I think we must—is to unilaterally or multilaterally end this arms embargo, I think may expand to an even more uncontrolled war and many more men, women, and children could die. In that case, the prospects for a peaceful short-term settlement are almost nil. I recognize that, but, Mr. President, this is what it has gotten down to for me. I am lucky to have a tremendous staff person in Colin McGinnis, with whom I work on these issues. We were talking before I came down here, discussing the options facing the parties right now. As we were talking to one another, and as I was analyzing it, I was thinking to myself, it might very well be that if the embargo is ended—and it should and it must be if there is no acceptance of the peace proposal by the Serbs—there may be more men, women and children in the long run that die that way than if it was not ended and we continue to have instead a kind of gradual slaughter, gradual genocide, because I fear that is the direction that we would be heading in. So you see, there are no good options in this situation.

But, Mr. President, I think the people in Bosnia, the Muslims themselves, have the right to decide. At this point, it seems to me that virtually all efforts have been made toward some kind of successful resolution; all efforts have been made toward getting the Serbs to accept the peace proposal. It does not look like the contact group's proposal is going to be accepted, even with the pressure from Milosevic, and the Russians. And I think if we are not going to intervene militarily—and I do not believe we should —on the ground, then the Muslims have the right to defend themselves.

So I am an original cosponsor now of the amendment similar to one that I have voted against before, because I think now the time has come for us to move in this direction. And because this Dole-Lieberman amendment gives our allies time to redeploy their forces before the embargo is unilaterally lifted.

I do believe that the Nunn-Warner-Mitchell amendment takes us in the same direction with the intermediary step of trying to get the United Nations to support us in lifting the embargo. If we can do it multilaterally, Mr. President, that is always my preference. But if we cannot—and I think November 15 gives this process plenty of time—then I think we must unilaterally end this embargo. In the interim, our allies will have time to redeploy their troops in order to protect them, and the package of consequences—tightening of sanctions, tougher enforcement of the safe havens, providing aid to regional powers to help them mitigate the effects of enforcing the sanctions—will have time to work, increasing pressure on the Serbs.

I pray that it will not be necessary, because I think it could have grave implications. But I am also clear-eyed about the abysmal Serb record on such agreements, and I am not very hopeful. I fear it will be necessary. I think we in the U.S. Senate have to be clear that we will support such a step.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. McCAIN. Mr. President, we basically have a choice here between two

VOL
140
PT
15
AG
10
—
11
1994
UMI

amendments. The fundamental difference between the two is that the Dole amendment will force the President to assume leadership in the Security Council that he has so far avoided. He will be forced to either gain the approval of the United Nations by November 15 or lift the embargo unilaterally. And this also gives our European allies plenty of time to withdraw their forces if they are concerned for their safety.

The Mitchell amendment encourages the President to seek a multilateral lifting of the embargo. If the President fails to gain Security Council approval, the Mitchell amendment would end U.S. participation in enforcing the embargo.

Mr. President, let me just say at the outset that there has been fighting going on in this very unhappy country, with a few pauses, for well over 500 years. I greatly fear that despite what we may or may not do, there will be a certain level of fighting that will continue for a long, long time.

Can the United States beneficially affect that situation? Of course we can. There is a fundamental right at issue here and it is whether a nation has the right to defend itself. We have been over a lot of this before, and we have gone in the debate in this body from a choice between lifting the embargo and doing nothing, which was the view of many, to when we are going to lift the embargo on people who in my view have the fundamental right to defend themselves.

It is not only my view that nations have the right to defend themselves, but that of the United Nations Charter which states unequivocally in article 51 that "nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures to maintain international peace and security," and article 2 of the United Nations Charter which says, "the inherent right to self-defense is a preeminent right of international law and may not be abridged by actions of the Security Council."

As I have stated before, the United Nations is in violation of its own charter. By imposing this punishment on Bosnia—which was never a country, by the way, when the arms embargo was put into being. The embargo was placed against then-Yugoslavia. This nation has committed no aggression against its neighbors. There is no comparison between this nation and Iraq and Libya, who are now under embargoes enacted by the United Nations Security Council.

What we have done to this tragic and unhappy country is to allow—in fact, we are now implicated in causing—an unequal battlefield scenario and equation to the point where 200,000 citizens of that country have been killed and more than 2 million displaced.

It is unfair. We should have lifted this embargo a long time ago. We listened to the siren song of a peaceful settlement now for 28 months. We have listened to this siren song and many have believed it when the fact is time after time after time the hopes for a peaceful settlement have been dashed.

I hope and pray that tomorrow there will be a peaceful settlement. But history tells us that the way, sometimes, peace is achieved is when there is a balance on the battlefield that makes it in the interests of neither warring party to continue the conflict further—or victory is gained by one party or another.

I just received information from the Action Council for Peace in the Balkans, of which Marshall Harris is the executive director. Let me just give a recent rundown of what has been going on in the last few days.

Mr. President, I ask unanimous consent that this entire chronicle of Serbian attacks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On July 30 in Geneva, Secretary Christopher and his "contact group" counterparts agreed to tighten economic sanctions against Serbia in the face of Bosnian Serb rejection of the group's plan.

Since then, the sanctions have not been tightened. In fact, this week, Secretary Christopher spoke of actually easing sanctions if Serbian President Milosevic actually cuts off his proxies in Bosnia.

Also since the Geneva meeting, the Bosnian Serbs have rejected the contact group's plan a third and a fourth time. This week they announced that they wanted 64% of Bosnian territory—not 49% as offered by the Contact Group. So much for the take-it-or-leave-it plan.

[Meanwhile,] on the ground, the Bosnian Serbs have: launched artillery attacks on Visoko and Breza from inside the Sarajevo weapons exclusion zone; resumed constant sniping at civilians in Sarajevo; resumed the shelling of Tuzla; and fired more than 300 shells into Olovo and Vares (in central Bosnia) in one day.

In addition, beyond the weapons thefts that prompted NATO's mini-strike against a World War II-vintage gun inside the Sarajevo exclusion zone, Bosnian Serb forces have committed the following atrocities or violations. This is only a partial list of violations of which we are aware:

August 1:

Serbian forces moved tanks, artillery, anti-aircraft guns, and mortars inside the Sarajevo exclusion zone.

Serbian snipers wounded two civilians riding in a tram.

Serbian troops launched attacks in Gorazde, Olovo, and Kalesija.

They launched tank attacks on Zavidovici and Maglaj.

They wounded five civilians in rifle grenade attacks in Dobrinja on the outskirts of Sarajevo.

They expelled more than 300 refugees from Banja Luka, Sanski Most, and other regions in northwest Bosnia. The refugees, mostly women, children, and elderly men, arrived in Travnik.

August 3:

Serbian forces renewed sniper attacks on three cities (Marindvor, Nedzarici, and Stup).

They killed one civilian and wounded three others in Tesanj.

They regrouped soldiers and supplies in Maglaj in central Bosnia.

They launched grenade, mortar, and howitzer attacks on Visoko.

They launched howitzer attacks on Breza and Kladanj.

They hit Zivinice with tank and mortar fire.

They hit Kalesija with artillery fire.

They launched infantry attacks on Gorazde.

August 4:

Serbian forces fired twelve artillery shells into Tuzla.

They fired 238 shells into Dastanko in central Bosnia. The Bosnian Army responded with 132 shells, according to the U.N.

They hit Gradacac in northern Bosnia with 532 shells.

August 5:

Serbian forces lobbed two 82 mm shells into Sarajevo.

August 6:

Serbian forces forced more than 300 Muslims from their homes in Bijeljina. The refugees have been arriving in Tuzla. According to the U.N., only 7,000–8,000 of Bijeljina's prewar Muslim population remains.

August 9:

Serbian forces used howitzers and mortars inside the Sarajevo exclusion zone to attack Visoko and Breza.

Mr. McCAIN. Mr. President, while I am at it, I ask unanimous consent Senator JEFFORDS be added as a cosponsor to the Dole-Lieberman amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, the plan is unjust and it is unworkable. It is unjust because it cedes 49 percent of Bosnian territory to the aggressors, thereby validating the aggression of the Bosnian Serbs. It is unworkable because it is unjust. Not one of our allies in Europe—not one—would agree to a settlement that required handing over half of its national territory. That Serb forces have seized 70 percent of the nation is a gross injustice. That negotiators have attempted to legitimize the bulk of those gains is a travesty. And despite the unjust nature of the peace proposal, the Bosnians accepted it. And guess who rejected it? The Serb forces who have now even been deserted by some of their greatest sponsors, including apparently President Milosevic. In the meantime Serb forces, as I mentioned, have renewed the siege of Sarajevo, ambushed a U.N. convoy and other acts which I have chronicled for the record.

The Bosnians have identified an end to the arms embargo as their highest priority. Many military experts say that will cause them to suffer more losses. I would think the Bosnians are in a better position to make that judgment than some military experts. The Bosnians state in very simple terms, "We are dying. At least let us die fighting."

The Bosnians only want defensive weapons and, clearly, unless they are allowed the ability to defend themselves, there will be a continued gradual bloodletting to the point where that nation, tiny now—a much smaller nation—disappears. I believe after 28 months of diplomacy, after 200,000 dead and 2 million refugees, the time has come to embark on a new course of action, and that is lifting the arms embargo.

Let me make it clear. The Dole amendment clearly prefers—clearly prefers—a lifting on the part of the United Nations of the embargo. We strongly prefer that to be done multilaterally. What the Dole amendment says is if we do not do it multilaterally, then unilaterally we must do so. I think we should wonder, Mr. President, what would have happened if in our struggle for independence the European nations had imposed an arms embargo on the then-revolutionaries, the United States? We were not even recognized as a country yet we received important, and in the view of many historians, vital assistance in our struggle for independence.

This is an independent and recognized nation and we should cease punishing them and allow them to defend themselves.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the majority leader, Senator MITCHELL.

Mr. NUNN. Mr. President, I believe the time is controlled by myself and the majority leader. Of those two, the majority leader will decide how much time he requires.

Mr. MITCHELL. Mr. President, the Senate is again debating whether to terminate the arms embargo that was imposed upon Bosnia and Herzegovina at the beginning of the conflict in the former Yugoslavia.

Every member of the Senate is deeply concerned with the tragic events in Bosnia and Herzegovina. All would like to see a peaceful settlement and an end to the fighting which has left thousands dead and millions of people displaced from their homes.

There is no disagreement about the goal of a peaceful resolution of the conflict. The disagreement is over the best way to achieve that goal, consistent with the national interests of the United States.

The question again before the Senate is whether the United States should now, on its own, simply terminate the arms embargo on Bosnia, as Senator DOLE and his colleagues propose, or whether the United States should first act in concert with our allies in NATO and the United Nations to seek a decision in the Security Council to end the arms embargo on Bosnia.

I do not believe this to be the time for the United States to act unilaterally, without regard to the views of our allies or the safety of their citizens and troops.

At this time there are several multilateral actions in which the United States is a participant with other nations to impose sanctions or take other collective actions, in many parts of the world.

There is an ongoing collective action to impose sanctions on Haiti. There continues to be the likelihood of collective action to impose sanctions on North Korea. Sanctions on Iraq continue. These are actions which are important to the United States as well as to other nations.

If the United States is now to unilaterally drop out of collective action whenever it chooses, then what is to prevent every other country from doing the same thing on collective actions in which we want them to participate but they do not agree with?

We must understand we cannot have it both ways. We cannot say there must be collective action when it suits us, but when we want to drop out at any time we can, because to do that will give other governments the incentive and the legitimacy to drop out of any actions which are disadvantageous to them. And that will be true of the sanctions on Haiti; that will be true of the sanctions on Iraq; it will be true of the sanctions on Serbia.

We have been told repeatedly by the governments of those nations, which are close to those situations in Iraq and Serbia, that they are hurting economically because of the sanctions which we insist be imposed. If we now unilaterally, without regard to anything our allies think or do or say, pull out of this, then we invite others to do the same on other sanctions.

The effective end of collective action through the use of sanctions is a consequence that I think should be avoided. And I urge those who are considering the Dole amendment to ponder very carefully the implications it has for future policy all around the world.

The end of the cold war and the resurgence of ethnic conflict and nationalism has created turmoil in many parts of the world. The United States is going to be asked over and over again to send American troops to solve problems in every part of the world. The United States is the world leader, but it cannot by itself solve every problem in the world. We are going to have to ask others to join with us in dealing with problems, especially those distant from our shores.

If we now say that we want to go it alone whenever we choose, what claim do we have on the cooperation of others when we do not want to go it alone? We can lead, and as a dominant military and economic power in the world, we must lead. We all know and recognize that there are going to be occasions when we will want and need help and support from other countries. If we are not going to get much help, if we say now that in this case we do not agree with collective action and so without any regard to the views of our allies we are just going to drop out, unilaterally end this collective embargo, never mind what the British think, never mind what the French think, never mind what our other allies who also have troops in Bosnia think—we do not like it so we are going to drop out, regardless of whether such action endangers the lives of thousands of our allies' troops and humanitarian workers who are there trying to enforce peace, trying to help the thousands of people who have been displaced by the war.

Mr. President, let us remember, over the course of this conflict, the British have had several thousand of their troops in Bosnia on the ground. The French have had even more thousands. So have many of our other allies. Dozens have been killed, hundreds have been wounded, all are in danger. The United States has had virtually no one there. The British and the French and our other allies have been willing to do what we have been unwilling to do; and that is to place their young men and women in the line of fire to take risks that have resulted in dozens of deaths and hundreds of casualties.

And yet here we are in this extraordinary circumstance telling them that we do not care what they think, we do not care what risk we impose upon their troops and their humanitarian workers—sent there when we would not—we are going to go ahead and do this alone.

I think it is a very unwise course, even as I understand and sympathize with the motives of those who have offered this amendment. They are horrified and frustrated by the events in Bosnia. They want action. I also am horrified. I also am frustrated. I also want action. But let us take action which is consistent with our national interests. Let us take action which will help us deal with similar situations in the future.

We should take action to cause the Bosnian Serbs to accept the most recent proposal for peace, and we should do so in concert with our allies. That is what the amendment does that has been offered by Senator NUNN in which I join and which I support.

Senator NUNN will describe it in more detail. Let me touch just briefly on the principal points of that amendment.

It states that the Congress supports the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia and Herzegovina based upon their proposal of July 6, 1994, which has been agreed to by the Government's of Bosnia and Herzegovina and rejected by the Bosnian Serbs. It establishes a process to end the arms embargo if the Bosnian Serbs continue to reject the July 6 proposal.

VOL 140 PT 15 AG 10 — 11 1994 UMI

The amendment specifies simultaneous complementary action on two tracks:

First, an international track which provides that if the Bosnian Serbs have not accepted the July 6 proposal within 10 days of the enactment of this act, or by October 15, 1994, the President, or his representative, should within 14 days formally introduce a resolution in the U.N. Security Council to terminate the arms embargo on Bosnia no later than December 1, 1994.

And second, a unilateral track which specifies that if the U.N. Security Council has not voted to lift the international arms embargo within 15 days after the President, or his representative, has introduced the above resolution or not later than November 15 of this year, and if by that date the Bosnian Serbs have not accepted the contact group's July 6 proposal, then no funds may be used for the arms embargo. And the President shall submit a plan to, and consult with, the Congress regarding unilaterally lifting the arms embargo and how the United States would provide training to the Bosnian armed forces outside the territory of that country.

Additionally, the amendment would provide that if the Bosnian Serbs attack U.N. declared safe areas, the President and his representative shall promptly introduce a resolution in the U.N. Security Council that authorizes a selective lifting of the arms embargo on the Government of Bosnia to provide defensive weapons to enable the Bosnian armed forces to defend the safe areas.

This amendment reflects the recent consensus reached by the House and Senate conferees on the Department of Defense authorization bill. The House bill included language similar to the Dole amendment authorizing unilateral U.S. termination of the arms embargo. The Senate bill included language authorizing the U.S. to seek multilateral termination of the arms embargo.

These different points of view were reconciled and agreed to by the conferees, and the essential change of that agreement is contained in the amendment being offered today by Senator NUNN, which I support.

The President has expressed his support and willingness to implement the provisions of this amendment. Thus, the language of the amendment reflects an agreement of the authorizing congressional conference committee and the administration on a proper course of action to follow in seeking a peaceful resolution to the fighting in Bosnia.

I hope my colleagues will join me in supporting this carefully worked out alternative amendment. It is consistent with the best interests of the United States. It will be most helpful to an ultimate peaceful resolution of the conflict that has raged for too long in that tragic country.

Mr. President, I also want to say that this constructive alternative, this reconciliation of the divergent views previously expressed by the House and Senate, is possible only because of the leadership and determination of Senator NUNN. He has clearly understood the important issues at stake, not just in Bosnia but for the United States and the rest of the world, and has fashioned a policy which I think makes sense for the United States and provides a specific and firm deadline for action with respect to the arms embargo. I think it makes a great deal of sense. I commend Senator NUNN for his leadership and his diligence in this area, and I urge my colleagues to support the Nunn amendment.

Mr. President, I thank my colleague for his courtesy and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, how much time does our side have remaining?

The PRESIDING OFFICER. The Senator from Georgia controls 47½ minutes.

Mr. NUNN. I thank the Chair, and I thank the majority leader for his kind comments and for his support of this amendment that we will be voting on, I understand. first. This amendment is being offered, Mr. President, on behalf of myself, the majority leader, Mr.MITCHELL, the Senator from Virginia, Mr. WARNER, the Senator from Kansas, Mrs. KASSEBAUM, and the Senator from Florida, Mr. GRAHAM.

Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, first, I would like to thank Senator LIEBERMAN and Senator DOLE for their positive comments about the conference report. We did the best we could. We had a very difficult job. The Senate had a multilateral position. There were a lot of people who were involved in working out this conference report, the essence of which we will be voting on as the first amendment, the Nunn-Mitchell-Warner-Kassebaum-Graham amendment.

I would also like to thank Senator LIEBERMAN, in addition to his comments, for his work on this conference report. I know that he prefers a unilateral lifting, and that is what is reflected in the Dole-Lieberman amendment. I know that the view of Senator DOLE and Senator LIEBERMAN is absolutely sincere and they are working on it because they believe in it, and I respect that very much.

I differ with them, but I have great respect for their views. I think all of us, virtually all of us, would like to lift the embargo. The difference—an important difference—is whether we do it unilaterally or multilaterally.

In addition, on the conference report, Senator GRAHAM headed up the general provisions. This appropriation came under that. Senator GRAHAM from Florida did an enormous amount of work here. It could not have been done without him and without Senators LIEBERMAN, WARNER, THURMOND, and others.

On the House side, Congressman MCCLOSKEY, Congressman DELLUMS, the chairman of the committee, Congressman HOYER, who was not on the conference committee, and Congressman HAMILTON were all very involved in the deliberations.

Mr. President, I would like to review the action recently taken by the House-Senate conference on the fiscal 1995 defense bill regarding the arms embargo on Bosnia.

For those who may be interested in this debate, we in the Senate have a dual process. First, we have to pass an authorization bill on defense. Then we have to pass an appropriations bill. The authorization bill passed several weeks ago. We have been in conference. That conference report is completed. We announced the results today. That conference report, as soon as all the technical details are drawn up, will go to the President. Hopefully, he will sign that conference report.

In that conference report, which will soon go to the President, hopefully for his signature, we have the provision that we will be voting on today. In other words, that is being agreed to by the House conferees and the Senate conferees. And of course, the conference report has to be agreed to by the Senate and then by the House and then go to the President.

The bill we are on now, managed by the Senator from Hawaii and the Senator from Alaska, is an appropriations bill on defense. This bill has not yet been conferenced. Of course when it passes—and I know my colleagues hope it will pass this evening—this will go to conference. In all likelihood—I cannot speak for them; they would know better than I—in all likelihood this conference would be completed sometime in September.

So we are going to have in law the authorization bill several weeks, in all likelihood, before this appropriations bill could possibly go into law, and that is assuming the President signs it. I think, of course, that depends on what we do on this and other areas as I view it. I am not sure what he will do if the Dole-Lieberman amendment goes to him in the appropriations bill coming out of conference.

Mr. President, the issue before the conference was not whether the United States should lift the embargo but, rather, whether it should be done unilaterally or whether it should be done multilaterally.

I think most of us on the conference agree that the embargo that was imposed upon the former Yugoslavia 3 years ago, supported both by the Bush administration and the United Nations and by the Clinton administration since then in their votes—our Government has voted for that embargo over and over again, and I think it is important for us to understand that. It is widely agreed among the conferees that the overwhelming source of aggression in Bosnia has been the Bosnian Serbs and their sponsors in Belgrade, and the principal victims of that aggression have been the Bosnian Moslems. Of course, there are acts of violence on both sides, tragedy on both sides, but that is our perception of the overwhelming source of aggression.

It is also widely agreed that the arms embargo has provided an enormous military advantage to the perpetrators of the principal aggression, that is the Bosnian Serbs, and denied the victims of aggression, the principal victims, the Bosnian Government and the Moslem group, the means of effective self-defense.

There is further general agreement that the embargo on the Government of Bosnia should be lifted, preferably on a multilateral basis.

Finally, there seems to be a consensus here in the Congress, certainly in the Senate, among the conferees of the House and Senate against the deployment of United States ground forces to Bosnia for any purpose other than monitoring a peace agreement acceptable to all parties concerned. And even this kind of deployment, which, of course, will not occur unless there is a peace agreement, does not enjoy wide support in the Congress. The President has already said many times he will come to the Congress before he seeks any such deployment. That would be a matter of considerable debate here in Congress.

The primary area of disagreement in the conference was reflected in the House desire to lift the arms embargo quickly and unilaterally, whereas the Senate wished to pursue remaining possibilities for achieving a multilateral lifting before considering unilateral action as a last resort.

The resolution of this issue must take recent developments into consideration, among them the acceptance of the contact group's proposed peace settlement by the Government of Bosnia; its effective rejection by the Bosnian Serbs; and the contact group's failure so far to take effective action in the wake of the Bosnian Serbs' continued defiance.

The track the contact group is pursuing logically involves, first, an attempt to obtain Bosnian Serb acceptance of the group's peace plan.

Failing that, second, preparing for the United Nations forces orderly withdrawal from Bosnia, and also the humanitarian forces being able to get out of harm's way.

And finally, once that withdrawal is completed, obtaining a multilateral lifting of the arms embargo against Bosnia.

That is what the contact group has said they are embarked upon. To lift the embargo multilaterally or unilaterally before the United Nations forces are withdrawn or before the humanitarian workers have been able to be secured or that there are other means to protect them, could subject these forces as well as these brave humanitarian workers to Bosnian attacks and hostage taking.

Potentially, the most profound recent development, however, has been an apparent parting of company between Belgrade and its Bosnian Serb proxies. During the past 2 weeks, Serbian President Milosevic has publicly denounced the Bosnian Serb rejection of the contact group's peace proposal. He called Bosnian Serb leaders, quoting him, "war profiteers," and he called upon Bosnian Serbs to dump them. Belgrade subsequently announced it was suspending all political and military ties with Serbs and was closing Serbia's border with Bosnia to all but the movement of food, medicine and clothes.

Mr. President, as recently as this morning, there are strong indications from our independent sources that that is indeed being done.

Now, I would have to add to that very hastily, skeptics are right, I think, based on history to be very wary of any pronouncement coming out of Mr. Milosevic's Belgrade government. On the other hand, the history of international relations is littered with the bodies of proxies abandoned by patrons. History tells us that.

We know the Russians have exerted great pressure on Milosevic to disown his Bosnian Serb proteges. It is also clear that Milosevic desperately wants a termination of the present economic embargo of Serbia, and he wishes to certainly avoid further tightening of that embargo which could well be in store.

Mr. President, this development is a potential watershed in the Bosnian crisis, and I think we have not discussed it nearly enough here in the Senate. Since the war erupted in the former Yugoslavia back in 1982, we have operated on two assumptions: First, that the war-fighting capability and capacity of the Bosnian Serb forces is critically dependent on the delivery of military supplies from Serbia and, second, that Belgrade and the Bosnian Serbs share an identity of interests in Bosnia.

The first assumption is almost certainly valid but now could work in favor of intense pressure on Belgrade to disown its clients in Bosnia. But if Belgrade does so, then the second assumption may be invalid. Is Serbia indeed, if only for tactical reasons, in the process of politically abandoning its brethren in Bosnia? Is it prepared to shut off military assistance and control the energy supplies to Bosnian Serb forces in a manner subject to verification? My suggestion is that the United Nations take the Serbian President Milosevic up on his offer in terms of cutting off arms, and say to him, "Yes. You are doing that. We want to verify it. We want U.N. forces on the border at each entrance point from Serbia to Bosnia, and we want to make sure that you are indeed doing what you say."

That is what I believe we should do.

(Mr. PRYOR assumed the chair.)

Mr. NUNN. If this indeed is happening, and if it continues to happen in a military position, those Bosnian forces are likely to deteriorate with or without a lifting of the arms embargo on Bosnia. This in turn places a premium on avoidance by the United States and our NATO allies and the United Nations of actions that would drive Belgrade and the Bosnian Serbs back into each other's arms. In a situation in which the Bosnian Serbs have provoked even Belgrade to ostensibly at least abandon them, we should reexamine the policy of punishing Belgrade for the transgressions of the Bosnian Serbs but only if—this is a big "if"—Belgrade does in fact cut off the Bosnian Serbs and if they also permit verification of that cutoff by international inspectors at border crossings. That is the course that we should be pursuing diligently now.

Mr. President, I believe we are obligated to weigh carefully the likely consequences of moving straight to unilateral lifting of the arms embargo. The process by which we lift the embargo is just as important as the act itself. In fact, with our broad position around the world and for our relationship with our allies, it is even more important.

Those who today seek to set a firm date in all sincerity—I want to credit them for that—for lifting the arms embargo unilaterally should think very carefully about the implications of imposing this change in law and its effect on the Serbian Government.

Would a precipitous unilateral termination of the embargo widen the war? Would it drive the UNPROFOR forces out of Bosnia? Would it place its security at risk? Would it place our humanitarian workers in security risk? Would it place Bosnia's fate—and especially the fate of those besieged Moslem communities which the United Nations has declared to be safe areas—in greater jeopardy than they are today? Would it draw the United States into the Bosnian and Balkan quagmire? Would our allies withdraw and say to us, "OK. United States, you insisted on moving alone. Now we are getting out of here, and it is up to you not only to train and supply arms but to defend the Bosnians while they are getting heavy arms, and while they are being trained." Do we really want to take this on unilaterally?

VOL 140 PT 15 AG 10 — 11 1994 UMI

Could the United States, if it abruptly terminated the embargo, avoid both the moral and material responsibility for the defense of the Bosnian Government and its supporters? Would it not be the height of cynicism simply to declare the embargo lifted, force the U.N. forces out, whose presence at the very least has been enabling humanitarian aid to reach tens of thousands, hundreds of thousands of them who otherwise probably would not live—and then walk away from those seeking to defend themselves against aggression and genocide?

In other words, if we lift this embargo and there is a very strong I am sure case for that—I am in favor of doing it multilaterally. But if we do it unilaterally, there are some people who would like to say that is all we are going to do, that now we are through with it. Mr. President, that cannot happen. That is the worst course of all.

If we are going to lift the embargo, we have to follow through. Otherwise, we are inviting disaster. We have to follow through by training. We have to follow through by arming, hopefully with defensive weapons that would not spread the war. If we do not, we are going to leave a vacuum there that would not only lead to tragedy for those we are presumably trying to help, but it would also invite other forces to come into that area with weapons that could greatly broaden the conflict. I will not name those other forces. But you can leave it to your imagination. It would be a very grave development.

Mr. President, I have looked very carefully at the Dole-Lieberman amendment. Along that line, the way I read the amendment, the entire amendment is on one page. So it is not very hard to read. It says:

> The President shall terminate the United States arms embargo on the Government of Bosnia and Herzegovina no later than November 15, 1994 so that Government may exercise its right of self-defense under Article 51 of the United Nations Charter.

It goes on to say what it actually does. The operative phrase of this is it basically repeals a July 15 policy published in the Federal Register of July 19 under the heading "Suspension of munitions export licenses to Yugoslavia, and any similar policy adopted and implied by the United States as of the date of receipt of request of paragraph 1," and so forth.

That is what this does. If you look at what it does here, what it actually repeals, it repeals this Federal Register that says:

> Summary notice is hereby given that all licenses and approvals to export or otherwise transfer defense articles and defense services to Yugoslavia pursuant to Section 38 of the Arms Export Control Act are suspended.

So what we would be doing is saying arms can be exported to Bosnia. That means our defense contractors could sell, or, if the money is not available and they are charitable, they could give arms to Bosnia. It says nothing about how they are going to get them there. How are they going to get them there if the British and French decide to continue to enforce the embargo? Are we going to let Lockheed, General Dynamics, Hughes, and others fly through the French and British embargo and deliver arms to Bosnia? It says nothing whatsoever about that.

There is no provision in here to deliver arms. There is no provision for training. There is not even a provision in here that says that we no longer would enforce the embargo. There are some people who would read that as meaning that there is nothing to prohibit the President in here from continuing to enforce the embargo with our military forces. In my own view, that would not be a very sensible reading of the intent behind this because certainly the intent is clear, and we would not participate in the embargo.

But, Mr. President, I would say that the worst case we can get into from an international point of view, and from our own security point of view, is to lift an embargo, and then say nothing and provide nothing about training or about overall arms being delivered.

The Yugoslavian army has not entered in this conflict in a direct way. We know they are supplying weapons. We know probably there are some of them participating. But they have a lot that they could do that they have not yet done. So we do not certainly want to trigger that.

Mr. President, I think at a minimum we would be obliged to provide the Bosnian Government forces substantial quantities of weapons as well as the training necessary for their effective employment. Unless we want to lift the embargo and invite the Iranians into Europe, or unless we want Turkey to take over that obligation, unless we want to inflame the basic passions that already exist there, then we have an obligation to go much further than the Dole-Lieberman amendment goes. Maybe the authors of this amendment intend to do that. We have an appropriations bill that is about to pass. And it does provide $50 million. But it is in anticipation of either a unilateral or multilateral lifting; $50 million in arms. But it requires that the President—I believe this is the foreign appropriations act. It provides that the President certify before permitting this aid, No. 1, the transfer of such articles that would assist that nation in self-defense and thereby promote the security and stability of the region; two, that the U.S. allies are prepared to join in such a military effort.

So the only appropriations bill I know about that has any money in it, if we pass this unilateral lifting, requires that kind of certification. The President cannot certify that the United States allies are prepared to join in a military assistance effort; just to the contrary, they oppose the lifting of the embargo.

So, Mr. President, this amendment is symbolism, and it is important symbolism. It is psychology, and it is important. It is going to send—if we pass this—some messages around. But the problem is that there is nothing to carry out the policy, unless you assume that our private defense contractors are going to sell arms to Bosnia, and unless you assume that those arms are going to be delivered by somebody through an embargo that is continuing to be enforced by NATO and by the United Nations.

Mr. President, for the United States, the Balkans are important, but they are not vital to our national security. But what is central to our security, and to Europe's security, is preventing the spread of this conflict. Of course, we as Americans are sympathetic to the humanitarian needs of the Bosnian people and the terrible atrocities and tragedies that have occurred there, and we are seeking—and should seek, and even intensify—to meet the needs where we can. But there is a vast difference between dropping relief supplies to civilians and taking on the conflict as our own. There is a vast difference in those two.

Another issue posed by an abrupt unilateral termination of the embargo is a likely reaction of the Bosnian Serbs. It will take time, at least several weeks, if not months, to deliver significant quantities of weapons to the Bosnian Government, and to train government forces in their proper employment. The government's lack of access to the sea means that deliveries would have to be made via interdictable roads, initially through Croatia, and by air to airfields within the range of Serbian artillery.

Who is going to deliver these weapons through a continued embargo by the United Nations and by our allies? Who is going to deliver the weapons? Where are they going to get the weapons? Are we going to have our defense contractors come in and say: "Boy, I am sure glad that embargo is over. We are now going to find ways to deliver weapons in the middle of that conflict"?

I doubt it. I doubt it very seriously. I think those who are going to vote for this unilateral move have the obligation to think through these questions. They may have thought of them, and there may be answers, but they are not apparent on the face of the amendment.

Mr. President, are we going to assume that Bosnian Serb forces will remain idle while we go about arming and training Bosnian Government forces? Would a lifting of the embargo provoke a Bosnian Serb aim at preempting the Bosnian Government's military rearmament? The worst case is to have the Bosnian Serbs believe weapons are about to go in there because we voted in the U.S. Senate on lifting the embargo, and then have no weapons in there and have no training and have no way to get them in there, and not have any plan to get them in there. We would leave the people we are trying to help in worse shape than they are in now. We do that. We better think about it. This is not a sense-of-the-Senate resolution. If this comes up and we pass it, and it goes into conference and comes out, it could become law.

Would the Bosnian Serbs attack not only government forces but also the roads and airfields that are critical to the delivery of arms to government forces? Would they also attack the Moslem-safe areas which, with the departure of U.N. forces—and our allies told us if this happens, they are going to pull out—they would also pull out presumably the forward air controllers.

What are we going to do about targeting if we have to go in and bomb, if we do not have air controllers on the ground? How are we going to do that? Will our air power be effective without any forward air controls? Even with the assistance of forward air controls, the Bosnian Serb targets around those safe havens are very elusive, and we have done what I call a pin-prick attacking; we have not really done much damage in that. Those attacks are very difficult because it is so easy to put the weapons in the civilian populations, and then we have to decide whether we are going to go in there and knock out a church or a school that has mortars in it. What are we going to do about this? There is an obligation to think through these questions, a real obligation.

Mr. President, we would also have to be prepared for some of these same consequences if we multilaterally lift the arms embargo. But there is a huge difference. We and our allies will be acting in concert in taking collective steps preparing for withdrawing forces, deterring and reacting to any Bosnian Serb aggression. There is a huge difference between doing this unilaterally or multilaterally. We can do it unilaterally and we can take care of these questions, but only if we are willing to make a very large commitment of military forces and of training, and only if we are willing to follow the consequences of our action to their logical conclusion—and that means bombing. That means when you give out targets in Bosnia, you take it to Serbia. That is the logical consequence here, and people had better think through it.

In sum, Mr. President, a hasty unilateral lifting of the arms embargo on Bosnia will no doubt offer, for maybe a week or two, emotional satisfaction, produce a number of editorials that are favorable; but it could precipitate and intensify a conflict for which the Bosnian Government forces could find themselves militarily much worse off than today. It could also provoke a major crisis with at least two of our major European allies, as well as encourage other members of the United Nations to unilaterally themselves either ignore or violate current and prospective embargoes that we are in favor of and have pushed through the United Nations, and that we want to continue, like Libya, like Iraq, like Haiti, and like North Korea.

Mr. President, it is nice to be able to view through a telescope one small foreign policy question, even one that is as tragic as Bosnia. But it cannot be done with a country like America. We have to look at the whole scope and take into account other actions.

How many members of the Security Council, if we have to use an embargo on North Korea, are going to bring up what we do in terms of this embargo that we voted for over and over again? After much deliberation, the House-Senate conferees on the fiscal year 1995 defense authorization bill have determined what I believe to be a viable alternative to the original position of the two Chambers; I submit it is a viable alternative to the unilateral lift. Assuming a continued refusal of the Bosnian Serbs to accept the contact group's peace plan, I believe this alternative permits the Congress to support the contact group while at the same time pressuring our allies and the administration to lift the embargo multilaterally, rather than unilaterally.

This alternative rests on two tracks. The first, international; the second, unilateral. This is the amendment we will be voting on first. The international track calls for Congress to call on the President to seek, by the end of October, a U.N. Security Council termination of the arms embargo on the Bosnian Government. For over a year and a half, the administration has declared repeatedly it believes the arms embargo on Bosnia should be lifted multilaterally if possible. But while it has really talked to our allies individually on the matter, it has made no concerted effort within the Security Council to obtain a multilateral termination of this arms embargo on Bosnia.

President Clinton and his team have been kept informed of our deliberations on this issue, and the President indicated his willingness to take this effort to the U.N. Security Council by November 1, unless the Bosnian Serbs have come up with signature and agreement of the contact group's July 6 decision.

In a letter delivered yesterday, the President reaffirmed his commitment—he made it in writing—seeking a repeal of the embargo by the U.N. Security Council.

Mr. President, there is another track, in addition to the multilateral track, because we all know that the President, when he goes to the Security Council, around October 15 or November 1, he may get there and the Security Council may turn him down.

They may say we do not want anymore multilateral arms. What do we do then? We go much further in this resolution than we have gone before. If the U.N. Security Council refuses to lift the arms embargo on Bosnia and the Bosnian Serbs continue to reject the contact group peace proposal, funding for the participation in the United States forces in the arms embargo on Bosnia will be terminated no later than November 15.

Mr. President, the Senator from Kansas said we will be gone in October. Well, this is law. This will be law if it goes into effect, and this will be automatic on November 15 if these two conditions have not occurred.

What does that mean? It means our military forces no longer will be part of enforcing the embargo. We will no longer have Navy ships out enforcing the arms embargo. That is a very important step.

It is a unilateral step, but it is in no way in contravention of our national duties.

When we vote for an embargo at the U.N. Security Council, we do not sign up as the policemen. There are other members around the world of the Security Council and of the General Assembly who are honoring the embargo, but they are not enforcing it. As far as I know, the Russians are not enforcing the embargo. It is mainly the United States and our allies in NATO.

It is one thing to unilaterally violate an embargo and quite another thing to participate in its enforcement.

I personally, and I believe our conference agreed, find it unacceptable that American sailors and airmen are being deployed and engaged on behalf of an embargo that makes no moral or other distinction between the perpetrators and the victims of aggression and genocide.

Some believe we are legally obligated to observe the embargo as long as it remains in effect, although this view is debatable. But certainly, however, we are not obligated to provide ships and aircraft to enforce the embargo. There is a great difference between being a law-abiding citizen and joining the police force. We have joined the police force on this embargo that we have decried for the last 2 years both in Congress and from the White House.

What this amendment does it does not say we are going to unilaterally breach the embargo. There is a clear line. Here it says we are not longer going to enforce it. We do not know the effect of that. Our allies, the British and French, the NATO allies, can continue if they choose to enforce it without U.S. military forces.

I am not standing here saying it will end the embargo. It could, because it

VOL 140 PT 15 AG 10 — 11 1994 UMI

could have a very significant psychological effect. It could push the parties toward moving together before November 15 in some cohesive fashion. There is no guarantee of that, and we have to be prepared for that.

Mr. President, the Congress would also direct the President to submit to the Congress within a specified period of time a plan to train the Bosnian Government forces for the purpose of enabling them to defend themselves and the Bosnian safe areas from Serbian attack. It is important to recognize that any Bosnian political entity, including the one proposed by the contact group, would have to be able to defend itself. But if the peace agreement goes into effect, if everybody signs up, that country, if it is ever going to be secure, it also has to have the right to defend itself.

If we are really concerned about what has occurred there, and I really and truly believe everybody in this body is, if we are really concerned about the victims, then we have to start planning how they are going to be trained and how they are going to be armed with or without a peace agreement and, of course, without one it is much more urgent.

Mr. President, a defenseless Bosnian entity would be a standing invitation to further bloodshed in former Yugoslavia. Only a Bosnian Government capable of defending itself can escape the lurches of those who seek a greater Serbia. I think our allies have to start understanding this. I believe it is essential that they start grasping this essential fact.

Mr. President, if Bosnia continues to be without defenses, without adequate defenses, and if we decide to unilaterally lift the embargo because of that and if we go no further on training, if we do not get any kind of agreement on what we are going to do to train them, it is an invitation to outside forces to come into that area of the world and make the situation much worse than it is now. This is a situation, tragic enough. The spread of this Bosnian war would move on the scale from humanitarian and important concerns to the scale of vital concerns at which point there could be a point we would have no choice but to commit military forces, which no one wants to do.

Mr. President, sooner or later we and the other countries will be called upon to help train and arm the Bosnian Government forces, even if there is a peace agreement. The issue is not whether but when and in what context, unilaterally or multilaterally, before a peace agreement or after.

The international community, the same international community that is supporting the contact group effort to achieve a workable peace in Bosnia is obligated to assure Bosnia's military viability after a peace agreement is reached.

It is my view that we should keep the international community involved. If we have to go the unilateral route, we are basically and in my opinion morally volunteering to take it on ourselves, not simply a declaration that lifts the embargo, but training an army because that is what they need. Lifting the embargo will have no meaning unless they are trained and have arms and can defend themselves. It will have no meaning.

Mr. President, in fact I would amend that by saying it could have just a reverse meaning. It could alarm the Bosnian Serbs. It could cause attack, and when the attack comes the Bosnia Government will look around and say, what did this lifting of the embargo mean? We do not have training. We do not have antitank weapons. We do not have mortars. Where is it going to come from? It is not going to continue outside of the amendment we are voting on here today. Where is it going to come from?

Finally, we would require the President to submit a plan and consult with the Congress regarding a unilateral lifting of the arms embargo. If this amendment passes, it is a difference in planning and executing than it is implementing. This does not unilaterally lift the arms embargo, this amendment by myself and the Senator Maine and others.

What the House-Senate conferees are proposing that is in our defense authorization bill is one last stab at obtaining a multilateral lifting of the arms embargo, and failing that, placing complete responsibility on the international community for its continued enforcement. This amendment says, we want to try to work with you, but if we cannot work with you, then it is up to you to enforce it. The other amendment says we are basically going to unilaterally declare where we are going, and then I assume we would have the courage of our convictions and hopefully in some other measure follow through with what is essential, which will be training and which will be military weapons.

This proposal, the Nunn-Mitchell proposal, would do this in a nonprecipitous manner. It would ratchet up the pressure on both the U.N. Security Council and the Bosnian Serbs. If, in the interim, Bosnian Serb forces attack safe areas that have been declared safe areas, the administration is urged in this amendment to go to the U.N. Security Council and seek authorization immediately for a selective lifting of the arms embargo to enable the Bosnian Government to defend these safe areas.

Mr. President, I think that should have already been done. Why should we limit ourselves only to bombing? Why not multilaterally, not unilaterally, given people are under attack in Sarajevo, a chance to defend themselves with defensive weapons, carefully selected and prepared for? That is what we ought to do multilaterally. At least it would present more options than simply trying to bomb difficult targets in populated areas.

Mr. President, I fully understand the frustration of those who seek to lift the embargo now and who are prepared to act alone. But I urge each of the Senators who will vote for the Dole-Lieberman amendment to think through the consequences and to ask yourself are you ready to follow the line of and the concept that is required here, if you are going to think through this proposition properly, because simply lifting the embargo without providing arms, without providing training, you are doing virtually nothing but saying that American defense contractors can now export to Bosnia. You provide no money to pay for it, provide no training. I think we have to go much farther, if we are going to embark on this course, and I think this course is not wise. But if Congress is determined to take such an action, it should only do so after a multilateral lifting of the embargo is clearly impossible. We have not yet been to the Security Council and asked them to lift the embargo. There have been private conversations but we have not put that proposition down. The President is now saying he is willing to do it, no later than November 1.

Mr. President, I also want to stress again that we have to provide sufficient time for U.N. forces and humanitarian workers to debark and the Bosnian Government forces to arm and train, and we have to do that whether we lift the embargo unilaterally or multilaterally.

Those who favor a unilateral lifting now have an obligation to recognize the corresponding obligation to prepare both the Bosnians and our allies for the consequences of this unilateral action. They also have an obligation to carefully review the effect a unilateral lifting will have on continued and prospective allied participation in sanctions on Libya, Iraq, Haiti, and North Korea.

If we break ranks with our allies on an embargo that we voted for under two administrations, Bush and Clinton, however unwisely, then other nations will forever cite our action as a precedent should they decide in the future that it is in their narrow interest to break ranks with us. The consequences of this will flow with our foreign policy for a long time.

Mr. President, I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to take up to 10 minutes of Senator DOLE's time. It is my understanding that Senator MCCAIN wanted 2 minutes.

Mr. MCCAIN. Of my own time.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Reserving the right to object.

Mr. MCCAIN. Never mind, Mr. President.

Mr. DECONCINI. Mr. President, I do not intend to object to the unanimous consent request, but I would like to ask that I could follow the Senator from Texas after her 10 minutes and the Senator from Arizona after his 2 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Senator MCCAIN be allowed to speak for 2 minutes, after which I would like to speak for up to 10 minutes from Senator DOLE's time.

Mr. MCCAIN. Mr. President, if it is all right with the Senator from Texas, I yield that 2 minutes to the senior Senator from Texas, and I will take no more of my time. In fact, I will yield back the remainder of my time.

Mr. DECONCINI. Mr. President, may I ask for clarification, if the unanimous consent has been approved?

The PRESIDING OFFICER. The Chair believes that the Senator from Arizona is yielding 2 minutes of his time to the Senator from Texas [Mr. GRAMM]. The junior Senator from Texas is to be recognized for a period of not to exceed 10 minutes on Senator DOLE's time. And then the senior Senator from Arizona would be recognized.

Mr. DECONCINI. For 8 minutes on Senator DOLE's time.

The PRESIDING OFFICER. Senator NUNN's time remaining is 7 minutes 53 seconds.

Mr. DECONCINI. Mr. President, I am sorry. I confused this and I did not mean to.

It is from Senator DOLE's time, up to 8 minutes.

I ask unanimous consent that that be included in the unanimous consent agreement.

Mr. MCCAIN. Mr. President, I would be glad to yield time to the Senator from Arizona. I believe I have 20 minutes. I would be glad to yield 8 minutes to the senior Senator from Arizona.

Mr. DECONCINI. There is no objection. I thank my colleague.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas is recognized for 2 minutes.

THE CRIME BILL

Mr. GRAMM. Mr. President, I will try to be brief, because I know it is a very important debate that is going on here.

I remember the first speech that President Clinton made to a joint session of Congress. He talked in that speech about getting tough on criminals. And I led the standing ovation on that speech.

Then I got back to my office and discovered the President has cut funding for prisons and the DEA and FBI. Immediately, the President and the Attorney General started working to try to overturn minimum mandatory sentencing for drug felons. While the administration was talking about grabbing criminals by the throat and getting tough, they were working to overturn minimum mandatory sentencing.

And when we debated the crime bill and passed a tough crime bill in the Senate, the administration, working with Members of the House, adopted an incredible provision that repealed minimum mandatory sentencing for drug pushing retroactively, and that would let 10,000 drug felons currently in the Federal penitentiary back out on the streets.

When our bill was adopted and the House bill was adopted, the bill went to conference. And in a game that is now quite old, the House dropped our get-tough provision and adopted the House provision with its get-out-of-jail-free card that would let 10,000 drug felons back out on the streets. Then the bill went back to the House. And today, miraculously, the House of Representatives voted down the rule on the crime bill.

Now my office received 1,700 calls yesterday, all worried about the fact that Congress was not listening to the American people.

Well, Mr. President, I thought it was important to note today that on the crime issue, the House did listen to the American people and they said very clearly: Do not try to let 10,000 drug felons out of prison and call it a get-tough provision on crime.

I know the American people got the message. I hope the President did.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, the junior Senator from Texas is recognized.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mrs. HUTCHISON. Mr. President, I just listened to speech of the distinguished Senator from Georgia. I want to say how very much I respect the chairman of the Armed Services Committee. I think that he has great concerns about what is happening in Bosnia, as all of us do.

I find that I agree with him a lot more than I disagree with him, but on this occasion I am taking a different position.

It is because, Mr. President, it seems to me that we have been returning to this debate for the entire year that I have served in this august body. Each time the Serbs make the headlines with a new atrocity or outrage, we resume the debate. We talk about allowing those who are willing to fight for their freedom to be able to have the means to fight for their freedom. And each time we conduct a debate, we find some excuse not to approve lifting the arms embargo on the Bosnians.

Last week, the Serbs rejected a peace plan once again. They stole armored vehicles and fired on a U.N. helicopter.

The only improvement in the Senate, however, is that now we are debating how we will go about lifting the arms embargo instead of should we lift the embargo. But by passing two different resolutions, we are not leading, Mr. President. We are continuing to stall.

I am concerned that the other amendment, while having much of the same response, is still not going to allow the lawful countries in the international community to give arms to the Bosnians, because the law-abiding countries are not, in my opinion, going to give arms just because it is not being enforced when the embargo is still there.

On June 23, I met with Vice President Ganic at the Senate Armed Services Committee. He made a poignant appeal to the Armed Services Committee. Vice President Ganic of Bosnia said apologetically to us, "I realize I am emotional about this issue."

I thought to myself, this man is apologizing for being emotional, while his country is under armed assault, their families are being brutalized and murdered. He was very poignant, real, when he was speaking for his people as the elected Vice President of their country.

Mr. President, the Bosnians should have our support, not our sympathy. We have a moral obligation to follow declared U.S. doctrine as enunciated by U.S. Presidents from John F. Kennedy to George Bush. That obligation is to lend our support to oppressed people who are willing to fight for freedom. It is not always our responsibility to fight for others, but we must be willing to support them. The issue is America's leadership and resolve.

Three years ago, the United States formed and led a coalition of diverse nations to a stunning victory in Operation Desert Storm. At that time, the United States was the unquestioned leader of the world. Are we now perceived as simply a member of the community of nations rather than its leader? The danger lies in the false sense of security that leadership in some way will evolve from consensus.

Nothing could be further from the truth. Consensus follows leadership. Leadership does not, nor will it ever, evolve from consensus. The coalition which met the challenge in the gulf war did not result from consensus. It came about because of American leadership, and that is what is lacking

VOL 140 PT 15 AG 10 — 11 1994 UMI

today. It is up to us to provide that leadership because no other country can and no other country will.

The time for leadership should be—and this time it should be—time for us to lead. Not to fight, as it was in Desert Storm, but to lift the impediment for those who are fighting so they can defend themselves from the attacks of aggressors.

There is an old adage that it is preferable to die fighting on your feet than to live begging on your knees. It is clear that the Bosnians have made their choice and that is to fight on their feet, come what may.

Some argue that lifting the embargo gives us a responsibility to put American troops in the fight. I do not think that is the case. The Bosnians have not asked for our troops to fight for them on the ground. Dr. Ganic told us he hopes the U.N. troops will continue to do humanitarian missions in Bosnia. But, he said, even if they feel they must withdraw, Bosnia is willing to accept that fate. He simply pled with us to no longer combine big words with small deeds. He asked us to lift the arms embargo because they need arms to survive.

In closing, former State Department official Richard Perle, testifying before our Armed Services Committee, defined the stakes very well. He said:

> In considering, finally, whether to reverse the shameful policy of leaving Bosnia defenseless against a well-armed Serbian aggression, we face a decision in which the right and moral course is also the course least likely to lead to adverse consequences for the United States and its allies. That is because it has the prospect of leading to a peace the Bosnians themselves can defend, rather than a peace imposed on a vanquished country that cannot last and which the United States would then be obliged to defend.

I want to also read from a recent policy statement from the American Enterprise Institute for Public Policy Research, written by Albert Wohlstetter. He said:

> But it is not enough to resist forcefully all the bad arguments for continuing an embargo in U.N. Resolution 713, that never validly applied to Bosnia. Better to enforce the valid U.N. demands to stop the flood of arms, ammunitions and soldiers sent by Serbia, the genocide's source, to its proxies in Bosnia and Croatia. That flood, financed by drug deals, smuggling, and a network of pickpockets roaming Europe, flagrantly violates, among others, U.N. Resolutions 752, 757, 819, 820 and 838. The world's democracies and the U.N.'s bureaucrats turn a blind eye to these valid U.N. demands.

I do not like moving without our allies. That is not my first choice. Our distinguished chairman of the Armed Services Committee has repeatedly said that we should have our allies working together in concert, and I agree with him. But they have failed to move—time and time and time again. I believe and hope that if we take this action, which is a bold action, they would support our move. But the United States has acted unilaterally before and will do so again. That is what leadership is, sometimes.

We must lift the arms embargo. Vice President Ganic of Bosnia said it so well. "We are dying anyway," he said. "let us die fighting, fighting for our country."

Mr. President, I hope we hear their pleas. I hope we set a date certain for lifting the arms embargo. I am supporting the Dole resolution because it is the right thing to do. We have talked too long. The time to act has long since passed.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, for more than 2 years I supported the lifting of the arms embargo in a unilateral manner if necessary. We have had debate time and time again, and I listened very attentively to the Senator from Georgia. As usual he points out in a very profound manner the responsibility of the United States as the embargo is lifted. If that be the case, I believe the United States would meet that responsibility.

I do not quite see it that way, however. The fact that you lift the arms embargo does not mean that you have to deploy troops there. The fact that you lift the arms embargo and this would cause some disruption with our allies, and some heartburn in our relationships with France and England, to me is not sufficient to keep us from doing what the Senator from Texas referred to as truly a moral obligation to do something to help these people.

There have been some efforts by our administration. President Clinton has talked to many people in the world, many people in the Congress, attempting to forge a multilateral effort to end this conflict. He has indicated that he himself would like to see the arms embargo lifted, but only if done on a multilateral basis.

The fact is we cannot lift it on a multilateral basis. The Senator from Maine and the Senator from Georgia now have proposed the best of all that we have had over the last 20-some months of efforts to lift the arms embargo, because they do set a date. Apparently the President now realizes that this train is moving and eventually it is going to come out of this Senate and House with a vote to unilaterally lift the arms embargo. He may be presented with no alternative but to veto it and I do not think he wants to do that. I think in his heart—and I do not know—in his mind he wants to see the Bosnian Muslims be able to defend themselves.

The reality is we have had a failed policy there, from the U.S. standpoint, but more so from the allies and the multilateral standpoint. We have not succeeded in bringing the Serbs, Bosnian Serbs to the table with any credibility, with any willingness to enter into a peace accord where they do not end up with 70 percent of someone else's country. And this accord that the contact group put together July 6 is no great accord. They end up with 49 percent of someone else's country. And that someone else is the Bosnia and Herzegovinans who want to defend themselves.

So we lift the embargo, and the question is asked by the distinguished Senator from Georgia, how are they going to get the arms in there? You know, people who want to fight for themselves, who want to die if they have to, to die with dignity, are going to fight, just like they are fighting right now with the embargo on. They are getting arms. And they have demonstrated on several occasions they can be pretty effective, even against the far greater armed force of the Bosnian Serbs.

So it gets back to where do we as a nation stand when a nation, an independent sovereign country, a member of the United Nations, part of the CSCE process, has now decided that they want to fight these invading forces? And we say because of an embargo that is imposed against the former Yugoslavia that no longer exists, that the people of Bosnia and Herzegovina cannot defend themselves. That does not make sense.

It does not make sense because it is not right on anybody's scale. And the fact is there is a moral obligation of the United States to do all we can to help these people fight and be able to defend themselves from the Bosnian Serbs.

Will they be able to do it? I do not know. It is interesting here, the debate that we have had on the Persian Gulf, for example. When the time came there was a big hue and cry—there are many who wanted to commit American troops there. They thought we should go after those invaders.

That is what we have here—we have invaders. There is no reason that we have to decide today or any time in the future that we have to deploy troops there.

But I do believe that we are committed under NATO to use air strikes and we should use them. It has been demonstrated time and time again when we are prepared to use those air strikes, there is a response from the Bosnian Serbs. General McPeak, the Chief of the Air Force, testified a little over a year ago before the Appropriations Committee, that airstrikes can be carried out with minimal risk, or very low risk of loss of U.S. pilots.

For us not to be willing to lift that embargo and to do what we have to do with air strikes, to me is walking away—walking away from a pending catastrophe.

I have been to Bosnia and Herzegovina four times, and Macedonia and other countries in the area. I have talked to people who have been put through the genocide and murder process that the Bosnian Serbs, armed by the Serbian former Yugoslav Army have subjected them to. To sit there and talk to a person of my own age who lost his mother, his sister, and his brother through murder and rape, and to hear of other relatives who were forced out of their villages through the ethnic cleansing process of the Bosnian Serbians to me is enough to make you cry, and it did just that.

It made me feel like, "What do you want from the United States?" And I asked him that. When the President of Bosnia and Herzegovina was here, I asked him, "What do you want?" He said to me, "Let us die in dignity if we have to die; let us have arms." He said, "We are not asking for your soldiers. You do not even have to give us the arms. We'll get the arms, but we cannot get them in because of the embargo."

If we lift that embargo unilaterally—I cannot believe the allies there are going to stop arms from coming in to help the Bosnians. If the allies feel it is too dangerous, it is their right to get their troops out. They do not have to be there. But their being there has not brought stability to Bosnia and Herzegovina and an end to this genocidal conflict.

So I hope this body will have the courage to stand on principles, to stand with people who have been so deprived and so victimized that there is just nothing more we can do today except vote a clear message that the United States understands the severity of the problem and is prepared to lift this embargo.

If we do not do that, then the Senator from Georgia and the Senator from Maine have crafted, in my judgment, the best alternative. I must say, it is much better than we have had before because it does set a time, it does indicate that if the multilateral effort to get the United Nations to lift it does not happen, funds are cut off from our enforcement contribution. I compliment the Senator from Georgia for his ability to craft that and get that through the conference committee and apparently get the President and the administration to support it.

So we have two good alternatives. I just happen to come down on the side that lifting the embargo is not as dangerous as the Senator from Georgia might say. Sure, it is nice to have a big plan, and we had a big plan when we went to the Persian Gulf. And in Bosnia if we were talking about arming them, that is one thing. We are not talking about arming, we are just talking about lifting, removing the prohibition now of selling arms or transferring arms to Bosnia and Herzegovina. I hope this body has the courage to do that.

In any event, the only good thing I can find out of all this is that we are moving closer and closer to where many of us thought we should have been a long time ago, and that is to let the Bosnians die in dignity, if they must die; let them fight for their own country as anybody else in this body would want to do if we were in their shoes.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Senator from Arizona for his kind and thoughtful remarks about our proposal, and I certainly understand his position on the overall issue.

I yield 6 minutes to the Senator from Rhode Island, the chairman of the Foreign Relations Committee.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, the distinguished minority leader has offered an amendment to this bill mandating the unilateral lifting of the arms embargo, an amendment that I will oppose.

This is an issue that knows no partisan boundaries, that cuts to the heart of issue related to U.S. influence and power abroad. There are serious and valid disagreements among us, and as public servants, we are called upon to exercise our best judgment on this very difficult issue. My own gut felling, my own conscience tells me that unilaterally lifting the arms embargo is the wrong thing to do.

Clearly, the situation in Bosnia is untenable, one we cannot support as we see the innocent civilian victims of the fighting, the vast majority of whom are Bosnian Moslems. Regrettably, the suffering of blameless civilians is far too common an occurrence in our world today. Untold misery is occurring in Rwanda, Kurdistan, Sudan, Haiti, and the Caucasus—to name just a few places.

As I have said previously, before we take any unilateral action in Bosnia—we need to answer the most serious question of all: Is it in our national interest? Where does our national interest lie. How deeply involved is our national interest in Bosnia? Regrettably, we still do not have clear answers.

My own view is we do not have an overriding national interest, but I realize that is not the view of many of my colleagues. As long as that remains the case, I would not support an action that could launch us headlong into a military quagmire.

On several occasions now, the Senate has conducted an honest and thorough examination of a difficult issue. I have listened to and participated in the previous debates on this matter, and I have previously acknowledged that I see merit in some of the arguments regarding a lifting of the embargo. My best judgment, though, tells me that unilateral action is the wrong course to take.

Today we are considering another approach. We have before us an amendment offered by the distinguished chairman of the Armed Services Committee, Mr. Nunn, which promotes a multilateral approach but which will likely lead to the nonenforcement of the embargo by the United States.

I commend the Senator from Georgia as well as the majority leader, Mr. MITCHELL, for their fine efforts to come up with compromise language. But this amendment goes quite far in urging the United States to go it alone, and for that reason, I am not completely comfortable with it. But I am more comfortable with it than I am with the Dole amendment. President Clinton has indicated that he will seek a multilateral lifting of the embargo. He did so with the full knowledge that if the Security Council does not agree to lift the embargo the language in the Nunn amendment, if adopted, would require the United States to halt enforcement of the embargo.

In my opinion, this takes us a bit down the road of unilateral action. However, I see this amendment as the lesser of two evils. Our President has made the judgment that he can live with the consequences of this amendment—that it fits in with what he is trying to accomplish on the diplomatic front. I, too, much prefer this approach to one which would mandate a unilateral lifting of the embargo. For that reason, I will support this amendment as a tactical matter—in the hopes that it will help prevent the adoption of a measure that directs the President to unilaterally lift the embargo.

One lesson that can be drawn from this debate, and previous ones, is that it is to our best advantage not to intervene with a unilateral action but to only do so in a multilateral way.

I yield the floor.

Mr. NUNN. Mr. President, I reserve the remainder of my time and suggest the absence of a quorum, and ask that the time be evenly divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

Mr. NUNN. Madam President, how much time is remaining on each side, now that we have split this quorum call?

The PRESIDING OFFICER. The Senator from Georgia controls 2 minutes and 30 seconds, the Republican leader controls 16½ minutes.

Mr. NUNN. Madam President, I have some other speakers. If my time is being dissipated by this, I do not know what to do about it. Perhaps the Senator from Alaska could let the time run against his time, and at least let

VOL 140 PT 15 AG 10 — 11 1994 UMI

me reserve—Madam President, I would ask that the remaining time on both sides be reserved. I ask unanimous consent that no further time be charged against either side on the Bosnian amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NUNN. Madam President, I would also like to inform the desk that the leader has authorized me to use his 10 minutes on the Bosnia question, if there are other Senators who want to speak on this side.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I ask that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2520

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, I have an amendment at the desk, amendment 2520. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 2520.

Mr. THURMOND. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title VIII, General Provisions, add the following new section:

SEC. . Of the funds appropriated by title VIII of Public Law 102-396 (106 Stat. 1899) for defense reinvestment for economic growth, the unobligated balance of the funds made available by such title for military service members occupational conversion and training shall remain available until September 30, 1995.

Mr. THURMOND. Madam President, I ask unanimous consent that Senators MURKOWSKI and SIMPSON be added as cosponsors, in addition to Senator DECONCINI.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Madam President, this amendment would extend the obligation life of funds previously appropriated for the Service Members Occupational Conversion and Training Act [SMOCTA].

Madam President, the SMOCTA program was created by the fiscal year 1993 Defense Authorization Act to provide subsidies to employers who train recently separated service members for new careers in the private sector. The act authorized funds for the program, to be available for obligation for 3 years. The 1993 defense Appropriations Act identified $75 million for SMOCTA, as part of the $472 million appropriated for defense conversion programs. Unfortunately, the appropriation was made available for obligation for only 2 years. This amendment would correct the discrepancy between the authorization and the appropriation, making the funds available for the 3-year period. Over $40 million of the original appropriation has been obligated to date.

Madam President, although there were some initial bureaucratic delays in getting the program implemented, the program has been very successful. Over 4,500 employers have certified training programs, including national corporate chains. The program provides incentives to hire and train veterans. Over 35,000 veterans are certified for the program. Approximately 6,000 veterans are currently receiving job training, for a period of 12 to 18 months, at an average cost per veterans of $6,879.00.

The Departments of Defense, Labor, and Veterans Affairs have worked hard to establish this program, although there were some delays. However, it would be a mistake to let this program expire at this time. To not extend the life of the prior appropriation would send a message to our military members, caught in the downsizing, that we do not care about their futures. It would tell employers that the Federal Government cannot be trusted in partnership agreements. I do not believe this is the message the U.S. Senate wishes to send.

Madam President, without this amendment, SMOCTA funds will be abruptly cut off this coming September, at the end of the current fiscal year. My amendment will cure the conflict between the authorization and appropriation for this program, extending the period of availability for obligation of SMOCTA funds until September 30, 1995.

Mr. President, the SMOCTA program has strong support in the business community and the veterans community. My amendment is supported by the Veterans of Foreign Wars of the United States, the AMVETS, the American Legion, and the Vietnam Veterans of America. In addition it is supported by the Department of Labor, which administers the program.

I encourage my colleagues to join in supporting the amendment.

Mr. ROCKEFELLER. Mr. President, I rise in support of Senator THURMOND's amendment to make unobligated funds under SMOCTA available in fiscal year 1995.

The Service Members Occupational Conversion and Training Act [SMOCTA] was created by the fiscal year 1993 Defense Authorization Act to provide subsidies to employers who train recently separated service members for well-paying, stable jobs. The act authorized $75 million for the program, and provided that the money would be available for obligation for 3 years.

In the 1993 Defense Appropriations Act, $75 million for SMOCTA was identified as part of a $472 million defense conversion appropriation which was made available for obligation for 2 years. I have no reason to believe that the Appropriations Subcommittee intentionally rejected the authorizing committee's 3-year provision for SMOCTA funds.

The Department of Defense, Labor, and Veterans Affairs have worked very hard to get this important program up and running. To date, approximately 4,000 veterans have entered training, and many more have been certified as eligible.

The recent realization that SMOCTA funds could be abruptly cut off has caused much concern among veterans' advocates and the people who have worked to make this program a success. The prospect of having to turn away veterans and employers who have agreed to work together in this program is disconcerting to them and to me. We are concerned, not only about the veterans who will be let down, but also about the negative impact that the cutoff in funds may have on employers' willingness to participate in veterans' employment programs in the future.

While efforts are being made to obligate as much of the direct services money as possible before the end of this fiscal year, it appears now that this cannot be done. Obligation takes time because participants and training programs must be approved by VA. In addition, the 6 percent of the funds set aside for administration will be needed over the next year for continued monitoring, as required by law.

I want to make sure that veterans who have relied on SMOCTA are not let down, and that the people who serve them are not left without the support they anticipated. To this end, I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUYE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Madam President, I ask unanimous consent that the pending amendment be set aside so that I may speak on the Bosnia amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Madam President, parliamentary inquiry. Has 10 minutes been set aside?

The PRESIDING OFFICER. Will the Senator from Pennsylvania indicate the time he wishes to speak?

Mr. SPECTER. Parliamentary inquiry: I believe I have 10 minutes set aside under my control.

I am advised by staff I am authorized to take 10 minutes of the time from leadership.

The PRESIDING OFFICER. The Senator may proceed.

AMENDMENTS NOS. 2518 AND 2524

Mr. SPECTER. Madam President, I might say parenthetically that I thought 10 minutes had been reserved under my control. But apparently the arrangement was not done. But I am advised I do have authority to take 10 minutes of leadership time.

Madam President, I have sought recognition to support the resolution to terminate the United States embargo of arms for the Government of Bosnia and Herzegovina no later than November 15, 1994, because I believe that is the appropriate foreign policy of the United States.

I have in the past supported other amendments advanced under the leadership of Senator DOLE because I think Bosnia and Herzegovina have a right to self-defense under the U.N. Charter.

The atrocities there are well-known. There have been major international efforts to stop the Bosnians and Serbs from proceeding with the slaughter. That stand has apparently been supported by Serbia. The United States, Great Britain, France, and other allies, joined by Russia, have tried to have a settlement there to stop the slaughter, and that has not worked.

This resolution has been before the Senate on several other occasions. There was a 50–50 vote. I believe that there are other Senators who are now willing to support this resolution so that we have a unilateral lifting of the arms embargo as a matter of basic fairness to Bosnia and Herzegovina.

I recognize the problem of the United States acting alone because that may weaken our position on unified action on other major matters around the world, such as, for example, North Korea. But I think this situation has gone on long enough. It is intolerable. We ought to move ahead, and the Senate ought to pass this resolution.

I have no doubt that this is not going to become the law of the land because, even if there is a narrow victory in favor of this resolution, it is subject to being vetoed by the President because the administration has stated its opposition to this resolution. There is no doubt that a two-thirds majority cannot be mustered to override the resolution.

So what we are really going to be doing here is making as forceful a statement as the Senate can that we do not accept the policy of President Clinton, that we do not accept the arms embargo, and we do wish to proceed to lift the arms embargo even though we are aware of the difficulties that presents in the international community.

What I think the effect will be of a forceful passage of this resolution is that it will put greater pressure on the administration to negotiate with the allies to have a multilateral lifting of the embargo, and will place pressure on the Bosnian Serbs. I think that ought to be accomplished.

Parenthetically, Madam President, I am concerned about the articulation of this resolution where it says "The President shall terminate the United States arms embargo," et cetera, from the point of view of the constitutional implications of the Congress ordering the President as to what the President should do.

This is not a ministerial act. This is a discretionary act. I think there is a constitutional question as to whether the Congress can issue this kind of order to the President.

Last week I took the position that the President did not have the authority to make war against Haiti without a congressional resolution in the context where there was ample time to get a congressional resolution. My view here is somewhat different with respect to the Presidential authority and congressional authority.

But I do believe that the practical impact of passing this resolution will be to impose greater pressure on President Clinton and on the allies to move ahead to get the arms embargo lifted.

My thinking is that there might be some more artful way to articulate this policy because, if you had the resolution passed and vetoed by the President and had the veto overridden, it would be a curious situation with the Congress ordering the President to do something in these terms.

But again, the practical effect is to put pressure to try to get a settlement to stop the bloodshed, and to give Bosnia and Herzegovina a chance to defend themselves.

Madam President, I yield the floor and any further time I yield.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Madam President, I ask unanimous consent that Senators BOXER, WOFFORD, and PELL be listed as cosponsors to the Bingaman-Pryor amendment No. 2530.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Madam President, I ask that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2531

(Purpose: To increase the amount made available for the Defense Contract Management Command by $36,500,000)

Mr. INOUYE. I ask that amendment number 2531, the Levin amendment, be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. LEVIN, proposes an amendment numbered 2531.

Mr. INOUYE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 10, before the period insert the following: ": *Provided further*, That, of the total amount appropriated under this title, $1,224,309,000 shall be available for the Defense Contract Management Command".

Mr. LEVIN. Madam President, last night I proposed an amendment that would restore to the Defense Contract Management Command [DCMC] the $36.5 million cut by the Appropriations Committee.

DCMC is the agency responsible for managing nearly all contracts for the Department of Defense. It also administers contracts for NASA as well as a number of civil agencies and even some foreign governments. It manages some $840 billion of Federal contracts—a staggering sum.

Contract management is an absolutely critical responsibility. DCMC is on the front line of DOD's relationship with our defense contractors and is our trip wire for any problems that may develop with contractor performance. In overseeing DOD contracts, DCMC returns $10 for every $1 spent through cost savings and avoidances resulting from contract negotiations, contractor process enhancements, and contractor systems reviews. These savings and cost avoidances are realized by the services which are then able to make the best possible use of their contract dollars.

Over the last 3 years, DCMC efforts have resulted in financial recoveries of $551 million—over one-half billion dollars. And DCMC has played a significant role in obtaining the debarment or suspension of some 364 unresponsible contractors.

DCMC currently has a staff of 17,500. That is down by over 30 percent from 1989. According to DCMC, these reductions were achieved through attrition, special pay incentives, and selective reductions in force. By the end of fiscal year 1995, DCMC estimates an additional 1,000 positions will be eliminated. Over the same period of time, however, there was, according to DCMC, a 12 percent increase in the obligated value of contracts, a 19 percent decrease in the number of contracts, and a 9 percent decrease in the unliquidated dollar balance. DCMC's reduction

VOL 140 PT 15 AG 10 — 11 1994 UMI

in personnel has clearly outstripped the decrease in the workload.

An additional cut of $36.5 million could seriously weaken DCMC's ability to do its important job. According to the Department's own analysis, the proposed reduction will adversely impact DCMC's ability to invest in training, automation, and process improvements. It is these very investments that will enable DCMC to significantly improve its effectiveness in a future of continued downsizing.

My amendment would have restored the administration's full budget request for DCMC, but I am advised by the chairman of the Defense Appropriations Subcommittee that he will seek to restore funding in conference. I ask the Senator from Hawaii if that understanding is correct.

Mr. INOUYE. The Senator's understanding is correct. I am aware of the impact cuts to DCMC's operation may have on our ability to monitor the enormous volume of defense contracts. I assure the Senator from Michigan that I will work to restore funding for this agency in the conference with the House.

Mr. LEVIN. With those assurances, Madam President, I will then withdraw my amendment and express my appreciation to the floor manager for his support. Cutting DCMC's budget is cutting our ability to oversee the operation of $340 billion worth of defense contracts. In my view it is penny-wise and pound-foolish. It may look good today, but it will have costly consequences tomorrow and on into the future. I welcome the floor manager's support and offer my assistance in fighting for full funding for DCMC in the conference.

Mr. INOUYE. I thank the Senator from Michigan.

Mr. INOUYE. In behalf of Senator LEVIN, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is a withdrawn.

The amendment (No. 2531) was withdrawn.

AMENDMENT NO. 2537

(Purpose: To extend the terms of United States patent numbers 4,428,744 and 4,683,889 (relating to a photopheresis method))

Mr. INOUYE. Madam President, I ask unanimous consent that the pending amendment be set aside and that the Senate consider amendment No. 2537.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. DODD, proposes an amendment numbered 2537.

Mr. INOUYE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . The Secretary of Commerce, acting through the Commissioner of Patents, shall, upon expiration of United States patent numbers 4,428,744 and 4,683,889 (relating to a photopheresis method involving collection and exposure of extracorporeally circulating leukocyte-enriched blood to long-wave ultraviolet energy in the presence of a photoactive drug 8-methoxypsoralen), or as soon thereafter as practicable extend such patents for four and one-half years, with all the rights pertaining thereto.

Mr. INOUYE. In behalf of Senator DODD, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 2537) was withdrawn.

Mr. INOUYE. Madam President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2546

(Purpose: To limit the obligation of funds for the HUNTER unmanned aerial vehicle (UAV) system)

Mr. INOUYE. Madam President, I ask that we call up amendment number 2546, the DeConcini amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. DECONCINI, proposes an amendment numbered 2546.

The amendment is as follows:

On page 142, between lines 7 and 8, insert the following:

SEC. . (a) No funds may be obligated for a second low rate initial production of the HUNTER Unmanned Aerial Vehicle (UAV) system until the Secretary of Defense submits to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives the Secretary's certification of the following:

(1) That the Logistics Support Analysis Report required by contract to be submitted to the Department of Defense has been received by the Department and is sufficient to fully support a determination to field the system.

(2) That 200 hours of flight time have been successfully logged on a Phase II UAV airframe for the system as part of "OPTEMPO" testing.

(b) The Secretary shall submit to the committees referred to in subsection (a), with the certification submitted pursuant to that subsection, a copy of the Logistics Support Analysis Report and the OPTEMPO testing reports relating to the HUNTER UAV system.

AMENDMENT NO. 2546, AS MODIFIED

Mr. INOUYE. I send to the desk a modification.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 2546), as modified, is as follows:

On page 142, between lines 5 and 6, insert the following new general provision and number appropriately:

SEC. . (a) None of the funds appropriated in this Act for a second low rate initial production (LRIP) contract or contract option for the Hunter unmanned aerial vehicle (UAV) system may be obligated until the Department of Defense certifies to the Congressional Defense Committees that—

(1) two Hunter UAV systems have been accepted by the government using the currently defined Acceptance Test Procedure;

(2) the operational tempo (OPTEMPO) phase of the risk reduction program has been successfully completed; and

(3) the flight test portion of the first article test (FAT) has been successfully completed;

(b) None of the funds appropriated in this Act may be obligated to procure more than four Hunter UAV systems until the Logistics Support Analysis (LSA) report has been submitted to the relevant Committees of Congress and the Department of Defense has certified to these Committees that the LSA is sufficient to fully support fielding of the Hunter UAV.

Mr. INOUYE. Madam President, as modified, the managers have no objection.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

Mr. DECONCINI. Madam President, I want to thank the managers of the bill.

I want to thank the Chairman of the Defense Appropriations Subcommittee and his staff for working with me on my amendment, which is designed to help the Hunter UAV program. As many of you know, the Hunter system is a set of unmanned aerial vehicles designed for short-range reconnaissance, supporting tactical military operations. This billion-dollar capability is a significant one; ultimately 50 systems are planned for a total of 400 unmanned airplanes distributed among the Army, Navy, and Marines. I support the Hunter UAV program.

The Hunter UAV system has experienced several fundamental—but hopefully not fatal—problems during its development and procurement. The GAO has issued three critical reports in 3 years regarding the progress of the Hunter UAV program. The GAO continues to monitor the program today and has reinforced to me that their past concerns have in fact not been resolved, that they still include insufficient/unrealistic testing, extremely poor logistics support, engine design problems, and questionable program management.

For example:

The engines—originally intended for motorcycles—have been unreliable, requiring several modifications, some of which are still ongoing.

The fact that testing has fallen behind procurement compounds this problem, increasing the danger that faulty systems are being tendered to the Government.

Logistics support—critical to a successful fielding—has been behind schedule. Without logistics support a single, minor problem with a part can incapacitate an entire system on the battlefield.

For example, a contractually required "Logistics Support Analysis Report" manual is 2 years behind schedule. The title does not do justice to the importance of this report—without it, soldiers in the field will not be prepared to perform routine maintenance and operational repairs because the right spare parts will not be available in the right quantities. Right now, I understand, there is not even a spare set of landing gear for the Hunter planes.

Several recent crashes have highlighted the program's growing pains. In at least one case the cause of the crash is not even known yet.

Over and above these substantive problems is a concern regarding what I perceive as DOD misleading the Congress on the health of the Hunter UAV program.

After Congressional staffs were assured this spring/early summer that the program was on track, that GAO's reported problems had been fixed, and that congressional concerns were outdated, the Hunter program, as submitted to Congress, was touched in markup.

However, in mid-July, staffs of the relevant congressional committees were briefed that the program had been sifnificantly restructured as a result of numerous ongoing problems. The DOD Joint Program Office, even after privately conceding many of the GAO's significant criticisms, continues to publicly claim that the program is in near-perfect health. In last week's issue of Defense News, DOD and contractor officials state that all problems with the programs have been corrected. We know this not to be true, based on DOD's own statements—and DOD's desire for a restructuring.

The Pentagon has not yet submitted changes to the FY 1995 Hunter UAV funding request. Our staffs have been briefed that approximately $65 million is needed to implement this restructuring and some $30 million of that is being borrowed from the Close Range UAV program, which my staff was initially told was not being affected.

DOD reported that the damage to a HUNTER UAV that crashed on June 19 while undergoing Government acceptance testing was minimum. In fact, the damage is so bad that a replacement vehicle has been ordered.

Before us is a request for a restructuring of the FY 1995 submitted HUNTER program to address its acknowledged deficiencies. As I understand it, the request is for $88 million to procure four low-rate systems.

This restructuring is generally well-advised: it provides more support for logistics and testing.

However, my amendment as modified by Senator INOUYE will ensure that the Department of Defense follows its own prescription for restructuring. Specifically, the Congress should fence the $88 million requested by the Department for procurement of the second low-rate initial production systems until three specific milestones have been met. These milestones have been defined by the Department of Defense as follows:

Milestone 1—requires that two HUNTER UAV systems be accepted by the Government using the currently defined acceptance test procedure;

Milestone 2—requires that the operational tempo [OPTEMPO] phase of the risk reduction program be successfully completed;

Milestone 3—requires that the flight test portion of the first article test [FAT] be successfully completed;

These milestones are designed to keep a watchful eye on both the system performance and the logistics support. Members may ask why we need this amendment. We need it because the Department has been reluctant to admit to any major problems with the program until a few weeks ago, and still only privately. Now that the program's problems are acknowledged, we must make sure that the Department's newfound concern does not dissipate in the next year. These milestones signal our resolve to keep the program on track—and ensure that the warfighter gets a product that works.

The Department has assured me that these milestones will be met in a timely fashion, perhaps as early as November. If that is so, the second low-rate production decision can be made in accordance with the Department's own schedule. Thus my amendment to fence $88 million should be considered to be an unobtrusive but important insurance policy for the taxpayer and the warfighter—if the system's problems haven't gone away, we won't permit business as usual until they are fixed.

The Hunter UAV system fills an important and substantial need for our Armed Forces. It is for this reason that we must make sure that what we pay for we count on to perform in combat. This amendment will ensure just that. Because it is based upon Department of Defense milestones and schedules, it should not impose any extra burden upon the DOD—unless there is something still seriously wrong with the program.

I appreciate the efforts of Chairman INOUYE in working with me to correct the problems with the HUNTER UAV program, make the program meet its goals so that it can perform its critical mission, and, at the same time, wisely steward taxpayer dollars. I thank the chairman and urge adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 2546), as modified, was agreed to.

Mr. INOUYE. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. If I might address the Senator from Arizona, Madam President, I asked the Senator from South Carolina to withhold action on his amendment until the Senator from Arizona could be here. I wonder if he realizes that was the pending amendment.

Mr. DECONCINI. No. I did not know that.

Mr. DOLE. Madam President, might I inquire of the Parliamentarian how much time remains under the agreement on the Bosnia amendment?

The PRESIDING OFFICER. The Republican leader controls 11 minutes 20 seconds. The Senator from Georgia controls 11 minutes 45 seconds.

Mr. DOLE. I do not think I will need all that time.

Let me indicate, as I did earlier this afternoon on this amendment, that we have had the debate several times in this Chamber. In nearly every case, every Senator stood up and indicated sympathy for the Bosnians, and for their plight in Sarajevo and everywhere else; and for all the people killed and made homeless, or driven from their homes. All we suggest in the Dole-Lieberman amendment is that if November 15 comes and nothing has been done by the United Nations, the arms embargo is lifted. That is all we ask. We are not asking about American troops, no air strikes, no American troops.

We are saying this is an independent nation, a member of the United Nations, and it has a right to self-defense under the U.N. Charter, article 51. And a group of us—Republicans and Democrats—believe they should have that right.

I listened carefully to the Senator from Arizona earlier. I think there is an understanding around here that this country has been asked to give up 49 percent of their territory, and we are supposed to sign on that—in fact, we have signed on to that as a Nation, the so-called contact group. Maybe that is the way to walk away from this. But history will not treat us very kindly or the international community very kindly.

I have given credit to the Senator from Georgia, [Mr. NUNN], and others on the Armed Services Committee. But under that arrangement, we would not know anything until about the middle of October, and we will not be here. We will not be able to consult with Congress. I do not think we will be here October 15. So it could be next January, January 1995 before this matter is debated again. I do not believe that is the intent of the Congress or this Senate. So I hope there will be broad support for our amendment and that the

VOL
140
PT
15
AG
10
10
11
1994
UMI

other amendment will be defeated. I know some of my colleagues have had different views, but I hope that maybe now they are coming in our direction.

HOUSE ACTION ON THE CRIME BILL CONFERENCE REPORT

Mr. DOLE. Madam President, I will now comment on the House action on the rule regarding the crime conference report, which was defeated by about 15 votes, as I understand it. I listened to President Clinton say what a sad day it was and how badly he felt because 225 Members of the House—Democrats and Republicans—chose some procedural route to indicate their displeasure with the crime bill.

The President indicated that it was because of the National Rifle Association. I do not think that is the case. The bill that passed the Senate by 94 to 4, for the most part, is a good bill. But a strange thing happened—as sometimes happens—it got loaded up with a lot of pork, a lot of spending. There was not a minute of hearings on some of this spending that added up to billions and billions of dollars. That is what killed this bill.

I put in the RECORD just a few days ago a statement by Mr. DiIulio, a professor at Princeton, a Democrat, someone who supported the Brady bill, supported the ban on assault weapons, who said that this bill, instead of being a crime bill would create more crime. He also says in his statement—and I will refer to parts of it—there are not going to be 100,000 cops on the street, there are going to be 20,000 cops on the street. We will be lucky to have 2,000 cops on the street.

He said:

> The bill calls for 100,000 new cops. But when you read the relevant titles, you discover that really means about 20,000 fully-funded positions.
>
> And when you further look at how this bill is to be administered, you come to recognize it is to be administered by the Office of Justice Programs, which is the alphabet soup of agencies left over from the days of the old Federal Law Enforcement Assistance Administration, which is to figure out some way of divvying up this money between 85 percent for more manpower and 15 percent for everything else having to do with policing, so much to jurisdictions under $150,000, so much under $150,000, and so on.
>
> And if you are stouthearted enough to look at this bill in light of the relevant academic literature, you know that it takes about 10 police officers to put the equivalent of one police officer on the street around the clock. This is factoring in everything from sick leave and disabilities to vacations and three shifts a day and desk work, and so on. So that 20,000 funded position becomes 2,000 around-the-clock cops. And 2,000 around-the-clock cops gets distributed over 200 jurisdictions for an average actual street enforcement strength increase of about 10 cops per city.

I really commend this four-page statement to everyone, regardless of politics. As I said, this person happens to be a Democrat. He said the Senate bill was not very kind.

He said:

> The Senate version of the crime bill that was drafted and put out back in November—November 19, 1993, to be exact, by a vote of 95 to 4—would, I think, have done something, though I'm not exactly sure how much, to stop revolving-door justice. But now, almost 9 months later, we have before us a crime bill that would actually, in my view, grease the revolving door, at the Federal level, at least, via such provisions as the so-called safety valve provision, which is essentially a provision that would permit certain categories of convicted drug defendants to be invited back to court, to be given a virtual retrial under a retroactive law.
>
> In other words, about 5,000 prisoners are going to be released immediately, and he said it could go up to 16,000 that are back on the street. In paragraph after paragraph, he talks about all the bad points in this bill and all the money we put in this bill that has nothing to do with crime control, nothing to do with prevention, and he concludes that it is a terrible bill and ought to be defeated.
>
> So I just suggest that if you have not read the statement I put in the RECORD a couple days ago—I am not going to do it again—but I would be happy to give copies.
>
> I say this to the President: If we want a crime bill that fights crime, we ought to look at some of the provisions that were dumped out, some of the tough anticrime provisions. I think if that happens and we cut down a lot of the spending, then we might be able to pass this bill. Right now, it is full of pork. That is what killed this bill in the House, or killed the rule. I hope that the President will take a hard look at it. I wish the President would read this statement made by the Princeton Prof. John DiIulio, who supported the Brady bill and assault weapons ban, and says this bill might even create more crime.

Madam President, I yield back any time I may have.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM], is recognized.

Mr. GRAHAM. Madam President, are we now on the amendment offered by the Senator from Georgia?

The PRESIDING OFFICER. We are on the Bosnia amendment.

Who yields time to the Senator?

Mr. NUNN. I yield the Senator from Florida 5 minutes.

Mr. GRAHAM. Madam President, it is ironic that as we have this debate today in August 1994, we are celebrating the 80th anniversary of the Guns of August, the commencement of World War I, with the assassination of Archduke Ferdinand in Sarajevo. That historical event underscores the complexity and almost the mystical character of these conflicts in the Balkans.

I believe it is important in that context for the United States, and particularly for this Congress, to have a clear idea of what it is we are trying to accomplish in that region and what we are trying to accomplish relative to the tragedy that is occurring in Bosnia and Herzegovina.

I would suggest that we have at least three major objectives. One of those objectives is to put maximum pressure on the Bosnian Serbs to accept the peace proposal which was placed before them on July 6 of this year.

It is certainly not a perfect plan, but it is the surest plan to achieve the goal of a cessation of the killing and the process of commencement of reconciliation.

Second, at least, we want to contain the war, to not allow this war to break out of Bosnia and inflame the entire Balkans.

And third, we need to preserve the solidarity of the western alliance, an alliance that for 45 years protected us against the Soviet Union and which now has the potential of assuring a stable peaceful future.

I believe the course of action which will best accomplish those objectives for the United States and a course of action which this Congress should participate in leading is that which has been outlined and detailed by Senator NUNN. It places a timeframe before the President to go to the United Nations and ask for a multilateral lifting of the arms embargo on Bosnia and the rest of the area which has been inflamed by this war.

Number two, it lifts U.S. enforcement of the arms embargo as it applies to Bosnia and Herzegovina. It recognizes that by lifting the arms embargo alone we have not accomplished the objective of assisting the Bosnian Moslems.

This provides for training of the Bosnian Moslems so that they will be able to effectively utilize equipment which they may receive. This also provides for interim steps if there are continued incursions in the safe areas. There will be those defensive weapons introduced which will allow for the Bosnians to assist in the sanctity of those safe areas. And it maintains the coalition by providing to primarily our European allies who have most of the combatants on the ground today a reasonable opportunity to exit without themselves becoming the object of hostage taking and violence directed at them.

I believe, Madam President, that those are important tactics for the United States if we are to accomplish those goals of maximum pressure on the Bosnian Serbs, containing the war, and maintaining the coalition.

It is very appealing to say let us let the Moslems defend themselves, let us lift the embargo unilaterally, and let the war go forth.

I believe, Madam President, that there are some consequences to that, that are very adverse to our interest, the most significant of which is that the likelihood is that as soon as the Bosnian Serbs feel that, in fact, there is going to be a lifting of the embargo they will launch a massive violent and effective assault against the Bosnian Moslems and will likely end up controlling all of Bosnia by military victory.

Madam President, I believe that the time has come for us to put reason ahead of passion. Senator NUNN has suggested a reasonable approach that will effectively buy us an additional 30 to 45 days to see if we can accomplish our multiple objectives in Bosnia. If we cannot, I will join with those who are urging a unilateral lifting of the arms embargo as the last step available to us. I do not believe we are at that stage of the last step, and now is the time to take a reasoned step, and the Senator from Georgia has given us that path to reason.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NUNN. Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, I ask unanimous consent that the consideration of the Bosnia amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. INOUYE. Madam President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2495

(Purpose: To express the sense of the Senate concerning Lowry AFB)

Mr. INOUYE. Madam President, I call up Amendment No. 2495, the Brown-Campbell amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. LOTT. Madam President, reserving the right to object, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LOTT. Madam President, what is the situation here, now? The pending amendment is set aside; is that correct?

Mr. INOUYE. Temporarily set aside, yes.

Mr. LOTT. Do we know when we might get back? I am just inquiring so I know when we will get a vote.

Mr. INOUYE. In 1 minute.

Mr. LOTT. Thank you, Madam President.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. BROWN, for himself and Mr. CAMPBELL, proposes an amendment numbered 2495.

Mr. INOUYE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section—

SEC. . SENSE OF THE SENATE CONCERNING LOWRY AFB.

It is the sense of the Senate that—

(a) in issuing any lease, permit or deed of conveyance for use to assist the homeless under the Stewart B. McKinney Assistance Act concerning Lowry Air Force Base, Colorado, the Secretary of Health and Human Services, representatives of the city of Denver, Colorado, representatives of the City of Aurora, Colorado and representatives of homeless providers whose applications have been approved by the Secretary of Health and Human Services should jointly determine that such use is reasonable under the redevelopment plan for Lowry Air Force Base, Colorado; and

(b) the Department of Defense and the Department of Health and Human Services, in coordination with the appropriate committees of Congress and appropriate state and local authorities, should develop a reform proposal to address the many difficulties created for local communities by existing laws relating to the loan, lease or conveyance for use of government property during the base closure process.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2495) was agreed to.

Mr. HATCH. Madam President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2541

(Purpose: To provide protection against sexually violent predators)

Mr. INOUYE. Madam President, I ask that we consider Amendment No. 2541.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. DOLE, proposes an amendment numbered 2541.

Mr. INOUYE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause, and insert the following:

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Megan Kanka Sexually Violent Predators Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) there exists a small but extremely dangerous group of sexually violent persons who do not have a mental disease or defect;

(2) persons who are sexually violent predators generally have antisocial personality features that—

(A) are not amenable to mental illness treatment modalities in existence on the date of enactment of this Act; and

(B) render the persons likely to engage in sexually violent behavior;

(3) the likelihood that sexually violent predators will repeat acts of predatory sexual violence is high; and

(4) the prognosis for curing sexually violent predators is poor and the treatment needs of the population of the predators are very long-term.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) MENTAL ABNORMALITY.—The term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes the person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(2) PREDATORY.—The term "predatory", with respect to an act, means an act directed towards a stranger, or a person with whom a relationship has been established or promoted, for the primary purpose of victimization.

(3) SEXUALLY VIOLENT OFFENSE.—The term "sexually violent offense" means an act that is a violation of title 18, United States Code or State criminal code that—

(A) involves the use or attempted or threatened use of physical force against the person or property of another person; and

(B) is determined beyond a reasonable doubt to be sexually motivated.

(4) SEXUALLY VIOLENT PREDATOR.—The term "sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

SEC. 4. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—In accordance with this section, the Attorney General shall establish guidelines for State programs to require a sexually violent predator to register a current address with a designated State law enforcement agency upon release from prison, being placed on parole, or being placed on supervised release. The Attorney General shall approve each State program that complies with the guidelines.

(2) STATE COMPLIANCE.—

(A) IMPLEMENTATION DATE.—A State that does not implement a program described in paragraph (1) by the date that is 3 years after the date of enactment of this Act, and maintain the implementation thereafter, shall be ineligible for funds in accordance with subparagraph (B).

(B) INELIGIBILITY FOR FUNDS.—

(i) IN GENERAL.—A State that does not implement the program as described in subparagraph (A) shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756).

(ii) REALLOCATION OF FUNDS.—Funds made available under clause (i) shall be reallocated, in accordance with such section, to

VOL 140 PT 15 AG 10 — 11 1994 UMI

such States as implement the program as described in subparagraph (A).

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—

(1) IN GENERAL.—An approved State program established in accordance with this section shall contain the requirements described in this section.

(2) DETERMINATION.—The determination that a person is a "sexually violent predator" and the determination that a person is no longer a "sexually violent predator" shall be made by the sentencing court after receiving a report by a board of experts on sexual offenses. Each State shall establish a board composed of experts in the field of the behavior and treatment of sexual offenders.

(3) NOTIFICATION.—If a person who is required to register under this section is anticipated to be released from prison, paroled, or placed on supervised release, a State prison officer shall, not later than 90 days before the anticipated date of the release or commencement of the parole—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing not later than 10 days after the change of address;

(C) obtain the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(4) TRANSFER OF INFORMATION TO STATE AND THE FBI.—Not later than 3 days after the receipt of the information described in paragraph (3)(C), the officer shall forward the information to a designated State law enforcement agency. As soon as practicable after the receipt of the information by the State law enforcement agency, the agency shall—

(A) enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency that has jurisdiction over the area in which the person expects to reside; and

(B) transmit the information to the Identification Division of the Federal Bureau of Investigation.

(5) QUARTERLY VERIFICATION.—

(A) MAILING TO PERSON.—Not less than every 90 days after the date of the release or commencement of parole of a person required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person.

(B) RETURN OF VERIFICATION FORM.—

(i) IN GENERAL.—The person shall return, by mail, the verification form to the agency not later than 10 days after the receipt of the form. The verification form shall be signed by the person, and shall state that the person continues to reside at the address last reported to the designated State law enforcement agency.

(ii) FAILURE TO RETURN.—If the person fails to mail the verification form to the designated State law enforcement agency by the date that is 10 days after the receipt of the form by the person, the person shall be in violation of this section unless the person proves that the person has not changed the residence address of the person.

(6) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESSES.—Any change of address by a person required to register under this section that is reported to the designated State law enforcement agency shall as soon as practicable be reported to the appropriate law enforcement agency that has jurisdiction over the area in which the person is residing.

(7) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to register and keep the registration current shall be subject to criminal penalties in the State. It is the sense of Congress that the penalties should include imprisonment for not less than 180 days.

(8) TERMINATION OF OBLIGATION TO REGISTER.—The obligation of a person to register under this section shall terminate on a determination made in accordance with the provision of paragraph (2) of this section that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.

(c) COMMUNITY NOTIFICATION.—The designated State law enforcement agency shall release relevant information that is necessary to protect the public concerning a specific sexually violent predator required to register under this section.

(d) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies, and State officials shall be immune from liability for any good faith conduct under this section.

Mr. INOUYE. Madam President, the managers have considered this amendment. We approve it.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2541) was agreed to.

Mr. INOUYE. Madam President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2549

(Purpose: To prohibit fiscal year 1994 and fiscal year 1995 funds appropriated for the Joint Primary Aircraft Training System from being used for any other purpose)

Mr. INOUYE. Madam President, I ask that we consider amendment No. 2549.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] for Mr. DOLE, proposes an amendment numbered 2549.

Mr. INOUYE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . PROHIBITION ON THE USE OF FUNDS.

(a) REQUIREMENT.—None of the funds appropriated for Fiscal Year 1994 or Fiscal Year 1995 for the Joint Primary Aircraft Training System shall be obligated or expended for any other purpose.

AMENDMENT NO. 2549, AS MODIFIED

Mr. INOUYE. Madam President, I send to the desk a modification.

The PRESIDING OFFICER. The amendment is so modified.

So the amendment (No. 2549), as modified, is as follows:

At the appropriate place, insert the following:

SEC. . (a) Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Navy" in title IV of this Act, $3,900,000 shall be made available only for the Joint Primary Aircraft Training System (JPATS) program.

(b) Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Air Force" in title IV of this Act, $37,057,000 shall be made available only for the JPATS program.

(c) Of the funds appropriated under the heading "Aircraft Procurement, Air Force" in title III of this Act, $78,265,000 shall be made available only for the JPATS program.

Mr. INOUYE. Madam President, the amendment as modified meets our requirements. We have no objection to the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment, as modified.

So the amendment (No. 2549), as modified, was agreed to.

Mr. INOUYE. Madam President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2479

Mr. NUNN. Madam President, I yield to the Senator from Nebraska 4 minutes.

Mr. EXON. I thank the Chair and I thank my friend from Georgia.

Madam President, we have been over and over and over this Bosnian thing so many times that I think the Senate is getting weary of it. But I certainly agree it is a vital issue.

Last Friday, the Senator from Nebraska came down to the floor when the amendment was offered once again in a different form by Senator DOLE and Senator LIEBERMAN, and we had a long discussion on it.

I cited at that time and will not take the time to recite it again today my concern. I was delighted that Senator DOLE and Senator LIEBERMAN had changed their amendment dramatically to have the effective date of lifting the embargo unilaterally on November 15, and I asked to be a cosponsor and I am a cosponsor.

Subsequent to that time, Senator NUNN, Senator GRAHAM, myself, and others, were in a very contentious conference with the House of Representatives on the Defense authorization bill.

This was a key part of the compromise to get this worked out with the House of Representatives. I happen to feel that the matter written basically in advance by the chairman of the Armed Services Committee is a proper way to go. I had suggested and

I had hoped that the Dole-Lieberman amendment, of which I am a cosponsor, would be temporarily laid aside until we come back in September, because the effective date of the Dole-Lieberman amendment is not until November 15.

I have met on several occasions with people involved in this, including the minister of Defense of Great Britain and the Minister of Defense of France, and others.

I happen to feel that what has been worked out and what is being offered today by the chairman of the Armed Services Committee is a correct way to go, the expeditious way to go, the reasonable way to go right now.

Therefore, I hope that the Senate will support the amendment offered by the chairman of the Armed Services Committee, and because of the timing of the amendment, I would think that we would defeat the Dole-Lieberman amendment and revisit that if necessary in September.

I reserve the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I would like for make a couple of statements on the crime bill which was defeated in the House. I will not take long.

The PRESIDING OFFICER. Who yields time?

The Senator from Utah needs consent. The time is controlled.

Mr. HATCH. Madam President, I ask unanimous consent that I be given 5 minutes to make a statement on the crime bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CRIME BILL

Mr. HATCH. Madam President, Congress' historic opportunity to pass a bipartisan, tough anticrime bill is still alive, in my opinion. The House wisely defeated the proposed rule on the Democrats' conference report to the crime bill. Notwithstanding personal lobbying by the President and arm twisting by partisans, the House realized that the American people do not want a bill which wastes billions and billions of dollars on social spending boondoggles. The House courageously listened to law-abiding citizens who know it is time to get tough on criminals. More pork mean less crime.

This is a bill which would release as many as 10,000 to 16,000 Federal inmates early. That is not a tough bill. That is not a smart bill.

It was a bill which spent precious crime-fighting resources on pork-barrel spending. It is not tough, and it sure is not smart.

It is a bill which increases the deficit by $13 billion. And that is not tough and it sure is not smart.

It is time for the administration to work with Republicans in a bipartisan effort to pass a crime bill for all Americans.

One year ago, the Congress defeated the administration's so-called economic stimulus package. The Congress saw it for what it was—a multibillion dollar social spending package just laced with pork.

Having failed with the economic stimulus label, the administration slapped an anticrime label on these programs, and they stuck them in the crime bill and hid them there.

Madam President, I ask unanimous consent that a side-by-side comparison of the economic stimulus package and the crime bill's social spending boondoggles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CRIME BILL—GRANDSON OF STIMULUS

Crime bill conference report	Stimulus package (February 1993)
Approximately half of the spending in this Crime Bill is reserved for fiscal years 1999 and 2000 where no spending caps exist to ensure deficit neutrality	Approximately half of the spending in this "emergency" legislation would not have been spent in the first year and was outside of spending caps established by law
Bill is subject to a Section 306 (60 vote) point of order under the Budget Act because it deals with matters under the jurisdiction of the Budget Committee.	Bill was subject to a Section 306 (60 vote) point of order under the Budget Act because it deals with matters under the jurisdiction of the Budget Committee.
$900 million Youth Employment and Skills Crime Prevention, on grants for job training, apprenticeships, occupational skills, and job experience targeted at youth in high crime, high unemployment areas.	$1 billion for summer youth employment.
$300 million for the National Community Economic Partnership, providing lines of credit through the Department of HHS to non-profit "community development corporations" for distressed communities.	$2.536 billion for Community Economic Development Grants.
$1.8 billion for the Local Partnership Act providing revenue sharing grants to localities for education, drug abuse treatment, and job training programs.	$500 million for summer school and pre-school program, $500 million for Head Start, $32 million for Community Service Employment for Older Americans, $200 million for AIDS Ryan White Act, $15 million National Commission on Community Service.
$895 million for the Model Intensive Grant Program providing grants to fund up to 15 model programs in high crime areas. Funds can be spent on almost anything that can be justified as "crime related" including: drug treatment, deterioration or lack of public facilities, and public transportation.	$845 EPA revolving funds/construction grants, $736 million Mass Transit, $270 million in discretionary Dept. of Transportation grants, $423 million Supportive Housing, $6 million very low income housing repairs, $141 million SBA loans.

Note.—Senate Budget Committee Minority Staff Preliminary Analysis, August 3, 1994.

Mr. HATCH. Madam President, I commend my colleagues in the House for their leadership in sending a signal to the administration that Americans want a tough crime bill, not a softheaded one.

I yield the floor.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair would note the Senator from Georgia controls 4 minutes.

Who yields time?

Mr. NUNN. Madam President, I am prepared to yield back the remainder of my time and go to a vote on the Bosnian amendments. There will be two of them, I understand.

But while we have Senators on the floor, I ask for the yeas and nays on the Nunn-Mitchell amendment, and as well, I am sure, on the Dole-Lieberman amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. Mr. President, we once again face a difficult decision on the best way to help end the tragic loss of life and human suffering in Bosnia. This disastrous war has killed 200,000 Bosnians and driven 2 million from their homes. The world has witnessed events in Bosnia that we had assumed could not occur again, especially not in Europe. Ethnic cleansing, forced relocations, and concentration camps recall the horrors of another time. Unfortunately, this war has brought back all of the old demons and unleashed new despicable tools of terror as well.

There are no innocents in this conflict, but clearly the Bosnian Serbs, backed by their patrons in Serbia, must bear the lion's share of responsibility for the ongoing suffering. It is the Bosnian Serbs who continually have violated cease-fires, ignored "safe havens" and exhibited complete intransigence at the negotiating table. With utter defiance for the international community, the Bosnian Serbs have shelled civilians and attacked U.N. peacekeepers.

We must find a way to end this virtually unopposed reign of terror and reverse the collective failure of the international community to bring an end to a conflict that could spread to who knows where, perhaps Kosovo and Albania, Macedonia and Bulgaria, Greece and Turkey. The instability in the former Yugoslavia has disrupted regional trade, has revived mutual suspicions of territorial ambition, and threatens to overflow and engulf the entire region, including important American allies.

The world community has grappled with the breakup of Yugoslavia since the summer of 1991 and has searched for a resolution to the bloody war in Bosnia for 28 months. The United States, other nations, international organizations, and ad hoc groups have

VOL 140 PT 15 AG 10 — 11 1994 UMI

searched in vain for a diplomatic solution to stop the senseless slaughter and interminable suffering. The United Nations, the European Community, NATO, the combined UN–EC International Conference on the Former Yugoslavia, the CSCE, the Western European Union, and most recently the "contact group" of France, Russia, Britain, Germany, and the United States all have tried and failed to stop the violence and bring real peace to the Balkans.

The Senate has repeatedly endorsed the idea of lifting the arms embargo on the Bosnian Government as a way of creating a level playing field. I have supported this position with some reservations, but I have not supported taking that action unilaterally and without regard to international repercussions. We have discussed many times the problems with acting unilaterally—the need to maintain international cooperation in other embargoes; the danger to UNPROFOR troops, including some troops provided by our NATO allies; the fear of pushing the Russians into open support for the Serbs; and concerns about long-term damage to general international cooperation. The continued intransigence of the Bosnian Serbs, coupled with the ineffectiveness of international efforts to deal with the crisis, has shifted the balance away from these concerns and toward swift action.

I am hopeful that events have reached a critical stage, providing the President with the ability to exercise American leadership to achieve a multilateral lifting of the embargo. If that is still not possible, our actions to this end should serve as adequate notice to the world community of American intention to take this step unilaterally, if there is no other way to do so.

When the Bosnian Serbs rejected the contact group's proposed partition of Bosnia, they crossed the Rubicon and even their patrons in Belgrade have now turned against them. Yet they continue their defiance of the international community. Their actions in reimposing a siege on Sarajevo, attacking a U.N. convoy, and seizing impounded weapons should be enough to eliminate any doubt about their intention to continue the violence.

Now is the time for action. In addition to the positive steps taken by Milesovic to cut ties with the Bosnian Serbs, the Russian Government has shown an increasing willingness to take a tough line, and the Bosnia Moslem-Croat coalition has strengthened its military position. If the Bosnian Serbs refuse to accept the peace plan presented by the contact group, then the world community should take whatever action is necessary to lift the embargo and allow the Bosnian Government the right to self-defense. If the President cannot secure international agreement in a very short time on lifting the embargo, then the United States has no choice but to act unilaterally.

The Senate wants the embargo lifted, the President wants the embargo lifted, and, most importantly, the Bosnian Government wants it lifted. Whatever action we take today, the end result will be the same. The embargo will be removed and the Bosnians finally will have a fair chance.

AMENDMENT NO. 2524

Mr. DODD. Mr. President, I rise to say a few words about the events taking place in the former Yugoslavia and the legislation that we are considering at the present time.

I'd like to begin by commending the distinguished minority leader, Senator DOLE, as well as my colleague from Connecticut, Senator LIEBERMAN, for insisting that this matter remain the focus of attention of the Senate. Their efforts have made it certain that the issue of Bosnia and the plight of the Bosnian people are given the treatment and the consideration they deserve.

Mr. President, the amendment that has been proposed by Senator DOLE and Senator LIEBERMAN raises important and difficult questions that warrant the careful consideration of every Member of this body. In all candor, each time we have debated this issue, I have found myself closer and closer to agreeing to what their amendment seeks to do.

In fact, I would argue that the Nunn-Mitchell amendment currently pending before the Senate will in fact lead to the same goal that Dole-Lieberman seek; namely, loosening the strangle hold that has prevented the Bosnia Government from defending itself. Perhaps, the only real difference between the two amendments before us today is the timetable and modalities for accomplishing that goal. Furthermore, President Clinton has endorsed the approach set forth in the Nunn-Mitchell proposal.

Would we all feel momentarily better if we could say today that we were unilaterally lifting the arms embargo against the Bosnian Moslems, rather than having to wait while the Clinton administration takes additional steps—painfully slow and time-consuming steps, to work with the international community to gain support for the multinational lifting of the arms embargo against the Bosnian Government? Absolutely.

I, like others, have watched as the Bosnian Moslems have been forced from their homes and subjected to murder, rape, and unspeakable horrors. I, like others, have watched as the Bosnian Moslems have become the victims of a cruel and deliberate policy of aggression and ethnic genocide. I, like others, have watched the Bosnia Serbs as they have blatantly violated the U.N. mandated safe-havens, illegally removed arms from U.N. protection, and shot at U.N. peacekeeping forces. And I, like others, was deeply disappointed when the Bosnia Serbs recently rejected the international plan of the so-called contact group to restore peace to this war-torn region.

I share with the sponsors of the Dole-Lieberman amendment their growing frustration with the inability of the international community to bring an end to the war and bring an end to suffering of the Bosnian people.

And I am whole heartedly convinced that the arms embargo on the Bosnian Moslems, though well-intentioned when the U.N. Security Council imposed it nearly 3 years ago, was ill-conceived from the beginning and has only worsened and prolonged this dreadful conflict—and that the time has come for the embargo to be lifted.

To be candid, Mr. President, it is very easy to see the appeal of the amendment by the distinguished minority leader. After all, this amendment merely gives effect to a sentiment that many of us have certainly felt: Just lift the embargo; do it right now; and don't worry about what the rest of the world thinks.

However, upon reflection, I concur with President Clinton in the potential dangers of not trying one last time to attain international consensus. He stated in his letter to Senator NUNN that—

(L)ifting the embargo unilaterally would have serious implications going well beyond the conflict in Bosnia itself. It could end the current negotiating process which is bringing new pressure to bear on the Bosnian Serbs. Our relations with our Western European allies would be seriously strained and the cohesiveness of NATO threatened. Our efforts to build a mature and cooperative relationship with Russia would be damaged.

Despite our frustrations, I believe that most of us would agree that the potential for international cooperation and coordination is far greater today than it has been in many, many years. The United States deserves a great deal of credit for that fact. We should think very long and very hard before taking any action that could undo the very meaningful international cooperation that is still at work.

Make no mistake, Mr. President, lifting the embargo unilaterally will not strengthen that international cooperation. It could, in fact, be a major setback to such efforts. And that is not in anyone's interest, least of all the people of Bosnia.

Mr. President, regardless of what anyone in this Chamber thinks about the Nunn-Mitchell amendment or the Dole-Lieberman amendment currently before us, there can be no disagreement over one fact: What is happening in Bosnia today is an unthinkable tragedy. Thousands of innocent civilians have been killed and countless more have been tortured, raped, or brutally uprooted from their homes. The aggression and the genocide in Bosnia must be stopped.

But the question before us today is not whether we approve of genocide or even whether we approve of all the actions that have been taken in Bosnia by the United Nations and by our partners in the international community. The question before us is whether we can do more to help Bosnia by working in cooperation with the international community, or by going it alone.

As much as in my heart I would like to be able to support the unilaterally lifting of the embargo, I continue to believe that the Nunn-Mitchell amendment is the right approach. It gives the Clinton administration our support as it endeavors one last time to lead the international community toward a policy that is the only morally right thing to do; namely, lifting the arms embargo against the Bosnian Moslems. If he should fail in that effort, then the time will be at hand for the United States to lift the embargo unilaterally, and I am confident that the President will take that course of action.

Mr. STEVENS. Madam President, I am prepared to yield back the remainder of time, if any remains on this side, on the Bosnian amendment.

Could we set a time for the vote on the Bosnian amendment? I think Members need notice to get back.

Is all time yielded back?

The PRESIDING OFFICER. The Chair would notify the Senator from Georgia that we did get consent to consider the yeas and nays for both amendments. The yeas and nays are pending.

The Chair now asks: Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Madam President, I yield back the remainder of my time on the Bosnian amendment.

Mr. STEVENS. Is all time yielded back?

The PRESIDING OFFICER. All time is yielded back.

Mr. STEVENS. Parliamentary inquiry. Which amendment will we vote on first?

VOTE ON AMENDMENT NO. 2524

The PRESIDING OFFICER. The question now occurs on agreeing to the Nunn-Mitchell amendment No. 2524.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 44, as follows:

[Rollcall vote No. 279 Leg.]

YEAS—56

Akaka	Bryan	Daschle
Baucus	Bumpers	Dodd
Bingaman	Campbell	Dorgan
Bond	Chafee	Exon
Boren	Coats	Feinstein
Boxer	Conrad	Ford
Breaux	Coverdell	Glenn
Graham	Lieberman	Riegle
Harkin	Lugar	Robb
Heflin	Mathews	Rockefeller
Hollings	Metzenbaum	Sarbanes
Hutchison	Mikulski	Sasser
Inouye	Mitchell	Simon
Johnston	Moseley-Braun	Stevens
Kassebaum	Murray	Thurmond
Kennedy	Nunn	Warner
Kerrey	Pell	Wellstone
Kerry	Pryor	Wofford
Levin	Reid	

NAYS—44

Bennett	Faircloth	Mack
Biden	Feingold	McCain
Bradley	Gorton	McConnell
Brown	Gramm	Moynihan
Burns	Grassley	Murkowski
Byrd	Gregg	Nickles
Cochran	Hatch	Packwood
Cohen	Hatfield	Pressler
Craig	Helms	Roth
D'Amato	Jeffords	Shelby
Danforth	Kempthorne	Simpson
DeConcini	Kohl	Smith
Dole	Lautenberg	Specter
Domenici	Leahy	Wallop
Durenberger	Lott	

So the amendment (No. 2524) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2479

The VICE PRESIDENT. The question now occurs on agreeing to amendment No. 2479 offered by the Republican leader.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 58, nays 42, as follows:

[Rollcall Vote No. 280 Leg.]

YEAS—58

Bennett	Gramm	Moynihan
Biden	Grassley	Murkowski
Bond	Hatch	Nickles
Boxer	Helms	Packwood
Bradley	Hutchison	Pressler
Brown	Jeffords	Riegle
Bryan	Kempthorne	Robb
Coats	Kerry	Roth
Cochran	Kohl	Shelby
Cohen	Lautenberg	Simon
Coverdell	Leahy	Simpson
Craig	Levin	Smith
D'Amato	Lieberman	Specter
DeConcini	Lott	Stevens
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Durenberger	McCain	Wellstone
Faircloth	McConnell	Wofford
Feingold	Metzenbaum	
Gorton	Moseley-Braun	

NAYS—42

Akaka	Dorgan	Kennedy
Baucus	Exon	Kerrey
Bingaman	Feinstein	Mathews
Boren	Ford	Mikulski
Breaux	Glenn	Mitchell
Bumpers	Graham	Murray
Burns	Gregg	Nunn
Byrd	Harkin	Pell
Campbell	Hatfield	Pryor
Chafee	Heflin	Reid
Conrad	Hollings	Rockefeller
Danforth	Inouye	Sarbanes
Daschle	Johnston	Sasser
Dodd	Kassebaum	Warner

So the amendment (No. 2479) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, is the pending amendment the Thurmond amendment, Thurmond-DeConcini amendment?

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator is correct.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Madam President, I yield to the distinguished Senator from Arizona.

Mr. DECONCINI. Madam President, I thank my colleague, the Senator from South Carolina.

Madam President, the Thurmond-DeConcini amendment to the Defense appropriations bill would cure a conflict in law which would deny defense conversion moneys already appropriated in prior years for the Department of Labor, Office of Veterans' Employment and Training—VETS. Unless current law is changed, an important employment program for Persian Gulf era veterans discharged as a part of the defense personnel down-sizing effort will prematurely end.

The Service Members' Occupational Conversion and Training Act—SMOCTA—authorized a veteran job training program for 3 years under subtitle G of the Defense Authorization Act of 1992, Public Law 102-484. However, the Defense appropriations bill for fiscal year 1993, Public Law 102-396, required obligation of all moneys made available under the bill for defense conversion within 2 years before September 30, 1994.

While SMOCTA was initially authorized as a 3-year program, the appropriations act only made funds available for 2 years. Unless the Congress and the President act immediately to correct this error, SMOCTA and the veterans it serves so effectively will be stripped of over $22.5 million of the $75 million already appropriated for this specific purpose.

Madam President, CBO scoring rules require the projected unexpended balance of SMOCTA to be considered as new budget authority for fiscal year 1995. Prior to the subcommittee consideration of the bill, CBO estimated that $22.5 million in budget authority, and $10.3 million in outlays, would be required to continue the program into fiscal year 1995.

Madam President, I was the sponsor of the original Senate-passed veteran job training legislation, S. 2515, the Veterans Employment and Training Act of 1992, that ultimately was enacted into law as SMOCTA. S. 2515 was cosponsored by the distinguished manager of this bill, Senator INOUYE, then-VA Committee Chairman Cranston, as

VOL 140 PT 15 AG 10 — 11 1994 UMI

well as Majority Leader MITCHELL, and Senators GRAHAM, AKAKA, FORD, and BURDICK.

SMOCTA is an improved version of the Emergency Vietnam Veterans Job Training Act of 1983, later known as the Veterans Job Training Act. This act provides immediate incentives to employers to hire and train veterans in fields leading to stable, long-term employment.

SMOCTA authorized a 3-year employment and training program. Employers who hire and train veterans under this act will be eligible for payments of up to $7,500 per year to defray the costs of training. Veterans participating in an approved job training program, including apprenticeship programs, may also receive reimbursement for some work-related expenses such as special clothing, tools, bus or car fare, and child care.

Madam President, I am extremely interested in completing the program as designed and evaluating its performance prior to its reauthorization. But, that is not my only motivation to be here today. Madam President, I am here to say to men and women who put themselves on the line in the Persian Gulf war, "America appreciates you." I want to say to these brave men and women that the Congress is not kicking you out of your careers in the military without a parachute.

Madam President, I am frankly tired of a seemingly ungrateful Defense Department dumping its responsibilities for the welfare of servicemen and servicewomen the day they are discharged. Madam President, too many of the people we are letting go out of the military do not have skills one can reasonably describe as transferable. These men and women are well-disciplined workers, and only need a small boost to get them through the door to new jobs.

The Departments of Defense, Labor, and Veterans Affairs took far too long to get an interagency agreement negotiated in order to implement the program. While SMOCTA was enacted in October 1992, no veterans saw any benefit from the bill until September 1993.

Despite this slow start, SMOCTA is well underway today and has attracted significant veteran and employer interest. Since last September, over 5,902 veterans have secured training and employment. As of July 29, 1994, the Department of Labor, Office of the Assistant Secretary for Veterans' Employment and Training, reports that $40,367,765 had been obligated at an average cost of $6,879 per veteran.

During the first 2 years of the program, bureaucratic tussles and poor marketing limited the amount of funds obligated under SMOCTA. Those problems do not exist today. In the past 2 months alone, the number of national contracts has tripled, and it is anticipated that at least 25 of the Fortune 500 will be actively participating by mid-August. This represents a potential for 50,000 new private sector jobs over the next 2 years.

The program is universally supported by the veterans' community and private business. Walgreen Co., with over 2,600 stores nationwide, is actively seeking store managers to open several hundred new stores and augment staff at current locations. Walgreen supports SMOCTA and sees it as a means to hire solid employees with the training they need. Beverly Enterprises of Fort Smith, AR, estimates it will add another 30,000 employees to its current work force of 93,000. Beverly is so interested in the program, it is printing SMOCTA program materials for distribution in all of its hiring locations.

Madam President, the following companies, whose employment as a group exceeds 2.1 million individuals, also have expressed great interest in SMOCTA or have already signed agreements for national contracts for SMOCTA employment programs: Revco, Rite Aid, Mead Group, American Stores, Manor Care, Columbia HCA, the Limited Group, Bell South, Chase Manhattan, UPS, Marriott, Ameritech, Kimberly Clark, Hyatt, Nationwide Wausau, American Home Products, Proctor & Gamble, Harris Corp., Carlson Co., Baxter, Asea Brown Boveri, and the city of Miami, FL.

Madam President, SMOCTA works to put vets to work now. Apple pie just doesn't sell and other employment programs are not getting veterans through the door. Employers want skills and SMOCTA gets the employers attention. In 1992, the Senate unanimously passed S. 2515, the Veterans Employment and Training Act. VETA became SMOCTA after conference with the House on the Defense Authorization Act of 1992. I say to my colleagues, SMOCTA needs your help again. This is an opportunity to make a real difference to those Americans who have put themselves in harms way for us. Please do not let our Persian Gulf veterans down. Support the Thurmond-DeConcini amendment.

Madam President, I want to thank the distinguished Senator from South Carolina for his staunch effort, and his staff and my staff for putting this together.

I understand we are going to make a modification here in a little bit. I truly hope that the managers of this bill will ensure us that in conference this funding of $22.5 million will be made available.

Mr. STEVENS. Madam President, will the Senator mind if I make a statement on this?

Mr. DECONCINI. Of course not.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I want to state to the Senate that I fully support the matter raised by the distinguished ranking member of the Armed Services Committee.

We considered this matter in our subcommittee markup at the urging of the senior Senator from Arizona. I commend him for his efforts in this regard.

At that time, Senator INOUYE and I pledged our support to identify sufficient funds in our conference to fulfill the authorization for the Service Members Occupational Conversion and Training Act.

I commend the Senator from South Carolina for his perseverance, and the Senator from Arizona for his support. I want to renew my pledge that we will work with them in conference to try to achieve their objectives.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 2520, AS MODIFIED

Mr. THURMOND. Madam President, I appreciate the remarks of my colleagues regarding funding for the SMOCTA program. I understand the concerns expressed by the managers of the bill. I know they have a difficult task in funding the requirements for our national security.

Madam President, it is my understanding that although the amendment seeks to extend previously appropriated funds, it would be scored against current year budget authority. It is also my understanding that this would cause the Defense appropriation bill to exceed the committee's budget allocation, thus subjecting the amendment to a budget point of order. Therefore, I would ask unanimous consent to modify the amendment, and send a modification to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment (No. 2520), as modified, is as follows:

At the end of Title VIII, GENERAL PROVISIONS, add the following new section:

SEC. . It is the Sense of the Senate that of the funds appropriated by title VIII of Public Law 102-396 (106 Stat. 1899) for defense reinvestment for economic growth, the unobligated balance of the funds made available by such title for military service members occupational conversion and training shall remain available until September 30, 1995.

Mr. THURMOND. Madam President, this modification expresses the sense of the Senate that previously appropriated funds for the SMOCTA program should be extended 1 year, consistent with the authorization. This will expressly provide the conference with the will of the Senate with regard to this matter.

I appreciate the assurances of the managers of the bill that they will work in conference to resolve this issue. I thank the managers for their leadership on this matter.

Mr. INOUYE. Madam President, I join my colleague from Alaska in commending the senior member of the Armed Services Committee.

We are most pleased to accept the modified amendment.

Mr. STEVENS. I concur in that. We accept the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 2520), as modified, was agreed to.

Mr. STEVENS. Madam President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, I ask unanimous consent that Senator DECONCINI be added as a cosponsor of amendment number 2500 which was adopted yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALE OF USED MACHINE TOOLS

Mr. STEVENS. Madam President, if I may, I want to raise a matter that does not directly affect my State but is a growing national problem. It is one of personal significance to me because of my family background, having been raised by a tool and die maker who was part of the tool and die industry.

I want to express my concern over recent actions taken by the Department of Defense to sell its inventory of used machine tools.

Over the past several weeks, the Department has sold more than 1,000 machine tools at auction; another 1,000 will be sold before the end of August. Thousands and thousands more are scheduled to be sold in the coming months.

I am extremely troubled about these sales—primarily for two reasons. First, the United States has a domestic machine tool industry that is being undermined and severely weakened by the dumping of these tools into the market. Second, these machines could pose significant health risks because of PCB's and other harmful contaminants they may contain.

I was prepared to offer an amendment to this bill requiring the DOD to immediately halt sales of these machine tools in its inventory until these concerns are addressed. I have reconsidered that position and shall not offer that amendment today.

But, I urge the Department to slow down with its auctions. Officials at the Commerce Department are on notice to this problem and have described to the DOD the significant adverse impact its inventory sales will have on the domestic machine tool industry—yet the DOD refuses to act. Moreover, the Environmental Protection Agency has been asked to examine the potential environmental and health consequences that could result from contaminated machines. In my opinion, the DOD would be wise to heed the concerns raised by both Commerce and the EPA.

In conclusion, the Department should stop, or at least slow down, these sales until it has evaluated the damage that these continued sales could have upon a critical American industry and upon public health.

LHD-7 AMPHIBIOUS ASSAULT SHIP

Mr. COCHRAN. Madam President, last year the Director of Central Intelligence, James Woolsey, said, "We have slain a large dragon, but we now live in a jungle filled with a bewildering variety of poisonous snakes * * *." The American military is currently engaged all over the world, from Rwanda to Korea and in many other places that are not in the news every day. We have certainly learned that the conclusion of the cold war has not ended the dangers we and our allies face daily around world.

Our military has responded to the challenges of downsizing, reducing its budget, and reducing its fixed overseas presence while taking on an increasing number of missions, some of which include a "* * * bewildering variety of poisonous snakes * * *." Along with many of my colleagues, I am greatly concerned that our defense budget has been cut too much and, consequently, readiness will suffer. Despite these challenges, the military is doing the best it can with limited resources.

A prime example of making do with limited resources is the increasing use of Marine Corps amphibious ready groups, or ARG's. ARG's, which are centered on big deck amphibious assault ships, are called upon almost every time there is a crisis somewhere. Right now, for example, there are two amphibious ready groups in the vicinity of Haiti. In fact, a recent *Wall Street Journal* article, "Marines Re-Emerge in Post-Cold War Military To Put Out Several of the World's Small Fires," points out that the amphibious assault ship U.S.S. *Inchon* returned from 6 months at sea off of Bosnia and Somalia only to steam out of Norfolk 14 days later for Haiti. Marine Pfc. Daniel Gaita is quoted in the article as saying, "In 1994, I've spent 20 days in the United States."

I ask unanimous consent the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit One)

Mr. COCHRAN. A Marine Corps operational tempo that requires an amphibious ready group to go to sea 14 days after returning from a 6-month deployment is too high. Given the instability around the world, it is likely that the demand for amphibious ready groups will continue. The answer to the problem of an unsustainable schedule of operations is to procure another amphibious assault ship, LHD-7.

The purchase of LHD-7 will enable the Navy to form a 12th amphibious ready group. Witnesses appearing before the Defense Appropriations Subcommittee voiced strong support for this ship. Secretary of Defense Perry discussed the increased need for seabased forward presence as the number of our overseas bases decline; General Shalikashvilli emphasized the need for 12 carrier battle groups and 12 amphibious ready groups to execute the forward presence mission; Secretary of the Navy Dalton stressed the desirability of having this ship and the Navy's plans to request it in its 5-year plan; and General Mundy, Commandant of the Marine Corps, made clear the military requirement for this amphibious assault ship and the necessity of procuring it in order to attain the Navy's stated goal of 12 amphibious ready groups. Quite clearly, when faced with a problem, our military and civilian leadership look for the nearest amphibious ready group as their solution of choice.

An unsustainable tempo of operations, with its corrosive effect on morale, equipment, recruiting, and readiness, is not the only reason to procure LHD-7 right away. The Navy currently has a fixed-price option to purchase the ship. By taking advantage of this option, the Navy will save, by its own estimate, approximately $700 million. Purchasing LHD-7 5 years from now, as the Navy currently plans, will increase its cost by at least 50 percent. It makes little sense to follow a procurement path which unnecessarily increases the cost to the taxpayer.

I would like to thank Senators INOUYE and STEVENS for their strong support of LHD-7. They understand the capability LHD-7 represents, not only for forward presence but also when it is necessary to transition from forward presence to warfighting. I look forward to working with them in conference to fund this ship.

EXHIBIT 1

[From the Wall Street Journal, Tuesday, July 26, 1994]

MARINES RE-EMERGE IN POST-COLD WAR MILITARY TO PUT OUT SEVERAL OF THE WORLD'S SMALL FIRES

(By Thomas E. Ricks)

ABOARD THE USS INCHON.—With the passing of the Cold War, the U.S. Marines are happily finding a central role in the new world disorder.

Just listen to Sgt. Maj. James Rogers as he sips ice water in a sergeants' mess aboard this amphibious assault ship steaming near Haiti. The Marines he supervises aboard the Inchon were the last U.S. troops to leave Somalia last March. Then they sailed to the coast of Bosnia. Now they may be the first U.S. forces to go into Haiti if the Clinton administration decides to invade.

After years of being a Cold War sideshow to the other military services, the Marines are back. "We've got a lot of little fires to put out in the world," says Sgt. Rogers, a 25-year-veteran of the Corps. "If you look at the history books, it's nothing new. We sit on ships close to hot spots, and if the president deems it necessary, we go in."

VOL
140
PT
15
AG
10
11
1994
UMI

Indeed, he notes, every new Marine even today learns in basic training about the exploits of Smedley Butler, Dan Daly and Herman "Hard Head" Hanneken, who all earned Medals of Honor in Haiti the last time the Marines fought there, from 1915 to 1934.

In the public mind the Marines may still be associated with World War II and "The Sands of Iwo Jima." But for most of its history, the Marine Corps has been the force that fights the nation's small wars "From the halls of Montezuma/To the shores of Tripoli," as the Corps' hymn puts it. In the 140 years preceding World War II, the Marines made 180 landings in 37 countries, including most near the waters where the Inchon is steaming today: Cuba, the Dominican Republic, Puerto Rico, Honduras, Nicaragua, Mexico and, of course, Haiti.

"Small wars represent the normal and frequent operations of the Marine Corps," concluded the Corps' "Small Wars Manual," a 1940 effort at distilling the lessons of all those interventions.

That wasn't true for much of the Cold War, when the Corps frequently found itself shunted aside. One president tried to abolish the Marines and another used them in Vietnam in a way they disliked. The Marines never had a significant role in the nuclear chess game that for four decades dominated the thinking of the Air Force and much of the Navy.

CENTER STAGE

But with the end of the Cold War, the other services lost a big chunk of their core missions, and the Marines secured center stage. "The Army is still trying to build the main battle tank of the future, while the Marines are worried about fighting in city streets," says Rand Corp. analyst Carl Builder, author of "The Masks of War," a comparative study of the U.S. armed services. "I like that. I think they're focused on the right problem."

It is a capability also appreciated by the Clinton administration. The Corps is the only service actually to increase in size from the Bush administration's "Base Force" plan, which would have cut the Marines to 159,000 troops. The Clinton "Bottom-Up Review" plan gives them 174,000 leathernecks.

Consuming about 5% of the Pentagon budget, the Marines are accustomed to living inexpensively. They also are equipped to be expeditionary in nature, while the far-heavier Army is built to be "forward deployed" in Europe and South Korea. In fact, the Corps' biggest worry is that its Marines are used so much that many may decide to leave the service. It is a real concern: Down on the hanger deck of the Inchon, Pfc. Daniel Gaita stares out to sea and comments, "In 1994, I've spent 20 days in the United States."

The Marines aboard the Inchon returned from six months at sea on June 23, only to be sent back out on July 7 as Haiti became a full-blown foreign-policy crisis. If that sort of fast deployment "becomes a habit, it could cripple the service, long-term," worries Lt. Col. Steve Tagg, commander of the helicopter wing aboard the Inchon.

But the Marines already are lobbying Congress to give them a bigger budget to ease that burden. Far more than the other services, the Marine Corps is accustomed to justifying its existence. That is a useful skill at a time when many Americans, especially the governing elites, know little and care less about the military. There are a dwindling number of veterans in Congress, and only one graduate of West Point. But as long as the Marines avoid the problems that have plagued them in the past—a scandal among the U.S. Embassy guards in Moscow and training abuses at Parris Island—their lobby on Capitol Hill is likely to remain influential.

'A VERY DEEP ANCHOR'

Essentially, the Marines have gone back to their traditional mission of being the world's premier force at fighting small, messy wars, a development that carries especial significance for the most tradition-conscious of the U.S. military services. "The Marine Corps feeds on its history," says James Webb, a former Navy secretary and a Marine veteran of Vietnam. "What other service celebrates its birthday as the biggest day of the year? That gives them a sense of continuity—and a very deep anchor."

This knowledge of the past makes the jobs the Marines now are taking on less of a shock. The Army is still rattled by its experience in Somalia, especially the loss of 18 Rangers in a Mogadishu firefight last Oct. 3. The Marines, by contrast, seem quite content with their time in Somalia, where they were first in and last out. They went in expecting a near-combat experience, and they weren't wrong. They used their light-armored vehicles effectively, surrounding warlords, compounds and negotiating the other guy's continued presence. The Army seemed to expect lighter work akin to United Nations-style traditional peacekeeping and only received armor after the October firefight—an omission that the "Small Wars Manual" warns against.

This comfort with low-intensity conflict extends down to the small-unit level, which actually does the fighting. At a time when most of the U.S. military still tends to think in Reagan-era terms of acting only when they posses overwhelming decisive force, the Marines are at ease with the idea of using "minimal force" as Staff Sgt. Vernon Clark put it.

SPECIALIST SNIPERS

"One of the things you want to accomplish is to get the locals behind you," he says, as his platoon from India Company of the 3rd Batallion of the 6th Marines crowds around him near a CH-53 Sea Stallion helicopter parked on the flight deck of the Inchon. If fired on by someone hiding in a Haitian mob, says Sgt. Clark, he will wait for specialist Marine snipers to retaliate. "You don't want to hose 20 people to get one guy," he explains.

Sgt. Clark hasn't heard of "Small Wars Manual," but there is a copy aboard ship, brought by Lt. Col. David Young, commander of the Marine infantry force on the Inchon.

Though a half-century old, the manual is practically a guide to how the U.S might intervene in Haiti: First invade and occupy principal cities. Then simultaneously extend control over the countryside and retrain or develop the local nonpartisan army and constabulary. Next, after stability is achieved, pull back from a broad occupation and turn over control to local authorities. But keep a presence in larger cities and remain available for emergency help. Finally, supervise elections and withdraw.

"It's the kind of thing we do well," the colonel says as he eats a tuna fish from a metal cup in the officers' mess. "All these guys here have a pretty good level of confidence from Mogadishu. They were shot at every day. Some of the aura has gone away. They know it's dirty, hard work with a lot of monotony, searching people, searching vehicles."

Mr. SPECTER. Will the distinguished Republican manager of the bill yield for a question.

Mr. STEVENS. The Senator yields for a question from the senior Senator from Pennsylvania.

Mr. SPECTER. I direct the Senator's attention to the item under Navy procurement for "Modification of EA-6B Aircraft" in the amount of $38.4 million. Does the Senator understand that the appropriation of this amount assumes that the Navy will exercise its options to begin production of the Band 9/10 jammer program?

Mr. STEVENS. The Senator is correct.

Mr. SPECTER. I thank the Senator.

Mr. DOMENICI. Madam President, I would like to seek the support of the distinguished subcommittee chairman and ranking member for an innovative program in the Department of Defense. The program is the Army Environmental Policy Institute [AEPI], which has focused on important environmental policy issues for the military since its founding several years ago.

Mr. INOUYE. I would be pleased to discuss the Army Environmental Policy Institute with the Senator from New Mexico.

Mr. DOMENICI. The distinguished chairman and ranking member are aware of my support for the work of the Army Environmental Policy Institute. I urged the subcommittee to consider funding to support two priority projects for the Institute. The first project would require $3 million and would address the technologies and policies relating to the demilitarization of conventional weapons and ammunition in the United States and abroad. The second study would require $750,000 to study the environmental consequences of the accident at the Tomsk nuclear reactor in the Russian Republic and involve the collection of data useful in developing an effective response to a comparable United States nuclear disaster. The University of New Mexico and the University of Alaska have talented researchers that would work on these initiatives.

Due to overall budget constraints, the subcommittee was unable to accommodate this additional funding.

Mr. INOUYE. The Senator from New Mexico is correct. The committee has supported the budget requests for the Institute in the current and prior fiscal years. For 2 years, we included special funding so that the Institute could carry out an important study on the effects of depleted uranium on the battlefield, recognizing this possible health hazard long before the Gulf War Syndrome emerged as a public concern. I hope the Army will be able to continue its support for the Institute.

Mr. STEVENS. I would also urge the Army to continue its support for the Institute. I am particularly interested in the proposed study of the Tomsk nuclear disaster since the toxic byproducts of this accident threaten the waters of the Arctic Circle, including those that border Alaska.

Mr. DOMENICI. I thank the distinguished chairman and ranking member for their attention to this important issue. I note that the Senate Armed Services Committee supported the Institute by authorizing an increase in base operating funds to a total of $4.7 million. I hope that my colleagues will give careful consideration during conference to the AEPI budget and the two priority projects that we have discussed.

AMENDMENT NO. 2521

(Purpose: To state the sense of the Senate concerning Japan fulfilling its commitments under the Host Nation Support Agreement it signed with the United States on January 14, 1991)

Mr. STEVENS. Madam President, I call up the amendment No. 2521 offered by the distinguished Senator from Delaware [Mr. ROTH].

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. ROTH, proposes an amendment numbered 2521.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Sense of the Senate concerning Japan fulfilling its commitments under the Host Nation Support Agreement it signed with the United States on January 14, 1991

That, the U.S.-Japan Securlty Treaty continues to be a strong bond between our two countries, serving as a main pillar of the bilateral relationship;

That, the bilateral relationship is of vital importance to both countries and to the stability of the Asia Pacific region and the entire world;

That, Japan's willingness to share the costs of maintaining forces in Japan is an important contribution to strengthening our security partnership;

That, it has often been asserted that Japan's host nation support for American forces provides a model defense burden-sharing arrangement for our allies;

That, Japan and the United States signed a new Host Nation Support Agreement on January 14, 1991, providing for Japan to assume—over five years beginning in Japanese Fiscal Year 1991 and ending in FY 1995—virtually all yen-based costs of maintaining U.S. forces in Japan;

That, Japan voluntarily entered into that agreement more than a year before the expiration of the previous Host Nation Support Agreement which was not as generous;

That, the Government of Japan hailed the new agreement as "a step of great significance for the overall relationship between the two countries;"

That, Japan's Defense Agency appears to have decided to decrease expenses for bearing the cost of stationing U.S. forces in Japan in its FY 1995 budget request, thereby failing to fulfill its obligations under the 1991 Host Nation Support Agreement;

That, should Japan fail to fulfill those obligations, the bilateral relationship may suffer negative consequences, particularly as current problems on the Korean peninsula may pose a critical challenge to U.S.-Japan security ties: Now, therefore, be it

Resolved, That:

(1) It is in the interest of both Japan and the United States to fully comply with all the provisions of the Host Nation Support Agreement of 1991; and

(2) Should Japan take actions that prevent it from fulfilling any of its obligations under that Agreement, the bilateral relationship may suffer harmful consequences.

Mr. STEVENS. I ask unanimous consent that this amendment be cosponsored by the Senator from New Jersey [Mr. LAUTENBERG].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Madam President, I rise today for myself and Mr. LAUTENBERG to offer a sense-of-the-Senate resolution regarding our burdensharing arrangements with Japan. As I believe Members of this body well understand, the United States-Japan relationship is vitally important to both our countries and to the entire world.

We have our differences over trade and economic issues—differences which are chronic, serious, and must be resolved. Yet on most other issues, particularly in the political and security realm, we share close and common interests.

Indeed, the United States-Japan Security Treaty is the bedrock upon which the bilateral relationship has been built. Our close security ties have provided the Asia-Pacific region with the stability requisite for the explosive economic growth the region has enjoyed. It has been an essential element in preventing the many territorial disputes and latent tensions in East Asia from escalating to dangerous levels. And given the problems we face on the Korean peninsula, it helps serve to bind our two countries together in confronting what is undoubtedly the world's most severe near-term security problem. Thus, I believe it essential that neither the United States nor Japan take actions that serve to undercut our close security relations.

Unfortunately, there are indications that Japan may embark on a path that could have the effect of loosening the ties that bind the critical bilateral security relationship. According to certain news reports, Japan's Defense Agency has decided to decrease its commitments to help bear the cost of stationing United States forces in Japan.

Should Japan actually follow this course, Tokyo will fail to fulfill its obligations under the Host Nation Support Agreement it signed with the United States on January 14, 1994. In that agreement Japan committed itself to assuming virtually all the yen-based costs of maintaining United States forces in Japan. Tokyo's commitment at that time was particularly commendable in that Japan had voluntarily entered into that agreement to replace a previous accord which was less generous to the United States, yet could have remained in force for well more than 1 year.

At the time, the Government of Japan issued a statement hailing the agreement because it "not only will contribute to the effective management of Japan-U.S. security arrangements, it should also be seen as a step of great significance for the overall relationship between the two countries."

It appears, however, that domestic politics in Japan may force Tokyo to renege on its pledges. The current coalition government is composed primarily of two long-time adversary parties, the Liberal Democrats and the Socialists. The greatest policy differences between the two always had to do with security matters.

In a series of stunning policy reversals to align himself with the LDP, however, Japan's Socialist Prime Minister abandoned most of his party's long-held positions on these matters. The Prime Minister stated within the last month that he would now recognize the constitutionality of Japan's Self-Defense Forces, uphold the United States-Japan Security Treaty, and abandon the party's previous call for unarmed neutrality. He also acknowledged the validity of Japan's national flag and national anthem, and recognized that official visits by Cabinet Ministers to Yasukuni Shrine, which enshrines Japanese war dead, including class-A war criminals, are constitutional.

Needless to say, not all Socialist party members have been comfortable with the Prime Minister's near wholesale abandonment of the key principles the party has held for 40 years. Perhaps more to the point, this latest coalition government could very well fall apart should the Socialists fail to back the Prime Minister's new positions during the Socialist party convention in early September. To provide the Prime Minister at least some political cover, the LDP yielded to the Socialists in one area—it agreed to hold down defense spending in Japan's fiscal year 1995 budget while boosting nonmilitary foreign aid.

The defense cuts will be severe enough that—according to one Defense agency official—United States forces in Japan will also need to share the pain. Mr. President, sharing the pain is one thing. Reneging on an agreement is quite another. If the 1991 Host Nation Support Agreement was the step of great significance for the bilateral relationship that Japan claimed it was, surely Tokyo's failure to fulfill its obligations under that agreement would do little to enhance United States-Japan relations.

I believe Japan should closely consider its position on this issue, and therefore urge my colleagues to adopt this resolution.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Mr. LAUTENBERG. Madam President, I am pleased to cosponsor Senator ROTH's amendment concerning Japan's compliance with the Host Nation Support Agreement of 1991.

This amendment states the sense of the Senate concerning Japan's apparent intent to decrease their fair share of the costs of stationing United States forces in Japan next year. I urge the managers of the bill to accept this amendment to the bill.

Madam President, this amendment is straightforward. It expresses the concern of the Senate about Japan's turnaround on its obligation for sharing the burden of its own security. Our agreement with the Japanese, signed in 1991, requires the host nation of U.S. military forces to pay for a significant portion of our overseas basing costs. As my colleagues are aware, this agreement resulted from strong congressional pressure.

Over the past 7 years, the Congress has taken decisive action in burdensharing. We have cut the cost to American taxpayers for basing U.S. forces overseas. We have ratified several new agreements with host nations. And, we have created several incentives for the administration to get tough and negotiate a better deal for the American taxpayers.

Madam President, while far from perfect, the Japanese agreement has been a good model for other host nation agreements. It offers a fair deal for the American taxpayer. Unlike our other agreements, our approach with Japan leaves the American taxpayer footing less of the Pacific defense burden. According to DOD, for example, in 1992 Japan paid 70 percent of the United States overseas basing costs and the United States paid for 30 percent of those costs. In fiscal year 1993, Japan paid for 72 percent of the overseas basing costs. Under the agreement, by 1996, Japan is supposed to pay all of those costs.

The Japanese can afford to pay for a large share of their national security. We've provided them with a protective security umbrella for several years while their economy has grown beyond all expectations. And we're still meeting our obligations—the Japanese have the strongest defense shield in the region in place, and ready. The United States has fully met its obligations to the Host Nation Support Agreement—even with the worldwide drawdown of U.S. military forces.

Madam President, the Japanese decrease in funding highlights the need for a strong, effective ambassador-at-large for burdensharing. My colleagues will recall that just 4 months ago, the administration attempted to downgrade that position within the State Department. The Congress, supported my efforts to retain the position as a full ambassador. We were right to stand firm—today our resolve will help the administration to be forceful in requiring the Japanese to meet their obligations.

Madam President, the Congress must continue to show its strong resolve in ensuring that Japan meets its obligations. If we don't take immediate action, they will interpret our inaction as disinterest. We should not send the wrong signal to Japan—we will never allow our wealthy allies to get a free ride at the expense of the American taxpayer. The United States simply cannot afford to pay a disproportionate share of Japan's national security. Our Nation has nearly a $400 billion deficit, and a $4 trillion national debt.

Without strong congressional action, the administration may not press Japan to meet their fair share of their defense burden. The Japanese model was negotiated only after years of pressure from the Congress. Still, we find ourselves having to press our longstanding ally to meet its obligations.

Even with this host nation agreement, the United States continues to pay enormous amounts of money to defend collective security interests in the Pacific. And we will still defend the nations, including Japan, in that region against threats to their security and ours as well. Given the ongoing tension with North Korea, Japan is not free of threats to its homeland. In exchange for our continued vigilance, we should expect and demand that Japan continue to meet its obligations to bear its fair share of our basing costs.

Madam President, this amendment will support the administration in negotiations with the Japanese. And it will show the American people the resolve of Congress to relieve them of a defense burden which they carried for many years. I urge my colleagues to support this amendment.

AMENDMENT NO. 2521, AS MODIFIED

Mr. STEVENS. Madam President, I send a modification to the desk and ask unanimous consent that it be adopted in lieu of the amendment that was just called up.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 2521) as modified, is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Sense of the Senate concerning Japan fulfilling its commitments under the Host Nation Support Agreement it signed with the United States on January 14, 1991

The Senate finds:

That, the U.S.-Japan Security Treaty continues to be a strong bond between our two countries, serving as a main pillar of the bilateral relationship;

That, the bilateral relationship is of vital importance to both countries and to the stability of the Asia Pacific region and the entire world;

That, Japan's willingness to share the costs of maintaining forces in Japan is an important contribution to strengthening our security partnership;

That, it has often been asserted that Japan's host nation support for American forces provides a model defense burden-sharing arrangement for our allies;

That, Japan and the United States signed a new Host Nation Support Agreement on January 14, 1991, providing for Japan to assume—over five years beginning in Japanese Fiscal Year 1991 and ending in FY 1995—virtually all yen-based costs of maintaining U.S. forces in Japan;

That, Japan voluntarily entered into that agreement more than a year before the expiration of the previous Host Nation Support Agreement which was not as generous;

That, the Government of Japan hailed the new agreement as "a step of great significance for the overall relationship between the two countries;"

That, Japan's Defense Agency appears to be considering a decrease in expenses for bearing the cost of stationing U.S. forces in Japan in its FY 1995 budget request, thereby failing to fulfill its obligations under the 1991 Host Nation Support Agreement;

That, should Japan fail to fulfill those obligations, the bilateral relationship may suffer negative consequences, particularly as current problems on the Korean peninsula pose a potentially critical challenge to U.S.-Japan security ties: Now, therefore, it is

The sense of the Senate that:

(1) It is in the interest of both Japan and the United States to fully comply with all the provisions of the Host Nation Support Agreement of 1991; and

(2) Should either nation wish to depart from fully complying with all the provisions of that agreement, it should engage in close consultations with its counterpart before taking any action:

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Delaware, as modified.

The amendment (No. 2521), as modified, was agreed to.

Mr. INOUYE. Madam President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2522

(Purpose: To cap the amount to either replace or renovate the Pentagon Reservation)

Mr. STEVENS. Madam President, I call up amendment 2522, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2522.

Mr. STEVENS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following: "None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, if the total cost over the life of the project for the replacement or renovation of the Pentagon Reservation shall exceed $1,009,000,000."

PENTAGON RENOVATION DOLLAR CAP

Mr. STEVENS. Madam President, I want to offer an amendment today to cap the total amount to either replace or renovate the Pentagon reservation.

My amendment places a dollar cap on this ongoing project at $1.218 billion. I remain concerned about this very expensive renovation project, especially since the price tag keeps rising.

In the March 1994 annual report to Congress on the status of the Pentagon renovation project, DOD reported estimated total construction costs of $1.009 billion. However, in late May, when they briefed the committee, DOD cited overall costs at $1.2 billion, price growth of almost $200 million, 19 percent in less than 3 months.

I feel we must constrain the process. There is always the temptation to improve or change the renovation plan in the midst of construction, which ends up costing the taxpayers more money. I suggest that we hold DOD accountable to bring this project in at cost.

There are many who criticize a billion dollar Pentagon renovation project in a time of shrinking defense dollars. However, the building is now 51 years old and needs work. Many of its corridors are lined with asbestos, it doesn't meet fire and safety requirements, the building leaks and the electrical system is severely overwhelmed. It must be brought into full compliance with the Americans With Disabilities Act.

We have placed a great emphasis in this bill on supporting readiness, combat effectiveness and quality of life for the military at the expense of other worthwhile military and domestic requirements. While I recognize the necessity of renovating the Pentagon, there are just too many other national priorities not to set some spending limits on this project.

I urge adoption of the amendment.

AMENDMENT NO. 2522, AS MODIFIED

Mr. STEVENS. I ask that the amendment be modified, and I send it to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 2522), as modified, is as follows:

At the appropriate place, add the following:

"SEC. . None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, unless the Secretary of Defense certifies that the total cost for the planning design, construction and installation of equipment for the renovation of the Pentagon Reservation will not exceed $1,218,000,000."

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment, as modified, of the Senator from Alaska.

The amendment (No. 2522), as modified, was agreed to.

Mr. STEVENS. Madam President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. STEVENS. Madam President, I ask unanimous consent that Senator HUTCHISON be listed as a cosponsor of the McCain amendment No. 2500.

The PRESIDENT OFFICER. Without objection, it is so ordered.

Are there further amendments?

Mr. DOMENICI addressed the Chair.

The PRESIDENT OFFICER. Senator from New Mexico is recognized.

AMENDMENT NO. 2507

(Purpose: To maintain the viability of the Nunn-Lugar Cooperative Threat Reduction Program in Russia and Ukraine by expanding the sources available for transfer to the program)

Mr. DOMENICI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 2507.

Mr. DOMENICI. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 10, delete the period, and add the following new proviso: ": *Provided further*, That to the extent that Congress fails to approve the transfer of any part of $400,000,000 originally provided in section 9110(a) of the Department of Defense Appropriations Act, 1993, authority is provided for the Secretary of Defense to transfer funds made available in this Act, or for the President to transfer funds available for assistance to the Russian Federation in any other Appropriations Act, to this account for the Cooperative Threat Reduction "Nunn-Lugar" program: *Provided further*, That any transfer made by the Secretary of Defense under the foregoing proviso shall be subject to the limitations and the reporting requirements stipulated in section 8005 of this Act: *Provided further*, That the authority to make transfers pursuant to this provision is in addition to any other transfer authority of the President and the Secretary of Defense."

THE NUNN-LUGAR PROGRAM IS IN TROUBLE

Mr. DOMENICI. Madam President, I am going to withdraw this amendment, but first I want to make a point. Among the finest hours in my time in the U.S. Senate were when we voted in $1.2 billion over 1992–1994 for the Nunn-Lugar amendment cooperative threat reduction program. It was supposed to put money into projects that would dismantle Soviet nuclear and chemical weapon systems. I regret to inform the Senate that, as of right now, out of that $1.2 billion, which was first programmed about 4 years ago, $70 million has been spent to this point—not $700 million, but $70 million. Only $370 million has been obligated.

There have been all kinds of bureaucratic problems, which I understand, but also Congress has, to some extent, reneged on this program, because more than $500 million of that $1.2 billion never materialized.

This amendment would merely have given the President some additional flexibility to use other moneys that are destined for Russia and the Ukraine. It would have given him the latitude to use it, some of it, if he thought it was necessary and there were not sufficient funds, and dismantling could occur. The Senate agreed to a similar amendment on July 15 by a vote of 56 to 38.

Sooner or later, we better get serious about this program. I do not know what is wrong with it. But clearly something is going wrong up here between the authorization and the appropriation processes and across the river between the policy people and the implementing people. They are not getting the work done.

I did not want to see the President short of money because this is probably the single most important activity of the United States the former Soviet States. We are not doing very well at helping them dismantle nuclear weapons, as I will explain in a moment.

Madam President, this amendment would have given the President the flexibility he may soon need to keep alive the vital Nuclear Threat Reduction Program in Russia and Ukraine.

There is $400 million in new money in this bill for the Nunn-Lugar program. Of the $1.2 billion made available for this vital program in between 1992 and 1994 by this subcommittee, more than $500 million never materialized.

WHAT HAPPENED TO THE NUNN-LUGAR PROGRAM?

What happened to the Nunn-Lugar program? After all, Congress made available some $1.2 billion over the 1992 to 1994 period for the Nunn-Lugar threat reduction program. Only $70 million has been spent to date.

Well, this is what happened. The first $800 million of those funds were not direct, new appropriations. They were transfer authority from other defense department funds.

Today, the President and most of us realize that we need every dollar of our defense funds to pay for a deteriorating defense structure that faces deployment in Haiti, Bosnia, and Korea—A structure that will have to call up the reserves to fulfill its growing number of missions abroad.

As a result of the financial squeeze on defense, the defense appropriators have drawn the line. Last year, the transfer authority for the 1992 Nunn-Lugar $400 million was canceled. Only about $200 million had been used for Nunn-Lugar, so the program lost half of its 1992 funding. That's one of the things that happened.

78-059 O—97 Vol. 140 (Pt. 15) 28

VOL 140 PT 15 AG 10 — 11 1994 UMI

Last year, the appropriators put very strict conditions on the transfer of Nunn-Lugar funds under the 1993 authority. Those conditions were retained in my amendment.

As a result, some $318 million in requests for essential Nunn-Lugar programs have been frozen since March 17, 1994, because there is no agreement among the relevant committees on where to find the money.

Madam President, it has taken over 2 years to get the Russians to the point where they are convinced that this threat reduction program is in their own interest. There was a lot of suspicion about our motives.

It has taken 2 years to negotiate the detailed agreements to begin safeguarding and destroying nuclear warheads and chemical weapons in Russia and Ukraine. Finally, the Nunn-Lugar program is ready to roll. Unfortunately it is broke until this bill is enacted.

We already have legal agreements to spend $1 billion to reduce the threat from excess nuclear and chemical stocks. Negotiations are approaching completion on the remaining $400 million in Ukraine, Russia, Kazakhistan, and Belarus. But, we don't have the resources in the defense budget to pay for all of these programs, unless we reduce readiness, pull back from the protection of Korea, or end participation in international peacekeeping. The managers made that point very eloquently in their opening statements.

PROBLEMS EXIST, BUT PROGRAM MUST GO FORWARD

The superb staff of the Appropriations Committee have worked with our Budget Committee staff to identify and correct deficiencies in implementation of the Nunn-Lugar program. The policy direction for this program in the Department of Defense suffers from some of the same problems that Senators MCCONNELL and LEAHY have identified in the Department of State.

Like several other appropriators, I am uncomfortable with the use of Nunn-Lugar funds for officer housing. That effort is already funded at more than $160 million in the foreign operations bill. It was unwise to borrow funds dedicated for nuclear reactor safety in Ukraine to make an advance payment on officer housing programs.

Another questionable effort by the Nunn-Lugar program is the establishment of a defense enterprise fund that appears to lack the independence and adequate capitalization that enabled the enterprise funds in central Europe to succeed. I am not sure that the Nunn-Lugar program should be funding enterprise funds.

These secondary efforts divert funds from the central purpose of the Nunn-Lugar program: that objective is to help Russia, Ukraine and the other nuclear states begin to safeguard, dismantle, and destroy weapons of mass destruction and their delivery systems. That is why the Nunn-Lugar program is as important to American security as it is to the security of the former Soviet Union.

In another month there will be a summit meeting between President Clinton and President Yeltsin. The mutual security and proliferation issues that are covered by the Nunn-Lugar program will dominate their agenda. My amendment would have given the President flexibility to determine his own priorities in America's program of assistance to Russia and Ukraine. That has been his policy, as I understood it.

Let me summarize. If sufficient funds from the current defense budget were no longer available for the Nunn-Lugar program, the President could have transferred Russian aid funds from the control of the Agency for International Development to the Nunn-Lugar Nuclear Threat Reduction Program in the Department of Defense.

This transfer authority in this amendment and the one approved by the Senate on July 15th was discretionary; the President would not have to use it, unless he is convinced that the Nunn-Lugar program will fail without the full $400 million first approved in 1993. The amount of any transfer would have been limited to the $318 million not yet transferred under the original 1993 authority.

Madam President, I am prepared to ask the Senate to again go on record in support of the vital Nunn-Lugar Threat Reduction Program, but both managers indicate a reluctance to carry this issue to conference. They have requested me to withdraw the amendment, and the administration withholds its support.

I withdraw the amendment.

The amendment (No. 2507) was withdrawn.

AMENDMENT NO. 2514

(Purpose: To require the Administration to budget for the cost of humanitarian, peacekeeping, peacemaking operations, and operations other than war in which Armed Forces of the United States are or will be participating, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. DOLE, proposes an amendment numbered 2514.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . REQUIREMENT TO INCLUDE IN THE ADMINISTRATION'S DEFENSE BUDGET REQUEST FOR THE COMING FISCAL YEAR THE COST OF INVOLVEMENT BY ARMED FORCES OF THE UNITED STATES IN HUMANITARIAN, PEACEKEEPING, PEACEMAKING OPERATIONS, AND OPERATIONS OTHER THAN WAR.

(a) REQUIREMENT.—The President shall, when submitting to the Congress the budget for the United States Government for the coming fiscal year, include in the budget the cost of involvement and participation by the Armed Forces of the United States in ongoing or anticipated operations outside the United States as specified below—

(1) operations to provide humanitarian aid;
(2) peacekeeping operations;
(3) peacemaking operations;
(4) operations other than war;
(5) and any operation, other than normal troop movements, rotations, or exercises, in which U.S. military involvement during the fiscal year is anticipated.

(b) CLASSIFIED ANNEX.—If the President or the Secretary of Defense determine that disclosure of the information required in paragraph (a) of this section could reasonably be expected to damage the national security of the United States, the President shall provide the information in a classified annex.

Mr. STEVENS. Madam President, I ask unanimous consent to withdraw that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2514) was withdrawn.

Mr. INOUYE. Madam President, I ask unanimous consent that the remaining committee amendments be considered, en bloc, and agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the committee amendments were agreed to, en bloc.

FLIPPING THE U.N. PEACEKEEPING COIN: U.S. PARTICIPATION IN MULTILATERAL OPERATIONS

Mr. PRESSLER. Since taking office, the Clinton administration has committed—all will—our resources and our troops to U.N. peacekeeping operations without clear guidelines and objectives meriting U.S. participation. Remember Somalia? Will Haiti or Rwanda be next? This cannot continue.

The current conflicts in Haiti and Rwanda are operations where random U.S. commitments must not continue. A coin-flipping decision process seems to determine U.S. participation in peacekeeping operations. Heads we support. Tails we oppose.

I am tired of Administration lip service regarding U.S. support for peacekeeping operations. I am tired of policies that say one thing and actions which practice something else. The next few weeks will be a testing time for the Clinton administration. Will the President stand firm and adhere to policies outlined both in the recently signed Foreign Relations Authorization Act and the recently endorsed administration decision directive on reforming multilateral peace operations?

Already, President Clinton has failed the first test of resolve. With regard to Rwanda, the administration breached the integrity of the Foreign Relations Authorization Act—an act the President signed into law less than 4 months ago.

Specifically, the new law (P.L. 103–236) requires the Permanent Representative to transmit the text of any resolutions and reports prepared by the United Nations pertaining to U.S. involvement, logistics/and or troops, in peacekeeping operations to Congress 3 working days after a resolution is adopted by the Security Council. Additionally, the President—except in emergency situations—must submit cost assessments to Congress at least 15 days before any obligation of U.S. funds or before any actions are taken under articles 42 and 43 of the U.N. Charter involving U.S. troops.

Furthermore, the law requires the President to report each operation's expected duration, mandate, command and control arrangements, overall cost, and the cost to the United States. In addition, the report must include a detailed description of the functions to be performed by any U.S. Armed Forces used in support of an operation, as well as U.S. troop number and cost estimates.

This Member of Congress received only vague details from the administration concerning peace keeping in Rwanda, and this came 4 days after the United States agreed to U.N. Resolution 918 which called for an expansion of the UNAMIR operation. There was no consultation with Congress. No emergency waiver from the President. No concrete details of any kind.

In light of heavy criticism launched against President Clinton and his foreign policy team, one would think the administration would exercise extreme care in adhering to the new reporting requirements outlined in the Foreign Relations Authorization Act. How can Congress support a multilateral peacekeeping operation unless Members are able to assess an operation's costs, objectives, goals, duration, and effect on our national interests? The answer is simple. We can't.

The administration must not disregard these new rules. Congress would not have included the reporting requirements in the Foreign Relations Authorization Act if Members did not intend on using the reports to make informed decisions about multilateral operations. Certainly, one can overlook the administration's lack of systematic compliance with regard to Rwanda. But where does that leave Congress? When do we stop overlooking and start expecting action from the Executive Branch?

In a similar vein, President Clinton recently signed and endorsed Presidential Decision Directive 25 [PDD 25] which outlines his administration's policy on reforming multilateral peace operations. PDD 25 addresses six reform areas including management and funding reforms as well as reforms guiding determinations of U.S. support in regional conflicts. The guidelines set forth in PDD 25, however, are insufficient to serve as policy.

While I have reviewed an unclassified copy of the Executive summary of PDD 25, the full text of the directive remains classified. Again, it is difficult for me, as a Member of Congress, to support fully the specific components of this directive since we simply do not know the details of this policy. It is extremely important that PDD 25 provide a clear directive for determining the extent to which the United States will support multilateral peacekeeping operations.

Although, for example, the administration claimed the criteria in PDD 25 were factored into the decision to support U.N. Resolution 918, how can this be verified by Congress? How can we verify the administration's criteria in its decision to send troops into Haiti? How can Congress travel the same road as the President if the troop authorization road map remains unavailable for evaluation?

At best, PDD 25 is a first step in the reform process. However, it by no means should be heralded as policy, given the ambiguous language, inadequate detail, and loose guidelines outlined in the Executive summary. The United States needs a firm and consistent policy to guide our involvement in conflicts abroad. We simply cannot spend U.S. dollars and risk American lives any longer without clear mandates and cost estimates.

The situations in Rwanda and Haiti present President Clinton the unique opportunity either to begin an intervention policy of caution and prudence or to continue proceeding along the same random foreign policy path. Continued pressure and insistence from President Clinton and Ambassador Albright are essential to ensure that multilateral operation and management reforms are taken seriously.

If the United Nations is to be an effective international body, U.S. support, funding, and leadership are necessary. The administration's coin-flipping foreign policy mentality should no longer guide our peacekeeping involvements. We owe it to U.S. taxpayers to ensure that our support for U.N. operations is not wasted.

DESTRUCTION OF NEUTRALIZED CHEMICAL WEAPONS

Mr. BROWN. The bill before us includes a provision prohibiting the study of the transportation of unitary chemical weapons for destruction purposes. As many have pointed out, the issue of destruction has been studied extensively. Although this provision does not appear to preclude the study of neutralized chemical weapons, the lawyers at the Defense Department have expressed their concern that this language may be construed to prevent such a study.

It is an important question, especially to the men and women of Pueblo, CO. The Pueblo Depot Activity located on the outskirts of Pueblo is one of those bases slated for realignment and for the destruction of its chemical weapons. But before we proceed with building a very expensive chemical weapons incinerator in Pueblo, it makes sense to thoroughly study other alternatives—especially the possibility of first neutralizing unitary chemical weapons and then transporting them for destruction at existing disposal facilities.

Instead of offering a clarifying amendment to ensure that the neutralization and subsequent transportation of the neutralized portions can be studied despite restrictions in the bill, I would like to ask the chairman of the Defense Appropriations Subcommittee to enter into a colloquy with me that clarifies the intent of exiting bill language.

Mr. INOUYE. As noted by the Senator from Colorado, there is a provision in the bill currently before the Senate restricting the study of transporting unitary chemical weapons for destruction. This provision was never intended to restrict the study of transporting neutralized chemical weapons for destruction. In my view, this provision in no way restricts such a study.

Mr. BROWN. I thank the distinguished chairman for his insights. It is clear to me that as it stands, the provision does not restrict the study of transporting neutralized chemical weapons. I yield the floor.

NATIONAL PRESTO ENVIRONMENTAL CLEAN UP

Mr. KOHL. I would like to engage the distinguished chairman of the Defense Appropriations Subcommittee in a colloquy on an issue he has worked on over the years, the environmental clean up of a site formerly used by the Army in Eau Claire, WI, now owned by National Presto Industries.

During World War II, the facility was owned and operated by the Army as a manufacturing site for the production of small arms ammunition and radar tubes. Subsequently the facility was activated during the Vietnam conflict, and National Presto, working on contract to the Army, manufactured 105mm projectile metal parts.

As a result of this production, the Eau Claire site is heavily contaminated with suspected carcinogens and is a Superfund site. In 1988, the Army and National Presto signed an agreement in which the Army agreed to cooperate in seeking whatever funds might be required to complete the full remediation of the Eau Claire site. Unfortunately, the Army has not honored that agreement.

Mr. INOUYE. I am familiar with the problem at the Eau Claire site and with

VOL 140 PT 15 AG 10 — 11 1994 UMI

the 1988 agreement signed by the Army and National Presto. Also, I am aware that the Army has not sought funds for clean up activities.

Mr. KOHL. In acknowledging its responsibility to clean up the Eau Claire site, the Army and Congress made $12 million available between the years 1988 and 1993 for remediation efforts. Does the chairman agree that the Senate Appropriations Committee has tried to assist in meeting the requirement to restore the environmental damage at this site.

Mr. INOUYE. The Senator from Wisconsin is correct. In its fiscal year 1993 report accompanying the Defense appropriations bill, the Committee stated:

> The Committee is deeply disturbed by the failure of the Army to comply with the direction in last year's conference report to proceed with environmental restoration activities at the National Presto Industries facility at Eau Claire, WI. The Committee views the obstruction of the Army in this matter as in direct contravention of Congressional intent.

Mr. KOHL. I appreciate the chairman's willingness to take such a strong stand on this issue in the past. According to National Presto, $15 million would complete the clean up of this site and return it to productive use. The House fiscal year 1995 Defense appropriations bill includes $7 million for environmental remediation of the Presto site in its version of the bill. I am committed to seeing that the potential health and safety risks faced by my constituents are fully remedied at the earliest possible date. I urge my colleague to support this funding during the conference on the bill, and, as in the past, make it binding in bill language.

Mr. INOUYE. I commend the distinguished Senator's desire to see the cleanup of this site completed expeditiously. I will give his views every consideration during the conference with the House.

Mr. KOHL. I thank the Senator from Hawaii for his comments.

MILSTAR SATELLITE SYSTEM

Mr. LEAHY. Mr. President, yesterday I supported an amendment offered by Senator BUMPERS to terminate the MILSTAR satellite system. As an original cosponsor of this measure, I strongly feel that the Senate has an important opportunity to save billions of dollars without sacrificing national security.

Mr. President, the Bumpers amendment brings the Defense budget in line with reality. Why should the American taxpayer spend billions on a system that was designed specifically to fight a protracted nuclear war?

I know the Pentagon is having a rough time adapting to the realities of a post cold war. It is hard to put 45 years of East-West competition behind an institution as large as the Defense establishment. Slowly our defense leaders are focusing more on peacekeeping, joint operability, and the unique demands of the smaller conflicts that we are likely to face in the future.

The amendment offered by Senator BUMPERS offers a reality check for the MILSTAR program. Nobody in the Senate doubts that our military forces need secure digital communications. But the MILSTAR program the Pentagon is asking taxpayers to spend billions on over the next decade does much more than provide digital communications. The two satellites that my colleague from Arkansas proposes to cut weight too much and retain several of the costly capabilities designed for the cold war but that are no longer necessary.

Our national security no longer requires communications platforms with maneuverability to avoid hostile satellites. No longer do our communications need expensive shielding from nuclear blasts. What they do need, and what will not be lost by my colleague from Arkansas' amendment, is the ability to digitally communicate with U.S. forces around the world without being jammed.

This amendment deletes funding for two of the heavy satellites that were designed in the midst of the cold war. It takes half of the money saved and applies it toward the Pentagon's new MILSTAR satellites. The American taxpayer can save between $2.4 to $3.5 billion under this restructuring, and the military will have the capabilities that they need.

I thank my colleague and friend from Arkansas for again bringing to the attention of the Senate and the country a prudent way to save the taxpayers money without compromising the capabilities of the military. He consistently evaluates defense programs against the stark realities of national necessity. I urge the rest of the Senate to vote for this amendment.

KAISERSLAUTERN MILITARY COMMUNITY IN GERMANY

Mr. WOFFORD. Mr. President, I would respectfully ask the distinguished Chairman, Senator INOUYE, to clarify some essential points on section 8007. Before doing so, I would like to congratulate him and the Ranking Member, Senator STEVENS, for their leadership on this legislation.

Mr. President, section 8007 addresses opportunities for the United States coal industry as part of badly needed energy modernization at the Kaiserslautern Military Community in Germany, by far the largest concentration of American personnel overseas. The Senate committee adopted language identical to the House, a repeat of previous year provision language which emphasizes the cost-effective use of U.S. coal as part of such modernization projects.

I ask the Chairman of the Subcommittee, since it is not mentioned in either the House or Senate reports, if the Committee is aware that within the next several weeks it is anticipated that the Air Force will complete an agreement with the City of Kaiserslautern for a major new heating system to serve the U.S. installations.

Mr. INOUYE. The Committee is aware that this is the case.

Mr. WOFFORD. I must presume that the Chairman is likewise aware that U.S. coal will be the base load energy for an expanded municipal system which will serve U.S. facilities. It must be noted with due regard for the efforts of the Subcommittee on Defense Appropriations that is was only the legislative language adopted in the 1992 annual act which has made this possible.

Mr. INOUYE. I am aware of this fact.

Mr. WOFFORD. Section 8007 once again references energy modernization for the American facilities at Landstuhl and neighboring Ramstein Air Base, both of which are a part of the large Kaiserslautern Military Community. I must state, however, that progress on these project areas has been extremely slow.

Regarding an associated issue in section 8007, the pending completion of an agreement for modern heating service for U.S. facilities in the city of Kaiserslautern, when the cost effective data is available to the committees, would the Chairman be willing to address this data in conference as it pertains to any possible additional cost-effective agreements for the use of U.S. coal in the Kaiserslautern Military Community regarding Landstuhl and Ramstein Air Base?

Mr. INOUYE. If additional information indicates that the precedent set for new hearing services for DOD facilities in the city of Kaiserslautern and the use of U.S. coal in third-party projects on a cost-effective basis is confirmed as reasonable, then certainly a comprehensive review would be in order.

Mr. WOFFORD. I would like to bring to the further attention of the Committee that while the new report language stipulates that the intent of section 8007 concerning Landstuhl and Ramstein Air Base is for competition in energy procurement, that the Air Force, in fact, has already begun a sole source procurement for Ramstein Air Base.

I respectfully note that Air Force-Europe discussions for an energy agreement with the community of Ramstein-Meisenbach call for the installation of a natural gas base energy system throughout our most important air facility in Europe. The local municipality is simply decreeing what forms of energy will be used on the air base. What is more disturbing under the terms of the act is that the municipality has made it very clear that it expects the Air Force to subsidize the purchase of a certain amount of U.S. coal for use at a non-military location in Germany.

May I suggest that these merging developments warrant an updated evaluation prior to the completion of conference.

Mr. INOUYE. I do agree that these matters should be further evaluated in light of emerging data.

Mr. WOFFORD. I thank the Senator from Hawaii.

NAVAL AVIATION

Mr. BOND. Mr. President, one of the provisions in this bill that gives me great concern is the funding for F/A–18 aircraft for the Navy. The administration requested $1.032 billion to purchase 24 F/A–18s in fiscal year 1995. These aircraft are critical to the Navy's aviation plan. Specifically, they are night strike fighters which will replace older aircraft which are slated for retirement in the near future. These aircraft are necessary to ensure that our carrier fleet can project sufficient power in the period until the newer version of the F/A–18—the E/F—is deployed in substantial numbers.

Not only do we need these aircraft in the fleet, but it is important to note that the cut is unlikely to save any money. The cut will increase the unit cost, and significantly jeopardize several foreign military sales. If any of those are lost, that would further drive up the cost to the Navy.

It is also worth noting that these 24 F/A–18s are the only fixed wing combat aircraft in the entire fiscal year 1995 DOD budget. That strikes me as a dangerously small number. To cut it further does not, in my opinion, make sense.

Last month, I wrote to Secretary Dalton regarding this issue, and I would like to read from his response. He writes.

> A reduction in F/A–18C/D quantities not only increases the Navy's cost for the remaining aircraft, but also raises the cost for foreign military sales customers, thereby putting these transactions in jeopardy. The Senate reduction slows the Navy, Marine Corps, and Marine Corps Reserve F/A–18 modernization plan, forcing deployed airwings to prolong the use of older, less capable F/A–18 aircraft and thereby decreasing our warfighting capability.

I am fully aware that the Appropriations Committee was constrained in writing this bill by the fact that only 17 aircraft were authorized. However, I have shared this information with our colleagues on the defense authorization conference, and I remain hopeful that they will agree to authorize 24 aircraft.

I would ask the chairman and the ranking member if they would comment on this issue.

Mr. INOUYE. I would agree with the Senator from Missouri that the F/A–18C/Ds are very important to the Navy's ability to project power through our carrier fleet. It is important that we maintain capable aircraft on the carrier decks. This bill does that by fully funding the F/A–18E/F development program; and, in the near term, by funding as many F/A–18C/Ds as possible with the money provided. I share the Senator's concern about the small number of combat aircraft we are purchasing in this budget, and I assure him that I will work to see that the Navy gets all the F/A–18 aircraft it needs.

Mr. STEVENS. Mr. President, I share the view of the chairman. The Senator from Missouri has touched on an important issue. With the cancellation of the A/FX and the planned retirement of the A–6, the F/A–18 has become the centerpiece of the carrier aircraft force. We must ensure that the Navy has the modern versions of the F/A–18 in sufficient quantities to perform its mission.

Mr. BOND. I thank both of my colleagues, and I ask that the full text of the letter from Secretary Dalton be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY
Washington, DC, August 8, 1994.

Hon. CHRISTOPHER (KIT) BOND
United States Senate, Washington, DC.

DEAR SENATOR BOND: Thank you for your letter of July 11, 1994 concerning the Senate Authorization Bill recommendation for procurement of 17 F/A–18C/D "Night Strike" fighters instead of the 24 requested in the FY 1995 President's Budget.

We share your concern and have appealed to the Defense Authorization Conferees, urging support for the House position for 24 F/A–18C/D Night Strike fighters. Based on similar Senate Appropriations Committee recommendations of 17 aircraft, we are also sending an appeal to the Defense Appropriations Conferees urging them to support the President's Budget request.

A reduction in F/A–18C/D quantities not only increases the Navy's cost for the remaining aircraft, but also raises the cost for foreign military sales customers, thereby putting these transactions in jeopardy. The Senate reduction slows the Navy, Marine Corps, and Marine Corps Reserve F/A–18 modernization plan, forcing deployed airwings to prolong the use of older, less capable F/A–18 aircraft and thereby decreasing our warfighting capability.

The request for 24 F/A–18C/Ds is based on the requirement for the most modern Hornets to serve the front-line operational squadrons. Modernization with the newest F/A–18's is essential to provide the Fleet with capabilities of the "Night Strike" F/A–18C/D's more powerful engines, upgraded radar, AIM–120 AMRAAM missiles, a Forward-Looking Infrared (FLIR) sensor with a laser for self targeting, multi-sensor integration and growth provisions for a positive identification system. Also, continued procurements of F/A–18C/D aircraft will provide an important industrial bridge to the follow-on F/A–18E/F production.

As always, if I can be of any further assistance, please let me know.

Sincerely,

JOHN H. DALTON,
Secretary of the Navy.

DOD APPROPRIATIONS BILL AND THE B–1 BOMBER

Mr. PRESSLER. Mr. President, I rise today to speak in support of the B–1 1 Bomber. I am pleased to report that the readiness exercise involving the B–1 bomber, currently taking place at Ellsworth Air Force Base in my home State of South Dakota, is progressing impressively. For those of my colleagues who do not know, this test was mandated by last year's Defense authorization bill. Many doubters believed the test would put the final nail in the B–1 coffin. Fortunately, they were wrong. In fact, 2 months into the test the B–1 is demonstrating a mission capable rate of nearly 85 percent—approximately 10 percent above the standard established by last year's Defense authorization bill.

Because of the success of the test currently being conducted, it is now clear that if the B–1 is provided the parts and logistical support it requires to perform its mission, it can do so with flying colors. However, with the exception of the ongoing test, the B–1 has never been provided adequate funding for spare parts or logistical support.

I am concerned about the Senate version of the fiscal year 1995 Defense appropriations bill. The language in the bill fully funds the request for bomber modification and modernization programs and then fences the funding for all new upgrades pending the completion of a cost and operational effectiveness assessment [COEA]. This fencing will disrupt the Conventional Munitions Upgrade Program [CMUP], which is the overall DOD plan for converting the B–1 to a conventional bomber, for at least a year. The B–1 industrial base will be disrupted during this time frame and a team of 300 dedicated engineers would have to be disbanded.

The committee language fencing fiscal year 1995 appropriations for all new starts would halt the following modifications: first, Cluster Bomb Units; second, Secure Communications Radio; third, Global Positioning System; fourth, Joint Direct Attack Munition [JDAM]; and fifth, Electronic Countermeasures Upgrade [ECM].

These programs are fundamental to converting the B–1 to a conventional bomber. I cannot understand why anyone would want to stop the conversion of the B–1 at this point in time.

A robust bomber force is required for the defense of the United States and for the projection of American power worldwide. The adequacy of our current and projected bomber force is a matter of significant concern to many Members of Congress. I voted in favor of funding a contingency production industrial base program for the B–2. If we are going to consider contingencies to protect the B–2 industrial base, we should, in that same spirit give equal consideration to protecting the B–1. In

VOL 140 PT 15 AG 10 — 11 1994 UMI

the opinion of General Mike Loh, Commander of Air Force Air Combat Command, the funding restriction in the Senate Appropriations Committee language cripples the B–1 upgrade program. In order for the Air Force to perform wartime missions with a significantly reduced force the B–1 must be converted to conventional capability sooner rather than later.

Mr. President, I strongly object to the inclusion of section 8101 in the fiscal year 1995 DOD appropriation bill. I urge my colleagues to reconsider the inclusion of the fencing language in this bill and to level the playing field for all bombers. I urge all conferees to consider carefully action taken today by conferees to the Defense authorization bill, they approved an administration request for $154 million in procurement and $74 million in research to upgrade the B–1 for conventional missions. I urge conferees to the Defense appropriations conference to reject any restriction on conventional upgrades to the B–1 bomber.

Mr. ROTH. Mr. President, I intend to vote against this appropriations bill. But, before I get into the details of my concerns, I think it is important to recognize and applaud the Appropriations Committee for including $380 million in the bill to give military retirees their well deserved annual cost of living adjustment next April, instead of next October. I remain hopeful that the President will rectify the cost of living inequity through 1999 in next year's budget submission.

Mr. President, I believe the treatment accorded the B–2 bomber typifies the failure of the Congress in tackling the national defense budget. Congress makes a great deal of noise about reducing the defense budget and focusing on core national security needs, but, when push comes to shove, very few Members want to make real cuts. Congress proudly announces to the public that we have cut the unneeded programs, while funding an additional $150 million to keep contractors working on the B–2 bomber, a program that is limited to 20 aircraft, all of which have already been funded. Meanwhile, the Congress is so committed to paying for military contractors to transition into the commercial marketplace that the appropriation bill shorts funds needed to defend against a very real ballistic missile threat in the Korean peninsula and elsewhere.

Mr. President, I am also concerned about a growing double standard in this body. Members of Congress give speeches demanding ever deeper cuts in the defense budget and then rush to the floor to protect weapon systems which are manufactured in their States. If Congress continues with this business as usual approach Congress will, in effect, have arrived at a bipartisan consensus not to make needed adjustments to our national defense budget. Such a position is indefensible at a time of escalating international tension.

Mr. President, 10 days ago, Senator GRASSLEY and I released a GAO report which found that the Defense Department Future Years Defense Plan is underfunded by more than $150 billion. I am concerned that the administration and the Congress continue to avoid the tough decisions that need to be made. Meanwhile, the Clinton administration has sent troops into Rwanda and the Balkans, and we are openly discussing the invasion of Haiti and a major injection of troops into Bosnia. All the while, we face a real danger of a major military conflict in the Korean peninsula. Yet, only $1 billion is included in the 5 Years Defense Plan to cover these costs. The bottom line here is that there is not enough money to pay for the administration's national security strategy. Sooner or later the bills will come in. When they do, tens of billions of dollars will have to be found or the hollow Army of the 1970's will recur.

If we are to avoid a return to the hollow Army of the 1970's, tough management decisions will have to be made. Programs will have to be terminated, not stretched out. Major management reforms will have to occur. To sum up, Mr. President, I cannot support this Defense appropriations bill because it does not incorporate the tough decisions needed to maintain our Nation's security.

IMPACT AID

Mr. EXON. Mr. President, I would like to engage the distinguished chairman of the Defense Appropriations Subcommittee in a colloquy to clarify the Senate's intention regarding the impact aid appropriation to the Department of Defense.

It is my understanding that this bill includes an appropriation of $119 million for impact aid assistance to school districts enrolling large numbers of military-connected children, and that this amount represents an increase of $61 million over the 1994 appropriation.

Mr. INOUYE. The Senator from Nebraska is correct.

Mr. EXON. I also understand that this increase was intended to compensate for a reduction in impact aid funding of the same amount in the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1995.

School districts in my State have expressed the concern that the most effective way to allocate these Department of Defense funds would be to transfer them to the Department of Education, which administers the lion's share of impact aid funding. It also seems to me that it would be better to let the Department of Education distribute these funds than to ask the Department of Defense to develop a larger, duplicative impact aid bureaucracy.

So I ask the distinguished senior Senator from Hawaii if he would agree that the additional $61 million in impact aid funding included in this bill should be transferred to the Department of Education.

Mr. INOUYE. I would agree with the Senator from Nebraska that the purposes of the Impact Aid Program—including meeting the needs of military dependent students—would best be met if these funds ultimately are transferred to the Department of Education.

Mr. EXON. I thank the Senator from Hawaii for that clarification.

Mr. BYRD. Mr. President, I commend the chairman of the Defense Subcommittee, Senator INOUYE, and the ranking minority member, Senator STEVENS, for the outstanding manner in which they have handled this very important legislation. I believe this is the earliest that we have reported and passed a Defense appropriations bill since I became chairman of the Appropriations Committee in 1989.

Balancing the competing interests that vie for attention in the context of the defense bill is becoming a more and more difficult task, since not only are we continuing the down-sizing of the department but more and more activities, particularly in the foreign policy arena, that are looking for funding have come to the Defense Subcommittee for satisfaction. There may have been as many foreign policy amendments that we have addressed in the context of Floor consideration of this measure as there have been amendments dealing with the standard fare in procurement, operations, and research that is the cache of the usual legislative format.

In the context of all these competing demands, however, the Senate could not have been better represented to adjudicate and make fair judgments as to the merits of all these competing claims than by the Senator from Hawaii and the Senator from Alaska, who manage the Defense Subcommittee so effectively. I with I could say the pressures on the subcommittee will be eased, but I fear they will grow in intensity into the future. Pressures on the defense budget and discretionary spending, in general, remain intense and until this government steps up to the agonizing task of reviewing and reforming our entitlement system or, if the economy does an unexpected burst into the black, the situation will remain difficult at best.

Mr. President, I want to point out to all Members that there are some extremely time-sensitive matters, particularly involving our involvement in Rwanda that have been addressed in this measure. I hope that it will be possible to conclude a conference on this measure before the August recess but that is, at best, uncertain. In the alternative, a letter has been sent to the President, signed by me and the distinguished ranking minority member of the full committee, as well as the chairman and ranking minority member of the Defense Subcommittee, indicating our strong believe that the reporting requirements associated with the Rwanda matter that are included in the bill be addressed by the administration, even in the absence of a conference agreement. The timelines for the remainder of this session and what Congress will, I believe, accept as a duration of the Rwanda operation are very short, and I believe that the reporting requirements will be adopted by the conference committee. If we are going to disengage from Rwanda in a responsible and effective way around the time we adjourn sine die, the administration should act on the reporting requirements in the bill beginning today.

Again, I commend the leadership of the subcommittee for a job well done.

Mr. President, I ask unanimous consent that a letter to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, August 11, 1994.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On July 29, 1994, the Senate Appropriations Committee reported to the Senate a fiscal year 1994 Supplemental Appropriations measure incorporated in H.R. 4650, the fiscal year 1995 Department of Defense Appropriations Bill. The supplemental would provide $170 million for the Defense Department's Rwanda relief efforts. The bill also establishes congressional policy on the Rwanda relief effort, and requests three time-sensitive reports from the Administration on this matter.

Earlier today, the Senate completed action on H.R. 4650 and included the above-mentioned provisions. We firmly believe that the Congress will adopt this language as it appears in the Senate-passed bill. Therefore, we respectfully urge you to take the necessary actions to ensure that these reporting requirements are met.

Sincerely,

ROBERT C. BYRD,
Chairman,
MARK O. HATFIELD,
Ranking Minority Member,
DANIEL K. INOUYE,
Chairman, Subcommittee on Defense,
TED STEVENS,
Ranking Minority Member, Subcommittee on Defense.

Mr. DOLE. Mr. President, during this debate, much has been said about the state of readiness of our military forces. And many of my colleagues have expressed their concern over the deep cuts the administration is making in defense spending. Both sides of the aisle—Republicans and Democrats—are increasingly alarmed about the effects these cuts are having on readiness, the morale and welfare of our military personnel and their families, and on our industrial base.

Let me briefly summarize what is going on here: According to the Defense Department, the number of Army divisions was cut from 18 divisions under President Reagan, to 12 divisions under President Bush, with President Clinton cutting our Army further to 10 Active divisions. Navy ships will be cut from 546 under President Reagan to just 330 under President Clinton. Air wings will be slashed by almost half—from 24 to 13. And over 620,000 active duty military personnel will be slashed from the Armed Forces this decade. All the way down the line, our ability to fight and win is being dismantled.

Even the Washington Post joined the Washington Times in noting that the President's Defense plan is both inadequate and massively under funded. The fact is, President Clinton's defense plan is simply not sufficient to maintain American security and American leadership. The fact is, the President's defense plan will not meet his declared objectives of fighting and winning two nearly simultaneous major regional conflicts. The fact is, even this inadequate force is not funded.

According to the GAO, the budget shortfall of the so-called bottom-up review force is $150 billion.

I would ask that the full text of these articles be placed in the RECORD accompanying my remarks.

No doubt about it, the President's defense plan is hollow. His defense budget is hollow. And no one should be surprised when our forces become hollow. In fact, the administration's own blue ribbon panel on readiness recently revealed that pockets of unreadiness are already showing up in each of the services.

What is needed is leadership. You cannot just wish threats away. You can't simply hope that other countries are going to meet the challenge for us. You cannot defer American leadership and American responsibilities to the United Nations. America must lead. And to lead, America must be strong.

The administration has failed the test. This is not a serious defense plan—and this is not a serious defense budget.

The distinguished chairman, Senator INOUYE, and the ranking Republican, Senator STEVENS have each sounded a clear warning. And I commend them for their efforts in trying to craft a responsible defense bill from an inadequate budget request. Yet in the final analysis, this is an inadequate bill.

I want to send a message that it is time for the administration to face up to the facts and get serious about our national security.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times, Aug. 8, 1994]

DEFENSE CUTBACKS HAVE MANY FEARING A LOSS OF READINESS

ALARM SOUNDED EVEN BY LIBERALS

(By Rowan Scarborough)

Rep. Ike Skelton, pro-defense Democrat from America's heartland, was doing some back-of-the-envelope calculations one day this spring and was startled by what the numbers showed.

The Defense Department's so-called Bottom Up Review (BUR), the Clinton administration's forecast of long-range spending, left the Army with 495,000 active-duty soldiers by 1997, about 306,000 of whom could be deployed to regional conflicts.

Since Operation Desert Storm used 275,000 Army troops, Mr. Skelton wondered, how could the Pentagon possibly conduct two regional conflicts nearly simultaneously—the BUR's central thesis.

"It worries me. It worries me," said the plain-speaking Missourian, who influences defense policy as chairman of the House Armed Services subcommittee on military forces and personnel.

"In the briefing I got early on from my friend [Deputy Defense Secretary] John Deutch, it appeared to me you just can't do that with the numbers he's talking about," Mr. Skelton said.

Mr. Skelton has long advocated a fleshy Pentagon budget. So it is not surprising he is yelling ouch every time the Pentagon lops off a few thousand more soldiers or cuts a weapons production line.

Others are giving similar warnings. Sen. Daniel Inouye, Hawaii Democrat, the liberal chairman of the Senate Appropriations subcommittee on defense, says the Pentagon is buying so few new weapons that private industry may not be able to produce future systems.

Commenting on his panel's defense bill for next year, he said: "This bill will buy only 17 combat aircraft. This year the Army will buy no tanks—unheard of. This year the Navy will buy four ships. * * * We are staving off the collapse of the defense industrial base."

Last month, a special task force on readiness comprising eight retired generals and admirals issued a report to Defense Secretary William Perry. Already, they wrote, "pockets of unreadiness" are erupting in the Air Force, Army, Marine Corps and Navy.

The General Accounting Office, Congress' auditing agency, concluded that the Pentagon is $150 billion short of paying for the troops and weapons the BUR envisions.

"There is a general structural problem facing the department," said Larry Seaquist, a former Navy captain who recently retired from a Pentagon policy and is now a private consultant. "They've got the right objective, but continued reductions in the amount of money is really going to continue to place stress on readiness."

Added Mr. Skelton, "Money. Money. It's all money. There's no money for all this."

Some critics say the Pentagon has no intention of meeting some of the BUR's procurement targets. For example, the plan calls for an Air Force bomber fleet of 184 B–1Bs and B–2s. But the Air Force actually plans to field no more than 120 bombers by the late 1990s, according to internal budget documents cited by the Senate Armed Services Committee.

The Clinton five-year plan projects a 346-ship Navy, down 100 from the post-Cold War fleet plan by President Bush. But the figure is not correct there, either. The Navy really

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plans a 300-ship fleet, deciding it can make do with fewer repair ships and amphibious assault craft.

No one at the Pentagon wants to utter that awful six-letter word. But occasionally "hollow" is creeping into discussions on how Mr. Clinton's military might look in 1997 as his first term ends.

"Hollow" refers to military units in the post-Vietnam 1970s that lacked the weapons, equipment and trained personnel to make them fully operational. The readiness task force told Mr. Perry, "We are convinced that unless the Congress focus on readiness, the armed forces could slip back into a hollow status."

The question is politically important for the president.

Mr. Clinton campaigned on a platform of cutting the Pentagon's five-year budget by $60 billion more than the Bush plan. But once in office he ended up slashing $120 billion. If the budgeting gamble leads to a damaged armed forces, Republicans may make the state of the military a campaign issue, much as Ronald Reagan did in his successful 1980 campaign.

The Cold War's aftermath has not provided a breather. First there was Desert Storm, requiring 540,000 U.S. troops—the largest overseas deployment since the Vietnam War—to eject Iraqi forces from Kuwait. Then came the 1992 deployment of 30,000 soldiers to Somalia. Now the Pentagon is deploying 3,000 troops to central Africa to care for more than 1 million Rwandan refugees.

And Mr. Perry is talking about a larger role for U.S. forces in Bosnia, seeing a U.S. peacekeeping contingent of more than 20,000 troops if a treaty is signed. His staff has drawn up an invasion plan for Haiti that will require more than 15,000 personnel. And the department plans to bolster 37,000 troops in South Korea if trouble erupts with North Korea.

Humanitarian missions such as Somalia and Rwanda are themselves a drain on readiness. While such operations hone the skills of logisticians and cargo-jet pilots, they take soldiers away from training.

A Pentagon policy-maker said the Army has committed 25 percent of its logistics people to Haiti, Bosnia and Rwanda. "You'd be surprised by the large portion of active duty that is absorbed in what appears to be fairly easy logistical support," the official said.

The task force of retired officers cited several "pockets of unreadiness" that could spread across the armed forces unless the Pentagon and Congress keep a vigilant watch. Their report said the Army, for example, is putting soldiers into jobs for which they are not trained, prompting a patchwork response to servicewide "turbulence" throughout the service.

In an interview, a Navy flier disclosed another potential "pocket." He said carrier squadrons are cutting back on pilot flying hours during the time the unit is awaiting its next sea deployment. "If you don't practice, you don't stay proficient. We're getting minimal, minimal flight hours," the flier said.

A senior Navy official who requested anonymity confirmed the cutback. He said the Navy needs the money to pay for unanticipated steaming hours for ships in the Pacific in a show of force for North Korea and in the Mediterranean to support U.N. troops in Bosnia.

He said the navy is keeping two carriers, the Kitty Hawk and the Independence, on duty in the western Pacific, where normally just one would be operating.

"Readiness will be severely reduced" for some squadrons that are weeks away from a sea deployment, the official said. But he maintained that overall Navy readiness of 85 percent of all forces was only expected to drop 2 percent because of the money shortfall.

Meanwhile, Mr. Skelton is trying to sell a plan for a 12-division Army, instead of 10.

"People should understand the military is an insurance policy," Mr. Skelton said. "You cannot shortchange it. Just because the walls came down does not mean all is well in the world."

CAN THE PENTAGON AFFORD ITS FUTURE

GOALS OF BOTTOM-UP REVIEW IN DOUBT BECAUSE OF BUDGET GAP

(By Bradley Graham and John F. Harris)

Nearly a year after the Pentagon unveiled its grand plan for a slimmer, more versatile military to take the nation into the next century, the strategy is questioned by skeptics who see a growing mismatch between the Clinton administration's national security aims and its ability to pay for them.

The cornerstone of the plan, known as "the bottom-up review," is the assumption that the United States should retain the ability to win two virtually simultaneous regional conflicts the scale of the Persian Gulf War. But doubters within the Pentagon and outside ask whether such a blueprint is workable.

When the plan was released last fall by then Defense Secretary Les Aspin, many skeptics of military spending said it didn't go far enough in scaling back U.S. forces to reflect the more benign post-Cold War world. Increasingly, though, even those who agreed with the goals of the bottom-up review doubt it can live up to its promises.

The concerns center on two main questions: Is the reduced force structure called for in the plan sufficient to fight two major regional conflicts nearly simultaneously? And is the $1.2 trillion the administration plans to devote to defense spending between now and 1999 enough to support the level of force proposed?

The concerns came into sharp focus earlier this year at a training center in Quantico when senior U.S. commanders engaged in a war game to test the two-war scenario.

Victory, they found, depended on assuming—rather unrealistically—that the rest of the world would place no additional demands on U.S. forces during the fighting. Numerous peacekeeping and humanitarian operations in which American troops now are engaged were left out of the exercise.

"There were some soft spots" in projected U.S. capabilities, Adm. Leighton Smith, head of allied forces in southern Europe, recalled at a recent Naval War College forum. "When someone says the plan will work if everything else goes okay, I worry."

Even William J. Perry, who inherited the bottom-up review as Aspin's successor at the Pentagon, concedes that reality is falling short of the plan in some respects. Last month, he told the Navy Times that the United States now couldn't win two nearly simultaneous regional wars. But he said that weapons modernizations—known as "force enhancers"—over the next few years will increase capability.

The debate reflects the absence of consensus on how much of a military the country needs now that the Soviet Union is gone. Liberals were astonished and angry when President Clinton said that there would be no further cuts than those called for in the review. Many military leaders, meanwhile, believed they were being asked to prepare for threats in a still-dangerous world without sufficient resources.

But both sides agree that the gap between Clinton's promise of a robust force at reduced cost and the reality of expensive post-Cold War operations—such as enforcing an embargo of Haiti or helping refugees in Rwanda—is undermining credibility in the bottom-up review.

"It just doesn't work," said Rep. Ike Skelton (D-Mo.), an early critic. "It just doesn't fit the way they say it does."

Just last week, the General Accounting Office told Congress that the Pentagon's $1.2 trillion estimate of the plan's cost is $150 billion short of the real cost over the next five years. The Pentagon agrees there is a gap but says it is closer to $40 billion.

Top Pentagon officials acknowledge that fulfilling the bottom-up review will be a stretch but insist they have no plans to back off it. Defending the program as realistic and achievable, the officials say the plan's biggest virtue may be its central role in structuring how the military, the White House, Congress and others talk about defense in the post-Cold War world.

"That's an enormous achievement," Deputy Defense Secretary John M. Deutch said in an interview. "We see no reason to change the basic framework."

The Clinton administration inherited the two-war strategy from the Bush administration and decided to stick with it, out of both prudence and politics. It was prudent to let potential adversaries know that if the United States got embroiled in one major regional conflict, it could still handle a second. And politically, it was difficult to win congressional acceptance for anything less.

But the Clinton administration is trying to carry out the same strategy with about 200,000 fewer troops and $104 billion less funding over the next five years than President George bush had proposed.

Army divisions and Navy ships are being cut about one-third from 1990 levels, and the number of Air Force wings has been halved. Operating funds, down about a quarter, are not being cut as much as force structure in order to preserve readiness, but procurement has been curtailed 60 percent to keep overall defense spending within limits set by Clinton during the presidential campaign.

Military officers say that has begun to pinch, and they are worried especially about the decline in dollars for weapons modernization.

"The smaller you make the Army, the more modern you've got to make it, and that hasn't happened," said Maj. Gen. Jay Garner, who works on force planning for the Army. He said that there is little doubt the United States could defeat any enemy, but he said reductions in preparedness mean "more casualties than the nation's willing to accept."

Other experts criticize the Clinton strategy as short-sighted, saying it is too focused on planning to refight the 1991 Gulf War more effectively. The real danger a decade or so from now, these experts say, will come from aggressive regional powers that by then will have adopted substantially different strategies and force structures than those anticipated by the bottom-up review.

Andrew Krepinevich, a former Army officer who now heads the Defense Budget Project, said that the military should use the current period of relative peace to invest in new technologies and military doctrines, rather than spending money on the unlikely scenario of two regional wars.

Others say that the bottom-up review calls for spending too much developing new weapon systems, such as the $99 billion F-22 fighter jet program. Expensive weapons development, according to this argument, tends to force commanders to skimp on more important factors, such as training and readiness to use the weapons the military already owns.

"You start cutting on apples and oranges, when it's really the mangoes and avocados that are draining you," said retired Rear Adm. Eugene J. Carroll Jr., director of the Center for Defense Information, a public interest group.

Another frequent criticism of the plan is that it has failed to set priorities between preparing for major regional conflicts and preparing for unconventional operations such as peacemaking. The plan assumes that forces trained for conventional conflicts can be shifted readily to unconventional operations with little or no loss of military effectiveness.

Harlan Ullman, a defense analyst with the Center for Naval Analyses, a federally financed research group, estimates that U.S. military capability will decline by a third by the end of the century. "It's death by a thousand cuts," he said.

Senior Pentagon officials say whether the United States could fight two regional wars nearly simultaneously isn't as important as whether potential adversaries believe it could.

"We were trying to put a marker down," said Ted Warner, assistant secretary of defense for strategy. "It's a planning projection, it's not a prediction."

Besides, as Pentagon officials like to point out, there is a congressional consensus behind the two-war strategy, which makes it particularly useful in trying to protect the defense budget from additional cuts.

But whether the country ultimately can afford the strategy is indeed questionable.

The plan fell more than $31 billion short almost immediately after its unveiling when inflation projections were raised and Congress refused to go along with a military pay freeze recommended by the Pentagon.

Clinton shifted more than $11 billion to the Pentagon in his budget proposals, but a shortfall of $20 billion remains over the next five years.

Defense Department officials figure that higher-than-budgeted increases in military pay will add another $18 billion in unanticipated costs over the next few years, bringing the total shortfall to nearly $40 billion during the life of the bottom-up review plan. But other estimates of the gap have run much higher, figuring lower savings from base closings and management initiatives and higher costs in weapon systems, environmental cleanup requirements and peacekeeping operations.

The funding problem could ease considerably if inflation is lower than projected. Help also could come if substantial savings result from the Pentagon's recent efforts to streamline acquisition procedures and buy more off-the-shelf commercial products.

If not, Clinton faces some options, all unpleasant. He simply could raise the top line on defense spending, although that would mean trimming some nondefense programs.

Alternately, he could further defer military modernization or put off environmental cleanup projects. Or he could push for an even smaller military.

"These would be very painful choices," said Pentagon comptroller John Hamre, "and they would mean that we wouldn't have the same program we briefed on a year ago."

NATIONAL CENTER FOR MANUFACTURING SCIENCES

Mr. SASSER. Mr. President, I rise today in support of the National Center for Manufacturing Sciences. The NCMS helps to reengineer the way we design and build weapon systems by bringing what U.S. manufacturers have learned about commercial practices and global competitiveness to defense industrial base manufacturing.

General Motors and the people of Tennessee design and build the Saturn. It is unquestionably one of the best success stories of the automotive industry. The Saturn program has blazed new trails in manufacturing—creating jobs and spurring economic growth in the process. The NCMS provides the forum in which the Defense Department and its contractors can access and utilize the know-how of General Motors and over 180 leading U.S. corporations to help benchmark, leverage, and modernize manufacturing processes. I hope my distinguished colleagues will support this important effort.

B-1B BOMBER UPGRADES

Mr. DOLE. Mr. President, I want to express my concern over a provision which, in my view, threatens the strength of our bomber force and our Nation's ability to project power. Section 8101 of the committee bill fences the conventional weapons modifications for the B-1 bomber until the completion of a cost-effectiveness analysis.

Now I support the prudent use of our scarce defense resources. But in my view, the question of the utility of our B-1 bomber fleet has been answered. The congressionally mandated test of the B-1 now under way at Ellsworth Air Force Base has demonstrated that the critics of the B-1 are wrong. The readiness rate is running at over 81 percent, which far exceeds the requirement of 75 percent.

The Air Force bomber roadmap and the administration's so-called "Bottom Up Review" validate the requirement for 184 bombers—a logical mix of B-52's, B-1's, and B-2's. In my view, the language in this bill threatens the future capabilities of the B-1 and may result in a bomber force that can't do the job.

The reason for my concern is that the fence applied by this provision prevents the obligation of funds which would outfit the B-1 with cluster bombs, secure communications, an enhanced navigation system, state-of-the-art smart weapons, and other modifications that would make the B-1 a fully capable conventional bomber. A total of $79 million in vital modifications are put in limbo until the completion of the required study. While the committee report "anticipates" completion of this study in time for the congressional budget cycle, no date certain is established. And our experience with such studies suggests that they often take a year or more. In the meantime, the critical industrial base that would support the conversion of the B-1 would be lost.

I applaud the distinguished chairman's desire to build more B-2 bombers, and I support him in that effort. But it seems to me that this provision has the unintended effect of pitting one bomber against another. And the ultimate outcome could be a much smaller and less capable bomber force. The fact is, we need all three bombers.

I ask the chairman and the ranking Republican, Senator STEVENS, if they will seek to remedy this problem in conference. I don't challenge the intentions of this provision; however, in my view, the unintended effects could be devastating.

JPATS AMENDMENT

Mr. DOLE. Mr. President, the amendment I have offered is crafted to preserve the commitment to future security. It is my understanding that the Secretary of Defense is considering slipping the Joint Primary Aircraft Training System for 7 years—over the loud objections of the Air Force. In my view, this would break faith with our future pilots. It would break faith with our future security. And it would break faith with industry.

The J-PATS Program will select and build the next generation pilot training system that will train future Air Force and Navy pilots well into the next century. It is a good program and one that nearly everyone has agreed we desperately need. The reason for this proposed "slip" is money, a problem the administration has inflicted upon itself. And while the administration talks a good game about readiness and training, their actions don't seem to square with the rhetoric.

The President has made the verbal commitment to preserve the best trained, best equipped military in the world. But any decision to skip this program is a breach of that commitment. No one should be surprised when the GAO recently announced that the President's defense plan is underfunded by $150 billion. But the answer to that problem is not canceling more programs—there are very few left as it is. And canceling vital training equipment like J-PATS is even more wrong. It would be mortgaging the future.

During World War II, I remember having to train with a broomstick. There were not enough rifles to go around because America was not prepared. The current primary trainer, the T-37, is nearing 50 years old, and the T-34, while not quite as ancient, has limited life remaining. In my view, these aircraft represent the "broomsticks" of the 1990's. With the current generation of sophisticated aircraft and the next generation soon to come into production, it is wrong to cut corners on training and expect that we will maintain superiority in the skies. We would

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1994
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be breaking faith with our future pilots, and breaking faith with our security.

Slipping J-PATS also breaks faith with an industry which has invested heavily in this hard-fought competition. We can't continue stringing industry along, forcing them to spend millions to compete, and then pull the rug out from under them. I have heard a lot of talk about erosion of the industrial base, and this is a classic example of how that occurs.

There is nothing wrong with the program. No one has cited it for abuse or mismanagement. To date, J-PATS has been a model program, and I think we should get on with it. We owe it to our pilots and to our future. I urge the adoption of my amendment.

ARMY BREAST CANCER RESEARCH PROGRAM

Mr. LEAHY. Mr. President, every one of us knows someone who has battled breast cancer. Every 3 minutes, another woman is diagnosed, and every 11 minutes, another woman dies from this terrible disease.

We cannot bring back those we have lost to the disease. But we can renew our efforts to beat this enemy for those who are fighting it today and for all women who will face it tomorrow.

That is why I urge Senators to support the continuation of the Army Breast Cancer Research Program, which Senator HARKIN and I worked to fund at $210 million in 1992.

This program has been a resounding success—increasing current research efforts as well as inspiring new efforts on the part of some of the Nation's best and most experienced researchers.

The Army received over 3,000 proposals in response to a solicitation for breast cancer research projects. A successful peer review process funded over 400 of these innovative proposals with the original $210 million appropriated by Congress.

When Army officials briefed me on the program this spring, they pointed out that several hundred additional meritorious proposals were left unfunded. Clearly, there is tremendous interest in this program and many other avenues of research to pursue if we are willing to continue funding this effort.

If funding is not continued in a consistent and committed way, the incentive to plan and pursue new research will be gone, the momentum will be broken, and I fear that we will lose the ground we have gained in battling breast cancer.

As a member of the Appropriations Committee, I worked this year to include report language in the fiscal year 1995 appropriations bill that directs funding for the Army program to continue on-going efforts and encourage new breast cancer research. My language urges the Army to solicit a new round of proposals and initiate another peer review process.

I know that Chairman INOUYE was faced with many program requests and a limited number of dollars this year. I requested that the chairman include $150 million, the same level as the House, for the Army program.

I look forward to working with the chairman and other Senators in conference to increase the current funding level of $60 million so that we can build on the research efforts that are currently underway.

The eradication of breast cancer has become a national priority, but we have a long way to go in this battle. I want my voice to be heard with the many breast cancer survivors, their families and friends in Vermont and across this Nation.

I join with Senators HARKIN, MIKULSKI, FEINSTEIN, D'AMATO, MURRAY and others who have championed this effort to support and continue the valuable work of the Army Breast Cancer Research Program.

MEGAN KANKA—AMENDMENT NO. 2541

Mr. DOLE. Mr. President, last week, America was shocked by the brutal murder of 7-year-old Megan Kanka, who was raped and strangled to death near her home in Hamilton Township, NJ. The police have arrested a twice-convicted sex offender, a neighbor of the Kanka family, who had served just 6 years of a 10-year sentence.

Unfortunately, the Kanka family and the residents of Hamilton Township had no idea that the beast who committed this horrendous crime was out loose in their community. If they had known about the criminal history of Megan's killer, there's a good chance that Megan would still have a childhood—and a future.

The amendment I am offering today targets that small group of predators who terrorize our playgrounds and parks, seeking to harm the most vulnerable in our society. Even after a sexual predator has been apprehended, convicted, sentenced, and incarcerated, there's no guarantee that he will not strike again once he has been released onto our streets.

the amendment is virtually identical to a bill introduced last week by Senator SLADE GORTON and Representatives DICK ZIMMER and JENNIFER DUNN. Representative ZIMMER, in particular, has been extremely helpful to me in explaining his proposal and sharing his insights on how best to target these vicious criminals and to keep local communities informed of their whereabouts.

In a nutshell, the amendment directs the Attorney General to establish guidelines for State programs requiring a sexually violent predator to register a current address with the appropriate State law enforcement agency. Any State that fails to establish a registration program within 3 years could suffer a 10 percent reduction in Federal law enforcement funding. Any funds that are released in this way are then re-allocated to those States that do have registration programs.

Registration with the State law enforcement agency must occur at the time the convicted sex offender is released from prison, placed on parole, or placed on supervised release. The State agency must then transmit this information to the FBI and to the local police department for the community in which the sex offender resides.

The amendment also requires the sexually violent predator to verify his residence with the State agency on a quarterly basis. This should help ensure that local law enforcement officials are kept up-to-date on the whereabouts of those sex offenders who are subject to the registration program.

In addition, the amendment contains a community notification provision. This provision requires State law enforcement agencies to release any information that is necessary to protect the public from a sexually-violent predator.

I know that some of my colleagues view this public notification requirement as a violation of the criminal's privacy rights. Other have described it as a modern-day "scarlet letter." But I happen to agree with one of the Kanka family's neighbors, who recently explained to the New York Times: "An innocent child's rights outweigh a criminal's rights. Posting warnings is a way to extend control beyond the limits of the sentence." The bottom line is that communities like Hamilton Township, NJ, have a right to protect themselves. If someone is so concerned about being branded a sexually-violent predator, he shouldn't commit the crime in the first place.

Finally, Mr. President, I want to thank Senator GORTON and Representative ZIMMER for their efforts on behalf of this amendment. This amendment is really their idea, and they deserve the credit for bringing this important issue to the Nation's attention.

NATIONAL CENTER FOR MANUFACTURING SCIENCES

Mr. DECONCINI. Mr. President, I rise today to speak on the activities of the National Center for Manufacturing Sciences [NCMS]. The report accompanying the fiscal year 1995 Defense appropriations bill, which we are debating today, contains critical language questioning the appropriateness of continued Defense Department funding for the NCMS. I recognize and support the need for ever-increasing scrutiny of funding for Defense Department programs, especially those whose only rationale for receiving funds each year is that they had received funds the year before. There are many programs which fall into this category, but this Senator believes that NCMS is not one of them.

The purpose of the NCMS goes right to the heart of DOD's goal, as stated by

Dr. Anita Jones, the Director of Department of Defense Research and Engineering, when she testified before the Senate Armed Services Committee this past spring that centers such as the NCMS are what we need to assist in the transition from a defense-oriented economy. She stated that DOD's

Vision for the 21st Century manufacturing is for an integrated civil/military industrial base that can provide a flexible response to our needs for a variety of product demands at varying rates, and can reduce the cost of defense components and subsystems from dual-use production lines.

NCMS provides this type of integration. In fact, the program is designed to give the Department access to the manufacturing and research capabilities of all members of the NCMS.

As we move toward refocusing the priorities of the military-industrial complex which has served our Nation's Armed Forces so well for so many decades, we must carefully examine new methodologies and approaches to solve new problems. I think that the NCMS can make a positive contribution toward this end and I am hopeful that the Senate can move closer to the House position during conference.

The PRESIDING OFFICER. Are there further amendments to the bill?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Let me say, before I send amendment No. 2515 to the desk, that I do not intend to pursue the amendment. I am going to send it to the desk and speak on it briefly and then withdraw the amendment. I am trying to accommodate the managers of the bill.

AMENDMENT NO. 2515

(Purpose: To require the Secretary of Defense to undertake a comprehensive review of the Bottom-Up Review and the Future Years Defense Program and, upon completion of that review, report to the President and the Congress on the proper funding levels and priorities, and for other purposes)

Mr. DOLE. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. MCCAIN, Mr. ROTH, and Mr. SMITH, proposes an amendment numbered 2515.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) FINDINGS.—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom Up Review to properly structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Joint Staff officer responsible for force planning testified on March 1, 1994, that the Bottom Up Review force structure exposes U.S. troops to a "high element of risk;"

(3) Whereas the Secretary of Defense has testified that the Department of Defense's Future Years Defense Program includes $20 billion more in program funding requests during fiscal years 1996 through 1999 than the defense funding levels in the Administration's budget can support;

(4) Whereas the General Accounting Office reported in July 1994 that the Administration's Future Years Defense Program may be underfunded by as much as $150 billion;

(5) Whereas, the Secretary of the Navy has testified that the Department of the Navy will only operate 330 ships rather than the 346 ships required by the Bottom Up Review;

(6) Whereas, in January 1994, in his Annual Report to the President and the Congress, the Secretary of Defense reported that the Air Force will field approximately 100 heavy bombers rather than the 184 required by the Bottom Up Review;

(7) Whereas the Department of Defense's plans for a major regional contingency in the Far East call for 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for 7 Army divisions, while the Bottom Up Review plans for an Army of only 10 active divisions;

(8) Whereas the Administration's budget assumes the Department of Defense will save at least $6 billion from procurement reform;

(9) Whereas the first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base closure round may cost significantly more than is assumed in the Administration's budget;

(b) REQUIREMENT.—

(1) The Secretary of Defense shall, within 30 days after enactment of this legislation, initiate a review of the assumptions and conclusions of the President's Budget, the Bottom Up Review, and the Future Years Defense Program;

(2) Not more than 60 days after the review described in (b)(1) is initiated, the Secretary of Defense shall submit to the President and to the Congress a report detailing the funding level required for the defense and national security of the United States;

(3) The President shall, when submitting to the Congress the budget for the United States Government for Fiscal Year 1996, submit a defense budget for fiscal year 1996 and a Future Years Defense Plan which represents the funding level described in (b)(2).

AMENDMENT NO 2515, AS MODIFIED

Mr. DOLE. Mr. President, I send a modification to amendment No. 2515 to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2515), as modified, is as follows:

At the appropriate place insert the following new section:

SEC. . REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) FINDINGS—Congress finds as follows:

(1) Whereas the Administration commissioned the Bottom Up Review to properly structure the Armed Forces of the United States for the Post-Cold War Era;

(2) Whereas the Joint Staff officer responsible for force planning testified on March 1, 1994, that the Bottom Up Review force structure exposes U.S. troops to a "high element of risk;"

(3) Whereas the Secretary of Defense has testified that the Department of Defense's Future Years Defense Program includes $20 billion more in program funding requests during fiscal years 1996 through 1999 than the defense funding levels in the Administration's budget can support;

(4) Whereas, the General Accounting Office reported in July 1994 that the Administration's Future Years Defense Program may be underfunded by as much as $150 billion;

(5) Whereas, the Secretary of the Navy has testified that the Department of the Navy will only operate 330 ships rather than the 346 ships required by the Bottom Up Review;

(6) Whereas, in January 1994, in his Annual Report to the President and the Congress, the Secretary of Defense reported that the Air Force will field approximately 100 heavy bombers rather than the 184 required by the Bottom Up Review;

(7) Whereas the Department of Defense's plans for a major regional contingency in the Far East call for 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for 7 Army divisions, while the Bottom Up Review plans for an Army of only 10 active divisions;

(8) Whereas the Administration's budget assumes the Department of Defense will save at least $6 billion from procurement reform;

Whereas the first and second rounds of the Base Reallignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base closure round may cost significantly more than is assumed in the Administration's budget;

(b) REQUIREMENT.—

(1) The Secretary of Defense shall, within 30 days after enactment of this legislation, initiate a review of the assumptions and conclusions of the President's Budget, the Bottom Up Review, and the Future Years Defense Program;

(2) Not more than 60 days after the review described in (b)(1) is initiated, the Secretary of Defense shall submit to the President and to the Congress a report detailing the funding level required for the defense and national security of the United States;

(3) The President shall, when submitting to the Congress the budget for the United States Government for Fiscal Year 1996, submit a report to Congress stating whether the national defense budget submission differs in any respect from the funding level described in (b)(2), and if so, describing in detail each such difference and the reasons for such differences.

Mr. DOLE. I ask unanimous consent to add Senator ROTH of Delaware and Senator SMITH as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the amendment Senator MCCAIN and I have introduced is simple and straightforward. The legislation requires the Secretary of Defense to reexamine both the Bottom-up Review and President Clinton's future years defense program and report to Congress on the force structure required to provide for an adequate defense for our Nation. It further requires the President to adequately fund that

VOL 140 PT 15 AG 10 — 11 1994 UMI

force structure. Senator MCCAIN and I have raised this issue because despite all of the rhetoric, we have neither an adequate force structure nor Defense budget. According to the military experts, the force represented in the Bottom-up Review is inadequate to meet our stated national security needs. And according to the administration's own experts, even that force is massively under funded.

I have heard the President's statement about providing a strong defense, fielding the best equipped fighting force, and supporting our fighting men and women. The President has stated that he would cut Defense no further. He has endorsed the Bottom-up Review as the guiding document for our Armed Forces for the post-cold war era. And he has assured us that the Bottom-up Review force is adequate for fighting two major regional contingencies, or MRC's, nearly simultaneously.

While I have listened to the President's promises, I am concerned about the impact of his actions. In the State of the Union Address on January 25, 1994, President Clinton stated that the budget he would send to Congress would draw the line against further defense cuts. Let us be clear about what this means. It means that the President remains committed to the huge cut of over $127 billion which he sent the Congress last year. The President's 5-year defense plan calls for an additional decline in defense spending of 10 percent in real terms. Regarding these additional cuts, the distinguished chairman of the Armed Services Committee said, "if these additional hidden reductions are not reversed, I believe that they will seriously erode the future capability of our military services." I share this view and that is what this amendment is all about—to put the Senate on record about this point.

The fact is, we are entering the 10th consecutive year of defense cuts. The Defense budget before us, as reflected in this bill, represents a reduction of approximately 33 percent from the 1985 Defense budget. By the end of the administration's future years Defense program, defense spending will have fallen by over 43 percent since fiscal year 1985. We are not cutting defense—we are gutting it.

According to a recent GAO report, the President's Defense plan is under funded by about $150 billion. This is no surprise to Defense experts, but it is the first quantitative evidence of the actual magnitude of the shortfall. The fact is that President Clinton's Defense budget doesn't support his own force structure.

The Secretary of the Navy testified that the Department of the Navy will operate only 330 ships, as opposed to the 346 ships called for in the Bottom-Up Review. Additionally, the President's budget request would have funded only 100 bombers during fiscal year 1995 and only 80 bombers in the out years. This, despite the Bottom-Up Review's requirement for 184 bombers. It is a fact that the Bottom-Up Review is underfunded and it appears that this administration, while making statements about commitment to a strong defense and demonstrations of support for our troops, is willing to do little if anything to address that problem. The result is the exposure of our fighting men and women to a greater level of risk.

The facts do not support the administration's assurances that the Bottom-Up Review force structure is sufficient to fight and win two major regional contingencies nearly simultaneously. One of the most glaring deficiencies is the fact that the number of army divisions called for by the president's strategy will not meet the military's stated needs for fighting and winning a major regional contingency in the Far East and a major regional contingency in Southwest Asia. During the gulf war, the United States deployed seven divisions plus two armored cavalry regiments to Southwest Asia. Recently, General Luck testified that a major regional contingency on the Korean peninsula would require at least 400,000 military personnel to reinforce the United States forces already assigned to south Korea. If the United States had to face these two wars "Nearly simultaneously", the Army would not be able to deploy all the troops required. Remember that at the same time the United States is fighting these major regional conflicts, it also would have to maintain at least one division in Europe to meet our NATO requirements. Additionally, we cannot forget the humanitarian missions and peacekeeping operations to which this administration has committed us. The administration's Army force structure simply will not allow us to fight and win two MRCs nearly simultaneously and meet all of our other responsibilities.

In summary, the funding plan does not support the force structure, and the force structure will not do the job.

During World War II, it took this Nation and our Allies almost 2 years to amass the troops and material needed for victory. The simple fact of the matter is that we will never again have that kind of time to prepare for war. You can be sure that our enemies have learned from the mistake of Saddam Hussein. The next time we face an aggressor, that aggressor will not allow us 6 months to prepare for the fight.

Look at the war in Bosnia, Saddam Hussein in Iraq, the nuclear build up in Iran, and the situation on the Korean peninsula. It should be obvious to all of us that the world is still a dangerous place. The amendment Senator MCCAIN and I have proposed goes a long way toward ensuring that our forces remain prepared to meet any future threat. I urge my colleagues to support this amendment.

Mr. ROTH. Mr. President, ten days ago Senator GRASSLEY and I released a General Accounting Office report that reveals a huge gap between the Pentagon's resource needs and the availability of funds. That report found that the current Future Years Defense Plan, which was derived from the Bottom Up Review, is unaffordable. The Clinton administration is reluctant to either get rid of the weapons and forces that are unaffordable or transfer the necessary funds into the Defense budget. So, rather than cutting costs, the Pentagon has cut the cost estimates. With the unrealistically low cost estimates, the administration is misleading itself and the American public on how much defense capability the Defense budget will buy.

Mr. President, the Congress bears some of the blame for this problem. For example, the Congress refuses to kill one of the most expensive, outdated, poorly managed, cold war programs in the entire budget—namely, the *Seawolf* submarine program. But, the administration must bear responsibility for not funding the forces its own Bottom-up Review determined to be needed to fulfill our National Security needs. The GAO report documents that the Defense Department Future Years Defense Plan is underfunded by more than $150 billion.

Mr. President, I am concerned that the administration continues to avoid the tough decisions that need to be made, rather than correcting the problem. Less than a month ago, it was reported that the Deputy Secretary canceled his directive that $25 billion be cut from the Defense budget. Sooner or later the bills will come in. When they do, tens of billions of dollars will have to be found or the hollow Army of the 1970s will reoccur.

Meanwhile, under the Clinton administration, troops have been sent into Rwanda and the Balkans, and we are openly discussing the invasion of Haiti and a major injection of troops into Bosnia. All the while, we face a real danger of a major military conflict in the Korean peninsula. Yet, only $1 billion dollars is included in the 5-year defense plan to cover these costs. The bottom line here is that there is not enough money to pay for the administration's national security strategy.

If we are to avoid a return to the hollow Army of the 1970s, tough management decisions will have to be made. Programs will have to be terminated, not stretched out. Major management reforms will have to occur.

Mr. President, I urge my colleagues to support the amendment offered by Senator DOLE. The issue here is accountability. We trust the administration with providing a national security strategy and with costing out the forces needed to fulfill that strategy. The Bottom-up Review was a major undertaking for the administration. It determined the set of forces needed to achieve the President's national security strategy. But, it is nothing less than reckless for the administration to implement its strategy when it has not provided the requisite funding.

Mr. McCAIN. Madam President, I thank Senator DOLE for his continued efforts to stop the erosion of our Nation's defenses, our capabilities, and our readiness. Madam President, there are some lonely voices out there, but I believe that, in the viewpoint of people who are wiser than I, soon we are going to face a crisis in our national security interest, and our ability to protect our national security interest and the readiness of our Armed Forces, and the quality of the men and women that man it.

Madam President, I ask unanimous consent that Senator WARNER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Madam President, to repeat, the amendment would require the Secretary of Defense to review the defense budget as well as the Bottom-Up Review assumptions and force levels.

The Secretary would be required to report to the President and the Congress on the funding required to ensure the national security of the United States.

Finally, the President would be required to submit a fiscal year 1996 defense budget which provides for the funding described in the Secretary's report.

Madam President, one of the most respected organizations here is the GAO. The GAO released a study last month estimating that the future years' defense plan in order to comply with the Bottom-Up Review which was carried out by former Secretary of Defense Aspin and former Chairman of the Joint Chiefs, Colin Powell, we are $150 billion short, $150 billion less than what was required to maintain the forces that were envisioned after extensive review by some of the most respected men in America just about 2 years ago.

It cites the following shortfalls in the administration's budget: $21.6 billion in inflation and negative adjustments in R&D; $32 billion in projected savings that may be only partially realized; $112 billion in potential cost increases for base closures, weapons system costs, personnel pay, environmental remediation, and peacekeeping operations.

The GAO report calls into question the Department of Defense's claim that they are only $20 billion underfunded. That they were $20 billion underfunded would be alarming in itself.

I remind my colleagues for $243 billion in this bill, we are acquiring 17 fixed-wing combat aircraft, 4 combatant ships, total. That is what we get for $243 billion, 17 fixed-wing aircraft, 4 ships. In addition to that there are 63 Blackhawk helicopters, 6 Apache helicopters, and 6 C–17 airlift air carriers; no tanks, armored personnel vehicles, none of the other equipment you would think might come from a $243 billion defense budget.

It reminds me a little bit of a story I read recently about the Cambodian Army. They have something like 3,000 generals and 7,000 colonels, and no soldiers.

What I am saying is that we are spending money on all kinds of things, except to procure the weapons of war and the capabilities with which to defend this Nation's vital national security interests.

It is obvious that the Department of Defense's 5-year plan requires more money than is being provided. The amendment that Senator DOLE proposed would require an indepartment study of the adequacy of funding in the 5-year defense plan to pay for the Bottom-Up Review force, and it would ensure that the President allocates sufficient resources to national security.

Again, I was heartened not long ago when the President of the United States said: Tell Congress not to cut defense any more. And both sides of the aisle at the President's speech stood and applauded the President's statement.

The fact is we continue to cut defense. In fact, we not only cut it, as we did because of the Exon-Grassley amendment, which cut $500 million out of this year's defense budget, but we also shift moneys around in an incredible degree. And, of course, one of the worst and outrageous actions that I think has been taken recently is the movement of $490 million. Not only after $500 million was cut off the defense budget, there was the movement of $490 million out of other defense into military construction.

Why is that so egregious? We know that military construction is needed on our bases. It is so egregious because we are about to convene a base closing commission which is going to close more bases ever in the history of this country, more than the last two base closing commissions did, and we know full well there will be bases that will be closed in your State, Madam President, and possibly in mine, and there are military construction projects going on while the bases are being closed. It does not make any sense.

Meanwhile, the USS INCHON spent 6 months off of Somalia with 2,000 Marines on board in that task force, sitting out there doing nothing, in the most difficult conditions. They come back to North Carolina to their home port. They spend 10 days with their wives, families, children, and friends, et cetera, and they are called back after 10 days and sent to sea again where they still remain to this day.

Why do they remain there? Because we did not have any other ships. The Department of Defense said we had to turn them around and in a 10-day timeframe span at home.

Madam President, do you know how much money these people are making? An E–1, that is the lowest rank, earns $9,533 a year, little more than $1,000 in allowances. Sergeants earn less than $20,000, while a few earn more than $25,000.

The military services estimate that some 20,000 enlisted service members and their families are now eligible for food stamps. And we are putting them to sea and keeping them at sea and away from their families. Then we expect to maintain a quality All Volunteer Force. I am sorry. It does not compute. It does not match up. You cannot do it.

So, yes, I thought it was outrageous, and I say this in all due respect to my friends on the Appropriations Committee that we would take $490 million out of overall defense and put it into military construction at a time when we knew that many, many bases are going to be closed in this country. We could have at least delayed that a year until we saw the results of the base closing commission. We could have waited.

I gave the other day the percentages, I might add, of the members of the Appropriations Committee and the percent of those military construction add-ons in the House of Representatives. If my memory serves me correctly—I will get the numbers here—72 percent of the add-ons in the MilCon came from the projects in the Member's State—72 percent of all dollars added for unrequested military construction projects will be spent in the States of the 60 Representatives who serve on the House Appropriations Committee, and 29 percent of the U.S. Senate. That is 66 percent of the added dollars. That is not coincidence.

Madam President, the major weapons system is clearly underfunded. The defense bill, as I said, contains 17 fixed-wing combat aircraft, 4 combatant ships. Procurement funding according to GAO is projected to $38 million shortfall to the next 5 years.

As I mentioned already, the base closing commission in 1995 will be draconian. I do not like to see it. I do not want to see a base in my State closed. Those who oppose the base closing commission, let me point out we have reduced our forces by 40 percent and we have reduced the base structure by only 15 percent. That does not make sense either.

These priorities in the administration and here hurt our national security, as I said, but most of all it impacts the men and women in the military.

Military pay increases have lagged 8 percent behind inflation in the last 10

VOL
140
PT
15
AG
10
11
1994
UMI

years and 12 percent behind the increases in pay in the private sector.

I mentioned the lowest enlisted rank get $9,533 a year, sergeants earn less than $20,000.

These servicemen are exceptionally dependent on the base exchanges and commissaries and other support facilities.

The proposed budget last year called for a 1-year freeze on military pay and benefits in 1994 and a 1 percent reduction in the annual pay raise based on the economic cost index. And 200,000 military personnel last year left the military service. Enlisted voluntary separations in the Army—most of which involved no real choice by the individual involved—rose from 66,000 in 1992 to 129,000 in 1994. Air Force separations of all kinds rose from 43,500 to 63,000. Up to 400,000 additional men and women and their families will now have to leave military service by the end of 1998. Up to 400,000 additional men and women and their families will have to leave the military service by the end of 1998. We cannot continue to ask our servicemen and women to continue in this fashion.

READINESS IS SUFFERING

The significant and continuing budget cuts have already resulted in the first signs of declining readiness.

I am seriously concerned about the deleterious impact of the rapidly declining defense budget on the readiness of our military forces, as well as on the daily lives of the men and women who serve in our Armed Forces and their families.

The report of the Defense Science Board Task Force on Readiness—which was appointed by former Secretary Aspen—dated June 1994, makes some very cautious statements concerning how to avoid a future "hollow" armed forces. The report refers to "pockets" of unreadiness that exist today, and states: "We observed enough concerns that we are convinced that unless the Department of Defense and the Congress focus on readiness, the armed forces could slip back into a 'hollow' status."

I might add, as most of my colleagues know, that organization, that board, was composed of retired military people who are some of the most respected individuals that the military has had the privilege to have serve.

In testimony before the Senate Armed Services Committee and in other public fora, our highest ranking military officers have expressed concern about the serious declines in readiness now evident:

Air Force depot maintenance backlog is currently at $868 million, and Army's depot maintenance account is only funded at 62 percent of requirements.

Marine Corps is suffering severe cutbacks in combat training and in sustainability because funds and time are being redirected to support peacekeeping operations.

Navy afloat inventories have been reduced 40 percent since 1989 as a result of a desire to save money on spare parts by centralizing storage ashore; but this means that a ship at sea requiring repairs will now have to sit idly while the necessary parts are transported to their location.

Army aviator training is funded at only 76 percent of requirements, a level insufficient to make any progress in redressing the shortfall in skilled Army aviators identified in Operation Desert Storm.

Cuts in base operations funding have reduced the standard of living of our troops, which translates quickly into lowered morale and reduced readiness.

GOING HOLLOW * * * A REAL LIFE EXAMPLE

The President recently ordered the deployment of soldiers and sailors of the U.S.S. *INCHON* Amphibious Ready Group to deploy to Haiti only days after their return from 6 months in Somalia. That decision, we are told, was necessary because we did not have another unit that was adequately prepared to take on the task.

Last week, the Secretary of Defense and the Chairman of the Joint Chiefs testified to Congress that a study had been undertaken in the Pentagon to review the possibility of decreasing normal 6-month deployments. This decrease in deployment time would be required in order to keep more assets on hand to react to the growing number of regional crisis in the world. We are already looking at changing the way the U.S. military conducts business in order to accommodate declining defense budgets and escalating commitments.

These examples illustrate the need for increased operation and maintenance funding.

NONDEFENSE SPENDING IN THE DEFENSE BUDGET

Another disturbing trend in the defense budget is the inclusion of billions of dollars of spending which is not directly related to military capabilities.

The cost of conducting peacekeeping operations consumes billions of dollars every year. The administration requested $300 million in this year's budget to pay our U.N. assessment for worldwide peacekeeping operations, traditionally funded out of the State Department budget. Fortunately, it appears that saner heads have prevailed and these funds will not be provided from the DOD.

The Congressional Research Service recently prepared a study of the costs of nondefense activities funded in the Defense budget during the 6-year period fiscal year 1990–95. Their results are astonishing: Environmental remediation—nearly $24 billion; defense conversion and dual use programs—nearly $12 billion. In total, the CRS reported $52 billion in spending for nondefense programs.

OTHER "MUST-PAY" BILLS ARE UNDERFUNDED

DOD is forced repeatedly to seek supplemental funding or reprogramming authority to pay for day-to-day operations in support of expanding commitments throughout the world. Additional funding is required to offset the costs of sending troops to Rwanda, maintaining a no-fly zone over Bosnia, and forming a possible Haiti invasion force.

More importantly, additional funds are necessary to reinforce our troops currently in South Korea and improve their readiness to repel any aggression from the North.

There are many pressing military requirements that lack sufficient funding. These requirements must be identified, and resources must be provided to pay for them.

I would like to commend the Appropriations Committee and the managers of the bill. There are a number of excellent provisions in the Senate bill.

MILITARY PAY RAISE

The bill before the Senate fully funds a 2.6 percent pay raise for military personnel—redressing a serious shortfall in the President's budget submission.

The full military pay increase is essential to maintaining the high-quality All-Volunteer Force we have today.

I would also like to express my appreciation to the Committee for the COLA Equity issue.

The bill before the Senate also provides funding to redress the inequity in retired pay COLAs between Federal civilian and military retirees.

The Authorization conference includes a provision to restore the military retiree COLA to April 1, the same date as that authorized for civilian retirees.

I commend the Appropriations Committee for allocating full funding to pay these costs.

TRP

Since the inception of the program, I have been concerned that it would be used as a slush fund to prop up failing businesses or to reward politically connected organizations with defense grants and contracts.

The Appropriations Committee has acted to establish controls on this giveaway program by including very strong language requiring the Department of Defense to certify that projects funded with TRP dollars must have served some military purpose.

The authorization conference contains similar language and additionally requires the General Accounting Office to review TRP awards and identify the military utility, or lack thereof, of each of the projects funded in this account.

Again, I commend the Appropriations Committee for acting to constrain the TRP program.

UNIVERSITY RESEARCH

In the past, these funds have been a source of pork barrel funding and were earmarked for specific universities.

This year, the House halved the funding for this account, and resisted the impulse to earmark the remaining funds.

While the Senate restored a significant portion of the House cut, it, too, resisted the urge to specify the universities to whom such funds were to be granted.

I would support a lower level of funding for university research, because I believe these funds should be better spent for training, or modernization, or quality of life improvements for military personnel.

I commend the Appropriations Committees of both Houses for their responsible approach to such funding. I hope that the conference agreement on this bill will reflect the same discipline.

However, the bill provides, in my view, an inadequate level of funding for the Department of Defense.

I cannot overlook the egregious examples of wasteful, unnecessary, and nonmilitary spending of scarce defense dollars that are contained in both the House and Senate versions of this bill.

I have identified more $2.1 billion in earmarked and add-ons in the House bill, and nearly $1.9 billion in the Senate bill, which represent the most egregious examples of congressional pork barrel spending.

PROLIFERATING INDUSTRIAL BASES

The Congress has developed a proclivity to set aside slush funds to preserve so-called "defense industrial bases."

This practice started with the *Seawolf* submarine, when Congress provided $540 million to preserve the submarine industrial base. Today, the American taxpayer is burdened with paying for two $5.2 billion submarines, and possibly a third boat, which have no military utility in the post cold war world.

DOD has failed to provide any leadership in this area. Nearly 4 years ago, the Congress directed DOD to prepare a report on the defense industrial base—a report which has never been completed. Congress must have the benefit of DOD's views in order to make educated judgments about the need for the proliferating number of industrial base funds that are being set up.

I say again, Madam President, the Department of Defense, 4 years ago, should have provided an industrial base report to this Congress. They have failed to do so, so they are responsible, to a large degree, for this proliferation of so-called defense industrial base funding.

The House version of the Defense Appropriations bill included $481 million for new industrial base set-asides.

For example, as if $540 million for the submarine industrial base was not enough, the House included $1 million for a submarine main steam condenser industrial base, $2 million for a ship propulsion shafting industrial base, $4.5 million for a submarine navigation radar system industrial base, and another $13.5 million for other submarine-related technologies as an industrial base set-aside.

The House also included $30 million for a radiation resistance electronics [RRE] industrial base.

Rumor has it that an MRE industrial base is being established. The House bill does include $2 million for MRE cold pasteurization/sterilization, perhaps a start on an MRE industrial base. It also earmarks $2.8 million for combat rations advanced manufacturing technology demonstration.

The Senate bill is more restrained, but includes $150 million for a bomber industrial base, $35 million for a tank engine industrial base and $2.5 million for a reentry vehicle industrial base.

We have to stop this business of calling everything an industrial base. We cannot fund everything in the world. We have a combat boot industrial base, I believe, or some version of the same in the House bill. We cannot keep this up. The Department of Defense has to tell us which defense industrial bases have to be maintained and the Congress has to respond in a responsible manner.

This is an absurd waste of money to prop up faltering industries which may or may not represent vital sectors of American industry necessary for our future defense requirements. I hope the conferees on the Defense appropriations bill will drop these unwise provisions during their deliberations.

While the House version of the bill contains only suggested uses for defense conversion funds, a thin ruse to avoid a charge of earmarking.

Examples of such House non-earmarks include: $400,000 for Georgia Tech Center for International Defense Conversion, and $4 million for Georgia Tech Plasma Arc Remediation; $100,000 for Berkshire County Regional Employment Board; $5 million for San Diego State University Conversion Center; $2.5 million for San Gabriel Valley Community Development Corporation; $500,000 for Hunters Point Civilian Job Training in Environmental Remediation; $2.5 million for Southeast Regional College Network, Florida; $364,000 for Southwest Virginia Advanced Manufacturing Technology System; $10 million for Great Lakes Environmental Manufacturing Technology Center; and $3.5 million for California Goldstrike Program.

Now we understand better, Madam President, why we are purchasing only 4 combatant ships and 17 fixed-wing aircraft.

The House included real earmarks in this account, totaling $102.65 million. For example: $1 million for the Great Lakes Composites Consortium sonar production dome project; $6 million for the joining Center; $5.4 for the Gulf Coast Region Maritime Technology Center; $1 million for the Manufacturing Producibility Center at the Louisville, Kentucky site of the Naval Surface Warfare Center, Crane Division; and $1 million for the National Center of Excellence in Ship Hull Design and Electrical Systems.

Again, the Senate bill does not contain such earmarks. I urge my colleagues to hold their position in conference.

Madam President, I want to point out three of the committee amendments which cause me concern. I do not intend to challenge them but I am concerned about them.

First, on page 23, lines 5 through 14: Committee amendment would provide $2.5 million to sustain operations at the William Langer Plant in Rollette, North Dakota.

The plant is a government-owned facility which manufactures jewel bearings. The military requirement for jewel bearings is essentially nonexistent at this time, but Congress has been adding money to the defense budget for many years to support the continued operation of this plant.

The Committee report notes the economic depression in this area of North Dakota and states that the funding is provided to allow the plant to continue to operate until it is converted to a privately owned fiber optic producer.

The amendment takes money from the Armament Retooling and Manufacturing Initiative, effectively making it into a slush fund for failing businesses.

It is highly likely that Congress will be asked to continue propping up this failing enterprise in the future. We cannot afford to spend scarce defense dollars to prop up failing businesses in economically depressed areas of the country. The funding should be deleted.

Second, on page 135, lines 9 through 19:

The Committee amendment directs the Navy to reimburse the Muckleshoot Indian Tribe Auburn, WA, for costs incurred in preparing and submitting a base reuse plan for Puget Sound Naval Air Station.

If approved, this would set a precedent for any other Indian tribe, or homeless or community organization, to submit claims to DOD for their costs in preparing base reuse plans.

The committee amendment should be deleted.

Third, on page 137, lines 10 through 15:

The Committee amendment appropriates $11.2 million to pay the cost-of-living raises for Coast Guard uniformed personnel.

Committee staff advises that this funding is necessary because the Defense authorization bill approved a full pay raise for all uniformed personnel, which is deemed to include Coast Guard. Further, Committee staff argues that, because of their military roles, Coast Guard personnel may be paid out of DOD funds.

VOL
140
PT
15
AG
10
11
1994
UMI

The last I heard except in time of war the Coast Guard was under the Department of Transportation. It seems to me that their pay should be taken care of out of the Department of Transportation budget. I think we are setting a very bad precedent if we are paying now for the salaries of members of the Coast Guard who fall under the authority of the Department of Transportation, except in time of war.

Madam President, the hour is late. I know there are others who want to speak. In deference to the two managers of the bill who have been here for a very long time, I will resist further diatribe except to say that we better understand that we cannot afford these things. We are shortchanging our military in every way. It is not really sexy to vote for a cost-of-living adjustment for a man or woman in the military. It is not real exciting to spend more money on operations and maintenance. It does not do much good back home when you allocate more money so pilots can maintain and air crews can maintain their efficiency through increased training hours.

But all of those things are what makes the difference between the U.S. military and every other in the world. I suggest that when we start this routine again next year, we be even more careful.

I would also like to say to both the managers of the bill I think that this is a better bill than last year. I think there are some significant improvements. But I believe we have a great distance to go. And I believe, also, that we have that obligation as we continue to see reductions in our defense budget and an increase in our national security challenges throughout the world and an increase in deployments of our military to far-off places, many of which we never heard of at this time last year, and an increase in requirements to use U.S. capabilities in defense of peace and freedom throughout the world.

Madam President, I ask unanimous consent to add Senator DOMENICI and Senator SMITH as cosponsors.

The PRESIDING OFFICER (Mrs. BOXER). Without objection, it is so ordered.

Mr. MCCAIN. I ask unanimous consent at this time to withdraw the Dole amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2515) was withdrawn.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2518

Mr. STEVENS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. DOLE, for himself, Mr. LIEBERMAN, Mr. MCCAIN, Mr. MOYNIHAN, Mr. WELLSTONE, Mr. EXON, Mr. FEINGOLD, Mr. HATCH, Mr. DECONCINI, Mr. LUGAR, and Mr. HELMS proposes an amendment numbered 2518.

Mr. STEVENS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . TERMINATION OF ARMS EMBARGO.

(1) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina no later than November 15, 1994 so that Government may exercise its right of self-defense under Article 51 of the United Nations Charter.

(2) DEFINITION.—As used in this section, the term 'United States arms embargo of the Government of Bosnia and Herzegovina' means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 F.R. 33322) under the heading 'Suspension of Munition Export Licenses to Yugoslavia'; and

(B) any similar policy being applied by the United States Government as of the date of receipt of the request described in paragraph (1) pursuant to request described in paragraph (1) pursuant to which approval is denied for transfers of defense articles and defense services to the former Yugoslavia.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be interpreted as authorization for deployment of United States forces in the territory of Bosnia and Herzegovina for any purpose, including training, support, of delivery of military equipment.

Mr. STEVENS. I ask unanimous consent amendment No. 2518 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2518) was withdrawn.

Mr. STEVENS. Madam President, parliamentary inquiry, does that dispose of all the amendments the Senator from Hawaii and I submitted yesterday on behalf of our respective Members?

The PRESIDING OFFICER. All amendments have been disposed of. That is correct.

Are there further amendments?

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. Is there a request for the yeas and nays at this time?

Mr. STEVENS. Mr. President, I ask for the yeas and nays on the final passage of H.R. 4650.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. INOUYE. Madam President, I ask unanimous consent that H.R. 4650 be temporarily set aside and that the Senate proceed into executive session to consider the nomination of Janet Yellen, with the nomination considered under the conditions and limitations of a previous unanimous-consent agreement; provided further that upon disposition of the Yellen nomination and the Senate returning to legislative session, and without intervening action, the Senate vote on passage of H.R. 4650, the DOD appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order the Senate will go into executive session to consider the nomination of Janet L. Yellen, of California, to be a Member of the Board of Governors of the Federal Reserve System.

NOMINATION OF JANET L. YELLEN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

The assistant legislative clerk read the nomination of Janet L. Yellen, of California, to be a Member of the Board of Governors of the Federal Reserve System.

The PRESIDING OFFICER. Under the previous order, 15 minutes will be under the control of the chairman of the Committee on Banking, Housing and Urban Affairs or his designee; 15 minutes under the control of the ranking member or his designee; and 15 minutes under the control of the Senator from North Dakota [Mr. DORGAN], or his designee.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Madam President, I thank the Presiding Officer. I rise as chairman of the Senate Committee on Banking, Housing and Urban Affairs to support the nomination of Janet Yellen to serve as Member of the Board of Governors of the Federal Reserve system for a term of 14 years.

Clearly, this is a very important position, and I think the President has chosen wisely in selecting this nominee.

I want to say before yielding to my colleague from North Dakota, I am going to defer further comment about this nominee. I know my friend from North Dakota has concerns about the Federal Reserve Board and the composition of its membership, and I am very respectful of his concerns and his view. I want to hear his views. So I am going to reserve the remainder of my time and listen to what he has to say. I can elaborate on this nominee's qualifications and why I think she will be an exceptionally good member of the Board.

Having said that, I am interested in hearing the views of my colleague from North Dakota. I reserve the remainder of my time.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I will not utilize all of the time allotted to me, but I do want to speak briefly about the Federal Reserve Board. I did not want us to confirm another member of the Board of Governors for the Federal Reserve System without a vote and without a discussion.

I should say that I intend to vote for the nomination of Dr. Yellen. I think there is much to commend Dr. Yellen about her background and her views. I should also say at the same time that I hope in the future when we consider Federal Reserve Board nominees, we will have a real discussion and a real debate about monetary policy in this country.

It is interesting that you cannot have a real debate or a thoughtful discussion about monetary policy in this country today. It does not matter what the views of a Fed appointee might be. When they come to the committee, they have to say certain things so as not to upset the financial market. The market determines what we say around here these days. You have to have a certain language, and conform to a certain view. You have to say the right kind of buzz words so as not to run the market off in some wild direction. These days the market reminds me of a wild-eyed horse I used to have when I was a kid. The least little thing seems to set it off—often without substance—in some weird direction.

I was alarmed to read in today's paper that Dr. Greenspan recently testified on the Hill that the Fed is starting to pay more attention to the market because it has more of a view of what is happening with respect to inflation and the future than some of the indices that we now use.

I can give you chapter and verse of how the market has behaved over the years. You can go back to the tulip scandal in the 1600's and go to the junk bond scandal in the 1980's to figure out where the market is and what kind of signals they give you about what is right or wrong.

I'd like to show you, if I can, the Federal Reserve Board makeup as we discuss this subject. Again, I am going to be brief. I wanted to show my colleagues, as we discuss who is going to serve on the Board of Governors, who runs monetary policy in this country today. The reason I think it is important is that four times this year they have increased interest rates and they are fixing on Tuesday of this coming week to come to town and increase interest rates once again.

That is a tax on every American family, and they will do it in secret. Most Americans will not know who they are. If we were to increase a tax, we would do it with public debate, and there would be a tremendous outcry. But that is not true of monetary policy. They will extract a tax from every American family and do it with no discussion or no thoughtful debate.

Whose interest do they serve? There are five presidents of Federal Reserve regional banks who will vote next Monday. They are noted by the yellow stars. They will cast a vote on monetary policy next Tuesday. They run the regional Federal banks and they serve a board of directors. They serve regional bankers; that is who is on their board; that is who they owe their jobs to. They will come to town, unappointed, unconfirmed, unaccountable to anybody but their boards and bankers. Yet, they make decisions about interest rates that all of our constituents will pay.

Quickly, let me run through a couple charts. Let us look at what has been happening in this country. There is no evidence that a serious threat of inflation is imminent. In fact, inflation is low and has been falling for 3 straight years in a row. Again, remember, we have had four interest rate hikes in recent months to combat inflation. Here is what is happening to inflation in this country.

Mortgage interest rates, you see what has happened here. Once the Fed decided it was going to protect its big money bank interest and fight an inflation that does not exist, we see the tax on American families with the increase in mortgage interest rates.

Employer's cost of labor are the lowest in 12 years. You see this chart. Do we have inflation coming from an increase in labor costs? Not that I can tell. Unit costs of labor are low and falling.

So what is happening here? What is happening is monetary policy in this country is made in secret by the Federal Reserve Board, by the Board of Governors and by the Fed Open Market Committee. Probably all good people. I do not know most of them, but the fact is they have a constituency and they represent them well.

I have said before that I would really prefer my Uncle Harold have a shot at serving on the Federal Reserve Board but, of course, Uncle Harold does not qualify. He does not have a Ph.D. in economics, does not have a background of having worked for the Fed at some point in his life. He has made some house payments, and knows about interest rates, but they would never put him on the Fed.

I would like just once, and I hope in the future when we take a look at new candidates for the Federal Reserve Board, to have a real debate about interest rates or monetary policy in this country. In the 1800's, from barber shops to bars, they debated monetary policy in America, and it was healthy. In fact, there would not be any likelihood of a vote on the floor tonight on this subject unless some of us who cared—the Senator from Maryland, and others, the Senator from Nevada, Senator REID—decided we probably ought to vote on this.

We have a confirmation vote on Supreme Court nominees. It is very important. Federal Reserve Board members affect the lives of every single constituent in my State and every single constituent in every State in this country. And yet not a handful of Americans know their names or what they stand for or whose interest they serve.

Dr. Yellen, as I have indicated, is a person with an excellent background. I visited with Dr. Yellen by phone today. I exchanged letters with Dr. Yellen. I raised some questions about the impact of global market activities on interest rate policy decisions.

You know, it is interesting. When we talk about trade agreements, it is a global economy—NAFTA, GATT, "It is all global," they say. So when we talk about interest rates, they say, "Gee, you know what's happening? Too many Americans are being employed. As a result, we are starting to see upward inflationary pressure."

I say, "Aren't the corporations hiring from the world's hiring halls? Gee, that's what I thought the global economy was about. Aren't consumers buying refrigerators from the world's factories?"

"Oh, that's different."

It is a global environment when you talk about trade, but it is a different measurement when you talk about interest rates and monetary policy. I raised these questions with Dr. Yellen, and she indicated to me they were interesting questions and questions not really very well addressed these days by mainstream economists.

Mr. SARBANES. Will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield.

Mr. SARBANES. The Senator's charts on unit labor cost and inflation rate actually support the very argument he has been making. We have some good growth. The Fed says we have inflation, we need to slow the growth down. We need the growth and we need the jobs.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Where is the inflation? The Senator put up the chart and showed inflation is low and falling. He put up another chart to show the unit of labor cost, the best they have been in 30 years.

So exactly the point the Senator is making is substantiated by what the statistics show us.

Mr. DORGAN. I appreciate the Senator's comment. Let me make one additional point. We went through wrenching debate and agonizing debate in this country last year trying to put together a deficit reduction plan—taxes and spending cuts and a whole range of things that were very difficult—a plan to put this country back on a track toward economic growth.

So we got the economy started again. We started to gear up toward cruising speeds to get the American economic engine working to employ people and give us an opportunity. And guess what? The Fed members meet behind closed doors in secret and decide to raise interest rates. I might add that the Fed is the only dinosaur left that meets in secret that I know of, and they made a decision to put the brakes on the American economy. Too many Americans are employed. This economy is growing too fast for our tastes. We worry about the "over the horizon." We have a view that no one else can quite see and a danger that is not picked up on the charts.

Well, what is happening I think is unfortunate for the American families who are looking for work amd the families who are going to have to pay a higher mortgage because of the action of the Fed.

The Senator from Nevada and I, the Senator from Maryland and others have talked about reform of the Federal Reserve Board, and I am going to push that. I have cosponsored and sponsored that legislation in the House and the Senate. We need to do something to make the Fed more accountable to the American people.

No, I am not saying we ought to take monetary policy over in the political halls of this country or in the Chambers of the House and Senate. That is not what I am saying at all. But no longer should we have decisions that are important, that affect all of our families in this country, made in secret by people who I think represent a constituency that is different than the constituency I see.

Madam President, I am going to vote for Dr. Yellen. I am anxious to have her come to town and look forward to meeting with her. I do say again you are going to hear a lot more from me, and I hope others, on the floor about the Fed.

I would say one more thing. When these folks come trotting down next week, the ones with the yellow stars, and they sit down in the closed room of the Board of Governors and decide they want to tax every American once again in a higher interest rate because they see something that does not exist, I am going to be here on the floor of the Senate showing their picture to the American people so that we all know who is doing it and get a chance to evaluate why they are doing it. This sort of thing in my judgment needs to change, and I hope this discussion tonight may be the first step on the road to that change.

Madam President, I yield the floor.

Mr. RIEGLE. Madam President, if I may, I appreciate what the Senator has said.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. I think and say that I share some of the same concerns that he has expressed here both in terms of the way policy is made, what the result of some of that policy has been, and the whole process by which we reach out and look at possible candidates for the Federal Reserve Board now and in the future.

I do want to say with respect to Ms. Yellen that her job qualifications are excellent. She has been a highly regarded economics professor at the University of California, Berkeley now for 14 years. She serves on the panel of economic advisers for the Congressional Budget Office and on the Brookings panel on economic activity. Much of her professional work has focused on improving our understanding of unemployment problems in this country and business cycles and how they work.

She has also been very active in looking at a number of important international financial trade issues. She has taught a course at Harvard and the London School of Economics.

But I would say, in a sense even more importantly, 3 weeks ago we held a hearing on her nomination. We questioned her for more than 2 hours, so this was not a routine discussion. We attach the same importance to these nominees as the Senator from North Dakota properly does. And we pressed her very hard on these questions because they are matters of grave concern to us as well.

I thought she gave us very good answers. She made it clear that she feels strongly that we ought to be driving toward maximum employment in our economy with moderate long-term interest rates, without kicking off an inflationary spiral. Clearly, her work in that area has been very strong, and her sensitivity was there and it was obvious to me.

I must tell Senators I was listening very carefully on that point because we suffer from high interest rates in my State, in Michigan, probably as much as any State. I quite agree with the Senator that interest rates, high interest rates, themselves are inflationary. You can refer to them as, in a sense, a form of taxation, if you will, if they are higher than they need to be.

High interest rates are by their very nature inflationary because they add to the cost of things as the cost of credit gets factored into prices of things, whether it is a home mortgage or a car loan or whatever it might be.

You have a hard time squeezing that admission out of members of the Federal Reserve Board, that high interest rates themselves, even if offered as an anti-inflationary strategy, can in fact themselves add to the inflationary pressure. And the Fed does not do a perfect job.

During the last recession, as Senator SARBANES pointed out as skillfully as anyone else along with Senator SASSER, you had a situation where the Fed during that recession adjusted interest rates 23 times and, frankly, never got it right in terms of sort of getting us out of that condition, not that they could do it all by themselves. Monetary policy obviously had a lot to do with it, in terms of the degree to which you might help foster a turnaround in the business cycle, an upswing in better employment prospects. So the record is far from perfect.

If you a had a car that was not running right and you took it down to the service station to get it fixed, and they worked on it, charged you, and you paid the bill, and you brought it home and it still did not work right, and you took it back 23 times, after a while you would start to wonder if they knew what they were doing.

I think it is fair to say that that was part of the history of this long recession that we finally have come out of since the Clinton administration has come to town and we have put a budget package in place, and we have started to make some progress. We have seen employment go up, unemployment numbers come down, and we have not seen a re-igniting of inflation, as the Senator points out.

But without prolonging that debate, I can attest to the Senator in my own view I think this is a solid candidate. The Senator has indicated he plans to vote for her. But I thought the Senator's points were well taken and they are not lost on me as chairman of the committee.

Mr. DORGAN. If the Senator will yield, I was not chagrined at the effort by the committee.

Mr. RIEGLE. I understand.

Mr. DORGAN. I think you folks on the committee care as much as I do about this.

With respect to whether the Fed is right or wrong, you expect them to be right occasionally. As the old saying goes, even a stopped clock is right twice a day. You would expect them to stumble into the right answer on occasion, if nothing else. But the Fed using the indices it uses would measure a hurricane as a source of national economic growth. Hurricane Andrew was one-half of 1 percent of economic growth in this country because you do not measure the damage; you measure the construction. A car accident outside the Capitol would be viewed as a source of economic strength, in indices the Fed would use. Somebody is going to be employed to fix a fender. Of course, they would not count the damage to the fender.

My only point is I want this to change.

The Senator from Maryland I know wants to speak.

Mr. RIEGLE. Let me yield him the balance of my time, if I may.

Madam President, I yield the remainder of the time I have to the Senator from Maryland, who, of course, not just serves on our committee accordingly but has served previously as chairman of the Joint Economic Committee.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, what is the time situation?

The PRESIDING OFFICER. There are 8 minutes remaining.

Mr. SARBANES. Madam President, first of all, I wish to commend the very able Senator from North Dakota for the statement he has just made. The American people need to understand how important to their daily lives the members of the Board of Governors of the Federal Reserve are, and the various presence of presidents of Federal Reserve banks who sit on the Open Market Committee. The 7 members of the Board of Governors are on the Open Market Committee and 5 of the 12 presidents of the Reserve banks are on that committee, and they rotate. So one year one will be on, another year another will be on.

As the Senator from North Dakota pointed out, the presidents of the Reserve banks, the regional banks, are picked by private interests. They make public policy, but they are picked by private interests to make public policy.

Now, the Board of Governors is different. The Board of Governors is nominated by the President and confirmed by the Senate, so they get a legitimacy in a democratic system to make public policy by their nomination by the President and their confirmation by the Senate.

That is not true of these presidents of the Federal Reserve banks, and I think that is a very important disconnect in our system, very frankly. If it was up to me, I would think they should not be on the Open Market Committee and just the Board of Governors ought to make these decisions.

Of course, if you get on the Federal Reserve, you get a 14 year term—14 years. I think the Senator is right to say these are important positions and we ought to have a vote on them, much like we do on people who go on the Supreme Court of the United States.

Now, I agree with his economic analysis. We put a fiscally restrained policy into place last August to bring down the budget deficit. That in effect constrains the economy, so you say, well, where will you get the impetus for the economy to grow and to get economic growth and jobs?

Well, we assumed it would come from low interest rates, from an accommodating monetary policy. For years, the Fed and others have been telling the Congress you have to get the budget deficit under control. Well, that is exactly what we did a year ago, with some very tough decisions in this body.

Interestingly enough, a lot of the people who complained the most about the deficit, when it came to voting the tough decision to do something about it, were not there to do it. They will be out here for a balanced budget amendment to the Constitution, but when you come along and say, well, now here is a package, we are going to do serious spending cuts, we are going to raise some additional revenues in order to reduce the deficit, they are not to be seen or heard from.

In any event, we did that. We had an accommodating monetary policy. Interest rates were low. The economy began to grow. Beginning in February, the Fed started taking up the interest rates. And they have now gone on long-term rates, 30-year mortgage rates, from under 7 percent to almost 9 percent. So if you are a young couple wanting to buy a home, you may not be able to afford it at the current interest rates.

They sort of shrug their shoulders and, say, "Too bad." I sort of say, why are these young people who want to buy a home being denied the opportunity? What is it in the economic circumstance that calls for the higher interest rates when, as the able Senator's chart shows, there is no inflation problem? In fact, it is the best performance in 30 years. Unit labor costs are the best in 30 years. And, yet, they are dampening down the economy when we need the economic growth and when we need the jobs. The unemployment rate is still above 6 percent.

So I commend the Senator from North Dakota for his statement. I agree with him. These matters ought to be debated. The Federal Reserve ought not simply to make pronouncements sort of in a cloud of smoke. Actually Volcker did that more than Greenspan because he smoked that cigar. So he comes in and makes his statement, and with the sort of cloud of smoke that accompanied it.

But there are in some circles in this country the assumption that, if you question the judgments or the policies of the Federal Reserve, somehow you are outside of the proper bounds of political discourse. "Oh, they are trying to politicize the Fed." We are not trying to politicize the Fed. But we think the Fed ought to lay out a rationale and a justification for the policies it is taking and that it ought to be a reasonable matter for debate.

The economic journals are full of articles criticizing the Fed's policies and supporting the Fed's policies. So it is obviously a subject of reasonable debate. The newsletters from the investment houses, although biased toward the Fed, some are critical of the Fed's interest rate policies. Others support it. If it can be debated on Wall Street, why should it not be debated here in the Congress with more of a concern for Main Street? The last time the Fed took the rates up, the Chamber of Commerce, mind you, said that they were worried that Main Street was being sacrificed to Wall Street. And I worry about that as well.

Let me just very briefly turn to the nominee that is before us. I appreciate the fact that the able Senator from North Dakota has separated the broader and very important point I think he is making about monetary policy, and about debating it, about the secrecy with which the Fed operates, about the undemocratic nature of the presidents of these regional banks being on the open market committee. He has separated those very important issues from the question of this nominee because I do think that Janet Yellen is qualified. I do think she ought to go on the Board of Governors. She was approved by the Banking Committee by a vote of 18 to 1.

I think a brief review of her background makes clear that she is highly qualified to serve on the Board of Governors. She received her BA from Brown University, as a summa cum laude. She graduated with the highest honors in economics with a Phi Beta Kappa. She received the National Science Foundation Graduate Fellowship and went on to Yale where she got her Ph.D. 4 years later.

So she holds a Ph.D. in economics from Yale. She has been an assistant professor of economics at Harvard; a lecturer at the London School of Economics; and she has been now for some number of years professor of international business and trade at the School of Business of the University of California at Berkeley, since 1980. She has taught international and macroeconomics in the MBA and the executive education programs of that school. She has received the Distinguished Teaching Award at the University of California at Berkeley.

She is recognized in the profession as one of the highest quality. She is published widely in the fields of macroeconomics and international economics.

Actually, much of her work is focused on understanding the causes of unemployment and how they may be alleviated. I think the analytical talent she brings to the Federal Reserve is second to none. I think she has an understanding of the impact of economic

VOL 140 PT 15 AG 10 — 11 1994 UMI

policy decisions on the lives of everyday people.

I commend the President for nominating a person of this caliber to go on the Board of Governors. This is a very distinguished, very able, very serious-thinking person. And I for one look forward to her service on the Federal Reserve Board.

STATEMENT ON THE NOMINATION OF JANET L. YELLEN

Mr. D'AMATO. Madam President, I rise today to support the nomination of Janet L. Yellen to serve on the Board of Governors of the Federal Reserve System. Madam President, Ms. Yellen is well qualified for the position.

Educated at the distinguished Brown University, and later earning a Ph.D. from Yale University, Ms. Yellen has demonstrated a mastery of economics and monetary policy. Through her extensive published research and her prior service at the Federal Reserve as an economist in the Division of International Finance, she has demonstrated her analytical skills to assist the Fed in its complex mission as the central bank and its control over monetary policy.

More importantly, Madam President, Ms. Yellen has openly expressed the importance of securing the independence of the Federal Reserve Board. Congress has devised a system where the Federal Reserve is accountable to the Congress and can best serve the American people by focusing on long-term growth. Ms. Yellen has pledged her support to this cause.

Madam President, I recommend that this body support the nomination of Ms. Janet Yellen to the Board of Governors of the Federal Reserve.

STATEMENT ON THE NOMINATION OF JANET YELLEN

Mr. RIEGLE. Madam President, I rise in support of the nomination of Janet Yellen to serve as a member of the Board of Governors of the Federal Reserve System for a term of 14 years. This is a very important position, and I think the President has made an outstanding choice.

Federal Reserve Board members have the principle responsibility within the government for economic stability. Their goal is to maintain a healthy rate of growth in jobs while permitting only a low rate of growth of prices. It is a difficult job and a vitally important one. Mistakes, when they occur in policy formulation and adjustments, can be extremely costly. The recession we have just essentially recovered from cost us more than $700 billion in lost production over a 4-year period. It took the Fed 23 policy changes to finally get interest rates low enough for that recovery to proceed. We cannot expect the Fed to avoid recessions entirely, but I think it is fair to say that the Fed's decisions can have a powerful effect on how costly recessions are and how frequently they occur.

The Federal Reserve also has other significant tasks. It is the principal Federal regulator for a large share of our state-chartered banks. It supervises, and partly operates, our financial payments system. And the Fed has perhaps the primary role in avoiding any systemic financial market failures.

Federal Reserve Board members have a number of noteworthy issues to resolve, together with the other financial regulators. These include finding a way to significantly consolidate our bank regulatory agencies and ensuring that public risks posed by the private use of derivatives are limited and under a reasonable degree of supervision and control. In my view, the Fed must also do a far better job of enforcing and applying our community reinvestment and fair lending laws. There has been progress in that area but it has been slow in coming.

This nominee's qualifications for the job are excellent. She has been a very highly regarded economics professor at the University of California at Berkeley for 14 years. She serves on the panel of economic advisors for the Congressional Budget Office and on the Brookings Panel on Economic Activity. Her work has focused on improving our understanding of unemployment and business cycles. And she has also examined German reunification, trade responses to exchange rate changes, income distribution, and a variety of other issues. She has also taught at Harvard and the London School of Economics.

Three weeks ago, the banking committee held a hearing on this nomination and questioned Ms. Yellen for more than 2 hours. She gave us very good answers. When asked whether monetary policy should focus exclusively on fighting inflation, she said that she believed the Fed needs to be focused on maximum employment, and moderate long-term interest rates, as well as inflation. With respect to the Fed's next policy move, she said she had no predisposition to act in either direction: to lower interest rates to forestall a recession or to raise them if signs of emerging inflation appear.

I think this is a nominee who understands what the consequences of a weak economy are to real people. She has spent a large portion of her career studying unemployment. As she told our committee:

The toll of unemployment, like that of a regressive tax, falls most heavily on groups in the workforce that are least able to bear the burden. Young workers deprived of gainful employment may have careers which are permanently stunted because they cannot develop the skills which are critical to their long-term job prospects.

She also pointed out that because a weak economy reduced the incentive and ability of firms to make investments, "high unemployment harms long-term living standards."

But she also understands the dangers of inflation. She told us:

The recession of 1982-83 illustrates the enormous price that workers and businesses paid to bring inflation under control after it built up in the 1970's. Having incurred such a high price to lower inflation then, it would be foolhardy now to squander the fruits of this effort.

I think she is someone with balanced views and a superb background. The banking committee voted 18-1 to report her nomination favorably and I urge my colleagues to confirm this nomination speedily.

Mr. DORGAN. Madam President, I yield the remainder of my time.

Mr. STEVENS. Madam President, I yield back the time of the Senator from New York.

The PRESIDING OFFICER. The question is, Shall the Senate advise and consent to the confirmation of the nomination of Janet L. Yellen, of California, to be a Member of the Board of Governors of the Federal Reserve System? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—94

Akaka	Feingold	McConnell
Baucus	Feinstein	Metzenbaum
Bennett	Ford	Mikulski
Biden	Glenn	Mitchell
Bingaman	Gorton	Moseley-Braun
Bond	Graham	Moynihan
Boren	Gramm	Murkowski
Boxer	Gregg	Murray
Bradley	Harkin	Nickles
Breaux	Hatch	Nunn
Bryan	Hatfield	Packwood
Bumpers	Heflin	Pell
Burns	Hollings	Pryor
Byrd	Hutchison	Reid
Campbell	Inouye	Riegle
Chafee	Jeffords	Robb
Coats	Johnston	Rockefeller
Cochran	Kassebaum	Roth
Cohen	Kempthorne	Sarbanes
Conrad	Kennedy	Sasser
Coverdell	Kerrey	Shelby
Craig	Kerry	Simon
D'Amato	Kohl	Simpson
Danforth	Lautenberg	Smith
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dodd	Lieberman	Thurmond
Dole	Lott	Warner
Domenici	Lugar	Wellstone
Dorgan	Mack	Wofford
Durenberger	Mathews	
Exon	McCain	

NAYS—6

Brown	Grassley	Pressler
Faircloth	Helms	Wallop

So, the nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider the vote is laid upon the table, and the President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The question occurs on the passage of H.R. 4650, as amended. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. WOFFORD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 14, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—86

Akaka	Exon	Mathews
Baucus	Faircloth	McConnell
Bennett	Feinstein	Metzenbaum
Biden	Ford	Mikulski
Bingaman	Glenn	Mitchell
Bond	Gorton	Moseley-Braun
Boren	Graham	Moynihan
Boxer	Gramm	Murkowski
Bradley	Grassley	Murray
Breaux	Harkin	Nickles
Bryan	Heflin	Nunn
Bumpers	Helms	Packwood
Burns	Hollings	Pell
Byrd	Hutchison	Pryor
Campbell	Inouye	Reid
Chafee	Jeffords	Riegle
Coats	Johnston	Robb
Cochran	Kassebaum	Rockefeller
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Coverdell	Kerry	Shelby
D'Amato	Kohl	Simon
Danforth	Lautenberg	Simpson
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dodd	Lieberman	Thurmond
Domenici	Lott	Warner
Dorgan	Lugar	Wofford
Durenberger	Mack	

NAYS—14

Brown	Hatch	Roth
Craig	Hatfield	Smith
Dole	Kempthorne	Wallop
Feingold	McCain	Wellstone
Gregg	Pressler	

So the bill (H.R. 4650), as amended, was passed.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House and the Chair appoints the following conferees.

The Presiding Officer (Mr. WOFFORD) appointed Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. STEVENS, Mr. D'AMATO, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM of Texas, Mr. BOND, and Mr. HATFIELD conferees on the part of the Senate.

MORNING BUSINESS

Mr. FORD. Mr. President, I now ask unanimous consent there be a period for morning business, with Senators permitted to speak therein for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEQUENTIAL REFERRAL—S. 2344

Mr. FORD. Mr. President, I understand that on August 9, 1994, the Committee on Labor and Human Resources reported S. 2344, Calendar No. 549, a bill to authorize appropriations for the National Science Foundation. I ask the bill be sequentially referred to the Committee on Commerce, Science, and Transportation pursuant to the order of March 3, 1988.

The PRESIDING OFFICER. The bill will be so referred.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-498, reappoints William C. Hiss, of Maine, to the Advisory Committee on Student Financial Assistance for a 3-year term effective October 1, 1994.

UNANIMOUS-CONSENT AGREEMENT—S. 2082

Mr. FORD. Mr. President, I ask unanimous consent that at 9:30 a.m. Friday, August 12, the Senate proceed to the consideration of Calendar No. 501, S. 2082, the intelligence authorization, and that it be considered under the following limitations:

That the committee amendments be agreed to, en bloc, without debate; that there be a 60 minute time limitation for debate on the bill; with up to 20 minutes of that time for opening statements of the managers, that the following be the only floor amendments in order to the bill and that they be considered under the time limits specified; that no other amendments be in order except where specified; provided further that they be relevant to the subject matter of the amendment to which offered; with all time for debate equally divided and controlled in the usual form; and that any second degree amendments be allotted the same time limits as the first degree amendment to which offered:

A managers' amendment (text of S. 2056)—1 hour; with second-degree amendments in order thereto;

Warner amendment relating to a Commission—40 minutes with the time divided as follows: 25 minutes equally divided and controlled and 15 minutes allotted to Senator SPECTER;

Two amendments to be offered by Senator NUNN which are relevant with a time limitation of 1 hour on each;

DeConcini amendment which is relevant—30 minutes that upon disposition of the listed amendments, the bill be read a third time, and the Senate then proceed to Calendar No. 529, H.R. 4299, the House companion; that all after the enacting clause be stricken and the text of S. 2082, as amended, be inserted in lieu thereof, that the bill be advanced to third reading and passed; that upon disposition of H.R. 4299, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees; that upon disposition of H.R. 4299, both S. 2082 and S. 2056 be indefinitely postponed, with the above occurring without intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

Mr. FORD. Mr. President, I ask the Chair to lay before the Senate the conference report accompanying H.R. 4506, the Energy, Water appropriations bill; and that the Senate then proceed to its immediate consideration; that the conference report be adopted and the motion to reconsider be laid upon the table, with the above occurring without intervening action; provided further that upon adoption of the conference report, the Senate concur, en bloc, in the House amendments to the Senate amendments numbered 2, 4, 8, 28, 48 and 49.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I submit a report of the committee on conference on H.R. 4506 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The Legislative clerk read as follows:

The Committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4506) a bill making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 4, 1994.)

Mr. JOHNSTON. Mr. President, I am pleased to present the conference report on the fiscal year 1995 Energy and Water Development appropriation bill. This conference report on the bill, H.R. 4506 passed the House of Representatives by a vote of 393 yeas to 34 nays, on August 10, 1994.

VOL 140 PT 15 AG 10 — 11 1994 UMI

The conference on this bill held on August 4, 1994, and the conference report was printed in the CONGRESSIONAL RECORD of August 4, 1994. Of course, the printed conference report has been available since that time also. Therefore, I will not undertake to elaborate on the disposition of all the items that were in conference.

The conference agreement provides $20,662,402,000 in new budget obligational authority. This amount is $20,236,000 less than the President's budget request. It is $136,892,000 over the House passed bill, and $19,894,000 less than the Senate passed bill. The principal reason for this difference is that the 602(b) allocation was $140 million higher for the Senate bill. The conference bill is within the 602(b) allocation for both budget and outlays.

Title I of the bill provides appropriations for the U.S. Army Corps of Engineers' Civil Works Program. The conference agreement provides $3,408,919,000 which is $43,515,000 less than the House bill and $17,354,000 more than the Senate bill.

For title II, the Bureau of Reclamation in the Department of the Interior, the conference agreement includes a total of $881,399,000. This is $2,221,000 less than the House passed bill and $11,985,000 more than the Senate passed bill.

A total of $15,901,676,000 is provided in title III for the Department of Energy programs, projects, and activities. Of this amount, $10.3 billion is for atomic energy defense activities which is $367,000 below the House passed bill and $29,452,000 below the Senate passed bill.

Mr. President, one of the major differences between the House and Senate bills was the integral fast reactor [IFR], also known as the advanced liquid metal reactor [ALMR]. The Senate position was to continue the research on actinide recycling while terminating the reactor program. The House position was to immediately terminate the program and shutdown EBR II without completing the research phase of the program. As Members will recall, we had an excellent debate in the Senate and our position to complete the research prevailed. However, the House voted three times to terminate the program as proposed by the President and the Department of Energy. In the face of the House's repeated votes against the program, the conferees have agreed to terminate the program. A total of $83,800,000 is provided for shutdown of EBR II and termination beginning this fall, as proposed by the House. In the termination process, the Department is to maximize the research on actinide recycle, and as proposed by the administration, should retain such facilities as necessary, especially the pyroprocessing facilities, to provide for alternative missions at Argonne National Laboratory in Idaho and Illinois. The Department is encouraged to identify alternate funding sources for the unfunded alternative missions at Argonne's facilities in Idaho and Illinois.

Another of the major differences, concerns the magnetic fusion energy program and what we call the TPX construction line item. TPX is the Tohamak physics experiment at Princeton University, a new machine estimated to cost about $800 million to construct and about $1 billion to operate over its life. It is a part of the larger International Tohamak experimental reactor or ITER which will cost about $10 billion to construct and about $10 billion to operate. So in this program, we would be faced with a $22 to $25 billion program to further develop magnetic fusion. I am determined that the Congress, the administration, and the White House, have an eyes-wide-open debate and decision in going forward with this program. I support it, and believe we should go forward. I am also determined to avoid another SSC debacle by doing what I can to see that we have a commitment to the program, especially because of the enormous sums involved, and to have an international process and agreements on the ITER project.

The conferees have agreed that TPX will proceed with design activity only including industrial participation in the engineering design and research and development and includes $42,000,000 for this activity. The conferees recognize the very significant scientific accomplishments of the deuterium-tritium [D–T] experiments on the Tokamak fusion test reactor [TFTR] in support of the ITER design, and it is the intent of the conferees that these important experiments continue until construction of TPX is approved. Therefore, in fiscal year 1995, $65,000,000 is provided for continuation of TFTR experiments. $8,000,000 is included for the PBX–M program. With regard to TPX design, the Department of Energy is directed to use standard, phased industrial contracts for these design activities, with options for construction that would permit continuity and would allow the project to be completed in the most efficient and cost efficient and cost-effective manner. $2,000,000 may be used for the purchase of long lead-time superconducting material critical to maintaining the schedule of the project.

The conferees also provide $52,000,000 for the DIII–D Tokamak facility and $8,700,000 for the Inertial Confinement Fusion program including an increase of $2,000,000 for the induction linac systems experiment [ILSE] to enable this program to proceed on a timely and cost-effective schedule.

I recommend to the Senate that this conference report be approved promptly so as to complete action on this appropriation bill and clear it for the President's consideration and approval.

Mr. President, I wish to express our appreciation and thanks to our House colleagues lead by the chairman of the House Subcommittee, the distinguished gentleman from Alabama [Mr. BEVILL] and the Ranking Minority Member, the distinguished gentleman from Indiana [Mr. MEYERS]. I also want to thank again my friend and able colleague, the gentleman from Oregon [Mr. HATFIELD]. It is always a happy experience to work with him. Also, I want to express my appreciation to all of the Senate conferees who are members of our subcommittee also.

DECLASSIFICATION PRODUCTIVITY INITIATIVE

Mr. SMITH. Mr. President, I would like to inquire of the Chairman of the Energy and Water Appropriations Subcommittee, Senator JOHNSTON, as to the ultimate disposition of the Declassification Productivity Initiative [DPI] provision that was originally included as report language in the Senate appropriations bill. As you recall, during consideration of the fiscal year 1995 Defense authorization bill, the Senate, and subsequently the defense conference, agreed to my amendment authorizing $3,000,000 from the account titled "Materials Support and Other Defense Programs" to fund the DPI effort.

Mr. JOHNSTON. I thank my colleague from New Hampshire for his interest in this program. I am aware of his previous actions in the Armed Services Committee and greatly appreciate his ensuring that throughout the defense conference this program received the necessary attention.

As to the outcome of the Declassification Productivity Initiative, I am pleased to inform my colleague that the original report language of the Senate was agreed to by the House conferees. The language states in part:

* * * the Committee encourages the Department to proceed quickly with its new declassification productivity initiative to provide computer-based, expert systems to enhance the productivity of the document declassification review process.

The report language further states that up to $3,000,000 be allocated for this initiative. Though the conferees were unable to specifically earmark the $3,000,000 needed in fiscal year 1995, I want to assure the Senator from New Hampshire that I am committed to getting the Department of Energy to allocate the funds for this much-needed program. It should be fully understood by the Department of Energy that the report language submitted by the Senate in this appropriations conference report and the language Senator SMITH secured in the defense authorization conference are still enforceable and should be adhered to.

The Senate Energy and Water appropriations report also mentions that the Department of Energy is behind in processing both its Freedom of Information Act requests and the mandatory requests for information under Executive Order 12356. It is my understanding that these problems stem from the Department's inability to provide adequate financial, technical and personnel resources in the declassification review process because a significant portion of the information requested must be screened and sanitized.

Mr. SMITH. Mr. President, I am in full agreement with the Senator's comments. In fact, declassification efforts, and the need to improve upon the productivity of these programs are an issue in numerous departments and agencies—not just the Department of Energy. I believe the DPI effort, with the strong commitment of the Chairman and with the direction the Congress has already provided the Department, will take the first critical step toward improving those deficiencies just mentioned by the Senator. Furthermore, as I mentioned in my speech to the Senate during my amendment's consideration on the defense bill, the DPI is a significant first step at redefining the boundaries of technology in high-speed optional scanning, imaging and computing. This type of technology will not only enhance government efficiency, but the information-intensive segments of private industry as well such as the banking, health care and petrochemical.

Lastly, Mr. President, I believe the Department must step up its efforts not only to ensure the $3,000,000 in funding is available for the Declassification Productivity Initiative in fiscal year 1995, but also that adequate resources for this effort are included in the Department's future budget requests. I sincerely hope that the Chairman will encourage the Department along these lines, and I want to assure him that he will have my support.

Mr. JOHNSTON. I thank the Senator for his help in this matter. I will certainly do my best to help the funding along. I yield the floor.

TERMINATION OF THE ADVANCED LIQUID METAL REACTOR

Mr. KERRY. Mr. President, the Senate today is acting to accomplish the near-impossible: it will eliminate a Federal program.

When we approve the Energy Appropriations bill conference report today, we will be approving the termination of the Advanced Liquid Metal Reactor [ALMR], a program that is a complete waste of taxpayer dollars and dangerous as well. This is a program that I have fought to kill over the past year and it is with great satisfaction that I mark its demise.

Mr. President we have to-date spent close to $9 billion on this program. And we have nothing to show for it.

If we had not terminated it, we would have spent an additional $3.2 billion over the next 15 years just on ALMR research, design, development and prototyping. Termination will save $2.9 billion, according to Secretary of Energy Hazel O'Leary.

But many of my colleagues felt that even though the program is expensive, we should have funded it because scientific research is a good long-term investment. However, in this case research is a very bad idea. It is a bad idea because the technology—even if successful—is not needed and because continuing the research is extremely dangerous from a nonproliferation perspective.

I wish to make it clear that I do not feel that it is a bad idea simply because it is a nuclear program. I am a supporter of Light Water Reactors and of the Advanced Light Water Reactor Program at the Department of Energy. This is the technology supported by industry. I am opposed to the ALMR—which is not supported by industry and is not necessary to the continuation of the nuclear industry.

NON-PROLIFERATION

The prime reason I am opposed to the ALMR is the same reason that prompted Secretary O'Leary to take her very brave stand against this technology and President Clinton to decide to oppose this project. It directly violates our nonproliferation policy and hurts our credibility in discouraging proliferation. As Secretary O'Leary said, "We cannot credibly urge that others not use technologies for separating and using plutonium if we are pursuing those same technologies ourselves."

Let me make it clear to my colleagues: the Secretary of Energy and the President oppose this technology because it make it harder for the President to discourage rogue nations from acquiring the ability to build nuclear bombs. the New York Times said "Financing the Integral Fast Reactor would send the wrong signal to Japan and others who are planning to produce more plutonium to fuel nuclear power plants."

Besides sabotaging U.S. nonproliferation policy, further research into the ALMR would have put information on plutonium separation into the public domain. Proponents argued that the U.S. would be discriminating in sharing this technology. Unfortunately, in the past, technology has spread to rogue nations. North Korea reportedly has acquired advanced European reprocessing technology used in a facility in Belgium and its operating reactor is well known to be a clone of a British production reactor. Much of the ALMR's reprocessing technology would have been described in the open scientific literature. At least one of the contracts on pyroprocessing establishes the right of the contractors to publish detailed results of the R&D work.

Further, ALMR facilities themselves would have made plutonium more easily available to those wishing to acquire it for bombs. Proponents say that it is more proliferation-resistant than alternative reprocessing technology. But the meaningful comparison is with the once-through fuel cycle, which the U.S. currently uses to produce electricity from light-water reactors. Under this comparison, the ALMR clearly increases proliferation risks. The National Academy of Sciences [NAS] said in a recent study: "Possession of such a facility, however, would still offer a state the technology needed to produce separated plutonium for weapons, should it choose to do so openly."

NEW STUDIES

The proponents justified the technology by saying that it will "recycle" the spent fuel from nuclear reactors and the plutonium from weapons. However, several objective, independent studies have come out in the past year which firmly refute these claims.

The National Academy of Sciences has published a study saying that the ALMR is a bad idea for weapons plutonium disposition. The GAO has published a study saying that the ALMR is a bad idea for commercial spent fuel disposition. And the OTA has published a study agreeing with both of these studies and claiming that the ALMR could easily become a breeder reactor—producing more plutonium than it consumes. These were the only objective studies conducted in the last year and they all came out against the technology.

DISPOSAL OF WEAPONS PLUTONIUM

On the question of weapons plutonium, the NAS study concludes unequivocally that the ALMR was far less desirable than two other technologies for disposal: the vitrification technology and the MOX technology—where plutonium is run through light-water reactors and forms a mixed oxide fuel. NAS said "Advanced reactors snould not be specifically developed or deployed for transforming weapons plutonium into spent fuel, because that aim can be achieved more rapidly, less expensively, and more surely using existing or evolutionary reactor types."

The NAS said that there is clear and present danger from the presence of weapons plutonium and so the most important quality in a solution is the speed with which it makes the plutonium unusable. ALMR would take far longer than either vitrification or MOX. In fact, a vitrification campaign to dispose of plutonium could be finished before an ALMR campaign was even ready to begin. The head of the NAS panel said in testimony before the Energy Committee "Considering the urgency of bringing the plutonium from nuclear weapons to the 'spent fuel standard,' the development and construction of a new generation of nuclear reactors cannot be justified for the plutonium disposition mission."

RECYCLING COMMERCIAL SPENT FUEL WASTE

The GAO study says that "DOE's radioactive waste managers are not pursuing the transmutation of waste because they believe that it is too costly

VOL 140 PT 15 AG 10 — 11 1994 UMI

and unnecessary." GAO pointed out that there is no way ALMR's, even if they do everything their advocates say they can do, could reduce waste volume enough to substitute for a repository. Further, whether or not a second repository will be needed is impossible to predict at this point, because it depends on variables such as how much waste the first repository will hold, will more nuclear plants be built, how long will the current one run, et cetera.

More important, using ALMR's even under the rosiest scenario would be less efficient, more costly, and involve more movement and above-ground storage of radioactive material than repository burial alone. Using the ALMR would take hundreds of years longer to get spent waste underground than just using the repository alone. Lawrence Livermore in a study wrote "There remain no costs or safety incentives to introduce—partitioning and transmutation—into the high-level waste management system."

Using the ALMR would add cost to the spent waste disposal method. This is why the Electric Power Research Institute said "The policy would likely incur a large cost penalty, encounter major institutional difficulties, multiply licensing difficulties, and amplify political and public opposition to the nuclear power program as a whole."

Further, it would not reduce the danger. It might eat up some of the actinides—if it does what it claims—but it would leave other longer-living fission products which are more water soluble and so more susceptible to leaks. But the DOE waste managers say that we should not even focus on the technology because our policy is to use a repository and we should focus on making that work well—not on an add-on technology.

BREEDER TECHNOLOGY

The OTA study states that "Even if the system were designed to be a plutonium consumer, it would not be mechanically difficult for an owner with technical expertise to convert it to a "breeder" * * * it would be difficult or impossible to design a reactor that could be guaranteed to not work as a plutonium breeder." Far from removing dangerous plutonium from the planet, the ALMR has the potential to increase the amount of plutonium. The OTA makes clear that this has always been the principal purpose of the technology.

The only explanation I can find for why this project persisted for as long as it did in the face of all the objective evidence is the fact that its mission changed so many times to suit the current political winds. First, it was a plutonium breeder. Then the developers began to promote the project as a method to reprocess and transform spent nuclear fuel from commercial LWRs to solve the Yucca mountain problems. After 1991, when arms reduction agreements between the United States and the former Soviet Union appeared likely to produce significant quantities of surplus plutonium, developers emphasized its potential to eliminate this plutonium by consuming it as a nuclear fuel to make electricity. Most recently proponents claimed it would prevent spent fuel from becoming a proliferation risk.

Mr. President, the ALMR was a project in search of a mission. Now it need no longer search.

The President of the United States opposes this project. The Secretary of Energy opposes this project. The House of Representatives opposes this project. The Nuclear Control Institute opposes this project. The National Taxpayers Union opposes it. Citizens Against Government Waste opposes it. Public Citizen. U.S. PIRG. Safe Energy Communications Coalition. Sierra Club. National Resources Defense Council. GreenPeace. Physicians for Social Responsibility. Union of Concerned Scientists.

And finally, today, the Senate will go on record as opposing this project as well.

Two of my colleagues have dedicated a great deal of time and energy to the termination of the ALMR on behalf of the American taxpayer. They are the Senator from New Hampshire, Mr. GREGG, and the Senator from Arkansas, Mr. BUMPERS.

The Secretary of Energy was also enormously helpful in calling on members of Congress to express the Administration's position that the ALMR violates our nonproliferation policy.

Those who fought to terminate the project in the House, Representative COPPERSMITH, Representative SHARP and others, deserve a great share of the credit for their work over the past year to eliminate this dangerous program.

I commend my colleagues for saving the taxpayers billions of dollars and for eliminating a danger to our nonproliferation efforts. I look forward to sending this bill to the President for his signature.

Mr. HATFIELD. Mr. President, I join chairman JOHNSTON in recommending final approval of the Energy and Water Development Appropriations Conference Report to the full Senate. This conference report provides funds for important projects and activities in every State, and concerns every Member of this body. I am pleased to be associated with this effort, and I especially want to thank Senator BYRD, chairman of the full Appropriations Committee, for his assistance throughout our process.

I also want to thank Senator JOHNSTON for the outstanding leadership he has provided in developing this package. Considering the many difficulties the Energy and Water Development Subcommittee encountered this year, especially with regard to a 602(b) allocation that is approximately $1.2 billion below the fiscal year 1994 enacted level, Senator JOHNSTON's efforts have been over and beyond the call of duty.

The conference report is especially important to our efforts in the Pacific Northwest to rebuild the threatened and endangered salmon runs in the Columbia River Basin. We have provided funding for the Corps of Engineers and the Bureau of Reclamation to continue their important efforts to protect and enhance the salmon stocks at risk. These activities will complement the regional efforts implemented according to the Northwest Power Planning Council's "Strategy for Salmon" which are funded by the region's electrical ratepayers through the Bonneville Power Administration.

I want to mention a specific provision included by the conferees in the joint explanatory statement concerning the administration's agreement to assume costs of the additional measures to protect endangered and threatened stocks of salmon in 1994 which go beyond the current biological opinion governing the operation of the Federal Columbia River Power System. The conferees have no objection to the administration's decision to provide this financial assistance, but believe that the proposal to fund these costs by crediting the Bonneville Power Administration's repayment to the Treasury may have broader financial and policy implications. Accordingly, the conferees expect the Bonneville Power Administration to work with the Office of Management and Budget and the House and Senate Appropriations Committees to outline the budgetary principles and financing mechanisms to be applied if it appears there will be a continuing need for this assistance beyond 1994. The administration has been most helpful to the region, and I look forward to any further discussions which may be necessary.

Once again, I thank the distinguished subcommittee chairman, Senator JOHNSTON, for his efforts and hard work in developing and shepherding this important conference report through the Congress.

I yield the floor.

Mr. CRAIG. Mr. President, I will not object to the unanimous consent request to take up the Energy and Water Development appropriations bill for fiscal year 1995. However, I want to make clear there is one item in this bill to which I strongly object.

My objection is to the conferees decision to terminate the advanced reactor research on the Integral Fast Reactor/Advanced Liquid Metal Reactor [IFR/ALMR]. This is not a cost-saving measure nor is it a good science decision. Termination will lead to more not less plutonium proliferation in the world. The technology that was being developed actually consumed plutonium. This was the only technology being developed that could actually burn up plutonium. I strongly believe history will show this termination decision to be a wrong and short-sighted one.

However, the conferees have decided to provide only $83.8 million for the shutdown of the experimental reactor EBR II and the termination of the IFR program. I am very concerned that this is not sufficient money to even allow for a safe and orderly shutdown.

The two Senators from Illinois, my colleague from Idaho and I are all currently working with the Secretary of Energy to salvage a program that will retain a portion of this important science and to retain the brain trust that has developed around the IFR research. This is consistent with the direction of the conferees to maximize the research on actinide recycle and retain such facilities as necessary, especially the pyroprocessing facilities, to provide for alternative missions at the Argonne National Laboratory in Idaho and Illinois and for the Department of Energy to identify alternative funding sources for alternative missions at these facilities. It is my hope and intention that we will be successful in this undertaking.

Mr. HATFIELD. I want to bring to the attention of the chairman of the Energy and Water Development Appropriations subcommittee, Senator JOHNSON, an important project in the State of Texas which, unfortunately, was not included in the conference agreement. The project is of concern to both Senator GRAMM and Senator HUTCHISON, and I believe merits special attention by the Bureau of Reclamation over the course of fiscal year 1995.

Mr. JOHNSTON. I would be pleased to hear the Senator's concerns.

Mr. HATFIELD. The project I want to highlight is the Lake Meredith Salinity Control Project. The project currently is being conducted by the Bureau of Reclamation under its construction program. Knowing of the importance of the project to our colleagues from Texas, I would ask the distinguished chairman if he would be willing to join me in asking the Commissioner of the Bureau of Reclamation to ensure that adequate funds will be provided for the Lake Meredith project over the course of fiscal year 1995.

Mr. JOHNSTON. I am aware of the interest in this project by Senator GRAMM and Senator HUTCHISON, and agree with the Senator from Oregon that this is an important project which should not be slowed or stopped due to a lack of available funds. The Bureau of Reclamation has informed the subcommittee that funds appropriated for the current fiscal year will be carried over into fiscal year 1995, and work on the project will proceed. I also want to note that the Senate conferees had tentatively agreed to provide $500,000 for Lake Meredith. Unfortunately, one of the House conferees offered an amendment which transferred the funds to another Texas project.

Mr. HATFIELD. I thank the distinguished chairman for his assurance. I also would ask whether the chairman would urge the Bureau of Reclamation to reprogram funds in fiscal year 1995 for the Lake Meredith project should additional funds be required to keep the project on schedule.

Mr. JOHNSTON. I share the distinguished ranking member's concern and agree that the subcommittee expects the Bureau of Reclamation to use carry-over funds and initiate any reprogrammings that are necessary to ensure that the Lake Meredith project is kept on track during the next fiscal year.

Mr. HATFIELD. I thank the distinguished chairman for his assistance in this matter.

Mr. KEMPTHORNE. Mr. President, I will not ask for a roll call vote but I want the RECORD to show that I would have voted "no" on the conference report now before the Senate.

The fiscal year 1995 Energy and Water Development Conference Report directs the termination of the Integral Fast Reactor [IFR] Program. I believe that this decision is a mistake and I truly believe that our Nation will one day regret the Congress' decision to turn its back on this promising technology.

I supported the IFR Program as a important technology to help this Nation deal with the problem of surplus weapons grade plutonium and spent reactor fuel. Now that the IFR Program will be terminated, I look forward to seeing how the critics of the IFR propose to deal these problems.

In my 2 years in the Senate, I have worked long and hard to complete the research on the IFR Program. Despite strong opposition, last year and this year the Senate supported the continuation of the IFR Program. Last year, the House agreed to support the Senate position but this year the House conferees refused to accept the Senate position.

I want to thank all of my colleagues in the Senate who supported my fight for the IFR. I know this was a tough vote but I will not forget your help on this very important issue.

I also want to pay a special thanks to my colleague, the senior Senator from Idaho, Senator LARRY CRAIG, and the two Senators from Illinois, Senator SIMON and Senator MOSELEY-BRAUN. Together, we formed the Idaho and Illinois coalition and I do not think there is a more effective bi-partisan team in the U.S. Senate.

In addition, I want to thank the senior Senator from Louisiana, Chairman JOHNSTON, for his generous support and strong commitment to the IFR Program. Senator JOHNSTON is the recognized expert on energy matters in the Senate and his support in committee, on the Senate floor and in conference was invaluable.

The Idaho-Illinois coalition will once again be tested as we work with the Secretary of Energy, Hazel O'Leary, to put together a program to preserve the scientific and technical expertise at Argonne East and West. The limited funding for the termination of the IFR Program that was provided by the conference report would result in an inefficient shut down of the IFR Program and the loss of hundreds of skilled scientists and engineers. While certain aspects of the IFR Program were controversial in some quarters, no one disputes the fact that the scientists, engineers, and facilities at Argonne East and West are a national asset that must be preserved. In the days ahead, the Idaho and Illinois Senators are committed to working with Secretary O'Leary to develop a plan to preserve, to the maximum extent possible, the human and physical assets at Argonne East and West.

When President Clinton signs this bill, he will signal the end of the Integral Fast Reactor Program. At the same time, Secretary O'Leary has committed to work with the Idaho and Illinois Senators to develop alternative missions for Argonne East and West. While I strongly support the effort to develop the alternative missions, and I ask my colleagues in the Senate to support me in this effort, I want the RECORD to show that I be recorded as voting "no" on the passage of the energy and water conference report.

So the conference report was agreed to.

The Senate concurred in the amendments of the House; as follows:

In the House of Representatives, *Resolved*, That the House agree to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4506) entitled "An Act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 6, 9, 15, 16, 21, 35, and 39 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Red River Navigation Study, Arkansas, $300,000;

Los Angeles County Water Conservation and Supply, California, $500,000;

Norco Bluffs, California, $200,000;

Indianapolis, White River, Central Waterfront, Indiana, $4,000,000;

Lake George, Hobart, Indiana, $200,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $150,000;

Ohio River Greenway, Indiana, $500,000;

Hazard, Kentucky, $500,000;

Kentucky Lock and Dam, Kentucky, $2,000,000;

VOL
140
PT
15
AG
10
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11
1994
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Mussers Dam, Pennsylvania, $100,000;
Hartsville, Trousdale County, Tennessee, $95,000;
West Virginia Comprehensive, West Virginia, $350,000; and
West Virginia Port Development, West Virginia, $800,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Red River Emergency Bank Protection, Arkansas and Louisiana, $6,000,000;
Red River below Denison Dam Levee and Bank Stabilization, Arkansas, Louisiana and Texas, $2,100,000;
West Sacramento, California, $500,000;
Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $400,000;
Sacramento River Flood Control Project (Deficiency Correction), California, $3,700,000;
San Timoteo Creek (Santa Ana River Mainstem), California, $5,000,000;
Central and Southern Florida, Florida, $8,624,000;
Kissimmee River, Florida, $4,000,000;
Savannah Harbor Deepening, Georgia (Reimbursement), $11,585,000, of which $2,083,000 is for a cost-shared Savannah River recreation enhancement and public access project along 900 linear feet of shoreline in the City of Savannah;
Casino Beach, Illinois, $1,000,000;
Des Moines Recreational River and Greenbelt, Iowa, $4,000,000;
Harlan (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $20,000,000;
Middlesborough (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $1,200,000;
Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $1,000,000;
Pike County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $5,000,000;
Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana, $800,000;
Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $12,500,000;
Ouachita River Levees, Louisiana, $4,500,000;
Ste. Genevieve, Missouri, $3,000,000;
Hackensack Meadowlands Area, New Jersey, $2,500,000;
Ramapo River at Oakland, New Jersey, $600,000;
Salem River, New Jersey, $1,000,000;
Carolina Beach and Vicinity, North Carolina, $2,800,000;
Fort Fisher and Vicinity, North Carolina, $900,000;
Broad Top Region, Pennsylvania, $1,000,000;
Lackawanna River, Olyphant, Pennsylvania, $1,100,000;
Lackawanna River, Scranton, Pennsylvania, $1,000,000;
South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, Pennsylvania, $7,000,000;
Allendale Dam, Rhode Island, $67,500;
Wallisville Lake, Texas, $1,000,000;
Richmond Filtration Plant, Virginia, $2,000,000;
Southern West Virginia Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, West Virginia, $1,500,000;
Hatfield Bottom (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $500,000; and
Upper Mingo County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $250,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Tucson Diversion Channel, Arizona, $2,500,000;
Jeffersonville-Clarksville, Indiana, $750,000;
McAlpine Lock and Dam (Ohio River Locks and Dams), Kentucky, $1,000,000;
Raystown Lake, Pennsylvania, $5,330,000; and
John H. Kerr Reservoir (Mosquito Control), Virginia and North Carolina, $40,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided, That the Secretary of Energy may transfer available amounts appropriated for use by the Department of Energy under title III of previously enacted Energy and Water Development Appropriations Acts into the Isotope Production and Distribution Program Fund, in order to continue isotope production and distribution activities: Provided further, That the authority to use these amounts appropriated is effective from the date of enactment of this Act: Provided further, That fees set by the Secretary for the sale of isotopes and related services shall hereafter be determined without regard to the provisions of Energy and Water Development Appropriations Act (P.L. 101–101): Provided further, That amounts provided for isotope production and distribution in previous Energy and Water Development Appropriations Act shall be treated as direct appropriations and shall be merged with funds appropriated under this head*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$520,501,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$498,501,000*

FEDERAL TRADE COMMISSION ACT AMENDMENTS OF 1993—CONFERENCE REPORT

Mr. FORD. Mr. President, I submit a report of the committee of conference on H.R. 2243 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legisiative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2243) to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 21, 1994.)

Mr. BRYAN. Mr. President, I am pleased to present for consideration the House and Senate Conference Report on legislation to reauthorize the Federal Trade Commission.

As you know, Mr. President, the FTC has proceeded without a formal authorization for over a decade. Although bills have been introduced, and passed by both bodies in the last several Congresses, final passage of the legislation has been unsuccessful as a result of differences between House and Senate Members over the application of the Commission's unfairness rulemaking authority to commercial advertisements. Several Senate Commerce Committee members had expressed concern about the potential promulgation of overly-broad rules that could intrude on or prevent legitimate constitutionally protected commercial speech. Several House Members, on the other hand, had stringently opposed any limitations on the Agency's authority.

I believe, however, Mr. President, that the House and Senate conferees have fashioned a reasonable and balanced resolution regarding this issue. This means, Mr. President, that we have been successful in removing what I consider to be the last remaining obstacle to the FTC's reauthorization. Through the passage of this legislation, the Congress will be re-asserting its full commitment to, and support for, one of the Nation's premier consumer protection agencies.

In addition to re-authorizing the Commission, the proposed legislation provides the FTC with enhanced enforcement powers and increased funding. The bill also requires the FTC to examine how its resources are allocated, and to identify areas that are most appropriately enforced by the FTC and those that are most effectively enforced by the States. These reviews are designed to ensure that the Commission's resources are being used effectively and efficiently.

When I assumed the chairmanship of the Consumer Subcommittee two Congresses ago, the reauthorization of the FTC became one of my top priorities. I cannot express how elated I am that we are now at the point of realistically achieving this goal. As I stated at the introduction of the Senate bill, I was optimistic that we were going to be successful this year. As I indicated, it has taken us many years to reach this point, and I hope that we can now proceed with the final passage of this legislation. I, therefore, urge my colleagues to support the adoption of the proposed conference report.

Mr. HOLLINGS. Mr. President, I rise in support of the conference report on H.R. 2243, the Federal Trade Commission Act Amendments of 1994.

As you know, Mr. President, appropriations for the Federal Trade Commission [FTC] have not been formally reauthorized by the Congress since September 1982. Although the Senate Commerce Committee has reported FTC authorization legislation in each Congress since the 97th Congress, we have been unsuccessful in securing enactment of a reauthorization bill for the FTC because of disagreements over the application of the FTC's regulatory authority.

The issue that has been most in dispute is the expansiveness of the FTC's unfairness authority regarding commercial advertisements. I, along with several other committee members, have had serious concerns about the promulgation of overly-broad rules that had the potential of intruding upon constitutionally protected commercial speech. I especially was concerned about the vagueness of the FTC's authority in this area, and the threat it posed to legitimate advertisements. I believe, however, that there has been a fair resolution of this issue by House and Senate conferees.

As you know, Mr. President, the FTC is a vital agency, and one that is of great importance to consumers. Its primary duties are to ensure the operation of competitive markets and to protect consumers from unfair and deceptive acts and practices. Passage of the conference report on H.R. 2243 is necessary to reaffirm the Congress' commitment to the FTC and consumer protection. I commend Senators BRYAN, GORTON, DANFORTH, and FORD for their work on the legislation, and ask for the support of all Members for the passage of this conference report.

Mr. GORTON. Mr. President, as the Ranking Republican of the Consumer Subcommittee, I am pleased to join the distinguished Chairman, Senator BRYAN, in bringing to the Senate the conference report to accompany H.R. 2243, the Federal Trade Commission Act Amendments of 1994. It has been 14 long years since the Congress last authorized this important agency.

The conferees have successfully resolved a seemingly irreconciliable disagreement regarding the central issue of rulemakings on commercial advertising pursuant to the Commission's "unfairness" authority. During the 1970's, the Commission initiated several controversial rulemakings in this area. A considerable amount of time and resources were spent on these undertakings, with poor results. The Senate's approach was to create an absolute ban on all such rulemakings; the House disagreed with these restrictions.

Fortunately, the conferees were able to reach a compromise by removing the absolute ban while retaining the definition of unfairness that the FTC has been using since it promulgated a policy statement on unfairness in 1980. We were also able to reach an acceptable middle ground on the role which public policy should play in determining unfairness. I believe that codification of the definition will provide greater stability and predictability in this area—a result that should be good to businesses and consumers alike.

Further clarification of the FTC's mission can be found in this reauthorization's restriction on FTC regulation of agricultural cooperatives and marketing orders. This will avoid duplicative regulation, as the Department of Agriculture is already responsible for monitoring these activities.

This legislation also expands the FTC's enforcement arsenal. The FTC will now have the power to issue civil investigative demands in antitrust cases. These demands will extend beyond documents alone to cover tangible evidence, as well. This provision substantially expands the Commission's ability to address consumer fraud. Similarly, we have included a crucial expanded venue provision. This provision is based in part on 28 U.S.C. §1391, the general venue provision in the U.S. Code. It will permit the FTC to bring defendants scattered throughout the country to justice in a single forum. This promotes judicial economy and will help the FTC to save precious resources for law enforcement.

The bill also addresses a long-standing problem involving the Commission's cease-and-desist orders. Currently, such orders become final only after all appeals are exhausted. Because this can take many years, the appeals process has often been abused to manufacture lengthy delays. Under this bill, however, most cease-and-desist orders become final 60 days after they are issued unless a court or the Commission issues a stay. Of course, this solution continue to protect the right of defendants to challenge these orders.

Finally, Mr. President, I would like to point out one other enforcement issue which is of particular interest to me as a former attorney general. I am pleased that this reauthorization calls for the FTC to report and make specific recommendations within six months on the subject of increasing cooperation between the FTC and the states in enforcing laws under FTC jurisdiction. I am aware that such cooperation has improved dramatically in recent years and believe that such efforts deserve our support.

Mr. President, despite a period of considerable controversy during the 1980s, the FTC continues to implement its vital role of protecting consumers in the marketplace. Under Chairman Janet Steiger's fine leadership, the Agency has regained its strength, enhanced its reputation and gained the respect of many. I believe that it will carry out its responsibilities even more effectively after this legislation is enacted. I commend Senator BRYAN for his leadership on this issue, and I urge my colleagues to support this conference report.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

Without objection, the conference report is adopted.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

NATION'S MONETARY POLICY

Mr. FAIRCLOTH. Mr. President, this is a crucial time for our Nation's monetary policy.

If you look on the front page of this morning's Wall Street Journal, Money and Investing section, you will see a chart that shows that our dollar has been falling all year. It has been falling not just against the yen, but against a whole index of currencies. You will also see that commodities prices are up, short term interest rates are up, and bond prices are down.

Mr. President, the Federal Government has taken on obligations which it cannot possibly hope to meet. The long-term outlook for the Federal deficit and the Federal debt are bleak. Every unbiased observer believes that if nothing is done, deficits will begin to rise again in only a couple of years, and then continue as far as the eye can see or the mind can conceive.

President Clinton's own budget indicates that a child born today will face a combined lifetime tax rate of over 80 percent simply to meet the obligations that Government has already made. That does not include new entitlements like new Government health care programs. Clearly this cannot be sustained.

The pressure will be on the Federal Reserve for easy money to try to cure the problems caused by runaway spending and runaway debt. But easy money will only make matters worse for working men and women.

What America needs is a Federal Reserve that not only will say "no" to easy money, but will also say loud and clear that its first, second, and third priorities are no inflation, no inflation, and no inflation.

Janet Yellen and I met in my office, where we had a wide ranging discussion about the economy. Mr. President, unlike most Members of this body, this is my first elected office. I spent the last 45 years in the private sector as a businessman and a farmer, meeting a payroll and creating jobs. So I was disappointed to learn that the President had nominated a person with little or

VOL 140 PT 15 AG 10 — 11 1994 UMI

no private sector experience to the Fed.

But Janet Yellen certainly has the academic credentials to be a Governor of the Federal Reserve Board. I also want to stress that I know of no deep dark secrets which would disqualify her from the job.

But, Mr. President, I simply do not believe that Janet Yellen understands how grave our country's underlying problems are. She believes that the Federal Reserve should have multiple policy goals—like targeting interest rates, promoting certain rates of economic growth, providing liquidity to the financial system, as well as promoting price stability. Many of these goals can only be achieved by easing up on the fight against inflation.

I do not believe that Janet Yellen understands what will happen if the Federal Reserve abandons a tough anti-inflation stance in order to pursue her multiple policy goals. The Federal Reserve's anti-inflation stance is one of the few things that is keeping capital from leaving this country.

Mr. President, if that anti-inflation stance is compromised, then the world's capital markets will judge this Nation's credit worthiness based upon the policies of Congress and the President, instead of the Fed. And if relying on Congress to do the right thing is what will determine whether we will continue to attract the capital we need, then I fear for the Republic.

Mr. President, it is time for this Congress to cut spending, balance the budget, and stop penalizing people who work, and save, and invest. Until it does, the Federal Reserve's inflation fight is more important than ever.

Ending barriers to economic growth is the job of Congress. Protecting the value of working people's dollars is the job of the Federal Reserve.

The Federal Reserve cannot bail out the politicians in Congress and the White House—past and present—by inflating away the Federal debt. This country is going to have to face economic reality before the world capital markets shove it down our throat.

The time to start facing that reality is right here, and right now, and with this nomination.

Mr. President, I yield the floor.

HEALTH CARE REFORM

Mr. SPECTER. Mr. President, earlier today, my distinguished colleague from South Dakota, Senator DASCHLE, made remarks on the Senate floor in which he asserted that my chart of the Mitchell health care reform bill incorrectly characterized three provisions.

As you can imagine, Mr. President, the task of summarizing and categorizing a 1,410-page bill is both arduous and complex. I have taken every precaution to ensure the validity of this chart and its predecessors and welcome constructive suggestions.

In the debate over health care reform legislation, it is vitally important that the public have all the facts. That is the inspiration behind the charts my office has prepared. To ensure that the public has all the facts, I want to address the three boxes on the chart called into question today by Senator DASCHLE.

First, Senator DASCHLE stated that guaranty funds exist currently and implied that the Mitchell bill does not create new functions or requirements regarding such funds. I disagree. My chart lists the guaranty funds provision in section 1505 as new because under the Mitchell bill, the Secretaries of Health and Human Services (section 1442) and Labor (section 1482) must establish new standards for such guaranty funds. Further, the bill requires States to establish two separate guaranty funds, one for community-rated plans and one for self-insured plans. Each of the 50 States does not currently have a guaranty fund. Therefore, the chart correctly reflects a new State function and new standards mandated at the Federal level.

Second, Senator DASCHLE also stated that the box labeled "Standard Health Plan Sponsor" reflects existing law, not new requirements. Once again, I believe that the chart accurately portrays the new requirements contained in the Mitchell bill. The term "standard health plan" is a new concept established and defined (section 1011(2)(B)) in the Mitchell bill. The bill requires the Secretary of Health and Human Services to establish rules for States to follow in establishing procedures and methods to assure that standard health plan sponsors offer equal opportunity for enrollment (Sec. 1111(b)(3)(C)). I believe that section 1111 should be characterized as new because there are no standard health plan sponsors under existing law; the term has not become law yet. And, the provisions requires the Secretary and States to promulgate new regulations requiring oversight of standard health plan sponsors.

I do agree, however, with Senator DASCHLE'S statement that the box describing the ERIS Enforcement Mechanism contained in section 1485 should not be labeled as completely new. The Secretary of Labor currently has authority to enforce certain provisions of ERISA. I understand that this provision expands his existing authority, and does not create a new entity or function. My chart is being corrected accordingly.

In conclusion, Mr. President, this one small change does not detract from the chart's stated purpose. I believe it continues to demonstrate clearly to the American public the overwhelming expansion of Government that the Mitchell bill proposes.

WE NEED THE INTERIM TRADE PROGRAM

Mr. HATCH. Mr. President, I would like to bring an important matter to the Senate's attention. I believe that the Senate should seriously consider including the Interim Trade Program, referred to as the ITP, in the GATT implementing legislation. This is a program that has the support of the administration and has already been included in the House version of the GATT implementing legislation.

The program will provide the Caribbean Basin Initiative [CBI] countries with apparel and textile regulations that are more in line with those given to Mexico under NAFTA. Inclusion of the ITP would be beneficial to the United States for several reasons.

First and foremost, the ITP will help to increase U.S. presence in the markets of the Caribbean Basin Countries. The United States already has a trade surplus of more than $2 billion with the region. The ITP will allow U.S. companies to more easily provide products that the Caribbean region has already shown a strong interest in obtaining.

Second, it will help further the ability of the U.S. apparel and textile industries to work in cooperation with the CBI countries. This will allow these industries to better compete with imports from foreign companies working out of areas with lower production costs.

Finally, the ITP contains regulations focused on improving the market situation in the CBI countries, including requirements for internal reform.

The need to enact the ITP is especially time sensitive due to the current situation in the CBI countries. Because these countries do not currently enjoy many of the cost advantages afforded under NAFTA, they are already experiencing a loss in production and are seeing investments move out of their region.

It is in the best interest of the United States to include the ITP in the GATT implementing legislation. This agreement is not designed to trade existing American jobs for foreign production. Instead, through continued cooperation with the CBI region, it allows American apparel and textile producers to better compete in the world market and maintain production in the United States. It also allows the United States to better compete against the influx of imports resulting from the phase-out of the MFA.

Mr. President, failure to include the ITP in the GATT implementing legislation will be a misstep in the administration's foreign trade policy. The ITP will help the nations of the Caribbean, it will also help the United States. The administration supports the ITP, the House supported the ITP, it is now our turn to lend our support as well.

THE ELECTIONS IN THE DOMINICAN REPUBLIC

Mr. HARKIN. Mr. President, as many of my colleagues are aware I have long advocated according a high priority to human rights in our foreign policy. And I am convinced that the institutionalization of the human rights priority over the past 20 years has given a much better overall foreign policy. It is with that background that I wish to invite the attention of my fellow Members to some recent news from the Caribbean.

On May 16 the Dominican Republic held national elections. The voting was observed by delegations from the Organization of American States and other international groups. The reports of these observers have indicated that there were serious irregularities in at least some of the voting procedures. Since then there have been allegations and rumors that the United States would ignore the observer reports and, look the other way, thereby taking the easy way out in the troubled Caribbean area.

Well, I am very happy to say that these rumors have no basis in fact. The State Department and our Embassy have taken a clear stand in support of fair elections in the Dominican Republic. Our position is entirely neutral, of course. We are not taking sides. But we are actively defending the right of the Dominican people to choose their own government.

In that connection I call your attention to the following forthright statement made by the State Department on August 5, and ask unanimous consent that it be printed in the RECORD. I congratulate the Clinton administration on its commitment to human rights and democracy in the Dominican Republic.

The United States has consistently expressed its support for a peaceful resolution to the questions raised by irregularities in the May 16 elections. It was disappointed that the central electoral board effectively ignored the irregularities when it named president Joaquin Balaguer president. One suggestion for a peaceful resolution of the problem is to hold early elections. The United States believes that new elections are the right idea, and urges Dominican authorities to take immediate steps in that direction.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Mr. President, as of the close of business on Wednesday, August 10, the federal debt stood at $4,644,509,290,127.79, meaning that on a per capita basis, every man, woman, and child in America owes $17,814.78 as his or her share of that debt.

THE 10TH ANNIVERSARY SEASON OF THE SURRY OPERA COMPANY

Mr. MITCHELL. Mr. President, I rise today to congratulate the Surry Opera Co. of Maine on its 10th anniversary season. Founded in 1984 by Walter Nowick, the Surry Opera Co. has brought together amateur opera singers first from Maine and across our Nation, and then from around the world.

This week, free concerts are being performed by scores of French, German, Japanese, Russian, and American amateur singers at Mr. Nowick's invitation and under his direction. These 10th anniversary events are part of the fulfillment of Mr. Nowick's dream of cultivating international understanding and good will through the performance of great music by ordinary citizens.

The world is much different today than it was when the Surry Opera Co. was founded. Then, the cold war shaped people's attitudes toward one another to such a degree that there were few people to people exchanges between Americans, Russians and other citizens of the former Soviet Union. Walter Nowick and the Surry Opera Co. singers saw an opportunity, through music, to establish associations that would help dissolve this hostility between nations.

The Surry Opera Co. first travelled to the Soviet Union in November, 1986. Three years later, 80 members of the Leningrad Amateur Opera Co. arrived in Maine. Since those groundbreaking trips, there have been many joint performances around the world. Each time, members and supporters of the respective Opera Companies have provided food and lodging in their homes for their foreign guests. These arrangements have both fostered deep personal friendships and made the trips financially feasible.

Mr. Nowick and all associated with the Surry Opera Co. have helped to build bridges among people of different cultures. Just as Mr. Nowick envisioned, joint international performances have led to increased understanding between performers and their audiences throughout the world.

We all share the hope that the universal appeal of opera will continue to be a building block for international friendships and peace. I commend Walter Nowick for his vision, and I congratulate all members of the Surry Opera Co. on their 10th anniversary season.

TRIBUTE TO STAR KILSTEIN BLOOM

Mr. SHELBY. Mr. President, I rise today to honor Star Kilstein Bloom for her dedication and loyalty to the University of Alabama. Tomorrow, Friday August 12, 1994, she is being awarded the University of Alabama's Henry and Julia Tutwiler Award for her distinguished and exceptional service to the University. I want to take a few minutes to highlight some of her contributions and accomplishments.

Star earned a bachelor of arts degree, cum laude, from Bryn Mawr College in 1960, with honors in anthropology. She further specialized in information technologies, by continuing her education through IBM's executive training course and the University of Alabama's College of Commerce and Business Administration.

After graduating, Star served as Co-owner and Vice President for Design and Manufacturing of Coed Collar Company, Inc., of Tuscaloosa, Alabama. In 1982, she then became the Director of the Computer Program at Tuscaloosa Academy. She served at this post for two years where among her many accomplishments, she developed a computer-enhanced curriculum for grades 3–12 involving all subject areas.

In 1989, she was asked and graciously agreed to serve as Co-director of the Center for Communications and Educational Technology at the University of Alabama. To this position she has dedicated her talents and creativity, an invaluable contribution to the University. Her commitment to the promotion of distance learning, developing all education—kindergarten through graduate—into one cohesive unit, has brought the University of Alabama national recognition and significant financial support. Integrated Science, which began as Science Alabama, is the national example of what can be done through distance learning, and we have Star Kilstein Bloom to thank. Mr. President, the beneficiaries of her tireless efforts are not only the students and teachers of Alabama, but those of the entire Nation.

Mr. President, Star Bloom has spent her life in service to others. She has dedicated her time and her talents to the students of the State of Alabama, to her faith and to political causes. Her energy and commitment is an inspiration to me and is an example for us all. She is more than worthy of this award, our thanks and our respect.

COMMENDING CHARLES JONES

Mr. LEVIN. Mr. President, I take great pleasure in congratulating Mr. Charles Jones for his appointment as the Implementation Director of the Social Security Administration's Reengineering Project. An exceptional leader and motivator, Mr. Jones' accomplishments have earned him the respect and praise of his peers nationwide. He has extensive experience with the workings of the Social Security Administration from both the Federal and State perspectives. That knowledge has led to expanded and improved communication and cooperation between the public and federal agencies. I am confident that he will play an important role in the creation of a new Social Security Administration. I want to extend my thanks and appreciation to Mr. Jones for all of the help and cooperation he has provided to my staff

VOL 140 PT 15 AG 10 — 11 1994 UMI

over many years, and I wish him continued success in his public service career.

RESPONSE TO THE HOUSE VOTE ON THE CRIME CONFERENCE REPORT

Mr. SIMPSON. Mr. President, our fine Republican leader spoke earlier, as did our able ranking member of the Judiciary Committee, in response to President Clinton's unwarranted attack on the NRA and Republicans.

It is curious that our own President continues to be the leader of the "Gunsmoke" rhetoric about the conference report on the crime bill.

Wasteful and frivolous spending programs permeate every single page of what must be over 700 pages of stealth spending.

Unlike the tough Senate bill, what came out of the conference committee was not a real crime bill. It was the son of the economic stimulus package.

I commend our House colleagues, Republicans and Democrats, who had the strength to stand on principle, rather than be bought with pie-in-the-sky promises of Federal dollars being funneled into their congressional districts.

That took a great deal of courage—especially in an election year. The bipartisan majority that rejected the procedure to consider this conference report deserves our respect.

It is grossly misleading—we have an easier way of saying that in Wyoming—to suggest the embarrassing vote against the President was somehow orchestrated by the NRA.

The NRA was certainly active—they have been throughout all the many years of debate on gun control.

But they have not been very successful lately.

The Brady bill passed, the assault weapons ban, which the NRA opposed, was included in the Senate version of this legislation. It passed with only 4 dissenting votes—on a tally of 95–4.

So I find it very curious that now, the President of the United States of America believes that suddenly, in a single-party Government, the NRA has increased its awesome powers of persuasion to atmospheric levels—and killed this legislation.

He must blame someone, and the NRA is a convenient target, because I have a hunch that this administration finds it hard to justify the glut of social spending in this legislation.

The crime bill conference report is nothing more than an attempt to resurrect the urban spending programs in the failed economic stimulus package of 1993.

This legislation is flawed. It should fail. It did.

It should be returned to the Manufacturer and replaced.

We should replace it with a real crime bill. That is what the majority of House Members said today.

OLD U.S. MINT IN SAN FRANCISCO, CALIFORNIA ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 548, H.R. 4812, relating to the U.S. Mint in San Francisco.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4812) to direct the Administrator of General Services to acquire by transfer the Old U.S. Mint in San Francisco, CA, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2551

Mr. GORTON. Mr. President, on behalf of Senator MCCAIN, I send to the desk an amendment and I ask unanimous consent that the Senate proceed to its immediate consideration; that the amendment be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2551) was agreed to, as follows:

Add at the end of the bill the following new section:

SEC. 2. REPAIRS OF OLD U.S. MINT, SAN FRANCISCO.

(a) IN GENERAL.—Nothing in this Act shall be construed to force the General Services Administration to repair the Old U.S. Mint building prior to repairs to other Federal buildings in greater need of repair.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4812), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MAINTENANCE OF DAMS ON INDIAN LANDS

Mr. FORD. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of H.R. 1426, a bill relating to the maintenance of dams on Indian lands; that the Senate then proceed to the immediate consideration of the bill; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; further, that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1426) was deemed read the third time and passed.

HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATION ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 347, S. 1640, the Hazardous Materials Transportation Authorization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1640) to amend the Hazardous Materials Transportation Act to authorize appropriations to carry out that act, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hazardous Materials Transportation Authorization Act of 1993".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 115(a) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1812(a)) is amended by striking all after "not to exceed" and inserting in lieu thereof "$12,600,000 for fiscal year 1994, $13,100,000 for fiscal year 1995, and $13,600,000 for fiscal year 1996.".

SEC. 3. EXEMPTIONS FROM REQUIREMENT TO FILE REGISTRATION STATEMENT.

Section 106(c) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1805(c)) is amended by adding at the end the following new paragraph:

"(16) FOREIGN OFFERORS.—A person who is domiciled outside the United States and who offers, solely from a location outside the United States, hazardous materials for transportation in commerce does not have to file a registration statement under this subsection.".

SEC. 4. PLANNING GRANTS FOR INDIAN TRIBES.

(a) AUTHORITY TO MAKE GRANTS.—Section 117A(a)(1) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1815(a)(1)) is amended—

(1) in the introductory matter, by inserting "and Indian tribes" immediately after "States"; and

(2) in subparagraph (A), by striking "within a State and between a State and another State" and inserting in lieu thereof "within the lands under the jurisdiction of a State or Indian tribe, and between the lands under the jurisdiction of a State or Indian tribe and the lands of another State or Indian tribe".

(b) MAINTENANCE OF EFFORT.—Section 117A(a)(2) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1815(a)(2)) is amended by inserting "or Indian tribe" immediately after "State" each place it appears.

(c) COORDINATION OF PLANNING.—Section 117A(a) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1815(a)) is amended by adding at the end the following new paragraph:

"(4) COORDINATION OF PLANNING.—A State or Indian tribe receiving a grant under this subsection shall ensure that planning under the grant is coordinated with emergency planning conducted by adjacent States and Indian tribes.".

SEC. 5. TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION.

Section 106(b)(3) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1805(b)(3)) is amended—

(1) in the paragraph heading, by striking "EMERGENCY RESPONSE" and [insert] *inserting* in lieu thereof "EMPLOYEE";

(2) by inserting "or duplicate" immediately after "conflict with"; and

(3) by striking all after "Labor relating to" through "(and amendments thereto) and" and inserting in lieu thereof "hazard communication, and hazardous waste operations and emergency response, contained in part 1910 of title 29 of the Code of Federal Regulations (and amendments thereto) or".

SEC. 6. DISCLOSURE OF FEES LEVIED BY STATES, POLITICAL SUBDIVISIONS, AND INDIAN TRIBES.

Section 112(b) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1811(b)) is amended—

(1) by inserting immediately after "(b) FEES.—" the following heading:

"(1) RESTRICTION.—"; and

(2) by adding at the end the following new paragraph:

"(2) DISCLOSURE.—A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall, upon the Secretary's request, report to the Secretary on—

"(A) the basis on which the fee is levied upon persons involved in such transportation;

"(B) the purposes for which the revenues from the fee are used;

"(C) the annual total amount of the revenues collected from the fee; and

"(D) such other matters as the Secretary requests.".

SEC. 7. ANNUAL REPORT.

Section 109 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1808(e)) is amended by striking the first sentence and inserting in lieu thereof the following: "The Secretary shall, once every 2 years, prepare and submit to the President for transmittal to the Congress a comprehensive report on the transportation of hazardous materials during the preceding 2 calendar years.".

SEC. 8. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway system technologies to promote hazardous materials transportation safety. The Secretary of Transportation shall ensure that one or more operational tests funded under such Act shall promote such safety and advance technology for providing information to persons who provide emergency response to hazardous materials transportation incidents.

SEC. 9. RAIL TANK CAR SAFETY.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations under the following:

(1) The rulemaking proceeding under Docket HM–175A entitled "Crashworthiness Protection Requirements for Tank Cars".

(2) The rulemaking proceeding under Docket HM–201 entitled "Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Car Tanks".

SEC. 10. SAFE PLACEMENT OF TRAIN CARS.

The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act.

SEC. 11. GRADE CROSSING SAFETY.

The Secretary of Transportation shall, within 6 months after the date of enactment of this Act, amend regulations—

(1) under the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) to prohibit the driver of a motor vehicle transporting hazardous materials in commerce, and

(2) under the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2501 et seq.) to prohibit the driver of any commercial motor vehicle, from driving the motor vehicle onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping.

SEC. 12. DRIVER'S RECORD OF DUTY STATUS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall promulgate regulations amending section 395.8(k) of title 49, Code of Federal Regulations, to require that any supporting document bearing on the record of duty status of a driver who operates a commercial motor vehicle—

(1) be [retrained,] *retained*, by the motor carrier using such driver, for at least 6 months following its receipt of such document; and

(2) include information identifying the driver and vehicle related to the document.

(b) DEFINITION.—In this section, the term "supporting document" means any electronic or paper document or record generated in the normal course of business, in the provision of transportation by commercial motor vehicle, that could be used by a safety inspector or motor carrier to verify the accuracy of entries in a driver's record of duty status, including trip reports, pay slips, bills of lading or shipping papers, and receipts for fuel, lodging, and tolls.

SEC. 13. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS.

(a) AMENDMENT OF REGULATIONS.—Within 18 months after the date of enactment of this Act, the Secretary of Transportation shall amend section 391.23 of title 49, Code of Federal Regulations, to—

(1) specify the safety information that must be sought under that section by a motor carrier with respect to a driver;

(2) require that such information be requested from former employers and that former employers furnish the requested information within 30 days after receiving the request; and

(3) ensure that the driver to whom such information applies has a reasonable opportunity to review and comment on the information.

(b) SAFETY INFORMATION.—The safety information required to be specified under subsection (a)(1) shall include information on—

(1) any motor vehicle accidents in which the driver was involved during the preceding 3 years;

(2) any failure of the driver, during the preceding 3 years, to undertake or complete a rehabilitation program under section 12020 of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701) after being found to have used, in violation of law or Federal regulation, alcohol or a controlled substance;

(3) any use by the driver, during the preceding 3 years, in violation of law or Federal regulation, of alcohol or a controlled substance subsequent to completing such a rehabilitation program; and

(4) any other matters determined by the Secretary of Transportation to be appropriate and useful for determining the driver's safety performance.

(c) FORMER EMPLOYER.—For purposes of this section, a former employer is any person who employed the driver in the preceding 3 years.

SEC. 14. RETENTION OF SHIPPING PAPERS.

(a) AMENDMENT.—Section 105(g) of the Hazardous Materials Transportation Act (49 U.S.C. 1804(g)) is amended by adding at the end the following new paragraph:

"(5) RETENTION OF PAPERS.—After the hazardous material to which a shipping paper provided to a carrier under paragraph (1) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under paragraph (1) shall retain the paper at their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations.".

(b) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall issue regulations implementing the requirements of paragraph (5) of section 105(g) of the Hazardous Materials Transportation Act, as added by subsection (a) of this section.

SEC. 15. TOLL FREE NUMBER FOR REPORTING.

The Secretary of Transportation shall establish a toll free "800" telephone number for transporters of hazardous materials and other individuals to report to the Secretary possible violations of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) or any order or regulation issued under this Act.

SEC. 16. TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATING TO PACKAGING.—(1) Sections 103(5)(B), 103(6)(A)(iii), and 109(c) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1802(5)(B), 1802(6)(A)(iii), 1808(c)) are each amended by striking "packages" and inserting in lieu thereof "packaging".

(2) Sections 105(a)(3), 105(a)(4)(B)(v), 110(a)(1), and 120 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1804(a)(3), 1804(a)(4)(B)(v), 1809(a)(1), 1818) are each amended by striking "a package" and inserting in lieu thereof ["packaging".] "*a packaging*".

(3) Sections 106(c)(1)(B) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1805(c)(1)(B)) is amended—

(A) by striking "a bulk package" and inserting in lieu thereof ["bulk] "*a bulk* packaging"; and

VOL 140 PT 15 AG 10 — 11 1994 UMI

(B) by striking "the package" and inserting in lieu thereof "the bulk packaging".

(b) OTHER.—(1) Section 105(a)(3) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1804(a)(3)) is amended by inserting "hazardous materials" immediately after "shipped".

(2) Section 105(e)(1) of the Hazardous Materials Transportation Act (49 App. U.S.C. 1804(e)(1)) is amended by striking "or package" and inserting in lieu thereof ", package, or packaging (or a component of a container, package, or packaging)".

SEC. 17. EXEMPTION FROM HOURS OF SERVICE REQUIREMENTS.

The Secretary of Transportation shall exempt farmers and retail farm supplies from the hours of service requirements contained in section 395.3 of title 49, Code of Federal Regulations, when such farmers and retail farm supplies are transporting farm supplies for agricultural purposes within a 50-mile radius of their distribution point during the crop-planting season.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. EXON. Mr. President, the Hazardous Materials Transportation Authorization Act includes commonsense changes in the basic hazmat law and several related truck safety initiatives which will significantly advance safety on all modes. I know of no opposition to this measure.

The bill reauthorizes the hazmat program and incorporates several provisions to improve the use of hazmat resources by the Department of Transportation, as well as state and local authorities.

To improve emergency response training and planning, the 1994 bill would allow Indian tribes to qualify for hazmat planning grants, and clarifies the training criteria for emergency response.

The bill also requires the retention of shipping papers for improved hazmat enforcement.

To prevent retaliation from our international trading partners, a registration and fee exemption for hazmat shippers domiciled outside of the United States is included.

The hazmat bill requires that the promotion of safe hazardous materials transportation become a top priority in intelligent vehicle highway system program (IVHS). This provision which was expanded and incorporates language from a related provision in the House bill. As the author of the Senate provision, I make clear that the new provision does not create a preference for any specific system, technology, invention or provider. Any and all projects funded under this section should be subject to competitive selection.

This legislation also requires that the Department of Transportation issue final rules with regard to two pending rail tank car safety rulemakings. These rulemakings have taken on a life of their own. The previous administration let these important decisions linger for years. I have the assurance from Federal Rail Administrator Jolene Molitoris that she will bring this proceeding to a timely conclusion.

One provision of which I am very proud attempts to motivate safe behavior at rail/highway grade crossings. Under the bill before the Senate, a new Federal fine could be imposed on any driver of a motor vehicle carrying hazardous materials or a driver of any commercial motor vehicle, who enters a highway-railroad grade crossing without having sufficient space to drive completely through the crossing without stopping. This provision is in response to the terrible tank car train accident in 1993 where a truck gridlocked on a crossing and was hit by the train. The resulting fireball killed the driver and several innocent drivers in nearby cars.

In the area of general safety enforcement, the bill improves the ability to enforce current hours of service rules for all professional drivers and recognizes that there are seasonal needs in rural America which must be recognized by the hours of service rules. The current hours of service rules recognize that small package delivery companies need accommodation during the Christmas season. The seasonal needs of farmers and farm suppliers, also deserve accommodation. Rural Americans want to obey the law. A policy of regulatory forbearance is not enough. Such a policy tells drivers to break the law because you may not be caught. However, if you are transporting farm chemicals in violation of the hours of service rules, and you are caught, the consequences could be economically catastrophic. A clear set of rules which take into account seasonal circumstances which are obeyed is not only fair to rural Americans, it is safer for all Americans. This bill requires that the Secretary review through a rulemaking the seasonal application of the hours of service rules as they apply to farmers and retail farm suppliers.

The legislation before the Senate also requires the Secretary to issue rules which will make it easier for employers to verify the safety record of new truck drivers. A trucker fired for unsafe driving, drug use or alcohol abuse should not be able to simply walk across the street to a new employer with an unsafe record hidden in the shadows of legal ambiguity.

The bill also instructs the Secretary of Transportation to create a toll free number for drivers, shippers and the public to call to report potential hazardous materials transportation act violations. Crime stopper numbers which exist in law enforcement and have led to the arrest of dangerous criminals provide a model for the Department of Transportation.

In addition, the pending legislation embraces and slightly modifies the major provisions of the House passed Hazardous Materials Transportation Act. Members and staff of the House Public Works, Senate Commerce and House Energy and Commerce Committees worked together to craft a compromise bill which significantly advances the public safety. I am especially pleased to support the House provisions which enhance hazmat worker training.

I urge my colleagues to join me in supporting the swift enactment of the Hazardous Materials Transportation Authorization Act of 1994.

Thank you, Mr. President.

AMENDMENT NO. 2552

(Purpose: An amendment in the nature of a substitute to amend the Hazardous Materials Transportation Act, to authorize appropriations for that act, to provide for trucking industry reform, and for other purposes)

Mr. FORD. Mr. President, on behalf of Senator EXON, I send to the desk a substitute amendment and I ask unanimous consent that the Senate proceed to its immediate consideration; that the amendment be agreed to; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2552) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. EXON. Mr. President, I am pleased to offer the Trucking Regulatory Reform Act of 1994 as an amendment to S. 1640, the Hazardous Materials Transportation Authorization Act of 1994. This legislation pursues a comprehensive trucking regulatory reform agenda which is designed to meet the legitimate concerns about the expense of trucking regulation expressed by both Houses of Congress.

This legislation was crafted after close consultations with the bipartisan membership of the Interstate Commerce Commission, Members of both parties and Houses of Congress, shippers, truckers, brokers and the administration.

This landmark legislation will improve surface transportation efficiency, save taxpayer dollars, protect the public interest and preserve transportation safety.

The legislation before the Senate is a compromise proposal designed to draw the Congress back from the brink of rash and unreasonable action with regard to the future of the Interstate Commerce Commission. It is an effort to pursue needed reform in Federal trucking regulation and at the Interstate Commerce Commission while at the same time preserving the much needed safety, dispute resolution and independent functions of the commission.

The Exon-Packwood amendment represents fundamental reform in trucking regulation. It also offers the Congress an opportunity to save real money, rather than just shuffle expense from one agency to another.

There are five basic elements of this reform package. Under this proposal: (1) the obligation to file rates would be eliminated for individual truck companies; (2) entry review would be streamlined and limited to insurance and safety matters; (3) the ICC would be given exemption authority over trucking matters under its jurisdiction; (4) the Secretary of Transportation would be required to report to the Congress on future organizational options for the ICC and whether further operational and regulatory efficiencies can be achieved; (5) following the philosophy of section 211 of the Airport Improvement Act of 1994 which preempts state regulation of motor carrier rate, route and services, the intra-state rate regulation of interstate bus services would preempted.

The Exon-Packwood trucking regulatory reform amendment builds on the success of the Negotiated Rates Act which this Congress enacted last year ending the nightmare of the undercharge claims form Bankrupt trucking companies. The amendment does nothing to weaken the protections of the Negotiated Rates Act and contains specific language to prevent a future undercharge crisis.

I ask the appropriations conference committee to consider this reform agenda in when it takes up the transportation appropriations bill. This reform agenda will save at least $50 million over years and likely much more.

The harsh, rash and possibly expensive action of the House of Representatives to defund the ICC without dealing with any commission functions should be balanced against this responsible, prudent approach.

Mr. President, the Negotiated Rates Act, section 212 of the 1994 Airport Improvement Program Act and this legislation form a trilogy of historic trucking economic reform legislation adopted by the 103d Congress and fully supported by the Clinton administration.

Years of gridlock, turf protection, and mistrust have been replaced by an agenda of change, productivity and efficiency. The Nation has a secretary of transportation committed to safety and efficiency and a interstate. commerce commission committed to its mission of protecting the public interest and advancing interstate commerce. These two facts make this reform agenda not only possible but responsible.

This trilogy of legislation will not only save tens of millions of dollars for Federal and State taxpayers, they will save hundreds of millions of dollars for the private sector and add to the efficiency of the greatest transportation network in the world.

79-059 O—97 Vol. 140 (Pt. 15) 29

Let no one interpret this agenda of reform as a license for the irresponsible. In the past, economic regulation often served as a proxy for safety regulation. The theory was that regulation and protection from competition would assure safe operations and equipment. However, we have learned that regulation for regulation's sake can divert resources away from safety and toward red tape.

This reform agenda will require the Congress and the States to rededicate and redeploy their resources to tough, modern and thorough safety enforcement. By and large, the private sector has at long last learned the link between safe operations and competent drivers and the bottom line. The slipshod, the careless and the reckless in the trucking industry should take no comfort in today's action. As long as I have a role in transportation policy, I will insist on the highest levels of safety possible.

I encourage my colleagues to support the Trucking Regulatory Reform Act and congratulate my colleagues of the 103d Congress and the administration for enacting a body of legislation which at least in the motor carrier segment of the economy reinvents government, enhances productivity, and preserves public safety.

Mr. HOLLINGS. Mr. President, I rise in support of S. 1640, the Hazardous Materials Transportation Authorization Act of 1994, as amended by Senator EXON'S amendment in the nature of a substitute. The bill as amended authorizes funding for the Department of Transportation's hazardous materials transportation program and provides for regulatory reform of the trucking industry. I urge my colleagues to support this legislation.

A safe and efficient transportation system is an important requirement for our country. In fact, the American transportation system is the envy of the world. But there is always the opportunity to improve the transportation system, both immediately and in the future. Such improvements are the goals of this bill.

Title I of this bill amends the Hazardous Materials Transportation Act. The bill mandates that the Secretary of Transportation explore the use of the intelligent vehicle—highway system technologies to promote the safe transportation of hazardous materials. In addition, there is a provision that could help to stem the appalling loss of life in grade crossing accidents. Over 600 people are killed each year due to grade crossing accidents. Further, the bill mandates tighter enforcement of truck drivers' records and their record of duty status. These provisions will allow authorities to remove fatigued and overworked drivers from the Nation's highways.

Title II of this amended bill is entitled the Trucking Industry Regulatory Reform Act of 1994. The text of title II is very similar to S. 2275, which was introduced by Senator EXON and cosponsored by Senator PACKWOOD. This title is the product of a bipartisan effort to provide meaningful reform in the surface transportation industry. The provisions address the concerns raised by some that the Interstate Commerce Commission [ICC] is no longer needed and should be abolished immediately, without further discussion as to what should be done with the ICC's functions or the effect on the public interest of eliminating the ICC.

This legislative language was developed after a Commerce Committee hearing on the ICC and its role in both the motor carrier and rail industries. The witnesses at that hearing were almost unanimous on three important issues. First, they supported further trucking reform legislation along the lines of S. 2275. Second, they agreed that there is a need for an independent ICC to attend to the important rail industry regulatory duties Congress entrusted to the ICC to protect the public interest. Third, they testified that any move to restructure or eliminate the ICC must be preceded by careful study of the advantages and disadvantages of such a move.

Title II of this bill accomplishes all of those goals. It broadens the entry provisions for carriers seeking to enter the industry. Allowing more carriers to enter the industry will create more competition within the industry and lower prices for the public. In addition, this title requires the ICC to devote more of its resources to its administration of the Nation's rail industry. The recent announcements by rail carriers of two contemplated mergers underscore the need for an ICC with the authority and expertise to pass on these very complicated and very important transactions in the public interest. Finally, this title provides for a study of the ICC's role in the future. The study is to determine which of the ICC's functions are necessary to the future of the Nation, and whether those functions should remain with the ICC or be transferred to another agency. In the case of function recommended for transfer, the study is to indicate when such a transfer could be accomplished without disruption to the public interest.

This legislation takes a constructive approach to improving the Nation's surface transportation system. Through this bill we will improve the present and future transportation of hazardous materials, increase our ability to ensure that only safe drivers use the roads, and ensure that the economic regulation of the motor carrier and rail industries is no more than is necessary to protect the public and contribute to industry's ability to move goods and provide service.

I urge my colleagues to support passage of S. 1640, as amended.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Mr. EXON. Mr. President, my substitute amendment to the Hazardous Materials Transportation Authorization Act includes a provision to improve compliance with the hours of service rules governing the number of hours which a driver can operate. These revisions will help ensure that the hours of service regulations are enforceable in a manner which does not impose an unreasonable cost to drivers or motor carriers.

The retention of documents for 6 months should not place any significant burden on carriers. In most cases, these documents are retained for tax and expense purposes. This provision will give enforcement personnel easier access to documents which can support or disprove an allegation of hours of service violation. Reports that auditors have been forced to retrieve documents from garbage dumpsters or play hide-and-seek with firms that have a policy of habitual hours of service violation give rise to the need for this provision.

Most professional drivers and trucking firms obey the law. Those that do not endanger the driving public and compete unfairly with those who follow the rules. Most truckers I know, work hard and play by the rules. This provision will eventually help make our highways safer.

The Surface Transportation Subcommittee is very concerned about reports that a small number of drivers engage in gross and repeated abuse of the rules.

The purpose of this reform is to encourage compliance, discourage gross abuses, and give auditors and enforcement personal the means to ensure, for example, that drivers are not backing their logbooks or driving "off the books."

The documents retained under this provision can help verify logbook entries, corroborate the time, date and location of a driver or serve as evidence which disproves the accuracy of log book entries. Of course, the time, date and location on a receipt, phone bill or toll stub is only as accurate as the accuracy of the issuer.

The regulations under this provision would be subject to public comment and should encourage the use of self-compliance systems by motor carriers, such as computer programs which verify driver location. The regulations should also encourage a "systems" approach by carriers to help prevent as well as penalize violations. The documents covered by this provision could be written or electronic and could be generated by the carrier, driver or a third party.

The object of this provision is to help make the roads safer by giving enforcement personnel the ability to catch those flagrant abusers. It is not designed to create a trap for drivers who receive, for example, a pre-stamped toll receipt or to unfairly punish drivers for a de minimis deviation from the current rules.

To the extent technically feasible the regulations should also look to the future and the possibility of actually reducing the burdens of record keeping while at the same time enhancing the effectiveness of enforcement through the use of Intelligent Vehicle Highway Systems [IVHS] which in the near future could provide data directly to enforcement personnel.

Mr. President, this provision is an important safety advancement and merits the support of the U.S. Senate.

On a separate matter Mr. President, section 107 of the bill before the Senate amends section 5125(g) of the Hazardous Material Transportation Act to give the Department of Transportation authority to obtain information from States on hazmat fees. Section 5125(g) as amended contains an administrative mechanism so that the Department of Transportation can determine whether hazmat fees are excessive or are used for purposes unrelated to transportation and therefore subject to preemption. While the recodification of title 49 (PL 103-272) intends no substantive chances in meaning there is a change in crucial language relating to 5125(g).

Mr. HOLLINGS. Mr. President, I rise today to advise my colleagues of the basis for my support of a provision in the amendment of the Senator from Nebraska to the Hazardous Materials Transportation Authorization Act of 1994. The provision pertains to the use of fibre drum packaging.

Congress has authorized the Department of Transportation [DOT] to grant exemptions to its requirements for packagings that are known to be safe. However, DOT has been reluctant to grant a domestic exemption for open-head fibre drums, despite DOT and industry records that show that these packagings have a 099.99 percent safety record. In fact, the open-head fibre drum—which is based upon American technology—has been used to ship hazardous materials in a safe manner in the United States for over 30 years.

DOT's reason for denying the fibre drum industry's exemption request was that open-head fibre drums for liquids fail to meet certain U.N. requirements. IT is important that Congress recognize that the U.N. standards with which these drums must conform have not been scientifically validated and there has been minimal experience in using these standards in the real transportation environment. Open-head fibre drums, on the other hand, conform to stringent industry standards and have a demonstrated 99.99 percent safety record in the real transportation environment. Despite DOT's authority under both the U.N. standards and the Hazardous Materials Transportation Act [HMTA] to make exceptions and exemptions to the standards adopted under docket HM-181, and the fact that DOT has granted other exceptions and exemptions to the HM-181 standards based on safety reasons, DOT has refused to authorize the continued use of American Fibre drums in domestic commerce beyond October 1, 1996, when the HM-181 standards become totally effective. The bill approved by the Commerce, Science, and Transportation Committee did not address DOT's failure to continue the authorization of open-head fibre drums because an appropriate provision for addressing this issue had not, at the time of the Committee's mark-up, been agreed upon.

The House of Representatives passed an HMTA reauthorization bill (H.R. 2178) on November 21, 1993. That bill included an HMTA amendment requiring DOT to conduct a rulemaking proceeding to determine whether open-head fibre drums can be safely regulated in accordance with standards other than the HM-181 standards by October 1, 1995. If the Department determines that alternative standards are appropriate, then they must issue these standards by October 1, 1996. The provision in the Senator from Nebraska's amendment to S. 1640 is the same as the one in H.R. 2178.

The provision does not specify the factors that DOT should consider in conducting the initial rulemaking. As a point of clarification, I ask the Senator from Nebraska whether my understanding is correct that it is the sponsor's intention that, in conducting this rulemaking to determine whether standards other than those of HM-181 may be used to safely regulate open-head fibre drums, DOT must consider DOT's hazardous incident reporting system and industry records and the 30 years of shipping experience associated with the use of these drums. I further understand that DOT must consider the existing industry standards for these drums since these standards have led to the industry's excellent shipping record.

Mr. EXON. Mr. President, I agree with the Chairman's understanding of DOT's consideration of the existing safety record and shipping experience of open-head fibre drums that have been used domestically in conducting its rulemaking under this provision. Additionally, DOT should consider the existing industry standards that have been developed by the fibre drum industry, since these standards are responsible for the current safety record of open-head fibre drums. The use of this data will help the Secretary of Transportation determine whether open-head fibre drums can be regulated safely in accordance with standards other than those of HM-181.

Mr. HOLLINGS. I thank the Senator from Nebraska for his comments. Based on this understanding, I support this legislation to amend the Hazardous Materials Transportation Act to authorize appropriations through fiscal year 1997 and to require DOT to conduct a rulemaking to determine if open-head fibre drums can be safely regulated. As provided in the House bill, DOT must make a determination by October 1, 1995, as to whether standards other than the HM-181 standards are appropriate and must issue these alternative standards by October 1, 1996. This amendment represents a viable approach to ensuring that a proven American technology is not unnecessarily eliminated while ensuring public safety concerns are met.

Mr. THURMOND. Mr. President, I rise today to ask Senator EXON, my colleague from Nebraska, a question regarding S. 1640, the Hazardous Materials Transportation Authorization Act of 1994. It is my understanding that S. 2275, the Trucking Industry Regulatory Reform Act of 1994, has been incorporated into this measure. My question is whether it is the intention of this legislation to include "mileage guide" within the definition of a "rate, classification, rule, or practice"?

Mr. EXON. Yes.

CONSIDERATION OF RECOMMENDATIONS

Mrs. HUTCHISON. Mr. President, I know that this Congress cannot bind a future Congress, however, as the current ranking Republican member of the Senate Surface Transportation Subcommittee, I believe that we can provide assurances of our intentions to proceed expeditiously to consider the recommendations for future reform by the Secretary of Transportation and the Interstate Commerce Commission. Does the current chairman of the Surface Transportation Subcommittee share my belief that our subcommittee should move ahead in a timely manner to consider reform recommendations in the next Congress?

Mr. EXON. I appreciate the Senator's question, and help in moving this important legislation. I share the Senator's intention. The reports required by this legislation will be taken most seriously and will be critical for future reform. I have every intention of giving the recommendations of the Secretary of Transportation and the Interstate Commerce Commission full, fair and swift consideration.

Mr. PACKWOOD. Mr. President, I am pleased to join Senator EXON in support of the Trucking Industry Regulatory Reform Act of 1994 and to thank him for his leadership.

Recently the House of Representatives voted to strike funding for the Interstate Commerce Commission from the Transportation appropriations bill for fiscal year 1995.

I strongly disagree with this approach. Anyone who knows my record knows that I would totally deregulate the trucking industry, other than safety and insurance. And I would totally deregulate the railroads except for modest exceptions. But I would keep the ICC. I do not quarrel with the job the ICC does. I quarrel with the job we give it to do.

I have learned over the years that merger for the sake of merger does not result in efficiency or reduced expenditures. I have also learned that small is better than big.

The ICC has expertise and independence that I value. It has been an asset in our efforts to deregulate transportation industries, and it is an efficient agency. Thirty years ago the ICC had 2,500 employees. Now it has 625.

We can reduce ICC's budget by eliminating some costly and obsolete motor carrier regulatory functions. Our bill will do this. Our bill will virtually eliminate the ICC's remaining motor carrier functions. However, ICC performs other functions that would have to be performed by someone else. Transferring these functions to another agency would be extremely disruptive. And the General Accounting Office has concluded that the cost savings would be small.

Our bill is intended to address perceived problems in a deliberate and systematic fashion, and avoid the uncertainty, confusion and potential chaos that could ensue if we simply eliminate the ICC without a larger strategy.

Our bill offers the potential for further efficiencies down the road. It would direct the ICC and the Secretary of Transportation to study additional opportunities to streamline or eliminate remaining functions as well as any other means of achieving further efficiencies. I look forward to full and prompt consideration of the Secretary's findings and recommendations. I pledge to continue my efforts to reduce regulation and unnecessary government spending.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for the third reading and was read the third time.

Mr. FORD. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 2178, the House companion bill, and that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 1640, as amended, be inserted in lieu thereof; that the bill be advanced to third reading and passed, the motion to reconsider be laid upon the table; and that upon disposition of H.R. 2178, the Senate measure be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2178) was deemed read the third time and passed.

The bill was not available for printing. It will appear in a future issue of the RECORD.

THE 100TH ANNIVERSARY OF JEWISH WAR VETERANS OF THE UNITED STATES OF AMERICA

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of Senate Concurrent Resolution 60, expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States; that the Senate then proceed to its immediate consideration; that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table; that the preamble be agreed to; and that any statement appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 60) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 60

Whereas the Jewish War veterans of the United States of America, an organization of patriotic Americans dedicated to highlighting the role of Jews in the United States Armed Forces, will celebrate 100 years of patriotic service to the Nation on March 15, 1996;

Whereas thousands of Jews have proudly served the Nation in times of war;

Whereas thousands of Jews have died in combat while serving in the United States Armed Forces;

Whereas, in World War II alone, Jews received more than 52,000 awards for outstanding service in the United States Armed Forces, including the Medal of Honor, the Air Medal, the Silver Star, and the Purple Heart;

Whereas, in World War II alone, over 11,000 Jews died in combat while serving in the United States Armed Forces;

Whereas members of the Jewish War Veterans of the United States of America have volunteered over 10,000,000 hours at veterans' hospitals; and

Whereas honoring the sacrifices of Jewish veterans is an important component of recognizing the strong and patriotic role Jews have played in the United States Armed Forces: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) a postage stamp should be issued to honor the 100th anniversary of the Jewish War veterans of the United States of America; and

(2) the Citizens' Stamp Advisory Committee of the United States Postal Service should recommend to the Postmaster General that such a postage stamp be issued.

Mr. GRAMM. Mr. President, I am very pleased that today the Senate will adopt Senate Concurrent Resolution 60, a concurrent resolution I submitted earlier this year expressing the sense of Congress that the Post Office should issue a stamp commemorating the 100th anniversary of the Jewish War Veterans of the United States of America. It is a testament to its broad, bipartisan appeal that 62 of my colleagues have cosponsored the proposal.

VOL
140
PT
15
AG
10
11
1994
UMI

The Jewish War Veterans is the oldest active veterans organization in America. The Jewish people have a long and illustrious history of military service to this country in defense of our freedoms,. including duty during the Revolutionary War. Jewish soldiers have won 15 Congressional Medals of Honor, and in World War II alone were presented over 52,000 awards for gallantry on the field of battle.

The service of Jewish veterans did not stop when they hung up their uniforms. Jewish War Veterans have sponsored a broad range of community and philanthropic activities, including summer camp opportunities for underprivileged children, college scholarships, senior citizen housing, and many veterans rehabilitation and service programs. Members of the Jewish War Veterans have volunteered over ten million hours at veterans hospitals.

The Senate now looks to the House, where they have yet to pass the companion resolution, House Concurrent Resolution 199. I urge our House colleagues to join us and adopt a resolution so that we might send a clear message to the Citizens' Stamp Advisory Committee of the Congress' strong interest in issuing a commemorative stamp in honor of this notable veterans organization.

MEASURE PLACED ON CALENDAR—S. 2374

Mr. FORD. Mr. President, S. 2374, that bill is at the desk?

The PRESIDING OFFICER. It is.

Mr. FORD. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2374) to improve the United States private health care delivery system and Federal health care programs, to control health care costs, to guarantee access to health insurance coverage for all Americans, and for other purposes.

Mr. FORD. Mr. President, I ask for its second reading.

Mr. GORTON. I object.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

MEASURE PLACED ON CALENDAR—S. 2381

Mr. FORD. Mr. President, I understand that S. 2381, a bill to require the Secretary of HHS to provide health care fraud and abuse guidance, introduced earlier today by Senator COHEN, is at the desk.

The PRESIDING OFFICER. The Senator is correct. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2381) to require the Secretary of Health and Human services to provide health care fraud and abuse guidance, and for other purposes.

Mr. FORD. Mr. President, I now ask for its second reading.

Mr. GORTON. I object.

The PRESIDING OFFICER. There is objection. The bill will be read for the second time the next legislative day.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, AUGUST 12, 1994

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. Friday, August 12; that following the prayer, the Journal of proceedings be deemed approved to date, and that the time for the two leaders be reserved for their use later in the day; that immediately thereafter, the Senate proceed to S. 2082, under the conditions and limitations of a previous unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. FORD. Now, Mr. President, I ask unanimous consent that upon the conclusion of the remarks of the distinguished Senator from Washington, Mr. GORTON, the Senate stand in recess as previously order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

TIMBER JOBS VERSUS GOVERNMENT ASSISTANCE

Mr. GORTON. Mr. President, last month the Daily Olympian, a newspaper in Olympia, WA, published a stunning 4-day set of stories as a result of a 3-month investigation by three journalists led by veteran Washington State political reporter Bob Partlow. Their stories focus on what has happened in Northwest timber communities since the Federal Government decided to stop timber harvesting and replace timber jobs with Government assistance.

For 5 years I have spoken about the Northwest timber-Spotted Owl crisis. Everyone knows where I stand. I have argued that Federal Spotted Owl protection has gone too far and that the administration has not sought a proper balance between the jobs of working families and rural communities and saving old forests.

You have heard me often, but now hear the results of the work of these reporters.

First, here is their map of Federal land that once was primarily timberland that is now set aside for owl habitat. How has this set aside affected lives?

Listen to their story. It is a story of deliberate destruction of a vital American industry and destruction of a treasured way of life for honest working families. The U.S. Government, driven by sophisticated, well financed national environmental organizations and supported by the media and urban opinion leaders, has betrayed rural communities and destroyed—yes—destroyed—the lives and careers of tens of thousands of honest working families in the Pacific Northwest.

What was that betrayal? It started when the President and Vice President at the Portland timber summit promised that people would not suffer greatly. They said that the timber harvest allocation would be reduced, causing the loss of a few thousand jobs, but that the people losing their jobs would not suffer greatly because of the Federal aid and job retraining dollars that would eliminate the pain. Just a little pain that the Government would fix.

Listen to what has happened since this promise was made. Federal timber harvesting has been stopped—not slowed or reduced—but essentially stopped. The administration has chosen not to ask Congress for relief from Federal court injunctions, thus—choosing—choosing to continue the devastation of the Northwest Federal timber harvest. Not a few, but tens of thousands of jobs have been lost.

So how successful has that retraining been?

Listen, not to my words but to the words of Jim Coates of Hoquiam as I read from the Olympian article:

> Perhaps the best measure of the government's timber relief effort is provided by people such as Jim Coates of Hoquiam, a burly former sawmill worker. Coates regularly tosses 40-pound boxes of government surplus cheese, tuna fish and juice from a truck trailer to workers at 28 food banks in the economically depressed logging country of Grays Harbor and Pacific counties. "When I started this job 5 years ago, we served 3,000 people a month," he said. "Now we're up to 18,123 in 28 food banks and two soup kitchens. Does that sound like retraining in working to you?"

Dan Goldy, former director of Oregon's Economic Development Department is quoted as follows:

> They're sticking a lollipop in the mouths of rural communities so they won't scream as loudly about shutting down their forests.

There is only one answer to this crisis that will matter to these families that are suffering and that is for the President to propose and Congress to pass legislation allowing a reasonable and immediate timber harvest from Northwest forests.

But let nobody be fooled. This Congress has shown no willingness to help, really help, these families, nor has this administration.

Time magazine, which 3 years ago featured on owl on its cover, will never revisit these devastated timber towns to see the consequences of its advocacy journalism in support of stopping logging. The major Northwest metropolitan papers, which advocated so long and so forcefully for more habitat protection, have not followed the Olympian journalists to see what their agenda has caused. They have won their battle, accomplished their goal of stopping logging, but the messy details of the ruined lives left in the wake have not yet darkened the pages of these journals.

The lives of the urban opinion leaders who were so anxious to stop logging 2 or 3 years ago do not intersect with the lives of any of the 18,123 families who are now waiting in Jim Coates food lines. Those 18,000 families are out of sight and out of mind. These urban opinion leaders do not wish to be confronted with the consequences of their choice. It is awkward and uncomfortable. Their response is not to concern themselves with the cold human reality of those food bank families, but instead to rail against me or anyone who would dare suggest that their choice has crushed those real lives. I believe, I want to believe, that the lack of concern on the part of the opinion leaders who pushed so hard to stop timber harvesting is due to an ignorance of the rural plight rather than a lack of compassion.

This issue, in the minds of the people who dominate Washington, DC, today, has been settled. They will not be troubled by the uncomfortable truth. That uncomfortable truth is that the Clinton administration's 30-second sound bites, delivered 2 years ago when they promised both a reduced timber harvest and relief for the workers—was a fraud. What the workers got was unemployment and no real help. What those communities have is jobless families, desperation and no hope.

They have been betrayed. They will listen to no more slick promises from politicians.

One of the bitter ironies of this real drama is that these are families who did not begin despising their Government. These were the working families who, at least since FDR, believed that the Federal Government was generally on their side. These were families who paid their taxes and sent their sons to fight and sometimes die in America's wars. And they sent those sons proudly. But do not trouble yourself to ask them today whether they have faith in their Government still.

I have searched my heart deeply asking whether my own anger stems from the fact that my point of view has not prevailed on this issue. I truly believe that it is not the root of my anger. I have been in public life for more than three decades and I have won and lost more public policy battles than I can remember, but those losses do not stick with me and leave me angry. But this one sticks with me because so much has been taken from so many people—their families and communities, taken needlessly and under such false and glib pretenses.

And the glib answers do not reach the truth. The glib answer is that many people lose their jobs every day and life goes on. The truth is that timber communities exist because the Federal Government made a promise decades ago that if these workers would move there they could harvest a sustainable amount of Federal timber forever. These are towns with practically no other economic options. Timber workers laid off in a timber town whose houses have lost virtually all of their values, are not like most laid-off workers. They have no other realistic options, and the Federal promise of job retraining is a national scandal that does not work.

The glib answer says what Tom Tuchman, White House timber czar, is quoted in the Olympian as saying: "You can't repeal the laws of change," as if the deliberate federal decision to stop timber harvesting was inevitable—like a law of nature. The truth is that Tom Tuchman, like so many who dominate Washington, DC, is an advocate for stopping logging. He supports the position espoused by the national environmental organizations who demonize timber workers and seek the cessation of virtually all logging in the Northwest and it is that choice—not the inevitable fact of change—and their power to enforce that choice is the reason that these families are suffering.

The glib answer says that the Northwest is just about to run out of timber, or at least old growth timber, so that the end of the harvest was inevitable. The truth is that more than 70 percent of Northwest old growth forests were already set aside forever in parks, wilderness areas and designated reserves and that even in the 1980's we were not harvesting our Federal forests faster than the rate of regeneration.

The glib answer says that we should stop log exports to invent more mill jobs. The truth is that not a stick—not one stick of public timber is exported raw from the Northwest. We have ended all State and Federal log exports. All that remains is private property. And no honest person can, with a straight face, argue that banning private log exports will help any displaced workers in the rural communities that depend on Federal timber harvests. Nobody on this planet could survive in business by harvesting timber on the lowland private timberlands and then shipping those logs up to the more remote communities hurting today—it will not happen and the glib answer of banning private log exports is another fraud, as well as confiscation of private property values.

The truth is that we do not have to destroy these communities. 18,000 people do not have to wait in the Grays Harbor food lines in order to save old growth forests. The truth is that a fair balance can be found.

Someday, the truth will come out. But that someday has not come. The Olympian reporters have my respect. I fervently hope that their reporting prompts a reexamination of this issue that sheds light on the cold truth, the truth that the Grays Harbor food banks today serve 18,123 people in a county with a population of less than 60,000.

Can we imagine, possibly imagine, the response—properly—of decision makers in Washington, DC, the metropolitan Northwest media and opinion leaders in Washington State, if a deliberate federal policy put one-third of Portland or King County residents in food bank lines? None of us would tolerate such a result. So why do so many tolerate such a result in rural Northwest communities?

I fear that the truth affecting these rural communities is not likely soon to permeate past the tens of millions of dollars and sophisticated mass communications techniques of the national environmental organizations.

The truth is not likely to be heard or acted upon by the majority of members of this Congress who have cast their safe green vote, assuring the reelection support of the national environmental organizations and their troops.

But, still, someday the truth will out. God will not long ignore this preventable human suffering in our midst. Honest people will continue to seek the truth and question a public policy that causes so much pain.

But what do we do in the meantime? I pray to God that somebody else will listen now. I pray that wisdom, compassion and understanding will come to those who dominate Washington, D.C. now. I pray that, soon, those who have chosen this course understand that they must change to prevent even more pain from being visited on honest families who have lost so much in the Northwest.

My opponents on this question will hasten to say "we can't return to the old timber harvest levels of 5 billion board feet a year." I say "fine, but let us split the difference and immediately let these communities harvest half of what they had grown to expect. That will leave plenty of owl habitat, but it will also restore hopes and mend the broken lives of many Northwest families."

VOL
140
PT
15
AG
10
—
11
1994
UMI

I am frustrated with this administration; I do not believe for a minute that the President wishes so much pain for so many families. I know that he does not. But the suffering is happening now because of decisions made by his administration. Through his action or inaction his administration will be judged. Thus far it has responded with indifference.

After the November elections I will make a formal request of the Senate Subcommittee on Interior Appropriations hold a field hearing in Washington State to answer some of the disturbing questions raised by the series in the Olympian. I will ask that the hearing be held before the start of the next session of Congress, so that it will be divorced from partisan politics, as this issue deserves more than partisan politics. I want these hearings to ensure that the money the Federal Government is spending is spent well and effectively. The people of these communities deserve, at the very least, to be assured that the little money that we are spending actually helps them.

So I close with a request that the President immediately propose legislation that will get timber flowing into our starving Northwest communities. If this legislation only provides for a short-term timber harvest, fine; that is not my preference, but I will be its advocate, and I will praise the President, because we need whatever we can get now.

I cannot assure that Congress will pass such legislation, though I believe that if the President pushes and the Northwest delegation supports him, we can succeed. But I can promise the only thing that an individual legislator can promise in the end. My promise is, Mr. President, that if the administration sends to Congress legislation that will cut through all of the roadblocks immediately and get timber flowing to help these desperate families and communities now, this Senator will vote, and speak and fight for it with all that is within me.

Mr. President, I ask unanimous consent to place the entire series of articles in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD as follows:

LOGGERS LEFT WITH CRUMBS

TAXPAYER MONEY: GOVERNMENT AGENCIES CANNOT PRODUCE AN ACCOUNTING OF WHERE TIMBER DOLLARS HAVE BEEN SPENT

(By Bob Partlow and Trask Tapperson)

Five years and more than $100 million later, government programs to help Northwest loggers and their communities have failed.

Massive logging cutbacks on federal forests have stripped the region of thousands of jobs.

State and federal agencies have poured money into studies, plans, consultants, unemployment benefits, seed money and retraining programs to rescue the people and their towns.

But a three-month investigation by The Olympian and The Bellingham Herald reveals:

Government agencies haven't tracked overall spending or handling of programs to train timber workers for other jobs.

They can't give an accounting of how much money they spent, where it went and whether it did any good.

Many loggers and their communities aren't finding new lives after the devastation caused by government- and court-ordered shutdowns of forests primarily to protect the northern spotted owl.

Though some retraining ideas have met success; they don't offset the widespread problems in many of the government timber programs.

"As a long-term effort, it's been a complete failure," said Roger Reidel, a former millworker who oversees forest-related issues for the Washington State Labor Council.

His assessment is shared throughout logging communities in Washington, Oregon and Northern California.

Perhaps the best measure of the government's timber relief effort is provided by people such as Jim Coates of Hoquiam, a burly former sawmill worker.

Coates regularly tosses 40-pound boxes of government surplus cheese, tuna fish and juice from a truck trailer to workers at 28 food banks in the economically depressed logging country of Grays Harbor and Pacific counties.

"When I started this job five years ago, we served 3,000 people a month," he said.

"Now we're up to 18,123 in 28 food banks and two soup kitchens.

"Does that sound like retraining is working to you?"

On the other hand, government officials point to the Clinton administration's plans to spend $1.2 billion to help loggers during the next five years.

"It's a good plan," said Tom Tuchmann, the White House timber czar in the Northwest.

"I believe in it. It recognizes people are hurting.

"You can't repeal that laws of change. You can only manage them. We're trying to manage," he said. "Some things are going to work. Some things aren't going to work."

But U.S. Rep. Peter DeFazio, D-Ore., said most of that $1.2 billion isn't a new infusion of cash.

Instead, it's money from other government programs repackaged as timber aid, he said.

"They're sticking a lollipop in the mouths of rural communities so they won't scream as loudly about shutting down their forests," said Dan Goldy, former director of Oregon's Economic Development Department.

Where is the money? The government can't say—it doesn't keep track.

White House response: Clinton officials say the administration's timber recovery plan takes time.

The Brewers: The Darrington logging family has tried to get government aid, but they face roadblocks.

Monday: A web of government bureaucracy captures people in its net.

Tuesday: Much of the timber money has paid for consultants, studies and administrative costs.

Wednesday: Some people have found solutions through retraining programs or community efforts.

NOBODY CAN EXPLAIN WHERE THE MONEY HAS GONE

TIMBER RETRAINING: GOVERNMENT AGENCIES CANNOT ACCOUNT FOR THE MILLIONS OF DOLLARS EARMARKED FOR COMMUNITY AND WORKER RECOVERY PROGRAMS

(By Trask Tapperson and Bob Partlow)

"Where has the money gone?"

Patti Hicklin, a part-time instructor at a job retraining center in the timber town of Forks, isn't alone in asking that question.

From union offices to university halls, people want to know how much the government has spent to help workers and communities rebound from sweeping logging cutbacks ordered mostly to protect the threatened northern spotted owl.

And they want to know if the money has done any good.

They aren't getting many answers because government officials at every level cannot or will not release bottom-line figures.

After a three-month investigation, The Olympian and The Bellingham Herald estimate that governments have channeled more than $100 million since 1989 to the recovery programs.

But that's only a guess because no clearinghouse exists to track the spending or results of training programs—either in the federal government or in Washington, Oregon and Northern California.

The newspapers filed 53 Freedom of Information requests with state and federal agencies in the three states to pursue the money trail.

"It's going to be tough for them to get the information you want because some of them don't know where their records are," said Lauri Hennessey, spokeswoman for President Clinton's forest plan. "They were never tracking it or keeping it in one place."

The newspapers followed up with repeated calls to officials at the top agencies to renew the request for numbers.

A sample of the newspapers' questions:

How much money did the agency receive, and how much did it spend?

How much did the agency use for administrative costs and how much for timber worker retraining programs?

How many people got jobs after retraining, and how long did they last?

The newspapers also tried to trace the money through dozens of people in and out of government, including officials at private industry councils and economic development associations.

In all, 42 of the agencies eventually responded to the written requests—from the giant U.S. Department of Labor to the tiny town of Naches north of Yakima.

They sent information in a variety of governmnt forms or no forms at all, producing a three-inch stack of reports on taxpayer dollars spent.

The information included actual contracts with consultants to spreadsheets (one handwritten), newsletters and newspaper clippings. They often trickled in weeks after the initial request—and even more than two months in some cases.

Some agencies put a price tag on their response.

"We estimate that gathering this information will take two full-time people five full days," wrote Jennifer Kang, spokeswoman for the Oregon Economic Development Department. "I'm guessing, but this could run you up to $1,000."

Ray Daffner, executive director of the Oregon—based WPPC, and association of businesses that make finished wood products, said Oregon officials want to keep the door closed. "They don't want any scrutiny," he said. "If they wanted to they could tell you."

Other agencies replied, only to flatly refuse to provide any information short of a court fight.

"We must decline because your request is not focused on a specific issue or problem," wrote the Resources Agency of California, a leader for regionwide effort to help displaced timber workers.

Many agencies said they simply didn't keep track of the numbers.

"In response to your request for a head count of all persons who obtained new employment as a result of money spent, a head count of all types of new employment obtained and the length the jobs were held, please be advised that we do not have any records responsive to that request," wrote the Economic Development Administration of the U.S. Department of Commerce.

Even Robert Rheiner couldn't supply numbers. He is co-chairman of the Regional Economic Revitalization Team in Portland, Ore., created by the Clinton administration to route federal money to timber workers looking for help.

In the end, only fragmentary figures emerged, but they show a startling lack of accountability.

In many cases, government agencies didn't follow up to see if their programs helped timber workers find jobs in new professions, ranging from nurses to small-business owners.

In other cases, they knew people found jobs, but didn't know if the workers received a living wage or how long they were employed.

That's true even for programs cited by the government as models in the retraining effort, such as Lane County Community College in Eugene, Ore.

Program Director Patty Lake cited statistics to show how well former timber and millworkers are doing after attending her school's programs:

Since 1989, about three-fourths of the 2,200 laid-off wood products workers who took classes have new jobs; three-fourths of them are in their retraining field and most make at least 90 percent of their previous wage—averaging $9 to $9.50 per hour. But the program surveys students in the first three months of leaving school. After that, nobody knows.

The federal government won't begin until this fall to track the results of worker retraining and community renewal programs, said Laura McFarland, a Rheiner aide.

A long-term look at how workers are faring isn't expected for almost five years, she said.

U.S. Sen. Mark Hatfield, R-Ore., questioned how wisely the Clinton administration can spend a planned $1.2 billion on timber relief during the next five years when the current spending records are so incomplete.

"That's a whole other story," Hatfield said. "If you find out the answer, let me know."

FAMILY WILLING TO TRY ANYTHING TO SURVIVE

LEARNING TO COPE: "IF YOU WANT HELP, YOU'VE GOT TO LOOK AT THE END OF YOUR SLEEVES," RON BREWER SAYS

(By Trask Tapperson)

DARRINGTON.—After more than two decades immersed in Washington's timber culture, Ron and Shari Brewer consider logging as much a lifestyle as a livelihood.

The Brewers enjoyed both from the woods as they logged in the Mount Baker-Snoqualmie National Forest under contracts with the U.S. Forest Service.

They didn't get rich working in the 1.7-million-acre stretch along the western slopes of the Cascade Mountains.

But they could afford ballet lessons for daughter Rhonda, now 14; flights on rented light planes with Ron at the controls; a family vacation to the Southwest desert so Shari could see wildflowers in bloom.

No more.

The Brewers may join tens of thousands of people in the Northwest's coastal woodbelt who must find another line of work.

That's because the Mount Baker-Snoqualmie Forest is now reserved mostly for recreation, said U.S. Rep. Al Swift, D-Bellingham. Logging has all but ended as legal protection of forestland increases.

The protections range from scenic river corridors and wilderness areas to habitat preserves for northern spotted owls—goals of predominantly urban residents and groups, Swift said.

"You live on Queen Anne Hill (in Seattle) and it's really great to save all the trees around the people in Darrington," Swift said sarcastically.

TIGHT TIMES

The Brewers, Whatcom County natives, just sold some land they have owned for years near Acme. The money may help pay for a small farm they are looking at east of the mountains.

Shari, 43, envisions running the farmhouse as a bed-and-breakfast for tourists while her husband works the farm.

Ballet lessons, recreational flying and desert vacations got squeezed out of the family's tight budget more than a year ago.

Those luxuries flowed in the mid-1980s when their R.L. Logging and Land Clearing business had 12 full-time employees and six log-truck drivers under contract, grossed an average $500,000 and netted about $50,000 a year. Like virtually all small-time operators reliant on timber-harvest contracts, the Brewers experienced tough times even before the logging bans.

A bankrupt logging company owed them $180,000. They were involved in an unrelated lawsuit that temporarily tied up collateral to refinance their house, which they then lost.

By the start of the '90s, they lived in a rented home and worked for others. Their savings dwindled.

By February, Ron's unemployment benefits ran out. By spring, Shari's part-time job at an Arlington nursing home dropped to a few days a month, barely making it worth the 28-mile round-trip drive.

Today, they put food on the table with pickup work.

Last month, Shari did occasional jobs for the U.S. Navy, conducting guided nature tours at a naval reservation in the forest. Ron does odd jobs with his bulldozer—clearing land, building ponds, fixing roads and excavating building sites. "What it boils down to is, if you want help, you've got to look at the end of your sleeves," he said.

RON'S JOB HUNTING

The two have hit dead ends in more than a half-dozen attempts in the past several years to get government aid—despite millions of dollars poured into the Northwest for timber worker retraining and community renewal.

Ron's job hunting as well as his self-employment efforts have been rebuffed, the Brewers believe, in some cases because Ron is 46. Examples include.

Helicopter logging pilot: Ron has a private pilot's license and said he needs about $4,000 to $6,000 to get rated for choppers. The role of helicopters in logging may grow with the new emphasis on selective harvests in roadless areas.

Ron said he asked for help form the Snohomish County Private Industry Council, which has received several hundred thousand dollars in grants to help timber workers.

Council Executive Director Emily Duncan said she didn't recall Brewer or his request.

Applications of that sort go to the state Employment Security Department, but Duncan said she doubted the training would receive approval because of its "higher-than-average training costs."

Another deterrent is that the helicopter job would leave Brewer in the same precarious job field, said Kathy Kerkvliet, an Employment Security Department official in Mount Vernon.

Environmental engineer: Every Sunday, Ron sees several openings for environmental engineers listed in Seattle newspaper ads. He asked the Employment Security Department for retraining help to qualify for such work but was told it would take too long and cost too much.

"The intent of the program is more vocational in nature," Kerkvliet said. "There isn't the funding to fund a person for a four-year degree. There's thousands more people than there are funds."

A LOOK AT YOUR TAX DOLLARS AT WORK

The incomplete numbers tell only part of the timber story.

They don't disclose questionable spending practices or the human cost of the decision to ban logging on at least 7 million of acres in Washington, Oregon and Northern California.

The three-month investigation by The Olympian and The Bellingham Herald found these examples of how governments spent tax dollars to help dislocated timber workers and their communities:

Three loggers learned how to become scuba divers in 1992 through a state of Washington program. Price tag: $30,000, including a week of warm-water diving in the Mexican resort town of Cozumel and another week in Houston to attend a scuba equipment convention. "It was a waste of money, but I had a good time," said Carl Gockerell, one of the loggers.

Gockerell now has a job marking trees for sale in forests. Of the other two loggers, one is unemployed and the other works as a crab fisher.

Thousands of dollars went to economic development seminars. In addition to the usual speakers, a three-day Timber Communities Conference in Ellensburg last April included a series of games with plastic mice, paper airplanes and water pistols.

Price tag: $12,114.76.

Economic development activists in Grays Harbor bought self-esteem tapes to boost the confidence of unemployed timber workers and others. Price tag: $43,200 in public and private money.

A six-week government-sponsored "career assessment" program offered by Grays Harbor College included a one-day physical obstacle course on the Wynochee River. During the Outward Bound-type exercises, loggers go scurrying up ropes in a class to build their self-confidence. Price tag: $500 for each student. The college also uses state money to defray costs.

VOL
140
PT
15
AG
10
—
11
1994
UMI

CLINTON ADMINISTRATION ON TIMBER CRISIS: JUST WAIT FOR RESULTS

GOVERNMENT RESPONSE: WHITE HOUSE OFFICIALS SAY THEY ARE REBUILDING THE TIMBER PROGRAM, BUT IT TAKES TIME

(By Trask Tapperson and Bob Partlow)

The White House is trying to reinvent the government's response to the timber crisis to avoid past failures, Clinton administration officials say.

But with more than one-third of the president's term already over, they can't provide numbers that show improvements since Clinton took office.

Yet they insist their project to retrain timber workers is turning around and blame the Bush administration for leaving them with a program in disarray.

"The alternative is to do nothing. That's unacceptable," said Tom Tuchmann, the Poland, Ore.-based White House official in charge of Clinton's forest plan.

"If we started doing this five or six years ago, we wouldn't have a crisis. We inherited a train wreck," Tuchmann said. "You can't change that overnight. It took us a year to put this plan together. In forest planning, that's fast."

U.S. Labor Secretary Robert Reich said the administration is "rebuilding the track, lining up the trains and putting on a new locomotive."

But for those already hit by the train, it's too late. "A lot of people are hurting," Reich said.

Tuchmann and other federal forestry officials said they should be judged only on what the federal government has done since November 1993, when their Economic Adjustment Initiative began.

That's the name of the people side of Clinton's two-sided approach to solving the Northwest's forest crisis. It deals with worker retraining and community renewal.

The program's other half deals primarily with the environment and other forest management concerns.

The initiative grew out of the administration's so-called Option 9 plan for Northwest forests that put more than 7 million acres of public land into reserves.

"Give us until the end of the year, when we've been at this a year, and we will be a lot more accountable," Tuchmann said.

Yet a top administration official already has touted the success of the initiative. White House Deputy Chief of Staff Roy Neel trumpeted it to 13 other top Clinton appointees in a Nov. 29, 1993, memo.

He called for a "full-court press' strategy to ensure the effective implementation of the plan. The administration has already made some significant progress on this front."

He also noted that "the plan is complex and there is little margin for error."

Away from government offices in Portland's glass skyscrapers, the common view is that the Clinton administration's revamping isn't an improvement over what came before.

"Tuchmann doesn't see it," said Portland forest economist Dan Goldy, former director of the Oregon Economic Development Department. "He's got Option 9 blinders on. Over 50 percent of Oregon lands are publicly owned. We're looking at an economic catastrophe in this state."

Said U.S. Sen. Mark Hatfield, R-Ore., "There is no accountability. I haven't seen it (in the government programs)."

Chris Chandler, state coordinator of the Salem, Ore.-based Oregon Lands Coalition, said she has no evidence that the Clinton forest plan is any better.

The coalition's 65 member groups include union locals and timber, ranching and mining interests that are promoting a larger timber harvest than allowed under the Clinton plan.

"Retraining is the hardest thing in the world to get information about," Chandler said.

But Shari said her husband got another reason, unofficially.

"A gentleman at Employment Security told him that even if he did take classes and finished at the top, he would more than likely be passed over for a younger person with the same qualifications," she said.

Equipment operator: Ron has spent 25 years running everything from giant bulldozers to yarders that pull downed trees to collection points.

"I have experience in climbing trees and operating chain saws. I have worked in all kinds of inclement weather. I am a non-drinker/nonsmoker," said his letter two years ago to the Snohomish County Public Utility District.

He didn't get the equipment operator job.

The same utility soon offered job-training classes for workers at an Everett pulp mill that Weyerhaeuser Co. was about to close. Ron would have welcomed a chance to attend those sessions, but he wasn't eligible.

Road worker: The state Department of Natural Resources is tearing up 72 miles of old logging roads in northwest Washington and leasing new equipment to do the job. "Why don't they give a logger that job so they can make payments on their own equipment?" Ron asked.

The agency has no prohibition against that, said Northwest-area spokesman Mark Morrow. "But we can't think of anyone who's met the criteria of being a displaced timber worker and had their own equipment."

SHARI'S JOB HUNTING

Shari's efforts to get the family on its feet have hit other government snags.

Like Ron, she looked at returning to school. She applied in 1990 to Skagit Valley Community College and the county Private Industry Council for assistance to get a two-year degree in parks and recreation administration.

"There was only $400 in support money for the entire two years," she said. "Round-trip mileage to the college was 120 miles a day. I didn't even begin.

She cited a string of roadblocks to a three-year effort get her "Off the Beaten Track" forest guide service up and running.

The Private Industry Council promised to help her with marketing for one year if she completed a 100-hour business course, she said.

She did, but "six weeks after the classes ended, I got a letter that said, 'We're sorry, we're out of funding, and the marketing help is not available,' "she said.

She spent $500 of the family's savings for brochures. They're gathering dust as permits and other requirements to start operations remain enmeshed in a thicket of government restrictions.

One she cites is a state constitutional ban on investing public money in private businesses such as her fledgling enterprise.

"I could be up and running for about $15,000" she said. That includes $12,000 for a used tour van, $3,000 for marketing, $600 for liability insurance and $85 for Forest Service permits. Without the insurance, the Forest Service balks at giving her permission to take people into the woods.

"All the timber dollars that have come in here have paid people to tell us how to do it," Shari said. "There's nothing for individual persons in start-up loans.

"I think it would be better spent than hiring people to come up here and tell me how to do it," she said. "They've sunk maybe $50,000 into counselors, who don't know the needs of the community. That would have started up three businesses."

Shari said she earned about $1,500 for her family last year picking wild berries. In April, she said the Natural Resources Department denied her a permit to enter Ash and Squire Creek roads to her prime berry area because they are managing it more restrictively for wildlife.

"The bottom line is you're on your own," she said.

WHERE DID $100 MILLION COME FROM?

ACCOUNTABILITY: THE OVERALL ESTIMATE OF TIMBER AID IS AN EDUCATED GUESS BASED ON FIGURES SUPPLIED BY A STATE AGENCY

(By Bob Partlow and Trask Tapperson)

The Olympian and Bellingham Herald have estimated that government agencies in Washington, Oregon and Northern California spent more than $100 million from mid-1989 to mid-1994 to aid workers and towns.

But that's only an educated guess because no state or federal agency in the region has any precise, reliable figures.

The Washington Department of Community Trade and Economic Development supplied the best numbers, saying about $34 million had been spent on the timber problem in the state during the past five years.

Estimates for Oregon and California are a guess because agencies there would not respond to requests for information or would do so only at a high cost.

Government officials and industry leaders say Washington loggers and communities feel about one-quarter of the impact of logging cutbacks. About 60 percent of the impact falls on Oregon and the rest on California, they say.

If Washington's numbers are correct, a figure of more than $100 million is a conservative estimate for the three-state region. A congressional source who asked not to be named said that estimate is probably accurate, although he indicated no overall figures exist.

The newspapers received a wide variety of responses to requests made under the Freedom of Information Act and state public records laws.

Some agencies gave clear, concise information about their small corners of the multi-million-dollar effort:

The Eastern Washington Partnership, for example, provided information about its $107,405 grant to retrain workers: length of the grant, actual expenditures, administrative costs, number of people who participated, what happened to them after they received training and the cost per participant.

They spent only $102,773 of the money allocated.

The U.S. Department of Labor also provided data that mapped how much money was spent in Washington and Oregon the past half decade under the Worker Adjustment Program. Its charts detailed the number of participants, how many weeks the average participant was trained, average hourly wage before the program and hourly wage at the program's end, total program costs and a follow-up employment rate, among other things.

"People have a right to know how their dollars are being spent," said Tom Tuchmann, President Clinton's forest plan czar.

But even the Department of Labor didn't keep track of workers after 13 weeks—and department money is only part of the government pie divided up in the states.

The lack of detailed numbers comes despite Gov. Booth Gardner's creation of a "timber team" in Washington in 1989 to bring together public agencies and private groups to coordinate a response to help timber communities.

The team produced one detailed report in December 1992 but didn't follow up after that.

STATE TIMBER WORKERS LAST TO GET FEDERAL AID

SLICES OF THE PIE: AT LEAST 156 AGENCIES VIE FOR FEDERAL TIMBER DOLLARS

(By Bob Partlow and Trask Tapperson)

Veteran U.S. Sen. Mark Hatfield of Oregon doesn't know how much money is being gobbled up by bureaucrats that is supposed to help timber workers and their towns.

Because he can't get answers, he just says it's quite a bit.

Laurence Larsen, the owner of a Darrington hardware store, also doesn't know but said money thrown at the problem gets whittled down like a "silver dollar to a dime."

With at least 156 agencies with a finger or two in the governmental pie cooked to help loggers and their towns, every bureaucraft and consultant seems to get a piece before the last few crumbs are sent to help timber workers.

Kristi Reece, a U.S. Forest Service employee in Darrington, said her agency is typical.

"Money comes from Congress," she said. "The Washington office takes its share. Then the regional office gets its share. Then the supervisor's office gets a percentage. Then the district office gets a percentage. By the time it gets to the workers, it's not the full amount Congress allocated. People may not like it, but that's the way it is. That's the way it's always been."

Congressional reports studying retraining programs such as those for timber workers have called them wasteful, duplicative, overlapping, late in providing help, mismanaged and inefficient.

The Clinton administration says it is trying to sort out the competing bureaucratic interests and get everybody pulling together.

Whether it can or will work remains an open question.

"This may look like a piecemeal approach to you," Reece said. "You should have seen the way it was before."

Bob Partlow, 47 has been the state government reporter for The Olympian for the past 10½ years.

He covers the Legislature, state government and politics, and has done extensive investigative reporting.

Before moving to Olympia, he held a similar job for six years with the Herald. He also was a radio reporter in Blaine and Anacortes for four years and attended Western Washington University from 1965–69.

Trask Tapperson, 55, began his newspaper career 33 years ago as a reporter for the St. Louis Post-Dispatch. Among his jobs: political, legislative and government correspondent. He also was a member of the newspapers' Editorial Board. Tapperson joined The Bellingham Herald in 1982 as environment and energy reporter and was city editor for five years before becoming business editor and special projects reporter.

Dick Milligan, 56, has been a photographer at The Olympian for the past 18 years and is now the chief photographer. Before being hired by The Olympian, Milligan spent 20 years in the Marine Corps as a photographer. In his career, he has photographed everything from politicians to posies, and he shows a strong preference for the posies.

CLINTON ADMINISTRATION ADDS TO BUREAUCRATIC JUNGLE

MORE GOVERNMENT: THE PRESIDENT'S SOLUTION FOR THE TIMBER CRISIS HAS ADDED LAYERS OF GOVERNMENT

(By Bob Partlow and Trask Tapperson)

No less than 156 bureaucracies help carry out President Clinton's Northwest forest plan, 98 alone to help timber workers and towns.

Some agencies are public, such as government departments; others are private, such as industry councils; still others are a blend of both, such as economic development councils.

The public players are at all levels of government—federal, state and local. Some are in separate governments, such as Indian tribes.

Together they have spent more than $100 million during the past five years on dozens of programs in a mostly unsuccessful effort to steer loggers, millworkers and their communities to new lives.

Their old lives are falling prey to logging cutbacks in Northwest forests that stem mostly from a move to protect the northern spotted owl.

BUREAUCRATIC MAZE

The maze of agencies is one of the top reasons why government officials can't say where the money has gone and whether it has done any good.

"You put a silver dollar in the end of the pipe and somehow a dime comes out the other end," said Laurence L. Larsen. He owns Darrington's only hardware store and has served on state economic development committees.

Streamlining the bureaucracy was one of the Clinton administration's early claims of success. From the president down, federal officials talked about how they were reinventing government systems.

What the administration invented for the timber crisis was at least five more layers of bureaucracy on top of the 156 departments, bureaus, administrations, boards, councils, consortia and tribes.

At the behest of the White House, the federal government and three Northwest states created "economic revitalization teams" to coordinate about 1,200 applications for money and other help for distressed communities and worker groups.

The state teams feed the applications to the regional team based in a Portland, Ore., skyscraper. The regional team, in turn, feeds them to various components of the federal bureaucracy.

"We feel we're not creating bureaucracy, we feel we're making bureaucracy run much more efficiently," said Robert Rheiner, co-chairman of the regional team.

Yet a few blocks away in another Portland skyscraper is another White House creation: the Inter-Agency Office of Forestry and Economic Development. Its director, former U.S. Senate staffer Tom Tuchmann, oversees the president's timber plan to manage Northwest forests and renew timber economies.

The Clinton administration has identified 47 barriers to effective retraining and community development. They range from muddled chains of command to different criteria for approval of the same kinds of requests.

NOT THE ANSWER

Adding more bureaucratic tentacles isn't the answer, said Linda Morra, director of education and employment issues for the General Accounting Office, the investigative arm of Congress.

"Coordinators frequently carry costs," Morra said. "It's not quite clear that the most efficient way out of this maze is to have people coordinated. You're dealing with a system that's fragmented and inefficient."

Then why perpetuate it? Larsen is among those who thing they know.

"They spread all this money around, a mile wide and in inch deep," he said. "It doesn't do any good, but it does have political benefit."

That's borne out by the types of officials chosen to serve on the various revitalization teams, said David Ford, president of the Western Forest Industries Association. The group represents 100 small mill owners in 12 Western states.

"Look at their makeup," Ford said. "They're all government people looking for ribbon-cutting projects—a new sewer, lighting, paving, infrastructure things—without looking at maintaining the tax base that they have."

A big reason for that, Ford said, is that Clinton's forest plan "was cobbied together. They threw money at a problem, hoping it would go away. They start from the premise the industry will die."

In fact, Ford said, by its approach to relief "the administration is saying the industry already is dead."

Meanwhile, no one is monitoring the bottom line for cash flowing through the government programs and what the money is buying. For example:

When the U.S. Department of Labor puts federal tax dollars into state programs, the states are left to track how those dollars are spent and what they buy, said Armando Quiroz, the department's top employment and training official for Washington and Oregon.

Of 135 timber-related studies and plans performed in Washington since 1989, the state tracked the results of only 12. Local officials were left to figure out what taxpayers got for their money in the other 123.

Tuchmann said the Labor Department is a "money distributor, not a money monitor."

Government waste may be a great deal more costly than the $100 million-plus spent on the timber crisis. Several reports from the General Accounting Office criticize government job retraining programs in general.

They cite:

Complexity.

Failure to tailor programs to match worker needs.

Administrative inefficiencies.

Lack of accountability.

Particularly worrisome is the high administrative costs that agencies spend solving the same problem, according to the General Accounting Office.

Washington state numbers show costs of administering assistance programs for timber workers and towns range from little or nothing to about 12 percent. Neither Tuchmann nor officials in the three Northwest states could or would say what they are.

General Accounting Office officials said administrative costs of some other federal retraining programs are in the same range, while others are in the range of 15 percent to 20 percent.

The problem isn't just costs. There are serious problems with the way the governments set up some programs.

VOL
140
PT
15
AG
10
—
11
1994
UMI

For example, governments typically require displaced workers to go through retraining to receive extended unemployment benefits. So they enroll in school, often community colleges. But the benefits frequently run out before their retraining programs are completed.

"Then we have to choose between survival and education," said Kevin Browning, a former logger from Roseburg, Ore. He wanted to get a business degree but now is caught in such a bind.

Many involved in the retraining programs—from timber workers to those in local businesses that depend on them—feel the bureaucrats who administer them ignore the human element.

When workers do get training for new jobs, it's often for positions that don't exist. Examples include the glutted fields of truck driver and diesel mechanic. To rectify that, Washington state was supposed to do a market study of jobs available. It hasn't been done, state officials said.

Scott Haugen, a former logger in Forks, said the only reason he successfully trained to become a diesel mechanic is because "I had every break in the world."

He overcame several bureaucratic obstacles—including having to pay for most of his tools after the government said it would provide them.

Not all the problems arise with the bureaucrats.

Another obstacle to successful retraining is the ingrained reluctance to change or relocate among those working in rural timber towns.

Often their roots sink deeper than an old-growth Douglas fir's. Already hostile toward a government they say has denied them a living, many are in no mood to leave—no matter what the cost.

"I have four or five generations of my relatives buried here," said Coin King of Forks, a onetime firebrand timber activist.

He still carries the torch but is busy nowadays trying to scrape together a living in the woods. "Why should I have to go move to become a VCR repairman in Seattle?" he asked.

George Bernard Shaw Jr. spent a quarter century falling timber in Oregon and Washington. He lost his last job in December and now is struggling to get a two-year degree at Peninsula Community College in Port Angeles.

It's part of his effort to find a new way to make a living—and a desperate attempt to avert a move to more populous places with more job opportunities.

"I don't want to live in the city," he said. "I just can't do it. I'd live out here and starve first."

RETRAINING PROGRAM TURNED OUT USELESS

SURVIVING: THE LYNCHES OF HOQUIAM HAVE FOUND A WAY TO SURVIVE—WITHOUT THE GOVERNMENTS'S HELP

(By Bob Partlow)

HOQUIAM.—If ever a man looked like a logger, it was Larry Lynch.

A 1989 photo shows him with a bushy beard, suspenders, plaid shirt, standing in a forest.

"He was the American logger," said his wife, Renee Lynch. But he lost his job in February 1990. The couple and their three children almost went bankrupt and had to cash in their insurance policies. The winter of 1989-90 was "an absolute nightmare," Renee said.

An advocate for devastated timber families, she recalls sorting out rotten potatoes from good ones at the local food bank. Her family also was getting help from the food bank. "People lived on cleaned-up pig food—that's how most of us made it," she said.

Lary, 40, decided to retrain as a nurse, thinking it was a job with stability.

He started at Grays Harbor College in spring 1991. But a year later just as he was making progress, the rules changed for awarding school grants and his money ran out. He finally gave up.

On his own, he found a job building and maintaining guardrails on state highways in 1992. It paid the mortgage, but kept him away from home for long periods. That job ended this year, and he finally found a similar job in Alaska.

The state lists him as successfully retrained, said Renee, 31.

But the Lynches are selling their home and moving near Anchorage, Alaska, to start over.

Renee has little use for retraining programs or the government that sponsored them.

"It's an absolute joke," she said. "Try retraining a Sioux Indian not to be a Sioux Indian. It can't be done."

SMALL-TIME LOGGING OUTFITS WILL BE SHUT OUT OF SALES

LOGGING SALES: OPERATORS SAY GOVERNMENT TIES THEIR HANDS WITH BOND REQUIREMENTS

(By Trask Tapperson)

A federal judge last month lifted a three-year court ban on U.S. Forest Service timber sales along the Northwest coast, but that won't set chain saws screeching anytime soon.

That's because legal challenges and sale preparations must come first.

When the trees do go on the block, perhaps next year, few of the small, often family-run logging businesses are likely to benefit much, their operators say.

The reason: The federal government thwarts its goal of helping timber businesses by the scale of its timber contracts and bond requirements.

The federal government puts no ceiling on the size of its timber sales but is trying to structure smaller contracts, said Robert Rheiner, a Clinton administration forest official.

The government also is advertising logging sales of more than $25,000 in local areas so smaller logging companies have a chance at them, Rheiner said.

But loggers claim that won't help them because they can't come up with the 10 percent performance bond required by the government to protect against improper job performance.

"When it's a big contract—$250,000 to $500,000—that's a $25,000 to $50,000 bond," said Shari Brewer, a former contract logger in Darrington. "Small operators just don't have it."

The government could do some simple things to open more doors, loggers said.

For example, they said, the government could:

Set aside a percentage of contracts for small logging operators, just as it does for businesses selling to the government and for women- and minority-owned businesses.

Put into escrow some of the money it plans to pay a contractor (say, 15 percent of the contract's value), then pay it out only as the work is approved.

Raise the minimum amount of a contract at which operators must pay prevailing union-level wages in the area in cases involving a dislocated logger.

Some of those changes would require action by Congress, Rheiner said.

Other steps within the power of the administration must await its "learning process," he said.

Meanwhile, Rheiner said, "It's just not going to be possible to save everybody."

IT SEEMED LIKE THEY PROMISED YOU EVERYTHING AT THE START

(By Bob Partlow)

FORKS—Scott Haugen, 35, successfully started a second career as a diesel mechanic after working as a logger all his life.

But he wouldn't have made it through a government retraining program without the help of family and friends.

In 1990, he signed up for a two-year diesel mechanic course at Peninsula Community College.

A state-funded training program promised him $2,000 for tools, but he got closer to $500. He borrowed the rest of the money from his dad to buy them.

His unemployment benefits ran out during his program. His family kicked in to keep him going.

He needed a space to start the business. His best friend, Dave Westerlund, provided it.

And his wife has a good job as an administrative secretary will the Quillayute Valley School District.

"It seemed like they promised you everything at the start," Haugen said. "As time went by, you because more of a case number. I quit listening to them after awhile."

The best way to help out-of-work loggers is to put them back in the woods where they belong, he said.

"How many people my age in Seattle stopped a well-paying job they enjoyed, took two years out of their life and started working another job—just to satisfy somebody else's idea of what is right and wrong?" he asked, referring to those who want to protect the northern spotted owl.

"I miss logging, I really do. There was something about it. What has happened is something like an excerpt form the 'Geraldo Rivera' show."

I HAVE NO DESIRE TO WORK AND BE POOR

A LIVING WAGE: THE COLLEGE STUDENT WILL RUN OUT OF UNEMPLOYMENT INSURANCE BEFORE HE COMPLETES HIS DEGREE

(By Trask Tapperson)

SEQUIM—George Bernard Shaw Jr. points out where the big trees used to stand as he strolls across the Peninsula Community College campus. He knows because he cut down many of them in his logging days.

Shaw, 41, now lugs a book bag instead of a chain saw as he seeks to replace his shattered, 25-year career as a timber feller. It ended when he lost his last job in December, began collecting $290 a week in unemployment benefits and enrolled in school to seek a four-year environmental policy and assessment degree offered through Peninsula by Western Washington University's Huxley College.

Shaw proved he knew how to study 19 years ago when he earned a two-year associate degree in applied sciences at Clatsop Community College. He still knows. Shaw's earned almost straight A's at Peninsula.

No matter. His re-education is becoming a tangled mess because the government-organized retraining system is out of sync.

"It's difficult to have an objective, and then they'll take you only part way," he said.

His first degree left him 30 credit hours shy of the requirements to begin working toward the Huxley degree, which he sees as a certain key to a steady living.

But limited course offerings and enrollment pressures have stretched out Shaw's preparation for the Huxley program. And come September, when he'd like to begin it, only senior-level courses will be offered, he said. That means waiting until September 1995 for the junior-year courses to roll around.

In the meantime, Shaw said, the government allows him only 18 months of unemployment benefits, which run out this summer. Without that money, Shaw said, he can't pay his bills without leaving school and building up some on-the-job hours to qualify for more unemployment benefits.

As the prospect of his environmental degree stretches out, Shaw may help his wife, Dorothy, 43, make earrings and Christmas ornaments. That $2,000-a-year enterprise "is something we can fall back on." He also can pick up about $1,500 a year trimming trees and is looking for some work with his back hoe.

"It's difficult to see what we're going to have to do to generate a living wage," Shaw said. "I have no desire to work and be poor. I'm not that noble."

BROKEN PROMISE: FAMILY STILL WAITS

COPING: THE PRESIDENT VOWED TO PUT WALTER BAILEY OF HAYFORK BACK TO WORK. THAT HASN'T HAPPENED, AND A PLAN TO PUT HUNDREDS OF TOWNSPEOPLE TO WORK IS STYMIED BY A FEDERAL HOLDUP

(By Bob Partlow)

HAYFORK, CALIF.—More than a year ago on national television, President Clinton promised to put logger Walter Bailey back to work.

The family still is waiting for Clinton to make good on that pledge.

Bailey, 46, no longer has a steady job in the industry where he worked since he was 24. The timber-falling business he and his wife, Nadine, started in 1985 is gone.

It once employed 15 people with an annual payroll of $360,000.

The Baileys may lose property that has been in the family for three generations.

"This is our government, and I just can't believe our government is going to do this to us," Nadine Bailey said.

But in February 1993, the couple had hope. Their 11-year-old daughter, Elizabeth, had written a letter to a logging magazine and was invited to an ABC show, "President Clinton Answering Children's Questions," televised live from the White House.

Elizabeth stood up and faced Clinton. Using her school yearbook, she underlined the number of kids affected by government and court actions to curb logging—140 students—about 70 percent of the school.

"She told him of all her friends' fathers who were going to lose their jobs, mothers who weren't at home for them any more, fathers who had to work miles and miles away," Nadine Bailey said. "That was how she saw it. It was pretty stark. It's not numbers. It's people."

Clinton told Elizabeth he agreed some places could be logged, but said some places also needed protection.

The promise he made then was to keep "a significant number of people working in the woods," a "stable logging industry," and "large numbers of people working and still save the owls."

The next month, Nadine Bailey was invited to take a spot on a panel at Clinton and Vice President Al Gore's timber summit in Portland, Ore.

The administration called the national meeting to discuss possible solutions to the timber industry shutdown caused by court injunctions to halt logging to protect the northern spotted owl.

Bailey, 37, returned home with a mission.

"We were ready to do anything we could to make this plan work," she said.

Hayfork, a 3,500-resident dot in the Sierra Nevada between Redding and Eureka, has been a logging community since the 1920s. It started out as an agricultural community, then slowly switched. But controversy over the spotted owl and the resulting logging slowdown in Northern California's Trinity National Forest had rocked the town.

Bailey decided to find a way to preserve both the town's livelihood and the surrounding forest land. That meant joining forces with the other side—Hayfork environmentalist Joseph Bower.

They and a handful of others in the community met daily for almost two months. Their plain; fireproof the forests and replant trees.

They would cut small trees on 40,000 acres in Tinity National Forest. The trees posed a potential fire danger if not thinned.

They plan also would put people to work maintaining the 3,500 miles of logging roads in the national forest. Dirt from the roads was washing into rivers and streams, spoiling fish habitat.

"Our plan would put 500 people to work for the next 20 years," Bower said.

It also would eliminate the need for new logger retraining programs, he and Bailey said.

But their idea remains in limbo. They tried to sell it to the Clinton administration, but U.S. Forest Service officials said they don't have the money.

The problem is that the plan requires moving money from one bureaucracy to another, and that's disallowed by federal law, said John Veevaert, assistant district ranger for the Forest Service in Hayfork.

Money intended to help fish, for example, can't go to fix logging roads. "Congress has to catch up," he said.

He believes a version of Bailey and Bower's proposal can work and urged them to keep working despite the ponderous bureaucracy.

"What they are striving for is exactly what we want," Veevaert said.

The experience has outraged Baily nonetheless.

"I think the population of Hayfork has increased 10 percent since people learned that all this federal grant money was available," she said. "We've got consultants writing grants for almost everything, mostly studies. If I read one more grant proposal for a feasibility study, I think I'll throw up.

"My personal favorite was a proposal for $20 million to build a major movie studio in Hayfork—$10 million for the property and $10 million for the studio. For $20 million, you could have the whole town of Hayfork and get me thrown in for the bargain."

Now, Bailey calls the Clinton plan a "smoke-and-mirrors-type solution that has everybody fooled."

She no longer trusts Clinton, Gore or Tom Tuchmann, the administration's timber czar who came to Ukiah in Northern California last spring and tried to convince residents that the president's plan is working.

At the meeting, Bailey disputed bis contention.

Tuchmann has said the administration is doing all it can to work out solutions so people in timber communities can find work again. It's beginning to work, he said, though much remains to be done.

But Bailey wants Clinton to follow through on his promise. Her husband is doing a logging job on the ranch of a friend, but it runs out in a couple of months.

"Elizabeth said the other day. It will be a while before I trust again,'" she said.

EX-MILLWORKER MUST CHOOSE BETWEEN SCHOOL OR SURVIVAL

(By Bob Partlow)

Portland, OR.—Kevin Browning, 28, lost more than his job at the Roseburg, Ore., mill in 1992.

The upheaval that followed included a split with his wife, a plunge in self-esteem and a lost sense of direction.

He thought he was back on track, getting retrained to open a business that could hire other displaced timber workers.

He began attending Umpqua Community College, earning a 3.85 grade-point average in business administration.

But in May, he testified at a congressional hearing on retraining that his future was in jeopardy.

"Unfortunately, all my dreams and hard work may come to naught," he told U.S. Sen. Mark Hatfield, R-Ore.

"The funds that have kept a roof over my head and food on my table are running out. I have only about six weeks of unemployment insurance and still another year of my education to go.

"This places me in an extremely awkward situation—whether to keep a roof over my head and food on my table or complete my education.

"While my situation is dramatic, I do not feel it is unique.

"In recent weeks, I have seen many of my fellow students lament over having to make the same decision. Unfortunately, most are forced to pick survival over their education. And some will be forced to return to the industry which spawned their unemployment in the first place.

"This prospect truly saddens me.

"I feel that the sociological repercussions of this emotional roller coaster will be devastating, encompassing everything from a rise in domestic violence to drug abuse and education."

LOGGERS SAY NEW TIMBER PLANS HAVE NO MAGIC FORMULA

COMMON SENSE? STUDIES AND CONSULTANTS SEEM ALL THE CRAZE, BUT MANY LOGGING FAMILIES FEEL IT'S ALL BUREAUCRATIC BLUSTER

(By Bob Partlow and Trask Tapperson)

When government officials want to help timber workers and their communities, they go to study hall.

And they usually take a consultant with them.

Consultant Eric Hovee, who did five community studies in Washington and two dozen or more in Oregon said "there's not a lot of magic" in the studies. But Washington did 135 the past half decade.

Consultants typically take the pulse of the community, hold a meeting or two, then issue a report. Much of what they recommend is "common sense," Hovee said, but the report helps focus the community.

"Yuppie bonding," Forks logger Colin King said of a community meeting he attended in Port Angeles.

He and others find little value in the studies, consultants or timber conferences done

VOL
140
PT
15
AG
10
11
1994
UMI

by those in government or private business who want to redirect loggers into other occupations.

"They want to make them eco-slaves," said Sarah Smyth of Olympia, whose family owns a sawmill between Olympia and Shelton. She was referring to temporary jobs in the woods the government is offering some workers.

In addition to studies and consultants, timber workers and their towns also get a healthy dose of self-esteem tapes and motivational programs such as New Chance at Grays Harbor College.

Supporters say workers need such a psychological boost. But others, such as Forks logger-turned-diesel-mechanic Scott Haugen, think the only boost timber workers need is to get back in the woods.

Is Timber Money Being Wasted on Silly Games at Conferences

ACCOUNTABILITY QUESTION: SOME PARTICIPANTS OF A GOVERNMENT-SPONSORED MEETING WERE INSULTED BY THE CHILDREN'S GAMES. OTHERS LIKED THE SEMINAR

(By Bob Partlow)

ELLENSBURG.—Porridge in the pot! Porridge in the pot!

Jelly in the jar! Jelly in the jar!

About 60 men and women lined the walls of a conference room at Central Washington University and intoned the childhood chant—first loudly, then softly.

It was the second day of a three-day Timber Communities Conference in April. Nine state employees staffed it.

The seminar was billed as a way to help timber communities cope with financial hardship, but not a calk boot or hickory shirt was in sight.

The public employees and consultants who dominated the conference played games with plastic mice, flew paper airplanes and made luggage tags out of business cards—all in the name of revitalizing economically depressed timber towns.

They also listened to speeches from people familiar with economic development, held a mock townhall meeting in the format of the "Phil Donahue" show and tried to revitalize a fictional town called Stump Hollow.

THE PURPOSE

The conference was the brain-child of the state Department of Community, Trade and Economic Development and the U.S. Forest Service.

Apart from the games was a "core curriculum" to show people how to redirect their economies, said Maury Forman, the department's training coordinator.

That include tips on starting and expanding business and how to attract new enterprises.

"We teach all elements of economic and community development, and we try to teach through interactive learning and exercises," Forman said.

Grace Hathaway, Darrington's city planner, sat in the middle of the room while most of the others sung the porridge chant.

"I think it was an insult," Hathaway said. "This group thought they were dealing with a bunch of provincial, unsophisticated ignoramuses."

Joby Winans, a department trainer, called the chanting "an energizer" to wake people from their midafternoon doldrums, but Hathaway call the activity "ridiculous. We'd just had a break."

Hathaway got fed up with the porridge and jam and with so-called "ice breakers" the night before at the conference.

The group was divided by the different colors of plastic mice they received at the start, as well as by hair color, shoe color and shoe style, she said.

They flew planes and went on a scavenger hunt—looking for an oak leaf, foreign coin and feather, among other items.

The next day, conference leaders passed out water pistols to members of the audience to shoot at speakers if they went overtime.

Winans said her colleagues asked her to come up with ways to bring people together.

"The conference was built around sharing information from experts...and from communities because they've tried to develop some ways and found things that worked and didn't work," she said.

The $12,114.76 spend on the conference should have gone somewhere else, Hathaway said.

"Take all the salaries these people are making to put these things on and you could pay for several timber workers for a year instead of making paper airplanes or putting porridge in the pot," she said. "I have a lot of problem seeing where the money is going. We've gone way past the realm of reality."

OUT OF CONTEXT?

Michele Brown, unit manager for local development assistance with the department, said the games should be put in context.

But measuring the success of economic development work such as the Ellensburg gathering is difficult to do.

Forman runs similar conferences in which he uses educational games based on "Wheel of Fortune," " Jeopardy!" and "The Dating Game."

"I know how this is going to look in the paper," he said of using "The Dating Game" format. "But it really works."

He has letters from people who say such conference training helped their communities keep or attract business.

Micki Colwell, executive director of the Hoquiam Development Association, attended the Ellensburg meeting to make contacts.

"It's a good way to meet people in other towns," she said, "and, of course, you get to know state people, which is important when you submit grants."

The success of economic development studies also is tough to gauge.

In the past five years, 135 such studies have been done in Washington, but the state has done little follow-up.

Although the state pays for many of the studies, "the accountability really rests with the counties," Brown said. "They are asking for them."

Neither she nor Forman could estimate how many jobs are created by economic development activities.

"It's messy, it's long-term and it doesn't get you from Point A to Point B very quickly," Brown said.

CONFERENCE COSTS

The State Department of Community, Trade and Economic Development provided this accounting of costs for the Timber Communities Conference:

WHAT MONEY CAME IN

$5,110.76 from timber funds. Department officials didn't elaborate.

$2,000 from the U.S. Forest Service.

$5,004 from registration fees. The fees ranged from $75 for community participants such as consultants and economic development officials to $150 for state and federal employees.

WHERE THE MONEY WENT

$8,461—room and board.

$800—speaker fees.

$1,200—conference handouts.

$264—conference brochures and notebooks.

Timber Workers Offered New Change Program

EDUCATION: A PROGRAM OFFICIAL CITES SUCCESS STORIES BUT HAS NO NUMBERS TO BACK UP THE CLAIM

(By Bob Partlow)

ABERDEEN—What kind of chance do timber workers have to rebuild their lives?

A "New Chance," if a motivational program by that name works as touted.

During the past two years, the program at Grays Harbor College has put 504 students through a six-week course to help prepare them for further career training and education, said co-coach Cleo Norris.

"We have some really good success stories," Norris said.

But Roger Reidel calls it the "Last Chance" program.

"It makes people feel better while they're standing in the unemployment line," scoffed Reidel, a laid-off millworker who now helps other displaced timber workers for the Washington State Labor Council, the umbrella association for the state's labor unions.

The project isn't a retraining program, but a "career assessment" designed to help timber workers take their first steps into a new future.

It helps them with basic reading, writing and math skills, gives them some computer training and runs them through a rigorous one-day obstacle course on the Wynoochee River.

The course includes the "pamper pole"—a 21-foot rope that participants climb. Once they reach the top, they jump onto a net.

"It teaches teamwork and builds trust," Norris said. "We spend all day up there bonding. They become family. They meld together."

Norris said the program is a success but project officials don't have any statistics yet to back up the claim. They hope to get some during a survey of all graduates.

Norris believes a majority of their graduates are attending school. The ones she knows about—she didn't have any specific numbers—have a grade-point average of 3.23.

Some public officials point to New Chance graduation ceremonies as inspirational, a sign that retraining has its bright spots.

A good attitude is important, said Dan Wood of The Umbrella Group, a coalition of organizations focusing on land-use and property-rights issues. It also advocates opening forests to more logging.

But people need jobs, Wood said.

"Hope without income isn't going to last," he said. "You raise people's hopes, and they are going to crash down again. And it's going to be worse than the first time. They get self-esteem and positive thinking. They have a good time in class. Students tell people they are great. They got a B for the first time in their life or spoke in front of a class. "I've attended those graduations. I'm sitting in the audience saying, 'Great, but where are the jobs?' When the excitement is gone, how will it feed your family?"

The Hoquiam Development Association, a private agency that gets some public money to develop Hoquiam's economy, also has a self-esteem program.

The association paid the final $3,200 on a $40,000 set of motivational tapes from the Seattle-based Pacific Institute. Private money paid the rest of the cost.

The tapes give people a sense of worth and help lift their spirits so they can move forward, said association Executive Director Micki Colwell.

Jim Coates, who distributes food to 28 food banks in Grays Harbor and Pacific counties, remembers when the ITT Rayonier Inc. mill closed in November 1992, putting more than 600 people out of work. The mill has partially reopened and employs about 230 people.

After the mill shutdown, "my phone was ringing off the hook with consultants and other people wanting to sell me computer programs, motivational tapes, one thing or another," Coates said.

"That kind of thing is sickening. Everybody was looking to make a fast buck. Everyone wants a piece of the pie."

"Everybody talks about bringing up esteem. (But you) put them through school and they can't find a job. Is their esteem lower than it would have been" Coates asked. "You bet it is."

Retrained Timber Worker Once Again Without Work

(By Bob Partlow)

DEMING.—A state report listed only one man successfully retrained in Whatcom County under its "Dislocated Timber Worker and Employment Training Program" from mid-1991 to mid-1993.

Cost: $12,144.

The state Employment Security Department—which ran the program—took 3½ weeks to track the worker down when asked to supply his name: Philip King, 27, of Deming.

But today, King is out of work.

He first lost his job with Baker Bay Logging in Whatcom County in late 1989 because of logging cutbacks to protect spotted-owl habitat, he said. He spent a few months looking for another logging job but couldn't find one.

The state offered him a year of education, but he turned it down because he thought he needed more time to learn a new trade. So, the state offered retraining through the Department of Natural Resources, promising him some work in the woods marking trees for sale while teaching him some computer skills.

King marked trees for six months, received almost no computer training and talked his way into three more months of work fighting fires for the state.

His salary dropped from $13.75 an hour as a logger to $5.50 an hour working for the state. Then it dropped to zero when the job ran out in 1990.

He went back to the state for help but was denied further training, he said.

"'We don't have to think about you any more—we're through with you,' that's my impression of the program," King said.

He has gotten a couple of other jobs since then but injured himself on the last one and is out of work and fighting for unemployment benefits.

State Takes the Credit for Carver

DENNIS CHASTAIN: THE WOOD CARVER SAYS THE HELP ON A LOAN WAS A FLUKE AND NOT THE ONLY REASON HE'S IN BUSINESS

(By Bob Partlow)

FORKS—After Dennis Chastain, 52, began carving out a new life for himself, the state began taking credit for it.

A 1992 issue of Timber Towns, a now-defunct newspaper put out by the state, touted Dennis and his wife, Margaret, as a success story of timber retraining.

The couple received a loan through a private revolving fund. The fund's administrators work closely with the state to help small businesses.

Chastain worked in the woods for 24 years before his last logging job on the Olympic Peninsula dried up six years ago. Margaret Chastain saw some chain-saw wood carvings she liked, and Dennis thought, "I can do that."

He was right.

He began chain-saw carving regularly and now has produced thousands of pieces, including a 12-foot-tall carving for a logger's memorial next to the visitor center in Forks."I found I had some talent and ability," he said.

Along the way, Chastain was looking for about $12,000 to help expand the business. The revolving fund provided it, but Chastain said it wasn't an essential ingredient to making a success of Den's Wood Den on state Highway 101 south of Forks.

"If it hadn't been them, it would have been somebody else," he said. "They popped up exactly when I needed them. It was a fluke."

He got a 12 percent loan, a figure that surprised him when he went to sign the papers.

"They strongly implied it would be a low-interest loan," he said.

But the state took credit for it in its newspaper article. Chastain, now making about $30,000 a year, said it's not quite what they say.

"I'm not going to come in on them, but I'm not going to brag on them, either."

Conferences Held for Timber Towns: It Was a Joke

SMALL-BUSINESS HELP: WORKSHOPS WERE HELD IN WASHINGTON CITIES WITH FEW TIMBER CONNECTIONS

(By Trask Tapperson)

DARRINGTON—The state paid Washington newcomer M. Kathleen Duttro to arrange 10 small-business workshops, though she had no training or experience to perform the work.

Duttro said she received $2,500 "because that was the maximum they could pay for a non-bid program" awarded by the state without competition.

Her payment came out of general state training money, but Duttro viewed her work as part of the state's effort to help timber families and their communities get or stay on their feet.

Duttro acknowledged she had no background dealing with either.

She did her first workshops in Darrington about a year ago; within six months after moving from York County, Penn., to settle on a 24-acre spread near the foot of Whitehorse Mountain outside Darrington.

She called the sessions "Bootstrap Businesses and Tourism" and a "Home-based Business Workshop." She charged residents of the struggling timber-based community a "cut-rate price" of $10 to $15 for the two sessions—below the $25 admission charged others for the one-day sessions, Duttro said.

At state's behest, Duttro took her workshops on the road from September through April, but at least four of the areas and their residents had little or nothing to do with timber. They included Pullman and Walla Walla in Washington's wheat belt; Olympia; and Island County, home to a U.S. Navy air station, bedroom communities and farms.

She said she had no follow-up system to check how trainees benefited from her teaching—except for surveys at the end of the workshops that indicated people wanted more conferences.

Richard Anderson, who runs Sauk River Sporting Goods in Darrington, paid $20 last year to attend a Duttro course.

It led him to offer a fly-fishing clinic in June. It netted him $60, he said.

Grace Hathaway, Darrington's city planner, said Duttro's workshop on creating home-based businesses apparently had few results.

"I know there were none created in Darrington," said Hathaway, who prepares and helps administer the city's grant requests for timber community assistance. "It was a joke."

Maury Forman, the state official who hired Duttro, acknowledged the absence of accountability. He said it's up to the people to make connections with economic development promoters to get help after the workshops.

Duttor's arrangement with the state for workshops ended last year, but now she's applying for more grant-financed work this fall with the formation of a nonprofit organization called Threshhold.

"I decided to invent myself a job," Duttro said.

"If I get my nonprofit running, I will have invested myself a job. We've written a proposal for a program. We're looking for money to start it."

She said she wants a dependable source of cash because the financially shaky people of timber towns are an unreliable source of income.

"It's almost impossible to do it on the backs of the people who need it and make a living out of it," Duttro said.

Course Funded by State Angers Displaced Worker

COLLEGE COURSE: THE CLASS WAS DESIGNED TO GIVE DISPLACED WORKERS SELF-ESTEEM

(By Trask Tapperson)

ELVIRA, ORE.—Danele Welsh has worked in four wood mills for more the 13 years.

She graduated through the ranks from hydraulic log loader in a sawmill to plant forewoman of a specialty products plant to inventory controller at a Eugene, Ore., mill of forest products giant Weyerhaeuser Co.

That ended in 1991, when the mill closed and Welsh sought help to regain employment through a course at Lane Community College. She attended the decade-old Choices and Options program for displaced timber workers, financed with state lottery money.

Welsh, 42, wanted practical job-search guidance. But mostly, she and about 25 men got a steady dose of self-esteem promotions—daily inspirational readings from the writings of humorist Robert Fulghum, getting-to-know-you games.

Her tolerance waned on the first day of the two-week course when the instructor said, "we needed to evolve beyond the timber industry. Evolve."

"He thought we were stupid millworkers, primate material. Like we needed to evolve," she said.

Welsh rose to her feet. "I was going to scratch my sides, like an ape." Instead all she could muster were the words; "How dare you!"

College officials defended the program. "When they lose their jobs, they're angry," said staff member John Huberd. "It helps get their head back on straight . . . boost self-esteem. The members start bonding and become a support group."

Welch has had only one paying job since, and that business folded. But she said she won't become "a system sucker," her term for people who continue in government-run displaced worker programs.

"Why don't they just bundle up their assets, go out there and take their best shot?" she asked.

VOL 140 PT 15 AG 10 — 11 1994 UMI

NONPROFIT CORPORATION'S AIM IS TO HELP CREATE JOBS

PORT ANGELES: THE DIRECTOR SAYS THE CORPORATION WILL TRANSFORM THE ECONOMY

(By Trask Tapperson)

PORT ANGELES—Dominating the walls of Gus Kostopulos's office at WoodNet headquarters are three photos and two signed letters from President Clinton.

That's in sharp contrast with the contempt that often greets the mention of Clinton's name in logging towns on the Olympic Peninsula.

The president spoke enthusiastically to Kostopulos at his timber summit in Portland, Ore., last year. The executive director of the 3-year-old nonprofit corporation had just explained to Clinton how WoodNet would help transform the peninsula's floundering timber-based economy.

WoodNet's goal: linking its 350 members to wholesalers and others who might buy their products, ranging from custom doorknobs and other specialty wood products to jewelry and other non-wood adornments.

His means: primarily a slick catalog. The first one, sent last year to 8,500 wholesale buyers, cost $62,500 in cash and another $30,000 in staff time to produce. Of that, $22,500 came from the product ads placed by craftspeople and companies.

That's almost $11 per recipient, plus postage.

Since 1991, the state has sunk $206,000 into the operations of WoodNet, a frequent object of glowing publicity for its innovative manufacturing network. Much of that money came from the two departments most responsible for helping timber workers and their towns recover.

Yet Kostopulos says he doesn't know—or care—how many of the 92 sellers in the catalog are displaced loggers.

"They weren't asked," he said. "I personally don't care how many displaced loggers work at Posey Manufacturing. WoodNet was never set up to help displaced loggers. We want to help a company that creates jobs."

TIMBER MONEY TRACED TO SEVERAL STUDIES DONE FOR WASHINGTON CITIES

ACCOUNTABILITY ISSUE: THE STATE TRACKED ONLY 12 OF 135 STUDIES DONE DURING THE PAST FIVE YEARS

(By Bob Partlow)

A close look at the government response to the region's timber woes appears to show more about consultants and studies than loggers and jobs.

Taxpayers paid for 135 timber-related studies or plans in Washington alone from 1989 to mid-1994, according to figures from the state Department of Community, Trade and Economic Development.

The Olympian and The Bellingham Herald asked state governments in Washington, Oregon and Northern California for a detailed accounting of the studies and their success.

Washington sent incomplete information, and Oregon and California didn't respond to the request.

Among the Washington studies were 12 surveys to assess the so-called "SWOT" of rural timber communities: strengths, weaknesses, opportunities and threats

Those studies cost $96,306, an average of $8,025.50 apiece. The state didn't say how much good they did or exactly how the communities spent the money.

Consultants interviewed people, held meetings in communities affected by timber cutbacks and then did reports.

Darrington had a $12,000 SWOT study done. It duplicated a separate study done by the city and was a waste of money, said Darrington hardware store owner Laurence Larsen, who is active on state boards involved in helping timber communities and workers.

"We could go out and get money for studies, but we won't finance a business or get somebody started," Larsen said.

The city of Sultan had a different experience. Its SWOT study pointed out a good direction and was widely distributed, said City Clerk Laura Koenig. "We had a lot of interest in it," she said.

Eric Hovee, principal of the Vancouver, Wash.-based E.D. Hovee & Associates, did five SWOT studies in Washington for $40,300. He estimates he has done up to 30 similar studies in Oregon.

"A lot of it is often common sense," he said. "There's not a lot of magic to it."

The surveys are only as good as the people in the communities make them, he said.

"The study doesn't produce any jobs, but the follow-up is where there is going to be job creation," he said. "That's where the value comes in. The extent to which these studies are used or sit on a shelf . . . depends on the people in the community."

Hovee said he does no follow-up.

In Washington's other 123 studies, money went to local agencies and the state doesn't monitor what happens after that, said Liz Mendizabal, spokeswoman for the Department of Community, Trade and Economic Development.

Forks had two studies done—one for $12,500 in 1991 to look at the city's future and another for $20,000 in 1992 to look at timber supply.

At the northwest tip of the Olympic Peninsular, Forks has been the self-styled "Timber Capital of the World" until the virtual shutdown of the woods in the 1990s.

In the first study, "almost all of it was stuff we already knew and many of the statistics were way out of line," said Sandra Kint, Forks economic development director. "I don't think anybody was happy with the results."

In the second study, "it gave us a lot of information in writing signed by a consultant that told us what we already knew," said Dan Lienan, Forks city clerk and treasurer.

In addition to the studies, the state had handed out 138 grants to timber communities since 1989, according to the Department of Community, Trade and Economic Development. It didn't provide a dollar figure.

One $20,000 grant went to the Hoquiam Development Association, which receives some public money to help boost the local economy.

But Executive Director Micki Colwell said the money "didn't create any jobs, except for mine." The communications graduate and former reporter moved from part time to full time.

THE FORKS STUDY AT A GLANCE

The first Forks community study, done by Gilmore Research Group of Seattle, said: "Forks is encouraged to create both short- and long-term economic strategies as part of its work program."

It recommended "short-term priorities" such as:

"The implementation of strategies which respond to the nature of the existing market, both from internal and competitive standpoints."

"The implementation of strategies which better position Forks for future growth."

"The implementation of strategies which create a series of small business successes, for example, the expansion of an existing business or the opening of a new business with five or 10 jobs."

The 107-page study also spent considerable space talking about building Forks' image and promoting tourism.

COMMUNITIES SEE HOPE AS THEY TURN AWAY FROM TIMBER

RAYS OF LIGHT; MANY IN TIMBER TOWNS ARE MOVING ON, FINDING SECURITY OUTSIDE OF THE FOREST

(By Trask Tapperson and Bob Partlow)

In the darkness of the Northwest's timber towns, some rays of light can be found:

In the persistence of Richard Anderson, who has moved into his Darrington sporting-goods store and is selling tourists everything from vibrating monkeys to fly-fishing lessons in a last-ditch effort to keep the struggling business open.

In the doggedness of people such as Jack Shipley of Grants Pass, Ore., Mike Jackson of Quincy, Calif., and Nadine Bailey of Hayfork, Calif.

They are putting aside deep differences with opponents to force agreements that will provide loggers with jobs and the forest with a chance to grow in a new and different way.

In the new chances being given to people in Prineville, Ore. They are taking advantage of an opportunity to start again in plants making wood products through a retraining program started by businesses.

They all agree the problems are daunting and the future uncertain at best, but they are trying to create a new life out of a new economy.

"We're going to get through this thing," said Shipley, a founder of The Applegate Partnership in Oregon, which hopes to create jobs and a new kind of forest. "It's going to be a major, uphill battle."

A TOWN TIED TO TIMBER INDUSTRY IS FORCED INTO A NEW WAY OF LIFE

COMMUNITY

"Darrington's got a wonderful future. It's just how soon it's going to get here," says Richard Anderson, a small-business owner.

(By Trask Tapperson and Bob Partlow)

DARRINGTON—Travelers will find the drive easier between Interstate 5 and this timber town after September when crews finish $2.5 million in improvements to Highway 530 East.

People here wonder what the traffic will bring.

Until recently, it was predictable: Scores of log trucks hauling out the bounty of the federal forest, a smattering of tourists bound for the mountains and residents with business "down below" in Everett, the lowland Snohomish County seat.

But in Darrington today almost nothing is predictable as the town undergoes wrenching change wrought by the virtual end to logging in the midsection of the Mount Baker-Snoqualmie National Forest.

In the future, many expect commuters to make up most of the new traffic; locals heading to Everett for new jobs and urbanites who find the trip to Everett and Seattle preferable to the hassles of big-city life.

SIGNS OF DECLINE

Some telling signs of Darrington's decline:

Worried timber wives sharring family crises at the "Kitchen Talk" program at the Darrington Community Support and Resource Center.

"A lot of it is fear," said center director Wyonne Perrault. "If you're born and raised here, there's a fear of losing this closeknit, family-oriented community and thinking of trying to make it somewhere else."

She cited one longtime Darrington family who lost their house to the bank by foreclosure last spring. Mom, Dad and the kids left town in the dead of night because they couldn't face their friends and neighbors, she said.

A 300 percent increase in visits at the Darrington Food Bank since 1986.

But even the threefold jump doesn't reflect the extent of hardship today, food bank managers said. "In an area like this, people won't ask for help unless they're really desperate," Geraldine Inman said as she handed out commodities behind a counter. Above it, a sign reminds volunteers: "We are serving people at this food bank, many of whom are hurting, angry or frustrated. This is often through no fault of their own."

A building that doubles as Richard Anderson's home and his Sauk River Sporting Goods store. He lives at the store now after selling his house and spending the proceeds to keep his business going.

"Darrington's got a wonderful future," Anderson said. "It's just how soon it's going to get here."

In the meantime, he has started hawking trinkets such as vibrating monkey and T-shirts for tourists.

But they aren't coming. And when they do, they don't bite.

"We had 79 (river) rafters in the store," Anderson said. "They drank free coffee, messed up the septic tank with Styrofoam popcorn and spent $6."

He's now thinking of renting out hot tubs.

Andy Thompson, who manages the Highway 530 construction from an Everett office, sums up the town's dilemma with the succinctness of a knowledgeable outsider.

"If they don't figure out a way to adapt, they're going to get pushed right out of there," he said.

DARRINGTON AT A GLANCE

Location: Eastern Snohomish County

Population: About 1,000

Rank in county: Third smallest (ahead of Woodway and Index)

Projected growth rate: 45 percent through 2020 (compared with county rate of 77 percent)

Predominant Industry: Timber

Largest employer: Summit Timber Co. (350 employees)

Median household income, 1979: $17,226 (compared with $20,760 countywide)

Median household income, 10 years later: $24,294 (compared with $29,369 countywide)

Housing construction, 1980-88: 101, including 37 mobile homes (of 46,335 homes built countywide)

Average price of house (1988): $56,422 (compared with $93,864 countywide)

Almost everyone in Darrington knows that. But the uncertainty over how to change generates sometimes intense second-guessing and bickering.

The closest thing to consensus is criticism of the government's response to their eroding lifestyle. Many residents say state and federal governments have spent too much on the wrong things, such as:

Planning sewers, industrial parks, and other expensive infrastructure without any clear hope for a return on the investment.

Touting tourism for visitors who may never come or bring enough money to even begin replacing lost timber dollars that yielded family-level wages.

Government officials push this alternative the hardest, seeing a potential in scenic forest and mountain settings of many timber towns. Few have more spectacular vistas than the Darrington area—with its views of Whitehorse, Gold Hill, Prairie, Higgins and North mountains and the stunning Glacier Peak.

Though Darrington did receive a small share of the federal government's $20 million "Jobs in the Woods" program, assessments by key local leaders are harsh.

"They spread all this money around a mile wide and an inch deep. It doesn't do any good, but it does have political benefit," said hardware store owner Laurence Larsen, Darrington's top civic leader for economic revitalization.

"It's just a great big wheel, and we're getting caught in the spokes," said Mayor Charlie White.

The state and federal timber relief program is "a support system for the state and federal agencies, not for the timber communities which it was intended to help," said city planner Grace Hathaway. "There's no accountability about who's giving money to whom."

EFFORT CRITICIZED

A frequent target of townfolks' frustrations is the three-year economic development effort led by Kathy Kerkvliet, a state Employment Security Department worker.

She became Darrington's grant-funded economic development official in 1990, several months after a Larsen-led citizens committee completed a 20-year vision for the town.

"There was a fair amount of criticism" of that nine-month effort, Larsen said. "They were concerned we were spending money on tourism and not enough on displaced workers. Unfortunately, a lot of the programs from the state were for studies, but we couldn't finance a business."

By the time Kerkvliet left a year ago, $105,400 had been spent on salaries and overhead for her effort—part of about $405,000 in government grants she said the community received.

"I went in there as a novice," Kerkvliet said. "I knew how to work with dislocated workers, but I had never done economic development."

Although the problems of the timber workers are worsening, Kerkvliet said she left because "I was an outsider. I understood my role to get resources and bring people in, but after awhile you can only have outside help for so long."

What did the taxpayers get for their money?

Already in hand: Lots of grants, studies, workshops and publications.

Yet to come: The new sewers, hopes for new industry at a possible industrial park, more tourists and possible new restrooms to accommodate them—which the government is willing to build if the community can pay to maintain them.

Kerkvliet is long on enthusiasm but short on specifics of how the town has repositioned for life after timber. She can't cite any jobs resulting from her economic development efforts.

Her prediction: "In five years, it will stay a nice, lazy, laid-back little town—more of a bedroom community. People are willing to travel to have that environment to live in."

White's vision for the resident logging families isn't so rosy.

White, 80, recalled his life in the woods that began at age 14 with a job as a signal-whistle blower and lasted through the Great Depression when "there were stump farms and no jobs."

"I got a fear that it might happen again," he said. "And you've got a different class of people today. In those days, people looked after one another."

To City Clerk and Treasurer Lyla Boyd, they may not be around to do so.

"My worse-case scenario is the timber people won't get jobs and move away," she said. "We'll become a bedroom community for Everett and the Navy base. If people can't get jobs, they'll go away. Or they'll commute."

WHAT'S AHEAD: SOME PEOPLE HAVE FOUND SOLUTIONS THROUGH RETRAINING PROGRAMS OR COMMUNITY EFFORTS

What's next: It's been 7½ years since the environmental group GreenWorld first petitioned the U.S. Fish and Wildlife Service to list the northern spotted owl as an endangered species.

Since then, loggling has virtually stopped in the owl habitat of federal forests.

The Clinton administration now plans a long term logging ban on 7 million acres in Western Washington, Western Oregon and Northern California.

But the debate over how to use public lands in the Northwest is far from over. Key actions are coming on the judicial, legislative and administrative fronts. They include:

The Clinton plan: Logging interests say it goes too far; some environmentalists say it doesn't go far enough. Both sides filed lawsuits challenging the plan. U.S. District Judge William Dwyer of Seattle is scheduled to hear their arguments Sept. 12. Both sides expect an appeal—a process that could delay a decision on the future of the forests well into next year.

East of the mountains: Dozens of government experts are drafting a land-use plan for millions of acres of federal forests east of the Cascade Mountains. Their plan, still months away, could rival the timber setasides west of the mountains—if they follow the recommendations of some environmentalists.

Logging road bans: Environmentalists continue to push hard for congressional action to ban future road construction in any 5,000-acre area of federal forest now free of roads. Such legislation hasn't fared well so far in committee but still could win approval this session, congressional sources said.

Worker relief legislation: No new initiatives to help displaced timber workers and their towns are expected in the foreseeable future in Congress, sources said.

"We start from the position that the administration's plan is the plan that will be in place," said Jim Hoff, chief of staff for U.S. Rep. Jolene Unsoeld, D-Olympia. "The challenge is to get that plan up and running."

State economic development: In the state of Washington, "our tack will continue to be to try to get businesses into the (timber) impacted areas," said Jordan Dey, deputy press secretary to Gov. Mike Lowry.

But so far, the state has no specific action plan.

I MADE A VOW TO MYSELF I WOULDN'T LOG

NEW BUSINESS: DEBRA AND LARRY HAGEN HOPE TO SAVE ENOUGH TO GET THE LOAN NEEDED TO BUY A PIZZA PARLOR

(By Trask Tapperson)

DARRINGTON.—As logging here dries up, Debra and Larry Hagen are watering a home-grown future for themselves.

They don't want to move away, so they turned to a new commodity: pizza.

Even by their own worst-case scenario for Darrington—a shutdown of top employer Summit Timber Co.—the Hagens are convinced their pizza parlor could survive—and perhaps even prosper.

"If the mill went down, the town would really be in a hole," said Larry, 21. "But the

VOL
140
PT
15
AG
10
11
1994
UMI

growth is moving up I-5, and it will hit all the crannies."

Debra has spent only one of her 22 years away from Darrington, at a Kirkland business school.

"It was an experience, but we want to spend the rest of our lives here, raise our kids here," she said, as Larry nodded in agreement.

Her family has logged in Darrington for four generations. His father, Les, leads the Glad Tidings Assembly of God flock. The couple rooted for the Darrington Loggers sports teams before graduating from high school.

Both had jobs at Pizza Plus before they got married last year. When the owners put the place on the block, the Hagens tried to buy it.

The restaurant was netting almost $30,000 a year and "making more and more every year, and we didn't plan on changing anything," Larry said. But they had no equity, so the bank turned down the $125,000 loan to buy it.

Unfazed, they got a $3,000, two-year personal loan from the bank, cut a deal with the owners last October to lease the business and will get first crack at buying it.

With the "for sale" sign still outside, the Hagens work 11-hour days, five days a week. Helping out when they can are Larry's parents, his brother and Debra's two sisters.

"It's hard, but it's worth it," Debra said.

In their first quarter of business, they made the $900-a-month payments to the owners, the $150-a-month payments to the bank for the loan and still took home $8,500.

"I think we'll be all right," Debra said.

The childless couple is trying to save as much money as they can to help cut the loan needed to buy the place, which they plan to rename "Pizza Hagen."

That beats by far the routes traditionally taken by so many of Darrington's young people.

"When you live here what you do is marry a logger," Debra said.

"I made a vow to myself I wouldn't log," Larry said. "They don't have a life. Daybreak to darkness they're working. And when your whole income is based on something you could lose over an animal, an owl, it's frightening."

Both still want to get college degrees some day—Larry in law enforcement; Debra perhaps in business.

But with only a year of college under each of their belts, the pizza parlor "is the best thing we could hope for," Debra said.

"We had confidence, it was here for the taking it's nice to work for yourself and we can stay in town," she said.

BUSINESS TRAINING PROGRAM DEEMED SUCCESSFUL

JOBS: FOUR STUDENTS PRAISE THE OREGON PROGRAM FOR ITS PRACTICAL TRAINING AND PROMISE OF EMPLOYMENT

(By Bob Partlow)

PRINEVILLE, OR.—Timber retraining programs sometimes work.

They do in the semi-arid scrub land of eastern Oregon, home to two large companies that make doors, window sills and many other products out of wood.

"We need good employees," said Gevin Brown, a board member of WPCC, an Oregon association of about 80 such businesses.

With training identified as a priority, the association began recruiting workers this year. They screened 56 applicants down to 26 students.

Eighteen people eventually completed a 54-hour, seven-week course and graduated last month. All are guaranteed jobs at a living wage at a variety of plants in central Oregon. The second class begins in September.

WPCC worked with a community college to produce the first graduating class. But the training was done on site at the American Molding Co. plant in Prineville.

Employees worked with the students and focused on jobs at the plant.

"The people that come through this program will know more than 80 percent of the employees who are working here," said plant manager John Lang.

Among those who successfully completed the program:

Lizabeth Brown, a 32-year-old single mother with three children, ages 3, 5 and 7.

"I wanted to support the family without having to rely on anybody else," she said.

She had been running a day-care center but found it was too much to handle while raising her own kids. "I wanted something for me," said Brown, who has a bachelor of arts degree in general studies.

The training program focused on survival skills needed in the plant—right down to learning the basics of how to use a tape measure, she said.

"I was impressed with how much energy they were putting into the program and how much time," Brown said.

She has been offered two wood-products jobs but wants to wait until she gets one that will put her on the day shift.

Ray Atkinson, 55, also is a single parent, raising an 8-year-old boy. The mill in Bend where he worked for nearly three decades shut down, putting him on the streets and into shock.

"I hadn't been laid off in 28½ years," he said.

He probably could have found another sawmill job, he said, but that would have meant relocating.

"I didn't want to go back to school, and I would have had to move to get back into the sawmills," he said.

He is now working for Bend Wood Products.

George Thompson, 56, "worked in the woods nearly all my life," primarily as a "gyppo" logger moving from one place to another.

The most money he ever made was about $38,000, but he loved "the individual, free-wheeling life."

Then the downturn in the industry and a desire for more stability led him to look elsewhere.

He found the WPCC retraining program and discovered "a free ride to take a new chance in life."

With a bachelor of arts degree in education, he could have gone back to the classroom to teach, but he liked working in wood products.

He was expected to begin a job in mid-July.

Dawn Helmholtz, 18, was on a fast track to nowhere in the fast-food industry, where she worked the past four years at Burger King.

With her active 1-year-old bouncing on and off her lap, she talked about her father's work at American Molding and how much she wanted to follow him.

She also liked the idea of being part of a group that is making something tangible.

And she gets benefits and steady hours, making it easier to get a baby sitter than in the past.

She is working at American Molding now.

All four of the students agreed with Heimholtz's assessment of the program: "I'm very, very impressed."

WHY DOES IT WORK

"We offer a guaranteed job in central Oregon at a choice of companies with flexible hours paying a family wage with a career path," reads a WPCC advertisement.

That means people in the program:

Have an immediate job upon successful completion of the seven-week course. The students must pass a written test. The average score was 92 percent for the first class.

Earn a living wage—about $10.50 an hour on average, or about $22,000 a year.

Get hands-on training from people working in the industry. Students and instructors said their rapport is high.

"Where it is down to our level, it makes a big difference," student George Thompson said of the teaching.

The fees are reasonable. Each student pays $100. The cost of the program is about $1,200 for each person, but WPCC absorbs most of the cost. The rest is covered by public money.

The $1,200 figure included start-up costs. That total should fall to $400 for the next group of students.

Program developers hold students accountable. Students must attend every hour of every class. But the instructors don't talk down to students. "They make you feel right at home," said student Ray Atkinson.

OPPOSITE VIEWS ON ONE ISSUE

(By Trask Tapperson and Bob Partlow)

Though adversaries over timber-cutting policies often clash, both sides can recognize the suffering spreading through towns on forest fringes.

Here are two views—from Colin King, a self-employed logger, and Elliott A. Norse, former chief ecologist of The Wilderness Society, one of the leading national environmental organizations. He is now chief scientist of the Redmond-based Center for Marine Conservation.

King's home is in Forks, the heart of the Olympic Peninsula forest. Norse's home is in Redmond, the heart of the high-tech belt east of Seattle.

THE ECOLOGIST

"We need to make sure timber communities don't become welfare havens of alcoholism and despair. These things torture me. I don't see easy answers."

His concern doesn't mean he and other key environmental leaders are ready to sacrifice their forest-protection goals to ease the economic and emotional pain woods workers and their communities feel.

"How much are they victims and how much did they create their own fate?" asked Norse, author of the book, "Ancient Forests of the Northwest."

He comes down on the side against bailing them out.

"Was it really the business of the American people to bail out Chrysler? We did it. And it worked. But I ask myself, 'Should we allow institutions and people to fail?' I think they should be allowed to fail.

"There used to be towns that made their living whaling. People went to sea."

Like their counterparts in logging, "it was dangerous. A lot didn't come back. They made good money, and they put their lives on the line. Whales disappeared, and people had to find another way," Norse said.

One answer "is to take the people who unwittingly destroyed the forest and put them to work restoring it. Don't teach them to be hamburger flippers or poets.

"It's a partial answer. If we add up all the partial answers, we're still going to have people hurt by these changes and we'll have to bite the bullet, let them sink or swim. That may sound heartless, but I can't think of anything else they can do.

"We see the anti-tax hysteria. The country's infrastructure is falling apart because people won't pay more taxes. you can't support people indefinitely."

THE LOGGER

King is bitter about what the government has done to shut down the forests and hasn't done with programs invented by bureaucrats to alleviate the suffering it has caused.

"Those programs won't do the job because those running then are so out of touch.

"They've got to talk to someone who's suicidal," he said mentioning a 22-year-old logger who hanged himself in the Forks jail. "They've got to talk to some women who's been beat up at home. You've got to talk to people who've just been evicted and they've got three kids."

He asked urban people with their jobs to consider what could happen to them "What if (the government) took your job away and it became politically incorrect to be a reporter, and for five or six years they said you were the most worthless sadistic SOB that ever lived? And they took away your living? then they said, 'Well, that's OK, we'll make a VCR repairman out of you.'"

Like many others in the industry, King believes in the words of a song sometimes heard around timber communities: "It's not just what we do, it's who we are."

That's why he thinks the only real solution is to allow loggers back into the woods to cut timber in acceptable amounts.

"You're taking those people's lives—their souls—these people are loggers."

ENVIRONMENTALISTS, LOGGERS DECIDE TO WORK TOGETHER ON CRISIS

COPING: TWO SIDES LAY DOWN ARMS TO WORK OUT A SOLUTION TO TIMBER TROUBLES

(By Bob Partlow)

Fuel for fires has become fuel for cooperation to resolve the timber crisis in some West Coast communities.

The Applegate Partnership in southern Oregon and the Quincy Library Group in Northern California traded acrimony for accord.

Environmentalists and loggers agreed that some trees must be cut down to reduce the danger of devastating forest fires. That, in turn, will create jobs and keep the forests healthy for generations to come.

"Whining is not going to get it done," said Mike Jackson, a water-rights attorney in Quincy, Calif., who describes himself as a "flaming, left-wing environmental wacko."

Working in the same town with loggers and timber-dependent families, he decided a strategy of talking, not fighting, would lead to results.

"This is a small town," Jackson said. "You walk down the streets and see these people, and you see them at the kids' baseball games. I just decided after awhile that flipping people off three times a day gets old."

Jack Shipley, a retired public official in Grants Pass, Ore., and member of several environmental groups, came to the same conclusion as he thought about the 500,000-acre Applegate River watershed.

"The (federal) agencies had their own vision. The environmentalists had their own vision. The timber industry had its own vision," Shipley said. "Everybody had part of the truth, but nobody had the truth singly. If we were going to solve the problem, we were going to have to solve it together."

Shipley and Jackson believed that the best solution was to get people involved at the grass roots. The two also followed an initial strategy: Keep politicians and reporters away from the discussions.

The Oregon partnership's nine-member group, including three federal officials, put in 8,000 hours the first year alone.

In California, "We met until we quit arguing. We had (the plan) outlined before we let them into the meeting," Jackson said of two government officials.

A crucial element of both plans was addressing a U.S. Forest Service policy that calls for crews to immediately douse forest fires—even those caused by lightning or other natural events.

The two groups devised a response: Remove the kindling for the fires—mostly small trees—that leaves the forests tinder-dry and ripe for catastrophe.

A key to the discussions: defining what part of the forest should be logged.

Both groups advocated cutting down smaller trees and clearing out areas near streams and rivers. That provides good management and good jobs, they said.

"It's not a question of taking a person who's been a timber faller all his life, training him to be a computer operator and shipping him to Phoenix, Ariz.," Shipley said.

Neither plan has come easily.

The Oregon group has worked for months to get one sale of 500,000 board feet in the 500,000-acre Applegate River watershed. Another sale of 1.5 million board feet is pending.

Shipley said the area probably produced 500 million board feet annually at its peak.

The California group fashioned a classic compromise—the industry agreed not to log areas near sensitive watersheds or places without logging roads. In return, environmentalists agreed to support a level of cutting in other areas that would sustain the forests and hundreds of jobs for years to come. The government must buy off on it.

Shipley also said he and others in the local environmental movement had to overcome an attitude from national environmentalists who didn't trust their ideas.

"They started to get heartburn because the local people were taking control," he said.

Echoing a complaint made often by loggers in small towns, Shipley said, "Too often, folks in rural America are viewed like we fell off the turnip truck yesterday. It's a rural-urban perspective."

But he and Jackson believe the results will be worth the work and can become models for other towns.

"Every place is different," Jackson said. "So the substances of any solution might be different in Bellingham, Wash., than it is in Quincy. But what we have is an exportable commodity."

CLINTON OFFICIALS PULL OUT OF TALKS

The Clinton administration recently pulled all federal officials from community groups that are trying to fashion local solutions to timber cutbacks.

Those include the Applegate Partnership in southern Oregon and the Quincy Library Group in Northern California.

The reason: The Clinton administration has been sued by timber industry groups who argue that the government forest plan was designed in secret—against the provisions of federal law.

"Until we figure out a way to protect ourselves legally, we have to play it safe," said Lauri Hennessey, a spokeswoman for the Clinton administration's timber plan.

Jack Shipley, a founder of the Applegate Partnership, said the move was disappointing.

"The very thing we've been trying to do is keep an open public dialogue," Shipley said. "Now they're saying it's unlawful? Something is out of whack."

Several groups that are trying to work out new forest plans in their areas met earlier this month in Redding, Calif.

Shipley said he came away from the meeting with optimism.

"We're going to get through this thing," he predicted. "All it did is give us more resolve. I expect (the federal officials) will be re-involved with us in some way within 60 days. But these things are never easy. It's an uphill battle."

PUBLIC OFFICIALS SOUND UPBEAT ABOUT AID TO HELP TIMBER WORKERS

Some samples of news releases put out by members of Congress and others to hail their roles in directing federal money to help timber towns and worker retaining efforts:

"Unsoeld Proposes Jobs Program for Timber Communities; Swift Joins As Original Co-Sponsor"—U.S. Reps. Jolene Unsoeld and Al Swift, November 1991.

"Murray Gets Economic Development Funds for Timber Towns"—U.S. Sen. Patty Murray, September 1993.

"Economic Recovery Board Charts Course for Timber Communities"—Office of Gov. Booth Gardner, December 1991.

"Timber Retraining Benefits Expanded, Washington State Employment Security Department Says"—PR News Wire, May 1993.

"Unique Center Responds to Closures"—Grays Harbor Career Transition Center, May 1993.

"Work Force Training will Benefit Area"—Centralia College, August 1993.

"Good News for 21 Timber Distressed Counties: Jobs-In-Environment Grants Offered"—Washington Department of Natural Resources, January 1994.

"Jobs for the '90s Task Force Gathers Valuable Information on Timber and Local Economy"—Washington State House Republican Media Services, August 1991.

TIMBER SERIES SPRANG FROM LOGGER ANGER

(By Jack Keith)

The memo was dated Nov. 29, 1991.

Bellingham Herald writer Trask Tapperson, fresh from several conversations with timber workers, had been struck by the frustration they faced.

About fewer trees to cut? Definitely. About job layoffs or cuts? Certainly.

But what irked the workers most was that the loudly professed political "solutions" to the timber issue were failures, by and large, Tapperson's memo to editors said.

The "answers" of retraining grants and special seminars and VCR repair training were not solving the problem.

Worse, the failure was expensive; wasting taxpayer dollars left and right, the angry people said.

"Lots is getting spent with little to show for it," Tapperson wrote in his summary of the workers' comments.

We saw a story there, but we knew it was complex and difficult to get a handle on.

Today on Page A1, we begin publication of a dramatic four-day series uncovering a frightening lack of accountability in the government's effort to retrain timber workers for new jobs.

More than $100 million worth of government programs has been poured into the Pacific Northwest. But no one in government can tell us exactly who got what and how many workers have been retrained and are now working in a new field.

Tapperson and Bob Partlow, the Herald's Olympia bureau reporter, spent three

VOL
140
PT
15
AG
10
11
1994
UMI

months pounding on agency doors to try to find someone who was keeping track of the massive program.

Somebody thinks it's working just fine. The Clinton Administration plans to spend $1.2 billion more to help loggers over the next five years.

But when you ask—as Tapperson and Partlow did in 53 Freedom of Information requests—no one can provide the numbers.

And out in the towns of the Northwest, there is bitterness, Partlow says.

"It's very bleak out there. There's a real sense of anger with the government, a lack of trust. The same government that cost them the job was going to retrain them."

Among the contacts that prompted the series was a letter Tapperson received from a frustrated timber worker.

"One thing is very hard to understand is why 2-4 year college degree programs are not available to the displaced worker. Every week there are jobs in the paper for civil engineering environment degrees. The only thing being offered (displaced timber workers) is less than one year schooling.

"The money being spent looks like job security for those in the (state and federal programs)."

The series continues through Wednesday.

Farewell: This is Tapperson's final series for the Herald. He turned 55 this spring and has decided to take early retirement.

He has been a key figure in Whatcom County since his arrival in Bellingham in 1982.

His early reporting included an in-depth look at the decline of the Northwest timber industry, a series that won a National Arbor Day Award. He was part of a Herald reporting team that examined the Hanford Nuclear Reservation and told Whatcom County readers of the incredible cleanup costs involved.

Tapperson served as city editor for five years, helping refocus the Herald's local coverage. In his final years with the newspaper, he returned to reporting and covered investigative and in-depth stories on a variety of topics.

Tapperson always followed the notion that a reporter's sole allegiance was to readers. He worked tirelessly to that end.

Jack Keith, managing editor of The Bellingham Herald, writes a Sunday column.

THE CRIME BILL

Mr. GORTON. Mr. President, I should like to remark informally on the responsible action of the House of Representatives today in rejecting, at least temporarily, the passage unchanged of a crime bill.

This Congress has spent the better part of 2 years in attempting to come up with a series of proposals that do something positive for the American people in restraining, and not sanctioning crime, and especially crimes of violence.

This Senator voted with considerable enthusiasm for the bill as it passed the Senate, even though there were a number of elements in that bill to which this Senator was opposed.

The House bill, and perhaps even to a greater extent the conference committee, added on, and added on, irrelevant cargo to this particular ship to the point at which it is about to sink, to the point today at least the House of Representatives caused it to sink, moving from a bill primarily concerning itself with law enforcement to one primarily concerning itself with various porkbarrel social projects, duplicative of, but independent of, others of a similar nature almost, a number of which could have passed either House of Congress alone or without being subsumed under the title of a crime bill.

Now, leaders in both Houses must go back and determine whether or not there are some things they can do to revive the good portions—and there are good portions of this bill on crime.

I would strongly suggest to the leadership in both Houses and to the conference committee that exactly that be done; that half—let us just say half of the porkbarrel social programs be stripped from the bill so it is something that can actually be enforced; that the law enforcement provisions of the bill, the aid to local law enforcement, be enhanced to a certain degree; and that some of the very important substantive provisions, like those requiring truth in sentencing on the part of State courts, like those sponsored by this Senator to track sexual predators after they have been released from jail to notify their communities that they are present, be restored to this proposal.

I think it is particularly ironic and particularly tragic that that sexual-predator-tracking provision, those notification provisions to families and communities, were removed from the conference committee report on the very day that Megan Kanka, a 7-year-old girl, was murdered by a sexual predator unknown to her and to her family, who had moved in across the street from her in a town in New Jersey.

As a consequence, an independent bill on the subject now has, I believe, the unanimous support of the New Jersey delegation in both Houses of Congress.

It can be revived, however, and made a part of this crime bill if there is enough resolution and enough leadership in the House of Representatives to do so.

That, truth in sentencing, and a slimming down of the immense pork fat in the bill will turn something which now spends far more money that we do not have than it is worth into something which can be a positive factor in the war against violent crime in the United States.

We have been given a second chance. Let us take that second chance and run with it.

MESSAGES FROM THE HOUSE

At 7:03 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 1933) to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, and to support the planning and performance of national service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4277) to establish the Social Security Administration as an independent agency and to make other improvements in the old-age survivors, and disability insurance program.

MEASURES REFERRED

The Committee on Labor and Human Resources was referred to the Committee on Commerce, Science, and Transportation pursuant to the order of March 3, 1988, for not to exceed 30 session days.

S. 2344. A bill to authorize appropriations for the National Science Foundation, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar.

S. 2374. A bill to improve the United States private health care delivery system and Federal health care programs, to control health care costs, to guarantee access to health insurance coverage for all Americans, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3204. A communication from the President and Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on a transaction involving U.S. exports to the Republic of Argentina; to the Committee on Banking, Housing and Urban Affairs.

EC-3205. A communication from the Director of Employee Benefits of the Farm Credit Bank of Baltimore, Maryland, transmitting, pursuant to law, the annual reports of Federal Pension Plans for calendar year 1993; to the Committee on Governmental Affairs.

EC-3206. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals, dated August 1, 1994; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition and Forestry, the Committee on Armed Services, the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, Science and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Small Business.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-613. A resolution adopted by the Senate of the Commonwealth of Massachusetts; to the Committee on Banking, Housing, and Urban Affairs.

"RESOLUTIONS MEMORIALIZING THE UNITED STATES CONGRESS TO DEFEAT THE ONE DOLLAR COIN ACT OF 1993.

"Whereas, the One Dollar Coin Act of 1993 under consideration in the United States Congress would, if enacted in its present form, mandate the elimination of the one dollar bill, and the replacement of the bill with a one dollar coin; and

"Whereas, the Commonwealth of Massachusetts has, for over one hundred years, produced the paper from which United States currency, including the one dollar bill, is made, and takes great pride in the product; and

"Whereas, the elimination of the one dollar bill would have a severely negative impact on the local economies of the western region of the Commonwealth and on the Commonwealth's economy at large; and

"Whereas, the economy of the western region of the Commonwealth has suffered greatly in past years due to manufacturing job reductions and attendant economic impacts; and

"Whereas, the "benefits" claimed by proponents of the dollar coin are highly suspect, and would come at the overall expense of the people of the Commonwealth; and

"Whereas, the paper from which currency is made comes from renewable resources and recycled industrial products, while the metals to produce coins come from environmentally damaging hardrock mining; and

"Whereas, the prices of coin operated machines will likely rise with the replacement of the dollar bill with a dollar coin, thereby negatively impacting those least able to afford such price rises; and

"Whereas, the overwhelming majority of Americans have consistently opposed replacing the dollar bill with a dollar coin; now therefore be it

"*Resolved*, That the Massachusetts Senate calls upon the members of its congressional delegation to withdraw any support of H.R. 1322, and to work actively to defeat such legislation or any other measure which mandates elimination of the one dollar bill; and be it further

"*Resolved*, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the Presiding Officer of each branch of Congress and to the members thereof from this Commonwealth."

POM-614. A resolution adopted by the City of Superior, Wisconsin relative to railroad transport; to the Committee on Commerce, Science, and Transportation.

POM-615. A joint resolution adopted by executive committees of societies of professional biologists relative to human overpopulation; to the Committee on Foreign Relations.

POM-616. A joint resolution adopted by the General Assembly of the State of Illinois; to the Committee on Labor and Human Resources.

"HOUSE JOINT RESOLUTION No. 98

"Whereas, The U.S. Railroad Retirement Board is located in the City of Chicago, the County of Cook, employing hundreds of Illinois citizens; and

"Whereas, The railroad industry is acknowledged as the originator of private company pensions in the United States; and

"Whereas, In the 1930's, the United States Congress assumed the responsibility for developing a federally administered retirement program to place the various railroad pension plans on a solid financial basis; and

"Whereas, The railroad retirement system today covers over one million individuals who have contributed over the years in good faith and who have legitimate expectations of receiving their benefits; and

"Whereas, *The National Performance Review* in its report, 'From Red Tape to Results: Creating a Government That Works Better & Costs Less,' proposes to transfer the functions of the Railroad Retirement Board to the Social Security Administration, to other federal agencies, and to 'private section service providers'; and

"Whereas, This proposal would privatize and terminate a program that has worked well and provided retirement security to millions of people for nearly 60 years; and

"Whereas, It now costs less money per benefit dollar to administer Railroad Retirement than it costs to administer Social Security, and, consequently, the proposal is likely to increase costs to the taxpayer; and

"Whereas, The transfer would violate the federal government's stated commitment to 'serving the customer' as current and future Railroad Retirement beneficiaries vehemently oppose the transfer; and

"Whereas, This action threatens to disrupt earned and needed benefits for 1.3 million active, retired, and disabled rail workers and their families; and

"Whereas, This proposal would adversely affect all active and retired railroad employees and their families in the great State of Illinois; therefore, be it

"*Resolved, by the House of Representatives of the Eighty-eighth General Assembly of the State of Illinois, the Senate concurring herein*, That we assert that (1) a continued federal commitment to the railroad retirement system is essential to assure the integrity of the railroad retirees' benefits; and (2) the preservation of the present structure of the railroad retirement system, including the administrative framework of the Railroad Retirement Board, is necessary to fulfill the time-honored responsibility of the federal government; and be it further

"*Resolved*, That suitable copies of this resolution be presented to the President pro tempore of the U.S. Senate, the Speaker of the U.S. House of Representatives, and each member of the Illinois Congressional Delegation."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Harold Jennings Creel, Jr., of Virginia, to be a Federal Maritime Commissioner for the term expiring June 30, 1999;

Delmond J.H. Won, of Hawaii, to be a Federal Maritime Commissioner for the term expiring June 30, 1997;

Dharmendra K. Sharma, of California, to be Administrator of the Research and Special Programs Administration, Department of Transportation;

Alan Sagner, of New Jersey, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring January 31, 1998;

Ricardo Martinez, of Louisiana, to be Administrator of the National Highway Traffic Safety Administration;

Peter S. Knight, of the District of Columbia, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1996; and

Rear Admiral William L. Stubblefield for appointment in the grade of rear admiral (lower half), while serving in a position of importance and responsibility as Deputy Director, Office of NOAA Corps Operations, under the provisions of title 33, United States Code, section 853u.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably three nomination lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORD of May 17 and July 27, 1994, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 17 and July 27, 1994 at the end of the Senate proceedings.)

By Mr. BIDEN, from the Committee on the Judiciary:

Thomas Joseph Maroney, of New York, to be United States Attorney for the Northern District of New York for the term of four years;

Charles Redding Pitt, of Alabama, to be United States Attorney for the Middle District of Alabama for the term of four years;

H. Lee Sarokin, of New Jersey, to be United States Circuit Judge for the Third Circuit;

Alexander Williams, Jr., of Maryland, to be United States District Judge for the District of Maryland;

Larry Reed Mattox, of Virginia, to be United States Marshal for the Western District of Virginia for the term of four years; and

Walter Baker Edmisten, of North Carolina, to be United States Marshall for the Western District of North Carolina for the term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

VOL
140
PT
15
AG
10
—
11
1994
UMI

S. 1165. A bill to provide for judicial review of Nuclear Regulatory Commission decisions on petitions for enforcement actions, and for other purposes (Rept. No. 103-331).

By Mr. BUMPERS, from the Committee on Small Business, with an amendment in the nature of a substitute and an amendment to the title:

S. 2060. A bill to amend the Small Business Act (Rept. No. 103-332).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2222. A bill to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

S. 2369. A bill to grant the consent of the Congress to amendments to the Central Midwest Interstate Low-Level Radioactive Waste Compact.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 185. A joint resolution to designate October 1994 as "National Breast Cancer Awareness Month."

S.J. Res. 192. A joint resolution to designate October 1994 as "Crime Prevention Month."

S.J. Res. 198. A joint resolution designating 1995 as the "Year of the Grandparent."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 2379. A bill to prohibit the use of certain assistance provided under the Housing and Community Development Act of 1974 for employment relocation activities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. METZENBAUM (for himself, Mr. HATCH, and Mr. FEINGOLD):

S. 2380. A bill to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that the fans will be able to enjoy the remainder of the baseball season, the playoffs, and the World Series; read the first time.

By Mr. COHEN:

S. 2381. A bill to require the Secretary of Health and Human Services to provide health care fraud and abuse guidance, and for other purposes; read the first time.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 2379. A bill to prohibit the use of certain assistance provided under the Housing and Community Development Act of 1974 for employment relocation activities; to the Committee on Banking, Housing, and Urban Affairs.

THE PROHIBITION OF INCENTIVES FOR RELOCATION ACT OF 1994

Mr. FEINGOLD. Mr. President, I am today introducing legislation, the Prohibition of Incentives for Relocation Act of 1994, with my colleague from Wisconsin, Senator KOHL, designed to prevent Community Development Block Grant and other HUD funds from being used to assist businesses in moving jobs from one State to another. This measure is based upon legislation authored in the House of Representatives by Wisconsin Representatives TOM BARRETT and JERRY KLECZKA which was approved in the House-passed HUD reauthorization legislation, H.R. 3838. Representatives BARRETT and KLECZKA have been deeply involved in developing this approach to curbing what is simply an unacceptable use of Federal funds, and I am very pleased to be proposing companion legislation in the Senate.

Mr. President, our concern about this issue was generated by the recent announcement that a major Wisconsin employer, Briggs and Stratton, was closing a Milwaukee plant and terminating some 2,000 workers. This devastating news was compounded by the subsequent discovery that many of these jobs were being transferred to plants which were being expanded in two other States and that Federal community development block grant [CDBG] funds were being used to facilitate the transfer of these jobs from one State to another.

This is a totally inappropriate use of Federal funds which this legislation is designed to halt. The CDBG program is designed to foster community and economic development; not to help move jobs around the country. Obviously, during this period of plant closings, downsizing of Federal programs, and defense conversion, there is tremendous competition between communities for new plants or expansions to offset other job losses. State and local communities are doing everything they can to attract and retain new businesses. But it is simply wrong to use Federal dollars to help one community raid jobs from another State. There is no way to justify to the taxpayers in my State that they are sending their money to Washington to be distributed to other States to be used to attract jobs out of our State, leaving behind communities whose economic stability has been destroyed. Thousands of people whose jobs are directly or indirectly lost as a result of the transfer of these jobs out of our State are justifiably outraged by this misuse of Federal funds.

Mr. President, this legislation is very similar to a provision in the Housing and Community Development Act of 1974 which prohibited urban development action grants from being used for projects intended to move jobs from one community to another. Section 5318(h) of title 42 of the United States Code provides that no assistance may be provided for urban development action grants "intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another" unless it is determined that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated.

This provision, which is referred to as the "antipirating provision", should be made applicable to all federally-funded economic development grant programs. Clearly, the rationale for including such a provision when the urban development action program was established is equally applicable to other economic development programs. The legislation we are proposing would make it applicable to the CDBG program and other existing development programs such as empowerment zones, enterprise communities, and HUD special purpose grants. When the Senate takes up S. 2281, the Housing Choice and Community Investment Act of 1994, I intend to offer this language as an amendment to these programs and to the new LIFT proposed to be established in S. 2281.

Mr. President, this is an issue of fairness and sound public policy. Federal funding for economic development projects should be directed toward projects that expand employment opportunities and economic growth, not simply move jobs from one community to another. This legislation is designed to ensure that community development funds are appropriately used for that purpose. I ask unanimous consent that the text of the bill along with an editorial from the Milwaukee Journal dated July 3, 1994, discussing this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE. This Act may be cited as the "Prohibition of Incentives for Relocation Act of 1994".

SEC. 2. PROHIBITION OF USE OF CDBG ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES.

(a) AUTHORIZATIONS.—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b) PROHIBITION OF USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES.—Notwithstanding any other provision of law, no amount from a grant made under section 106 in fiscal year 1994 or any succeeding fiscal year may be used for any activity (including any infrastructure improvement) that is intended, or is likely, to facilitate the relocation or expansion of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation or expansion will result in a loss of employment in the area from which the relocation or expansion occurs.".

SEC. 3. SPECIAL PURPOSE GRANTS.—Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) is amended by adding at the end the following new subsection:

"(g) PROHIBITION OF USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES.—Notwithstanding any other provision of law, no amendment from a grant made under this section in fiscal year 1994 or in any succeeding fiscal year may be used for any activity (including any infrastructure improvement) that is intended, or is likely, to facilitate the relocation or expansion of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation or expansion will result in a loss of employment in the area from which the relocation or expansion occurs.".

SEC. 4. GUARANTEE OF LOANS FOR ACQUISITION OF PROPERTY.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(r) PROHIBITION OF USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES—Notwithstanding any other provision of law, no amount from a loan guaranteed under this section in fiscal year 1994 or in any succeeding fiscal year may be used for any activity (including any infrastructure improvement) that is intended, or is likely, to facilitate the relocation or expansion of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation or expansion will result in a loss of employment in the area from which the relocation or expansion occurs.".

SEC. 5. ECONOMIC DEVELOPMENT GRANTS.—Section 108(q) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(q)) is amended by adding at the end the following new paragraph:

"(5) PROHIBITION OF USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES.—Notwithstanding any other provision of law, no amount from a grant made under this subsection in fiscal year 1994 or in any succeeding fiscal year may be used for any activity (including any infrastructure improvement) that is intended, or is likely, to facilitate the relocation or expansion of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation or expansion will result in a loss of employment in the area from which the relocation or expansion occurs.".

SEC. 6. COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.—Section 853 of the Housing and Community Development Act of 1992 (42 U.S.C. 5305 note) is amended by adding at the end the following new paragraph:

"(17) PROHIBITION OF USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES.—Notwithstanding any other provision of law, no amount from assistance provided under this subsection in fiscal year 1994 or in any succeeding fiscal year may be used for any activity (including any infrastructure improvement) that is intended, or is likely, to facilitate the relocation or expansion of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation or expansion will result in a loss of employment in the area from which the relocation or expansion occurs.".

[From the Milwaukee Journal, July 3, 1994]

DON'T LET TAXPAYERS STEAL BRIGGS JOBS

The use of American tax money to help lure jobs away from Milwaukee is nothing less than an outrage, which the Federal Government must halt. It was revealed last week that federal funds are playing a role in the loss of 2,000 jobs at the Briggs & Stratton Corp. here. For shame.

When one locality steals jobs from another, the net gain to the United States is zilch. So why should the US subsidize the move? What's more, it's blatantly unfair and absurd to have Milwaukee area taxpayers contribute money to entice jobs away from their own community.

In its bombshell in May, Briggs said it would relocate the 2,000 jobs from Wauwatosa to Poplar Bluff, MO, and Murray, KY, and to three other sites not yet disclosed. Now it turns out that Poplar Bluff is due to get $209,000 in federal community development funds to improve a sewer system to accommodate the expansion of the Briggs plant and workforce there. And in Murray, company and municipal officials have agreed to apply for up to $650,000 in community development funds to help with Briggs' expansion.

Milwaukee's mayor, John Norquist, and congressional Reps. Tom Barrett and Jerry Kleczka are rightly irate. The US Department of Housing and Urban Development must honor their call to forgo awarding the grant to the Kentucky locale and to rescind the award to the Missouri community. And Congress must bar the use of community development funds to assist in the relocation of jobs from one state to another. When used for economic development, such funds should be confined to the creation of new jobs in pockets of poverty—a purpose much more in the spirit of the Community Development Act.

By Mr. METZENBAUM (for himself, Mr. HATCH, and Mr. FEINGOLD):

S. 2380. A bill to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that the fans will be able to enjoy the remainder of the baseball season, the playoffs, and the World Series; read the first time.

THE BASEBALL FANS PROTECTION ACT OF 1994

Mr. METZENBAUM. Mr. President, the most exciting season in a decade is about to come to a crashing halt. Fans everywhere who love baseball are about to be bitterly disappointed when the players walk off the field because the owners drove them to it. Instead of watching exciting pennant races go down to the wire, the fans will all be watching sit-com reruns. Our national pasttime deserves better; the people of this country deserve better.

I do not think we in the Congress can do anything to prevent the baseball players from going on strike tomorrow, But, we can do something to get the players back on the field and the owners back in line.

So, in hopes of preserving the pennant race, some pretty exciting playoffs and the World Series, I am introducing legislation today with Senator HATCH to encourage the players and owners to resolve their differences.

This bill is very simple. It is not complicated.

It does not eliminate the players right to strike, or the owners right to lock them out. Instead, the bill allows the antitrust laws to be invoked if the owners impose a salary cap or any other terms and conditions on the players. This should take away the owners' incentive to play hard ball and impose unilateral conditions on the players. It should also relieve the players' fear that they need to strike in order to prevent a salary cap from being shoved down their throats when the season ends. Once the owners and players resolve their differences and sign a new agreement, the bill expires. It comes to an end. It no longer is effective.

As everybody knows, I fought hard for years to lift baseball's antitrust exemption. I still believe revoking the owners' antitrust immunity is the best long-term solution to the mess the players and the owners have made of major league baseball. However, I decided to offer this compromise bill with Senator HATCH so that we can bring this strike to an end quickly.

And, no, I am not doing this just because the Cleveland Indians are within striking distance of first place. And I am not doing this because Roger Maris' home run record could finally be broken this season.

The fact is this legislation has only one purpose—to protect the season for all the fans, not just Cleveland fans. It also is not for or against: A salary cap, revenue sharing, or any other proposal the owners have made to the players, and it does not tip the balance of ongoing labor negotiations in favor of the owners or the players.

The fact is I do not have any special sympathy for the overprivileged owners or the overpaid players. I do care about the fans. A strike will ruin the season for the fans.

Right now, the big league players cannot use the antitrust laws. If they could, the owners would have to deal with them fairly or face the consequences in a court of law. In other words, what this bill does is give the players another tool they can use to avoid striking, or to bring a strike to a quick end.

The last seven times the baseball players and owners have met at the bargaining table there has been a work stoppage: A strike or lockout. This has not happened in other professional sports because those players could use the antitrust laws to settle labor disputes. Professional basketball players have avoided a strike for 24 years by using the antitrust laws. Professional football players have not struck since 1987 because they could use the antitrust laws to settle their differences. There has never been a strike in professional hockey over labor issues.

If the antitrust laws applied to baseball, the owners could not force the players to accept unreasonable terms and conditions of their labor negotiations hit impasse. The players could challenge the owners unreasonable demands by launching an antitrust suit instead of shutting down the season. Frankly, that is a much better deal for the fans.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Passing this compromise legislation is the best, maybe the only, hope we have of saving the season for the fans. But, it is up to the players and the owners to come to the bargaining table and work out their differences. We, in Congress, cannot make them do that. All we can do is level the playing field so that the owners do not have an unfair advantage over the players because they are immune from our fair competition laws. I, like every other fan in America, want the players to play ball and the owners to play fair. I believe that our bill can do that.

It should be noted that when the antitrust bill having to do with baseball was in our committee and the vote was taken to report the bill out, I voted to report it out. My colleague on the Judiciary Committee, Senator HATCH, voted against it. So we certainly were not in accord on exactly how to deal with this issue, but we are in accord that possibly this legislation may provide a way to get the players back on the field and keep the game going.

Mr. HATCH. Mr. President, I think the Senator from Ohio is introducing this bill because the Chicago White Sox fans are probably hopeful for this type of legislation as well.

I am pleased to introduce, along with Senator METZENBAUM today, the Baseball Fans Protection Act of 1994. Baseball fans throughout this country rightly dread the imminent prospect of a players' strike, especially in this season of record-threatening offensive performances. I urge baseball owners and players to engage in serious negotiations as soon as possible in order to resolve their disputes. The national pastime deserves no less; the fans deserve no less.

Unfortunately, existing law discourages the prompt settlement of this labor dispute. On the one hand, professional baseball enjoys a unique and longstanding immunity from the antitrust laws. I have opposed repeal of this immunity, and I continue to do so. On the other hand, the owners retain the right under our current labor laws to impose unilaterally new terms and conditions of employment once an impasse in the bargaining has been reached.

I am concerned that the unique combination of these two legal roles, which occurs in no other industry, has the effect of inviting delay and of discouraging prompt resolution of the pending labor dispute. The Baseball Fans Protection Act that Senator METZENBAUM and I are introducing would correct this legal anomaly. It would spur owners and players to resolve their dispute as soon as possible and without any unnecessary interruption of the baseball season.

This is an important small bill, an important step in the right direction. It does not choose one over the other. Frankly, we are not taking sides at all. We are just trying to make sure that the unique situation of baseball under the antitrust and labor laws does not encourage delay. We want the parties to get to the bargaining table, and whatever deal they decide to strike is up to them.

Frankly, as I have made it clear, baseball's unique antitrust immunity combines with labor laws to produce a situation that occurs in no other industry. This particular legislation is limited to this particular labor dispute.

So this is an important piece of legislation at this time, and we hope it will encourage both sides to get together to resolve their difficulties. I hope we can get it up as soon as possible.

By Mr. COHEN:

S. 2381. A bill to require the Secretary of Health and Human Services to provide health care fraud and abuse guidance, and for other purposes; read the first time.

HEALTH CARE FRAUD AND ABUSE GUIDANCE ACT

Mr. COHEN. Mr. President, today I am introducing legislation to provide health care providers with guidance on how to comply with health antifraud and abuse requirements.

A recent investigation by my staff on the Senate Special Committee on Aging found that fraud is rampant throughout the health care system, and that our Federal health care programs—particularly Medicare and Medicaid—and private health care plans are rife with abuse. As much as $100 billion is lost each year to fraud and abuse, driving up the cost of health care in America for millions of patients and families—as well as for the American taxpayer. Losses over the last 5 years are almost four times the total costs to date of the entire savings and loan crisis.

During the health care debate, very little attention has been paid to the pervasiveness of health care fraud and how ripping off the system has become the way to do business for some providers.

Our investigation focused on major schemes perpetrated by specific health care provider groups and industries. What we learned was that defrauding Federal and private health care programs in shockingly simple, and that Medicare, Medicaid, and private insurers are leaving their doors wide open to abuse, inviting scam artists to rip off the system. We lose as much as $275 million each day—or more than $11.5 million each hour—to health care fraud and abuse.

Major patterns of fraud that plague our system are: massive overbilling for equipment and services; billing for services never provided to patients; unbundling one item or procedure—such as wheelchair or surgery—and billing separately for individual component parts; upcoding, whereby the provider submits a bill to Medicare or an insurance company for a more expansive item or service than was actually provided; paying kickbacks to doctors for referring patients; and submitting claims for ghost patients or providing phantom therapy sessions.

The report I recently released entitled "Gaming the Health Care System: Billions of Dollars Lost to Fraud and Abuse Each Year," which I am inserting in the RECORD today, provides 50 case examples of scams that have recently invaded our health care system, resulting in higher health care costs, higher premiums, and, at times, serious risks to patients' health and safety.

For example, the physician-owners of a clinic in New York stole over $1.3 million from Medicaid by billing for more than 50,000 phantom psychotherapy sessions never given to patients. Nursing home operators charged swimming pools, jewelry, and a family nanny to Medicaid cost reports. Six million dollars' worth of pacemakers that were already beyond their expiration date or intended for animal use only were distributed for use in human patients. Doctors were given entertainment, trips, and other inducements for the heart devices in the patients. Scam artists set up a phony billing service and billed insurance companies for over $2 million in bogus claims for lab services that were never performed. The scam artists stole hundreds of claims forms, patient's medical information, and doctors' billing numbers to perpetrate their scheme and got away with payments of over $1.5 million before their scam was detected.

These types of scams are just the tip of the very large iceberg of fraud and abuse that is costing the taxpayers and patients dearly—and freezing out millions of Americans from affordable health care coverage.

Since we are losing about $275 million per day on ripoffs like this, we cannot afford to wait any longer to crack down on health care fraud and abuse. Our investigators have learned that some unscrupulous providers are already positioning themselves to take advantage of health care reform in even more creative ways.

There are steps that we can and must take now to curb this abuse, such as giving prosecutors stronger tools and tougher statutes to combat criminal health care fraud; allowing health care plans and the Government to kick the bad apples out of the system; creating tougher civil penalties and remedies for fraud and abuse; establishing a more coordinated enforcement program and beefing up investigative resources, which are now woefully inadequate. While the HHS' Office of Inspector General, the FBI and other agencies are trying their best to win the battles against fraudulent providers, their forces are sorely outnumbered; and tightening up Medicare

rules for items they can purchase at any drug store for a fraction of the cost that Medicare is allowing providers to charge.

Many of these proposals are included in S. 867, which I introduced last year. I am pleased that Senator DOLE's health care reform proposal, the Mainstream Coalition's proposal, and Senator MITCHELL's legislation have incorporated these provisions.

The vast majority of health care providers are honest professionals whose highest priority is quality care for patients. Unfortunately, health care fraud has become a very lucrative business and some dishonest providers will do all they can to game the system. We have to act now to beat unscrupulous providers who are bleeding billions of dollars from taxpayers, and driving up the cost of health care for all Americans.

There is an additional element, however, that is important to complement our efforts to crack down on fraud and abuse. Specifically, adequate guidance should be given to health care providers on how to comply with antifraud statutes and regulations. I sincerely believe, Mr. President, that the broad spectrum of health care providers are honest and dedicated professionals and although I strongly believe that fraudulent and abusive activity in the health care system is a pernicious and costly problem, I also recognize that some providers have difficulty in trying to precisely comply with existing regulatory and statutory requirements. That is why today I am introducing legislation that is designed to augment current guidance procedure on compliance issues to health care providers particularly as it relates to the Medicare/Medicaid antikickback statute.

The antikickback statute makes it a criminal offense to knowingly and willfully pay or receive anything of value in exchange for the referral of Medicare or Medicaid business. The statute requires the Secretary of Health and Human Services [HHS], in consultation with the Attorney General, to issue safe harbors specifying payment practices that would not be treated as an offense under the antikickback statute.

To date, the HHS' Inspector General has issued 13 final safe harbors and solicited comments on 8 additional proposed safe harbors, for a total of 21. In addition, the HHS' Inspector General has issued three special fraud alerts describing activity which is suspect under the antikickback statute.

The bill I am introducing would provide mechanisms for further guidance to health care providers on the scope and applicability of the antifraud statutes. The further guidance would be provided by: modification of existing safe harbors and promulgation of new safe harbors; interpretive rulings providing the HHS' inspector general's interpretation of antifraud statutes; and special fraud alerts setting forth activities that the inspector general considers suspect under the antifraud statutes.

For modification of existing safe harbors and publication of new safe harbors: The bill sets forth a procedure for the modification of the existing safe harbors and for the issuance of new safe harbors. The Department of Health and Human Services would annually solicit proposals from the public for such modifications and new safe harbors. The bill sets forth the specific criteria to be considered when determining whether the submitted proposals should be adopted.

In addition to publishing proposed and final rules based on the proposals from the public, the Department would be required to report to Congress on the proposals and on the Department's response. By providing a regularized mechanism for the public to make proposals regarding safe harbors, the bill would ensure that the Department is informed of the evolving areas which should be considered for safe harbors and the reasons why they should be protected.

For interpretive rulings: The bill would provide the public with an opportunity to request interpretive rulings from the inspector general on the meaning of provisions of existing antifraud statutes. These rulings would represent the inspector general's interpretation of specific provisions of the statutes. The interpretive rulings would allow the inspector general to provide timely guidance on areas of ambiguity or potential conflict.

For special fraud alerts: The bill sets forth a procedure for the issuance of special fraud alerts describing conduct which the inspector general considers to be suspect or of particular concern under the antikickback statute. The Department would solicit proposals for special fraud alerts and be required to consider whether to issue them based on specific criteria. The special fraud alerts would provide guidance to the public by highlighting activity that the Department considers to be potentially illegal and subject to prosecution.

By creating a triad of procedures devised to assist providers, I believe that any concerns over adequate guidance will be addressed. With over $275 million being lost each day to health care fraud and abuse, we cannot afford to wait to toughen our defenses against those unscrupulous providers. Conversely, I believe that we must do all we can to try to assist those who are trying to comply with the law and I believe that this legislation does just that. I have included this bill in the Dole proposal and the mainstream coalition proposal. It is my hope that this legislation will be incorporated into the Mitchell fraud and abuse section as well.

Thank you, Mr. President. I ask unanimous consent that a copy of my legislation and a copy of the minority staff report of the Senate Special Committee on Aging be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1995, and not less than annually thereafter, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a–7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL STATE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (hereafter in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

VOL 140 PT 15 AG 10 — 11 1994 UMI

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Government health care programs.

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Government health care programs.

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (hereafter in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling in response to a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this provision shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)) (hereafter in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall in consultation with the Attorney General, issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

GAMING THE HEALTH CARE SYSTEM: BILLIONS OF DOLLARS LOST EACH YEAR TO FRAUD AND ABUSE

(Investigative staff report of Senator William S. Cohen)

EXECUTIVE SUMMARY

For the past year, the Minority Staff of the Senate Special Committee on Aging under my direction has investigated the explosion of fraud and abuse in the U.S. health care system. This report examines emerging trends, patterns of abuse, and types of tactics used by fraudulent providers, unscrupulous suppliers, and "professional" patients who game the system in order to reap billions of dollars in reimbursements by Medicare, Medicaid, and private insurers.

The consequences of fraud and abuse to the health care system are staggering: as much as 10 percent of U.S. health care spending, or $100 billion, is lost each year to health care fraud and abuse. Over the last five years, estimated losses from these fraudulent activities totaled about $418 billion—or almost four times as much as the cost of the entire savings and loan crisis to date.

Our investigation revealed that vulnerabilities to fraud exist throughout the entire health care system and that patterns of fraud within some provider groups have become particularly problematic. Major patterns of abuse that plague the system are overbilling, billing for services not rendered, "unbundling" (whereby one item, for example a wheelchair, is billed as many separate component parts), "upcoding" services to receive higher reimbursements, providing inferior products to patients, paying kickbacks and inducements for referrals of patients, falsifying claims and medical records to fraudulently certify an individual for government benefits, and billing for "ghost" patients or "phantom" sessions or services.

This report provides 50 case examples of scams that have recently infiltrated our health care system. While these are but a small sampling of schemes that were reviewed during this investigation, they serve to illustrate how our health care system is rife with abuse, and how Medicare, Medicaid and private insurers have left their doors wide open to fraud.

Patients—and, in the case of Medicare and Medicaid, taxpayers—pay a high price for health care fraud and abuse in the form of higher health care costs, higher premiums, and at times, serious risks to patients' health and safety. For example,

Physician-owners of a clinic in New York stole over $1.3 million from the State Medicaid program by fraudulently billing for over 50,000 "phantom" psychotherapy sessions never given to Medicaid recipients;

A speech therapist submitted false claims to Medicare for services "rendered to patients" several days after they had died;

A home health care company stole more than $4.6 million from Medicaid by billing for home care provided by unqualified home care aides. In addition to cheating Medicaid, elderly and disabled individuals were at risk from untrained and unsupervised aides;

Nursing home operators charged personal items such as swimming pools, jewelry, and the family nanny to Medicaid cost reports;

One thousand five-hundred workers lost their prescription drug coverage because a scam drove up the cost of the insurance plan for their employer. The scam involved a pharmacist who stole over $370,000 from Medicaid and private health insurance plans by billing over one thousand times for prescription drugs that he did not actually dispense;

Large quantities of sample and expired drugs were dispensed to nursing home patients and pharmacy customers without their knowledge. When complaints were received from nursing home staff and patient relatives regarding the ineffectiveness of the medications, one of the scam artists stated "those people are old, they'll never know the difference and they'll be dead soon anyway";

Durable medical equipment suppliers stole $1.45 million from the New York State Medicaid program by repeatedly billing for expensive orthotic back supports that were never prescribed by physicians;

A scheme involved the distribution of $6 million worth of reused pacemakers and mislabeled pacemakers intended for "animal use only." The scheme involved kickbacks to cardiologists and surgeons to induce them to use pacemakers that had already expired; and

A clinical psychologist was indicted for having sexual intercourse with some of his patients and then seeking reimbursement from a federal health plan for these encounters as "therapy" sessions.

Our investigation found that scams such as these are perpetrated against both public and private health plans, and that health care fraud schemes have become more complex and sophisticated, often involving regional or national corporations and other organized entities. No part of the health care system is exempt from these fraudulent practices, however, we found that major patterns of fraud and abuse have infiltrated the following health care sectors: ambulance and taxi services, clinical laboratories, durable medical equipment suppliers, home health care, nursing homes, physicians, psychiatric services, and rehabilitative services in nursing homes. Our investigation further concludes that fraud and abuse is particularly rampant in Medicaid, and that many of the fraudulent schemes that have preyed on the Medicare program in recent years are now targeting the Medicaid program for future abuse.

Greater opportunities for fraud will exist under health care reform

As our health care system moves toward a managed care model, opportunities for fraud and abuse will increase unless enforcement efforts and tools are strengthened. The structure and incentives of a managed care system will result in a concentration of particular types of schemes, such as the failure

to provide services and quality of care deficiencies in order to cut costs. In addition, while efforts toward simplification and electronic filing of health care claims offer tremendous savings, they also pose particular opportunities for abuse. Thus, it is crucial that any such system be designed with safeguards built in to detect and deter fraud and abuse:

FINDINGS OF INVESTIGATION

Deficiencies in the current system expose billions of health care dollars of fraud and abuse

A. Current Criminal and Civil Statutes Are Inadequate to Effectively Sanction and Deter Health Care Fraud

Federal prosecutors now use traditional fraud statutes, such as the mail and wire fraud statutes, the False Claims Act, false statement statutes, and money laundering statute to prosecute health care fraud. Our investigation found that the lack of a specific federal health care fraud criminal statute, inadequate tools available to prosecutors, and weak sanctions have significantly hampered law enforcement's efforts to combat health care fraud. Inordinate time and resources are lost in pursuing these cases under indirect federal statutes. Often, even when law enforcement shuts down a fraudulent scheme, the same players resurface and continue their fraud in another part of the health care system.

This cumbersome federal response to health care fraud has resulted in a system whereby the mouse has outsmarted the mousetrap. Those defrauding the system are ingenious and motivated, while the government and private sector responses to these perpetrators have not kept pace with the sophistication and extent of those they must pursue.

B. The Fragmentation of Health Care Fraud Enforcement Allows Fraud to Flourish

Despite the multiplicity of Federal, State and local law enforcement agencies, and private health insurers and health plans involved in the investigation and prosecution of health care fraud, these enforcement efforts are inadequately coordinated, allowing health care fraud to permeate the system. While some strides have been made in coordinating law enforcement efforts, immediate steps must be taken to streamline and toughen our response to health care fraud.

RECOMMENDATIONS

Based on our investigation and findings, we recommend the following to reduce fraud and abuse throughout the health care system:

1. Establish an all-payer fraud and abuse program to coordinate the functions of the Attorney General, Department of Health and Human Services, and other organizations to prevent, detect, and control fraud and abuse; to coordinate investigations; and to share data and resources with Federal, State, and local law enforcement and health plans.

2. Establish an all-payer fraud and abuse trust fund to finance enforcement efforts. Fines, penalties, assessments, and forfeitures collected from health care fraud offenders would be deposited in this fund, which would in turn be used to fund additional investigations, audits, and prosecutions.

3. Toughen federal criminal laws and enforcement tools for intentional health care fraud.

4. Improve the anti-kickback statute and extend prohibitions of Medicare and Medicaid to private payers.

5. Provide a greater range of enforcement remedies to private sector health plans, such as civil penalties.

6. Establish a national health care fraud data base which includes information on final adverse actions taken against health care providers. Such a data base should contain strong safeguards in order to ensure the confidentiality and accuracy of the information data contained in the data base.

7. Design a simplified, uniform claims form for reimbursement and an electronic billing system, with tough anti-fraud controls incorporated into these designs.

8. Take several steps to better protect Medicare from fraudulent and abusive provider billing practices and excessive payments by Medicare. Specifically, Revise and strengthen national standards that suppliers and other providers must meet in order to obtain or renew a Medicare provider number;

Prohibit Medicare from issuing more than one provider billing number to an individual or entity (except in specified circumstances), in order to prevent providers from "jumping" from one billing number to another in order to double-bill or avoid detection by auditors;

Require Medicare to establish more uniform national coverage and utilization policies for what is reimbursed under Medicare, so that providers cannot "forum shop" in order to seek out the Medicare carrier who will pay a higher reimbursement rate;

Require the Health Care Financing Administration to review and revise its billing codes for supplies, equipment and services in order to guard against egregious overpayments for inferior quality items or services; and

As we revise the health care system, give guidance to health care providers on how to do business properly and how to avoid fraud.

Adoption of these recommendations will go far in shoring up our defenses against unscrupulous providers, patients, and suppliers who are bleeding billions of dollars from our health care system through fraud and abuse. Since Medicare and Medicaid lose as much as $31 billion annually to fraud and abuse, the savings from reducing fraud in these programs would go far toward paying for much needed reforms in our health care system, such as providing access to health care coverage for the uninsured, prescription drug benefits for the elderly, or long-term care for the elderly and individuals with disabilities.

We must not wait to fix these serious problems in the health care system until we see what form health care reform takes. We are losing as much as $275 million each day to health care fraud, and effective steps can be taken within the current system to curb this abuse. With billions of dollars and millions of lives at stake, we can no longer afford to wait.—William S. Cohen, United States Senator, July 7, 1994.

I. INTRODUCTION AND SCOPE OF INVESTIGATION

When the Senate Special Committee on Aging sought an expert on health care fraud in 1981, it turned to a cardiologist from Philadelphia. His credentials were impeccable: a noted physician, he was also a convicted felon who had defrauded both public and private health insurers in three states for more than $500,000 by submitting $1.5 million in claims for medical services he had never performed.

"The problem is that nobody is watching," the doctor testified. "Because of the nature of the system, I was able to do what I did. The system is extremely easy to evade. The forms I sent in were absolutely outrageous. I was astounded when some of those payments were made."

Apparently, we did not learn much from this doctor's testimony. For now, thirteen years later, he is allegedly still up to his old tricks. Last month, he was arrested by FBI agents in Philadelphia and charged once again with defrauding health insurers for millions of dollars by filing claims for procedures that were never performed. Bail was set at $2 million, and he is currently awaiting trial.

According to the U.S. Attorney in Philadelphia, since 1974, this physician has had a total of several arrests and five convictions for fraud in New York, Connecticut, and Texas. Despite his record, four years ago he was able to get his Pennsylvania physician's license reinstated. He might very well still be in business today if a former patient, who was angry about the false billings, hadn't agreed to go undercover.

How was this physician, with his long record of arrests and convictions for fraud, able to continue to perpetrate the same kinds of schemes against the health care system? Why weren't his blatantly fraudulent activities detected earlier? How could he get a previously suspended license reinstated in one state when he had been convicted for fraud in three others?

The vast majority of health care providers are honest and dedicated professionals, but the alleged activities of this physician is typical of the "bad apples" that threaten to corrupt the entire system.

Therefore, as Congress continues its work on omnibus crime legislation and crafts health care reform, the answers to these questions reveal flaws in our health care systems that we simply cannot afford to ignore.

For the past year, under my direction the Minority Staff of the Senate Special Committee on Aging has investigated the growth of fraud and abuse in the U.S. health care system and has worked to identify deficiencies in current federal, state, and private sector efforts to combat these crimes. To demonstrate the scope of the outrageous fraudulent behavior currently plaguing the health care system, this report will detail recent cases in which individuals and companies have been either indicted, convicted or fined. Those cases that have been adjudicated represent the tip of the iceberg of what has to come to light—many more go undetected or are still under investigation. For example, in the area of home health care fraud, the New York Special Prosecutor states that "We've just scratched the surface." The Minority staff is continuing its investigation of the areas of abuse identified in this report, and will issue a series of reports on particular industries engaged in abusive practices.

In addition, this report will examine emerging trends, patterns of abuse, and types of tactics used by fraudulent providers; the inadequacy of current law and enforcement resources and the need for better coordination; and how the move toward managed care presents new and different opportunities for unscrupulous providers to defraud the system. And finally, the report will offer recommendations for correcting the current deficiencies, in the system that allow fraud and abuse to flourish.

According to the General Accounting Office, each year as much as 10 percent of total health care costs are lost to fraud and abuse. With annual health care costs in the United States now exceeding $1 trillion, fraud and abuse is costing taxpayers and policyholders about $100 billion each year. Over the last five years, estimated losses from health care fraud and abuse totaled about $418 billion—or almost four times as much as the entire savings and loan crisis has cost to date. With

VOL 140 PT 15 AG 10 — 11 1994 UMI

amounts this large at stake, we simply cannot afford to wait any longer to toughen our response to health care fraud.

We would like to thank, among others, the Office of Inspector General of the Department of Health and Human Services, the Department of Justice, the Federal Bureau of Investigation, the Drug Enforcement Administration, the Postal Inspection Service, the National Association of Attorneys General, the Medicaid Fraud Control Units, and the General Accounting Office, as well as numerous health care industry representatives, for their assistance with this investigation and report.

II. BACKGROUND—CURRENT LAW: HOW THE GOVERNMENT INVESTIGATES AND PROSECUTES HEALTH CARE FRAUD AND ABUSE VIOLATIONS

A. Brief overview of health care fraud and abuse statutes

A number of Government health care programs are regular targets for fraud. Medicaid is financed jointly by the federal and state governments with states contributing up to 50 percent of the program's funding. Medicare is a federal program financed by a combination of federal payroll taxes, general revenues and beneficiary premiums. Other government-sponsored programs include benefits provided to federal employees, retired and active military and dependents, and veterans. Although government health care programs are often targeted, many unscrupulous providers are indiscriminant about who pays.

As this report illustrates, health care fraud and abuse encompasses a wide range of practices including overcharging for services, billing for services not rendered, and rendering services that are unnecessary or inappropriate. Paying kickbacks to physicians for referring patients and routinely waiving copayments or deductibles from patients are also considered fraudulent activities by the Medicare and Medicaid programs. Because kickbacks constitute payments to induce services, they increase insurers' vulnerability to claims for unnecessary services. By forgiving patient copayments and billing an insurer directly, unscrupulous providers may be able to misrepresent services rendered without the patient's knowledge.

While there currently is no specific federal health care fraud statute, Justice Department prosecutors do use traditional criminal and civil authorities, including mail and wire fraud statutes, the False Claims Act, and false statements statutes to prosecute health care fraud and abuse.

There are also criminal statutes directed specifically to prevent fraud and abuse within Federal health care programs. Such authorities include criminal penalties for false claims and statements specifically involving the Medicare and Medicaid programs, and the Medicare and Medicaid anti-kickback statute. The anti-kickback statute prohibits an individual or entity from offering, paying, soliciting, or receiving remuneration with the intent to induce Medicare or Medicaid program business.

The Department of Health and Human Services' (HHS) Inspector General (IG) is responsible for imposing the majority of health care administrative sanctions authorized under the Social Security Act. The Omnibus Budget Reconciliation Act of 1981 specifically authorized the IG, acting on behalf of the Department, to impose civil monetary penalties and assessments against health care providers who have filed false or improper claims for reimbursement under the Medicare, Medicaid, or Maternal and Child Health Block Grant programs. The law authorizes penalties of up to $2,000 for each false claim, and an assessment of up to twice the amount improperly claimed by the health care provider. The law provides a major deterrent to fraudulent and abusive activity.

The Medicare and Medicaid Patient and Program Protection Act of 1987 further increased the Department's authority to exclude both individuals and entities from participation in Medicare and State health care programs for fraudulent activities. It amended the existing mandatory and enacted new discretionary (permissive) exclusion authorities. The mandatory provisions cover program-related and patient abuse convictions and require program exclusions of no less than 5 years.

The permissive provisions cover a variety of offenses including convictions for fraud, loss of a license, and kickbacks. Once a decision has been made to impose an exclusion, the provider is given notice and advised of the right to request a hearing before an administrative law judge (ALJ). If the provider is dissatisfied with the ALJ's decision, he may request review by the Departmental Appeals Board and, if still dissatisfied, may take his case to the U.S. District Court.

Program exclusions or civil penalties are often the appropriate remedy to be utilized to address health care fraud and abuse.

The HHS Inspector General refers investigative findings directly to the Department of Justice or individual U.S. Attorneys for possible criminal or civil prosecution. Once the Department of Justice has completed or declined criminal or civil prosecution, HHS can consider imposing administrative sanctions. Successful prosecutions may take years, involve an investment of considerable staff time and resources and, in some cases, may never result in actual recovery of federal health care dollars lost to fraud.

B. "Divided We Fall"—Law enforcement agencies suffer from overlapping and unclear jurisdiction

The responsibility for investigating and prosecuting health care fraud and abuse is currently dispersed among many agencies at both the federal and state levels. The HHS IG and the FBI, the two federal law enforcement agencies with primary jurisdiction in health care anti-fraud efforts, each devote between 222 and 228 full-time equivalent (FTE) positions to health care fraud investigations.

More than 4 billion claims are processed annually. Although the IG has authority over only federal health programs, the FBI has plenary authority for all health care plans—that means less than 450 federal FTE's are devoted to investigating alleged improprieties in federal public health programs, which represent 40 percent of the nation's health care bill, and to investigate over 1,000 private payers. Thus, the two predominant health care anti-fraud enforcement agencies have only one FTE per approximately 8,890,000 claims. Agencies with some jurisdiction in anti-fraud and abuse enforcement efforts are as follows:

The Inspector General of the Department of Health and Human Services audits and investigates health care providers accused of fraud against federally-sponsored programs, primarily Medicare and Medicaid. It is authorized to conduct civil, administrative and criminal investigations of frauds associated with the federal program.

The Federal Bureau of Investigation has plenary authority to investigate all health care fraud offenses and includes all victims of the crime, whether against Federal programs or private insurance companies, business entities or individuals. Allegations of criminal conduct in the health care industry, at the onset, are presented to the U.S. Attorney's office for a prosecutive opinion. Based on the U.S. Attorney's decision, the FBI either proceeds with the investigation or closes the case.

The Drug Enforcement Administration monitors and investigates the diversion, misuse, and abuse of pharmaceutically controlled narcotic substances;

The Department of Justice combats fraud by pursuing criminal or civil proceedings when appropriate. Even if health care fraud does not constitute criminal activity, the Justice Department may try to recover damages by seeking the payment of civil penalties and restitution. Exclusions, suspensions or administrative civil penalties are still within the purview of the Department of Health and Human Services' Inspector General.

The Food and Drug Administration regulates the prescription drug market for noncontrolled prescription medications as well as certain medical devices.

The Postal Inspection Service enforces a number of statutes which allow them to take action against fraudulent practices involving the use of the mails (the criminal mail fraud statute and the civil postal false representations statute). Since the majority of claims filed by providers (as well as subsequent payments) flow through the mail, the Postal Inspection Service is an active component of health care fraud investigations.

The Inspector General of the Department of Labor investigates cases involving workmen's compensation claims or fraud in health plans administered by labor unions.

The Inspector General of the Office of Personnel Management investigates when fraud is suspected in federal employee health plans, to which the federal government contributes billions of dollars annually.

The Defense Criminal Investigative Service seeks to ensure the integrity of all Department of Defense programs, including the military health care system (CHAMPUS).

The Inspector General of the Railroad Retirement Board Office handles cases regarding railroad workers fraud.

Forty-two States currently operate with Medical Fraud Control Units.

The Minority committee staff finds that agencies authorized with primary enforcement duty, such as the HHS IG, are seriously underfunded and are urgently in need of additional resources in order to keep pace with the growth in the health fraud crime problem. Many of the agencies dedicated to this effort are stretched thin and are unable to keep pace with the growing number of claims and the evolving relationships of providers and entities as our health care system moves more toward a managed care environment. The committee staff is concerned about the lack of coordination and unnecessary duplication of efforts among agencies with overlapping jurisdiction.

Historically, turf battles have existed, potentially undermining investigations and cases. A muddled chain of command and the decentralized nature of some health care fraud investigations allow many fraudulent actors to perpetrate their schemes without detection. Recently, health care fraud working groups have formed at the national, regional and local levels. Many of these groups include federal and state prosecutors and investigators from FBI, HHS IG, Medicaid Fraud Control Units, and other agencies. We have found that where a task force or working group exists to coordinate investigations

of a specific fraudulent or abusive practice, the overall investigation and prosecutorial effort are positively affected.

III. "TIP OF THE ICEBERG"—SELECT CASES OF FRAUDULENT AND ABUSIVE SCHEMES

As stated above, the GAO estimates that fraud and abuse accounts for as much as 10 percent of U.S. health care spending. With health care costs approaching $1 trillion, approximately $100 billion will be lost to fraud and abuse annually. The FBI calculates that fraud accounts for between 3 percent and as much as 15 percent of total health care spending, costing the United States tens of billions of dollars each year. Despite the enormity of the problem, GAO concludes that only a small fraction of the fraud and abuse committed against the health care system is identified.

Those instances that have been detected have involved substantial sums of money, risked patients' health and lives, diverted scarce resources, and contributed significantly to national health care costs. In addition to these tangible costs, health care fraud and abuse by providers can dangerously erode the trust of patients in the quality and integrity of the health care system. The cases described in this report are cases which are based on either recent convictions, indictments or fines so as to not disrupt or prejudice ongoing investigations which may result in future convictions. The committee staff is, however, continuing its investigation of ongoing cases.

A. Durable Medical Equipment (DME)

Over the past several years, the durable medical equipment industry has been repeatedly cited as a major source of fraudulent and abusive practices in the health care system. Ongoing investigations by the Minority committee staff revealed shocking evidence of unscrupulous DME sales practices, often resulting in the sale of unnecessary, overpriced, and even dangerous equipment to Medicare beneficiaries.

While the DME industry has recently taken steps to stamp out abuse, our current investigation of health care fraud cases has concluded, unfortunately, that major abuses continue to occur within this industry. The overwhelming majority of the nation's more than 160,000 DME suppliers are dedicated and honest professionals, but the rapid growth and sheer size of the industry has greatly increased the potential for fraud and abuse. Our investigation reveals that not only do these problems continue to plague the Medicare program, but they are being replicated not only in Medicaid, but in private insurance programs as well.

DME providers are not required to be certified or licensed. In fact, until recently, they have not had to meet any kind of standards whatsoever. Medicare carrier oversight of suppliers has also been lax. Most carriers do not keep track of their suppliers, and their billing numbers are rarely canceled, even when the supplier has been excluded from the Medicare program. Insufficient carrier oversight also enables suppliers to be issued multiple billing numbers, allowing them to double bill, overbill, or avoid being caught for fraudulent activities.

Largely as a result of Congressional pressure, the Health Care Financing Administration (HCFA) has taken some action to curb fraud and abuse in the Medicare DME program. HCFA has reduced the number of Medicare carriers processing DME claims from 34 to 4, which should bring greater uniformity and consistency to coverage and payment decisions. In addition, all claims must now be submitted to the carrier serving the area where the beneficiary resides and uses the item, thus eliminating the ability of suppliers to engage in "carrier shopping" to locate the carriers paying the highest reimbursement rates in order to get the best price for their overpriced items.

These new requirements are a step in the right direction, however, Medicare and Medicaid clearly remain vulnerable to abuse, and there is more that we can and should do to strengthen the participation requirements and administrative and payment policies for durable medical equipment.

Specific areas of abuse by DME suppliers include billing Medicare and Medicaid for inferior products, billing for items never provided, paying kickbacks to physicians for referring patients to DME suppliers, forging physician signatures or falsifying prescriptions for equipment, and tainting health care products.

Inferior Products.—The problem of selling inferior products at inflated prices is an ongoing problem that this industry still has not cleaned up.

A DME supplier in Texas defrauded Medicare of over $1 million by charging Medicare for "body jackets," when what he actually provided were wheelchair pads. Legitimate custom-fit orthotic body jackets are used to treat injuries such as vertebra fractures and compressions or to aid in healing following surgery on the spine. A wheelchair pad is a cushioned seating support for the wheelchair. This supplier billed Medicare close to $1,300 for each pad, which actually cost between $50 to $100 to manufacture—representing a mark-up to Medicare of as much as 2,500 percent.

Body jacket scams have become increasing popular, prompting the HHS IG recently to conduct an inspection to determine whether Medicare was being appropriately billed for orthotic body jackets. The Medicare claims paid remained relatively steady until 1990. Then, the number of claims submitted to Medicare skyrocketed 6,400 percent by the end of FY 1992—from 275 claims in 1990 to 17,910 claims in 1992. Total allowed charges also increased significantly, from $217,000 in 1990 to $18 million in 1992—an 8,200 percent increase.

The IG found that 95 percent of the jacket claims filed in a one year period were for "jackets" which did not meet the construction and medical necessity requirements to be reimbursed by Medicare. According to the IG, an orthotic body jacket costs only approximately $100 to manufacture, while Medicare pays approximately $800 for this item. In 1991, total Medicare payments for jackets that did not meet construction and medical necessity requirements exceeded $7 million.

Medicare requires that a patient's physician complete a prescription—known as a "Certificate of Medical Necessity" (CMN) before a DME can be approved for payment. The IG found that the body jackets were marketed by salespersons before the CMN's were completed by physicians. Typically, DME salespersons marketed their devices to nursing homes for use by their residents.

The IG found that salesperson presented their products to nursing home directors and physical therapists as restraint alternatives to help patients sit upright in wheelchairs. When a patient agreed to purchase a device, salesmen either completed the CMN or gave nursing home staff the proper wording to use and they completed the CMN. The nursing home staff then sent it to a physician for signature. This practice in itself is strictly illegal because, under current law, physicians—not suppliers—are required to complete the CMN.

To market this non-legitimate device as an "orthotic body jacket," DME suppliers took advantage of nursing homes' desires for restraint alternatives. They also took advantage of the fact that these primarily Medicare and Medicaid patients did not have to pay out-of-pocket for the products and also of the fact that physicians are often far too lax in their attention to the CMN requirements.

Billing for items never provided.—Our investigation found that there are still many cases of sham companies billing for products that are never delivered. This is particularly a problem when nursing home residents are targeted for the sale of items that they never receive and, in some instances, never even ordered.

The manager of a California DME company billed Medi-Cal, in just less than seven months, for more than $500,000 for merchandise allegedly delivered to needy beneficiaries. In fact, the company was supplying nothing and the beneficiaries had no actual medical need for any of the supplies. An audit revealed that the operation was a virtual sham from its inception, and that the company had never even purchased an inventory of supplies from which deliveries could have been made. All Medi-Cal monies that were received were pocketed by the owner who used the funds to support a heavy gambling habit.

A search warrant was recently issued in New York after a number of Medicare beneficiaries complained to their local carrier that they never received durable medical equipment listed on their Explanation of Medicare Benefits form as having been delivered to them by a New York DME company. Instead the company often provided non-reimbursable substitute items, such as angora underwear, power massagers, air conditioners and microwaves, in order to induce the beneficiaries to give them their Medicare number.

Medicare beneficiaries would contact the DME company and its sales representatives to learn how they could obtain the "free" household items. After receiving telephone calls from the beneficiaries, the sales representatives would then visit them in their homes and show them household items from a catalog. More expensive reimbursable durable medical equipment, such as hospital beds, wheelchairs, and patient lifts, which were never delivered would then be billed to the carrier using the beneficiaries' Medicare numbers.

It is estimated that Medicare overpaid $1.5 million for the items, but this figure is only based on those beneficiaries who complained to their carrier. The DME company is also accused of conducting an elaborate money laundering scheme in order to obscure the proceeds of the Medicare fraud.

Kickbacks.—Under the Medicare and Medicaid anti-kickback statute, it is illegal to offer or pay a profit distribution to physicians to deliberately induce them to refer business under Medicare or any State health care program. However, the practice continues.

A cardiologist has been charged with receiving $125,000 in kickbacks from a DME company for referrals that enabled the company, which supplied oxygen and respiratory aids, to bill government programs for hundreds of thousands of dollars. The indictment claims the doctor received kickbacks in the form of cash payments, jewelry, and other gifts in exchange for referrals.

VOL 140 PT 15 AG 10 — 11 1994 UMI

A group of Florida DME companies supplied respiratory equipment to Medicare beneficiaries without any prior physical examinations of the patients or authorization for the equipment. After the companies delivered the equipment, they paid kickbacks to physicians who agreed to write prescriptions for the equipment and medication, without ever seeing the patients. The companies then used the prescriptions as supporting documentation to obtain over $5.2 million in Medicare reimbursements.

Item not medically necessary/forging or falsifying certificates of medical necessity.—Durable medical equipment is reimbursable by Medicare and Medicaid only if prescribed by physicians as medically necessary. Unscrupulous suppliers circumvent physicians into signing CMN's, persuading physicians to act in complicity with a fraudulent scheme, or forging physician signatures.

Two New York DME owners stole $1.45 million from the New York State Medicaid program by repeatedly billing for expensive orthotic back supports that were never prescribed by physicians. The DMI sales force used an aggressive personal solicitation and telemarketing campaign, offered free "angora underwear" to Russian immigrants in Brooklyn, in exchange for their Medicaid I.D. numbers. The State was then charged for costly medical supplies that were never authorized by doctors and only rarely, if ever, delivered to patients. As described in a previous case, angora underwear was again used as an inducement to obtain beneficiaries' Medicaid numbers.

The sales team recruited the Medicaid recipients in the streets with promises of the free underclothes, and then billed Medicaid for high-priced, medically unnecessary orthotic back supports—charging nearly $400 per claim. One of the owners also pleaded guilty to stealing an additional $300,000 over two years by submitting numerous false reimbursement claims from another DME company by stating that the company had provided hundreds of Medicaid patients with oxygen concentrators and nebulizers that were similarly, in fact, never ordered by physicians.

The owner of a DME company in New York was sentenced to five months in jail for Medicare fraud and ordered to pay $100,000 in restitution for falsifying blood tests to justify claims for oxygen equipment and inflating hours of oxygen use to obtain higher reimbursement.

In Florida, an investigation of physicians, middlemen and DME companies involved in selling and buying Certificates of Medical Necessity led to indictments and imprisonment. One physician was sentenced for selling the certificates for patients he neither examined nor treated, knowing full well they would be used in filing Medicare claims. Other individuals and companies are also under indictment as part of the overall investigation.

B. Other Practices of Suppliers

Unbundling and upcoding.—Unbundling is the practice through which providers submit bills piecemeal rather than for the procedure or product as a whole. These illegal practices add enormous costs to the public health care programs. Upcoding is the process of billing for a service by using a reimbursement code for a similar but more complicated service. This results in a higher reimbursement to the provider.

The case of a Pennsylvania DME company illustrates how providers have used the techniques of "unbundling" and "upcoding" to defraud Medicaid. The DME company billed Medicaid for "incontinence liners" when it was in fact providing residents of a youth home and elderly nuns in a convalescent home with disposable washcloths. The supply company misrepresented the products supplied in order to receive a higher reimbursement. During interviews at the homes, investigators also discovered considerable amounts of durable medical equipment supplied by the same DME outfit, including wheelchairs, geriatric chairs, and accessories.

A review of the Medicaid bills submitted revealed that the wheelchairs, particularly the motorized ones, had been "unbundled": the supplier was billing separately for components of a wheelchair that are generally provided as standard items. The supplier also billed for more expensive equipment than was actually provided. Company owners were convicted for this fraud.

Our investigation revealed several fraudulent billing schemes involving reimbursement for incontinence supplies. For example, a husband and wife in Michigan allegedly stole more than $25 million from Medicare in false claims for providing incontinence supplies for nursing home patients. Each time the Medicare carrier initiated proceedings to review claims before paying them, the couple allegedly incorporated a new billing company in order to avoid detection by Medicare.

Tainting of health care products.—Our investigation also revealed instances in which Medicare and private insurers have been billed for products that pose potentially serious risks to patients, such as through the sale of "tainted" products.

A former pharmaceutical salesman who was the owner of a company that distributed human heart cardiac pulse generators and human heart pulse generator leads was convicted of altering and misbranding expired pacemaker boxes to make the product appear new. By the owner's estimate, over an eight-year period, he sold about $6 million worth of pacemakers.

Former employees testified he often acquired low cost older models that were near expiration and relabeled them—a process that meant not only implanting pacemakers with older batteries but also jeopardizing the devices' sterility and putting the patient at risk of infection. In addition, accounts stated when authorities raided the owner's office, they found a number of bloody pacemakers, raising suspicions he was reselling devices that had been surgically removed from other patients or even from corpses. One former employee said he saw him wash off a pacemaker battery with tap water. Other problems discovered included implanting devices with lapsed expiration dates, improper sterilization, recycling pacemakers, mislabeling pacemakers intended for "animal use only" and mislabeling standard units as "high output" units.

The owner also provided a variety of kickbacks to attending physicians, cardiologists and surgeons to induce them to implant adulterated, misbranded, or expired pacemakers into their patients. The physicians were given entertainment tickets, vacation trips, office medical equipment, the services of prostitutes and cash for using the heart devices.

According to the Department of Health and Human Services' Inspector General, a retired electrician from Chicago had a "mystery pacemaker" implanted in his chest. The brand serial number, and even the expiration date of his pacemaker or the lead attached to his heart could not be determined. The patient did not know his pacemaker was subject to failure, which might require a pacemaker replacement operation with all the accompanying risks of further surgery. The patient's cardiologist admitted that he received the services of a prostitute, a trip to Hawaii and other types of kickbacks from the pacemaker dealer. To date, ten individuals have pleaded guilty to the scheme and the owner has been given a 6 year term of imprisonment.

C. Psychiatric Services

Our investigation has concluded that a growing area of health care fraud exists in the delivery of psychiatric and psychotherapy services, including those provided by hospitals, clinics and private practitioners. Our review of recently completed and ongoing criminal investigation indicates that psychiatric and psychological services are rife with abuse, particularly in the following areas: billing for "phantom" psychotherapy sessions; billing for excessively long hospital stays for inpatient psychiatric care; providing kickbacks to physicians; and grossly inflating the number of psychotherapy hours provided in order to reap thousands of dollars in overpayments from Medicare or private insurers.

Phantom sessions.—We have found a significant increase in cases involving the illegal practice of billing for psychiatric and psychotherapy sessions that never took place.

A New York Community Center director was indicted for stealing almost $800,000 by fraudulently billing the State for over 25,000 "phantom" psychotherapy sessions Medicaid recipients never actually participated in and for falsifying patients' medical records to cover up the theft. To perpetrate the scheme, the center director offered inducements like free food to attract thousands of Medicaid beneficiaries to the Center.

After obtaining the Medicaid recipients' names and I.D. numbers, the director allegedly used the Medicaid provider number of a psychiatrist to bill for tens of thousands of these "phantom" sessions. The billings were so excessive that the staff psychiatrist would have had to work well over 24 hours a day to handle the number of visits claimed, yet the scheme continued for over three years before being detected and stopped.

In a similar case, physician-owners of a psychiatric clinic in New York were sentenced for stealing more than $1.3 million from the State Medicaid program by fraudulently billing the State for over 50,000 "phantom" psychotherapy sessions never given to Medicaid recipients. They were also charged with conspiring to falsify patient medical records to cover up the theft.

The doctors had paid neighborhood "steerers" illegal kickbacks of $10 to $15 per session to bring in new patients. Once inside the clinic, the Medicaid beneficiaries (often drug addicts) would sit together in a big room, watch television, fill out so-called homework assignments, eat a meal, sometimes talk briefly to a doctor, and then, before leaving, receive a few dollars cabfare and prescriptions for drugs like Valium. The physicians saw patients on a twice-weekly basis, but billed Medicaid for four to seven visits per week, as well as for dates before the recipients ever even set foot in the clinic. They also billed for visits when the only licensed psychiatrist on staff was absent from the office—often on vacation in France and California.

Billing for excessive or unnecessary sessions.—A Minnesota psychiatrist was sentenced to prison for defrauding Medicare, Medicaid and the Department of Veterans Affairs by billing for extensive psychotherapy sessions with individual patients in nursing homes and board and care facilities when he either did not see them or saw them only in groups at meals. In addition, his medical license had been suspended for sexual improprieties with patients and for overprescribing medications.

A Hawaii clinical psychologist, working as a marriage and family counselor, was accused of defrauding the Civilian Medical Health Program of the Uniformed Services (CHAMPUS). He was indicted for having sexual intercourse with some of his patients and then seeking payment for these encounters as "therapy" sessions. He also claimed payment for therapy sessions which never took place; for billing individual sessions as joint sessions in order to receive higher reimbursements; and for falsely certifying to CHAMPUS that he billed and collected a required 20% copayment from his patients when he had, in fact, advised them they were not responsible for the fee. As a result, his patients had no incentive to scrutinize his billings, allowing him to continue his fraud against CHAMPUS.

A Virginia psychiatrist was recently convicted for billing different insurers for patient counseling sessions that never occurred or whose length was inflated on reimbursement claims. He is accused of defrauding seven insurers including Medicare, Medicaid and CHAMPUS. He was sentenced to home confinement for six months, ordered to perform community service, fined $10,000 and put on probation.

A record $379 million in fines, damages and penalties will be paid by a large health care corporation for kickbacks and fraud at its psychiatric and substance abuse hospitals in over 30 states. The corporation agreed to plead guilty to six counts of making unlawful payment to induce doctors to refer Medicare and Medicaid patients to the hospitals and one count of conspiracy to defraud the United States. Fraudulent practices included admitting and treating patients unnecessarily, keeping patients hospitalized longer than necessary in order to use up insurance coverage, billing insurance programs multiple times for the same service and billing when no service was actually provided, and billing Medicare for payments made to doctors that were solely intended to induce referrals of patients to the facilities.

D. Nursing homes

The investigation revealed a considerable number of cases involving direct targeting of nursing home patients in which both the industries that supply products and services to the homes and the owners and administrators of the home are involved in fraudulent and abusive practices. Nursing home owners have been convicted of charging personal luxury items like swimming pools to Medicaid cost reports. HCFA, the HHS IG, and the Minority committee staff are continuing to investigate nursing homes and the providers of rehabilitative services to nursing homes.

A Minnesota speech therapist submitted false claims to Medicare for services provided to nursing home residents. The therapist also received Medicaid payments for speech therapy he never actually performed—and the investigation revealed that he had been paid for services "rendered to patients" several days after they had died. He was also observed using flash cards with a blind resident, and then billing for reimbursement.

The owner of a Pennsylvania rehabilitation service was indicted for allegedly operating a scheme to defraud Medicare by submitting false claims for speech therapy provided to patients in nursing homes. The owner allegedly told speech therapists to recruit Medicare clients even though he knew their therapy would not be covered under Medicare.

Before submitting the paperwork for reimbursement, the speech therapists would rewrite their patient reports so that they would appear to be medically necessary rehabilitation services. The employees then allegedly falsified bills submitted to Medicare, including certifications by doctors that patients needed continued speech therapy, and also falsified patients' medical records.

A Connecticut nursing home owner allegedly overstated expenses in reports for Medicaid reimbursement over a five-year period resulting in an overpayment by the State of almost $400,000. The nursing home owner allegedly arranged a beneficial financial arrangement with a leasing corporation to procure equipment. The leasing company then sold or leased the equipment back to the owner for a far greater cost than its purchase price. The nursing home was accused of passing on these costs to the State by submitting inflated cost figures and in order to obtain a higher rate of Medicaid reimbursement.

A supply company in California billed Medicare for $5 million for post-surgery surgical dressings for nursing home patients who had never even had surgery. Medicare paid numerous nursing homes in several States for the surgical dressings, and the homes, in turn, paid a percentage to the supply company.

Nursing home operators in North Carolina and Pennsylvania have been convicted of charging personal items such as swimming pools, jewelry, and the family nanny to Medicaid cost reports.

E. Clinical Laboratories

Some of the largest health care fraud convictions and settlements to date have involved major national clinical laboratories. These providers have come under intense scrutiny by the FBI, the HHS IG, the Medicaid fraud units, and private insurers for such practices as "sink testing," by which patients' lab samples are dumped down the sink without having had the requisite tests performed, providing and billing for bogus test results; performing extra tests in order to obtain excessive reimbursements; providing kickbacks to physicians for patient referrals; and "unbundling" so that Medicare will pay individually for each test that should be billed as part of a series of tests. Our investigation reveals that clinical labs continue to be a major potential area of abuse, posing the threat of significant losses to Medicare, Medicaid, CHAMPUS, and private insurers, as well as a threat to patients' health care due to faulty or unperformed lab tests.

Three of the nation's largest clinical laboratories paid over $150 million to settle allegations that they submitted claims for unnecessary blood tests. Part of these cases arose from allegations by a whistleblower who charged that the three companies had submitted thousands of false Medicare and Medicaid claims. The labs were accused of manipulating doctors into ordering additional medically unnecessary tests when the doctors ordered basic automated blood tests. This probe is continuing and several other lab companies have acknowledged receiving subpoenas.

One of the labs, which pleaded guilty to the submission of false claims to the CHAMPUS program and to Medi-Cal, was accused of revising its order form so that doctors ordered additional tests as part of a standard test without realizing that Medicare would be charged separately for them. The unnecessary tests allegedly cost Medicare millions of dollars.

In New York, a laboratory that had billed Medicaid more than $39 million over six years was indicted for fraudulently billing for bogus ultrasound and blood tests. It was also indicted for illegally laundering over $1 million in Medicaid profits through the lab in order to generate kickback money. The sales manager of the lab was accused of submitting thousands of false reimbursement claims stating that blood tests and sonograms had been provided to Medicaid recipients, when, in fact, the tests were never medically required. Further, to the extent that services were actually provided, they were done solely to maximize the Medicaid reimbursements.

The lab sales manager then allegedly laundered the Medicaid proceeds by writing checks to fictitious employees and converting the funds to cash in order to pay kickbacks to others and also to make the fraud more difficult for Medicaid to detect.

F. Physicians/practitioners

When physicians and health care practitioners engage in fraudulent practices they not only violate their own code of ethics but also deceive their patients, add enormous costs to an already beleaguered system, possibly endanger lives and, ultimately, betray the public trust.

A physician in Hawaii who specialized in internal medicine and oncology used fake diagnoses to justify billings for treatments never provided to patients. Some examples of the physician's billing practices included: billing for treatment of appendicitis in patients who previously had their appendixes removed; billing for office visits that never took place; and billing for laboratory tests that were not performed. The physician is currently under indictment.

An Arizona physician who practiced as a radiologist is under indictment for obtaining admission into the Medicare Screening Mammography Program by falsely stating that he was certified in radiology by the American Board of Radiology, which is specifically required of interpreting physicians before admitting them to the program. This is done to ensure that a physician meets the requisite conditions for certification such as the necessary experience, continuing education, and written reports requirements.

The physician was also indicted for certain billing practices involving a mobile CT (computerized tomography) scanning service. In addition to performing CT scans of patients, the physician ordered technicians to perform reconstructions of the CT images. He is accused of directing the billing clerk to bill for reconstructions on all CT scans even when he knew that in many cases no reconstruction was done by the technicians.

Over a two-year period, a Maryland physician's billing to Medicaid quadrupled, prompting an investigation. The physician was subsequently accused of double-dipping both Medicaid and the State Department of Social Services for giving physical examinations to disability applicants. Undercover investigators witnessed an office overflowing with drug addicts, disability papers in hand, being examined in four minute intervals. "Comprehensive" exams lasted no more than two to four minutes. Records showed that the physician sometimes saw upwards of 100 patients per day, even though he only spent six hours a day at his practice.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Patients were told to drop off disability forms one day and come back the next day to pick them up, and it was obvious that the forms were being completed before the patients even met with the physician. The physician was certifying "inability to work" without verifying or treating the complaints. He had a rubber stamp with the diagnosis "lumbar spine arthropathy" created to stamp all the "bad back" disabilities. By courting addicts and other potential disability recipients, the doctor built, in a very short time, a practice which billed Medicaid and the State Department of Social Services almost $450,000 a year for services that were so superficial as to be relatively useless. In 1993, the physician filled out more than 9,900 disability forms. Another physician who at one time was in the same practice acknowledged the false certifications, stating that "these people could work."

Unfortunately, the poor care rendered by the physician as a result of his assembly line approach resulted in horror stories of poor patients care—one patient suffered a weight loss of fifty pounds in three months and received no treatment. The physician falsified the blood pressure readings of patients suffering hypertension and these patients often went untreated even though this dangerous problem existed. The physician was eventually convicted of Medicaid fraud and given a suspended sentence.

Minority staff investigators found numerous cases involving kickbacks for sonograms, ultrasound, and other diagnostic imaging tests. For example, a New York radiologist allegedly stole more than $1 million from the New York State Medicaid program during a two-year period by fraudulently billing for thousands of ultrasound tests he never reviewed. His Medicaid claims jumped from $28,000 in one year to more than $1 million two years later. The radiologist allegedly made kickbacks of 75 percent of his billings to so-called "salesmen" who regularly arrived at his office toting shopping bags full of sonograms collected at Medicaid clinics throughout the city.

The physician has been charged with billing Medicaid for reading and interpreting over 11,000 patients' sonograms and echocardiograms, that, in fact, he never reviewed.

A New York podiatrist stole more than $200,000 from Medicaid by repeatedly billing for orthotics made from high-priced custom foot molds never provided to Medicaid patients. The podiatrist filed thousands of false reimbursement claims stating that Medicaid recipients had received expensive custom orthotics—foot molds reimbursable at $46 each—fabricated from actual foot castings when, in fact, the doctor had furnished patients with cheaper devices which should have been reimbursed at only $18 each.

This case is part of an ongoing statewide investigation into Medicaid abuse involving podiatrists, orthotic labs and orthopedic shoe vendors which has resulted in criminal charges against more than 200 individuals for stealing more than $30 million from the New York Medicaid program. To date, 185 convictions have resulted in more than $25 million in court-imposed fines and restitutions.

A Georgia chiropractor, his wife and 15 former patients, were ordered to pay a total of $3.2 million in fines after being convicted of Medicare and private insurer fraud. The couple recruited patients for their clinic by promising kickbacks of up to one third the amount that Medicare or the insurance companies reimbursed. Bills were submitted for patients and their families regardless of whether they had been treated. In one instance, bills were submitted for 169 patients supposedly treated in a single day.

A Utah physician operating a clinic was charged with 34 counts of mail fraud and seven counts of false claims. He had previously been convicted of filing false Medicaid claims in the 1980's. He was to be suspended from the program for a period of ten years.

Following his conviction, however, there was no change in his billing practices. He continued to bill private insurance companies and Medicare and Medicaid (in the names of employed physicians) in the same excessive manner. When he was 'flagged' by insurance companies, he would then set up dummy billing companies to disguise his identity on claim forms. He was recently indicted on, among other things, unbounding services, identifying false diagnoses on claim forms, duplicate billings, misrepresenting the level of service, and billing for services without the knowledge or consent of patients. A jury convicted him on 32 counts.

A Maryland physician-owned corporation was convicted of Medicaid fraud and ordered to pay $190,000 in restitution for submitting false invoices to Medicaid. The corporation sought payment for several different types of medical services, including office visits and laboratory tests, which had not been done and were not medically necessary. The corporation billed Medicaid repeatedly for unnecessary laboratory tests.

In one instance, a young boy was rushed to the physician's office with a lacerated chin. The boy's chin was sutured but, in addition to this procedure, Medicaid was billed for a throat culture, a nasal culture, a non-specific culture, and three hearing tests, despite the fact that there was no reason to perform these services and that the boy's mother stated that none of the tests billed to Medicaid were performed by the physician. The investigation also revealed that the corporation had not purchased sufficient laboratory supplies to have been able to perform the laboratory tests for which Medicaid was billed.

A Pennsylvania physician was convicted of illegal prescribing controlled substances. The physician, also known as "Dr. Xanax," prescribed prescriptions for non-legitimate medical purposes to abusers and dealers. It is estimated that he diverted in excess of 20,000 dosage units of controlled substances per month. He was convicted on 59 counts of illicit distribution of Valium, Adipex, Darvocet, and Vicodin.

A scheme in New York defrauded Medicaid by conducting unnecessary medical tests on drug addicts. The addicts, who were using multiple identities and Medicaid cards, were recruited from the street and given prescriptions for drugs they abused in exchange for participating in the tests.

The insurance billings generated from these tests were made possible by an agreement between the owners of the clinics and staff physicians. For the use of their provider numbers, the physicians received a 40 to 50 percent kickback for all accrued medical charges. Loss to the Medicare and Medicaid programs in this case is estimated at $10 million. Twenty-one individuals, including seven physicians, have been charged or have entered plea agreements. This was one of the first health care fraud investigations in which Racketeer Influence Corrupt Organizations (RICO) charges were levied. Money laundering violations served as the predicate offense for the RICO charge.

A New York physician who operated a methadone treatment center stole more than $1.5 million by fraudulently charging the state for over 25,000 methadone treatments never given to Medicaid recipients. In his illicit four-year billing scheme, the physician not only used the Medicaid numbers of patients who had not yet begun the program or had died, but brazenly appropriated the names and I.D. numbers of patients at a hospital with which he was affiliated who were neither in his care nor even on methadone.

The physician systematically filed thousands of false reimbursement claims stating that he had provided methadone maintenance treatment (reimbursable at almost $60 per week) to over 1,100 Medicaid recipients at his office.

In New York, nine persons involved in a conspiracy in which Medicaid was defrauded of more than $8 million in a little over a year were given prison sentences. The owner of several medical clinics was sentenced to five years imprisonment and five other doctors were sentenced to lesser terms. The doctors were hired by the clinics for the sole purpose of using their Medicaid provider numbers.

The physicians wrote prescriptions for drugs that have a high street value and that ended up being diverted. The scam included rounding up "patients" for the clinics who had valid Medicaid cards, drawing blood and taking blood pressures, and then billing Medicaid for extensive diagnostic tests. The "patients" were also directed to specific pharmacists who filled prescriptions and billed Medicaid for drugs which were then sold on the street.

G. Non-physician providers and professional patients

Pharmacists and pharmaceuticals.—The investigation has found that the diversion of prescription drugs continues to be a major criminal problem. The buying and selling of prescription drugs on the street poses enormous problems for law enforcement, already stretched to its limits, as well as adding immense costs to society by fueling an addicted population and facilitating illegal drug trafficking.

In one of the largest fraud cases ever in New Hampshire, a pharmacist stole almost $375,000 from the State's Medicaid program and private health insurance plans. Over a two-year period, the pharmacist systematically billed over one thousand times for prescription drugs that he did not actually dispense.

The pharmacist fabricated prescriptions to justify his billings. According to State officials, he used insurance information provided by his customers to submit false billings to their insurance companies and also double-billed Medicaid and private insurance for the same services.

This case illustrates how health care fraud can have devastating effects on insurance companies far beyond the actual losses. In addition to violating the trust and confidentiality of his customers, the acts of this pharmacist resulted in the loss of prescription drug benefits to many individuals; because the pharmacist's fraudulent activity caused a local company's health plan to insure high costs, the company was forced to drop its prescription drug converge for about 1500 workers. The loss of the drug card benefit to hundreds of employees is a striking example of how health care fraud victimizes not only insurers, but also employers, employees and their families alike.

In Michigan, several pharmacists obtained large quantities of sample and expired drugs and dispensed them to nursing home patients and pharmacy customers. Pharmacy technicians were instructed to remove sample drugs from their packages, scrape or rub off the word "sample" on the tablet, and place these drugs in the general stock for dispensing prescriptions. Expired drugs generally acquired from the purchase of other pharmacy inventories were handled in a similar manner. The samples and expired drugs were dispensed to nursing home patients and the Medicaid program was fraudulently billed.

Pharmacy technicians had received complaints from nursing home staff and patient relatives regarding the ineffectiveness of the medications delivered. According to testimony at trial, when the technicians confronted the pharmacy owner with these complaints the owner stated "those people are old, they'll never know the difference and they'll be dead soon anyway."

In Florida, a pharmacist was caught purchasing and selling diverted drugs that were samples provided to representatives of drug manufacturers. The pharmacist, the owner of a Broward County pharmacy, was accused of dispensing samples of Feldens, an arthritic drug, and Naprosyn, an anti-inflammatory drug, which had been adulterated by scraping off the mark "Sample" on the capsules. The pharmacist stated that he bought them for cash from a friend who delivered them in plastic bags on a weekly basis. This was in direct violation of the Prescription Drug Marketing Act which provides penalties for selling drug samples in order to ensure that the prescription drugs purchased by consumers are safe and effective.

A black market scheme in New York has allegedly defrauded the Medicaid program by illegally buying and selling costly prescription drugs, including the AIDS medication AZT. The drug diverters are accused of warehousing an inventory of drugs pending resale for cash to pharmacies and other diverters at greatly discounted prices. The medications had originally been dispensed to Medicaid recipients in New Jersey and Connecticut.

In this illicit underground economy, Medicaid recipients—often addicts who are seeking to abuse the system—visit unscrupulous doctors and obtain prescriptions for a laundry list of costly brand name drugs. They then either sell the prescriptions to accommodating druggists or have the prescription filled and peddle their goods to street buyers who, in turn, recycle them to other pharmacies.

New York official stated that this scam was particularly insidious because the ultimate users of the recycled goods—the public—could well be taking drugs that had lost their potency or had been improperly stored and handled. One of those arrested stated that the had just made a $40,000 deal with a New Jersey pharmacy for similar prescription drugs. This case was part of a broader investigation into a vast network of physicians, pharmacists and Medicaid recipients who are engaged in dealing drugs and prescriptions for cash on the black market.

An Illinois illegal narcotics distribution ring containing three ringleaders and a group of nineteen people was charged with diverting over 60,000 Dilaudid pills. According to the Drug Enforcement Administration, Dilaudid, a synthetic, morphine-like substance, is considered the most powerful prescription pain killer sold today.

The group diverted Dilaudid from legitimate channels by using professional patients who visited doctors on a daily basis. Some of the professional patients who were recruited had cancer. One ringleader collected the Dilaudid and then sold it to individuals who took it out of the State of resale. It costs approximately $.40 a tablet at the pharmacy counter, yet demands a street price of $20 to $80 a tablet depending on availability.

Home health care.—The aging of the population, the increasing preference for home and community-based long term care, and major advances in the development of outpatient technology has resulted in the explosive growth for the home care industry in the United States. Unfortunately, commensurate with the growth of this industry has been an increase in home care fraud. Our investigation has revealed that there are two major pockets where some abusive practices have become problematic: in the home health agencies and in home infusion companies (home infusion is an industry that provides intravenous drugs and nutritional therapy for patients who are receiving care at home).

Several patterns of fraud have emerged in home health agencies, such as billing for services not rendered, use of unlicensed or untrained staff, kickbacks to referring physicians, and falsified plans of care for patients. Home health care has tremendous potential to decrease costs of both acute and long-term care and to enhance patients' quality of life. It also, however, presents a disproportionate opportunity for abusive practices, hidden from medical professionals and overseers who cannot watch delivery of care at home.

The home infusion industry has been rocked with charges of kickbacks and overcharging. Some companies have allegedly charged patients fees at much as 2,000 percent higher than hospital charges. An examination by the HHS Inspector General has revealed three types of kickback schemes used by home infusion companies to defraud the federal government: direct payment of money to a physician for the referral of patients; stock bonuses based on the amount of referrals; and companies, through the use of recruiters, soliciting beneficiaries rather than doctors.

At the end of 1994, new legislation will prohibit Medicare payment for referrals by physicians to home infusion companies in which they have a financial interest. However, this payment prohibition only applies to physicians and will not correct the potential kickback violations with the referral of patients for IDPN, and infusion used for nutrition at the same time a patient is undergoing dialysis. The HHS IG has ongoing investigations in six regions targeting home infusion companies. In addition, it has a national case pending against one of the major home infusion companies in the nation. 1993 total revenues for home infusion therapy topped $4 billion.

The owners of a large New York home health care company stole more than $4.6 million from the New York State Medicaid program by systematically billing, over a three-year period, for services rendered by untrained and unqualified home care aides. The company was accused of grossly inflating, by as much as 30,000 hours, the amount of time these employees actually worked. The company recruited untrained employees who were often immediately assigned to care for homebound Medicaid recipients, assisting them with such personal chores as bathing, dressing and feeding, and other support functions.

This scheme not only cheated Medicaid out of millions of dollars, but it also recklessly sent untrained health care workers—including a 14 year-old girl to care for a 4-year-old child with Down's syndrome—into the homes of disabled and elderly residents. According to New York officials, home care has become the fastest-growing part of the New York Medicaid program—ballooning from $400 million to over $2 billion a year since 1986.

A vivid example of kickbacks for home care patient referrals involved a family in South Florida that established four companies to distribute liquid nutritional supplements, including a milk supplement, to Medicare beneficiaries. These nutritional supplements are reimbursable by Medicare if a physician signs a Certificate of Medical Necessity indicating that the supplement is appropriate for the patient. The companies hired recruiters to go into South Florida communities with heavy concentrations of elderly residents and other "free medical milk." The senior residents then were signed on as new patients, monthly deliveries of nutritional supplements were made and Medicare was billed for these services.

The recruiters had made arrangements with Miami-area physicians to certify the medical need for the supplement. The company made kickback payments of $100 to the recruiters for the "Certificate of Medical Necessity" obtained, and the recruiters, in turn, paid kickbacks to the physicians who had signed the certifications. In less than two years, the companies had billed Medicare for over $14 million.

None of the elderly residents interviewed by the FBI during the investigation was qualified for the nutritional supplement, which is currently reimbursed by Medicare at a rate of $600 per month per beneficiary. Twelve individuals, including several physicians were indicted.

A Ohio girl who suffered from cerebral palsy was able to live at home with the help of intravenous drugs and nutritional therapy. Bills generated from her treatments ranged from $95,000 to $120,000 a month. The family filed a lawsuit against the home infusion company alleging overcharging and poor quality of care. In less than a year, the family's two private insurance policies' limit of $1 million was used up. Comparisons showed that it cost close to $1,000 a day more to treat the little girl at home than it would have cost to treat her in a hospital. When the insurance lapsed, a court order was needed to compel the supplier to keep the supply of treatment items coming to the house. The girl's mother was eventually forced to quit her job in order to qualify for Medicaid, ironically to pay for the treatment which was supposed to save money compared to the more expensive inpatient hospital fees.

Medical billing services.—The investigation found that the administrative complexity of the current health system has spawned a growth industry of billing companies to file reimbursement claims to both private insurers and federal health care programs. A consequence of this complexity is that billing firms at times falsify claims information with elaborate fraudulent schemes.

The recent case of a California medical billing service illustrates how easy it is under the current health care system to be reimbursed for services which are never actually provided.

In August 1992, state and federal agents began an investigation into a sham medical billing service that was submitting claims to insurance companies nationwide for laboratory services. The owners of the billing service first gained entry to the system when they were previously employed by another billing service. Without the knowledge of their former employer or coworkers, the con artists photocopied and smuggled home hundreds of claim forms, doctors' billing numbers, and patients' medical information.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Armed with this information, the operators set up their own phony billing service, and submitted over $2.3 million in bogus claims for lab services that were never actually performed.

By the time federal investigators arrested the owners of this company, the operators had set up several "billing services," under at least five separate names. Each of these bogus entities had its own billing address and false business licenses.

Committee staff is concerned that the scheme only came to light after subscribers began to notify their insurance companies that they had received Explanations of Benefits (EOB) for services they had never received or for services performed by a physician they did not even know. Since many subscribers never reviewed their EOB's, some insurance companies continued to pay claims without question. As complaints from subscribers began to mount, however, insurance company investigators began to notice a pattern of fraud, and realized that the companies had each been paid hundreds of thousands of dollars in fraudulent billings.

At the time of arrest, the sham billing company's owners had stolen over $1.5 million from insurance companies across the country, and had submitted additional false bills for a total of $2.3 million in bogus bills.

Ambulance and taxi services.—Medicaid-paid transportation services is an area ripe for abuse. For example, a common practice is routinely inflating the amounts billed to the program by overstating the miles travelled. There is also fierce competition among operators in these industries to obtain Medicaid business. In one Maryland operation, for example, an unscrupulous taxicab owner violently beat a competitor who was waiting outside a clinic looking for riders.

In New York, Medicaid pays for a patient's transportation to a medical provider either when mass transit is unavailable in the recipient's area or when the patient, because of a debilitating physical or mental condition, cannot use mass transit.

The owner of a New York taxi firm allegedly stole over $100,000 from the State by fraudulently billing for thousands of taxi rides never given to Medicaid patients. The president of the taxicab company was charged with filing more than 3,000 false reimbursement claims stating that his two taxi firms had provided over 300 Medicaid recipients with taxi service on days when, in fact, no transportation at all was provided.

This case is part of ongoing investigation of New York's medical transportation industry which, to date, has resulted in convictions against 66 individuals.

The owner of a Massachusetts taxi company was recently indicted on Medicaid provider fraud and state tax violations. He is accused of charging Medicaid for separate rides when two or more recipients shared the same taxi. State Medicaid regulations require that taxi firms split the fare when two or more share the ride. Employees of the company were also indicted for failing to file tax returns over a three-year period.

A Virginia Medicaid transportation service was convicted of a criminal violation of the federal False Claims Act. The owner of the company submitted claims to Medicaid with inflated mileage for transporting indigent patients to and from health care centers. The owner was sentenced to one year probation.

Professional patients.—Our investigation found that health care providers are not the sole abusers of the health care system. Conversely, our investigation found significant abuse by so-called "professional patients" who scam the system by providing their own medical histories, blood or lab samples as the basis for fraudulent claims. In some instances these patients are provided kickbacks or inducements by health care providers to participate in schemes, while in other instances the patients themselves are the originators of the scams.

The owner of a New York medical clinic was accused of submitting bills to Medicaid for medical services, blood analysis, drug prescriptions, and laboratory tests which were medically unnecessary. Physician assistants who worked at the clinic said that little medical treatment was actually administered at the clinic. A scheme was allegedly devised in which "patients" would routinely demand certain prescribed drugs, submit to a battery of unnecessary tests, and give blood in order to receive the drugs, which the "patients" would later sell on the street. The owner allegedly paid doctors and physicians assistants five dollars per blood sample as a kickback. He then billed New York Medicaid to pay for the analysis the clinic conducted on the blood samples.

A New York woman, who had four different aliases, was arrested on mail fraud charges for making false claims seeking reimbursement for medical treatment that was never actually rendered. Over a four-year period, the woman had submitted approximately 48 claims for direct reimbursement from her private insurance carrier. The carrier contacted the treating physicians named on the claims and learned that virtually all the claims were false. In one instance, she claimed that she was treated by a dermatologist on a date when he was actually on vacation.

IV. FINDINGS OF INVESTIGATION—DEFICIENCIES IN THE CURRENT SYSTEM IMPEDE LAW ENFORCEMENT'S ABILITY TO COMBAT HEALTH CARE FRAUD

While the cases included in this report represent only a small sample of fraud and abuse perpetrated against public and private health care programs, they serve to illustrate the vulnerability of our health care system. The invgstigation of these and other cases and our extensive review of current federal and state enforcement efforts lead us to conclude that major deficiencies exist in our defenses against health care fraud, allowing billions of dollars to be lost each year to fraud and abuse. We further conclude that as our health care system moves toward a managed care model, even greater opportunities for fraud will occur, exposing our health care system to even greater dollar losses.

A. Major patterns of fraud exist throughout the entire health care system and patterns of fraud within some provider groups have become particularly problematic

Our investigation concluded that vulnerabilities to fraud exist throughout the entire system, affecting federal, state, and private health care plans alike. Major patterns of abuse that continue to plague the health care system are overbilling, billing for services not rendered, unbundling and upcoding services to receive higher reimbursements, providing inferior products, paying kickbacks and inducements for referrals of patients, falsifying claims and medical records to receive excessive reimbursement or to fraudulently certify a patient's eligibility for Medicaid, Social Security disability, or state welfare programs.

While these practices exist throughout the health care system and are perpetrated against both public and private health plans, our investigation found that health care schemes used to victimize payers and patients have become more complex and frequently involve regional or national corporations and other organized entities. No part of the health care system is exempt from these fraudulent practices, however, our investigation raises concerns that major patterns of fraud and abuse have existed in the following health care sectors: ambulance and taxi services, clinical laboratories, durable medical equipment suppliers, home health care, nursing homes, physicians, psychiatric services, and rehabilitative services in nursing homes. Our investigation further concludes that fraud and abuse is particularly rampant in Medicaid, and that many of the fraudulent schemes that have preyed on the Medicare program in recent years are now targeting the Medicaid program for further abuse.

We are continuing to investigate specific fraudulent schemes, particularly with regard to Medicaid and Medicare fraud.

B. Greater opportunities for fraud will exist under health care reform

As our health care system moves toward a managed care model, opportunities for fraud and abuse will increase unless enforcement efforts and tools are strengthened. Our investigation concludes that the structure and incentives of a managed care system will result in a concentration of particular types of schemes, such as failure to provide services; quality of care deficiencies; falsification or misrepresentation of professional credentials by providers; subcontractor fraud; submission of false costa data to obtain higher capitation rates; fraudulent or deceptive enrollment practices by health plans; and kickbacks, rebates, and other illegal economic arrangements to increase market share of health care services.

The experiences of several states' Medicaid programs illustrate that managed care systems often provide greater incentives and opportunities for providers to engage in health care fraud.

For example, the Arizona Health Care Cost Containment System Fraud Unit has found that Arizona's Medicaid managed care-style program has been subject to embezzlement of funds paid by the state for client services; fraudulent subcontracts; wire and mail fraud; fraudulent related party transactions; and kickbacks among physicians, osteopaths, home health care facilities, DME suppliers, and physical therapists.

The AHCCCS Fraud Unit concluded that the managed care structure of the Arizona Medicaid program offered opportunities for kickbacks and other types of health care fraud. Similarly, many other states' Medicaid Fraud Control Units have found that states which require their Medicaid beneficiaries to participate in managed care programs have experienced significant incidences of fraud, such as fraudulent marketing techniques and falsification of enrollments of new members to plans, reduced quality of care, improper disenrollment practices, deceptive marketing practices to potential enrollees, and providing substandard care to enrollees in the managed care plans.

These state experiences with HMO's and managed care plans illustrate that comprehensive health care reform incorporating the principles of managed care will exacerbate the opportunities and incentives for providers to engage in fraud and abuse.

Moreover, two other key aspects of health care reform could affect enforcement efforts. First, while uniform, standard claims forms will go far in reducing the complexity of the health care system, these revised claims forms must be designed with enforcement in mind, so that factors can be built in to detect fraud and abuse more easily. Second, electronic billing systems, while again reducing complexity, will eliminate the paper trail that enables law enforcement to track fraudulent practices. Any such system must be designed with safeguards built in to detect and deter fraud and abuse.

C. Current criminal and civil statutes are inadequate to effectively sanction and deter health care fraud

Both the Department of Justice and the Department of Health and Human Services endorse strengthening the tools available to prosecute criminal and civil cases. Currently, Federal prosecutors use traditional fraud statutes, such as the mail and wire fraud statutes, the False Claims Act, false statement statutes, and money laundering statute to prosecute health care fraud.

Additional tools, such as penalties for false claims, anti-kickback statutes, and the authority to exclude providers from participation in Medicare and Medicaid, are now available to redress fraud and abuse in the Medicare and Medicaid programs.

Despite the availability of these criminal and civil remedies, our investigation has concluded that several deficiencies exist in the tools available to law enforcement to combat fraud and abuse most effectively in the health care system. For example: Inordinate time and resources are devoted to apply traditional fraud and money laundering statutes to health care fraud.

While many egregious cases of health care fraud have been successfully prosecuted under the mail and wire fraud statutes, because there is currently no specific federal health care fraud criminal statute available to federal prosecutors, excessive time and resources must be devoted to developing a nexus to the mail and wire fraud statutes in order to pursue clear cases of fraud. Similarly, extensive resources are spent trying to track the cash flow from health care fraud schemes in order to prosecute under federal money laundering statutes. Relying on these more generic federal criminal statutes for prosecution results in an inefficient use of scarce law enforcement resources.

The case of the bogus medical billing service in California which stole over $1.5 million from insurance companies nationwide before they were arrested by federal agents provides a prime example of how extensive resources are spent on proving a nexus to traditional fraud statutes: the FBI estimates that hundreds of additional investigative staff hours were devoted to proving the trail of expenditures in order to prove money laundering, because a federal health care fraud statute does not exist.

Creation of a new, general health care fraud offense prohibiting schemes to defraud federal or private health plans or persons in connection with the delivery of or payment for health care is necessary to provide a direct response to intentional acts to defraud the health care system.

In addition to providing a more efficient response to health care fraud, the establishment of a federal health care fraud offense sends an important message that health care fraud will be pursued with the same rigor as financial institution fraud, securities fraud, computer fraud, and other areas of white collar crime in which the federal government plays a prominent enforcement role. This type of provision is included in an amendment currently pending on the omnibus crime legislation, as well as in several comprehensive health care reform proposals.

79-059 O—97 Vol. 140 (Pt. 15) 30

D. Improvements are necessary in the current medicare and medicaid fraud statutes

Based on our investigation, we find that additional tools are necessary to curb abuse in the Medicare and Medicaid programs. For example, the current remedies for violations of the anti-kickback statute (for kickbacks made to induce the referral of Medicare and Medicaid business) are criminal prosecution and exclusion from the Medicare and Medicaid programs.

It is important to deter kickbacks in order to deter overutilization of health care services, inappropriate "steering" of Medicare or Medicaid patients to more expensive, unqualified, or poorly equipped providers, and giving an unfair advantage to providers who offer kickbacks. When only criminal prosecution and exclusion from participation in Medicare and Medicaid are available as remedies, however, federal law enforcement may be reluctant to impose such sanctions, consequently allowing the illegal activity to go unaddressed.

Therefore, we conclude that civil monetary penalties should also be available as intermediate sanctions for anti-kickback violations in order to ensure that enforcement actions are taken against anti-kickback violations.

Similarly, it is important to provide a range of sanctions for other fraudulent or abusive activities against the Medicare or Medicaid programs, such routine waivers of copayments (except in appropriate circumstances), and the practice of knowingly submitting claims for a higher reimbursement rate than allowed under Medicare (so-called "upcoding"). Providing a full array of enforcement tools against health care fraud will better enable swift, fair responses to health care abuse.

E. Due to flaws in enforcement efforts of private payers, billions of health care dollars are vulnerable to fraud and abuse

While the federal government has many authorities available to it to combat fraud and abuse in the Medicare and Medicaid programs, private sector payers are at a greater disadvantage in fighting health care fraud, because they have a more limited set of tools available in their enforcement arsenal.

For example: Generally, insurers do not have civil monetary penalties or false claims statutes available to them to sanction claims submitted for reimbursement, false advertising, or false statements made to private health plans.

Further, despite the fact that kickbacks are a common element of many health care frauds against private insurers and health plans, many states do not have adequate anti-kickback statutes in place.

Another major obstacle facing private health plans is the lack of information available on whether a health care provider has been sanctioned for fraud in other parts of the health care system, thus leaving the plans exposed to further fraud and abuse. When a provider has been excluded from participation in Medicare or Medicaid for defrauding the programs, for example, they continue to participate—and may continue fraudulent activities—in private health plans.

Finally, private payers generally have less authority to recover overpayments than is available under the Medicare or Medicaid programs.

In addition to these statutory obstacles facing private enforcement efforts, the sheer number of different payers in the current health care system—now numbering over 1,000—results in a multiplicity of different rules, reimbursement policies, claim forms, multiple identification numbers, coding systems, and billing procedures. The complexity of the current health care system allows fraud and abuse to flourish and go undetected, resulting in billions of health care dollars lost to fraud and abuse each year.

F. The fragmentation of current health care fraud enforcement encourages exploitation of the system by fraudulent providers

A multiplicity of Federal, State, and local enforcement agencies, as well as private health insurers and health plans, are involved in various aspects of the investigation or prosecution of health care fraud. Since fraudulent providers often infiltrate many different health care plans, it is crucial that law enforcement efforts be as coordinated as possible in order to detect emerging trends in health care fraud, fully shut down fraudulent schemes, and prevent them from recurring in other parts of the health care system.

Inadequate collaboration in combating health care fraud takes a particular toll on the ability of private sector insurers to reduce fraud, and results in higher premiums for all insured. The costs for an individual insurer to investigate fraud and abuse act as a substantial disincentive to investigate—instead, it is much simpler to increase the overall premiums to cover the losses from health care fraud.

Recently, major efforts have been undertaken to better coordinate federal and state agencies involved in combating health care fraud and abuse. For example, the Department of Justice and the HHS Inspector General have established an Executive Level Health Care Fraud Policy Group to identify new methods to proceed against health care fraud, identify priority areas for fraud enforcement, and remove bureaucratic obstacles to enforcement efforts. Similarly, the Inspectors General from federal agencies have begun to better coordinate their responses to health care fraud in programs within their jurisdictions.

Our investigation concluded that substantial progress has been made toward coordinating health care fraud enforcement, but that additional steps are necessary to streamline enforcement procedures, share information among public and private health care agencies, and ensure that health care fraud is reported and referred for appropriate enforcement actions.

V. Recommendations

Based on our investigation and findings, we recommend that several reforms be adopted to reduce fraud and abuse throughout the health care system. Specifically, we recommend the following:

1. Establish an all-payer fraud and abuse program to coordinate the functions of the Attorney General, Department of Health and Human Services, and other organizations to prevent, detect, and control fraud and abuse, and to coordinate investigations, and share data and resources with federal, state, and local law enforcement and health plans.

2. Establish an all-payer fraud and abuse trust fund to finance enforcement efforts. Establishing a "revolving fund" to finance enforcement efforts would go far in addressing the current resource problems that plague federal health care fraud enforcement efforts. Fines, penalties, assessments, and forfeitures collected from health care fraud offenders would be deposited in this fund, which would in turn be used to fund additional investigations, audits, and prosecutions. Amounts in this fund would increase, not supplant, the operating budgets of federal law enforcement agencies with jurisdiction over health care fraud.

VOL
140
PT
15
AG
10
11
1994
UMI

3. Toughen federal criminal laws and enforcement tools for intentional health care fraud. Specifically, create a federal health care fraud offense; provide criminal forfeiture and civil injunctive relief for health care fraud offenses; establish hear care fraud as a predicate to the Racketeer Influenced Corrupt Organizations Act (RICO); and expand the civil False Claims Act to cover claims to health plans.

4. Improve the anti-kickback statute and extend prohibitions of Medicare and Medicaid to private payers. Specifically, expand current Medicare and Medicaid anti-kickback statute to private payers and to all federal health care programs; provide civil monetary penalties for anti-kickback violations; and provide injunctive relief for anti-kickback violations.

5. Provide a greater range of enforcement remedies to private sector health plans, such as civil penalties.

6. Establish a national health care fraud data base that includes information on final adverse actions taken against health care providers. Such a data base should contain strong safeguards in order to ensure the confidentiality and accuracy of information contained in this system.

7. Design a simplified, uniform claims form for reimbursement and an electronic billing system, with tough anti-fraud controls incorporated into these designs from their inception.

8. Take several steps to better protect Medicare from fraudulent provider billing practices, such as:

Revise and strengthen national standards that suppliers and other providers must meet in order to obtain or renew a Medicare provider number;

Prohibit Medicare from issuing more than one provider billing number to an individual or entity (except in specified circumstances), in order to prevent providers from "jumping" from one billing number to another in order to double-bill or avoid detection by auditors;

Require Medicare to establish more uniform national coverage and utilization policies for what is reimbursed under Medicare, so that providers cannot "forum shop" in order to seek out the Medicare carrier who will pay a higher reimbursement rate;

Require the Health Care Financing Administration to review and revise its billing codes for supplies, equipment and services in order to update, clarify, and standardize billing codes. HCFA should be required to improve the descriptions used for reimbursement codes so that they accurately reflect the items being furnished and to make them sufficiently explicit to distinguish between items of varying quality and price. Such an updating of the billing codes used by HCFA would be a major step toward eliminating excessive reimbursements for poor quality items and Medicare reimbursement that far exceed a fair price for the item; and

Provide adequate guidance to health care providers on how to comply with anti-kickback and other health care fraud prohibitions. We recognize that due to the complexity of the health care market, many providers have difficulty interpreting reimbursement policies of public and private health plans, as well as difficulty in determining whether specific relationships with other providers or billing practices are prohibited under anti-fraud provisions. If comprehensive health care reform proposals are enacted, further confusion over what constitutes prohibited activity may result. Therefore, we recommend that the Secretary of HHS, working with the HHS Inspector General and the Department of Justice, develop a system to provide better guidance to health care providers on how to comply with anti-kickback and other health care fraud provisions.

Many of these recommendations are included in health care reform proposals now pending before Senate and House committees. Additionally, the Senate-passed version of omnibus crime legislation, now pending in conference, includes provisions to facilitate criminal prosecution of health care fraud.

While we are pleased that many of these proposals are now under consideration by the Congress, we are deeply concerned that the huge magnitude of health care fraud and the critical importance of improving enforcement efforts immediately has not received adequate attention during the course of the health care reform debate.

With over $275 million being lost each day to health care fraud and abuse, we can no longer afford to wait to toughen our defenses against unscrupulous providers and others who are bleeding our health care system. Accordingly, we recommend a two-step process;

First, action should be taken immediately to strengthen criminal laws and enforcement tools to stop abuses of our current health care system. Too many dollars and lives are at stake to delay what can and should be done now to reduce health care fraud; and

Second, tough anti-fraud and abuse provisions must be built into the foundation of any health care reform plan enacted by the Congress so that unscrupulous providers will not take advantage of health care reform to further game the system.

ADDITIONAL COSPONSORS

S. 922

At the request of Ms. MOSELEY-BRAUN, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 922, a bill to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court.

S. 1288

At the request of Mr. AKAKA, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 2060

At the request of Mr. BUMPERS, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Georgia [Mr. NUNN], the Senator from Michigan [Mr. LEVIN], the Senator from Iowa [Mr. HARKIN], the Senator from Massachusetts [Mr. KERRY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Alabama [Mr. HEFLIN], the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 2060, a bill to amend the Small Business Act.

S. 2134

At the request of Mr. FAIRCLOTH, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 2134, a bill to restore the American family, reduce illegitimacy, and reduce welfare dependence.

S. 2286

At the request of Mr. LUGAR, the names of the Senator from Wyoming [Mr. WALLOP], the Senator from Kansas [Mr. DOLE], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 2286, a bill to amend title 23, United States Code, to provide for the use of certain highway funds for improvements to railway-highway crossings.

S. 2294

At the request of Mr. HATFIELD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2294, a bill to amend the Public Health Service Act to provide for the expansion and coordination of research concerning Parkinson's disease and related disorders, and to improve care and assistance for its victims and their family caregivers, and for other purposes.

S. 2305

At the request of Mr. AKAKA, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2305, a bill to provide that members of the Board of Veterans' Appeals be referred to as veterans law judges, to provide for the pay of such members, and for other purposes.

S. 2335

At the request of Mr. BROWN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2335, a bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require that OMB and CBO estimates for pay-go purposes to recognize the increased revenues generated by economic growth resulting from legislation implementing any trade agreement.

SENATE JOINT RESOLUTION 169

At the request of Mr. WARNER, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Tennessee [Mr. SASSER], the Senator from Nevada [Mr. BRYAN], the Senator from New York [Mr. D'AMATO], the Senator from Montana [Mr. BURNS], the Senator from Maryland [Ms. MIKULSKI], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from West Virginia [Mr. BYRD], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Joint Resolution 169, a joint resolution to designate July 27 of each year as "National Korean War Veterans Armistice Day".

SENATE JOINT RESOLUTION 192

At the request of Mr. KOHL, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Joint Resolution 192, a joint resolution to designate October 1994 as "Crime Prevention Month."

SENATE JOINT RESOLUTION 209

At the request of Mr. COCHRAN, the names of the Senator from Montana [Mr. BAUCUS], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 209, a joint resolution designating November 21, 1994, as "National Military Families Recognition Day."

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. DOLE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America.

SENATE CONCURRENT RESOLUTION 64

At the request of Mrs. MURRAY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 64, a concurrent resolution expressing the sense of the Congress regarding the Guatemalan peace process and the need for greater protection of human rights in Guatemala.

AMENDMENT NO. 1887

At the request of Mr. BAUCUS the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Amendment No. 1887 intended to be proposed to S. 687, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

AMENDMENT NO. 2380

At the request of Mr. FEINGOLD his name was added as a cosponsor of Amendment No. 2380 proposed to H.R. 4603, a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

AMENDMENT NO. 2479

At the request of Mr. JEFFORDS his name was added as a cosponsor of Amendment No. 2479 proposed to H.R. 4650, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

AMENDMENT NO. 2500

At the request of Mr. STEVENS the names of the Senator from Texas [Mrs. HUTCHISON] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Amendment No. 2500 proposed to H.R. 4650, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

AMENDMENT NO. 2515

At the request of Mr. DOLE the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Amendment No. 2515 proposed to H.R. 4650, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

At the request of Mr. MCCAIN the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Amendment No. 2515 proposed to H.R. 4650, supra.

At the request of Mr. SMITH his name was added as a cosponsor of Amendment No. 2515 proposed to H.R. 4650, supra.

At the request of Mr. DOMENICI his name was added as a cosponsor of Amendment No. 2515 proposed to H.R. 4650, supra.

AMENDMENT NO. 2518

At the request of Mr. MCCAIN the names of the Senator from New Mexico [Mr. DOMENICI] and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of Amendment No. 2518 proposed to H.R. 4650, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

AMENDMENT NO. 2520

At the request of Mr. THURMOND the names of the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Amendment No. 2520 proposed to H.R. 4650, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

AMENDMENT NO. 2521

At the request of Mr. STEVENS the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Amendment No. 2521 proposed to H.R. 4650, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

AMENDMENT NO. 2524

At the request of Mr. NUNN the names of the Senator from Virginia [Mr. WARNER], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Amendment No. 2524 proposed to H.R. 4650, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

AMENDMENT NO. 2525

At the request of Mr. HARKIN the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Arizona [Mr. DECONCINI], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Amendment No. 2525 proposed to H.R. 4650, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

AMENDMENT NO. 2530

At the request of Mr. BINGAMAN the names of the Senator from Pennsylvania [Mr. WOFFORD] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Amendment No. 2530 proposed to H.R. 4650, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

AMENDMENTS SUBMITTED

TRANSFER OF THE OLD U.S. MINT ACT

MCCAIN (AND BOXER) AMENDMENT NO. 2551

Mr. GORTON (for Mr. MCCAIN for himself and Mrs. BOXER) proposed an amendment to the bill (H.R. 4812) to direct the Administrator of General Services to acquire by transfer the Old U.S. Mint in San Francisco, California, and for other purposes; as follows:

Add at the end of the bill the following new section:

SEC. 2. REPAIRS OF OLD U.S. MINT, SAN FRANCISCO.

(a) IN GENERAL.—Nothing in this Act shall be construed to force the General Services Administration to repair the Old U.S. Mint building prior to repairs to other Federal buildings in greater need of repair.

HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATION ACT OF 1993

EXON AMENDMENT NO. 2552

Mr. FORD (for Mr. EXON) proposed an amendment to the bill (S. 1640) to amend the Hazardous Materials Transportation Act to authorize appropriations to carry out that act, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS

SEC. 101. SHORT TITLE.

This title may be cited as the "Hazardous Materials Transportation Authorization Act of 1994".

SEC. 102. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 5127(a) (relating to authorization of appropriations) is amended by striking

VOL 140 PT 15 AG 10 — 11 1994 UMI

out "the fiscal year ending September 30, 1993," and inserting "fiscal year 1993, $18,000,000 for fiscal year 1994, $18,540,000 for fiscal year 1995, $19,100,000 for fiscal year 1996, and $19,670,000 for fiscal year 1997".

SEC. 104. EXEMPTIONS FROM REQUIREMENT TO FILE REGISTRATION STATEMENT.

Section 5108(a) (relating to persons required to file) is amended by adding at the end the following new paragraph:

"(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.".

SEC. 105. PLANNING GRANTS FOR INDIAN TRIBES.

(a) AUTHORITY TO MAKE GRANTS.—Section 5116(a)(1) (relating to planning grants) is amended—

(1) by inserting "and Indian tribes" after "States" the first place it appears; and

(2) by striking "in a State and between States" and inserting "on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe".

(b) MAINTENANCE OF EFFORT.—Section 5116(a)92) (relating to planning grants) is amended—

(1) by inserting "or Indian tribe" after "State" the first and third places it appears;

(2) by striking "the State" the second place it appears;

(3) by inserting "the State or Indian tribe" before "certifies"; and

(4) by inserting "the State" before "agrees".

(c) COORDINATION OF PLANNING.—Section 5116(a) (relating to planning grants in general) is amended by adding at the end the following new paragraph:

"(3) A State or Indian tribe receiving a grant under this subsection shall ensure that planning under the grant is coordinated with emergency planning conducted by adjacent States and Indian tribes.".

SEC. 106. TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION.

Section 5107(d) (relating to coordination of training requirements) is amended—

(1) by inserting "or duplicate" after "conflict with"; and

(2) by striking "hazardous waste operations and" and inserting "hazard communication, and hazardous waste operations, and".

SEC. 107. DISCLOSURE OF FEES LEVIED BY STATES, POLITICAL SUBDIVISIONS, AND INDIAN TRIBES.

Section 5125(g) (relating to fees) is amended—

(1) by inserting "(1)" after "(g) FEES.—"; and

(2) by adding at the end the following:

"(2) A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall, upon the Secretary's request, report to the Secretary on—

"(A) the basis on which the fee is levied upon persons involved in such transportation;

"(B) the purposes for which the revenues from the fee are used;

"(C) the annual total amount of the revenues collected from the fee; and

"(D) such other matters as the Secretary requests.".

SEC. 108. ANNUAL REPORT.

Section 5121(e) (relating to annual report) is amended—

(1) by striking "Annual" in the subsection heading, and

(2) by striking the first sentence and inserting the following: "The Secretary shall, once every 2 years, prepare and submit to the President for transmittal to the Congress a comprehensive report on the transportation of hazardous materials during the preceding 2 calendar years.".

SEC. 109. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(A) IN GENERAL.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway systems technologies to promote hazardous materials transportation safety. The Secretary of Transportation shall ensure that 2 or more operational tests funded under such Act shall promote such safety and advance technology for providing information to persons who provide emergency response to hazardous materials transportation incidents.

(b) GRANTS FOR CERTAIN EMERGENCY RESPONSE INFORMATION TECHNOLOGIES.—

(1) In carrying out one of the operational tests under subsection (a), the Secretary of Transportation may make grants to one or more persons, including a State or local government or department, agency, or instrumentality thereof, to demonstrate the feasibility of establishing and operating computerized telecommunications emergency response information technologies that are used—

(A) to identify the contents of shipments of hazardous materials transported by motor carriers;

(B) to permit retrieval of data on shipments of hazardous materials transported by motor carriers;

(C) to link systems that identify, store, and allow the retrieval of data for emergency response to incidents and accidents involving transportation of hazardous materials by motor carrier; and

(D) to provide information to facilitate responses to accidents and incidents involving hazardous materials shipments by motor carriers either directly or through linkage with other systems.

(2) Any project carried out with a grant under this subsection must involve two or more motor carriers of property. One of the motor carriers selected to participate in the project must be a carrier that transports mostly hazardous materials. The other motor carrier selected must be a regular-route common carrier that specializes in transporting less-than-truckload shipments. The motor carriers selected may be engaged in multimodal movements of hazardous materials with other motor carriers, rail carriers, or water carriers.

(3) To the maximum extent practicable, the Secretary of Transportation shall coordinate a project under this subsection with any existing Federal, State, and local government projects and private projects which are similar to the project under this subsection. The Secretary may require that a project under this subsection be carried out in conjunction with such similar Federal, State, and local government projects and private projects.

SEC. 110. RAIL TANK CAR SAFETY.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations under the following:

(1) The rulemaking proceeding under Docket HM-175A entitled "Crashworthiness Protection Requirements for Tank Cars".

(2) The rulemaking proceeding under Docket HM-201 entitled "Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Car Tanks".

SEC. 111. SAFE PLACEMENT OF TRAIN CARS.

The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act.

SEC. 112. GRADE CROSSING SAFETY.

The Secretary of Transportation shall, within 6 months after the date of enactment of this Act, amend regulations—

(1) under chapter 51 of title 49, United States Code, (relating to transportation of hazardous materials) to prohibit the driver of a motor vehicle transporting hazardous materials in commerce, and

(2) under chapter 315 of such title (relating to motor carrier safety) to prohibit the driver of any commercial motor vehicle,

from driving the motor vehicle onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping.

SEC. 113. DRIVER'S RECORD OF DUTY STATUS.

(a) IN GENERAL.—

(1) The Secretary of Transportation shall prescribe regulations amending part 395 of title 49, Code of Federal Regulations, to improve—

(A) compliance by commercial motor vehicle drivers and motor carriers with hours of service requirements; and

(B) the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance.

(2) Such regulations shall be proposed not later than 12 months after the date of enactment of this Act and shall be issued and become effective not later than 18 months after such date of enactment. In prescribing the regulations, the Secretary of Transportation shall ensure that compliance can be achieved at a cost that is reasonable to drivers and motor carriers.

(b) CONTENTS OF REGULATIONS.—Such regulations shall include the following:

(1) A description of identification items (which include either driver name or vehicle number) that shall be part of a written or electronic document to enable such written or electronic document to be used by a motor carrier or by an enforcement officer as a supporting document to verify the accuracy of a driver's record of duty status.

(2) A provision specifying the number, type, and frequency of supporting documents that must be retained by a motor carrier so as to allow verification of the accuracy of such documents at a reasonable cost, to the driver and the motor carrier, of record acquisition and retention.

(3) A provision specifying the period during which supporting documents shall be retained by the motor carrier. The period shall be at least 6 months from the date of a document's receipt.

(4) A provision to authorize, on a case-by-case basis, motor carrier self-compliance systems that ensure driver compliance with hours of service requirements and allow Federal and State enforcement officers the opportunity to conduct independent audits of such systems to validate compliance with section 395.8(k) of title 49, Code of Federal Regulations (or successor regulations thereto). Such authorization may also be provided by the Secretary to a group of motor carriers that meet specific conditions that may be established by regulation by the Secretary and that are subject to audit by Federal and State enforcement officers.

(5) A provision to allow a waiver, on a case-by-case basis, of certain requirements of section 395.8(k) of title 49, Code of Federal Regulations (or successor regulations thereto), when sufficient supporting documentation is provided directly and at a satisfactory frequency to enforcement personnel by an intelligent vehicle-highway system, as defined by section 6059 of the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note). Such waiver may also be allowed for a group of motor carriers that meet specific conditions that may be established by regulation by the Secretary.

(c) SUPPORTING DOCUMENT DEFINED.—For purposes of this section, a supporting document is any document that is generated or received by a motor carrier or commercial motor vehicle driver in the normal course of business that could be used, as produced or with additional identifying information, to verify the accuracy of a driver's record of duty status.

SEC. 114. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS.

(a) AMENDMENT OF REGULATIONS.—Within 18 months after the date of enactment of this Act, the Secretary of Transportation shall amend section 391.23 of title 49, Code of Federal Regulations (or successor regulations thereto), to—

(1) specify the safety information that must be sought under that section by a motor carrier with respect to a driver;

(2) require that such information be requested from former employers and that former employers furnish the requested information within 30 days after receiving the request; and

(3) ensure that the driver to whom such information applies has a reasonable opportunity to review and comment on the information.

(b) SAFETY INFORMATION.—The safety information required to be specified under subsection (a)(1) shall include information on—

(1) any motor vehicle accidents in which the driver was involved during the preceding 3 years;

(2) any failure of the driver, during the preceding 3 years, to undertake or complete a rehabilitation program under section 31302 of title 49, United States States Code, (relating to limitation on the number of driver's licenses) after being found to have used, in violation of law or Federal regulation, alcohol or a controlled substance;

(3) any use by the driver, during the preceding 3 years, in violation of law or Federal regulation, of alcohol or a controlled substance subsequent to completing such a rehabilitation program; and

(4) any other matters determined by the Secretary of Transportation to be appropriate and useful for determining the driver's safety performance.

(c) FORMER EMPLOYER.—For purposes of this section, a former employer is any person who employed the driver in the preceding 3 years.

SEC. 115. RETENTION OF SHIPPING PAPERS.

Section 5110 (relating to shipping papers and disclosure) is amended by adding at the end the following new subsection:

"(e) RETENTION OF PAPERS.—After the hazardous material to which a shipping paper provided to a carrier under subsection (a) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) shall retain the paper or electronic image thereof for a period of 1 year to be accessible through their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations.".

SEC. 116. TOLL FREE NUMBER FOR REPORTING.

The Secretary of Transportation shall designate a toll free telephone number for transporters of hazardous materials and other individuals to report to the Secretary possible violations of chapter 51 of title 49, United States Code, or any order or regulation issued under that chapter.

SEC. 117. TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATING TO PACKAGING.—

(1) Sections 5102(3)(C)(ii) and 5102(4)(A)(iii) are each amended by striking "packages" and inserting "packagings".

(2) Sections 5103(b)(1)(A)(iii), 5121(c)(1)(A), 5125(b)(1)(E), and 5126(a) are each amended by striking "a package or" and inserting "a packaging or a".

(3) Section 5108(a)(1)(D) is amended—

(A) by striking "a bulk package" and inserting in lieu thereof "a bulk packaging"; and

(B) by striking "the package" and inserting "the bulk packaging".

(b) OTHER.—Section 5104(a)(1) is amended by striking "or package" each place it appears and inserting ", package, or packaging (or a component of a container, package, or packaging)".

SEC. 118. HOURS OF SERVICE RULEMAKING FOR FARMERS AND RETAIL FARM SUPPLIERS.

Not later than 3 months after the date of enactment of this Act the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether or not the requirements of section 395.3 of title 49 Code of Federal Regulations, relating to hours of service, may be waived for farmers and retail farm suppliers when such farmers and retail farm suppliers are transporting crops or farm supplies for agricultural purposes within a 50-mile radius of their distribution point or farm.

SEC. 119. TRAINING.

(a) SUPPLEMENTAL PUBLIC SECTOR TRAINING GRANTS.—Section 5116 (relating to planning and training grants, monitoring, and review) is amended by adding at the end the following new subsections:

"(j) SUPPLEMENTAL TRAINING GRANTS.—

"(1) In order to further the purposes of subsection (b), the Secretary shall, subject to the availability of funds, make grants to national nonprofit employee organizations engaged solely in fighting fires for the purpose of training instructors to conduct hazardous materials response training programs for individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

"(2) For the purposes of this subsection the Secretary, after consultation with interested organizations, shall—

"(A) identify regions or locations in which fire departments or other organizations which provide emergency response to hazardous materials transportation accidents and incidents are in need of hazardous materials training; and

"(B) prioritize such needs and develop a means for identifying additional specific training needs.

"(3) Funds granted to an organization under this subsection shall only be used—

"(A) to train instructors to conduct hazardous materials response training programs;

"(B) to purchase training equipment used exclusively to train instructors to conduct such training programs; and

"(C) to disseminate such information and materials as are necessary for the conduct of such training programs.

"(4) The Secretary may only make a grant to an organization under this subsection in a fiscal year if the organization enters into an agreement with the Secretary to train instructors to conduct hazardous materials response training programs in such fiscal year that will use—

"(A) a course or courses developed or identified under subsection)(g); or

"(B) other courses which the Secretary determines are consistent with the objectives of this subsection;

for training individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials. Such agreement also shall provide that training courses shall be open to all such individuals on a nondiscriminatory basis.

"(5) The Secretary may impose such additional terms and conditions on grants to be made under this subsection as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this subsection.

"(k) REPORTS.—Not later than September 30, 1997, the Secretary shall submit to Congress a report on the allocation and uses of training grants authorized under subsection (b) for fiscal year 1993 through fiscal year 1996 and grants authorized under subsection (j) and section 5107 for fiscal years 1995 and 1996. Such report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of persons trained under the grant programs, and an evaluation of the efficacy of training programs carried out".

(b) FUNDING.—Section 5127(b) (relating to appropriations for hazmat employee training) is amended—

(1) by inserting "(1)" after "TRAINING.—", and

(2) by adding at the end the following:

"(2)(A) There shall be available to the Secretary for carrying out section 5116(j), from amounts in the account established pursuant to 5116(i), $250,000 for each of fiscal years 1995, 1996, 1997, and 1998;

"(B) In addition to amounts made available under subparagraph (A), there is authorized to be appropriated to the Secretary for carrying out section 5116(j) $1,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998.".

(c) HAZMAT EMPLOYEE TRAINING PROGRAM.—

(1) The first sentence of section 5107(e) (relating to hazmat employee training requirements and grants) is amended to read as follows: "The Secretary shall, subject to the availability of funds under section 5127(c)(3),

VOL 140 PT 15 AG 10 — 11 1994 UMI

make grants for training instructors to train hazmat employees under this section.".

(2) The second sentence of such section is amended by inserting "hazmat employee' after "nonprofit".

(3) Section 5107 (relating to hazmat employee training requirements and grants) is amended by adding at the end thereof the following new subsection:

"(g) EXISTING EFFORT.—No grant under subsection (e) shall supplant or replace existing employer-provided hazardous materials training efforts or obligations.".

(4) Section 5127(b) (relating to hazmat employee training funding is) amended to read as follows:

"(b) TRAINING OF HAZMAT EMPLOYEE INSTRUCTORS.—There is authorized to be appropriated to the Secretary $3,000,000 for each of fiscal years 1995, 1996, 1997, and 1998 to carry out section 5107(e).".

(d) CONFORMING AMENDMENTS.—

(1) Section 5108(g)(2)(A)(viii) is amended by striking "5107(e),".

(2) Section 5116(i)(1) is amended by striking "and section 5107(e)".

(3) Section 5116(i)(3) is amended by striking "and section 5107(e)".

SEC. 120. TIME FOR SECRETARIAL ACTION.

(a) EXEMPTIONS.—Section 5117 (relating to exemptions and exclusions) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e) respectively, and

(2) by inserting after subsection (b) the following:

"(c) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall issue or renew the exemption for which an application was filed or deny such issuance or renewal within 180 days after the first day of the month following the date of the filing of such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the exemption is delayed, along with an estimate of the additional time necessary before the decision is made.".

(b) DECISIONS ON PREEMPTION.—Section 5125(d) (relating to decisions on preemption) is amended by inserting immediately after the second sentence the following: "The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made.".

SEC. 121. STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the safety considerations of transporting hazardous materials by motor carriers in close proximity to Federal prisons, particularly those housing maximum security prisoners. Such study shall include an evaluation of the ability of such facilities and the designated local planning agencies to safely evacuate such prisoners in the event of an emergency and any special training, equipment, or personnel that would be required by such facility and the designated local emergency planning agencies to carry out such evacuation. Such study shall not apply to or address issues concerning rail transportation of hazardous materials.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section, along with the Secretary's recommendations for any legislative or regulatory changes to enhance the safety regarding the transportation of hazardous materials by motor carriers near Federal prisons.

SEC. 122. USE OF FIBER DRUM PACKAGING.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than the 60th day following the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 5103(b) of title 49, United States Code, (relating to regulations for safe transportation) as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations.

(b) ISSUANCE OF STANDARDS.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

(c) COMPLETION OF RULEMAKING PROCEEDING.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

(d) LIMITATIONS.—

(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter 51 of title 49, United States Code.

(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.

SEC. 123. BUY AMERICA.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available under this title may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act"), which are applicable to those funds.

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this title, it is the sense of Congress that entities receiving such assistance should, in expending such assistance, purchase only American-made equipment and products.

(2) In providing financial assistance under this title, the Secretary of Transportation shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this title, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(d) RECIPROCITY.—

(1) Except as provided in paragraph (2), no contract or subcontract may be made with funds authorized under this title to a company organized under the laws of a foreign country unless the Secretary of Transportation finds that such country affords comparable opportunities to companies organized under laws of the United States.

(2)(A) Secretary of Transportation may waive the provisions of paragraph (1) if the products or services required are not reasonably available from companies organized under the laws of the United States. Any such waiver shall be reported to Congress.

(B) Paragraph (1) shall not apply to the extent that to do so would violate the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

TITLE II—TRUCKING INDUSTRY REGULATORY REFORM

SEC. 201. SHORT TITLE.

This title may by cited as the "Trucking Industry Regulatory Reform Act of 1994".

SEC. 202. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 203. PURPOSE.

The purpose of this title is to enhance competition, safety, and efficiency in the motor carrier industry and to enhance efficiency in government.

SEC. 204. TRANSPORTATION POLICY.

Section 10101(a)(2) (relating to transportation policy) is amended—

(1) by redesignating subparagraphs (A) through (I) as subparagraphs (C) through (K), respectively, and

(2) by inserting before subparagraph (C) (as so redesignated) the following: "(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property; (B) promote Federal regulatory efficiency in the motor carrier transportation system and to require fair and expeditious regulatory decisions when regulation is required;".

SEC. 205. EXEMPTIONS.

(a) IN GENERAL.—Section 10505 (relating to authority to exempt rail carrier transportation) is amended—

(1) by inserting ", or a motor carrier providing transportation of property other than household goods, or in non-contiguous domestic trade," after "rail carrier providing transportation" in subsection (a),

(2) by inserting "section 10101 or" before "section 10101a" in subsection (a)(1) and subsection (d),

(3) by inserting ", or a motor carrier providing transportation of property other than household goods, or in non-contiguous domestic trade," after "rail carrier" in subsection (f), and

(4) by striking out "or" in subsection (g), and inserting after "subtitle" the following: ", (3) to relieve a motor carrier of property or other person from the application or enforcement of the provisions of sections 10706, 10761, 10762, 10927, and 11707 of this title, or (4) to exempt a motor carrier of property from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage; insurance; antitrust immunity for joint line rates and routes, classification of commodities (including uniform packaging rules), uniform bills of lading, or standardized mileage guides; or safety fitness."

(b) DEFINITION.—Section 10102 (relating to definitions) is amended by redesignating paragraphs (18) through (31) as (19) through (32), respectively, and by inserting after paragraph (17) the following:

"(18) 'non-contiguous domestic trade' means motor-water transportation subject to the jurisdiction of the Commission under chapter 105 of this title involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.".

(c) CLERICAL AMENDMENTS.—

(1) The caption of section 10505 is amended by inserting "and motor carrier" after "rail carrier".

(2) The chapter analysis for chapter 105 is amended by inserting "and motor carrier" after "rail carrier" in the item relating to section 10505.

SEC. 206. TARIFF FILING.

(a) AUTHORITY TO ESTABLISH RATES.—Section 10702(b) (relating to authority for carriers to establish rates, classifications, rules, and practices) is amended by inserting ", except a motor contract carrier of property," after "A contract carrier".

(b) PROHIBITION OF TRANSPORTATION WITHOUT TARIFF.—Section 10761(a) (relating to transportation prohibited without tariff) is amended—

(1) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13) or in noncontiguous domestic trade)" after "chapter 105 of this title", and

(2) by striking out "That carrier" in the second sentence and inserting "A carrier subject to this subsection".

"(3) by inserting before the period at the end of the first sentence the following: ", except that a motor carrier of property the application of whose rates is determined or governed by a tariff on file with the Commission cannot collect its rates unless the carrier is a participant in those tariffs", and

"(4) by inserting before the period at the end of the second sentence the following: ", except that a motor carrier of property the application of whose rates are determined or governed by a tariff on file with the Commission shall issue a power of attorney to the tariff publishing agent of such tariff and, upon its acceptance, the agent shall issue a notice to the participating carrier certifying its continuing participation in such tariff, which certification shall be kept open for public inspection".

(c) GENERAL TARIFF REQUIREMENT.—Section 10762(a) (relating to general tariff requirement) is amended—

(1) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13), or in noncontiguous domestic trade)" after "A motor common carrier" in the second sentence of paragraph (1),

(2) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13), or in noncontiguous domestic trade)" after "carriers" in the third sentence of paragraph (1),

(3) by striking the last sentence of paragraph (1) and inserting the following: "A motor contract carrier of property is not required to publish or file actual or minimum rates under this subtitle. Except as provided in the Negotiated Rates Act of 1993 and the amendments made by that Act, nothing in the Trucking Industry Regulatory Reform Act of 1994 (and the amendments made by that Act) creates any obligation for a shipper based solely on a rate that was on file with the Commission or elsewhere on the date of enactment of such Act.", and

(4) by adding at the end the following:

"(3) A motor common carrier of property (other than a motor common carrier providing transportation of household goods or in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate agreed to between the shipper and carrier may have been based. When the applicability or reasonableness of the rates and related provisions billed by a motor common carrier is challenged by the person paying the freight charges, the Commission shall determine whether such rates and provisions are reasonable or applicable based on the record before it. In those cases where a motor common carrier (other than a motor common carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Commission determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the original bill in order to have the right to collect such charges.

"(4) If a shipper seeks to contest the charges originally billed, the shipper may request that the Commission determine whether the charges originally billed must be paid. A shipper must contest the original bill within 180 days in order to have the right to contest such charges.

"(5) Any tariff on file with the Commission on the date of enactment of the Trucking Industry Regulatory Reform Act of 1994 not required to be filed with the Commission after the enactment of that Act is null and void beginning on that date.".

(d) PROPOSED RATE CHANGES.—

(1) COMMON CARRIERS.—Section 10762(c)(1) (relating to proposed rate changes) is amended by inserting "(excluding a motor common carrier providing transportation of property other than household goods, under an individually determined rate, classification, rule, or practice defined in section 10102(13), or in a noncontiguous domestic trade)" after "common carrier".

(2) CONTRACT CARRIERS.—Section 10762(c)(2) (relating to proposed rate changes) is amended by inserting "(except a motor contract carrier of property)" after "contract carrier".

(e) EFFECT ON NEGOTIATED RATES ACT.—Section 10762 (relating to general tariff requirements) is amended by adding at the end thereof the following new subsection:

"(j) Nothing in this section shall affect the application of the provisions of the Negotiated Rates Act of 1993 (or the amendments made by that Act) to undercharge claims for transportation provided prior to the date of enactment of the Trucking Industry Regulatory Reform Act of 1994.".

(f) DEFINITION.—Section 10102 (relating to definitions) is amended—

(1) by redesignating paragraphs (13) through (31) as (14) through (32), and

(2) by inserting after paragraph (12) the following:

"(13) 'individually determined rate, classification, rule, or practice' means a rate, classification, rule, or practice established by—

"(A) a single motor common carrier for application to transportation that it can provide over its line; or

"(B) 2 or more interlining carriers without participation in an organization established or continued under an agreement approved under section 10706(b) for application to transportation that the interlining carriers can provide jointly over their lines.".

SEC. 207. MOTOR COMMON CARRIER LICENSING.

(a) IN GENERAL.—Section 10922 (relating to certification of motor and water carriers) is amended—

(1) by redesignating subsections (b) through (l) as (c) through (m), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) Except as provided in this section, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds that the person is able to comply with—

"(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

"(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission under section 31144 of this title, and

"(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

"(2) In making a finding under paragraph (1), the Commission shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the applicant is unable to comply with the requirements of subparagraph (A), (B), or (C) of that paragraph.

"(3) The Commission shall find any applicant for authority to operate as a motor carrier under this section to be unfit if the applicant does not meet the safety and safety fitness requirements under paragraph (1)(A) of (1)(B) of this subsection and shall deny the application.

"(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, the safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.".

(b) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(c) (relating to public convenience and necessity) as redesignated by subsection (a), is amended—

(1) by striking "carrier of property" in paragraph (1) and inserting "carrier of household goods",

(2) by striking paragraphs (4) and (6) and redesignating paragraphs (5), (7), (8), and (9) as (4), (5), (6), and (7), respectively,

(3) by striking "carrier holding authority under paragraph (4)(D) of this subsection" in paragraph (4) (as redesignated) and inserting "motor carrier providing transportation of

VOL 140 PT 15 AG 10 — 11 1994 UMI

shipments weighing 100 pounds or less transported in a motor vehicle in which no one package exceeds 100 pounds",

(4) by striking "of property" in paragraph (5) (as redesignated) and inserting "of household goods",

(5) by striking "of property" in paragraph (6) (as redesignated) and inserting "of household goods", and

(6) by striking "Notwithstanding the provisions of paragraph (4) of this subsection, the provisions" in paragraph (7) (as redesignated) and inserting "The provisions".

(c) CERTIFICATE SPECIFICATIONS.—Section 10922(f)(1) (relating to specifications for certificate), as redesignated by subsection (a) of this section, is amended by inserting "of household goods or passengers" after "motor common carrier".

(d) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(h)(1) (relating to public convenience and necessity), as redesignated by subsection (a) of this section, is amended by inserting "of household goods or passengers" after "motor common carrier".

SEC. 208. MOTOR CONTRACT CARRIER LICENSING.

(a) AUTHORITY TO ISSUE PERMITS.—Section 10923(a) (relating to authority to issue permits) is amended by inserting "of household goods or passengers" after "motor contract carrier".

(b) MOTOR CONTRACT CARRIER PERMITS.—Section 10923 (relating to permits of motor and water contract carriers and household goods freight forwarders) is amended by redesignating subsections (b) through (e) as (c) through (f), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) Except as provided in this section and section 10930 of this title, the Commission shall issue a permit to a person authorizing the person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor contract carrier of property other than household goods if the Commission finds that the person is able to comply with—

"(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

"(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission pursuant to section 3144 of this title, and

"(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

"(2) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property other than household goods the Commission shall consider any evidence demonstrating that the applicant is unable to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness and minimum financial responsibility requirements of subsection (b)(1).

"(3) The Commission shall find any applicant for authority to operate as a motor carrier of property other than household goods under this subsection to be unfit if the applicant does not meet the safety and safety fitness requirements of paragraph (1)(A) or (1)(B) of this subsection and shall deny the application.

"(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1).".

(c) APPLICATION FILING REQUIREMENTS.—Section 10923(c) (relating to application filing requirements), as redesignated by subsection (b) of this section, is amended—

(1) by striking "motor contract carrier of property" in paragraphs (3) and (4) and inserting "motor contract carrier of household goods",

(2) by striking paragraph (5) and redesignating paragraphs (6) and (7) as (5) and (6), respectively, and

(3) by striking "motor contract carriers of property" in paragraph (5) (as redesignated) and inserting "motor contract carriers of household goods".

(d) CONDITIONS OF TRANSPORTATION OR SERVICE.—Section 10923(e) (relating to conditions of transportation or service), as redesignated by subsection (b) of this section, is amended—

(1) by inserting "of passengers or household goods" after "contract carrier" in paragraph (1), and

(2) by striking "each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)" in paragraph (2) and inserting "in the case of a motor contract carrier of passengers, the number of persons,".

SEC. 209. REVOCATION OF MOTOR CARRIER AUTHORITY.

Section 10925(d)(1) (relating to effective period of certificates, permits, and licenses) is amended—

(1) by striking "if a motor carrier or broker" in subparagraph (A) and inserting "if a motor carrier of passengers, motor common carrier of household goods, or broker",

(2) by striking "and" at the end of subparagraph (A),

(3) by redesignating subparagraph (B) as (D) and inserting after subparagraph (A) the following new subparagraphs:

"(B) if a motor contract carrier of property, for failure to comply with safety requirements of the Commission or the safety fitness requirements pursuant to section 10701, 10924(e), 10927(b) or (d), or 31144, of this title;

"(C) if a motor common carrier of property other than household goods, for failure to comply with safety requirements of the Commission or the safety fitness requirements pursuant to section 10701, 10702, 10924(e), 10927(b) or (d), or 31144 of this title; and".

SEC. 210. STUDY OF INTERSTATE COMMERCE COMMISSION FUNCTIONS.

(a) INTERSTATE COMMERCE COMMISSION REPORT.—The Interstate Commerce Commission shall prepare and submit to the Secretary of Transportation and to each Committee of the Congress having jurisdiction over legislation affecting the Commission a report identifying and analyzing all regulatory responsibilities of the Commission. The Commission shall make recommendations concerning specific statutory and regulatory functions of the Commission that could be eliminated or restructured. The Commission shall submit the report within 60 days after the date of enactment of this Act.

(b) SECRETARY OF TRANSPORTATION STUDY.—The Secretary of Transportation shall study the feasibility and efficiency of merging the Interstate Commerce Commission into the Department of Transportation as an independent agency, combining it with other federal agencies, retaining the Interstate Commerce Commission in its present form, eliminating the agency and transferring all or some of its functions to the Department of Transportation or other federal agencies, and other organizational changes that lead to government, transportation, or public interest efficiencies. The study shall consider the cost savings that might be achieved, the efficient allocation of resources, the elimination of unnecessary functions, and responsibility for regulatory functions. The Secretary shall solicit comments from the public with respect to both the Department's and the Commission's findings. The Secretary shall submit the results of such study together with any recommendations to the Congress within 4 months after the date of the submission of the Interstate Commerce Commission report required in subsection (a).

SEC. 211. LIMITATION ON STATE REGULATION OF INTRASTATE TRANSPORTATION OF PASSENGERS BY BUS.

(a) IN GENERAL.—Chapter 109 (relating to licensing) is amended by adding at the end thereof the following new section:

"§ 10936. Limitation on State regulation of intrastate passengers by bus

"A State or political subdivision of a State may not enforce any law or regulation relating to intrastate fares for the transportation of passengers by bus by an interstate motor carrier of passengers over a route authorized by the Commission.".

(b) CONFORMING AMENDMENTS.—

(1) Section 10521(b)(1) is amended by inserting "10936," after "10935,"

(2) Section 11501 is amended by striking subsection (e) and redesignating subsections (f) and (g) as (e) and (f), respectively.

(3) The table of sections for subchapter IV of chapter 109 is amended by adding at the end the following new item:

"10936. Limitation on State regulation of intrastate passengers by bus.".

SEC. 212. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect upon the enactment of this Act, except for sections 207 and 208, which shall take effect on January 1, 1995.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the committee on Armed Services be authorized to meet at 2:00 p.m. on Thursday, August 11, 1994, in open session, to receive testimony on the Military Implications of the Chemical Weapons Convention [CWC].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, August 11, 1994, at 10:00 a.m. for an executive session to consider pending matters before the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, August 11, 1994, at 2:00 p.m. for an oversight hearing on the activities of the U.S. Olympic Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FORD. Mr. President, I ask unanimous consent that the Full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, August 11, beginning at 2:00 p.m., to conduct a hearing on the reauthorization of programs under the jurisdiction of the Economic Development Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, August 11, at 10:00 a.m. to hold a hearing on the current status of the Law of the Sea Convention.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, August 11, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, August 11, 1994, at 2:00 p.m., in room 226, Senate Dirksen Office Building, on the nominations of Michael Hawkins to be U.S. circuit judge for the Ninth Circuit, Napoleon Jones to the U.S. district judge for the southern district of California, John O'Meara to be U.S. district judge for the eastern district of Michigan, Barrington Parker, Jr. to be U.S. district judge for the southern district of New York and Robert Timlin to be U.S. district judge for the central district of California.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY AND THE LAW

Mr. FORD. Mr. President, I ask unanimous consent that the Senate Subcommittee on Technology and Law of the Committee on the Judiciary and the House Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, August 11, 1994 at 1:00 p.m. to hold a hearing on Digital Telephony and Law Enforcement Access to Advanced Telecommunications Technologies and Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PKK ATTACKS ON CIVILIANS MUST STOP

• Mr. DECONCINI. Mr. President, I wish to express my anger and frustration over recent killings of innocent civilians by members of the Kurdish Workers Party [PKK]. Yesterday, 12 innocent civilians, including women and children, were machine gunned by PKK guerrillas while riding a bus. This, and similar attacks, only propel forward the senseless cycle of violence responsible now for over 12,500 lives and widespread destruction and dislocation throughout southeast Turkey. I fail to see how the killing of innocent men, women and children serves the interests of anyone who professes to want human rights and democracy.

Mr. President, violence certainly begets violence and murder can never become an acceptable means of achieving political objectives. Mao Tse Tung believed that political power emanated from the barrel of a gun, but Mr. President, in the 21st century, political power will be built on words and the free flow of information. The force of ideas is ultimately more powerful than the force of arms. So, just as I have called upon the Government of Turkey to peacefully and democratically redress the grievances of its Kurdish citizens, so too must the PKK abandon its armed struggle. I cannot understand how PKK leaders expect their calls for political solutions to the Kurdish problem to be taken seriously as long as the PKK slaughters civilians. To the contrary, their terrorist tactics only besmirch the legitimate efforts of Kurdish leaders who are genuinely seeking a peaceful political solution.

Mr. President, the human rights situation in Turkey is not getting any better. A virtual state of civil war exists in southeast Turkey. Kurdish villages burn and tens of thousands are made refugees. Human rights and pro-Kurdish activists are regularly murdered or disappear. A relentless campaign against free speech is silencing parliamentarians, journalists and other and stifling informed public debate. Mr. President, amidst the haze of war and propaganda emanating from all sides, the truth is becoming increasingly difficult to discern.

Mr. President, for the sake of human rights and the future of democracy in Turkey, I urge Turkish and Kurdish combatants to consider an immediate ceasefire. Their military debate must end and a political debate be allowed to begin. Only after the violence and terror has ceased can the process of bringing peace and prosperity to all of Turkey's citizens commence.•

RECESS UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m.

Thereupon, the Senate, at 9:48 p.m., recessed until Friday, August 12, 1994, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate August 11, 1994:

FEDERAL RESERVE SYSTEM

JANET L. YELLEN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 14 YEARS FROM FEBRUARY 1, 1994.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

VOL 140 PT 15 AG 10 — 11 1994 UMI

HOUSE OF REPRESENTATIVES—*Thursday, August 11, 1994*

The House met at 11 a.m.

Rev. Msgr. Roger C. Roensch, director of pilgrimage, Basilica of the National Shrine of the Immaculate Conception, Washington, DC, offered the following prayer:

The opening prayer for today is taken from one recited daily at the Basilica of the National Shrine of the Immaculate Conception:

Heavenly Father, we adore Your majesty and acknowledge Your supreme eternal dominion and authority. We put our Nation into Your hands.

Thank You for the great resources of this land and for the freedom which has been its heritage. May those who have gone before us bless this land and grant us peace.

Have mercy on our President and on all the officers of our Government. Grant us a fruitful economy born of justice and charity. Have mercy on capital and industry and labor. Protect the family life of the Nation. Guard the innocence of our children. Have mercy on the sick, the poor, and all those in need.

Keep our Nation strong and a leader sharing with all the world the principles of our Founding Fathers. We pray that we may always act according to Your will and live and die pleasing to God. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. TRAFICANT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. TRAFICANT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 160, answered "present" 1, not voting 22, as follows:

[Roll No. 391]

YEAS—251

Ackerman, Andrews (ME), Andrews (NJ), Andrews (TX), Applegate, Bacchus (FL), Baesler, Barca, Barcia, Barlow, Barrett (WI), Bateman, Becerra, Beilenson, Berman, Bevill, Bilbray, Bishop, Bonior, Borski, Boucher, Brewster, Brooks, Browder, Brown (CA), Brown (FL), Brown (OH), Bryant, Byrne, Cantwell, Cardin, Carr, Clayton, Clement, Clinger, Clyburn, Coleman, Collins (GA), Collins (IL), Collins (MI), Combest, Condit, Conyers, Cooper, Coppersmith, Costello, Coyne, Cramer, Danner, de la Garza, Deal, DeLauro, Dellums, Derrick, Deutsch, Dicks, Dooley, Durbin, Edwards (CA), Edwards (TX), Engel, English, Eshoo, Evans, Everett, Farr, Fazio, Fields (LA), Filner, Fingerhut, Fish, Foglietta, Ford (MI), Ford (TN), Frank (MA), Frost, Furse, Gejdenson, Gephardt, Geren, Gibbons, Gillmor, Gilman, Glickman, Gonzalez, Gordon, Green, Greenwood, Gutierrez, Hall (TX), Hamburg, Hamilton, Harman, Hayes, Hefner, Hilliard, Hinchey, Hoagland, Hochbrueckner, Holden, Houghton, Hoyer, Hughes, Hutto, Inglis, Inslee, Jefferson, Johnson (GA), Johnson (SD), Johnson, E. B., Johnston, Kanjorski, Kaptur, Kasich, Kennedy, Kennelly, Kildee, Kleczka, Klein, Klink, Kopetski, Kreidler, LaFalce, Lambert, Lancaster, Lantos, LaRocco, Laughlin, Lehman, Levin, Lewis (GA), Lipinski, Lloyd, Long, Lowey, Maloney, Mann, Manton, Margolies-Mezvinsky, Markey, Martinez, Matsui, Mazzoli, McCloskey, McCurdy, McHale, McKinney, McNulty, Meehan, Meek, Menendez, Mfume, Miller (CA), Mineta, Minge, Mink, Moakley, Mollohan, Montgomery, Moran, Murtha, Myers, Nadler, Neal (MA), Neal (NC), Oberstar, Obey, Olver, Ortiz, Orton, Owens, Pallone, Parker, Pastor, Payne (NJ), Payne (VA), Pelosi, Penny, Peterson (FL), Peterson (MN), Pickett, Pickle, Pombo, Pomeroy, Poshard, Price (NC), Rahall, Rangel, Reed, Reynolds, Richardson, Roemer, Rose, Rostenkowski, Rowland, Roybal-Allard, Sabo, Sanders, Sarpalius, Sawyer, Schenk, Schumer, Serrano, Sharp, Shepherd, Sisisky, Skaggs, Skelton, Slattery, Slaughter, Smith (IA), Smith (NJ), Spratt, Stark, Stenholm, Stokes, Strickland, Studds, Stupak, Swett, Swift, Synar, Tanner, Tauzin, Tejeda, Thompson, Thornton, Thurman, Torres, Torricelli, Towns, Traficant, Tucker, Unsoeld, Valentine, Velazquez, Vento, Visclosky, Volkmer, Waters, Watt, Waxman, Wheat, Whitten, Williams, Wilson, Wise, Woolsey, Wyden, Wynn, Yates

NAYS—160

Allard, Archer, Armey, Bachus (AL), Baker (CA), Baker (LA), Ballenger, Barrett (NE), Bartlett, Barton, Bentley, Bereuter, Bilirakis, Bliley, Blute, Boehlert, Boehner, Bonilla, Bunning, Burton, Buyer, Callahan, Calvert, Camp, Canady, Castle, Clay, Coble, Cox, Crane, Crapo, Cunningham, DeLay, Dickey, Doolittle, Dreier, Duncan, Dunn, Ehlers, Emerson, Ewing, Fawell, Fields (TX), Fowler, Franks (CT), Franks (NJ), Gallegly, Gekas, Gilchrest, Gingrich, Goodlatte, Goodling, Goss, Grams, Gunderson, Hancock, Hastert, Hefley, Herger, Hobson, Hoekstra, Hoke, Horn, Huffington, Hunter, Hutchinson, Hyde, Inhofe, Istook, Jacobs, Johnson (CT), Johnson, Sam, Kim, King, Klug, Knollenberg, Kolbe, Kyl, Lazio, Leach, Levy, Lewis (CA), Lewis (FL), Lewis (KY), Lightfoot, Linder, Livingston, Lucas, Machtley, Manzullo, McCandless, McCollum, McCrery, McDade, McHugh, McInnis, McKeon, McMillan, Mica, Michel, Miller (FL), Molinari, Moorhead, Morella, Murphy, Nussle, Oxley, Packard, Paxon, Petri, Porter, Portman, Pryce (OH), Quillen, Quinn, Ramstad, Ravenel, Regula, Ridge, Roberts, Rogers, Rohrabacher, Ros-Lehtinen, Roth, Roukema, Royce, Santorum, Saxton, Schaefer, Schroeder, Scott, Sensenbrenner, Shaw, Shays, Shuster, Skeen, Smith (MI), Smith (OR), Smith (TX), Snowe, Solomon, Spence, Stearns, Stump, Sundquist, Talent, Taylor (MS), Thomas (CA), Thomas (WY), Torkildsen, Upton, Vucanovich, Walker, Walsh, Weldon, Wolf, Young (AK), Young (FL), Zeliff, Zimmer

ANSWERED "PRESENT"—1

Dixon

NOT VOTING—22

Abercrombie, Blackwell, Chapman, Darden, DeFazio, Diaz-Balart, Dingell, Dornan, Flake, Gallo, Grandy, Hall (OH), Hansen, Hastings, Kingston, McDermott, Meyers, Rush, Sangmeister, Schiff, Taylor (NC), Washington

□ 1123

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). Will the gentleman from New York [Mr. QUINN] come forward and lead the House in the Pledge of Allegiance.

Mr. QUINN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment joint resolutions and a concurrent resolution of the House of the following titles:

H.J. Res. 131. Joint resolution, designating December 7 of each year as "National Pearl Harbor Remembrance day";

H.J. Res. 175. Joint resolution designating October 1993 and October 1994 as "Italian-American Heritage and Culture Month"; and

H. Con. Res. 248. Concurrent resolution providing for the printing of euologies, encomiums, and funeral services for the late President of the United States, Richard M. Nixon.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2218. An act to provide authorization of appropriations for the Federal Emergency Food and Shelter Program for fiscal years 1995 and 1996.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4426), an act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4453), an act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 6, 10, 13, 15, 16, 19, 20, 23, 24, 27, 31, and 32, to the above-entitled bill.

The message also announced that the Senate recedes from its amendment numbered 29, to the above-entitled bill.

The message also announced that the Senate agrees to the amendments of the House to the resolution (S. Con. Res. 38), concurrent resolution to authorize the reprinting of the book entitled "The U.S. Capitol: A Brief Architectural History."

The message also announced that the Senate agrees to the amendments of the House to the resolution (S. Con. Res. 39), concurrent resolution to authorize the printing of a new annotated edition of Glenn Brown's "History of the U.S. Capitol," originally published in two volumes in 1900 and 1903, prepared under the auspices of the Architect of the Capitol.

The message also announced that the Senate agrees to the amendments of the House to the resolution (S. Con. Res. 40), concurrent resolution to authorize the printing of the book entitled "Constantino Burmidi: Artist of the Capitol," prepared by the Office of the Architect of the Capitol.

The message also announced that the Senate agrees to the amendments of the House to the resolution (S. Con. Res. 41), concurrent resolution to authorize the printing of the book entitled "The Cornerstones of the U.S. Capitol."

ANNOUNCEMENT REGARDING AVAILABILITY OF THE NINE HEALTH CARE REFORM SUBSTITUTES

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, I rise today to announce that Members have submitted health care reform substitutes to the Committee on Rules last night, including the Gephardt substitute, the Michel substitute, the McDermott substitute, and the Rowland substitute, and I expect there will be a great deal of interest in reading these.

So, the fastest and fairest way we found to get the substitute into as many hands as possible is to print them all in the CONGRESSIONAL RECORD.

Last night I submitted all the substitutes so that they will be printed in the RECORD, available today, and the nine substitutes will appear in part 2 of the RECORD in the portion entitled "Amendments." Part 2 will be available this afternoon.

WELCOMING TODAY'S GUEST CHAPLAIN, MSGR. ROGER CHARLES ROENSCH

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, it is with great pleasure that I welcome to the House today our guest chaplain, Msgr. Roger Charles Roensch.

Monsignor Roensch is the pilgrimage director at the Basilica of the Immaculate Conception here in Washington, DC.

The monsignor graduated from the North American College and Gregorian University in Rome in 1958.

In the same year, he was ordained a priest and served in the Archdiocese of Milwaukee until 1970.

After serving 11 years at the North American College in Rome, Father Roensch came to the National Shrine in 1981.

Father Roensch was incardinated into the Archdiocese of Washington by James Cardinal Hickey in 1989, and he was later named a domestic prelate by Pope John Paul II in December of 1990.

Mr. Speaker, as chairman of the House Page Board, I am particularly pleased that the monsignor has joined us today.

Each year, the monsignor has graciously hosted the pages at the national shrine.

He has made them feel welcome, and encouraged them to make the national shrine their parish church while they are in Washington.

Mr. Speaker, I ask my colleagues to join me in welcoming Msgr. Roger Charles Roensch to the House of Representatives.

□ 1130

ANNOUNCEMENT OF THE DEATH OF THE HONORABLE JESSIE SUMNER, FORMER CONGRESSWOMAN FROM ILLINOIS

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, I regret to inform the House of the passing of a former colleague. Jessie Sumner, one of the oldest living former members, passed away yesterday at the age of 96. Originally from Milford, IL, she represented the people of east central Illinois in the U.S. Congress from 1939 until 1947.

She was a 1920 graduate of Smith College. Congresswoman Sumner studied law at the University of Chicago, Columbia University, and Oxford University. She started her political career when she was elected judge of Iroquois County in 1937. In 1938, she was elected to the U.S. Congress from the 18th District.

Congresswomen Sumner was a pioneer and served as one of only nine female Representatives in the 76th Congress. She served in the Congress with distinction during the turbulent years of World War II. She was an outspoken pacifist and fiscal conservative. As the war years continued, Representative Sumner often found herself being a lone voice of concern about the cost of the war on the lives of Americans.

Representative Sumner declined to be a candidate for reelection in 1946. She returned to Milford to resume her position as vice president and later President of the Sumner National Bank.

The citizens of east central Illinois were truly lucky to be represented by Congresswoman Sumner and to have her as a lifelong citizen of Iroquois County.

Mr. Speaker, I am pleased to have had the opportunity to have contacts

VOL 140 PT 15 AG 10 — 11 1994 UMI

with Representative Sumner. We all shall miss her, and we regret the loss of this true friend.

AARP SUPPORT FOR THE GUARANTEED HEALTH INSURANCE ACT

(Mr. DERRICK asked and was given permission to address the House for 1 minute.)

Mr. DERRICK. Mr. Speaker, Congress should be well aware of the Nation's abiding interest in health care reform. Every day more organizations representing millions of Americans voice their support for the Guaranteed Health Insurance Act.

Today you can add the 33 million members of the American Association of Retired Persons to the throngs calling for reform. Citing their long-held support for universal coverage, long-term care coverage, the protection and strengthening of Medicare, controlling health care costs and a fully funded health care system every American can afford, the AARP asked its members to support the Gephardt bill.

The AARP represents Americans over the age of 50. They know how important reform is to their members' health—and everyone's. The AARP points out that this is a historic opportunity to benefit all Americans, and that defeat will kill reform for years to come.

Give the people what they need—pass health care reform.

LESS CHOICE IN HEALTH CARE

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I would say that AARP had better look at these bills.

Mr. Speaker, the Clinton-Gephardt and Clinton-Mitchell health plans claim to guarantee choice in health care. But, do they really know what choice means.

Contrary to the Democrat leadership's belief, a standard benefit package does not constitute choice. Choosing from a list of specified doctors does not constitute choice.

Maybe I should explain to Clinton, GEPHARDT, and MITCHELL what a standard benefit package is. This means that the Government tells you which doctor you can see, when you can see that doctor, and what services you can receive. Clinton-Mitchell even goes so far as to make existing health plans illegal.

These bills take away our American freedoms to make health care decisions based upon our needs, and no one is falling for this scheme of total Government control. Americans know the difference between myth and reality.

PASSAGE OF CRIME BILL THREATENED BY PARTISAN POLITICS AND SPECIAL INTERESTS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute.)

Mr. RICHARDSON. Mr. Speaker, today partisan politics and special interests could kill the crime bill. This is a crime vote, not a gun vote. Today we either pass a crime bill and do what our constituents and the American people want us to do or we once again cave in to partisanship, special interest lobbies, or gridlock.

We can sit here and talk all we want to about health care, GATT, the economy, or Haiti, but in the final analysis it is the crime issue that will determine whether we are a do-nothing Congress or a Congress that bites the bullet and does the right thing. Most importantly, this vote will determine whether many of us are here next year or not.

Mr. Speaker, let us not cave in to special interests and partisanship. Let us do what the people sent us here to do and pass the crime bill.

CLINTON HEALTH

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, earlier this week, the First Lady lamented the overly information-loaded society, that has opposed her attempt at health care reform.

She said that when Social Security was passed, Franklin Roosevelt didn't "have to describe every jot and title of that bill."

Maybe he should have, Mr. Speaker. Here it is, 1,410 pages, and the First Lady doesn't think we need to know what is in it.

When it comes to the President's health care bill, the American people have to know what the Government is going to do to them. And the more they know about the Clinton-Gephardt health care bill, the less they like it.

According to CBO, its 47 new bureaucracies will add $9 billion to the budget deficit.

And its 175 new mandates on the States are, according to CBO, unworkable.

Mr. Speaker, the First Lady should not lament the fact the American people are actually finding out about Clinton health. She should lament the fact that Clinton health is bad for the country.

REPROGRAM RUSSIAN AID, PUT YELTSIN'S MONEY INTO HEALTH CARE FOR AMERICANS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I have an idea about where we can get the money for health care. Now, check this out.

Congress gives billions of dollars a year to Russia to encourage democracy. News reports yesterday said that Boris Yeltsin used $100 million to buy a boat, two swimming pools, two tennis courts, gold and marble furnishings, and a helicopter pad with a helicopter. That was $100 million. How does that float your boat, Congress?

Here is my question. Where does Boris, big bad Boris, get $100 million to buy this "Love Boat" on a salary paid with rubles? I say it is unbelievable, folks. Sometimes you have got the bear, and sometimes the bear has got you, but in this case the bear has got us all by the throat.

Let me make a recommendation. Let us reprogram the money that goes to Russia and put it in a kitty and buy some health insurance for Americans. How does that sound?

□ 1140

RAISING TAXES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, this week the Wall Street Journal ran a column by noted economist, Martin Feldstein, who explained that the Clinton-Mitchell health care bill contained a hidden $100 billion tax increase. If enacted, the Mitchell health care proposal would be the largest expansion ever of the welfare state. Enacting it, incredible as it may seem, would be equivalent to raising personal income taxes by a staggering 20 percent. No, you heard me right, 20 percent.

Last year, the Democrats claimed to solve the budget deficit problem by doing what? That is right. Raising taxes. This year both the Clinton-Mitchell and Clinton-Gephardt bills claim to be the right prescription for what ails our health care system. Their solution? Right. Government takeover of our health care system and raising taxes. And, raising taxes by the equivalent of 20 percent. That is equivalent to a tax increase of more than $5,000 for each individual person insured and a cost of $20,000 for a family of four.

The American people know what the Democrats are up to. That is why they do not support the Clinton plan, and why, if they find out what is in the Clinton-Mitchell and Clinton-Gephardt plans, they will not support them either. After all, if it is a Democrat idea, it has to involve, you guessed it, raising taxes.

THE PARTY THAT CRIED WOLF

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, recently we celebrated the 1-year anniversary of the passing of President Clinton's deficit reduction plan.

At the time the distinguished minority whip said "It will kill 1.4 million jobs. Tragically, it will not control spending or reduce the deficit." A year later, 3 million new jobs and a lower deficit than expected, we can only assume that the Members from the other side miscalculated.

Now these same naysayers are saying that health care reform will somehow challenge the basic foundations of America. They cry socialism, the end of the best health care system in the world, it will kill jobs.

Once again the obstructionists are crying wolf. Many Americans are afraid that health care reform means that they will lose their benefits or have to pay more for less benefits. What the American people will find is that they cannot afford to listen to the party that cries wolf. Let's take a bite out of the do-nothing gang and support universal coverage today.

PRESIDENT CLINTON—HEALTH CARE TRUST

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, President Clinton has unveiled a new television commercial promoting his socialistic health care plans. He says his proposal will not result in the Government takeover of the health care delivery system. He asks the American people to trust him in telling the truth regarding health care.

But before the American people give the President that trust, I ask them to reflect on the President's own track record. Did you trust the President regarding his pledge to cut taxes? Did you trust him regarding his pledge to cut spending? Did you trust him regarding his draft status? Did you trust him when he said he did not inhale? Do you trust him regarding Whitewater?

Mr. Speaker, the President asks us to trust him when it comes to health care reform, but trust must be earned rather than freely given. And President Clinton's record in this regard has now become quite clear to most Americans.

SUPPORT THE CRIME BILL

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Wisconsin. Mr. Speaker, I am pleased that we are going to have the opportunity to vote today on the very important crime bill.

Millions of Americans across this country are deeply concerned about crime. The crime bill that we will consider today contains many provisions that address the public's concerns.

First, the crime bill bans military-style assault weapons. It would be unconscionable for Congress to continue to condone the sale of guns that are designed specifically to kill people.

Second, it targets violence against women in their homes. The bill toughens the penalties for offenders who victimize women and authorizes help for education, prevention, and domestic abuse hot lines.

Third, it puts more cops on the streets. This is vital help in the trenches of the battle against crime and will provide 2,000 officers for the State of Wisconsin.

Opponents dismiss these measures as inadequate, but no single wave of a magic wand will restore our sense of security. These provisions in the crime bill are vital elements of a comprehensive approach.

I urge my colleagues to support the bill.

NEW TAXES NOT NEEDED BY AMERICAN PEOPLE

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, there are three items that appear in all the major legislation that has been drafted by the Democrat leadership here in Congress. Those three things are: Taxes, taxes, and more taxes. It seems that is all they want to think about.

Both the Clinton-Mitchell bill and the Clinton-Gephardt health care bills are chock full of new taxes. And yesterday the CBO attacked the Mitchell bill, saying it would result in $1 trillion in subsidies over the next 8 years, widespread bureaucratic problems, increased unemployment, incentives for the poor not to work, more Government agencies to implement the plan, and employer mandates that are going to kill American jobs.

A group of bipartisan Members here in this House have drafted a health care bill that has no new taxes. The bipartisan supporters understand that the Government is already too big and spends too much. Passing taxes on to the American people will only result in bigger, more expensive Government bureaucracy. It is not what the American people need, nor is it what they want.

PLAY BALL

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Major league baseball players, big league managers: Play ball.

INCREASED TAXES CONTRIBUTE TO WEAK RECOVERY

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, we know now from Bob Woodward's recent book that President Clinton called his own tax plan a turkey, and on the first anniversary of the largest tax increase in American history, this bird is coming home to roost.

With the President's high-tax, high-regulation policies, and now inflation in clear view, we face the real possibility of returning to the glory years of Jimmy Carter. Remember malaise, 20 percent misery indexes, and stagflation? The American people simply cannot afford Carter II. But the Clinton recovery looks like back-to-Carter. It is the weakest recovery in 50 years, the weakest post World War II recovery.

Mr. Speaker, the Clinton taxes have contributed to the weak recovery by taking money out of the pockets of the productive capital investing sector of our economy and giving it to the inefficient bureaucrats in Washington.

The lesson is clear: We need to reduce taxes and regulations, and realize that job creating growth comes from the private sector, not the bloated Federal Government.

Mr. Speaker, when will they ever learn?

THE CRIME BILL CONFERENCE REPORT

Mr. SANDERS. Mr. Speaker, I will be voting in favor of the crime bill today, despite some provisions in it with which I stongly disagree because, on balance, its positive initiatives to control crime outweigh the negatives. But I want to make it clear that in my view, no approach toward crime will be effective if we continue to ignore the poverty, despair and hopelessness which are the root causes of crime.

Mr. Speaker, at a time when increased property taxes in Vermont are placing a very painful burden on our citizens, it is absolutely appropriate that the Federal Government play an increased role in helping our communities address the crime problem. Under this legislation the State of Vermont will receive at least $44 million dollars to hire more than 500 new Police officers; $6.5 million for drug and crime enforcement in our most rural areas; $3 million for our cities and towns to use in ways they feel useful, and $1.2 million for a variety of children's programs.

Perhaps most important to me, however, this crime bill will provide $8 million dollars to Vermont to allow us to deal with the epidemic of violence against women. In Vermont, there were six women murdered last year, and every single one of them was killed by

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an abusive spouse or partner—and God only knows how many other women were beaten and assaulted. This bill, through funding for a wide variety of services, will finally allow us to give women the protection that they have long been denied.

TRIBUTE TO THE LATE RUSSELL TICKNER

Mr. BARTON of Texas. Mr. Speaker, it is my sad duty to inform the House that a dear friend of mine, Russell Tickner, passed away yesterday at the age of 71 years. Russ was the husband of my former district representative, Jan Tickner.

My heart goes out to Jan and their four children, Nancy, Suzy, Gary, and Tom, their nine grandchildren, and their hundreds of friends.

Russell Tickner's life was like Jimmy Stewart's life in the movie "It's a Wonderful Life." He honestly touched thousands of people in a very positive way, myself included. He was a World War II veteran. He was shot down on his first B-17 bombing mission over Germany, escaped by parachute, was hunted by the German soldiers, and climbed into an apple tree. The Germans came in and machine-gunned the apple orchard, but did not shoot up into the trees.

□ 1150

He escaped back to England, came back to the United States and married a young woman that he met at a USO dance before he went overseas. Russ and Jan lived their lives in Conroe, TX.

He was self-employed in the restaurant business, the arts and crafts business. He was active in prison ministry. He was an avid golfer, a great coffee drinker and a great story teller.

Few people lead the kind of life that Russ Tickner lived. He had the distinction of having the street that he lived on named in honor of him, Tickner Lane. The world is a better place today because of Russell Tickner's life.

DEMOCRACY

Mr. WATT. Mr. Speaker, in the midst of all the discussion about health care and crime and issues of importance, there are some of us who are still struggling with the simple question of democracy and whether our districts will survive.

Last week in Louisiana, a three-judge panel redrew the districts there that have been worked on by the State legislature. Democracy is based on representative government, and all people in our democracy are entitled to representation in the process.

I think we should express our outrage at efforts that are on the way to undermine representative government in this body, and I call upon America to do that. I call upon the Supreme Court to stay the ruling entered by the three-judge panel in Louisiana.

WHAT'S THE HURRY?

Mr. WALSH. Mr. Speaker, to the leadership of the House, my message today is quite simple. Take a step back, hold off on your plans to bring the Clinton-Gephart bill to the floor next week, and instead provide each Member of this House with a detailed summary of your bill. Then allow us to return to our districts and discuss the legislation with our constituents. That is what the American people want, and everyone in this Chamber knows it.

If you try playing hard ball politics by jamming this down the throats of House Members without their knowing the complete content of the bill, you will do tremendous damage to those who follow your path. The public will not stand for it.

This issue is not Social Security, and for those simplistic enough to believe that line, you had better sign up to a fast economics course. The issues are deep and complex. If you have never tracked a Medicare claim or followed a constituent's case dealing with long-term care, I suggest you talk to your office caseworkers handling health care problems. The lack of factual knowledge in dealing with this issue is appalling. You cannot correct something if you do not understand it.

Instead of producing a strong foundation on which to build real health care reform, we see a Trojan Horse being readied for a sneak attack. This is no way to legislate, and shame on those who attempt such folly.

HEALTH CARE

Ms. SHEPHERD. Mr. Speaker, for near 2 years now, I have been trying to help my constituents in Utah solve their individual health care problems. This is the story of a young man in my district who has juvenile diabetes. After graduating from college he got a job with a small company as a computer programmer. His employer did offer health insurance. However, because he had a pre-existing condition, he was given two choices: He could take health coverage that excluded anything related to his diabetes, or he could accept coverage in a special group with a high deductible, high copayment, and a $700-a-month premium. His take home pay at the time was $1,000 a month. As his parents explain, "even though our son may have been counted as having health insurance by some statistics, in effect, he had no real coverage."

Without health care reform this young man will remain at the mercy of employers and insurers who decide whether he can or cannot stay healthy.

It is time we solve this problem and pass comprehensive health care reform.

THE CRIME BILL

Mr. STEARNS. Mr. Speaker, the crime bill was filed last night at 7 p.m. It is over 900 pages. Most of my colleagues in this House have not seen the bill. That is why a recent survey by the Luntz Research Group is very, very important: 36 percent of those people who were surveyed in America said they do not want to see this crime bill passed now; 55 percent felt somewhat more strongly.

If all these people knew that there were 30 new social spending programs in the bill and that it is at a cost of almost $9 billion, I think all of them would say, do not pass this crime bill.

What happened to Vice President GORE's mandate that we reduce Government programs and spending? Why are we adding 30 new social spending programs?

If we looked at the statistics from the Justice Department, since 1965, we see that the amount of money spent for welfare has increased 800 percent yet the crime rate has tripled. That is why all Americans believe our Government is too big and spends too much money. They want us to go back and develop a new crime bill.

SAVING THE ASSAULT WEAPONS BAN

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, today we will be voting on the crime bill conference report. I know we are all pleased with some and disappointed with other parts of the bill. I declined to sign the conference report because of several provisions that I cannot support.

But our vote on the rule today presents every Member of this House with a straightforward, if unappealing, choice: Defeat of the rule will result in the elimination of the assault weapons ban. That will be the only change defeat of the rule can accomplish. That is what lies in the balance.

I will support the rule when it is considered later today. We have no choice. We must save the assault weapons ban. These firearms account for only one-half of 1 percent of all guns, but have been used in more than 8 percent of all gun crimes—29,058 between 1988 and 1993 according to the Bureau of Alcohol, Tobacco and Firearms.

There are valid objections to this bill, but I cannot in good conscience help defeat the rule knowing the sole result would be to kill the assault weapons ban. We owe it to our children, to our neighbors, to the voters who sent us here to get these weapons of war off the streets. I urge my colleagues to vote for the rule and to save lives by saving the assault weapons ban.

HEALTH CARE DEBATE

(Mr. HOEKSTRA asked and was given permission to address the House for 1 minute.)

Mr. HOEKSTRA. Mr. Speaker, we are about to begin on an historic process, but we have gone through it. We went through it in Education and Labor. We spent 8 weeks marking up the Education and Labor health care bill.

Now in 8 days we will measure and mark up a brand new bill. This is an outline.

What do we know is in the Clinton-Gephardt bill? We know there is mandates. We know there is subsidies for small businesses. They will be phased out by the year 2005. We know there is micromanagement of the health care education area. There is global budgeting, regional exemptions. There is new taxes, new penalties, more paperwork. And our idea of tort reform is that we are going to preempt all the tort reform that has taken place at the State level.

Trying to do health care in 8 days demonstrates Washington and this House are out of control.

CRIME BILL

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, in order to restore sanity and security to the streets of America, I strongly support a tough but fair anti-crime package that offers a balance between punishment and prevention.

Congress must provide the people with the necessary weapons to combat drug dealers, gang leaders, robbers, rapists, and murderers.

Community-based policing, reinforced with more law officers and more resources for drug treatment, buttresses our effort to win this war.

Also, deeply rooted in any crime prevention initiative are measures that promote family values, education, and job training.

I strongly support a crime package that throws three-time convicted violent felons in jail for life and adds more Federal crimes to the death penalty list. I support more prisons.

We must protect ourselves, our families, and our neighborhoods by locking up—and when appropriate, executing—those who repeatedly demonstrate a disregard for the sanctity of human life.

We need to assure fair and impartial sentencing.

A successful crime package is one designed to displace fear with security, sanity, and confidence, through a balanced approach that provides the strength and fairness needed to win the war on crime. We must pass the crime bill today.

THE RULE FOR THE CRIME BILL CONFERENCE REPORT

(Mr. HUFFINGTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUFFINGTON. Mr. Speaker, I rise today to urge my colleagues to vote against the rule for the crime bill conference report. Once again, the majority leadership is trying to use parliamentary tricks and restrictive rules to ram a flawed bill through this chamber.

Mr. Speaker, I have stood here incredulous as the majority has accused the minority of forcing congressional gridlock—an amazing assertion given that the Democrat party controls both chambers and the White House. In fact, the real reason Congress is struggling to pass a crime bill is that the liberal leadership insists on stuffing legislation the country needs with social experiments the American people just do not want.

Allow me to remind my colleagues of a disturbing trend. In just 15 years we have gone from having 15 percent of the legislation on the floor considered under restrictive rules to almost three quarters of the bills considered under restrictive rules.

And the crime bill is no different. Republican attempts to improve the bill have been blocked throughout the entire process.

I may be just a freshman, but I know that clean conference reports do not need rules to come to the floor. Rules are sought when protection is needed for dubious programs. And boy does this bill need protection.

Let me make this perfectly clear for the American public: This bill needs protection because arts programs, midnight basketball programs, self-esteem programs, and most of the rest of the social welfare programs slipped into this bill have very little to do with fighting crime. And unless protected by a special rule, these pet projects would be gone.

Finally, Mr. Speaker, a simple observation. Our fellow citizens increasingly live under the specter of violent crime. And they have asked us to do something about it. They asked for a tough crime bill. And they know this is not it. I urge my colleagues to vote down the rule, send this legislation back to conference, and return a tough anticrime bill that will make our streets safer.

□ 1200

IN SUPPORT OF THE VOTING RIGHTS ACT

(Ms. BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BROWN of Florida. Mr. Speaker, I rise today to acknowledge the importance of the Voting Rights Act signed by President Lyndon B. Johnson almost 30 years ago. Unfortunately, we are still fighting the same battles all over again—whether Congress looks like all Americans or just a few. Accomplishments in diversifying Congress have been attacked in court. History, if we are not careful, threatens to repeat itself. Districts created to remedy violations of the Voting Rights Act should not be stricken down by the courts.

As President Clinton recently stated, "Inclusion of all Americans in the political process is not a luxury; it is central to our future as the world's strongest democracy." The Department of Justice must be strong in its leadership for civil rights, and vigilant in its enforcement of the Voting Rights Act, especially in defending districts created to remedy blatant violations and abuses of voting rights for people of color in this country.

It is especially fitting today as we take up the crime bill that Congress is well-represented by diverse Members who can fully debate the root causes of crime which have been ignored in the past, such as failure in education, job training, and crime prevention. Diversity in Congress is more important now than ever.

ENCOURAGING RUSSIA'S PRESIDENT YELTSIN TO BUY HIS YACHT IN AMERICA

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, as the Members of this body know, I have been a critic of United States aid to Russia. One of my concerns has been that we have not established strong enough conditions on aid or enforced those we have imposed.

Now I discover yet another condition that we neglected to include in the Russian aid package. That is that President Yeltsin cannot use American taxpayers' dollars to purchase a luxury yacht with a swimming pool and tennis court. The Washington Times reported that Mr. Yeltsin is negotiating with a Russian shipbuilder for just such a craft.

If there is any truth to this report, I hope our administration officials will take a careful look at this ostentatious display. Even here in the United States, where we are wealthy enough to bestow $850 million on Russia, we cannot afford a yacht for our President.

At the very least, Mr. Speaker, we should demand that the Russians "buy American." There are plenty of good shipyards here looking for work, including several in my district. I would encourage Mr. Yeltsin to do his shopping here.

VOL
140
PT
15
AG
10
11
1994
UMI

LIFE, LIBERTY, AND THE PURSUIT OF HAPPINESS

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FURSE. Mr. Speaker, life, liberty, and the pursuit of happiness, those are the words our forefathers put in our first defining document. This week in Oregon, the life of Catalina Correa, a mother, a nurse, whose life had been dedicated to helping others, her life was snatched from her by a man with an assault weapon.

Mrs. Correa and her family have lived in my district in Oregon. I would like to ask those who think that their happiness depends on being able to buy hundreds of types of guns, guns that are designed only to kill, to kill people, people like Catalina Correa, I ask them to go to Oregon to explain to this family why their happiness is more important than Catalina's life. I certainly cannot explain it.

Mr. Speaker, it is time we protect our constituents, their lives, their liberty, their happiness. It is time we passed this rule and passed this crime bill.

LET'S CONSULT THE PEOPLE—THE NEED FOR AN ORDERLY PROCESS ON HEALTH CARE

(Mr. HORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, the next week will bring this Congress and the Nation the historic opportunity to debate the health care reform proposals. For many of us, it may be the most important vote we cast in this House. It is quite probable that no other issue will have more impact on the lives of each and every American. It is critical, then, to take the time to do this right.

Mr. Speaker, if this were a schoolhouse and the students showed up, and the teacher was ordered by the principal to give them all the homework for the whole semester and have it done tomorrow morning, the parents of the students would revolt, go to the school board and ask that the principal be removed.

Mr. Speaker, the people of America should revolt and go to the leadership of this House and ask that they be removed. This type of a railroad train violates every common sense rule of a parliament that ought to give due deliberation to complex legislation.

One sentence in one of the many thousands of pages of four or five of the bills can mean $10 billion.

Mr. Speaker, this House should not be steamrollered and ramrodded into misconduct in the legislative arena. What is the rush? Why next week when the bills are not even printed?

Let us do this in an orderly way—read the bills, discuss them, explain them in the district to our constituents, then—after Labor Day—return to this chamber, debate the issues, and vote to meet the needs of the 37 million Americans who have no health care coverage.

GREED IN PROFESSIONAL BASEBALL CAUSES FANS AND EMPLOYEES TO LOSE OUT

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, tomorrow one of the most exciting baseball seasons in recent memory will come to an end. Teams like the Cleveland Indians and the Houston Astros, the Montreal Expos and the Colorado Rockies, teams that nobody thought would ever have a chance of getting to the pennant, have actually had a terrific season. Kenny Griffin, Jr., Matt Williams, even have a chance to break Roger Maris' home run record.

Yet, Mr. Speaker, none of that will happen, primarily because of greed. The Red Sox even have a chance for their August spurt, only to be crashed in September, but we have to ask ourselves why.

Mr. Speaker, major league baseball players average a $1.2 million salary a year. In fact, their salaries have increased 1,600 percent over the last 17 years. The owners say half the teams are losing money, but they will not even open their books. Attendance is way up. We should make it clear to the owners and the players that a lot more people are going to lose from this strike than can gain anything from it.

Mr. Speaker, all the people who work at minimum wage jobs are going to lose their jobs, but most importantly, the biggest price to be paid will be with the fans, whose loyalty cannot be sustained when they pull this eight times in 20 years.

THE CRIME BILL MISSES ITS MARK

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in opposition to the Conference Report on H.R. 3355, the Omnibus Crime Control Act.

Mr. Speaker, this bill has missed its mark. The overall aim of a crime package should be on getting tough on criminals. Its aim should be on deterring the rate of crime in this country. Unfortunately, the crime bill does not do that.

The crime bill falls short because it punishes all American citizens by banning the possession and manufacture of certain semi automatic firearms. The conference report begins to take away the rights of law-abiding citizens which are protected by the second amendment.

This is not the aim that the crime efforts in this country should take. We cannot fight crime at the expense of our rights as American citizens. In fact, criminals will laugh at gun control—they will have their guns, no matter what gun regulations are legislated.

Now, there are a few provisions in the crime bill that are not that bad. There are programs such as funding for State and local law enforcement grant programs, a truth in sentencing provision, and money for prisons.

But as a whole, this bill does not hit the target. This bill penalizes upstanding, honest Americans.

Moreover, H.R. 3355 is a spending bill, with over $9 billion earmarked for new social programs.

Now this is completely off the mark.

Mr. Speaker, the folks in my district are like those in yours—they are deeply concerned about the safety of their homes and neighborhoods. Unfortunately, a crime package that takes away freedoms of law abiding Americans instead of getting tough on criminals, will only make the problem worse.

I urge my colleagues to vote "no" on the crime bill conference report.

CALLING FOR GUARANTEED HEALTH INSURANCE FOR EVERY AMERICAN FAMILY

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, on any given day 37 million Americans are without health insurance. In my district, the First Congressional District of Michigan, there are 64,000 people who are under the age of 65 who are uninsured. Of those uninsured, 14,000 are children. Over 80 percent of the uninsured in my district are working but do not receive health benefits through their job.

Constituents contact me frequently about their need for health care reform and guaranteed private health insurance.

For example, a woman from the Traverse City area called me to say that her company just cancelled her health insurance. This very woman was 8½ months pregnant, and was left with nowhere to turn.

Mr. Speaker, this woman and even those with health insurance are why we need health care reform. We need health care reform because when this woman had her child, do you know who paid? All of us, through increased insurance premiums, through increased out-of-pocket expenses, through increased State taxes, through increased Federal taxes. This bears out the fact that health care reform is for everyone. We must get this under control.

Mr. Speaker, I hope that the Congress will help every American to obtain and retain health insurance for themselves and their children.

□ 1210

SUPPORT URGED FOR TOTAL CONGRESSIONAL REFORM

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, yesterday we took a major first step down the road toward congressional reform. Bringing Congress under the laws that we pass for the rest of Americans, reforming our travel, and having us receive the same health benefits are measures of which we should all be proud. And they are also long overdue.

We now need to rid ourselves of the perks and privileges that still separate us from our constituents. We need to reform our pensions, do away with airport parking, and stop proxying voting, among other things.

My bill, H.R. 4444, completes the job that H.R. 4822 started. We need total congressional reform, Mr. Speaker, we need H.R. 4444, the one stop shop for congressional reform.

NEW YORK TIMES SHOULD ALLOW CONTRASTING VIEWS ON CUBA

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute.)

Mr. TORRICELLI. Mr. Speaker, like many Members, I have long considered the New York Times to be one of the most venerated institutions in this country, a principal dialog for opposing positions in our national debate. I therefore rise with some regret.

Today, the New York Times has published the 12th in a long series of editorials and op-eds against American policy toward Cuba. The American public may believe because those views are never answered in their op-ed page that there are no contrasting views. In fact, month after month for a second year Members of this institution and others in the country have attempted to enter into that debate. Indeed, a few months ago after repeated rejections, simple letters were offered explaining that there are other views who believe in the American embargo of Cuba. Even that letter was offered.

Today, in their editorial, the New York Times termed as a "fanatical faction" that believes in the American embargo. That fanatical faction includes the House, the Senate by a two-thirds margin, President Bush, President Clinton, and two-thirds of the American people.

Mr. Speaker, the New York Times deserves its high reputation but it better serves its history and this venerated view if it allowed contrasting views.

MAY THE CLINTON-GEPHARDT AND CLINTON-MITCHELL HEALTH CARE PLANS REST IN PEACE

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, here they go again. Yes, a crime bill that does not fight crime but spends $33 billion that we do not have. Yes, it reduces the minimum mandatory sentences for drug pushers that sell poison to our children. It eliminates the minimum mandatory sentences on those who use a gun in the commission of a crime, yet makes it a crime to own a gun to protect your home or your family or your business.

Do we have the $33 billion? No. And what are we going to do later this week or next week about health care? We will turn it over to the Government. What a new concept. It has been tried in Great Britain, but if you have a business in Great Britain or you are employed there as a management employee, they give you the keys to the washroom. In other words, private health care. You do not have to stand in line with the rest of those poor people that are suffering under socialism.

How is it working in Canada? That is our model. Oh, just fine, thank you, unless you live in Ottawa and want a hip operation. It is not on the menu. Oh, they closed for 3 weeks to balance the global budget. All that is in the Clinton-Gephardt plan, all that is in the Clinton-Mitchell plan. Let them rest in peace.

MEDICAL NUTRITION THERAPY NEEDED IN THE HEALTH CARE PLAN

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute.)

Ms. SLAUGHTER. Mr. Speaker, medical nutrition therapy, when medically necessary or appropriate, is a service which saves money, improves patient outcomes and enhances the quality of life. It reduces the need for long-term drug therapies for many chronic illnesses, and reduces or prevents hospital stays and invasive medical procedures.

Medical nutrition therapy is also important in maternal and child care. For example, I recently heard from the Genesee Dietetic Association in Rochester, NY, about a 34-year-old woman with poorly controlled diabetes. With just five visits to a registered dietitian, she was able to deliver a normal, healthy baby. The cost of medical nutrition therapy was $280; the medical costs without it might well have exceed $5,000.

Mr. Speaker, as we seek to reform our health care system, we must not let medical nutrition therapy slip through the cracks.

I urge my colleagues to support legislative language which provides coverage for medically necessary or appropriate health professional services, to allow an opportunity for reimbursement for medical nutrition therapy.

AN INEFFECTIVE CRIME BILL AND THE MOVE TOWARD SOCIALIZED MEDICINE

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, two very important issues facing this Congress but more than that facing this Nation: A dramatic crime bill which expands social programs and a bill that calls and moves us toward socialized medicine in this country.

Mr. Speaker, we are seeing the President and some of the liberal Democrats hold hostage needed changes to reduce crime in this country so that they can expand $8 billion worth of social programs in urban areas. We see individuals that are holding hostage needed changes to reduce the cost of health care in this country so that they can go to socialized medicine. I plead with the American people to look at what is happening and the consequences of having more government takeover of your individual freedoms, your life, and taking away part of our private sector economy to be managed by a government that has not done very many things very well.

SUPPORT THE CRIME BILL

(Mr. KLEIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN. Mr. Speaker, the vote today on the omnibus crime bill is one of the most important we will ever cast. After months of efforts, we are about to pass the toughest, strongest crime bill this country has ever seen, that targets criminals and curbs violence. The time has come to stop looking at the criminal as the victim and recognize that we, the law-abiding citizens, are the victims. This bill focuses on the needs of our Nation's victims: More cops on the street, truth in sentencing, expanded prison space, and laws that keep military-style assault weapons off our streets.

There are special interest groups that would kill this bill, would hold it hostage in an effort to kill the assault weapon provisions. And they would deprive the American people of what we

VOL
140
PT
15
AG
10
—
11
1994
UMI

are demanding. We cannot afford to let that happen. Let us have the guts to pass the rule and pass the crime bill and give Americans what Americans want and need.

DELAY IS PREFERABLE TO ERROR

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, in a letter to George Washington in 1772, Thomas Jefferson said, "Delay is preferable to error."

The American people know that rushing to pass the Clinton-Mitchell or Clinton-Gephardt bill would be an error of incomprehensible proportion. In fact, by a measure of 2 to 1, the American people want us to wait until next year to reform health care. I merely ask for a few days to talk to my constituents about these so-called new plans.

What would Jefferson say today if he could witness the attempt by the Democrat leadership to ram a bad health care bill by the American people without the benefit of a thorough review.

Jefferson, who advocated a "wise and frugal government" and the "suppression of unnecessary offices, of useless establishments and expenses," certainly would urge delay of a measure that would place 14 percent of the American economy under Federal control, and add at least 17 new taxes and 50 new bureaucracies.

The Democrat motto these days seems to be Anything is better than nothing. Let us reject their premise and abide by the Jeffersonian principle, Delay is preferable to error.

BARBARA BUSH SPEAKS OUT ON CHOICE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I take the well to celebrate one of America's great treasures and finest women, Barbara Bush, and say how glad I am she has finally been freed to speak her mind on choice. We thought all along she agreed with us on choice, and she finally has been able to say she thinks the government has no business in people's personal lives and medical lives, thank you very much. And thank you, Barbara Bush. I think had she been asked about today's crime bill, she would probably say, "For crying out loud, pass it."

Let us get assault weapons off the street, get the violence against women passed, get prevention programs out there.

Mr. Speaker, punishment only has not passed and all this business about pork is a bunch of hoo-ha. The other side's bill is to spend the same amount of money but spend it all on prisons as we have been doing for the past 12 years, and we know where it has gotten us.

Mr. Speaker, thank goodness she spoke out. Let us listen to some of these reasoned voices in the heated debate today.

A CRIME BILL LOADED WITH SOCIAL SPENDING PROGRAMS

(Mr. FRANKS of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Connecticut. Mr. Speaker, if I had a hat I would tip my hat to the congressional Black Caucus and the other liberals in Congress for having successfully orchestrated an extensive list of social spending programs in a crime bill.

□ 1220

Lyndon Johnson would be amazed that we were able to resurrect his War on Poverty in this manner.

In the past, Congress has passed make-work jobs; Congress has taken care of able-bodied people; but now Congress will start a new program, a make-busy program, complete with arts and crafts and night basketball. Is this big government cradle to grave?

Welfare reform, requiring greater parental responsibility, and other related initiatives geared to getting fathers to fulfill their obligations as fathers, would be the better way of monitoring a youngster's activities in the wee hours of the morning.

More government programs is not the answer.

I encourage my colleagues to oppose the rule on the crime bill, because we can do better, and for our Nation's sake, we must do better.

CRIME BILL CONFERENCE REPORT WORTHY TO BE PASSED

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, I heard the gentleman from California from the Long Beach area say that we had not had time to study this bill. I think people forget this is the conference committee report.

For 6 years we have discussed this bill, and we had extensive debate on the floor of this House on every major issue that is in this bill including the assault ban. I voted against that ban. As the undersheriff from Clark County wrote in in support of the bill, he said he supported the bill even though the assault ban was frivolous, because we know criminals buy those guns not from authorized dealers but off the illegal market.

But, on the other hand, there is so much good in this bill, and we have certainly studied this bill and studied this bill and studied this bill. Remember, gentlemen, this is the conference committee report. This is not the initial debate. We debated and debated and debated.

Let us support the rule and move it forward.

I do not like a lot of things that are in it, but I like a lot of things that are in it. I think it is worthy to be passed.

Let us get the rule passed, and let us vote the bill in.

PASSAGE OF THE CRIME BILL WOULD BE A CRIME

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, I have just heard my colleague say that we have studied this issue and studied it and studied it.

We all know what is in it.

Well, in fact, when the conference committee was doing its work, even the conferees did not know the committee chairman was sticking in $10 million of pork for a local university in his district.

This is what totals $9 billion of pork in this bill. It is why it is not a crime bill at all. It is in fact a criminal welfare bill.

Why should we call it a criminal welfare bill? Well, first, because in it there is so much welfare for criminals.

Second, all of this pork in a bill such as this under the guise of a crime bill is, well, just criminal, and we ought not pass it.

We have got arts and crafts in this bill. We have got new social workers. We have got dance programs. I am not making this up. I suppose on Mondays and Wednesdays the murderers will lead, and on Tuesdays and Thursdays the rapists and so on.

This is a return of the discredited Clinton pork-barrel stimulus package that Congress defeated last year.

With all of this pork, is there any room for law enforcement? Well, the FBI Director, Louis Freeh, spilled the beans. He tells us the FBI and the Drug Enforcement Administration will lose over 1,000 personnel in order to pay for this bill.

Passage of this so-called crime bill would be a crime.

SUPPORT THE CONFERENCE REPORT ON THE CRIME BILL

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, today the House will take up the crime bill. That is good news for the American people.

Before we do, we will have to vote on the rule. I myself will vote "aye" on the rule reluctantly, because I am opposed to the death penalty, and I am opposed to the "three strikes and you are out" provisions in the legislation.

However, having made that point, I will be supporting the rule and the bill most enthusiastically, the bill because of its provisions to fight crime in our country and send a message of comfort and hope to the American people. Those provisions include initiatives to reduce the incidence of violence against women, and very importantly, it provides a civil rights cause of action for the victims of gender-motivated violence. The bill gives judges more discretion in sentencing first-time nonviolent offenders, a loosening up of the mandatory minimum sentences that are crowding our prisons.

In terms of violence against children, it strengthens Federal penalties against people convicted of assaulting children 16 years and under.

I particularly wish to commend Mr. SCHUMER and the House leadership for their commitment to a ban on assault weapons.

The list goes on and on with provisions which will help reduce crime in our country.

I urge our colleagues to support the rule in spite of reservations that you may not like the bill 100 percent. On balance, it is a great bill.

TAKE SOCIALIZED SPENDING OUT OF THE CRIME BILL

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, the gentlewoman from California is correct. There are a lot of good items in this bill, and the little issue that most of us resent is the $9 billion in socialized spending.

Let us take ourselves back in the debate 100 years ago where we might hear:

Marshall Dillon, do not worry about the hole-in-the-wall gang. They are not going to cause you any more problems, because we took the carbines away from Dodge residents. By the way, Marshall Dillon, the prisoners you have in jail, we are going to give them dance lessons. Miss Kitty, those folks down at the Long Branch Saloon, no problem, we have got 40,000 social workers to take care of them, and if they still get rowdy, we have got a midnight basketball program for all of those cowboys. But they have to be 2 percent HIV positive. You do not have to work past midnight.

Let us not support the rule.

If you support this rule, Mr. Dillon, Marshall Dillon, we are going to give you a big, fat pork-barrel program in your city.

Our leadership offered the President a $9 billion way out of this bill by saying:

Let us take the $9 billion and separate it and vote on it separately. Let us take the $9 billion and put it toward the real crime bill and take out the socialized spending.

STAY ISSUED BY SUPREME COURT IN LOUISIANA V. HAYS

(Mr. FIELDS of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS of Louisiana. Mr. Speaker, I rise today to inform the House that about 30 minutes ago the U.S. Supreme Court voted to uphold the voting rights of all Americans in a decision of 8 to 1 upholding and issuing a stay in the case of Louisiana versus Hays.

I would like to at this time, Mr. Speaker, thank the President of the United States of America, who took a very firm stand for voting rights in this country, and also I would like to thank the U.S. Attorney General, Janet Reno, as well as the Assistant Attorney General for Civil Rights, Mr. Devol Patrick, who worked so hard to protect the Voting Rights Act that we passed in this Congress, and the Solicitor General, Drew Days, who worked so hard to defend the Voting Rights Act in this country, the State attorney general of the State of Louisiana, attorney general Richard Iyoube, and also the assistant attorney general, Mr. Roy Mongrue, who worked so hard day and night to defend the Voting Rights Act for the citizens across the State of Louisiana.

I would like to also thank, Mr. Speaker, the Lawyers' Committee on Civil Rights, the NAACP Legal Defense Fund, and I would like to finally thank Judge Leon Higginbotham, all who have worked hard to preserve the Voting Rights Act, an act this body passed and an act that ought to be upheld in every court all across the country.

ORDER LIST—THURSDAY, AUGUST 11, 1994

ORDER IN PENDING CASE

A–64—LOUISIANA, ET AL. V. RAY HAYS, ET AL.

A–75—UNITED STATES V. RAY HAYS, ET AL.

The applications for stay presented to Justice Scalia and by him referred to the Court are granted and it is ordered that the judgment of the United States District Court for the Western District of Louisiana, Civil Action No. CV 92-1522S, filed July 25, 1994, is stayed pending the timely filing of statements as to jurisdiction in this Court. Should such statements be so timely filed, this order shall remain in effect pending this Court's action on the appeals. If the judgment should be affirmed, or the appeals dismissed, this stay shall expire automatically. In the event jurisdiction is noted, or postponed, this order shall remain in effect pending the sending down of the judgment of this Court.

Justice Scalia would deny the applications.

JUST SAY NO TO THIS CRIME BILL

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, I ask my colleagues to take a hard look at the final crime bill before the Congress today.

If more police were the answer to our crime problem, Washington, DC, should be one of the safest places in the Nation.

If tighter gun control laws would bring down crime, Washington, DC, with some of our Nation's toughest weapons control laws, should be a secure place to live and work.

If more social workers and government employees were the answer to our crime problem, Washington, DC, should be a model for a safe community.

Unfortunately Washington, DC—our Nation's Capital—in spite of having all the features touted as solutions in this crime bill, has one of the highest crime rates in the world.

We do not solve our crime problems with children playing federally financed basketball after midnight in cites with curfews.

We do not reduce crime by cutting drug enforcement, sending our children a mixed message about drugs, and releasing 10,000 convicted drug felons into our neighborhoods.

Send this bill back, I say to my colleagues, because we can do a better job.

TRUTH TIME ON CRIME

(Mr. KREIDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KREIDLER. Mr. Speaker, today we vote on the crime bill.

This bill will do more to get tough with criminals than anything we have ever done.

This bill will also do more to get smart about preventing crime than anything we have ever done.

But this bill is not tough enough for some people.

Well, how many police does it take to be tough?

This bill has 100,000 more cops.

How many prisons does it take?

This bill has $8 billion for new prisons.

And how many death penalties does it take? This bill extends the death penalty to 60 new crimes.

If you oppose this bill because it is not tough enough, tell that to the women who are beaten by their husbands, who would get help under this bill.

Tell that to the prosecutors in my district who would get help from this bill.

And tell that to Mary Glenn in my district, whose 15-year-old son, Shaun Proctor, was killed with an assault rifle when he went out for pizza.

Tell the millions of victims this bill will help that you think it is not tough enough.

Tell them that your answer to them is "tough luck."

VOL 140 PT 15 AG 10 — 11 1994 UMI

□ 1230

CRIME BILL NOT TOUGH ENOUGH

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we have heard a lot today about this tough crime bill the Democrats are bringing out. I would suggest this is not a tough crime bill. They referenced the fact that there are 100,000 new police in the bill. They are going to need 100,000 new police to chase the 10,000 drug criminals that they are going to release as a result of the bill.

That is right, under this bill what they are going to do is take drug criminals who are now in jail and retroactively reduce their sentences so they are back on the streets in our communities. Most Americans understand the violence in our communities. Most Americans understand the violence in our communities is largely related to the drug crimes, and now we are going to put drug criminals back on the streets for the police to go after.

That just does not make any sense.

What else do we do in this bill? Well, we put $20 million in the bill for public policy seminars. Now is that not wonderful? I know a lot of criminals who are really concerned about public policy seminars.

What about all the social programs? Just think of this: If you are in trouble, you call 911. Instead of the police what you get is a social awareness counselor, "That is not a mugger pointing a gun at you, ma'am," they say, "that is an individual who is crying out for help."

What we need is a SWAT team of real people doing real criminal activity out there, not a lot more social workers.

CONFERENCE REPORT ON H.R. 4277, SOCIAL SECURITY ADMINISTRATIVE REFORM ACT OF 1994

Mr. JACOBS. Mr. Speaker, pursuant to the order of the House of Friday, August 5, 1994, I call up the conference report to accompany the bill (H.R. 4277) to establish the Social Security Administration as an independent agency and to make other improvements in the old-age survivors and disability insurance program.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the conference report is considered as read.

(For conference report and statement, see proceedings of Thursday, August 4, 1994, at page H6843).

The SPEAKER pro tempore. The gentleman from Indiana [Mr. JACOBS] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I thank the gentleman from Indiana [Mr. JACOBS] for yielding this time to me.

Mr. Speaker, I rise today in support of H.R. 4277, the Social Security Administrative Reform Act of 1994.

Title I of this bill establishes the Social Security Administration as a separate, independent agency. This is a landmark step in the continuing effort to make sure that the Social Security System is properly and impartially administered.

For too long the Social Security Administration has been caught in the middle of political and budgetary disputes. This legislation will go a long way to protecting the agency from the crossfire of partisan politics. In my judgment, granting SSA independent agency status will promote long-term stability in the Social Security Program. Such stability is essential in this program which provides basic retirement income security for almost every American worker.

I particularly want to commend Chairman JACOBS and Mr. BUNNING for their tenacity in advancing this legislation. The issue of independent agency status for the Social Security Administration has been the subject of many studies, reviews, and House votes over the years. In fact, yesterday marked the 10th anniversary of the day, August 10, 1984, that I, joined by Chairman DAN ROSTENKOWSKI, first introduced legislation to grant SSA independent status. The conference report before us today will finally make real the intent of that first bill which we introduced a decade ago. While it has been a long time coming, it has been worth the wait. And I think that Republicans and Democrats, who have consistently supported this reform over the past decade, and here I want to especially note the unwavering support of Mr. ARCHER, all should take great pride in the ultimate attainment of our goal.

Mr. Speaker, I would also like to call the Members attention two other provisions of the bill which address problems encountered in the SSI disability program.

The first provision deals with the granting of disability benefits in situations involving middlemen who are fraudulently causing millions of dollars in benefits to be paid to people who are feigning mental disorders. Section 206 of the conference report, which was proposed by myself, and Messrs. HAROLD FORD, HOUGHTON, and SANTORUM, will help to prevent this fraud by: Insuring accurate translations of interviews conducted by SSA officials; establishing streamlined procedures for terminating fraudulently obtained SSI benefits; and increasing civil and criminal sanctions available to SSA in SSI fraud cases.

The second provision deals with the continued payment of SSI disability benefits to recipients who are no longer disabled. Under current law there is no requirement for SSA to conduct continuing disability reviews for SSI recipients, even in cases where it is anticipated that the medical condition of the beneficiary will improve. The failure to conduct these disability reviews has led to the payment of hundreds of millions of dollars each year to people who are no longer disabled. Section 208 of the conference report, which is the result of a proposal advanced by Mr. HERGER and myself, requires SSA to conduct disability reviews for at least 100,000 SSI recipients per year for the next 3 years, and to report the results of such reviews to Congress no later than October 1, 1998.

Mr. Speaker, I want to conclude by complimenting the leadership of the Committee on Ways and Means for this very solid piece of legislation. Chairman GIBBONS and subcommittee Chairmen JACOBS and FORD, working closely with Mr. ARCHER, Mr. BUNNING, and Mr. SANTORUM, have crafted a bill which will significantly improve the operations of the Social Security Administration. Its immediate enactment will be a credit to us all, and I urge that all Members vote for these important reforms.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am extremely pleased to be here today, in support of the conference agreement on H.R. 4277, which represents the culmination of congressional action I helped initiate over a decade ago.

The Social Security System has always been extremely important to me. It's one of the very few Government agencies that most Americans have direct contact with and it's likely that many of our constituents measure the way Government performs generally by the way Social Security performs when they need it.

Bringing soundness to the Social Security System has been one of my chief legislative priorities since I was elected to Congress. We owe it not just to our senior citizens, but to our children and the obligations we leave them. That is the reason that I chose to become the ranking Republican on the Social Security Subcommittee when it was first created.

It is also the reason that I sponsored the first House bill creating an independent Social Security Administration with my colleague from Texas [Mr. PICKLE], was then the subcommittee's first chairman. I commend the work of my colleagues, JIM BUNNING and ANDY JACOBS, for carrying through that earlier work. Their efforts have been invaluable.

Mr. Speaker, making Social Security independent will not solve all of its problems, but I believe that freeing it from the layers of bureaucracy imposed on it by HHS will go a long way in making it less political, more responsive, and more accountable. It is also critical to its survival as a vital public service agency which administers the most important social program ever enacted.

The 1983 Social Security Commission, on which I served, recommended a study to make Social Security an independent agency, a recommendation that became part of the 1983 Social Security Amendments. Former Comptroller General Elmer Staats headed up the study panel, which recommended that an independent Social Security Administration be run by a single administrator, backed by a bipartisan advisory board. I am very pleased that the conference approved the form of administrative leadership specified in the bill introduced by the ranking Republican on the Social Security Subcommittee, Mr. BUNNING. His bill provided the same form of leadership as was endorsed by the experts on the Staats panel.

I believe that the seven-member bipartisan advisory board will plan a critical role making Social Security less political and in improving the public's confidence in the Social Security System.

This board will be independent of the Social Security Administration and Government in general. It will be made up of individuals who share a knowledge of the Social Security System as well as a strong desire to restore it to its former status as a premier public service agency which enjoyed the public's respect and confidence.

One of the most important jobs the Board will have is to increase the public's understanding of the Social Security System. I hope that as a result of the Board's efforts the average citizen will have more confidence in the Social Security System, and will become more aware of the need to plan and save overall.

The bipartisan, nongovernmental advisory board will play a vital role in both protecting the public's interest in Social Security and providing the public truthful information about their stake in the system.

The conference agreement contains other provisions that are important to average Americans, who strongly support Social Security, but want benefits to go to only those who are entitled to them. Thanks to the persistence of two House conferees, the gentleman from Texas [Mr. PICKLE] and the gentleman from Pennsylvania [Mr. SANTORUM], the agreement tightens up on SSI disability benefits by requiring Social Security to review cases to make sure recipients are still disabled.

It also starts to tighten up on payments to drug addicts and alcoholics by putting a 3-year limit on benefits, and by requiring that during that time recipients undergo treatment and be paid only through a responsible third party. These restrictions should provide an incentive for addicts and alcoholics to get their lives back on track. I know that average Americans and health professionals alike object to helping addicts and alcoholics fuel their addictions by giving them cash benefits, and I look forward to working with the subcommittee and committee to take further action on these issues.

Mr. Speaker, I join Chairman GIBBONS, subcommittee Chairman JACOBS, and our Republican leader on Social Security, Mr. BUNNING, in strongly supporting this conference agreement.

□ 1240

Mr. JACOBS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, for more than a decade, the Committee on Ways and Means has been seeking to give the Social Security Administration independence.

Our goal has been to restore the agency's mission of excellence, and protect SSA from short-term political pressures.

I have been a long-time proponent of this legislation. The House has passed the bill four times by overwhelming margins.

Now that the Senate has at last joined us in this effort, we are about to make our goal a reality.

Social Security is our Nation's most successful program. There is no more effective way to signify this program's importance than to give SSA independent status.

H.R. 4277 also includes a provision to restrict disability payments to drug addicts and alcoholics.

It would do this by paying through a responsible third party, requiring beneficiaries to participate in treatment, and applying time limits on benefits.

These are important reforms that would assure that Social Security and SSI benefits are used as intended—to cover the cost of basic necessities such as food, clothing, and shelter.

Mr. Speaker, this is a historic moment for Social Security and the successful end of a decade-long effort by the Committee on Ways and Means.

I commend my colleagues for their hard work, and I look forward to the improvements in service to Social Security beneficiaries that this legislation will bring.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise enthusiastically in support of H.R. 4277 and urge my colleagues to join me in once again approving this monumental piece of legislation to restore independence to the Social Security Administration.

We owe a special thanks to our Social Security Subcommittee chairman, Mr. JACOBS, who has shown great leadership and dedication in the development of this bill as has our ranking member, Mr. ARCHER, who has been unwavering in his support on this issue for over a decade.

And, of course, the acting chairman of the full committee, Mr. GIBBONS, deserves recognition for shepherding this legislation through conference.

In fact, all the conferees and staff who worked at ironing out the final bill that is now before us were great to work with. The conference was very congenial, totally bipartisan and a real pleasure.

And, most importantly, we have ended up with a good bill. It does a lot of things to improve Social Security.

This bill fixes many parts of the existing law which are broke and needed fixing. It makes disability payments to substance abusers more accountable. It requires that substance abusers participate in treatment or lose their benefits. It insures that benefits will not be used to support an addiction.

It allows police and firefighters in all the States the option of participating in Social Security. Only 24 States now have this option.

It provides that any borrowing against the Social Security trust fund must be evidenced by physical documents—bonds, notes, or certificates. It's time we got the trust fund IOU's in writing and this bill does that.

This bill increases the Social Security exclusion for election workers to a reasonable level that will not discourage people from working at the polls.

It does a lot of things.

But, of course, the most important point of this bill is to accomplish something that members of this body have been trying to do for years—to restore independence to the Social Security Administration.

In 1935, when Social Security was established, it was freestanding and independent, run by a three member board. Over the years it was expanded to be the Federal Security Agency and then it was folded into the most legendary of all bureaucracies, the Department of Health, Education and Welfare.

Later, Education was spun off and H.E.W. became the Department of Health and Human Services.

Social Security got lost in the process.

This bill takes the Social Security Administration out of the basement of the Department of Health and Human Services where it has been lost in the bureaucratic shuffle.

It emancipates the Social Security Administration from the bonds of politics and insulates it against the gale winds of Presidential posturing, bureaucratic infighting, and budgetary games.

This bill insures that Social Security will no longer be a political football.

This bill provides much-needed stability at SSA by creating the positions of a Commissioner and a Deputy Commissioner to be appointed by the President and confirmed by the Senate, for 6-year terms.

VOL 140 PT 15 AG 10 — 11 1994 UMI

In the past 17 years, 12 Commissioners or Acting Commissioners have come and gone. Social Security has suffered from revolving-door leadership. This bill changes that and provides the kind of stability and a clear-cut line of responsibility any organization the size of SSA needs to be efficiently managed.

To further strengthen oversight and accountability, this bill creates a bipartisan seven-member advisory board to provide advice on Social Security policy. Three members would be appointed by the President; four by the Congress. and, again, to provide continuity and insulate the agency from politics, the members would serve staggered 6-year terms.

I am particularly pleased that the conferees chose to go along with this form of leadership for Social Security that I specified in my bill on the subject—a single administrator backed by a seven-member board.

By granting Social Security its independence and backing it up with this well-balanced management structure, we will provide the stability and the nonpartisan credibility we need to restore the confidence of the American people that Social Security will indeed be there when they need it.

I strongly urge my colleagues to support this measure and give Social Security its independence.

□ 1250

Mr. Speaker, I reserve the balance of my time.

Mr. JACOBS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Fourth of July has come and gone. It has been two long and eight regular-sized years now, since this effort was begun. Now on this 11th day of August, 1994, A.D., the Liberty Bill can ring for the Social Security System. The House of Representatives, by what it is about to do will take the final action in a 10-year effort. Our action realizes the perseverance and the effort of 10 years to make a declaration of independence for the Social Security System.

Many Members have made special contributions. I begin by naming my friend and my colleague, the gentleman from Kentucky [Mr. BUNNING]. Our relationship as chairman and co-chairman of the Social Security Subcommittee reminds me fondly of those greats of the U.S. Congress, William McCulloch of Ohio and Emanuel Celler of New York, and the splendid fashion in which they worked and brought credit to this institution. So I pay special tribute to the gentleman from Kentucky [Mr. BUNNING] for the cooperation we have been able to find between us.

The gentleman from Texas [Mr. PICKLE] has been through the years a strong advocate, as has the gentleman from Texas [Mr. ARCHER], as has been mentioned. The gentleman from Illinois [Mr. ROSTENKOWSKI] has been also, and the gentleman from Florida [Mr. GIBBONS] has been. In fact there are very few people on the committee who have not been strong advocates for this legislation.

But I think it is especially appropriate to mention that the legislation took 10 years because the White House was opposed and in essence the other body, the Senate, was opposed. So I take this occasion to commend our colleague, Mr. MOYNIHAN of New York, for at long last reversing the refusal of the other body. Similarly, we have had three Presidents while this effort was under way, and President Clinton has endorsed the plan at long last, reversing White House opposition.

Mr. Speaker, one hears it said that the funds of the Social Security system are being purloined and used for the general government. With the exception of two occasions in the 1980's, this absolutely is not true. The Social Security System since its inception has been required to invest its surpluses in the most conservative, the safest securities available, and any financial adviser worth his or her salt will tell us that is U.S. securities. My wife and I have our life savings essentially in U.S. bonds.

If you put $1,000 in the bank and some fool comes along and borrows that $1,000 from the bank to squander on something, still as far as the bank and as far as you are concerned, the question is, Can and will that individual pay that money back and pay the interest on it? In the case of the Social Security trust fund, no doubt some of the funds borrowed, as is the case with funds borrowed from other sources by the U.S. Government, are wasted. Yet as far as the Social Security trust fund itself is concerned, it has just as legal a claim on the U.S. Treasury for the interest and repayment of the loans of the surplus as any individual who holds U.S. bonds in this country. Yet it continues to be thundered across areas of this country that the money is being taken from the Social Security System without the inconvenience of borrowing and paying interest.

I keep thinking about the story FDR told once about Uncle Jed and Ezra.

Ezra said, "Uncle Jed, aren't you getting a little hard of hearing?"

And Uncle Jed said, "Yes, I'm afeared I'm getting a mite deef." Whereupon Jed went down to Boston to see an ear doctor, and he came back and said, "That doctor asked me if I had been drinking any, and I said, 'Yes, I drink a mite.' He said, 'Jed, I might as well tell you now that either you cut out the drinking or you're going to lose your hearing altogether.'"

"Well," said Uncle Jed, "I thought it over and I said, 'Doc, I like what I've been drinking so much better than what I've been ahearin' that I reckon I'll just keep on getting deef.'"

So the assertion that you hear time and time again—that this money is being taken from the trust fund and that the Government is not keeping faith with the investors and the taxpayers of this country—is something to which I would advise you to turn a deaf ear.

Mr. Speaker, I reserve the balance of my time.

Mr. BUNNING. Mr. Speaker, I yield I minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Speaker, I rise in support of the conference report on H.R. 4277.

I will not repeat some of the wonderful things that have been said on a bipartisan basis. I respect the gentleman from Indiana [Mr. JACOBS] and the gentleman from Kentucky [Mr. BUNNING]. I think that what my leader, the gentleman from Texas [Mr. PICKLE], has done has been absolutely extraordinary.

I would like to focus on one particular feature that I think is important here, and that is a section called section 231. That does not mean much to a lot of people. However, it happens to involve fraud.

One of the things which the Ways and Means Committee was able to detect over the years, after a year-long investigation, was that there had been tremendous fraud perpetrated upon immigrants coming into this country. People would take advantage of them, put them on the SSI rolls, steal money from the Government and the taxpayers, and do this thing illegally. That has been stopped, to the best of my knowledge. We now have better information. We have laws to protect against this thing.

Mr. Speaker, I think this is very important. The reason I mention it is because it is one of the several features that are, I think, important in establishing Social Security as an independent agency. I thank the Members very much for accomplishing that.

Mr. BUNNING. Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in strong support of the conference report, and I also want to commend the gentleman from Indiana [Mr. JACOBS], the gentleman from Kentucky [Mr. BUNNING], and also the gentleman from Texas [Mr. PICKLE], for the fine work they have done on this legislation.

I think it is important that Social Security become an independent agency, and those arguments have been made. What I want to focus on today is a subject that I was involved with in the conference, and that is the SSI reforms that are in the bill. I believe now, having looked at the SSI Program for the 2 years I have been on the Human Resources Subcommittee, that there is no entitlement program that is more abused and more fraud-ridden than the SSI Program. What we have done today is take a first step toward entitlement reform.

We have heard a lot of talk about this and people have asked, "What are you going to do about entitlements?" Well, today we have an opportunity to do something about entitlements. We have solid reforms in this proposal that are going to make, I believe, some important gains in controlling the cost of entitlements and reducing fraud and abuse in entitlements.

But this is only a first step. There are many miles to travel before we can clean up the SSI Program from the state it is in right now or even the state it will be in after this legislation has been adopted.

Let me take the time to talk about two things that are, I think, good steps that we have taken and then focus on the problems that I think still remain. The gentleman from New York [Mr. HOUGHTON] just talked about the middleman provision about which the gentleman from Texas [Mr. PICKLE] had hearings in his Committee on Oversight and that were, I think, addressed on target. It was a very good amendment. It addresses the issue of aliens in this country who come here to this country and get on SSI fraudulently. That is a good amendment, one that is going to cut down on fraud and abuse and save the taxpayers money.

□ 1300

Another step that was a good step that the gentleman from Texas [Mr. PICKLE] and I worked on in the conference committee and were able to get installed in this legislation had to do with mandatory disability reviews. There were no mandatory disability reviews that were going to be provided for in the conference report. We were able to strike a compromise in the House position which was going to require all mandatory disability reviews for all supplemental security recipients, to 100,000 per year for disability cases and for over a 3-year period, and one-third of all children who qualify for SSI, who when they turn 18 are reevaluated under different criteria, that is as adults, and whether they would qualify for disability as adults rather than disability as children.

We think those are very important steps to determine the level of review that needs to be done. We are going to do a 3-year implementation of this, take a look at the results, and see if we save money, see if there is the need to continue these disability reviews and expand them.

I want to commend the gentleman from Texas [Mr. PICKLE], in particular, for the tremendous work he did in the conference committee to seek this provision and get it included in the conference report.

Unfortunately, we have only taken those few first steps. There are other areas that I think we need some more work to be done in. One is on the SSI DA&A Program, a supplemental security income drug addicts and alcoholics program.

These are people who qualify for SSI simply because they are so addicted to drugs and alcohol they cannot work. They have no other disability, other than the fact they are so drug addicted to illegal narcotics or addicted to alcohol that they can no longer perform work. So we give them money. We give them cash. We give them medical care. In many cases we give them food stamps.

In 1985, there were 3,500 people on this program. Today there are almost 80,000 people on this program. In 1989, we spent $55 million on this program. Today we spend $350 million on this program.

Only 8 percent of the people are in treatment. Yet every one is required to be in treatment. But only 8 percent are in treatment. The Social Security Administration testified before our subcommittee and said that we knew very little about treatment progress of SSI recipients, and could document few, if any, recoveries in the history of the program. So this is not a program that is working.

So what we have been recommending strongly is to do something dramatic to change it. What we have done in this bill, in my opinion, is piecemeal. It is a positive step, but it does not go far enough. We have capped the amount of time you can be on SSI to 36 months, 3 years, that you can be on SSI if you are in the drug addicts and alcoholics program. That is a start. But we have to be much more dramatic in trying to get people off drug addiction and alcoholism and back into the mainstream society, and not paying people money to support their addiction and their habit.

The second thing that I think we went only a very small step on has to do with SSI for children. Ever since the decision back in 1991 in the Zebley case we have seen an explosion of children going on SSI and their parents receiving large checks from the Government. In many areas of the country, they are called crazy checks. These are checks given because now under the Zebley decision, your child qualifies for SSI if your children are exhibiting age-inappropriate behavior.

Now, for age-inappropriate behavior for your children, you get a $450 check a month from the Federal Government. With the amendment of the gentleman from Wisconsin [Mr. KLECZKA] in the committee, we will do a study as to whether we can turn these cash payments to these parents, who we have evidence in some cases of coaching their children to get these checks, we have a study to look to whether we can go to a voucher program for treatment of children who are having problems, as opposed to cash to parents of these children.

Finally, we really do not address the issue of noncitizens receiving SSI. We have $7 billion a year being paid to noncitizens in this country for welfare payments, and a big chunk of that is SSI. Half a million people who are noncitizens of this country receive SSI benefits today, and it is a growing problem, growing faster every day. We must do something about that.

This is a positive first step. I hope we can come back in future Congresses to take more steps.

Mr. JACOBS. Mr. Speaker, I want the record to show that Valerie Nixon, Sandy Wise, Elaine Fultz, Cathy Noe, and Phil Mosely have all contributed mightily to putting this whole revolutionary program together. They are staffers on the committee. We could not have done it at all without the help of Janice Mays, the staff director at the Committee on Ways and Means, aka, Amazing Janice.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman from Indiana for yielding. I want to compliment the gentleman and each and every member of the Committee on Ways and Means, both the majority and minority side, who have led the fight for this historic legislation for so many years. I also want to add my thanks to President Clinton and the administration for endorsing this bill, which gave it critical support when it needed it.

Mr. Speaker, I rise today in strong support of the conference report on H.R. 4277, legislation that would make the Social Security Administration an independent agency with an accountable administrator supported by a bipartisan independent advisory board.

The Social Security Administration is one of the most important agencies of our Federal Government, with 64,000 employees. It is the largest division of the Department of Health and Human Services and one of the largest Federal agencies of any kind. Maintaining the integrity of the Social Security System is vital to the well-being of our seniors. The Government must keep its promises. It must not, and it does not, as the gentleman from Indiana [Mr. JACOBS] said before, use the Social Security moneys for other programs. But an independent agency will maintain the integrity of these funds and will fight for the rights of seniors.

Most importantly, an independent Social Security Agency will protect the agency from the political whims of the moment.

I believe that the final passage of this legislation will greatly benefit my constituents. As an independent agency, the Social Security Administration will be able to focus on the goal of improving service and responding more

VOL 140 PT 15 AG 10 — 11 1994 UMI

efficiently and effectively to the people it serves. Most importantly, such a move will enhance the confidence of the American people in an agency which is a vital part of their lives.

Mr. Speaker, there are many other important provisions of this bill. The gentleman from Pennsylvania [Mr. SANTORUM] and others have referred to the provisions with respect to the Social Security disability program to tighten the requirements and make sure we are not needlessly paying out money to support drug and alcohol addiction programs. I support those reforms.

There is also a small but very important reform in this bill that allows election day workers, those people who perform their civic duty, to not have to pay Social Security benefits on their poll payments, a small but very important and significant provision of this bill.

Another important provision of the bill would increase penalties against deceptive mass mailings that cheat thousands of senior citizens by mimicking official Social Security correspondence.

Mr. Speaker, I strongly support this conference report and urge its passage.

Mr. BUNNING. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, first off, I want to congratulate the gentleman and the distinguished chairman of the Subcommittee on Social Security on which I serve, too, for the outstanding bipartisan contribution that they have made. It is long overdue, and a lot of the things that are being addressed in this bill, while perhaps there are still further improvements down the road that can be achieved, I think make a major step forward in the right direction. The most important, of course, is depoliticizing any aspect of this important new independent entity, the Social Security Administration as an independent agency.

I think in addition to that, the reforms on drug and alcohol abuse, those are critically important reforms, and the bill does indeed provide the incentives for people to get out of drug and alcohol addiction, and I think that they are two important ingredients of this that in and of themselves, aside from the other reforms that are contained therein, warrant the support on a bipartisan basis of all the Members of this Chamber. I urge every one to vote for the conference report on H.R. 4277.

Mr. Speaker, as a member of the Ways and Means Subcommittee on Social Security, I urge my colleagues to support the conference report on H.R. 4277, the Social Security Administrative Reform Act. I believe this legislation is an important step toward the efficient operation and administration of the Social Security Program.

In too many instances, political fluctuations have brought instabilities to the Social Security Administration. This legislation will remove those uncertainties and allow for continuity in the agency's operations. Starting in April of next year, Social Security will be run by a commissioner and a bipartisan board, appointed for specific terms of office and therefore somewhat more removed from the political process.

Another important provision of this legislation is the reform of disability compensation for drug and alcohol addicts. Current law allows for far too much abuse of the system, intentional or otherwise, as addicts who are not cured of their disability remain on the welfare rolls. In contrast, this legislation forces addicts to assume some measure of responsibility for their condition, not only requiring them to seek treatment but also providing an incentive for them to actively seek self-sufficiency. Requiring treatment will force addicts into beneficial programs, and cutting off benefits after 3 years will undeniably provide motivation for addicts to put their addictions behind them and return as productive members of society.

These changes are especially relevant in a year when Congress is attempting to tackle welfare reform. No longer can we afford to dole out Federal largess without any promise of improvement. Some have criticized the cutoff of benefits as arbitrary and counterproductive for those who have not yet completed treatment, but I believe that we must provide incentives for those who rely on Federal payments to find other means of support. It is a lesson that we should all bring to the debate over welfare as well.

This legislation makes important changes to the Social Security Administration. And it marks an important change in how we approach our social spending. I hope that my colleagues on both sides of the aisle will join in support of this long overdue reform.

Mr. JACOBS. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today is another banner day for Congress. Yesterday we passed the Congressional Accountability Act, and today we pass the bill to make Social Security an independent agency and make other important changes within that area.

We want to protect Social Security from political pressures and, most important, guarantee the integrity of our Social Security funds. Since Franklin Delano Roosevelt first pushed Social Security, it has been one of the most important programs to provide for the security and dignity of Americans in retirement. It has always been a very important buffer for people in tough economic times.

□ 1310

Senior citizens throughout Wisconsin and America can rest a little easier with the passage of this bill. Also I had heard from many poll workers in my district, such as Norm Buckholtz and Eleanor Covelli, and many others that believe that we need to exempt them from the taxes from Social Security, and I thank the gentleman from Indiana [Mr. JACOBS], for his hard work in that effort.

Finally, and equally importantly, a provision to curb benefits for alcoholics and drug addicts is part of this bill. I had visited many treatment centers in my district and have been working on legislation in this respect. I believe this is an important provision to limit payments to 36 months and ensure that the moneys are going to curb addiction rather than feed people's addiction. Hopefully this will be just one of a number of steps that we can take in this regard.

So today is a great achievement for the Social Security Program. It is a great achievement for the 103d Congress. I thank the chairman and his committee for their outstanding work. I believe that FDR is smiling with great favor upon the 103d Congress today.

Mr. BUNNING. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Speaker, I thank the gentleman from Kentucky for yielding time to me.

Mr. Speaker, I rise today in support of the Social Security Administrative Reform Act Conference Report.

This bill, establishes the Social Security Administration as an independent agency. It will ensure the integrity accountability of Social Security by greatly diminishing the politics of the agency. It will remove the agency from the control of HHS and better enable the Government to keep its promise to older Americans.

As a member of the Committee on Ways and Means, I have seen evidence of Social Security disability abuse. Under the current, SSI program some drug addicts and alcoholics defraud the system, rather than get treatment for their addiction. This legislation is a first step in addressing the abuse and fraud within the SSI Program. It is our intention to continue working to reform current law and bring a balance to the disability program.

This bill will also provide Social Security tax relief to election workers which have been unfairly taxed causing added administrative burdens to local governments, charged with conducting our elections.

I urge my colleagues to restore senior citizen's trust in the Government by voting for this conference report. It is a good idea for the Social Security Administration and best of all a good idea for the American people.

Mr. JACOBS. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLECZKA], the author, I might add, of the reform on the drug addiction.

Mr. KLECZKA. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the conference report and ask unanimous consent to revise and extend my remarks.

Mr. Speaker, one of the focuses of the 103d Congress has been to make the Federal Government run more efficiently and to increase the general public's confidence in its Government.

We are committed to this objective and have made strides toward achieving it.

H.R. 4277 takes a step in this direction. By making SSA an independent agency, we hope to increase the quality of service it provides.

Currently, SSA is overwhelmed: there is a tremendous backlog in disability cases waiting to be processed, agency employees are sometimes difficult to reach, and responses are often slow in coming and errorprone upon arrival.

This is due to: an overburdened system plagued by shortages of staff and rising numbers of cases, as well as a high-rate of turnover among top agency officials.

By creating an independent, more stable, structure for the agency, we will hopefully correct some of the problems with the current system.

We will thereby increase confidence that the Social Security System will be able to provide the quality of service and benefits that is expected.

The bill also makes headway in reforming the current system by demanding accountability for disability payments to substance abusers.

My office has received numerous calls from constituents who are adamant that their hard-earned tax dollars not be used to finance the habits of drug addicts and alcoholics.

The issue is not that we should withhold assistance from substance abusers who are seeking rehabilitation. We should help them if they are committed to rehabilitating themselves and improving their lives.

The Department of Health and Human Services Inspector General recently tracked 196 sustance abusers on SSI for 3 years:

Only 1 of these 196 recipients left the SSI rolls due to self-sufficiency.

This led the IG to determine that current treatment efforts appear to result in few complete rehabilitations that eliminate a recipient's need for SSI.

Clearly, this is a program that's not working.

If we're not helping substance abusers successfully rehabilitate and become capable of earning income, then the program is failing both the recipient and the taxpayer.

We cannot allow this to continue.

H.R. 4277 includes a time limitation provision I offered, along with my colleague from Oklahoma, [Mr. BREWSTER].

Under this provision, substance abusers who qualify for benefits because of their addictions will only receive cash assistance for 36 months.

Mr. Speaker, at some point, we must say enough is enough. At some point, the recipient must be asked to take ultimate responsibility for his or her life.

By enacting this bill, Congress is saying 3 years is the appropriate point.

While this bill does a good job of addressing some of the problems with the SSI and SSDI Programs, this is just a first step.

Some of the changes in H.R. 4277 are modest ones, and we must ensure that payments are used for their intended purpose.

In general, the Social Security Administrative Reform Act proposes innovative solutions to problems faced in various programs under the jurisdiction of SSA.

However, more must be done.

We must continue to scrutinize this system in search of ways to improve failing programs and recoup wasted resources.

The American people expect and deserve quality service from their government, and they want to know that their tax dollars are being used wisely.

Mr. Speaker, we have the responsibility to live up to these expectations.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I rise in strong support of this legislation, which includes a provision I offered which will begin conducting continuing disability reviews in the SSI Disability Program—a reform which will make a significant contribution to ending fraud in this program, saving up to $300 million in future years.

I would like to thank my colleagues, chairman GIBBONS and ranking member BILL ARCHER for their support. I also want to thank subcommittee chairman ANDY JACOBS and ranking member JIM BUNNING, and particularly the gentleman from Texas [Mr. PICKLE], who has been a strong advocate of this reform, and the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. Speaker, compiling a profile of those collecting SSI disability benefits who are most likely to recover is crucial to getting a handle on spending in the SSI Disability Program, which is the fastest growing entitlement in the Federal budget. It is amazing that, until now, the Social Security Administration was not required to verify that persons receiving SSI disability benefits were still eligible for benefits, even after the passage of many years. While many people may well recover from their disability and be able to go back to work, until now we have not required any effort to find this out.

This has only fed the explosion of our disability rolls, thus jeopardizing benefits for those who remain truly disabled and have no other source of income.

Eliminating this oversight is an important feature of H.R. 4277. I urge my colleagues to support responsible reform of our disability programs.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Speaker, I thank the gentleman from Kentucky for yielding time to me.

I also want to thank him for his dedicated work toward bringing this bill to the floor today.

Mr. Speaker, I rise today in strong support of this landmark legislation, H.R. 4277, that finally gives the Social Security Administration its freedom.

By making the Social Security Administration an independent agency, H.R. 4277 gives SSA a chance to operate the way it was originally intended when this program was first created. SSA will no longer be subject to the restraints and red tape that come from being part of the Department of Health and Human Services.

SSA will be able to concentrate on administering its programs, and provide better, cost effective, and more efficient service to the American people.

Social Security is one of the most important programs that our Government offers. Since just about every American pays into it during their lives, it is our responsibility to make sure that the Social Security system is strong and solvent for generations to come.

By passing this conference report and making SSA an independent agency, we can do just that.

This bill also makes many other improvements to the Social Security system that are badly needed. Specifically, H.R. 4277 cleans up the regulations on Social Security benefits for drug addicts and alcoholics. As it works now, these people can receive Federal benefits with virtually no supervision on how the money is used, or encouragement to get treatment.

But H.R. 4277 changes that. Under this bill we can be sure that American tax dollars are not being used to feed alcohol and drug habits. Instead, H.R. 4277 encourages these folks to get help, to be in therapy and to start getting their lives back on track.

These are needed changes for SSA. They have been a long time in the making and thanks to the hard work of the members on the Social Security Subcommittee and the Ways and Means Committee, we have the chance today to make them.

I urge my colleagues to support these improvements for Social Security and vote yes on this conference report.

VOL
140
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Mr. JACOBS. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the gentleman from Indiana for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 4277, legislation to establish the Social Security Administration as an independent agency. I firmly believe that we must act now to ensure strong, stable, and independent leadership for this large Federal agency which is of crucial importance to virtually every American.

As the former chairman of the Select Committee on Aging and the current Chairman of the Older Americans Caucus, I have held a number of hearings that have detailed serious and costly problems with SSA's ability to provide appropriate assistance to older and disabled Americans. It is very clear from this testimony that we are experiencing a real crisis in service delivery in a number of different areas.

With administrative costs running around 1 percent, Social Security's staffing was put through a rapid downsizing process in the late 1980's, eliminating nearly one-fourth of its personnel. While steps were needed to streamline the agency, the evidence is overwhelmingly clear that we have gone too far. Many of these reductions were made strictly for political reasons, and they are costing the taxpayers millions of dollars in incorrect benefit payments and forcing many elderly and disabled beneficiaries to face undue hardships.

One of the most serious effects of this political jockeying can be seen in the unacceptable backlog in the Nation's disability program, which is barely treading water under a sea of unprocessed claims and paperwork. Despite completing more casework with fewer staff, the nationwide backlog of unprocessed disability cases is well over 800,000 cases, a level which is some 2½ times larger than it was just 3 years ago, and we can expect the disability caseload to be over 1 million cases by the end of the year. On the front end, the average disabled applicant must wait 5 to 6 months in many areas of the country in order to have his or her initial disability application reviewed. In many instances, people are dying before their casework is processed.

And on the back end, we are costing the taxpayers tens of millions of dollars because we do not have sufficient personnel to review the disability rolls to determine those who have improved enough medically that they should no longer be receiving disability benefits. Consequently, the taxpayers are spending tens of millions of dollars on persons who should no longer be receiving benefits.

In short, we have hundreds of thousands of people waiting inordinate amounts of time to receive the disability insurance they have paid for at the same time that taxpayers are spending estimates of up to $100 million per year on persons who should not be on disability. Is there any wonder why many of our constituents have the perception that their Government is not working?

In addition, a growing number of Social Security recipients in New Jersey and throughout the country are finding it increasingly difficult to get timely assistance. Busy signals at SSA's national 1-800 telephone service are running over 50 percent on some days, with many older persons telling me that they often just give up because of the busy signals.

Social Security recipients have a right to expect that when they call for questions or assistance, they will not be faced with inordinate delays, busy signals, or staff who are too busy to provide complete and accurate answers to their questions.

Many of these problems can be traced to the fact that Social Security's administrative operations are being driven by short-term political decisions.

There is also a real crisis in accountability and continuity within the agency. In a little over 15 years, there have been 10 Commissioners or Acting Commissioners of Social Security. We simply must have more long-term planning and accountability for this vital agency. I believe that establishing Social Security as an independent agency is the only way we can ensure some continuity within the agency and isolate it from short-term budgetary and partisan considerations.

I urge my colleagues to support this important legislation, and I commend the gentleman from Indiana [Mr. JACOBS] and the gentleman from Kentucky [Mr. BUNNING] for their leadership in bringing this bill to the floor, as well as the gentleman from Texas [Mr. PICKLE], who I saw earlier and is in the back of the Chamber, and so many others for making this day possible. It is the right decision, an important decision, I think, in the history of Social Security, and Mr. Speaker, ask my colleagues to support this particular initiative.

Mr. JACOBS. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I want to thank the chairman of the subcommittee, the gentleman from Indiana [Mr. JACOBS], and I want to thank the Committee on Ways and Means for their perseverance.

There is a provision in this bill that is kind of a reverse unfunded mandate. We actually help local government with one of its important tasks.

Mr. Speaker, a few years ago Congress inadvertently caused local election officials some serious problems in recruiting and hiring election poll workers. Often these people are already retired, and some Social Security requirements dissuaded many from volunteering for that work on election day. This bill fixes that in a way that has bipartisan support, and will significantly help local election officials get their job done on election day.

Mr. Speaker, I want to thank the chairman of the subcommittee the gentleman from Indiana [Mr. JACOBS], I want to thank the gentleman from Kentucky [Mr. BUNNING], and I want to thank all the Members of the Committee on Ways and Means for taking care of this problem for the poll workers of America.

Mr. Speaker, as chairman of the Subcommittee on Elections of the House Administration Committee, I have a special reason for being pleased with this legislation. In July 1991, three years ago—State and local election officials noted that because of an oversight in the 1990 OBRA, Omnibus Budget Reconciliation Act, they faced an enormous administrative and financial burden. In the OBRA, Congress extended social security coverage to State and local government officials without noticing that the $100 exemption for election workers already in place would not be adequate to continue exempting those election workers that no one intended to cover. They did not need the coverage—most are already on retirement, and they did not work at the polls because they needed the money—they have been leaving in droves because of the administrative hassles they now face. And running elections has been more and more difficult to do for the state and local jurisdictions.

The solution was easy, but putting it into effect has not been. The House twice placed a provision to raise the exemption to a realistic figure—$1,000—in the budget reconciliation bills only to have the Senate object in conference.

But now, in H.R. 4277, this conference bill to make the Social Security Administration an independent agency, we find there is a small provision to raise the exemption for poll workers from $100 to $1,000. The provision did not appear by accident. Chairman JACOBS and the committee have worked hard to get this in and to keep it in, and I thank them for it.

Mr. BUNNING. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Speaker, I rise in support of this all-important, long overdue legislation.

Mr. Speaker, as the representative of one of our Nation's largest populations of Social Security recipients and the chairman of the Congressional Social Security Caucus, I rise in strong support of this conference report on H.R. 4277, the Social Security Administrative Reform Act.

This legislation gives the Social Security Administration long overdue independence from the Department of Health and Human Services and, more importantly, from political pressures that can be exerted on its Commissioner. Under H.R. 4277, the agency would be headed by a single administrator, appointed by the President, but who would serve under the oversight of a seven-member bipartisan board. This board, as the voice for the almost 40 million Americans who receive Social Security benefits, would ensure that the trust funds remain sound and untouched, that payments and cost-of-living adjustment continue to be paid in full and on time, and that the agency continues to provide timely and efficient service for retirees, workers, and employers.

As a member of the House Appropriations Subcommittee on Health and Human Services, which oversees the operations of and funding for the Social Security Administration, I am well aware of the chain of command which currently requires the Commissioner of Social Security to report to the Department of Health and Human Services. Likewise, the agency's budget requests must also be reviewed and approved by the Secretary.

The legislation before us today will enable the Social Security Administration to present directly to Congress and our committee its annual budget request. This is important in that it enables us to know what the new Administrator and Social Security Board believe are the agency's true funding requirements, not those imposed upon them by the Department of Health and Human Services.

This legislation also takes a number of important steps to further enhance public confidence in the Social Security Program. It cracks down on the payment of supplemental security income [SSI] and disability insurance [DI] benefits for alcoholics and drug abusers. It also requires the Social Security Administration to direct greater resources into preventing, detecting, and terminating fraudulent claims for SSI benefits.

Finally, the conference report retains an important House provision to give the Administrator greater powers to police the mailings and fundraising appeals of various organizations who attempt to mislead and frighten older Americans, many of whom live on small fixed incomes and depend almost solely on their monthly Social Security benefits for their financial well being.

We have become all too familiar with calls, letters, and post cards from our constituents asking if they have to contribute $5 or $10 to the variety of organizations that have sprung up to purportedly protect their Social Security benefits. As I tell each of these people who contact me, they do not have to contribute a single penny to any of these organizations to protect their benefits. It is the responsibility of Congress, and my job as their Representative, to ensure that the U.S. Government continues to live up to its commitment to ensure that the Social Security trust funds remain sound and that their benefits and cost of living adjustments are protected.

Mr. Speaker, this is the fourth time the House will consider this legislation and I am pleased to know that after allowing it to die three previous times, our colleagues in the other body have finally joined us in enacting this legislation. It is a reaffirmation that the Social Security trust funds are an independent and self-supporting sector of our Federal Government and that oversight for these funds should be provided for by an independent agency and board.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to join with so many of the other speakers who have had such complimentary remarks about the gentleman from Kentucky [Mr. BUNNING], the gentleman from Texas [Mr. PICKLE], and the gentleman from Indiana [Mr. JACOBS] for the fine work they have done on this legislation. I want to join in congratulating them.

Mr. Speaker, as the chairman of the House Republican Social Security Task Force, I rise in support of this conference report to reform our Social Security System.

Social Security is a trust between the American people and their Government. But as the members of the Social Security Task Force heard in a recent hearing, this trust has been eroded. Instead of being invested for the future, billions of Social Security dollars are being spent on programs other than Social Security.

Senior citizens are justifiably upset that political and budget battles have put their hard earned Social Security benefits in jeopardy. The Social Security System is also being abused. Drug addicts and alcoholics are spending their Supplemental Security Income and Social Security Disability Insurance benefits on more drugs and alcohol.

By passing this conference report today, the House will take a significant step to correct these problems. This action is long overdue. Today's bill will make Social Security an independent agency to protect Americans' retirement funds from political and budget battles. Every Social Security beneficiary, both current and future, must be assured that their benefits will be secure, and that the program will be administered fairly and soundly. By walling off Social Security as an independent agency, Congress will help to assure the American people that Social Security funds will be used for Social Security purposes only.

Today's bill also will tighten the rules for drug addicts and alcoholics who receive benefits. As I testified last February to Mr. Jacobs' subcommittee, the American people are outraged that our Social Security system has degenerated into a cash cow for addicts. Nearly 250,000 drug addicts and alcoholics received $1.4 billion in Social Security Disability Insurance payments last year, with no strings attached. Addicts are cashing their checks and buying drugs the same day. And while I would prefer to see even tougher restrictions, today's bill will impose some tighter rules on SSI and SSDI recipients who are addicts. Benefits to addicts will be cut off after 3 years. Second, benefits must be paid to a responsible party who will ensure that the recipient is participating in a treatment program.

Mr. Speaker, senior citizens deserve to have an independent and depoliticized Social Security Administration to responsibly oversee their retirement benefits. And the American people are looking to Congress to stop the scandalous waste of Social Security funds by addicts. To combat both these problems, I urge my colleagues to support this conference report and help strengthen the Social Security system on behalf of all Americans.

Mr. BUNNING. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I congratulate the sponsor and authors of this legislation. As vice chairman of the Older Americans Caucus, I know how very important it is to senior citizens to have a sense of confidence in their systems, particularly Social Security.

Mr. Speaker, as we all know, there are many groups that communicate to seniors, causing them to worry about the integrity of the Social Security System. We get letters reaffirming such worries. By making SSA an independent agency, this bill means that the integrity of the Social Security System can be maintained. Moreover, such action will prevent Social Security benefits from being further used as both political and budgeting pawns. Enactment ensures that those who pay into the system will receive their benefits.

I also commend provisions which strengthen safeguards against the use of disability and supplement income payments to support a drug or alcohol habit.

Truly, this bill restores not only the confidence of our present retirees, but the confidence of our future retirees—guaranteeing that our Social Security System can and will be preserved.

Mr. BUNNING. Mr. Speaker, may I ask how much time we have remaining?

The SPEAKER pro tempore (Mr. SERRANO). The gentleman from Kentucky [Mr. BUNNING] has 3 minutes remaining.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume to close debate for our side.

Mr. Speaker, there is one more important point I would like to make in closing. Ever since I have come to Congress I have received hundreds, perhaps thousands, of letters from older citizens who are frightened. They are frightened because unscrupulous lobbying organizations have been scaring them to death with unsolicited

VOL 140 PT 15 AG 10 — 11 1994 UMI

mailings saying Congress is about to cut Social Security.

These letters usually read something like this: "Congress is about to act on Social Security cuts. We need your money to stop Congress now." That is just plain cruel, and it is inexcusable.

□ 1330

Older Americans are usually on fixed incomes and even $5 or $10 a month means the difference in food and medication each month. But these groups do not care. They will seize any opportunity to solicit contributions from senior citizens under the guise of lobbying Congress to stop any Social Security cuts. One of the jobs of the new bipartisan board will be to inform the public about Social Security. I am hoping the board will do such a good job of informing the public about Social Security that these unscrupulous organizations and their mailings will be put out of business.

Again, let me reiterate my strong support for this bill. It is time Social Security took its place as a nonpartisan and independent agency.

Mr. Speaker, I yield back the balance of my time.

Mr. JACOBS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would be pleased to incorporate by reference every word my colleague, the gentleman from Kentucky, has just said. It is pretty reprehensible to rip anybody off, but it is particularly reprehensible to rip off people who may not be adequately informed. There is a work for it, and that is conning. That is wrong.

A moment ago, I omitted mentioning Phil Moseley, a staffer at the Committee on Ways and Means who has contributed greatly to this effort as well. While I am commending, I also commend our President who within a few days, I understand, will take the final step and sign this legislation into law. So break out the firecrackers. Let freedom reign. Independence is at hand for the Social Security System. It is a fine day for the United States.

Mr. JACOBS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding, and I rise in strong support of this most important legislation. I compliment both sides in working together.

Mr. Speaker, I rise today to express my strong support for the conference report on H.R. 4277, the Social Security Administrative Reform Act of 1994. This important bill makes a number of changes that will help protect the Social Security system on which millions of Americans rely.

First, it makes Social Security an independent agency, which is a position I have long supported by cosponsoring and voting for bills to this effect. Passage of H.R. 4277 this year means that Social Security will become an independent agency no later than March 31, 1995. The new agency will have independent, bipartisan leadership. This will help it function more efficiently for the seniors who depend on Social Security benefits to make ends meet. And the Social Security trust fund will remain protected from political or general budgetary pressures.

Second, the bill attempts to restrict disability insurance and SSI disability payments to substance abusers. Many hardworking Americans were outraged to learn that such a program even existed, spending Social Security funds on drug addicts and alcoholics disabled by their addictions. In my view, the restrictions in H.R. 4277 do not go far enough to get addicts into treatment and back to work. But they are an admission that a problem exists in this area, which the next Congress must continue to address.

H.R. 4277 makes positive changes in 30 other areas, including raising the Social Security exclusion for election workers from $100 to $1,000 annually starting on January 1, 1995. Prohibitions on the misuse of Social Security and other Government symbols are strengthened. That responds to mass mailings and solicitations meant to deceive those receiving them into thinking they were sent by the Federal Government. This is a problem many seniors especially have alerted me to, and I am pleased that we are continuing to strengthen penalties against this shameless practice.

Mr. Speaker, I urge Members to support this important legislation, which will help protect the Social Security system in the years to come.

Mr. STARK. Mr. Speaker, I am happy that this conference report contains three provisions that will benefit a small number of motivated, hard-working people with disabilities. I would like to describe these provisions which I offered and which were accepted by the Ways and Means Committee.

An SSI recipient who has a disability has the opportunity to have extra resources or income in order to achieve a work goal under a plan for achieving self-support [PASS]. Currently, an individual with an approved PASS may be eligible for income and resource exclusions for 18 months, followed by two possible extensions of 18 and 12 months, respectively. The maximum of 4 years to achieve a PASS is given to persons pursuing a lengthy educational program. Often it is difficult for a person with a disability to achieve their goal within the given time period and the inflexibility with regard to the length of time allowed can produce anxiety and—in cases when the goal is not achieved in the given time—produces frustration and discouragement.

H.R. 4277 requires the Social Security Administration [SSA] to take into account the needs of the individual and the difficulty of achieving the goal in determining the time necessary for the completion of a PASS.

Presently, an SSI recipient other than a child living with a parent in military service cannot remain outside the United States for more than 30 consecutive days and retain eligibility for SSI. Also, the person must be back in the United States for 30 consecutive days before being considered to be eligible for SSI and only if the individual continues to meet all other eligibility criteria.

A provision in H.R. 4277 allows the SSA to exempt SSI recipients from the 30-day time limit for a period not to exceed 1 year if the individual is fulfilling an educational requirement through a program which is not available in the United States and which will result in improved employment potential. Though this provision will help a very small number of people, it will allow these individuals to compete on a par with other students, disabled or nondisabled, if their educational requirements can only be fulfilled by study in a foreign country. The only way for many people with disabilities to become competitive in the labor force is to become highly educated. Young people, who have the intelligence and stamina to overcome the obstacles that disabilities present and acquire an advanced degree, can look forward to many years as productive members of our society.

Mr. Speaker, the third provision I would like to highlight extends the provisions in current SSI law for protection against loss of Medicaid eligibility because of subsequent cost-of-living increases in Social Security benefits, to those persons who are working and utilizing the section 1619(b) work incentives provisions.

There were a number of other provisions that I proposed and that the Ways and Means Committee accepted but were not accepted by the conferees. One of them would have deemed approved a PASS after 60 days if the SSA had not acted in that time. The Secretary could have subsequently disapproved the PASS prospectively and the individual would have had 6 months to spend down any money that had been saved to accomplish the work goal.

I am happy that in the conference report the conferees requested the General Accounting Office [GAO] to conduct a study of the PASS program and its procedures since they felt not enough information on the PASS program is available at this time. I look forward to the findings and recommendations that this study will give us.

I am pleased to support the conference report on H.R. 4277.

Ms. SNOWE. Mr. Speaker, I rise to express my support for the conference report on H.R. 4277.

I have been a cosponsor of legislation since the 99th Congress to make the Social Security Administration a separate, independent agency, and I am pleased to be able to cast my vote in favor of this legislation to make it happen. I support this effort because I believe that establishing the Social Security Administration, the ninth largest agency in the Federal Government, as a separate agency would further strengthen the program and ensure that it remains responsive to the millions of elderly and disabled Americans to whom it provides benefits and services.

The Social Security program represents a promise the Federal Government made to Americans. It is vitally important that this promise never be broken and that everyone knows that by paying into the system during their working years they will be assured of getting benefits for themselves and their family in their later years. Making the Social Security Administration an independent agency will help ensure that this promise remains unbroken.

I urge my colleagues to join me in support of this conference report.

Mr. MFUME. Mr. Speaker, I rise in support of the conference report on An Independent Social Security Administration (H.R. 4277), which makes the Social Security Administration an independent agency.

The Social Security Administration is responsible for administering the Old-Age and Survivors Insurance Program, Disability Insurance [DI] Program and the Supplemental Security Income [SSI] Program. The Social Security Administration is the ninth largest agency in the Government. The conference agreement establishes the Social Security Administration [SSA] as an independent agency, effective March 31, 1995.

Like the House bill the conference agreement includes several provisions which aim to improve the administration of Social Security DI and SSI programs. For example, the measure requires SSA to conduct continuing disability reviews for all SSI recipients in the same manner as they are now conducted for DI recipients. Further provisions in the agreement will give SSA additional authority to prevent benefit fraud and increases the penalties against deceptive mass mailings that mimic official Social Security correspondence.

In my district of Baltimore, the employees of SSA have asked that I support this measure.

However, Mr. Speaker, my support comes with some reservations. Specifically, I am concerned that Congress' desire to improve and advance the productivity and services of the Social Security Administration, while well-intentioned, may not be enough. In addition to passing this legislation, Congress must give the Social Security Administration the necessary resources to successfully make the smooth transition to independent status.

An example of the transition SSA finds itself going through was recently seen when the Social Security Administration announced that it would cut 1,000 management jobs through attrition. Shortly thereafter, SSA announced that it will need an additional 11,000 employees to handle its increased responsibility.

Another concern I have stems from the fact that the conference report brings SSA into a new realm of responsibility without giving it additional resources. An example of the new responsibilities is a provision in the agreement which restricts payment of disability insurance [DI] and supplemental security income [SSI] for persons with drug and alcohol addictions. Under current law, SSI recipients who have substance abuse problems are required to be paid through a designated second party. Unfortunately, there have been cases in which the alleged supplier of the drug to the abuser was the representative payee.

In a provision I support, this bill requires that where possible, organizations, rather than family or friends, be named as representative payees for Disability Insurance and Supplemental Security Income recipients, unless SSA determines that a family member is appropriate.

However, the agreement requires that the Social Security establish agencies in all 50 states that would find treatment programs for DI and SSI beneficiaries who are substance abusers, monitor their participation in the treatment program, and periodically conduct drug tests to determine if substance abuse problems are continuing. Under this provision, people with substance abuse problems who are receiving disability insurance would be required to participate in treatment, if available, in order to receive benefits. Regardless of participation in the treatment program, DI and SSI benefits to substance abusers would be cut off after 3 years unless the individual qualifies for benefits for reason other than the substance abuse problem.

This will require the Social Security Agency to become involved in a whole new activity; drug testing for DI recipients. I have a number of problems with this, but that discussion is better left for another time.

Mr. Speaker, it is my hope that this conference report will pass to allow the Social Security Administration to become an independent agency. It is my further hope that we recognize the need to give this new agency adequate resources to improve and provide better service.

Mr. MACHTLEY. Mr. Speaker, I rise today in support of the conference report on H.R. 4277, legislation which I believe will take important steps to restore public confidence in the Social Security system.

Throughout my tenure in Congress, many seniors have contacted me to express their fear that the Social Security Trust Fund is being mishandled.

And a recent GAO report, which reported that an estimated 250,000 drug addicts and alcoholics collected approximately $1.4 billion in Social Security disability insurance and supplemental security income funds last year, proves them right.

While the recipients of these payments are eligible for this Federal assistance, there is little or no evidence that these funds are being used for treatment. Instead, in many cases, these payments are being used to fuel the addictions.

Now my heart goes out to those families that have had to deal with a loved one who is addicted to drugs or alcohol, and I feel we should continue to offer our help in getting these people treatment.

But the purpose of the Social Security Act is straightforward—to provide for the economic security of our population as it grows older or becomes disabled. It is certainly not intended to provide drug addicts and alcoholics with the financial means to perpetuate their substance abuses.

Making the Social Security Administration an independent agency would greatly enhance public confidence in the management of these funds.

The integrity of the Social Security system is important to me and to many of my constituents, and I firmly believe that this legislation will help to protect the system now and in the future.

I urge my colleagues to support this conference report.

Mr. RIDGE. Mr. Speaker, I am pleased to rise in support of H.R. 4277, the Social Security Administrative Reform Act of 1994.

This legislation makes the Social Security Administration an independent agency within the Federal Government, removing it from its current home within the Department of Health and Human Services [HHS]. H.R. 4277 also contains provisions which place limits and restrictions on Social Security benefits paid to individuals with substance abuse problems.

Mr. Speaker, a priority of mine in Congress has always been, and continues to be, to make sure that the Social Security Administration is able to function as efficiently and timely as possible. Many older citizens in my district and across Pennsylvania live on a fixed income and rely heavily on Social Security benefits.

Giving the agency its independence will free it from the political and bureaucratic problems with which it has been forced to operate for so many years. Such political and bureaucratic problems have jeopardized its ability to perform properly. Making it an independent agency will go a long way in rectifying that problem, and, for this reason, I am pleased to support this legislation.

Also, placing some restrictions and limits on Social Security benefits paid to substance abusers is a step in the right direction. While substance abuse is no longer viewed as merely a behavioral problem and is widely regarded as a medical condition, I believe this legislation accomplishes two very worthy objectives.

First, treatment exists for substance abuse. It is compassionate therefore to encourage those suffering from substance abuse to seek help. Second, it is appropriate, and fair to other Social Security beneficiaries, to make sure that benefits being paid to substance abusers are not being used to sustain their addiction. For these two reasons, I am pleased that an effort was taken to ensure that the provisions contained in H.R. 4277 were done in both a fair and compassionate manner.

Mr. Speaker, making the Social Security program a well-working, long-lasting entity has been one of my highest priorities as a public servant. Keeping Social Security taxes down, and Social Security benefits up is paramount to that effort. H.R. 4277 goes a long way toward that end and I am pleased to rise in support of it. Passage of this legislation is long overdue.

Mrs. CLAYTON. Mr. Speaker, today the House of Representatives passed the conference report on H.R. 4277, the Social Security Administration Reform Act of 1994. I supported H.R. 4277 when it passed the House in May, and I support the conference report today.

This legislation will remove the Social Security Administration from the Department of Health and Human Services and establish it as an independent agency. Currently the Social Security Administration is the largest agency within the Department of Health and Human Services and the ninth largest agency within the Federal Government.

This agency will have direct administrative responsibility for the Social Security and Supplemental Security Income programs. The President will appoint a Commissioner to head this new agency.

Independence for the Social Security Administration is not a new idea—this issue has been addressed since back in the 1970's. However, the House and Senate could not come to an agreement. Finally during this 103d Congress both the House and the Senate have agreed to this motion, with President Clinton's endorsement.

This legislation also promotes fiscal restrictions in such areas as disability payments to

VOL 140 PT 15 AG 10 — 11 1994 UMI

alcoholics and drug addicts who refuse participation in a treatment program.

There is much dialog about Social Security during this Congress. As a member of the Entitlement Commission, I am well aware of the important part Social Security plays—we all know the system was not designed as a retirement benefit, yet millions of Americans have worked and paid into Social Security for just that reason, to be ensured benefits when they retired. Social Security is the largest entitlement program with near universal participation. It has been a successful program—yet it is imperative that some adjustments are made if the program is to continue into future generations.

I believe that this program has proven to be long-term—Social Security will be 60 years old in 1995—it is time to treat this program with the respect it so deserves. I am pleased that this legislative body has chosen to elevate the Social Security Administration to agency status.

Mr. JACOBS. Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 4277.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JACOBS. Mr. Speaker, I object to the vote on the ground that a quroum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quroum is not present.

The sergeant at arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 431, nays 0, not voting 3, as follows:

[Roll No. 392]

YEAS—431

Abercrombie	Bartlett	Boucher
Ackerman	Barton	Brewster
Allard	Bateman	Brooks
Andrews (ME)	Becerra	Browder
Andrews (NJ)	Bellenson	Brown (CA)
Andrews (TX)	Bentley	Brown (OH)
Applegate	Bereuter	Bryant
Archer	Berman	Bunning
Armey	Bevill	Burton
Bacchus (FL)	Bilbray	Buyer
Bachus (AL)	Bilirakis	Byrne
Baesler	Bishop	Callahan
Baker (CA)	Blackwell	Calvert
Baker (LA)	Bliley	Camp
Ballenger	Blute	Canady
Barca	Boehlert	Cantwell
Barcia	Boehner	Cardin
Barlow	Bonilla	Carr
Barrett (NE)	Bonior	Castle
Barrett (WI)	Borski	Chapman
Clay	Hamburg	McCurdy
Clayton	Hamilton	McDade
Clement	Hancock	McDermott
Clinger	Hansen	McHale
Clyburn	Harman	McHugh
Coble	Hastert	McInnis
Coleman	Hastings	McKeon
Collins (GA)	Hayes	McKinney
Collins (IL)	Hefley	McMillan
Collins (MI)	Hefner	McNulty
Combest	Herger	Meehan
Condit	Hilliard	Meek
Conyers	Hinchey	Menendez
Cooper	Hoagland	Meyers
Coppersmith	Hobson	Mfume
Costello	Hochbrueckner	Mica
Cox	Hoekstra	Michel
Coyne	Hoke	Miller (CA)
Cramer	Holden	Miller (FL)
Crane	Horn	Mineta
Crapo	Houghton	Minge
Cunningham	Hoyer	Mink
Danner	Huffington	Moakley
Darden	Hughes	Molinari
de la Garza	Hunter	Mollohan
Deal	Hutchinson	Montgomery
DeFazio	Hutto	Moorhead
DeLauro	Hyde	Moran
DeLay	Inglis	Morella
Dellums	Inhofe	Murphy
Derrick	Inslee	Murtha
Deutsch	Istook	Myers
Diaz-Balart	Jacobs	Nadler
Dickey	Jefferson	Neal (MA)
Dicks	Johnson (CT)	Neal (NC)
Dingell	Johnson (GA)	Nussle
Dixon	Johnson (SD)	Oberstar
Dooley	Johnson, E. B.	Obey
Doolittle	Johnson, Sam	Olver
Dornan	Johnston	Ortiz
Dreier	Kanjorski	Orton
Duncan	Kaptur	Owens
Dunn	Kasich	Oxley
Durbin	Kennedy	Packard
Edwards (CA)	Kennelly	Pallone
Edwards (TX)	Kildee	Parker
Ehlers	Kim	Pastor
Emerson	King	Paxon
Engel	Kingston	Payne (NJ)
English	Kleczka	Payne (VA)
Eshoo	Klein	Pelosi
Evans	Klink	Penny
Everett	Klug	Peterson (FL)
Ewing	Knollenberg	Peterson (MN)
Farr	Kolbe	Petri
Fawell	Kopetski	Pickett
Fazio	Kreidler	Pickle
Fields (LA)	Kyl	Pombo
Fields (TX)	LaFalce	Pomeroy
Filner	Lambert	Porter
Fingerhut	Lancaster	Portman
Fish	Lantos	Poshard
Flake	LaRocco	Price (NC)
Foglietta	Laughlin	Pryce (OH)
Ford (MI)	Lazio	Quillen
Fowler	Leach	Quinn
Frank (MA)	Lehman	Rahall
Franks (CT)	Levin	Ramstad
Franks (NJ)	Levy	Rangel
Frost	Lewis (CA)	Ravenel
Furse	Lewis (FL)	Reed
Gallegly	Lewis (GA)	Regula
Gallo	Lewis (KY)	Reynolds
Gejdenson	Lightfoot	Richardson
Gekas	Linder	Ridge
Gephardt	Lipinski	Roberts
Geren	Livingston	Roemer
Gibbons	Lloyd	Rogers
Gilchrest	Long	Rohrabacher
Gillmor	Lowey	Ros-Lehtinen
Gilman	Lucas	Rose
Gingrich	Machtley	Rostenkowski
Glickman	Maloney	Roth
Gonzalez	Mann	Roukema
Goodlatte	Manton	Rowland
Goodling	Manzullo	Roybal-Allard
Gordon	Margolies-Mezvinsky	Royce
Goss	Markey	Rush
Grams	Martinez	Sabo
Grandy	Matsui	Sanders
Green	Mazzoli	Sangmeister
Greenwood	McCandless	Santorum
Gunderson	McCloskey	Sarpalius
Gutierrez	McCollum	Sawyer
Hall (OH)	McCrery	Saxton
Hall (TX)	Schenk	Schaefer
	Schiff	Stearns
	Schroeder	Stenholm
	Schumer	Stokes
	Scott	Strickland
	Sensenbrenner	Studds
	Serrano	Stump
	Sharp	Stupak
	Shaw	Sundquist
	Shays	Swett
	Shepherd	Swift
	Shuster	Synar
	Sisisky	Talent
	Skaggs	Tanner
	Skeen	Tauzin
	Skelton	Taylor (MS)
	Slattery	Taylor (NC)
	Slaughter	Tejeda
	Smith (IA)	Thomas (CA)
	Smith (MI)	Thomas (WY)
	Smith (NJ)	Thompson
	Smith (OR)	Thornton
	Smith (TX)	Thurman
	Snowe	Torkildsen
	Solomon	Torres
	Spence	Torricelli
	Spratt	Towns
	Stark	Traficant
		Tucker
		Unsoeld
		Upton
		Valentine
		Velazquez
		Vento
		Visclosky
		Volkmer
		Vucanovich
		Walker
		Walsh
		Waters
		Watt
		Waxman
		Weldon
		Wheat
		Whitten
		Williams
		Wilson
		Wise
		Wolf
		Woolsey
		Wyden
		Wynn
		Yates
		Young (AK)
		Young (FL)
		Zeliff
		Zimmer

NOT VOTING—3

Brown (FL)	Ford (TN)	Washington

□ 1352

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. BROWN of Florida. Mr. Speaker, I was not present for an earlier vote, rollcall No. 392, due to unforeseen circumstances. Had I been present, I would have voted "yea".

PROVIDING FOR CONSIDERATION OF H.R. 4907, FULL BUDGET DISCLOSURE ACT OF 1994

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 512 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 512

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4907) to reform the concept of baseline budgeting. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour, with thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Rules and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Rules now printed in the bill.

The committee amendment in the nature of a substitute shall be considered as read. No other amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendments printed in the report are waived. If more than one of the amendments printed in the report is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been finally adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SERRANO). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 512 provides for the consideration of H.R. 4907, the Full Budget Disclosure Act of 1994. The resolution waives all points of order against consideration of the bill and provides for 1 hour of general debate, with 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations.

After general debate, it will be in order under the rule to consider as an original bill for the purpose of amendment the amendment in the nature of a substitute recommended by the Committee on Rules now printed in the bill. The substitute will be considered as read.

No amendments are in order except those printed in House Report 103-689, to be considered in the following order under a king-of-the-hill procedure: First, the amendment in the nature of a substitute to be offered by Representative PENNY, or Representative STENHOLM, or Representative KASICH, or a designee; and second, the amendment in the nature of a substitute to be offered by Representative SPRATT or a designee. Should both amendments be adopted, only the second amendment adopted will be reported to the House.

Each substitute is considered as read and debatable for 30 minutes, equally divided and controlled by the proponent and an opponent. The amendments are not subject to further amendment and all points of order against the amendments are waived.

Finally, the resolution provides for one motion to recommit, with or without instructions.

Mr. Speaker, the Full Budget Disclosure Act of 1994 is designed to improve our budget process precisely as its short title suggests: By requiring full budget disclosure. The official title of H.R. 4907 is "A Bill to Reform the Concept of Baseline Budgeting." I can assure the Members the bill will do just that.

To the extent they have the time and inclination to follow it at all, most Americans find the Federal budget process difficult to comprehend at best. Part of the problem is our confusing terminology; we just don't use the same budgetary terms and concepts that ordinary people do.

We have fiscal years rather than calendar years. We have discretionary spending and mandatory spending. We have appropriations bills and we have authorization bills. We have on-budget and off-budget programs. We have the deficit and we have the national debt. We have countless other terms that we throw around here. But I dare say probably the most difficult budget concept for ordinary Americans to understand is our notion of a budget baseline.

Under the law, when the President submits his budget to the Congress, and the Congress prepares its congressional budget, they start from something called a current policy baseline. That baseline assumes for the budget year and subsequent years a continuation of the current spending level for programs and services, adjusted for inflation and certain other technical factors.

Mr. Speaker, there is absolutely nothing wrong with using a current policy baseline. After all, every American appreciates how inflation erodes the purchasing power of his dollars over time. All Americans know the same number of dollars won't buy today what they bought 10 years ago, or even last year.

This is why the law provides cost-of-living adjustments to Social Security benefits. If we did not give cost-of-living adjustments, social security benefits would over time lose much of their value, and recipients would lose much of their income, even though the number of dollars in their checks wouldn't actually drop. Those checks would buy less and less in the future as inflation eroded their purchasing power.

Well, inflation erodes the purchasing power of Federal tax revenues too. Any given number of Federal tax dollars does not buy the same quantity of goods and services today that it bought 10 years ago, or even last year. As a result, it takes more dollars to repair a mile of Federal highway, buy uniforms for soldiers and sailors, and to maintain national parks. Government must adjust to the same inflation that households do, and the current policy baseline helps policymakers to understand inflation's effect on Government.

But use of the current policy baseline has one drawback: It makes more difficult comparisons of how spending changes from year to year in actual terms. It is the problem H.R. 4907 is designed to solve.

Under the bill, the President and the Congress would have to include an additional baseline, a current funding baseline, in their budget documents. The current funding baseline would start from last year's spending level and would not be adjusted for inflation.

This additional baseline would allow people to see and understand how various budget proposals would change spending from year to year in constant dollars, without taking inflation into account.

By comparing proposed spending to the two baselines, for example, policymakers and the public could both understand that a budget proposal for a given program might very well represent an increase over last year in actual dollars, but not enough to keep pace with inflation—or effectively a cut in the program.

Or people could see that a proposal might represent an increase in actual dollars over the amount needed to keep pace with inflation, or effectively an expansion of the program.

In addition, H.R. 4907 will require the Congressional Budget Office to include its annual report to the budget committees a comparison to current spending levels, and an analysis of the causes of increased spending in mandatory programs due to cost-of-living adjustments, changes in beneficiaries, higher health-care costs, and other factors. This provision will help us better understand the reasons for growth in those programs, commonly called entitlements.

I am convinced H.R. 4907 will improve the budget process, and that it will help both policymakers and ordinary Americans to understand that process better. I urge all Members to support the bill and the rule, and I reserve the balance of my time.

□ 1400

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of the very real problems with our current process is that Congress can get away with accounting tricks that would actually shock most people who are responsible for family budgets or even running a small business.

That may not be exciting news, but it is important news because accountability is an awful big problem around

VOL 140 PT 15 AG 10 — 11 1994 UMI

here. So I think this is an important subject.

The confusion that stems from what we call baseline budgeting is very serious. I suspect most people do not understand what a charade it really is. No one knows when a cut is really a cut or whether it is just a slowdown in the ever-growing spending we do around here but it is still more spending than we did last year.

It is very, very easy for Congress to mask the big spending increases by claiming that we are just maintaining the baseline. When Americans hear that word, that phrase "maintaining the baseline," watch out, watch your pocketbooks, because what that means is that is code for spending more of your tax dollars.

So I am glad that the House is going to have a chance today to address this issue of what baseline really means and how we are going to be more accountable if we pass this very, very small improvement that has been suggested.

Unfortunately, as is the case for the so-called Emergency Spending Control Act, which we might actually be taking up next on the floor if we stick to the present schedule, which is presently posted in the Cloakroom if it has not already been rescheduled yet by now; if we stick with that, we will find the same thing in the Emergency Spending Control.

The rule we are proceeding under is a lot less than ideal reform. In fact, it is sort of a token. I do not like the rule, but I am not going to call for a "no" vote on the rule, but because the rule does allow for consideration of, I think, a very much improved substitute, the Penny-Kasich-Stenholm substitute. But I have got to say the same concerns that are about both this rule on budget language and on the spending language, once again we are waiving all points of order without an explanation of what possible violations the bill contains. That is a bad idea.

Then we are stacking the deck against the substitute amendment by following the dreaded king-of-the-hill procedure. Again it is one where the original bill will be considered as the final amendment in order to secure preferential treatment. Putting that in English for those who do not follow the inside-the-beltway rule lingo, we are stacking the deck to defeat an amendment which would make this bill a lot better.

Finally, I think we all recognize that this is yet another piece in the A-to-Z buy-off package.

It is a mixed blessing to have this much-needed debate under these circumstances. I think this is one of several that were designed to let some steam off the pressure for the A-to-Z package, which I understand is still a few votes short of the number necessary to bring it to the floor.

I wish I could say that even if we approve this, that we would accomplish something that A-to-Z could accomplish; there is no comparison. A-to-Z would do ever so much more in dealing with spending cuts.

Mr. Speaker, I look forward to the coming debate because I believe that we will be able to demonstrate both the need to change the current baseline standard and why the Penny-Kasich-Stenholm substitute is far stronger and a more responsible way to proceed if we are really going to get serious about addressing cutting spending around here.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	91	25	27	66	73

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Aug. 10, 1994

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58. Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59. Feb. 3, 1993	MC	H.R. 2. National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2, R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar 9, 1993	MC	H.R. 4: NIH Revtalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1 (not submitted) (D–1; R–0)	A. 240–185. (Mar. 18, 1993).
H. Res. 133, Mar 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-0 not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164 A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164. May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173, May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19, R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H Res 192, June 1, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Stnker replacement	7 (D–4, R–3)	2 (D–1; R–1)	A: 244–176. (June 15, 1993).
H. Res. 197. June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206; June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 225, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 5, 1993	MO	H.R. 2401: National Defense authority	149 (D–109, R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept 9, 1993	MO	H.R. 2401: National Defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7, I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283. Continuing appropriations resolution	1 (D–0, R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A. Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 3, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A. Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A. 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A. Voice Vote. (Nov. 16, 1993).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8, R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov 18, 1993)
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993)
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993)
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6, R–29)	1 (D–0; R–1)	A. 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8, R–5; I–1)	5 (D–3; R–2)	PO 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4, R–6)	PQ. 245–174. A: 242–174. (Feb. 9, 1994)
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2, R–1)	2 (D–2; R–0)	A. VV (Feb 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A. VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5, R–9)	5 (D–3, R–2)	A. 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98, R–82)	68 (D–47; R–21)	A. 244–176 (Apr. 13, 1994)
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A. Voice Vote (Apr 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A. Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5, R–2)	0 (D–0, R–0)	A. 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A. Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ. 245–172 A. 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A. Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1, R–3)	N/A	A. VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115, R–58)		A. 369–49 (May 18, 1994)
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A. Voice Vote (May 23, 1994)
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A. Voice Vote (May 25, 1994)
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3, R–5)	PQ. 233–191 A. 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8, R–4)	A. 249–177 (May 26, 1994)
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A. 236–177 (June 9, 1994)
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ. 240–185 A Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A. Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A. Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A. Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A. Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A. Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2, R–1)	3 (D–2, R–1)	PQ: 245–180 A. Voice Vote (July 21, 1994)
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A. Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A. Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4, R–2)	PQ. 215–169 A. 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A. 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A. Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A. Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A. Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A. Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10, R–6)	PQ 247–185 A. Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	
H. Res. 516, Aug. 10, 1994	MO	H.R. 3433: Presidio Management	12 (D–2, R–10)	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted. F-Failed.

Mr. Speaker, I reserve the balance of my time.

□ 1410

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Glens Falls, NY [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, let me thank the gentleman from Sanibel, FL, for yielding me this time. And let me apologize in advance for the soft spoken gentleman from South Carolina and for the very distinguished gentleman from Sanibel, FL and for myself because we have to speak in a new language, not English. I will speak in a new language, not English, which is called Stengelese.

My colleagues all remember Casey Stengel. Well, if one is going to explain the budget process of this Congress, he has to speak in Stengelese, because nobody is going to understand it. And now my colleagues know the rest of this story, why the budget process in this House does not work.

Let me just say I have some concerns about this modified open rule. First, it contains a king-of-the-hill amendment process that says the last substitute adopted is the one reported back to the House, instead of having a normal amendment process that allows for the strongest amendment to prevail. Under the normal amendment process, Mr. Speaker, the Penny-Kasich-Stenholm substitute, which I support, would be offered to the Spratt amendment, perfecting it. If the amendment prevails, it prevails, and that is the way it should be. If the amendment loses, then Spratt wins, and that is the way that it should be.

What is wrong with that? That makes common sense.

Instead we have a Spratt bill, a Spratt amendment in the nature of a substitute, and then a Penny substitute, and then a Spratt substitute, all in that order. Does anybody out there listening understand what I just said? I do not think so. Maybe in the Democrat leadership's version of penny ante poker three Spratts beat a penny every time, but in the old fashioned version of democracy that I believe in, the amendment getting the most votes ought to win on the floor of this House.

Believe me, if the day ever comes when one of these Democrat king-of-the-hill rules results in a weaker amendment being reported to the House, there will be a bipartisan uproar like my colleagues have never heard before. The king will be seen to have no clothes, and naked power will be exposed in its rawest form. Mark my word on that; it is going to happen.

The second reason for my concern is that we are dealing with these minor budget bills individually, instead of debating a comprehensive congressional reform bill, which is what we should be spending our time on this week. Having said that, Mr. Speaker, let me say I support the Penny-Kasich-Stenholm substitute over the three identical Spratts. The Penny substitute contains more meaningful ways to deal with the problems and perceptions that stem from our current baseline budgeting than the Spratt substitutes do.

And discussion of baseline budgeting must seem very inside-baseball to most of our constituents.

But, if we told them this is really about "truth-in-budgeting" they will begin to understand the importance of this debate.

The American people know that we play a lot of games around here with our budgets, and they get thoroughly confused when we claim, on the one hand, that we are reducing spending, and yet they see spending continue to go up and up and up.

"How can this be?" they ask.

And we respond, "The baseline made me do it; it's in the law."

We measure our spending actions against what we expect something to cost in the future and not against what we are now spending out of our pocket. So, if we change a law to restrain the future growth rate of spending, we can say we are saving money, but that is not the same as reducing spending.

Mr. Speaker, when my constituents think about their household budget and this is really what this debate is all about, just listen to this when my

VOL 140 PT 15 AG 10 — 11 1994 UMI

constituents think about their household budgets, they measure their level of spending this year against how much they spent last year. That is the logical way to do it. If they were planning to spend 25 percent more this year than last, and then they trim that budget to spend just 15 percent more, that's still a 15-percent increase in spending.

When Congress cuts its spending, its anticipated spending, from a 25-percent increase down to a 15-percent increase, it claims it has reduced spending by 40 percent, when actually we have increased spending by 15 percent.

That is the whole crux of the baseline budgeting problem.

The Spratt substitutes before us today would try to deal with this problem by creating two baselines: one based on current policy levels, which is what we use now; and one based on current funding levels for discretionary spending, but with projected funding levels for mandatory spending. Boy, that sure sounds like "Stengelese." In other words, even though this new baseline is called the current funding baseline, it still uses current policy projections for mandatory spending.

So, unfortunately, this bill creates a new credibility problem for us with a baseline that is not entirely what it says it is.

Mr. Speaker, Yogi Berra, who also played for Casey Stengel, might have said, "If you try to run two baselines at the same time, you're going to split your pants."

Mr. Speaker, I fear the American people will split their sides laughing when they see us trying to run two baselines simultaneously and then claim we are clarifying rather than confusing the game further. It should be both a pants-splitting and side-splitting exercise that will not cover us in glory.

Now I prefer the Penny-Kasich-Stenholm substitute, which sticks to a single baseline but modifies it to eliminate the inflation adjuster for discretionary spending—as does the Spratt substitute in one of its baselines.

Inflating discretionary spending is not really current policy since annual appropriations are not permanent law.

At the same time, neither the Spratt nor Penny substitutes alter the definition of current services for mandatory programs in any of the baselines contained in those amendments. I think that is appropriate because those are commitments made in permanent law to our Social Security recipients, to our veterans programs, to government retirees, and others.

We will still have that current policy or current services measure for those mandatory programs under both the Spratt and Penny approaches.

Now let me just say this:

The Penny-Kasich-Spratt substitute tells our Budget Committees to begin their negotiations on the annual budget from the current levels of spending in all programs—mandatory and discretionary, so that we can better see and understand what is being increased or decreased and why it is being done. In that way, we in turn can better pinpoint where our real problems are and what we should do about them.

Mr. Speaker, the ultimate solution to our public perception and credibility problem when it comes to budgeting cannot be solved by a law. The people do not read our budget documents.

It is really a matter for the President, the Congress, and yes, the media, to level with the American people about our final budget actions, and not play games with all these baselines to claim we have reduced spending when we have only reduced its growth.

Let me say that one more time: To claim we have reduced spending when actually all we have done is reduce growth does not cut a penny out of this doggone budget.

In the final analysis, Mr. Speaker, truth-in-budgeting can only be achieved by telling the truth in our ongoing political conversation with the American people. That may be asking too much, but to do otherwise will only further erode our institutional respect and credibility.

Mr. SPRATT. Mr. Speaker, would the gentleman yield for a question?

Mr. SOLOMON. I yield to the gentleman from South Carolina [Mr. SPRATT] who I have great respect for.

Mr. SPRATT. The feeling is mutual.

Just one question. The gentleman from South Carolina [Mr. DERRICK] is saying we are ready to vote, but one question: You described our baseline as providing for inflation due to COLA's implicit in the mandatory spending programs and entitlement programs——

Mr. SOLOMON. With the two baselines, right.

Mr. SPRATT. Is the gentleman aware that the Stenholm-Penny-Kasich baseline also provides a COLA for entitlement programs?

Mr. SOLOMON. Yes, as a matter of fact, I called attention to that as well, and they both do, in the gentleman's Spratt amendment and the Penny baseline, yes.

Mr. SPRATT. I ask, "Don't you think that confuses people, that there is a lack of consistency here, whereas it would back our inflation on the one hand, include it for some programs that include it for others? Is that a baseline since it has one definition for one type of program?"

Mr. SOLOMON. I really tried not to talk in Stengelese and point out that four of yours have that, two of theirs, and we really need to be consistent.

Mr. SPRATT. I thank the gentleman.

□ 1420

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in opposition to the rule for H.R. 4907, and in support of the Stenholm-Penny-Kasich amendment. This amendment is necessary to bring about any real reform. Without the amendment, we are simply taking the next step in the Democratic leadership's effort to prevent any real reform in the institution or its processes.

We have seen this in every popular reform that has been overwhelmingly supported by the American people. The leadership has put off consideration as long as possible, when public opinion finally forces them to debate and restructure the rules and do their best to prevent the true reform.

Look back at the debate on the balanced budget amendment, the debate on line item veto, today's debate on eliminating the confusing and misleading practice of baseline budgeting.

Baseline budgeting is at the heart of what is wrong with how we do business here. The practice feeds the spending habit of an activist Congress and administration, while allowing those folks to claim to have made cuts in spending, when in fact it is an increase. The American people know that despite all the rhetoric coming from the administration that we cut spending, all we have really done is reduced the increases. Spending has not gone down. Spending has not been cut. In fact, spending continues to go up at a steady pace, and the deficit is projected to follow that route as well.

Stenholm-Penny-Kasich will bring a little common sense to the budget process. No longer will we be allowed to call spending increased cuts. Slowing down the projected increases has never been a cut in my book. With this change, the budget process will indicate that.

Mr. Speaker, the Government has not been honest with how the taxpayers' dollars are spent. We have a chance to make a small step forward, restoring some trust today. I encourage any colleagues to vote yes on Stenholm-Penny-Kasich and against the Spratt status quo amendment.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 8 minutes to the distinguished gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today the House will consider H.R. 4907, the Full Budget Disclosure Act of 1994. This act is six pages long, full of dense language, whatever you wish to call it in budget parlance. Let me just cut through the thick language, the bramble bush, the budget jargon, and get to the basics and say in a nutshell what this bill does.

Essentially this bill simply does this: It establishes two basic baselines for the budget format. First, it establishes a current funding baseline. This baseline, the current funding baseline, would be equal to the funding outlays that a function or program was receiving in that current year, the most recent year at hand. It is equivalent to what CBO would call a freeze, staying in place.

In addition, this bill would require that the budget be formatted to show in addition to the current funding baseline, a current policy baseline equal to what we now most commonly call a current services baseline.

A current services baseline, as we all know, is what it takes to keep a program serving the same eligible beneficiaries, providing them the same level of benefits adjusted for inflation in the next budget year. So we would have two baselines: a current funding baseline, and a current policy baseline.

This bill requires the President, the Congressional Budget Office, and both budget committees to give Congress, us, and the public, both the current funding baseline and the current policy baseline for budget functions and for specific programs.

The bill also requires that each of these offices compare the proposed funding for the next fiscal year with both baselines, both current funding and current policy.

As I think we have seen from the previous debate, there are a lot of similarities between this bill, H.R. 4907, and the Stenholm-Penny-Kasich substitute. In fact, I used the substitute as a basic when I drafted this bill, H.R. 4907. Both require the President, CBO, and the budget committees to provide current year funding for programs and both require comparisons between current funding and proposed funding. There is no difference there.

In the end, both have the same result. Both will make it more difficult to call a funding increase a spending cut if it is below your current services, because you will have readily available, formatted, displayed in budget presentations, what is the current funding level in the current year, and anyone who claims that he is cutting spending can be readily contradicted by referencing the budget documents that will be submitted by the committee to the Congress, and by the CBO as well.

Our bill, however, as I have said, sets up two baselines. Penny-Kasich would prevent this kind of double talk by having one baseline, which would replace the current services baseline.

I think it is important to emphasize what we are talking about is purely presentation. We are not talking about procedure. We are not talking about process. We are not talking about requiring different votes or different processes for increasing or decreasing spending. We are simply talking about how you present a proposed budgetary increase or proposed budgetary decrease, and what lines will be available, what baselines, what frames of reference will be available to determine whether or not it is an increase or a decrease.

My bill differs from the substitute in this fundamental respect: The substitute requires only information about current funding. It can even be read to say that Congress should not be given, not provided with, current policy baselines. Section 102(f) of the substitute states that OMB, in making assessments, shall not include an adjustment for inflation for programs and activities subject to discretionary appropriations. The substitute also provides that the starting points for any deliberations in the budget of each House on the concurrent resolution on the budget for the next fiscal year shall be the estimated level of outlays for the current year and each function and subfunction. Any increases or decreases in the congressional budget for the next fiscal year shall be from such estimated levels.

I am not quite sure what that means, a starting point for any deliberation. I think, frankly, that Congress and the public should be able to find out readily, as I have said, how much actual spending is going to increase in a new budget over and above current levels of spending. My bill, 4907, provides for that, clearly and distinctly.

But I also think Congress and the public should know what it will cost to keep the budget running in place, what it will cost to keep programs like Social Security, Medicare, Head Start and defense funded at current policy levels, doing next year no more or less than what it is doing this year. My bill also provides for that. The substitute does not.

So I think my bill is a distinct improvement on the current process, but it does not take away from us something that everybody finds useful. That is why we have it.

My bill provides a baseline which we in the Congress, members of the budget committees, the Committee on Appropriations, the Office of Management and Budget, the Congressional Budget Office, all have found extremely useful to have for analytical purposes. That is a current services baseline. It does not allow one to have just this baseline and to ignore current funding, because it requires that both be provided. But it does continue to provide us with this very useful reference for determining whether or not we are keeping programs apace with inflation and with the growth in beneficiary populations.

If we were to add, for example, $1 billion to Social Security in a given year, and in that given year inflation was 5 percent and beneficiary population growth was one million people, if we went back home and told our constituents that we had increased Social Security, I think they would look askance at us, because our Social Security benefits would probably be reduced if we did no more than $1 billion, given the growth in beneficiary population and given inflation.

We need the current policy baseline to tell us exactly what is required in order to keep existing programs on parity with existing levels of service. It is a very useful baseline, and I do not think regardless of what we do, if we were to pass the substitute today and send it to the other body and pass it there and have it enacted into law, the current services baseline will not go away. It will still be sought by the Committee on the Budget when we have budgets brought to the floor, whether they are resolutions or appropriations bills, these projections will still be there, and not just as to entitlements. We use current services all the time in the Committee on Armed Services because it shows what it takes to keep our defense on parity with the existing levels of readiness and force structure.

So I think it is something that we cannot uninvent, something that is not going away, because it is useful to everybody involved in this process, and given the fact that it is so useful, I think we ought to make it part of the process, but keep it honest, keep it in perspective by also requiring the current funding baseline to be provided as well.

I thank the gentleman for yielding.

□ 1430

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. COX].

Mr. COX. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of the Penny-Kasich-Stenholm bipartisan amendment to get rid of baseline budgeting.

I extend my congratulations to the gentleman from South Carolina [Mr. SPRATT] as well with whom it is my privilege to work as the ranking member on the Subcommittee on Commerce, Consumer, and Monetary Affairs. I am glad we are all here arguing about the best way to get rid of baseline budgeting.

I happen to believe that really getting rid of it is the answer rather than tolerating it and keeping it around.

As a member of the Committee on the Budget, I introduced a resolution abolishing it successfully. It became part of the budget we adopted here in the Congress most recently. It was adopted over in the Senate. So by a nonbinding resolution we have already accomplished what our colleagues, the gentleman from Minnesota [Mr. PENNY], the gentleman from Ohio [Mr. KASICH], and the gentleman from Texas [Mr. STENHOLM], want to accomplish here today, but we have to put it into law and make sure that we can enforce it.

We all know what a scam baseline budgeting is. The real question is,

VOL
140
PT
15
AG
10
—
11
1994
UMI

Where did it come from? The answer is that the solons of the spending status quo want us to believe that we have cut spending to the bone. They want to keep talking about cutting spending when in fact it is going up.

The truth is, according to the President's own figures, that spending this year is rising dramatically. And every year for the foreseeable future, spending will rise dramatically. It will grow from more than $1.4 trillion this year to more than $1.5 trillion next year. That is an increase of $100 billion, more than $1.6 trillion in 1996 and $1.8 trillion in 1998. Collectively, altogether, that comprises the largest deficit spending increase in any 5-year period in American history.

So how is it that we say we are cutting spending and yet spending is going up and up and up?

The answer is, we are using this smoke and mirrors method called baseline budgeting by which we cut not real spending but from an inflated baseline.

Let me give an example of how baseline budgeting distorts the language. We talk about spending cuts as if they are real but they are not. Let us say that last Labor Day you had 5 hot dogs and you enjoyed the 5 hot dogs so much that this year you decide you are going to have 10 hot dogs. But your friends tell you, you would be a glutton. You need to cut back and your doctor advises you, you have to stop your intake of fat and cholesterol. So you settle for seven.

Under baseline budgeting, as you scarf down that 7th hot dog with the mustard and relish dripping from your chin, you can congratulate yourself for having cut your hot dog consumption by 30 percent because you are only having 7 instead of the 10 you wanted. Some of us here in the Congress would be quick to point out that in fact the seven hot dogs you are eating this year represent a 40-percent increase over the five you had last year.

If you work here in Congress, you are used to the status quo, you would say, "I am sorry, you just do not understand real fat and calorie reduction."

That is the way baseline budgeting works. It does not reflect reality. It is in fact like Hollywood. It is total fiction. It reminds me of a trip to Universal Studios. You might say that the phony budget numbers we get from baseline budgeting are what Arnold Schwarzenegger would call true lies.

Baseline budgeting, to carry the analogy uncomfortably further, is a clear and present danger to our current system of representative government. Like the movies, this deceptive accounting practice has blown away our constituents' confidence in representative government. We need a simple and straightforward accounting system that even Forrest Gump could understand. If we do not adopt baseline budgeting, our noses, like Pinnochio, will continue to grow and grow, along with Government spending. And Bill Clinton will keep talking about cutting Government spending while it is increasing. I guess that would make him the Lion King.

Mr. DERRICK. Mr. Speaker, I yield 6 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, the rule before us allows for debate on H.R. 4907, the Full Budget Disclosure Act, and for two amendments thereto, one amendment, the Penny-Kasich-Stenholm amendment which would substitute for the language of the bill a hard freeze, as the baseline for Federal budgeting.

The second amendment would be the separate amendment, which essentially would restore the language or reaffirm the language in the base bill.

Under a king-of-the-hill process, it will be possible for Members to vote for our amendment and the Spratt amendment, but we strongly urge Members not to play that game. We have stronger language in our substitute. It would be deceptive to then vote as well for the Spratt amendment because, under the king-of-the-hill procedure, even though we may pass our amendment by a larger margin, a slim majority supporting the Spratt amendment would prevail at the end of the debate.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman for yielding to me.

I want the gentleman to know that we feel the same way. We tried to get the king of the hill changed to what we call the queen of the hill so that large a margin would prevail. Unfortunately, we were unable to succeed in the Committee on Rules.

Mr. PENNY. Mr. Speaker, I do appreciate the interest of a number of Members on the Committee on Rules in trying to protect our right to a fair fight on this issue.

As is often the case around here, if there is a real threat posed by any amendment, then substitutes are made in order or a king-of-the-hill process is put in order in order to defeat the best efforts to propose alternative policy decisions. That is clearly what we are faced with today.

Nonetheless, a yes vote and then a no vote will preserve the strongest language and we urge Members to vote in that fashion.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Speaker, one more time I think it is absolutely critical that we emphasize that we want to vote "yes" on the Penny amendment and an absolute vote "no" on the Spratt amendment. Because under this king of the hill, we would get rid of the baselines and have only one commonsense budgeting factor. If we adopted that and then adopted Spratt, we would be defeating ourselves.

So this king of the hill is something that Members do not understand very well, but clearly we do not want to vote for all alternatives. We want to vote for one, and that is the Penny alternative.

Mr. PENNY. Mr. Speaker, I thank the gentleman for those remarks.

The process we operate under today, this king-of-the-hill process, is another Washington-based process. It may make sense to people inside the Capitol dome, but it is nonsense to most of the American public. It is appropriate that we have this nonsensical rule with a king-of-the-hill vote, because we are dealing with a nonsensical budget process, a budget process that calls an increase a cut, a process that allows for an inflation adjustment in every part of the budget and only spending above the inflation adjustment is actually called an increase.

We try to correct that with some commonsense budget reforms. It could be best described as truth in budgeting. It could best be described as truth in budgeting, because we present to the American public with our proposal a budget process that would measure every program by last year's spending level.

In other words, a dime of increase in any program would be called an increase. A family does not plan their next year's budget based on an anticipated increase. Most families are not certain until the boss calls them in at the end of the year whether they are going to see a pay raise in their paychecks. Yet at the Federal level, we promise all of the programs and all of the beneficiaries that they will get an automatic increase from year to year.

□ 2440

It is absurd when you do not even know that the economy will grow, or that taxpayers will get pay raises, or that more revenue will come into the government, that the government promises all of the recipients, all of the programs, an increase year to year.

We correct that by going to a hard freeze baseline on most programs in the budget, Mr. Speaker. The gentleman from South Carolina called this purely presentation. This is more than that.

By changing our budget baseline, we change the terms of the debate. We remove the spending bias. We remove the assumption that every program must automatically be increased, and we start from a hard freeze baseline, forcing us to admit that increases are increases, forcing us to justify inflation adjustments if we feel they are necessary. This will shift the burden of proof.

Current funding, current policy, current services, entitlements, mandatory discretionary, nondiscretionary, we have so many terms that govern our budget debate on Capitol Hill it is no wonder the American public cannot understand what Congress is doing. Most of the confusion is deliberate. We do not want them to understand, because it allows us to spend more and more, while pretending that we are not increasing spending levels.

Mr. Speaker, we have to end the chicanery. We have to end the charade. We have to call a freeze a freeze. We have to call a cut a cut. That is the fundamental premise of the Penny-Kasich-Stenholm amendment. When we get down to debate on the amendments, I urge a yes vote on the Penny-Kasich-Stenholm amendment, a no vote on the Spratt amendment, and then a yes vote on final passage of H.R. 4907.

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina [Mr. SPRATT] for the purposes of making an inquiry.

Mr. SPRATT. Mr. Speaker, may I ask the gentleman from Minnesota [Mr. PENNY] a question?

The gentleman continues to refer to his baseline as a hard freeze, and yet in the "Dear Colleague" he sent out on this particular substitute, he says:

> When the baseline must be used for 5-year projections, the automatic increase for discretionary programs is limited, but the baseline for entitlements continues to include COLAs.

So there is a baseline that is a freeze for discretionary programs, but not a freeze for entitlement programs.

Mr. PENNY. Will the gentleman yield, Mr. Speaker?

Mr. SPRATT. I am happy to yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Speaker, the gentleman is correct. The gentleman would also acknowledge that on the entitlement question, the language in his bill does not differ from the language in our bill.

The point is that the cost-of-living increase in the entitlement area is mandated by law. We acknowledge that. But unlike the gentleman, we force a full acknowledgement of that fact in the budget baseline each year, so that even though there is an increase built in, we explain why that increase has occurred, and then it is open to question as to whether we want to honor that obligation.

Mr. SPRATT. Mr. Speaker, basically there is no difference between our current funding baseline and the single baseline the gentleman would require, is there?

Mr. PENNY. On the entitlement side, that would be correct, but on the discretionary or the domestic and defense side of the budget, and that deals with $500 billion, we do apply a hard freeze.

Mr. SPRATT. So do we.

Mr. Speaker, let me continue this COLA question. I think we are clarifying something that Members need to understand.

Mr. Speaker, our baseline would freeze discretionary spending. Our baseline adopts what CBO calls a hard freeze. It does accommodate COLAs for entitlement programs in the out years, but otherwise it freezes spending in place, so basically our current funding baseline is the same as the single baseline that the gentleman would enshrine in his bill?

Mr. PENNY. If the gentleman will yield further, I would concede that his current funding baseline is the same as our hard freeze baseline.He also allows for a second current services baseline, which would continue to confuse the debate.

In other words, in the gentleman's plan, he has two baselines, one that allows the inflation adjustments and the other increases to be assumed, and that would continue the obfuscation and the confusion that dominates the budget debate today. We want to get down to one simple baseline, and that would be a hard freeze.

Mr. SPRATT. If I could reclaim my time, so I have a bit left; however, our current funding baseline is the same baseline that the gentleman would provide, so we are going to provide that baseline in the budget presentations. The gentleman has no dispute with that?

Mr. PENNY. Mr. Speaker, I have no dispute with that. What I have a dispute with is the fact that the gentleman adds to the confusion by not having one simple baseline, but instead two baselines.

Mr. SPRATT. We think it adds to clarification, rather than confusion. Everybody can tell the difference between the two baselines.

I thank the gentleman from South Carolina for yielding the additional time to me.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes to the distinguished champion budgeteer, the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I want to compliment the gentleman from South Carolina for trying to develop a line of confusion in this discussion. Let us be clear about what we do.

Mr. Speaker, in the area of entitlements, we do not really have a baseline in entitlements, but it is the law, as the gentleman from Minnesota [Mr. PENNY] has said, it is the law that forces those to go up. I would remind the gentleman from South Carolina [Mr. SPRATT] that just earlier this year we offered several proposals to eliminate the automatic adjustments, which was opposed by the Majority of this House, including the gentleman from South Carolina [Mr. SPRATT].

Now, let us forget entitlements, because those increases go up by law. We have made an effort already this year to try to stop that automatically. We were defeated in that. Mr. Speaker, the only place where we really have a baseline is in the area of discretionary. What we are arguing is, we ought to base next year's budgeting based on the year before. We do not need to have more than one baseline.

I remember when Tina Turner sang the song "We Don't Need Another Hero." We do not need another baseline, we only need one. That is based on the spending of the previous year.

We should not be confused about what we are trying to do here. If we want a budget next year based on the previous year, we vote for Penny. If we want to do budgeting next year based on last year's plus another baseline, and get everything all confused, we vote for Spratt.

Mr. Speaker, I would argue to the House that if we want to do this like they do on the seat of the tractors in east Texas, as the gentleman from Texas [Mr. STENHOLM] is fond of saying, a commonsense budgeting approach, or in Westerville, or up in Minnesota, where the gentleman from Minnesota [Mr. PENNY] is from, we budget on the basis of the previous year, not the previous year plus inflation.

Vote for the Penny amendment. Let us end the confusion.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Speaker, I rise in support of the Penny-Kasich-Stenholm amendment, and urge a yes vote on that.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from the Commonwealth of Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, is it my understanding, as the gentleman has related to me, that when we finish this rule and we go to the debate on this rule, that we will in fact then be proceeding on the crime rule?

Mr. GOSS. Mr. Speaker, I am not in a position to answer that with authority.

Mr. WALKER. Mr. Speaker, may I ask if the gentleman from South Carolina [Mr. DERRICK] could answer? Is it the intention of the House, after this, to move directly to the crime rule?

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from South Carolina.

Mr. DERRICK. That is correct, Mr. Speaker.

Mr. WALKER. Mr. Speaker, immediately upon finishing the vote on this particular rule, we will then move to the crime rule, is that correct?

Mr. DERRICK. We were hoping maybe not to have a recorded vote on this, so we could move right on into it. That is correct.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Mr. WALKER. I think there are some of us who are concerned about the king-of-the-hill nature of this rule, and would prefer to have an opportunity to vote "no" on that, because we think that that is a bad kind of thing to have the House appear to have adopted unanimously, but I just wanted to clarify where we were in the schedule.

At the completion of that particular vote, Mr. Speaker, then we can assume that the next order of business will be to take up the crime rule?

Mr. DERRICK. If the gentleman will continue to yield, that is our intention at this time.

Mr. WALKER. I thank the gentleman.

Mr. GOSS Mr. Speaker, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in strong support of the Penny-Stenholm-Kasich amendment on baseline budgeting.

As sponsor of H.R. 323, a bill to eliminate the use of the so-called current services budget baseline, I have been trying to focus attention on the issue of fraudulent baseline budgeting for years.

I am gratified that my bill has 124 cosponsors from both sides of the aisle.

We are all too familiar with how the process works. Every year, Congress builds an automatic increase into all Government spending programs. Whenever a spending increase does not reach the baseline level, it is called a cut.

Congress uses such accounting deception to claim that it is cutting a specific program while actually increasing spending on it.

This process builds a bias into the Federal budget for more spending and higher deficits. Real deficit reduction requires this budget reform.

Mr. Speaker, the Penny-Stenholm-Kasich amendment will let us finally get rid of the current services budget hoax and restore credibility to the Federal budget process.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY].

□ 1450

Mr. OBEY. Mr. Speaker, I think Members do a disservice to this body when they suggest that the Spratt proposal would bring "confusion to the process."

What the gentleman from South Carolina [Mr. SPRATT] is proposing is very simple. It ought to be simple enough to understand even for a Member of Congress. What the gentleman from South Carolina [Mr. SPRATT] is suggesting is very simply this: He suggests that instead of presenting the budget from one baseline, we present it from two, so that we have two perspectives on the same issue. That is all the Spratt amendment does. This has nothing whatsoever to do with how much is spent. It has nothing whatsoever to do with how much is appropriated. It has nothing whatsoever to do with how much is made available in entitlements. It simply is a question of how we present the information.

What Penny-Stenholm-Kasich would say is that we present it only one way, in terms of nominal dollars. What Spratt says is that we present it two ways: One from the perspective of the nominal dollar base and second, from an inflationary adjusted base.

Mr. Speaker, it seems to me that when we are analyzing Social Security, for instance, that if we have an increase in the eligible population and if there is a large increase in inflation, it just might be helpful if we understand that the real effect of that is on the recipients. That is all the gentleman from South Carolina [Mr. SPRATT] does. He suggests that instead of Congress being given one piece of information, instead of the public only being given one perspective, they be given two. I ask Members what on Earth is wrong with that?

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from the greater San Dimas, CA, area [Mr. DREIER], an esteemed and important member of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from Sanibel, for yielding me this time.

Mr. Speaker, I rise to strongly oppose this rule if for no other reason than the king-of-the-hill procedure.

Mr. Speaker, let me go through that process again.

I understand that my friends, the gentleman from Minnesota [Mr. PENNY] and the gentleman from Ohio [Mr. KASICH] talked about the king-of-the-hill procedure. It is absolutely nothing more than an attempt to obfuscate the issue of accountability. The way the king-of-the-hill procedure works is that we have one amendment that comes before us, and that is going to be the Penny amendment, and it could pass with 420 votes. Following that, we could have the Spratt amendment which, based on the description that the gentleman from Minnesota [Mr. PENNY] and the gentleman from Ohio [Mr. KASICH] gave is obviously a weaker position, yet with 218 votes, that vote would be the one that would actually prevail, avoiding the issue of accountability, meaning that Members could vote, in fact, for the Penny amendment and they could do it knowing that if 218 votes are gleaned on the Spratt amendment at the end that, in fact, the Spratt amendment would carry.

Mr. Speaker, this king-of-the-hill procedure is an absolutely ludicrous procedure. I offer regularly an amendment up in the Committee on Rules which simply says that if we are going to have this king-of-the-hill procedure, what we should state is that the amendment which receives the highest number of votes here on the floor is the one that prevails. That is the only responsible way to deal with this. Unfortunately this rule is one which denies that right.

Mr. Speaker, for that reason I urge a "no" vote and hope that my colleagues will join with me in opposing the rule so that we can bring back a fair and balanced approach which will give equal treatment to those who are proposing amendments.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say, we have had a lot of discussion on the rule. I think that the goal of what we are trying to accomplish here is clarification. I think that anybody who has listened to this particular debate would understand just how confusing this particular subject is. If it is this confusing inside the Beltway, I can imagine how confusing it is out there in America for those who are trying to understand why we keep raising the annual debt and the deficit and we cannot seem to live within our means and are always having new tax proposals being presented to us by the majority.

I think that anything that comes close to clarification on this is very important. I happen to agree that the Stenholm-Penny-Kasich amendment gets closest to what we need, to what I will call full budget disclosure. What I think we have got now is full budget confusion. I hope that that amendment is going to pass.

Mr. Speaker, I feel very much the same way as my colleague, the gentleman from California [Mr. DREIER] who has just spoken, that we have stacked the deck so that it will not pass. That would be a shame, I think. One more time we will have taken a better solution, one that will actually lead to clarity in this. It does not solve the whole problem by any means but it adds some accountability, so it is a little harder to disguise what is really going on, it is a little harder to keep from the taxpayers what we are really doing here, and I think that openness and that sunshine would be very welcome. Certainly, it is the rules we use in Florida, and it is the rules I think we should use here.

Mr. Speaker, I agree that the king-of-the-hill problem is a very serious one here and the blanket waiver protecting who-knows-what points of order is a serious question. I will not call for a vote, but I understand there are others on our side of the aisle and perhaps on the majority side of the aisle who are so upset about the king-of-the-hill and the blanket waivers that they may call for a vote.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on this resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SERRANO). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 255, nays 178, not voting 1, as follows:

[Roll No. 393]

YEAS—255

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Bellenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Slaisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—178

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Billirakis
Bliley
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
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Ros-Lehtinen
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Smith (MI)
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Smith (OR)
Smith (TX)
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Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Washington

□ 1514

Mr. PETRI and Mr. HOUGHTON changed their vote from "yea" to "nay."

Mr. HILLIARD changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON HOUSE AMENDMENTS TO SENATE AMENDMENT TO H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 517 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 517

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the amendments of the House to the amendment of the Senate to the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 517 waives all points of order against the conference report on H.R. 3355, the Omnibus Crime Control Act and against its consideration. The rule further provides that the conference report shall be considered as read.

Mr. Speaker, this rule will allow the House to consider the conference report for H.R. 3355, the Omnibus Crime Control Act. Earlier this year the President urged Congress to set aside partisan differences and to pass a strong, smart, and tough crime bill. In response to this call, the House has before it today far-reaching legislation that does exactly that. The conference report establishes a Violent Crime Reduction trust fund to assure that $30.2 billion be available over the next 6 years for anticrime initiatives. Funding for the trust fund will be made available through the elimination of 250,000 Federal Government jobs.

This conference report will help our Nation to move toward a future free from crime and violence through a

VOL 140 PT 15 AG 10 — 11 1994 UMI

commitment of resources unprecedented in the history of our Nation. The legislation authorizes $8.85 billion in grants to State and local governments to place 100,000 new cops on the beat. What this represents is a 20-percent increase in the number of police officers nationwide. For South Carolina alone this could mean 1,600 additional police officers on the street. Make no mistake, the legislation before us today is tough legislation aimed at taking back our streets from the criminals.

The conference report provides $6.5 billion in grants to help States build new prisons for the incarceration of violent repeat offenders. The legislation establishes the death penalty for over 60 Federal crimes, including the murder of Federal law enforcement officers, kidnapping, terrorism, drive-by shootings, and carjackings resulting in death.

The conference report contains three-strikes-and-you're-out legislation which mandates life imprisonment for anyone convicted of a third violent felony. It also provides that juveniles 13 years or older could be tried as adults in Federal Court for crimes such as murder, assault, robbery, and rape and includes the use of bootcamps for youthful first-time offenders. Such bootcamps can provide the discipline and training necessary to deter young people from embarking on a life of crime.

The conference report makes sure that police are not outgunned by criminals and bans military assault weapons. Every year the problem of gun violence only gets worse as more assault weapons find their way into the hands of criminals. These weapons are 18 times more likely than other guns to be cop killers and 16 times more likely to be traced to crime than other firearms. The conference report contains provisions to ban 19 listed weapons, copycats, and other clearly defined semiautomatic guns.

The conference report also addresses the causes of crime. Focusing only on the symptoms of crime will never reverse the problem. The underlying causes of crime have to be addressed as well. The conference report provides funding for community programs intended to prevent crime such as summer school programs and after school programs. The legislation authorizes $125 million for programs to give young people positive alternatives to gangs and provides $300 million to stimulate business and employment opportunities for low-income, unemployed, and underemployed individuals.

The conference report also creates programs to reduce violence against women. The legislation increases Federal resources available to combat sexual and domestic violence, through education programs, law enforcement training, and a national domestic violence hotline. The legislation also provides $4.5 million in grants for shelters for battered women and their children.

Mr. Speaker, every major law enforcement organization in the country supports passage of this conference report. Organizations such as: The Federal Law Enforcement Officers Association; the Fraternal Order of Police; the International Association of Chiefs of Police; the National Sheriffs' Association; the International Brotherhood of Police Officers; the International Union of Police Associations; the National Association of Police Organizations; the National Organization of Black Law Enforcement Executives; Police Executive Research Forum; the National Trooper's Coalition; and the Police Foundation.

In addition the two largest prosecutors associations as well as groups representing cities, towns, and counties are urging the Congress to approve this legislation. These groups include: the National District Attorneys Association; the National Association of Attorneys General; the United States Conference of Mayors; the National League of Cities; the National Conference of Republican Mayors and Municipal Elected Officials; the National Conference of Domestic Mayors; and the National Association of Counties.

Mr. Speaker, far too many of us no longer feel safe in our own neighborhoods. Violent crime is on the rise across our Nation and the time has come to ensure all Americans the freedom to live and work in safety. The conference report before us today is not a panacea, but it is an important step in turning around this country's crime problem.

Mr. Speaker, House Resolution 517 is a fair rule that will allow this House to consider this wide-reaching conference report. I urge my colleagues to support the rule and the conference report.

Mr. Speaker, I reserve the balance of my time.

□ 1520

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the distinguished minority whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, you know, the country should ask itself why has a vote on the rule become such a close vote? Why have the President, the Cabinet, virtually everybody available they can to find one more vote on the rule?

But I think what people need to understand is that a vote on the rule is a vote on a procedure. And this has been, for this bill, a terrible procedure.

Let me make it very clear: For Members of the Congress on the Republican side, this bill became available at 7 last night. Now, the conference ended on July 28, and on July 29 Lamar University issued a press release thanking Chairman BROOKS for $10 million.

So in the first 12 hours after the conference ended, a conference in which no Republican was involved, no Republican had access, no Republican was informed, within 12 hours the staff found the first piece of pork, made sure their district issued a press release.

But still nothing happened, and they did not have the votes. Why? Because this is not just about one item, this is a bill that has $33 billion in spending, it has 20 new social programs. This is a bill which cuts the FBI, it cuts the Drug Enforcement Administration.

I suggest every Member read the Buffalo newspapers where the FBI director is quoted inappropriately, being honest, inappropriately saying the truth, which is that his agency, the FBI, gets cut, the DEA gets cut, that mayors and police chiefs are worried.

Now, later in the day the administration got him to send a letter up because otherwise he would have had to resign. But in the newspaper he told the truth. In the so-called crime bill, we are cutting the FBI. And yet at the time he said it, no Republican Member had seen the bill. It had not been available.

Now, why was it not available? This is what Chairman BROOKS said, and every Member ought to listen to this and you ought to ask yourself how you are going to go home with any sense of self-respect and vote "yes" on a rule for a conference report you have not looked at.

This is what he said in the Rules Committee. He was asked what are you asking us to waive? When you vote for this rule, you are voting to waive points of order. He was asked what are you asking us to waive? And this is what he said: "If I had a list written, I wouldn't give it to anybody because they would use it against me. Go to the floor, say, 'Here are the items that are on the scope,' no, I do not do that."

So the chairman of the committee, on behalf of the conference report, which had never been filed, refused to tell the Rules Committee what they are going to vote "yes" on.

So if you vote "yes" and the next week the news media finds the pork, they find how bills have been weakened, and you listen to Congressman ZIMMER later and Congresswoman DUNN tell you how this bill in its current form weakens the part on sexual predators, weakens it, does not strengthen it, takes care of the ACLU. And protects sexual predators instead of protecting communities.

Finally, at some point Mr. FAZIO, in the world of fantasies he has been in, having been alarmed about the Christian Right, will warn you about the Republican National Committee and say, "We are applying pressure."

I am entering into the RECORD a letter from Chairman Haley Barbour. Republicans who want to can vote their conscience, and that is all I am asking them to do. Finally, you have not been consulted, you have not been informed, you have not seen the documents; it is weaker on crime, it is weaker on sexual predators, it cuts the FBI, it cuts the Drug enforcement Administration.

Vote "no" on the rule, send it back to conference and insist they write an honest bill out in the open where everybody can see it.

The letter referred to follows:

REPUBLICAN NATIONAL COMMITTEE,
August 11, 1994.

Re July resolution.

Memorandum for Republican Members of Congress.

From: Haley Barbour.

As usual Vic Fazio and the Democrat Congressional Campaign Committee are trying to misconstrue by 180 degrees the Republican National Committee's notice to our Members of Congress that we had caused a resolution at our July meeting, criticizing some of our Congressmen, to be withdrawn. Fazio's attempt to say this is a threat to withhold support for them is a blatant falsehood and is the exact opposite of the result of our action. We had the resolution withdrawn until January so none of our Members of Congress would have to worry about any threat of withholding support from them.

□ 1530

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, we have heard more truly inaccurate words in the last 4 minutes than we have heard in a long time on this floor.

Mr. WALKER. Mr. Speaker, I demand that the gentleman's words be taken down.

The SPEAKER. The Clerk will report the words objected to.

Mr. SCHUMER. Mr. Speaker, may I amend that to say "factually inaccurate"?

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. Without objection, the gentleman's words will be replaced with the words "truly inaccurate."

Mr. SCHUMER. Truly inaccurate.

The SPEAKER. Is that the gentleman's request?

Mr. SCHUMER. That is my request.

The SPEAKER. Without objection, so ordered.

Mr. SCHUMER. Mr. Speaker, we have heard more factually inaccurate words in the last 4 minutes than we have heard in a long time. I submit for the RECORD a statement from the FBI Director supporting the bill, put out on August 10.

I say to my colleagues, you may laugh, but you know why you're laughing, and that is because every time, every time this bill is improved, you find a new objection.

Remember the Racial Justice Act? We heard from the other side they want the bill except for the Racial Justice Act. The Racial Justice Act in my opinion regrettably is not in the bill. They are still not for it.

Then we heard from the other side they wanted $8 billion in funding for prisons. There is now $8.4 billion for funding in prisons. They are still not for it.

They wanted truth in sentencing. They got truth in sentencing, and yet they still oppose this rule.

Mr. Speaker, they still come up with one excuse after another to give the American people an up or down vote on the crime bill.

So the time has come, my colleagues, for truth in voting. I say, if you want to do what our constituents are pleading with us to do, which is make the streets safe, tough laws on punishment, smart laws on prevention, you will vote for this rule because we cannot hide behind any procedural smoke screen. If you vote down this rule, there will be no crime bill, and the American people will suffer.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished ranking member of the Committee on Rules, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, when this conference report was filed on this floor last night at 7 o'clock, I was assured that plenty of copies would be available to the Committee on Rules in 2 or 3 minutes. In fact, only one copy of this 972-page crime bill, the conference report, was delivered to the Committee on Rules, and Republicans first got a copy of it only 23 minutes before the scheduled start of the Committee on Rules debate.

Mr. Speaker, the Committee on Rules then proceeded to report a rule waiving all points of order on this monstrosity. One of the rules waived was a requirement that Members of this House have 3 days in which to learn about the conference report and what is in it. There is not a Member in this House who has any idea what is in there.

Mr. Speaker, there clearly are a great many standing rules of the House that are being violated in this rule. But when we asked the chairman of the Committee on the Judiciary for a list, we were told that even if he had such a list, he would not give it to us because it might be used against him. Mr. Speaker, that is not right, and my colleagues all know it.

With regard to the conference report itself, there are a few good provisions in it. But those good provisions have been so overloaded with social program giveaways and soft-on-crime provisions that the bad news in this package far outweighs the good, and my colleagues know that if they take out the politics.

The conference report eliminates mandatory minimum sentences for certain drug traffickers. This provision is retroactive and would result in 10,000 criminals being put back on the street—10,000.

Mr. Speaker, one of the best ways to judge a piece of legislation is to see who supports it and who is opposed to it. In this case why are the liberals, who are always opposed to tough penalties for criminals like the death penalty, why are they for this? And why are conservatives like me who always vote to crack down on criminals, why am I opposed to it? The answer, Mr. Speaker, is obvious.

This is not a crime bill, as much as the liberals would want us to think, this is a welfare bill with a few good things put in there to provide political cover. For example, this bill creates a thousand new social worker positions to run all the dance lesson programs, all the arts and crafts lessons, all the midnight basketball programs. Those are all failed CETA programs from 10 years ago. There is funding in this bill sufficient to hire two new social workers for every new cop on the beat.

That is what this conference report is all about. This legislation throws a huge amount of money around in a way that is not likely to have much effect on crime, but the effect on the taxpayers may be very, very huge. The sum of $30 billion of the $33 billion in this package comes from the violent crime resolution trust fund, which is supposed to come from savings achieved by laying off 252,000 Federal employees. How many times are we going to use that money? This is the fifth time.

Mr. Speaker, this conference report lets criminals out of jail who have committed crimes with guns and takes the guns away from law-abiding citizens. That is wrong.

This is terrible legislation. We can defeat this rule, and we can come back here with a real tough crime bill that we could all support, and we would be doing what is right for the American people.

Please vote against the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, this is the vote of the year, all rhetoric aside. We either break gridlock, or we cave in once again to special interests and partisanship. Health care, Haiti, the economy; this is the vote of the year.

And what is the alternative? If this rule goes down, how many of my colleagues here actually think that we can come up with another crime bill?

Mr. SOLOMON. I do.

Mr. RICHARDSON. We have no way of ensuring that the good prevention measures that are here, that the good punishment measures that are here, and the 100,000 cops on the street will survive once again. The NRA and every group that did not get what they wanted in this bill will be back.

If this rule goes down, there will be no crime bill, and I can assure my colleagues that, if we go home, and look

VOL
140
PT
15
AG
10
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11
1994
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our constituents in the eye at town hall meetings, and one on one, and polls, and the message being to do something about crime, and we do not, I think we are going to pay.

And do not call some of these programs social welfare programs. These are programs aimed at the young men and women of our inner cities, men and woman that have lost hope. These are prevention programs designed to help these young people cope with the future. Do not call them social programs. These are investments in the future.

Mr. Speaker, if we vote to kill this rule, there will be no crime bill, or, if there is, it will be a lot worse than what we have here. Vote for the rule.

We are minutes away from breaking gridlock, putting partisan politics aside, and showing special interest groups that they do not control Congress. Mr. Speaker, we are now ready to pass a crime bill that the American people in every district and in every State have been asking for.

No Member of Congress can justify voting against this crime bill. If a Member thinks the bill is not tough enough, I say what about the three-strikes-you're-out provision that will send criminals with three serious offenses to prison for life without parole; what about the death penalty which will be added to more than 60 crimes; what about funding for more prisons which will mandate that criminals serve at least 85 percent of their sentence. Mr. Speaker, this bill is tough, and only the criminals should hope for its failure.

I also ask which Member of Congress will be the first to tell parents in their districts that Congress has chosen to do nothing to help keep their children off the streets. This crime bill provides young people with job training and opportunities so they can learn teamwork and responsibility and say no to crime.

And finally, who will want to go back to their districts to tell their local chief of police and mayor that the crime bill did not pass. Members should know that with 100,000 new cops on the beat, criminals will want to think twice before committing a crime. Our constituents will be able to work with the police to keep every neighborhood safer.

Mr. Speaker, all members should be able to go back home to tell parents, teenagers, police, and every citizen in their district that Congress has listened and has passed a crime bill. This bill fights crime and gives control of our neighborhoods back to honest citizens and keeps the criminals in jail.

Mr. Speaker, let's show America that we will no longer tolerate crime This crime bill is our chance to give Americans what they have been asking for. I urge my colleagues to listen to the American people and to vote yes for the rule.

□ 1540

Mr. GOSS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Illinois [Mr. HYDE], who has spoken so well on so many of these relevant subjects dealing with this bill.

Mr. HYDE. Mr. Speaker, I want to make it quite clear that I still support the legislation concerning the assault weapons, forbidding the future manufacture for 10 years and the future importation of assault weapons. I still believe in that and I still support it, but I cannot vote for this bill.

This is an awful way to legislate. There are 154 jobs programs now on the books costing $25 billion a year. AL GORE and his Commission to Reinvent Government talked about consolidating these overlapping, duplicative, redundant programs. Instead of consolidating, we are proliferating. We are throwing in 30 new social programs at a cost of $8 billion.

I did a little research, and I looked up the Omnibus Crime Control and Safe Streets Act of 1968. Shades of Lyndon Johnson. You ought to read it. It is an identical bill with what we are doing here. Has there been an improvement in street crime, in drugs, in drive-by shootings?

We spend millions for the same old thing, and our answer to the festering crime problem is more of the same. There were no hearings. We did not look at these programs and see which of them are triple funded. Social workers will be competing with each other in a tug of war to get clients to attend their self-esteem, their craft, or their dancing classes. Meanwhile, the people are ducking from stray bullets.

This is not a decent, responsible way to legislate. And then the coup de grace, $10 million for this university in Beaumont, TX. God love the chairman, I wish I had half his skill in getting things for places in my district. And this was done not in the dead of night, probably about 4 in the afternoon, after the conference was through, after the books were closed, handshakes all around, press interviews, and then, $10 million for some place in Beaumont.

That is what characterizes this whole legislation. It is a disgrace. So let us go back to the drawing boards. I do not mind social workers. I think they are great. They are underpaid. But let us look at programs that can work, that can accomplish something. Let us not just shovel with a trowel hard-earned tax dollars onto untested and unproven programs. We are not legislating responsibly.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today in support of the rule to the conference report on the Violent Crime Control and Law Enforcement Act. I laud Chairman BROOKS, Chairman SCHUMER, and the conferees for their hard work and dedication in crafting a comprehensive and balanced crime package.

In 1991, I stood where the Speaker stands now. It was early in the morning, as you recall, and we passed a crime bill. It was a tough crime bill. It had many of the provisions that are in this bill, and it went to the Senate. It had none of the social spending that you now talk about that so concerns you. But the point of fact is, the Republicans in the U.S. Senate filibustered the crime bill, and it did not pass. They did not send it to the then Republican President of the United States.

The fact of the matter is, in my district and in yours, there are children being killed on the streets of America. People are concerned. They want us to act. They want us to act now, not later, not tomorrow, not after a filibuster, not after another election, not after Bill Crystal tells you, hey, it is all right, it is all right to vote for something now.

Yes, the Democrats may claim credit. Yes, it may be good for America, but no, do not take Bill Crystal's advice, send them home empty-handed, which is what Bill Crystal is telling all of you to do. Because if you do, those parents on the streets of America, in the schools of America, in the communities of America, will pay the price, not those of us who sit in this Chamber.

Over the past year, I have met with mothers and fathers, law enforcement officials and ministers, community leaders and young adults. Overwhelmingly, the No. 1 concern on their minds is what does this country need to do to stop the ever growing crime epidemic? My constituents as well as yours are demanding we take action. Passage of this bill sends them a clear message that the people they elected are listening and care about their concerns.

We all recognize that this bill is not the absolute solution to the crime problem but it is an important link in the crime prevention chain. This bill is a prescription which appropriately packages prevention and punishment. It encompasses critical crime prevention measures which attack the root causes of crime allowing our State and local governments, who fight on the front lines, to have resources available to make our streets and neighborhoods safe.

It also contains vital punitive measures aimed at removing the perpetrators of violent crime from our civilized and ordered society. I am particularly pleased that the "three-time loser" provision I proposed last year is included in this bill. That provision will insure that those who continue to threaten our people and our communities will be put in jail and stay there permanently.

The time for action is now. We must not fail those who sent us here, some of whom are afraid to leave their homes at night and who are seeing the moral fibers of our society being eaten away. Enough is enough. This body must release the chains which hold the crime bill hostage.

This is a tough crime bill. Its time is now. Let us vote for this rule. Democrats, let us come together. America sent us here to act. Let us act today.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I rise in opposition to the rule. The big print giveth, the small print taketh away.

Mr. Speaker, while I am opposed to H.R. 3355, the Omnibus Crime Control Act Conference Report, I would like to express my strong support for the Canady-Geren amendment clarifying the Federal courts' role in selecting remedies for prison overcrowding. The provision was included in both the House and Senate crime bills.

The Canady-Geren amendment requires the Federal courts to evaluate cruel and unusual punishment claims based on how prison conditions affect the individual inmate who brings the lawsuit. In addition, it would prohibit prison population caps and limit equitable relief to the least intrusive means necessary to remedy the violation. The Canady-Geren amendment would also give State and local governments greater flexibility in seeking modifications of previous court decrees.

Like many other States, Texas' prison population is controlled by a Federal consent decree, prompting the early release of prisoners back to the streets of our communities. The consent decree in Texas provided that the Texas Department of Corrections [TDC] would limit the statewide prison population to 95 percent of TDC's maximum capacity. Among other things, the decree also forced the TDC to only use certain facilities in calculating the maximum capacity of its existing system, and only then-existing facilities which met certain standards could be counted in figuring TDC's capacity.

In September 1986, TDC petitioned the Federal district court for a modification of the consent decree to permit TDC to increase the prison system's capacity by counting certain temporary beds available in other facilities toward TDC's capacity. TDC argued that an extraordinary and unforeseen increase in inmate admissions to the prison system justified such a modification. After a hearing, the district court denied TDC's motion, on the basis that the facilities TDC wanted to count were substandard or not authorized under the consent decree. TDC appealed the decision to the Fifth Circuit Court of Appeals, but it upheld the district court's decision. As a result of the denial of the motion, the administration of the TDC was essentially performed by a single Federal judge and the State was forced to adopt the early release program in order to meet the 95 percent cap on Texas' prison population.

The States need the Canady-Geren amendment to regain control over prison policy. What the States do not need, however, is unfunded mandates and reckless social spending under the guise of crime control.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER], a member of the committee.

Mr. SENSENBRENNER. Mr. Speaker, this is not an issue of Republicans and Democrats. More accurately, it is not an issue of liberals versus conservatives. The issue on this rule is whether we will legislate responsibly, both procedurally and in substance.

There is a group in town that is circulating petitions to all Members of this body pledging that they will not vote for any health care proposal that they have not read, and that is a legitimate request when we are dealing with one-seventh of the economy and something that affects all of us. But does not the same apply to this bill, which has $33 billion in spending, changes criminal procedures, and which its sponsors claim will make the streets safer and lock criminals in jail?

Should not the membership of this House have an opportunity to read this bill? Should not the media and the American public be able to analyze the provisions of this bill?

Those who vote in favor of this rule will say very clearly, no, because this rule waives points of order. There is no point of order that will lie on the fact that if this bill is brought up, the 3-day layover rule will be waived.

The conference finished its work on July 28, and it was not until 7 o'clock last night that the conference report was filed, and the printed version of the report was not available until 10 this morning, less than 6 hours ago, when the CONGRESSIONAL RECORDS were distributed.

There will also be no point of order on the conference exceeding its scope. We know that a point of order would lie if it were not for waiving the points of order on the $10 million for Lamar University.

Last night we took a great step forward in restoring the public confidence in how this House does business in passing the Congressional Accountability Act. Let us not wreck that good record. Let us not wreck that goodwill by approving this rule that does not allow Members to read the bill and waives the scope of the conference so that pure, unadulterated pork will sneak through simply because nobody has had the time to expose it to the light of day.

Please vote no.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the distinguished gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the rule and the conference report on the crime bill.

It is clear that most Americans want the Congress, and Government at every level, to make fighting crime our No. 1 public priority. Once again, however, a debate on crime has been overshadowed by a sideshow produced and directed by the National Rifle Association.

It is time that House members recognize that the NRA leadership has no interest in combating crime. Instead, it is preoccupied with collecting dues and contributions. Any scare tactic is acceptable as long as it fills NRA coffers.

To listen to the NRA's shopworn arguments, twisted constitutional interpretations, and bullying threats, one would never know that this bill contains only a modest provision to ban a few weapons that have virtually no sporting purposes and that few law-abiding citizens own.

No one's constitutional rights are threatened by this bill. But the NRA must raise that specter in order to rouse its current members to send more cash and induce new members to join.

Make no mistake about my motives. I have been a hunter. I collect guns. I keep a loaded gun in my home for protection. I am a gunman.

But I do not need an assault rifle—and I do not believe that passage of this bill will lead to the long arm of the Federal Government confiscating all guns.

This is a reasonably good bill, and it deserves our support.

Mr. Speaker, I have found that the NRA members in the district I represent are way ahead of the NRA leadership in Washington. Rank-and-file NRA members tell me that they will fight hard to protect their right to own and use firearms for legitimate purposes but that they have no objection to reasonable efforts to keep weapons from those who would misuse them.

Contrary to NRA propaganda, this is not a gun control bill. It is an anticrime bill that includes the assault weapon ban as one part—one relatively small part—of an overall strategy.

This bill provides tougher sentences, more law enforcement, more prison cells, and more crime prevention. That is what the American people want.

Mr. Speaker, it is easy to pick apart this or any legislation. I would have written it differently. We all would have written it differently. But this bill is a step in the right direction.

This bill will not eliminate crime. It cannot. But it will prevent crimes that now occur. It will take more criminals off the street for a longer time. And most important, it will save American lives.

Let us not be diverted by a special interest group with its own narrow agenda. I urge my colleagues to reject the ravings of the radical fringe and pass this rule and this conference report.

□ 1550

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I rise in strong opposition to this rule.

Mr. Speaker, today we are going to vote on the Clinton stimulus package. But this time we are calling it a crime bill.

The No. 1 concern of the American people is crime. So rather than putting together a bill

VOL 140 PT 15 AG 10 — 11 1994 UMI

that cracks down on crime and puts criminals behind bars, Congress, in its wisdom, pours more money into social welfare programs.

Let us look at some of the crime programs included in this bill: $40 million to let frustrated athletes play basketball. But only frustrated athletes that are HIV-positives. $900 million for the YES Jobs Program. This is in addition to the $6.5 billion we already spend on other job-training programs. Five million to teach life skills, whatever that is; $40 million to increase the self-esteem of school dropouts; $10 million for public housing. Apparently the $309 billion we already spend is insufficient, and $630 million for things like teaching kids how to dance and make pottery.

My friends across the aisle are just sure that by throwing around a few more welfare dollars we'll be able to solve society's crime problems.

But look at the figures. We have spent $5 trillion on welfare since Lyndon Johnson declared war on poverty. Yet the national rate of crime is at the highest level it's ever been.

Let us vote this bill down and put together a bill that really addresses our crime problems.

Mr. Speaker, 1 week ago I spoke on the House floor about the false promise included in the crime bill to put 100,000 new cops on the street. At most, this bill will fund only about 20,000 new cops. And that's only for the next few years unless local cities can come up with the $33 billion they'll need to pick up the tab when Federal dollars are gone.

Even more, these cops are going to be funded by cutting other critical law enforcement. We're taking FBI and DEA agents off the street to fund, at best, 20,000 new cops that will not even be around in a few years. By the time local law enforcement are able to recruit and train their new cops, Federal funding will dry up and those new cops will be gone. In the end, not only will we have failed to put more local cops on the street, we've lost critical Federal law enforcement.

What is worse is that this bill puts more money into welfare and social programs than it puts in cops. This bill will put two new social workers on the street for every cop it funds. This is hardly fighting crime. When I call 911, I don't want to talk to a social worker, I want to talk to a cop.

This is a terrible bill and I urge my colleagues to vote it down.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FISH] the distinguished ranking member of the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I rise in opposition to the rule. This conference report contains provisions which I oppose and, in addition, the conference committee deleted provisions which I supported. However, my opposition to this rule is based as much on procedural objections as it is on substantive policy.

As we all know, violent crime is a devastating national problem. Violent crime has increased in this country over 23 percent since 1988. A violent crime is committed once every 22 seconds and a murder is committed once every 22 minutes. A rape occurs every 5 minutes and a robbery every 47 seconds. Over 70 percent of the violent crimes committed in our country are committed by repeat offenders.

These are not just statistics. The victims of these crimes are real people—they are our constituents—and the ultimate victim is society. The crime epidemic has brought with it the pestilence of fear and Congress should address this complex problem in a comprehensive, realistic and bipartisan way. Whether we are Republicans or Democrats this is a national crisis that we share and partisan politics should not interfere with the best solutions.

Back in March, following action in the House Judiciary Committee on the Violent Crime Control and Law Enforcement Act of 1994, I went before the Rules Committee urging that certain key amendments be made in order. Those were amendments put forward by the Republican members of our Committee and reflected a number of very valid and valuable approaches to the serious problem of crime we have in this country.

Unfortunately, when this legislation was brought to the floor in April, several of my Republican colleagues were prevented from offering amendments under a highly restrictive rule. Still other Republican amendments were allowed but they were subjected to a king-of-the-hill procedure that prevented any real genuine opportunity for success.

Subsequently, after the legislation was passed by the House of Representatives, I appointed the four most senior Republican members of the House Judiciary Committee to serve on the conference committee on the Crime bill. For many weeks and months, the conference committee did not meet. Republican members were routinely excluded from closed door meetings during this time period. Then, finally, when the conference committee briefly convened, Republican Members were routinely refused key documents and several significant Republican amendments were dropped or weakened. Numerous Republican proposals were defeated in conference through the utilization of the proxy vote mechanism. Ultimately, none of the Judiciary Republican conferees signed the conference report. How could they approve a document which they had no part in formulating?

Furthermore, the conference report itself is a document that has been conspicuous by its absence. As of yesterday evening, the Members of this House did not have a complete, final copy of the conference report. The conference version, as I understand it, is almost four inches thick, it is over 1,000 pages long. How do we evaluate a major piece of legislation that no one has been permitted to read?

Mr. Speaker, I stand here as the Ranking Republican on the House Judiciary Committee. The upcoming vote on the rule is a procedural vote that must be evaluated in the light of these events. The rules process goes to the very heart of our role as legislators and our rights as Members of this House. I am angered and dismayed about the manner in which Republican Members have been denied their rightful role on this very important public policy question.

Mr. Speaker, I will vote "no" on this rule because of the tactics used by the Majority party—tactics which insult the Republican Members of this House and the American citizens we were elected to represent.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, first of all, I thank the gentleman for this opportunity to address the issue that many see as the number one problem facing our Nation: violent street crime. The philosopher Rousseau described nature as a state of blissful anarchy. Well, today on the streets of our cities we have a state of unhappy chaos. Street crime is the reason people flee the city. If we reduce street crime, we greatly improve the outlook for our cities.

This crime bill is a solid mix of prevention and enforcement. Law enforcement officials will get a much-needed boost out of this bill. Additionally, this bill contains $7½ billion for community crime prevention programs. Yes, we must build bigger jails and insure that convicted criminals serve their full sentences, but we must also take steps to stop criminals before they get started. These prevention programs will do that.

Let us cut down on the violence. Let us cut street crime. Let us cut gang activity. Let us end the chaos. Let us protect the public, as we are required to do—let us pass this rule and this bill.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LEVY].

Mr. LEVY. Mr. Speaker, I rise in total opposition to this rule.

Mr. Speaker, some weeks ago, when the crime bill originally came before this body, I reluctantly voted in favor of the bill.

It was my feeling at the time that, although there was much in the bill that I did not favor, the good in the bill outweighed the bad. I voted "aye" because I wanted the crime bill to advance to a conference committee and in the hope that the conference would strike those provisions which I opposed.

The conference committee did that in one instance, when it struck the so-called Racial Justice Act. But then it stopped.

It included in the bill a provision to retroactively eliminate mandatory minimum sentences for some drug offenders. More than 10,000 convicts in prison are hoping we pass this bill so they can apply for early release.

The conference eliminated Senate provisions which would have penalized, for the first time, those who actually use firearms illegally when those firearms have been transported across State lines.

Conferees cut, by 50 percent, the amount of money which the bill was to have spent on prison construction.

And, they left in the bill billions of dollars for programs that duplicate existing efforts and which have no proven impact on crime. You know the ones I am talking about. My constituents know the ones I am talking about and they do not want to pay the tab.

In fact, spending in the crime bill as it currently stands is 50 percent higher than that contemplated in the original Senate crime bill and $6 billion more than approved on this floor. And why?

Because conferees insist on spending public money on midnight sports leagues, arts and crafts, dance instruction and the like. The list is too long to go through here but it totals $9 billion. That is $9,000 million.

The crime bill, as currently proposed to come before us, is opposed by the Council of Citizens Against Government Waste and the National Taxpayers Union, both of which describe the crime bill as a pork-barrel waste.

I ask my colleagues to vote against this rule. It is the only way we can get the bill back to the conference committee so it can be cleaned up and the wasteful spending removed.

Finally, Mr. Speaker, and for the record: Many of my colleagues are attempting to portray the vote on this rule as a vote on gun control. For some Members, it may be that. It is not for me. And I object strenuously to those who suggest that those of us who will vote "no" on the rule will do so because of pressure which has been brought to bear by the pro-gun lobby.

The fact of the matter is that my office has not even been contacted by the pro-gun people. There has been no pressure.

I am voting "no" for one reason and one reason only: I want to vote for a crime bill but I can not vote for this one. It spends too much. It lets convicts go free. It does not punish those who use firearms illegally and it fails to live up to its billing with respect to prison construction.

Let us send the bill back to the conference so we can produce a piece of legislation we can be proud of—one that carries a smaller price tag and which is a crime bill because it fights crime and not because it, itself, is a fraud on the taxpayers.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Washington [Ms. DUNN].

Ms. DUNN. Mr. Speaker, I rise in opposition to the rule and with a deep sense of outrage.

This crime bill is not well reasoned. By now, all Members know of the ill-considered provisions that could never stand alone on this floor were they to be subjected to a vote.

My outrage, however, is reserved for another issue: What do we do when sexual predators are released back into our neighborhoods?

Let me recount the history. The Senate adopted a provision encouraging community notification when sexual predators are released from prison. The House, despite the objections of the Committee on Rules, finally made its will known when this body voted 407 to 13 to instruct House conferees to accept that Senate language.

Then what happened?

A handful of conferees snubbed their noses at the will of the U.S. Congress—both the House and Senate—and weakened the Senate language on sexual predators beyond recognition. They stacked the deck against community notification, they diminished the length of time that predators are tracked, and they did this in the face of yet another bloody tragedy.

Seven-year-old Megan Kanka of New Jersey is dead, Mr. Speaker. Sexual predators were released into her community and they lured that precious little girl to a grisly death.

Conferees who worked to protect the rights of sexual predators should understand this: The next little girl killed by a released predator will haunt them.

Mr. Speaker, it is outrageous that a few conferees have supplanted their will for the will of the House. It is outrageous that this bill effectively denies notification to the next Megan Kanka or the next Polly Klaas, or to your mother or sister or daughter. And it is outrageous that we would place the rights of criminals over the rights of victims.

I will not be a party to it. I will vote to reject this rule. I will vote to tell the conferees to reflect the will of the House and the Senate.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I speak with a little bit of credibility on, I think, this bill. I am one of those rare individuals that voted for the racial justice provision, and I also voted against the assault weapons ban. And I also supported the amendment of the gentlewoman from Washington.

This is not a perfect bill. If we wait for a perfect bill, it will never come before this House.

I would like to speak to some of those folks that say, I just cannot vote for the rule but I will vote for the bill. That does not make a lot of sense. If we cannot get a rule passed, we cannot vote for the bill.

Let me say to Members though, those folks that they say they do not understand this bill. It strikes me as a little bit odd, because every talk show host and all the pundits have been talking about the basketball and everything for two weeks on this bill. Members would think that the only thing in this bill is night basketball.

Let me say to my colleagues on night basketball, every small community in my district, when I go visit with city officials, they talk about the need to try to find something for the young people to do. Does it not make more sense to have a night league of basketball that is supervised than to have gangs on the street corners that are mugging people?

This is not a perfect bill, but this is a good bill. If it is so bad, if this bill is so bad, let us pass this rule and vote the bill down.

The Republicans do not want a vote on this bill. They want to kill this rule, and it is not about money. It is not about social programs. It is about the two issues that are predominant in this bill that have the objections: racial justice on the one hand and guns on the other. It is just as simple as that. I voted for both of them.

But give us a vote. Members that are hesitating to vote for this rule, give us a chance to vote on the bill. And then when we bring the bill up, if they do not like the bill, vote against the bill. If it is so bad, but give us an opportunity to exercise our democratic right in this body to vote for this bill and to vote for this conference.

I would hope that we would not be intimidated by the scare tactics, and I have been threatened all day that I will not be back here if I vote for this rule. I may not be back, but I can get up in the morning and look myself in the mirror and say, I gave the people an opportunity to vote for a conference report.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. I rise against the crime against the American people with this rule and the crime bill which I strongly oppose.

□ 1600

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from the Commonwealth of Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, when the death penalty provisions in this bill reached this House, they were constitutionally flawed, purposely so, in my judgment, because those words, those provisions of the death penalty, were crafted by the long-time opponents of the death penalty. Why? So they could put together a bill that says "We are tough on crime by instituting the death penalty," but leaving it so flawed that it would not be constitutionally sound.

Mr. Speaker, the House then voted on the Gekas amendment, rejected the flawed language, reinstituted proper, constitutionally sound instructions by the court in those procedures, and lo and behold, we had a bill the death penalty portions of which we could support.

Then what happened, Mr. Speaker, was that the conferees, contrary to the will of the House, and contrary to the will of a second vote by the House on

79-059 O—97 Vol. 140 (Pt. 15) 32

VOL 140 PT 15 AG 10 — 11 1994 UMI

instructing these conferees, blatantly again went back to the original flawed death penalty language, and here we are today, with a death penalty bill that has no teeth in it in this particular version.

We need to go back to the conference and reconstruct a death penalty bill that will meet the constitutional muster, and which the people in our country who want to be tough, not falsely tough, who want to be strong, not apparently strong, on appearances only, but fair and tough, and to do the ultimate will of the American people, to institute a death penalty that will act as a deterrent to violent crime, and will end the endless death row appeals that make us sick and tired of the criminal justice system that now does not allow the death penalty to be applied in its proper way.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Speaker, after much soul-searching, I rise to say that I intend to vote for the rule which will allow us to consider this crime bill. I urge my colleagues to join me in passing a bill to deal with a problem that our constituents say is most on their mind, the problem of crime.

A racial justice provision did not survive the conference committee. This is wrong. There is racism in the imposition of the death penalty in this country. We should be voting for a bill that uses basic American principles of justice if we are to send human beings to the electric chair.

But for this one provision that is not in the bill, there is much good in the bill. It is important to remind my colleagues where I come from. I founded and chaired the Congressional Urban caucus, and I represent one of the most troubled urban districts in America. It is a poor district. It is struggling, and it is at war with crime.

Mr. Speaker, in our country we are supposed to live free, but crime has robbed the people of my district from the very freedom to walk the streets outside their homes. They are now forced to keep their children prisoners in their homes. They cannot go out because other kids are playing with assault weapons.

A young girl in my district, little Michelle Cutner, was on the last day of school walking back home from school with her mother. She stopped at the corner store to by a bag of potato chips. As she ate that bag of potato chips, a 15-year-old boy, Jerome Walker, wanted a lift from his friend who would not give it to him. Jerome took out a TEC-9, started shooting. Michelle was killed.

Part of the special interest campaign to block this crime bill has been to criticize prevention programs as pork. They belittle an innovative midnight basketball program, but they ignore the facts.

Experience all around this country shows us that a little spending on recreational crime prevention stops a lot of crime. They spent 60 cents per child in Phoenix to keep basketball courts open until 2 a.m. last summer, and juvenile crime dropped by 55 percent.

What is going on here? We have to disarm the National Rifle Association in this town. They do not tell us what to do. Our constituents tell us what to do. They are telling us to pass this bill. Let us do it for them. Let us do it for little Michelle Cutner.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule, and to the conference report as well.

It includes too much spending for so-called prevention programs, and it offers too little toward keeping criminals off our streets.

And I rise in opposition, because we are again being asked to vote on comprehensive and costly legislation that we have not had time to study. The conference report was not printed in detail until yesterday, and those CONGRESSIONAL RECORDS didn't arrive in our offices until this morning.

My constituents understand when I say this is "No way to run a railroad, unless, of course, you're running it off a cliff."

And this conference report is a train wreck. It is more of an attack on our pocketbooks and constitutional rights than on the problems of crime. All that is good in the bill is cancelled out by social spending boondoggles.

Can we really consider arts, crafts, dance programs, and midnight basketball leagues crime prevention?

And what happened to "three strikes and you're out?" Now in this bill, the third strike must be a Federal crime, which constitute only 5 percent of all crimes committed. It appears criminals will get a number of foul tips before going to jail.

I also said the bill is too little. I wish we had before us needed habeas corpus reform and reforms in the exclusionary rule. We should defeat this bill and bring back legislation that we can truly call an anticrime bill.

America needs to get tough on crime. Unfortunately, this conference report, with a $33 billion price tag, is tougher on the taxpayers than it is on the criminals. Vote "no."

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. DREIER], my colleague on the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is a clearly unfair rule, though tragically not unprecedented. The call for blanket waivers basically means that there are many items in that thick package sitting next to Mr. SOLOMON over there which many have not been able to read.

Clearly, however, there are some appealing aspects of the crime bill. One of the most appealing is the idea of 100,000 new police officers on the street. We have all heard that figure from the President, from Members of both houses of Congress. This has been touted all across the country.

The fact of the matter is, Mr. Speaker, if we look at the funding that is ostensibly supposed to be provided by this, we would be lucky to get to one-fourth that number. Why? Because in a nationwide survey that was conducted by the Committee on the Judiciary and some other operations, they found that the average cost per officer for equipment, salary, overtime, is $65,000 per year, yet this bill only provides $14,700 per officer. So we would be lucky to get 25,000, and yet we continue to hear this 100,000 figure.

The waivers that have been granted in this thing make it a clearly unfair rule. We should reject this, bring about a rule and a crime package which can in fact deal with what the American people want us to address.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I rise today in support of the rule for the conference report to the crime bill 1994.

The crime package that will soon come before us represents the largest commitment of Federal dollars, over $30 billion, to combat crime. The crime bill includes a broad range of measures to help put more police on the street, more criminals behind bars, and to help keep our children off the path to crime.

I am especially pleased that the crime bill includes a provision that I authored to combat violent criminal street gangs. The Criminal Street Gang Prevention Act sends a strong message to hardened gang members that the violence they perpetuate will not be tolerated. As violent offenders, gang members will serve their sentences consecutively to any other sentence imposed for the crimes they commit. Punishment will be enforced.

Yet passage of this crime bill will also help steer young people away from crime and drugs. The crime bill directs over $7 billion toward community crime prevention programs. These programs represent Congress' determination to help our constituents combat the social conditions that contribute to crime: delinquency rates, gang involvement, substance abuse, unemployment, teen pregnancy, school dropouts, and other factors that can lead our children toward crime.

These programs are exactly what people in the communities that I represent in Los Angeles County and people across the Nation are clamoring for—Congress must address the very real crisis of violent crime in our communities. Passage of this crime bill

embodies our commitment to take back our neighborhoods, give our children a future, and provide all of us an opportunity to join together in the fight against crime. I urge all of my colleagues to vote "yes" on this rule.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise in opposition to the rule to accompany H.R. 3355, the Omnibus Crime Control Act Conference Report. This bill is over 900 pages of social programs masquerading as a serious attempt to control our Nation's crime—a resting place for billions of dollars for pet pork projects. A bill that even the FBI Director says will not help fight crime but, in fact, will hurt his agency.

Apparently, in a $33 billion crime bill money just could not be found for some basic law enforcement—that is incredible. However, there is plenty of money for midnight sports leagues, arts, crafts, and dance programs.

Consider for a moment a provision labeled the Local Partnership Act, a program directed toward education and abuse treatment. Sounds good? Well, there is no enforceable prevention that says the funds for this provision be used to directly fight crime. In fact, the distribution of funds for this act will be based on a communities' local tax burden—this economic formula rewards high-taxing, big-spending cities and States regardless of whether these funds are being spent on crime control. If LPA was truly targeted for States and cities that are doing their best to fight crime, the funds should have been tied to the percentage of revenues used for law enforcement instead of overall tax rates.

And consider the midnight basketball programs contained in this bill. Now, it occurs to me that the Federal Government should not be encouraging children to be away from home after midnight; however, in typical Federal micro-management style the conditions for playing some ball in one of these Government leagues are: one hall of the players have to live in public housing and you have to have more than 80 players to qualify and the games have to be played in communities which have high incidence of sexually transmitted diseases.

The bill's supporters maintain that this bill will hire 100,000 new police officers. Anyone making that kind of statement has not read the conference report. Many of the new officers will be replacements for those retiring or leaving the force—a net gain of zero. Supposedly, Congress was going to pay for these new cops but there is only enough money for twenty thousand fully funded positions in H.R. 3355. Pity the financially strained city that will not be able to come up with the money to buy these mythical police persons. Another unfunded mandate for our cities from the Federal Government.

The administration's touts the bill's "three strikes and you are out" Federal sentencing provisions. Sounds great. But they do not tell you that the provision covers only 1 percent of all the crimes. And probably what is the most cynical of all the provisions contained in this conference report is that this legislation will retroactively end mandatory minimum sentences for up to 10,000 drug offenders. In fact, many individuals will be released early under the bill's guidelines.

Let us not fail to mention the much debated assault weapons ban. Again, remembering the administration's promise that the bill will only cover 19 weapons, honest law abiding citizens now find that their government overnight has made them criminals if they purchase not those original 19 weapons but an additional 180 firearms.

Vote "no" on the rule and let us get to work on a bill everyone can be proud of.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Mexico [Mr. SCHIFF], a member of the Committee on Rules.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this is supposed to be an anticrime bill, but the Congress is being blackmailed into supporting it. What do I mean? There are numerous provisions in the bill that I believe are positive accomplishments for law enforcement, but in order to get to them, we have to vote for a conference report that also contains provisions which I believe would never pass the Congress if they stood there by themselves.

Two examples: first, an elimination from mandatory minimum sentencing, totally, for certain drug traffickers. Although that provision is in the bill, the President and the Attorney General have never boasted about that provision when they go around the country and say why we need this bill. Why are they not proud enough of it to talk about it?

Second, outrageous spending that has nothing to do with law enforcement. I am not getting involved in the crime prevention versus law enforcement debate. There are spending programs in this bill which never were even intended for crime prevention by their authors. They became crime prevention programs only to get them in this bill, to have spending programs that would not pass any other way.

Mr. Speaker, we can solve this problem. We can vote against the rule. We can send this bill back to the joint committee for more revision. That is what I urge my colleagues to do.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield one minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I wrote the racial justice provision. The Senate took it out of this bill, but I am supporting this rule because I come from one of the cities where guns are easier to get than jobs, where gun licenses are more available and easier to obtain than drivers licenses, where we have a situation that has got to be changed by this House.

For 3 years we have tried to get a crime bill, and we have now got a smart crime bill. I do not apologize to anyone in this Nation for bringing a crime prevention package to the crime bill. We need this.

The other part of it is that the National Rifle Association is not going to get the last laugh on us. We know they are trying to get to assault weapons. That cannot come out of this bill. It will never come up in another bill.

In the name of all of those mayors and sheriffs and police chiefs and community organizations that have talked to me and begged me "Let us have a tough, sensible, smart crime bill," the time is now. Vote for the rule and support this bill.

□ 1610

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Speaker, I rise today in unwavering opposition to the crime bill, or should I say social welfare package.

Supporters of this bill seem to believe that our crime problems can be solved by increased social spending, leniency, and disarming law abiding citizens. I disagree. Whatever happened to deterrence? Whatever happened to actually carrying out severe penalties for those who commit heinous crimes? None of these elements can be found in the bill we are considering today.

Instead, we are handing the American people a plan that will do nothing but waste their hard-earned tax dollars on programs that not only fail to deter crime, but actually encourage youths to stay on the streets when they should be in their homes. Of course, I am referring to the ever-popular $40 million midnight basketball program. Although that particular provision has peaked the public's interest, it is certainly not the most egregious provision in the bill. For instance, some lawmakers feel that the answer to crime is more social workers. My guess is that most Americans will not feel safer knowing that for every police officer this bill funds, two social workers will be placed on the streets. I am confident that they will not feel safer knowing that this bill will most likely result in the release of thousands of convicts.

Mr. Speaker, let us be realistic. What Americans want is a commonsense approach to crime prevention. We cannot hand them a $30 billion election-year gimmick. They are smarter than that and deserve better. I urge my colleagues to vote against this bill.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from the Commonwealth of Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, when the President talks about fighting crime, he sounds like Dirty Harry, but his crime bill looks like Barney Fife.

Overall this crime bill includes almost $1.5 billion for cultural health classes, dance programs, cultural sensitivity instruction, counseling services, self-esteem training, and midnight basketball. With the pork-barrel spending included in this bill we could put 360,000 more criminals behind bars. How can we support this bill when the Nation's top law enforcement official, President Clinton's hand-picked crime-fighter, FBI Director Louis Freeh, in a

VOL 140 PT 15 AG 10 — 11 1994 UMI

moment of candor when he was outside the Beltway told how this bill will cause drastic reductions in the number of FBI agents.

Mr. Speaker, I urge my colleagues to reject this bill, send it back to conference, and let us come back with a bill that truly does fight crime.

Mr. DERRICK. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I rise in unswerving support of the rule and the bill.

Mr. Speaker, as Members of the House, we know the cost of crime in our districts. We see the cost in broken homes, broken bodies, the emotional and physical trauma of our citizens.

We were sent here to pass laws that will fight crime effectively. This bill has more police, more prisons, more prevention, and tougher penalties.

Do not let politics, partisanship, or political action money dictate your decision on this.

Our constituents need our help. Look into your hearts. Look into the eyes of your constituents on this issue. This bill is right. It is overdue. It is necessary.

I urge my colleagues to place the public welfare above politics and pass this rule that will allow final passage of the crime bill.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Mr. Speaker, last week, a young man was shot and killed in Salt Lake County while standing in the parking lot of an apartment complex—another victim of a drive-by shooting. The perpetrator was a 16-year-old with 88 previous violations.

We need to put monsters like this away permanently and we have to stop making monsters. This crime bill does both. It is both tough and smart.

A vote against this rule is a vote against the people of Salt Lake who are waiting for us to act. I urge the House to pass the rule.

Mr. Speaker, the family of the man shot down in Salt Lake County last week is counting on us. Let us adopt the rule, pass the crime bill, and finally stem the rising tide of violence in America.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to my friend, the distinguished gentleman from the Ocean State, Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Speaker, I rise in opposition to the rule and conference report on the crime bill. This bill is more expensive and weaker than the House-passed bill that I voted for in April. Most Americans will agree that we need a good Crime Bill, not just any crime bill. Today, we're voting on a cop-out bill which no longer reflects many of the key crime-fighting aims of either the House or Senate-passed bills.

Mr. Speaker, after the House passed its version of the crime bill this past spring, I had hoped that the House-Senate conferees would pare down a number of noncrime social spending programs. Instead, the conferees provided more than $9 billion for social spending programs, while increasing the overall price tag of the bill from $28 billion to $33 billion. We, as a Congress, must not only make sure our law enforcement personnel have adequate resources, but we must also prevent taxpayers' dollars from being wasted. The increase of $5 billion in the conference report is a lot of money. We need more crime prevention programs, but not at the expense of putting more police on the street.

Included in this bill's social spending package are $40 million for midnight sports, $895 million for model intensive grants, and $100 million for "Ounce of Prevention." Also added was a $630 million program not included in the House bill called "child-centered activities" which funds things such as arts and crafts, dance programs, and recreational provisions and supplies. While many of these programs may have merit, the purpose of this bill is supposed to be to fight crime. We owe it to the American people to be honest about what exactly is in this bill, not to load it up with additional spending cloaked misleadingly as crime-fighting measures.

Importantly, this crime bill also significantly watered down the strong, bipartisan truth-in-sentencing provisions of the House-passed bill that were agreed to on the House floor. These provisions would have conditioned Federal prison funding to States and localities on criminals serving at least 85 percent of their sentences. The conference agreement contains a loophole in which States can avoid this incentive. We can all agree that early release of prisoners is one of the most pressing law enforcement problems that demands serious reform. I commend to all of my colleagues a recent speech by Princeton University Prof. John Dilulio, in which he clearly outlines the magnitude of this problem.

I am also troubled that this bill has reduced total prison funding from $14.1 billion in the House-passed bill down to $8.3 billion. At a time when violent prisoners in America serve an average of 37 percent of their sentences—often due to overcrowded prisons—we simply must find more space to incarcerate these criminals.

There are many other problems with the crime bill that we can and should fix before passing this measure into law. For example, the conferees rejected the House-passed so-called Gekas provisions which strengthened death penalty judicial procedures. And while they also agreed to a provision to allow prosecution of juveniles 13 and older as adults, the bill makes this provision voluntary, rather than the stronger mandatory provision of the Senate bill.

Mr. Speaker, I would like to submit for the RECORD a recent Wall Street Journal essay as well as a copy of Professor Dilulio's speech which present arguments in support of a no vote on this rule and conference report. The failure of this bill to effectively address the problem of violent crime has called into question whether we will be able to pass this crime bill at all. I don't see why we don't go back to the table, clean this bill up, and bring back something we can all be proud to vote for.

PRINCETON UNIVERSITY AND THE BROOKINGS INSTITUTION AT A FORUM—WHY THE GOP IS RIGHT TO OPPOSE THE CRIME BILL AND WHERE TO GO FROM HERE

Mr. DIIULIO. Thank you, Bill. I'm glad to be here, not only as a card-carrying Democrat but also as someone who has somewhat reluctantly and begrudgingly come to the conclusion that this crime bill ought to be scrapped.

Let me begin by saying I think there are some very good things in this crime bill, just as there were many good things in each of the major pieces of federal anti-crime legislation that were passed over the last 10 years. I'm talking here about the Comprehensive Crime Control Act of '84 which established the sentencing guidelines, the anti-drug abuse acts of '86 and '88, the Crime Control Act of 1990 and the Brady bill of 1993. And as I mentioned, the Brady bill may indicate, not among those who would oppose this crime bill because it fosters further federal restrictions on guns, in particular on certain types of assault weapons, I think that its provisions are wise.

By the same token, I wouldn't number myself among those who oppose this bill because it contains billions and billions of dollars for social programs. There is a fair amount of silly business in this bill on that side. Midnight basketball may be silly business. But prison-based drug treatment is not. And so there's a mixed bag there.

Finally, I wouldn't count myself among those who oppose the bill because of the flaws, the limitations in its more sensible or well-intentioned provisions. It's easy to deconstruct, if you will, the community policing provisions of this bill. The bill calls for 100,000 new cops. But when you read the relevant titles of the bill, what you will discover is that that really means about 20,000 fully funded positions.

And when you further look at how this bill is to be administered, you come to recognize that it's to be administered by the Office of Justice Programs, which is the alphabet soup of agencies left over from the days of the old Federal Law Enforcement Assistance Administration, which is to figure out some way of divvying up this money between 85 percent for more manpower, 15 percent for everything else having to do with policing, so much to jurisdictions under 150,000, so much to jurisdictions over 150,000, and so on.

And if you're stouthearted enough to look at this bill in light of the relevant academic literature, you know that it takes about 10 police officers to put the equivalent of one police officer on the streets around the clock. This is factoring in everything from sick leave and disabilities to vacations and three shifts a day and desk work and so on. So that 20,000 funded positions becomes 2,000 around-the-clock cops. And 2,000 around-the-clock cops gets distributed over at least 200 jurisdictions for an average actual street enforcement strength increase of about 10 cops per city.

Moreover, you learn, when you look at the relevant titles, that these positions are not really even fully funded. The money is really seed money that will run out rather quickly. And I suppose that those big-city mayors, Democrat and Republican, who are supporting the bill simply believe that in the out years the federal government will belly up to this bar again and put up more funds.

Nevertheless, I think the community policing provisions of the bill, represent tiny, perhaps faltering but tiny steps in the right direction. Why, then, should the GOP or responsible legislators of both parties or concerned citizens generally oppose this bill?

My answer is that, in the analysis, this bill, warts, beauty marks and all, simply costs far too much, is much too complicated, contains way too many untested and unwise provisions. It will do nothing, in my view, to reduce the country's crime problem. In fact, as I'll suggest in a moment, it may actually add to it. The bill is not, as the President, I think, likes to say with sincerity, smart and tough. I think rather it is, taken all in all, rather dim-witted and weak.

There are at least four specific realities about crime in this country that this bill does little or nothing to address, or addresses perversely: Revolving-door justice, the youth crime bomb, the black crime gap, and the real root causes of crime. Now, I am going to try to do the impossible—my Princeton students would not believe it—and stay within my 15 minutes. So I will say as much as I can on each of these scores before turning it over to my colleagues on the panel.

First, let me talk about revolving-door justice. Every major public opinion survey shows that the public has lost confidence in the ability of the justice system to arrest and detain and convict and punish violent and repeat criminals. From a number of recent studies published by Brookings and other institutions, it's clear that the facts and figures support the public's frustrations and fears on crime.

Let me offer just a little bit of the evidence, and I stress a little bit of the evidence, on revolving-door justice. Sixty-five percent of felony defendants are released prior to trial. That includes 63 percent of all violent felony defendants. Now, what happens to them when they're out on the streets? Well, nearly a quarter of them simply never show up in court, for starters. All 11 percent of murder arrestees and about 12 percent of all violent crime arrestees are on pretrial release for an earlier case at the time of the offense. Over 20 percent have 10 or more prior arrests. Over 35 percent have one or more prior convictions.

Case management, which is a bureaucratic euphemism for plea bargaining, means that over 90 percent of all criminal cases today do not go to court because the offender pleads guilty to a lesser charge. That's true as well for violent offenses. Only 44 percent of murder cases go to trial, 23 percent of rape cases, 15 percent of aggravated assault cases.

Now, we hear a lot about the explosion in the prison population, and it's true that the nation's prison population, federal and state, has increased dramatically over the last 15 years. But it's also true that the probation and parole population has increased even faster. Today you have about four and a half million persons under correctional supervision in this country—four and a half million. Three and a half million of them, roughly, are not incarcerated. Rather, they're under the supervision of probation and parole officers who are handling hundreds of cases and really can't provide effective supervision.

What happens in these cases? Well, a disproportionate number of the three and a half million in probationers and parolees out there circulate in and out of poor minority urban neighborhoods, repeatedly victimizing their truly disadvantaged neighbors. We have data on recidivism that could—probably books and volumes that could fill this room. But just to cite a few of the statistics, within three years of sentencing we know that nearly half of all probationers are placed behind bars for a new crime or abscond.

We know that for parole, the tale is very much the same. If you look on a state-by-state basis, you find, for example, that in Florida between 1987 and 1991 you had over 100,000 prisoners released only. At points in time when they would have been incarcerated were they not released early, these offenders committed over 26,000 new crimes, including some nearly 5,000 new crimes of violence, including 346 murders.

Now, what else do we know about probationers and parolees? Well, we know that with respect to violent crimes, violent crime arrests, 16 percent of violent crime arrestees are on probation and 7 percent are on parole. Now, if you take those two numbers and you add it to a number I gave earlier—that is, 12 percent of violent crime arrestees on pretrial release—you're left with a rather amazing number, that 35 percent of all violent crime arrestees have some criminal justice status at the time of the offense; that is, over a third of all violent crime arrestees are ostensibly in criminal custody at the time of the offense. Now, if that is not revolving-door justice, I don't know what is.

The Senate version of the crime bill that was drafted and put out back in November—November 19th, 1993, to be exact, by a vote of 95 to 4—would, I think, have done something, though I'm not sure exactly how much, to stop revolving-door justice. But now, almost nine months later, we have before us a crime bill that would actually, in my view, grease the revolving door, at the federal level, at least, via such provisions as the so-called safety valve provision, which is essentially a provision that would permit certain categories of convicted drug defendants to be invited back to court, to be given a virtual retrial under a retroactive law.

About 5,000 prisoners would be immediately eligible for this provision and they could get sentence reductions of as much as half or more in some cases of their sentences. Also, the language of the safety valve is quite elastic. I would not be surprised, if this bill passes with this provision, to see the safety valve provision applied to all of the 16,000 or so so-called low-level drug offenders in the federal prison system.

Now, interestingly, the safety valve idea has been supported by a number of Republicans as well as Democrats, including a number of conservative Republicans. And I think I know where they're coming from. I don't think anyone would believe that the federal sentencing structure is perfect. There are lots of sentences, especially, I would say, for drug offenders that are overly harsh. And I myself have taken an interest in some such cases, up to and including joining the clemency petition of one federal inmate who's serving time for a nonviolent first-time drug offense.

But what I would like to point out is that the utterly false argument behind the safety valve provision, and other provisions in this bill like it, is that many, if not most, prisoners are petty first-time offenders with few previous arrests, no previous convictions and no history of violence. The facts, which have been painstakingly put together by the U.S. Bureau of Justice Statistics and by other research organizations and widely published, speak in exactly the opposite voice.

Let me just give you a few of the facts. In 1991, fully 94 percent of state prison inmates had been convicted of a violent crime or had a previous sentence to probation or incarceration. In other words, only 6 percent of state prisoners were nonviolent offenders with no prior sentence to probation or incarceration. Nearly half were serving time for a violent crime and a third had been convicted in the past of one or more violent crimes.

If you look at the state data, you get the same picture. In New Jersey, where I spend a lot of my time, you had in 1992 a prison population in which about half of all prisoners were serving time for a violent crime. Eighty percent had criminal histories involving violence. The average prisoner had nine prior arrests, six prior convictions and so on.

Now, it is true that the federal prison system, compared to the state systems, of most state systems, has relatively fewer violent criminals and more property and drug offenders. But of the 35,000 persons newly admitted to federal prison in 1991, only 2 percent, or about 700, were convicted of mere drug possession. And even in the federal prison system, about half of all prisoners had two or more prior felony convictions and over half of all prisoners in federal penitentiaries had a history of violence.

So one has to understand as well that even these numbers, as depressing as they are, understate the actual amount and severity of crime committed by prisoners when free. For one thing, they don't take into account the effects of plea bargaining. People who may present themselves as first-time nonviolent drug offenders may, in fact, be plea-bargained or violent and repeat offenders.

Second, these numbers don't account for the wholly undetected, unpunished, unprosecuted crimes committed by prisoners when free. There have been a number of large scientific studies, prisoner self-report studies, that have tried to get a handle on this question. And the two most recent such studies indicate that in the year prior to incarceration, the typical prisoner commits a dozen serious crimes a year, violent and property crimes, excluding all drug crimes.

And finally, which brings me quickly, I hope, to my next point, these numbers do not reflect the number of crimes committed by prisoners when they were juveniles. We know that nationally juveniles account for about one-fifth of all weapons offenses. They've committed record numbers of murders in the last several years, several thousand murders a year. Today's high-rate juvenile offenders are tomorrow's adult prisoners, but today's adult criminal records don't comprehend yesteryear's slew of juvenile crimes.

America is facing a ticking youth crime bomb. We have burgeoning numbers of young people who, from all the statistical profiles, are at risk of becoming violent and repeat criminals. The rate of growth in serious youth crime among white teenagers now exceeds the rate of growth in serious youth crimes among black and Hispanic teenagers. Now, given this reality, you might think that this bill would address the problem of juvenile crime in a serious way. But I would submit to you that it does not, not even symbolically.

Let me just quickly mention the third overarching reality which I think this bill ignores, and that is what I would call the black crime gap. Most Americans, most people in this room, are safer today than they were three or four years ago. Crime rates nationally in most categories of crime have dipped down, but not so for black, Hispanic, poor minority inner-city Americans.

In 1992, which is the last year for which we have complete data, the violent crime victimization rate for blacks was the highest ever recorded. You have lots of opinion surveys and polls which show that black Americans find crime as truly the number one issue in their neighborhoods, a majority of black school children afraid to go to and

VOL
140
PT
15
AG
10
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11
1994
UMI

from school, a majority of black school children afraid, believe that they will be shot at some point in their lives.

Now, given this reality, you might think there'd be something in this massive crime bill that would address this problem. Instead, Congress spent a lot of time debating, wasting time with the so-called Racial Justice Act. And without getting into that, at least not getting into it now, we just need to remember that the vast majority of crimes in this country are intraracial. Over 80 percent of all violent crime is intraracial. And we have a series of studies that, at a minimum, throw into serious doubt the issue of whether, in fact, there are racial disparities in sentencing even in capital cases.

Well, this bill, of course contains no racial justice provision. But the logic of that provision, I think, informs other provisions of the bill. It informs, I think, a diagnosis in the bill of the root causes of crime, which talk about things like unemployment and so on. Never mind that we now have studies which suggest that that factor is not important. Never mind the basic fact that most prisoners in the year or two prior to incarceration held a job that paid minimum wage or better. This is the diagnosis of root causes in this bill.

Well, where to go from here? To be brief, in closing, I would say that—I would hope that this bill would be scrapped, that Congress would come back in a new legislative season and take another crack at it; in other words, go back to the drawing board, but I would hope not one great big drawing board with $30 plus billion worth of talk, but rather a series of little drawing boards—a prison bill, a cops' bill, if you must, a midnight basketball bill, a prison drug treatment bill. And let's debate the merits and let's have our legislators debate the merits and vote on the merits of each provision separately.

My fonder hope, one that only an academic could bear to speak in a forum such as this, is that Congress would declare a moratorium on federal crime legislation. There is a provision in this bill for a crime commission, a bipartisan commission to study crime. I think it would be much better to have a bipartisan commission that would look at the evolution of the federal government's role in crime control, particularly since 1968, and ask the tough questions of what, in fact, has been wrought by the federal government's involvement in making, administering and funding foreign policy, and ask the tough question whether this bill or any conceivable federal crime bill could actually do much to protect the public and its purse better than they're protected by existing policies.

I'll stop there, Bill. [Applause.]

[From the Wall St. Journal, August 10, 1994]

REVIEW AND OUTLOOK—CLINTON REPUBLICANS

President Clinton and his Democrats are down in the polls, but that doesn't mean Americans are clamoring to elect Republicans. Maybe that's because they dislike the kind of political backflip that House Republicans are about to do to save what is being advertised as a "crime" bill.

This $33 billion monstrosity has been bogged down in the House by rank-in-file Members of both parties who object to one or another provision. Republicans claim to oppose needless spending and phony anticrime measures, both of which have come to dominate this bill. But instead of uniting to let the bill die of its own absurd weight, as many as 10 or 20 Republicans are rushing to give Speaker Foley and the Democratic leadership a political victory. Does anyone still wonder why House Republicans haven't won a majority since Stalin ruled the Soviet Union?

"How can you vote this down?" asks New Jersey's Marge Roukema, thus demonstrating the solid principles behind her bailout. New Yorker Sherwood Boehlert admits he wants to throw some money around to the cities. And Connecticut's Christopher Shays, who calls himself a Congressional reformer, somehow doesn't object to one of the biggest federal spending boondoggles in 20 years.

These and other me-too Republicans are falling for the line that because Americans are concerned about crime they'll swallow any bill with that label. Democratic leaders believe this, which is why they've changed what started as a crime bill into what now looks more like last year's failed fiscal "stimulus" proposal.

There's $1.8 billion for something called the Local Partnership Act, which was originally sponsored by Detroit Democrat John Conyers. Congress merely asserts that this big-city payoff for education, "jobs" and just about anything else will somehow also fight crime. There's $40 million for "midnight sports," an idea that makes some sense when it springs naturally from volunteers in a community. But this federal giveaway will now politicize each sports league—for example, by requiring that a community that wants funds for such sports have a high incidence of HIV infection. We could go on and on—to the tune of some $10 billion.

Yet even Ohio Republican John Kasich, ostensible scourge of pork, says he'll vote for this mess on the House floor. "We need to spend money in urban areas. There is some money in the bill I don't like," Mr. Kasich told us. "But people want something done" about crime.

Indeed they do, which is why John DiIulio and a growing number of principled Members of both parties now oppose this bill. Readers of this page know Mr. DiIulio, of Princeton University and the Brookings Institution, as one of the country's more hard-headed students of crime. He's also a Democrat who supported the crime bill as it emerged from the Senate last year but now says it "ought to be scrapped." The bill "will do nothing to reduce the country's crime problem," he told the Project for the Republican Future this week. "It may actually add to it."

While Mr. Clinton claims the bill would put 100,000 more cops on the street, Mr. DiIulio says, it actually pays for only 20,000. Figure in the requisite pork-barrel distribution to hundreds of cities, and each city will get about ten more cops. So much for saturation policing for high-crime areas.

The bill weakens the "three strikes and you're out" provision so that it will cover only some 300 to 400 (out of thousands of) violent federal criminals a year. It also includes a loophole that guts its juvenile justice provisions, "at a time when we have a youth crime problem that is off the charts," Mr. DiIulio says. And, maybe worst of all, the bill adds to the problem of "revolving door justice" that the public so dislikes. It does this by allowing certain drug defendants to go back to court for a virtual retrial that would let them evade mandatory sentences.

Americans are cynical about politics because they think politicians tell them one thing and do another. This crime bill will only increase that cynicism once voters understand that it has more to do with reelecting incumbents than it does with crime. As the party in power, Democrats who want something to run on in November are eager to pass it. Mr. Clinton, desperate for any "success," has climbed on for the ride.

But we can't begin to understand why Republicans would want to make this a bipartisan boondoggle. "It's clearly not a perfect bill," admits Mr. Kasich, who vows to fix it in future years when there are more Republicans in the House. But why should voters elect more Republicans if they're not willing to resist a bad bill in the first place?

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I thank my friend, the gentleman from Florida for yielding me the time.

Mr. Speaker, I rise to strongly oppose the rule.

The Clinton crime bill should not be enacted in its current form. Instead, it should be incarcerated for mugging the American taxpayer and for murdering the truth so many times that it qualifies as a serial killer.

This legislation is larded and laced with billions of dollars in misplaced social spending. In fact, there is more money for social programs than for prison construction.

Over $9 billion is included for vague social spending to finance such stringent anticrime measures as arts and crafts, self-esteem enhancement, dance, and midnight basketball. All this on the theory that the person who stole your car, robbed your house, and assaulted your family was no more than a disgruntled artist or would-be NBA star.

Even worse than the money this bill throws away, is the opportunity it discards to do something serious about crime.

Crime is America's primary concern. This bill makes clear it is not the administration's. I urge a defeat of the rule so we can send this bill back to conference with the message America is sending: Be tougher on criminals than they are on us.

Mr. DERRICK. Mr. Speaker, for purposes of debate only I yield 30 seconds to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, last year all six women who were murdered in the State of Vermont were killed by their spouses and partners and hundreds more were battered. Domestic violence exists in epidemic proportions throughout this country. This legislation provides $8 million for my small State of Vermont to combat violence against women and $1.8 billion nationally. This is money that is long overdue.

Mr. Speaker, let us stand up for battered women, stand up for social justice, and while this is a far from perfect bill, it is a major step forward. Let us support the rule.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in opposition to the rule, and point out

that the top law enforcement officer in this country, the Director of the FBI, has serious concerns about this legislation.

Mr. Speaker, there are a variety of reasons to oppose the conference report on the so-called Violent Crime Control Act of 1994, but allow me to enumerate just a few of the most important ones:

(1) In terms of the dollars we can realistically expect to be appropriated, there is more social spending than law enforcement spending in the bill—over $9 billion worth;

(2) The dollars that will be spent under the bill will go disproportionately to the handful of big-city mayors, at the expense of rural districts such as mine;

(3) The bill lacks exclusionary rule reform;

(4) The bill lacks mandatory victims restitution;

(5) The bill lacks real habeas corpus reform;

(6) The dollars authorized for prison construction are not fully funded;

(7) The bill's provision for training new F.B.I. and D.E.A. agents are utterly inadequate; and

(8) The bill's provisions on "three strikes and you're out" and truth-in-sentencing were weakened in conference to the point of meaninglessness.

Mr. Speaker, this bill isn't tough on criminals. It is only tough on taxpayers.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, in March of this year, 6-year-old Amanda Wengert of Manalapan Township, NJ, was kidnapped from her home and brutally killed by her next door neighbor who no one in the neighborhood knew had twice been convicted of sexually assaulting children in the past.

Just 2 weeks ago, 7-year-old Megan Kanka of Hamilton Square, NJ, was invited to visit her neighbors—who lived right across the street from her. One of them had a new puppy he wanted to show her, he said.

She was raped and brutally murdered. Her parents didn't know that this man had twice been convicted of similar crimes or that he was living with two other men who were also convicted sex offenders.

I believe that Amanda and Megan would be alive today if their parents knew that predators lived in their neighborhood.

We in this House and the Members of the Senate have voted overwhelmingly in favor of effective community notification legislation that would have accomplished this very simple objective. But, when the legislation came to the conference committee, a small number of conferees arrogated to themselves the right to water down and strip this legislation of its original content. Now the section that was originally captioned "Community Notification" is captioned instead "Privacy of Data."

That means that the rights of predators are being put above the rights of their potential victims. Vote to kill this rule and let's open up this legislation so we can protect young lives in the future.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, Members who represent suburban districts have greater reason than ever to vote for this rule. Suburban communities like mine work together through regional task forces to target crimes that often cross municipal lines. The crime bill now contains language that I proposed so that the cops-on-the-beat provision can be used to support regional task forces in the fight against drugs, auto theft, violent criminals, and youthful offenders.

Support our suburban police in their fight against crime. Vote for the rule and the bill.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER asked and was give permission to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, I cannot vote for this rule allowing consideration of the crime bill because the billions of dollars of new, unjustified, and unfunded social spending in this bill outweighs its benefits.

The proposed trust fund would effectively divert funds intended for deficit reduction toward new spending and would prevent increased support for existing and underfunded worthy programs such as Head Start, biomedical research, impact aid, and special education.

In order to meet the bills' goal of hiring 100,000 new police officers, State and local governments would be expected to spend as much as $33 billion in matching funds, which is, in effect, yet another unfunded mandate.

This decision is a difficult one for me because the legislation contains many provisions I favor including the ban on assault weapons which I voted for and watched for earlier this year. I have strongly supported reasonable gun control measures, but if the price of enacting this is to support a vast expansion of costly and unnecessary Government programs, then my vote must be no.

If this bill is sent back to conference, I will vigorously oppose efforts to remove the assault weapons ban. The majority party conferees will then have to decide which is more important to them—an assault weapons ban or billions for new social programs.

My first and highest priority has always been to restrain Government spending and growth and get deficits under control. It is unfortunate that this bill goes in the exact opposite direction. I am opposed to taking all the savings that were to be derived from downsizing the Government and plowing them right back into 30 new social programs, most of which have never been debated in Congress and all of which duplicate existing efforts.

The Senate's original $5.9 billion bill has snowballed into a $33.3 billion bill that is attempted to be justified by the creation of a so-called crime trust fund funded by planned reductions in the Federal work force.

But savings from Federal work force reductions will not be sufficient to fund this trust. Any savings from downsizing have already been spent, in effect, to reduce spending to accommodate the freeze Congress imposed on the appropriations this year.

This trust fund for crime programs will, however, reduce the caps on all other discretionary spending. Every category of Federal spending will have to decrease to allow for the trust fund. This means an added strain on already underfunded existing, worthy programs such as Head Start, impact aid, special education, and biomedical research.

And yet, the trust fund will not do what it claims to do—to ensure that the crime programs will be funded. Appropriators will still have to approve spending through the annual appropriations bills. The trust fund is simply an accounting device that maintains that if appropriators do not fully fund the programs authorized in this bill, they may not use the funding to supplement other priorities.

In addition, the trust fund claims to pay only for $30.2 billion of the crime bill. But the bill also authorizes about $3 billion in spending, most of which would be used for prison construction grants, that does not fall under the trust fund. There is not even an attempt to account for this $3 billion of additional Federal spending.

The bill also authorizes at least $8.7 billion in new social spending, while, according to the Government Accounting Office, there are already seven Federal departments sponsoring 266 prevention programs to serve delinquent or at-risk youth. The GAO found a "massive Federal effort on behalf of troubled youth" which already costs over $3 billion a year. The crime bill creates 30 new social programs which will duplicate at least 50 existing federally funded programs. We simply cannot tolerate nor afford this kind of irresponsible spending.

Mr. Speaker, this rule and the underlying bill is a disgrace to this Nation, and I cannot support it.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. VOLKMER].

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, I rise in strong opposition to the rule and the bill.

From the information I have been able to gather, I believe there are some serious flaws in this bill. First and foremost, we simply cannot afford this bill. With our budget deficit at $220 billion and national debt at $4.6 trillion we cannot afford a $33.2 billion bill which includes over $8 billion of spending on social welfare programs such as midnight basketball and afterschool arts and crafts. I am aware of a few questionable projects and would be willing to bet there are a few more tucked into this 1,000 page bill. Unfortunately, I cannot identify these for you specifically because as

VOL
140
PT
15
AG
10
—
11
1994
UMI

of this morning, I could not obtain a copy of the conference report.

This bill is to be funded through the violent crime reduction trust fund. While this might sound good, this trust fund is based on anticipated savings. We are anticipating that the Federal Government will save $30.2 billion from the Federal Workforce Reduction Act. This savings estimate is questionable given the fact that we have begun to exempt Government agencies from the Federal Workforce Reduction Act. This bill has a $33.2 billion price tag. We are going on the assumption that the trust fund will provide $30.2 billion. According to my math, at a minimum that still leaves $3 billion we need to come up with. Beyond that, however, what happens if these anticipated savings are not realized? Where will the money come from?

We need to remember that 96 percent of crimes are State offenses, only 4 percent are Federal. What I have been hearing from the law enforcement folks back in the 17th District is that they appreciate us addressing the issue of crime, but that the package before us today does not include the right mix of crime prevention programs they need at the State and local level.

Furthermore, the programs funded in the crime bill, including the 100,000 additional police officers, will only be funded for six years. After that, the financial burden will be on State and local officials. If we pass this bill, we will be creating more unfunded programs that our State and local folks don't want.

Today, there are about 4.5 million persons under correctional supervision in this county. Roughly 3.5 million of them are not incarcerated. They are under the supervision of probation and parole officers who are handling hundreds of cases and really can't provide effective supervision. Over one-third of all violent crime arrestees are ostensibly in criminal custody at the time of the offense. If that is not revolving-door justice, I don't know what is. It is no wonder that many Americans have lost confidence in the ability of the justice system to arrest and punish violent and repeat criminals.

What is truly amazing is that not only does the crime bill we are considering today not address revolving-door justice, it actually greases the revolving door.

For example, the safety valve provision would give Federal judges the discretion to waive mandatory minimum penalties for first-time nonviolent drug offenders. This provision allows a judge to apply these provisions retroactively. Essentially, this means certain categories of convicted drug defendants would be invited back to court and given a retrial under retroactive law. About 5,000 prisoners would be eligible immediately to get sentence reductions of as much as half of their sentences. In addition, the language of this provision is quite elastic and it could end up applying to all of the 16,000 so-called low-level drug offenders in the Federal prison system. This is a perfect example of how this crime bill does not address crime from the right direction.

Finally, I cannot support the assault weapon ban. There are 19 specific weapons identified in the ban, but the Bureau of Alcohol, Tobacco and Firearms has already identified over 150 weapons they will add to the list of prohibited guns if the ban is passed. Opening the door further to this sort of government by unelected bureaucrat shatters my confidence that the second constitutional amendment actually will be protected in the future.

This bill spends too much money and proposes to fund too many questionable programs. I strongly urge my colleagues to oppose the rule and H.R. 3355.

□ 1620

Mr. HALL of Texas. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Speaker, I rise in opposition to the rule and consideration of the crime bill conference report.

Mr. Speaker, I rise today to express my opposition to a provision of the crime bill conference report. In an attempt to insure that violent offenders serve longer terms, the bill allows nonviolent drug offenders to be released early so that other prisoners can be jailed.

I agree that violent offenders should be put in jail. But I also believe that drug offenders should be put in jail. By letting drug offenders go, we are sending two bad messages to the American public, and to our young people in particular.

First, by giving drug offenders special treatment we are saying that drug offenses are not as harmful to society as white collar crimes. And I ask you, who is worse, the white collar criminal or the guy who sells drugs to our schoolchildren? We must not cater to drug offenders. If we are to have early releases, what about elderly, nonviolent, non-drug-related prisoners who have served a good portion of their sentences and are not likely to be repeaters?

Second, we are saying that doing drugs in general is bad—until we need more prison space, and then it is not so bad. But it is wrong to do drugs. Drugs are harmful. Drugs are dangerous. Drugs destroy the minds of our young people. No matter how crowded our prisons are, drugs are wrong.

We need to prevent people from doing drugs. And if we can't, we need to punish drug offenders. We do not need to release drug offenders, and we do not need to give them preferential treatment. By reducing mandatory minimum penalties for non-violent drug offenders we are not only sending criminals back onto the streets, we are sending the wrong message about drug usage and the severity of it.

I know that Mr. BROOKS and the other members of the conference committee have worked long and hard to craft a good bill. But this provision, among others, needs to be deleted or refined so that we can vote on a bill that really gets tough on crime—all types of crime, illegal drug usage included.

With this in mind, I rise to oppose the rule allowing consideration of the crime bill conference report. I urge a vote against the rule so that we can send the bill back to conference.

Mr. VOLKMER. Mr. Speaker, first I want to say I commend the gentleman from Texas [Mr. BROOKS] for the work that he has done on this crime legislation. But I feel that I have to vote against the rule, and if the rule passes I am going to have to vote against the bill for various reasons.

I want to make it clear in here, in listening to both sides, it appears that maybe somebody on this side is not for fighting crime and some people on that side are really not for fighting crime. I do not know anyone in this House that is not for fighting crime. We have a disagreement as to how we should fight that crime.

I think it misleads the Members of the House also to say if this rule goes down they will never see a crime bill. Wait a minute, folks. We are going to be here to the middle of October or later. We have plenty of time to work up a crime bill that all of us could support. All of us want to support a crime bill. There is not any Member here that does not want to support a crime bill.

For that reason, I am going to vote against the rule, and hopefully, with my friend from Texas and others, we can have a crime bill that we can all support.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I disagree with my colleague who just spoke before me. There are Members in this House who do not want the President to have a crime bill, and I have never seen such arm twisting on that side of the aisle to deny him that agenda. That is what it is all about, folks.

I have listened to the description about the sexual predators. Let me say, my friends, read it, read it. It is broader than when it left the House, and it is smarter than when it left the House. The Senate version which some brag on was a very narrow definition of a sexual predator dealing with those with mental abnormalities, and it required a court adjudication. In this time bill we have registry for sexual offenders against children, and in addition to that notification by the chief law enforcement officer, and Members should read that. It is just nonsense.

What this is all about is not about a procedural vote. A vote against the rule is a vote against the crime bill. We are not going to fool the American public. It is a vote against the crime bill. They are trying to kill the crime bill.

It is about guns among colleagues on this side and that side, and an agenda on this side that does not include a crime bill.

I urge my colleagues to support the rule.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, I rise to unmask an injustice that is about to be thrust upon the American people. The so-called crime bill we are debating today picks the pockets of taxpayers, while befriending criminals who should be locked up behind bars. I truly want an anti-crime initiative—we need one desperately—but this is not the right way to go about it because many of these provisions just don't make sense.

The onerous gun ban is a perfect example. We all should know by now that guns don't kill people—people kill people. If you truly want to get at those who use guns to commit crimes—which I think we all want to do—then we should impose stiff penalties on gun-related crimes. But no, the liberals who crafted this weak legislation want to go about it in a cosmetic way by including a gun ban that disarms law-abiding citizens.

Let me make myself clear, a criminal intent on committing a crime doesn't care if Washington says you can't buy a particular type of weapon or you'll have to wait 5 days to do so. He or she will utilize their underworld sources to get their hands on those weapons, go out and commit a crime. Stiffer penalties, at least, will take these hoods and thugs off the streets and put them behind bars so they can't do it again.

I also want to register my opposition to the very questionable social spending contained in this measure. As we have already heard here today, $9 billion of the $33 billion package is earmarked for new social programs, such as community arts and crafts, midnight basketball leagues, job training, and addiction rehabilitation. These ideas in social experimentation are not without merit in theory; the question is, however, how much can the taxpayer afford to fund?

Further, these programs have little or nothing to do with fighting crime and a lot more to do with the President winning favor with big city mayors and the liberals in this Congress. Speaking for my constituents in southern Missouri, little of this money, if any, is headed for the streets of Caruthersville, Sikeston, West Plains, Rolla, Cape Girardeau, Park Hills, Poplar Bluff, or any other small, rural community—it is wired for Los Angeles, Chicago, and New York.

Finally, I'm concerned about the $8.8 billion being spent over the next 6 years to supposedly add 100,000 cops on the beat. I would support this if it were true, but even this is short of its goal. In reality, this money will only equal a little more than 20,000 new officers—one-fifth of what the President and liberals have claimed. Imagine that, another broken promise. Further disconcerting, when this funding runs out, States and local communities will be strapped with paying the salaries and pensions of these new crime fighters that the feds have given them.

Mr. Speaker, instead of wastefully spending the taxpayers hard-earned dollars, let's take off the masks and see this so-called crime bill for what it really is—a Christmas tree full of social spending ornaments and short-sighted promises. The American people deserve legislation that's tough on crime, rather than a political payoff that's friendly to felons. I urge my colleagues to vote "no" on the rule; send it back to the conference committee; and, take another shot at achieving a true anti-crime initiative.

Mr. GOSS. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, I would like to give Members an idea of how bad this bill is. My office received a call from a psychologist in my district whose programs stand to gain financially from the vast spending in this bill. That person called to complain about the $33 billion price tag, the lack of enforcement provisions, and the perverse priorities and incentives in this bill.

This is the true voice of the people. This bill barely mentions victims, but it lavishes billions on criminals.

Let me explain. For 30 years in this country we have been funding social programs aimed at criminal problems. We have spent $5 trillion in 30 years doing that, and the crime rate has gone up 500 percent. It does not work that way, and the American people want us to get tough. They want tough penalties, they want prisons, and they want good enforcement out there.

There is another problem with this bill. No Member has talked about the cost. It is a $25 billion budget buster. We have $22 billion in here, and that does not get us to what we are going to spend on this thing including the out-years, and I have added in $13 billion in there for the out-years so we do not create any myths.

If there is one question the American people should ask their representatives about this bill it is going to be: Have you read it? Have you read this bill? Have you read every word of it? Have you read the conference report?

I daresay there are very few Members here who could answer any of those questions in the affirmative.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. KLEIN].

Mr. KLEIN. Mr. Speaker, I rise today in strong support of the rule on the conference report on H.R. 3355 and on the bill.

Violent crime is the scourge of this Nation. More than anything else, Americans want us to take decisive action to fight crime. We must stop looking at criminals as victims and recognize that we, the law-abiding citizens, are the victims. Today we stand on the threshold of passing the strongest, toughest crime bill in our history.

But special interests would hold this crime bill hostage in a desperate attempt to kill a ban on military-style assault weapons that are the weapons of choice of drug dealers and criminals. We must not bow to special interests. We cannot let children die on the streets to appease the NRA.

We have an opportunity to put 100,000 more cops on the streets, to build more prisons for dangerous criminals to curb the flow of drugs into the country and, yes, to ban these assault weapons. Let us stop the rhetoric on crime. Let us do something about it.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise today not only in support of this rule, but in support of taking a stand. After months of consideration and countless hours of debate, we have arrived at the precipice. We can take the easy way out, defeat the rule and back away from our responsibility. Or we can show some courage. Exhibit some leadership. Pass the rule and bring this crime bill to a vote.

Consider those who live in fear, and whose lives this crime bill will greatly improve. Think of this when you vote on this rule, and consider the words of Andrew Jackson: "One man or woman with courage makes a majority."

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ARMEY] our conference chairman.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, earlier in this debate the gentleman from New Mexico [Mr. RICHARDSON] characterized this as the vote of the year. It may or may not be that, but it is a serious moment. This is a serious business.

I do not have to recite the crime statistics. I do not have to tell personal antidotes about youngsters harmed, maimed and killed. We know we have a crisis in America, and we know that America expects us to act.

We know that we are late in getting a crime bill to this floor, and we know that the reason we are late in doing so is that you wrote a crime bill that you cannot sell to your Members. We know that, and I am sorry for that. We should have acted before now.

The gentleman from New Mexico [Mr. RICHARDSON] says if we do not do it today it will not get done. Can it be on one hand the most important thing we have to do, and then on the other hand something we will not have time to do if we cannot do it your way?

I am told now that we Republicans are going to cast our most important vote of the year to deny the President a victory? Let me say, my friends on the Democrat side of the aisle, the President's political fortunes are just not that important to us. We will cast our vote here as a matter of conscience. We are not going to cast our vote here out of fear, and we will not be railroaded by buzzword blackmail into voting for a bill that spends $33 billion of the taxpayers' money doing too much of the wrong things and too little of the right things necessary to make our children safe in our own neighborhoods.

It is not a matter of our concern about your political future or that of the President. It is not a matter of our concern about our political future. It is a matter of our concern about whether or not we keep the trust and the faith

VOL 140 PT 15 AG 10 — 11 1994 UMI

and the commitment that the American people have given us to come to this floor, timely, which you failed to do, with good legislation, which you failed to create, in order to keep our children safe. Our children do not need midnight basketball, our children do not need more arts and crafts, our children do not need more sensitivity training. Our children need law enforcement, good jurisdiction, imprisonment for criminals and safety on their streets.

I say vote no on this and bring back a decent bill.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Speaker, make no mistake, a vote against this rule is a vote against the crime bill.

My wife, Beth, and I share the fears of parents everywhere in this country raising our three kids in an increasingly violent world. We used to assume a loud bang on the street was a car backfire. Now we wonder if it was a gunshot. We read about school kids with guns instead of books in their backpacks.

This bill is not perfect, but if we wait for perfection we will lose our battle against crime, a fight too important to lose to partisan politics or pride of authorship or fear of the gun lobby.

□ 1630

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentleman from Missouri [Mr. WHEAT].

Mr. WHEAT. Mr. Speaker, I rise in support of this rule and the strongest anticrime legislation in our Nation's history.

Mr. Speaker, for the last year I have traveled to Missouri communities, large and small, listening to police, prosecutors, and countless ordinary citizens who live with fear of crime every day. They all give me the same message: "Help us win the war against crime."

Mr. Speaker, let us be clear, if this rule loses, there will be no winners. If this rule loses, 100,000 cops will be lost. Crime prevention funds will be lost. Thousands of prison cells are lost. Tougher sentencing provisions are lost. The hopes of millions living in fear of crime every day are lost.

Let us pass this conference report. It is not a small step. It is a giant leap in the fight against crime and drugs. If you want to be tough on crime, prove it today. Support this rule. Support this legislation.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Be honest, my colleagues. Should any Member of Congress or his family be victimized by crime, he would call the police, not a lobbyist from the National Rifle Association.

Shame on those Members of Congress who would ask our police to risk their lives to protect us and then turn their backs on these same police who beg us to pass this crime bill.

Most of my Republican colleagues are determined to gridlock Congress on this crime bill. They believe killing this bill or any crime bill will elect more Republicans. I think the American voters can see through this political charade.

The people I represent are more interested in a victory over violent crime than any political victory.

Listen to our police. Listen to America. Vote yes on the rule and on the crime bill.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, on May 5 in an extraordinary effective bipartisan show of support for the banning of assault weapons, this House by a small margin did something that nobody believed we could do. We all understand, everyone in this Chamber knows, we are revoting that vote today.

There were 38 Republicans who stood courageously against the Gun Owners of America, stood up against the opposition of the NRA and told their constituents they were with them on this overwhelmingly popular position, the banning of assault weapons. But today something is different. Apparently all of those courageous Members have changed their votes.

There is intimidation, yes, pressure, yes. Where is it coming from? I can tell you that the National Committee of the Republican Party has before it a resolution which takes those 38 people to task, says they should be deprived of their funding for reelection, says they should have "real Republicans" standing up to defeat them when they go for reelection.

This is part and parcel of why this vote today is in doubt. We are not here debating the question of assault weapons honestly. What we are facing up to is intimidation and pressure from the political leadership.

I am asking those 38 Republicans who have the courage to stand up and say they are for the police in their communities and for the people who believe we should have an assault ban to stand up to the RNC, to stand up to their leadership, and ratify their real beliefs.

I am submitting the RNC resolution for the record so that the entire House will understand the kind of intimidation and strong-armed tactics the Republican leadership is employing:

REPUBLICAN NATIONAL COMMITTEE
RESOLUTION
RESOLUTION OF CONDEMNATION

Whereas, The Second Amendment of the Bill of Rights of the United States Constitution supports the right of the individual American citizen to keep and bear arms; and

Whereas, Our forefathers, having just completed a war with a despotic government, provide in the U.S. Constitution for the right of individual American citizens to keep and bear arms to ensure that dictatorial governments would nevermore tyrannize American citizens, by guaranteeing such citizens the means, arms, to overthrow such a government, if necessary; and

Whereas, The Constitutions of the vast majority of the individual States also support the right of the individual American citizen to keep and bear arms; and

Whereas, The Platform of the Republican Party supports the right of the individual American citizen to keep and bear arms; and

Whereas, The Republican Party has its foundation and roots in the individual, in the rights of the individual, and in the belief that individual rights take precedence over, above, and ahead of Government; and

Whereas, A betrayal of the most basic foundation, roots, and primacy of the philosophy of the Republican Party is a negation and denial of all Republican philosophy, and therefore a denial and rejection of one's own Republicanism; and

Whereas, That basic foundation was put to a test on May 5, 1994, when the U.S. House of Representatives voted on H.R. 4296, a bill banning certain described and vaguely defined types of firearms, and that bill passed by a vote of 216 to 214, with 38 Republicans voting for that bill; and

Whereas, The Republican Party is a "big tent" that encompasses all races, ages, handicaps, and differing perspectives on many issues, but not on the fundamental issue of the rights of the individual; Now, therefore, be it

Resolved, that the Republican National Committee condemns those 38 Congressmen for voting in derogation of the individual American citizen's right to keep and bear arms; and be it further

Resolved, That the Republican National Committee shall, hereafter, deny all Republican Party funding to any and all of those 38 Congressmen should they seek reelection; and be it further

Resolved, That the Republican National Committee shall seek alternative, real Republican candidates for the seats of those Congressmen.

The 38 Congressmen are: Bateman, VA; Bereuter, NE; Blute, MA; Boehlert, NY; Castle, DE; Fawell, IL; Franks NJ; Gilchrest, MD; Greenwood, PA; Horn, CA; Houghton, NY; Huffington, CA; Hyde, IL; Johnson, CT; Kasich, OH, King, NY; Klug, WI, Lazio, NY; Leach, IA; Levy, NY; Machtley, RI; McDade, PA; Meyers, KS; Michel, IL; Miller, FL; Molinari, NY; Morella, MD; Porter, IL; Pryce, OH; Quinn, NY; Ridge, PA; Ros-Lehtinen, FL; Roukema, NJ; Saxton, NJ; Shaw, FL; Shays, CT; Smith, NJ; and Young, FL.

LANE REES,
Chairman Republican Party of Alaska.
WAYNE ANTHONY ROSS,
Republican National Committeeman, Alaska.
EDNA DEVRIES,
Republican National Committeewoman, Alaska.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Speaker, I say that it is very difficult for me to believe that for the past 10 days the question

that has held up the crime bill is not whether you are for or against the crime bill but whether you want the House to vote on it. Well, if your dream is becoming part of a filibuster one day, run for the Senate, but do not delude yourself into thinking that the American public is in any way impressed. No procedural vote is not about whether to gut this 2 years of work on some procedural ploy. It is about throwing away almost 4 years of work, as the American people continue to live in constant fear in their workplace, and in their neighborhoods, in their homes.

Now, I will tell you that in the last Congress there were great expectations about passing a crime bill. The House did not succumb to partisanship. We passed a crime bill October 22, 1991. The Senate did likewise a month later, on November 24, 1991.

The conference met, returned, the House approved the conference report on November 27, 1991, 4 days later. When that conference went to the Senate, a group of obstructionist Republicans, I will tell you that is right, distraught that Democrats could actually write a tough, good crime bill, they bottled the bill up for 11 months. Congress wagged its tail and adjourned.

Now the Republicans, our friends, are working day and night all in the service of a campaign to not have a crime bill for the fourth year.

We are not perfect people. I am not. I do not think you all are. And I do not think the bill is, and not many of them are. Most of you are keenly aware of my profound disappointment at inclusion of the ill-conceived ban on assault weapons so broadly cast as to insult the dignity and good name of legitimate and good, law-abiding gun owners across the Nation. I was outvoted by the House and Senate conferees in attempting to strip this punitive vendetta.

But to this day, I say plainly that the assault-ban provision should never have been included, and I will be back sooner than some think to right than wrong.

What I want to say now is I think every Member of this Congress should vote for the rule and let the Members of Congress decide whether or not to have a crime bill, whether we want to help the people in this country.

In every congressional district the No. 1 issue is, What are you going to do, if anything, about crime?

I ask you to vote for the rule and for the conference report and urge all of my colleagues to support them both.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. EVERETT].

Mr. EVERETT. Mr. Speaker, I oppose this rule.

Mr. Speaker, the crime bill that came back from conference reminds me of the old movie "The Good, The Bad and The Ugly." There is no question there are some good things in this bill. But for the most part—it's bad and it's ugly.

Forty million dollars for midnight basketball. There are those in this Congress who actually want to spend $40 million to keep teenagers out after midnight to play basketball. That's not going to halt crime—that's going to increase crime. What kind of logic keeps teenagers on the streets until well after midnight? Midnight basketball is bad and it's ugly, Mr. Speaker.

This bill gets worse. Rather than criminals receiving tougher punishment, this crime bill wants to teach them to dance. My constituents are tired of this kind of waltzing with criminals. They are tired of their hard-earned tax dollars supporting criminals in jail lifting weights and watching color television. Put criminals to work, Congress. That's what your constituents want—punishment not pampering.

I will repeat again—there is some good in this bill, but most of it is bad and it is ugly.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I rise in opposition to this rule.

Megan Kanka, the 7-year-old who was brutally killed by a sexual predator, Mr. Speaker, lived in my district, and the language for the community right to know in this bill is very, very weak, and I would hope that we will go back to conference and parallel what my good friend from Washington tried to get passed. This is very weak language.

I rise against the rule because I believe this legislation needs to be sent back to a conference committee for significant overhaul. While this bill includes many valuable provisions for new police and prison space, it has been significantly watered-down by the House-Senate conferees in a display of arrogance toward their colleagues in both Houses of Congress.

The deleterious results of the backroom wheeling and dealing of the crime bill conferees are plainly evident. There are several examples of the conferees ignoring or defying specific instructions from the House of Representatives.

For example, on July 13, the House voted to instruct conferees to include a community notification provision, which would require local police departments to be informed about the presence of sex offenders in the community, and encourage law enforcement to disclose this information to the public. This language was watered down significantly in the conference committee report.

Mr. Speaker, Megan Kanka, a 7-year-old in my district was viciously abused and killed by a sexual predator who had been convicted twice for preying on young children.

No one in the community knew the killer's sordid past, Mr. Speaker. Had Megan's grieving parents known that their neighbor was a dangerous person, they would have taken steps to protect their precious child. Megan's parents had a right to know that information.

I'm disappointed to say that the language in the crime bill is weak—far less than the proposal offered by Senator GORDON and Congresswoman DUNN.

Mr. Speaker, the conferees also ignored the fact that on June 22, the House voted overwhelmingly to instruct conferees not to accept any agreement that reduced funding for new prisons below the House-approved level of $13.5 billion. Instead, we have a final bill that includes only $8.3 billion for prison construction.

On June 29, the House overwhelmingly approved a measure to instruct conferees to not accept any agreement that disallows evidence of similar crimes to be presented in court when hearing sex offense cases.

On July 20, the House approved a measure to instruct conferees to not accept any agreement that fails to include a Senate-approved measure that provides for mandatory prison terms for the use, possession, or carrying of a firearm during a State crime of violence.

These are but a few examples of the arrogance demonstrated by the conferees in crafting a bill that flatly contradicts the will of the House and the Senate in many important areas. There are obviously elements in this legislation that are worthwhile, but we do not have to settle for half a loaf. We do not have to deliver a less-than-adequate bill to the American public.

A vote against the rule is a vote to send this legislation back to conference where it can be fixed. I urge a "no" vote on the rule.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to my colleague and friend, the distinguished gentleman from Florida [Mr. MCCOLLUM], who is a member on the committee.

Mr. MCCOLLUM. Mr. Speaker, I rise in opposition to this rule.

I think it is outrageous that some have suggested on that side of the aisle we Republicans over here are somehow trying to defeat this bill. We are not. And in fact, they have got 79 more Members on that side of the aisle than we have over there. There is no way we can beat this rule or the bill, either one, without a lot of Democrats to vote to do so as well.

What we are concerned about is not playing politics like the gentleman from California [Mr. FAZIO] wanted to do here. He knows good and well that Haley Barbour, our National Republican Committee chairman, had withdrawn that resolution that might have criticized our Members for whatever they might have voted on a gun proposal.

He should know, as I do, the Republicans over here on our side of the aisle are not sending this bill back to the committee, do not want to send it over to the conference committee to get it worked on some more because of the gun issue. We want to send it back over there to be worked on, not to kill it, but to be worked on and brought back out here because we understand this is an imbalanced and imperfect bill that is not going to do the job. The fact of the matter is there are $8 to $9 billion in this $30 billion-plus bill, $8 to $9 billion in new Great Society social welfare spending, the most in 20 years, and

VOL 140 PT 15 AG 10 — 11 1994 UMI

it is imbalanced because if we look at what we have got in this bill for prisons, which is the main thing we can do to help the States solve the crime problem, we can only have $6.5 billion, not the 8 whatever that has been put out here, half the amount passed by this House of $13 billion, and not nearly enough to do the job we heard from the Bureau of Prisons is required.

They said they need at least $10.5 billion to $12 billion in grant money to the States to build new prisons if we are going to give them enough to take off the streets the 6 percent of those criminals who are committing 70 percent of the violent crimes of this country and only serving about a third of their sentences, and make them serve 85 percent of their sentences if they are repeat violent offenders.

□ 1640

That is, put truth-in-sentencing into the law. It is going to take that kind of money.

We should not be spending social welfare money out here like this. We should not be increasing programs for the midnight basketball, teaching of dance lessons and the artistic classes and all of that kind of nonsense, to get at root causes of crime.

We should be putting the money where it needs to be put, where the bureau of prisons and others have said it is required if we are going to actually solve the problems that the American public wants. We need to put certainty and swiftness and punishment back into the system again. We need to have deterrence of criminal laws in this country, deterrence of crime, which is the true prevention.

Then, if we want to get to the root causes, we need to bring out a welfare reform bill to change the rules of the game out here so that we can put incentives back in the law for families to stay together again instead of having the way it is now, and get moral values taught again.

That is the real root cause of the problem. But in the meantime let us save the patient who has been run over by the truck and has all these internal injuries, who is bleeding to death over here because his arm has been cut off. Let us at least apply the tourniquet and stop the violent crime program here that is going on in our country, by getting the resources that are necessary to the prisons.

All we have to do to do that is take away some of this nonsense, this $8 or $9 billion of this Great Society spending, take a few billion dollars of that in the conference committee when we send this bill back today, if we defeat this rule, and put it where it ought to be, on prisons, and put the right amount of money there and send a good tough, hard crime bill back here for us to vote on.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Missouri, the distinguished majority leader [Mr. GEPHARDT].

Mr. GEPHARDT. Ladies and gentlemen of the House, the decision that we make today is between one on procedure and one about people.

I know the heartfelt disagreement on so many points in this bill, on both sides of aisle. And I know those disagreements are heartfelt. But the question we have to ask is will we remain frozen in disagreement, or will we be able to act?

A lot of people say go back to conference and we will do this, we will do that and we will do the other thing. Well, it has taken us 1½ years to get to this day.

In 1991 it took over a year to get to a filibuster that stopped any crime bill from going forward.

It is overly optimistic to think that it is easy to take out the part that I do not like or the part you do not like or revise this or that to get back to something that we like.

Just for a moment before you cast this vote, take out of your mind the things in the bill that you do not like and keep in mind the four children in my town of St. Louis whose mother was shot and killed on her own porch last week in a senseless, meaningless killing. Think about the two teenagers in San Marino, CA, gunned down by gang members in a high school. Think about the young woman here in Washington who was slain in a drug-related shooting, when she was 7 months pregnant with her own child. Think of the third-grader in Chicago who was asked by her teacher to share her feelings about violence, and shared the story of her young cousin shot in the head by another boy playing with a gun. Think of the two elderly women in St. Louis, 87 and 76, who were raped at gunpoint.

That is what this bill is about. Do not think about each little provision that you may not like, think about the people who count on us today to come to their aid with something, not to be frozen out in our disagreement but to find an agreement.

And, finally, think about the young girl written about here in the Washington Post, who thinks not about her cares and concerns but because she has lived with so much death, so much pain, so much tragedy, that she dreams not of her prom dress but of her funeral dress.

Ladies and gentlemen of the House, are we going to respond to her? Or are we going to act?

Think about her, vote for this rule. Let us make this country safe again.

Mr. GOSS. Mr. Speaker, at this time it is my privilege to yield the balance of our time, 4 minutes, to the distinguished gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker and my colleagues, I rise in opposition to the rule and compliment the distinguished majority leader for the plea he has made on the other side of this issue.

Let me also take the opportunity to applaud those of you on both sides of the aisle who have so eloquently and forcefully pointed out the deficiencies in the conference report that this rule makes in order. Somewhere buried deep within the layers upon layers of big dollar items in this crime bill is a workable, useful policy of prevention, education, and punishment. But the rule does not allow us to strip away the many expensive and unnecessary parts that now deform the bill.

What we have instead is the unholy political trinity of pork, posturing, and partisanship.

At one point we did have a tough crime bill, one that focused on taking repeat offenders off the street, one that built more prisons, one that imposed tough sentences. That tough bill is not the one before us tonight.

I have put out an all-points bulletin, but I am afraid it has met its demise.

Our constituents have pleaded with us to alleviate their fear, make their schools and streets safe again. After anteing up better than $30 billion in this bill, much of it unfunded, we are not going to be answering their plea.

This bill could have been, it should have been a lean, mean, crime-fighting machine. But there are too many election year goodies, trinkets, and gift-wrapped spending programs piled on it. And now it looks like Santa Claus wearing a sheriff's badge.

This is not a battle between detention and prevention. We need both.

The question before us is one of high public policy: What kind of Federal legislation best helps our society uphold the rule of law? This is a time of rising crime rates and rising public demands for action, but it is also a time of budget deficits, a time when every tax dollar must be spent wisely. That is why we ought to defeat this rule.

The rule does not allow us to say what is best and get rid of what is worst in the bill as it now stands. My colleagues, I believe we can craft a sensible bill that combines all the elements of detention and prevention. But if the rule passes, we will be asked to vote on a bill that would direct too many tax dollars into areas that may be politically useful for some of our Members but have little to do with fighting crime. In my opinion, we cannot afford such waste. Our constituents, who want safe streets and safe schools, cannot afford it.

Maybe one final word, particularly on my side of the aisle: This is a procedural vote.

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It is a rule. How many times have we been had on our side of the aisle by the rules of this House?

This is a procedural vote, and it means whether or not we can make an impact and a difference on cleaning up a bad bill.

That is what it is all about, and my colleagues ought to take advantage of that opportunity. Do not let it slip through our fingers when it is right at hand.

Mr. Speaker, that is my message to my colleagues tonight.

With all due respect to my friend, the gentleman from New Mexico, who said vote down the rule and the bill is killed. I will take a different view with respect to our President because our President made a strong, impassioned appeal for a strong crime bill, and I respect that.

We want to do the same. We have our differences of opinion on both sides of the aisle and within our parties on how best to do it; that is what it is all about, and it is on the margin of whether or not we are going to get one more opportunity to clean it up the way it ought to be cleaned up or let it go by as it is.

I would plead with Members. Vote down this rule. Get us that one other opportunity.

Mr. LAZIO. Mr. Speaker, I rise today to express my opposition to the rule on the crime bill conference report, H.R. 3355, the Violent Crime Control and Law Enforcement Act.

For me, today's vote on the rule is not a statement in favor or in opposition to the crime bill conference report. Rather, it is about whether it is fair for the majority to apply a restrictive and repressive procedure that purposefully obviates the voice of a majority. In this case, the staff and a few members got together behind closed doors and added provisions to the bill that neither the House nor the Senate agreed to. That is how a bill passed by the Senate at $22 billion and the House at $28 billion became a $33 billion conference report. The minority was only give a few hours to review a 972-page bill, although the conference was reported almost 2 weeks ago. This type of procedure undermines the democratic process.

While I will not vote for the rule, I strongly believe this Congress must pass a crime bill that is truly effective against crime and is paid for in its entirety. This conference report had at least $3 billion in programs that were not paid for. Long Islanders sent me to Congress to fight this kind of irresponsible deficit spending, not to be a party to it.

Hoping that it could be improved in conference, I supported H.R. 3355 when it passed the House in April because it contained features similar to the alternative Republican crime bill, H.R. 2872, the Crime Control Act of 1993, of which I am an original cosponsor. H.R. 2872 calls for strong measures to combat the crime rate in our country, including additional funding for prisons and additional get-tough measures against criminals.

Instead, we got a bill that increases the deficit, lacks meaningful truth-in-sentencing provisions and does not allow for the tracking and registration of violent sex-offenders. Congress can do better. Defeating the rule and sending the bill back to conference will give us a chance to correct it.

This conference report leaves a lot to be desired, and Republican attempts to offer constructive amendments were rebuffed, severely weakened, or stripped entirely from the bill. However, I do support many of the important provisions within H.R. 3355.

For example, I strongly support the provisions to hire 100,000 additional police, increase prison funding, ban assault-weapons, and expand federal death penalty provisions.

As many as 40 members of the other party have expressed opposition to the assault-weapons ban in this bill. That is not the case with me. I voted for the assault weapons ban when it passed the House, I support the ban now, and I will support it when Congress finally passes a crime bill.

Therefore, my vote against the rule today will not be vote against a crime bill. Rather, it is a rejection of the highly partisan and undemocratic method that was used in pushing this bill through the conference process and to the floor.

Mr. GILMAN. Mr. Speaker, I reluctantly rise in opposition to the rule providing for consideration of H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1994. My decision has been extremely difficult since, like many Americans, I believe that we must take action to prevent and rid our Nation's cities and towns of the violent crime that has become all too familiar. However, despite my real concerns, I am convinced that this weakened compromise will do little to accomplish this important, and much needed goal.

In order to effectively fight crime, I believe that we must get tough, and severely punish those who break the law. However, many of the provisions that are included in this omnibus legislation, will do nothing to combat the violent crime that plagues our communities. In fact, much of the funding that is included in the conference report is not even directly related to crime control. While these programs may have a positive impact on some of our communities, social spending should not be disguised as crime control. The American people deserve better than this. The $8 billion cost of these newly created programs are exorbitant, and have not even been proven to affect crime rates. For example, midnight sports will cost the American people $40 million, child safety grants will cost the American people $430 million, and the national community economic partnership will cost an estimated $300 million. Supporters claim that through community development, social services, job training, and recreational activities, potential criminals will be steered from a life of crime. However, further analysis demonstrates this is not a proven assumption. Since 1965, our Nation has spent over $5 trillion on welfare spending. Yet with crime rates at an all time high we know from experience that welfare spending has had no significant impact on crime.

Another source of concern, is that this massive $33 billion crime bill places a huge unfunded mandate on State and local governments. Supporters claim that $8.8 billion of funds will be available over the next 6 years for State and local governments to hire an additional 100,000 police officers. However, when we look closer, the figures do not add up. On closer inspection it is evident that the funding will guarantee the hiring of only 20,00 police officers, a 3 percent increase in our Nation's police force. In order to permanently place the additional police officers, State and local governments will be required to pick up the remainder of the tab since the funding for the police will be gradually phased out over the 5-year funding period. Having to pay additional salaries and pensions, combined with a substantial loss of funding will, no doubt, burden local governments. Unfortunately, this loss will be realized by raising taxes or cutting back on valuable services.

Furthermore, I remain concerned that this legislation retroactively drops mandatory minimum penalties for individuals who sell, possess, or import drugs. This sends a disturbing message to our Nation's youth by condoning the use and abuse of illegal narcotics. This will also tie up Federal prosecutors in reviewing these cases. At a time when drug abuse is on the rise, this is not the kind of message we need to be sending. Instead, we must remain steadfast in our determination to eliminate the drug abuse that in many instances, breeds violent crime. It is ironic that while the administration says it wants to fight crime, it has abandoned the war on drugs. With drugs contributing to one-third of the violent crimes committed in our Nation, and to one-half of the murders, we must not retreat from the battlefield.

As an author of one of the amendments that is included in this massive legislation, my decision to oppose the rule, and this legislation, has been even more difficult. Unfortunately, I believe that the many so called "crime control" provisions will do little to curb crime. My strong desire to protect and serve the citizens of our Nation outweighs my support for legislation that I authored, and which is included in this omnibus legislation. My legislation increases the criminal penalties for visa and passport offenses.

With this in mind, I extend my sincere appreciation to the chairman of the Judiciary Committee, the gentleman from Texas [Mr. BROOKS], for his unyielding commitment to the American people. I also thank the ranking member of the Judiciary Subcommittee on International Law, Immigration and Refugees, the gentleman from Florida [Mr. MCCOLLUM], the ranking member of the Judiciary Subcommittee on Civil and Constitutional Rights, the gentleman from Illinois [Mr. HYDE], as well as all the House conferees who held firm for the inclusion of my amendment.

The need for these tough new increased criminal penalties is long overdue. In fact, these penalties have not been raised in more than 45 years. With the many instances of massive visa and passport fraud and abuse, our system needs to be reformed. By toughening these criminal penalties, we will be assisting our Nation's law enforcement officials, especially our hard working diplomatic security and Immigration and Naturalization Service agents.

The New York Trade Center bombing, and other terrorist plots uncovered in New York City last year, set off an alarm bell. Out of the 35 original indictable counts, nine were for visa or passport related Federal offenses. Thus, demonstrating our Nation's vulnerability and exposing the clear link between visa and passport offenses and international terrorism. I

VOL 140 PT 15 AG 10 — 11 1994 UMI

am pleased that my amendment can aid our Nation's internal security and our citizen's safety and freedom.

With the defeat of this procedural rule, I am hopeful that the conferees, Democrats and Republicans, will now return to the conference committee, with one goal in mind—the development of strong "anti-crime" legislation that will enforce stiffer criminal penalties, will institute longer prison sentences for convicted felons, and will increase support for our Nation's law enforcement officers.

Mr. VENTO. Mr. Speaker, I rise today in support of the rule and the Violent Crime Control and Law Enforcement Act of 1994 as reported to the House.

The trust fund concept in this measure is an important new idea. The Federal Government is committed over the next 5 years to reduce Federal employees by more than 270,000 slots, with the savings dedicated to this crime reform measure which proposes to expend $33 billion over the next 6 years. In fact, the first appropriations are already in the House and Senate measures being considered and will be enacted for fiscal year 1995. I think this is important to point out to those of my colleagues who stand up here today calling this measure a budget buster. This argument looks more like a heat shield created to deflect criticism from the real agenda of these people which is to allow assault weapons to continue to spill out on America's streets, or to kill the prevention initiatives in this bill that will give our Nation positive alternatives to crime. The fact of the matter is this measure need not represent new expenditures—to date the money is in the budget.

This package will mean real assistance to State and Federal law enforcement efforts. Over the duration of this measure, $10.7 billion will be provided for prisons and $10.6 billion for State and local law enforcement—including a nearly 20 percent increase to the Nation's police force. Sorely needed prevention programs will receive $7 billion over the next 6 years to help change the direction of the culture of crime overshadowing America.

This measure contains provision like the three strikes and you're out for repeat violent offenders, the safety valve feature to give judges more discretion in sentencing first-time, nonviolent offenders, and the Violence Against Women Act. All of these provisions will be instrumental in reforming our criminal system to help better serve the law abiding citizens of this Nation.

Earlier this Congress, Natural Resources Committee Chairman GEORGE MILLER and I introduced a bill to expand park and recreation opportunities for at-risk youth in high crime urban areas. The bill recognizes the important role that urban recreation programs play in developing positive values in our young people and keeping them away from crime.

This particular crime prevention measure, and others like it, are included in this conference report—and with good reason. According to the Department of Justice, violent crimes committed by young people are growing at the fastest rate in this country. It is obvious to me if we are truly going to address our country's crime problem we must focus on prevention; we must give our young people hope and opportunity; we must give them a haven from the streets where they can develop values such as responsibility, teamwork, leadership, and self-esteem.

There are a number of programs included in this conference report that will work to achieve these goals: The Community Schools Initiative, Youth Employment Skills [Y.E.S.] Program, midnight sports programs, and my and Chairman MILLER's at-risk youth recreation grant, to name a few. I am pleased to see these initiatives included in this crime reform bill. I am not, however, satisfied with their low funding levels. However, because these measures are in the package we can in the future reallocate the trust funds from one program to another. Without such a feature, the programs provided would not have been easily funded. Because of the policy put in place by this feature, I am confident that the merit of these measures will command a portion of the trust fund and or appropriations.

The average cost of incarcerating each juvenile offender per year is $29,000. Today some will rise in the House and refer to these programs as government waste or pork. I suggest you sit down with a calculator and figure out just how many future offenders we will need to keep out of jail to actually save money by implementing these programs. Then maybe some questioning this policy would finally begin to realize that it is prevention not punishment this country needs for a safer society, and that is what should be emphasized by this Congress in 1994. Ironically, at the same time these critics will suggest that the $10.7 billion for prisons in this measure is too little; that we need more and that the mandatory minimum sentence reform is flawed. Such opponents want more prisons, longer sentence provisions and yet less money spent. This is the same reactive mode and failed policy path that was tried during the 1980's. Today, nearly one million people are in prison. Mindless incarceration and mandatory minimum sentences don't do the job. No one wants violent persons on the street, but we must act proactively to deal with the input side of the crime equation, not just react to the crime—both aspects are elements of a sound policy for our Nation.

Sadly some aspects of this bill are flawed such as the increase from 2 to 60 Federal crimes punishable by death. The cost of this policy alone, not to mention the demonstrated discrimination inherent in capital punishment today, can not be justified considering its dubious value as a crime deterrent in our society. Even though capital punishment has been statistically and historically biased against minorities, regrettably this measure remains absent a remedy to address this critical issue of racial bias. While a House passed provision could not be reconciled in the House-Senate conference, I am hopeful that President Clinton's executive order will meet this short fall.

After careful consideration of this measure, I find the positive far outweighs the negative in this conference committee report. The prevention programs are an important first step in providing men, women, and children in need an alternative to violence, gangs, and to crime. The assault weapon ban in this bill will take some of the most dangerous and unnecessary guns, virtually para-military weapons, off the streets of America and stop the carnage—saving lives without limits on legitimate sports and firearms collections. The long overdue Violence Against Women Act is a tremendous stride toward ending domestic violence and ensuring the safety of women in our society.

I rise in support of this conference report and urge my colleagues to do the same and support the rule which provides for its consideration.

Mr. DOOLITTLE. Mr. Speaker, I rise in strong opposition to the crime bill and the accompanying rule that come before the House today. The debate surrounding this legislation and the entire crime issue reflects what Thomas Sowell called a conflict of visions.

SOCIAL SPENDING IS NOT CRIME FIGHTING

There are some, including the current administration, who think violent crime can be eliminated from our society with a little rehabilitation, a little understanding, and lots of money—$32 billion in this legislation alone.

But if social welfare spending reduced crime, Mr. Speaker, America would have the safest city streets in the world. Since the war on poverty was launched in 1965, the Government has spent $5 trillion on new social programs, including community development aid, social services, job training, and recreational activities.

What effect has this massive social spending had on crime? Since 1960, the rate of violent crime has increased more than 500 percent and total crimes have increased over 300 percent. And while population has increased only 41 percent over this period, social welfare spending is up 800 percent. As the Heritage Foundation has noted:

The evidence suggests that welfare spending, by promoting family breakup, has played a large role in increasing, rather than decreasing crime.

CLINTON BILL REPEATS PAST MISTAKES

Despite this horrible track record, Mr. Speaker, we are urged by the Clinton administration to support a $32 billion crime bill, which includes over $9 billion in new social spending programs. Among the new Federal programs are a midnight basketball league—with Federal rules detailing the composition of neighborhood teams—self-esteem classes, arts and crafts, dance classes, and physical training programs, and conflict resolution training.

Mr. Speaker, if the rate of crime continues at its current pace, 8 out of 10 Americans can expect to be the victim of a violent crime at least once in their lives. This result is intolerable.

Those who preach rehabilitation and criminal rights, and who see job training and social spending as solutions to our crime epidemic, have been at the helm of our country's social policy for too long. Every crime statistic available confirms their failure.

It is time for those with a different vision of criminal justice to have a turn. The people in my district, for example, have zero tolerance for crime. They are not concerned abut protecting criminals' rights; they are concerned about protecting victims' rights. They don't want more social workers; they want jails. They don't want to ban guns; they want to incarcerate criminals. And instead of parole and alternative sentencing, the people in my district want truth-in-sentencing.

WORST PROVISIONS IN A BAD BILL

A. HOLLOW POLICE FORCE

This bill fails on all counts. It authorizes $8.8 billion over 6 years to hire 100,000 new police in community policing programs, but passes the cost of maintaining this force onto localities. Thus, once Federal funding runs out, localities will either have to lay off a portion of the force or lobby Congress for more Federal money. Funding for only 20,000 positions, not the 100,000 promised, will be provided. Princeton University professor John Dilulio calculated that once these additional police officers are distributed over at least 200 jurisdictions, the actual street enforcement strength will be increased by just 10 cops per city.

Even President Clinton's hand-picked FBI Director, Louis Freeh, has criticized the officer funding provisions in the administration's bill. Mr. Freeh noted that the funding for these additional officers is going to require cuts at the FBI and DNA. Mr. Freeh said the cuts are "not consistent with * * * [the FBI's] expanding mission" and might cause the Bureau to "suffer law enforcement objectives"—The Buffalo News, Aug. 10, 1994.

B. POLICE DEPARTMENT QUOTAS

Worse than the officer funding provisions are the hiring requirements. The bill calls for State and local authorities to adopt racial, ethnic, and gender guidelines in police hiring. A guideline, like a goal, is merely a more politically palatable term for a quota—something the people of my district abhor.

C. MISSING PRISONS

As for building much-needed prisons, the final report earmarks $7.6 billion less than the original House bill. In a $32 billion crime package, it is an outrage that more money is being spent on new social programs than one building and maintaining prisons. In addition, the final bill weakens the popular requirement that Federal prison funds be tied to strict state truth-in-sentencing laws.

D. USELESS 3 STRIKES

The bill includes a three strikes and you're out proposal, a concept that I support, which allows a violent criminal three separate episodes in which to wreak havoc. Nevertheless, in any form, this provision is of limited value because State courts handle over 98 percent of all violent crime convictions.

E. MORE CAPITAL OFFENSES, LESS CAPITAL PUNISHMENT

Although the bill authorizes the Federal death penalty for over 60 new offenses, the enforcement procedures have been made criminal-friendly. In addition, no habeas corpus revision—the most desparately needed aspect of Federal crime reform—is included in the bill to limit convicted felons from tying up the court systems with endless appeals, so as to avoid having the death penalty carried out.

F. ASSAULT ON THE CONSTITUTION

Also, Mr. Speaker, I believe that the right to bear arms, protected by the U.S. Constitution, carries the same constitutional authority as any of the individual liberties found in the Constitution. Just as the first amendment doesn't preclude speech the Founding Founders might have deemed objectionable, the second amendment is not limited to firearms Washington deems appropriate. The burden is on the government, not law-abiding citizens, to justify abrogation of the individual liberties protected by the second amendment. In my mind, the ban on assault-style, semiautomatic weapons is a clear violation of the Constitution.

It is very telling that many of the same people who support the ban on semiautomatic weapons left out of the conference bill a provision that would establish mandatory minimum sentences for thugs who use guns when committing crimes. Thus, this bill punishes law-abiding citizens by taking their guns away and gives gun-toting criminals a break by not imposing a mandatory prison sentence for using a gun in the commission of a crime.

G. REVOLVING DOOR FOR DRUG DEALERS

Mr. Speaker, the conference report includes a so-called safety valve provision, which will effectively permit certain categories of convicted drug defendants to be invited back to court, to be given a retrial under retroactive law. This result will occur, Mr. Speaker, because the crime bill reduces minimum sentencing for drug criminals. No serious anticrime bill would put convicted drug kingpins back on the street.

A BETTER WAY TO FIGHT CRIME

Mr. Speaker, the champions of compromise in this body often remind us that the perfect is the enemy of the good. Yet, this criticism misses the mark—I am not holding out for a perfect bill, but this one does not qualify as even good. There is a better way. There are better alternatives.

The best ideas I've heard on crime, Mr. Speaker, have come from my constituents. Earlier this year, I held a series of town hall meetings on crime. Hundreds of people came out to share their suggestions on how to end our Nation's crime epidemic.

I incorporated my constituents' best ideas into a 269 page comprehensive anticrime package entitled the Citizens Crime Prevention and Punishment Act of 1994. Introduced before the House in April, my legislation reflects a get tough approach toward criminals and emphasizes the right of innocent victims.

RESPECTING STATES' RIGHTS

More important than any one provision, Mr. Speaker, is the fact that my bill does not increase the power and reach of the Federal Government. My bill toughens penalties for existing Federal crimes. It increases funding for regional prisons. But it does not extend Federal jurisdiction into areas that have been under local control. I think the position taken by the National Conference of State Legislature is significant. A spokesman for the group said, "We oppose the bill because it federalizes state crimes and is an unwarranted intrusion on state and local matters." Mr. Speaker, this bill is also opposed by the American Federation of Police, the Law Enforcement Alliance of America, and the National Association of Chiefs of Police.

CONCLUSION

Congress has a role to play in the war on crime, but it should not seek to micromanage. Instead, Congress should limit its role to supplying the States with resources they need to keep our neighborhoods safe.

Columnist George Will wrote recently in the Washinglon Post:

This crime bill is a bipartisan boondoggle because of the cachet that currently accrues to any legislation with an "anti-crime" label. But the bill sprays money most promiscuously at Democratic constituencies, the so-called (by themselves) "caring professions"—social workers, psychologists, and others who do the work of therapeutic government.

Mr. Speaker, this bill and the rule should be defeated. To pretend that this bill will reduce crime will only make voters more cynical about Congress. They want and deserve a real crime bill. This bill isn't it.

Mr. Speaker, I urge my colleagues to vote no on the crime bill conference report and on the accompanying rule.

Mr. STOKES. Mr. Speaker, I rise in strong opposition to the rule on the conference report on H.R. 3355, the The Violent Crime Control and Law Enforcement Act of 1994. Let me state from the beginning that I recognize the challenge we face in curbing crime in our Nation. In fact I have been a longstanding advocate for strong congressional action to reduce and prevent violence and crime. Nonetheless, Mr. Speaker, I cannot support this measure before us today because the very belief upon which our judicial system was created—protection of individuals constitutional rights balanced with societies right to be free from harm—has yet to be achieved for many Americans.

The fact that the conference report does not include the Racial Justice Act is enough in terms of my conscience to vote against the rule. This critical provision passed the House, and now for reasons of racism, has been eliminated from the bill. This abolishes my general principle of voting in favor of a rule and letting a bill come to the floor to be voted on for its merits. Even though funding for prevention is included, this does not diminish the need for the Racial Justice Act.

Over the years, I have been a strong supporter of crime control measures. I have patrolled our streets as part of neighborhood watch efforts. I have seen first hand the effects that drugs and violence have had on our neighborhoods. Despite these experiences, however, I feel that I cannot support the unbalanced approach that H.R. 3355 represents.

The crime bill of 1994, among other things, would greatly expand the reach of the Federal death penalty, and fails to include any provisions of the Racial Justice Act. In fact, the bill makes more than 60 additional crimes subject to the death penalty. While I agree that strong measures must be taken to curb the crime epidemic, I do not believe that this should be done to the detriment of an individual's basic rights and constitutional liberties. Furthermore, many of the provisions in the bill will actually do very little to reduce crime.

I strongly supported inclusion of the Racial Justice Act in the crime bill. The provisions of the Racial Justice Act are consistent with the principles of fairness and equality that are fundamental to the administration of justice in America. The Racial Justice Act would have prohibited the imposition of the death penalty where statistically significant proof exists that the defendant's and/or the victim's race determined whether the death penalty would be imposed.

When closely examined, the sentencing history of the death penalty has generally been arbitrary, inconsistent and racially biased. It is my belief that the Federal death penalty is

VOL 140 PT 15 AG 10 — 11 1994 UMI

overly harsh, particularly because it fails to address the economic and social bias of crime in our most troubled communities. The fact is there has always been a racial double-standard in the imposition of capital punishment in the United States. Even after the black codes of the 1860's were abolished, blacks were more severely punished than whites for the same offenses in our penal system. By the time the United States Supreme Court deemed the existing process for imposing the ultimate penalty unconstitutional in 1972, more than half of the persons condemned or executed were African- American—even though they were never more than 15 percent of the population. The advances in statistical analysis of the last 20 years have allowed numerous experts to test the raw data with disturbingly consistent results.

In 1990, after 29 studies from various jurisdictions were reviewed, the General Accounting Office confirmed that there is a consistent pattern of disparity in the imposition of the death penalty in the United States and that race is often a crucial factor that determines the outcome. Since the resumption of executions in 1977, of the 236 persons who have been executed, 200 persons, or an alarming 85 percent, were executed for the murder of white victims. In fact, statistics show that blacks convicted of killing whites are 63 times more likely to be executed than whites who kill blacks.

In 1991, the United States Justice Department's Bureau of Justice Statistics reported that African-Americans accounted for 40 percent of prisoners serving death penalty sentences. In my home State of Ohio, of the 127 people on death row, 62—nearly fifty percent—are African-Americans. These statistics reflect how the African American community is disproportionately affected by the death penalty. Furthermore, in a Nation where the number one leading cause of death for young African-American males is homicide, further disproportional application of the death penalty will not resolve the epidemic of violence in our Nation.

Regardless of whether this double-standard is intentional or not, the result clearly establishes that there continues to be an impermissible use of race as a key factor in determining imposition of the death penalty. Because of the disproportionate number of minorities serving death sentences, it is of great concern to me that without the protective provisions of the Racial Justice Act the death penalty will continue to be applied in a discriminatory and disproportionate fashion.

It also alarms me that there is an important element that these statistics do not reflect. That element is the economic conditions which have crippled our Nation. Unemployment, poverty and homelessness can be directly linked to crime. In fact, the dismal economic conditions facing our country have driven many of our citizens to a life of crime as a last resort measure of survival.

In fact, it is the African-American community which has borne the burden of this crime epidemic. I am particularly distressed by the fact that homicide has become the number one killer of African-American males. Many of our young African-American males are being killed in our inner cities for drugs and in many cases, for no apparent reason at all. I believe that to win our war on crime, we must first deal with the underlying rage that fuels the violence plaguing our Nation. Then and only then can we effectively address the crime epidemic.

It is my belief that our judicial system's major focus should be to protect its citizens from crime and violence. However, as a Nation, we cannot afford to increase penalties while continuing to ignore the important underlying elements which often precipitate criminal behavior and the fundamental injustice of the disproportionate application of the death penalty that will surely occur as a result of this bill.

Mr. CLAY. Mr. Speaker, I rise in opposition to the rule because I am opposed to the bill. There are many worthy features in this piece of legislation and some of my colleagues have articulated them in the finest manner possible. But Mr. Speaker there are some provisions in this bill that are so immoral and so unjust and so inhumane that all the good and virtuous gestures enunciated become null and void. One of those Mr. Speaker is the authorizing of the death penalty for 50 or 60 criminal acts.

The imposition of capital punishment is a savage act only engaged in by those who live in cultures with savage-like mentalities. Capital punishment is murder sanctioned by the State which functions in the name of its citizens. Historically, race and poverty have been the dominant factors in determining who will or will not be executed. The ranks of the condemned are heavily populated by poor whites, poor blacks and poor Hispanics.

The race of the victim is equally important in dispensing the death sentence. A white criminal who kills a black victim or a black criminal who kills a black victim, invariably receive a lessor sentence. Capital punishments is exclusively reserved for white criminals and black criminals who kill white persons.

In 1994, we are on the verge of enacting legislation which continues the injustice of killing based on race and economics and then to add insult to injury this bill vastly expands the scope of the death penalty without including a provision which ensures its even-handed imposition. This is unfair, unjust, and deplorably un-American. I will not support any measure which imposes such an inequity on the American people. I will vote against the rule and the conference report and urge all reasonable and fair-minded Representatives to do so. To allow this bill to pass is to place this body's stamp of approval on a disgraceful and blatant act of discrimination. To embrace such a policy, in my judgement, is one step removed from endorsing lynch mobs. This I refuse to do.

Mr. REYNOLDS. Mr. Speaker, as a co-author of the assault weapon language in the crime bill, I rise in strong support of the rule for consideration of the crime bill and urge my colleagues to vote for it.

The vote today is not simply a procedural motion on the ground rules for consideration of the crime bill. Those who seek to kill the whole crime bill will argue that they were not opposed to the Bill per se, but were opposed to the Rule.

How convenient, and how disingenuous.

This vote is most certainly about crime—and more in particular, about guns.

Make no mistakes about it, Mr. Speaker, the forces of the National Rifle Association are hard at work to defeat the toughest crime bill this Congress has ever passed. The N.R.A. has once again shown its true colors in this debate. Don't be fooled, my colleagues. The N.R.A. is a wolf in sheep's clothing.

They obviously are not for tough crime measures, because this bill has them.

They wanted more police on the street, and this bill adds 100,000 of them.

They wanted a tough three strikes and you're out law, and this bill has one.

They advocated spending $8 billion for more prisons. This bill would spend $8.5 billion.

No, Mr. Speaker, the N.R.A. is only interested in the proliferation of assault weapons. That must be true because the Congress delivered on the other tough crime measures they supported, and yet the N.R.A. is dead set against this bill.

While I will support the rule and the crime bill, I must acknowledge my deep disappointment that the Racial Justice Act is not included in the conference report.

I support the death penalty, as long as it is fairly imposed. The Racial Justice Act would have helped to ensure that the death penalty is imposed in a race-neutral manner. It is a sensible provision that nonetheless is not included in the conference report. The work to enact a racial justice act should, and will continue, and I will continue to support its enactment.

However, one's decision on a piece of legislation must be made with regard to the whole bill. As an author of the assault weapon provision, I am pleased that the conferees voted to retain the ban on 19 types of assault weapons.

I also strongly support the billions of dollars in prevention funds for our cities, and for programs to help our children stay away from a life of crime. It is money well spent.

In sum, Mr. Speaker, the crime bill is not perfect. All of us would add or subtract something in order to tailor it to our liking. But we must face up to our responsibilities and make the tough decisions. The people of this Nation look to us for that leadership.

If we are to lead, we must vote for the rule and for the bill.

Mr. HASTERT. Mr. Speaker, the crime bill we have before us today will squander billions of hard-earned taxpayer dollars. The Conference Committee returned to the House and Senate an unwieldy 6 year, $33 billion bill which is light on crime control spending and heavily laden with social projects. In many cases, these social programs will duplicate existing programs and fail to provide any mechanism to guarantee results.

Mr. Speaker, just yesterday President Clinton's own FBI Director criticized this crime bill because it will seriously cut the resources of the FBI and the Drug Enforcement Agency at a time when we are actually increasing the crime fighting expectations of those two agencies.

In its current form, the Crime Bill does little to fulfill our goals of fighting crime and making our streets safe again. I voted for this Crime Bill when it first came to this House. I liked the fact that we were going to encourage States to create "Truth-In-Sentencing." That's a fancy way of saying if you're sentenced to 20 years you'll serve 20 years—or at least most of it—and not be routinely out in five! We tried to give priority to building jail cells so we could back up our pledge to "three strikes and you're out"—out of circulation, off the street, not in a position to harm again—in jail. Although the House bill was weighed down with a number of weak provisions, I hoped through the Senate and Conference Committee we could improve the bill. But sadly the bill has come back to us today with its most glaring problems still unresolved and, even worse, its positive aspects reduced to little more than a skeleton.

Mr. Speaker, we can and should send this bill back to the Conference Committee and fix it. That process doesn't have to take months or even weeks, it could be done before we recess next week. The way we do that is to vote no on this rule and that's what I intend to do.

Some say we should support this bill because of the good things that are in it, like money for more prisons and police. But even those provisions are more talk than action. True, the bill provides more money, but it does so in an irresponsible manner.

To begin, the bill's proponents claim that it will put 100,000 new police officers on the street by spending $9 billion over the next six years. But in fact, $9 billion will only provide 20,000 police. The estimated cost of putting a new police officer on the beat is about $70,000. Therefore, the cost of putting 100,000 new officers on the street is at least $7 billion per year, or, $42 billion over the 6 years of the bill. Thus, to put 100,000 new police on the street will require local communities and States to come up with another $33 billion of their own funds, in essence doubling the cost to taxpayers of this crime legislation. Assuming that the local communities can find $33 billion, they then must follow new, bureaucratic quotas in the actual hiring process.

Mr. Speaker, this crime bill will also install a revolving door on our prisons. Every major public opinion survey shows that the public has lost confidence in our ability to arrest, detain and convict, and punish violent and repeat criminals. Republicans offered scores of tough amendments to strengthen this bill such as a "Three-Strikes-and-You're-Out" provision that would not require the felony convictions to come from separate episodes and even a "Two-Strikes-and-Your're-Out" provision that would have mandated life imprisonment for those convicted of two violent felonies.

While President Clinton calls this the toughest crime bill ever, it actually weakens some current laws. Unbelievably, to anyone who has studied this bill, important provisions to protect our families from sexual predators are actually weakened by this bill. This bill also provides a "safety valve" provision which would allow at least 5,000 convicted drug felons to immediately be eligible for a retrial, which could result in the reduction of their prison sentences by as much as a half or more. In fact, if this bill passes, this safety valve provision could apply to all of the roughly 15,000 so-called low level drug offenders in the Federal prison system.

This "Crime Bill" is also plagued by almost $9 billion in extravagant social spending including classes in dance, arts and crafts and self-esteem classes. Mr. Speaker, this is supposed to be a crime bill!

Interestingly, the money provided for these social programs will be considered mandatory spending and will go on indefinitely, while the money for the police is considered discretionary and will end in 6 years. The bill could, essentially, create two new social worker positions for every new individual police officer.

The General Accounting Office [GAO] recently reported that there already exists "a massive Federal effort on behalf of troubled youth" which spends over $3 billion a year. They go on to say that there are already seven Federal Departments sponsoring 266 prevention programs which currently serve delinquent and at-risk youth. GAO also reports that "it is apparent from the Federal activities and response that the needs of delinquent youth are being taken quite seriously." In this situation, additional spending without adequate safeguards and reporting requirements is not fiscally sound.

Mr. Speaker, in these days of continuing deficits and limited options, let's put our hard-earned taxpayer dollars where they belong and can do the most good: into prison construction, funding for new police and putting criminals where they belong, behind bars.

Ms. PELOSI. Mr. Speaker, I rise in support of the provisions of the crime bill dealing with midnight sports leagues. In my district of San Francisco, there are two thriving programs that are working to keep young men and women off the streets and into the classroom by using the power of sport. For a relatively small investment, these programs are making a large difference in the lives of San Francisco's young people.

In the Western Addition, a predominantly African-American community, the Ella Hill Hutch Community Center has a midnight basketball program that is taking nearly 100 young men—disadvantaged, unemployed, and at risk—and giving them a second chance at education and employment. Recently, at a nationwide conference on midnight sports, the Ella Hill Hutch basketball program was heralded as a model for the Nation.

In the Mission District, the heart of San Francisco's Latino community, the Columbia Park Boys Club and the YWCA are sponsoring "Midnight Soccer" for young men and women, and working actively to break the rising cycle of gang violence that is threatening the lives of so many young people.

By combining education, job training, peer counseling, and the discipline and enjoyment of sport, these two programs—midnight basketball and midnight soccer—are already making a valuable contribution to crime prevention and, more important, helping young people lead productive lives. The money earmarked in the crime bill for midnight sports is an investment that is more than justified by the results. I urge my colleagues to vote in favor of the midnight sports provisions of the crime bill.

Mrs. COLLINS of Illinois. Mr. Speaker, as a mother and a grandmother, as well as a resident of a large metropolitan area, I am as worried about and frightened by random and violent crime as are many Americans today. I share the concerns expressed by residents of my district for the safety of their children and the well-being of their families. I also understand the important role that this body must play in helping to reduce the incidence of crime nationwide.

However, let me say here and now that I am morally against the death penalty; I am against the very idea of treating 13-year-olds as adults even though they commit adult-like crimes because they are still children; and I am bitterly disappointed that the racial justice provisions of the House bill have been stricken from the Conference Report.

To repeat, I have serious concerns about this bill that invests more of our scarce Federal dollars to build and fill prisons rather than to effectively address the problems that necessitate their construction, this bill that creates more ways to punish rather than to provide, this bill that exponentially expands the death penalty without guaranteeing its fair application, this bill that condones warehousing some juvenile offenders as young as 13 years old and throwing away the key instead of unlocking the doors of opportunity for our most neglected and underserved youth.

However, there are a number of very beneficial provisions included in this conference report that I strongly support and that can help my constituents. The addition of 100,000 officers to walk the streets of our cities and towns, interacting on a daily basis with our citizens, can serve to strengthen the ties between law enforcement and local communities, thus creating a safer environment in which our children can grow. Residents of several neighborhoods in my district in Chicago, such as North Lawndale and Austin, have already been successful in organizing citizen partnerships with local authorities to tackle problems as they arise and ensure the continued vitality of the areas in which they live and work.

I am also pleased, Mr. Speaker, that the conferees agreed to include $1.8 billion of long-overdue funds for the Local Partnership Act to grant cities the resources necessary to implement proven, cost-effective, and much-needed health and educational crime prevention programs. I was successful in amending this Act to further assist in revitalizing distressed communities by setting aside 10 percent of the Federal payments awarded under the Act in each locality across the Nation for contracts and subcontracts with small minority or women-owned businesses as well as historically black colleges and universities. This provision will provide relief and the hope of a successful future to hundreds of small, disadvantaged enterprises and the neighborhoods in which they are located.

It is high time we recognize that giving individuals and families a greater stake in their communities through such initiatives is the best way to attack and deter lawlessness. We need to provide hope where there is little or none. The threat of punishment and retribution neither prevents nor stops crime from occurring. Only real opportunity does. In this regard, I am satisfied that the conferees accepted other preventive language of the House that encourages rehabilitation, education, and training of some nonviolent, first-time offenders as well as comprehensive drug treatment to move individuals down the path of recovery and toward self-sufficiency.

This conference report does contain a ban on 19 types of assault weapons as well as provisions making it illegal to sell a handgun to persons under 18 years of age. These common-sense measures should have been on

VOL 140 PT 15 AG 10 — 11 1994 UMI

the books years ago and their inclusion serves the "Not Really Attuned" NRA with a loud wake-up call that the American people are turned off by their attempts to block any and all rational gun control legislation.

Our children are at risk and we must begin to bring some sanity to our gun regulatory framework. In 1992 alone, in my city of Chicago, 741 youths 19 years of age and under were victims of gun injuries and early reports for 1993 and 1994 indicate rising numbers. At Children's Memorial Medical Center in Chicago, the number of children 16 and under treated for gunshot wounds skyrocketed 250 percent from 1988 to 1993. This is a disgraceful tragedy, Mr. Chairman.

Additionally of importance, this conference report signals to women of our country that we do care about their right to be safe, especially in their own homes. All too often in America today, women who are victims of violent assault, rape, or murder are victims at the hands of their husbands, boyfriends, or other acquaintances. Unfortunately, many times they become victims again when they seek assistance from law enforcement or the judicial system because these entities are insufficiently equipped to deal with gender-based crimes. With the inclusion of the Violence Against Women Act in this conference report, which will combat sexual and domestic violence with proper educational programs and police training as well as mandating higher penalties for gender-motivated crimes, we can rectify these inherent injustices that now exist.

Unfortunately, Mr. Speaker, despite these beneficial provisions, a portion of this bill is devoted to short-sighted, politically misguided, and, frankly, quite disturbing attempts to limit individual liberties and establish an eye-for-an-eye justice system in the United States. Such irrational cries for vengeance as a form of crime control do nothing but blind society to the real solutions to the problems with which we are confronted and inevitably heighten divisiveness among varying races and socio-economic classes across our Nation.

The thirty-fold expansion of Federal death penalty crimes in this bill is indicative of this irrationality. No study that I am aware of has ever proven the deterrent effect of the death penalty, and simply increasing the number of crimes subject to government-sanctioned execution will accomplish nothing, except increase the chances that African-Americans and other minorities will continue to be disproportionately among those sentenced to death.

While there is overwhelming evidence of the discriminatory nature of death penalty sentencing, it seems that some of my colleagues in both chambers do not seem to care. While they call for truth in sentencing, they certainly are not calling for true fairness in sentencing, given the absence of any form of racial justice language in this bill.

Under the 1988 Anti-Drug Abuse Act signed into law by President Reagan, the death penalty was allowed for individuals involved in certain illegal drug activities. Since this law took effect, 75 percent of those convicted of participating in a drug enterprise under this statute have been white and only about 24 percent of the defendants have been African-American. However, of those chosen for death penalty prosecutions, 78 percent of the defendants have been African-American and only 11 percent have been white. Furthermore, the General Accounting Office, Congress' own investigating arm, concluded in a 1990 report that racism definitely affects the use of the death penalty in the United States.

Even Supreme Court Justice Harry Blackmun stated earlier this year that "the death penalty experiment has failed * * * it remains fraught with arbitrariness, discrimination, and caprice, and mistake."

Mr. Speaker, in the language of the High Court, I concur.

I cannot express more adamantly my grave concerns about the way African-Americans in general are treated by our criminal justice system. In those cases where the death penalty is not imposed, African Americans are more likely to receive harsher punishments for the same crimes committed by others. In fact, studies have repeatedly shown that African-Americans are 21 percent more likely to receive mandatory sentences than are whites. Given the fact that the conference report before us mandates stiffer penalties for a greater number of crimes, especially the three-strikes provision, it is incumbent upon us as policymakers to ensure that penalties are meted out fairly. Again, unfortunately, some of my colleagues see no need for this.

I have always believed that those who commit crimes of any kind should be punished appropriately. However, I am greatly distressed that when it comes to some of our most troubled youth, the conferees have admitted defeat by keeping provisions in this conference report that will allow 13-year-old children to be tried as adults in the Federal system. Once again, some adult men and women in Congress would rather take the politically expedient easy road of writing off these kids as lifetime felons rather than addressing the reasons why these kids have gone astray.

This is an absolutely unconscionable way to deal with kids that society has neglected, refused to educate properly, refused to provide economic opportunities for, and simply refused to take the time to understand.

Mr. Speaker, we must launch an attack on crime in America. But we must not let our zeal to attack this problem overshadow the fundamental civil liberties upon which we have relied for over two centuries. Disturbingly, parts of this bill, as I have stated, tend to do just that.

Nevertheless, my constituents are demanding action and I cannot deny them their right to representation in the U.S. Congress. We are all affected by the crime rate. Many among us are disproportionately affected. According to many studies, those areas composed of individuals and families of modest to lower economic means, areas that make up portions of my district, are the areas most likely to be victimized by crime. My constituents are concerned about making the streets safe and have elected me to be the voice of their concerns. They believe that, despite its shortcomings, this bill contains too much that is beneficial to them, good for Chicago, and good for the Nation, to contribute to its possible defeat by a vote in opposition. Therefore, even though it is extraordinarily difficult on my personal moral grounds to vote for the death penalty—and this will be the first and only time in my life that I have done so—I will cast my vote in favor of this rule and for the conference report on H.R. 3355, the Violent Crime Control and Law Enforcement Act.

But I firmly believe we must revisit many of the issues I have touched upon. I am pleased that the President intends to commission a study of racial disparities in death sentencing. We must also, however, continue to work tirelessly to provide greater resources for building up our schools and neighborhoods, continue to offer greater avenues of opportunity down which our neglected and underserved youth can safely travel, so that instead of talking about "three strikes and you're out" in the future, we will be talking about the home runs hit in the game of life by more of these youngsters.

Mr. HALL of Ohio. Mr. Speaker, I rise in strong support of both the rule and crime bill conference report. We, in Congress, have a great opportunity to vote for an anticrime strategy that strikes a much-needed balance between more law enforcement, swift and certain punishment, and innovative prevention programs.

Crime is one of the most pressing issues facing the American people. While new or increased Federal penalties have been enacted into law, crime continues to plague our communities. The people of my district in Dayton, OH, and across the country, are tired and scared of hearing about crime and the underlying problems associated with it. Even though communities across the country fight crime effectively on the local level, Congress also can contribute by ensuring that sufficient funds are available. These resources will provide communities flexibility to target funds toward those areas most in need. The crime bill reflects the important partnership between local, State, and Federal Governments. Many provisions in this legislation are devoted to this cooperation and coordination between local communities and the Federal Government to meet the anti-crime challenge.

Mr. Speaker, obviously this bill contains some language that not all of us are in total agreement on. But, it does include so many worthwhile initiatives which will help communities fight crime in their areas. It would be foolish of us to let this opportunity slip through our fingers.

Putting more police officers on our streets is one of the most important provisions in the crime bill. These additional officers would increase police presence and provide local law enforcement officials with the assistance they need to fight crime.

Programs that help battered women and other crime victims cope with legal, physical, and mental trauma must be a top priority. The House passed an amendment I offered which extends funding to programs that assist victims of crime, language included in the conference report. This provision removes the 4-year limit on victims' assistance funding under the Byrne Memorial Fund. Providing this exemption will help worthwhile groups nationwide to continue dealing effectively with the target problems associated with domestic violence.

Our country needs this crime bill. It is time for us to put our partisan bickering aside and vote for a balanced and reasonable approach to the increasing violence in this country. This is the least that our young people deserve, who too are often neglected and witness the horror of violence at an early age.

I urge my colleagues to vote "yes" for the rule, and vote "yes" for the crime conference report.

Mr. HOUGHTON. Mr. Speaker, I will not take much time to inject myself into the crime bill rule debate. Much, maybe too much, has already been said, and I must say I have seldom seen such emotion—much of it partisan emotion—on the part of grown people. It makes one wonder about the objectivity.

In any event, I support the rule of the crime bill—not because I think it favors Republicans. It does not. I support it because, in this particular case, the rule is the bill. This is not so in many cases, but it is here.

The bill also is not perfect. I give it a C+ rating, but it is an issue whose time has come. It is a first step, an important one, a timely one. If you don't take the first step, how do you get to the second or the third or the fourth. And there are many additional steps needed to battle crime.

I just think that we should not delay. It's always easy to say hold on; don't act. I do this myself. Sometimes I guess I'm right—sometimes not. But here the debate has gone on for years. We know the issues. We've decided on the major points. Let's get at it and move, move. If we're wrong we can change, but let's not be paralyzed and do nothing.

Mr. DELAY. Mr. Speaker, I rise today in opposition to the rule on this touchy-feely conference report on the crime bill. As we all know, the conference report was not submitted until 7:30 last night and is 900 pages long. Mr. Speaker, this does not give Members an opportunity to review the legislation.

Nevertheless, what we do know of the crime bill should seal its fate on the floor today. This bill is not really about crime and it is certainly not what the American people have asked for.

Mr. Speaker, the American people would not approve of this crime bill. A new study by the Luntz Research Co., reports that when people were asked how Federal tax dollars are spent on various crime measures, 69 percent supported more cops and 44 percent supported new prisons, while 48 percent opposed midnight basketball and new social workers as a poor use or complete waste of Federal tax dollars.

With $32 billion in spending and 30 new social programs paid into a welfare system which has already cost taxpayers over $5 trillion since 1965, we should learn the lesson that throwing money at problems for social programs doesn't reduce crime.

We know that the best way to prevent crime is take the 7 percent of criminals who commit over two-thirds of all violent crime and take them off the streets. And we can do this by building new prisons, implementing truth in sentencing, putting more cops on the streets, stopping endless habeas corpus appeals and implementing a real "3 strikes and you're out" provision, measures which were all included in the House Republican crime bill.

Instead, we have a bill that spends, spends, spends: $1.8 billion for education, job training, and self-esteem programs, $100 million for anything tangentially related to crime, $630 million for children's arts and crafts, dance and other recreation, $10 million for public housing to supplement the $30 billion that HUD is already spending, $200 million for assorted inner-city youth activities, $6 million for urban parks and recreation, $270 million for schools to coordinate social workers and teachers, $50 million for youth development, $3 million to search for missing alzheimer's patients, and of course, $40 million for midnight basketball.

Mr. Speaker, I'm surprised the President didn't include his health care plan in the crime bill.

Moreover, the gun ban in this bill covers more than 180 firearms, affecting 50 percent of the gunowners in this country. Gun bans are fundamentally flawed because they affect the guns and not the criminals. I've never known a law that restricts law-abiding citizens decrease violent crime. We need to spend taxpayer resources keeping violent criminals off the streets, not levying more laws on law-abiding citizens. Let's crack down on the people who unlawfully pull the triggers.

Mr. Speaker, even the FBI Director, Louis Freeh has criticized this bill for downsizing two of the great crime-fighting organizations in our country: the Drug Enforcement Agency and the FBI.

I urge Members to defeat the rule on this bill. America doesn't need emptier pockets in the name of prevention. Let's take this bill back and give the American people a real crime bill.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong opposition to this rule and the conference report. In April, the House approved this measure as a modest effort to stem the rising tide of crime. Unfortunately, the bill has since returned from a House-Senate conference committee as a liberal's grab bag of social spending goodies, been given the name "crime bill" by the President and the House democratic leadership, and brought before us here today. Not since the 1960's and President Johnson's Great Society has the Congress of the United States considered such a broad social spending bill. In fact, not since Orson Wells broadcast of "War of the Worlds" has such a charade been perpetrated on the American people. It has been my frustrating experience that every attempt to enact strong anticrime legislation is blocked by the liberals of this House at every opportunity. It is clear that this is true again today.

As I said, Mr. Speaker, when the House began this effort earlier this year, the intentions of my colleagues and I, who support strong criminal reform legislation, was to pass a bill that would protect our people and our police by helping prosecutors and judges put away—and keep away—America's most violent offenders. We sought to put more police in our communities, strengthen the death penalty and limit the endless appeals process, provide life sentences for third-time violent offenders, enact truth-in-sentencing provisions that would ensure criminals serve out their prison terms, and provide funding to build prisons for their punishment.

During consideration of this legislation in April, we were successful in our efforts on several of these fronts. The House bill authorized funding for 100,000 officers on the streets, and provided grants to build and expand space in correctional facilities in order to implement specified truth-in-sentencing requirements. The bill imposed life imprisonment on persons who committed a third violent felony under Federal law and included language to end the seemingly pleasant treatment of prisoners. The bill prohibited the awarding of Pell higher education grants to inmates and strength training on weight equipment in Federal facilities. In addition, more than $14 billion was authorized for new prison construction. And in an attempt to address the growing problem of illegal aliens in our jails, the bill increased border patrols and included new deportation procedures to speed deportation of aliens convicted of crimes.

Unfortunately, the moment this legislation left the House, the usual efforts began to water down the progress made in these areas, and beef up the bill's prevention programs. The result of those efforts is the legislation before us today. Rather than putting cops on the beat this bill puts strings on the purse by requiring hiring quotas and other bureaucratic conditions for receiving grants to hire police. The funding mechanism for these grants, proposed cuts in the budgets of the Federal Bureau of Investigation and the Drug Enforcement Agency, have led our Nation's chief law enforcement officer, FBI Director Louis Freeh, to criticize this legislation.

For States that don't want to comply with the truth-in-sentencing guidelines, there are loopholes which allow them to get prison funds anyway. In addition, funding for prison construction was nearly cut in half. Even more ironic is the way in which this legislation seeks to combat crime by retroactively ending mandatory minimum sentencing requirements. An act which could lead to the release of 10,000 convicted drug offenders.

But the big news of course is "Stimulus II", the $9 billion in social spending which is essentially a reincarnation of President Clinton's 1993 pork-barrel stimulus bill which funds lots of "feel-good" programs that have no connection to crime. Lyndon Johnson called these programs the solution to ending poverty, today we're being told they will end crime. Even more outrageous is that all this money would go where the President or Cabinet Secretaries choose.

Here are some of the brilliant solutions to our Nation's crime problem contained in this bill. No doubt the mere mention of these programs will strike fear in the heart of the most violent criminal.

Youth Employment and Skills Crime Prevention (YES): A $900 million program intended to test the proposition that crime can be reduced through a saturation of jobs. Saturation indeed, when you consider this is in addition to the current $25 billion that the Government Accounting Office reports the Federal Government already spends on 154 job training programs.

The Local Partnership Act: $1.8 billion to local governments in areas with high taxes, high unemployment and high crime. The Act provides grants for education, substance abuse treatment and job programs. Unfortunately, there is no enforceable condition that the funds be used to fight crime. To say that these programs are going to be funded for the purpose of preventing crime does not change

VOL 140 PT 15 AG 10 — 11 1994 UMI

the basic idea that the whole purpose of this provision is another opportunity to spend money as fast as possible.

Drug courts: $1.3 billion to governments, courts and private entities chosen by the Attorney General to provide benefits to criminals who are drug addicts. The benefits include child care, housing placement, job placement, vocational training and health care. Who says crime doesn't pay? I am sure that many of my constituents could use help in paying for child care or finding a house or a job, let alone health care. It is unfortunate that we would encourage them to become convicted drug addicts so they might receive such benefits.

Midnight sports: $40 million to entities chosen by the Secretary of Housing and Urban Development to fund midnight sports leagues in high crime and drug use areas for youths that cannot sleep. I would suggest that we encourage our young to stay home, do their homework and get a good night's sleep before school the next day, not stay up until after midnight playing sports. There is plenty of time for organized sports after school.

Ounce of prevention: An interagency council made up of Cabinet Secretaries that will provide $100 million for programs that promote arts, crafts, dance programs, and "life skills training." These may be worthwhile programs, but let's consider them on their merits. Not cloaked in a bill that is supposed to fight crime.

Mr. Speaker, crime is a serious problem in this country. The American people demand a serious response by the Congress and are insulted by the masquerade underway here. They want a tough anti-crime bill, not a return to the social welfare spending of the 1960's and 1970's. If these programs were the answer to crime, the street corners of our Nation would be far and away the safest in the world. We have already spent $5 trillion on social welfare programs in 30 years. If the President wants these social programs he can request them in his budget and the House can vote up or down on their approval.

Mr. Speaker, we need to defeat this conference report and send it back to conference with the same message the American people are sending us—strip the social spending and focus on the good proposals we have already approved and which have a successful record in fighting crime. We did not come this far to pass an expensive economic stimulus package with an anti-crime label. Our constituents deserve better.

Mr. EWING. Mr. Speaker, I rise to oppose the rule on the omnibus crime bill. It is imperative that the conference committee renegotiate this bill to remove the expensive social programs and improve upon the law enforcement provisions. The conference committee's report has more to do with social welfare programs than it does with fighting crime.

I agree with FBI Director Louis Freeh's recent criticism of the crime bill because it redirects funds from the Federal Bureau of Investigation and the Drug Enforcement Agency to ineffective social programs. This Congress needs to get serious about fighting crime and pass a bill that assists law enforcement officials and keeps criminals behind bars.

The crime bill includes $9.1 billion for prevention programs such as self-esteem classes, midnight basketball, and arts and crafts training. Many of these prevention initiatives are duplicative of programs already on the books which have had little or no effect in reducing crime.

The conference committee removed tough crime fighting provisions from the bill. Most surprising is the fact that the conference committee removed a provision which would make it a Federal crime to carry or use a gun during a violent crime. This provision would have targeted the most violent criminals in the United States.

Congress needs to pass a bill with certain penalties for those convicted of committing violent crimes. Let's send this bill back to conference and demand a tough crime bill.

Mr. KYL. Mr. Speaker, I rise in opposition to the rule to H.R. 3355, the crime conference report. I support many of the provisions of H.R. 3355, but the process by which this crime bill has been developed was marked every step of the way with partisan roadblocks.

Attempts to improve this bill have been rejected by the Democrat-controlled Rules Committee, from consideration on the House floor and in conference. These roadblocks have obstructed efforts to produce many tough, meaningful reforms to our criminal justice system. The bill was filed at 7 p.m. last night, which means the Rules Committee had 1 hour to review the document before voting on its rule. For Republicans, there has not been a complete conference document to refer to in order to know about specific provisions.

The responsible vote is to oppose the rule and send the measure back so improvements can be made. Improvements which will correct some of the missed opportunities and respond to the needs of law-abiding citizens, police forces, prosecutors, courts and prison systems around my home State and the rest of the Nation.

The legislation I have supported throughout this process, H.R. 2872, includes measures, among other things, to set mandatory minimum prison terms for violent crimes; provide funding for additional police officers; limit probation and parole; limit death row appeals and expand the death penalty; provide funding to fight illegal immigration and strengthen criminal alien deportation laws; increase penalties for crimes committed with guns; provide funding for prison space to incarcerate violent offenders; and, provide a good faith exception to the exclusionary rule.

Some of the provisions of our bill were included in the conference report, but other important provisions designed to fight violent crime, including a measure to allow evidence of prior sex crimes of the accused to be admitted in sex/child molestation cases, were not included despite instructions to House to do so. I will continue to fight for their passage.

According to the Uniform Crime Report, the violent crime rate in Arizona increased 129 percent between the years of 1975 and 1993. To make the changes necessary to ensure the safety of our citizens, this crime bill should be improved. Defeating the rule will allow for that.

If we know that we could reduce the problem of violent crime by 70 percent with just a few actions, would we do it? According to researchers at the University of Pennsylvania, approximately 7 percent of criminals commit over 70 percent of violent crime. If we facilitate putting and keeping these criminals in prison, we eliminate the chance of being victimized by their actions.

The conference report, therefore, should be changed to more adequately provide prison construction funding for the States. The conference report includes only $6.5 billion in state funding for prisons. Of that amount, up to approximately $4 billion can be used by States for non-prison construction activities. The House is already on record instructing conferees to include $13.5 billion in prison construction. And, according to government data supplied by Michael Block of the University of Arizona, between 1980 and 1990, and 10 States with the highest increase in their prison populations, relative to total FBI crime indexes, experienced, on average, a decline in their crime rates of more than 20 percent, while the States with the smallest increases in incarceration rates averaged almost a 9 percent increase in crime rates. Clearly, we can take a big step to better help States keep violent criminals off our Nation's streets and in jail by providing more prison funding.

The crime bill should also be changed to encourage states to ensure that violent, repeat offenders are locked up under "three-strikes-you're-out" and "truth-in-sentencing" laws. The conference report requires that under its "three-strikes-you're-out provision the third strike be a Federal violent offense, which will result in only about 300 to 400 violent, repeat offenders being taken off our Nation's streets for good. According to Mr. Block, every day this year, 14 people will be murdered, 48 women raped, and 568 people robbed by criminals who have already been caught, convicted and then returned to the streets on probation or early release. The crime bill should be changed to increase the number of repeat offenders who will be put behind bars for good.

Another area in need of complete re-direction in the crime bill is the $9 billion allocated for social programs. Given that, among other things, the crime bill, (a) only allocates a part of what is needed for prisons, (b) will only fund about a fifth of the 100,000 local police officers promised, and (c) has been criticized by the director of the Federal Bureau of Investigation for taking needed agent resources from the FBI and Drug Enforcement Administration, the responsible action to take is to send the crime bill back to conference to prioritize the spending in this bill.

For example, the Youth Employment and Skills Crime Prevention program in the bill includes over $900 million for a jobs program for youth. The problem is that, according to the General Accounting Office, the Federal Government already spends $25 billion on 154 Federal job training programs, many of them specifically designed for disadvantaged youth. Many believe this is illustrative of duplicative, wasteful programs which are funded in this crime bill and should be eliminated.

Another provision of the bill which should be sent back to conference is the semiautomatic weapons ban, which passed the House by a vote of 216 to 214 earlier in the year, and which I voted against. The biggest difference we can make to reduce crimes committed with guns is not to infringe on law-abiding people's rights, but to significantly increase penalties for illegal use of guns. Several attempts were made to increase penalties in this bill for crimes committed with guns, and, even though the House has voted to instruct conferees to increase these penalties, ultimately they were rejected by the Democrat-controlled conference committee. That should be corrected.

There are other important issues, such as the "good faith" exception to the exclusionary rule, which allows evidence obtained by police in good faith to be admissible in court even if its seizure was beyond the technical scope of the Fourth Amendment. Several attempts were made to include this measure in the bill but, again, the Democrat-controlled House rejected those attempts.

The direction on this bill should be clear. The Congress should take this opportunity to be responsible, vote down the rule and send this bill back to the drawing board where the questionable provisions can be taken out, strengthening amendments can be added and the rights and safety of law-abiding citizens can be protected.

We have the opportunity. Do the right thing. Vote against the rule on this bill.

Mrs. ROUKEMA. Mr. Speaker, I rise in support of this rule and this conference report and would urge my Republican colleagues to do the same.

I know that many of my colleagues have discovered various reasons to oppose this legislation and there are portions of this bill that I do not support. But on balance, with our country facing an epidemic of violent crime, this legislation represents progress.

If we fail to act now, We will have to answer to the countless victims of a failed criminal justice system.

The American people know it. We must control crime and close the revolving door of the criminal justice system. Our laws must punish the criminal and safeguard law-abiding citizens. We must take back our streets.

This bill is not perfect.

Let me repeat: This bill is not perfect.

Do I support midnight basketball? No.

Do I think we should be handing $1.8 billion for the Local Partnership Act to the Clinton administration and big-city mayors. Absolutely not.

Yes, we need habeus corpus reforms. We need tougher truth-in-sentencing. Police should have a good faith exemption to the exclusionary rule. The provisions on sexual predators are not strong enough.

So why am I voting for this rule and this bill?

Because my constituents are being forced to look over their shoulder as they walk the dog in their own neighborhood, to worry about the security of their children's playground, and to huddle in their homes for fear of going to the nearby shopping center.

Because Jack and Arlene Locicero and sister Cary of Hawthorne, NJ are living today with the loss of a precious daughter killed at random by a madman on a commuter train last December and I promised the Lociceros that I would not let Amy be just another statistic, some good must come of their tragedy.

Mr. Speaker, the Lociceros and the American people are counting on us to take back our streets!

This bill puts 100,000 new cops on the streets many of them in community policing programs.

This bill hires close to 100,000 new border patrol agents to battle the rising floodtide of illegal immigration.

This bill contains the "three strikes you're out" provision to lock up repeat violent offenders.

This bill contains an expanded Federal death penalty.

This bill will build new prison space in every state in the Union.

That's precisely why it is supported by a range of law enforcement organizations: The National Association of Police Organizations, the Fraternal Order of Police, National Sheriff's Association, the National District Attorneys Association, the National Association of attorneys General, the International Brotherhood of Police Officers, the Police Foundation, the Federal Law Enforcement Officers Association, to name just a few.

The American people want us to act and act now. They can't wait. They should not have to. Pass the rule. Pass the crime bill.

Mr. KOLBE. Mr. Speaker, I rise in opposition to the rule on this so-called crime bill conference report. Since my constituents first sent me to Congress to represent them, I have pushed for crime control measures that put personal safety above political expediency. But, Mr. Speaker, I could not look my fellow Arizonans in the eye and honestly say that this bill puts people over politics. That is why I am voting against this rule; it is the only opportunity for us to send this bill back to conference and make the conferees fix this bill so that it attacks crime and gives law enforcement the tools to fight criminals.

I know about the terrible crime problem southern Arizonans face almost daily. I hear from them about their fears and frustrations. It is easy to understand why crime is America's number one concern. But despite their concern with crime, this crime bill has not been embraced by the public. Why? I think it is because people realize it will be ineffective in the fight against violent crime while costing taxpayers over $33 billion. Americans know this Nation has a dysfunctional criminal justice system—a system that releases dangerous criminals into the community when they should be serving their sentences, a system that gives more weight to the rights of criminals than to victims, and makes it impossible to carry out the death penalty when it is imposed. And this conference report is dysfunctional—like the system it seeks to reform.

Even key criminal justice experts have spoken out against the crime conference report. FBI Director Louis Freeh criticized the bill, saying it would hurt local and Federal law enforcement more than it would help by robbing them of funds. Princeton professor John J. Dilulio, Jr., a Democrat who is widely recognized as the Nation's foremost student of criminal justice issues, originally supported the administration's anticrime proposals. He supports a ban on assault weapons, and he supports some social spending. However, he argues that the bill reported by the conference should be abandoned. "It will do nothing to reduce the country's crime problem," he says, "In fact, it may actually add to it."

Let us look at why this bill will do nothing to fight crime.

First, this bill does not address what I, and Members from both parties, have fought for—procedural reform, not redistribution of wealth through grant programs. This conference report contains no habeas corpus reform, no exclusionary rule reform, and weakened Federal death penalty provisions. In short, this bill does nothing to ensure swift punishment for the guilty.

Additionally, the conferees stripped or weakened many of the tough anticrime provisions included in the original House and Senate bills. for example, provisions allowing prosecutors to treat violent juveniles 13 and older as adults in appropriate cases were eliminated. Provisions passed by the House to strengthen death penalty procedures were stripped. Mandatory HIV testing of accused rapists was erased. The provision allowing for the admissibility of evidence of similar crimes in sex offenses was dropped. These are just a few examples that were stripped from the bill.

The much praised cops-on-the-beat program will quickly become a huge burden for communities because the numbers do not add up for this program. The $8.85-billion community policing grant program will only provide enough funding to keep 20,000 permanent cops on the street over the next 6 years. To keep 100,000 cops on the beat for the next 6 years, States and localities will have to kick in over $30 billion to make up the difference. I have personally spoken to sheriffs and policr chiefs in my district who are wary of this too-good-to-be-true provision.

This bill is flawed because it could put twice as many social workers on the streets as it does cops. It authorizes $8.7 billion to create nearly 30 new crime prevention programs. This is added to the welfare state that already costs taxpayers $310 billion per year. The United States has spent $5 trillion on the War on Poverty since 1965, yet the national crime rate has not declined. The new programs created will duplicate at least 50 existing federally funded crime prevention grant programs. These programs are in the bill to garner support from an interest group within Congress, and these programs have escaped scrutiny. These programs are little more than infrastructure, social, and job training programs under a crime prevention label. Make no mistake; some social prevention programs have been successful, but if the Federal Government is to fund programs, we should at least make sure that the money will not be wasted on liberal social engineering.

I support the construction of new prisons, but the money for this purpose—$10.5 billion—is not what it is cracked up to be. Over $2.2 billion of that money is not financed and $1.8 billion of the funding goes to housing criminal illegal aliens. Although I support reimbursing States for the cost of incarcerating convicted illegal aliens, this money will go to States as decided by the Attorney General—not necessarily to those who need it. All told, the total trust fund funds going to build prisons is $6.5 billion. But there's more: States and localities are not required to actually build prisons, and can instead use the funds for any activity affecting prisoners postconviction. They could fund anything from half-way houses to

VOL
140
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macrame classes, as long as those utilizing the funds have been convicted.

I also oppose the assault weapons ban and the ban on gun magazines that hold more than 10 rounds of ammunition. I believe this ban is of at least dubious constitutionality, and will do nothing to make our streets safer.

This bill represents what my constituents are sick and tired of—politics as usual. This $32-billion bill is a perfect example of fiscal incompetence and a back-door channeling of taxpayers' dollars towards special-interest groups and political payoffs. Congress is authorizing more money than ever before for a crime prevention bill which is a product of dishonest government playing on the fears that every American is experiencing.

The process used by House leadership is just as dishonest. Members have had barely 6 hours to examine the 450-plus page conference report which just appeared in the CONGRESSIONAL RECORD. Just as the American people are demanding that they have a chance to examine health care proposals before they are voted on, they also demand that we have the opportunity to read and understand the crime bill before we vote on it.

We have a criminal justice system that releases dangerous criminals into the community when they should be serving their sentences, that gives more weight to the rights of criminals than to victims, and makes it impossible to carry out the death penalty when it is imposed. We need to defeat this rule and send the conference report back to the drawing board so that Congress can bring back a crime bill that will do the job. The Federal Government should be assisting States and local governments in their efforts to lockup criminals, protect victims' rights, and provide the tools to make law enforcement even more effective.

I urge my colleagues to defeat this rule.

Mr. DERRICK. Mr. Speaker, I yield the balance of my time to the distinguished Speaker of the House, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, my colleagues, I think everyone knows that it is relatively rare for the Speaker to leave the chair and to speak in the well in debate on an issue. it is also very rare for him to vote. That is the tradition of the House. Like everyone else, I have the right to vote, and I will exercise it in voting for this rule and in voting for this bill.

I do so because frankly I think it is a key vote, not for the President, and I was glad to hear our distinguished Republican leader talk about our President as "our" President. I have served here for 30 years. Richard Nixon was my President, our President, Ronald Reagan was our President, George Bush was our President, and Bill Clinton is our President.

But it is not about the President. It is about our responsibility as Members of the Congress to our constituents, the people in all the 435 districts and the 5 territories that are represented here in this Chamber. This is the great collection, the Congress of the American people.

And what are the American people telling us? They are telling us that after we have spent trillions of dollars rightfully, and I voted for those trillions of dollars to defend our country against foreign threat, their most deep concern is for their security and the security of their families on the streets of our own cities and not on the beaches or air space of other countries, or some foreign threat. We have conquered every reasonable threat that could be placed against our people from outside the country, but inside the country elderly people, and children, and families are afraid to go on the streets at night in their own communities. They have asked us to respond to that fear.

It always seems that we get to that point and something intervenes. We passed the bill in the last Congress. It was filibustered in the Senate. And now procedural objections suggest we should not even vote on this bill, we should not even respond "yes" or "no."

I have a respect for anyone on either side of this aisle who says that he things or she thinks this bill should be voted down, but I say, "Let the American people know your reasons, and let them know your vote. To govern is to choose on the issue that the American people believe is the most central to their immediate concerns, their most deeply felt concerns about security in the future."

This is a vote we cannot avoid and should not avoid. We should stand up, and cast our votes, and explain to our constituents the reasons for our actions. That is the very minimum of what our constituents expect us to do.

In all the years that I have been in Congress, and I have been here 30 years, I have seen times in my experience when I thought votes were, perhaps, even more crucial than the vote that we are casting today; not many, but some. But this is a truly crucial and seminal vote, and it will determine, I think, not only the confidence in the country in our ability as an institution to respond to their concerns and needs, but it will make a very real and tangible difference in the lives of my constituents in eastern Washington, in the towns and cities of this largely rural part of our country.

I used to be a deputy prosecutor. The days of my experience in law enforcement have been exceeded many, many times by the threats that exist in my communities as well as those of my colleagues. Let us not be a helpless giant in response to the demands and concerns of our people. Let us respond to their most deeply felt needs and concerns. The society that cannot protect the physical security of their citizens is a pretty useless society whatever else it can accomplish.

My colleagues, let us vote for this rule. Let us vote for this bill.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. RUSH). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GOSS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 210, noes 225, not voting 0, as follows:

[Roll No. 394]

AYES—210

Abercrombie	Furse	Minge
Ackerman	Gejdenson	Mink
Andrews (ME)	Gephardt	Moakley
Andrews (NJ)	Gibbons	Montgomery
Andrews (TX)	Glickman	Moran
Applegate	Gonzalez	Morella
Bacchus (FL)	Gordon	Murphy
Baesler	Grandy	Murtha
Barca	Green	Nadler
Barlow	Gutierrez	Neal (MA)
Barrett (WI)	Hall (OH)	Neal (NC)
Becerra	Hamburg	Oberstar
Bellenson	Harman	Obey
Berman	Hastings	Olver
Bevill	Hefner	Owens
Bilbray	Hinchey	Pallone
Bishop	Hoagland	Pastor
Blackwell	Hochbrueckner	Payne (NJ)
Blute	Houghton	Pelosi
Boehlert	Hoyer	Penny
Bonior	Hughes	Pickle
Borski	Hutto	Pomeroy
Brooks	Inslee	Price (NC)
Brown (CA)	Jacobs	Quinn
Brown (FL)	Jefferson	Ramstad
Brown (OH)	Johnson (CT)	Reed
Bryant	Johnson (GA)	Reynolds
Byrne	Johnson (SD)	Richardson
Cantwell	Johnson, E.B.	Roemer
Cardin	Johnston	Rose
Carr	Kanjorski	Rostenkowski
Clayton	Kaptur	Roukema
Clement	Kennedy	Rowland
Clyburn	Kennelly	Roybal-Allard
Coleman	Kildee	Rush
Collins (IL)	Kleczka	Sabo
Collins (MI)	Klein	Sanders
Condit	Kopetski	Sangmeister
Conyers	Kreidler	Sawyer
Coppersmith	LaFalce	Schenk
Coyne	Lambert	Schroeder
Cramer	Lantos	Schumer
Darden	Lehman	Serrano
DeLauro	Levin	Sharp
Dellums	Lipinski	Shays
Derrick	Lloyd	Shepherd
Deutsch	Long	Skaggs
Dicks	Lowey	Slattery
Dingell	Maloney	Slaughter
Dixon	Mann	Spratt
Dooley	Manton	Stark
Durbin	Margolies-Mezvinsky	Studds
Edwards (CA)	Markey	Swett
Edwards (TX)	Martinez	Swift
Engel	Matsui	Synar
English	Mazzoli	Thompson
Eshoo	McCloskey	Thornton
Evans	McDermott	Torres
Farr	McHale	Torricelli
Fazio	McKinney	Towns
Filner	McNulty	Traficant
Fingerhut	Meehan	Tucker
Flake	Meek	Valentine
Foglietta	Menendez	Velazquez
Foley	Meyers	Vento
Ford (MI)	Mfume	Visclosky
Ford (TN)	Miller (CA)	Waxman
Frank (MA)	Mineta	Wheat
Frost	Woolsey	Wynn
Whitten	Wyden	Yates

NOES—225

Allard	Grams	Peterson (MN)
Archer	Greenwood	Petri
Armey	Gunderson	Pickett
Bachus (AL)	Hall (TX)	Pombo
Baker (CA)	Hamilton	Porter
Baker (LA)	Hancock	Portman
Ballenger	Hansen	Poshard
Barcia	Hastert	Pryce (OH)
Barrett (NE)	Hayes	Quillen
Bartlett	Hefley	Rahall
Barton	Herger	Rangel
Bateman	Hilliard	Ravenel
Bentley	Hobson	Regula
Bereuter	Hoekstra	Ridge
Billirakis	Hoke	Roberts
Bliley	Holden	Rogers
Boehner	Horn	Rohrabacher
Bonilla	Huffington	Ros-Lehtinen
Boucher	Hunter	Roth
Brewster	Hutchinson	Royce
Browder	Hyde	Santorum
Bunning	Inglis	Sarpalius
Burton	Inhofe	Saxton
Buyer	Istook	Schaefer
Callahan	Johnson, Sam	Schiff
Calvert	Kasich	Scott
Camp	Kim	Sensenbrenner
Canady	King	Shaw
Castle	Kingston	Shuster
Chapman	Klink	Sisisky
Clay	Klug	Skeen
Clinger	Knollenberg	Skelton
Coble	Kolbe	Smith (IA)
Collins (GA)	Kyl	Smith (MI)
Combest	Lancaster	Smith (NJ)
Cooper	LaRocco	Smith (OR)
Costello	Laughlin	Smith (TX)
Cox	Lazio	Snowe
Crane	Leach	Solomon
Crapo	Levy	Spence
Cunningham	Lewis (CA)	Stearns
Danner	Lewis (FL)	Stenholm
de la Garza	Lewis (GA)	Stokes
Deal	Lewis (KY)	Strickland
DeFazio	Lightfoot	Stump
DeLay	Linder	Stupak
Diaz-Balart	Livingston	Sundquist
Dickey	Lucas	Talent
Doolittle	Machtley	Tanner
Dornan	Manzullo	Tauzin
Dreier	McCandless	Taylor (MS)
Duncan	McCollum	Taylor (NC)
Dunn	McCrery	Tejeda
Ehlers	McCurdy	Thomas (CA)
Emerson	McDade	Thomas (WY)
Everett	McHugh	Thurman
Ewing	McInnis	Torkildsen
Fawell	McKeon	Unsoeld
Fields (LA)	McMillan	Upton
Fields (TX)	Mica	Volkmer
Fish	Michel	Vucanovich
Fowler	Miller (FL)	Walker
Franks (CT)	Molinari	Walsh
Franks (NJ)	Mollohan	Washington
Gallegly	Moorhead	Waters
Gallo	Myers	Watt
Gekas	Nussle	Weldon
Geren	Ortiz	Williams
Gilchrest	Orton	Wilson
Gillmor	Oxley	Wise
Gilman	Packard	Wolf
Gingrich	Parker	Young (AK)
Goodlatte	Paxon	Young (FL)
Goodling	Payne (VA)	Zeliff
Goss	Peterson (FL)	Zimmer

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Mr. HAYES changed his vote from "aye" to "no."

So the resolution was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST BY MEMBER TO ADDRESS THE HOUSE FOR 1 MINUTE

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent to proceed out of order for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mrs. COLLINS of Illinois. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REQUEST BY MEMBER TO ADDRESS THE HOUSE FOR 1 MINUTE

Mr. THOMAS of California. Mr. Speaker, I ask unanimous consent to proceed out of order for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from California?

Objection is heard.

REQUEST FOR GENERAL LEAVE ON HOUSE RESOLUTION 517

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the debate of House Resolution 517.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

Mr. SOLOMON. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

LEGISLATIVE PROGRAM

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I would just like to make one comment. That is this, Mr. Speaker. We take it on the chin all the time, and I do not understand why the liberals cannot at least once in a while show a little tolerance.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. GEPHARDT. Mr. Speaker, I would like to announce to the Members of the House that I think it would be advisable if we do not go forward with the remaining business on the schedule today, and return to it tomorrow.

I also would like to tell Members that a little later today we hope to be able to give a more definitive judgment on what will go on beyond tomorrow. We are not prepared at this moment to do that, but we will do that as quickly as we can a little bit later this afternoon.

Mr. Speaker, I think it would not be, perhaps, wise to go forward with more business this afternoon.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I appreciate the gentleman from Missouri yielding to me.

Mr. Speaker, all I wanted to say earlier was, this is one of several very serious national issues we are trying to deal with. We often have disagreements of a variety of kinds here. We would hope that we could go back to conference, as that is what this vote signals, and that we could work together and produce a bill on which we could vote for a rule.

Mr. Speaker, we sent a letter that the gentleman from Illinois, Mr. MICHEL and Mr. HYDE, the gentleman from Florida, Mr. MCCOLLUM, the gentleman from Texas, Mr. ARMEY, and I signed indicating what we would be willing to talk about and things we can work out together. I do not think the House should leave tonight with the feeling that this is at a dead end. I hope we can pick this up tomorrow and work in conference and produce something together.

Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, for the RECORD I include the letter just referred to, addressed to the President of the United States, dated August 9, 1994:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 9, 1994.

HON. WILLIAM J. CLINTON,
President of the United States, the White House, Washington, DC.

DEAR MR. PRESIDENT: Contrary to the assertions of some in your Administration, the crime conference report is not stalled because of the assault weapons provision, but instead due to the more than $9 billion in new social welfare spending. We are writing to offer our assistance in moving a real crime bill that will get more police on the street and more violent criminals in prison now.

Mr. President, you have been quoted in the press as touting this bill as the largest crime bill in history. But bigger doesn't necessarily mean better. In a matter of days or even hours, the law enforcement provisions of the crime bill could be beefed up and the social welfare spending dramatically trimmed down to produce a product that will crack down on violent crime, but not bust the budget.

Specifically, we are willing to work with you and congressional Democrats to revise the crime bill in the following ways:

Restore the new State prison funding to the $13.5 billion passed by the House, allocated under the terms of the so-called Chapman formula currently in the bill,

Restore the so-called Gekas provisions passed by the House to strengthen the death penalty procedures,

VOL 140 PT 15 AG 10 — 11 1994 UMI

Follow the overwhelming view of the House shown by its motion to instruct conferees and restore the Dole-Molinari-Kyl provision on the admissibility of evidence of similar crimes in sex offenses,

Remove the hiring quotas and other bureaucratic conditions on receiving grants to hire police,

Remove the more than $9 billion in social welfare spending and replace it with the Senate's full funding for the Byrne grant program to ensure that the money we spend in this bill is truly directed at crime prevention.

Many Republicans have other concerns about this bill, but we believe that if you and congressional Democrats strengthen the crime bill along the lines suggested above, you would have overwhelming Republican support—and overwhelming support in Congress as a whole—for this truly tough, anti-crime legislation.

Because we realize that there are some in your party who feel strongly about the new social spending provisions, Republicans would be willing to support a rule allowing for the consideration of a social welfare spending package as a separate bill after we have passed the consensus crime bill outlined above. That means Congress would have an opportunity to both pass a tough anti-crime bill that puts more police on the street and more violent criminals in prison, and consider a package of new social welfare spending. This approach would avoid the gridlock that has developed within your party as a result of the current strategy of tying these issues together in one bill assuming that Members will hold their nose and vote for anything that has police and prison funding.

The American people are demanding action now on a tough anti-crime bill. We look forward to working with you to draft such a bill this week so that we can move immediately to consideration of a bill that commands overwhelming bipartisan support.

Sincerely,

BOB H. MICHEL,
Republican Leader.
DICK ARMEY,
Conference Chairman.
NEWT GINGRICH,
Republican Whip.
HENRY HYDE,
Policy Committee Chairman.
BILL MCCOLLUM,
Conference Vice Chairman.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Illinois [Mr. MICHEL], the minority leader.

Mr. MICHEL. Mr. Speaker, if we are to have no further business today, and there is this consultation that will take place here that will give us some indication of the schedule for tomorrow or next week, would we have a notice, then, to the majority and minority rooms to get out a whip notice of how that will work?

Mr. GEPHARDT. Mr. Speaker, that is correct. As soon as we can do this consultation, we will be in consultation with the minority. Then we can make a joint statement available through the Cloakrooms.

Mr. MICHEL. I thank the gentleman.

GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 517.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

URGING BIPARTISAN COLLABORATION ON THE HEALTH CARE REFORM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, we saw a dramatic event in the modern life of the House just a few minutes ago: A rule was turned down. It was not supported by a majority of the majority in this Chamber. That rule was turned down because it reflects one of the problems that a number of us have been talking about over the last week and a half, since we heard of the schedule that was set for consideration of the health care legislation.

Mr. Speaker, the various bills that relate to health care are among the most important that the 103d Congress will consider. Indeed, you could say, since it involves 14 percent of the American economy, it is the most important piece of legislation that the House of Representatives will have acted upon in a generation.

Many of us believe, and have long believed, that it is essential to have proper coverage for American citizens in terms of health insurance. Reasonable people can disagree on the way that goal is to be achieved.

Mr. Speaker, the shocking thing I have found in being a Member of this Chamber for a year and a half is that there has been very little bipartisan collaboration between the leadership of the majority party and the rest of us. However, there are two bipartisan bills which a lot of us support, the so-called Cooper-Grandy bill, and the Rowland-Bilirakis bill.

□ 1730

Hopefully they will not be preempted by the Committee on Rules which was overruled today, because many of us are unhappy with the authoritarian way legislation is considered in this House. Try to find out what the Committee on Rules said or was going to say, try to find the conference report as was well-described to the House this afternoon. The conference finished in late July. The first time we saw a printed report of the conference on the Republican side was at 3:20 p.m. this afternoon, August 11.

There is something wrong with a system where we constantly waive the mandate of the 1946 Legislative Reorganization Act which said reports ought to be available for 3 days prior to consideration in the House. Hopefully on health care, the current schedule will also be overthrown by the leadership that established it. Hopefully some of the people listening to the House proceedings will have written, phoned, faxed the leadership of this Chamber to say, we think our Representatives have a right to study the thousands of pages that are not yet printed, except in the CONGRESSIONAL RECORD, but in a formal bill sense, we think they have a right to analyze it and discuss it, but more important, to go home, to talk to the constituency that sent them here and hear from the people in your district as to the impact of this legislation before we have a vote in this Chamber. To have a vote on health care next week when nobody has read these bills but perhaps the author is an absolute insult to this institution. I would think that the degradation that has been brought to this institution by the type of arbitrary conduct we have seen in closed rules, few chances to amend, few chances to have amendments considered on the floor, I think back to the campaign finance reform effort. There was the Democratic bill, and there was the Republican bill. The bill that should have been considered was the bipartisan bill headed by the gentleman from Oklahoma [Mr. SYNAR] and the gentleman from Louisiana [Mr. LIVINGSTON] on our side, We had 5 or 10 bipartisan coauthors. Yet that bill, which would have passed this House, never was brought to the floor. The reason it was never brought to the floor was that it could pass this House.

As one friend of mine in the Democratic leadership said to me last year when I had a proposal to the Committee on Rules, "STEVE, you know we can't clear that. If we sent it to the floor, it would pass."

Well, the last I knew, not just from grammer school civics but from high school civics and political science was that the people's house was the place that ideas should be considered and should be voted up or down. We do not have the freedom to debate as they do in the Senate. We do not have the freedom to tie and place in knots as they do in the other body, but we do have the freedom to vote if only we can get the legislation before us. This is why we see over 25 discharge petitions. Thanks to the courageous leadership of the gentleman from Oklahoma [Mr. INHOFE], we have freed up the discharge petition process.

Mr. Speaker, we came as a class of reformers, Republicans and Democrats. I have not heard much from the Democratic side on some of these key reforms, but certainly the aroused Republican freshmen, upset about this schedule on health care and wanting to meet with our constituents, we hope the leadership will take the turndown of the rule on the crime bill, and I might say I support the crime bill but I voted against the rule simply because of the arbitrary actions being increasingly taken in this Chamber. The sooner the Democrats join the Republicans in wanting to liberalize the process of this Chamber, the better off this Nation will be.

THE UPCOMING MEXICAN ELECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. KOLBE] is recognized for 5 minutes.

Mr. KOLBE. Mr. Speaker, 2 days ago I took a 5-minute special order in order to discuss the forthcoming elections in Mexico with my colleagues. Considering all the critical issues that we are dealing with here, I know it is very hard for us to turn our attention to something which seems as remote as that and far removed from our own domestic policy concerns as well as our own domestic political concerns. But I want to take this 5 minutes just to continue to share a few observations based on my visit to Mexico this past weekend where I had an opportunity to meet with election officials as well as political party individuals and to see some of the work that is going on with regard to this election. Because, Mr. Speaker, I think this election is not only, as I said 2 days ago, the most important in Mexico's history, this election may also be one of the most important for the United States for our foreign policy in Latin America and certainly for our relationship with Mexico.

It is my view that the Government of Mexico has done everything that is conceivable to try to ensure a fair and open and free election, one that is devoid of the kind of manipulation that has characterized past elections in Mexico. That is not to say, Mr. Speaker, that there will not be inequities in the election, that there would not be things that would be characterized as illegalities or unusual procedures, but I believe that at the level of the Government of Mexico, every effort is being made to minimize those and to assure that that does not occur. But an election as we know consists of thousands and tens of thousands of people all over the country manning polling booths from the large cities to the small communities in that country as well as it would in this country. So some of inequalities and the illegal procedures that may creep in may be done at a very local level.

What is the outlook for this election? There are three major candidates and four others who are minor candidates who are running. The three major candidates represent the party of the government, the PRI; they represent the traditionally conservative market-oriented party called the PAN; and the leftwing, or more liberal party, the PRD. The PRI has not lost an election since 1927 when it was formed. It is likely this time, in my judgment, to come out on top with the vote but probably for the first time in its history without a majority. Obviously, I cannot say. My judgment is only based on conversations and polling data that I have seen, not on anything else that I could judge. But I believe that it is likely that we will see a victory by a plurality perhaps for the PRI but with very close following by both the PAN and the PRD. That is going to mean a very major change in the politics within the country of Mexico, because it will mean that this government for the first time cannot claim to have the mandate of the majority of the people of Mexico. We have had that historically in our country in many, many elections and, of course, our current President was elected with considerably less than 50 percent of the electorate. But that does not mean he cannot govern and it does not mean that the President of Mexico would not be able to govern. But it does mean reaching a different kind of consensus than has been done in the past in order to achieve a government that can work effectively with minority parties.

Mr. Speaker, I believe that these elections are of enormous importance to Mexico as they proceed with the transformation of their country to a democracy. The changes that have taken place in Mexico under President Salinas have been enormous, but they have been largely geared toward economic reform. Now we are seeing the next step. Even as I argued the other day in the China MFN debate that increased trade and increased economic activity will lead to increased political freedom, that is exactly what we are seeing in Mexico.

So I want to urge my colleagues as we finish up our work around here for the month of August, before we go home, to try to keep some of their attention on this absolutely critical election for our neighbor to the south of us, a neighbor with a rapidly growing economy, a neighbor with 85 million people in it, a neighbor which is vital to our own interests in Latin America and the world. I know that all my colleagues join in wishing the Mexican people well in this election as they move toward a transformation to democracy.

□ 1840

CONGRESSIONAL ACCOUNTABILITY AND HEALTH CARE REFORM

The SPEAKER pro tempore (Mr. LEHMAN). Under a previous order of the House, the gentleman from Washington [Mr. KREIDLER] is recognized for 5 minutes.

Mr. KREIDLER. Mr. Speaker, yesterday we passed the Congressional Accountability Act, which brings Congress under the same regulations as other employers. We also voted to add health care reform to the list of laws—so that whatever health care reform we pass will apply to Congress too.

This wouldn't have happened without pressure from those of us in the freshman class. We know that Congress ought to play by the same rules as everyone else. There's no excuse for letting Congress off the hook for the laws we pass.

It's about time. Congress enacted the Fair Labor Standards Act in 1938, the Civil Rights Act of 1964, the Occupational Safety and Health Act of 1970, the Americans with Disabilities Act in 1990. These are good laws, and all other Americans are supposed to follow them. Now Congress will too.

Next week we will decide whether every American family deserves the same kind of health coverage we and our families have. Members of Congress don't have a special health plan—we have the same plan as other federal employees. Members of Congress don't get free health care—we pay for part of our premiums just like other federal employees.

But there's no question that we have a good deal—shared responsibility, security, choice, and quality. And I think every American ought to get just as good a deal.

But some of the people on this floor don't agree with that. They don't want to guarantee health security for everyone. They think that means too much Government. They think health care reform is too tough, too hard, too complicated to pass. They're afraid of making the real decisions on this issue. But in my State of Washington we've already done this, and I'm here to tell you, if my State has the guts to confront this issue, then we ought to be able to do it here.

So I hope people who don't want reform this year, who don't think we need it, who think we ought to wait—I hope they'll be the first to volunteer to give up their health security, right after they vote to take it away from others.

I don't plan to vote that way.

I plan to vote for the Guaranteed Health Insurance Act, because it does what the American people want and deserve: Health security for everybody. Keeping the cost of care from spiraling out of control. Guaranteed choice of health plans and doctors. Maintaining

VOL
140
PT
15
AG
10
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11
1994
UMI

the high quality of care in America. Keeping health insurance in the private marketplace. Letting States like Washington move forward with their own plans.

I hope my colleagues who don't share those goals will be the first to step forward and give up their health security.

THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, there is nothing unseemly after a historical vote to come to the well and gloat, but there is nothing wrong with giving good advice that would serve the good of the commonwealth and the people of this country.

This rule that we just voted on on the conference report was on a bill called a crime bill. It was not titled a crime and criminal welfare bill, but obviously what caused it to go down by a vote of 225 to 210, with 11 Democrats voting the way Mr. FOLEY requested they vote and 58 Democrats, 88 days from the eve of an election, voting against the leadership of their party, 58 Democrats voting 88 days out from the evening before the November 8 election. That means that there was some fatal flaw in this crime bill, and the fatal flaw was the larding on of social and criminal welfare pork.

This bill started out about in the neighborhood of the billions of dollars of the defeated, so-called stimulus bill of Clinton, somewhere in the high teens of billions. Suddenly it was into the $22 billion, $25 billion, $28 billion a few weeks ago, and it ends up over $33 billion, and almost a half chunk of it for all of these bizarre new entitlement programs that, like all of the entitlement programs of the last 40 years, start on a growth and then suddenly on their growth charts they take off into almost a near vertical climb.

This was a good defeat for the rule on this, and as the minority whip, Mr. GINGRICH said just a little while ago, let us come back tomorrow, the leadership of both parties in an inclusive way of the loyal opposition here and come up with a crime bill.

If Members think there was tension here, if they think it was fair for the press to describe our Speaker's expression as distraught, Mr. FOLEY is distraught, think of how they feel at the White House, think of how they are coaching Dee Dee Myers to spin this major defeat for Bill Clinton who was for all of the pork just larded into the so-called crime bill. They are pretty distraught down at the White House.

I will give him advice that is good for his party and for any potential, as remote as it may be, for him having a second term, and that is if he wants a crime bill, then focus on helping victims and on locking up criminals. Liberal Democrats think it is a joke. But the average American cannot stand the thought of color televisions, color pornography, Nautilus equipment in gymnasiums in prison, college courses leading to degrees, and they sure as hell, Mr. Speaker, do not want dance programs in the prisons of the United States with murderers leading one week and child molesters leading the step dancing to good country music the next week.

No, this billion was one of the strangest thing we have ever seen.

The remarkable travesty of the crime bill is think like, look, Mr. Speaker, we have spent $5 trillion on social programs since President Johnson's so-called Great Society program and what do we have for that? We have a 500-percent increase in violent crime since we have been throwing money at all of the broken families of this country. Liberals on the other side of the aisle seem to be obsessed with society's root causes. According to them everybody who commits a crime is not a criminal but a victim of poverty, bigotry, societal injustice. It is a perverse, absurd continuation of the funny line from the great Leonard Bernstein Broadway musical where the tough kids in that show sing to Officer Krupsky: We ain't depraved, we're deprived," and that was in the middle 1950s that that musical won all of the Tony awards on Broadway.

There is such a thing in society and in all societies as good, as evil. There are people who look at all of the options and decide that that tail-end line of the great radio show, Gangbusters, when I was a kid that echoed in the chambers, "Crime does not pay," there are young men and now young women who look and say crime absolutely does pay.

□ 1750

One of the safest crimes is to rape somebody if they will not date you. You know, the odds are 99 out of 100 you will never see a day of time if you violently rape some human being who does not want, who does not know you, if they do know you, does not want any part of you.

Crime pays, and they are evil people opting for crime, and we must lock them up, Mr. Speaker. Bring back a real bill and watch it win overwhelmingly. You bring back a bill focused on criminals, you get 100 percent of us on our side of the aisle.

Mr. DORNAN. I repeat, the most remarkable travesty of the crime bill is the billions of dollars spent on social welfare schemes that have, time and again, proven to be a complete failure. This presumption of root causes is what motivated Democrats to come up with misguided resurrections of failed social solutions from the past. In fact, the crime bill adds $8.7 billion to fund 30 new social welfare spending programs, many of which duplicate already existing programs that have had no effect whatsoever on crime rates. That represents nearly one-third of the funding in this bill.

Some examples are the millions of dollars to be spent on "community-based organizations" that will shower crime-prone youth with programs like midnight basketball, dance classes, and arts and crafts. While I have nothing against teaching kids how to shoot hoops and knit afghans, why is the Federal Government footing the bill for such programs in legislation aimed at fighting crime? This is absolutely absurd.

But there is more. This bill also provides for "Model Intensive Grants" intended to bring "meaningful and lasting alternatives to involvement in crime" and relief to "conditions that encourage crime." So vaguely written, this program like most others in this bill, simply translates into petty cash for local communities—cash that was promised by Democrats in last year's "economic stimulus package" but never delivered.

Yet Bill Clinton and the Democrats are welcoming the crime bill with open arms, calling it the "toughest, largest, smartest federal attack on crime in the history of our country." It may be the largest, but it is soft and dumb. One of the toughest provisions, they claim, expands the list of crimes that are punishable by the death penalty. Yet while it does add dozens of new crimes to this list, Bill Clinton is going to make certain the death penalty is rarely, if ever, enforced. That is because he has quietly promised the most liberal members in the House that he will order federal prosecutors to consider racial inequities in cases involving capital crimes. With the introduction of racial quotas into the criminal justice system, we can expect this nation to see an end to death penalty as we know it.

Another celebrated component of the crime bill is the "three strikes and you're out" provision. While this may sound tough, it is not. In fact, this sentencing provision will only apply to 1 percent of the crimes that occur throughout the country, since the third crime occur on federal property for it to be eligible for this new punishment. If baseball adopted a similar rule, you would be out only if the third strike occured in, say, Fenway Park.

And though the president had promised to put 100,000 new police officers on the streets of America, only 20,000 positions are being funded through this bill. It is up to local governments to fund the remaining positions—another unfunded mandate. Therefore, at most we can expect an average of one extra police officer per department throughout the nation. Anybody feeling safer yet?

Democrats are also pretending that this bill will provide more space to lock up violent criminals. That is baloney. Republicans fought tooth and nail to ensure adequate funding for new prisons coupled with incentives for states to enact tougher sentences. But the Democrats changed the crime bill so that it now allows states to divert prison grants to other programs. And while it calls for longer prison terms by making "truth-in-sentencing" a condition for federal funding, there are numerous loopholes for states to avoid that requirement.

I am also opposed to the bill's prohibition on a number of assault weapons. Banning a handful of guns is not going to have any real effect on crime and my colleagues know it. It is just one more provision that diverts attention from true impact-on-crime solutions.

Mr. Speaker, the list goes on and on. This crime bill is a total sham that only empowers criminals and further exploits innocent victims. Furthermore, it provides little more than a means for Democrats to deliver pork to the folks back home in perfect time for the election. My colleagues should be ashamed. There is not one American who can expect to feel safer if this bill passes and is signed into law. Not one.

The problem is that liberals are so busy coddling the ACLU they refuse to give the American people what they really want—a tough and effective crime bill that provides genuine truth-in-sentencing, strengthens the death penalty instead of killing it, reforms the exclusionary rule, puts more cops on the beat, toughens the juvenile justice system, and reforms habeas corpus.

The American people deserve better than this crime bill and it is incumbent upon Congress to deliver. This is nothing more than a package full of goodies for the folks back home—none of which provide real solutions to the problem of crime in America. I therefore implore my colleagues to vote no on the rule and final passage. No crime bill would be far better than this one.

Mr. Speaker, I also would like to insert this LEAA handout titled: "Law Enforcement Does Not Support This Crime Bill."

The gun ban and magazine capacity prohibition in this crime bill will drive a wedge between law enforcement and honest citizens; it will turn some 20 million + law-abiding gun owners into potential felons because law enforcement recognizes it is impossible to determine which components (magazines) were legally owned prior to the effective date of this prohibition.

National leaders of select police organizations (such as Fraternal Order of Police and the International Association of the Chiefs of Police) are attempting to generate support by making grave misrepresentations to their members and they also have conflicts of interest:

IACP has recently received over $400,000 from the Clinton Administration (Law and Order Magazine, May 1994) prior to their announced support of this legislation; IACP also represents less than ⅓ of the chiefs in this country.

FOP is telling their members there is a "police exemption" for law enforcement, the truth is the so-called exemption does not cover officers' off-duty weapons, nor does it apply to retired officers; it will adversely affect every department in the country where officers purchase their own weapons.

If this legislation passes there will be a severe backlash from these officers who have been mislead into supporting this legislation, targeted both at their organizational leaders and their elected representatives in Congress.

Every major survey of America's police conclusively proves that police officers do not believe that more gun control will have any impact on crime or criminals.

National Association of Chiefs of Police, '94 Annual Survey: 88.7% responded that a ban on so-called "assault weapons" would not help reduce crime.

Southern States Police Benevolent Association, June '93: 96.4% strongly support firearms ownership for self-defense, 95.8% reject an outright ban on guns, they rated stricter gun control as the LEAST effective option for reducing violent crime.

Police Magazine, April '93: 85% did not support an "assault weapon" ban.

Law Enforcement Technology Magazine, August '91: 85% of "street officers" opposed gun control and 90% did not support an "assault weapons" ban.

This bill contains well over $8 billion worth of social welfare spending that has nothing to do with genuine law enforcement.

MOST CRIMINAL DEFENDANTS COME FROM BROKEN HOMES

The SPEAKER pro tempore (Mr. LEHMAN). Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, before coming to Congress, I spent 7½ years as a Criminal Court Judge.

I tried primarily the felony cases, the more serious cases.

In that time, I suppose I went through 7,000 or 8,000 cases, because 96 or 97 percent of the defendants pled guilty, and most had more than one case.

The first day I was a judge, Gary Tullock, the Chief Probation Counselor for east Tennessee, told me that 98 percent of the defendants in felony cases came from broken homes.

In almost all the cases I handled, I would get detailed reports about a defendant's background.

Over and over, I would read "Defendant's father left home when Defendant was two and never returned;" "Defendant's father left to get pack of cigarettes and never came back."

I became convinced that the greatest problem we have in this Nation today is the fact that so many homes are broken, and more specifically, that so many boys are growing up without fathers or with no male influence in their lives.

A few months ago, I read a column in the Washington Times in which two leading criminologists had studied 11,000 felony cases.

They reported that the single biggest factor in crime, the single most consistent factor was father-absent households.

All of this is to explain why I was so very much impressed by a column in today's Washington Times by Mona Charen, the syndicated columnist and television commentator.

I wish every American could read this column. Its message is so very, very important to our survival as a nation.

Mona Charen wrote this:

REMAINS OF THE CULTURE

Two extremely active preschoolers keep me more or less permanently behind the times on the subject of movies. But I did recently see "The Remains of the Day" on tape.

The movie reminds one, once again, of the essential fragility of things that seem so enduring.

Look at the social hierarchy depicted, accurately I think, in that film. The code of duty, honor and responsibility that was so ingrained in generations of Britons—a code that was strong enough to keep the butler serving at table even while his father lay dying upstairs—all of that has been swept away in a heartbeat.

One of the differences between conservatives and liberals is that liberals tend to think you can tinker with social, economic and political arrangements endlessly, while conservatives believe that the veneer of civilization is actually quite thin—and too much tampering with the foundations will bring the whole thing down.

What puts our civilization at risk? What forces are at work that could make 1994 America look as antique 50 years from now as the butler's world looks to us in "The Remains of the Day"?

The forces that were unleashed by, roughly speaking, Woodstock—a lamentable anniversary—have been corroding the foundations of our civilization for 30 years. These years have witnessed a thorough-going attack on the American character. Instead of inculcating notions of honor, self-reliance, duty and responsibility, we have become a nation of self-pitying whiners, fast with a lawsuit and slow with child-support checks. We wallow in excuses for poor products and lousy test scores.

But the most worrisome aspect of the decline of character is reflected in families. To an unprecedented degree, American men are not performing their jobs as fathers.

David Blankenhorn directs the Institute for American Values in New York. Together with Don Eberly of the Commonwealth Foundation in Pennsylvania, he has launched the "Fatherhood Initiative."

There is, these men believe, nothing more important to the health of society than men undertaking the role of father. "There is very little you can do to sever the ties between women and their children," Mr. Blankenhorn notes. "Crack cocaine can do it, but that's about it. Otherwise, the emotional ties are firm."

But men are different. Men can detach themselves with their children, and our experience of the past 30 years has shown just how easily they can let go (and just how fragile are the foundations of civilization). Without the strong societal message that to be a good man means shouldering the responsibilities for your wife and children, many men are content to abandon their families.

VOL
140
PT
15
AG
10
—
11
1994
UMI

And when they do, the results for children are catastrophic. Sixty percent of rapists, 72 percent of adolescent murderers and 70 percent of long-term prison inmates grew up in fatherless homes. Forty percent of American children now live in families without their biological fathers. Half of these have never been in their father's home.

But it isn't just at the pathological extremes that father absence works its mischief. Every child needs a father. A boy needs a father to show him what it means to be a man. He learns how to treat women by watching the way his father treats his mother. Girls derive ambition, self-confidence and a general attitude toward men from their relationship with Dad.

This is not to slight mothers. Mothers are crucial, too. But mothers are not abandoning their children. As Mr. Blankenhorn notes, it is not necessary for society to urge mothers to undertake their responsibilities.

But the data are quite clear that mothers alone have a tough time socializing their children, particularly their sons. And they have a tough time making ends meet. Seventy-five percent of children in single-parent families experience poverty before the age of 11.

For 30 years, our culture has been at war with fatherhood. It was claimed that fathers were stifling, emotionally remote, overly strict and, ultimately, superfluous. Feminists who see today's challenge as getting fathers to pay child support are missing the point. The great challenge is to return men to the business of being fathers.

Mono Charen is exactly 100 percent right in everything she says in this column.

Unless and until we heed her words, we can pass crime bills until we are blue in the face, and it will do absolutely no good whatsoever.

COMMUNICATION FROM THE HONORABLE JOHN L. MICA, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN L. MICA, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 9, 1994.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the rules of the House that my office has been served with a subpoena issued by the State of Florida, Division of Administrative Hearings, in connection with a civil case involving constituent case-work.

After consultation with the General Counsel, I will determine if compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

JOHN L. MICA,
Member of Congress.

THE HEALTH CARE PLAN: WE CAN DO MUCH BETTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. HOEKSTRA] is recognized for 5 minutes.

Mr. HOEKSTRA. Mr. Speaker, I rise tonight to talk about the debate that we are about to enter, the health care debate, and I want to lay out the proposition that we can do much better than the plan that is out in front of us today.

Last night, nine health care bills were turned in to the Committee on Rules, nine new health care bills. I have to give the chairman of the Committee on Rules credit. He took those nine bills and inserted them into the House RECORD so that this afternoon we were able to receive copies of those nine new bills and begin the process of understanding what is in each of those bills.

Take a look at the process that is currently laid out in front of us. On August 10 we get nine bills. On August 11 we received the actual verbiage that is found in those nine bills.

I testified in front of the Committee on Rules this afternoon proposing an open rule, but knowing that that is probably very unlikely, and also knowing that today I had to propose two amendments, an amendment on wellness and an amendment on States' rights, providing States with the options to choose whether they wanted to participate in a national health care program without really knowing what is in the bills.

I am part of the Committee on Education and Labor. We went through the Clinton bill, the original Clinton bill. We had 29 days of hearings. We had 8 full weeks of markup where we actually went through the amendment process, and we went through the bill section by section. We had 4 weeks in subcommittee; we had 4 weeks in full committee. In full committee we had proposed 99 amendments: 44 Democratic amendments were accepted, and 11 Republican amendments were accepted, 55 improvements to the Clinton bill, and that is all gone now, because we have a new Clinton-Gephardt bill.

So what is the process going to be when we come to the full House? What took place for 8 full weeks in committee and subcommittee, at least the schedule that is right in front of us now says we are going to complete that same process for nine bills in 8 days.

□ 1800

This House may be good, but I do not think we are that good.

I got a summary today, about a 30-page summary, of the Clinton-Gephardt bill. What do we know is in it? We know there are employer mandates in it, we know there are new taxes in the bill, we know there are subsidies for small business, we know those subsidies will phase out by the year 2005.

Generally, we know that there are exemptions to the bill. In our Committee on Education and Labor we created perhaps one of the most unique exemptions, by name we exempted the State of Hawaii. When I glanced at the summary of the Clinton-Gephardt bill, I saw there was an exemption for States with single-payer systems. Does that mean this House language that we put in place, again, the basis for the State of Hawaii to exempt itself from the national health care plan?

There were waivers for parts of the State of Tennessee. There was a waiver for Milwaukee. Why are these in there? Do we again have to propose to the full House the amendment defeated in the subcommittee and in full committee that said no State shall become a participating State in a national health care plan unless the voters of that State decide through a referendum process to become part of the national health care plan?

We know that there are penalties in this bill, penalties because we have created more paperwork. We have gone to health care providers and said that on an annual or quarterly basis, "You will be mandated to provide these types of reports, and if you do not, you will be facing these types of penalties."

We know that there is tort reform, or so-called tort reform. The tort reform in this bill appears to say that the innovation in the tort reform that has gone on at the State level will be preempted by what we are going to do here on the Federal level. This is a significant victory for the trial lawyers.

I found these parts and these topics in the Clinton-Gephardt bill, from a 32-page summary of the bill. It appears that when I finally have the full bill, it will be close to somewhere between 1,000 and 1,500 pages.

What else is in the bill, and exactly how do we come up with mandates? How many new taxes do we have? Who do they affect? What kind of subsidies do we have? For how long? Who is exempted? How do other parts of the country become exempted? Who is facing penalties? Who is facing criminal charges?

Who really benefits from tort reform?

Just in the Clinton-Gephardt bill there are way too many questions to be answered in the next days. And remember that we have 8 other bills that we should fully consider.

Now is not the time to move from outside of the committee process. Now is the time to really utilize the committees and use the House to fully understand, debate, and move forward on health care, but not in 8 days.

As freshman Republicans, we laid out a schedule. We said when the bills are submitted, let us have each sponsor of the bill walk us through the bill here on the floor of the House for a full day, allow that Member or that group of Members to take us through the bill step by step, section by section; allow us to go home to our constituents for 2 to 3 weeks to talk to our elderly, to talk to those without insurance, to talk to our small business people, to talk to our doctors and hospitals, to see how these bills will impact them.

Then to come back, have 8 to 10 days of debate, to vote, to have a conference with the Senate, and still have a final vote before we adjourn in October. This is a better process, a process that this Congress can be proud of, that the American people can trust.

It is time to reform how we do business in Washington. The process that we set up for the health care debate over the next 2 months will say a lot about this Congress. Are we going to compress it into 8 days? Or are we going to let the House work its will through a process of 8 weeks?

I hope we go for the process 8 weeks, it is a process that we can be proud of, it is a process that the country can be proud of.

WHAT THE REPUBLICANS DID VOTE FOR OVER THE PAST FIVE DECADES

The SPEAKER pro tempore (Mr. LEHMAN). Under a previous order of the House, the gentleman from Michigan [Mr. EHLERS] is recognized for 5 minutes.

Mr. EHLERS. Mr. Speaker, yesterday I addressed the topic of health care reform and much along the lines Mr. HOEKSTRA has just elucidated, but I also pointed out a very important aspect of it. In the limited time available yesterday I could not do justice to the subject. Several Members have asked me to give more detail on the issue.

The point I was making is that the process that has been set up to handle health care reform is a process that basically eliminates the opportunity for Republicans, and particularly the freshman Republicans, to have an input into the process.

The freshman Republicans came here with an idea of reforming the way Congress operates. They are very interested in contributing to the process and representing their constituents in the process.

But what particularly dismayed me was to find out a few days ago that the Vice President of the United States made the comment that the Republicans did not vote for social security, they did not vote for Medicare and they are not going to vote for health care so, "We should ignore them in the process."

Furthermore I have heard that comment in the well of the House by a number of speakers over the past few days, making much the same point and trying to justify the fact that Republicans have been shut out of the process.

Now, I am not a terribly partisan person, never have been, and I do not suspect I ever will be.

I am actively interested in participating in the health care debate as a bipartisan coalition working on health care reform. I happen to think there is a great deal we can do in this country to insure that everyone has access to health care and that they get quality health care.

But in particular I want to respond to the comments that I have heard made in the well of the House by some of my colleagues from across the aisle in which they have said the Republicans did not participate in passing social security.

If you look at the first line of the chart, you see that is simply not correct. In fact, in 1935, when the Social Security Act was passed, 83 percent of the sitting Republicans in the House of Representatives voted for the bill.

When you go down some of the other major acts passed over the past half century, the Federal Highway Act, more Republicans than Democrats voted for it; Civil Rights Act, 81 percent of the Republicans voted for that landmark legislation, almost 20 percent more than voted for it from the party on the other side of the aisle.

Medicare, where we appear not to have voted, 47 percent of the Republicans vote for it. So on down to the Clean Air Act Amendments and Water Pollution Control Act.

So you can see, if we follow the course we are on now when we consider the health care bills next week, as Mr. HOEKSTRA just said, we spend just 8 days on it, it is going to be a Democratic bill, passed with Democrat votes, and the last line will become accurate. You might get a few Republican votes, but by and large you can expect 83 percent of the Democrats to vote for it and 2 percent of the Republicans if it passes.

I think that would be a very bad precedent. I think history shows Republicans are eager to participate in these debates, to provide input and to be contributors to the process and to the content.

I hope that we can follow that same process here. But as Mr. HOEKSTRA said, let us make it 8 weeks, not 8 days.

Let us have an opportunity for an open debate on the floor of this Chamber. Let us have an opportunity for a rule that will allow us to offer amendments to improve it, because we are sincerely and earnestly interested in improving it.

I yield to the gentleman from Texas.

Mr. ARMEY. I want to thank the gentleman for bringing this special order and this special information to our attention.

It is extremely important to me that we focus on this. What we were running into today in our political discourses is that the word bipartisan is being used more as an indictment rather than as a strategy. And here your historical evidence demonstrates some of the facts that are being told are simply not true.

I was particularly impressed with the fact that if you go to the Civil Rights Act—and many times I have been told how we Republicans did not vote for the Civil Rights Act—81 percent of the Republican Members of House voted for the bill, 63 percent of the Democrats voted for the bill. I believe there was a Democrat majority, clearly a much greater number of Democrats voted against the civil rights bill, they voted with Bull Conner, who stood on the bridge in Alabama and beat people with a club and then represented the State of Alabama as a national committeeman to the national Democrat convention.

□ 1810

Now I understand that the health care bill is up, but if there is a bipartisan bill that wins, I promise you there will be a greater percentage of Republican votes than there will be Democrat votes for a bipartisan bill.

Mr. Speaker, if I may, I just wish to conclude by thanking the gentleman from Texas [Mr. ARMEY] for his comments, and also I want to thank the gentleman from Minnesota [Mr. PENNY] who compiled many of these statistics originally, and I wanted to give him credit for that. I think the figures speak for themselves, and they demonstrate that the minority party is anxious and willing to participate in the major issues of the day, and we hope we will have an opportunity to do that in the health care debate.

KEEP AMERICA'S PATENT SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, the American patent system is being targeted by Japan and some multinational companies by including changes in the patent system in the Uruguay Round of GATT now under consideration in Congress. Our competitors understand how critical the patent system is to America's economic strength.

In the early 1900's the government of Japan wanted to determine what made the United States such an industrial power. A team of investigators was dispatched to determine why America was so successful and the team concluded it was because of the patent system.

The official report stated:

We looked about us to see what nations are the greatest, so that we can be like them. . . . We said, what is it that makes the United States such a great Nation? We investigated and found that it was patents, and we will have patents.

In the early 1980's Japan again determined the patent system was critical to America's industrial strength.

The new GATT establishes the patent term for a minimum of 20 years from the time of filing. The United States agreed to this. Now, the changes being advocated in the legislation would

VOL 140 PT 15 AG 10 — 11 1994 UMI

change the patent term to a maximum of 20 years from the time of filing. Limiting a patent term from the time of filing would harm the inventors and small businesses because many patents would not make it through the system before the term expired.

Many patents are not issued for several years. It was 29 years before Gordon Gould received his patent for the laser.

A friend from Michigan called this morning to remind me that it took 6 years for his patent to come through. There are many more stories about the length of time it takes to receive approval of a patent application. These changes will put the inventor at the mercy of the patent office. It is the patent office that delays patents and requires more information. If the United States copies the Japanese patent term which is 20 years from the filing date—then delaying the issuance of a patent for 18 or 22 years would rob the inventor of the patent protection for his invention.

These changes which are being included in the GATT were originally agreed to by Bruce Lehman, Assistant Secretary and Commissioner of the Patent and Trade Mark Office in an agreement he signed with Japan in January. These changes to the patent term were agreed to without a public hearing and totally ignoring the wishes of the small inventor who is so important to our system.

Under that system only the wealthy and powerful profited. To avoid this in America, authors and inventors are protected in the Constitution. Now, we once again are attempting to change the system to reward the rich and powerful, the big corporations. Inventors and small business cannot afford the money it takes for an invention with a short patent life. We cannot afford to accept these changes.

Remember, foreign governments also have pushed to have the American patent system weakened because patents are one measure of a country's economic strength and future prosperity. High quality patents which often are cited in patent filings, signal the emergence of important new technologies which will be under a patent holder's exclusive control for many years.

In 1993 the United States led the world in influential patents with 59,588 which is almost twice as many as Japan, Italy, the United Kingdom, France and Germany. No wonder these foreign countries want to cripple the American patent system. We are winning the technology race for prosperity—so why are we throwing the race? These changes must not stand.

JULY FOURTH PARADE BY BERLIN BRIGADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, today I want to address the House briefly to pay tribute to a group of service people from our armed services who have served us valiantly overseas since the end of World War II. Specifically, I want to focus on the Berlin Brigade.

It was my good fortune to be in Berlin this past Independence Day and participate in the final July Fourth Parade for this fine unit of the U.S. Army. I was privileged to attend a preparade reception at the historic McNair Barracks and to meet some of the troops, as well as dignitaries from a number of nations.

Among those present were the Director of the Central Intelligence Agency James Woolsey; Vice Chairman of the Joint Chiefs of Staff Adm. William A. Owens; U.S. Ambassador to Germany Richard C. Holbrooke; the distinguished Mayor of Berlin Eberhard Diepgen; the Commander-in-Chief of the U.S. Army—Europe, Gen. David M. Maddox; and the Commanding Officer of the Berlin Brigade, Maj. Gen. Walter H. Yates.

This was a special time and an emotional one for many, including some 20-plus former commanding officers of the Berlin Brigade. The Fourth of July ceremony in Berlin would have made any American proud. As the troops marched by the several thousand people in attendance, each of the units was treated to great applause.

The speeches were outstanding and moving as the Berlin Brigade, which involved thousands of American officers and soldiers for the last 49 years, bade farewell to the once divided city.

The addresses were delivered by the final CO of the Berlin Brigade, Maj. Gen. Walter H. Yates; U.S. Ambassador to Germany Richard C. Holbrooke; the Commander of the U.S. Army-Europe, Gen. David M. Maddox; and Berlin Mayor Eberhard Diepgen.

Mr. Speaker, I insert for the RECORD the speeches of General Maddox and Ambassador Holbrooke.

REMARKS OF GEN. DAVID M. MADDOX AT THE BERLIN INDEPENDENCE DAY PARADE, JULY 4, 1994

Ambassador Holbrooke, Regierender Bürgermeister Diepgen, Herr Minister Rühe, Congressman Hutto, Mr. Woolsey, Herr Dr. Bergner, Herr Dr. Knoblich, Admiral Owens, General Naumann, former CINC's, distinguished guests, and citizens of Berlin and soldiers of the U.S. Army Berlin, today is an important and significant day for Americans. I am delighted—and humbled—to commemorate this day with you, an Independence Day that is shared by Berliners and its Brigade in a special way.

As Americans celebrate our Independence today, I decided to join the Berlin Brigade because of the added significance of today's ceremony in this city with you. I'd like to thank the people of Berlin for joining the Brigade—your Brigade—today.

Let me talk about the significance of today:

One. Obviously, the 218th anniversary of American independence.

Two. The 49th anniversary of our entrance into this city.

Third and lastly, this is the final opportunity we have for the U.S. Army, your Berlin Brigade, to share the celebration of our independence, in Berlin, with the citizens of Berlin.

In Berlin, today is also a day of reflection on the last 49 years, of sadness at the end of a great relationship between the city and the Brigade, but more importantly, a day of fulfillment, of triumph and hope—as we look to a new future together.

To the citizens of Berlin and friends of the American Army: You are the reason we are here today.

For nearly half a century, you have been the light of democracy behind the darkness of the Iron Curtain;

You have kept the faith through the adversity of blockade, of isolation, of confronting face-to-face oppression—and you have held firm; triumphed; and won the greatest of all prizes;

And in the process, you have been great hosts, great friends, and great supporters of our soldiers, civilians, and their families.

From teaching your language, culture, and customs to opening your homes and taking care of our families as if they were your families while your brigade was deployed—on behalf of the U.S. Army in Europe, I would like to thank you, the people of Berlin, for your support, the closeness of the relationship that you have built with us for those 49 years.

To the soldiers of the Berlin Brigade, you have made all of us proud—Americans and Germans—because you have succeeded magnificently in every mission you were given—from your entrance into Berlin as occupiers, to defenders, to providers, to protectors, to great friends.

You have stood firm against adversaries here in Berlin—and have deterred conflict. You have gained the peace, kept the peace. You have been providers of comfort and able sentries—on three continents.

You have led the way, from standing down threats at Checkpoint Charlie to ensuring the security of Kurdish refugees in northern Iraq. And most recently, preventing the spread of the Balkans conflict into the former Yugoslavian Republic of Macedonia.

Soon, we will say, "Mission complete; well done; and take your soldiers home." And I want you to know that all of us appreciate your superb work.

Yet to a great degree, you won't be going home; you'll be leaving home.

Citizens of Berlin, on behalf of the United States Army in Europe, I thank you for all that you have done for our soldiers, for those you see here today and for their forebears for nearly half a century. Words cannot express all that you have given us or the depth of our gratitude, but I can tell you, as Walt Yates has told you, that you have won their hearts—our hearts—forever. They are not just the Berlin Brigade, they are Berlin Brigade—and you have allowed them the honor to carry your name, a name they will treasure as they, too, will always say, "I am a Berliner."

Berlin Brigade, and Berliners, thank you for your tremendous efforts that allow us to celebrate freedom—together. Enjoy a great day. This should not be a day of sadness with the forthcoming departure of your Brigade, but instead a day of joy and hope, recognizing the continued growth and maturity of the relationship between Berlin and America.

God bless you.

TEXT OF AMBASSADOR HOLBROOKE'S REMARKS JULY 4, 1994, AT THE FINAL U.S. NATIONAL DAY PARADE IN BERLIN

Exactly 49 years and 3 days ago, Lt. Col. Frank Howley and a small unit of American soldiers entered Berlin and camped out in pup tents in the Grunewald. They found a city destroyed by war, blasted, blistered, and battered. Berliners were homeless, cigarettes had become the most stable form of currency.

Forty-nine years ago today—July 4, 1945—Sherman tanks of the Second Armored Division, the famous "Hell on Wheels" Division, lined up in front of the old Telefunken electronics factory—now McNair Barracks—opposite two companies of the Soviet army. In the presence of General of the Army Omar Bradley the Stars and Stripes was raised and the Russian flag lowered to begin the American occupation of Berlin.

What was to follow in the next 49 years could not have been imagined by any Hollywood screenwriter. The U.S. Army, turning from occupying force into defenders of freedom, recommissioned in 1961 by President Kennedy as the Berlin Brigade, would turn into the most powerful and simplest symbol of our nation's commitment to defend freedom, not only in Berlin, but wherever it was threatened.

Men and women of the Berlin Brigade: for nearly a half century your presence here told the world that America's engagement in Europe is essential to security and prosperity on both sides of the Atlantic. Your determination during the first difficult post-war years created the basis for the German-American partnership, shaped its tone, and defined America's commitment to Europe. In 1948, in the late 1950s, their Brigade gave us our focus. Time and again you have impressed us with your tenacity, with your dedication to freedom and openness.

Because of your common efforts, we can stand together today in a free and united Berlin. With great pride and great humility, on behalf of President Clinton and the American people, I thank the people of Berlin for their determination and freedom; I thank our British and French allies for their solidarity; I thank especially the men and women of the Berlin Brigade; and I reaffirm the solidarity of Americans with people everywhere who cherish the blessings of liberty, people everywhere who consider themselves Berliners.

But we still live in a violent and uncertain world. Drawing down our force levels in Europe does not mean we are disengaging from the continent. The U.S. military is leaving Berlin because it has completed its mission. But Americans are not leaving Germany. We have been asked to stay and 65,000 American soldiers will remain in Germany, the bulk of 100,000 troops we will continue to station in Europe as a whole. We remain committed to the German-American security partnership within the NATO Alliance.

And so, even though the Berlin Brigade is departing Berlin, we Americans are not saying goodbye to your great city. In fact, over 10,000 civilian Americans now make Berlin their home, and thousands of other Americans from all walks of life are coming to this great city, thousands of Americans were attracted by its vitality, it's energy and its opportunity.

The fall of the Berlin Wall did more than liberate the people of eastern Germany, eastern Europe, and many former Soviet republics. It also liberated the German-American relationship from the need to focus narrowly on a common external threat.

The Cold War is over, we have entered a new era. I believe it will be the greatest that Berlin, the greatest that Germany, the greatest that Europe and America have yet known. You are striving to fulfill the dream of the United States of Europe, a Europe united in democracy, a Europe that can serve as our partner in a global challenge to extend peace and prosperity. We share your aspirations for the future, just as we shared your struggles in the past.

Almost a half century ago Berlin became the birthplace of the modern German-American partnership. The attitude of the Berliners in the first difficult post-cold war years was decisive for the transformation of Germans and Americans from enemies into allies. Today, the signals that come from this great city can again set the tone for our partnership.

"People of the World," Berlin's courageous mayor Ernst Reuter implored at the height of the Berlin Blockade, "look unto this city." We did, and we stood by your side. We will continue to stand together in the future. Just as we worked to tear down a wall of concrete and barbed wire we can tear down the walls in people's minds—and we must.

I cannot conclude without thinking of one of our great Supreme Court justices, Thurgood Marshall, who throughout his life worked for peace by fighting for justice. "We can run from each other," he said, "but we cannot escape each other. Knock down the fences that divide. Tear down the walls that imprison. Reach out: freedom lies just on the other side."

Next Tuesday, President Clinton will make a historic visit to this city. He will speak as the first American President to address a united, free and democratic Berlin. He will speak from the eastern side of the Brandenburg Gate. It will be a historic day and it will be concluded by the inactivation ceremonies for this great military unit that has been so important in the history of the cold war.

To the people of Berlin, let me say this: do not mourn the departure of the Brigade. Rather, celebrate their achievement. Join with celebrating their historic contribution to freedom, a mission now accomplished. And remember: the U.S.-German partnership is just beginning, especially here in this great city.

WHAT THE AMERICAN PEOPLE WANT IN HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. CARDIN] is recognized for 5 minutes.

Mr. CARDIN. Mr. Speaker, I take this time to review one of the bills that was filed last night with the Committee on Rules as an alternative or substitute to the Majority Leader GEPHARDT's bill on health care reform. I know my colleague, the gentlewoman from Connecticut [Ms. DELAURO] will be taking more time later this evening in a special order for 1 hour to review the various proposals, but I thought it was important that we at least bring out the fact that many of us have been looking to what substitutes will be filed so we can compare those bills to the bill that was filed by the majority leader, the gentleman from Missouri [Mr. GEPHARDT], to see whether any of these substitutes live up to any of the standards that I think the majority of this House and the majority of the American people want in health care reform.

□ 1820

First and foremost, we certainly appreciate our colleagues being willing to get involved in this debate. One of the substitutes that were filed is the so-called bipartisan bill that was filed by my colleague, Mr. ROWLAND, that I would like to talk a little bit about, because I think many of us were encouraged by bipartisan efforts.

We want bipartisan efforts. We want Democrats and Republicans to work together on health care reform. But we also want to make sure at the end of the day that we have real health care reform, that the bill carries out our commitment to the American people to provide universal coverage and affordable health care.

The so-called bipartisan bill, unfortunately, fails any reasonable test. If you look at what we need to do in health care reform, it fails in each and every one of the essential ingredients that we think is important in health care reform.

Let me go through some of the standards that I hope my colleagues will look at in reviewing these alternative bills. First, universal coverage. Does the bill provide universal coverage? The Gephardt bill does, no mistake about it. We get universal coverage, 100 percent coverage.

Some of my colleagues have been urging that 100 percent is not realistic. Let us go to 95 percent. Many of the people on the bipartisan effort said we will accept the 95 percent as the standard. Yet the bill brought out by Mr. ROWLAND by his own admission would accomplish maybe 90 percent by the year 2002. That is assuming we get full funding for the subsidies in the bill.

Let me tell you, the prior bills that were filed by many of the people behind the bipartisan bill at least had the courage to have revenues in them. This bill does not. The Rowland bill does not. So we are led to believe that without revenues, the subsidies are going to be financed. Yet there is a provision in the bill that automatically reduces the subsidies if monies are not available.

So I think it is reasonable to expect we are not going to have enough money to subsidize at 200 percent of the poverty level that Mr. ROWLAND put in his bill, so we will not even accomplish the goal he set out, the 90 percent, let alone 95 or 100 percent of the people covered by insurance. There is still going to be over 30 million people without health insurance. Quite frankly, I think we might find in 10 years we have made no progress in getting the uninsured covered.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Why is that important? It continues cost shifting. It makes it impossible for us to really control any reasonable health care system for a more orderly way of organizing the system. It makes it difficult for doctors and health care providers to locate in poor neighborhoods and rural areas where a lot of people do not have insurance.

We continue the cost shift for those who have insurance to those who do not. The people that really get stuck under the Rowland bill will be the middle-income people. The poor will have subsidies, the wealthy can afford insurance, and the working person, middle-income person, is the person who has no benefits.

Let me just give you a couple of concrete examples. A working couple, husband and wife, they would have to pay $4,600 to get health insurance under the Rowland bill, or 22 percent of their income. Under the Gephardt bill, that same couple would only have to pay $351 a year.

Let's talk about a family, a husband, wife, and children. Under the Rowland bill that family may have to lay out of pocket $6,175 a year. I do not think that is reasonable to expect, that a working family can afford that. Yet under the Gephardt bill, they would be asked to pay a little over $1,000.

How about those people who have insurance today, the working people who do have insurance? Under the Rowland bill they have a very good chance to see their premiums go up by a substantial amount, because you cannot do insurance reform unless you have universal coverage. The Rowland bill does not have universal coverage. It attempts to do insurance reform, and that is a formula for increasing the burden for working people who currently have insurance today.

Another major goal of health care reform is cost containment. We all know that we cannot sustain the ever-increasing cost of health care. We must bring down the overall growth rate.

The Rowland bill does absolutely nothing. I hope my colleagues will take the time to evaluate these bills, and I think if they do, they will find only the Gephardt bill accomplishes real health care reform.

BOB WEHR: AN OUTSTANDING AMERICAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. HANCOCK] is recognized for 5 minutes.

Mr. HANCOCK. Mr. Speaker, to listen to some of my liberal colleagues here in Congress, and to the biased liberal news media, you would think that businessmen are the root of all evil. We are always hearing about heartless businessmen who are oppressing the working man, polluting the environment, and so on.

Our popular culture—through movies, television shows, and political rhetoric—has developed a negative image of businessmen. Well, I am proud to be a small businessman in the real world. I am proud of the jobs our company has created. And I am proud of the hard work I did, prior to being elected to Congress, building up a going enterprise, providing a valuable service to our customers and society.

It is time we started to look at what is right with American business, instead of unfairly vilifying the people who take all the risks to provide the jobs and prosperity for our Nation. Oh, there are some bad apples, to be sure. But you get that with every sector of society. Even the U.S. Congress is known to have a bad apple or two. I think it is time we started paying honor and tribute to the good apples—the men and women who have lived the American dream, founded companies, and prospered by it.

Today I would like to pay special tribute to a constituent of mine: Mr. Bob Wehr. Bob Wehr, now 69 years old, founded his company, Aarons Automotive Products, in 1959. He had the vision and the initiative to take a risk and fill a unique niche in the marketplace, rebuilding automatic transmissions. He took the risks, started a business, and over the course of 35 years grew it to its present size—employing around 800 people. And, of course, he made some money. He was so successful that recently he retired and sold the business for a large sum of money to investors who want to expand his business and create even more jobs. And the company is in very good hands. His son, Jim Wehr, who has worked in the family business since he was a teenager, will succeed Bob as president.

But Bob Wehr also did another very generous thing. When he announced to his employees, all assembled on the shop floor of his plant, his plans to retire and sell the company, he also told them he was taking $2.5 million of the profits from the sale of his company and paying them all bonuses—in gratitude for their loyal service.

That is what America is all about. Working hard, taking risks, and reaping the rewards—while living by a code of rock-solid integrity and kindhearted generosity. Bob Wehr is definitely one of the good guys. And Bob Wehr is a lot more like the other business people and entrepreneurs I know than the evil characters dreamt up by left-wing politicians and our liberal friends in Hollywood.

Bob Wehr did not need union demands to treat his workers fairly or honestly—indeed, his workers, like most working men and women in America, never had a need or desire to unionize. In fact, when the option to unionize was proposed, the employees voted it down 2-to-1.

Bob Wehr did not need some government bureaucrat or know-it-all Member of Congress to tell him how to run his company cleanly, safely, and honestly—and, yes, he has provided his employees health care benefits. Like most American businessmen, he just did it.

When you see someone like Bob Wehr and you think about the Democrat rhetoric bashing the wealthy, calling for punishing taxes on the rich, you just want to shake sense into them.

There is nothing wrong with being successful. In fact, it is something this country used to encourage. Successful people should be praised and emulated. They deserve our respect for what they have accomplished. They are examples for us and our children. After all, don't we all at least aspire to be successful? Wouldn't we all like to be rich? Isn't that what we want for our kids and grandkids—financial security and success?

If we expect to prosper as a nation, we need to encourage people to do what Bob Wehr did, not tax and regulate them out of existence.

We need to encourage, foster, and nurture entrepreneurship. We need to look to the business sector again as the positive, productive sector of our society. We need to give credit where credit is due to Bob Wehr and outstanding Great Americans just like him.

HEALTH CARE ALTERNATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, today several alternatives to the House leadership proposal have been introduced. One is called the Republican alternative offered by the gentleman from Illinois [Mr. MICHEL]. There is one called the bipartisan compromise by the gentleman from Georgia [Mr. ROWLAND] and a number of Members of the Republican party. Of course, the House leadership proposal, and it is my understanding other substitutes have been offered.

I want to commend all those who have introduced legislative language. I think in my discussion and analysis of the partisan substitute, I do not happen to agree with provisions in there, or actually perhaps better said, I do not agree with the fact it does not go far enough.

□ 1830

But I do think it is worthwhile that those people have come together and crafted a proposal. There are some useful parts to it, but I think it is important to look at it in its entirety.

Now, the reality of the situation is that health care requires a comprehensive approach. It is not like the crime rule that was just defeated in which there are a number of very important proposals in one bill but any one of the proposals can stand on its own. Police officers on the street can stand on its own. The ban on so-called assault weapons can stand on its own. The funding for prisons can be voted on separately or together. It does not matter. It can stand on its own.

Not so in health care. Health care is like a giant sausage balloon filled up with water. Do you know what happens if you squeeze down over here, if you take some action here, pop something, something pops up over here. You have to deal with it comprehensively.

The problem with these proposals is that while some of them have laudable insurance reforms, they would permit you to carry your insurance from job to job; they would say that an insurance company cannot deny coverage because of a preexisting condition; in some cases they would enable small businesses to set up pools that they could all be in and thus have greater market advantage, those are all laudable. The problem is to do those without having universal coverage, without having every person in our society with guaranteed private insurance that cannot be taken away and thus to have everybody contributing is to create that sausage balloon where you do something over here and make it worse over there.

I would encourage the drafters of the bipartisan substitute, for instance, to look at the State of New York. It attempted many of these laudable reforms just 2 years ago. Insurance reforms, in which it specifically said that a person could not be denied coverage for a preexisting illness. The problem was that they did not make it universal. So what happened is that those people who had preexisting conditions, those who were ill, they rushed, understandably and justifiably, to get into the system.

Then what happened though is the pool of people involved was such that the rates went up sharply. Furthermore, young people, the most well of our society, they opted out. They said, if I can get in when I am sick, who do I want to pay for insurance now when I am well? So they chose not to buy.

The cycle continued in that then many of the younger people who were working and often making the lowest wages, who had insurance saw their premiums increasing sharply so they out also, further worsening the cycle.

So that is what happens if you attempt band-aid health care reform. So that is why I think it is important that in analyzing these reforms, these bills, that you have to look at it to see, does it meet the benchmark of universal coverage, not just for a moral reason, I happen to think it is morally right that every American have health insurance, but also for the economic reason, the system does not work unless you have it.

79-059 O—97 Vol. 140 (Pt. 15) 33

Finally, Mr. Speaker, to those who would say, let us delay, and point to the fact that these bills were introduced today, these bills were not introduced today. These bills and their concepts have been with us for years. Indeed, for the last year and a half there has been nothing but discussion about these various pieces of legislation. President Bush introduced some of these provisions several years ago himself.

So the concepts have been there. What we are finally getting down to in this chamber, and I think the American people should be delighted in this, we are finally getting down to real bills and real legislation instead of simply rhetoric. The concepts are there. The problems are there. The issues are there. Now it is time to resolve them.

I welcome the introduction of these various pieces of legislation because now I think the American people truly can analyze, truly can evaluate and truly can choose.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LEHMAN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New Jersey [Mr. SAXTON] is recognized for 60 minutes as the designee of the minority leader

ANOTHER PERSPECTIVE ON THE ECONOMY

Mr. SAXTON. Mr. Speaker, I take this special order tonight because of several things that have happened in the recent past. Late last week, in my home town, Mount Holly, NJ, I got a call from a friend. He is a small real estate person, very small business. He has been in business for a number years, and he called me to tell me that he was closing his business.

He said, "I am closing my business because interest rates have begun to climb again. I remember what it was like last time during the late 1970s and early 1980s when they climbed and I am not going through that again." He said, "I just want you to know before you read it in the newspapers, hear it from somebody else, that I am going to close my real estate business."

Then I came here and earlier in the week a group of my friends from the other side of the aisle had a press conference out in the triangle, with the Capitol in the background, and the press conference was to tell the American people that the economy is wonderful, that everything is on the upswing, that there is good growth, and I think they said interest rates were down. And I said, somebody needs to add some perspective, because what my friend in the real estate business said to me earlier, late last week, was not the same as my friends from the Democrat side of the aisle said earlier this week.

So I take this special order, and with the cooperation of Mr. HUNTER, the Republican research chairman, Mr. RAMSTAD, from the Joint Economic Committee, Mr. ARMEY, from the Joint Economic Committee, and others, to add a perspective to this economic debate.

I guess one could ask the question, is the economy growing and is it growing as much as my friends on the other side of the aisle would like to think it is? I guess we could say, what kinds of jobs are being created and what rate of growth is there in the economy? Americans would certainly be interested to know in an historical perspective whether the economy really is growing and what kinds of jobs we are producing and what that rate is.

We might want to ask some questions about Bill Clinton's economic plan, "Clintonomics," as it has come to be called in recent times. What does it mean to have high taxes and interest rates growing are really legitimate questions that the American people should have some answers to.

And, in an historical perspective, is what we are in now anything like what we had during the late 1970s during the Carter administration? That is a legitimate question to ask.

To begin to answer the first question, these charts are helpful, because it shows in the red bars what the average growth during an economic cycle is when we are on the upswing, or better known in economic terminology, as a recovery. And so we took the average of all the economic recoveries since World War II and the rate of growth is in those, the average rate of growth is indicated by the red bars.

This recovery is different. While we are in a recovery and while there is some growth, the blue bars indicate what that growth is.

This chart happens to be job creation after a recession, the average, and job growth creation in this recovery, which is obviously much less. And so from an historical perspective, we can see that the jobs today that are being created are certainly not the same as they have been in recent history.

The next chart shows something similar. It shows gross domestic product growth after a recession. Once again, the blue lines represent what the average has been since World War II and the red lines represent the growth in this recovery.

Obviously, once again, these charts tell a pretty vivid picture. So I agree with my friends on the other side of the aisle, we are in a recovery. We are getting some growth, but it is certainly not what we have come to expect as acceptable levels of growth. During the 1980s, we grew at 4 percent or better, and in this recession, we are

VOL 140 PT 15 AG 10 — 11 1994 UMI

at 2.5 to 3 to 3.1 percent growth, obviously cause for some concern.

What kind of jobs are being created? We are creating temporary jobs. We are creating service jobs, lower paid jobs. And so there is some clause for concern. We should not be surprised by this because all of us were here in 1990 when a big tax increase took place.

□ 1840

I stood at this podium with a lot of the people who were here with me today. This was in 1990. We said "To increase taxes by this amount in this kind of an economy will not help the economy, it will depress the economy."

In 1993 we came back here and said about Bill Clinton's tax increase, "Gee, we really should not do this, because if we increase taxes again for the second time, the biggest tax increase in our country's history, it will be bad for the economy." We as Republicans were not alone.

The chairman of the Banking Committee in the other House said this, and I quote, and this was back in 1993, July 1: "I have become concerned about the effect of the President's program," talking about President Clinton's program, "on jobs and economic growth. I am very concerned about the possibility of falling back into recession as a result of the very restrictive fiscal policy we are about to adopt." That was not a Republican, that was a Democrat.

He went on to say "Congress is about to enact a $500 billion fiscal constraint. We are doing the same thing we did in 1990, tying our fiscal hands behind our back."

Then he said something very key, that is today very important: "I worry what will happen if the Fed does not accommodate." Let me repeat that: "I worry about what will happen if the Fed does not accommodate." Sometime later I will come back to that Fed issue here in just a moment.

One of the other Members on the Democrat side of the Joint Economic Committee from the other House also was quoted on July 1, 1993, in the same forum, and said "Our efforts to reduce the deficit may be of such dimensions as to trigger an economic downturn." So we see that, again, there was some concern, and there still is, I'm sure, among these individuals about what was happening.

There is one other thing that has come to light, and remember, we are going to talk a little bit more about the Fed and printing money in a little while here. The President himself feared that his plan would produce downward pressure on the economy.

Bob Woodward, who has since written the famous book "The Agenda" which talks about issues that went on inside the White House, Bob Woodward said and vividly describes a January 13, 1993 meeting between President Clinton and his economic team. At the meeting, Alan Blinder, a member of the President's economic committee who is now a member of the Fed, warned the President that his new taxes and budget proposal would cause "a recession similar to the Bush recession." We have not seen that yet. There is a reason for it. It has to do with the Fed, and printing money.

Woodward goes on:

> The effect on Clinton was electric. The dangers of the emerging deficit reduction package seemed clear. If we do this, we will bleed all over the floor, and if Greenspan doesn't help, we will be * * * bleeding.

There are probably some young people listening, so I won't say it. The Vice President added his view that the key was the Federal Reserve.

What has happened is kind of interesting. Woodward's book points out that there was a tacit agreement made between the President and Alan Greenspan, the Chairman of the Fed. The deal was very simply that the President would raise taxes to try and do something about the deficit, and in order to accommodate economic growth, Greenspan would help keep interest rates down through the Fed.

In order to help keep interest rates down—and this gets into a little bit of economic theory, but it is not too difficult to understand, interest rates are the amount of money that we pay to borrow money, it is just that simple. Money in this sense is a commodity. So in order to borrow money, we pay interest rates.

Now, if there is a fixed supply of money, interest rates will be at a certain level. If we print more money and make more money available as a commodity, it means that there are more dollars available, and therefore, we do not have to pay so much to get them. That means interest rates are lowered.

The theory was we will raise taxes and we will print more money to keep interest rates down. That worked for a while, but here is what the problem is. As we print money to keep interest rates down, the economists say expand the money supply, as we print money to keep interest rates down, something else happens. Because there is more money and it does not have as much value, it creates inflationary pressures, and prices begin to go up.

As prices begin to up, people who are loaning money over the long haul, like a 30-year mortgage or a 20-year mortgage, or long-term bonds, they begin to look at what the future is going to be like and what their money that they are loaning today is going to be worth tomorrow. If it is going to be worth less tomorrow than it is today, they have to charge higher interest rates in order to get the return that they need.

Mr. Speaker, unlike what the President and Greenspan anticipated, I believe as long-term interest rates started to rise because we printed more money, it began to have a deleterious effect on the economy. The Fed increases in short-term rates were soon to follow. Greenspan continued to try to follow through on his promise, and did keep short-term rates down for quite some period of time, but now, as we all know, we anticipate that in the next few days the Fed is going to have a meeting, and we may see another increase in short-term rates as well.

Now, Mr. Speaker, going back to the original plan here, increase taxes and keep interest rates low, we all know that today interest rates are growing again. This chart shows what has happened to the trend in interest rates since January 1989. You can see that they were fairly high in 1989, and as economic growth took place and as good monetary policy was put in place, when we were not printing more money, the general trend in interest rates was down.

Then, Mr. Speaker, the Clinton tax hike occurred. The deal was made with Greenspan, and look at what happened to interest rates. They are spiking back up again.

Mr. Speaker, what happens when we have high taxes and high interest rates, which were not in the President's plan, what does that do to the economy? I asked the question in my opening here, "Is there anything similar about what we saw in the late 1970's and what we are beginning to see today?"

In the late 1970's, taxes were high. They were high for a different reason than they are today. This House played a part in increasing taxes here today, or recently. However, in the late 1970's there were two other reasons that taxes were high.

First was inflation, and marginal rates were not bracketed, so with inflation up went the amount of money that you sent to Washington.

Second, the wage taxes to support Social Security and Medicare were increased dramatically during those years. We all remember what interest rates were in those years.

Mr. Speaker, if the economy is doing as wonderful as our friends on the other side of the aisle might want us to think, then we want to look at these things very carefully, because we know that we are getting about 3 percent growth today. We know that during the good period of economic growth that we went through during the 1980's we were at 4 percent or above.

We know we have high taxes today. We know we are getting high interest rates. We know that Carter had high interest rates and high taxes, and so at least, at least, I would say to the Members on the other side of the aisle, ask these questions of the American people. Let us make sure everybody understands this.

Mr. Speaker, that is essentially how I wanted to kick this 60-minute special order off tonight.

Mr. Speaker, I yield to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding to me. Let me thank the gentleman from New Jersey for taking this special order at this time.

Let me also thank the gentleman from New Jersey for the job of leadership that he is doing on the Joint Economic Committee. As you know, I have had the privilege of being the ranking Republican on that committee for 2 years, and the gentleman from New Jersey is doing an enormous job of keeping the work of that committee moving.

Mr. Speaker, I have to tell the Members, this is extremely important that we get this question of the current performance of the American economy in perspective with respect to public policy. The President, just a few days ago, had quite an elaborate ceremony in the Rose Garden where he celebrated his good fortune in that the American economy still manages to sustain a, frankly, very modest economic recovery that was begun, very importantly, in March 1991.

My Speaker, I also had the rather dubious distinction of having been quoted, I am told, by the President in that Rose Garden ceremony as one of the critics of his economic package that in fact had not yet been proven correct.

□ 1850

I was thinking about that the other morning as I was driving to work and I was listening to a commercial on my car radio about the person who got the Jump-the-Gun award for the year and the commercial ended with that person saying he had already claimed the award and written his victory speech for next year. I think in terms of the President's celebration of the economic performance under this administration this year at this time, he might be a very well qualified challenger for that Jump-the-Gun award next year.

Let me tell Members what has happened here. At the time the President announced his economic recovery plan, quite frankly I was shocked. On February 17, 1993, I had the privilege of being at the White House when the President unveiled his plan that afternoon. It seemed clear to me that what we had was essentially the same plan that we had in 1990 where we raise Government spending by 20 percent over 5 years and raise taxes.

I told the President at that time that I felt that his plan would create very possibly the kind of economic malaise we had in the late 1970's where we had this phenomenon called stagflation. As I looked at his plan and look now at what has happened, I now realize that the President frankly knew something I did not know and got lucky, and thus far my prediction has not taken place.

What did he know that I did not know at the time? I now know after reading Bob Woodward's book "The Agenda" that the President had made a deal with the chairman of the Federal Reserve to continue an easy-money, low-interest-rate policy and fund the struggling recovery.

The chairman of the Fed knows and I know and you know that if, in fact, you have a rate of increase in the money supply that outstrips the rate of increase in the real performance of the economy, sooner or later we are going to achieve that phenomenon known as too many dollars chasing too few goods which of course is a principal cause of inflation. That, I think, is what we see happening now. The fact of the matter is the chairman of the Federal Reserve is not pushing interest rates up, the interest rates are going up in response to the market, and as they do, the Federal Reserve is being signaled to tighten down on the money supply. The question will be, can he react quickly enough and strongly enough to avoid inflation?

So the inflation component of stagflation, I am afraid, is staring us right in the face today and it will be a question of nip and tuck, can the Federal Reserve reverse itself on easy money quickly enough to avoid that?

Now what the President had in his package and where he got lucky was the President had a stimulus package of some $16 billion of additional Government spending that would have been funded with even additional Government borrowing and that stimulus package would most certainly have been inflationary. Since it would have come from borrowing; it would have come from a further monetization of the debt and, therefore, a further aggravated increase in the money supply, thus further aggravating inflation.

Thanks to the Republican votes primarily but a generous portion of Democrat votes as well that were alert to the dangers of this, this stimulus package was taken out of the President's economic package, and he got lucky. He also had a broad-based energy tax, a Btu tax.

One of the great cost drivers in the economy is the cost of energy. The fact is you cannot conduct any commercial enterprise at production, manufacture, wholesale, retail, or shipping without using energy. If, in fact, you slapped, as he had intended to do, a high tax on energy, you would have raised the cost of every good produced, every good shipped, every good retailed in America, and that would have had a multiplied effect, further aggravating a stimulus to inflationary pressure.

So the President knew he had help in the short run from the Fed that was dangerous in the long run for inflationary purposes; he knew that he had, or thought that he had further stimulus which could only have been inflationary, which he was saved from by Republican votes primarily but also some very good discerning Democrat votes; and he had a Btu tax that could have been extraordinarily inflationary except that again the same discerning Members of Congress, Democrat and Republican, voted him out of his package. Even with that repair to his package, he only passed it by one vote.

What we see happening today is the weak recovery beginning to dissipate as the Federal Reserve does what it must, which is respond to the excessive money supply, cut off the lifeblood of the modest recovery we have had with the hopes that we can avoid stagflation. I would still believe that the most likely outcome of this policy mistake will be a serious recession and very likely one accompanied by serious inflationary pressures next year. It is tragic.

Ronald Reagan took in his first 2 years of his Presidency with his first budget the necessary recession to break the back of inflation that had beleaguered the Nation since 1965. Even under those circumstances, he had a higher popularity than this President who took the easy road of false economic stimulus in the early 2 years of his presidency.

Why? Why would Ronald Reagan have had a higher popularity in the first 2 years of his presidency when the economy was in a recession than this President does when it is in a modest recovery? Because the American people know when someone is doing the right thing for the right purposes and they know clearly the President's policy is the wrong thing written for a political purpose and cannot sustain the endorsement of the American people that Ronald Reagan sustained by having done the right thing for a necessary policy purpose.

I want to thank the gentleman again for letting me address the issues.

Mr. SAXTON. Mr. Speaker, I thank the gentleman for the further explanation of the role that the Fed is playing and has played in the President's economic plan here. Obviously it becomes very important that we all understand that.

Mr. Speaker, I yield to the gentleman from Minnesota [Mr. RAMSTAD] for further comment.

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman from New Jersey for yielding.

Mr. Speaker, I too applaud his leadership on the Joint Economic Committee. I also applaud the leadership of the ranking member, the gentleman from Texas [Mr. ARMEY].

Both preceding speakers, Mr. Speaker, mentioned Bob Woodward's recent book. In that book Mr. Woodward says that President Clinton called his own tax plan "a turkey." Well, the President apparently knows a turkey when he sees one and that bird has now come

VOL 140 PT 15 AG 10 — 11 1994 UMI

home to roost. The President's high-tax, high-regulation policies are an albatross around our struggling economy. I think the anniversary of the President's tax plan that we are marking today provides an excellent occasion to show through a frank and honest discussion of the results of this tax hike, the largest tax hike in the history of our country, that high-tax policies do not promote sustained economic growth. In fact, they cannot promote sustained economic growth. The President, as has been explained, has been the beneficiary of a normal business cycle recovery. I think we all agree on that.

The recovery, albeit it a weak one, was well underway before President Clinton assumed office and it is interesting to note that economic growth has actually slowed since his inauguration. Let me explain. The last recession, the Bush recession, officially ended in March 1991. Substantial growth then began in 1992. In 1993, after President Clinton was inaugurated, we saw growth slow abruptly in the first half of the year and then surge at the end of the year. But despite strong fourth-quarter growth in 1993, annual growth in 1992 outpaced that of 1993. So it is disingenuous at best for the Clinton administration to claim credit for an upswing in the business cycle that was clearly in place before Mr. Clinton became President.

We all remember how our friends on the other side of the aisle claimed, at least some of them, that this largest tax increase in history would send a signal that Washington was serious about deficit reduction. We remember how they said this would result in a steep drop in interest rates.

Let us look at what has happened. Bond yields began rising shortly after the tax bill was signed. Ten-year Treasury bonds rose from 5.3 percent in September 1993 to 7.3 percent this past July. Yet even with these increased rates, the dollar continues to fall. The continuing fall of the dollar in world markets shows that the recent increase in interest rates both by the Federal Revenue and the markets have not restored confidence in the stability of the dollar.

Mr. Speaker, all of us should be concerned that this free-fall further damages long-term economic prosperity for all Americans.

We look back to President Carter's economic policies, because they clearly illustrated the presumed trade-off between inflation and unemployment, that that tradeoff is nonexistent. Both of these harmful economic results can and will unfortunately coexist.

With inflation now as the gentleman from Texas explained so well in clear view, we face the real possibility of returning to the glory days, so-called, facetiously of Jimmy Carter.

□ 1900

We all remember the phrases malaise, the misery index readings, and stagflation. I am afraid we are headed that way again if we do not change the economic policy of this country.

Economists agree our economy should grow, and this is a consensus among leading economists from both political parties and of all ideological stripes, leading economists agree our economy should grow at 4 percent a year on average in real terms, with price stability.

While the economy has been growing at an annual rate of about 4½ percent for the three quarters, that growth has been artificially stimulated by an easy money policy that will launch us right back into Carter style economics.

Even the president is skeptical of long-term economic growth. The OMB's midsession review of the budget forecasts growth at below 2.7 percent in 1995 and next year and beyond 1995, 1996 and 1997 as well. OMB forecasts, in fact, project average annual real economic growth at only 2.6 percent between 1994 and 1999, a 5-year period of growth and real economic growth 2.6 percent. That should concern all of us.

The American people cannot afford nor do they deserve this kind of stagnation, this kind of slow growth.

We all know that the vaunted Clinton recovery is the weakest in the last 50 years, the weakest of any of the seven post-World War II recoveries. In fact, since World War II the U.S. economy has traditionally averaged 5.3 percent annual growth for the 3 years following the end of a recession. The current recovery though has only averaged 2.9 percent in the last 2 years, which is far below the average of the previous seven World War II recoveries. In fact, growth during the expansion has not even reached the average of 3.1 percent for all years since World War II. That is including the recession years.

Economist Lawrence Kudlow recently estimated that our gross domestic product would have grown by an additional $1.1 trillion and over 5.5 million new jobs would have been created if the economy had simply grown at the post-war average.

Mr. Speaker, we must look seriously at the reasons why our economy cannot shake off its doldrums. It seems to most of us on this side of the aisle that the clear reason is the Clinton high tax, high regulation, high spending policies are a heavy anchor on the economy, and it is time to cut this anchor loose.

Economist Larry Kudlow calls the difference between the weak economic growth we are now experiencing and the economic vigor seen in past recoveries, the performance gap.

Clearly the Clinton tax increases have made a significant contribution to the performance gap. They have taken money out of the productive, capital-investing sector of our economy and given it to the inefficient bureaucrats here in Washington.

But the real problem is the absence of the pro-growth reforms our economy so badly needs. We need a capital gains tax cut to stimulate investment and job creation. We need to look no further back than President Kennedy's era and look at what President Kennedy said and did in terms of cutting capital gains and look at the job creation and the economic growth that was resultant from that capital gains cut.

We also need to lower burdensome regulations which are increasing at the highest rate since the Carter years. Regulations are killing our small business sector which creates 85 percent of the jobs for the American working people. We must review and reduce the burdensome regulations on the entrepreneurs of this country, and above all, Mr. Speaker, we need a rational tax policy that quits penalizing the productive and rewarding the parasites.

Working with those of us who understand that economic growth comes from the private sector, nor from expanding government, this administration can close that performance gap. Congress and the President now need to work together to get the real economic growth, the real job growth that this country needs.

It is high time, Mr. Speaker, we put jobs first. It is high time we roll up our sleeves and work together in a bipartisan, pragmatic way to deal with this problem.

Finally, Mr. Speaker, I include for the RECORD the excellent article by our distinguished colleague, the gentleman from New Jersey [Mr. SAXTON], entitled "The 'Clinton Recovery' Is a Study in Self-Contradiction" from yesterday's Washington Times.

The article referred to follows:

THE "CLINTON RECOVERY" IS A STUDY IN SELF-CONTRADICTIONS

(By Jim Saxton)

On this first anniversary of the largest tax increase in U.S. history, President Clinton and his allies on Capitol Hill are singing its praises.

Using rhetoric that would make Clinton spin doctor Paul Begala blush, all good things in the economy are now attributed to Chairman Bill and his wonderful tax increase. The liberal Democrats are frustrated because they know practically no one in the real world believes their policies have boosted the economy, as evidenced in the president's 57 percent disapproval rating on his economic performance. This is not surprising. After all, even President Clinton himself called his budget plan a "turkey." This economic expansion belongs to the American people, not to politicians and P.R. consultants in the White House.

Actually, the truth is that congressional Democrats themselves don't believe the Clinton budget was good for economic growth. In 1993, Democrats and Republicans were united in the view that the Clinton budget plan would be a drag on the economy. For example, the liberal members of the Joint Economic Committee (JEC), in their 1993 annual report, were very explicit in stating of Clinton's budget that it "will continue to exert downward pressure on economic activity through the next five years." Earlier they said, "There is danger that the recovery could stall if monetary policy does not provide the stimulus needed to counteract the restraint imposed by contractionary fiscal policy." According to these liberal members of Congress, the Clinton budget plan was "contractionary," a drag on economic growth.

The always opportunistic Clinton administration, guided by budget war room chief Roger Altman, had crafted a different message in support of the budget plan. The cornerstone of the argument was that the Clinton budget plan would "grow" the economy by lowering interest rates. Lower interest rates were the key link defining exactly how Clinton policy would boost the economy. The only problem is that interest rates increased soon after the Clinton plan was enacted. For example, the 30-year Treasury bond yield jumped from 6.3 percent to a current level of 7.4 percent. The central linchpin of the administration's whole economic argument actually went in the opposite direction from the one the administration predicted. If lower interest rates from Mr. Clinton's policy were to be the central component pushing the economy forward, how can an increase in interest rates with continued economic growth be casually linked to the Clinton program?

Mr. Altman, the administration's "message czar" and point man on the budget, is presumably too preoccupied with other matters to square all these circles. However, there are certainly plenty of others following in his footsteps. Consider, for example, the argument that the Clinton administration promised to create 2 million jobs annually and is already ahead of schedule. First of all, the Clinton promise was recognized as bogus from the beginning, even inside the White House. According to Bob Woodward's new book, "The Agenda," before passage of the Clinton package, a marketing memo from Paul Begala stated, "This bill will create jobs—8 million of them." Mr. Woodward goes on to say, "In fact, the economy would create those jobs and the economic impact . . . Begala was not fully comfortable with the simplistic, happy-talk memo. He realized, somewhat painfully, that he had become a salesman for a plan that neither he nor Clinton really believed in."

Non-partisan economic forecaster Allen Sinai testified before the House Budget Committee on the Clinton plan in 1993. His conclusion was simple: "Overall, the Program does not create more jobs than what would have occurred without the Program." Moreover, the "contractionary" effects on the economy, as the JEC Democrats described, cannot create a basis for employment gain beyond those which would have occurred anyway. Just as Clinton cannot take credit for economic developments characterized by higher interest rates, he cannot take credit for the employment growth generated by the business cycle. The upside of the business cycle preceded Mr. Clinton, and the real challenge will be prolonging the cycle long enough to see Clinton exit the White House in 1997.

Finally, it is true that inflation has reached fairly low levels. However, past inflation is not the current worry, but the potential for future inflation. Disinflation is a process that has been under way for over 10 years. Even the most ardent supporters of Bill Clinton do not have the nerve to claim this as a result of Clinton policies. To the contrary, the rise in interest rates indicates that inflationary expectations have been stoked by Clintonomics' noxious mix of tax increases and easy money policies.

In conclusion, there was no partisan division in serious analysis of the economic effect produced by the 1993 Clinton budget. Both Republicans and Democrats correctly said it would be a drag on growth. Some members in both parties worried publicly about the possibility of a "contraction" or recession. The White House put all its eggs in the interest rate basket, and this argument turned out to be wrong. By so closely identifying the Clinton budget with lower interest rates, the White House cannot reasonably argue that its plan boosted growth under higher interest rates.

The business cycle that preceded Clinton's election continues. We are all pleased that the economy is growing and employment is rising. However, the American people know this does not have anything to do with Clinton's "contractionary" policies. The president is acting like the rooster who thinks that it is his crow that causes the sun to rise every morning. However, the sad truth that emerges from "The Agenda" is that Mr. Clinton regarded his own budget plan as a "turkey" that he did not believe in himself, but forced the Democratic controlled Congress to adopt it for political reasons.

Mr. SAXTON. Mr. Speaker, I thank the gentleman for very cogent remarks. I was particularly taken by the fact that the gentleman has alluded on several occasions during his remarks that we Republicans would do things differently, and that is obviously very, very clear, and will become clearer here on September 27 when we say formally what those things are that we would do different.

Let me say this in introducing our next speaker: The Clinton administration likes to hang its hat on the deficit and deficit reduction as a reason to increase taxes. I would like to point out with this chart that the statements that were made in 1990 about the deficit and how worried we were about it when the deficit was much lower than it is today, and of course in 1990 we had a major tax increase to do something about the deficit. In 1993 we had another increase that we did here in order to do something about the deficit, and at the end of 1994 the deficit was significantly bigger than it was before either of those tax increases. As a matter of fact, I think it is fair to say it is not the taxes, it is the spending. In other words, we have not put a cap on spending.

Our next speaker is an expert at knowing how to put a cap on spending. He is from New Hampshire, and he has become a household word. If I said he is author of the "A to Z program" everyone would know it is BILL ZELIFF from New Hampshire, and I yield to the gentleman from New Hampshire.

Mr. ZELIFF. Mr. Speaker, I thank my colleague from New Jersey for yielding.

Mr. Speaker, this week marks the one-year anniversary of the President's tax bill which was the largest tax increase in the history of the United States.

It is an especially memorable time for me since it was also the week I initiated what has now become known as the A to Z spending cuts plan. Believe it or not, folks, it has been a year.

The original letter to Speaker FOLEY that ROB ANDREWS and I sent out outlined our plan which was bipartisan. It was dated August 6 of last year, and we asked for additional spending cuts. This was the week before the vote on the economic plan, and we stand here today on the brink of discharging the resulting legislation, H.R. 3266. All we ask for in this legislation is a 56-hour debate on setting spending priorities, allowing every Member of this body to make a difference, to offer an amendment and to have a full discussion and up or down vote.

We stand just 14 signatures short of bringing A to Z to the floor. There are a group of Members who stand ready to sign on in case the Democratic leadership fails to follow through on their promise of having a full day of entitlement cuts before the August recess.

Tomorrow we will consider some legislation aimed at trying to fulfill that deal, but it has nothing to do with entitlement spending or real spending cuts.

We spend weeks debating the California Desert Protection Act, but according to the leadership, we just do not have the time to debate cutting spending, particularly entitlement spending.

This is what is driving the deficit, and this is what is dragging the country's economy down. But somehow the leadership prefers to keep out of control entitlement spending on auto pilot.

But we are here tonight to mark the one-year anniversary of the Clinton tax bill, a celebration for some and a deep concern for most of us.

Never in our history has a tax increase led to a strong economy. On the contrary, they have led to further destruction of the economy. We saw that happen in the Carter administration as well and yes, in the Bush administration in 1990. President Bush gave in to a tax increase of some $164 billion and put an end to the largest peacetime expansion in American history.

The facts are there, Mr. Speaker. The White House's own numbers show that growth and job creation are way behind schedule, and the numbers of my colleague from New Jersey show that for this stage in the business cycle.

□ 1910

The economy has been growing between 3½ and 4 percent for the last three quarters, but this growth is due to inflationary monetary policy, not any great economic wonders of the

VOL 140 PT 15 AG 10 — 11 1994 UMI

Clinton administration. The policy being used by President Clinton and Alan Greenspan over at the Fed has been to raise taxes and print more money. This is not a sustainable policy to insure long-term growth. You cannot keep printing money and expect real growth to continue.

There is a threshold, and as soon as we hit that threshold, even this mediocre recovery will fizzle into high price inflation and high employment.

Further evidence of this is in interest rates. Contrary to what people believe, the Fed is not leading this increase in rates. It is merely following market pressures. This is driven primarily by fears of inflation because of the Clinton-Greenspan policy of raising taxes and printing lots of money.

About 3 weeks ago, Louis Rukeyser wrote in the "Wall Street Journal" a full-page letter to President Clinton and talked about the falling dollar, talked about the lack of confidence in the world, and basically, primarily indicated that the falling dollar is the result of our inability to settle and make a difference in terms of getting control of entitlement spending.

The bottom line is that this is a failed monetary policy, because we are just dragging money away from the private sector and into the public sector. There is no way that a free-market economy can insure long-term growth if the Government keeps eating up such a huge chunk of the gross domestic product. The Federal Government keeps spending and spending. The President and Congress are fooling the American people by saying they are bringing down the deficit. This is untrue because all we are doing is adjusting the deficit numbers to inflation under a baseline budgeting system that many of us think is a gimmick.

Sure, we can add a new category that shows the real budget, and we will talk about that tomorrow, by comparing this year's spending against last year's. This is the way we do it in the business world, but still allowing a baseline will continue to give the Democrats ammunition for fooling the American people.

I find it incredible that the President is taking credit for these policies which will raise the Federal debt $1 trillion over the next 5 years. The President and the Congress do not even mention that. They do not mention it for political reasons, and the end result of their continued failed policies will kill this country's economy. We cannot let this happen. We have to turn these policies around. We have to cut taxes and not increase them, and we need to bring Government spending under control.

The American people are no longer being fooled. It is here that we see the importance of A to Z, and this is not a gimmick, as the leadership in this body has claimed on an irresponsible basis. It is a serious program to cut Government spending in the face of increased taxes and inflationary policies.

A to Z is the very least that we can do and the very best we can do to start bringing this economy under control. There is a long way to go to pay off a $4.7 trillion debt and controlling the deficit and start living within our means, but we can start with reining in Government spending and getting the Government out of the hands of bureaucrats and into the hands of the private sector.

Many of us believe the private sector is where the job creation is and where the real growth potential for our country's future is. It is about time we understand low taxes come from, guess what, low spending. That is the way we do it in New Hampshire, and this is the State where there is no income tax and no sales tax. We keep our taxes down as a result of low spending. President Clinton believes that more taxes and more spending will reduce the deficit.

The American people know that this does not make sense, and they are not going to buy into this little gimmick. If President Clinton wants to brag about his failed economic policies, well, so be it. That is his privilege. But for this Member of Congress, I am very proud to have been one of many who voted against that plan which increased our debt $1 trillion over the next 5 years.

I thank my friend, the gentleman from New Jersey, and I appreciate being involved.

Mr. SAXTON. Mr. Speaker, I would like to thank the gentleman for his very articulate explanation of A to Z and other related matters.

The one thing the gentleman mentioned which I would just like to talk about here just for about 30 seconds, part of the press conference that I made reference to earlier that was held out in the triangle earlier this week was about the deficit and how wonderful it is the Clinton economic recovery tax program has somehow begun to reduce the deficit. That is simply not true, and the reason it is not true is because, while the deficit is coming down, there are some very good reasons the deficit has come down. We anticipated, for example, about $20 billion more in expenditures for the S&L bailout than we had to make, and, therefore, we did not spend that money.

As has been pointed out several times, the last three quarters of growth that have been 4 percent or better as a result of this loose-money policy where we are printing money has spurred the economy; we have gotten more economic growth and, therefore, we have seen money come into the Treasury. But that is not because of the President's economic plan. It is because of the deal that he has made with Alan Greenspan which, on this chart, shows very clearly that interest rates are on the rise again.

When interest rates get too high and taxes are correspondingly too high, we get into all kinds of problems.

Mr. ZELIFF. If the gentleman will yield further, I would just like to end my end of this by saying that, you know, we do this a lot in town meetings up in New Hampshire. If we came before this body or any group in this country and we talked as if we were talking to a banker and we said that we were $4.7 trillion in debt, soon to be $6 trillion over the next 5 years, our interest debt is $212 billion this year and will soon be $272 billion in the year 2002, and if we go further on to say that our average debt is a little less than $200 billion this year and projected to be that way throughout, can we borrow more money? The banker would normally say no. The problem we have with the management of this House, the leadership, they are saying that is OK, "Trust us, we are on automatic pilot. We do not need to deal with entitlements. We do not need to have a foolish A to Z thing that takes 56 hours of debate to cut spending and set priorities."

I think, frankly, they are wrong, and we are right. I think the day is going to have to come, and we certainly wish that President Clinton would take the initiative on this; we need to cut spending to start living within our means, and then the policies will start to work.

I thank the gentleman very much.

Mr. SAXTON. I now turn to the gentleman from Texas [Mr. DELAY], the chairman of our Republican Study Committee, a gentleman who has been involved in many economic matters in the 10 years that we have served here together.

I yield to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I thank the gentleman for yielding.

Mr. Speaker, I must say that the gentleman from New Jersey has been a stalwart in bringing the truth to the American people.

The studies that he has initiated in his side of the Joint Economic Committee have been well-done studies that show that the reality does not match the rhetoric that is coming out of the White House. The gentleman has been incredible in proving that, unfortunately, we have a media in this country that just refuses to challenge the President on the things that he says.

During the campaign we may remember that the President said he was going to end welfare as we know it, and he comes out with a welfare reform package that expands welfare as we know it.

Just recently, just today, we sent the crime bill back to the conference committee. You remember this time last year the President did not support the crime bill in the Senate, and all of a sudden he jumped out in front of the parade and claimed it was a great bill. Then the bill got worse and worse, and he took credit for the bill that has been rejected by the People's House.

I think the gentleman from Virginia [Mr. GOODLATTE] put it beautifully when he was speaking on the rule on the crime bill when he said the President is trying to look like Dirty Harry, but he is turning out to be Barney Fife with this crime bill. The same thing is happening in the economy.

The gall of the President of the United States to stand out there and take credit for an economy that he had nothing to do with is beyond me. He ought to start writing fairy tales, because the myths that he is perpetrating on the American people are unbelievable, and what kills me is really interesting and funny to watch, the American people do not believe the myths that he is putting out.

For instance, the gentleman was talking about the first myth that the administration's economic policy has actually restored economic growth, and here we are now falling prey to economic revisionism by this White House, when your own study, the study by the gentleman from New Jersey, reports that the campaign of economic revisionism implies those who benefited from the 1980's did so improperly, even though an objective analysis of the data revealed that income gains were enjoyed across the board.

The administration is taking credit for the economy's 3 percent growth rate in 1993, and a 7-percent growth rate surge in the last 3 months, when anyone who has had Economics 101 knows that it takes more than a year to see the effects of new policies.

Myth number 2, the administration's economic policy has helped create new jobs. This one I just cannot believe that they would try to support such a myth. The President has said that his economic program has produced almost 4 million jobs in just 18 months, when the truth is, as we all know it, the economic recovery was well under way long before his economic program took effect.

□ 1920

And studies show that since the inauguration 84 percent of the jobs created have been in the lowest paying categories as compared to 69 percent during the Reagan and Bush years. I can remember Member after Member coming to this floor claiming that the Reagan and Bush jobs were nothing but hamburger-flipping jobs. Yet they run from that statistics when you find that the jobs that are claimed to be created by this administration are low-paying jobs.

According to the Bureau of Labor Statistics, right there on that chart, manufacturing jobs have actually decreased by 56,000 since President Clinton has taken office.

Mr. SAXTON. I would like to make reference to this chart. This chart shows the length of the average work week beginning in 1984 and coming through 1993. We can see that in 1993 the average work week for manufacturing jobs is significantly longer than the average has been. One might ask why is that? Is it because we are producing so much more? We all know that is not true. Is it because the economy is growing faster than it was during these years? We know that is not true. The answer has to be that employers would rather hire people to work longer and hire fewer people than they would to hire more people and work the average work week that we used to work.

I might digress here for just one other point. The reason, in my opinion, employers are doing this is because they do not know where to turn next, in terms of taxes, in terms of health care reform, mandates, additional responsibilities for employers. So, fewer workers mean less overhead and we just work a little longer.

Mr. DELAY. I think also, if the gentleman would yield, the opposite is true, workers are willing to work longer because they are having to work longer in order to maintain the same standard of living that they had in the years past.

In my district I know people are working two jobs just to pay for the standard of living that they enjoyed 5 to 10 years ago.

Why is that? It is because the Government is taking—the cost of Government is well over 51 percent of their income. The Government is taking more and more of the labor American workers in this country, and certainly it has been shown to be so in this.

Let me just say it is also interesting, other than the study the gentleman is laying out, that the Washington Times reported that since last year an average of about 170,000 jobs per month had been created, and compare that to between 200,000 and 250,000 jobs during same expansion period of the 1980's, per year.

So when they claim they are creating all these jobs, what they are claiming is creating all these jobs at a slower rate than had been created in a good economic expansion.

I might just say in April, when President Clinton's retroactive tax increase and the wealthy owning at least one-third of the tax hike that raised their rates from 31 to 39.6 percent, personal consumption expenditures fell and the personal savings rate dropped to its lowest level since 1987.

The problem is that 20 to 25 percent of all consumer spending comes from the wealthiest 5 percent of the population. Arnold Moskowitz of Moskowitz Capital Consulting of New York predicts that Clinton's scheme to soak the rich will actually slow the entire economy from 3 percent growth to 2.5 percent growth.

I just want to say that the American people are not buying these myths that are coming out of the White House. Fully 57 percent of the American people disapprove of the President's handling of the economy, while only 36 percent approve. Another 81 percent of the American people disapprove of the President's handling of the deficit, while only 28 percent approve. And 61 percent of the people disapprove of the President's handling of taxes, while only 31 percent approve.

This President is not doing anything to improve the economy; in fact, as the gentleman from Texas [Mr. ARMEY] said, he has just been lucky that it has not landed in the toilet.

Mr. SAXTON. I thank the gentleman for his statement, and, as always, an articulate and fine statement.

I would like to turn quickly to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Let me just make a few comments on the economy.

I am not going to stick to my text on this. I do not think most Americans realize the extent of what this huge $4.7 trillion to $5 trillion debt, what this means in terms of ordinary day-to-day life.

Buried in the budget that was passed is something called generational forecast. We received an interesting article from Paul Tsongas and Warren Rudman, head of the Concord Coalition which analyzes different problems with the budget and gives their suggestions for putting this country into some type of financial order.

That is that for every child born in the year 1992 and thereafter, by the time that child is in the work force he or she will have to pay, because of the huge, growing national debt, an income tax rate equal to 88 percent, that is 88 percent. And that says nothing about State and local and county taxes.

When I talk to the folks back home in Illinois at our town meetings, in grocery stores, walking from business place to business place, it is apparent that people know this deficit is horrible but do not realize that we are just really the width of a whisker away from financial and economic collapse, if the debt and spending in this Nation continue.

That means we are going to reach a point where there will not be enough revenues to pay the interest on the national debt, and at this point the Government does one of two things: It either monetizes, which simply means it prints up or cranks up money; or, two, it declares all Government obligations to be fulfilled and paid in full without doing it.

Now, you can imagine collapse of the economy.

I just wanted to share that with the gentleman from New Jersey to sort of bring to a focus point the concerns that the gentleman has been sharing here during these special hours.

Mr. SAXTON. I thank the gentleman for bringing out what a serious issue

VOL 140 PT 15 AG 10 — 11 1994 UMI

the national debt poses to us as well as the fact that, you know, if you plotted out the revenue that we have had coming into our Federal Treasury over the last 10 years and you plotted out on the same graph or chart, the line representing the expenditures, you would see a revenue line down here, an expenditure line that goes like this, and they are simply getting further and further apart. Hopefully, we are seeing some tipping back together here during the last few months, again for some good reasons.

But if I may, I would like to yield to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. I say to the gentleman I certainly appreciate being here this evening.

We ought to leave the economy to the economists because politicians have done a poor job.

During the 19-million-job-creation 1980's, the Democrats told us these were just hamburger-flipping jobs and nothing substantial was occurring.

Then we found out those people were paying taxes, the economy was growing, and revenue was increasing to the Federal Government. Instead, the Government is flat, the private economy is flat. What have we said about it? We said, "This is wonderful, Bill Clinton has said he has created all these jobs and things are just rosy."

Then we step to the microphone and say these are just hamburger-flipping jobs, these are not real. Probably half is about true. But why? What is it wrong with the economy? Why is it flat? Why is it not growing? Because we raised taxes over $100 billion a year ago today.

□ 1930

That is what the problem is, and everyone knows when you raise taxes and suck that much money out of the economy you are not going to be able to create jobs. The Government has to get out of the way so the private sector can lead. That is true in health care; it is true in the economy. So, we are not going to debate whether or not he has created so many jobs because we know that they had to raise in January 1993, the day Bill Clinton took office, the Labor Department had to raise, estimates of jobs created in that terrible year of 1992 under George Bush; 158,000 jobs, meaning that we have actually lost 58,000 jobs since then in manufacturing.

So, we can debate numbers, but what the American people want to know is are we leaving business alone? Are we giving the American public enough money to invest, to save, and to create those jobs? And the answer is no, this Government is growing like Topsy, and the real problem is more debt and more Government.

The reason the crime bill failed today was because it was $33 billion. That bill started out in the House at $22 billion. It went to the Senate at $28 billion. It came out of conference at $33 billion. If every cent of that was for crime control, we still could not have afforded it. So, that bill is now going back to conference for a quick diet, and it will come back a toughened, lean, and mean crime bill that puts police on the street instead of sensitivity trainers at the other end of the 911 call.

I say to the gentleman from New Jersey, It is a pleasure to be here tonight. Let's let Government get out of the way. Let's encourage the private sector to invest, to risk, and to create those jobs. Let's create the incentive to save in the minds of the American people, and we'll put this country back in order.

Mr. SAXTON. Mr. speaker, I would like to thank the gentleman very much for being with us here this evening to discuss threse very, very important issues, and I would also just like to say to all the Members that these issues are things that we are going to be dealing with in the future, and I hope that this special order tonight has shed some light. I tried not to be too partisan about it, but there are differences in the thought process or in the basic approach that, I think, that the two parties have here, and I hope that we have been able to point them out in an objective, in an objective way.

Mr. Speaker, the hour is growing late, and I know there is more business in the House, so at this point, I guess with very little time left. I conclude.

HEALTH CARE REFORM

The SPEAKER pro tempore (Mr. LEHMAN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes as the designee of the majority leader.

Ms. DELAURO. Mr. Speaker, before I get to my remarks tonight on health care reform and a discussion of health care, several of my colleagues were just on the floor talking about the economy, several of my Republican colleagues. I might just take a minute to note that I do not know where they got their facts from in terms of what the state of our economy is today, but let me just quote to you from some, if you will, nonpartisan folks who look at the economy on a regular basis, folks at Lehman Brothers.

To President Clinton's credit early last year he rejected an either-or construction for U.S. growth versus deficit reduction. Clinton's blueprint for economic revival had as its centerpiece a multiyear program of deficit reduction. It promised higher growth in the short, it promised higher growth in the short run. A move to restrain deficit spending, he wagered, would both lower U.S. long-term interest rates and energize U.S. interest-sensitive sectors. He goes on to say lower deficits, lower long-term rates and higher real growth was the overall promise. With the data now rolling in it seems clear that President Clinton delivered on all three counts over this second half of the year.

Allen Sinai of Lehman Brothers, again as reported by the Washington Post: This is the healthiest American economy has been in 30 years.

David Shulman of Salomon Brothers, as reported by the Washington Post: The economic recovery is now moving from Wall Street to Main Street. There will be less money flowing into the financial—in the financial economy and more flowing into real recovery.

I just felt the need to mention some of these things because in fact the economy is recovering, and we have had under President Clinton 2.8 percent growth 1993, 7.5 percent growth in the fourth quarter, 3.3 percent projected for this year. Jobs are up 1.7 million. New private sector jobs, 60 percent more than during the entire Bush administration. The deficit is down. It has been the largest deficit-reduction package in history. We have seen the lowest deficit numbers for the first time since Harry Truman held the office of President.

So, I do not know where my Republican colleagues are getting their data.

Furthermore, I just make one or two more points here. In this carbon Congress the House Democrats passed the largest deficit-reduction plan in history cutting $255 billion in spending cuts. Again, I do not know where they are getting their economic data, but in fact, I think it is more partisan rhetoric, and if you—some of my colleagues who were speaking are the same folks, in fact, who did not vote for the budget package. As a matter of fact, there was not a Republican vote for the budget package in this body last year.

These are some of the same folks who were telling you that we do not need or we cannot have a health care reform and that health care reform will, in fact, do in this Nation as the Democrats have proposed it.

They were wrong last year about the budget, and I might add that in fact they are wrong again about health care reform.

Mr. WISE. Mr. Speaker, if the gentlewoman would yield for just a moment.

Ms. DELAURO. I yield to the gentleman.

Mr. WISE. You bring up an excellent point because these are the same people that just a year ago in this Chamber were making dire predictions about the package, what would happen if the budget package passed. Indeed let us look. This is the third year of declining deficits, the first time since Harry Truman that we have had that situation in this country. The deficit this year is going to be 40 percent lower than anyone projected last year. The deficit

package, deficit-reduction package, is working and working more than anyone even thought.

I was on the Committee on the Budget when it held a hearing just a couple of months ago with Alan Greenspan, not someone given to overeffusive optimism, who was saying the economy was in the strongest shape it had been in many years, and he saw the economy being in such shape that it could expect to grow in a good fashion for many more years. It was in the best shape he had seen it in in a long time.

Now our colleagues, not just those who just spoke, but many of the others on the other side of the aisle, same crowd that a year ago were saying that passage of the Clinton budget package would be a job killer. That was one of the main words used, and they stood in the well and would claim, based on a study they had from some group, Joint Tax Foundation or some Washington almost-think tank, that in each district, and they would name a district, there would be x thousand number of jobs lost because of this package. I had got good news for my district, bad news for their foundation. Jobs are only growing in my State and in other States, and indeed it has not been a job killer, it has been a job creator. They said it would be an immediate recession. Instead we have seen job creation at the rate of four times of those halcyon days of the Bush administration. We are seeing a recession that is steadily moving—seeing an economy that is steadily moving along, not in a recessionary mode, even though there has been deficit reduction at the same time that the Federal Reserve independently has been hiking interest rates, and the economy is still growing.

Those are all positive signs.

And finally, to the largest tax increase in history, they warned us about that. The fact of the matter is that for the 1,600 West Virginians, all over $140,000 a year that did pay more taxes as a result of that package, 105,000 working West Virginians families got a tax cut, and indeed that is giving them the ability to maybe buy health care; that would be nice, but also to be consumers and to be fueling this economy.

So, I think that, as we move to the health care discussion now for the special order you have scheduled, I am glad that we just had this discussion prior to this because this was the crowd saying no on the budget. They are now saying they do not want to do health care. Look at the record. Look at the record.

□ 1940

Ms. DELAURO. Amen. Let us get on to the discussion for this evening, and I am delighted to have my colleague join with me this evening as we talk about health care reform.

More than a year ago, we began our efforts to try to bring affordable health care to every American. At long last we have arrived at the moment when this House will begin that debate and vote on health care reform legislation.

I am proud to have several of my colleagues join with me tonight, people who have been at the forefront of the health care reform battle, and who support the plan that has been put forth by the majority leader of this House.

As hard as we have all been working, I think we would all agree that no one has worked harder than our majority leader, DICK GEPHARDT, and I would like to take a moment and commend him for his insight, his patience, and, most of all, for his persistence in putting together a plan that we can all be very, very proud of.

Let us be clear why we are here. We are here because this country in fact has a health care crisis. We are here because 40 million Americans are uninsured and 81 million Americans have preexisting conditions. We are here because small businesses are paying 20 to 30 percent more than their larger competitors. We are here because too many senior citizens are forced to make the choice between prescription drugs and their next meal. And we are here because we have listened. We have listened to these countless health care horror stories from every district and every State in this country.

Every single Saturday, I do office hours in my district. I go to a large supermarket in one of the 18 towns that I represent. People are notified. They come there and talk to me about what is on their minds, what are the issues that are of real concern to them.

The faces are different every weekend, every Saturday morning, but the stories are the same, the exact same stories. Mothers who cannot get health care for their children, fathers who lost their jobs, and with them the health care benefits that they need for their families.

So I believe we are going to pass health care reform in the House of Representatives. The question is whether or not we are going to pass real health care reform that will make things better for people, or are we going to pass some half-baked reform that could actually make things worse.

We have a choice to make. We will all be faced with a choice in the next several weeks.

Let us take a look at the health care plans that have been proposed, to see which of them begins to solve the problems that brought us to this point in the debate.

Yesterday the largest senior citizens organization in the country endorsed the Gephardt bill. The AARP, 33 million members, know what we are here to discuss tonight, and that under the Gephardt plan, that Medicare is safe, that a new prescription drug benefit will be available for seniors, that for the first time we will see the beginnings of long-term care and home health care for seniors, and that in fact insurance companies will not be able to discriminate against seniors because of age or because of preexisting conditions.

Simply put, what we are talking about here tonight is a program and a plan that would guarantee private insurance to every single American, that can never be taken away, and that is affordable.

The other plans that are offered only give us incremental reform, insurance reform, and nothing else. They rely on various insurance reforms and subsidies for some Americans, but what they do not do is guarantee coverage to all Americans. And that is why they are not going to work.

I would be delighted to yield to my colleague from Maryland.

Mr. CARDIN. I want to thank the gentlewoman for taking this time and yielding to me. We very much appreciate the effort you have made to try to inform the American people about the debates that have taken place here in the House of Representatives.

It is interesting the bill you are referring to, the bill that the majority leader has put together, is a bill that has been carefully scrutinized. It has gone through the normal committee process, with every committee that has had jurisdiction over any part of health care reform having the opportunity to work on the bill, having public hearings where the public had an opportunity to comment, where we had open markups that were carried live on C–SPAN where the American public had an opportunity to see both Democrats and Republicans working together on amendments to bills, trying to improve the bill, making reports to the House, and then the majority leader bringing together the work of the various committees in a coordinated way.

The gentlewoman is absolutely correct. We have really one option before us. That is a comprehensive bill that has been through the scrutiny of public comment and the Congressional Budget Office that scores all that work. The Gephardt bill, the bill that he has put together, is a comprehensive bill that has stood the test of very close scrutiny, that will, I think, live up to the objectives that the American public will demand, and that is universal coverage, that everyone is insured; effective cost containment, that it is fair to all of our people, it is affordable, affordable to small business, affordable to people who need to buy insurance, whether they work for a small company, a large company, whether they are in the work force or not in the work force, and that it is well-balanced. I wanted to really underscore the point that the leadership bill, the Gephardt bill, has been through all that scrutiny, it has been carefully reviewed.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Last night we received some substitutes that were filed by various individuals and groups. Those substitutes on quick review do not even come close to dealing with the problems. What I find very disturbing is that people, individual Members who have been identified with much more comprehensive approaches, it looks like they are backing off of that and going forward with a very incremental approach that will not even come close to dealing with the problems. It looks to me like we are only going to have one choice, the Gephardt leadership bill.

Ms. DELAURO. I thank my colleague for his comments. Earlier the gentleman from West Virginia made a similar point when he said there has been debate, there has been discussion, on a number of pieces that find themselves in the Gephardt bill. It has been put together. We have discussed these issues in this body.

The notion that there has been no discussion on health care is so far from reality. If people have not had an opportunity to discuss health care in this body for the last 18 months, I do not know where they have been. They have not been doing their job.

We have all had ample time, ample debate time, ample review time and opportunities to take the closest look at all of the various pieces of these health care plans that are being discussed. So it is really spurious for people to come forth today and say there has been no debate and discussion on these bills.

We need to point up additionally that the whole notion of universal coverage, which is where the Gephardt bill takes us, to make sure that all Americans are covered, is key and critical. If you begin to take a look just at these incremental pieces, the go-slow, halfway approach that has been advocated by the Dole, Michel, and Gingrich bills, they fail the American people. The Michel bill, for instance, would only require employers to offer, but not to contribute to the cost of insurance for their employees.

What kind of comfort does that give to those currently uninsured working Americans? Is it really an improvement over the status quo?

Clearly the American public, 72 or 75 percent, believe that critical to passage of health care reform is universal coverage.

The Rowland-Republican substitute would also preserve the status quo. The poor get health care, the rich buy insurance, and one more time, middle class America, middle class families, have got to go it alone.

Mr. CARDIN. If the gentlewoman would yield, I think that point needs to be underscored. We have the Gephardt bill, which will get us to universal coverage. No one disputes that. The objective scorekeepers have looked at it. The groups that have taken a look at it concede it will get us to universal coverage, that everyone, whether they are in the work force or not, whether they are wealthy, whether they are working people, whether they are middle income, whether they are poor, every one will be covered. And we expand private insurance under the Gephardt bill. There is no question about that.

Now, when we started this debate, I thought it was fairly well agreed that our goal would be to accomplish 100 percent. We would get every one covered by health insurance in our country.

All of a sudden, some of the people who have been speaking the loudest about universal coverage are changing the goals. We heard some people say, OK, we can get down to 95 percent and we are OK.

As I understand what you are saying, it is that the Minority Leader's bill and the Rowland-Republican substitute bill do not even get us to 95 percent by their own projections. They are down to 90 percent, which they are claiming, and people are looking at it objectively and doubt if they will even accomplish 90 percent. We are at 85 percent today with close to 40 million Americans without any health insurance benefits.

□ 1950

If I understand correctly the alternatives that are being brought forward, at best we will make very little change in those numbers and may, in fact, if I remember listening to you on the floor the other day, that if we do the insurance reform, if we increase the cost of health insurance for the average person who currently has insurance today, because we do not get universal coverage and we do insurance reform which brings higher risk to the insurance pools, we may, in fact, frighten people out of the insurance market. We may end up with less people insured rather than more, just compounding our problems.

Let me also point out the fact to the American people that if you have less people insured or if we do not significantly increase this 85 percent, if we end up with 30 million people uninsured, that the number I heard on the Rowland substitute, that there still will be 30 million Americans uninsured when the bill is fully implemented in the year 2002, that you and I, those who have insurance are going to continue to have to pay for those who do not have insurance.

We are not going to be solving the problems that we were sent here to do, to stop this cost-shifting, to have a fair system, a cost-effective system. How can we expect health facilities to locate in communities where there is a large number of people who do not have insurance? They are not there today because they are not getting reimbursed for the care.

If we do not get universal coverage, we cannot work for a more cost-effective health care system. We cannot bring costs down. So when the Republican substitute or the Rowland bill does not bring us to at least 95 percent, then we are not, I do not know why we should even really consider it health care reform.

Ms. DELAURO. My colleague is absolutely right. In the Michel bill, the minority leader's bill, it leaves more than 38 million Americans, most of them hard-working Americans, without insurance. That means that more than one in seven Americans, many of them children, most of them in working families, will have no health care coverage at all. What will we have accomplished?

If we move back into the same system we have today, which only continues to increase the cost to everyone else, who is insured and who is paying for their insurance? The whole point of this was to help to try to stabilize costs, bring costs down today to those who are carrying the largest burden.

If you only deal with the insurance reform portion of it, you then, once again, increase the cost for everyone else. I have a preexisting condition. I am a cancer survivor. If I am included in a pool, the risk goes up. If we only allow for the insurance reform and not make sure everyone else is included, then it will be those at the highest risk who will be in the pool; the healthy will opt out. And once that awful spiral will continue while the costs will continue to rise and rise.

Any of the substitutes that are being put forward, the minority leader's bill, the Rowland Republican substitute, leave millions and millions of Americans uncovered in insurance with everyone else picking up the cost.

Mr. CARDIN. If I could just emphasize one point, this is one area where people who have insurance or people who do not have insurance should be together on. Whether you are a person who has health care insurance today or you are a person who does not have health care insurance today, we are together in saying we must have universal coverage. The person who does not have insurance needs it, needs it so that that person can get access to care today. The person who does have insurance should be tired of paying the bills of people who do not have insurance. So it is critical that for all Americans that we get universal coverage.

Ms. DELAURO. I would like to make a point about, in terms of the Rowland Republican substitute, I mentioned that the middle class families are going to have to go it alone. I will just give an example. A typical middle income family earning about $37,000 could face premiums of almost $6,175 per year under the plan. The same family would pay $1,065 under the House leadership, under the Gephardt plan. That is a savings of $5,000 a year for families under the Gephardt plan.

You show me a family in this nation that does not want to save $5,000 a year.

I yield to my colleague from Utah, Ms. SHEPHERD.

Ms. SHEPHERD. I would like to point out that in my district, in Salt Lake County, UT, that as near as we can estimate that all the people that earn in between $20,000 and $75,000 a year, basically middle income families, each one of these families, and there are 120,000 of them in my district, each of these families will almost certainly pay $600 more a year for their insurance premiums, if we have an approach which simply eliminates preexisting conditions and really makes it impossible for insurance companies to manage their costs in any other way except raising insurance premiums.

If all we do is tell insurance companies that they can no longer exclude people from their policies, and that is the only thing that this Congress does, then what we are doing is absolutely guaranteeing that every American's insurance policy premium will be greatly increased.

And, at the time that it is increased, they are going to look at their checkbooks and decide whether or not they can continue to pay for their insurance and, if they cannot, they will drop it. And then when they get sick, they go to the hospital. And when they go to the hospital, after the hospital has taken their house and their car and everything they own, the hospital will pass the remaining costs onto the paying insurers and more insurers will drop.

This has already happened in New York. It happened in New York because in New York they decided they would reform insurance. They reformed insurance, but they did not ask all New Yorkers to be covered with insurance. And as a result, in New York, what is it, nine months later, they have fewer people insured. And those who are insured are paying a lot more money.

This is a formula for a disaster in America.

Mr. WISE. The gentlewoman from Utah makes a case study. Those who want to look, for example, at why incremental reform, why insurance reform by itself will not cut it need only look to the recent New York State experience.

Also I am fascinated by those who want to create some kind of generational war and say they are protecting young people by keeping them from having to participate in universal coverage. They are not protecting young people.

What happened in the case of New York State was that by enacting insurance reform, mainly saying you cannot deny people coverage because of preexisting illness but not making it apply universally, what happened is that young people could not afford the premiums any longer and opted out.

Some young people, actually people in general said, then I do not need to worry about preexisting coverage because I can get into the pool at the point I get sick. But many young people who were on the margin, as far as being able to pay premiums found that now premiums are rising so sharply, they could not afford it and they are not covered anymore.

We are all for insurance reform but we know, on this side of the aisle particularly, that insurance reform can only happen in the context of total universal coverage, guaranteed private health insurance that cannot be taken away, for everybody. Otherwise, insurance reform does not make the problem better; it makes it worse.

Mr. CARDIN. I think we should stress that both the Michel bill and the Rowland so-called bipartisan bill do not provide for universal coverage, try to do insurance reform and will lead to the results that we are referring to, that the gentleman from West Virginia just mentioned. That is, we run the real risk that our constituents who currently have insurance are going to find that their premiums will go up substantially because both of those substitutes fail is not providing universal coverage and try to do insurance reform.

Ms. SHEPHERD. If the gentlewoman would continue to yield, I would like to make a point about business, especially small business, since I owned a small publishing company for over a decade.

I was one of the people who purchased insurance for my employees, because I thought it was the right thing to do. I did it as soon as I started the business. I did it much in the same way as I signed up for the utilities that we had at our company. I really did not notice it, that anything was happening, until years later when all of a sudden the bills started to rise.

Then I also started losing bids in my publishing company. And I tried to figure out why I was losing these bids. And when I went out and investigated it, what I discovered is, I was the only publishing company that I bid against that had health care coverage for my employees.

□ 2000

So suddenly I realized we have a public policy which actually punishes businesses when they do the right things and carry health insurance for their employees.

Mr. Speaker, I was angry about that, because I thought it was very unfair that I should be asked to pay for businesses which chose not to cover their employees, and that is precisely what I was doing. It made my uncompetitive, and I believe we can actually take that small experience that I had in my business, apply it to all of America, and say that very same dynamic is making America uncompetitive in the rest of the world, because we are the only industrialized country that we compete against that does not have 100 percent of its people insured.

Mrs. UNSOELD. Would the gentlewoman yield?

Ms. DELAURO. I yield to the gentlewoman from Washington.

Mrs. UNSOELD. If your competitors had been required, had had an employer mandate so everyone was offering insurance to their employees, that would not have been a disadvantage for you, would it have?

Ms. SHEPHERD. No, No; it would have leveled the playing field, and then we would have been competing on level turf.

Mrs. UNSOELD. Mr. Speaker, in this House we hear over and over again the cry that we must cut the deficit, and yet some of the very people who are expressing that and say that "we've got to attack entitlements," the biggest runaway of entitlements, the only one is health care.

The single thing that would bring the cost of health care down is universal coverage, employer mandate. Why should there be 85 percent of those who are uninsured work for a living, or are part of a family that works for a living, and yet they are not covered.

Mr. Speaker, the small business employers who give benefits to their employees are put at an enormous disadvantage. The gentlewoman has illustrated it perfectly.

Mr. CARDIN. If the gentlewoman would yield again, to compare the different approaches we have as to how it would deal with the problem that the gentlewoman raised, the Gephardt bill would deal with that by putting every company on a level playing field, but even going further than that.

That is, the small businesses that have legitimate affordability problems, there is a very significant tax credit program that reduces the cost for small businesses that have a large number of employees that are of lower wage, where you could run into some of the affordability issues. That is provided in the Gephardt bill.

The problem that the gentlewoman referred to would be answered. Once again, looking at the substitute of the Republican leader, the gentleman from Illinois [Mr. MICHEL], looking at the so-called Rowland bipartisan bill, neither one of those bills deals with the problem of small business.

You would still be at a terrible disadvantage if you as a small business person attempted to insure your employees, and there is no help, no help at all to make insurance costs for small businesses more affordable. In that case, again, the substitute is——

Ms. SHEPHERD. It is even worse than that, if the gentleman will yield. It is so bad that not only is there no help, if we do simply insurance reform, and we keep the system basically as it

VOL 140 PT 15 AG 10 — 11 1994 UMI

is today, we can guarantee small businesses that their insurance premiums will rise and rise and rise, because businesses bear the brunt of this, really.

Ms. DELAURO. Mr. Speaker, I think it is interesting to note that with the Michel bill, insurance companies will be able to charge small businesses more for the same exact coverage, exactly the way it is in the current system. Small businesses are likely to face administrative costs that are up to 800 percent higher than those that are paid by larger businesses.

In the Rowland substitute, the premiums, once again, will be higher for small businesses. Those are the early predictions on what it will be. There are no discounts to assist small businesses, which you will find in the Gephardt bill, because there is an understanding. There are small businesses today that would like to cover their employees, and they are having a difficult time doing that.

Ms. SHEPHERD. Two-thirds of small businesses do, they are doing the right thing.

Ms. DELAURO. They do. There are some that want to do that and they can't. What we want to try to do is to make it as easy as possible for small business to do that through a tax credit, to make it possible for them not to go out of business, which is what some of the naysayers will do, and both of these substitutes that we are talking about provide no opportunity for a small business to get the kinds of discounts that would allow them to prosper in their business and at the same time to be able to provide coverage to their workers that they can share responsibility in, and their employees can share part of that responsibility for paying the cost of health care.

Mr. WISE. Will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from West Virginia.

Mr. WISE. The gentlewoman from Utah, who ran a small business before coming here, has illustrated the problems well, I think. I think what might be infuriating to me, had I been in the gentlewoman's situation, is that you are doing exactly what people would ask of you. Meanwhile, you are also paying for the employees of other businesses, whether they be competitors of yours or fast food restaurants or whoever, that are not doing it.

Indeed, what is happening in the premium that you paid is that up to 30 percent of the insurance premium that the gentlewoman from Utah paid for her employees did not go for her employees, it was cost shifting. It was picking up the tab for all the other uninsured people who went into the hospital and got medical care, usually at four times the cost if they had been able to go into a doctor's office.

Mr. Speaker, I guess what concerns me is that the fast food pizza employees, the McDonald's employees, all of those, some of the most profitable corporations that we have, who are not covered by their employer, they take pride in what they do. The only problem is that they eventually have to go get medical care, and when they do, somebody else pays the tab. We are not getting off cheaply because McDonald's does not provide insurance for its employees. We may save 8 cents or 9 cents on a happy meal.

I like the happy meal. My children like the happy meal. We are not so happy, though, that the employee behind the counter does not have insurance, and we are not so happy that when we go out of that McDonald's store, and that employee goes into the hospital, then all of us as taxpayers and insurance consumers have to pay that tab.

Mr. Speaker, I would rather pay up front, and I do not think it is going to be very much, and the gentlewoman and I have demonstrated in past presentations that the cost to a business is very, very cheap, two pepperoni in the case of a $10 pizza. It is very cheap, and yet it provides so much of what is needed. It is good economically and it is also good morally.

Ms. DELAURO. Just one point with regard to that. It really winds up with that business that is doing the right thing, that is, helping to cover their employees, winds up paying twice. They pay twice.

Ms. SHEPHERD. Yes.

Ms. DELAURO. The Michel bill, the Rowland substitute, does nothing to stop that process, where in fact the Gephardt bill ends that process.

Mr. WISE. The Rowland bill does have a measure in it that indicates a recognition that this is the way to go. What it does, though, is it is a hollow statement.

It says that all employers are required to offer insurance, and indeed, offer a choice between a fee for service plan or a managed care plan. However, the employer is not required to pay for it. There are no subsidies to help the employee, so what you have got is this hollow promise out there.

The significant thing about the Gephardt House leadership plan is that it has in place, for businesses under 100 employees whose annual income is below a certain amount, that they can receive a tax credit, as the gentleman from Maryland [Mr. CARDIN] points out, of up to 50 percent. They are paying 40 percent of the premium, and the low-income employees can also get assistance based on their income.

Mr. CARDIN. If the gentlewoman will continue to yield, the Rowland bill makes it worse. Many employers will say "All we have to do is offer." So I may be providing the benefits today as an employer, so I say, "The law only requires me to offer it, and since everybody has the chance to buy insurance, and since my competitor is not required to buy insurance, why should I pay for its? You do it with your own money."

Let me just give a concrete amount of money we are talking about from Maryland. At the University of Maryland Medical Center, a fine institution in my district, the uncompensated care equals 16 percent of their total revenues.

That means the premiums, the rates that they have to charge for services at that facility are 16 percent higher in order to pay for the people who have no insurance. Those of us who have insurance, the premiums we pay for the rates at that hospital are that much higher to cover those higher rates.

So now you as a publisher, as a small business person, you had to compete with companies that did not provide health benefits. You were not only being asked to pay the cost of your own employees and compete, but you were being asked to pay for your competitor's employees and then compete against your competitor.

That is what the current system does, and the Rowland bill will not change that. It may make it worse. The Michel bill won't change that. It may make it worse.

□ 2010

Small business has a direct interest in health care reform and only the Gephardt bill addresses their problems.

Ms. DELAURO. I would like to also talk about what happens with another group of individuals in this Nation who are very, very concerned about health care and health care coverage and what it means to them, and that is our senior citizens. The Gephardt bill includes a new Medicare prescription drug benefit, the new beginnings of a long-term home health care program. The Michel and Rowland Republican bills both raid Medicare to pay other bills, or to bring other groups in. It does not turn anything back over to providing prescription drug benefits for seniors or any other services to seniors. So there is no benefits at all in terms of the older American population. In fact, the Gephardt bill is the only bill that, in fact, just maintains the integrity of the Medicare system.

I am sure you have the same experience that I do with seniors and prescription drugs.

Mr. CARDIN. If the gentlewoman would yield on that point, because the prescription drug issue is a cost-saving issue. There are many seniors today that their medicine that they take keeps them out of hospitals, keeps them out of more intense health care. Sometimes they do not have the money to buy those prescriptions and they do not take their drugs and they end up needing more expensive health care needs. So the fact that we are providing prescription drug coverage under the Gephardt bill to our seniors is not only of interest to our seniors, it is in the interest of having a more cost-effective health care system in this country. It is a very important expansion of the benefit package.

I know of many seniors in my district that spend $200, $300, $400, $500 a month on prescription drugs and have no protection under the current Medicare system. Under the leadership bill, they will be protected.

What does the Rowland bill do? What does the Michel bill do in this area? They do not do anything. They do not provide these benefits. But worse than that and what the gentlewoman pointed out, they take Medicare cuts and take that money and use it to expand the access for low-income people. So they are really taking the money that goes to providers and goes to our program for Medicare and using it for other purposes. At least the earlier drafts of the people who were behind the Rowland bill had enough courage to put more revenue in the package in order to use it for the purpose of expanding access, but now I am afraid that the option they have brought forward takes money from under Medicare and uses it to try to expand access and it should be used to expand the prescription drugs.

Mr. WISE. If the gentlewoman would yield, the gentleman from Maryland brings up a point, and it gets even more incongruous from that, because what the Rowland, or bipartisan bill does, it not only cuts Medicare without giving any increase in benefits from those cuts, but furthermore it cuts Medicaid and then says it is going to expand coverage for low-income persons after it just cut the program that covers low-income persons.

The Gephardt bill does not get into those kind of cuts with Medicaid and it does cut for Medicare but the savings from administrative efficiencies go to long-term care and prescription drugs. Senior citizens on the average pay about 65 percent of their prescription drug costs out of pocket, but there is another aspect to this long-term care. Any senior citizen or family who has come to grips with this knows that the average family of just a couple of years ago, the statistic was the average family putting somebody into a nursing home will be bankrupted in 13 weeks, at an average of $3,000 per month. This was the beginning of significant expansion of long-term care dedicated to home, dedicated to keeping people in their homes where they can function with care providers and others on a cheaper basis and, incidentally, a more therapeutic one. So that is what is covered in the House leadership plan.

The bipartisan bill, nothing. The Michel bill, nothing. And so seniors see Medicare cut under the bipartisan bill and the Michel bill. They see Medicaid which does affect some low-income seniors, they do not get anything for it, and they lose the benefits that are put into the Gephardt/House leadership package of long-term care and outpatient prescription drugs.

Mrs. UNSOELD. More than any other issue, I believe that the fear of not being able to pay for the prescription drugs haunts many of the seniors. Our colleague, the gentleman from Oregon [Mr. WYDEN] and I had a hearing on the prescription drug cost and particularly for seniors. The tragic stories of seniors who would pay for their prescription drugs as long as they could and then when they had to pay the rent or they had to replace or do some repair, some other need, they would cancel renewing their prescription drug. Pharmacists said they could predict who of their customers was going to end up in the emergency room, in the hospital because they had to forego the drugs that were going to keep them healthy, functioning and maybe even alive.

Ms. DELAURO. I would echo what the gentlewoman said. My experience is what seniors do is one of three things when they go to the pharmacy with their prescription. They ask for the cost first. If they deem it too much, they do not get it filled at all or they may get half filled. The third piece is that they get it filled and then because so many are on fixed incomes, that what they do is maybe scale back on what they are eating in the course of the week. So in all three instances, we watch a senior population, older American population, probably the most vulnerable population, seeing their health deteriorate further because of the cost of prescription drugs.

What is most incredible is that in terms of this Medicare effort, the Michel plan cuts the Medicare reimbursements to hospitals and doctors, but without relieving them of the burden of the uncompensated care because of the lack of universality, of including everyone, which just continues to compound problems.

Mr. CARDIN. If the gentlewoman would yield, it may be worse than that, because they also cut Medicaid. As the gentleman from West Virginia was indicating, they are cutting Medicaid. They are cutting the program to the poor. Under the Gephardt bill, we reimburse hospitals and doctors the same rates on the poor people as we do for everyone else. We bring that rate up so that hospitals and doctors are not discriminated against who are taking care of poor people. But under the Rowland bill, under the Republican bill, what they are doing is they are cutting the Medicaid program, reducing it, and it does not pay the right fees now, it is paying too little right now, they expect with less money they are going to be able to cover more people.

The original drafts of the managed competition and the people that were trying to work in a bipartisan fashion had new revenues in here. They had caps on how much you could deduct and they had tobacco taxes, they had money in the bill in order to try to deal with some of these problems. But it looks like they really have taken the lowest common denominator and now they are going to cause more problems for hospitals, for doctors, for our elderly, and for our poor.

Ms. SHEPHERD. If the gentleman would yield, I would like to point out that when we talk about Medicaid, we are talking about seniors, that is true. But we are most importantly, I think, talking about children. We are talking not about small adults, we are talking about children; children who need immunizations, children who need to be able to go to the doctor when they have an earache; children who may have childhood diseases that if they are not treated will become adult disabilities. We are talking about the seed corn in America. We are talking about the future work force of America. We are talking about the people that we most must keep healthy and strong and raise up to replace us. I think that the lack of health care to children is absolutely one of the greatest tragedies of all of this.

The Carnegie Foundation recently released a study that said that America was dead last among all industrial nations in the quality of life lived by its children. This has got to be because of our health care.

They have higher incidences of childhood disease, they have fewer immunizations. Obviously those two are very closely connected. They are far less likely to have preventative care of all kinds. They are far less likely to have check-ups when they need them. This is something that I think it is our absolute moral obligation to address.

□ 2020

Mr. KREIDLER. If the gentlewoman would yield, I would certainly like to point out in connection with it argument she has put forward here when we deal with children, I was a clinical optometrist before I was elected to Congress in 1992. As an optometrist I dealt with patients on a one-on-one basis. I dealt with mothers on welfare, and not infrequently, if not always invariably they would point out to me the reason they could not get off welfare is they needed to keep their health insurance, they needed to stay on the Medicaid program, so no matter what they did from the standpoint of finding jobs they never could find the jobs that would pay the kind of a salary that they could purchase their own health insurance. That is presuming it was even available to them, much less find a job that would cover it as a part of their work.

So, as a consequence, you saw a situation where it precipitated them staying on welfare. If we care about welfare

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reform, if we really care about what happens to children in welfare families, then you have to have universal coverage, which brings us back to the point that was being made earlier quite eloquently. Those who argue that what we need to do is just fix what is broken, meaning just a little bit of insurance reform, is so shortsighted. It leaves major gaps. It will never achieve universal coverage. It means that we take care of the wealthy, making sure we do not step on their rights to make sure that they always get health insurance. We may throw some bones to the poor. But the middle class is left out in the cold. Increasingly they find it difficult to continue to purchase health care, that they are being priced out of it, that they do not have the resources to purchase any longer. Their salary increases are being eaten up trying to maintain their health care benefits, and if they lose their job they find it that much more difficult to be able to keep their insurance, if they can afford it for the 18 months that they are able to continue it right now, much less have any other benefit.

Mr. WISE. If the gentlewoman will yield on the point the gentleman from Washington makes, not only are the middle class left out in the cold, they get burned. They get burned because in the recent Lewin-VHI study that was done for the Catholic Health Association, we analyzed incremental plans or reforms, meaning simply doing an insurance reform without universal coverage. What they concluded was for persons between $10,000 and $20,000 a year income they would pay annually $201 more, for persons between $30,000 and $40,000 a year they would pay $344 more, and from $40,000 to $50,000, $137 a year more.

The middle class gets burned if you just do insurance reform. You are going to tell them that it is insurance reform, this one is for you, and it is really for you, it puts it right to you, and that is why it is so important that we have to frame this debate.

I am glad that these proposals are now in writing, the Michel proposal, the bipartisan proposal, the Gephardt proposal. They are out there, and now the American public can analyze them and see where they come down. But I do not think the middle class are going to be very happy knowing they get insurance reform, and when they get that, they get reformed right out of their wallets.

Ms. DELAURO. The chart over here to my right displays precisely what my colleague was talking about and how that working middle-class family wind up paying increased costs without the advent of universal coverage, which is something that I would urge people to take a look at these various plans and understand what they are about.

There is a lot of rhetoric, granted, and these are studies that are independent studies of these plans which are making the determination of what happens when we do not have every person in this Nation covered by insurance.

There is another issue that I would like to raise. There is a contrast between what the Gephardt proposal talks about versus the minority leader's plan or the Republican substitute, the Rowland Republican substitute, and that is the issue of preexisting condition, which is prohibited in the Gephardt plan where insurance companies cannot say to you that because you have had the good fortune to survive a major illness, or because maybe your child has asthma that therefore you can no longer get insurance. That in fact is prohibited in the Gephardt bill, and it is not clear what the situation is in the other bills. That is of prime importance to the American people.

Mr. CARDIN. If the gentlewoman will yield, it is my understanding in the Rowland substitute there is a 6-month waiting period. I thought this was one area that we had agreement on. I mean, we have heard from all sides, both parties and all sides of the political spectrum that we were going to do insurance reform and eliminate the discrimination against people who have preexisting conditions. And it looks like they did not even put that in their bill.

Ms. DELAURO. Exactly. If you are going to talk only about insurance reform, then for heaven's sake make sure we do not continue to put people in jeopardy.

I met a young woman at one of my office hours, a most incredible story. She has multiple sclerosis and she is now covered. Her neurologist said to her that she ought to be taking as quickly as possible the new drug, Betaseron. She said to me, she was asking please support health care reform. She said I will not talk to my employer, nor will I talk to my insurance company about this because I am frightened to death that it will be over, that they will not provide any kind of service for me, and that I will not be able to get this.

It is most incredible. This is a woman with a deteriorating disease, and every day that goes by makes it more difficult for her to live her life. And she is frightened to death to bring this to the attention of anyone who might be able to help her. This is the wrong system.

Our colleagues have put together programs that say that we are not even going to go the full measure on preexisting condition in what they characterize as a limited reform in any situation. It really needs to be looked at by the American public, and you wonder what these folks are trying to accomplish here.

Mr. CARDIN. We knew it was going to be a limited bill, but I thought at least we were going to see that provision in the bill. And it looks like they have sort of opted out on the side of the insurance and decided to give a way out so insurance companies do not have to pay for preexisting conditions.

Ms. DELAURO. In addition to that, there are mechanisms within the Gerhardt bill to also say to the insurance companies that while they maybe accept someone with preexisting condition, they cannot charge any price they want for that preexisting condition. What price for heart disease? What price for a cancer survivor? So this is critically important.

As I said earlier, I am a survivor of ovarian cancer. If I were to try to get insurance it could cost me up to $12,000 to $14,000 a year. Who can afford to pay that kind of money for insurance?

So these plans fall short on even the limited measures that they are willing to move forward on.

Mrs. UNSOELD. The sponsors and proponents of those plans give lipservice to removing this problem, this burden that hangs over Americans and denies to those who work hard for a living and have a right to guaranteed insurance, denies them that right while they give lipservice to remedying their problem.

You have very well described it.

Ms. DELAURO. I think the choice is clear. I think the halfhearted approaches in fact do not measure up to the Gephardt bill, and if we can, we really need here to summon up the courage to pass the Gephardt bill and not be blindsided, if you will, by these limited bills. If we do that, then my view is that we will have failed in this mission, and my colleague from Maryland was talking about that earlier, we will have failed the American public with a year and a half of debate and discussion.

Mr. CARDIN. I was just trying to take some notes here on Gephardt. We have universal coverage. In Michel or the Rowland substitute we do not get universal coverage. We have been through that. On small business, the Gephardt bill helps business, eliminates discrimination in the current marketplace, provides help on the affordability to small business, whereas the other two bills do not deal with that at all. The Gephardt bill helps our seniors by providing prescription drugs and long term care which is fully paid for in the legislation. The other bills take from the Medicare Program and give our seniors nothing in return. The Gephardt bill has full insurance reform. We can eliminate the preexisting conditions, we live up to a commitment I think we have given to the American people on health care reform. The other bills do not do that.

We have not talked cost containment, but we have effective cost containment in the Gephardt bill. The other bills do not do anything to bring down the overall growth rate of health care costs.

□ 2030

It seems to me that we do not have any choice. There is only one bill that is going to provide meaningful health care reform that we are going to have a chance to vote on.

Mr. WISE. There is another choice, and the choice is to do nothing. That is what some are urging us to do, delay, stretch it out, have another study, have a good time, do not come back, and the reality is doing nothing. Where does that leave each of the categories? You mentioned for the senior citizen, on Medicare today, that means they are going to have to continue to watch while Medicare gets eroded because of deficit-reduction pressures, and yet nothing is done to enhance the entire system. There certainly will not be any long-term care or prescription drugs for the small business.

The gentlewoman from Utah was eloquently describing the challenges she faced as a business person. I think it is going to mean a lot of small businesses having to opt out of health care because they simply cannot afford it. They cannot afford to continue to pay for their competitors who do not provide it, and they see the rates continuing to rise to them.

The middle-class person, they are the ones getting squeezed all the way through.

Mr. CARDIN. I will respond to the gentleman from West Virginia. As the gentleman from Washington pointed out, if we do nothing, how do you get to welfare reform? How are you going to reform a welfare system if we do not take care of one of the major problems that someone on welfare has today of taking a job and losing their health care benefits?

Mr. WISE. Secretary Shalala estimates that 1 million people come off the welfare rolls over the next few years if you pass comprehensive health care for the reason the gentleman says, because now people do not lose their medical card, low-income medical card, by going to work. We penalize a lot of people by not acting. You do not help anybody. You penalize them.

Mr. KREIDLER. I would like to point out that listening to the arguments that are coming forward right now are really disappointing from the standpoint of what the gentleman from Maryland pointed out. There are those who are arguing right now to do nothing, to delay, to postpone, take another year.

The longer we take, the worse the problem gets, more people that are denied access to health care, the more difficult it becomes to make a correction in the system. What are we talking about for change?

You know, those that will talk about government takeover of health care, it is so ridiculous that it is patently almost humorous in its own way, because we are talking about private insurance. All you are doing is trying to establish some game rules so that there is some kind of understanding so that some people over here do not kind of game the system and others over here have to pick up the tab.

It is kind of like the airline industry in a way. You can sit in a seat on an airplane and maybe you have gotten the rock-bottom price and so forth, and the next person over is paying the maximum price. It is much like that today in the kind of cost-shifting that takes place in our health care system.

If we want to get a handle on our health care so we bring about some rules so we eliminate the cost-shifting, we get rid of all the bureaucratic overhead that is built into it, administrative overhead, the overcapitalization that has taken place in high-specialty medical equipment, the overspecialization that has taken place in medical specialties; if we want to get back to where people really get the health care they need, then it means setting up some rules, but keeping it private. Keep Government out of it; minimize Government's impact, and it will not happen overnight.

We are talking about a system phased in over a number of years.

Mrs. UNSOELD. Not only are we talking about private insurance, but we are talking about giving people the choice of what doctor they go to, what hospital they go to, not their employer making that decision, not the Government making that decision, not politicians making that decisions, but the individual selecting their health care, their doctor.

Mr. KREIDLER. How frequently now, if most workers out their find that their choices with their employer have been continually narrowing, there have been fewer and fewer choices, that they have had less quality options, they have been more or less dictated to what they are going to receive. We are giving them some real opportunities.

Ms. DELAURO. If I might summarize. Our time is coming to a close.

I think what we have all talked about here is the effect of the substitutes and what they offer, and on all scores the Rowland Republican substitute, the minority leader, the Michel substitute shortchange, if you will, middle-income families, older Americans, small businesses. They do not get near to controlling costs, and, in fact, leave the insurance companies in charge and do not meet the first test of any health care reform, and that is to make sure that every single American is covered under private guaranteed health insurance that can never be taken away, and that is affordable.

The only bill, the only proposal that addresses all of those problems is the Gephardt bill.

I know I have said to many groups, my colleagues have said to many groups that they are meeting back home with, that the most important piece of legislation that we are going to work on in this body is passing health care reform. If we do not pass the Gephardt bill, we are not going to be able to face those mothers and fathers that I talked about earlier on who are frightened to death that they are not going to be able to afford health insurance for themselves or their kids or that they are going to be trapped in their jobs without having the opportunity to have health care benefits.

We cannot go home from this Congress and not pass the Gephardt proposal and pass guaranteed health insurance for everyone in this Nation.

I want to say "Thank you" to my colleagues for joining with me in this special order tonight. I am sure we will find ourselves on this floor again several nights to come in the next several weeks.

HEALTH CARE REFORM PLANS MUST BE THOROUGHLY UNDERSTOOD

The SPEAKER pro tempore (Mr. LEHMAN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized for 60 minutes.

Mr. KNOLLENBERG. Mr. Speaker, this evening we are going to continue a matter that was brought up a couple of days ago in a special order regarding the process regarding what appears to be, and I just heard some comments from the other side as to the urgency that seems to prevail over there as to the fact that we have to do something now; we cannot wait; we cannot wait a week or 2 weeks or a month. We have got to do it now.

Mr. Speaker, I would tell you that informed consent is something that I believe is very dear to the American people. It is something that everyone who makes a decision, whether it is an individual decision, and it is certainly an individual decision, they make it after doing some study, assessment, analysis. No one buys a home, for example, unless they spend some time checking things out, looking things over, and coming to some conclusions as to what they can afford, what is best for them, and what meets their purposes.

Individuals make those decisions. Localities do. Cities, towns, whenever any issue comes before a city, wherever it might be across the country, they do not jump into it. If it is a matter of a bond issue or a rezoning, that is something that goes before the people, and the people are invited to take a look at the situation and make some judgments and, in effect, offer their opinions so the constituency is served. They get their day, so to speak, and everybody comes out with a reasoned decision, or at least it is a decision that

VOL 140 PT 15 AG 10 — 11 1994 UMI

is based upon some information that is provided from a number of sides.

The Federal Government should be no different. It should be no different than what individuals go through in the reasoning process or what localities do.

Frankly, this afternoon we saw an example perhaps that might fit. I do not want to talk about the crime bill. I do not want to talk about the rule except to say a rule, a crime rule, failed today, and it failed, I believe, in large part because a number of Members of Congress, and I am talking about both sides of the aisle, it was both Democrats and Republicans, felt there was too much they did not know about this bill, and for example, when a couple of things started trickling out like $10 million for a college down in Texas, that really does not fit into the purview of the crime bill. That becomes something else. That question was raised. There were many others.

So I believe that we have to spend some time looking over what it is that we are making a decision on that affects one-seventh of our economy and affects every man, woman, and child in this country.

So I do not believe that we should hurry up just for the sake of hurrying up. I believe we can do a better job if we stop, look, listen, assess, analyze, and come up with the best idea.

I am glad to hear from the other side of the aisle that they recognize now there are some bills other than the Gephardt bill in the House and the Mitchell bill in the Senate. There is a bipartisan effort, and very honestly, it is truly bipartisan. It is one that embraces some concepts the American people have been telling us they want.

As we look at poll results from around the country, we find that they do not want any kind of slam-dunk process. They want to be very careful about how we change this system. Reforms, yes, but not to completely turn it upside down and indicate to the American people that they do not care about what their thoughts are.

I think we have a job here to be reflective of what the people in our own constituencies want. The overwhelming polling results tell us they want to go slow, "Let us fix it right," and in that regard this evening, we are going to involve a number of people who have positions, who support certain bills, who have views about how this should be done.

I want to turn to these people one by one. But first of all, I would like to have us welcome the gentleman from Arkansas [Mr. HUTCHINSON] who will talk to us about the process, reform, or anything that meets your approval.

Mr. HUTCHINSON. I thank the gentleman for yielding. I thank the gentleman for organizing this special order this evening on this very, very important subject.

As we enter into the debate on a social issue that will impact the lives of every American, every man, woman, and child in this country, what could be more important than taking time to discuss the pros and cons?

I was delighted, as I am sure my colleagues were, today to see that the bipartisan negotiations that have been going on for weeks now, many, many hours in length, were rewarded, were fruitful in coming out and announcing today a bipartisan health care proposal.

So we really have a debate now. We have a Clinton-Gephardt; we have a Clinton-Mitchell bill; and we have a health care reform bill with bipartisan support that deals with the health care crisis in this country from the standpoint of private sector reforms to expand coverage to more Americans than ever before and to begin to control the spiraling costs in health care.

□ 2040

I think there are a number of things out there in the public sector right now to assist us as we look at this health care debate.

One of the books recently published, written by Dr. Jane Orient. She is an internist in Tucson, Arizona, and she heads the Association of American Physicians and Surgeons, with over 4,000 members nationwide. The title of her book is, a very timely book indeed, "Your Doctor Is Not In." I think she provides us some important insights. Let me share a few of them.

She says, first of all:

The proposed remedies for the health care crisis are snake oil, and you shouldn't swallow them. Further, the private doctor is an endangered species. In the end, we will have a herd—a nice, placid, socialized, tamed, cud-chewing herd. Readers should care about the plight of doctors for one and only one reasons; Some day they might need one.

You may think you know what the Hippocratic Oath says, but you probably don't, and you should learn about it before they do away with it entirely.

The Hippocratic Oath is built on physician autonomy. It reads, "I will prescribe regimen for the good of my patients according to my ability and my judgment."

Further, do you want your doctor to place society or the Department of Health and Human Services ahead of his being independent?

She says, further:

Managed care is about preventing medical care in order to make money for third-party payers or to save money for the government. Behind the slick advertising, managed care is little more than prepayment for rationed health care." Rationed care is one of the most disastrous things that can ever happen to the health care practice in this country.

Then I conclude with her insight:

There is no utopia. I will only maintain that a free market in medicine is the best of the available alternatives and the one that does the least harm.

That is what doctors do, the least harm. That is what the Hippocratic Oath says. The way we do the least harm, although it is not perfect, is to maintain a free market in the health care system.

Another recent book, a novel published entitled "Fatal Cure," by Robin Cook, a best-selling novelist.

He as a physician. As a doctor, imagines what will happen to the health care service industry in this country should we resort, should we go in these coming weeks, to Government-run health care system. I only share with the listeners this evening and with my colleagues a couple of paragraphs of the dialog that he imagines might take place some day.

He says, "Everyone knows that doctor/patient relationships are the cornerstone of medical care." One of the characters says, "Maybe that's passe. The current reality is determined by a new army of medical bureaucrats being created by Government intervention. All of a sudden, economics and politics have reached the ascendancy in the medical arena. I am afraid the major concern is the bottom line on the balance sheet, not patient care.

"The problem is Washington. Every time the Government gets seriously involved in medical care, they seem to screw things up. They try to please everybody and end up pleasing no one." Dr. Cook is absolutely right. That would be the result of Government-run health care.

In the Washington Post, not exactly an advocate of free-enterprise health care, certainly one that has espoused the Government-run health care in its editorial policies. Dana Priest, in a front-page story entitled "Health Bill May Have No Substitute for Bureaucracy," he writes just recently,

President Clinton and members of Congress last week hailed the Senate Democratic leadership's health bill as a vast improvement over the bureaucracy-laden 1,462-page plan produced by the White House.

But the 1,410-page bill proposed by Senate Majority Leader GEORGE J. MITCHELL (D-Maine) also would create dozens of new federal and state agencies. They would have untested authority to centralize, reorganize, monitor and enforce the way medical care is bought, sold and, to a lesser extent, practiced in this country.

And indeed the Post is right. They would have untested authority to centralize, reorganize, monitor and enforce. I understand that the Clinton-Mitchell bill in the Senate has over 20 new Federal bureaucracies that will be created.

Now, before I yield back to the gentleman, I want to share a letter—I am from the State of Arkansas, I have served 8 years in the Arkansas Legislature with now-President Clinton, our President was then my Governor, our chief executive in the State of Arkansas.

Many times during those 12 years that he was our Governor, the issue of abortion, and more specifically the issue of public funding of abortion, arose in various debates. In Arkansas, as it has been throughout our country, a major issue, and it continues to be a major bone of contention and a major issue in the health care debate. In every major Government-run health care plan that has been presented to this Congress, the provision for reproductive services or abortion services, if you will, has been included. That means that every American under a Government-run health care system would be subsidizing the practice of abortion regardless of what their moral conscience or religious convictions would be.

September 26, 1986, Governor Clinton, then Governor, wrote in a letter to the Arkansas right-to-life people a letter in which he said, in part,

Because many of the questions do concern the issue of abortion, I would like for your members to be informed of my position on the state's responsibility in that area. I am opposed to abortion and to government funding of abortions. We should not spend state funds on abortions because so many people believe abortion is wrong.

That was Governor Clinton who is now President of the United States saying he not only opposed abortion but he opposed public funding of abortion and believed it was wrong to require people who believe it is wrong to pay for abortions. And yet today he has included that, insisted on including that in every Government-run health care program that he has advocated and supported.

Then I would conclude—and I am indebted to our colleague from the other side of the aisle, the gentleman from Minnesota, TIM PENNY, Democrat, for his "Dear Colleague" letter in which he points out something that I think is vital in this debate in the coming weeks. He points out that major votes of the 20th century on large social policy changes have always been accorded overwhelming bipartisan support. He enumerates some of those: The Social Security Act of 1935, 96 percent of the Democrats supported that, 81 percent of the Republicans supported that, and it passed by a vote of 372 to 33. The development of the interstate highway system, Federal-Aid Highway Act of 1956, major policy change in our country, 93 percent of the Democrats supported it, 98 percent of the Republicans supported it, passed by a vote of 388 to 19.

Now, the Civil Rights Act of 1964, what more significant social change has this Congress enacted than the Civil Rights Act of 1964? Sixty-one percent of the Democrats supported the civil rights bill, 80 percent of the Republicans supported the Civil Rights Act, and it passed by a vote of 290 to 130.

I could go on, the Clean Air Act, the Medicare Act, the Water Pollution Act, all of these passed by overwhelming bipartisan majorities.

Here we are told that we must in the coming weeks, have a health care reform bill that is going to affect the lives of every American, the biggest social change in 50 years, and we are going to do it with the barest of majorities. It is going to be forced through in spite of overwhelming opposition not only by the Republican Party but, the polls indicate, by the American people.

When the buscapade came to town, I saw the big banners on the side saying, "Pass It Now." And I said to myself, "Pass what now?" At that point we did not even have a bill. No one had read a bill.

Yet they say we have got to hurry it through, we have got to do it now. Yet the polls say 65 percent of the American people say they want to wait, they want to read it, want to study it, want to react to it, and that is the way major social change ought to take place.

□ 2050

It ought to take place with the American people aware of it, the American people supportive of it and with a large bipartisan majority supporting it in Congress. We do not have that, and that is why we ought to wait on health care reform.

I thank the gentleman.

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman from Arkansas [Mr. HUTCHINSON] for his comments and his reference to the Government intrusion, the bureaucracy that appears to be a part of both the Gephardt bill; not just appears, is, and also the Mitchell bill.

As my colleagues know, we did finally get, not the CBO figures in total, but we did get a preliminary analysis on the Mitchell bill, the one that is still forthcoming on the Gephardt bill, and there is something interesting in that analysis, and it is purely that. This is not the final product.

But I want to just quote from a paragraph that has to do with the budgetary treatment of the mandate, and it says it is a mandate, and they are talking about this whole process of requiring people to buy insurance, that they must buy insurance. A mandate requiring that individuals purchase health insurance would be an unprecedented form of Federal action. The Government has never in history required individuals to purchase any goods or service as a condition of lawful residence in this country.

So, as a part of that bill, in order to live in this country, just to live here, before you do anything else, before you make a wage, or buy a car, or buy a house, or whatever, before you do anything, you must buy something, and that something is insurance, and that is a part of the Gephardt bill. It is a part of the Mitchell bill. At least in this regard we are talking specifically now about the Mitchell bill.

I want to go on to welcome the gentleman from the western part of Michigan who sits on the Committee on Public Works and Transportation and the Committee on Education and Labor, and that is the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague, the gentleman from Michigan [Mr. KNOLLENBERG] for yielding. I would also like to clarify the comments of my colleague from Arkansas.

I am sure that what my colleague meant, that we do not want to wait on health care and postpone it. We want to go through a deliberative process that can make this House proud of the work that we are doing and make the American people confident in the result that we are going to achieve. And we want to do it in a bipartisan way.

Let me outline for my colleague here the process that we went through on the Clinton bill in the Committee on Education and Labor:

We had 29 hearings. We had 8 weeks of markup. We had 4 weeks of markup in subcommittee. This is where Members can propose amendments. We discussed them. We debated them. And then we voted on them. We then had another 4 weeks of markup in full committee. In full committee we debated 99 amendments on the Clinton bill. Forty-four Democratic amendments were accepted, and 11 Republican amendments were accepted. So, we spent 8 weeks.

Now what is the process that we are looking forward to on the next portion of the health care debate? What we are looking at is last night, August 10, we received nine bills. We received a Clinton-Gephardt bill, we received a Mitchell bill, we received a bipartisan bill, we received a single payer bill and five other bills. In total nine bills were submitted.

I have to give the Printing Office credit in that they were able to get them printed overnight so over the next few days we can read them, but now we have been told that the process that was outlined at the beginning of the week says, well, we know the work on the Committee on Education and Labor, and we only dealt with a portion of the jurisdiction of the bill. We know it took you 8 weeks. But we are going to give the full House 8 or 9 days to go through the process.

I do not think that is a good way to legislate. Nine new bills and 8 days to finish the work. No time to go back to our constituents.

Some of our colleagues here earlier tonight are saying now that we have the bills we can learn them, we can read them, and understand then, and talk to our constituents about them. The question is: When are we going to go through that process? There is a better process.

Today I went to the Committee on Rules. I asked them for an open rule,

VOL 140 PT 15 AG 10 — 11 1994 UMI

enough time to debate the issues, to propose amendments on all of the bills, asked them not to have a king-of-the-hill rule where the last bill that wins, even something that may only have 218 votes, is the law of the land, but the version that has the most votes becomes the law of the land. I do not know whether that will be the process that we go through or not.

But let me go through the Clinton-Gephardt bill to take a look at why it is important for us to have this dialog in this debate—

Mr. HUTCHINSON. If the gentleman would yield before you go into your analysis, let me pick up because you were clarifying my comments regarding whether we should wait or whether we should pass it now, and let me just expand that because I began my remarks by saying that today I was delighted that there was a bipartisan incremental approach, free market approach, to health care reform that was presently with the support of Republicans and Democrats. I think we need to do health care reform, but the polls indicate that the American people, if the choice is between radical, Government-run health care as presented in the Clinton-Gephardt, the Clinton-Mitchell and all the variety of bills thereof, if the choice is that or doing nothing, they would rather us wait and start over in the next Congress.

And so what I support is a deliberative process, I support action, I support reform now, if it is the right kind of reform.

The American people are saying, and I think we all agree, if the reform is the wrong kind of reform, it would be far better to wait than to make radical changes in the health care system without knowing what kind of impact that is going to have on the lives of individual Americans.

Mr. HOEKSTRA. I agree with the gentleman. I think what the American people are afraid of is that we will go after health care, and we are going to do it in 8 days, and everybody knows, or should know, that this Congress is not good enough and is not smart enough to do health care reform or to reform 14 percent of our economy in 8 days. We may be good, although the American people would dispute that sometimes, or maybe frequently. There is no way that any group could restructure 14 percent of the economy that quick.

And the other thing is we, as freshman Republicans, we laid out another process. We said, "Let's go through the bills this week. Let's allow the sponsors a day on the floor to go through their bill section by section to explain how it works. Let us go back home, not for vacation. Let us go back to our constituents to talk to the elderly, to talk to the uninsured, to talk to the small business person, to talk to the doctors, talk to the medical community, to get their input on these new versions."

We do not have that opportunity.

We could go through that deliberative process, 8 or 9 days of debate on the floor, conference committee with the Senate, and still pass out a bill by October 7 rather than trying to cram one through the process by August 19.

Here is why it is important. Paging through the Gephardt bill, and, just like the Democrats are going to page through the Michel bill and find sections that they do not understand, there is a mandate. Employers are required to contribute to health insurance. What is that going to mean to employment in my district? What is that going to mean to the average American? There are new taxes.

This is small print. That is why the Clinton-Gephardt version is only 250 pages. But I am going to have to bend over to read it because it is small print.

Here in the text, 25 percent of the wages paid during such months by such employer to such employee. What does that mean? How is that going to affect employment?

There is more taxes, small business subsidies. We hear so much, we are going to do this for small business. The subsidies phase out zero for calendar year 2005. What is that going to do to the engine of growth in this country where a lot of innovation has taken place? Small business is in trouble.

Here we have standards for State managed competition programs. It is gobbledegook in here. I know what this language meant in the Committee on Education and Labor. It meant that our national health care program was going to be a continental United States program because the language in the Committee on Education and Labor, and I do not know if it is the same language exactly, but this type language in the Committee on Education and Labor exempted Hawaii.

Here is one that I love. As I go back and I talk to the leading employers in my district, the people that have really aggressively contained costs, and, TIM, you have had the opportunity to talk to some of those people at those companies, they have effectively gotten health care under control, and what do they say? They talk about wellness, and, when they are talking about wellness, they tell the Secretary of Labor to put together a study on wellness and report back to the Congress in 2 years whether wellness programs are the right way to go.

So, in 8 weeks, or excuse me, in 8 days, we are going to reform health care, 14 percent of the economy, and it is going to take us 2 years to study whether wellness programs have any validity. There are new enforcement provisions about how we are going to pay for the bill or what types of programs we can put in place.

□ 2300

There are exemptions. Let me see if I cannot find the exemptions section. Who is exempted from this bill? What people do not have to participate?

Well, we know that the Texas Frail and Elderly Demonstration Project does not have to participate. We know the HMO in Dayton does not have to participate. They may have a great program. They got an exemption. I do not know how they got an exemption. I wish I had an opportunity to exempt some of my people who thought that they had a good program. The Tennessee Primary Care Network has a Medicaid waiver. There is another one here for the Health Services Insurance Corporation of Milwaukee, Wisconsin. They have an exemption. The extension of the Minnesota Prepaid Medicaid Demonstration Project.

Mr. GEPHARDT or the President did not call me and ask if I would like any people considered for exemptions. Those people are exempt.

There is new amendments to criminal law, health care fraud, false representations, bribery and graft in connection with health care. Should we not spend more than eight days talking about those kinds of things?

Health benefits may not be provided under a cafeteria plan. Another innovation in the free market, in the private sector, and what do we say? We may not have cafeteria plans. An employee cannot sit down with his spouse and say here are our needs as a family, or here are my needs as an individual for health care, so I am going to take dental, I am going to take some extra life insurance, I am going to take this and I am going to take that, and that is going to be my health care plan. The person next to him working on the other machine is saying my needs are different. Boy, am I glad that my employer has provided me with the choice. I am going to take eye coverage, and, rather than get this rich package, I think I will take $30 per week and a Medicaid cap.

Cannot do it. That is the way I read it right now.

Here is a really interesting one. Davis-Bacon, the place where we say prevailing wages, primarily on construction projects, Davis-Bacon is now part of a health reform bill.

How in the world you are on public works with me, maybe you can tell me how Davis-Bacon would get into this type of a bill. Any ideas?

Mr. HUTCHINSON. I wish I could give an answer for that. I cannot imagine how Davis-Bacon gets in some other bills. But how it would be included in a health care reform act is beyond me, and I think beyond the imagines of most Americans.

Mr. HOEKSTRA. Does that mean the Gephardt bill is bad? I think we are concerned because it demonstrates government taking over health care. And we have a lot more faith in the free market system.

Even to knowledgeably talk about mandates, taxes, state exemptions,

wellness enforcement, criminal law, no cafeteria plans, Davis-Bacon, new fraud provisions, it takes a whole lot more than eight days to understand this, to get input from our constituents. That is one bill. There is eight other ones.

Mr. HUTCHINSON. A thought struck me as you were presenting your analysis, a preliminary analysis, indeed, of the Gephardt bill. As you thumbed through it, I thought what an advantage you have to millions and millions of Americans who do not have a copy of that bill to thumb through and look at.

For months I would go into book stores around the country, and the airport book stores as we fly through to our districts, and see the Health Security Act, the Clinton health care bill on the shelves, with analyses, explanations. But the Clinton Health Security Act has now been long dead. With eight days, we have been presented a new bill that is not on the book stores of America, that has not been analyzed that we have the advantage of analyzing for eight days, as little as time as that is. But the American people have not had. why not give them the time to study this bill? The Republican Conference is having task forces, study groups, to analyze, if need be 24 hours a day, that bill and other bills that come before us in the next eight days. What an impossible task to do justice to the American people to have eight days to study and analyze a great social change in our country.

I thank the gentleman for yielding.

Mr. HOEKSTRA. The biggest part we are going to miss, I agree. I do not think we will be able to fully understand this in eight days, but, more importantly, the American people will not have the opportunity to review it, to provide us input. My guess is when we actually start debating and discussing this bill on the floor of the House, it will be limited time, we will not have the same opportunity that we have in committee to make 99 amendments. There will probably be just a vote up or down on eight substitutes, and the last one will be the Clinton-Gephardt bill. If it gets 218 votes, it passes, even though something like the Rowland-Bilirakis bill, the bipartisan bill—they keep calling it the Rowland bill, it is a bipartisan effort, 5 Democrats, 5 Republicans put together a bill—no new taxes, significant reform, significant progress, that may end up being the solution. It will be buried somewhere in the process.

I will yield back to the gentleman from Michigan and look forward to participating in the dialogue a little later.

Mr. KNOLLENBERG. I thank the gentleman from the western side of Michigan, as opposed to the eastern side where I am from. I notice he talked at some length about the size of the Gephardt bill. And maybe you pointed out that there was 253 pages of fine print. I would like to suggest to you it is probably 253 pages, three columns. I do not know if this can be seen by the television camera, but it is smaller than most footnote text type.

Mr. HOEKSTRA. If the gentleman will yield, maybe they can see the difference between how the Clinton-Gephardt is 250 pages, three columns, small print, and the traditional way we write bills, which is much larger text. My guess is that the Clinton-Gephardt bill, when it will be printed in bill form, will be close to 1,500 to 2,000 pages.

Mr. HUTCHINSON. The same thing would be true with the Mitchell bill, I believe. Would you not say?

Mr. HOEKSTRA. Yes.

Mr. HUTCHINSON. Thank you.

Mr. KNOLLENBERG. The interesting part, too, on that subject is the bipartisan bill that you spoke of really is less than—it is about one-fourth the size, and I am going by, again, what was printed in the CONGRESSIONAL RECORD. I might mention that the Mitchell bill, which is another alternative, a substitute that will be offered, we have been told, has been about the same size as the bipartisan bill.

So it seems to me that we have within our midst enough material to keep us going for weeks, if we are going to get through all of this newly laid upon us 253 pages, to soon climb to some 1,400/1,500 pages.

I want to now go to the gentleman from Kentucky who is the newest Member of the freshman class. Before I do though, I want to cite that a lot of the information and a lot of the views that we have are based upon communicating with our own constituents. I know that Mr. HUTCHINSON has done it in Arkansas and Mr. HOESTRA has in his part of the State. So have I.

I have had some nine health care forums. Two of those were attended by over 500 people. I can tell you that those individuals that came, came with a mission. They wanted to hear. But they wanted to speak, and speak. And we gave them that opportunity. They told us what they wanted. It was not just in those settings, but particularly in those settings. It was also, from all the communications we have had, all the phone calls, cards and letters, and from my own particular district I know overwhelmingly they do not want government intrusion in their health care system. They like in a great majority of cases what they have. It can be improved, take care of the portability fashion, preexisting conditions, and some other matters, which the bipartisan bill does.

I wanted to go to the gentleman from Kentucky [Mr. LEWIS] to get some sense of his constituency, what he has gleaned from dealing with them in the short time he has been in Congress. So I welcome Mr. LEWIS from the grand State of Kentucky.

Mr. LEWIS. Thank you for yielding your time.

Well, Kentucky is very much like what you are saying. Today we had calls in our district office all day long saying wait, wait, wait on the health care plan. Make sure you do it right. Don't hurry something through. And on August 4, the Newsweek article showed that in an over two to one margin, Americans believe that it would be better for Congress to start over on health care rather than pass something quickly that could be hazardous to their health care.

The American people want us to go slow, and they want us to do it right. And why do they want us to take our time and do something that is going to be beneficial and not hazardous?

So what are the problems with the Mitchell-Gephardt-Clinton plan?

□ 2110

Well, mandates, employer mandates. It is going to cost them anywhere from 600,000 to 3.5 million jobs. Both the Mitchell bill and the Gephardt bill include these mandates, and you cannot have mandates without someone paying the price. And guess who pays the price? It is the middle class.

Higher paid individuals will be able to still survive with these mandates, but the lower paid Americans are protected by the large government health care entitlement that will be created. So that leaves the middle class to take the brunt of these mandates.

Another problem that they are having with the Gephardt-Mitchell plan is the threat of rationing. The Clinton-Mitchell-Gephardt plan can lead to rationing our health care services through those mandated cost controls.

These bills sneak price controls in through the back door of these plans, and they are disguised as measures that will keep the cost of premiums down for Americans but, in effect, requiring the costs to be kept to a certain level, they will lead to rationing health care and benefits for the American people.

The Mitchell bill will impose taxes on health care premiums that exceed rates set by the government. Obviously, health care providers are going to have to cut expenditures to meet these levels. As any business owner knows, cutting spending means cutting back on services and cutting back on services means cutting back on health care for the American people.

Taxes, that is another thing that the American people are not liking about these bills. The Gephardt and Mitchell plan, they raise taxes on every American family and business owner in this country. These plans will initiate up to 20 new taxes on everything from retiree health care benefits to taxing ammunition.

What is something from my district that the people do not want? Of course, I have an agricultural-based district, and tobacco is the number one crop.

VOL 140 PT 15 AG 10 — 11 1994 UMI

Well, these plans include a tax on tobacco. Specifically, a tax on a commodity that is singled out, singled out among all the others, this is the one that they are picking on. And with a huge tax, not a moderate tax, started out with a 75 cent tax with the Clinton bill, but now it is a 45 cent tax with these two bills.

Well, our district cannot afford, our farmers in our district cannot afford taxes on tobacco. Tobacco is already taxed more than their fair share, and they are paying for a lot of programs that the government, I do not know what they would do to make up the money if tobacco is taxed out of existence. I think it would go back again to the middle class to make up the difference.

Increased bureaucracy. The Gephardt and Mitchell plans impose more big government control over the lives of individuals and businesses. In fact, these plans create 20 new bureaucracies and these bureaucracies are charged with determining what health care coverage we can have. They will determine what medical procedures and what will be necessary. This could result in lower coverage and less choice for employers/employees. By mandating what services must be provided, some employers will have no choice but to include the Federal plan.

These new boards will have advisory power over a substantial part of the health care operations and it even goes as far as to regulate the number of specialities we have in schools, the medical schools. Further, the various board members will not be elected. They will be comprised of politically-appointed officials, and their meetings do not have to be open to the public. And these committees are exempt from the sunshine regulations provided under the Federal Advisory Committee Act.

I think that the American people are saying, wait. I think they are saying, we want a plan that is going to work. And this bipartisan plan that has been introduced, I think, is a very good plan that we can look at and say, this might be what we need.

But we need time to study it. We do not need to rush something through. Because when I go back to Kentucky, as the gentleman just said a little while ago, the folks in my district are lining up and they are talking to me about health care. They are lining up, just as the people in your district, and they are saying, why are you not waiting? Why are you not taking your time? Why can you not take time and have a national forum wherever everyone can see what is on the board and we can make educated decisions about what we want?

Personally, I think what is happening here with the Gephardt-Mitchell plan is that it is a political thing. It is something that is trying to be rushed through. It is something that is supposed to make our colleagues across the aisle look better for some reason, if they can get a plan through. But we have got to start thinking about what is good for the American people, not what is politically beneficial, but what is going to be good down the road, years from now, when my children and my grandchildren are going to need health care.

The people of this country do not want their coverage, their opportunities for health care coverage to be ruined. And the most common phrase I hear back in my home district is, do not fix what is not broken. So the people want us to make educated, thorough decisions about health care here in this House, and they want us to do it right. They do not want us to rush through and make some bad mistakes.

Mr. KNOLLENBERG. I thank the gentleman from Kentucky. I think the gentleman is right in terms of the mandates which involve, of course, in the Gephardt bill, the Mitchell bill, new taxes, new mandates and tax caps, meaning that certain premium plans that are in force with various companies could not raise their benefit level above a certain point or it would be taxed. Of course, that one size fits all would be applied against some of the plans that are in existence around the country.

Those people then would have to pay a tax on the excess.

One nice part about the bipartisan effort that is being constructed and architected here in Congress is that it has none of that. It has no taxes. It has no mandates. And it has no tax caps. So the gentleman from Kentucky commented about tobacco.

Well, there are any number of things they can tax. Of course, whatever moves or does not move could ultimately be the source or could be the target of the Federal Government in terms of taxing to raise that money.

I would just cite one thing. These are the preliminary estimates of the Mitchell bill. This is not really official yet, but they are talking about the mandates that are a part of that bill.

I wish I had something from the Gephardt bill, I would be talking about that.

Mr. HOEKSTRA. Would the gentleman clarify exactly how much information we have on any of the nine bills about how much they will raise in new taxes and what the net result will be on the deficit for any of the nine bills?

Mr. KNOLLENBERG. I can tell you one thing at the moment, I have the facts sheet on the Mitchell bill in terms of the mandate.

Mr. HOEKSTRA. But we have nine different bills here in the House. What numbers do we have on any of those nine bills?

Mr. KNOLLENBERG. The gentleman makes a point. I am talking about a bill that I will not even have to deal with. The reason I am is because we have nothing for the Gephardt bill. We have only facts and not really facts yet, they are just preliminary estimates of what the Mitchell bill's costs will be.

Mr. HOEKSTRA. We will be debating these nine bills and there were colleagues on the floor for an hour before saying how great the Clinton-Gephardt bill was, how bad some of the other bills were. And we do not have any independent verification of what the numbers are yet.

Mr. KNOLLENBERG. Let me give you one example: Mandates—with mandates—talking about the Mitchell bill again. I would love to talk about the Gephardt bill, but I have nothing to talk about.

It states, for example, that 10 years from now in the year 2004, with mandates in place, we are still going to have $165 billion, $165 billion in subsidies.

Now, if you take the mandates out, it would be $194 billion. The point is, even with mandates in place, we are going to run up $164 billion in deficits.

□ 2120

Now, how do you finance that? You could tax the tobacco of Kentucky, you could tax a lot of things. That is the problem with the Mitchell bill. I wish I could tell you what is totally wrong with the Gephardt bill, but I have to wait for those numbers. This is just preliminary.

Mr. HUTCHINSON. Will the gentleman yield?

Mr. KNOLLENBERG. I am glad to yield to the gentleman from Arkansas.

Mr. HUTCHINSON. It is my understanding that the CBO came out with numbers on the Mitchell bill, but they have not yet produced numbers for this Congress in regard to the Gephardt—the Clinton-Gephardt bill, so the gentleman is exactly right. We do not have numbers on what the Clinton-Gephardt bill will do, how it will impact the deficit, how it will impact the pocketbooks of the American people.

I might add also, in my initial analysis of the Gephardt bill, we have the Medicare Part C, which is established, which has been called the largest entitlement ever created in American social policy. It would bring over 90 million Americans under Government-run health care, direct Government-run health care, in Medicare Part C. That is rather incredible.

In fact, Mr. Speaker, we just started a commission to study—I appreciate the gentleman from Kentucky [Mr. LEWIS], whose first official act on this floor was walking over to this desk and signing a discharge petition for the A to Z, because of his personal concern about the deficit in this Nation, and the national debt.

We have an entitlement commission that is supposed to come back and make recommendations, because we have entitlements now that are bankrupting the country and exploding in their costs, and yet we are getting ready, if we pass the Gephardt bill, to create the largest entitlement ever, at the very time we are now beginning to acknowledge what the entitlements are doing to our deficit situation.

Mr. HOEKSTRA. Mr. Speaker, I think we have a preliminary report on the entitlement commission that says that by the year 2011, or something, all of the revenues that we collect in taxes will be used to pay for two things, entitlements, and interest on the debt, and that by now, if we create this whole new entitlement program, we are going to either be looking at one of two things, more debt, or higher taxes. I believe that was the preliminary report. I'm not sure.

Mr. HUTCHINSON. PETER, if you will yield back, I think you are exactly right. I just think it is the highest of ironies that at the time we get this preliminary report, and there is general, broad acknowledgment that something has to be done on entitlement spending; that we are preparing now, or it is being proposed, it is being advocated, that we create the largest, the mother of all entitlements. I think that is a high irony.

Mr. HOEKSTRA. And we will spend 8 days talking about it.

Mr. HUTCHINSON. Eight days. I thank the gentleman.

Mr. LEWIS of Kentucky. Will the gentleman yield?

Mr. KNOLLENBERG. I am glad to yield to the gentleman from Kentucky.

Mr. LEWIS of Kentucky. The Congressional Budget Office, have they come up with a figure on the Gephardt bill at all and what it is going to cost?

Mr. KNOLLENBERG. It is my understanding, and I may have to yield to someone with more current knowledge, that they do not have those numbers, that is is forthcoming, we have been told. But at this point, and this is Thursday evening, we do not have them. I would yield to anybody who has better information.

Mr. HUTCHINSON. You are exactly right, the numbers are not there. I have been told, Mr. Speaker, by those involved in the process more directly than myself, that it is physically impossible for all of those numbers to be produced for this Congress in the next 8 days, which in itself is a compelling argument for a more deliberative process, for more time to be taken so proper numbers can be presented to this Congress, so we will know exactly what we are voting on.

The CBO, because of the number of bills that have been introduced, and the demands upon them, physically will not be able to give us the kind of accurate data we need to make an intelligent, deliberative decision on health care reform.

Mr. KNOLLENBERG. If I could just interject, it is us, of course, that need information, but we have an obligation to funnel that back to our constituents, too, so they can make some judgments about this and provide us with input.

I just wanted to relate a story that appeared on the AP wire this evening about calls from angry senior citizens who have been clogging the switchboards of AARP, the American Association of Retired Persons, after the group's board of directors—who are an inside-the-beltway kind of group, I guess they suffer from the same malaise as some other people, too—after the group's board of directors stated its support was going to be for the Democratic bills. Most of the callers were incensed that the AARP leadership made that decision without surveying the some 33 million AARP members.

Mr. HOEKSTRA. Will the gentleman yield?

Mr. KNOLLENBERG. Yes, Mr. Speaker.

Mr. HOEKSTRA. It is interesting, regarding the callers, it may be unfair to attack the AARP here in Washington, because there would have been no way possible for AARP to poll its members, because the bill did not exist. The bill did not exist until 9 o'clock last night, so it is unfair of those callers to tell them to poll their members before they endorsed, because the bill did not exist.

In reality what AARP did is they endorsed the bill based on an outline and some broad concepts, without understanding what is in this thing.

Mr. KNOLLENBERG. The gentleman makes a valid point. It just illustrates the problem that all of us seem to have, not just the Members of Congress, but the people inside the beltway.

Of course, it does, I think, frame properly the real difficulty we have here this evening in coming to grips with what is it, where is the bill.

Mr. HUTCHINSON. If the gentleman will yield, in regard to the decision that the AARP made, I think that one of the—again, one of the ironic aspects of their decision to support a Government-run health care system, and in particular, the Clinton-Gephardt, Clinton-Mitchell bill, is that all of these health care plans depend very heavily on Medicare cuts in order to fund their particular health care plans.

That may or may not be a wise decision, but it is something that needs to have a very close scrutiny. The hospitals in my State, the State of Arkansas, many of them, and I mean by that dozens of them, have communicated directly with me with this message: "Please wait," because they are concerned about how drastic, radical Medicare cuts will affect rural hospitals in this country, who are so dependent upon Medicare reimbursement.

So for AARP, which is supposed, of course, to have the interests of our senior citizens at heart, to endorse a bill that relies so strongly upon drastic Medicare cuts to fund the bill is, again, very ironic, and it needs to be looked at very, very closely, and the hospitals in the State of Arkansas have said "Let us wait. Let us look at it closely. Don't do anything drastic. Don't do anything right away. Look at how this is going to impact rural health care."

I think they have made a wise decision in sending that message to Washington. I thank the gentleman for yielding.

Mr. KNOLLENBERG. As we wind down here in the last couple of moments, if any of the gentlemen want to make some final comments, I yield to the gentleman from Kentucky.

Mr. LEWIS of Kentucky. I have looked at some interesting statistics the other day in an investment paper, that 38 percent of the gross domestic product in this country is made up of Government.

It said that if we go on, we are moving very close to that 50 percent mark where, if we pass a Mitchell or Gephardt bill, we would go over the 50 percent of our gross domestic product. That would take us past where Russia is right now. It would move us close to Sweden. It would take us over the edge. One-seventh of our economy would be made up of the health care plan.

Mr. Speaker, we cannot continue on like this. We cannot continue on with more taxation. The 17 to 20, the taxes of the Mitchell-Gephardt plan, for the average family with local, State and Federal taxes, 40 percent of their income, and when you include the hidden taxes, you are getting close to 50 percent.

We are getting close to the point of putting the straw on that is going to break the camel's back, and I don't think the American people are wanting this. I don't think they are ready to go to a system that is going to be so overburdened by the Government in every area of their lives that they cannot have the freedom to make their own choices.

Mr. KNOLLENBERG. I thank the gentleman.

Mr. HOEKSTRA. Just a couple of final points, if the gentleman will continue to yield. When we are taking a look at the health care debate, we really do want health care reform, but we want a process that is going to enable creativity and innovation.

We already see that some of the plans are doing away with wellness plans, where they are saying "We are going to have to study them for two years." They are doing away with cafeteria-type plans. The States are the hotbed for innovation. They have been innovating on legal reforms, so what does the new Clinton-Gephardt bill do? It preempts all State laws on liability.

What is the end result we want, Mr. Speaker? We want to go through a good

VOL 140 PT 15 AG 10 — 11 1994 UMI

process, one that we have gone through a deliberation, an opportunity to input, an opportunity to hear from our constituents. We want a plan that can get broad bipartisan support.

I would love to pass a health care reform bill that has over 300 votes. We want to build on what we have. Our health care system works for 85 percent of the American people. Let us build on what we have and let us start including the other 15 percent into that 85 percent.

□ 2130

If we go through that kind of process, if those are the principles that we use, we will end up with a result that is good for the American people and that they will be proud of.

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman. I think he is right on target in terms of suggesting that we not provide a 100-percent solution for a 15-percent problem. Of course, that falls in line with the statement that we should fix what is wrong with what is right. Let us not throw the baby out with the bath water. We have got a great health care system here. It can be better, we can make it better. There is a bipartisan effort being made right now to do just that.

Mr. Speaker, I would just like to close by saying the only partisan bill that I can recall in this Congress, in the 103d, was the budget bill. It was the only bill where there were Democrats and Republicans massed together. I believe in the health care debate, which is so important, to Republicans, to Democrats, to every man, woman, and child in this country, it should be a bipartisan effort that prevails and I believe we can get there and I believe the concepts that we have talked about this evening are what the American people want.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT), for today through the close of business on Tuesday, August 16, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KOLBE) to revise and extend their remarks and include extraneous material:)

Mr. HORN, for 5 minutes each day, on August 17, 18, and 19.

Mr. DUNCAN, for 5 minutes, today.

Mr. HOEKSTRA, for 5 minutes, today.

Mr. EHLERS, for 5 minutes, today.

Mrs. BENTLEY, for 5 minutes, today.

(The following Members (at the request of Mr. PENNY) to revise and extend their remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

Mr. DERRICK, for 5 minutes, today.

Mr. KREIDLER, for 5 minutes, today.

Mr. HUTTO, for 5 minutes, today.

(The following Members (at the request of Mr. WISE) to revise and extend their remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

Mr. HANCOCK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. KOLBE) and to include extraneous matter:)

Mr. HORN in two instances.

Mr. BOEHLERT.

Mr. GUNDERSON.

Mr. COLLINS of Georgia.

Mr. RIDGE in two instances.

Mr. GILMAN.

Mr. RAMSTAD.

Mr. BALLENGER.

(The following Members (at the request of Mr. PENNY) and to include extraneous matter:)

Mr. MILLER of California.

Mr. LANTOS.

Mr. STARK.

Mr. FRANK of Massachusetts.

Mr. MANTON.

Mrs. MALONEY.

Mr. REYNOLDS.

Mr. BROWN of California.

Ms. SHEPHERD.

Mr. KILDEE.

Mr. BARCIA of Michigan.

Mr. BILBRAY.

Mr. HOCHBRUECKNER.

Ms. ESHOO.

Mr. GONZALEZ.

Ms. WOOLSEY.

Mr. RANGEL.

(The following Members (at the request of Mr. KNOLLENBERG) and to include extraneous matter:)

Mrs. BENTLEY.

Mr. GOODLING.

Mr. ROTH.

Mr. GILMAN.

Mr. YOUNG of Florida.

Mr. YOUNG of Alaska.

Mr. SAXTON.

SENATE BILL REFERRED

A Bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2218. An act to provide authorization of appropriations for the Federal Emergency Food and Shelter Program for fiscal years 1995 and 1996; to the Committee on Banking and Finance.

ADJOURNMENT

Mr. KNOLLENBERG. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 31 minutes p.m.), the House adjourned until tomorrow, Friday, August 12, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3675. A letter from the Acting Director, Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of August 1, 1994, pursuant to 2 U.S.C. 685(e); to the Committee on Appropriations.

3676. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-316, "District Government Land Use Temporary Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3677. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-317, "Recycling Fee and Illegal Dumping Temporary Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3678. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-318, "District of Columbia Board of Education Fees for Select Adult, Community, and Continuing Education Courses Temporary Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3679. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement with Italy (Transmittal No. DTC-29-94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3680. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Robert L. Galiucci, of Virginia, to be Ambassador at Large, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3681. A letter from the Chief, National Forest Service, transmitting various boundary descriptions and maps; to the Committee on Natural Resources.

3682. A letter from the Secretary of Labor, transmitting a report on the evaluation of the pilot program of off-campus work authorization for foreign students—F-1 Nonimmigrants—pursuant to Public Law 101-649, Section 221(b) (104 Stat. 5028); to the Committee on the Judiciary.

3683. A letter from the Secretary of Health and Human Services, transmitting a report on participation, assignment, and extra billing in the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4111. A bill to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes; with an amendment (Rept. 103-698). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTION

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARRETT of Nebraska:

H.R. 4938. A bill to provide the members of the Armed Forces held as hostages in Iran after the seizure of the United States embassy in Tehran on November 4, 1979, shall be treated as having been prisoners of war during the period that they were in a captive status; to the Committee on Armed Services.

By Mr. EWING:

H.R. 4939. A bill to designate the U.S. courthouse located at 201 South Vine Street in Urbana, IL, as the "Frederick S. Green United States Courthouse"; to the Committee on Public Works and Transportation.

By Mr. GLICKMAN:

H.R. 4940. A bill to require the specific identification of intelligence construction projects in annual budget submissions and the authorization by law of such projects; to the Committee on Intelligence (Permanent Select).

By Mr. SERRANO:

H.R. 4941. A bill to repeal the Cuban Democracy Act of 1992; to the Committee on Foreign Affairs.

By Mr. WILSON (for himself, Mr. BRYANT, Mr. MEYERS of Kansas, Mr. ZIMMER, Mr. NEAL of Massachusetts, Mr. THOMAS of California, Mr. ROYCE, Mr. FROST, Mr. FRANK of Massachusetts, Mr. HASTINGS, Mr. PARKER, and Mr. EMERSON):

H.R. 4942. A bill to amend title 28, United States Code, to provide for the use of volunteer's for Federal Bureau of Investigation tours and at the Bureau's training facilities, and for other purposes; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 4943. A bill to regulate fishing in certain waters of Alaska; to the Committee on Merchant Marine and Fisheries.

By Mr. MILLER of California (for himself, Ms. PELOSI, Mr. HAMBURG, Mr. BILBRAY, and Mr. GALLEGLY):

H.R. 4944. A bill to authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes; jointly, to the Committees on Natural Resources and Science, Space, and Technology.

By Mr. MANTON:

H.J. Res. 401. Joint resolution designating the months of March 1995 and March 1996 as "Irish-American Heritage Month"; to the Committee on Post Office and Civil Service.

By Mr. KLEIN:

H. Con. Res. 280. Concurrent resolution expressing the sense of Congress with respect to protections for persons changing their names to avoid domestic violence; to the Committee on the Judiciary.

By Mr. SHAW (for himself and Mr. JOHNSTON of Florida):

H. Con. Res. 281. Concurrent resolution expressing the sense of the Congress that the United States Embassy in Israel should, at the earliest possible date, be relocated to the city of Jerusalem; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII.

457. The Speaker presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to the One Dollar Coin Act of 1993; to the Committee on Banking, Finance and Urban Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 193: Mr. BAKER of California, Mr. BARTON of Texas, Mr. DORNAN, Mr. PACKARD, and Mr. SKELTON.

H.R. 488: Mr. BONIOR.

H.R. 672: Mr. BARTLETT of Maryland, Mr. RUSH, and Mr. POSHARD.

H.R. 857: Mr. DORNAN.

H.R. 959: Mr. GEJDENSON.

H.R. 1277: Mr. CALVERT.

H.R. 1671: Mr. DE LUGO.

H.R. 1725: Mr. DOOLITTLE.

H.R. 1921: Ms. SCHENK.

H.R. 2420: Mr. YATES.

H.R. 2717: Mrs. Meyers of Kansas.

H.R. 3492: Mr. LEACH, Mr. HALL of Ohio, Mr. ARCHER, Mr. BRYANT, Mr. TORKILDSEN, and Mr. SLATTERY.

H.R. 3739: Mr. SAXTON.

H.R. 3854: Ms. FURSE.

H.R. 3943: Mr. BARCA of Wisconsin, Mr. CANADY, and Mr. HERGER.

H.R. 3971: Mr. ANDREWS of New Jersey.

H.R. 4000: Mrs. MEYERS of Kansas, Mr. DOOLITTLE, Mr. HERGER, and Mr. HANCOCK.

H.R. 4051: Mr. BRYANT.

H.R. 4115: Mr. DEUTSCH and Mr. PAXON.

H.R. 4318: Mr. CLINGER and Mr. CALVERT.

H.R. 4325: Mr. BLACKWELL and Mrs. UNSOELD.

H.R. 4413: Mr. BILBRAY.

H.R. 4517: Mr. MINETA.

H.R. 4585: Mr. CRAPO, Mr. PACKARD, Mr. BACHUS of Alabama, and Mr. LIVINGSTON.

H.R. 4654: Mr. BACCHUS of Florida and Mr. FOGLIETTA.

H.R. 4786: Mr. LIPINSKI.

H.R. 4805: Mr. POMEROY.

H.R. 4831: Mr. SUNDQUIST.

H.R. 4860: Mr. CHAPMAN.

H.R. 4919: Mr. COOPER, Mr. KING, Mr. DEUTSCH, Mr. SWIFT, Mr. DOOLEY, Mr. ROHRABACHER, Mr. LINDER, Mr. DELAY, Mr. GRAMS, Mr. DICKEY, Mr. CUNNINGHAM, Mr. DORNAN, Mr. WALKER, Mrs. FOWLER, Ms. ROS-LEHTINEN, Mr. PORTMAN, Mr. LEWIS of California, Mr. KIM, and Mr. POMBO.

H.J. Res. 389: Mr. ANDREWS of Maine, Mr. TORKILDSEN, Mr. MAZZOLI, Mr. SHAYS, Mr. OWENS, Mr. NEAL of North Carolina, Mr. ROMERO-BARCELÓ, Ms. KAPTUR, and Mr. SKEEN.

H. Con. Res. 35: Mr. FRANKS of New Jersey, Mr. FORD of Michigan, and Mr. BARRETT of Wisconsin.

H. Con. Res. 148: Mrs. LLOYD.

H. Con. Res. 186: Mr. HUFFINGTON.

H. Con. Res. 245: Mr. OWENS.

H. Con. Res. 247: Mr. DIXON, Mrs. JOHNSON of Connecticut, Mrs. BENTLEY, Mr. SOLOMON, Mr. RUSH, Ms. ROYBAL-ALLARD, Mr. MARKEY, Mr. HUFFINGTON, and Ms. PELOSI.

H. Con. Res. 257: Mr. VENTO and Mr. WAXMAN.

H. Res. 213: Mr. DOOLITTLE.

H. Res. 266: Mr. CALVERT.

PETITIONS, ETC.

Under clause 1 of rule XXII,

117. The Speaker presented a petition of the Attorney General, Commonwealth of Kentucky, Frankfort, KY, relative to State health care fraud control units; to the Committee on Energy and Commerce.

VOL 140 PT 15 AG 10 — 11 1994 UMI

EXTENSIONS OF REMARKS

A GREAT "UNDELIVERED" SPEECH

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. BROWN of California. Mr. Speaker, President Clinton was invited to be the featured speaker at UCLA's 75th Anniversary Convocation on May 20 of this year. In the event that the President might have to cancel at the last minute, the planners of the anniversary festivities had invited Harold Shapiro, president of Princeton University, to prepare and be ready to deliver a stand-in address.

President Clinton came to UCLA and gave an inspiring talk that was well received. We are, however, also lucky to have the insightful but "undelivered" remarks of Harold Shapiro. In his speech entitled, "Creating A Future," Shapiro makes us reflect on the universal unwillingness to welcome the messengers of change and embrace their message. He reminds us of the importance of reexamining our goals, and of the need to search for new solutions to old problems. I commend these remarks to all of my colleagues.

CREATING A FUTURE

"I've got to be moving along . . ." (Woodie Guthrie)

It is with some considerable trepidation that I rise to speak—yet once more—to this distinguished assembly. Although I had some forewarning that I might be asked to speak in President Clinton's stead, you did not! While I am honored to assume this role, I am acutely sensitive to the fact that I'm not really the speaker you were hoping to hear! Moreover, I can hardly disguise that fact that my speaking skills haven't been honed by innumerable campaign stops, electronic town meetings, or even MTV! How can a humble scholar even begin to step into the shoes of his nation's leader? What would President Clinton have said on this occasion?

Surely he would have congratulated the faculty and students of UCLA, the Regents of the University of California, and the citizens of the state of California for the many contributions they have made to the world of education and scholarship and to our nation. What, however, would the President have said next? How could I approach this large assignment? It was clear to me that I needed some inspiration from somewhere!

First, I decided that perhaps I could prepare myself for the awesome task of filling the President's shoes by rising at dawn and taking a morning jog, and supplementing my usual "California" breakfast of yogurt and granola with some Egg McMuffins—and fries—and, to get in the swing of things, a Whopper—also with fries. Fulfilling as this gastronomic approach was, I decided I had to look elsewhere for inspiration. I hit upon the perfect academic solution to the problem of how to speak in the place and the voice of a speaker who's much better known. Let me explain.

Recently, I was reading with the students in my Freshman Seminar the *Apology* of Socrates. Now, I'm sure you will all read that the *Apology* (which was Socrates' speech of self-defense before the jurors when he was put on trial in Athens) was in fact not *written* by Socrates. What has come down to us, instead, is a speech written by Socrates' pupil, Plato. So, it occurred to me that what I'm actually confronted with here today is a kind of Platonic task—to speak in the place of another.

Now I do not confuse myself with Plato or even with Homer—whose epic poetry spoke not for one but for an entire pantheon of heroes. Nevertheless, I decided that I could certainly look to one of them for inspiration. I chose Plato, both because Socrates is one of my heroes and, in some ways, so is President Clinton. In addition, in this great democracy we always think of our leaders—like Socrates—as "on trial"—although we may now be taking this idea rather too literally. Moreover, it is clear that President Clinton and Socrates share other intriguing characteristics.

For example, I thought about the fact that Socrates' marriage—to a woman who was considered extremely outspoken for the time—seems to have been a source of considerable controversy among his fellow citizens. Socrates also had quite a reputation among his friends for enjoying and celebrating life, although these activities seemed to have no discernible impact on his other capacities. Like President Clinton, Socrates was not from an elite background, and he had to tolerate snide comments about how his wonderful mother was "just" from the working class.

Moreover, Socrates—as has President Clinton—took his message directly to the people, where they worked and talked, in the public square of Athens. In addition, Socrates did not have a "classical" Greek build. He is said to have had a notoriously round (probably pink) face. Socrates also spent part of his days in the gym with friends (jogging wasn't in vogue in Athens) and—like President Clinton—he spent part of every day reading and talking with anyone from whom he thought he could learn something. Most important, Socrates viewed Athens—very much as President Clinton views America—with both admiration and a critical eye.

Despite these striking "similarities," there are more important and substantive ways in which Socrates' situation shows correspondences to the situation we face today as a country and President Clinton faces as our leader. Of course, there is the small (and inconvenient) matter that the context of the Apology is not one of celebration: it's a court case. And I wish to celebrate not only UCLA's anniversary but also President Clinton's leadership. Let's overlook this difference, though, and focus instead on the fact that Socrates stood accused of the "crime" of "introducing new ideas."

The "Socratic situation," therefore, remains a symbol for all those leaders—like President Clinton—who are trying to move a nation to a new and better place. New ideas—then and now—are both dangerous and essential to our vitality. Too often, however, we allow our leaders to shoulder the full burden of change. If I try to imagine myself in President Clinton's place today, I think I might want to make a number of points which are really very much like that speech that Plato put in the mouth of Socrates twenty-four centuries ago—in order to put my case for change before the people of California—and the nation.

First, Plato realized that the first thing that confronted Socrates—and has confronted many outspoken leaders since then—is that some portion, perhaps even a great deal, of the opposition to new ideas derives its energy not only from the need for "those in charge" to defend existing privileges, but also from the echoes and shadows of attitudes inherited a long time ago that too often cause us to leave almost unexamined new paths we are being urged to take or new ideas presented to us.

Perhaps the most important and influential single idea that's come down to us from Plato's Apology—and perhaps from the whole corpus of Platonic work—has to do with what gets left unexamined. I mean the famous claim in the Apology that "The unexamined life is not worth living." This is a lesson that we in universities take especially seriously and consider to be central to our mission. What does it mean? Well, when Plato advanced it, he made it clear that he meant something pretty radical. He meant that what was most important in life, what was most important for young people to learn, wasn't necessarily how to make the most money or how to gain the most prestige in the society of the day, but instead how to recognize and work toward what he called "the good" or what it was that made life worth living.

This idea—attractive as it sounds—was not tremendously popular among the elite in Athens of the 5th century B.C.E. And I think it would be fair to say that, in America of the 20th century, it is *not* necessarily "and idea whose time has come." Nevertheless, from Socrates' time to the present, there have been those leaders who have continued to bring this ideal before the public.

This role—of reminding citizens of goals that are larger and more transcendent than most of our everyday concerns, are more compelling than our old habits, and ask us to take the concerns of others into account—has never been a very welcome one. To this day, most of us, just as was true in Socrates' time, find it easier and more natural to look to the state of our bank accounts and our individual needs than to the state of our souls and the needs of others in formulating our views or making our individual choices and public policy decisions. Moreover, current arrangements always seem more natural to those enjoying their special benefits and privileges.

In 399 B.C., Socrates was put on trial for having "new ideas" and for "corrupting the young" with them. And his fellow Athenian citizens voted to be rid of this disturbing individual who kept insisting that they should care more about doing good than about doing well. President Clinton has inspired us all with his new initiatives, his rhetoric, and his ideals, but we must all hope that this time we—unlike the Athenians—will be moved to embrace his ideas and to bring America to a better place.

I think it's important to notice—if we think about what we might learn from his story—that Socrates himself—like President Clinton—doesn't claim to be perfect, doesn't claim to have the solutions. In fact, his only claim is that it's of the utmost importance to continue to search for answers. This questing, this continually urging his fellow citizens to confront enduring questions of human values and the well-being of society so discomfits them, is so intolerable that—in the end—they cannot tolerate him. Better to get rid of him they think, than to have to—as he insists—examine their own lives and their own responsibilities.

Our own society, sadly, is often not welcoming to those who have had a new dream. We too often react with skepticism, cynicism, and self-satisfaction, to those who would confront us with uncomfortable questions, questions like: Who are my neighbors? (And are they only within my own nation's boundaries?) What are my responsibilities to others? (And do they include concern for the preservation of their health and well being?) What do I owe my fellow citizens? (And is it not only taxes, but "taxing" myself to recognize and protect the human dignity of those who differ from me?)

When questions like these troubled the Athenians, they thought they had a solution, namely: condemn the messenger. Our nation's leaders often face the same response when they ask us to take on new attitudes and new responsibilities.

Luckily, Socrates' message was not at all silenced by the Athenians. In fact, his pupils—like Plato—continued to write it and speak it, so that it has echoed down through the centuries. It is an uncomfortable message, which stresses a lack of complacence—with ourselves and with our nation—and calls us to continual reexamination of our goals.

When Socrates took this path in public life, he knew he was taking risks. The public man or woman today who calls us to high ideals—independent of his or her personal history or characteristics—is also taking risks, some would say is courting "political suicide." It is always easy to find reasons why such individuals are not blameless themselves, or can't claim total knowledge, or don't have all the answers for the future—and so we manage, often, to discount them. And this allows us to remain set in our old ways, to avoid taking on the burdens of change and re-direction and vision.

But I'd like to think that we've actually made some progress since the days of the ancient Athenians. I'd like to think that, rather than condemning those who seek to rouse our democracy today, we might actually be thankful that there are such people—people like President Clinton—who have the courage to try to move us to examine our principles and our policies. Perhaps "free trade agreements" and "tax reform" and "welfare reform" and "health care policy" don't sound quite as grand to us as Socrates' quest for "justice" and "virtue." But they are the concrete examples of our public lives today of adopting new ideas and taking on new responsibilities. Rousing a democratic people to face such challenges has lost none of its importance; it still takes courage, and it deserves—in my opinion—our greatest respect and our gratitude. Answers to such issues may be difficult to find, but they cannot be found at all without leaders who compel us to seek them, not only at the level of public policy but at the level of our individual reexamination of our own actions and commitments.

Well, I certainly can't fill the shoes of the President—any more than Plato could take the place of his teacher, Socrates. There was about Socrates a certain charisma, an ability to affect people deeply, that a mere citizen—faculty or student—could hardly claim. But as President Clinton has often noted, there is a critical role for us, as we are confronted with the kind of leader who challenges, maybe even irritates some among us, but at the very least rouses us to re-examine those aspects of our society that for too long we have accepted without question. Perhaps that role is to accept the challenge, to be willing to listen and reflect—and also willing to act upon our reflections.

For my own part, I'm grateful to President Clinton for being, if you will, an American Socrates—challenging our nation as Socrates challenged Athens, and I wish him well. I also want to thank you here today for your kind reception of my "Apology" that your speaker on this occasion was not exactly what you had in mind.

SONDRA SIMONSON DAY

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. RAMSTAD. Mr. Speaker, I rise today to pay tribute to a very special friend and constituent.

Governor Carlson has proclaimed today, August 11 of 1994, Sondra Simonson Day in Minnesota.

Sondra Simonson has been very active in her community of Bloomington, MN, and has truly served as an inspiration to many for her public service.

She has served as the first woman Chair of the Bloomington Chamber of Commerce, and has been a member of the Metropolitan Council. In those positions, she has been a leader in developing aviation and transportation policies for our region.

Sondra was born and raised on the site of what is now the Minnesota Valley Wildlife Refuge visitors' center. Her commitment to the quality of life in Bloomington and to our region is exemplified in her work with the Metropolitan Parks and Open Space Commission.

I am extremely proud and pleased to join the people of Minnesota on this very special day in saluting an outstanding public servant and visionary leader. Sondra has established a legacy of excellence in helping others and providing future generations with the resources to reach for their dreams.

I applaud her, and thank her for all her service.

EARTHVISION: OUR FUTURE IS NOW

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. BARCIA of Michigan. Mr. Speaker, I rise today to pay tribute to the EarthVision Program being conducted by the Environmental Protection Agency, in conjunction with Saginaw Valley State University. The objective of this program is to leverage the investment made in the intellectual and physical resources held by our Federal agencies, to provide further educational opportunities for our Nation's students.

EPA Administrator Carol Browner and I had a chance to see this program in action early in June and meet the 24 students and teachers who participated this year. We were tremendously impressed by their ability to deal with matters that only a few years ago were thought of as dreams for the future. This past year every single high school in Michigan was invited, to participate in the competition for an EarthVision team slot, and over 60 responded to this growing scientific endeavor. In this coming year, the invitation list is expected to be expanded to include every single high school throughout the Great Lakes region.

The EarthVision Program is composed of two elements. During the academic year teams of teachers and students learn specific skills needed to conduct environmental research using computational science. Each of these teams is assisted by a mentor and the Saginaw Valley State University support team. These skills are learned through hands on training at the National Environmental Supercomputing Center in Bay City. Additionally, the student/teacher teams attend Saturday tutorials, during which they are assisted in the preparation of proposals required for admission to the second component of the program, the Summer Research Institute.

During the Summer Research Institute competitively selected teams participate in a 3-week educational program. The centerpiece of this educational program is instruction in conducting an environmental research project of their own design. Through the use of a computer workstation, and a telecommunications link to the National Environmental Supercomputing Center, participants in the Summer Research Institute conduct environmental research activities at their high schools during the following academic year.

Through this computer link the teams analyze data, conduct environmental modeling and use scientific visualization to complete their research., These teams then prepare a paper describing their research and their results.

A TRIBUTE TO MARGARET KAJECKAS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. KILDEE. Mr. Speaker, I want to pay tribute to Margaret Kajeckas, who is leaving my subcommittee staff to pursue graduate study at Columbia University.

Margaret began her 8-year career with the House Committee on Education and Labor as a staff member of my Subcommittee on Human Resources and, currently, serves on the staff of my Subcommittee on Elementary, Secondary, and Vocational Education. Throughout her years of service, and in relation to a variety of topics—Head Start, community services, older American volunteer programs, child nutrition, school lunch, and coordination of health and social services with

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 140 PT 15 AG 10 — 11 1994 UMI

education—she consistently has carried out her responsibilities with intelligence, dedication, enthusiasm, and a caring concern for the people served by these Federal programs. Additionally, her professionalism is complemented by a personal warmth and kindness that she extends to all. Margaret is well-liked and has earned the respect of everyone with whom she has come in contact.

I have always considered myself to be blessed with excellent staff and, without doubt, Margaret is among the finest I have had in my employ. While I am sorry to see her leave, I am glad that she has the opportunity to continue her education and I know that she will be successful in whatever she chooses to do.

TRIBUTE TO BARON VON STEUBEN AND DEDICATED VOLUNTEERS

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. BOEHLERT. Mr. Speaker, more than ever before, the people of the Mohawk Valley region of central New York are rediscovering their local heritage and the amazing contributions their leaders made to secure the freedom we enjoy today.

From the first European settlers to the leaders of the Iroquois tribes, this very land was host to among the greatest battles for independence as well as significant diplomatic achievements in the building of a diverse, multiethnic experiment in democracy.

Indeed, in this area, Indians and Europeans, from differing religious and ethnic backgrounds, struggled together to carve out a life on a difficult frontier.

Baron Frederick von Steuben is such a character from this past. This year marks the 200th anniversary of his death, and the people of the valley are honoring him and recounting his special achievements as the "Drillmaster of the Revolution."

The Baron came to America from Prussia. He volunteered for service in the Continental Army, only asking to be paid if America won the war. He worked his way to the position of George Washington's Chief of Staff. There, during the hardship of battle, during the cold of Valley Forge, despite the fact that he spoke no English; he managed to write new regulations for the Army, by modifying and forging new tactics. In so doing, he won the respect and admiration of his men, and transformed the Continentals from a disorganized unit into a proud, progressive, disciplined, and successful fighting force that won, against all odds, its struggle for independence.

The Baron is only one of many such personalities from the northern frontier region who made an extraordinary contribution to liberty. They are people who came with different beliefs, from different places, but mostly from poverty, seeking opportunity. They relied on hard work, faith, help from friendly Indians, and together built a home in the wilderness. More than a home, it was a multiethnic democracy, and it remains the freest and strongest the world has ever known.

Such stories are worth telling again and again, from generation to generation. It is our duty to remember and honor these achievements and pass them along in ways that reach people and touch their hearts. These stories are relevant. They're about living and working and surviving under the harshest of conditions. This exercise will educate people and yield inspiration, hope, and a pathway for a better future—a future in which individuals will strive to lead, take charge of their situation the way the Baron did, overcome obstacles and hardships, and promote decency and civility. In this way, the freedom and democracy that our ancestors worked so hard to build may last.

From July 9 through September 30, the Rome Historical Society, under the able direction of Dr. William Forbes, is hosting an exhibit on the Baron and his work, brilliantly prepared by Curator Barbara Schafer. The exhibit features artifacts donated by West Point and the State of New York.

On July 30 and 31, the town of Steuben, NY, hosted an 18th century military encampment in its namesake's honor, and will also host a Steuben Society National Convention in the last weekend of August on the grounds of the Baron's home.

The Steuben Memorial State Historic Site is owned by the State of New York, but has been closed since 1991. Luckily, the area's volunteers have worked together to manage and care for the site. Many dedicated people contribute to this cause, among them: Maynard Anken of Remsen, Chris Anken of Remsen, Ruth Dean of Remsen, Bunny Doolittle of Barneveld, Jimmie Doolittle of Barneveld, Alex Dubinsky of Remsen, Sophie Dubinsky of Remsen, Eva Ebert of Remsen, James Ebert of Remsen, William Gerrard of Holland Patent, Margaret Gerrard of Holland Patent, Lucille Gorres of Remsen, Jane Harris of Remsen, Susan Heuser of Remsen, Ellen Huey of Remsen, Lorena Jersen of Remsen, Maj. Edward Jones of Remsen, Mary Helen Jones of Remsen, Russell Kaufman of Remsen, Richard Kaufman of Remsen, Hobart Kraeger of Holland Patent, Jean Kraeger of Holland Patent, Harry Landman of Remsen, Francis T. Martin, Jr., of Remsen, Jennifer Ann McCune of Holland Patent, Theresa Merritt of Remsen, Kathy Peterson of Remsen, David Peterson of Remsen, Jane Piatkowski of Remsen, Lorraine Post of Frankfort, John Pratt of Hinckley, Howard Prevost of Hinckley, Jeanne Prevost of Hinckley, Jim Roberts of Holland Patent, Lucinda Roberts of Remsen, A. William Roberts of Remsen, Carol Setter of Remsen, Ellye Slusarczyk of Prospect, Stanley Slusarczyk of Prospect, Kathy Snell of Utica, Dorothy Squire of Remsen, Nancy Squire of Remsen, Cyril Tatham of Remsen, Alice Thomas of Remsen, James Ure of Barneveld, Norma Ure of Barneveld, Joan Villeneuve of Remsen, Emogene Walter of Remsen, Brian Walter of Remsen, Barbara Ward of Remsen, Faith Williams of Remsen, Leonard Wynne of Remsen, Dorothy Wynne of Remsen, and Rose Marie Zimmer of Westernville.

DEDICATION OF HAMPTON SYNAGOGUE

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to pay tribute to the Hampton Synagogue located in Westhampton Beach, NY, which will be celebrating its dedication ceremony on Sunday, August 14, 1994.

As founding Rabbi Marc Schneier said, "It is the synagogue that embodies Jewish continuity and makes that continuity possible; the Hamptons are now linked with that historic continuity." The Hampton Synagogue is the first traditional synagogue built in the Hamptons, and most of its interior is from Israel, including large stones that were shipped in from Jerusalem.

Famed director Steven Spielberg and the Honorable Gad Yaacobi, Israeli Ambassador to the United States, are the two guest speakers who will celebrate the dedication with the congregants. During the ceremony, Mr. Spielberg will also be invited to join Rabbi Schneier in a rededication of the community Torah scroll of Domazlice, Czechoslovakia. This scroll was one of many that was destroyed during the holocaust. It will serve as a permanent memorial to the more than 6 million jews who were massacred by Hitler's regime.

There is much excitement in the community surrounding the completion of the new synagogue, and an enormous turnout is expected on September 5, when the Jewish New Year, Rosh Hashanah, will be celebrated. I wish them happiness during that celebration and commend each person involved in the foundation of the synagogue for making it possible with their time, effort, and caring attitude.

Mr. Speaker, it is quite evident that the Hampton Synagogue will be a special place. I ask my colleagues to join me in recognizing the historic dedication of the Hampton Synagogue.

KEN ARVEDON—A FIGHTER FOR SOCIAL JUSTICE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. FRANK of Massachusetts. Mr. Speaker, when I began my full-time political work in the late 1960's, one of the people who made a deep, favorable, and long-lasting impression on me was a man named Ken Arvedon. He was then a lobbyist in a New England regional level for the National Council of Senior Citizens, and I learned from him that tough-minded pragmatism and determined idealism were quite far from being inconsistent, as many had told me, but were in fact complimentary—indeed, two essential halves of anyone who would be a whole, integrated, advocate for effective social change.

In Boston politics at the time, and in much of the rest of the country as well, there then existed an unfortunate view that the political universe was divided between idealists who had no sense of how to accomplish things, and tough-minded pragmatists who were skillful at getting things done but had no particular interest in what those things were. Ken Arvedon was one of the first people I met who showed me how false this dichotomy was. He cared deeply about social justice, as he had for his whole life. From his service in the European theater during World War II, through his work in the American Veteran's Committee and for fair housing policies after the war, through his participation in the march to Selma on behalf of civil rights, to the period when I knew him as a forceful, thoughtful, and effective advocate for the National Council of Senior Citizens, Ken Arvedon showed that he could be as good as the most hard-headed pros at the game of politics while professing the idealistic credo that had always motivated him.

Ken Arvedon scored a number of significant victories in his fights for fair treatment for older people at that time, and he always made sure that the fight for fair treatment for older people was put in the context of fair treatment for all of those in need. I am proud to have learned from him, and worked with him. I was sadden recently to learn of his death but his grandson Abraham of whom he was so proud and others can look back at his life with a deep pride that I hope will alleviate their sense of loss.

TRIBUTE TO REPRESENTATIVE BOB MICHEL

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Ms. ESHOO. Mr. Speaker, I rise today to pay tribute to House minority leader BOB MICHEL who was awarded the highest honor that can be given to an American civilian, the Medal of Freedom. Since arriving in Congress in January 1993. I've grown to admire this gentleman who has given great service to his constituents, this institution, and our nation.

BOB MICHEL has lived the American dream. He was born and raised in Peoria, IL, the son of a French immigrant. During the early years of his life, BOB MICHEL attended public schools and worked in a factory, as well as on a farm. He left his hometown to serve as a combat infantryman during World War II, earning two Bronze Stars, the Purple Heart, and four battle stars as he fought across France, Belgium, and Germany. After being wounded at the Battle of the Bulge, he returned to Peoria to earn a B.S. degree in Business Administration from Bradley University and marry his wife, Corinne.

BOB MICHEL first arrived in Washington, DC to work as an administrative assistant for his predecessor. In 1956, his constituents elected him their representative of Illinois' 18th Congressional District. He has served his constituents and his country with distinction in that position since that time. BOB MICHEL was first elected to a leadership position as chairman of the Republican Congressional Campaign Committee in 1972, chosen as Republican Whip in 1974, and minority leader in 1981, a position he has won seven consecutive times. In addition, he has served as Permanent chairman of the 1984, 1988, and 1992 Republican National Conventions.

During his many years of congressional service, BOB MICHEL has earned a reputation as an outstanding leader on national security, agriculture, and economic issues. The dignity and intellectual prowess he has brought to House debate on these and other matters have allowed him to win the respect and affection of Representatives on both sides of the aisle. Regardless of how partisan Congress has at times become, BOB MICHEL consistently has risen above the fray as a voice of moderation and reason.

Mr. Speaker, BOB MICHEL has been described as "a man of old-fashioned personal decency" by "the Almanac of American Politics," and I agree. From Peoria to Washington the basic American values he has brought to his job will sorely be missed when he retires at the end of the 103d Congress. I ask my colleagues to join me in congratulating BOB MICHEL for earning the Medal of Freedom and thank him for his distinguished service to our Nation and for being an extraordinary role model for all Members of Congress, past, present, and future.

TRIBUTE TO CHARLES "ED" OSBORNE, JR.

HON. MICHAEL A. "MAC" COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. COLLINS of Georgia. Mr. Speaker, I rise to honor the memory of Columbus Police Officer Charles "Ed" Osborne, Jr., who was fatally shot in the line of duty in the early morning of August 7.

A former Columbus Police Officer of the Month, Officer Osborne was a model for others to follow. He was one of the "good" guys, an officer that daily put his life in harm's way for the safety and protection of the people he served. On Sunday, Mr. Speaker, he paid the ultimate price.

What saddens me most is the senselessness of his death. While returning two youths, ages 15 and 13, to their homes after midnight, they ambushed Officer Osborne and shot him in the head. The disregard for human life displayed by the youths points to a greater problem in our society that Officer Osborne was defenseless to prevent.

The real victims of this tragedy will be Charles Osborne's family. He leaves a widow, and three children to grow up without their father. He leaves a sister and grandparents to tell his children about their father.

Mr. Speaker, I salute the bravery and the honor with which Officer Osborne carried out his duties. His children must always know that their father's death was in the service of others, and that the people of Columbus will always be grateful for his ultimate sacrifice.

God bless Ed Osborne, and God bless his family who is left to go on without him.

TRIBUTE TO DON PATCH, A CAREER CIVIL SERVANT

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. GONZALEZ. Mr. Speaker, I rise today to bring to the attention of our colleagues and to acknowledge 36 years of distinguished Federal service of Don I. Patch. Mr. Patch retired on July 29, 1994 after 34 years serving the Nation at the U.S. Department of Housing and Urban Development and its predecessor, the Housing and Home Finance Agency.

Don Patch's career typified all that was right with respect to our country's commitment to housing and community development. Countless individuals and organizations concerned with the Nation's housing needs were cognizant of Mr. Patch's personal commitment, expertise and exemplary contributions. As chairman of the Subcommittee on Housing and Community Development, I deeply appreciate his hard work and dedication to our Nation's communities.

From 1981, until his retirement, Mr. Patch was Director of the Office of Block Grant Assistance, overseeing the $4 billion Community Development Block Grant [CDBG] Program and the Section 108 Loan Guarantee Program.

In 1966, in the early days of Mr. Patch's service, he designed the delivery systems at HUD to maximize the use of the Department's programs to aid model neighborhoods in 147 Model Cities across the country, including my home city of San Antonio.

In 1972, Mr. Patch designed the policy framework for use of Urban Renewal funds for long-term disaster recovery in six States. He was instrumental in obtaining White House approval of an allocation of $550 million for this effort. He's been there for every disaster since, like the earthquake in California, the hurricane in Florida and the floods in the Midwest.

Mr. Patch directed the closing out of the Urban Renewal and Neighborhood Development Programs during the 1974–80 transition to the CDBG Program. He directed the staff implementing the Housing and Community Development Act of 1974, establishing the CDBG Program for entitlement communities. In 1982 Mr. Patch directed a successful transfer to 48 State governments the responsibilities for administering $1 billion in CDBG funds for small cities.

He also has been instrumental in implementing economic stimulus legislation when our communities and our Nation's citizens were in deep economic slumps. The $1 billion 1983 jobs bill add-on to the CDBG Program was made available to State and local governments within 2 months largely due to the leadership provided by Mr. Patch.

Mr. Patch influenced the evolution of the Section 108 Loan Guarantee Program by providing guidance to congressional staff in reformulating the program in 1977 to make it a viable tool in financing community and economic development projects. In 1986, he devised a compromise to the administration's thrust to terminate the program by persuading decision-

VOL
140
PT
15
AG
10
11
1994
UMI

makers to take it off-budget, saving over $100 million per year in Federal budget outlays. The 1990 legislation, which expanded the Section 108 Program to States and small cities and made loan terms more flexible, was designed with Mr. Patch's guidance. Over 300 communities have borrowed more than $1.5 billion without default under this program since 1978.

Mr. Patch received his B.A. degree from Oberlin College, Oberlin, OH, in 1948 and his M.A. degree from Mexico City College in 1950. Prior to entering Federal service, Mr. Patch was administrator of the Inter-American Housing and Planning Center in Bogota, Colombia. Earlier he served 2 years in the U.S. Armed Forces.

His Federal civilian career in housing began in 1960 in public housing where I, too, began my career in housing in San Antonio. It began with the old Public Housing Administration at HHFA which became the Department of Housing and Urban Development in 1966. In 1988, Mr. Patch was given a Presidential Rank Award [Meritorious Executive], and in 1991 he received the National Association of Housing and Redevelopment Officials' [NAHRO] highest honor, the M. Justin Herman Memorial Award, an award which I have proudly received.

While several other HUD programs were cut in years past, it is no small tribute to Don Patch's stewardship that the CDBG Program survived and still remains popular today. Although corruption tainted several other aspects of HUD during some very dark years, the national administration of the CDBG Program remained untouched.

Intelligence, integrity, policy timeliness, and common sense were Don Patch's hallmarks. Don Patch has retired, but his legacy for American communities will endure.

IRISH-AMERICAN HERITAGE MONTH

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. MANTON. Mr. Speaker, today I am introducing a resolution to designate the months of March 1995 and March 1996 as "Irish-American Heritage Month." This is the fifth consecutive year I have proudly introduced legislation in celebration of the over 40 million Americans of Irish descent. I hope my colleagues will join me in sponsoring this resolution as they have the past 4 years.

Mr. Speaker, next year will mark the 150th anniversary of the great hunger that devastated Ireland between 1845 and 1851. In 1845, a fungus struck Ireland's primary subsistence crop, the potato. The potato blight quickly spread, destroying the country's main source of food. Within 5 years, the famine reduced a population of 8.1 million by almost half through death and mass emigration of the Irish to the United States, Canada, and England.

In the decade following 1845, more people left Ireland than had emigrated in the previous 250 years. They risked their lives traveling great distances on "coffin ships" rife with typhus. Most emigrated to the United States, arriving in New York City, Boston, and other east coast port cities. By 1851, the end of the famine exodus, 1,712 emigrant ships had sailed up the narrows into New York harbour.

These Irish immigrants of the mid 19th century and those who followed in later years dedicated themselves to helping build this Nation. They took jobs building railroads, canals, and schools. Their legacy continues to be a part of today's American mainstream as the 44 million Americans of Irish ancestry, like their forbearers, continue to enrich all aspects of life in the United States.

Mr. Speaker, it is my honor to introduce this resolution which remembers the millions of Irish who died or were forced to flee Ireland during the great potato famine and pays tribute to their descendants in the United States who continue to contribute to all facets of American culture. I urge my colleagues to join me in supporting this important resolution.

IN HONOR OF DR. BRADLEY S. REITZ

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF PEPRESENTATIVES

Thursday, August 11, 1994

Mr. BILBRAY. Mr. Speaker, it is with immense pride that I rise today to honor an educator who has continually given both time and effort to the Las Vegas community. The outstanding individual that has earned my utmost respect is Dr. Bradley S. Reitz, current principal of the Bartlett Elementary School.

Dr. Reitz earned his bachelor's degree in special education at Glassboro State College in 1977. He later completed his master's degree and his doctorate in educational administration at the University of Nevada, Las Vegas, in 1981 and 1986, respectively. He and his wife, Diane, have a 3-year-old daughter, Alexandra.

The National Distinguished Principals Program reflects the key role that a principal plays in shaping the learning environment within a school. Dr. Reitz has earned this award through his demonstration of strong educational leadership, recognition of the critical importance of the first years of schooling, and strong pursuit of excellence.

Dr. Reitz has performed a wide variety of tasks, which include training for elementary principals and central office personnel on student data bases, spreadsheets, and telecommunications as well as other aspects of computer use. He also has been the coordinator of the "Restructuring Public Education" Conference. Under his direction and leadership, Harley Harmon Elementary School was nominated for the National Blue Ribbon Schools Award. Dr. Reitz' examples of service and achievements are above and beyond what is expected of an elementary school principal.

Dr. Brad Reitz is an individual who makes a difference in our schools and the lives of young people. It is my honor to congratulate Dr. Reitz for his achievements, and thank him on behalf of my constituents for his continuing efforts.

MUSICAL CHAIRS

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mrs. BENTLEY. Mr. Speaker, 2 years ago, the Congress passed the Housing and Community Development Act of 1992. That act contained many important programs which I support, including, among others, project-based accounting, family unification, public housing vacancy reduction, reform of public housing management, termination of tenancy for criminal activity and rental assistance fraud recoveries. Tucked inside the 425-page document was "Moving to Opportunity," or MTO, a program designed to encourage families to move from areas of high concentration of poverty to areas of lower poverty levels.

It is not the intent of MTO, but the method in which it is being implemented in my, and other Members' districts, that has our constituents crying foul!

My constituents are being told, in the newspapers, that MTO will have little impact on existing neighborhoods. Therein lies a major problem. There appears to have been no effort on the part of HUD to communicate directly with either the local governments involved, or the neighborhood organizations.

In two letters written to Secretary Cisneros, I questioned the lack of information and notice about the program. I also questioned what planning had been done for support services for MTO participants such as transportation, education, and additional social services requirements. In my letter I ask the Secretary or his designee to meet with the affected communities to directly address those concerns.

Secretary Cisneros claims this redistribution of the poor from one political subdivision to another will make for a better society.

Instead, MTO programs are creating massive resentment in neighborhoods where couples are working two jobs to afford their home only to see a neighbor on section 8 living in a similar home being paid for not by the sweat of that neighbor's brow, but, by the couple's tax dollars.

Even the U.S. General Accounting Office has noted the unfairness of the plan by writing that:

The high rents and quality of section 8 housing invite resentment on the part of the taxpaying public who see their subsidized neighbors living in better accommodations than they themselves can afford.

One of my constituents spoke for many of his neighbors when he demanded that the Government stop punishing achievement.

MTO was, we were told, a pilot project that would run for 10 years, then be assessed. However, Mr. Cisneros has made it clear he wants to provide freedom of choice in housing in every major city and the Congress already is being asked to approve an expansion of this effort. This time it is being called the Housing Choice and Community Investment Act. We must not allow this current strategy to expand. This policy of musical chairs, moving poor Americans from jurisdiction to jurisdiction which fails to address the real problems.

The administration has put too much emphasis on moving the poor out of deteriorating cities and not enough emphasis on rebuilding those cities.

Under MTO, a section 8 recipient could receive rent of up to $603 per month for a two bedroom apartment in Baltimore County. In Prince George's Frederick, Calvert, and Charles Counties in Maryland, HUD will pay up to $1,385 a month in rental subsidies per apartment, even though there are few, if any apartments in those counties with rents that high.

Section 8 now serves only about one-third of those eligible. Instead of subsidizing the entire cost of housing for the few at above-market rental rates, why not split the available dollars among all of those eligible?

And, if the intent really is to break the cycle of poverty, why not take a cue from President Jimmy Carter's Habitat for Humanity and use the millions in subsidized rents now handed over to well-off landlords to help rehabilitate poorer neighborhoods and provide home ownership opportunities? History tells us that pride of ownership is the only way to turn a neighborhood around, and our cities need this kind of transformation.

In his Wall Street Journal essay August 4, 1994, James Bovard noted that:

The notion that HUD can give away housing to some people without having any adverse effects on their fellow citizens and neighbors is the ultimate liberal pipedream.

WE CANNOT AFFORD TO ALLOW EMERGENCY ROOMS TO BE MISUSED AS CLINICS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. STARK. Mr. Speaker, most of our mail these days seems to be preprinted mailgrams or one sentence postcards—and that makes it doubly wonderful when one receives a thoughtful, sensitive letter.

Following is a great letter I've just received from a man in San Jose—an eloquent, moving call for health care reform:

In 1985 my wife drove me to a local hospital. I had symptoms of coronary distress. She parked at the entrance of the emergency room and found a wheel chair. She wheeled me into the bedlam of an emergency room. It was filled with the sight, sound and smells of children and adults too poor to visit a doctors office: those addicted to alcohol and drugs, victims of domestic abuse, the homeless. Those on the edge, are drawn to emergency rooms like moths to the light.

The heart team assembled quickly. Within minutes, I was hooked up to an EKG device and breathing oxygen. Soon I was feeling better. So much better that I convinced myself, and was trying to convince those attending that it was a false alarm. Suddenly several of the staff rushed at me. Startled I asked what was wrong. I was told my heart had stopped. The surprise restored that vital function.

Saying heart attack, and displaying insurance documents may have influenced the rapid response my problem received.

The appalling way the emergency room was being used by those without alternatives, has stayed with me long after I was discharged. After reacting to the misery of the situation, I began to calculate the wasteful expense of using a million dollar facility, and millions of dollars to talent, to deliver ordinary everyday health care. The equivalent of a DOD $120.00 hammer.

We can afford to deliver universal health care, because the alternative is too expensive.

We cannot afford to allow emergency rooms to be misused as clinics.

We cannot afford to alienate the poor, the homeless, the minority, the immigrants by denying them access to a decent life. Without hope they become wards of the courts and the penal system, and its billion dollar, non-refundable price tag.

We cannot afford an economy with runaway medical expense that grows larger every year, even while the infrastructure is folding in on itself.

With your support this country can become a better place to live. None of the legislation before the Congress seems perfect, but no one in that body claims perfection.

CONDEMNING THE SHODDY WORK AND POOR BUSINESS PRACTICES OF MCT CUSTOM TRUCK BODIES OF MEMPHIS, TN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. LANTOS. Mr. Speaker, I wish to draw the attention of the U.S. Congress to a serious contract dispute that harbors grave implications for U.S. export policy and for the reputation of American-made products in the world marketplace. This is a story of greed and incompetence whose impact reaches far beyond the confines of North America, to the shores of distant customers in newly emerging markets.

Konsumex North America, Inc., of San Mateo, CA, a multiproduct export-import company without expertise in armored vehicles, contracted with a Hungarian buyer for the shipment of an armored Ford Aerostar van to Hungary. The vehicle would be a demonstration model which would hopefully lead the Hungarian buyer to purchase a fleet of 20 to 25 vehicles. The Aerostar van sent to Hungary was supposed to be a sample of American quality and workmanship, a taste of things to come. What Konsumex, Inc., did not know, however, was that their subcontractor for the armor modifications, MCT Custom Truck Bodies, Inc., of Memphis, TN, a self-declared expert in armored vehicles, would create a disaster out of the Aerostar van. Through its incompetence, broken promises, and shoddy workmanship, MCT cost Konsumex valuable business opportunities and damaged the reputation of American products and craftsmanship in the eyes of new, European customers.

Although Konsumex, Inc., met all of its obligations under its contract with MCT, MCT nevertheless shipped to Hungary a modified Aerostar van far exceeding the permissible gross vehicle weight, yet lacking the extensive strengthening of the suspension, axles, and related parts necessary for the proper operation of the vehicle. Upon examination by the buyer—a subsidiary of the Hungarian Government—and in the presence of high ranking government and industry representatives, the Aerostar van was rejected as unsafe and inoperable.

Despite repeated promises to Konsumex, Inc., from MCT of high quality workmanship and timely delivery, neither of which were met, MCT delivered a vehicle which "MERTCONTROL," a neutral Hungarian quality institute, rejected as shoddy, overloaded, and unsafe. Upon its return to the United States, the vehicle was examined by the U.S. National Highway Traffic Safety Administration, which declined to get involved in the contract dispute, but confirmed that the vehicle severely exceeded the manufacturer's assigned gross axle and vehicle weight ratings. In addition, the tires and braking system were inadequate for a vehicle of such weight. MCT knew this vehicle was leaving the country and was completely unconcerned with the serious issues of safety and quality.

In a further outrage, not only did MCT fail miserably to modify the Aerostar van to the contract specifications, but it also refuses to refund the over $31,000 invested and lost by Konsumex, Inc., in this venture. Furthermore, MCT avoids communication with Konsumex, Inc., as much as possible. Although MCT has offered to repair the vehicle as best it can, the opportunity to sell vehicles to the Hungarian buyer has passed. The Hungarian buyer—disappointed with the initial model—declined to pursue further purchases.

In the end, the Hungarian buyer was cheated, Konsumex, Inc., was cheated, and American exporters will be cheated out of future sales because of the greed, incompetence, and gross negligence of MCT of Memphis.

Mr. Speaker, when an American company cuts corners on products for export, delivers shoddy goods after lengthy delays, and otherwise treats foreign customers as if they are cash cows to be milked and then discarded, all American exporters and all American products suffer. MCT's blatant disregard for the importance of quality work for a fair price and the cultivation of an honest and reliable business relationship with its clients presents an embarrassing image of American business practices.

NEW YORK NATIONAL THRIVES ON FAMILY TIES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. RANGEL. Mr. Speaker, I rise to recognize Mr. Serafin Mariel, the founder and president of New York National Bank. Mr. Mariel is the epitome of leadership and commitment. Mr. Mariel has demonstrated through hard work and faith that one can encourage economic growth in economically depressed minority areas.

By investing in his community, Mr. Mariel is an American who is a part of the solution and not the problem. It is Americans like Mr. Mariel who will save our economically depressed communities by investing in the American people. I am thankful that Mr. Mariel's grandmother had such a positive impact on him because Mr. Mariel is an asset to his community.

VOL 140 PT 15 AG 10 — 11 1994 UMI

I am especially proud of Mr. Mariel's achievements in my congressional district because he is an example of an individual who has given back to his community.

Mr. Speaker, I present the following article written by Austin Evans Fenner for the Daily News, on July 7, 1994.

N.Y. NATIONAL THRIVES ON FAMILY TIES

Serafin Mariel credits his grandmother for his banking success.

Mariel, 50, still keeps her old savings account passbook. He is founder and president of New York National Bank (NYNB), which owns the old Manufacturers Hanover branch on Second Ave. and 116th St., where his grandmother deposited her money.

"I'm planning to frame it and hang it on the wall of the branch," said Mariel.

NYNB acquired the branch in 1964. It has another branch in the South Bronx, started in the mid-1980s when the larger commercial banks pulled out of economically depressed minority areas.

"I want to be there," said Mariel. "I have no problem holding mortgages in those neighborhoods."

Mariel wants to take his bullish attitude and open additional branches in Central Harlem and the South Bronx.

New York National has more than $62 million in assets, and is one of four minority-owned commercial banks in New York City. The others are EastBank, $72 million in assets; Golden City Commercial Bank, $61 million, and Banco Popular de Puerto Rico, over $1.3 billion.

"When someone says they want to do something in the minority community, that's music to my ears," said Mariel, who added that he is always extending.

"If someone is having a difficult time getting a mortgage, I don't say 'why are you calling me?' I make the calls necessary to help where I can," he said.

New York National is one of the success stories in the South Bronx, said Clint Roswell, spokesman for Bronx Borough President Fernando Ferrer. "They are a very community-minded bank and have done a lot to spur growth in the area."

Mariel's grandmother raised him after his parents died when he was young.

He says her lessons of "respect for ourselves and others and a need to work hard" made the difference in his life.

As a child, he did everything from selling bags at the La Marquetta on Park Ave. to shining shoes.

Mariel studied biology and history at Hunter College, but did not finish due to marriage.

After a stint with the Post Office, he took a pay cut and got a job as a teller with Bankers Trust at the South Bronx branch.

Mariel eventually graduated from the Stonier Graduate School of Banking at Rutgers.

After rising quickly through the ranks at Bankers Trust—eventually becoming vice president of its International Department—he decided to strike out on his own.

After assembling partners and investors, he founded New York National in 1962.

"I wanted to continue banking that would serve my community," he said. "I have a love and affection for my community . . . and they reciprocate."

WATER SHORTAGES AND CONTAMINATION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. MILLER of California. Mr. Speaker, many areas in the United States and around the world have water problems that will never be solved simply by building dams and destroying more natural river systems. There are many locations where we can use new advances in technology to help solve problems of water shortages and contamination. Some examples are:

The continuing drought in California and elsewhere in the West; contaminated surface groundwater supplies; over-appropriated surface water supplies; and limited sites and environmental problems associated with new storage reservoirs.

Just a few years ago, the United States was a world leader in developing desalination technology and putting that technology to work where it was needed. Unfortunately, programs to sponsor critical research and development of desalination technologies were stifled and cut back or eliminated over the last 14 years.

Budget cuts since 1981 have all but eliminated funds for desalination research.

No program exists now to provide Federal assistance when it is needed to build desalting plants.

Legislation I am introducing today will address these pressing water resource needs by allowing the United States to more actively pursue desalination technologies. This legislation will:

Renew U.S. leadership in desalination research and development; authorize the Secretary of the Interior to conduct studies to determine the best and most economical processes for converting saline water into water suitable for beneficial uses; and authorize demonstration projects and construction of facilities for desalination, in cooperation with Federal, State, and local governments and the private sector.

I welcome the views of my colleagues and experts in this field as we consider this legislation.

MAINTAINING FAITH WITH AMERICANS STILL UNACCOUNTED FOR

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. GOODLING. Mr. Speaker, I rise today in support of continued efforts to determine the fate of those individuals classified as prisoners of war or missing in action in southeast Asia.

In January, 1993, the Senate Select Committee on POW–MIA affairs concluded a massive investigation of the fate of 2,264 servicemen listed as missing in the Vietnam war. I supported these efforts to investigate the whereabouts of those individuals who put their lives on the line in service to this country.

I strongly encourage support, and endorse a policy where all captured and missing persons should be released or accounted for by Vietnam, Laos, Cambodia, Russia, or any other Government which has information on these individuals. Furthermore, I encourage the administration to take appropriate measures to negotiate the release of any individuals who may remain in captivity and determine the fate of those who do not.

Mr. Speaker, we owe it to this country and to the friends and families of these individuals to finally resolve the fate of these servicemen. The Vietnam war was one of the most divisive times in this Nation's history. We should never forget those who sacrificed their time and their lives on behalf of our country.

KATMAI NATIONAL PARK LAND USE REVISION LEGISLATION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to offer legislation today at the request of the Alaska Federation of Natives, the Bristol Bay Native Association, and the descendants of Katmai residents who live within what is now designated as Katmai National Park.

Since time remembered, residents who lived within the boundaries of the Katmai National Park have participated in the annual harvest of the red fish fishery from August to early October. When the Katmai National Monument was created in the 1930's, a prohibition was placed on taking of salmon except for sportsfishing with a rod and reel, and local residents were banned from the further taking of red fish.

My bill would allow local residents, approximately 30 to 40 people, to again fish for red salmon from August to October of each year. I am pleased to offer this bill at this time to begin the legislative process.

RECOGNITION OF J. FRANKLIN JONES

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. ROTH. Mr. Speaker, it is my honor to rise today to pay tribute to the memory of J. Franklin Jones, an outstanding citizen from Oconto County, WI. In recognition of his commitment to the citizens of Oconto County, the 1994 Oconto County Fair is being dedicated to his memory.

J. Franklin Jones was elected to the Oconto County youth fair board in 1958. For the next 35 years he served in many capacities from committee memberships to chairmanships. His wide variety of interests, from animals and buildings to music and guitars, greatly benefited everyone who attended the Oconto County Fair.

Frank took an interest in the fair at many levels, including promotion and organization, as well as insuring the safety and comfort of the people who visited. His generous time and effort in maintaining the standards of the fair followed in the footsteps of his motto: "To make the best better is the whole reason behind it all."

In addition to his involvement with the Oconto County Fair, he also was a significant role model for the 4–H Club for many years. In his own words, the thing that made him happiest about being a 4–H leader was seeing the kids grow up to be good, responsible citizens.

Frank set a strong example of community involvement by working with both the school board and the church council. While farming, he worked for the promotion and betterment of the dairy industry by working with the Morning Glory and the Badger Breeders Boards.

Frank will always be remembered for the generous sharing of his time and talents with the Oconto County Fair and most importantly with Oconto County's youth. His legacy lives on in the hearts of everyone who knew him. Thank you, Frank, for your many contributions which have benefited so many.

ONE YEAR LATER: HOW THE CLINTON TAX HIKE IS HARMING AMERICA

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 11, 1994

Mr. SAXON. Mr. Speaker, I commend the following article to my colleagues:

[From the Heritage Foundation Backgrounder, Aug. 10, 1994]

ONE YEAR LATER: HOW THE CLINTON TAX HIKE IS HARMING AMERICA

(By Daniel J. Mitchell, McKenna Senior Fellow in Political Economy)

INTRODUCTION

This week marks the first anniversary of 1993's record tax hike and the ill effects already are becoming apparent. The Clinton Administration's own numbers show that economic growth and job creation remain considerably below levels normally found at this stage in a business cycle. The White House figures also reveal that if any deficit reduction does occur, it will be only temporary and largely unrelated to the President's economic policy. Worst of all, the Administration's budget numbers confirm that government spending remains out of control, with rising deficits in future years entirely due to the unchecked growth of domestic spending programs.

These dismal results should not be surprising. Other Presidents who have followed high-tax policies also have experienced disappointing economic performances as a result. Large payroll tax increases and bracket creep during the Carter Administration, for instance, helped stifle a robust economy and create the phenomenon known as stagflation. George Bush also inherited a strong economy, but his acquiescence to a large tax increase in 1990, combined with other significant reversals of his predecessor's policies, helped put an end to the longest peacetime expansion in America's history.

DÉJÀ VU ALL OVER AGAIN

The Clinton Administration insists that its tax plan is working and that history will not repeat itself. Unfortunately, the rosy picture being painted by the White House falls apart upon closer examination. Consider the following claims:

Claim No. 1: The Administration's economic policy has restored economic growth.

Reality: This assertion ignores the fact that the recession ended in the spring of 1991. And even though President Clinton's tax plan did impose retroactive tax increases on small businesses, investors, upper-income individuals, and the estates of dead Americans, even the White House is hard-pressed to argue that a tax increase beginning January 1, 1993, caused a recession to end nearly two years later. The Administration can legitimately claim that 1991 should not count as a recovery because the economy experienced almost no growth, expanding by less than three-tenths of one percent during the year. The same cannot be said for 1992, however, since the economy expanded at a 3.9 percent clip. Growth in 1993, the year of the Clinton tax increase, slipped back to 3.1 percent and the Administration's new projections show only 3.0 percent growth in 1994. As such, the best the Administration can claim is that last year's budget deal has not yet caused the economy's performance to slow down much compared to the growth levels President Clinton inherited.

The real story, however, is that the recovery under both Bush and Clinton has been woefully inadequate. In the post-World War II period, the U.S. economy traditionally has experienced strong recoveries after an economic downturn, with real growth averaging 5.34 percent for the three years following a recession's end. But the economy's performance this time has fallen far short of past recoveries, with growth averaging only 2.94 percent in the last three years. In other words, economic growth has been barely half as strong as that normally experienced at this stage of a business cycle. Average growth during this expansion has not even reached the average of 3.1 percent for post-World War II era—a figure which includes recession years.

Instead of taking credit for ending the recession and restoring economic growth, the Administration should be trying to explain why the economy's performance has been so weak. The reason for the poor growth figures, of course, is that the White House is pursuing policies similar to those that helped cause the recession in the first place. Presidents Bush and Clinton both raised taxes. They both increased government spending and they both increased the burden of regulation and imposed costly mandates. As a result, the economic downturn and subsequent weak recovery should not come as a surprise. Policies which raise the cost of productive economic activity inevitably result in less job creation, lower savings, and reduced investment.

Claim No. 2: The Administration's economic policy has helped create new jobs.

Reality: As is the case with economic growth, job creation has been unusually weak during this expansion. If the current expansion were producing an average number of jobs for a recovery, total employment would have jumped by 11.79 percent since the recession ended. But with tax increases and new regulations raising the cost of hiring new workers (not to mention the threat of an employer mandate in health reform), total employment has increased by only 3.19 percent in the last three years. Thus, while the White House likes to boast that more jobs have been created to date during the Clinton years than were created during the entire Bush Administration, officials should instead be trying to explain why the nearly identical economic policies of the two Administrations have caused the rate of job creation in this recovery to be less than one-third the usual rate at this stage of a business cycle. This poor performance means millions of Americans are unemployed today who would have been working during an average recovery.

Claim No. 3: The Administration's fiscal policy is bringing down the deficit.

Reality: Projected short-term reductions in the budget deficit are largely unrelated to the President's policies. If final figures bear out the Administration's estimates, the three-year decline in government borrowing will be the result of three factors. First and foremost, the deficit is falling because the economy has finally climbed out of the recession, albeit slowly. And even though the expansion is very tepid by historical standards, incomes have risen slightly, some jobs have been created, and corporate profits have staged a mild recovery. All these factors mean the government collects more tax revenue. The expansion also has caused a slight decline in how fast some government programs, such as unemployment insurance and food stamps, are growing. But as discussed earlier, the economy is growing much slower than normal. As such, the White House's economic policies actually are causing the deficit to be higher than it would be if normal economic conditions applied.

The second reason for projected lower deficits is the cost shift for the bailout of the deposit insurance system. The large one-time costs of the savings and loan (S&L) deposit insurance bailout artificially swelled the deficit between 1989 and 1992, adding $149 billion to the national debt in that four-year period. The government now is selling off the assets of seized S&Ls, however, and this is expected to generate $60.3 billion of revenue for the government between 1993 and 1997. This huge shift, from a big budget expense to a significant revenue source, lowers the reported budget deficit. Bill Clinton had the good fortune to capture the White House just as the shift took place, but it certainly is not due to his policies. More important, it clearly has no impact on the long-term deficit.

The third reason the budget deficit is falling, and the one reason the Administration can take credit for, is the large reduction in defense spending. The Pentagon's budget is expected to go down from $292.4 billion in 1993 to $257 billion in 1997, a decline of $35.4 billion. With the Administration's foreign policy in disarray, these sharp cuts may not be wise policy, but they do contribute to deficit reduction.

Claim No. 4: The Administration's tax bill has produced low interest rates.

Reality: Interest rates actually have been rising steadily ever since the Administration's budget package was approved. As indicated in Chart 3, interest rates began a steady decline in 1989. This trend came to a halt, however, with the enactment of the President's budget package. To be fair, the increase in interest rates following adoption of the tax increase has very little to do with fiscal policy and is related more to fears in financial markets of future inflation. Nonetheless, the White House can hardly claim that its fiscal policy is resulting in lower interest rates when rates actually have been rising.

THE REAL STORY

The White House has been trying to convince voters that last year's tax increase is working. But, every claim made by the Administration proves false upon closer scrutiny. Yet the problem is not merely the lack

of good news on the consequences of 1993's record tax hike. What is of greatest concern is that, as has been the case with previous Administrations steering through large tax increases (such as those of Hoover, Carter, and Bush), the Clinton tax hike is imposing heavy costs upon the economy. Most notably:

Rising budget deficits: According to the Administration's own forecast, the budget deficit resumes its upward climb in 1996. The Congressional Budget Office, estimates that budget deficits will swell to more than $360 billion by the year 2004.

Surging domestic spending: As Chart 4 shows, the reason for rising deficits is the alarming growth of domestic spending programs. These programs, which are rising 78 percent faster than needed to keep pace with inflation, are projected to increase by a total of $229 billion over the four years of the Clinton Administration. Significantly, if spending for these programs simply held to the rate of inflation beginning in 1995, the five-year savings would be more than $367 billion and the budget deficit would fall to $70.1 billion by 1999.

Soak the rich tax hike backfiring: The lion's share of new taxes in last year's tax package is supposed to come from increased income taxes on small businesses, savers, investors, and the well-to-do. Critics of the proposal pointed out at the time that higher tax rates would discourage productive economic activity and could actually cause tax revenue to be lower than it would be if taxes were not boosted. Known as the supply-side effect, this revenue shortfall results when taxpayers reduce their work effort, change their behavior, shift their investments, or take other steps to protect their earnings from excessive taxation. As a result, projects of tax revenues based on models which assume taxpayers are oblivious to changes in the tax code almost always will be grossly optimistic. This effect was seen after the 1990 tax increase. Compared with projections made before the tax increase was approved, the 1990 deal actually caused tax revenues to fall by more than $3 for every $1 the 1990 tax bill was supposed to raise.

Since the Clinton economic program is so similar to that enacted during the Bush Administration, it should come as no surprise that history seems to be repeating itself. According to the Treasury Department, personal income tax revenues are growing slower than other sources of tax revenue this fiscal year. Nine months into the fiscal year, personal income tax revenues are only 7.2 percent above their level at this point last year. Tax revenues from other sources, by contrast, are coming in at 11.2 percent above last year's levels. Revenues from the tax that was raised the most have been growing far slower than revenues from tax sources which were increased by lesser amounts or not at all. The gap between personal income taxes and other taxes is concrete evidence that "soaking the rich" simply does not work. What makes these numbers particularly significant is that some of the income tax revenue came from the retroactive tax increase, which is one tax increase that avoids the supply-side effect since it raised rates on income that was already earned.

The Administration should have anticipated that higher income tax rates would be associated with slower income tax collections. In the 1980s, when tax rates were slashed, income tax collections soared, and the share of taxes paid by the rich rose.

Out of step with world trends: In an increasingly global economy, changes in domestic policies can have a significant impact on international competitiveness. During the 1980s, policy makers in the U.S. understood and took advantage of this phenomenon, cutting tax rates and encouraging a surge in job-creating foreign investment in America. In recent years, other countries have followed the U.S. example, lowering their tax rates, oftentimes dramatically. Tragically, U.S. politicians seem to have forgotten the lessons of the 1980s. As seen in Chart 6, the United States has been raising tax rates during a period when most other nations are doing just the opposite.

CONCLUSION

Policies that did not work for Herbert Hoover, Jimmy Carter, and George Bush are not working any better for Bill Clinton. The economy's weak performance, the dismal job creation numbers, and projections of higher spending and deficits are the inevitable results of a fiscal policy based on this flawed model. Critics maintained that the 1993 tax hike would harm the prospects for a solid recovery, not enhance them. They are already being proved correct.

VOL 140 PT 15 AG 10 — 11 1994 UMI

VOL
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AG
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VOL
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SECOND SESSION

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VOL
140
PT
16
AG
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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Friday, August 12, 1994*

The House met at 10 a.m.

The Reverend Harry F. Andrews, Unity United Methodist Church, Kannapolis, NC, offered the following prayer:

Almighty and everlasting God, we once again summon You to this great Hall of debate and legislative creativity. Challenge us to tolerate each other's idiosyncrasies, remind us to love our neighbor as ourselves, and when all else fails, encourage us to agree to disagree. As we consider in what direction our constituents would want us to go on the issues of crime, health care, and world peace, open our hearts and minds to the opinions of others. We suspect that You are annoyed with some of the stuff we have approved since our Nation was born, but we ask this morning that You continue to annoy us with Your omnipotence, until we get it right. Strengthen us, humble us, bless us, affirm us, love us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from North Carolina [Mr. HEFNER] will lead us in the Pledge of Allegiance.

Mr. HEFNER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOME TO REV. HARRY F. ANDREWS

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, it is a real pleasure to have Reverend Andrews and his wife and his lovely daughter, Jennifer, who has been a page here for some time; and I understand that he left North Carolina last night about 11 o'clock to get here in time for the prayer today. I tell you, that has got to be real dedication.

We are just more than happy to have you here today. With that beautiful prayer, I wish you could stay around and make things more palatable for us today.

Again, I want to thank you for your dedication to come here and share these few moments with us. Thank you very much.

A QUESTION OF PROPRIETY

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, the Constitution of the United States of America, section 7 states "All Bills for raising revenue shall originate in the House of Representatives."

So why has the other body been allowed to send us an appropriations bill with brand new revenue raisers in it?

On Wednesday, the House allowed the other body to get away with this unconstitutional act in the State, Commerce, Justice appropriations bill.

The Senate has tried this before, but has never been able to pull it off. The House has always stood firm in protecting its constitutional rights and duties.

I understand why the House majority has allowed this to happen. Chaffing under the tough budget laws of the land, the Democrat majority would rather sacrifice constitutional prerogatives to spend more money and raise more taxes.

I want to put the House on notice that if the Democratic majority refuses to stand with the traditions and constitutional powers of the House, I will stand up to defend them.

And if the Agriculture appropriations bill or other appropriations bills have unconstitutional revenues in them, I will pursue a question of privilege to the House to send these bills back to other body.

THE POLITICS OF GUNS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there is an old axiom in war and in politics: Good generals keep their soldiers fighting and fit. But good generals never lead their good fighting soldiers into unnecessary danger.

I voted for that rule. I believe our party's leadership should be questioned. I do not want anybody to take away my guns, but that was a vote about politics, the politics of guns. If there are any liberal attempts to take away guns, I will oppose any further bills, but a Congress that cannot deal with the politics of guns cannot deal with the safety of the American people.

And the Democrat leadership, and I am not the most well-liked guy in this place, has got to look in the mirror and answer some questions to all Democrats all over this country, not just in this little closet.

LET US PRESENT A BIPARTISAN CRIME BILL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, we are at a crossroads where there is an opportunity, I believe, to set a new tone and undertake a new direction for the rest of this Congress.

It is clear that yesterday's vote to return the crime bill to the conference committee, to reject the rule, is an opportunity either for the Clinton administration to try to twist arms and find a few more votes without change, or take a big step toward bipartisanship, go back into the conference, write a better bill, and with our help, have a bipartisan effort to bring that bill to the floor.

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VOL 140 PT 16 AG 12 — 18 1994 UMI

I simply want to rise today to urge the Democratic leadership of the Congress and the President to take the bipartisan route, to accept the vote yesterday of the House, to sit down and let us reopen the conference. Let us write a better crime bill. Let us bring it to the floor together on a bipartisan basis, and let us pass it by a big majority.

Then let us approach health in the same kind of open and bipartisan manner.

AMERICA WANTS THIS CRIME BILL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am a little perplexed by what was meant by the statement that I am following.

If we look at the crime bill, there were 68 Republicans that voted for it, and yet we did not have but 11 votes for the rule yesterday.

This was nothing but a conference committee that was not only bipartisan in attendance but bicameral, working out the difference between the Senate side and the House side, with both Republicans and Democrats in there. So this was just the final throes.

I do not know how you reopen the entire crime bill. I think there were some very important parts that were fought out on this floor. There was the assault weapons part which many got very upset about, but we won it. It was on the floor. It went fair and square.

And then I heard yesterday all sorts of noise about pork and social workers, and on and on. The only social workers I found in the bill were dealing with the Violence Against Women Act which all of us thought was so important, and it passed almost unanimously in this House. It was for the 1-800 number that we would have for the first time for families in crisis and for shelters for battered families. We have three times as many, now, for dogs and cats as we have battered families.

Yes, you probably need some social workers in those things, but those are needed areas, and if we do not solve the domestic terrorism in the home, we are never going to stop violence on the street. Those are all important components.

So I hope we can work this out and pass this crime bill. I think America wants this crime bill, but I hope we can also do it in a much lower, lower tone and not have the bipartisan rancoring we saw.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2182, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. MONTGOMERY. Mr. Speaker, I have cleared this unanimous-consent request with the Republican side.

Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, August 12, 1994, to file a conference report on the Senate bill, S. 2182, to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1010

REOPENING THE CONFERENCE ON THE CRIME BILL

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I would like to yield to the distinguished gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. I thank the gentleman for yielding.

I just wanted to respond to the gentlewoman from Colorado that, first, you can reopen the conference by reopening a conference. The Members go back in. The House has, in fact, set the stage for that to occur by rejecting the rule and refusing to take up the bill.

Second, the House bill left here with $22 billion in total spending, the Senate bill left at $26 billion. They got together at $33 billion. So when people say that it is exactly the same bill people voted for, let us be honest about it, this is not the same bill.

The sexual predator notification provision was weakened in conference. That is a very vital issue to Members who believe that when sexual predators are released from prison and released into your community, that you have a right to know about it.

Of course, the recent tragic kidnaping, rape, and murder of the 7-year-old girl in New Jersey drives that home. That was a twice-convicted sexual predator. This bill in its current form will protect the sexual predator's right to privacy rather than protecting that young girl's right to safety.

So where there are substantive policy differences, we can go back to conference, we can, in fact, rewrite this bill. We would like on our side to work in a bipartisan manner to write a good crime bill.

I thank my friend for yielding.

Mr. GOSS. Mr. Speaker, I thank the gentleman, and I associate myself with the remarks of the distinguished gentleman from Georgia.

HEALTH CARE REFORM FOR FAMILIES

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, the health care status quo in America exacts a cruel price from American families. Today it costs nearly $8,000 a year to provide insurance for a family of four. If we fail to pass health care reform this year, the average family will be paying $14,000 for health care coverage by the year 2000.

Families need health care reform to remedy this unacceptable situation. That is why groups working on behalf of America's families are voicing their support for the Guaranteed Health Insurance Act—they recognize that it is good for the American family. Groups like Families USA, the Children's Defense Fund, Family Service America Inc., and the Child Welfare League support the Gephardt reform bill.

Perpetuating a scenario that doubles the costs of health care for families by the end of the century is nothing but unacceptable. Vote for health care reform and stop this drain on the strength of American families.

HEALTH CARE REFORM: WHY THE RUSH?

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, as public support drops through the floor for the Clinton health care plan, due to its call for a huge new bureaucracy and job-killing mandates, the Democrat leadership has decided to appear to present a whole new bill to the House, the Gephardt health care plan.

Mr. Speaker, just as things are never as they appear, the legislation to be offered, the Clinton-Gephardt bill is nothing new.

The same huge new bureaucracy and job-killing mandates are included in this newly disguised package.

The House Democrat leadership thinks that a name change will fool the American people; well, it will not.

Mr. Speaker, why the rush to crowd this in in August? It appears to me that the Democrat leadership is terrified that we might go back to the people we are supposed to represent and we might get their opinion and we might come back and see the Gephardt-Clinton plan for what it is.

INDEPENDENT COUNSEL LAWS: THE UPS AND THE DOWNS

(Mr. FRANK of Massachusetts asked and was given permission to address

the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK of Massachusetts. Mr. Speaker, the Republicans had a dilemma. For years they were trying to keep the independent counsel law from being authorized, but the political pressure became too strong. Now we know what their strategy is: It is to make it look ridiculous by their own actions. Look at what has happened with regard to the Whitewater issue:

First, the Republicans insisted that Janet Reno's—well, first, the Republicans killed the independent counsel law in 1992. Then they insisted that Janet Reno appoint someone, even though the law was killed. Then they criticized her because she did the appointment and did not have it done by the mechanism that they had killed. Then they got a Republican judge to appoint as an independent counsel a high-ranking official of the Bush and Reagan administrations, Mr. Starr, who is the most inappropriate independent counsel ever appointed, from the standpoint of bias.

Now it turns out that while conservative Republicans were crusading against fellow Republican, Mr. Fiske, the judge who was making the appointment was having lunch with the U.S. Senators who were the major critics and were urging him to change the appointment.

Now, Republican friends have said in the Whitewater case maybe the President did not do anything wrong, but the appearance standard was violated. Nobody has violated the appearance standard more than they have done in this instance.

THAT WACKY DEMOCRAT HEALTH CARE PLAN

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, this from the Richmond Times-Dispatch:

> On a recent day, the House Ways and Means Committee endorsed legislation to impose global spending caps on every state in the nation. If any state exceeded its federally designated limit on health care spending, price controls would take effect.
>
> On the same day, the same committee passed proposals to (a) double the tax on self-insurance premiums, and (b) reduce the income tax deduction for a self-employed person's health insurance premiums.

Parenthetically, the Times-Dispatch adds:

> Such tax hikes on independence could help Congress corral the public into collectives, which may be the point of the exercise.

The editorial goes on:

> But obviously, taxing a good or service adds to its cost. So with one hand, the Congressmen voted to keep health care costs down, and with the other, they voted to increase health care costs.
>
> Good luck trying to figure that out.

Mr. Speaker, I am having a tough time figuring out the logic of the Democrat health care plan. And, so, I suspect, are the American people.

THE HEALTH CARE PLAN: LET US MEET WITH OUR PEOPLE FIRST

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, this is a representative Government. This House is designed to send people here to represent the folks at home. It means that it is part of our job to spend as much time as possible at home talking and listening to the folks that we represent.

Yesterday the President said he did not think the Congress should take a vacation. Vacation? Give me a break.

We go home and spend every day of that time meeting with people, in my case, in Wyoming, talking about how they feel about health care, how they feel about gun control, how they feel about the crime bill.

Every August this opportunity arises for an extended time to go home and talk to folks. It is important. It is especially important this year, it seems to me.

The administration has had a full-court press on trying to do something about a health care bill, any health care bill as long as it is passed, for political cover.

The leadership of this House has brought forth a number of bills, none of which has been scored as to their costs or as to who will pay for them.

Mr. Speaker, we need to go home and talk to the folks and come back and deal with health care then.

PRICE CONTROLS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, the Clinton-Gephardt and Clinton-Mitchell plans are all about the Government controlling our health care. Today, I would like to highlight some of the price controls they impose.

The Clinton-Mitchell bill which costs $1 trillion taxes your health insurance plans whose premiums grow at rates faster than the Government prescribes. The Clinton-Gephardt plan creates a national cost containment commission to impose regulations to keep costs down. Price controls never have worked and they will not work now.

What this really means is Americans will be taxed and give up some of the services you need.

This is the Clinton plan for total Government control. But, America will not be fooled; they know the difference between myth and reality.

REPUBLICANS HAVE COOPERATED IN THE PAST AND WANT TO DO SO AGAIN

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I watched the temper tantrum of the President last night, and I got sick to my stomach. You might think he is the only one in America who is concerned about crime. Those who voted "no" on the rule are uncaring and obstructionist and partisan.

Mr. President, let me tell you, I broke ranks with my party over the past few years over the Brady bill, family and medical leave, striker replacement, campaign finance reform, California desert protection, grazing, and mining issues. And I saved Vice President GORE's globe program.

This President's definition of bipartisanship is when you do what he wants all the time.

Mr. President, you are no longer in Arkansas. Bipartisanship means working together. We are ready to work on crime, are you?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would like to remind Members to please address the Chair and not the President of the United States.

MORE THOUGHTS ON THE CRIME BILL VOTE

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, yesterday an unholy alliance of the National Rifle Association and the Republican leadership insulted the American people by viciously assaulting the crime bill. Mr. Speaker, today the weapon of choice is the telephone. The American people should not be fooled by this political mugging.

Yesterday's vote was not about pork: yesterday's vote was about two things: Partisan politics and the ban on assault weapons.

□ 1020

The proof is in the records of this House. Sixty-five Republicans voted for the crime bill last April when it had more prevention than the crime bill that reached the floor today. Where were those 65 yesterday? What changed? Was it the relentless bullying by the NRA and opportunism of the Republican leadership?

I say to the American people, "We must strike back, and the weapon of choice is the telephone. Call, call, call.

VOL
140
PT
16
AG
12
—
18
1994
UMI

Call your Member of Congress and tell them you want this crime bill now. Do not suffer this insult in silence. Make your voice heard."

THE CLINTON HEALTH BILLS ARE SOCIALISTIC

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, Dr. Martin Feldstein in Tuesday's Wall Street Journal made the following comments about the President's health care bills. Dr. Feldstein is a professor of economics at Harvard. He said:

President Clinton is increasing the pressure on Congress to enact a massive and irreversible entitlement program to subsidize health insurance and redistribute income. The tax cost for this largest-ever welfare expansion would top $100 billion a year at today's prices. That's equivalent to raising personal taxes across the board by nearly 20%.

Mr. Speaker, the Clinton health care bills are socialistic, and, in commenting on socialism, the great Winston Churchill said this:

Socialism is the philosophy of failure, the creed of ignorance and the gospel of envy. Its inherent virtue is the equal sharing of misery.

Mr. Clinton, I would say to you, "I feel your pain."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. MONTGOMERY). Members have got to obey the rules. They cannot direct their remarks to the President of the United States. Direct them to the Chair.

This is the second time the Chair has had to call attention to this matter.

AMERICA IS WAITING FOR THIS HOUSE TO PASS A CRIME BILL

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, while the National Rifle Association was celebrating the defeat of the crime bill last night, thousands of policemen cruised the mean streets of America hoping some drug-crazed gangbanger would not make their wives widows. While most Republicans were cheering the defeat of the crime bill, families in St. Louis, Chicago, New York, and Springfield, IL, were praying their children would not be the victims of a drive-by shooting. The National Rifle Association and the Republicans succeeded in gridlocking Congress last night on the crime bill, but this House owes it to the police and to America to pass a crime bill.

President Clinton was right. Congress should not take a vacation until we pass a crime bill. Criminals do not take a vacation, and American families are still waiting for us to break the Republican gridlock on this critical bill.

PEACE FOR SALE

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, I rose on this floor twice in recent weeks to express my grave concerns about forgiving Jordan's debt to the United States. I believed this form of extortion would set a dangerous and unaffordable precedent.

I never like to say "I told you so, "but before the ink has dried on Jordan's forgiveness, we are being set up again. Business Week reported this week that Syrian President Assad is pursuing peace talks with Israel for only one reason that has little to do with peace. Instead, his only interest is reported to be some type of cash payoff, perhaps something along the multibillion lines of the Camp David accords.

There is no question that a Syrian-Israeli peace agreement is in the United States interest. But we must question whether it is in our interest to agree to be blackmailed whenever our allies face problems with their neighbors.

We have made the decision to reward Jordan. Let us not go farther down this road. Our Secretary on State should just say "no" to this deal.

JUDGE SENTELLE'S CONFLICT OF INTEREST

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, today's front page story in the Washington Post raises disturbing new questions about the decision to remove Judge Fiske from the Whitewater case.

First we learned that Judge Fiske was being replaced by a person who, in the past few months, has clearly taken partisan positions critical of the President.

Now we learn that the judge who led the decision to replace Judge Fiske, Judge David Sentelle, at the very time he was making the decision, met with two of the most partisan critics of Judge Fiske, two critics who have called for Judge Fiske's resignation again and again.

Mr. Speaker, this appears to be a clear, improper, and partisan manipulation of the judicial system.

Judge Sentelle's panel is supposed to be impartial.

The counsel he appoints is supposed to be independent.

For Judge Sentelle to meet with partisan members of the other body who have a political axe to grind in this case should be a subject of investigation itself.

Judge Sentelle said Fiske had to go because there appeared to be a conflict of interest. Well, it looks like Judge Sentelle has an ever greater conflict of interest of his own.

Having Judge Sentelle rule on the independent counsel is like having George Steinbrenner rule on the baseball strike.

DEMOCRATS' UNTOLD BENEFITS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, President Clinton and his allies are busy concocting benefits they can claim for their plan for a Government-run health care system.

But there is one benefit they could legitimately claim that millions of Americans will receive from the Clinton health care plan: unemployment benefits.

That is right, the employer mandates and big Government bureaucracy of the Clinton health plan will raise employers' costs and employees' unemployment.

How much will it add to the cost of doing business? According to the Heritage Foundation, it will cost businesses in my home State of Texas an additional $5.6 billion just by the year 2002 under the Clinton-Senate plan.

Under the Clinton-House plan, the costs are even higher. By 1999, it will raise the cost of doing business in Texas by $8 billion—or $1,200 per Texas employee.

Of course maybe the President has thought ahead. Perhaps being out of business and out of work will give these people time to wait in the long health care lines the President's plan will create.

WE ALL LOST

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, we apparently will not hear baseball scores for a while, but here is the score from last night. Inside the Beltway gridlock: First, people who are afraid to leave their homes for fear of crime: Zero.

Mr. Speaker, last night's loss was more than just a vote on a rule. We all lost.

We lost protection for women and children who live with the nightmare of domestic violence. We lost a chance for kids to find more than a life of selling drugs on the street.

But our biggest loss was the 100,000 cops that would restore security to our communities. That is over 2,000 cops in my State of Massachusetts alone. We lost the most important tool communities need to fight crime.

The American people were rooting for this crime bill, Mr. Speaker. We all lost.

□ 1030

TV EXPOSÉ REVEALS RIPOFF OF TAXPAYERS BY FAA EMPLOYEES

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, last night, "Prime Time Live" carried a report about the FAA that I am sure angered everyone who saw it.

The report told how FAA employees in San Juan have been living in luxury hotels and condominiums for months at a time at taxpayer expense.

One family lived in hotel suites costing $360 per day and stayed at least 3 months.

This family, whose last name was Feeny, turned in expense accounts for meals totaling over $12,000 for just their first month in Puerto Rico, and the FAA paid them.

Their average claim for food ran to over $300 per day.

Another employee has claimed, and has been paid, approximately $5,000 per month for housing in Atlanta for almost a year now, even though he remains with the FAA in Puerto Rico.

An FAA employee who tried to blow the whistle on these padded expense accounts has resigned in disgust.

He says many millions have been spent by the FAA allowing their employees to claim and receive these exorbitant and ridiculous expenses.

No employee who has done the things reported by "Prime Time Live" should be allowed to work for the Government, in any capacity.

I call on the FAA to fire these employees immediately, and stop this taxpayer ripoff right now.

However, I know that due to our civil service system, nothing will be done and abuses like this will continue at the FAA and throughout the Federal Government.

NO INTENT FOUND TO DECEIVE CONGRESS ON VIRGINIA FACILITY FOR THE INTELLIGENCE COMMUNITY

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, as chairman of the Intelligence Committee, I have been critical at times of the intelligence community's organization and management, but I come to the floor today to defend them on an allegation that was made by the Intelligence Committee of the other body regarding a building built by the National Reconnaissance Office in Virginia.

The allegation was made or inferred that in some way the intelligence community deceived Congress by never notifying us of this building. Yesterday we had a public hearing of the House Intelligence Committee in the Rayburn Building, and the fact of the matter is that while we may disagree with some of the procedures used by the National Reconnaissance Office, there was no intent to deceive Congress, and there was no intent to hide the facts or deceive the intelligence community or Congress with respect to that particular building.

This was a building that was designed several years ago, frankly, at the request of some Members of Congress and the intelligence community to consolidate the offices of the National Reconnaissance Office, which, up until 2 years ago, was actually a classified body. But the purpose of the consolidation was to close or consolidate many, many leased offices around the country that were costing the taxpayers a lot of money.

While we are going to look at the procedures used in the building and the contracting process and although we think the budgeting needs to be improved, I want to assure my colleagues that there was no intent to deceive Members of Congress in connection with that facility.

CRIME BILL DEFEATED BECAUSE BILL AND RULE FOUND WANTING

(Mr. EHLERS asked and was given permission to address the House for 1 minute.)

Mr. EHLERS. Mr. Speaker, I want to respond to some of the things I have heard discussed here this morning in regard to yesterday's vote on the rule to debate the crime bill. The statement has been made that the Republicans and the NRA defeated it. That is simply not true. The majority of the Members of this Chamber, of course, are Democrats, and 58 Democrats voted against it.

Personally, I did not hear anything from the NRA pro or con on the rule or the bill. I think we have to face the fact that it was a bad bill, and the rule was defeated because the rule prevented us from amending a bad bill and the rule prevented us from raising points of order against some of the pork and some of the bad features of the bill. That is why it was defeated.

I believe that with a rewritten bill, we will easily have a crime bill passed in this Chamber, and I think we have to stop pointing fingers of blame and simply say that we all want to do something about crime but we do not want a bill that is filled with pork and we do not want a bill that says it provides 100,000 policemen when in fact it only provides 20,000.

Mr. Speaker, I urge the conference committee to come back with a better bill, a bill that we can all support and vote for.

CONGRESS SHOULD LISTEN TO THE PEOPLE'S DESIRES ON CRIME AND HEALTH CARE LEGISLATION

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, last night the commonsense will of the American people prevailed as the so-called crime bill that was tough on taxpayers and soft on criminals was defeated.

As the crime bill goes back to conference for a much-needed facelift, the debate will shift to health care, and this Congress should heed some important lessons from the crime bill spectacle.

First, the American people do not like having their pockets picked. Just as the crime bill was a $9 billion social program pork fest, the Clinton-Gephardt health care bill contains 17 new taxes that Americans cannot afford, do not want, and will not tolerate.

Second, the American people do not like having bad bills rammed through Congress. Believe it or not, the 900-page crime bill we voted on last night was given to us yesterday morning. And wouldn't you know, the 700-page Clinton-Gephardt plan was made available less than 2 days ago. Health care reform is the most significant issue we have dealt with in years and the White House and Democrat leadership were going to try to slip it through, just like the crime bill.

Until last night, that is.

Maybe now instead of picking the pockets of Americans and ramming a huge government-run health care plan through Congress, we will listen to what the people are saying and pause and craft and pass targeted health care reforms.

A CALL FOR A COOPERATIVE EFFORT TO PASS A TOUGH CRIME BILL

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker, my colleague from New York, Mr. SCHUMER, has been on the airwaves saying that yesterday's defeat on the crime bill reflects a pincer movement between the NRA and the Republican leadership of the House. Mr. SCHUMER's intrepetation could not be farther from the truth.

It may be that Mr. SCHUMER's New York City district is much different

VOL 140 PT 16 AG 12 — 18 1994 UMI

than my district in California. It may be his people were crying out for the millions of dollars in spending in new untested social programs. It may be that they are not concerned about the provisions in that bill which provide for the early release of thousands of convicted drug traffickers.

The people in my district in California know that drug traffickers are a key and driving force behind the crime impacting our communities. My district is interested in a crime bill that truly deals with the repeat criminals in our society.

So I have come to the floor to agree with my colleague, Mr. SCHUMER, about two things. First, he is right: If the people effectively communicate with Members across the country, they will be heard, and telephone calls and letters can make a difference. Second, we should bring a crime bill back to the floor. So let's do so by one simple action: Provide an open rule that will allow amendments to the bill that would truly reflect people's concerns. I am confident that open debate on such amendments would lead to a tough crime bill that would help guarantee safety in the cities and on the streets in neighborhoods in America.

Mr. President, I urge you to call upon the bipartisan leadership of this House to allow open debate through an open rule concerning crime in America.

POLITICAL TAINT DARKENED ON APPOINTMENT OF INDEPENDENT COUNSEL TO INVESTIGATE THE PRESIDENT

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, on the floor this week I criticized the baggage-of-appearance problems surrounding the appointment of Kenneth Starr to investigate the President. I thought then, though, that the furror and delay of yet another appointment augured for going on with the Starr appointment and assumed a heavy burden of demonstrating impartiality.

Following new revelations, however, it is clear that for his sake and for the sake of the court that appointed him, Starr should bow out. Partisan letters to the court and contacts between a particularly partisan Senator and the judge, David Sentelle, a protege of JESSE HELMS, now give the court an appearance problem.

The entire point of our independent-counsel legislation is to remove the investigation not only from political taint but from the appearance of political taint. That taint has now darkened. We need a new independent counsel and a new court to appoint her.

NEW JERSEY TRAGEDY POINTS UP NEED FOR TOUGH CRIME BILL

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, I witnessed two things on television last night. One was where the parents of a little girl in New Jersey named Megan spoke. They buried her last week. A sexual predator who had been convicted twice before lured her into a house and sexually abused her and killed the little girl.

The gentleman from New York [Mr. SCHUMER] voted in committee for the sexual language and then in conference personally took out that language.

The second item I witnessed last night was Mr. SCHUMER blaming the loss of his bill on others. I say to the gentleman from New York [Mr. SCHUMER] that Megan's parents asked administrators and anyone else to get in the face of the people who are weak on this issue and weak on crime. We do not want to get in the gentleman's face, but when you have $9 billion of socialized spending and your liberal special interest, the ACLU, wants you to take out language that would protect the Megans of the world, that is the reason why the crime bill failed yesterday.

CONSTITUENTS' PROTEST AGAINST CRIMINAL CODDLING BILL MAY BE KEY TO BILL'S FAILURE

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, it is far too simplistic to villainize the NRA and blame them for the failure of the crime-bill rule last evening. When this bill left the House, it had far too much pork in it, and it had a whole lot more when it returned.

When it left the House, it was aptly described as a "criminal coddling" bill, and one constituent called to ask us, "Please don't vote for the hug-a-thug bill" that was returned to us from conference.

A real reason that the bill failed was the rule itself and the fact that we did not have time to read this very large bill. But in the final analysis, the credit for killing this rule belongs to the American people who, in ever increasing numbers, called our offices to tell us, "Please don't vote for this bill."

□ 1040

DO NOT MISUSE THE INDEPENDENT LAW

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, I voted for the independent counsel law. I agree that we cannot expect an administration to investigate itself when there are allegations of wrongdoing. However, the use of the independent counsel process in the instance of Agriculture Secretary Mike Espy raises questions. As has been demonstrated over the years, these independent counsel investigations typically cost several hundred thousand dollars, some much more.

What was Secretary Espy's alleged misdeed? He evidently accepted a couple hundred dollars worth of travel, lodging, and sports events tickets from a food processing firm, and later reimbursed the firm for these costs.

Did Secretary Espy use bad judgment? Yes. Does this matter warrant an expensive legal investigation? I think not.

EPA SHOULD IMPLEMENT CLEAN AIR ACT AMENDMENTS OF 1990

(Mr. KIM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIM. Mr. Speaker, I rise today to introduce three very important pieces of legislation intended to rectify an unfair application of the law. These bills will direct the Environmental Protection Agency to write Federal Implementation Plans in accordance with the 1990 Amendments to the Clean Air Act.

My reasons for introducing these measures are twofold. First, to alleviate an extremely unfair situation that is facing my State of California. Second, for the benefit of every other State in this Nation that is working hard to meet the goals set forth in the Clean Air Act.

The EPA is currently being forced to comply with a court order, which was handed down in 1993, 3 years after this Congress amended the Clean Air Act, which requires them to implement a Federal plan in accordance with the provisions of the 1977 act. I am deeply disturbed by this court decision, which neglects to recognize the intent of the 1990 amendments that place the responsibility of creating such plans squarely on the shoulders of the States, in recognition of the need to be flexible.

Additionally, the implementation of this Federal plan is to occur at the same time that California is working diligently to meet the requirements of the 1990 provisions. This makes the court's order all that more confusing. Why must the State of California comply with two versions of the same law?

It is with this question in mind that I rise before this House today to make it clear to the courts, the EPA and the States, that it is the intent of Congress to only require a State to comply with the latest version of the law. If this injustice is not corrected, California, as well as many other States, could face economic ruin.

The California Chamber of Commerce, for example, indicated that if this Federal plan is implemented it would result in the loss of a half-million jobs and $50 billion a year in transportation and related costs alone. Small businesses would be especially hard-hit. I do not believe that any one of you, my fellow colleagues, could stand by and watch this happen to your State.

Therefore, I call on my colleagues today, to join me in putting an end to this devastating, or potentially devastating, precedent which will place jobs and economic stability at risk.

FAILURE TO PASS CRIME BILL RULE A CRIME

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, what happened to the crime bill yesterday was a crime. It is a crime that the National Rifle Association is able to determine the votes of the House of Representatives through their PAC's and through their political intimidation. But it would be a worse crime if the American people do not understand why this bill, this rule, was defeated yesterday.

It was not the spin that has been put on it by the other side, and even by some people on the Democratic side, that it was because it contained too much pork. That is nonsense.

The big increase in the conference report over the House bill that many of them voted for was for cops on the beat; $3.4 billion was included for cops on the beat in the House bill; $8.8 billion was included in the conference agreement, a doubling.

This business about hearing the midnight sports leagues, the midnight basketball that Rush Limbaugh and so many people talked about, was actually cut from the House bill to the conference bill that we voted on yesterday, from $50 to $40 million. The big increase, and all the social programs you did not hear about, he big increase was in grants to combat violence against women. That is where the money was. But we do not hear about that.

What happened yesterday was a crime. It should never be repeated again. It is up to the Members of this House to stand up next week and repeal that action.

PORKLESS CRIME BILL WILL GO THROUGH LIKE GREASED LIGHTNING

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, all this talk about the hard-hearted Republican leadership is so much nonsense. Do you know how it pains us to see that dyspeptic look on the face of Mr. MORAN and the Speaker? To see the President in high dudgeon? To see the gentlewoman from Colorado coming here verklempt? Mr. SCHUMER talked about the weapon of choice being the phone. Maybe he can call 844-4444, had have coffee talk about what a tragedy it was for the President that his crime bill went down. But under this bill if you dial 911 you are likely to get a social worker instead of a cop.

I would say that my colleagues on the other side of the aisle should spend as much time focusing on how to get tough on criminals as they are trying to get tough with conservative religious people, those that they call the "radical religious right."

There was a meeting yesterday, and I think Mr. MORAN was there, where the Democratic participants arranged for nine Capitol Hill policemen to guard the meeting of the Radical Right Task Force. Mr. FAZIO, Ms. SLAUGHTER, Mr. DURBIN, Mr. FARR of California, Ms. MCKINNEY, Mr. SWETT, Mr. SYNAR, Ms. PRYCE of Ohio, and, yes, JIM MORAN, were all there meeting to do something about "these Christians."

Let us do something about criminals instead. Strip out the pork, bring the bill back, and, Mr. Speaker, it will go through like greased lightning.

DEMOCRAT CRIME BILL MAKES NATION AS SAFE AS NEW YORK CITY

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, the American people spoke last night. Congressmen do what their constituents want when they are 3 months out from an election, and that is what happened in the House of Representatives last night.

You know, the gentleman from New York [Mr. SCHUMER] offered us a crime bill that was intended to make our districts, our constituents, our voters, as safe as his district in New York City. And that was the problem.

Let me just say that six victims-right groups contacted us in the Republican Research Committee, the presidents of these groups, Justice for murder Victims, Victims and Friends United, Advocates for Survivors of Violent Crime, Citizens for Law and Order, Organized Victims of Violent Crime, and League of Victims and Empathy. From across the Nation they contacted us, and their presidents came down against this crime bill.

Let me tell you why. They were against it because they said it does not repeal prison caps, it does not include habeas corpus reform, and it does not provide for training for judges and prosecutors on victims rights. It contains no real truth-in-sentencing provisions. It eliminates provisions requiring mandatory restitution to victims of violent crimes.

The people know what was in this bill. They did not want it. They do not want their districts to be as safe as Mr. SCHUMER's district in New York City.

REPUBLICANS WANT A CRIME BILL

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, President Clinton last night tried to blame the defeat of the rule on the crime bill on the Republicans and the NRA. My colleagues, he still does not get the message. Republicans and Americans want a crime bill. In fact, 58 Democrats, 25 percent of the majority party who voted no, want a crime bill.

But here is what we and the American people did not want. we have been robbed in the streets, we have been robbed in our homes, and now we do not want to be ripped off by this Congress. We want punishment, not sensitivity training. We want reform of the welfare system that spawned this mess, not more social programs. We wanted our hard-earned dollars to go for good education and job creation, not dance classes and midnight basketball. We want drug felons behind bars, not out on our streets. Finally, Mr. Speaker, we want the death penalty, not President Clinton's promise to abolish it by Executive order.

RIGHTS AND HEALTH OF SEXUAL OFFENSE VICTIMS MUST BE PROTECTED IN NEW CRIME BILL

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, in the Crime Control Act of 1990, a provision said if States were to receive any funds from the Byrne grant then the State would have to establish a program allowing the victim of sexual assault to have the offender tested for the HIV virus.

I support the 1990 law because we need to protect the health and the rights of the victim, especially in the case of a sexual offense. When someone is raped, the victim has the right to know if their attacker carries this deadly disease.

However, even though the Federal Government requires a program for HIV testing for States, this provision was left out of the Federal crime bill. But now that we have the opportunity to strengthen the bill, I urge my colleagues to include this testing provision. A sex crime is just as heinous

VOL 140 PT 16 AG 12 — 18 1994 UMI

whether it is State or Federal and should be treated the same. I believe if this is a State requirement it should also be a Federal requirement.

Without this provision, Congress is telling America that the rights of the victim of a sexual crime is less important than their sexual predator. We should protect the victims of crime and include the Senate provision and insist that Federal crimes be treated as harsh as State crimes. More importantly, the rights of the victim of a sexual crime must be put above the rights of the sexual predator.

□ 1050

THE CRIME BILL VOTE

(Mr. MCCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCCOLLUM. Mr. Speaker, I have heard a number of people out here today say to us that somehow the vote yesterday was to kill the crime bill. It was not. It was a vote on the rule. It was vote down on the rule.

Republicans voted against the rule, most of us at least, because we believe that there is way too much social welfare spending in this bill. It is a back-door way that some folks on the other side of the aisle have found to try to get more great society programs into legislation in the law.

There is a simple way to solve the problem that we face now and have a truly bipartisan crime bill all of us want. There is no reason why we should be concerned about doing that. It would take a few hours to sit down and do it. If some reasonable people on both sides of the aisle were called together, I am a conferee, was a conferee, would like to go back and do it again, take $5 billion or $6 billion out of this $9 billion of pork and social welfare spending that is in this bill and put it over into the prison side where it should be. Add to the prison money that is there so that we get enough money in the prison grant programs that we can actually do what we have been told is necessary to have $10.5 billion to $12 billion in order to provide enough money to the States to build the prisons beds necessary to take the repeat, second-time violent offenders off the streets and throw away the key.

That is what we need to be doing for prevention. That is the true crime prevention.

WHY THE RULE WAS DEFEATED

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I agree with the gentleman from Florida that what needs to happen here is the crime bill needs to go back to conference and we need to get out a crime bill that the majority of the House can support, that is a tough bill on crime.

I was a little concerned to hear the President of the United States suggest that what happened on the floor yesterday was a procedural trick. This was not a procedural trick. The only procedural trick was being done by the Democrats in bringing it out in a rule in the first place.

The fact is they could have brought the whole conference report to the floor without ever going to the Committee on rules. The reason why they knew they could not do that is because there were things in the conference report that were subject to points of order on the House floor that would have immediately sent the bill back to conference.

The entire conference report was flawed because of the procedural tricks that went on within the conference. What they were trying to do was cover their tails with what went on in the Committee on Rules, and they cold not get it done on the House floor.

The President needs to be informed that what was happening here was that his own party voted unanimously in the Committee on Rules to try to cover up the procedural tricks that were done in the conference. We should have less of that. Let us bring bills to the floor that are clean so that we can all vote on them clean.

YESTERDAY'S VOTE

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Mr. Speaker, the reason that the rule did not pass is because almost 60 Democrats voted with Republicans, majority of Republicans. Now, when we heard the President indicate that the reason the bill did not pass was because of the NRA and Republican leadership, that was not quite right.

The problem is that bill had too much social spending and not enough real crime efforts to decrease the amount of criminals on the street. Time and time again, Republicans have worked with the Democrats to help. For example, NAFTA, NAFTA passed because of a coalition. There right now is in Congress a coalition on a health care bill; that is, the Bilirakis-Rowland bill. We should be beginning as a group to get behind that bill and also GATT is another agreement that the Republicans are working with Democrats. So the Republicans are working with Democrats.

The reason this bill did not pass is not because of the NRA. It is not because of Republican leadership. It is because the American people did not want what that bill had.

FULL BUDGET DISCLOSURE ACT OF 1994

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 512 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4907.

□ 1054

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4907) to reform the concept of baseline budgeting, with Mrs. SCHROEDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from South Carolina [Mr. DERRICK] will be recognized for 15 minutes; the gentleman from Florida [Mr. GOSS] will be recognized for 15 minutes; the gentleman from South Carolina [Mr. SPRATT] will be recognized for 15 minutes; and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Madam Chairman, I yield myself 5 minutes.

I am delighted to day to bring to the floor H.R. 4906, the Full Budget Disclosure Act of 1994.

This will improve our budget process precisely as its short title suggests: by requiring full budget disclosure. The official title of H.R. 4907 is "a bill to reform the concept of baseline budgeting." I can assure the Members the bill will do just that.

Madam Chairman, I suspect most Americans finds the Federal budget process difficult to comprehend at best. Part of the problem is our confusing terminology; we just don't use the same budgetary terms and concepts that ordinary people do.

One of the concepts associated with Federal budgeting most difficult for ordinary Americans to understand is the notion of a budget baseline.

Under the law, when the President submits his budget to the Congress, and the Congress prepares its congressional budget, they start from something called a "current policy baseline." That baseline assumes for the budget year and subsequent years of continuation of the current spending level for programs and services, adjusted for inflation and certain other technical factors.

There is absolutely nothing wrong with the current policy baseline. After all, every American appreciates how inflation erodes the purchasing power of his dollars over time. All Americans know the same number of dollars won't buy today what they bought 10 years ago, or even last year.

This is why the law provides for cost-of-living adjustments to Social Security benefits. If we did not give cost-of-living adjustments, Social Security benefits would over time lose much of their value and recipients would lose much of their income as inflation eroded their checks' purchasing power.

Madam Chairman, inflation erodes the purchasing power of Federal tax revenues too. Any given number of Federal tax dollars doesn't buy the same quantity of goods and services today that it bought 10 years ago, or even last year. As a result, it takes more dollars to repair a mile of Federal highway, buy fuel for the Navy ships and aircraft, and to maintain government buildings and other assets. Government must deal with the same inflation that households do, and the current policy baseline helps policymakers to understand inflation's effect on programs.

But use of the current policy baseline has one drawback: it makes more difficult comparisons of how spending changes from year to year in actual terms. It is this problem H.R. 4907 is designed to solve.

Under the bill, the President and the Congress would have to include an additional baseline, a current funding baseline, in their budget documents. The current funding baseline would start from last year's spending level and would not be adjusted for inflation.

This additional baseline would allow people to see and understand how various budget proposals would change spending from year to year in constant dollars, without taking inflation into account.

By comparing the two baselines to proposed spending, for example, policymakers and the public could both understand that a budget proposal for a given program might very well represent an increase over last year in actual dollars, but not enough to keep pace with inflation—or effectively a cut in the program.

Or people could see how a proposal that represented an increase in actual dollars exceeded the amount needed to keep pace with inflation, and was effectively an expansion of the program in question.

H.R. 4907 will also require the Congressional Budget Office to include in its annual report to the budget committees a comparison to current spending levels, and an analysis of the causes of increased spending in mandatory programs from cost-of-living adjustments, changes in beneficiaries, higher health-care costs, and other factors. This provision will help us better understand the reasons for growth in those so-called entitlement programs.

I am convinced H.R. 4907 will improve the budget process, that it will result in full budget disclosure, and that it will help both policymaker and ordinary Americans to understand the budget process better. My colleague from South Carolina [Mr. SPRATT] has done excellent work on this legislation. I urge all Members to support the Spratt bill.

Madam Chairman, I reserve the balance of my time.

□ 1100

Mr. GOSS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, as I said during the debate on the rule, baseline budgeting is one of our most confusing, irresponsible, inside-the-beltway creations. Under current law, Congress and the President are able to increase the dollars spent on a particular account, while publicly claiming to have cut the budget. The reason for this is that when committee's sit down to decide funding for next year's programs, instead of starting with the actual dollar amount spent the previous year, they use a figure that has been automatically inflated. Both discretionary and entitlement spending are subject to this twisted accounting. As a Member of the Bipartisan Commission on Entitlement Reform, I am hopeful that we will be able to address the dangerous trends in mandatory spending in the near future. But as the ranking member of the Budget Committee, Mr. KASICH, pointed out to us in rules earlier this week, it's far too early to declare victory on the discretionary side of the budget. Comprising an estimated $400 billion in taxpayer funds each year, any excess growth in the discretionary area is a serious concern.

While I am pleased that we have the chance to address the baseline problem today, I am concerned that the Spratt bill, H.R. 4907, will only add to the current confusion. Instead of replacing the single, flawed, baseline we currently use, the Spratt bill will keep that one and add a second baseline consisting of the current year's actual spending. This two-headed monster has two major problems: It is confusing, and it will not be effective in controlling future spending.

The confusion will stem from having two baselines instead of one. While it is difficult to determine when a cut is really a cut now, just wait until the Washington spin doctors are able to have a choice of baselines.

The second problem is the bill's lack of effectiveness. During the markup of the Spratt bill in Rules Committee, I confirmed with the chairman and the bill's sponsor that this bill will not change the current law baseline. Let me repeat: under this bill, the legal baseline will remain unchanged.

An alternative to the confusion and ineffectiveness of H.R. 4907 is the Kasich-Penny-Stenholm substitute. This simple and responsible alternative calls for a single baseline consisting of the current year's actual spending level. In addition, it requires that committee reports include a comparison between current year spending and revenue levels with the proposed increase or decrease in percentage terms. Finally, the substitute provides for a comprehensive review of entitlement spending trends on a yearly basis from the Congressional Budget Office.

Madam Chairman, I agree that it is high time that we reform the inflationary budget baseline. The choice before us should be clear: Support the common-cents amendment, and reject the convoluted approach of the Spratt bill.

Madam Chairman, I reserve the balance of my time.

Mr. SPRATT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the bill before us, H.R. 4907, is very basic. It requires two baselines to be set up in the format of the budget. One is a current funding baseline. This represents actual funding in a given year, the current year, for a functional program in the budget. CBO calls this a freeze.

We had an agreement on the floor yesterday that with respect to the current funding baseline, as defined in our bill, H.R. 4907, and in the substitute, there is no difference, no distinction. They are the same. This bill provides for a current funding baseline, just as Penny-Kasich-Stenholm would.

We also, however, provide for another baseline, which is a baseline used all the time in this institution, and used of necessity. It is called a current policy baseline, commonly sometimes called a current services level of funding—what it takes to carry forward existing programs that are embedded in permanent law, paying the same level of benefits after inflation, serving the same beneficiary population according to the terms of eligibility that are on the statute books, a current policy baseline.

Madam Chairman, our opposition says what they want is one giant scorecard. I would invite everybody who has an opportunity to read the "Minority Views" on this bill that are printed in the committee report, because the "Minority Views" recognize that in fact there are several different baselines used, and they will continue to be used because they are practical, they are good analytical devices, and they are the things that have been used for years and will continue to be used for these reasons.

For example, Madam Chairman, the minority acknowledges that baselines used by the Committee on Appropriations are always actual funding, unadjusted, and if you look at the Committee on Appropriations reports, each of the 13 reports will provide you with this year's funding and next year's funding, and will tell you what has been increased or decreased. That is a baseline that we do not provide for, because it is already used. We are not

VOL 140 PT 16 AG 12 — 18 1994 UMI

enshrining it in this particular bill, but it is another baseline.

The opposition derides us for attempting to set up a second baseline and claims that this is double-speak, that we are going to confuse the American people.

In truth, as they well know—as everyone well knows who has dealt with the budget here—the current services or current policy baseline exists because it is a useful device for measuring the adequacy of the current budget. For that reason, we have it. For that reason, it will continue, regardless of the outcome of this legislation.

In fact, Madam Chairman, one of the best defenses of the current policy or current services baseline is made in the minority report. This particular report says that when you are dealing with reconciliation, and I am reading from the report now:

> Where baselines really make a difference is mandatory spending and revenues, since these are used when it comes to reconciliation instructions. These instructions tell committees to find so much in "savings" or revenues by changing existing direct spending or tax laws. The amount of "savings" or revenues are derived by using the baseline of projected costs or revenues for the budget year and the outyears that would occur with no change in current law.

They go on to give an example of how a mandatory program at $100 million would increase to $150 million, but in reconciliation, instructions would be stated to require a $25 million reduction. They acknowledge that this is useful, this is useful. It is necessary, because permanent laws would provide for these programs to increase, unless we take action and do something about them. So we have to know. We have to have some measure of how they are going to increase in order to take action and to decrease them.

Madam Chairman, this is what the minority says:

> No one should deny Congress credit for taking action to restrain the growth in spending for programs, since these are often difficult choices to make.

Not cuts, but restraints in growth:

> On the other hand, it is difficult to convince the public that we are reducing spending and deficits when they see both continue to climb.

So what they want to get at is public perception, but you acknowledge that for purposes of operating this place, we need a current services baseline. They make the case for it right here.

That is all we are saying. Give the public the same baseline that the gentleman from Minnesota [Mr. PENNY], the gentleman from Ohio [Mr. KASICH], and the gentleman from Texas [Mr. STENHOLM] would require. We are willing to do that, the same definition, but at the same time let us use internally what they make the case for in their own minority views, the current services baseline.

□ 1110

In fact, the gentleman makes the case here. When we do that, the current services baseline is going to continue to exist, as I have argued continually, because it is such a useful device; it is a necessary device in making reconciliation devices.

You admit in here the Committee on Appropriations is still going to use a very simple and basic technique of taking this year's funding and you will also have an adjusted current funding baseline. There are going to be three baselines, regardless of what this bill does. So in formating the budget, let us have two useful baselines, the current funding baseline and the current policy baseline, and let us not try to have some artificial construct that would overcome what is inevitably going to be the operating procedure in this institution.

Mr. GOSS. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Florida.

Mr. GOSS. I asked the gentleman to yield as a courtesy because he did read from the minority report. We agree we have to have someplace to start from. All we are asking is it be the real starting place with the real numbers and there just be one starting place, not two. I think that is going to be crystal clear to people, that this is what we spent and this is what we are going to spend this year. That is all we are asking.

Mr. MURTHA. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Let me address what the gentleman is talking about, because we have the biggest discretionary budget in defense. One of the problems we have when they send a budget over to us: Say in the 1980's they would exaggerate inflation and we would have a different figure right away. But if we do not put the inflation figures in, if we do not come up with figures that are realistic, it makes it impossible for us to make the adjustments necessary to come up with a realistic bill.

For instance, the bill has decreased by 35 percent in budget authority and 23 percent in outlays since 1984, about a 10-year period. This year they did not put cost of living in. Last year they did not put cost-of-living in for personnel. Personnel costs are $70 billion for defense. I said, last year, we were going to pay the troops more. Even though nobody else is going to get a cost-of-living increase, the troops are going to get more. That did not sound like a lot of money. It was $11 billion if we count the tail. So if we do not consider inflation in the overall presentation, we have got a real problem. In other words, the first thing we would have to do is exactly what they have done when they have sent their presentation over to us. That is the problem.

Mr. SABO. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Minnesota.

Mr. SABO. One of the purposes of baseline is to have some understanding of historically what is happening with programs in the relative level of funding. If I understand the gentleman accurately, when one looks at defense in budget authority from its peak in 1985, in inflation adjusted dollars, budget authority has gone down 35 percent. As I understand it, our friends who want to amend this bill would say it had only gone down about 10 percent, because that is what the change in dollars without any inflation adjustments would be, which most accurately historically reflects what has changed in defense spending over the last 9 or 10 years.

Mr. MURTHA. When we are talking about the bill, we are sitting in subcommittee, and it takes the staff weeks to get the budget proposals together that are sent over to us. The gentleman from Minnesota is on the committee and he knows what I am talking about. We try to at first figure out what the accurate figures are. I know that what the gentleman is trying to do is come up with accurate figures in the baseline, but if you do not have inflation built in, it is impossible for us to get the amount of money we need out of the budget. We do not have any leeway at all is what it amounts to. We always evaluate their inflation figures. Sometimes we reduce what they consider the inflationary costs and sometimes we do not. But we believe that in real dollars when we look at it, it has only declined 10 percent, but if we include inflation, it has declined by 35 percent. So we can see that we are not getting a realistic picture. It would be impossible for us to operate. The first thing we would have to do is put in the inflation figures. I do not see how we could operate under the premise that the gentleman from Texas is recommending. At least I do not see how it happens in a bill that we try to handle. So I have to agree with the Spratt idea.

Mr. STENHOLM. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Texas.

Mr. STENHOLM. The argument we make, nothing in our amendment precludes this discussion and these numbers and these concerns that the gentleman is expressing. All we are saying is we should start from one baseline and if we need to have increases for the valid reasons the gentleman from Pennsylvania is talking about, we justify those reasons, but we compare it back to one baseline. There is not a big difference between that. There is a big difference between the confusing aspects, though, if we are suggesting the second baseline is a valid baseline of which we have the money to pay for it. That is the problem. We are running $200 billion deficits, we have a cap on discretionary spending that we have to move to. So any increases have to be justified. We think it makes more sense for us to justify them on one baseline, and if we have an increase, call it what it is so people will understand we are getting an increase for the purpose of what we are increasing it.

Mr. SPRATT. Madam Chairman, if I could reclaim my time, we would agree with that to an extent. We will give the public and the Congress that information, but we will also retain the essential common sense of having a current services baseline because as the minority report correctly observes, it is absolutely necessary when we are determining whether or not what entitlement programs in particular are going to cost and to what extent spending growth must be restrained in these programs. Without that baseline, we have got no reliable estimate of what 70 percent of the budget direct spending is going to be in the outyears.

Mr. SABO. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Minnesota.

Mr. SABO. If I might direct another question to my friend, the gentleman from Pennsylvania who chairs the Subcommittee on Defense. When you put out a committee report for your bill this year, if I remember accurately, it shows what was appropriated for last year's bill and it shows what is appropriated for next year's bill. Is that not accurate?

Mr. MURTHA. And also we usually have a 5-year projection in our bill if we ever are able to get it from the Defense Department. I understand what the gentleman is trying to do and I understand the problem. But if we do not build inflation in, the first thing we would do is to put the inflationary figures in the bill. Otherwise I am not sure how you operate.

Mr. SPRATT. I thank the gentleman for his statement.

Madam Chairman, I reserve the balance of my time.

Mr. CLINGER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would rise in reluctant opposition to H.R. 4907 and in support of the Penny-Kasich-Stenholm substitute. Before I do so, I would like to express again my concern and disappointment that the Committee on Government Operations which has jurisdiction over this matter waived our jurisdiction and did not consider this measure or this issue. I think the discussion that has just gone on about what some would view as an arcane, esoteric subject indicates that it is a complex area that really should be fully considered through the committee process. I would, therefore, register again my dismay that the Democratic leadership chose to have the Committee on Government Operations waive its jurisdiction.

I would like to commend the gentleman from South Carolina [Mr. SPRATT] for his work in crafting the budget bills that we have considered over the past several weeks, even though we did not consider them in committee, and to recognize the great service he has provided this body in bringing these bills to the floor. The task he has been given in drafting meaningful budget reform legislation, which at the same time satisfies the desires of spending advocates is not a job that I would covet. Frankly it is not a job that I am sure I would accept. Nevertheless, I believe that the gentleman from South Carolina [Mr. SPRATT] has very honestly tried to resolve the conflicting and sometimes very confusing signals that he has received on baseline budgeting, which has become, as I say again, readily apparent this morning.

Unfortunately confusing signals can occasionally lead to confusing legislation and that I suspect is the essence of H.R. 4907.

H.R. 4907 would establish, as we have heard, two separate statutorily equal baselines for discretionary spending, one which includes inflation adjustments, and one without.

Because the bill creates both a current policy baseline which adjusts for inflation and a current funding baseline which reflects current year's spending without an inflation adjustment, future budget and spending debates would likely be even less clear under the Spratt bill than is now the case.

□ 1120

While one group of Members might well be discussing an inflation-adjusted baseline, a second could readily be referring to the equally sanctioned unadjusted spending baseline, and the result, I think would be Members talking at cross-purposes, ships passing in the night, and a public unable to understand how program spending is rising or falling.

The Spratt bill would defeat the very purpose of baseline reform, that is, to provide a clear, ambiguous picture of spending growth.

While the very same information would be available under the Penny-Kasich-Stenholm approach, their amendment would establish one single baseline to reflect current spending, and any adjustments to the program funding would be revealed through a single, unadjusted baseline to provide a clear comparison of current and future spending. In addition, the Kasich approach would provide comparisons on entitlement spending which is not required, if I understand it, under H.R. 4907.

So, Madam Chairman, because the Penny-Kasich-Stenholm amendment provides the only real opportunity for clear, honest, and understandable budget debates while at the same time assuring access to information on programs, trends, and inflation needs, I would urge the adoption of the amendment.

Madam Chairman, I reserve the balance of my time.

Mr. DERRICK. Madam Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I again want to try to make this basic point from our perspective: We would like to see one baseline, and that when we consider appropriation bills that we are comparing what we are being asked to spend in the future with what we spent last year. All of the relevance of baseline or current services or inflation-adjusted figures can still be made, just as the gentleman from Pennsylvania made a moment ago very relevant opinions that in some cases, if you do not keep up with inflation, there are certain cuts that are going to have to occur. But those should not be conceived from the standpoint if inflation goes up 103 and we grant 102 that we have cut somebody 1 percent. It should be that we ought to be debating that we are increasing.

I do not understand when this country and so many of the people particularly in this body came to the conclusion that cost-of-living adjustments, inflation-guaranteed increases, are an inherited right of anybody. No business can grant increases based on inflation unless they are making a profit.

We are losing $200 billion-plus a year right now in the United States of America, Inc. How anyone believes that they have a right to an inflation-adjusted figure for any purpose beats me.

But we think that it will, in fact, be more relevant, and we will get more honest debate and get more honest conclusions if we start right here in this body saying to everyone, "Here is what you got last year, here is what we are giving this year." If it is an increase, "This is why we are increasing it," and if it is a cut, "This is why we are cutting it." If you want to make the argument that we have to make inflation-increased adjustments, make that argument, but make certain that in fact you explain why that increase goes up. That is all this argument is about.

That is why I encourage you to vote for the Penny-Kasich-Stenholm amendment. Vote against the Spratt amendment, because that is the only way we are truly going to get this explained in a way in which the average American can understand it.

VOL
140
PT
16
AG
12
—
18
1994
UMI

Madam Chairman, there are some who will say that the debate on baseline budgeting is a meaningless exercise. I disagree. The way that we talk about the choices we face in the Federal budget has a significant impact on the outcome of policy. This debate is about bringing some honesty into the way that we talk about budgets.

The current budget process is enormously confusing and strongly biased in favor of deficit spending. Baseline budgeting distorts the process by making it appear that programs are incurring a spending cut when in fact they simply are receiving a smaller increase that expected.

The base bill before us today improves the current process by ensuring that Members will be able to compare proposed spending levels with the previous year's spending levels. The base bill has taken many of the provisions of the Common Cents Budget Reform Act that I introduced along with TIM PENNY and JOHN KASICH. Unfortunately, the base bill will create additional confusion in the budget process by adding a second official baseline. The base bill will make it even more difficult for the public to understand the budget process around here. More importantly, the base bill will continue the current bias toward higher spending created by the current services budgeting.

The Penny-Kasich-Stenholm amendment will eliminate the bias toward higher spending that is included in the base bill by replacing the current services baseline with a freeze baseline. Our amendment would put some west Texas tractor seat common sense in the budget process by requiring that budget proposals compare their budgets to the amount actually spent the prior year rather than against estimates of future spending. We should recognize increases in spending for what they are and not talk about cutting spending for what they are and not talk about cutting spending when we really are voting to increase spending.

The folks at the Stamford Dairy Queen understand that if you received $100 last year and receive $99 this year, that is a spending cut. If you receive $101 this year, that is an increase, even if you thought you were going to get $102 this year. The small business men and women of this country understand that if you are operating in the red, you can't afford to give cost-of-living adjustments to everyone.

The Penny-Kasich-Stenholm amendment will improve the decisionmaking process by changing the way we talk about budget decisions. If you want to put some truth in budgeting, vote for the Penny-Kasich-Stenholm substitute and against the Spratt substitute.

Mr. GOSS. Madam Chairman, I yield 4 minutes to the distinguished gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Madam Chairman, I thank the gentleman for yielding me this time.

The gentleman from Texas [Mr. STENHOLM], I think, spoke as eloquently to the issues that I would like to speak to as anybody possibly could.

I watched this debate, and I have listened to it, and certainly everybody who has spoken, particularly those who have defended the baseline budgeting as it exists, are great contributors to this Congress and are leaders in this Congress, and I respect that. I respect all that they have done. I do not mean to disagree with this particular bill as it is drafted, although I think the amendment, which is the Penny-Stenholm-Kasich amendment, is a far greater improvement to it.

But the bottom line is I do not think the public really comprehends what we are doing in the Congress of the United States with the budget, and as I sit here longer and longer, month by month, I begin to realize more and more why we have the budget deficit we do. Thank God this year we have started to at least deal with, if not pass, the issues of the line-item veto, with the enhanced rescissions which later passed, the balanced-budget amendment, and now we are dealing with baseline budgeting. Maybe later today we are dealing with emergency spending reforms which I think are needed. But the bottom line is, I think, one of the great problems we have is with baseline budgeting.

When you have a budget which actually begins each year with inflation built in, with demographic changes built in, with program costs built in, you have admitted defeat. You are never going to be able to balance your budget.

Mr. SABO. Madam Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Minnesota.

Mr. SABO. Where is this budget that starts from this mythical baseline as you call it, every year?

Mr. CASTLE. Where is the budget?

Mr. SABO. Yes. I am curious. I have been budget chair 2 years. I put a chairman's mark in front of the committee for 2 years. I have never started with my mark to the committee being a baseline. A baseline is a measurement. It is not a budget.

Mr. CASTLE. Reclaiming my time, but it is used constantly by Members of Congress, not you necessarily, but by Members of Congress, by the White House of both parties, to say they are going to have savings on the budget.

Mr. SABO. Sure. It is a measurement.

Mr. CASTLE. It is an increased baseline.

Mr. SABO. It is a measurement of what is happening, just as last year's is a measurement.

Mr. CASTLE. It is a failure, it is a failure. I reclaim my time. It is a failure to recognize the fact of having a dollar amount in the year before, and you are actually spending more because you are starting with a new baseline which is artificial.

Mr. SABO. I would ask the gentleman to go to this year's budget resolution and find any number that refers to baseline in the budget document.

Mr. CASTLE. Whether it is referred to baseline in the document or not is irrelevant, because it is constantly referred to as baseline by everybody here with the understanding that all of this is put in.

Mr. SABO. This is a historic measurement of what we are doing, and that is accurate.

Mr. CASTLE. What I am simply asking for is the fact we start in all of our reporting with the figures from the year before, and that if we want to add in these figures, we show how they are being added. Maybe you do it in your budget process, but it does not come out that way in the public process.

Mr. SABO. We show last year's number, and we show this year's number. That is in the budget now, sir.

Mr. CASTLE. I have enjoyed this discussion with the chairman, but the bottom line is, in Washington, DC, we are still presenting the budget where the inflation is automatically built in.

I agree with the gentleman from Texas [Mr. STENHOLM], why should we have an inflation-adjusted budget presented to us as if it is a given right. I think the time has come we start looking at the flat amount that was spent the year before. Should we reduce it or increase it for whatever the reasons may be? Come to those conclusions and budget in that manner. If we do that, I believe that you are going to see budgets in this Congress which are going to more approximate what they should be in terms of the expenditures of the United States of America getting closer to a balanced budget and ultimately dealing with the deficit problems of the United States of America.

I was just handed a document which shows baseline budgeting in the budget document which the chairman just spoke to, so perhaps he does not understand his own document.

Mr. DERRICK. Madam Chairman, I yield 2½ minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Madam Chairman, I believe the baseline proposal of the gentleman from South Carolina [Mr. SPRATT] is clearly the best and fairest alternative before us, and I urge all Members to support it.

The argument here is over baselines, and, specifically, about what baseline gives us the best information for making spending decisions. A baseline is one of those Washington terms, but there is nothing arcane about the concept. A baseline is a method of comparison. Our current baseline tells us how much we will need to spend to purchase the same amount of goods and services as last year. It is a dynamic measure—not a static one, because it increases or decreases with inflation and deflation, with population growth or population loss.

I happen to believe the current baseline is the most useful one, because if the Federal Government is going to provide fewer services to my constituents, I want to know about it. I do not want to tell my constituents not to worry because we are spending the same amount as last year—when because of inflation, we are actually cutting services by 3- or 5-percent.

The authors of the alternative amendment are more interested, I believe, in knowing how much spending increases in nominal dollars. I completely agree that that is a useful thing to know, and if that is what they want to talk to their constituents about, I will not quarrel.

But why not do both? Why not look at spending from both perspectives, as Mr. SPRATT suggests? I do not think that understanding both sides of the equation will lead to more confusion; I believe it will enlighten us as to what is really going on in the budget. And I believe that would be worthwhile.

I urge my colleagues to vote against the Penny/Stenholm proposal, and for the Spratt proposal.

□ 1130

Mr. CLINGER. Madam Chairman, I would like to now yield 3 minutes to a valued member of the Committee on Government Operations, the gentleman from Florida [Mr. MICA].

Mr. MICA. Madam Chairman and my colleagues, as a new Member of this body coming recently from the private business sector, I have become accustomed to viewing the legislative process with a certain amount of healthy cynicism. I expect the Congress to do little yet claim a lot; to achieve modestly and trumpet loudly; to spend extravagantly and to save occasionally. I even expect us to do it with winks and nods and vague debates designed to obscure the reality of our true actions.

Even with this perspective, I am a little surprised by H.R. 4907. This bill, which comes to us as part of the leadership's A-to-Z sellout deal has no other purpose really other than to confuse future budget and spending debates, in my opinion.

While billed as an effort to provide more-informed budget discussions through baseline reform, H.R. 4907 would in fact simply cloud those debates through the introduction of two statutorily equal yet contrary budget baselines. H.R. 4907 would create both a current policy baseline and a current funding baseline, the first, which adjusts for inflation, and the second, which does not.

If passed, H.R. 4907 would encourage spending debates where groups of Members, in discussing the same $300 million program cut, could by using different baselines lines be hailing a major spending reduction on the one hand while decrying a budget-busting on the other.

If confusing to Members, just imagine the reaction of our constituents, the public, to this hocus-pocus and the resulting erosion in public trust.

By way of contrast to H.R. 4907, the Penny-Kasich-Stenholm substitute would create one single budget baseline to show this year's spending level pure and simple, no inflation adjustments, no gadgets, no gimmicks. If spending went up, we would call it an increase; if spending went down, we would know it is a cut. To me that makes sense.

Because the Penny-Kasich-Stenholm substitute provides the House its only real true opportunity to vote for real baseline budgeting reform in this Congress, I support the amendment's adoption and urge defeat of the Spratt alternatives.

Finally, Madam Chairman and my colleagues, you can fool some of the Members some of the time, but we do not need a two-baseline budget approach to fool more of the Members and the public all of the time.

Mr. DERRICK. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. I thank the gentleman for yielding this time to me.

I would suggest to the last gentleman who spoke, he should read an Appropriations Committee report one year. He would find the numbers there.

Last year, the President's request, committee recommendations, minus and plus from last year, from the President's request.

But I rise in support of the Spratt bill. There are three, and probably more, ways to accurately measure what we are doing as we deal with fiscal questions. One is last year's comparison to this year, that is accurate. We should know that.

We also need to know what historically is happening with programs. As it relates to discretionary programs, we need to know its impact, the impact of what we are doing in relationship to inflation. The reality is from 1985 inflation-adjusted dollars, defense has been cut 35 percent rather than simply 10 percent from the actual BA authority of 1985. That accurately reflects history and should be part of our documents.

Another measurement which we often use for larger programs is their relationship to gross domestic product. We show those regularly as a percentage of the gross domestic product. Again an accurate reflection of history.

What Mr. SPRATT's bill does is say that we can use all of those judgments and that they are accurate.

I must say to my friends who are proposing an alternative today, they would in fact skew any look at discretionary programs from the point of view of a program adjusted by inflation versus entitlements where inflation is built into the program, where inflation remains a part of the baseline.

If anything, the proposal skews our discussion more and more away from discretionary and more and more to entitlement programs.

Mr. GOSS. Madam Chairman, at this time I yield 2½ minutes to the distinguished chief budgeteer on our side, the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. I thank the gentleman for yielding this time to me.

Madam Chairman, a picture truly is worth a thousand words. This chart here—and we will bring this back during the debate on the amendment—represents the National Science Foundation's spending. What essentially happened is that we increased the National Science Foundation by $221 million over 5 years. Yet the increase of $221 million over 5 years—you can see how it goes up each year. This is the National Science Foundation over 5 years. You can see clearly it is growing.

Any American family would feel good if their wages were growing like this. But in Washington terms, when you are living in Peoria or Columbus or in Waseca, Minnesota, you do not get told that the National Science Foundation is increasing like this. You read in the newspaper that the National Science Foundation was subject to a $476 million cut.

Now, come on, folks; that is not the way we want to budget in this town.

This increase, under no set of circumstances, under any set of explanations whatsoever, this cannot be called a cut. One place, one place, Disney World would be the only place that this could be labeled a cut or maybe some scam game out in Las Vegas.

This is an increase.

What we are suggesting in the Penny-Kasich-Stenholm amendment is that we call this an increase. Is it true that from one year to the next year that costs go up? Well, of course they do. But some costs go down. And in addition to that, you have to begin to prioritize.

We are not prejudging, we are not prejudging whether spending ought to go up or whether it ought to go down. What we are suggesting is that the American people be told that this is a spending increase. We are suggesting that the American people no longer be told that this is a spending cut.

Now, how can we afford to talk in terms that we can all understand in this country when we are going to have to deal with the immense problem of the budget deficit; not the budget deficit itself but the size and the scope of the Government and implications of the size and the scope of the Government beginning to suck resources out of the private sector, damaging the ability of this country to be prosperous in the outyears.

□ 1140

If I have to talk to anybody in this gallery today, and I have to tell them we need to reduce spending, I certainly want to be talking to them in language they understand. This is an increase in anybody's definition, not a cut.

Mr. DERRICK. Madam Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. OBEY. Madam Chairman, as my colleagues know, I get awfully tired of cynics in this House, and I also get awfully tired of the things people know that ain't so.

I say to my colleagues, What you really have going here is a competition between biases. You got one set of folks who would like to see the budget always biased in favor of additional spending, you got another set of folks who would like to see it biased against spending, and in my view it should not be biased at all. That is the difference between the Stenholm and Spratt amendments. STENHOLM simply says, regardless of what happens in real life, the measure you start from when we take a look at a budget is what last year's dollar numbers were period. SPRATT says, because we might like to know what the impact is on Social Security recipients, because we might like to know what the impact is on our national defense and other key endeavors, he simply says to look at both ways, one from an unadjusted base, another from an adjusted base.

Now in light of the misstatements that have been made on the floor, Madam Chairman, I have here copies of 6 of the 13 Committee on Appropriations reports. We issue a report for every appropriation bill each year. My colleagues will not find in a one of them, not a one of them, numbers that are based on an inflated budget baseline. We start in all instances with the amount appropriated in the previous year. Then we list what is being appropriated in the coming year, and we compare it, either up or down, on the basis of a nonadjusted baseline.

So, do not give me this baloney that we spend more money because we start with the wrong baseline. We do not. We use the unadjusted base line.

All the gentleman from South Carolina [Mr. SPRATT] is suggesting is that, when we are looking at defense, it would be kind of nice to know if whether over 5 years or not the purchasing power of our programs have reduced by 30 percent or not because, if we get in a shooting war, it would be kind of nice if we had a whole submarine rather than two-thirds of a submarine. It would be kind of nice to know that we had the same effective combat power, even after inflation has eaten into it, that we had 10 years ago.

Now that is not used for budgeting purposes. I say, you do not build that money into the budget, but you have it available so people understand what the real-world effect is.

AARP has written us a letter in support of the Spratt amendment and in opposition to the Stenholm-Penny-Kasich amendment because they do not want to see the system biased in a way which will push the pressure to lower Social Security payments, and we should not want to bias it in that way. I say, If you pass the Spratt-Stenholm amendment, you are creating pressure to drive down Social Security payments. I do not think very many people want to do that.

When I bring the foreign aid bill to the floor——

Mr. SPRATT. Madam Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from South Carolina.

Mr. SPRATT. It is the Stenholm-Penny-Kasich amendment which I hope the gentleman is speaking against. He said the Spratt——

Mr. OBEY. Madam Chairman, I apologize. I meant Stenholm-Kasich.

Mr. CLINGER. Madam Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. MCDADE] to engage in a colloquy.

Mr. MCDADE. Madam Chairman, I thank the gentleman from Pennsylvania [Mr. CLINGER].

I would like to, if I may, get the attention of my able friend, the gentleman from Wisconsin [Mr. OBEY], the chairman of the Committee on Appropriations.

I wanted to just try to clarify one thing, because, for Members, it is quite a busy day here, as we all know.

As I understand what he said was that there are many standards by which budgeteering occurs, but fundamentally, when the Committee on Appropriations begins to do a bill and take testimony, the baseline that we use is last year's level of expenditures.

Is that what the gentleman's point was?

Mr. OBEY. Madam Chairman, if the gentleman would yield, that is the baseline which we show in our reports, but we have available to us other devices and, the public should have available those same devices so that they understand what the impact is on program as well as understanding how it relates to specific amount of dollars that we appropriated last year.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. MCDADE] has expired.

Mr. CLINGER. Madam Chairman, I yield 1 additional minute to the gentleman from Pennsylvania [Mr. MCDADE].

Mr. MCDADE. Madam Chairman, I thank the gentleman for having yielded an additional minute to me. I have been privileged to be a member of the Committee on Appropriations for 30 years. Let us focus, for example, on the defense budget. Let us assume that we have last year's level and for the first time in this year's budget we are going to buy an aircraft carrier if the Congress says yes. We fully fund the aircraft carrier in the current fiscal year budget; do we not?

Mr. OBEY. That is my understanding.

Mr. MCDADE. That is my understanding as well, and we do it in relation to last year's level of expenditures, and we fully fund it so everybody in the Congress will know the out-year costs of that system, whether it be an aircraft carrier, or submarine, or whatever, and we have been doing that as a matter of course, as regular practice, in the Committee on Appropriations during my 30 years, but is that his understanding?

Mr. OBEY. That is exactly right.

Mr. MCDADE. I thank the gentleman from Wisconsin.

Mr. OBEY. And we intend to continue to do that, but we want people to have available as an analytical tool both baselines. We do not spend from the inflation-adjusted baseline, but people ought to know what the real-life impact is.

Mr. CLINGER. Madam Chairman, I yield 4 minutes to the gentleman from New Hampshire [Mr. ZELIFF], a member of the Committee on Government Operations.

Mr. KASICH. Madam Chairman, will the gentleman yield?

Mr. ZELIFF. I yield to the gentleman from Ohio.

Mr. KASICH. Madam Chairman, I appreciate the gentleman from New Hampshire [Mr. ZELIFF] yielding.

Let me say that I have in my hand the budget document, and the simple fact of the matter is, if we look at the 5-year spending bill, it actually increases in the budget document, and then the committee changed from the baseline, from the inflated growth level, shows cuts.

This is how we budget.

The simple fact of the matter is we take the baseline increases, exactly what we are trying to prevent in this bill, and we show anything below that level as a cut. So, in this country a cut is an increase. An increase is a cut in these budget documents.

Mr. ZELIFF. OK.

I rise in opposition to H.R. 4907 with all great due respect to my friend, the gentleman from South Carolina [Mr. SPRATT] and in support of the Penny-Kasich-Stenholm substitute, and I associate my remarks with the gentleman from Texas [Mr. STENHOLM]. The two-baseline system in this legislation will give us continued confusion, not reform. We need to have a clear bottom line to tell us whether real spending cuts have been made or whether we have simply slowed the growth in spending. The Penny-Kasich-Stenholm approach gives us this much needed businesslike reform.

The Penny-Kasich-Stenholm amendment provides for a true baseline with real numbers, not Mickey Mouse numbers that are so confusing no one knows what they mean.

As a small businessman by trade, let me illustrate this point. An employee goes to his boss and asks for a $1 per hour raise. The employer in turn offers a rise of 50 cents an hour. Under current budget rules, rules that would continue under this legislation, the baseline budget would show this this raise as a 50 cents an hour cut in spending for accounting purposes. Under the Penny-Kasich-Stenholm amendment, the raise would cost 50 cents an hour additional over the previous year's spending. My friends can be the judge. Which process makes the most sense in terms of fiscal accountability?

I am pleased that we are beginning to at least talk about reforming the flawed budget process, but we should not delude ourselves into thinking that we are doing anything more than tinkering at the margins.

Budget process reform is important, but let us not kid ourselves: we would not be here today if it were not for the leadership's determined effort to derail the A to Z spending cut effort.

And what has the leadership offered us in reform? Fundamental reform and real cuts in spending, or more tinkering at the margins?

A bipartisan group of 230 Members who cosponsored our bill and 204 Members who signed the discharge petition are supporting the A to Z plan to bring about real cuts in Federal spending and the elimination of wasteful Government programs.

□ 1150

This effort is desperately needed. We are in debt to the tune of $4.7 trillion, a level that is expected to rise to $6 trillion in the next 5 years. We are paying out $212 billion this year on the interest on the debt. By the year 2002 the interest on the debt will be $272 billion. A recent report by the bipartisan entitlement report commission indicates that by the year 2002 spending for entitlements and interest on the debt will consume all expected Federal revenue, leaving nothing for other programs.

So what has the leadership offered us to deal with the situation? Expedited rescissions authority that does very little, a budget-control bill that does nothing to control entitlement growth, and budget-disclosure legislation that establishes a confusing process of two separate budget guidelines.

Has the leadership followed through on a commitment to give us one day to consider entitlement cuts? No. Is there any serious effort at spending cuts so far? No; we are simply tinkering around the margins.

Madam Chairman, some of the process reforms sound real good, but A to Z remains the best way to curb runaway wasteful spending. If we want real reform, if we want to make a real difference, and if we want to cut wasteful Federal spending and protect future generations from being saddled with our huge debt, then I encourage all the Members to join 204 of our colleagues and sign the A to Z discharge petition No. 16 today. Let us stop playing games. Let us give the American people real reform. It is time for all of us to stop talking the talk and start walking the walk.

The CHAIRMAN. The Chair would like to announce that the gentleman from South Carolina [Mr. DERRICK] has 1 minute remaining, the gentleman from South Carolina [Mr. SPRATT] has 2 minutes remaining, the gentleman from Florida [Mr. GOSS] has 3 minutes remaining, and the gentleman from Pennsylvania [Mr. CLINGER] has 2½ minutes remaining.

Mr. DERRICK. Madam Chairman, I reserve the right to close.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Madam Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Madam Chairman, anyone concerned about responsible budgeting, deficit reduction, and intelligent budget process improvements can confidently support the Spratt baseline budget proposal, and they ought to oppose the Penny-Kasich-Stenholm substitute. That is because the Spratt measure is a balanced measure that would provide more information rather than less and would present that information in an easily understandable form.

We would be able to look at budget proposals both from the standpoint of current funding and from the standpoint of what it would take to maintain current policy. Both of these kinds of information are essential to responsible budgeting. By contrast, the Stenholm-Penny-Kasich proposal would narrow the amount of information used in drafting the budget because it would require Congress only to consider the previous year's nominal spending level. As the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Pennsylvania [Mr. MCDADE] have already made clear, we already use that point of comparison in presenting all of our appropriation bills. But in evaluating spending levels we do need information about what it would take to maintain current levels of coverage of benefits or program activity.

It is silly not to consider inflation or caseload increases. Everyone knows that the value of a dollar changes year to year.

We have heard a lot of analogies drawn in this debate to family budgeting. If you are drawing up your family budget and you are deciding what you need for food, you are going to want to know not just what you spent last year for food but you are also going to want to know what the inflation rate has been and how much it is going to take to feed your family at this year's prices. That is the way a family budget works, and that is the kind of information we need for the Federal budget as well.

There has been a lot of talk about budget numbers being confusing. That is actually rather patronizing, as though we were not able to understand this information or the American people could not handle it.

Talk about confusion: what we have in the Penny proposal is an artificial separation between entitlements and discretionary spending. The gentleman from Texas [Mr. STENHOLM] is properly concerned about the entitlement mentality in this country, but then why on earth would he leave entitlements out of this proposal? That invites far more confusion than does our present process.

Madam Chairman, the Spratt proposal would improve and expand the information available to us as we draw up the budget. The Penny-Kasich-Stenholm proposal would limit information and could distort the budget process. Support objective, informed budgeting. Support the Spratt substitute.

Mr. CLINGER. Madam Chairman, I reserve the balance of my time.

Mr. GOSS. Madam Chairman, I understand that I have 3 minutes remaining, and I yield all that time to the distinguished gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Madam Chairman, I thank the gentleman for yielding this time to me.

Madam Chairman, an earlier speaker remarked that what we are really debating here is a question of spending bias, the bias in the debate. Some want to bias the debate in favor of spending, some want to bias the debate against additional spending. That does get to the heart of the issue.

The reason there is such resistance, unfortunately most of it on my side of the aisle, to the proposition that we ought to have a hard freeze as a baseline is because many Members of Congress prefer to have a spending bias in the way we develop our budgets.

The previous speaker just remarked that a family facing higher food costs has to anticipate those higher food costs and Congress ought to anticipate the higher costs that are attributable to all the programs we run as well. The difference is that if a family faces the same paycheck, they have to eat those higher food costs within the existing budget. Congress does not have to do that. We do not even admit that we have increased the budget unless the increase goes beyond the rate of inflation. Families do not have that luxury.

Our budget process does not make sense to most families in America because it is a nonsensical budget process. We start out with inflated baselines, and anything less than that is a cut, and that is absolute nonsense.

Several speakers have suggested that somehow this is going to put tremendous pressure on popular programs, and that the AARP opposes the Penny-Stenholm-Kasich substitute. The fact is that we treat entitlements in exactly the same manner that the Spratt

VOL 140 PT 16 AG 12 — 18 1994 UMI

proposal treats entitlements. There is no difference between the two. That is a real herring.

Some would say that a process change is not going to cure our spending problem here on Capitol Hill, but if process did not matter, then why are people who are happy with the status quo so resistant to this change in our budget process? We need to change the terms of debate in Washington, DC. We still face deficits as far as the eye can see in the $200 billion range per year. We need to change the spending bias.

The Penny-Stenholm-Kasich substitute establishes a hard-freeze baseline that will take away the spending bias. It will not deny the Budget Committee or the appropriators or others from using other comparisons in an inflation-adjusted budget, last year's budget, whatever, they want, but the official baseline against which all measures will be scored in the future would be a hard freeze. It will make our budget decisions more honest.

This debate does come down to that simple question of a bias. Do we want to continue a bias in favor of spending, or do we want to once and for all eliminate that bias? To vote for the Penny-Kasich-Stenholm substitute is to vote for honesty in budgeting.

Mr. CLINGER. Madam Chairman, may I inquire as to how much time remains?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 2½ minutes remaining, and the gentleman from South Carolina [Mr. DERRICK] has 1 minute remaining.

Mr. CLINGER. Madam Chairman, I yield 1 minute to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Madam Chairman, I thank the distinguished gentleman from Pennsylvania for yielding this 1 minute to me.

I simply wanted to make a closing remark from our point of view. We have heard from the appropriators and we have heard various views from both sides of the aisle on the budget process. I do not think anybody is trying to suggest that the appropriators are trying to deceive the Members of Congress in the process we go through in the appropriation of discretionary funding.

We do get lots of comparisons. There is no question about that. As Members of Congress, we need to get those, and we need to know what we are talking about. There is no beef on that at all, as far as I can see. The problem here is what the public wants to know and what claims are made. We are simply trying to suggest that there ought to be one clear, simple, understandable way of presenting it, that this is what we spent last year and this is what we are going to spend this year.

□ 1200

Nobody is saying that we should ignore inflation or all of the other factors, the cost of doing business. Nobody is suggesting we should do that. What we are really saying is when we make claims, that they should be accurate and based on the fact that we spent this last year, we are going to spend this this year, and this is why. I do urge support of the Penny-Kasich-Stenholm amendment.

Mr. CLINGER. Madam Chairman, I yield 1½ minutes to the gentleman from California [Mr. COX], a member of the committee.

Mr. COX. Let me give just three examples of how baseline budgeting misleads everyone here in Congress and the American people. Republicans and Democrats this year offered amendments to reform the U.S. Marshal's Service. The amendments increased spending on the program by $9 million. You and I would call this a spending increase, but opponents of this commonsense effort at reform called it a $5 million spending cut. This is inside-the-beltway nonsense.

A second proposal would have allowed funding for the Bureau of Alcohol, Tobacco, and Firearms to grow by $15 million. The congressional budget process could not resist calling this a $2 million cut. More nonsense.

The State Department is a frequent target for reform. Republicans this year proposed restructuring the Department, but allowing its budget to increase by $25 million. Stop, said the big spenders. You are slashing the Department's spending by $77 million. Once again, this is the budget-baseline-beltway-nonsense factor at work.

We are on the right track here. We are on the way to commonsense reform, and I support the Stenholm-Penny-Kasich substitute.

Madam Chairman, Thomas Jefferson once noted, he who permits himself to tell a lie once, finds it much easier to do it a second and third time, until at length it becomes habitual. He tells lies without attending to it and the truth without the world believing him.

Jefferson was right. Baseline budgeting is a lie, one that eats away at our credibility. We should abandon this process forthwith.

Mr. DERRICK. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, it is clear people out in the countryside don't understand and appreciate the current policy baseline that we use in the Federal budget. What they understand is comparing proposed changes in funding for Federal programs to last year's level.

The Spratt bill will require budgets to include another baseline comparing spending not only to the current policy baseline, but also to the previous year's level. Both comparisons are relevant and instructive, and in fact necessary to a complete understanding of the budget. I believe the bill will improve the process both for policymakers and the American people.

Doing away with the current policy baseline and substituting the current funding baseline, as the Stenholm-Penny-Kasich amendment would do, will not result in full budget disclosure. It will merely substitute different information for what we use now. All the information is necessary to have full budget disclosure, and I commend the gentleman from South Carolina [Mr. SPRATT] for his hard work on this legislation.

I urge all Members to support the Spratt bill and reject the Penny-Kasich-Stenholm substitute.

Mr. FRANKS of Connecticut. Madam Chairman, I would have to say that very few of my constituents know that there are automatic spending increases every year in budget bills. They do not realize that a program spending cut passed by Congress—rare though this is—may not necessarily mean that less money will be spent on this program than the previous year. Yes, there are two definitions of a spending cut in Washington. I define a spending cut as actually reducing spending from the previous year. The majority party in Congress defines it as a legislative reduction from an automatic increase determined by the Congressional Budget Office and the Office of Management and Budget using assumptions of current law, inflation, and economic, and demographic changes.

Supposedly, the Budget Control Act will eliminate this deception. But while this bill has a powerful-sounding name, it does not really do anything to reform the budget process. The Budget Control Act will allow both definitions—my definition and the majority definition—to be used in budgeting. While this is an improvement over the current way spending cuts are portrayed, Congress can do better. I will vote for the Stenholm-Penny-Kasich substitute, which requires that all spending proposals be compared to the prior year's actual enacted levels. Under this substitute, the deceptive way spending cuts are portrayed would be completely eliminated. This can only benefit voters when they evaluate their representative's positions on cutting spending.

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Full Budget Disclosure Act of 1994".

SEC. 2. PURPOSE.

The purpose of this Act is to require that budget documents provide the Congress with comprehensive data on budget trends.

SEC. 3. THE BASELINE.

(a) DEFINITION.—Section 250(c)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(5)(A) The term 'current policy baseline' means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

"(B) The term 'current funding baseline' refers to the baseline as set forth in section 257 without any adjustment described in section 257(c)(1) for inflation other than the adjustment set forth in section 257(c)(2) for expiring housing contracts.".

(b) CONFORMING AMENDMENTS.—Sections 251, 252, 253, and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended by inserting "current policy" before "baseline" each place it appears.

SEC. 4. THE PRESIDENT'S BUDGET.

(a) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section, estimated expenditures and appropriations for the current fiscal year and estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years following that year;".

(b) Section 1105(a)(6) of title 31, United States Code, is amended by inserting "current fiscal year and the" before "fiscal year".

(c) Section 1105(a)(12) of title 31, United States Code, is amended by striking "and" at the end of subparagraph (A), by striking the period and inserting "; and" at the end of subparagraph (B), and by adding at the end the following new subparagraph:

"(C) the estimated amount of expenditure and appropriation for the same activity, if any, in the current fiscal year.".

(d) Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraphs:

"(30) a comparison of estimated new budget authority and outlays for each function and subfunction for the current fiscal year with proposed new budget authority and outlays for the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction.

"(31) a comparison for each function and subfunction of the current policy baseline level of new budget authority and outlays for the year for which the budget is submitted with the proposed new budget authority and outlays for the year for which the budget is submitted, including changes in percentage terms for each function and subfunction.".

SEC. 5. CONGRESSIONAL BUDGET.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: "As soon as practicable after the President's budget submission under section 1105(a) of title 31, United States Code, the Committee on the Budget of each House shall provide to its members the estimated level of outlays for the current year in each function and subfunction."; and

(2) striking "and" at the end of paragraph (9), by striking the period and inserting a semicolon at the end of paragraph (10), and by adding at the end the following new paragraphs:

"(11) a comparison (for each function) of estimated outlays and revenues for the current fiscal year with proposed spending and revenue levels for the budget year and each outyear, including the increase or decrease (in percentage terms) of spending; and

"(12) a comparison (for each function) of proposed outlays and revenues for the budget year with the current policy baseline projection for that year, including changes (in percentage terms).".

SEC. 6. CONGRESSIONAL BUDGET OFFICE REPORT TO COMMITTEES.

(a) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report for the fiscal year commencing on October 1 of that year with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits) compared to comparable levels for the current year and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.".

(b) Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting after the first sentence the following new sentence: "That report shall also include a table on sources of growth in the estimated total current policy baseline spending for mandatory programs for the budget year and the ensuing 4 fiscal years, which shall include changes in outlays attributable to the following: cost-of-living adjustments; changes in the number of program recipients; increases in medical care prices, utilization and intensity of medical care; and residual factors.".

(c) Section 202(f)(3) of the Congressional Budget Act of 1974 is amended by striking "and" before "(B)", and by inserting before the period at the end the following: ", and (C) all direct spending programs".

(d) Section 308(a)(1)(C) of the Congressional Budget Act of 1974 is amended by inserting "and shall include a comparison of those levels to comparable levels for the current fiscal year" before "if timely submitted".

The CHAIRMAN. No other amendment shall be in order, except the amendments printed in House Report 103–689. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to amendment.

Debate time on each amendment will be equally divided and controlled by the proponent and an opponent of the amendment.

If more than one of the amendments printed in the report is adopted, only the last one to be adopted shall be considered as finally adopted and reported to the House.

It is now in order to consider amendment No. 1 printed in House Report 103–689.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PENNY

Mr. PENNY. Madam Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. PENNY:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baseline Reform Act of 1994".

SEC. 2. THE BASELINE.

(a) The second sentence of section 257(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by inserting "but only for the purpose of adjusting the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974" after "for inflation as specified in paragraph (5); and

(2) by inserting "but only for the purpose of adjusting the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974" after "to offset pay absorption and for pay annualization as specified in paragraph (4)".

(b) Section 1109(a) of title 31, United States Code, is amended by adding after the first sentence the following new sentence: "These estimates shall not include an adjustment for inflation for programs and activities subject to discretionary appropriations.".

SEC. 3. THE PRESIDENT'S BUDGET.

(a) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section, estimated expenditures and appropriations for the current year and estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years following that year;".

(b) Section 1105(a)(6) of title 31, United States Code, is amended by inserting "current fiscal year and the" before "fiscal year".

(c) Section 1105(a)(12) of title 31, United States Code, is amended by striking "and" at the end of subparagraph (A), by striking the period and inserting "; and" at the end of subparagraph (B), and by adding at the end the following new subparagraph:

"(C) the estimated amount for the same activity (if any) in the current fiscal year.".

(d) Section 1105(a)(18) of title 31, United States Code, is amended by inserting "new budget authority and" before "budget outlays".

(e) Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(30) a comparison of levels of estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year and the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction.".

SEC. 4. THE CONGRESSIONAL BUDGET.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: "The starting point for any deliberations in the Committee on the Budget of each House on the concurrent resolution on the budget for the next fiscal year shall be the estimated level of outlays for the current year in each function and subfunction. Any increases or decreases in the Congressional budget for the next fiscal year shall be from such estimated levels."; and

(2) striking paragraph (8) and redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively, and by inserting after paragraph (7) the following new paragraphs:

"(8) a comparison of levels for the current fiscal year with proposed spending and revenue levels for the subsequent fiscal years along with the proposed increase or decrease of spending in percentage terms for each function and subfunction; and

"(9) information, data, and comparisons indicating the manner in which and the basis

VOL 140 PT 16 AG 12 — 18 1994 UMI

on which, the committee determined each of the matters set forth in the concurrent resolution:"

SEC. 5. CONGRESSIONAL BUDGET OFFICE REPORTS TO COMMITTEES.

(a) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report for the fiscal year commencing on October 1 of that year with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits) compared to comparable levels for the current year and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.".

(b) Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting after the first sentence the following new sentence: "That report shall also include a table on sources of spending growth in total mandatory spending for the budget year and the ensuing 4 fiscal years, which shall include changes in outlays attributable to the following: cost-of-living adjustments; changes in the number of program recipients; increases in medical care prices, utilization and intensity of medical care; and residual factors.".

(c) Section 308(a)(1) of the Congressional Budget Act of 1974 is amended—

(1) in subparagraph (C), by inserting ", and shall include a comparison of those levels to comparable levels for the current fiscal year" before "if timely submitted"; and

(2) by striking "and" at the end of subparagraph (C), by striking the period and inserting "; and" at the end of subparagraph (D), and by adding at the end the following new subparagraph:

"(E) comparing the levels in existing programs in such measure to the estimated levels for the current fiscal year."

(d) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"GAO REPORTS TO BUDGET COMMITTEES

(a) "SEC. 408. On or before January 15 of each year, the Comptroller General, after consultation with appropriate committees of the House of Representatives and Senate, shall submit to the Congress a report listing all programs, projects, and activities that fall within the definition of direct spending under section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. GAO reports to budget committees.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Minnesota [Mr. PENNY] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes. Is the gentleman from South Carolina [Mr. SPRATT] opposed?

Mr. SPRATT. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from South Carolina [Mr. SPRATT] will control the 15 minutes in opposition.

The Chair recognizes the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, with our colleagues, CHARLIE STENHOLM and JOHN KASICH, I am today offering an amendment to H.R. 4907, the Full Budget Disclosure Act of 1994, that will provide a very simple, but powerful and fundamental change in the budget process.

Here's the problem we face: even though President Clinton's budget cut spending by approximately $250 billion over 5 years, Federal spending is slated to increase over that same time frame from $1.4 to $1.9 billion in 1999.

How can this be, since spending is being cut? The answer is the dirty-little secret of Federal budgeting: the budget is rigged to favor higher spending. Spending increases are built into the budget even before Congress considers spending cuts. As a result, the best Congress can ever do is reduce the growth of spending. Real spending cuts—where spending is reduced below actual spending levels is virtually unheard of and almost never done in Washington.

Current law requires budget proposals to be measured against a baseline which includes an automatic adjustment for inflation-plus all legislated changes scheduled to take effect rather than against actual spending levels. Against this baseline, any effort to simply slow down spending growth is shown as a cut, even if spending for the program would actually be higher than in the previous year.

The budget baseline's bias toward higher spending is very real. As Professor Allen Schick, one of the Nation's foremost experts on the budget process, wrote in his book "The Capacity To Budget,"

The current services budget. . .complicates doing that which is difficult to do even under the most favorable circumstances—cutting into the base. This is a significant bias because the difference between "current expenditures" and "current services" often is the most effective margin of choice for congressional decisionmakers. That is, when they cut programs, they frequently do so by holding the dollars increase below the rate of inflation.

To change this bias toward increased spending, our amendment requires that proposed spending for discretionary programs be compared to actual current-year spending levels, rather than solely to inflated projections of those levels for the forthcoming fiscal years.

Our amendment accomplishes this through four specific provisions:

First, it amends the legal definition of the baseline so that it no longer assumes automatic growth in discretionary spending due to inflation.

Second, it requires both the President and Congress to compare their budgets to the amount actually spent the prior year, rather than solely against the inflated baseline.

Third, it stipulates that Congressional Budget Office [CBO] cost estimates of pending legislation must include a comparison to the change in spending from the prior year's level.

Finally, our amendment instructs CBO to enumerate all the programs funded on an automatic, open-ended basis rather than subject to annual congressional review (entitlement programs) and identify the reasons behind their projected growth.

The Spratt bill, H.R. 4907, simply adds a second official baseline that is called current funding while leaving the current-law baseline requiring inflated spending in place. This approach simply does nothing to control spending or give a more accurate picture of actual spending.

Earlier this year, CHARLIE STENHOLM and JOHN KASICH and myself introduced the Common Sense Budget Reform Act, H.R. 4434. The House has debated and passed one of the four reforms proposed by H.R. 4434, expedited and enhanced rescission authority. Two of the remaining three proposals contained in H.R. 4434 are before the House today: the measure we are currently debating and another on emergency appropriations requests. In passing the Penny-Kasich-Stenholm baseline reform amendment and defeating the Spratt amendment, we will continue on the road of real budget process reform. I urge your support for real baseline reform. I urge your vote for the Penny-Kasich-Stenholm amendment.

Mr. SABO. Madam Chairman, will the gentleman yield?

Mr. PENNY. I yield briefly to the gentleman from Minnesota.

Mr. SABO. Madam Chairman, would the gentleman tell me how his bill changes the baseline for entitlements, where all the growth fundamentally is?

Mr. PENNY. Madam Chairman, reclaiming my time, we change the measurement of the spending for the entitlement programs in the same manner as the Spratt substitute, which is to say the baseline, if it is spelled out in law, would be a higher spending level.

Mr. SABO. In fact it does not change the baseline for entitlements. In fact, the gentleman's problem is not with the budget; it is with existing law.

Mr. PENNY. I would simply respond to my good friend and colleague from Minnesota, if I were here trying to change the baseline on entitlement programs to make it a hard freeze, he would be opposing that proposition as well. So I think it is a disingenuous question.

Madam Chairman, I reserve the balance of my time.

□ 1210

Mr. SPRATT. Madam Chairman, I yield 3 minutes to the distinguished chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Madam Chairman, I would like to point out that the amendment now offered denies the Congress the benefit of valuable and useful budget information. From my point of view, this would prohibit an inflation adjustment from the spending baseline.

While motivated by a desire to deny opportunities for increasing spending, the proposal would probably prohibit useful budget information, namely, the cost of last year's program if continued today, from being considered by the Congress.

Also there is a reality factor here. The concern about a built-in, automatic spending increase ignores the fact that tight discretionary caps, not the way budget data is presented, sets levels of spending.

Third, I would point out that the baseline preserves the role of Congress in setting spending priorities. The reason the budget incorporates baseline adjustments for inflation and other changes in the program is because the budget has to compare funding for different programs in different years. If Congress just passes last year's funding level and the programs actually cost more this year, then the cuts which the agency has to swallow are set by bureaucrats, not by those elected by the voters to represent them.

Finally, I support the bill offered by my distinguished colleague and subcommittee chairman in the Committee on Government Operations, who has put more information before the Congress. In creating two baselines, we will not cause anymore confusion. We will have better than this alternative because it recognizes that the current baseline presents useful information to Congress.

By requiring all information to be available, H.R. 4907 is not harmful to the budget and appropriations process.

I urge that the Stenholm-Penny-Kasich amendment be rejected.

Mr. PENNY. Madam Chairman, I yield 3 minutes and 30 seconds to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Madam Chairman, let me try to put this in even more ways than we already have. We wonder why the American people are for term limits and think this place is so screwed up.

We sit in the Committee on the Budget and we try to figure out what our spending levels are. I want to tell my colleagues, I try to say, how much did we spend last year or is this an increase, is this a cut, what is this? You have to do it from all these baselines.

In last year's budget debate, we actually tried to compare spending using, I am not kidding, folks, the capped baseline, the uncapped baseline, the capped baseline with health care reform, the budget baseline, the revised Bush baseline, the capped baseline with the Bush defense, the House Budget Committee baseline, and the current services baseline.

Any time I tried to ask somebody, what were we doing last year, or is this an increase or a decrease, they would say, which baseline do you want us to use? I am saying ow we ought to forget about the Bush baseline, because we are like 2 years away from when he was President, but we will be using the Bush baseline next year under the current situation.

Now, when we have all these different baselines that we are trying to figure out what our spending level is from, can Members imagine a family in America trying to figure out how much they are going to spend last year based on 10 different ways of comparing it?

As a result of doing that, of course, we get to the picture that has 1,000 words. Only using those baselines, is it possible for the National Science Foundation to get a $221 million increase. The National Science Foundation got a $221 million increase, but in Washington, DC, and all across America, spread across the pages of our newspapers, it was called a $476 million cut. This level of increase, an increase like this that any family would be happy to have in their daily income, this increase, my colleagues, under the current situation is called a cut.

I would like to enter into the record the functions from general government for the concurrent budget resolution that flat out says that we will increase spending from the year before and if we do not increase spending from the year before, it is called a cut. So that everyone across this country, when they are sitting there watching and hearing this debate and they do not know who is right and who is wrong, it will be in the record. Call my office and ask for the record and see the misuses that indicate cuts when in essence, you will see in here, it really is an increase.

And back to this National Science Foundation, this is the Mona Lisa of the debate.

We are going to win this fight with the Penny-Kasich-Stenholm amendment. What is going to happen is there is going to be a procedural effort to say that if we pass current law, we will be okay. After we pass the Penny-Kasich-Stenholm amendment, there will be an amendment that if it gets 218 votes, it will become law. In this situation, we could actually get the whole House to vote for our proposal to bring sanity to the budget process, yet still lose because Members come and vote to retain the status quo.

Members should vote no on the Spratt amendment. We will be back to talk about that later. But Members clearly must come to the floor and put their voting card in the machine, because the American people want honesty in budgeting. They want us here to do what they do at home. Pass Penny-Kasich-Stenholm. Bring sanity to the budget process.

Mr. SPRATT. Madam Chairman, I yield 3 minutes to the chairman of the Committee on Appropriations, the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Madam Chairman, I regret to say that the sponsors of the amendment do not understand their own amendment.

They claim that they are making no change in mandatory baselines. That is true if we read section 2 of their proposal. But if Members then read sections 3 and section 4, they will see that they require the very changes in entitlement measurings that they deny that they require. That is why the AARP opposes their amendment. Because while they deny that they have an effect on entitlements, they in fact do require that we compare for Social Security, for instance, that we require spending levels this year with last year without regard to growth in population, without regard to inflation.

If their claim is correct, then the only effect of the proposal would be on the Committee on Appropriations. The only problem is, the Committee on Appropriations already does what they ask. These are the 13 reports which describe the spending baselines for last year versus this year in the 13 bills we report to the House each year.

I invite any Member to come up here right now and show me where we use an inflation-adjusted baseline.

The gentleman from Ohio [Mr. KASICH], I invite him to do that now. Show me where the Committee on Appropriations uses an adjusted inflation baseline. He cannot do it because we do not do it.

Mr. KASICH. Madam Chairman, will the gentleman yield?

Mr. OBEY. The gentleman can use his own time.

I do not care what he does on the budget resolution. Show me on your time.

Mr. KASICH. Madam Chairman, I already did.

□ 1220

I will buy you the biggest martini in town if you can show me where the Committee on Appropriations provides for an adjusted appropriation baseline. We do not do it.

So what it means, very simply, is this. If their bill does what they say it does, then it only has an effect on the Committee on Appropriations, and we already do what they say we ought to do. That means this bill is a nothing.

If their claim is incorrect, and they do in fact do what section 3 and 4 says, which is to require the kind of comparison that we put a squeeze on Social Security recipients' real income, then they do something very pernicious, and this amendment ought to be defeated.

However you interpret that depends on how you read this language, but the fact is that this language does not do what its sponsors say it does.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. SPRATT. Madam Chairman, I yield 1 minute to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Madam Chairman, I rise in strong opposition to the Stenholm substitute.

What Mr. STENHOLM is asking us to do is to change how we talk about the Federal budget in a way that makes no sense—even inside the beltway.

I want to make sure that we are all clear about the differences between the Stenholm substitute and the underlying bill. Mr. SPRATT's bill is a fair and balanced measure that provides for full range of information about changes in the budget from year to year—including information about the effect of inflation and changing economic conditions on programs.

In contrast, the Stenholm substitute would not give a fair and balanced picture of the Federal budget. Instead, it is designed to advance a political, agenda to confuse the American public about the Federal budget. Under the Stenholm substitute any increase in spending from the previous year would be made to appear as if the President or Congress had increased spending even when the increase was only the result of inflation or growth in the population.

For those who might question whether there is a political agenda here, I would only point out that the Stenholm substitute would apply different rules to subsidies provided through the tax code. For tax expenditures, Mr. STENHOLM would require that "projected economic factors" be taken into account. For social programs like Medicare, these factors would not be considered.

Why is this? Why is Medicare not affected by economic factors, but intangible drilling, exploration and development costs for oil and gas producers are? The question answers itself.

Mr. STENHOLM wants us to tell the American people that if spending on Federal programs increases just to take account of inflation or increases in the number of beneficiaries, the increase is, in effect, an expansion of the program—even through nothing has changed.

Let's take a simple example. Let's look at what this will mean for a Medicare beneficiary—let's call her Mrs. Smith—and her doctor in a small rural community.

Under current law, Medicare pays physicians on the basis of a fee schedule. It increases the fee schedules each year to reflect the increased overhead that physicians face due to higher labor costs, office rent, supplies, and malpractice premiums.

Right now, Medicare will pay 80 percent of the fee schedule amount for an office visit. Let us say in Mrs. Smith's area, the Medicare fee schedule is $50. So Medicare pays $40, and she pays $10.

Next year, Medicare increases its fee schedule in the area to, say, $55. Medicare still covers 80 percent, so it will pay $44, and she will pay $11.

Now, under Mr. STEMHOLM's amendment, the budget would only show that Medicare spending had increased by $4. It wouldn't show that Medicare spending had to increase by $4 just to keep Mrs. Smith even.

We didn't entitle Mrs. Smith to any new services. We didn't make more people eligible for the program. And we keep the limits on physician spending—limits which are enforced through updates to the fee schedule—in place.

In fact, all we did was to keep or promise to Mrs. Smith to pay 80 percent of her doctor bills. Yet under Mr. Stenholm's approach, keeping our promise is displayed as a program expansion.

Now if we asked Mrs. Smith whether we had expanded Medicare, she would look at us as if we had lost our minds. Her out-of-pocket costs have gone up $1—and would have gone up $5 if Medicare had not paid its share.

Under the Stenholm substitute, the only way we could say that the Medicare program did to expand would be no freeze the fee schedule at $50. Meanwhile, back in the real world, Mrs. Smith's doctor has this problem. His labor costs, office rent, and supplies are still going up, so he'll have to raise his fees if he wants to keep his practice going.

Let's say he raises his fee to $55. Mrs. Smith will have to pay the full $5 increase, as well as the $10 coinsurance.

What do you think Mrs. Smith would say if we were to ask her whether Medicare had just been cut? She'd look at us as if we had lost our minds. Of course it has been cut, she would say: it is only common sense.

I think most Americans know a program cut when they see one. That's what the Stenholm substitute is. and no amount of semantic juggling can disguise it.

I urge a vote for common sense and against the substitute.

Madam Chairman, I have a letter here from the American Association of Retired Persons, and they are against the Stenholm-Penny amendment. They say it would create a budget make-believe scenario in which people did not age. I also have a letter from the White House in opposition.

Madam Chairman, I include these letters for the RECORD:

THE WHITE HOUSE,
Washington, DC, August 12, 1994.

Hon. THOMAS S. FOLEY,
House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On behalf of the President and his economic team, we are writing again to urge members of the House of Representatives to oppose the Stenholm-Penny-Kasich substitute and to express our preference for the Spratt Full Budget Disclosure proposal. We want to clarify that this substitute would prohibit the use of economically-important information such as inflation in determining baselines for the discretionary budget. This would be a set-back for rational and reasonable budget-policy making.

A far more balanced and fair approach is the one included in the Spratt Baseline Budget proposal, which would allow for comparisons to both current funding levels and what it would take to maintain current policy.

The Stenholm-Penny-Kasich alternative would eliminate real comparisons of how year-to-year spending would actually impact on the services provided to real people's lives. No credible form of budgeting in today's economy completely disallows taking into account changes in inflation. Consider a five-year period during which inflation or the cost of living increases by 3% each year. The compounded total inflation is 16%. If a program, like Head Start, WIC or veterans' hospitals were to be cut 10% in real terms, the Stenholm-Penny-Kasich substitute would require that this cut to millions of Americans be presented only as a spending increase. Such a budget requirement would make the budget process less forthright and less informative as to how year-to-year changes were affecting real people's lives.

The Spratt proposal, on the other hand, would provide a fair, balanced and full-information alternative. It would allow two methods of budget reporting—both the present system of comparing budget proposals to the "current services baseline" and comparisons of changes in actual dollar amounts from year to year.

We urge you to oppose the Stenholm-Penny-Kasich substitute and to support the Spratt Baseline Budget proposal.

Sincerely,

ALICE M. RIVLIN,
Acting Director, Office of Management and Budget.

ROBERT E. RUBIN,
Assistant to the President for Economic Policy.

VOTE FOR H.R. 4907

VOTE AGAINST STENHOLM/PENNY/KASICH SUBSTITUTE

H.R. 4907 requires two baselines in the budget format:

(1) A "current funding baseline," representing actual funding for a function or program in the current year—what CBO calls a "freeze."

(2) A "current policy baseline," representing what is commonly called the "current services" level of funding.

The "current funding baseline" shows how much spending will increase or decrease.

The "current policy baseline" shows next year's cost of keeping a program running at the same level as this year without any change in policy.

Both baselines are useful, and H.R. 4907 provides for both.

Stenholm/Penny/Kasich provides for only one baseline and bans use of the "current policy" or "current services baseline."

AARP supports Spratt (H.R. 4907) and says the substitute will "lead to enormous pressure to cut programs such as Social Security and Medicare."

OMB supports Spratt (H.R. 4907) and calls Stenholm/Penny/Kasich "a set-back for rational budget policy-making."

AARP,
August 12, 1994.

Hon. JOHN M. SPRATT, Jr.,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE SPRATT: The American Association of Retired Persons (AARP) supports your legislation H.R. 4907, the Full Budget Disclosure Act. The legislation would allow year to year changes in the budget baseline for discretionary and mandatory spending levels to be described in two ways: a current funding baseline and a current policy baseline. This dual track approach allows for a reasonable and informative presentation of budget data that can promote meaningful debate about how to allocate budget resources.

The Association opposes a substitute that will be offered by Representatives Penny, Kasich and Stenholm. Current budgeting procedure for entitlements recognizes that spending levels need to be adjusted for increases in the beneficiary population and changes in inflation and in the economy. The substitute would require budgets to be presented without these adjustments. This is patently unreasonable. In effect, it would create a budget make believe scenario in which people don't age.

Portraying year to year changes in Social Security and Medicare without adjustments for such basic factors is misleading and is certain to intensify efforts to cut benefits for reasons that are unrelated to the needs of these programs. For example, under the substitute, cost of living adjustments (COLAs) would be viewed as a spending increase despite the fact they are the only means to help beneficiaries keep up with rising costs for goods an services. This flies in the face of Congress' original intent providing for annual COLAs.

AARP believes that Congressional debate about the budget must be based on an accurate portrayal of our spending needs and commitments. Your legislation helps achieve this goal.

Sincerely,

JOHN ROTHER,
Director, Legislation and Public Policy.

Mr. PENNY. Madam Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, this is an important debate, and I am glad we are having it on the floor. I rise in support of the Penny-Kasich-Stenholm amendment and in opposition to the amendment offered by the gentleman from South Carolina [Mr. SPRATT].

The argument here seems to be that good government, consistent government, requires reporting these different kinds of baselines. I served in the Ohio State Senate, as did the gentleman from Ohio [Mr. KASICH], and I served on the Finance Committee. We had a large budget, nowhere near what the budget of the Federal Government is, but we had a large budget.

Every year we sat down with how much we spent last year and what the recommendations of the Governor were for spending for the next year, and we debated the alternatives offered by the majority and the minority party about how much programs needed to be increased or what other programs could survive at the current levels, or even could take cuts. It did not seem to us that we misunderstood the concept that some programs' expenses grew and other programs' expenses did not grow. We understood it, we debated it, we explained it, and we made decisions.

The second serious argument that is made on the floor here today is with regard to entitlements. Entitlement programs, particularly those that impact senior citizens, do expand in cost every year. They expand in cost for two reasons. One is that the number of seniors who are eligible for those programs, particularly Social Security and Medicare, grow; and the second is that we have adopted some laws, this body has adopted laws, which increase payments automatically. They are commonly called COLA's.

It seems to me again, Madam Chairman, that these are not concepts that we cannot explain to the public. Indeed, we would do much better if we did explain to them that the reason why we are spending more money on Medicare next year, and we are spending more money next year on Medicare, and we will the year after that, and we will the year after that, is because there are more seniors, and because their costs have gone up. It is an honest way of explaining it. They might just support the increase.

Mr. SPRATT. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. SABO], the distinguished chairman of the Committee on the Budget.

Mr. SABO. Madam Chairman, I rise in opposition to the amendment. There is lots of rhetoric today, and a lot of it I think goes by what actually happens.

The reality is, we need different measurements as we look at this year's budget, as we look at budgets over a period of time. The Spratt bill, his substitute basically says we look at a variety of ways of measuring the budget. That is what we should do.

My friends who offer this amendment say, if I understand their amendment correctly, that we consider inflation, we consider changes in beneficiaries, for all the entitlement programs, but if we look at any historic pattern of what happens with discretionary spending, we ignore the impact of inflation. That makes no sense to me.

I have listened and read the rhetoric from the advocates of this amendment. They fundamentally disagree with existing law, which provides for inflation adjustment for a whole series of programs. They object to having, automatically, additional participants come into the program. They really would like that to be wiped off the books. That is not a budgetary problem, that is a problem of law.

Madam Chairman, if they want to fundamentally change that, they should introduce a bill to repeal indexing, repeal automatic growth in beneficiaries for programs. Then that would reflect in what we do in budgets. That is really what they want to do.

I say to the gentleman, then do it, put a bill in. Have hearings on it. I would not agree with it, but that would be the honest way to deal with it. What they are talking about is not a problem of the budget, it is a problem of law that they do not agree with. The budget reflects current law, which it should do.

Madam Chairman, if anything, their proposal skews the whole budget process in understanding it more toward entitlements and away from the options of discretionary spending, where the Congress makes judgments each year.

As I said earlier, Madam Chairman, to measure the budget between this year and last year is accurate. To measure it in other fashions is also accurate. To measure it in other fashions is also accurate, and needs to be part of what we look at when we understand the Federal budget.

Mr. PENNY. Madam Chairman, I yield 2½ minutes to my colleague, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, I want to commend and acknowledge to the Committee on Appropriations that the reports that they put out do accurately reflect last year's spending and this year's spending, and the baseline argument is irrelevant to the appropriations process, as it, in fact, pertains to appropriation bills. I am curious as to why they are fussing so much about this, however, from that standpoint. That I do not understand.

Madam Chairman, it is also interesting, when we start looking at the mandatory, for the most part, both of our bills are exactly alike in what we call for regarding mandatory proposals. The only difference is they require that both baselines be presented to the public.

We provide that only one baseline be presented to the public. That is the only reason why we are here occupying the House's time today, is because we believe the American public needs to understand the one baseline.

The Penny amendment does not prevent anyone, though, from putting pen to paper and figuring out how much a program need to be increased in order to keep up with inflation. As the gentleman from South Carolina, JOHN SPRATT, said yesterday, the Committee on the Budget will continue to provide various options for spending levels on different programs.

That is fine. That provides very good, necessary information for the policymakers to make those decisions. However, the heart of the argument today is very simple. To the American people, we need to present one baseline, comparing to last year's spending. If it

VOL 140 PT 16 AG 12 — 18 1994 UMI

is in mandatory spending, we do it exactly the same way the Spratt amendment is. We say "Let us show the American people why the increases are, in fact, there, whether they are by law or whether they are by any other estimation, or whether they are by any other action of this Congress."

What I am really opposed to is in our budget, in which, in Function 800, for example, 1993 spending was $12.3 billion, 1998 spending under a freeze is $13.9 billion.

□ 1230

To me that is an increase of 1.6. But according to what we put out to the American people, it is a cut of 0.6. That is the relevancy of this whole argument today. That is the only thing that is relevant. That is why I say support the Penny-Kasich-Stenholm amendment, oppose the Spratt amendment, and let us present to the American people one honest presentation of the budget.

Madam Chairman, I rise in strong support of the Penny-Kasich-Stenholm amendment which would bring greater honesty to the budget process by eliminating the current services baseline and replacing it with a baseline that would be based on the previous year's spending levels.

The current budget process is enormously confusing and strongly biased in favor of deficit spending. Baseline budgeting distorts the budget process by making it appear that programs are incurring a spending cut when, in fact, they simply are receiving a smaller increase than expected.

The base bill before us today improves the current process by ensuring that Members will be able to compare proposed spending levels with the previous year's spending levels. I am concerned, however, that creating two official baselines will create additional confusion in the budget process. More importantly, the base bill will continue the current bias toward higher spending created by the current services budget.

Our amendment would eliminate the bias toward higher spending and put some west Texas tractor seat common sense in the budget process by requiring that budget proposals compare their budgets to the amount actually spent the prior year ranter than against estimates of future spending. We should recognize increases in spending for what they are and not talk about cutting spending when we really are increasing spending.

The folks at the Stamford Dairy Queen understand that if you received $100 last year and receive $99 this year, that is a spending cut. If you receive $101 this year, that is an increase, even if you expected to receive $102 this year. The small business men and women of this country understand that if you're operating in the red, you cannot afford to give cost-of-living increases to everyone.

The argument that our amendment will narrow the amount of information available to Members when making budget decisions is wrong. Our amendment does not prevent anyone from taking a calculator and figuring out how much a program needed to be increased in order to keep up with inflation or other factors. As we all know, there are countless benchmarks that are used to compare proposed spending levels. For example, Members can easily find out how much it would cost to fully fund Head Start, meet the national security objective or any other number of projected spending levels that are not officially part of the baseline. The Budget Committee will continue to provide Members with various options for spending levels on different programs, including the amount that a program needed to increase to keep pace with inflation. To argue that eliminating the official status of current services budgeting will somehow prevent anyone from providing this information is extremely misleading. What our amendment would do is take away the official status given to these inflated estimates that is used to create a presumption that programs should be increased at the rate of inflation.

I completely concur that there are programs that need and deserve increases in spending form last year's level for any number of good and valid reasons. Our amendment does not prevent us from increasing spending on programs. What it does is force us to debate these increases for what they are and require that supporters of programs justify why they should be increased instead of relying on current services budgeting to automatically justify an increase. We cannot afford to assume that spending on every program will increase by 3 or 4 percent a year.

There have been some suggestions that if this substitute passes, we will have to explain to Social Security recipients or military retirees why they will not be harmed if Congress provides identical funding levels from 1 year to the next. Anyone who has read our amendment knows that this argument is a red herring. Our amendment allows the baseline to reflect increases in spending that are required by law such as COLA's for military and civilian retirees and Social Security as well as other entitlement programs. Our amendment will bring greater accountability to these programs, however, by requiring the Congressional Budget Office to report on the specific reasons for growth in these blank check items. By bringing greater attention to all of the sources of growth in entitlement spending, we hope to further the educational process about these programs.

By changing the way we talk about budgetary decisions, our amendment will improve the decisionmaking process and the outcome of these decisions. Vote for the Penny-Kasich-Stenholm amendment to bring common sense into the budget process.

Mr. SPRATT. Madam Chairman, I yield myself 3½ minutes.

Madam Chairman, the opposition to our base bill, supporters of this substitute, come down to making the argument that what we are talking about is public perception, we want the public to be able to understand the budget better, and I fully appreciate that argument. But I think we have obscured in our zeal to make this argument the fact that the baselines now provided to the public and to the Congress and to anyone else who cares to look amply at lay out existing spending. We had Congressional Research Service go through the different budget documents and tell us how baseline spending was presented. Here, for example, is a page from the President's budget:

Current Services Estimates, the first column in it is 1993 Actual. We have got an actual spending line.

Here is a CBO projection of outlays by category in the budget outlook published twice a year. The first column, in Outlays by Category is Actual 1993 Spending.

Here is a page taken from the report accompanying the budget resolution issued by the Committee on the Budget, Committee Recommendation, Function 570, Medicare. The first two columns: Budget Authority in the current year for discretionary spending and mandatory spending; and Outlays, actual spending. The actual baseline is presented there.

Here is a page from an appropriation bill. The same thing. Here is a comparative statement of new budget authority. All of these provide it.

The Budget Act, Section 1105, subsection 7 provides that the President must submit appropriation expenditures and receipts to the Government in the prior fiscal year as a beginning point of the budget so we can compare it.

All we are doing is taking that requirement and making it explicit as we extend it to the Committee on the Budget and to the CBO.

It is important that the public understand it but let us not lose sight of the fact that we have a stake in the budget, too, here in the Congress, a big stake. It is important that we understand the budget. It is important that we have it laid out and formatted and arrayed and displayed so that we can make use of it and use it as a working document because we have to make rational decisions based upon it.

In that connection, we have created something called the current services baseline and we did not create it to obfuscate, to obscure, we created it because it is useful, it is useful to know what it is going to take in order to keep existing programs going.

This current services budget is designed to show what receipts, what outlays, what budget authority will have to be if no changes are made to existing law. It does not say we cannot make the changes but it tells us, it tells the public, this is what we are going to have to do if we are not going to change permanent underlying entitlement and mandatory spending law. It warns us of future problems, it provides a starting point. All of these things are useful to have and that is why they exist. Not because we want to obscure or obfuscate.

What we have had on the other side in the support of this substitute is a strawman. The opponents of this base bill have created a strawman, a construct to the budget that does not correspond to reality. As the chairman of the Committee on the Budget in talking about his resolutions has pointed out, as the chairman of the Committee on Appropriations has pointed out, actual spending baselines are there, we are going to keep them, enshrine them and require they be presented. But we are also going to keep something we have found useful, something that is going to exist regardless of the outcome of this vote, the current services baseline. We need both and that is why we need to vote down this substitute and vote for the base bill.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I rise in support of the Penny-Stenholm-Kasich substitute.

Madam Chairman, we live in an age when it is difficult to know what is real and what is illusion. We are entertained by movies that distort reality through the skill of film splicers and the mixing of real people with cartoons.

In this body, however, we should make every effort to deal with facts and figures that are real. First of all, our deliberations are in the public view and we have a responsibility to simplify rather than confuse the public.

When Congress wisely decided to freeze discretionary spending at 1993 levels for 5 years, we placed ourselves in the same position as a working family that does not get a raise in their paycheck for 5 years. If you do not receive any more money this year than you did last year, you are certainly deceiving yourself if you drift off into the world of illusion. It might be nice to think about inflation and certainly you must consider the fact that a new baby may have been born—but if the dollars available this year are the same as they were last year—that is reality. It is this same reality that Congress must deal with.

Madam Chairman, I urge the adoption of this substitute.

Mr. SPRATT. Madam Chairman, I yield the balance of my time to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Madam Chairman, the committee ought to reject the Penny-Kasich-Stenholm amendment for one principal reason: It simply will not result in full budget disclosure. In fact, it will remove valuable, important information from the budget debate and will result in the American people having less information about the effect of Federal spending proposals, not more.

Madam Chairman, the current policy baseline that the President, the Congressional Budget Office, the congressional budget committees, and other use serves an important and valuable purposes. Every American knows inflation over time erodes the purchasing power of tax dollars just a it erodes the purchasing power of individuals' incomes. When developing budget proposals for future years, the president and Congress must consider inflation's effect on the dollar and how many goods and services the dollar will buy.

If a program's funding is held below the level of inflation next year, then effectively the program has been cut since inflated dollars will buy slightly less next year than they buy now. I say slightly because fortunately inflation is extremely low right now. It has been argued that use of the current policy baseline allows policymaker to call increases in actual dollars cuts. That is true if they are making comparisons to the current policy baseline. But it is also true that the current policy baseline allows policmakers to characterize cuts as increases where spending, though higher in actual dollars, does not keep pace with inflation.

This is why it is important to adopt the base bill, so we can have a current funding baseline against which to compare budget proposals. If a program gets $100 million this year and inflation is 3 percent, then it would take $103 million next year to deliver the same level of services. If the President proposed $102 million for the program, then with the additional baseline proposed in this bill, nobody would be deceived. People could compare the proposal to the two baselines and see readily that the proposal is an increase of $2 million over this year, but $1 million short of the amount required to keep pace with inflation.

If the amendment eliminated the current policy baseline altogether, then policymaker could get away with calling the $102 million figure an increase, and the beneficiaries of the program might not really know it isn't actually enough to stay even.

That would be just like passing a law to skip next year's Social Security cost-of-living adjustment and telling the beneficiaries "We didn't cut your benefits. You'll get the same $614 per month net year that you get this year." The statement would be technically correct, but it would not tell the whole story.

Madam Chairman, the Spratt bill will enable policymakers and the American people to see the whole story. The pending amendment would facilitate the same type of double-talk that the proponents say now occurs, only in a different way. The result would still be less than full budget disclosure.

Madam Chairman, I urge the committee to reject the amendment and support the Spratt bill.

Madam Chairman, I include for the RECORD a letter urging support of the Spratt proposal, as follows:

THE WHITE HOUSE,
Washington, August 12, 1994.

Hon. THOMAS S. FOLEY,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On behalf of the President and his economic team, we are writing again to urge members of the House of Representatives to oppose the Stenholm-Penny-Kasich substitute and to express our preference for the Spratt Full Budget Disclosure proposal. We want to clarify that this substitute would prohibit the use of economically-important information such as inflation in determining baselines for the discretionary budget. This would be a set-back for rational and reasonable budget-policy making.

A far more balanced and fair approach is the one included in the Spratt Baseline Budget proposal, which would allow for comparisons to both current funding levels and what it would take to maintain current policy.

The Stenholm-Penny-Kasich alternative would eliminate real comparisons of how year-to-year spending would actually impact on the services provided to real people's lives. No credible form of budgeting in today's economy completely disallows taking into account changes in inflation. Consider a five-year period during which inflation or the cost of living increases by 3% each year. The compounded total inflation is 16%. If a program, like Head Start, WIC or veterans' hospitals were to be cut 10% in real terms, the Stenholm-Penny-Kasich substitute would require that this cut to millions of Americans be presented only as a spending increase. Such a budget requirement would make the budget process less forthright and less informative as to how year-to-year changes were affecting real people's lives.

The Spratt proposal, on the other hand, would provide a fair, balanced and full-information alternative. It would allow two methods of budget reporting—both the present system of comparing budget proposals to the "current services baseline" and comparisons of changes in actual dollar amounts from year to year.

We urge you to oppose the Stenholm-Penny-Kasich substitute and to support the Spratt Baseline Budget proposal.

Sincerely,

ALICE M. RIVLIN,
Acting Director,
Office of Management and Budget.
ROBERT E. RUBIN,
Assistant to the President,
for Economic Policy.

Mr. PENNY. Madam Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Madam Chairman, I rise in strong support of the Kasich-Penny-Stenholm amendment which sounds to me like just eminent common sense.

As we all know, our current budget process includes many pro-spending biases. Most notable, the current services budget utilizes a baseline which assumes that we will budget as if all programs are left to grow on automatic pilot. According to the Congressional Budget Office, over the next 5 years, total Federal spending will increase by $360 billion from $1.47 to $1.83 trillion. During the same period, the Federal debt will increase from $4.6 to $6.3 trillion. We are not making progress on the national debt, and we should be honest

VOL 140 PT 16 AG 12 — 18 1994 UMI

with our constituents about our spending habits.

Under the current services baseline, any reduction is labeled a spending cut regardless of the fact that the actual spending level is above the prior year's level. For example, many of us were attacked for allegedly voting for $31 billion in Medicare cuts contained in the recent Penny-Kasich package. During the 5 years affected by Penny-Kasich, the Congressional Budget Office estimated that Medicare spending will rise from $143 to $239 billion, a 67-percent increase. In other words, even if the Penny-Kasich plan was adopted, Medicare spending would still rise from $143 billion to approximately $230 billion during the same period, a 61-percent increase. Even the largest deficit reduction package considered by Congress, the Solomon-Fawell-Upton budget, which would have reduced the deficit by $698 billion over 5 years and resulted in a Federal budget surplus in 1999, would have permitted total Government spending to increase, albeit less than if we left the budget on autopilot.

We simply cannot leave our budget on autopilot. We must face the fact that Government spending is out of control, and carefully consider any spending increases. Rather than assume that programs are entitled to automatic spending increases, we need to require departments and agencies to make their case to Congress for spending increases. The Stenholm-Penny-Kasich amendment recognizes this and would change our budgetary process to compare proposed spending levels with the current-year funding levels. While this and other budgetary reforms are not a substitute to real spending cuts, the change is important. By using rhetorical devices biased toward spending increases, the current budget process promotes higher spending levels. Eliminating these biases will promote greater fiscal responsibility.

I urge all Members to support the Stenholm-Penny-Kasich amendment, and oppose the Spratt proposal.

Mr. PENNY. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, fundamentally this is a debate about how Washington works. Our process here naturally unfortunately confuses the American people and does little to edify and inform them. We have appropriations in the Congress who constantly blame entitlements for causing the deficit. Yet when we bring entitlement cuts to the floor, they typically vote against them. We have legislators who clamor for a balanced budget amendment and yet they do not vote for the taxes or the spending cuts required to reach a balanced budget. We have Democrats who voted for Clinton's budget, declaring that it essentially beats or licks the deficit when under the Clinton budget we have deficits remaining in a $200 billion range as far as the eye can see and entitlements remain uncontrolled. We have Republicans who blast Clinton's budget as unacceptable and one that does not cut enough. Yet they were unable to come together on a plan of their own that did as much in terms of deficit reduction.

With all of the nonsense that surrounds the debate over the budget, we in this Congress finally owe the American people at least one bit of common sense: We need to give them a budget in which a freeze is actually a freeze, in which cuts are actually cuts. The only way to do that is to vote for the Penny-Kasich-Stenholm amendment. I urge a "yes" vote.

Mr. PORTMAN. Madam Chairman, I rise today to express my strong support for the Penny-Kasich-Stenholm substitute amendment to H.R. 4907, the Full Budget Disclosure Act. It is time that we bring some integrity, honesty, and accountability to the budgeting process.

It is time to end the kind of gimmickry that could only exist in Congress: where an increase in spending can be touted as a spending cut. This amendment would simplify the current budget process by requiring that all budgetary proposals be compared with actual spending levels of the past year instead of baseline estimates. This would bring some rationality to the process. It would bring our budget process in line with those of our constituents. A spending increase would actually be an increase from last year's funding levels, while a spending cut would represent a true decrease. The Penny-Kasich-Stenholm amendment provides for genuine reform to the current confusing and dishonest baseline budgeting process.

Under the current system, Members of Congress can argue that they are supporting spending cuts which are actually increases over last year's levels. They do so because the funding levels are below a so-called baseline, which takes into consideration inflation and economic and demographic factors. Unamended, H.R. 4907 does little to address this problem, because it does not change the statutory definition of baselines, thereby preserving the inflated baseline.

On the other hand, the Penny-Kasich-Stenholm amendment eliminates all of the budget gimmicks that are currently used to shield Members from having to make real spending cuts. I urge my colleagues to vote for real reforms to the baseline budgeting process—support the Penny-Kasich-Stenholm amendment.

Mr. SMITH of Michigan. Madam Chairman, I rise today in strong support of the Penny-Kasich-Stenholm amendment to bring truth in budgeting to the Federal budget process. The Penny-Kasich-Stenholm amendment will require the Federal Government to use last year's funding level in planning for the next year's budget.

It is the right thing to do. For years, Congress has allowed the baseline to automatically include inflation without discussion. Now, under the new baseline of last year's spending level, we will be allowed to compare spending from year to year honestly—without confusion.

For Americans everywhere, that plan their budget based on the amount they are paid—not on what they assume they should spend after an adjustment for inflation, this bill is honest and understandable.

Madam Chairman, the passage of the Penny-Kasich-Stenholm amendment is a giant step forward to have honesty in budgeting. It is the right thing to do.

Mr. FRANKS of New Jersey. Madam Chairman, only in Washington, DC, can people describe an increase in spending as a spending cut. They can do this because of something called baseline budgeting, where estimates of inflation costs, new recipients and other economic projections become built in to future government spending. Only funding that goes beyond such estimates has to be called a spending increase.

If Congress does limit a real funding increase to less than these estimates, any of us can then talk as if we actually cut a program's spending. This practice—where a spending increase is called a cut—corrupts all talk about budgets here in Washington.

Madam Chairman, if we in Congress are truly serious about controlling spending, we must begin by eliminating such accounting tricks as baseline budgeting. We need to use real spending numbers as our basic budget reference, like what was spent last year on any program or department.

Madam Chairman, I urge my colleagues to support the Stenholm-Penny-Kasich amendment. Congress should be willing to talk about money like America's families do, where more money being spent could never be called a cut. Let's begin cleaning up the way we talk about spending here in Congress, let's eliminate baseline budgeting today.

Mr. GALLO. Madam Chairman, I rise today in support of the Penny-Stenholm-Kasich substitute to the legislation under consideration. I believe that this substitute will lend a much-needed measure of clarity to the Federal budget process.

As a former member of the Budget Committee and a current member of the Appropriation Committees, I understand and appreciate the effort the gentleman from South Carolina is making with his bill. I believe, however, that his effort can be improved by adoption of the substitute.

Adoption of this substitute will not forbid us to consider what spending levels might be needed from one year to the next in order to maintain a certain program at current services. It will, however, force us to state clearly exactly how our spending in 1 year compares with that in the previous year in ways that everyone can understand.

By using a measure that every American family uses to run its household—comparing this year's spending to last year's—the American people will finally be able to see whether Congress is truly cutting spending or not.

Adoption of the substitute will, once and for all, put an end to the curious phenomena in Washington—where spending more money this year than last year can actually be considered a spending cut.

□ 1240

The CHAIRMAN. The question is on the amendment is the nature of a substitute offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PENNY. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 171, not voting 21, as follows:

[Roll No. 395]

AYES—247

Allard	Glickman	Moorhead
Andrews (NJ)	Goodlatte	Morella
Andrews (TX)	Goodling	Murphy
Archer	Gordon	Myers
Armey	Goss	Neal (NC)
Bacchus (FL)	Grams	Nussle
Bachus (AL)	Grandy	Orton
Baesler	Greenwood	Oxley
Baker (CA)	Gunderson	Packard
Baker (LA)	Hall (TX)	Pallone
Ballenger	Hancock	Parker
Barca	Hansen	Paxon
Barcia	Harman	Payne (VA)
Barrett (NE)	Hastert	Penny
Barrett (WI)	Hayes	Peterson (MN)
Bartlett	Hefley	Petri
Bateman	Herger	Pickett
Bereuter	Hobson	Pombo
Bilirakis	Hoekstra	Pomeroy
Billey	Hoke	Porter
Blute	Horn	Portman
Boehlert	Houghton	Poshard
Boehner	Huffington	Pryce (OH)
Bonilla	Hunter	Quillen
Browder	Hutchinson	Quinn
Brown (OH)	Hutto	Ramstad
Bunning	Hyde	Ravenel
Burton	Inglis	Regula
Buyer	Inhofe	Ridge
Callahan	Inslee	Roberts
Calvert	Istook	Roemer
Camp	Jacobs	Rogers
Canady	Johnson (CT)	Rohrabacher
Cantwell	Johnson (GA)	Ros-Lehtinen
Castle	Johnson (SD)	Roth
Clement	Johnson, Sam	Roukema
Clinger	Kasich	Rowland
Coble	Kim	Royce
Collins (GA)	King	Sangmeister
Combest	Kingston	Santorum
Condit	Kleczka	Sarpalius
Cooper	Klug	Saxton
Coppersmith	Knollenberg	Schaefer
Cox	Kolbe	Schenk
Crane	Kreidler	Schiff
Crapo	Kyl	Sensenbrenner
Cunningham	Lambert	Shaw
Darden	Lancaster	Shays
Deal	LaRocco	Shepherd
DeFazio	Laughlin	Shuster
DeLay	Lazio	Sisisky
Deutsch	Leach	Skeen
Diaz-Balart	Lehman	Smith (MI)
Dickey	Levy	Smith (NJ)
Dooley	Lewis (CA)	Smith (OR)
Doolittle	Lewis (KY)	Smith (TX)
Dornan	Lightfoot	Snowe
Dreier	Linder	Solomon
Duncan	Livingston	Spence
Dunn	Long	Stearns
Edwards (TX)	Lucas	Stenholm
Ehlers	Machtley	Stump
Emerson	Mann	Swett
English	Manzullo	Talent
Everett	Margolies-Mezvinsky	Tanner
Ewing	Mazzoli	Tauzin
Fawell	McCollum	Taylor (MS)
Fields (TX)	McCrery	Taylor (NC)
Fingerhut	McCurdy	Thomas (CA)
Fish	McDade	Thomas (WY)
Fowler	McHale	Thurman
Franks (CT)	McHugh	Torkildsen
Franks (NJ)	McInnis	Upton
Frost	McKeon	Valentine
Furse	McMillan	Vucanovich
Gallegly	Meehan	Walker
Gallo	Menendez	Weldon
Gekas	Meyers	Wolf
Geren	Mica	Young (AK)
Gilchrest	Miller (FL)	Young (FL)
Gillmor	Minge	Zeliff
Gilman	Molinari	Zimmer
Gingrich		

NOES—171

Abercrombie	Bevill	Brooks
Ackerman	Bilbray	Brown (CA)
Andrews (ME)	Bishop	Brown (FL)
Barlow	Blackwell	Bryant
Becerra	Bonior	Byrne
Bellenson	Borski	Cardin
Berman	Boucher	Carr
Chapman	Johnston	Romero-Barcelo (PR)
Clay	Kanjorski	Rose
Clayton	Kaptur	Rostenkowski
Clyburn	Kennedy	Roybal-Allard
Coleman	Kennelly	Rush
Collins (IL)	Kildee	Sabo
Collins (MI)	Klein	Sanders
Conyers	Klink	Sawyer
Costello	Kopetski	Schroeder
Coyne	LaFalce	Schumer
Cramer	Levin	Scott
Danner	Lewis (GA)	Serrano
de la Garza	Lipinski	Sharp
de Lugo (VI)	Lowey	Skaggs
DeLauro	Maloney	Skelton
Dellums	Manton	Slaughter
Derrick	Markey	Smith (IA)
Dicks	Martinez	Spratt
Dingell	Matsui	Stark
Dixon	McCloskey	Stokes
Durbin	McDermott	Strickland
Engel	McKinney	Studds
Eshoo	McNulty	Stupak
Evans	Meek	Swift
Farr	Mfume	Synar
Fazio	Miller (CA)	Tejeda
Filner	Mineta	Thompson
Flake	Mink	Thornton
Foglietta	Moakley	Torres
Ford (MI)	Mollohan	Torricelli
Ford (TN)	Montgomery	Towns
Frank (MA)	Moran	Traficant
Gephardt	Murtha	Tucker
Gibbons	Nadler	Unsoeld
Gonzalez	Neal (MA)	Velazquez
Green	Norton (DC)	Visclosky
Gutierrez	Oberstar	Volkmer
Hall (OH)	Obey	Waters
Hamburg	Olver	Watt
Hamilton	Ortiz	Waxman
Hastings	Owens	Wheat
Hefner	Pastor	Whitten
Hilliard	Payne (NJ)	Wilson
Hinchey	Pelosi	Wise
Hoagland	Peterson (FL)	Woolsey
Hochbrueckner	Pickle	Wyden
Holden	Price (NC)	Wynn
Hoyer	Rahall	Yates
Hughes	Rangel	
Jefferson	Reed	
Johnson, E. B.	Richardson	

NOT VOTING—21

Applegate	Gejdenson	Sundquist
Barton	Lantos	Underwood (GU)
Bentley	Lewis (FL)	Vento
Brewster	Lloyd	Walsh
Edwards (CA)	McCandless	Washington
Faleomavaega (AS)	Michel	Williams
Fields (LA)	Reynolds	
	Slattery	

□ 1300

The Clerk announced the following pair:

On this vote:

Mr. Lewis of Florida for, with Mr. Vento against.

Messrs. BEVILL, MOAKLEY, YATES, and GENE GREEN of Texas changed their vote from "aye" to "no."

Mr. POMEROY and Mr. MENENDEZ changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order for the committee to consider amendment No. 2, printed in the House Report 103–689.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SPRATT

Mr. SPRATT. Madam Chairman, I offer the amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. SPRATT: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Full Budget Disclosure Act of 1994".

SEC. 2. PURPOSE.

The purpose of this Act is to require that budget documents provide the Congress with comprehensive data on budget trends.

SEC. 3. THE BASELINE.

(a) DEFINITION.—Section 250(c)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(5)(A) The term 'current policy baseline' means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

"(B) The term 'current funding baseline' refers to the baseline as set forth in section 257 without any adjustment described in section 257(c)(1) for inflation other than the adjustment set forth in section 257(c)(2) for expiring housing contracts.".

(b) CONFORMING AMENDMENTS.—Sections 251, 252, 253, and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended by inserting "current policy" before "baseline" each place it appears.

SEC. 4. THE PRESIDENT'S BUDGET.

(a) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section, estimated expenditures and appropriations for the current fiscal year and estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years following that year.".

(b) Section 1105(a)(6) of title 31, United States Code, is amended by inserting "current fiscal year and the" before "fiscal year".

(c) Section 1105(a)(12) of title 31, United States Code, is amended by striking "and" at the end of subparagraph (A), by striking the period and inserting "; and" at the end of subparagraph (B), and by adding at the end the following new subparagraph:

"(C) the estimated amount of expenditure and appropriation for the same activity, if any, in the current fiscal year."

(d) Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraphs:

"(30) a comparison of estimated new budget authority and outlays for each function and subfunction for the current fiscal year with proposed new budget authority and outlays for the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction.

"(31) a comparison for each function and subfunction of the current policy baseline level of new budget authority and outlays for the year for which the budget is submitted with the proposed new budget authority and outlays for the year for which the budget is submitted, including changes in percentage terms for each function and subfunction.".

SEC. 5. CONGRESSIONAL BUDGET.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: "As soon as practicable after the

VOL 140 PT 16 AG 12 — 18 1994 UMI

President's budget submission under section 1105(a) of title 31, United States Code, the Committee on the Budget of each House shall provide to its members the estimated level of outlays for the current year in each function and subfunction."; and

(2) striking "and" at the end of paragraph (9), by striking the period and inserting a semicolon at the end of paragraph (10), and by adding at the end the following new paragraphs:

"(11) a comparison (for each function) of estimated outlays and revenues for the current fiscal year with proposed spending and revenue levels for the budget year and each outyear, including the increase or decrease (in percentage terms) of spending; and

"(12) a comparison (for each function) of proposed outlays and revenues for the budget year with the current policy baseline projection for that year, including changes (in percentage terms).".

SEC. 6. CONGRESSIONAL BUDGET OFFICE REPORT TO COMMITTEES.

(a) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report for the fiscal year commencing on October 1 of that year with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits) compared to comparable levels for the current year and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.".

(b) Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting after the first sentence the following new sentence: "That report shall also include a table on sources of growth in the estimated total current policy baseline spending for mandatory programs for the budget year and the ensuing 4 fiscal years, which shall include changes in outlays attributable to the following: cost-of-living adjustments; changes in the number of program recipients; increases in medical care prices, utilization and intensity of medical care; and residual factors.".

(c) Section 202(f)(3) of the Congressional Budget Act of 1974 is amended by striking "and" before "(B)", and by inserting before the period at the end the following: ", and (C) all direct spending programs".

(d) Section 308(a)(1)(C) of the Congressional Budget Act of 1974 is amended by inserting "and shall include a comparison of those levels to comparable levels for the current fiscal year" before "if timely submitted".

The CHAIRMAN. Pursuant to the rule, the gentleman from South Carolina [Mr. SPRATT] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Is the gentleman from Minnesota [Mr. PENNY] opposed?

Mr. PENNY. Madam Chairman, I am opposed to the amendment, and I would request the time.

The CHAIRMAN. The gentleman from Minnesota [Mr. PENNY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise to move for judgment notwithstanding the verdict.

Madam Chairman, Members of the House have registered their opinion strongly in favor of having available to them and to the public a current funding baseline and the presentations we received from Budget Committee and from the Congressional Budget Office for functions and programs in the budget.

This bill before us, H.R. 4907, this bill about which we are to vote now, provides for that very same current funding baseline. It is in fact identical. We have agreed, there is no difference between current funding baseline required in the bill before us and in the required funding baseline in the Penny-Kasich-Stenholm substitute.

So you can have your cake and eat it too, because this bill clearly provides for that baseline which the House has just said it would like to have arrayed, presented, displayed in the budget presentations that come to the House.

But in addition, this bill would provide for a current policy or a current services baseline. What is a current services baseline?

Let me just read to the committee what the President's budget describes to be the current services baseline. It says it is designed to show what receipts, outlays, deficits, and budget authority would be if no changes are made in laws already enacted.

This baseline is not a prediction of the final outcome of the budget process nor is it a proposed budget; it is largely a mechanical application of existing laws. By itself, it commits no one to any particular policy, it does not constrain the choices available, but the commitments or constraints reflected in this are inherent in tax and spending policies contained in current law.

I submit to everyone here that it exists for a reason. It exists because it is useful, it exists because we have found it necessary for various reasons to have a current services baseline in order to do the budget every year.

The minority report to the Committee on Rules itself makes the case for having a current services baseline when it acknowledges if you are going to do reconciliation, you have to have a projection of what mandatory spending is going to be so you can reconcile against that, in order to reduce, if not cut, spending, at least reduce the rate of increase in spending. You have got to have a current services baseline to do it.

The argument is made here that the public needs to know exactly how much we are increasing the budget in actual dollars and cents, and we will give them that information because we have the same baseline.

But Congress also has, I argued earlier, a huge stake in the budget itself. We have to make the budget documents, as prepared by the President, by the Office of Management and Budget, by CBO, by our own budget committee's working documents useful to us, so we can make comparisons, project spending and know what we have got to cut.

Let me submit to the House also that the public has an interest as well in knowing what current services are, because the current services baseline is a way of telling the public this is what it costs to keep programs such as social security and Medicare, popular programs, in place, running in place in existing law. If we are going to be able to continue the level of benefits adjusted for inflation for the expanding beneficiary population, this is what we have to spend. It is useful for us, in fact it is necessary for us, in order to do the budget because that constitutes well over 50 percent of the budget today.

But it is also useful for us to tell the public this is what we have to spend if we are going to keep pace with inflation if we are going to keep pace with the growing beneficiary population.

I think both we and the public need this additional baseline. You do not deny yourselves a thing by voting for the Spratt bill because the Spratt bill will preserve the baseline that we have just now dictated ought to be in the, must be, in the budget, but it will also give us a very useful baseline, a current services baseline.

I submit we should vote "yes" on this and have our cake and eat it too.

Madam Chairman, I reserve the balance of my time.

Mr. PENNY. Madam Chairman, I yield myself such time as I may consume.

Fundamentally, this vote is simply designed to defeat the motion that was just adopted. If you voted "yes" on Penny-Kasich-Stenholm, you absolutely must vote "no" on Spratt because this amendment simply restores language that is in the base bill. If you vote for the previous amendment, you vote against this amendment.

□ 1310

This is one of those Capitol Hill procedures where we can do something and then undo it on a subsequent vote. It is another nonsensical procedure, but it happens all the time. The only way we can defeat this king-of-the-hill game is to vote no on Spratt.

The issue at play is the same. The debate will be almost identical to the debate just concluded, and for that reason I do not know that we need to eat up a lot of time here.

Bear in mind this measure supersedes the vote we just cast. To be consistent vote no on Spratt.

I reserve the balance of my time.

Mr. SPRATT. Madam Chairman, I yield 1 minute to the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Madam Chairman, I rise in support of the Spratt amendment and urge the Members to vote yes on this. We are in effect saying here this amendment that we have just passed, of course if it stays into effect, we are just in effect saying that we should not have any cost-of-living expenses on Social Security, cost of living. We are saying to some of my projects, like the flood control where we are talking about saving lives, we are saying, "You'll have to assume the inflation, and you can only put 90 percent of the bill, that flood control project."

We can just go on and on, and it just does not make sense to have this kind of change. It is false economics, and I urge everyone to vote for the Spratt amendment.

Mr. PENNY. Madam Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Madam Chairman, we are going to have to get Mona Lisa out one more time here to explain what we are doing.

Now let me, first of all, say categorically this does not affect entitlement programs, and I am opposed to doing anything that has any impact whatsoever on Social Security, as what happened out here when we came out on our entitlement spending program. This is only discretionary spending.

This is the Mona Lisa. Now this Mona Lisa has a frown rather than a smile. What the gentleman from South Carolina [Mr. SPRATT] wants to do in his bill is to continue to have a chart that confuses people in terms of what our budgeting process is.

One more time, Madam Chairman, this represents a $221 million increase in spending. It is described across the newspapers of this country as a $476 million cut.

Now what we just passed was a proposal that budgets like they do in west Texas, and like they do in Minnesota, and like they do in Ohio, and what we are saying is an increase or a decrease in spending will be determined by what we spent the previous year. That is what we just passed.

Now we went on a baseball strike, we are in a baseball strike, but we play a little baseball here this morning because we just doubled off the wall with the Penny-Kasich-Stenholm amendment. We doubled off the wall because we actually passed the elimination of this kind of spending, this kind of budgeting. It is gone. The runner is on second base, and now there is a line drive in the outfield, and the gentleman from South Carolina [Mr. SPRATT] wants to throw the runner out at second base and continue to confuse the issue.

What I am suggesting here today is let us bring the runner home, let us drive the runner access the plate, and let us complete the job today, and, by completing the job today, we will budget like they do in west Texas, and in Minnesota, in Ohio and California, just like families do it.

We must reject this because, if we do not reject it, even though it is an improvement in the process, it will still be awfully confusing. The last thing we need with a $6 trillion national debt and budget deficits in the outyears projected to skyrocket is confusion when we try to communicate to the taxpayers of this country. Let us call a cut a cut.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. KASICH] has expired.

Mr. PENNY. Madam Chairman, I yield 30 additional seconds to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Just remember this picture. We do not want to keep doing it this way, and, if my colleagues do not want to keep doing it this way because the American people do not want to do it this way, reject the Spratt substitute. Let us keep the Penny and Stenholm amendment in place, and let us get back to something where we can communicate to everyone without confusion so that we can deal rationally and sensibly with the Federal budget programs.

Mr. SPRATT. Madam Chairman, I yield myself such time as I may consume, and would the gentleman from Ohio [Mr. KASICH] remain in the well?

I say to the gentleman,

After your baseball analogy I feel a little like Abbott and Costello, who's on first, who's on second. I'm not sure where you're coming from because I have heard you argue repeatedly with regard to the defense budgets that it needs to be stated in the current services context. It's useful for us to know that $280 billion in 1990 doesn't buy $280 billion of defense in 1995. Why not let the Congress and the public have that kind of projection of what it costs to keep our defense apace with the——

Mr. KASICH. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Ohio.

Mr. KASICH. Madam Chairman, I am glad the gentleman from South Carolina [Mr. SPRATT] raised the issue because, when we were voting on the last amendment, several Members on our side argued we think it is more useful to list defense spending on the basis of the baseline, and I said I think that is wrong. I think we ought to list defense as an increase or a decrease based the same way we do with everything else, and I would tell the gentleman,

When you're trying to discuss increases or decreases in the Budget Committee, if you just ignore baselines, people don't even know what language you're talking in.

So, what I would say to the gentleman is I think it would be helpful in this House if we refer to defense spending increases or cuts based on the previous year's level, not on baselines, and, if the gentleman hears me do that again, I want him to call me on it.

Mr. SPRATT. Madam Chairman, I reclaim my time and say simply we will give the public and the Congress two baselines, the one the gentleman wants and the over which is a useful reminder of what it costs to keep defense where it was. That is all we are saying.

Mr. SABO. Madam Chairman, will the gentleman yield, and would the gentleman from Ohio [Mr. KASICH] keep his chart up?

Mr. SPRATT. I yield to the chairman of the Committee on the Budget.

Mr. SABO. Madam Chairman, I say to the gentleman, "I'm just curious, my friend. How much bigger is that last bar than the first bar? About two, three times as big?"

Mr. KASICH. No, I would not think it is that big.

Mr. SABO. About twice the size, twice the size of the first bar?

Mr. KASICH. Does the gentleman mean this to this?

Mr. SABO. Yes, three times as big?

Mr. KASICH. Probably.

Mr. SABO. And what is the actual change in dollars the first year to the——

Mr. KASICH. Well, the——

Mr. SABO. About 6, 7 percent?

Mr. KASICH. Let me explain——

Mr. SABO. The gentleman is a master of deception with his charts.

Mr. KASICH. Let me explain to the gentleman. Let me answer.

I say, "Under your definition of this bill, this $221 million increase is called a $476 million cut——

Mr. SABO. I am not asking about my description. I am asking about the description the gentleman is showing to the House and to the public. A 6, 7 percent change in actual dollars is in the chart that looks like a 300 percent change.

Mr. KASICH. The gentleman's definition shows this going downwards. I mean that is the problem. Let us get on the same page.

Mr. SPRATT. Madam Chairman, I reclaim my time and yield 2 minutes to the distinguished chairman of the Committee on Appropriations, the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Madam Chairman, I think the distinguished chairman of the Committee on the Budget has just pointed out the incredible deception that we find in the chart just used by the gentleman from Ohio. The base number for the first bar was 3.1. The final bar number was 3.35. Now, if the gentleman can tell me how that small a change in dollars results in a doubling visually on that bar graph, I would suggest to him he needs a new pair of glasses. The numbers do not match the story the gentleman is trying to tell on the graph.

I simply want to say that this debate has nothing whatsoever to do with spending.

□ 1320

This issue has only to do with what kind of information is made available to the public and to the Congress.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The gentleman from South Carolina [Mr. SPRATT] simply says that we ought to provide comparisons to both the current funding baseline, which is not inflation adjusted, and also to the current policy baseline, which is inflation adjusted. Members of the public and Members of this House have a right to see the budget from both perspectives.

Now, the gentleman on this side of the aisle who just spoke says it has nothing to do with entitlements. He then proceeded to say he was sick of seeing budgets for defense adjusted on the basis of the inflated baseline.

The fact is, they are not. I have the defense appropriation report right here. The first column reads, Appropriated, 1994. It lists the dollar amount for military personnel. The next line lists the amount spent in 1985. Then it compares the costs not with an inflation-adjusted baseline, but with the regular noninflated baseline.

So if in fact the gentleman is correct on entitlements, and he is not, but if he were, then this amendment would have absolutely no effect on discretionary spending whatsoever.

I urge you to vote for the Spratt amendment. It is the only unbiased and honest amendment before the House.

Mr. PENNY. Madam Chairman, I was just curious to know if it would save time if we replay the earlier debate.

Madam Chairman, I yield 1 additional minute to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Madam Chairman, this is very illustrative of how we do it. This is how we reflect the increase in spending, and you are complaining about the chart. The way we ought to do is flip it over. This is the way you would have it read. See, that is the problem with this process.

Now, you know what is really curious? What is really curious is George Bush gives us in 1990 a one-half trillion dollar deficit reduction program. This President gives us a one-half trillion dollar deficit reduction program. If that is true, why has the national debt gone from $4.5 trillion to $6 trillion? If you can explain to me why we are cutting all this spending and having massive deficit reduction, why is it the deficit is going through the roof?

I will tell you why. We are not cutting spending, we are only counting cuts as slower increases in growth than what the bureaucrats in town want to do. I will tell why the people of this country do not want to budget it any more. They want to throw it out and do it with a straight line based on the year before. Madam Chairman, reject the Spratt amendment. Maintain the Penny-Stenholm proposal.

The CHAIRMAN. The gentleman from Minnesota [Mr. PENNY] has 10 minutes remaining, and the gentleman from South Carolina [Mr. SPRATT] has 5 minutes remaining.

Mr. PENNY. Madam Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, our debate is getting a little bit amusing now that we are replaying it for the third and fourth time.

You know, the important thing for us to remember, and I will start and conclude by this, is if you really want to contribute to the cynicism of the American people, vote for Spratt and then try to explain why you voted for Penny-Kasich-Stenholm and then voted immediately to overturn it. You cannot do it, folks.

Now, we can get into debate on the scales on charts. The fundamental here is it does not matter what the scale of the chart is. It is which direction the spending is going in and whether we are calling it an increase or decrease. That is all that is relevant.

In the last few days, the American Association of Retired People has used some very questionable judgment in some of the pronouncements concerning what is going on in this body and inside the beltway, and they are doing it again today. Because there is no relevance whatsoever to suggesting that either of these bills has anything to do with Social Security, Medicare, or any other program, bills that are both alike except for one major difference, and that is why we are debating it here today.

The gentleman from Wisconsin [Mr. OBEY] is correct. All of those who argue that we need all kinds of information are correct. What we are arguing is let us not confuse the American people with our policy business that we do in the Committee on the Budget. Let us tell the American people there is one budget baseline.

The people that drink coffee in the Dairy Queen in Stanford, TX, do not understand when we explain it to them any other way than this. If you get $100 this year and you get $99 next year, for whatever reason, that is a cut. If you get $101, that is an increase. That is the fundamental debate in this whole area of discussion today.

Madam Chairman, vote "no" on Spratt, particularly if you voted "yes" on Penny, because you cannot explain it any other way, unless you wish to continue the confusion on the American people of having dual baselines and all of the things that go with it.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. Madam Chairman, I hope you do not mind if I try to inject a little rationality into the discussion, but I simply have to rise and defend my colleague from Ohio, who has been falsely accused of doctoring the chart to make it look favorable to his comments.

I would point out the little zig here. For those of you who are not mathematicians, I simply say this indicates a zero suppression. Anyone looking at a chart with a little zig there, should consider you are doing a comparative analysis, rather than an absolute one. The chart is perfectly accurate and illustrates that in fact the amount of spending has been increasing.

In the remainder of my time I simply want to comment on the previous speaker, Mr. STENHOLM's comments, and he is absolutely right. When the American automobile manufacturers publicize the price of their new car, and it has gone up $200, they are comparing it to the previous year's price. They do not advertise well, if you take the baseline adjusted for inflation, we are cutting the cost of our cars by $50 a year. Every press release that goes out, every statement made, every comparison by the buying public says in fact the price has gone up, and that is what is happening with our budget.

I urge that we reject the Spratt amendment.

Mr. PENNY. Madam Chairman, I yield 30 seconds to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, I want to thank my colleague for explaining not only to me, but also for the people of the Stanford Dairy Queen, what that signature means on that, because I think the whole world will know better now what we are talking about in the charts. I appreciate the edification.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Madam Chairman, I thank my colleague from Minnesota for yielding.

I just want to add to, and I hope very briefly, the common sense that I am hearing out of people like the gentleman from Texas [Mr. STENHOLM] and the gentleman from Minnesota [Mr. PENNY] with regard to this amendment.

We have got to represent in our budgets the things that we are doing here in Washington in terms that most Americans can understand and believe. That is what we dealt with on Wednesday with the congressional accountability legislation, where we voted to bring Congress under every law that it passes for the rest of the country. That is what we have to do here when we talk budgets with small business people, with housewives, with those American citizens that live throughout the country and are trying to make sense out of these convoluted and complicated processes.

We are not changing the numbers. We are not misrepresenting anything. We are putting it all in terms that the average American can easily grasp. I think, quite honestly, it will make it easier for many of us here in Congress to understand as well. We have already had the zig explained. Now we have to make sure we get the zag out of there and come up with a budget we all understand. I urge support for the Penny amendment, and no vote on the Spratt amendment.

Mr. SPRATT. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. SABO], the distinguished chairman of the Committee on the Budget.

Mr. SABO. Madam Chairman, I rise in support of the Spratt amendment. If you wanted the most complete, total information available using a variety of options, you support Spratt. You compare it to last year, you compare it to existing law, you compare it to the existence of inflation.

To the last speaker, I would only say when he plans for the future and having resources available to educate his kids, I hope he considers the long-term impact of inflation. Most Americans do. When Americans plan for their retirement, they consider the impact of inflation. We should too. When we look at what has historically happened in our country, we need to know how programs have changed, dollar for dollar. But we also need to know how it has been impacted by inflation.

□ 1330

When we measure the wage base of the American public and how, frankly, it has declined for millions of Americans over the last 20 years, we use inflation to understand that change and what is happening to millions of working Americans.

So, Madam Chairman, if we want to preserve the most options and understand what is happening with Federal budget policy, rather than fitting some little dogma, we vote for the Spratt amendment.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Madam Chairman, I thank the gentleman for yielding time to me.

I just wanted to add an anecdote from last summer that I thought might be of interest to the House.

Then Director of OMB, Leon Panetta, was in Cleveland for a roundtable conference. He is now, of course, the President's Chief of Staff. We were talking about the budget.

And I said we ought to start cutting with the Government, the Federal Government, ourselves. And Mr. Panetta said, "We did, we cut the pay of Federal workers."

And I looked at him and I said, "That is not true. We didn't cut the pay of Federal workers at all."

He said, "Yes, we have decreased the amount of the increase."

I said, "Mr. Panetta, when you say to the people in Parma, OH or in Rocky River that you have cut their pay, that means that if they made $34,000 this year, they will make $35,000 next year. That is a pay cut. It is not a decrease in an increase."

Mr. Panetta looked at me like I was from another planet. This is the former chairman of our distinguished Committee on the Budget.

That is the whole problem that we have got here in Washington with this baseline budgeting. I call it the dark alchemy of numbers.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Madam Chairman, I think when we go to explain how we are cutting spending to the American public, they do not understand because of the current system we are in.

I talked to my Mom. And I said, Mom, we are going to have a turkey for Thanksgiving, but next year the whole family is going to come so we need 10 turkeys. But came this year, the family called up and said, Mom, we cannot come. So we canceled the 10 turkeys and we stuck with the one turkey.

Under this system, we would tell the American public that we just cut 90 percent of the turkey expenditures. It is just not true.

We need to tell the American people instead of being able to confuse them, let them know exactly what they are spending.

As far as inflation, we could take care of inflation every year, because that happens yearly, not biyearly.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Madam Chairman, not one person in this Nation sits at their kitchen table and plans for the next year, assuming they are going to get a salary increase equal to inflation.

Nobody does. It would be awfully nice if they could. Most of them do not get a salary increase equal to inflation.

Why does this Congress continue to believe it is all right for us to assume the budget is going to go up by inflation and only above inflation that we should tell the citizens of America that we increase spending? Get real.

This is about sunshine. This is about honesty. This is about accountability. And this is easy. The simple things in life matter. We will never ever cast a more important vote than we will cast today on this issue for deficit reduction. Because if we pass this, from now on the public will be able to see whether we increase spending 1 percent or 2 percent and we can say, yes, that is less than inflation.

They will be able to see what we are doing and judge us by our work.

Mr. PENNY. Madam Chairman, in urging a no vote on Spratt for those who voted yes on Penny, I yield my final minute and a half to the gentleman from California [Mr. COX].

Mr. COX. Madam Chairman, a recent survey of the American people asked them do you trust Congress to do the right thing most of the time. One percent said yes.

Why are the American people so cynical? It is because we can do things like call a spending increase a spending cut.

If we abolish baseline budgeting, we will not stop spending increases. We will simply require that when we increase spending, we say so. And we do not call it a cut.

Recently, a bipartisan coalition proposed reforms in 12 Federal programs. Overall the proposal allowed spending to grow by $18 billion. But using this baseline budgeting technique, the supporters of big spending were able to claim that the coalition wanted to cut spending these in programs by $11 billion.

Now we are going to compound the deficit of baseline budgeting by using a procedural trick called king of the hill. After pretending to say that we stopped baseline budgeting, we can come back and use king of the hill to undo it all.

The Penny-Kasich-Stenholm amendment passed by 247 to 171. It abolishes baseline budgeting. Now the Spratt amendment is offered to repeal it. Cynical Members of Congress who just minutes ago voted to abolish the accounting trick that says a spending increase is really a cut can now vote to put this accounting slight of hand back into the big spenders bag of tricks. This is double deception.

Thomas Jefferson once noted, "He who permits himself to tell a lie once finds it much easier to do it a second and a third time until at length it becomes habitual. The falsehood of the tongue leads to the falsehood of the heart and in time depraves all good dispositions."

Jefferson was right. The baseline is a lie and it eats away at the credibility of this Congress. The king-of-the-hill procedure is a deceit. We should abandon use of this practice at once.

I urge my colleagues to vote "no" on this double deception.

The CHAIRMAN. All time of the gentleman from Minnesota [Mr. PENNY] has expired.

Mr. SPRATT. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, let me first make the argument that a vote for Spratt for the underlying base bill is completely consistent, even though you may have voted for the Stenholm-Penny-Kasich substitute. Why is that?

Undoubtedly Members of the House voted for Penny-Kasich-Stenholm because they wanted to have a frozen baseline. They wanted to have this year's spending baseline against which to measure increases in next year's budget. I understand that.

Indeed, we have, as a first step in this bill, accommodated that desire on the part of all Members and the desire of the public by having a current funding baseline authorized in this bill. It represents actual funding, what CBO calls a freeze.

VOL 140 PT 16 AG 12 — 18 1994 UMI

There is also a need expressed by the fact that we use it continually for a current policy baseline both for us and for the public. And so if Members vote now for Spratt, we will simply say we want to have what we voted for before. We want the current funding baseline. But we would also like to have and have it displayed in the budget documents the current policy baseline.

Those who want to argue that an increase is an increase and a cut is a cut will have the current funding baseline against which to measure what is an increase and what is a cut. Those who would like to say, we are not keeping the Social Security Program adequately funded, we are not keeping Medicare adequately funded to maintain the benefits that are existing this year and next year, would have a current policy baseline as well.

We talk about entitlements but it applies to defense as well. If you want a current policy baseline so that you can say, do not fool yourself, a $1 billion increase in defense is not an increase, it is really a decrease. It will mean less pay, less O&M, less things that we essentially need for financial security. You need the current policy baseline for that purpose.

So this is a consistent vote. Members can vote to uphold what they voted for before because that is in this bill. But vote also for something useful, something analytically purposeful, the current policy baseline.

Vote for Spratt. Vote for good budget, full disclosure.

Mr. CONYERS. Madam Chairman, I rise in support of the legislation proposed by Representative SPRATT, a member of the Government Operations Committee, to reform our budget laws and provide more complete budgetary information to Congress.

H.R. 4907 reforms the baseline concept for the congressional budget and appropriations process. Currently, a program's baseline is adjusted each year so its spending level keeps pace with inflation and other factors. These adjustments make sure that Members of Congress, when asked to vote on budget and appropriations bills, are aware of the full cost of today's programs. H.R. 4907 would keep this baseline calculation and add a current funding baseline, which is not adjusted to reflect inflation.

In a series of Government Operations Committee hearings, several of our colleagues criticized the current baseline as providing for automatic spending increases and permitting Congress to call reductions in the size of the baseline increase a cut in spending.

These colleagues would prohibit inflation adjustments as Congress considers program funding levels. However, inflation is a very real cost for Federal programs.

The current baseline lets Members know that $1 of services this year is worth 97 cents next year because of inflation. Many Members want to know this information because it represents real reductions in programs, whether for kids or the Pentagon.

The new baseline estimate proposed in this bill would give Members a program's uninflated baseline. This should satisfy those Members who think the most important information is how much we spent last year.

Unlike the alternatives we will consider today, H.R. 4907 puts all of the information, with and without inflation, adjustments, before Members of Congress. We should not put new restrictions on the information Members of Congress can, and cannot, consider when making spending decisions. We cannot do our job if we have only half of the needed information.

If we are to impose spending cuts, we need to know what the full impact of these decisions will be. We cannot do this if we ignore the current costs of today's problems by focusing only on last year's costs. Under such a formula, Congress would always be behind the curve in addressing today's urgent priorities.

Madam Chairman, I urge adoption of H.R. 4907. The legislation will present all of the information Members of Congress need to fully evaluate spending decisions. I urge opposition to amendments which require Congress to turn a blind eye to today's needs. Thank you, and I yield back the balance of my time.

□ 1340

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from South Carolina [Mr. SPRATT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SPRATT. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 243, not voting 26, as follows:

[Roll No. 396]

AYES—170

Abercrombie	Derrick	Johnson, E.B.
Ackerman	Deutsch	Johnston
Andrews (ME)	Dicks	Kanjorski
Applegate	Dingell	Kaptur
Barlow	Dixon	Kennedy
Becerra	Durbin	Kennelly
Bellenson	Edwards (CA)	Kildee
Berman	Engel	Klein
Bevill	Eshoo	Klink
Bilbray	Evans	Kopetski
Bishop	Farr	Kreidler
Blackwell	Fazio	LaFalce
Bonior	Filner	Levin
Borski	Flake	Lewis (GA)
Boucher	Foglietta	Lowey
Brooks	Ford (MI)	Maloney
Brown (CA)	Ford (TN)	Manton
Brown (FL)	Frank (MA)	Markey
Bryant	Gephardt	Martinez
Byrne	Gibbons	Matsui
Cardin	Gonzalez	McCloskey
Carr	Green	McDermott
Chapman	Gutierrez	McKinney
Clay	Hall (OH)	McNulty
Clayton	Hamburg	Meek
Clyburn	Hamilton	Menendez
Coleman	Hastings	Mfume
Collins (IL)	Hefner	Miller (CA)
Collins (MI)	Hilliard	Mineta
Conyers	Hinchey	Mink
Costello	Hoagland	Moakley
Coyne	Hochbrueckner	Mollohan
de la Garza	Holden	Moran
de Lugo (VI)	Hoyer	Murtha
DeLauro	Hughes	Nadler
Dellums	Jefferson	Neal (MA)
Norton (DC)	Sarpalius	Torres
Oberstar	Sawyer	Torricelli
Obey	Schumer	Towns
Olver	Scott	Traficant
Ortiz	Serrano	Tucker
Owens	Sharp	Unsoeld
Pastor	Skaggs	Velazquez
Payne (NJ)	Skelton	Visclosky
Pelosi	Slaughter	Volkmer
Peterson (FL)	Smith (IA)	Waters
Pomeroy	Spratt	Watt
Price (NC)	Stark	Waxman
Rahall	Stokes	Wheat
Rangel	Strickland	Whitten
Reed	Studds	Wilson
Richardson	Stupak	Wise
Rose	Swift	Woolsey
Roybal-Allard	Tejeda	Wyden
Rush	Thompson	Wynn
Sabo	Thornton	Yates
Sanders	Thurman	

NOES—243

Allard	Franks (NJ)	Machtley
Andrews (NJ)	Frost	Mann
Andrews (TX)	Furse	Manzullo
Archer	Gallegly	Margolies-Mezvinsky
Armey	Gallo	Mazzoli
Bachus (AL)	Gekas	McCollum
Baesler	Geren	McCrery
Baker (CA)	Gilchrest	McCurdy
Baker (LA)	Gillmor	McDade
Barca	Gilman	McHale
Barcia	Gingrich	McHugh
Barrett (NE)	Glickman	McInnis
Barrett (WI)	Goodlatte	McKeon
Bartlett	Goodling	McMillan
Bateman	Gordon	Meehan
Bentley	Goss	Meyers
Bereuter	Grams	Mica
Billrakis	Grandy	Miller (FL)
Blilley	Greenwood	Minge
Blute	Gunderson	Molinari
Boehlert	Hall (TX)	Moorhead
Boehner	Hancock	Morella
Bonilla	Hansen	Murphy
Browder	Harman	Myers
Brown (OH)	Hastert	Neal (NC)
Bunning	Hayes	Nussle
Burton	Hefley	Orton
Buyer	Herger	Oxley
Callahan	Hobson	Packard
Calvert	Hoekstra	Pallone
Camp	Hoke	Parker
Canady	Horn	Paxon
Cantwell	Houghton	Payne (VA)
Castle	Huffington	Penny
Clement	Hunter	Peterson (MN)
Clinger	Hutchinson	Petri
Coble	Hutto	Pickett
Collins (GA)	Hyde	Pombo
Combest	Inglis	Porter
Condit	Inhofe	Portman
Cooper	Inslee	Poshard
Coppersmith	Istook	Pryce (OH)
Cox	Jacobs	Quillen
Cramer	Johnson (CT)	Quinn
Crane	Johnson (GA)	Ramstad
Crapo	Johnson (SD)	Ravenel
Cunningham	Johnson, Sam	Regula
Danner	Kasich	Ridge
Darden	Kim	Roberts
Deal	King	Roemer
DeFazio	Kingston	Rogers
DeLay	Kleczka	Rohrabacher
Diaz-Balart	Klug	Ros-Lehtinen
Dickey	Knollenberg	Roth
Dooley	Kolbe	Roukema
Doolittle	Kyl	Rowland
Dornan	Lambert	Royce
Dreier	Lancaster	Sangmeister
Duncan	LaRocco	Santorum
Dunn	Laughlin	Saxton
Edwards (TX)	Lazio	Schaefer
Ehlers	Leach	Schenk
Emerson	Lehman	Schiff
English	Levy	Schroeder
Everett	Lewis (CA)	Sensenbrenner
Ewing	Lewis (KY)	Shaw
Fawell	Lightfoot	Shays
Fields (TX)	Linder	Shepherd
Fingerhut	Lipinski	Shuster
Fish	Livingston	Sisisky
Fowler	Long	Skeen
Franks (CT)	Lucas	

Smith (MI)	Swett	Vucanovich
Smith (NJ)	Talent	Walker
Smith (OR)	Tanner	Weldon
Smith (TX)	Tauzin	Wolf
Snowe	Taylor (MS)	Young (AK)
Solomon	Taylor (NC)	Young (FL)
Spence	Thomas (CA)	Zeliff
Stearns	Torkildsen	Zimmer
Stenholm	Upton	
Stump	Valentine	

NOT VOTING—26

Bacchus (FL)	Lloyd	Sundquist
Ballenger	McCandless	Synar
Barton	Michel	Thomas (WY)
Brewster	Montgomery	Underwood (GU)
Faleomavaega (AS)	Pickle	Vento
Fields (LA)	Reynolds	Walsh
Gejdenson	Romero-Barcelo (PR)	Washington
Lantos	Rostenkowski	Williams
Lewis (FL)	Slattery	

□ 1358

The Clerk announced the following pairs:

On this vote:

Mr. Pickle for, with Mr. Barton against.

Mr. Vento for, with Mr. Thomas of Wyoming against.

Ms. FURSE changed her vote from "aye" to "no."

Mr. NEAL of Massachusetts changes his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GEJDENSON. Madam Chairman, today I was absent for rollcall votes Nos. 395 and 396. Had I been present, I would have voted against the Penny amendment, No. 395, and in favor of the Spratt amendment, No. 396.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, unfortunately I missed rollcall vote 396 on the Spratt amendment to H.R. 4907, the Full Budget Disclosure Act of 1994. Had I been present, I would have voted "no."

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute; as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCDERMOTT) having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4907) to reform the concept of baseline budgeting, pursuant to House Resolution 512, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COLEMAN. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Was the gentleman on his feet?

Mr. COLEMAN. The gentleman was on his feet.

The SPEAKER pro tempore. The Chair will recognize that the gentleman was on his feet. The Chair will count for the yeas and nays. Those favoring the yeas and nays will rise and be counted. Members may be seated.

The Chair will count the House. In a House of obviously more than 220 Members, the Chair counts 45 in favor of a vote by the yeas and nays. Therefore, an insufficient number has arisen.

The yeas and nays were refused.

So the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 4907, the bill just passed.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 1426. An act to provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2921. An act to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges and universities;

H.R. 4569. An act to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992;

H.R. 4606. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes;

H.R. 4812. An act to direct the Administrator of General Services to acquire by transfer the Old U.S. Mint in San Francisco, California, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4606) "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARKIN, Mr. BYRD, Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. REID, Mr. KOHL, Mrs. MURRAY, Mr. SPECTER, Mr. HATFIELD, Mr. STEVENS, Mr. COCHRAN, Mr. GORTON, Mr. MACK, and Mr. BOND, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2243) "An Act to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes.".

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4506) "An Act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes.".

The message also announced that the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 2, 4, 8, 28, 48, and 49, to the above-entitled bill.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 60. Concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America.

The message also announced that pursuant to Public Law 99-498, the Chair, on behalf of the President pro tempore, reappoints William C. Hiss of Maine, to the Advisory Committee on Student Financial Assistance for a 3-year term effective October 1, 1994.

LEGISLATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I ask to proceed for the purpose of receiving the

VOL 140 PT 16 AG 12 — 18 1994 UMI

schedule from the majority leader, and I yield to my good friend, the gentleman from Missouri, for that purpose.

Mr. GEPHARDT. I thank the gentleman for yielding. There will not be further votes today.

On Monday, August 15, the House will not be in session.

Tuesday, August 16, the House will meet at 10:30 a.m. for morning hour. The House will meet at noon on Tuesday for 12 bills under suspension. The bills are:

H.R. 1103, Secondary Transmissions Of Superstations And Network Stations For Private Home Viewing;

H.R. 2856, Headwaters Forest Act;

H.R. 4184, Criminal Justice Information Services Placement Assistance Act;

H.R. 4867, High Speed Rail Development Act of 1994;

H.R. 4868, Railroad Unemployment Insurance Amendments Act of 1994;

H.R. 2178, Hazardous Materials Transportation Act Amendments;

H.R. 4812, To Direct The AGS To Acquire Title To The Old U.S. Mint In San Francisco, CA;

H.R. 4709, To Make Certain Technical Amendments;

H.R. 3508, Tribal Self-Governance Act Of 1994;

H.R. 2947, Two Year Extension Of The Black Revolutionary War Patriots Foundation To Establish A Memorial;

H.R. 2835, Farmington Wild and Scenic River Act; and

H.R. 1505, Minor Boundary Adjustments and Miscellaneous Park Amendments.

We will try to not have votes until 5 o'clock on Tuesday afternoon on the suspension bills.

On Wednesday, August 17, and the balance of the week, the House will meet at 10 a.m. on Wednesday, Thursday, and possibly Friday. We will have H.R. 4906, Emergency Spending Control Act of 1994, subject to a rule; H.R. 3433, providing for the management of the Presidio, subject to a rule; H.R. 4908, hydrogen and fusion research and development programs authorization, subject to a rule; S. 2182, Department of Defense authorization conference report, subject to a rule; H.R. 3355, the Omnibus Crime Control Act conference report again, subject to a rule; H.R. 3800, Superfund Reform Act of 1994, subject to a rule; S. 349, Lobbying Disclosure Act of 1994 conference report; and S. 3, Congressional Spending Limit and Election Reform Act of 1994, conference report, subject to a rule.

There are other conference reports that may be brought up at any time.

I would say to the gentleman, we are continuing on both sides with different groups of Members working with the Congressional Budget Office on scoring the various health bills. It is our intention to try to get to health care if and when the Congressional Budget Office is finished that material. As the Members know, this is an interactive process and there is no way to predict, unfortunately, when that will be finished and we will just have to keep Members apprised on a day-by-day basis of where we are on that.

Mr. GINGRICH. If I could ask the majority leader, first I want to reconfirm for Members if they are back by 5 o'clock on Tuesday, that is when votes, in your judgment, will probably begin, for Members in terms of arranging plans, is that correct?

Mr. GEPHARDT. The gentleman is correct.

Mr. GINGRICH. I want to walk through the health thing if I could for just a second. As I understand it, this is an extraordinary complex business and we have talked about it at length together, making sure that the Congressional Budget Office scoring is accurate, which takes time, and at the same time having an opportunity to interact with the authors of each bill because, as the gentleman knows, as we go through each part of this process it changes the whole nature of what we are doing.

I have two questions I guess. One is should Members for the present time plan on the week after next being here, or does the gentleman have any notion at this stage what plans they should make for the week after next?

Mr. GEPHARDT. We will have to advise them again next week on a day-by-day basis as we see where we are with the Congressional Budget Office work. As the gentleman knows, we have procedures without a recess motion that could be used to keep the House in session as long as the Senate is in session, and we anticipate it will be. We can go 3 days to 3 days under our rules and allow Members to not be here for votes, but keep the House in session and continue to work to see if we can get a solution to the CBO analysis problem.

Mr. GINGRICH. My second question is on the health side we had talked at one point about a very orderly procedure, which I found very attractive to begin the debate in an orderly way and have plenty of general debate time because of the intensity and scale of this issue, allow all of the various proponents of different bills to have a chance, and then move into a process with a second rule looking at any amendments, and looking at voting on the various alternatives.

In your judgment, the gentleman and the Democratic leadership yet decided whether we should wait until we are certain of the whole scoring process before we begin the initial general debate, or whether we should try to begin that late next week, or again, just for the purpose of those Members on both sides who may want to prepare remarks on an issue of this importance, do you have any thoughts at this stage on how we might proceed?

Mr. GEPHARDT. I do not want to stop anyone from writing a speech. But I do think that we are going to have hearings next week in the Rules Committee. We will continue on the bills. I think Members can anticipate that they may want to be involved in testifying there.

But I do think that it is hard to have meaningful debate on these bills until we know exactly what their provisions are, and again, the provisions may have to change as a result of the scoring necessities..

□ 1410

Mr. GINGRICH. I would rather have us, as you know, go in an orderly manner, so you are not going to get any complaints on our side if we allow the scoring and the drafting and the technicalities to be worked out prior to beginning debate.

Because I think on an issue that affects the whole country on this scale, that is the right way to do it. So you will not hear any carping or complaining.

One other item, I noticed you mentioned here H.R. 3355, the Omnibus Crime Control Act. I would just like to comment and report to the House that a few minutes ago Senator DOLE and I along with four members of the conference sent a letter to the President on Air Force One offering to meet early this evening and discuss the possibility of bipartisan help in reporting the conference and that the 11 Republicans who voted "yes" yesterday on the rule have also sent a letter to the President indicating a desire to work with him in a bipartisan manner to get this bill rewritten.

So I just want Members to know we are prepared, if necessary, to work starting this weekend in a bipartisan manner to reopen the conference and to try to get to a passable crime bill as early as possible.

Mr. GEPHARDT. We have been meeting with a lot of our Members today to talk about the crime bill. We are trying to work toward a solution.

ADJOURNMENT FROM TODAY, FRIDAY, AUGUST 12, 1994, TO TUESDAY, AUGUST 16, 1994

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10:30 a.m. on Tuesday, August 16, 1994.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

NORTHERN GREAT PLAINS RURAL DEVELOPMENT ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 2099) to establish the Northern Great Plains Rural Development Commission, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I shall not object, but under my reservation, I yield to the distinguished chairman to explain the purpose of the bill.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Northern Great Plains Rural Development Act would establish a commission to study and make recommendations regarding the economic development needs of the rural northern Great Plains States of South Dakota, North Dakota, Nebraska, Minnesota, and Iowa.

Mr. Speaker, S. 2099, the Northern Great Plains Rural Development Act, would establish a commission to study and make recommendations regarding the economic development needs of the rural northern Great Plains States of South Dakota, North Dakota, Nebraska, Minnesota and Iowa.

The legislation seeks to achieve this objective by seeking and encouraging the participation and input of a broad range of interested citizens in these States. The Commission proposed in the bill would be comprised of 10 members. Five are to be selected by the States with each Governor appointing one member, and five are to be selected by the Federal Government with the Secretary of Agriculture appointing one member from each of the five States.

The legislation requires the Commission to hold hearings, conduct studies, and determine the appropriate strategies for promoting development in the rural areas of the Northern Great Plains. The bill also states that the Commission will terminate in not less than 2 years.

Mr. Speaker, S. 2099 will provide a mechanism for State and local leaders, working with USDA, to develop a long-term, cooperative plan that enables the rural areas of these States to build on their shared and unique strengths and to overcome their common problems.

I commend the gentleman from South Dakota [Mr. JOHNSON] for introducing in the House the companion bill to this measure. The bill has support from lawmakers in all of the States included in the bill.

The Committee on Agriculture has approved this legislation by voice vote. And I urge my colleagues in the House to support its passage.

Mr. ROBERTS. Mr. Speaker, further reserving the right to object, this legislation passed the Senate by unanimous consent on June 22 and was routinely reported by the Committee on Agriculture by voice vote; it is identical to a companion House bill, H.R. 4388. There was no dissent on the Republican side concerning this legislation in Committee.

The bill sets up a rural development commission to study the economic problems of the northern Great Plains, specifically the States of South and North Dakota, Nebraska, Minnesota, and Iowa. It requires input from a wide array of interest groups, including local, regional and State governments, nonprofit organizations, agricultural and business groups in the area. They are required to come up with a strategy to address the economic needs of the region, which are similar to the problems of our agricultural economy nationally.

This legislation is similar to the Mississippi Delta Commission that was authorized in 1988, but the authorization expires following the Commission's report or within 2 years of enactment. It is my understanding funds have been provided in the Senate agricultural appropriations bill. The bill has broad support among the Members representing congressional districts in the regions and unanimous support from those States in the other body.

I would urge adoption of the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Great Plains Rural Development Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the rural economy of the Northern Great Plains is undergoing a substantial and potentially threatening transformation;

(2) the rural Northern Great Plains suffers from substantial measurable poverty, unemployment, outmigration, underemployment, aging of the population, and low per capita income;

(3) the Northern Great Plains is highly rural and has a highly dispersed population, and contains many Native American reservations;

(4) many of the basic industries of the rural Northern Great Plains in natural resources are under stress;

(5) a concerted Federal, State, and local public and private effort is needed if the rural Northern Great Plains is to share in the general prosperity of the United States;

(6) the creation of jobs and expansion of existing businesses, including small businesses, offer the greatest hope for rural economic growth and revitalization in the Northern Great Plains;

(7) the availability of capital, technology, market information, infrastructure development, educational opportunities, health care, housing, recreational activities, and resource development are essential to successful business development in the rural Northern Great Plains;

(8) the transportation needs of the rural Northern Great Plains must be addressed through highway and bridge construction, air service availability, and rail service and river transport development;

(9) because of the social, geographic, weather, historical, and cultural ties of the rural Northern Great Plains as well as common economic problems, planning for this unique region is desirable and urgently needed; and

(10) in the rural Northern Great Plains, the tourism industry offers significant additional potential for supporting economic development and job growth, fostered by the wise stewardship of natural resources.

SEC. 3. PURPOSE.

The purpose of this Act is to establish the Northern Great Plains Rural Development Commission to study and make recommendations regarding the economic needs and economic development of the rural Northern Great Plains by seeking and encouraging the participation of interested citizens, public officials, groups, agencies, businesses, and other entities in developing a 10-year rural economic development plan for the Northern Great Plains.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) CHAIRPERSON.—The term "chairperson" means the chairperson of the Commission.

(2) COMMISSION.—The term "Commission" means the Northern Great Plains Rural Development Commission.

(3) NORTHERN GREAT PLAINS.—The term "Northern Great Plains" means the States of North Dakota, South Dakota, Nebraska, Iowa, and Minnesota.

(4) STATE.—The term "State" means a State in the Northern Great Plains.

SEC. 5. ESTABLISHMENT.

There is established a Commission to be known as the "Northern Great Plains Rural Development Commission".

SEC. 6. MEMBERSHIP AND ORGANIZATION.

(a) MEMBERSHIP.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the Governor of each State; and

(2) 1 member shall be appointed from each of the States by the Secretary of Agriculture.

(b) TERM.—Each member of the Commission shall serve for such term as the official who appoints the member determines is appropriate.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but the Commission may establish that a lesser number shall constitute a quorum for the purpose of conducting hearings.

(d) MEETINGS.—

(1) FIRST MEETINGS.—Five or more members appointed under subsection (a)(1) shall determine the date, time, and place of the first meeting, and shall call the first meeting. At the first meeting, the members of the Commission shall appoint a chairperson

VOL 140 PT 16 AG 12 — 18 1994 UMI

from among the members appointed under subsection (a)(1). The first meeting of the Commission shall be held not later than 45 days after the date of enactment of this Act.

(2) ADDITIONAL MEETINGS.—The Commission shall conduct such additional meetings as the Commission determines are appropriate.

(e) APPOINTMENTS.—Each appointment under this Act shall be made not later than 30 days after the date of enactment of this Act.

(f) VACANCIES.—A vacancy on the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(g) HEADQUARTERS.—The Commission shall establish the location for the headquarters of the Commission.

SEC. 7. DUTIES.

(a) PLAN.—The Commission shall identify and study the economic development, infrastructure, technology, telecommunications, capital, employment, transportation, business resource development, education, health care, housing, and recreation needs of the Northern Great Plains and develop a 10-year plan that makes recommendations and establishes priorities to address the needs.

(b) PREPARATION OF PLAN.—In developing the plan, the Commission shall, with respect to the Northern Great Plains—

(1) sponsor and conduct investigations, research studies, and field hearings;

(2) review and evaluate available research, studies, and information on conditions in the areas referred to in subsection (a);

(3) study the economy, identifying strengths, weaknesses, participation levels, opportunities, and methods of addressing outmigration;

(4) develop a profile of, and a description of resources devoted to, economic development (including tourism), human resources (including demographics, outmigration, poverty, Native Americans, education, and training), infrastructure (including air, water, highway, rail, and telecommunications), and natural resources;

(5) study and evaluate the economic development resources, coordination, collaboration, and "best practices" of the Federal, State, and local governments, nonprofit organizations, universities, businesses, agricultural and natural resources groups, foundations, cooperatives, and other organizations;

(6) identify methods of facilitating the employment and business startups of unemployed, underemployed, and low-income individuals and households;

(7) identify effective methods for promoting development on Native American reservations;

(8) study the availability of methods of delivering public, private, and nonprofit capital and technical assistance for business startups and expansions, including farming and ranching;

(9) evaluate the availability of, need for, and strategies for providing and maintaining, the infrastructure, including air, water, highway, rail, and telecommunications;

(10) study the structure and potential development of major industries, including agriculture, timber, mining, tourism, and manufacturing (including the use of advanced technologies and processes and adding value to raw materials and component parts);

(11) study the competence and availability of the labor force, including the health, educational, training, housing, and economic needs of the labor force;

(12) develop an inventory of water, mineral, energy, timber, agricultural, fishery, wildlife, and other natural resources;

(13) assess the comparative cost of doing business;

(14) assess the international trading levels, markets, and practices, and potential opportunities;

(15) assess the interconnection between metropolitan and rural areas and identify methods through which the areas can collaborate;

(16) assess methods by which small communities and regions are collaborating or can collaborate in economic development initiatives;

(17) evaluate—

(A) the distribution and impact of Federal spending, including grant-in-aid programs, research, and Federal procurement, and compare the level of spending in these categories with spending in other regions of the country; and

(B) the extent to which reliance on Federal, State, and local government outlays for poverty programs can be reduced by outlays targeted for economic development;

(18) identify Federal, State, and local government programs, policies, and regulations that enhance or obstruct the development of businesses and well-paying jobs with long-term potential and that effectively use the skills, education, and training of the labor force;

(19) evaluate the potential for States to jointly finance projects and activities of regional benefit; and

(20) analyze such other issues as the Commission determines are relevant to future economic development.

(c) DEVELOPMENT OF PLAN.—In developing the plan, the Commission shall—

(1) provide a forum for the consideration of the problems of the rural Northern Great Plains and proposed solutions, and establish and utilize citizens groups, special advisory councils, public hearings, and conferences;

(2) seek and encourage the participation of interested citizens, public officials, groups, agencies, economic development organizations, natural resource organizations, and other organizations;

(3) make the Commission accessible to the individuals, groups, agencies, and organizations referred to in paragraph (2) by holding at least 1 well publicized public hearing in each State; and

(4) consult with—

(A) Federal, State, and local government agencies, including the Departments of Agriculture, Commerce, Education, Labor, Health and Human Services, Housing and Urban Development, and Transportation, and the Small Business Administration, bank regulatory agencies, and rural development councils;

(B) banks, insurance companies, venture capital companies, and other for-profit financial institutions;

(C) nonprofit and community-based development organizations, revolving loan funds, and other organizations;

(D) industry and sectoral organizations;

(E) foundations and universities; and

(F) other organizations involved in economic development activities.

SEC. 8. COMPENSATION OF MEMBERS.

(a) MEMBERS APPOINTED BY GOVERNORS.—Each member of the Commission appointed by a Governor of a State may be compensated by the State that the member represents.

(b) MEMBERS APPOINTED BY THE SECRETARY.—Each member appointed by the Secretary of Agriculture, who is not otherwise employed by the United States Government, shall receive compensation at a rate determined by the Secretary of not to exceed the daily equivalent of the lowest annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, including travel-time, for each day the member is engaged in the actual performance of the duties of the Commission. A member of the Commission appointed by the Secretary who is an officer or employee of the United States Government shall serve without additional compensation.

(c) TRAVEL AND OTHER EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Commission. Each member of the Commission shall also be reimbursed by the United States Government for other necessary expenses incurred by the member in the performance of the duties of the member.

SEC. 9. POWERS AND ADMINISTRATIVE PROVISIONS.

(a) EXPERTS AND CONSULTANTS.—The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(b) FINANCIAL AND ADMINISTRATIVE SERVICES.—The Commission may enter into agreements with the Administrator of General Services for the procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as are agreed on by the chairperson and the Administrator of General Services.

(c) CONTRACTS.—Subject to subsection (d), the Commission may enter into contracts with Federal and State agencies and private firms, institutions, and agencies for the conduct of research and surveys, the preparation of reports, and other activities necessary to carry out the duties of the Commission.

(d) SUPPLIES, SERVICES, PROPERTY, AND CONTRACTS.—The Commission may procure supplies, services, and property, and make contracts in any fiscal year, only to such extent and in such amounts as are provided in appropriation Acts.

(e) HEARINGS.—The Commission or, on the authorization of the Commission, a member of the Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, memoranda, papers, and documents as the Commission or the member considers appropriate.

(f) INFORMATION.—The Commission may acquire directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act. Each department, bureau, agency, board, commission, office, establishment, or instrumentality shall provide, to the extent permitted by law, the information, suggestions, estimates, and statistics directly to the Commission, upon request by the chairperson.

(g) PERSONNEL.—

(1) IN GENERAL.—Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the chairperson of the Commission may appoint, terminate, and fix the compensation of an Executive Director and such additional personnel as the chairperson determines are necessary to enable the Commission to carry out the duties of the Commission.

(2) COMPENSATION.—The rate of compensation of the Executive Director may not exceed a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title. The rate of compensation of all other personnel may not exceed a rate equal to the daily equivalent of the lowest annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of such title.

(h) ASSISTANCE FROM OTHER AGENCIES.—Upon request of the Commission, the head of any Federal agency may make any of the facilities and services of the agency available to the Commission or detail any of the personnel of the agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out the duties of the Commission under this Act. If the head of an agency determines that the agency cannot make the facilities, services, or personnel available to the Commission, the head shall notify the chairperson in writing.

(i) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 10. REPORTS.

(a) INTERIM REPORT.—Before the end of the 270-day period beginning on the date of the first meeting of the Commission under section 6(d)(1), the Commission shall submit a report to the Secretary of Agriculture, the President pro tempore of the Senate, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Speaker of the House of Representatives, the Committee on Agriculture of the House of Representatives, the President, and the Governor of each State, describing the findings and activities of the Commission and the further activities necessary to carry out the duties of the Commission.

(b) FINAL REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the first meeting of the Commission under section 6(d)(1), the Commission shall submit to the Secretary of Agriculture, the President pro tempore of the Senate, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Speaker of the House of Representatives, the Committee on Agriculture of the House of Representatives, the President, and the Governor of each State, a report describing the findings and activities of the Commission and recommendations in accordance with paragraph (2) regarding specific actions that are necessary to promote the economic development of the rural Northern Great Plains while preserving, to the maximum extent possible, the natural beauty and habitat of the Northern Great Plains.

(2) RECOMMENDATIONS.—

(A) REGIONAL COLLABORATION.—The Commission shall, with respect to the Northern Great Plains—

(i) determine the most effective and appropriate method for ensuring continued collaboration within the region on economic development matters, considering regional compacts, cooperatives, foundations, development corporations, and other agreements and organizations;

(ii) identify the organizational structure, method of financing, functions, and participating organizations, of the collaboration referred to in clause (i);

(iii) identify methods of effective multicommunity, substate, and small region development; and

(iv) assess the interconnection between metropolitan and rural areas and identify methods of collaboration between the areas.

(B) BUSINESS DEVELOPMENT.—The Commission shall, with respect to the rural Northern Great Plains—

(i) recommend methods of diversifying the rural economy, including the development and financing of value-added and new-use agricultural products;

(ii) develop methods to promote and finance beginning owner-occupied farming and ranching operations;

(iii) recommend methods of promoting entrepreneurial development, including business startups and expansions;

(iv) recommend methods in which the public, private, and nonprofit sectors can help increase international trading levels and penetrate new markets in agricultural, manufactured, and service products;

(v) evaluate the potential utility of business and manufacturing networks in target sectors;

(vi) assess the competitiveness of manufacturers and the use of modern technology, processes, and information by the manufacturers, and methods of assisting manufacturers lacking the technology, processes, or information;

(vii) recommend methods in which capital and technical assistance can be provided on a regional or sectoral basis to business startups and expansions by public, private, and nonprofit organizations; and

(viii) recommend ways in which Federal and State resource conservation programs can be used to encourage tourism in the region.

(C) CAPITAL.—The Commission shall, with respect to the rural Northern Great Plains—

(i) determine if there are capital needs in the economy, and in what part of the economy the needs are located, and recommend how governmental, nonprofit, cooperative, community-based, microlending, banking, venture, seed, and nonbanking financing sources can assist in meeting the needs;

(ii) identify such strategies in organization, regulations, policy, marketing, and coordination as are needed to implement a plan to meet the needs referred to in clause (i); and

(iii) recommend methods of utilizing secondary financial markets to increase the capital available for business development.

(D) INFRASTRUCTURE.—The Commission shall, with respect to the rural Northern Great Plains—

(i) prepare a plan to preserve, finance, and operate effective freight railroad service in coordination with States, the Federal Railroad Administration, the Interstate Commerce Commission, rail operators, shippers, and the financial community;

(ii) prepare an assessment and agreement on the capital needs, coordination, and financing of telecommunications infrastructure, in cooperation with the Department of Agriculture, the National Telecommunications and Information Administration of the Department of Commerce, the Federal Communications Commission, the public utilities commission of each State, telephone companies and cooperatives, representative users, and such other entities as the Commission determines are appropriate; and

(iii) recommend strategies for addressing air, water, and highway needs.

(E) HUMAN RESOURCES.—The Commission shall, with respect to the rural Northern Great Plains—

(i) identify methods of facilitating the employment and business startups of individuals who are not effectively participating in the labor force, including unemployed, underemployed, and low-income individuals and households;

(ii) identify methods of coordinating on a regional or sectoral basis education and training programs that are tied to economic development initiatives, especially programs that address the outmigration of youth; and

(iii) study the competence and availability of the labor force and the effects of the health, educational, training, housing, and economic needs of the labor force, and identify regional strategies addressing the needs.

(F) GOVERNMENT PROGRAMS, POLICIES, AND REGULATIONS.—The Commission shall submit to the appropriate government, nonprofit, and private sector organizations recommendations for modifications or additions to the programs, policies, and regulations referred to in section 7(b)(18) to promote the rural development of the Northern Great Plains.

SEC. 11. TERMINATION.

The Commission shall terminate on the earlier of—

(1) 120 days after the date of submission of the final report under section 10; and

(2) 2 years after the date of enactment of this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PLANT VARIETY PROTECTION ACT AMENDMENTS OF 1993

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to call up the bill (H.R. 2927) to amend the Plant Variety Protection Act to make such act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I shall not object, and I yield to the gentleman from Texas [Mr. DE LA GARZA] the chairman of the Committee on Agriculture, to explain the nature and purpose of the bill.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Plant Variety Protection Act Amendments of 1994 would conform current U.S. law with the articles of the International Convention for the Protection of New Varieties of Plants of 1991, otherwise referred to as the UPOV.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. Speaker, H.R. 2927, the Plant Variety Protection Act Amendments of 1994, would conform current U.S. law with the articles of the International Convention for the Protection of New Varieties of Plants of 1991, otherwise referred to as the UPOV Convention.

The primary purpose of this legislation is to strengthen the intellectual property rights of plant breeders and accommodate recent advancements in plant science knowledge and technology.

Since 1970, the Plant Variety Protection Act [PVPA] has provided for the issuance of certificates of plant variety protection. These certificates assure the the developers of novel varieties of sexually reproduced plants have the exclusive rights to sell, reproduce, import, or export such varieties, or use them in the reproduction of hybrids or different varieties.

In order to provide our plant breeders protection in other countries as well, the United States became a member of the UPOV Convention in 1981. The UPOV currently has 25 member countries and provides for uniform practices in the construction and administration of plant variety protection laws in the various member states.

After several years of negotiations, the UPOV Convention was significantly revised in 1991 to provide improved protection for innovative plant varieties. The United States is a signatory to the 1991 agreement. The bill before the House today would conform the current Plant Variety Protection Act to the 1991 UPOV agreement.

Briefly, the major provision of H.R. 2927 would: Prohibit the unauthorized sale of seed by farmers to others; establish new definitions; use the date of filing for protection as the basis for determining eligibility for protection; require that protected varieties be sold by variety name only—with a narrow exemption provided for certain turf and forage grass seeds; extend protection to first generation hybrids; extend the period of protection from 18 to 20 years for most crops and from 18 to 25 years for trees and vines.

Mr. Speaker, each of these changes are needed to conform U.S. law to the 1991 act of the UPOV Convention. In addition, and at the request of the potato industry, a provision is made for including tuber-propagated varieties within the scope of the PVPA.

Mr. Speaker, the development of new plant varieties is time-consuming and costly.

Many years must be spent in the development of a single new variety, with no guarantee of its success or profit. By granting an owner of a variety the right to prevent unauthorized sale of seed of that variety, this legislation will provide that owner with the opportunity to recover the costs of development.

Mr. Speaker, H.R. 2927 will encourage and protect the investment in research into new varieties necessary to respond to the changing needs of American agriculture. I urge my colleagues in the House to support passage of this legislation.

Mr. ROBERTS. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation.

Mr. Speaker, I rise in support of H.R. 2927, the Plant Variety Protection Act Amendments of 1993. This legislation is an important step towards fulfilling the obligation incurred by the United States as a result of our participation in the International Convention for the Protection of New Varieties.

The development of new plant varieties is important to production agriculture. Not only to increase production of agricultural commodities, but to develop other qualities as well, such as pest and disease resistance. However, the development of these new varieties is time-consuming and costly.

The underlying concept of the International Convention for the Protection of New Varieties and this enabling legislation is simple enough. It maintains that by granting the owner of a variety the right to prevent unauthorized use or sale of the seed of that variety, the owner will have the opportunity to recover the cost of development and profit from their work. This profit then encourages the production of new varieties.

New varieties enable the Nation's farmers to respond to changing climatic conditions, reduce threats from damaging pests, and increase efficiencies that benefit both their own bottom line and the budgets of consumers. This legislation will play an important role in ensuring that Americans continue to enjoy the highest quality food and fiber at the lowest prices.

Again, Mr. Speaker, I underscore my support for this legislation and urge its adoption.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Plant Variety Protection Act Amendments of 1993".

(b) REFERENCES TO PLANT VARIETY PROTECTION ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

SEC. 2. DEFINITIONS AND RULES OF CONSTRUCTION.

Section 41 (7 U.S.C. 2401) is amended to read as follows:

"SEC. 41. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) DEFINITIONS.—As used in this Act:

"(1) BASIC SEED.—The term 'basic seed' means the seed planted to produce certified or commercial seed.

"(2) BREEDER.—The term 'breeder' means the person who directs the final breeding creating a variety or who discovers and develops a variety. If the actions are conducted by an agent on behalf of a principal, the principal, rather than the agent, shall be considered the breeder. The term does not include a person who redevelops or rediscovers a variety the existence of which is publicly known or a matter of common knowledge.

"(3) ESSENTIALLY DERIVED VARIETY.—

"(A) IN GENERAL.—The term 'essentially derived variety' means a variety that—

"(i) is predominantly derived from another variety (referred to in this paragraph as the 'initial variety') or from a variety that is predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;

"(ii) is clearly distinguishable from the initial variety; and

"(iii) except for differences that result from the act of derivation, conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

"(B) METHODS.—An essentially derived variety may be obtained by the selection of a natural or induced mutant or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, transformation by genetic engineering, or other method.

"(4) KIND.—The term 'kind' means one or more related species or subspecies singly or collectively known by one common name, such as soybean, flax, or radish.

"(5) SEXUALLY REPRODUCED.—The term 'sexually reproduced' includes any production of a variety by seed.

"(6) UNITED STATES.—The terms 'United States' and 'this country' mean the United States, territories and possessions of the United States, and the Commonwealth of Puerto Rico.

"(7) VARIETY.—The term 'variety' means a plant grouping within a single botanical taxon of the lowest known rank, that, without regard to whether the conditions for plant variety protection are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one characteristic and considered as a unit with regard to the suitability of the plant grouping for being propagated unchanged. A variety may be represented by seed, transplants, plants, and other matter.

"(b) RULES OF CONSTRUCTION.—For the purposes of this Act:

"(1) SALE OR DISPOSITION FOR NONREPRODUCTIVE PURPOSES.—The sale or disposition, for other than reproductive purposes, of harvested material produced as a result of experimentation or testing of a variety to ascertain the characteristics of the variety, or as a by-product of increasing a variety, shall not be considered to be a sale or disposition for purposes of exploitation of the variety.

"(2) SALE OR DISPOSITION FOR REPRODUCTIVE PURPOSES.—The sale or disposition of a variety for reproductive purposes shall not be considered to be a sale or disposition for the purposes of exploitation of the variety if the sale or disposition is done as an integral part of a program of experimentation or testing to ascertain the characteristics of the variety, or to increase the variety on behalf of the breeder or the successor in interest of the breeder.

"(3) SALE OR DISPOSITION OF HYBRID SEED.—The sale or disposition of hybrid seed shall be considered to be a sale or disposition of harvested material of the varieties from which the seed was produced.

"(4) APPLICATION FOR PROTECTION OR ENTERING INTO A REGISTER OF VARIETIES.—The filing of an application for the protection or for the entering of a variety in an official register of varieties, in any country, shall be considered to render the variety a matter of common knowledge from the date of the application, if the application leads to the granting of protection or to the entering of the variety in the official register of varieties, as the case may be.

"(5) DISTINCTNESS.—The distinctness of one variety from another may be based on one or more identifiable morphological, physiological, or other characteristics (including any characteristics evidenced by processing or product characteristics, such as milling and baking characteristics in the case of wheat) with respect to which a difference in genealogy may contribute evidence.

"(6) PUBLICLY KNOWN VARIETIES.—

"(A) IN GENERAL.—A variety that is adequately described by a publication reasonably considered to be a part of the public technical knowledge in the United States shall be considered to be publicly known and a matter of common knowledge.

"(B) DESCRIPTION.—A description that meets the requirements of subparagraph (A) shall include a disclosure of the principal characteristics by which a variety is distinguished.

"(C) OTHER MEANS.—A variety may become publicly known and a matter of common knowledge by other means.".

SEC. 3. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

Section 42 (7 U.S.C. 2402) is amended to read as follows:

"SEC. 42. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

"(a) IN GENERAL.—The breeder of any sexually reproduced plant variety (other than fungi or bacteria) who has so reproduced the variety, or the successor in interest of the breeder, shall be entitled to plant variety protection for the variety, subject to the conditions and requirements of this Act, if the variety is—

"(1) new, in the sense that, on the date of filing of the application for plant variety protection, propagating or harvested material of the variety has not been sold or otherwise disposed of to other persons, by or with the consent of the breeder, or the successor in interest of the breeder, for purposes of exploitation of the variety—

"(A) in the United States, more than 1 year prior to the date of filing; or

"(B) in any area outside of the United States—

"(i) more than 4 years prior to the date of filing; or

"(ii) in the case of a tree or vine, more than 6 years prior to the date of filing;

"(2) distinct, in the sense that the variety is clearly distinguishable from any other variety the existence of which is publicly known or a matter of common knowledge at the time of the filing of the application;

"(3) uniform, in the sense that any variations are describable, predictable, and commercially acceptable; and

"(4) stable, in the sense that the variety, when sexually reproduced, will remain unchanged with regard to the essential and distinctive characteristics of the variety with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

"(b) MULTIPLE APPLICANTS.—

"(1) IN GENERAL.—If 2 or more applicants submit applications on the same effective filing date for varieties that cannot be clearly distinguished from one another, but that fulfill all other requirements of subsection (a), the applicant who first complies with all requirements of this Act shall be entitled to a certificate of plant variety protection, to the exclusion of any other applicant.

"(2) REQUIREMENTS COMPLETED ON SAME DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if 2 or more applicants comply with all requirements for protection on the same date, a certificate shall be issued for each variety.

"(B) VARIETIES INDISTINGUISHABLE.—If the varieties that are the subject of the applications cannot be distinguished in any manner, a single certificate shall be issued jointly to the applicants.".

SEC. 4. APPLICATIONS.

Section 52 (7 U.S.C. 2422) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "The variety shall be named in accordance with regulations issued by the Secretary.";

(2) in the first sentence of paragraph (2), by striking "novelty" and inserting "distinctiveness, uniformity, and stability";

(3) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) A statement of the basis of the claim of the applicant that the variety is new.".

SEC. 5. BENEFIT OF EARLIER FILING DATE.

Section 55(a) (7 U.S.C. 2425(a)) is amended—

(1) by redesignating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (1) (as so designated), by inserting before the period at the end the following: ", not including the date on which the application is filed in the foreign country"; and

(3) by adding at the end the following new paragraph:

"(3)(A) An applicant entitled to a right of priority under this subsection shall be allowed to furnish any necessary information, document, or material required for the purpose of the examination of the application during—

"(i) the 2-year period beginning on the date of the expiration of the period of priority; or

"(ii) if the first application is rejected or withdrawn, an appropriate period after the rejection or withdrawal, to be determined by the Secretary.

"(B) An event occurring within the period of priority (such as the filing of another application or use of the variety that is the subject of the first application) shall not constitute a ground for rejecting the application or give rise to any third party right.".

SEC. 6. CONTENTS AND TERM OF PLANT VARIETY PROTECTION.

Section 83 (7 U.S.C. 2483) is amended—

(1) in the second sentence of subsection (a), by striking "by variety name";

(2) in the first sentence of subsection (b)—

(A) by striking "eighteen" and inserting "20"; and

(B) by inserting before the period at the end the following: ", except that, in the case of a tree or vine, the term of the plant variety protection shall expire 25 years from the date of issue of the certificate"; and

(3) in subsection (c), by striking "repository: *Provided, however,* That" and inserting "repository, or requiring the submission of a different name for the variety, except that".

SEC. 7. PRIORITY CONTEST.

(a) PRIORITY CONTEST; EFFECT OF ADVERSE FINAL JUDGMENT OR INACTION.—Sections 92 and 93 (7 U.S.C. 2502 and 2503) are repealed.

(b) INTERFERING PLANT; VARIETY PROTECTION.—

(1) REDESIGNATION.—Chapter 9 of title II (7 U.S.C. 2501 et seq.) is amended by redesignating section 94 (7 U.S.C. 2504) as section 92.

(2) AMENDMENTS.—Section 92 (as so redesignated) is amended—

(A) by striking "The owner" and inserting "(a) The owner"; and

(B) by striking the second sentence.

(c) APPEAL OR CIVIL ACTION IN CONTESTED CASES.—

(1) TRANSFER.—Section 73 (7 U.S.C. 2463) is amended by transferring subsection (b) to the end of section 92 (as redesignated by subsection (b)(1)).

(2) REPEAL.—Section 73 (as amended by paragraph (1)) is repealed.

(d) CONFORMING AMENDMENT.—Section 71 (7 U.S.C. 2461) is amended by striking "92,".

SEC. 8. INFRINGEMENT OF PLANT VARIETY PROTECTION.

Section 111 (7 U.S.C. 2541) is amended—

(1) in subsection (a)—

(A) by striking "novel" the first two places it appears and inserting "protected";

(B) in paragraph (1), by striking "the novel" and inserting "or market the protected";

(C) by striking "novel" each place it appears in paragraphs (2) through (7);

(D) by striking "or" each place it appears at the end of paragraphs (3) through (6);

(E) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(F) by inserting after paragraph (6) the following new paragraphs:

"(7) condition the variety for the purpose of propagation;

"(8) stock the variety for any of the purposes referred to in paragraphs (1) through (7);";

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting after subsection (a) the following new subsections:

"(b) The owner of a protected variety may authorize the use of the variety under this section subject to conditions and limitations specified by the owner.

"(c) This section shall apply equally to—

"(1) any variety that is essentially derived from a protected variety, unless the protected variety is an essentially derived variety;

"(2) any variety that is not clearly distinguishable from a protected variety;

"(3) any variety whose production requires the repeated use of a protected variety; and

"(4) harvested material (including entire plants and parts of plants) obtained through the unauthorized use of propagating material of a protected variety, unless the owner of the variety has had a reasonable opportunity to exercise the rights provided by this Act with respect to the propagating material.

"(d) It shall not be an infringement of the rights of the owner of a variety to perform any act concerning propagating material of any kind, or harvested material, including entire plants and parts of plants, of a protected variety that has been sold or otherwise marketed with the consent of the owner in the United States, unless the act involves further propagation of the variety or involves an export of material of the variety, that enables the propagation of the variety, into a country that does not protect varieties of the plant genus or species to which the variety belongs, unless the exported material is for final consumption purposes.

"(e) It shall not be an infringement of the rights of the owner of a variety to perform

VOL 140 PT 16 AG 12 — 18 1994 UMI

any act done privately and for noncommercial purposes.''.

SEC. 9. RIGHT TO SAVE SEED; CROP EXEMPTION.

The first sentence of section 113 (7 U.S.C. 2543) is amended by striking ''section: *Provided*, That'' and all that follows through the period and inserting ''section.''.

SEC. 10. LIMITATION OF DAMAGES; MARKING AND NOTICE.

Section 127 (7 U.S.C. 2567) is amended by striking ''novel'' each place it appears.

SEC. 11. OBLIGATION TO USE VARIETY NAME.

Section 128(a) (7 U.S.C. 2568(a)) is amended by adding at the end the following new paragraph:

''(4) Failure to use the name of a variety for which a certificate of protection has been issued under this Act, even after the expiration of the certificate.''.

SEC. 12. TRANSITIONAL PROVISIONS.

(a) IN GENERAL.—Except as provided in subsection (b), any variety for which a certificate of plant variety protection has been issued prior to the effective date of this Act, and any variety for which an application is pending on the effective date of this Act, shall continue to be governed by the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), as in effect on the day before the effective date of this Act.

(b) APPLICATIONS WITHDRAWN AND REFILED.—If a pending application is withdrawn and refiled after the effective date of this Act, eligibility for protection and the terms of protection shall be governed by the Plant Variety Protection Act, as amended by this Act.

SEC. 13. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective 180 days after the date of enactment of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DE LA GARZA: Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Plant Variety Protection Act Amendments of 1994''.

(b) REFERENCES TO PLANT VARIETY PROTECTION ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

SEC. 2. DEFINITIONS AND RULES OF CONSTRUCTION.

Section 41 (7 U.S.C. 2401) is amended to read as follows:

''SEC. 41. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—As used in this Act:

''(1) BASIC SEED.—The term 'basic seed' means the seed planted to produce certified or commercial seed.

''(2) BREEDER.—The term 'breeder' means the person who directs the final breeding creating a variety or who discovers and develops a variety. If the actions are conducted by an agent on behalf of a principal, the principal, rather than the agent, shall be considered the breeder. The term does not include a person who redevelops or rediscovers a variety the existence of which is publicly known or a matter of common knowledge.

''(3) ESSENTIALLY DERIVED VARIETY.—

''(A) IN GENERAL.—The term 'essentially derived variety' means a variety that—

''(i) is predominantly derived from another variety (referred to in this paragraph as the 'initial variety') or from a variety that is predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;

''(ii) is clearly distinguishable from the initial variety; and

''(iii) except for differences that result from the act of derivation, conform to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

''(b) METHODS.—An essentially derived variety may be obtained by the selection of a natural or induced mutant or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, transformation by genetic engineering, or other method.

''(4) KIND.— The term 'kind' means one or more related species or subspecies singly or collectively known by one common name, such as soybean, flax, or radish.

''(5) SEED.—The term 'seed', with respect to a tuber propagated variety, means the tuber or the part of the tuber used for propagation.

''(6) SEXUALLY REPRODUCED.—The term 'sexually reproduced' includes any production of a variety by seed, but does not include the production of a variety by tuber propagation.

''(7) TUBER PROPAGATED.—The term 'tuber propagated' means propagated by a tuber or a part of a tuber.

''(8) UNITED STATES.—The terms 'United States' and 'this country' mean the United States, the territories and possessions of the United States, and the Commonwealth of Puerto Rico.

''(9) VARIETY.—The term 'variety' means a plant grouping within a single botanical taxon of the lowest known rank, that, without regard to whether the conditions for plant variety protection are fully met, can be defined by the expressions of the characteristics resulting from a given genotype or combination or genotypes, distinguished from any other plant grouping by the expression of a at least one characteristic and considered as a unit with regard to the suitability of the pant grouping for being propagated unchanged. A variety may be represented by seed, transplants, plants, tubers, tissue culture plantlets, and other matter.

''(b) RULES OF CONSTRUCTION.—For the purposes of this Act;

''(1) SALE OR DISPOSITION FOR NONREPRODUCTIVE PURPOSES.—The sale or disposition, for other than reproductive purposes, of harvested material produced as a result experimentation or testing of a variety to ascertain the characteristics of the variety, or as a by-product of increasing a variety, shall not be considered to be a sale or disposition for purposes of exploitation of the variety.

''(2) SALE OR DISPOSITION FOR REPRODUCTIVE PURPOSES.—The sale or disposition of a variety for reproductive purposes shall not be considered to be a sale or disposition for the purposes of exploitation of the variety if the sale or disposition is done as an integral part of a program of experimentation or testing to ascertain the characteristics of the variety, or to increase the variety on behalf of the breeder or the successor in interest of the breeder.

''(3) SALE OR DISPOSITION OF HYBRID SEED.—The sale or disposition of hybrid seed shall be considered to be a sale or disposition of harvested material of the varieties from which the seed was produced.

''(4) APPLICATION FOR PROTECTION OR ENTERING INTO A REGISTER OF VARIETIES.—The filing of an application for the protection or for the entering of a variety in an official register of varieties, in any country, shall be considered to render the variety a matter of common knowledge from the date of the application, if the application leads to the granting of protection or to the entering of the variety in the official register of varieties, as the case may be..

''(5) DISTINCTNESS.—The distinctness of one variety from another may be based on one or more identifiable morphological, physiological, or other characteristics (including any characteristics evidenced by processing or product characteristics, such as milling and baking characteristics in the case of wheat) with respect to which a difference in genealogy may contribute evidence.

''(6) PUBLICLY-KNOWN VARIETIES.—

''(A) IN GENERAL.—A variety that is adequately described by a publication reasonably considered to be a part of the public technical knowledge in the United States shall be considered to be publicly known and a matter of common knowledge.

''(B) DESCRIPTION.—A description that meets the requirements of subparagraph (A) shall include a disclosure of the principal characteristics by which a variety is distinguished.

''(C) OTHER MEANS.—A variety may become publicly known and a matter of common knowledge by other means.''.

SEC. 3. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

Section 42 (7 U.S.C. 2402) is amended to read as follows:

''SEC. 42. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

''(a) IN GENERAL.—The breeder of any sexually reproduced or tuber propagated plant variety (other than fungi or bacteria) who has so reproduced the variety, or the successor in interest of the breeder, shall be entitled to plant variety protection for the variety, subject to the conditions and requirements of this Act, if the variety is—

''(1) new, in the sense that, on the date of filing of the application for plant variety protection, propagating or harvested material of the variety has not been sold or otherwise disposed of to other persons, by or with the consent of the breeder, or the successor in interest of the breeder, for purposes of exploitation of the variety—

''(A) in the United States, more than 1 year prior to the date of filing; or

''(B) in any area outside of the United States—

''(i) more than 4 years prior to the date of filing; or

''(ii) in the case of a tree or vine, more than 6 years prior to the date of filing;

''(2) distinct, in the sense that the variety is clearly distinguishable from any other variety the existence of which is publicly known or a matter of common knowledge at the time of the filing of the application;

''(3) uniform, in the sense that any variations are describable, predictable, and commercially acceptable; and

''(4) stable, in the sense that the variety, when reproduced, will remain unchanged with regard to the essential and distinctive characteristics of the variety with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

''(b) MULTIPLE APPLICANTS.—

''(1) IN GENERAL.—If 2 or more applicants submit applications on the same effective filing date for varieties that cannot be clearly distinguished from one another, but that fulfill all other requirements of subsection (a), the applicant who first complies with all requirements of this Act shall be entitled to a certificate of plant variety protection, to the exclusion of any other applicant.

''(2) REQUIREMENTS COMPLETED ON SAME DATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if 2 or more applicants comply with all requirements for protection on the same date, a certificate shall be issued for each variety.

''(B) VARIETIES INDISTINGUISHABLE.—If the varieties that are the subject of the applications cannot be distinguished in any manner, a single certificate shall be issued jointly to the applicants.''.

SEC. 4. APPLICATIONS.

Section 52 (7 U.S.C. 2422) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: ''The variety shall be named in accordance with regulations issued by the Secretary.'';

(2) in the first sentence of paragraph (2), by striking ''novelty'' and inserting ''distinctiveness, uniformity, and stability'';

(3) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(4) by inserting after paragraph (2) the following new paragraph:

''(3) A statement of the basis of the claim of the applicant that the variety is new.''; and

(5) in paragraph (4) (as redesignated by paragraph (3)), by inserting ''(including any propagating material)'' after ''basic seed''.

SEC. 5. BENEFIT OF EARLIER FILING DATE.

Section 55(a) (7 U.S.C. 2425(a)) is amended—

(1) by redesignating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (1) (as so designated), by inserting before the period at the end the following: '', not including the date on which the application is filed in the foreign country''; and

(3) by adding at the end the following new paragraph:

''(3)(A) An applicant entitled to a right of priority under this subsection shall be allowed to furnish any necessary information, document, or material required for the purpose of the examination of the application during—

''(i) the 2-year period beginning on the date of the expiration of the period of priority; or

''(ii) if the first application is rejected or withdrawn, an appropriate period after the rejection or withdrawal, to be determined by the Secretary.

''(B) An event occurring within the period of priority (such as the filing of another application or use of the variety that is the subject of the first application) shall not constitute a ground for rejecting the application or give rise to any third party right.''.

SEC. 6. NOTICE OF REFUSAL; RECONSIDERATION.

The first sentence of section 62(b) (7 U.S.C. 2442(b)) is amended—

(1) by striking ''six months'' and inserting ''at least 30 days, and not more than 180 days''; and

(2) by striking ''in exceptional circumstances''.

SEC. 7. CONTENTS AND TERM OF PLANT VARIETY PROTECTION.

Section 83 (7 U.S.C. 2483) is amended—

(1) in subsection (a)—

(A) by designating the first through fourth sentences as paragraphs (1) through (4), respectively; and

(B) by striking paragraphs (2) and (3) (as so designated) and inserting the following new paragraphs:

''(2) If the owner so elects, the certificate shall—

''(A) specify that seed of the variety shall be sold in the United States only as a class of certified seed; and

''(B) if so specified, conform to the number of generations designated by the owner.

''(3) An owner may waive a right provided under this subsection, other than a right that is elected by the owner under paragraph (2)(A).'';

(2) in the first sentence of subsection (b)—

(A) by striking ''eighteen'' and inserting ''20''; and

(B) by inserting before the period at the end the following: '', except that, in the case of a tree or vine, the term of the plant variety protection shall expire 25 years from the date of issue of the certificate''; and

(3) in subsection (c), by striking ''repository: Provided, however, That'' and inserting ''repository, or requiring the submission of a different name for the variety, except that''.

SEC. 8. PRIORITY CONTEST.

(a) PRIORITY CONTEST; EFFECT OF ADVERSE FINAL JUDGMENT OR INACTION.—Sections 92 and 93 (7 U.S.C. 2502 and 2503) are repealed.

(b) INTERFERING PLANT VARIETY PROTECTION.—

(1) REDESIGNATION.—Section 94 of the Act (7 U.S.C. 2504) is redesignated as section 92.

(2) AMENDMENTS.—Section 92 (as so redesignated) is amended—

(A) by striking ''The owner'' and inserting ''(a) The owner''; and

(B) by striking the second sentence.

(c) APPEAL OR CIVIL ACTION IN CONTESTED CASES.—

(1) TRANSFER.—Section 73 (7 U.S.C. 2463) is amended by transferring subsection (b) to the end of section 92 (as redesignated by subsection (b)(1)).

(2) REPEAL.—Section 73 (as amended by paragraph (1)) is repealed.

(d) CONFORMING AMENDMENTS.—

(1) Section 71 (7 U.S.C. 2461) is amended by striking ''92,''.

(2) Section 102 (7 U.S.C. 2532) is amended by inserting ''or tuber propagable'' after ''sexually reproducible'' each place it appears.

SEC. 9. INFRINGEMENT OF PLANT VARIETY PROTECTION.

Section 111 (7 U.S.C. 2541) is amended—

(1) in subsection (a)—

(A) by striking ''novel'' the first two places it appears and inserting ''protected'';

(B) in paragraph (1), by striking ''the novel'' and inserting ''or market the protected'';

(C) by striking ''novel'' each place it appears in paragraphs (2) through (7);

(D) in paragraph (3), by inserting '', or propagate by a tuber or a part of a tuber,'' after ''sexually multiply'';

(E) by striking ''or'' each place it appears at the end of paragraphs (3) through (6);

(F) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(G) by inserting after paragraph (6) the following new paragraphs:

''(7) condition the variety for the purpose of propagation, except to the extent that the conditioning is related to the activities permitted under section 113;

''(8) stock the variety for any of the purposes referred to in paragraphs (1) through (7);'';

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting after subsection (a) the following new subsections:

''(b)(1) Subject to paragraph (2), the owner of a protected variety may authorize the use of the variety under this section subject to conditions and limitations specified by the owner.

''(2) In the case of a contract between a seed producer and the owner of a protected variety of lawn, turf, or forage grass seed, or alfalfa or clover seed for the production of seed of the protected variety, the producer shall be deemed to be authorized by the owner to sell such seed and to use the variety if—

''(A) the producer has fulfills the terms of the contract;

''(B) the owner refuses to take delivery of the seed or refuses to pay any amounts due under the contract within 30 days of the payment date specified in the contract; and

''(C) after the expiration of the period specified in subparagraph (B), the producer notifies the owner of the producer's intent to sell the seed and unless the owner fails to pay the amounts due under the contract and take delivery of the seed within 30 days of such notification. For the purposes of this paragraph, the term 'owner' shall include any licensee of the owner.

''(3) Paragraph (2) shall apply to contracts entered into with respect to plant varieties protected under this Act (7 U.S.C. 2321 et seq.) as in effect on the day before the effective date of this provision as well as plant varieties protected under this Act as amended by the Plant Variety Protection Act Amendments of 1994.

''(4) Nothing in this subsection shall affect any other rights or remedies of producers or owners that may exist under other Federal or State laws.

''(c) This section shall apply equally to—

''(1) any variety that is essentially derived from a protected variety, unless the protected variety is an essentially derived variety;

''(2) any variety that is not clearly distinguishable from a protected variety;

''(3) any variety whose production requires the repeated use of a protected variety; and

''(4) harvested material (including entire plants and parts of plants) obtained through the unauthorized use of propagating material of a protected variety, unless the owner of the variety has had a reasonable opportunity to exercise the rights provided under this Act with respect to the propagating material.

''(d) It shall not be an infringement of the rights of the owner of a variety to perform any act concerning propagating material of any kind, or harvested material, including entire plants and parts of plants, of a protected variety that is sold or otherwise marketed with the consent of the owner in the United States, unless the act involves further propagation of the variety or involves an export of material of the variety, that enables the propagation of the variety, into a country that does not protect varieties of the plant genus or species to which the variety belongs, unless the exported material is for final consumption purposes.

''(e) It shall not be an infringement of the rights of the owner of a variety to perform any act done privately and for noncommercial purposes.''.

SEC. 10. RIGHT TO SAVE SEED; CROP EXEMPTION.

The first sentence of section 113 (7 U.S.C. 2543) is amended by striking ''section: Provided, That'' and all that follows through the period and inserting ''section.''.

SEC. 11. LIMITATION OF DAMAGES; MARKING AND NOTICE.

Section 127 (7 U.S.C. 2567) is amended by striking ''novel'' each place it appears.

SEC. 12. OBLIGATION TO USE VARIETY NAME.

Section 128(a) (7 U.S.C. 2568(a)) is amended—

(1) by inserting ''or tubers or parts of tubers'' after ''plant material''; and

(2) by adding at the end the following new paragraph:

''(4) Failure to use the name of a variety for which a certificate of protection has been issued under this Act, even after the expiration of the certificate, except that lawn, turf, or forage grass seed, or alfalfa or clover seed may be sold without a variety name unless use of the name of a variety for which a certificate of protection has been issued under this Act is required under State law.''.

SEC. 13. ELIMINATION OF GENDER-BASED REFERENCES.

(a) The last sentence of section 7(a) (7 U.S.C. 2327(a)) is amended by striking ''his designee shall act as chairman'' and inserting ''the designee of the Secretary shall act as chairperson''.

(b) Section 10(a) (7 U.S.C. 2330(a)) is amended by striking ''he'' and inserting ''the Secretary''.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(c) Section 23 (7 U.S.C. 2353) is amended—

(1) in the second sentence, by striking "he" and inserting "the officer"; and

(2) in the third sentence, by striking "he" and inserting "the person".

(d) Section 24 (7 U.S.C. 2354) is amended—

(1) in the first sentence of subsection (a), by striking "him" and inserting "the witness"; and

(2) in the second sentence of subsection (c)—

(A) by striking "his fees and traveling expenses" and inserting "the fees and traveling expenses of the witness"; and

(B) by striking "him" and inserting "the witness".

(e) The last sentence of section 27 (7 U.S.C. 2357) is amended by striking "he" each place it appears and inserting "the person".

(f) The first sentence of section 44 (7 U.S.C. 2404) is amended by striking "he" and inserting "the Secretary".

(g) Section 53 (7 U.S.C. 2423) is amended—

(1) in subsection (a), by striking "one (or his successor)" and inserting "one person (or the successor of the person)"; and

(2) in subsection (b), by striking "he" and inserting "the Secretary".

(h) Section 54 (7 U.S.C. 2424) is amended by striking "his successor in interest" and inserting "the successor in interest of the breeder".

(i) Section 55 (7 U.S.C. 2425) is amended—

(1) in subsection (a)(2) (as redesignated by section 5(1)), by striking "his application" and inserting "the application filed in the United States"; and

(2) in subsection (b), by striking "his predecessor in title" and inserting "the predecessor in title of the person".

(j) The first sentence of section 62(b) (7 U.S.C. 2442(b)) is amended—

(1) by striking "him" and inserting "an applicant";

(2) by striking "an applicant shall" and inserting "the applicant shall"; and

(3) by striking "he" and inserting "the Secretary".

(k) The second sentence of section 72 (7 U.S.C. 2462) is amended by striking "his variety as specified in his application" and inserting "the variety as specified in the application".

(l) Section 82 (7 U.S.C. 2482) is amended by striking "his signature" and inserting "the signature of the Secretary".

(m) Section 83 (7 U.S.C. 2483) is amended—

(1) in subsection (a) (as amended by section 7(1)(A))—

(A) in paragraph (1), by striking "(or his successor in interest) his heirs and assignees" and inserting "(or the successor in interest of the breeder)"; and

(B) in paragraph (4), by striking "his discretion" and inserting "the discretion of the Secretary"; and

(2) in subsection (c), by striking "he" and inserting "the last owner".

(n) Section 86 (7 U.S.C. 2486) is amended—

(1) in the first sentence, by striking "him" and inserting "the Secretary"; and

(2) in the third sentence, by striking "he" and inserting "the person".

(o) Section 91(c) (7 U.S.C. 2501(c)) is amended by striking "he" and inserting "the Secretary".

(p) The fourth sentence of section 92(b) (as transferred by section 8(c)(1)) is amended by striking "he" and inserting "the Secretary".

(q) The first sentence of section 111(f) (as redesignated by section 9(2)) is amended by striking "his official capacity" and inserting "the official capacity of the officer or employee".

(r) Section 112 (7 U.S.C. 2542) is amended by striking "his successor in interest" and inserting "the successor in interest of the person".

(s) Section 113 (7 U.S.C. 2543) is amended—

(1) in the first sentence—

(A) by striking "him" and inserting "the person"; and

(B) by striking "his farm" and inserting "the farm of the person"; and

(2) in the third sentence, by striking "his actions" and inserting "the actions of the purchaser".

(t) Section 121 (7 U.S.C. 2561) is amended by striking "his".

(u) Section 126(b) (7 U.S.C. 2566(b)) is amended by striking "his" and inserting "the".

(v) Section 128(a) (7 U.S.C. 2568(a)) is amended by striking "he" and inserting "the Secretary".

(w) Section 130(a) (7 U.S.C. 2570(a)) is amended by striking "his official capacity" and inserting "the official capacity of the officer or employee".

SEC. 14. TRANSITIONAL PROVISIONS.

(a) IN GENERAL.—Except as provided in this section, any variety for which a certificate of plant variety protection has been issued prior to the effective date of this Act, and any variety for which an application is pending on the effective date of this Act, shall continue to be governed by the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), as in effect on the day before the effective date of this Act.

(b) APPLICATIONS REFILED.—

(1) IN GENERAL.—An applicant may refile a pending application on or after the effective date of this Act.

(2) EFFECT OF REFILING.—If a pending application is refiled on or after the effective date of this Act—

(A) eligibility for protection and the terms of protection shall be governed by the Plant Variety Protection Act, as amended by this Act; and

(B) for purposes of section 42 of the Plant Variety Protection Act, as amended by section 3 of this Act, the date of filing shall be the date of filing of the original application.

(c) LABELING.—

(1) IN GENERAL.—To obtain the protection provided to an owner of a protected variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) (as amended by this Act), a notice given by an owner concerning the variety under section 127 of the Plant Variety Protection Act (7 U.S.C. 2567) shall state that the variety is protected under such Act (as amended by this Act).

(2) SANCTIONS.—Any person that makes a false or misleading statement or claim, or uses a false or misleading label, concerning protection described in paragraph (1) shall be subject to the sanctions described in section 128 of the Plant Variety Protection Act (7 U.S.C. 2568).

SEC. 15. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective 180 days after the date of enactment of this Act.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1406) to amend the Plant Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Plant Variety Protection Act Amendments of 1994".

(b) REFERENCES TO PLANT VARIETY PROTECTION ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

SEC. 2. DEFINITIONS AND RULES OF CONSTRUCTION.

Section 41 (7 U.S.C. 2401) is amended to read as follows:

"SEC. 41. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) DEFINITIONS.—As used in this Act:

"(1) BASIC SEED.—The term 'basic seed' means the seed planted to produce certified or commercial seed.

"(2) BREEDER.—The term 'breeder' means the person who directs the final breeding creating a variety or who discovers and develops a variety. If the actions are conducted by an agent on behalf of a principal, the principal, rather than the agent, shall be considered the breeder. The term does not include a person who redevelops or rediscovers a variety the existence of which is publicly known or a matter of common knowledge.

"(3) ESSENTIALLY DERIVED VARIETY.—

"(A) IN GENERAL.—The term 'essentially derived variety' means a variety that—

"(i) is predominantly derived from another variety (referred to in this paragraph as the 'initial variety') or from a variety that is predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;

"(ii) is clearly distinguishable from the initial variety; and

"(iii) except for differences that result from the act of derivation, conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

"(B) METHODS.—An essentially derived variety may be obtained by the selection of a natural or induced mutant or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, transformation by genetic engineering, or other method.

"(4) KIND.—The term 'kind' means one or more related species or subspecies singly or collectively known by one common name, such as soybean, flax, or radish.

"(5) SEED.—The term 'seed', with respect to a tuber propagated variety, means the tuber or the part of the tuber used for propagation.

"(6) SEXUALLY REPRODUCED.—The term 'sexually reproduced' includes any production of a variety by seed, but does not include the production of a variety by tuber propagation.

"(7) TUBER PROPAGATED.—The term 'tuber propagated' means propagated by a tuber or a part of a tuber.

"(8) UNITED STATES.—The terms 'United States' and 'this country' mean the United States, territories and possessions of the United States, and the Commonwealth of Puerto Rico.

"(9) VARIETY.—The term 'variety' means a plant grouping within a single botanical taxon of the lowest known rank, that, without regard to whether the conditions for plant variety protection are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one characteristic and considered as a unit with regard to the suitability of the plant grouping for being propagated unchanged. A variety may be represented by seed, transplants, plants, tubers, tissue culture plantlets, and other matter.

"(b) RULES OF CONSTRUCTION.—For the purposes of this Act:

"(1) SALE OR DISPOSITION FOR NONREPRODUCTIVE PURPOSES.—The sale or disposition, for other than reproductive purposes, of harvested material produced as a result of experimentation or testing of a variety to ascertain the characteristics of the variety, or as a by-product of increasing a variety, shall not be considered to be a sale or disposition for purposes of exploitation of the variety.

"(2) SALE OR DISPOSITION FOR REPRODUCTIVE PURPOSES.—The sale or disposition of a variety for reproductive purposes shall not be considered to be a sale or disposition for the purposes of exploitation of the variety if the sale or disposition is done as an integral part of a program of experimentation or testing to ascertain the characteristics of the variety, or to increase the variety on behalf of the breeder or the successor in interest of the breeder.

"(3) SALE OR DISPOSITION OF HYBRID SEED.—The sale or disposition of hybrid seed shall be considered to be a sale or disposition of harvested material of the varieties from which the seed was produced.

"(4) APPLICATION FOR PROTECTION OR ENTERING INTO A REGISTER OF VARIETIES.—The filing of an application for the protection or for the entering of a variety in an official register of varieties, in any country, shall be considered to render the variety a matter of common knowledge from the date of the application, if the application leads to the granting of protection or to the entering of the variety in the official register of varieties, as the case may be.

"(5) DISTINCTNESS.—The distinctness of one variety from another may be based on one or more identifiable morphological, physiological, or other characteristics (including any characteristics evidenced by processing or product characteristics, such as milling and baking characteristics in the case of wheat) with respect to which a difference in genealogy may contribute evidence.

"(6) PUBLICLY KNOWN VARIETIES.—

"(A) IN GENERAL.—A variety that is adequately described by a publication reasonably considered to be a part of the public technical knowledge in the United States shall be considered to be publicly known and a matter of common knowledge.

"(B) DESCRIPTION.—A description that meets the requirements of subparagraph (A) shall include a disclosure of the principal characteristics by which a variety is distinguished.

"(C) OTHER MEANS.—A variety may become publicly known and a matter of common knowledge by other means.".

SEC. 3. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

Section 42 (7 U.S.C. 2402) is amended to read as follows:

"SEC. 42. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

"(a) IN GENERAL.—The breeder of any sexually reproduced or tuber propagated plant variety (other than fungi or bacteria) who has so reproduced the variety, or the successor in interest of the breeder, shall be entitled to plant variety protection for the variety, subject to the conditions and requirements of this Act, if the variety is—

"(1) new, in the sense that, on the date of filing of the application for plant variety protection, propagating or harvested material of the variety has not been sold or otherwise disposed of to other persons, by or with the consent of the breeder, or the successor in interest of the breeder, for purposes of exploitation of the variety—

"(A) in the United States, more than 1 year prior to the date of filing; or

"(B) in any area outside of the United States—

"(i) more than 4 years prior to the date of filing; or

"(ii) in the case of a tree or vine, more than 6 years prior to the date of filing;

"(2) distinct, in the sense that the variety is clearly distinguishable from any other variety the existence of which is publicly known or a matter of common knowledge at the time of the filing of the application;

"(3) uniform, in the sense that any variations are describable, predictable, and commercially acceptable; and

"(4) stable, in the sense that the variety, when reproduced, will remain unchanged with regard to the essential and distinctive characteristics of the variety with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

"(b) MULTIPLE APPLICANTS.—

"(1) IN GENERAL.—If 2 or more applicants submit applications on the same effective filing date for varieties that cannot be clearly distinguished from one another, but that fulfill all other requirements of subsection (a), the applicant who first complies with all requirements of this Act shall be entitled to a certificate of plant variety protection, to the exclusion of any other applicant.

"(2) REQUIREMENTS COMPLETED ON SAME DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if 2 or more applicants comply with all requirements for protection on the same date, a certificate shall be issued for each variety.

"(B) VARIETIES INDISTINGUISHABLE.—If the varieties that are the subject of the applications cannot be distinguished in any manner, a single certificate shall be issued jointly to the applicants.".

SEC. 4. APPLICATIONS.

Section 52 (7 U.S.C. 2422) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "The variety shall be named in accordance with regulations issued by the Secretary.";

(2) in the first sentence of paragraph (2), by striking "novelty" and inserting "distinctiveness, uniformity, and stability";

(3) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(4) by inserting after paragraph (2) the following new paragraph:

"(3) A statement of the basis of the claim of the applicant that the variety is new."; and

(5) in paragraph (4) (as redesignated by paragraph (3)), by inserting "(including any propagating material)" after "basic seed".

SEC. 5. BENEFIT OF EARLIER FILING DATE.

Section 55(a) (7 U.S.C. 2425(a)) is amended—

(1) by redesignating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (1) (as so designated), by inserting before the period at the end the following: ", not including the date on which the application is filed in the foreign country"; and

(3) by adding at the end the following new paragraph:

"(3)(A) An applicant entitled to a right of priority under this subsection shall be allowed to furnish any necessary information, document, or material required for the purpose of the examination of the application during—

"(i) the 2-year period beginning on the date of the expiration of the period of priority ; or

"(ii) if the first application is rejected or withdrawn, an appropriate period after the rejection or withdrawal, to be determined by the Secretary.

"(B) An event occurring within the period of priority (such as the filing of another application or use of the variety that is the subject of the first application) shall not constitute a ground for rejecting the application or give rise to any third party right.".

SEC. 6. NOTICE OF REFUSAL; RECONSIDERATION.

The first sentence of section 62(b) (7 U.S.C. 2442(b)) is amended—

(1) by striking "six months" and inserting "at least 30 days, and not more than 180 days"; and

(2) by striking "in exceptional circumstances".

SEC. 7. CONTENTS AND TERM OF PLANT VARIETY PROTECTION.

Section 83 (7 U.S.C. 2483) is amended—

(1) in subsection (a)—

(A) by designating the first through fourth sentences as paragraphs (1) through (4), respectively; and

(B) by striking paragraphs (2) and (3) (as so designated) and inserting the following new paragraphs:

"(2) If the owner so elects, the certificate shall—

"(A) specify that seed of the variety shall be sold in the United States only as a class of certified seed; and

"(B) if so specified, conform to the number of generations designated by the owner.

"(3) An owner may waive a right provided under this subsection, other than a right that is elected by the owner under paragraph (2)(A).";

(2) in the first sentence of subsection (b)—

(A) by striking "eighteen" and inserting "20"; and

(B) by inserting before the period at the end the following: ", except that, in the case of a tree or vine, the term of the plant variety protection shall expire 25 years from the date of issue of the certificate"; and

(3) in subsection (c), by striking "repository: *Provided, however,* That" and inserting "repository, or requiring the submission of a different name for the variety, except that".

SEC. 8 PRIORITY CONTEST.

(a) PRIORITY CONTEST; EFFECT OF ADVERSE FINAL JUDGMENT OR INACTION.—Sections 92 and 93 (7 U.S.C. 2502 and 2503) are repealed.

(b) INTERFERING PLANT VARIETY PROTECTION.—

(1) REDESIGNATION.—Chapter 9 of title II (7 U.S.C. 2501 et seq.) is amended by redesignating section 94 (7 U.S.C. 2504) as section 92.

(2) AMENDMENTS.—Section 92 (as so redesignated) is amended—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(A) by striking "The owner" and inserting "(a) The owner"; and

(B) by striking the second sentence.

(c) APPEAL OR CIVIL ACTION IN CONTESTED CASES.—

(1) TRANSFER.—Section 73 (7 U.S.C. 2463) is amended by transferring subsection (b) to the end of section 92 (as redesignated by subsection (b)(1)).

(2) REPEAL.—Section 73 (as amended by paragraph (1)) is repealed.

(d) CONFORMING AMENDMENTS.—

(1) Section 71 (7 U.S.C. 2461) is amended by striking "92,".

(2) Section 102 (7 U.S.C. 2532) is amended by inserting "or tuber propagable" after "sexually reproducible" each place it appears.

SEC. 9. PROMPT PAYMENT.

Chapter 9 of title II (7 U.S.C. 2501 et seq.) (as amended by section 8) is further amended by adding at the end the following new section:

"SEC. 93. PROMPT PAYMENT.

"If a seed grower contracts with the holder of a certificate of plant variety protection issued under this Act, or a licensee of the holder, to produce lawn, turf, or forage grass seed, alfalfa, or clover seed, protected under this Act, payments due the grower under the contract shall be completed not later than the earlier of—

"(1) 30 days after the contract payment date; or

"(2) May 1 of the year following the production of the seed.".

SEC. 10. INFRINGEMENT OF PLANT VARIETY PROTECTION.

Section 111 (7 U.S.C. 2541) is amended—

(1) in subsection (a)—

(A) by striking "novel" the first two places it appears and inserting "protected";

(B) in paragraph (1), by striking "the novel" and inserting "or market the protected";

(C) by striking "novel" each place it appears in paragraphs (2) through (7);

(D) in paragraph (3), by inserting ", or propagate by a tuber or a part of a tuber," after "sexually multiply";

(E) by striking "or" each place it appears at the end of paragraphs (3) through (6);

(F) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(G) by inserting after paragraph (6) the following new paragraphs:

"(7) condition the variety for the purpose of propagation, except to the extent that the conditioning is related to the activities permitted under section 113;

"(8) stock the variety for any of the purposes referred to in paragraphs (1) through (7);";

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting after subsection (a) the following new subsections:

"(b) The owner of a protected variety may authorize the use of the variety under this section subject to conditions and limitations specified by the owner.

"(c) This section shall apply equally to—

"(1) any variety that is essentially derived from a protected variety, unless the protected variety is an essentially derived variety;

"(2) any variety that is not clearly distinguishable from a protected variety;

"(3) any variety whose production requires the repeated use of a protected variety; and

"(4) harvested material (including entire plants and parts of plants) obtained through the unauthorized use of propagating material of a protected variety, unless the owner of the variety has had a reasonable opportunity to exercise the rights provided by this Act with respect to the propagating material.

"(d) It shall not be an infringement of the rights of the owner of a variety to perform any act concerning propagating material of any kind, or harvested material, including entire plants and parts of plants, of a protected variety that has been sold or otherwise marketed with the consent of the owner in the United States, unless the act involves further propagation of the variety or involves an export of material of the variety, that enables the propagation of the variety, into a country that does not protect varieties of the plant genus or species to which the variety belongs, unless the exported material is for final consumption purposes.

"(e) It shall not be an infringement of the rights of the owner of a variety to perform any act done privately and for noncommercial purposes.".

SEC. 11. RIGHT TO SAVE SEED; CROP EXEMPTION.

The first sentence of section 113 (7 U.S.C. 2543) is amended by striking "section: *Provided*, That" and all that follows through the period and inserting "section.".

SEC. 12. LIMITATION OF DAMAGES; MARKING AND NOTICE.

Section 127 (7 U.S.C. 2567) is amended by striking "novel" each place it appears.

SEC. 13. OBLIGATION TO USE VARIETY NAME.

Section 128(a) (7 U.S.C. 2568(a)) is amended—

(1) by inserting "or tubers or parts of tubers" after "plant material"; and

(2) by adding at the end the following new paragraph:

"(4) Failure to use the name of a variety for which a certificate of protection has been issued under this Act, even after the expiration of the certificate, except that lawn, turf, or forage grass seed, alfalfa, or clover seed may be sold without a variety name unless use of the name of a variety for which a certificate of protection has been issued under this Act is required under State law.".

SEC. 14. ELIMINATION OF GENDER-BASED REFERENCES.

(a) The last sentence of section 7(a) (7 U.S.C. 2327(a)) is amended by striking "his designee shall act as chairman" and inserting "the designee of the Secretary shall act as chairperson".

(b) Section 10(a) (7 U.S.C. 2330(a)) is amended by striking "he" and inserting "the Secretary".

(c) Section 23 (7 U.S.C. 2353) is amended—

(1) in the second sentence, by striking "he" and inserting "the officer"; and

(3) in the third sentence, by striking "he" and inserting "the person".

(d) Section 24 (7 U.S.C. 2354) is amended—

(1) in the first sentence of subsection (a), by striking "him" and inserting "the witness"; and

(2) in the second sentence of subsection (c)—

(A) by striking "his fees and traveling expenses" and inserting "the fees and traveling expenses of the witness"; and

(B) by striking "him" and inserting "the witness".

(e) The last sentence of section 27 (7 U.S.C. 2357) is amended by striking "he" each place it appears " and inserting "the person".

(f) The first sentence of section 44 (7 U.S.C. 2404) is amended by striking "he" and inserting "the Secretary".

(g) Section 53 (7 U.S.C. 2423) is amended—

(1) in subsection (a), by striking "one (or his successor)" and inserting "one person (or the successor of the person)"; and

(2) in subsection (b), by striking "he" and inserting "the Secretary".

(h) Section 54 (7 U.S.C. 2424) is amended by striking "his successor in interest" and inserting "the successor in interest of the breeder".

(i) Section 55 (7 U.S.C. 2425) is amended—

(1) in subsection (a)(2) (as redesignated by section 5(1)), by striking "his application" and inserting "the application filed in the United States"; and

(2) in subsection (b), by striking "his predecessor in title" and inserting "the predecessor in title of the person".

(j) The first sentence of section 62(b) (7 U.S.C. 2442(b)) is amended—

(1) by striking "him" and inserting "an applicant";

(2) by striking "an applicant shall" and inserting "the applicant shall"; and

(3) by striking "he" and inserting "the Secretary".

(k) The second sentence of section 72 (7 U.S.C. 2462) is amended by striking "his variety as specified in his application" and inserting "the variety as specified in the application".

(l) Section 82 (7 U.S.C. 2482) is amended by striking "his signature" and inserting "the signature of the Secretary".

(m) Section 83 (7 U.S.C. 2483) is amended—

(1) in subsection (a) (as amended by section 7(1)(A))—

(A) in paragraph (1), by striking "(or his successor in interest)" and inserting "(or the successor in interest of the breeder)"; and

(B) in paragraph (4), by striking "his discretion" and inserting "the discretion of the Secretary"; and

(2) in subsection (c), by striking "he" and inserting "the last owner".

(n) Section 86 (7 U.S.C. 2486) is amended—

(1) in the first sentence, by striking "him" and inserting "the Secretary"; and

(2) in the third sentence, by striking "he" and inserting "the person".

(o) Section 91(c) (7 U.S.C. 2501(c)) is amended by striking "he" and inserting "the Secretary".

(p) The fourth sentence of section 92(b) (as transferred by section 8(c)(1)) is amended by striking "he" and inserting "the Secretary".

(q) The first sentence of section 111(f) (as redesignated by section 9(2)) is amended by striking "his official capacity" and inserting "the official capacity of the officer or employee".

(r) Section 112 (7 U.S.C. 2542) is amended by striking "his successor in interest" and inserting "the successor in interest of the person".

(s) Section 113 (7 U.S.C. 2543) is amended—

(1) in the first sentence—

(A) by striking "him" and inserting "the person"; and

(B) by striking "his farm" and inserting "the farm of the person"; and

(2) in the third sentence, by striking "his actions" and inserting "the actions of the purchaser".

(t) Section 121 (7 U.S.C. 2561) is amended by striking "his".

(u) Section 126(b) (7 U.S.C. 2566(b)) is amended by striking "his" and inserting "the".

(v) Section 128(a) (7 U.S.C. 2568(a)) is amended by striking "he" and inserting "the Secretary".

(w) Section 130(a) (7 U.S.C. 2570(a)) is amended by striking "his official capacity" and inserting "the official capacity of the officer or employee".

SEC. 15. TRANSITIONAL PROVISIONS.

(a) IN GENERAL.—Except as provided in this section, any variety for which a certificate of plant variety protection has been issued prior to the effective date of this Act, and any variety for which an application is pending on the effective date of this Act, shall continue to be governed by the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), as in effect on the day before the effective date of this Act.

(b) APPLICATIONS REFILED.—

(1) IN GENERAL.—An applicant may refile a pending application on or after the effective date of this Act.

(2) EFFECT OF REFILING.—If a pending application is refiled on or after the effective date of this Act—

(A) eligibility for protection and the terms of protection shall be governed by the Plant Variety Protection Act, as amended by this Act; and

(B) for purposes of section 42 of the Plant Variety Protection Act, as amended by section 3 of this Act, the date of filing shall be the date of filing of the original application.

(c) LABELING.—

(1) IN GENERAL.—To obtain the protection provided to an owner of a protected variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) (as amended by this Act), a notice given by an owner concerning the variety under section 127 of the Plant Variety Protection Act (7 U.S.C. 2567) shall state that the variety is protected under such Act (as amended by this Act).

(2) SANCTIONS.—Any person that makes a false or misleading statement or claim, or uses a false or misleading label, concerning protection described in paragraph (1) shall be subject to the sanctions described in section 128 of the Plant Variety Protection Act (7 U.S.C. 2568).

SEC. 16. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective 180 days after the date of enactment of this Act.

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike all after the enacting clause of S. 1406 and insert in lieu thereof the text of H.R. 2927, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2927) was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two bills just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL POW/MIA RECOGNITION DAY

Mr. WYNN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 196) designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House the minority has no objection to the legislation now being considered, and, Mr. Speaker, as the chief sponsor of House Joint Resolution 360, I rise in support of this legislation.

Mr. Speaker, I thank the distinguished chairman of the Post Office and Civil Service Committee, the gentleman from Missouri [Mr. CLAY], and our good ranking minority member, the gentleman from Indiana [Mr. MYERS], for bringing this important resolution to the floor today. Their support for veterans and Americans in uniform is well known and appreciated by this Member.

Mr. Speaker, I rise in full support of Senate Joint Resolution 196, designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag—a day when our veteran posts, our schools, our libraries, and our mass media can remind all Americans of our courageous servicemen whose fates are still undetermined from the Vietnam war.

In 1992, candidate Clinton told the POW/MIA family groups and veteran organizations that he would never lift the trade embargo against the Communist government of Vietnam until the fate of thousands of POW's and MIA's from the Vietnam war was resolved. President Clinton, against the advice of the American Legion, the National League of Families, the National Alliance of Families, and other veterans and family organizations lifted the trade embargo. His rationale for doing so was that the Vietnamese Government was cooperating with our efforts to account for our men.

Regrettably, besides some access to old crash sites that has been on many occasions, fully investigated by Vietnamese, Soviet, and Chinese personnel years ago, the Vietnamese Government has done virtually nothing to account for hundreds of Americans they have information on. The Government of Vietnam continues to withhold from our investigators access to prison records and military reports that were written at the time of the shoot downs and captures. The meticulous Communist recordkeepers tell us that the books were eaten by worms, damaged by weather, or hold sensitive national security information.

Meanwhile, our State Department continues to move full speed ahead, with its plans to open a Liaison Office that looks more and more like an Embassy as official relations between our Nation and the Socialist Republic of Vietnam appears to be a foregone conclusion.

Despite my reservations, it is my sincere hope that the administration's normalization of trade and relations with Vietnam eventually pays dividends and that next year there will not be a need for this resolution.

Accordingly, I urge my colleagues to vote for Senate Joint Resolution 196.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of House Joint Resolution 369.

Mr. Speaker, I would like to congratulate the gentleman from New York [Mr. GILMAN] on the courageous effort he has made on this issue over the years. It has just been something he has not let go of, and he has been tremendously responsible.

Mr. Speaker, I would again like to congratulate the gentleman from New York [Mr. GILMAN] who for many, many years has kept the faith not only with the American people but with those men and women who went to Vietnam to protect the interests of the United States of America and to fight for freedom.

Mr. Speaker, when we gave our word to them, the gentleman from New York [Mr. GILMAN] did not forget and has kept the faith with them over the years.

Mr. Speaker, I am very proud to be with the gentleman here today to declare that September 16 should be a day in memory of our MIA/POW's. This issue has, unlike the exemplary job Mr. GILMAN has done, has been a disgrace on the part of so many American officials and so many elected officials as well.

I remember when I was a young reporter shortly after the MIA/POW's were supposedly all returned, I was a young reporter and interviewed Richard Nixon in Los Angeles. I will never forget that interview because I asked him whether or not he was certain all of our MIA/POW's had been returned from Vietnam. And he gave me a statement to that effect.

However, after the interview, I thought to myself the President did not give me any reason to believe that all of the MIA/POW's were returned except that he was satisfied. It seemed to me if he was satisfied and that was not just a public statement, he would have given me reasons to believe that.

So I walked away from that interview so many years ago, 20 years ago now, saying, "You know, I don't think he was telling me the truth. I think he thinks there may still be some MIA/POW's in Vietnam." The question we

VOL 140 PT 16 AG 12 — 18 1994 UMI

have to ask ourselves, at that time why would the Vietnamese have ever given up all of their leverage on the United States of America in order to give back all of those people who had been there bombing them and participating in the war against them?

At that time the war was still going on in Cambodia, war was still going on in Laos, in fact, a war was still going on it South Vietnam. There was every reason to question whether or not the Vietnamese gave back all of those POW/MIA's at that time.

We have heard over and over and over again these years that the Communist regime in Hanoi has been cooperative. Well it just ain't so.

The history of our dealings with Hanoi in terms of our MIA/POW record is a record of deceit, foot-dragging, and manipulation. It is a history of we ourselves bending over backward to give the very best interpretation of all of Hanoi's actions. It is a history of a mindset on the part of American officials to debunk the entire MIA/POW issue, especially if there are any live-sighting reports about possible POW/MIA's still in the hands of the Communists.

Now, are there still live POW's, especially after all of these years? I happen to believe it is likely that they kept some Americans after claiming they returned them all. That does not mean these men would still be alive today. I do not know if they are or not, and I am not saying they were kept. What I do know is that the American people have been lied to on this issue over and over again.

What I do know is Hanoi has not been cooperating as we have been told on this issue.

Mr. Speaker, less than a year ago, I was up on the Cambodian-Vietnamese border with our American POW teams out there in the jungle, trying to find, desperately working under horrible conditions, having to cut landing pads out of the jungle in order to try to find a hospital where some of our MIA/POW's were kept near the end of the war.

The trouble is Hanoi could tell us the location of this hospital, which was a major facility during the war, simply by having any one of the thousands of North Vietnamese who were stationed at that hospital go to the scene and help our people locating it.

But instead our teams have been put through a grueling practice over and over again trying their hardest, working long hours to find even the minuscule bit of information.

One of our own colleagues, PETE PETERSON of Florida, was held for 6 years as a prisoner of war. On the way over to Vietnam I asked PETE if he has been a prisoner of war, designated as a prisoner of war the entire time he was held captive. He told me, "no," in fact during the first 3 years of his captivity he was labeled as an MIA, meaning even his family did not know that he was being held captive by the North Vietnamese.

During that time that he was kept there, and I think this is important, Mr. PETERSON was kept totally separate from all other Americans. No one knew that he was being held captive. In fact, had he been kept instead of declared a POW, we would not have known he would have been there at all. It is possible other Americans were held in the same way. I am not saying that is absolutely the case, but that it is worth putting pressure on the Vietnamese instead of bending over backward giving them the benefit of the doubt.

When I was with them negotiating this issue, they told me that record that PETE PETERSON—the prison in which he was held those 6 years, were not available to us. Now, those records could have disclosed to us whether or not there were other prisoners in this status listed as MIA and being part of the prison population. In fact, we have not been given the record of any of those prisons.

That to me indicates the Vietnamese have been deceptive. We do not need to bend over backward in the POW/MIA issue, to normalize relations, rush in with a trading relationship with people who are treating us with that type of arrogance.

I would say during this time period the one hope that any people have of actually coming to the truth, to finding out what happened in there in Southeast Asia to our MIA/POW's, is to make sure we as American citizens keep the pressure up on our own Government and on Hanoi. That is why this resolution today is so important. That is why on September 16, I hope that all Americans will fly their MIA/POW flags at their local libraries and people will come forward and give radio interviews and talk to other Americans and others about the issue of MIA/POW's. We should never forget this war in Vietnam.

We should never forget the lessons we learned there. There are a lot lessons to be learned. But most importantly, never forget the men and women who marched off. They placed their lives on the line for us, and we should make sure they are never forgotten, because we are sending a message to our current defenders that we will always be behind them and will never ever leave them behind.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I thank the gentleman from California [Mr. ROHRABACHER] for his very strong supportive statements in support of the resolution.

Mr. Speaker, further reserving the right to object, I am pleased to yield to a longtime proponent of our need to explore and to get a full resolution of our MIA/POW issue, the gentleman from California [Mr. DORNAN].

Mr. DORNAN. I thank the gentleman from New York, the stalwart colleague from New York, who has been a leader on this issue for the better part of a quarter of a century.

Mr. Speaker, I am going to be uncharacteristically brief on this issue because our colleague and whip and one of our leaders, deputy whip, Mr. WALKER, has a privileged motion and I want to stay to hear that.

There is not anything I can say to add to the perfect remarks of the gentleman from California [Mr. ROHRABACHER] and to the perfect remarks of the gentleman from New York [Mr. GILMAN] on this issue.

□ 1430

Last week, I was going to make a speech on this because it was the 30th anniversary of the shootdown of our friend, Ev Alvarez, on August 5, 1964. What we did not know until 9 years later, Ev was to turn out not to be our longest-held prisoner. An Army Green Beret, Maj. Floyd Thompson, was taken prisoner March 26, 1964, served 1 week less than 9 years. His wife waited for him. MIA for all those years. So, this was the better part of a decade, this agony.

What I will do is just associate myself with the remarks, with the perfect remarks, of the gentleman from California [Mr. ROHRABACHER].

Mr. Speaker, I am going to put in the RECORD what the gentleman from New York [Mr. GILMAN] and I have agreed is the outstanding article by our friend, Dr. Frank Gaffney, last week on the warehoused remains of our heroes and why the Vietnamese can still not be trusted on this issue, and I would call my colleagues and the Nation's attention, through C-SPAN, to this month's Reader's Digest on the 30th anniversary of Ev Alvarez' shootdown. There is a superb article of how this man's faith, his Christian faith, his Catholic faith, which I will speak about in my special order tonight, how that sustained him through the darkest months when he was the only prisoner. They never let him know that they had Floyd Thompson, never saw him during all those 9 years.

I thank the gentleman for letting me speak, and I support, of course, Senate Joint Resolution 196.

Mr. Speaker, here is the superb article by Frank Gaffney, it is both heartbreaking and enraging to true patriots.

The article follows:

[From the Washington Times, July 26, 1994]

SMOKING GUN IN MIA COVERUP?

(By Frank Gaffney, Jr.)

One would think that, if a picture is worth a thousand words, 2,000 photos recently displayed at a national convention in Crystal City should be worth 2 million words. In fact, these pictures should translate into much more than a voluminous book's worth of wordage. They should clear the way for a final, honest accounting of what happened to the hundreds of men left behind at the end of the Vietnam war.

The photographs, which were presented publicly for the first time at the annual Washington meeting of the National Alliance of POW-MIA Families, were taken more than 20 years ago by the North Vietnamese army and news agency. They show American prisoners of war, aircraft crash sites and pilot identification cards.

Some of the subjects are among those prisoners who returned at the end of the war. But many others are servicemen—photographed alive or dead—who are still officially considered "unaccounted for."

Incredibly, these materials were secretly withheld from the public—including family members of some of those servicemen appearing in these photographs who claim the U.S. government had not previously informed them about the existence of these photos, even though the Defense Department now acknowledges having them for more than two years. The National Alliance obtained these formerly "TOP SECRET" photos from a former agent of the Defense Intelligence Agency.

The explanation for this stunning withholding of information relevant to the POW-MIA issue may lie in the fact that these photos represent damning new evidence of the extent to which the American and Vietnamese governments have covered up critical information on missing U.S. servicemen. Among other things, they document the great lengths to which North Vietnam went to document its inventory of captured or dead American prisoners and their equipment—to the point of labeling and warehousing prisoners' uniforms, flight helmets and aircraft identification numbers.

In addition, hundreds of pilot identification cards—including those of men still listed as missing—are shown in pristine condition. There are also photos depicting Vietnamese searching through crash sites together with Soviet bloc advisers, indicating there is much more information in Hanoi and Moscow that can and must be made public.

Importantly, these photos also appear to put to rest several, long-disputed issues:

Some American servicemen officially listed as missing in the Vietnam conflict were captured alive. Consequently, it is no longer possible to accept Hanoi's excuses—or those of its apologists—to the effect that it has no knowledge of the fate of these individuals.

American servicemen listed as missing or deceased "with body unrecoverable," were at one point in the hands of Vietnamese and Soviet bloc officials. The remains of such servicemen can no longer be considered irretrievably lost.

The Vietnamese government was meticulous in its record-keeping about captured or deceased American pilots. Claims that Hanoi has been fully forthcoming with what little documentation it had concerning U.S. POW-MIAs—or, alternatively, that worm- or water-damage or carelessness resulted in everything else being lost—should be seen for what they are: part of a long-running, cynical manipulation of such information by Vietnam.

Vietnamese excavation teams examined downed aircraft even in extremely remote areas. This proves that most crash sites—now being excavated by joint American and Vietnamese military teams at great cost to U.S. taxpayers—were scoured during the war and any prisoners, or their bodies, were removed long ago. Consequently, the illusion of great cooperation from Hanoi in investigating these sites should cease to be a justification for further steps toward normalizing bilateral relations.

The U.S. government has still not come clean about all that it knows concerning our unaccounted-for servicemen. Notwithstanding its professed commitment to declassify all relevant information, the Clinton team appears to be continuing the practice of past U.S. administrations in resisting full disclosure, for example, of electronic intercepts that support the National Alliance's photo collection on two points: (1) American servicemen were abandoned in Vietnam at the war's end and (2) that fact was assiduously covered up in the years since. And Clinton personnel choices make an early end to the cover-up unlikely; a virulent anti-war activist, Charles Searcy, was the president's choice to run POW-MIA affairs at the Pentagon, and the most respected field investigator, Garnett Bell, was replaced by young officers who have no background in the issue or in Southeast Asia.

Addressing the questions raised by Hanoi's photographs should be the sole focus of meetings like that between Secretary of State Warren Christopher and his Vietnamese counterpart in Bangkok this month. This effort should be accompanied by a new and independent evaluation of all available information related to the missing Americans. Clearly, unless and until Hanoi and Washington are fully forthcoming, there must be no further progress toward establishing full diplomatic and economic relations with communist Vietnam.

At a minimum, the National Alliance's photo exhibit ought to be displayed in the House and Senate office buildings, where it would be readily accessible to members of Congress, journalists and the public at large. It is especially important that this reminder of unfinished business be kept squarely in mind as President Clinton puts a new generation of Americans in uniform at risk of a similar fate in places like Bosnia, Haiti and the Golan Heights.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I want to thank the gentleman from California [Mr. DORNAN] for his supportive arguments.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 196

Whereas the United States has fought in many wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

Whereas many American prisoners of war were subjected to brutal and inhumane treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;

Whereas many of these Americans are still listed as missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships;

Whereas, in the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990, the Federal Government officially recognized and designated the National League of Families POW/MIA flag as the symbol of the Nation's concern and commitment to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for in Southeast Asia; and

Whereas the sacrifices of the Americans whom are still missing in action and unaccounted for from all our Nation's wars and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL POW/MIA RECOGNITION DAY.

September 16, 1994, is designated "National POW/MIA Recognition Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.

SEC. 2. REQUIREMENT TO DISPLAY NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG.

(a) IN GENERAL.—The POW/MIA flag shall be displayed, as a symbol of the concern and commitment of the United States to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for and to ending the uncertainty for their families and the Nation—

(1) at all national cemeteries and the National Vietnam Veterans Memorial on May 30, 1994 (Memorial Day), September 16, 1994 (National POW/MIA Recognition Day), and November 11, 1994 (Veteran's Day); and

(2) on, or on the grounds of, the buildings specified in subsection (b) on September 16, 1994.

(b) BUILDINGS.—The buildings specified in this subsection are—

(1) the White House;

(2) the Capitol Building; and

(3) the buildings containing the primary offices of the—

(A) Secretary of State;

(B) Secretary of Defense;

(C) Secretary of Veterans Affairs; and

(D) Director of the Selective Service Commission.

(c) POW/MIA FLAG.—As used in this section, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized officially and designated by section 2 of the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990 (36 U.S.C. 189).

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE THE SENATE AMENDMENTS TO H.R. 4554

Mr. GIBBONS. Mr. Speaker, I rise to a question of the privileges of the

VOL 140 PT 16 AG 12 — 18 1994 UMI

House, and I offer a privileged resolution (H. Res. 518) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 518

Resolved, That Senate amendment No. 83 to the bill H.R. 4554 making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this house and that such bill with the Senate amendments thereto be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore. The resolution constitutes a question of privileges of the House.

The gentleman from Florida [Mr. GIBBONS] will be recognized for 30 minutes, and the gentleman from California [Mr. THOMAS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 518 is a simple resolution returning to the Senate the bill, H.R. 4554, because it contravenes the constitutional requirements that revenue measures originate only in the House of Representatives.

Specifically, the Senate amendments to H.R. 4554 provide that amounts are to be credited to the appropriations for the Food and Drug Administration "from fees established and collected to cover the costs of regulation of products under the jurisdiction of the Food and Drug Administration." These fees are not limited to cover only the costs of providing specified regulatory activities. Further, the FDA would not be required to change the fees, in appropriate amounts, only to those persons who benefit from such regulatory activities. Instead, the Senate amendments would allow the FDA to charge a broad cross-section of the public in order to fund the costs of its activities in general. Thus, these fees are not true regulatory fees, but constitute revenues which would fund the Government generally.

Therefore, I am asking that the House insist on its constitutional prerogatives. While the House, by adopting this resolution, will preserve its prerogative to originate revenue matters, I want to make it clear to all Members that our action does not constitute a rejection of the Senate bill on its merits. Our action today is merely procedural in nature. It makes it clear to the Senate that the appropriate procedure for dealing with revenue measures is for the House to act first on a revenue bill and the Senate to add its amendments and seek a conference.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the privileged resolution offered by the chairman of the Committee on Ways and Means.

Some folks may think that this appears to be a rather arcane battle and arcane discussion. It is, in fact, fundamental to an ordered process. The rules of the game in our society is the Constitution of the United States, and in Article I, Section 7, it says all bills for raising revenues shall originate in the House of Representatives. But the Senate may propose or concur with amendments, as on other bills.

The chairman has outlined a fee structure in the bill that we are asking to send back to the Senate. The fee structure in fact raises more money than the fees cover. If you are going to collect more in revenue than you are going to use for a particular purpose, you can call it whatever you want, but it is raising revenue under the Constitution, and the Constitution says that is the right and the privilege of the House of Representatives to originate. All the resolution does is simply tells the other body that we must insist on this constitutional requirement.

Now when the House adopts this privileged resolution to return the bill to the Senate, it does not prejudice the amendment's consideration in any constitutionally accepted manner. Certainly the Senate sponsors are free to seek an appropriate House-generated revenue bill to accomplish that purpose. Whether or not the substance of the measure should be approved and whatever context is to be considered is certainly a discussion for another day. For now the issue is simply: Will the House of Representatives enforce its prerogatives under the Constitution?

Mr. Speaker, I think that should be fairly simple for all of the Members of the House to understand and agree with the chairman, and I support the privileged resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Let me simply say that what is at issue here is whether or not the House will take an action which is called blue-slipping the appropriation bill for agriculture for the coming fiscal year. The reason the Committee on Ways and Means wants to do that is because the Senate inappropriately adopted an amendment which is clearly an effort simply to legislate more spending in the agriculture appropriation bill above the amount that would be allowed for the budget caps, and the way they do that is to inappropriately use a revenue device. I grant that. As chairman of the Committee on Appropriations, I fully appreciate the need for the Senate to cease and desist on items like this. But there are a number of ways that it can be done it seems to me. The committee can, if it chooses, pursue its right today. I fully recognize that right. If the committee pursues it in this manner, however, and if the Senate bill manager cannot obtain unanimous consent to vacate the ill-advised Senate action, then it means that we are forced to repass the agriculture appropriation bill in this House, repass it again in the Senate, consuming additional time at a time when this institution is already under great duress and great stress because of the large nature of the bills such as the health care bill and the crime bill which we are still trying to wrestle with.

□ 1440

An alternative manner in which to proceed would still preserve the rights of the Committee on Ways and Means to blue-slip this bill when it comes back from conference if the offending provision has not been removed. I have made it quite clear, both orally and in a letter to the chairman of the committee, that our committee will not come back from conference with that offending provision. We reject it outright and would insist that it not be included.

I cannot prevent the committee from exercising its right to offer this resolution today. They are correct. The committee does have the right and privilege to offer the resolution. But in a constructive atmosphere, one does not always need to exercise every right and privilege that one has. At least when that right is exercised, it would be good for this institution if that right were exercised in a way which took into account the greater needs of the institution at the moment.

I take a back seat to no one in my insisting that the Senate follow constitutional dictates, and I fully acknowledge the right of the Committee on Ways and Means to take this action. But I would suggest that a more constructive way in which to take it would be to withhold this action for the moment and allow us to remove the offending provision in conference.

Our committee did not, after all, place that offending matter in the bill. It was done in the Senate. They added the amount of spending that is in question. And we made quite clear it will be taken out and we will not bring an agriculture appropriation bill back to the floor if the Senate does not back off on its provision.

It seems to me that that would be a far more constructive way to deal with the situation at hand, rather than to add to the gridlock which we have around here by requiring this House, if the Senate does not do what it ought to do, to repass again an appropriation bill, and have the Senate repass it again, at a time when our focus ought to be on health care and ought to be on crime.

Mr. GIBBONS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank the chairman of the Committee on Appropriations for his remarks. I have no argument with him about the substance of his remarks. I think he has been very straightforward and very professional and very gentlemanly in his approach. But we think it is appropriate that we send this back to the Senate at this time.

The SPEAKER pro tempore (Ms. BROWN of Florida). Does the gentleman from California wish to use further time?

Mr. THOMAS of California. I do, Madam Speaker. I yield myself such time as I may consume.

Madam Speaker, the chairman of the Committee on Appropriations talked about the greater needs of this institution. I think what is at issue is the Constitution of the United States. The issue is not inconvenience. The issue is not politics. The issue is not time. In part, the issue is you folks have controlled this body for so long that inconvenience, politics, and time may be more important than the primary and fundamental issue of the Constitution. The greater needs of the institution in the long run are met by making sure that we do not, for convenience, politics, or time, decide that something as fundamental as the origination of a bill, should take second place.

Madam Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER] such time as he may consume.

Mr. WALKER. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, we are faced here with a real problem and one that is developing, and I congratulate the gentleman from Florida [Mr. GIBBONS], the chairman of the Committee on Ways and Means, for the work he has done in the past to protect the House and the Constitution, and I congratulate him for what he is doing here today.

This is not the first instance of this. It is about the fourth instance of this within just the last 4 or 5 weeks.

Back on July 14, the Treasury-Postal appropriations bill, we had a similar kind of concern. And to his credit, the gentleman from Florida [Mr. GIBBONS], represented on the floor by the gentleman from New York [Mr. RANGEL], came to the floor and did what he is doing today: Assured the privileges of the House with regard to tax measures were protected.

Then on July 21, another bill came over, not an appropriations bill this time, but the Veterans Health Programs Improvement Act of 1994 came over with a revenue measure attached. Once again the Committee on Ways and Means did what it was that should be done. The gentleman from Florida [Mr. GIBBONS] came to the floor and protected the privileges of the House at that point, as should be done on those kinds of measures.

But the Senate was not finished. On July 21, they also added another tax measure to a bill that day, the Toxic Substance Control Act, which was also brought over with a revenue measure attached. Once again, the gentleman from Florida [Mr. GIBBONS], to his credit, came to the House floor and protected the privileges of the House on this particular tax measure.

What I am saying is there is a pattern here in the Senate now showing itself up in the appropriation bills. Prior to this, there was the appropriation bill on Commerce and Justice. On that particular one, an accommodation was worked out much in the way that the gentleman from Wisconsin [Mr. OBEY] has described to the House here. It was not blue-slipped on the way to conference, but was eligible for a blue slip on the way out of conference.

The Senate, seeing that action, has not decided they are also going to do it in yet another bill, the Agriculture, Rural Development, and Food Development Administration.

This simply cannot be allowed to happen. The fact is that we cannot put aside the Constitution in order to accommodate our legislative agenda in the House of Representatives. The Constitution is very firm on this point, and the Senate knows exactly what it is doing because it is doing it over, and over, and over again, just within the last few weeks.

They are doing so because it allows them to escape a budget control mechanism that has been put in their way, and that is that they cannot spend more than they have revenues to accomplish. So what they are now trying to do is spend more and add the revenues on in the Senate.

We in the House should not accommodate that. We should make absolutely certain that our prerogatives with regard to taxing and spending are absolutely protected.

That is what is happening here right now. The prerogatives of the House are being protected by the resolution of the gentleman from Florida [Mr. GIBBONS]. I congratulate him for it. It is something we need to do each time this challenge is brought before us. We cannot allow the matters to be resolved somewhere in conference committees in the hope it will come back the right way.

We need to understand that this is not just a matter of an appropriations bill. It has now been in several committees where they have pulled the same kind of trick. I do not think the Senate is going to understand until we get to the point that every bill that they send over of this type is immediately sent back to them.

So, again, I thank the gentleman for what he has done.

Mr. DORNAN. Madam Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from California.

Mr. DORNAN. Madam Speaker, if I am following this correctly, by putting new taxes, user fees or any other type of taxes, into an appropriations bill in the other body, they are opening up a window for more spending. Ergo, this is the much heard about tax and spending that goes on up here on Jenkins Hill.

Mr. WALKER. Madam Speaker, if the gentleman will yield further, precisely. Thank goodness the Constitution protects us from that. We have an opportunity here now to uphold what our forefathers in their wisdom knew about the Constitution, and that is that any revenue measures ought to start in the people's body. This one did not, and we are now going to send it back to the Senate, because they did not do it the right way, and we thank the gentleman from Florida [Mr. GIBBONS] for allowing the House to do this in the right way.

I thank the gentleman from California [Mr. THOMAS] for yielding.

Mr. OBEY. Madam Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Wisconsin.

Mr. OBEY. Madam Speaker, I would simply like to reiterate one point, and I am not going to push this to a rollcall vote. I understand what is going to happen. But I simply want to say that in my view, this is not a question of the Constitution. This is not a question of constitutional prerogatives. It is a question of at what time, at what point, and under what manner, the constitutional prerogative is going to be exercised.

□ 1450

I believe that constitutional prerogatives are like opinions. Just because we have them, we do not always have to express them, at least not at the immediate time.

It just simply seems to me that the same purpose could be accomplished, the constitutional prerogative could be protected, if we were allowed to simply proceed to take out the offending Senate action in the conference.

I fully agree with the gentleman from Pennsylvania. I think this is simply an end run on spending caps. I resent it very much, and I am not going to allow it to happen. But the problem is that the process which the gentleman is pursuing today leaves us at the mercy of the ability of the other body to be responsible.

I think that under some circumstances that might be a very weak reed to lean upon and so it seems to me that the better course would be for us to responsibly take the offending matter out without requiring each house to go through another set of hoops. That is what I was trying to accomplish here today. I am sorry I could not do it.

VOL
140
PT
16
AG
12
—
18
1994
UMI

Mr. THOMAS of California. Madam Speaker, reclaiming my time, I appreciate the gentleman's comments, but I think the history, as was outlined by the gentleman from Pennsylvania, clearly indicates that were this the first offense, obviously the option that the chairman of the Committee on Appropriations now seeks as an alternative might be appropriate. But when the Senate has done this not once a year, not twice a year, but when it does it three and four times a month, I think what we are about here is in part behavior modification and that perhaps this inconvenience by the way in which we are upholding our constitutional right might, in fact, get the Senate to understand that if they are responsible at the outset, they will not have to be responsible at the backend, as the gentleman from Wisconsin is concerned about, in terms of their ability to do it the right way.

It seems to me that an immediate response by the House of Representatives, in perhaps the most inconvenient way possible, will mean that we will not have to address this in the future.

Therefore, I support the resolution by the chairman of the Committee on Ways and Means, the gentleman from Florida.

Madam Speaker, I yield back the balance of my time.

Mr. GIBBONS. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

HEALTH CARE, SMALL BUSINESS, AND GRASS ROOTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. DERRICK] is recognized for 5 minutes.

Mr. DERRICK. Madam Speaker, ever since health care reform became a serious possibility certain factions interested in killing the initiative have spread disinformation and alarmist propaganda vilifying the entire effort. They portray reform as a murky conspiracy to enslave the public, or a malicious attempt to destroy business, or a bureaucratic campaign to expand Government control over the people.

The propaganda machines fired up by the defenders of the status quo have been working overtime. They've conducted an all out effort to convince the American people that they don't want health care reform. But reality will always belie propaganda, especially when the propaganda contradicts the people's experience.

The American people want and need health care reform. Mass mailings, phone banks and rabid talk show hosts can't persuade them otherwise. Americans aren't impressed with arguments that reform will ruin the quality of their health care and cost them more money. Americans already know that every year they pay more for less health care. They've been watching what health care they could afford evaporate.

If Congress lacks the courage to reform the health care system now, the situation will continue to deteriorate, more Americans will lose their coverage, and the blame will be ours.

Americans know the system needs reform to remedy the problems they face every day. Seventy-eight percent of Americans favor universal coverage, and 75 percent even favor employers sharing responsibility with their employees to pay for health insurance. Well-funded lobbying groups such as the NFIB aim their rhetoric at small businesses, telling them that reform is a job-killer that will close them down. The truth is that small business will benefit greatly from reform. As it stands they pay up to 50 percent more for the health insurance than large firms. A third of them see their insurance premiums rise by 25 percent every year, and the burden of covering the growing numbers of uninsured Americans is getting shifted onto their shoulders. The status quo hurts small business.

Wednesday a group of small business owners from Virginia, Pennsylvania, New York, and Washington, DC, took time away from their businesses to come to the Capitol and voice their support for health care reform. They know that reform will level the playing field for small businesses. It will lower their overhead tied up in health care costs, making it easier and cheaper to operate. These businessmen and women are members of the Small Business Coalition for Health Care Reform, a grass roots organization representing 626,000 businesses employing 5.5 million people. Unlike the NFIB, a well-funded lobbying group representing big-money interests, the Small Business Coalition supports reform.

Where groups such as NFIB are trying to kill reform and preserve the status quo beloved by their funders, the Small Business Coalition knows how much small business has to gain from reform. Their members, the small business grass roots, agree.

It's important to remember that grass roots organizations found the support for health care reform. Reform won't benefit a particular special interest, unless you define America as a special interest. Small businesses will gain from reform, but the focus of reform is the mass of employed, hard working, middle-income Americans who, despite their labors, still can't afford health care for themselves or their families. Anti-reform propaganda tries to convince people that reform will limit their options or degrade the quality of their health care.

That's not much of an argument for people who can't afford any health care or insurance at all. If anything, by guaranteeing coverage and insurance that can't be taken away, health care reform expands the average American's health care options.

Americans know it, and they overwhelmingly support reform. You can see the support by looking at the growing number of grass-roots organizations representing millions of Americans who have declared their support for the Guaranteed Health Insurance Act. They include labor unions, consumer advocacy groups, medical providers, health advocacy groups, teachers, education groups, family advocates, senior citizen groups, farmers, veterans and children's advocates.

In short, there are myriad organizations who know that their members can only benefit from health care reform. Members of Congress shouldn't confuse these voices with mere special interests. The voice they hear expresses America's will, and the will is for health care reform.

□ 1500

LEGITIMATE OPPOSITION TO THE CRIME BILL RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] will be recognized for 5 minutes.

Mr. HORN. Madam Speaker, it is utter nonsense to say that all of those who voted against the rule on the crime bill yesterday afternoon put the interests of the powerful National Rifle Association above those of their constituents. Yet, that is what some who are uninformed are saying.

This Member happened to campaign for a ban against assault rifles. This Member voted for a ban against assault rifles. This Member will again vote for a ban against assault rifles when the conference report on the Violent Crime Control and Law Enforcement Act of 1994 properly comes before this Chamber.

What bothered a number of us, Madam Speaker, was the arrogance and the misuse of the rules which was involved in the rule that preceded yesterday's conference report. It violated what this Chamber is all about; that is, a Chamber that seeks to reflect the people's will.

The minority is tired of having proposals brought in here that you cannot

read in time, that are rammed down our throat with some pseudo sense of urgency. Of course there is urgency about crime. We see it, those of us from urban America. But where was the sense of urgency when this was happening 2, 3 years ago, months ago, et cetera?

The conference committee certainly took its time. They finished in late July. On the Republican side, we did not get the printed report with the agreed measure to be submitted to the Senate and the House, and then to the President, until 3:20 p.m. yesterday afternoon. We voted at about 5 p.m.

The conference report contained hundreds of pages, many of which had never been considered by the Senate or the House. They were add-ons put in by the Democratic majority in that conference committee.

What particularly concerned us, Madam Speaker, is when the very able and powerful chairman of the Committee on the Judiciary went before the Committee on Rules and was specifically asked to identify where were the point of order problems. That means where were the activities, programs, legal language, et cetera in the bill that violated existing House rules in the final reconciled version submitted by the conferees.

He refused to answer that question. He said he was not sure he knew, and then he said even if he did know, he would not tell them since it might be used against the bill on the floor. The Committee on Rules is an agent of the House of Representatives. When you insult our agent, you also insult our House. It is tragic that the nine member Democratic majority of that committee did not pursue what the four member Republican minority sought.

When a committee chairman seeks to waive the House rules prior to consideration of a bill, the members of the Committee on Rules are entitled to know what it is that they are waiving. To the average citizen, this might sound complicated, but if the Members do not know what they are voting on, how can they possibly reflect the will of the people? It is the people to whom we are responsible. We are not responsible to a chairman, we are not responsible to a committee, we are responsible to the people, and to civility and following the rules of this Chamber.

Madam Speaker, when we swear and take an oath on opening day to support the Constitution of the United States, that includes the rules of the House of Representatives, pursuant to that Constitution. I suspect some rules we have here such as the "king-of-the-hill" rule and other modern creations which prevent the process should be challenged in court. Certainly the founders would never have dreamed them up.

The timing of the vote violated the Legislative Reorganization Act of 1970, in that the 443-page conference report was not available to Members of the House 3 days ahead of its consideration. That situation is intolerable. That is why the chairman of Judiciary sought a waiver of the rules.

In addition, on another subject related to the crime bill, I am informed by the gentleman from Florida [Mr. MCCOLLUM], the author of many of the Republican anticrime bills, and the most knowledgeable member of the Committee on the Judiciary, that when the anticrime bill left the Senate, it left at a price tag of $22 billion.

When it left the House, it left at a price tag of $26 billion. When it was done with by the Senate and House conferees who prepared the conference report which contained the final version of the proposed law, the price tag had increased to $33 billion. That is an $11 billion increase! That amount of an increase has seldom been seen.

In addition, Madam Speaker, items were added in conference, as I noted, which had never been in either bill. They came as a surprise to the Republican members in the conference if they were ever consulted. The Representatives in the House, each of us elected by the people, have a right to know what is in the legislation before them.

Besides great changes in the amount of money involved, there were vital matters of substance, which were drastically changed.

Items which had been passed by both the House and the Senate by overwhelming votes were simply thrown on the cutting room floor.

One example was offered by our distinguished colleague, SUSAN MOLINARI, a Republican from New York. Her amendment would have changed the Federal rules of evidence to allow prosecutors in sexual assault and child molestation cases to introduce evidence that the defendant has committed similar crimes in the past. The Senate approved it by a vote of 75 to 19. The House supported it by a vote of 348 to 62 on a motion to instruct the House conferees to include this language in the final version of the proposed law.

Similarly, the distinguished gentlewoman from Washington [JENNIFER DUNN] also a Republican offered the Sexually Violent Predators Act. This amendment would notify communities when convicted sexual predators moved into their area, giving families warning that danger exists in their neighborhoods. The Senate had adopted the language unanimously. A motion to instruct the House conferees to support this language was adopted by the House by a vote of 407 to 13.

Madam Speaker, with this type of disregard to the will of this House, when both of these important proposals were overwhelmingly approved by this Chamber, yet ended up littered on the cutting room floor, with no respect for the democratic process of this Chamber, I think many more should have voted against the rule than did.

Last night I watched the press conferences held by several of the contesting parties to the issues involved in this legislation. I had a feeling that several of them should have had a good night's sleep before commenting on the defeat of the rule.

If the Democratic majority in the next conference will get the message that not only Republicans but dozens of Democrats want to reduce the proposed legislation by several billion dollars in social programs which compete with already existing ones, then we will have a better bill.

If the Democratic majority in the next conference will get the message that not only Republicans but dozens of Democrats want to restore the Federal rules of evidence re those who commit sexual assault and molest children to the language approved by both Houses, then we will have a better bill.

If the President and the Democratic leadership in the House will wake up and accept the offer repeatedly made by the Republican whip and Republican leader to be NEWT GINGRICH to engage in bipartisan collaboration so that Republicans will participate in the takeoffs and not simply the crash landings, then we will have better public policy and a more united Congress and Nation. The gentleman from Georgia [Mr. GINGRICH] has made that offer ever since the successful collaboration we had on NAFTA the North American Free-Trade Agreement.

Let us work together and we can adopt an effective anticrime bill and a sensible health care bill.

Madam Speaker, I was particularly impressed with the comments of the ranking Republican on Judiciary when he spoke on the problems with the handling of this legislation. There are few members of this body more respected than the gentleman from New York [Mr. FISH]. HAMILTON FISH is dedicated to public service just as his family has been for almost two centuries. When he is upset, it is time for the House to listen to his thoughtful and wise comments.

Mr. FISH. Mr. Speaker, I rise in opposition to the rule. This conference report contains provisions which I oppose and, in addition, the conference committee deleted provisions which I supported. However, my opposition to this rule is based as much on procedural objections as it is on substantive policy.

As we all know, violent crime is a devastating national problem. Violent crime has increased in this country over 23 percent since 1988. A violent crime is committed once every 22 seconds and a murder is committed once every 22 minutes. A rape occurs every 5 minutes and a robbery every 47 seconds. Over 70 percent of the violent crimes committed in our country are committed by repeat offenders.

These are not just statistics. The victims of these crimes are real people—they are our constituents—and the ultimate victim is society. The crime epidemic has brought with

VOL
140
PT
16
AG
12
—
18
1994
UMI

it the pestilence of fear and Congress should address this complex problem in a comprehensive, realistic and bipartisan way. Whether we are Republicans or Democrats this is a national crisis that we share and partisan politics should not interfere with the best solutions.

Back in March, following action in the House Judiciary Committee on the Violent Crime Control and Law Enforcement Act of 1994, I went before the Rules Committee urging that certain key amendments be made in order. Those were amendments put forward by the Republican members of our Committee and reflected a number of very valid and valuable approaches to the serious problem of crime we have in this country.

Unfortunately, when this legislation was brought to the floor in April, several of my Republican colleagues were prevented from offering amendments under a highly restrictive rule. Still other Republican amendments were allowed but they were subjected to a kind-of-the-hill procedure that prevented any real genuine opportunity for success.

Subsequently, after the legislation was passed by the House of Representatives, I appointed the four most senior Republican members of the House Judiciary Committee to serve on the conference committee on the Crime bill. For many weeks and months, the conference committee did not meet. Republican members were routinely excluded from closed door meetings during this time period. Then, finally, when the conference committee briefly convened, Republican Members were routinely refused key documents and several significant Republican amendments were dropped or weakened. Numerous Republican proposals were defeated in conference through the utilization of the proxy voter mechanism. Ultimately, none of the Judiciary Republican conferees signed the conference report. How could they approve a document which they had no part in formulating?

Furthermore, the conference report itself is a document that has been conspicuous by its absence. As of yesterday evening, the Members of this House did not have a complete, final copy of the conference report. The conference version, as I understand it, is almost four inches thick, it is over 1,000 pages long. How do we evaluate a major piece of legislation that no one has been permitted to read?

Mr. Speaker, I stand here as the Ranking Republican on the House Judiciary Committee. The upcoming vote on the rule is a procedural vote that must be evaluated in the light of these events. The rules process goes to the very heart of our role as legislators and our rights as Members of this House. I am angered and dismayed about the manner in which Republican Members have been denied their rightful role on this very important public policy question.

Mr. Speaker, I will vote "no" on this rule because of the tactics used by the Majority party—tactics which insult the Republican Members of this House and the American citizens we were elected to represent.

Madam Speaker, I attach an excerpt from "How Our Laws Are Made" which has been prepared by the Congressional Research Service. It explains the role of the Committee on Rules.

X. OBTAINING CONSIDERATION OF MEASURES

Obviously certain measures pending on the House and Union Calendars are more important and urgent than others and it is necessary to have a system permitting their consideration ahead of those that do not require immediate action. Because all measures are placed on those calendars in the order in which they are reported to the House, the latest bill reported would be the last to be taken up if the calendar number alone were the determinating factor.

SPECIAL RESOLUTIONS

To avoid delays and to provide some degree of selectivity in the consideration of measures, it is possible to have them taken up out of order by obtaining from the Committee on Rules a special resolution or "rule" for their consideration. That Committee, which is composed of majority and minority Members but with a larger proportion of majority Members than other committees, is specifically granted jurisdiction over resolutions relating to the order of business of the House. Usually the Chairman of the committee that has favorably reported the bill appears before the Committee on Rules accompanied by the sponsor of the measure and one or more Members of the Chairman's committee in support of the request for a resolution providing for its immediate consideration. If the Committee on Rules is satisfied that the measure should be taken up it will report a resolution reading substantially as follows with respect to a bill on the Union Calendar:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. ___) entitled, etc., and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed ___ hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on ___, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

If the measure is on the House Calendar the resolution reads substantially as follows:

Resolved, That upon the adoption of this resolution it shall be in order to consider the bill (H.R. ___) entitled, etc., in the House.

The resolution may waive points or order against the bill. When it limits or prevents floor amendments, it is popularly known as a "closed rule".

SPECIAL COUNSEL IN WHITEWATER INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] will be recognized for 5 minutes.

Mr. HOYER. Madam Speaker, I rise to speak of a matter that is troubling me, and I think troubling other individuals. Some years ago, we created a special counsel, a special prosecutor, if you will. That position was created to assure objective, nonpartisan, nonpolitical review of possible wrongdoing within the executive department.

The reason for doing that was so that the Attorney General, who is appointed by the President of the United States, and who is the office to whom the U.S. attorneys report, would not be in effect in the chain of command as it related to the investigation of alleged wrongdoing of, in this case, her boss, the President.

I supported that legislation, and supported it when we reauthorized it recently. Because that legislation had not been reauthorized and signed into law when the question of Whitewater arose, and after the requests of the Members of the Republican Party in particular, concurred in, ultimately by the administration, the Attorney General, because the legislation was not in effect, appointed a special prosecutor for the purpose of investigating Whitewater.

□ 1510

After she had done so, she carefully reviewed prospective nominees and she chose for that position a Republican, a Republican who was known for his integrity and his legal skill, a Republican who in fact had experience as a prosecutor and was known to be a thorough and fair investigator. That gentleman's name was Fiske.

Subsequent to his appointment, he undertook the investigation and has made certain reports. The same people who had demanded the appointment of a special prosecutor, the same people who believed Mr. Fiske was a fair-minded, judicious prosecutor with personal and legal integrity have subsequently criticized him because they did not like his findings. His findings, of course, were that there was no transgression of law, no laws broken, no ethical violations in relationship to the communciations between the Treasury Department and the White House.

These Republicans, frankly, were not satisfied. Ten Republicans have written to the Federal court. But I get ahead of my story.

Subsequent to that appointment, we did in fact pass the reauthorization to the special prosecutor law. That law provides for a panel, appointed by the Chief Justice of the U.S. Supreme Court, to have the authority to choose a special prosecutor. That panel is currently composed of Judge David Sentelle and two other judges. Judge Sentelle was appointed by Chief Justice Rehnquist. Chief Justice Rehnquist, of course, was in the Nixon Cabinet and appointed by Nixon to the Supreme Court. Judge Sentelle as I understand it, is the first nonretired judge to chair this special prosecutor selection panel of Federal judges. The other two judges who sit on that panel are retired judges as has historically been the case. One of the other judges was appointed by a Republican and one by a Democrat, President Johnson.

I mentioned the 10 Members of this body who wrote to Judge Sentelle and the panel requesting that Mr. Fiske be removed as the special prosecutor. Mr. Fiske has been at this for months. Mr. Fiske and the staff that he has collected at a cost of over $2 million in effect were asked by these 10 to be replaced, to be set aside, not because there was a question frankly of the results, although I suggest that they were upset with the results, but because they alleged that there was a conflict of interest.

INTRODUCTION OF THE FINANCIAL SERVICES COMPETITIVENESS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. NEAL] is recognized for 5 minutes.

Mr. NEAL of North Carolina. Madam Speaker, with the 21st century rapidly approaching, it is time that the legal framework of the U.S. financial services industry catch up with the marketplace. The technology of today, from computers to communications, has changed the face of financial services.

Unfortunately, our laws impose an antiquated legal structure on the new and competitive financial marketplace. As a result, we have a system that is tremendously inefficient and costly. It undercuts our international competitiveness, limits consumer choice and convenience, and ultimately suppresses economic growth.

Dramatic shifts in financial distribution networks and product lines have resulted in a rapid decline in the relative role of banks and other depository intermediaries. From 1980 to 1990, banks' market share fell a full 10 percentage points, from 37 to 27 percent of total financial intermediary assets. By 1990, banks had lost more than one-fourth of the market share with which they began the decade.

Madam Speaker, Congress has the ability to provide our financial system with the tools it needs to develop a better and more efficient system for the delivery of financial products while, at the same time, ensuring the safety and soundness of insured deposits. Our objective should be to ensure that our financial service firms are able to provide consumers and businesses with the most cost-efficient and highest quality financial products and to compete fairly in a global marketplace, while operating in a safe and sound manner.

Our regulatory system for financial services providers must also move toward the 21st century. Our present system is a patchwork of market and institutional regulation resulting from ad hoc responses to the historical developments, with no central theme. It is a house built over time without any floor plan or, indeed, any plan at all.

Even today, bills are introduced in Congress that react only to specific issues of immediate concern. One such example is H.R. 3447, the Securities Regulatory Equality Act of 1993, which responds to the narrow issue of bank sales of mutual funds.

I know from personal experience that bills often are drafted and amendments are crafted, not to deal with regulatory problems in a comprehensive manner, but to avoid or attain jurisdiction by one congressional committee or another. We are left with a hodge-podge of partial solutions to larger problems, the creation of competitive inequities among market participants, uneven regulations for similar activities across industries and forum shopping by regulated parties. The inability of the House to deal with the larger problems of the financial services sector in a comprehensive manner increases costs for our economy, to the detriment of both efficiency and safety.

One of my purposes in introducing this legislation, Madam Speaker, is to try to get Members to focus on the need to deal with these issues in a comprehensive way. We should not keep careening from one narrow issue to another, be it mutual fund sales disclosures, the use of derivatives, or the underwriting of securities, while pretending that the underlying nature of the financial services industry is the same as it was in 1933.

The world has changed in the past 60 years, but our financial services laws have not kept pace. It is time to recognize that the entire legal structure of the industry has become outmoded and is badly in need of change. Our response should not just be to try to apply another quick fix to whatever problem has caught our eye today. Sooner or later, and I believe sooner, we must break the cycle of temporary patchwork responses to innovations within the financial services industry and consider comprehensive reform. If not, we will be left with the financial services equivalent of hand-cranked telephones and quill pens in a world of cellular phones and fax machines.

Madam Speaker, the Financial Services Competitiveness Act, which I am introducing today, will facilitate a debate addressing the basic structure problems that are the result of outdated affiliation and activities restrictions contained in the Bank Holding Company Act, the Glass-Stegall Act and various other laws. It is designed to modernize the legal and regulatory framework while simultaneously imposing strong safeguards and more effective regulations. The legislation does not seek to realign the jurisdiction of regulators, but rather provide for the functional regulation of financial activities.

Under the bill, federally insured depository institutions would be permitted to affiliate with other financial and nonfinancial businesses. Thus, a bank with federally insured deposits, an insurance company and a company underwriting securities could all be owned by the same diversified financial services holding company.

Allowing affiliations would permit firms to increase their operating efficiencies and better serve their customers. Consumers would benefit from greater convenience, lower prices and enhanced competition. All financial services providers could offer similar options through the holding company structure. It provides competitive equality. It does not favor one industry over another. It encourages more effective competition.

At the same time, there would be safeguards to protect the taxpayer-backed deposit insurance funds. Each subsidiary of a holding company would be required to be separately capitalized. In addition, each holding company would be required to maintain adequate levels of capital in its depository institutions, and if it failed to do so, it would be required to divest the financial institutions and as well as infuse additional capital to bring the institutions into capital compliance. This provision in particular would insure that diversified financial services holding companies take seriously their responsibility of owning an insured depository institution subsidiary. It also would provide American taxpayers with an extra level of protection—a troubled bank would turn first to its diversified financial holding company, and not the taxpayer.

In addition, banking subsidiaries would not be permitted to engage in nonbanking activities. Each subsidiary would be regulated by the appropriate regulator as under existing law, meaning that securities subsidiaries would be regulated by the Securities and Exchange Commission, insurance subsidiaries by State insurance regulators and financial institutions by the appropriate banking regulator.

Madam. Speaker, it is readily apparent that the existing legal structure is not consistent with market realities and the globalization of the financial marketplace. It is time to craft our Nation's financial services policy to strengthen the system instead of restricting and detracting from the health and dynamism of the market.

I recognize that we will not be modernizing our financial services industry this year. But the Financial Services Competitiveness Act will help focus the debate on the need to accomplish modernization. I am pleased that the bill has strong bipartisan cosponsorship—Representatives MCCOLLUM, LAFALCE, FRANK, LAROCCO, ORTON, DOOLEY, RIDGE, BAKER of Louisiana, and KING are joining me in introducing the bill today—and I look forward to working with them and others in this Congress to lay the groundwork for consideration of this extremely important issue.

A section by section analysis of this important legislation follows:

THE FSCA—"FINANCIAL SERVICES COMPETITIVENESS ACT"

SECTION BY SECTION ANALYSIS

To create an open and competitive marketplace for financial services which ensures the safety and soundness of the nation's financial system as well as the availability of innovative financial products and services for consumers, business and government at the lowest possible cost.

Section 1—Title

This section provides that this Act may be cited as the "Financial Services Competitiveness Act".

Section 2—Findings and Purpose

The Congress finds that (1) outdated statutes and regulations inhibit innovation, efficiency, and competition in the financial services industry to the detriment of consumers and providers, and (2) new legal framework for financial services must be created which will accord all financial services companies equal opportunity to serve the full range of credit and financial needs in the marketplace and (3) expanded product and service opportunities for all components of the financial services industry would strengthen individual intermediaries as well as the overall financial system, and (4) rapid globalization of the financial services marketplace and the emerging interdependence of major financial markets further underscore the necessity of modernizing domestic laws to maintain the competitiveness of U.S. intermediaries and the preeminence of U.S. financial markets, and (5) regulation of separate segments, subsidiaries and affiliates along functional lines without regard to

VOL 140 PT 16 AG 12 — 18 1994 UMI

ownership and control would serve national priorities better than the present system.

The purpose of the Act is to promote the safety and soundness of the nation's financial system, the availability of financial products and services to consumers, businesses, charitable institutions and governments in an efficient and cost-effective manner, to promote a legal structure governing providers of financial services that permits open and fair competition and affords all financial services companies equal opportunity to serve the full range of credit and financial needs in the marketplace, to ensure that domestic financial institutions and companies are able to compete effectively in international financial markets and to encourage regulation of financial activities and companies along functional lines without regard to ownership, control or affiliation.

Paragraph (1)—Affiliate—defines the term "affiliate" of a company to mean any other company which controls, is controlled by or is under common control with such company.

Paragraph (2)—Adequately Capitalized—defines the term "adequately capitalized" to have the same meaning as in section 38(b) of the Federal Deposit Insurance Act.

Paragraph (3)—Appropriate Federal Banking Agency—defines "appropriate Federal banking agency" to mean the Comptroller of the Currency in the case of national banks or District banks, the Federal Reserve Board in the case of member banks (other than national banks), the Federal Deposit Insurance Corporation in the case of insured state banks that are not members of the Federal Reserve System and the Director of the Office of Thrift Supervision in the case of savings associations.

Paragraph (4)—Bank Holding Company—defines the term "bank holding company" as it is defined in section 2(a) of the Bank Holding Company Act of 1956, as amended.

Paragraph (5)—Board—defines the term "Board" to mean the Board of Governors of the Federal Reserve System.

Paragraph (6)—Company—defines the term "company" to mean any corporation, partnership, business trust, association or similar organization. However, corporations that are majority owned by the United States or any State are excluded from the definition of company.

Paragraph (7)—Control—defines the term "control" as the power directly or indirectly to direct the management or policies of a company or to vote 25% or more of any class of voting securities of a company.

There are four exceptions from the definition of control. These pertain to ownership of voting securities acquired or held by a company:

(1) as agent, trustee or in some other fiduciary capacity;

(2) as underwriter, for such period of time as will permit the sale of those securities on a reasonable basis;

(3) in connection with or incidental to market-making, dealing, trading, brokerage or other securities-related activities, provided that such shares are not acquired with a view toward acquiring, exercising or transferring control of the management or policies of the company;

(4) for the purpose of securing or collecting of a prior debt until two years after the date of acquisition.

In addition, no company formed for the sole purpose of proxy solicitation shall be deemed to be in control of another company by virtue of its acquisition of voting rights of the other company's securities.

Paragraph (8)—Depository Institution Holding Company—defines the term "depository institution holding company" as having the same meaning as in section 3(w)(1) of the Federal Deposit Insurance Act.

Paragraph (9)—Diversified Financial Services Holding Company—defines a DFSHC to be any company that files a notice with the Board that it intends to comply with the provisions of this section, *and* controls an insured depository institution or either:

(i) has, within the preceding twelve months filed a notice pursuant to subsection (b) of this section to establish or acquire control of an insured depository institution or a company owning such an insured depository, or

(ii) controls a company which, within the preceding twelve months, has filed an application for Federal deposit insurance, provided, that such notice or application has not been disapproved by the appropriate Federal banking agency.

Paragraph (10)—Financial Institution—defines the term "financial institution" to include any bank, savings association, insurance company, finance company, real estate company, securities company or other financial services company that is regulated, supervised or examined under the laws of any State.

Paragraph (11)—Insured Depository Institution—defines the term "insured depository institution" to have the same meaning given to it in section 3(c)(2) of the Federal Deposit Insurance Act.

Paragraph (12)—Representative—defines the term "representative" to include any agent, principal, solicitor, broker, director, or officer, employee or other representative of any company, insured depository institution or affiliate thereof.

Paragraph (13)—Savings and Loan Holding Company—defines the term "savings and loan holding company" as having the meaning given to it in section 10(a) of the Home Owner's Loan Act.

Paragraph (14)—Savings Association—defines the term "savings association" as having the meaning given to it in section 3(b) of the Federal Deposit Insurance Act.

Paragraph (15)—State—"State" is defined as having the meaning given to it in section 3(a) of the Federal Deposit Insurance Act.

Section 4—Establishment of a Diversified Financial Services Holding Company

Section 4 creates a new type of financial company, a diversified financial services holding company (DFSHC), and sets out the terms and conditions under which a company can be established and must be operated.

No person may take any action which causes any company to become a diversified financial services holding company without submitting prior notice to the Board of such person's intention to establish a diversified financial services holding company. The Board shall establish requirements and procedures for the submission of the notice.

A bank holding company shall lose its status as a bank holding company immediately upon filing the notice of its election to become a DFSHC. Similarly, a savings and loan holding company that elects to become a DFSHC will lose that status upon filing the notice of its election to become a DFSHC.

To assure that each depository institution controlled by a DFSHC would be subject to regulation and supervision by an appropriate Federal banking agency, owners of an uninsured depository institution would not be able to avail themselves of the opportunity to become a DFSHC, unless they agree to convert such uninsured institution into an insured depository institution.

The provisions of Glass-Steagall do not apply with respect to the affiliation of any bank that is an affiliate of a diversified financial services holding company with such company or any other affiliate of the company.

Section 5—Compliance With Change in Control Requirements

This section provides that any DFSHC wishing to acquire control of an insured depository institution or company owning such institution must comply with the requirements of the Change in Control Act.

Section 6—Adequate Capitalization

This section governs the capitalization of insured depository institutions that are controlled by a DFSHC.

Subsection (a)—Notification—In the event of a finding by the appropriate Federal banking agency that an insured depository institution controlled by a DFSHC is not adequately capitalized, such agency shall immediately provide a written notification of such non-compliance to the DFSHC.

Subsection (b)—Bond, Guaranty, Deposit or Surplus Account—At the time of the notification described in subsection (a) or at any time thereafter, the appropriate Federal banking agency may in its discretion require a DFSHC in an amount equal to the capital deficiency set forth in the notification to either:

(A) provide a bond, guarantee or similar undertaking in a form prescribed by the appropriate Federal banking agency,

(B) place and thereafter maintain on deposit in a segregated, earmarked account at the insured depository institution cash or investment securities (i.e., securities of the type that may be held by national banks for their own account pursuant to section 5136 of the Revised Statutes, as amended, or other liquid assets as the appropriate Federal banking agency, may permit),

(C) make a contribution to the surplus capital of the insured depository institution which shall be segregated from and not treated as capital, or

(D) reduce the amount of total assets of the institution, until the insured depository institution is capitalized pursuant to an agreement entered into between the DFSHC and the appropriate Federal banking agency or is otherwise made to become adequately capitalized; or the DFSHC has divested control of the insured depository institution pursuant to subsection (d) described below.

Upon receipt of the notification described in subsection (a) an insured depository institution shall not declare or pay a dividend to any shareholder and, upon appointment of a conservator pursuant to subsection (c), the DFSHC shall immediately return to such insured depository institution any dividends received from such insured depository institution during the period beginning 270 days prior to the receipt of the notification.

Subsection (c)—Appointment of Conservator—If the DFSHC fails to comply with any of the requirements of subsection (b), or the DFSHC fails within 45 days of its receipt of the notification described in subsection (a) to cause the insured depository institution to become adequately capitalized or to enter into an agreement with the appropriate Federal banking agency to cause the insured depository institution to become adequately capitalized, the appropriate Federal banking agency to cause the insured depository institution to become adequately capitalized, the appropriate Federal banking agency shall appoint a conservator for the insured depository institution.

Subsection (d)—Divestiture—If within 90 days of receipt of the notification described in subsection (a), a DFSHC has not caused the depository institution to become adequately capitalized or entered into an agreement acceptable to the appropriate Federal banking agency to cause the insured depository institution to become adequately capitalized, the appropriate Federal banking agency shall order divestiture. The appropriate Federal banking agency may cause the DFSHC to infuse additional capital into the insured depository institution if upon divestiture the insured depository institution would not be adequately capitalized.

Subsection (e)—Termination of Conservatorship; Rescission of Divestiture Order—If after the appointment of a conservator or the issuance of a divestiture order a DFSHC causes the insured depository institution to become adequately capitalized, the appropriate Federal banking agency shall immediately terminate such conservatorship or rescind such order.

Subsection (f)—Aggregate Limit on Required Capital Infusions—The maximum liability of a DFSHC for any capital infusion required by an appropriate Federal banking agency shall not exceed the amounts necessary for the institution to become adequately capitalized.

Subsection (g)—Judicial Review—Within 10 days after the appointment of a conservator or upon receipt of an order of divestiture, the DFSHC may apply to the U.S. District Court for the judicial district in which its principal office is located or the U.S. District Court for the District of Columbia for an order requiring the removal of the conservator or for an injunction setting aside, limiting or suspending the enforcement, operation or effectiveness of any such order.

Subsection (h)—Capital of DFSHC—The appropriate Federal banking agency may not impose any requirement pertaining to the capital of the DFSHC. Any agreement entered into pursuant to this section between a DFSHC and an appropriate Federal banking agency with respect to the capital of an undercapitalized insured depository institution subsidiary of such company shall terminate when the institution becomes adequately capitalized.

Section (7)—Additional Provisions Relating to Regulation of Insured Depository Institution Subsidiaries

This section accomplishes two objectives. First, it prohibits adversely differential treatment of DFSHCs and their affiliates, including their insured depository institution affiliates, except as this Act specifically provides. Second, the subsection insures that State and Federal initiatives do not undermine achievement of the purposes of this Act. Whether couched as affiliation, licensing or agency restrictions or as constraints on access to state courts, such laws effectively perpetuate market barriers and deny consumers the opportunity to choose between different financial products and services.

Subsection (a)—Differential Treatment Prohibition—Preempts Federal and State laws, rules, regulations and orders that differentiate between (i) insured depository institutions controlled by a DFSHC from any other insured depository institution in a manner adverse to DFSHC controlled insured depository institutions or (ii) DFSHCs or their affiliates from bank holding companies or savings and loan holding companies and their affiliates in a manner adverse to DFSHCs or their affiliates.

Subsection (b)—Relation to State Law—Preempts State laws that prevent or impede (i) any insured depository institution or affiliate thereof from being affiliated with a DFSHC or (ii) any DFSHC or affiliate thereof from marketing or offering products and services of the DFSHC or any of its affiliates. This preemption does not apply to any State law relating to examination, supervision or regulation of providers of financial services or to the protection of consumers, except to the extent such laws are inconsistent with this section or with the purposes of this Act. Creates a private right of action to declare State laws to be in violation of this section and to enjoin their application.

Subsection (c)—Access to State Courts—Removes a common uncertainty under State licensing and qualification to conduct business statutes which leaves an out-of-state insured depository institution's access to another State's courts unresolved. So long as such an insured depository institution limits its activities to those which do not constitute the establishment or operations of a "domestic branch" in that State, it can qualify to maintain or defend in that State's court any action which could be maintained or defended by a company which is not an insured depository institution and is not located in that State, subject to the same filing, fee and other condition or requirements as may be imposed on such a company.

Subsection (d)—Representatives—Makes clear that a State may not impede or prevent any insured depository institution affiliated with a DFSHC or any DFSHC or affiliate thereof from marketing products and services in that State by utilizing and compensating its agents, solicitors, brokers, employees or other persons located in that State.

Subsection (e)—Affiliate and Control Defined—Contains a special definition of "affiliate" and "control" for purposes of section 7 only. Control is deemed to occur where a person or entity owns or has the power to vote 10% or more of the voting securities of another entity or where a person or entity directly or indirectly determines the management or policies of another entity or person. Unlike the definition of affiliate set forth in section 3, this definition encompasses not only corporate affiliations but affiliations between corporations and individuals.

Section (8)—Insider Lending and Tying Provisions

This section subjects DFSHCs to the tying provisions of section 106 of the Bank Holding Company Act Amendments of 1970 and to the insider lender prohibitions of section 22(h) of the Federal Reserve Act. These actions prohibit abusive tying between products and services offered by insured depository institutions and products and services offered by the DFSHC itself or by any of its other affiliates. The tying restrictions do not apply to products and services that do not involve an insured depository institution. The insider lending provisions severely limit loans by a depository institution to officers and directors of the depository institution. For purposes of both provisions, the appropriate Federal banking agency will exercise the rulemaking authority presently vested in the Federal Reserve with regard to these limitations.

Section (9)—Enforcement and Examination; Payment System Services; Oversight

This section details the jurisdiction and authority of the appropriate Federal banking agencies.

Subsection (a)—Administrative Enforcement—The appropriate Federal banking agency shall enforce this Act by using its examination and supervisory powers.

Subsection (b)—Examination—The appropriate Federal banking agency is empowered to examine or require reports from any affiliate of an insured depository institution controlled by a DFSHC to solely assure compliance with this Act.

Subsection (c)—Federal Reserve Payment Services—All Federal Reserve services shall be available to all insured depository institutions on the same terms and conditions, except in instances that are necessary to avoid a material adverse effect on a large dollar payment system. The Federal Reserve may take enforcement action against an insured depository institution that has engaged in an activity that has resulted in a material adverse affect on a large dollar payment system.

Section (10)—Criminal and Civil Penalties

This section provides for criminal penalties for knowing and willful violations of the provisions of this Act. For companies found to be in violation of the provisions of this section the maximum penalty can be up to $1 million per day for each day that the violation continues.

For individuals found to be in violation of the provisions of this section the penalty shall be a fine and/or a prison term. The maximum fine could be up to $1 million per day for each day during which the violation continues. The maximum prison sentence shall be 5 years. In addition, individuals violating the provisions of this section will also be subject to the penalties provided for in Section 1005 of Title 18 for false entries in any book, report or statement to the extent that the violation included such false entries.

AGAINST HAITIAN INVASION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. COOPER] is recognized for 5 minutes.

Mr. COOPER. Madam Speaker, evidence is mounting that the administration is planning to invade the country of Haiti while Congress is in the upcoming August recess. I have even heard rumors that troops from Fort Campbell on the Tennessee-Kentucky line already have orders to deploy to Haiti.

We in Congress need to have a full and fair debate on Haiti. I demand a vote before recess on whether the United States should invade Haiti. Already I have cosponsored 2 pieces of legislation which would achieve this objective, H. Con. Res. 269, the Goss-Kyl resolution against using force in Haiti unless American citizens are in clear and present danger; also H. Con. Res. 276, the Skaggs-Boehlert-Durbin resolution, in light of the U.N. resolution allowing use of force to hasten departure of the Haitian military dictatorship, demanding that the President, our President, get congressional approval before intervening militarily.

As the Persian Gulf crisis showed, when a President has time to inform the American people, he needs to do so. He needs to make sure he has the public's support. There is no imminent crisis forcing an invasion now in Haiti. There has been plenty of time to have a full and fair congressional debate.

Mr. President, we need a vote now, and I will vote against invading Haiti.

VOL 140 PT 16 AG 12 — 18 1994 UMI

It is not enough to get U.N. approval as the administration has done. U.N. approval has nothing to do with U.S. approval. American interests must always come first.

I was for U.S. military involvement in the Persian Gulf crisis because there were vital United States interests at stake. The Pentagon supported our involvement there because we could win with minimum U.S. casualties and Saddam Hussein had been using weapons of mass destruction. We also in that instance had great international cooperation.

But I am against an invasion of Haiti. No major national interests are at stake in Haiti and there are no clear reasonable objectives for a military intervention. Even though some United States military experts think that an invasion itself would be relatively simple, building a democratic state in Haiti would take years. The Haitian military leadership is mounting a 2,000-strong civilian paramilitary group not to resist the invasion but to terrorize their fellow citizens. A civil war is likely to result after an invasion. Do we want to be in the middle of Haitian factions fighting each other? Remember, the last time we invaded Haiti, we stayed 19 years. Our Nation surely has higher priorities in the international community than being the world's policeman.

Madam Speaker, Aristide may have been democratically elected, but he seems to be an undemocratic leader. While he was in power in 1991, he flaunted his contempt for the rule of law and for democratic institutions.

Madam Speaker, I would urge the administration to get permission from this country to make sure that we have congressional approval and public support before we invade Haiti, before we use any military force in Haiti. We must ask our President not to take advantage of the congressional recess to start an invasion in Haiti.

WE MUST SAVE THE ASSAULT WEAPONS BAN

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New York [Mr. NADLER] is recognized for 60 minutes as the majority leader's designee.

Mr. NADLER. Madam Speaker, I yield 5 minutes to the gentleman from Maryland [Mr. HOYER].

SPECIAL COUNSEL IN WHITEWATER INVESTIGATION

Mr. HOYER. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I was saying that we had appointed a special prosecutor and that a number of individuals had raised the issue of replacing Mr. Fiske. They raised the question of conflict of interest. They raised the question not of actual conflict of interest but of perceived conflict of interest. The court panel, Judge Sentelle and his colleagues, decided after the legislation had passed just this past week to replace Mr. Fiske. It is interesting that the court took pains to point out that they did not question either Mr. Fiske's integrity, his ability, or the quality of his investigation.

What they did say, however, was the court, therefore, "deems it in the best interest of the appearance of independence contemplated by the act that a person not affiliated with the incumbent administration be appointed."

Let me reiterate that what they were seeking was to have an appearance of independence. That is to say, there was an allegation that Mr. Fiske knew Mr. Nussbaum, the previous counsel to the White House, when they had both practiced together in New York.

□ 1520

So the court said there might be an appearance of a conflict of interest, an appearance of nonobjectivity, an appearance that perhaps the public would not get what it sought in a special prosecutor, and that is an objective and thorough investigation. That certainly for every American is a worthy objective. But I would think that every American must have been shocked at the action that Judge Sentelle and his colleagues took, because in replacing Mr. Fiske they chose a gentleman, Mr. Starr, who I hasten to add is also a gentleman of good repute, perceived by his colleagues to have high integrity and significant ability.

However, the court purportedly trying to prevent the appearance of bias, appointed somebody who had been a member of the Reagan administration, Solicitor General in the Bush administration, has campaigned for a number of Republican candidates to replace candidates who are Democrats on the basis that they were supporting President Clinton, whose firm, the Washington Post reports, has volunteered on a pro bono bases to represent interests adverse to those of the White House, and a person who quite clearly is a partisan opponent of the President.

Now there may be a lot of partisan opponents of the President and there is nothing wrong with that in a democracy, in a free country. But if in fact we are replacing Mr. Fiske so we can preclude the appearance of bias, to then appoint a very strong opponent of this administration seems to be a strange conclusion indeed of Judge Sentelle and his colleagues that that would preclude the appearance of bias.

Let me go a step further. There are two U.S. Senators who have not in the Senate chamber necessarily, but out in public expressed their deep opposition to the Clinton administration, and indeed in many respects disrespect for and antipathy toward President Clinton and this administration, and I refer to Senator JESSE HELMS and Senator FAIRCLOTH, both of North Carolina. The interesting thing is that Judge Sentelle was appointed to the Federal bench with the strong support of Senator JESSE HELMS. He then participates in appointing Mr. Starr, a strong Republican from Republican administrations to an allegedly objective, independent prosecutor role to investigate President Clinton.

The Washington Post reports further that there have been in recent weeks lunches between Judge Sentelle and Senator FAIRCLOTH, and I do not know whether Senator HELMS was present. Any fair-minded person might say that is certainly all right to have lunch, have discussions, have talks between these folks. But I ask Judge Sentelle, I ask the American people: Is that the appearance of objectivity? Is that the appearance of a lack of bias?

I want to tell my friends that I am surprised that Mr. Starr took this appointment. I am surprised that Mr. Starr, whom I do not know, but as I said has a representation for integrity and intellect, I am surprised that he would take this position. I am surprised that he would not respond to Judge Sentelle and his colleagues: "I believe that the appearance of bias is there, and if you are replacing Mr. Fiske to eliminate that, to appoint a partisan Republican advocate opponent of this administration does not meet, Judge Sentelle, your own test."

It is unfortunate that the judges did not follow their own advice. It is unfortunate the judges were insensitive to the necessity to have the integrity of this system upheld.

Madam Speaker, I will perhaps make further comments in the future as this matter develops. I thank the gentleman for yielding.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. BROWN of Florida). The Chair must ask all Members to refrain from personally referring to Members of the Senate by name.

Mr. NADLER. Madam speaker, I rise today because yesterday the National Rifle Association won a victory on the floor of this House which, if not reversed, will result in continued carnage in every city and town across this country. Yesterday opponents of the assault weapons ban contained in the crime bill united to defeat the rule and prevent the crime bill from reaching the floor for a vote.

Too many in this town have predicted that this vote kills any chance of enacting an assault weapons ban this year. I am here today to say that a majority of this House and a majority of the American people support this reasonable, indeed limited and conservative restriction on the private ownership of weapons of war, and hope indeed pray fervently that the assault weapons bill not be dropped from the crime bill when it again comes to the floor of this House.

Madam Speaker, there is a war going on in the streets of America and the bad guys are winning. Frightened parents keep their kids off the street, and some neighborhoods parents make their children sleep in bathtubs because of the fear of drive-by shootings and of heavily armed gangs rampaging in their communities.

The statistics are staggering. Although assault weapons comprise only about one-half of 1 percent of the estimated 211 million privately owned firearms in the United States, they account for roughly 8 percent of all gun crimes, according to the Bureau of Alcohol, Tobacco and Firearms. Eight percent of the gun crimes does not sound like that big a problem, but the fact is that assault weapons are the favorite weapons of professional criminals. The fact is that assault weapons are 16 times more likely to be used in a crime than are other firearms. The fact is that with an assault weapon a criminal is able to discharge more ammunition at a higher velocity with greater accuracy and kill and main more people, and do more damage than with conventional firearms. That is why the drug dealers prefer assault weapons. That is why psychotic mass murderers from Kileen, TX to Stockton, CA to Brooklyn, NY favor assault weapons.

□ 1530

The human toll of these weapons is staggering. As this House considers health care reform, every Member should be aware of the impact of assault weapons.

According to a report by the California attorney general's office:

> The danger of the semiautomatic weapon is not yet the frequency with which it is used in crime or the volume which exists compared to other types of guns. Rather, the danger is the potential each semiautomatic weapon confers upon an individual to kill and wound a large number of people.

The Journal of the American Medical Association made the true impact of assault weapons abundantly clear in June of 1992 when it reported:

> Wounds from high-velocity assault weapons resemble the wounds inflicted in the Vietnam war. They are often multiple and massive, and immediate treatment is critical to survival. High-velocity bullets may set up shock waves and cause cavitation effects resulting in unpredictable damage at sites far from the wound track. With low-velocity weapons, multiple wounds still occur, but the damage is localized to tissues adjacent to the wound track, and the full extent of the injury can usually be determined at the time of surgery. The estimated costs of treating penetrating trauma like that from an assault weapon varies from $15,000 to $20,000. A stay in intensive care is not unusual and may cost as much as $150,000, and patients may require a long rehabilitation. These patients need a tremendous amount of care and can be a tremendous burden on hospitals. Most gunshot-wound patients are not covered by private insurance, and their costs are reimbursed by government insurance programs or are uncompensated. Thus, the public bears a major share of the costs.

The fact is that between 1986 and 1993 an estimated 29,000 assault weapons were used to commit crimes in the United States. This figure includes 1,598 homicides, 940 assaults, 224 robberies, and 4,500 narcotics violations, all committed with assault weapons.

Between 1990 and 1991 assault weapons were used in more than 1,350 crimes in Dallas, and the Los Angeles police seized over 850 assault weapons.

Too often our police officers are outgunned by the criminals. Although assault weapons account for only one-half of 1 percent of all weapons in the country, assault weapons were used in nearly 10 percent of all cop-killings, according to FBI statistics.

Assault weapons are 18 times more likely to be used in a cop-killing than any other type of firearm.

Is it any wonder then that every major national law enforcement organization supports the assault weapons ban? Whom are we to trust, the police who patrol our streets or the unreasoning fanatics of the arrogant gun lobby? Where will the National Rifle Association be when the next child is shot with a military weapon? We know where they will be, not helping that child or the family or the community; they will be in front of the television cameras pointing to the tragedy as proof that the child should have been carrying an AK-47 or a street-sweeper or a Tech 9.

Do not listen to them, and do not be afraid of them. Madam Speaker, we must not give in to the NRA. We must not allow drug dealers and murderers to wreak havoc in our communities. We must stop the killing. We must pass the assault weapons ban. We must not accept any excuses.

This House has already passed it, and it should not be dropped from the crime bill.

Today I am circulating a latter addressed to the Speaker urging that the leadership of this House stand firm on the assault weapons ban, and I urge my colleagues who want to stop the violence to sign this letter. I hope the American people will look to see if their Representatives knuckle under to the strong-arm tactics of the NRA. Let them know that you want your communities back. Let your Representatives know that you do not want to worry about your children every time they walk out the door, every time they go to school, and every time they stand by a window.

Sign the Nadler letter. Speak for the majority of Americans who want safe streets and a ban on assault weapons. Now is the time for action. Now is the time to make our voices heard to begin the process of taking our country back from the criminals.

This country needs a good, rational attack on crime and criminals. This country needs an assault weapons ban. This country needs to stop the killing.

COME TO LOATHE THE MILITARY

The SPEAKER pro tempore (Ms. BROWN of Florida). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the minority leader.

Mr. DORNAN. Madam Speaker, I had mentioned a week ago that on Wednesday and Thursday just past I would be doing two special orders, the first titled "Feeding Christians to the Media Jackals," and the second I had titled ". . . Come To Loathe the Military," a phrase taken from a letter that 23-year-old Bill Clinton wrote when he was avoiding the draft for the third and final time; the third time that a young high school graduate from Arkansas would go into uniform in his place. Clinton had used that expression in a letter to the head of the ROTC in the great State of Arkansas, Col. Eugene Holmes, who had survived the Bataan Death March and later was a colonel in command of the ROTC at the University of Arkansas.

Colonel Holmes' brother Bob had died over the skies of Germany. His remains came back on his Eighth Air Force bomber, and his remains were buried at the cemetery at Cambridge where on my last visit I attempted to find his grave but ran out of time. One of these days I will get back to visit the grave of Bob Holmes.

I hoped during the break, Madam Speaker, to visit with Colonel Holmes himself.

In that Clinton letter to Holmes dated December 3, 1969, Clinton had used that expression that he and other young people in that period, because of Vietnam, had come to loathe the military. They made the mistake of blaming our men, now our young women, in uniform for the political policies set by this country.

The letter that I think of when I say the "Holmes letter" was the letter that Colonel Holmes wrote to all of us—the American people—in mid-September of 1992 telling the Nation, advising the Nation, "Do not vote for his Governor," then-Governor Bill Clinton, because Clinton "did not have the patriotism or the integrity to be the President of the United States." These are the words of the Bataan Death March survivor, who had over 20 men die in his arms, who endured over 3 years of horrible captivity on a major island of the Philippines, and whose younger brother died on a bombing mission against Adolf Hitler's Third Reich.

FEEDING CHRISTIANS TO THE MEDIA JACKALS

I want to split my special order tonight, but I am going to start off, and

VOL
140
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16
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I know Colonel Holmes would approve of this, Madam Speaker, with my theme of "Feeding Christians to the Media jackals," because I introduced a piece of legislation today, House Resolution 519. I have 28 original cosponsors.

On this very day, our former Republican whip who is now serving as a distinguished U.S. Senator from the great State of Mississippi, TRENT LOTT, has introduced companion legislation identical in the Senate.

□ 1540

My House Resolution 519, I have it before me, I will read it and then I will discuss it.

But before I do, I want to discuss again briefly some of the great history of our House.

Almost certainly, if Joseph Kennedy II had survived the Second World War, he would have come to Congress rather than his younger brother, Jack. Today, August 12, is the 50th anniversary of the death of Joseph Patrick Kennedy, the oldest son of the nine children of Joseph Kennedy, Sr.

Let me read just very briefly how Joseph Kennedy gave his life for his Nation 50 years ago today and quickly mention some other spots around the world where young Americans were giving what Abraham Lincoln so beautifully called the "full measure of devotion," their mortal lives.

On this day, Navy Lt. (jg.) Joseph P. Kennedy, the older brother of Senator TED KENNEDY and Senator Robert Kennedy, two sisters, Rosemary and Kathleen, and John F. Kennedy, soon-to-be Congressman, Senator, President, and then assassinated in the 46th year of his life.

Joe Kennedy took off from Great Britain in a 4-engine aircraft known as a Privateer. Most of us would recognize it as a B–24 Liberator, the bomber that our Treasury Secretary Lloyd Bentsen and former Senator George McGovern flew in combat.

But the Navy version of the B–24 Liberator had an extremely large high profile single tail, and the Navy called it a Privateer. It was a big 4-engine bomber.

They loaded this airplane with high explosives, dynamite to the layman, from bow to stern and put on it exotic radio-controlled equipment.

Having bailed out of military planes twice in peacetime, I can assure you when you bail out there is a great risk of life. You wonder if you are going to make it. Joe Kennedy had never bailed out in his life from an aircraft, civilian or military. And he was going to bail out of this big aircraft with his copilot—usually they would have a crew of 10. I am afraid I did not look up the name of this young copilot who died with Joe Kennedy. Kennedy was going to get this airplane over the English Channel, and even in summertime, it was pretty risky going across that channel. They were going to bail out of this aircraft once it had been guided by radio experimental controls toward the German submarine pens. They were to bail out and be rescued after they had launched this massive flying bomb, 4-engine bomber that of course would be destroyed when it flew right into the target.

Something went wrong, some tiny little spark, and Joe Kennedy and his courageous volunteer copilot, their remains were atomized somewhere over the English Channel, his fate known only to God, after they had lost radio contact.

He gave his life for his country in that struggle.

Life-and-death struggles were going on all over Brittany and the Normandy Peninsula.

The great George S. Patton, 3-star general at that time, had just broken out. He had run 35 miles yesterday, 50 years ago, and had taken a left turn and was about to close the Phalaise gap, which he came within a hair's breadth of doing, and maybe shortening the war, trapping an entire German army, an army that had been fighting since D-day in Normandy. In Brittany he had reached out his forces, particularly the 5th Armored Division, which adopted a very simple nickname, "Victory." The Victory Division was in the front, one of the spearhead units. We had crossed the beautiful Loire Valley, that beautiful chateau country. He had taken Nante and the French ports along Brittany. I only learned last night, reading something that I had never seen anywhere, that we never did conquer the German-held French ports of St. Milo and Lorean. They stayed German property until March 1945. Imagine how the areas around those citadels were littered with the bodies of young American infantrymen and armored artillery officers and men. We did take within a few days Brest and some of the other ports along there. And of course used those ports again to build up Patton's 3d Army and the 1st Army to make the final thrust across the Rhine in the dead of the worst winter, 50 years ago in March 1945.

What we always forget, and I have said this on the floor 4 or 5 times already in the last month, is the other struggles that were going on.

British forces took one of the most beautiful places in the world and liberated it today. They crossed the Arno yesterday into Florence and today they took the northern suburbs of Florence, 50 years ago today. The Russian Army, where more people were killed in combat than ever in history and probably ever again—God willing we never got ourselves into a nuclear conflict. In the South Pacific, in Guam, with the loss of almost 3,000 American lives and 17,000 Japanese lives, Guam was finally secure—secure except for the hundreds of Japanese that went into the jungle and fought on, not until just the end of the war, but fought on for years. One of them, one of the last survivors, turning himself in finally 27 years later in 1972. But Guam was safe enough to start building those B–29 bases to bring Japanese Imperial warlords to a position of unconditional surrender in August and to sign a peace treaty September 2 of 1945.

I hope to be a U.S. Congressman next year at not only Iwo Jima's 50th anniversary on February 23 but there in Tokyo Harbor on September 2 for the 50th anniversary of the signing of that great end to a ghastly, horrible slaughter of 55 million human beings. Yes this is quite a date in history.

May I put in here some notes of important meetings going on that turned out to be Communist lies.

Churchill, 50 years ago today, was in the recently liberated city of southern France. And he was there meeting with Yugoslav leader Josip Tito and the royalist prime minister of the kind of put together from World War I the false state of Yugoslavia. That prime minister was Irvan Subasic. Tito swore that he would not impose a Communist Government on Yugoslavia. Tito was probably a Croat, mostly with Serbian support. Preying on and eventually executing Radij Mihalevic, he says, "I am not a communist, and there will be no communist government," in lies to the great Winston Churchill, lies to his face. I repeat the British Army, 8th Army, driving the Germans out of the Italian city of Fiorenzi, or Florence. By the way, Joseph Kennedy's mission was called Aphrodite. I wonder if that is taught in schools about the first of the Kennedy brothers who died violently serving his country. It is interesting that Joe's death came 1 year and 11 days after John F. Kennedy's PT boat was cut in half, when he lost two of his men, and he won the Navy Cross by swimming to the Tuculumbungara Island with his life preserve on one of his burned enlisted crew members in his teeth. Kennedy picked up there a painful back injury from the Japanese destroyer cutting him in half that gave him great pain until the day he was assassinated in Dallas 20 years and some months later—back pain from his service in World War II.

□ 1550

Now what was happening to George Bush, our last immediate President, the 41st President of the United States? This week, 50 years ago, George Bush flew his 41st, 42nd and 43rd combat missions, building up to September 2, when he bailed out for the second time. That time he lost both his crew members. The first time he ditched, and both were saved; that was his 48th combat mission. He went back, and, after his second bail out, he had every right to be sent back stateside. They offered it to him. He had just done 30 days of unexpected submarine duty when the lifeguard submarine had picked him up. He was depth charged in that sub, had combat missions under the water, and he said, "No, I'm going back to my ship, the San Jacinto," and he flew ten more combat missions. But this was the week in the Marianas, bombing Iwo Jima, Chi Chi Jima, that George Bush got missions 41, 42 and 43.

Cut that half a century in half. Where was Clinton 25 years ago today?

Meeting with the pro-Hanoi movement to set up those coordinated demonstrations that he would lead in England while they were being led here by his friends, David Metzger and the deputy, No. 2 man at the State Department today, Strobe Talbott—all that pro-Hanoi gang. They were working on dual objectives for Clinton, crush and suppress his draft notice in which he was ordered to show up July 28 of 1969. He had that crushed, reversed, undone. I had never heard of that in my life before or since. Right to this day, never heard of that. And now he was spending all of August getting ready for the demonstrations in Europe and was about to head back at the end of this month, 25 years ago, to Oxford where all the evidence indicates he never went to class, never stood for his June exams and, thereby, never got his degree until they gave him the honorary one at the end of the week-long photo opportunity period during the 50th anniversary at Normandy.

So, that was what was going on 25 years ago. By the way, 25 years ago in Vietnam the 101st Airborne was still mourning its wounded from the battles in Hamburger Hill; the mini Tet offensive of September before was 11 months old. They were expecting another, a third, Tet offensive. That summer it never materialized, and it was Nixon's first year. His secret plan to end the war in Vietnam was not to be implemented until 3 years later when Nixon had watched another 15,000 or more lives squandered in Vietnam. That is why this Republican was never a fan of Nixon's conduct of the war. Our POWs were at about the half point in numbers. Some of them had already been there. As I said, Alvarez was shot down 30 years ago this month on August 5, and so he was at the halfway point of his—beyond the halfway point of his captivity, but hundreds more were to be taken in this off-again, on-again, uncertain struggle.

And, as I have said on this floor, and I will say it until the day I die, Vietnam was no different than France, no different than New Guinea, no different than Iwo Jima, no different than France on the first go-around in 1918. It was American men from the same type of family, the same type of background, the same kind of patriotic conservative upbringing, the same men that fought in Desert Storm. These are all the same families, the same middle class background, with a few heroic, young, nobless oblige kids from wealthy families, and some poor kids generally, but they were the lucky ones because most poor kids were rejected by the draft board because they did not have a sufficient education to serve.

Remember 18,000,000 people were called by our draft board in World War II, and 6,000,000 of them were told—6,000,000—"We don't need you. You're not physically strong enough. You weren't fed well enough when you were young, and you don't have a sufficient education to even enter the Army as a G.I. doughboy, grand M–1 rifle-toting infantryman."

So, that is the background of my remarks today about what those men fought for.

As a young kid in the Second World War, I remember the Saturday Evening Post magazine's coming out with those Norman Rockwell paintings of Freedom of Speech, Freedom of Religion, Freedom from Want and Freedom from Fear. So, if I were doing a separate special order and starting out now, I would have ended the one called "Come to Loath the Military," and I would now be starting a special order entitled, "Feeding Christians to the Media Jackals."

Madam Speaker, here is my House Res. 519:

Mr. DORNAN submitted the following resolution, and in the CONGRESSIONAL RECORD, those people on C–Span that may want to look at it up in the library in their hometown that carries the CONGRESSIONAL RECORD, and most do, they will get the list of 28 cosponsors. I expect to have 150 before we adjourn here someday in the first week in October. Here is the resolution, which is also being introduced on the Senate side today, I repeat, by a great Senator from Mississippi, TRENT LOTT.

The resolution expresses the sense of the House of Representatives regarding religious intolerance:

Whereas the rights, liberties and freedoms derived from the Constitution of the United States are guaranteed to all citizens regardless of their religious beliefs or affiliations; and whereas individuals of all religious denominations have made substantial contributions to the establishment, preservation and protection of the system of government of the Nation; now, therefore, be it resolved that, one, the House of Representatives strongly opposes anti-Christians bigotry and all forms of religious intolerance and condemns all manifestations and expressions of religious bigotry and intolerance; two, the House condemns individuals and organizations that foster intolerance, suspicion, hatred or fear of individuals who, A, hold values rooted in religious tenet; B, participate in the political process to ensure that the laws of the Nation reflect such values; C, advocate public policies that are respectful of such values; and, D, it shall be the policy of the House to seek to ensure that the rights of individuals to participate in the political process of the Nation are not infringed on the basis of their religious beliefs or affiliations.

Now, what motivated me, Madam Speaker, to have our legislative counsel draft this, I believe, important resolution? And what causes us to reaffirm what, when I was a young kid, was part of the whole American fabric of life, a respect for all religions? Well, it was, I am sorry to say, my friend, the gentleman from California [Mr. FAZIO], one of the Democrat leaders and deputy chair of the Democrat conference.

I came to this House on my first go-around in 1976. VIC came 2 years later. He is a decade younger than I am, but I remember him over by that leadership desk in January of 1979 with little blond and red-headed children. They looked like my children just a few years before, and I went over and introduced myself, and I said, "Boy, can I borrow some of these kids? They're just duplicates of mine, only a couple of decades younger."

The gentleman from California [Mr. FAZIO] and I have always, always had nothing but the most cordial of relations during our whole time here in Congress. I assume with that good paisano name, FAZIO, that he might be a fellow Roman Catholic. So I asked him and he said no, that he was Episcopalian or something, and I said, "Well, great," I said, "I'm glad to have you on board from northern California. This is an exciting time to be serving our country."

Since that time, I have crossed swords with the gentleman from California [Mr. FAZIO] in debate on this floor only once. He apparently did not know that Kate Michaelman had admitted publicly in Senate testimony that she had aborted her fourth child—it was her first abortion, the other three daughters were born alive—and that she was a Catholic, and had done it with a heavy heart. Kate Michaelman is now the spokesperson for NARAL, the National Abortion Rights Action League. I had mentioned this fact on the floor of the House. Mr. FAZIO thought I was revealing some personal secret of hers. He took me on, I took him on, and on a point of personal privilege we resolved the matter. It is the only time we crossed verbal swords in this House. But I think my pal from California, VIC FAZIO, is walking on very slippery ground when he goes down to the National Press Club and talks about firebreathing Christians and gives egregious, and I cannot believe sincere, advice, to my party, the party that he is in opposition to here 90 percent of the time. He held a press conference to suggest that Republicans must purge from our party all firebreathing Christians who have entered politics because they are worried about the cultural meltdown, the moral decline and the degradation, and what the prior speaker, the gentleman from New York [Mr. NADLER] said, the

VOL 140 PT 16 AG 12 — 18 1994 UMI

bad guys and gals winning in the streets of our Nation, tearing our young people apart.

□ 1600

We cannot demonize, and that is a word that the New York Times and the Washington Post and the L.A. Times have commented on. We cannot demonize the marginalize people in our country whose primary obligation as they see it is to raise stalwart young men and women and to pass on to them the verities that they learned at their mothers' knees, that were reinforced by their dads and by their school teachers.

I can remember the first thing I had to write in my binder as a Air Force preflight aviation cadet was we hold these truths to be self-evident, and that all men are created equal. And I remember taking my soft plastic binder, and with a ball point pen, embedding into it, with a firm reliance on divine providence, we mutually pledge our lives, our fortunes, and our sacred honor. And those very words that were signed by 56 early American forefathers, many of which gave up their fortunes, and some of them gave up their sacred lives, and none of them gave up their honor.

There is Moses' face in this chamber, the only one of the 23 large marble medallions of lawmakers that is other than a left or right profile. It starts with Moses, the keystone, the lodestar, dead center, looking right down at you, Madam Speaker, and over your head are the words "In God we trust."

We are not going to strip out of our country our religious heritage.

I spent my 30th year proudly watching JOHN LEWIS, the distinguished gentleman from Georgia, up there on that stage with Martin Luther King, speaking on that great August day, 31 years ago, it is amazing, August 28th, 1963.

JOHN and I are the only two Members of this Chamber or the U.S. Senate who were present to hear Martin Luther King give his speech, "I have a dream." And that speech is the only words of Martin King, Reverend King, that supersedes his great words in his letter from a Birmingham jail, where he said, "The laws of God supersede every law of man."

I suppose the Democrats are so desperate this election year that they will try anything to hang onto their majority. My gosh, the Democrats have controlled this place for 40 years, since I was too young to vote. In my first election, I was 21 then, I was in pilot training in Florida—no, I moved to Texas for jet training by that time, and everybody I voted for in California by absentee ballot lost. Jim Wright got elected in November of 1954, Eisenhower lost, the House and the Senate, and it was only his second year. We have sat on this side of the aisle ever since. We have never had anything but minority loyal opposition on this side of the aisle. We are in our 40th year. We will come close, but I wouldn't put money that we will take it. And if Republicans do not take over Congress, the Democrats will continue to have liberals running the leadership positions and every committee for the 41st and 42nd year in a row. Totally unknown, that type of domination of one party in the first 150 years of our Nation's history.

And now, the Democrats are trying to save themselves from losing more than the average 14 seats. They may lose 20 seats. They may lose 30 seats. This conduct comes up, we might just have a seat change and turn this place upside down. We will move to that side of the aisle, and maybe in my last 2 years I will get to be Speaker pro tempore, standing up there and looking eloquent like you, Madam Speaker, which I have never done in 18 years of tenure around this place. Anything can happen.

But I will give my friend VIC, and he is my friend, the same warning that I gave my classmate from 1976, AL GORE, who is now the Vice President of the United States. I gave it to him to the right, of that door here, when he said Hi to me, warmly one morning. We have got good relations. And he had with him the prime minister of Ukraine. He introduced me to the prime minister.

I said AL, let me talk to you a second. I crossed that door, spoke to him by that half a pillar on the Republican side, I said AL, VIC FAZIO is giving my party advice. I don't know whether to take it seriously, about kicking activist Christians out of my party because they control the State organizations in six States. That kind of makes me happy. But let me give you some real advice. AL, we don't want a battle over religious belief. I said AL, are you aware that Mother Theresa is not part of the political religious left? She is certainly not the nonbelieving pagan left in this country. She is not the country-club-Republican atheist right in this country. And she is not part of the National Council of Churches, that doesn't know where they stand one month to next. Mother Theresa is part of the conservative religious right. And I said AL, so is Pope John Paul II, who you have met with twice.

This is the religious right. What you are taking on would be one-quarter of this country. Because I speak for the majority of my church. I am in the mainstream of my faith. I may not agree with my bishops over certain forms of gun control or Central America or capital punishment or universal medical care—all of those are optionable beliefs in my faith.

But the sacredness of human life, growing in a woman's womb, the sacredness of that life with an immortal soul for all of eternity infused into it by God the Creator Himself? That belief is not optionable.

And when I hear that nine Members of this House go to a meeting yesterday, right here in our own building, guarded by nine Capitol Hill police in case something untoward happened—to a meeting of a task force called the Radical Right Task Force, it struck me that every caucus in this House, funded or not funded, usually has a positive purpose. For strong rational defense, for instance. Or the Hispanic Caucus. We are allowed to belong to that, even if we are not Hispanic. I am a southern Californian. I love Hispanic history in my adopted State. The Arts Caucus, I am on that even though I get on the floor here and get angry at certain NEA grants squandering our good taxpayers' money for pornography or blasphemy. I am in the Grace Caucus. We have got all these caucuses focused on a positive good.

I cannot recall—may find an exception over the weekend—of a task force or caucus ever formed in this House like the one that Mr. FAZIO that is focused on one group of people because of their religious beliefs.

Now, to be sure, that whole group would say, oh, we are not talking about the Pope or Mother Theresa or your run-of-the-mill average loyal or disloyal Catholic.

We are not talking about mainstream Protestant designations. We are not even talking about smaller Protestant groups like Christian Scientists or Mormons. We are talking about fundamentalists. That is the word they use in all of these fire-breathing press releases of theirs.

Fundamentalists. That word has taken on a terrifying meaning in Iran. It has taken on a terrifying meaning, when that is the way the general media describes terrorists who blow up the second and third tallest buildings in the world after the Chicago Sears Tower, it is the Trade Twin Towers in New York. Blowing them up, five people dead, a sixth dies horribly in pain with lung failure weeks later. Six people dead, 1,000 injured by people called radical fundamentalists.

I know that VIC never makes a move, nor does Mr. Clinton, without these focus groups, without this garbage of putting people in a theater somewhere and getting touchy-feely buzzers, to press a button every time they ask them a test question.

□ 1610

And boy, when those focus groups or pollsters tell you this is up or this is down, then you come out with this bizarre attack on fundamentalist Christians who have tended to avoid politics as Caesar's world. All my adult life, how many groups I have spoken to begging them to come into the political process so they can have home school for their child and keep their young daughter innocent and try to teach their son to live up to the same standard of chasteness and decency that they are asking of his sisters. And then when they turn that son out into the angry, dangerous, violent and drug-ridden streets, they can expect that their son or daughter not to have their family values trampled upon. These people must come into the marketplace and get involved, they must make sure that Mosaic law and Christian principle and Jesus Christ's golden rule is written into law in this Chamber.

The dumbest, the most ignorant remark I have ever heard in my life is, you cannot legislate morality. What an asinine half-truthful statement. What that purports to mean is you cannot legislate morality in somebody's heart, which is an organ that we use to indicate the sensitive reasoning of brain power. You cannot do that.

But all law is a form of legislative morality. If not, why do we have St. Gregory over this door? Why do we have St. Alphonse over the other door. St. Edward the Confessor, St. Lewis, whose mother said, "I would rather have my son dead at my feet than have him commit one grievous mortal sin." Why do we have Moses up here? Why do we have the great rabbi who rewrote all the Talmudic law, a genius, Maimonides, writing in 11th century Spain.

Oh, we have got some losers up here like Napoleon, but we still have his Napoleonic law. We have people who did not belong to any specific religion but who certainly believed in God, like Thomas Jefferson. I tend to believe that he was a sincere man when he wrote, with a firm reliance on divine province. He meant every word of it.

Hammurabi, with his dark sides and did some killing. There are Greek and Roman people up there like Solon and Justinian who had their dark moments. But we have got Suleiman. We have got saints up on these walls. All law is a form of legislative morality.

It is easy to take down the tablets of Moses. Just off the top of my head, I remember when I was traveling against child pornography 3 years before I came here, finding the tablets on the front lawn of the courthouse in Duluth, MN, up in Lake Superior, in the capital city of Nevada. Are they still there? I did not know there were tablets on the wall of the third floor in the Montgomery County, MD, courthouse where the ACLU is trying to rip them down.

When Moses wrote, thou shalt not kill, did he say, you cannot defend yourself in uniform if you are a police officer, a police woman, in the military, a fighter pilot in the skies? No. He meant killing, murdering, immorally. But then we took his commandment and turned it into first-degree murder, second-degree murder, third-degree murder, voluntary manslaughter.

When he says, thou shalt not steal, did he foresee Bunco? Did he foresee a rip-off televangelist minister, a disgrace to religion, focused on greed and money, giving a bad name to religion but disappearing quickly, destroying themselves. They always do. Did he think about pickpocketing or, I said bunco artists, armed robbery, burglary, carjacking, home invasion? We are learning terms like carjacking and home invasion that we not even dreamed of when I first arrived in this Chamber. We have codified all of those stealing fever laws under mosaic commandments, thou shalt not steal.

When he says thou shalt not covet thy neighbor's wife, does that mean you could do it if you were a lesbian and she was separated from her husband? No, we do not have all that codification. It says basically, thou shalt not commit adultery and thou shalt not covet thy neighbor's wife. And it is left up to men and women of good will, with the guidance of religious leaders and lawmakers of principle, to decide what should be in the law and what should be taken care of by our hearts.

We know that there has not been a single person ever maybe in this Chamber, we left it to the States, who have tried to pass any laws against easy, quick, no-fault, cheap lying divorce. Never going to be adjudicated in my lifetime. I have never even thought of writing a law. But we know that quick, easy divorce, where children are involved is causing those angry, streets out there. It turns into the community deserted children.

I do not like the term "dead beat dad." It may both start with a D and have a little alliteration to it, but dead beat dad sounds far too cute to me. This is a deserting, rotten person who brought children into the world and then ditches them and, so he can keep his Mercedes-Benz payments, does not contribute to the education of the children, let alone the funding of how they live and how they eat.

We all know when we study divorce that it turns loose a man. And unless he is a person of particular courage who becomes that Sunday visiting dad, his income goes up and the woman's income goes rock bottom and a life of terrible pain and struggle begins. That is for the States to decide and really for a change, a sea change of heart in culture, in our society.

The abortion battle is going to be with us forever, forever, because it is like slavery. It involves life. You cannot steal a human being's life and lock them up, as with a slave, and that can never be accomplished without turmoil and bringing a curse on your society. And you can never snuff out a human being's heartbeat in the womb of its mother and zero line its brain wave. You cannot ever do that. And that brain wave starts, that heartbeat starts at day 18, about, and the brain wave, by day 40, is established. You can never snuff that out without having this always a matter of public concern.

I tell my friend VIC that when he reads editorials like this in the New York Times or a front-page story, he better run from this. Here is the New York Times, June 3d. This is the paper that gave VIC FAZIO some of these ideas. Conservative Christians have burst into view this year as an important, often divisive force in Republican politics. They now have control of six State organizations and are making inroads into several others. Front page. The mother paper of America.

Here is an editorial in the New York Times 4 days later:

"Many of the retrograde forces that brought us the ugliest Republican National Convention in recent memory," I was there. I did not see this festival of hate and fear. I saw some speeches I did not agree with, but it was dominant media culture, 95 percent liberal at the top of the networks, the three biggest papers in the country, they put this hate and fear spin on my Republican convention with a darn good platform.

It says, "The retrograde forces that brought us this national, ugliest national convention of recent memory have now conspired to nominate Oliver Lawrence North for the United States Senate in Virginia." That became a fait accompli.

"Mr. North's startling ascendancy is ominous evidence that the GOP remains vulnerable to the foot soldiers of fundamentalism."

Listen to this paragraph from my brilliant young friend, William Crystal.

"This month marks an important and alarming development in the politics of American religion." The month he is talking about is June. "As the influence in the Republican Party of 'fervent Christians' emerges as the hottest trendy story and talk show topic of the summer." And it persists, 2 months later. Why should just now there be all this dark talk about this subject is an interesting question.

The answer is not, despite what the Times suggest, that the religious right has "taken over" one of our two national parties and that our civil liberties, therefore, hang in the balance. It is by no means clear, in fact, that the influence of religious conservatives has increased much at all over the past many months.

We remember a front-page Washington Post story reporting significant Christian coalition participation in the Republican politics in more than half a dozen States a year ago. That story presumably about the same States featured with such drama not 2 weeks ago in the Times was in fact in September 1992.

□ 1620

Madam Speaker, at this point let me look for another few key articles to put

VOL 140 PT 16 AG 12 — 18 1994 UMI

in here, I was over here at St. Peter's on the Hill, St. Joseph's on the Senate side, St. Peter's on the House side, and here, just like many churches, only a block away from what used to be, and I would like to think still is, the heart of the District of Columbia.

Madam Speaker, in the back of the church I picked up the standard Archdiocesan newspaper for this area of the country called the Catholic Standard. The senior publisher of this would be, of course, the Archbishop, James Cardinal Hickey.

Madam Speaker, I read in here in a front-page story that many of my colleagues are distraught at the role the Catholic Church is now playing in politics vis-a-vis the health debate. Leaders in the Catholic Church are demanding that there not be coverage of abortion on demand for any reason under the sun, or no reason whatsoever, for all 9 months, right up until 1 microsecond before labor begins. That is the Roman Catholic Church's stand.

I read on the cover that my friend and colleague, the gentlewoman from Colorado [PATRICIA SCHROEDER], is really upset with that, that the church is making these statements. She says that, "The church is now going to undermine women's health care needs."

That is my colleague, the gentlewoman from New York [NITA LOWEY], a Democrat from New York. She insisted that the church is using health care reform to repeal Roe versus Wade. No, it is not. It is a separate debate, although, of course, the church would like to repeal Roe versus Wade. I would, too. After all, the whole case was based on lies.

Madam Speaker, the name for the young woman, Roe, was a lie. She never was raped. She made it up. Whoever heard of a Supreme Court decision that significant and far-reaching based on a foul lie? She simply was not raped, and had that baby anyway. It was her third attempt at abortion.

The woman who uses this pseudonym, Roe, has three daughters, all grown up, in their twenties. They have never met, as far as I know. The daughters would like to reconcile, but they said, "Not until our mother says she is happy that she did not get to kill all three of us." That is the Roe in Roe versus Wade. The Wade was the district attorney in the State of Texas.

Madam Speaker, the gentleman from California [DON EDWARDS], who is in his last months; in just 88 days is the election, when he will be replaced in this Chamber; DON EDWARDS says, joining the debate, "I especially resent the fact that certain religious groups are entering this political fight here in Congress." He resents that fact? Certain religious groups? Come on, DON, you mean Catholic, Roman Catholic Church.

If you want to be a know-nothing, like the people that got a rowboat and took a carved stone that the Vatican had sent for our Washington Monument, and took it out in the middle of the Potomac and dumped it, where it remains to this day, and that kind of know-nothing shut down the building of the Washington Monument for the better part of several decades; if you want to be a know-nothing about the Catholic Church, go ahead, take it on, DON.

Madam Speaker, the landscape of history for the better part of 1,900 years is littered with the forgotten and demeaned reputations of people who took on Holy Mother Church, or religion in general.

Let us have a debate about that some day. That is a good subject for our Oxford debate, casting the fire-breathing right to the media jackals. It would come up with a softer title than that.

Madam Speaker, here is a great lady that I have only had the opportunity to meet once, Helen Alvare, of the Life Issues Forum under the National Conference of Bishops. She says, "The best antidote (in addition to prayer, for the graces of dignity and holding your temper) is a good dose of the truth."

With that preamble, this spokeswoman for the Life Issues Forum of the Catholic Church takes apart these false claims. She says, "One of the claims is that the church is trying to take away what women presently have in private insurance." According to Alvare, "Virtually everyone who supports abortion mandates in health reform has claimed that most women have private insurance coverage of abortion. They say that unless abortion is 'a basic benefit,'" and it is, in the Gephardt and Mitchell health care reform plans, and of course, Clinton or Clinton-light or Hillary Clinton health care plan, all this abortion coverage is in there, making all of us pay for what we believe is the flat-out killing, and in some cases, in the cases of these abortionist doctors who kill 32 or more a day, knowledgeable, knowledgeable murder of innocent human life; not all of them, I guess there have to be stupid abortion doctors out there with a totally twisted and malformed conscience.

She goes on to say that is not a proven fact at all, and mandating abortion in every policy in this country. Not so, she says. "There is no conclusive proof that most private policies now cover abortion. Even if the claim were true, it would be irrelevant. What people can freely choose to buy or not buy" in abortion insurance coverage today "is no argument for forcing them under penalty of law to buy it tomorrow."

Then again, in answering my distinguished colleagues, the gentlewoman from New York [Mrs. LOWEY] and the gentlewoman from Colorado [Mrs. SCHROEDER] and the gentleman from California [Mr. EDWARDS], she goes on to say, "If those who claim they only want to preserve the 'status quo' were honest," said Alvare, "they would insist that health care reform preserve people's ability to choose whether to buy abortion insurance. They would never insist that abortion be a 'basic benefit' that every person must own."

Then here is myth, too, that she explodes. "Another claim is that the church," and this speakes for most Christian denominations, "does not want women to benefit from health reform. This was the premise of Schroeder's argument as she harshly accused the church of plotting to harm women's health interests under cover of removing abortion mandates from health care. The Congresswoman included 'osteoporosis' in her list of woman's services and diseases targeted for destruction in the church's 'plot.'

"In reality," comes back Mrs. Alvare, "the church has been in the forefront of efforts to promote access and quality services for women. Our hospitals," over 1,2000 of them, "provide care to millions of women every year. And our respect life agenda includes both support for healing and opposition to killing.

"That is why * * * the church opposes legislation that would force individual abortion coverage, force Catholic hospitals into business relationships with abortionists, and force communities," and this includes Lutheran hospitals, "to open unwanted abortion clinics." She emphasized the word "force" in the statement.

As an aside, Alvare added, "The church thinks women deserve really good," excellent, "treatment for osteoporosis."

The argument that the bishops are really trying to overturn Roe versus Wade admittedly tries Alvare's patience. "It is legally impossible for Federal health care legislation to overturn Supreme Court decisions," she says firmly. "Roe could be overturned only by a constitutional amendment" or another whole group of flesh-and-blood people on the Supreme Court, people who have maybe had a life, unlike Justice Souter, who indicated one thing and votes the other, which so often happens with appointees to the Supreme Court.

She closes, "Unfortunately, Roe is the law. It made abortions legal on demand," for all 9 months, for any reason at all, "but a health insurance bill that mandates abortion coverage would go much," much, much "further. It would force abortion into the private lives of every family, every health provider, every community, and every taxpayer."

□ 1630

Alvare notes that if abortion is eliminated from the basic benefits package and made available as a supplemental benefit, abortion-on-demand is sadly going to remain legal but the rest of us will not have to subsidize other people's decisions to kill their young in their womb.

Still another claim floating around the Halls of Congress is that the bishops are really trying to impose their religious values on everyone. Yeah, they're really having luck with that, aren't they? "Does this one sound familiar?" she asks. Every time an identifiable Catholic or Catholic institution speaks up in the public square about abortion, someone else raises this question.

She suggested practicing the following response in front of a mirror. She is recommending looking in a mirror for EDWARDS and LOWEY and PAT SCHROEDER. Look in a mirror, without a hint of impatience in your voice, and say this to yourself:

Being for unborn life is not a religious perspective, but a moral one shared by millions of Americans, religious and nonreligious. Opposition to government coerced involvement with abortion—China—is shared by even more millions. Poll after poll shows it. American women and men do not want universal insurance coverage with abortion mandates.

The final phony, false, lying claim is that the church really wants to make contraception illegal. I have never heard a sermon on making contraception illegal in the 45 years of my life since I was a middle teenager, not that I even heard it then, as anything but for the faithful.

She noted, Mrs. Alvare, that contraception is an important moral issue but she makes this key distinction: It does not kill human life, which abortion does. In the area of contraception, the church is seeking conscience protections but not seeking to make it illegal or unavailable.

She pointed out that much of the rhetoric by prochoice advocates is a way to deflect attention from the truth.

"People don't lie about you or your arguments if they have good arguments themselves." Well said, Mrs. Alvare.

Look, what I see here is a veiled attack, marginalizing and demonizing born-again, charismatic, evangelical, protestant Christians in order to try and cripple, intimidate, or to scare orthodox and traditional Jews, Serbian orthodox, Greek orthodox, Armenian orthodox, Russian orthodox, eastern orthodox, Greed orthodox, and traditional loyal orthodox Roman Catholics. By hitting at these groups that they think in their little focus groups do not have the clout to fight back, they think they can accomplish a major objective and save about 20 seats that they are probably going to lose in the coming election 88 days from this very day.

I would say for the sanity and the comity and the well-being and the decency of debate and discourse in this Chamber, do not proceed with your battle plans, Task Force on Radical Right. JIM MORAN was in the well right today when I used his name as having been at this 9-policemen-guarded opening meeting yesterday, chaired by LOUISE SLAUGHTER. Do not do this.

I close, Madam Speaker and let my time clock run out on this: Intelligent, lovely black lady columnist Adrienne T. Washington that I read occasionally in the Washington Times, the headline of her article from this week, 3 days ago, August 9, caught my eye. It says ACLU Censors the Ten Commandments. I will start reading it and I will include it in the RECORD in its entirety:

For decades a 3-by-4-foot bronze plaque with a centuries-old message has blended into the brickwork of the Montgomery County Courthouse. It's been around so long it hangs virtually unnoticed.

But no longer.

The ACLU wants the plaque of the Ten Commandments taken down from its perch on the third floor of the Judicial Center in Rockville.

Is Moses next, the author of those commandments? I would guess so, in the long run. Do they not have more significant causes to champion?

Madam Speaker, you will find the rest of her article compelling reading.

Her last words are:

Those 10 commandments are a necessary reminder, something we can learn from, if not aspire to. It should stay right where it is as just one expression, one example, of what a whole lot of people believe it takes to truly live free in today's topsy-turvy world.

Madam Speaker, I include the Washington Times article for the RECORD, as follows:

[From the Washington Times, Aug. 9, 1994]

ACLU CENSORS THE TEN COMMANDMENTS

(By Adrienne T. Washington)

For decades a 3-by-4-foot bronze plaque with a centuries-old message has blended into the brickwork of the Montgomery County Courthouse. It's been around so long it hangs virtually unnoticed.

The American Civil Liberties Union wants the plaque of the Ten Commandments taken down from its perch on the third floor of the Judicial Center in Rockville, saying it violates the First Amendment separation of church and state.

Don't they have more significant causes to champion?

Arthur Spitzer, legal director of the Montgomery County chapter of the ACLU, told reporter Arlo Wagner of The Washington Times that the plaque should be removed "because the government should not be telling people to observe the Sabbath," among other religious teachings.

How ludicrous. Mr. Spitzer is wrong. If ever there was a place to hang the Ten Commandments, it's in the so-called hallowed halls of blind justice. Here, humankind may welcome a little divine guidance along with a little divine intervention.

Most of the criminal codes and civil laws of Western civilization are based on the Judeo-Christian ethics espoused in the Ten Commandments. Besides, what about the other First Amendment rights that guarantee free speech and the right to religious freedom?

Wiping out any mention or symbol of religion or faith in all public places does not constitute religious freedom. This could be construed as religious censorship for some. Surely, the ACLU opposes censorship.

The Ten Commandments plaque was presented to the Montgomery officials by the Church Women of Montgomery County in 1940. Before the Judicial Center was built in 1981, the plaque hung outside Courtroom One in the District Court.

No doubt this plaque is like the hundreds of statues and monuments you walk by, drive by or stand by each day and never notice. Rather than take the Ten Commandments down, other religious and secular groups should be encouraged to place other placards that espouse their affirmations and thinking.

I fundamentally agree with the ACLU's position opposing adult-led prayer in public schools. It's too difficult to administer without offending someone.

But I firmly believe all students should learn about various world religions as part of their basic education. Just as they study history, geography and languages, people ought to know the difference between Hindus and Muslims, Christians and Jews, atheists and agnostics. Such information breeds religious tolerance. Lack of knowledge—like removing the Ten Commandments as though they don't exist—is what leads to more problems.

So why is Mr. Spitzer picking on the Ten Commandments?

Only three of the 10 tenets speak directly to God or religious practices. The rest speak to what should be appropriate behavior and interpersonal skills. And God knows we can't be reminded enough about common courtesy and human decency.

The Commandments were engraved on stone tablets and given to Moses by God at Mount Sinai. They are the foundation of divine law in the Old Testament. They are also paramount, individually or collectively, in the ethical systems of Judaism, Christianity and Islam.

And just in case your memory needs to be refreshed or you never learned the Commandments, let me give you the hit parade:

1. I am the Lord thy God. Thou shalt have no other gods before Me.
2. Thou shalt not take the name of the Lord thy God in vain.
3. Remember the Sabbath day, to keep it holy.
4. Honor thy father and thy mother.
5. Thou shalt not kill.
6. Thou shalt not commit adultery.
7. Thou shalt not steal.
8. Thou shalt not bear false witness against thy neighbor.
9. Thou shalt not covet thy neighbor's house.
10. Thou shalt not covet thy neighbor's wife, nor his manservant, nor his maidservant, nor his ox, nor his ass, nor anything that is thy neighbor's.

This is the fundamental moral code on which this country was founded, and to which the framers of the Constitution subscribed. I really don't think they thought the day would come that something as harmless as the Ten Commandments would be viewed as inappropriate to be seen in public building, especially a courthouse.

Montgomery County Attorney Joyce R. Stern unfortunately agrees with the ACLU's stance that the plaque, as presently displayed, does violate the Constitution. She ruled the plaque must be made part of a larger "historical display" to remain in the courthouse.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The Ten Commandments plaque is a necessary reminder, something we can learn from, if not aspire to. It should stay right where it is as just one expression, one example, of what a whole lot of people believe it takes to truly live free in today's topsy-turvy world.

RESTORATION OF THE COEUR D'ALENE BASIN

The SPEAKER pro tempore (Ms. BROWN of Florida). Under a previous order of the House, the gentleman from Idaho [Mr. LAROCCO] is recognized for 5 minutes.

Mr. LAROCCO. Madam Speaker, I rise today to address an issue of vital importance to me, to Idaho, and the State of Washington, the restoration of the Coeur d'Alene Basin.

The Coeur d'Alene Basin covers approximately 3,700 square miles in north Idaho, including Lake Coeur d'Alene, the Coeur d'Alene River, the St. Joe River, St. Maries River, the Spokane River, and various tributaries. The basin forms the foundation of the region's economy, drinking water supply, and natural habitat.

The Coeur d'Alene Basin attracts an estimated 800,000 visitors annually. It provides 90 percent of the water to the region's sole-source aquifer, which serves over 400,000 residents in north Idaho and eastern Washington. The basin provides habitat for migratory bird populations—including tundra swan and wood ducks—as well as endangered, threatened or candidate species, such as bald eagle and the bull trout.

In the 1800's silver was discovered on the south fork of the Coeur d'Alene River Valley which was the beginning of the Coeur d'Alene mining district known as the "Silver Valley." In 1886, the first mill was put into operation at the Bunker Hill mining complex. By 1891 mining was flourishing.

Over a period of 100 years the mines of the Silver Valley produced nearly 45 percent of the Nation's silver, 11 percent of its lead, and 9 percent of its zinc. However, they also produced a tremendous quantity of heavy metal-contaminated wastes—an estimated 72 million tons of tailings were discharged into the Coeur d'Alene River.

I view restoration of the basin as one of the highest priorities for the future of north Idaho. I have been working in cooperation with the State of Idaho, the Coeur d'Alene Tribe, the mining industry and local citizens to devise a comprehensive plan for restoring the basin.

With the help of the U.S. Fish and Wildlife Service, U.S. Geological Survey, and the Bureau of Land Management, I have drafted a Coeur d'Alene Basin restoration bill as an amendment to the Clean Water Act. The State and the tribe have also drafted a legislative proposal.

Today I will be introducing both restoration bills.

At the request of the tribe and the State, I am introducing The Coeur d'Alene Basin and Spokane River Restoration Act of 1994, a bill that would establish a nonprofit corporation, the Coeur d'Alene Basin Restoration Corp., to provide for the conservation, remediation, and restoration of the Coeur d'Alene Basin and Spokane River watersheds. The corporation would serve to streamline restoration efforts, assure local control and public input, and reduce administrative costs.

I am also introducing The Coeur d'Alene Basin Restoration Act of 1994. Written as an amendment to the Clean Water Act, this bill would convene a Coeur d'Alene Basin Management Conference to develop a comprehensive pollution prevention, control, and restoration plan for the Coeur d'Alene Basin. In addition, the bill includes measures to assure that efforts by Federal agencies, including the U.S. Fish and Wildlife Service, U.S. Geological Survey, and the Bureau of Land Management, are coordinated as part of a comprehensive restoration plan.

The introduction of these bills signifies a new cooperative effort to restore the Coeur d'Alene Basin. The Environmental Protection Agency has pledged its full support for a cooperative restoration effort, and it has moved a full-time EPA staff person to Coeur d'Alene. The State of Idaho, the Coeur d'Alene Tribe, mining company officials, and community leaders have begun earnest discussions on a comprehensive restoration effort.

I want to stress that both bills have been drafted from the ground up and public involvement will remain a focal point as they move through the legislative process.

Madam Speaker, Idahoans elected me to lead and to solve problems. I have pledged to be a strong voice in Congress and will continue to work collectively with the tribe, the mining industry, the State of Idaho and local citizens to solve this difficult problem.

I want to add in closing, Madam Speaker, that Speaker FOLEY joins me in trying to resolve the issues of the Coeur d'Alene Basin and I welcome his support in these endeavors.

□ 1640

REVOLVING DOOR JUSTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. COLLINS] is recognized for 60 minutes.

Mr. COLLINS of Georgia. Madam Speaker, I want to begin my remarks today and refer back to a 1-minute speech that I gave on this floor March 4, 1993. Leading into this 1-minute speech was the 2 previous days. On each of the 2 previous days to this March 4 date, I came to the well of this House to deliver a 1-minute speech each of those days. The first day I referred my remarks not only to the Speaker but also to the President, and the Speaker challenged me and told me that I must refer all remarks to him. So I was out of order that day with those remarks as a freshman and unknowing to all of the rules.

The second day that I came to the well to give a 1-minute speech, I thought I was in order by reading excerpts from a letter from a constituent from Peachtree City, GA. In reading that letter and excerpts from that letter, the Speaker again hit the gavel and called my words out of order.

So the third day, not to be outdone, I came back to this well of the House for a 1-minute speech, and that 1-minute speech went something like this, Madam Speaker:

> Mr. Speaker, during this time on each of the past 2 days I have stood in this well and referred to letters and phone calls that I have received from people throughout the Third District of Georgia. I expressed their concerns, their fears, and their definition of the character of those of us who are involved in their Government.
>
> On each of those 2 days the Chair questioned my remarks and referred them to the Parliamentarian.
>
> Mr. Speaker, I differed with that questioning.
>
> Mr. Speaker, I will be out of order the day that I do not express the views of those who have sent me here to represent them.
>
> Mr. Speaker, I will be out of order the day I fail to carry through with the promises that I made when I asked those same people to send me here to represent them.
>
> Mr. Speaker, I will be out of order when I listen to the bureaucrats inside this Beltway instead of the people of the Third District of Georgia."

Madam Speaker, I wanted to refer to that out-of-order speech prior to speaking a little bit about the crime bill and the vote on the rule pertaining to the crime bill that took place here in this House yesterday, because the vote that I cast was a reflection of that out-of-order speech. It was a reflection of promises I had made when I was seeking this office. It was a reflection of the phone calls, the letters, the personal contact and the correspondence that I have received from the people of the Third District of Georgia.

Madam Speaker, when I received those correspondence or those contacts I did not ask those people questions other than listening to their requests, their comments. I only answered questions. I did not ask them what religion they were, I did not ask them what party they belonged to, I never ask them what race they are. I just listened to their comments, and that is the vote that I cast yesterday on the rule pertaining to the crime bill.

But, Madam Speaker, we can pass a crime bill in this House, and truthfully

we should pass a crime bill. But we need to pass a good crime bill. We need to pass a crime bill that will actually address the problem, and that is the problems of the criminal. Get criminals off the streets. We need to address it in an area and in a way that imposes punishment, a deterrent. Many may think or may even be used as scapegoats, but if they do wrong, they deserve punishment, no matter what their personal thoughts.

But in order to address crime and crime prevention, I think we need to focus in, too, on some of the cases of crime and where a crime resolves, what it is resolved around. Often times that is in the area of poverty. Financial conditions of a person or a family would lead someone or entice someone to do wrong. Poverty areas are areas where crime is rampant, such as detected by the fact that if you follow welfare spending you also follow spending on crime, and often these areas of poverty are also areas of welfare. Those people, a lot of those people who live there are impoverished, they have no hope. They see no hope, they see no promise. They see a community of people that just like them live with no hope. They see other neighborhoods on the TV and hear about it on the radio and read about it in the media that also have no hope.

Why do they have no hope? Again it is financial. Again it is an area we need to address. I think we need to address, it with jobs, job opportunities, something that gives them hope, something that gives independence.

We can do that. But we do not need to do it with government, government jobs. Government jobs are taxpayer payroll jobs. There is no hope in a government job as such, because government jobs are temporary jobs, and that is the reason, because it is temporary, there is no permanence to it. We need to turn to the private sector, and we need to encourage the private sector to go into these communities, these urban areas, and not only urban areas but rural areas and establish manufacturing, establish businesses that will create jobs and provide jobs and provide hope for those in those impoverished areas. And we can do that. That is not only the job of this House, but it is something that this House should and must do.

There are a couple of areas of the crime bill that I want to refer to other than just that area that was referred to yesterday quite often as social spending. One is the area of the provision that provides for 100,000 additional cops on the streets. That is a provision that sounds good. It is a provision that is supported by many people. Why is it supported by so many? Because when they see a cop on the beat, whether he is walking, or whether he is in his patrol car or on his motorcycle, it gives them a sense of security, because there is someone in the area that is one of the good guys, the police.

But I question whether or not those 100,000 policemen are really again just a dead-end effort, because the funding for those policemen will fall far short, because there again it is temporary funding. The additional or continued policing by those cops who this encourages the hiring of will have to be picked up by those local entities. I know first hand and have had experience in that area. As a country commissioner in Butts County, GA, some 15 years or 16 years ago, there was a program, encouraged by the Federal Government, to hire deputy sheriffs, additional police, and for a small county and a small budget we took advantage of it, advantage of what we thought was a good thing. The only thing was it was good for only awhile, because the funds ran out. Then we as county commissioners and the governing body of that county had to fund those additional officers out of the treasury of that county.

So I think even though it sounds good, and it is good, it is good to have those people on the street, it is a little bit of false advertising from this House to say that we are furnishing the money, all of the money for those 100,000 policemen.

Another area that I want to address in the crime bill that was very controversial was that of the gun control provisions and what makes it so hard to swallow for many people across this country, and a lot of those in the Third District of Georgia. It is not the fact that we were eliminating through that procedure some guns. The real problem is that provision only pertained to a legal transfer of weapons, a legal transfer. It would stop the manufacture and prohibit the transfer of certain weapons. But it did not pertain and will not pertain and cannot pertain, and you will not pass any legislation in this House or in the other body that will pertain to the black market. And there are millions of weapons in that black market. They are passed, they are sold, they are given daily, and no legislation that we adopt will pertain to that weapon.

True, we can pass legislation that pertains to that person who is usually and normally a criminal that passes that weapon.

□ 1650

Back several months ago when we had the Brady bill on this floor, unlike this time with the crime bill, and I did not receive any phone calls from any of the people from the White House or the Cabinet, but when the Brady bill was on the floor, I received a call from Ms. Reno, and I was very pleased that she took the time to call me. I was impressed that she would call me, and she called to ask me to support the Brady bill and to oppose all amendments to it.

I told Ms. Reno I really appreciated her call, but I could not do that, because the people in the Third District of Georgia had asked me to oppose the Brady bill and support all amendments to it. It was not, as I informed her, the 3-day, 5-day, 7-day, 15-day, whatever the delay might be, that was not the emphasis; the problem and the concern of the people of the Third District of Georgia was this in the first step, the first step toward prohibition of weapons altogether.

Madam Speaker, you know, those people of the Third District of Georgia were right. Because immediately following the Brady bill came the ban on the assault weapons, the ban on the legal transfer of weapons, again, no ban on the black market and the transfer in that area. We need to rethink that and stop punishing and trying to deter or prevent law-abiding, legal purchases by people who are not of the criminal element.

Madam Speaker, again, I go back to the fact that we can, and we should, pass a crime bill. We should pass one that had the provision in it that I really liked in this one that the dealing with the fact that we were going to assist States with the construction of prisons, and they do need help. Many States are short of funds for the purpose of prison construction.

Fortunately, Georgia has built several prisons in recent years. My first year in the Georgia State senate, the first budget that came to the floor of the senate, there were no prisons included, but after several members of that senate body approached the appropriations committees, we were fortunate enough to include, before the finalization of that budget, some five prisons. All five have been built and opened, and along with three additional, along with additional boot camps, boot camps again, part of this crime bill that we are looking at that is in conference.

A Judge Kenneth Kilpatrick from Clayton County, GA, a State superior court judge there, sent information to Gov. Zell Miller pertaining to criminals, voicing the concern of many superior court judges in Georgia about the fact that criminals were being released from prison far before their sentences were completed or even long before even half of their sentences were completed. I have the package that Judge Kilpatrick sent to the Governor, Governor Zell Miller, and I want to read just two or three quotes from this package words and comments of Judge Kilpatrick.

First of all, and to quote him, he says, "Do not get hung up on the words 'violence' and 'one-third.' Violent offenders ought to be put away, but so should burglars, auto thieves, forgers, drug dealers, habitual offenders, and other criminals who are not normally called violent." And, again, he says,

79-059 O—97 Vol. 140 (Pt. 16) 3

VOL 140 PT 16 AG 12 — 18 1994 UMI

"Why should anyone sent to a penitentiary get out after serving only 33 percent of their sentence?" That was the one-third he referred to. "One-third has become a buzzword that lacks common sense. Make three-fourths the law, build the prisons, and watch the fear leave our streets." he went on to tell the Governor. "Until we face the fact that there are several thousand predators and punks walking the streets who must be incarcerated, neither we nor our property will be safe."

And, finally, he referred to Cool Hand Luke in the movie, and to quote Cool Hand Luke, "What we have here is a failure to communicate." The judge says to the governor, "Well, what we have here is a failure to rehabilitate. Goodness knows they have had their chances. We need to incarcerate."

I want to read just about, well, four particular cases out of a number of cases that the judge cited, and what had upset him about the early release of prisoners. A John Michael Conn, convicted of vehicular homicide in the first degree on July 25, 1991. He was drunk. 0.16 percent alcohol blood content, when he hit and killed a 13-year-old boy riding on a bicycle. He received a split sentence, 15 years, split to serve 8, 7 on probation. Mr. Conn was paroled December 9, 1993, serving less than 18 months of his sentence, 13 percent of the sentence rendered.

Another one was John Frederic Freeman, convicted of possession with intent to distribute cocaine in September 1992. The pardons and parole board said Mr. Freeman will be released in March 1994, serving 18 months of a 10-year sentence.

Shane Dolan Knight, convicted of at least 18 counts of burglary and forgery in the first degree, given a sentence of 10 years, released after 22 months, serving 18 percent of his 10-year sentence, and last, Karlston R. Blackstock, convicted of three counts of burglary sentenced to 15 years, released in 48 months, serving 27 percent of his sentence.

No wonder we cannot get control over crime.

Madam Speaker, I want to refer to an article that was in the National Review of June 13, 1994, written by Wesley Smith as he talks about in other areas how the Federal courts and the Federal Government have intervened with States in the operation of prisons, which has led to an enormous amount of lawsuits filed in Federal courts by inmates.

In 1966 there were 218 such lawsuits; in 1993 there were 53,000 such lawsuits. I think that is an area we need to address also, Madam Speaker.

I am placing that in the RECORD at the conclusion of my remarks.

Madam Speaker, I say we need to assist States, but we also need to assure that there will be severe and swift punishment.

We had an opportunity during the debate and the amendments offered here on this floor to change the habeas corpus laws, limit the number of habeas corpus appeals at the Federal level. We chose not to do so. We only chose to increase the number of instances where the death penalty can be applied at the Federal level.

But, Madam Speaker, we do not apply the death penalty at the Federal level. We very seldom apply it at the State level due to the fact of the endless appeals that are allowed.

Madam Speaker, I do not know about other Members of this House, but I have witnessed two executions in Georgia in the last 3 years, execution of one person who had cold-bloodedly shot and killed with a shotgun a police officer. Madam Speaker, it took 17 years of appeal after appeal to finally carry out the will of the people and the law of Georgia.

□ 1700

The second execution that I witnessed was just this spring. A person who had attacked two women and beat their heads off with a club.

Again, it took 15 years to bring that person to justice. Madam Speaker, that is too long. The people are tired of those types of appeals, and it does not help the system when we carry the appeals process for that length of time. We must address the death penalty, the imposition of it, and change the laws so that we can do it in a swifter pattern.

Madam Speaker, if we are going to address crime and we are going to address welfare reform in this Nation, we have to do them together or we will not get very good results either way.

I think they ought to parallel each other, we must have tax reform, tax reform that will encourage people to take a risk and invest, invest in communities, go back to those communities to which I referred that we impoverished, locate businesses in those areas so that we can create jobs in those areas because many of those people have no way to commute to another area for another job.

Madam Speaker, there are a number of things that we can do, a number of things that we can do jointly in this body, and it must be and it should be a bipartisan effort. I say it should be, it does not have to be a bipartisan effort; there are enough members of one party in this House to do any or all of these things. But if we take the time and we put our heads together and communicate with each other in this House, as Cool Hand Luke said, "I think we are failing to communicate"—but we need to communicate with each other.

Madam Speaker, when I got to the office this morning, and usually I am there around 7, I penned out a quick letter to the President, took it out to the fax machine myself and faxed it over to the White House, knowing I probably will never hear from it. I have sent a number of letters. Once in a while I will get a response, but it is not from President Bill Clinton, our President; it is from some staffer.

HOUSE OF REPRESENTATIVES,
Washington, DC, August 12, 1994.

MR. PRESIDENT: I voted against the Rule for the Crime Bill not as an anti-vote toward anyone but as a representative vote for the people I represent. I am sure this is true of most of us who voted No.

Mr. President, you are faced with several options. I will refer to two. First, push forward and oppose the public, creating additional problems for Members of Congress or; second, listen to those of us who are voicing the concerns of constituents. To do so we must have the opportunity to discuss such concerns.

I have asked several times for such an audience but to no avail.

We, Congress, can pass a crime bill. A crime bill which will address crime problems. However, it will be difficult or the results will not be as positive as they should be if name calling and finger-pointing continues.

I know it is wishful thinking but I do wish I could have a few minutes of your time.

Best Regards,

MAC COLLINS.

Mr. COLLINS of Georgia. Madam Speaker, I want to wish you best regards. I know that just as soon as I hush, you are headed toward Florida, and I hope you have an enjoyable weekend because I am headed to Georgia.

The document referred to follows:

[From the National Review, June 13, 1994]

JAILHOUSE BLUES

TRUTH IN SENTENCING

FEDERAL JUDGES SEEM INFINITELY SOLICITOUS OF THE INMATES OF STATE PRISONS, AND NEARLY INDIFFERENT TO THEIR VICTIMS, PAST AND FUTURE. HOW CAN LAW-ABIDING CITIZENS BEGIN TO REDRESS THE BALANCE?

(By Wesley Smith)

(Mr. Smith is deputy director of the Governors' Forum at the Heritage Foundation and a member of the advisory board of the Safe Streets Alliance)

In 1989 Kenny Parker filed suit against Nevada state officials for "cruel and unusual punishment." His complaint? They had given him a jar of creamy peanut butter, whereas he had explicitly ordered chunky. One of Parker's jailmates—convicted first-degree murderer David Bean—is suing the state because the jeans he was given were too tight, "causing rashes and epileptic seizures." Another Nevada inmate, convicted child molester Chris Chapman, is suing for copies of the North American Man-Boy Love Association newsletter, as a matter of First Amendment rights. Iowa prisoner Art Hartsock, wanting to "see what I'm missing while I'm in here," has demanded greater access to pornography.

These "rights" violations seem less constitutional than comical, but they are taken seriously by the federal judiciary. In 1993, the nation's prisoners filed over 53,000 lawsuits in federal court, generally against state governments. While most cases are dismissed as frivolous, the litigation explosion has cost the states hundreds of millions of dollars in legal fees and in the costs of complying with the courts' orders. In 1993 Nevada alone spent about $700,000 in direct legal costs defending against suits like Parker's.

These legal costs, however, are dwarfed by the indirect costs on society as a whole. Most governors, state attorneys, and other criminal-justice officials say the prisoners'-rights movement is making state prisons ungovernable. And federally imposed prison population caps and other decrees aimed at alleviating "overcrowding" have forced the early release of tens of thousands of violent criminals.

JUDICIAL TSUNAMI

In 1966 prisoners filed 218 suits in federal court to remedy arguably inhumane treatment in federal, state, and county prisons. Then the federal judiciary opened the floodgates. By 1980 prisoner suits had increased twentyfold. In 1993 prisoners filed 53,713 lawsuits in federal courts—7,615 more suits than the Federal Government filed against criminals.

By 1993, four-fifths of all state prison systems and roughly one-third of the five hundred largest local jails were under federal-court supervision. And the courts are mostly not content to set broad guidelines for the states to interpret. In Arizona, for example, federal judges tell state prison officials the types of publications and typewriters they must buy for prisoners and the number of law clerks they must hire for the state's prison law libraries. (Delaware Attorney General Charles Oberly II says such rulings mean state prisoners have better access to law materials than he does.)

In South Carolina, Federal Judge James McMillan has given the state orders to purchase specific recreational equipment for prisoners, including three sets of horseshoe equipment, three guitars, five frisbees, fifty decks of playing cards, and a piano. In Alabama a federal judge orders the state to provide inmates air conditioning and televisions. In other states federal judges are seeing state-sponsored "cruel and unusual punishment" in prisons lacking basketball courts, weight rooms, televisions, workshops, or single-occupancy cells.

Under the guise of constitutional jurisprudence, the federal judiciary has aggressively replaced the criminal-justice policies of the fifty states with its own. Groups like the ACLU's National Prison Project argue that states must treat prisoners much as they do citizens at large. Federal judges have agreed; and in their pursuit to elevate the legal status of prisoners to that of law-abiding people, they have removed the concept of prison as punishment, and with it much of the deterrent effect of imprisonment.

Of course, prisoners have been quick to adopt this distorted view of their moral and legal status. An Illinois inmate demanded the right to use his cell as his place of residence for conducting drug-related activities. A Nevada inmate sued for the right to cross-dress, and 14 death-row inmates in California sued for the right to procreate through artificial insemination. Florida's Robert Procup sued when he got just one bread roll on his dinner plate, and sued again when prison officials failed to provide him a salad at lunch. When told by ABC's John Stossel that he was, after all, being punished, Procup replied, "Nobody sentenced me to punishment. They sentenced me to be separated from society"—a recurring theme of the prisoner's-rights movement. Procup was convicted of murder for cementing his business partner into a storage shed.

While federal judges see much decisions as principled constitutionalism, most prisoners see them as a weakness that demands to be exploited. Art Hartsock, the prisoner who won for himself and other inmates at Anamosa State Prison the right to view pornographic magazines, is now preparing for another suit. His reasoning: "Every dollar they spend fighting a lawsuit is a dollar they can't spend building a place to lock me up."

At age 15 Willie Bosket killed two New York subway riders "for the experience." He has also tried to kill two prison guards, which is why prison officials chain him to his cell door for five minutes each day before moving him. Of the chaining Bosket says, "I feel several things. I feel humiliated. I feel an affront to my dignity. I feel vulnerable." A federal court afforded him a jury trial to decide whether he would continue to be chained. At his trial Bosket told jurors his only regret was that he had not killed the guard. He vowed to kill again.

Most criminals show a psychology of denial for their criminal actions. Nevada Deputy Attorney General Anne Cathcart says criminals "come into prison denying any wrongdoing, and they are constantly presented with further reasons to blame others. Unlimited access to federal courts gives them an added tool to vent their anger and rebel against the system."

This undermines rehabilitation efforts generally, as prisoners quickly learn that contempt for the system is rewarded. But the federal bench has even prohibited specific state rehabilitation plans as violative of prisoners' rights. After Governor Gerald Bailles discovered in 1986 that 85 percent of Virginia inmates were illiterate, he started a program that linked reading proficiency to early parole. The ACLU threatened suit, saying prisoners had a right to parole without literacy tests, so Bailles made the program voluntary and consequently much less successful. Governor Fife Symington thought pornography might not be healthy for Arizona inmates, many of whom are sex offenders, so he decided last January to prohibit all pornographic materials in the state's prisons. That sounded reasonable to Arizona citizens, but Federal Judge Muecke didn't agree; he has begun contempt hearings against the state.

EACH TO HIS OWN RELIGION

Federal encroachment took a dramatic leap forward last November when Congress passed the Religious Freedom Restoration Act. RFRA severely limits the power of government to restrict a prisoner's religious activities.

Before RFRA, a state could restrict certain practices in prison to maintain order. For instance, Illinois forbade inmates belonging to Aryan Nation's religious arm, the Church of Jesus Christ Christian, to distribute literature calling for the extermination of Jews and blacks. In 1992 they sued the state for the right to do so. Shortly after RFRA became law, they amended their complaint with new-founded RFRA rights. Under this new standard Illinois will almost certainly lose. Susan O'Leary, deputy chief legal counsel for the state, predicts that this will incite riots in Illinois prisons, which have a 66 percent black population.

In 1987, the followers of Yahweh Ben Yahweh and his "Temple of Love" demanded the right to distribute hate literature among inmates and lost in court. They are now suing again under RFRA and have already won at the district court level. The Temple of Love, like Aryan Nation, is seeking attorney fees and monetary damages for religious rights denied them before RFRA even became law. These remedies do not take into account the costs to the states of hiring additional guards or building new cells to separate these inmates from others for their protection.

Even before RFRA, some federal courts were reluctant to define what constitutes a genuine religion. A federal court in 1974 declared The Church of the New Song a religion; this church requires Harvey's Bristol Cream, filet mignon, and marijuana for its religious ceremonies. In Indiana inmates calling themselves the Black Gangster Disciples are claiming a "new Muslim" status, even though prison officials believe their aim is to infiltrate their gang into the older Muslim group. In Colorado, inmate Robert Howard, a practicing Satanist, is suing for the right to religious materials including the Satanic Bible, passages of which command the sacrificing of a "preferably Christian" female virgin and the using of candles made from the fat of unbaptized babies. With RFRA, States will have little discretion in restricting so-called religious activities such as these in order to maintain security.

Religion-based demands for special diets are particularly costly to the States. Nevada Attorney General Frankie Sue del Papa says providing a special religious diet winds up adding 65 per cent to the total cost of imprisoning one inmate. California Attorney General Dan Lungren estimates that if only 2 per cent of the national inmate population demands special religious diets, it will cost the States at least $177 million annually.

Even if a state ultimately wins such a case, its taxpayers still lose. Since RFRA allows a state to restrict a religious practice only in a way that is least burdensome to the prisoner, few courts will be able to dismiss frivolous claims on summary judgment. Evidentiary hearings, expert witnesses, and transportation of prisoners, and state's witnesses to the hearings will be required to determine if the state is using a "least restrictive" penology. And since RFRA applies retroactively, cases already won by States will be relitigated.

According to a Senate staffer who worked to modify RFRA, "Congress imagined Baptist preachers holding Bible studies in prison. Who could be against that? They failed to realize it would be Satanists, white supremacists, and those wanting better lunches that would really take advantage of RFRA protections." Of course, the more reasonable inmate requests that RFRA was aimed at protecting, like Bible classes, were rarely denied. And now, since all "religions" will be entitled to equal treatment, States will be forced to eliminate legitimate religious programs in order to avoid suits by other "religious" groups demanding equal funding.

THE IGNORED RIGHT

As the definition of prisoners' rights has mushroomed, basic constitutional rights like personal safety have actually diminished. Prisons have become more violent than ever before, and America's streets have become more dangerous, as federal judges force the early release of violent criminals to reduce "cruel and unusual" overcrowding.

Although the Supreme Court in *Rhodes V. Chapman* declared double bunking was not, per se, cruel and unusual, it reaffirmed the right of the federal judiciary to decide the constitutionality of state prison conditions by looking at the "totality of the circumstances." By the early 1980's the lower federal courts had begun to set prison population limits that forced the release of prisoners by the tens of thousands in the following years.

After a court in 1981 imposed a population cap in Texas prisons, the state parole board increased early releases by over 400 per cent with inmates serving an average of 2 months

VOL 140 PT 16 AG 12 — 18 1994 UMI

for every year sentenced. This was followed by a 29 per cent surge of crime in Texas during the next decade, at a time when crime decreased nationally. The courts also mandated population reductions in county jails in Texas and across the country, forcing them to increase pre-trial releases. In Cook County, Illinois, almost 30,000 accused criminals are released before trial each year for this reason. Of that group, 67 percent are rearrested on felony charges before their cases come to trial, over 25 percent of them for violent crimes.

The personal tragedies this federal policy has created are reported with numbing frequency in the nation's newspapers. Last June, Loran Cole, like other "nonviolent" criminals, was released early from a Florida prison to alleviate overcrowding; he had served only 18 months of a 66-month sentence for grand theft. Eight months later Cole was charged with the murder of John Edwards, an 18-year-old student at Florida State, and the kidnaping and rape of Edwards's sister. In Texas, Michael Blair served 18 months of a 10-year sentence for burglary and indecency with an 11-year-old girl (his actual crime, sexual assault, had been plea-bargained down). While still on parole in 1993, he raped and murdered 7-year-old Ashely Nicole Estell after kidnaping her from a park in an upscale Dallas community. Had he served even half his time, Blair would have been in prison on the day Ashley and her family went to the park. Kenneth McDuff was convicted and sentenced to death in 1968 for first-degree murder, for killing three teenagers execution style. McDuff's death sentence was commuted to life imprisonment when the Supreme Court outlawed capital punishment in 1972. This made him eligible for parole, which he got in 1989. Since then, he has been linked to the rape and murder of four women.

Just the threat of court-ordered releases has been enough to push state parole boards to release prisoners early. Between 1983 and 1993 the Georgia parole board released 36,006 violent and sex offenders—including 2,772 multiple sex offenders—after they had served an average of 36 percent of their sentences. In 1989, Governor Joe Frank Harris released 13,000 "nonviolent" prisoners under an emergency program to reduce prison populations when inmates threatened federal lawsuits. Since then the Georgia parole board has accelerated thousands of paroles. Although the parole board insists the released prisoners were "nonviolent," Clayton County Superior Court Judge Kenneth Kilpatrick says the early release of even nonviolent felons increases both nonviolent and violent crime, because short imprisonment suggests to criminals that any crime brings light punishment.

According to Department of Justice statistics, three-fourths of all violent criminals convicted in 1989 were back on the streets by December of 1993. Safe Streets Alliance President James Wootton [see sidebar, page 41] points out that 3.2 million criminals are out on parole or probation. Even modest early releases have been devastating. A study in Illinois in the early 1980s found that 21,000 prisoners released just 3 months early committed 13 homicides, 32 rapes, 262 arsons, 681 robberies, 2,472 burglaries, and 2,572 assaults during the 3-month period. Nationally, almost one-third of all violent crimes are committed by criminals on parole or pretrial release. The federal courts have no apparent concern for the victims, however, but focus exclusively on the injustices they perceive as being committed against prisoners.

??? reform, it should dramatically limit federal-court jurisdiction over state prison administration. Article III of the Constitution gives Congress this power. If senators and congressmen refuse to use it, they should be held accountable by the voters for the foolish decisions of the federal judiciary in releasing criminals to rape and murder a second, third, and fourth time.

But there is no indication that Congress is willing to do so; therefore the States themselves will need to take matters into their own hands. They may be forced to confront Washington, as Governor Symington is doing in defying the federal court order that allows pornography in Arizona's prisons.

Governors like Symington, Mike Leavitt of Utah, and George Allen of Virginia, and hundreds of other state and local law-enforcement officials, see the current fight over control of state prisons as a small part of a larger problem. The federal judiciary's activism stems from an abstract theory of individual rights that disregards the rights of the community. Deliberately detached from the effects of their decisions on society, federal judges have acted as if they intended to strip communities of any power to defend themselves.

As recently elected Virginia Attorney General James Gilmore has said, it is the state's responsibility to make streets "as safe for our children as it was for us when we were growing up." The success of that agenda will be determined in large measure by the power of the States to free themselves from Washington's control.

CONFERENCE REPORT ON S. 2182

Mr. DELLUMS submitted the following conference report and statement on the bill (S. 2182), to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-701)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2182), to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1995".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Reserve components.
Sec. 106. Chemical demilitarization program.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for Army programs.
Sec. 112. Transfer to Marine Corps of M1A1 tanks replaced by M1A2 upgrades.
Sec. 113. Transfer of M1A1 tanks to the Marine Corps.
Sec. 114. Exception to mandatory retirement of OV–1 aircraft for aircraft deployed in Korea.
Sec. 115. Small arms industrial base.
Sec. 116. Bunker defeat munition acquisition program.
Sec. 117. Procurement of helicopters.

Subtitle C—Navy Programs

Sec. 121. Nuclear aircraft carrier program.
Sec. 122. Seawolf submarine program.
Sec. 123. Guidance sets for Trident II missiles.
Sec. 124. Prohibition on Trident II backfit.
Sec. 125. Inclusion of conversion of vessels in fast sealift program.
Sec. 126. Limitation on procurement of TAGS vessels.
Sec. 127. Naval amphibious ready groups.

Subtitle D—Air Force Programs

Sec. 131. Intertheater airlift programs.
Sec. 132. Settlement of claims under the C–17 aircraft program.
Sec. 133. Preserving the bomber industrial base.
Sec. 134. Limitation on retirement of bomber aircraft.
Sec. 135. Evaluation of restart of C–5B aircraft procurement.

Subtitle E—Other Matters

Sec. 141. Sales authority of working-capital funded Army industrial facilities.
Sec. 142. Identification in budget of funds for chemical demilitarization program military construction projects.
Sec. 143. Transportation of chemical munitions.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic research and exploratory development.
Sec. 203. Strategic environmental research and development program.
Sec. 204. Molecular design material science.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Space launch modernization.
Sec. 212. Standoff air-to-surface munitions technology demonstration.
Sec. 213. Extension of prohibition on testing Mid-Infrared Advanced Chemical Laser against an object in space.
Sec. 214. Applicability of certain electronic combat systems testing requirements.
Sec. 215. Advanced Self Protection Jammer (ASPJ) program.
Sec. 216. Advanced Lithography Program.
Sec. 217. Federally funded research and development centers.
Sec. 218. Digital Battlefield program.
Sec. 219. Dual-use electric and hybrid vehicles.
Sec. 220. Tactical antisatellite technologies program.
Sec. 221. Limitation on dismantlement of intercontinental ballistic missiles.
Sec. 222. Limitation on obligation of funds for seismic monitoring research.
Sec. 223. Superconducting magnetic energy storage project.
Sec. 224. Military satellite communications.

Subtitle C—Missile Defense Programs

Sec. 231. Compliance of ballistic missile defense systems and components with ABM treaty.
Sec. 232. Modifications to Anti-Ballistic Missile Treaty to be entered into only through treaty making power.
Sec. 233. Revisions to the Missile Defense Act of 1991.
Sec. 234. Limitation on flight tests of certain missiles.
Sec. 235. Program elements for Ballistic Missile Defense Organization.

Subtitle D—Women's Health Research

Sec. 241. Defense Women's Health Research Program.

Subtitle E—Other Matters

Sec. 251. Requirement for submission of annual report of the Semiconductor Technology Council to Congress.
Sec. 252. Report on oceanographic survey and research requirements to support littoral warfare.
Sec. 253. LANSCE/LAMPF upgrades.
Sec. 254. Study regarding live-fire survivability testing of F–22 aircraft.
Sec. 255. University Research Initiative Support Program.
Sec. 256. Manufacturing Science and Technology Program.
Sec. 257. Defense experimental program to stimulate competitive research.
Sec. 258. Study on convergence of Geosat and EOS altimetry programs.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Funds for depot-level maintenance and repair work.
Sec. 305. Support for the 1996 Summer Olympics.
Sec. 306. Support for the 1995 Special Olympics World Games.

Subtitle B—Defense Business Operations Fund

Sec. 311. Oversight of Defense Business Operations Fund.
Sec. 312. Review by Comptroller General of charges imposed by Defense Business Operations Fund.
Sec. 313. Limitation on obligations against the capital asset fund.
Sec. 314. Limitation on obligations against the supply management divisions.

Subtitle C—Environmental Provisions

Sec. 321. Limitation on use of environmental restoration funds for payment of fines and penalties.
Sec. 322. Participation of Indian tribes in agreements for defense environmental restoration.
Sec. 323. Extension of authority to issue surety bonds for certain environmental programs.

Sec. 324. Payment of certain stipulated civil penalties.
Sec. 325. Additional exception to prohibition on storage and disposal of nondefense toxic and hazardous materials at military installations.
Sec. 326. Assistance for public participation in defense environmental restoration activities.
Sec. 327. Pilot program to develop and demonstrate environmental remediation technologies.
Sec. 328. Environmental education and training program for defense personnel.
Sec. 329. Study of establishment of land management and training center.

Subtitle D—Depot-Level Activities

Sec. 331. Findings.
Sec. 332. Modification of limitation on performance of depot-level maintenance.
Sec. 333. Report on performance of depot-level maintenance and repair of new weapon systems.
Sec. 334. Review of cost growth in contracts to perform depot-level maintenance and repair.
Sec. 335. Authority for depot-level activities of the Department of Defense to compete for maintenance and repair workloads of other Federal agencies.
Sec. 336. Authority of depots to provide services outside the Department of Defense.
Sec. 337. Reutilization initiative for depot-level activities.
Sec. 338. Change of source for performance of depot-level workloads.
Sec. 339. Sale of articles and services of industrial facilities of the Armed Forces to persons outside the Department of Defense.

Subtitle E—Civilian Employees

Sec. 341. Extension of certain transition assistance authorities.
Sec. 342. Extension and expansion of authority to conduct personnel demonstration projects.
Sec. 343. Limitation on payment of severance pay to certain employees transferring to employment positions in nonappropriated fund instrumentalities.
Sec. 344. Retirement credit for certain service in nonappropriated fund instrumentalities before January 1, 1987.
Sec. 345. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service.
Sec. 346. Foreign employees covered by the Foreign National Employees Separation Pay Account.
Sec. 347. Report on conversion of certain positions to performance by Department of Defense employees.
Sec. 348. Non-Federal employment incentive pilot program.
Sec. 349. Uniform health benefits program for employees of the Department of Defense assigned to nonappropriated fund instrumentalities.

Subtitle F—Department of Defense Domestic and Overseas Dependents' Schools

Sec. 351. Reauthorization of Department of Defense domestic elementary and secondary schools for dependents.
Sec. 352. Report on calculation and recovery of tuition costs of certain students enrolled in schools of the defense dependents' education system.
Sec. 353. Authority to accept gifts for Department of Defense domestic elementary and secondary schools.
Sec. 354. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

Subtitle G—Reviews, Studies, and Reports

Sec. 361. Reports on transfers of certain operation and maintenance funds.
Sec. 362. Review and report on use of operation and maintenance funds by the Department of Defense.
Sec. 363. Cost comparison studies for contracts for advisory and assistance services.
Sec. 364. Review by Defense Inspector General of cost growth in certain contracts.

Subtitle H—Other Matters

Sec. 371. Armed Forces Retirement Home.
Sec. 372. Limitation on use of appropriated funds for operation of Armed Forces Recreation Center, Europe.
Sec. 373. Limitation on retention of morale, welfare, and recreation funds by military installations.
Sec. 374. Ships' stores.
Sec. 375. Operation of military exchange and commissary store at Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field.
Sec. 376. Disposition of proceeds from operation of the Naval Academy laundry.
Sec. 377. Authority to issue military identification cards to so-called honorary retirees of the Naval and Marine Corps Reserves.
Sec. 378. Repeal of annual limitation on expenditures for emergency and extraordinary expenses of the Department of Defense Inspector General.
Sec. 379. Transfer of certain excess Department of Defense property to educational institutions and training schools.
Sec. 380. Operation of overseas facilities of the Department of Defense by United States firms.
Sec. 381. Requirements for automated information systems of the the Department of Defense.
Sec. 382. Program to commemorate World War II.
Sec. 383. Assistance to Red Cross for emergency communications services for members of the Armed Forces and their families.
Sec. 384. Clarification of authority to provide medical transportation under National Guard pilot program.
Sec. 385. National Guard assistance for certain youth and charitable organizations.
Sec. 386. One-year extension of certain programs.
Sec. 387. Procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Temporary variation of end strength limitations for Army majors and lieutenant colonels.
Sec. 403. Extension of temporary variation of end strength limitations for Marine Corps majors and lieutenant colonels.
Sec. 404. Increase in authorized strength for Marine Corps general officers on active duty after fiscal year 1995.
Sec. 405. Management of senior general and flag officer positions.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Sec. 406. Temporary exclusion of Superintendent of Naval Academy from counting toward number of senior admirals authorized to be on active duty.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for reserves on active duty in support of the reserves.
Sec. 413. Delay in increase in number of active component members to be assigned for training compatibility with guard units.

Subtitle C—Military Training Student Loads

Sec. 421. Authorization of training student loads.

Subtitle D—Authorization of Appropriations

Sec. 431. Authorization of appropriations for military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Consistency of warrant officer personnel management policies with policies applicable to other officers.
Sec. 502. Authority for original regular appointments of Navy and Marine Corps limited duty officers serving in grades above pay grade O–3 under temporary appointments.
Sec. 503. Navy and Marine Corps limited duty officers twice having failed of selection for promotion.
Sec. 504. Selection for designated judge advocate positions.

Subtitle B—Reserve Component Matters

Sec. 511. Increased period of active duty for reserve forces mobilized other than during war or national emergency.
Sec. 512. Reserve general and flag officers on active duty.
Sec. 513. Review of opportunities for ordering individual reserves to active duty with their consent.
Sec. 514. Definition of active Guard and Reserve duty.
Sec. 515. Repeal of obsolete provisions pertaining to transfer of retired regular enlisted members to reserve components.
Sec. 516. Semiannual report on separations of active Army officers.
Sec. 517. Early Reserve retirement eligibility for disabled members of Selected Reserve.
Sec. 518. Annual payments for members retired under Guard and Reserve transition initiative.
Sec. 519. Educational requirements for appointment in reserve components in grades above first lieutenant or lieutenant (junior grade).
Sec. 520. Limited exception for Alaska scout officers from baccalaureate degree requirement for appointment as officer in National Guard above first lieutenant.
Sec. 521. Sense of Congress concerning the training and modernization of the reserve components.

Subtitle C—Victims' Rights, Family Advocacy, and Nondiscrimination Provisions

Sec. 531. Prohibition of retaliatory actions against members of the Armed Forces making allegations of sexual harassment or unlawful discrimination.
Sec. 532. Department of Defense policies and procedures on discrimination and sexual harassment.
Sec. 533. Annual report on personnel readiness factors by race and gender.
Sec. 534. Victims' advocates programs in Department of Defense.
Sec. 535. Transitional compensation and other benefits for dependents of members separated for dependent abuse.
Sec. 536. Study of spousal abuse involving Armed Forces personnel.

Subtitle D—Matters Relating to the Coast Guard

Sec. 541. Extension of Warrant Officer Management Act provisions to Coast Guard.
Sec. 542. Coast Guard force reduction transition benefits.
Sec. 543. Expansion of personnel adjustment, education, and training programs to include Coast Guard.

Subtitle E—Other Matters

Sec. 551. Repeal of required reduction in recruiting personnel.
Sec. 552. Authorized active duty strengths for Army enlisted members in pay grade E–8.
Sec. 553. Prohibition on imposition of additional charges or fees for attendance at certain academies.
Sec. 554. Biennial survey on the State of race and ethnic issues in the military.
Sec. 555. Review of certain discharges from the United States Military Academy during the post-Civil War period.
Sec. 556. Administration of athletics programs at the service academies.
Sec. 557. Reimbursement for certain losses of household effects caused by hostile action.
Sec. 558. Military recruiting on campus.
Sec. 559. Authorization for instruction of civilian students at foreign language center of the Defense Language Institute.
Sec. 560. Discharge of members who are permanently nonworldwide assignable.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Military pay raise for fiscal year 1995.
Sec. 602. Cost-of-living allowance for members of the uniformed services assigned to high cost areas in the continental United States.
Sec. 603. Increase in subsistence allowance payable to members of Senior Reserve Officers' Training Corps.
Sec. 604. Temporary family housing or temporary housing allowances for dependents of members who die in the line of duty.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Extension of certain bonuses for reserve forces.
Sec. 612. Extension and modification of certain bonuses and special pay for nurse officer candidates, registered nurses, and nurse anesthetists.
Sec. 613. Extension of authority relating to payment of other bonuses and special pays.

Subtitle C—Travel and Transportation Allowances

Sec. 621 Responsibility for preparation of transportation mileage tables.
Sec. 622 Payment for transient housing for members of a reserve component performing certain training duty.
Sec. 623. Change in provision of transportation incident to personal emergencies for members stationed outside the continental United States.
Sec. 624. Clarification of travel and transportation allowance of family members incident to serious illness or injury of members.
Sec. 625. Applicability of additional family separation allowance to periods between deployments less than 30 days apart.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 631. Elimination of disparity between effective dates for military and civilian retiree cost-of-living adjustments for fiscal year 1995.
Sec. 632. Sense of Congress on equal treatment of effective dates for future cost-of-living adjustments for military and civilian retirees.
Sec. 633. Clarification of calculation of retired pay for officers who retire in a grade lower than the grade held at retirement.
Sec. 634. Waiver of administrative time-in-grade requirements to prevent pay inversions in retired pay of certain military retirees.
Sec. 635. Crediting of reserve service of enlisted members for computation of retired pay.
Sec. 636. Minimum required reserve service for eligibility for retired pay for nonregular service during force drawdown period.
Sec. 637. SBP premiums for reserve-component child-only coverage.
Sec. 638. Discontinuation of insurable interest coverage under Survivor Benefit Plan.
Sec. 639. Forfeiture of annuity or retired pay of members convicted of espionage under UCMJ.
Sec. 640. Treatment of retired and retainer pay of members of cadre of Civilian Community Corps.

Subtitle E—Other Matters

Sec. 651. Eligibility of members retired under temporary special retirement authority for Servicemen's Group Life Insurance.
Sec. 652. Transportation of remains.
Sec. 653. Special supplemental food program for Department of Defense personnel outside the United States.
Sec. 654. Study of offset of disability compensation by receipt of separation benefits and incentives.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

Sec. 701. Revision of definition of dependents to include young people being adopted by members or former members.
Sec. 702. Treatment of certain dependents as children for purposes of CHAMPUS, dependents' dental program, and continued health benefits coverage.
Sec. 703. Availability of dependents' dental program outside the United States.
Sec. 704. Authorization for medical and dental care for abused dependents of certain members.
Sec. 705. Additional authorized health care service available through military health care system.
Sec. 706. Demonstration programs for sale of pharmaceuticals.
Sec. 707. One year continuation of full CHAMPUS and dependents' dental program benefits for dependents of members who die while on active duty for a period of more than 30 days.

Subtitle B—Changes to Existing Laws Regarding Health Care Management

Sec. 711. Coordination of benefits with medicare.
Sec. 712. Authority for reimbursement of professional license fees under resource sharing agreements.
Sec. 713. Imposition of enrollment fees for managed care plans.
Sec. 714. Strengthening managed health care authorities.
Sec. 715. Delay in deadline for use of health maintenance organization model as option for military health care.
Sec. 716. Limitation on reduction in number of reserve component medical personnel.
Sec. 717. Implementation of annual health care survey requirement.

Subtitle C—Persian Gulf Illness

Sec. 721. Programs related to Desert Storm mystery illness.
Sec. 722. Studies of health consequences of military service or employment in Southwest Asia during the Persian Gulf War.

Subtitle D—Other Matters

Sec. 731. Chiropractic health care demonstration program.
Sec. 732. Demonstration program for admission of civilians as physician assistant students at Academy of Health Sciences, Fort Sam Houston, Texas.
Sec. 733. Delay in closure of Army hospital at Vicenza, Italy.
Sec. 734. Oral typhoid vaccine inventory of Department of Defense.
Sec. 735. Report on expanded use of nonavailability of health care statements.
Sec. 736. Cost analysis of Tidewater TRICARE delivery of pediatric health care to military families.
Sec. 737. Study and report on financial relief for certain medicare-eligible military retirees who incur medicare late enrollment penalties.
Sec. 738. Sense of Congress on continuity of health care services for covered beneficiaries in areas affected by base closures.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Assistance Programs

Sec. 801. Procurement technical assistance programs.
Sec. 802. Pilot mentor-protege program.
Sec. 803. Infrastructure assistance for historically Black colleges and other minority institutions of higher education.
Sec. 804. Treatment under subcontracting plans of purchases from qualified nonprofit agencies for the blind or severely disabled.

Subtitle B—Other Matters

Sec. 811. Delegation of industrial mobilization authority.
Sec. 812. Determinations of public interest under the Buy American Act.
Sec. 813. Continuation of expiring requirement for annual report on the use of competitive procedures for awarding certain contracts to colleges and universities.
Sec. 814. Consolidation of limitations on procurement of goods other than American goods.
Sec. 815. Environmental consequence analysis of major defense acquisition programs.
Sec. 816. Demonstration project on purchase of fire, security, police, public works, and utility services from local government agencies.
Sec. 817. Preference for local residents.
Sec. 818. Payment of restructuring costs under defense contracts.
Sec. 819. Defense Acquisition Pilot Program designations.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Secretarial Matters

Sec. 901. Additional Assistant Secretary of Defense.
Sec. 902. Order of succession to Secretaries of the military departments.
Sec. 903. Change of title of Comptroller of the Department of Defense to Under Secretary of Defense (Comptroller).
Sec. 904. National Guard Bureau charter.

Subtitle B—Professional Military Education

Sec. 911. Authority for Marine Corps University to award the degree of master of military studies.
Sec. 912. Board of Advisors for Marine Corps University.
Sec. 913. Authority for Air University to award the degree of master of airpower art and science.
Sec. 914. Sense of Congress on grade of heads of senior professional military education schools.

Subtitle C—Other Matters

Sec. 921. Composition of Reserve Forces Policy Board.
Sec. 922. Continuation of Uniformed Services University of the Health Sciences.
Sec. 923. Commission on Roles and Missions of the Armed Forces.
Sec. 924. Renaming of the United States Court of Military Appeals and the Courts of Military Review.
Sec. 925. Budget support for reserve elements of special operations command.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. Transfer authority.
Sec. 1002. Emergency supplemental authorization of appropriations for fiscal year 1994.
Sec. 1003. Incorporation of classified annex.
Sec. 1004. Date for submission of future-years mission budget.
Sec. 1005. Submission of next future-years defense program as required by law.
Sec. 1006. Authority for obligation of certain unauthorized fiscal year 1994 defense appropriations.

Subtitle B—Counter-Drug Activities

Sec. 1011. Department of Defense support for counter-drug activities.
Sec. 1012. Official immunity for authorized employees and agents of the United States and foreign countries engaged in interdiction of aircraft used in illicit drug trafficking.
Sec. 1013. Report on status of defense random drug testing program.

Subtitle C—Naval Vessels and Related Matters

Sec. 1021. Transfer of USNS Maury.
Sec. 1022. Transfer of obsolete vessel Guadalcanal.
Sec. 1023. Maritime prepositioning ship program enhancement.

Subtitle D—POW/MIA Matters

Sec. 1031. Assistance to family members of Korean conflict and Cold War POW/MIAs who remain unaccounted for.
Sec. 1032. Requirement for Secretary of Defense to submit recommendations on certain provisions of law concerning missing persons.
Sec. 1033. Contact between the Department of Defense and the Ministry of National Defense of China on POW/MIA issues.
Sec. 1034. Information concerning unaccounted for United States personnel of the Vietnam conflict.
Sec. 1035. Report on POW/MIA matters concerning North Korea.
Sec. 1036. Disclosure of information concerning unaccounted for United States personnel from the Korean conflict, the Vietnam era, and the Cold War.

Subtitle E—Miscellaneous Reporting Requirements

Sec. 1041. Annual report on denial, revocation, and suspension of security clearances.
Sec. 1042. Report on use of low-enriched uranium as fuel for naval nuclear reactors.

Subtitle F—Congressional Findings, Policies, Commendations, and Commemorations

Sec. 1051. Sense of Congress concerning commendation of individuals exposed to mustard agents during World War II testing activities.
Sec. 1052. USS Indianapolis (CA–35): gallantry, sacrifice and a decisive mission to end WW II.

Subtitle G—Other Matters

Sec. 1061. Increased authority to accept voluntary services.
Sec. 1062. Civil Air Patrol.
Sec. 1063. Prohibition on the purchase of surety bonds and other guarantees for the Department of Defense.
Sec. 1064. Revision of authority for use of Navy installations to provide prerelease employment training to nonviolent offenders in State penal systems.
Sec. 1065. Demonstration project for use of Army installations to provide prerelease employment training to nonviolent offenders in State penal systems.
Sec. 1066. Interagency placement program for Federal employees affected by reductions in force.
Sec. 1067. National Museum of Health and Medicine.
Sec. 1068. Assignments of employees between Federal agencies and federally funded research and development centers.
Sec. 1069. Review of the Bottom Up Review and the Future-Year Defense Program and establishment of new funding requirements and priorities.
Sec. 1070. Technical and clerical amendments.
Sec. 1071. Authorization to exchange certain items for transportation services.
Sec. 1072. Air National Guard fighter aircraft force structure.
Sec. 1073. Sense of Congress concerning visas for high-level officials of Taiwan.
Sec. 1074. Defense Mapping Agency.
Sec. 1075. Limitation regarding telecommunications requirements.

TITLE XI—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

Sec. 1101. Short title.
Sec. 1102. Funding of defense conversion, reinvestment, and transition assistance programs for fiscal year 1995.

VOL
140
PT
16
AG
12
—
18
1994
UMI

Subtitle A—Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion

Sec. 1111. Funding of defense technology reinvestment programs for fiscal year 1995.
Sec. 1112. Support for technologies with applicability for law enforcement and military operations other than war.
Sec. 1113. Federal defense laboratory diversification and Navy reinvestment in the technology and industrial base.
Sec. 1114. Loan guarantees under defense dual-use assistance extension program.
Sec. 1115. Financial commitment requirements for small business concerns for participation in technology reinvestment projects.
Sec. 1116. Conditions on funding of defense technology reinvestment projects.
Sec. 1117. Use of certain funds pending submission of a national technology and industrial base periodic defense capability assessment and a periodic defense capability plan.
Sec. 1118. Documentation for awards for cooperative agreements or other transactions under defense technology reinvestment programs.
Sec. 1119. Comptroller General assessment of extent to which technology and industrial base programs attain policy objectives.

Subtitle B—Community Adjustment and Assistance Programs

Sec. 1121. Funds for adjustment and diversification assistance for States and local governments from Office of Economic Adjustment.
Sec. 1122. Studies and plans for market diversification.
Sec. 1123. Advance community adjustment and economic diversification planning.

Subtitle C—Personnel Adjustment, Education, and Training Programs

Sec. 1131. Teacher and teacher's aide placement programs.
Sec. 1132. Assistance for eligible members to obtain employment with law enforcement agencies.
Sec. 1133. Pilot program to place separated members and terminated defense employees in teaching positions as bilingual math and science teachers.
Sec. 1134. Demonstration project to assist separated members and terminated defense workers to become business owners.
Sec. 1135. Demonstration project to promote ship recycling as a method to assist separated members and terminated defense workers.
Sec. 1136. Administration and funding of defense diversification program and defense conversion adjustment program under Job Training Partnership Act.
Sec. 1137. Assistance for certain workers dislocated due to reductions by the United States in the export of defense articles and services.

Subtitle D—Other Matters

Sec. 1141. Extension of Armament Retooling and Manufacturing Support Initiative and establishment of ARMS initiative loan guarantee program.
Sec. 1142. Changes in notice requirements upon pending or actual termination of defense programs.
Sec. 1143. Plan for deployment of defense environmental technologies for dredging of dual-use ports.

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

Sec. 1201. Cooperative Threat Reduction programs.
Sec. 1202. Extension of semiannual report on Cooperative Threat Reduction programs.
Sec. 1203. Report on accounting for United States assistance.
Sec. 1204. Report on control and accountability of material relating to weapons of mass destruction.
Sec. 1205. Multiyear planning and allied support.
Sec. 1206. Funding limitations on Cooperative Threat Reduction program for fiscal year 1995.
Sec. 1207. Report on offensive biological warfare program of the States of the former Soviet Union.
Sec. 1208. Coordination of certain Cooperative Threat Reduction programs.
Sec. 1209. Sense of Congress concerning safe and secure dismantlement of Soviet nuclear arsenal.

TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

Subtitle A—Matters Relating to NATO

Sec. 1301. Cooperative research and development agreements with NATO organizations.
Sec. 1302. North Atlantic Treaty Organization.
Sec. 1303. Authorized end strength for military personnel in Europe.
Sec. 1304. Allied share of installations costs.
Sec. 1305. Payments-in-kind for release of United States overseas military facilities to NATO host countries.
Sec. 1306. George C. Marshall European Center for Security Studies.
Sec. 1307. Sense of the Senate concerning participation in allied defense cooperation.

Subtitle B—Matters Relating to Several Countries

Sec. 1311. Limitation on obligation of funds for overseas basing activities.
Sec. 1312. Clarification and codification of overseas military end strength limitation.
Sec. 1313. Cost-sharing policy and report.
Sec. 1314. Report assessing the national security consequences of United States military cooperation programs.
Sec. 1315. Review and report regarding Department of Defense programs relating to regional security and host nation development in the Western Hemisphere.
Sec. 1316. Military-to-military contacts and comparable activities.
Sec. 1317. Extension of authority to enter into certain cooperative agreement authorities to include the United Nations and regional organizations of which the United States is a member.
Sec. 1318. Permanent authority for Department of Defense to share equitably the costs of claims under international armaments cooperative programs.

Subtitle C—Matters Relating to Specific Countries

Sec. 1321. Defense cooperation between the United States and Israel.
Sec. 1322. Readiness of military forces of the Republic of Korea.
Sec. 1323. Military planning for the size and structure of a force required for a major regional contingency on the Korean peninsula.
Sec. 1324. Sense of Congress concerning the North Korean nuclear weapons development program.
Sec. 1325. Report on security relationship between the United States and Japan.

TITLE XIV—PEACE OPERATIONS AND HUMANITARIAN ASSISTANCE ACTIVITIES

Subtitle A—Peace Operations

Sec. 1401. Reports on reforming United Nations peace operations.
Sec. 1402. Report on military readiness implications of Bosnia peacekeeping deployment.
Sec. 1403. Report on intelligence lessons learned from United States activities in Somalia.
Sec. 1404. Bosnia and Herzegovina.

Subtitle B—Assistance Activities

Sec. 1411. Overseas Humanitarian, Disaster, and Civic Aid Programs.
Sec. 1412. Foreign disaster assistance.
Sec. 1413. Humanitarian assistance program for clearing landmines.

TITLE XV—ARMS CONTROL MATTERS

Sec. 1501. Extension and revision of nonproliferation authorities.
Sec. 1502. Joint Committee for Review of Counterproliferation Programs of the United States.
Sec. 1503. Reports on counterproliferation activities and programs.
Sec. 1504. Amounts for counterproliferation activities.
Sec. 1505. Studies relating to United States counterproliferation policy.
Sec. 1506. Restriction relating to submission of report on proliferation of foreign military satellites.
Sec. 1507. Limitation on funds for studies pending receipt of previously required report.
Sec. 1508. Sense of Congress concerning indefinite extenstion of Nuclear Nonproliferation Treaty.
Sec. 1509. Negotiation of limitations on nuclear weapons testing.

TITLE XVI—RESERVE OFFICER PERSONNEL MANAGEMENT ACT (ROPMA)

Sec. 1601. Short title; table of contents.
Sec. 1602. References to title 10, United States Code.

Subtitle A—Reserve Officer Personnel Management

PART I—REVISED AND STANDARDIZED RESERVE OFFICER PERSONNEL SYSTEM

Sec. 1611. Promotion and retention of reserve officers.

PART II—CONFORMING AMENDMENTS

Sec. 1621. Definition of reserve active-status list.
Sec. 1622. Authority to suspend officer personnel laws during war or national emergency.
Sec. 1623. Active-duty list promotion boards to have authority to recommend that reserve officers considered for promotion be required to show cause for retention on active duty.
Sec. 1624. Applicability of chapter 36 to reserve officers during war or national emergency.
Sec. 1625. Grade in which reserve officers are ordered to active duty.
Sec. 1626. Date of rank.
Sec. 1627. Discharge before completion of required service in case of officers having twice failed of selection for captain or navy lieutenant.

Sec. 1628. Conforming amendments relating to Navy and Marine Corps officers.
Sec. 1629. Repeal of reserve officer personnel policy laws.
Sec. 1630. Amendments to title 32, United States Code.

Subtitle B—Other Personnel Policy Amendments

PART I—APPOINTMENTS

Sec. 1631. Repeal of separate authority for accession of women in reserve components.
Sec. 1632. Appointment authority for reserve grades of lieutenant colonel and commander.
Sec. 1633. Appointment of former commissioned officers in reserve components.
Sec. 1634. Constructive credit for appointment of officers in reserve components with qualifying education or experience.
Sec. 1635. Computation of years of service for transfer of Army officers to Retired Reserve.
Sec. 1636. Repeal of miscellaneous obsolete appointment authorities.

PART II—RETIREMENT AND SEPARATION

Sec. 1641. Computation of highest grade in which satisfactorily served for reserve commissioned officers and former officers.

Subtitle C—Reorganization and Consolidation of Laws Relating to Reserve Components

Sec. 1661. Laws relating to organization and administration of reserve components.
Sec. 1662. Laws relating to reserve component personnel policy.
Sec. 1663. Laws relating to reserve component training and educational assistance programs.
Sec. 1664. Laws relating to reserve component procurement and equipment.
Sec. 1665. Legislative construction.

Subtitle D—Technical and Clerical Amendments

Sec. 1671. Amendments to subtitle A of title 10, United States Code.
Sec. 1672. Amendments to subtitle B of title 10, United States Code.
Sec. 1673. Amendments to subtitle C of title 10, United States Code.
Sec. 1674. Amendments to subtitle D of title 10, United States Code.
Sec. 1675. Amendments to subtitle E of title 10, United States Code.
Sec. 1676. Amendments to titles 32 and 37, United States Code.
Sec. 1677. Amendments to other laws.

Subtitle E—Transition Provisions

Sec. 1681. Continuation on the reserve active-status list of certain reserve colonels of the Army and Air Force.
Sec. 1682. Effects of selection for promotion and failure of selection for Army and Air Force officers.
Sec. 1683. Effects of selection for promotion and failure of selection for Navy and Marine Corps officers.
Sec. 1684. Delays in promotions and removals from promotion list.
Sec. 1685. Minimum service qualifications for promotion.
Sec. 1686. Establishment of reserve active-status list.
Sec. 1687. Preservation of relative seniority under the initial establishment of the reserve active-status list.
Sec. 1688. Grade on transfer to the Retired Reserve.
Sec. 1689. Rights for officers with over three years service.
Sec. 1690. Mandatory separation for age for certain reserve officers of the Navy and Marine Corps.

Subtitle F—Effective Dates and General Savings Provisions

Sec. 1691. Effective dates.
Sec. 1692. Preservation of suspended status of laws suspended as of effective date.
Sec. 1693. Preservation of preexisting rights, duties, penalties, and proceedings.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Sec. 2001. Short title.

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Authorization of military construction project at Fort Bragg, North Carolina, for which funds have been appropriated.
Sec. 2106. Relocation of Army family housing units from Fort Hunter Liggett, California, to Fort Stewart, Georgia.
Sec. 2107. Highway safety at Hawthorne Army Ammunition Plant, Nevada.

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Restoration of authority to carry out military construction project at Naval Supply Center, Pensacola, Florida.
Sec. 2206. Design activities for upgrade of Mayport Naval Station, Florida.
Sec. 2207. Relocation of Pascagoula Coast Guard Station, Mississippi.

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.
Sec. 2305. Authorization of military construction projects at Tyndall Air Force Base, Florida, for which funds have been appropriated.
Sec. 2306. Revision of authorized family housing project at Tyndall Air Force Base, Florida.
Sec. 2307. Modification of Air Force Plant No. 3, Tulsa, Oklahoma.
Sec. 2308. Repeal of limitation on order of retirement of Minuteman II missiles.

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Family housing.
Sec. 2403. Improvement to military family housing units.
Sec. 2404. Energy conservation projects.
Sec. 2405. Authorization of appropriations, Defense Agencies.
Sec. 2406. Community impact assistance with regard to Naval Weapons Station, Charleston, South Carolina.
Sec. 2407. Planning and design for construction in support of consolidation of operations of the Defense Finance and Accounting Service.
Sec. 2408. Modification of authority to carry out fiscal year 1993 project.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.
Sec. 2602. Prohibition on use of funds for unauthorized Guard and Reserve projects.
Sec. 2603. Authorization of projects for which funds have been appropriated.
Sec. 2604. State National Guard headquarters, Fort Dix, New Jersey.
Sec. 2605. Colorado State Area Command Armory, Englewood, Colorado.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Extension of authorizations of certain fiscal year 1992 projects.
Sec. 2703. Extension of authorizations of certain fiscal year 1991 projects.
Sec. 2704. Effective date.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Limitation on repair of existing facilities.
Sec. 2802. Clarification of requirement for notification of Congress of improvements in family housing units.
Sec. 2803. Limited partnerships for Navy housing.
Sec. 2804. Reimbursement for services provided by the Department of Defense incident to construction, maintenance, or repair projects to real property.
Sec. 2805. Authority to pay closing costs under Homeowners Assistance Program.

Subtitle B—Defense Base Closure and Realignment

Sec. 2811. Prohibition against consideration in base closure process of advance conversion planning undertaken by potential affected communities.
Sec. 2812. Consultation regarding personal property located at military installations to be closed.
Sec. 2813. Clarifying and technical amendments to base closure laws.
Sec. 2814. Government rental of facilities located on closed military installations.
Sec. 2815. Report of effect of base closures on future mobilization options.
Sec. 2816. Restoration of annual leave for civilian employees in connection with certain base realignments.
Sec. 2817. Agreements of settlement for release of improvements at overseas military installations.

Subtitle C—Changes to Existing Land Conveyance Authority

Sec. 2821. Additional lessee of property at Naval Supply Center, Oakland, California.
Sec. 2822. Modification of land conveyance, Fort A.P. Hill Military Reservation, Virginia.
Sec. 2823. Preservation of Calverton Pine Barrens, Naval Weapons Industrial Reserve Plant, New York, as nature preserve.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Sec. 2824. Release of reversionary interest retained as part of conveyance of electricity distribution system, Fort Dix, New Jersey.
Sec. 2825. Modification of land conveyance, Fort Knox, Kentucky.
Sec. 2826. Revisions to release of reversionary interest, Old Spanish Trail Armory, Harris County, Texas.
Sec. 2827. Modification of height restriction in avigation easement.
Sec. 2828. Technical amendment to correct reference in land transaction.

Subtitle D—Land Conveyances

Sec. 2831. Land conveyance, Air Force Plant No. 3, Tulsa, Oklahoma.
Sec. 2832. Land conveyance, Air Force Plant No. 59, Johnson City (Westover), New York.
Sec. 2833. Land conveyance, Naval Weapons Industrial Reserve Plant, Calverton, New York.
Sec. 2834. Land conveyance, Radar Bomb Scoring Site, Dickinson, North Dakota.
Sec. 2835. Land conveyance, Finley Air Force Station, Finley North Dakota.
Sec. 2836. Land conveyance, Cornhusker Army Ammunition Plant, Hall County, Nebraska.
Sec. 2837. Land conveyance, Hawthorne Army Ammunition Plant, Mineral County, Nevada.
Sec. 2838. Land conveyance, Fort Dix, New Jersey.
Sec. 2839. Land conveyance, Defense Fuel Supply Point, Casco Bay, Maine.
Sec. 2840. Land conveyance, Army Reserve Facility, Rio Vista, California.
Sec. 2841. Lease of property, Naval Shipyard, Vallejo, California.
Sec. 2842. Lease of property, Naval Radio Receiving Facility, Imperial Beach, Coronado, California.
Sec. 2843. Authority for Oznard Harbor District, Port Hueneme, California, to use certain Navy property.
Sec. 2844. Transfer of jurisdiction, Air Force housing at Radar Bomb Scoring Site, Holbrook, Arizona.
Sec. 2845. Transfer of jurisdiction, Holloman Air Force Base, New Mexico.
Sec. 2846. Transfer of jurisdiction, Fort Devens, Massachusetts.
Sec. 2847. Release of requirements and reversionary interest on certain property in Baltimore, Maryland.
Sec. 2848. Release of reversionary interest on certain property in York County and James City County, Virginia, and Newport News, Virginia.

Subtitle E—Other Matters

Sec. 2851. Joint construction contracting for commissaries and nonappropriated fund instrumentality facilities.
Sec. 2852. National Guard facility contracts subject to performance supervision by Army or Navy.
Sec. 2853. Repeal of restrictions on land transactions relating to Presidio of San Francisco, California.
Sec. 2854. Report on use of funds for environmental restoration at Cornhusker Army Ammunition Plant, Hall County, Nebraska.
Sec. 2855. Engineering, design, construction, and related services for Women in Military Service for America Memorial.
Sec. 2856. Sense of the Senate on authorization of funds for military construction projects not requested in the President's annual budget request.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. Weapons activities.
Sec. 3102. Environmental restoration and waste management.
Sec. 3103. Nuclear materials support and other defense programs.
Sec. 3104. Defense nuclear waste disposal.

Subtitle B—Recurring General Provisions

Sec. 3121. Reprogramming.
Sec. 3122. Limits on general plant projects.
Sec. 3123. Limits on construction projects.
Sec. 3124. Transfer authority.
Sec. 3125. Construction design and conceptual design for construction projects.
Sec. 3126. Authority for emergency planning, design, and construction activities.
Sec. 3127. Funds available for all national security programs of the Department of Energy.
Sec. 3128. Availability of funds.

Subtitle C—Program Authorizations, Restrictions, and Limitations

Sec. 3131. Stockpile stewardship recruitment and training program.
Sec. 3132. Defense inertial confinement fusion program.
Sec. 3133. Payment of penalties.
Sec. 3134. Water management programs.
Sec. 3135. Protection of workers at nuclear weapons facilities.
Sec. 3136. Limitation on use of program direction funds.
Sec. 3137. National security programs.
Sec. 3138. Programs for persons who may have been exposed to radiation released from Hanford Nuclear Reservation.
Sec. 3139. Limitation on study or relocation of tritium-related activities and operations.
Sec. 3140. Hazardous materials management and hazardous materials emergency response training program.
Sec. 3141. International Center for Applied Research.

Subtitle D—Other Matters

Sec. 3151. Accounting procedures for Department of Energy funds.
Sec. 3152. Approval for certain nuclear weapons activities.
Sec. 3153. Study of feasibility of conducting certain activities at the Nevada Test Site, Nevada.
Sec. 3154. Report on waste streams generated by nuclear weapons production cycle.
Sec. 3155. Communication of restricted data and formerly restricted data.
Sec. 3156. Scholarship and fellowship program for environmental restoration and waste management.
Sec. 3157. Report on economic redevelopment and conversion activities resulting from reconfiguration of Department of Energy nuclear weapons complex.
Sec. 3158. Office of Fissile Materials Disposition.
Sec. 3159. Extension of authority to loan personnel and facilities at Idaho National Engineering Laboratory.
Sec. 3160. Elimination of requirement for five-year plan for defense nuclear facilities.
Sec. 3161. Authority for appointment of certain scientific, engineering, and technical personnel.
Sec. 3162. Use of funds for computer declassification system.
Sec. 3163. Safety oversight and enforcement at defense nuclear facilities.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of stockpile funds.
Sec. 3302. Rotation of materials to prevent technological obsolescence.
Sec. 3303. Extension of limitation authority to dispose of chromium ferro and manganese ferro.
Sec. 3304. Limitation on authority to dispose of zinc.
Sec. 3305. Limitations on disposal of chromite and manganese ores.
Sec. 3306. Report on domestic production of high purity electrolytic chromium metal.

TITLE XXXIV—CIVIL DEFENSE

Subtitle A—Authorization of Appropriations

Sec. 3401. Authorization of appropriations.

Subtitle B—Reenactment of Federal Civil Defense Act of 1950 in the Robert T. Stafford Disaster Relief and Emergency Assistance Act

Sec. 3411. Restatement of Federal civil defense authorities in the Robert T. Stafford Disaster Relief and Emergency Assistance Act.
Sec. 3412. Repeal of Federal Civil Defense Act of 1950.

TITLE XXXV—NAVAL PETROLEUM RESERVES

Sec. 3501. Authorization of appropriations.
Sec. 3502. Price requirement on sale of certain petroleum during fiscal year 1995.
Sec. 3503. Extension of operating contract for Naval Petroleum Reserve Numbered 1.

TITLE XXXVI—PANAMA CANAL COMMISSION

Sec. 3601. Short title.
Sec. 3602. Authorization of expenditures.
Sec. 3603. Expenditures in accordance with other laws.
Sec. 3604. Costs of educational services obtained in the United States.
Sec. 3605. Special immigrant status of Panamanians employed by the United States in the former Canal Zone.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Army as follows:

(1) For aircraft, $1,289,452,000.
(2) For missiles, $818,709,000.
(3) For weapons and tracked combat vehicles, $1,159,214,000.
(4) For ammunition, $902,821,000.
(5) For other procurement, $2,624,707,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Navy as follows:

(1) For aircraft, $4,491,845,000.

(2) For weapons, including missiles and torpedoes, $2,076,625,000.
(3) For shipbuilding and conversion, $5,619,897,000.
(4) For other procurement, $3,287,487,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Marine Corps in the amount of $403,410,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for Navy and the Marine Corps in the amount of $449,815,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Air Force as follows:

(1) For aircraft, $6,489,467,000.
(2) For missiles, $3,732,845,000.
(3) For ammunition, $251,546,000.
(4) For other procurement, $6,929,170,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1995 for Defense-wide procurement in the amount of $1,891,371,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $20,000,000.
(2) For the Air National Guard, $260,000,000.
(3) For the Army Reserve, $50,000,000.
(4) For the Naval Reserve, $80,000,000.
(5) For the Air Force Reserve, $50,000,000.
(6) For the Marine Corps Reserve, $50,000,000.

SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 1995 the amount of $599,549,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

(b) LIMITATION.—Of the funds specified in subsection (a)—

(1) $363,584,000 is for operations and maintenance;

(2) $215,265,000 is for procurement; and

(3) $20,700,000 is for research and development efforts in support of the chemical weapons program.

(c) AUTHORITY FOR OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.—The Secretary of Defense may obligate funds appropriated for research, development, test, and evaluation of alternative technologies under the heading "CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE" in title VI of Public Law 103–139 (107 Stat. 1436).

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR ARMY PROGRAMS.

(a) M1A2 TANK UPGRADE.—The Secretary of the Army may, in accordance with statutory multiyear contract authority, enter into multiyear procurement contracts for procurement of upgrades of M1 Abrams tanks to the M1A2 Abrams configuration.

(b) AVENGER AIR DEFENSE MISSILE SYSTEM.—Notwithstanding the limitation on statutory multiyear contract authority relating to the maximum duration of a multiyear contract under that authority, the Secretary of the Army may extend the multiyear contract in effect during fiscal year 1994 for the Avenger air defense missile system for a sixth program year and may award such an extension.

(c) STATUTORY MULTIYEAR CONTRACT AUTHORITY DEFINED.—For purposes of this section, the term "statutory multiyear contract authority" means—

(1) the authority provided in section 2306(h) of title 10, United States Code; or

(2) if the Federal Acquisition Steamlining Act of 1994 is enacted during the second session of the One Hundred Third Congress, the authority provided in section 2306b of title 10, United States Code, as added by the Federal Acquisition Steamlining Act of 1994 (restating the authorities previously provided in section 2306(h) of such title).

SEC. 112. TRANSFER TO MARINE CORPS OF M1A1 TANKS REPLACED BY M1A2 UPGRADES.

(a) IN GENERAL.—The Secretary of the Army shall transfer M1A1 common tanks to the Marine Corps Reserve in accordance with this section.

(b) NUMBER OF TANKS TO BE TRANSFERRED.—The number of tanks to be transferred to the Marine Corps Reserve under this section is the number (if greater than zero) equal to the difference between—

(1) the number of M1A2 Abrams tank upgrades for which funds are authorized for fiscal year 1995 or (if lower) the number of such upgrades for which funds are appropriated for fiscal year 1995; and

(2) the number of such upgrades requested in the budget of the President for fiscal year 1995.

(c) TIMING FOR TRANSFERS.—Of the M1 tanks selected to be upgraded to the M1A2 configuration using funds provided for fiscal year 1995, the Secretary of the Army shall designate specific tanks, in the number of such tanks to be upgraded in excess of the number requested to be upgraded in the budget of the President, as constituting the additional M1A2 tank upgrades for which funds were provided in excess of the number requested in the budget. With respect to each such tank so designated, the Secretary may not accept delivery from the contractor of that tank until the Secretary has transferred to the Marine Corps Reserve one M1A1 common tank (in addition to any previously transferred).

SEC. 113. TRANSFER OF M1A1 TANKS TO THE MARINE CORPS.

(a) TRANSFERS AUTHORIZED.—As M1A1 tanks of the Army become excess to the requirements of the active component of the Army, the Secretary of the Army shall transfer to the Marine Corps 84 of such tanks selected by the Secretary of the Army to complete the requirements for tanks of the active component of the Marine Corps. Any such transfer shall be made at no expense to the Army.

(b) LIMITATION ON TANK TRANSFERS TO ARMY NATIONAL GUARD.—After the date of the enactment of this Act, the Secretary of the Army may not transfer an M1A1 tank to the Army National Guard until, with respect to that transfer, the Secretary has transferred a separate M1A1 tank to the Marine Corps (in addition to any M1A1 tanks previously transferred to the Marine Corps). The limitation in the preceding sentence shall remain in effect until the Secretary has transferred to the Marine Corps under this section the total number of tanks specified in subsection (a).

(c) CONDITION OF TANKS.—The tanks transferred to the Marine Corps pursuant to this section shall be in a material condition comparable to the material condition of the tanks transferred to the National Guard.

(d) TREATMENT OF CERTAIN TRANSFERRED TANKS UNDER LIMITATIONS.—Transfers of tanks under section 112 shall not be counted for purposes of this section.

SEC. 114. EXCEPTION TO MANDATORY RETIREMENT OF OV–1 AIRCRAFT FOR AIRCRAFT DEPLOYED IN KOREA.

(a) EXCEPTION TO MANDATORY RETIREMENT.—The first sentence of subsection (b)(2) of section 1439 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1689) shall not apply with respect to OV–1 Mohawk surveillance aircraft deployed in Korea in a number not in excess of the number of such aircraft deployed in Korea on the date of the enactment of this Act.

(b) EXCEPTION TO PROHIBITION ON USE OF FUNDS.—The provisions of subsection (a) of that section shall not apply with respect to the operation and maintenance of aircraft covered by subsection (a) of this section.

SEC. 115. SMALL ARMS INDUSTRIAL BASE.

(a) FUNDING FOR PROCUREMENT.—Of the funds authorized to be appropriated pursuant to section 101(3), $93,683,000 is available for procurement of small arms weapons as follows:

(1) $38,902,000 for the MK19–3 grenade machine gun.
(2) $13,000,000 for the M16A2 rifle.
(3) $28,616,000 for the M249 squad automatic weapon.
(4) $13,165,000 for the M4 carbine.

(b) MULTIYEAR CONTRACTS AUTHORIZED.—(1) During fiscal year 1995, the Secretary of the Army may, in accordance with section 2306(h) of title 10, United States Code, enter into multiyear contracts to meet the following objectives for quantities of small arms weapons to be procured for the Army:

Weapon	Quantity
MK19–3 grenade machine gun	21,217
M16A2 rifle	1,002,277
M249 squad automatic weapon	71,769
M4 carbine	132,510.

(2) If the Army does not enter into contracts during fiscal year 1995 that will meet all the objectives set forth in paragraph (1), the Secretary shall, to the extent provided for in appropriations Acts, enter into multiyear contracts during subsequent fiscal years to meet those objectives.

(c) FOLLOW-ON WEAPONS.—The Secretary of the Army shall provide for procurement of product improvements for existing small arms weapons and may do so within multiyear contracts entered into pursuant to subsection (b).

(d) JOINT SMALL ARMS MASTER PLAN.—(1) The Secretaries of the military departments shall jointly develop a master plan for meeting the immediate and future needs of the Armed Forces for small arms. The Secretary of the Army shall coordinate the development of the joint small arms master plan. The joint small arms master plan shall include—

(A) an examination of the relative advantages and disadvantages of improving existing small arms weapons as compared to investing in new, advanced technology weapons; and

(B) an analysis of the effects of each such approach on the small arms industrial base.

(2) Not later than April 1, 1995, the Under Secretary of Defense for Acquisition and Technology shall—

(A) review the joint small arms master plan and the results of the examination of relative advantages and disadvantages of the two courses of action described in paragraph (1); and

(B) transmit the plan, together with any comments that the Under Secretary considers appropriate, to Congress.

(e) FUNDING FOR RDT&E.—Of the funds authorized to be appropriated under section 201(1)—

(1) $5,000,000 shall be available for the Objective Crew-Served Weapons System; and

(2) $3,000,000 shall be available for product improvements to existing small arms weapons.

SEC. 116. BUNKER DEFEAT MUNITION ACQUISITION PROGRAM.

The Secretary of the Army, in acquiring munitions under the bunker defeat munition weapons acquisition program—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(1) may acquire only those munitions that are designated as "type classified, limited procurement for contingency operations"; and

(2) may not acquire more than 6,000 such munitions.

SEC. 117. PROCUREMENT OF HELICOPTERS.

(a) AH–64 APACHE AIRCRAFT.—The prohibition in section 132(a)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1382) does not apply to the obligation of funds in amounts not to exceed $72,000,000 for the procurement of not more than 6 AH–64 aircraft from funds appropriated for fiscal year 1995 pursuant to section 101.

(b) OH–58D AHIP AIRCRAFT.—The prohibition in section 133(a)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1383) does not apply to the obligation of funds in amounts not to exceed $150,000,000 for the procurement of not more than 24 OH–58D AHIP Scout aircraft from funds appropriated for fiscal year 1995 pursuant to section 101.

Subtitle C—Navy Programs

SEC. 121. NUCLEAR AIRCRAFT CARRIER PROGRAM.

(a) TRANSFER OF FISCAL YEAR 1994 FUNDS.—There is hereby authorized to be transferred to the Shipbuilding and Conversion, Navy, appropriation account for fiscal year 1995 the amount of $1,200,000,000, to be derived from the National Defense Sealift Fund.

(b) AVAILABILITY FOR CVN–76.—Funds transferred pursuant to the authorization in subsection (a) shall be available for the CVN–76 nuclear aircraft carrier program.

SEC. 122. SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION ON PROGRAM COST.—Except as provided in subsection (b), the total amount obligated on or expended for procurement of the SSN–21 and SSN–22 Seawolf submarines may not exceed $4,739,571,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws.

SEC. 123. GUIDANCE SETS FOR TRIDENT II MISSILES.

(a) LIMITATION.—Funds appropriated for fiscal year 1995 for the Navy pursuant to section 102 may not be obligated to procure more than 14 Mark–6 guidance sets for Trident II (D–5) missiles until the certification specified in subsection (b) has been submitted to Congress.

(b) CERTIFICATION.—A certification referred to in subsection (a) is a certification by the Secretary of Defense that it is necessary to procure (with funds referred to in subsection (a)) more than 14 Mark–6 guidance sets for Trident II (D–5) missiles because a failure to do so would pose an unacceptable risk to the long-term readiness and reliability of the Trident II (D–5) missile program.

SEC. 124. PROHIBITION ON TRIDENT II BACKFIT.

(a) LIMITATION.—The Secretary of the Navy may not modify any Trident I submarine to enable that submarine to be deployed with Trident II (D–5) missiles.

(b) WAIVER AUTHORITY.—If the Secretary of Defense determines that adherence to the prohibition in subsection (a) would result in a significant national security risk to the United States, the Secretary may waive that prohibition. Such a waiver may not take effect until the Secretary submits to Congress a certification of that determination and of the reasons for that determination.

SEC. 125. INCLUSION OF CONVERSION OF VESSELS IN FAST SEALIFT PROGRAM.

Section 1424 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 7291 note) is amended—

(1) in subsection (a), by inserting ", or conversion and operation," after "construction and operation"; and

(2) in subsection (b)—

(A) by inserting "or converted" after "constructed" each place it appears; and

(B) by inserting "or conversion" after "Construction" in paragraph (3).

SEC. 126. LIMITATION ON PROCUREMENT OF TAGS VESSELS.

(a) LIMITATION.—The Secretary of the Navy may not obligate funds for any of the vessels designated as TAGS–63, TAGS–64, or TAGS–65 unless the Secretary certifies to Congress that the multibeam sonars to be used on those vessels (whether new or remanufactured) have been obtained through the use of competitive acquisition procedures.

(b) NATIONAL SECURITY WAIVER.—The Secretary of the Navy may waive the limitation in subsection (a) for reasons of national security. Such a waiver may not take effect until the Secretary submits to Congress a report giving notice of the waiver and an explanation of the national security reasons for the waiver.

SEC. 127. NAVAL AMPHIBIOUS READY GROUPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Amphibious Assault Ships (LHDs) provide an important contingency capability and are uniquely suited to respond to world crises and to provide assistance after natural disasters.

(2) Extensive testimony received by the Committee on Armed Services of the Senate in 1994 and prior years from military and civilian officials of the Department of Defense provided compelling support for a military requirement for 12 Amphibious Ready Groups.

(3) Twelve Amphibious Ready Groups is the correct number of amphibious ready groups necessary to sustain forward deployment and contingency requirements of the Navy.

(4) A report of the Department of the Navy (prepared pursuant to requirements of the National Defense Authorization Act for Fiscal Year 1993) clearly stipulates that a seventh LHD amphibious assault vessel is required in order for the Navy to achieve a force of 12 Amphibious Ready Groups.

(5) A significant shortfall in amphibious shipping and amphibious lift exists, both in the fiscal year 1995 budget request and in outyear force structure projections.

(6) The Department of the Navy has identified funds in outyear budget projections for the purchase of the amphibious assault vessel designated as LHD–7.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Navy—

(1) should plan for, and budget to provide for, the attainment of a twelfth Amphibious Ready Group as soon as possible; and

(2) should extend the existing contract option on the LHD–7 Amphibious Assault Ship to facilitate achieving 12 Amphibious Ready Groups.

(c) LHD–7 CONTRACT OPTION EXTENSION.—(1) The Secretary of the Navy is authorized to extend the existing contract option for the LHD–7 Amphibious Assault ship if the Secretary determines that the extension would be in the best interest of the United States.

(2) The Secretary of the Navy shall immediately begin negotiations to extend the existing contract option for the LHD–7 Amphibious Assault Ship Program.

(3) On and after the date that is 30 days after the date on which the Secretary notifies Congress of an intention to do so, the Secretary may use for such contract option extension funds that are authorized to be appropriated for other Navy programs. The notification shall include a description of the intended use of the funds.

(d) REPORT REQUIREMENT.—The Secretary of the Navy shall submit to Congress, after December 31, 1994, but before March 31, 1995, a report stating the Secretary's intentions regarding exercise of the existing contract option for the LHD–7 Amphibious Assault Ship. The report shall include an explanation of the Secretary's actions regarding attainment of a twelfth Amphibious Ready Group and the costs and benefits of extending the existing contract option on the LHD–7 Amphibious Assault Ship.

Subtitle D—Air Force Programs

SEC. 131. INTERTHEATER AIRLIFT PROGRAMS.

(a) AUTHORIZATION.—Of the amount provided in section 103 for procurement of aircraft for the Air Force—

(1) $103,707,000 shall be available for Non-Developmental Alternative Aircraft procurement; and

(2) $2,364,622,000 shall be available for the C–17 aircraft program, of which—

(A) $2,168,614,000 is for procurement of six C–17 aircraft;

(B) $189,900,000 is for advance procurement of up to eight C–17 aircraft for fiscal year 1996; and

(C) $6,108,000 is for C–17 modifications.

(b) REQUIREMENT FOR COMPETITION.—The Secretary of Defense shall use competitive procedures in selecting a source for the aircraft to be procured as Non-Developmental Alternative Aircraft under subsection (a).

(c) NOTICE TO CONGRESS.—Funds described in subsection (a) may not be obligated for procurement under subsection (a) until 60 days after the date on which the Secretary of Defense submits to Congress a report describing the Secretary's plan for the obligation of those funds.

(d) PRESERVATION OF INTERTHEATER AIRLIFT CAPACITY.—It is the sense of Congress that the Secretary of Defense, in acquiring aircraft using funds provided in accordance with subsection (a), should structure the acquisition of those aircraft so as to preserve the aggregate intertheater airlift capacity of the Air Force (measured in millions of ton-miles per day) as of the date of the enactment of this Act.

SEC. 132. SETTLEMENT OF CLAIMS UNDER THE C–17 AIRCRAFT PROGRAM.

(a) AUTHORIZATION FOR SUPPLEMENTAL AGREEMENTS AND CONTRACT MODIFICATIONS.—(1) The Secretary of the Air Force may (subject to subsection (e)) enter into supplemental agreements and contract modifications pertaining to contracts specified in paragraph (2) in order to do any of the following:

(A) Settle claims and disputes arising under those contracts as provided in the C–17 settlement agreement.

(B) Revise the delivery schedules under those contracts as provided in the C–17 settlement agreement for the aircraft designated as T–1 and P–1 through P–6.

(C) Revise range specifications, payload specifications, and other specifications under those contracts as provided in Attachment B to the letter (described in subsection (i)) setting forth the C–17 settlement agreement.

(2) This section applies to the following contracts:

(A) Air Force prime contract F33657–81–C–2108 (relating to the C–17 aircraft program).

(B) Such other Air Force contracts relating to the C–17 aircraft program (entered into before, on, or after the date of the enactment of this Act) as the Secretary of the Air Force determines to be appropriate.

(b) FURTHER CONSIDERATION FROM CONTRACTOR NOT REQUIRED.—The Secretary of the Air Force may enter into a supplemental agreement or contract modification under subsection (a) without requiring further consideration from the contractor for the benefit to be derived by the contractor under that agreement or modification only to the extent provided for in the C–17 settlement agreement.

(c) RELEASE OF CONTRACTOR CLAIMS.—Any supplemental agreement or contract modification entered into under subsection (a) shall, as provided in the C–17 settlement agreement, require that the prime contractor release the Government from any contractual claim, demand, request for equitable adjustment, or other cause of action, known or unknown, that the prime contractor may have against the Government on or before January 6, 1994, arising out of the C–17 program contracts.

(d) CONTRACT MODIFICATIONS REGARDING CONTRACTOR COMMITMENTS.—(1) The Secretary of the Air Force shall incorporate into each appropriate C–17 contract the commitment of the prime contractor to make C–17 program changes as described in paragraph (2) on a nonreimbursable or cost-share basis.

(2) Paragraph (1) applies to the commitment of the prime contractor provided in the C–17 settlement agreement to make the following C–17 program changes:

(A) Extend the flight test program.

(B) Redesign the wing.

(C) Implement Computer Aided Design/Computer Aided Manufacturing System improvements, Management Information System improvements, and Advanced Quality System improvements.

(D) Implement product improvement cost reduction projects.

(E) Resolve other C–17 program issues.

(e) REQUIRED CERTIFICATION.—The Secretary of the Air Force may not enter into a supplemental agreement or contract modification under subsection (a) until 30 days after the date on which the Secretary of Defense submits to Congress a written certification of each of the following:

(1) That the terms and conditions set forth in the C–17 settlement agreement, including the terms and conditions relating to the settlement of claims, are in the best interest of the Government for a total procurement under the C–17 program that could be as few as 40 aircraft.

(2) That the membership of the Defense Science Board C–17 Task Force has advised the Secretary of Defense that, for a total procurement quantity of as few as 40 aircraft, the terms and conditions set forth in the C–17 settlement agreement, including the terms and conditions relating to settlement of claims, are in the best interest of the Government.

(3) That the Secretary will establish specific not-to-exceed costs estimates for production lots VII through XI and will provide that cost information to Congress not later than March 1, 1995.

(4) That during fiscal year 1995 no funds available to the Department of Defense will be used to relax performance requirements specified in the acquisition program baseline beyond the extent provided for in the C–17 settlement agreement.

(5) That the Secretary will transmit to Congress milestones and exit criteria for the C–17 not later than March 1, 1995.

(6) That nothing in the C–17 settlement agreement releases the contractor from any potential liability for fraud or criminal violations.

(f) RESTRICTION ON USE OF DOD FUNDS FOR DEVELOPMENT OF ALTERNATIVE AIRCRAFT.—No funds appropriated to the Department of Defense for fiscal year 1995 may be used to design, develop, or produce a modified version of the C–17 aircraft that could be considered to be a non-developmental alternative aircraft for purposes of future Department of the Air Force competitions for intertheater airlift requirements.

(g) OTHER CONTRACTOR OBLIGATIONS.—Nothing in this section shall be construed as relieving the prime contractor for the C–17 aircraft from any obligation provided for in the C–17 settlement agreement.

(h) C–17 SETTLEMENT AGREEMENT DEFINED.—For purposes of this section, the term "C–17 settlement agreement" means the settlement agreement that was proposed to the prime contractor for the C–17 aircraft program by the Under Secretary of Defense for Acquisition and Technology by letter dated January 3, 1994, and that was accepted by that prime contractor on January 6, 1994.

(i) EXPIRATION OF AUTHORITY.—The authority of the Secretary of the Air Force to enter into agreements and contract modifications under subsection (a) expires at the close of September 30, 1995.

SEC. 133. HEAVY BOMBER FORCE REQUIREMENTS.

(a) REQUIREMENTS STUDY.—The Secretary of Defense shall carry out a study of bomber force requirements of the Department of Defense. The Secretary shall submit to Congress a report on the results of the study not later than April 15, 1995. The study shall address, for each of the target years 1998, 2006, and 2014, the following:

(1) Realistic alternative mixes of bombers constituting the bomber force and whether, for each of the alternative mixes, the bomber force so produced can meet well-defined national security requirements.

(2) The incremental levels of munitions requirements, bomber upgrade requirements, and other support requirements for implementation of each of the alternative mixes.

(3) The cost of implementation, affordability of implementation, and time required for implementation of each of the alternative mixes.

(4) The sensitivity to small changes in assumptions of the capabilities of the bomber force produced by each of the alternative mixes to meet mission requirements.

(b) FURTHER ALTERNATIVE STRATEGIES.—If the Secretary determines in the study carried out under subsection (a) that the bomber force capabilities are not adequate to meet requirements for any of the target years considered, the Secretary shall undertake a further study to examine alternative strategies for increasing bomber force capabilities. As part of such examination, the Secretary shall do the following:

(1) Determine those core bomber industrial capabilities that are needed to maintain the ability to design, develop, and produce bomber aircraft in the near-term and in the long-term and that—

(A) would take extended periods of time or substantial expense to regenerate; and

(B) are in imminent danger of being lost.

(2) For each strategy examined—

(A) estimate the cost of implementing the strategy;

(B) make a judgment about the affordability of the strategy; and

(C) assess the time required to implement the strategy.

(c) SECOND REPORT.—If the Secretary carries out a study as provided in subsection (b), the Secretary shall submit to Congress a report containing the results of the study carried out under subsection (b) not later than July 1, 1995. The Secretary shall include in such report the Secretary's recommendations for assuring the availability of bomber force capabilities required in the future.

(d) ENHANCED BOMBER CAPABILITY FUND.—(1) Of the amounts authorized to be appropriated by section 103 for procurement of aircraft for the Air Force, not more than $125,000,000 is available for an Enhanced Bomber Capability Fund.

(2) Pending the completion of the studies required by subsections (a) and (b), the Secretary may obligate up to $100,000,000 of the amount in such fund—

(A) for those studies; and

(B) for the purpose of preserving those parts of the core capabilities referred to in subsection (b)(1).

(3) If, as a result of the study carried out under subsection (b), the Secretary determines that a new-generation bomber is needed to meet the national security requirements for bombers, the Secretary may obligate up to $25,000,000 of the amount in such fund for requirements formulation and conceptual studies for a conventional-conflict-oriented lower-cost next-generation bomber.

(e) LIMITATION ON FUND.—None of the amount available for the Enhanced Bomber Capability Fund may be obligated for advance procurement of new B–2 aircraft (including long-lead items).

(f) BOMBER DEFINED.—For purposes of this section, the term "bombers" means the B–52, B–1, and B–2 aircraft and other bomber aircraft that are developed after the enactment of this Act with similar range and payload characteristics.

SEC. 134. LIMITATION ON RETIREMENT OF BOMBER AIRCRAFT.

No funds available to the Secretary of Defense may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B–52H, B–1B, or F–111 bomber aircraft.

SEC. 135. EVALUATION OF RESTART OF C–5B AIRCRAFT PROCUREMENT.

(a) EVALUATION.—The Secretary of the Air Force shall conduct an evaluation of the costs of restarting production of C–5B aircraft for the strategic airlift mission. The evaluation shall include startup costs and production costs for a production run of from 30 to 70 units.

(b) REPORT.—The Secretary shall submit to Congress a report on the evaluation under subsection (a). The report may be submitted as part of any other report required to be submitted that relates to intertheater airlift.

Subtitle E—Other Matters

SEC. 141. SALES AUTHORITY OF WORKING-CAPITAL FUNDED ARMY INDUSTRIAL FACILITIES.

Section 4543(a) of title 10, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking out "nondefense-related commercial";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(5) the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

"(6) the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in a case of willful misconduct or gross negligence, from any claim for damages or injury to any person or property arising out of the article or service;

"(7) the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting;

"(8) it is in the public interest to manufacture such article or perform such service; and

"(9) the sale will not interfere with performance of the military mission of the industrial facility.".

SEC. 142. IDENTIFICATION IN BUDGET OF FUNDS FOR CHEMICAL DEMILITARIZATION MILITARY CONSTRUCTION PROJECTS.

Section 1412(f) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(f)), is amended—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(1) by inserting ", including funds for military construction projects necessary to carry out this section," after "carrying out this section"; and

(2) by striking out the last sentence.

SEC. 143. TRANSPORTATION OF CHEMICAL MUNITIONS.

(a) PROHIBITION OF TRANSPORTATION ACROSS STATE LINES.—The Secretary of Defense may not transport any chemical munition that constitutes part of the chemical weapons stockpile out of the State in which that munition is located on the date of the enactment of this Act and, in the case of any such chemical munition not located in a State on the date of the enactment of this Act, may not transport any such munition into a State.

(b) TRANSPORTATION OF CHEMICAL MUNITIONS NOT IN CHEMICAL WEAPONS STOCKPILE.—In the case of any chemical munitions that are discovered or otherwise come within the control of the Department of Defense and that do not constitute part of the chemical weapons stockpile, the Secretary of Defense may transport such munitions to the nearest chemical munitions stockpile storage facility that has necessary permits for receiving and storing such items if the transportation of such munitions to that facility—

(1) is considered by the Secretary of Defense to be necessary; and

(2) can be accomplished while protecting public health and safety.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army $5,319,520,000.

(2) For the Navy, $8,845,354,000.

(3) For the Air Force, $12,475,681,000.

(4) For Defense-wide activities, $9,428,622,000, of which—

(A) $230,495,000 is authorized for the activities of the Director, Test and Evaluation; and

(B) $12,501,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) FISCAL YEAR 1995.—Of the amounts authorized to be appropriated by section 201, $4,193,833,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

Of the amounts authorized to be appropriated by section 201, $111,907,000 shall be available for the Strategic Environmental Research and Development Program.

SEC. 204. MOLECULAR DESIGN MATERIAL SCIENCE.

Of the amount authorized to be appropriated for the Navy by section 201(2), $10,000,000 shall be used to conduct a centralized program in molecular design material science.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. SPACE LAUNCH MODERNIZATION.

(a) POLICY.—(1) It is in the Nation's long-term national security and economic interests to regain preeminence in the area of space launch technology and operations.

(2) Access to space at affordable costs is fundamental to maintaining required command, control, communications, intelligence, navigation, weather, and early warning support to United States and coalition forces.

(3) Encouragement of privately financed, cost effective expendable and reusable launch vehicles is in the economic interest of the Department of Defense and the United States Government.

(b) FINDING.—Congress finds that the current Department of Defense space launch infrastructure has several deficiencies, including high cost, excessive management overhead, inadequate operability and responsiveness to satellite launch requirements, lack of standardization, very large launch personnel requirements to support launch operations, over capacity, and technology obsolescence.

(c) REQUIRED ACTIONS.—The Secretary of Defense shall take the following actions in pursuance of the space launch modernization policy set forth in subsection (a) and to correct the deficiencies described in subsection (b):

(1) Develop an integrated space launch vehicle strategy that, if implemented, would replace or consolidate the current fleet of medium and heavy launch vehicles. Where prudent and cost effective, the strategy should include a plan for the development of new or upgraded expendable launch vehicles.

(2) Implement improved management practices including streamlined acquisition approaches, small government program staff, and minimal program overhead.

(3) Encourage and evaluate innovative acquisition, technical, and financing (including best commercial practices) solutions for providing affordable, operable, reliable, and responsive access to space.

(4) Centralize oversight of launch requirements to ensure integrated evaluation of satellite requirements and launch capabilities.

(5) Encourage and provide incentives for the use of commercial practices in the acquisition, operation, and support of Department of Defense space operations.

(6) Establish effective coordination among military, civilian, and commercial launch developers and users.

(d) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated in section 201(3), $90,000,000 shall be available for research, development, test, and evaluation of non-man-rated space launch systems and technologies. Of that amount—

(1) $30,000,000 shall be available for a competitive reusable rocket technology program; and

(2) $60,000,000 shall be available for expendable launch vehicle technology development and acquisition, as appropriate.

(e) TRANSFER OF FUNDS.—The Secretary of Defense shall, to the extent provided in appropriations Acts, transfer to the Department of the Air Force the unobligated balance of funds appropriated for fiscal year 1994 to the Department of Defense for the Advanced Research Projects Agency for single-stage to orbit rocket research and development.

(f) PROGRAM PLAN.—The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall develop a plan to coordinate the programs of the Department of Defense and the National Aeronautics and Space Administration for expendable and reusable rocket technology demonstrators and technology development. The Secretary of Defense shall submit to Congress the plan developed under this subsection.

(g) LIMITATIONS.—(1) Funds authorized for appropriation in subsection (d)(1) may be obligated only—

(A) to the extent that the fiscal year 1995 current operating plan of the National Aeronautics and Space Administration allocates at least an equal amount for its Reusable Space Launch program; and

(B) as specified in the program plan developed and submitted to Congress pursuant to subsection (f).

(2) Not more than $30,000,000 of the funds authorized in subsection (d)(2) may be obligated until 30 days after the Secretary of Defense submits to Congress program plans, including objectives, milestones, future years defense program funding, and government-industry cost sharing considerations, as applicable.

SEC. 212. STANDOFF AIR-TO-SURFACE MUNITIONS TECHNOLOGY DEMONSTRATION.

(a) IN GENERAL.—(1) Of the amounts authorized to be appropriated by section 201(3), up to $2,000,000 may be used for the conduct of a demonstration of existing nondevelopmental items that would enable the use of a single adaptor kit for munitions described in paragraph (2) in order to give those munitions a near-term standoff and accurate guided capability. Such kits should be able to be integrated into aircraft at minimal or no cost.

(2) Paragraph (1) applies to guided and unguided in-inventory munitions of the class of 1,000 pounds and below.

(b) REPORT.—The Secretary of the Air Force shall submit to Congress a report setting forth in detail the results and costs of the demonstration under subsection (a) and the applicability of the technology demonstrated in providing the Armed Forces with an inexpensive near-term solution to providing both range extension and accurate guided capability to in-inventory munitions.

SEC. 213. EXTENSION OF PROHIBITION ON TESTING MID-INFRARED ADVANCED CHEMICAL LASER AGAINST AN OBJECT IN SPACE.

(a) PROHIBITION.—The Secretary of Defense may not carry out a test of the Mid-Infrared Advanced Chemical Laser (MIRACL) transmitter and associated optics against an object in space during fiscal year 1995 unless such testing is specifically authorized by law.

(b) CERTAIN TESTING UNAFFECTED.—Nothing in this section is intended to restrict the use of the Sealite Beam Director for the purpose of calibrating a satellite sensor, or for the purpose of imaging an object in space, in confunction with a laser device other than the MIRACL device operating at an average power level not to exceed that used by other laser devices as of January 1, 1994, at other Department of Defense facilities for those purposes.

SEC. 214. APPLICABILITY OF CERTAIN ELECTRONIC COMBAT SYSTEMS TESTING REQUIREMENTS.

(a) COVERED SYSTEMS.—Subsection (a) of section 220 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1589) is amended—

(1) by inserting "ACAT I level integrated or stand-alone" before "electronic combat system"; and

(2) by inserting "ACAT 1 level integrated or stand-alone" before "command, control, and communications countermeasure system".

(b) APPLICABILITY.—Subsection (e) of section 220 of such Act is amended to read as follows:

"(e) APPLICABILITY.—The provisions of subsections (a) and (b) shall apply to an ACAT I level integrated or stand-alone electronic combat system and to an ACAT I level integrated or stand-alone command, control, and communications countermeasure system that has not entered engineering and manufacturing development as of September 1, 1994.".

(c) WAIVER.—Section 220 of such Act is further amended by adding at the end the following new subsection:

"(f) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive the requirements of subsection (a) with respect to a system in any case in which the Secretary determines that a waiver is necessary in the interests of national security.

"(2) Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to Congress a notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the expiration of the 30-day period that begins on the date on which the notice is submitted to Congress.".

SEC. 215. ADVANCED SELF PROTECTION JAMMER (ASPJ) PROGRAM.

(a) REQUIREMENT TO OBLIGATE FUNDS FOR ASPJ.—Subject to subsection (b), the Secretary of the Navy shall, not later than September 30, 1994, obligate funds appropriated to the Department of Defense for fiscal year 1994 and prior years to carry out logistics support and maintenance of existing Advanced Self Protection Jammer (ASPJ) systems, and integration of such systems from the Navy inventory into the F–14D aircraft for testing and evaluation. The Secretary may acquire sufficient racks, spares, and logistic support, including hardware and software, necessary to maintain the existing ASPJ systems in the Navy inventory.

(b) LIMITATION.—The Secretary of the Navy may obligate funds under subsection (a) only to the extent provided in appropriations Acts.

(c) RELATIONSHIP TO OTHER PROVISION OF LAW.—The Secretary of the Navy shall carry out subsection (a) notwithstanding section 122 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2334).

SEC. 216. ADVANCED LITHOGRAPHY PROGRAM.

(a) PURPOSE.—The purpose of the Advanced Lithography Program (in this section referred to as the "ALP") is to fund goal-oriented research and development to be conducted in both the public and private sectors to help achieve a competitive position for American lithography tool manufacturers in the international market place.

(b) CONDUCT OF PROGRAM.—(1) The program shall be conducted in accordance with research and development plans (including an interim plan) developed by the Semiconductor Technology Council, established in section 273 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603) (as amended by section 263(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1608)).

(2) The interim plan referred to in paragraph (1) shall be the Semiconductor Industry Association (SIA) 1994 development plan for lithography.

(c) PROGRAM MANAGEMENT.—The Advanced Research Projects Agency (ARPA) shall be the executive agent for the ALP and shall ensure seamless, fully integrated incorporation of the program planning of the ALP into the full range of ARPA core electronics development programs.

(d) FUNDING.—(1) Of the funds authorized to be appropriated in section 201(4), $60,000,000 shall be available for the ALP to conduct research and development activities in accordance with subsection (b).

(2) Of the funds authorized to be appropriated in section 201(4) for the Semiconductor Manufacturing Technology Consortium, the consortium is strongly encouraged to use not less than $10,000,000 for activities related to lithography.

SEC. 217. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) CENTERS COVERED.—Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 pursuant to an authorization of appropriations in section 201 may be obligated to procure work from a federally funded research and development center only in the case of a center named in the report required by subsection (b) and, in the case of such a center, only in an amount not in excess of the amount of the proposed funding level set forth for that center in such report.

(b) REPORT ON ALLOCATIONS FOR CENTERS.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

(A) the name of each federally funded research and development center from which work is proposed to be procured for the Department of Defense for fiscal year 1995; and

(B) for each such center, the proposed funding level and the estimated personnel level for fiscal year 1995.

(2) The total of the proposed funding levels set forth in the report for all federally funded research and development centers may not exceed the amount set forth in subsection (d).

(c) LIMITATION PENDING SUBMISSION OF REPORT.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 may be obligated to procure work from a federally funded research and development center until the Secretary of Defense submits the report required by subsection (b).

(d) FUNDING.—Of the amounts authorized to be appropriated by section 201, not more than a total of $1,300,000,000 may be obligated to procure services from the federally funded research and development centers named in the report required by subsection (b).

(e) AUTHORITY TO WAIVE FUNDING LIMITATION.—The Secretary of Defense may waive the limitation regarding the maximum funding amount that applies under subsection (a) to a federally funded research and development center. Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the end of the 60-day period that begins on the date on which the notice is submitted to those committees, unless the Secretary determines that it is essential to the national security that funds be obligated for work at that center in excess of that limitation before the end of such period and notifies the Committees on Armed Services of the Senate and House of Representatives of that determination and the reasons for the determination.

(f) PARTICIPATION IN PROGRAMS PROMOTING RESEARCH, DEVELOPMENT, DEMONSTRATION, OR TRANSFER OF TECHNOLOGY.—(1) A federally funded research and development center of the Department of Defense that functions primarily as a research laboratory may respond to solicitations and announcements under programs authorized by the Federal Government for the purpose of promoting the research, development, demonstration, or transfer of technology in a manner consistent with the terms and conditions of such program.

(2) A federally funded research and development center described in paragraph (1) that responds to a solicitation or announcement described in such paragraph shall not be considered to be engaging in a competitive procedure and may use, among other authorities, cooperative research and development agreements provided for under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)) as the instruments of participation in the solicitation or announcement.

(g) STUDY OF ROLE OF FFRDCS IN THE MISSION OF THE DEPARTMENT OF DEFENSE.—The Secretary of Defense shall require the Defense Science Board to conduct a study of the role of federally funded research and development centers in the mission of the Department of Defense. The study shall include an analysis of how the centers fit into the mission of the Department of Defense, which capabilities of the centers are unique and have national security consequences, and how these capabilities can be retained. The study also shall review the extent to which activities performed by such centers could be obtained through in-house capabilities of the Department of Defense or through competitive procedures with for-profit and nonprofit organizations. The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the study not later than May 1, 1995.

(h) REVIEW BY DEFENSE INSPECTOR GENERAL OF COMPARISON OF EXECUTIVE COMPENSATION OF FFRDCS.—(1) The Secretary of Defense shall require the Inspector General of the Department of Defense to conduct a review of the compensation paid by federally funded research and development centers to all the officers and employees of such centers who are paid at a rate exceeding the Executive Schedule Level I rate.

(2) In conducting the review, the Inspector General shall—

(A) assess the validity of the data submitted by federally funded research and development centers to the Defense Contract Audit Agency as justification for the salary rates that exceed the Executive Schedule Level I rate;

(B) compare the compensation paid those individuals with (i) the compensation of similar technical and professional staff from for-profit and nonprofit organizations that must compete for defense work, and (ii) government officials of comparable expertise and responsibility; and

(C) examine areas such as bonuses, medical benefits, severance packages, retirement plans, housing allowances, moving expenses, and other forms of nonsalary compensation, as appropriate.

(3) The Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review not later than May 1, 1995.

(i) LIMITATION REGARDING RATES OF COMPENSATION.—(1) Funds available to the Department of Defense may not be paid to a federally funded research and development center unless the head of such center enters into an agreement with the Secretary of Defense that provides the following:

(A) That no officer or employee of the federally funded research and development center referred to in paragraph (2) will be compensated in fiscal year 1995 at an annual rate of compensation that exceeds the annual rate of compensation provided that officer or employee in fiscal year 1994 (or, in the case of a person not employed as an officer or employee in such fiscal year, the annual rate of compensation provided for the person in the position of that officer or employee in fiscal year 1994).

(B) That no such officer or employee will be paid a bonus or provided any other financial incentive in fiscal year 1995.

(C) That no trustee of the federally funded research and development center will be paid compensation for services as trustee in fiscal year 1995 or any subsequent fiscal year at a rate that exceeds the rate of compensation provided in fiscal year 1994 for a member of the Defense Science Board for service as a member of such board.

(2) Subparagraphs (A) and (B) of paragraph (1) apply to officers and employees of a federally funded research and development center who are compensated at an annual rate of compensation that exceeds the annual rate of pay provided for Executive Schedule level I under section 5312 of title 5, United States Code.

(j) LIMITATION REGARDING CHARITABLE CONTRIBUTIONS.—Funds available to the Department of Defense may not be paid to a federally funded research and development center unless the head of such center enters into an agreement with the Secretary of Defense not to make any charitable donation to a private institution.

VOL 140 PT 16 AG 12 — 18 1994 UMI

local government, institution of higher education, or any other person.

(k) UNDISTRIBUTED REDUCTION.—The total amount authorized to be appropriated for research, development, test, and evaluation in section 201 is hereby reduced by $52,650,000.

SEC. 218. DIGITAL BATTLEFIELD PROGRAM.

(a) FUNDING.—Of the amounts authorized to be appropriated by section 201, $95,857,000 shall be available for fiscal year 1995 for the digital battlefield program (PE 203758A).

(b) PROGRAM LIMITATION.—Not more than 60 percent of the funds appropriated pursuant to section 201 for the digital battlefield program (PE 203758A) for the Army for fiscal year 1995 may be obligated for research and development activities for development or integration of such program until the Secretary of the Army—

(1) coordinates with the Secretary of the Navy to include the Marine Corps in the Army's plans for the digital battlefield; and

(2) transmits to the congressional defense committees a report describing—

(A) the Army's plan of actions and milestones for defining the overall system architecture for the digital battlefield, the standards and protocols for the digital battlefield, and resulting requirements;

(B) how those requirements affect or will affect the major platforms that will make up the digital battlefield; and

(C) the manner in which coordination with the Secretary of the Navy under paragraph (1) is being carried out.

SEC. 219. DUAL-USE ELECTRIC AND HYBRID VEHICLES.

(a) FUNDING.—Of the funds authorized to be appropriated in this Act—

(1) $15,000,000 shall be available for procurement of electric and hybrid vehicles for military uses and for commercialization of such vehicles for nonmilitary uses; and

(2) $10,000,000 shall be available for research, development, test, and evaluation of electric and hybrid vehicles for military uses.

(b) LIMITATION.—(1) Funds made available pursuant to subsection (a) may not be expended until the Secretary of Defense, the Secretary of the Army, and the Secretary of Energy enter into a memorandum of understanding that specifies the responsibilities of each Secretary for research, development, test, evaluation, procurement, and commercialization activities to be carried out with such funds.

(2) The memorandum generally, and specifically in the case of the commercialization of such vehicles for nonmilitary uses, shall provide that any procurement of electric and hybrid vehicles authorized in subsection (a) shall be in accordance with the provisions of the Energy Policy Act of 1992 (Public Law 102–486; 42 U.S.C. 13201 et seq.) and shall be consistent with the amendments made to the Clean Air Act (42 U.S.C. 7401 et seq.) by Public Law 101–549 (commonly known as the Clean Air Act Amendments of 1990; 104 Stat. 2399).

SEC. 220. TACTICAL ANTISATELLITE TECHNOLOGIES PROGRAM.

(a) DEMONSTRATION AND VALIDATION ACTIVITIES.—Subject to subsection (e), the Secretary of Defense shall continue the demonstration and validation of kinetic energy antisatellite technologies under the tactical antisatellite technologies program.

(b) LEVEL FUNDING.—Subject to subsection (e), of the amounts authorized to be appropriated in section 201 for the Army, $5,000,000 shall be available for fiscal year 1995 for engineering development under the tactical antisatellite technologies program.

(c) REQUIREMENT OF OBLIGATION OF PRIOR YEAR FUNDS.—To the extent provided in appropriations Acts, the Secretary shall obligate for engineering development under the tactical antisatellite technologies program all funds available for fiscal year 1993 and fiscal year 1994 for the Kinetic Energy Antisatellite (KE–ASAT) program that remain available for obligation on the date of the enactment of this Act.

(d) REPORT.—The Secretary shall submit to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560).

(e) LIMITATION.—No funds appropriated to the Department of Defense for fiscal year 1995 may be obligated for the tactical antisatellite technologies program until the Secretary of Defense certifies to Congress that there is a requirement for an antisatellite program.

SEC. 221. LIMITATION ON DISMANTLEMENT OF INTERCONTINENTAL BALLISTIC MISSILES.

Funds authorized to be appropriated in this Act may not be obligated or expended for deactivating or dismantling intercontinental ballistic missiles (ICBMs) of the United States below that number of such missiles that is necessary to support 500 deployed intercontinental ballistic missiles until 180 days after the date on which the Secretary of Defense has submitted to the congressional defense committees a report on the results of a nuclear posture review being conducted by the Secretary.

SEC. 222. LIMITATION ON OBLIGATION OF FUNDS FOR SEISMIC MONITORING RESEARCH.

Funds authorized to be appropriated by this Act that are made available for seismic monitoring of nuclear explosions may not be obligated for a project unless the project is authorized in a plan approved by the review group established pursuant to Presidential Decision Directive 18 (dated December 20, 1993).

SEC. 223. SUPERCONDUCTING MAGNETIC ENERGY STORAGE PROJECT.

(a) AVAILABILITY OF FUNDS.—The authorization of appropriations for fiscal year 1993 for the Superconducting Magnetic Energy Storage Project (SMES) shall be effective until the funds appropriated for such project are expended. The purposes for which such funds may be expended under that authorization of appropriations are those that are authorized in section 218 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2352) and section 218 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1589).

(b) TRANSFER DEADLINE.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall comply with the requirement to transfer funds set forth in section 218(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1589).

SEC. 224. DEPARTMENT OF DEFENSE SATELLITE COMMUNICATIONS.

(a) MILSTAR PROGRAM.—Of the amount authorized in section 201 for the MILSTAR satellite communications program, $20,000,000 is available either for advance procurement of MILSTAR satellites 5 and 6 or for the Advanced Extra High Frequency (EHF) program, as determined by the Secretary of Defense.

(b) DEPARTMENT OF DEFENSE SATELLITE COMMUNICATIONS MASTER PLAN.—(1) The Secretary of Defense shall develop a satellite communications master plan that addresses—

(A) the projected military satellite communications requirements of the Department of Defense;

(B) alternate and innovative ways of meeting those requirements (including greater reliance on the commercial sector); and

(C) possible financial incentives to ensure that those elements of the Department of Defense that create the demand for such communications services are required to have an important role in paying for the provision of those services.

(2) The Secretary shall submit to Congress a report on the master plan developed under subsection (a) not later than April 30, 1995.

Subtitle C—Missile Defense Programs

SEC. 231. COMPLIANCE OF BALLISTIC MISSILE DEFENSE SYSTEMS AND COMPONENTS WITH ABM TREATY.

(a) GENERAL LIMITATION.—Funds appropriated to the Department of Defense for fiscal year 1995, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1995 or for any fiscal year before 1995, may not be obligated or expended—

(1) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter; or

(2) for the acquisition of any material or equipment (including long lead materials, components, piece parts, or test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(b) LIMITATION RELATING TO BRILLIANT EYES.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201 that are made available for the space-based, midcourse missile tracking system known as the Brilliant Eyes program, not more than $80,000,000 may be obligated until the Secretary of Defense submits to the appropriate congressional committees a report on the compliance of that program with the ABM Treaty, as determined under the compliance review conducted pursuant to subsection (c).

(c) COMPLIANCE REVIEW FOR BRILLIANT EYES.—The Secretary of Defense shall review the Brilliant Eyes program to determine whether, and under what conditions, the development, testing, and deployment of the Brilliant Eyes missile tracking system in conjunction with a theater ballistic missile defense system, with a limited national missile defense system, and with both such systems, would be in compliance with the ABM Treaty, including the interpretation of that treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(d) COMPLIANCE REVIEW FOR NAVY UPPER TIER SYSTEM.—(1) The Secretary of Defense shall review the theater ballistic missile program known as the Navy Upper Tier program to determine whether the development, testing, and deployment of the system being developed under that program would be in compliance with the ABM Treaty, including the interpretation of the Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(2) Of the funds made available to the Department of Defense for fiscal year 1995, not more than $40,000,000 may be obligated for the Navy Upper Tier program before the date on which the Secretary submits to the appropriate congressional committees a report on the compliance of that program with the ABM Treaty, as determined under the compliance review under paragraph (1).

(e) DEFINITIONS.—In this section:

(1) The term "July 13, 1993, ACDA letter" means the letter dated July 13, 1993, from the Acting Director of the Arms Control and Disarmament Agency to the chairman of the Committee on Foreign Relations of the Senate relating to the correct interpretation of the ABM Treaty and accompanied by an enclosure setting forth such interpretation.

(2) The term "ABM Treaty" means the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed in Moscow on May 26, 1972.

(3) The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

SEC. 232. MODIFICATIONS TO ANTI-BALLISTIC MISSILE TREATY TO BE ENTERED INTO ONLY THROUGH TREATY MAKING POWER.

(a) REQUIREMENT FOR USE OF TREATY MAKING POWER.—The United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered pursuant to the treaty making power of the President under the Constitution.

(b) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

SEC. 233. REVISIONS TO THE MISSILE DEFENSE ACT OF 1991.

The Missile Defense Act of 1991 (part C of title II of Public Law 102–190; 10 U.S.C. 2431 note) is amended—

(1) by striking out sections 235, 236, and 237; and

(2) in section 238, by inserting before the period at the end of the second sentence the following: ", and shall submit to the Congress additional interim reports on the progress of such negotiations at six-month intervals thereafter until such time as the President notifies the Congress that such negotiations have been concluded or terminated".

SEC. 234. LIMITATION ON FLIGHT TESTS OF CERTAIN MISSILES.

(a) LIMITATION.—The Secretary of Defense may not conduct the launch of a target ballistic missile as part of the theater missile defense extended range test program if an anticipated result of the launch of that target missile under that test program would be release of debris in a land area of the United States outside a designated Department of Defense test range or an extension thereof in force as of July 1, 1994.

(b) DEFINITION OF DEBRIS.—For purposes of subsection (a), the term "debris" does not include particulate matter that is regulated for considerations of air quality.

(c) CERTAIN TESTING UNAFFECTED.—Nothing in this section shall be construed as prohibiting or limiting testing of cruise missiles, unmanned aerial vehicles (UAVs), or precision-guided munitions.

(d) EXPIRATION OF LIMITATION.—The limitation in subsection (a) shall expire on the later of—

(1) June 30, 1995; or

(2) the end of the 30-day period beginning on the date of the publication by the Secretary of Defense of the Final Environmental Impact Statement on the Theater Missile Defense Extended Test Range.

SEC. 235. PROGRAM ELEMENTS FOR BALLISTIC MISSILE DEFENSE ORGANIZATION.

In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 1995 (as submitted in the budget of the President), the amount requested for activities of the Ballistic Missile Defense Organization shall be set forth in accordance with the following program elements:

(1) National Missile Defense.

(2) Theater High-Altitude Area Defense (THAAD).

(3) The Hawk Missile system.

(4) Battle Management, Command, Control, Communications, and Intelligence (BM/C^{3}I).

(5) Patriot Advanced Capability-3 Missile System.

(6) Patriot Advanced Capability-3 Missile risk reduction.

(7) Navy Lower Tier Missile Defense.

(8) Navy Upper Tier Missile Defense.

(9) Army Corps Surface-to-Air Missile (CORPS SAM).

(10) Boost Phase Intercept Program.

(11) Other Theater Missile Defense Activities.

(12) Support Technologies.

(13) Program Management.

Subtitle D—Women's Health Research

SEC. 241. DEFENSE WOMEN'S HEALTH RESEARCH PROGRAM.

(a) CONTINUATION OF PROGRAM.—The Secretary of Defense shall continue the Defense Women's Health Research Program established in fiscal year 1994 pursuant to the authority in section 251 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1606). The program shall continue to serve as the coordinating agent for multi-disciplinary and multi-institutional research within the Department of Defense on women's health issues related to service in the Armed Forces. The program also shall continue to coordinate with research supported by other Federal agencies that is aimed at improving the health of women.

(b) PARTICIPATION BY ALL MILITARY DEPARTMENTS.—The Departments of the Army, Navy, and Air Force shall each participate in the activities under the program.

(c) ARMY TO BE EXECUTIVE AGENT.—The Secretary of Defense shall designate the Secretary of the Army to be the executive agent for administering the program.

(d) IMPLEMENTATION PLAN.—If the Secretary of Defense intends to change the plan for the implementation of the program previously submitted to the Committees on Armed Services of the Senate and House of Representatives, the amended plan shall be submitted to such committees before implementation.

(e) PROGRAM ACTIVITIES.—The program shall include the following activities regarding health risks and health care for women in the Armed Forces:

(1) The coordination and support activities described in section 251 of Public Law 103–160.

(2) Epidemiologic research regarding women deployed for military operations, including research on patterns of illness and injury, environmental and occupational hazards (including exposure to toxins), side-effects of pharmaceuticals used by women so deployed, psychological stress associated with military training, deployment, combat and other traumatic incidents, and other conditions of life, and human factor research regarding women so deployed.

(3) Development of a data base to facilitate long-term research studies on issues related to the health of women in military service, and continued development and support of a women's health information clearinghouse to serve as an information resource for clinical, research, and policy issues affecting women in the Armed Forces.

(4) Research on policies and standards issues, including research supporting the development of military standards related to training, operations, deployment, and retention and the relationship between such activities and factors affecting women's health.

(5) Research on interventions having a potential for addressing conditions of military service that adversely affect the health of women in the Armed Forces.

(f) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201, $40,000,000 shall be available for the Defense Women's Health Research Program referred to in subsection (a).

Subtitle E—Other Matters

SEC. 251. REQUIREMENT FOR SUBMISSION OF ANNUAL REPORT OF THE SEMICONDUCTOR TECHNOLOGY COUNCIL TO CONGRESS.

Section 273(b)(2)(1) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603(b)(2)(1)), as amended by section 263 of Public Law 103–160 (107 Stat. 1608) is amended by inserting "and submit to Congress by March 31 of each year" after "Publish".

SEC. 252. REPORT ON OCEANOGRAPHIC SURVEY AND RESEARCH REQUIREMENTS TO SUPPORT LITTORAL WARFARE.

(a) REPORT REQUIRED.—Not later than March 1, 1995, the Secretary of the Navy shall submit to Congress a report on the oceanographic survey and research and development requirements needed to support Navy operations in littoral regions.

(b) CONTENT OF REPORT.—The report shall contain the following:

(1) An identification of unique properties, including acoustics, bathymetry, bottom type, and ocean dynamics that affect shallow water operations in littoral regions.

(2) A list of the principal littoral regions that—

(A) designates each region as high, medium, or low priority based on the probable need for Navy operations in such regions; and

(B) for each region, is annotated to identify—

(i) the date of the most recent detailed survey; and

(ii) the extent to which that survey provides insight into the region's properties identified pursuant to paragraph (1).

(3) An assessment of the Navy's current and projected access to each region for surveying purposes.

(4) An assessment of the ability of current oceanographic survey and research assets to develop the information identified in paragraph (1).

SEC. 253. LANSCE/LAMPF UPGRADES.

Of the amounts authorized to be appropriated by section 201(1), $20,000,000 shall be available to complete the Los Alamos Neutron Scattering Center/Los Alamos Meson Physics Facility upgrades at the Los Alamos National Laboratory, Los Alamos, New Mexico.

SEC. 254. STUDY REGARDING LIVE-FIRE SURVIVABILITY TESTING OF F–22 AIRCRAFT.

(a) REQUIREMENT.—The Secretary of Defense shall request the National Research Council of the National Academy of Sciences—

(1) to conduct a study regarding the desirability of exercising the authority under subsection (c) of section 2366 of title 10, United States Code, to waive for the F–22 aircraft program the survivability tests required pursuant to subsection (a) of such section; and

(2) to submit to the Secretary and Congress, within 180 days after the date of the enactment of this Act, a report containing the conclusions of the Council regarding the desirability of waiving such tests.

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) Conclusions regarding the practicality of full-scale, full-up testing for the F–22 aircraft program.

(2) A discussion of the implications regarding the affordability of the F–22 aircraft program of conducting and of not conducting the survivability tests, including an assessment of the potential life cycle benefits that could be derived from full-scale, full-up live fire testing in comparison to the costs of such testing.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(3) A discussion of what, if any, changes of circumstances affecting the F–22 aircraft program have occurred since completion of the milestone II program review to cause the program manager to request a waiver of the survivability tests for the F–22 aircraft program that was not requested at that time.

(4) The sufficiency of the F–22 aircraft program testing plans to fulfill the same requirements and purposes as are provided in subsection (e)(3) of section 2366 of title 10, United States Code, for realistic survivability testing for purposes of subsection (a)(1)(A) of such section.

(5) Any recommendations regarding survivability testing for the F–22 aircraft program that the Council considers appropriate on the basis of the study.

SEC. 255. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Of the amounts authorized to be appropriated under section 201, $10,000,000 shall be available for the University Research Initiative Support Program established pursuant to section 802 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 103–160; 107 Stat. 1701; 10 U.S.C. 2358 note).

SEC. 256. MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.

(a) PROGRAM AUTHORIZED.—(1) Section 2525 of title 10, United States Code, is amended to read as follows:

"§ 2525. Manufacturing science and technology program

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Manufacturing Science and Technology Program to further the national security objectives of section 2501(a) of this title. The Under Secretary of Defense for Acquisition and Technology shall administer the program.

"(b) PURPOSE.—The purpose of the program is to enhance the capability of industry to meet the manufacturing needs of the Department of Defense.

"(c) EXECUTION.—The Secretary may carry out projects under the program through the Secretaries of the military departments and the heads of the Defense Agencies.

"(d) COMPETITION AND COST SHARING.—(1) Competitive procedures shall be used for awarding all grants and entering into all contracts, cooperative agreements, and other transactions under the program.

"(2) A grant may not be awarded under the program, and a contract, cooperative agreement, or other transaction may not be entered into under the program, on any basis other than a cost-sharing basis unless the Secretary of Defense determines that the grant, contract, cooperative agreement, or other transaction, as the case may be, is for a program that—

"(A) is not likely to have any immediate and direct commercial application; or

"(B) is of sufficiently high risk to discourage cost sharing by non-Federal Government sources.".

(2) The item relating to section 2525 in the table of sections at the beginning of subchapter IV of chapter 148 of such title is amended to read as follows:

"2525. Manufacturing Science and Technology Program.".

(b) FUNDING.—Of the amounts appropriated pursuant to section 201, not more than $109,420,000 shall be available for the Manufacturing Science and Technology Program under section 2525 of title 10, United States Code (as amended by subsection (a)), of which—

(1) not more than $29,420,000 shall be available for the Army;

(2) not more than $20,000,000 shall be available for the Navy;

(3) not more than $50,000,000 shall be available for the Air Force; and

(4) not more than $10,000,000 shall be available for the Defense Logistics Agency.

SEC. 257. DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) PROGRAM REQUIRED.—The Secretary of Defense, acting through the Director of Defense Research and Engineering, shall carry out a Defense Experimental Program to Stimulate Competitive Research (DEPSCoR) as part of the university research programs of the Department of Defense.

(b) PROGRAM OBJECTIVES.—The objectives of the program are as follows:

(1) To enhance the capabilities of institutions of higher education in eligible States to develop, plan, and execute science and engineering research that is competitive under the peer-review systems used for awarding Federal research assistance.

(2) To increase the probability of long-term growth in the competitively awarded financial assistance that institutions of higher education in eligible States receive from the Federal Government for science and engineering research.

(c) PROGRAM ACTIVITIES.—In order to achieve the program objectives, the following activities are authorized under the program:

(1) Competitive award of research grants.

(2) Competitive award of financial assistance for graduate students.

(d) ELIGIBLE STATES.—(1) The Director of the National Science Foundation shall designate which States are eligible States for the purposes of this section and shall notify the Director of Defense Research and Engineering of the States so designated.

(2) The Director of the National Science Foundation shall designate a State as an eligible State if, as determined by the Director—

(A) the institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the State for the fiscal year preceding the fiscal year for which the designation is effective, or for the last fiscal year for which statistics are available, is less than the amount equal to 60 percent of the national institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the United States for such preceding or last fiscal year, as the case may be;

(B) the State has demonstrated a commitment to developing research bases in the State and to improving science and engineering research and education programs at institutions of higher education in the State; and

(C) the State is an eligible State for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(e) COORDINATION WITH SIMILAR FEDERAL PROGRAMS.—(1) The Secretary shall consult with the Director of the National Science Foundation and the Director of the Office of Science and Technology Policy in the planning, development, and execution of the program and shall coordinate the program with the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation and with similar programs sponsored by other departments and agencies of the Federal Government.

(2) All solicitations under the Defense Experimental Program to Stimulate Competitive Research shall be made to, and all awards shall be made through, the State committees established for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(3) A State committee referred to in paragraph (2) shall ensure that activities carried out in the State of that committee under the Defense Experimental Program to Stimulate Competitive Research are coordinated with the activities carried out in the State under other similar initiatives of the Federal Government to stimulate competitive research.

SEC. 258. STUDY ON CONVERGENCE OF GEOSAT AND EOS ALTIMETRY PROGRAMS.

(a) REQUIREMENT.—The Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a study on the convergence of the National Aeronautics and Space Administration Earth Observing System Altimetry mission with the Navy Geosat Follow-On program. The study shall assess whether a converged system, which may involve minor modifications to the Geosat Follow-On satellite, could—

(1) satisfy the needs of the Earth Observing System program for altimetry data;

(2) reduce the cost to the National Aeronautics and Space Administration of satisfying such needs;

(3) be available in time to serve as the follow-on to the Topez/Poseidon mission; and

(4) continue to meet the requirements of the Navy for altimetry data at no additional cost to the Navy.

(b) CONSULTATION.—In conducting the study, the Secretary and the Administrator shall consult with appropriate members of the scientific community.

(c) REPORT.—The Secretary and the Administrator shall submit to the Committees on Armed Services and on Commerce, Science, and Transportation of the Senate and the Committees on Armed Services and on Science, Space, and Technology of the House of Representatives a joint report on the results of the study conducted under subsection (a), together with the recommendations of the Secretary and the Administrator thereon. The report shall be submitted not later than February 15, 1995.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $17,426,804,000.

(2) For the Navy, $21,055,470,000.

(3) For the Marine Corps, $2,066,295,000.

(4) For the Air Force, $18,837,623,000.

(5) For Defense-wide activities, $10,031,576,000.

(6) For the Army Reserve, $1,238,822,000.

(7) For the Naval Reserve, $827,819,000.

(8) For the Marine Corps Reserve, $81,462,000.

(9) For the Air Force Reserve, $1,464,932,000.

(10) For the Army National Guard, $2,398,415,000.

(11) For the Air National Guard, $2,771,678,000.

(12) For the National Board for the Promotion of Rifle Practice, $2,544,000.

(13) For the Defense Inspector General, $140,798,000.

(14) For the United States Court of Appeals for the Armed Forces, $6,126,000.

(15) For Environmental Restoration, Defense, $2,030,200,000.

(16) For Drug Interdiction and Counter-drug Activities, Defense-wide, $714,200,000.

(17) For Medical Programs, Defense, $9,854,459,000.

(18) For Project Peace, $15,000,000.

(19) For Cooperative Threat Reduction programs, $400,000,000.

(20) For Overseas Humanitarian, Disaster, and Civic Aid programs, $86,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Business Operations Fund, $1,239,438,000.

(2) For the National Defense Sealift Fund, $828,600,000, of which $220,000,000 shall be available for the Marine Corps maritime prepositioning ship enhancement program.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1995 from the Armed Forces Retirement Home Trust Fund the sum of $59,317,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. FUNDS FOR DEPOT-LEVEL MAINTENANCE AND REPAIR WORK.

Of amounts authorized to be appropriated for fiscal year 1995 under section 301, there shall be available for the performance of depot-level maintenance and repair work by depot-level activities of the Department of Defense the amount that is equal to the sum of—

(1) the total amount provided in the budget submitted to Congress by the President for fiscal year 1995 pursuant to section 1105 of title 31, United States Code, for the Department of Defense for the performance of depot-level maintenance and repair work; and

(2) $305,000,000, of which—

(A) $140,000,000 shall be available for the Army;

(B) $40,000,000 shall be available for the Navy;

(C) $75,000,000 shall be available for the Air Force; and

(D) $50,000,000 shall be available for the Marine Corps.

SEC. 305. SUPPORT FOR THE 1996 SUMMER OLYMPICS.

Section 306(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1335) is amended by inserting ", and for fiscal year 1995 the sum of $10,000,000," after "for fiscal year 1992 the sum of $2,000,000".

SEC. 306. SUPPORT FOR THE 1995 SPECIAL OLYMPICS WORLD GAMES.

(a) AUTHORITY TO PROVIDE SUPPORT.—The Secretary of Defense may provide logistical support and personnel services in connection with the 1995 Special Olympics World Games to be held in the State of Connecticut.

(b) PAY AND NONTRAVEL-RELATED ALLOWANCES.—(1) Except as provided in paragraph (2), the costs for pay and nontravel-related allowances of members of the Armed Forces for the support and services referred to in subsection (a) may not be charged to appropriations made pursuant to the authorization in subsection (c).

(2) Paragraph (1) does not apply in the case of members of a reserve component called or ordered to active duty to provide logistical support and personnel services for the 1995 Special Olympics World Games.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Defense for fiscal year 1995 the sum of $3,000,000 to carry out subsection (a).

Subtitle B—Defense Business Operations Fund

SEC. 311. OVERSIGHT OF DEFENSE BUSINESS OPERATIONS FUND.

(a) EXTENSION OF AUTHORITY.—Section 316(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2208 note) is amended by striking out "During the period" and all that follows through "December 31, 1994, the" and inserting in lieu thereof "The".

(b) PURCHASE FROM OTHER SOURCES.—The Secretary of Defense or the Secretary of a military department may purchase goods and services that are available for purchase from the Defense Business Operations Fund from a source other than the Fund if the Secretary determines that such source offers a more competitive rate for the goods and services than the Fund offers.

(c) LIMITATION ON INCLUSION OF CERTAIN COSTS IN DBOF CHARGES.—A charge imposed for a good or service provided through the Fund may not include amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

(d) PROCEDURES FOR ACCUMULATION OF FUNDS.—The Secretary of Defense shall establish billing procedures to ensure that the balance in the Fund does not exceed the amount necessary to provide for the working capital requirements of the Fund, as determined by the Secretary.

(e) ANNUAL REPORTS AND BUDGET.—The Secretary of Defense shall annually submit to the congressional defense committees, at the same time that the President submits the budget under section 1105 of title 31, United States Code, the following:

(1) A detailed report that contains a statement of all receipts and disbursements of the Fund (including such a statement for each subaccount of the Fund) for the year for which the report is submitted.

(2) A detailed proposed budget for the operation of the Fund for the fiscal year for which the budget is submitted.

(3) A comparison of the amounts actually expended for the operation of the Fund for the previous fiscal year with the amount proposed for the operation of the Fund for that fiscal year in the budget.

(f) IMPLEMENTATION OF IMPROVEMENT PLAN.—(1) Not later than February 1, 1995, the Secretary of Defense shall submit to the congressional defense committees a report on the progress made in implementing the Defense Business Operations Fund Improvement Plan, dated September 1993. The report shall describe the progress made in reaching the milestones established in the plan and provide an explanation for any failure to meet any such milestone. The Secretary shall submit a copy of the report to the Comptroller General of the United States at the same time that the Secretary submits the report to the congressional defense committees.

(2) The Comptroller General shall monitor and evaluate the progress of the Department of Defense in developing and implementing the improvement plan referred to in paragraph (1).

(3) Not later than March 1, 1995, the Comptroller General shall submit to the congressional defense committees a report containing the following:

(A) An evaluation of the progress report submitted to the congressional defense committees by the Secretary of Defense pursuant to paragraph (1).

(B) The findings and conclusions of the Comptroller General resulting from the monitoring and evaluation conducted under paragraph (2).

(C) Any recommendations for legislation or administrative action concerning the Fund that the Comptroller General considers appropriate.

(g) DEFINITION.—In this section, the term "Fund" means the Defense Business Operations Fund.

SEC. 312. REVIEW BY COMPTROLLER GENERAL OF CHARGES IMPOSED BY DEFENSE BUSINESS OPERATIONS FUND.

(a) REVIEW.—The Comptroller General of the United States shall review the charges proposed by the Secretary of Defense to be imposed for fiscal year 1996 for goods and services provided by the Defense Business Operations Fund, including related service charges and charges for overhead costs.

(b) DETERMINATION REQUIRED.—In conducting the review, the Comptroller General shall—

(1) compare the charges imposed for the provision of goods and services to the military departments and Defense Agencies with the charges imposed for the provision of goods and services to persons outside the Department of Defense; and

(2) determine the extent to which differences in such charges result in the military departments and Defense Agencies having a cost advantage or a cost disadvantage in relation to the persons outside the Department of Defense.

(c) REPORT.—Not later than April 15, 1995, the Comptroller General shall submit to Congress a report on the results of the review conducted under subsection (a). The report shall contain the comparison and determination required by subsection (b) and any recommendations of the Comptroller General for legislation or administrative action.

SEC. 313. LIMITATION ON OBLIGATIONS AGAINST THE CAPITAL ASSET FUND.

The Secretary of Defense may not incur obligations against funds in the capital asset subaccount of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of $1,440,000,000.

SEC. 314. LIMITATION ON OBLIGATIONS AGAINST THE SUPPLY MANAGEMENT DIVISIONS.

(a) LIMITATION.—(1) The Secretary of Defense may not incur obligations against the supply management divisions of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of 65 percent of the total amount derived from sales from such divisions during that fiscal year.

(2) For purposes of determining the amount of obligations incurred against, and sales from, such divisions during fiscal year 1995, the Secretary shall exclude obligations and sales for fuel, commissary and subsistence items, retail operations, repair of equipment and spare parts in support of repair, direct vendor deliveries, foreign military sales, initial outfitting requiring equipment furnished by the Federal Government, and the cost of operations.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such waiver is necessary in order to maintain the readiness and combat effectiveness of the Armed Forces. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

(c) DETERMINATIONS OF EFFECTS OF LIMITATION ON READINESS AND COMBAT EFFECTIVENESS.—Not later than 60 days after the date of the enactment of this Act, the Secretaries of the military departments and the Director of the Defense Logistics Agency shall each submit to the Secretary of Defense a report containing the views of such official on the effects of the limitation in subsection (a) on the ability of the Department of Defense to maintain the readiness and combat effectiveness of the Armed Forces. If the Secretary of Defense determines, after considering the reports, that the limitation will impair the readiness and combat effectiveness of any of the Armed Forces, the Secretary shall exercise the waiver authority provided in subsection (b).

Subtitle C—Environmental Provisions

SEC. 321. LIMITATION ON USE OF ENVIRONMENTAL RESTORATION FUNDS FOR PAYMENT OF FINES AND PENALTIES.

Section 2703 of title 10, United States Code, is amended by adding at the end the following new subsection:

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(f) PAYMENT OF FINES AND PENALTIES.—None of the funds appropriated to the transfer account for fiscal years 1995 through 1999 may be used for the payment of a fine or penalty imposed against the Department of Defense unless the act or omission for which the fine or penalty is imposed arises out of an activity funded by the transfer account.".

SEC. 322. PARTICIPATION OF INDIAN TRIBES IN AGREEMENTS FOR DEFENSE ENVIRONMENTAL RESTORATION.

Section 2701(d) of title 10, United States Code, is amended—

(1) by striking out "SERVICE OF OTHER AGENCIES.—The Secretary" and inserting in lieu thereof the following: "SERVICE OF OTHER AGENCIES.—

"(1) IN GENERAL.—The Secretary";

(2) in paragraph (1), as so designated, by inserting "or any Indian tribe" after "any State or local government agency"; and

(3) by adding at the end the following:

"(2) DEFINITION.—In this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).".

SEC. 323. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

Section 2701(j)(1) of title 10, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1999".

SEC. 324. PAYMENT OF CERTAIN STIPULATED CIVIL PENALTIES.

The Secretary of Defense may pay, from funds appropriated pursuant to section 301(15), not more than $500,000 to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) as payment of stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against the West Virginia Ordnance Works.

SEC. 325. ADDITIONAL EXCEPTION TO PROHIBITION ON STORAGE AND DISPOSAL OF NONDEFENSE TOXIC AND HAZARDOUS MATERIALS AT MILITARY INSTALLATIONS.

Section 2692(b) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(9) the treatment and disposal of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated by a private person in connection with the authorized and compatible commercial use by that person of an industrial-type facility of that military department and the Secretary enters into a contract with that person that—

"(A) is consistent with the best interest of national defense and environmental security; and

"(B) provides for that person's continued financial and environmental responsibility and liability with regard to the material.".

SEC. 326. ASSISTANCE FOR PUBLIC PARTICIPATION IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES.

(a) ESTABLISHMENT OF RESTORATION ADVISORY BOARDS.—Section 2705 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) RESTORATION ADVISORY BOARD.—(1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

"(2) The Secretary shall prescribe regulations regarding the characteristics, composition, funding, and establishment of restoration advisory boards pursuant to this subsection. However, the issuance of regulations shall not be a precondition to the establishment of a restoration advisory board or affect the existence or operation of a restoration advisory board established before the date of the enactment of this section.

"(3) The Secretary may provide for the payment of routine administrative expenses of a restoration advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(3).".

(b) ASSISTANCE FOR CITIZEN PARTICIPATION ON TECHNICAL REVIEW BOARDS AND RESTORATION ADVISORY BOARDS.—Such section is further amended by adding after subsection (d), as added by subsection (a), the following new subsection:

"(e) ASSISTANCE FOR CITIZEN PARTICIPATION.—(1) Using funds made available under paragraph (3), the Secretary may make technical assistance grants under section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617(e)) in connection with installations containing facilities listed on the National Priorities List.

"(2)(A) Subject to subparagraph (B), the Secretary shall make available under paragraph (3) funds to facilitate the participation of individuals from the private sector on technical review committees and restoration advisory boards at installations not covered by paragraph (1) for the purpose of ensuring public input into the planning and implementation of environmental restoration activities at the installations for which such committees and boards are in operation.

"(B) The private individuals who are members of a committee or advisory board are eligible for funding assistance under this paragraph only if they reside in the vicinity of the installation (or installations) for which the committee or advisory board is established and are not potentially responsible parties with respect to environmental hazards at any installation. Funds shall be paid to, and administered by, the committee or advisory board on which the private individuals are members for accounting and financial management purposes, subject to subparagraph (C).

"(C) Individuals who are local community members of a technical review committee or restoration advisory board may use funds made available under this paragraph only—

"(i) to obtain technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards at an installation and the restoration activities proposed for or conducted at the installation; and

"(ii) to assist such members and affected citizens to participate more effectively in environmental restoration activities at the installation.

"(D) The members of a technical review committee or restoration advisory board may use funds made available under this paragraph to employ technical or other experts, in accordance with the regulations prescribed under subsection (d)(2).

"(3)(A) Subject to subparagraph (B), the Secretary shall make funds available under this subsection using funds in the following accounts:

"(i) In the case of a military installation not closed pursuant to a base closure law, the Defense Environmental Restoration Account established in section 2703(a) of this title.

"(ii) In the case of a technical review committee or restoration advisory board established for a military installation to be closed, the Department of Defense Base Closure Account 1990 established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

"(B) The total amount of funds available under this subsection for fiscal year 1995 may not exceed $7,500,000.".

(c) INVOLVEMENT OF COMMITTEES AND BOARDS IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—Such section is further amended by adding after subsection (e), as added by subsection (b), the following new subsection:

"(f) INVOLVEMENT IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—If a technical review committee or restoration advisory board is established with respect to an installation (or group of installations), the Secretary shall consult with and seek the advice of the committee or board on the following issues:

"(1) Identifying environmental restoration activities and projects at the installation or installations.

"(2) Monitoring progress on these activities and projects.

"(3) Collecting information regarding restoration priorities for the installation or installations.

"(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation or installations.

"(5) Developing environmental restoration strategies for the installation or installations.".

(d) IMPLEMENTATION REQUIREMENTS.—Not later than 180 days after the date on which the Secretary of Defense announces a decision to establish restoration advisory boards, the Secretary shall—

(1) prescribe the regulations required under subsection (d)(2) of section 2705 of title 10, United States Code, as added by subsection (a); and

(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as added by subsection (b).

(e) REPORT.—Not later than May 1, 1996, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report regarding—

(1) the establishment of restoration advisory boards under subsection (d) of section 2705 of title 10, United States Code, as added by subsection (a); and

(2) the expenditure of funds for assistance for citizen participation on technical review committees and restoration advisory boards under subsection (e) of such section, as added by subsection (b).

SEC. 327. PILOT PROGRAM TO DEVELOP AND DEMONSTRATE ENVIRONMENTAL REMEDIATION TECHNOLOGIES.

(a) COOPERATIVE AGREEMENT FOR PILOT PROGRAM.—(1) The Secretary of Defense may enter into a cooperative agreement with an institution of higher education for the purpose of facilitating the development and demonstration of new methods and technologies for more effective and expedient environmental remediation at military installations by engaging in a pilot demonstration project as provided in subsection (b).

(2) If the Secretary enters into a cooperative agreement under paragraph (1), the agreement shall authorize the institution of higher education to enter into partnerships or other relationships with private and public entities for purposes of conducting activities under the cooperative agreement.

(b) PILOT PROJECT AT DEFENSE LANDFILL.—(1) If the Secretary enters into a cooperative agreement under subsection (a)(1), the agreement shall authorize the institution of higher education to participate in a cooperative pilot demonstration project at a Government landfill described in paragraph (2) if such demonstration project can be carried out in a manner that is consistent with all other actions at such landfill that the Secretary is legally required to undertake.

(2) The Government landfill referred to in paragraph (1) is a Government landfill that—

(A) is listed on the National Priorities List pursuant to section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)); and

(B) is located on a military installation to be closed pursuant to a base closure law.

(c) FUNDING FOR FISCAL YEAR 1995.—Of the amount authorized to be appropriated under section 201(4) and made available for innovative environmental technologies certification, $1,000,000 shall be available for the establishment of the cooperative agreement and the activities necessary to conduct the pilot demonstration project under this section.

SEC. 328. ENVIRONMENTAL EDUCATION AND TRAINING PROGRAM FOR DEFENSE PERSONNEL.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish and conduct an education and training program for members of the Armed Forces and civilian employees of the Department of Defense whose responsibilities include planning or executing the environmental mission of the Department. The Secretary shall conduct the program to ensure that such members and employees obtain and maintain the knowledge and skill required to comply with existing environmental laws and regulations.

(b) IDENTIFICATION OF MILITARY FACILITIES WITH ENVIRONMENTAL TRAINING EXPERTISE.—As part of the program, the Secretary may identify military facilities that have existing expertise (or the capacity to develop such expertise) in conducting education and training activities in various environmental disciplines. In the case of a military facility identified under this subsection, the Secretary should encourage the use of the facility by members and employees referred to in subsection (a) who are not under the jurisdiction of the military department operating the facility.

SEC. 329. STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER.

(a) STUDY.—The Secretary of the Army shall carry out a study of the feasibility and advisability of establishing a center for the land management activities and land management training activities of the Department of Defense.

(b) REPORT.—Not later than May 1, 1996, the Secretary shall submit to the congressional defense committees a report on the study required under subsection (a). If the Secretary concludes as a result of the study that establishing the center is feasible and advisable, the report shall include a statement of the Secretary's recommendations for the location of the center and the specific activities to be conducted at the center.

Subtitle D—Depot-Level Activities

SEC. 331. FINDINGS.

Congress makes the following findings:

(1) By providing the Armed Forces with a critical capacity to respond to the needs of the Armed Forces for depot-level maintenance and repair of weapon systems and equipment, the depot-level maintenance and repair activities of the Department of Defense play an essential role in maintaining the readiness of the Armed Forces.

(2) It is appropriate for the capability of the depot-level maintenance and repair activities of the Department of Defense to perform maintenance and repair of weapon systems and equipment to be based on policies that take into consideration the readiness, mobilization, and deployment requirements of the military departments.

(3) It is appropriate for the management of employees of the depot-level maintenance and repair activities of the Department of Defense to be based on the amount of workload necessary to be performed by such activities to maintain the readiness of the weapon systems and equipment of the military departments and on the funds made available for the performance of such workload.

SEC. 332. MODIFICATION OF LIMITATION ON PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.

(a) MODIFICATION.—Subsection (a) of section 2466 of title 10, United States Code, is amended to read as follows:

"(a) PERCENTAGE LIMITATION.—Not more than 40 percent of the funds made available in a fiscal year to a military department or a Defense Agency for depot-level maintenance and repair workload may be used to contract for the performance by non-Federal Government personnel of such workload for the military department or the Defense Agency. Any such funds that are not used for such a contract shall be used for the performance of depot-level maintenance and repair workload by employees of the Department of Defense.".

(b) INCLUSION OF REPAIR ACTIVITIES.—Subsection (b) of such section is amended by inserting "and repair" after "maintenance" each place it appears.

(c) REPORT.—Subsection (e) of such section is amended to read as follows:

"(e) REPORT.—Not later than January 15, 1995, the Secretary of Defense shall submit to Congress a report identifying, for each military department and Defense Agency, the percentage of funds referred to in subsection (a) that was used during fiscal year 1994 to contract for the performance by non-Federal Government personnel of depot-level maintenance and repair workload.".

SEC. 333. REPORT ON PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR OF NEW WEAPON SYSTEMS.

(a) REPORT.—Not later than April 1, 1995, the Secretary of Defense shall submit to Congress a report that contains a statement by each Secretary of a military department on the plans of that military department to provide for the depot-level maintenance and repair of any new weapon system described in subsection (b) by depot-level activities of the Department of Defense.

(b) COVERED WEAPON SYSTEMS.—A new weapon system referred to in subsection (a) is a weapon system—

(1) initially delivered to the military department by a contractor on, or within 4 years before, the date of the enactment of this Act; or

(2) planned for initial delivery to the military department by a contractor on, or within 5 years after, such date.

SEC. 334. REVIEW OF COST GROWTH IN CONTRACTS TO PERFORM DEPOT-LEVEL MAINTENANCE AND REPAIR.

(a) REVIEW.—The Secretary of Defense shall carry out a review of a representative sample of existing contracts entered into by the Department of Defense for the performance of depot-level maintenance and repair to determine the extent to which the costs incurred by a contractor under any such contract have exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than May 1, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the review carried out under subsection (a).

SEC. 335. AUTHORITY FOR DEPOT-LEVEL ACTIVITIES OF THE DEPARTMENT OF DEFENSE TO COMPETE FOR MAINTENANCE AND REPAIR WORKLOADS OF OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

"§2470. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies

"A depot-level activity of the Department of Defense shall be eligible to compete for the performance of any depot-level maintenance and repair workload of a Federal agency for which competitive procedures are used to select the entity to perform the workload.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2470. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies.".

SEC. 336. AUTHORITY OF DEPOTS TO PROVIDE SERVICES OUTSIDE THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Chapter 146 of title 10, United States Code, as amended by section 335, is further amended by adding at the end the following new section:

"§2471. Persons outside the Department of Defense: lease of excess depot-level equipment and facilities by

"(a) AUTHORITY TO LEASE EXCESS EQUIPMENT AND FACILITIES.—Subject to subsection (b), the Secretary of a military department and, with respect to a Defense Agency, the Secretary of Defense, may lease excess equipment and facilities of a depot-level activity of the military department, or the Defense Agency, to a person outside the Department of Defense.

"(b) LIMITATIONS.—A lease under subsection (a) may be entered into only if—

"(1) the lease of any such equipment or facilities will not have a significant adverse effect on the readiness of the armed forces, as determined by the Secretary concerned;

"(2) the person leasing such equipment or facilities agrees to reimburse the Department of Defense for the costs (both direct and indirect costs, including any rental costs, as determined the Secretary concerned) attributable to the lease of such equipment or facilities;

"(3) the person leasing such equipment or facilities agrees to hold harmless and indemnify the United States, except in cases of willful conduct or gross negligence, from any claim for damages or injury to any person or property arising out the lease of such equipment or facilities; and

"(4) the person leasing such equipment or facilities agrees to hold harmless and indemnify the United States from any liability or claim for damages or injury to any person or property arising out of a decision by the Secretary concerned to suspend or terminate the lease during a war or national emergency.

"(c) CREDIT TO TREASURY.—Any reimbursement (including the payment of rental costs) received under this section shall be credited to the Treasury as miscellaneous receipts.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2471. Persons outside the Department of Defense: lease of excess depot-level equipment and facilities by.".

VOL 140 PT 16 AG 12 — 18 1994 UMI

SEC. 337. REUTILIZATION INITIATIVE FOR DEPOT-LEVEL ACTIVITIES.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall conduct activities to encourage commercial firms to enter into partnerships with depot-level activities of the military departments for the purposes of—

(1) demonstrating commercial uses of the depot-level activities that are related to the principal mission of the depot-level activities;

(2) preserving employment and skills of employees currently employed by the depot-level activities or providing for the reemployment and retraining of employees who, as the result of the closure, realignment, or reduced in-house workload of such activities, may become unemployed; and

(3) supporting the goals of other defense conversion, reinvestment, and transition assistance programs while also allowing the depot-level activities to remain in operation to continue to perform their defense readiness mission.

(b) CONDITIONS.—The Secretary shall ensure that activities conducted under this section—

(1) do not interfere with the closure or realignment of a depot-level activity of the military departments under a base closure law; and

(2) do not adversely affect the readiness or primary mission of a participating depot-level activity.

SEC. 338. CHANGE OF SOURCE FOR PERFORMANCE OF DEPOT-LEVEL WORKLOADS.

The text of section 2469 of title 10, United States Code, is amended to read as follows:

"(a) REQUIREMENT FOR COMPETITION.—The Secretary of Defense shall ensure that the performance of a depot-level maintenance or repair workload described in subsection (b) is not changed to performance by a contractor or by another depot-level activity of the Department of Defense unless the change is made using—

"(1) merit-based selection procedures for competitions among all depot-level activities of the Department of Defense; or

"(2) competitive procedures for competitions among private and public sector entities.

"(b) SCOPE.—Subsection (a) applies to any depot-level maintenance or repair workload that has a value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense.

"(c) INAPPLICABILITY OF OMB CIRCULAR A-76.—Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy) does not apply to a performance change to which subsection (a) applies.".

SEC. 339. SALE OF ARTICLES AND SERVICES OF INDUSTRIAL FACILITIES OF THE ARMED FORCES TO PERSONS OUTSIDE THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—(1) Subchapter II of chapter 152 of title 10, United States Code, is amended by adding at the end the following new section:

"§2553. Articles and services of industrial facilities: sale to persons outside the Department of Defense

"(a) AUTHORITY TO SELL OUTSIDE DOD.—(1) The Secretary of Defense may sell in accordance with this section to a person outside the Department of Defense articles and services referred to in paragraph (2) that are not available from any United States commercial source.

"(2)(A) Except as provided in subparagraph (B), articles and services referred to in paragraph (1) are articles and services that are manufactured or performed by any working-capital funded industrial facility of the armed forces.

"(B) The authority in this section does not apply to sales of articles and services by a working-capital funded Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof, which are governed by regulations required by section 4543 of this title.

"(b) DESIGNATION OF PARTICIPATING INDUSTRIAL FACILITIES.—The Secretary may designate facilities referred to in subsection (a) as the facilities from which articles and services manufactured or performed by such facilities may be sold under this section.

"(c) CONDITIONS FOR SALES.—A sale of articles or services may be made under this section only if—

"(1) the Secretary of Defense determines that the articles or services are not available from a commercial source in the United States;

"(2) the purchaser agrees to hold harmless and indemnify the United States, except in any case of willful misconduct or gross negligence, from any claim for damages or injury to any person or property arising out of the articles or services;

"(3) the articles or services can be substantially manufactured or performed by the industrial facility concerned with only incidental subcontracting;

"(4) it is in the public interest to manufacture the articles or perform the services;

"(5) the Secretary determines that the sale of the articles or services will not interfere with the military mission of the industrial facility concerned; and

"(6) the sale of the goods and services is made on the basis that it will not interfere with performance of work by the industrial facility concerned for the Department of Defense.

"(d) METHODS OF SALE.—(1) The Secretary shall permit a purchaser of articles or services under this section to use advance incremental funding to pay for the articles or services.

"(2) In the sale of articles and services under this section, the Secretary shall—

"(A) charge the purchaser, at a minimum, the variable costs, capital improvement costs, and equipment depreciation costs that are associated with the articles or services sold;

"(B) enter into a firm, fixed-price contract or, if agreed by the purchaser, a cost reimbursement contract for the sale; and

"(C) develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the articles or services sold.

"(e) DEPOSIT OF PROCEEDS.—Proceeds from sales of articles and services under this section shall be credited to the funds, including working capital funds and operation and maintenance funds, incurring the costs of manufacture or performance.

"(f) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

"(g) DEFINITIONS.—In this section:

"(1) The term 'advance incremental funding', with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

"(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the manufacture of the articles or the performance of the services, as the case may be; and

"(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

"(2) The term 'variable costs', with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

"(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

"(B) in the case of services, the extent of the services sold.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2553. Articles and services of industrial facilities: sale to persons outside the Department of Defense.".

(b) EFFECTIVE DATE.—Section 2553 of title 10, United States Code, as added by subsection (a), shall take effect on April 1, 1995.

Subtitle E—Civilian Employees

SEC. 341. EXTENSION OF CERTAIN TRANSITION ASSISTANCE AUTHORITIES.

(a) REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.—Section 4433(b)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 106 Stat. 2722; 5 U.S.C. 3502 note) is amended by striking out "February 1, 1998" and inserting in lieu thereof "February 1, 2000".

(b) SEPARATION PAY.—(1) Section 5597(e) of title 5, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

(2) Section 4436(d)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (5 U.S.C. 8348 note) is amended by striking out "January 1, 1998" and inserting in lieu thereof "January 1, 2000".

(c) RESTORATION OF CERTAIN LEAVE.—Section 6304(d)(3) of title 5, United States Code, is amended by striking out "the closure of an installation" and inserting in lieu thereof "the closure of an installation of the Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) during any period, and the closure of any other installation".

(d) CONTINUED HEALTH BENEFITS.—Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

(1) by striking out "October 1, 1997" each place it appears and inserting in lieu thereof "October 1, 1999"; and

(2) in clause (ii), by striking out "February 1, 1998," and inserting in lieu thereof "February 1, 2000,".

SEC. 342. EXTENSION AND EXPANSION OF AUTHORITY TO CONDUCT PERSONNEL DEMONSTRATION PROJECTS.

(a) CHINA LAKE DEMONSTRATION PROJECT.—(1) Section 6 of the Civil Service Miscellaneous Amendments Act of 1983 (Public Law 98-224; 98 Stat. 49) is amended by striking out "until September 30, 1995,".

(2) In the event of a reorganization of the organization carrying out the personnel demonstration project referred to in section 6 of such Act, such section shall apply with respect to the successor to that organization.

(b) DEFENSE LABORATORIES PERSONNEL DEMONSTRATION PROJECTS.—(1) The Secretary of Defense may, with the approval of the Director of the Office of Personnel Management, carry out personnel demonstration projects at Department of Defense laboratories designated by the Secretary as Department of Defense science and technology reinvention laboratories.

(2)(A) Each personnel demonstration project carried out under the authority of paragraph (1) shall be generally similar in nature to the China Lake demonstration project.

(B) For purposes of subparagraph (A), the China Lake demonstration project is the demonstration project that is authorized by section 6 of the Civil Service Miscellaneous Amendments Act of 1983 to be continued at the Naval Weapons Center, China Lake, California, and at the Naval Ocean Systems Center, San Diego, California.

(3) If the Secretary carries out a demonstration project at a laboratory pursuant to paragraph (1), section 4703 of title 5, United States Code, shall apply to the demonstration project, except that—

(A) subsection (d) of such section 4703 shall not apply to the demonstration project; and

(B) the authority of the Secretary to carry out the demonstration project is that which is provided in paragraph (1) rather than the authority which is provided in such section 4703.

SEC. 343. LIMITATION ON PAYMENT OF SEVERANCE PAY TO CERTAIN EMPLOYEES TRANSFERRING TO EMPLOYMENT POSITIONS IN NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Section 5595 of title 5, United States Code, is amended by adding at the end the following:

"(h)(1) Severance pay under this section may not be paid to—

"(A) a person described in paragraph (4)(A) during any period in which the person is employed in a defense nonappropriated fund instrumentality; or

"(B) a person described in paragraph (4)(B) during any period in which the person is employed in a Coast Guard nonappropriated fund instrumentality.

"(2)(A) Except as provided in subparagraph (B), payment of severance pay to a person referred to in paragraph (1) may be resumed upon any involuntary separation of the person from the position of employment in a nonappropriated fund instrumentality, not by removal for cause on charges of misconduct, delinquency, or inefficiency.

"(B) Payment of severance pay may not be resumed under subparagraph (A) in the case of a person who, upon separation, is entitled to immediate payment of retired or retainer pay as a member or former member of the uniformed services or to an immediate annuity under—

"(i) a retirement system for persons retiring from employment by a nonappropriated fund instrumentality;

"(ii) subchapter III of chapter 83 of this title;

"(iii) subchapter II of chapter 84 of this title; or

"(iv) any other retirement system of the Federal Government for persons retiring from employment with the Federal Government.

"(3) Upon resumption of payment of severance pay under paragraph (2)(A) in the case of a person separated as described in such paragraph, the amount of the severance pay so payable for a period shall be reduced (but not below zero) by the portion (if any) of the amount of any severance pay payable for such period to the person by the nonappropriated fund instrumentality that is attributable to credit for service taken into account under subsection (c) in the computation of the amount of the severance pay so resumed.

"(4) Paragraph (1) applies to a person who, on or after January 1, 1987, moves without a break in service—

"(A) from employment in the Department of Defense that is not employment in a defense nonappropriated fund instrumentality to employment in a defense nonappropriated fund instrumentality; or

"(B) from employment in the Coast Guard that is not employment in a Coast Guard nonappropriated fund instrumentality to employment in a Coast Guard nonappropriated fund instrumentality.

"(5) The Secretary of Defense, in consultation with the Secretary of Transportation, shall prescribe regulations to carry out this subsection.

"(6) In this subsection:

"(A) The term 'defense nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Department of Defense.

"(B) The term 'Coast Guard nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Coast Guard.

"(C) The term 'nonappropriated fund instrumentality' means a nonappropriated fund instrumentality described in section 2105(c) of this title.".

(b) APPLICABILITY.—Subsection (h) of section 5595 of title 5, United States Code, as added by subsection (a), shall apply with respect to pay periods that begin on or after the date of the enactment of this Act.

SEC. 344. RETIREMENT CREDIT FOR CERTAIN SERVICE IN NONAPPROPRIATED FUND INSTRUMENTALITIES BEFORE JANUARY 1, 1987.

(a) STUDY REQUIRED.—The Secretary of Defense, in consultation with the Director of the Office of Personnel Management, shall conduct a study to determine the level of interest among employees referred to in subsection (b) in obtaining credit under the Civil Service Retirement System or the Federal Employees' Retirement System for former service described in such subsection as an employee of a nonappropriated fund instrumentality of the United States.

(b) EMPLOYEES CONCERNED.—The employees referred to in subsection (a) are employees of the Department of Defense who, for at least 12 months during the period beginning on January 1, 1966, and ending on December 31, 1986, performed service as an employee described in section 2105(c) of title 5, United States Code, conducting a program described in section 8332(b)(16)(A) of such title.

(c) CONDUCT OF STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) provide an opportunity for all employees referred to in that subsection to express interest in obtaining retirement credit for the former service in a nonappropriated fund instrumentality of the United States; and

(2) inform such employees that deposits to the Civil Service Retirement and Disability Fund would be required of the interested employees under section 8334(c) of title 5, United States Code, or section 8411(f) of such title.

(d) REPORT.—Not later than February 1, 1995, the Secretary shall submit to Congress a report on the results of the study required by subsection (a). The report shall contain the following:

(1) An analysis of the issues, including existing legal rights of the employees referred to in subsection (b) under the Civil Service Retirement System or the Federal Employees' Retirement System.

(2) A description of the inequities, if any, that may have been caused by conversion from employment by nonappropriated fund instrumentalities of the United States to employment by the Department of Defense.

(3) The number of full-time and part-time employees referred to in subsection (b) who are affected by any inequities described in paragraph (2).

(4) The recommendations of the Secretary, if any, for redressing any inequities described in paragraph (2).

(5) An assessment of the cost to the Federal Government of any recommendation referred to in paragraph (4).

SEC. 345. TRAVEL, TRANSPORTATION, AND RELOCATION EXPENSES OF EMPLOYEES TRANSFERRING TO THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end the following:

"§5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service

"(a) IN GENERAL.—Notwithstanding any other provision of law, employees of the Department of Defense described in subsection (b) may be authorized travel, transportation, and relocation expenses and allowances in connection with appointments referred to in such subsection under the same conditions and to the same extent authorized by this subchapter for transferred employees.

"(b) COVERED EMPLOYEES.—Subsection (a) applies to any employee of the Department of Defense who—

"(1) is scheduled for separation from the Department, other than for cause;

"(2) is selected for appointment to a continuing position with the United States Postal Service; and

"(3) accepts the appointment.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 5734 the following new item:

"5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to persons separated from employment with the Department of Defense on or after the date of the enactment of this Act.

SEC. 346. FOREIGN EMPLOYEES COVERED BY THE FOREIGN NATIONAL EMPLOYEES SEPARATION PAY ACCOUNT.

Section 1581 of title 10, United States Code, is amended—

(1) by striking out "foreign national employees of the Department of Defense" each place it appears in subsections (a) and (b) and inserting in lieu thereof "foreign nationals referred to in subsection (e)"; and

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) EMPLOYEES COVERED.—This section applies only with respect to separation pay of foreign nationals employed by the Department of Defense, and foreign nationals employed by a foreign government for the benefit of the Department of Defense, under any of the following agreements that provide for payment of separation pay:

"(1) A contract.

"(2) A treaty.

"(3) A memorandum of understanding with a foreign nation.".

SEC. 347. REPORT ON CONVERSION OF CERTAIN POSITIONS TO PERFORMANCE BY DEPARTMENT OF DEFENSE EMPLOYEES.

(a) FINDINGS.—Congress makes the following findings:

(1) In order to ensure an optimum level of availability of members of the Armed Forces for assignment to combat units, it is the policy of the Department of Defense to assign employees of the Department of Defense to replace military personnel in Department of Defense positions to which assignment of military personnel can no longer be justified under current circumstances.

(2) Assignment of employees of the Department of Defense to such positions can provide valuable continuity for the performance of many missions of the Department while enhancing the readiness and military capability of the Armed Forces.

(3) During the Persian Gulf War, employees of the Department of Defense, employees of other Federal agencies, and employees of civilian contractors, by their distinguished service in the theater of operations, demonstrated the valuable contributions that civilian personnel can make to the performance of Department of Defense functions.

(4) The performance of Department of Defense functions by employees of the Department is often less costly than the performance of those functions by military personnel.

(5) The percentage of certain support positions that are filled by employees of the Department of Defense varies significantly among the military departments.

VOL
140
PT
16
AG
12
—
18
1994
UMI

(6) The Secretary of Defense is reviewing the extent to which employees of the Department of Defense should replace military personnel in Department of Defense positions.

(b) REQUIREMENT FOR REPORT.—Not later than April 30, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the efforts of the Secretary—

(1) to identify positions in the Department of Defense to which continued assignment of military personnel is no longer justified under current circumstances; and

(2) to assign employees of the Department of Defense to replace military personnel in those positions.

(c) CONTENT OF REPORT.—The report required by subsection (b) shall contain the following:

(1) The number of positions identified by the Secretary, including the positions in which employees of the Department of Defense have replaced military personnel and the positions to which employees of the Department of Defense are planned to be assigned to replace military personnel.

(2) The cost of carrying out the planned changes in assignments.

(3) A discussion of the effects of such changes on workforce restructuring plans of the Department.

(4) A discussion of the efforts of the Secretary to encourage within the Department of Defense the assignment of employees of the Department to replace military personnel.

(5) An explanation of the justifications for maintaining variances in excess of 20 percent among the military departments in the percentage of support positions common to two or more military departments that are filled by employees of the Department of Defense rather than military personnel.

SEC. 348. NON-FEDERAL EMPLOYMENT INCENTIVE PILOT PROGRAM.

(a) AUTHORITY.—The Secretary of Defense may establish a pilot program for the payment of incentives in accordance with this section to facilitate the reemployment of eligible employees of the Department of Defense whose employment with the Department is being terminated by reason of the closure or realignment of the military installations where such persons are employed. Under the pilot program, the Secretary may pay retraining and relocation incentives to encourage non-Federal employers to hire and retain such employees.

(b) ELIGIBLE EMPLOYEES.—For purposes of this section, an eligible employee is an employee of the Department of Defense, serving under an appointment without time limitation, who has been employed by the Department of Defense for a continuous period of at least 12 months and who has been given notice of separation pursuant to a reduction in force, except that such term does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 of title 5, United States Code, chapter 84 of such title, or another retirement system for employees of the Government;

(2) an employee who, upon separation from Federal service, is eligible for an immediate annuity under subchapter III of chapter 83 of title 5, United States Code, or subchapter II of chapter 84 of such title; or

(3) an employee who is eligible for disability retirement under any of the retirement systems referred to in paragraph (1).

(c) RETRAINING INCENTIVE.—(1) Under the pilot program, the Secretary may enter into an agreement with a non-Federal employer under which the non-Federal employer agrees—

(A) to employ a person referred to in subsection (a) for at least 12 months for a salary which is mutually agreeable to the employer and such person; and

(B) to certify to the Secretary the cost incurred by the employer for any necessary training provided to such person in connection with the employment by that employer.

(2) The Secretary shall pay a retraining incentive to the non-Federal employer upon the employee's completion of 12 months of continuous employment by that employer. Subject to subsection (f), the Secretary shall prescribe the amount of the incentive.

(3) The Secretary shall pay a prorated amount of the full retraining incentive to the non-Federal employer for an employee who does not remain employed by the non-Federal employer for at least 12 months.

(4) In no event may the amount of the retraining incentive paid for the training of any one person under the pilot program exceed the amount certified for that person under paragraph (1).

(d) RELOCATION INCENTIVE.—The Secretary may pay a relocation incentive to an eligible employee if it is necessary for the employee to relocate in order to commence employment with a non-Federal employer under the pilot program. Subject to subsection (f), the amount of the incentive shall be equal to the total amount authorized to be paid for travel, transportation, and subsistence expenses under subchapter II of chapter 57 of title 5, United States Code, including the reimbursements authorized under section 5724b of such title, to a Federal employee being transferred between the same locations as the person paid the incentive.

(e) APPROVAL OF SECRETARY OF DEFENSE.—The Secretary of a military department or the head of a Defense Agency may offer an incentive under the pilot program with the prior approval of the Secretary of Defense or pursuant to a delegation of authority by the Secretary of Defense.

(f) LIMITATION.—The total amount of incentives paid in the case of a person under the pilot program may not exceed $10,000.

(g) DURATION.—No incentive may be paid under the pilot program for training or relocations commenced after September 30, 1999.

(h) DEFINITIONS.—In this section:

(1) The term "non-Federal employer" means an employer that is not an Executive agency, as defined in section 105 of title 5, United States Code, or the legislative or judicial branch of the Federal Government.

(2) The term "Defense Agency" has the meaning given such term in section 101(a)(11) of title 10, United States Code.

SEC. 349. UNIFORM HEALTH BENEFITS PROGRAM FOR EMPLOYEES OF THE DEPARTMENT OF DEFENSE ASSIGNED TO NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Not later than October 1, 1995, the Secretary of Defense shall take such steps as may be necessary to provide a uniform health benefits program for employees of the Department of Defense assigned to a nonappropriated fund instrumentality of the Department.

(b) PROGRESS REPORT.—Not later than March 15, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress made by the Secretary in implementing subsection (a).

Subtitle F—Department of Defense Domestic and Overseas Dependents' Schools

SEC. 351. REAUTHORIZATION OF DEPARTMENT OF DEFENSE DOMESTIC ELEMENTARY AND SECONDARY SCHOOLS FOR DEPENDENTS.

(a) CONTINUED AUTHORITY.—Chapter 108 of title 10, United States Code, is amended by adding at the end the following new section:

"§2164. Department of Defense domestic dependent elementary and secondary schools

"(a) AUTHORITY OF SECRETARY.—If the Secretary of Defense makes a determination that appropriate educational programs are not available through a local educational agency for dependents of members of the armed forces and dependents of civilian employees of the Federal Government residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States), the Secretary may enter into arrangements to provide for the elementary or secondary education of the dependents of such members of the armed forces and, to the extent authorized in subsection (c), the dependents of such civilian employees. The Secretary may, at the discretion of the Secretary, permit dependents of members of the armed forces and, to the extent provided in subsection (c), dependents of civilian employees of the Federal Government residing in a territory, commonwealth, or possession of the United States but not on a military installation, to enroll in an educational program provided by the Secretary pursuant to this subsection.

"(b) FACTORS FOR SECRETARY TO CONSIDER.—(1) Factors to be considered by the Secretary of Defense in making a determination under subsection (a) shall include the following:

"(A) The extent to which such dependents are eligible for free public education in the local area adjacent to the military installation.

"(B) The extent to which the local educational agency is able to provide an appropriate educational program for such dependents.

"(2) For purposes of paragraph (1)(B), an appropriate educational program is a program that, as determined by the Secretary, is comparable to a program of free public education provided for children by the following local educational agencies:

"(A) In the case of a military installation located in a State (other than an installation referred to in subparagraph (B)), local educational agencies in the State that are similar to the local educational agency referred to in paragraph (1)(B).

"(B) In the case of a military installation with boundaries contiguous to two or more States, local educational agencies in the contiguous States that are similar to the local educational agency referred to in paragraph (1)(B).

"(C) In the case of a military installation located in a territory, commonwealth, or possession, the District of Columbia public schools, except that an educational program determined comparable under this subparagraph may be considered appropriate for the purposes of paragraph (1)(B) only if the program is conducted in the English language.

"(c) ELIGIBILITY OF DEPENDENTS OF FEDERAL EMPLOYEES.—(1) A dependent of a Federal employee residing in permanent living quarters on a military installation at any time during the school year may enroll in an educational program provided by the Secretary of Defense pursuant to subsection (a) for dependents residing on such installation.

"(2)(A) Except as provided in subparagraphs (B) and (C), a dependent of a Federal employee who is enrolled in an educational program provided by the Secretary pursuant to subsection (a) and who is not residing on a military installation may be enrolled in the program for not more than five consecutive school years.

"(B) A dependent referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the Secretary determines that, in the interest of the dependent's educational well-being, there is good cause to extend the enrollment for more than the five-year period described in such subparagraph. Any such extension may be made for only one school year at a time.

"(C) Subparagraph (A) shall not apply to an individual who is a dependent of a Federal employee in the excepted service (as defined in section 2103 of title 5) and who is enrolled in an

educational program provided by the Secretary pursuant to subsection (a) in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands.

"(3) A dependent of a Federal employee may continue enrollment in a program under this subsection for the remainder of a school year notwithstanding a change during such school year in the status of the Federal employee that, except for this paragraph, would otherwise terminate the eligibility of the dependent to be enrolled in the program. The preceding sentence does not limit the authority of the Secretary to remove the dependent from enrollment in the program at any time for good cause determined by the Secretary.

"(d) SCHOOL BOARDS.—(1) The Secretary of Defense shall provide for the establishment of a school board for Department of Defense elementary and secondary schools established at each military installation under this section.

"(2) The school board shall be composed of the number of members, not fewer than three, prescribed by the Secretary.

"(3) The parents of the students attending the school shall elect the school board in accordance with procedures which the Secretary shall prescribe.

"(4)(A) A school board elected for a school under this subsection may participate in the development and oversight of fiscal, personnel, and educational policies, procedures, and programs for the school, except that the Secretary may issue any directive that the Secretary considers necessary for the effective operation of the school or the entire school system.

"(B) A directive referred to in subparagraph (A) shall, to the maximum extent practicable, be issued only after the Secretary consults with the appropriate school boards elected under this subsection. The Secretary shall establish a process by which a school board or school administrative officials may formally appeal the directive to the Secretary of Defense.

"(5) Meetings conducted by the school board shall be open to the public, except as provided in paragraph (6).

"(6) A school board need not comply with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), but may close meetings in accordance with such Act.

"(e) ADMINISTRATION AND STAFF.—(1) The Secretary of Defense may enter into such arrangements as may be necessary to provide educational programs at the school.

"(2) The Secretary may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

"(A) establish positions for civilian employees in schools established under this section;

"(B) appoint individuals to such positions; and

"(C) fix the compensation of such individuals for service in such positions.

"(3)(A) Except as provided in subparagraph (B), in fixing the compensation of employees appointed for a school pursuant to paragraph (2), the Secretary shall consider—

"(i) the compensation of comparable employees of the local educational agency in the capital of the State where the military installation is located;

"(ii) the compensation of comparable employees in the local educational agency that provides public education to students who reside adjacent to the military installation; and

"(iii) the average compensation for similar positions in not more than three other local educational agencies in the State in which the military installation is located.

"(B) In fixing the compensation of employees in schools established in the territories, commonwealths, and possessions pursuant to the authority of this section, the Secretary shall determine the level of compensation required to attract qualified employees. For employees in such schools, the Secretary, without regard to the provisions of title 5, may provide for the tenure, leave, hours of work, and other incidents of employment to be similar to that provided for comparable positions in the public schools of the District of Columbia. For purposes of the first sentence, a school established before the effective date of this section pursuant to authority similar to the authority in this section shall be considered to have been established pursuant to the authority of this section.

"(f) SUBSTANTIVE AND PROCEDURAL RIGHTS AND PROTECTIONS FOR CHILDREN.—(1) The Secretary shall provide the following substantive rights, protections, and procedural safeguards (including due process procedures) in the educational programs provided for under this section:

"(A) In the case of children with disabilities aged 3 to 5, inclusive, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities aged 3 to 5, inclusive, under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(B) In the case of infants and toddlers with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to infants and toddlers with disabilities under part H of such Act (20 U.S.C. 1471 et seq.).

"(C) In the case of all other children with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities who are 3 to 5 years old under part B of such Act.

"(2) Paragraph (1) may not be construed as diminishing for children with disabilities enrolled in day educational programs provided for under this section the extent of substantive rights, protections, and procedural safeguards that were available under section 6(a) of Public Law 81-874 (20 U.S.C. 241(a)) to children with disabilities as of October 7, 1991.

"(3) In this subsection:

"(A) The term 'children with disabilities' has the meaning given the term in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)).

"(B) The term 'children with disabilities aged 3 to 5, inclusive' means such term as used in such Act (20 U.S.C. 1400 et seq.).

"(C) The term 'infants and toddlers with disabilities' has the meaning given the term in section 672(1) of such Act (20 U.S.C. 1472(1)).

"(g) REIMBURSEMENT.—When the Secretary of Defense provides educational services under this section to an individual who is a dependent of an employee of a Federal agency outside the Department of Defense, the head of the other Federal agency shall, upon request of the Secretary of Defense, reimburse the Secretary for those services at rates routinely prescribed by the Secretary for those services. Any payments received by the Secretary under this subsection shall be credited to the account designated by the Secretary for the operation of educational programs under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2164. Department of Defense domestic dependent elementary and secondary schools.".

(c) SAVINGS PROVISION.—Nothing in section 2164 of title 10, United States Code, as added by subsection (a), shall be construed as affecting the rights in existence on the date of the enactment of this Act of an employee of any school established under such section (or any other provision of law enacted before the date of the enactment of this Act that established a similar school) to negotiate or bargain collectively with the Secretary with respect to wages, hours, and other terms and conditions of employment.

SEC. 352. REPORT ON CALCULATION AND RECOVERY OF TUITION COSTS OF CERTAIN STUDENTS ENROLLED IN SCHOOLS OF THE DEFENSE DEPENDENTS' EDUCATION SYSTEM.

(a) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives and the Committee on Education and Labor of the House of Representatives a report on the calculation and application of the tuition rate required to be determined under section 1404(b) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 923(b)).

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall contain the following:

(1) A description of—

(A) the costs included in the tuition rate;

(B) the method by which the tuition rate is determined; and

(C) the method by which any increase in the tuition rate is determined.

(2) An analysis of—

(A) the variation in the cost of providing educational services in the defense dependents' education system in different geographic locations; and

(B) the extent to which the imposition of a uniform tuition rate enables the system to receive adequate funds to defray the cost of providing educational services to tuition-paying students.

(3) Recommendations of the Secretary with respect to improvements that may be made in the determination and application of the tuition rate.

SEC. 353. AUTHORITY TO ACCEPT GIFTS FOR DEPARTMENT OF DEFENSE DOMESTIC ELEMENTARY AND SECONDARY SCHOOLS.

(a) AUTHORITY.—Section 2605 of title 10, United States Code, is amended—

(1) by striking out "the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.)" in subsection (a) and inserting in lieu thereof "a defense dependents' school"; and

(2) by striking out "the defense dependent's education system" in subsection (b) and inserting in lieu thereof "defense dependents' schools".

(b) DEFINITION.—Such section is further amended by adding at the end the following new subsection:

"(g) In this section, the term 'defense dependents' school' means the following:

"(1) A school established as part of the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

"(2) An elementary or secondary school established pursuant to section 2164 of this title.".

(c) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§2605. Acceptance of gifts for defense dependents' schools".

(2) The item relating to such section in the table of sections at the beginning of chapter 155 of such title is amended to read as follows:

"2605. Acceptance of gifts for defense dependents' schools.".

SEC. 354. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated in section 301(5)—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(1) $50,000,000 shall be available for providing educational agencies assistance (as defined in subsection (c)(1)) to local educational agencies; and

(2) $8,000,000 shall be available for making educational agencies payments (as defined in subsection (c)(2)) to local educational agencies.

(b) NOTIFICATION AND DISBURSAL.—(1) Not later than June 30, 1995—

(A) the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 1995 of that agency's eligibility for such assistance and the amount of such assistance for which that agency is eligible; and

(B) the Secretary of Education shall notify each local educational agency that is eligible for an educational agencies payment for fiscal year 1995 of that agency's eligibility for such payment and the amount of the payment for which that agency is eligible.

(2) The Secretary of Defense (with respect to funds made available under subsection (a)(1)) and the Secretary of Education (with respect to funds made available under subsection (a)(2)) shall disburse such funds not later than 30 days after the date on which notification to the eligible local education agencies is provided pursuant to paragraph (1).

(c) DEFINITIONS.—For purposes of this section:

(1) The term "educational agencies assistance" means assistance authorized under subsection (b) of section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2395; 20 U.S.C. 238 note).

(2) The term "educational agencies payments" means payments authorized under subsection (d) of that section.

Subtitle G—Reviews, Studies, and Reports

SEC. 361. REPORTS ON TRANSFERS OF CERTAIN OPERATION AND MAINTENANCE FUNDS.

(a) ANNUAL REPORTS.—In each of 1995, 1996, and 1997, the Secretary of Defense shall submit to the congressional defense committees, not later than the date on which the President submits the budget pursuant to section 1105 of title 31, United States Code, in that year, a report on the following:

(1) Each transfer of amounts provided in an appropriation Act to the Department of Defense for the activities referred to in subsection (c) between appropriations during the preceding fiscal year, including the reason for the transfer.

(2) Each transfer of amounts provided in an appropriation Act to the Department of Defense for an activity referred to in subsection (c) within that appropriation for any other such activity during the preceding fiscal year, including the reason for the transfer.

(b) MIDYEAR REPORTS.—On May 1 of each of 1995, 1996, and 1997, the Secretary of Defense shall submit to the congressional defense committees a report on the following:

(1) Each transfer during the first six months of the fiscal year in which the report is submitted of amounts provided in an appropriation Act to the Department of Defense for the activities referred to in subsection (c) between appropriations, including the reason for the transfer.

(2) Each transfer during the first six months of the fiscal year in which the report is submitted of amounts provided in an appropriation Act to the Department of Defense for an activity referred to in subsection (c) within that appropriation for any other such activity, including the reason for the transfer.

(c) COVERED ACTIVITIES.—The activities referred to in subsections (a) and (b) are the following:

(1) Activities for which amounts are appropriated for the Army for operation and maintenance for operating forces for (A) combat units, (B) tactical support, (C) force-related training/special activities, (D) depot maintenance, and (E) JCS exercises.

(2) Activities for which amounts are appropriated for the Navy for operation and maintenance for operating forces for (A) mission and other flight operations, (B) mission and other ship operations, (C) fleet air training, (D) ship operational support and training, (E) aircraft depot maintenance, and (F) ship depot maintenance.

(3) Activities for which amounts are appropriated for the Air Force for operation and maintenance for operating forces for (A) primary combat forces, (B) primary combat weapons, (C) global and early warning, (D) air operations training, (E) depot maintenance, and (F) JCS exercises.

(d) REPEAL.—Section 377 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1638) is hereby repealed.

SEC. 362. REVIEW AND REPORT ON USE OF OPERATION AND MAINTENANCE FUNDS BY THE DEPARTMENT OF DEFENSE.

(a) REVIEW.—The Secretary of Defense shall review all operation and maintenance accounts of the Department of Defense to determine the extent to which funds appropriated to those accounts are used for an activity for which funds have been appropriated to, or are more appropriately made available from, accounts of the Department for procurement, research, development, test, and evaluation, or military construction.

(b) REPORT.—Not later than March 31, 1995, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the review conducted under subsection (a).

SEC. 363. COST COMPARISON STUDIES FOR CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§2410l. Contracts for advisory and assistance services: cost comparison studies

"(a) REQUIREMENT.—(1)(A) Before the Secretary of Defense enters into a contract described in subparagraph (B), the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.

"(B) Subparagraph (A) applies to any contract of the Department of Defense for advisory and assistance services that is expected to have a value in excess of $100,000.

"(2) If the Secretary determines that Department of Defense personnel have the capability to perform the services to be covered by the contract, the Secretary shall conduct a study comparing the cost of performing the services with Department of Defense personnel and the cost of performing the services with contractor personnel.

"(b) WAIVER.—The Secretary of Defense may, pursuant to guidelines prescribed by the Secretary, waive the requirement to perform a cost comparison study under subsection (a)(2) based on factors that are not related to cost.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410l. Contracts for advisory and assistance services: cost comparison studies.".

(b) PROCEDURES FOR CONDUCT OF STUDIES.—The Secretary of Defense shall prescribe the following procedures:

(1) Procedures for carrying out a cost comparison study under subsection (a)(2) of section 2410l of title 10, United States Code, as added by subsection (a), which may contain a requirement that the cost comparison study include consideration of factors that are not related to cost, including the quality of the service required to be performed, the availability of Department of Defense personnel, the duration and recurring nature of the services to be performed, and the consistency of the workload.

(2) Procedures for reviewing contracts entered into after a waiver under subsection (b) of such section to determine whether the contract is justified and sufficiently documented.

(c) EFFECTIVE DATE.—Section 2410l of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

SEC. 364. REVIEW BY DEFENSE INSPECTOR GENERAL OF COST GROWTH IN CERTAIN CONTRACTS.

(a) REVIEW.—The Inspector General of the Department of Defense shall carry out a review of a representative sample of existing contracts for the performance of commercial activities which resulted from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A–76 (or any successor administrative regulation or policy) to determine the extent to which the cost incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than April 1, 1995, the Inspector General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the review carried out under subsection (a).

Subtitle H—Other Matters

SEC. 371. ARMED FORCES RETIREMENT HOME.

(a) INCREASED MAXIMUM LIMITATION ON DEDUCTIONS FROM PAY.—Section 1007(i)(1) of title 37, United States Code, is amended by striking out "50 cents" and inserting in lieu thereof "$1.00".

(b) MODIFICATION OF FEES PAID BY RESIDENTS.—(1) Paragraph (2) of section 1514(c) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 414(c)) is amended to read as follows:

"(2) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident, subject to such adjustments in the fee as the Retirement Home Board may make under paragraph (1). The percentage shall be the same for each establishment of the Retirement Home.".

(2)(A) Subsections (d) and (e) of section 1514 of such Act are repealed.

(B) Such section is further amended by adding after subsection (c) the following new subsection (d):

"(d) APPLICATION OF FEES.—Subject to such adjustments in the fee as the Retirement Home Board may make under subsection (c), each resident of the Retirement Home shall be required to pay a monthly fee equal to the amount determined by multiplying the total amount of all monthly income and monthly payments (including Federal payments) received by the resident by a percentage as follows:

"(1) In the case of a permanent health care resident—

"(A) in fiscal year 1995, 35 percent;

"(B) in fiscal year 1999, 45 percent; and

"(C) in fiscal year 2000, 65 percent.

"(2) In the case of a resident who is not a permanent health care resident—

"(A) in fiscal year 1995, 30 percent;

"(B) in fiscal year 1999, 35 percent; and

"(C) in fiscal year 2000, 40 percent.".

(c) MODERNIZATION OF FACILITIES.—(1) The Chairman of the Armed Forces Retirement Home Board shall carry out a study to identify and evaluate alternatives for modernization of the facilities at the United States Soldiers' and Airmen's Home.

(2) The Chairman shall submit an interim report and a final report on the results of the study to the Committees on Armed Services of the Senate and House of Representatives. The Chairman shall submit the interim report not later than April 1, 1995, and the final report not later than December 31, 1995.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on January 1, 1995, and apply to years that begin on or after that date.

(2) The amendments made by subsection (b) shall take effect on October 1, 1997.

SEC. 372. LIMITATION ON USE OF APPROPRIATED FUNDS FOR OPERATION OF ARMED FORCES RECREATION CENTER, EUROPE.

(a) LIMITATION.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§2247. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation

"(a) LIMITATION.—Except as provided in subsection (b), funds appropriated to the Department of Defense may not be used to operate the Armed Forces Recreation Center, Europe.

"(b) EXCEPTION.—Subsection (a) does not apply to the use of funds for the payment of utilities, real property maintenance, and transportation of products made in the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2247. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation.".

SEC. 373. LIMITATION ON RETENTION OF MORALE, WELFARE, AND RECREATION FUNDS BY MILITARY INSTALLATIONS.

(a) LIMITATION.—Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§2219. Retention of morale, welfare, and recreation funds by military installations: limitation

"Amounts may not be retained in a nonappropriated morale, welfare, and recreation account of a military installation of a military department in excess of the amount necessary to meet cash requirements of that installation. Amounts in excess of that amount shall be transferred to a single, department-wide nonappropriated morale, welfare, and recreation account of the military department.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2219. Retention of morale, welfare, and recreation funds by military installations: limitation.".

SEC. 374. SHIPS' STORES.

(a) EXTENSION OF DEADLINE FOR CONVERSION.—Section 371(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1634; 10 U.S.C. 7604 note) is amended by striking out "October 1, 1994" and inserting in lieu thereof "December 31, 1995".

(b) MODIFICATION OF EFFECTIVE DATE.—Section 371(d) of such Act is amended by striking out "shall take effect on the date on which the Secretary of the Navy completes the conversion referred to in subsection (a)" and inserting in lieu thereof "shall take effect on October 1, 1994".

SEC. 375. OPERATION OF MILITARY EXCHANGE AND COMMISSARY STORE AT NAVAL AIR STATION FORT WORTH, JOINT RESERVE CENTER, CARSWELL FIELD.

The Secretary of Defense shall provide for the operation by the Army and Air Force Exchange Service, until December 31, 1995, of any military exchange and commissary store located at the Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field.

SEC. 376. DISPOSITION OF PROCEEDS FROM OPERATION OF THE NAVAL ACADEMY LAUNDRY.

Section 6971 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(1)" and "(a)"; and

(B) in the first sentence, by striking out "and the Academy dairy" and inserting in lieu thereof "the Academy dairy, and the Academy laundry"; and

(2) by striking out subsection (b).

SEC. 377. AUTHORITY TO ISSUE MILITARY IDENTIFICATION CARDS TO SO-CALLED HONORARY RETIREES OF THE NAVAL AND MARINE CORPS RESERVES.

(a) AUTHORITY.—The Secretary of the Navy may issue a military identification card to a member of the Retired Reserve described in subsection (b).

(b) COVERED MEMBERS.—A member of the Retired Reserve referred to in subsection (a) is a member of the Naval Reserve or Marine Corps Reserve who transferred to the Retired Reserve under section 274(2) of title 10, United States Code, without having completed the years of service required under section 1331(a)(2) of such title for eligibility for retired pay under chapter 67 of such title.

(c) EFFECT ON COMMISSARY AND EXCHANGE BENEFITS.—The issuance of a military identification card under subsection (a) to a member of the Retired Reserve does not confer eligibility for commissary and exchange benefits on that member.

(d) LIMITATION ON COLOR AND FORMAT.—The Secretary shall ensure that the color and format in which a military identification card is issued under subsection (a) is not similar to the color and format in which a military identification card is issued by the Department of Defense to individuals other than members described in subsection (b).

SEC. 378. REPEAL OF ANNUAL LIMITATION ON EXPENDITURES FOR EMERGENCY AND EXTRAORDINARY EXPENSES OF THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL.

Section 127(c) of title 10, United States Code, is amended—

(1) by striking out "(1)" after "(c)"; and

(2) by striking out paragraph (2).

SEC. 379. TRANSFER OF CERTAIN EXCESS DEPARTMENT OF DEFENSE PROPERTY TO EDUCATIONAL INSTITUTIONS AND TRAINING SCHOOLS.

(a) AUTHORITY TO TRANSFER.—Subparagraph (G) of section 2535(b)(1) of title 10, United States Code, is amended to read as follows:

"(G) notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, authorize the transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school whenever the program proposed by such institution or school for the use of such property is in the public interest.".

(b) TREATMENT OF PROPERTY LOANED BEFORE DECEMBER 31, 1993.—Except for property determined by the Secretary of Defense to be needed by the Department of Defense, property loaned before December 31, 1993, to an educational institution or training school under section 2535(b) of title 10, United States Code, or section 4(a)(7) of the Defense Industrial Reserve Act (as in effect before October 23, 1992) shall be regarded as surplus property. Upon certification by the Secretary to the Administrator of General Services that the property is being used by the borrowing educational institution or training school for a purpose consistent with that for which the property was loaned, the Administrator may authorize the conveyance of all right, title, and interest of the United States in such property to the borrower if the borrower agrees to accept the property. The Administrator may require any additional terms and conditions in connection with a conveyance so authorized that the Administrator considers appropriate to protect the interests of the United States.

SEC. 380. OPERATION OF OVERSEAS FACILITIES OF THE DEPARTMENT OF DEFENSE BY UNITED STATES FIRMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, to the maximum extent practicable, the Secretary of Defense should give a preference to United States firms in the award of contracts to operate Department of Defense facilities not in the United States that provide goods and services to members of the Armed Forces and the dependents of such members.

(b) DEFINITION.—In this section, the term "United States firm" has the meaning given such term in section 2532(d)(1) of title 10, United States Code.

SEC. 381. REQUIREMENTS FOR AUTOMATED INFORMATION SYSTEMS OF THE DEPARTMENT OF DEFENSE.

(a) DETERMINATION REQUIRED.—(1) Not later than March 15 in each of 1995, 1996, and 1997, the Secretary of Defense shall—

(A) determine whether each automated information system described in paragraph (2) meets the requirements set forth in subsection (b); and

(B) take appropriate action to end the modernization or development by the Department of Defense of any such system that the Secretary determines does not meet such requirements.

(2) An automated information system referred to in paragraph (1) is an automated information system—

(A) that is undergoing modernization or development by the Department of Defense;

(B) that exceeds $50,000,000 in value; and

(C) that is not a migration system, as determined by the Enterprise Integration Executive Board of the Department of Defense.

(b) REQUIREMENTS.—The use of an automated information system by the Department of Defense shall—

(1) contribute to the achievement of Department of Defense strategies for the use of automated information systems;

(2) as determined by the Secretary, provide an acceptable benefit from the investment in the system or make a substantial contribution to the performance of the defense mission for which the system is used;

(3) comply with Department of Defense directives applicable to life cycle management of automated information systems; and

(4) be based on guidance developed under subsection (c).

(c) GUIDANCE FOR USE.—The Secretary of Defense shall develop guidance for the use of automated information systems by the Department of Defense. In developing the guidance, the Secretary shall consider the following:

(1) Directives of the Office of Management and Budget applicable to returns of investment for such systems.

(2) A sound, functional economic analysis.

(3) Established objectives for the Department of Defense information infrastructure.

(4) Migratory assessment criteria, including criteria under guidance provided by the Defense Information Systems Agency.

(d) WAIVER.—(1) The Secretary of Defense may waive the requirements of subsection (a) for an automated information system if the Secretary determines that the purpose for which the system is being modernized or developed is of compelling military importance.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(2) If the Secretary exercises the waiver authority provided in paragraph (1), the Secretary shall include the following in the next report required by subsection (f):

(A) The reasons for the failure of the automated information system to meet all of the requirements of subsection (b).

(B) A determination of whether the system is expected to meet such requirements in the future, and if so, the date by which the system is expected to meet the requirements.

(e) PERFORMANCE MEASURES AND MANAGEMENT CONTROLS.—(1) The Secretary of Defense shall establish performance measures and management controls for the supervision and management of the activities described in paragraph (2). The performance measures and management controls shall be adequate to ensure, to the maximum extent practicable, that the Department of Defense receives the maximum benefit possible from the development, modernization, operation, and maintenance of automated information systems.

(2) The activities referred to in paragraph (1) are the following:

(A) Accelerated implementation of migration systems.

(B) Establishment of data standards.

(C) Process improvement.

(f) REPORTS.—Not later than March 15 in each of 1995, 1996, and 1997, the Secretary of Defense shall submit to Congress a report on the establishment and implementation of the performance measures and management controls referred to in subsection (e)(1). Each such report shall also specify—

(1) the automated information systems that, as determined under subsection (a), meet the requirements of subsection (b);

(2) the automated information systems that, as determined under subsection (a), do not meet the requirements of subsection (b) and the action taken by the Secretary to end the use of such systems; and

(3) the automated information systems that, as determined by the Enterprise Integration Executive Board, are migration systems.

(g) REVIEW BY COMPTROLLER GENERAL.—Not later than April 30, 1995, the Comptroller General of the United States shall submit to Congress a report that contains an evaluation of the following:

(1) The progress made by the Department of Defense in achieving the goals of the corporate information management program of the Department.

(2) The progress made by the Secretary of Defense in establishing the performance measures and management controls referred to in subsection (e)(1).

(3) The progress made by the Department of Defense in using automated information systems that meet the requirements of subsection (b).

(4) The report required by subsection (f) to be submitted in 1995.

(h) DEFINITIONS.—In this section:

(1) The term "automated information system" means an automated information system of the Department of Defense described in the exhibits designated as "IT-43" in the budget submitted to Congress by the President for fiscal year 1995 pursuant to section 1105 of title 31, United States Code.

(2) The term "migration system" has the meaning given such term in the document entitled "Department of Defense Strategy for Acceleration of Migration Systems and Data Standards" attached to the memorandum of the Department of Defense dated October 13, 1993 (relating to accelerated implementation of migration systems, data standards, and process improvement).

SEC. 382. PROGRAM TO COMMEMORATE WORLD WAR II.

(a) EXTENSION.—Section 378 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2387; 113 U.S.C. note) is amended by striking out "1995" in subsections (a) and (b) and inserting in lieu thereof "1996".

(b) REPORT.—(1) Not later than March 31, 1995, the Executive Director of the 50th Anniversary of World War II Commemoration Committee established by the Department of Defense shall submit to the Secretary of Defense a report on the reimbursement of a person for expenses incurred by that person in providing voluntary support for activities and programs conducted under the commemoration program referred to in section 378(a) of such Act. The report shall include the recommendations of the Committee on whether such reimbursement is appropriate, and if so, the extent of the reimbursement and the conditions upon which it should be provided.

(2) Not later than 45 days after receiving the report referred to in paragraph (1), the Secretary of Defense shall submit the report to the Committees on Armed Services of the Senate and House of Representatives together with any comments of the Secretary regarding that report.

SEC. 383. ASSISTANCE TO RED CROSS FOR EMERGENCY COMMUNICATIONS SERVICES FOR MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

(a) ASSISTANCE.—The following amounts shall be available for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross:

(1) For fiscal year 1995, $14,500,000 of the amount authorized to be appropriated in section 301(5).

(2) For each of fiscal years 1996 and 1997, $14,500,000 of the amount authorized to be appropriated for the Department of Defense for that fiscal year for operation and maintenance for Defense-wide activities.

(b) REPORT.—Not later than November 30 in each of 1994, 1995, and 1996, the Secretary of Defense shall submit to Congress a report on whether it is necessary for the Department of Defense to support the emergency communications services of the American National Red Cross in order to provide such services for members of the Armed Forces and their families. The report shall include the following:

(1) An estimate of the amount of funds necessary to provide such support.

(2) A projection of the date upon which the American National Red Cross can assume full financial responsibility for providing such emergency communications services.

(3) An assessment of the alternatives available to the Secretary for obtaining such emergency communications services, including the provision of such services by the Department of Defense.

SEC. 384. CLARIFICATION OF AUTHORITY TO PROVIDE MEDICAL TRANSPORTATION UNDER NATIONAL GUARD PILOT PROGRAM.

Paragraph (1) of section 376(h) of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) is amended to read as follows:

"(1) The term 'health care' includes the following services:

"(A) Medical care services.

"(B) Dental care services.

"(C) Transportation, by air ambulance or other means, for medical reasons.".

SEC. 385. NATIONAL GUARD ASSISTANCE FOR CERTAIN YOUTH AND CHARITABLE ORGANIZATIONS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Chapter 5 of title 32, United States Code, is amended by adding at the end the following:

"§508. Assistance for certain youth and charitable organizations

"(a) AUTHORITY TO PROVIDE SERVICES.—Members and units of the National Guard may provide the services described in subsection (b) to an eligible organization in conjunction with training required under this chapter in any case in which—

"(1) the provision of such services does not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit;

"(2) the services to be provided are not commercially available, or any commercial entity that would otherwise provide such services has approved, in writing, the provision of such services by the National Guard;

"(3) National Guard personnel will enhance their military skills as a result of providing such services; and

"(4) the provision of the services will not result in a significant increase in the cost of the training.

"(b) AUTHORIZED SERVICES.—The services authorized to be provided under subsection (a) are as follows:

"(1) Ground transportation.

"(2) Air transportation in support of Special Olympics.

"(3) Administrative support services.

"(4) Technical training services.

"(5) Emergency medical assistance and services.

"(6) Communications services.

"(c) OTHER AUTHORIZED ASSISTANCE.—Facilities and equipment of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard, and General Services Administration vehicles leased to the Department of Defense, may be used in connection with providing services to any eligible organization under this section.

"(d) ELIGIBLE ORGANIZATIONS.—The organizations eligible to receive services under this section are as follows:

"(1) The Boy Scouts of America.

"(2) The Girl Scouts of America.

"(3) The Boys Clubs of America.

"(4) The Girls Clubs of America.

"(5) The Young Men's Christian Association.

"(6) The Young Women's Christian Association.

"(7) The Civil Air Patrol.

"(8) The United States Olympic Committee.

"(9) The Special Olympics.

"(10) The Campfire Boys.

"(11) The Campfire Girls.

"(12) The 4-H Club.

"(13) The Police Athletic League.

"(14) Any other youth or charitable organization designated by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"508. Assistance for certain youth and charitable organizations.".

SEC. 386. ONE-YEAR EXTENSION OF CERTAIN PROGRAMS.

(a) DEMONSTRATION PROJECT FOR USE OF PROCEEDS FROM THE SALE OF CERTAIN PROPERTY.—(1) Section 343(d)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1344) is amended by striking out "terminate on December 5, 1994" and inserting in lieu thereof "terminate on December 5, 1995".

(2) Section 343(e) of such Act is amended by striking out "February 3, 1995" and inserting in lieu thereof "February 3, 1996".

(b) AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.—Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1684) is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(c) AUTHORITY OF BASE COMMANDERS OVER CONTRACTING FOR COMMERCIAL ACTIVITIES.—Section 2468(f) of title 10, United States Code, is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

SEC. 387. PROCUREMENT OF PORTABLE VENTILATORS FOR THE DEFENSE MEDICAL FACILITY OFFICE, FORT DETRICK, MARYLAND.

Of the funds authorized to be appropriated by section 301(5), $2,500,000 shall be available for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1995, as follows:

(1) The Army, 510,000.

(2) The Navy, 441,641.

(3) The Marine Corps, 174,000.

(4) The Air Force, 400,051.

SEC. 402. TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR ARMY MAJORS AND LIEUTENANT COLONELS.

(a) VARIATION AUTHORIZED.—In the administration of the limitation under section 523(a)(1) of title 10, United States Code, for fiscal years 1995 through 1997, the numbers applicable to officers of the Army serving on active duty in the grades of major and lieutenant colonel shall be the numbers set forth for that fiscal year in subsection (b) (rather than the numbers determined in accordance with the table in that section).

(b) NUMBERS FOR FISCAL YEARS 1995 THROUGH 1997.—The numbers referred to in subsection (a) are as follows:

Fiscal year:	Number of officers who may be serving on active duty in the grade of: Major	Lieutenant colonel
1995	12,603	8,506
1996	12,870	8,646
1997	12,870	8,646.

SEC. 403. EXTENSION OF TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR MARINE CORPS MAJORS AND LIEUTENANT COLONELS.

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 402 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1639; 10 U.S.C. 523 note) is amended by striking out "and 1995" and inserting in lieu thereof "through 1997"

(b) LIMITATION.—The table in subsection (b) of such section is amended to read as follows:

"Fiscal year:	Number of officers who may be serving on active duty in the grade of: Major	Lieutenant colonel
1994	3,023	1,578
1995	3,157	1,634
1996	3,157	1,634
1997	3,157	1,634.".

(c) CLERICAL AMENDMENT.—The caption of subsection (b) of such section is amended by striking out "AND 1995.—" and inserting in lieu thereof "THROUGH 1997.—".

SEC. 404. INCREASE IN AUTHORIZED STRENGTH FOR MARINE CORPS GENERAL OFFICERS ON ACTIVE DUTY AFTER FISCAL YEAR 1995.

Section 526(a)(4) of title 10, United States Code, is amended by striking out "before October 1, 1995," and all that follows through "that date".

SEC. 405. MANAGEMENT OF SENIOR GENERAL AND FLAG OFFICER POSITIONS.

(a) IN GENERAL.—Section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) An officer while serving in a position specified in section 604(b) of this title, if serving in the grade of general or admiral, is in addition to the number that would otherwise be permitted for that officer's armed force for officers serving on active duty in grades above major general or rear admiral, as the case may be, under the first sentence of paragraph (1) or (2), as applicable.

"(B) Subparagraph (A) does not apply in the case of an officer serving in such a position if the Secretary of Defense, when considering officers for recommendation to the President for appointment to fill the vacancy in that position which was filled by that officer, did not have a recommendation for that appointment from each Secretary of a military department who (pursuant to section 604(a) of this title) was required to make such a recommendation.

"(C) This paragraph shall cease to be effective at the end of September 30, 1997.".

(b) LIMITATION ON NUMBER OF 4-STAR POSITIONS.—(1) Chapter 32 of such title is amended by adding at the end the following new section:

"§528. Limitation on number of officers on active duty in grades of general and admiral

"(a) LIMITATION.—The total number of officers on active duty after September 30, 1995, in the Army, Air Force, and Marine Corps in the grade of general and in the Navy in the grade of admiral may not exceed 32.

"(b) EXCEPTIONS.—The limitation in subsection (a) does not apply in the case of an officer serving in the grade of general or admiral in a position that is specifically exempted by law from being counted for purposes of limitations by law on the total number of officers that may be on active duty in the grades of general and admiral or the number of officers that may be on active duty in that officer's armed force in the grade of general or admiral.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"528. Limitation on number of officers on active duty in grades of general and admiral.".

(c) GREATER SERVICE COMPETITION FOR JOINT 4-STAR POSITIONS.—(1) Chapter 35 of such title is amended by adding at the end the following new section:

"§604. Senior joint officer positions: recommendations to the Secretary of Defense

"(a) JOINT 4-STAR OFFICER POSITIONS.—(1) Whenever a vacancy occurs, or is anticipated to occur, in a position specified in subsection (b)—

"(A) the Secretary of Defense shall require the Secretary of the Army to submit the name of at least one Army officer, the Secretary of the Navy to submit the name of at least one Navy officer and the name of at least one Marine Corps officer, and the Secretary of the Air Force to submit the name of at least one Air Force officer for consideration by the Secretary for recommendation to the President for appointment to that position; and

"(B) the Chairman of the Joint Chiefs of Staff may submit to the Secretary of Defense the name of one or more officers (in addition to the officers whose names are submitted pursuant to subparagraph (A)) for consideration by the Secretary for recommendation to the President for appointment to that position.

"(2) Whenever the Secretaries of the military departments are required to submit the names of officers under paragraph (1)(A), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense the Chairman's evaluation of the performance of each officer whose name is submitted under that paragraph (and of any officer whose name the Chairman submits to the Secretary under paragraph (1)(B) for consideration for the same vacancy). The Chairman's evaluation shall primarily consider the performance of the officer as a member of the Joint Staff and in other joint duty assignments, but may include consideration of other aspects of the officer's performance as the Chairman considers appropriate.

"(b) COVERED POSITIONS.—Subsection (a) applies to the following positions:

"(1) Commander of a combatant command.

"(2) Commander, United States Forces, Korea.

"(3) Deputy commander, United States European Command, but only if the commander of that command is also the Supreme Allied Commander, Europe.

"(c) EXPIRATION.—This section shall cease to be effective at the end of September 30, 1997.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"604. Senior joint officer positions: recommendations to the Secretary of Defense.".

(d) REPORT.—Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report on the implementation of the amendments made by this section. The report shall include an assessment of the effectiveness of those amendments in meeting the objective of encouraging more competition among all services for appointment of officers to joint three-star and four-star positions. The report may include such additional recommendations concerning general and flag officer selection policy as the Secretary considers appropriate.

SEC. 406. TEMPORARY EXCLUSION OF SUPERINTENDENT OF NAVAL ACADEMY FROM COUNTING TOWARD NUMBER OF SENIOR ADMIRALS AUTHORIZED TO BE ON ACTIVE DUTY.

The officer serving as Superintendent of the United States Naval Academy on the date of the enactment of this Act, while so serving, shall not be counted for purposes of the limitations contained in section 525(b)(2) of title 10, United States Code.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1995, as follows:

(1) The Army National Guard of the United States, 400,000.

(2) The Army Reserve, 242,000.

(3) The Naval Reserve, 102,960

(4) The Marine Corps Reserve, 42,000.

(5) The Air National Guard of the United States, 115,581.

(6) The Air Force Reserve, 78,706.

(7) The Coast Guard Reserve, 8,000.

(b) WAIVER AUTHORITY.—The Secretary of Defense may increase the end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be reduced proportionately by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1995, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 23,650.

(2) The Army Reserve, 11,940.

(3) The Naval Reserve, 17,510.

(4) The Marine Corps Reserve, 2,285.

(5) The Air National Guard of the United States, 9,046.

(6) The Air Force Reserve, 648.

SEC. 413. DELAY IN INCREASE IN NUMBER OF ACTIVE COMPONENT MEMBERS TO BE ASSIGNED FOR TRAINING COMPATIBILTY WITH GUARD UNITS.

Section 414(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 261 note) is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1996".

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) IN GENERAL.—For fiscal year 1995, the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 69,420.

(2) The Navy, 43,064.

(3) The Marine Corps, 25,377.

(4) The Air Force, 36,840.

(b) SCOPE.—The average military training student load authorized for an armed force under subsection (a) applies to the active and reserve components of that armed force.

(c) ADJUSTMENTS.—The average military training student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Authorization of Appropriations

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1995 a total of $70,938,597,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1995.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. CONSISTENCY OF WARRANT OFFICER PERSONNEL MANAGEMENT POLICIES WITH POLICIES APPLICABLE TO OTHER OFFICERS.

(a) EXCEPTION FROM MANDATORY CONSIDERATION BY PROMOTION BOARD.—Section 575(d) of title 10, United States Code, is amended by inserting "(except for a warrant officer precluded from consideration under regulations prescribed by the Secretary concerned under section 577 of this title)" after "under consideration".

(b) SECRETARIAL SUBMISSION OF PROMOTION BOARD REPORT.—Section 576(f)(1) of such title is amended by striking out the second sentence.

(c) CERTAIN PROMOTION FORMALITIES DEEMED COMPLETED.—Section 578 of such title is amended by adding at the end the following new subsections:

"(e) A warrant officer who is appointed to a higher grade under this section is considered to have accepted such appointment on the date on which the appointment is made unless the officer expressly declines the appointment.

"(f) A warrant officer who has served continuously as an officer since subscribing to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this section.".

(d) CLARIFICIATION OF WARRANT OFFICERS SUBJECT TO WOMA AUTHORITIES.—Section 582(2) of such title is amended by inserting before the period at the end the following: "(other than retired warrant officers who were recalled to active duty before February 1, 1992, and have served continuously on active duty since that date)".

SEC. 502. AUTHORITY FOR ORIGINAL REGULAR APPOINTMENTS OF NAVY AND MARINE CORPS LIMITED DUTY OFFICERS SERVING IN GRADES ABOVE PAY GRADE O–3 UNDER TEMPORARY APPOINTMENTS.

Section 5589 of title 10, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) An officer described in paragraph (2) may be given an original appointment as a regular officer of the Navy or the Marine Corps, as the case may be, in the grade, and with the date of rank in that grade, in which the officer is serving on the day before such original appointment.

"(2) This subsection applies to an officer of the Navy and Marine Corps who—

"(A) is on the active-duty list;

"(B) holds a permanent enlisted or warrant officer grade;

"(C) is designated for limited duty under subsection (a) of section 5596 of this title; and

"(D) is serving in the grade of lieutenant commander or commander, or in the grade of major or lieutenant colonel, under a temporary appointment under subsection (d) of section 5596 of this title.".

SEC. 503. NAVY AND MARINE CORPS LIMITED DUTY OFFICERS TWICE HAVING FAILED OF SELECTION FOR PROMOTION.

(a) TREATMENT OF LDOS TWICE HAVING FAILED OF SELECTION.—Section 6383 of title 10, United States Code, is amended—

(1) by redesignating subsections (g), (h), (i), and (j) as subsections (i), (j), (k), and (l), respectively; and

(2) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) 18-YEAR RETIREMENT SANCTUARY.—If an officer subject to discharge under subsection (b), (d), or (e) is (as of the date on which the officer is to be discharged) not eligible for retirement under any provision of law but is within two years of qualifying for retirement under section 6323 of this title, the officer shall be retained on active duty as an officer designated for limited duty until becoming qualified for retirement under that section and shall then be retired under that section, unless the officer is sooner retired or discharged under another provision of law or the officer reverts to a warrant officer grade pursuant to subsection (h).

"(g) REENLISTMENT FOR LDOS APPOINTED FROM ENLISTED GRADES.—(1) An officer subject to discharge under subsection (b), (d), or (e) who is described in paragraph (2) may, upon the officer's request and in the discretion of the Secretary of the Navy, be enlisted in a grade prescribed by the Secretary upon the officer's discharge pursuant to such subsection.

"(2) An officer described in this paragraph is an officer who—

"(A) is not eligible for retirement under any provision of law;

"(B) is not covered by subsection (f); and

"(C) was in an enlisted grade when first appointed as an officer designated for limited duty.

"(h) REVERSION TO WARRANT OFFICER GRADE FOR LDOS APPOINTED FROM WARRANT OFFICER GRADES.—An officer subject to discharge under subsection (b), (d), or (e) (including an officer otherwise subject to retention under subsection (f)) who is not eligible for retirement under any provision of law and who had the permanent status of a warrant officer when first appointed as an officer designated for limited duty may, at the officer's option, revert to the warrant officer grade and status that the officer would hold if the officer had not been appointed as an officer designated for limited duty.".

(b) CLARIFICATION OF OFFICERS SUBJECT TO SELECTIVE RETENTION.—Subsection (k) of such section (as redesignated by subsection (a)(1)) is amended by striking out "or the discharge under subsection (d)" in the first sentence and inserting in lieu thereof "or the discharge under subsection (b) or (d)".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (a) by striking out "Except as provided in subsection (i)," each place it appears and inserting in lieu thereof "Except as provided in subsection (k),"; and

(2) in subsections (b) and (d), by striking out "Except as provided in subsection (i)," and inserting in lieu thereof "Except as provided in subsections (f) and (k),".

(d) SUBSECTION HEADINGS.—Such section is further amended as follows:

(1) Subsection (a) is amended by striking out "(a)(1)" and inserting in lieu thereof "(a) MANDATORY RETIREMENT.—(1)".

(2) Subsection (b) is amended by inserting "LIEUTENANT COMMANDERS AND MAJORS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—" after "(b)".

(3) Subsection (c) is amended by inserting "RETIRED GRADE AND RETIRED PAY.—" after "(c)".

(4) Subsection (d) is amended by inserting "NAVY LIEUTENANTS AND MARINE CORPS CAPTAINS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—" after "(d)".

(5) Subsection (e) is amended by striking out "(e)(1)" and inserting in lieu thereof "(e) OFFICERS IN PAY GRADES O–2 AND O–1 WHO TWICE FAIL OF SELECTION FOR PROMOTION OR ARE FOUND NOT QUALIFIED FOR PROMOTION.—(1)".

(6) Subsection (i) (as redesignated by subsection (a)(1)) is amended by inserting "DETERMINATION OF GRADE AND STATUS OF OFFICERS REVERTING TO PRIOR STATUS.—" after "(i)".

(7) Subsection (j) (as redesignated by subsection (a)(1)) is amended by inserting "SEPARATION PAY FOR OFFICERS DISCHARGED.—" after "(j)".

(8) Subsection (k) (as redesignated by subsection (a)(1)) is amended by inserting "SELECTIVE RETENTION BOARDS FOR LDOS.—" after "(k)".

(9) Subsection (l) (as redesignated by subsection (a)(1)) is amended by inserting "APPLICABILITY OF SECTION ONLY TO PERMANENT LDOS.—" after "(l)".

SEC. 504. SELECTION FOR DESIGNATED JUDGE ADVOCATE GENERAL AND FLAG OFFICER POSITIONS.

(a) ARMY.—Section 3037 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) Under regulations prescribed by the Secretary of Defense, the Secretary of the Army, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or Assistant Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

(b) NAVY AND MARINE CORPS.—(1) Section 5148 of such title is amended—

(A) in subsection (b), by striking out the last sentence and and inserting in lieu thereof the following: "If an officer appointed as the Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate."; and

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

(2) Section 5149(a) of such title is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking out the second and third sentences and inserting in lieu thereof the following: "If an officer appointed as the Deputy Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate."; and

(C) by adding at the end the following:

"(2) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

(3) Section 5133 of such title is amended—

(A) in subsection (a)—

(i) by striking out "or the Judge Advocate General" in the first sentence; and

(ii) by striking out the second sentence; and

(B) in the first sentence of subsection (b)—

(i) by striking out "or the Judge Advocate General" both places it appears; and

(ii) by striking out "or major general, as appropriate".

(4) Section 5046 of such title—

(A) in subsection (a), by striking out the second sentence and inserting in lieu thereof the following: "If an officer appointed as the Staff Judge Advocate to the Commandant of the Marine Corps holds a lower regular grade, the officer shall be appointed in the regular grade of brigadier general."; and

(B) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Staff Judge Advocate to the Commandant of the Marine Corps, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

(5) The heading of section 5133, and the item relating to that section in the table of sections at the beginning of chapter 513 of such title, are each amended by striking out the third through sixth words.

(c) AIR FORCE.—Section 8037 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or under subsection (d) for appointment as the Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

Subtitle B—Reserve Component Matters

SEC. 511. INCREASED PERIOD OF ACTIVE DUTY FOR RESERVE FORCES MOBILIZED OTHER THAN DURING WAR OR NATIONAL EMERGENCY.

(a) REVISION TO PERIOD OF ACTIVE DUTY.—Section 673b of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "90 days" and inserting in lieu thereof "270 days"; and

(2) by striking out subsection (i).

(b) REPORT REQUIRED.—(1) Not later than April 1, 1995, the Secretary of Defense shall submit to the congressional defense committees a report on the desirability of increasing the authority of the President to order units and members of the reserve components to active duty without the consent of the members concerned.

(2) The report shall include the following:

(A) An analysis of options for increased presidential authority.

(B) An assessment of the effects of each option on recruiting, retention, employer support for the reserve components, and the families of members of the reserve components.

(C) Programs that the Secretary recommends to mitigate any negative effects.

(D) Any option that the Secretary recommends.

(E) Any proposed legislation that the Secretary considers necessary to implement any recommended option.

SEC. 512. RESERVE GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.

Section 526 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(d) NOTICE TO CONGRESS UPON CHANGE IN GRADE FOR CERTAIN POSITIONS.—(1) Not later than 60 days before an action specified in paragraph (2) may become effective, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing notice of the intended action and an analytically based justification for the intended action.

"(2) Paragraph (1) applies in the case of the following actions:

"(A) A change in the grade authorized as of July 1, 1994, for a general officer position in the National Guard Bureau, a general or flag officer position in the Office of a Chief of a reserve component, or a general or flag officer position in the headquarters of a reserve component command.

"(B) Assignment of a reserve component officer to a general officer position in the the National Guard Bureau, to a general or flag officer position in the Office of a Chief of a reserve component, or a general or flag officer position in the headquarters of a reserve component command in a grade other the grade authorized for that position as of July 1, 1994.

"(C) Assignment of an officer other than a general or flag officer as the military executive to the Reserve Forces Policy Board.

"(e) EXCLUSION OF CERTAIN OFFICERS.—The limitations of this section do not apply to a reserve component general or flag officer who is on active duty for training or who is on active duty under a call or order specifying a period of less than 180 days.".

SEC. 513. REVIEW OF OPPORTUNITIES FOR ORDERING INDIVIDUAL RESERVES TO ACTIVE DUTY WITH THEIR CONSENT.

(a) REVIEW REQUIRED.—The Secretary of Defense shall—

(1) review the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, durinc peacetime in positions traditionally filled by active duty personnel; and

(2) identify and remove any impediments, in regulations or other administrative rules, to increasing those opportunities.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the review. The report shall contain—

(1) a plan for increasing the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, during peacetime in positions traditionally filled by active duty personnel; and

(2) a draft of any additional legislation that the Secretary considers necessary in order to increase those opportunities.

SEC. 514. DEFINITION OF ACTIVE GUARD AND RESERVE DUTY.

Section 101(d) of title 10, United States Code, is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph (6):

"(6)(A) The term 'active Guard and Reserve duty' means active duty or full-time National Guard duty performed by a member of a reserve component of the Army, Navy, Air Force, or Marine Corps, or full-time National Guard duty performed by a member of the National Guard, pursuant to an order to active duty or full-time National Guard duty for a period of 180 consecutive days or more for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.

"(B) Such term does not include the following:

"(i) Duty performed as a member of the Reserve Forces Policy Board provided for under section 175 of this title.

"(ii) Duty performed as a property and fiscal officer under section 708 of title 32.

"(iii) Duty performed for the purpose of interdiction and counter-drug activities for which funds have been provided under section 112 of title 32.

"(iv) Duty performed as a general or flag officer.

"(v) Service as a State director of the Selective Service System under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)).".

SEC. 515. REPEAL OF OBSOLETE PROVISIONS PERTAINING TO TRANSFER OF RETIRED REGULAR ENLISTED MEMBERS TO RESERVE COMPONENTS.

(a) ARMY.—Section 3914 of title 10, United States Code, is amended by striking out the second and third sentences.

(b) AIR FORCE.—Section 8914 of such title is amended by striking out the second and third sentences.

SEC. 516. SEMIANNUAL REPORT ON SEPARATIONS OF ACTIVE ARMY OFFICERS.

Section 1111 of the Army National Guard Combat Readiness Reform Act of 1992 (title XI of

VOL 140 PT 16 AG 12 — 18 1994 UMI

Public Law 102–484; 106 Stat. 2536) is amended by adding at the end the following new subsection:

"(e) LIST OF CERTAIN SEPARATED OFFICERS.—On a semiannual basis, the Secretary of the Army shall furnish to the Chief of the National Guard Bureau a list containing the name, home of record, and last-known mailing address of each officer of the Army who during the previous six months was honorably separated from active duty in the grade of major or below.".

SEC. 517. EARLY RESERVE RETIREMENT ELIGIBILITY FOR DISABLED MEMBERS OF SELECTED RESERVE.

Section 1331a(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Notwithstanding the provisions of section 4415(2) of the Defense Conversion Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 1331(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned or was incurred during a period of unauthorized absence.".

SEC. 518. ANNUAL PAYMENTS FOR MEMBERS RETIRED UNDER GUARD AND RESERVE TRANSITION INITIATIVE.

(a) ANNUAL PAYMENT FOR ONE TO FIVE YEARS.—Subsection (d) of section 4416 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1162 note) is amended—

(1) by striking out "for 5 years" and inserting in lieu thereof "for a period of years prescribed by the Secretary concerned";

(2) by striking out "the 5-year period" and inserting in lieu thereof "that period"; and

(3) by adding at the end the following: "A period prescribed for purposes of this subsection may not be less than one year nor more than five years.".

(b) COMPUTATION OF ANNUAL PAYMENT.—Subsection (e) of such section is amended by adding at the end the following:

"(3) In the case of a member who will attain 60 years of age during the 12-month period following the date on which an annual payment is due, the payment shall be paid on a prorated basis of one-twelfth of the annual payment for each full month between the date on which the payment is due and the date on which the member attains age 60.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to payments to a member of the Armed Forces under subsection (b) of section 4416 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484) that are granted by the Secretary of Defense to that member after the date of the enactment of this Act.

SEC. 519. EDUCATIONAL REQUIREMENTS FOR APPOINTMENT IN RESERVE COMPONENTS IN GRADES ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE).

Section 596 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "an accredited educational institution" and inserting in lieu thereof "a qualifying educational institution"; and

(2) by adding at the end the following new subsection:

"(c) QUALIFYING EDUCATIONAL INSTITUTIONS.—(1) A qualifying educational institution for purposes of this section is an educational institution that is accredited or that meets the requirements of paragraph (2).

"(2)(A) An unaccredited educational institution shall be considered to be a qualifying educational institution for purposes of the appointment or recognition of a person who is a graduate of that institution if the Secretary concerned determines that (as of the year of the graduation of that person from that institution) at least three educational institutions that are accredited and that maintain Reserve Officers' Training Corps programs each generally grant baccalaureate degree credit for completion of courses of the unaccredited institution equivalent to the baccalaureate degree credit granted by the unaccredited institution for the completion of those courses.

"(B) In order to assist the Secretary concerned in making determinations under subparagraph (A), any unaccredited institution that seeks to be considered to be a qualifying educational institution for purposes of this paragraph shall submit to the Secretary of Defense each year such information as the Secretary may require concerning the program of instruction at that institution.

"(C) In the case of a person with a degree from an unaccredited institution that is a qualifying educational institution under this paragraph, the degree may not have been awarded more than three years before the date on which the person is to be appointed to, or recognized in, the grade of captain or, in the case of the Naval Reserve, lieutenant, in order for that person to be considered for purposes of subsection (a) to have been awarded a baccalaureate degree by a qualifying educational institution.".

SEC. 520. LIMITED EXCEPTION FOR ALASKA SCOUT OFFICERS FROM BACCALAUREATE DEGREE REQUIREMENT FOR APPOINTMENT AS OFFICER IN NATIONAL GUARD ABOVE FIRST LIEUTENANT.

(a) IN GENERAL.—Subsection (b) of section 596 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) Recognition in the grade of captain or major in the Alaska Army National Guard of a person who resides permanently at a location in Alaska that is more than 50 miles from each of the cities of Anchorage, Fairbanks, and Juneau, Alaska, by paved road and who is serving in a Scout unit or a Scout supporting unit.".

(b) CONFORMING STYLISTIC AMENDMENTS.—Such subsection is further amended by striking out "an individual" in paragraphs (2) and (3) and inserting in lieu thereof "a person".

SEC. 521. SENSE OF CONGRESS CONCERNING THE TRAINING AND MODERNIZATION OF THE RESERVE COMPONENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) The force structure specified in the report resulting from the Bottom Up Review conducted by the Department of Defense during 1993 assumes increased reliance on the reserve components of the Armed Forces.

(2) The mobilization of the reserve components for the Persian Gulf War was handicapped by shortfalls in training, readiness, and equipment.

(3) The mobilization of the Army reserve components for the Persian Gulf War was handicapped by lack of a standard readiness evaluation system, which resulted in a lengthy reevaluation of training and equipment readiness of Army National Guard and Army Reserve units before they could be deployed.

(4) Funding and scheduling constraints continue to limit the opportunity for combat units of the Army National Guard to carry out adequate maneuver training.

(5) Funding constraints continue to handicap the readiness and modernization of the reserve components and their interoperability with the active forces.

(b) STANDARD EVALUATION SYSTEM.—It is the sense of Congress that the Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, should establish—

(1) a standard readiness evaluation system that is uniform for all forces within each military service; and

(2) a standard readiness rating system that is uniform for the military departments.

(c) MILITARY DEPARTMENT BUDGETS.—It is the sense of Congress that the Secretary of Defense should assess the budget submission of each military department each year to determine (taking into consideration the advice of the Chairman of the Joint Chiefs of Staff) the extent to which National Guard and reserve units would, under that budget submission, be trained and modernized to the standards needed for them to carry out the full range of missions required of them under current Department of Defense plans. Based upon such assessment each year, the Secretary should adjust the budget submissions of the military departments as necessary in order to meet the priorities established by the Secretary of Defense for the total force.

Subtitle C—Victims' Rights, Family Advocacy, and Nondiscrimination Provisions

SEC. 531. PROHIBITION OF RETALIATORY ACTIONS AGAINST MEMBERS OF THE ARMED FORCES MAKING ALLEGATIONS OF SEXUAL HARASSMENT OR UNLAWFUL DISCRIMINATION.

(a) IN GENERAL.—Subsection (b) of section 1034 of title 10, United States Code, is amended—

(1) by inserting "(1)" before "No person may take";

(2) by designating the second sentence as paragraph (2) and in that sentence striking out "the preceding sentence" and inserting in lieu thereof "paragraph (1)"; and

(3) in the first sentence, by striking out "or preparing" and all that follows through "may not be restricted." and inserting in lieu thereof the following: "or preparing—

"(A) a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted; or

"(B) a communication that is described in subsection (c)(2) and that is made (or prepared to be made) to—

"(i) a Member of Congress;

"(ii) an Inspector General (as defined in subsection (j));

"(iii) a member of a Department of Defense audit, inspection, investigation, or law enforcement organization; or

"(iv) any other person or organization (including any person or organization in the chain of command) designated pursuant to regulations or other established administrative procedures for such communications.".

(b) INSPECTOR GENERAL INVESTIGATION OF ALLEGATIONS OF PROHIBITED PERSONNEL ACTIONS.—Subsection (c) of such section is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "If, in the case of an allegation submitted to the Inspector General of the Department of Defense, the Inspector General delegates the conduct of the investigation of the allegation to the inspector general of one of the armed forces, the Inspector General of the Department of Defense shall ensure that the inspector general conducting the investigation is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.";

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) A communication described in this paragraph is a communication in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of, any of the following:

"(A) A violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination.

"(B) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety."; and

(3) in the subsection heading, by striking out "CERTAIN ALLEGATIONS" and inserting in lieu thereof "ALLEGATIONS OF PROHIBITED PERSONNEL ACTIONS".

(c) INSPECTOR GENERAL INVESTIGATION OF ALLEGATIONS OF WRONGDOING.—Such section is further amended—

(1) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (f), (g), (h), (i), and (j), respectively; and

(2) by striking out paragraph (4) of subsection (c) and inserting in lieu thereof the following:

"(d) INSPECTOR GENERAL INVESTIGATION OF UNDERLYING ALLEGATIONS.—Upon receiving an allegation under subsection (c), the Inspector General shall conduct a separate investigation of the information that the member making the allegation believes constitutes evidence of wrongdoing (as described in subparagraph (A) or (B) of subsection (c)(2)) if there previously has not been such an investigation or if the Inspector General determines that the original investigation was biased or otherwise inadequate.".

(d) REPORTS ON INVESTIGATIONS.—Such section is further amended—

(1) by striking out "(5) Not later than 30 days" and inserting in lieu thereof "(e) REPORTS ON INVESTIGATIONS.—(1) Not later than 30 days";

(2) in the paragraph redesignated by paragraph (1)—

(A) by striking out "this subsection" and inserting in lieu thereof "subsection (c) or (d)";

(B) by striking out "the member of the armed forces concerned" and inserting in lieu thereof "the member of the armed forces who made the allegation investigated"; and

(C) by striking out the second sentence;

(3) by inserting after the paragraph redesignated by paragraph (1) the following new paragraph:

"(2) In the copy of the report submitted to the member, the Inspector General shall ensure the maximum disclosure of information possible, with the exception of information that is not required to be disclosed under section 552 of title 5.";

(4) by redesignating paragraphs (6) and (7) as paragraphs (3) and (4), respectively; and

(5) in paragraph (3), as so redesignated, by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (1)".

(e) DEFINITION.—Subsection (j) of such section, as redesignated by subsection (c)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'unlawful discrimination' means discrimination on the basis of race, color, religion, sex, or national origin.".

(f) CROSS REFERENCE AMENDMENTS.—(1) Subsection (f) of such section, as redesignated by subsection (c)(1), is amended by striking out "subsection (c)(5)" in paragraphs (2)(A), (3)(A)(i), and (3)(B) and inserting in lieu thereof "subsection (e)(1)".

(2) Subsection (g) of such section, as redesignated by subsection (c)(1), is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (f)".

(g) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§1034. Protected communications; prohibition of retaliatory personnel actions".

(2) The table of sections at the beginning of chapter 53 of such title is amended to read as follows:

"1034. Protected communications; prohibition of retaliatory personnel actions.".

(h) DEADLINE FOR REGULATIONS.—The Secretary of Defense and the Secretary of Transportation shall prescribe regulations to implement the amendments made by this section not later than 120 days after the date of the enactment of this Act.

(i) CONTENT OF REGULATIONS.—In prescribing regulations under section 1034 of title 10, United States Code, as amended by this section, the Secretary of Defense and the Secretary of Transportation shall provide for appropriate procedural protections for the subject of any investigation carried out under the provisions of that section, including a process for appeal and review of investigative findings.

SEC. 532. DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES ON DISCRIMINATION AND SEXUAL HARASSMENT.

(a) REPORT OF TASK FORCE.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment, constituted by the Secretary of Defense on March 15, 1994, shall transmit a report of its findings and recommendations to the Secretary of Defense not later than October 1, 1994.

(2) The Secretary shall transmit to Congress the report of the task force not later than October 10, 1994.

(b) SECRETARIAL REVIEW.—Not later than 45 days after receiving the report under subsection (a), the Secretary shall—

(1) review the recommendations for action contained in the report;

(2) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

(3) submit to Congress a report that—

(A) identifies the approved recommendations and the disapproved recommendations; and

(B) explains the reasons for each such approval and disapproval.

(c) COMPREHENSIVE DOD POLICY.—(1) Based on the approved recommendations of the task force and such other factors as the Secretary considers appropriate, the Secretary shall develop a comprehensive Department of Defense policy for processing complaints of sexual harassment and discrimination involving members of the Armed Forces under the jurisdiction of the Secretary.

(2) The Secretary shall issue policy guidance for the implementation of the comprehensive policy and shall require the Secretaries of the military departments to prescribe regulations to implement that policy not later than March 1, 1995.

(3) The Secretary shall ensure that the policy is implemented uniformly by the military departments insofar as practicable.

(4) Not later than March 31, 1995, the Secretary of Defense shall submit to Congress a proposal for any legislation necessary to enhance the capability of the Department of Defense to address the issues of unlawful discrimination and sexual harassment.

(d) MILITARY DEPARTMENT POLICIES.—(1) The Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and procedures in that Department for the making of, and responding to, complaints of unlawful discrimination and sexual harassment in order to ensure that those regulations are substantially equivalent to the regulations of the Department of the Army on such matters.

(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy and the Secretary of the Air Force may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen those regulations beyond the substantial equivalent of the Army regulations in accordance with—

(A) the approved recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraphs (A) and (B) of paragraph (2).

(e) REPORT OF ADVISORY BOARD.—(1) The Secretary of Defense shall direct the Advisory Board on the Investigative Capability of the Department of Defense, established by the Secretary of Defense in November 1993, to include in its report to the Secretary (scheduled to be transmitted to the Secretary during December 1994)—

(A) the recommendations of the Advisory Board as to whether the current Department of Defense organizational structure is adequate to oversee all investigative matters related to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim; and

(B) recommendations as to whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to respond to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim.

(2) The Secretary shall transmit to Congress the report of the Advisory Board not later than 15 days after receiving the report.

(f) PERFORMANCE EVALUATION STANDARDS FOR MEMBERS OF THE ARMED FORCES.—The Secretary of Defense shall ensure that Department of Defense regulations governing consideration of equal opportunity matters in evaluations of the performance of members of the Armed Forces include provisions requiring as a factor in such evaluations consideration of a member's commitment to elimination of unlawful discrimination or of sexual harassment in the Armed Forces.

SEC. 533. ANNUAL REPORT ON PERSONNEL READINESS FACTORS BY RACE AND GENDER.

(a) REQUIRED ASSESSMENT.—The Secretary of Defense shall submit to Congress an annual report on trends in recruiting, retention, and personnel readiness.

(b) DATA TO BE COLLECTED.—Each annual report under subsection (a) shall include the following information with respect to the preceding fiscal year for the active components of each of the Armed Forces under the jurisdiction of the Secretary (as well as such additional information as the Secretary considers appropriate):

(1) The numbers of members of the Armed Forces temporarily and permanently nondeployable and rates of temporary and permanent nondeployability, displayed by cause of nondeployability, rank, and gender.

(2) The numbers and rates of complaints and allegations within the Armed Forces that involve gender and other unlawful discrimination and sexual harassment, and the rates of substantiation for those complaints and allegations.

(3) The numbers and rates of disciplinary proceedings, displayed (A) by offense or infraction committed, (B) by gender, rank, and race, and (C) by the categories specified in paragraph (2).

(4) The retention rates, by gender, rank, and race, with an analysis of factors influencing those rates.

(5) The propensity of persons to enlist, displayed by gender and race, with an analysis of the factors influencing those propensities.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(c) SUBMISSION TO CONGRESS.—The Secretary shall submit the report under this section for any fiscal year as part of the annual Department of Defense posture statement provided to Congress in connection with the Department of Defense budget request for that fiscal year.

(d) INITIAL SUBMISSION.—The first report under this section shall be submitted in connection with the Department of Defense budget request for fiscal year 1996 and shall include data, to the degree such data already exists, for fiscal years after fiscal year 1991.

SEC. 534. VICTIMS' ADVOCATES PROGRAMS IN DEPARTMENT OF DEFENSE.

(a) ESTABLISHMENT.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness, shall revise policies and regulations of the Department of Defense with respect to the programs of the Department of Defense specified in paragraph (2) in order to establish within each of the military departments a victims' advocates program.

(2) Programs of referred to in paragraph (1) are the following:

(A) Victim and witness assistance programs.

(B) Family advocacy programs.

(C) Equal opportunity programs.

(3) In the case of the Department of the Navy, separate victims' advocates programs shall be established for the Navy and the Marine Corps.

(b) PURPOSE.—A victims' advocates program established pursuant to subsection (a) shall provide assistance described in subsection (d) to members of the Armed Forces and their dependents who are victims of any of the following:

(1) Crime.

(2) Intrafamilial sexual, physical, or emotional abuse.

(3) Discrimination or harassment based on race, gender, ethnic background, national origin, or religion.

(c) INTERDISCIPLINARY COUNCILS.—(1) The Secretary of Defense shall establish a Department of Defense council to coordinate and oversee the implementation of programs under subsection (a). The membership of the council shall be selected from members of the Armed Forces and officers and employees of the Department of Defense having expertise or experience in a variety of disciplines and professions in order to ensure representation of the full range of services and expertise that will be needed in implementing those programs.

(2) The Secretary of each military department shall establish similar interdisciplinary councils within that military department as appropriate to ensure the fullest coordination and effectiveness of the victims' advocates program of that military department. To the extent practicable, such a council shall be established at each significant military installation.

(d) ASSISTANCE.—(1) Under a victims' advocates program established under subsection (a), individuals working in the program shall principally serve the interests of a victim by initiating action to provide (A) information on available benefits and services, (B) assistance in obtaining those benefits and services, and (C) other appropriate assistance.

(2) Services under such a program in the case of an individual who is a victim of family violence (including intrafamilial sexual, physical, and emotional abuse) shall be provided principally through the family advocacy programs of the military departments.

(e) STAFFING.—The Secretary of Defense shall provide for the assignment of personnel (military or civilian) on a full-time basis to victims' advocates programs established pursuant to subsection (a). The Secretary shall ensure that sufficient numbers of such full-time personnel are assigned to those programs to enable those programs to be carried out effectively.

(f) IMPLEMENTATION DEADLINE.—Subsection (a) shall be carried out not later than six months after the date of the enactment of this Act.

(g) IMPLEMENTATION REPORT.—Not later than 30 days after the date on which Department of Defense policies and regulations are revised pursuant to subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation (and plans for implementation) of this section.

SEC. 535. TRANSITIONAL COMPENSATION AND OTHER BENEFITS FOR DEPENDENTS OF MEMBERS SEPARATED FOR DEPENDENT ABUSE.

(a) EARLIER COMMENCEMENT OF PAYMENTS.—Subsection (e) of section 1059 of title 10, United States Code, as redesignated by section 1070(a)(5) of this Act, is amended to read as follows:

"(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section—

"(A) in the case of a member convicted by a court-martial for a dependent-abuse offense, shall commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

"(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense), shall commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

"(2) Transitional compensation with respect to a member shall be paid for a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months.

"(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such punishment applicable to the member under the sentence is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

"(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

"(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).".

(b) COMMISSARY AND EXCHANGE BENEFITS.—Such section is further amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) COMMISSARY AND EXCHANGE BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to use commissary and exchange stores to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of more than 30 days.

"(2) If a dependent or former dependent eligible or entitled to use commissary and exchange stores under paragraph (1) is eligible or entitled to use commissary and exchange stores under another provision of law, the eligibility or entitlement of that dependent or former dependent to use commissary and exchange stores shall be determined under such other provision of law rather than under paragraph (1).".

(c) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits".

(2) The item relating to such section in the table of sections at the beginning of chapter 53 of such title is amended to read as follows:

"1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits.".

SEC. 536. STUDY OF SPOUSAL ABUSE INVOLVING ARMED FORCES PERSONNEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense has sponsored several highly successful programs designed to curtail spousal abuse.

(2) The readiness of the Armed Forces would be enhanced by eliminating all forms of spousal abuse involving members of the Armed Forces.

(3) Available data on the frequency and causes of spousal abuse involving members of the Armed Forces is not comprehensive for the Armed Forces.

(b) STUDY.—The Secretary of Defense shall conduct a study on spousal abuse involving members of the Armed Forces.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study. The report shall contain the following:

(1) The frequency of spousal abuse involving members of the Armed Forces.

(2) A discussion of the possible causes of such spousal abuse.

(3) A discussion of the procedures followed in responding to incidents of such spousal abuse.

(4) An analysis of the effectiveness of those procedures.

(5) A review of the existing programs for curtailing such spousal abuse.

(6) A strategy for the entire Armed Forces for curtailing spousal abuse involving members of the Armed Forces.

Subtitle D—Matters Relating to the Coast Guard

SEC. 541. EXTENSION OF WARRANT OFFICER MANAGEMENT ACT PROVISIONS TO COAST GUARD.

(a) ESTABLISHMENT OF PERMANENT GRADE OF CHIEF WARRANT OFFICER, W–5.—(1) The grade of chief warrant officer, W–5, is hereby established in the Coast Guard.

(2) Section 571(a) of title 10, United States Code, is amended by striking out "Army, Navy, Air Force, and Marine Corps" and inserting in lieu thereof "armed forces".

(b) EXTENSION OF WARRANT OFFICER MANAGEMENT ACT PROVISIONS TO COAST GUARD WARRANT OFFICERS.—Chapter 33A of title 10, United States Code, is amended as follows:

(1) Section 573(a) is amended—

(A) by striking out "Secretary of a military department" in paragraph (1) and inserting in lieu thereof "Secretary concerned"; and

(B) by striking out "of the military department" in paragraph (2).

(2) Section 574 is amended by striking out "Secretary of each military department" in subsections (a) and (b) and inserting in lieu thereof "Secretary concerned".

(3) Section 575(b)(2) is amended by inserting "and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy," after "Secretary of Defense".

(4) Section 576 is amended—

(A) in subsection (a), by striking out "of the military department" in the matter preceding paragraph (1);

(B) in subsection (e), by striking out "of the military department"; and

(C) in subsection (f)(2), by striking out "of the military department".

(5) Section 580 is amended—

(A) in subsection (a)(4)(B), by inserting ", or severance pay computed under section 286a of title 14, as appropriate," after "section 1174 of this title"; and

(B) in subsection (e)(6), by inserting "and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy," after "Secretary of Defense".

(6) Section 581(a) is amended by striking out "in the Army, Navy, Air Force, or Marine Corps".

(c) TRANSITION FOR CERTAIN REGULAR WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W–5.—(1) A regular warrant officer of the Coast Guard who on the effective date of this section is on active duty and—

(A) is serving in a temporary grade below chief warrant officer, W–5, that is higher than that warrant officer's permanent grade;

(B) is on a list of officers recommended for promotion to a temporary grade below chief warrant officer W–5; or

(C) is on a list of officers recommended for promotion to a permanent grade higher than the grade in which that warrant officer is serving;

shall be considered to have been recommended by a board convened under section 573 of title 10, United States Code, as amended by this subsection (b), for promotion to the permanent grade equivalent to the grade in which that warrant officer is serving or for which that warrant officer has been recommended for promotion, as the case may be.

(2) An officer referred to in subparagraph (A) of paragraph (1) who is not promoted to the grade to which that warrant officer is considered under such subsection to have been recommended for promotion because that officer's name is removed from a list of officers who are considered under such paragraph to have been recommended for promotion shall be considered by a board convened under section 573 of title 10, United States Code, as amended by subsection (b), for promotion to the permanent grade equivalent to the temporary grade in which that warrant officer was serving on the effective date of this section as if that warrant officer were serving in the permanent grade.

(3) The date of rank of an officer referred to in paragraph (1)(A) who is promoted to the grade in which that warrant officer is serving on the effective date of this section is the date of that officer's temporary appointment in that grade.

(d) TRANSITION FOR CERTAIN RESERVE WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W–5.—(1)(A) Except as provided in paragraph (2), a reserve warrant officer of the Coast Guard who on the effective date of this section is subject to placement on the warrant officer active-duty list and who—

(i) is serving in a temporary grade below chief warrant officer, W–5, that is higher than that warrant officer's permanent grade; or

(ii) is on a list of warrant officers recommended for promotion to a temporary grade below chief warrant officer, W–5, that is the same as or higher than that warrant officer's permanent grade;

shall be considered to have been recommended by a board convened under section 598 of title 10, United States Code, for promotion to the permanent grade equivalent to the grade in which the warrant officer is serving or for which that warrant officer has been recommended for promotion, as the case may be.

(B) The date of rank of a warrant officer referred to in subparagraph (A)(i) who is promoted to the grade in which that warrant officer is considered under such subparagraph to have been recommended for promotion is the date of the temporary appointment of that warrant officer in that grade.

(2) A reserve warrant officer of the Coast Guard who on the effective date of this section—

(A) is subject to placement on the warrant officer active-duty list;

(B) is serving on active duty in a temporary grade; and

(C) holds a permanent grade higher than the temporary grade in which that warrant officer is serving;

shall while continuing on active duty retain such temporary grade and shall be considered for promotion to a grade equal to or lower than the permanent grade as if such temporary grade is a permanent grade. If such warrant officer is recommended for promotion, the appointment of that warrant officer to such grade shall be a temporary appointment.

(e) RANK OF COAST GUARD WARRANT OFFICERS.—(1) Subchapter A of chapter 11 of title 14, United States Code, is amended by adding at the end the following new section:

"§215. Rank of warrant officers

"(a) Among warrant officer grades, warrant officers of a higher numerical designation are senior to warrant officer grades of a lower numerical designation.

"(b) Warrant officers shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in the Coast Guard in such grade. Precedence among warrant officers of the same grade who have the same date of commission shall be determined by regulations prescribed by the Secretary.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 214 the following new item:

"215. Rank of warrant officers.".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 1125(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 555 note) is repealed.

(2) Section 286a(a) of title 14, United States Code, is amended by striking out "section 564(a)(3) of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act)" and inserting in lieu thereof "section 580(a)(4)(A) of title 10".

(3) Section 334(b) of such title is amended by striking out "section 564 of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act) or" and inserting in lieu thereof "section 580,".

(4) Section 41 of such title is amended by striking out "chief warrant officers, W–4; chief warrant officers, W–3; chief warrant officers, W–2; cadets; warrant officers, W–1;" and inserting in lieu thereof "chief warrant officers; cadets; warrant officers;".

(5)(A) Sections 212 and 213 of such title are repealed.

(B) The table of sections at the beginning of chapter 11 of such title is amended by striking out the items relating to section 212 and 213.

(6) Section 214 of such title is amended by striking out subsections (b) and (c).

(7) Section 583 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The active-duty list referred to in section 573(b) of this title includes the active-duty promotion list established by section 41a of title 14.".

(g) TEMPORARY AUTHORITY FOR INVOLUNTARY SEPARATION OF CERTAIN WARRANT OFFICERS.—Section 580a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) This section applies to the Secretary of Transportation in the same manner and to the same extent as it applies to the Secretary of Defense. The Commandant of the Coast Guard shall take the action set forth in subsection (b) with respect to regular warrant officers of the Coast Guard.".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act.

SEC. 542. COAST GUARD FORCE REDUCTION TRANSITION BENEFITS.

(a) INVOLUNTARY SEPARATION BENEFITS AND SERVICES.—Chapter 58 of title 10, United States Code, is amended as follows:

(1) Section 1141 is amended in the matter preceding paragraph (1)—

(A) by striking out "Army, Navy, Air Force, or Marine Corps" and inserting in lieu thereof "armed forces"; and

(B) by striking out "or on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994" and inserting in lieu thereof "or after November 29, 1993, or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994,".

(2) Section 1143 is amended—

(A) in the heading, by striking out ***": Department of Defense"***;

(B) in subsection (a), by inserting "and the Secretary of Transportation with respect to the Coast Guard" after "Secretary of Defense" and by striking out "under the jurisdiction of the Secretary";

(C) in subsection (b), by adding at the end the following new sentence: "The Secretary of Transportation shall establish permanent employment assistance centers at appropriate Coast Guard installations.";

(D) in subsection (c), by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(E) in subsection (d), by adding at the end the following new sentence: "The Secretary of Transportation shall provide the same preference in hiring to involuntarily separated members of the Coast Guard, and the dependents of such members, in Coast Guard nonappropriated fund instrumentalities.".

(3) Section 1143a is amended—

(A) in the heading by striking out ***": Department of Defense"***; and

(B) by adding at the end the following new subsection:

"(h) COAST GUARD.—This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department

VOL
140
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1994
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of Defense. The Secretary of Transportation shall implement the requirements of this section for the Coast Guard.".

(4) Section 1145 is amended by adding at the end the following new subsection:

"(e) COAST GUARD.—The provisions of this section shall apply to members of the Coast Guard (and their dependents) involuntarily separated from active duty during the five-year period beginning on October 1, 1994. The Secretary of Transportation shall implement this section for the Coast Guard.".

(5) Section 1146 is amended by adding at the end the following new sentence: "The Secretary of Transportation shall implement this provision for Coast Guard members involuntarily separated during the five-year period beginning October 1, 1994.".

(6) Section 1147(a) is amended—

(A) by inserting "(1)" before "The Secretary of a military department"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary of Transportation may prescribe regulations to permit members of the Coast Guard who are involuntarily separated during the five-year period beginning October 1, 1994, to continue for not more than 180 days after the date of such separation to reside (along with others of the member's household) in military family housing provided or leased by the Coast Guard to the individual as a member of the armed forces.".

(7) Section 1148 is amended by inserting "and the Secretary of Transportation" after "Secretary of Defense".

(8) Section 1149 is amended—

(A) by inserting "or the Secretary of Transportation with respect to the Coast Guard" after "Secretary of Defense"; and

(B) by striking out "of the military department".

(9) Section 1150 is amended by adding at the end the following new subsection:

"(c) COAST GUARD.—This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department of Defense. The Secretary of Transportation shall prescribe regulations to implement this section for the Coast Guard.".

(10) The table of sections at the beginning of the chapter is amended by striking out ": Department of Defense" in the items relating to section 1143 and 1143a.

(b) SPECIAL SEPARATION BENEFIT.—Section 1174a of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "of each military department" and inserting in lieu thereof "concerned";

(2) in subsection (d), by striking out "of a military department" and inserting in lieu thereof "concerned";

(3) in subsection (e)(3), by striking out "of the military department"; and

(4) in subsection (h), by striking out "of a military department" and inserting in lieu thereof "concerned".

(c) VOLUNTARY SEPARATION INCENTIVE.—Section 1175 of title 10, United States Code, is amended—

(1) in subsections (a) and (b), by inserting "and the Secretary of Transportation" after "Secretary of Defense";

(2) in subsection (c), by striking out "of the military department";

(3) in subsection (g), by inserting "and the Department of Transportation for the Coast Guard" before the period at the end;

(4) in subsection (h)(3)—

(A) by inserting "by the Secretary of Defense" after "incentive payments made" in the first sentence; and

(B) by inserting "to the Secretary" after "shall be available" in the second sentence; and

(5) in subsection (i), by inserting "and the Secretary of Transportation" after "Secretary of Defense".

(d) TEMPORARY EARLY RETIREMENT AUTHORITY.—Section 4403 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the Coast Guard in the same manner and to the same extent as that provision applies to the Department of Defense. The Secretary of Transportation shall implement the provisions of that section with respect to the Coast Guard and apply the applicable provisions of title 14, United States Code, relating to retirement of Coast Guard personnel.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply only to members of the Coast Guard who are separated after September 30, 1994.

SEC. 543. EXPANSION OF PERSONNEL ADJUSTMENT, EDUCATION, AND TRAINING PROGRAMS TO INCLUDE COAST GUARD.

(a) PRESEPARATION COUNSELING.—As soon as possible after the date of the enactment of this Act, the Secretary of Transportation shall implement the requirements of section 1142 of title 10, United States Code, for the Coast Guard.

(b) EMPLOYMENT ASSISTANCE, JOB TRAINING ASSISTANCE, AND OTHER TRANSITIONAL ASSISTANCE.—Section 1144 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by inserting ", the Secretary of Transportation," after "Secretary of Defense"; and

(B) by striking out "of a military department" and inserting in lieu thereof "concerned";

(2) in subsection (a)(2), by inserting ", the Secretary of Transportation," after "Secretary of Defense";

(3) in subsection (b)(4), by striking out "Department of Defense is" and inserting in lieu thereof "Department of Defense and the Department of Transportation are";

(4) in subsection (c), by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(5) in subsection (d)(2), by inserting "and the Department of Transportation" after "Department of Defense".

(c) TEACHER AND TEACHER'S AIDE PLACEMENT PROGRAM.—Section 1151 of such title (as amended by section 1131) is further amended—

(1) in subsection (a), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense";

(2) in subsection (b), by inserting "and the Secretary of Transportation" after "Secretary of Defense" in the matter preceding the paragraphs;

(3) in subsection (c)(1)—

(A) by striking out "by the Secretary of Defense" in the matter preceding the subparagraphs; and

(B) in subparagraph (C), by inserting "of Defense, or the Secretary of Transportation with respect to the Coast Guard," after "Secretary";

(4) in subsection (d), by inserting "and the Secretary of Transportation" after "Secretary of Defense";

(5) in subsection (e)(1)—

(A) by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" in the first sentence; and

(B) by striking out "Secretary may" in the second sentence and inserting in lieu thereof "Secretaries may";

(6) in subsection (e)(2), by striking out "Secretary" the first two places it appears and inserting in lieu thereof "Secretaries";

(7) in subsection (e)(3)—

(A) by inserting "of Defense, and the Secretary of Transportation with respect to the Coast Guard," after "The Secretary"; and

(B) by inserting "concerned" after "unless the Secretary";

(8) in subsection (e)(4), by striking out "Secretary" both places it appears and inserting in lieu thereof "Secretaries";

(9) in subsection (f)—

(A) by inserting ", or the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" in the matter preceding the paragraphs; and

(B) in paragraph (1), by inserting "concerned" after "the Secretary";

(10) in subsection (g)(1), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" in the matter preceding the subparagraphs;

(11) in subsection (h)—

(A) in paragraph (1), by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(B) by inserting "concerned" after "Secretary" each place it appears in paragraphs (2) through (6);

(12) in subsection (h)(7)—

(A) in subparagraph (A)—

(i) by inserting "of Defense, and the Secretary of Transportation with respect to the Coast Guard," after "the Secretary" in the first sentence; and

(ii) by inserting "concerned" after "The Secretary" in the second sentence; and

(B) in subparagraph (C), by inserting "concerned" after "The Secretary";

(13) in subsection (i)—

(A) in paragraph (1), by inserting ", or the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense"; and

(B) in paragraph (2), by inserting "concerned" after "Secretary" both places it appears; and

(14) in subsection (j)—

(A) in paragraph (1)(F), by inserting ", or the Secretary of Transportation with respect to the Coast Guard" after "Secretary of Defense"; and

(B) in paragraph (2), by inserting "concerned" after "Secretary" both places it appears.

(d) LAW ENFORCEMENT OFFICER PLACEMENT PROGRAM.—Section 1152 of such title, as amended by section 1132, is further amended in subsections (a) and (d) by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense".

(e) HEALTH CARE PROVIDER PLACEMENT PROGRAM.—Section 1153 of such title is amended—

(1) in subsection (a), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense";

(2) in subsection (b)(1)—

(A) by striking out "by the Secretary of Defense" in the matter preceding the subparagraphs; and

(B) in subparagraph (C), by inserting "concerned" after "Secretary" both places it appears;

(3) in subsection (c)(1)—

(A) by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense";

(B) by inserting "concerned" after "to the Secretary"; and

(C) by striking out "Secretary may" and inserting in lieu thereof "Secretaries may";

(4) in subsection (c)(2)—

(A) by inserting "of Defense, and the Secretary of Transportation with respect to the Coast Guard," after "The Secretary"; and

(B) by inserting "concerned" after "unless the Secretary";

(5) in subsection (c)(3), by striking out "Secretary" both places it appears and inserting in lieu thereof "Secretaries";

(6) in subsection (d)—

(A) in paragraph (1) by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(B) by inserting "concerned" after "Secretary" each place it appears in paragraphs (2) through (5); and

(7) in subsection (e)—

(A) in paragraph (1), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "the Secretary of Defense"; and

(B) in paragraph (2), by inserting "concerned" after "The Secretary".

(f) UPWARD BOUND.—Section 4466 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1143 note) is amended by adding at the end the following new subsection:

"(h) APPLICATION TO COAST GUARD.—The Secretary of Transportation may implement the provisions of this section for the Coast Guard in the same manner and to the same extent as such section applies to the Department of Defense.".

(g) SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING.—(1) Section 4483(1) of the Service Members Occupational Conversion and Training Act of 1992 (subtitle G of title XLIV of Public Law 102–484; 10 U.S.C. 1143 note) is amended by inserting before the period the following: "with respect to the Department of Defense and the Secretary of Transportation with respect to the Coast Guard".

(2) As soon as possible after the date of the enactment of this Act, the Secretary of Transportation shall implement the requirements of the Service Members Occupational Conversion and Training Act of 1992 (subtitle G of title XLIV of Public Law 102–484; 10 U.S.C. 1143 note) for the Coast Guard.

(h) LIMITATIONS ON FUNDING.—Funds appropriated or otherwise made available to the Department of Defense, the Department of Education, the Department of Labor, or the Department of Veterans Affairs may not be used to carry out subsection (a) or the amendments made by this section.

Subtitle E—Other Matters

SEC. 551. REPEAL OF REQUIRED REDUCTION IN RECRUITING PERSONNEL.

Section 431 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2400) is repealed.

SEC. 552. AUTHORIZED ACTIVE DUTY STRENGTHS FOR ARMY ENLISTED MEMBERS IN PAY GRADE E–8.

(a) IN GENERAL.—Section 517(a) of title 10, United States Code, is amended by inserting "(or, in the case of the Army, 2.5 percent)" after "may not be more than 2 percent".

(b) SPECIAL RULE FOR 1995.—The percentage applicable to enlisted members of the Army in pay grade E–8 under section 517(a) of title 10, United States Code, during 1995 shall be 2.3 percent (rather than the percentage provided by the amendment made by subsection (a)).

(c) INAPPLICABILITY FOR 1994.—The amendment made by subsection (a) shall not apply with respect to the number of enlisted members of the Army on active duty in pay grade E–8 during 1994.

SEC. 553. PROHIBITION ON IMPOSITION OF ADDITIONAL CHARGES OR FEES FOR ATTENDANCE AT CERTAIN ACADEMIES.

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at an academy named in subsection (c) may be imposed unless the charge or fee is specifically authorized by a law enacted after the date of the enactment of this Act.

(b) EXCEPTION.—The prohibition specified in subsection (a) shall not apply with respect to any item or service provided to cadets or midshipmen at an academy named in subsection (c) for which a charge or fee is imposed as of the date of the enactment of this Act. The Secretary of Defense or the Secretary of Transportation, as the case shall be, shall notify Congress of any change made by an academy in the amount of a charge or fee authorized under this subsection.

(c) COVERED ACADEMIES.—This section applies to the following:

(1) The United States Military Academy.

(2) The United States Naval Academy.

(3) The United States Air Force Academy.

(4) The United States Coast Guard Academy.

(5) The United States Merchant Marine Academy.

SEC. 554. BIENNIAL SURVEY ON THE STATE OF RACE AND ETHNIC ISSUES IN THE MILITARY.

(a) IN GENERAL.—(1) Part I of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 22—MISCELLANEOUS STUDIES AND REPORTS

"Sec.
"451. Racial and ethnic issues; biennial survey; biennial report.

"§451. Racial and ethnic issues; biennial survey; biennial report

"(a) BIENNIAL SURVEY.—The Secretary of Defense shall carry out a biennial survey to measure the state of racial and ethnic issues and discrimination among members of the armed forces serving on active duty. The survey shall solicit information on the race relations climate in the armed forces, including—

"(1) indicators of positive and negative trends of relations between all racial and ethnic groups;

"(2) the effectiveness of Department of Defense policies designed to improve race and ethnic relations; and

"(3) the effectiveness of current processes for complaints on and investigations into racial and ethnic discrimination.

"(b) IMPLEMENTING ENTITY.—The Secretary shall carry out each biennial survey through the entity in the Department of Defense known as the Armed Forces Survey on Race/Ethnic Issues.

"(c) REPORTS TO CONGRESS.—Upon completion of each biennial survey under subsection (a), the Secretary shall submit to Congress a report containing the results of the survey.".

(2) The tables of chapters at the beginning of subtitle A of such title and the beginning of part I of such subtitle are amended by inserting after the item relating to chapter 21 the following new item:

"22. Miscellaneous Studies and Reports 451".

(b) FIRST REPORT.—The Secretary of Defense shall submit the first report under section 451(c) of title 10, United States Code, as added by subsection (a), not later than May 1, 1995.

SEC. 555. REVIEW OF CERTAIN DISCHARGES FROM THE UNITED STATES MILITARY ACADEMY DURING THE POST-CIVIL WAR PERIOD.

(a) REVIEW REQUIRED.—The Secretary of the Army shall carry out a thorough review, to be completed not later than 180 days after the date of the enactment of this Act, of—

(1) the discharge from the Corps of Cadets of the United States Military Academy in 1874 of James Webster Smith of South Carolina; and

(2) the discharge from the Corps of Cadets of the United States Military Academy in 1880 of Johnson Chesnut Whittaker of South Carolina.

(b) PURPOSES OF REVIEW.—The purpose of each review shall be to determine the validity of the original proceedings leading to such discharge and the extent, if any, to which racial prejudice or other improper factors now known may have tainted those proceedings. In conducting each review, the Secretary shall use as broad a range of historical documents as possible, including non-military sources.

(c) CORRECTION OF RECORDS.—If the Secretary determines that the discharge of James Webster Smith or Johnson Chesnut Whittaker was in error or an injustice, the Secretary shall correct that person's military records (including the records of proceedings in that person's discharge case).

(d) POSTHUMOUS COMMISSION.—Upon recommendation of the Secretary in the case of either person named in subsection (a), the President may issue in the name of that person a posthumous commission as an officer in the Regular Army in the grade of second lieutenant. Section 1523 of title 10, United States Code, shall apply with respect to a commission so issued.

SEC. 556. ADMINISTRATION OF ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§4357. Athletics program: athletic director; nonappropriated fund account

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill that position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy shall administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to that account all revenue received from the conduct of the athletics program of the Academy and all contributions received for that program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4357. Athletics program: athletic director; nonappropriated fund account.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of such title is amended by adding at the end the following new section:

"§6975. Athletics program: athletic director; nonappropriated fund account

"(a) The position of athletic director of the Naval Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill that position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall administer a nonappropriated fund account for the athletics program of the Naval Academy. The Superintendent shall credit to that account all revenue received from the conduct of the athletics program of the Naval Academy and all contributions received for that program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6975. Athletics program: athletic director; nonappropriated fund account.".

(3) The account referred to in subsection (b) of section 6975 of title 10, United States Code, as added by paragraph (1), shall be established not later than the effective date set forth in subsection (e).

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of such title is amended by adding at the end the following new section:

"§9356. Athletics program: athletic director; nonappropriated fund account

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill that position as an active duty assignment.

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(b) Under regulations prescribed by the Secretary of the Air Force, the Superintendent of the Academy shall administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to that account all revenue received from the conduct of the athletics program of the Academy and all contributions received for that program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9356. Athletics program: athletic director; nonappropriated fund account.".

(d) NAVY IMPLEMENTATION STUDY.—Not later than March 15, 1995, the Secretary of the Navy shall submit to Congress a report on the costs to the Department of the Navy of implementation of section 6975 of title 10, United States Code, as added by subsection (b). The report shall include a time line and description of the actions the Secretary plans to take to implement the requirements of that section.

(e) EFFECTIVE DATE.—Section 6975 of title 10, United States Code, as added by subsection (b), shall take on January 1, 1996.

SEC. 557. REIMBURSEMENT FOR CERTAIN LOSSES OF HOUSEHOLD EFFECTS CAUSED BY HOSTILE ACTION.

(a) AUTHORITY TO REIMBURSE.—Chapter 163 of title 10, United States Code, is amended by adding at the end the following new section:

"§2738. Property loss: reimbursement of members for certain losses of household effects caused by hostile action

"(a) AUTHORITY TO REIMBURSE.—The Secretary concerned may reimburse a member of the armed forces in an amount not more than $100,000 for a loss described in subsection (b).

"(b) COVERED LOSSES.—This section applies with respect to a loss of household effects sustained during a move made incident to a change of permanent station when, as determined by the Secretary, the loss was caused by a hostile action incident to war or a warlike action by a military force.

"(c) LIMITATION.—The Secretary may provide reimbursement under this section for a loss described in subsection (b) only to the extent that the loss is not reimbursed under insurance or under the authority of another provision of law.

"(d) APPLICABILITY OF OTHER AUTHORITIES AND REQUIREMENTS.—Subsections (b), (d), (e), (f), and (g) of section 2733 of this title shall apply to a request for a reimbursement under this section as if the request were a claim against the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2738. Property loss: reimbursement of members for certain losses of household effects caused by hostile action.".

(c) EFFECTIVE DATE.—(1) Section 2738 of title 10, United States Code, as added by subsection (a), applies with respect to losses incurred after June 30, 1990.

(2) In the case of a loss incurred after June 30, 1990, and before the date of the enactment of this Act, a request for reimbursement shall be filed with the Secretary of the military department concerned not later than two years after such date of enactment.

SEC. 558. MILITARY RECRUITING ON CAMPUS.

(a) DENIAL OF FUNDS.—(1) No funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) Students referred to in paragraph (1) are individuals who are 17 years of age or older.

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education, shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).

(c) DEFINITION.—For purposes of this section, the term "directory information" means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

SEC. 559. AUTHORIZATION FOR INSTRUCTION OF CIVILIAN STUDENTS AT FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.

(a) ADMISSION OF CIVILIANS AS STUDENTS.—(1) The Secretary of the Army may enter into an agreement with an accredited institution of higher education (or a consortium of such institutions) under which students enrolled at an institution of higher education that is a party to the agreement may receive instruction at the Foreign Language Center of the Defense Language Institute on a cost-reimbursable, space-available basis.

(2) The Secretary may also permit other persons who would benefit from the instruction provided at the Center, as determined by the Secretary, to receive instruction at the Center on a cost-reimbursable, space-available basis.

(b) SELECTION AND ATTENDANCE.—(1) The Secretary shall select the persons who will be permitted to receive instruction at the Center pursuant to subsection (a). In the case of agreements under subsection (a)(1), the Secretary shall consult with the other parties to the agreements to establish qualifications and methods of selection for persons to receive instruction at the Center.

(2) Except as the Secretary determines necessary, a person who receives instruction at the Center pursuant to subsection (a) shall be subject to the same regulations governing attendance, discipline, discharge, and dismissal as apply to other persons attending the Center.

(c) RETENTION OF FUNDS.—Amounts collected under subsection (a) to reimburse the Center for the costs of providing instruction to students under subsection (a) shall be credited to funds available for compensation of instructors at the Center and to defray direct civilian student costs to the school.

(d) CENTER DEFINED.—For purposes of this section, the term "Center" means the Foreign Language Center of the Defense Language Institute.

(e) EXPIRATION OF AUTHORITY.—No student may be admitted to the Center under subsection (a) to commence a program of instruction beginning after September 30, 1997.

SEC. 560. DISCHARGE OF MEMBERS WHO ARE PERMANENTLY NONWORLDWIDE ASSIGNABLE.

(a) IN GENERAL.—(1) Chapter 59 of title 10, United States Code, is amended by adding at the end the following new section:

"§1177. Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling

"(a) REQUIRED SEPARATION.—(1) Subject to paragraph (2), a member of the armed forces who is classified as permanently nonworldwide assignable due to a medical condition shall (except as provided in subsection (c)) be separated.

"(2) Paragraph (1) shall not be in effect in the case of any of the armed forces if the Secretary concerned determines that the retention of permanently nonworldwide assignable members would not adversely affect the ability of that service to carry out its mission.

"(3) A separation under paragraph (1) shall be made on a date determined by the Secretary concerned, which (except as provided in subsection (b)(2)) shall be as soon as practicable after the date on which the determination is made that the member should be so classified and not later than the last day of the twelfth month beginning after that date.

"(b) FORM OF SEPARATION.—(1) If a member to be separated under this section is eligible to retire under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged.

"(2) In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provision of law, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

"(c) EXCEPTIONS.—The Secretary concerned may waive subsection (a) with respect to an individual member of the armed forces under the jurisdiction of that Secretary if the Secretary determines that there are circumstances that warrant the retention of that member. Such circumstances may include—

"(1) consideration that the medical condition making the member permanently nonworldwide assignable was incurred in combat or otherwise as the result of an action of the member for which the member received a decoration or other recognition for personal bravery;

"(2) consideration that the member has a specific proficiency or skill that is vital to the national security; and

"(3) any other circumstance that the Secretary considers to be for the good of the service.

"(d) COUNSELING ABOUT AVAILABLE MEDICAL CARE.—A member to be separated under this section shall be provided information, in writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home of record or point of discharge at which the member may seek necessary medical care.

"(e) SEPARATION TO BE CONSIDERED INVOLUNTARY.—A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1177. Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling.".

(b) EFFECTIVE DATE.—Section 1177 of title 10, United States Code, as added by subsection (a), shall apply with respect to members determined to be permanently nonworldwide assignable by reason of a medical condition before, on, or after the date of the enactment of this Act. In the case of such a determination made before the date of the enactment of this Act, the period for the separation of the member specified in subsection (a) of such section shall be treated as beginning on the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 1174(a)(1) of title 10, United States Code, is amended by striking out "section 580" and inserting in lieu thereof "section 580, 1177,".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1995.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1995 shall not be made.

(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1995, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 2.6 percent.

(c) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective on January 1, 1995, section 203(c)(1) of title 37, United States Code, is amended by striking out "$543.90" and inserting in lieu thereof "$558.04".

SEC. 602. COST-OF-LIVING ALLOWANCE FOR MEMBERS OF THE UNIFORMED SERVICES ASSIGNED TO HIGH COST AREAS IN THE CONTINENTAL UNITED STATES.

(a) ALLOWANCE AUTHORIZED.—(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 403a the following new section:

"§403b. Cost-of-living allowance in the continental United States

"(a) PAYMENT AUTHORIZED.—The Secretary concerned may pay a cost-of-living allowance to the eligible members of a uniformed service under the jurisdiction of the Secretary.

"(b) ELIGIBLE MEMBERS.—The following members are eligible to receive a cost-of-living allowance under this section:

"(1) A member assigned to a high cost area in the continental United States.

"(2) A member assigned to an unaccompanied tour of duty outside the continental United States if the primary dependent of the member resides in a high cost area in the continental United States.

"(3) A member assigned to duty in the continental United States if the Secretary of the uniformed service concerned determines that—

"(A) the primary dependent of the member must reside in a high cost area in the continental United States by reason of the member's duty location or other circumstances; and

"(B) it would be inequitable for the member's eligibility for the allowance to be determined on the basis of the duty location of the member.

"(c) HIGH COST AREA DEFINED.—An area is a high cost area for a fiscal year for purposes of this section if the uniformed services cost of living for that area for the base period exceeds the average cost of living in the continental United States for such base period by at least the threshold percentage. The Secretary of Defense, in consultation with the other administering Secretaries, shall establish the threshold percentage, except that the threshold percentage may not be less than 8 percent. The administering Secretaries shall prescribe a higher threshold percentage to be applied for a fiscal year when it is necessary to do so in order to ensure that the total amount of the payments of the cost-of-living allowance made to members of the uniformed services under this section for such fiscal year does not exceed the total amount available to all uniformed services for that fiscal year for paying such allowance.

"(d) AMOUNT OF ALLOWANCE.—The cost-of-living allowance that may be paid to a member for a high cost area for a fiscal year shall be the amount that is equal to the product of—

"(1) the amount of the average spendable income determined applicable for the regular military compensation level of such member under subsection (g); and

"(2) the percentage equal to the excess of—

"(A) the percentage by which the uniformed services cost of living for the member's high cost area for the base period exceeds the average cost of living in the continental United States for such base period, over

"(B) the threshold percentage applicable to such fiscal year under subsection (c).

"(e) LIMITATION TO ONE ALLOWANCE.—If primary dependents of a member reside separately in different high cost areas—

"(1) the member may be paid only one cost-of-living allowance under this section; and

"(2) the cost-of-living allowance payable to the member shall be the highest of the amounts computed under this section for such high cost areas.

"(f) SERVICE NOT COVERED.—(1) A cost-of-living allowance may not be paid a member under this section for the days authorized for travel of the member in connection with a permanent change of duty station.

"(2) A member of a reserve component is not eligible for a cost-of-living allowance under this section unless the member is on active duty under a call or order to active duty that—

"(A) specifies a period of 140 days or more; or

"(B) states that the call or order to active duty is in support of a contingency operation.

"(g) AVERAGE SPENDABLE INCOME.—The Secretary of Defense shall determine, using a methodology and assumptions that the Secretary considers appropriate, the amounts of average spendable income of members of the uniformed services for various ranges of regular military compensation. For purposes of this subsection, spendable income is the total amount of regular military compensation that is available for purchase of goods and services after allocation of amounts for taxes, insurance, housing, gifts and contributions, and savings.

"(h) JOINT REGULATIONS.—The Secretary of Defense and the other administering Secretaries shall jointly prescribe regulations to carry out this section.

"(i) OTHER DEFINITIONS.—In this section:

"(1) The term 'primary dependent', with respect to a member, means—

"(A) the member's spouse; or

"(B) in the case of an unmarried member, a dependent described in paragraph (2) or (4) of section 401(a) of this title.

"(2) The term 'cost of living' means a price index selected by the Secretary of Defense, in consultation with the other administering Secretaries, from among the following indices:

"(A) The Consumer Price Index (all items–United States city average) published monthly by the Bureau of Labor Statistics.

"(B) Any other index developed in the private sector that the Secretary of Defense, in consultation with the other administering Secretaries, determines is comparable to the Consumer Price Index and is appropriate for use for purposes of this section.

"(3) The term 'uniformed services cost of living' means the price index selected as described in paragraph (2) and adjusted as the Secretary of Defense, in consultation with the other administering Secretaries, considers appropriate to reflect variations between expenses of members of the uniformed services (as offset by the basic allowance for subsistence) and the corresponding expenses of persons not members of the uniformed services with regard to the following:

"(A) Nonhousing costs (including costs of transportation, goods, and services, taking into consideration savings attributable to use of such military facilities as commissary stores and exchange stores).

"(B) Average income tax paid.

"(C) Cost of health care.

"(4) The term 'base period', with respect to a fiscal year, means the 12-month period ending on June 30 of the year in which such fiscal year begins.

"(5) The term 'administering Secretaries' means the following:

"(A) The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy).

"(B) The Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy.

"(C) The Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

"(D) The Secretary of Health and Human Services, with respect to the Public Health Service.

"(6) The term 'continental United States' means the 48 contiguous States and the District of Columbia.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 403a the following new item:

"403b. Cost-of-living allowance in the continental United States.".

(b) CONDITIONS ON PROVISION OF ALLOWANCE.—(1) A cost-of-living allowance under section 403b of title 37, United States Code, as added by subsection (a), may not be provided until after the end of the 90-day period beginning on the date the Secretary of Defense submits the report required under paragraph (2).

(2) Before implementing section 403b of title 37, United States Code, the Secretary of Defense, in consultation with the other administering Secretaries (as defined in subsection (h)(6) of such section), shall submit to Congress a report describing—

(A) the methods by which the Secretary of Defense would determine the price index to be used under such section and the types of nonhousing related costs that will be considered under such price index;

(B) the manner by which the Secretary will establish the threshold percentage for purposes of such section;

(C) the manner in which savings attributable to use of such military facilities as commissary stores, exchange stores, and military medical treatment facilities will be taken into consideration; and

(D) the methods by which the Secretary proposes to prevent uncontrolled growth in Government expenditures through the cost-of-living allowance available under such section.

SEC. 603. INCREASE IN SUBSISTENCE ALLOWANCE PAYABLE TO MEMBERS OF SENIOR RESERVE OFFICERS' TRAINING CORPS.

(a) INCREASE.—Section 209(a) of title 37, United States Code, is amended by striking out "$100 a month" in the first sentence and inserting in lieu thereof "$150 a month".

(b) APPLICATION OF INCREASE.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to months beginning after August 31, 1995.

(2) Upon the approval of the Secretary of Defense, the Secretary of a military department may implement such amendments at an earlier date with respect to members of the Senior Reserve Officers' Training Corps under the jurisdiction of the Secretary if funds are available for the monthly subsistence allowances authorized by such amendments.

VOL 140 PT 16 AG 12 — 18 1994 UMI

SEC. 604. TEMPORARY FAMILY HOUSING OR TEMPORARY HOUSING ALLOWANCES FOR DEPENDENTS OF MEMBERS WHO DIE IN THE LINE OF DUTY.

(a) TEMPORARY HOUSING.—Section 403(l)(1) of title 37, United States Code, is amended by striking out "90 days" and inserting in lieu thereof "180 days".

(b) TEMPORARY HOUSING ALLOWANCES.—Section 403(l)(2) of such title is amended by striking out "90 days" both places it appears and inserting in lieu thereof "180 days".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1993.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. EXTENSION OF CERTAIN BONUSES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(i) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 612. EXTENSION AND MODIFICATION OF CERTAIN BONUSES AND SPECIAL PAY FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,".

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,".

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended—

(1) by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,"; and

(2) by striking out "$6,000" and inserting in lieu thereof "$15,000".

SEC. 613. EXTENSION OF AUTHORITY RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) ENLISTMENT BONUSES FOR CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(f) SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVES.—Section 613(d) of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note) is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(g) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(h) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(i) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

Subtitle C—Travel and Transportation Allowances

SEC. 621. RESPONSIBILITY FOR PREPARATION OF TRANSPORTATION MILEAGE TABLES.

Section 404(d)(1)(A) of title 37, United States Code, is amended by striking out "the Secretary of the Army" and inserting in lieu thereof "the Secretary of Defense".

SEC. 622. PAYMENT FOR TRANSIENT HOUSING FOR MEMBERS OF A RESERVE COMPONENT PERFORMING CERTAIN TRAINING DUTY.

Section 404 of title 37, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(j)(1) In the case of a member of a reserve component performing annual training duty or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a), the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty.

"(2) Any payment or other benefit under this subsection shall be provided in accordance with regulations prescribed by the Secretaries concerned.

"(3) The Secretary may pay service charge expenses under paragraph (1) out of funds appropriated for operation and maintenance for the reserve component concerned.".

SEC. 623. CHANGE IN PROVISION OF TRANSPORTATION INCIDENT TO PERSONAL EMERGENCIES FOR MEMBERS STATIONED OUTSIDE THE CONTINENTAL UNITED STATES.

Section 411d(b) of title 37, United States Code, is amended—

(1) in paragraph (1)—

(A) in the matter preceding the subparagraphs, by striking "from the international airport" and all that follows through "or the international airport nearest" and inserting in lieu thereof "from the location of the member or dependents, at the time notification of the personal emergency is received, or"; and

(B) in subparagraph (A), by striking "closest to the international airport" and inserting in lieu thereof "closest to the location"; and

(2) in paragraph (4), by striking "to the international airport" and all that follows through the period and inserting in lieu thereof "to the location from which the member or dependent departed or the member's duty station.".

SEC. 624. CLARIFICATION OF TRAVEL AND TRANSPORTATION ALLOWANCE OF FAMILY MEMBERS INCIDENT TO SERIOUS ILLNESS OR INJURY OF MEMBERS.

(a) ALLOWANCE IN CASES OF BRAIN DEATH.—Subsection (a) of section 411h of title 37, United States Code, is amended—

(1) in paragraph (1), by striking out "is necessary for" and inserting in lieu thereof "may contribute to"; and

(2) in paragraph (2), by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) is seriously ill, seriously injured, or in a situation of imminent death, whether or not electrical brain activity still exists or brain death is declared; and".

(b) DEFINITION OF HEALTH AND WELFARE.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(3) In this section, the term 'health and welfare', with respect to a member, includes a situation in which a decision must be made by family members regarding the termination of artificial life support being provided to the member.".

SEC. 625. APPLICABILITY OF ADDITIONAL FAMILY SEPARATION ALLOWANCE TO PERIODS BETWEEN DEPLOYMENTS LESS THAN 30 DAYS APART.

(a) COVERAGE OF PERIOD BETWEEN CERTAIN DEPLOYMENTS.—Section 427(b) of title 37, United States Code, is amended—

(1) in paragraph (2), by striking out the first sentence;

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) A member who becomes entitled to an allowance under this subsection by virtue of duty prescribed in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the earlier of—

"(A) the first day of that period; or

"(B) the first day the member ceased being entitled to a previous allowance under this subsection by reason of the end of duty prescribed in such subparagraphs, if the member ceased being entitled to the previous allowance within 30 days before the first day of that period.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of June 20, 1994.

Subtitle D—Retired Pay and Survivor Benefits

SEC. 631. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1995.

(a) IN GENERAL.—The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

(b) DEFINITIONS.—For the purposes of subsection (a):

(1) The term "fiscal year 1995 increase in military retired pay" means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

(2) The term "retired pay" includes retainer pay.

(c) LIMITATION.—Subsection (a) shall be effective only if there is appropriated to the Department of Defense Military Retirement Fund (in an Act making appropriations for the Department of Defense for fiscal year 1995 that is enacted before March 1, 1995) such amount as is necessary to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 to the Department of Defense Military Retirement Fund the sum of $376,000,000 to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

SEC. 632. SENSE OF CONGRESS ON EQUAL TREATMENT OF EFFECTIVE DATES FOR FUTURE COST-OF-LIVING ADJUSTMENTS FOR MILITARY AND CIVILIAN RETIREES.

(a) FINDINGS.—Congress makes the following findings:

(1) Congress, in the Omnibus Budget Reconciliation Act of 1993, changed the effective dates for future cost-of-living adjustments for military retired pay and for Federal civilian retirement annuities, which (before that Act) were provided by law to be made effective on December 1 each year.

(2) The timing, and the percentage of increase, of military and Federal civilian retirees' cost-of-living adjustments have been linked for decades.

(3) The effect of the enactment of the Omnibus Budget Reconciliation Act of 1993 was to abandon the longstanding congressional practice of treating military and Federal civilian retirees identically in matters related to cost-of-living adjustments.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) as a matter of simple equity and fairness, it is imperative that cost-of-living adjustments in retirement benefits for military and Federal civilian retirees be returned to an identical schedule as soon as possible, but not later than January 1, 1999;

(2) if after October 1, 1998, there is, by law, a difference between the date on which a cost-of-living adjustment for Federal civilian retirees takes effect and the date on which a cost-of-living adjustment for military retirees takes effect, then the difference in those effective dates should be eliminated by requiring that cost-of-living adjustments for both classes of retirees become effective on the earlier of the two dates; and

(3) if after October 1, 1998, there is, by law, a difference between the first month for which a cost-of-living adjustment for civilian retirees is payable and the first month for which a cost-of-living adjustment for military retirees is payable, then the difference in the months for which those adjustments are first payable should be eliminated by requiring that the cost-of-living adjustments for both classes of retirees first become payable for the earlier of the two months.

SEC. 633. CLARIFICATION OF CALCULATION OF RETIRED PAY FOR OFFICERS WHO RETIRE IN A GRADE LOWER THAN THE GRADE HELD AT RETIREMENT.

(a) PREVENTION OF RETIRED PAY BASED ON GRADE HIGHER THAN RETIRED GRADE.—Section 1401a(f) of title 10, United States Code, is amended—

(1) in the first sentence, by inserting "based on the grade in which the member is retired" after "at an earlier date";

(2) in the second sentence, by inserting ", except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired" before the period at the end; and

(3) by striking out the third sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to the computation of the retired pay of a member of the Armed Forces who retires on or after the date of the enactment of this Act.

SEC. 634. WAIVER OF ADMINISTRATIVE TIME-IN-GRADE REQUIREMENTS TO PREVENT PAY INVERSIONS IN RETIRED PAY OF CERTAIN MILITARY RETIREES.

(a) AUTHORITY.—The Secretary concerned may, for purposes of the computation under section 1401a(f) of title 10, United States Code, of the retired pay of military retirees described in subsection (b), waive any administrative time-in-grade regulation (as described in subsection (d)) that would otherwise apply to such computation. Any such waiver may be made retroactive, in the case of any such retiree, to the date on which that retiree initially became entitled to retired pay.

(b) COVERED RETIREES.—This section applies to any military retiree—

(1) who initially became entitled to retired pay on or after January 1, 1971, and before the date of the enactment of this Act;

(2) whose retired pay, by reason of the provisions of section 1401a(f) of title 10, United States Code (the so-called "Tower amendment"), was initially computed as an amount greater than would have been the case but for that section; and

(3) who, as of the earlier computation date applicable to that retiree—

(A) in the case of an individual retired in an enlisted grade, had served in the grade in which the retiree retired for a period that was less than the period prescribed by the applicable administrative time-in-grade requirement described in subsection (d); and

(B) in the case of an individual retired in an officer grade—

(i) was subject to an administrative time-in-grade requirement described in subsection (d) that established a time-in-grade requirement that was longer than the statutory time-in-grade requirement applicable to that member; and

(ii) had served in the grade in which the retiree retired for a period that was less than the period prescribed by such administrative time-in-grade requirement but not less than the statutory time-in-grade requirement applicable to that member.

(c) EARLIER COMPUTATION DATE.—For purposes of subsection (b)(3), the earlier computation date applicable to a military retiree is the date that (under such section 1401a(f) as in effect on the date of the member's retirement) was the "earlier date" that was used as the basis for the computation of the retiree's retired pay.

(d) REGULATIONS SUBJECT TO WAIVER.—A regulation that may be waived under subsection (a) is any regulation (not required by law) that establishes a minimum period of time that a member of the Armed Forces must have served in a grade on active duty in order to be eligible to retire in that grade.

(e) SCOPE OF WAIVER AUTHORITY.—The Secretary concerned may exercise the authority provided in subsection (a) in the case of an individual military retiree or for any group of military retirees.

(f) MILITARY RETIREE DEFINED.—For purposes of this section, the term "military retiree" means a member or former member of the Armed Forces who is entitled to retired pay.

(g) SECRETARY CONCERNED.—For purposes of this section, the term "Secretary concerned" has the meaning given such term in section 101 of title 10, United States Code.

SEC. 635. CREDITING OF RESERVE SERVICE OF ENLISTED MEMBERS FOR COMPUTATION OF RETIRED PAY.

(a) ARMY.—(1) Section 3925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 3991 of this title,"; and

(B) by striking out subsection (c).

(2)(A) Paragraph (1) of subsection (a) of section 3991 of such title is amended to read as follows:

"(1) FORMULA.—The monthly retired pay of a member entitled to such pay under this subtitle is computed by multiplying—

"(A) the member's retired pay base (as computed under section 1406(c) or 1407 of this title), by

"(B) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.".

(B) Subsection (b) of such section is amended—

(i) in paragraph (1), by striking out "of the table"; and

(ii) by striking out paragraph (3).

(3) The text of section 3992 of such title is amended to read as follows:

"(a) ENTITLEMENT TO RECOMPUTATION.—An enlisted member or warrant officer of the Army who is advanced on the retired list under section 3964 of this title is entitled to recompute his retired pay in accordance with this section.

"(b) FORMULA.—The monthly retired pay of a member entitled to recompute that pay under this section is computed by multiplying—

"(1) the member's retired pay base (as computed under section 1406(c) or 1407 of this title), by

"(2) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.

"(c) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(b) NAVY AND MARINE CORPS.—The table in section 6333(a) of title 10, United States Code, is amended by striking out "his years of active service in the armed forces" in formula C under the column designated "Column 2" and inserting in lieu thereof "the years of service that may be credited to him under section 1405.".

(c) AIR FORCE.—(1) Section 8925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 8991 of this title,"; and

(B) by striking out subsection (c).

(2)(A) Paragraph (1) of subsection (a) of section 8991 of such title is amended to read as follows:

"(1) FORMULA.—The monthly retired pay of a member entitled to such pay under this subtitle is computed by multiplying—

"(A) the member's retired pay base (as computed under section 1406(e) or 1407 of this title), by

"(B) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.".

(B) Subsection (b) of such section is amended—

(i) in paragraph (1), by striking out "of the table"; and

(ii) by striking out paragraph (3).

(3) The text of section 8992 of such title is amended to read as follows:

"(a) ENTITLEMENT TO RECOMPUTATION.—An enlisted member or warrant officer of the Air Force who is advanced on the retired list under section 8964 of this title is entitled to recompute his retired pay in accordance with this section.

"(b) FORMULA.—The monthly retired pay of a member entitled to recompute that pay under this section is computed by multiplying—

"(1) the member's retired pay base (as computed under section 1406(e) or 1407 of this title), by

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(2) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.

"(c) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(d) CONFORMING AMENDMENT.—Section 1405 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) EXCLUSION OF TIME REQUIRED TO BE MADE UP.—Time required to be made up by an enlisted member of the Army or Air Force under section 973 of this title may not be counted in determining years of service under subsection (a).".

(e) EFFECTIVE DATE.—This section shall apply to—

(1) the computation of the retired pay of any enlisted member who retires on or after the date of the enactment of this Act;

(2) the computation of the retainer pay of any enlisted member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve on or after the date of the enactment of this Act; and

(3) the recomputation of the retired pay of any enlisted member who is advanced on the retired list on or after the date of the enactment of this Act.

SEC. 636. MINIMUM REQUIRED RESERVE SERVICE FOR ELIGIBILITY FOR RETIRED PAY FOR NONREGULAR SERVICE DURING FORCE DRAWDOWN PERIOD.

Section 1331 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on the date of the enactment of this subsection and ending on September 30, 1999, the provisions of subsection (a)(3) shall be applied by substituting 'the last six years' for 'the last eight years'.".

SEC. 637. SBP PREMIUMS FOR RESERVE-COMPONENT CHILD-ONLY COVERAGE.

(a) DETERMINATION OF PREMIUMS.—Subsection (b) of section 1452 of title 10, United States Code, is amended to read as follows:

"(b) CHILD-ONLY ANNUITIES.—

"(1) REQUIRED REDUCTION IN RETIRED PAY.—The retired pay of a participant in the Plan who is providing child-only coverage (as described in paragraph (4)) shall be reduced by an amount prescribed under regulations by the Secretary of Defense.

"(2) NO REDUCTION WHEN NO CHILD.—There shall be no reduction in retired pay under paragraph (1) for any month during which the participant has no eligible dependent child.

"(3) SPECIAL RULE FOR CERTAIN RCSBP PARTICIPANTS.—In the case of a participant in the Plan who is participating in the Plan under an election under section 1448(a)(2)(B) of this title and who provided child-only coverage during a period before the participant becomes entitled to receive retired pay, the retired pay of the participant shall be reduced by an amount prescribed under regulations by the Secretary of Defense to reflect the coverage provided under the Plan during the period before the participant became entitled to receive retired pay. A reduction under this paragraph is in addition to any reduction under paragraph (1) and is made without regard to whether there is an eligible dependent child during a month for which the reduction is made.

"(4) CHILD-ONLY COVERAGE DEFINED.—For the purposes of this subsection, a participant in the Plan who is providing child-only coverage is a participant who has a dependent child and who—

"(A) does not have an eligible spouse or former spouse; or

"(B) has a spouse or former spouse but has elected to provide an annuity for dependent children only.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) applies to any election for child-only coverage under a reserve-component annuity under the Survivor Benefit Plan, whether made before, on, or after the date of the enactment of this Act.

(2) Paragraph (1) does not apply in a case of an election referred to in that paragraph that was made before the date of the enactment of this Act if the participant was informed, in writing, before the date of the enactment of this Act that no reduction in the participant's retired pay for child-only coverage would be made during a period when there was no eligible dependent child.

SEC. 638. DISCONTINUATION OF INSURABLE INTEREST COVERAGE UNDER SURVIVOR BENEFIT PLAN.

Paragraph (1) of section 1448(b) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following:

"(B) An election under subparagraph (A) for a beneficiary who is not the former spouse of the person providing the annuity may be terminated. Any such termination shall be made by a participant by the submission to the Secretary concerned of a request to discontinue participation in the Plan, and such participation in the Plan shall be discontinued effective on the first day of the first month following the month in which the request is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

"(C) A request under subparagraph (B) to discontinue participation in the Plan shall be in such form and shall contain such information as may be required under regulations prescribed by the Secretary of Defense.

"(D) The Secretary concerned shall furnish promptly to each person who submits a request under subparagraph (B) to discontinue participation in the Plan a written statement of the advantages and disadvantages of participating in the Plan and the possible disadvantages of discontinuing participation. A person may withdraw the request to discontinue participation if withdrawn within 30 days after having been submitted to the Secretary concerned.

"(E) Once participation is discontinued, benefits may not be paid in conjunction with the earlier participation in the Plan and premiums paid may not be refunded. Participation in the Plan may not later be resumed except through a qualified election under paragraph (5) of subsection (a).".

SEC. 639. FORFEITURE OF ANNUITY OR RETIRED PAY OF MEMBERS CONVICTED OF ESPIONAGE UNDER UCMJ.

(a) FORFEITURE.—Section 8312(b)(2)(A) of title 5, United States Code, is amended by striking out "or article 106 (spies)" and inserting in lieu thereof ", article 106 (spies), or article 106a (espionage)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to persons convicted of espionage under section 906a of title 10, United States Code (article 106a of the Uniform Code of Military Justice), on or after the date of the enactment of this Act.

SEC. 640. TREATMENT OF RETIRED AND RETAINER PAY OF MEMBERS OF CADRE OF CIVILIAN COMMUNITY CORPS.

Section 159(c)(3) of the National and Community Service Act of 1990 (42 U.S.C. 12619(c)(3)) is amended by adding at the end the following: "In the case of a member of the permanent cadre who was recommended for appointment in accordance with section 162(a)(2)(A) and is entitled to retired or retainer pay, section 5532 of title 5, United States Code, shall not apply to reduce the member's retired or retainer pay by reason of the member being paid as a member of the cadre.".

Subtitle E—Other Matters

SEC. 651. ELIGIBILITY OF MEMBERS RETIRED UNDER TEMPORARY SPECIAL RETIREMENT AUTHORITY FOR SERVICEMEN'S GROUP LIFE INSURANCE.

(a) ELIGIBILITY.—Section 1965(5) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) a person transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10 who has not received the first increment of retirement pay or has not reached sixty-one years of age; and".

(b) INSURANCE COVERAGE.—Section 1967(a) of such title is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by adding "and" at the end of paragraph (3);

(3) by inserting after paragraph (3) the following:

"(4) any member assigned to the Retired Reserve of a uniform service who meets the qualifications set forth in section 1965(5)(D) of this title;"; and

(4) in the second sentence, by inserting after "section 1965(5)(C) of this title," the following: "or the first day a member of the Reserves meets the qualifications of section 1965(5)(D) of this title,".

(c) DURATION OF COVERAGE.—Section 1968(a) of such title is amended—

(1) in the matter preceding paragraph (1), by striking out "section 1965(5)(B) or (C)" and inserting in lieu thereof "subparagraph (B), (C), or (D) of section 1965(5)";

(2) in paragraph (4)—

(A) by striking out "or" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following new subparagraph:

"(C) unless on the date of such separation or release the member is transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 1977(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Secretary directly to the administrative office established under section 1966(b) of this title, continue in force until receipt of the first increment of retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier."; and

(3) by adding at the end the following:

"(6) with respect to a member of the Retired Reserve who meets the qualifications of section 1965(5)(D) of this title, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Secretary, directly to the administrative office established under section 1966(b) of this title.".

(d) DEDUCTIONS.—Section 1969 of such title is amended—

(1) in subsection (a)(2)—

(A) by striking out "or is assigned" and inserting in lieu thereof "is assigned"; and

(B) by inserting after "section 1965(5)(C) of this title," the following: "or is assigned to the Retired Reserve and meets the qualifications of section 1965(5)(D) of this title,"; and

(2) in subsection (e), by striking out "section 1965(5)(C)" in the first sentence and inserting in lieu thereof "subparagraph (C) or (D) of section 1965(5)".

SEC. 652. TRANSPORTATION OF REMAINS.

(a) TRANSPORTATION OF REMAINS OF DECEASED RETIRED MEMBERS WHO DIE OUTSIDE UNITED STATES.—(1) Section 1481 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out "the remains of—" and inserting in lieu thereof "the remains of the following persons:";

(ii) by capitalizing the first letter of the first word in each paragraph;

(iii) by striking out the semicolon at the end of each paragraph (other than paragraphs (7) and (8)) and inserting in lieu thereof a period;

(iv) by striking out "; and" at the end of paragraph (7) and inserting in lieu thereof a period; and

(v) by adding after paragraph (8) the following new paragraph:

"(9) To the extent authorized under section 1482(g) of this title, any retired member of an armed force who dies while outside the United States or any individual who dies outside the United States while a dependent of such a member."; and

(B) by adding at the end the following new subsection:

"(c) In this section, the term 'dependent' has the meaning given such term in section 1072(2) of this title.".

(2) Section 1482 of such title is amended by adding at the end the following new subsection:

"(g) The payment of expenses incident to the recovery, care, and disposition of a decedent covered by section 1481(a)(9) of this title is limited to the payment of expenses described in paragraphs (1) through (5) of subsection (a) and air transportation of the remains from a location outside the United States to a point of entry in the United States. Such air transportation may be provided without reimbursement on a space-available basis in military or military-chartered aircraft. The Secretary concerned shall pay all other expenses authorized to be paid under this subsection only on a reimbursable basis. Amounts reimbursed to the Secretary concerned under this subsection shall be credited to appropriations available, at the time of reimbursement, for the payment of such expenses.".

(3) The amendments made by this subsection shall apply with respect to the remains of, and incidental expenses incident to the recovery, care, and disposition of, an individual who dies after the date of the enactment of this Act.

(b) TRANSPORTATION OF REMAINS OF DECEASED VETERANS ON AEROMEDICAL EVACUATION AIRCRAFT.—(1) Subsection (a) of section 2641 of title 10, United States Code, is amended by inserting before the period the following: "or of transporting the remains of a deceased veteran who died at such a facility after being transported to the facility under this subsection. Transportation of the remains of a deceased veteran under this subsection may be provided to the place from which the veteran was transported to the facility or to any other destination which is not farther away from the facility than such place".

(2) Such section is further amended—

(A) in subsection (b)—

(i) in the matter preceding paragraph (1), by inserting "(or for the remains of a veteran)" after "furnished to a veteran";

(ii) in paragraph (1), by inserting "(or of the remains of such veteran)" after "of such veteran"; and

(iii) in paragraph (2), by inserting "(or the remains of the veteran)" after "for the veteran";

(B) in subsection (d)(1)—

(i) by inserting "(or on the survivors of a veteran)" after "on a veteran"; and

(ii) by inserting "(or for the remains of the veteran)" after "to the veteran"; and

(C) in subsection (d)(2), by inserting "(or for the remains of veterans)" after "to veterans".

SEC. 653. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR DEPARTMENT OF DEFENSE PERSONNEL OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1060a. Special supplemental food program

"(a) AUTHORITY.—The Secretary of Defense may carry out a program to provide special supplemental food benefits to members of the armed forces on duty at stations outside the United States (and its territories and possessions) and to eligible civilians serving with, employed by, or accompanying the armed forces outside the United States (and its territories and possessions).

"(b) FEDERAL PAYMENTS AND COMMODITIES.—For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense from funds appropriated for such purpose, the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(c) PROGRAM ADMINISTRATION.—(1)(A) The Secretary of Defense shall administer the program referred to in subsection (a) and, except as provided in subparagraph (B), shall determine eligibility for program benefits under the criterion published by the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(B) The Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of individuals participating in the program under this section.

"(2) The program benefits provided under the program shall be similar to benefits provided by State and local agencies in the United States.

"(d) DEPARTURE FROM STANDARDS.—The Secretary of Defense may authorize departures from standards prescribed by the Secretary of Agriculture regarding the supplemental foods to be made available in the program when local conditions preclude strict compliance or when such compliance is highly impracticable.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to administer the program authorized by this section.

"(f) DEFINITIONS.—In this section:

"(1) The term 'eligible civilian' means—

"(A) a dependent of a member of the armed forces residing with the member outside the United States;

"(B) an employee of a military department who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States; or

"(C) an employee of a Department of Defense contractor who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States.

"(2) The term 'national of the United States' means—

"(A) a citizen of the United States; or

"(B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))).

"(3) The term 'dependent' has the meaning given such term in subparagraphs (A), (D), (E), and (I) of section 1072(2) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of title 10, United States Code, is amended by adding at the end the following new item:

"1060a. Special supplemental food program.".

SEC. 654. STUDY OF OFFSET OF DISABILITY COMPENSATION BY RECEIPT OF SEPARATION BENEFITS AND INCENTIVES.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall carry out a study regarding the requirement in each of the following provisions of title 10, United States Code, to offset the amount of disability compensation payable to a veteran by the amount of the separation benefits paid to the veteran under such provision of law:

(1) Section 1174, relating to payment of separation pay upon involuntary discharge or release from active duty.

(2) Section 1174a(a), relating to payment of a special separation benefit for voluntary separation.

(3) Section 1175, relating to payment of a voluntary separation incentive.

(b) ELEMENTS OF STUDY.—In carrying out the study required under subsection (a), the Comptroller General shall—

(1) determine the purposes of the provisions of law referred to in such subsection;

(2) determine the justifications for the requirement for offset of disability compensation provided in each such provision of law;

(3) assess the financial effects of the offset requirements on affected veterans, and the fiscal effects of the offset requirements on the Federal Government, taking into consideration—

(A) an estimate (by the Comptroller General) of the number of members of the Armed Forces who will separate from the Armed Forces during the period beginning on the date of the enactment of this Act and ending on September 30, 1999;

(B) an estimate (by the Comptroller General) of—

(i) the number of such members who will receive separation benefits under the provisions of law referred to in subsection (a); and

(ii) the average amount of the benefits to be paid such members;

(C) an estimate (by the Comptroller General) of—

(i) the number of such members who will be entitled to disability compensation payable by the Secretary of Veterans Affairs; and

(ii) the average monthly amount of the compensation to which such members will be entitled; and

(D) an assessment (by the Comptroller General) of the extent, if any, to which the offset affects the capacity of such members to meet their financial obligations, including financial obligations incurred in connection with service in the Armed Forces or with separation from that service, and increased net costs for housing and medical care;

(4) determine the extent, if any, to which the offset of disability compensation required under the provisions of law referred to in subsection (a) reduces the effectiveness of such provisions of law for achieving the purposes of those provisions of law; and

(5) determine the cost to the Federal Government that would result from repeal of the offset requirements in such provisions of law.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(c) RESULTS OF STUDY.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the results of the study required under subsection (a). The report shall include recommendations of the Comptroller General for improvement of the separation benefits under the provisions of law referred to in subsection (a).

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

SEC. 701. REVISION OF DEFINITION OF DEPENDENTS TO INCLUDE YOUNG PEOPLE BEING ADOPTED BY MEMBERS OR FORMER MEMBERS.

(a) ELIGIBILITY FOR HEALTH BENEFITS.—Section 1072 of title 10, United States Code, is amended—

(1) in paragraph (2)(D), by striking out the matter preceding clause (i) and inserting in lieu thereof the following:

"(D) a child who—"; and

(2) by adding at the end the following new paragraph:

"(6) The term 'child', with respect to a member or former member of a uniformed service, means the following:

"(A) An unmarried legitimate child.

"(B) An unmarried adopted child.

"(C) An unmarried stepchild.

"(D) An unmarried person—

"(i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the person by the member or former member; and

"(ii) who otherwise meets the requirements specified in paragraph (2)(D).".

(b) CONFORMING AMENDMENT.—Section 401(b)(1)(B) of title 37, United States Code, is amended by striking out "placement agency for the purpose of adoption" and inserting in lieu thereof "placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member".

SEC. 702. TREATMENT OF CERTAIN DEPENDENTS AS CHILDREN FOR PURPOSES OF CHAMPUS, DEPENDENTS' DENTAL PROGRAM, AND CONTINUED HEALTH BENEFITS COVERAGE.

(a) CHAMPUS.—(1) Subsection (a) of section 1079 of title 10, United States Code, is amended in the first sentence by striking out "spouses and children" and inserting in lieu thereof "dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title,".

(2) Subsection (d) of such section is amended by striking out "as defined in section 1072(2)(A) or (D)" and inserting in lieu thereof "as described in subparagraph (A), (D), or (I) of section 1072(2)".

(b) DEPENDENTS' DENTAL PROGRAM.—Section 1076a of such title is amended—

(1) in subsection (a)(1), by striking out "spouses and children (as described in section 1072(2)(D) of this title)" and inserting in lieu thereof "eligible dependents";

(2) in subsection (e), by striking out "spouse or child" and inserting in lieu thereof "eligible dependent";

(3) in subsection (f), by striking out "spouse or children" both places it appears and inserting in lieu thereof "eligible dependents"; and

(4) by adding at the end the following new subsection:

"(h) ELIGIBLE DEPENDENT DEFINED.—In this section, the term 'eligible dependent' means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.".

(c) CONTINUED HEALTH BENEFITS COVERAGE.—Section 1078a of such title is amended—

(1) in subsection (b)(2)(A), by inserting before the semicolon the following: "or ceases to meet the requirements for being considered an unmarried dependent under section 1072(2)(I) of this title";

(2) in subsection (c)(3)—

(A) by striking out "child" both places it appears and inserting in lieu thereof "dependent"; and

(B) by striking out "child's" each place it appears and inserting in lieu thereof "dependent's";

(3) in subsection (d)(2)(A)—

(A) by striking out "child" the first, second, and fourth places it appears and inserting in lieu thereof "dependent"; and

(B) by striking out "an unmarried dependent child under section 1072(2)(D) of this title," and inserting in lieu thereof "a dependent under subparagraph (D) or (I) of section 1072(2) of this title;";

(4) in subsection (d)(2)(B)—

(A) by striking out "child's" and inserting in lieu thereof "dependent's"; and

(B) by striking out "child" and inserting in lieu thereof "dependent";

(5) in subsection (g)(1)(B), by striking out "an unmarried dependent child under section 1072(2)(D) of this title" and inserting in lieu thereof "a dependent under subparagraph (D) or (I) of section 1072(2) of this title"; and

(6) in subsection (g)(2), by striking out "child" both places it appears and inserting in lieu thereof "dependent".

SEC. 703. AVAILABILITY OF DEPENDENTS' DENTAL PROGRAM OUTSIDE THE UNITED STATES.

(a) PROGRAM EXPANSION.—Section 1076a of title 10, United States Code, is amended—

(1) by redesignating subsection (h), as added by section 702(b)(4), as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) CARE OUTSIDE THE UNITED STATES.—The Secretary may exercise the authority provided under subsection (a) to establish basic dental benefits plans for the provision of dental benefits outside the United States for the eligible dependents of members of the uniformed services accompanying the members on permanent assignments to duty outside the United States.".

(b) CONFORMING AMENDMENT.—Section 1077(c) of such title is amended by striking out "and care" and inserting in lieu thereof ", dental care provided outside the United States, and dental care".

SEC. 704. AUTHORIZATION FOR MEDICAL AND DENTAL CARE FOR ABUSED DEPENDENTS OF CERTAIN MEMBERS.

(a) ADDITIONAL BASIS FOR CARE.—Subsection (e) of section 1076 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) Subject to paragraph (3), if an abused dependent of a former member of a uniformed service described in paragraph (4) needs medical or dental care for an injury or illness resulting from abuse by the member, the administering Secretary may, upon request of the abused dependent, furnish medical or dental care to the dependent for the treatment of such injury or illness in facilities of the uniformed services."; and

(2) by adding at the end the following new paragraph:

"(4)(A) A former member of a uniformed service referred to in paragraph (1) is a member who—

"(i) received a dishonorable or bad-conduct discharge or was dismissed from a uniformed service as a result of a court-martial conviction for an offense, under either military or civil law, involving abuse of a dependent of the member; or

"(ii) was administratively discharged from a uniformed service as a result of such an offense.

"(B) A determination of whether an offense involved abuse of a dependent of the member shall be made in accordance with regulations prescribed by the administering Secretary for such uniformed service.".

(b) CONFORMING AMENDMENTS.—Such subsection is further amended—

(1) by inserting "former" before "member" each place it appears in paragraphs (2) and (3);

(2) in paragraph (2), by striking out "paragraph (1)(A)" and inserting in lieu thereof "paragraph (4)"; and

(3) in paragraph (3)(C)—

(A) by striking out "is" and inserting in lieu thereof "was"; and

(B) by striking out "paragraph (1)(A)" and inserting in lieu thereof "paragraph (4)".

(c) PERSONAL SERVICE CONTRACTS TO PROVIDE CARE.—(1) The Secretary of Defense may enter into personal service contracts under the authority of section 1091 of title 10, United States Code, with persons described in paragraph (2) to provide the services of clinical counselors, family advocacy program staff, and victim's services representatives to members of the Armed Forces and covered beneficiaries who require such services. Notwithstanding subsection (a) of such section, such services may be provided in medical treatment facilities of the Department of Defense or elsewhere as determined appropriate by the Secretary.

(2) The persons with whom the Secretary may enter into a personal services contract under this subsection shall include clinical social workers, psychologists, psychiatrists, and other comparable professionals who have advanced degrees in counseling or related academic disciplines and who meet all requirements for State licensure and board certification requirements, if any, within their fields of specialization.

SEC. 705. ADDITIONAL AUTHORIZED HEALTH CARE SERVICE AVAILABLE THROUGH MILITARY HEALTH CARE SYSTEM.

Section 1077(b)(2)(B) of title 10, United States Code, is amended by inserting after "artificial limbs" the following: ", voice prostheses,".

SEC. 706. DEMONSTRATION PROGRAMS FOR SALE OF PHARMACEUTICALS.

(a) PERSONS ELIGIBLE FOR PARTICIPATION.—Subsection (c)(2) of section 702 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1079 note) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) either—

"(i) resides in an area that is adversely affected (as determined by the Secretary) by the closure of a health care facility of the uniformed services as a result of the closure or realignment of the military installation at which such facility is located; or

"(ii) can demonstrate to the satisfaction of the Secretary that the person relied upon a health care facility referred to in clause (i) before the closure of the facility to obtain the person's pharmaceuticals.".

(b) PURCHASE FEES.—Subsection (d) of such section is amended—

(1) by inserting "(1)" after "FEES.—"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of persons eligible to participate in the demonstration project for pharmaceuticals or the retail pharmacy network by reason of clause (ii) of subsection (c)(2)(B), the Secretary of Defense may increase the fees, charges, and copayments established under paragraph (1)(B) and otherwise applicable to such persons by an amount necessary to cover any additional costs incurred by the administering Secretaries as a result of making pharmaceuticals available to such persons under this section.".

SEC. 707. ONE YEAR CONTINUATION OF FULL CHAMPUS AND DEPENDENTS' DENTAL PROGRAM BENEFITS FOR DEPENDENTS OF MEMBERS WHO DIE WHILE ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.

(a) CONTINUATION OF SECTION 1079 CHAMPUS RULES.—Subsection (g) of section 1079 of title 10, United States Code, is amended by inserting after the first sentence the following new sentence: "In addition, when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for such benefits during the one-year period beginning on the date of the death of the member.".

(b) CONTINUATION OF DEPENDENTS' DENTAL PROGRAM BENEFITS.—Subsection (i) of section 1076a of such title, as added by section 702(b)(4) and redesignated by section 703(a)(1), is further amended—

(1) by inserting "(1)" after "ELIGIBLE DEPENDENT DEFINED.—"; and

(2) by adding at the end the following new paragraph:

"(2) The term includes a dependent described in such subparagraphs of a member who dies while on active duty for a period of more than 30 days if the dependent is enrolled on the date of the death of the member in a dental benefits plan established under subsection (a), except that the term does not include the dependent after the end of the one-year period beginning on the date of the member's death. The Secretary of Defense may waive (in whole or in part) any requirements of the plan as the Secretary determines necessary for the effective administration of the plan for a dependent covered by this paragraph.".

(c) APPLICATION OF AMENDMENTS.—The amendments made by subsections (a) and (b) shall apply with respect to the dependents described in such amendments of a member of a uniformed service who dies on or after October 1, 1993, while on active duty for a period of more than 30 days.

(d) CONFORMING REPEAL.—Section 704 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1687) is repealed. The repeal of such section shall not terminate the special payment rules provided in such section with respect to any person eligible for such payment rules on the date of the enactment of this Act.

Subtitle B—Changes to Existing Laws Regarding Health Care Management

SEC. 711. COORDINATION OF BENEFITS WITH MEDICARE.

Section 1086(d) of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) Subject to subparagraph (B), if a person described in paragraph (2) receives medical or dental care for which payment may be made under medicare and a plan contracted for under subsection (a), the amount payable for that care under the plan shall be the amount of the actual out-of-pocket costs incurred by the person for that care over the sum of—

"(i) the amount paid for that care under medicare; and

"(ii) the total of all amounts paid or payable by third party payers other than medicare.

"(B) The amount payable for care under a plan pursuant to subparagraph (A) may not exceed the total amount that would be paid under the plan if payment for that care were made solely under the plan.

"(C) In this paragraph:

"(i) The term 'medicare' means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(ii) The term 'third party payer' has the meaning given such term in section 1095(h)(1) of this title.".

SEC. 712. AUTHORITY FOR REIMBURSEMENT OF PROFESSIONAL LICENSE FEES UNDER RESOURCE SHARING AGREEMENTS.

Section 1096 of title 10, United States Code, is amended by adding at the end the following:

"(d) REIMBURSEMENT FOR LICENSE FEES.—In any case in which it is necessary for a member of the uniformed services to pay a professional license fee imposed by a government in order to provide health care services at a facility of a civilian health care provider pursuant to an agreement entered into under subsection (a), the Secretary of Defense may reimburse the member for up to $500 of the amount of the license fee paid by the member.".

SEC. 713. IMPOSITION OF ENROLLMENT FEES FOR MANAGED CARE PLANS.

Section 1097(c) of title 10, United States Code, is amended by adding at the end the following new sentence: "In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the applicable deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans.".

SEC. 714. STRENGTHENING MANAGED HEALTH CARE AUTHORITIES.

(a) AMENDMENTS TO ALTERNATIVE HEALTH CARE DELIVERY CONTRACTS AUTHORITY.—Section 1097 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) (as amended by section 713) as subsection (e); and

(2) by inserting after subsection (b) the following new subsections:

"(c) COORDINATION WITH FACILITIES OF THE UNIFORMED SERVICES.—The Secretary of Defense may provide for the coordination of health care services provided pursuant to any contract or agreement under this section with those services provided in medical treatment facilities of the uniformed services. Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary may not deny access to facilities of the uniformed services to a covered beneficiary on the basis of whether the beneficiary enrolled or declined enrollment in any program established under, or operating in connection with, any contract under this section. However, the Secretary may, as an incentive for enrollment, establish reasonable preferences for services in facilities of the uniformed services for covered beneficiaries enrolled in any program established under, or operating in connection with, any contract under this section.

"(d) COORDINATION WITH OTHER HEALTH CARE PROGRAMS.—In the case of a covered beneficiary who is enrolled in a managed health care program not operated under the authority of this chapter, the Secretary may contract under this section with such other managed health care program for the purpose of coordinating the beneficiary's dual entitlements under such program and this chapter. A managed health care program with which arrangements may be made under this subsection includes any health maintenance organization, competitive medical plan, health care prepayment plan, or other managed care program recognized pursuant to regulations issued by the Secretary.".

(b) AMENDMENTS TO THIRD PARTY COLLECTIONS PROGRAM AUTHORITY.—Section 1095 of title 10, United States Code, is amended—

(1) in subsection (b), by striking out "if that care" and all that follows through the period and inserting in lieu thereof the following: "shall operate to prevent collection by the United States under subsection (a) if that care is provided—

"(1) through a facility of the uniformed services;

"(2) directly or indirectly by a governmental entity;

"(3) to an individual who has no obligation to pay for that care or for whom no other person has a legal obligation to pay; or

"(4) by a provider with which the third party payer has no participation agreement.";

(2) in subsection (d), by inserting "and except as provided in subsection (j)," after "(b),";

(3) in subsection (h)(1), by adding at the end the following new sentence: "Such term also includes entities described in subsection (j) under the terms and to the extent provided in such subsection."; and

(4) by adding at the end the following new subsection:

"(j) The Secretary of Defense may enter into an agreement with any health maintenance organization, competitive medical plan, health care prepayment plan, or other similar plan (pursuant to regulations issued by the Secretary) providing for collection under this section from such organization or plan for services provided to a covered beneficiary who is an enrollee in such organization or plan.".

(c) CONDITION ON EXPANSION OF CHAMPUS REFORM INITIATIVE.—Section 712 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1073 note) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) EVALUATION OF CERTIFICATION.—The Comptroller General of the United States and the Director of the Congressional Budget Office shall evaluate each certification made by the Secretary of Defense under subsection (a) that expansion of the CHAMPUS reform initiative to another location is the most efficient method of providing health care to covered beneficiaries in that location. They shall submit their findings to Congress if these findings differ substantially from the findings upon which the Secretary made the decision to expand the CHAMPUS reform initiative.".

SEC. 715. DELAY IN DEADLINE FOR USE OF HEALTH MAINTENANCE ORGANIZATION MODEL AS OPTION FOR MILITARY HEALTH CARE.

Section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1696; 10 U.S.C. 1073 note) is amended—

(1) in subsection (a), by striking out "after the date of the enactment of this Act" and inserting in lieu thereof "after December 31, 1994";

(2) in subsection (e), by striking out "February 1, 1994" and inserting in lieu thereof "December 31, 1994"; and

(3) by adding at the end the following new subsection (f):

"(f) MODIFICATION OF EXISTING CONTRACTS.—In the case of managed health care contracts in effect or in final stages of acquisition as of December 31, 1994, the Secretary may modify such contracts to incorporate the health benefit option required under subsection (a).".

SEC. 716. LIMITATION ON REDUCTION IN NUMBER OF RESERVE COMPONENT MEDICAL PERSONNEL.

Section 518(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2407) is amended—

(1) by inserting before the period at the end the following: ", unless the Secretary certifies to Congress that the number of such personnel to be reduced in a particular military department is excess to the current and projected needs for personnel in the Selected Reserve of that military department"; and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(2) by adding at the end the following new sentence: "The assessment of current and projected personnel needs under this subsection shall be consistent with the wartime requirements for selected Reserve personnel identified in the final report on the comprehensive study of the military medical care system prepared pursuant to section 733 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 1071 note).".

SEC. 717. IMPLEMENTATION OF ANNUAL HEALTH CARE SURVEY REQUIREMENT.

Section 744 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2440; 10 U.S.C. 1071 note) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) EXEMPTION.—An annual survey under subsection (a) shall be treated as not a collection of information for the purposes for which such term is defined in section 3502(4) of title 44, United States Code.".

Subtitle C—Persian Gulf Illness

SEC. 721. PROGRAMS RELATED TO DESERT STORM MYSTERY ILLNESS.

(a) OUTREACH PROGRAM TO PERSIAN GULF VETERANS AND FAMILIES.—The Secretary of Defense shall institute a comprehensive outreach program to inform members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf Conflict, and the families of such members, of illnesses that may result from such service. The program shall be carried out through both medical and command channels, as well as any other means the Secretary considers appropriate. Under the program, the Secretary shall—

(1) inform such individuals regarding—

(A) common disease symptoms reported by Persian Gulf veterans that may be due to service in the Southwest Asia theater of operations;

(B) blood donation policy;

(C) available counseling and medical care for such members; and

(D) possible health risks to children of Persian Gulf veterans;

(2) inform such individuals of the procedures for registering in either the Persian Gulf Veterans Health Surveillance System of the Department of Defense or the Persian Gulf War Health Registry of the Department of Veterans Affairs; and

(3) encourage such members to report any symptoms they may have and to register in the appropriate health surveillance registry.

(b) INCENTIVES TO PERSIAN GULF VETERANS TO REGISTER.—In order to encourage Persian Gulf veterans to register any symptoms they may have in one of the existing health registries, the Secretary of Defense shall provide the following:

(1) For any Persian Gulf veteran who is on active duty and who registers with the Department of Defense's Persian Gulf War Veterans Health Surveillance System, a full medical evaluation and any required medical care.

(2) For any Persian Gulf War veteran who is, as of the date of the enactment of this Act, a member of a reserve component, opportunity to register at a military medical facility in the Persian Gulf Veterans Health Care Surveillance System and, in the case of a Reserve who registers in that registry, a full medical evaluation by the Department of Defense. Depending on the results of the evaluation and on eligibility status, reserve personnel may be provided medical care by the Department of Defense.

(3) For a Persian Gulf veteran who is not, as of the date of the enactment of this Act, on active duty or a member of a reserve component, assistance and information at a military medical facility on registering with the Persian Gulf War Registry of the Department of Veterans Affairs and information related to support services provided by the Department of Veterans Affairs.

(c) COMPATIBILITY OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS REGISTRIES.—The Secretary of Defense shall take appropriate actions to ensure—

(1) that the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System maintained by the Department of Defense are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry maintained by the Department of Veterans Affairs; and

(2) that all information on individuals who register with the Department of Defense for purposes of the Persian Gulf War Health Surveillance System is provided to the Secretary of Veterans Affairs for incorporation into the Persian Gulf War Veterans Health Registry.

(d) PRESUMPTIONS ON BEHALF OF SERVICE MEMBER.—(1) A member of the Armed Forces who is a Persian Gulf veteran, who has symptoms of illness, and who the Secretary concerned finds may have become ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations.

(2) A member of the Armed Forces who is a Persian Gulf veteran and who reports being ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations until such time as the weight of medical evidence establishes other cause or causes of the member's illness.

(3) The Secretary concerned shall ensure that, for the purposes of health care treatment by the Department of Defense, health care and personnel administration, and disability evaluation by the Department of Defense, the symptoms of any member of the Armed Forces covered by paragraph (1) or (2) are examined in light of the member's service in the Persian Gulf War and in light of the reported symptoms of other Persian Gulf veterans. The Secretary shall ensure that, in providing health care diagnosis and treatment of the member, a broad range of potential causes of the member's symptoms are considered and that the member's symptoms are considered collectively, as well as by type of symptom or medical specialty, and that treatment across medical specialties is coordinated appropriately.

(4) The Secretary of Defense shall ensure that the presumptions of service connection and illness specified in paragraphs (1) and (2) are incorporated in appropriate service medical and personnel regulations and are widely disseminated throughout the Department of Defense.

(e) REVISION OF THE PHYSICAL EVALUATION BOARD CRITERIA.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, shall ensure that case definitions of Persian Gulf related illnesses, as well as the Physical Evaluation Board criteria used to set disability ratings for members no longer medically qualified for continuation on active duty, are established as soon as possible to permit accurate disability ratings related to a diagnosis of Persian Gulf illnesses.

(2) Until revised disability criteria can be implemented and members of the Armed Forces can be rated against those criteria, the Secretary of Defense shall ensure—

(A) that any member of the Armed Forces on active duty who may be suffering from a Persian Gulf-related illness is afforded continued military medical care; and

(B) that any member of the Armed Forces on active duty who is found by a Physical Evaluation Board to be unfit for continuation on active duty as a result of a Persian Gulf-related illness for which the board has no rating criteria (or inadequate rating criteria) for the illness or condition from which the member suffers is placed on the temporary disability retired list.

(f) REVIEW OF RECORDS AND RERATING OF PREVIOUSLY DISCHARGED GULF WAR VETERANS.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall ensure that a review is made of the health and personnel records of each Persian Gulf veteran who before the date of the enactment of this Act was discharged from active duty, or was medically retired, as a result of a Physical Evaluation Board process.

(2) The review under paragraph (1) shall be carried out to ensure that former Persian Gulf veterans who may have been suffering from a Persian Gulf-related illness at the time of discharge or retirement from active duty as a result of the Physical Evaluation Board process are revaluated in accordance with the criteria established under subsection (e)(1) and, if appropriate, are rerated.

(g) PERSIAN GULF ILLNESS MEDICAL REFERRAL CENTERS.—The Secretary of Defense shall evaluate the feasibility of establishing one or more medical referral centers to provide uniform, coordinated medical care for Persian Gulf veterans on active duty who are or may be suffering from a Persian Gulf-related illness. The Secretary shall submit a report on such feasibility to the Committees on Armed Services of the Senate and House of Representatives, not later than six months after the date of the enactment of this Act.

(h) ANNUAL REPORT TO CONGRESS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on—

(A) efforts taken and results achieved in notifying members of the Armed Forces and their families as part of the outreach program required by subsection (a);

(B) efforts taken to revise the Physical Evaluation Board disability rating criteria and interim efforts to adjudicate cases before the revision of the criteria; and

(C) results of the review and rerating of previously separated servicemembers.

(2) The first report under paragraph (1) shall be submitted not later than 120 days after the date of the enactment of this Act.

(i) PERSIAN GULF VETERAN.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf Conflict.

SEC. 722. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, shall conduct studies and administer grants for studies to determine—

(1) the nature and causes of illnesses suffered by individuals as a consequence of service or employment by the United States in the Southwest Asia theater of operations during the Persian Gulf War; and

(2) the appropriate treatment for those illnesses.

(b) NATURE OF THE STUDIES.—(1) Studies under subsection (a)—

(A) shall include consideration of the range of potential exposure of individuals to environmental, battlefield, and other conditions incident to service in the theater;

(B) shall be conducted so as to provide assessments of both short-term and long-term affects to the health of individuals as a result of those exposures; and

(C) shall include, at a minimum, the following types of studies:

(i) An epidemiological study or studies on the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses.

(ii) Studies to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances.

(iii) Clinical research and other studies on the causes, possible transmission, and treatment of Persian Gulf-related illnesses.

(2)(A) The first project carried out under paragraph (1)(C)(ii) shall be a retrospective study of members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War.

(B) The second project carried out under paragraph (1)(C)(ii) shall consist of animal research and nonanimal research, including in vitro systems, as required, designed to determine whether the use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals will result in increased toxicity in animals and is likely to have a similar effect on humans.

(c) INDIVIDUALS COVERED BY THE STUDIES.—Studies conducted pursuant to subsections (a) shall apply to the following individuals:

(1) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(2) Individuals who were civilian employees of the Department of Defense in that theater during that period.

(3) To the extent appropriate, individuals who were employees of contractors of the Department of Defense in that theater during that period.

(4) To the extent appropriate, the spouses and children of individuals described in paragraph (1).

(d) PLAN FOR THE STUDIES.—(1) The Secretary of Defense shall prepare a coordinated plan for the studies to be conducted pursuant to subsection (a). The plan shall include plans and requirements for research grants in support of the studies. The Secretary shall submit the plan to the National Academy of Sciences for review and comment.

(2) The plan for studies pursuant to subsection (a) shall be updated annually. The Secretary of Defense shall request an annual review by the National Academy of Science of the updated plan and study progress and results achieved during the preceding year.

(3) The plan, and annual updates to the plan, shall be prepared in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services.

(e) FUNDING.—(1) From the amount authorized to be appropriated pursuant to section 201 for Defense-wide activities, the Secretary of Defense shall make available such funds as the Secretary considers necessary to support the studies conducted pursuant to subsection (a).

(2) For each year in which activities continue in support of the studies conducted pursuant to subsection (a), the Secretary of Defense shall include in the budget request for the Department of Defense a request for such funds as the Secretary determines necessary to continue the activities during that fiscal year.

(f) REPORTS.—(1) Not later than March 31, 1995, the Secretary of Defense shall submit to Congress the coordinated plan for the studies to be conducted pursuant to subsection (a) and the results of the review of that plan by the National Academy of Sciences.

(2) Not later than October 1 of each year through 1998, the Secretary shall submit to Congress a report on the results of the studies conducted pursuant to subsection (a), plans for continuation of the studies, and the results of the annual review of the studies by the National Academy of Sciences.

(3) Each report under this section shall be prepared in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services.

(g) DEFINITION.—In this section, the term "Persian Gulf War" has the meaning given such term in section 101 of title 38, United States Code.

Subtitle D—Other Matters

SEC. 731. CHIROPRACTIC HEALTH CARE DEMONSTRATION PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall develop and carry out a demonstration program to evaluate the feasibility and advisability of furnishing chiropractic care through the medical care facilities of the Armed Forces. The Secretary of Defense shall develop and carry out the program in consultation with the Secretaries of the military departments.

(2) In carrying out the program, the Secretary of Defense shall—

(A) subject to paragraph (3), designate not less than 10 major military medical treatment facilities of the Department of Defense to furnish chiropractic care under the program; and

(B) enter into agreements with such number of chiropractors as the Secretary determines sufficient for the purposes of the program to furnish chiropractic care at such facilities under the program.

(3) The Secretary may not designate under paragraph (2) any treatment facility that is located on a military installation scheduled for closure or realignment under a base closure law.

(b) PROGRAM PERIOD.—The Secretary shall carry out the demonstration program in fiscal years 1995 through 1997.

(c) REPORTING REQUIREMENTS.—(1) Not later than January 30, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration program. The report shall—

(A) identify the treatment facilities designated pursuant to subsection (a)(2)(A); and

(B) include a discussion of the plan for the conduct of the program.

(2) Not later than May 1, 1995, the Secretary of Defense shall submit to the committees referred to in paragraph (1) a plan for evaluating the program, including a schedule for conducting progress reviews and for submitting a final report to the committees.

(3) The Secretary shall submit to the committees referred to in paragraph (1) a final report in accordance with the plan submitted to such committees pursuant to paragraph (2).

(d) OVERSIGHT ADVISORY COMMITTEE.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an oversight advisory committee to assist and advise the Secretary with regard to the development and conduct of the demonstration program.

(2) The oversight advisory committee shall include the following members:

(A) The Comptroller General of the United States, or the designee of such person from within the General Accounting Office.

(B) The Assistant Secretary of Defense for Health Affairs, or the designee of such person.

(C) The Surgeons General of the Army, the Air Force, and the Navy, or the designees of such persons.

(D) No fewer than four independent representatives of the chiropractic health care profession, appointed by the Secretary of Defense.

(3) The oversight advisory committee shall assist the Secretary of Defense regarding—

(A) issues involving the professional credentials of the chiropractors participating in the program;

(B) the granting of professional practice privileges for the chiropractors at the treatment facilities participating in the program;

(C) the preparation of the reports required under subsection (c); and

(D) the evaluation of the program.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the oversight advisory committee.

(e) DEFINITION.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

SEC. 732. DEMONSTRATION PROGRAM FOR ADMISSION OF CIVILIANS AS PHYSICIAN ASSISTANT STUDENTS AT ACADEMY OF HEALTH SCIENCES, FORT SAM HOUSTON, TEXAS.

(a) CIVILIAN ATTENDANCE.—The Secretary of the Army may enter into a reciprocal agreement with an accredited institution of higher education under which students of the institution may attend the didactic portion of the physician assistant training program conducted by the Army Medical Department at the Academy of Health Sciences at Fort Sam Houston, Texas, in exchange for the provision of such academic services by the institution as the Secretary and the institution consider to be appropriate to support the physician assistant training program. The Secretary shall ensure that the Army Medical Department does not incur any additional costs as a result of the agreement than the Department would incur to obtain academic services for the physician assistant training program in the absence of the agreement.

(b) SELECTION OF STUDENTS.—(1) Subject to paragraph (2), not more than 20 civilian students per year may receive instruction at the Academy pursuant to the agreement under subsection (a). In consultation with the institution of higher education that is a party to the agreement, the Secretary shall establish qualifications and methods of selection for civilian students to receive instruction at the Academy. The qualifications established shall be comparable to those generally required for admission to the physician assistant training program at the Academy.

(2) The Secretary shall ensure that members of the Armed Forces are not denied enrollment in the physician assistant training program in order to permit the attendance of civilian students. The maximum annual enrollment for the program may not be increased solely for the purpose of permitting civilian students to attend the program.

(c) RULES OF ATTENDANCE.—Except as the Secretary determines necessary, a civilian student who receives instruction at the Academy pursuant to the agreement under subsection (a) shall be subject to the same regulations governing attendance, discipline, discharge, and dismissal as apply to military students attending the Academy.

(d) TERM AND TERMINATION OF AGREEMENT.—The term of the agreement entered into under subsection (a) may not extend beyond September 30, 1997. Either party to the agreement may terminate the agreement at any time before that date.

(e) REPORT.—For each year in which the agreement under subsection (a) is in effect, the Secretary shall submit to Congress a report

VOL
140
PT
16
AG
12
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18
1994
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specifying the number of civilian students who received instruction at the Academy under the agreement during the period covered by the report and accessing the benefits to the United States of the agreement.

(f) ACADEMY DEFINED.—For purposes of this section, the term "Academy" means the Academy of Health Sciences of the Army Medical Department at Fort Sam Houston, Texas.

SEC. 733. DELAY IN CLOSURE OF ARMY HOSPITAL AT VICENZA, ITALY.

(a) CLOSURE DELAY.—During fiscal year 1995, the Secretary of the Army may not reduce the level of medical care services provided by the United States Army Hospital at Vicenza, Italy.

(b) REPORT ON HOSPITAL.—Not later than March 1, 1995, the Secretary of Defense shall submit to Congress a report regarding the operation of the Army Hospital at Vicenza, Italy. The report shall contain the following:

(1) A description of the number and demographic characteristics of members of the Armed Forces on active duty and covered beneficiaries under chapter 55 of title 10, United States Code, who typically receive medical care services at the hospital, including those members and covered beneficiaries stationed or residing at (or in the immediate vicinity of) Aviano Air Force Base and Camp Darby.

(2) An analysis of the projected costs or savings, including the cost of CHAMPUS benefits, resulting from the programmed closure of the hospital.

(3) A description of the differences in practice patterns between American and Italian doctors, such as differences in the normal lengths of stay for the most frequent inpatient admissions (including childbirth) and the availability of alternative methods of providing anesthesia during childbirth.

(4) An analysis of the feasibility of establishing a birthing center for the area and patients currently served by the hospital, to be staffed primarily by American nurse-midwives.

(5) A detailed plan for ensuring the availability of quality medical care, consistent with American medical practice patterns, for covered beneficiaries residing in Northern Italy.

SEC. 734. ORAL TYPHOID VACCINE INVENTORY OF DEPARTMENT OF DEFENSE.

(a) NUMBER OF DOSES FOR INVENTORY.—The Secretary of Defense shall direct that the number of doses of oral typhoid vaccine purchased for inventory by the Department of Defense during a fiscal year be not less than the number of doses of parenteral injection typhoid vaccine purchased for inventory by the Department during that fiscal year.

(b) WAIVER.—The Secretary of Defense may waive the applicability of subsection (a) for a fiscal year if the Secretary determines that the waiver is necessary for medical reasons and notifies Congress of the reasons for the waiver.

SEC. 735. REPORT ON EXPANDED USE OF NON-AVAILABILITY OF HEALTH CARE STATEMENTS.

(a) REPORT REQUIRED.—Not later than December 31, 1994, the Secretary of Defense shall submit to Congress a report describing the plans (if any) of the Department of Defense to use the authority provided in sections 1080(b) and 1086(e) of title 10, United States Code, for making determinations whether or not to issue a nonavailability of health care statement. The report shall include an analysis of the effects of such plans on—

(1) the freedom of choice of covered beneficiaries in selecting health care providers;

(2) the access of covered beneficiaries to health care services;

(3) the quality and continuity of health care services;

(4) the clarity and understandability of the applicable requirements regarding issuance nonavailability of health care statements; and

(5) the health care costs incurred by the Federal Government and covered beneficiaries.

(b) USE OF AUTHORITY.—During the period beginning on the date of the enactment of this Act and ending 90 days after the date on which the Secretary submits the report required by subsection (a), the Secretary may not—

(1) expand the number or size of the geographical areas in which the Secretary is currently using the authority provided by sections 1080(b) and 1086(e) of title 10, United States Code; or

(2) implement or use such authority in a manner inconsistent with the manner in which such authority was implemented or used as of February 1, 1994.

SEC. 736. COST ANALYSIS OF TIDEWATER TRICARE DELIVERY OF PEDIATRIC HEALTH CARE TO MILITARY FAMILIES.

(a) COST ANALYSIS REQUIRED.—Not later than October 1, 1995, the Assistant Secretary of Defense (Health Affairs) shall determine the amount of the expenditures made by the Department of Defense for pediatric care for each of fiscal years 1992, 1993; and 1994 under the program for delivery of health care services in the Tidewater region of Virginia carried out pursuant to section 712(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1402). The Assistant Secretary shall determine the total amount of such expenditures and the amount of such expenditures for each case.

(b) USE OF ANALYSIS.—In evaluating changes to the pediatric care furnished by the Department of Defense (including that pediatric care furnished under the Civilian Health and Medical Program of the Uniformed Services) in the Tidewater region of Virginia, the Assistant Secretary may consider the amounts determined under subsection (a) in determining the appropriate standards, limitations, and requirements to apply to the cost of pediatric care under the system.

SEC. 737. STUDY AND REPORT ON FINANCIAL RELIEF FOR CERTAIN MEDICARE-ELIGIBLE MILITARY RETIREES WHO INCUR MEDICARE LATE ENROLLMENT PENALTIES.

(a) STUDY.—The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct a study regarding possible financial relief from late enrollment penalties for military retirees and dependents of such retirees who—

(1) reside within the service area (or former service area) of a military installation closed or approved for closure under a base closure law; and

(2) have failed to enroll in a timely manner in medicare part B due to reliance upon the military treatment facility located at such installation.

(b) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall submit to Congress a report containing the results of the study required under subsection (a). The report shall also contain the following:

(1) For each military installation studied, the number of military retirees within both a 40 mile and 65 mile catchment area who have failed to enroll in medicare part B and are subjected to late enrollment penalties.

(2) A determination of the estimated aggregate amount of the penalties in terms of each military installation studied.

(3) A description of the characteristics of the population that are subject to the penalties, such as age and income level.

(4) An examination of the appropriateness of waiving the penalties.

(5) A description of the Department of Defense funds that should be used to pay the penalties if waiver of the penalties is not recommended.

(6) A proposed program for a special medicare part B enrollment period for affected retirees living near military installations already closed or which are designated for closure in the future.

(7) Legislative recommendations for implementing a program which removes the financial burden from the medicare-eligible beneficiaries who have been or will be adversely impacted by the closure of a military installation.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base closure law" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(2) The term "medicare part B" means the public health insurance program under part B of title XVIII of the Social Security Act.

(3) The term "military treatment facility" means a facility of a uniformed service referred to in section 1074(a) of title 10, United States Code, in which health care is provided.

SEC. 738. SENSE OF CONGRESS ON CONTINUITY OF HEALTH CARE SERVICES FOR COVERED BENEFICIARIES IN AREAS AFFECTED BY BASE CLOSURES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should take all appropriate steps, including a limited continuation of services for managed health care currently provided to covered beneficiaries described in subsection (b) who are eligible for such services, to ensure the continuity of health care services for such beneficiaries during the procurement, transition, and initial implementation phases of a TRICARE managed care support contract for Health Services Regions of the Military Health Services System of Department of Defense.

(b) COVERED BENEFICIARIES DESCRIBED.—The covered beneficiaries referred to in subsection (a) are covered beneficiaries under chapter 55, United States Code, who reside in areas adversely affected by the closure of a military installation under a base closure law (as defined in section 737(c)(1)).

(c) TRICARE DEFINED.—For purposes of this section, the term "TRICARE" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Assistance Programs

SEC. 801. PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

(a) FUNDING.—Of the amount authorized to be appropriated under section 301(5), $12,000,000 shall be available for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts made available pursuant to subsection (a), $600,000 shall be available for fiscal year 1995 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

SEC. 802. PILOT MENTOR-PROTEGE PROGRAM.

Of the amounts authorized to be appropriated for fiscal year 1995 by title I of this Act, $50,000,000 shall be available for conducting the pilot Mentor-Protege Program established pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note).

SEC. 803. INFRASTRUCTURE ASSISTANCE FOR HISTORICALLY BLACK COLLEGES AND OTHER MINORITY INSTITUTIONS OF HIGHER EDUCATION.

Of the amounts authorized to be appropriated for fiscal year 1995 by section 201, $25,000,000 shall be available for such fiscal year for infrastructure assistance to historically Black colleges and universities and minority institutions under section 2323(c)(3) of title 10, United States Code.

SEC. 804. TREATMENT UNDER SUBCONTRACTING PLANS OF PURCHASES FROM QUALIFIED NONPROFIT AGENCIES FOR THE BLIND OR SEVERELY DISABLED.

Section 2410d of title 10, United States Code, relating to credit under small business subcontracting plans for certain purchases, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "and" at the end of subparagraph (A);

(ii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(iii) by adding at the end the following new subparagraph:

"(C) a central nonprofit agency designated by the Committee for Purchase from People Who Are Blind or Severely Disabled under section 2(c) of such Act (41 U.S.C. 47(c).";

(B) by striking out paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (c), by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1997".

Subtitle B—Other Matters

SEC. 811. DELEGATION OF INDUSTRIAL MOBILIZATION AUTHORITY.

Section 2538 of title 10, United States Code, is amended—

(1) by striking out "through the Secretary of Defense" each place it appears in subsections (a), (c), and (d) and inserting in lieu thereof "through the head of any department"; and

(2) in subsection (c)—

(A) by striking out "in the opinion of the Secretary of Defense" in the matter preceding paragraph (1) and inserting in lieu thereof "in the opinion of the head of that department"; and

(B) by striking out "Secretary" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "head of such department".

SEC. 812. DETERMINATIONS OF PUBLIC INTEREST UNDER THE BUY AMERICAN ACT.

(a) CONSIDERATIONS.—Section 2533 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) In determining under section 2 of title III of the Act of March 3, 1993 (41 U.S.C. 10a), popularly known as the 'Buy American Act', whether application of title III of such Act is inconsistent with the public interest, the Secretary of Defense shall consider the following:

"(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(2) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(3) The United States balance of payments.

"(4) The cost of shipping goods which are other than American goods.

"(5) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(6) A need to ensure that the Department of Defense has access to advanced, state-of-the-art commercial technology.

"(7) The need to protect the national technology and industrial base, to preserve and enhance the national technology employment base, and to provide for a defense mobilization base.

"(8) A need to ensure that application of different rules of origin for United States end items and foreign end items does not result in an award to a firm other than a firm providing a product produced in the United States.

"(9) Any need—

"(A) to maintain the same source of supply for spare and replacement parts for an end item that qualifies as an American good; or

"(B) to maintain the same source of supply for spare and replacement parts in order not to impair integration of the military and commercial industrial base.

"(10) The national security interests of the United States."; and

(2) by redesignating subsection (c) as subsection (b).

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading of section 2533 of such title is amended to read as follows:

"§2533. Determinations of public interest under the Buy American Act".

(2) The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2533. Determinations of public interest under the Buy American Act.".

SEC. 813. CONTINUATION OF EXPIRING REQUIREMENT FOR ANNUAL REPORT ON THE USE OF COMPETITIVE PROCEDURES FOR AWARDING CERTAIN CONTRACTS TO COLLEGES AND UNIVERSITIES.

Section 2361 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on the use of competitive procedures for the award of research and development contracts, and the award of construction contracts, to colleges and universities. Each such report shall include—

"(A) a list of each college and university that, during the period covered by the report, received more than $1,000,000 in such contracts through the use of procedures other than competitive procedures; and

"(B) the cumulative amount of such contracts received during that period by each such college and university.

"(2) Each report under paragraph (1) shall cover the preceding calendar year and shall be submitted not later than February 1 of the year after the year covered by the report.".

SEC. 814. CONSOLIDATION AND REVISION OF LIMITATIONS ON PROCUREMENT OF GOODS OTHER THAN AMERICAN GOODS.

The text of section 2534 of title 10, United States Code, is amended to read as follows:

"(a) LIMITATION ON CERTAIN PROCUREMENTS.—The Secretary of Defense may procure any of the following items only if the manufacturer of the item satisfies the requirements of subsection (b):

"(1) BUSES.—Multipassenger motor vehicles (buses).

"(2) CHEMICAL WEAPONS ANTIDOTE.—Chemical weapons antidote contained in automatic injectors (and components for such injectors)

"(3) AIR CIRCUIT BREAKERS.—Air circuit breakers for naval vessels.

"(4) VALVES AND MACHINE TOOLS.—Items in the following categories:

"(A) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

"(B) Machine tools in the Federal Supply Classes for metal-working machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

"(5) BALL BEARINGS AND ROLLER BEARINGS.—Ball bearings and roller bearings, in accordance with subpart 225.71 of part 225 of the Defense Federal Acquisition Regulation Supplement, as in effect on October 23, 1992.

"(b) MANUFACTURER IN THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—

"(1) GENERAL REQUIREMENT.—A manufacturer meets the requirements of this subsection if the manufacturer is part of the national technology and industrial base.

"(2) MANUFACTURERS OF CHEMICAL WEAPONS ANTIDOTE.—In the case of a procurement of chemical weapons antidote referred to in subsection (a)(2), a manufacturer meets the requirements of this subsection only if the manufacturer—

"(A) meets the requirement set forth in paragraph (1);

"(B) is an existing producer under the industrial preparedness program at the time the contract is awarded;

"(C) has received all required regulatory approvals; and

"(D) when the contract for the procurement is awarded, has in existence in the national technology and industrial base the plant, equipment, and personnel necessary to perform the contract.

"(c) APPLICABILITY TO CERTAIN ITEMS.—

"(1) AIR CIRCUIT BREAKERS.—Subsection (a) does not apply to a procurement of spares or repair parts needed to support air circuit breakers produced or manufactured outside the United States.

"(2) VALVES AND MACHINE TOOLS.—(A) Contracts to which subsection (a) applies include the following contracts for the procurement of items described in paragraph (4) of such subsection:

"(i) A contract for procurement of such an item for use in property under the control of the Department of Defense, including any Government-owned, contractor-operated facility.

"(ii) A contract that is entered into by a contractor on behalf of the Department of Defense for the purpose of providing such an item to another contractor as Government-furnished equipment.

"(B) In any case in which a contract for items described in subsection (a)(4) includes the procurement of more than one Federal Supply Class of machine tools or machine tools and accessories, each supply class shall be evaluated separately for purposes of determining whether the limitation in subsection (a) applies.

"(C) Subsection (a)(4) and this paragraph shall cease to be effective on October 1, 1996.

"(3) BALL BEARINGS AND ROLLER BEARINGS.—Subsection (a)(5) and this paragraph shall cease to be effective on October 1, 1995.

"(d) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) with respect to the procurement of an item listed in that subsection if the Secretary determines that any of the following apply:

"(1) Application of the limitation would cause unreasonable costs or delays to be incurred.

"(2) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United

VOL 140 PT 16 AG 12 — 18 1994 UMI

States to a greater degree than the United States discriminates against defense items produced in that country.

"(3) Application of the limitation would impede cooperative programs entered into between the Department of Defense and a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(4) Satisfactory quality items manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title) are not available.

"(5) Application of the limitation would result in the existence of only one source for the item that is an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

"(6) The procurement is for an amount less than the simplified acquisition threshold and simplified purchase procedures are being used.

"(7) Application of the limitation is not in the national security interests of the United States.

"(8) Application of the limitation would adversely affect a United States company.

"(e) SONOBUOYS.—

"(1) LIMITATION.—The Secretary of Defense may not procure a sonobuoy manufactured in a foreign country if United States firms that manufacture sonobuoys are not permitted to compete on an equal basis with foreign manufacturing firms for the sale of sonobuoys in that foreign country.

"(2) WAIVER AUTHORITY.—The Secretary may waive the limitation in paragraph (1) with respect to a particular procurement of sonobuoys if the Secretary determines that such procurement is in the national security interests of the United States.

"(3) DEFINITION.—In this subsection, the term 'United States firm' has the meaning given such term in section 2532(d)(1) of this title.

"(f) PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.—A provision of law may not be construed as modifying or superseding the provisions of this section, or as requiring funds to be limited, or made available, by the Secretary of Defense to a particular domestic source by contract, unless that provision of law—

"(1) specifically refers to this section;

"(2) specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(3) specifically identifies the particular domestic source involved and states that the contract to be awarded pursuant to such provision of law is being awarded in contravention of this section.".

SEC. 815. ENVIRONMENTAL CONSEQUENCE ANALYSIS OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) GUIDANCE.—Before April 1, 1995, the Secretary of Defense shall issue guidance, to apply uniformly throughout the Department of Defense, regarding—

(1) how to achieve the purposes and intent of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by ensuring timely compliance for major defense acquisition programs (as defined in section 2430 of title 10, United States Code) through (A) initiation of compliance efforts before development begins, (B) appropriate environmental impact analysis in support of each milestone decision, and (C) accounting for all direct, indirect, and cumulative environmental effects before proceeding toward production; and

(2) how to analyze, as early in the process as feasible, the life-cycle environmental costs for such major defense acquisition programs, including the materials to be used, the mode of operations and maintenance, requirements for demilitarization, and methods of disposal, after consideration of all pollution prevention opportunities and in light of all environmental mitigation measures to which the department expressly commits.

(b) ANALYSIS.—Beginning not later than March 31, 1995, the Secretary of Defense shall analyze the environmental costs of a major defense acquisition process as an integral part of the life-cycle cost analysis of the program pursuant to the guidance issued under subsection (a).

(c) DATA BASE FOR NEPA DOCUMENTATION.—The Secretary of Defense shall establish and maintain a data base for documents prepared by the Department of Defense in complying with the National Environmental Policy Act of 1969 with respect to major defense acquisition programs. Any such document relating to a major defense acquisition program shall be maintained in the data base for 5 years after commencement of low-rate initial production of the program.

SEC. 816. DEMONSTRATION PROJECT ON PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.

(a) DEMONSTRATION PROJECT.—The Secretary of Defense may conduct a demonstration project, beginning October 1, 1994, at Monterey, California, under which any fire-fighting, security-guard, police, public works, utility, or other municipal services needed for operation of any Department of Defense asset in Monterey County, California, may be purchased from government agencies located within the county of Monterey. The purchase of such services for the demonstration project may be made notwithstanding section 2465 of title 10, United States Code.

(b) EVALUATION OF PROJECT.—Not later than December 31, 1996, the Secretary of Defense shall submit to Congress a report evaluating the results of the project and making any recommendations the Secretary considers appropriate, including recommendations on whether the purchase authorities used in conducting the project could be used to provide similar services at other locations.

SEC. 817. PREFERENCE FOR LOCAL RESIDENTS.

(a) PREFERENCE ALLOWED.—In entering into contracts with private entities for services to be performed at a military installation that is affected by closure or alignment under a base closure law, the Secretary of Defense may give preference, consistent with Federal, State, and local laws and regulations, to entities that plan to hire, to the maximum extent practicable, residents of the vicinity of such military installation to perform such contracts. Contracts for which the preference may be given include contracts to carry out environmental restoration activities or construction work at such military installations. Any such preference may be given for a contract only if the services to be performed under the contract at the military installation concerned can be carried out in a manner that is consistent with all other actions at the installation that the Secretary is legally required to undertake.

(b) DEFINITION.—In this section, the term "base closure law" means the following:

(1) The provisions of title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(c) APPLICABILITY.—Any preference given under subsection (a) shall apply only with respect to contracts entered into after the date of the enactment of this Act.

(d) TERMINATION.—This section shall cease to be effective on September 30, 1997.

SEC. 818. PAYMENT OF RESTRUCTURING COSTS UNDER DEFENSE CONTRACTS.

(a) CERTIFICATION OF COST SAVINGS.—(1) The Secretary of Defense may not, under section 2324 of title 10, United States Code, pay restructuring costs associated with a business combination undertaken by a defense contractor until the Department of Defense reviews the projected costs and savings that will result for the Department from such business combination and an official of the Department of Defense at the level of Assistant Secretary of Defense or above certifies in writing that projections of future cost savings resulting for the Department from the business combination are based on audited cost data and should result in overall reduced costs to the Department.

(2) The requirements for a review and certification under paragraph (1) shall not apply with respect to any business combination for which restructuring costs were paid or otherwise approved by the Secretary before August 15, 1994.

(b) REQUIREMENT FOR REGULATIONS.—Not later than January 1, 1995, the Secretary of Defense shall prescribe regulations on the allowability of restructuring costs associated with business combinations under defense contracts.

(c) MATTERS TO BE INCLUDED.—At a minimum, the regulations shall—

(1) include a definition of the term "restructuring costs"; and

(2) address the issue of contract novations under such contracts.

(d) CONSULTATION.—In developing the regulations, the Secretary of Defense shall consult with the Administrator for Federal Procurement Policy.

(e) REPORT.—Not later than November 13 in each of the years 1995, 1996, and 1997, the Secretary of Defense shall submit to Congress a report on the following:

(1) A description of the procedures being followed within the Department of Defense for evaluating projected costs and savings under a defense contract resulting from a restructuring of a defense contractor associated with a business combination.

(2) A list of all defense contractors for which restructuring costs have been allowed by the Department, along with the identities of the firms which those contractors have acquired or with which those contractors have combined since July 21, 1993, that qualify the contractors for such restructuring reimbursement.

(3) The Department's experience with business combinations for which the Department has agreed to allow restructuring costs since July 21, 1993, including the following:

(A) The estimated amount of costs associated with each restructuring that have been or will be treated as allowable costs under defense contracts, including the type and amounts of costs that would not have arisen absent the business combination.

(B) The estimated amount of savings associated with each restructuring that are expected to be achieved on defense contracts.

(C) The types of documentation relied on to establish that savings associated with each restructuring will exceed costs associated with the restructuring.

(D) Actual experience on whether savings associated with each restructuring are exceeding costs associated with the restructuring.

(E) Identification of any programmatic or budgetary disruption in the Department of Defense resulting from contractor restructuring.

(f) DEFINITION.—In this section, the term "business combination" includes a merger or acquisition.

(g) COMPTROLLER GENERAL REPORTS.—(1) Not later than March 1, 1995, the Comptroller General shall submit to Congress a report on the adequacy of the regulations prescribed under subsection (b) with respect to—

(A) whether such regulations are consistent with the purposes of this section, other applicable law, and the Federal Acquisition Regulation; and

(B) whether such regulations establish policies, procedures, and standards to ensure that restructuring costs are paid only when in the best interests of the United States.

(2) The Comptroller General shall report periodically to Congress on the implementation of the policy of the Department of Defense regarding defense industry restructuring.

(3) Not later than December 1, 1997, the Comptroller General shall submit to Congress a final report on the policy of the Department of Defense on defense industry restructuring, including any recommendations the Comptroller considers appropriate.

SEC. 819. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

The Secretary of Defense is authorized to designate the following defense acquisition programs for participation, to the extent provided in the Federal Acquisition Streamlining Act of 1994, in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

(1) The Fire Support Combined Arms Tactical Trainer program.

(2) The Joint Direct Attack Munition program.

(3) The Joint Primary Aircraft Training System.

(4) Commercial-derivative aircraft.

(5) Commercial-derivative engine.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Secretarial Matters

SEC. 901. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE.

(a) ESTABLISHMENT OF POSITION.—Section 138(a) of title 10, United States Code, is amended by striking out "ten" and inserting in lieu thereof "eleven".

(b) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking out "Assistant Secretaries of Defense (10)." and inserting in lieu thereof the following:

"Assistant Secretaries of Defense (11).".

SEC. 902. ORDER OF SUCCESSION TO SECRETARIES OF THE MILITARY DEPARTMENTS.

(a) ARMY.—Section 3017 of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Army.".

(b) NAVY.—Section 5017 of such title is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Navy.".

(c) AIR FORCE.—Section 8017 of such title is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Air Force.".

SEC. 903. CHANGE OF TITLE OF COMPTROLLER OF THE DEPARTMENT OF DEFENSE TO UNDER SECRETARY OF DEFENSE (COMPTROLLER).

(a) IN GENERAL.—(1) Section 135 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "a Comptroller of the Department of Defense" and inserting in lieu thereof "an Under Secretary of Defense (Comptroller)"; and

(B) in subsections (b), (c), (d), and (e), by striking out "Comptroller" each place it appears and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(2) The heading for such section is amended to read as follows:

"§135. Under Secretary of Defense (Comptroller)".

(3) The item relating to such section in the table of sections at the beginning of chapter 4 of such title is amended to read as follows:

"135. Under Secretary of Defense (Comptroller).".

(b) CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—(1) Section 131(b)(4) of title 10, United States Code, is amended by striking out "Comptroller" and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(2) Section 138(d) of such title is amended by striking out "and Comptroller".

(c) CONFORMING AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5314 of title 5, United States Code, is amended by striking out "Comptroller of the Department of Defense" and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(d) REFERENCES IN OTHER LAWS.—Any reference to the Comptroller of the Department of Defense in any provision of law other than title 10, United States Code, or in any rule, regulation, or other paper of the United States shall be treated as referring to the Under Secretary of Defense (Comptroller).

SEC. 904. NATIONAL GUARD BUREAU CHARTER.

(a) IN GENERAL.—Subtitle E of title 10, United States Code, as added by section 1611, is amended by inserting after chapter 1009, as added by section 1661(b), the following new chapter:

"CHAPTER 1011—NATIONAL GUARD BUREAU

"10501. National Guard Bureau.
"10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade.
"10503. Functions of National Guard Bureau: charter from Secretaries of the Army and Air Force.
"10504. Chief of National Guard Bureau: annual report.
"10505. Vice Chief of the National Guard Bureau.
"10506. Other senior National Guard Bureau officers.
"10508. Definition.

"§10501. National Guard Bureau

"(a) NATIONAL GUARD BUREAU.—There is in the Department of Defense the National Guard Bureau, which is a joint bureau of the Department of the Army and the Department of the Air Force.

"(b) PURPOSES.—The National Guard Bureau is the channel of communications on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States between (1) the Department of the Army and Department of the Air Force, and (2) the several States.

"§10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade

"(a) APPOINTMENT.—There is a Chief of the National Guard Bureau, who is responsible for the organization and operations of the National Guard Bureau. The Chief of the National Guard Bureau is appointed by the President, by and with the advice and consent of the Senate. Such appointment shall be made from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

"(1) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

"(2) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard; and

"(3) are in a grade above the grade of brigadier general.

"(b) TERM OF OFFICE.—An officer appointed as Chief of the National Guard Bureau serves at the pleasure of the President for a term of four years. An officer may not hold that office after becoming 64 years of age. An officer may be reappointed as Chief of the National Guard Bureau. While holding that office, the Chief of the National Guard Bureau may not be removed from the reserve active-status list, or from an active status, under any provision of law that otherwise would require such removal due to completion of a specified number of years of service or a specified number of years of service in grade.

"(c) ADVISER ON NATIONAL GUARD MATTERS.—The Chief of the National Guard Bureau is the principal adviser to the Secretary of the Army and the Chief of Staff of the Army, and to the Secretary of the Air Force and the Chief of Staff of the Air Force, on matters relating to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

"(d) GRADE.—The Chief of the National Guard Bureau shall be appointed to serve in the grade of lieutenant general.

"§10503. Functions of National Guard Bureau: charter from Secretaries of the Army and Air Force

"The Secretary of the Army and the Secretary of the Air Force shall jointly develop and prescribe a charter for the National Guard Bureau. The charter shall cover the following matters:

"(1) Allocating unit structure, strength authorizations, and other resources to the Army National Guard of the United States and the Air National Guard of the United States.

"(2) Prescribing the training discipline and training requirements for the Army National Guard and the Air National Guard and the allocation of Federal funds for the training of the Army National Guard and the Air National Guard.

"(3) Ensuring that units and members of the Army National Guard and the Air National Guard are trained by the States in accordance with approved programs and policies of, and guidance from, the Chief, the Secretary of the Army, and the Secretary of the Air Force.

"(4) Monitoring and assisting the States in the organization, maintenance, and operation of National Guard units so as to provide well-trained and well-equipped units capable of augmenting the active forces in time of war or national emergency.

"(5) Planning and administering the budget for the Army National Guard of the United States and the Air National Guard of the United States.

"(6) Supervising the acquisition and supply of, and accountability of the States for, Federal property issued to the National Guard through the property and fiscal officers designated, detailed, or appointed under section 708 of title 32.

"(7) Granting and withdrawing, in accordance with applicable laws and regulations, Federal recognition of (A) National Guard units, and (B) officers of the National Guard.

"(8) Establishing policies and programs for the employment and use of National Guard technicians under section 709 of title 32.

"(9) Supervising and administering the Active Guard and Reserve program as it pertains to the National Guard.

"(10) Issuing directives, regulations, and publications consistent with approved policies of the Army and Air Force, as appropriate.

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(11) Facilitating and supporting the training of members and units of the National Guard to meet State requirements.

"(12) Such other functions as the Secretaries may prescribe.

"§10504. Chief of National Guard Bureau: annual report

"(a) ANNUAL REPORT.—The Chief of the National Guard Bureau shall submit to the Secretary of Defense, through the Secretaries of the Army and the Air Force, an annual report on the state of the National Guard and the ability of the National Guard to meet its missions. The report shall be prepared in conjunction with the Secretary of the Army and the Secretary of the Air Force and may be submitted in classified and unclassified versions.

"(b) SUBMISSION OF REPORT TO CONGRESS.—The Secretary of Defense shall transmit the annual report of the Chief of the National Guard Bureau to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113(c) of this title is submitted to Congress.

"§10505. Vice Chief of the National Guard Bureau

"(a) APPOINTMENT.—(1) There is a Vice Chief of the National Guard Bureau, selected by the Secretary of Defense from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

"(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

"(B) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard; and

"(C) are in a grade above the grade of colonel.

"(2) The Chief and Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

"(3)(A) Except as provided in subparagraph (B), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

"(B) The term of the Vice Chief of the National Guard Bureau shall end upon the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

"(4) The Secretary of Defense may waive the restrictions in paragraph (2) and the provisions of paragraph (3)(B) for a limited period of time to provide for the orderly transition of officers appointed to serve in the positions of Chief and Vice Chief of the National Guard Bureau.

"(b) DUTIES.—The Vice Chief of the National Guard Bureau performs such duties as may be prescribed by the Chief of the National Guard Bureau.

"(c) GRADE.—The Vice Chief of the National Guard Bureau shall be appointed to serve in the grade of major general.

"(d) FUNCTIONS AS ACTING CHIEF.—When there is a vacancy in the office of the Chief of the National Guard Bureau or in the absence or disability of the Chief, the Vice Chief of the National Guard Bureau acts as Chief and performs the duties of the Chief until a successor is appointed or the absence or disability ceases.

"(e) SUCCESSION AFTER CHIEF AND VICE CHIEF.—When there is a vacancy in the offices of both Chief and Vice Chief of the National Guard Bureau or in the absence or disability of both the Chief and Vice Chief of the National Guard Bureau, or when there is a vacancy in one such office and in the absence or disability of the officer holding the other, the senior officer of the Army National Guard of the United States or the Air National Guard of the United States on duty with the National Guard Bureau shall perform the duties of the Chief until a successor to the Chief or Vice Chief is appointed or the absence or disability of the Chief or Vice Chief ceases, as the case may be.

"§10506. Other senior National Guard Bureau officers

"(a) ADDITIONAL GENERAL OFFICERS.—(1) In addition to the Chief and Vice Chief of the National Guard Bureau, there shall be assigned to the National Guard Bureau—

"(A) two general officers selected by the Secretary of the Army from officers of the Army National Guard of the United States who have been nominated by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard, the senior of whom while so serving shall hold the grade of major general and serve as Director, Army National Guard, with the other serving as Deputy Director, Army National Guard; and

"(B) two general officers selected by the Secretary of the Air Force from officers of the Air National Guard of the United States who have been nominated by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard, the senior of whom while so serving shall hold the grade of major general and serve as Director, Air National Guard, with the other serving as Deputy Director, Air National Guard.

"(2) The officers so selected shall assist the Chief of the National Guard Bureau in carrying out the functions of the National Guard Bureau as they relate to their respective branches.

"(b) OTHER OFFICERS.—There are in the National Guard Bureau a legal counsel, a comptroller, and an inspector general, each of whom shall be appointed by the Chief of the National Guard Bureau. They shall perform such duties as the Chief may prescribe.

"§10508. Definition

"In this chapter, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and Guam and the Virgin Islands.".

(b) CONFORMING REPEAL.—(1) Section 3040 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 305 of such title is amended by striking out the item relating to section 3040.

(c) CONFORMING AMENDMENT.—The text of section 108 of title 32, United States Code, is amended to read as follows:

"If, within a time fixed by the President, a State fails to comply with a requirement of this title, or a regulation prescribed under this title, the National Guard of that State is barred, in whole or in part, as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law.".

(d) EFFECTIVE DATE.—The provisions of chapter 1011 of title 10, United States Code, as added by subsection (a), shall become effective, and the repeal made by subsection (c) and the amendment made by subsection (c) shall take effect, at the end of the 90-day period beginning on the date of the enactment of this Act.

Subtitle B—Professional Military Education

SEC. 911. AUTHORITY FOR MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF MILITARY STUDIES.

(a) AUTHORITY TO AWARD.—(1) Chapter 609 of title 10, United States Code, is amended by adding at the end the following new section:

"§7102. Marine Corps University: master of military studies

"(a) AUTHORITY.—Upon the recommendation of the Director and faculty of the Command and Staff College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of military studies upon graduates of the college who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7102. Marine Corps University: master of military studies.".

(b) EFFECTIVE DATE.—The authority provided by section 7102(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 912. BOARD OF ADVISORS FOR MARINE CORPS UNIVERSITY.

The Secretary of the Navy shall establish a board of advisors for the Marine Corps University. The Secretary shall ensure that the board is established so as to meet all requirements of the appropriate regional accrediting association.

SEC. 913. AUTHORITY FOR AIR UNIVERSITY TO AWARD THE DEGREE OF MASTER OF AIRPOWER ART AND SCIENCE.

(a) AUTHORITY TO AWARD.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§9317. Air University: master of airpower art and science

"(a) AUTHORITY.—Upon the recommendation of the faculty of the School of Advanced Airpower Studies of the Air University, the Commander of the university may confer the degree of master of airpower art and science upon graduates of the school who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Air Force.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9317. Air University: master of airpower art and science.".

(b) EFFECTIVE DATE.—The authority provided by section 9317(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the School of Advanced Airpower Studies of the Air University for the degree of master of airpower art and science are in accordance with generally applicable requirements for a degree of master of arts or a degree of master of science.

SEC. 914. SENSE OF CONGRESS ON GRADE OF HEADS OF SENIOR PROFESSIONAL MILITARY EDUCATION SCHOOLS.

It is the sense of Congress that an officer serving in a position as the head of one of the senior professional military education schools of the Department of Defense (or of the separate military departments) should, while so serving, hold a grade not less than the grade (or its equivalent) held by the officer serving in that position on the date of the enactment of this Act.

Subtitle C—Other Matters

SEC. 921. COMPOSITION OF RESERVE FORCES POLICY BOARD.

Section 175(a) of title 10, United States Code, is amended—

(1) in paragraph (4), by striking out "or Regular Marine Corps" and inserting in lieu thereof "and an officer of the Regular Marine Corps each";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following:

"(10) an officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps serving in a position on the Joint Staff who is designated by the Chairman of the Joint Chiefs of Staff.".

SEC. 922. CONTINUATION OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) CLOSURE PROHIBITED.—The Uniformed Services University of the Health Sciences may not be closed.

(b) BUDGETARY COMMITMENT TO CONTINUATION.—It is the sense of Congress that the Secretary of Defense should budget for the ongoing operation of the Uniformed Services University of the Health Sciences as an institution of professional education that is vital to the education and training each year of significant numbers of personnel of the uniformed services for careers as uniformed services health care providers.

(c) GAO EVALUATION.—Not later than June 1, 1995, the Comptroller General of the United States shall submit to Congress a detailed report on the Uniformed Services University of the Health Sciences. The report shall include the following:

(1) A comparison of the cost of obtaining physicians for the Armed Forces from the University with the cost of obtaining physicians from other sources.

(2) An assessment of the retention rate needs of the Armed Forces for physicians in relation to the respective retention rates of physicians obtained from the University and physicians obtained from other sources and the factors that contribute to retention rates among military physicians obtained from all sources.

(3) A review of the quality of the medical education provided at the University with the quality of medical education provided by other sources of military physicians.

(4) A review of the overall issue of the special needs of military medicine and how those special needs are being met by physicians obtained from University and physicians obtained from other sources.

(5) An assessment of the extent to which the University has responded to the 1990 report of the Inspector General of the Department of Defense, including recommendations as to resolution of any continuing issues relating to management and internal fiscal controls of the University, including issues relating to the Henry M. Jackson Foundation for the Advancement of Military Medicine identified in the 1990 report.

(6) Such other recommendations as the Comptroller General considers appropriate.

SEC. 923. COMMISSION ON ROLES AND MISSIONS OF THE ARMED FORCES.

(a) SIZE OF COMMISSION.—(1) Section 952(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1738; 10 U.S.C. 111 note) is amended by striking out "seven members" and inserting in lieu thereof "eleven members".

(2) Section 956(b)(1) of such Act (107 Stat. 1740) is amended by striking out "Four members" and inserting in lieu thereof "Seven members".

(3) The additional members of the Commission on Roles and Missions of the Armed Forces authorized by the amendment made by paragraph (1) shall be appointed by the Secretary of Defense not later than 30 days after the date of the enactment of this Act.

(4) At least one of the additional members of the Commission appointed pursuant to the amendment made by paragraph (1) shall have previous military experience and management experience with the reserve components.

(b) REVIEW OF RESERVE COMPONENTS.—Section 953 of such Act (107 Stat. 1738) is amended—

(1) in subsection (d)—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(9) the role of the Army National Guard of the United States, the Air National Guard of the United States, and the other reserve components.";

(2) in subsection (e)(3), by inserting after "Department of Defense" the following: ", including the Army National Guard of the United States, the Air National Guard of the United States, and the other reserve components"; and

(3) by adding at the end the following new subsection:

"(h) RECOMMENDATIONS CONCERNING RESERVE COMPONENTS.—The Commission shall also address the roles, missions, and functions of the Army National Guard of the United States, the Air National Guard of the United States, and the other reserve components within the total force of the Armed Forces, particularly in light of lower budgetary resources that will be available to the Department of Defense in the future.".

(c) RECOMMENDATIONS CONCERNING PROGRAMS AND FORCE STRUCTURE.—Section 953 of such Act is further amended by adding after subsection (h), as added by subsection (b), the following:

"(i) RECOMMENDATIONS CONCERNING PROGRAMS AND FORCE STRUCTURE.—The Commission may also recommend changes that would better align programs and force structure with projected missions and threats.".

(d) FFRDC SUPPORT.—(1) Section 957 of such Act (107 Stat. 1741) is amended by adding at the end the following new subsection:

"(f) FFRDC SUPPORT.—(1) Upon the request of the chairman of the Commission, the Secretary of Defense shall make available to the Commission, without reimbursement, the services of any federally funded research and development center that is covered by a sponsoring agreement of the Department of Defense. The cost of the services made available under this subsection may not exceed $20,000,000.

"(2) Notwithstanding any other provision of law, any analytic support or related services provided by such a center to the Commission shall not be subject to any overall ceiling established by this or any other Act on the activities or budgets of such centers.".

(2) Such section is further amended by striking out the section heading and inserting in lieu thereof the following:

"SEC. 957. PERSONNEL MATTERS; EXPERT SERVICES.".

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

(a) RENAMING OF THE COURT OF MILITARY APPEALS.—(1) The United States Court of Military Appeals shall hereafter be known and designated as the United States Court of Appeals for the Armed Forces.

(2) Section 941 of title 10, United States Code (article 141 of the Uniform Code of Military Justice), is amended by striking out "United States Court of Military Appeals" and inserting in lieu thereof "United States Court of Appeals for the Armed Forces".

(b) RENAMING OF THE COURTS OF MILITARY REVIEW.—(1) Each Court of Military Review shall hereafter be known and designated as a Court of Military Criminal Appeals.

(2) Section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), is amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Military Criminal Appeals".

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections 707(a)(2), 866(e), 867, 867a(a), 870, 871(c)(1), 873, 942, 943, 944, 945, and 946(b)(1).

(2) The following sections are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Military Criminal Appeals": sections 707(a)(2), 862(b), 867, 868, 869, 870, 871, and 873.

(3)(A) The heading of subchapter XII of chapter 47 is amended to read as follows:

"SUBCHAPTER XII—UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES".

(B) The table of subchapters at the beginning of chapter 47 is amended by striking out the item relating to subchapter XII and inserting in lieu thereof the following:

"XII. United States Court of Appeals for the Armed Forces ..... 941 141".

(4)(A) The heading of section 866 is amended to read as follows:

"§866. Art. 66. Review by Court of Military Criminal Appeals".

(B) The heading of section 867 is amended to read as follows:

"§867. Art. 67. Review by the Court of Appeals for the Armed Forces".

(C) The items relating to sections 866 and 867 (articles 66 and 67) in the table of sections at the beginning of subchapter IX of chapter 47 are amended to read as follows:

"866. 66. Review by Court of Military Criminal Appeals.

"867. 67. Review by the Court of Appeals for the Armed Forces.".

(d) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) The following titles of the United States Code are amended by striking out "Court of Military Appeals" each place it appears in the specified sections and inserting in lieu thereof "Court of Appeals for the Armed Forces":

(A) In title 5, sections 8334(a)(1), 8336(l), 8337(a), 8338(c), 8339(d)(6), and 8339(h) and the table in section 8334(c).

(B) In title 18, sections 202(e)(2) and 6001(4).

(C) In title 28, sections 1259 and 2101(g).

(D) In title 44, section 906.

(2)(A) The heading of section 1259 of title 28, United States Code, is amended to read as follows:

"§1259. Court of Appeals for the Armed Forces; certiorari".

(B) The item relating to section 1259 in the table of sections at the beginning of chapter 81 of such title is amended to read as follows:

"1259. Court of Appeals for the Armed Forces; certiorari.".

(3) Section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking out "Court of Military Appeals" each place it appears in paragraphs (8) and (10) and inserting in lieu thereof "Court of Appeals for the Armed Forces".

SEC. 925. BUDGET SUPPORT FOR RESERVE ELEMENTS OF SPECIAL OPERATIONS COMMAND.

Section 167 of title 10, United States Code, is amended by adding at the end the following new subsection:

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(k) BUDGET SUPPORT FOR RESERVE ELEMENTS.—(1) Before the budget proposal for the special operations command for any fiscal year is submitted to the Secretary of Defense, the commander of the command shall consult with the Secretaries of the military departments concerning funding for reserve component special operations units. If the Secretary of a military department does not concur in the recommended level of funding with respect to any such unit that is under the jurisdiction of the Secretary, the commander shall include with the budget proposal submitted to the Secretary of Defense the views of the Secretary of the military department concerning such funding.

"(2) Before the budget proposal for a military department for any fiscal year is submitted to the Secretary of Defense, the Secretary of that military department shall consult with the commander of the special operations command concerning funding for special operations forces in the military personnel budget for a reserve component in that military department. If the commander of that command does not concur in the recommended level of funding with respect to reserve component special operations units, the Secretary shall include with the budget proposal submitted to the Secretary of Defense the views of the commander of that command.".

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

SEC. 1002. EMERGENCY SUPPLEMENTAL AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEAR 1994.

(a) AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—Funds appropriated to the Department of Defense for fiscal year 1994 in chapter 3 of title I of the Emergency Supplemental Appropriations Act of 1994 (Public Law 103–211; 108 Stat. 5) for the purposes stated in section 301 of such Act (108 Stat. 7), relating to the incremental and associated costs of the Department of Defense incurred in connection with ongoing United States operations relating to Somalia, Bosnia, Southwest Asia, and Haiti, are hereby authorized in amounts as follows:

(1) For Military Personnel:
(A) For the Army, $6,600,000.
(B) For the Navy, $19,400,000.
(C) For the Air Force, $18,400,000.
(2) For Operation and Maintenance:
(A) For the Army, $420,100,000.
(B) For the Navy, $104,800,000.
(C) For the Air Force, $560,100,000.
(D) For Defense-wide activities, $21,600,000.
(3) For Procurement:
(A) For Aircraft Procurement, Army, $20,300,000.
(B) For Other Procurement, Army, $200,000.
(C) For Other Procurement, Air Force, $26,800,000.

(b) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR RELIEF OF RWANDA REFUGEES.—There is authorized to be appropriated to the Emergency Response Fund, Defense, as emergency supplemental appropriations for fiscal year 1994 the sum of $270,000,000 to be used to reimburse appropriations of the Department of Defense for costs incurred for emergency relief for Rwanda.

SEC. 1003. INCORPORATION OF CLASSIFIED ANNEX.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the committee of conference to accompany the bill S. 2182 of the One Hundred Third Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

SEC. 1004. DATE FOR SUBMISSION OF FUTURE-YEARS MISSION BUDGET.

Section 222(a) of title 10, United States Code, is amended by striking out "at the same time that" in the second sentence and inserting in lieu thereof "not later than 60 days after the date on which".

SEC. 1005. SUBMISSION OF NEXT FUTURE-YEARS DEFENSE PROGRAM AS REQUIRED BY LAW.

(a) CONDITION ON OBLIGATION OF ADVANCE PROCUREMENT FUNDS.—If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1996 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program, then during the 30-day period beginning on the last day of such 90-day period the Secretary may not obligate more than 10 percent of the fiscal year 1995 advance procurement funds that are available for obligation as of the end of that 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program, then the Secretary may not make any further obligation of fiscal year 1995 advance procurement funds until such program is submitted to Congress.

(b) REMOVAL OF CONDITION.—If the Secretary submits to Congress the fiscal year 1996 future-years defense program during the 30-day period described in the first sentence of subsection (a), the limitation on obligation of advance procurement funds prescribed in that sentence shall cease to apply effective as of the date of the submission of such program.

(c) COMPLIANCE CERTIFICATION AS CONDITION OF EFFECTIVE SUBMISSION OF FYDP.—A submission of the fiscal year 1996 future-years defense program may not be considered to have been made for purposes of this section unless the submission is accompanied by a certification by the Secretary that such program as submitted satisfies the requirements of section 221(b) of title 10, United States Code. Any such certification may be made by the Secretary only after consultation with the Inspector General of the Department of Defense.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "fiscal year 1996 future-years defense program" means the multiyear defense program (including associated annexes) covering fiscal years beginning with fiscal year 1996 required (by section 221 of title 10, United States Code) to be submitted to Congress in conjunction with the President's budget for that fiscal year.

(2) The term "fiscal year 1995 advance procurement funds" means funds appropriated for the Department of Defense for fiscal year 1995 that are available for advance procurement.

SEC. 1006. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1994 DEFENSE APPROPRIATIONS.

(a) AUTHORITY.—The amounts described in subsection (b) may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1994 defense appropriations except as otherwise provided in section subsections (c) and (d).

(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1994 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1994 defense authorizations.

(c) PROGRAMS NOT AVAILABLE FOR OBLIGATION.—Amounts described in subsection (b) which remain available for obligation on the date of the enactment of this Act may not be obligated or expended for the following programs, projects, and activities of the Department of Defense (for which amounts were provided in fiscal year 1994 defense appropriations):

(1) The Guardrail modifications program under "Aircraft Procurement, Army" in the amount of $19,000,000.

(2) The AT–4 upgrade program under "Procurement of Ammunition, Army" in the amount of $15,000,000.

(3) The Combat Vehicle Modernization program under "Research, Development, Test, and Evaluation, Army" in the amount of $20,000,000 for incorporation of the Saudi Arabia M1A2 electronic data processing, storage and retrieval system in the United States version of the M1A2 tank.

(d) MANUFACTURING TECHNOLOGY.—The Secretary of Defense may obligate fiscal year 1994 defense appropriations under the Manufacturing Technology Development program which remain available for obligation on the date of the enactment of this Act in accordance with the competition and cost-sharing requirements of subsection (d) of section 2525 of title 10, United States Code, as amended by section 256 of this Act, notwithstanding any other provision of law that specifies (or has the effect of requiring) that a contract be entered into with, or a grant be made to, a particular institution or entity.

(e) DEFINITIONS.—For the purposes of this section:

(1) FISCAL YEAR 1994 DEFENSE APPROPRIATIONS.—The term "fiscal year 1994 defense appropriations" means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1994 in the Department of Defense Appropriations Act, 1994 (Public Law 103–139).

(2) FISCAL YEAR 1994 DEFENSE AUTHORIZATIONS.—The term "fiscal year 1994 defense authorizations" means amounts authorized to be appropriated for the Department of Defense for fiscal year 1994 in the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

Subtitle B—Counter-Drug Activities

SEC. 1011. DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) EXTENSION OF CURRENT AUTHORITY.—Section 1004(a) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note) is amended by striking out "through 1995" and inserting in lieu thereof "through 1999".

(b) CONDITION ON TRANSFER OF FUNDS.—Funds appropriated for the Department of Defense may not be transferred to a National Drug Control Program agency account except to the extent provided in a law that specifically states—

(1) the amount authorized to be transferred;
(2) the account from which such amount is authorized to be transferred; and
(3) the account to which such amount is authorized to be transferred.

(c) CONDITION ON DETAILING PERSONNEL.—Personnel of the Department of Defense may not be detailed to another department or agency in order to implement the National Drug Control Strategy unless the Secretary of Defense certifies to Congress that the detail of such personnel is in the national security interest of the United States.

(d) RELATIONSHIP TO OTHER LAW.—A provision of law may not be construed as modifying or superseding the provisions of subsection (b) or (c) unless that provision of law—

(1) specifically refers to this section; and
(2) specifically states that such provision of law modifies or supersedes the provisions of subsection (b) or (c), as the case may be.

SEC. 1012. OFFICIAL IMMUNITY FOR AUTHORIZED EMPLOYEES AND AGENTS OF THE UNITED STATES AND FOREIGN COUNTRIES ENGAGED IN INTERDICTION OF AIRCRAFT USED IN ILLICIT DRUG TRAFFICKING.

(a) EMPLOYEES AND AGENTS OF FOREIGN COUNTRIES.—Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country (including members of the armed forces of that country) to interdict or attempt to interdict an aircraft in that country's territory or airspace if—

(1) that aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking; and
(2) the President of the United States, before the interdiction occurs, has determined with respect to that country that—
(A) interdiction is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and
(B) the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force directed against the aircraft.

(b) EMPLOYEES AND AGENTS OF THE UNITED STATES.—Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of the United States (including members of the Armed Forces of the United States) to provide assistance for the interdiction actions of foreign countries authorized under subsection (a). The provision of such assistance shall not give rise to any civil action seeking money damages or any other form of relief against the United States or its employees or agents (including members of the Armed Forces of the United States).

(c) DEFINITIONS.—For purposes of this section:

(1) The terms "interdict" and "interdiction", with respect to an aircraft, mean to damage, render inoperative, or destroy the aircraft.

(2) The term "illicit drug trafficking" means illicit trafficking in narcotic drugs, psychotropic substances, and other controlled substances, as such activities are described by any international narcotics control agreement to which the United States is a signatory, or by the domestic law of the country in whose territory or airspace the interdiction is occurring.

(3) The term "assistance" includes operational, training, intelligence, logistical, technical, and administrative assistance.

SEC. 1013. REPORT ON STATUS OF DEFENSE RANDOM DRUG TESTING PROGRAM.

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report describing the policy and procedures under which the Armed Forces conduct random drug testing of members of the Armed Forces, the frequency of such testing, and the number of members annually required to submit to such testing. The report shall describe any changes that were made to such policy or procedures, or to the frequency of such testing, during the one-year period ending on the date of the enactment of this Act.

Subtitle C—Naval Vessels and Related Matters

SEC. 1021. TRANSFER OF USNS MAURY.

(a) IN GENERAL.—The Secretary of the Navy shall transfer the USNS Maury (TAGS–39) to the Department of Transportation for assignment as a training ship to the California Maritime Academy at Vallejo, California. The transfer shall be made on the date of the decommissioning of that vessel.

(b) TERMS AND CONDITIONS.—(1) In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of the conveyance;
(B) in its condition on that date; and
(C) at no cost to the United States.

(2) The Secretary may require such additional terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

SEC. 1022. TRANSFER OF OBSOLETE VESSEL USS GUADALCANAL.

(a) AUTHORITY.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, upon the decommissioning of the USS Guadalcanal (LPH–7), the Secretary of the Navy may transfer the USS Guadalcanal to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

(b) LIMITATION.—The transfer authorized by section (a) may be made only if the Secretary determines that the vessel USS Guadalcanal is of no further use to the United States for national security purposes.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

SEC. 1023. MARITIME PREPOSITIONING SHIP PROGRAM ENHANCEMENT.

Section 2218(f) of title 10, United States Code, shall not apply in the case of the purchase of three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons.

Subtitle D—POW/MIA Matters

SEC. 1031. ASSISTANCE TO FAMILY MEMBERS OF KOREAN CONFLICT AND COLD WAR POW/MIAS WHO REMAIN UNACCOUNTED FOR.

(a) SINGLE POINT OF CONTACT.—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

(b) FUNCTIONS.—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may relate to such POW/MIAs. The functions of that official shall include assisting family members—

(1) with the procedures the family members may follow in their search for information about the unaccounted-for Korean conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

(d) REPOSITORY.—The official designated under subsection (a) shall provide all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official's efforts to the National Archives and Records Administration, which shall locate them in a centralized repository.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "unaccounted-for Korean conflict POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(2) The term "unaccounted-for Cold War POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945, to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(3) The term "Korean conflict" has the meaning given such term in section 101(9) of title 38, United States Code.

SEC. 1032. REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) REVIEW.—The Secretary of Defense shall conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report containing the Secretary's recommendations as to whether those provisions of law should be amended.

(c) CONSULTATION.—The review under subsection (a) shall be carried out in consultation with the Secretaries of the military departments.

SEC. 1033. CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate, in its final report, dated January 13, 1993, concluded—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(A) that "many American POWs had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials"; and

(B) that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war, the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POWs from the Korean conflict.".

(2) The Select Committee on POW/MIA Affairs recommended in that report that "the Department of State and Defense form a POW/MIA task force in China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

SEC. 1034. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

(a) REQUIREMENT.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the information specified in subsection (b) pertaining to United States personnel involved in the Vietnam conflict who remain not accounted for.

(b) REQUIRED INFORMATION.—The information to be provided in the report under subsection (a) is as follows:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

SEC. 1035. REPORT ON POW/MIA MATTERS CONCERNING NORTH KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula.".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall, at the end of January and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who remain not accounted for and to obtain from North Korea any remains of such personnel.

(c) COMMISSION.—The President shall give serious consideration to establishing a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues relating to United States personnel who became prisoners of war or missing in action during the Korean conflict.

SEC. 1036. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, THE VIETNAM ERA, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note) is amended—

(1) in subsection (a), by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (A) United States personnel who remain not accounted for as a result of service in the Armed Forces or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (B) their remains.";

(2) in subsection (c)—

(A) by striking out the first sentence in paragraph (1) and inserting in lieu thereof the following: "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995.";

(B) in paragraph (2), by striking out "after March 1, 1992,"; and

(C) in paragraph (3), by striking out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserting in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,";

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) DEFINITIONS.—For purposes of this section:

"(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

"(2) The term 'Cold War' means the period from the end of World War II to the beginning of the Korean conflict and the period from the end of the Korean conflict to the beginning of the Vietnam era.

"(3) The term 'official custodian' means—

"(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

"(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense."; and

(4) by striking out the section heading and inserting:

"SEC. 1082. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.".

Subtitle E—Miscellaneous Reporting Requirements

SEC. 1041. ANNUAL REPORT ON DENIAL, REVOCATION, AND SUSPENSION OF SECURITY CLEARANCES.

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress, not later than 90 days after the close of each of fiscal years 1995 through 2000, a report concerning the denial, revocation, or suspension of security clearances for Department of Defense military and civilian personnel, and for Department of Defense contractor employees, for that fiscal year.

(b) MATTER TO BE INCLUDED IN REPORT.—The Secretary shall include in each such report the following information with respect to the fiscal year covered by the report (shown separately for members of the Armed Forces, civilian officers and employees of the Department of Defense, and employees of contractors of the Department of Defense):

(1) The number of denials, revocations, and suspensions of a security clearance, including clearance for special access programs and for sensitive compartmented information.

(2) For cases involving the denial or revocation of a security clearance, the average period from the date of the initial determination and notification to the individual concerned of the denial or revocation of the clearance to the date of the final determination of the denial or revocation, as well as the shortest and longest period in such cases.

(3) For cases involving the suspension of a security clearance, the average period from the date of the initial determination and notification to the individual concerned of the suspension of the clearance to the date of the final determination of the suspension, as well as the shortest and longest period of such cases.

(4) The number of cases in which a security clearance was suspended in which the resolution of the matter was the restoration of the security clearance, and the average period for such suspensions.

(5) The number of cases (shown only for members of the Armed Forces and civilian officers and employees of the Department of Defense) in which an individual who had a security clearance denied or revoked remained a member of the Armed Forces or a civilian officer or employee, as the case may be, at the end of the fiscal year.

(6) The number of cases in which an individual who had a security clearance suspended, and in which no final determination had been made, remained a member of the Armed Forces, a civilian officer or employee, or an employee of a contractor, as the case may be, at the end of the fiscal year.

(7) The number of cases in which an appeal was made from a final determination to deny or revoke a security clearance and, of those, the number in which the appeal resulted in the granting or restoration of the security clearance.

SEC. 1042. REPORT ON USE OF LOW-ENRICHED URANIUM AS FUEL FOR NAVAL NUCLEAR REACTORS.

(a) REQUIREMENT OF REPORT.—Not later than June 1, 1995, the Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of low-enriched uranium (instead of highly-enriched uranium) as fuel for naval nuclear reactors.

(b) CONTENTS OF REPORT.—The report shall include an assessment of the following:

(1) The advantages and disadvantages of the use of low-enriched uranium (instead of highly-enriched uranium) as fuel for naval nuclear reactors.

(2) The effects of such use on the following:

(A) Operating performance, ship displacement, and reactor core life, including the full range of plausible trade-offs among operating performance, ship displacement, and reactor core life that may result from such use.

(B) Construction costs and operating costs.

(C) Naval fuel cycles.

(D) Policies of the United States for the nonproliferation of nuclear weapons, including the proposal of the President for a global ban on the production of fissile materials for weapons.

(3) The implications of such use for current and future United States nuclear-powered naval vessels.

(4) The complexity and effectiveness of safeguards under naval fuel cycles for low-enriched uranium in relation to the complexity and effectiveness of safeguards under naval fuel cycles for highly-enriched uranium.

(5) The risk of theft or diversion of low-enriched uranium under naval fuel cycles for low-enriched uranium in relation to the risk of theft or diversion of highly-enriched uranium under naval fuel cycles for highly-enriched uranium.

(6) The potential savings that might be achieved, and the potential additional costs that might be incurred, as a result of the use of low-enriched uranium instead of highly-enriched uranium as fuel for naval nuclear reactors.

(7) Any additional information that the Secretary of the Navy considers to be appropriate.

Subtitle F—Congressional Findings, Policies, Commendations, and Commemorations

SEC. 1051. SENSE OF CONGRESS CONCERNING COMMENDATION OF INDIVIDUALS EXPOSED TO MUSTARD AGENTS DURING WORLD WAR II TESTING ACTIVITIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should issue to each individual described in subsection (b) a commendation in honorary recognition of the individual's special service, loyalty, and contribution to the United States.

(b) COVERED INDIVIDUALS.—Individuals referred to in subsection (a) are those individuals who, as members of the Armed Forces or employees of the Department of War during World War II, were exposed (without their knowledge or consent) to mustard agents in connection with testing performed by the Department of War during that war.

(c) NOTIFICATION OF EXPOSURE.—The Secretary of Defense shall notify each surviving individual described in subsection (b) of—

(1) the exposure described in subsection (b);

(2) the possible health effects of the exposure that are known to the Secretary; and

(3) the likely options available to the individual for medical treatment for any adverse health effects resulting from the exposure.

(d) FURNISHING OF INFORMATION TO SECRETARY OF VETERANS AFFAIRS.—The Secretary of Defense shall provide to the Secretary of Veterans Affairs any information of the Department of Defense regarding the exposure described in subsection (b), including the names of the individuals described in subsection (b).

SEC. 1052. USS INDIANAPOLIS (CA–35): GALLANTRY, SACRIFICE AND A DECISIVE MISSION TO END WW II.

(a) FINDINGS.—Congress makes the following findings:

(1) The USS INDIANAPOLIS served the people of the United States with valor and distinction throughout World War II in action against enemy forces in the Pacific Theater of Operations from 7 December 1941 to 29 July 1945.

(2) The fast and powerful heavy cruiser with its courageous and capable crew, compiled an impressive combat record during her victorious forays across the battle-torn reaches of the Pacific, receiving in the process ten hard-earned Battle Stars from the Aleutians to Okinawa.

(3) This mighty ship repeatedly proved herself a swift, hard-hitting weapon of our Pacific Fleet, rendering invaluable service in anti-shipping, shore bombardments, anti-air and invasion support roles, and serving with honor and great distinction as Fifth Fleet Flagship under Admiral Raymond Spruance, USN, and Third Fleet Flagship under Admiral William F. Halsey, USN.

(4) This gallant ship, owing to her superior speed and record of accomplishment, transported the world's first operational atomic bomb to the Island of Tinian, accomplishing her mission at a record average speed of 29 knots.

(5) Following the accomplishment of her mission, the INDIANAPOLIS departed Tinian for Guam and, thereafter, embarked from Guam for the Leyte Gulf where she was to join with the fleet assembling for the invasion of Japan.

(6) At 0014 hours on 30 July 1945, the USS INDIANAPOLIS was sunk by enemy torpedo action.

(7) Of the approximately 900 members of her crew of 1,198 officers and men who survived the initial torpedo attack, only 319 were eventually rescued because, as a result of the ship's communication ability having been destroyed in the attack, the sinking of the USS INDIANAPOLIS was not discovered for five fateful days, during which the survivors suffered incessant shark attacks, starvation, desperate thirst, and exposure.

(8) From her participation in the earliest offensive actions in the Pacific in World War II to becoming the last capital ship lost in that conflict, the USS INDIANAPOLIS and her crew left an indelible imprint on our nation's struggle to eventual victory.

(9) This selfless and outstanding performance of duty reflects great credit upon the ship and her crew, thus upholding the very highest traditions of the United States Navy.

(b) RECOGNITION AND COMMENDATION.—Congress, acting on behalf of the grateful people of the United States, hereby--

(1) recognizes the invaluable contributions of the USS INDIANAPOLIS to the ending of World War II; and

(2) on the occasion of the 50th Anniversary of her tragic sinking, and the dedication of her National Memorial in Indianapolis on July 30th, 1995, commends this gallant ship and her crew for selfless and heroic service to the United States of America.

Subtitle G—Other Matters

SEC. 1061. INCREASED AUTHORITY TO ACCEPT VOLUNTARY SERVICES.

(a) EXPANSION OF AUTHORITY.—The text of section 1588 of title 10, United States Code, is amended to read as follows:

"(a) AUTHORITY TO ACCEPT SERVICES.—Subject to subsection (b) and notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person the following services:

"(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

"(2) Voluntary services to be provided for a museum or a natural resources program.

"(3) Voluntary services to be provided for programs providing services to members of the armed forces and the families of such members, including the following programs:

"(A) Family support programs.

"(B) Child development and youth services programs.

"(C) Library and education programs.

"(D) Religious programs.

"(E) Housing referral programs.

"(F) Programs providing employment assistance to spouses of such members.

"(G) Morale, welfare, and recreation programs, to the extent not covered by another subparagraph of this paragraph.

"(b) REQUIREMENTS AND LIMITATIONS.—(1) The Secretary concerned shall notify the person of the scope of the services accepted.

"(2) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned shall—

"(A) supervise the person to the same extent as the Secretary would supervise a compensated employee providing similar services; and

"(B) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable law or regulations to provide such services.

"(3) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned may not—

"(A) place the person in a policy-making position; or

"(B) except as provided subsection (e), compensate the person for the provision of such services.

"(c) AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.—The Secretary concerned may recruit and train persons to provide voluntary services accepted under subsection (a).

"(d) STATUS OF PERSONS PROVIDING SERVICES.—(1) Subject to paragraph (3), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c), a person, other than a person referred to in paragraph (2), shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

"(A) Subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries).

"(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss).

"(C) Section 522a of title 5 (relating to maintenance of records on individuals).

"(D) Chapter 11 of title 18 (relating to conflicts of interest).

"(2) Subject to paragraph (3), while providing a nonappropriated fund instrumentality of the United States with voluntary services accepted under subsection (a), or receiving training under subsection (c) to provide such an instrumentality with services accepted under subsection (a), a person shall be considered an employee of that instrumentality only for the following purposes:

"(A) Subchapter II of chapter 81 of title 5 (relating to compensation of nonappropriated fund employees for work-related injuries).

"(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss).

"(3) A person providing voluntary services accepted under subsection (a) shall be considered to be an employee of the Federal Government under paragraph (1) or (2) only with respect to services that are within the scope of the services so accepted.

"(4) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5 (pursuant to this subsection) to a person providing voluntary services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

"(A) the average monthly number of hours that the person provided the services, by

"(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

"(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Secretary concerned may provide for reimbursement of a person for incidental expenses incurred by the person in providing voluntary services accepted under subsection (a).

VOL 140 PT 16 AG 12 — 18 1994 UMI

The Secretary shall determine which expenses are eligible for reimbursement under this subsection. Any such reimbursement may be made from appropriated or nonappropriated funds.".

(b) PILOT PROGRAM.—(1) The Secretary of Defense shall conduct a pilot program, for not less than six months, to accept voluntary services under the authority provided in section 1588 of title 10, United States Code, as amended by subsection (a). The purpose of the pilot program shall be to evaluate the policies and procedures of the Department of Defense for the acceptance of voluntary services under such section. The pilot program shall involve a variety of services, programs, and locations.

(2) The Secretary may not accept voluntary services under section 1588 of title 10, United States Code (other than services that may have been accepted under such section before the date of the enactment of this Act), and may not issue regulations to implement the amendment to such section made by subsection (a), until after the termination of the pilot program.

(3) Not later than 60 days after the termination of the pilot program, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the pilot program.

(c) CONFORMING AMENDMENT.—Section 8171(a) of title 5, United States Code, is amended by inserting ", or to a volunteer providing such an instrumentality with services accepted under section 1588 of title 10," after "described by section 2105(c) of this title".

SEC. 1062. CIVIL AIR PATROL.

(a) PROVISION OF FUNDS.—Subsection (b) of section 9441 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (12), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) provide funds for the national headquarters of the Civil Air Patrol, including funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent and utilities, and other operational expenses;".

(b) LIAISONS.—Such section is further amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Air Force may authorize the Civil Air Patrol to employ, as administrators and liaison officers, persons retired from service in the Air Force whose qualifications are approved under regulations prescribed by the Secretary and who request such employment.

"(2) A person employed pursuant to paragraph (1) may receive the person's retired pay and an additional amount for such employment that is not more than the difference between the person's retired pay and the pay and allowances the person would be entitled to receive if ordered to active duty in the grade in which the person retired from service in the Air Force. The additional amount shall be paid to the Civil Air Patrol by the Secretary from funds appropriated for that purpose.

"(3) A person employed pursuant to paragraph (1) may not, while so employed, be considered to be on active duty or inactive-duty training for any purpose.".

SEC. 1063. PROHIBITION ON THE PURCHASE OF SURETY BONDS AND OTHER GUARANTEES FOR THE DEPARTMENT OF DEFENSE.

(a) PROHIBITION.—Subchapter I of chapter 134 of title 10, United States Code, as amended by section 372, is further amended by adding at the end the following new section:

"§2248. Purchase of surety bonds: prohibition

"Funds appropriated or otherwise made available to the Department of Defense for fiscal years 1995 through 1999 may not be obligated or expended for the purchase of surety bonds or other guarantees of financial responsibility in order to guarantee the performance of any direct function of the Department of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2248. Purchase of surety bonds: prohibition.".

SEC. 1064. REVISION OF AUTHORITY FOR USE OF NAVY INSTALLATIONS TO PROVIDE PRERELEASE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

(a) SOURCES OF TRAINING.—Subsection (b) of section 1374 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1821; 10 U.S.C. 5013 note) is amended—

(1) by striking out the subsection caption and inserting in lieu thereof "SOURCES OF TRAINING.—"; and

(2) by inserting before the period at the end the following: "or may provide such training directly at such installations by agreement with the State concerned".

(b) LIABILITY AND INDEMNIFICATION.—Subsection (e) of such section is amended to read as follows:

"(e) LIABILITY AND INDEMNIFICATION.—(1) The Secretary may not enter into a cooperative agreement under subsection (b) with a nonprofit organization for the participation of that organization in the demonstration project unless the agreement includes provisions that the nonprofit organization shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the demonstration project; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

"(2) The Secretary may not enter into an agreement under subsection (b) with the State concerned for the provision of prerelease employment training directly by the Secretary unless the agreement with the State concerned includes provisions that the State shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.".

SEC. 1065. DEMONSTRATION PROJECT FOR USE OF ARMY INSTALLATIONS TO PROVIDE PRERELEASE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

(a) DEMONSTRATION PROJECT AUTHORIZED.—The Secretary of the Army may conduct a demonstration project to test the feasibility of using Army facilities to provide employment training to nonviolent offenders in a State penal system before their release from incarceration. The demonstration project shall be limited to not more than three military installations under the jurisdiction of the Secretary.

(b) SOURCES OF TRAINING.—The Secretary may enter into a cooperative agreement with one or more private, nonprofit organizations for purposes of providing at the military installations included in the demonstration project the prerelease employment training authorized under subsection (a) or may provide such training directly at such installations by agreement with the State concerned.

(c) USE OF FACILITIES.—Under a cooperative agreement entered into under subsection (b), the Secretary may lease or otherwise make available to a nonprofit organization participating in the demonstration project at a military installation included in the demonstration project any real property or facilities at the installation that the Secretary considers to be appropriate for use to provide the prerelease employment training authorized under subsection (a). Notwithstanding section 2667(b)(4) of title 10, United States Code, the use of such real property or facilities may be permitted with or without reimbursement.

(d) ACCEPTANCE OF SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept voluntary services provided by persons participating in the prerelease employment training authorized under subsection (a).

(e) LIABILITY AND INDEMNIFICATION.—(1) The Secretary may not enter into a cooperative agreement under subsection (b) with a nonprofit organization for the participation of that organization in the demonstration project unless the agreement includes provisions that the nonprofit organization shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the demonstration project; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

(2) The Secretary may not enter into an agreement under subsection (b) with the State concerned for the provision of prerelease employment training directly by the Secretary unless the agreement with the State concerned includes provisions that the State shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.

(f) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit to Congress a report evaluating the success of the demonstration project and containing such recommendations with regard to the termination, continuation, or expansion of the demonstration project as the Secretary considers appropriate.

SEC. 1066. INTERAGENCY PLACEMENT PROGRAM FOR FEDERAL EMPLOYEES AFFECTED BY REDUCTIONS IN FORCE.

(a) STUDY AND REPORT.—(1) The Director of the Office of Personnel Management shall conduct a study on the feasibility of establishing a mandatory interagency placement program for Federal employees affected by reductions in force.

(2) For purposes of paragraph (1), an interagency placement program is a program that provides a system to require the offering of a position in an agency to an employee of another agency affected by a reduction in force if—

(A) the position cannot be filled through a placement program of the agency in which the position is located;

(B) the employee to whom the offer is made is qualified for the offered position; and

(C) the geographic location of the offered position is within the commuting area of—

(i) the residence of the employee; or

(ii) the employee's present or last-held position.

(3) The Director shall carry out this subsection in consultation with the Secretary of Defense.

(4) The Director shall seek comments from the heads of all appropriate Federal agencies in conducting the study required by paragraph (1).

(5) Not later than six months after the date of the enactment of this Act, the Director shall submit to Congress a report on the results of the study required by paragraph (1) and on any action taken by the Director under subsection (b).

(b) AGREEMENTS TO ESTABLISH INTERAGENCY PLACEMENT PROGRAM.—(1) The Director may establish a Government-wide interagency placement program for Federal employees affected by reductions in force if, during the 6-month period beginning on the date of the enactment of this Act, the Director, in consultation with the Secretary of Defense, determines that such a program is feasible. To carry out the program, the Director may enter into an agreement with the head of each agency that agrees to participate in the program. If the Director establishes a program under this subsection, it is not necessary that the program be an interagency placement program within the meaning of subsection (a)(2).

(2) If the Director establishes a program pursuant to paragraph (1), the report required by subsection (a)(5) shall identify each agency that does not agree to participate in the program and the reasons of the head of that agency for not agreeing to participate.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "agency" means an Executive agency as defined in section 105 of title 5, United States Code, except that such term does not include the General Accounting Office.

(2) The term "Federal employees affected by reductions in force" means Federal employees who are separated, or are scheduled to be separated, from service under a reduction in force pursuant to—

(A) regulations prescribed under section 3502 of title 5, United States Code; or

(B) procedures established under section 3595 of such title.

SEC. 1067. NATIONAL MUSEUM OF HEALTH AND MEDICINE.

(a) PURPOSE.—It is the purpose of this section—

(1) to display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center;

(2) to designate the public facility of the Armed Forces Institute of Pathology as the National Museum of Health and Medicine; and

(3) to designate a site for the relocation of the public facility of the National Museum of Health and Medicine so that it may serve as a central resource of instruction about, and be involved in, the critical health issues which confront all American citizens.

(b) DESIGNATION AND SITE OF FACILITY.—The public facility of the Armed Forces Institute of Pathology—

(1) shall also be known as the National Museum of Health and Medicine; and

(2) shall be located on or near the Mall on land owned by the Federal Government or the District of Columbia (or both) in the District of Columbia.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(d) DEFINITION.—As used in this section, the term "the Mall" means—

(1) the land designated as "Union Square", United States Reservation 6A; and

(2) the land designated as the "Mall", United States Reservations 3, 4, 5, and 6.

(e) SENSE OF THE CONGRESS.—

(1) FINDINGS.—Congress makes the following findings:

(A) The National Museum of Health and Medicine Foundation, Inc. (a private, nonprofit organization having for its primary purpose the relocation to the Mall and revitalization of the National Museum of Health and Medicine), the Armed Forces Institute of Pathology, and the Public Health Service have jointly supported planning to relocate the Museum to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building (100 Independence Avenue, Southwest, in the District of Columbia).

(B) The National Museum of Health and Medicine Foundation, Inc., is deserving of the encouragement and support of the American people in its effort to relocate the National Museum of Health and Medicine to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building, and in its effort to raise funds for a revitalized Museum to inspire increasing numbers of Americans to lead healthy lives through improved public understanding of health and the medical sciences.

(2) LOCATION.—It is the sense of Congress that, subject to appropriate approvals by the National Capital Planning Commission and the Commission of Fine Arts, the National Museum of Health and Medicine should be relocated to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building for the purpose of educating the American public concerning health and the medical sciences.

SEC. 1068. ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) AUTHORITY.—Section 3371(4) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a federally funded research and development center.".

(b) PROVISIONS GOVERNING ASSIGNMENTS.—Section 3372 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed pursuant to section 3376 of this title—

"(1) an assignment of an employee of a Federal agency to another organization or an institution of higher education, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a Federal agency to a State or local government, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a Federal agency to a State or local government, except that the rate of pay of an employee assigned to a federally funded research and development center may not exceed the rate of pay that such employee would be paid for continued service in the position in the Federal agency from which assigned; and

"(2) an assignment of an employee of another organization or an institution of higher education to a Federal agency, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a State or local government to a Federal agency, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a State or local government to a Federal agency.".

SEC. 1069. REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) FINDINGS.—Congress finds as follows:

(1) United States defense policy is to maintain the capability to fight and win two major regional contingencies nearly simultaneously.

(2) The Secretary of Defense conducted the Bottom Up Review during 1993 to structure the Armed Forces for the Post-Cold War period.

(3) The United States military force structure has shrunk dramatically since the 1991 Persian Gulf War and some critical force enhancements will not be deployed for several years.

(4) The Secretary of Defense (in testimony before the Committee on Armed Services of the Senate on February 2, 1994) stated that under current inflation assumptions the Department of Defense's Future Years Defense Program includes approximately $20,000,000,000 more in program funding requests for fiscal years 1996 through 1999 than the defense funding levels projected for the President's budget for those years.

(5) The Secretary of the Navy (in testimony before the Committee on Armed Services of the Senate on March 8, 1994) stated that by 1999 the Department of the Navy will operate only 330 ships, rather than the 346 ships projected in the report on the Bottom Up Review.

(6) The Secretary of Defense, in his January 1994 Annual Report to the President and Congress, reported that the Air Force will field approximately 100 heavy bombers, rather than the "up to 184" assumed in the report on the Bottom Up Review.

(7) The plans of the Department of Defense for a major regional contingency in the Far East call for up to 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for up to 7 Army divisions, while the report on the Bottom Up Review plans for an Army of 10 active divisions and at least 15 enhanced-readiness Army National Guard brigades.

(8) The President's budget for fiscal year 1995 assumes the Department of Defense will save at least $6,000,000,000 from procurement reform.

(9) The first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base closure round may cost significantly more than is assumed in the President's budget.

(10) United States forces are presently involved in humanitarian relief efforts in or around Rwanda, in a number of air and maritime operations relating to the United Nations operations in Bosnia, and in a variety of operations relating to Iraq, Haiti, Somalia, and Macedonia.

(11) United States forces may be called upon in the future to conduct additional humanitarian and relief missions.

(12) United States forces may be called upon to conduct even more significant operations to enforce a peace agreement in Bosnia and to facilitate the departure from Haiti of the military leadership.

(13) Many of the forces that are participating in these other-than-war or nontraditional operations would be required early on in the event of one or more major regional contingencies.

(14) There are inevitable tradeoffs among spending on force structure, readiness, modernization, personnel, pay, and quality of life.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) within 30 days after enactment of this Act, the Secretary of Defense should initiate a review of the assumptions and conclusions of the President's budget, the report on the Bottom Up Review, and the Future Years Defense Program, such review to include consideration of the various other-than-war or nontraditional operations in which the United States forces are or may be participating;

(2) not more than 180 days after the review is initiated, the Secretary should submit to the President and Congress a report which—

(A) describes in detail the force structure required to fight and win two major regional contingencies nearly simultaneously in light of other ongoing or potential operations;

(B) may also address possible changes in national security planning or programs, including revised alliance arrangements, increased reliance on reserve component forces, or adjustments to the national military strategy; and

(C) includes an evaluation of an Army configured as 12 active duty divisions, a number of which would be rounded out with National Guard combat units;

(3) not more than 60 days after receipt of the report from the Secretary of Defense, the President should submit to Congress a report detailing the steps the President intends to take to meet the force structure described in the Secretary's report;

(4) future years defense budgets submitted to Congress by the President should reflect the funding level necessary to support the force structure described in the report;

(5) funding for national defense for fiscal years 1995 through 1997 should be established at a level sufficient to support a force structure adequate to meet a two-war strategy and to ensure that the United States does not have a hollow force;

(6) the force structure to meet the requirements of a two-war strategy represents the minimum level which should be maintained unless the strategy is modified;

(7) whenever possible and consistent with the safety of United States personnel, in deploying military forces in support of operations other than war or other nontraditional operations, the President should seek to use forces other than those identified for early deployment in the event of one or more major regional contingencies; and

(8) the President should be willing to increase defense spending if required to meet new or existing threats.

SEC. 1070. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113(e)(2) is amended by striking out "section 104" and inserting in lieu thereof "section 108".

(2) Section 133a(b) is amended by inserting "and Technology" before "in the performance of".

(3) Section 1580a(a) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "November 30, 1993,".

(4) The section 1058 added by section 551(a) of Public Law 103–160 (107 Stat. 1661) is amended in subsection (d) by striking out "subject to this chapter" and inserting in lieu thereof "subject to the Uniform Code of Military Justice (chapter 47 of this title)".

(5)(A) The section 1058 added by section 554(a) of Public Law 103–160 (107 Stat. 1663) is redesignated as section 1059.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(6)(A) The section 1058 added by section 1433(b) of Public Law 103–160 (107 Stat. 1834) is redesignated as section 1060.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(7) Section 1151(h)(3)(B)(v) is amended by inserting "school" after "For the fifth".

(8)(A) The heading of section 1482a is amended so that the first letter of the fifth word is lower case.

(B) The item relating to that section in the table of sections at the beginning of chapter 75 is revised to conform to the amendment made by subparagraph (A).

(9) Section 2172(a)(3) is amended—

(A) by striking out "health education assistance loan" and inserting in lieu thereof "health professions education loan";

(B) by striking out "part C" and inserting in lieu thereof "part A"; and

(C) by striking out "42 U.S.C. 294" and inserting in lieu thereof "42 U.S.C. 292".

(10) Section 2350j is amended—

(A) in subsection (a), by inserting a comma after "Secretary of State" the second place it appears; and

(B) in subsection (f), by striking out "the" after "shall submit to".

(11) Section 2399 is amended—

(A) in subsection (b)(5) and (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)";

(B) in subsection (g), by striking out "section 138" and inserting in lieu thereof "section 139"; and

(C) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

(12) Section 2502(d) is amended by striking out "Executive" and inserting in lieu thereof "executive".

(13)(A) Section 2540, as added by subsection (a) of section 822 of Public Law 103–160 (107 Stat. 1705), and section 2541, as added by subsection (b) of that section, are redesignated as sections 2539a and 2539b, respectively.

(B) The items relating to those sections in the table of sections at the beginning of subchapter V of chapter 148 are revised to conform to the redesignations made by subparagraph (A).

(14) Section 2465(a)(4) is amended by adding a period at the end.

(15) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out "section 137(c)" and inserting in lieu thereof "section 135(c)".

(16) The item relating to section 3082 in the table of sections at the beginning of chapter 307 (as added by section 521(b) of Public Law 103–160 (107 Stat. 1655)) is amended by striking out "3082." the second place it appears.

(17) Section 9021(c)(1) is amended by striking out "after the end of the 90-day period beginning on the date of the enactment of this section" and inserting in lieu thereof "after February 27, 1990".

(b) PUBLIC LAW 103–160.—Effective as of November 30, 1993, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended as follows:

(1) Section 507(d)(3) (107 Stat. 1647) is amended by inserting "note" after "10 U.S.C. 1293".

(2) Section 524(c) (107 Stat. 1657) is amended by inserting "his" in the first quoted matter therein after "termination of".

(3) Section 551(a)(1) (107 Stat. 1661) is amended by striking out "Section" and inserting in lieu thereof "Chapter".

(4) Section 554(a)(2) (107 Stat. 1666) is amended by striking out "inserting after the item relating to section 1056" and inserting in lieu thereof "adding at the end".

(5) Section 554(b) (107 Stat. 1666) is amended—

(A) in paragraph (1), by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (a)(1)"; and

(B) in paragraph (2), by striking out "1058".

(6) Section 713(a)(1) (107 Stat. 1689) is amended by striking out "third party" in the first quoted matter therein and inserting in lieu thereof "third-party".

(7) Section 931(c)(1) (107 Stat. 1734) is amended by inserting close quotation marks before the period at the end.

(8) Section 931(f) (107 Stat. 1734) is amended—

(A) by striking out "Public Law 101–180" in paragraphs (1) and (2) and inserting in lieu thereof "Public Law 100–180"; and

(B) by inserting "1305(b)" in paragraph (3) after "Such section".

(9) Section 1001(a) (107 Stat. 1742) is amended by adding close quotation marks and a period at the end.

(10) Section 1314(3) (107 Stat. 1786) is amended by striking out "adding at the end" and inserting in lieu thereof "inserting after subsection (f)".

(11) Section 1333(e)(4)(B)(i) (107 Stat. 1799) is amended by inserting a close parenthesis before the semicolon.

(12) Section 2854(1) (107 Stat. 1908) is amended by striklng out "the" in the second quoted matter therein.

(13) Section 2902(a)(2) (107 Stat. 1911) is amended by striking out "Section 204(b)(7)(A)(ii)" and inserting in lieu thereof "Subparagraph (A)(i) of section 204(b)(7)".

(14) Section 2912(b)(2) (107 Stat. 1925) is amended by striking out "section 637(d)(1)" and inserting in lieu thereof "section 8(d)(1)".

(15) Section 2926(d) (107 Stat. 1932) is amended by striking out "Subsection (d)(1)(2)(C)(iii)" and inserting in lieu thereof "Subsection (d)(2)(C)(iii)".

(16) Section 3159(a) (107 Stat. 1956) is amended—

(A) in paragraph (1), by inserting a close parenthesis after "(15 U.S.C. 637(d)"; and

(B) in paragraph (3)—

(i) by inserting a close parenthesis after "(20 U.S.C. 1135d–5(3))"; and

(ii) by inserting a close parenthesis after "(20 U.S.C. 1059c(b)(1))".

(c) PUBLIC LAW 102–484.—Effective as of October 23, 1992, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended as follows:

(1) Section 1505(e)(2) (22 U.S.C. 5859a(e)(2) is amended by striking out "and under subsection (d)(4)".

(2) Section 3161 (42 U.S.C. 7274h; 106 Stat. 2644) is amended—

(A) by striking out "work force" each place it appears in subsections (a), (c), and (d) and inserting in lieu thereof "workforce";

(B) by striking out "**WORK FORCE**" in the heading and inserting in lieu thereof "**WORKFORCE**"; and

(C) by striking out "Part D" in subsection (c)(6)(B) and inserting in lieu thereof "division D".

(3) Section 3302 (106 Stat. 2649) is amended by striking out "Bauxite, Refactory" in the table in subsection (a) and inserting in lieu thereof "Bauxite, Refractory".

(4) Section 3315 (106 Stat. 2654) is amended by inserting "of 1950" after "Defense Production Act" the first place it appears.

(d) OTHER LAWS.—

(1) Section 921 of Public Law 102–190 (10 U.S.C. 201 note; 105 Stat. 1452) is amended by striking out "section 136(b)(3)" in subsection (a) and inserting in lieu thereof "section 138(b)(3)".

(2) Section 2903(c)(6) of Public Law 101–510 (10 U.S.C. 2687 note) is amended by striking out "House or Representatives" and inserting in lieu thereof "House of Representatives".

(3) Section 653(b)(2) of Public Law 100–456 (10 U.S.C. 1448 note) is amended by striking out "section 411(a)" and inserting in lieu thereof "section 1311(a)".

(4) Section 4(c) of Public Law 92–425 (10 U.S.C. 1448 note) is amended by striking out "section 3112" and "section 5412(b)" and inserting in lieu thereof "section 5312" and "section 1541(b)", respectively.

(5) Section 709 of title 32, United States Code, is amended—

(A) in subsection (e)(6), by striking out "thirty days prior to" and inserting in lieu thereof "30 days before"; and

(B) in subsection (g)(2), by striking out "clause (1) of this subsection" and inserting in lieu thereof "paragraph (1)".

(6) Section 908(c) of title 37, United States Code, is amended by striking out "section 1058" and inserting in lieu thereof "section 1060".

(7) Section 182(a) of Public Law 103–236 (108 Stat. 418) is amended by striking out "section 1058, title 10, United States Code, before the date of enactment of this Act," and inserting in lieu thereof "section 1060 of title 10, United States Code, before April 30, 1994,".

(8) Subchapter II of chapter 81 of title 5, United States Code, is amended as follows:

(A) Section 8171 is amended—

(i) in subsection (a)—

(I) by striking out "Chapter 18 of title 33" in the first sentence and inserting in lieu thereof "The Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.)";

(II) by striking out "section 902(2) of title 33" in the first sentence and inserting in lieu thereof "section 2(2) of such Act (33 U.S.C. 902(2))"; and

(III) by striking out "section 903(a) of title 33 which follows the first comma" in the second sentence and inserting in lieu thereof "section 3(a) of such Act (33 U.S.C. 903(3)) which follows the second comma";

(ii) in subsection (b), by striking out "section 902(4) of title 33" and inserting in lieu thereof "section 2(4) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(4))";

(iii) in subsection (c)(1), by striking out "section 939(b) of title 33" and inserting in lieu thereof "39(b) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 939(b))"; and

(iv) in subsection (d), by striking out "sections 918 and 921 of title 33" and inserting in lieu thereof "sections 18 and 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 18 and 21, respectively)".

(B) Sections 8172 and 8173 are amended by striking out "section 902(2) of title 33" and inserting in lieu thereof "section 2(2) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 2(2))".

(e) REFERENCES IN TITLE 10 TO SECTIONS OF TITLE 38.—Title 10, United States Code, is amended as follows:

(1) Section 706(c) is amended by striking out "section 4321" and inserting in lieu thereof "section 4301".

(2) Section 708(c)(2) is amended by striking out "section 1421" and inserting in lieu thereof "section 3021".

(3) Section 1450 is amended by striking out "section 411(a)" in subsections (c) and (k)(1) and inserting in lieu thereof "section 1311(a)".

(4) Section 1451(c)(2) is amended by striking out "section 411(a)" and inserting in lieu thereof "section 1311(a)".

(5) Section 1457(c)(3) is amended by striking out "section 411" and inserting in lieu thereof "section 1311".

(6) Section 2006(b)(2) is amended by striking out "section 1415(c)", "section 1411", and "section 1421(b)" and inserting in lieu thereof "section 3015(d)", "section 3011", and "section 3021(b)", respectively.

(7) Section 2184(1) is amended by striking out "section 1724" and inserting in lieu thereof "section 3524".

(8) Section 2641(c) is amended by striking out "section 5011(g)(5)" and inserting in lieu thereof "section 8111(g)(5)".

(9) Section 2679(a) is amended by striking out "section 3402" and inserting in lieu thereof "section 5902".

(f) CLARIFICATION OF APPLICABILITY OF LIMITATION RELATING TO CONTRACTED ADVISORY AND ASSISTANCE SERVICES.—Section 2399 of title 10, United States Code, is amended in subsection (e)(3)(B) by striking out "solely as a representative of" and inserting in lieu thereof "solely in testing for".

(g) PROCUREMENT OF AERONAUTICAL SUPPLIES FOR EXPERIMENTAL PURPOSES.—Section 2373(a) of title 10, United States Code, is amended by striking out "and chemical activity supplies," and inserting in lieu thereof "chemical activity, and aeronautical supplies,".

(h) COORDINATION WITH OTHER PROVISIONS OF THIS ACT.—For purposes of applying amendments made by provisions of this Act other than this section, this section shall be treated as having been enacted immediately before the other provisions of this Act.

SEC. 1071. AUTHORIZATION TO EXCHANGE CERTAIN ITEMS FOR TRANSPORTATION SERVICES.

Paragraph (1) of section 2572(b) of title 10, United States Code, is amended by inserting "transportation," after "salvage,".

SEC. 1072. AIR NATIONAL GUARD FIGHTER AIRCRAFT FORCE STRUCTURE.

(a) FINDINGS.—Congress makes the following findings:

(1) The reduction in the total number of Air Force general purpose fighter wings being implemented as part of the changes in the force structure of the Air Force pursuant to the proposals in the report on the Bottom Up Review conducted by the Secretary of Defense during 1993 includes reduction in the number of Air National Guard and Air Force Reserve fighter wings from 10 to 7.

(2) The plan (as of the date of the enactment of this Act) for implementing that reduction in the number of Air National Guard and Air Force Reserve fighter wings is to reduce the number of fighter aircraft designated as being in the Primary Aircraft Inventory category that are authorized for each Air National Guard fighter unit from 24 or 18 aircraft to 15 aircraft and to convert some Air National Guard fighter units to other purposes.

(3) The Commission on Roles and Missions of the Armed Forces (established by section 952 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 111 note; 107 Stat. 1738)) is required under section 954(b) of that Act to submit to Congress a report on possible changes to existing allocations among the Armed Forces of military roles, missions, and functions.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the number of Air National Guard Combat Readiness Training Centers in operation during fiscal year 1995 should not be less than the number of such centers in operation at the end of fiscal year 1994; and

(2) the report referred to in subsection (a)(3) should contain a review of, and recommendations on, the assignment of roles and missions to units of the Air National Guard and the Air Force Reserve in relation to active component units that are the counterparts to those units and on requirements for resources for training of those units.

(c) REQUIREMENT.—(1) After receiving the report referred to in subsection (a)(3), the Secretary of Defense shall review the findings of the Commission set forth in that report on the role and requirements for general purpose fighter units of the Air National Guard.

(2) Not later than 30 days after receiving the report, the Secretary shall submit to Congress a report on the appropriate level of aircraft authorized in the Primary Aircraft Inventory of the Air Force for general purpose fighter units of the Air National Guard. The report shall include the plans of the Secretary for providing in a timely manner the funding levels necessary to support the level of such aircraft determined appropriate by the Secretary, if additional funding would be required to achieve and maintain that level of such aircraft.

SEC. 1073. SENSE OF CONGRESS CONCERNING VISAS FOR HIGH-LEVEL OFFICIALS OF TAIWAN.

It is the sense of Congress that no visa should be denied for a high-level official of Taiwan to enter the United States unless the official is otherwise excludable under the immigration laws of the United States.

SEC. 1074. DEFENSE MAPPING AGENCY.

(a) UNAUTHORIZED USE OF NAME.—Chapter 167 of title 10, United States Code, is amended by adding at the end the following new section:

"§2797. Unauthorized use of Defense Mapping Agency name, initials, or seal

"(a) No person may, except with the written permission of the Secretary of Defense, knowingly use the words 'Defense Mapping Agency', the initials 'DMA', the seal of the Defense Mapping Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense.

"(b) Whenever it appears to the Attorney General that any person is engaged or about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to hearing and determination of such action and may, at any time before such final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

(b) LIMITATION ON LIABILITY RELATING TO NAVIGATIONAL AIDS.—Chapter 167 of such title, as amended by subsection (a), is further amended by adding at the end the following new section:

"§2798. Civil actions barred

"(a) CLAIMS BARRED.—No civil action may be brought against the United States on the basis of the content of a navigational aid prepared or disseminated by the Defense Mapping Agency.

"(b) NAVIGATIONAL AIDS COVERED.—Subsection (a) applies with respect to a navigational aid in the form of a map, a chart, or a publication and any other form or medium of product or information in which the Defense Mapping Agency prepares or disseminates navigational aids.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2797. Unauthorized use of Defense Mapping Agency name, initials, or seal.
"2798. Civil actions barred.".

VOL 140 PT 16 AG 12 — 18 1994 UMI

(d) EFFECTIVE DATE.—Section 2798 of title 10, United States Code, as added by subsection (b), shall take effect on the date of the enactment of this Act and shall apply with respect to (1) civil actions brought before such date that are pending adjudication on such date, and (2) civil actions brought on or after such date.

SEC. 1075. LIMITATION REGARDING TELECOMMUNICATIONS REQUIREMENTS

(a) LIMITATION.—No funds available to the Department of Defense or any other Executive agency may be expended to provide for meeting Department of Defense telecommunications requirements through the telecommunications procurement known as "FTS–2000" or through any other Government-wide telecommunications procurement until—

(1) the Secretary of Defense submits to the Congress a report containing—

(A) a certification by the Secretary that the FTS–2000 procurement or the other telecommunications procurement will provide assured, secure telecommunications support (including associated telecommunications services) for Department of Defense activities; and

(B) a description of how the procurement will be implemented and managed to meet defense information infrastructure requirements, including requirements to support deployed forces and intelligence activities; and

(2) 30 days elapse after the date on which such report is received by the committees.

(b) DEFINITIONS.—In this section:

(1) The term "defense telecommunications requirements" means requirements for telecommunications equipment and services that, if procured by the Department of Defense, would be exempt from the requirements of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) pursuant to section 2315 of title 10, United States Code.

(2) The term "Executive agency" has the meaning given such term in section 105 of title 5, United States Code.

(3) The term "procurement" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(c) EFFECT ON OTHER LAW.—Nothing in this section may be construed as modifying or superseding, or as intended to impair or restrict authorities or responsibilities under—

(1) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759); or

(2) section 620 of Public Law 103–123.

TITLE XI—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

SEC. 1101. SHORT TITLE.

This title may be cited as the "Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1994".

SEC. 1102. FUNDING OF DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE PROGRAMS FOR FISCAL YEAR 1995.

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to this Act for the Department of Defense for fiscal year 1995, the sum of $3,090,908,000 shall be available from the sources specified in subsection (b) for defense conversion, reinvestment, and transition assistance programs.

(b) SOURCES OF FUNDS.—The amount set forth in subsection (a) shall be derived from the following sources in amounts as follows:

(1) $7,500,000 of the amounts authorized to be appropriated pursuant to title I.

(2) $2,190,408,000 of the amounts authorized to be appropriated pursuant to title II.

(3) $892,500,000 of the amounts authorized to be appropriated pursuant to title III.

(c) DEFINITION.—For purposes of this section, the term "defense conversion, reinvestment, and transition assistance programs" includes the following programs and activities of the Department of Defense:

(1) The programs and activities authorized by the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2658) and the amendments made by that Act.

(2) The programs and activities authorized by the Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII of Public Law 103–160; 107 Stat. 1783) and the amendments made by that Act.

(3) The programs and activities authorized by this title and the amendments made by this title.

Subtitle A—Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion

SEC. 1111. FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS FOR FISCAL YEAR 1995.

(a) FUNDS AVAILABLE.—Of the amount authorized to be appropriated under section 201 and specified in section 1102(b)(2) as a source of funds for defense conversion, reinvestment, and transition assistance programs, $751,000,000 shall be available for activities described in the defense reinvestment program elements of the budget of the Department of Defense for fiscal year 1995.

(b) ALLOCATION OF FUNDS.—The funds made available under subsection (a) shall be allocated as follows:

(1) $245,000,000 shall be available for defense dual-use critical technology partnerships under section 2511 of title 10, United States Code.

(2) $96,000,000 shall be available for commercial-military integration partnerships under section 2512 of such title.

(3) $60,000,000 shall be available for assistance of defense regional technology alliances under section 2513 of such title.

(4) $30,000,000 shall be available for defense advanced manufacturing technology partnerships under section 2522 of such title.

(5) $25,000,000 shall be available for assistance of manufacturing extension programs under section 2523 of such title.

(6) $24,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of such title.

(7) $10,000,000 shall be available for grants under section 2198 of such title to United States institutions of higher education and other United States not-for-profit organizations to support the management training program in Japanese language and culture.

(8) $50,000,000 shall be available for the maritime technology development program under section 1352(c)(2) of the National Shipbuilding and Shipyard Conversion Act of 1993 (subtitle D of title XIII of Public Law 103–160; 10 U.S.C. 2501 note).

(9) $35,000,000 shall be available for the agile manufacturing/enterprise integration program.

(10) $30,000,000 shall be available for the advanced materials synthesis and processing partnership program.

(11) $55,000,000 shall be available for the defense dual-use extension program under section 2524 of title 10, United States Code, of which—

(A) $5,000,000 shall be used for provision of assistance pursuant to subsection (c)(3) of such section; and

(B) $50,000,000 shall be available to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees issued pursuant to subsection (b)(3) of such section.

(12) $10,000,000 shall be available for the Federal Defense Laboratory Diversification Program under section 2519 of title 10, United States Code, as added by section 1113(a).

(13) $50,000,000 shall be available for the Navy Reinvestment Program under section 2520 of such title, as added by section 1113(b).

(c) AVAILABILITY OF FUNDS FOR FISCAL YEAR 1994 TECHNOLOGY REINVESTMENT PROJECTS.—Funds allocated under paragraphs (1) through (6) of subsection (b) to the defense reinvestment programs described in such paragraphs may also be used to make awards for technology reinvestment projects that were solicited under such programs in fiscal year 1994.

SEC. 1112. SUPPORT FOR TECHNOLOGIES WITH APPLICABILITY FOR LAW ENFORCEMENT AND MILITARY OPERATIONS OTHER THAN WAR.

(a) SUPPORT AUTHORIZED.—Using funds made available under subsection (b), the Secretary of Defense shall support the Memorandum of Understanding entered into between the Department of Defense and the Department of Justice on April 20, 1994, for the development, rapid deployment, and transition of technologies with applicability for law enforcement and military operations other than war. Such support may include support for national law enforcement technology centers of the National Institute of Justice.

(b) FUNDING FOR FISCAL YEAR 1995.—To carry out subsection (a), there shall be available to the Secretary $41,000,000, of which—

(1) $11,000,000 shall be derived from the amount authorized to be appropriated under section 201 and specified in section 1102(b) as a source of funds for defense conversion, reinvestment, and transition assistance programs; and

(2) $30,000,000 shall be derived from the amount authorized to be appropriated under section 201(4) for the tactical technology and experimental evaluation of major innovative technology programs elements of the budget of the Department of Defense for fiscal year 1995.

SEC. 1113. FEDERAL DEFENSE LABORATORY DIVERSIFICATION AND NAVY REINVESTMENT IN THE TECHNOLOGY AND INDUSTRIAL BASE.

(a) FEDERAL DEFENSE LABORATORY DIVERSIFICATION PROGRAM.—Subchapter III of chapter 148 of title 10, United States Code, is amended by inserting at the end thereof the following new section:

"§2519. Federal Defense Laboratory Diversification Program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program in accordance with this section for the purpose of promoting cooperation between Department of Defense laboratories and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) PARTNERSHIPS.—(1) The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between a Department of Defense laboratory and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more additional Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(2) For purposes of this section, a federally funded research and development center shall be considered a Department of Defense laboratory if the center is sponsored by the Department of Defense.

"(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 2371 of this title, and enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) in order to establish partnerships.

"(2) Subject to subsection (d), the Secretary may provide a partnership with technical and other assistance in order to facilitate the achievement of the purpose of this section.

"(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the non-Federal Government participants in a partnership make a substantial contribution to the total cost of partnership activities. The amount of the contribution shall be commensurate with the risk undertaken by such participants and the potential benefits of the activities for such participants.

"(2) The regulations prescribed pursuant to section 2511(c)(2) of this title shall apply to in-kind contributions made by non-Federal Government participants in a partnership.

"(e) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

"(f) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the criteria set forth in section 2511(f) of this title.

"(g) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.".

(b) NAVY REINVESTMENT PROGRAM.—Such subchapter is further amended by inserting after section 2519 (as added by subsection (a)) the following new section:

"§2520. Navy Reinvestment Program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Navy shall conduct a program in accordance with this section for the purpose of promoting cooperation between the Department of the Navy and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) PARTNERSHIPS.—The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between Department of the Navy entities and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(c) PROGRAM REQUIREMENTS AND ADMINISTRATION.—Subsections (c) through (f) of section 2519 of this title shall apply in the administration of the program.

"(d) ADDITIONAL SELECTION CRITERIA.—The selection criteria for a proposed partnership for establishment under this section shall also include the potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for Navy acquisition programs.

"(e) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.".

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"2519. Federal Defense Laboratory Diversification Program.

"2520. Navy Reinvestment Program.".

(d) DEFINITION OF FEDERAL LABORATORY.—Section 2491(5) of title 10, United States Code, is amended by inserting before the period at the end the following: ", except that such terms include a federally funded research and development center sponsored by a Federal agency".

SEC. 1114. LOAN GUARANTEES UNDER DEFENSE DUAL-USE ASSISTANCE EXTENSION PROGRAM.

(a) MEMORANDUM OF UNDERSTANDING TO ADMINISTER LOAN GUARANTEE PROGRAM.—(1) For fiscal year 1995, the Secretary of Defense may enter into a memorandum of understanding with the Administrator of the Small Business Administration, the Administrator of the Economic Development Administration of the Department of Commerce, or the head of any other Federal agency having expertise regarding the provision of loan guarantees, under which such agency may—

(A) process applications for loan guarantees under section 2524(b)(3) of title 10, United States Code, during that fiscal year;

(B) guarantee repayment of the resulting loans; and

(C) provide any other services to the Secretary to administer the loan guarantee program under such section during that fiscal year.

(2) From funds made available for the loan guarantee program under such section, the Secretary of Defense may transfer to the agency or agencies that are parties to the memorandum of understanding such sums as may be necessary for the agency or agencies to carry out activities under the loan guarantee program.

(3) The Secretary of Defense shall enter into the memorandum of understanding authorized by paragraph (1) within 60 days after the date of the enactment of this Act for the administration of the loan guarantee program under such section during fiscal year 1995.

(4) The total amount allocated under section 1111(b)(11)(B) to cover the costs of loan guarantees during fiscal year 1995 under the loan guarantee program shall be divided between small business concerns and medium-sized business concerns (as defined in section 2524(g) of title 10, United States Code) as follows:

(A) 60 percent for small business concerns.

(B) 40 percent for medium-sized business concerns.

(b) SPECIAL REQUIREMENTS REGARDING LOAN GUARANTEES.—Subsection (e) of section 2524 of title 10, United States Code, is amended to read as follows:

"(e) SPECIAL REQUIREMENTS REGARDING LOAN GUARANTEES.—(1) The Secretary shall carry out the loan guarantee program authorized under subsection (b)(3) during any fiscal year for which funds are specifically made available to cover the costs of loan guarantees to be issued pursuant to such subsection.

"(2) In addition to the selection criteria specified in subsection (f), the selection criteria in the case of the loan guarantee program under subsection (b)(3) shall also include the following:

"(A) The extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

"(B) The extent to which the loans to be guaranteed would stimulate job creation and new economic activities in communities most adversely affected by reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

"(C) The extent to which the loans to be guaranteed would be used to acquire (or permit the use of other funds to acquire) capital equipment to modernize or expand the facilities of the borrower to enable the borrower to remain in the national technology and industrial base available to the Department of Defense.

"(3) To be eligible for a loan guarantee under subsection (b)(3), a borrower must be able to demonstrate to the satisfaction of the Secretary that at least 25 percent of the value of the borrower's sales during the preceding fiscal year were derived from—

"(A) contracts with the Department of Defense or the defense-related activities of the Department of Energy; or

"(B) subcontracts in support of defense-related prime contracts.

"(4) The maximum amount of loan principal that the Secretary may guarantee under the loan guarantee program during a fiscal year may not exceed—

"(A) $1,250,000, with respect to a small business concern; and

"(B) $10,000,000 with respect to a medium-sized business concern.".

(c) CONFORMING AMENDMENT.—Subsection (f) of such section is amended by striking out "SELECTION CRITERIA." and inserting in lieu thereof the following: "SELECTION PROCESS AND CRITERIA.—Competitive procedures shall be used in the selection of programs to receive assistance under this section.".

SEC. 1115. FINANCIAL COMMITMENT REQUIREMENTS FOR SMALL BUSINESS CONCERNS FOR PARTICIPATION IN TECHNOLOGY REINVESTMENT PROJECTS.

(a) DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.—Section 2511(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary shall revoke the selection of the partnership proposal submitted by the small business concern.".

(b) COMMERCIAL-MILITARY INTEGRATION PARTNERSHIPS.—Section 2512(c)(3) of such title is amended by adding at the end the following new subparagraph:

"(C) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary shall revoke the selection of the partnership proposal submitted by the small business concern.".

(c) REGIONAL TECHNOLOGY ALLIANCES.—Section 2513(e) of such title is amended by adding at the end the following new paragraph:

"(4) The Secretary shall consider a proposal for a regional technology alliance that is submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated costs of the alliance. Upon the selection of a proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the regional technology alliance from

VOL 140 PT 16 AG 12 — 18 1994 UMI

sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated costs, the Secretary shall revoke the selection of the proposal submitted by the small business concern.".

(d) DEFENSE DUAL-USE ASSISTANCE EXTENSION PROGRAMS.—Section 2524(d) of such title is amended by adding at the end the following new paragraph:

"(3) The Secretary shall consider a program proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated program costs. Upon the selection of a proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the program from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated program costs, the Secretary shall revoke the selection of the program proposal submitted by the small business concern.".

(e) DEFINITION OF PERSON OF A FOREIGN COUNTRY.—Section 2491 of such title is amended by adding at the end the following new paragraph:

"(16) The term 'person of a foreign country' has the meaning given such term in section 3502(d) of the Primary Dealers Act of 1988 (22 U.S.C. 5342(d)).".

SEC. 1116. CONDITIONS ON FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROJECTS.

(a) BENEFITS TO UNITED STATES ECONOMY.—In providing for the establishment or financial support of partnerships and other cooperative arrangements under chapter 148 of title 10, United States Code (using funds made available under section 1111(a)), the Secretary of Defense shall ensure that the principal economic benefits of, and to the extent practicable, the job creation resulting from, such partnerships and arrangements accrue to the economy of the United States.

(b) USE OF COMPETITIVE SELECTION PROCEDURES.—Funds made available under subsection (a) of section 1111 for the defense technology reinvestment programs described in subsection (b) of such section, and funds made available under subsection (b) of section 1112 for the program described in subsection (a) of such section, shall only be provided to projects selected using competitive procedures pursuant to a solicitation incorporating cost-sharing requirements for the non-Federal Government participants in the projects.

SEC. 1117. USE OF CERTAIN FUNDS PENDING SUBMISSION OF A NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PERIODIC DEFENSE CAPABILITY ASSESSMENT AND A PERIODIC DEFENSE CAPABILITY PLAN.

(a) LIMITATION.—Not more than 50 percent of the funds made available for program element 65104D activities from funds authorized to be appropriated by this Act may be expended until the Secretary of Defense submits to Congress—

(1) a national technology and industrial base periodic defense capability assessment required by section 2505 of title 10, United States Code; and

(2) a periodic defense capability plan required by section 2506 of such title.

(b) PROGRAM ELEMENT 65104D ACTIVITIES DEFINED.—For purposes of this section, the program element 65104D activities referred to in subsection (a) are the activities described as program element 65104D in the materials submitted to Congress by the Secretary of Defense in support of the budget for fiscal year 1995 that was submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

SEC. 1118. DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS.

At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code, the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title or a particular policy objective set forth in section 2501(b) of such title.

SEC. 1119. COMPTROLLER GENERAL ASSESSMENT OF EXTENT TO WHICH TECHNOLOGY AND INDUSTRIAL BASE PROGRAMS ATTAIN POLICY OBJECTIVES.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress an assessment of the extent to which awards for cooperative agreements and other transactions under programs carried out under chapter 148 of title 10, United States Code, have been made specifically to advance and enhance a particular national security objective set forth in section 2501(a) of such title or to achieve a particular policy objective set forth in section 2501(b) of such title.

Subtitle B—Community Adjustment and Assistance Programs

SEC. 1121. FUNDS FOR ADJUSTMENT AND DIVERSIFICATION ASSISTANCE FOR STATES AND LOCAL GOVERNMENTS FROM OFFICE OF ECONOMIC ADJUSTMENT.

Of the amount made available pursuant to section 1102(a), $54,127,000 shall be available to provide community adjustment and economic diversification assistance under section 2391(b) of title 10, United States Code.

SEC. 1122. STUDIES AND PLANS FOR MARKET DIVERSIFICATION.

(a) FORM OF COMMUNITY ADJUSTMENT AND ECONOMIC DIVERSIFICATION.—Section 2391(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The terms 'community adjustment' and 'economic diversification' include the development of feasibility studies and business plans for market diversification within a community adversely affected by an action described in clause (A), (B), (C), or (E) of subsection (b)(1) by adversely affected businesses and labor organizations located in the community.".

(b) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available under section 1121, up to $10,000,000 shall be available to provide community adjustment and economic diversification assistance under section 2391(b) of title 10, United States Code, for the purpose of developing feasibility studies and business plans. The amount of such funds provided for such purpose with respect to any adversely affected community may not exceed $100,000.

SEC. 1123. ADVANCE COMMUNITY ADJUSTMENT AND ECONOMIC DIVERSIFICATION PLANNING.

(a) ASSISTANCE AUTHORIZED.—Section 2391(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) The Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds in order to assist a State or local government in planning community adjustments and economic diversification even though the State or local government is not currently eligible for assistance under paragraph (1) if the Secretary determines that a substantial portion of the economic activity or population of the geographic area to be subject to the advance planning is dependent on defense expenditures.".

(b) CONFORMING AMENDMENTS.—Paragraph (8) of such section, as redesignated by subsection (a)(1), is amended by striking out "paragraph (6)" both places it appears and inserting in lieu thereof "paragraph (7)".

(c) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available under section 1121, up to $5,000,000 shall be available to assist advance planning of community adjustments and economic diversification under paragraph (5) of section 2391(b) of title 10, United States Code, as added by subsection (a)(2).

Subtitle C—Personnel Adjustment, Education, and Training Programs

SEC. 1131. TEACHER AND TEACHER'S AIDE PLACEMENT PROGRAMS.

(a) PERIOD OF ELIGIBILITY.—Subsection (c) of section 1151 of title 10, United States Code, is amended—

(1) in paragraph (1)(A), by striking out "seven-year period beginning on October 1, 1992," and inserting in lieu thereof "nine-year period beginning on October 1, 1990,"; and

(2) by striking out paragraph (4).

(b) APPLICATION PERIOD.—Subsection (e)(1) of such section is amended to read as follows:

"(e) SELECTION OF PARTICIPANTS.—(1) Selection of members to participate in the placement program authorized by subsection (a) shall be made on the basis of applications submitted to the Secretary of Defense on a timely basis. An application shall be in such form and contain such information as the Secretary may require. An application shall be considered to be submitted on a timely basis if the application is submitted as follows:

"(A) Except as provided in subparagraphs (B) and (C), not later than one year after the date of the discharge or release of the applicant from active duty.

"(B) In the case of an applicant discharged or released from active duty before January 19, 1994, not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995.

"(C) In the case of an applicant becoming educationally qualified for teacher placement assistance in accordance with subsection (c)(2) after the date of the discharge or release of the applicant from active duty, not later than one year after the date on which the applicant becomes educationally qualified.".

(c) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available pursuant to section 1102(a), $65,000,000 shall be available for the teacher and teacher's aide placement programs authorized by sections 1151, 1598, and 2410j of title 10, United States Code.

SEC. 1132. ASSISTANCE FOR ELIGIBLE MEMBERS TO OBTAIN EMPLOYMENT WITH LAW ENFORCEMENT AGENCIES.

(a) REVISED PROGRAM AUTHORITY.—(1) Section 1152 of title 10, United States Code, is amended to read as follows:

"§1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies

"(a) PLACEMENT PROGRAM.—The Secretary of Defense may enter into an agreement with the Attorney General to establish or participate in a program to assist eligible members and former members of the armed forces to obtain employment as law enforcement officers with eligible law enforcement agencies following the discharge or release of such members or former members from active duty. Eligible law enforcement agencies shall consist of State law enforcement agencies, local law enforcement agencies, and Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior).

"(b) ELIGIBLE MEMBERS.—Any individual who, during the 6-year period beginning on October 1, 1993, is a member of the armed forces and is separated with an honorable discharge or is released from service on active duty characterized as honorable by the Secretary concerned shall be eligible to participate in a program covered by an agreement referred to in subsection (a).

"(c) SELECTION.—In the selection of applicants for participation in a program covered by an agreement referred to in subsection (a), preference shall be given to a member or former member who—

"(1) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1293 note); and

"(2) has a military occupational specialty, training, or experience related to law enforcement (such as service as a member of the military police) or satisfies such other criteria for selection as the Secretary, the Attorney General, or a participating eligible law enforcement agency prescribe in accordance with the agreement.

"(d) GRANTS TO FACILITATE EMPLOYMENT.—(1) The Secretary of Defense may provide funds to the Attorney General for grants under this section to reimburse participating eligible law enforcement agencies for costs, including salary and fringe benefits, of employing members or former members pursuant to a program referred to in subsection (a).

"(2) No grant with respect to an eligible member or former member may exceed a total of $50,000.

"(3) Any grant with respect to an eligible member or former member shall be disbursed within 5 years after the date of the placement of a member or former member with a participating eligible law enforcement agency.

"(4) Preference in awarding grants through existing law enforcement hiring programs shall be given to State or local law enforcement agencies or Indian tribes that agree to hire eligible members and former members.

"(e) ADMINISTRATIVE EXPENSES.—Ten percent of the amount, if any, appropriated for a fiscal year to carry out the program established pursuant to subsection (a) may be used to administer the program.

"(f) REQUIREMENT FOR APPROPRIATION.—No person may be selected to participate in the program established pursuant to subsection (a) unless a sufficient amount of appropriated funds is available at the time of the selection to satisfy the obligations to be incurred by the United States under an agreement referred to in subsection (a) that applies with respect to the person.

"(g) CONDITIONAL EXPANSION OF PLACEMENT TO INCLUDE FIREFIGHTERS.—(1) Subject to paragraph (2), the Secretary may expand the placement activities authorized by subsection (a) to include the placement of eligible members and former members and eligible civilian employees of the Department of Defense as firefighters or members of rescue squads or ambulance crews with public fire departments.

"(2) The Secretary may implement the expansion authorized by this subsection only if the Secretary certifies to Congress not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995 that such expansion will facilitate personnel transition programs of the Department of Defense. The expansion may be made through a program covered by an agreement referred to in subsection (a), if feasible, or in such other manner as the Secretary considers appropriate.

"(3) A civilian employee of the Department of Defense shall be eligible to participate in the expanded placement activities authorized under this subsection if the employee, during the six-year period beginning October 1, 1993, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.".

(2) The item relating to such section in the table of sections at the beginning of chapter 58 of title 10, United States Code, is amended to read as follows:

"1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies.".

(b) FUNDING FOR FISCAL YEAR 1995.—(1) Of the amount made available pursuant to section 1102(a), $25,000,000 shall be available for the placement of members and former members of the Armed Forces as law enforcement officers under section 1152 of title 10, United States Code.

(2) Of the amount made available pursuant to section 1102(a), up to $5,000,000 shall be available for the placement of members and former members of the Armed Forces and civilian employees of the Department of Defense as firefighters or members of rescue squads or ambulance crews with public fire departments under section 1152 of title 10, United States Code, if the Secretary of Defense makes the certification required by subsection (g)(2) of such section within the time period specified in such subsection.

SEC. 1133. PILOT PROGRAM TO PLACE SEPARATED MEMBERS AND TERMINATED DEFENSE EMPLOYEES IN TEACHING POSITIONS AS BILINGUAL MATH AND SCIENCE TEACHERS.

(a) COOPERATIVE ARRANGEMENTS.—During fiscal year 1995, the Secretary of Defense shall carry out a pilot program to establish cooperative arrangements between the Department of Defense and a consortium of two or more entities described in subsection (b) for the purpose of assisting bilingual members of the Armed Forces after their separation from active duty, and bilingual civilian employees of the Department of Defense after the termination of their employment, in obtaining certification and employment as bilingual elementary or secondary school teachers in mathematics or science.

(b) ELIGIBLE ENTITIES.—The entities with which the Secretary of Defense may enter into a cooperative arrangement under the pilot program are as follows:

(1) Local governments of States that contain military installations and a high concentration of students who would benefit from the increased presence of bilingual elementary or secondary school teachers in mathematics or science.

(2) A consortium of two or more institutions of higher education that have a demonstrated background, expertise, and experience in operating bilingual teacher training programs in mathematics and science with an emphasis in English as a second language.

(c) ELIGIBLE MEMBERS AND EMPLOYEES.—(1) A member of the Armed Forces shall be eligible to participate in a cooperative arrangement established under the pilot program if the member—

(A) during the seven-year period beginning on October 1, 1992, is discharged or released from active duty after six or more years of continuous active duty immediately before the discharge or release;

(B) has received a baccalaureate or advanced degree from an accredited institution of higher education;

(C) is bilingual; and

(D) satisfies such other criteria for selection as the Secretary of Defense may prescribe.

(2) A civilian employee of the Department of Defense shall be eligible to participate in a cooperative arrangement established under the pilot program if the employee—

(A) during the five-year period beginning October 1, 1992, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense;

(B) has received a baccalaureate or advanced degree from an accredited institution of higher education;

(C) is bilingual; and

(D) satisfies such other criteria for selection as the Secretary of Defense may prescribe.

(d) STIPEND FOR PARTICIPANTS.—A member of the Armed Forces or a civilian employee of the Department of Defense who participates in a cooperative arrangement established under the pilot program shall be eligible to receive an educational stipend in the same amount as provided under paragraph (1) of subsection (g) of section 1151 of title 10, United States Code, subject to the conditions specified in paragraphs (2) and (3) of such subsection and section 1598(e)(2) of such title.

(e) ADMINISTRATIVE COSTS.—The Secretary of Defense shall cover the reasonable management costs of the pilot program incurred by the non-Federal entities participating in the cooperative arrangements established under the pilot program.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "bilingual" means the ability to communicate in both the English and another language.

(2) The term "State" includes the District of Columbia, American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Palau, and the Virgin Islands.

(g) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available pursuant to section 1102(a), $5,000,000 shall be available to the Secretary of Defense to carry out this section.

SEC. 1134. DEMONSTRATION PROJECT TO ASSIST SEPARATED MEMBERS AND TERMINATED DEFENSE WORKERS TO BECOME BUSINESS OWNERS.

(a) BUSINESS OWNERSHIP DEMONSTRATION PROJECT.—During fiscal year 1995, the Secretary of Defense may carry out a demonstration project in not more than two eligible communities to assist separated members of the Armed Forces and terminated defense workers described in subsection (c) who reside in such communities to own their own businesses. The Secretary shall carry out the demonstration project in consultation with the Secretary of Commerce.

(b) ELIGIBLE COMMUNITIES.—To be eligible for selection by the Secretary of Defense as a site for the demonstration project, a community shall meet at least two of the following conditions:

(1) The local economy is heavily dependent on a defense contractor that is in the process of terminating a major defense contract (or having such contract terminated by the Department of Defense) or closing a major facility.

(2) The local economy may be adversely affected by changes in the use of a national laboratory previously engaged in the testing of nuclear weapons.

(3) The local economy would be adversely affected by the closure of two or more military installations.

(c) PERSONS ELIGIBLE FOR ASSISTANCE.—The following persons are eligible to participate in

VOL 140 PT 16 AG 12 — 18 1994 UMI

the demonstration project to own their own businesses:

(1) Members of the Armed Forces who are discharged or released from active duty.

(2) Civilian employees of the Department of Defense who are terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.

(3) Employees of defense contractors who are terminated or laid off (or receive a notice of termination or layoff) as a result of the completion or termination of a defense contract or program or reductions in defense spending, as determined by the Secretary of Defense.

(d) ACTIVITIES UNDER DEMONSTRATION PROJECT.—Under the demonstration project, the Secretary of Defense shall—

(1) develop a business plan to establish a facility in each community in which the demonstration project is conducted to assist persons described in subsection (c) to own their own businesses;

(2) conduct a market study to identify markets for the facility;

(3) develop innovative approaches to capital formation for the facility and persons described in subsection (c);

(4) conduct a skills assessment study to determine the number and type of employees needed to operate the facility; and

(5) analyze the potential to use persons described in subsection (c) as employees of the facility.

SEC. 1135. DEMONSTRATION PROJECT TO PROMOTE SHIP RECYCLING AS A METHOD TO ASSIST SEPARATED MEMBERS AND TERMINATED DEFENSE WORKERS.

(a) SHIP RECYCLING DEMONSTRATION PROJECT.—(1) Subject to paragraph (2), the Secretary of Defense may carry out a demonstration project in not more than three eligible locations to assist separated members of the Armed Forces and terminated defense workers described in subsection (c) to obtain employment by participating in the establishment and operation of ship recycling facilities. To carry out the demonstration project, the Secretary shall seek the participation of representatives of the ship recycling industry.

(2) The Secretary of Defense may not implement or carry out the demonstration project unless the Secretary certifies to Congress not later than 180 days after the date of the enactment of this Act that—

(A) the demonstration project will facilitate personnel transition programs of the Department of Defense; and

(B) activities under the demonstration project will not disrupt the operations of United States companies that are engaged in ship recycling and scrapping as of the date of the enactment of this Act.

(b) ELIGIBLE LOCATIONS.—A location shall be eligible for selection by the Secretary of Defense as a site for the demonstration project if the location contains one or more military installations that have been selected for closure or realignment pursuant to a base closure law and such installations include naval and port facilities. Competitive procedures shall be used in the selection of locations in which to conduct the demonstration project.

(c) PERSONS ASSISTED UNDER DEMONSTRATION PROJECT.—The demonstration project is intended to promote the establishment and operation of ship recycling facilities that will provide employment for the following persons:

(1) Members of the Armed Forces who are discharged or released from active duty.

(2) Civilian employees of the Department of Defense who are terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.

(3) Employees of defense contractors who are terminated or laid off (or receive a notice of termination or layoff) as a result of the completion or termination of a defense contract or program or reductions in defense spending, as determined by the Secretary of Defense.

(d) ASSISTANCE AUTHORIZED.—To carry out the demonstration project in an eligible location selected by the Secretary, the Secretary may make grants to, and enter into contracts and cooperative agreements with, State governments, local governments, private entities, nonprofit organizations, and institutions of higher education operating in that location.

(e) ACTIVITIES SUPPORTED.—A government or entity (or group of entities) receiving assistance under the demonstration project shall use the assistance to perform, or support the performance of, any of the following:

(1) Developing a business plan to establish a ship recycling facility for military and commercial ships currently in service and projected for future scrapping.

(2) In consultation with the private sector, conducting a market study of—

(A) the existing private sector capacity to perform ship recycling;

(B) the utilization of existing ship recycling capacity;

(C) the regional impact on markets for scrap generated from ship recycling;

(D) the environmental remediation requirements associated with ship recycling;

(E) the ability to incorporate the private sector into the ship recycling facilities established pursuant to the demonstration project; and

(F) such other issues related to ship recycling as the Secretary considers appropriate.

(3) Conducting a skills assessment study to determine the number and type of employees needed to operate a ship recycling facility.

(4) Developing plans for the cost-effective environmental remediation of ships to be recycled at the facility.

(5) Demonstrating the feasibility of a ship recycling facility to become financially self-sustaining or projecting a reasonable timetable for the completion of the demonstration project, in which case the entity shall develop training, skills enhancement, and career placement programs to assist employees involved in ship recycling to secure new occupations and careers.

(6) Supporting regional ship recycling start-up activities.

(7) Analyzing the potential to use persons described in subsection (c) as employees at a ship recycling facility.

(f) TRANSFER OF EXCESS NAVAL VESSELS.—The Secretary of Defense may allocate among the ship recycling facilities established under the demonstration project excess naval vessels of the United States for recycling.

(g) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available pursuant to section 1102(a), $7,500,000 shall be available to the Secretary of Defense to carry out the demonstration project if the Secretary of Defense makes the certification under subsection (a)(2) within the time period specified in such subsection.

SEC. 1136. ADMINISTRATION AND FUNDING OF DEFENSE DIVERSIFICATION PROGRAM AND DEFENSE CONVERSION ADJUSTMENT PROGRAM UNDER JOB TRAINING PARTNERSHIP ACT.

(a) DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d–1) is amended—

(1) in subsection (a), by striking out "From the amount" and all that follows through "Labor," and inserting in lieu thereof "From funds made available to carry out this section, the Secretary, in consultation with the Secretary of Defense,";

(2) in subsections (c), (d), (e), (l), (k)(2), (l), and (m), by striking out "Secretary of Defense" each place it appears and inserting in lieu thereof "Secretary";

(3) in subsection (d)(1)(A), by striking out "in consultation with the Secretary of Labor,";

(4) in the heading of subsection (e), by striking out "BY SECRETARY OF DEFENSE";

(5) in subsection (k)(1), by striking out "Secretary of Defense, in consultation with the Secretary of Labor," and inserting in lieu thereof "Secretary, in consultation with the Secretary of Defense,"; and

(6) in subsection (n), by striking out "Secretary of Defense, in consultation with the Secretary of Labor," and inserting in lieu thereof "Secretary, in consultation with the Secretary of Defense,".

(b) DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325(a) of the Job Training Partnership Act (29 U.S.C. 1662d(a)) is amended by striking out "From the amount appropriated pursuant to section 4203 of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990," and inserting in lieu thereof "From funds made available to carry out this section,".

SEC. 1137. ASSISTANCE FOR CERTAIN WORKERS DISLOCATED DUE TO REDUCTIONS BY THE UNITED STATES IN THE EXPORT OF DEFENSE ARTICLES AND SERVICES.

(a) ASSISTANCE UNDER DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325 of the Job Training Partnership Act (29 U.S.C. 1662d), as amended by section 1136(b), is further amended—

(1) in subsection (a), by striking out "or by closures of United States military facilities" each place it appears and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements";

(2) in subsection (d), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements"; and

(3) by adding at the end the following new subsection:

"(f) DEFINITION.—For purposes of this section, the term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

(b) DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d–1), as amended by section 1136(a), is further amended—

(1) in subsection (b)(3)(A), by striking out "or the closure or realignment of a military installation" and inserting in lieu thereof ", the closure or realignment of a military installation, or reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements";

(2) in subsection (k)(1), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", the closure of United States military installations, or reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements"; and

(3) in subsection (o), by adding at the end the following new paragraph:

"(3) DEFENSE ARTICLES AND DEFENSE SERVICES.—The term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

Subtitle D—Other Matters

SEC. 1141. EXTENSION OF ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE AND ESTABLISHMENT OF ARMS INITIATIVE LOAN GUARANTEE PROGRAM.

(a) EXTENSION.—Section 193(a) of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102–484; 10 U.S.C. 2501 note) is amended by striking out "fiscal years 1993 and 1994" and inserting in lieu thereof "fiscal years 1993 through 1996".

(b) LOAN GUARANTEES UNDER ARMS INITIATIVE.—The Armament Retooling and Manufacturing Support Act of 1992 (10 U.S.C. 2501 note) is amended—

(1) by redesignating section 195 as section 196; and

(2) by inserting after section 194 the following new section:

"SEC. 195. ARMS INTTIATIVE LOAN GUARANTEE PROGRAM.

(a) PROGRAM AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may carry out a loan guarantee program to encourage commercial firms to use ammunition manufacturing facilities pursuant to section 193. Under such program, the Secretary may guarantee the repayment of any loan made to a commercial firm to fund, in whole or in part, the establishment of a commercial activity under this subtitle.

"(b) ADVANCED BUDGET AUTHORITY.—Loan guarantees under this section may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required by section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

"(c) PROGRAM ADMINISTRATION.—(1) The Secretary may enter into agreements with the Administrator of the Small Business Administration or the Administrator of the Farmers Home Administration, the Administrator of the Rural Development Administration, or the head of other appropriate agencies of the Department of Agriculture, under which such Administrators may, under this section—

"(A) process applications for loan guarantees;

"(B) guarantee repayment of loans; and

"(C) provide any other services to the Secretary to administer the loan guarantee program.

"(2) Each Administrator may guarantee loans under this section to commercial firms of any size, notwithstanding any limitations on the size of applicants imposed on other loan guarantee programs that the Administrator administers.

"(3) To the extent practicable, each Administrator shall use the same procedures for processing loan guarantee applications under this section as the Administrator uses for processing loan guarantee applications under other loan guarantee programs that the Administrator administers.

"(d) LOAN LIMITS.—The maximum amount of loan principal guaranteed during a fiscal year under this section may not exceed—

"(1) $20,000,000, with respect to any single borrower; and

"(2) $320,000,000 with respect to all borrowers.

"(e) TRANSFER OF FUNDS.—The Secretary of the Army may transfer to an Administrator providing services under subsection (c), and the Administrator may accept, such funds as may be necessary to administer the loan guarantee program under this section.

"(f) REPORTING REQUIREMENT.—Not later than July 1 of each year in which a guarantee issued under this section is in effect, the Secretary shall submit to the congressional defense committees a report specifying the amounts of loans guaranteed under this section during the preceding calendar year. No report is required after fiscal year 1997.".

(c) AUTHORIZATION FOR USE OF EXISTING BUDGET AUTHORITY.—Of the funds appropriated for the Armament Retooling and Manufacturing Support Initiative by title III of Public Law 102–396 under the heading "PROCUREMENT OF AMMUNITION, ARMY" (106 Stat. 1887), up to $43,000,000 may be made available to cover the costs of loan guarantees issued under section 195 of the Armament Retooling and Manufacturing Support Act of 1992 (as added by subsection (b)(2)), in such amounts as provided in an appropriations Act enacted after the date of the enactment of this Act.

SEC. 1142. CHANGES IN NOTICE REQUIREMENTS UPON PENDING OR ACTUAL TERMINATION OF DEFENSE PROGRAMS.

(a) TIME FOR NOTICE AFTER SUBMISSION OF BUDGET.—Subsection (a) of section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2753; 10 U.S.C. 2501 note) is amended—

(1) by striking out "As soon as reasonably practicable" and inserting in lieu thereof "Not later than 60 days"; and

(2) by striking out "and not more than 180 days after such date,".

(b) TIME FOR NOTICE AFTER ENACTMENT OF APPROPRIATIONS ACT.—Subsection (b) of such section is amended—

(1) by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 60 days"; and

(2) by striking out "and not more than 180 days after such date,".

(c) TIME FOR NOTICE OF WITHDRAWAL OF NOTIFICATION.—Subsection (f)(1) of such section is amended by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 60 days".

SEC. 1143. PLAN FOR DEPLOYMENT OF DEFENSE ENVIRONMENTAL TECHNOLOGIES FOR DREDGING OF DUAL-USE PORTS.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a plan for the Department of Defense to encourage the further development and deployment of existing defense environmental technologies in support of the dredging requirements of dual-use ports, including—

(1) the environmentally secure containment and management of contaminated dredged materials; and

(2) the decontamination of dredged materials.

(b) MATTERS TO BE INCLUDED.—The plan to be established pursuant to subsection (a) shall include the following:

(1) A description of defense reinvestment and defense conversion programs under chapter 148 of title 10, United States Code, that are available to facilitate the deployment of defense environmental technologies in support of the dredging requirements of dual-use ports.

(2) A description of existing defense environmental technologies and processes that are available to support the objectives of the plan to be established pursuant to subsection (a).

(3) Recommendations for strategies to deploy such technologies and processes to ports of various sizes, including—

(A) ports with projects requiring more than 5,000,000 cubic yards of sediment to be dredged annually;

(B) ports with projects requiring more than 1,000,000 cubic yards of sediment to be dredged annually;

(C) ports that have been affected by, or are likely to be affected by, the closure of one or more major military installations and that, as a result thereof, require substantial environmental remediation; and

(D) military port installations that have experienced significant delays in advancing dredging projects because of environmental compliance or dredged material disposal problems.

(4) After consultation with the heads of other appropriate Federal agencies, an assessment of other available technologies and processes that may be used in support of the plan to be established pursuant to subsection (a).

(5) An assessment of the potential benefits and methods of transfer of technologies and processes for use in connection with dredging processes in commercial ports and waterways.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall transmit to Congress a report containing the plan to be established pursuant to subsection (a).

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

SEC. 1201. COOPERATIVE THREAT REDUCTION PROGRAMS.

For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 107 Stat. 1778; 22 U.S.C. 5952(b)).

SEC. 1202. EXTENSION OF SEMIANNUAL REPORT ON COOPERATIVE THREAT REDUCTION PROGRAMS.

Section 1207 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–60; 107 Stat. 1782) is amended—

(1) by striking out "Not later than April 30, 1994, and not later than October 30, 1994," and inserting in lieu thereof "Not later than April 30 and not later than October 30 of each year,";

(2) by striking out "under this title" and inserting in lieu thereof "under programs described in section 1203(b)"; and

(3) in paragraph (3), by striking out "this title" and inserting in lieu thereof "the programs described in section 1203(b)".

SEC. 1203. REPORT ON ACCOUNTING FOR UNITED STATES ASSISTANCE.

(a) REPORT.—(1) The Secretary of Defense shall submit to Congress a report on the efforts made by the United States (including efforts through the use of audits, examinations, and on-site inspections) to ensure that assistance provided under cooperative threat reduction programs is fully accounted for and that such assistance is being used for its intended purposes.

(2) The report shall be submitted not later than 90 days after the date of the enactment of this Act.

(b) INFORMATION TO BE INCLUDED.—The report shall include the following:

(1) A list of cooperative threat reduction assistance that has been provided before the date of the report.

(2) A description of the current location of the assistance provided and the current condition of such assistance.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(3) A determination of whether the assistance has been used for its intended purpose.

(4) A description of the activities planned to be carried out during fiscal year 1995 to ensure that cooperative threat reduction assistance provided during that fiscal year is fully accounted for and is used for its intended purpose.

(c) COMPTROLLER GENERAL ASSESSMENT.—Not later than 30 days after the date on which the report of the Secretary under subsection (a) is submitted to Congress, the Comptroller General of the United States shall submit to Congress a report giving the Comptroller General's assessment of the report and making any recommendations that the Comptroller General considers appropriate.

SEC. 1204. REPORT ON CONTROL AND ACCOUNTABILITY OF MATERIAL RELATING TO WEAPONS OF MASS DESTRUCTION.

The Secretary of Defense shall submit to Congress a report on progress being made in each state of the former Soviet Union that is a recipient of assistance under Cooperative Threat Reduction programs toward the development of an effective system of control and accountability for material related to weapons of mass destruction in that country. Under such a system, officials of the United States and of the recipient country should have an accurate accounting of the weapons of mass destruction in that country and the missile and chemical materials from those weapons. The report shall be submitted not later than three months after the date of the enactment of this Act.

SEC. 1205. MULTIYEAR PLANNING AND ALLIED SUPPORT.

(a) FUNDING REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress a report as described in subsection (b) on funding for Cooperative Threat Reduction programs with states of the former Soviet Union. The report shall be submitted at the time of the transmission to Congress of the budget justification materials for the funding request in the fiscal year 1996 budget for such Cooperative Threat Reduction programs.

(b) MATTERS TO BE INCLUDED IN ANNUAL REPORT.—The Secretary of Defense shall include in the report under subsection (a) the following:

(1) An estimate of the total amount that will be required to be expended by the United States in order to achieve the objectives of Cooperative Threat Reduction programs.

(2) A multiyear plan for the use of amounts and other resources provided by the United States for Cooperative Threat Reduction programs and to provide guidance for preparation of annual budget submissions.

(c) SUBSEQUENT REVISIONS TO REPORT.—The Secretary of Defense shall submit an updated version of the report under subsection (a) for any fiscal year after fiscal year 1996 for which the budget of the President proposes that funds be appropriated to the Department of Defense for Cooperative Threat Reduction programs.

(d) FISCAL YEAR 1995 LIMITATION.—Of the amount authorized in section 301 for Cooperative Threat Reduction programs, the sum of $50,000,000 may not be obligated until the President certifies to Congress that the United States is making a concerted effort to ensure that allies of the United States are increasing their levels of support for activities that will aid in accomplishing the objectives of the Cooperative Threat Reduction programs.

SEC. 1206. FUNDING LIMITATIONS ON COOPERATIVE THREAT REDUCTION PROGRAM FOR FISCAL YEAR 1995.

(a) PROGRAM AMOUNTS.—Of the amount authorized to be appropriated in section 301 for Cooperative Threat Reduction programs—

(1) not more than $60,000,000 may be obligated for the demilitarization of defense industries and the conversion of military technologies and capabilities into civilian activities;

(2) not more than $200,000,000 may be obligated for Weapons Dismantlement, Destruction, and Denuclearization;

(3) not more than $60,000,000 may be obligated for Safety and Security, Transportation, and Storage;

(4) not more than $40,000,000 may be obligated for Nonproliferation;

(5) not more than $20,000,000 may be obligated for Defense and Military-to-Military Contacts; and

(6) not more than $20,000,000 may be obligated for other authorized programs and activities.

(b) LIMITED AUTHORITY TO EXCEED INDIVIDUAL LIMITATION AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

SEC. 1207. REPORT ON OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF THE STATES OF THE FORMER SOVIET UNION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has identified nonproliferation of weapons of mass destruction as a high priority in the conduct of United States national security policy.

(2) The United States is seeking universal adherence to global regimes that control nuclear, chemical, and biological weapons and is promoting new measures that provide increased transparency of biological weapons-related activities and facilities in an effort to help deter violations of and enhance compliance with the Biological Weapons Convention.

(3) In early 1992, Russian President Boris Yeltsin indicated to former United States President George Bush that Russia still had an offensive biological weapons program.

(4) A United States Government report dated January 19, 1993, on arms control noncompliance noted that Russian declarations up to that date had dramatically underestimated the size, scope, and maturity of the former Soviet biological weapons program.

(5) Despite President Yeltsin's decree of April 11, 1993, stating that activities in violation of the Biological Weapons Convention are illegal, questions continue to arise regarding offensive biological weapons research, development, testing, production, and storage in Russia as well as in other countries.

(6) A United States Government report, dated June 23, 1994, states the following: "The United States has determined that the offensive biological warfare program that Russia inherited from the Soviet Union violated the Biological Weapons Convention through at least March 1992. The Soviet offensive biological weapons program was massive, and included production, weaponization, and stockpiling. The status of the program since that time remains unclear and the U.S. remains concerned about the Russian biological warfare program.".

(7) The Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992, confirmed the commitment of the three governments to full compliance with the Biological Weapons Convention and outlined steps designed to increase confidence in that commitment.

(8) The Presidents of Russia and the United States are scheduled to hold a summit meeting in Washington during the month of September 1994.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should continue to urge all signatories to the Biological Weapons Convention to comply fully with the terms of that convention and with other international agreements relating to the control of biological weapons;

(2) the President should keep the Congress fully and currently informed regarding any Russian activities related to offensive biological weapons;

(3) the President should continue to insist that the Russian Government complete the steps noted and agreed to in the Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992;

(4) subsequent meetings of representatives of the United States, the United Kingdom, and Russia on biological weapons and the September 1994 summit meeting in Washington provide opportunities for the President to again emphasize the importance of resolving the issues related to compliance with the Biological Weapons Convention;

(5) in assessing the President's fiscal year 1996 budget request for foreign assistance funds for Russia, and for other programs and activities to provide assistance to Russia, including the Cooperative Threat Reduction programs, Congress will consider United States Government assessments of Russia's compliance with its obligations under the Biological Weapons Convention; and

(6) as the President encourages increased transparency of biological weapons-related activities and facilities to deter violations of, and enhance compliance with, the Biological Weapons Convention, the President should also take appropriate actions to ensure that the United States is prepared to counter the effects of use of biological weapons by others.

(c) PRESIDENTIAL REPORTS.—Not later than February 1, 1995, not later than June 1, 1995, and not later than October 1, 1995, the President shall submit to Congress a report, in classified and unclassified forms, containing an assessment of the extent of compliance of the independent states of the former Soviet Union with the Biological Weapons Convention and other international agreements relating to the control of biological weapons.

(d) CONTENT OF REPORT.—The report shall include the following:

(1) MATTERS RELATED TO COMPLIANCE.—

(A) An evaluation of the extent of control and oversight by the government of the Russian Federation over the former Soviet military and dual civilian-military biological warfare programs.

(B) The extent, if any, of the biological warfare agent stockpile in any of the independent states of the former Soviet Union.

(C) The extent and scope, if any, of continued biological warfare research, development, testing, and production by such states, including the sites and types of activity at those sites.

(D) An evaluation of the effectiveness of possible delivery systems of biological weapons, including tube and rocket artillery, aircraft, and ballistic missiles.

(E) An assessment of measures taken by the Russian Government to complete the steps noted and agreed to in the 1992 Joint Statement on Biological Weapons referred to in subsection

(b)(3), including a determination of the extent to which Russia has—

(i) agreed to permit visits to military and nonmilitary biological sites in order to attempt to resolve ambiguities;

(ii) provided information about biological weapons dismantlement accomplished to date, and further clarification of information provided in its United Nations Declarations regarding biological weapons;

(iii) been cooperative in exchanging information on a confidential, reciprocal basis concerning past offensive biological weapons programs not recorded in detail in its declarations to the United Nations;

(iv) cooperated in reviewing potential additional measures to monitor compliance with the Biological Weapons Convention and modalities for testing such measures;

(v) agreed to an examination of the physical infrastructure of its biological facilities to determine whether there is specific equipment or excess capacity inconsistent with their stated purpose;

(vi) helped identify ways to promote cooperation and investment in the conversion of biological weapons facilities; and

(vii) agreed to exchanges of scientists at biological facilities on a long-term basis.

(2) MATTERS RELATED TO UNITED STATES CAPABILITIES.—

(A) An evaluation of United States capabilities to detect and monitor biological warfare research, development, testing, production, and storage.

(B) On the basis of the assessment and evaluations referred to in other provisions of the report, recommendations by the Secretary of Defense and Chairman of the Joint Chiefs of Staff for the improvement of United States biological warfare defense and counter-measures.

(e) LIMITATION.—Of the amount authorized to be appropriated by section 301 for Cooperative Threat Reduction programs, $25,000,000 may not be obligated until the President submits to Congress the first report required under subsection (c).

SEC. 1208. COORDINATION OF CERTAIN COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) MILITARY-TO-MILITARY CONTACT PROGRAMS.—(1) None of the funds authorized to be appropriated in section 301 for Cooperative Threat Reduction programs may be obligated for activities under a military-to-military contact program until the Secretary of Defense and the Secretary of State submit to Congress a joint report on the coordination of military-to-military contact programs and comparable activities carried out under their respective jurisdictions.

(2) The report shall cover the following programs and activities:

(A) Defense and military-to-military contact programs to be carried out using funds authorized to be appropriated in section 301 for Cooperative Threat Reduction programs.

(B) Military-to-military contacts and comparable activities that are authorized by section 168 of title 10, United States Code, as added by section 1316.

(C) Programs authorized under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

(3) The report shall include a discussion of how the programs and activities referred to in paragraph (2) are carried out to maximize—

(A) the effect of such programs and activities in enhancing United States foreign policy objectives; and

(B) cost-efficiency in the conduct of the programs and activities.

(b) REPORT.—Section 1207 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 107 Stat. 1777; 22 U.S.C. 5956), is amended by adding at the end the following new paragraph:

"(5) A description of how all of the activities carried out under the authority of this title and other laws providing authority for cooperative threat reduction are coordinated with similar activities that are carried out under any other authority, including activities relating to military-to-military contacts, environmental restoration, and housing.".

SEC. 1209. SENSE OF CONGRESS CONCERNING SAFE AND SECURE DISMANTLEMENT OF SOVIET NUCLEAR ARSENAL.

(a) FINDINGS.—Congress makes the following findings:

(1) It is a pressing national security challenge for the United States to expedite the safe and secure dismantlement of the nuclear arsenal of the former Soviet Union.

(2) In particular, it is essential to expedite the return of strategic nuclear warheads from Ukraine, Belarus, and Kazakhstan and to expedite the safe and secure dismantlement of the nuclear delivery vehicles of Ukraine, Belarus, and Kazakhstan.

(3) Leakage of nuclear materials and technology, and the continuing threat of emigration of scientists and technicians from the former Soviet nuclear weapons complex, pose a grave threat to United States national security and to international stability.

(4) Congress has authorized so-called "Nunn-Lugar" funds to enable the Department of Defense to carry out cooperative activities with states of the former Soviet Union to address the threats described in paragraphs (1), (2), and (3).

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense and the Secretary of State should continue to give their serious attention to carrying out a coordinated strategy for addressing the urgent national security issues described in subsection (a);

(2) the United States should expedite the availability and effective application of so-called "Nunn-Lugar" funds;

(3) although activities conducted with those funds should, to the extent feasible, draw upon United States technology and expertise, the United States should work with local contractors in Belarus, Kazakhstan, Russia, and Ukraine when doing so would expedite more effective use of those funds; and

(4) efforts should be made to make the Science and Technology Centers in Moscow and Kiev, designed to slow the emigration of scientists and technicians from the former Soviet weapons complex, fully operational on an expedited basis.

TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

Subtitle A—Matters Relating to NATO

SEC. 1301. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO ORGANIZATIONS.

(a) APPLICABILITY OF EXISTING AUTHORITY TO NATO ORGANIZATIONS.—Section 2350a of title 10, United States Code, is amended in subsections (a), (e)(2), and (i)(1) by inserting "or NATO organizations" after "major allies of the United States" each place it appears.

(b) NATO ORGANIZATION DEFINED.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

"(4) The term 'NATO organization' means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.".

SEC. 1302. NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history and is well suited to help marshal cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental challenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members, and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to crises outside the alliances's self-defense area.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) It is critical that the security interests of the member countries of the North Atlantic Treaty Organization not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) it should be the policy of the United States that, in accordance with article 53 of the United Nations Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic Treaty Organization reserve the right to act collectively in defense of their vital interests.

SEC. 1303. AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) END STRENGTH.—Paragraph (1) of section 1002(c) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended to read as follows:

"(1) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization may not exceed a permanent ceiling of approximately 100,000 in any fiscal year.".

(b) EXCLUSION OF CERTAIN ISLAND-BASED TROOPS IN CALCULATION OF AUTHORIZED END

VOL 140 PT 16 AG 12 — 18 1994 UMI

STRENGTH.—Such section is further amended by adding at the end the following new paragraph:

"(3) For purposes of this subsection, members of the Armed Forces of the United States assigned to permanent duty ashore in Iceland, Greenland, and the Azores are excluded in calculating the end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of NATO.".

(c) CONFORMING AMENDMENT.—Section 1303 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2546) is repealed.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

SEC. 1304. ALLIED SHARE OF INSTALLATIONS COSTS.

(a) GOAL FOR ALLIED CONTRIBUTIONS.—In continuing efforts to enter into revised host-nation agreements as described in section 1301(e) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) and section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1824), the President shall seek to have European member nations of NATO assume an increased share of the nonpersonnel costs for United States military installations in those nations so that by September 30, 1996, those nations have assumed 37.5 percent of such costs.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "nonpersonnel costs", with respect to United States military installations in European member nations of NATO, means costs for those installations other than costs paid from military personnel accounts.

(2) The term "contributions", with respect to the share of such nonpersonnel costs assumed by the European member nations of NATO, means those cash and in-kind contributions made by such nations that replace expenditures that would otherwise be made by the Secretary using funds appropriated or otherwise made available in defense appropriations Acts.

SEC. 1305. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength overseas, the Department of Defense plans to close, or reduce United States military presence at, 867 military sites outside the United States.

(3) Most of the military sites outside the United States announced for closure are in Europe, where the United States has already closed 434 such sites while carrying out a reduction in troop strength in Europe from 323,432 in 1987 to approximately 100,000 by the end of fiscal year 1996.

(4) When the United States closes military sites in Europe, it leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some of the European NATO allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, most of which was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in those facilities.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure in NATO countries;

(2) the President should enter into negotiations with the government of each NATO host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects that are identified priorities of the Department of Defense.

(c) REQUIREMENTS AND LIMITATIONS RELATING TO PAYMENTS-IN-KIND.—(1) Subsection (e) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note) is amended—

(A) by inserting "(1)" after "NEGOTIATIONS FOR PAYMENTS-IN-KIND.—";

(B) by striking out "a written notice" and all that follows and inserting in lieu thereof "to the appropriate congressional committees a written notice regarding the intended negotiations."; and

(C) by adding at the end the following new paragraphs:

"(2) The notice shall contain the following:

"(A) A justification for entering into negotiations for payments-in-kind with the host country.

"(B) The types of benefit options to be pursued by the Secretary in the negotiations.

"(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.

"(3) For purposes of this subsection, the appropriate congressional committees are—

"(A) the Committee on Armed Services, the Committee on Appropriations, and the Defense Subcommittees of the Committee on Appropriations of the House of Representatives; and

"(B) the Committee on Armed Services, the Committee on Appropriations, and the Defense Subcommittees of the Committee on Appropriations of the Senate.".

(2) Such section is further amended by adding at the end the following new subsection:

"(h) CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Not less than 30 days before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:

"(A) A description of the military construction project or facility improvement project, as the case may be.

"(B) A certification that the project is needed by United States forces.

"(C) An explanation of how the project will aid in the achievement of the mission of those forces.

"(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

"(2) Not less than 30 days before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:

"(A) A description of each activity to be covered by the payment-in-kind.

"(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

"(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.".

SEC. 1306. GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

SEC. 1307. SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.

It is the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries that are participating in the Partnership for Peace and are making significant progress in working with the North Atlantic Treaty Organization:

(1) Defense articles and services, as defined in the Foreign Assistance Act of 1961 and the Arms Export Control Act.

(2) Loan of materials, supplies, and equipment for research and development purposes.

(3) Leases and loans of major defense equipment and other defense articles.

(4) Cooperative military airlift agreements.

(5) The procurement of communications support and related supplies and services.

(6) Actions to standardize equipment with North Atlantic Treaty Organization members.

Subtitle B—Matters Relating to Several Countries

SEC. 1311. LIMITATION ON OBLIGATION OF FUNDS FOR OVERSEAS BASING ACTIVITIES.

(a) LIMITATION.—The total amount authorized to be appropriated to the Department of Defense for operation and maintenance and for military construction (including construction and improvement of military family housing) that is obligated to conduct overseas basing activities during fiscal year 1995 may not exceed $8,181,000,000, except to the extent provided by the Secretary of Defense under subsection (b).

(b) EXCEPTION.—The Secretary of Defense may increase the amount of the limitation under subsection (a) by such amount as the Secretary determines to be necessary in the national interest, except that such increase may not exceed $400,000,000. The Secretary may not make any such increase until the Secretary notifies the Congress of the Secretary's intent to make such an increase and a period of 15 days elapses after the day on which the notification is received by the Congress.

(c) ALLOCATIONS OF SAVINGS.—Any amounts appropriated to the Department of Defense for fiscal year 1995 for the purposes covered by subsection (a) that are not available to be used for those purposes by reason of the limitation in that subsection shall be allocated by the Secretary of Defense for operation and maintenance and for military construction activities of the Department of Defense at military installations and facilities located inside the United States.

(d) DEFINITION.—In this section, the term "overseas basing activities" has the meaning given such term in section 1401(d)(2) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1825), except that such term does not include activities of the Department of Defense for which funds are provided through appropriations for Military Personnel.

SEC. 1312. CLARIFICATION AND CODIFICATION OF OVERSEAS MILITARY END STRENGTH LIMITATION.

(a) IN GENERAL.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 123a the following new section:

"§ 123b. Forces stationed abroad: limitation on number

"(a) END-STRENGTH LIMITATION.—No funds appropriated to the Department of Defense may be used to support a strength level of members of the armed forces assigned to permanent duty ashore in nations outside the United States at the end of any fiscal year at a level in excess of 203,000.

"(b) EXCEPTION FOR WARTIME.—Subsection (a) does not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

"(c) PRESIDENTIAL WAIVER.—The President may waive the operation of subsection (a) if the President declares an emergency. The President shall immediately notify Congress of any such waiver.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"123b. Forces stationed abroad: limitation on number.".

(b) EFFECTIVE DATE.—Section 123b of title 10, United States Code, as added by subsection (a), does not apply with respect to a fiscal year before fiscal year 1996.

(c) CONFORMING REPEAL.—Section 1302 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) is repealed.

SEC. 1313. COST-SHARING POLICY AND REPORT.

(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental costs incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO solely for support of NATO roles and missions.

(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the policy set forth in subsection (a).

(c) REPORT.—The Secretary of Defense shall include in the annual report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following:

(1) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO and an analysis of the cost of providing and maintaining such forces in such assignment primarily for support of NATO roles and missions.

(2) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such forces in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military forces in Europe that the United States received from other NATO member nations in the fiscal year covered by the report, set out by country and by type of assistance, including both in-kind assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year covered by the report.

(d) INCREMENTAL COSTS DEFINED.—For purposes of subsection (a), the definition provided for the term "incremental costs" in section 1046 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, as added by subsection (e), shall apply with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO in the same manner as such term applies with respect to permanent stationing ashore of United States forces in foreign nations for purposes of subsection (e)(4) of such section 1046.

(e) DEFINITION FOR REPORTING REQUIREMENT.—Section 1046 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1466; 22 U.S.C. 1928 note) is amended by adding at the end the following new subsection:

"(f) INCREMENTAL COSTS DEFINED.—In this section, the term 'incremental costs', with respect to permanent stationing ashore of United States forces in foreign nations, means the difference between the costs associated with maintaining United States military forces in assignments to permanent duty ashore in the foreign nations and the costs associated with maintaining those same military forces at military bases in the United States.".

SEC. 1314. REPORT ASSESSING THE NATIONAL SECURITY CONSEQUENCES OF UNITED STATES MILITARY COOPERATION PROGRAMS.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report assessing the national security consequences of United States military cooperation programs. The report shall be submitted not later than the date of the submission to Congress of the next annual report of the Secretary of Defense submitted under section 113 of title 10, United States Code, after the date of the enactment of this Act.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) A description of cooperative military relationships in effect.

(2) A description of how activities under those relationships are intended to improve United States national security.

(3) An assessment of the risks to the United States associated with engaging in military cooperation programs with foreign countries should the government of any of such country change its political orientation in a manner hostile to United States interests.

(4) An analysis of the effect on United States national security of possible multilateral actions to reduce the military capability of governments and military forces that could pose a future threat to United States interests.

(5) An assessment of any implications for regional security effected by existing cooperative military relationships.

(c) FORM OF REPORT.—The report under subsection (a) shall be submitted in unclassified form and, to the extent necessary, in classified form.

SEC. 1315. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

(a) FINDINGS.—Congress makes the following findings:

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife, but democracy in some nations of the region is fragile.

(2) It is desirable for the Department of Defense to perform a positive role in influencing the defense establishments and military forces of nations in the Western Hemisphere to make positive contributions to the democratic process and to domestic development programs of their respective nations.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051 of that title, participation of developing countries in combined exercises under section 2010 of that title, and the training of special operations forces with friendly forces under section 2011 of that title.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress (including in particular the testimony of the commander of the United States Southern Command and the commander of the United States Atlantic Command) has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, including needs regarding illegal immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) Military-to-military contact programs in the Western Hemisphere provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need for the Secretary of Defense to conduct a comprehensive review of the

VOL
140
PT
16
AG
12
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18
1994
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several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary, particularly in the light of the changed circumstances in the region.

(10) There is a need for the Secretary of Defense to conduct a comprehensive review of various programs carried out pursuant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional strategic and foreign policy objectives of the United States, including promotion of sustainable development, effective control of the military by elected civilian authorities, reliable regional security accords, and the appropriate role for militaries in democratic societies.

(11) There is a need for the Secretary of Defense to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REVIEW AND REPORT.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) in consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible for regions in the Western Hemisphere, carry out a comprehensive review and assessment of the matters referred to in paragraphs (2), (9), (10), and (11) of subsection (a); and

(2) submit to Congress a report on the review and assessment carried out pursuant to paragraph (1).

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) The contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, United States strategic objectives, and United States foreign policy objectives as described in paragraph (10) of subsection (a).

(6) United States humanitarian civic assistance and civic action programs conducted with host countries in the region and the effect that those programs have had in furthering the objectives described in paragraph (10) of subsection (a).

(7) The changes made or to be made in the programs, organizations, forums, and institutions referred to in paragraphs (3), (4), (5), and (6) as a result of the comprehensive review.

(d) RECOMMENDED LEGISLATION.—The report shall include any recommendations for legislation that the Secretary considers necessary to improve the ability of the Department to achieve its strategic objectives in the Western Hemisphere.

(e) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

SEC. 1316. MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES.

(a) ACTIVITIES AUTHORIZED.—(1) Chapter 6 of title 10, United States Code, is amended by adding at the end the following new section:

"§168. Military-to-military contacts and comparable activities

"(a) PROGRAM AUTHORITY.—The Secretary of Defense may conduct military-to-military contacts and comparable activities that are designed to encourage a democratic orientation of defense establishments and military forces of other countries.

"(b) ADMINISTRATION.—The Secretary may provide funds appropriated for carrying out subsection (a) to the following officials for use as provided in subsection (c):

"(1) The commander of a combatant command, upon the request of the commander.

"(2) An officer designated by the Chairman of the Joint Chiefs of Staff, with respect to an area or areas not under the area of responsibility of a commander of a combatant command.

"(3) The head of any Department of Defense component.

"(c) AUTHORIZED ACTIVITIES.—An official provided funds under subsection (b) may use those funds for the following activities and expenses:

"(1) The activities of traveling contact teams, including any transportation expense, translation services expense, or administrative expense that is related to such activities.

"(2) The activities of military liaison teams.

"(3) Exchanges of civilian or military personnel between the Department of Defense and defense ministries of foreign governments.

"(4) Exchanges of military personnel between units of the armed forces and units of foreign armed forces.

"(5) Seminars and conferences held primarily in a theater of operations.

"(6) Distribution of publications primarily in a theater of operations.

"(7) Personnel expenses for Department of Defense civilian and military personnel to the extent that those expenses relate to participation in an activity described in paragraph (3), (4), (5), or (6).

"(8) Reimbursement of military personnel appropriations accounts for the pay and allowances paid to reserve component personnel for service while engaged in any activity referred to in another paragraph of this subsection.

"(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided during any fiscal year to an official under subsection (b) for an activity or expense referred to in subsection (c) shall be in addition to amounts otherwise available for those activities and expenses for that fiscal year.

"(e) LIMITATIONS.—(1) Funds may not be provided under this section for a fiscal year for any activity for which—

"(A) funding was proposed in the budget submitted to Congress for that fiscal year pursuant to section 1105(a) of title 31; and

"(B) Congress did not authorize appropriations.

"(2) An activity may not be conducted under this section with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.

"(3) Funds may not be provided under this section for a fiscal year for any country that is not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(4) Except for those activities specifically authorized under subsection (c), funds may not be used under this section for the provision of defense articles or defense services to any country or for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(f) MILITARY-TO-MILITARY CONTACTS DEFINED.—In this section, the term 'military-to-military contacts' means contacts between members of the armed forces and members of foreign armed forces through activities described in subsection (c).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"168. Military-to-military contacts and comparable activities.".

(b) FISCAL YEAR 1995 FUNDING.—Of the amount authorized to be appropriated under section 301(5) for operation and maintenance for Defense-wide activities, $46,300,000 shall be available to the Secretary of Defense for the purposes of carrying out activities under section 168 of title 10, United States Code, as added by subsection (a).

(c) FISCAL YEAR 1995 ACTIVE DUTY END STRENGTHS.—(1) A member of a reserve component described in paragraph (2) shall not be counted (under section 115(a)(1) of title 10, United States Code) against the applicable end strength limitation for members of the Armed Forces on active duty for fiscal year 1995 prescribed in section 401.

(2) Paragraph (1) applies in the case of a member of a reserve component who is on active duty under a call or order to active duty for 180 days or more for activities under section 168 of title 10, United States Code, as added by subsection (a).

(d) REPORT.—Not later than February 15, 1995, the Secretary of Defense shall submit to Congress a report on the management structure of the military-to-military contacts program.

SEC. 1317. EXTENSION OF AUTHORITY TO ENTER INTO CERTAIN COOPERATIVE AGREEMENT AUTHORITIES TO INCLUDE THE UNITED NATIONS AND REGIONAL ORGANIZATIONS OF WHICH THE UNITED STATES IS A MEMBER.

(a) LOGISTICS AGREEMENTS.—Section 2341 of title 10, United States Code, is amended—

(1) by striking out "and" the first place it appears in paragraph (1) and inserting in lieu thereof a comma; and

(2) by inserting after "from North Atlantic Treaty Organization subsidiary bodies" the following: ", and from the United Nations Organization or any regional international organization of which the United States is a member".

(b) CROSS-SERVICING AGREEMENTS.—Section 2342 of such title is amended—

(1) in subsection (a)(1)—

(A) by striking out "with—" in the matter preceding subparagraph (A) and inserting in lieu thereof "with any of the following:";

(B) in subparagraph (A)—

(i) by capitalizing the first letter of the first word; and

(ii) by striking out the semicolon at the end and inserting in lieu thereof a period;

(C) in subparagraph (B)—

(i) by capitalizing the first letter of the first word; and

(ii) by striking out "; or" at the end and inserting in lieu thereof a period;

(D) by redesignating subparagraph (C) as subparagraph (D) and capitalizing the first letter of the first word of that subparagraph; and

(E) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) The United Nations Organization or any regional international organization of which the United States is a member.";

(2) in subsection (a)(2), by striking out "subsidiary body" both places it appears and inserting in lieu thereof "organization"; and

(3) in subsection (c), by striking out "as a routine or normal source" and inserting in lieu thereof "or international organization".

(c) LAW APPLICABLE TO ACQUISITION AND CROSS-SERVING AGREEMENTS.—(1) Section 2343 of such title is amended—

(A) by striking out subsection (a); and

(B) by striking out "(b)" before "Sections".

(2)(A) The heading of such section is amended to read as follows:

"§2343. Waiver of applicability of certain laws".

(B) The item relating to such section in the table of sections at the beginning of subchapter I of chapter 138 of such title is amended to read as follows:

"2343. Waiver of applicability of certain laws.".

(d) METHOD OF PAYMENT FOR ACQUISITIONS AND TRANSFERS BY THE UNITED STATES.—Section 2344(b)(4) of such title is amended by inserting after "North Atlantic Treaty Organization subsidiary bodies" the following: "and the United Nations Organization or any regional international organization of which the United States is a member".

(e) LIQUIDATION OF ACCRUED CREDITS AND LIABILITIES.—Section 2345(a) of such title is amended by striking out "three" in the first sentence and inserting in lieu thereof "12".

(f) CREDITING OF RECEIPTS.—Section 2346 of such title is amended by striking out "shall be credited to applicable appropriations, accounts, and funds of the Department of Defense" and inserting in lieu thereof "shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made".

(g) LIMITATION ON AMOUNTS THAT MAY BE OBLIGATED OR ACCRUED BY THE UNITED STATES.—Section 2347 of such title is amended—

(1) in subsection (a)(1)—

(A) by striking out "and" the first place it appears and inserting in lieu thereof a comma;

(B) by inserting after "subsidiary bodies of the North Atlantic Treaty Organization" the following: ", or from the United Nations Organization or any regional international organization of which the United States is a member";

(C) by striking out "$150,000,000" and inserting in lieu thereof "$200,000,000"; and

(D) by striking out "$25,000,000" and inserting in lieu thereof "$50,000,000";

(2) in subsection (a)(2)—

(A) by striking out "$10,000,000" the first place it appears and inserting in lieu thereof "$60,000,000";

(B) by striking out "$2,500,000" and inserting in lieu thereof "$20,000,000"; and

(C) by striking out "$10,000,000" the second place it appears and inserting in lieu thereof "$60,000,000";

(3) in subsection (b)(1)—

(A) by striking out "and" the first place it appears and inserting in lieu thereof a comma;

(B) by inserting after "subsidiary bodies of the North Atlantic Treaty Organization" the following: ", or from the United Nations Organization or any regional international organization of which the United States is a member"; and

(C) by striking out "$100,000,000" and inserting in lieu thereof "$150,000,000";

(4) in subsection (b)(2), by striking out "$10,000,000" and inserting in lieu thereof "$75,000,000"; and

(5) by adding at the end the following new subsection:

"(c) When the armed forces are involved in a contingency operation or in a non-combat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance or in support of peacekeeping operations under chapter VI or VII of the Charter of the United Nations), the restrictions in subsections (a) and (b) are waived for the purposes and duration of that operation.".

(h) DEFINITIONS.—Section 2350 of such title is amended—

(1) in paragraph (1)—

(A) by inserting "(including airlift)" after "transportation";

(B) by inserting "calibration services," after "maintenance services,"; and

(C) by adding at the end the following new sentence: "Such term includes temporary use of general purpose vehicles and other items of military equipment not designated as part of the United States Munitions List pursuant to section 38(a)(1) of the Arms Export Control Act."; and

(2) by adding at the end the following new paragraph:

"(4) The term 'transfer' means selling (whether for payment in currency, replacement-in-kind, or exchange of supplies or services of equal value), leasing, loaning, or otherwise temporarily providing logistic support, supplies, and services under the terms of a cross-servicing agreement.".

(i) ANNUAL REPORT REQUIREMENT.—(1) Subchapter I of chapter 138 of title 10, United States Code, is amended by inserting after section 2349 the following new section:

"§2349a. Annual report on non-NATO agreements

"(a) REPORT.—The Secretary of Defense shall submit to Congress, not later than January 15 of each of 1996, 1997, 1998, 1999, and 2000, a report covering non-NATO cross-servicing and acquisition actions in effect during the preceding fiscal year.

"(b) MATTERS TO BE INCLUDED.—Each such report shall set forth in detail the following with respect to the preceding fiscal year:

"(1) The total dollar amounts involved.

"(2) A description of any services and equipment provided or received through those actions.

"(3) A description of any equipment provided through those actions that is not returned.

"(4) The volume of credits and liabilities accrued and liquidated.

"(c) NON-NATO AGREEMENTS.—For purposes of this section, a non-NATO cross-servicing and acquisition agreement is a cross-servicing and acquisition agreement under this subchapter that involves countries or organizations other than North Atlantic Treaty Organization countries or subsidiary bodies.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2349 the following new item:

"2349a. Annual report on non-NATO agreements.".

(j) EFFECTIVE DATE.—The amendments made by this section shall apply with regard to any acquisition or transfer of logistic support, supplies, and services under the authority of subchapter I of chapter 138 of title 10, United States Code, that is initiated after the date of the enactment of this Act.

SEC. 1318. PERMANENT AUTHORITY FOR DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATIVE PROGRAMS.

Subsection (c) of section 843 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2469; 10 U.S.C. 2350a note) is repealed.

Subtitle C—Matters Relating to Specific Countries

SEC. 1321. DEFENSE COOPERATION BETWEEN THE UNITED STATES AND ISRAEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The President has reiterated the long-standing United States commitment to maintaining the qualitative superiority of the Israeli Defense Force over any combination of adversaries.

(2) Congress continues to recognize the many benefits to the United States from its strategic relationship with Israel, including enhancing regional stability and technical cooperation.

(3) Despite the momentous peace process in which Israel and its neighbors are productively engaged, Israel continues to face difficult threats to its national security that are compounded by the proliferation of weapons of mass destruction and ballistic missiles.

(4) Congress is supportive of the objective of the President to enhance United States-Israel military and technical cooperation, particularly in the areas of missile defense and counter-proliferation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should ensure that any conventional defense system or technology offered for release to any NATO or other major non-NATO ally should concurrently be available for purchase by Israel unless such action would contravene United States national interests; and

(2) the President should make available to Israel, within existing technology transfer laws, regulations, and policies, advanced United States technology necessary for continued progress in cooperative United States-Israel research and development of theater missile defenses.

SEC. 1322. READINESS OF MILITARY FORCES OF THE REPUBLIC OF KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) Under existing security arrangements between the United States and the Republic of Korea, responsibility for the defense of the territory of the Republic of Korea is allocated so that the Republic of Korea has primary responsibility for the ground defense of its territory and the United States has primary responsibility for air and sea defense of the Korean peninsula and for reinforcement.

(2) The Force Improvement Program of the Republic of Korea has not fully addressed critical shortfalls in its ground force capability which continue to exist even though the Republic of Korea spends approximately $12,000,000,000 annually on defense while the Democratic People's Republic of Korea spends approximately $4,000,000,000 annually on defense. The Republic of Korea has directed substantial defense resources to procuring submarines, destroyers, advanced aircraft, and other military systems that are marginal to its primary ground defense responsibility.

(3) The defense acquisition decisions of the Republic of Korea have had the effect of not allowing the Republic of Korea to attain self-sufficiency in its ground defense responsibility. As a result, there exists an undue burden on the United States for the ground defense of the Korean peninsula.

(4) The lack of intelligence capability to forecast the military intentions of the Democratic People's Republic of Korea presents major problems for the combined United States-Republic of Korea defense of South Korea.

(5) A short-warning attack by the Democratic People's Republic of Korea would cause major losses to the combined United States-Republic of Korea ground force.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should urge the Republic of Korea to continue to improve its military ground forces with emphasis on counterartillery capabilities, defense against ballistic missiles and weapons of mass destruction, combined United States-Republic of Korea

VOL 140 PT 16 AG 12 — 18 1994 UMI

logistics capabilities, combined United States-Republic of Korea medical support, and combined United States-Republic of Korea capabilities for tactical intelligence and indications and warning of a North Korean attack.

(c) REPORT.—Not later than January 15, 1995, the Secretary of Defense shall submit to Congress a report, in classified form, on—

(1) the readiness of the military forces of the Republic of Korea to defeat an attack by the military forces of the Democratic People's Republic of Korea; and

(2) the adequacy of the defense acquisition strategy of the Republic of Korea to meet its primary ground defense mission.

SEC. 1323. MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense conducted the Bottom-Up Review during 1993 to establish the size and structure for the Armed Forces for the Post-Cold-War era.

(2) The report on the Bottom-Up Review cites the need for the Armed Forces to be large enough to prevail in two major regional conflicts "nearly simultaneously".

(3) The report on the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf.

(4) The United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq.

(5) The report on the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, up to 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corps brigades.

(6) The report on the Bottom-Up Review recognizes that approximately 100,000 members of the Armed Forces will be stationed in Europe.

(7) The report on the Bottom-Up Review recognizes that sizeable numbers of United States forces could be involved in peace enforcement and intervention operations at any one time.

(8) The report on the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event one or both hypothetical conflicts result in lengthy deployments or to replace combat losses.

(9) Military planners calculate that 430,000 or more United States military personnel may be needed to win a war with North Korea begun by an invasion of South Korea by North Korea.

(10) In a worst case scenario, the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of the report on the Bottom-Up Review if the existing and future force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously.

(11) The Bottom-Up review was conducted for the purpose of force-sizing and was not meant to constrain operational planning.

(b) SENSE OF CONGRESS CONCERNING BUR.—It is the sense of Congress that—

(1) the force structure identified in the report on the Bottom-Up Review should not be used to limit the size or structure of the force that United States military commanders may request in preparation for a major regional contingency on the Korean peninsula; and

(2) the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and from other military operations.

(c) SENSE OF CONGRESS CONCERNING SITUATION ON KOREAN PENINSULA.—It is the sense of Congress that the chairmen and ranking minority members of the Committees on Armed Services and chairmen and ranking minority members of the Appropriations Subcommittees on Defense of the Senate and House of Representatives should receive regular briefings from the Secretary of Defense on the situation on the Korean peninsula.

SEC. 1324. SENSE OF CONGRESS CONCERNING THE NORTH KOREAN NUCLEAR WEAPONS DEVELOPMENT PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Between 1950 and 1953, the United States led a military coalition that successfully repelled an invasion of the Republic of Korea by North Korea, at a cost of more than 54,000 American lives.

(2) The United States and the Republic of Korea ratified a Mutual Security Treaty in 1954 that commits the United States to helping the Republic of Korea defend itself against external aggression.

(3) Approximately 37,000 United States military personnel are presently stationed in the Republic of Korea.

(4) The United States and the Republic of Korea have regularly conducted joint military exercises, including "Team Spirit" exercises.

(5) North Korea has built up an armed force nearly twice the size of that in the Republic of Korea and has not renounced the use of force, terrorism, and subversion in its attempts to subdue and subjugate the Republic of Korea.

(6) Although North Korea signed the Treaty on the Non-Proliferation of Nuclear Weapons in 1985, it has impeded the international inspection of its nuclear facilities that is required of all signatories of that Treaty.

(7) North Korea's nuclear weapons and ballistic missile programs represent a grave threat to the security of the Korean peninsula and the entire world.

(8) Efforts in recent years by the United States to reduce tensions on the Korean peninsula have included—

(A) the withdrawal of all nuclear weapons from the territory of the Republic of Korea and a reduction in the number of United States military personnel stationed there;

(B) the postponement of the 1994 Team Spirit exercises;

(C) the establishment of direct diplomatic contacts with the North Korean government; and

(D) the offer of expanded diplomatic and economic contacts with North Korea.

(9) Weapons-grade plutonium can be extracted from the fuel rods removed from North Korea's principal reactor at Yongbyon.

(10) International inspectors were not permitted to examine and test in a timely manner spent fuel rods removed from North Korea's principal nuclear reactor at Yongbyon, as required to ensure compliance with North Korea's obligations under the Nuclear Non-Proliferation Treaty.

(11) Diplomacy concerning the North Korean nuclear program has clearly reached a crucial stage, the unsatisfactory resolution of which would place the international nonproliferation regime in jeopardy and threaten the peace and security of the Korean peninsula, the Northeast Asia region, and, by extension, the rest of the world.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the announced freeze on the North Korean nuclear program should remain in place until internationally agreed-upon safeguards of any North Korean civilian nuclear program can be made fully effective;

(2) the North Korean government should take a further step toward verified cooperation with the international nonproliferation regime by—

(A) permitting the unfettered international inspection and testing of the spent fuel rods removed from North Korea's nuclear reactor at the Yongbyon nuclear complex, followed by adequate international supervision of the transfer of all spent fuel rods from the Yongbyon complex and their disposal in another country; and

(B) accepting a comprehensive inspection process as required by the Treaty on the Non-Proliferation of Nuclear Weapons;

(3) a resolution of the inspection controversy at the Yongbyon complex that allows for anything less than the full international inspection of facilities in that complex required by North Korea's obligations under the Nuclear Non-Proliferation Treaty—

(A) would be unsatisfactory; and

(B) should prompt the Government of the United States to take such action as would indicate the severity with which the United States views this provocation against international norms; and

(4) such action should include (but not necessarily be limited to)—

(A) the seeking of international sanctions against North Korea; and

(B) the rescheduling of the Team Spirit exercises for 1994.

SEC. 1325. REPORT ON SECURITY RELATIONSHIP BETWEEN THE UNITED STATES AND JAPAN.

(a) REPORT REQUIRED.—Not later than March 1, 1995, the Secretary of Defense shall submit a report to Congress regarding the security relationship between the United States and Japan.

(b) CONTENT OF REPORT.—The report required by this section shall contain the following:

(1) An evaluation of the security objectives that the United States hopes to achieve in its relationship with Japan.

(2) An analysis of the threats, dangers, and risks to the United States and Japan in the Asia-Pacific region.

(3) An explanation of the United States strategy for achieving its security objectives with Japan and in the Asia-Pacific region.

(4) An evaluation of the role of the United States-Japan Security Treaty in achieving United States security objectives with Japan and in the Asia-Pacific region.

(5) An analysis of the contributions that regional security discussions, consultations, or frameworks could make to the achievement of United States and Japanese security objectives.

(6) A discussion of the process by which the United States and Japan address joint infrastructure matters, such as land and training issues, throughout Japan, including Okinawa.

(7) A description of the United States military facilities in Japan, including Okinawa, that have been transferred to Japan in the previous 10 years.

(8) A description of the contribution that Japan makes to the costs incurred by the United States in stationing military forces in Japan.

(9) A review of the United States military presence in Japan, including Okinawa, that contains the following information:

(A) The number and location of United States personnel.

(B) The number, size, and location of major United States military units.

(C) An inventory and description of the utilization of United States military facilities, including their military, economic, and environmental aspects.

(D) An explanation of the status of discussion between the United States and Japanese governments on joint infrastructure matters.

(E) A description of United States training activities.

TITLE XIV—PEACE OPERATIONS AND HUMANITARIAN ASSISTANCE ACTIVITIES

Subtitle A—Peace Operations

SEC. 1401. REPORTS ON REFORMING UNITED NATIONS PEACE OPERATIONS.

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to Congress two reports on proposals by the United States for improving management by the United Nations of peace operations. The Secretary shall submit the first report not later than December 1, 1994, and the second not later than June 1, 1995.

(b) STATUS OF IMPLEMENTATION OF UNITED STATES PROPOSALS.—Each report shall contain—

(1) a discussion of the status of implementation of proposals by the United States contained in section IV (relating to strengthening the United Nations) of the document entitled "The Clinton Administration's Policy on Reforming Multilateral Peace Operations" that was issued by the Executive Office of the President in May 1994; and

(2) an analysis of the results of such implementation.

(c) SUBJECTS TO BE COVERED.—Each report shall cover, at a minimum, the following matters:

(1) The reconfiguration and expansion of the staff for the United Nations Department of Peacekeeping Operations.

(2) The reasons for lengthy, potentially disastrous delays after a peace operation has been authorized and steps by the United Nations to reduce those delays.

(3) The establishment by the United Nations of a professional peace operations training program for commanders and other military and civilian personnel.

(4) Assistance by the United States to facilitate improvements by the United Nations in the matters described in paragraphs (1) and (3) and the terms under which such assistance has been or is being provided.

(d) PEACE OPERATION DEFINED.—In this section, the term "peace operation" means an operation to maintain or restore international peace and security under chapter VI or chapter VII of the Charter of the United Nations.

SEC. 1402. REPORT ON MILITARY READINESS IMPLICATIONS OF BOSNIA PEACEKEEPING DEPLOYMENT.

(a) REPORT.—(1) The Secretary of Defense shall submit to the congressional defense committees a report assessing the implications for United States military readiness of the participation of United States ground combat forces in peacekeeping operations within Bosnia-Hercegovina.

(2) The report shall be submitted not later than 90 days after the date of the enactment of this Act or 30 days following the deployment of United States ground forces to Bosnia-Hercegovina, whichever occurs sooner.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) An estimate of the total number of forces required to carry out such an operation, including forces required for a rotation base.

(2) An estimate of the expected duration of such an operation.

(3) An estimate of the cost of such an operation, together with an explanation of how the Secretary proposes to provide funds for such an operation and an assessment of how such proposed funding plan would affect overall military readiness.

(4) An assessment of the effect such an operation would have on the ability of the United States Armed Forces to execute successfully the two nearly-simultaneous major regional conflict strategy articulated in the Bottom-Up Review.

(5) An assessment of how readily forces participating in such an operation could be redeployed to a major regional conflict, including an analysis of the availability of strategic lift, the likely condition of equipment, and the extent of retraining necessary to facilitate such a redeployment.

(6) An assessment of the effect such an operation would have on the general combat readiness and deployability of combat units designated to be part of the contingency force, including the extent to which contingency force combat units would support the initial deployment and subsequent rotations.

(7) An assessment of the effect such an operation would have on the general combat readiness and deployability of combat units not designated to be part of the contingency force, including the extent to which non-contingency force combat units would support the initial deployment and subsequent rotations.

(8) For the initial deployment and subsequent rotations, an assessment of the number and type of combat support and combat service support units required from active forces, including how many of such units are designated to support the deployment of the contingency force.

(9) An assessment of the degree to which such an operation would require the use of reserve component units and personnel and the use and timing of involuntary Selected Reserve call-up authority as provided by section 673b of title 10, United States Code.

(10) An assessment of the anticipated cost of equipment refurbishment resulting from such an operation.

(11) An assessment of how the increased operational tempo associated with such an operation would affect the mission capable readiness rates and overall health of both strategic and theater airlift assets.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "contingency force" includes—

(A) the set of four or five Army divisions that is designated as the Army contingency force by the Secretary of the Army, as well as Army active duty and reserve component combat, combat support, and combat service support units designated to respond to a regional conflict within the first 75 days of such conflict; and

(B) Air Force, Navy, and Marine Corps active duty and reserve component combat, combat support, and combat service support units designated to respond to a regional conflict within the first 75 days of such conflict.

(2) The term "Bottom-Up Review" means the October 1993 Department of Defense report entitled "Report on the Bottom-Up Review".

(d) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in unclassified form and, if necessary, in classified form.

SEC. 1403. REPORT ON INTELLIGENCE LESSONS LEARNED FROM UNITED STATES ACTIVITIES IN SOMALIA.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the intelligence lessons learned from the United States participation in United Nations activities in Somalia.

(b) MATTERS TO BE INCLUDED.—The report shall—

(1) specifically describe the availability of intelligence on forces of other nations and of indigenous forces operating in Somalia before, during, and after the insertion of United States forces; and

(2) set forth a complete review of any intelligence failures, any equipment failures, and any equipment unavailability in the theater.

(c) SUBMISSION OF REPORT.—The report shall be submitted not later than 180 days after the date of the enactment of this Act.

SEC. 1404. BOSNIA AND HERCEGOVINA.

(a) PURPOSE.—It is the purpose of this section—

(1) to express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Hercegovina; and

(2) to establish a process to end the arms embargo on the Government of Bosnia and Hercegovina.

(b) STATEMENT OF SUPPORT.—The Congress supports the efforts of the Contact Group to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina based upon the Contact Group proposal.

(c) SENSE OF CONGRESS.—It is the sense of Congress that:

(1) The United States should work with the member nations of the North Atlantic Treaty Organization and with other permanent members of the United Nations Security Council to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina which maintains the territorial integrity of Bosnia and Hercegovina.

(2) A peaceful settlement of the conflict must preserve an economically, politically, and militarily viable Bosnian state capable of exercising its rights under the Charter of the United Nations as part of a peaceful settlement, which rights include the inherent right of a sovereign state to self defense.

(3) The acceptance of the Contact Group proposal by the Government of Bosnia and Hercegovina should lead to the lifting of the Bosnia arms embargo.

(4) In providing weapons to the Bosnian Government or taking other actions, care should be taken to provide for the safety of the United Nations Protection Force (UNPROFOR) and the civilian personnel working for the United Nations or nongovernmental volunteer organizations.

(5) The United States should immediately seek to organize an international effort to provide assistance to the states bordering Serbia and Montenegro to bring about more effective enforcement by those states of the international economic sanctions on the Government of Serbia and Montenegro.

(d) GENERAL UNITED STATES POLICY.—The United States should exercise leadership within the international community to cause the Bosnian Serb faction to accept the Contact Group proposal. Such action should be taken on separate but complementary international and unilateral tracks, as set forth in subsections (e), (f), and (g).

(e) INTERNATIONAL POLICY.—If the Bosnian Serbs do not accept the Contact Group proposal by the date that is the later of October 15, 1994, or the end of the 10-day period beginning on the date of the enactment of this Act, the President (or his representative) should, not later than 14 days thereafter, formally introduce and support in the United Nations Security Council a resolution to terminate the Bosnia arms embargo. The resolution should provide for the termination of the arms embargo no later than December 1, 1994 (and may allow for the termination to be accomplished in stages ending no later than that date).

(f) UNILATERAL UNITED STATES POLICY.—(1) If by the earlier of November 15, 1994, or the end of the 15-day period beginning on the date on which a resolution described in subsection (e) (or a similar resolution) is formally introduced, the United Nations Security Council has not agreed to such a resolution and the Bosnian Serbs have not accepted the Contact Group proposal—

(A) the funding limitation specified in paragraph (2) shall be in effect;

(B) the President shall submit a plan to, and shall consult with, Congress on the manner in which United States Armed Forces and the military forces of friendly states would provide

VOL 140 PT 16 AG 12 — 18 1994 UMI

training to the armed forces of the Government of Bosnia and Hercegovina outside of the territory of Bosnia and Hercegovina; and

(C) the President shall submit a plan to, and shall consult with, Congress regarding the unilateral termination by the United States of compliance with the Bosnia arms embargo and the implications thereof.

(2) If the funding limitation specified in this paragraph is in effect pursuant to paragraph (1)(A), then no funds appropriated by any provision of law may be used for the purpose of participation in, support for, or assistance to the enforcement of the Bosnia arms embargo by any Department, agency or other entity of the United States (or by any officer or employee of the United States or member of the Armed Forces of the United States) other than as required of all United Nations member states under the United Nations Security Council resolution referred to in subsection (h)(3) and the Charter of the United Nations.

(3)(A) The President may waive the limitation in paragraph (2) in the case of United States military personnel serving in NATO headquarters positions.

(B) Nothing in paragraph (2) is intended to impede enforcement of sanctions against Serbia.

(g) INTERIM POLICY.—If the Bosnian Serb faction attacks any area within those areas that have been designated by the United Nations as "safe areas", the President (or his representative) should promptly formally introduce and support in the United Nations Security Council a resolution that authorizes a selective lifting of the Bosnia arms embargo in order to allow the provision of defensive weapons (such as anti-tank weapons, counter-battery radars, and mortars) to enable the forces of the Government of Bosnia and Hercegovina to defend the safe areas.

(h) DEFINITIONS.—For purposes of this section:

(1) The term "Contact Group" means the group composed of representatives of the United States, Russia, France, Britain, and Germany seeking to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina.

(2) The term "Contact Group proposal" means the peace proposal of the Contact Group that has been agreed to by the Government of Bosnia and Hercegovina and rejected by the Bosnian Serb faction.

(3) The term "Bosnia arms embargo" means application to the Government of Bosnia and Hercegovina of the arms embargo imposed by United Nations Security Council resolution 713, of September 25, 1991.

Subtitle B—Assistance Activities

SEC. 1411. OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID PROGRAMS.

(a) OHDACA PROGRAMS.—For purposes of section 301 and other provisions of this Act, programs of the Department of Defense designated as Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs are the programs provided by—

(1) sections 401, 402, 2547, and 2551 of title 10, United States Code;

(2) section 404 of title 10, United States Code, as added by section 1412; and

(3) section 1413 of this Act.

(b) LIMITATION.—Not more than one-half of the amount authorized to be appropriated in section 301 for those programs may be obligated until the regulations required to be prescribed by subsection (a) of section 1504 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1839) have been prescribed.

SEC. 1412. FOREIGN DISASTER ASSISTANCE.

(a) AUTHORITY.—Subchapter I of chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§404. Foreign disaster assistance

"(a) IN GENERAL.—The President may direct the Secretary of Defense to provide disaster assistance outside the United States to respond to manmade or natural disasters when necessary to prevent loss of lives.

"(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include transportation, supplies, services, and equipment.

"(c) NOTIFICATION REQUIRED.—Not later than 48 hours after the commencement of disaster assistance activities to provide assistance under this section, the President shall transmit to Congress a report containing notification of the assistance provided, and proposed to be provided, under this section and a description of so much of the following as is then available:

"(1) The manmade or natural disaster for which disaster assistance is necessary.

"(2) The threat to human lives presented by the disaster.

"(3) The United States military personnel and material resources that are involved or expected to be involved.

"(4) The disaster assistance that is being provided or is expected to be provided by other nations or public or private relief organizations.

"(5) The anticipated duration of the disaster assistance activities.

"(d) ORGANIZING POLICIES AND PROGRAMS.—Amounts appropriated to the Department of Defense for any fiscal year for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department shall be available for organizing general policies and programs for disaster relief programs for disasters occurring outside the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"404. Foreign disaster assistance.".

SEC. 1413. HUMANITARIAN ASSISTANCE PROGRAM FOR CLEARING LANDMINES.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall carry out a program for humanitarian purposes to provide assistance to other nations in the detection and clearance of landmines. Such assistance shall be provided through instruction, education, training, and advising of personnel of those nations in the various procedures that have been determined effective for detecting and clearing landmines.

(b) FORMS OF ASSISTANCE.—The Secretary may provide assistance under subsection (a) by—

(1) providing Department of Defense personnel to conduct the instruction, education, or training or to furnish advice; or

(2) providing financial assistance or in-kind assistance in support of such instruction, education, or training.

(c) LIMITATION ON UNITED STATES MILITARY PERSONNEL.—The Secretary of Defense shall ensure that no member of the Armed Forces of the United States—

(1) while providing assistance under subsection (a), engages in the physical detection, lifting, or destroying of landmines (unless the member does so for the concurrent purpose of supporting a United States military operation); or

(2) provides such assistance as part of a military operation that does not involve the Armed Forces of the United States.

(d) USE OF FUNDS.—Of the amount authorized to be appropriated by section 301 for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department of Defense, not more than $20,000,000 shall be available for the program under section (a). Such amount may be used—

(1) for activities to support the clearing of landmines for humanitarian purposes, including activities relating to the furnishing of education, training, and technical assistance;

(2) for the provision of equipment and technology by transfer or lease to a foreign government that is participating in a landmine clearing program under this section; and

(3) for contributions to nongovernmental organizations that have experience in the clearing of landmines to support activities described in subsection (a).

(e) NOTICE TO CONGRESS.—The Secretary of Defense shall provide notice to Congress of any activity carried out under this section.

TITLE XV—ARMS CONTROL MATTERS

SEC. 1501. EXTENSION AND REVISION OF NONPROLIFERATION AUTHORITIES.

(a) EXTENSION OF NONPROLIFERATION AUTHORITIES.—Section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (22 U.S.C. 5859a) is amended—

(1) in subsection (a), by striking out "during fiscal year 1994" and inserting in lieu thereof "during fiscal years 1994 and 1995"; and

(2) in subsection (e)(1), by striking out "fiscal year 1994" and inserting in lieu thereof "fiscal years 1994 and 1995".

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "the International Atomic Energy Agency (IAEA)" and inserting in lieu thereof "international organizations";

(B) by striking out "nuclear";

(C) by striking out "aggressive" and inserting in lieu thereof "effective"; and

(D) by striking out "the Treaty on" and all that follows in such paragraph and inserting in lieu thereof "international agreements on nonproliferation."; and

(2) in paragraph (4), by striking out "nuclear proliferation through joint technical projects and improved intelligence sharing" and inserting in lieu thereof "nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing".

(c) SOURCES OF ASSISTANCE.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by inserting "for fiscal year 1994" after "under this section"; and

(B) by striking out "fiscal year 1994 or" and inserting in lieu thereof "fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995. Funds provided as assistance under this section for a fiscal year referred to in this paragraph may also be derived"; and

(2) in paragraph (3), by inserting after "$25,000,000" the following: "for fiscal year 1994 or $20,000,000 for fiscal year 1995".

SEC. 1502. JOINT COMMITTEE FOR REVIEW OF COUNTERPROLIFERATION PROGRAMS OF THE UNITED STATES.

(a) NAME AND COMPOSITION.—Subsection (a) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat 1845) is amended—

(1) in paragraph (1)—

(A) by striking out "Non-Proliferation Program Review Committee" in the matter preceding subparagraph (A) and inserting in lieu thereof "Counterproliferation Program Review Committee";

(B) by striking out subparagraphs (B) and (E); and

(C) by redesignating subparagraphs (C), (D), and (F) as subparagraphs (B), (C), and (D), respectively;

(2) in paragraph (2), by adding at the end the following: "The Secretary of Energy shall serve as the Vice Chairman of the committee.";

(3) in paragraph (4), by adding at the end the following: "The Secretary of Energy may delegate to the Under Secretary of Energy responsible for national security programs of the Department of Energy the performance of the duties of the Vice Chairman of the committee."; and

(4) by striking out paragraph (5).

(b) PURPOSES OF COMMITTEE.—Subsection (b) of such section is amended—

(1) in paragraph (1)(A), by striking out "nonproliferation policy" and inserting in lieu thereof "counterproliferation policy"; and

(2) by adding at the end the following new paragraphs:

"(3) To establish priorities for programs and funding.

"(4) To encourage and facilitate interagency and interdepartmental funding of programs in order to ensure necessary levels of funding to develop, operate, and field highly-capable systems.

"(5) To ensure that Department of Energy programs are integrated with the operational needs of other departments and agencies of the Government.

"(6) To ensure that Department of Energy national security programs include technology demonstrations and prototype development of equipment.".

(c) DUTIES.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "(including counterproliferation capabilities) and technologies for support of United States nonproliferation policy" in the matter preceding subparagraph (A) and inserting in lieu thereof "and technologies for support of United States nonproliferation policy and counterproliferation policy";

(B) by inserting "and" at the end of subparagraph (D); and

(C) by striking out subparagraphs (F) and (G);

(2) by striking out paragraphs (2), (3), and (7);

(3) in paragraph (4), by striking out "to support fully the nonproliferation policy of the United States";

(4) by redesignating paragraphs (4), (5), and (6) as paragraphs (2), (3), and (4), respectively; and

(5) by adding at the end the following new paragraph (5):

"(5) assess each fiscal year the effectiveness of the committee actions during the preceding fiscal year, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the assessment is made.".

(d) COMMITTEE RECOMMENDATIONS.—Subsection (e) of such section is amended to read as follows:

"(e) RECOMMENDATIONS.—The committee shall submit to the President and the heads of all appropriate departments and agencies of the Government such programmatic recommendations regarding existing, planned, or new programs as the committee considers appropriate to encourage funding for capabilities and technologies at the level necessary to support United States counterproliferation policy.".

(e) EXTENSION OF COMMITTEE.—Subsection (f) of such section is amended by striking out "six months after the date on which the report of the Secretary of Defense under section 1606 is submitted to Congress" and inserting in lieu thereof "at the end of September 30, 1996".

(g) HEADING AMENDMENT.—The heading of such section is amended by striking out "***proliferation***" and inserting in lieu thereof "***counterproliferation***".

SEC. 1503. REPORTS ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

(a) REPORT REQUIRED.—Not later than May 1, 1995, and May 1, 1996, the Secretary of Defense shall submit to Congress a report of the findings of the Counterproliferation Program Review Committee established by subsection (a) of the Review Committee charter.

(2) For purposes of this section, the term "Review Committee charter" means section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), as amended by section 1502.

(b) CONTENT OF REPORT.—Each report under subsection (a) shall include the following:

(1) A complete list, by specific program element, of the existing, planned, or newly proposed capabilities and technologies reviewed by the Review Committee pursuant to subsection (c) of the Review Committee charter.

(2) A complete description of the requirements and priorities established by the Review Committee.

(3) A comprehensive discussion of the near-term, mid-term, and long-term programmatic options formulated by the Review Committee for meeting requirements prescribed by the Review Committee and for eliminating deficiencies identified by the Review Committee, including the annual funding requirements and completion dates established for each such option.

(4) An explanation of the recommendations made pursuant to subsection (c) of the Review Committee charter, together with a full discussion of the actions taken to implement such recommendations or otherwise taken on the recommendations.

(5) A discussion and assessment of the status of each Review Committee recommendation during the fiscal year preceding the fiscal year in which the report is submitted, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, in the fiscal year of the report.

(6) Each specific Department of Energy program that the Secretary of Energy plans to develop to initial operating capability and each such program that the Secretary does not plan to develop to initial operating capability.

(7) For each technology program scheduled to reach initial operational capability, a recommendation from the Chairman of the Joint Chiefs of Staff that represents the views of the commanders of the unified and specified commands regarding the utility and requirement of the program.

(c) FORMS OF REPORT.—Each such report shall be submitted in both unclassified and classified forms, including an annex to the classified report for special compartmented information programs, special access programs, and special activities programs.

SEC. 1504. AMOUNTS FOR COUNTERPROLIFERATION ACTIVITIES.

(a) COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 201(4), $16,500,000 shall be available for counterproliferation activities.

(b) LIMITATION.—(1) Of the funds made available pursuant to subsection (a), $4,000,000 may not be obligated until the Secretary of Defense submits to Congress a report on a proposed classified counterproliferation database system. The report shall provide—

(A) an assessment of current major databases and software capabilities of entities in the intelligence community and of national weapons laboratories and laboratories of the Armed Forces against capabilities defined in the proposed project; and

(B) an assessment of the technical feasibility of the proposed system, program plan, strategy, milestones and future year funding.

(2) No funds may be obligated for the database system described in the report until the Secretary of Defense and the Director of Central Intelligence enter into a written agreement concerning the program to develop that database system that provides—

(A) how funding for that program is to be divided between (i) the account of the National Foreign Intelligence Program, and (ii) Tactical Intelligence and Related Program accounts; and

(B) a plan for the sources of funds for, and the programmed amounts for, that program for fiscal years after fiscal year 1995.

(c) EDUCATION IN SUPPORT OF COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 301(5), not more than $2,000,000 shall be available for providing education to members of the Armed Forces in matters relating to counterproliferation.

(d) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160, as amended by section 1502. Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

(e) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be appropriated by section 201(4) for counterproliferation technology projects—

(A) up to $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in a confined area outside the United States; and

(B) up to $10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective use of existing resources of the national weapons laboratories.

(3)(A) The training program referred to in paragraph (1)(B) is a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition weapons of mass destruction by organized crime organizations in Eastern Europe,

VOL
140
PT
16
AG
12
—
18
1994
UMI

the Baltic countries, and states of the former Soviet Union.

(B) Of the funds available under paragraph (1)(B) for the program referred to in subparagraph (A), $9,000,000 may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional committees specified in subparagraph (C) a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and states of the former Soviet Union;

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and states of the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1)(B); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

(C) The congressional committees referred to in this subparagraph are the following:

(i) The Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives.

(ii) The Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate.

SEC. 1505. STUDIES RELATING TO UNITED STATES COUNTERPROLIFERATION POLICY.

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 1503 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 5859a; 107 Stat. 1841) is amended by striking out "During fiscal year 1994, the Secretary" and inserting in lieu thereof "The Secretary".

(b) REVISION OF REPORTING REQUIREMENT.—Such section is further amended—

(1) by striking out subsections (d) and (e);

(2) by redesignating subsection (f) as subsection (d); and

(3) in subsection (d) (as so redesignated)—

(A) by striking "and not later than October 30 of each year"; and

(B) by striking out "six-month" and inserting in lieu thereof "twelve-month".

(c) FISCAL YEAR 1995 AMOUNT.—Of the funds authorized to be appropriated by section 201(4) for technical studies, support, and analysis (PE 605104D), up to $2,000,000 shall be available for studies relating to United States counterproliferation policy.

SEC. 1506. RESTRICTION RELATING TO SUBMISSION OF REPORT ON PROLIFERATION OF FOREIGN MILITARY SATELLITES.

None of the funds available to the Department of Defense may be expended for travel by the Assistant Secretary of Defense for International Security Policy until the Secretary of Defense submits to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2560).

SEC. 1507. LIMITATION ON FUNDS FOR STUDIES PENDING RECEIPT OF PREVIOUSLY REQUIRED REPORT.

(a) LIMITATION.—Of the total amount specified in section 1505 for counterproliferation activities for fiscal year 1995, $1,000,000 shall be withheld from obligation until the report described in subsection (b) has been submitted to Congress.

(b) REPORT.—The report referred to in subsection (a) is the report required to be submitted to Congress not later than May 30, 1994, pursuant to section 1422 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1829).

SEC. 1508. SENSE OF CONGRESS CONCERNING INDEFINITE EXTENSION OF NUCLEAR NON-PROLIFERATION TREATY.

(a) FINDINGS.—Congress makes the following findings:

(1) The Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, D.C., London, and Moscow on July 1, 1968, is the centerpiece of global efforts to prevent the spread of nuclear weapons.

(2) The United States has demonstrated longstanding support for that treaty and related efforts to prevent the spread of nuclear weapons.

(3) President Clinton has declared that preventing the spread of nuclear weapons is one of the highest priorities of his Administration.

(4) In April 1995, the parties to the Treaty on the Non-Proliferation of Nuclear Weapons will convene a conference in New York City to discuss the indefinite extension of the treaty.

(5) The policy of the President is to seek at that conference the indefinite and unconditional extension of that treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President has the full support of Congress in seeking the indefinite and unconditional extension of the Treaty on the Non-Proliferation of Nuclear Weapons;

(2) the President, when formulating and implementing other elements of nonproliferation policy of the United States (including United States counterproliferation doctrine, the Nuclear Posture Review, and nuclear testing policy), should take into account the objectives of the United States at the 1995 conference of the parties to the Treaty on the Non-Proliferation of Nuclear Weapons; and

(3) the President and the President's senior national security advisers should dedicate themselves to ensuring the indefinite and unconditional extension of the Treaty on the Non-Proliferation of Nuclear Weapons at the 1995 conference for that treaty.

SEC. 1509. NEGOTIATION OF LIMITATIONS ON NUCLEAR WEAPONS TESTING.

(a) FINDINGS.—Congress makes the following findings:

(1) On January 25, 1994, the United States and 37 other nations began negotiations for a comprehensive treaty to ban permanently all nuclear weapons testing.

(2) On March 14, 1994, the President extended the current United States moratorium on nuclear weapons testing through September 1995.

(3) The United States is seeking to extend indefinitely the Treaty on the Non-Proliferation of Nuclear Weapons at the conference of the parties to the Treaty to be held in New York City in April 1995.

(4) Conclusion of a comprehensive nuclear test ban treaty could contribute toward successful negotiations to extend the Treaty on the Non-Proliferation of Nuclear Weapons.

(5) Agreements to eliminate nuclear weapons testing and to control the spread of nuclear weapons could contribute to the national security of the United States, its allies, and other nations around the world.

(b) STATEMENT OF CONGRESSIONAL POLICY.—In view of the findings set forth in subsection (a), Congress—

(1) applauds the President for maintaining the United States moratorium on nuclear weapons testing and for taking a leadership role toward negotiation of a comprehensive nuclear test ban treaty;

(2) encourages all nuclear powers to refrain from conducting nuclear explosions, before the conclusion of a comprehensive nuclear test ban treaty; and

(3) urges the Conference on Disarmament to make all possible progress toward a comprehensive nuclear test ban treaty by the end of 1994.

TITLE XVI—RESERVE OFFICER PERSONNEL MANAGEMENT ACT (ROPMA)

SEC. 1601. SHORT TITLE.

This title may be cited as the "Reserve Officer Personnel Management Act".

SEC. 1602. REFERENCES TO TITLE 10, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

Subtitle A—Reserve Officer Personnel Management

PART I—REVISED AND STANDARDIZED RESERVE OFFICER PERSONNEL SYSTEM

SEC. 1611. PROMOTION AND RETENTION OF RESERVE OFFICERS.

Title 10, United States Code, is amended by adding at the end the following new subtitle:

"Subtitle E—Reserve Components

"PART I—ORGANIZATION AND ADMINISTRATION

"Chap. Sec.
"1001. Definitions 10001
"1003. Reserve Components Generally .. 10101
"1005. Elements of Reserve Components 10141
"1007. Administration of Reserve Components 10201
"1009. Reserve Forces Policy Boards and Committees 10301
"1011. National Guard Bureau 10501
"1013. Budget Information and Annual Reports to Congress 10541

"PART II—PERSONNEL GENERALLY

"1201. Authorized Strengths and Distribution in Grade 12001
"1203. Enlisted Members 12101
"1205. Appointment of Reserve Officers 12201
"1207. Warrant Officers 12241
"1209. Active Duty 12301
"1211. National Guard Members in Federal Service 12401
"1213. Special Appointments, Assignments, Details, and Duties 12501
"1215. Miscellaneous Prohibitions and Penalties [No present sections] .....
"1217. Miscellaneous Rights and Benefits 12601
"1219. Standards and Procedures for Retention and Promotion 12641
"1221. Separation 12681
"1223. Retired Pay for Non-Regular Service 12731
"1225. Retired Grade 12771

"PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST

"1401. Applicability and Reserve Active-Status Lists 14001
"1403. Selection Boards 14101
"1405. Promotions 14301
"1407. Failure of Selection for Promotion and Involuntary Separation 14501
"1409. Continuation of Officers on the Reserve-Active Status List and Selective Early Removal 14701
"1411. Additional Provisions Relating to Involuntary Separation 14901

"PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

"1601. Training Generally [No present sections] .....

"1606. Educational Assistance for Members of the Selected Reserve 16131
"1608. Health Professions Stipend Program 16201
"1609. Education Loan Repayments 16301

"PART V—SERVICE, SUPPLY, AND PROCUREMENT

"1801. Issue of Serviceable Material to Reserve Components [No present sections] .....
"1803. Facilities for Reserve Components 18231
"1805. Miscellaneous Provisions 18501

"PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST

"Chap. Sec.
"1401. Applicability and Reserve Active-Status Lists 14001
"1403. Selection Boards 14101
"1405. Promotions 14301
"1407. Failure of Selection for Promotion and Involuntary Separation 14501
"1409. Continuation of Officers on the Reserve Active-Status List and Selective Early Removal 14701
"1411. Additional Provisions Relating to Involuntary Separation 14901

"CHAPTER 1401—APPLICABILITY AND RESERVE ACTIVE-STATUS LISTS

"Sec.
"14001. Applicability of this part.
"14002. Reserve active-status lists: requirement for each armed force.
"14003. Reserve active-status lists: position of officers on the list.
"14004. Reserve active-status lists: eligibility for Reserve promotion.
"14005. Competitive categories.
"14006. Determination of years in grade.

"§14001. Applicability of this part

"This chapter and chapters 1403 through 1411 of this title apply, as appropriate, to all reserve officers of the Army, Navy, Air Force, and Marine Corps except warrant officers.

"§14002. Reserve active-status lists: requirement for each armed force

"(a) The Secretary of each military department shall maintain a single list, to be known as the reserve active-status list, for each armed force under the Secretary's jurisdiction. That list shall include the names of all reserve officers of that armed force who are in an active status other than those on an active-duty list described in section 620 of this title or warrant officers (including commissioned warrant officers).

"(b) The reserve active-status list for the Army shall include officers in the Army Reserve and the Army National Guard of the United States. The reserve active-status list for the Air Force shall include officers in the Air Force Reserve and the Air National Guard of the United States. The Secretary of the Navy shall maintain separate lists for the Naval Reserve and the Marine Corps Reserve.

"§14003. Reserve active-status: position of officers on the list

"(a) POSITION ON LIST.—Officers shall be carried on the reserve active-status list of the armed force of which they are members in the order of seniority of the grade in which they are serving in an active status. Officers serving in the same grade shall be carried in the order of their rank in that grade.

"(b) EFFECT ON POSITION HELD BY REASON OF TEMPORARY APPOINTMENT OR ASSIGNMENT.—An officer whose position on the reserve active-status list results from service under a temporary appointment or in a grade held by reason of assignment to a position has, when that appointment or assignment ends, the grade and position on that list that the officer would have held if the officer had not received that appointment or assignment.

"§14004. Reserve active-status lists: eligibility for Reserve promotion

"Except as otherwise provided by law, an officer must be on a reserve active-status list to be eligible under chapter 1405 of this title for consideration for selection for promotion or for promotion.

"§14005. Competitive categories

"Each officer whose name appears on a reserve active-status list shall be placed in a competitive category. The competitive categories for each armed force shall be specified by the Secretary of the military department concerned under regulations prescribed by the Secretary of Defense. Officers in the same competitive category shall compete among themselves for promotion.

"§14006. Determination of years in grade

"For the purpose of chapters 1403 through 1411 of this title, an officer's years of service in a grade are computed from the officer's date of rank in grade as determined under section 741(d) of this title.

"CHAPTER 1403—SELECTION BOARDS

"Sec.
"14101. Convening of selection boards.
"14102. Selection boards: appointment and composition.
"14103. Oath of members.
"14104. Confidentiality of board proceedings.
"14105. Notice of convening of selection board.
"14106. Communication with board by officers under consideration.
"14107. Information furnished by the Secretary concerned to promotion boards.
"14108. Recommendations by promotion boards.
"14109. Reports of promotion boards: in general.
"14110. Reports of promotion boards: review by Secretary.
"14111. Reports of selection boards: transmittal to President.
"14112. Dissemination of names of officers selected.

"§14101. Convening of selection boards

"(a) PROMOTION BOARDS.—(1) Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned shall convene a selection board to recommend for promotion to the next higher grade, under chapter 1405 of this title, officers on the reserve active-status list of that armed force in a permanent grade from first lieutenant through brigadier general or, in the case of the Naval Reserve, lieutenant (junior grade) through rear admiral (lower half). A selection board convened under this subsection shall be known as a 'promotion board'.

"(2) A promotion board convened to recommend reserve officers of the Army or reserve officers of the Air Force for promotion (A) to fill a position vacancy under section 14315 of this title, or (B) to the grade of brigadier general or major general, shall (except in the case of a board convened to consider officers as provided in section 14301(e) of this title) be known as a 'vacancy promotion board'. Any other promotion board convened under this subsection shall be known as a 'mandatory promotion board'.

"(b) CONTINUATION BOARDS.—Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned may convene a selection board to recommend officers of that armed force—

"(1) for continuation on the reserve active-status list under section 14701 of this title;

"(2) for selective early removal from the reserve active-status list under section 14704 of this title; or

"(3) for selective early retirement under section 14705 of this title.

A selection board convened under this subsection shall be known as a 'continuation board'.

"§14102. Selection boards: appointment and composition

"(a) APPOINTMENT.—Members of selection boards convened under section 14101 of this title shall be appointed by the Secretary of the military department concerned in accordance with this section. Promotion boards and special selection boards shall consist of five or more officers. Continuation boards shall consist of three or more officers. All of the officers of any such selection board shall be of the same armed force as the officers under consideration by the board.

"(b) COMPOSITION.—At least one-half of the members of such a selection board shall be reserve officers, to include at least one reserve officer from each reserve component from which officers are to be considered by the board. Each member of a selection board must hold a permanent grade higher than the grade of the officers under consideration by the board, and no member of a board may hold a grade below major or lieutenant commander.

"(c) REPRESENTATION OF COMPETITIVE CATEGORIES.—(1) Except as provided in paragraph (2), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

"(2) A selection board need not include an officer from a competitive category to be considered by the board if there is no officer of that competitive category on the reserve active-status list or the active-duty list in a permanent grade higher than the grade of the officers to be considered by the board and otherwise eligible to serve on the board. However, in such a case, the Secretary of the military department concerned, in his discretion, may appoint as a member of the board a retired officer of that competitive category who is in the same armed force as the officers under consideration by the board who holds a higher grade than the grade of the officers under consideration.

"(d) PROHIBITION OF SERVICE ON CONSECUTIVE PROMOTION BOARDS.—No officer may be a member of two successive promotion boards convened under section 14101(a) of this title for the consideration of officers of the same competitive category and grade if the second of the two boards is to consider any officer who was considered and not recommended for promotion to the next higher grade by the first of the two boards.

"§14103. Oath of members

"Each member of a selection board convened under section 14101 of this title shall take an oath to perform the duties of a member of the board without prejudice or partiality, having in view both the special fitness of officers and the efficiency of the member's armed force.

"§14104. Confidentiality of board proceedings

"Except as otherwise authorized or required by law, the proceedings of a selection board convened under section 14101 of this title may not be disclosed to any person not a member of the board.

"§14105. Notice of convening of promotion board

"(a) REQUIRED NOTICE.—At least 30 days before a promotion board is convened under section 14101(a) of this title to consider officers in a grade and competitive category for promotion to the next higher grade, the Secretary concerned shall either (1) notify in writing the officers eligible for consideration by the board for promotion regarding the convening of the board, or (2) issue a general written notice to the armed force concerned regarding the convening of the board.

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(b) CONTENT OF NOTICE.—A notice under subsection (a) shall include the date on which the board is to convene and (except in the case of a vacancy promotion board) the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notice.

"§14106. Communication with board by officers under consideration

"Subject to regulations prescribed by the Secretary of the military department concerned, an officer eligible for consideration by a promotion board convened under section 14101(a) of this title who is in the promotion zone or above the promotion zone, or who is to be considered by a vacancy promotion board, may send a written communication to the board calling attention to any matter concerning the officer which the officer considers important to the officer's case. Any such communication shall be sent so as to arrive not later than the date on which the board convenes. The board shall give consideration to any timely communication under this section.

"§14107. Information furnished by the Secretary concerned to promotion boards

"(a) INTEGRITY OF THE PROMOTION SELECTION BOARD PROCESS.—(1) The Secretary of Defense shall prescribe regulations governing information furnished to selection boards convened under section 14101(a) of this title. Those regulations shall apply uniformly among the military departments. Any regulations prescribed by the Secretary of a military department to supplement those regulations may not take effect without the approval of the Secretary of Defense in writing.

"(2) No information concerning a particular eligible officer may be furnished to a selection board except for the following:

"(A) Information that is in the officer's official military personnel file and that is provided to the selection board in accordance with the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).

"(B) Other information that is determined by the Secretary of the military department concerned, after review by that Secretary in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1), to be substantiated, relevant information that could reasonably and materially affect the deliberations of the promotion board.

"(C) Subject to such limitations as may be prescribed in those regulations, information communicated to the board by the officer in accordance with this section, section 14106 of this title (including any comment on information referred to in subparagraph (A) regarding that officer), or other applicable law.

"(D) A factual summary of the information described in subparagraphs (A), (B), and (C) that, in accordance with the regulations prescribed pursuant to paragraph (1) is prepared by administrative personnel for the purpose of facilitating the work of the selection board.

"(3) Information provided to a promotion board in accordance with paragraph (2) shall be made available to all members of the board and shall be made a part of the record of the board. Communication of such information shall be in a written form or in the form of an audio or video recording. If a communication is in the form of an audio or video recording, a written transcription of the recording shall also be made a part of the record of the promotion board.

"(4) Paragraphs (2) and (3) do not apply to the furnishing of appropriate administrative processing information to the promotion board by an administrative staff designated to assist the board, but only to the extent that oral communications are necessary to facilitate the work of the board.

"(5) Information furnished to a promotion board that is described in subparagraph (B), (C), or (D) of paragraph (2) may not be furnished to a later promotion board unless—

"(A) the information has been properly placed in the official military personnel file of the officer concerned; or

"(B) the information is provided to the later selection board in accordance with paragraph (2).

"(6)(A) Before information described in paragraph (2)(B) regarding an eligible officer is furnished to a selection board, the Secretary of the military department concerned shall ensure—

"(i) that such information is made available to such officer; and

"(ii) that the officer is afforded a reasonable opportunity to submit comments on that information to the promotion board.

"(B) If an officer cannot be given access to the information referred to in subparagraph (A) because of its classification status, the officer shall, to the maximum extent practicable, be furnished an appropriate summary of the information.

"(b) INFORMATION TO BE FURNISHED.—The Secretary of the military department concerned shall furnish to a promotion board convened under section 14101(a) of this title the following:

"(1) In the case of a mandatory promotion board, the maximum number (as determined in accordance with section 14307 of this title) of officers in each competitive category under consideration that the board is authorized to recommend for promotion to the next higher grade.

"(2) The name of each officer in each competitive category under consideration who is to be considered by the board for promotion.

"(3) The pertinent records (as determined by the Secretary) of each officer whose name is furnished to the board.

"(4) Information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including (except in the case of a vacancy promotion board) guidelines or information relating to either a minimum number or a maximum number of officers with particular skills within a competitive category.

"(5) Such other information or guidelines as the Secretary concerned may determine to be necessary to enable the board to perform its functions.

"(c) LIMITATION ON MODIFYING FURNISHED INFORMATION.—Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits its report to the Secretary of the military department concerned pursuant to section 14109(a) of this title. However, in the case of a report returned to a board pursuant to section 14110(a) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in that section.

"(d) OFFICERS IN HEALTH-PROFESSIONS COMPETITIVE CATEGORIES.—The Secretary of each military department, under uniform regulations prescribed by the Secretary of Defense, shall include in guidelines furnished to a promotion board convened under section 14101(a) of this title that is considering officers in a health-professions competitive category for promotion to a grade below colonel or, in the case of officers of the Naval Reserve, captain, a direction that the board give consideration to an officer's clinical proficiency and skill as a health professional to at least as great an extent as the board gives to the officer's administrative and management skills.

"§14108. Recommendations by promotion boards

"(a) RECOMMENDATION OF BEST QUALIFIED OFFICERS.—A promotion board convened under section 14101(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board considers best qualified for promotion within each competitive category considered by the board or, in the case of a vacancy promotion board, among those officers considered to fill a vacancy. In determining those officers who are best qualified for promotion, the board shall give due consideration to the needs of the armed force concerned for officers with particular skills (as noted in the guidelines or information furnished the board under sections 14107 of this title).

"(b) MAJORITY REQUIRED.—A promotion board convened under section 14101(a) of this title may not recommend an officer for promotion unless—

"(1) the officer receives the recommendation of a majority of the members of the board; and

"(2) a majority of the members of the board finds that the officer is fully qualified for promotion.

"(c) BOARD RECOMMENDATION REQUIRED FOR PROMOTION.—Except as otherwise provided by law, an officer on the reserve active-status list may not be promoted to a higher grade under chapter 1405 of this title unless the officer is considered and recommended for promotion to that grade by a promotion board convened under section 14101(a) of this title (or by a special selection board convened under section 14502 of this title).

"(d) DISCLOSURE OF BOARD RECOMMENDATIONS.—The recommendations of a promotion board may be disclosed only in accordance with regulations prescribed by the Secretary of Defense. Those recommendations may not be disclosed to a person not a member of the board (or a member of the administrative staff designated by the Secretary concerned to assist the board) until the written report of the recommendations of the board, required by section 14109 of this title, is signed by each member of the board.

"(e) PROHIBITION OF COERCION AND UNAUTHORIZED INFLUENCE OF ACTIONS OF BOARD MEMBERS.—The Secretary convening a promotion board under section 14101(a) of this title, and an officer or other official exercising authority over any member of a selection board, may not—

"(1) censure, reprimand, or admonish the selection board or any member of the board with respect to the recommendations of the board or the exercise of any lawful function within the authorized discretion of the board; or

"(2) attempt to coerce or, by any unauthorized means, influence any action of a promotion board or any member of a promotion board in the formulation of the board's recommendations.

"§14109. Reports of promotion boards: in general

"(a) REPORT OF OFFICERS RECOMMENDED FOR PROMOTION.—Each promotion board convened under section 14101(a) of this title shall submit to the Secretary of the military department concerned a report in writing containing a list of the names of the officers recommended by the board for promotion. The report shall be signed by each member of the board.

"(b) CERTIFICATION.—Each report under subsection (a) shall include a certification—

"(1) that the board has carefully considered the record of each officer whose name was furnished to the board; and

"(2) that, in the case of a promotion board convened under section 14101(a) of this title, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the armed force concerned (as noted in the guidelines or information furnished the board under section 14107 of this title) among those officers whose names were furnished to the selection board.

"(c) SHOW-CAUSE RECOMMENDATIONS.—(1) A promotion board convened under section 14101(a) of this title shall include in its report to the Secretary concerned the name of any reserve officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required to show cause for retention in an active status.

"(2) If such a report names an officer as having a record which indicates that the officer should be required to show cause for retention, the Secretary concerned may provide for the review of the record of that officer as provided under regulations prescribed under section 14902 of this title.

"§14110. Reports of promotion boards: review by Secretary

"(a) REVIEW OF REPORT.—Upon receipt of the report of a promotion board submitted under section 14109(a) of this title, the Secretary of the military department concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title. Following that review, unless the Secretary concerned makes a determination as described in subsection (b), the Secretary shall submit the report as required by section 14111 of this title.

"(b) RETURN OF REPORT FOR FURTHER PROCEEDINGS.—If, on the basis of a review of the report under subsection (a), the Secretary of the military department concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this subsection, the selection board (or a subsequent selection board convened under section 14101(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 14109 of this title.

"§14111. Reports of selection boards: transmittal to President

"(a) TRANSMITTAL TO PRESIDENT.—The Secretary concerned, after final review of the report of a selection board under section 14110 of this title, shall submit the report with the Secretary's recommendations, to the Secretary of Defense for transmittal by the Secretary to the President for approval or disapproval. If the authority of the President to approve or disapprove the report of a promotion board is delegated to the Secretary of Defense, that authority may not be redelegated except to an official in the Office of the Secretary of Defense.

"(b) REMOVAL OF NAME FROM BOARD REPORT.—The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President.

"(c) RECOMMENDATIONS FOR REMOVAL OF SELECTED OFFICERS FROM REPORT.—If the Secretary of a military department or the Secretary of Defense makes a recommendation under this section that the name of an officer be removed from the report of a promotion board and the recommendation is accompanied by information that was not presented to that promotion board, that information shall be made available to that officer. The officer shall then be afforded a reasonable opportunity to submit comments on that information to the officials making the recommendation and the officials reviewing the recommendation. If an eligible officer cannot be given access to such information because of its classification status, the officer shall, to the maximum extent practicable, be provided with an appropriate summary of the information.

"§14112. Dissemination of names of officers selected

"Upon approval by the President of the report of a promotion board, the names of the officers recommended for promotion by the promotion board (other than any name removed by the President) may be disseminated to the armed force concerned. If those names have not been sooner disseminated, those names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate.

"CHAPTER 1405—PROMOTIONS

"Sec.
"14301. Eligibility for consideration for promotion: general rules.
"14302. Promotion zones.
"14303. Eligibility for consideration for promotion: minimum years of service in grade.
"14304. Eligibility for consideration for promotion: maximum years of service in grade.
"14305. Establishment of promotion zones: mandatory consideration for promotion.
"14306. Establishment of promotion zones: Naval Reserve and Marine Corps Reserve running mate system.
"14307. Numbers of officers to be recommended for promotion.
"14308. Promotions: how made.
"14309. Acceptance of promotion: oath of office.
"14310. Removal of officers from a list of officers recommended for promotion.
"14311. Delay of promotion: involuntary.
"14312. Delay of promotion: voluntary.
"14313. Authority to vacate promotions to grade of brigadier general or rear admiral (lower half).
"14314. Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; state adjutants general.
"14315. Position vacancy promotions: Army and Air Force officers.
"14316. Army National Guard and Air National Guard: appointment to and Federal recognition in a higher reserve grade after selection for promotion.
"14317. Officers in transition to and from the active-status list or active-duty list.

"§14301. Eligibility for consideration for promotion: general rules

"(a) ONE-YEAR RULE.—An officer is eligible under this chapter for consideration for promotion by a promotion board convened under section 14101(a) of this title only if—

"(1) the officer is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps; and

"(2) during the one-year period ending on the date of the convening of the promotion board the officer has continuously performed service on either the reserve active-status list or the active-duty list (or on a combination of both lists).

"(b) REQUIREMENT FOR CONSIDERATION OF ALL OFFICERS IN AND ABOVE THE ZONE.—Whenever a promotion board (other than a vacancy promotion board) is convened under section 14101(a) of this title for consideration of officers in a competitive category who are eligible under this chapter for consideration for promotion to the next higher grade, each officer in the promotion zone, and each officer above the promotion zone, for that grade and competitive category shall be considered for promotion.

"(c) PREVIOUSLY SELECTED OFFICERS NOT ELIGIBLE TO BE CONSIDERED.—A promotion board convened under section 14101(a) of this title may not consider for promotion to the next higher grade—

"(1) an officer whose name is on a promotion list for that grade as a result of recommendation for promotion to that grade by an earlier selection board convened under that section or section 14502 of this title or under chapter 36 of this title;

"(2) an officer who has been approved for Federal recognition by a board convened under section 307 of title 32 and nominated by the President for promotion to the next higher grade as a reserve of the Army or of the Air Force as the case may be; or

"(3) an officer who has been nominated by the President for promotion to the next higher grade under any other provision of law.

"(d) OFFICERS BELOW THE ZONE.—The Secretary of the military department concerned may, by regulation, prescribe procedures to limit the officers to be considered by a selection board from below the promotion zone to those officers who are determined to be exceptionally well qualified for promotion. The regulations shall include criteria for determining which officers below the promotion zone are exceptionally well qualified for promotion.

"(e) RESERVE OFFICERS OF THE ARMY; CONSIDERATION FOR BRIGADIER GENERAL AND MAJOR GENERAL.—In the case of officers of the Army, if the Secretary of the Army determines that vacancies are authorized or anticipated in the reserve grades of major general or brigadier general for officers who are on the reserve active-status list and who are not assigned to units organized to serve as a unit and the Secretary convenes a mandatory promotion board under section 14101(a) of this title to consider officers for promotion to fill such vacancies, the Secretary may limit the officers to be considered by that board to those determined to be exceptionally well qualified for promotion under such criteria and procedures as the Secretary may by regulation prescribe.

"(f) CERTAIN RESERVE OFFICERS OF THE AIR FORCE.—A reserve officer of the Air Force who (1) is in the Air National Guard of the United States and holds the grade of lieutenant colonel, colonel, or brigadier general, or (2) is in the Air Force Reserve and holds the grade of colonel or brigadier general, is not eligible for consideration for promotion by a mandatory promotion board convened under section 14101(a) of this title.

"(g) NONCONSIDERATION OF OFFICERS SCHEDULED FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—The Secretary of the military department concerned may, by regulation, provide for the exclusion from consideration for promotion by a promotion board of any officer otherwise eligible to be considered by the board who has an established date for removal from the reserve active-status list that is not more than 90 days after the date on which the selection board for which the officer would otherwise be eligible is to be convened.

"§14302. Promotion zones

"(a) PROMOTION ZONES GENERALLY.—For purposes of this chapter, a promotion zone is an eligibility category for the consideration of officers by a mandatory promotion board. A promotion zone consists of those officers on the reserve active-status list who are in the same grade and competitive category and who meet the requirements of both paragraphs (1) and (2) or the requirements of paragraph (3), as follows:

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(1)(A) In the case of officers in grades below colonel, for reserve officers of the Army, Air Force, and Marine Corps, or captain, for officers of the Naval Reserve, those who have neither (i) failed of selection for promotion to the next higher grade, nor (ii) been removed from a list of officers recommended for promotion to that grade.

"(B) In the case of officers in the grade of colonel or brigadier general, for reserve officers of the Army and Marine Corps, or in the grade of captain or rear admiral (lower half), for reserve officers of the Navy, those who have neither (i) been recommended for promotion to the next higher grade when considered in the promotion zone, nor (ii) been removed from a list of officers recommended for promotion to that grade.

"(2) Those officers who are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to the next higher grade and the officer so designated.

"(3) Those officers who—

"(A) have been selected from below the zone for promotion to the next higher grade or by a vacancy promotion board, but whose names were removed from the list of officers recommended for promotion to that next higher grade resulting from that selection;

"(B) have not failed of selection for promotion to that next higher grade; and

"(C) are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to that next higher grade and the officer so designated.

"(b) OFFICERS ABOVE THE ZONE.—Officers on the reserve active-status list are considered to be above the promotion zone for a grade and competitive category if they—

"(1) are eligible for consideration for promotion to the next higher grade;

"(2) are in the same grade as those officers in the promotion zone for that competitive category; and

"(3) are senior to the senior officer in the promotion zone for that competitive category.

"(c) OFFICERS BELOW THE ZONE.—Officers on the reserve active-status list are considered to be below the promotion zone for a grade and competitive category if they—

"(1) are eligible for consideration for promotion to the next higher grade;

"(2) are in the same grade as those officers in the promotion zone for that competitive category; and

"(3) are junior to the junior officer in the promotion zone for that competitive category.

"§14303. Eligibility for consideration for promotion: minimum years of service in grade

"(a) OFFICERS IN PAY GRADES O–1 AND O–2.—An officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant as a reserve officer of the Army, Air Force, or Marine Corps, or in the grade of ensign or lieutenant (junior grade) as a reserve officer of the Navy, may not be promoted to the next higher grade, or granted Federal recognition in that grade, until the officer has completed the following years of service in grade:

"(1) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

"(2) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade).

"(b) OFFICERS IN PAY GRADES O–3 AND ABOVE.—Subject to subsection (d), an officer who is on the reserve active-status list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant, or who is on the reserve active-status list of the Navy in a grade above lieutenant (junior grade), may not be considered for selection for promotion to the next higher grade, or examined for Federal recognition in the next higher grade, until the officer has completed the following years of service in grade:

"(1) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

"(2) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of colonel or brigadier general or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of captain or rear admiral (lower half).

This subsection does not apply to an adjutant general or assistant adjutant general of a State or to an appointment in a higher grade which is based upon a specific provision of law.

"(c) AUTHORITY TO LENGTHEN MINIMUM PERIOD IN GRADE.—The Secretary concerned may prescribe a period of service in grade for eligibility for promotion, in the case of officers to whom subsection (a) applies, or for eligibility for consideration for promotion, in the case of officers to whom subsection (b) applies, that is longer than the applicable period specified in that subsection.

"(d) WAIVERS TO ENSURE TWO BELOW-THE-ZONE CONSIDERATIONS.—Subject to section 14307(b) of this title, the Secretary of the military department concerned may waive subsection (b) to the extent necessary to ensure that officers described in paragraph (1) of that subsection have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

"§14304. Eligibility for consideration for promotion: maximum years of service in grade

"(a) CONSIDERATION FOR PROMOTION WITHIN SPECIFIED TIMES.—(1) Officers described in paragraph (3) shall be placed in the promotion zone for that officer's grade and competitive category, and shall be considered for promotion to the next higher grade by a promotion board convened under section 14101(a) of this title, far enough in advance of completing the years of service in grade specified in the following table so that, if the officer is recommended for promotion, the promotion may be effective on or before the date on which the officer will complete those years of service.

"Current Grade	Maximum years of service in grade
"First lieutenant or Lieutenant (junior grade)	5 years
"Captain or Navy Lieutenant	7 years
"Major or Lieutenant commander	7 years

"(2) Paragraph (1) is subject to subsections (a), (b), and (c) of section 14301 of this title and applies without regard to vacancies.

"(3) Paragraph (1) applies to an officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and who holds a permanent appointment in the grade of first lieutenant, captain, or major as a reserve of the Army, Air Force, or Marine Corps, or to an officer on the reserve active-status list of the Navy in the grade of lieutenant (junior grade), lieutenant, or lieutenant commander as a reserve of the Navy, and who, while holding that appointment, has not been considered by a selection board convened under section 14101(a) or 14502 of this title for promotion to the next higher grade.

"(b) PROMOTION DATE.—An officer holding a permanent grade specified in the table in subsection (a) who is recommended for promotion to the next higher grade by a selection board the first time the officer is considered for promotion while in or above the promotion zone and who is placed on an approved promotion list established under section 14308(a) of this title shall (if not promoted sooner or removed from that list by the President or by reason of declination) be promoted, without regard to the existence of a vacancy, on the date on which the officer completes the maximum years of service in grade specified in subsection (a). The preceding sentence is subject to the limitations of section 12011 of this title.

"(c) WAIVER AUTHORITY FOR NAVY AND MARINE CORPS RUNNING MATE SYSTEM.—If the Secretary of the Navy establishes promotion zones for officers on the reserve active-status list of the Navy or the Marine Corps Reserve in accordance with a running mate system under section 14306 of this title, the Secretary may waive the requirements of subsection (a) to the extent the Secretary considers necessary in any case in which the years of service for promotion, or for consideration for promotion, within those zones will exceed the maximum years of service in grade specified in subsection (a).

"§14305. Establishment of promotion zones: mandatory consideration for promotion

"(a) ESTABLISHMENT OF ZONE.—Before convening a mandatory promotion board under section 14101(a) of this title, the Secretary of the military department concerned shall establish a promotion zone for officers serving in each grade and competitive category to be considered by the board.

"(b) NUMBER IN THE ZONE.—The Secretary concerned shall determine the number of officers in the promotion zone for officers serving in any grade and competitive category from among officers who are eligible for promotion in that grade and competitive category under the provisions of sections 14303 and 14304 of this title and who are otherwise eligible for promotion.

"(c) FACTORS IN DETERMINING NUMBER IN THE ZONE.—The Secretary's determination under subsection (b) shall be made on the basis of an estimate of the following:

"(1) The number of officers needed in that competitive category in the next higher grade in each of the next five years.

"(2) In the case of a promotion zone for officers to be promoted to a grade to which the maximum years of in grade criteria established in section 14304 of this title apply, the number of officers in that competitive category who are required to be considered for selection for promotion to the next higher grade under that section.

"(3) The number of officers that should be placed in the promotion zone in each of the next five years to provide to officers in those years relatively similar opportunities for promotion.

"§14306. Establishment of promotion zones: Naval Reserve and Marine Corps Reserve running mate system

"(a) AUTHORITY OF SECRETARY OF THE NAVY.—The Secretary of the Navy may by regulation implement section 14305 of this title by requiring that the promotion zone for consideration of officers on the reserve active-status list of the Navy or the Marine Corps for promotion to the next higher grade be determined in accordance with a running mate system as provided in subsection (b).

"(b) ASSIGNMENT OF RUNNING MATES.—An officer to whom a running mate system applies shall be assigned as a running mate an officer of the same grade on the active-duty list of the same armed force. The officer on the reserve active-status list is in the promotion zone and is eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title when that officer's running mate is in or above the promotion zone established for that officer's grade under chapter 36 of this title.

"(c) CONSIDERATION OF OFFICERS BELOW THE ZONE UNDER A RUNNING MATE SYSTEM.—If the Secretary of the Navy authorizes the selection of officers for promotion from below the promotion zone in accordance with section 14307 of this title, the number of officers to be considered from below the zone may be established through the application of the running mate system or otherwise as the Secretary determines to be appropriate to meet the needs of the Navy or Marine Corps.

"§14307. Number of officers to be recommended for promotion

"(a) DETERMINATION OF MAXIMUM NUMBER.—Before convening a promotion board under section 1410I(a) of this title for a grade and competitive category (other than a vacancy promotion board), the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, shall determine the maximum number of officers in that grade and competitive category that the board may recommend for promotion. The Secretary shall make the determination under the preceding sentence of the maximum number that may be recommended with a view to having on the reserve active-status list a sufficient number of officers in each grade and competitive category to meet the needs of the armed force concerned for officers on that list. In order to make that determination, the Secretary shall determine (1) the number of positions needed to accomplish mission objectives which require officers of such competitive category in the grade to which the board will recommend officers for promotion, (2) the estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted, (3) the number of officers authorized by the Secretary of the military department concerned to serve on the reserve active-status list in the grade and competitive category under consideration, and (4) any statutory limitation on the number of officers in any grade or category (or combination thereof) authorized to be on the reserve active-status list.

"(b) BELOW-THE-ZONE SELECTIONS.—(1) The Secretary of the military department concerned may, when the needs of the armed force concerned require, authorize the consideration of officers in the grade of captain, major, or lieutenant colonel on the reserve active-status list of the Army or Air Force, in a grade above first lieutenant on the reserve active-status list of the Marine Corps, or in a grade above lieutenant (junior grade) on the reserve active-status list of the Navy, for promotion to the next higher grade from below the promotion zone.

"(2) When selection from below the promotion zone is authorized, the Secretary shall establish the number of officers that may be recommended for promotion from below the promotion zone in each competitive category to be considered. That number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of the armed force concerned so require. If the maximum number determined under this paragraph is less than one, the board may recommend one officer for promotion from below the promotion zone.

"(3) The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers that the board is authorized to recommend for promotion under subsection (a).

"§14308. Promotions: how made

"(a) PROMOTION LIST.—When the report of a selection board convened under section 14101(a) or 14502 of this title is approved by the President, the Secretary of the military department concerned shall place the names of all officers selected for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of seniority of those officers on the reserve active-status list.

"(b) PROMOTION; HOW MADE; ORDER.—(1) Officers on a promotion list for a competitive category shall be promoted in the manner specified in section 12203 of this title.

"(2) Officers on a promotion list for a competitive category shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary of the military department concerned. Except as provided in section 14311, 14312, or 14502(e) of this title or in subsection (d) or (e), promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.

"(3) Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary of the military department concerned.

"(c) DATE OF RANK.—(1) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d)(2) of this title.

"(2) Except as specifically authorized by law, a reserve officer is not entitled to additional pay or allowances if the effective date of the officer's promotion is adjusted to reflect a date earlier than the actual date of the officer's promotion.

"(d) OFFICERS WITH RUNNING MATES.—An officer to whom a running mate system applies under section 14306 of this title and who is selected for promotion is eligible for promotion to the grade for which selected when the officer who is that officer's running mate becomes eligible for promotion under chapter 36 of this title. The effective date of the promotion of that officer shall be the same as that of the officer's running mate in the grade to which the running mate is promoted.

"(e) ARMY RESERVE AND AIR FORCE RESERVE PROMOTIONS TO FILL VACANCIES.—Subject to this section and to section 14311(e) of this title, and under regulations prescribed by the Secretary of the military department concerned—

"(1) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) of this title or a board convened under section 14502 or chapter 36 of this title may be promoted at any time to fill a vacancy in a position to which the officer is assigned; and

"(2) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a vacancy promotion board convened under section 14101(a) of this title may be promoted at any time to fill the vacancy for which the officer was selected.

"(f) EFFECTIVE DATE OF PROMOTION AFTER FEDERAL RECOGNITION.—The effective date of a promotion of a reserve commissioned officer of the Army or the Air Force who is extended Federal recognition in the next higher grade in the Army National Guard or the Air National Guard under section 307 or 310 of title 32 shall be the date on which such Federal recognition in that grade is so extended.

"(g) ARMY AND AIR FORCE GENERAL OFFICER PROMOTIONS.—A reserve officer of the Army who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in that grade in a unit of the Army Reserve that is organized to serve as a unit and that has attained the strength prescribed by the Secretary of the Army. A reserve officer of the Air Force who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Air Force Reserve in that grade.

"§14309. Acceptance of promotion; oath of office

"(a) ACCEPTANCE.—An officer who is appointed to a higher grade under this chapter shall be considered to have accepted the appointment on the date on which the appointment is made unless the officer expressly declines the appointment or is granted a delay of promotion under section 14312 of this title.

"(b) OATH.—An officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this chapter.

"§14310. Removal of officers from a list of officers recommended for promotion

"(a) REMOVAL BY PRESIDENT.—The President may remove the name of any officer from a promotion list at any time before the date on which the officer is promoted.

"(b) REMOVAL FOR WITHHOLDING OF SENATE ADVICE AND CONSENT.—If the Senate does not give its advice and consent to the appointment to the next higher grade of an officer whose name is on a list of officers approved by the President for promotion (except in the case of promotions to a reserve grade to which appointments may be made by the President alone), the name of that officer shall be removed from the list.

"(c) CONTINUED ELIGIBILITY FOR PROMOTION.—An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If that officer is recommended for promotion by the next selection board convened for that officer's grade and competitive category and the officer is promoted, the Secretary of the military department concerned may, upon the promotion, grant the officer the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list, as the officer would have had if the officer's name had not been removed from the list.

"§14311. Delay of promotion: involuntary

"(a) DELAY DURING INVESTIGATIONS AND PROCEEDINGS.—(1) Under regulations prescribed by the Secretary of the military department concerned, the appointment of an officer to a higher grade may be delayed if any of the following applies before the date on which the appointment would otherwise be made:

"(A) Sworn charges against the officer have been received by an officer exercising general court-martial jurisdiction over the officer and the charges have not been disposed of.

"(B) An investigation is being conducted to determine whether disciplinary action of any kind should be brought against the officer.

"(C) A board of officers has been convened under section 14903 of this title to review the record of the officer.

"(D) A criminal proceeding in a Federal or State court of competent jurisdiction is pending against the officer.

"(2) If disciplinary action is not taken against the officer, if the charges against the officer are

VOL 140 PT 16 AG 12 — 18 1994 UMI

withdrawn or dismissed, if the officer is not separated by the Secretary of the military department concerned as the result of having been required to show cause for retention, or if the officer is acquitted of the charges, as the case may be, then (unless action to delay the officer's appointment to the higher grade has been taken under subsection (b)) the officer shall be retained on the promotion list, list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade and shall, upon promotion to the next higher grade, have the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances.

"(b) DELAY FOR LACK OF QUALIFICATIONS.—Under regulations prescribed by the Secretary of the military department concerned, the appointment of an officer to a higher grade may also be delayed if there is cause to believe that the officer is mentally, physically, morally, or professionally unqualified to perform the duties of the grade to which selected. If the Secretary concerned later determines that the officer is qualified for promotion to the higher grade, the officer shall be retained on the promotion list, the list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade, and shall, upon promotion to that grade, have the same date of rank, the same effective date for pay and allowances of that grade, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances.

"(c) NOTICE TO OFFICER.—(1) The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) unless the officer is given written notice of the grounds for the delay. The preceding sentence does not apply if it is impracticable to give the officer written notice before the date on which the appointment to the higher grade would otherwise take effect, but in such a case the written notice shall be given as soon as practicable.

"(2) An officer whose promotion is delayed under subsection (a) or (b) shall be given an opportunity to make a written statement to the Secretary of the military department concerned in response to the action taken. The Secretary shall give consideration to any such statement.

"(d) MAXIMUM LENGTH OF DELAY IN PROMOTION.—The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) for more than six months after the date on which the officer would otherwise have been promoted unless the Secretary concerned specifies a further period of delay. An officer's appointment may not be delayed more than 90 days after final action has been taken in any criminal case against the officer in a Federal or State court of competent jurisdiction or more than 90 days after final action has been taken in any court-martial case against the officer. Except for court action, a promotion may not be delayed more than 18 months after the date on which the officer would otherwise have been promoted.

"(e) DELAY BECAUSE OF LIMITATIONS ON OFFICER STRENGTH IN GRADE OR DUTIES TO WHICH ASSIGNED.—(1) Under regulations prescribed by the Secretary of Defense, the promotion of a reserve officer on the reserve active-status list who is serving on active duty, or who is on full-time National Guard duty for administration of the reserves or the National Guard, to a grade to which the strength limitations of section 12011 of this title apply shall be delayed if necessary to ensure compliance with those strength limitations. The delay shall expire when the Secretary determines that the delay is no longer required to ensure such compliance.

"(2) The promotion of an officer described in paragraph (1) shall also be delayed while the officer is on duty described in that paragraph unless the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, determines that the duty assignment of the officer requires a higher grade than the grade currently held by the officer.

"(3) The date of rank and position on the reserve active-status list of a reserve officer whose promotion to or Federal recognition in the next higher grade was delayed under paragraph (1) or (2) solely as the result of the limitations imposed under the regulations prescribed by the Secretary of Defense or contained in section 12011 of this title shall be the date on which the officer would have been promoted to or recognized in the higher grade had such limitations not existed.

"(4) If an officer whose promotion is delayed under paragraph (1) or (2) completes the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may request release from active duty or full-time National Guard duty. If the request is granted, the officer's promotion shall be effective upon the officer's release from such duty. The date of rank and position on the reserve active-status list of the officer shall be the date the officer would have been promoted to or recognized in the higher grade had the limitations imposed under regulations prescribed by the Secretary of Defense contained in section 12011 of this title not existed. If an officer whose promotion is delayed under paragraph (1) or (2) has not completed the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may be retained on active duty or on full-time National Guard duty in the grade in which the officer was serving before the officer's being found qualified for Federal recognition or the officer's selection for the promotion until the officer completes that required period of duty.

"§14312. Delay of promotion: voluntary

"(a) AUTHORITY FOR VOLUNTARY DELAYS.—(1) The Secretary of the military department concerned may, by regulation, permit delays of a promotion of an officer who is recommended for promotion by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title at the request of the officer concerned. Such delays, in the case of any promotion, may extend for any period not to exceed three years from the date on which the officer would otherwise be promoted.

"(2) Regulations under this section shall provide that—

"(A) a request for such a delay of promotion must be submitted by the officer concerned before the delay may be approved; and

"(B) denial of such a request shall not be considered to be a failure of selection for promotion unless the officer declines to accept a promotion under circumstances set forth in subsection (c).

"(b) EFFECT OF APPROVAL OF REQUEST.—If a request for delay of a promotion under subsection (a) is approved, the officer's name shall remain on the promotion list during the authorized period of delay (unless removed under any other provision of law). Upon the end of the period of the authorized delay, or at any time during such period, the officer may accept the promotion, which shall be effective on the date of acceptance. Such an acceptance of a promotion shall be made in accordance with regulations prescribed under this section.

"(c) EFFECT OF DECLINING A PROMOTION.—An officer's name shall be removed from the promotion list and, if the officer is serving in a grade below colonel or, in the case of the Navy, captain, the officer shall be considered to have failed of selection for promotion if any of the following applies:

"(1) The Secretary concerned has not authorized voluntary delays of promotion under subsection (a) to the grade concerned and the officer declines to accept an appointment to a higher grade.

"(2) The Secretary concerned has authorized voluntary delays of promotion under subsection (a), but has denied the request of the officer for a delay of promotion and the officer then declines to accept an appointment to a higher grade.

"(3) The Secretary concerned has approved the request of an officer for a delay of promotion and, upon the end of the period of delay authorized in accordance with regulations prescribed under subsection (a), the officer then declines to accept an appointment to a higher grade.

"§14313. Authority to vacate promotions to grade of brigadier general or rear admiral (lower half)

"(a) AUTHORITY.—The President may vacate the appointment of a reserve officer to the grade of brigadier general or rear admiral (lower half) if the period of time during which the officer has served in that grade after promotion to that grade is less than 18 months.

"(b) EFFECT OF PROMOTION BEING VACATED.—Except as provided in subsection (c), an officer whose promotion to the grade of brigadier general is vacated under this section holds the grade of colonel as a reserve of the armed force of which the officer is a member. An officer whose promotion to the grade of rear admiral (lower half) is vacated under this section holds the grade of captain in the Naval Reserve. Upon assuming the lower grade, the officer shall have the same position on the reserve active-status list as the officer would have had if the officer had not served in the higher grade.

"(c) SPECIAL RULE FOR OFFICERS SERVING AS ADJUTANT GENERAL.—In the case of an officer serving as an adjutant general or assistant adjutant general whose promotion to the grade of brigadier general is vacated under this section, the officer then holds the reserve grade held by that officer immediately before the officer's appointment as adjutant general or assistant adjutant general.

"§14314. Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; State adjutants general

"(a) GENERAL OFFICERS.—Within 30 days after a reserve officer of the Army or the Air Force on the reserve active-status list in a general officer grade ceases to occupy a position commensurate with that grade (or commensurate with a higher grade), the Secretary concerned shall transfer or discharge the officer in accordance with whichever of the following the officer elects:

"(1) Transfer the officer in grade to the Retired Reserve, if the officer is qualified and applies for the transfer.

"(2) Transfer the officer in grade to the inactive status list of the Standby Reserve, if the officer is qualified.

"(3) Discharge the officer from the officer's reserve appointment and, if the officer is qualified and applies therefor, appoint the officer in the reserve grade held by the officer as a reserve officer before the officer's appointment in a general officer grade.

"(4) Discharge the officer from the officer's reserve appointment.

"(b) ADJUTANTS GENERAL.—If a reserve officer who is federally recognized in the Army National Guard or the Air National Guard solely because of the officer's appointment as adjutant general or assistant adjutant general of a State ceases to occupy that position, the Secretary concerned, not later than 30 days after the date on which the officer ceases to occupy that position, shall—

"(1) withdraw that officer's Federal recognition; and

"(2) require that the officer—

"(A) be transferred in grade to the Retired Reserve, if the officer is qualified and applies for the transfer;

"(B) be discharged from the officer's reserve appointment and appointed in the reserve grade held by the officer as a reserve officer of the Air Force immediately before the appointment of that officer as adjutant general or assistant adjutant general, if the officer is qualified and applies for that appointment; or

"(C) be discharged from the officer's reserve appointment.

"(c) CREDIT FOR SERVICE IN GRADE.—An officer who is appointed under subsection (a)(3) or (b)(2)(B) shall be credited with an amount of service in the grade in which appointed that is equal to the amount of prior service in an active status in that grade and in any higher grade.

"§14315. Position vacancy promotions: Army and Air Force officers

"(a) OFFICERS ELIGIBLE FOR CONSIDERATION FOR VACANCY PROMOTIONS BELOW BRIGADIER GENERAL.—A reserve officer of the Army who is in the Army Reserve, or a Reserve officer of the Air Force who is in the Air Force Reserve, who is on the reserve active-status list in the grade of first lieutenant, captain, major, or lieutenant colonel is eligible for consideration for promotion to the next higher grade under this section if each of the following applies:

"(1) The officer is occupying or, as determined by the Secretary concerned, is available to occupy a position in the same competitive category as the officer and for which a grade higher than the one held by that officer is authorized.

"(2) The officer is fully qualified to meet all requirements for the position as established by the Secretary of the military department concerned.

"(3) The officer has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade.

"(b) CONSIDERATION FOR VACANCY PROMOTION TO BRIGADIER GENERAL OR MAJOR GENERAL.—(1) A reserve officer of the Army who is in the Army Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade in a unit of the Army Reserve organized to serve as a unit, (B) has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade, and (C) meets the standards for consideration prescribed by the Secretary of the Army.

"(2) A reserve officer of the Air Force who is in the Air Force Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade, and (B) meets the standards for consideration prescribed by the Secretary of the Air Force.

"(c) VACANCY PROMOTION BOARDS.—Consideration for promotion under this section shall be by a vacancy promotion board convened under section 14101(a) of this title.

"(d) EFFECT OF NONSELECTION.—An officer who is considered for promotion under this section and is not selected shall not be considered to have failed of selection for promotion.

"(e) SPECIAL RULE FOR OFFICERS FAILED OF SELECTION.—A reserve officer of the Army or the Air Force who is considered as failed of selection for promotion under section 14501 of this title to a grade may be considered for promotion under this section or, if selected, promoted to that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill the vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

"§14316. Army National Guard and Air National Guard: appointment to and Federal recognition in a higher reserve grade after selection for promotion

"(a) OPPORTUNITY FOR PROMOTION TO FILL A VACANCY IN THE GUARD.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States is recommended by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title for promotion to the next higher grade, an opportunity shall be given to the appropriate authority of the State to promote that officer to fill a vacancy in the Army National Guard or the Air National Guard of that jurisdiction.

"(b) AUTOMATIC FEDERAL RECOGNITION.—An officer of the Army National Guard of the United States or the Air National Guard of the United States who is on a promotion list for promotion to the next higher grade as a result of selection for promotion as described in subsection (a) and who before the date of promotion is appointed in that higher grade to fill a vacancy in the Army National Guard or Air National Guard shall—

"(1) be extended Federal recognition in that grade, without the examination prescribed in section 307 of title 32; and

"(2) subject to section 14311(e) of this title, be promoted to that reserve grade effective on the date of the officer's appointment in that grade in the Army National Guard or Air National Guard.

"(c) NATIONAL GUARD OFFICERS FAILED OF SELECTION.—An officer who is considered as failed of selection for promotion under section 14501 of this title to a grade may be extended Federal recognition in that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill a vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

"(d) TRANSFER TO ARMY RESERVE OR AIR FORCE RESERVE.—If, on the date on which an officer of the Army National Guard of the United States or of the Air National Guard of the United States who is on a promotion list as described in subsection (a) is to be promoted, the officer has not been promoted to fill a vacancy in the higher grade in the Army National Guard or the Air National Guard, the officer's Federal recognition in the officer's reserve grade shall be withdrawn and the officer shall be promoted and transferred to the Army Reserve or the Air Force Reserve as appropriate.

"§14317. Officers in transition to and from the active-status list or active-duty list

"(a) EFFECT OF TRANSFER TO INACTIVE STATUS OR RETIRED STATUS.—If a reserve officer on the reserve active-status list is transferred to an inactive status or to a retired status after having been recommended for promotion to a higher grade under this chapter or chapter 36 of this title, or after having been found qualified for Federal recognition in the higher grade under title 32, but before being promoted, the officer—

"(1) shall be treated as if the officer had not been considered and recommended for promotion by the selection board or examined and been found qualified for Federal recognition; and

"(2) may not be placed on a promotion list or promoted to the higher grade after returning to an active status,

unless the officer is again recommended for promotion by a selection board convened under chapter 36 of this title or section 14101(a) or 14502 of this title or examined for Federal recognition under title 32.

"(b) EFFECT OF PLACEMENT ON ACTIVE-DUTY LIST.—A reserve officer who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title and who before being promoted is placed on the active-duty list of the same armed force and placed in the same competitive category shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list for officers on the active-duty list established under chapter 36 of this title.

"(c) OFFICERS ON A PROMOTION LIST REMOVED FROM ACTIVE-DUTY LIST.—An officer who is on the active-duty list and is on a promotion list as the result of selection for promotion by a selection board convened under chapter 36 of this title and who before being promoted is removed from the active-duty list and placed on the reserve active-status list of the same armed force and in the same competitive category (including a regular officer who on removal from the active-duty list is appointed as a reserve officer and placed on the reserve active-status list) shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list established under this chapter.

"(d) OFFICERS SELECTED FOR POSITION VACANCIES.—If a reserve officer is ordered to active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only) after being recommended for promotion under section 14314 of this title to fill a position vacancy or examined for Federal recognition under title 32, and before being promoted to fill that vacancy, the officer shall not be promoted while serving such active duty or full-time National Guard duty unless the officer is ordered to active duty as a member of the unit in which the vacancy exists when that unit is ordered to active duty. If, under this subsection, the name of an officer is removed from a list of officers recommended for promotion, the officer shall be treated as if the officer had not been considered for promotion or examined for Federal recognition.

"(e) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is not on the active-duty list and who is ordered to active duty in time of war or national emergency may, if eligible, be considered for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title for not more than two years from the date the officer is ordered to active duty unless the President suspends the operation of this section under the provisions of section 10213 or 644 of this title.

VOL 140 PT 16 AG 12 — 18 1994 UMI

"CHAPTER 1407—FAILURE OF SELECTION FOR PROMOTION AND INVOLUNTARY SEPARATION

"Sec.
"14501. Failure of selection for promotion.
"14502. Special selection boards: correction of errors.
"14503. Discharge of officers with less than five years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade).
"14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy.
"14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy.
"14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force, and Marine Corps and lieutenant commanders of the Navy.
"14507. Removal from the active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy.
"14508. Removal from the reserve active-status list for years of service: reserve general and flag officers.
"14509. Separation at age 60: reserve officers below brigadier general or rear admiral (lower half).
"14510. Separation at age 60: reserve brigadier generals and rear admirals (lower half).
"14511. Separation at age 62: major generals and rear admirals.
"14512. Separation at age 64: officers holding certain offices.
"14513. Separation for failure of selection of promotion.
"14514. Discharge or retirement for years of service or after selection for early removal.
"14515. Discharge or retirement for age.
"14516. Separation to be considered involuntary.
"14517. Entitlement of officers discharged under this chapter to separation pay.

"§14501. Failure of selection for promotion

"(a) An officer on the reserve active-status list in a grade below the grade of colonel or, in the case of an officer in the Naval Reserve, captain who is in or above the promotion zone established for that officer's grade and competitive category and who (1) is considered but not recommended for promotion (other than by a vacancy promotion board), or (2) declines to accept a promotion for which selected (other than by a vacancy promotion board), shall be considered to have failed of selection for promotion.

"(b) OFFICERS TWICE FAILED OF SELECTION.—An officer shall be considered for all purposes to have twice failed of selection for promotion if any of the following applies:

"(1) The officer is considered but not recommended for promotion a second time by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) of this title.

"(2) The officer declines to accept a promotion for which recommended by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) or 14502(b) of this title after previously failing of selection or after the officer's name was removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation for promotion by an earlier selection board described in subsection (a).

"(3) The officer's name has been removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation by a mandatory promotion board convened under section 14101(a) or by a special selection board convened under section 14502(a) or 14502(b) of this title and—

"(A) the officer is not recommended for promotion by the next mandatory promotion board convened under section 14101(a) or special selection board convened under section 14502(a) of this title for that officer's grade and competitive category; or

"(B) the officer's name is again removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title.

"§14502. Special selection boards: correction of errors

"(a) OFFICERS NOT CONSIDERED BECAUSE OF ADMINISTRATIVE ERROR.—(1) In the case of an officer or former officer who the Secretary of the military department concerned determines was not considered for selection for promotion from in or above the promotion zone by a mandatory promotion board convened under section 14101(a) of this title because of administrative error, the Secretary concerned shall convene a special selection board under this subsection to determine whether such officer or former officer should be recommended for promotion. Any such board shall be convened under regulations prescribed by the Secretary of Defense and shall be appointed and composed in accordance with section 14102 of this title and shall include the representation of competitive categories required by that section. The members of a board convened under this subsection shall be required to take an oath in the same manner as prescribed in section 14103 of this title.

"(2) A special selection board convened under this subsection shall consider the record of the officer or former officer as that record would have appeared to the promotion board that should have considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

"(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in a grade below the grade of colonel or, in the case of an officer or former officer of the Navy, captain, whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion.

"(b) OFFICERS CONSIDERED BUT NOT SELECTED; MATERIAL ERROR.—(1) In the case of an officer or former officer who was eligible for promotion and was considered for selection for promotion from in or above the promotion zone under this chapter by a selection board but was not selected, the Secretary of the military department concerned may, under regulations prescribed by the Secretary of Defense, convene a special selection board under this subsection to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that—

"(A) the action of the selection board that considered the officer or former officer was contrary to law or involved material error of fact or material administrative error; or

"(B) the selection board did not have before it for its consideration material information.

"(2) A special selection board convened under paragraph (1) shall be appointed and composed in accordance with section 14102 of this title (including the representation of competitive categories required by that section), and the members of such a board shall take an oath in the same manner as prescribed in section 14103 of this title.

"(3) Such board shall consider the record of the officer or former officer as that record, if corrected, would have appeared to the selection board that considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

"(4) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in the grade of lieutenant colonel or commander or below whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion by the board which did consider the officer but incurs no additional failure of selection for promotion from the action of the special selection board.

"(c) REPORT.—Each special selection board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing the name of each officer it recommends for promotion and certifying that the board has considered carefully the record of each officer whose name was referred to it.

"(d) APPLICABLE PROVISIONS.—The provisions of sections 14104, 14109, 14110, and 14111 of this title apply to the report and proceedings of a special selection board convened under this section in the same manner as they apply to the report and proceedings of a promotion board convened under section 14101(a) of this title.

"(e) APPOINTMENT OF OFFICERS RECOMMENDED FOR PROMOTION.—(1) An officer whose name is placed on a promotion list as a result of recommendation for promotion by a special selection board convened under this section, shall, as soon as practicable, be appointed to the next higher grade in accordance with the law and policies which would have been applicable had he been recommended for promotion by the board which should have considered or which did consider him.

"(2) An officer who is promoted to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon such promotion, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the reserve active-status list as the officer would have had if the officer had been recommended for promotion to that grade by the selection board which should have considered, or which did consider, the officer.

"(3) If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer not currently eligible for promotion or a former officer whose name was referred to it for consideration, the Secretary concerned may act under section 1552 of this title to correct the military record of the officer or former officer to correct an error or remove an injustice resulting from not being selected for promotion by the board which should have considered, or which did consider, the officer.

"(f) TIME LIMITS FOR CONSIDERATION.—The Secretary of Defense may prescribe by regulation the circumstances under which consideration by a special selection board is contingent upon application for consideration by an officer or former officer and time limits within which an officer or former officer must make such application in order to be considered by a special selection board under this section.

"(g) LIMITATION OF OTHER JURISDICTION.—No official or court of the United States shall have power or jurisdiction—

"(1) over any claim based in any way on the failure of an officer or former officer of the armed forces to be selected for promotion by a selection board convened under chapter 1403 of this title until—

"(A) the claim has been referred to a special selection board by the Secretary concerned and acted upon by that board; or

"(B) the claim has been rejected by the Secretary without consideration by a special selection board; or

"(2) to grant any relief on such a claim unless the officer or former officer has been selected for promotion by a special selection board convened under this section to consider the officer's claim.

"(h) JUDICIAL REVIEW.—(1) A court of the United States may review a determination by the Secretary concerned under subsection (a)(1), (b)(1), or (e)(3) not to convene a special selection board. If a court finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law, it shall remand the case to the Secretary concerned, who shall provide for consideration of the officer or former officer by a special selection board under this section.

"(2) If a court finds that the action of a special selection board which considers an officer or former officer was contrary to law or involved material error of fact or material administrative error, it shall remand the case to the Secretary concerned, who shall provide the officer or former officer reconsideration by a new special selection board.

"(i) DESIGNATION OF BOARDS.—The Secretary of the military department concerned may designate a promotion board convened under section 14101(a) of this title as a special selection board convened under this section. A board so designated may function in both capacities.

"§14503. Discharge of officers with less than five years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade)

"(a) AUTHORIZED DISCHARGES.—The Secretary of the military department concerned may discharge any reserve officer who—

"(1) has less than five years of service in an active status as a commissioned officer; or

"(2) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the grade of first lieutenant or lieutenant (junior grade).

"(b) TIME FOR DISCHARGE.—(1) An officer described in subsection (a)(2)—

"(A) may be discharged at any time after being found not qualified for promotion; and

"(B) if not sooner discharged, shall be discharged at the end of the 18-month period beginning on the date on which the officer is first found not qualified for promotion.

"(2) Paragraph (1) shall not apply if the officer is sooner promoted.

"(c) REGULATIONS.—Discharges under this section shall be made under regulations prescribed by the Secretary of Defense and may be made without regard to section 12645 of this title.

"§14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy

"(a) GENERAL RULE.—A first lieutenant on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant (junior grade) on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

"(b) EXCEPTIONS.—Subsection (a) does not apply (1) in the case of an officer retained as provided by regulation of the Secretary of the military department concerned in order to meet planned mobilization needs for a period not in excess of 24 months beginning with the date on which the President approves the report of the selection board which resulted in the second failure, or (2) as provided in section 12646 or 12686 of this title.

"§14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy

"Unless retained as provided in section 12646 or 12686 of this title, a captain on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade and who has not been selected for continuation on the reserve active-status list under section 14701 of this title, shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

"§14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force and Marine Corps and reserve lieutenant commanders of the Navy

"Unless retained as provided in section 12646, 12686, 14701, or 14702 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of major or lieutenant commander who has failed of selection to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall, if not earlier removed from the reserve active-status list, be removed from that list in accordance with section 14513 of this title on the first day of the month after the month in which the officer completes 20 years of commissioned service.

"§14507. Removal from the reserve active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy

"(a) LIEUTENANT COLONELS AND COMMANDERS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of lieutenant colonel or commander and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 28 years of commissioned service.

"(b) COLONELS AND NAVY CAPTAINS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Air Force, or Marine Corps who holds the grade of colonel, and each reserve officer of the Navy who holds the grade of captain, and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 30 years of commissioned service. This subsection does not apply to the adjutant general or assistant adjutants general of a State.

"§14508. Removal from the reserve active-status list for years of service: reserve general and flag officers

"(a) THIRTY YEARS SERVICE OR FIVE YEARS IN GRADE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve officer of the Navy in the grade of rear admiral (lower half) who has not been recommended for promotion to rear admiral shall, 30 days after completion of 30 years of commissioned service or on the fifth anniversary of the date of the officer's appointment in the grade of brigadier general or rear admiral (lower half), whichever is later, be separated in accordance with section 14514 of this title.

"(b) THIRTY-FIVE YEARS SERVICE OR FIVE YEARS IN GRADE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general, and each reserve officer of the Navy in the grade of rear admiral, shall, 30 days after completion of 35 years of commissioned service or on the fifth anniversary of the date of the officer's appointment in the grade of major general or rear admiral, whichever is later, be separated in accordance with section 14514 of this title.

"(c) RETENTION OF BRIGADIER GENERALS.—A reserve officer of the Army or Air Force in the grade of brigadier general who would otherwise be removed from an active status under this subsection (a) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 60 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

"(d) RETENTION OF MAJOR GENERALS.—A reserve officer of the Army or Air Force in the grade of major general who would otherwise be removed from an active status under this subsection (b) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 62 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

"(e) EXCEPTION FOR STATE ADJUTANTS GENERAL AND ASSISTANT ADJUTANTS GENERAL.—This section does not apply to an officer who is the adjutant general or assistant adjutant general of a State.

"§14509. Separation at age 60: reserve officers in grades below brigadier general or rear admiral (lower half)

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps in a grade below brigadier general or rear admiral (lower half) who has not been recommended for promotion to the grade of brigadier general or rear admiral (lower half) and is not a member of the Retired Reserve shall, on the last day of the month in which

VOL 140 PT 16 AG 12 — 18 1994 UMI

that officer becomes 60 years of age, be separated in accordance with section 14515 of this title.

"§14510. Separation at age 60: reserve brigadier generals and rear admirals (lower half)

"Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve rear admiral (lower half) of the Navy who has not been recommended for promotion to the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 60 years of age.

"§14511. Separation at age 62: major generals and rear admirals

"Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general and each reserve officer of the Navy in the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 62 years of age.

"§14512. Separation at age 64: officers holding certain offices

"(a) ARMY AND AIR FORCE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, a reserve officer of the Army or Air Force who is Chief of the National Guard Bureau, an adjutant general, or if a reserve officer of the Army, commanding general of the troops of a State, shall on the last day of the month in which the officer becomes 64 years of age, be separated in accordance with section 14515 of this title.

"(b) NAVY AND MARINE CORPS.—The Secretary of the Navy may defer the retirement under section 14510 or 14511 of a reserve officer of the Navy in a grade above captain or a reserve officer of the Marine Corps in a grade above colonel and retain the officer in an active status until the officer becomes 64 years of age. Not more than 10 officers may be so deferred at any one time, distributed between the Naval Reserve and the Marine Corps Reserve as the Secretary determines.

"§14513. Separation for failure of selection of promotion

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and whose removal from an active status or from a reserve active-status list is required by section 14504, 14505, or 14506 of this title shall (unless the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the date specified in those sections—

"(1) be transferred to an inactive status if the Secretary concerned determines that the officer has skills which may be required to meet the mobilization needs of the officer's armed force;

"(2) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(3) if the officer is not transferred to an inactive status or to the Retired Reserve, be discharged from the officer's reserve appointment.

"§14514. Discharge or retirement for years of service or after selection for early removal

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and who is required to be removed from an active status or from a reserve active-status list, as the case may be, under section 14507, 14508, 14704, or 14705 of this title (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law), in accordance with those sections, shall—

"(1) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(2) if the officer is not qualified or does not apply for such transfer, be discharged from the officer's reserve appointment.

"§14515. Discharge or retirement for age

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status or on an inactive status list and who reaches the maximum age specified in section 14509, 14510, 14511, or 14512 of this title for the officer's grade or position shall (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the last day of the month in which the officer reaches that maximum age—

"(1) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(2) if the officer is not qualified or does not apply for transfer to the Retired Reserve, be discharged from the officer's reserve appointment.

"§14516. Separation to be considered involuntary

"The separation of an officer pursuant to section 14513, 14514, or 14515 of this title shall be considered to be an involuntary separation for purposes of any other provision of law.

"§14517. Entitlement of officers discharged under this chapter to separation pay

"An officer who is discharged under section 14513, 14514, or 14515 of this title is entitled to separation pay under section 1174 of this title if otherwise eligible under that section.

"CHAPTER 1409—CONTINUATION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST AND SELECTIVE EARLY REMOVAL

"Sec.

"14701. Selection of officers for continuation on the reserve active-status list.
"14702. Retention on reserve active-status list of certain officers until age 60.
"14703. Authority to retain chaplains and officers in medical specialties until specified age.
"14704. Selective early removal from the reserve active-status list.
"14705. Selective early retirement; reserve general and flag officers of the Navy and Marine Corps.
"14706. Computation of total years of service.

"§14701. Selection of officers for continuation on the reserve active-status list

"(a) CONSIDERATION FOR CONTINUATION.—(1) Upon application, a reserve officer of the Army, Navy, Air Force, or Marine Corps who is required to be removed from the reserve active-status list under section 14505, 14506, or 14507 of this title may, subject to the needs of the service and to section 14509 of this title, be considered for continuation on the reserve active-status list by a selection board convened under section 14101(b) of this title.

"(2) A reserve officer who holds the grade of captain in the Army, Air Force, or Marine Corps or the grade of lieutenant in the Navy and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 20 years of commissioned service.

"(3) A reserve officer who holds the grade of major or lieutenant commander and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 24 years of commissioned service.

"(4) A reserve officer who holds the grade of lieutenant colonel or commander and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 33 years of commissioned service.

"(5) A reserve officer who holds the grade of colonel in the Army, Air Force, or Marine Corps or the grade of captain in the Navy and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 35 years of commissioned service.

"(6) An officer who is selected for continuation on the reserve active-status list as a result of the convening of a selection board under section 14101(b) of this title but who declines to continue on that list shall be separated in accordance with section 14513 or 14514 of this title, as the case may be.

"(7) Each officer who is continued on the reserve active-status list under this section, who is not subsequently promoted or continued on the active-status list, and whose name is not on a list of officers recommended for promotion to the next higher grade shall (unless sooner separated under another provision of law) be separated in accordance with section 14513 or 14514 of this title, as appropriate, upon the expiration of the period for which the officer was continued on the reserve active-status list.

"(b) APPROVAL OF SECRETARY CONCERNED.—Continuation of an officer on the reserve active-status list under this section pursuant to action of a continuation board convened under section 14101(b) of this title is subject to the approval of the Secretary of the military department concerned.

"(c) INSTRUCTIONS TO CONTINUATION BOARDS.—A continuation board convened under section 14101(b) of this title to consider officers for continuation on the reserve active-status list under this section shall act in accordance with the instructions and directions provided to the board by the Secretary of the military department concerned.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section.

"§14702. Retention on reserve active-status list of certain officers until age 60

"(a) RETENTION.—Notwithstanding the provisions of section 14506 or 14507 of this title, the Secretary of the military department concerned may, with the officer's consent, retain on the reserve active-status list an officer in the grade of major, lieutenant colonel, or colonel who is—

"(1) an officer of the Army National Guard of the United States and assigned to a headquarters or headquarters detachment of a State; or

"(2) a reserve officer of the Army or Air Force who, as a condition of continued employment as a National Guard or Reserve technician is required by the Secretary concerned to maintain membership in a Selected Reserve unit or organization.

"(b) SEPARATION AT AGE 60.—An officer may be retained under this section only so long as the officer continues to meet the conditions of subsection (a)(1) or (a)(2). An officer may not be retained under this section after the last day of the month in which the officer becomes 60 years of age.

"§14703. Authority to retain chaplains and officers in medical specialties until specified age

"(a) RETENTION.—Notwithstanding any provision of chapter 1407 of this title and except for officers referred to in sections 14503, 14504, 14505, and 14506 of this title and under regulations prescribed by the Secretary of Defense—

"(1) the Secretary of the Army may, with the officer's consent, retain in an active status any reserve officer assigned to the Medical Corps, the Dental Corps, the Veterinary Corps, the Medical Services Corps (if the officer has been designated as allied health officer or biomedical sciences officer in that Corps), the Optometry Section of the Medical Services Corps, the Chaplains, the Army Nurse Corps, or the Army Medical Specialists Corps;

"(2) the Secretary of the Navy may, with the officer's consent, retain in an active status any reserve officer appointed in the Medical Corps, Dental Corps, Nurse Corps, or Chaplain Corps or appointed in the Medical Services Corps and designated to perform as a veterinarian, optometrist, podiatrist, allied health officer, or biomedical sciences officer; and

"(3) the Secretary of the Air Force may, with the officer's consent, retain in an active status any reserve officer who is designated as a medical officer, dental officer, veterinary officer, Air Force nurse, or chaplain or who is designated as a biomedical sciences officer and is qualified for service as a veterinarian, optometrist, or podiatrist.

"(b) SEPARATION AT SPECIFIED AGE.—An officer may not be retained in active status under this section later than the date on which the officer becomes 67 years of age (or, in the case of a reserve officer of the Army in the Chaplains or a reserve officer of the Air Force designated as a chaplain, 60 years of age).

"§14704. Selective early removal from the reserve active-status list

"(a) BOARDS TO RECOMMEND OFFICERS FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—Whenever the Secretary of the military department concerned determines that there are in any reserve component under the jurisdiction of the Secretary too many officers in any grade and competitive category who have at least 30 years of service computed under section 14706 of this title or at least 20 years of service computed under section 12732 of this title, the Secretary may convene a selection board under section 14101(b) of this title to consider all officers on that list who are in that grade and competitive category, and who have that amount of service, for the purpose of recommending officers by name for removal from the reserve active-status list, in the number specified by the Secretary by each grade and competitive category.

"(b) SEPARATION OF OFFICERS SELECTED.—In the case of an officer recommended for separation in the report of a board under subsection (a), the Secretary may separate the officer in accordance with section 14514 of this title.

"(c) REGULATIONS.—The Secretary of the military department concerned shall prescribe regulations for the administration of this section.

"§14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps

"(a) AUTHORITY TO CONSIDER.—An officer in the Naval Reserve in an active status serving in the grade of rear admiral (lower half) or rear admiral and an officer in the Marine Corps Reserve in an active status serving in the grade of brigadier general or major general may be considered for early retirement whenever the Secretary of the Navy determines that such action is necessary.

"(b) BOARDS.—If the Secretary of the Navy determines that consideration for early retirement under this section is necessary, the Secretary shall convene a board under section 14101(b) of this title to recommend an appropriate number of officers for early retirement.

"(c) SEPARATION UNDER SECTION 14514.—An officer selected for early retirement under this section shall be separated in accordance with section 14514 of this title.

"§14706. Computation of total years of service

"For the purpose of this chapter and chapter 1407 of this title, a reserve officer's years of service include all service, other than constructive service, of the officer as a commissioned officer of any uniformed service (other than service as a warrant officer).

"CHAPTER 1411—ADDITIONAL PROVISIONS RELATING TO INVOLUNTARY SEPARATION

"Sec.

"14901. Separation of chaplains for loss of professional qualifications.
"14902. Separation for substandard performance and for certain other reasons.
"14903. Boards of inquiry.
"14904. Rights and procedures.
"14905. Officer considered for removal: retirement or discharge.
"14906. Officers eligible to serve on boards.
"14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave.

"§14901. Separation of chaplains for loss of professional qualifications

"(a) SEPARATION.—Under regulations prescribed by the Secretary of Defense, an officer on the reserve active-status list who is appointed or designated as a chaplain may, if the officer fails to maintain the qualifications needed to perform the professional function of a chaplain, be discharged. The authority under the preceding sentence applies without regard to the provisions of section 12645 of this title.

"(b) EFFECT OF SEPARATION.—If an officer separated under this section is eligible for retirement, the officer may be retired. If the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title, the officer may be transferred to the Retired Reserve.

"§14902. Separation for substandard performance and for certain other reasons

"(a) SUBSTANDARD PERFORMANCE OF DUTY.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because that officer's performance has fallen below standards prescribed by the Secretary concerned, to show cause for retention in an active status.

"(b) MISCONDUCT, ETC.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because of misconduct, because of moral or professional dereliction, or because the officer's retention is not clearly consistent with the interests of national security, to show cause for retention in an active status.

"(c) REGULATIONS.—The authority of the Secretary of a military department under this section shall be carried out subject to such limitations as the Secretary of Defense may prescribe by regulation.

"§14903. Boards of inquiry

"(a) CONVENING OF BOARDS.—The Secretary of the military department concerned shall convene a board of inquiry at such time and place as the Secretary may prescribe to receive evidence and review the case of any officer who has been required to show cause for retention in an active status under section 14902 of this title. Each board of inquiry shall be composed of not less than three officers who have the qualifications prescribed in section 14906 of this title.

"(b) RIGHT TO FAIR HEARING.—A board of inquiry shall give a fair and impartial hearing to each officer required under section 14902 of this chapter to show cause for retention in an active status.

"(c) RECOMMENDATIONS TO SECRETARY.—If a board of inquiry determines that the officer has failed to establish that the officer should be retained in an active status, the board shall recommend to the Secretary concerned that the officer not be retained in an active status.

"(d) ACTION BY SECRETARY.—After review of the recommendation of the board of inquiry, the Secretary may—

"(1) remove the officer from an active status; or

"(2) determine that the case be closed.

"(e) ACTION IN CASES WHERE CAUSE FOR RETENTION IS ESTABLISHED.—(1) If a board of inquiry determines that an officer has established that the officer should be retained in an active status or if the Secretary determines that the case be closed, the officer's case is closed.

"(2) An officer who is required to show cause for retention under section 14902(a) of this title and whose case is closed under paragraph (1) may not again be required to show cause for retention under such subsection during the one-year period beginning on the date of that determination.

"(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention under section 14902(b) of this title and whose case is closed under paragraph (1) may again be required to show cause for retention at any time.

"(B) An officer who has been required to show cause for retention under section 14902(b) of this title and who is thereafter retained in an active status may not again be required to show cause for retention under such section solely because of conduct which was the subject of the previous proceeding, unless the recommendations of the board of inquiry that considered the officer's case are determined to have been obtained by fraud or collusion.

"§14904. Rights and procedures

"(a) PROCEDURAL RIGHTS.—Under regulations prescribed by the Secretary of Defense, an officer required under section 14902 of this title to show cause for retention in an active status—

"(1) shall be notified in writing, at least 30 days before the hearing of the officer's case by a board of inquiry, of the reasons for which the officer is being required to show cause for retention in an active status;

"(2) shall be allowed a reasonable time, as determined by the board of inquiry, to prepare for showing of cause for retention in an active status;

"(3) shall be allowed to appear in person and to be represented by counsel at proceedings before the board of inquiry; and

"(4) shall be allowed full access to, and shall be furnished copies of, records relevant to the case, except that the board of inquiry shall withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

"(b) SUMMARY OF RECORDS WITHHELD.—When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

"§14905. Officer considered for removal: retirement or discharge

"(a) VOLUNTARY RETIREMENT OR DISCHARGE.—At any time during proceedings under

VOL 140 PT 16 AG 12 — 18 1994 UMI

this chapter with respect to the removal of an officer from an active status, the Secretary of the military department concerned may grant a request by the officer—

"(1) for voluntary retirement, if the officer is qualified for retirement;

"(2) for transfer to the Retired Reserve if the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title and is otherwise eligible for transfer to the Retired Reserve; or

"(3) for discharge in accordance with subsection (b)(3).

"(b) REQUIRED RETIREMENT OR DISCHARGE.—An officer removed from an active status under section 14903 of this title shall—

"(1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which he would be eligible if retired under that provision;

"(2) if eligible for transfer to the Retired Reserve and has completed the years of service required for retired pay under chapter 1223 of this title, be transferred to the Retired Reserve; and

"(3) if ineligible for retirement or transfer to the Retired Reserve under paragraph (1) or (2) on the date of such removal—

"(A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 14902 of this title; or

"(B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 14902 of this title.

"(c) SEPARATION PAY.—An officer who is discharged under subsection (b)(3) is entitled, if eligible therefor, to separation pay under section 1174(c) of this title.

"§14906. Officers eligible to serve on boards

"(a) COMPOSITION OF BOARDS.—(1) Each officer who serves on a board convened under this chapter shall be an officer of the same armed force as the officer being required to show cause for retention in an active status.

"(2) An officer may not serve on a board under this chapter unless the officer holds a grade above lieutenant colonel or commander and is senior in grade and rank to any officer considered by the board.

"(b) LIMITATION.—A person may not be a member of more than one board convened under this chapter to consider the same officer.

"§14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave

"(a) AUTHORITY TO WITHDRAW FEDERAL RECOGNITION.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States has been absent without leave for three months, the Secretary of the Army or the Secretary of the Air Force, as appropriate, may—

"(1) terminate the reserve appointment of the officer; and

"(2) withdraw the officer's Federal recognition as an officer of the National Guard.

"(b) DISCHARGE FROM RESERVE APPOINTMENT.—An officer of the Army National Guard of the United States or the Air National Guard of the United States whose Federal recognition as an officer of the National Guard is withdrawn under section 323(b) of title 32 shall be discharged from the officer's appointment as a reserve officer of the Army or the Air Force, as the case may be.".

PART II—CONFORMING AMENDMENTS

SEC. 1621. DEFINITION OF RESERVE ACTIVE-STATUS LIST.

Section 101(c) is amended by adding at the end the following new paragraph:

"(7) The term 'reserve active-status list' means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 14002 of this title) that contains the names of all officers of that armed force except warrant officers (including commissioned warrant officers) who are in an active status in a reserve component of the Army, Navy, Air Force, or Marine Corps and are not on an active-duty list.".

SEC. 1622. AUTHORITY TO SUSPEND OFFICER PERSONNEL LAWS DURING WAR OR NATIONAL EMERGENCY.

(a) AUTHORITY.—Section 123 is amended to read as follows:

"§123. Authority to suspend officer personnel laws during war or national emergency

"(a) In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, Marine Corps, or Coast Guard Reserve. So long as such war or national emergency continues, any such suspension may be extended by the President.

"(b) Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621–1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

"(c) If a provision of law pertaining to the promotion of reserve officers is suspended under this section and if the Secretary of Defense submits to Congress proposed legislation to adjust the grades and dates of rank of reserve commissioned officers other than commissioned warrant officers, such proposed legislation shall, so far as practicable, be the same as that recommended for adjusting the grades and dates of rank of officers of the regular component of the armed force concerned.".

(b) CONFORMING REPEAL.—Section 644 is repealed.

SEC. 1623. ACTIVE-DUTY LIST PROMOTION BOARDS TO HAVE AUTHORITY TO RECOMMEND THAT RESERVE OFFICERS CONSIDERED FOR PROMOTION BE REQUIRED TO SHOW CAUSE FOR RETENTION ON ACTIVE DUTY.

Section 617(b) is amended—

(1) by inserting "or reserve" after "any regular"; and

(2) by inserting "or 1411" after "chapter 60".

SEC. 1624. APPLICABILITY OF CHAPTER 36 TO RESERVE OFFICERS DURING WAR OR NATIONAL EMERGENCY.

Section 641 is amended—

(1) by inserting "(a)" before "Officers in the following"; and

(2) by adding at the end the following:

"(b) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is ordered to active duty (whether voluntarily or involuntarily) during a war or national emergency and who would otherwise be placed on the active-duty list may be excluded from that list as determined by the Secretary concerned. Exclusion of an officer from the active-duty list as the result of action by the Secretary concerned under the preceding sentence shall expire not later than 24 months after the date on which the officer enters active duty under an order to active duty covered by that sentence.".

SEC. 1625. GRADE IN WHICH RESERVE OFFICERS ARE ORDERED TO ACTIVE DUTY.

Section 689 is amended—

(1) by inserting "or full-time National Guard duty" after "active duty" the first two places it appears; and

(2) by inserting "and placed on the active-duty list" after "active duty" the third place it appears.

SEC. 1626. DATE OF RANK.

Section 741(d)(3) is amended—

(1) by inserting "or who is transferred from an inactive status to an active status and placed on the active-duty list or the reserve active-status list" after "warrant officer (W–5)";

(2) by inserting "or reserve active-status list" after "active-duty list" the second place it appears; and

(3) by adding at the end: "The authority to change the date of rank of a reserve officer who is placed on the active-duty list to a later date does not apply in the case of an officer who (A) has served continuously in the Selected Reserve of the Ready Reserve since the officer's last promotion, or (B) is placed on the active-duty list while on a promotion list as described in section 14317(b) of this title.".

SEC. 1627. DISCHARGE BEFORE COMPLETION OF REQUIRED SERVICE IN CASE OF OFFICERS HAVING TWICE FAILED OF SELECTION FOR CAPTAIN OR NAVY LIEUTENANT.

Section 1005(b) is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(3) an officer on the active-duty list or reserve active-status list who has failed of selection for promotion for the second time to the grade of captain, in the case of an officer of the Army, Air Force, or Marine Corps, or to the grade of lieutenant, in the case of an officer of the Navy; or

"(4) an officer whose discharge or transfer from an active status is required by law.".

SEC. 1628. CONFORMING AMENDMENTS RELATING TO NAVY AND MARINE CORPS OFFICERS.

Section 6389 is amended—

(1) in subsection (a)—

(A) by inserting "while on the active-duty list" after "to the next higher grade"; and

(B) by striking out the period at the end and inserting in lieu thereof "or released from active duty and placed on the reserve active-status list.";

(2) in subsection (b), by striking out "or (f)";

(3) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by striking out "lieutenant commander or above" both places it appears and inserting in lieu thereof "lieutenant commander or commander";

(C) by striking out "major or above" both places it appears and inserting in lieu thereof "major or lieutenant colonel";

(D) by inserting "while on the active-duty list" after "to the next higher grade" in the first sentence; and

(E) in the table—

(i) by striking out the line relating to the grades of captain in the Navy and colonel in the Marine Corps; and

(ii) by striking out "26 years" and inserting in lieu thereof "28 years";

(F) by designating the sentence after the table as paragraph (2) and in that sentence striking out "the first sentence of this subsection" and inserting in lieu thereof "the first sentence of paragraph (1)";

(G) by designating the next sentence as paragraph (3) and in that sentence striking out "the first two sentences of this subsection" and inserting in lieu thereof "paragraph (1)"; and

(H) by designating the last sentence as paragraph (4) and in that sentence—

(i) striking out "the first two sentences of this subsection" and inserting in lieu thereof "paragraph (1)"; and

(ii) striking out "captain or"; and

(4) by striking out subsections (e), (f), and (g).

SEC. 1629. REPEAL OF RESERVE OFFICER PERSONNEL POLICY LAWS.

(a) ARMY PROVISIONS.—

(1) Chapter 337, relating to appointments as reserve officers (other than sections 3351 and 3352), is repealed.

(2) Chapter 361, relating to separation for various reasons, is repealed.

(3) Chapter 363, relating to separation or transfer to the Retired Reserve, is repealed.

(b) NAVY AND MARINE CORPS PROVISIONS.—

(1) Chapter 541, relating to running mates as reserve officers, is repealed.

(2) Chapter 549, relating to reserve promotions, is repealed.

(3) Sections 6391, 6392, 6397, 6403, and 6410 are repealed.

(c) AIR FORCE PROVISIONS.—

(1) Chapter 837, relating to appointments as reserve officers (other than sections 8351 and 8352), is repealed.

(2) Sections 8819 and 8820 are repealed.

(3) Chapter 863, relating to separation or transfer to the Retired Reserve, is repealed.

SEC. 1630. AMENDMENTS TO TITLE 32, UNITED STATES CODE.

Title 32, United States Code, is amended as follows:

(1) Sections 309 and 310 are amended to read as follows:

"§309. Federal recognition of National Guard officers: officers promoted to fill vacancies

"Each officer of the National Guard who is promoted to fill a vacancy in a federally recognized unit of the National Guard, and who has been on the reserve active-status list or the active-duty list of the Army or the Air Force for at least one year and has completed the minimum years of service in grade specified in section 14303 of title 10, shall be examined for Federal recognition in the grade to which the officer is promoted.

"§310. Federal recognition of National Guard officers: automatic recognition

"(a) Notwithstanding sections 307 and 309 of this title, if a second lieutenant of the National Guard is promoted to the grade of first lieutenant to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade of first lieutenant, effective as of the date on which that officer has completed the service in the grade specified in section 14303(a)(1) of title 10 and has met such other requirements as prescribed by the Secretary concerned under section 14308(b) of that title, if the officer has remained in an active status since the officer was so recommended.

"(b) Notwithstanding sections 307 and 309 of this title, if an officer of the Army Reserve or the Air Force Reserve in a reserve grade above second lieutenant is appointed in the next higher grade in the National Guard to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade in which the officer is so appointed in the National Guard if the officer has been recommended for promotion under chapter 1405 of title 10 and has remained in an active status since the officer was so recommended. The extension of Federal recognition under this subsection is effective as of the date when the officer is appointed in the National Guard.".

(2) Section 323 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following:

"(d) The Federal recognition of a reserve commissioned officer of the Army or the Air Force who is—

"(1) federally recognized as an officer of the National Guard; and

"(2) subject to involuntary transfer to the Retired Reserve, transfer to an inactive status list, or discharge under chapter 1407, 1409, or 1411 of title 10;

shall, if not sooner withdrawn, be withdrawn on the date of such involuntary transfer or discharge.".

Subtitle B—Other Personnel Policy Amendments

PART I—APPOINTMENTS

SEC. 1631. REPEAL OF SEPARATE AUTHORITY FOR ACCESSION OF WOMEN IN RESERVE COMPONENTS.

(a) ENLISTMENTS.—Section 510 is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(b) APPOINTMENT OF OFFICERS.—Section 591 is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 1632. APPOINTMENT AUTHORITY FOR RESERVE GRADES OF LIEUTENANT COLONEL AND COMMANDER.

Section 593(a) is amended—

(1) in the first sentence, by striking out "Reserves in commissioned grades below lieutenant colonel and commander" and inserting in lieu thereof "reserve officers in commissioned grades of lieutenant colonel and commander or below"; and

(2) in the second sentence, by striking out "Reserves in commissioned grades above major and lieutenant commander" and inserting in lieu thereof "reserve officers in commissioned grades above lieutenant colonel and commander".

SEC. 1633. APPOINTMENT OF FORMER COMMISSIONED OFFICERS IN RESERVE COMPONENTS.

Chapter 34 is amended by inserting after section 596 the following new section:

"§596a. Commissioned officers: appointment of former commissioned officers

"Under regulations prescribed by the Secretary of Defense, a person who is a former commissioned officer may, if otherwise qualified, be appointed as a reserve officer of the Army, Navy, Air Force, or Marine Corps. A person so appointed—

"(1) may be placed on the reserve active-status list of that armed force in the grade equivalent to the permanent regular or reserve grade, and in the same competitive category, in which the person previously served satisfactorily on active duty or in an active status; and

"(2) may be credited for the purpose of determining date of rank under section 741(d) of this title with service in grade equal to that held by that person when discharged or separated.".

SEC. 1634. CONSTRUCTIVE CREDIT FOR APPOINTMENT OF OFFICERS IN RESERVE COMPONENTS WITH QUALIFYING EDUCATION OR EXPERIENCE.

Chapter 34 is further amended by inserting after section 596a (as added by section 1633) the following new section:

"§596b. Commissioned officers: service credit upon original appointment

"(a)(1) For the purpose of determining the grade and the rank within grade of a person receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) in the Army, Navy, Air Force, or Marine Corps, the person shall be credited at the time of the appointment with any commissioned service (other than service as a commissioned warrant officer) performed before such appointment as a regular officer, or as a reserve officer in an active status, in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service.

"(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, to authorize the Secretary of the military department concerned to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

"(b)(1) Under regulations prescribed by the Secretary of Defense, a person who is receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps, or a designation in, or an assignment to, an officer category in which advanced education or training is required and who has advanced education or training, shall be credited with constructive service for such education, training, or experience, as follows:

"(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed or designated in, or assigned to, officer categories requiring such advanced education or an advanced degree as a prerequisite for such appointment, designation, or assignment. In determining the number of years of constructive service to be credited under this subparagraph to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of advanced education required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.

"(B)(i) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for such appointment, designation, or assignment, if such advanced education will be directly used by the armed force concerned.

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.

"(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal health professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a speciality required by the armed force concerned.

"(D) Additional credit, in unusual cases, based on special experience in a particular field.

"(E) Additional credit for experience as a physician or dentist, if appointed, assigned, or designated as a medical or dental officer.

"(2) If the Secretary of Defense determines that the number of medical or dental officers serving in an active status in a reserve component of the Army, Navy, or Air Force in grades below major or lieutenant commander is critically below the number needed by such reserve component in such grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment for service as a medical or dental officer with a period of constructive credit in such amount (in addition to any amount credited such person under subsection (b)) as will result in the grade

VOL 140 PT 16 AG 12 — 18 1994 UMI

of such person being that of captain or, in the case of the Naval Reserve, lieutenant.

"(3) Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment as a reserve officer of the Army, Air Force, or Marine Corps in the grade of major or as a reserve officer of the Navy in the grade of lieutenant commander.

"(4) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer or assignment to or designation in an officer category in which advanced education or training or special experience is required.

"(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving as a commissioned officer (other than a warrant officer) on active duty or in an active status. However, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.

"(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on the active-duty list of the Army, Navy, Air Force, or Marine Corps in grades below lieutenant commander or major is critically below the number needed by that armed force in those grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment with a view to assignment to the Judge Advocate General's Corps of the Army or appointment to the Judge Advocate General's Corps of the Navy, or who is receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Navy, lieutenant, and the date of rank of such person being junior to that of all other officers of the same grade serving on the active-duty list.

"(e) Constructive service credited an officer under subsection (b) or (d) shall be used only for determining the officer's—

"(1) initial grade as a reserve officer;

"(2) rank in grade; and

"(3) service in grade for promotion eligibility.

"(f) The grade and position on the reserve active-status list of a person receiving an appointment as a reserve officer who at the time of appointment is credited with service under this section shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.".

SEC. 1635. COMPUTATION OF YEARS OF SERVICE FOR TRANSFER OF ARMY OFFICERS TO RETIRED RESERVE.

(a) INTERIM REPEAL OF OBSOLETE PROVISION.—Effective for the period beginning on the date of the enactment of this Act and ending on the effective date specified in section 1291, section 3853 is amended by striking out "the greater of—" and all that follows and inserting in lieu thereof "the sum of the following:

"(1) The officer's years of service as a commissioned officer of any component of the armed forces or of the Army without specification of component.

"(2) The officer's years of service in a federally recognized commissioned status in the National Guard if his service in the National Guard was continuous from the date of his Federal recognition as an officer in the National Guard to the date of his appointment in the National Guard of the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transfers to the Retired Reserve and to discharges on or after the date of the enactment of this Act.

SEC. 1636. REPEAL OF MISCELLANEOUS OBSOLETE APPOINTMENT AUTHORITIES.

(a) ARMY RESERVE OFFICERS APPOINTED IN TEMPORARY GRADES.—Section 3352(a) is amended by striking out the second sentence.

(b) AIR FORCE AVIATION CADETS.—Section 8356 is repealed.

(c) REDUNDANT STATEMENT OF AUTHORITY.—Section 8379 is repealed.

PART II—SEPARATION AND RETIREMENT

SEC. 1641. COMPUTATION OF HIGHEST GRADE IN WHICH SATISFACTORILY SERVED FOR RESERVE COMMISSIONED OFFICERS AND FORMER OFFICERS.

Section 1370 is amended by adding at the end the following new subsection:

"(d)(1) Unless entitled to a higher grade, or to credit for satisfactory service in a higher grade, under some other provision of law, a person who is entitled to retired pay under chapter 1225 of this title shall, upon application under section 1273l of this title, be credited with satisfactory service in the highest grade in which that person served satisfactorily at any time in the armed forces, as determined by the Secretary concerned in accordance with this subsection.

"(2)(A) In order to be credited with satisfactory service in an officer grade (other than a warrant officer grade) below the grade of lieutenant colonel or commander, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than six months.

"(B) In order to be credited with satisfactory service in an officer grade above major or lieutenant commander and below lieutenant general or vice admiral, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than three years. A person covered by the preceding sentence who has completed at least six months of satisfactory service in grade and is transferred from an active status or discharged as a reserve commissioned officer solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge due to the person's age or years of service may be credited with satisfactory service in the grade in which serving at the time of such transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade.

"(3) A person whose length of service in the highest grade held does not meet the service in grade requirements specified in this subsection shall be credited with satisfactory service in the next lower grade in which that person served satisfactorily (as determined by the Secretary of the military department concerned) for not less than six months.".

Subtitle C—Reorganization and Consolidation of Laws Relating to Reserve Components

SEC. 1661. LAWS RELATING TO ORGANIZATION AND ADMINISTRATION OF RESERVE COMPONENTS.

(a) RESERVE COMPONENTS GENERALLY.—(1) Subtitle E, as added by section 1611, is amended by inserting after the table of chapters at the beginning of the subtitle the following:

"PART I—ORGANIZATION AND ADMINISTRATION

"Chap Sec.
"1001. Definitions 10001
"1003. Reserve Components Generally .. 10101
"1005. Elements of Reserve Components 10141
"1007. Administration of Reserve Components 10201
"1009. Reserve Forces Policy Boards and Committees 10301
"1011. National Guard Bureau 10501
"1013. Budget Information and Annual Reports to Congress 10541

"CHAPTER 1001—DEFINITIONS

"Sec.
"10001. Definition of State.

"§ 10001. Definition of State

"In this subtitle, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

"CHAPTER 1003—RESERVE COMPONENTS GENERALLY

"Sec.
"10101. Reserve components named.
"10102. Purpose of reserve components.
"10103. Basic policy for order of National Guard into Federal service.
"10104. Army Reserve: composition.
"10105. Army National Guard of the United States: composition.
"10106. Army National Guard: when a component of the Army.
"10107. Army National Guard of the United States: status when not in Federal service.
"10108. Naval Reserve: administration.
"10109. Marine Corps Reserve: administration.
"10110. Air Force Reserve: composition.
"10111. Air National Guard of the United States: composition.
"10112. Air National Guard: when a component of the Air Force.
"10113. Air National Guard of the United States: status when not in Federal service.
"10114. Coast Guard Reserve.

"§ 10101. Reserve components named

"The reserve components of the armed forces are:

"(1) The Army National Guard of the United States.

"(2) The Army Reserve.

"(3) The Naval Reserve.

"(4) The Marine Corps Reserve.

"(5) The Air National Guard of the United States.

"(6) The Air Force Reserve.

"(7) The Coast Guard Reserve.

"§ 10102. Purpose of reserve components

"The purpose of each reserve component is to provide trained units and qualified persons available for active duty in the armed forces, in time of war or national emergency, and at such other times as the national security may require, to fill the needs of the armed forces whenever, during and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization, more units and persons are needed than are in the regular components.

"§ 10103. Basic policy for order of the National Guard and reserve components to active duty

"Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces, the Army National Guard of the United States and the Air National Guard of the United States, or such parts of them as are needed, together with units of other reserve components necessary for a balanced force, shall be ordered to active duty and retained as long as so needed.

"§ 10104. Army Reserve: composition

"The Army Reserve includes all Reserves of the Army who are not members of the Army National Guard of the United States.

"§ 10105. Army National Guard of the United States: composition

"The Army National Guard of the United States is the reserve component of the Army that consists of—

"(1) federally recognized units and organizations of the Army National Guard; and

"(2) members of the Army National Guard who are also Reserves of the Army.

"§ 10106. Army National Guard: when a component of the Army

"The Army National Guard while in the service of the United States is a component of the Army.

"§ 10107. Army National Guard of the United States: status when not in Federal service

"When not on active duty, members of the Army National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Army National Guard.

"§ 10108. Naval Reserve: administration

"(a) The Naval Reserve is the reserve component of the Navy. It shall be organized, administered, trained, and supplied under the direction of the Chief of Naval Operations.

"(b) The bureaus and offices of the executive part of the Department of the Navy have the same relation and responsibility to the Naval Reserve as they do to the Regular Navy.

"§ 10109. Marine Corps Reserve: administration

"(a) The Marine Corps Reserve is the reserve component of the Marine Corps. It shall be organized, administered, trained, and supplied under the direction of the Commandant of the Marine Corps.

"(b) The departments and offices of Headquarters, Marine Corps have the same relation and responsibilities to the Marine Corps Reserve as they do to the Regular Marine Corps.

"§ 10110. Air Force Reserve: composition

"The Air Force Reserve is a reserve component of the Air Force to provide a reserve for active duty. It consists of the members of the officers' section of the Air Force Reserve and of the enlisted section of the Air Force Reserve. It includes all Reserves of the Air Force who are not members of the Air National Guard of the United States.

"§ 10111. Air National Guard of the United States: composition

"The Air National Guard of the United States is the reserve component of the Air Force that consists of—

"(1) federally recognized units and organizations of the Air National Guard; and

"(2) members of the Air National Guard who are also Reserves of the Air Force.

"§ 10112. Air National Guard: when a component of the Air Force

"The Air National Guard while in the service of the United States is a component of the Air Force.

"§ 10113. Air National Guard of the United States: status when not in Federal service

"When not on active duty, members of the Air National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Air National Guard.

"§ 10114. Coast Guard Reserve

"As provided in section 701 of title 14, the Coast Guard Reserve is a component of the Coast Guard and is organized, administered, trained, and supplied under the direction of the Commandant of the Coast Guard. Laws applicable to the Coast Guard Reserve are set forth in chapter 21 of title 14 (14 U.S.C. 701 et seq.).

"CHAPTER 1005—ELEMENTS OF RESERVE COMPONENTS

"Sec.
"10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories.
"10142. Ready Reserve generally.
"10143. Ready Reserve: Selected Reserve.
"10144. Ready Reserve: Individual Ready Reserve.
"10145. Ready Reserve: placement in.
"10146. Ready Reserve: transfer from.
"10147. Ready Reserve: training requirements.
"10148. Ready Reserve: failure to satisfactorily perform prescribed training.
"10149. Ready Reserve: continuous screening.
"10150. Ready Reserve: transfer back from Standby Reserve.
"10151. Standby Reserve: composition.
"10152. Standby Reserve: inactive status list.
"10153. Standby Reserve: status of members.
"10154. Retired Reserve.

"§ 10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories

"(a) There are in each armed force a Ready Reserve, a Standby Reserve, and a Retired Reserve. Each Reserve shall be placed in one of those categories.

"(b) Reserves who are on the inactive status list of a reserve component, or who are assigned to the inactive Army National Guard or the inactive Air National Guard, are in an inactive status. Members in the Retired Reserve are in a retired status. All other Reserves are in an active status.

"(c) As prescribed by the Secretary concerned, each reserve component except the Army National Guard of the United States and the Air National Guard of the United States shall be divided into training categories according to the degrees of training, including the number and duration of drills or equivalent duties to be completed in stated periods. The designation of training categories shall be the same for all armed forces and the same within the Ready Reserve and the Standby Reserve.

"§ 10142. Ready Reserve

"(a) The Ready Reserve consists of units or Reserves, or both, liable for active duty as provided in sections 12301 and 12302 of this title.

"(b) The authorized strength of the Ready Reserve is 2,900,000.

"§ 10143. Ready Reserve: Selected Reserve

"(a) Within the Ready Reserve of each of the reserve components there is a Selected Reserve. The Selected Reserve consists of units, and, as designated by the Secretary concerned, of Reserves, trained as prescribed in section 10147(a)(1) of this title or section 502(a) of title 32, as appropriate.

"(b) The organization and unit structure of the Selected Reserve shall be approved—

"(1) in the case of all reserve components other than the Coast Guard Reserve, by the Secretary of Defense based upon recommendations from the military departments as approved by the Chairman of the Joint Chiefs of Staff in accordance with contingency and war plans; and

"(2) in the case of the Coast Guard Reserve, by the Secretary of Transportation upon the recommendation of the Commandant of the Coast Guard.

"§ 10144. Ready Reserve: Individual Ready Reserve

"Within the Ready Reserve of each of the reserve components there is an Individual Ready Reserve. The Individual Ready Reserve consists of those members of the Ready Reserve who are not in the Selected Reserve or the inactive National Guard.

"§ 10145. Ready Reserve: placement in

"(a) Each person required under law to serve in a reserve component shall, upon becoming a member, be placed in the Ready Reserve of his armed force for his prescribed term of service, unless he is transferred to the Standby Reserve under section 10146(a) of this title.

"(b) The units and members of the Army National Guard of the United States and of the Air National Guard of the United States are in the Ready Reserve of the Army and the Ready Reserve of the Air Force, respectively.

"(c) All Reserves assigned to units organized to serve as units and designated as units in the Ready Reserve are in the Ready Reserve.

"(d) Under such regulations as the Secretary concerned may prescribe, any qualified member of a reserve component or any qualified retired enlisted member of a regular component may, upon his request, be placed in the Ready Reserve. However, a member of the Retired Reserve entitled to retired pay or a retired enlisted member of a regular component may not be placed in the Ready Reserve unless the Secretary concerned makes a special finding that the member's services in the Ready Reserve are indispensable. The Secretary concerned may not delegate his authority under the preceding sentence.

"§ 10146. Ready Reserve: transfer from

"(a) Subject to subsection (c) and under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve.

"(b) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.

"(c) A member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred to the Standby Reserve only with the consent of the governor or other appropriate authority of the State.

"§ 10147. Ready Reserve: training requirements

"(a) Except as specifically provided in regulations to be prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each person who is enlisted, inducted, or appointed in an armed force, and who becomes a member of the Ready Reserve under any provision of law except section 513 or 10145(b) of this title, shall be required, while in the Ready Reserve, to—

"(1) participate in at least 48 scheduled drills or training periods during each year and serve on active duty for training of not less than 14 days (exclusive of traveltime) during each year; or

"(2) serve on active duty for training not more than 30 days during each year.

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(b) A member who has served on active duty for one year or longer may not be required to perform a period of active duty for training if the first day of that period falls during the last 120 days of the member's required membership in the Ready Reserve.

"§10148. Ready Reserve: failure to satisfactorily perform prescribed training

"(a) A member of the Ready Reserve covered by section 10147 of this title who fails in any year to perform satisfactorily the training duty prescribed in that section, as determined by the Secretary concerned under regulations prescribed by the Secretary of Defense, may be ordered without his consent to perform additional active duty for training for not more than 45 days. If the failure occurs during the last year of his required membership in the Ready Reserve, his membership is extended until he performs that additional active duty for training, but not for more than six months.

"(b) A member of the Army National Guard of the United States or the Air National Guard of the United States who fails in any year to perform satisfactorily the training duty prescribed by or under law for members of the Army National Guard or the Air National Guard, as the case may be, as determined by the Secretary concerned, may, upon the request of the Governor of the State (or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard) be ordered, without his consent, to perform additional active duty for training for not more than 45 days. A member ordered to active duty under this subsection shall be ordered to duty as a Reserve of the Army or as a Reserve of the Air Force, as the case may be.

"§10149. Ready Reserve: continuous screening

"(a) Under regulations to be prescribed by the President, the Secretary concerned shall provide a system of continuous screening of units and members of the Ready Reserve to ensure the following:

"(1) That there will be no significant attrition of those members or units during a mobilization.

"(2) That there is a proper balance of military skills.

"(3) That except for those with military skills for which there is an overriding requirement, members having critical civilian skills are not retained in numbers beyond the need for those skills.

"(4) That with due regard to national security and military requirements, recognition will be given to participation in combat.

"(5) That members whose mobilization in an emergency would result in an extreme personal or community hardship are not retained in the Ready Reserve.

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be—

"(1) transferred to the Standby Reserve;

"(2) discharged; or

"(3) if the member is eligible and applies therefor, transferred to the Retired Reserve.

"§10150. Ready Reserve: transfer back from Standby Reserve

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Standby Reserve who has not completed his required period of service in the Ready Reserve may be transferred to the Ready Reserve when the reason for his transfer to the Standby Reserve no longer exists.

"§10151. Standby Reserve: composition

"The Standby Reserve consists of those units or members, or both, of the reserve components, other than those in the Ready Reserve or Retired Reserve, who are liable for active duty only as provided in sections 12301 and 12306 of this title.

"§10152. Standby Reserve: inactive status list

"(a) An inactive status list shall be maintained in the Standby Reserve. Whenever an authority designated by the Secretary concerned considers that it is in the best interest of the armed force concerned, a member in the Standby Reserve who is not required to remain a Reserve, and who cannot participate in prescribed training, may, if qualified, be transferred to the inactive status list under regulations to be prescribed by the Secretary concerned. These regulations shall fix the conditions under which such a member is entitled to be returned to an active status.

"§10153. Standby Reserve: status of members

"While in an inactive status, a Reserve is not eligible for pay or promotion and (as provided in section 12734(a) of this title) does not accrue credit for years of service under chapter 1223 of this title.

"§10154. Retired Reserve

"The Retired Reserve consists of the following Reserves:

"(1) Reserves who are or have been retired under section 3911, 6323, or 8911 of this title or under section 291 of title 14.

"(2) Reserves who have been transferred to the Retired Reserve upon their request, retain their status as Reserves, and are otherwise qualified.

"CHAPTER 1007—ADMINISTRATION OF RESERVE COMPONENTS

"Sec.
"10201. Assistant Secretary of Defense for Reserve Affairs.
"10202. Regulations.
"10203. Reserve affairs: designation of general or flag officer of each armed force.
"10204. Personnel records.
"10205. Members of Individual Ready Reserve: requirement of notification of change of status.
"10206. Members: periodic physical examinations.
"10207. Mobilization forces: maintenance.
"10208. Annual mobilization exercise.
"10209. Regular and reserve components: discrimination prohibited.
"10210. Dissemination of information.
"10211. Policies and regulations: participation of reserve officers in preparation and administration.
"10212. Gratuitous services of officers: authority to accept.
"10213. Reserve components: dual membership prohibited.
"10214. Adjutants general and assistant adjutants general: reference to other officers of National Guard.
"10215. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status.

"§10201. Assistant Secretary of Defense for Reserve Affairs

"As provided in section 138(b)(2) of this title, the official in the Department of Defense with responsibility for overall supervision of reserve component affairs of the Department of Defense is the Assistant Secretary of Defense for Reserve Affairs.

"§10202. Regulations

"(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department shall prescribe such regulations as the Secretary considers necessary to carry out provisions of law relating to the reserve components under the Secretary's jurisdiction.

"(b) The Secretary of Transportation, with the concurrence of the Secretary of the Navy, shall prescribe such regulations as the Secretary considers necessary to carry out all provisions of law relating to the reserve components insofar as they relate to the Coast Guard, except when the Coast Guard is operating as a service in the Navy.

"(c) So far as practicable, regulations for all reserve components shall be uniform.

"§10203. Reserve affairs: designation of general or flag officer of each armed force

"(a) The Secretary of the Army may designate a general officer of the Army to be directly responsible for reserve affairs to the Chief of Staff of the Army.

"(b) The Secretary of the Navy may designate a flag officer of the Navy to be directly responsible for reserve affairs to the Chief of Naval Operations and a general officer of the Marine Corps to be directly responsible for reserve affairs to the Commandant of the Marine Corps.

"(c) The Secretary of the Air Force may designate a general officer of the Air Force to be directly responsible for reserve affairs to the Chief of Staff of the Air Force.

"(d) The Secretary of Transportation may designate a flag officer of the Coast Guard to be directly responsible for reserve affairs to the Commandant of the Coast Guard.

"(e) This section does not affect the functions of the Chief of the National Guard Bureau, the Chief of Army Reserve, or the Chief of Air Force Reserve.

"§10204. Personnel records

"(a) The Secretary concerned shall maintain adequate and current personnel records of each member of the reserve components under the Secretary's jurisdiction showing the following with respect to the member:

"(1) Physical condition.

"(2) Dependency status.

"(3) Military qualifications.

"(4) Civilian occupational skills.

"(5) Availability for service.

"(6) Such other information as the Secretary concerned may prescribe.

"(b) Under regulations to be prescribed by the Secretary of Defense, the Secretary of each military department shall maintain a record of the number of members of each class of each reserve component who, during each fiscal year, have participated satisfactorily in active duty for training and inactive duty training with pay.

"§10205. Members of Ready Reserve: requirement of notification of change of status

"(a) Each member of the Ready Reserve shall notify the Secretary concerned of any change in the member's address, marital status, number of dependents, or civilian employment and of any change in the member's physical condition that would prevent the member from meeting the physical or mental standards prescribed for the member's armed force.

"(b) This section shall be administered under regulations prescribed by the Secretary of Defense and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

"§10206. Members: periodic physical examinations

"(a) Each member of the Ready Reserve who is not on active duty shall—

"(1) be examined as to his physical fitness every five years, or more often as the Secretary concerned considers necessary; and

"(2) execute and submit annually to the Secretary concerned a certificate of physical condition.

Each Reserve in an active status, or on an inactive status list, who is not on active duty shall execute and submit annually to the Secretary concerned a certificate of physical condition.

"(b) The kind of duty to which a Reserve ordered to active duty may be assigned shall be considered in determining physical qualifications for active duty.

"§10207. Mobilization forces: maintenance

"(a) Whenever units or members of the reserve components are ordered to active duty (other than for training) during a period of partial mobilization, the Secretary concerned shall continue to maintain mobilization forces by planning and budgeting for the continued organization and training of the reserve components not mobilized, and make the fullest practicable use of the Federal facilities vacated by mobilized units, consistent with approved joint mobilization plans.

"(b) In this section, the term 'partial mobilization' means the mobilization resulting from action by Congress or the President, under any law, to bring units of any reserve component, and members not assigned to units organized to serve as units, to active duty for a limited expansion of the active armed forces.

"§10208. Annual mobilization exercise

"(a) The Secretary of Defense shall conduct at least one major mobilization exercise each year. The exercise should be as comprehensive and as realistic as possible and should include the participation of associated active component and reserve component units.

"(b) The Secretary shall maintain a plan to test periodically each active component and reserve component unit based in the United States and all interactions of such units, as well as the sustainment of the forces mobilized as part of the exercise, with the objective of permitting an evaluation of the adequacy of resource allocation and planning.

"§10209. Regular and reserve components: discrimination prohibited

"Laws applying to both Regulars and Reserves shall be administered without discrimination—

"(1) among Regulars;

"(2) among Reserves; and

"(3) between Regulars and Reserves.

"§10210. Dissemination of information

"The Secretary of Defense shall require the complete and current dissemination, to all Reserves and to the public, of information of interest to the reserve components.

"§10211. Policies and regulations: participation of Reserve officers in preparation and administration

"Within such numbers and in such grades and assignments as the Secretary concerned may prescribe, each armed force shall have officers of its reserve components on active duty (other than for training) at the seat of government, and at headquarters responsible for reserve affairs, to participate in preparing and administering the policies and regulations affecting those reserve components. While so serving, such an officer is an additional number of any staff with which he is serving.

"§10212. Gratuitous services of officers: authority to accept

"Notwithstanding section 1342 of title 31, the Secretary of a military department may accept the gratuitous services of an officer of a reserve component under the Secretary's jurisdiction (other than an officer of the Army National Guard of the United States or the Air National Guard of the United States)—

"(1) in the furtherance of the enrollment, organization, and training of that officer's reserve component or the Reserve Officers' Training Corps; or

"(2) in consultation upon matters relating to the Armed Forces.

"§10213. Reserve components: dual membership prohibited

"Except as otherwise provided in this title, no person may be a member of more than one reserve component at the same time.

"§10214. Adjutants general and assistant adjutants general: reference to other officers of National Guard

"In any case in which, under the laws of a State, an officer of the National Guard of that jurisdiction, other than the adjutant general or an assistant adjutant general, normally performs the duties of that office, the references in sections 12004(b)(1), 12215, 12642(c), 14507(b), 14508(e), and 14512 of this title to the adjutant general or the assistant adjutant general shall be applied to that officer instead of to the adjutant general or assistant adjutant general.

"§10215. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status

"(a)(1) Officers of the Army National Guard of the United States who are not on active duty—

"(A) may order members of the Army National Guard of the United States to active duty for training under section 12301(d) of this title; and

"(B) with the approval of the Secretary of the Air Force, may order members of the Air National Guard of the United States to active duty for training under that section.

"(2) Officers of the Air National Guard of the United States who are not on active duty—

"(A) may order members of the Air National Guard of the United States to active duty for training under section 12301(d) of this title; and

"(B) with the approval of the Secretary of the Army, may order members of the Army National Guard of the United States to active duty for training under that section.

"(b) Officers of the Army National Guard of the United States or the Air National Guard of the United States who are not on active duty—

"(1) may enlist, reenlist, or extend the enlistments of persons as Reserves of the Army or Reserves of the Air Force for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be; and

"(2) with respect to their Federal status, may promote or discharge persons enlisted or reenlisted as Reserves of the Army or Reserves of the Air Force for that service.

"(c) This section shall be carried out under regulations prescribed by the Secretary of the Army, with respect to matters concerning the Army, and by the Secretary of the Air Force, with respect to matters concerning the Air Force.".

(2)(A) Sections 261 through 265 and 267 through 281 are repealed.

(B) Chapter 11 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"261. Reference to chapters 1003, 1005, and 1007.

"§261. Reference to chapters 1003, 1005, and 1007

"Provisions of law relating to the reserve components generally, including provisions relating to the organization and administration of the reserve components, are set forth in chapter 1003 (beginning with section 10101), chapter 1005 (beginning with section 10141), and chapter 1007 (beginning with section 10201) of this title.".

(3)(A) Chapter 519 and sections 652, 2001, 3076 through 3080, and 8076 through 8080 are repealed.

(B) Section 552(e) of Public Law 98–525 is repealed.

(4) Section 1004 is amended—

(A) by striking out subsections (a) and (b); and

(B) by striking out "(c)" before "Except as otherwise provided".

(5)(A) Section 10147(a), as added by paragraph (1), applies only to persons who were inducted, enlisted, or appointed in an armed force after August 9, 1955.

(B) Section 10148(b), as added by paragraph (1), applies only to persons who became members of the Army National Guard of the United States or the Air National Guard of the United States after October 4, 1961.

(b) BOARDS AND COMMITTEES.—(1) Part I of subtitle E (as added by subsection (a)) is amended by adding at the end the following:

"CHAPTER 1009—RESERVE FORCES POLICY BOARDS AND COMMITTEES

"Sec.
"10301. Reserve Forces Policy Board.
"10302. Army Reserve Forces Policy Committee.
"10303. Naval Reserve Policy Board.
"10304. Marine Corps Reserve Policy Board.
"10305. Air Force Reserve Forces Policy Committee.

"§10301. Reserve Forces Policy Board

"(a) There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The Board consists of the following:

"(1) A civilian chairman appointed by the Secretary of Defense.

"(2) The Assistant Secretary of the Army for Manpower and Reserve Affairs, the Assistant Secretary of the Navy for Manpower and Reserve Affairs, and the Assistant Secretary of the Air Force for Manpower and Reserve Affairs.

"(3) An officer of the Regular Army designated by the Secretary of the Army.

"(4) An officer of the Regular Navy and an officer of the Regular Marine Corps, each designated by the Secretary of the Navy.

"(5) An officer of the Regular Air Force designated by the Secretary of the Air Force.

"(6) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Army, two of whom must be members of the Army National Guard of the United States, and two of whom must be members of the Army Reserve.

"(7) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Navy, two of whom must be members of the Naval Reserve, and two of whom must be members of the Marine Corps Reserve.

"(8) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Air Force, two of whom must be members of the Air National Guard of the United States, and two of whom must be members of the Air Force Reserve.

"(9) A reserve officer of the Army, Navy, Air Force, or Marine Corps who is a general officer or flag officer designated by the Chairman of the Board with the approval of the Secretary of Defense, and who serves without vote as military adviser to the Chairman and as executive officer of the Board.

"(10) An officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps serving in a position on the Joint Staff who is designated by the Chairman of the Joint Chiefs of Staff.

"(b) Whenever the Coast Guard is not operating as a service in the Navy, the Secretary of Transportation may designate two officers of the Coast Guard, Regular or Reserve, to serve as voting members of the Board.

"(c) The Board, acting through the Assistant Secretary of Defense for Reserve Affairs, is the principal policy adviser to the Secretary of Defense on matters relating to the reserve components.

VOL
140
PT
16
AG
12
—
18
1994
UMI

"(d) This section does not affect the committees on reserve policies prescribed within the military departments by sections 10302 through 10305 of this title.

"(e) A member of a committee or board prescribed under a section listed in subsection (d) may, if otherwise eligible, be a member of the Reserve Forces Policy Board.

"(f) The Board shall act on those matters referred to it by the Chairman and, in addition, on any matter raised by a member of the Board.

"§10303. Naval Reserve Policy Board

"A Naval Reserve Policy Board shall be convened at least once annually at the seat of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Naval Reserve.

"§10304. Marine Corps Reserve Policy Board

"A Marine Corps Reserve Policy Board shall be convened at least once annually at the seat of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Marine Corps Reserve.".

(2)(A) Section 3021 is transferred to chapter 1009 (as added by paragraph (1)), inserted after section 10307, and redesignated as section 10302.

(B) Section 8021 is transferred to chapter 1009 (as added by paragraph (1)), inserted after section 10304, and redesignated as section 10305.

(3) The text of section 175 is amended to read as follows:

"There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The functions, membership, and organization of that board are set forth in section 10301 of this title.".

(4)(A) Chapter 303 (as amended by paragraph (2)(A)) is amended by adding at the end the following:

"§3021. Army Reserve Forces Policy Committee

"There is in the Office of the Secretary of the Army an Army Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10302 of this title.".

(B) Chapter 803 (as amended by paragraph (2)(B)) is amended by adding at the end the following:

"§8021. Air Force Reserve Forces Policy Committee

"There is in the Office of the Secretary of the Air Force an Air Force Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10305 of this title.".

(c) NATIONAL GUARD BUREAU.—(1)(A) Chapter 1011, as added by section 904(a), is amended by inserting after section 10506 the following:

"§10507. National Guard Bureau: assignment of officers of regular or reserve components

"Except as provided in section 124402(b) of this title, the President may assign to duty in the National Guard Bureau as many regular or reserve officers of the Army or Air Forces as he considers necessary.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 10506 the following new item:

"10507. National Guard Bureau: assignment of officers of regular or reserve components.".

(2) Sections 3541 and 8541 are repealed.

(d) ANNUAL REPORTS TO CONGRESS.—(1) Part I of subtitle E, as added by subsection (a), is amended by adding after chapter 1011, as added by section 904(a), the following:

"CHAPTER 1013—BUDGET INFORMATION AND ANNUAL REPORTS TO CONGRESS

"Sec.

"10541. National Guard and reserve component equipment: annual report to Congress.

"10542. Army National Guard combat readiness: annual report.".

(2)(A) Section 115b is transferred to chapter 1013, as added by paragraph (1), inserted after the table of sections, and redesignated as section 10541.

(B) The heading of that section is amended to read as follows:

"§10541. National Guard and reserve component equipment: annual report to Congress".

(3) Section 3082 is transferred to chapter 1013, as added by paragraph (1), inserted after section 10541 (as transferred and redesignated by paragraph (2)), redesignated as section 10542, and amended by striking out the word in the section heading before the colon and by striking out subsection (c).

SEC. 1662. LAWS RELATING TO RESERVE COMPONENT PERSONNEL POLICY.

(a) STRENGTH AND DISTRIBUTION IN GRADE.—(1) Subtitle E, as added by section 1611, is amended by inserting after part I of such subtitle, as added by section 1661, the following:

"PART II—PERSONNEL GENERALLY

"Chap. Sec.
"1201. Authorized Strengths and Distribution in Grade 12001
"1203. Enlisted Members 12101
"1205. Appointment of Reserve Officers 12201
"1207. Warrant Officers 12241
"1209. Active Duty 12301
"1211. National Guard Members in Federal Service 12401
"1213. Special Appointments, Assignments, Details, and Duties 12501
"1215. Miscellaneous Prohi[No present sections] bitions and Penalties
"1217. Miscellaneous Rights and Benefits 12601
"1219. Standards and Procedures for Retention and Promotion 12641
"1221. Separation 12681
"1223. Retired Pay for Non-Regular Service 12731
"1225. Retired Grade 12771

"CHAPTER 1201—AUTHORIZED STRENGTHS AND DISTRIBUTION IN GRADE

"Sec.
"12001. Authorized strengths: reserve components.
"12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty.
"12003. Authorized strengths: commissioned officers active status.
"12004. Strength in grade: reserve general and flag officers in an active status.
"12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status.
"12006. Strength limitations: authority to waive in time of war or national emergency.
"12007. Reserve officers of the Army: distribution.
"12008. Army Reserve and Air Force Reserve: warrant officers.
"12009. Army and Air Force reserve components: temporary increases.
"12010. Computations for Naval Reserve and Marine Corps Reserve: rule when fraction occurs in final result.
"12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.
"12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.

"§12001. Authorized strengths: reserve components

"(a) Whenever the authorized strength of a reserve component (other than the Coast Guard Reserve) is not prescribed by law, it shall be prescribed by the President.

"(b) Subject to the authorized strength of the reserve component concerned, the authorized strength of each reserve component (other than the Coast Guard Reserve) in members in each grade is that which the Secretary concerned determines to be necessary to provide for mobilization requirements. The Secretary shall review these determinations at least once each year and revise them if he considers it necessary. However, a member of the reserve component concerned may not, as a result of such a determination, be reduced in the member's reserve grade without the member's consent.

"§12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty

"(a) The authorized strengths of the National Guard and the reserve components of the Army and the Air Force, exclusive of members who are included in the strengths authorized for members of the Army and Air Force, respectively, on active duty, are as follows:

"Army National Guard and the Army National Guard of the United States	600,000
"Army Reserve	980,000
"Air National Guard and the Air National Guard of the United States	150,000
"Air Force Reserve	500,000.

"(b) The strength authorized by this section for the Army National Guard and the Army National Guard of the United States, and the strength authorized by this section for the Air National Guard and the Air National Guard of the United States, shall be allocated among the States.

"§12003. Authorized strengths: commissioned officers in an active status

"(a) The authorized strengths of the Army, Navy, Air Force, and Marine Corps in reserve commissioned officers, other than commissioned warrant officers and officers on an active-duty list, in an active status are as foltows:

"Army	275,000
"Air Force	200,000
"Navy	150,000
"Marine Corps	24,500.

"(b) The authorized strengths prescribed by subsection (a) may not be exceeded unless—

"(1) the Secretary concerned determines that a greater number is necessary for planned mobilization requirements; or

"(2) the excess results directly from the operation of a nondiscretionary provision of law.

"§12004. Strength in grade: reserve general and flag officers in an active status

"(a) The authorized strengths of the Army, Air Force, and Marine Corps in reserve general officers in an active status, and the authorized strength of the Navy in reserve officers in the grades of rear admiral (lower half) and rear admiral in an active-status, are as follows:

"Army	207
"Air Force	157
"Navy	48
"Marine Corps	10.

"(b) The following Army and Air Force reserve officers shall not be counted for purposes of this section:

"(1) Those serving as adjutants general or assistant adjutants general of a State.

"(2) Those serving in the National Guard Bureau.

"(3) Those counted under section 526 of this title.

"(c)(1) The authorized strength of the Navy under subsection (a) is exclusive of officers counted under section 526 of this title. Of the number authorized under subsection (a), 39 are distributed among the line and the staff corps as follows:

"Line	28
"Medical Corps	5
"Chaplain Corps	1
"Judge Advocate General's Corps	1
"Dental Corps	2
"Nurse Corps	1
"Medical Service Corps	1

"(2) The remaining authorizations for the Navy under subsection (a) shall be distributed among such other staff corps as are established by the Secretary of the Navy under the authority provided by section 5150(b) of this title, except that—

"(A) if the Secretary has established a Supply Corps, the authorized strength for the Supply Corps shall be seven; and

"(B) if the Secretary has established a Civil Engineering Corps, the authorized strength for the Civil Engineering Corps shall be two.

"(3) Not more than 50 percent of the officers in an active status authorized under this section for the Navy may serve in the grade of rear admiral.

"(d) The authorized strength of the Marine Corps under subsection (a) is exclusive of those counted under section 526 of this title.

"(e)(1) A reserve general officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of general officers authorized under subsection (a).

"(2) An officer of the Naval Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

"§12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status

"(a)(1) Subject to paragraph (2), the authorized strength of the Army and the Air Force in reserve commissioned officers in an active status in each grade named in paragraph (2) is as prescribed by the Secretary of the Army or the Secretary of the Air Force, respectively. A vacancy in any grade may be filled by an authorized appointment in any lower grade.

"(2) A strength prescribed by the Secretary concerned under paragraph (1) for a grade may not be higher than the percentage of the strength authorized for the Army or the Air Force, as the case may be, under section 12003 of this title that is specified for that grade as follows:

Grade	Army percentage	Air Force percentage
Colonel	2	1.8
Lieutenant colonel	6	4.6
Major	13	14.0
Captain	35	32.0
First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	44	47.6

"(b)(1) The authorized strengths of the Naval Reserve in line officers in an active status in the grades of captain, commander, lieutenant commander, and lieutenant, and in the grades of lieutenant (junior grade) and ensign combined, are the following percentages of the total authorized number of those officers:

"Captain	1.5 percent
"Commander	7 percent
"Lieutenant commander	22 percent
"Lieutenant	37 percent
"Lieutenant (junior grade) and ensign (when combined with the number authorized for flag officer grades under section 12004 of this title)	32.5 percent.

"(2) When the actual number of line officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

"(c)(1) The authorized strengths of the Marine Corps Reserve in officers in an active status in the grades of colonel, lieutenant colonel, major, and captain, and in the grades of first lieutenant and second lieutenant combined, are the following percentages of the total authorized number of those officers:

"Colonel	2 percent
"Lieutenant colonel	6 percent
"Major	12 percent
"Captain	35 percent
"First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	32.5 percent.

"(2) When the actual number of officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

"(d)(1) An officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of commissioned officers authorized for the officer's grade under this section.

"(2) An officer of the Naval Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

"§12006. Strength limitations: authority to waive in time of war or national emergency

"(a) In time of war, or of national emergency declared by Congress or the President, the President may suspend the operation of any provision of section 12003, 12004, or 12005 of this title. So long as any such war or national emergency continues, any such suspension may be extended by the President.

"(b) Any suspension under subsection (a) shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621, 1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of termination of the emergency.

"§12007. Reserve officers of the Army: distribution

"The Secretary of the Army shall distribute the number of reserve commissioned officers, other than commissioned warrant officers, authorized in each commissioned grade between those assigned to reserve units organized to serve as units and those not assigned to such units. The Secretary shall distribute the number who are assigned to reserve units organized to serve as units among the units of each reserve component by prescribing appropriate tables of organization and tables of distribution. The Secretary shall distribute the number who are not assigned to such units between—

"(1) each special branch; and

"(2) all other branches taken together.

"§12008. Army Reserve and Air Force Reserve: warrant officers

"The Secretary of the Army may prescribe the authorized strength of the Army Reserve in warrant officers. The Secretary of the Air Force may prescribe the authorized strength of the Air Force Reserve in warrant officers.

"§12009. Army and Air Force reserve components: temporary increases

"(a) The authorized strength in any reserve grade, as prescribed under this chapter, for any reserve component under the jurisdiction of the Secretary of the Army or the Secretary of the Air Force is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 3036, 14304(b), 14314, or 14317 of this title.

"(b) An authorized strength so increased is increased for no other purpose. While an officer holds that grade, the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under those sections, may be made in that grade.

"§12010. Computations for Naval Reserve and Marine Corps Reserve: rule when fraction occurs in final result

"When there is a fraction in the final result of any computation under this chapter for the Naval Reserve or the Marine Corps Reserve, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

"§12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or National Guard

"(a) The number of enlisted members in pay grades E-8 and E-9 who may be on active duty (other than for training) or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) as of the end of any fiscal year in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not exceed the number for that grade and armed force in the following table:

VOL 140 PT 16 AG 12 — 18 1994 UMI

"Grade	Army	Navy	Air Force	Marine Corps
E–9	569	202	328	14
E–8	2,585	429	840	74

"(b) Whenever the number of members serving in pay grade E–9 for duty described in subsection (a) is less than the number authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E–8.".

(2)(A) Section 524 is transferred to chapter 1201, as added by paragraph (1), inserted after section 12110, and redesignated as section 12011.

(B) The heading of that section is amended to read as follows:

"§12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard".

(3) Chapter 531 and sections 3212, 3217 through 3225, 5454, 5456, 5457, 5458, 8212, and 8217 through 8225 are repealed.

(4) Section 517 is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b) and in that subsection striking out "or whenever" and all that follows through "under subsection (b),".

(b) ENLISTMENTS.—(1) Part II of subtitle E, as added by subsection (a), is amended by adding after chapter 1201 (as added by subsection (a)), the following:

"CHAPTER 1203—ENLISTED MEMBERS

"Sec.
"12101. Definition.
"12102. Reserve components: qualifications.
"12103. Reserve components: terms.
"12104. Reserve components: transfers.
"12105. Army Reserve and Air Force Reserve: transfer from Guard components.
"12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard.
"12107. Army National Guard of United States; Air National Guard of the United States: enlistment in.

"§12101. Definition

"In this chapter, the term 'enlistment' means original enlistment or reenlistment.

"§12105. Army Reserve and Air Force Reserve: transfer from Guard components

"(a) Under such regulations as the Secretary concerned may prescribe—

"(1) an enlisted member of the Army National Guard of the United States may be transferred in grade to the Army Reserve; and

"(2) an enlisted member of the Air National Guard of the United States may be transferred in grade to the Air Force Reserve.

"(b) Upon such a transfer, the member transferred is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if transferred under subsection (a)(1), or the Air Force, if transferred under subsection (a)(2), if his service has been honorable.

"(c) A transfer under this section may only be made with the consent of the governor or other appropriate authority of the State concerned.

"§12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard

"(a) An enlisted member of the Army National Guard of the United States who ceases to be a member of the Army National Guard becomes a member of the Army Reserve unless he is also discharged from his enlistment as a Reserve.

"(b) An enlisted member of the Air National Guard of the United States who ceases to be a member of the Air National Guard becomes a member of the Air Force Reserve unless he is also discharged from his enlistment as a Reserve.

"(c) An enlisted member who becomes a member of the Army Reserve or the Air Force Reserve under this section ceases to be a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

"§12107. Army National Guard of United States; Air National Guard of the United States: enlistment in

"(a) Except as provided in subsection (c), to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, a person must—

"(1) be enlisted in the Army National Guard or the Air National Guard, as the case may be;

"(2) subscribe to the oath set forth in section 304 of title 32; and

"(3) be a member of a federally recognized unit or organization of the Army National Guard or the Air National Guard, as the case may be, in the grade in which he is to be enlisted as a Reserve.

"(b)(1) Under regulations to be prescribed by the Secretary of the Army, a person who enlists in the Army National Guard, or whose term of enlistment in the Army National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Army for service in the Army National Guard of the United States.

"(2) Under regulations to be prescribed by the Secretary of the Air Force, a person who enlists in the Air National Guard, or whose term of enlistment in the Air National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Air Force for service in the Air National Guard of the United States.

"(c)(1) A member of the Army Reserve who enlists in the Army National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Army National Guard, becomes a member of the Army National Guard of the United States and ceases to be a member of the Army Reserve.

"(2) A member of the Air Force Reserve who enlists in the Air National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Air National Guard, becomes a member of the Air National Guard of the United States and ceases to be a member of the Air Force Reserve.".

(2) Sections 510 (as amended by section 1631(a)), 511, and 512 are transferred to chapter 1203, as added by paragraph (1), inserted after section 12101, and redesignated as follows:

Section	Redesignated section
510	12102
511	12103
512	12104

(3) The following sections are repealed: sections 3259, 3260, 3261, 8259, 8260, and 8261.

(c) APPOINTMENT OF OFFICERS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1203 (as added by subsection (b)) the following:

"CHAPTER 1205—APPOINTMENT OF RESERVE OFFICERS

"Sec.
"12201. Qualifications for appointment.
"12202. Commissioned officer grades.
"12203. Commissioned officers: appointment, how made; term.
"12204. Commissioned officers: original appointment; limitation.
"12205. Commissioned officers: appointment; educational requirement.
"12206. Commissioned officers: appointment of former commissioned officers.
"12207. Commissioned officers: service credit upon original appointment.
"12208. Officers: appointment upon transfer.
"12209. Officer candidates: enlisted Reserves.
"12210. Attending Physician to the Congress: reserve grade while so serving.
"12211. Officers: Army National Guard of United States.
"12212. Officers: Air National Guard of United States.
"12213. Officers; Army Reserve: transfer from Army National Guard of United States.
"12214. Officers; Air Force Reserve: transfer from Air National Guard of United States.
"12215. Commissioned officers: reserve grade of adjutants general and assistant adjutants general.

"§12215. Commissioned officers: reserve grade of adjutants general and assistant adjutants general

"(a) The adjutant general or an assistant adjutant general of the Army National Guard of a State may, upon being extended Federal recognition, be appointed as a reserve officer of the Army as of the date on which he is so recognized.

"(b) The adjutant general or an assistant adjutant general of the Air National Guard of a State may be appointed in the reserve commissioned grade in which Federal recognition in the Air National Guard is extended to him.".

(2) Sections 591 (as amended by section 1631(b)), 592, 593 (as amended by section 1632), 594, 596, 596a (as added by section 1633), 596b (as added by section 1634), and 595 are transferred (in that order) to chapter 1205, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
591	12201
592	12202
593	12203
594	12204
596	12205
596a (as added by section 1633)	12206
596b (as added by section 1634)	12207
595	12208

(3) Sections 600, 600a, 3351, 8351, 3352 (as amended by section 1636(a)), and 8352 are transferred (in that order) to chapter 1205, as added by paragraph (1), inserted after section 12208, and redesignated as follows:

Section	Redesignated section
600	12209
600a	12210
3351	12211
8351	12212
3352	12213
8352	12214

(d) WARRANT OFFICERS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1205 (as added by subsection (c)) the following:

"CHAPTER 1207—WARRANT OFFICERS

"Sec.
"12241. Warrant officers: grades; appointment, how made; term.
"12242. Warrant officers: promotion.
"12243. Warrant officers: suspension of laws for promotions or mandatory retirement or separation during war or emergency.".

(2) Sections 597, 598, and 599 are transferred to chapter 1207, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
597	12241
598	12242
599	12243

(3) Chapter 34 is amended to read as follows:

"CHAPTER 34—APPOINTMENTS AS RESERVE OFFICERS

"Sec.
"591. Reference to chapters 1205 and 1207.

"§591. Reference to chapters 1205 and 1207

"Provisions of law relating to appointments of reserve officers other than warrant officers are set forth in chapter 1205 of this title (beginning with section 12201). Provisions of law relating to appointments and promotion of reserve warrant officers are set forth in chapter 1207 (beginning with section 12241).".

(e) ACTIVE DUTY.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1207 (as added by subsection (d)) the following:

"CHAPTER 1209—ACTIVE DUTY

"Sec.
"12301. Reserve components generally.
"12302. Ready Reserve.
"12303. Ready Reserve: members not assigned to, or participating satisfactorily in, units.
"12304. Selected Reserve: order to active duty other than during war or national emergency.
"12305. Authority of President to suspend certain laws relating to promotion, retirement, and separation.
"12306. Standby Reserve.
"12307. Retired Reserve.
"12308. Retention on active duty after becoming qualified for retired pay.
"12309. Reserve officers: use of in expansion of armed forces.
"12310. Reserves: for organizing, administering, etc., reserve components.
"12311. Active duty agreements.
"12312. Active duty agreements: release from duty.
"12313. Reserves: release from active duty.
"12314. Reserves: kinds of duty.
"12315. Reserves: duty with or without pay.
"12316. Payment of certain Reserves while on duty.
"12317. Reserves: theological students; limitations.
"12318. Reserves on active duty: duties; funding.
"12319. Ready Reserve: muster duty.
"12320. Reserve officers: grade in which ordered to active duty.
"12321. Reserve Officer Training Corps units: limitation on number of Reserves assigned.".

(2) Sections 672 through 673a, section 673b (as amended by section 511), sections 673c through 687, section 689 (as amended by section 1625), and section 690 are transferred to chapter 1209, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
672	12301
673	12302
673a	12303
673b	12304
673c	12305
674	12306
675	12307
676	12308
677	12309
678	12310
679	12311
680	12312
681	12313
682	12314
683	12315
684	12316
685	12317
686	12318
687	12319
689	12320
690	12321

(3) The heading of section 12321 (as so redesignated) is amended to read as follows:

"§12321. Reserve Officer Training Corps units: limitation on number of Reserves assigned".

(4) Chapter 39 is amended by inserting after section 671b the following:

"§672. Reference to chapter 1209

"Provisions of law relating to service of members of reserve components on active duty are set forth in chapter 1209 of this title (beginning with section 12301).".

(f) NATIONAL GUARD MEMBERS IN FEDERAL SERVICE.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1209 (as added by subsection (e)) the following:

"CHAPTER 1211—NATIONAL GUARD MEMBERS IN FEDERAL SERVICE

"Sec.
"12401. Army and Air National Guard of United States: status.
"12402. Army and Air National Guard of United States: commissioned officers; duty in National Guard Bureau.
"12403. Army and Air National Guard of United States: members; status in which ordered into Federal service.
"12404. Army and Air National Guard of United States: mobilization; maintenance of organization.
"12405. National Guard in Federal service: status.
"12406. National Guard in Federal service: call.
"12407. National Guard in Federal service: period of service; apportionment.
"12408. National Guard in Federal service: physical examination.

"§12401. Army and Air National Guard of the United States: status

"Members of the Army National Guard of the United States and the Air National Guard of the United States are not in active Federal service except when ordered thereto under law.

"§12402. Army and Air National Guard of United States: commissioned officers; duty in National Guard Bureau

"(a) The President may, with their consent, order commissioned officers of the Army National Guard of the United States and the Air National Guard of the United States to active duty in the National Guard Bureau.

"(b)(1) The number of officers of the Army National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Army authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Army serving in that Bureau in any grade below brigadier general.

"(2) The number of officers of the Air National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Air Force authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Air Force serving in that Bureau in any grade below brigadier general.

"§12403. Army and Air National Guard of United States: members; status in which ordered into Federal service

"Members of the Army National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Army. Members of the Air National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Air Force.

"§12404. Army and Air National Guard of United States: mobilization; maintenance of organization

"During an initial mobilization, the organization of a unit of the Army National Guard of the United States or of the Air National Guard of the United States ordered into active Federal service shall, so far as practicable, be maintained as it existed on the date of the order to duty.

"§12405. National Guard in Federal service: status

"Members of the National Guard called into Federal service are, from the time when they are required to respond to the call, subject to the laws and regulations governing the Army or the Air Force, as the case may be, except those applicable only to members of the Regular Army or Regular Air Force, as the case may be.

"§12406. National Guard in Federal service: call

"Whenever—

"(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

"(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

"(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the National Guard of any State in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States or, in the case of the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

"§12407. National Guard in Federal service: period of service; apportionment

"(a) Whenever the President calls the National Guard of a State into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the National Guard may be kept in Federal service beyond the term of his commission or enlistment.

"(b) When the National Guard of a State is called into Federal service with the National Guard of another of those jurisdictions, the President may apportion the total number called

VOL 140 PT 16 AG 12 — 18 1994 UMI

from the Army National Guard or from the Air National Guard, as the case may be, on the basis of the populations of the jurisdictions affected by the call.

"§12408. National Guard in Federal service: physical examination

"(a) Under regulations prescribed by the President, each member of the National Guard called into Federal service shall be examined as to physical fitness, without further commission or enlistment.

"(b) Immediately before such a member is mustered out of Federal service, he shall be examined as to physical fitness. The record of this examination shall be retained by the United States.".

(2) Sections 3495 through 3502 and 8495 through 8502 are repealed.

(g) MISCELLANEOUS PROVISIONS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1211 (as added by subsection (f)) the following:

"CHAPTER 1213—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

"Sec.
"12501. Reserve components: detail of members of regular and reserve components to assist.
"12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail.

"§12501. Reserve components: detail of members of regular and reserve components to assist

"The Secretary concerned shall detail such members of the regular and reserve components under his jurisdiction as are necessary to effectively develop, train, instruct, and administer those reserve components.

"§12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail

"(a) The President may detail a regular or reserve officer of the Army as chief of staff, and a regular or reserve officer or an officer of the Army National Guard as assistant to the chief of staff, of any division of the Army National Guard that is in Federal service as an Army National Guard organization.

"(b) The President may detail a regular or reserve officer of the Air Force as chief of staff, and a regular or reserve officer or an officer of the Air National Guard as assistant to the chief of staff, of any wing of the Air National Guard that is in Federal service as an Air National Guard organization.

"CHAPTER 1215—MISCELLANEOUS PROHIBITIONS AND PENALTIES

"[No present sections]

"CHAPTER 1217—MISCELLANEOUS RIGHTS AND BENEFITS

"Sec.
"12601. Compensation: Reserve on active duty accepting from any person.
"12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard.

"§12601. Compensation: Reserve on active duty accepting from any person

"Any Reserve who, before being ordered to active duty, was receiving compensation from any person may, while he is on that duty, receive compensation from that person.

"§12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard

"(a) For the purposes of laws providing benefits for members of the Army National Guard of the United States and their dependents and beneficiaries—

"(1) military training, duty, or other service performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Army;

"(2) full-time National Guard duty performed by a member of the Army National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Army; and

"(3) inactive-duty training performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Army.

"(b) For the purposes of laws providing benefits for members of the Air National Guard of the United States and their dependents and beneficiaries—

"(1) military training, duty, or other service performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Air Force;

"(2) full-time National Guard duty performed by a member of the Air National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Air Force; and

"(3) inactive-duty training performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Air Force.".

(2) Sections 715, 1033, 3542, 3686, 8542, and 8686 are repealed.

(h) STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1217 (as added by subsection (g)) the following:

"CHAPTER 1219—STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION

"Sec.
"12641. Standards and procedures: Secretary to prescribe.
"12642. Standards and qualifications: result of failure to comply with.
"12643. Boards for appointment, promotion, and certain other purposes: composition.
"12644. Members physically not qualified for active duty: discharge or transfer to retired status.
"12645. Commissioned officers: retention until completion of required service.
"12646. Commissioned officers: retention of after completing 18 or more, but less than 20, years of service.
"12647. Commissioned officers: retention in active status while assigned to Selective Service System or serving as United States property and fiscal officers.".

(2) Sections 1001, 1002, 266, 1004 (as amended by section 1661(b)(4)), and 1005 through 1007 are transferred (in that order) to chapter 1219, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
1001	12641
1002	12642
266	12643
1004	12644
1005	12645
1006	12646
1007	12647

(3) Section 1003 is repealed.

(4)(A) The heading of section 12641 (as so redesignated) is amended to read as follows:

"§12641. Standards and procedures: Secretary to prescribe".

(B) The heading of section 12644 (as so redesignated) is amended to read as follows:

"§12644. Members physically not qualified for active duty: discharge or transfer to retired status".

(5) Chapter 51 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"1001. Reference to chapter 1219.

"§1001. Reference to chapter 1219

"Provisions of law relating to standards and procedures for retention and promotion of members of reserve components are set forth in chapter 1219 of this title (beginning with section 12641).".

(i) SEPARATION.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1219 (as added by subsection (h)) the following:

"CHAPTER 1221—SEPARATION

"Sec.
"12681. Reserves: discharge authority.
"12682. Reserves: discharge upon becoming ordained minister of religion.
"12683. Reserve officers: limitation on involuntary separation.
"12684. Reserves: separation for absence without authority or sentence to imprisonment.
"12685. Reserves separated for cause: character of discharge.
"12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty.

"§12681. Reserves: discharge authority

"Subject to other provisions of this title, reserve commissioned officers may be discharged at the pleasure of the President. Other Reserves may be discharged under regulations prescribed by the Secretary concerned.

"§12682. Reserves: discharge upon becoming ordained minister of religion

"Under regulations to be prescribed by the Secretary of Defense, a Reserve who becomes a regular or ordained minister of religion is entitled upon his request to a discharge from his reserve enlistment or appointment.

"§12683. Reserve officers: limitation on involuntary separation

"(a) An officer of a reserve component who has at least five years of service as a commissioned officer may not be separated from that component without his consent except—

"(1) under an approved recommendation of a board of officers convened by an authority designated by the Secretary concerned; or

"(2) by the approved sentence of a court-martial.

"(b) Subsection (a) does not apply—

"(1) to a separation under section 12684, 14901, or 14907 of this title;

"(2) to a dismissal under section 1161(a) of this title; or

"(3) to a transfer under section 12213, 12214, 14514, or 14515 of this title.

"§12684. Reserves: separation for absence without authority or sentence to imprisonment

"The President or the Secretary concerned may drop from the rolls of the armed force concerned any Reserve—

"(1) who has been absent without authority for at least three months; or

"(2) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

"§12685. Reserves separated for cause: character of discharge

"A member of a reserve component who is separated for cause, except under section 12684 of this title, is entitled to a discharge under honorable conditions unless—

"(1) the member is discharged under conditions other than honorable under an approved sentence of a court-martial or under the approved findings of a board of officers convened by an authority designated by the Secretary concerned; or

"(2) the member consents to a discharge under conditions other than honorable with a waiver of proceedings of a court-martial or a board.

"§12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

"Under regulations to be prescribed by the Secretary concerned, which shall be as uniform as practicable, a member of a reserve component who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system, may not be involuntarily released from that duty before he becomes eligible for that pay, unless the release is approved by the Secretary.".

(2) Sections 1162 and 1163 are repealed.

(j) RETIRED PAY.—(1) Chapter 67 is transferred to part II of subtitle E, as added by subsection (a), inserted after chapter 1221 (as added by subsection (i)), and amended to read as follows:

"CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE

"Sec.
"12731. Age and service requirements.
"12731a. Temporary special retirement qualification authority.
"12732. Entitlement to retired pay: computation of years of service.
"12733. Computation of retired pay: computation of years of service.
"12734. Time not creditable toward years of service.
"12735. Inactive status list.
"12736. Service credited for retired pay benefits not excluded for other benefits.
"12737. Limitation on active duty.
"12738. Limitations on revocation of retired pay.
"12739. Computation of retired pay.

"§12731. Age and service requirements

"(a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

"(1) is at least 60 years of age;

"(2) has performed at least 20 years of service computed under section 12732 of this title;

"(3) performed the last eight years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve; and

"(4) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

"(b) Application for retired pay under this section must be made to the Secretary of the military department, or the Secretary of Transportation, as the case may be, having jurisdiction at the time of application over the armed force in which the applicant is serving or last served.

"(c)(1) A person who, before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 12732(a)(1) of this title except a regular component, is not eligible for retired pay under this chapter unless—

"(A) the person performed active duty during World War I or World War II; or

"(B) the person performed active duty (other than for training) during the Korean conflict, the Berlin crisis, or the Vietnam era.

"(2) In this subsection:

"(A) The term 'World War I' means the period beginning on April 6, 1917, and ending on November 11, 1918.

"(B) The term 'World War II' means the period beginning on September 9, 1940, and ending on December 31, 1946.

"(C) The term 'Korean conflict' means the period beginning on June 27, 1950, and ending on July 27, 1953.

"(D) The term 'Berlin crisis' means the period beginning on August 14, 1961, and ending on May 30, 1963.

"(E) The term 'Vietnam era' means the period beginning on August 5, 1964, and ending on March 27, 1973.

"(d) The Secretary concerned shall notify each person who has completed the years of service required for eligibility for retired pay under this chapter. The notice shall be sent, in writing, to the person concerned within one year after the person completes that service. The notice shall include notice of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter, and the effects of such elections.

"(e) Notwithstanding section 8301 of title 5, the date of entitlement to retired pay under this section shall be the date on which the requirements of subsection (a) have been completed.

"(f) In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on the date of the enactment of this subsection and ending on September 30, 1999, the provisions of subsection (a)(3) shall be applied by substituting 'the last six years' for 'the last eight years'.

"§12731a. Temporary special retirement qualification authority

"(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 12731 of this title, the Secretary concerned may—

"(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 12732 of this title; or

"(B) after that date and before October 1, 1999, completes 15 years of service computed under that section; and

"(2) upon the request of the member submitted to the Secretary, transfer the member to the Retired Reserve.

"(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on October 23, 1992, and ending on October 1, 1999.

"(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2713).

"(3) Notwithstanding the provisions of section 4415(2) of the Defense Conversion Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 12731(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned or was incurred during a period of unauthorized absence.

"(d) EXCLUSION.—This section does not apply to persons referred to in section 12731(c) of this title.

"(e) REGULATIONS.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense and by the Secretary of Transportation with respect to the Coast Guard.

"§12732. Entitlement to retired pay: computation of years of service

"(a) Except as provided in subsection (b), for the purpose of determining whether a person is entitled to retired pay under section 12731 of this title, the person's years of service are computed by adding the following:

"(1) The person's years of service, before July 1, 1949, in the following:

"(A) The armed forces.

"(B) The federally recognized National Guard before June 15, 1933.

"(C) A federally recognized status in the National Guard before June 15, 1933.

"(D) The National Guard after June 14, 1933, if his service therein was continuous from the date of his enlistment in the National Guard, or his Federal recognition as an officer therein, to the date of his enlistment or appointment, as the case may be, in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

"(E) The Naval Reserve Force.

"(F) The Naval Militia that conformed to the standards prescribed by the Secretary of the Navy.

"(G) The National Naval Volunteers.

"(H) The Army Nurse Corps, the Navy Nurse Corps, the Nurse Corps Reserve of the Army, or the Nurse Corps Reserve of the Navy, as it existed at any time after February 2, 1901.

"(I) The Army under an appointment under the Act of December 22, 1942 (ch. 805, 56 Stat. 1072).

"(J) An active full-time status, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

"(i) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917, and before April 1, 1943; or

"(ii) in the occupational therapy category, if the service was performed before appointment in

VOL 140 PT 16 AG 12 — 18 1994 UMI

the Army Nurse Corps or the Women's Medical Specialist Corps and before January 1, 1949, or before appointment in the Air Force before January 1, 1949, with a view to designation as an Air Force nurse or medical specialist.

"(2) Each one-year period, after July 1, 1949, in which the person has been credited with at least 50 points on the following basis:

"(A) One point for each day of—

"(i) active service; or

"(ii) full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned;

if that service conformed to required standards and qualifications.

"(B) One point for each attendance at a drill or period of equivalent instruction that was prescribed for that year by the Secretary concerned and conformed to the requirements prescribed by law, including attendance under section 502 of title 32.

"(C) Points at the rate of 15 a year for membership—

"(i) in a reserve component of an armed force,

"(ii) in the Army or the Air Force without component, or

"(iii) in any other category covered by subsection (a)(1) except a regular component.

For the purpose of clauses (A), (B), and (C), service in the National Guard shall be treated as if it were service in a reserve component, if the person concerned was later appointed in the National Guard of the United States, the Army National Guard of the United States, the Air National Guard of the United States, or as a Reserve of the Army or the Air Force, and served continuously in the National Guard from the date of his Federal recognition to the date of that appointment.

"(3) The person's years of active service in the Commissioned Corps of the Public Health Service.

"(4) The person's years of active commissioned service in the National Oceanic and Atmospheric Administration (including active commissioned service in the Environmental Science Services Administration and in the Coast and Geodetic Survey).

"(b) The following service may not be counted under subsection (a):

"(1) Service (other than active service) in an inactive section of the Organized Reserve Corps or of the Army Reserve, or in an inactive section of the officers' section of the Air Force Reserve.

"(2) Service (other than active service) after June 30, 1949, while on the Honorary Retired List of the Naval Reserve or of the Marine Corps Reserve.

"(3) Service in the inactive National Guard.

"(4) Service in a non-federally recognized status in the National Guard.

"(5) Service in the Fleet Reserve or the Fleet Marine Corps Reserve.

"(6) Service as an inactive Reserve nurse of the Army Nurse Corps established by the Act of February 2, 1901 (ch. 192, 31 Stat. 753), as amended, and service before July 1, 1938, as an inactive Reserve nurse of the Navy Nurse Corps established by the Act of May 13, 1908 (ch. 166, 35 Stat. 146).

"(7) Service in any status other than that as commissioned officer, warrant officer, nurse, flight officer, aviation midshipman, appointed aviation cadet, or enlisted member, and that described in clauses (1) and (J) of subsection (a)(1).

"§12733. Computation of retired pay: computation of years of service

"For the purpose of computing the retired pay of a person under this chapter, the person's years of service and any fraction of such a year are computed by dividing 360 into the sum of the following:

"(1) The person's days of active service.

"(2) The person's days of full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned.

"(3) One day for each point credited to the person under clause (B) or (C) of section 12732(a)(2) of this title, but not more than 60 days in any one year.

"(4) 50 days for each year before July 1, 1949, and proportionately for each fraction of a year, of service (other than active service) in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by section 12732(a)(1) of this title, except a regular component.

"§12734. Time not creditable toward years of service

"(a) Service in an inactive status may not be counted in any computation of years of service under this chapter.

"(b) Time spent after retirement (without pay) for failure to conform to standards and qualifications prescribed under section 12641 of this title may not be credited in a computation of years of service under this chapter.

"§12735. Inactive status list

"(a) A member who would be eligible for retired pay under this chapter but for the fact that that member is under 60 years of age may be transferred, at his request and by direction of the Secretary concerned, to such inactive status list as may be established for members of his armed force, other than members of a regular component.

"(b) While on an inactive status list under subsection (a), a member is not required to participate in any training or other program prescribed for his component.

"(c) The Secretary may at any time recall to active status a member who is on an inactive status list under subsection (a).

"§12736. Service credited for retired pay benefits not excluded for other benefits

"No period of service included wholly or partly in determining a person's right to, or the amount of, retired pay under this chapter may be excluded in determining his eligibility for any annuity, pension, or old-age benefit, under any other law, on account of civilian employment by the United States or otherwise, or in determining the amount payable under that law, if that service is otherwise properly credited under it.

"§12737. Limitation on active duty

"A member of the armed forces may not be ordered to active duty solely for the purpose of qualifying the member for retired pay under this chapter.

"§12738. Limitations on revocation of retired pay

"(a) After a person is granted retired pay under this chapter, or is notified in accordance with section 12731(d) of this title that the person has completed the years of service required for eligibility for retired pay under this chapter, the person's eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed as required by section 12731(a)(2) of this title, unless it resulted directly from the fraud or misrepresentation of the person.

"(b) The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination and when such a correction is made the person is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date the person is granted retired pay.

"§12739. Computation of retired pay

"(a) The monthly retired pay of a person entitled to that pay under this chapter is the product of—

"(1) the retired pay base for that person as computed under section 1406(b)(2) or 1407 of this title; and

"(2) 2½ percent of the years of service credited to that person under section 12733 of this title.

"(b) The amount computed under subsection (a) may not exceed 75 percent of the retired pay base upon which the computation is based.

"(c) Amounts computed under this section, if not a multiple of $1, shall be rounded down to the next lower multiple of $1.".

(2) Section 1401(a) is amended by striking out formula number 3 in the table set forth in that section.

(3) Section 1405(a)(3) is amended by striking out "section 1333" and "section 1331" and inserting in lieu thereof "section 12733" and "section 12731", respectively.

(4) Section 1406(b) is amended—

(A) by striking out the matter preceding the table and inserting in lieu thereof the following:

"(b) RETIREMENT UNDER SUBTITLE A OR E.—

"(1) DISABILITY, WARRANT OFFICER, AND DOPMA RETIREMENT.—In the case of a person whose retired pay is computed under this subtitle, the retired pay base is determined in accordance with the following table.";

(B) in the table—

(i) by striking out the entry relating to section 1331 (including the matter relating to that entry in the column under the heading "The retired pay base is:"); and

(ii) by redesignating the references to footnotes 3 and 4 so as to refer to footnotes 2 and 3, respectively;

(C) by striking out footnote 2 to the table and redesignating footnotes 3 and 4 as footnotes 2 and 3, respectively; and

(D) by adding at the end the following:

"(2) NON-REGULAR SERVICE RETIREMENT.—In the case of a person who is entitled to retired pay under section 12731 of this title, the retired pay base is the monthly basic pay, determined at the rates applicable on the date when retired pay is granted, of the highest grade held satisfactorily by the person at any time in the armed forces. For purposes of the preceding sentence, the highest grade in which a person served satisfactorily as an officer shall be determined in accordance with section 1370(d) of this title.".

(5) Section 1407 is amended—

(A) in subsection (c)(2)(B), by striking out "chapter 67" and inserting in lieu thereof "chapter 1223"; and

(B) in subsection (f)(2)—

(i) by striking out "CHAPTER 67" in the heading and inserting in lieu thereof "CHAPTER 1223"; and

(ii) by striking out "section 1331" and inserting in lieu thereof "section 12731".

(6) Section 1409(a)(1)(B) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(7) Part II of subtitle A is amended by inserting after chapter 65 the following:

"CHAPTER 67—RETIRED PAY FOR NONREGULAR SERVICE

"Sec.
"1331. Reference to chapter 1223.

"§1331. Reference to chapter 1223

"Provisions of law relating to retired pay for nonregular service are set forth in chapter 1223 of this title (beginning with section 12731).".

(8) Section 6034 is repealed.

(k) RETIRED GRADE.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1223 (as added by subsection (j)) the following:

"CHAPTER 1225—RETIRED GRADE

"Sec.
"12771. Reserve officers: grade on transfer to Retired Reserve.
"12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve.
"12773. Limitation on accrual of increased pay or benefits.
"12774. Retired lists.

"§12771. Reserve officers: grade on transfer to Retired Reserve

"Unless entitled to a higher grade under another provision of law, a reserve commissioned officer, other than a commissioned warrant officer, who is transferred to the Retired Reserve is entitled to be placed on the retired list established by section 12774(a) of this title in the highest grade in which he served satisfactorily, as determined by the Secretary concerned and in accordance with section 1370(d), in the armed force in which he is serving on the date of transfer.

"§12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve

"Unless entitled to a higher grade under another provision of law, a reserve commissioned officer who is transferred to the Retired Reserve after having served in the position of Attending Physician to the Congress is entitled to be placed on the retired list established by section 12774(a) of this title in the grade held by the officer while serving in that position.

"§12773. Limitation on accrual of increased pay or benefits

"Unless otherwise provided by law, no person is entitled to increased pay or other benefits because of sections 12771 and 12772 of this title.

"§12774. Retired lists

"(a) Under regulations prescribed by the Secretary concerned, there shall be maintained retired lists containing the names of the Reserves of the armed forces under the Secretary's jurisdiction who are in the Retired Reserve.

"(b) The Secretary of the Navy shall maintain a United States Naval Reserve Retired List containing the names of members of the Naval Reserve and the Marine Corps Reserve entitled to retired pay.".

(2) Sections 1374 and 6017 are repealed.

(3)(A) Section 1376 is amended—

(i) by striking out subsection (a); and

(ii) by striking out "(b)" before "The Secretary concerned".

(B) The heading of that section is amended to read as follows:

"§1376. Temporary disability retired lists".

SEC. 1663. LAWS RELATING TO RESERVE COMPONENT TRAINING AND EDUCATIONAL ASSISTANCE PROGRAMS.

(a) TRAINING GENERALLY.—Subtitle E, as added by section 1611, is amended by adding after part III of such subtitle (as added by that section) the following:

"PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

"Chap. Sec.
"1601. Training Generally ... [No present sections]
"1606. Educational Assistance for Members of the Selected Reserve 16131
"1608. Health Professions Stipend Program 16201
"1609. Education Loan Repayments 16301

"CHAPTER 1601—TRAINING GENERALLY

"[No present sections]".

(b) MONTGOMERY GI BILL FOR SELECTED RESERVE.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding at the end the following:

"CHAPTER 1606—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

"Sec.
"16131. Educational assistance program: establishment; amount.
"16132. Eligibility for educational assistance.
"16133. Time limitations for use of entitlement.
"16134. Termination of assistance.
"16135. Failure to participate satisfactorily; penalties.
"16136. Administration of program.
"16137. Reports to Congress.".

(2) Sections 2131 through 2137 are transferred to chapter 1606, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
2131	16131
2132	16132
2133	16133
2134	16134
2135	16135
2136	16136
2137	16137

(3) Section 16131 (as so redesignated) is amended—

(A) in subsection (c)(3)(B)(i), by striking out "section 672 (a), (d), or (g), 673, or 673b" and inserting in lieu thereof "section 12301(a), 12301(d), 12301(g), 12302, or 12304"; and

(B) in subsection (g)(1), by striking out "section 2136(c)" and inserting in lieu thereof "section 16136(c)".

(4) Section 16132 (as so redesignated) is amended—

(A) in subsection (a), by striking out "section 2131" and inserting in lieu thereof "section 16131"; and

(B) in subsection (c), by striking out "sections 2134 and 2135" and inserting in lieu thereof "section 16134 and 16135".

(5) Section 16133 (as so redesignated) is amended—

(A) in subsection (b)(1)(B), by striking out "section 268(b)" and inserting in lieu thereof "section 10143(a)"; and

(B) in subsection (b)(4)(A), by striking out "section 672 (a), (d), or (g), 673, or 673b" and inserting in lieu thereof "section 12301(a), 12301(d), 12301(g), 12302, or 12304".

(6) Section 16135 (as so redesignated) is amended—

(A) by striking out "section 2132" in subsection (a)(1)(A) and inserting in lieu thereof "section 16132"; and

(B) by striking out "section 2132(a)" in subsection (b)(1)(A) and inserting in lieu thereof "section 16132(a)".

(7) Chapter 106 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"2131. Reference to chapter 1606.
"2138. Savings provision.

"§2131. Reference to chapter 1606

"Provisions of law relating to educational assistance for members of the Selected Reserve under the Montgomery GI Bill program are set forth in chapter 1606 of this title (beginning with section 16131).".

(c) HEALTH PROFESSIONS STIPEND PROGRAM.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding after chapter 1606 (as added by subsection (b)) the following:

"CHAPTER 1608—HEALTH PROFESSIONS STIPEND PROGRAM

"Sec.
"16201. Financial assistance: health-care professionals in reserve components.
"16202. Reserve service: required active duty for training.
"16203. Penalties and limitations.
"16204. Regulations.

"§16204. Regulations

"This chapter shall be administered under regulations prescribed by the Secretary of Defense.".

(2) Section 2128 is transferred to chapter 1608, as added by paragraph (1), inserted after the table of sections, redesignated as section 16201, and amended by striking out subsection (f).

(3) Section 2129 is transferred to chapter 1608, as added by paragraph (1), inserted after section 16201 (as transferred and redesignated by paragraph (2)), and redesignated as section 16202.

(4)(A) Section 2130 is transferred to chapter 1608, as added by paragraph (1), inserted after section 16202 (as transferred and redesignated by paragraph (3)), redesignated as section 16203, and amended by striking out subsection (c).

(B) The heading of that section is amended to read as follows:

"§16203. Penalties and limitations".

(5) Section 16201, as so redesignated, is amended by striking out "subchapter" each place it appears and inserting in lieu thereof "chapter".

(6) Section 16202, as so redesignated, is amended by striking out "section 2128" both places it appears and inserting in lieu thereof "section 16201".

(7) Chapter 105 is amended—

(A) in the table of subchapters before subchapter I—

(i) by striking out the item relating to subchapter II; and

(ii) by redesignating the item relating to subchapter III so as to refer to subchapter II;

(B) by striking out the heading for subchapter II and the table of sections following that heading; and

(C) by redesignating subchapter III as subchapter II.

(d) EDUCATION LOAN REPAYMENT PROGRAMS.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding after chapter 1608 (as added by subsection (c) the following:

"CHAPTER 1609—EDUCATION LOAN REPAYMENT PROGRAMS

"Sec.
"16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties.
"16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages.

"§16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties

"(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay—

"(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.); or

"(B) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

"(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed as an enlisted member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and military specialty specified by the Secretary of Defense.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The Secretary may repay such a loan only if the person to whom the loan was made performed such service after the loan was made.

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 15 percent or $500, whichever is greater, for each year of service.

"(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of the loan shall accrue and be paid in the same manner as is otherwise required.

"(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

"(e) A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 2171 of this title (as described in subsection (a)(2) of that section) during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

"(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section and section 2171 of this title during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a) and section 2171(a) of this title.".

(2)(A) Section 2172 is transferred to the end of chapter 1609, as added by paragraph (1), and redesignated as section 16302.

(B) The heading of such section is amended to read as follows:

"§16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages".

(e) CONFORMING AMENDMENTS.—Section 2171 is amended as follows:

(1) Subsection (a)(1)(B) is amended by striking out "or" after "(B)".

(2) Subsection (a)(2) is amended—

(A) in the first sentence, by striking out "person for—" and all that follows through "(B) service performed" and inserting in lieu thereof "person for service performed"; and

(B) by striking out the second sentence.

(3) Subsection (b) is amended to read as follows:

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 33⅓ percent or $1,000, whichever is greater, for each year of service.".

(4) Subsection (e) is amended by striking out "Any individual who transfers from service described in clause (A) or (B) of subsection (a)(2) to service described in the other clause of such subsection" and inserting in lieu thereof "A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 16301 of this title (as described in subsection (a)(2) of that section)".

(5) Subsection (f) is amended—

(A) by inserting "and section 16301 of this title" after "this section"; and

(B) by inserting "and section 16301(a) of this title" after "subsection (a)".

(6) The heading of such section is amended to read as follows:

"§2171. Education loan repayment program: enlisted members on active duty in specified military specialties".

SEC. 1664. LAWS RELATING TO RESERVE COMPONENT PROCUREMENT AND EQUIPMENT.

(a) ADDITION OF NEW PART.—(1) Subtitle E, as added by section 1611, is amended by adding after part IV of such subtitle (as added by section 1663) the following:

"PART V—SERVICE, SUPPLY, AND PROCUREMENT

"Chap. Sec.
"1801. Issue of Serviceable Material to Reserve Components ..... [No present sections]
"1803. Facilities for Reserve Components 18231
"1805. Miscellaneous Provisions 18501

"CHAPTER 1801—ISSUE OF SERVICEABLE MATERIAL TO RESERVE COMPONENTS

"[No present sections]".

(b) FACILITIES FOR RESERVE COMPONENTS.—(1) Chapter 133 is transferred to the end of part V of subtitle E, as added by subsection (a), and redesignated as chapter 1803.

(2) The sections of that chapter are redesignated as follows:

Section	Redesignated section
2231	18231
2232	18232
2233	18233
2233a	18233a
2234	18234
2235	18235
2236	18236
2237	18237
2238	18238
2239	18239

(3) The items in the table of sections at the beginning of such chapter are revised to reflect the redesignations made by paragraph (2).

(4) Section 18233 (as redesignated by paragraph (2)) is amended by striking out "sections 2233a, 2234, 2235, 2236, and 2238" in subsection (a) and inserting in lieu thereof "sections 18233a, 18234, 18235, 18236, and 18238".

(5) Section 18233a (as redesignated by paragraph (2)) is amended—

(A) in subsection (a), by striking out "section 2233" and inserting in lieu thereof "section 18233"; and

(B) in subsection (b), by striking out "section 2233(a)" and inserting in lieu thereof "section 18233(a)".

(6) Section 18234 (as redesignated by paragraph (2)) is amended by striking out "section 2233" and inserting in lieu thereof "section 18233".

(7) Section 18235 (as redesignated by paragraph (2)) is amended by striking out "section 2233(a)(1)" in subsection (a)(1) and inserting in lieu thereof "section 18233".

(8) Section 18236 (as redesignated by paragraph (2)) is amended—

(A) in subsection (a)—

(i) by striking out "section 2233" in the first sentence and inserting in lieu thereof "section 18233"; and

(ii) by striking out "section 2233(a) (3) or (4)" in the second sentence and inserting in lieu thereof "paragraph (3) or (4) of section 18233(a)";

(B) in subsection (b)—

(i) by striking out "clause (4) or (5) of section 2233(a)" in the matter preceding paragraph (1) and inserting in lieu thereof "paragraph (4) or (5) of section 18233(a)"; and

(ii) by striking out "section 2233(e)" in paragraph (2) and inserting in lieu thereof "section 18233(e)"; and

(C) in subsection (c), by striking out "section 2233" and inserting in lieu thereof "section 18233".

(9) Section 18237 (as redesignated by paragraph (2)) is amended—

(A) in subsection (a), by striking out "section 2233(a)(2), (3) and (4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 18233(a)"; and

(B) in subsection (b), by striking out "section 2233(a) (2), (3) or (4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 18233(a)".

(10) Section 18239 (as redesignated by paragraph (2)) is amended by striking out "section 2233" both places it appears and inserting in lieu thereof "section 18233".

(11) Part IV of subtitle A is amended by inserting after chapter 131 the following:

"CHAPTER 133—FACILITIES FOR RESERVE COMPONENTS

"Sec.
"2231. Reference to chapter 1803.

"§2231. Reference to chapter 1803

"Provisions of law relating to facilities for reserve components are set forth in chapter 1803 of this title (beginning with section 18231).".

(c) MISCELLANEOUS PROVISIONS.—(1) Part V of subtitle E, as added by subsection (a), is amended by adding after chapter 1803, as transferred by subsection (b), the following:

"CHAPTER 1805—MISCELLANEOUS PROVISIONS

"Sec.
"18501. Reserve components: personnel and logistic support by military departments.
"18502. Reserve components: supplies, services, and facilities.

"§18501. Reserve components: personnel and logistic support by military departments

"The Secretary concerned is responsible for providing the personnel, equipment, facilities, and other general logistic support necessary to enable units and Reserves in the Ready Reserve of the reserve components under his jurisdiction to satisfy the training requirements and mobilization readiness requirements for those units and Reserves as recommended by the Secretary concerned and by the Chairman of the Joint Chiefs of Staff and approved by the Secretary of Defense, and as recommended by the Commandant of the Coast Guard and approved by the Secretary of Transportation when the Coast Guard is not operated as a service of the Navy.

"§18502. Reserve components: supplies, services, and facilities

"(a) The Secretary concerned shall make available to the reserve components under his jurisdiction the supplies, services, and facilities of the armed forces under his jurisdiction that he considers necessary to support and develop those components.

"(b) Whenever he finds it to be in the best interest of the United States, the Secretary concerned may issue supplies of the armed forces under his jurisdiction to the reserve components under his jurisdiction, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

"(c) Whenever he finds it to be in the best interest of the United States, the Secretary of the Army or the Secretary of the Air Force may issue to the Army National Guard or the Air National Guard, as the case may be, supplies of the armed forces under his jurisdiction that are in addition to supplies issued to that National Guard under section 702 of title 32 or charged against its appropriations under section 106 or 107 of title 32, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

"(d) Supplies issued under subsection (b) or (c) may be repossessed or redistributed as prescribed by the Secretary concerned.".

(2) Section 2540 is repealed.

SEC. 1665. LEGISLATIVE CONSTRUCTION.

(a) REFERENCES TO TRANSFERRED OR REPLACED PROVISIONS.—A reference to a provision of title 10, United States Code, transferred or replaced by the provisions of sections 1661 through 1664 (including a reference in a regulation, order, or other law) shall be treated as referring to that provision as transferred or to the corresponding provision as so enacted by this subtitle.

(b) SAVINGS PROVISION FOR REGULATIONS.—A regulation, rule, or order in effect under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 1661 through 1664 shall continue in effect under the corresponding provision so enacted until repealed, amended, or superseded.

(c) GENERAL SAVINGS PROVISION.—An action taken, or a right that matured, under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 1661 through 1664 shall be treated as having been taken, or having matured, under the corresponding provision so enacted.

Subtitle D—Technical and Clerical Amendments

SEC. 1671. AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE.

(a) TABLE OF SUBTITLES.—The table of subtitles preceding subtitle A is amended by adding at the end the following new item:

"E. Reserve Components ..... 10001".

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 2 is amended by striking out the item relating to section 115b.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the item relating to section 123 and inserting in lieu thereof the following:

"123. Authority to suspend officer personnel laws during war or national emergency.".

(3) The table of sections at the beginning of chapter 31 is amended by striking out the items relating to sections 510, 511, 512, and 517.

(4) The table of sections at the beginning of chapter 32 is amended—

(A) by striking out the item relating to section 524; and

(B) by striking out "524," in the item relating to section 527.

(5) The table of sections at the beginning of subchapter V of chapter 36 is amended by striking out the item relating to section 644.

(6) The table of sections at the beginning of chapter 37 is amended by striking out the item relating to section 652.

(7) The table of sections at the beginning of chapter 39 is amended—

(A) by striking out the item relating to section 672 and inserting in lieu thereof the following:

"672. Reference to chapter 1209.";

and

(B) by striking out the items relating to section 673 through 686 and section 689.

(8) The table of sections at the beginning of chapter 41 is amended by striking out the item relating to section 715.

(9) The table of sections at the beginning of chapter 53 is amended by striking out the item relating to section 1033.

(10) The table of sections at the beginning of chapter 59 is amended by striking out the items relating to sections 1162 and 1163.

(11) The table of sections at the beginning of chapter 69 is amended—

(A) by striking out the item relating to section 1374; and

(B) by striking out the item relating to section 1376 and inserting in lieu thereof the following:

"1376. Temporary disability retired lists.".

(12) The table of sections at the beginning of chapter 101 is amended by striking out the item relating to section 2001.

(13) The table of sections at the beginning of chapter 109 is amended by striking out the items relating to sections 2171 and 2172 and inserting in lieu thereof the following:

"2171. Education loan repayment program: enlisted members on active duty in specified military specialties.".

(14) The table of sections at the beginning of subchapter I of chapter 152 is amended by striking out the item relating to section 2540.

(c) CROSS-REFERENCE AMENDMENTS—

(1) Section 101(a)(13) is amended by striking out "672(a), 673, 673b, 673c, 688, 3500, or 8500" and inserting in lieu thereof "688, 12301(a), 12302, 12304, 12305, or 12406".

(2) Section 113(c)(3) is amended by striking out "chapters 51, 337, 361, 363, 549, 573, 837, 861, and 863 of this title, as far as they apply to reserve officers" and inserting in lieu thereof "chapters 1219 and 1401 through 1411 of this title ".

(3) Section 523(b)(1) is amended—

(A) in subparagraph (B), by striking out "section 265" and all that follows through "of this title" and inserting in lieu thereof "section 10211, 10302 through 10305, or 12402 of this title";

(B) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(C) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(4) Section 527 is amended by striking out "524," in the text and in the heading.

(5) Section 641(1) is amended—

(A) in subparagraph (B), by striking out "section 175" and all that follows through "of this title" and inserting in lieu thereof "section 3038, 8038, 10211, 10301 through 10305, 10501, or 12402 of this title";

(B) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(C) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(6) Sections 1201, 1202, and 1203 are each amended by striking out "section 270(b)" and inserting in lieu thereof "section 10148(a)".

(7)(A) Section 1076(b)(2)(A) is amended by striking out "under chapter 67 of this title" and inserting in lieu thereof "under chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(B) Section 1370(a)(1) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(8) Section 1482(f)(2) is amended by striking out "section 1332" and "section 1331" and inserting in lieu thereof "section 12732" and "12731", respectively.

(d) SURVIVOR BENEFIT PLAN.—Subchapter II of chapter 73 is amended as follows:

(1) Section 1447(14) is amended by striking out "chapter 67 of this title" and inserting in lieu thereof "chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(2) The following provisions are amended by striking out "section 1331(d)" and inserting in lieu thereof "section 12731(d)": sections 1447(2)(C), 1448(a)(2)(B), 1448(f)(1)(A), and 1448(f)(1)(B).

SEC. 1672. AMENDMENTS TO SUBTITLE B OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—The table of chapters at the beginning of subtitle B, and the table of chapters at the beginning of part II of that subtitle, are each amended by striking out the items relating to chapters 337, 361, and 363.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 307 is amended by striking out the items relating to section 3076 through 3080 and section 3082.

(2) The table of sections at the beginning of chapter 331 is amended by striking out the items relating to section 3212 and sections 3217 through 3225.

(3) The table of sections at the beginning of chapter 333 is amended by striking out the items relating to sections 3259, 3260, and 3261.

(4) The table of sections at the beginning of chapter 341 is amended by striking out the items relating to sections 3495 through 3502.

(5) The table of sections at the beginning of chapter 343 is amended by striking out the items relating to sections 3541 and 3542.

(6) The table of sections at the beginning of chapter 353 is amended by striking out the item relating to section 3686.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 3038(b) is amended by striking out "section 265" and inserting in lieu thereof "section 10211".

(2) Section 3961(a) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(3) Section 4342(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

SEC. 1673. AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—

(1) The table of chapters at the beginning of subtitle C is amended by striking out the items relating to chapters 519, 531, 541, and 549.

(2) The table of chapters at the beginning of part I of subtitle C is amended by striking out the item relating to chapter 519.

(3) The table of chapters at the beginning of part II of subtitle C is amended by striking out the items relating to chapters 531, 541, and 549.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 533 is amended by striking out the items relating to sections 5456, 5457, and 5458.

(2) The table of sections at the beginning of chapter 539 is amended by striking out the item relating to section 5600.

(3) The table of sections at the beginning of chapter 555 is amended by striking out the items relating to sections 6017 and 6034.

(4) The table of sections at the beginning of chapter 573 is amended by striking out the items relating to sections 6391, 6392, 6397, 6403, and 6410.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 6389(a) is amended by striking out "section 1005" and inserting in lieu thereof "section 12645".

(2) Section 6954(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(d) REPEAL OF SECTION REDUNDANT WITH SECTION 741.—

(1) Section 5506 is repealed.

(2) The table of sections at the beginning of chapter 535 is amended by striking out the item relating to section 5506.

SEC. 1674. AMENDMENTS TO SUBTITLE D OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—The table of chapters at the beginning of subtitle D, and the table of chapters at the beginning of part II of that subtitle, are each amended by striking out the items relating to chapters 837 and 863.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 807 is amended by striking out the items relating to sections 8076 through 8080.

(2) The table of sections at the beginning of chapter 831 is amended by striking out the items relating to section 8212 and sections 8217 through 8225.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(3) The table of sections at the beginning of chapter 83 is amended by striking out the items relating to sections 8259, 8260, and 8261.

(4) The table of sections at the beginning of chapter 84 is amended by striking out the items relating to sections 8495 through 8502.

(5) The table of sections at the beginning of chapter 843 is amended by striking out the items relating to sections 8541 and 8542.

(6) The table of sections at the beginning of chapter 857 is amended by striking out the item relating to section 8686.

(7) The table of sections at the beginning of chapter 867 is amended by striking out the items relating to sections 8819 and 8820.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 8038(b) is amended by striking out "section 265" and inserting in lieu thereof "section 10211".

(2) Section 8961(a) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(3) Section 9342(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

SEC. 1675. AMENDMENTS TO SUBTITLE E OF TITLE 10, UNITED STATES CODE.

(a) CHAPTER 1203.—Section 12102 (as transferred and redesignated by section 1662(b)(2)) is amended by striking out "section 3261 or 8261" in subsection (a) and inserting in lieu thereof "section 12107".

(b) CHAPTER 1205.—Sections of chapter 1205 (as transferred and redesignated by section 1662(c)(2)) are amended as follows:

(1) Section 12203 is amended by striking out "3352, or 8352" in subsection (a) and inserting in lieu thereof "12213, or 12214".

(2) Sections 12213 and 12214 are amended by striking out "or Territory, Puerto Rico, or the District of Columbia, whichever is" in subsection (a).

(c) CHAPTER 1209.—Sections of chapter 1209 (as transferred and redesignated by section 1662(e)(2)) are amended as follows:

(1) Section 12301 is amended—

(A) in subsection (b), by striking out "or Territory" and all that follows through the period at the end and inserting in lieu thereof "(or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard).''; and

(B) in subsection (d), by striking out "or Territory, Puerto Rico, or the District of Columbia, whichever is".

(2) Section 12304 is amended—

(A) by striking out "section 673(a)" in subsection (a) and inserting in lieu thereof "section 12302(a)";

(B) by striking out "section 268(b)" in subsection (a) and inserting in lieu thereof "section 10143(a)"; and

(C) by striking out "section 3500 or 8500" in subsection (b) and inserting in lieu thereof "section 12406".

(3) Section 12305 is amended by striking out "section 672, 673, or 673b" in subsections (a) and (b) and inserting in lieu thereof "section 12301, 12302, or 12304".

(4) Section 12306 is amended by striking out "section 672" in subsection (a) and inserting in lieu thereof "section 12301".

(5) Section 12307 is amended by striking out "section 672(a) or 688", "section 1001(b)", and "chapter 67" and inserting in lieu thereof "section 688 or 12301(a)", "section 12641(b)", and "chapter 1223", respectively.

(6) Section 12308 is amended by striking out "chapter 67" and "section 1332(b)" and inserting in lieu thereof "chapter 1223" and "section 12732(b)", respectively.

(7) Section 12310 is amended by striking out "section 672(d)" in subsection (a) and inserting in lieu thereof "section 12301(d)".

(8) Section 12312 is amended by striking out "section 679(a)" in subsections (a) and (b) and inserting in lieu thereof "section 12311(a)".

(9) Section 12318 is amended—

(A) by striking out "section 673 or 673b" in subsections (a) and (b) and inserting in lieu thereof "section 12302 or 12304"; and

(B) by striking out "section 678" in subsection (b) and inserting in lieu thereof "section 12310".

(10) Section 12319(d) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(11) Section 12320 is amended by striking out "section 3353, 5600, or 8353" and inserting in lieu thereof "section 12207".

(d) CHAPTER 1219.—Sections of chapter 1219 (as transferred and redesignated by section 1662(h)) are amended as follows:

(1) Section 12642 is amended—

(A) by striking out "section 1332(a)(2)" in subsection (a) and inserting in lieu thereof "section 12732(a)(2)"; and

(B) by striking out "section 1005" in subsection (b) and inserting in lieu thereof "section 12645".

(2) Section 12645 is amended by striking out "chapter 337, 361, 363, 573, 837, 861, or 863" in subsection (a) and inserting in lieu thereof "chapter 573, 1407, 1409, or 1411".

(3) Section 12646 is amended—

(A) by striking out "section 1332" each place it appears in subsections (a) and (b) and inserting in lieu thereof "section 12732";

(B) by striking out "chapter 337, 361, 363, 573, 837, 861, or 863" in subsections (a) and (b) and inserting in lieu thereof "chapter 573, 1407, or 1409"; and

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) A reserve commissioned officer on active duty (other than for training) or full-time National Guard duty (other than full-time National Guard duty for training only) who, on the date on which the officer would otherwise be removed from an active status under section 6389, 14513, or 14514 of this title or section 740 of title 14, is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title may, in the discretion of the Secretary concerned and subject to paragraph (2), be retained on that duty for a period of not more than two years.

"(2) An officer may be retained on active duty or full-time National Guard duty under paragraph (1) only if—

"(A) at the end of the period for which the officer is retained the officer will be qualified for retirement under section 3911, 6323, or 8911 of this title; and

"(B) the officer will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title or title 14.

"(3) An officer who is retained on active duty or full-time National Guard duty under this section may not be removed from an active status while on that duty.".

(4) Section 12647 is amended by striking out "chapters 337, 363, 573, 837, and 863" and inserting in lieu thereof "chapters 573, 1407, and 1409".

SEC. 1676. AMENDMENTS TO TITLES 32 AND 37, UNITED STATES CODE.

(a) TITLE 32, UNITED STATES CODE.—Title 32, United States Code, is amended as follows:

(1) Section 107(c) is amended by striking out "section 3496 or 8496" and inserting in lieu thereof "section 12402".

(2) Section 307(a)(3) is amended by striking out "and sections 8365 and 8366 of title 10".

(3) Section 323(c) is amended by striking out "section 3259, 3352(a), 8259, or 8352(a)" and inserting in lieu thereof "section 12105, 12213(a), or 12214(a)".

(4) The items relating to sections 309 and 310 in the table of sections at the beginning of chapter 3 are amended to read as follows:

"309. Federal recognition of National Guard officers: officers promoted to fill vacancies.

"310. Federal recognition of National Guard officers: automatic recognition.".

(b) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 204(a)(2) is amended by striking out "section 3021, 3496, 3541, 8021, 8496, or 8541" and inserting in lieu thereof "section 10302, 10305, 10502, or 12402".

(2) Section 205(e)(2) is amended—

(A) by striking out "section 511(b) or 511(d)" in subparagraph (A) and inserting in lieu thereof "section 12103(b) or 12103(d)"; and

(B) by striking out "chapter 39" in subparagraph (B) and inserting in lieu thereof "chapter 1209".

(3) Section 905 is amended—

(A) by striking out "chapter 549" in subsection (a) and inserting in lieu thereof "chapter 1405"; and

(B) by striking out "section 5908", in subsection (b) and inserting in lieu thereof "section 14308(b)".

SEC. 1677. AMENDMENTS TO OTHER LAWS.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) Section 5517(d)(2) is amended by striking out "section 270(a) of title 10" and inserting in lieu thereof "section 10147 of title 10".

(2) Section 6323(b) is amended—

(A) in paragraph (1), by striking out "section 261 of title 10" and inserting in lieu thereof "section 10101 of title 10"; and

(B) in paragraph (2)(A), by striking out "3500, or 8500 of title 10" and inserting in lieu thereof "or 12406 of title 10"; and

(3) Sections 8332(c)(2)(B) and 8411(c)(2)(B) are amended by striking out "chapter 67 of title 10" and inserting in lieu thereof "chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(4) Sections 8401(30) and 8456(a)(1)(A) are amended by striking out "section 261(a) of title 10" and inserting in lieu thereof "section 10101 of title 10".

(b) TITLE 14, UNITED STATES CODE.—Title 14, United States Code, is amended as follows:

(1) Section 41a(a) is amended by striking out "section 679 of title 10" and inserting in lieu thereof "section 12311 of title 10".

(2) Section 271(e) is amended by striking out "section 593 of title 10" and inserting in lieu thereof "section 12203 of title 10".

(3) Section 712(c)(1) is amended by striking out "section 270 of title 10" and inserting in lieu thereof "section 10147 of title 10".

(4) Section 713 is amended by striking out "section 511(d) of title 10" and inserting in lieu thereof "section 12103(d) of title 10".

(5) Sections 740(c) and 741(b) are amended by striking out "section 1006 of title 10" and inserting in lieu thereof "section 12646 of title 10".

(c) INTERNAL REVENUE CODE OF 1986.—Section 219(g)(6)(A) of the Internal Revenue Code of 1986 is amended by striking out "section 261(a) of title 10" and inserting in lieu thereof "section 10101 of title 10".

(d) TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended as follows:

(1) Sections 1965(5)(B), 1965(5)(C), and 1968(a)(4)(B) are amended by striking out "chapter 67 of title 10" and inserting in lieu thereof "chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(2) Section 3002 is amended—

(A) in paragraph (4), by striking out "section 268(b) of title 10" and inserting in lieu thereof "section 10143(a) of title 10"; and

(B) in paragraph (6), by striking out "section 511(d) of title 10" and inserting in lieu thereof "section 12103(d) of title 10".

(e) PUBLIC LAW 99–661.—Section 403(b)(1) of Public Law 99–661 (10 U.S.C. 521 note) is amended—

(1) in subparagraph (B), by striking out "section 265" and all that follows through "of title 10" and inserting in lieu thereof "section 10148(a), 10211, 10302 through 10305, 12301(a), or 12402 of title 10";

(2) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(3) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(f) MILITARY SELECTIVE SERVICE ACT.—Section 6 of the Military Selective Service Act (50 U.S.C. App. 456) is amended—

(1) in subsection (c)(2)(A), by striking out "section 270 of title 10" and inserting in lieu thereof "section 10147 of title 10";

(2) in subsection (c)(2)(D), by striking out "section 511(b) of title 10" and inserting in lieu thereof "section 12103 of title 10"; and

(3) in subsection (d)(1), by striking out "section 270(a) of title 10" and inserting in lieu thereof "section 10147 of title 10".

Subtitle E—Transition Provisions

SEC. 1681. CONTINUATION ON THE RESERVE ACTIVE-STATUS LIST OF CERTAIN RESERVE COLONELS OF THE ARMY AND AIR FORCE.

(a) CONTINUATION UNDER OLD LAW.—Except as provided in subsection (b), a reserve officer of the Army or the Air Force who, on the effective date of this title—

(1) is subject to placement on the reserve active-status list of the Army or the Air Force; and

(2)(A) holds the reserve grade of colonel, (B) is on a list of officers recommended for promotion to the reserve grade of colonel, or (C) has been nominated by the President for appointment in the reserve grade of colonel,

shall continue to be subject to mandatory transfer to the Retired Reserve or discharge from the officer's reserve appointment under section 3851 or 8851 of title 10, United States Code, as in effect on the day before the effective date of this title.

(b) EXEMPTION.—This section does not apply to an officer who is—

(1) sooner transferred from an active status or discharged under some other provision of law;

(2) promoted to a higher grade, unless the officer was on a list of officers recommended for promotion to the reserve grade of colonel before the effective date of this title; or

(3) continued on the reserve active-status list under section 14701 of title 10, United States Code, as added by this title.

SEC. 1682. EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR ARMY AND AIR FORCE OFFICERS.

(a) PROMOTIONS TO FILL VACANCIES.—A reserve commissioned officer of the Army or Air Force (other than a commissioned warrant officer) who, on the day before the effective date of this title, is recommended for promotion to fill a vacancy in the Army Reserve or the Air Force Reserve under section 3383, 3384, 8372, or 8373 of title 10, United States Code, as in effect on the day before the effective date of this title, in the next higher reserve grade shall be considered to have been recommended for promotion to that grade by a vacancy promotion board under section 14101(a)(2) of title 10, United States Code, as added by this title.

(b) PROMOTIONS OTHER THAN TO FILL VACANCIES.—A reserve officer of the Army or Air Force who, on the day before the effective date of this title, is recommended for promotion under section 3366, 3367, 3370, 3371, 8366, or 8371 of title 10, United States Code, as in effect on the day before the effective date of this title, to a reserve grade higher than the grade in which the officer is serving shall be considered to have been recommended for promotion by a mandatory promotion board convened under section 14101(a)(1) of title 10, United States Code, as added by this title.

(c) OFFICERS FOUND QUALIFIED FOR PROMOTION TO FIRST LIEUTENANT.—A reserve officer of the Army or Air Force who, on the effective date of the title, holds the grade of second lieutenant and has been found qualified for promotion to the grade of first lieutenant in accordance with section 3365, 3382, or 8365 of title 10, United States Code, as in effect on the day before the effective date of this title, shall be promoted to that grade on the date on which the officer would have been promoted under the provisions of chapter 337 or 837 of such title, as in effect on the day before the effective date of this title, unless sooner promoted under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force under section 14308(b) of title 10, United States Code, as added by this title.

(d) OFFICERS ONCE FAILED OF SELECTION.—(1) A reserve officer of the Army in the grade of first lieutenant, captain, or major who, on the day before the effective date of this title, has been considered once but not recommended for promotion to the next higher reserve grade under section 3366 or 3367 of title 10, United States Code, or a reserve officer of the Air Force in the grade of first lieutenant, captain, or major who, on the day before the effective date of this title, is a deferred officer within the meaning of section 8368 of such title, shall be considered to have been considered once but not selected for promotion by a board convened under section 14101(a)(1) of title 10, United States Code, as added by this title. If the officer is later considered for promotion by a selection board convened under that section and is not selected for promotion (or is selected for promotion but declines to accept the promotion), the officer shall be considered for all purposes to have twice failed of selection for promotion.

(2) In the case of a reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this title, is in the grade of first lieutenant, captain, or major and whose name has been removed, under the provisions of section 3363(f) of title 10, United States Code, from a list of officers recommended for promotion or who has previously not been promoted because the President declined to appoint the officer in the next higher grade under section 8377 of such title as in effect on the day before the effective date of this title, or whose name was removed from a list of officers recommended for promotion to the next higher grade because the Senate did not consent to the officer's appointment, if the officer is later considered for promotion by a selection board convened by section 14101(a)(1) of title 10, United States Code, as added by this title, and (A) is not selected for promotion, (B) is selected for promotion but removed from the list of officers recommended or approved for promotion, or (C) is selected for promotion but declines to accept the promotion, the officer shall be considered for all purposes to have twice failed of selection for promotion.

(e) OFFICERS TWICE FAILED OF SELECTION.—A reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this title, is in the grade of first lieutenant, captain, or major and on that date is subject to be treated as prescribed in section 3846 or 8846 of title 10, United States Code, shall continue to be governed by that section as in effect on the day before the effective date of this title.

(f) OFFICERS WITH APPROVED PROMOTION DECLINATIONS IN EFFECT.—A reserve officer of the Army who, on the day before the effective date of this title, has declined a promotion under subsection (f) or (g) of section 3364 of title 10, United States Code, shall while carried on the reserve active status list be subject to the provisions of subsections (h), (i), and (j) of such section, as in effect on the day before the effective date of this title, except that the name of an officer to whom this section applies shall be placed on a promotion list under section 14308(a) of title 10, United States Code (as added by this title), and, at the end of the approved period of declination, shall be considered to have failed of promotion if the officer again declines to accept the promotion.

(g) COVERED OFFICERS.—This section applies to reserve officers of the Army and Air Force who—

(1) on the day before the effective date of this title are in an active status; and

(2) on the effective date of this title are subject to placement on the reserve active-status list of the Army or the Air Force.

SEC. 1683. EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR NAVY AND MARINE CORPS OFFICERS.

(a) RECOMMENDATIONS FOR PROMOTION.—An officer covered by this section who, on the day before the effective date of this title, has been recommended for promotion to a reserve grade higher than the grade in which the officer is serving shall be considered to have been recommended for promotion to that grade under section 14101(a) of title 10, United States Code, as added by this title.

(b) FAILURES OF SELECTION.—An officer covered by this section who, on the day before the effective date of this title is considered to have failed of selection for promotion one or more times under chapter 549 of title 10, United States Code, to a grade below captain, in the case of a reserve officer of the Navy, or to a grade below colonel, in the case of a reserve officer of the Marine Corps, shall be subject to chapters 1405 and 1407 of title 10, United States Code, as added by this title, as if such failure or failures had occurred under the provisions of those chapters.

(c) OFFICERS OTHER THAN COVERED OFFICERS RECOMMENDED FOR PROMOTION.—A reserve officer of the Navy or Marine Corps who on the day before the effective date of this title (1) has been recommended for promotion in the approved report of a selection board convened under chapter 549 of title 10, United States Code, and (2) was on the active-duty list of the Navy or Marine Corps may be promoted under that chapter, as in effect on the day before the effective date of this title.

(d) OFFICERS FOUND QUALIFIED FOR PROMOTION TO LIEUTENANT (JUNIOR GRADE) OR FIRST LIEUTENANT.—A covered officer who, on the effective date of this title, holds the grade of second lieutenant and has been found qualified for promotion in accordance with section 5908 or 5910 of title 10, United States Code, as in effect on the day before the effective date of this title, shall be promoted on the date on which the officer would have been promoted under the provisions of chapter 549 of such title, as in effect on the day before the effective date of this title, unless sooner promoted under regulations prescribed by the Secretary of the Navy under section 14307(b) of such title, as added by this title.

(e) OFFICERS WHOSE NAMES HAVE BEEN OMITTED FROM A LIST FURNISHED TO A SELECTION BOARD.—A covered officer whose name, as of the effective date of this title, had been omitted

VOL 140 PT 16 AG 12 — 18 1994 UMI

by administrative error from the list of officers furnished the most recent selection board to consider officers of the same grade and component, shall be considered by a special selection board established under section 14502 of title 10, United States Code, as added by this title. If the officer is selected for promotion by that board, the officer shall be promoted as specified in section 5904 of title 10, United States Code, as in effect on the day before the effective date of this title.

(f) COVERED OFFICERS.—Except as provided in subsection (c), this section applies to any reserve officer of the Navy or Marine Corps who (1) before the effective date of this title is in an active status, and (2) on the effective date of this title is subject to placement on the reserve active-status list of the Navy or Marine Corps.

SEC. 1684. DELAYS IN PROMOTIONS AND REMOVALS FROM PROMOTION LIST.

(a) DELAYS IN PROMOTIONS.—(1) A delay in a promotion that is in effect on the day before the effective date of this title under the laws and regulations in effect on that date shall continue in effect on and after that date as if the promotion had been delayed under section 14311 of title 10, United States Code, as added by this title.

(2) The delay of the promotion of a reserve officer of the Army or the Air Force which was in effect solely to achieve compliance with limitations set out in section 524 of title 10, United States Code, or with regulations prescribed by the Secretary of Defense with respect to sections 3380(c) and 8380(c) of title 10, United States Code, as in effect on the day before the effective date of this title, shall continue in effect as if the promotion had been delayed under section 14311(e) of such title, as added by this title.

(b) REMOVALS FROM LIST.—An action that was initiated before the effective date of this title under the laws and regulations in effect before that date to remove the name of an officer from a promotion list or from a list of officers recommended or approved for promotion shall continue on and after such date as if such action had been initiated under section 14110(d) or 14310, as appropriate, of title 10, United States Code, as added by this title.

SEC. 1685. MINIMUM SERVICE QUALIFICATIONS FOR PROMOTION.

During the five-year period beginning on the effective date of this title, the Secretary of the Army and the Secretary of the Air Force may waive the provisions of section 14304 of title 10, United States Code, as added by this title. The Secretary may, in addition, during any period in which such a waiver is in effect, establish minimum periods of total years of commissioned service an officer must have served to be eligible for consideration for promotion to the grade of captain, major, or lieutenant colonel by boards convened under section 14101(a) of title 10, United States Code, as added by this title.

SEC. 1686. ESTABLISHMENT OF RESERVE ACTIVE-STATUS LIST.

(a) SIX-MONTH DEADLINE.—Not later than six months after the effective date of this title, the Secretary of the military department concerned shall ensure that—

(1) all officers of the Army, Navy, Air Force, and Marine Corps who are required to be placed on the reserve active-status list of their Armed Force under section 14002 of title 10, United States Code, as added by this title, shall be placed on the list for their armed force and in their competitive category; and

(2) the relative seniority of those officers on each such list shall be established.

(b) REGULATIONS.—The Secretary concerned shall prescribe regulations for the establishment of relative seniority. The Secretary of the Army and the Secretary of the Air Force shall, in prescribing such regulations, provide for the consideration of both promotion service established under section 3360(b) or 8360(e) of title 10, United States Code, as in effect on the day before the effective date of this title, and total commissioned service established under section 3360(c) or 8366(e) of such title, as in effect on the day before the effective date of this title. An officer placed on a reserve active-status list in accordance with this section shall be considered to have been on the list as of the effective date of this title.

SEC. 1687. PRESERVATION OF RELATIVE SENIORITY UNDER THE INITIAL ESTABLISHMENT OF THE RESERVE ACTIVE-STATUS LIST.

In order to maintain the relative seniority among reserve officers of the Army, Navy, Air Force, or Marine Corps as determined under section 1686, the Secretary of the military department concerned may, during the one-year period beginning on the effective date of this title, adjust the date of rank of any reserve officer of such Armed Force who was in an active status but not on the active-duty list on such effective date.

SEC. 1688. GRADE ON TRANSFER TO THE RETIRED RESERVE.

In determining the highest grade held satisfactorily by a person at any time in the Armed Forces for the purposes of paragraph (2) of section 1406(b) of title 10, United States Code, as added by this title, the requirement for satisfactory service on the reserve active-status list contained in section 1370(d) of title 10, United States Code, as added by this title, shall apply only to reserve commissioned officers who are promoted to a higher grade as a result of selection for promotion under chapter 36 of that title or under chapter 1405 of that title, as added by this title, or having been found qualified for Federal recognition in a higher grade under chapter 3 of title 32, United States Code, after the effective date of this title.

SEC. 1689. RIGHTS FOR OFFICERS WITH OVER THREE YEARS SERVICE.

A reserve officer of the Army, Navy, Air Force, or Marine Corps who was in an active status on the day before the effective date of this title and who was subject to placement of the reserve active-status list on the effective date of this title may not be discharged under section 14503 of title 10, United States Code, as added by this title, until on or after the day on which that officer completes three years of continuous service as a reserve commissioned officer.

SEC. 1690. MANDATORY SEPARATION FOR AGE FOR CERTAIN RESERVE OFFICERS OF THE NAVY AND MARINE CORPS.

(a) SAVINGS PROVISIONS FOR REQUIRED SEPARATION AGE.—A reserve officer of the Navy or the Marine Corps—

(1) who—

(A) on the effective date of this title is in an active status, and

(B) on the day before the effective date of this title was an officer described in section 6389(e), 6397(a), 6403(a), or 6403(b) of title 10, United States Code; and

(2) who, on or after the effective date of this title is subject to elimination from an active status under any provision of such title,

is entitled to be treated as that officer would have been treated under section 6397 or 6403 as applicable, as in effect on the day before the effective date of this title, if that treatment would result in the date for the officer's separation from an active status being a later date than the date established under the law in effect on or after the effective date of this title.

(b) SAVINGS PROVISIONS FOR MANDATORY SEPARATION FOR AGE.—An officer who was initially appointed in the Naval Reserve or the Marine Corps Reserve before January 1, 1953, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 62 years of age, but can complete this service by the time he becomes 64 years of age, may be retained in an active status not later than the date he becomes 64 years of age.

(c) An officer who was initially appointed in the Naval Reserve or the Marine Corps Reserve before the effective date of this title, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 60 years of age, but can complete this service by the time he becomes 62 years of age, may be retained in an active status not later than the date he becomes 62 years of age.

Subtitle F—Effective Dates and General Savings Provisions

SEC. 1691. EFFECTIVE DATE.

(a) EFFECTIVE DATE FOR AMENDMENTS.—Except as provided in subsection (b), the amendment made by section 1611 and the amendments made by subtitles C and D shall take effect on December 1, 1994.

(b) EFFECTIVE DATE FOR NEW RESERVE OFFICER PERSONNEL POLICIES.—(1) The provisions of part III of subtitle E of title 10, United States Code, as added by section 1611, shall become effective on October 1, 1996. The amendments made by part II of subtitle A, by subtitle B, and by section 1671(c)(2) and paragraphs (2), (3)(B), (3)(C), and (4) of section 1675(d) shall take effect on October 1, 1996.

(2) Any reference in subtitle E of this title to the effective date of this title is a reference to the effective date prescribed in paragraph (1).

(3) The personnel policies applicable to Reserve officers under the provisions of law in effect on the day before the date prescribed in subsection (a) and replaced by the Reserve officer personnel policies prescribed in part III of subtitle E of title 10, United States Code, as added by section 1611, shall, notwithstanding the provisions of subsection (a), continue in effect until the effective date prescribed in paragraph (1).

(4) The authority to prescribe regulations under the provisions of part III of subtitle E of title 10, United States Code, as added by section 1611, shall take effect on the date of the enactment of this Act.

SEC. 1692. PRESERVATION OF SUSPENDED STATUS OF LAWS SUSPENDED AS OF EFFECTIVE DATE.

If a provision of law that is in a suspended status on the day before the effective date of this title under section 1691(b)(1) is transferred or amended by this title, the suspended status of that provision is not affected by that transfer or amendment.

SEC. 1693. PRESERVATION OF PRE-EXISTING RIGHTS, DUTIES, PENALTIES, AND PROCEEDINGS.

Except as otherwise provided in this title, the provisions of this title and the amendments made by this title do not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this title under section 1691(b)(1).

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SECTION 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1995".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), and, in the case of the project described in section 2104(b)(2), other amounts appropriated pursuant to authorizations enacted after this Act for that project, the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Redstone Arsenal	$2,600,000
California	Fort Irwin	10,000,000
Georgia	Fort Benning	6,550,000
	Fort Gordon	44,750,000
Hawaii	Schofield Barracks	20,700,000
Kentucky	Fort Campbell	52,500,000
	Fort Knox	8,500,000
Maryland	Edgewood Arsenal	2,600,000
	Adelphi Laboratory Center	6,600,000
New Jersey	Bayonne Military Ocean Terminal	4,050,000
New York	Fort Drum	12,600,000
	United States Military Academy, West Point	28,000,000
North Carolina	Fort Bragg	29,000,000
	Sunny Point Military Ocean Terminal	22,200,000
Oklahoma	Fort Sill	18,000,000
Pennsylvania	Tobyhanna Depot	17,000,000
South Carolina	Charleston Naval Weapons Station	20,000,000
Texas	Fort Bliss	16,800,000
	Fort Hood	45,800,000
	Fort Sam Houston	4,300,000
Virginia	Fort Lee	15,600,000
	Fort Myer	7,300,000
Washington	Fort Lewis	64,000,000
CONUS Classified	Classified Location	1,900,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Korea	Camp Casey	$29,200,000
	Camp Red Cloud	5,400,000
Kwajalein Atoll	Kwajalein	6,400,000
Worldwide	Host Nation Support	10,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation	Purpose	Amount
Alaska	Fort Richardson	72 units	$5,000,000
Colorado	Fort Carson	145 units	16,500,000
Georgia	Fort Stewart	128 units	10,600,000
Hawaii	Schofield Barracks	190 units	26,000,000
Kansas	Fort Riley	126 units	12,600,000
Massachusetts	Natick Research Center	35 units	4,150,000
New York	United States Military Academy, West Point	56 units	8,000,000
Texas	Fort Bliss	215 units	21,400,000
	Fort Sam Houston	100 units	10,000,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $5,992,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing in an amount not to exceed $49,760,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Subject to subsection (c), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,736,686,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $447,350,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $51,000,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $66,126,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $170,002,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,013,708,000, of which not more than $243,442,000 may be obligated or expended for the leasing of military family housing worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) (as reduced by operation of subsection (c)); and

(2) $14,000,000 (the balance of the amount authorized under section 2101(a) for the construction and renovation of a food processing facility at the United States Military Academy, West Point, New York).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $23,500,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, cancellations due to force structure

VOL 140 PT 16 AG 12 — 18 1994 UMI

changes, and cancellations due to 1995 base closure and realignment decisions.

SEC. 2105. AUTHORIZATION OF MILITARY CONSTRUCTION PROJECT AT FORT BRAGG, NORTH CAROLINA, FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

Using amounts previously appropriated for such purpose, the Secretary of the Army may carry out a military construction project for the construction of a library at Fort Bragg, North Carolina, in the total amount of $5,500,000.

SEC. 2106. RELOCATION OF ARMY FAMILY HOUSING UNITS FROM FORT HUNTER LIGGETT, CALIFORNIA, TO FORT STEWART, GEORGIA.

Section 2102(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1511) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) Fort Hunter Liggett, California, one hundred fifty-four units, $12,300,000."; and

(2) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) Fort Stewart, Georgia, one hundred twenty-one units, $9,890,000.".

SEC. 2107. HIGHWAY SAFETY AT HAWTHORNE ARMY AMMUNITION PLANT, NEVADA.

(a) STUDY.—The Secretary of the Army shall carry out a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant, Nevada. In carrying out the study, the Secretary shall—

(1) evaluate traffic safety on the highway, including traffic safety with respect to the rail and truck crossing of the highway at the Plant;

(2) evaluate the feasibility and desirability of constructing a vehicle bridge over the rail and truck crossing; and

(3) determine whether any construction required to improve traffic safety on the highway should be funded as a military construction project or as a defense access road construction project.

(b) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—If the Secretary determines as a result of the study under subsection (a) that construction of a vehicle bridge over the rail and truck crossing of the highway at the Plant is feasible and desirable, the Secretary may—

(1) obtain architectural and engineering activities and carry out construction design with respect to the construction of the bridge; or

(2) request that the Secretary of Transportation carry out the construction of the bridge as a project for the construction of a defense access road under section 210 of title 23, United States Code.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), and, in the case of the project described in section 2204(b)(2), other amounts appropriated pursuant to authorizations enacted after this Act for that project, the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
California	Camp Pendleton Amphibious Task Force	$10,700,000
	Camp Pendleton Marine Corp Base	6,860,000
	China Lake Naval Air Warfare Center	6,000,000
	El Centro Naval Air Facility	3,000,000
	Lemoore Naval Air Station	7,000,000
	North Island Naval Air Station	18,830,000
	Port Hueneme Construction Battalion Center	9,650,000
	San Diego Marine Corps Recruit Depot	1,090,000
	San Diego Naval Station	4,100,000
	Twentynine Palms, Marine Corps Air-Ground Combat Center	2,900,000
Florida	Jacksonville Fleet and Industrial Supply Center	2,200,000
	Pensacola Naval Air Station	2,100,000
Hawaii	Kaneohe Bay Marine Corps Air Station	4,900,000
Illinois	Great Lakes Navy Public Works Center	13,000,000
Indiana	Crane Naval Surface Warfare Center	7,970,000
Maryland	Indian Head Naval Surface Warfare Center	10,400,000
	Patuxent River Naval Air Warfare Center	4,200,000
	United States Naval Academy	1,900,000
New Jersey	Lakehurst Naval Air Warfare Center	2,950,000
New Mexico	White Sands Naval Ordnance Missile Test Station	1,390,000
North Carolina	Camp Lejeune Marine Corp Base	14,850,000
	Cherry Point Marine Corps Air Station	2,100,000
Pennsylvania	Philadelphia Naval Shipyard	10,500,000
Rhode Island	Newport Naval Education and Training Center	14,500,000
	Newport Naval War College	28,000,000
South Carolina	Beaufort Marine Corps Air Station	10,800,000
	Parris Island Marine Corps Recruit Depot	8,350,000
Texas	Ingleside Naval Station	14,110,000
Virginia	Kingsville Naval Air Station	1,530,000
	Chesapeake Naval Security Group Activity	1,150,000
	Dam Neck Fleet Combat Training Center	7,000,000
	Little Creek Amphibious Base	5,000,000
	Norfolk Marine Corps Security Force Battalion Atlantic	6,480,000
	Norfolk Naval Base	5,100,000
	Norfolk Naval Station	16,430,000
	Quantico Marine Corps Combat Development Command	19,900,000
Washington	Bremerton Puget Sound Naval Shipyard	11,040,000
	Everett Naval Station	21,690,000
	Whidbey Island Naval Air Station	5,200,000
CONUS Classified	Aircraft Fire Rescue and Vehicle Maintenance Facilities	2,200,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Souda Bay, Crete Naval Support Activity	$3,050,000
Italy	Naples Naval Support Activity	28,460,000
	Sigonella Naval Air Station	13,750,000
Puerto Rico	Sabana Seca Naval Security Group Activity	1,650,000
United Kingdom	Saint Mawgan Joint Communication Center	3,900,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State	Installation	Purpose	Amount
California	Camp Pendleton Marine Corps Base	196 units	$28,552,000
	San Diego Navy Public Works Center	136 units	18,262,000
Hawaii	Moanalua Terrace	100 units (replacement)	16,000,000
Maryland	Patuxent River Naval Air Station	Housing Office	863,000
Mississippi	Gulfport Construction Battalion Center	120 units	10,370,000
Texas	Corpus Christi Naval Air Station	100 units	11,800,000
Virginia	Norfolk Navy Public Works Center	Warehouse and Self Help Center	555,000
Washington	Everett Naval Station	Housing Office	780,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $24,681,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in the amount of $155,602,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Subject to subsection (c), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,591,824,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $309,070,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $50,810,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $43,380,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $267,465,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $937,599,000, of which not more than $114,336,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) (as reduced by operation of subsection (c)); and

(2) $18,000,000 (the balance of the amount authorized under section 2201(a) for the construction of a Strategic Maritime Research Center at the Naval War College, Newport, Rhode Island).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $23,500,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, cancellations due to force structure changes, and cancellations due to 1995 base closure and realignment decisions.

SEC. 2205. RESTORATION OF AUTHORITY TO CARRY OUT MILITARY CONSTRUCTION PROJECT AT NAVAL SUPPLY CENTER, PENSACOLA, FLORIDA.

(a) REAUTHORIZATION.—Notwithstanding section 2205(b)(1)(D)(ii) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1865), the Secretary of the Navy may carry out the military construction project at the Naval Supply Center, Pensacola, Florida, which involves construction of a cold storage facility at the installation and was originally authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1514).

(b) CONFORMING AMENDMENT.—Section 2205(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1518), as amended by section 2205(b)(2) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1865), is further amended—

(A) in the matter preceding the paragraphs, by striking out "$1,759,990,000" and inserting in lieu thereof "$1,765,690,000"; and

(B) in paragraph (1), by striking out "$667,700,000" and inserting in lieu thereof "$673,400,000".

SEC. 2206. DESIGN ACTIVITIES FOR UPGRADE OF MAYPORT NAVAL STATION, FLORIDA.

(a) COMMENCEMENT OF DESIGN ACTIVITIES.—At the conclusion of the facilities study prepared by the Secretary of the Navy to identify infrastructure improvements that would be necessary to provide Mayport Naval Station, Florida, with the capability to serve as a homeport for a nuclear powered aircraft carrier and the programmatic environmental impact study to identify environmental issues associated with such improvements, the Secretary shall begin design activities for such military construction projects as may be necessary to provide for such a capability.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed as an authorization to the Secretary to proceed with the construction of facilities specifically designed to make Mayport Naval Station capable of serving as a homeport for a nuclear powered aircraft carrier.

SEC. 2207. RELOCATION OF PASCAGOULA COAST GUARD STATION, MISSISSIPPI.

(a) AGREEMENT ON RELOCATION.—Subject to subsection (c), the Secretary of the Navy and the Secretary of Transportation may enter into an agreement that provides for the relocation of the activities and functions of Pascagoula Coast Guard Station to Pascagoula Naval Station, Pascagoula, Mississippi.

(b) PROHIBITION ON RELOCATION OR CONSTRUCTION COSTS.—The Navy may not incur any construction costs relating to the relocation. The Coast Guard may not incur any construction costs or relocation costs relating to the relocation.

(c) CONDITION ON RELOCATION.—The activities and functions of Pascagoula Coast Guard Station may not be relocated to Pascagoula Naval Station if either—

(1) the Secretary of the Navy determines that the relocation of the Coast Guard facility would interfere with the performance of the mission of the Navy at Pascagoula Naval Station; or

(2) the Secretary of Transportation determines that the relocation of the Coast Guard facility would be incompatible with Coast Guard operations in the Pascagoula area.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$9,600,000
Alaska	Cape Lisburne Long Range Radar Site	2,800,000

VOL 140 PT 16 AG 12 — 18 1994 UMI

Air Force: Inside the United States—Continued

State	Installation or location	Amount
	Elmendorf Air Force Base	5,000,000
Arizona	Luke Air Force Base	4,900,000
Arkansas	Little Rock Air Force Base	4,800,000
California	Beale Air Force Base	11,850,000
	Edwards Air Force Base	$7,050,000
	McClellan Air Force Base	8,500,000
	Travis Air Force Base	3,600,000
	Vandenberg Air Force Base	6,550,000
Colorado	Peterson Air Force Base	1,750,000
Delaware	Dover Air Force Base	10,500,000
Florida	Cape Canaveral Air Force Station	10,450,000
Georgia	Moody Air Force Base	13,400,000
	Robins Air Force Base	21,200,000
Idaho	Mountain Home Air Force Base	15,950,000
Illinois	Scott Air Force Base	2,700,000
Kansas	McConnell Air Force Base	500,000
Louisiana	Barksdale Air Force Base	15,700,000
Maryland	Andrews Air Force Base	6,300,000
Mississippi	Columbus Air Force Base	13,200,000
	Keesler Air Force Base	11,240,000
Missouri	Whiteman Air Force Base	24,290,000
Montana	Malmstrom Air Force Base	7,200,000
Nebraska	Offutt Air Force Base	2,260,000
Nevada	Nellis Air Force Base	600,000
New Jersey	McGuire Air Force Base	17,000,000
New Mexico	Holloman Air Force Base	10,950,000
	Kirtland Air Force Base	28,000,000
North Carolina	Pope Air Force Base	5,050,000
North Dakota	Grand Forks Air Force Base	5,200,000
	Minot Air Force Base	5,850,000
Ohio	Wright-Patterson Air Force Base	26,550,000
Oklahoma	Altus Air Force Base	3,750,000
	Tinker Air Force Base	20,443,000
	Vance Air Force Base	11,680,000
South Carolina	Charleston Air Force Base	11,400,000
South Dakota	Ellsworth Air Force Base	5,950,000
Tennessee	Arnold Air Force Base	1,900,000
Texas	Brooks Air Force Base	6,500,000
	Kelly Air Force Base	8,950,000
	Lackland Air Force Base	5,200,000
	Sheppard Air Force Base	3,300,000
Virginia	Langley Air Force Base	5,500,000
Washington	Fairchild Air Force Base	17,900,000
	McChord Air Force Base	10,400,000
Wyoming	F.E. Warren Air Force Base	2,650,000
CONUS Classified	Classified Location	2,141,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and may carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Ramstein Air Base	$12,350,000
	Spangdahlem Air Base	9,473,000
Greenland	Thule Air Base	2,450,000
Portugal	Lajes Field, Azores	2,850,000
United Kingdom	Lakenheath Royal Air Force Base	7,100,000
Overseas Classified	Classified Locations	4,050,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State	Installation	Purpose	Amount
Alabama	Maxwell Air Force Base	25 units	$2,100,000
Arizona	Davis Monthan Air Force Base	110 units	10,029,000
California	Beale Air Force Base	76 units	8,842,000
	Edwards Air Force Base	34 units	4,629,000
	Los Angeles Air Force Station	50 units	8,962,000
	Vandenberg Air Force Base	128 units	16,460,000
District of Columbia	Bolling Air Force Base	100 units	9,000,000
Florida	Patrick Air Force Base	75 units	7,145,000
Idaho	Mountain Home Air Force Base	4 units	881,000
	Mountain Home Air Force Base	60 units	5,712,000
Kansas	McConnell Air Force Base	70 units	8,322,000
Louisiana	Barksdale Air Force Base	82 units	8,236,000
Missouri	Whiteman Air Force Base	Housing Office	567,000
New Mexico	Cannon Air Force Base	1 unit	230,000
	Holloman Air Force Base	76 units	7,733,000
	Kirtland Air Force Base	106 units	10,058,000
North Carolina	Pope Air Force Base	120 units	14,874,000
	Seymour Johnson Air Force Base	74 units	6,025,000
North Dakota	Grand Forks Air Force Base	Housing Office	709,000

Air Force: Family Housing—Continued

State	Installation	Purpose	Amount
South Carolina	Shaw Air Force Base	3 units	631,000
Texas	Dyess Air Force Base	59 units	7,077,000
Utah	Hill Air Force Base	138 units	11,400,000
Virginia	Langley Air Force Base	148 units	14,421,000
Washington	Fairchild Air Force Base	6 units	1,035,000
Wyoming	F.E. Warren Air Force Base	106 units	11,321,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $9,275,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $61,770,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Subject to subsection (c), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,601,602,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $438,154,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $38,273,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $49,386,000.

(5) For the construction of the climatic test chamber at Eglin Air Force Base, Florida, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2594), $20,000,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $247,444,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $824,845,000, of which not more than $112,757,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) (as reduced by operation of subsection (c)).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $23,500,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, cancellations due to force structure changes, and cancellations due to 1995 base closure and realignment decisions.

SEC. 2305. AUTHORIZATION OF MILITARY CONSTRUCTION PROJECTS AT TYNDALL AIR FORCE BASE, FLORIDA, FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) AUTHORIZATION.—The table in section 2301(a) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1867) is amended in the item relating to Tyndall Air Force Base, Florida, by striking out "$2,600,000" in the amount column and inserting in lieu thereof "$8,200,000".

(b) CONFORMING AMENDMENT.—Section 2304(a) of such Act (107 Stat. 1870) is amended—

(1) in the matter preceding the paragraphs, by striking out "$2,040,031,000" and inserting in lieu thereof "$2,045,631,000"; and

(2) in paragraph (1), by striking out "$877,539,000" and inserting in lieu thereof "$883,139,000".

SEC. 2306. REVISION OF AUTHORIZED FAMILY HOUSING PROJECT AT TYNDALL AIR FORCE BASE, FLORIDA.

The table in section 2302(a) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1869) is amended in the item relating to Tyndall Air Force Base, Florida, by striking out "Infrastructure" in the purpose column and inserting in lieu thereof "45 units".

SEC. 2307. MODIFICATION OF AIR FORCE PLANT NO. 3, TULSA, OKLAHOMA.

(a) MODIFICATION AUTHORIZED.—Subject to subsection (b), of the amount authorized to be appropriated under section 301(4), not more than $10,000,000 shall be available to the Secretary of the Air Force to carry out the modification of Air Force Plant No. 3, Tulsa, Oklahoma.

(b) CONDITION.—The Secretary of the Air Force may not obligate any of the funds made available under subsection (a) until after the end of a period of 30 legislative days (as defined in section 2687(e)(4) of title 10, United States Code) beginning on the date the Secretary submits to the congressional defense committees a report certifying that the modification is consistent with the long term national security mission of Air Force Plant No. 3.

SEC. 2308. REPEAL OF LIMITATION ON ORDER OF RETIREMENT OF MINUTEMAN II MISSILES.

Section 2307 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1775) is repealed.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Agents and Munitions Destruction	Anniston Army Depot, Alabama	$5,000,000
	Pine Bluff Arsenal, Arkansas	3,000,000
	Tooele Army Depot, Utah	4,000,000
	Umatilla Army Depot, Oregon	12,000,000
Defense Intelligence Agency	Bolling Air Force Base, Washington, District of Columbia	600,000
Defense Logistics Agency	Defense Construction Supply Center, Columbus, Ohio	2,200,000
	Defense Contract Management Area Office, El Segundo, California	5,100,000
	Defense Fuel Support Point, Craney Island, Virginia	3,652,000
	Headquarters, Defense Logistics Agency, Ft. Belvoir, Virginia	4,600,000
Defense Medical Facility Office	Fort Dix, New Jersey	2,000,000
	Fort McPherson, Georgia	12,300,000
	McClellan Air Force Base, California	10,280,000
National Security Agency	Fort Meade, Maryland	5,458,000
Office Secretary of Defense	CONUS Classified Location	5,300,000
Section 6 Schools	Naval Surface Warfare Center, Virginia	1,360,000
Special Operations Forces	Eglin Auxiliary Field No. 9, Florida	20,200,000
	Fort Bragg, North Carolina	8,000,000
	Kirtland Air Force Base, New Mexico	9,600,000
	Naval Base Coronado, San Diego, California	3,400,000

SEC. 2402. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(11)(A), the Secretary of Defense may construct or acquire family housing units (including land acquisition) at the location, for the purpose, and in the amount set forth in the following table:

VOL 140 PT 16 AG 12 — 18 1994 UMI

Defense Agencies: Family Housing

Country	Agency	Purpose	Amount
Belgium	National Security Agency	1 unit	$300,000

SEC. 2403. IMPROVEMENT TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(11)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $50,000.

SEC. 2404. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $3,213,608,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $119,250,000.

(2) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640), $120,000,000.

(3) For military construction projects at Elmendorf Air Force Base, Alaska, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $66,000,000.

(4) For military construction projects at Fort Bragg, North Carolina, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $75,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $22,348,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $3,511,000.

(7) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $51,960,000.

(8) For energy conservation projects authorized by section 2404, $50,000,000.

(9) For base closure and realignment activities as authorized by title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), $87,600,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XX1X of Public Law 101–510; 10 U.S.C. 2687 note), $2,588,558,000.

(11) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $350,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $29,031,000, of which not more than $24,051,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the total amount authorized to be appropriated under subsection (a)(1).

SEC. 2406. COMMUNITY IMPACT ASSISTANCE WITH REGARD TO NAVAL WEAPONS STATION, CHARLESTON, SOUTH CAROLINA.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(10), the Secretary of the Navy shall transfer $3,000,000 to the South Carolina Department of Highways and Public Transportation to be used for improvements to North Rhett Avenue, which provides access to the Naval Weapons Station, Charleston, South Carolina, to help alleviate the adverse effects of the closure of the Charleston Naval Station and Charleston Naval Shipyard, South Carolina, on the surrounding communities.

SEC. 2407. PLANNING AND DESIGN FOR CONSTRUCTION IN SUPPORT OF CONSOLIDATION OF OPERATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

Of the amount authorized to be appropriated by section 2405(a)(7), $6,000,000 shall be available for planning and design activities relating to military construction in support of the consolidation of operations of the Defense Finance and Accounting Service.

SEC. 2408. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1993 PROJECT.

(a) MODIFICATION OF AUTHORITY.—(1) The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599) is amended in the item relating to Fitzsimons Army Medical Center, Colorado, by striking out "$390,000,000" in the amount column and inserting in lieu thereof "$225,000,000".

(2) Section 2403(c)(6) of such Act (106 Stat. 2600) is amended by striking out "$388,000,000" and inserting in lieu thereof "$223,000,000".

(b) CERTIFICATION.—(1) If the budget for fiscal year 1996 that is submitted to Congress under section 1105 of title 31, United States Code, includes a request for funds for the construction of a replacement facility at Fitzsimons Army Medical Center, Colorado, then not later than March 15, 1995, the Secretary of Defense shall submit to the congressional defense committees a certification that the replacement facility is needed to meet military health care requirements.

(2) In making the certification, the Secretary of Defense shall address the issues raised in the Audit Report of the Inspector General of the Department of Defense dated March 21, 1994, and entitled "Medical Treatment Facility Requirements—Fitzsimons Army Medical Center", including—

(A) the cost-effectiveness of building a replacement facility;

(B) the Department of Defense policy on construction of new military medical treatment facilities in areas in which the majority of the patient population is military retirees and their dependents;

(C) the percentage of the patient population in the catchment area of Fitzsimons Army Medical Center and in the Region 8 area that consists of—

(i) active duty personnel;

(ii) dependents of active duty personnel;

(iii) military retirees; and

(iv) dependents of military retirees;

(D) the availability to and cost for the patient population in the catchment area of medical care provided by civilian medical facilities located in that area;

(E) the occupancy rates of civilian medical facilities in the catchment area;

(F) the nature and extent of advanced medical procedures provided by civilian medical facilities in the catchment area;

(G) the ability of and cost to other Department of Defense medical facilities and civilian medical facilities located in the Region 8 area of providing medical care to patients in that area that are currently served by Fitzsimons Army Medical Center;

(H) the projected occupancy rates at Fitzsimons Army Medical Center with and without patients from outside the catchment area and the Region 8 area; and

(I) the cost-effectiveness and contribution of the Graduate Medical Education program at Fitzsimons Army Medical Center to meeting the training requirements of the Army for military medical personnel.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program, as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program, as authorized by section 2501, in the amount of $119,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1994, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $188,062,000; and

(B) for the Army Reserve, $57,370,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $22,748,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $249,053,000; and

(B) for the Air Force Reserve, $57,066,000.

SEC. 2602. PROHIBITION ON USE OF FUNDS FOR UNAUTHORIZED GUARD AND RESERVE PROJECTS.

(a) PROHIBITION OF UNAUTHORIZED PROJECTS.—Except as provided in subsection (b), funds appropriated pursuant to the authorization of appropriations in section 2601 may only be used for the purpose of paying for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces (and for contributions for such purposes) under chapter 133 of title 10, United States Code, in the case of projects for the Guard and Reserve Forces specified in the joint explanatory statement of the committee of conference to accompany the bill S. 2182 of the One Hundred and Third Congress.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to funds authorized to be appropriated in section 2601 for unspecified planning and design and for unspecified minor construction. Such subsection shall also not apply in the case of a project for the Guard and Reserve Forces—

(1) specifically authorized by a law enacted after the date of the enactment of this Act;

(2) designated as emergency construction, in the same manner as provided for military construction projects under section 2803 of title 10, United States Code;

(3) designated as contingency construction, in the same manner as provided for military construction projects under section 2804 of such title;

(4) designated as a construction project required to carry out an environmental response action, in the same manner as provided for military construction projects under section 2810 of such title;

(5) designated as a construction project required to repair, restore, or replace a damaged or destroyed facility, in the same manner as provided for military construction projects under section 2854 of such title; or

(6) specified in the joint explanatory statement of the committee of conference to accompany any Act, enacted before the date of enactment of this Act, authorizing funds for military construction projects if the authorization for the project has not expired by the time the expenditure is to be made.

SEC. 2603. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) FISCAL YEAR 1994 GUARD AND RESERVE PROJECTS.—Section 2601 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1878) is amended—

(1) in paragraph (1), by striking out "$263,483,000" and inserting in lieu thereof "$299,223,000"; and

(2) in paragraph (2), by striking out "$25,013,000" and inserting in lieu thereof "$33,713,000".

(b) FISCAL YEAR 1993 AIR NATIONAL GUARD PROJECT.—Section 2601(3)(A) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2602) is amended by striking out "$305,759,000" and inserting in lieu thereof "$306,959,000".

(c) FISCAL YEAR 1992 ARMY NATIONAL GUARD PROJECT.—Section 2601(1)(A) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1534) is amended by striking out "$210,745,000" and inserting in lieu thereof "$211,759,000".

SEC. 2604. STATE NATIONAL GUARD HEADQUARTERS, FORT DIX, NEW JERSEY.

Funds appropriated pursuant to the authorization of appropriations in section 2601(1)(A) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2602) for the renovation of facilities at Fort Dix, New Jersey, for the purpose of accommodating a consolidated New Jersey National Guard headquarters may also be used for additions and alterations to such facilities for the same purpose.

SEC. 2605. COLORADO STATE AREA COMMAND ARMORY, ENGLEWOOD, COLORADO.

(a) CONTRIBUTION AUTHORIZED.—Using amounts appropriated for this purpose pursuant to the authorization of appropriations in section 2601(1)(A), the Secretary of Defense may make a contribution to the State of Colorado under paragraph (4) or (5) of section 2233(a) of title 10, United States Code, in connection with the relocation of the Colorado State Area Command Armory to Englewood, Colorado, and the improvement of such relocated armory.

(b) COMPUTATION OF AMOUNT OF CONTRIBUTION.—Notwithstanding section 2236(b) of title 10, United States Code, in computing the cost of construction under such section for purposes of making the contribution authorized under subsection (a), the Secretary of Defense may consider the cost or market value of the buildings and other improvements contributed by the State of Colorado in connection with the relocation of the Colorado State Area Command Armory. The amount of the Federal contribution for such armory under paragraph (4) or (5) of section 2233(a) of such title, as authorized by subsection (a), may not exceed $2,725,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXV1 for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1997; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1997; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1998 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Infrastructure program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1992 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1535), authorizations for the projects set forth in the tables in subsection (b), as provided in section 2101, 2102, 2201, 2301, or 2601 of that Act, shall remain in effect until October 1, 1995, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1996, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
Colorado	Fort Carson	Family Housing New Construction (1 Unit)	$150,000
Georgia	Fort Benning	General Instruction Facility	2,150,000
	Fort Stewart	Family Housing New Construction (120 Units)	9,700,000
Oregon	Umatilla Depot Activity	Ammunition Demilitarization Support Facility	3,600,000
		Ammunition Demilitarization Utilities	7,500,000

Navy: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
Mississippi	Gulfport Naval Construction Battalion Center	Controlled Humidity Warehouse	$7,000,000
West Virginia	Green Bank Naval Observatory	Alternate Operations Center	5,400,000
Italy	Sigonella Naval Air Station	Operations Control Center	9,850,000
	Sicily Naval Communications Station	Satellite terminal	2,750,000
Outside United States	Various locations	Satellite terminals	10,570,000

VOL 140 PT 16 AG 12 — 18 1994 UMI

Air Force: Extension of 1992 Project Authorization

State	Installation or location	Project	Amount
Alaska	Eareckson (formerly Shemya) Air Force Station	Hazardous Materials Storage	$4,000,000
Arizona	Davis Monthan Air Force Base	Wastewater Treatment Facility	4,100,000
California	Beale Air Force Base	Munitions Maintenance Facility	2,700,000
Delaware	Dover Air Force Base	Additions and Alterations Child Development Center	2,600,000
Kansas	McConnell Air Force Base	Temporary Lodging Facility	2,700,000
Maryland	Andrews Air Force Base	Upgrade Mystic Star	2,700,000
North Carolina	Pope Air Force Base	Child Development Center	2,050,000

Army National Guard: Extension of 1992 Project Authorizations

State	Location	Project	Amount
California	Stockton	Additions and Alterations Combined Support Maintenance Shop	$1,613,000
District of Columbia	Fort Belvoir	Army Aviation Support Facility	2,765,000
Maryland	Cheltenham	Armory/Maintenance Shop	3,300,000
	Towson	Direct Logistics Warehouse	373,000
Mississippi	West Point	Maintenance Shop	1,270,000
	Tupelo	Maintenance Shop	$992,000
	Senatobia	Maintenance Shop	723,000
Nevada	Washoe County	Maintenance Shop	1,050,000
North Carolina	Camp Butner	Range	986,000
Ohio	Toledo	Armory	3,183,000
Rhode Island	Camp Varnum	Sewer and Water System	578,000
	Camp Fogarty	Armory	5,151,000
West Virginia	Huntington	Guard and Reserve Center	2,983,000

Army Reserve: Extension of 1992 Project Authorizations

State	Location	Project	Amount
Massachusetts	Taunton	Reserve Center	$3,526,000
Ohio	Perrysburg	Reserve Center Addition	2,749,000
Pennsylvania	Johnstown	Army and Marine Corps Aviation Facility	30,224,000
Tennessee	Jackson	Joint Training Facility	1,537,000
West Virginia	Huntington	Guard and Reserve Center	6,617,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1991 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1782), the authorizations for the projects set forth in the tables in subsection (b), as provided in section 2201, 2301, or 2401 of that Act and extended by section 2702(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1535) and section 2702 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1880), shall remain in effect until October 1, 1995, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1996, whichever is later.

(b) TABLE.—The tables referred to in subsection (a) is as follows:

Navy: Extension of 1991 Project Authorization

State	Installation or location	Project	Amount
Connecticut	New London Naval Submarine Base	Thames River Dredging	$5,300,000

Air Force: Extension of 1991 Project Authorizations

State	Installation or location	Project	Amount
California	Beale Air Force Base	Student Dormitory	$3,650,000
Colorado	Buckley Air National Guard Base	Child Development Center	4,550,000
Hawaii	Schofield Barracks	Combat Arms Training/Maintenance Facility	1,400,000

Defense Agencies: Extension of 1991 Project Authorization

State	location	Project	Amount
Maryland	Defense Logistics Agency, Defense Reutilization and Marketing Office, Fort Meade	Covered Storage	$9,500,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 1994; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. LIMITATION ON REPAIR OF EXISTING FACILITIES.

(a) APPLICATION OF LIMITATION TO MAJOR REPAIRS.—Section 2811 of title 10, United States Code, is amended to read as follows:

"§2811. Repair of facilities

"(a) REPAIRS USING OPERATIONS AND MAINTENANCE FUNDS.—Using funds available to the Secretary concerned for operation and maintenance, the Secretary concerned may carry out repair projects for an entire single-purpose facility or one or more functional areas of a multipurpose facility.

"(b) APPROVAL REQUIRED FOR MAJOR REPAIRS.—A repair project costing more than $5,000,000 may not be carried out under this section unless approved in advance by the Secretary concerned. In determining the total cost of a repair project, the Secretary shall include all phases of a multi-year repair project to a single facility. In considering a repair project for approval, the Secretary shall ensure that the project is consistent with force structure plans, that repair of the facility is more cost effective than replacement, and that the project is an appropriate use of operation and maintenance funds.

"(c) PROHIBITION ON NEW CONSTRUCTION OR ADDITIONS.—Construction of new facilities or additions to existing facilities may not be carried out under the authority of this section.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of subchapter I of chapter 169 of title 10, United States Code, is amended to read as follows:

"2811. Repair of facilities".

SEC. 2802. CLARIFICATION OF REQUIREMENT FOR NOTIFICATION OF CONGRESS OF IMPROVEMENTS IN FAMILY HOUSING UNITS.

Section 2825(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The limitation contained in the first sentence of paragraph (1) does not apply to a project for the improvement of a family housing unit or units referred to in that sentence if the project (including the amount requested for the project) is identified in the budget materials submitted to Congress by the Secretary of Defense in connection with the submission to Congress of the budget for a fiscal year pursuant to section 1105 of title 31.".

SEC. 2803. LIMITED PARTNERSHIPS FOR NAVY HOUSING.

(a) AUTHORITY FOR HOUSING PARTNERSHIPS.—Subchapter II of chapter 169 of title 10, United States Code, is amended by adding at the end the following new section:

"§2837. Limited partnerships with private developers of housing

"(a) LIMITED PARTNERSHIPS.—(1) In order to meet the housing requirements of members of the naval service, and the dependents of such members, at a military installation described in paragraph (2), the Secretary of the Navy may enter into a limited partnership with one or more private developers to encourage the construction of housing and accessory structures within commuting distance of the installation. The Secretary may contribute not less than five percent, but not more than 35 percent, of the development costs under a limited partnership.

"(2) Paragraph (1) applies to a military installation under the jurisdiction of the Secretary at which there is a shortage of suitable housing to meet the requirements of members and dependents referred to in such paragraph.

"(b) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary may also enter into collateral incentive agreements with private developers who enter into a limited partnership under subsection (a) to ensure that, where appropriate—

"(1) a suitable preference will be afforded members of the naval service in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the limited partnership; or

"(2) the rental rates or sale prices, as the case may be, for some or all of such units will be affordable for such members.

"(c) SELECTION OF INVESTMENT OPPORTUNITIES.—(1) The Secretary shall use publicly advertised, competitively bid or competitively negotiated, contracting procedures, as provided in chapter 137 of this title, to enter into limited partnerships under subsection (a).

"(2) When a decision is made to enter into a limited partnership under subsection (a), the Secretary shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include the justification for the limited partnership, the terms and conditions of the limited partnership, a description of the development costs for projects under the limited partnership, and a description of the share of such costs to be incurred by the Secretary. The Secretary may then enter into the limited partnership only after the end of the 21-day period beginning on the date the report is received by such committees.

"(d) ACCOUNT.—(1) There is hereby established on the books of the Treasury an account to be known as the 'Navy Housing Investment Account'.

"(2) There shall be deposited into the Account—

"(A) such funds as may be authorized for and appropriated to the Account; and

"(B) any proceeds received by the Secretary from the repayment of investments or profits on investments of the Secretary under subsection (a).

"(3) In such amounts as is provided in advance in appropriation Acts, the Account shall be available for contracts, investments, and expenses necessary for the implementation of this section.

"(4) The Secretary may not enter into a contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) unless the Account contains sufficient funds, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.

"(e) NAVY HOUSING INVESTMENT BOARD.—(1) The Secretary of the Navy shall establish a board to be known as the 'Navy Housing Investment Board', which shall have the duties—

"(A) of advising the Secretary regarding those proposed limited partnerships under subsection (a), if any, that are financially and otherwise sound investments for meeting the objectives of this section;

"(B) of administering the Account established under subsection (d); and

"(C) of assisting the Secretary in such other ways as the Secretary determines to be necessary and appropriate to carry out this section.

"(2) The Navy Housing Investment Board shall be composed of seven members appointed for a two-year term by the Secretary. Among such members, the Secretary may appoint two persons from the private sector who have knowledge and experience in the financing and the construction of housing. The Secretary shall designate one of the members as chairperson of the Board.

"(3) Members of the Navy Housing Investment Board, other than those members regularly employed by the Federal Government, may be paid while attending meetings of the Board or otherwise serving at the request of the Secretary, compensation at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Board. Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5.

"(4) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Navy Housing Investment Board.

"(f) REPORT.—Not later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this section, the Secretary shall transmit to Congress a report specifying the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of all other expenditures made pursuant to such section during such fiscal year.

"(g) TRANSFER OF NAVY LANDS PROHIBITED.—Nothing in this section shall be construed to permit the Secretary, as part of a limited partnership entered into under this section, to transfer the right, title, or interest of the United States in any real property under the jurisdiction of the Secretary.

"(h) EXPIRATION AND TERMINATION OF AUTHORITIES.—(1) The authority of the Secretary to enter into a limited partnership under this section shall expire on September 30, 1999.

"(2) The Navy Housing Investment Board shall terminate on November 30, 1999.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2837. Limited partnerships with private developers of housing.".

SEC. 2804. REIMBURSEMENT FOR SERVICES PROVIDED BY THE DEPARTMENT OF DEFENSE INCIDENT TO CONSTRUCTION, MAINTENANCE, OR REPAIR PROJECTS TO REAL PROPERTY.

(a) FIXED RATE FOR REIMBURSEMENT FOR CERTAIN SERVICES.—Section 2205 of title 10, United States Code, is amended—

(1) by inserting "(a) AVAILABILITY OF REIMBURSEMENTS.—" before the first sentence; and

(2) by adding at the end the following new subsection:

"(b) FIXED RATE FOR REIMBURSEMENT FOR CERTAIN SERVICES.—The Secretary of Defense and the Secretaries of the military departments may charge a fixed rate for reimbursement of the costs of providing planning, supervision, administrative, or overhead services incident to any construction, maintenance, or repair project to real property or for providing facility services, irrespective of the appropriation financing the project or facility services.".

(b) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§2205. Reimbursements".

(2) The item relating to such section in the table of sections at the beginning of chapter 131 of title 10, United States Code, is amended to read as follows:

"2205. Reimbursements.".

SEC. 2805. AUTHORITY TO PAY CLOSING COSTS UNDER HOMEOWNERS ASSISTANCE PROGRAM.

Section 1013(c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(c)) is amended by inserting after the first sentence the following new sentence: "The

VOL
140
PT
16
AG
12
—
18
1994
UMI

Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the Federal Government.".

Subtitle B—Defense Base Closure and Realignment

SEC. 2811. PROHIBITION AGAINST CONSIDERATION IN BASE CLOSURE PROCESS OF ADVANCE CONVERSION PLANNING UNDERTAKEN BY POTENTIAL AFFECTED COMMUNITIES.

(a) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c)(3) of section 2903 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by inserting "(A)" before "In considering"; and

(2) by adding at the end the following new subparagraphs:

"(B) In considering military installations for closure or realignment, the Secretary may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of an installation.

"(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning—

"(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

"(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.".

(b) COMMISSION RECOMMENDATIONS.—Subsection (d)(2) of such section is amended by adding at the end the following new subparagraph:

"(E) In making recommendations under this paragraph, the Commission may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of a military installation.".

SEC. 2812. CONSULTATION REGARDING PERSONAL PROPERTY LOCATED AT MILITARY INSTALLATIONS TO BE CLOSED.

(a) CLOSURES UNDER 1988 ACT.—(1) Section 204(b)(3)(D) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by adding at the end the following new sentence: "In connection with the development of the redevelopment plan for the installation, the Secretary shall consult with the entity responsible for developing the redevelopment plan to identify the items of personal property located at the installation, if any, that the entity desires to be retained at the installation for reuse or redevelopment of the installation.".

(b) CLOSURES UNDER 1990 ACT.—Section 2905(b)(3)(D) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new sentence: "In connection with the development of the redevelopment plan for the installation, the Secretary shall consult with the entity responsible for developing the redevelopment plan to identify the items of personal property located at the installation, if any, that the entity desires to be retained at the installation for reuse or redevelopment of the installation.".

SEC. 2813. CLARIFYING AND TECHNICAL AMENDMENTS TO BASE CLOSURE LAWS.

(a) CLARIFICATION OF SCOPE OF TERMINATION OF AUTHORITY UNDER 1988 ACT.—Section 202(c) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by striking out "The authority" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the authority"; and

(2) by adding at the end the following new paragraph:

"(2) The termination of authority set forth in paragraph (1) shall not apply to the authority of the Secretary to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(b) USE OF UNOBLIGATED FUNDS IN 1988 ACCOUNT FOR ENVIRONMENTAL RESTORATION AND PROPERTY DISPOSAL.—Section 207(a)(5) of such Act is amended—

(1) by striking out "Unobligated funds" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), unobligated funds"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may, after the termination of authority referred to in subparagraph (A), use any unobligated funds referred to in that subparagraph that are not transferred in accordance with that subparagraph to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(c) CLARIFICATION OF DISPOSAL AUTHORITY.—

(1) UNDER 1988 ACT.—Section 204(b)(1) of such Act is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property".

(2) UNDER 1990 ACT.—Section 2905(b)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property".

(d) DEFINITION OF REDEVELOPMENT AUTHORITY.—

(1) UNDER 1988 ACT.—Section 209(10) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(2) UNDER 1990 ACT.—Section 2910(9) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the amendments made by section 2918 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1927).

(e) CROSS REFERENCE.—

(1) UNDER 1988 ACT.—Section 204(b)(5)(A) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out "subsection (b)(1)" and inserting in lieu thereof "paragraph (1)".

(2) UNDER 1990 ACT.—Section 2905(b)(5)(A) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "subsection (b)(1)" and inserting in lieu thereof "paragraph (1)".

SEC. 2814. GOVERNMENT RENTAL OF FACILITIES LOCATED ON CLOSED MILITARY INSTALLATIONS.

(a) AUTHORIZATION TO RENT BASE CLOSURE PROPERTIES.—To promote the rapid conversion of military installations that are closed pursuant to a base closure law, the Administrator of the General Services may give priority consideration, when leasing space in accordance with the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), to facilities of such an installation that have been acquired by a non-Federal entity.

(b) BASE CLOSURE LAW DEFINED.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

SEC. 2815. REPORT OF EFFECT OF BASE CLOSURES ON FUTURE MOBILIZATION OPTIONS.

(a) REPORT REQUIRED.—The Secretary of Defense shall prepare a report evaluating the effect of base closures and realignments conducted since January 1, 1987, on the ability of the Armed Forces to remobilize to the end strength levels authorized for fiscal year 1987 by sections 401, 403, 411, 412, and 421 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3859). The report shall identify those military construction projects, if any, that would be necessary to facilitate such remobilization and any defense assets disposed of under a base closure or realignment, such as air space, that would be difficult to reacquire in the event of such remobilization.

(b) TIME FOR SUBMISSION.—Not later than January 31, 1996, the Secretary shall submit to the congressional defense committees the report required by this section.

SEC. 2816. RESTORATION OF ANNUAL LEAVE FOR CIVILIAN EMPLOYEES IN CONNECTION WITH CERTAIN BASE REALIGNMENTS.

(a) RESTORATION REQUIRED.—Section 6304(d)(3) of title 5, United States Code, is amended—

(1) by striking "(3)" and inserting "(3)(A)";

(2) by striking "closure of" and inserting "closure of, and any realignment with respect to,"; and

(3) by adding at the end the following new subparagraph:

"(B) For the purpose of subparagraph (A), the term 'realignment' means a base realignment (as defined in subsection (e)(3) of section 2687 of title 10) that meets the requirements of subsection (a)(2) of such section.".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to the restoration of annual leave of employees at military installations undergoing realignment if such leave is lost by operation of section 6304 of title 5, United States Code, on or after the date of the enactment of this Act.

SEC. 2817. AGREEMENTS OF SETTLEMENT FOR RELEASE OF IMPROVEMENTS AT OVERSEAS MILITARY INSTALLATIONS.

(a) AGREEMENTS SUBJECT TO OMB REVIEW.—Subsection (g) of section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting after the first sentence the following: "The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of $10,000,000.".

(b) REPORTS TO CONGRESS.—Such subsection is further amended—

(1) by inserting "(1)" before "The Secretary of Defense"; and

(2) by adding at the end the following:

"(2) Each year, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the value of the improvements to be released pursuant to the proposed agreement did not exceed $10,000,000.".

Subtitle C—Changes to Existing Land Conveyance Authority

SEC. 2821. ADDITIONAL LESSEE OF PROPERTY AT NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

Section 2834(b) the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2614) is amended—

(1) is paragraph (1)—

(A) by striking out "City" the second place it appears and inserting in lieu thereof "Cities"; and

(B) by inserting "the City of Alameda, California," after "California," the first place it appears; and

(2) in paragraphs (2) and (3), by striking out "City" each place it appears and inserting in lieu thereof "Cities".

SEC. 2822. MODIFICATIONS OF LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA.

(a) PARTICIPATION OF ADDITIONAL POLITICAL SUBDIVISIONS IN REGIONAL CORRECTIONAL FACILITY.—Subparagraph (B) of subsection (c)(3) of section 603 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 108) is amended to read as follows:

"(B) Subparagraph (A) shall not be construed to prohibit any political subdivision not named in such subparagraph from—

"(i) participating initially in the written agreement referred to in paragraph (2); or

"(ii) agreeing at a later date to participate as a member of the governmental entity referred to in paragraph (2)(A), or by contract with such entity, in the construction or operation of the regional facility to be constructed on the parcel of land conveyed under this section.".

(b) TIME FOR CONSTRUCTION AND OPERATION OF CORRECTIONAL FACILITY.—(1) Subsection (d)(1)(A)(i) of such section is amended by striking out "not later than 24 months after the date of the enactment of this Act" and inserting in lieu thereof "not later than April 1, 1997".

(2) The Secretary of the Army shall provide the recipient of the conveyance of property under section 603 of such Act with such legal instrument as is appropriate to modify, in accordance with the amendment made by paragraph (1), any statement of conditions contained in any existing instrument which conveyed the property to that recipient. The Secretary shall record the instrument in the appropriate office or offices of the Commonwealth of Virginia or political subdivision within the Commonwealth.

SEC. 2823. PRESERVATION OF CALVERTON PINE BARRENS, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, NEW YORK, AS NATURE PRESERVE.

(a) PRESERVATION AS NATURE PRESERVE REQUIRED.—Section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2626) is amended—

(1) by redesignating subsections (a) and (b) as subsections (c) and (d), respectively; and

(2) by inserting before subsection (c), as so redesignated, the following new subsections:

"(a) PURPOSE.—It is the purpose of this section to ensure that the Calverton Pine Barrens is maintained and preserved, in perpetuity, as a nature preserve in its current undeveloped state.

"(b) PROHIBITION ON INCONSISTENT DEVELOPMENT.—The Secretary of the Navy shall not carry out or permit any development, commercial or residential, at the Calverton Pine Barrens that is inconsistent with the purpose specified in subsection (a).".

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended—

(1) by striking out "PROHIBITION.—" and inserting in lieu therefore "REVERSIONARY INTEREST.—"; and

(2) by striking out "for commercial purposes" and all that follows through the period and inserting in lieu thereof "in a manner inconsistent with the purpose specified in subsection (a) (as determined by the head of the department or agency making the conveyance).".

SEC. 2824. RELEASE OF REVERSIONARY INTEREST RETAINED AS PART OF CONVEYANCE OF ELECTRICITY DISTRIBUTION SYSTEM, FORT DIX, NEW JERSEY.

Section 2846 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1904) is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 2825. MODIFICATION OF LAND CONVEYANCE, FORT KNOX, KENTUCKY.

Section 2816 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1655) is amended—

(1) in subsection (c)(1), by striking out "for the construction of up to four units of military family housing at Fort Knox, Kentucky" and inserting in lieu thereof "for improvements to military family housing at Fort Knox, Kentucky, in an amount not to exceed $255,000";

(2) by striking out subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 2826. REVISIONS TO RELEASE OF REVERSIONARY INTEREST, OLD SPANISH TRAIL ARMORY, HARRIS COUNTY, TEXAS.

(a) CLERICAL AMENDMENTS.—Section 2820 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1894) is amended—

(1) in subsection (a), by striking out "1936" and inserting in lieu thereof "1956"; and

(2) in subsection (b)(1), by striking out "value" and inserting in lieu thereof "size".

(b) PAYMENT FOR SURVEY.—Subsection (c) of such section is amended by adding at the end the following new sentence: "The cost of the survey shall be borne by the State of Texas.".

SEC. 2827. MODIFICATION OF HEIGHT RESTRICTION IN AVIGATION EASEMENT.

(a) MODIFICATION.—Section 6 of the Act of July 2, 1948 (62 Stat. 1229), as added by section 2862 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1805), is amended by adding at the end the following new sentence: "In addition, such height restriction shall not apply to the structure proposed to be constructed on a parcel of real property that is within the area conveyed under this Act and is identified as 1110 Santa Rosa Boulevard, Fort Walton Beach, Florida, so long as the proposed structure upon completion does not exceed a height of 155 feet above mean low-water level.".

(b) INSTRUMENT OF RELEASE.—The Secretary of the Air Force shall execute and file in the appropriate office any instrument necessary to effect the modification of the avigation easement referred to in the amendment made by subsection (a).

SEC. 2828. TECHNICAL AMENDMENT TO CORRECT REFERENCE IN LAND TRANSACTION.

Section 2842(c) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1898) is amended by striking out "Washington Gas Company" and inserting in lieu thereof "American Water Company".

Subtitle D—Land Conveyances

SEC. 2831. LAND CONVEYANCE, AIR FORCE PLANT NO. 3, TULSA, OKLAHOMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the City of Tulsa, Oklahoma (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, which consists of approximately 337 acres located in Tulsa, Oklahoma, and is known as Air Force Plant No. 3. The Secretary may also convey facilities, equipment, and fixtures (including special tooling and special test equipment) located on the parcel to be conveyed if the Secretary determines that manufacturing activities requiring the use of such facilities, equipment, and fixtures are likely to continue or be reinstated on the parcel after conveyance of the parcel.

(b) LEASE AUTHORITY.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the City in exchange for security services, fire protection, and maintenance provided by the City for the property.

(c) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City, directly or through an agreement with a public or private entity, use the conveyed property (or offer the conveyed property for use) for economic redevelopment to replace all or a part of the economic activity being lost at the parcel.

(d) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with subsection (c), all right, title, and interest in and to the property (including any facilities, equipment, or fixtures conveyed) shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or a lease under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2832. LAND CONVEYANCE, AIR FORCE PLANT NO. 59, JOHNSON CITY (WESTOVER), NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the Broome County Industrial Development Authority (in this section referred to as the "Authority"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, containing Air Force Plant No. 59, Johnson City (Westover), New York. The Secretary may also convey facilities, equipment, and fixtures (including special tooling and special test equipment) located on the parcel to be conveyed if the

VOL 140 PT 16 AG 12 — 18 1994 UMI

Secretary determines that manufacturing activities requiring the use of such facilities, equipment, and fixtures are likely to continue or be reinstituted on the parcel after conveyance of the parcel.

(b) LEASE AUTHORITY.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the Authority in exchange for security services, fire protection, and maintenance provided by the Authority for the property.

(c) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Authority, directly or through an agreement with another public or private entity, use the conveyed property (or offer the conveyed property for use) for economic redevelopment to replace all or a part of the economic activity being lost at Air Force Plant No. 59.

(d) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with subsection (c), all right, title, and interest in and to the property (including any facilities, equipment, or fixtures conveyed) shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Authority.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or a lease under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2833. LAND CONVEYANCE, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON, NEW YORK.

(a) IN GENERAL.—The Secretary of the Navy may convey, without consideration, to the Community Development Agency of the Town of Riverhead, New York (in this section referred to as the "Community Development Agency"), all right, title and interest of the United States in and to a parcel of land, and improvements thereon, consisting of approximately 2,900 acres and comprising a portion of the Naval Weapons Industrial Reserve Plant, Calverton, New York.

(b) CONDITION OF CONVEYANCE.—(1) The conveyance authorized under subsection (a) shall be subject to the condition that the Community Development Agency, directly or through an agreement with another public or private entity, use the conveyed property (or offer the conveyed property for use) for economic redevelopment to replace all or a part of the economic activity lost at the Naval Weapons Industrial Reserve Plant.

(2) The Community Development Agency shall carry out economic redevelopment under paragraph (1) in accordance with any redevelopment plan or plans prepared with respect to the Naval Weapons Industrial Reserve Plant by a planning commission that represents entities or organizations having an interest in land use in the region in which the plant is located.

(c) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with subsection (b)(1), all right, title and interest in and to the property, including improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Community Development Agency.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Secretary considers to be necessary to protect the interests of the United States.

SEC. 2834. LAND CONVEYANCE, RADAR BOMB SCORING SITE, DICKINSON, NORTH DAKOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the North Dakota Board of Higher Education (in this section referred to as the "Board") all right, title, and interest of the United States in and to a parcel of real property (including any improvements thereon) consisting of approximately 4 acres located in Dickinson, North Dakota, which has served as the location of a support complex, recreational facilities, and housing facilities for the Radar Bomb Scoring Site, Dickinson, North Dakota.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Board—

(1) use the property, recreational facilities, and housing facilities conveyed under such subsection for housing, recreation, and other purposes that, as determined by the Secretary, will promote and enhance educational opportunities provided by Dickinson State University; or

(2) enter into an agreement with an appropriate public or private entity to lease such property and facilities to that entity for such uses.

(c) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed property is not being used in accordance with subsection (b), all right, title, and interest in and to the conveyed property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Board.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. LAND CONVEYANCE, FINLEY, AIR FORCE STATION, FINLEY, NORTH DAKOTA.

(a) CONVEYANCE AUTHORIZED.—(1) Subject to subsection (c), the Secretary of the Air Force may convey, without consideration, to the City of Finley, North Dakota (in this section referred to as the "City"), with the consent of the City, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 12 acres, including improvements thereon, located 1.5 miles west of Finley, North Dakota, which has served as a support complex, recreational facilities, and housing facilities for the Finley Air Force Station and Radar Site, Finley, North Dakota.

(2) The parcel of property to be conveyed under paragraph (1) shall include real property referred to in that paragraph that is the location of a housing complex, the location of a waste water treatment system, and the former site of a trailer court.

(3) The purpose of the conveyance authorized under paragraph (1) is to encourage and facilitate economic redevelopment of Finley, North Dakota, following the closure of the Air Force Station and Radar Site.

(b) CONDITION OF CONVEYANCE.—The conveyance required under subsection (a)(1) shall be subject to the condition that the City—

(1) use the property and recreational facilities conveyed under that subsection for housing and recreation purposes; or

(2) enter into an agreement with an appropriate public or private entity or person to sell or lease the property and facilities to that entity or person for such uses.

(c) EFFECTIVE DATE OF CONVEYANCE.—The conveyance required under subsection (a)(1) shall occur, if at all, not earlier than January 1, 1995, and not later than June 30, 1995.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a)(1) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2836. LAND CONVEYANCE, CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may convey to the Hall County, Nebraska, Board of Supervisors (in this section referred to as the "Board"), or the designee of the Board, all right, title and interest of the United States in and to the real property, together with any improvements thereon, located in Hall County, Nebraska, that is the site of the Cornhusker Army Ammunition Plant.

(b) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance authorized under subsection (a) until the Secretary completes any environmental restoration required with respect to the property to be conveyed.

(c) UTILIZATION OF PROPERTY.—The Board or its designee, as the case may be, shall utilize the real property conveyed under subsection (a) in a manner consistent with the Cornhusker Army Ammunition Plant Reuse Committee Comprehensive Reuse Plan.

(d) CONSIDERATION.—In consideration for the conveyance under subsection (a), the Board or its designee, as the case may be, shall pay to the United States an amount equal to the fair market value of the real property to be conveyed, as determined by the Secretary.

(e) USE OF PROCEEDS.—(1) The Secretary shall deposit in the special account established under section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)) the amount received from the Board or its designee under subsection (d).

(2) Notwithstanding subparagraph (A) of such section 204(h)(2), the Secretary may use the entire amount deposited in the special account under paragraph (1) for the purposes set forth in subparagraph (B) of such section 204(h)(2).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board or its designee, as the case may be.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2837. LAND CONVEYANCE, HAWTHORNE ARMY AMMUNITION PLANT, MINERAL COUNTY, NEVADA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Mineral County, Nevada, all right, title, and interest of the United States in and to a parcel consisting of approximately 440 acres located at the Hawthorne Army Ammunition Plant, Mineral County, Nevada, and commonly referred to as the Babbitt Housing Site.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by Mineral County, Nevada.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2838. LAND CONVEYANCE, FORT DIX, NEW JERSEY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Edison, New Jersey (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) included on the real property inventory of Fort Dix, New Jersey, which consists of approximately 10 acres and contains recreational fields and an unused garage identified as building 1072 on the real property inventory.

(b) CONDITION OF CONVEYANCE.—The conveyance required by subsection (a) shall be subject to the condition that the City—

(1) maintain and use the recreational fields conveyed under such subsection for recreational purposes; and

(2) permit the women's softball team known as the Edison Angels (and any successor to such team) to continue to use such recreational fields on the same terms and conditions as contained in the agreement between the team and the Secretary, in existence on the date of the enactment of this Act.

(c) REVERSIONARY INTEREST.—If the Secretary determines that the City is not complying with the conditions specified in subsection (b), all right, title, and interest of the City in and to the property conveyed under subsection (a) (including improvements thereon) shall revert to the United States, and the United States shall have the right of immediate reentry on the property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2839. LAND CONVEYANCE, DEFENSE FUEL SUPPLY POINT, CASCO BAY, MAINE.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Navy may convey, without consideration, to the Town of Harpswell, Maine (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements (other than underground fuel storage facilities and above-ground fuel storage facilities) thereon and the pier associated therewith, consisting of approximately 118 acres and located in Harpswell, Maine, the location of the Defense Fuel Supply Point, Casco Bay, Maine.

(b) REQUIREMENTS RELATING TO CONVEYANCE.—The Secretary may not make the conveyance authorized under subsection (a) until the Secretary of Defense—

(1) completes the removal from the parcel of all underground fuel storage facilities and above-ground fuel storage facilities; and

(2) notifies the Secretary of the Navy that the Secretary of Defense has carried out the requirements set forth in section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)) with respect to the parcel.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of the survey shall be borne by the Town.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2840. LAND CONVEYANCE, ARMY RESERVE FACILITY, RIO VISTA, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the City of Rio Vista, California (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) containing the Reserve training facility located in Rio Vista, California.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City use the property for recreational purposes.

(c) CONSIDERATION.—In recognition of the public use to which the conveyed property will be devoted, the Secretary may require the City to pay to the United States an amount equal to less than the fair market value of the property, as determined by the Secretary, as consideration for the conveyance under subsection (a).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2841. LEASE OF PROPERTY, NAVAL SHIPYARD, VALLEJO, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease, without consideration, to the City of Vallejo, California (in this section referred to as the "City"), the real property (including improvements thereon) described in subsection (b), which is located on Mare Island in Vallejo, California, and is currently under the control of Mare Island Naval Shipyard Command.

(b) COVERED PROPERTY.—The parcel of real property to be leased under subsection (a) shall consist of all existing active dredge ponds and nontidal areas on Mare Island under the jurisdiction of the Navy, except that the parcel shall not include the nontidal areas identified in figure 3 of the Memorandum of Understanding between the United State Fish and Wildlife Service and Mare Island Naval Shipyard, dated July 28, 1988.

(c) LEASE TERMS.—The lease authorized under subsection (a)—

(1) may be for a period of not more than 15 years; and

(2) shall provide that the City—

(A) retain environmental responsibility for all actions of the City on the property subject to the lease; and

(B) hold harmless, indemnify, and defend the United States from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for injury or damage that results from, or is in any manner predicated upon activities of the City on the leased property during the term of the lease.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. LEASE OF PROPERTY, NAVAL RADIO RECEIVING FACILITY, IMPERIAL BEACH, CORONADO, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the Young Men's Christian Association of San Diego County, a California nonprofit public benefit corporation (in this section referred to as the "YMCA"), such interests in a parcel of real property (including any improvements thereon) consisting of approximately 45 acres at the Naval Radio Receiving Facility, Imperial Beach, Coronado, California, as the Secretary considers appropriate for the YMCA to operate and maintain a summer youth residence camp known as the YMCA San Diego Unified Recreational Facility (Camp SURF). Pursuant to the lease, the Secretary may authorize the YMCA to construct facilities on the parcel.

(b) LEASE TERMS.—The lease authorized in subsection (a) shall be for a period of 50 years, or such longer period as the Secretary determines to be in the best interests of the United States.

(c) CONSIDERATION.—As consideration for the lease of real property under subsection (a), the YMCA shall—

(1) agree to maintain and enhance the natural resources of the leased premises; and

(2) pay to the United States an amount in cash equal to the difference between the rental price prescribed by the Secretary under subsection (d) and the value of natural resources maintenance and enhancements performed by the YMCA, as determined by the Secretary.

(d) DETERMINATION OF RENTAL PRICE.—Acknowledging the benefits the YMCA has provided to the Armed Forces and the specific benefits Camp Surf provides to the children of San Diego, the Secretary may prescribe a rental price for the real property leased under subsection (a) that is less than fair market rental value.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the operation of the Naval Radio Receiving Facility, Imperial Beach, and to protect the interests of the United States.

SEC. 2843. AUTHORITY FOR OXNARD HARBOR DISTRICT, PORT HUENEME, CALIFORNIA, TO USE CERTAIN NAVY PROPERTY.

(a) JOINT USE AGREEMENT AUTHORIZED.—The Secretary of the Navy may enter into an agreement with the Oxnard Harbor District, Port Hueneme, California, a special district of the State of California (in this section referred to as

VOL 140 PT 16 AG 12 — 18 1994 UMI

the "District"), under which the District may use United States Navy Wharf Number 3 and associated real property compristng up to 25 acres located at the Naval Construction Battalion Center, Port Hueneme, California (in this section referred to as the "Center").

(b) TERM OF AGREEMENT.—The agreement authorized under subsection (a) may be for an initial period of not more than 15 years. Under the agreement, the Secretary shall provide the District with an option to extend the agreement for three additional periods of 5 years each.

(c) RESTRICTIONS ON USE.—The agreement authorized under subsection (a) shall require the District—

(1) to suspend operations under the agreement in the event Navy contingency operations are conducted at the Center; and

(2) to use the property covered by the agreement in a manner consistent with Navy operations conducted at the Center.

(d) CONSIDERATION.—(1) As consideration for the use of the property covered by the agreement under subsection (a), the District shall pay to the Navy an amount equal to the fair market rental value of the property, as determined by the Secretary taking into consideration the District's use of the property.

(2) The Secretary may include a provision in the agreement requiring the District—

(A) to pay the Navy an amount (as determined by the Secretary) to cover the costs of replacing at the Center any facilities vacated by the Navy on account of the agreement or to construct suitable replacement facilities for the Navy; and

(B) to pay the Navy an amount (as determined by the Secretary) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(e) CONGRESSIONAL NOTIFICATION.—The Secretary may not enter into the agreement authorized by subsection (a) until the end of the 21-day period beginning on the date on which the Secretary submits to Congress a report containing an explanation of the terms of the proposed agreement and a description of the consideration that the Secretary expects to receive under the agreement.

(f) USE OF PAYMENT.—(1) In such amounts as is provided in advance in appropriation Acts, the Secretary may use amounts paid under subsection (d)(1) to pay for general supervision, administration, and overhead expenses and for improvement, maintenance, repair, construction, or restoration to the port operations area (or to roads and railways serving the area) at the Center.

(2) In such amounts as is provided in advance in appropriation Acts, the Secretary may use amounts paid under subsection (d)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on account of the agreement under subsection (a) and for relocating operations of the Navy from the vacated facilities to replacement facilities.

(g) CONSTRUCTION BY DISTRICT.—The Secretary may authorize the District to demolish existing facilities located on the property covered by the agreement under subsection (a) and, consistent with the restriction specified in subsection (c)(2), construct new facilities on the property for joint use by the District and the Navy.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the agreement authorized under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2844. TRANSFER OF JURISDICTION, AIR FORCE HOUSING AT RADAR BOMB SCORING SITE, HOLBROOK, ARIZONA.

(a) TRANSFER AUTHORIZED.—As part of the closure of an Air Force Radar Bomb Scoring Site located near Holbrook, Arizona, the Secretary of the Air Force may transfer, without reimbursement, the administrative jurisdiction, accountability, and control of the housing units and associated support facilities used in connection with the site to the Secretary of the Interior for use in connection with Petrified Forest National Park.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Secretary of the Interior.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the transfer of real property under subsection (a) as the Secretary considers appropriate.

SEC. 2845. TRANSFER OF JURISDICTION, HOLLOMAN AIR FORCE BASE, NEW MEXICO.

(a) IN GENERAL.—Subject to subsections (c) through (g), not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall transfer to the Department of the Air Force, without reimbursement, jurisdiction and control of approximately 1,262 acres of public lands described in subsection (b). Such public lands are located in Otero County, New Mexico, and are contiguous to Holloman Air Force Base.

(b) DESCRIPTION OF LANDS TRANSFERRED.—The lands described in this subsection are as follows:

(1) T17S, R8E, Section 21:	
	S½ N½: 160 acres
	E½ NW¼ NE¼: 20 acres
	NE¼ NE¼: 40 acres
(2) T17S, R8E, Section 22:	W½: 320 acres
	W½ E½: 160 acres
(3) T17S, R8E, Section 27:	All that part north of New Mexico Highway 70 except for the E½ E½ NE¼: 192 acres more or less
(4) T17S, R8E, Section 28:	160 acres
	N½ SE¼: 80 acres
	SW¼ SE¼: 40 acres
	W½ SE¼ SE¼: 20 acres
	NW¼ NE¼: 40 acres
	NW¼ NE¼ NE¼: 10 acres
(5) T17S, R8E, Section 33:	W½ SW¼ NE¼: 20 acres

(c) USE OF TRANSFERRED LAND.—The lands transferred to the Department of the Air Force under subsection (a) shall be used by the Secretary of the Air Force for the construction of new evaporation ponds to support a wastewater treatment facility that the Secretary shall construct at Holloman Air Force Base.

(d) CATTLE GRAZING RIGHTS.—

(1) IN GENERAL.—The United States recognizes a grazing preference on the lands transferred to the Department of the Air Force under subsection (a).

(2) ADJUSTMENT OF GRAZING ALLOTMENT.—(A) The Secretary of the Air Force shall take such action as is necessary to ensure that—

(i) the boundary of the grazing allotment that contains the lands transferred to the Department of the Air Force is adjusted in such manner as to retain the portion of the allotment located south of United States Highway 70 in New Mexico and remove the portion of the lands that is located north of such highway; and

(ii) the grazing preference referred to in paragraph (1) is retained by means of transferring the preference for the area removed from the allotment under subparagraph (A) to public lands located south of such highway.

(B) The Secretary of the Air Force shall offer to enter into an agreement with each person who holds a permit for grazing on the lands transferred to the Department of the Air Force at the time of the transfer to provide for the continued grazing by livestock on the portion of the lands located south of such highway.

(e) ADDITIONAL REQUIREMENTS.—

(1) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The Secretary of the Air Force shall ensure that the transfer made pursuant to subsection (a) and the use specified in subsection (c) meet any applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ENVIRONMENTAL LAWS.—The Secretary of the Air Force shall use and manage the lands transferred under the authority in subsection (a) in such manner as to ensure compliance with applicable environmental laws (including regulations) of the Federal Government and State of New Mexico, and political subdivisions thereof.

(3) RESPONSIBILITY FOR CLEANUP OF HAZARDOUS SUBSTANCES.—Upon the transfer of the lands under subsection (a), the Secretary of the Air Force shall assume any existing or subsequent responsibility for the cost of response for release of hazardous substances (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14))) located on or within the lands transferred.

(4) MINING.—The transfer of lands under subsection (a) shall be made in such manner as to ensure the continuation of valid, existing rights under the mining laws and the mineral leasing and geothermal leasing laws of the United States. Subject to the preceding sentence, upon the transfer of the lands, mining and mineral management activities shall be carried out in the lands in a manner consistent with the policies of the Department of Defense concerning mineral exploration and extraction on lands under the jurisdiction of the Department.

(f) RIGHTS-OF-WAY.—The transfer of lands under subsection (a) shall not affect the following rights-of-way:

(1) The right-of-way granted to the Otero County Electric Cooperative, numbered NMNM 58293.

(2) The right-of-way granted to U.S. West Corporation, numbered NMNM 59261.

(3) The right-of-way granted to the Highway Department of the State of New Mexico, numbered LC0 54403.

(g) PUBLIC ACCESS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit public access to the lands transferred under subsection (a).

(2) CONSTRUCTION SITE.—The Secretary of the Air Force may not permit public access to the immediate area affected by the construction of a wastewater treatment facility in the area with the legal description of T17S, R8E, Section 22, except that the Secretary of the Air Force shall permit public access on an adjoining unfenced parcel of land—

(A) located along the west boundary of such area; and

(B) that is 50 feet in width.

(3) PUBLIC USES.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit, on the lands transferred under subsection (a), public uses that are consistent with the public uses on adjacent lands under the jurisdiction of the Secretary of the Interior.

(4) PERMIT NOT REQUIRED.—The Secretary of the Air Force may not require a permit for access authorized under this subsection to the lands transferred under subsection (a).

(5) ENTRY GATE.—The Secretary of the Air Force shall ensure that the entry gate to the lands transferred under subsection (a) that is located along United States Highway 70 shall be open to the public.

SEC. 2846. TRANSFER OF JURISDICTION, FORT DEVENS, MASSACHUSETTS.

(a) TRANSFER AUTHORIZED.—The Secretary of the Army may transfer, without reimbursement, administrative jurisdiction of approximately 800 acres of land at Fort Devens, Massachusetts, to the Secretary of the Interior for inclusion in the Oxbow National Wildlife Refuge, Massachusetts. The exact acreage of the land subject to the transfer shall be jointly determined by the Secretary of the Army and the Secretary of the Interior, in consultation with the Joint Boards of Selectmen of the towns of Harvard, Ayer, Shirley, and Lancaster in the State of Massachusetts and the Massachusetts Land Bank.

(b) ADMINISTRATION OF LAND.—The Secretary of the Interior shall administer the land transferred under this section in accordance with all laws applicable to areas in the National Wildlife Refuge System.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army and the Secretary of the Interior.

SEC. 2847. RELEASE OF REQUIREMENTS AND REVERSIONARY INTEREST ON CERTAIN PROPERTY IN BALTIMORE, MARYLAND.

(a) RELEASE AUTHORIZED.—The Secretary of Defense may release, without consideration, the requirements and the reversionary interest of the United States that are described in section 2 of the Act entitled "An Act granting a site for a dry-dock in the city of Baltimore upon certain conditions", approved June 19, 1878 (Chapter 310; 20 Stat. 167).

(b) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms or conditions in connection with the release required under this section as the Secretary considers appropriate to protect the interests of the United States.

(c) INSTRUMENT OF RELEASE.—The Secretary may execute and file in the appropriate office a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

SEC. 2848. RELEASE OF REVERSIONARY INTEREST ON CERTAIN PROPERTY IN YORK COUNTY AND JAMES CITY COUNTY, VIRGINIA, AND NEWPORT NEWS, VIRGINIA.

(a) RELEASE AUTHORIZED.—The Secretary of the Navy may release, without consideration, the reversionary interest of the United States in the real property conveyed by the deed described in subsection (b).

(b) DEED DESCRIPTION.—The deed referred to in subsection (a) is a deed between the United States and the Commonwealth of Virginia dated August 17, 1966, which conveyed to the Commonwealth of Virginia certain parcels of land located in York County and James City County, Virginia, and the city of Newport News, Virginia.

(c) ADDITIONAL TERMS.—The Secretary may require such terms or conditions in connection with the release under this section as the Secretary considers appropriate to protect the interests of the United States and to ensure that the real property will continue to be used for public purposes.

(d) INSTRUMENT OF RELEASE.—The Secretary may execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

Subtitle E—Other Matters

SEC. 2851. JOINT CONSTRUCTION CONTRACTING FOR COMMISSARIES AND NONAPPROPRIATED FUND INSTRUMENTALITY FACILITIES.

(a) SINGLE CONTRACT CONSTRUCTION.—Section 2685 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of a military department may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of adjustments or surcharges authorized by subsection (a) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

"(2) In paragraph (1), the term 'construction', with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.".

(b) OBLIGATION OF ANTICIPATED PROCEEDS.—Subsection (c) of such section is amended by inserting "or (d)" after "subsection (b)" both places it appears.

SEC. 2852. NATIONAL GUARD FACILITY CONTRACTS SUBJECT TO PERFORMANCE SUPERVISION BY ARMY OR NAVY.

(a) CONTRACTS SUBJECT TO SUPERVISION.—Subsection (a) of section 2237 of title 10, United States Code, is amended by striking out "under any provision" and all that follows through "and (4)" and inserting in lieu thereof "under section 2233(a)(1)".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by striking out "section 2233(a)(2), (3), or (4)" and inserting in lieu thereof "paragraph (2), (3), (4), (5), or (6) of section 2233(a)".

SEC. 2853. REPEAL OF RESTRICTIONS ON LAND TRANSACTIONS RELATING TO PRESIDIO OF SAN FRANCISCO, CALIFORNIA.

Section 2856 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1908) is repealed.

SEC. 2854. REPORT ON USE OF FUNDS FOR ENVIRONMENTAL RESTORATION AT CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) REPORT REQUIRED.—The Secretary of the Army shall submit to Congress a report describing the manner in which funds available to the Army for operation and maintenance (including funds in the Defense Environmental Restoration Account established under section 2703(a)(1) of title 10, United States Code) will be used by the Secretary for environmental restoration and maintenance of the real property that comprises the Cornhusker Army Ammunition Plant, Hall County, Nebraska.

(b) CONTENTS.—The report shall include the following:

(1) The funding plan for environmental restoration at the Cornhusker Army Ammunition Plant.

(2) A legal opinion stating whether any portion of the funds to be used for such environmental restoration may be used for the repair of the roads at the Plant in order to bring such roads into compliance with applicable State and local public works codes.

(3) A survey of the roads at the Plant that identifies which roads, if any, are in need of repair in order to bring the roads at the Plant into compliance with such codes.

(4) An estimate of the cost of the repair of the roads referred to in paragraph (3) in order to bring the roads into compliance.

(5) An explanation of the purpose, cost, and source of funds for any proposed preservation of documents or other materials relating to the cultural, historical, and natural resources associated with the Plant.

(c) SUBMISSION OF REPORT.—The Secretary shall submit the report required by this section not later than May 1, 1995.

SEC. 2855. ENGINEERING, DESIGN, CONSTRUCTION, AND RELATED SERVICES FOR WOMEN IN MILITARY SERVICE FOR AMERICA MEMORIAL.

The Secretary of the Army is authorized, upon request by the Women in Military Service for America Memorial Foundation, Inc., to provide engineering, design, construction management, and related services, directly or by contract, to the Women in Military Service for America Memorial Foundation, Inc., on a reimbursable basis, for the purpose of repair, restoration, and preservation of the main gate structures, center plaza, and hemicycle of the Arlington National Cemetery, Arlington, Virginia, and the construction of the Women in Military Service for America Memorial.

SEC. 2856. SENSE OF THE SENATE ON AUTHORIZATION OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS NOT REQUESTED IN THE PRESIDENT'S ANNUAL BUDGET REQUEST.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization for appropriation of funds for a military construction project not included in the annual budget request of the Department of Defense only if—

(1) the project is consistent with past actions under the base closure laws;

(2) the project is included in the military construction plan of the military department concerned incorporated in the Future Years Defense Program;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be awarded in that fiscal year.

(b) VIEWS OF THE SECRETARY OF DEFENSE.—In considering these criteria, the Senate should obtain the views of the Secretary of Defense.

VOL 140 PT 16 AG 12 — 18 1994 UMI

These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects, or activities, including military construction projects, in the budget request and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

(c) BASE CLOSURE LAWS DEFINED.—For purposes of this section, the term "base closure laws" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

(4) Any other similar law enacted after the date of the enactment of this Act.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) RESEARCH AND DEVELOPMENT.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for research and development in carrying out weapons activities necessary for national security programs in the amount of $1,321,937,000, to be allocated as follows:

(1) For core research and development, $777,251,000, to be allocated as follows:

(A) For operating expenses, $649,341,000.

(B) For capital equipment, $59,420,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $68,490,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $4,500,000.

Project 95–D–102, Chemical and Metallurgy Research Building upgrades, Los Alamos National Laboratory, New Mexico, $3,300,000.

Project 94–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, $13,000,000.

Project 92–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase IV, various locations, $21,810,000.

Project 90–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $4,900,000.

Project 88–D–106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $20,980,000.

(2) For operating expenses for stockpile stewardship, $152,419,000.

(3) For inertial fusion, $176,473,000, to be allocated as follows:

(A) For operating expenses, $166,755,000.

(B) For capital equipment, $9,718,000.

(4) For technology transfer, $215,794,000, to be allocated as follows:

(A) For operating expenses, $209,794,000.

(B) For capital equipment, $6,000,000.

(b) TESTING.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for testing in carrying out weapons activities necessary for national security programs in the amount of $208,000,000, to be allocated as follows:

(1) For weapons programs, $201,000,000, to be allocated as follows:

(A) For testing capabilities and readiness, $165,000,000.

(B) For capital equipment, $15,000,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $21,000,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $4,000,000.

Project 93–D–102, Nevada support facility, North Las Vegas, Nevada, $17,000,000.

(2) For Marshall Islands dose reconstruction, $7,000,000, to be allocated as follows:

(A) For operating expenses, $6,530,000.

(B) For capital equipment, $470,000.

(c) STOCKPILE SUPPORT.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for stockpile support in carrying out weapons activities necessary for national security programs in the amount of $1,698,556,000, to be allocated as follows:

(1) For operating expenses for stockpile support, $1,476,785,000.

(2) For operating expenses for reconfiguration, $94,271,000.

(3) For capital equipment, $20,180,000.

(4) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $107,320,000, to be allocated as follows:

Project 88–D–122, facilities capability assurance program, various locations, $14,820,000.

Project GPD–121, general plant projects, various locations, $1,000,000.

Project 95–D–123, replacement transportation safeguards division aviation facility, Albuquerque, New Mexico, $2,000,000.

Project 95–D–122, sanitary sewer upgrade Y–12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 94–D–124, hydrogen fluoride supply system, Y–12 Plant, Oak Ridge, Tennessee, $6,300,000.

Project 94–D–125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, $1,000,000.

Project 94–D–127, emergency notification system, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 94–D–128, environmental safety and health analytical laboratory, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $5,000,000.

Project 88–D–123, security enhancements, Pantex Plant, Amarillo, Texas, $15,000,000.

Project 93–D–123, complex–21, various locations, $58,000,000.

(d) PROGRAM DIRECTION.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out weapons activities necessary for national security programs in the amount of $159,852,000, to be allocated as follows:

(1) For operating expenses for weapons program direction, $157,498,000.

(2) For capital equipment, $2,354,000.

(e) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (d) reduced by the sum of—

(1) $143,276,000, for use of prior year balances; and

(2) $11,000,000, for savings resulting from procurement reform.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) CORRECTIVE ACTIVITIES.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for corrective activities in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $512,000, all of which shall be available for the following plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and land acquisition related thereto):

Project 92–D–403, tank upgrades project, Lawrence Livermore National Laboratory, California.

(b) ENVIRONMENTAL RESTORATION.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for environmental restoration for operating expenses in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,518,549,000.

(2) Subject to subsection (h), the amount authorized to be appropriated pursuant to this subsection is the amount authorized to be appropriated in paragraph (1) reduced by $133,900,000, as a result of the productivity savings initiative.

(c) WASTE MANAGEMENT.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,855,772,000, to be allocated as follows:

(A) For operating expenses, $2,390,066,000.

(B) For capital equipment, $90,790,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $374,916,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $16,832,000.

Project 95–E–600, hazardous materials training center, Richland, Washington, $7,000,000.

Project 95–D–401, radiological support facilities, Richland, Washington, $1,585,000.

Project 95–D–402, install permanent electrical service, Waste Isolation Pilot Plant, New Mexico, $700,000.

Project 95–D–403, hazardous waste storage facility, Mound Plant, Miamisburg, Ohio, $597,000.

Project 95–D–405, industrial landfill V and construction demolition landfill VII, Y–12 Plant, Oak Ridge, Tennessee, $1,000,000.

Project 95–D–406, road 5–01 reconstruction, area 5, Nevada Test Site, Nevada, $2,338,000.

Project 95–D–407, 219–S secondary containment upgrade, Richland, Washington, $2,000,000.

Project 95–D–408, Phase II liquid effluent treatment and disposal, Richland, Washington, $7,100,000.

Project 94–D–400, high explosive wastewater treatment system, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 94–D–402, liquid waste treatment system, Nevada Test Site, Nevada, $3,292,000.

Project 94–D–404, Melton Valley storage tank capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $21,373,000.

Project 94–D–406, low-level waste disposal facilities, K–25, Oak Ridge, Tennessee, $6,000,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $17,700,000.

Project 94–D–408, office facilities—200 East, Richland, Washington, $4,000,000.

Project 94–D–411, solid waste operation complex, Richland, Washington, $42,200,000.

Project 94–D–416, solvent storage tanks installation, Savannah River, South Carolina, $1,700,000.

Project 94–D–417, intermediate-level and low-activity waste vaults, Savannah River, South Carolina, $300,000.

Project 93–D–174, plant drain waste water treatment upgrades, Y–12 Plant, Oak Ridge, Tennessee, $1,400,000.

Project 93–D–178, building 374 liquid waste treatment facility, Rocky Flats, Golden, Colorado, $3,300,000.

Project 93–D–181, radioactive liquid waste line replacement, Richland, Washington, $3,300,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $14,810,000.

Project 93–D–183, multi-tank waste storage facility, Richland, Washington, $88,605,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River, South Carolina, $26,525,000.

Project 92–D–177, tank 101–AZ waste retrieval system, Richland, Washington, $5,000,000.

Project 92–D–188, waste management ES&H, and compliance activities, various locations, $2,846,000.

Project 91–D–171, waste receiving and processing facility, module 1, Richland, Washington, $3,995,000.

Project 90–D–172, aging waste transfer line, Richland, Washington, $3,819,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $1,747,000.

Project 90–D–178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho, $7,594,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $300,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River, South Carolina, $18,000,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, California, $5,900,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River, South Carolina, $6,000,000.

Project 81–T–105, defense waste processing facility, Savannah River, South Carolina, $45,058,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $160,800,000, as a result of the productivity savings initiative.

(d) TECHNOLOGY DEVELOPMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for technology development, in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $405,759,000, to be allocated as follows:

(1) For operating expenses, $380,974,000.

(2) For capital equipment, $24,785,000.

(e) TRANSPORTATION MANAGEMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for transportation management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $20,684,000, to be allocated as follows:

(1) For operating expenses, $20,240,000.

(2) For capital equipment, $444,000.

(f) PROGRAM DIRECTION.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $84,948,000, to be allocated as follows:

(1) For operating expenses, $83,748,000.

(2) For capital equipment, $1,200,000.

(g) FACILITY TRANSITION AND MANAGEMENT.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for facility transition and management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $772,967,000, to be allocated as follows:

(A) For operating expenses, $676,884,000.

(B) For capital equipment, $18,947,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $77,136,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $15,211,000.

Project 95–D–454, 324 facility compliance/renovation, Richland, Washington, $1,500,000.

Project 95–D–456, security facilities upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $986,000.

Project 94–D–122, underground storage tanks, Rocky Flats, Golden, Colorado, $2,500,000.

Project 94–D–401, emergency response facility, Idaho National Engineering Laboratory, Idaho, $5,219,000.

Project 94–D–412, 300 area process sewer piping system upgrade, Richland, Washington, $7,800,000.

Project 94–D–415, medical facilities, Idaho National Engineering Laboratory, Idaho, $4,920,000.

Project 94–D–451, infrastructure replacement, Rocky Flats Plant, Golden, Colorado, $10,600,000.

Project 93–D–172, electrical upgrade, Idaho National Engineering Laboratory, Idaho, $7,800,000.

Project 93–D–184, 325 facility compliance/renovation, Richland, Washington, $1,000,000.

Project 93–D–186, 200 area unsecured core area fabrication shop, Richland, Washington, $4,000,000.

Project 92–D–125, master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, Golden, Colorado, $2,100,000.

Project 92–D–181, INEL fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $6,000,000.

Project 92–D–182, INEL sewer system upgrade, Idaho National Engineering Laboratory, Idaho, $1,900,000.

Project 92–D–186, steam system rehabilitation, Phase II, Richland, Washington, $5,600,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $5,000,000, as a result of the productivity savings initiative.

(h) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a), (b)(2), (c)(2), (d), (e), (f), and (g)(2) reduced by the sum of—

(1) $249,300,000, for use of prior year balances; and

(2) $17,500,000, for savings resulting from procurement reform.

SEC. 3103. NUCLEAR MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS.

(a) MATERIALS SUPPORT.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for materials support in carrying out nuclear materials support necessary for national security programs in the amount of $902,255,000, to be allocated as follows:

(1) For reactor operations, $163,634,000.

(2) For processing of nuclear materials, $410,468,000.

(3) For support services, $167,776,000.

(4) For capital equipment, $39,427,000.

(5) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $64,950,000, to be allocated as follows:

Project GPD–146, general plant projects, various locations, $15,000,000.

Project 95–D–155, upgrade site road infrastructure, Savannah River, South Carolina, $750,000.

Project 95–D–156, radio trunking system, Savannah River, South Carolina, $2,100,000.

Project 95–D–157, D-area powerhouse life extension, Savannah River, South Carolina, $4,000,000.

Project 95–D–158, disassembly basin upgrades K, L, and P, Savannah River, South Carolina, $13,000,000.

Project 93–D–147, domestic water system upgrade, Phases I and II, Savannah River, South Carolina, $11,300,000.

Project 93–D–148, replace high-level drain lines, Savannah River, South Carolina, $2,700,000.

Project 93–D–152, environmental modification for production facilities, Savannah River, South Carolina, $2,900,000.

Project 92–D–143, health protection instrument calibration facility, Savannah River, South Carolina, $3,000,000.

Project 90–D–149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $5,000,000.

Project 92–D–150, operations support facilities, Savannah River, South Carolina, $2,000,000.

Project 92–D–153, engineering support facility, Savannah River, South Carolina, $3,200,000.

(6) For program direction, $56,000,000.

(b) OTHER DEFENSE PROGRAMS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for other defense programs in carrying out defense programs necessary for national security programs in the amount of $669,657,000, to be allocated as follows:

(1) For verification and control technology, $348,555,000, to be allocated as follows:

(A) For operating expenses, $332,682,000.

(B) For capital equipment, $15,873,000.

(2) For nuclear safeguards and security, $85,816,000, to be allocated as follows:

(A) For operating expenses, $82,421,000.

(B) For capital equipment, $3,395,000.

(3) For security investigations, $33,827,000.

(4) For security evaluations, $14,780,000.

(5) For the Office of Nuclear Safety, $21,679,000, to be allocated as follows:

(A) For operating expenses, $21,629,000.

(B) For capital equipment, $50,000.

(6) For worker and community transition, $115,000,000.

(7) For fissile material control and disposition, $50,000,000.

(c) NAVAL REACTORS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for naval reactors in carrying out nuclear materials support and other defense programs necessary for national security programs in the amount of $725,651,000, to be allocated as follows:

(1) For naval reactors development, $693,651,000, to be allocated as follows:

(A) For operating expenses:

(i) For plant development, $146,700,000.

(ii) For reactor development, $348,951,000.

(iii) For reactor operation and evaluation, $131,000,000.

(iv) For program direction, $18,800,000.

(B) For capital equipment, $28,200,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years,

VOL 140 PT 16 AG 12 — 18 1994 UMI

and land acquisition related thereto), $20,000,000, to be allocated as follows:

Project 94-PN-101, general plant projects, various locations, $6,200,000.

Project 95-D-200, laboratory systems and hot cell upgrades, various locations, $2,400,000.

Project 95-D-201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, $700,000.

Project 95-D-200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $7,900,000.

Project 92-D-200, laboratories facilities upgrades, various locations, $2,800,000.

(2) For operating expenses for enrichment materials, $32,000,000.

(d) ADJUSTMENTS.—The total amount that may be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a), (b), and (c) reduced by the sum of—

(1) $40,000,000, for recovery of overpayment to the Savannah River Pension Fund;

(2) $6,500,000, for savings resulting from procurement reform; and

(3) $401,415,000, for use of prior year balances for materials support and other defense programs.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $129,430,000.

Subtitle A—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) $1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $2,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $2,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the action and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY; LIMITATIONS.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same time period as the authorization to which the amounts are transferred.

(2) Not more than five percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(3) The authority provided by this section to transfer authorizations—

(A) may only be used to provide funds for items that have a higher priority than the items from which the funds are transferred; and

(B) may not be used to provide authority for an item that has been denied funds by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committees on Armed Services of the Senate and House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. CONSTRUCTION DESIGN AND CONCEPTUAL DESIGN FOR CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out advance planning and construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $3,000,000.

(2) In the case of any project in which the total estimated cost for advance planning and construction design exceeds $600,000, the Secretary shall notify the congressional defense committees in writing of the details of such project at least 30 days before any funds are obligated for advance planning and construction design for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any proposed construction project exceeds $3,000,000, funds for such planning and design must be specifically authorized by law.

(c) REQUIREMENT OF CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) In any case in which the total estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before the Secretary submits a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than $2,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy under sections 3101, 3102, and 3103, including those funds authorized to be appropriated for advance planning and construction design, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, meet the needs of national defense, or protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirements of subsections (b) and (c) of section 3125 do not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title that are made available for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses, plant projects, and capital equipment may remain available until expended.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM.

(a) CONDUCT OF PROGRAM.—(1) As part of the stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1946; 42 U.S.C. 2121 note), the Secretary of Energy shall conduct a stockpile stewardship recruitment and training program at the Sandia National Laboratories, the Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory.

(2) The recruitment and training program shall be conducted in coordination with the Chairman of the Joint Nuclear Weapons Council established by section 179 of title 10, United States Code, and the directors of the laboratories referred to in paragraph (1).

(b) SUPPORT OF DUAL-USE PROGRAMS.—(1) As part of the recruitment and training program, the directors of the laboratories referred to in subsection (a)(1) may employ undergraduate students, graduate students, and postdoctoral fellows to carry out research sponsored by such laboratories for military or nonmilitary dual-use programs related to nuclear weapons stockpile stewardship.

(2) Of the amounts authorized to be appropriated to the Secretary of Energy in section 3101(a)(1) for weapons activities for core research and development and allocated by the Secretary for education initiatives, $5,000,000 shall be available for employing students and fellows to carry out research referred to in paragraph (1). The amount available under this paragraph shall be allocated equally among the laboratories referred to in subsection (a)(1).

(c) ESTABLISHMENT OF RETIREE CORPS.—As part of the training and recruitment program, the Secretary, in coordination with the directors of the laboratories referred to in subsection (a)(1), shall establish for the laboratories a retiree corps of retired scientists who have expertise in research and development of nuclear weapons. The directors may employ the retired scientists on a part-time basis to provide appropriate assistance on nuclear weapons issues, to contribute relevant information to be archived, and to help to provide training to other scientists.

(d) REPORT.—(1) Not later than February 1, 1995, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the demographic trends of the personnel of the laboratories referred to in subsection (a)(1) and on actions taken by the Department of Energy to remedy identified deficiencies in various skill areas.

(2) The report shall be prepared in coordination with the Chairman of the Joint Nuclear Weapons Council and the directors of the laboratories. Information included in the report shall be aggregated and compiled into statistical categories.

(3) The report shall include the following:

(A) An inventory of the weapons-related tasks that the laboratories need to perform to support their nuclear weapons responsibilities.

(B) An inventory of the skills necessary to complete the weapons-related tasks referred to in subparagraph (A).

(C) For each laboratory, the number of scientists needed in each skill area to perform such tasks.

(D) The number of the scientists providing services in each skill area at each laboratory, stated by age.

(E) An assessment of which skill areas are understaffed.

(F) The number of scientists entering the weapons program at each laboratory, and their skill areas.

(G) The number of full-time equivalent personnel with weapon skills, their distribution by skill and, for each such skill, their distribution by age.

(H) The number of scientists retiring from the weapons program in the five-year period ending on the date of the report and the skill areas in which they worked in the year preceding their retirement.

(I) Based on the information contained in subparagraphs (A) through (H), a projection of the skills areas that will become understaffed in the five years following the date of the report.

(J) A statement of alternative actions that may be taken to retain and recruit scientists for the weapons programs at the laboratories in order to preserve a sufficient skill base and to fulfill stockpile stewardship responsibilities.

(K) Any plans of the Secretary to take any of the alternative actions referred to in subparagraph (J).

SEC. 3132. DEFENSE INERTIAL CONFINEMENT FUSION PROGRAM.

Of the funds authorized to be appropriated by this title to the Department of Energy for fiscal year 1995, $176,473,000 shall be available for the defense inertial confinement fusion program.

SEC. 3133. PAYMENT OF PENALTIES.

The Secretary of Energy may pay to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507), from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3102, stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) in amounts as follows:

(1) $50,000, assessed against the Fernald Environmental Management Project, Ohio, under such Act.

(2) $50,000, assessed against the Portsmouth Gaseous Diffusion Plant, Ohio, under such Act.

SEC. 3134. WATER MANAGEMENT PROGRAMS.

From funds authorized to be appropriated pursuant to section 3102 to the Department of Energy for environmental restoration and waste management activities, the Secretary of Energy may reimburse the cities of Westminster, Broomfield, Thornton, and Northglenn, in the State of Colorado, $11,415,000 for the cost of implementing water management programs. Reimbursements for the water management programs shall not be considered a major Federal action for purposes of section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

SEC. 3135. PROTECTION OF WORKERS AT NUCLEAR WEAPONS FACILITIES.

Of the funds authorized to be appropriated by section 3102 for environmental restoration and waste management activities, $11,000,000 shall be available to carry out activities authorized under section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1571; 42 U.S.C. 7274d), relating to worker protection at nuclear weapons facilities.

SEC. 3136. LIMITATION ON USE OF PROGRAM DIRECTION FUNDS.

The Secretary of Energy may not obligate more than 20 percent of the funds appropriated pursuant to this title for fiscal year 1995 for operating expenses for program direction in carrying out environmental restoration and waste management activities necessary for national security programs until the Secretary submits to Congress the reports required to be submitted in 1995 under subsections (a) and (d) of section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1950; 42 U.S.C. 7274k).

SEC. 3137. NATIONAL SECURITY PROGRAMS.

Notwithstanding any other provision of law, not more than 80 percent of the funds appropriated to the Department of Energy for national security programs under this title may be obligated for such programs until the Secretary of Energy submits to the congressional defense committees the five-year budget plan with respect to fiscal year 1996 required under section 3144 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1681; 42 U.S.C. 7271b).

SEC. 3138. PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD NUCLEAR RESERVATION.

(a) FUNDING.—(1) Of the funds authorized to be appropriated to the Department of Energy under section 3101 for fiscal year 1995, $2,500,000 shall be available for activities relating to the Hanford Health Information Network established pursuant to the authority provided in section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1834).

(2) The Secretary of Energy may not obligate more than 50 percent of the amount made available under paragraph (1) for activities relating to the Hanford Health Information Network until the States of Washington, Oregon, and Idaho establish the uniform procedures required by section 3138(d)(3)(D) of such Act, as added by subsection (b).

(b) PROHIBITION ON DISCLOSURE OF EXPOSURE INFORMATION.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1834) is amended by adding at the end the following new subsection:

"(d) PROHIBITION ON DISCLOSURE OF EXPOSURE INFORMATION.—(1) Except as provided in paragraph (2), a person may not disclose to the public the following:

"(A) Any information obtained through a program that identifies a person who may have been exposed to radiation released from the Hanford Nuclear Reservation.

"(B) Any information obtained through a program that identifies a person participating in any of the programs developed under this section.

"(C) The name, address, and telephone number of a person requesting information referred to in subsection (b)(1).

"(D) The name, address, and telephone number of a person who has been referred to a health care professional under subsection (b)(2).

"(E) The name, address, and telephone number of a person who has been registered and monitored pursuant to subsection (b)(3).

"(F) Information that identifies the person from whom information referred to in this paragraph was obtained under a program or any other third party involved with, or identified by, any such information so obtained.

"(G) Any other personal or medical information that identifies a person or party referred to in subparagraphs (A) through (F).

"(H) Such other information or categories of information as the chief officers of the health departments of the States of Washington, Oregon, and Idaho jointly designate as information covered by this subsection.

"(2) Information referred to in paragraph (1) may be disclosed to the public if the person identified by the information, or the legal representative of that person, has consented in writing to the disclosure.

"(3) The States of Washington, Oregon, and Idaho shall establish uniform procedures for carrying out this subsection, including procedures governing the following:

"(A) The disclosure of information under paragraph (2).

"(B) The use of the Hanford Health Information Network database.

"(C) The future disposition of the database.

"(D) Enforcement of the prohibition provided in paragraph (1) on the disclosure of information described in that paragraph.".

SEC. 3139. LIMITATION ON STUDY OR RELOCATION OF TRITIUM-RELATED ACTIVITIES AND OPERATIONS.

None of the funds appropriated or otherwise made available to the Department of Energy for

VOL 140 PT 16 AG 12 — 18 1994 UMI

fiscal year 1995 pursuant to this title may be used to study or relocate tritium-related activities and operations from the Mound Plant, Ohio, to a facility other than a Department of Energy weapons production facility that has demonstrated tritium production and handling capabilities, as determined by independent consultants pursuant to a review of the June 1993 report of the Department entitled "Nonnuclear Reconfiguration Cost Effectiveness Report".

SEC. 3140. HAZARDOUS MATERIALS MANAGEMENT AND HAZARDOUS MATERIALS EMERGENCY RESPONSE TRAINING PROGRAM.

(a) USE OF FUNDS.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1995 under section 3102(c), not more than $6,000,000 shall be available for operating expenses to carry out a hazardous materials management and hazardous materials emergency response training program at Hanford Nuclear Reservation, Richland, Washington.

(b) REQUIREMENT OF CONCEPTUAL DESIGN.—None of the funds authorized to be appropriated under section 3102(c) for project 95–E–600 may be obligated or expended until the Secretary of Energy completes a conceptual design for the project.

SEC. 3141. INTERNATIONAL CENTER FOR APPLIED RESEARCH.

(a) ESTABLISHMENT.—(1) The Secretary of Energy shall establish an International Center for Applied Research at the Savannah River Site, South Carolina. The purpose of the Center is to promote the following activities:

(A) The application in the United States of hydrogen technology research derived from tritium production.

(B) The development of beneficial uses of nuclear materials.

(C) The research and development of innovative methods for the treatment and disposal of nuclear waste.

(D) The development of specifications for the decommissioning of nuclear facilities and the disposition of nuclear materials.

(E) The research and development of any technologies that the Secretary considers appropriate and that are likely to be commercialized.

(2) The Secretary shall enter into an arrangement to provide for the location of the Center at a suitable facility at, or adjacent to, the Savannah River Site.

(3) The Secretary shall, using competitive procedures, select a nonprofit entity or a group of nonprofit entities to operate the Center. The Center shall promote activities under paragraph (1) in a manner that accomplishes regional development through applied science and technology.

(b) AVAILABILITY OF FUNDS.—Of amounts authorized to be appropriated in section 3101(c), $12,000,000 shall be available to establish the Center referred to in subsection (a).

Subtitle D—Other Matters

SEC. 3151. ACCOUNTING PROCEDURES FOR DEPARTMENT OF ENERGY FUNDS.

(a) IN GENERAL.—The Secretary of Energy shall prescribe procedures to account for the use of funds for the performance of the programs and activities of the Department of Energy for which funds are appropriated pursuant to this title for national security programs of the Department of Energy. The procedures shall provide for such accounting for fiscal years beginning after fiscal year 1996.

(b) COVERED MATTERS.—The Secretary shall prescribe procedures under subsection (a)—

(1) to account for the funds appropriated to the Department pursuant to this title for national security programs and activities of the Department that are not used for the purpose for which such funds were appropriated; and

(2) to provide an accounting for all encumbered funds, unencumbered funds, unobligated funds, costed funds, and uncosted obligations of the national security programs of the Department in that fiscal year.

SEC. 3152. APPROVAL FOR CERTAIN NUCLEAR WEAPONS ACTIVITIES.

(a) APPROVAL BY JOINT NUCLEAR WEAPONS COUNCIL.—Subsection (d) of section 179 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) Coordinating and approving activities conducted by the Department of Energy for the study, development, production, and retirement of nuclear warheads, including concept definition studies, feasibility studies, engineering development, hardware component fabrication, warhead production, and warhead retirement.".

(b) REPORT.—Such section is further amended by adding at the end the following new subsection:

"(e) Each fiscal year, at the same time the President submits the budget pursuant to section 1105 of title 31, the Chairman of the Council, through the Secretary of Energy, shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report, in classified form, on the following:

"(1) The effectiveness and efficiency of the Council, and of the deliberative and decision-making processes used by the Council, in carrying out the responsibilities described in subsection (d).

"(2) A description of all activities conducted by the Department of Energy during that fiscal year, or planned to be conducted by the Department of Energy during the next fiscal year, for the study, development, production, and retirement of nuclear warheads and that have been approved by the Council, including a description of—

"(A) the concept definition activities and feasibility studies conducted or planned to be conducted by the Department of Energy;

"(B) the schedule for completion of each such activity or study; and

"(C) the degree to which each such activity or study is consistent with United States policy for new nuclear warhead development or warhead modification and with established or projected military requirements.".

(c) TECHNICAL AMENDMENT.—Subsections (a)(3) and (b) of such section are amended by striking out "appointed" each place it appears and inserting in lieu thereof "designated".

SEC. 3153. STUDY OF FEASIBILITY OF CONDUCTING CERTAIN ACTIVITIES AT THE NEVADA TEST SITE, NEVADA.

Not later than April 1, 1995, the Secretary of Energy shall submit to Congress a report on the feasibility of conducting the following activities at the Nevada Test Site, Nevada:

(1) The demilitarization of large rocket motors, high energetic explosives, and conventional ordnance.

(2) Disarmament and demilitarization of conventional weapons and components.

(3) Experiments that assist in monitoring compliance with international agreements on the nonproliferation of nuclear weapons.

(4) Programs for the Department of Energy and the Department of Defense to develop simulator technologies for nuclear weapons design and effects, including advanced hydrodynamic simulators, fusion test facilities, and nuclear weapons effects simulators.

(5) The stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note).

(6) Experiments related to the nonproliferation of nuclear weapons, including experiments with respect to disablement of such weapons, nuclear forensics, sensors, and verification and monitoring.

SEC. 3154. REPORT ON WASTE STREAMS GENERATED BY NUCLEAR WEAPONS PRODUCTION CYCLE.

(a) REPORT.—Not later than March 31, 1996, the Secretary of Energy shall submit to Congress a report that contains a description of all waste streams generated before 1992 during each step of the complete cycle of production and disposition of nuclear weapon components by the Department of Energy. The description for each such step shall be based on a unit of analysis that is appropriate for that step. The report shall include an estimate of the volume of waste generated per unit of analysis and an analysis of the characteristics of each waste stream.

(b) DEFINITIONS.—In this section:

(1) The term "waste stream" means waste materials the storage, treatment, or disposition of which is regulated under Federal law, except that such term does not include usable source materials, usable byproduct materials, and usable special nuclear materials.

(2) The terms "byproduct material", "source material", and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

SEC. 3155. COMMUNICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.

(a) COMMUNICATION OF DATA.—Section 144 of the Atomic Energy Act of 1954 (42 U.S.C. 2164) is amended—

(1) by redesignating subsection d. as subsection e.; and

(2) by inserting after subsection c. the following new subsection d.:

"d. (1) In addition to the cooperation authorized in subsections a., b., and c., the President may, upon making a determination described in paragraph (2), authorize the Department of Energy, with the assistance of the Department of Defense, to cooperate with another nation to communicate to that nation such Restricted Data, and the President may, upon making such determination, authorize the Department of Defense, with the assistance of the Department of Energy, to cooperate with another nation to communicate to that nation such data removed from the Restricted Data category under section 142, as is necessary for—

"(A) the support of a program for the control of and accounting for fissile material and other weapons material;

"(B) the support of the control of and accounting for atomic weapons;

"(C) the verification of a treaty; and

"(D) the establishment of international standards for the classification of data on atomic weapons, data on fissile material, and related data.

"(2) A determination referred to in paragraph (1) is a determination that the proposed cooperation and proposed communication referred to in that paragraph—

"(A) will promote the common defense and security interests of the United States and the nation concerned; and

"(B) will not constitute an unreasonable risk to such common defense and security interests.

"(3) Cooperation under this subsection shall be undertaken pursuant to an agreement for cooperation entered into in accordance with section 123.".

(b) APPLICABILITY OF NOTICE AND WAIT PROVISIONS.—Section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)), as amended by subsection (c), shall not apply to a proposed agreement for cooperation under section 144 d. of such Act, as inserted by subsection (a), until December 31, 1995.

(c) CONFORMING AMENDMENTS.—The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended as follows:

(1) Section 123 is amended—

(A) by striking out "or 144 c." each place it appears and inserting in lieu thereof "144 c., or 144 d.";

(B) in subsection a., by striking out "or 144 b." and inserting in lieu thereof "144 b., or 144 d."; and

(C) in subsection b., by inserting "(except an agreement arranged pursuant to section 91 c., 144 b., 144 c., or 144 d.)" after "the President has submitted text of the proposed agreement for cooperation".

(2) Section 142 d. is amended by striking out "subsection 144 b." and inserting in lieu thereof "subsection b. or d. of section 144.".

(3) Section 142 f. is repealed.

(4) Section 144 e., as redesignated by subsection (a)(1), is amended by striking out "or c." and inserting in lieu thereof "c., or d.".

SEC. 3156. SCHOLARSHIP AND FELLOWSHIP PROGRAM FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) USE OF FUNDS.—Of the funds authorized to be appropriated to the Department of Energy in section 3102 for fiscal year 1995 for environmental restoration and waste management, $1,000,000 shall be available for the scholarship and fellowship program for environmental restoration and waste management carried out under section 3132 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1572; 42 U.S.C. 7274e).

(b) DESIGNATION AS MARILYN LLOYD SCHOLARSHIP AND FELLOWSHIP PROGRAM.—(1) Section 3132(a) of such Act (42 U.S.C. 7274e(a)) is amended by adding at the end the following: "The scholarship and fellowship program shall be known as the 'Marilyn Lloyd Scholarship and Fellowship Program'.".

(2) The amendment made by paragraph (1) shall take effect on January 3, 1995.

SEC. 3157. REPORT ON ECONOMIC REDEVELOPMENT AND CONVERSION ACTIVITIES RESULTING FROM RECONFIGURATION OF DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX.

(a) IN GENERAL.—Not later than May 1, 1995, the Secretary of Energy shall submit to Congress information on economic redevelopment and conversion activities that, in the determination of the Secretary, may result from the reconfiguration of the Department of Energy nuclear weapons complex. The Secretary may submit the information in a report or submit the programmatic environmental impact statement referred to in section 3145(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1949) and include the information in that statement.

(b) CONTENTS.—The information referred to in subsection (a) shall include the following:

(1) An analysis of the existing condition and capabilities of the facilities of the nuclear weapons complex.

(2) A description of the technologies and processes at such facilities that have the potential to be developed in collaboration with private industry, State, local, or tribal governments, institutions of higher education, or non-profit organizations.

(3) An estimate of the costs associated with economic redevelopment and conversion activities as a result of the reconfiguration of the nuclear weapons complex.

(4) A description of how the Secretary will coordinate with local interests regarding such activities.

SEC. 3158. OFFICE OF FISSILE MATERIALS DISPOSITION.

(a) ESTABLISHMENT.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

"OFFICE OF FISSILE MATERIALS DISPOSITION

"SEC. 212. (a) There shall be within the Department an Office of Fissile Materials Disposition.

"(b) The Secretary shall designate the head of the Office. The head of the Office shall report to the Under Secretary.

"(c) The head of the Office shall be responsible for all activities of the Department relating to the management, storage, and disposition of fissile materials from weapons and weapons systems that are excess to the national security needs of the United States.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 210 the following new items:

"Sec. 211. Office of Minority Economic Impact.
"Sec. 212. Office of Fissile Materials Disposition.".

SEC. 3159. EXTENSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES AT IDAHO NATIONAL ENGINEERING LABORATORY.

Section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2074), as amended by section 3136 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2641), is further amended—

(1) in the third sentence of subsection (a)(3), by striking out "fiscal years 1993 and 1994" and inserting in lieu thereof "fiscal years 1993, 1994, 1995, 1996, and 1997"; and

(2) in subsection (c), by striking out "September 30, 1994, with respect to the Idaho National Engineering Laboratory" and inserting in lieu thereof "September 30, 1997, with respect to the Idaho National Engineering Laboratory".

SEC. 3160. ELIMINATION OF REQUIREMENT FOR FIVE-YEAR PLAN FOR DEFENSE NUCLEAR FACILITIES.

(a) ELIMINATION OF REQUIREMENT.—Section 3135(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1575; 42 U.S.C. 7274g(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "(A) defense nuclear facilities and (B) all other facilities owned or operated by the Department of Energy" in the first sentence and inserting in lieu thereof "all facilities owned or operated by the Department of Energy except defense nuclear facilities"; and

(B) by inserting "such" in the third sentence after "restoration at all";

(2) in paragraph (4), by striking out "The plan shall contain the following matters:" and inserting in lieu thereof "The plan shall include, with respect to the Department of Energy facilities required by paragraph (1) to be covered by the plan, the following matters:";

(3) by striking out paragraph (6); and

(4) by redesignating paragraph (7) as paragraph (6).

(b) ANNUAL WASTE MANAGEMENT REPORTS.—Section 3153(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1950; 42 U.S.C. 7274k(b)(1)) is amended—

(1) by inserting "including pollution prevention and" after "waste management,"; and

(2) by striking out "and technology research and development related to such activities and projects".

(c) CONTENTS OF ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT REPORTS.—Section 3153(c) of such Act (42 U.S.C. 7274k(c)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out "and" at the end of paragraph (2)(D);

(3) by striking out the period at the end of paragraph (2)(E) and inserting in lieu thereof "; and";

(4) by adding at the end of paragraph (2) the following new subparagraph:

"(F) a description of the personnel and facilities required to complete the activity or project; and"; and

(5) by adding at the end the following new paragraph:

"(3) contain a description of the research and development necessary to develop the technology to conduct the activities and projects covered by the report.".

(d) PUBLIC PARTICIPATION IN DEVELOPMENT OF INFORMATION.—Section 3153 of such Act (42 U.S.C. 7274k) is further amended by adding at the end the following new subsection:

"(f) PUBLIC PARTICIPATION IN DEVELOPMENT OF INFORMATION.—(1) The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in the development of information necessary to complete the reports required by subsections (a), (b), and (d).

"(2) Consultation under paragraph (1) shall not interfere with the timely submission to Congress of the budget for a fiscal year.

"(3) The Secretary may award grants to, and enter into cooperative agreements with, affected States and affected Indian tribes to facilitate the participation of such entities in the development of information under this subsection. The Secretary may also take appropriate action to facilitate the participation of interested members of the public in such development under this subsection.".

(e) PUBLIC PARTICIPATION IN PLANNING.—The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in any planning conducted by the Secretary for environmental restoration and waste management at Department of Energy defense nuclear facilities.

SEC. 3161. AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

(a) AUTHORITY.—(1) Notwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(4) The Secretary may not appoint more than 100 persons during fiscal year 1995 under the authority provided in this subsection.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1). The Secretary shall reimburse the

79–059 O—97 Vol. 140 (Pt. 16) 7

VOL 140 PT 16 AG 12 — 18 1994 UMI

Director for evaluations conducted by the Director pursuant to the agreement. Any such reimbursement shall be credited to the revolving fund referred to in section 1304(e) of title 5, United States Code.

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5, United States Code, or is setting rates of pay at levels that are not appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved, the Director shall notify the Secretary and Congress of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles or to set rates of pay at levels that are appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved; or

(B) cease appointment of persons under such authority.

(c) EPA STUDY.—(1) Upon the 50th appointment made by the Secretary pursuant to subsection (a)(1)(B), the Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall conduct a study of the effects of the implementation of such subsection on the conduct of remedial actions at sites on the National Priorities List.

(2) The study shall assess whether serious problems have resulted at any site on the National Priorities List from appointments made pursuant to subsection (a)(1)(B) of persons whose employment, at the time of the appointment, involved remedial actions or other similar activities at the site.

(3) For purposes of this subsection, a serious problem includes any of the following occurrences:

(A) A significant delay or significant disruption of a schedule for completion of a remedial action at the site.

(B) A significant escalation of the personnel costs for the remedial action.

(C) A significant exacerbation of any shortage in the number of critical personnel at the site.

(4) The Administrator, in consultation with the Secretary, shall submit to Congress a report on the study conducted under paragraph (1). The report shall be submitted not later than 30 days after the date upon which the Secretary has made the 50th appointment pursuant to subsection (a)(1)(B). The Secretary may not make more than 50 such appointments until the submission of the report.

(5) If, as a result of the study conducted under paragraph (1), the Administrator, in consultation with the Secretary, determines that serious problems have resulted at any site on the National Priorities List from appointments made pursuant to subsection (a)(1)(B), the Administrator and the Secretary shall jointly submit to Congress, together with the report referred to in paragraph (4), a plan to ameliorate the effects of those serious problems. Under the plan, the Administrator and the Secretary shall provide for—

(A) a reduction in the rate at which persons are appointed pursuant to such subsection;

(B) the making of appointments pursuant to such subsection of persons other than persons whose employment, at the time of the appointment, involved remedial actions or other similar activities at sites on the National Priorities List; or

(C) any other effective alternative to appointing persons described in subparagraph (B) that the Administrator and the Secretary consider appropriate.

(6) To carry out this section, the Secretary shall regularly provide to the Administrator the following information:

(A) The relevant previous places of employment of each person appointed pursuant to subsection (a)(1)(B).

(B) The site on the National Priorities List, if the employment of such person, at the time of the appointment of that person pursuant to such subsection, involved remedial actions or other similar activities at the site.

(d) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 1997.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

SEC. 3162. USE OF FUNDS FOR COMPUTER DECLASSIFICATION SYSTEM.

Of the funds authorized to be appropriated to the Department of Energy under section 3103, $3,000,000 shall be available for a computer system for declassification purposes.

SEC. 3163. SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.

(a) SAFETY AT DEFENSE NUCLEAR FACILITIES.—The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in, or who are advising persons who are engaged in, management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) who have authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report describing the following:

(1) The actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (a).

(2) The actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements.

(3) The respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1995, $17,933,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORIZED USES OF STOCKPILE FUNDS.

Subject to such limitations as may be provided in appropriations Acts, during fiscal year 1995, the National Defense Stockpile Manager may obligate up to $54,200,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section.

SEC. 3302. ROTATION OF MATERIALS TO PREVENT TECHNOLOGICAL OBSOLESCENCE.

Section 6(a)(4) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(4)) is amended by inserting "or technological obsolescence" after "deterioration".

SEC. 3303. EXTENSION OF LIMITATION ON AUTHORITY TO DISPOSE OF CHROMIUM FERRO AND MANGANESE FERRO.

Section 3302(f) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2651), as amended by section 3303(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1961), is further amended by striking out "October 1, 1994" and inserting in lieu thereof "October 1, 1995".

SEC. 3304. LIMITATION ON AUTHORITY TO DISPOSE OF ZINC.

(a) LIMITATION ON DISPOSAL AUTHORITY.—The disposal of zinc from the National Defense Stockpile pursuant to any disposal authority provided by law may not commence before April 1, 1995.

(b) CONDITION ON DISPOSAL AFTER EXPIRATION OF LIMITATION.—If any quantity of zinc is proposed for disposal from the National Defense Stockpile during fiscal year 1995 upon the expiration of the limitation prescribed under subsection (a), the President shall submit to Congress not later than February 15, 1995, a revised annual materials plan under section 11(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–2) that specifically describes the proposed disposals. The revised plan shall include the views of the Market Impact Committee regarding the market impact of the disposals, as required under section 10(c) of such Act (50 U.S.C. 98h–1(c)).

(c) EFFECT ON TRANSFERS OF ZINC TO OTHER FEDERAL AGENCIES.—Nothing in this section shall limit the authority of the National Defense Stockpile Manager to transfer zinc in the National Defense Stockpile to the jurisdiction and control of another Federal agency for official Government use.

(d) NATIONAL DEFENSE STOCKPILE DEFINED.—The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 3305. LIMITATIONS ON DISPOSAL OF CHROMITE AND MANGANESE ORES.

(a) PREFERENCE FOR DOMESTIC UPGRADING.—In offering to enter into agreements pursuant to any provision of law for the disposal of chromite and manganese ores of metallurgical grade from the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c), the President shall give a right of first refusal on all such offers to domestic ferroalloy upgraders.

(b) DOMESTIC FERROALLOY UPGRADER DEFINED.—For purposes of this section, the term "domestic ferroalloy upgrader" means a company or other business entity that, as determined by the President—

(1) is engaged in operations to upgrade chromite or manganese ores of metallurgical grade or is capable of engaging in such operations; and

(2) conducts a significant level of its research, development, engineering, and upgrading operations in the United States.

(c) APPLICATION OF SECTION.—The requirements specified in subsection (a) shall apply during fiscal year 1995.

SEC. 3306. REPORT ON DOMESTIC PRODUCTION OF HIGH PURITY ELECTROLYTIC CHROMIUM METAL.

(a) AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall enter into an agreement with the President of the National Academy of Sciences, under which the Academy will prepare a report regarding the production of high purity electrolytic chromium metal in the United States.

(b) ELEMENTS OF REPORT.—In preparing the report under subsection (a), the National Academy of Sciences shall evaluate—

(1) the capability of industrial facilities in the United States to produce high purity electrolytic chromium metal;

(2) the need to maintain a domestic source for the production of high purity electrolytic chromium metal;

(3) the potential adverse effects on the United States economy and defense capabilities if domestic sources for the production of high purity electrolytic chromium metal are lost;

(4) the availability of high purity electrolytic chromium metal from sources outside the United States; and

(5) the capability and reliability of such foreign sources for the production of high purity electrolytic chromium metal.

(c) SUBMISSION OF REPORT.—Not later than 120 days after the date on which the agreement is entered into under subsection (a), the National Academy of Sciences shall submit to the Secretary of Defense and Congress the report required under such agreement.

TITLE XXXIV—CIVIL DEFENSE

Subtitle A—Authorization of Appropriations

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $129,658,000 for fiscal year 1995 for the purpose of carrying out title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as added by section 3411.

Subtitle B—Reenactment of Federal Civil Defense Act of 1950 in the Robert T. Stafford Disaster Relief and Emergency Assistance Act

SEC. 3411. RESTATEMENT OF FEDERAL CIVIL DEFENSE AUTHORITIES IN THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT.

(a) RESTATEMENT AS NEW TITLE.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) by redesignating title VI as title VII;

(2) by redesignating sections 601, 602, 603, and 604 as sections 701, 702, 703, and 704, respectively; and

(3) by inserting after title V the following new title VI:

"TITLE VI—EMERGENCY PREPAREDNESS

"SEC. 601. DECLARATION OF POLICY.

"The purpose of this title is to provide a system of emergency preparedness for the protection of life and property in the United States from hazards and to vest responsibility for emergency preparedness jointly in the Federal Government and the States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the States and their political subdivisions for emergency preparedness purposes can be effectively utilized to provide relief and assistance to people in areas of the United States struck by a hazard. The Federal Government shall provide necessary direction, coordination, and guidance, and shall provide necessary assistance, as authorized in this title so that a comprehensive emergency preparedness system exists for all hazards.

"SEC. 602. DEFINITIONS.

"(a) DEFINITIONS.—For purposes of this title only:

"(1) HAZARD.—The term 'hazard' means an emergency or disaster resulting from—

"(A) a natural disaster; or

"(B) an accidental or man-caused event.

"(2) NATURAL DISASTER.—The term 'natural disaster' means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.

"(3) EMERGENCY PREPAREDNESS.—The term 'emergency preparedness' means all those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:

"(A) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the non-military evacuation of the civilian population).

"(B) Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).

"(C) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).

"(4) ORGANIZATIONAL EQUIPMENT.—The term 'organizational equipment' means equipment determined by the Director to be necessary to an emergency preparedness organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating local disasters, except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.

"(5) MATERIALS.—The term 'materials' includes raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for emergency preparedness.

"(6) FACILITIES.—The term 'facilities', except as otherwise provided in this title, includes buildings, shelters, utilities, and land.

"(7) DIRECTOR.—The term 'Director' means the Director of the Federal Emergency Management Agency.

"(8) NEIGHBORING COUNTRIES.—The term 'neighboring countries' includes Canada and Mexico.

"(9) UNITED STATES AND STATES.—The terms 'United States' and 'States' includes the several States, the District of Columbia, and territories and possessions of the United States.

"(10) STATE.—The term 'State' includes interstate emergency preparedness authorities established under section 611(h).

"(b) CROSS REFERENCE.—The terms 'national defense' and 'defense,' as used in the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), includes emergency preparedness activities conducted pursuant to this title.

"SEC. 603. ADMINISTRATION OF TITLE.

"This title shall be carried out by the Director of the Federal Emergency Management Agency.

"Subtitle A—Powers and Duties

"SEC. 611. DETAILED FUNCTIONS OF ADMINISTRATION.

"(a) IN GENERAL.—In order to carry out the policy described in section 601, the Director shall have the authorities provided in this section.

"(b) FEDERAL EMERGENCY RESPONSE PLANS AND PROGRAMS.—The Director may prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the Director may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States.

"(c) DELEGATION OF EMERGENCY PREPAREDNESS RESPONSIBILITIES.—With the approval of the President, the Director may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.

"(d) COMMUNICATIONS AND WARNINGS.—The Director may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.

"(e) EMERGENCY PREPAREDNESS MEASURES.—The Director may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including

"(1) research and studies as to the best methods of treating the effects of hazards;

"(2) developing shelter designs and materials for protective covering or construction; and

"(3) developing equipment or facilities and effecting the standardization thereof to meet emergency preparedness requirements.

"(f) TRAINING PROGRAMS.—(1) The Director may—

"(A) conduct or arrange, by contract or otherwise, for training programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness;

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(B) conduct or operate schools or including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5, United States Code, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Director; and

"(C) provide instructors and training aids as necessary.

"(2) The terms prescribed by the Director for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.

"(3) The Director may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.

"(g) PUBLIC DISSEMINATION OF EMERGENCY PREPAREDNESS INFORMATION.—The Director may publicly disseminate appropriate emergency preparedness information by all appropriate means.

"(h) INTERSTATE EMERGENCY PREPAREDNESS COMPACTS.—(1) The Director may—

"(A) assist and encourage the States to negotiate and enter into interstate emergency preparedness compacts;

"(B) review the terms and conditions of such proposed compacts in order to assist, to the extent feasible, in obtaining uniformity between such compacts and consistency with Federal emergency response plans and programs;

"(C) assist and coordinate the activities under such compacts; and

"(D) aid and assist in encouraging reciprocal emergency preparedness legislation by the States which will permit the furnishing of mutual aid for emergency preparedness purposes in the event of a hazard which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or experiencing a hazard.

"(2) A copy of each interstate emergency preparedness compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of Congress is deemed to be granted to each such compact upon the expiration of the 60-day period beginning on the date on which the compact is transmitted to Congress.

"(3) Nothing in this subsection shall be construed as preventing Congress from disapproving, or withdrawing at any time its consent to, any interstate emergency preparedness compact.

"(i) MATERIALS AND FACILITIES.—(1) The Director may procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency preparedness, with the right to take immediate possession thereof.

"(2) Facilities acquired by purchase, donation, or other means of transfer may be occupied, used, and improved for the purposes of this title before the approval of title by the Attorney General as required by section 355 of the Revised Statutes (40 U.S.C. 255).

"(3) The Director shall submit to Congress a report, at least quarterly, describing all property acquisitions made pursuant to this subsection.

"(4) The Director may lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.

"(5) The Director may procure and maintain under this subsection radiological, chemical, bacteriological, and biological agent monitoring and decontamination devices and distribute such devices by loan or grant to the States for emergency preparedness purposes, under such terms and conditions as the Director shall prescribe.

"(j) FINANCIAL CONTRIBUTIONS.—(1) The Director may make financial contributions, on the basis of programs or projects approved by the Director, to the States for emergency preparedness purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Director shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.

"(2) No contribution may be made under this subsection for the procurement of land or for the purchase of personal equipment for State or local emergency preparedness workers.

"(3) The amounts authorized to be contributed by the Director to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.

"(4) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Director for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the Director) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.

"(5) The amounts authorized to be contributed by the Director to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Director may reallocate such amounts to other States under the formula described in paragraph (4). The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection.

"(6) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the Director. The Director shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness, and (B) is of such kind that upon completion it will, in the judgment of the Director, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding provisions of this subsection) the Director may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the Director determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the Director necessary for the use of such facility for emergency preparedness purposes.

"(7) The Director shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.

"(8) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Director under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act (40 U.S.C. 276a–276a–5)), and every such employee shall receive compensation at a rate not less than one and ½ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Director shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276(c)).

"(k) SALE OR DISPOSAL OF CERTAIN MATERIALS AND FACILITIES.—The Director may arrange for the sale or disposal of materials and facilities found by the Director to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

"SEC. 612. MUTUAL AID PACTS BETWEEN STATES AND NEIGHBORING COUNTRIES.

"The Director shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries.

"SEC. 613. CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES.

"(a) GENERAL AUTHORITY.—To further assist in carrying out the purposes of this title, the Director may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 611(h)) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.

"(b) PLAN REQUIREMENTS.—A plan submitted under this section shall—

"(1) provide, pursuant to State law, that the plan shall be in effect in all political subdivisions of the State and be mandatory on them and be administered or supervised by a single State agency;

"(2) provide that the State shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with State law;

"(3) provide for the development of State and local emergency preparedness operational plans, pursuant to standards approved by the Director;

"(4) provide for the employment of a full-time emergency preparedness director, or deputy director, by the State;

"(5) provide that the State shall make such reports in such form and content as the Director may require; and

"(6) make available to duly authorized representatives of the Director and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section.

"(c) TERMS AND CONDITIONS.—The Director shall establish such other terms and conditions as the Director considers necessary and proper to carry out this section.

"(d) APPLICATION OF OTHER PROVISIONS.—In carrying out this section, the provisions of section 611(h) and 621(h) shall apply.

"(e) ALLOCATION OF FUNDS.—For each fiscal year concerned, the Director shall allocate to each State, in accordance with regulations and the total sum appropriated under this title, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection shall give due regard to (1) the criticality of the areas which may be affected by hazards with respect to the development of the total emergency preparedness readiness of the United States, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the Director shall prescribe. The Director may reallocate the excess of any allocation not used by a State in a plan submitted under this section. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

"(f) SUBMISSION OF PLAN.—If a State fails to submit a plan for approval as required by this section within 60 days after the Director notifies the States of the allocations under this section, the Director may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the Director, will best assure the adequate development of the emergency preparedness capability of the United States.

"(g) ANNUAL REPORTS.—The Director shall report annually to the Congress all contributions made pursuant to this section.

"SEC. 614. REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS.

"Notwithstanding any other provision of this title, funds appropriated to carry out this title may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this title for such purpose.

"SEC. 615. USE OF FUNDS TO PREPARE FOR AND RESPOND TO HAZARDS.

"Funds made available to the States under this title may be used by the States for the purposes of preparing for hazards and providing emergency assistance in response to hazards. Regulations prescribed to carry out this section shall authorize the use of emergency preparedness personnel, materials, and facilities supported in whole or in part through contributions under this title for emergency preparedness activities and measures related to hazards.

"Subtitle B—General Provisions

"SEC. 621. ADMINISTRATIVE AUTHORITY.

"(a) IN GENERAL.—For the purpose of carrying out the powers and duties assigned to the Director under this title, the Director may exercise the administrative authorities provided under this section.

"(b) ADVISORY PERSONNEL.—(1) The Director may employ not more than 100 part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom or citizens of Canada) as the Director considers to be necessary in carrying out the provisions of this title.

"(2) Persons holding other offices or positions under the United States for which they receive compensation, while serving as advisory personnel, shall receive no additional compensation for such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed $180 for each day of service, plus authorized subsistence and travel, as determined by the Director.

"(c) SERVICES OF OTHER AGENCY PERSONNEL AND VOLUNTEERS.—The Director may—

"(1) use the services of Federal agencies and, with the consent of any State or local government, accept and use the services of State and local agencies;

"(2) establish and use such regional and other offices as may be necessary; and

"(3) use such voluntary and uncompensated services by individuals or organizations as may from time to time be needed.

"(d) GIFTS.—Notwithstanding any other provision of law, the Director may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this title.

"(e) REIMBURSEMENT.—The Director may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this title to the extent funds are available.

"(f) PRINTING.—The Director may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the Director considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44, United States Code.

"(g) RULES AND REGULATIONS.—The Director may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this title and perform any of the powers and duties provided by this title. The Director may perform any of the powers and duties provided by this title through or with the aid of such officials of the Federal Emergency Management Agency as the Director may designate..

"(h) FAILURE TO EXPEND CONTRIBUTIONS CORRECTLY.—(1) When, after reasonable notice and opportunity for hearing to the State or other person involved, the Director finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this title for approved emergency preparedness plans, programs, or projects, the Director may notify such State or person that further payments will not be made to the State or person from appropriations under this title (or from funds otherwise available for the purposes of this title for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure.

"(2) Until so satisfied, the Director shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder.

"(3) As used in this subsection, the term 'person' means the political subdivision of any State or combination or group thereof or any person, corporation, association, or other entity of any nature whatsoever, including instrumentalities of States and political subdivisions.

"SEC. 622. SECURITY REGULATIONS.

"(a) ESTABLISHMENT.—The Director shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the Director considers necessary.

"(b) LIMITATIONS ON EMPLOYEE ACCESS TO INFORMATION.—No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Director.

"(c) NATIONAL SECURITY POSITIONS.—No employee of the Federal Emergency Management Agency shall occupy any position determined by the Director to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the Director of the Federal Emergency Management Agency. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Director of the Federal Emergency Management Agency for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Director of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the Director of the Federal Emergency Management Agency may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Director of the Federal Emergency Management Agency for action.

"(d) EMPLOYEE OATHS.—Each Federal employee of the Federal Emergency Management Agency acting under the authority of this title, except the subjects of the United Kingdom and citizens of Canada specified in section 621(b), shall execute the loyalty oath or appointment affidavits prescribed by the Director of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for emergency preparedness shall before entering upon duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

'I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

'And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of _____ (name of emergency preparedness organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence.'

After appointment and qualification for office, the director of emergency preparedness of any State, and any subordinate emergency preparedness officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in section 1621 of title 18, United States Code.

"SEC. 623. USE OF EXISTING FACILITIES.

"In performing duties under this title, the Director—

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(1) shall cooperate with the various departments and agencies of the Federal Government;

"(2) shall use, to the maximum extent, the existing facilities and resources of the Federal Government and, with their consent, the facilities and resources of the States and political subdivisions thereof, and of other organizations and agencies; and

"(3) shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the Director, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this title.

"SEC. 624. ANNUAL REPORT TO CONGRESS.

"The Director shall annually submit a written report to the President and Congress covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this title, accompanied by such recommendations as the Director considers appropriate.

"SEC. 625. APPLICABILITY OF TITLE.

"The provisions of this title shall be applicable to the United States, its States, Territories and possessions, and the District of Columbia, and their political subdivisions.

"SEC. 626. AUTHORIZATION OF APPROPRIATIONS AND TRANSFERS OF FUNDS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

"(b) TRANSFER AUTHORITY.—Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the Director of the Office of Management and the Budget, to any agency or government corporation designated to assist in carrying out this title. Each such allocation or transfer shall be reported in full detail to the Congress within 30 days after such allocation or transfer.

"SEC. 627. RELATION TO ATOMIC ENERGY ACT OF 1954.

"Nothing in this title shall be construed to alter or modify the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"SEC. 628. FEDERAL BUREAU OF INVESTIGATION.

"Nothing in this title shall be construed to authorize investigations of espionage, sabotage, or subversive acts by any persons other than personnel of the Federal Bureau of Investigation.".

(b) CONFORMING AMENDMENT REGARDING DEFINITION OF NATIONAL DEFENSE.—Section 702(13) of the Defense Production Act of 1950 (50 U.S.C. App. 2152(13)) is amended by added at the end the following new sentence: "Such term includes emergency preparedness activities conducted pursuant to title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

SEC. 3412. REPEAL OF FEDERAL CIVIL DEFENSE ACT OF 1950.

(a) REPEAL.—The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.) is repealed.

(b) CONFORMING AMENDMENTS.—(1) Section 202(c) of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5132(c)) is amended by striking out "section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281(c))," and inserting in lieu thereof "section 611(c) of this Act".

(2) The paragraph under the heading "CIVIL DEFENSE PROCUREMENT FUND" in chapter XI of the Third Supplemental Appropriation Act, 1951 (50 U.S.C. App. 2264), is repealed.

(3) Section 813(d) of the Agricultural Act of 1970 (7 U.S.C. 1427a(d)) is amended by striking out "the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251-2297)." and inserting in lieu thereof "title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

TITLE XXXV—NAVAL PETROLEUM RESERVES

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to the Secretary of Energy $199,456,000 for fiscal year 1995 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves (as defined in section 7420(2) of such title). Funds appropriated pursuant to such authorization shall remain available until expended.

SEC. 3502. PRICE REQUIREMENT ON SALE OF CERTAIN PETROLEUM DURING FISCAL YEAR 1995.

Notwithstanding section 7430(b)(2) of title 10, United States Code, during fiscal year 1995, any sale of any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 1, 2, and 3 shall be made at a price not less than 90 percent of the current sales price, as estimated by the Secretary of Energy, of comparable petroleum in the same area.

SEC. 3503. EXTENSION OF OPERATING CONTRACT FOR NAVAL PETROLEUM RESERVE NUMBERED 1.

Notwithstanding section 7432(b) of title 10, United States Code, the Secretary of Energy may extend the operating contract for Naval Petroleum Reserve Numbered 1, in effect on the date of the enactment of this Act, for an additional two years effective on the expiration date of the contract. However, the contract may obligate funds only to the extent that such funds are made available in appropriation Acts.

TITLE XXXVI—PANAMA CANAL COMMISSION

SEC. 3601. SHORT TITLE.

This title may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1995".

SEC. 3602. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1995.

(b) LIMITATIONS.—For fiscal year 1995, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $50,030,000 for administrative expenses, of which not more than—

(1) $11,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) $5,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) $30,000 may be used for official reception and representation expenses of the Administrator of the Commission.

(c) REPLACEMENT VEHICLES.—Funds available to the Panama Canal Commission shall be available for the purchase of not to exceed 43 passenger motor vehicles (including large heavy-duty vehicles to be used to transport Commission personnel across the isthmus of Panama). A vehicle may be purchased with such funds only as necessary to replace another passenger motor vehicle of the Commission. The purchase price of each vehicle may not exceed $19,500.

SEC. 3603. EXPENDITURES IN ACCORDANCE WITH OTHER LAWS.

Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 3604. COSTS OF EDUCATIONAL SERVICES OBTAINED IN THE UNITED STATES.

Section 1321(e)(2) of the Panama Canal Act of 1979 (22 U.S.C. 3731(e)(2)) is amended by inserting "or the United States" after "schools in the Republic of Panama".

SEC. 3605. SPECIAL IMMIGRANT STATUS OF PANAMANIANS EMPLOYED BY THE UNITED STATES IN THE FORMER CANAL ZONE.

Section 101(a)(27)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(F)) is amended in clause (ii) by inserting "or continues to be employed by the United States Government in an area of the former Canal Zone" after "employment".

And the House agree to the same.

From the Committee on Armed Services, for consideration of the entire Senate bill and the entire House amendment, and modifications committed to conference:

RONALD V. DELLUMS,
G.V. MONTGOMERY,
PAT SCHROEDER,
EARL HUTTO,
IKE SKELTON,
DAVE MCCURDY,
MARILYN LLOYD,
NORMAN SISISKY,
JOHN M. SPRATT,
SOLOMON P. ORTIZ,
H. MARTIN LANCASTER,
LANE EVANS,
JAMES H. BILBRAY,
JOHN S. TANNER,
GLEN BROWDER,
MARTIN T. MEEHAN,
FLOYD SPENCE,
DUNCAN HUNTER,
JOHN R. KASICH,
HERBERT H. BATEMAN,
CURT WELDON,
JON KYL,
RONALD K. MACHTLEY,
JIM SAXTON.

As additional conferees from the Committee on Education and Labor, for consideration of sections 337, 346-47, 643, 924, 1051, and 1082 of the Senate bill and sections 351-54, 1133, 1136, 1138, and 1151 of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM L. CLAY,
PAT WILLIAMS,
WILLIAM F. GOODLING,
STEVE GUNDERSON.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 142, 324, 708, 2821(e)(3), 2849, 3151, 3155, 3157-58, 3160, and 3201 of the Senate bill and sections 1055, 3201, and 3502 of the House amendment, and modifications committed to conference:

JOHN D. DINGELL,
PHIL SHARP,
AL SWIFT,
CARLOS T. MOORHEAD,
MIKE BILIRAKIS.

Provided, Mr. Waxman is appointed in lieu of Mr. Swift, and Mr. Billey is appointed in lieu of Mr. Bilirakis solely for the consideration of section 708 of the Senate bill.

HENRY A. WAXMAN,
TOM BLILEY.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 221-22, 225, 241, 251, 354, 823, 1012, 1013(b), 1014, 1015(a), 1016-18, 1021(a), 1021(b), 1022-23, 1024(c), 1031-32, 1041, 1065, 1070, 1074, 1078-79, 1088, 1092, and 1097 of the Senate bill and sections 1011(a), 1022-25, 1038, 1041, 1043, 1046-49, 1052, 1054, 1058-60, 1201-14, and 1401-04 of the House amendment, and modifications committed to conference:

LEE H. HAMILTON,
SAM GEJDENSON,
TOM LANTOS,
BILL GOODLING.

As additional conferees from the Committee on Government Operations, for consideration of sections 824, 2812(c), 2827, and 3161 of the Senate bill and modifications committed to conference:

JOHN CONYERS, Jr.,
E. TOWNS,
MIKE SYNAR,
BILL CLINGER.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 357, 601, 654, 2206, 2825, 3134, and 3501-05 of the Senate bill and sections 522-23, 527, 601-02, 1137, and 3134 of the House amendment, and modifications committed to conference:

GERRY E. STUDDS,
WILLIAM J. HUGHES,
BILLY TAUZIN.

As additional conferees from the Committee on Natural Resources, for consideration of section 2853 of the House amendment and modifications committed to conference:

GEORGE MILLER,
BRUCE F. VENTO,
NEIL ABERCROMBIE.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 331-334, 346, 636, 901, 1080, 1087, 1090, and 3158 of the Senate bill and sections 165, 351, 375, 1031, and 2816 of the House amendment, and modifications committed to conference:

WILLIAM CLAY,
FRANK MCCLOSKEY,
ELEANOR H. NORTON,
JOHN MYERS,
CONSTANCE A. MORELLA.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 324, 1086, and 2827 of the Senate bill and section 3402 of the House amendment, and modifications committed to conference:

NORMAN Y. MINETA,
DOUGLAS APPLEGATE,
JAMES A. TRAFICANT, Jr.,
BUD SHUSTER,
BILL CLINGER.

Provided that Mr. Duncan is appointed in lieu of Mr. Clinger solely for the consideration of section 2827 of the Senate bill.

JOHN J. DUNCAN, Jr.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 232-249, and 3141 of the Senate bill and sections 211(a), 211(b), 216(a), 216(b), 216(c), 216(e), 217-18, 1112-15, and 3141 of the House amendment, and modifications committed to conference:

GEORGE E. BROWN, Jr.,
TIM VALENTINE,
BOBBY SCOTT.

As additional conferees from the Committee on Veterans' Affairs, for consideration of section 641 of the Senate bill and modifications committed to conference:

G.V. MONTGOMERY,
JIM SLATTERY,
DOUGLAS APPLEGATE,
BOB STUMP,
MIKE BILIRAKIS.

Managers on the Part of the House.

SAM NUNN,
JIM EXON,
CARL LEVIN,
TED KENNEDY,
JEFF BINGAMAN,
JOHN GLENN,
RICHARD SHELBY,
ROBERT C. BYRD,
BOB GRAHAM,
CHUCK ROBB,
JOSEPH I. LIEBERMAN,
RICHARD H. BRYAN,
STROM THURMOND,
JOHN WARNER,
WILLIAM S. COHEN,
TRENT LOTT,
DAN COATS,
BOB SMITH,
LAUCH FAIRCLOTH,
KAY BAILEY HUTCHISON.

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY STATEMENT OF CONFERENCE ACTION

The conferees recommend authorizations for the Department of Defense for procurement, research and development, test and evaluation, operation and maintenance, working capital funds, military construction and family housing, weapons programs of the Department of Energy, and civil defense that have a budget authority implication of $263.8 billion.

SUMMARY TABLE OF AUTHORIZATIONS

The defense authorization act provides authorizations for appropriations but does not generally provide budget authority. Budget authority is generally provided in appropriation acts.

In order to relate the conference recommendations to the Budget Resolution, matters in addition to the dollar authorizations contained in this bill must be taken into account. A number of programs in the defense function are authorized permanently or, in certain instances, authorized in other annual legislation. In addition, this authorization bill would establish personnel levels and include a number of legislative provisions affecting military compensation.

The following table summarizes authorizations included in the bill for fiscal year 1995 and, in addition, summarizes the implication of the conference action for the budget totals for national defense (budget function 050).

UMI 1994 12-18 AG PT 16 140 VOL

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1995
[IN MILLIONS OF DOLLARS]

	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	BUDGET AUTHORITY IMPLICATION FY1995 Request	House	Senate	Conference vs. Request	Conference
DIVISION A									
TITLE I									
Aircraft Procurement, Army	1,041.581	1,301.452	1,073.781	1,289.452	1,041.581	1,301.452	1,073.781	247.871	1,289.452
Missile Procurement, Army	593.995	685.136	693.909	818.709	593.995	685.136	693.909	224.714	818.709
Weapons & Tracked Combat Vehicles	919.786	942.886	1,132.886	1,159.214	919.786	942.886	1,132.886	239.428	1,159.214
Procurement of Ammunition, Army	844.644	854.883	878.122	902.821	844.644	854.883	878.122	58.177	902.821
Other Procurement, Army	2,690.233	2,651.233	2,677.719	2,624.707	2,690.233	2,651.233	2,677.719	-65.526	2,624.707
Aircraft Procurement, Navy	4,786.265	4,588.007	4,535.601	4,491.845	4,786.265	4,588.007	4,535.601	-294.420	4,491.845
Weapons Procurement, Navy	2,400.039	2,223.246	2,428.539	2,076.625	2,400.039	2,223.246	2,428.539	-323.414	2,076.625
Shipbuilding & Conversion, Navy	5,585.397	6,869.897	5,532.007	5,619.897	5,585.397	6,869.897	5,532.007	34.500	5,619.897
Other Procurement, Navy	3,319.418	3,241.611	3,310.217	3,287.487	3,319.418	3,241.611	3,310.217	-31.931	3,287.487
Procurement, Marine Corps	554.620	528.352	528.857	403.410	554.620	528.352	528.857	-151.210	403.410
Navy/Marine Corps Ammunition				449.815				449.815	449.815
Aircraft Procurement, Air Force	6,747.599	6,101.767	6,587.995	6,489.467	6,747.599	6,101.767	6,587.995	-258.132	6,489.467
Weapons Procurement, Air Force	4,392.173	3,953.232	4,330.473	3,732.845	4,392.173	3,953.232	4,330.473	-659.328	3,732.845
Other Procurement, Air Force	7,078.253	6,855.423	6,961.153	6,929.170	7,078.253	6,855.423	6,961.153	-149.083	6,929.170
Air Force Ammunition				251.546				251.546	251.546
Procurement, Defense-Wide	1,744.916	2,066.694	1,935.616	1,891.371	1,744.916	2,066.694	1,935.616	146.455	1,891.371
National Guard & Reserve Equipment		787.200	600.000	510.000		787.200	600.000	510.000	510.000
Chemical Agents & Munitions Destruction	575.349	670.349	590.149	599.549	575.349	670.349	590.149	24.200	599.549
Inspector General Procurement	1.000	1.000							
Defense Health Program	308.889	308.889							
Total Procurement	43,584.157	44,631.257	43,797.024	43,527.930	43,274.268	44,321.368	43,797.024	253.662	43,527.930
TITLE II									
R,D,T& E Army	5,260.082	5,424.803	5,152.308	5,319.520	5,260.082	5,424.803	5,152.308	59.438	5,319.520
R,D,T& E Navy	8,934.718	8,913.963	8,796.129	8,845.854	8,934.718	8,913.963	8,796.129	-88.864	8,845.854
R,D,T& E Air Force	12,349.362	12,318.766	12,329.796	12,475.681	12,349.362	12,318.766	12,329.796	126.319	12,475.681
R,D,T& E Defense-Wide	9,416.855	9,054.212	9,322.303	9,185.626	9,416.855	9,054.212	9,322.303	-231.229	9,185.626
Developmental Test & Evaluation	251.495	254.995	230.495	230.495	251.495	254.995	230.495	-21.000	230.495
Operational Test & Evaluation	12.501	12.501	12.501	12.501	12.501	12.501	12.501		12.501
FFRDC Reduction			-52.650	-52.650			-52.650	-52.650	-52.650
Total Research & Development	36,225.013	35,979.240	35,790.882	36,017.027	36,225.013	35,979.240	35,790.882	-207.986	36,017.027

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1995
[IN MILLIONS OF DOLLARS]

	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	BUDGET AUTHORITY IMPLICATION FY1995 Request	House	Senate	Conference vs. Request	Conference
TITLE III									
O&M, Army	17,766.814	17,362.741	17,542.914	17,426.804	17,816.814	17,362.741	17,592.914	-390.010	17,426.804
O&M, Navy	21,176.570	20,110.196	21,326.470	21,055.470	21,226.570	20,110.196	21,376.470	-171.100	21,055.470
O&M, Marine Corps	1,918.395	1,997.095	2,096.695	2,066.295	1,918.395	1,997.095	2,096.695	147.900	2,066.295
O&M, Air Force	19,026.623	18,733.458	18,789.023	18,837.623	19,076.623	18,733.458	18,839.023	-239.000	18,837.623
O&M, Defense-Wide	10,208.413	9,513.523	9,994.325	10,031.576	10,208.413	9,513.523	10,094.325	-176.837	10,031.576
Defense Health Program	9,613.170	9,613.331	9,854.459	9,854.459	9,922.059	9,922.220	9,854.459	-67.600	9,854.459
O&M, Army Reserve	1,253.709	1,255.057	1,253.709	1,238.822	1,253.709	1,255.057	1,253.709	-14.887	1,238.822
O&M, Navy Reserve	827.819	827.819	828.319	827.819	827.819	827.819	828.319		827.819
O&M, Marine Corps Reserve	81.462	81.462	81.462	81.462	81.462	81.462	81.462		81.462
O&M, Air Force Reserve	1,478.990	1,481.332	1,478.990	1,464.932	1,478.990	1,481.332	1,478.990	-14.058	1,464.932
O&M, Army National Guard	2,447.148	2,448.615	2,452.148	2,398.415	2,447.148	2,448.615	2,452.148	-48.733	2,398.415
O&M, Air National Guard	2,780.178	2,780.178	2,780.178	2,771.678	2,780.178	2,780.178	2,780.178	-8.500	2,771.678
Rifle Practice, Army	2.544	2.544	2.544	2.544	2.544	2.544	2.544		2.544
Inspector General	127.098	147.172	140.798	140.798	128.098	148.172	140.798	12.700	140.798
Court of Appeals for the Armed Services	6.126	6.152	6.126	6.126	6.126	6.152	6.126		6.126
Environmental Restoration, Defense	2,180.200	2,180.200	2,180.200	2,030.200	2,180.200	2,180.200	2,180.200	-150.000	2,030.200
Drug Interdiction & Counter-Drug Activ.	714.200	714.200	714.200	714.200	714.200	714.200	714.200		714.200
Former Soviet Union Threat Reduction	400.000	400.000	400.000	400.000	400.000	400.000	400.000		400.000
Summer Olympics		4.000	10.000	10.000		4.000	10.000	10.000	10.000
Intntl. Peacekeeping & Peace Enforcement	300.000	300.000	300.000		300.000	300.000	300.000	-300.000	
Project Peace		15.000		15.000		15.000		15.000	15.000
Overseas Humanitarian, Disaster & Civic Aid	71.900	60.000	71.900	86.000	71.900	60.000	71.900	14.100	86.000
Disposal & Lease/ Overseas Milt Facilities					15.131	15.131	15.131		15.131
Rocky Mtn Arsenal/ WWII 50th Anniversary		0.500			7.000	7.500	7.000		7.000
Special Olympics		2.000	3.000	3.000		2.000	3.000	3.000	3.000
Total Operation & Maintenance	92,381.359	90,036.575	92,307.460	91,463.223	92,863.379	90,368.595	92,579.591	-1,378.025	91,485.354
Defense Business Operations Fund	1,169.038	1,212.038	789.400	1,239.438	1,169.038	1,212.038	789.400	70.400	1,239.438
National Defense Sealift Fund	608.600		828.600	828.600	608.600		828.600	220.000	828.600

UMI 1994 12-18 AG PT 16 VOL 140

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1995
[IN MILLIONS OF DOLLARS]

	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	BUDGET AUTHORITY IMPLICATION: FY1995 Request	House	Senate	Conference vs. Request	Conference
TITLE IV-V-VI-VII									
Total Military Personnel (Sec. 431)		71,086.397	70,790.397	70,938.597	70,475.397	71,086.397	70,790.397	463.200	70,938.597
Military Retirement COLA		376.000	376.000	376.000		376.000	376.000	376.000	376.000
DIVISION B									
Military Construction, Army	690.576	853.426	490.076	552.976	690.576	853.426	490.076	-137.600	552.976
Military Construction, Navy	320.470	448.786	340.455	386.760	320.470	448.786	340.455	66.290	386.760
Military Construction, Air Force	353.313	503.213	526.663	529.313	357.313	507.213	530.663	176.000	533.313
Milt. Construction, Defense Agencies	481.729	465.009	546.519	508.069	481.729	465.009	546.519	26.340	508.069
NATO Infrastructure	219.000	119.000	219.000	119.000	219.000	119.000	219.000	-100.000	119.000
Milt. Construction, Army National Guard	9.929	145.067	180.312	188.062	9.929	145.067	180.312	178.133	188.062
Milt. Construction, Air National Guard	122.770	210.212	240.003	249.053	122.770	210.212	240.003	126.283	249.053
Military Construction, Army Reserve	7.910	37.410	37.870	57.370	7.910	37.410	37.870	49.460	57.370
Military Construction, Naval Reserve	2.355	11.905	17.355	22.748	2.355	11.905	17.355	20.393	22.748
Milt. Construction, Air Force Reserve	28.190	55.516	43.840	57.066	28.190	55.516	43.840	28.876	57.066
Base Realignment & Closure Account I	87.600	87.600	87.600	87.600	87.600	87.600	87.600		87.600
Base Realignment & Closure Account II	398.700	398.700	398.700	398.700	398.700	398.700	398.700		398.700
Base Realignment & Closure Account III	2,189.858	2,018.448	2,189.858	2,189.858	2,322.858	2,151.448	2,322.858		2,322.858
Total Military Construction	4,912.400	5,354.292	5,318.251	5,346.575	5,049.400	5,491.292	5,455.251	434.175	5,483.575
Family Housing, Army	1,273.610	1,285.610	1,241.210	1,183.710	1,273.610	1,285.610	1,241.210	-89.900	1,183.710
Family Housing, Navy	1,082.894	1,121.064	1,166.894	1,205.064	1,082.894	1,121.064	1,166.894	122.170	1,205.064
Family Housing, Air Force	1,024.338	1,044.827	1,068.200	1,072.289	1,054.338	1,074.827	1,098.200	47.951	1,102.289
Family Housing, Defense Agencies	29.381	29.381	29.381	29.381	29.381	29.381	29.381		29.381
Homeowners Assistance Fund					-133.000	-133.000	-133.000		-133.000
Total Family Housing	3,410.223	3,480.082	3,505.685	3,490.444	3,307.223	3,377.882	3,402.685	80.221	3,387.444

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1995
[IN MILLIONS OF DOLLARS]

	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	BUDGET AUTHORITY IMPLICATION: FY1995 Request	House	Senate	Conference vs. Request	Conference
DIVISION C									
TITLE XXXI- DOE									
Weapons Activities	3,300.368	3,203.369	3,309.668	3,234.069	3,300.368	3,203.369	3,309.668	-65.599	3,234.069
Defense Environmental Restor. & Waste Mgt.	5,194.424	5,168.561	5,212.424	5,092.691	5,194.424	5,168.561	5,212.424	-124.733	5,092.691
Materials Support & Other Defense Programs	1,898.910	1,948.704	1,893.910	1,849.657	1,898.910	1,948.704	1,893.910	-49.253	1,849.657
Defense Nuclear Waste Disposal	129.430	129.430	129.430	129.430	129.430	129.430	129.430		129.430
Use of Prior Year Balances- Undistributed			-220.000				-220:000		
TITLE XXXII									
Defense Nuclear Facilities Safety Board	17.933	18.000	17.933	17.933	17.933	18.000	17.933		17.933
TITLE XXXIII									
National Defense Stockpile Transaction Fund					-150.000	-150.000	-250.000	150.000	
TITLE XXXIV									
FEMA Civil Defense	129.658	129.658	129.658	129.658	204.504	204.504	204.504		204.504
RECAPITULATION									
Department of Defense (Division A)	173,968.167	243,321.507	244,679.763	244,390.815	244,615.695	243,343.638	244,951.894	-202.749	244,412.946
Department of Defense (Division B)	8,322.623	8,835.174	8,823.936	8,837.019	8,356.623	8,869.174	8,857.936	514.396	8,871.019
National Defense Stockpile Transaction Fund					-150.000	-150.000	-250.000	150.000	
NSETF & Other Trust Funds					231.668	231.668	231.668		231.668
Offsetting Receipts					-921.045	-921.045	-921.045		-921.045
Total DoD Military (051)	182,290.790	252,156.681	253,503.699	253,227.834	252,132.941	251,373.435	252,870.453	461.647	252,594.588
Total Atomic Energy Defense Act. (053)	10,541.065	10,468.064	10,343.365	10,323.780	10,541.065	10,468.064	10,343.365	-239.585	10,323.780
Total Other Defense (054)	129.658	129.658	129.658	129.658	914.194	912.910	927.410		914.194
Total National Defense Function (050)	192,961.513	262,754.403	263,976.722	263,681.272	263,588.200	262,754.409	264,141.228	222.062	263,832.562

VOL 140 PT 16 AG 12 — 18 1994 UMI

General limitation

The Senate bill contained a provision (sec. 4) that would limit the total amounts authorized to be appropriated in this act to $263.1 billion.

The House amendment contained no similar provision.

The Senate recedes.

Congressional defense committees

The term "congressional defense committees" is often used in this statement of the managers. It means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Overview

The budget request for fiscal year 1995 contained an authorization of $43,584.2 million for procurement in the Department of Defense. The Senate bill would authorize $43,797.0 million. The House amendment would authorize $44,631.3 million. The conferees recommend authorization of $43,527.9 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Submission of congressionally directed reports

As defense resources have declined, congressional emphasis on carefully prioritizing defense programs has properly increased. As a consequence, relatively smaller programs have required more thorough review. In developing the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), the conferees identified several Navy procurement and development programs in the statement of the managers (H. Rept. 103–357) that merited stronger review within the Department. A partial list of these programs includes antisubmarine warfare (ASW) targets, torpedo support equipment, attack submarine (SSN) acoustics, domestic forging and manufacture of ship propellers, ship self-defense, towed array sonars, and the ship main propulsion gas turbine improvement program. The conferees highlighted these issues for a variety of reasons, including:

(1) major changes in force structure that may not have been reflected in acquisition priorities;

(2) uneven protection of the industrial base in critical areas; and

(3) professed warfighting emphasis shifts to littoral operations that did not appear to reflect the post-Cold War defense environment.

The conferees believed that the Department failed to justify adequately many of these programs in the budget justification material and the budget review process. In a general effort to address these concerns prudently, the conferees avoided taking precipitous action and reducing budgeted resources in fiscal year 1994 for such programs.

Instead, the conferees directed the Department to prepare a number of reports. The conferees intended that these reports would provide the Navy an opportunity to specify, in detail, how the Navy was adapting these programs to accommodate a new strategic and budget reality. The conferees intended to review these reports during consideration of the fiscal year 1995 defense authorization request.

The conferees also reminded the Navy informally of a reporting requirement on combat logistic force plans. The report, which was originally required in July 1992 in the Senate report on S. 3114 (S. Rept. 102–352), was due in February 1993.

When the Armed Services Committees of the Senate and House of Representatives began their mark-ups of this act, the Navy had delivered none of the reports listed above. To date, the Navy has now submitted only three. Of the three, the conferees believe that only one, the report on SSN acoustics, is reasonably comprehensive and begins to address the concerns that triggered congressional interest in the first place. Even this report did not deal with a principal part of the report requirement—distinguishing between future upgrades appropriate for a littoral environment and those associated with traditional open ocean ASW. Nor did it clarify their cost implications, information that was explicitly requested in the bill.

The conferees: (1) lack some required reports; (2) have been unable to verify the resource allocation priorities made in the Navy budget; (3) have dealt with budget justification that did not clarify such anomalies as inordinate cost growth from prior years; and (4) have seen unenlightening Defense Department appeals that rely more on rhetoric and assertions than analysis. The consequences are relatively predictable. The conferees have reallocated resources from some of these programs to others with higher priority. The Navy, and the rest of the Defense Department, should not be surprised when the Department delivers reports that are deficient, late, or both, and Congress takes action that the Department would not prefer.

AIRCRAFT PROCUREMENT, ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $1,041.6 million for Aircraft Procurement, Army. The Senate bill would authorize $1,073.8 million. The House amendment would authorize $1,301.5 million. The conferees recommend authorization of $1,289.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	House FY1995 Authorization Amount	--- Senate FY1995 --- Authorization Quantity	Senate FY1995 Authorization Amount	----Conference---- Change to Request Quantity	Conference Change to Request Amount	-- Conference FY95 -- Authorization Quantity	Conference FY95 Authorization Amount
	AIRCRAFT PROCUREMENT, ARMY										
1	ARL (TIARA)	1	39,200	1	39,200	1	39,200			1	39,200
2	C21A AIRCRAFT										
3	GUARDRAIL COMMON SENSOR (TIARA)		4,991				4,991		-4,991		
3a	C-XX (MR)						23,000		23,000		23,000
4	TRACTOR HALL										
5	TOTAL PACKAGE FIELDING			379		379				379	
6	AH-64 ATTACK HELICOPTER (APACHE)	6	77,611			5,611		6	72,000	6	77,611
7	UH-60 BLACKHAWK (MYP)	60	247,659	60	247,659	248,359		60	-5,200	60	247,659
8	UH-60 ADVANCE PROCUREMENT (CY)		140,200		140,200	140,200					140,200
9	HELICOPTER NEW TRAINING		477		477	477					477
10	DRUG INTERDICTION										
	MODIFICATION OF AIRCRAFT										
11	TRACTOR DEW										
12	GUARDRAIL MODS (TIARA)		26,938		26,938	26,938			26,938		
13	AHIF MODS		4,360		4,360	4,360					4,360
14	AH-64 MODS		52,305		52,305	52,305					52,305
15	CH-47 CARGO HELICOPTER MODS (MYP)		14,332		14,332	14,332					14,332
16	OH-58 MODS		1,100		1,100	1,100					1,100
17	C-20 AIRCRAFT MODS		944		944	944					944
18	LONGBOW		117,588		117,588	117,588					117,588
19	FLIGHT DATA RECORDER										
20	UH-1 MODS		8,402		8,402	8,402					8,402
21	UH-1 HUEY SLEP										
22	UH-60A (BLACK HAWK) MODS		25,865		25,865	25,865					25,865
22a	UH-60Q MEDEVAC MODS							4	25,000	4	25,000
23	KIOWA WARRIOR			36	336,767	110,467		24	150,000	24	261,767
24	EH-60 QUICKFIX MODS		39,164		39,164	39,164					39,164
25	AIRBORNE AVIONICS		18,986		18,986	18,986					18,986
26	ASE MODS		8,171		8,171	8,171					8,171
27	MODIFICATIONS < $2.0M		1,849		1,849	1,849					1,849
28	SPARES AND REPAIR PARTS APA		47,242		47,242	47,242					47,242
29	AIRCRAFT SURVIVABILITY EQUIPMENT		29,583		29,583	44,583			15,000		44,583
30	AIRBORNE COMMAND & CONTROL										

VOL 140 PT 16 AG 12 — 18 1994 UMI

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
31	AVIONICS SUPPORT EQUIPMENT		30,267		30,267		30,267				30,267
32	TRAINING DEVICES		14,143		14,143		14,143				14,143
33	COMMON GROUND EQUIPMENT		18,640		18,640		18,640				18,640
34	AVIATION LIFE SUPPORT EQUIPMENT (ALS		8,871		8,871		8,871				8,871
35	AIR TRAFFIC CONTROL		8,769		8,769		8,769				8,769
36	INDUSTRIAL FACILITIES		2,864		2,864		2,864				2,864
37	LAUNCHER, 2.75 ROCKET										
38	AIRBORNE COMMUNICATIONS		5,714		5,714		5,714				5,714
39	CLOSED ACCOUNT ADJUSTMENT										
	TOTAL AIRCRAFT PROCUREMENT ARMY		1,041,581		1,301,452		1,073,781		247,871		1,289,452

MISSILE PROCUREMENT, ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $594.0 million for Missile Procurement, Army. The Senate bill would authorize $693.9 million. The House amendment would authorize $685.1 million. The House amendment would authorize $818.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

VOL 140 PT 16 AG 12 — 18 1994 UMI

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	MISSILE PROCUREMENT, ARMY										
1	CHAPARRAL SYSTEM SUMMARY										
2	HAWK SYSTEM SUMMARY		330		330		330				330
3	OTHER MISSILE SUPPORT										
4	PATRIOT SYSTEM SUMMARY (MYP)		8,861		8,861		8,861				8,861
5	STINGER SYSTEM SUMMARY			500	10,000						
6	AVENGER SYSTEM SUMMARY		13,773				13,773		-8,400		5,373
7	AVENGER ADVANCE PROCUREMENT (CY)										
8	HELLFIRE SYS SUMMARY	830	121,641	1,295	133,641	1,230	133,641	415	5,200	1,245	126,841
9	JAVELIN (AAWS-M) SYSTEM SUMMARY	374	131,086	872	214,000	872	214,000	498	82,914	872	214,000
10	JAVELIN ADVANCE PROCUREMENT (CY)										
11	TOW 2 SYSTEM SUMMARY		27,808		27,808		27,808				27,808
12	MLRS ROCKET								10,000		10,000
13	MLRS LAUNCHER		60,123		60,123		60,123		130,000		190,123
14	ARMY TACTICAL MSL SYS (ATACMS)	148	115,858	148	115,858	148	115,858			148	115,858
15	ATACMS ADVANCE PROCUREMENT (CY)										
15a	SADARM										
16	PATRIOT MODS		26,160		26,160		26,160				26,160
17	HAWK MODS										
18	AVENGER MODS		10,877		10,877		10,877				10,877
18a	STINGER MODS						5,000		5,000		5,000
19	TOW MODS										
20	MLRS MODS		29,496		29,496		29,496				29,496
21	MODIFICATIONS LESS THAN $2.0M										
22	SPARES AND REPAIR PARTS MPA		34,616		34,616		34,616				34,616
23	AIR DEFENSE TARGETS		8,292		8,292		8,292				8,292
24	ITEMS LESS THAN $2.0M (MISSILES)		1,438		1,438		1,438				1,438
25	PRODUCTION BASE SUPPORT		3,636		3,636		3,636				3,636
	TOTAL MISSILE PROCUREMENT ARMY		593,995		685,136		693,909		224,714		818,709

TOW missile

The budget request contained $27.8 million in procurement for the TOW antitank missile. These funds were requested for plant closure and production support.

The Senate bill directed the Army to use the requested funds to continue missile production.

The House amendment took no similar action.

The House recedes.

The conferees direct the Secretary of the Army to include in the report required by the Senate report (S. Rept. 103-282) a re-evaluation of TOW inventory requirements In light of the age and condition of the current TOW inventory, Javelin fielding, force structure reductions, and retirement of most of the Cobra attack helicopters. In addition, the conferees direct the Secretary to evaluate all reasonable alternatives for the Tow missile, including a hypervelocity missile, keeping in minds that any TOW replacement should not require extensive modifications of TOW launchers on the Army's Bradley fighting vehicles.

WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $319.8 million for Weapons and Tracked Combat Vehicles, Army. The Senate bill would authorize $1,132.9 million. The House amendment would authorize $342.9 million. The conferees recommend authorization of $1,158.2 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

UMI 1994 12-18 AG PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	PROCUREMENT OF W&TCV, ARMY										
	TRACKED COMBAT VEHICLES										
1	ABRAMS TNG DEV MOD		994		994		994				994
2	BRADLEY FIGHTING VEHICLE FAMILY (MYP)		14,133		14,133		14,133				14,133
3	BRADLEY BASE SUSTAINMENT		145,438		145,438		145,438				145,438
4	BRADLEY FVS TRAINING DEVICES (MOD)		1,937		1,937		1,937				1,937
5	ABRAMS TANK TRAINING DEVICES		17,103		17,103		17,103				17,103
6	ARMORED GUN SYSTEM (AGS)										
7	M1 ABRAMS TANK SERIES (MYP)		22,089		22,089		22,089				22,089
8	CARRIER, MOD		51,090		51,090		51,090				51,090
9	BFVS SERIES (MOD)		72,512		72,512		72,512		7,600		80,112
10	HOWITZER, MED SP FT 155MM M109A6 (MOD)		237,603		159,503		237,603		-20,000		217,603
11	HOWITZER, MED SP FT 155MM M109A5 (MOD)		1,320		1,320		1,320				1,320
12	FAASV PIP TO FLEET		16,125		16,125		16,125		-6,172		9,953
13	IMPROVED RECOVERY VEHICLE (M88 MOD)		17,141	9	37,141		17,141		20,000		37,141
14	ARMORED VEH LAUNCH BRIDGE (AVLB) (MOD)										
15	M1 ABRAMS TANK (MOD)		40,291		40,291		40,291		-4,000		36,291
16	ABRAMS UPGRADE PROGRAM		122,156		122,156		50,556		-71,600		50,556
16a	ABRAMS UPGRADE PROGRAM (MCR)					24	108,000	24	108,000	24	108,000
17	ABRAMS UPGRADE ADV PROCUREMENT (CY)		52,973		52,973		124,573		71,600		124,573
17a	TANK ENGINE INDUSTRIAL BASE						35,000		35,000		35,000
18	MODS LESS THAN $2.0M (TCV-WTCV)		294		294		294				294
19	SPARES AND REPAIR PARTS WTCV				10,200				5,100		5,100
20	ITEMS LESS THAN $2.0M (TCV-WTCV)		218		218		218				218
21	PRODUCTION BASE SUPPORT (TCV-WTCV)		14,525		14,525		14,525				14,525
22	REGIONAL MAINTENANCE TRAINING SITES-EQU		1,710		1,710		1,710				1,710
	WEAPONS AND OTHER COMBAT VEHICLES										
23	HOWITZER, LIGHT, TOWED, 105MM, M119		195		195		195				195
24	MACHINE GUN, 5.56MM (SAW)		1,816		28,616		24,016		26,800		28,616
25	GRENADE LAUNCHER, AUTO, 40MM, MK19-3	600	12,302	600	21,302	600	38,902	1,800	26,600	2,400	38,902
26	MORTAR, 120MM		6,248		15,948		6,248		9,700		15,948
26a	M-16A2 RIFLE				13,000		13,000		13,000		13,000
27	5.56 CARBINE M4	8,892	4,865	8,892	7,865	8,892	13,165		8,300	8,892	13,165
28	PERSONAL DEFENSE WEAPON, 9MM				9,500				9,500		9,500

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
29	SQUAD AUTOMATIC WEAPON (MOD)		6,838		6,838		6,838				6,838
30	M16 RIFLE MODS		714		714		714				714
31	MODS LESS THAN $2.0M (WOCV-WTCV)		2,714		2,714		2,714				2,714
32	SPARES AND REPAIR PARTS WTCV		34,366		34,366		34,366				34,366
33	ITEMS LESS THAN $2.0M (WOCV-WTCV)		2,257		2,257		2,257				2,257
34	PRODUCTION BASE SUPPORT (WOCV-WTCV)		10,350		10,350		10,350				10,350
35	INDUSTRIAL PREPAREDNESS		7,469		7,469		7,469				7,469
	TOTAL WTCV		919,786		942,886		1,132,886		239,428		1,159,214

VOL 140 PT 16 AG 12 — 18 1994 UMI

Bradley fighting vehicle system series modifications

The budget request included $72.5 million for Bradley fighting vehicle system (BFVS) series modifications.

The Senate bill and the House amendment would authorize the requested amount.

The Senate bill would authorize $7.6 million in another program element to procure one mechanized infantry battalion set of reactive armor tiles.

The conferees agree that this initiative should be funded in the Bradley modifications program element.

M109A6 howitzer improvement program

The budget request included $237.6 million for procurement of improved M109A6 howitzers.

The Senate bill would authorize the requested amount.

The House amendment would reduce the requested amount by $78.1 million.

The conferees agree to authorize $217.6 million, a reduction of $20.0 million to the requested amount.

Joint Army/industry plan for tank engines

The Senate bill included funds to preserve the tank engine industrial base and directed that some tank engine overhaul work be transferred from the Anniston Army Depot (AAD) to the contractor-operated Stratford Army Engine Plant (SAEP).

The House amendment contained no similar funding.

The conferees agree with the Defense Science Board recommendation that a U.S. tank industrial base should be preserved. The conferees believe that the SAEP, which currently manufactures engines for the Abrams M1 tank, and the Anniston Army Depot, which currently overhauls tank engines, could benefit from the preservation of this industry. Accordingly, the conferees agree to authorize $35.0 million for fiscal year 1995, of which:

(1) $9.0 million is for systems technical and engineering support and engine durability upgrade efforts;

(2) $6.0 million is for plant downsizing; and

(3) $20.0 million is for an extended service program for Abrams tank engines.

In addition, the conferees authorize the requested amounts for tank spares and repair parts and for depot activities at AAD. Finally, the conferees direct the obligation of the remaining $17.0 million authorized and appropriated in fiscal year 1994, and direct the Army to develop a depot/industry tank propulsion plan to be conducted jointly between AAD and SAEP that will preserve the tank engine base. The conferees direct the transfer of all outputs of the extended service program an its successor programs from the SAEP to AAD.

Tank gun mounts

The conferees note that the discussion in the Senate report (S. Rept. 103-282) concerning gun mounts is not necessarily the position of the conference.

V-903 diesel engines

The budget request and the Senate bill did not include funds for spares and repair parts for tracked combat vehicles.

The House amendment would authorize an additional $10.2 million for 294 V-903 diesel engines.

The conferees are aware that the contractor claims it cannot produce V-903 diesel engines when the production rate falls below about 730 engines per year and, therefore, intends to discontinue production on May 19, 1995. The V-903 diesel engine is used in the Bradley fighting vehicle, multiple launch rocket system, M9 armored combat earthmover, new command and control vehicle, new electronic fighting vehicle, and Marine Corps AAVP7A1. The Army states that it requires a substantial number of additional engines, but has not decided whether to continue to fund engine procurement at the rates the contractor claims are necessary.

The conferees direct the Army to determine the additional number of V-903 engines it requires. The Army is further directed to consider alternatives to the V-903 engine, including the possibility of acquiring the technical data package, and report the results of these analyses to the congressional defense committees not later than March 1, 1995.

The conferees agree to authorize an additional $5.1 million to continue procuring V-903 engines and direct the Army to reprogram additional funds in fiscal year 1995, and to request adequate funding in fiscal year 1996, if the Army decides to continue production at 730 engines a year.

AMMUNITION ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $844.6 million for Ammunition Procurement, Army. The Senate bill would authorize $878.1 million. The House amendment would authorize $854.9 million. The conferees recommend authorization of $902.8 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	Senate FY1995 --- Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	Conference FY95 -- Authorization Amount
	PROCUREMENT OF AMMUNITION, ARMY										
	SMALL/MEDIUM CAL AMMUNITION										
1	CTG, 5.56MM, ALL TYPES		73,605		73,605		83,105		9,500		83,105
2	CTG, 7.62MM, ALL TYPES		12,108		12,108		12,108				12,108
3	CTG, .50 CAL, ALL TYPES		2,839		2,839		2,839				2,839
4	CTG, 20MM, ALL TYPES		1,171		1,171		1,171				1,171
5	CTG, 25MM, ALL TYPES		21,935		35,835		35,835		13,900		35,835
6	CTG, 30MM, ALL TYPES		16,577		16,577		16,577				16,577
7	CTG, 40MM, ALL TYPES		13,441		17,741		17,741		4,300		17,741
8	CTG, 40MM, ALL TYPES -			1	3,305	1	3,305		3,000	1	3,305
	MORTAR AMMUNITION										
9	CTG MORTAR 60MM 1/10 PRAC M840	1	305	14	6,276	14	6,276			14	6,276
10	CTG MORTAR 60MM ILLUM M721	14	6,276								
	CTG, MORTAR, 120MM, HE										
11	CTG MORTAR 120MM SMOKE XM929 W/MO FUZE	17	21,698	17	21,698	17	21,698			17	21,698
	CTG, MORTAR, 81MM, 1/10 TNG										
	TANK AMMUNITION										
12	CTG TANK 35MM SUBCAL PRAC M968										
13	CTG TANK 105MM TP-T M490A1										
14	CTG TANK 105MM TPDS-T M724A1										
15	CTG 120MM APFSDS-T M829A2	24	82,447	24	82,447	24	82,447		18,178	24	82,447
16	CTG 120MM HEAT-MP-T M830A1	10	34,596	10	34,596	10	52,774			10	52,774
17	CTG TANK 120MM TP-T M831	43	29,774	43	29,774	43	29,774			43	29,774
18	CTG TANK 120MM TPCSDS-T M865	129	83,547	129	83,547	129	83,547			129	83,547
	ARTILLERY AMMUNITION										
19	CTG ARTY 105MM HERA M913				10,000		21,400		21,400		21,400
20	PROJ ARTY 155MM BASEBURNER M864				5,000						
	PROJ ARTY 155MM M795						30,000		30,000		30,000
20a	SADARM										
21	PROJ ARTY 155MM PRAC M804				5,478		5,478				5,478
22	PROP CHG 155MM RED BAG M203A1			17	44,248	17	52,248		-661	17	44,248
23	MINE, TRAINING, ALL TYPES		5,478				7,761				7,100
24	MINE AT/AP M87 (VOLCANO)	17	44,248								
25	BUNKER DEFEATING MUNITION (BDM)		7,761								

VOL 140 PT 16 AG 12 I 18 1994 UMI

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
26	ROCKET, HYDRA 70, ALL TYPES		107,850		107,850		107,850				107,850
27	PRIMER PERCUSSION M82										
28	DEMOLITION MUNITIONS, ALL TYPES		23,356		23,356		23,356				23,356
29	GRENADES, ALL TYPES		4,167		4,167		4,167				4,167
30	SIGNALS, ALL TYPES		687		687		687				687
31	SIMULATORS, ALL TYPES		9,388		9,388		9,388				9,388
32	AMMO COMPONENTS, ALL TYPES		5,222		5,222		5,222				5,222
33	M483 TO M864 CONVERSION										
34	UPGRADE/IMPROVEMENT OF AT4										
35	CAD/PAD ALL TYPES		7,084		7,084		7,084				7,084
36	ITEMS LESS THAN $2 MILLION		776		776		776				776
37	EOD EXPLOSIVE ITEMS										
38	AMMUNITION PECULIAR EQUIPMENT		4,645		4,645		4,645				4,645
39	ITEMS LESS THAN $2.0M (AMMO)		537		537		537				537
40	FIRST DESTINATION TRANSPORTATION(AMMO)		4,713		4,713		4,713				4,713
41	PROVISION OF INDUSTRIAL FACILITIES		44,429		44,429		44,429				44,429
42	COMPONENTS FOR PROVE-OUT		2,238		2,238		2,238				2,238
43	LAYAWAY OF INDUSTRIAL FACILITIES		26,774		26,774		26,774				26,774
44	PROVING GROUND MODERNIZATION		1,361		1,361		1,361				1,361
45	MAINTENANCE OF INACTIVE FACILITIES		48,142		48,142		48,142				48,142
46	CONVENTIONAL AMMO DEMILITARIZATION		95,469		95,469		100,469	5,000	5,000		100,469
47	ARMS INITIATIVE										
48	LAAP FLEXIBLE MANUFACTURING CENTER						-79,800	-46,440	-46,440		-46,440
	PRIOR YEAR SAVINGS						-7,761				
	UNDISTRIBUTED										
	TOTAL AMMUNITION		844,644		854,883		870,361	58,177	58,177		902,821

Prior-year savings for procurement of ammunition-Army

The conferees agree to the following prior-year savings from fiscal year 1994 Army ammunition programs:

[Dollars in millions]

Item:	
35mm M968	−5.55
105mm M490A1 TP-T	−7.4
105mm M490AT TP-T tank	−10.0
105mm M724A1 DS-TP	−5.0
105mm M724A1 DS-TP tank	−10.0
Upgrade/improvement of AT-4	−5.0
CAD/PAD, all types	−1.36
Ammo components, all types	−2.13
Total	−46.44

120 millimeter tank ammunition

The House report (H. Rept. 103-499) directed the Secretary of the Army to maintain the 120 millimeter tank load operation at the Milan Army Ammunition Plant until the Secretary certifies to the congressional defense committees that it would be cost-effective to perform this function elsewhere.

The Senate report (S. Rept. 103-282) contained similar direction.

The conferees agree that fact-of-life changes have negated the need for the Senate and House direction.

OTHER PROCUREMENT, ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $2,690.2 million for Other Procurement, Army. The Senate bill would authorize $2,677.7 million. The House amendment would authorize $2,651.2 million. The conferees recommend authorization of $2,624.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

UMI 1994 12-18 AG PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	OTHER PROCUREMENT, ARMY										
	TACTICAL AND SUPPORT VEHICLES										
1	TACTICAL TRAILERS/DOLLY SETS		25,301		25,301		25,301				25,301
2	SEMITRAILER, TANK, 5000G										
3	SEMITRAILER VAN CGO SUPPLY 12T M129A2	99	4,851	99	4,851	99	4,851			99	4,851
4	HI MOB MULTI-PURP WHL VEH (HMMWV)(MYP)	1,360	108,119	1,360	108,119	1,360	108,119			1,360	108,119
5	FAMILY OF MEDIUM TACTICAL VEH (MYP)	3,535	382,739	3,535	332,739	3,535	382,739	-185	-18,100	3,350	364,639
6	HEAVY EQUIPMENT TRANSPORTER SYS										
7	FAMILY HEAVY TACTICAL VEHICLES (MYP)		16,459		16,459		36,459				16,459
8	MEDIUM TRUCK EXTENDED SVC PGM (ESP)										
9	MODIFICATION OF IN SVC EQUIP		11,817		11,817		11,817				11,817
10	ITEMS LESS THAN $2.0M (TAC VEH)		201		201		201				201
11	PASSENGER CARRYING VEHICLES										
12	GENERAL PURPOSE VEHICLES										
13	SPECIAL PURPOSE VEHICLES										
14	SYSTEM FIELDING SUPPORT PEO		5,477		5,477		5,477				5,477
15	PROJECT MANAGEMENT SUPPORT		2,501		2,501		2,501				2,501
16	SYSTEM FIELDING SUPPORT (TACOM)		2,114		2,114		2,114				2,114
17	SPARES AND REPAIR PARTS OPA-1										
	COMMUNICATIONS AND ELECTRONICS EQUIPMENT										
18	JCSE EQUIPMENT (USREDCOM)		1,825		1,825		1,825				1,825
19	DEFENSE SATELLITE COMMUNICATIONS SYS		104,536		104,536		104,536				104,536
20	SAT TERM, EMUT	312	15,059	312	15,059	312	15,059			312	15,059
21	GMF CONTROL										
22	NAVSTAR GLOBAL POSITIONING SYSTEM	5,785	32,336	5,785	32,336	5,785	32,336			5,785	32,336
23	MILSTAR EDM TERMINAL										
24	GROUND COMMAND POST		5,948		5,948		5,948				5,948
25	MOD OF IN-SVC EQUIP (TAC SAT)		5,375		5,375		5,375				5,375
26	MSE MOD IN SERVICE		33,495		33,495		33,495				33,495
27	COMMAND CENTER IMPROVEMENT PROG (CCIP)		3,664		3,664		3,664				3,664
28	STD THEATER CMD & CONTROL SYS (STACCS)		12,095		12,095		12,095				12,095
29	WWMCCS INFORMATION SYSTEM (WIS)										
30	ARMY DATA DISTRIBUTION SYSTEM (ADDS)		9,558		9,558		9,558				9,558
31	MOBILE SUBSCRIBER EQUIP (MSE)										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
32	SINCGARS FAMILY		367,382		367,382		367,382				367,382
33	SW ASIA COMM INFRASTRUCTURE										
34	EAC COMMUNICATIONS		12,067		12,067		49,867		37,800		49,867
35	MOD OF IN-SVC EQUIP (EAC COMM)		11,774		11,774		11,774				11,774
36	C-E CONTINGENCY/FIELDING EQUIP		8,128		8,128		8,128				8,128
37	TSEC - ARMY KEY MGT SYS (AKMS)										
38	TSEC - INFORMATION SYSTEM SECURITY		13,083		13,083		13,083				13,083
39	TSEC - TEMPEST (COMSEC)										
40	TSEC - TRUNK ENCRYPTION DEVICES (TED)										
41	TSEC/KG-84, DED LOOP ENCRYP DEV										
42	TSEC/KY-99, MINTERM										
43	TSEC - SEC VOICE IMPRV PROG (COMSEC)										
44	TSEC - ITEMS LESS THAN $2.0M (COMSEC)										
45	TSEC - JCSE EQIP		531		531		531				531
46	TERRESTRIAL TRANSMISSION		899		899		899				899
47	C-E FACILITIES/PROJECTS		614		614		614				614
48	DEFENSE DATA NETWORK (DDN)		2,743		2,743		2,743				2,743
49	ELECTROMAG COMP PROG (EMCP)		881		881		881				881
50	WW TECH CON IMP PROG (WWTCIP)		200		200		200				200
51	INFORMATION SYSTEMS		22,000		22,000		22,000				22,000
52	DEFENSE MESSAGE SYSTEM (DMS)		16,468		16,468		16,468				16,468
53	LOCAL AREA NETWORK (LAN)		16,954		16,954		16,954				16,954
54	PENTAGON TELECOM CTR (PTC)		3,118		3,118		3,118				3,118
55	FOREIGN COUNTERINTELLIGENCE PROGRAM		210		210		210				210
56	GENERAL DEFENSE INTELL PROG (GDIP)		31,097		31,097		31,097				31,097
57	ITEMS LESS THAN $2.0M (INTEL SPT)		1,376		1,376		1,376				1,376
58	ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)		28,247		18,247		28,247		-4,700		23,547
59	COMMANDERS TACTICAL TERM (CTT) (TIARA)	24	8,228	24	8,228	24	13,228		5,000	24	13,228
60	HF COMINT SYSTEM (TIARA)										
61	IEW - GND BASE COMMON SENSORS (TIARA)		58,826		53,826		58,826				58,826
62	DEFENSE AIRBORNE RECONN PROGRAM (DARP)		2,428		2,428		1,028		-1,400		1,028
63	JOINT STARS (ARMY) (TIARA)		55,638		55,638		55,638				55,638
64	DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (TIA		12,835		7,835		12,835		-5,000		7,835
65	DRUG INTERDICTION PROGRAM (TIARA)										

UMI 1994 12-18 AG PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
66	TACT ELEC SURV SYS (TESS)(TIARA)		4,669		4,669		4,669				4,669
67	TROJAN (TIARA)		22,319		22,319		22,319				22,319
68	MOD OF IN-SVC EQUIP (INTEL SPT)(TIARA)		15,295		15,295		15,295				15,295
69	ITEMS LESS THAN $2.0M (TIARA)										
70	CLOSE COMBAT DECOYS										
71	MOD OF IN-SVC EQUIP (EW)										
72	LESS THAN $2.0M (EW) CMP GEN		1,763		1,763		1,763				1,763
73	LT SPEC DIV INTERIM SENSOR (LSDIS)		1,889		1,889		1,889				1,889
74	FAAD GBS		64,316		64,316		64,316				64,316
75	NIGHT VISION DEVICES		78,362		98,362		80,612		2,250		80,612
76	PHYSICAL SECURITY SYSTEMS		10,222		10,222		10,222				10,222
77	ARTILLERY ACCURACY EQUIP		9,454		9,454		9,454				9,454
78	MOD OF IN-SVC EQUIP (TAC SURV)		4,603		4,603		4,603				4,603
79	INTEGRATED MET SYS SENSORS (IMETS)		7,004		7,004		7,004				7,004
80	ADV FIELD ARTIL TACT DATA SYS (AFATDS)	313	32,610	313	32,610		3,610	-313	-24,410		8,200
81	FIRE SUPPORT ADA CONVERSION	142	13,212	142	13,212	142	13,212		-1,600	142	11,612
82	INITIAL FIRE SPT AUTOMATIC SYS (IFSAS)										
83	CMBT SVC SUPT CONTROL SYS (CSSCS)	42	6,020	42	6,020	42	6,020			42	6,020
84	CORPS/THEATER ADP SVC CTR (CTASC)		2,006		2,006		2,006				2,006
85	FAAD C2		14,252		14,252		14,252				14,252
86	FORWARD ENTRY DEVICE (FED)		100		100		100				100
87	COMMON HARDWARE SOFTWARE										
88	LIFE CYCLE SOFTWARE SUPPORT (LCSS)		1,697		1,697		1,697				1,697
89	LOGTECH		4,669		4,669		4,669				4,669
90	ISYSCON EQUIPMENT										
91	MANEUVER CONTROL SYSTEM (MCS)										
92	STAMIS TACTICAL COMPUTERS (STACOMP)		21,850		21,850		21,850				21,850
93	STANDARD INTEGRATED CMD POST SYSTEM		25,085		25,085		25,085				25,085
94	AUTOMATED DATA PROCESSING EQUIP		122,419		122,419		122,419		-12,000		110,419
95	RESERVE COMP AUTOMATION SYS (RCAS)		101,546		101,546		101,546				101,546
96	AFRTS		2,993		2,993		2,993				2,993
97	ITEMS LESS THAN $2.0M (A/V)		3,850		3,850		3,850				3,850
98	CALIBRATION SETS EQUIPMENT		10,349		10,349		10,349				10,349
99	INTEGRATED FAMILY OF TEST EQUIP (IFTE)		58,216		58,216		58,216				58,216

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
100	SIMP TEST EQUIP-INTERNAL COMBUST ENGS										
101	THDE MODERNIZATION (THOD)		11,188		11,188		11,188				11,188
102	INITIAL SPARES - PEO CCS										
103	INITIAL SPARES - PEO COMM										
104	INITIAL SPARES - PEO IEW										
105	INITIAL SPARES - PEO STAMIS										
106	INITIAL SPARES - NON PEO										
107	ARMY PRINTING AND BINDING EQUIPMENT										
108	INSTALLATION C4 UPGRADE… (ICU)		2,274		2,274		2,274				2,274
109	PECIP AND QRIP										
110	PRODUCTION BASE SUPPORT (C-E)		849		849		849				849
111	SPECIAL PROGRAMS										
	OTHER SUPPORT EQUIPMENT										
112	SIMP COLL PROT EQUIP M20										
113	COLL PROT EQUIP, NBC TEMPER, TENT M2		10,310		10,310		10,310				10,310
114	MASK, PROTECTIVE, NBC M40/M42		24,980		24,980		24,980				24,980
115	REMOTE SENSING CHEM AGENT ALARM XM21	156	18,975	156	18,975	156	18,975			156	18,975
116	IMPROVED CHEMICAL AGENT MONITOR		2,778		2,778		2,778				2,778
117	AUTO CHEM AGENT ALARM (ACADA), XM22	388	13,046	388	13,046	388	13,046			388	13,046
118	DECONTAMINATE APP PWR DR LT WT M17										
119	GEN SMK MECH:MTRZD DUAL PURP XM56	71	12,500	71	12,500	71	12,500			71	12,500
120	RADIATION MONITORING SYSTEM (OPA-3)										
121	JOINT BIOLOGICAL DEFENSE PROGRAM		20,416		20,416				-20,416		
122	TOWED ASSAULT BRIDGE										
123	DISPENSER, MINE M139	179	16,311	179	16,311	179	16,311			179	16,311
124	DETECTING SET, MINE, AN/PSS-12										
125	AIR CONDITIONERS VARIOUS SIZE/CAPACITY		3,017		3,017		3,017				3,017
126	STANDARD INTEGRATED CMD POST SYSTEM										
127	CHEM/BIO PROTECTIVE SHELTER	51	9,539	51	9,539				-2,500	51	7,039
128	FIRETRUCKS										
129	SPACE HEATER	564	2,832	564	2,832	564	2,832			564	2,832
130	SOLDIER ENHANCEMENT										
131	FORCE PROVIDER		10,741		10,741		10,741				10,741
132	REFRIGERATION EQUIPMENT		4,788		4,788		1,888		-2,900		1,888

UMI 1994 12-18 AG PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
133	ITEMS LESS THAN $2.0M (CSS-EQ)		4,380		4,380		4,380				4,380
134	TANK ASSEMBLY FAB COLLAPSIBLE POL 10000	94	947	94	947	94	947			94	947
135	TANK ASSY, FAB COLLAPS, 20,000 GAL POL										
136	LAB PETROLEUM MODULAR BASE	1	2,360	1	2,360	1	2,360			1	2,360
137	INLAND PETROLEUM DISTRIBUTION SYSTEM		3,678		3,678		3,678				3,678
138	FORWARD AREA REFUELING SYS ADV AVIAT										
139	HEMTT AVIATION REFUELING SYSTEM	113	2,986	113	2,986	113	2,986			113	2,986
140	ITEMS LESS THAN $2.0M (POL)		7,726		7,726		7,726				7,726
141	WATER PURIF UNIT REV OS 3000 GPH										
142	FWD AREA WTR POINT SUP SYSTEM	155	2,731	155	2,731	155	2,731			155	2,731
143	SMALL MOBILE WATER CHILLER (SMWC)	185	1,907	185	1,907	185	1,907			185	1,907
144	ITEMS LESS THAN $2.0M (WATER EQ)		3,017		3,017		3,017				3,017
145	COMBAT SUPPORT MEDICAL		16,574		16,574		16,574				16,574
146	SHOP EQ CONTACT MAINT TRK MTD (MYP)	118	2,832	118	2,832	118	2,832			118	2,832
147	TOOL OUTFIT HYDRAULIC REPAIR 3/4 TRL MT	23	2,099	23	2,099	23	2,099			23	2,099
148	ITEMS LESS THAN $2.0M (MAINT EQ)		1,152		1,152		1,152				1,152
149	COMPACTOR HI-SPEED TAMP SELF PROP(CCE)										
150	ROLLER, VIBRATORY, SELF-PROPELLED(CCE)	31	5,876	31	5,876	31	5,876			31	5,876
151	CRUSHING/SCREENING PLANT, 150 TPH										
152	ITEMS LESS THAN $2.0M (CONST EQUIP)		3,396		3,396		3,396				3,396
153	LOGISTIC SUPPORT VESSEL (LSV)										
154	CAUSEWAY SYSTEMS		14,309		14,309						14,309
155	RAILWAY CAR, FLAT, 100 TON	97	11,617	97	11,617	97	11,617			97	11,617
156	ITEMS LESS THAN $2.0M (FLOAT/RAIL)		2,246		2,246		2,246				2,246
157	GENERATORS AND ASSOCIATED EQUIP		25,194		25,194		25,194				25,194
158	FRONT/SIDE LOADER FORKLIFT, CBD, PT.										
159	ITEMS LESS THAN $2.0M (MHE)		4,728		4,728		4,728				4,728
160	COMBAT TRAINING CENTERS SUPPORT		20,138		20,138		20,138				20,138
161	TRAINING DEVICES, NONSYSTEM		99,339		99,339		99,339		-13,400		85,939
162	SIMNET/CLOSE COMBAT TACTICAL TRAINER		32,038		32,038		32,038				32,038
163	SYSTEM FIELDING SUPPORT (OPA-3)		13,965		13,965		13,965				13,965
164	SPARES AND REPAIR PARTS OPA-3										
165	BASE LEVEL COM'L EQUIPMENT		9,322		9,322		9,322				9,322
166	ARMS CONTROL COMPLIANCE		3,521		3,521		3,521				3,521

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
167	COMBINED DEFENSE IMPROVEMENT PROJECT		3,143		3,143		3,143				3,143
168	MODIFICATION OF IN-SVC EQUIP (OPA-3)		36,447		36,447		36,447				36,447
169	PRODUCTION BASE SUPPORT (OTH)		1,887		1,887		1,887				1,887
170	INDUSTRIAL MODERNIZATION INCENTIVE										
171	SPECIAL EQUIPMENT FOR USER TESTING		10,517		10,517		10,517				10,517
172	OPA INITIAL SPARES		75,650		75,650		75,650		-4,150		71,500
173	TRACTOR ACE										
174	OPERATIONAL PROJECT STOCKS										
175	NATURAL GAS UTILIZATION										
176	CLOSED ACCOUNT ADJUSTMENTS										
176a	BATTLEFIELD COMBAT IDENTIFICATION			150	11,000						
	TOTAL OTHER PROCUREMENT ARMY		2,690,233		2,651,233		2,677,719		-65,526		2,624,707

VOL 140 PT 16 AG 12 | 18 1994 UMI

Medium tactical trucks

The budget request contained $382.7 million to procure 3,535 medium trucks under the Army's family of medium tactical truck (FMTV) program.

The Senate bill would authorize the requested amount, but would prohibit obligation of 75 percent of the funds until the Under Secretary of Defense (Acquisition and Technology) reports to the congressional defense committees on a variety of issues.

The House amendment would reduce the requested amount by $50.0 million.

The conferees agree to authorize $364.6 million for this program, without limitations on the obligation of funds. The conferees understand that the Army is considering termination on another lengthy stretch-out of this program in fiscal year 1996, because of budget reductions and because the Army believes that trucks are a lower priority than weapons systems.

The conferees are concerned that the Army's position is short-sighted. Fast-moving projection forces are only as effective as their logistics system. Some of the Army's tactical trucks were built in the early 1950s, and Operation Desert Storm/Desert Shield revealed significant deficiencies. It is a fallacy that the Army could procure adequate trucks in a crisis from the commercial sector.

The Senate report (S. Rept. 103-282) argued that it makes little sense for the Army, Marine Corps, and the reserve components to pursue separate truck modernization programs—all of which are underfunded. The conferees believe this course makes even less sense if FMTV is stretched out further. The conferees endorse the analysis and reporting requirement described in the Senate report and establish a deadline for the report of March 15, 1995. The conferees urge the Secretary of Defense to carefully review the Army's proposed budget for the FMTV program.

AIRCRAFT PROCUREMENT, NAVY

Overview

The budget request for fiscal year 1995 contained an authorization of $4,786.3 million for Aircraft Procurement, Navy. The Senate bill would authorize $4,535.6 million. The House amended would authorize $4,588.0 million. The conferees recommend authorization of $4,491.8 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
	AIRCRAFT PROCUREMENT, NAVY										
1	EA-6B/REMFG (ELECT WARFARE) PROWLER										
2	AV-8B (V/STOL)HARRIER	4	130,216	4	130,216	4	130,216			4	130,216
3	AV-8B ADVANCE PROCUREMENT (CY)		15,528		15,528		15,528				15,528
4	F-14A/D (FIGHTER) TOMCAT										
5	F/A-18C/D (FIGHTER) HORNET (MYP)	24	1,032,368	24	1,032,368	17	782,368	-90,400		24	933,968
6	F-18 ADVANCE PROCUREMENT (CY)		84,792		84,792		44,792				84,792
7	CH/HH-53E (HELICOPTER) SUPER STALLION										
8	CH/HH-53 ADVANCE PROCUREMENT (CY)		41,084		41,084	4	101,084				41,084
9	AH-1W (HELICOPTER) SEA COBRA	12	141,721	12	141,721	12	141,721			12	141,721
10	SH-60B (ASW HELICOPTER) SEAHAWK										
11	SH-60B ADVANCE PROCUREMENT (CY)						7,602				7,602
12	SH-60F CV (ASW HELICOPTER)										
13	SH-60F ADVANCE PROCUREMENT (CY)		7,602								
14	E-2C (EARLY WARNING) HAWKEYE	4	285,759	4	285,759	4	285,759	-29,600		4	256,159
15	E-2C ADVANCE PROCUREMENT (CY)		41,669		41,669		41,669				41,669
16	C-20										
17	T-45TS (TRAINER) GOSHAWK	12	214,220	12	214,220	12	214,220			12	214,220
18	T-45 ADVANCE PROCUREMENT (CY)		31,180		31,180		31,180				31,180
19	HH-60H (HELICOPTER)		39,895		39,895		22,795		-38,372		39,895
	MODIFICATION OF AIRCRAFT										
20	A-6 SERIES						38,372		-38,372		
21	EA-6 SERIES						22,915				22,915
22	AV-8 SERIES						158,326				158,326
23	F-14 SERIES						211				211
24	ADVERSARY						19,310		-19,310		
25	ES-3 SERIES						46,088		-40,000		46,088
26	F-18 SERIES						95,919				95,919
27	H-46 SERIES						53,814				53,814
28	H-53 SERIES						59,803		-11,874		47,929
29	SH-60 SERIES						95,874				95,874
30	H-1 SERIES										
31	H-2 SERIES						3,862				3,862
32	H-3 SERIES										

VOL 140 PT 16 AG 12 - 18 1994 UMI

P-1 LINE	ITEM	FY1995 Request Quantity	Amount	--- House FY1995 --- Authorization Quantity	Amount	--- Senate FY1995 --- Authorization Quantity	Amount	---Conference--- Change to Request Quantity	Amount	-- Conference FY95 -- Authorization Quantity	Amount
33	DARP MODS		21,714		21,714		21,714				21,714
34	P-3 SERIES		104,253		104,253		136,253				104,253
35	S-3 SERIES		40,891		40,891		40,891		-18,400		22,491
36	E-2 SERIES		187,139		187,139		187,139		-27,600		159,539
37	TRAINER A/C SERIES		276		276		276				276
38	C-130 SERIES		17,390		17,390		17,390				17,390
39	FEMSG		8,931		8,931		8,931				8,931
40	CARGO/TRANSPORT A/C SERIES		22,727		22,727		22,727				22,727
	KC-135 MULTIPOINT MODIFICATIONS								25,800		25,800
41	E-6 SERIES		90,482		90,482		90,482		-9,000		81,482
42	EXECUTIVE HELICOPTERS SERIES		38,093		38,093		38,093		-5,000		33,093
43	VARIOUS										
44	T-45 SERIES		6,316		6,316		6,316				6,316
45	POWER PLANT CHANGES		13,624		13,624		13,624				13,624
46	MISC FLIGHT SAFETY CHANGES		171		171		171				171
47	COMMON ECM EQUIPMENT		12,664						-12,664		
48	COMMON AVIONICS CHANGES		84,092		74,092		84,092		-10,000		74,092
49	SPARES AND REPAIR PARTS APN		916,436		916,436		916,436				916,436
50	COMMON GROUND EQUIPMENT		391,534		391,534		391,534				391,534
51	AIRCRAFT INDUSTRIAL FACILITIES		38,320		38,320		38,320				38,320
52	WAR CONSUMABLES		18,512		18,512		18,512				18,512
53	OTHER PRODUCTION CHARGES		50,351		50,351		50,351				50,351
54	SPECIAL SUPPORT EQUIPMENT		18,172		18,172		18,172				18,172
55	FIRST DESTINATION TRANSPORTATION		3,649		3,649		3,649				3,649
56	CANCELLED ACCOUNT ADJUSTMENTS										
	TOTAL AIRCRAFT PROCUREMENT NAVY		4,786,265		4,588,007		4,535,601		-294,420		4,491,845

F/A-18 C/D aircraft

The budget request included $1,032.4 million to buy 24 F/A-18 C/D aircraft in fiscal year 1995 and $84.8 million for advance procurement of 24 aircrafts in fiscal year 1996.

The House amendment would approve the requested amount. The House report (H. Rept. 103-499) noted that the Navy is selecting an identification friend or foe (IFF) device. The report also noted that an IFF interrogator/transponder had already been developed for export versions of F/A-18 C/D aircraft. The report directed the Secretary of the Navy to incorporate a non-developmental IFF into the aircraft, beginning with lot 19.

The Senate bill would authorize 17 aircraft and a total of $826.7 million for F/A-18 C/D production and advance procurement. The Senate report (S. Rept. 103-282) stated that 17 aircraft for the Department of the Navy, in addition to foreign sales, would be sufficient to maintain production. The report indicated that the Navy should plan to buy the more capable F/A-18 E/F in greater quantities when that version becomes available.

The conferees agree to provide $934.0 million to buy 24 F/A-18 C/D aircraft in fiscal year 1995 and $84.8 million for advance procurement of 24 aircraft in fiscal year 1996.

The conferees support the House initiative regarding procurement of a non-developmental IFF interrogator/transponder. However, the conferees note that there is more than one non-developmental interrogator/transponder available. Because savings derived from competition could be substantial, the conferees direct the Secretary of the Navy to ensure that the IFF requirement is satisfied through competitive procedures.

CH/MH-53E helicopters

The budget request included $41.1 million for the CH-53 helicopter. The Navy had planned to buy four CH-53E helicopters in fiscal year 1995, but now plans to shift some of its MH-53E and CH-53E helicopters from airborne mine countermeasures (AMCM) and vertical on-board delivery (VOD) squadrons to the Marine Corps. These shifts persuaded the Navy that it could truncate procurement of the CH-53Es at the end of the fiscal year 1994 buy.

The Senate bill would provide an additional $60.0 million for buying four CH-53 helicopters to support Marine Corps and Navy VOD lift requirements and preclude the need to reduce AMCM force structure.

The House amendment would authorize the requested amount.

The conferees agree to provide $41.1 million. The conferees note that these funds were requested for production line shutdown costs on the CH-53 program. The conferees understand that the Marine Corps may desire to use these funds to purchase two additional helicopters rather than terminate the program. The conferees would not object to the use of these funds for this purpose.

EA-6B modifications

The budget request included $38.4 million for EA-6B modifications. The Navy intended to use these funds for various structural and common configuration modifications, including the block 89A, wing center sections, pod hardback, and band 9/10 transmitter modifications.

The Senate bill would authorize the requested amount.

The House bill would not authorize any funds in fiscal year 1995 for EA-6B modifications.

The House and Senate reports (H. Rept. 103-499 and S. Rept. 103-282) directed the Secretary of the Navy to carry out a robust, lower cost alternative to the advanced capability (ADVCAP) upgrade program.

The Senate recedes. The conferees agree to authorize no funds for EA-6B modifications in fiscal year 1995.

The conferees direct the Secretary of the Navy to proceed with a lower cost alternative to the now-terminated advanced capability (DVCAP) upgrade program. Although the conferees are aware that the Navy is awaiting the results of a joint Navy/Air Force airborne electronic warfare (EW) study before commencing any alternative upgrade program for the EA-6B, the conferees are concerned that any delay in initiating these upgrades could foreclose the Navy's ability to capitalize on its prior ADVCAP investment. Furthermore, a failure to capture current technology through delaying the program could result in a requirement for a new aircraft that is unaffordable.

The conferees direct the Secretary of the Navy to immediately commence a modification program to address the structural and supportability problems associated with the EA-6B fleet. The conferees note the availability of the more than $475.0 million authorized and appropriated in fiscal year 1993 and 1994 for the EA-6B1 ADVCAP program, and direct the Secretary of the Navy to use those funds to initiate the structural upgrade program.

The conferees further direct the Secretary to report the results of the joint EW study, together with his recommendations for a lower cost alternative to the ADVCAP upgrade, to the congressional defense committees by December 31, 1994. The conferees specifically prohibit any reprogramming of the remaining prior-year funds for other purposes until the costs of the structural and tactical jamming system upgrades are further committees.

P-3 series modifications

The budget request included $104.3 million for P-3 series modifications.

The Senate bill would approve $136.3 million for P-3 modifications, an increase of $32.0 million from the requested level. Of this amount, the Senate report (S. Rept. 103-282) indicated that $25.0 million would provide for component testing, the development of a logistics and training infrastructure, and the procurement of additional anti-surface warfare (ASUW) improvement program (AIP) systems. The remaining $7.0 million would permit the Navy to complete procurement of new computers for the P-3C update III program, a separate action necessary for P-3 AIP.

The House amendment would approve the requested amount. The House report (H. Rept. 103-499) noted that, between 1991 and the end of fiscal year 1995, the maritime patrol aircraft (MPA) force structure will have been reduced from 37 squadrons to 22 squadrons. The House report expressed concern that the Navy may be reducing its MPA force structure too quickly. The House report directed the Secretary of the Navy to submit a report describing how the loss of operational capability that would result from a reduction in MPA force structure below 22 squadrons could be offset by other Navy or Department of Defense assets.

The conferees agree to approve the requested amount and reiterate the requirement that the Secretary of the Navy provide the report originally required by the House report.

Multipoint refueling modifications

The budget request contained $25.8 million for making multipoint refueling modifications to KC-135 tanker aircraft.

The Senate bill would delete these funds, based on information that the Air Force had canceled the program.

The House amendment would authorize the requested amount for multipoint modifications.

The conferees are concerned by the slow progress in providing multipoint refueling capability for Air Force KC-135 tanker aircraft. The conferees recently learned of a relatively inexpensive French modification program carried out in the United States to provide multipoint refueling for French KC-135 tankers. Therefore, the conferees encourage the Secretary of Defense to establish an aerial refueling initiative to consider a commercial program for KC-135 multipoint refueling.

To ensure that interoperability and low cost solutions are considered, the initiative should be administered with the oversight of the Under Secretary of Defense for Acquisition and Technology, relying on advice and support from Air Force and Navy representatives.

Because multipoint refueling provides relatively more improvements for Navy aircraft, the conferees agree to provide the fiscal year 1995 funds to the Navy. The conferees recommend $25.8 million for this initiative in the aircraft procurement, Navy account. The conferees understand that the initiative is included in the Future Years Defense Program and applaud the Secretary's interoperability initiatives.

Overview

The budget request for fiscal year 1995 contained an authorization of $2,400.0 million for Weapons Procurement, Navy. The Senate bill would authorize $2,428.5 million. The House amendment would authorize $2,223.2 million. The conferees recommend authorization of $2,076.6 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

79-059 O—97 Vol. 140 (Pt. 16) 8

UMI 1994 12 — 18 AG 16 PT VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	WEAPONS PROCUREMENT, NAVY										
1	TRIDENT I		13,481		13,481		13,481				13,481
2	TRIDENT II	18	641,318	18	641,318	18	641,318			18	641,318
3	TRIDENT II ADVANCE PROCUREMENT (CY)		54,700		54,700		54,700				54,700
4	MISSILE INDUSTRIAL FACILITIES		212		212		212				212
5	TOMAHAWK	217	301,993	217	261,993	217	301,993		-11,900	217	290,093
6	AMRAAM	106	84,287	106	84,287	106	84,287			106	84,287
7	HARPOON	58	68,738	58	68,738	58	68,738			58	68,738
8	HARM										
9	STANDARD MISSILE	202	258,072	202	258,072	202	258,072			202	258,072
10	RAM	240	63,547	240	63,547	240	63,547			240	63,547
11	HELLFIRE										
12	TOW IIA										
13	AERIAL TARGETS		122,242		122,242		122,242				122,242
14	DRONES AND DECOYS										
15	OTHER MISSILE SUPPORT		8,848		8,848		8,848				8,848
16	TOMAHAWK MODS		17,435		17,435		17,435				17,435
17	SPARROW MODS		26,797		26,797		26,797				26,797
18	SIDEWINDER MODS		3,541		3,541		3,541				3,541
19	PHOENIX MODS										
20	HARPOON MODS		6,478		6,478		6,478				6,478
21	HARM MODS										
22	STANDARD MISSILES MODS		32,610		32,610		32,610				32,610
23	WEAPONS INDUSTRIAL FACILITIES		22,855				51,355		28,500		51,355
24	FLEET SATELLITE COMM (MYP)		125,480		73,180		125,480				125,480
25	ORDNANCE SUPPORT EQUIPMENT		5,994		5,994		5,994				5,994
	TORPEDOES AND RELATED EQUIPMENT										
26	MK-48 ADCAP TORPEDO (MYP)										
27	MK-50 ALWT										
28	ASW TARGETS		10,951				10,951				10,951
29	ASROC										
30	VERTICAL LAUNCHED ASROC (VLA)										
31	ADVANCE PROCUREMENT (CY)										
32	MK-46 TORPEDO MODS		2,571		2,571		2,571				2,571

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
33	MK-48 TORPEDO ADCAP MODS		52,341		52,300		52,341				52,341
34	QUICKSTRIKE MINE										
35	MK-60 CAPTOR MODS										
36	TORPEDO SUPPORT EQUIPMENT		67,646				67,646		-32,646		35,000
37	ASW RANGE SUPPORT		23,713		23,713		23,713				23,713
38	FIRST DESTINATION TRANSPORTATION		5,721		5,721		5,721				5,721
39	SMALL ARMS AND WEAPONS		11,751		11,751		11,751				11,751
40	CIWS MODS		49,047		49,047		49,047				49,047
41	5/54 GUN MOUNT MODS		6,568		6,568		6,568				6,568
42	MK-75 76MM GUN MOUNT MODS		2,068		2,068		2,068				2,068
43	MODS UNDER $2 MILLION		1,666		1,666		1,666				1,666
44	CANCELLED ACCOUNT ADJUSTMENTS										
45	GENERAL PURPOSE BOMBS		55,496		55,496		55,496		-55,496		
46	2.75 INCH ROCKETS		14,500		14,500		14,500		-14,500		
47	MACHINE GUN AMMUNITION		14,181		14,181		14,181		-14,181		
48	PRACTICE BOMBS		2,827		12,827		2,827		-2,827		
49	GATOR										
50	CARTRIDGES & CART ACTUATED DEVICES		14,942		14,942		14,942		-14,942		
51	AIRCRAFT ESCAPE ROCKETS		9,963		9,963		9,963		-9,963		
52	AIR EXPENDABLE COUNTERMEASURES		12,088		12,088		12,088		-12,088		
53	MARINE LOCATION MARKERS		781		781		781		-781		
54	DEFENSE NUCLEAR AGENCY MATERIAL		455		455		455		-455		
55	JATOS		1,418		1,418		1,418		-1,418		
56	5 INCH/54 GUN AMMUNITION		52,965		59,965		52,965		-52,965		
57	CIWS AMMUNITION		2,470		2,470		2,470		-2,470		
58	76MM GUN AMMUNITION		13,938		13,938		13,938		-13,938		
59	OTHER SHIP GUN AMMUNITION		15,139		15,139		15,139		-15,139		
60	SMALL ARMS & LANDING PARTY AMMO		14,175		14,175		14,175		-14,175		
61	PYROTECHNIC AND DEMOLITION		15,502		15,502		15,502		-15,502		
62	MINE NEUTRALIZATION DEVICES		3,546		3,546		3,546		-3,546		
63	SHIP EXPENDABLE COUNTERMEASURES		9,173		9,173		9,173		-9,173		
64	SPARES AND REPAIR PARTS WPN		53,809		53,809		53,809		-53,809		
	TOTAL WEAPONS PROCUREMENT NAVY		2,400,039		2,223,246		2,428,539		-323,414		2,076,625

VOL 140 PT 16 AG 12 — 18 1994 UMI

Tomahawk missile procurement

The budget request included $302.0 million for the procurement of 217 Tomahawk missiles.

The Senate bill would approve the requested amount.

The House amendment would authorize the procurement of 217 missiles, but would reduce the requested amount by $40.0 million.

The conferees agree to a reduction of $11.9 million from the requested amount, consisting of:

(1) $2.6 million for an unsubstantiated pricing adjustment associated with the fiscal year 1994 selection of a single prime contractor; and

(2) $9.3 million for the capsule launch system (CLS) for submarines.

The conferees encourage the Navy to present its CLS projected inventory objective, and rationale for that inventory objective, with the fiscal year 1996 budget submission. The conferees intend to specifically exempt from this reduction funds budgeted for the Tomahawk precision strike initiative.

SHIPBUILDING AND CONVERSION, NAVY

Overview

The budget request for fiscal year 1995 contained an authorization of $5,585.4 million for Shipbuilding and Conversion, Navy. The Senate bill would authorize $5,532.0 million. The House amendment would authorize $6,869.9 million. The conferees recommend authorization of $5,619.9 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	Senate FY1995 --- Authorization Amount	---Conference--- Change to Request Quantity	---Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	Conference FY95 -- Authorization Amount
	SHIPBUILDING & CONVERSION, NAVY										
1	CARRIER REPLACEMENT PROGRAM	1	2,446,958	1	3,646,958	1	2,446,958			1	2,446,958
2	CARRIER ADVANCE PROCUREMENT (CY)										
3	SSN-21		38,328		38,328		38,328				38,328
4	CVN REFUELING OVERHAULS										
5	CGN REFUELING OVERHAULS										
6	CGN ADVANCE PROCUREMENT (CY)										
7	DDG-51	3	2,697,690	3	2,697,690	3	2,697,690			3	2,697,690
8	DDG-51 ADVANCE PROCUREMENT (CY)								50,000		50,000
9	LHD-7				100,000						
10	LHD-7 ADVANCE PROCUREMENT										
11	LSD-41 (CARGO VARIANT)	1	30,553							1	30,553
12	MHC MINE HUNTER COASTAL										
13	MCS CONV										
14	AE(C)										
15	AOE										
16	OCEANOGRAPHIC SHIPS										
17	SERVICE CRAFT										
18	OUTFITTING		178,154		173,154		178,154		-5,000		173,154
19	POST DELIVERY		166,937		156,437		166,937		-10,500		156,437
20	AFS (C)	1	22,837	1	22,837					1	22,837
21	FIRST DESTINATION TRANSPORTATION		3,940		3,940		3,940				3,940
	NUCLEAR SUBMARINE MINE STEAM CONDENSERS										
	PRIOR YEARS' PROGRAMS										
	ESCALATION										
	TOTAL SHIPBUILDING & CONVERSION	5,585,397		6,869,897		5,532,007		34,500		5,619,897	

VOL 140 PT 16 AG 12 — 18 1994 UMI

OTHER PROCUREMENT, NAVY

Overview

The budget request for fiscal year 1995 contained an authorization of $3,319.4 million for Other Procurement, Navy. The Senate bill would authorize $3,310.2 million. The House amendment would authorize $3,241.6 million. The conferees recommend authorization of $3,287.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	OTHER PROCUREMENT, NAVY										
	SHIPS SUPPORT EQUIPMENT										
1	LM-2500 GAS TURBINE		7,429		7,429		7,429				7,429
2	ALLISON 501K GAS TURBINE		8,188		7,000		8,188				8,188
3	STEAM PROPULSION IMPROVEMENT		303		303		303				303
4	OTHER PROPULSION EQUIPMENT		4,384		4,384		4,384				4,384
5	OTHER GENERATORS		9,013		9,013		9,013				9,013
6	OTHER PUMPS										
7	SUBMARINE PUMP RETROFIT KITS				1,000				1,000		1,000
8	HIGH PRESSURE AIR COMPRESSORS				172		172				172
9	SUBMARINE PROPELLERS				2,422		2,422				2,422
10	OTHER PROPELLERS AND SHAFTS				2,480		2,480				2,480
11	ELEC SUSPENDED GYRO NAVIGATOR				2,561		2,561				2,561
12	OTHER NAVIGATION EQUIPMENT				22,852		22,852				22,852
13	UNDERWAY REPLENISHMENT EQUIPMENT				20,000		22,465				22,465
14	TYPE 18 PERISCOPES										
15	PERISCOPES AND ACCESSORIES				20,868		20,868				20,868
16	SUB PERISCOPES & IMAGING EQUIP				16,419		16,419				16,419
17	FIREFIGHTING EQUIPMENT				4,400		4,400				4,400
18	COMMAND AND CONTROL SWITCHBOARD				63,867		65,867		-2,000		63,867
19	POLLUTION CONTROL EQUIPMENT				12,711		12,711				12,711
20	SUBMARINE SILENCING EQUIPMENT				205		205				205
21	SURFACE SHIP SILENCING EQUIPMENT				9,610		9,610				9,610
22	SUBMARINE BATTERIES				15,281		15,281				15,281
23	STRATEGIC PLATFORM SUPPORT EQUIP				3,691		3,691				3,691
24	DSSP EQUIPMENT										
25	MINESWEEPING EQUIPMENT				36,875		36,875				36,875
26	MMBE ITEMS UNDER $2 MILLION				4,502		4,502				4,502
27	SURFACE IMA										
28	DEGAUSSING EQUIPMENT				240		240				240
29	RADIOLOGICAL CONTROLS				1,248		1,248				1,248
30	MINI/MICRONINI ELECTRONIC REPAIR				6,909		6,909				6,909
31	CHEMICAL WARFARE DETECTORS										
32	SUBMARINE LIFE SUPPORT SYSTEM										

UMI 1994 12-18 AG PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
33	REACTOR POWER UNITS		169,085		169,085		169,085				169,085
34	REACTOR COMPONENTS		194,673		180,000		194,673				194,673
35	DIVING AND SALVAGE EQUIPMENT		10,049		10,049		10,049				10,049
36	NAVAL SPECIAL WARFARE EQUIPMENT		5,191		5,191		5,191				5,191
37	STANDARD BOATS		5,623		5,623		5,623				5,623
38	OTHER SHIPS TRAINING EQUIPMENT		804		804		804				804
39	PRODUCTION SUPPORT FACILITIES		4,169		4,169		4,169				4,169
40	OPERATING FORCES IPE		6,326		6,326		6,326				6,326
41	NUCLEAR ALTERATIONS		156,804		120,000		156,804				156,804
42	MODERNIZATION SUPPORT										
43	FLEET MODERNIZATION PROGRAM										
43a	SHIP ALTERATIONS						5,000				
	COMMUNICATIONS AND ELECTRONICS EQUIPMENT										
44	AN/SPS-40		1,733		1,733		1,733				1,733
45	AN/SPS-48		630				630		-630		
46	AN/SPS-49		12,421		12,421		12,421				12,421
47	AN/SYS-()										
48	MK-23 TARGET ACQUISITION SYSTEM		12,287		12,287		12,287				12,287
49	RADAR SUPPORT		8,446		8,446		8,446				8,446
50	SURFACE ELECTRO-OPTICAL SYSTEM		7,158		7,158		7,158				7,158
51	SURFACE SONAR SUPPORT EQUIPMENT		6,248		6,248		6,248				6,248
52	AN/SQQ-89 SURF ASW COMBAT SYSTEM		88,445		88,445		88,445				88,445
53	AN/BQQ-5										
54	SSN ACOUSTICS		56,647				56,647		-18,000		38,647
55	SURFACE SONAR WINDOWS AND DOME		3,217		6,817		3,217		3,600		6,817
56	SONAR SUPPORT EQUIPMENT		14,673		14,673		14,673				14,673
57	SONAR SWITCHES AND TRANSDUCERS		21,550		21,550		21,550				21,550
58	FBM SYSTEM SONARS										
59	SUBMARINE ACOUSTIC WARFARE SYSTEM		10,684		22,684		10,684				10,684
60	SSTD		31,889		31,889		21,389		-9,300		22,589
61	ACOUSTIC COMMUNICATIONS		157		157		157				157
62	SUBMARINE ADVANCED COMBAT SYSTEM										
63	SOSUS		21,007		21,007		21,007				21,007
64	AN/SQR-18 TOWED ARRAY SONAR										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
65	SURTASS		8,781		8,781		8,781				8,781
66	ASW OPERATIONS CENTER		3,346		3,346		3,346				3,346
67	CARRIER ASW MODULE		4,870		4,870		4,870				4,870
68	AN/SLQ-32		50,606		50,606		50,606				50,606
69	AN/WLR-1		6,714		6,714		6,714				6,714
70	AN/WLR-8		1,749		1,749		1,749				1,749
71	ICAD SYSTEMS		1,790		1,790		1,790				1,790
72	EW SUPPORT EQUIPMENT		9,091		9,091		9,091				9,091
73	C-3 COUNTERMEASURES		26,317		26,317		26,317				26,317
74	COMBAT DF		1,792		1,792		1,792				1,792
75	OUTBOARD		12,901		12,901		12,901				12,901
76	NAVAL INTELL PROCESSING SYSTEM										
77	AN/WLQ-4		6,034		6,034		6,034				6,034
78	AN/WLQ-4 DEPOT										
79	AN/WLQ-4 IMPROVEMENTS										
80	SUBMARINE SUPPORT EQUIPMENT PROG		5,763		5,763		5,763				5,763
81	NAVY TACTICAL DATA SYSTEM		33,243		33,243		33,243				33,243
82	TACTICAL FLAG COMMAND CENTER		20,701		20,701		20,701				20,701
83	NAVAL TACTICAL COMMAND SUPPORT SYSTEM		43,156		43,156		43,156				43,156
84	LINK 16 HARDWARE		41,911		41,911		41,911				41,911
85	MINESWEEPING SYSTEM REPLACEMENT		50,758		50,758		50,758				50,758
86	EMSP (MYP)		33,963		33,963		33,963				33,963
87	NAVSTAR GPS RECEIVERS		18,108		18,108		18,108				18,108
88	HF LINK-11 DATA TERMINALS										
89	ARMED FORCES RADIO AND TV		4,431		4,431		4,431				4,431
90	STRATEGIC PLATFORM SUPPORT EQUIP		33,380		33,380		33,380				33,380
91	OTHER SPAWAR TRAINING EQUIPMENT										
92	OTHER TRAINING EQUIPMENT		12,647		12,647		12,647				12,647
93	MATCALS		4,348		4,348		4,348				4,348
94	SHIPBOARD AIR TRAFFIC CONTROL		10,622		10,622		10,622				10,622
95	AUTOMATIC CARRIER LANDING SYSTEM		12,338		12,338		12,338				12,338
96	TACAN		1,002		1,002		1,002				1,002
97	AIR STATION SUPPORT EQUIPMENT		5,907		5,907		5,907				5,907
98	MICROWAVE LANDING SYSTEM		1,467		1,467		1,467				1,467

UMI 1994 18 12 AG PT 16 140 VOL

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
99	FACSFAC		8,673		8,673		8,673				8,673
100	ID SYSTEMS		10,571		10,571		10,571				10,571
101	SURFACE IDENTIFICATION SYSTEMS		5,642		5,642		5,642				5,642
102	TADIX-B		14,363		14,363		14,363				14,363
103	NAVAL SPACE SURVEILLANCE SYSTEM										
104	SPACE SYSTEM PROCESSING										
105	NCCS ASHORE		16,102		16,102		16,102				16,102
106	RADIAC		6,235		6,235		6,235				6,235
107	OVER THE HORIZON RADAR										
108	GPETE		19,675		19,675		19,675				19,675
109	INTEG COMBAT SYSTEM TEST FACILITY		2,955		2,955		2,955				2,955
110	CALIBRATION STANDARDS		4,438		4,438		4,438				4,438
111	EMI CONTROL INSTRUMENTATION		2,687		2,687		2,687				2,687
112	SHORE ELEC ITEMS UNDER $2 MILLION		8,448		8,448		8,448				8,448
113	SHIPBOARD TACTICAL COMMUNICATIONS		34,382		34,382		34,382				34,382
114	FLIGHT DECK COMMUNICATIONS										
115	PORTABLE RADIOS		1,987		1,987		1,987				1,987
116	SINCGARS		13,749		13,749		13,749				13,749
117	SHIP COMMUNICATIONS AUTOMATION		28,534		28,534		28,534				28,534
118	SHIP COMM ITEMS UNDER $2 MILLION		11,076		11,076		11,076				11,076
119	SHORE LF/VLF COMMUNICATIONS		3,851		3,851		3,851				3,851
120	VERDIN										
121	SUBMARINE COMMUNICATION EQUIPMENT		6,623		6,623		6,623				6,623
122	SATCOM SHIP TERMINALS		126,363		106,363		126,363		-10,000		116,363
123	SATCOM SHORE TERMINALS		9,063		9,063		9,063				9,063
124	JCS COMMUNICATIONS EQUIPMENT		1,553		1,553		1,553				1,553
125	ELECTRICAL POWER SYSTEMS		1,480		1,480		1,480				1,480
126	SHORE HF COMMUNICATIONS										
127	DCS TECH CONTROL IMPROVEMENTS										
128	WWMCCS COMMUNICATIONS EQUIPMENT		2,175		2,175		2,175				2,175
129	SHORE COMMUNICATIONS AUTOMATION										
130	SHORE COMM ITEMS UNDER $2 MILLION										
131	NAVAL SHORE COMMUNICATIONS		25,133		25,133		25,133				25,133
132	SECURE VOICE SYSTEM		12,917		12,917		12,917				12,917

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
133	SECURE DATA SYSTEM		13,213		13,213		13,213				13,213
134	KEY MANAGEMENT SYSTEMS		15,292		15,292		15,292				15,292
135	SIGNAL SECURITY										
136	CRYPTOGRAPHIC ITEMS UNDER $2 MILL		2,850		2,850		2,850				2,850
137	CRYPTOLOGIC COMMUNICATIONS EQUIP		4,934		4,934		4,934				4,934
138	CRYPTOLOGIC ITEMS UNDER $2 MILLION										
139	CRYPTOLOGIC RESERVES EQUIPMENT										
140	CRYPTOLOGIC FIELD TRAINING EQUIP										
141	SHORE CRYPTOLOGIC SUPPORT SYSTEM										
142	ELECT ENGINEERED MAINTENANCE		2,641		2,641		2,641				2,641
143	OTHER DRUG INTERDICTION SUPPORT										
AVIATION SUPPORT EQUIPMENT											
144	AN/SSQ-53 (DIFAR)		24,353		24,353				-24,353		
145	AN/SSQ-77 (VLAD)		28,451		28,451				-28,451		
146	AN/SSQ-110 (EER)		11,557		11,557		37,231		25,674		37,231
146a	AN/SSQ-62 (DICASS)						22,460		22,460		22,460
146b	AN/SSQ-36 (BT)						2,300		2,300		2,300
146c	AN/SSQ-86 (DLC)						2,370		2,370		2,370
147	CARTRIDGES & CART ACTUATED DEVELOP										
148	AIRCRAFT ESCAPE ROCKETS										
149	AIR EXPENDABLE COUNTERMEASURES										
150	MARINE LOCATION MARKERS										
151	DEFENSE NUCLEAR AGENCY MATERIAL										
152	JATOS										
153	WEAPONS RANGE SUPPORT EQUIPMENT		41,606		41,606		41,606				41,606
154	EXPEDITIONARY AIRFIELDS		5,561		5,561		5,561				5,561
155	AIRCRAFT REARMING EQUIPMENT		8,801		8,801		8,801				8,801
156	CATAPULTS & ARRESTING GEAR		36,606		36,606		36,606				36,606
157	METEOROLOGICAL EQUIPMENT		21,391		21,391		21,391				21,391
158	OTHER PHOTOGRAPHIC EQUIPMENT		819		819		819				819
159	AVIATION LIFE SUPPORT		7,873		7,873		7,873				7,873
160	AIRBORNE MINE COUNTERMEASURES		295		295		295				295
161	LAMPS MK III SHIPBOARD EQUIPMENT		4,449		4,449		4,449				4,449
162	REWSON PHOTOGRAPHIC EQUIPMENT		1,063		1,063		1,063				1,063

UMI 1994 12 — 18 AG PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
163	JSIPS-N										
164	STOCK SURVEILLANCE EQUIPMENT		1,407		1,407		1,407				1,407
165	DARP		4,001		4,001				-4,001		
166	OTHER AVIATION SUPPORT EQUIPMENT		10,497		10,497		10,497				10,497
	ORDNANCE SUPPORT EQUIPMENT										
167	GUN FIRE CONTROL EQUIPMENT		4,688		4,688		4,688				4,688
168	MK-92 FIRE CONTROL SYSTEM		6,642		6,642		6,642				6,642
169	HARPOON SUPPORT EQUIPMENT		3,001		3,001		3,001				3,001
170	TERRIER SUPPORT EQUIPMENT										
171	TARTAR SUPPORT EQUIPMENT		36,267		36,267		36,267				36,267
172	POINT DEFENSE SUPPORT EQUIPMENT		64,148		64,148		64,148				64,148
173	AIRBORNE ECM/ECCM		1,123		1,123		1,123				1,123
174	AEGIS SUPPORT EQUIPMENT		36,829		36,829		36,829				36,829
175	SURFACE TOMAHAWK SUPPORT EQUIPMENT		63,970		63,970		63,970				63,970
176	SUBMARINE TOMAHAWK SUPPORT EQUIP		4,879		4,879		4,879				4,879
177	VERTICAL LAUNCH SYSTEMS		28,413		28,413		28,413				28,413
178	STRATEGIC PLATFORM SUPPORT EQUIP		4,716		4,716		4,716				4,716
	LASER ARTICULATING ROBOTIC SYSTEM, PHIL										
179	STRATEGIC MISSILE SYSTEMS EQUIP		83,042		83,042		83,042				83,042
179a	TRIDENT NAVIGATION COMMONALITY SETS				40,000						
180	MK-117 FIRE CONTROL SYSTEM		19,752		19,752		19,752				19,752
181	SUBMARINE ASW SUPPORT EQUIPMENT		9,780		9,780		9,780				9,780
182	SURFACE ASW SUPPORT EQUIPMENT		16,396		16,396		16,396				16,396
183	ASW RANGE SUPPORT EQUIPMENT		6,372		6,372		6,372				6,372
184	EXPLOSIVE ORDNANCE DISPOSAL EQUIP		6,773		6,773		6,773				6,773
185	UNMANNED SEABORNE TARGET		5,491		5,491		5,491				5,491
186	ANTI-SHIP MISSILE DECOY SYSTEM		1,441		1,441		1,441				1,441
187	INDUSTRIAL FACILITIES (CALIBRATION EQ)		3,171		3,171		3,171				3,171
188	STOCK SURVEILLANCE EQUIPMENT		1,716		1,716		1,716				1,716
189	OTHER ORDNANCE TRAINING EQUIPMENT										
190	FLEET MINE SUPPORT EQUIPMENT		8,048		8,048		8,048				8,048
191	MINE NEUTRALIZATION DEVICES										
192	DEFENSE NUCLEAR AGENCY MATERIAL										
193	SHIP EXPENDABLE COUNTERMEASURE										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	CIVIL ENGINEERING SUPPORT EQUIPMENT										
194	PASSENGER CARRYING VEHICLES	114	2,303	114	2,303	114	2,303			114	2,303
195	SPECIAL PURPOSE VEHICLES		8,624		8,624		8,624				8,624
196	GENERAL PURPOSE TRUCKS		11,307		11,307		11,307				11,307
197	TRAILERS/TRUCK TRACTORS		2,721		2,721		2,721				2,721
198	EARTH MOVING EQUIPMENT		4,924		4,924		4,924				4,924
199	CONSTRUCTION & MAINTENANCE EQUIP		3,267		3,267		3,267				3,267
200	FIRE FIGHTING EQUIPMENT		2,288		2,288		2,288				2,288
201	WEIGHT HANDLING EQUIPMENT		1,599		1,599		1,599				1,599
202	AMPHIBIOUS EQUIPMENT		2,866		2,866		2,866				2,866
203	COMBAT CONSTRUCTION SUPPORT EQUIP		2,314		2,314		2,314				2,314
204	MOBILE UTILITIES SUPPORT EQUIPMENT		2,175		2,175		2,175				2,175
205	COLLATERAL EQUIPMENT		4,786		4,786		4,786				4,786
206	OCEAN CONSTRUCTION EQUIPMENT		478		478		478				478
207	FLEET MOORINGS										
208	POLLUTION CONTROL EQUIPMENT		29,991		29,991		29,991				29,991
209	OTHER CIVIL ENG SUPPORT EQUIPMENT		453		453		453				453
210	NATURAL GAS UTILIZATION EQUIPMENT										
	SUPPLY SUPPORT EQUIPMENT										
211	FORKLIFT TRUCKS		12,879		12,879		12,879				12,879
212	OTHER MATERIALS HANDLING EQUIPMENT		3,892		3,892		3,892				3,892
213	OTHER SUPPLY SUPPORT EQUIPMENT		3,312		3,312		3,312				3,312
214	FIRST DESTINATION TRANSPORTATION		11,699		11,699		11,699				11,699
215	SPECIAL PURPOSE SUPPLY SYSTEMS		71,479		71,479		71,479				71,479
	PERSONNEL AND COMMAND SUPPORT EQUIPMENT										
216	SURFACE SONAR TRAINERS										
217	SUBMARINE SONAR TRAINERS		3,148		3,148		3,148				3,148
218	SURFACE COMBAT SYSTEM TRAINERS		3,585		3,585		3,585				3,585
219	SUBMARINE COMBAT SYSTEM TRAINERS										
220	SHIP SYSTEM TRAINERS		9		9		9				9
221	TRAINING SUPPORT EQUIPMENT		1,920		1,920		1,920				1,920
222	TRAINING DEVICE MODIFICATIONS		21,356		21,356		21,356				21,356
223	COMMAND SUPPORT EQUIPMENT		24,417		24,417		24,417				24,417
224	EDUCATION SUPPORT EQUIPMENT		6,183		6,183		6,183				6,183

VOL 140 PT 16 AG 12 | 18 1994 UMI

P-1 LINE	ITEM	FY1995 Request Quantity	Amount	--- House FY1995 --- Authorization Quantity	Amount	--- Senate FY1995 --- Authorization Quantity	Amount	---Conference--- Change to Request Quantity	Amount	-- Conference FY95 -- Authorization Quantity	Amount
225	MEDICAL SUPPORT EQUIPMENT		2,955		2,955		2,955				2,955
226	INTELLIGENCE SUPPORT EQUIPMENT		33,284		33,284		34,484		-2,200		31,084
227	ITEMS UNDER $2 MILLION		200		200		200				200
228	OPERATING FORCES SUPPORT EQUIPMENT		19,015		19,015		19,015				19,015
229	NAVAL RESERVE SUPPORT EQUIPMENT		1,863		1,863		1,863				1,863
230	ENVIRONMENTAL SUPPORT EQUIPMENT		12,685		12,685		12,685				12,685
231	PHYSICAL SECURITY EQUIPMENT		7,323		7,323		7,323				7,323
232	COMPUTER ACQUISITION PROGRAM		41,807		41,807		41,807				41,807
233	PRODUCTIVITY INVESTMENT (P1F)						10,500		10,500		10,500
234	PROD ENHANCE INCENTIVE FUND (PEIF)						-10,500				
	JOINT TRAINING, ANALYSIS & SIMULATION C				314,571		313,671		-900		313,671
	GENERAL REDUCTION										
235	SPARES AND REPAIR PARTS OPN		314,571						-31,931		3,287,487
	INSTALLATION OF MODIFICATIONS										
	TOTAL OTHER PROCUREMENT NAVY		3,319,418		3,241,611		3,310,217		-31,931		

Reactor components and nuclear alterations

The budget request included $194.7 million for the Navy to procure reactor components and $156.8 million to make alterations to nuclear power systems.

The Senate bill would approve the requested amounts.

The House amendment would reduce the reactor component request by $14.7 million and would reduce the nuclear alterations request by $36.8 million.

The conferees agree to provide the requested amounts. The conferees note that the budget justification materials for these two programs leave much to be desired. There is insufficient information to relate specific component procurement to specific ship upgrades. Neither can alteration expenses be related to installation schedules. The conferees find it unacceptable that the budget justification material does not provide the necessary information.

The conferees are dismayed by the attempts to scare members of Congress about the effects of potential reductions in these programs. The conferees believe that the Navy could have applied such effort more productively to providing the answers to legitimate questions.

The conferees are also unsure about the veracity of the claims made in some of the Navy Department's information papers. Claimed economic impacts on various geographic areas greatly exceeded the total potential reductions being considered. Accordingly, the DOD Inspector General is directed to investigate the accuracy of the Navy information papers prepared for the Congress on this matter, with specific attention to the economic impacts claimed, and to report his findings and recommendations to the Congress by December 31, 1994.

SATCOM ship terminals

The budget request included $126.4 million for procurement of SATCOM ship terminals.

The Senate bill would authorize the requested amount.

The House amendment would reduce the requested amount by $20.0 million.

The conferees agree to reduce the requested amount by $10.0 million, without prejudice.

PROCUREMENT, MARINE CORPS

Overview

The budget request for fiscal year 1995 contained an authorization of $554.6 million for Procurement, Marine Corps. The Senate bill would authorize $528.9 million. The House amendment would authorize $528.4 million. The conferees recommend authorization of $403.4 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

UMI 1994 12 — 18 AG 16 PT 140 VOL

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	PROCUREMENT, MARINE CORPS										
1	5.56 MM, ALL TYPES		7,101		7,101		7,101		-7,101		
2	7.62 MM, ALL TYPES		36		36		36		-36		
3	LINEAR CHARGES, ALL TYPES										
4	.50 CALIBER		1,861		4,361		6,861		-1,861		
5	40 MM, ALL TYPES		12,359		12,359		12,359		-12,359		
6	60 MM HE M888		16,016		16,016		16,016		-16,016		
7	81 MM HE		15,662		15,662		15,662		-15,662		
8	81 MM SMOKE SCREEN		4,301		4,301		4,301		-4,301		
9	81MM ILLUMINATION (M853)		3,227		3,227		3,227		-3,227		
10	120MM TPCSDS-T M865		10,313		10,313		10,313		-10,313		
11	120 MM TP-T M831		4,937		4,937		4,937		-4,937		
12	155MM CHG. PROP. RED BAG		11,995		11,995				-11,995		
13	155MM M864 PROJ BASEBURNER										
14	FUZE, ET, XM762		17,194		17,194		17,194		-17,194		
15	FUZE, ET, XM767										
16	83 MM ROCKET HEAA (SMAW)										
17	CTG 25MM, ALL TYPES		8,863		8,863		8,863		-8,863		
18	25MM, TP-T, M793										
19	9 MM ALL TYPES		1,903		1,903		1,903		-1,903		
20	MINES, ALL TYPES										
21	GRENADES, ALL TYPES										
22	ROCKETS, ALL TYPES		2,174		2,174		2,174		-2,174		
23	AMMO MODERNIZATION		9,011		9,011		9,011		-9,011		
24	ITEMS LESS THAN $2 MIL		5,489		5,489		5,489		-5,489		
25	AAV7A1 PIP		3,022		3,022		3,022				3,022
26	LAV PIP	180	14,608	180	14,608	180	14,608			180	14,608
	LAV THERMAL SIGHTS										
27	LIGHT ARMORED VEHICLE										
28	MODIFICATION KITS (TRKD VEH)		3,508		3,508		3,508				3,508
29	ITEMS UNDER $2M (TRKD VEH)										
30	MULTI-LAUNCH ROCKET SYS (MLRS)										
31	MOD KITS (ARTILLERY)		510		510		510				510
32	ITEMS UNDER $2M (ALL OTHER)										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
33	HAWK MOD										
34	PEDESTAL MOUNTED STINGER (PMS) (MYP)	28	50,238	28	50,238	28	50,238			28	50,238
35	PMS ADVANCE PROCUREMENT (CY)										
36	MODIFICATION KITS		105		105		105				105
37	ITEMS LESS THAN $2 MILLION										
38	MANPACK RADIOS AND EQUIP		1,789		1,789		1,789				1,789
39	GPS										
40	VEHICLE MTD RADIOS & EQUIP (MYP)										
41	AN/GRC-171 8(V)4										
42	TSC-96 PIP FLEET SATCOM TERMINAL	1	538	1	538	1	538				538
43	UNIT LEVEL CIRCUIT SWITCH (ULCS)										
44	TACT COMM CENTER EQUIP,										
45	JOINT TACT INFO DIST SYS (CL I)		8,805		8,805		8,805				8,805
46	SIGNAL GENERATOR										
47	AUTO TEST EQUIP SYS		4,725		4,725		4,725				4,725
48	ELECTRONIC TEST EQUIP (TEL)		4,444		4,444		4,444				4,444
49	SINGLE CHAN GRD & AIR RADIO		49,030		49,030		49,030				49,030
50	MODIFICATION KITS (TEL)		1,088		1,088		1,088				1,088
51	ITEMS LESS THAN $2M (TEL)		1,561		1,561		1,561				1,561
52	POS LOCATING RPTG SYSTEM (PLRS)		3,083		3,083		3,083				3,083
53	TACTICAL AIR OPER MODULE (TAOM)		3,671		3,671		3,671				3,671
54	ADVANCED TACT AIR COMMAND CENTER										
55	MARINE TACTICAL C2		8,599		8,599		8,599				8,599
56	MULTI-SERV ADF FIELD ART TACTICAL DATA	113	5,140	113	5,140	113	5,140			113	5,140
57	DARP	1	28,768					-1	-28,768		
58	METEOROLOGICAL SYSTEMS	14	6,511	14	6,511	14	6,511			14	6,511
59	INTELLIGENCE SUPPORT EQUIPMENT		33,553		33,553		33,553				33,553
60	MOD KITS (INTEL)		121		121		121				121
61	ITEMS LESS THAN $2M (INTELL)		124		124		124				124
62	ELECTRONIC TMDE REPAIR FACILITY	4	712	4	712	4	712			4	712
63	MECH TEST TMDE		926		926		926				926
64	NIGHT VISION EQUIPMENT		29,647		29,647		39,647		10,000		39,647
65	ADP EQUIPMENT		12,938		12,938		12,938				12,938
66	TEST CALIB & MAINT SPT		1,504		1,504		1,504				1,504

UMI 1994 12-18 AG PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
67	MODIFICATION KITS (MONTEL)		1,091		1,091		1,091				1,091
68	ITEMS LESS THAN $2M (MONTEL)										
69	COMMERCIAL PASSENGER VEHICLES	103	1,835	103	1,835	103	1,835			103	1,835
70	COMMERCIAL CARGO VEHICLES		7,693		7,693		7,693				7,693
71	5/4T TRUCK HMMWV (MYP)										
72	LOGISTICS VEHICLE SYSTEM	68	11,153	68	11,153	68	11,153			68	11,153
73	TRAILERS		2,814		2,814		2,814				2,814
74	MODIFICATION KITS		4,542		4,542		4,542				4,542
75	ITEMS LESS THAN $2 MIL										
76	ENVIRONMENTAL CONTROL EQUIP ASSORT		2,258		2,258		2,258				2,258
77	ARMORED COMBAT EXCAVATOR (ACE)										
78	TACTICAL FUEL SYSTEM (JFS) EQUIP										
79	TOPOGRAPHIC/SURVEY EQUIPMENT										
80	POWER EQUIPMENT ASSORTED		2,638		2,638		2,638				2,638
81	AUTOMATIC BUILDING MACHINES										
82	COMMAND SUPPORT EQUIPMENT		1,596		1,596		1,596				1,596
83	AMPHIBIOUS RAID EQUIPMENT		255		255		255				255
84	PRODUCTIVITY INVESTMENT										
85	PHYSICAL SECURITY EQUIPMENT		761		761		761				761
86	GARRISON MOBILE ENGR EQUIP		2,511		2,511		2,511				2,511
87	TELEPHONE SYSTEM		13,375		13,375		13,375				13,375
88	WAREHOUSE MODERNIZATION		3,739		3,739		3,739				3,739
89	MATERIAL HANDLING EQUIP		2,992		2,992		2,992				2,992
90	FIRST DESTINATION TRANSPORTATION		2,489		2,489		2,489				2,489
91	LIGHTWEIGHT DECONTAMINATION SYSTEM										
92	FIELD MEDICAL EQUIPMENT		3,494		3,494		3,494				3,494
93	TRAINING DEVICES		25,511		25,511		25,511				25,511
94	SHELTER FAMILY										
95	CONTAINER FAMILY		5,281		5,281		5,281				5,281
96	MODIFICATION KITS		570		570		570				570
97	CHEMICAL AGENT MONITOR										
98	ITEMS LESS THAN $2 MIL		1,764		1,764		1,764				1,764
	MARINE ENHANCEMENT PROGRAM										
	INDOOR SIMULATED MARKSMANSHIP TRAINER										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
99	DRUG INTERDICTION										
100	SPARES AND REPAIR PARTS PHC		44,548		44,548		44,548				44,548
	TOTAL PROCUREMENT MARINE CORPS		554,620		528,352		528,857		-151,210		403,410

VOL
140
PT
16
AG
12
—
18
1994
UMI

AMMUNITION, NAVY AND MARINE CORPS

Overview

The budget request, the Senate bill, and the House amendment contained no separate accounts for ammunition programs of the Navy and the Marine Corps. These programs were funded within the Weapons Procurement, Navy and the Procurement, Marine Corps accounts, respectively. The conferees recommend authorization of $449.8 million for these programs in a new Ammunition, Navy and Marine Corps account as delineated in the following table. Unless noted explicitly in the statement of the managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request	--- House FY1995 ---	--- Senate FY1995 ---	----Conference---	-- Conference FY95 --
		Quantity Amount	Authorization Quantity Amount	Authorization Quantity Amount	Change to Request Quantity Amount	Authorization Quantity Amount
	PROCUREMENT OF AMMUNITION, NAVY AND MARINE C					
	NAVY AMMUNITION					
45	GENERAL PURPOSE BOMBS	55,496				55,496
46	2.75 INCH ROCKETS	14,500				14,500
47	MACHINE GUN AMMUNITION	14,181				14,181
48	PRACTICE BOMBS	12,827				12,827
49	GATOR	14,942				14,942
50	CARTRIDGES & CART ACTUATED DEVICES	9,963				9,963
51	AIRCRAFT ESCAPE ROCKETS	12,088				12,088
52	AIR EXPENDABLE COUNTERMEASURES	781				781
53	MARINE LOCATION MARKERS	455				455
54	DEFENSE NUCLEAR AGENCY MATERIAL	1,418				1,418
55	JATOS	59,965				59,965
56	5 INCH/54 GUN AMMUNITION	2,470				2,470
57	CIWS AMMUNITION	13,938				13,938
58	76MM GUN AMMUNITION	15,139				15,139
59	OTHER SHIP GUN AMMUNITION	14,175				14,175
60	SMALL ARMS & LANDING PARTY AMMO	15,502				15,502
61	PYROTECHNIC AND DEMOLITION	3,546				3,546
62	MINE NEUTRALIZATION DEVICES	9,173				9,173
63	SHIP EXPENDABLE COUNTERMEASURES	53,809				53,809
64	SPARES AND REPAIR PARTS WPN	7,101				7,101
	MARINE CORPS	36				36
1	5.56 MM, ALL TYPES	6,861				6,861
2	7.62 MM, ALL TYPES	12,359				12,359
3	LINEAR CHARGES, ALL TYPES	16,016				16,016
4	.50 CALIBER	15,662				15,662
5	40 MM, ALL TYPES	4,301				4,301
6	60 MM HE M888	3,227				3,227
7	81 MM HE	10,313				10,313
8	81 MM SMOKE SCREEN	4,937				4,937
9	81MM ILLUMINATION (M853)					
10	120MM TPCSDS-T M865					
11	120 MM TP-T M831					

VOL 140 PT 16 AG 12 - 18 1994 UMI

P-1 LINE	ITEM	FY1995 Request Quantity	Amount	--- House FY1995 --- Authorization Quantity	Amount	--- Senate FY1995 --- Authorization Quantity	Amount	---Conference--- Change to Request Quantity	Amount	-- Conference FY95 -- Authorization Quantity	Amount
12	155MM CHG, PROP, RED BAG								17,194		17,194
13	155MM M864 PROJ BASEBURNER								8,863		8,863
14	FUZE, ET, XM762								1,903		1,903
15	FUZE, ET, XM767										
16	83 MM ROCKET HEAA (SWAM)										
17	CTG 25MM, ALL TYPES								2,174		2,174
18	25MM, TP-T, M793								9,011		9,011
19	9 MM ALL TYPES								5,489		5,489
20	MINES, ALL TYPES										
21	GRENADES, ALL TYPES										
22	ROCKETS, ALL TYPES										
23	AMMO MODERNIZATION										
24	ITEMS LESS THAN $2 MIL										
	TOTAL NAVY/MARINE CORPS AMMUNITION								449,815		449,815

AIRCRAFT PROCUREMENT, AIR FORCE

Overview

The budget request for fiscal year 1995 contained an authorization of $6,747.6 million for Aircraft Procurement, Air Force. The Senate bill would authorize $6,588.0 million. The House amendment would authorize $6,101.8 million. The conferees recommend authorization of $6,489.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

UMI 1994 AG 12 — 18 PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	AIRCRAFT PROCUREMENT, AIR FORCE										
1	B-1B (MYP)		154,254		154,254		154,254				154,254
2	B-2A (MYP)		384,384		384,384		384,384				384,384
3	F-15 E		20,394		20,394		20,394				20,394
4	F-16 C/D (MYP)		100,549		100,549		100,549				100,549
5	F-16 ADVANCE PROCUREMENT (CY)										
6	C-17 (MYP)	6	2,472,914	6	1,954,214	6	2,188,614		-304,300	6	2,168,614
7	C-17 ADVANCE PROCUREMENT (CY)		189,900		47,475		189,900				189,900
8	HC-130										
9	C-130H		49,975		49,975		49,975				49,975
10	NOM DEVELOPMENT AIRLIFT AIRCRAFT		103,707	4	103,000		150,000				103,707
11	ENHANCED FLIGHT SCREENER										
12	JPATS	3	123,265	3	123,265	3	123,265		-15,000	3	108,265
13	TANKER, TRANSPORT, TRAINER SYSTEM	32	155,163	32	145,163	32	155,163			32	155,163
14	MH-60G										
15	CIVIL AIR PATROL A/C	27	1,444	27	1,444	27	1,444			27	1,444
16	DRUG INTERDICTION										
17	E-8B	2	445,339	2	445,339	2	545,239			2	445,339
18	E-8B ADVANCE PROCUREMENT (CY)		118,900		118,900		118,900		99,900		218,800
19	SOF A/C CSE										
	ENHANCED BOMBER CAPABILITY FUND						150,000		125,000		125,000
	MODIFICATION OF INSERVICE AIRCRAFT										
20	B-2A		65,136		65,136		65,136				65,136
21	B-1B		45,583		45,583		45,583				45,583
22	B-52		25,800		25,800		25,800				25,800
22a	BOMBER FORCE UPGRADE PROGRAM				100,000						
23	F-117		11,190		11,190		11,190				11,190
24	A-10		47,181		27,181		47,181		-10,000		37,181
25	F/RF-4		1,635		1,635		1,635				1,635
26	F-15		201,100		201,100		201,100				201,100
27	F-16		157,227		157,227		120,527		-36,700		120,527
28	EF-111		2,045		2,045		2,045				2,045
29	F-111		5,012		5,012		5,012				5,012
30	TR-1A										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
31	T/AT-37		1,416		1,416		1,416				1,416
32	C-5		28,715		28,715		28,715				28,715
33	C-9		6,784		6,784		6,784				6,784
34	C-17A		6,108		6,108		6,108				6,108
35	C-21		2,526		2,526		2,526				2,526
36	C-22		5,108		5,108		5,108				5,108
37	C-STOL		699		699		699				699
38	C-137		1,415		1,415		1,415				1,415
39	C-141		14,506		14,506		14,506				14,506
40	T-38		25,627		25,627		25,627				25,627
41	T-41 AIRCRAFT		185		185		185				185
42	T-43		5,212		5,212		5,212				5,212
43	KC-10A (ATCA)		18,073		18,073		18,073				18,073
44	C-12		1,300		1,300		1,300				1,300
45	C-18		2,131		2,131		2,131				2,131
46	C-20 MODS		6,465		6,465		6,465				6,465
47	VC-25A MOD		796		796		796				796
48	C-130		77,041		77,041		77,041				77,041
49	C-135		103,440		107,440		60,940		-42,500		60,940
49a	KC-135 REENGINE							2	48,000	2	48,000
50	E-3		137,570		117,570		137,570				137,570
51	E-4		35,230		25,230		35,230				35,230
52	H-1										
53	H-60		306		306		306				306
54	OTHER AIRCRAFT		40,795		40,795		40,795				40,795
55	DARP MODS		3,665		3,665		3,665		65,000		68,665
56	CLASSIFIED PROJECTS		48,907		48,907		48,907				48,907
57	SPARES AND REPAIR PARTS APAF		488,894		488,894		385,796		-107,798		381,096
58	COMMON AGE		225,845		201,845		225,845		-24,000		201,845
58a	DEPLOYABLE HYDRAULIC TEST AND REPAIR FA				4,000				2,000		2,000
59	INDUSTRIAL PREPAREDNESS		52,511		52,511		52,511				52,511
60	WAR CONSUMABLES		26,587		18,587		26,587		-2,000		24,587
61	OTHER PRODUCTION CHARGES		259,467		259,467		259,467		-55,734		203,733
62	DARP SUPPORT EQUIPMENT		196,886		196,886		196,886				196,886

VOL
140
PT
16
AG
12
18
1994
UMI

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
63	COMMON ECM EQUIPMENT		41,292		41,292		41,292				41,292
64	OTHER PRODUCTION CHARGES - SOF						10,800				
	UNDISTRIBUTED										
	TOTAL AIRCRAFT PROCUREMENT AIR FORCE		6,747,599		6,101,767		6,587,994		-258,132		6,489,467

E–4 procurement

The budget request contained $35.2 million for modification of E–4 command post aircraft.

The Senate bill would authorize the requested amount.

The House amendment would reduce the requested amount by $10.0 million and would require a report on possible additional missions for the E–4 in the post-Cold War era.

The conferees agree to authorize the requested amount, but limit the obligation of $10.0 million until the Secretary of Defense submits the report called for in the House report (H. Rept. 103–499).

WEAPONS PROCUREMENT, AIR FORCE

Overview

The budget request for fiscal year 1995 contained an authorization of $4,392.2 million for Weapons Procurement, Air Force. The Senate bill would authorize $4,330.5 million. The House amendment would authorize $3,953.2 million. The conferees recommend authorization of $3,732.8 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

UMI 1994 12-18 AG PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	WEAPONS PROCUREMENT, AIR FORCE										
1	PEACEKEEPER (M-X)										
2	MISSILE REPLACEMENT EQ-BALLISTIC		16,180		16,180		16,180				16,180
3	HAVE NAP			36	26,000			36	26,000	36	26,000
4	TRI-SERVICE ATTACK MISSILE	48	373,875	48		48	308,075	-48	-373,875		
5	ADVANCED CRUISE MISSILE										
6	AMRAAM	413	309,462	413	309,462	413	309,462		-10,000	413	299,462
7	AGM-130 POWERED GBU-15	102	71,756	102	71,756	102	71,756			102	71,756
8	AGM-88A HARM										
9	TARGET DRONES	48	29,043	48	29,043	48	29,043			48	29,043
10	INDUSTRIAL FACILITIES		5,731				5,731				5,731
11	MISSILE REPLACEMENT EQ-OTHER		14,883		14,883		14,883				14,883
	GAMS					128	25,000				
	BAT/TMD DEMO						25,000				
	GAMS/BAT/TMD DEMO								40,000		40,000
12	HAVE NAP										
13	AIR LAUNCH CRUISE MISSILE						40,000		29,500		29,500
14	PEACEKEEPER (M-X)										
15	AIM-9 SIDEWINDER		8,304		8,304		8,304				8,304
16	MM III MODIFICATIONS		18,284		7,784		6,284		-9,000		9,284
17	AGM-65D MAVERICK										
18	AGM-88A HARM		64,157		64,157		64,157				64,157
19	MODIFICATIONS UNDER $2.0M		2,909		2,909		2,909				2,909
20	ADVANCED CRUISE MISSILE										
21	SPARES AND REPAIR PARTS WPAF		68,332		68,332		68,332				68,332
22	SPACEBORNE EQUIP (COMSEC)		2,092		2,092		2,092				2,092
23	GLOBAL POSITIONING (MYP)	5	134,831	5	134,831	5	134,831			5	134,831
24	GPS ADVANCE PROCUREMENT (CY)		55,352		55,352		55,352				55,352
25	SPACE SHUTTLE OPERATIONS		103,518		103,518		103,518				103,518
26	SPACE BOOSTERS		381,817		381,817		381,817				381,817
27	SPACE BOOSTERS ADV PROCUREMENT (CY)		40,900		40,900				-40,900		
28	MEDIUM LAUNCH VEHICLE	3	120,480	3	120,480	3	120,480			3	120,480
29	MLV ADVANCE PROCUREMENT (CY)		28,564		28,564		28,564				28,564
30	DEF METEOROLOGICAL SAT PROG		29,159		29,159		29,159				29,159

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
31	DEFENSE SUPPORT PROGRAM (MYP)		363,959		363,959		363,959				363,959
32	DSP ADVANCE PROCUREMENT (CY)										
33	DEFENSE SATELLITE COMM SYSTEM		20,185		20,185		20,185				20,185
34	IONDS (MYP)	5	35,649	5	30,649	5	35,649			5	35,649
35	IONDS ADVANCE PROCUREMENT (CY)		9,954		9,954		9,954				9,954
36	SPECIAL UPDATE PROGRAMS		184,212		184,212		184,212				184,212
37	SPECIAL PROGRAMS		1,619,032		1,569,032		1,586,032		-41,500		1,577,532
38	2.75 INCH ROCKET MOTOR	40,468	13,851	40,468	13,851	40,468	13,851	-40,468	-13,851		
39	ITEMS LESS THAN $2,000,000		1,990		1,990		1,990		-1,990		
40	5.56 MM	28,385	11,618	28,385	11,618	28,385	11,618	-28,385	-11,618		
41	20MM TRAINING	3,307	18,295	3,307	18,295	3,307	18,295	-3,307	-18,295		
42	30 MM TRAINING	2,523	23,672	2,523	23,672	2,523	23,672	-2,523	-23,672		
43	CARTRIDGE CHAFF RR-180	523	5,339	523	2,403	523	5,339	-523	-5,339		
44	CARTRIDGE CHAFF RR-188	1,513	2,351	1,513	2,351	1,513	2,351	-1,513	-2,351		
45	SIGNAL MK-4 MOD 3	710	1,466	710	1,466	710	1,466	-710	-1,466		
46	ITEMS LESS THAN $2,000,000		4,523		4,523		4,523		-4,523		
47	TIMER ACTUATOR FIN FUZE	18,000	8,742	18,000	8,742	18,000	8,742	-18,000	-8,742		
48	GBU-15		5,613		5,613		5,613		-5,613		
49	BOMB PRACTICE 25 POUND	668,720	9,406	668,720	6,922	668,720	9,406	-668,720	-9,406		
50	SENSOR FUZED WEAPON	260	113,513	260	113,513	260	113,513	-260	-113,513		
51	ITEMS LESS THAN $2,000,000		2,514		2,514		2,514		-2,514		
52	ITEMS LESS THAN $2,000,000		822		822		822		-822		
53	FLARE, IR MJU-7B	766,563	16,260	766,563	6,540	766,563	16,260	-766,563	-16,260		
54	PARACHUTE FLARE LUU-2 B/B	7,572	4,025	7,572	4,025	7,572	4,025	-7,572	-4,025		
55	M-206 CARTRIDGE FLARE	311,800	9,114	311,800	9,114	311,800	9,114	-311,800	-9,114		
56	INITIAL SPARES WPAF		161		161		161		-161		
57	REPLENISHMENT SPARES WPAF		2,865		2,865		2,865		-2,865		
58	MODIFICATIONS		507		507		507		-507		
59	ITEMS LESS THAN $2,000,000		10,271		7,068		10,271		-10,271		
60	FMU-139 FUZE		11,742		10,250		11,742		-11,742		
61	ITEMS LESS THAN $2,000,000		60		60		60		-60		
62	M-16 A2 RIFLE	1,450	833	1,450	833	1,450	833	-1,450	-833		
	TOTAL WEAPONS PROCUREMENT AIR FORCE		4,392,173		3,953,232		4,330,473		-659,328		3,732,845

VOL 140 PT 16 AG 12 — 18 1994 UMI

Bomber improvements

The Senate bill would provide $90.0 million for improved interim conventional weapons for heavy bombers.

The House amendment would provide $100.0 million for both accelerating conventional weapon upgrades on B–1B bombers and for transferring heavy bombers from attrition reserve status to the active inventory.

The conferees agree to recommend the following funding:

(1) $37.5 million for testing and conversion of the nuclear air-launched cruise missile to conventional weapons capability;

(2) $40.0 million for the acquisition of GPS-aided munition system (GAMS) weapons and for testing of the brilliant anti-tank (BAT) submunition in a tactical munitions dispenser;

(3) $5.3 million in procurement and $18.1 million in operation and maintenance funds for the restoration of 24 B–52H bombers from attrition reserve status to active status; and

(4) $16.9 million for the acceleration of the integration of the joint direct attack munitions (JDAM) family of weapons onto the B–1B bomber.

AMMUNITION, AIR FORCE

Overview

The budget request, the Senate bill, and the House amendment contained no separate account for Air Force ammunition programs. Those programs were funded within the Weapons Procurement, Air Force account. The conferees recommend authorization of $251.5 million for these programs in a new Ammunition, Air Force account as delineated in the following table. Unless noted explicitly in the statement of the managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference---- Change to Request Quantity	----Conference---- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
	PROCUREMENT OF AMMUNITION AIR FORCE										
38	2.75 INCH ROCKET MOTOR				13,851		13,851	40,468	13,851		13,851
39	ITEMS LESS THAN $2,000,000				40,468		40,468				
40	5.56 MM				1,990		1,990		1,990		1,990
41	20MM TRAINING				28,385		28,385	28,385	11,618		11,618
42	30 MM TRAINING				3,307		3,307	3,307	18,295		18,295
43	CARTRIDGE CHAFF RR-180				2,523		2,523	2,523	15,500		15,500
44	CARTRIDGE CHAFF RR-188				523		523	523	2,403		2,403
45	SIGNAL MK-4 MOD 3				1,513		1,513	1,513	2,351		2,351
46	ITEMS LESS THAN $2,000,000				710		710	710	1,466		1,466
47	TIMER ACTUATOR FIN FUZE				4,523		4,523		4,523		4,523
48	GBU-15				8,742		8,742	18,000	8,742		8,742
49	BOMB PRACTICE 25 POUND				5,613		5,613		5,613		5,613
50	SENSOR FUZED WEAPON				6,922		6,922	387,000	6,922		6,922
51	ITEMS LESS THAN $2,000,000				113,513		113,513	260	113,513		113,513
52	ITEMS LESS THAN $2,000,000				2,514		2,514		2,514		2,514
53	FLARE, IR MJU-7B				822		822		822		822
54	PARACHUTE FLARE LUU-2 B/B				6,540		6,540	766,563	6,540		6,540
55	M-206 CARTRIDGE FLARE				4,025		4,025	7,572	4,025		4,025
56	INITIAL SPARES WPAF				9,114		9,114	311,800	9,114		9,114
57	REPLENISHMENT SPARES WPAF				161		161		161		161
58	MODIFICATIONS				2,865		2,865		2,865		2,865
59	ITEMS LESS THAN $2,000,000				507		507		507		507
60	FMU-139 FUZE				7,068		7,068		7,068		7,068
61	ITEMS LESS THAN $2,000,000				10,250		10,250		10,250		10,250
62	M-16 A2 RIFLE				60		60		60		60
					833		833	1,450	833		833
	TOTAL AIR FORCE AMMUNITION				251,546						251,546

VOL 140 PT 16 AG 12 — 18 1994 UMI

OTHER PROCUREMENT, AIR FORCE

Overview

The budget request for fiscal year 1995 contained an authorization of $7,078.3 million for Other Procurement, Air Force. The Senate bill would authorize $6,961.2 million. The House amendment would authorize $6,855.4 million. The conferees recommend authorization of $6,929.2 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
	OTHER PROCUREMENT, AIR FORCE										
	MUNITIONS AND ASSOCIATED EQUIPMENT										
1	2.75 INCH ROCKET MOTOR										
2	ITEMS LESS THAN $2,000,000										
3	5.56 MM										
4	20 MM COMBAT										
5	20MM TRAINING										
6	30 MM TRAINING										
7	CARTRIDGE CHAFF RR-180										
8	CARTRIDGE CHAFF RR-188										
9	SIGNAL MK-4 MOD 3										
10	CART IMP 3000 FT/LBS,										
11	ITEMS LESS THAN $2,000,000										
12	BSU-49 INFLATABLE RETARDER										
13	GBU-15										
14	BOMB PRACTICE 25 POUND										
15	MK-84 BOMB-EMPTY										
16	SENSOR FUZED WEAPON										
17	CBU-87(COMBINED EFFECTS MUNITIONS)										
18	ITEMS LESS THAN $2,000,000										
19	ITEMS LESS THAN $2,000,000										
20	FLARE, IR MJU-7B										
21	MJU-10B										
22	ALA-17 FLARE										
23	SPARES AND REPAIR PARTS OPAF-1										
24	SPECIAL PROGRAMS										
25	MODIFICATIONS										
26	ITEMS LESS THAN $2,000,000										
27	FMU-139 FUZE										
28	ITEMS LESS THAN $2,000,000										
29	SQUAD AUTOMATIC WEAPON										
30	M-16 A2 RIFLE										
31	.50 CAL RIFLE										
32	M2 .50 CAL MACHINE GUN										

UMI 1994 AG 12 - 18 PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
33	12GA EOD SHOTGUN										
	VEHICULAR EQUIPMENT										
34	SEDAN, 4 DR 4X2	296	2,621	296	2,621	296	2,621			296	2,621
35	STATION WAGON, 4X2	133	1,773	133	1,773	133	1,773			133	1,773
36	BUS, 28 PASSENGER	33	1,616	33	1,616	33	1,616			33	1,616
37	BUS - 32-44 PASSENGER	26	1,763	26	1,763	26	1,763			26	1,763
38	AMBULANCE, BUS	1	78	1	78	1	78			1	78
39	MODULAR AMBULANCE	158	8,095	158	8,095	158	8,095			158	8,095
40	14-23 PASSENGER BUS	5	196	5	196	5	196			5	196
41	LAW ENFORCEMENT VEHICLE	24	311	24	311	24	311			24	311
42	ARMORED SEDAN	2	469	2	469	2	469			2	469
43	TRUCK, STAKE/PLATFORM										
44	TRUCK, CARGO-UTILITY, 3/4T, 4X4										
45	TRUCK, CARGO-UTILITY, 1/2T, 4X2										
46	TRUCK, PICKUP, 1/2T, 4X2	192	2,139	192	2,139	192	2,139			192	2,139
47	TRUCK, PICKUP, COMPACT	471	4,399	471	4,399	471	4,399			471	4,399
48	TRUCK MULTI-STOP 1 TON 4X2	477	9,391	477	9,391	477	9,391			477	9,391
49	TRUCK, PANEL, 4X2										
50	TRUCK CARRYALL										
51	MEDIUM TACTICAL VEHICLE										
52	TRUCK, CARGO, 2 1/2T										
53	TRUCK TRACTOR, OVER 5T										
54	TRUCK, DUMP 5 TON										
55	TRUCK, UTILITY										
56	CAP VEHICLES		787		787		787				787
57	ITEMS LESS THAN $2,000,000 2.5 TON SLEP		12,546		12,546		12,546				12,546
58	TRUCK PHONE LINE CONSTRUCTION										
59	TRUCK TANK FUEL R-11	154	22,782	154	19,000	154	22,782		-3,782	154	19,000
60	ITEMS LESS THAN $2,000,000		6,576		6,576		6,576				6,576
61	TRUCK CRASH P-23										
62	TRUCK WATER P-26 (P-18)										
63	HEAVY RESCUE VEHICLE	14	2,389	14	2,389	14	2,389			14	2,389
64	TRUCK PUMPER P-24	14	2,479	14	2,479	14	2,479			14	2,479

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
65	TRUCK PUMPER P-22	26	4,299	26	4,299	26	4,299			26	4,299
66	ITEMS LESS THAN $2,000,000										
67	TRUCK F/L 4000 LB GED/DED 144 INCH										
68	TRUCK, F/L 10,000 LB										
69	60K A/C LOADER	27	29,329	27	29,329	27	29,329			27	29,329
70	50K CONTAINER HANDLER										
71	ITEMS LESS THAN $2,000,000		3,357		3,357		3,357				3,357
72	RUNWAY SNOW REMOV AND CLEANING EQUIP										
73	WELL DRILLING SYSTEM										
74	SPARES AND REPAIR PARTS OPAF-2										
75	MODIFICATIONS		561		561		561				561
76	ITEMS LESS THAN $2,000,000 GENERAL REDUCTION, MMII		1,398		1,398		1,398				1,398
77	CANCELLED ACCOUNT ADJUSTMENTS										
	ELECTRONICS AND TELECOMMUNICATIONS EQUIP										
78	COMSEC EQUIPMENT		21,265		21,265		21,265				21,265
79	SPARES AND REPAIR PARTS OPAF-3										
80	MODIFICATIONS (COMSEC)		479		479		479				479
81	INTELLIGENCE DATA HANDLING SYS		16,159		16,159		16,159				16,159
82	INTELLIGENCE TRAINING EQUIPMENT		148		148		148				148
83	INTELLIGENCE COMM EQUIP		9,939		9,939		9,939				9,939
84	ITEMS LESS THAN $2,000,000		195		195		195				195
85	AIR TRAFFIC CTRL/LAND SYS (ATCALS)		2,423		2,423		2,423				2,423
86	THEATER AIR CONTROL SYS IMPROVEMENT		78,774		78,774		78,774		-7,600		71,174
87	WEATHER OBSERV/FORCAST		21,264		21,264		21,264				21,264
87a	ASOS				5,000				5,000		5,000
88	DEFENSE SUPPORT PROGRAM		15,102		15,102		15,102				15,102
89	STRATEGIC COMMAND AND CONTROL		8,257		8,257		8,257				8,257
90	CHEYENNE MOUNTAIN COMPLEX		15,182		15,182		15,182				15,182
91	BMEWS MODERNIZATION										
92	SPACETRACK		918		918		918				918
93	NAVSTAR GPS		3,776		3,776		3,776				3,776
94	DEFENSE METEOROLOGICAL SAT PROG		16,081		16,081		16,081				16,081
95	MARS/USAF-FAA RADAR UPGRADE										

UMI 1994 12-18 AG PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
96	TAC SIGINT SUPPORT										
97	DRUG INTERDICTION PROGRAM										
98	IMAGERY TRANS										
99	TACTICAL WARNING SYSTEMS SUPPORT										
100	NORTH ATLANTIC DEFENSE C3										
101	DARP		22,392		22,392		9,792		-12,600		9,792
102	AUTOMATIC DATA PROCESSING EQUIP		39,121		39,121		39,121				39,121
103	ADP OPERATIONS CONSOLIDATION										
104	WWMCCS/GLOBAL COMMAND & CONTROL SYSTEM		12,623		12,623		12,623		-4,189		8,434
105	MOBILITY COMMAND AND CONTROL		16,276		16,276		16,276				16,276
106	AIR FORCE PHYSICAL SECURITY SYSTEM		25,522		25,522		25,522				25,522
107	COMBAT TRAINING RANGES		16,989		16,989		16,989				16,989
107a	ACMI TRAINING RANGES								25,000		25,000
108	C3 COUNTERMEASURES		5,426		5,426		5,426				5,426
109	BASE LEVEL DATA AUTO PROGRAM		34,093		34,093		34,093				34,093
110	AIR FORCE SATELLITE CONTROL NETWORK		25,810		25,810		25,810				25,810
111	AFMC CALS										
112	THEATER BATTLE MGT C2 SYS		45,547		45,547		45,547				45,547
113	EASTERN/WESTERN RANGE I&M		116,625		116,625		116,625				116,625
114	INFORMATION TRANSMISSION SYSTEMS		499		499		499				499
115	TELEPHONE EXCHANGE		44,872		44,872		44,872				44,872
116	JOINT TACTICAL COMM PROGRAM										
117	USTRANSCOM										
118	USCENTCOM		2,810		2,810		2,810				2,810
119	AUTOMATED TELECOMMUNICATIONS PRG		29,558		12,000		29,558		-17,558		12,000
120	MILSATCOM		3,770		3,770		3,770				3,770
121	SATELLITE TERMINALS		5,386		5,386		5,386				5,386
122	WIDEBAND SYSTEMS UPGRADE		1,433		1,433		1,433				1,433
123	MINIMUM ESSENTIAL EMER COMM NET										
124	TACTICAL C-E EQUIPMENT		41,718		41,718		41,718				41,718
125	RADIO EQUIPMENT		19,618		1,000		19,618		-18,618		1,000
126	TV EQUIPMENT (AFRTV)		2,622		2,622		2,622				2,622
127	CCTV/AUDIOVISUAL EQUIPMENT		2,286		2,286		2,286				2,286
128	ANTI JAM VOICE		390		390		390				390

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
129	BASE COMM INFRASTRUCTURE		869		869		869				869
130	SPARES AND REPAIR PARTS OPAF-3										
131	CAP COM & ELECT		293		293		293				293
132	ITEMS LESS THAN $2,000,000		9,535		9,535		9,535				9,535
133	COMM ELECT MODS		18,850		18,850		18,850				18,850
134	ANTIJAM VOICE										
135	SPACE MODS		29,655		29,655		29,655				29,655
	OTHER BASE MAINTENANCE AND SUPPORT EQUIP										
136	BASE/ALC CALIBRATION PACKAGE		10,004		10,004		10,004				10,004
137	NEWARK AFB CALIBRATION PACKAGE		1,601		1,601		1,601				1,601
138	ITEMS LESS THAN $2,000,000		11,667		11,667		11,667				11,667
139	NIGHT VISION GOGGLES										
140	BREATHING APPARATUS TWO HOUR		4,242		4,242		4,242				4,242
141	CHEMICAL/BIOLOGICAL DEF PROG		7,736		7,736		7,736				7,736
142	ITEMS LESS THAN $2,000,000		3,800		3,800		3,800				3,800
143	BASE MECHANIZATION EQUIPMENT		11,241		11,241		11,241				11,241
144	AIR TERMINAL MECHANIZATION EQUIP		6,863		6,863		6,863				6,863
145	ITEMS LESS THAN $2,000,000		4,304		4,304		4,304				4,304
146	GENERATORS-MOBILE ELECTRIC		4,358		4,358		4,358				4,358
147	FLOODLIGHTS SET TYPE MF2D										
148	ITEMS LESS THAN $2,000,000		3,539		3,539		3,539				3,539
149	BASE PROCURED EQUIPMENT		17,048		17,048		17,048				17,048
150	NATURAL GAS UTILIZATION EQUIPMENT										
151	MEDICAL/DENTAL EQUIPMENT		13,872		13,872		13,872				13,872
152	ENVIRONMENT PROJECTS		23,553		23,553		23,553				23,553
153	AIR BASE OPERABILITY		4,812		4,812		4,812				4,812
154	PALLET AIR CARGO	4,000	3,618	4,000	3,618	4,000	3,618			4,000	3,618
155	NET ASSEMBLY, 108" X 88"										
156	PHOTOGRAPHIC EQUIPMENT		6,629		6,629		6,629				6,629
157	TACTICAL SHELTER										
158	PRODUCTIVITY ENHANCEMENT		9,268		9,268		9,268				9,268
159	PRODUCTIVITY INVESTMENTS		5,092		5,092		5,092				5,092
160	MOBILITY EQUIPMENT		12,807		12,807		12,807				12,807
161	WARTIME HOST NATION SUPPORT		1,447		1,447		1,447				1,447

VOL 140 PT 16 AG 12 I 18 1994 UMI

P-1 LINE	ITEM	FY1995 Request Quantity	Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
162	SPARES AND REPAIR PARTS OPAF-4		61,026		1,000		61,026				61,026
163	ITEMS LESS THAN $2,000,000		18,244		18,244		18,244		-2,336		15,908
164	INTELLIGENCE PRODUCTION ACTIVITY		58,050		55,704		57,050		-2,200		55,850
165	TECH SURV COUNTERMEASURES EQ		2,280		2,280		2,280				2,280
166	SR YR GROUND STATIONS										
167	DARP		65,306		65,306		65,306				65,306
168	SELECTED ACTIVITIES		5,620,346		5,494,846		5,516,846		-110,200		5,510,146
169	SPECIAL UPDATE PROGRAM		166,064		166,064		166,064				166,064
170	INDUSTRIAL PREPAREDNESS		1,020		1,020		1,020				1,020
171	MODIFICATIONS		1,020		1,020		1,020				1,020
172	FIRST DESTINATION TRANSPORTATION		13,492		13,492		13,492				13,492
	TOTAL OTHER PROCUREMENT AIR FORCE		7,078,253		6,855,423		6,961,153		-149,083		6,929,170

PROCUREMENT, DEFENSE-WIDE

Overview

The budget request for fiscal year 1995 contained an authorization of $1,744.9 million for Procurement, Defense-wide. The Senate bill would authorize $1,935.6 million. The House amendment would authorize $2,066.7 million. The conferees recommend authorization of $1,891.4 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

UMI 1994 12-18 AG PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	PROCUREMENT, DEFENSE-WIDE										
1	MOTOR VEHICLES										
1a	ELECTRIC VEHICLES						15,000		15,000		15,000
2	MAJOR EQUIPMENT, OSD/WHS		77,780		77,780		77,780				77,780
3	DARP		250,660		301,899		292,360		62,339		312,999
4	CORPORATE INFORMATION MANAGEMENT SUPERCOMPUTERS		11,007		11,007		11,007				11,007
5	CLASSIFIED EQUIPMENT, NSA	[ ]	[ ]		[ ]		[ ]		[-9,200]		[ ]
6	DEFENSE AIRBORNE RECONNAISSANCE PROG		16,397		16,397		16,397				16,397
7	VEHICLES, DNA	33	1,544	33	1,544	33	1,544			33	1,544
8	OTHER CAPITAL EQUIPMENT, DNA	6	1,958	6	1,958	6	1,958			6	1,958
9	WHMCCS ADP SYSTEMS		7,273		7,273		7,273				7,273
10	INFORMATION SERVICES, TRANSFER										
11	PLANS & PROGRAM ANALYSIS SUPPORT CTR		2,000		2,000		2,000				2,000
12	ITEMS LESS THAN $2 MILLION, DISA		74,010		74,010		74,010				74,010
13	DRUG INTERDICTION SUPPORT										
14	INTELLIGENCE AND COMMUNICATIONS, DIA	[ ]	[ ]		[ ]		[ ]				[ ]
15	DIA INTELLIGENCE PROGRAM SUPPORT GROUP	[ ]	[ ]		[ ]		[ ]				[ ]
16	DEFENSE SUPPORT ACTIVITIES, DLA		9,859		9,859		9,859				9,859
17	COMMUNICATION EQUIPMENT, DMA										
18	AUTOMATED INFORMATION SYSTEM EQUIPMENT		15,402		10,402		15,402				15,402
19	VECTOR PRODUCT EQUIPMENT										
20	DEVELOPMENT TEST FACILITY										
21	MC & G MAINFRAME UPGRADE										
22	VEHICLES, DMA		116		116		116				116
23	OTHER CAPITAL EQUIPMENT, DMA		28,531		23,531		28,531				28,531
24	GEODESY AND GEOPHYSICAL EQUIPMENT										
25	VEHICLES, DIS		2,903		2,903		2,903				2,903
26	OTHER CAPITAL EQUIPMENT, DIS		1,256		1,256		1,256				1,256
27	ITEMS LESS THAN $2 MILLION, DCAA		4,000		4,000		4,000				4,000
28	MAJOR EQUIPMENT , DSPO		11,700		11,700		11,700				11,700
29	MAJOR EQUIPMENT , DSPO										
30	MAJOR EQUIPMENT, DSPO										
31	MAJOR EQUIPMENT, OJCS		47,682		47,682		47,682				47,682

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
32	OTHER CAPITAL EQUIPMENT, OSIA										
	JOINT BIOLOGICAL DEFENSE PROGRAM						3,000		20,416		20,416
	BALLISTIC MISSILE DEFENSE ORGANIZATION										
33	PATRIOT		255,063		255,063		255,063				255,063
34	HAWK BN/C3 MODS		3,831		3,831		3,831				3,831
35	NAVY TMD		14,496				14,496				14,496
36	MAJOR EQUIPMENT, CIO	[ ]	[ ]		[ ]		[ ]				[ ]
37	CPMS		9,000		9,000		9,000				9,000
999	CLASSIFIED PROGRAMS		379,561		374,596		460,561		-9,200		370,361
	MENTOR-PROTEGE PROGRAM						50,000		50,000		50,000
	NATURAL GAS VEHICLES										
	NATURAL GAS CONVERSION										
	EARLY WARNING ASSURANCE				300,000						
	SPECIAL OPERATIONS COMMAND										
38	RADIO FREQUENCY MOBILE ELECTRONIC TEST		23,872		23,872		23,872				23,872
39	MC-130H COMBAT TALON II		29,688		29,688		29,688				29,688
40	AC-130U GUNSHIP ACQUISITION		71,102		71,102		71,102				71,102
41	C-130 MODIFICATIONS		65,661		65,661		65,661				65,661
42	HH-53 MODIFICATIONS		6,838		6,838		6,838				6,838
43	MH-47/MH-60 MODIFICATIONS		10,666		10,666		10,666				10,666
44	MH-60 MODIFICATIONS										
45	OTHER AIRCRAFT MODIFICATIONS										
46	OH-6 PROCUREMENT & MODIFICATIONS	7	7,381	7	7,381	7	7,381			7	7,381
47	AIRCRAFT SUPPORT		40,016		40,016		40,016				40,016
48	PC,CYCLONE CLASS		12,380		12,380		12,380		7,900		20,280
49	MK VIII MOD 1 - SEAL DELIVERY VEHICLE		11,906		11,906		11,906				11,906
50	SUBMARINE CONVERSION		12,288		12,288		12,288				12,288
51	MK V SPECIAL OPER CRAFT (MK V SOC)	2	9,595	2	9,595	2	9,595			2	9,595
52	SOF PYRO/DEMO		14,029		14,029		14,029				14,029
53	SOF PLATFORM GUN AMMUNITION		38,496		38,496		38,496				38,496
54	SOF INDIV WEAPONS AMMUNITION		10,188		10,188		10,188				10,188
55	COMM EQUIPMENT & ELECTRONICS		15,895		15,895		15,895				15,895
56	SOF INTELLIGENCE SYSTEMS		13,619		13,619		13,619				13,619
57	SOF SMALL ARMS & WEAPONS		8,530		8,530		8,530				8,530

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
58	SPECIAL WARFARE EQUIPMENT	14,987	14,987	14,987	14,987	14,987	14,987			14,987	14,987
59	MISCELLANEOUS EQUIPMENT	4,153	4,153	4,153	4,153	4,153	4,153			4,153	4,153
60	SOF PLANNING & REHEARSAL SYS (SOFPARS)	2,958	2,958	2,958	2,958	2,958	2,958			2,958	2,958
61	CLASSIFIED PROGRAMS	86,761	86,761	86,761	86,761	86,761	86,761			86,761	86,761
62	PSYOP EQUIPMENT	7,878	7,878	7,878	7,878	7,878	7,878			7,878	7,878
	TOTAL PROCUREMENT DEFENSE WIDE	1,744,916	1,744,916	2,066,694	2,066,694	1,935,616	1,935,616	146,455	146,455	1,891,371	1,891,371

SR–71 reconnaissance aircraft

The budget request did not include funding for SR–71 aircraft.

The Senate bill would provide $100.0 million in research and development, split equally between the national foreign intelligence program (NFIP) and tactical intelligence and related activities (TIARA) program budgets, to reactivate the SR–71 aircraft to provide a contingency reconnaissance capability. The Senate initiative depended on a determination of whether the costs would be acceptable and a viable contingency capability could be acquired for $100.0 million.

The House amendment contained no similar funding.

The conferees agree to provide $100.0 million to reactivate the SR–71 to provide an interim contingency reconnaissance capability to be managed by the Defense Airborne Reconnaissance Office for the purposes described in the Senate report (S. Rept. 103–282). The Secretary of Defense shall provide to the congressional defense committees classified and unclassified reports by January 1, 1995, detailing the following:

(1) how the SR–71 could be integrated into the Department's reconnaissance modernization plan;

(2) how the SR–71 will contribute additional capabilities to the Department's reconnaissance and intelligence collection capability;

(3) the time it will take to fully reactivate the SR–71; and

(4) the effect on the Future Years Defense Program of the costs to provide this additional reconnaissance capability until new endurance UAVs are fielded.

PROCUREMENT, NATIONAL GUARD AND RESERVE EQUIPMENT

Overview

The budget request for fiscal year 1995 contained no funds for Procurement, National Guard and Reserve Equipment. The Senate bill would authorize $600.0 million. The House amendment would authorize $787.2 million. The conferees recommend authorization of $510.0 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

VOL 140 PT 16 AG 12 — 18 1994 UMI

UMI 1994 12 — 18 AG 16 PT 140 VOL

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	NATIONAL GUARD & RESERVE EQUIPMENT										
	RESERVE EQUIPMENT										
	ARMY RESERVE										
1	NIGHT VISION										
2	MISCELLANEOUS EQUIPMENT				10,000				50,000		50,000
	COMMUNICATIONS ELECTRONICS						15,000				
	CONSTRUCTION/TRANSPORTATION EQUIP						25,000				
	MEDICAL EQUIPMENT						25,000				
	SIMULATION EQUIPMENT						10,000				
	ENGINEERING EQUIPMENT				15,000						
	TACTICAL VEHICLES				15,000						
	SINCGARS				10,000						
3	EXTERNAL FUEL TANKS										
4	HEMTT TRUCKS										
	AUTOMATIC BUILDING MACHINES										
	M915/M916/HEAVY DUMP TRUCKS										
	5 TON FLATBED TRAILERS										
5	DRUG INTERDICTION										
	NAVY RESERVE										
6	MISCELLANEOUS EQUIPMENT				25,000				50,000		50,000
	COMMUNICATIONS ELECTRONICS						15,000				
	CONSTRUCTION/TRANSPORTATION EQUIP						15,000				
	MEDICAL EQUIPMENT						25,000				
	SIMULATION EQUIPMENT						10,000				
7	C-130T AIRCRAFT				35,000						
	TACTICAL AIRLIFT AIRCRAFT							1	30,000	1	30,000
	HH-60 HELICOPTER UPGRADE KITS				39,500						
	C-9 MODS				25,000						
8	MH-53 HELICOPTERS										
9	LAMPS MK-1 ASW UPGRADE										
10	P-3 UPGRADES				42,000						
11	MIUW VAN UPGRADES				10,000						
12	FFG-7 DISPLAY SYS										
	CESE FOR EOD/MIVW				6,500						

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
13	DRUG INTERDICTION										
	MARINE CORPS RESERVE										
14	MISCELLANEOUS EQUIPMENT				5,000				50,000		50,000
	COMMUNICATIONS ELECTRONICS						15,000				
	CONSTRUCTION/TRANSPORTATION EQUIP						10,000				
	MEDICAL EQUIPMENT						10,000				
	SIMULATION EQUIPMENT						10,000				
	SIMULATORS				15,000						
	AH-1W COBRA AIRCRAFT MODS				19,800						
	MEDIUM SUPPORT TRUCKS				7,500						
15	KC-130T AIRCRAFT										
16	AH-1W COBRA AIRCRAFT										
17	NIGHT VISION DEVICES										
	AIR FORCE RESERVE										
18	MISCELLANEOUS EQUIPMENT				1,000				20,000		20,000
	COMMUNICATIONS ELECTRONICS						25,000				
	MEDICAL EQUIPMENT						25,000				
	SIMULATION EQUIPMENT						10,000				
	SMALL ARMS SIMULATION										
19	C-130 AIRCRAFT				35,000						
	TACTICAL AIRLIFT AIRCRAFT							1	30,000	1	30,000
	KC-135 REENGINING				24,000						
	C-130 UPGRADES				8,900						
20	MH-60G HELO										
21	DRUG INTERDICTION										
	RESERVE AIRCRAFT										
22	MISCELLANEOUS EQUIPMENT										
	NATIONAL GUARD EQUIPMENT										
	ARMY NATIONAL GUARD										
23	MISCELLANEOUS EQUIPMENT				5,000				20,000		20,000
	COMMUNICATIONS ELECTRONICS						20,000				
	CONSTRUCTION/TRANSPORTATION EQUIP						30,000				
	MEDICAL EQUIPMENT						25,000				
	SIMULATION EQUIPMENT						10,000				

UMI 1994 12-18 AG PT 16 VOL 140

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
24	UH-60 HELICOPTERS			4	25,000						
25	CH-47										
26	M915/916 TRUCKS										
27	5 TON TRUCKS										
28	MEDIUM TACTICAL TRUCKS				25,000						
	TRACKED COMBAT VEHICLE EQUIP (M113/M-9/				5,000						
	CHEMICAL-BIO EQUIPMENT				5,000						
	LOGISTICAL SUPPORT EQUIP				5,000						
29	M113 ARMORED PERSONNEL CARRIER										
30	C-23 SIMULATOR										
31	M-9 ACE										
32	EXTERNAL FUEL TANKS										
33	MLRS				130,000						
34	NIGHT VISION DEVICES				20,000						
	COMM. ELECTRONIC EQUIP				25,000						
	TRAINING AND SIMULATION EQUIP				5,000						
	M109A5				12,000						
	FAASV										
	HUEY SLEP										
35	FIREARMS TRNG EQPT										
36	ELECTRONIC TANDEM NETWORK										
37	AH-1 MODS										
38	DRUG INTERDICTION										
AIR NATIONAL GUARD											
39	MISCELLANEOUS EQUIPMENT				12,000				20,000		20,000
	COMMUNICATIONS ELECTRONICS						20,000				
	TACTICAL AIRLIFT AIRCRAFT					8	250,000	8	240,000	8	240,000
40	C-130 AIRCRAFT				10,000						
	AIRCRAFT DEFENSIVE SYSTEMS				25,000						
	F-15 ENGINE				25,000						
	COMBAT COMM AND ELECT EQUIP				30,000						
	FIGHTER AIRCRAFT MODS				25,000						
	KC-135 REENGINING				24,000						
	KC-135 RADAR MODS				15,000						

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	AIRLIFT REPLACEMENT RADAR				10,000						
41	F-15 MSIP										
42	F-15/F-16 ENGINE UPGRADES										
43	F-15 ALE-40										
44	MCE/TASCI										
45	DRUG INTERDICTION										
NATIONAL GUARD AIRCRAFT											
46	NATIONAL GUARD AND RESERVE AIRCRAFT										
	TOTAL GUARD AND RESERVE EQUIPMENT				787,200		600,000		510,000		510,000

VOL 140 PT 16 AG 12 I 18 1994 UMI

National Guard and reserve equipment190[H12AU4-B1071]National G

The budget request included no funds in the National Guard and reserve equipment procurement account.

The Senate bill would provide $600.0 million. The Senate report (S. Rept. 103–282) provided these funds in broad categories, such as medical equipment, aviation and aeromedical equipment, construction and transportation equipment, and electronic and communications equipment. The report also indicated that the funds should be focused toward those activities that meet important military needs, and also enhance the capability of the reserve components to assist civilian authorities.

The House amendment would provide $787.2 million. The House report (H. Rept. 103–499) allocated these funds to some specific programs and some generic categories.

The conferees agree to provide $510.0 million, as indicated in the following table. The conferees note that they have provided $130.0 million in the Army missile procurement account to buy a battalion of multiple launch rocket system (MLRS) launchers for the Army National Guard.

NATIONAL GUARD AND RESERVE PROCUREMENT

[In millions of dollars]

	Quantity	Amount
Army Reserve:		
Miscellaneous equipment	.....	50.0
Navy Reserve:		
Miscellaneous equipment	.....	50.0
Tactical airlift aircraft	1	30.0
Marine Corps Reserve:		
Miscellaneous equipment	.....	50.0
Air Force Reserve:		
Miscellaneous equipment	.....	20.0
Tactical airlift aircraft	1	30.0
Army National Guard:		
Miscellaneous equipment	.....	20.0
Air National Guard:		
Miscellaneous equipment	.....	20.0
Tactical airlift aircraft	8	240.0
Total	10	510.0

The conferees agree that the funds in this account should be made available in a generic category that will:

(1) give the reserve components maximum flexibility to identify their highest priority requirements and apply resources to filling those requirements; and

(2) allow the purchases to enhance activities that meet important military needs, and also enhance the capability of the reserve components to assist civilian authorities.

The conferees also agree that none of the funds in these areas be obligated until the Chief of the National Guard Bureau and the head of each reserve component have reported on the proposed use of such funds, in accordance with established reprogramming procedures.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

Overview

The budget request for fiscal year 1995 contained an authorization of $575.3 million for Chemical Agents and Munitions Destruction, Defense. The Senate bill would authorize $590.1 million. The House amendment would authorize $670.3 million. The conferees recommend authorization of $599.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request	--- House FY1995 ---	--- Senate FY1995 ---	---Conference---	-- Conference FY95 --
		Quantity Amount	Quantity Authorization Amount	Quantity Authorization Amount	Change to Request Quantity Amount	Quantity Authorization Amount
CHEM AGENTS & MUNITIONS DESTRUCTION, DEF						
1	CHEM DEMILITARIZATION - RDTE	11,300	20,800	11,300	9,400	20,700
2	CHEM DEMILITARIZATION - PROC	208,465	284,465	215,265	6,800	215,265
3	CHEM DEMILITARIZATION - O&M	355,584	365,084	363,584	8,000	363,584
	TOTAL CHEMICAL DESTRUCTION	575,349	670,349	590,149	24,200	599,549

VOL 140 PT 16 AG 12 — 18 1994 UMI

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Chemical agents and munitions destruction program (secs. 107, 142, and 143)

The budget request included $575.3 million for the chemical agents and munitions destruction program.

The Senate bill contained a provision (sec. 106) that would authorize $590.1 million for the program; authorize obligation of fiscal year 1994 appropriations for research, development, test, and evaluation for chemical agents and munitions destruction in title VI of Public Law 103–139; and amend Section 1412(f) of the Department of Defense Authorization Act of Fiscal Year 1986 to require military construction funds for the chemical agents and munitions destruction program to be included in separate defense accounts.

The House amendment contained a provision (sec. 107) that would authorize $670.3 million for the program. The House amendment also contained a provision (sec. 1040) that would prohibit transportation of the unitary stockpile from one state to another state, and would allow chemical munitions that are not part of the unitary stockpile, which are discovered or come under the control of the Department of Defense, to be transported to the nearest chemical munitions storage facility that has the necessary permits to receive and store such items.

The conferees agree to authorize $599.5 million for the chemical agents and munitions destruction program, an increase of $24.2 million to the requested amount. The conferees recommend that, of the funds provided for procurement, $22.5 million be available for the procurement of carbon filtration systems and ancillary equipment for the pollution abatement system at Tooele Army Depot and equipment modification design for all sites. Of the funds authorized for operation and maintenance, the conferees recommend that $8.0 million be available to support Army implementation of the National Research Council (NRC) recommendations to update risk assessments for storage, handling, and disposal activities at each site; enhance the stockpile surveillance program; and implement a public outreach program. Of the funds authorized for research and development, the conferees recommend $11.3 million for the nonstockpile program and $9.4 million for alternative technologies to the baseline program.

The conferees agree to authorize $25.0 million appropriated for development of alternative technologies in the Department of Defense Appropriations Act for Fiscal Year 1994. Of this amount, $4.3 million shall be available for completion of the cryofracture design and $20.7 million shall be available for development of alternative technologies to the baseline program.

The Senate report (S. Rept. 103–282) recommended making $2.0 million available from funds authorized for development of alternative technologies for programs to detect low-level exposure to chemical agents. The conferees endorse the Senate position and direct the Army to work with the national weapons laboratories on these programs.

In its report to Congress on alternative technologies to the baseline program, the NRC recommended that the Army continue to monitor developments in this area. The Army has notified the conferees of its plans to implement this recommendation by awarding a contract to monitor and evaluate various research activities in alternative technologies that have continued in development since the NRC report was published. The conferees direct the Army to report to the congressional defense committees on any emerging findings resulting from this contract and to pursue demonstration of promising alternatives to either the baseline process or to neutralization.

The conferees agree to the House provision that would prohibit transportation of a chemical munition that is part of the unitary stockpile in one state to another, and that would allow the transportation of nonstockpile chemical munitions that are discovered, or which come under the control of the Department of Defense, in one state to the nearest chemical munitions stockpile storage facility.

The conferees agree to amend section 1412(f) of Public Law 99–145 to require funds for military construction projects for the chemical agents and munitions destruction program to be included in the budget in separate defense accounts. Therefore, the conferees transfer the funds contained in the fiscal year 1995 Army budget request for the military construction of chemical agents and munitions destruction facilities to a separate defense-wide account.

Multiyear procurement authority for M1A2 tank upgrades (sec. 111)

The Senate bill contained a provision (sec. 111) that would authorize the multiyear procurement of M1A2 tank upgrades.

The House amendment contained no similar provision.

The House recedes.

The conferees agree that a multiyear procurement of M1A2 tank upgrades would benefit the Army. The conferees are concerned, however, about the Army's current proposal to reduce funding for the upgrade program substantially over the next several years, and the effect this reduction would have on the Army's ability to execute an appropriate multiyear procurement and maintain a viable industrial base. The conferees direct the Secretary of Defense to carefully review the Army's budget proposal for M1A2 tank upgrades.

Avenger (sec. 111)

The budget request included $13.8 million for the Avenger program.

The Senate bill would authorize the requested amount for Avenger procurement.

The House amendment would deny the requested amount on the grounds that it is excess to program requirements.

The Department of Defense has recently requested authority to reprogram $10.4 million in fiscal year 1994 Avenger funding. The conferees agree to reduce the fiscal year 1995 Avenger procurement request by $8.4 million and to deny the reprogramming request.

The conferees learned that the Avenger multiyear procurement contract will expire in fiscal year 1995, before the Marine Corps and other services can take advantage of the Army's contract and favorable pricing terms. The conferees, therefore, agree to a provision that would grant a one-year extension of the Avenger multiyear procurement authority. The Army, as the contracting agency, may incorporate this extension into contract number DAAH01–92–C–0023.

The conferees agree to this request with the understanding that there will be no additional costs for extending the delivery schedule. The conferees note that DOD must request funds for 113 fire units in fiscal year 1996 to meet the terms of the multiyear procurement contract. The conferees point out that the fiscal year 1996 budget request must request funds either for these fire units or for contract termination costs.

Transfer of replacement Army tanks to Marine Corps Reserve (sec. 112)

The Senate bill would provide $108.0 million more than the requested amount to fund an additional 24 M1A2 tank upgrades for the Army. The Senate bill also contained a provision (sec. 112) that would direct the Secretary of the Army to transfer, either simultaneously or in advance, one M1A2 common tank to the Marine Corps Reserve as each one of these additional M1A2 tanks is made available to the Army. The Senate intended this to be the first year of a two-year program to eliminate a shortfall of 48 tanks in the Marine Corps Reserve tank battalions.

The House amendment contained no similar provision and funding.

The House recedes.

Transfer of M1A1 tanks to the Marine Corps (sec. 113)

The Senate bill included a provision (sec. 1066) that would require the Army to transfer 84 M1A1 tanks to the Marine Corps. The provision would require that, as two M1A1 tanks become excess to the active Army's inventory requirements, one tank would be transferred to the National Guard, and one tank would be transferred to the Marine Corps, up to a total of 84 tanks for each. Thereafter, the Army would transfer all excess M1A1 tanks to the National Guard.

The House amendment included no similar provision. The House report (H. Rept. 103–499) directed the Chairman of the Joint Chiefs of Staff to review the M1A1 tank allocation and report to Congress on the results of that review.

The House recedes.

The conferees agree that this transfer should not be construed as a precedent for directing additional transfers of equipment between military services in the future. The conferees take this action to fill critical tank deficiencies in the active Marine Corps.

The conferees expect the Commission on Roles and Missions to review the allocation of armor among the services. The conferees believe that the Commission should consider the advice of the combatant commanders in this area as in the others on which they will provide advice. The conferees request the Commission to include any recommendations that it may have in its final report.

Exception to mandatory retirement of OV–1 aircraft for aircraft deployed in Korea (sec. 114)

The Senate bill contained a provision (sec. 113) that would permit the Army to use funds saved by the early retirement of OV–1 surveillance aircraft in Korea to lease a replacement surveillance capability, provided that the lease meets certain conditions. The provision also would amend existing law to permit the Army to maintain and operate OV–1 aircraft beyond fiscal year 1995.

The House amendment contained no similar provision.

The House recedes with an amendment that would permit the Army to continue to operate and maintain the OV–1s currently deployed in Korea beyond fiscal year 1995.

The conferees emphasize that the joint surveillance and target attack radar system (JSTARS) is the only wide-area moving target indicator radar program in the Department of Defense. The conferees are prepared to support an interim indications and warning capability for Korea until the Republic of Korea assumes responsibility for the mission, if the Secretary of Defense determines that the OV–1 is not sufficient and that it is impractical to use JSTARS in this role. The conferees do not support acquisition by the Army of a new aircraft for this mission. The conferees direct the Secretary of Defense to inform the congressional defense committees promptly of his decisions on surveillance support in Korea.

Joint service small arms program (sec. 115)

The Senate bill contained a provision (sec. 114) that would authorize the multiyear procurement of small arms to meet the inventory objectives of the army and to sustain a reduced industrial base over an extended period until follow-on weapons are ready for production. The provision also would authorize additional funds for small arms development and require development of a small arms master plan.

The House amendment contained no similar provision.

The House recedes.

The conferees direct the Army to procure as many weapons as possible within the funding levels provided.

The conferees note that, in response to previous congressional direction, the Under Secretary of Defense (Acquisition and Technology) has completed an assessment of management initiatives to improve the transition of small arms technologies from the technology base to development and to ensure full coordination of the joint service small arms program and individual service-unique small arms programs. The conferees support these actions and direct that they be reflected in the revised joint service small arms master plan required by the Senate provision.

Bunker defeat munition (sec. 116)

The budget request included $2.6 million in RDT&E in PE 64802 and $7.8 million for procurement of the bunker defeat munition (BDM).

The senate bill included a provision (sec. 115) that would authorize $7.8 million to permit the Army to procure up to 6,000 type-classified standard BDM rounds and $2.6 million in RDT&E accounts for type-classification of the weapon.

The House amendment would deny funding for BDM.

The House recedes with an amendment. The conferees agree to deny RDT&E funds and to provide $7.1 million to procure no more than 6,000 BDM weapons. The conferees agree that a limited procurement of BDM munitions is reasonable to provide an interim capability for one light division until the SRAW/MPIM is ready for fielding. No RDT&E funds are authorized because the BDM can be type-classified for limited procurement for contingency operations without additional funds.

The army is joining the Marine Corps to develop a weapon which combines the capabilities of the Marine Corps short-range antiarmor weapon (SRAW) with the warhead technology developed in the Army's multipurpose individual munition (MPIM) program. This effort should result in a lightweight, shoulder-fired, low-signature backblast general purpose weapon system that should be ready for fielding around fiscal year 2000.

Procurement of helicopters (sec. 117)

The budget request included no funds to buy additional AH–64 attack helicopters or to modify additional OH–58D scout helicopters.

The House amendment contained a provision (sec. 111) that would repeal sections 132 and 133 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189). Section 132 precludes further purchases of AH–64 helicopters. Section 133 includes a similar prohibition for the OH–58D scout helicopter program. The House amendment would also authorize an additional $72.0 million to buy six AH–64 helicopters and an additional $225.0 million to modify 36 OH–58D helicopters.

The Senate bill contained no similar provision and funding.

The Senate recedes with an amendment that would relax the prohibitions on continuing the AH–64 and OH–58D programs for fiscal year 1995. In addition, the conferees agree to provide an additional $72.0 million for six AH–64 helicopters and an additional $150.0 million for 24 OH–58D modifications.

Nuclear aircraft carrier program (sec. 121)

The Senate bill contained a provision (sec. 121) that would authorize transfer of $1.2 billion from the National Defense Sealift Fund to the shipbuilding and conversion, Navy account. The provision specified that the transferred funds would be available for the CVN–76 nuclear aircraft carrier program.

The House amendment contained a provision (sec. 161) that would prohibit the transfer of funds to fund the CVN–76 construction.

The House recedes.

Limitation on cost of Seawolf submarine program (sec. 122)

The Senate bill included a provision (sec. 122) that would impose a cost cap on the first two *Seawolf* submarines. The provision would permit automatic adjustments to the cost cap for (1) the amount of outfitting and post-delivery costs for these two vessels, (2) changes attributable to inflation, and (3) increased costs attributable to compliance with changes in federal, state, and local laws.

The House amendment included a provision (sec. 125) that would impose an absolute cost cap on the first two *Seawolf* submarines.

The House recedes.

Limitation on acquisition of guidance systems for Trident II missiles (sec. 123)

The Senate bill contained a provision (sec. 1098) that would limit the acquisition of guidance units for Trident II missiles to 14 units unless the Secretary of Defense certifies to the congressional defense committees that failure to procure additional units would pose an unacceptable risk to the long-term readiness and reliability of the Trident II missile program.

The House amendment contained a similar provision (sec. 122).

The House recedes.

Prohibition on Trident II backfit (sec. 124)

The House amendment contained a provision (sec. 123) that would prohibit the backfit of Trident II missiles into Trident missile submarines now equipped to carry Trident I missiles, unless the Secretary of Defense determines that adherence to the prohibition would result in a significant national security risk to the United States.

The Senate bill contained no similar provision.

The Senate recedes.

Inclusion of conversion of vessels in fast sealift program (sec. 125)

The House amendment contained a provision (sec. 124) that would amend section 1424(b) of the National Defense Authorization Act for Fiscal Year 1991. This provision would clarify that the legislative requirements for sealift ships apply identically to newly constructed and converted ships.

The Senate bill contained no similar provision.

The Senate recedes.

Limitation on procurement of TAGS vessels (sec. 126)

The House amendment contained a provision (sec. 126) that would prohibit the Secretary of the Navy from obligating funds for any of the vessels designated TAGS–63, TAGS–64, or TAGS–65, unless the Secretary certifies to the congressional defense committees that the multibeam sonars to be used on those vessels (whether new or remanufactured) have been obtained through competitive acquisition procedures.

The Senate bill contained no similar provision.

The Senate recedes.

Naval amphibious ready groups (sec. 127)

The Senate bill contained a provision (sec. 123) that would make findings on the importance of amphibious ready groups, express the sense of Congress that the Navy should budget to attain a twelfth amphibious ready group and its associated LHD–7 amphibious assault ship as soon as possible, direct the Secretary of the Navy to begin negotiations to extend the existing contract option for the LHD–7 ship, and require him to report on the Department of the Navy's intentions with respect to executing the existing contract option for the LHD–7.

The Senate bill included no funding for the LHD–7 amphibious assault ship.

The House amendment contained no similar provision, but would provide $100.0 million for LHD–7 advance procurement.

The House recedes. The conferees agree to authorize $50.0 million that may be used to extend the contract option for the LHD–7.

Intertheater airlift programs (sec. 131)

The House amendment contained a provision (sec. 131) that would authorize funds for procurement of non-developmental alternative aircraft (NDAA) and the C–17 airlift aircraft. The provision would require the Secretary of Defense to use competitive procedures to select the source for the NDAA program. The provision would also require the Secretary to structure NDAA acquisition so that the Air Force's aggregate intertheater airlift capacity is preserved.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The conferees agree that maintaining aggregate airlift capacity is important. However, the conferees recommend that this concern be expressed as a sense of Congress provision, rather than as a legislative requirement.

Settlement of claims under the C–17 aircraft program (sec. 132)

The Senate bill contained a provision (sec. 131) that would authorize the settlement of certain claims under the C–17 aircraft program.

The House amendment contained no similar provision.

The House recedes with an amendment.

Enhanced bomber capability fund (sec. 133)

The Senate bill contained a provision (sec. 141) that would provide $150.0 million for a bomber industrial base fund and exempt those funds from the existing B–2 bomber cost cap.

The House amendment contained a provision (sec. 132) that would provide that any expenditures by the Department of Defense to preserve the B–2 bomber industrial facilities would be charged against the B–2 bomber cost cap.

The House recedes with an amendment.

The conferees agree to recommend $125.0 million for an enhanced bomber capability fund. The conferees further agree to require

VOL 140 PT 16 AG 12 — 18 1994 UMI

the Secretary of Defense to conduct new analyses of both bomber requirements in the near term and long term, and, should the Secretary conclude that the planned bomber program does not meet those requirements, examine alternative strategies to enhance bomber capabilities to meet those requirements and report his results to the congressional defense committees no later than April 15, 1995. Requirements would be defined, and bomber capabilities measured, for three time periods: 1998, 2006, and 2014.

In the event the Secretary determines that additional bomber capabilities are required, he shall examine alternative strategies for acquiring them, including, but not limited to:

(1) acceleration of planned upgrades to existing bombers and additional munitions and support for them;

(2) initiation of a program to develop a new, lower-cost "next generation" bomber oriented toward conventional warfare; and

(3) a resumption of low-rate production of additional B-2 bombers, or variants thereof, oriented toward conventional warfare.

As part of these analyses, the Secretary shall determine those core capabilities, which would take extended periods of time or substantial expense to regenerate and which are in imminent danger of being lost, that are needed to maintain the ability to design, develop, and produce bombers in the near term or long term.

While the analyses are ongoing, the Secretary may obligate up to $100.0 million both to conduct these analyses and to preserve those parts of the core capabilities described above. The conferees believe that the Secretary should report to Congress where and why such funds are to be spent before obligating them. The conferees understand that, because the assessment of the bomber industrial base will proceed over time, the Secretary may determine at various times throughout the study periods the need to fund appropriate core capabilities of the base.

Following completion of these analyses and an interim report on bomber issues from the Commission on Roles and Missions, but not later than July 1, 1995, the Secretary shall report the results, and his recommendations thereon, to the congressional defense committees. Thereafter, he may obligate all remaining unobligated balances to implement his recommendations, including funds for further preservation of core capabilities, if he so recommends.

Should the Secretary conclude from his analyses that a new "next-generation" bomber is required, he may obligate up to $25.0 million for requirements formulation and conceptual studies for a conventional-conflict-oriented, lower-cost next-generation bomber.

The conferees agree that none of the enhanced bomber capability funds may be used for advance procurement of new B-2 bomber aircraft, including long-lead items, and that subsections (c) and (d) of section 131 of the National Defense Authorization Act for Fiscal Year 1994, which established cost and numerical caps on the B-2 program, are unaffected by any provision in this act.

Retirement of bomber aircraft (sec. 134)

The Senate bill contained a provision (sec. 132) that would prohibit retirement of any B-52, B-1B, or F-111 aircraft during fiscal year 1995, and contained $18.0 million in operation and maintenance funds to retain additional B-52H aircraft in attrition reserve status.

The House amendment contained no similar provision.

The House recedes and agrees to the inclusion of $18.0 million in operation and maintenance funds to retain B-52 bombers.

Evaluation of restart of C-5B aircraft procurement (sec. 135)

The House amendment contained a provision (sec. 134) that would require the Secretary of the Air Force to evaluate the costs of restarting production of C-5B aircraft for the strategic airlift mission, and to submit a report to the congressional defense committees on the evaluation.

The Senate bill contained no similar provision.

The Senate recedes.

Sales authority of working-capital funded Army industrial facilities (sec. 141)

The Senate bill contained a provision (sec. 143) that would authorize Army industrial facilities, including Army arsenals, to sell commercial articles or services to persons outside DOD if the Secretary of the Army determines that the articles or services are not readily available from a commercial source.

The House amendment contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Joint training, analysis, and simulation center

The Senate bill contained a provision (sec. 107) that would authorize $10.5 million for procurement of command, control, communications, and computer equipment for a joint training, analysis, and simulation center for the United States Atlantic Command.

The House amendment contained no similar provision.

The Senate recedes. The conferees agree to authorize $10.5 million for this program within the Other Procurement, Navy account.

Termination of the F-14A/B upgrade program

The budget request included $158.3 million in procurement funds for the F-14A/B upgrade program, and $142.3 million in research and development funds for the F-14 Block I upgrade program.

The House amendment included a provision (sec. 121) that would terminate the F-14 A/B aircraft upgrade program. The House report (H. Rept. 103-499) directed the Navy to use the requested funds to convert existing F-14 aircraft into FA-14 variants with capabilities equivalent to the Air Force F-15E "Strike Eagle."

The Senate bill contained no similar provision. The Senate report (S. Rept. 103-282) directed the Navy to cancel the Block I upgrade program because the Senate was persuaded that the Navy budget will not be able to afford the ultimate $1.6 billion cost of this program.

The House recedes. The conferees agree to provide the requested amount in F-14 procurement and $29.4 million in research and development for programs unrelated to the Block I upgrade program.

Advanced capability (ADCAP) modification program for the MK-48 torpedo

The House amendment contained a provision (sec. 127) that would shift $52.3 million from the fleet satellite communications program to the advanced capability (ADCAP) modification program for the MK-48 torpedo.

The Senate bill contained no similar provision.

The House recedes.

Bomber force upgrade program

The House amendment contained a provision (sec. 133) that would provide $100.0 million for a bomber upgrade fund.

The Senate bill contained no similar provision.

The House recedes. Funding for bomber improvements is described elsewhere in this statement of the managers.

Fiscal year 1995 national defense sealift fund program

The House amendment contained a provision (sec. 162) that would authorize $608.6 million from the fiscal year 1994 unauthorized National Defense Sealift Fund appropriation to be available for fiscal year 1995 National Defense Sealift Fund programs.

The Senate bill contained no similar provision.

The House recedes.

Transfer of excess amount to BRAC III account

The House amendment contained a provision (sec. 163) that would transfer $591.4 million from the fiscal year 1994 unauthorized appropriation for the National Defense Sealift Fund to the base realignment and closure account, part III account.

The Senate bill contained no similar provision.

The House recedes.

Fiscal Year 1994 unauthorized sealift appropriation defined

The House amendment contained a provision (sec. 164) that would define, for purposes of the subtitle, the term "fiscal year 1994" unauthorized sealift appropriation." The term would be defined to mean $1,200.0 million of the amount appropriated for fiscal year 1994 to the National Defense Sealift Fund (in title V of the Department of Defense Appropriations Act for Fiscal Year 1994 (Public Law 103-139; 107 Stat. 1435)).

The Senate bill contained no similar provision.

The House recedes.

Operation of sealift vessels for which assistance is provided through National Defense Sealift Fund

The House amendment contained a provision (sec. 165) that would preclude the Department of Defense and Transportation from directly operating or maintaining any vessels constructed, altered, converted, purchased, operated, maintained, leased, or chartered with funds from the National Defense Sealift Fund. The provision would also preclude civilian employees of the United States from crewing these vessels.

The Senate bill contained no similar provision.

The House recedes.

The conferees agree that the Department of Defense and Transportation must thoroughly evaluate the costs and benefits of employing a private contractor before making a final decision to operate, maintain, or man any national defense sealift vessel with U.S. civilian employees.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION (RDT&E)

Overview

The budget request for fiscal year 1995 contained an authorization of $36,225.0 million for research, development, test and evaluation in the Department of Defense. The Senate bill would authorize $35,790.9 million. The House amendment would authorize $35,979.2 million. The conferees recommend authorization of $36,017.0 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

RESEARCH AND DEVELOPMENT, ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $5,260.1 million for Army research, development, test and evaluation. The Senate bill would authorize $4,152.3 million. The House amendment would authorize $5,424.8 million. The conferees recommend authorization of $5,319.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

UMI 1994 AG 12 — 18 PT 16 VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL ARMY					
1	61101A	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	13,717	13,717	13,717		13,717
2	61102A	DEFENSE RESEARCH SCIENCES	195,346	209,346	225,346	10,650	205,996
3	61104A	ELECTROMECHANICS AND HYPERVELOC PHYSICS	5,050	8,700	8,650	3,600	8,650
4	62104A	TRACTOR ROSE	7,591	7,591	7,591		7,591
5	62105A	MATERIALS TECHNOLOGY	11,083	11,083	15,083	4,000	15,083
6	62120A	ELECTRONIC SURVIVABILITY AND FUZING TECH	26,036	32,036	26,036	3,000	29,036
7	62122A	TRACTOR HIP	11,502	11,502	11,502		11,502
8	62123A	TRACTOR FIELD	0	0	0		0
9	62211A	AVIATION TECHNOLOGY	19,993	19,993	19,993		19,993
10	62270A	EW TECHNOLOGY	18,256	18,256	18,256		18,256
11	62303A	MISSILE TECHNOLOGY	23,301	23,301	23,301		23,301
12	62307A	LASER WEAPONS TECHNOLOGY	0	4,000	0	4,000	4,000
13	62308A	MODELING AND SIMULATION	51,517	41,517	54,517	3,000	54,517
14	62601A	COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	28,330	28,330	28,330		28,330
15	62618A	BALLISTICS TECHNOLOGY	25,692	25,692	25,692		25,692
16	62622A	CHEMICAL, SMOKE AND EQUIP DEFEATING TECH	29,657	42,157	18,957	4,000	33,657
17	62623A	JOINT SERVICE SMALL ARMS PROGRAM	5,326	5,326	5,826	500	5,826
18	62624A	WEAPONS AND MUNITIONS TECHNOLOGY	28,163	36,163	28,163	8,000	36,163
19	62705A	ELECTRONICS AND ELECTRONIC DEVICES	21,222	24,222	24,222	2,000	23,222
20	62709A	NIGHT VISION TECHNOLOGY	19,406	19,406	19,406		19,406
21	62716A	HUMAN FACTORS ENGINEERING TECHNOLOGY	14,393	14,393	14,393		14,393
22	62720A	ENVIRONMENTAL QUALITY TECHNOLOGY	25,887	39,387	30,887	13,500	39,387
23	62727A	NON-SYSTEM TRAINING DEVICE TECHNOLOGY	0	0	0		0
24	62782A	COMMAND, CONTROL, COMMUNICATIONS TECH	16,900	16,900	16,900		16,900
24a		PROJECT PLOWSHARES			5,000	5,000	5,000
25	62783A	COMPUTER AND SOFTWARE TECHNOLOGY	4,635	4,635	4,635		4,635
26	62784A	MILITARY ENGINEERING TECHNOLOGY	41,201	41,201	41,201		41,201
27	62785A	MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	10,484	10,484	10,484		10,484
28	62786A	LOGISTICS TECHNOLOGY	31,825	31,825	31,825		31,825
29	62787A	MEDICAL TECHNOLOGY	87,529	93,029	87,529	5,000	92,529
30	62788A	TRACTOR FLOP	418	418	418		418
31	62789A	ARMY ARTIFICIAL INTELLIGENCE TECHNOLOGY	2,388	2,388	2,388		2,388

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
32	62813A	TRACTOR DUMP	0	0	0		0
33	63001A	LOGISTICS ADVANCED TECHNOLOGY	14,386	14,386	14,386		14,386
34	63002A	MEDICAL ADVANCED TECHNOLOGY	41,028	86,028	53,028	12,000	53,028
35	63003A	AVIATION ADVANCED TECHNOLOGY	51,350	63,850	51,350	3,000	54,350
36	63004A	WEAPONS & MUNITIONS ADVANCED TECHNOLOGY	25,562	32,562	25,562	7,000	32,562
37	63005A	COMBAT VEHICLE AND AUTOMOTIVE ADV TECH	59,414	62,414	59,414	3,000	62,414
38	63006A	COMMAND, CONTROL, COMMUNIC ADV TECH	17,179	17,179	17,179		17,179
39	63007A	MANPOWER, PERSONNEL & TRAINING ADV TECH	5,698	5,698	5,698		5,698
40	63009A	TRACTOR HIKE	5,399	5,399	5,399		5,399
41	63012A	TRACTOR HOLE	7,813	7,813	7,813		7,813
42	63013A	TRACTOR DIRT	1,665	1,665	1,665		1,665
43	63017A	TRACTOR RED	10,167	10,167	10,167		10,167
44	63020A	TRACTOR ROSE	3,240	3,240	3,240		3,240
45	63102A	MATERIALS AND STRUCTURES ADVANCED TECH	0	0	0		0
46	63105A	AIDS RESEARCH	3,185	3,185	3,185		3,185
47	63122A	TRACTOR HIP	4,600	4,600	4,600		4,600
48	63238A	GLOBAL SURV/AIR DEFENSE/PRECISION STRIKE	41,834	41,834	41,834		41,834
49	63270A	EW TECHNOLOGY	6,967	6,967	6,967		6,967
50	63313A	MISSILE AND ROCKET ADVANCED TECHNOLOGY	94,602	88,502	98,502	-6,100	88,502
51	63322A	TRACTOR CAGE	17,497	17,497	17,497		17,497
52	63606A	LANDMINE WARFARE AND BARRIER ADV TECH	11,950	21,950	21,950	10,000	21,950
53	63607A	JOINT SERVICE SMALL ARMS PROGRAM	5,746	5,746	7,246	1,500	7,246
54	63654A	LINE-OF-SIGHT, ANTITANK (LOSAT)	4,937	4,937	4,937		4,937
55	63710A	NIGHT VISION ADVANCED TECHNOLOGY	33,612	33,612	33,612		33,612
56	63734A	MILITARY ENGINEERING ADVANCED TECHNOLOGY	12,829	12,829	12,829		12,829
57	63742A	ADVANCED ELECTRONIC DEVICES DEVELOPMENT	0	0	0		0
58	63759A	CHEMICAL BIOLOGICAL DEFENSE & SMOKE ADV	198	198	198		198
59	63772A	ADV TACTICAL COMPUTER SCIENCE & TECH	34,995	39,995	39,995		34,995
60	63018A	TRACTOR TREAD	20,752	5,752	20,752	0	20,752
61	63019A	TRACTOR DUMP	15,786	15,786	15,786		15,786
62	63053A	ADVANCED COMMAND AND CONTROL VEHICLE	0	0	0		0
63	63303A	SURFACE-TO-SURFACE MISSILE ROCKET SYSTEM	0	0	0		0
64	63392A	ANTI-SATELLITE WEAPON (ASAT)	0	0	0		0
65	63604A	NUCLEAR MUNITIONS - ADV DEV	0	0	0		0

UMI 1994 AG 12 — 18 PT 16 VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
66	63617A	NON-LINE OF SIGHT (N-LOS)	0	0	0		0
67	63619A	LANDMINE WARFARE AND BARRIER - ADV DEV	23,944	23,944	23,944		23,944
68	63627A	SMOKE, OBSCURANT & TARGET DEFEATING SYS	2,821	2,821	2,821		2,821
69	63639A	ARMAMENT ENHANCEMENT INITIATIVE	[ ]	0	0	[8,500]	0
70	63640A	ARTILLERY PROPELLANT DEVELOPMENT	8,137	18,137	8,137	17,800	25,937
71	63645A	ARMORED SYSTEM MODERNIZATION - ADV DEV	175,476	175,476	175,476		175,476
72	63647A	TRACTOR DIRT	416	416	416		416
73	63649A	ENGINEER MOBILITY EQUIPMENT ADV DEVELOP	11,339	11,339	15,939	4,600	15,939
74	63653A	ADVANCED TANK ARMAMENT SYSTEM (ATAS)	10,075	10,075	2,575	-7,500	2,575
75	63713A	ARMY DATA DISTRIBUTION SYSTEM	5,587	5,587	5,587		5,587
76	63730A	TACTICAL SURVEILLANCE SYSTEM - ADV DEV	11,870	11,870	11,870		11,870
77	63745A	TACTICAL ELECTRONIC SUPPORT SYS- ADV DEV	1,718	1,718	1,718		1,718
78	63746A	SINCGARS ADV DEV	0	0	0		0
79	63747A	SOLDIER SUPPORT AND SURVIVABILITY	11,795	11,795	11,795		11,795
80	63760A	DISTRIBUTIVE INTERACTIVE SIMULATION	11,787	11,787	11,787		11,787
81	63766A	TACTICAL ELECTRONIC SURVEILLANCE SYSTEM	15,008	10,008	15,008	0	15,008
82	63774A	NIGHT VISION SYSTEMS ADVANCED DEVELOP	2,715	2,715	2,715		2,715
83	63801A	AVIATION - ADV DEV	9,367	14,867	9,367	7,500	16,867
84	63802A	WEAPONS AND MUNITIONS - ADV DEV	663	5,263	663	600	1,263
85	63804A	LOGISTICS AND ENGINEER EQUIP - ADV DEV	5,581	6,881	7,581	3,300	8,881
86	63805A	COMBAT SERVICE SUPPORT COMPUTER SYS EVAL	18,876	18,876	18,876		18,876
87	63806A	NBC DEFENSE SYSTEM-ADV DEV	13,778	22,078	13,778	1,900	15,678
88	63807A	MEDICAL SYSTEMS - ADV DEV	17,495	17,495	17,495		17,495
89	63811A	METEOROLOGICAL DATA SYSTEMS	0	0	0		0
90	63831A	CLASSIFIED PROGRAM	[ ]	0	0		0
91	63830A	CLASSIFIED PROGRAM	[ ]	0	0		0
998		DEM/VAL CLASSIFIED	13,992	30,992	13,992	8,500	22,492
92	64201A	AIRCRAFT AVIONICS	14,433	14,433	14,433		14,433
93	64220A	ARMED, DEPLOYABLE OH-58D	0	0	0		0
94	64223A	COMANCHE	525,182	525,182	525,182		525,182
95	64270A	EW DEVELOPMENT	89,122	93,122	89,122	0	89,122
96	64315A	TRI-SERVICE STANDOFF ATTACK MISSILE	82,458	0	32,458	-62,458	20,000
97	64321A	ALL SOURCE ANALYSIS SYSTEM	42,891	32,891	42,891	0	42,891
98	64603A	NUCLEAR MUNITIONS - ENG DEV	0	0	0		0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
99	64604A	MEDIUM TACTICAL VEHICLES	6,541	6,541	6,541		6,541
100	64609A	SMOKE, OBSCURANT & TARGET DEFEATING SYS	3,754	3,754	3,754		3,754
101	64611A	JAVELIN	31,337	31,337	34,737	3,400	34,737
102	64619A	LANDMINE WARFARE	33,843	33,843	33,843		33,843
103	64622A	HEAVY TACTICAL VEHICLES	0	0	0		0
104	64630A	ADVANCED TANK CANON	0	0	0		0
105	64633A	AIR TRAFFIC CONTROL	7,873	7,873	7,873		7,873
106	64640A	ADVANCED COMMAND/CONTROL VEHICLE (AC2V)	32,159	32,159	32,159		32,159
107	64642A	LIGHT TACTICAL WHEELED VEHICLES	3,479	3,479	0	-3,479	0
108	64645A	ARMORED SYSTEMS MODERNIZATION (ASM)	51,097	51,097	51,097	12,000	63,097
109	64649A	ENGINEER MOBILITY EQUIPMENT DEVELOPMENT	16,865	16,865	12,265	-4,600	12,265
110	64710A	NIGHT VISION SYSTEMS - ENG DEV	43,379	43,379	43,379		43,379
111	64713A	COMBAT FEEDING, CLOTHING, AND EQUIPMENT	25,058	25,058	25,058		25,058
112	64715A	NON-SYSTEM TRAINING DEVICES - ENG DEV	48,329	48,329	48,329		48,329
113	64716A	TERRAIN INFORMATION - ENG DEV	10,547	10,547	10,547		10,547
114	64726A	INTEGRATED METEOROLOGICAL SUPPORT SYSTEM	0	0	0		0
115	64740A	TACTICAL SURVEILLANCE SYSTEM - ENG DEV	2,121	2,121	2,121		2,121
116	64741A	AIR DEFENSE COMMAND, CONTROL AND INTELL	26,494	26,494	26,494		26,494
117	64746A	AUTOMATIC TEST EQUIPMENT DEVELOPMENT	7,201	17,201	7,201	8,500	15,701
118	64760A	DISTRIBUTIVE INTERACTIVE SIMULATION	8,041	8,041	8,041		8,041
119	64766A	TACTICAL ELECTRONIC SURVEILLANCE SYSTEM	28,475	28,475	28,475		28,475
120	64767A	TRACTOR JEWEL	0	0	0		0
121	64768A	TRACTOR BAT	109,011	119,011	119,111	10,100	119,111
122	64770A	JOINT SURVEILL/TARGET ATTACK RADAR SYS	40,186	40,186	40,186		40,186
123	64778A	POSITIONING SYSTEMS DEVELOPMENT	3,846	3,846	3,846		3,846
124	64780A	COMBINED ARMS TACTICAL TRAINER (CATT)	52,160	52,160	52,160		52,160
125	64801A	AVIATION - ENG DEV	4,672	4,672	4,672		4,672
126	64802A	WEAPONS AND MUNITIONS - ENG DEV	9,130	25,130	9,130	5,400	14,530
127	64804A	LOGISTICS AND ENGINEER EQUIPMENT-ENG DEV	21,171	22,271	21,171	1,100	22,271
128	64805A	COMMAND, CONTROL, COMMUNICATIONS SYSTEMS	11,386	11,386	11,386		11,386
129	64806A	NBC DEFENSE SYSTEM-ENG DEV	13,474	48,274	13,474	10,700	24,174
130	64807A	MEDICAL MATERIEL/MEDICAL BIOLOGICAL DEF	12,799	12,799	12,799		12,799
131	64808A	LANDMINE WARFARE/BARRIER - ENG DEV	7,794	7,794	7,794		7,794
132	64814A	SENSE AND DESTROY ARMAMENT MISSILE	72,071	10,000	42,071	-30,000	42,071

UMI 1994 AG 12 - 18 PT 16 VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
133	64816A	LONGBOW - ENG DEV	191,303	191,303	191,303		191,303
134	64817A	NON-COOPERATIVE TARGET RECOGNITION	13,666	13,666	13,666	5,500	19,166
135	64818A	ARMY TACTICAL COMMAND & CONTROL SYSTEMS	19,296	19,296	19,296		19,296
136	64820A	RADAR DEVELOPMENT	10,999	10,999	10,999		10,999
137	64256A	THREAT SIMULATOR DEVELOPMENT	20,270	20,270	20,270		20,270
138	64258A	TARGET SYSTEMS DEVELOPMENT	14,092	14,092	14,092		14,092
139	64759A	MAJOR T&E INVESTMENT	55,536	55,536	30,536	-11,000	44,536
140	65103A	RAND ARROYO CENTER	15,838	15,838	15,838		15,838
141	65104A	LOS ALAMOS MESON PHYSICS FACILITY	0	0	0	20,000	20,000
142	65301A	ARMY KWAJALEIN ATOLL	167,697	167,697	167,697		167,697
143	65502A	SMALL BUSINESS INNOVATIVE RESEARCH	0	0	0		0
144	65601A	ARMY TEST RANGES AND FACILITIES	154,420	154,420	144,420	-10,000	144,420
145	65602A	ARMY TECHNICAL TEST INSTRUMENT/TARGETS	41,895	41,895	31,895	-10,000	31,895
146	65604A	SURVIVABILITY/LETHALITY ANALYSIS	37,757	37,757	37,757		37,757
147	65605A	DOD HIGH ENERGY LASER TEST FACILITY	0	0	20,000	20,000	20,000
148	65702A	METEOROLOGICAL SUPPORT TO RDT&E ACTIV	12,434	12,434	12,434		12,434
149	65706A	MATERIEL SYSTEMS ANALYSIS	19,011	19,011	19,011		19,011
150	65709A	EXPLOITATION OF FOREIGN ITEMS	12,027	12,027	12,027		12,027
151	65710A	JTCB POC, TEST/ASSESS, SMOKE ASSESS, NBC	4,779	4,779	4,779		4,779
152	65712A	SUPPORT OF OPERATIONAL TESTING	31,917	31,917	31,917		31,917
153	65801A	PROGRAMWIDE ACTIVITIES	103,262	103,262	93,262	-10,000	93,262
154	65802A	INTERNATIONAL COOPERATIVE RESEARCH & DEV	1,638	1,638	1,638		1,638
155	65803A	TECHNICAL INFORMATION ACTIVITIES	13,304	13,304	13,304		13,304
156	65805A	MUNITIONS STANDARDIZATION, EFFECTIVENESS	7,038	7,038	7,038		7,038
157	65810A	RDT&E SUPPORT FOR NONDEVELOPMENTAL ITEMS	3,524	3,524	3,524		3,524
158	65856A	ENVIRONMENTAL COMPLIANCE	49,907	49,907	44,907	-1,600	48,307
159	65872A	PRODUCTIVITY INVESTMENTS	0	0	0		0
160	65876A	MINOR CONSTRUCTION (RPM) - RDT&E	5,745	5,745	5,745		5,745
161	65878A	MAINTENANCE AND REPAIR (RPM) - RDT&E	91,970	91,970	91,970		91,970
162	65889A	RDTE SUPPORT TO CINC COUNTERNARCOTICS	0	0	0		0
163	65896A	BASE OPERATIONS - RDT&E	297,083	297,083	267,083	-15,000	282,083
164	65898A	MANAGEMENT HEADQUARTERS (R & D)	11,679	11,679	11,679		11,679
165	99999A	FINANCING FOR CANCELLED ACCOUNT ADJUST	0	0	0		0
166	63778A	MLRS PRODUCT IMPROVEMENT PROGRAM	55,699	71,799	55,699	16,100	71,799

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
167	23726A	ADV FIELD ARTILLERY TACTICAL DATA SYS	48,725	48,725	48,725		48,725
168	23735A	COMBAT VEHICLE IMPROVEMENT PROGRAMS	111,279	111,279	144,079	17,900	129,179
169	23740A	MANEUVER CONTROL SYSTEM	37,936	37,936	37,936		37,936
170	23744A	AIRCRAFT MODIFICATIONS/PRODUCT IMPROVE	9,564	9,564	9,564		9,564
171	23752A	AIRCRAFT ENGINE COMPONENT IMPROVE PROG	3,035	3,035	3,035		3,035
172	23758A	DIGITIZATION	75,857	125,857	78,857	20,000	95,857
173	23801A	MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT	24,610	34,610	29,610	13,000	37,610
174	23802A	OTHER MISSILE PRODUCT IMPROVEMENT PROG	74,380	78,380	64,280	-8,100	66,280
175	23806A	TRACTOR RIG	2,686	2,686	2,686		2,686
176	23808A	TRACTOR CARD	14,554	14,554	14,554		14,554
177	28010A	JOINT TACTICAL COMMUNIC PROG (TRI-TAC)	19,542	19,542	19,542		19,542
178	28051A	JOINT BIOLOGICAL DEFENSE PROGRAM	52,895	52,895	0	-52,895	0
179	31359A	SPECIAL ARMY PROGRAM	[ ]	0	0		0
180	33140A	INFORMATION SYSTEMS SECURITY PROGRAM	7,689	7,689	7,689		7,689
181	33142A	SATCOM GROUND ENVIRONMENT	95,191	95,191	95,191		95,191
182	33152A	WORLD-WIDE MILITARY COMMAND AND CONTROL	0	0	0		0
183	35127A	FOREIGN COUNTERINTELLIGENCE ACTIVITIES	[ ]	0	0		0
184	35150A	AIRBORNE RECONNAISSANCE LOW	11,429	11,429	11,429		11,429
185	35889A	COUNTERDRUG INTELLIGENCE SUPPORT	0	0	0		0
186	78045A	MANUFACTURING SCIENCE AND TECHNOLOGY	0	0	30,000	29,420	29,420
999		OPERATIONAL SYSTEMS CLASSIFIED	6,866	6,866	6,866		6,866
		CIVILIAN UNDERSTRENGTH			-48,400	-50,400	-50,400
		FEDERAL WORKFORCE RESTRUCTURING ACT			2,500	2,500	2,500
		GENERAL REDUCTION UNIVERSITY RESEARCH					0
		CIVILIAN PERSONNEL PAY/LOCALITY PAY RAISES					0
		TOTAL RDT&E ARMY	5,260,082	5,424,803	5,152,308	59,438	5,319,520

VOL 140 PT 16 AG 12 — 18 1994 UMI

University-related environmental technology

The conferees recommend an additional $10.0 million in PE 601102A to fund a competitively-awarded grant for computing, data, and communications networks and associated facilities in support of engineering biotechnology facilities.

Domestic source for PAN fiber

The budget request contained no funds for PAN fibers.

The Senate bill would provide $4.0 million to develop a domestic source for PAN fiber production.

The House amendment contained no similar funding.

The Senate report (S. Rept. 103-282) expressed concern that there are no domestic suppliers for high-modulus polyacrylonitrile (PAN) fiber. Composite materials using this fiber have a unique combination of specific strength and stiffness. A number of future systems (e.g., the THAAD missile) are examining the use of advanced composites using PAN fiber. Although two U.S. companies have developed high modulus PAN fibers, neither has been qualified to go into production. The conferees have been advised that the Army is concerned that it cannot guarantee future availability in the amounts required unless the material is ordered far ahead of time as a long-lead item.

The conferees agree to authorize an additional $4.0 million in PE 62105A in order to qualify at least two domestic sources for high modulus PAN fiber. The conferees agree that these funds may not be obligated unless the Army has firm contractual commitments from two domestic sources to qualify for future DOD production requirements.

Passive microwave camera

The budget request contained no funding for passive microwave camera research.

The Senate bill contained no funding for this research.

The House amendment would authorize $6.0 million to continue development of the passive microwave camera to detect targets in adverse weather and other obscurants.

The Senate recedes.

Solid state dye laser

The budget request contained no funding for solid state dye lasers.

The Senate bill contained no funding for this research.

The House amendment would authorize $4.0 million in PE 62307A for solid state dye laser applications in the medical field.

The Senate recedes.

Battery technology

The Senate bill would authorize no additional funding for battery technology development in the Army.

The House amendment would authorize $3.0 million for low-cost reusable alkaline manganese batteries.

The conferees agree to authorize an additional $2.0 million in PE 62705A for the development of battery technologies to meet the wide range of Army needs on the modern battlefield.

Environmental quality

The budget request contained $62.731 million for environmental quality exploratory development in PE 6272OA.

The Senate bill would authorize an additional $5.0 million for unexploded ordinance remediation at Jefferson Proving Ground.

The House amendment would authorize an additional $13.5 million for several programs, including $5.0 million for Jefferson Proving Ground; $4.0 million for the bioremediation education, science, and technology (BEST) program; and $4.5 million for continuing the joint Departments of Defense and Agriculture program in biotechnology.

The conferees agree to authorize an additional $13.5 million to fund the programs recommended in the Senate bill and the House amendment.

Helicopter air-to-air missile evaluation

The budget request contained no funding for helicopter air-to-air missile evaluations.

The Senate bill contained no funding for this research.

The House amendment would authorize an additional $12.5 million in PE 63003A to initiate a proof-of-principle examination and full-scale integration of an air-to-air Starstreak missile on an appropriate platform.

The conferees agree to authorize an additional $3.0 million in PE 63003A for an evaluation of the Starstreak missile on the AH-64 Apache helicopter.

Diesel engine evaluation

The budget request contained no funding for an evaluation of Haeco II diesel combined-cycle engines in the 400-to-600 horsepower range.

The House amendment would authorize $3.0 million for the Haeco II evaluation by the U.S. Army tank command.

The Senate contained no similar funding.

The Senate recedes.

Enhanced fiber optic guided missile/rapid force projection advanced concept technology demonstration

The budget request included $107.6 million in various program elements for the enhanced fiber optic guided missile system (EFOG-M) as a project within the advanced concept technology demonstration (ACTD) program.

The Senate bill would authorize the requested amount for the EFOG-M but expressed concern over the potential cost, performance, and force structure plans and requirements, as well as the possibility that the Army may be forced into EFOG-M development by the Office of the Secretary of Defense.

The House amendment would reduce the requested amount by $10.0 million and direct the Army to resolve congressional concerns regarding performance in realistic operational battlefield conditions and limited planned simulations and gaming.

The conferees agreed to reduce the requested amount for EFOG-M project by $10.0 million and direct the Army to address the concerns expressed in the House and Senate reports (H. Rept. 103-499 and S. Rept. 103-282).

The conferees are also concerned that the rapid force projection ACTD focuses almost exclusively in its early phases on the development and demonstration of the EFOG-M. The conferees are aware of proposals for demonstrating capabilities of precision guided mortars in later phases of the ACTD program. The conferees believe that these alternatives should be accelerated so that the Army and the Department of Defense will have field experience with these systems and a basis for conducting an adequate cost and operational effectiveness analysis. The conferees strongly encourage the Secretary of the Army and the Under Secretary of Defense (Acquisition and Technology) to address these issues prior to submission of the fiscal year 1996 budget request.

Countermine warfare program

The Senate bill recommended an increased authorization of $10.0 million in PE 63606A for Army efforts to improve mine detection and neutralization, with an emphasis on technologies that can be shared in an international environment.

The House amendment also recommended a $10.0 million increase in this program element to initiate an Army-led, integrated mine countermeasure research and development program. The House report (H. Rept. 103-499) indicated that this effort should concentrate on mine clearance in operations other than war (OOTW), and should be coordinated with the other military services and the Advanced Research Projects Agency (ARPA). The House report also required the Secretary of the Army to prepare and deliver a plan for this initiative to the congressional defense committees by February 15, 1995.

The conferees agree that the Defense Department should develop a fully coordinated program for countermine warfare. As a part of this program, the conferees encourage the Secretary of Defense to identify an executive agent to:

(1) coordinate all aspects of the landmine warfare program, from procurement to removal;

(2) develop an overarching strategic, operational, and tactical concept for the use of mines and countermine operations, including materiel development and inventory objectives; and

(3) exploit mine countermeasure doctrine, training capabilities, technical data, and equipment for application to peacetime demining efforts of other governmental and nongovernmental agencies.

The conferees believe that these activities should be coordinated with the other military services, the Humanitarian and Refugee Affairs Office within the Office of the Assistant Secretary of Defense (Special Operations and Low Intensity Conflict), and ARPA. The conferees reiterate the requirement for the Secretary of the Army to provide the plan for this countermine/demining initiative to the congressional defense committees by February 15, 1995.

Kinetic energy tank round

The budget request contained no funding for development of the X-rod, a 120mm rocket-boosted kinetic energy tank round.

The House amendment would authorize an additional $17.0 million to bridge the X-rod kinetic energy tank round program activities through fiscal year 1995.

The Senate bill contained no similar funding.

The conferees agree to authorize $8.5 million for X-rod development.

Advanced field artillery system/artillery propellant development

Both the Senate report (S. Rept. 103-282) and the House report (H. Rept. 103-499) expressed concerns about the Army's program to develop the advanced field artillery system (AFAS), the maturity of the liquid propellant (LP) gun technology being developed for the AFAS, and the need to maintain an advanced solid propellant armament system in parallel development as a potential backup for the AFAS liquid propellant armament system.

The House amendment recommended a $10.0 million increase in PE 63640A to continue the type-classification of the XM-230 unicharge advanced solid propellant in existing 39-caliber, 155mm cannons and to assess the feasibility of adapting a 52-caliber, unicharge cannon for integration into the M109 series howitzer.

The Senate bill did not contain a similar funding increase.

The conferees strongly support the modernization of Army artillery through the AFAS program. The conferees understand that the XM46 liquid propellant is preferred over others. The conferees believe, however, that the Army must maintain a robust unicharge program as a back-up to the development of LP for the AFAS and for potential application to other cannon artillery weapon systems.

The conferees, therefore, recommend an authorization of $25.937 million in PE 63640A, an increase of $17.8 million above the requested amount, to continue engineering development of the XM297 cannon, to continue development of the XM-194 bolt-in/bolt-out gun mount for potential use in the M109A6 Paladin, and to type-classify the XM230 unicharge propellant for the standard 39-caliber artillery cannon.

The conferees expect the Army to demonstrate conclusively the ability to weaponize the liquid propellant armament system prior to the elimination of unicharge as a cannon propulsion alternative for the AFAS. The conferees also direct the Army to ensure the development of a domestic supply of basic hydroxyl amine nitrate chemistry for the production of liquid propellant, should it be selected as the propellant for the AFAS.

Advanced boresight equipment

The budget request included $1.4 million (PE 63801A), $1.3 million (PE 25633N), and $0.9 million (PE 79026F) in the Army, Navy, and Air Force research and development accounts for advanced boresight equipment. The Army is currently coordinating the advanced boresight program.

The Senate bill would authorize the requested amounts.

The House amendment would authorize an additional $1.0 million each for the Navy and the Air Force.

The conferees agree to authorize an additional $2.0-million for the Army.

Tactical bridging

The Senate bill would authorize the application of $2.0 million in prior-year funds and an additional $2.0 million of fiscal year 1995 funds in PE 63804A for an evaluation of medium assault bridge techniques and technologies to support the armored gun system (AGS).

The House amendment would authorize $1.3 million in PE 63804A and $1.1 million in PE 64804A for completing technical data packages and type-classification of the heavy tactical bridge and common bridge transporter.

The conferees agree to authorize funding for both medium and heavy tactical bridging programs, as recommended by the Senate bill and the House amendment.

Armored gun system

The budget request included $44.77 million for continued testing and engineering development of the armored gun system (AGS).

Both the Senate bill and the House amendment would authorize the requested amount.

Since the budget request was submitted, the Army determined that additional funding was needed to provide suitable vehicles for operational testing. The conferees agree to authorize an additional $12.0 million in PE 64645A to decrease concurrency risks by refurbishing six test vehicles for use in early operational test and evaluation. These funds may also be used for manufacturing enhancements on AGS components in order to reduce unit production costs and keep the supplier base active.

Automatic test equipment

The budget request contained $7.2 million for development of automatic test equipment for the Army.

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $10.0 million for the integrated family of test equipment (IFTE).

The conferees agree to authorize $8.5 million above the requested amount for IFTE. The conferees continue to support a single family of test equipment for the Army's electronic maintenance needs. However, the conferees believe that the Army should continue to use existing multipurpose direct support electrical systems test sets to support the Abrams main battle tank and the Bradley fighting vehicle throughout the life of these systems and to include such equipment in the IFTE family when such equipment is more cost-effective.

Weapons and munitions engineering development

The budget request included $9.13 million in PE 64802A for weapons and munitions engineering development.

The Senate bill would authorize the requested amount.

The House amendment recommended an increase of $16.0 million for development of the XM930 illumination cartridge and continued development of the XM931 full-range training cartridge for the 120mm mortar system.

The conferees recommend a total authorization of $14.5 million, including $6.0 million for development of the XM930 illumination cartridge and $2.0 million for continued development of the XM931 full-range training cartridge. The conferees also recommend a reduction of $2.6 million for engineering and manufacturing development of the bunker defeating munitions with the understanding that these funds are no longer required for the program.

Battlefield combat identification system

The budget request contained $13.7 million in PE 6481A for development of the battlefield combat identification system (BCIS).

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $5.0 million in RDT&E and $11.0 million in procurement to accelerate the BCIS program.

The conferees recognize the importance of fielding capabilities as soon as possible to reduce battlefield fratricide and agree to authorize an additional $5.5 million in PE 64817A for further development of BCIS. The conferees share the Army's concern with the cost of BCIS and recognize the potential of the battlefield digitization program to provide much-improved identification friend or foe capabilities. The conferees also agree, however, that BCIS is promising technology and should be developed and evaluated.

Mobile automated instrumentation system

The budget request contained $55.3 million for major test and evaluation investment in PE 64759A.

The Senate bill would reduce the requested amount by $25.0 million.

The House amendment would authorize the requested amount.

The conferees agree to a reduction of $11.0 million from the requested amount. The conferees further agree that $14.0 million of the funds authorized for PE 64759A is specifically for the mobile automated instrumentation system.

High energy laser systems test facility

The budget request included no funds for the DOD high energy laser systems test facility (HELSTF).

The Senate bill would authorize $20.0 million for HELSTF, of which $2.5 million is available to carry out the U.S. share of the Nautilus tactical laser effort with Israel.

The House amendment included no funds for HELSTF.

The House recedes. As pointed out in the High Power Laser Guidance Report submitted by the Department of Defense to Congress in June 1994, HELSTF is the only integrated, megawatt-class laser facility with the only fully instrumented high-power laser range and environmentally-approved test area available to DOD. It will be used not only for the Army Nautilus program, but for the Navy point defense demonstration and the Air Force airborne laser lethality demonstration as well. The conferees agree that the Joint Directors of Laboratories (JDL) Technology Panel for Directed Energy Weapons should seek to ensure the role of HELSTF as an affordable and cost-effective DOD research and test facility to support both high-power laser and optical tracking programs. The panel should do this by determining how best to reduce overhead costs through automation and other restructuring measures. The conferees expect to see this important facility, including any facility improvements recommended by the JDL, included in the fiscal year 1996 budget request.

Multiple launch rockets

The budget request contained $55.7 million for development of the extended-range version of the multiple launch rocket system (ER-MLRS). The Army requested no funds for MLRS rocket production. The Army request presumed using $15.0 million of prior-year funds to maintain a production capability (a so-called "warm-line" fund).

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $16.1 million for a fuze facility. The Army planned to fund this facility in fiscal year 1996.

The conferees agree that it would be preferable to avoid a production break in the MLRS program. However, the Army does not require additional tactical rockets of the existing type, and the inventory of practice rockets will last until the next decade. The conferees believe that the production date of the ER rocket itself might be accelerated, but there is risk in the development of the wind-sensing device required to achieve prescribed accuracies at long ranges. Foreign sales are possible, but unlikely due to high unit costs.

The conferees agree to authorize $16.1 million for the faze facility. This action could make it possible to accelerate the production schedule of the ER rocket. This measure would make sense only if additional rockets are procured in fiscal year 1995. The conferees, therefore, agree to authorize an additional $10.0 million for rocket production and direct the Army to apply the $15.0 million in prior-year funds to rocket production to maintain the minimum sustaining production rate of 6,000 rounds. The conferees direct the Army to use the fiscal year 1996 funds programmed for the fuze facility for the MLRS program in fiscal year 1996. The conferees would support ER rocket production in fiscal year 1996 if the Army determines that wind-sensor development is mature enough or that the level of concurrency is acceptable in this program. Otherwise, the conferees believe that the funds should be applied to warm-line expenses.

The conferees also authorize the Army to initiate in fiscal year 1995 the improved launcher mechanical system (ILMS) for

VOL 140 PT 16 AG 12 18 1994 UMI

MLRS and to synchronize that program with the improved fire control system within available funds. The conferees also encourage DOD and the contractor to renew attempts to avoid production breaks by making foreign military sales of MLRS, especially to the Republic of Korea. MLRS is as superb counter-batter weapon, and South Korea is faced with a formidable artillery and rocket threat.

M1A2 improvements

The Senate bill would authorize $25.0 million to accelerate development of an eye-safe laser and second-generation forward-looking infrared sensor for the M1A2 tank and other combat vehicles.

The House amendment contained no similar funding.

The House recedes.

The conferees understand that the cost in fiscal year 1995 to accelerate these programs is $17.9 million, instead of $25.0 million, and agree to authorize that amount.

Air defense missiles

The budget request contained $24.6 million for Army air defense missile product improvements.

The Senate bill would authorize an additional $5.0 million to accelerate development of the Block II fire-and-forget seeker for the Stinger retrofit program.

The House amendment would authorize an additional $10.0 million, with half the amount for Stinger and half the amount to platoon-level tests of the Starstreak missile.

The conferees agree to authorize $5.0 million for acceleration of the Stinger Block II, and $8.0 million for the evaluation of Starstreak.

The conferees direct the Secretary of the Army to undertake an operational assessment, to be conducted by the Army Operational Test and Evaluation Command, of the Starstreak and Stinger missile programs and report to the congressional defense committees by March 1, 1995. The report should address: (1) total inventory requirements for air defense missiles of the Stinger/Starstreak type; (2) the life-cycle costs of adding Starstreak to the inventory, including costs to modify launch platforms, compared to the costs of upgrading Stinger; (3) the operational effectiveness of the Block II Stinger compared to Starstreak; (4) the results of Starstreak evaluations conducted to date; and (5) the Secretary's recommendations concerning the acquisition of Starstreak.

Chemical-biological defense program

The budget request included $505.6 million for chemical-biological defense programs in the military services and defense agencies accounts.

The House amendment would authorize an increase of $55.6 million for the following three Army research and development programs: $12.5 million for PE 0602622A; $34.8 million for PE 0604806A; and $8.3 million for PE 0603806A.

The Senate bill would reduce the following programs in the Army research and development and procurement accounts by $93.5 million: $9.5 million reduction for procurement of chemical-biological shelters; $20.4 reduction for joint biological defense procurement; $10.7 million reduction to PE 602622A; and $53.0 million reduction for PE 0208051A.

The conferees agree to authorize an increase of $16.6 million to the following Army research and defense accounts: $4.0 million in PE 0602622A; $10.7 million in PE 0604806A; and $1.9 million in PE 0603806A. Further, the conferees agree to transfer research and development and procurement funds requested for joint biological defense in PE 028051A and line 121, other procurement, Army, to separate defense agency program elements pursuant to congressional direction in title XVII of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160). The conferees also recommend that the Department utilize resources and technologies, existing and under development at the national weapons laboratories, the military service laboratories, and industry, in the chemical-biological defense program. The conferees remain concerned that the Department has not submitted three reports on the chemical-biological defense program. The three reports address: (1) the feasibility of the National Institutes of Health conducting all federal research relating to medical countermeasures against biowarfare agents (required by the national Institutes of Health Revitalization Act of 1993 and due by December 1993); (2) the necessity for a dedicated Department of Defense vaccine production facility (required by the National Defense Authorization Act for Fiscal Year 1994); and (3) measures taken to improve management, joint coordination, and oversight of the chemical-biological defense program (required by title XVII of the National Defense Authorization Act for Fiscal Year 1994). Title XVII also requires the consolidation of funds requested for all chemical-defense programs into separate defense accounts, which has also not been done.

The conferees are aware that the Department has taken a number of steps to consolidate management of the overall chemical-biological defense program. To ensure effective overall management, oversight, coordination, and consolidated control of the chemical-biological defense program, the conferees direct the Secretary of Defense to ensure that the responsibilities of both the Office of the Assistant to the Secretary of Defense (Atomic Energy) and the Secretary of the Army include the review of all chemical and biological defense technology base, advanced development, engineering development, and procurement activities.

RESEARCH AND DEVELOPMENT, NAVY

Overview

The budget request for fiscal year 1995 contained an authorization of $8,934.7 million for Navy research, development, test and evaluation. The Senate bill would authorize $8,796.1 million. The House amendment would authorize $8,914.0 million. The conferees recommend authorization of $8,845.9 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
1	61152N	RESEARCH DEVELOPMENT TEST & EVAL NAVY	17,112	17,112	17,112		17,112
2	61153N	IN-HOUSE INDEPENDENT LABORATORY RESEARCH	407,971	420,971	392,971	-10,000	397,971
3	61572N	DEFENSE RESEARCH SCIENCES	10,000	0	10,000		10,000
4	62111N	NAVY REINVESTMENT PROGRAM	75,088	75,088	75,088		75,088
5	62121N	SURFACE/AEROSPACE SURVEILL AND WEAPONS	19,884	22,684	19,884	2,800	22,684
6	62122N	SURFACE SHIP TECHNOLOGY	24,691	24,691	24,691		24,691
7	62131M	AIRCRAFT TECHNOLOGY	17,783	17,783	17,783		17,783
8	62232N	MARINE CORPS LANDING FORCE TECHNOLOGY	21,099	21,099	21,099		21,099
9	62233N	COMMAND, CONTROL, & COMMUNICATIONS TECH	42,753	50,453	42,753	5,000	47,753
10	62234N	READINESS, TRAINING, & ENVIRON QUAL TECH	80,867	100,867	80,867	5,500	86,367
11	62270N	MATERIALS, ELECTRONICS AND COMPUTER TECH	18,095	18,095	18,095		18,095
12	62314N	ELECTRONIC WARFARE TECHNOLOGY	92,765	93,765	92,765	3,000	92,765
13	62315N	UNDERSEA SURVEILLANCE WEAPON TECHNOLOGY	34,710	34,710	37,710		37,710
14	62323N	MINE COUNTERMEASURES, MINING & SPECIAL	19,557	19,557	19,557		19,557
15	62435N	SUBMARINE TECHNOLOGY	44,965	44,965	44,965		44,965
16	62572N	OCEANOGRAPHIC AND ATMOSPHERIC TECHNOLOGY	25,000	0	25,000		25,000
17	63217N	NAVY REINVESTMENT PROGRAM	30,293	16,072	30,293	-4,221	26,072
18	63238N	AIR SYSTEMS AND WEAPONS ADVANCED TECH	32,961	41,161	32,961	7,100	40,061
19	63270N	PRECISION STRIKE AND AIR DEFENSE	14,799	14,799	14,799		14,799
20	63508N	ADVANCED ELECTRONIC WARFARE TECH	3,152	3,152	20,265	0	3,152
21	63555N	SHIP PROPULSION SYSTEM	82,134	45,021	0	-7,600	74,534
22	63572N	SEA CONTROL & LITTORAL WARFARE	15,000	0	15,000		15,000
23	63640M	NAVY REINVESTMENT PROGRAM	25,961	25,961	25,961		25,961
24	63706N	MARINE CORPS ADVANCED TECHNOLOGY DEMON	17,820	17,820	22,820	5,000	22,820
25	63707N	MEDICAL DEVELOPMENT	19,120	22,920	19,120		19,120
26	63712N	MANPOWER, PERSONNEL & TRAINING ADV TECH	21,024	21,024	21,024		21,024
27	63747N	ENVIRONMENTAL QUALITY AND LOGISTICS ADV	47,330	47,330	72,405	0	47,330
28	63782N	UNDERSEA WARFARE ADVANCED TECHNOLOGY	4,525	4,525	44,471	0	4,525
29	63792N	SHALLOW WATER MCM DEMOS	79,863	84,863	79,863	0	79,863
30	63794N	ADVANCED TECHNOLOGY TRANSITION	26,556	21,456	26,556	-5,100	21,456
31	63207N	C3 ADVANCED TECHNOLOGY	16,936	16,936	16,936		16,936
32	63208N	AIR/OCEAN TACTICAL APPLICATIONS	4,117	4,117	4,117		4,117
		TRAINING SYSTEM AIRCRAFT					

UMI
1994
AG 12 - 18
PT 16
VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
33	63216N	AVIATION SURVIVABILITY	9,992	15,492	9,992	5,500	15,492
34	63254N	ASW SYSTEMS DEVELOPMENT	31,513	40,513	31,513	0	31,513
35	63261N	TACTICAL AIRBORNE RECONNAISSANCE	59,372	36,872	59,372	-10,372	49,000
36	63382N	ADVANCED COMBAT SYSTEMS TECHNOLOGY	3,587	3,587	3,587		3,587
37	63451N	TACTICAL SPACE OPERATIONS	2,220	2,220	2,220		2,220
38	63502N	SURFACE AND SHALLOW WATER MINE COUNTER	51,879	51,879	51,879		51,879
39	63504N	ADVANCED SUBMARINE COMBAT SYSTEMS DEVEL	20,564	24,564	20,564	4,000	24,564
40	63506N	SURFACE SHIP TORPEDO DEFENSE	30,247	30,247	30,247		30,247
41	63512N	CARRIER SYSTEMS DEVELOPMENT	15,878	15,878	17,378	1,500	17,378
42	63513N	SHIPBOARD SYSTEM COMPONENT DEVELOPMENT	26,248	26,248	26,248		26,248
43	63514N	SHIP COMBAT SURVIVABILITY	14,588	14,588	14,588		14,588
44	63525N	PILOT FISH	35,262	35,262	35,262		35,262
45	63528N	NON-ACOUSTIC ANTI-SUBMARINE WARFARE	4,756	4,756	4,756	-4,756	0
46	63536N	RETRACT JUNIPER	20,645	20,645	20,645		20,645
47	63542N	RADIOLOGICAL CONTROL	3,492	3,492	3,492		3,492
48	63553N	SURFACE ASW	6,659	6,659	6,659		6,659
49	63561N	ADVANCED SUBMARINE SYSTEM DEVELOPMENT	86,005	98,118	86,005	0	86,005
50	63562N	SUBMARINE TACTICAL WARFARE SYSTEMS	8,023	8,023	8,023		8,023
51	63563N	SHIP CONCEPT ADVANCED DESIGN	29,302	29,302	29,302		29,302
52	63564N	SHIP PRELIMINARY DESIGN & FEASIBILITY	12,626	12,626	12,626		12,626
53	63570N	ADVANCED NUCLEAR POWER SYSTEMS	141,586	141,586	141,586		141,586
54	63573N	ADVANCED SURFACE MACHINERY SYSTEMS	72,355	84,755	72,355	7,400	79,755
55	63576N	CHALK EAGLE	59,840	59,840	59,840		59,840
56	63582N	COMBAT SYSTEM INTEGRATION	7,911	7,911	7,911		7,911
57	63591N	JOINT ADVANCED SYSTEMS	0	0	0		0
58	63601N	MINE DEVELOPMENT	0	0	0		0
59	63609N	CONVENTIONAL MUNITIONS	41,358	29,593	41,358	0	41,358
60	63610N	ADVANCED WARHEAD DEVELOPMENT (MK-50)	0	0	0		0
61	63611M	MARINE CORPS ASSAULT VEHICLES	26,399	30,499	26,399	4,100	30,499
62	63612M	MARINE CORPS MINE/COUNTERMEASURES SYSTEM	6,600	6,600	6,600		6,600
63	63634N	ELECTROMAGNETIC EFFECTS PROTECTION DEVEL	0	0	0		0
64	63635M	MARINE CORPS GROUND COMBAT/SUPPORT SYS	11,416	18,416	26,416	15,000	26,416
65	63654N	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOP	8,923	8,923	8,923		8,923
66	63708N	ASW SIGNAL PROCESSING	0	0	0		0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
67	63709N	ADVANCED MARINE BIOLOGICAL SYSTEM	3,539	3,539	3,539		3,539
68	63711N	FLEET TACTICAL DEVELOPMENT	4,678	4,678	4,678		4,678
69	63713N	OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT	14,198	14,198	14,198		14,198
70	63721N	ENVIRONMENTAL PROTECTION	51,101	52,901	52,901	1,800	52,901
71	63724N	NAVY ENERGY PROGRAM	4,468	4,468	4,468		4,468
72	63725N	FACILITIES IMPROVEMENT	2,500	2,500	2,500		2,500
73	63734N	CHALK CORAL	68,782	68,782	73,782	5,000	73,782
74	63735N	WWMCCS ARCHITECTURE SUPPORT	0	0	0		0
75	63737N	LINK HAZEL	0	0	0		0
76	63741N	SATELLITE LASER COMMUNICATIONS (H)	0	0	0		0
77	63746N	RETRACT MAPLE	102,674	102,674	102,674		102,674
78	63748N	LINK PLUMERIA	29,812	29,812	29,812		29,812
79	63750N	CHALK WEED	0	0	0		0
80	63751N	RETRACT ELM	39,472	39,472	39,472		39,472
81	63752N	CHALK POINSETTIA	0	0	0		0
82	63755N	SHIP SELF DEFENSE	192,269	200,769	203,469	16,200	208,469
83	63763N	WARFARE SYSTEMS ARCHITECTURE & ENGINEER	7,204	3,795	7,204	-3,409	3,795
84	63785N	COMBAT SYSTEMS OCEANOGRAPHIC PERFORMANCE	20,317	20,317	20,317		20,317
85	63787N	SPECIAL PROCESSES	33,053	33,053	33,053		33,053
86	63795N	GUN WEAPON SYSTEM TECHNOLOGY	24,849	61,449	24,849	6,000	30,849
87	63800N	JOINT ADVANCED STRIKE TECHNOLOGY PROGRAM	100,037	100,037	100,037	28,735	128,772
88	64212N	ASW AND OTHER HELO DEVELOPMENT	86,547	86,547	86,547		86,547
89	64214N	AV-8B AIRCRAFT - ENG DEV	10,203	10,203	10,203		10,203
90	64215N	STANDARDS DEVELOPMENT	15,987	15,987	15,987		15,987
91	64217N	S-3 WEAPON SYSTEM IMPROVEMENT	14,115	14,115	14,115		14,115
92	64218N	AIR/OCEAN EQUIPMENT ENGINEERING	5,797	5,797	5,797		5,797
93	64221N	P-3 MODERNIZATION PROGRAM	5,392	5,392	5,392		5,392
94	64231N	TACTICAL COMMAND SYSTEM	35,796	32,796	35,796	0	35,796
95	64233N	AFX	0	0	0		0
96	64261N	ACOUSTIC SEARCH SENSORS	19,016	19,016	19,016		19,016
97	64262N	V-22A	496,930	496,930	496,930		496,930
98	64264N	AIR CREW SYSTEMS DEVELOPMENT	12,157	15,157	12,157	0	12,157
99	64270N	EW DEVELOPMENT	79,980	79,980	79,980		79,980
100	64301N	MK 92 FIRE CONTROL SYSTEM UPGRADE	1,976	1,976	1,976		1,976

79-069 O—95 Vol 140 (Pt 16) 10

UMI 1994 AG 12 - 18 PT 16 VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
101	64307N	AEGIS COMBAT SYSTEM ENGINEERING	94,207	94,207	94,207		94,207
102	64312N	TRI-SERVICE STANDOFF ATTACK MISSILE	66,662	0	66,662		66,662
103	64366N	STANDARD MISSILE IMPROVEMENTS	11,811	11,811	11,811		11,811
104	64372N	NEW THREAT UPGRADE	1,701	1,701	1,701		1,701
105	64373N	AIRBORNE MCM	20,421	20,421	20,421		20,421
106	64503N	SSN-688 AND TRIDENT MODERNIZATION	41,936	41,936	41,936		41,936
107	64504N	AIR CONTROL	8,133	8,133	8,133		8,133
108	64507N	ENHANCED MODULAR SIGNAL PROCESSOR	11,970	11,970	11,970		11,970
109	64512N	SHIPBOARD AVIATION SYSTEMS	1,543	1,543	1,543		1,543
110	64516N	SHIP SURVIVABILITY	8,536	8,536	8,536		8,536
111	64518N	COMBAT INFORMATION CENTER CONVERSION	13,658	13,658	13,658		13,658
112	64524N	SUBMARINE COMBAT SYSTEM	89,726	89,726	89,726		89,726
113	64558N	NEW DESIGN SSN	266,155	266,155	266,155		266,155
114	64561N	SSN-21 DEVELOPMENTS	68,530	68,530	68,530		68,530
115	64562N	SUBMARINE TACTICAL WARFARE SYSTEM	25,261	25,261	25,261		25,261
116	64567N	SHIP CONTRACT DESIGN/ LIVE FIRE T&E	160,092	160,092	160,092		160,092
117	64574N	NAVY TACTICAL COMPUTER RESOURCES	15,774	15,774	15,774		15,774
118	64601N	MINE DEVELOPMENT	3,223	3,223	3,223		3,223
119	64602N	NAVAL GUNNERY IMPROVEMENTS	0	0	0		0
120	64603N	UNGUIDED CONVENTIONAL AIR-LAUNCHED WPNS	77,102	65,337	77,102	-11,765	65,337
121	64610N	LIGHTWEIGHT TORPEDO DEVELOPMENT	10,284	10,284	10,284		10,284
122	64612M	MARINE CORPS MINE COUNTERMEASURES SYSTEM	440	440	440		440
123	64618N	JOINT DIRECT ATTACK MUNITION	25,173	25,173	25,173		25,173
124	64654N	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOP	6,273	6,273	6,273		6,273
125	64656M	MARINE CORPS ASSAULT VEHICLES - ENG DEV	0	0	0		0
126	64703N	PERSONNEL, TRAINING, SIMULATION, AND HUM	1,136	1,136	1,136		1,136
127	64707N	SPACE AND ELECTRONIC WARFARE (SEW) ARCH	6,157	6,157	6,157		6,157
128	64710N	NAVY ENERGY PROGRAM	3,165	3,165	3,165		3,165
129	64715N	SURFACE WARFARE TRAINING DEVICES	0	0	0		0
130	64719M	MARINE CORPS COMMAND/CONTROL/COMMUNIC	11,371	11,371	11,371		11,371
131	64721N	BATTLE GROUP PASSIVE HORIZON EXTENSION	19,258	19,258	19,258		19,258
132	64727N	JOINT STANDOFF WEAPON SYSTEMS	111,127	111,127	111,127		111,127
133	64755N	SHIP SELF DEFENSE	181,501	181,501	199,401	8,000	189,501
134	64761N	INTELLIGENCE ENGINEERING	4,033	4,033	4,033		4,033

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
135	64771N	MEDICAL DEVELOPMENT	1,686	1,686	1,686		1,686
136	64777N	NAVIGATION/ID SYSTEM	69,213	69,213	69,213		69,213
137	64784N	DISTRIBUTED SURVEILLANCE SYSTEM	114,306	114,306	114,306		114,306
138	64256N	THREAT SIMULATOR DEVELOPMENT	28,003	28,003	28,003		28,003
139	64258N	TARGET SYSTEMS DEVELOPMENT	28,042	28,042	28,042		28,042
140	64759N	MAJOR T&E INVESTMENT	51,966	51,966	41,966	-5,000	46,966
141	65152N	STUDIES AND ANALYSIS SUPPORT - NAVY	6,058	6,058	4,058	-2,000	4,058
142	65154N	CENTER FOR NAVAL ANALYSES	45,394	43,394	45,394		45,394
143	65155N	FLEET TACTICAL DEVELOPMENT	4,570	4,570	4,570		4,570
144	65502N	SMALL BUSINESS INNOVATIVE RESEARCH	0	0	0		0
145	65804N	TECHNICAL INFORMATION SERVICES	1,776	1,776	1,776		1,776
146	65853N	MANAGEMENT, TECHNICAL & INTERNATIONAL	10,266	10,266	10,266		10,266
147	65856N	STRATEGIC TECHNICAL SUPPORT	2,545	2,545	2,545		2,545
148	65861N	RDT&E SCIENCE AND TECHNOLOGY MANAGEMENT	62,646	62,646	62,646		62,646
149	65862N	RDT&E INSTRUMENTATION MODERNIZATION	8,757	8,757	8,757		8,757
150	65863N	RDT&E SHIP AND AIRCRAFT SUPPORT	81,362	81,362	81,362		81,362
151	65864N	TEST AND EVALUATION SUPPORT	293,609	293,609	278,609	-10,000	283,609
152	65865N	OPERATIONAL TEST AND EVALUATION CAPABIL	8,637	8,637	8,637		8,637
153	65866N	NAVY SPACE AND ELECTRONIC WARFARE (SEW)	3,519	3,519	3,519		3,519
154	65867N	SEW SURVEILLANCE/RECONAISSANCE SUPPORT	14,565	12,065	14,565	-2,500	12,065
155	65871M	MARINE CORPS TACTICAL EXPLOIT NATL CAP	1,019	1,019	1,019		1,019
156	65872N	MANUFACTURING SCIENCE AND TECHNOLOGY	0	0	35,000	20,000	20,000
157	65873M	MARINE CORPS PROGRAM WIDE SUPPORT	6,316	6,316	6,316		6,316
158	65896N	BASE OPERATIONS - RDT&E	32,100	32,100	32,100	-32,100	0
159	11221N	STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	52,361	52,361	52,361	-15,000	37,361
160	11224N	SSBN SECURITY TECHNOLOGY PROGRAM	29,315	41,665	29,315	0	29,315
161	11226N	SUBMARINE ACOUSTIC WARFARE DEVELOPMENT	537	9,399	537	0	537
162	11402N	NAVY STRATEGIC COMMUNICATIONS	75,992	75,992	75,992		75,992
163	12427N	NAVAL SPACE SURVEILLANCE	858	858	858		858
164	24134N	A-6 SQUADRONS	0	0	0		0
165	24136N	F/A-18 SQUADRONS	1,411,875	1,411,875	1,411,875		1,411,875
166	24152N	E-2 SQUADRONS	58,760	58,760	58,760		58,760
167	24163N	FLEET TELECOMMUNICATIONS (TACTICAL)	37,942	37,942	42,942	5,000	42,942
168	24229N	TOMAHAWK AND TOMAHAWK MISSION PLANNING	85,773	85,773	85,773		85,773

VOL 140 PT 16 AG 12 | 18 1994 UMI

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	Conference FY 1995 Conference Authorized
169	24311N	INTEGRATED SURVEILLANCE SYSTEM	28,805	36,605	28,805	7,800	36,605
170	24413N	AMPHIBIOUS TACTICAL SUPPORT UNITS	4,574	4,574	4,574		4,574
171	24571N	CONSOLIDATED TRAINING SYSTEMS DEVELOP	46,779	46,779	46,779		46,779
172	25604N	TACTICAL DATA LINKS	32,499	32,499	32,499		32,499
173	25620N	SURFACE ASW COMBAT SYSTEM INTEGRATION	16,649	16,649	16,649		16,649
174	25632N	MK-48 ADCAP	27,278	27,278	27,278		27,278
175	25633N	AVIATION IMPROVEMENTS	64,520	65,520	64,520	0	64,520
176	25658N	NAVY SCIENCE ASSISTANCE PROGRAM	7,097	7,097	7,097		7,097
177	25667N	F-14 UPGRADE	171,689	171,689	0	-142,300	29,389
178	25675N	OPERATIONAL NUCLEAR POWER SYSTEMS	58,851	58,851	58,851		58,851
179	26313M	MARINE CORPS COMMUNICATIONS SYSTEMS	7,408	7,408	7,408		7,408
180	26623M	MAR CORPS GROUND COMBAT/SUPPORTING ARMS	13,051	13,051	23,051	10,000	23,051
181	26624M	MARINE CORPS COMBAT SERVICES SUPPORT	6,173	4,628	6,173	0	6,173
182	26625M	MARINE CORPS INTELLIGENCE/ELEC WAR SYS	8,488	8,488	8,488		8,488
183	26626M	MARINE CORPS COMMAND/CONTROL/COMMUNIC	19,441	19,441	19,441		19,441
184	27161N	TACTICAL AIM MISSILES	22,376	22,376	22,376	-22,376	0
185	27163N	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE	27,913	27,913	27,913		27,913
186	31327N	TECHNICAL RECONNAISSANCE AND SURVEILL	[ ]	0	0		0
187	33109N	SATELLITE COMMUNICATIONS	47,115	47,115	47,115		47,115
188	33140N	INFORMATION SYSTEMS SECURITY PROGRAM	[ ]	0	0		0
189	33152N	WORLD-WIDE MILITARY COMMAND AND CONTRO	[ ]	0	0		0
190	34111N	SPECIAL ACTIVITIES	[ ]	0	0		0
191	35160N	DEFENSE METEOROLOGICAL SATELLITE PROGRAM	14,639	14,639	14,639		14,639
192	35889N	COUNTERDRUG INTELLIGENCE SUPPORT	0	0	0		0
193	78011N	INDUSTRIAL PREPAREDNESS	20,164	40,464	20,164	25,000	45,164
194	99999N	FINANCING FOR CANCELLED ACCOUNT ADJUST	0	0	0		0
999		OPERATIONAL SYSTEMS CLASSIFIED	567,056	562,056	531,556	200	567,056
		FEDERAL WORKFORCE RESTRUCTURING ACT			200		200
		GENERAL REDUCTION, UNIVERSITY RESEARCH					0
		CIVILIAN PERSONNEL PAY/LOCALITY PAY RA					0
		STRATEGIC SEALIFT TECH DEV PROGRAMS					0
		TOTAL RDT&E NAVY	8,934,718	8,913,963	8,796,129	-88,864	8,845,854

Magnetohydrodynamics

The budget request contained $6.0 million for magnetohydrodynamics (MHD) research.

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $3.0 million for MHD.

The conferees agree that of the amounts authorized to be appropriated in PE 61153N for the Navy, $9.0 million would be authorized for continuation of the MHD program.

Materials, electronics, and computer technology

The budget request contained $80.867 million in PE 62234N for materials, electronics, and computer technology.

The House amendment would authorize an additional $5.0 million for collaborative research efforts between the Navy and the academic community on materials research in welding and welding consumables for high strength steel structures; advanced methods to manage hydrogen in welding structures; and development of "part-on-call" manufacturing of metallic components. The House amendment also contained a provision (sec. 203) that would authorize an additional $500,000 for the Navy to initiate and carry out a manufacturing technology program for taconite processing technology.

The Senate bill contained no similar funding or provision.

The House recedes on its provision.

The conferees agree to authorize an additional $5.5 million in PE 62234N as provided by the House amendment and direct that of the $86.367 million authorized, $8.0 million be used for the continued development of high thermal conductivity fibers for use in removing heat from advanced electronic systems used in military and space applications, as described in the Senate report (S. Rept. 103–282) and the House report (H. Rept. 103–499).

Air systems and advanced technology

The budget request included $30.293 million for air systems and advanced technology in PE 63217N.

The Senate bill would provide the requested amount.

The House amendment would reduce the program element by $8.721 million for the advanced short takeoff and vertical landing (ASTOVL) technology demonstrator program and $5.0 million for the integrated high performance turbine engine technology (IHPTET) program, transferring the management and funding of these activities to the joint advanced strike technology (JAST) program (PE 63800N). The House amendment would also provide an additional $4.5 million for the advanced anti-radiation guided missile (AARGM) program in PE 63217N, as well as $3.0 million in PE 63203F.

The conferees agree to transfer $8.721 million to JAST, restore $5.0 million for IHPTET, and provide an additional $7.5 million for AARGM for the purposes described in the House report (H. Rept. 103–499).

Long-range guided projectile technology

The House amendment recommended the transfer of $5.0 million from air systems and weapons technology, PE 63217N, to gun weapons system technology, PE 63795N, in support of long-range guided projectile technology development.

The Senate bill did not contain a similar transfer.

The House recedes.

The conferees endorse the views expressed in the House report (H. Rept. 103–499) on the importance of advanced, long-range precision guided munitions in meeting Navy surface fire support requirements. For the Army, too, there is no point in developing new, long-range artillery capabilities unless projectiles are developed that can achieve the needed range, accuracy, and payload. The Conferees believe that the Army and the Navy should jointly capitalize on technologies, such as the global positioning system, inertial navigation, composite materials, and aerodynamic shapes, to achieve these objectives.

The conferees reserve judgment on the possibility of completely common ammunition, given the differences between Army and Navy artillery designs, but believe that technology and component commonality should be aggressively pursued. The conferees urge the two services to establish a joint program and seek adequate funding in future years.

Operational airship demonstration

The budget request contained $33.0 million for the precision strike and air defense program in PE 63238N. The budget request contained no funds for continuing an airship demonstration project.

The House amendment would provide an additional $8.2 million to conduct an airship ultra high frequency radar demonstration as a part of the mountaintop phase I demonstration project.

The Senate bill would authorize the requested amount.

The Department of Defense has provided more extensive briefings on the mountaintop phase I demonstration project. The conferees conclude that there is no practical role for the airship in this phase.

Instead, the conferees recommend an additional $7.1 million to continue the Navy's effort to assess the potential contribution that airships could make to the airborne component of the ship self-defense cooperative engagement capability, over-the-horizon targeting and surveillance, and other relevant mission areas. The conferees understand that the Navy will be able to gather significant data during fleet exercises and missile tracking tests. These data will permit the Department to use modeling and simulation to evaluate the airship's potential contribution to joint cruise missile defense.

The conferees also direct the Secretary of the Navy to provide the results of this extended assessment to the congressional defense committees in the 1995 annual report on the ship self-defense cooperative engagement program.

Interactive multi-dimensional acoustic trainer (IMAT)

The House amendment would provide an increase of $3.8 million in PE 63707N to accelerate exploitation of the interactive multi-dimensional acoustic trainer (IMAT) technology.

The Senate bill would provide no increased funding.

The House recedes.

The conferees understand that the Navy, as part of its core technology program, is continuing the IMAT program and investigating its potential application to a wide range of training requirements. The conferees endorse the direction to the Secretary of the Navy contained in the House report. (H. Rept. 103–499), relative to the assessment of training requirements and plans for development of advanced training technologies.

Battlefield surgical tissue replacement

The budget request contained no funding for battlefield surgical tissue replacement.

The Senate bill contained no funding for this research.

The House amendment would authorize an additional $5.0 million PE 62787A to conduct tissue substitutes and tissue repair using low-powered diode lasers.

The Senate recedes.

Aviation survivability

The budget request included $10.0 million in the Navy's aviation survivability research and development program (PE 63216N).

The House amendment recommended an increase of $5.5 million.

The Senate bill contained no similar recommendation.

The conferees agree to support the House recommendation.

The conferees note that the Defense Department has repeatedly excluded projects from its budget request in the expectation that Congress would provide additional funding for them. The conferees believe that, from time to time, individual projects merit additional funding. Additional congressional support may be justified for these projects when they have been excluded from the President's budget request, or require additional funding to capitalize on a particular technology or to meet a critical requirement.

The conferees believe strongly, however, that this should not be a routine practice for several projects at a single research and engineering center. Such projects and programs must compete with other projects and programs on the basis of their technical merit and ability to meet required operational capabilities in the budget development process. The conferees expect that the Armed Services Committees of the Senate and House of Representatives will monitor these practices closely when they consider future defense budget requests.

Antisubmarine warfare systems development

The budget request included $31.5 million for antisubmarine warfare (ASW) systems development (PE 63254N).

The House amendment would provide an additional $9.0 million: $4.0 million for extended echo ranging technology exploitation; and $5.0 million to continue hardware and software development and the installation of system upgrades in the BEARTRAP aircraft.

The Senate bill would authorize the requested amount.

The House recedes.

The conferees note the very important role that the BEARTRAP aircraft program has played in the rapid development and prototyping of advanced antisubmarine warfare technology. The conferees also note that the budget request for fiscal year 1995 is sharply reduced from the fiscal year 1994 level. Given the long term benefits that have accrued from the BEARTRAP aircraft, the conferees are concerned that this reduction in funding may be short-sighted. The conferees do not believe that it is justified by any rationale contained in the budget submission, which is silent on the subject.

The conferees strongly encourage the Navy to reevaluate its budget priorities with respect to BEARTRAP, and to maintain funding levels required to continue ongoing hardware and software upgrades to the system.

Ship main propulsion gas turbine improvements

The budget request included $72.4 million for advanced surface machinery systems.

The Senate bill would approve the requested amount.

The House amendment would add $12.4 million to the requested amount. Of this amount, $7.4 million would accelerate development of the inter-cooled recuperated (ICR) gas turbine engine. The remaining $5.0 million would initiate a concurrent program to

VOL 140 PT 16 AG 12 — 18 1994 UMI

retrofit existing Navy ship propulsion LM-2500 engines with a recuperator (called "LM-2500R"). The intent of the LM-2500R program would be to develop efficiencies similar to the ICR program for the Navy's existing main propulsion gas turbine.

The conferees agree to provide an additional $1.4 million to accelerate development of the ICR gas turbine engine. Although the Navy has not yet published the report, the conferees understand that a Navy life cycle cost analysis requested in the statement of the managers accompanying the conference report on the National Defense Authorization Act for Fiscal Year 1994 (H. Rept. 103-357) concludes that the alternative of completing development of the LM-2500R would not be cost-effective. The conferees direct the Secretary of the Navy to provide the requested analysis to the congressional defense committees by December 1, 1994.

Short-range antiarmor weapon/multi-purpose individual munition

The budget request included $8.4 million in Navy research and development funds for development of the short-range antiarmor weapon (SRAW) for the Marine Corps. The conferees note that the requested amount is substantially below that needed to comply with the clear direction expressed by the conferees in the statement of the managers accompanying the National Defense Authorization Act for Fiscal Year 1994 (H. Rept. 103-357). In compliance with that direction, the Army has adopted the SRAW missile as the delivery system for the Army-developed multi-purpose individual munition (MIPM) warhead, and requested $3.9 million for research and development.

The Senate bill provided an additional $15.0 million for the Marine Corps SRAW program and directed the Marine Corps to reprogram an additional $6.6 million to meet the schedule established by the National Defense Authorization Act for Fiscal Year 1994. The Senate bill would authorize $3.9 million for the Army's SRAW/MIPM development program.

The House amendment would authorize the requested amount for the Marine Corps SRAW program, and authorize $3.9 million for the Army's SRAW/MIPM development program.

The conferees agree to authorize an additional $10.9 million in PE 63635M and urge the Marine Corps to reprogram at least $6.6 million to accelerate the engineering and manufacturing development program for the SRAW. The conferees understand that the resulting program schedule will not cause unacceptable concurrency and encourage the Marine Corps to monitor the development closely to ensure the success of the SRAW/EMD program. The conferees also state that they do not intend to subsidize this program if the services persist in underfunding it.

Army/Marine Corps 155mm lightweight howitzer program

The House amendment recommended a $7.0 million increase in PE 63635M and a $7.0 million increase in PE 63004A for the Marine Corps and the Army to complete evaluation of existing 155mm lightweight howitzer prototypes, evaluate advanced fire control and other promising technologies for improvements in the tactical mobility and operational effectiveness of towed artillery systems, confirm operational requirements, and provide the basis for a decision to proceed with further development and acquisition of a lightweight 155mm howitzer system.

The Senate bill contained no similar recommendation.

The conferees recommend an increased authorization of $5.0 million in PE 63635M for the Marine Corps and an increased authorization of $7.0 million in PE 63004A for the Army, as recommended in the House amendment. The conferees do not intend to support this program unless the Army and Marine Corps establish joint operational requirements, agree on a joint development program, and fund the program adequately.

To the extent possible within available funds in PE 63004A, the Army is authorized to develop advanced guidance and control for artillery munitions in conjunction with the Navy, as discussed elsewhere in this statement of the managers. The conferees urge the Secretary of the Army to seek funding to continue this initiative in fiscal year 1996.

Plasma arc technology

The budget request contained no funds for plasma arc technology.

The Senate bill would provide an additional $1.8 million in PE 60721N to allow the Navy to explore the use of plasma arc technology for solid waste treatment aboard naval vessels.

The House amendment would also provide $1.8 million for plasma arc technology.

The conferees agree to provide $1.8 million to assess the use of plasma arc technology on board naval vessels.

Ship self-defense

The budget request included a total of $373.8 million for ship self-defense research and development, $192.3 million in PE 63755N and $181.5 million in PE 64755N.

The Senate bill would add a total of $29.1 million to the requested amount to:

(1) accelerate the ship self-defense engineering and manufacturing development effort;

(2) continue preparations at the land-based test site and on the self-defense test ship; and

(3) procure NULKA decoys for additional at-sea testing.

The House amendment would provide an increase of $8.5 million to the program to begin an evaluation of an insensitive munition, dual thrust motor upgrade to the rolling air-frame missile (RAM) and for other initiatives.

The conferees agree to provide an increase of $24.2 million above the requested amount for self-defense programs. The conferees intend the Navy to apply this increased funding to:

(1) accelerating improvements to the self-defense test ship ($11.2 million);

(2) evaluating an insensitive munition, dual thrust motor upgrade to the RAM ($5.0 million); and

(3) procuring NULKA decoys ($8.0 million).

The conferees are concerned about persistent rumors that the Navy intends to divert prior-year funding from key self-defense thrusts, such as infrared sensors, to other programs. The conferees continue to believe, based on at-sea testing in 1993 and associated Navy briefings, that an integrated infrared search and track capability will be an important aspect of the emerging ship self-defense architecture. Consequently, the conferees encourage the Navy to keep the infrared sensor program on track and urge the Navy to provide an analytical rationale before taking any steps that would hinder this ongoing program.

Naval surface fire support

The Senate bill would authorize the requested amount of $24.8 million in PE 63795N, gun weapon system technology, for the naval surface fire support program.

The House amendment would authorize a $36.6 million increase to the requested amount to accelerate the fielding of fire support improvements for Marine amphibious operations.

The conferees agree to an increase of $6.0 million for this program. During the past three years, the conferees have repeatedly expressed concern over the need to correct deficiencies in the Navy's surface fire support for Marine amphibious operations.

The Department of the Navy's blueprint for future operations devotes major attention to operations in the littoral regions and emphasizes the importance of power projection through amphibious operations. Current amphibious doctrine emphasizes the need to project this power from beyond the horizon to minimize the threat from enemy missiles. At these greater standoff ranges, the Navy and the Marine Corps must (1) extend the range of Navy fire support systems; and (2) provide rapid ship-to-shore movement through such programs as the V-22 aircraft and the advanced amphibious assault vehicle (AAAV). Improvements in all these areas must take place simultaneously to achieve a true "over-the-horizon" assault capability. The conferees believe that emphasizing one or two of the parts of a capability at the expense of an essential element of that capability is hardly balanced.

The conferees have learned that, in preparing its fiscal year 1996 Future Years Defense Program proposal, the Department of the Navy reallocated resources from various Navy programs to fund the V-22 and AAAV. One of the programs cut was the ship fire support improvement program. The conferees were disturbed to learn that the Marine Corps participated in this reallocation. Although competition for declining resources is clearly intense, the conferees are concerned that Navy funding will not keep naval shore fire-support improvements on the same pace as that of other programs designed to improve amphibious capabilities. Program trade-offs are a fact of life, but, in this case, it is not clear that an essential balance has been maintained.

Therefore, the conferees direct the Secretary of the Navy to submit a report to the congressional defense committees by March 1, 1995, that presents an integrated plan, including funding and milestones, for fielding fire support improvements on a timeline that coincides with associated amphibious and air assault systems. The conferees assume that the cost and operational effectiveness analysis (COEA) directed in the National Defense Authorization Act for Fiscal Year 1993 will be completed in sufficient time to provide a solid analytical underpinning to this report.

Joint advanced strike technology program

The budget request included $100.037 million in PE 63800N and $101.354 million in PE 63800F for the Navy and Air Force joint advanced strike technology (JAST) program. The budget request also included $8.721 million in PE 63271N and $20.014 million in PE 63226E for the Navy and ARPA, respectively, to support the advanced short takeoff and vertical landing (ASTOVL)/conventional takeoff and landing (CTOL) demonstrator aircraft.

The Senate bill would authorize the requested amounts, and provide an additional $10.2 million for the ASTOVL direct lift propulsion concept.

The House amendment would:

(1) delete the funding for the Navy and ARPA ASTOVL;

(2) transfer the management of the ASTOVL program to the JAST program office;

(3) direct that the ASTOVL phase II program be funded from the funds provided to JAST; and

(4) direct the JAST program to continue to manage the ASTOVL phase II program through ARPA.

The House amendment would also reduce several propulsion programs (PE 63217N, PE 63202F, and PE 63216F would be reduced by $5.0 million, $8.0 million, and $10.0 million, respectively), because of perceived redundancies in propulsion research and development between these programs and the JAST program.

The conferees agree that:

(1) JAST and ASTOVL program management should be consolidated, with execution of the ASTOVL phase II program continuing to be performed by ARPA;

(2) Navy and ARPA ASTOVL funding should be shifted to the Navy JAST Program (PE 63800N); and

(3) the separate propulsion programs should be approved as requested.

The conferees would not object if the JAST program office were to determine that additional ASTOVL competitive propulsion concepts, such as direct lift and lift plus lift, should be funded.

Finally, the conferees understand that the Navy Department may be evaluating the potential of existing Air Force and Navy aircraft to meet its immediate long-range, stealthy, strike aircraft requirement. The conferees expect to be kept informed in a timely manner by all the services of such studies and analyses, and how such analyses may affect JAST requirements. This information should be provided to the congressional defense committees no later than the submission of the fiscal year 1996 budget request.

Advanced rocket system

The budget request included $14.8 million in PE 64603N for engineering and manufacturing development of the advanced rocket system (ARS).

The Senate bill would approve the requested amount.

The House amendment would provide $3.0 million to terminate the ARS program.

The conferees understand that the Marine Corps has decided that it cannot afford the ARS program at this time and will not request any additional funding for this program in future budget requests. Nevertheless, the Marine Corps still requires a 2.75 inch rocket with insensitive munitions (IM) and electromagnetic resistance (called "hazards of electromagnetic radiation to ordnance," or HERO). The conferees also understand that the Marine Corps plans to restructure the fiscal years 1994 and 1995 program. With this restructuring, the Marine Corps hopes to obtain sufficient information to enable the Marine Corps to pursue a more affordable program with the Army to address IM and HERO requirements.

The conferees agree to provide $3.0 million for these purposes. The conferees will consider a reprogramming request during the next year if the Army and Marine Corps have agreed to a plan to achieve their mutual IM, HERO, and environmental objectives for the upgrade of the 2.75 inch rocket system.

The conferees note that the Army is interested in hypervelocity rockets and more lethal warheads, and has funded successful technology developments in the past. The conferees understand that the current Hydra-70 rocket is not compatible with shipboard operations. The conferees also understand that non-developmental systems may help solve existing deficiencies in the current Hydra-70 rocket weapons system. The conferees specifically expect the Army and Marine Corps to consider the option of producing, and qualifying for operational use, an improved rocket based on the Hydra-70 system as a successor to the ARS program. The conferees believes that this option might be available through executing an engineering change proposal to the current Hydra-70 rocket using non-developmental items. For any option chosen, however, the conferees expect the Department to use competitive procedures in meeting the improved rocket requirement.

SSBN security technology assessment program

The budget request included $29.3 million for the SSBN security program.

The House amendment would authorize an additional $12.35 million for priority activities under the SSBN security technology assessment program.

The Senate bill would authorize the requested amount.

The House recedes.

Additional information on this program is contained in the classified annex to this statement of the managers.

Acoustic sensor technology

The budget request included $20.6 million for advanced submarine combat systems development (PE 63504N) and $28.8 million for integrated surveillance system development (PE 24311N).

The Senate bill would approve the requested amounts. The Senate report (S. Rept. 103-282) emphasized that the Navy could lower the cost of towed and hull-mounted arrays used in antisubmarine warfare by applying a number of new techniques, including, but not limited to, fiber optic technology.

The House amendment would add $4.0 million and $7.8 million to these programs, respectively, to lend additional support to the development of low cost, lightweight military applications of fiber optic technology. These applications include such systems as common optical towed arrays and flank arrays for submarines.

The conferees agree to provide the additional funds recommended in the House amendment. The conferees agree that further development of fiber optic systems could yield dramatic cost and effectiveness improvements for acoustic sensors. The conferees believe, however, that a number of other technologies, such as ceramics and composites, may also lead to significant cost and weight savings. The conferees agree that the Navy should continue to explore technology developments across a broad front with the objective of improved performance at lower cost.

Mine clearing technology

The conferees are aware that the Marine Corps has conducted preliminary tests with a power-blade, earth-moving technology which could improve mine clearing capabilities. The conferees recommend $600,000 of the funds authorized in PE 26623M for further tests and validation of the power-blade technology. The conferees expect the Army to also participate in these tests and evaluate the results for the improvement of Army mine clearing capabilities.

RESEARCH AND DEVELOPMENT, AIR FORCE

Overview

The budget request for fiscal year 1995 contained an authorization of $12,349.4 million for Air Force research, development, test and evaluation. The Senate bill would authorize $12,329.8 million. The House amendment would authorize $12,318.8 million. The conferees recommend authorization of $12,475.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

UMI 1994 AG 12 — 18 PT 16 VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL AF					
1	61101F	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	0	0	0		0
2	61102F	DEFENSE RESEARCH SCIENCES	235,805	235,805	230,805	-10,000	225,805
3	62101F	GEOPHYSICS	0	0	0		0
4	62102F	MATERIALS	70,049	70,049	70,049		70,049
5	62201F	AEROSPACE FLIGHT DYNAMICS	64,046	65,046	59,046	-5,000	59,046
6	62202F	HUMAN SYSTEMS TECHNOLOGY	52,518	52,518	47,518	-5,000	47,518
7	62203F	AEROSPACE PROPULSION	77,506	77,506	72,506	-5,000	72,506
8	62204F	AEROSPACE AVIONICS	74,673	74,673	69,673	-7,673	67,000
9	62205F	PERSONNEL, TRAINING AND SIMULATION	29,848	29,848	29,848		29,848
10	62206F	CIVIL ENGINEERING AND ENVIRONMENTAL QUAL	7,045	7,045	7,045		7,045
11	62269F	HYPERSONIC FLIGHT TECHNOLOGY	45,000	45,000	45,000		45,000
12	62302F	ROCKET PROPULSION AND ASTRONAUTICS TECH	0	0	0		0
13	62601F	ADVANCED WEAPONS	125,202	140,202	142,202	20,000	145,202
14	62602F	CONVENTIONAL MUNITIONS	44,685	44,685	44,685		44,685
15	62702F	COMMAND CONTROL AND COMMUNICATIONS	95,444	85,444	95,444		95,444
16	63106F	LOGISTICS SYSTEMS TECHNOLOGY	18,200	18,200	18,200		18,200
17	63112F	ADVANCED MATERIALS FOR WEAPON SYSTEMS	19,900	19,900	19,900		19,900
18	63202F	AEROSPACE PROPULSION SUBSYSTEMS INTEGRAT	29,941	21,941	29,941		29,941
19	63203F	ADVANCED AVIONICS FOR AEROSPACE VEHICLES	34,500	37,500	34,500	3,000	37,500
20	63205F	AEROSPACE VEHICLE TECHNOLOGY	14,339	14,339	14,339	-839	13,500
21	63211F	AEROSPACE STRUCTURES	12,300	12,300	12,300		12,300
22	63216F	AEROSPACE PROPULSION AND POWER TECH	40,662	36,662	40,662	-8,241	32,421
23	63227F	PERSONNEL, TRAINING AND SIMULATION TECH	9,241	9,241	9,241		9,241
24	63231F	CREW SYSTEMS & PERSONNEL PROTECTION TECH	16,600	18,900	21,600	6,100	22,700
25	63238F	GLOBAL SURVEILLANCE	14,500	14,500	14,500		14,500
26	63245F	ADVANCED FIGHTER TECHNOLOGY INTEGRATION	18,100	18,100	18,100		18,100
27	63250F	LINCOLN LABORATORY	15,000	15,000	15,000		15,000
28	63253F	ADVANCED AVIONICS INTEGRATION	24,500	24,500	24,500		24,500
29	63269F	NATIONAL AERO SPACE PLANE TECH PROGRAM	0	0	0		0
30	63270F	EW TECHNOLOGY	27,700	27,700	27,700	-3,700	24,000
31	63302F	SPACE AND MISSILE ROCKET PROPULSION	11,800	14,300	11,800	2,500	14,300
32	63311F	BALLISTIC MISSILE TECHNOLOGY	10,000	10,000	10,000	-5,000	5,000

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
33	63319F	AIRBORNE LASER TECHNOLOGY	0	0	0		0
34	63401F	ADVANCED SPACECRAFT TECHNOLOGY	24,200	124,200	24,200	30,000	54,200
35	63410F	SPACE SYSTEMS ENVIRONMENTAL INTERACTIONS	4,200	4,200	4,200		4,200
36	63428F	SPACE SUBSYSTEMS TECHNOLOGY	0	0	0		0
37	63601F	CONVENTIONAL WEAPONS TECHNOLOGY	35,100	35,100	35,100		35,100
38	63605F	ADVANCED RADIATION TECHNOLOGY	59,500	59,500	59,500	10,000	69,500
39	63707F	WEATHER SYSTEMS TECHNOLOGY	5,100	5,100	5,100		5,100
40	63723F	CIVIL AND ENVIRONMENTAL ENGINEERING TECH	9,798	9,798	9,798		9,798
41	63726F	C3I SUBSYSTEM INTEGRATION	11,050	11,050	11,050		11,050
42	63728F	ADVANCED COMPUTING TECHNOLOGY	9,125	9,125	9,125		9,125
43	63789F	C3 ADVANCED DEVELOPMENT	9,925	16,925	9,925	1,000	10,925
44	63107F	TECHNICAL EVALUTION SYSTEM	[ ]	0	0		0
45	63110F	SPECIAL EVALUATION PROGRAM	[ ]	0	0		0
46	63111F	MERIDIAN	[ ]	0	0		0
47	63260F	INTELLIGENCE ADVANCED DEVELOPMENT	5,134	5,134	5,134		5,134
48	63307F	AIR BASE OPERABILITY ADVANCED DEVELOP	2,312	2,312	2,312		2,312
49	63308F	STRATEGIC MISSILE MODERNIZATION	36,018	36,018	36,018		36,018
50	63319F	AIRBORNE LASER TECHNOLOGY	20,000	20,000	20,000		20,000
51	63402F	SPACE TEST PROGRAM	62,084	62,084	62,084		62,084
52	63430F	ADVANCED MILSATCOM	22,095	35,000	22,095	0	22,095
53	63434F	DEFENSE METEOROLOGICAL SATELLITE PROGRAM	7,601	7,601	3,601	0	7,601
54	63438F	SATELLITE SYSTEMS SURVIVABILITY	8,531	8,531	8,531		8,531
55	63440F	BRILLIANT EYES	0	0	120,000	0	0
56	63441F	ADVANCED SPACE BASED TW/AA (DEM VAL)	150,000	150,000	119,000	19,000	169,000
57	63617F	COMMAND, CONTROL, AND COMMUNICATION APPL	5,402	5,402	5,402		5,402
58	63714F	DOD PHYSICAL SECURITY EQUIP - EXTERIOR	0	0	0		0
59	63742F	COMBAT IDENTIFICATION TECHNOLOGY	13,453	13,453	13,453		13,453
60	63800F	JOINT ADVANCED STRIKE TECHNOLOGY PROGRAM	101,354	101,354	101,354		101,354
		ICBM DEM/VAL					0
61	63801F	SPECIAL PROGRAMS	[ ]	0	0		0
998		DEM/VAL CLASSIFIED	0	0	0		0
62	64201F	AIRCRAFT AVIONICS EQUIPMENT DEVELOPMENT	4,824	4,824	4,824		4,824
63	64211F	ADVANCED AERIAL TARGET DEVELOPMENT	0	0	0		0
64	64212F	AIRCRAFT EQUIPMENT DEVELOPMENT	0	0	0		0

UMI 1994 AG 12 - 18 PT 16 VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
65	64218F	ENGINE MODEL DERIVATIVE PROGRAM (EMDP)	761	761	761		761
66	64222F	NUCLEAR WEAPONS SUPPORT	5,637	3,637	5,637	0	5,637
67	64226F	B-1B (H)	74,119	74,119	74,119		74,119
68	64227F	TRAINING SYSTEMS DEVELOPMENT	14,261	14,261	14,261		14,261
69	64231F	C-17 PROGRAM	221,454	105,154	221,454	0	221,454
70	64233F	SPECIALIZED UNDERGRADUATE PILOT TRAINING	41,633	41,633	41,633	-4,200	37,433
71	64237F	VARIABLE STABILITY IN-FLIGHT SIMULATOR	2,027	2,027	2,027		2,027
72	64239F	F-22 EMD	2,461,149	2,461,149	2,461,149		2,461,149
73	64240F	B-2 ADVANCED TECHNOLOGY BOMBER	408,543	408,543	408,543		408,543
74	64242F	ADVANCED INTERDICTION AFT (AX)	0	0	0		0
75	64243F	MANPOWER, PERSONNEL AND TRAINING DEVELOP	4,636	4,636	4,636		4,636
76	64249F	NIGHT/PRECISION ATTACK	21,672	21,672	21,672		21,672
77	64268F	AIRCRAFT ENGINE COMPONENT IMPROVE PROG	97,399	97,399	97,399		97,399
77a		COMPOSITE PROPELLOR DEVELOPMENT			8,000	4,000	4,000
78	64270F	EW DEVELOPMENT	88,774	88,774	88,774		88,774
79	64312F	ICBM MODERNIZATION	0	0	0		0
80	64321F	JOINT TACTICAL FUSION PROGRAM	8,666	4,666	8,666	0	8,666
81	64327F	HARDENED TARGET MUNITIONS	0	0	0		0
82	64408F	NATIONAL LAUNCH SYSTEM	10,176	3,976	10,176	-10,176	0
		LAUNCH VEHICLE TECHNOLOGY			10,000	10,000	10,000
83	64479F	MILSTAR LDR/MDR SAT COMM	607,248	607,248	607,248		607,248
84	64601F	CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT	7,587	7,587	7,587		7,587
85	64602F	ARMAMENT/ORDNANCE DEVELOPMENT	10,853	10,853	10,853		10,853
85a		CALCM				8,000	8,000
85b		B-1/JDAM INTEGRATION				16,900	16,900
86	64604F	SUBMUNITIONS	26,680	12,680	26,680	0	26,680
87	64609F	R&M MATURATION/TECHNOLOGY INSERTION	8,804	8,804	8,804		8,804
88	64617F	AIR BASE OPERABILITY	9,580	9,580	9,580		9,580
89	64618F	JOINT DIRECT ATTACK MUNITION	84,995	84,995	84,995		84,995
90	64703F	AEROMEDICAL/CHEMICAL DEFENSE SYSTEMS	8,178	8,178	8,178		8,178
91	64704F	COMMON SUPPORT EQUIPMENT DEVELOPMENT	1,605	1,605	1,605		1,605
92	64706F	LIFE SUPPORT SYSTEMS	5,058	5,058	5,058		5,058
93	64707F	WEATHER SYSTEMS - ENG DEV	0	0	0		0
94	64708F	CIVIL, FIRE, ENVIRONMENTAL, SHELTER ENG	3,214	3,214	3,214		3,214

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
95	64711F	SYSTEMS SURVIVABILITY (NUCLEAR EFFECTS)	2,786	0	2,786	-2,786	0
96	64727F	JOINT STANDOFF WEAPONS SYSTEMS	48,966	48,966	48,966		48,966
97	64733F	SURFACE DEFENSE SUPPRESSION	951	951	951		951
98	64735F	RANGE IMPROVEMENT	18,301	18,301	18,301		18,301
99	64740F	COMPUTER RESOURCE TECHNOLOGY TRANSITION	6,621	6,621	6,621		6,621
100	64747F	ELECTROMAGNETIC RADIATION TEST FACIL	0	0	0		0
101	64750F	INTELLIGENCE EQUIPMENT	2,633	2,633	2,633		2,633
102	64754F	JOINT TACTICAL INFORMATION DISTRIBUTION	11,634	11,634	11,634		11,634
103	64755F	IMPROVED CAPABILITY FOR DEVELOPMENT TEST	0	0	0		0
104	64756F	SIDE LOOKING AIRBORNE RADAR	0	0	0		0
105	64770F	JOINT SURVEILL/TARGET ATTACK RADAR SYS	190,408	160,408	190,408	0	190,408
106	64779F	JOINT INTEROP TACT C2 SYSTEMS (JINTACCS)	2,063	2,063	2,063		2,063
107	33606F	UHF SATELLITE COMMUNICATIONS	20,879	20,879	20,879		20,879
		C-130J					0
		ICBM - EMD					0
108	64256F	THREAT SIMULATOR DEVELOPMENT	40,075	49,075	40,075	5,000	45,075
109	64258F	TARGET SYSTEMS DEVELOPMENT	7,576	7,576	7,576		7,576
110	64759F	MAJOR T&E INVESTMENT	53,544	53,544	48,544	-2,500	51,044
111	65101F	RAND PROJECT AIR FORCE	28,039	28,039	28,039	-5,000	23,039
112	65306F	RANCH HAND II EPIDEMIOLOGY STUDY	3,160	3,160	3,160		3,160
113	65502F	SMALL BUSINESS INNOVATIVE RESEARCH (H)	0	0	0		0
114	65708F	NAVIGATION/RADAR/SLED TRACK TEST SUPPORT	26,023	26,023	30,023	4,000	30,023
115	65712F	INITIAL OPERATIONAL TEST & EVALUATION	33,504	33,504	28,504	-2,500	31,004
116	65807F	TEST AND EVALUATION SUPPORT	373,376	373,376	373,376		373,376
117	65808F	DEVELOPMENT PLANNING	9,959	9,959	9,959	-2,459	7,500
118	65856F	ENVIRONMENTAL COMPLIANCE	42,876	42,876	42,876		42,876
119	65863F	RDT&E AIRCRAFT SUPPORT	34,476	34,476	34,476		34,476
120	65876F	MINOR CONSTRUCTION (RPM) - RDT&E	3,281	3,281	3,281		3,281
121	65878F	MAINTENANCE AND REPAIR (RPM) - RDT&E	51,904	51,904	41,904	-5,000	46,904
122	65896F	BASE OPERATIONS - RDT&E	106,914	106,914	96,914	-5,000	101,914
123	63107F	TECHNICAL EVALUTION SYSTEM	[ ]	0	0		0
124	63110F	SPECIAL EVALUATION PROGRAM	[ ]	0	0		0
125	11113F	B-52 SQUADRONS	0	0	0		0
126	11120F	ADVANCED CRUISE MISSILE	0	0	0		0

UMI 1994 AG 12 - 18 PT 16 VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
127	11142F	KC-135 SQUADRONS	0	0	0		0
128	11213F	MINUTEMAN SQUADRONS	151,675	151,675	151,675		151,675
129	11312F	PACCS AND WWABNCP SYSTEM EC-135 CLASS V	0	0	0		0
130	11313F	STRAT WAR PLANNING SYSTEM - USSTRATCOM	0	0	0		0
131	11815F	ADVANCED STRATEGIC PROGRAMS	[ ]	0	0		0
132	12325F	JOINT SURVEILLANCE SYSTEM	2,770	2,770	2,770		2,770
133	12411F	SURVEILLANCE RADAR STATIONS/SITES	4,191	4,191	4,191		4,191
134	12412F	DISTANT EARLY WARNING (DEW) RADAR STATN	2,068	2,068	2,068		2,068
135	27129F	F-111 SQUADRONS	11,019	1,504	11,019	-8,200	2,819
136	27130F	F-15A/B/C/D SQUADRONS	0	0	0		0
137	27131F	A-10 SQUADRONS	0	0	0		0
138	27133F	F-16 SQUADRONS	93,157	93,157	93,157		93,157
139	27134F	F-15E SQUADRONS	116,562	116,562	116,562		116,562
140	27136F	MANNED DESTRUCTIVE SUPPRESSION	38,422	38,422	38,422		38,422
141	27137F	CONSTANT HELP	[ ]	0	0		0
142	27141F	F-117A SQUADRONS	0	0	0		0
143	27160F	TRI-SERVICE STANDOFF ATTACK MISSILE	81,063	81,063	81,063	137,537	218,600
144	27161F	TACTICAL AIM MISSILES	26,944	26,944	26,944	-26,944	0
145	27163F	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE	70,715	70,715	70,715		70,715
146	27217F	FOLLOW-ON TACTICAL RECONNAISSANCE SYS	0	0	0		0
147	27247F	AF TENCAP	21,183	21,183	21,183		21,183
148	27248F	SPECIAL EVALUATION PROGRAM	118,260	118,260	118,260		118,260
149	27411F	OVERSEAS AIR WEAPON CONTROL SYSTEM	0	0	0		0
150	27412F	TACTICAL AIR CONTROL SYSTEMS	7,383	7,383	7,383		7,383
151	27417F	AIRBORNE WARNING AND CONTROL SYS (AWACS)	85,643	85,643	85,643		85,643
152	27419F	TACTICAL AIRBORNE COMMAND & CONTROL SYS	2,779	2,779	2,779		2,779
153	27422F	DEPLOYABLE C3 SYSTEMS	2,610	2,610	2,610		2,610
154	27423F	ADVANCED COMMUNICATIONS SYSTEMS	459	459	459		459
155	27424F	EVALUATION AND ANALYSIS PROGRAM	73,957	73,957	73,957		73,957
156	27431F	COMBAT AIR INTELLIGENCE SYS ACTIVITIES	[ ]	0	0		0
157	27433F	ADVANCED PROGRAM TECHNOLOGY	165,351	165,351	165,351		165,351
158	27438F	THEATER BATTLE MANAGEMENT (TBM) C4I	33,957	33,957	33,957		33,957
159	27579F	ADVANCED SYSTEMS IMPROVEMENTS	119,866	119,866	119,866		119,866
160	27590F	SEEK EAGLE	15,982	15,982	15,982		15,982

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
161	27591F	ADVANCED PROGRAM EVALUATION	105,077	105,077	105,077		105,077
162	27601F	USAF WARGAMING AND SIMULATION	19,110	19,110	19,110		19,110
163	28006F	MISSION PLANNING SYSTEMS	14,483	14,483	14,483		14,483
164	28010F	JOINT TACT COMMUNIC PROGRAM (TRI-TAC)	0	0	0		0
165	28021F	ELECTRONIC COMBAT SUPPORT	[ ]	0	0		0
166	28042F	HAVE FLAG	[ ]	0	0		0
167	28060F	THEATER MISSILE DEFENSES	79,302	79,302	79,302	-52,000	27,302
168	31310F	FOREIGN TECHNOLOGY DIVISION	[ ]	0	0		0
169	31313F	DEFENSE DISSEMINATION PROGRAM	[ ]	0	0		0
170	31314F	IR/EO/DEW PROCESS AND EXPLOITATION	[ ]	0	0		0
171	31315F	MISSILE AND SPACE TECHNICAL COLLECTION	[ ]	0	0		0
172	31317F	SENIOR YEAR OPERATIONS	[ ]	0	0		0
173	31324F	FOREST GREEN	[ ]	0	0		0
174	31357F	NUDET DETECTION SYSTEM	0	0	0		0
175	33110F	DEFENSE SATELLITE COMMUNICATIONS SYSTEM	30,876	30,876	21,476	-9,400	21,476
176	33126F	LONG-HAUL COMMUNICATIONS (DCS)	0	0	0		0
177	33131F	MIN ESSENTIAL EMERG COMM NETWORK (MEECN)	40,795	35,795	40,795	-5,000	35,795
178	33140F	INFORMATION SYSTEMS SECURITY PROGRAM	10,293	11,793	10,293	1,500	11,793
179	33144F	ELECTROMAGNETIC COMPATIBILITY ANAL CTR	9,287	9,287	9,287		9,287
180	33401F	COMMUNICATIONS SECURITY (COMSEC)	[ ]	0	0		0
181	33601F	MILSTAR SATELLITE COMMUNICATIONS SYSTEM	18,249	18,249	18,249		18,249
182	33605F	SATELLITE COMMUNICATIONS TERMINALS	1,905	1,905	1,905		1,905
183	34111F	SPECIAL ACTIVITIES	[ ]	0	0	[-61,500]	0
184	35110F	SATELLITE CONTROL NETWORK	101,146	101,146	101,146		101,146
185	35111F	WEATHER SERVICE	20,990	20,990	20,990		20,990
186	35114F	AIR TRAFFIC CONTROL, APPROACH, AND LAND	7,566	7,566	0	0	7,566
187	35119F	MEDIUM LAUNCH VEHICLES	21,042	121,042	21,042		21,042
		SPACE LAUNCH INITIATIVE				50,000	50,000
188	35124F	SPECIAL APPLICATIONS PROGRAM	[ ]	0	0		0
189	35137F	NATIONAL AIRSPACE SYSTEM (NAS) PLAN	30,980	30,980	30,980		30,980
190	35138F	UPPER STAGE SPACE VEHICLES	3,663	3,663	3,663		3,663
191	35142F	APPLIED TECHNOLOGY AND INTEGRATION	[ ]	0	0		0
192	35144F	TITAN SPACE LAUNCH VEHICLES	161,096	161,096	161,096		161,096
193	35145F	ARMS CONTROL IMPLEMENTATION	6,456	6,456	6,456		6,456

UMI 1994 AG 12-18 PT 16 VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
194	35158F	CONSTANT SOURCE	3,259	3,259	3,259		3,259
195	35160F	DEFENSE METEOROLOGICAL SATELLITE PROGRAM	21,135	21,135	21,135		21,135
196	35164F	NAVSTAR GLOBAL POS SYSTEM (USER EQUIP)	9,781	9,781	9,781		9,781
197	35165F	NAVSTAR GLOBAL POS SYS (SPACE/CONTROL)	51,125	51,125	51,125		51,125
198	35172F	COMBINED ADVANCED APPLICATIONS	[ ]	0	0		0
199	35181F	WESTERN SPACE LAUNCH FACILITY (WSLF)	0	0	0		0
200	35182F	EASTERN SPACE LAUNCH FACILITY (ESLF)	42,710	42,710	42,710		42,710
201	35887F	ELECTRONIC COMBAT INTELLIGENCE SUPPORT	1,892	1,892	1,892		1,892
202	35892F	SPECIAL ANALYSIS ACTIVITIES	[ ]	0	0		0
203	35905F	IMPROVED SPACE BASED TW/AA	0	0	0		0
204	35906F	NCMC - TW/AA SYSTEM	100,520	100,520	100,520		100,520
205	35909F	BALLISTIC MISSILE EARLY WARNING SYSTEM	0	0	0		0
206	35910F	SPACETRACK	34,396	34,396	34,396		34,396
207	35911F	DEFENSE SUPPORT PROGRAM	76,351	56,351	76,351		76,351
208	35912F	SUB-LAUNCH BALLISTIC MISSILE RADAR WARN	0	0	0		0
209	35913F	NUDET DETECTION SYSTEM	10,140	10,140	10,140		10,140
210	41218F	KC-135S	5,160	5,160	5,160		5,160
211	41840F	MAC COMMAND AND CONTROL SYSTEM	0	0	0		0
212	71111F	SUPPLY DEPOT OPERATIONS (NON-IF)	0	0	0		0
213	71112F	INVENTORY CONTROL POINT OPERATIONS	0	0	0		0
214	72207F	DEPOT MAINTENANCE (NON-IF)	2,099	2,099	2,099		2,099
215	78011F	MANUFACTURING SCIENCE AND TECHNOLOGY	0	0	50,000	50,000	50,000
216	78012F	LOGISTICS SUPPORT ACTIVITIES	5,804	5,804	5,804		5,804
217	78026F	PRODUCTIVITY, RELIABILITY, AVAILABILITY,	6,785	7,785	6,785	0	6,785
218	78054F	POLLUTION PREVENTION	16,216	16,216	16,216		16,216
219	84734F	CRYPTOLOGIC/SIGINT-RELATED SKILL TRAIN	1,526	1,526	1,526		1,526
220	88789F	COUNTERDRUG DEMAND REDUCTION ACTIVITIES	0	0	0		0
221	91218F	CIVILIAN COMPENSATION PROGRAM	5,655	5,655	5,655		5,655
222	101004F	INTERNATIONAL ACTIVITIES	3,436	3,436	3,436		3,436
		ALARM DEM/VAL PROTOTYPE					0
999		OPERATIONAL SYSTEMS CLASSIFIED	2,822,472	2,768,472	2,715,972	-61,500	2,760,972
		EXCIMER LASER IMAGING			10,000		0
		GENERAL REDUCTION			-10,000		0
		CIVILIAN UNDERSTRENGTH			-21,000	0	0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		FEDERAL WORKFORCE RESTRUCTURING ACT			900	900	900
		GENERAL REDUCTION, UNIVERSITY RESEARCH					0
		CIVILIAN PERSONNEL PAY/LOCALITY PAY RAISES					0
		TOTAL RDT&E AIR FORCE	12,349,362	12,318,766	12,329,796	126,319	12,475,681

VOL 140 PT 16 AG 12 — 18 1994 UMI

Sled tracks

The budget request contained funding for operation of Air Force and Navy sled tracks.

The Senate bill would add $4.0 million to the Air Force sled track program. The Senate report (S. Rept. 103–282) directed the Department of Defense to consolidate all sled track testing at Holloman Air Force Base, and to accelerate modernization of the Holloman sled track.

The House amendment contained no additional funding for sled track operation.

The conferees agree to authorize an additional $4.0 million to accelerate the modernization of the Holloman sled track. However, the conferees agree that it is premature to direct consolidation of all sled track testing pending the outcome of the 1995 base closure process. The conferees agree that the reporting requirement in the Senate report is unnecessary.

Thermionic power systems

The budget request contained $26.897 million in PE 62601F (project 8809, satellite technology). No funds were requested in this project to continue research on thermionic space power technology.

The Senate bill and the House amendment would both add $10.0 million to continue development of this technology.

The conferees agree that the thermionics program offers the potential for revolutionary improvements in power generation technology with substantial defense and commercial implications, and urge the Air Force to continue development of this technology.

Rocket propulsion technology

The budget request included $31.5 million in PE 62601F for project 1011 and $11.8 million in PE 63302F for rocket propulsion technology.

The Senate bill would provide no additional funds for this research.

The House amendment would authorize an additional $5.0 million in PE 62601F for project 1011 and an additional $2.5 million in PE 63302F for rocket propulsion technology.

The Senate recedes. The conferees support the additional funding for rocket propulsion programs as described in the House report (H. Rept. 103–499).

High frequency active auroral research program

The budget request contained no funding for the High frequency active auroral research program.

The Senate bill would authorize $5.0 million for this purpose in PE 62601F, provided that the Secretary of Defense notifies the congressional defense committees that funding to complete the project will be included in future budget requests.

The House amendment would provide no funding for the program.

The House recedes.

The conferees agree that the project has promise for detection of underground structures such as tunnels and shelters, and note that the absence of such a capability has been identified in a May 1994 report the Deputy Secretary of Defense as a serious weakness in the DOD plans for precision attacks on hardened targets and counterproliferation. This report recommends increased funding of $75.0 million annually for the detection of underground structures. The conferees further note that such a project would provide a world-class ionospheric research facility that could also detect mineral and oil deposits, aquifers, and geological structures.

The conferees share the Senate's concern that the Department of Defense will not include funds to finish this facility in future budget requests. The Air Force has spent $20.0 million, but the complete facility would require another $150.0 million. The conferees see no reason why funds would not be requested to finish this project if the Department of Defense is truly serious about locating underground structures. Therefore, the conferees direct that none of these funds be obligated until the Secretary of Defense notifies the congressional defense committees that the Department will, as part of the nonproliferation and counterproliferation program recommended in the May 1994 report, include funding for this project in future budget requests.

Decision support technology

The budget request included $9.925 million in PE 63789F for command, control, and communications advanced development.

The Senate bill would provide the requested amount.

The House amendment would provide an additional $7.0 million to conduct a technology demonstration of decision support technology.

The conferees agree to provide an additional $1.0 million for this purpose.

Composite propellers

The Senate bill provided an additional $8.0 million for the Air Force to begin the fabrication and component-level testing that would lead to qualification of an all-composite propeller.

The House amendment contained no similar funding.

Significant life cycle cost savings could be achieved through the use of composite propeller technology. The conferees, therefore, recommend $4.0 million to initiate a composite propeller technology program.

The conferees express their dismay over the apparent frivolous manner in which the Secretary of the Air Force responded to the direction contained in the Senate report on the National Defense Authorization Act for Fiscal Year 1994 (S. Rept. 103–112). The report asked for an analysis of the costs and benefits of composite propellers. The report was late, and it was unresponsive. The two-page report provided very little useful analysis of the issue. Further, when Air Force personnel were requested to provide the quantitative data to support the qualitative statements made in the report, they were unable to provide any data whatsoever.

F–111 squadrons

The budget request contained $11.019 million for F–111 squadrons research and development (PE 27129F).

The Senate bill would authorize the requested amount.

The House amendment would approve only $1.504 million because of unanticipated savings in the termination of the stores management system project.

The conferees agree to authorize $2.819 million, including $2.5 million to correct deficiencies found during initial flight testing of the digital flight control system modification.

Tri-service standoff attack missile

The budget request contained $66.7 million for the Navy, and $81.1 million for the Air Force, to continue development of the tri-service standoff attack missile (TSSAM). The budget request also contained $373.9 million in procurement to begin low-rate initial production of the Air Force's combined effects bomblet (CEB) version of the missile. Finally, the budget request included $82.5 million to pay for termination charges to cancel the Army portion of the program.

The House amendment would cancel the TSSAM program. The House amendment would eliminate the Air Force production funds, and all research and development funds except those requested for the Air Force. The House report (H. Rept. 103–499) directed the Department to use prior-year funds and the requested Air Force research and development funds for any termination costs. The House report based this decision on continuing cost and developmental problems in the TSSAM program, and the availability of less costly alternatives.

The Senate bill would approve the amounts requested for Air Force and Navy research and development, but would reduce Air Force procurement by $65.8 million. The Senate report (S. Rept. 103–282) directed that none of the fiscal year 1995 production funds be obligated until the testing program has: (1) achieved all contractual exit criteria for proceeding to the next phase of the program, and (2) passed the standards set forth in the classified annex to the statement of the managers accompanying the conference report on the Department of Defense Appropriations Act for Fiscal Year 1994 (H. Rept. 103–339). The Senate report noted that $50.0 million of the funds requested for the Army would be excess to termination requirements, and recommended a similar reduction.

The conferees believe that the capability promised by TSSAM is important for use in future conflicts. However, the conferees, adhering to a "fly-before-buy" philosophy, believe that the Air Force budget should reflect the current testing delays. The conferees recommend no missile procurement funds in fiscal year 1995, which will delay production until testing can demonstrate the expected performance and reliability.

The conferees agree to provide $20.0 million to fund the latest estimate of Army program termination costs, $66.7 million in Navy research and development funds to continue Navy participation in the program, and $218.6 million in Air Force research and development funds to support a restructured TSSAM development program.

The conferees are well aware of the technical problems that continue to plague the TSSAM program. Moreover, the conferees are disappointed with the overall management of the program.

Therefore, the conferees recommend a budget for TSSAM that would implement a plan proposed by the Air Force to restructure the development program in several ways:

(1) cancel production of the CEB variant missile;

(2) complete the engineering and manufacturing development of the CEB and unitary warhead variants of the missile;

(3) convert existing operational test assets to conduct additional developmental testing; and

(4) purchase 15 additional unitary warhead missiles to conduct operational testing with more "production representative" missiles.

Although this restructuring will delay production, additional testing will also provide more confidence in the Air Force's assessment that the improvements in various program management indicators are yielding results in improved flight reliability. The conferees believe that any restructuring should:

(1) protect the government's rights to hold the contractor team accountable for performance;

(2) provide additional work to hold the contractor team together until procurement of the unitary warhead variant of the missile can begin; and

(3) allow the contractor team to demonstrate that the team has been able to solve the process control problems that have plagued the program.

The Secretary of the Air Force is directed to implement the restructured development program described above in a manner that: (1) contractually provides for any increased scope of work independent of the current scope of work, and (2) preserves all rights the government may have under current contracts for the TSSAM program.

The conferees are interested in delaying production only so long as is required to demonstrate performance. The conferees direct the Air Force to implement this restructured program and provide the funds necessary to carry out the plan in the Future Years Defense Program.

Microencapsulated phase change materials

The budget request contained no funding for microencapsulted phase change materials (micro PCM).

The Senate bill contained no funding for micro PCM.

The House amendment would authorize an additional $1.0 million to continue micro PCM research in the Air Force.

The House recedes. The the conferees, however believe that micro PCM innovative technology worth pursuing and would allow the Air Force to reprogram funds within its allotted funding to support micro PCM research in fiscal year 1995.

RESEARCH AND DEVELOPMENT, DEFENSE-WIDE

Overview

The budget request for fiscal year 1995 contained an authorization of $9,416.9 million for Defense-wide research, development, test and evaluation. The Senate bill would authorize $9,322.3 million. The House amendment would authorize $9,054.2 million. The conferees recommend authorization of $9,185.6 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

UMI 1994 AG 12 I 18 PT 16 VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL DEFWIDE					
1	61101D	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	0	0	0		0
2	61101E	DEFENSE RESEARCH SCIENCES	87,706	87,706	87,706		87,706
3	61101W	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	0	0	0		0
4	61103D	UNIVERSITY RESEARCH INITIATIVES	232,492	237,492	232,492	2,500	234,992
5	61109D	US-JAPAN MANAGEMENT TRAINING	0	0	0		0
6	61110D	FOCUSED RESEARCH INITIATIVES	20,000	20,000	20,000	-8,000	12,000
7	62109H	SUPERCONDUCTIVE MAGNETIC ENERGY STORAGE	0	0	0		0
8	62217C	BALLISTIC MISSILE DEFENSE TECHNOLOGY	106,460	73,460	0	-106,460	0
9	62227D	MEDICAL FREE ELECTRON LASER	25,938	25,938	25,938		25,938
10	62228D	HISTOR BLACK COLLEGES AND UNIVERSITIES	15,000	25,000	35,000	10,000	25,000
11	62301E	COMPUTING SYSTEMS AND COMMUNIC TECH	419,608	394,608	419,608	-25,000	394,608
11a		LOCATE WEAPONS OF MASS DESTRUCTION			[5,000]	[5,000]	[5,000]
11b		JOINT DOD-FBI TRAINING PROGRAM			[10,000]	[10,000]	[10,000]
12	62702E	TACTICAL TECHNOLOGY	111,343	126,343	111,343	10,000	121,343
13	62708E	INTEGRATED COMMAND AND CONTROL TECH	67,950	92,950	92,950	25,000	92,950
14	62712E	MATERIALS AND ELECTRONICS TECHNOLOGY	224,828	243,953	241,828	18,000	242,828
15	62715H	DEFENSE NUCLEAR AGENCY	231,978	227,978	254,478	-1,000	230,978
16	62787D	MEDICAL TECHNOLOGY	8,477	8,477	8,477		8,477
17	62790D	SBIR/SMALL BUS TECH TRANSFER PILOT PROG	1,500	1,500	1,500		1,500
18	62790H	SBIR/SMALL BUS TECH TRANSFER PILOT PROG	0	0	0		0
19	63217C	BALLISTIC MISSILE DEFENSE TECHNOLOGY	0	0	0		0
20	63734J	ISLAND SUN SUPPORT	2,784	2,784	2,784		2,784
21	65502D	SMALL BUSINESS INNOVATIVE RESEARCH	0	0	0		0
22	35108K	COMMAND AND CONTROL RESEARCH	1,843	1,843	1,843		1,843
23	62222D	COUNTERTERROR TECHNICAL SUPPORT	6,321	6,321	9,321	3,000	9,321
24	63002D	MEDICAL ADVANCED TECHNOLOGY	4,542	4,542	44,542	40,000	44,542
25	63214C	SPACE BASED INTERCEPTORS	0	0	0	0	0
26	63215C	LIMITED DEFENSE SYSTEM	0	0	0		0
27	63216C	THEATER MISSILE DEFENSES	479,131	480,281	0	-479,131	0
28	63217C	BALLISTIC MISSILE DEFENSE TECHNOLOGY	769,993	584,393	0	-769,993	0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		BALLISTIC MISSILE DEFENSE:				2,526,635	2,526,635
		NATIONAL MISSILE DEFENSE			400,000	400,000	400,000
		THAAD				495,690	495,690
		GROUND BASED RADAR - T				173,200	173,200
		HAWK BM/C3				26,800	26,800
		BM/C3I				34,055	34,055
		PATRIOT (PAC-3)				284,705	284,705
		PAC-3 RISK REDUCTION				58,460	58,460
		NAVY LOWER TIER				140,000	140,000
		NAVY UPPER TIER				50,000	50,000
		CORPS SAM				17,725	17,725
		BOOST PHASE INTERCEPT				40,000	40,000
		OTHER TMD ACTIVITIES				373,050	373,050
		SUPPORT TECHNOLOGIES				262,950	262,950
		PROGRAM MANAGEMENT				170,000	170,000
		FOLLOW ON TECHNOLOGY			270,000		0
		FOLLOW ON TMD SYSTEMS			96,550		0
29	63218C	RESEARCH AND SUPPORT ACTIVITIES	0	0	463,117		0
30	63225D	JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVEL	14,415	26,415	14,415	8,500	22,915
31	63226E	EXPERIMENTAL EVAL MAJOR INNOVATIVE TECH	609,331	613,017	597,331	26,800	636,131
31a		VIRTUAL BRIGADE			16,800	[16,800]	[16,800]
31b		ASTOVL			10,200	0	0
31c		ENDURANCE UAV OFFSET			-32,000	0	0
32	63569E	ADVANCED SUBMARINE TECHNOLOGY	25,261	42,261	25,261	9,000	34,261
33	63570D	DEFENSE REINVESTMENT	106,600	0	56,600	-30,600	76,000
34	63570E	DEFENSE REINVESTMENT	625,000	771,600	625,000	0	625,000
35	63704D	SPECIAL TECHNICAL SUPPORT	11,298	11,298	9,298	-2,000	9,298
36	63705D	MANUFACTURING TECHNOLOGY	97,057	117,057	10,000	-87,057	10,000
37	63711H	VERIFICATION TECHNOLOGY DEMONSTRATION	41,063	41,063	41,063		41,063
38	63716D	STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	111,907	111,907	170,000	0	111,907
39	63724D	BIOLOGICAL DEFENSE - ADVANCED DEVELOP	0	0	9,650	52,895	52,895
40	63725D	COMPUTERS & COMMUNIC TO REDUCE MED COSTS	0	0	0		0
41	63736D	COMPUTER AIDED LOGISTICS SUPPORT	13,090	13,090	13,090		13,090

UMI 1994 AG 12-I 18 PT 16 VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
42	63737D	BALANCED TECHNOLOGY INITIATIVE	0	0	0		0
43	63738D	COOPERATIVE DOD/VA MEDICAL RESEARCH	0	30,000	20,000	40,000	40,000
44	63739E	MANUFACTURING TECHNOLOGY	346,129	418,329	371,129	56,200	402,329
44a		UAV ADJUSTMENT			-5,000	-5,000	-5,000
45	63741D	AIR DEFENSE INITIATIVE	0	0	0		0
		HIGH ENERGY LASER			50,000	0	0
46	63744E	ADVANCED SIMULATION	20,937	20,937	30,937	0	20,937
47	63745E	SEMICONDUCTOR MANUFACTURING TECHNOLOGY	90,000	90,000	90,000		90,000
48	63746E	MARITIME TECHNOLOGY OFFICE	0	0	0		0
49	63747E	ELECTRIC VEHICLES	0	10,000	15,000	10,000	10,000
50	63748E	NATURAL GAS VEHICLES	0	0	0		0
51	63749E	EARTH CONSERVANCY	0	0	0		0
52	63750D	ADVANCED CONCEPTS TECHNOLOGY DEMONSTR	50,000	25,000	50,000	-30,900	19,100
53	63755D	HIGH PERFORMANCE COMPUTING MODERNIZATION	183,048	133,048	183,048	-25,000	158,048
54	63756D	CONSOLIDATED DOD SOFTWARE INITIATIVE	0	0	0		0
55	63832D	JOINT WARGAMING SIMULATION MANAGE OFFICE	68,117	68,117	68,117	-13,114	55,003
56	64704D	ROCKET MOTOR DEMILITARIZATION PROGRAM	0	4,500	4,500	4,500	4,500
57	33132G	GLOBAL GRID COMMUNICATIONS	[ ]	0	0		0
58	63216C	THEATER MISSILE DEFENSES	0	0	0		0
59	63228D	PHYSICAL SECURITY EQUIPMENT	21,409	28,909	21,409	3,479	24,888
60	63708D	INTEGRATED DIAGNOSTICS	11,634	11,634	11,634		11,634
61	63709D	JOINT ROBOTICS PROGRAM	23,418	23,418	23,418		23,418
62	63710D	CLASSIFIED PROGRAM - C3I	8,092	8,092	8,092		8,092
63	63714D	ADVANCED SENSOR APPLICATIONS PROGRAM	27,359	27,359	27,359	4,756	32,115
64	63715D	AIM-9 CONSOLIDATED PROGRAM	0	0	0	49,320	49,320
64a		F-22N			10,000	10,000	10,000
65	63790D	NATO RESEARCH AND DEVELOPMENT	60,240	60,240	60,240	-24,950	35,290
		DISASTER PLANNING AND PREPAREDNESS					0
66	64216C	THEATER MISSILE DEFENSE (DEM/VAL)	[1,071,283]		0	0	0
66A		GROUND BASED RADAR	173,200	173,200	173,200	-173,200	0
66B		PATRIOT	69,240	0	69,240	-69,240	0
66C		ERINT	58,460	0	58,460	-58,460	0
66D		THAAD	495,690	495,690	495,690	-495,690	0
66E		SEA BASED TMD INT	179,543	0	179,543	-179,543	0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
66F		RISK REDUCTION	0	210,000	75,000		0
66G		HAWK SYSTEM BM/C3	26,800	26,800	26,800	-26,800	0
66H		C4I & CONCEPTS OPS	33,500	33,500	34,055	-33,500	0
66I		TEST AND EVALUATION SUPPORT	34,850	34,850	0	-34,850	0
67	64217C	BALLISTIC MISSILE DEFENSE TECH (DEM/VAL)	120,000	0	0	-120,000	0
68	64225C	THEATER MISSILE DEFENSES	0	0	0		0
69	64708D	INNOVATIVE ENVIRONMENTAL SECURITY TECH	15,000	25,000	15,000	10,000	25,000
70	64225C	THEATER MISSILE DEFENSES	217,755	180,755	217,200	-217,755	0
71	64705D	MOBILE OFFSHORE BASE ANALYSIS	0	0	0		0
72	64771D	JOINT TACTICAL INFORMATION DISTRIBUTION	84,409	84,409	84,409		84,409
73	35889D	COUNTERDRUG INTELLIGENCE SUPPORT	0	0	0		0
74	63218C	RESEARCH AND SUPPORT ACTIVITIES	215,233	198,833	0	-215,233	0
75	65104D	TECHNICAL STUDIES, SUPPORT AND ANALYSIS	40,501	40,501	40,501	-10,000	30,501
76	65110D	TECH SUPPORT TO USD(A)--CRITICAL TECH	2,660	2,660	2,660		2,660
77	65114E	BLACK LIGHT	4,875	4,875	4,875		4,875
78	65117D	FOREIGN MATERIAL ACQUISITION AND EXPLOIT	49,900	49,900	49,900		49,900
79	65120S	TECHNICAL INFORMATION SERVICE	0	0	0		0
80	65502E	SMALL BUSINESS INNOVATIVE RESEARCH	0	0	0		0
81	65798S	DEFENSE SUPPORT ACTIVITIES	15,234	15,234	15,234		15,234
82	65801S	DEFENSE TECHNICAL INFORMATION CENTER	42,949	42,949	42,949		42,949
83	65898E	MANAGEMENT HEADQUARTERS (R & D)	28,718	28,718	23,718		28,718
		COMMERCIAL COMMUNICATIONS					0
84	35889E	COUNTERDRUG INTELLIGENCE SUPPORT	0	0	0		0
85	78011S	INDUSTRIAL PREPAREDNESS	0	0	0		0
86	21135J	CINC C2 INITIATIVES	1,389	1,389	1,389		1,389
87	28045K	C3 INTEROPERABILITY (JOINT TACT C3 AG)	36,040	36,040	36,040		36,040
88	31011G	CRYPTOLOGIC ACTIVITIES	[ ]	0	0	[-21,000]	0
89	31301L	GENERAL DEFENSE INTELLIGENCE PROGRAM	[ ]	0	0	[7,000]	0
90	31308L	MISSILE INTELLIGENCE AGENCY	[ ]	0	0		0
91	32016K	NATIONAL MILT COMMAND SYS-WIDE SUPPORT	3,788	3,788	3,788		3,788
92	32019K	JOINT/DEFENSE INFORMATION SYSTEMS ENGINE	9,768	9,768	9,768		9,768
93	33126K	LONG-HAUL COMMUNICATIONS (DCS)	19,657	19,657	19,657		19,657
94	33127K	SUPPORT OF THE NATIONAL COMMUNIC SYS	4,769	4,769	4,769		4,769
95	33131K	MIN ESSENTIAL EMERG COMM NETWORK (MEECN)	4,000	4,000	4,000		4,000

UMI 1994 12-18 AG PT 16 VOL 140

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
96	33140G	INFORMATION SYSTEMS SECURITY PROGRAM	[-]	0	0		0
97	33150J	WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM	6,766	6,766	6,766		6,766
98	33154J	WWMCCS ADP MODERNIZATION	0	0	0		0
99	33154K	WWMCCS ADP MODERNIZATION	0	0	0		0
100	33401G	COMMUNICATIONS SECURITY (COMSEC)	[ ]	0	0		0
101	34311D	SELECTED ACTIVITIES	[ ]	0	0		0
102	35098L	DEFENSE SUPPORT ACTIVITY - IPSG	[ ]	0	0		0
103	35106LC	CONSOLIDATED IMAGERY ACTIVITIES	[ ]	0	0		0
104	35107LC	TACTICAL IMAGERY ACTIVITIES	[ ]	0	0		0
105	35127V	FOREIGN COUNTERINTELLIGENCE ACTIVITIES	[ ]	0	0		0
106	35139B	DMA MAPPING, CHARTING, & GEODESY (MC&G)	67,008	57,008	67,008	-8,400	58,608
107	35141D	JOINT REMOTELY PILOTED VEHICLES PROGRAM	0	0	0		0
108	35154D	DEFENSE AIRBORNE RECONNAISSANCE PROGRAM	528,290	501,590	671,290	900	529,190
109	35154G	DEFENSE AIRBORNE RECONNAISSANCE PROGRAM	[ ]	0	0		0
110	35154I	DEFENSE AIRBORNE RECONNAISSANCE PROGRAM	0	0	0		0
111	35157I	LAND REMOTE SENSING SATELLITE SYSTEM	0	0	0		0
112	35159B	DEFENSE RECONNAISSANCE SUPPORT ACTIV	19,548	19,548	19,548		19,548
113	35159G	DEFENSE RECONNAISSANCE SUPPORT ACTIV	[ ]	0	0		0
114	35159I	DEFENSE RECONNAISSANCE SUPPORT ACTIV	46,865	46,865	46,865		46,865
115	35167G	COMPUTER SECURITY	[ ]	0	0		0
116	35190D	C3I INTELLIGENCE PROGRAMS	22,515	22,515	6,515	-16,000	6,515
117	35830K	CENTER FOR INFORMATION MANAGEMENT	0	0	0		0
118	35884L	INTEL PLANNING AND REVIEW ACTIVITIES	[ ]	0	0		0
119	35885G	TACTICAL CRYPTOLOGIC ACTIVITIES	[ ]	0	0		0
120	35889G	COUNTERDRUG INTELLIGENCE SUPPORT	[ ]	0	0		0
121	35889K	COUNTERDRUG INTELLIGENCE SUPPORT	0	0	0		0
122	35889L	COUNTERDRUG INTELLIGENCE SUPPORT	[ ]	0	0		0
123	35898L	MANAGEMENT HQ (AUXILIARY FORCES)	[ ]	0	0		0
124	116279BB	SBIR/SMALL BUS TECH TRANSFER PILOT PROG	0	0	0		0
125	116401BB	SPECIAL OPERATIONS TECHNOLOGY DEVELOP	7,560	7,560	7,560		7,560
126	116402BB	SPECIAL OPERATIONS ADVANCED TECH DEVELOP	15,549	16,049	15,549	500	16,049
127	116404BB	SPECIAL OPERATIONS TACTICAL SYSTEMS DEV	167,356	167,356	167,356	-9,600	157,756
128	116405BB	SPECIAL OPERATIONS INTELLIGENCE SYSTEMS	2,958	2,958	2,958		2,958
129	116407BB	SOF MEDICAL TECHNOLOGY DEVELOPMENT	1,798	1,798	1,798		1,798

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
130	116408BB	SOF OPERATIONAL ENHANCEMENTS	20,316	20,316	20,316		20,316
999		DEFENSE WIDE CLASSIFIED PROGRAMS	1,139,099	1,103,738	1,159,799	-14,000	1,125,099
		DOD COUNTERPROLIFERATION INITIATIVE			12,500	16,500	16,500
		GULF WAR SYNDROME STUDY			10,000		0
		SMALL BUSINESS CONVERSION LOAN GUARANTEES			27,400		0
		GENERAL REDUCTION			-37,400		0
		BRILLIANT EYES				120,000	120,000
		CIVILIAN UNDERSTRENGTH			-900	-2,700	-2,700
		FEDERAL WORKFORCE RESTRUCTURING ACT			3,462	3,462	3,462
		GENERAL REDUCTION, UNIVERSITY RESEARCH					0
		CIVILIAN PERSONNEL PAY/LOCALITY PAY RAISES					0
		TOTAL RDT&E DEFENSE WIDE	9,416,855	9,054,212	9,322,303	-231,229	9,185,626

VOL 140 PT 16 AG 12 — 18 1994 UMI

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		DIRECTOR OF TEST & EVAL DEFENSE					
1	64940D	CENTRAL TEST & EVAL INVESTMENT (CTEIP)	115,318	118,818	100,318	-15,000	100,318
2	65130D	FOREIGN COMPARATIVE TESTING	33,716	33,716	33,716		33,716
3	65131D	LIVE FIRE TESTING	10,461	10,461	6,461	-4,000	6,461
4	65804D	DEVELOPMENT TEST AND EVALUATION	92,000	92,000	90,000	-2,000	90,000
		TOTAL DIRECTOR TEST & EVALUATION	251,495	254,995	230,495	-21,000	230,495
		DIRECTOR OPERATIONAL TEST & EVALUATION					
1	65118D	OPERATIONAL TEST AND EVALUATION	12,501	12,501	12,501		12,501
		TOTAL OPERATIONAL TEST	12,501	12,501	12,501	0	12,501

DODDS Director's fund for science, mathematics and engineering

The budget request contained no funds for the DODDS Director's fund for science, mathematics and engineering.

The Senate bill would provide $20.0 million for this program from the funds authorized for PE 61103D.

The House amendment contained no funds for this program.

The House recedes.

Computer-assisted education

The budget request contained no funds for computer-assisted education.

The Senate bill would provide $20.0 million for computer-assisted education from the funds authorized for PE 61103D, and $2.0 million from each of the following program elements: PE 61102A, PE 61553N, and PE 61102F.

The House amendment contained no funds for this program.

The House recedes. The conferees direct the Department of Defense to conduct the competition called for in the Senate report (S. Rept. 103-282).

Center for Adaptive Optics

The budget request included $232.492 million in PE 61103D for university research initiatives (URI).

The Senate bill would authorize the requested amount.

The House amendment would provide an additional $5.0 million to complete the university research initiative for the technology transfer of adaptive optics that was initiated in fiscal year 1993.

The conferees recommend $234.992 million for URI, of which $5.0 million shall be for the Center for Adaptive Optics.

Telemedics

The budget request contained no funding for telemedicine.

The Senate bill would authorize $20.0 million for telemedicine in the following amounts: $10.0 million in the Army in PE 63002A; $5.0 million in the Air Force in PE 63231F; and $5.0 million in the Navy in PE 63706N.

The House amendment would provide $5.0 million in PE 62301E for telemedicine.

The House recedes. The conferees agree that the Director of Defense Research and Engineering should report to the Committees on Armed Services of the House of Representatives and the Senate in accordance with the direction on telemedicine reporting contained in the House report (H. Rept. 103-499). The conferees agree that any funds needed to accomplish the ARPA coordination called for in the House report shall come from PE 62301E.

Software reuse and technology transfer

The budget request contained $93.7 million for research on intelligence systems and software, including software reuse, in PE 62301E.

The Senate bill would authorize $7.5 million in this program element for software reuse.

The House amendment did not contain a similar authorization for software reuse.

The House recedes.

The conferees recommend that $7.5 million be authorized for the software reuse project as described in the Senate report (S. Rept. 103-282).

Simulation-based design

The budget request contained $111.3 million for PE 62702E, tactical technology.

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $15.0 million for acceleration of simulation-based design technology.

The conferees agree to authorize an additional $5.0 million to the Advanced Research Projects Agency (ARPA) tactical technology program for simulation-based design.

Material and electronics technology

The budget request contained $224.828 million for materials and electronics in PE 62712E.

The Senate bill would authorize an additional $17.0 million in PE 62712E for continuous fiber metal matrix composites.

The House amendment would authorize an additional $19.125 million in PE 62712E for synthetic diamond, cryoelectronics, and microballoon technology.

The conferees agree to authorize an increase of $18.0 million in PE 62712E. Of the amount authorized, $17.0 million is for continuous fiber metal matrix composites; $8.0 million is for chemical vapor deposition (CVD) and chemical vapor composite (CVC) synthetic diamond; $1.0 million is for mercury cadmium telluride (MCT); $4.0 million is for microballoon technology; and $2.0 million is for aluminum beryllium alloys to meet military and commercial applications as recommended by the House amendment.

Defense Nuclear Agency

The budget request contained $231.978 million for research and development at the Defense Nuclear Agency (DNA).

The Senate bill would authorize $254.5 million for the Defense Nuclear Agency, an increase of $22.5 million over the requested amount.

The House amendment would authorize $228.0 million, a reduction of $4.0 million from the requested amount.

The conferees recommend $230.978 million for DNA.

The House report (H. Rept. 103-499) and the Senate report (S. Rept. 103-282) both discussed the electrothermal gun program. The conferees direct that this program be carried forward with a goal of an end-to-end demonstration of long range gunfire in accordance with the memorandum of agreement between DNA and the Navy, and that the program be carried out on a sound technical basis.

The conferees also recommend a $3.0 million increase to the requested amount for DNA operation and maintenance for the nuclear test personnel review (NTPR) program, which will fund the increased workload resulting from the Administration's interagency effort studying the conduct of radiation research on humans.

Joint DOD/DOE munitions technology development

The budget request contained $14.4 million for the joint DOD/DOE munitions technology development program.

The House amendment recommended an increase of $12.0 million to the requested amount.

The Senate bill recommended the requested amount.

The conferees recommend a total authorization of $22.915 for the program. The additional funds will permit an expansion of ongoing DOD/DOE efforts in the development of innovative warhead, explosive, and fuze technologies that improve the capability and safety of conventional munitions, and develop and demonstrate environmentally-compliant processes for the demilitarization and disposal of unserviceable, obsolete, or non-treaty-compliant weapons. The conferees believe that the increased program will significantly benefit efforts to address the growing backlog of munitions awaiting demilitarization and disposal.

Fuel cells

The budget request contained funds for fuel cell research but no funding for further development of the molten carbonate direct fuel cell power plant demonstration.

The Senate bill would provide an additional $8.0 million for fuel cell research.

The House amendment would provide $5.0 million for the molten carbonate direct fuel cell power plant demonstration.

The Senate recedes.

Experimental evaluation of major innovative technologies

The budget request contained $609.3 million for the experimental evaluation of major innovative technologies (EEMIT).

The Senate bill would reduce the requested amount by $12.0 million.

The House amendment would increase the requested amount by $3.7 million.

The conferees agree to an authorization of $636.1 million, which includes $5.0 million for fuel cells, $5.0 million for deep ocean relocation, $8.0 million for multi-function, self-aligned gate antenna development, $16.8 million for the virtual brigade, and a reduction of $20.0 million for the transfer of ASTOVL to the joint advanced strike technologies (JAST) program.

The conferees note that this is the second year that the conferees have authorized additional funding for the virtual brigade initiative. The conferees agree that this is the last year that the Armed Services Committees of the Senate and House of Representatives will add funds for this program. If the Department of Defense and the Army want this program to continue, they will have to include funding for it in future budget requests.

Thermophotovoltaic technology development

The House amendment would authorize an additional $2.0 million in PE 63226E for development and test of a prototype of a thermophotovoltaic (TPV) electric generator as a power source for use in unmanned underwater vehicles.

The Senate bill contained no similar funding.

The Senate recedes.

The conferees are aware of ongoing efforts in the Advanced Research Projects Agency to develop TPV technology and demonstrate an efficient TPV system. The conferees encourage the agency to continue its efforts with the National Aeronautics and Space Agency to develop and demonstrate competing TPV technologies and to program additional funds for this purpose.

Advanced submarine technology

The budget request included $25.3 million for the advanced submarine technology program.

The Senate bill would approve the requested amount.

The House amendment would approve an additional $17.0 million for the following programs:

(1) $5.0 million for an advanced structural control program for developing technologies to control active vibration and noise;

(2) $2.0 million to evaluate the programmable automated welding system (PAWS) and the welding expert manufacturing cell (WELDEXCELL) systems;

(3) $2.0 million for the advanced thermophotovoltaics program; and

(4) $8.0 million for an airborne multi-sensor integration demonstration.

The conferees agree to provide $7.0 million for the advanced structural control (ASC) program and $2.0 million for the automated welding program. The conferees recommend additional guidance on the advanced thermo-

VOL 140 PT 16 AG 12 — 18 1994 UMI

photovoltaics program in the section of the statement of the managers dealing with the experimental evaluation of major innovative technologies (EEMIT) program.

The conferees intend that the additional $7.0 million for ASC be applied to (1) accelerate the demonstration of applying ASC chatter and vibration control for high speed, high precision machining and milling operations, and (2) begin the technology transfer process for bringing technology for actively controlling machinery platforms that has been demonstrated in the ARPA project M to the United States.

The conferees intend that the $2.0 million for automated welding technology be used to accelerate efforts for a coordinated, cooperative test of the capabilities that may be provided with the PAWS and WELDEXCELL technologies. The conferees agree that the Department should seek early transfer of advanced automated welding technologies to industry to take advantage of the cost benefit for naval ships and to enhance commercial welding competitiveness. The conferees agree that using appropriate technologies from the PAWS and WELDEXCELL programs is essential to establishing a performance baseline, generating technical information for possible future funding, and promoting rapid insertion into the user community through technology demonstrations and dissemination of technical information.

Fire protection technology

The conferees endorse the section of the Senate report (S. Rept. 103–282) that would urge the Department of Defense to provide strong central leadership to promote fire protection and fire fighting technology. The conferees share the Senate's concern that the Department of Defense has put little emphasis on R&D for fire protection. For instance, $230,000 appropriated for fiscal year 1994 to explore the possibility of a permanent fire protection center of excellence has not been released for obligation.

The committee is convinced that there is a pressing need for new technology for fire protection. Modern weapons have tremendous armor piercing and incendiary capability, but military personnel are still clothed in polyester uniforms and synthetic shoe materials that melt and burn. Most fire victims die from inhalation of smoke and toxic gases, yet the Navy oxygen breathing apparatus, designed in 1936, is still in service and is still difficult to use.

The development, testing, validation, and qualification of new fire resistant materials is unbearably slow and unwieldy. Technical information, data, specifications, standards, codes, and regulations appear to be in conflict and are not kept up to date.

The committee endorses the approach on fire protection technology contained in the House report (H. Rept. 103–200) on the House bill, H.R. 2401, the National Defense Authorization Act for Fiscal Year 1994. The conferees urge the Department to make available the funds appropriated for this project in PE 63226E in fiscal year 1994.

MARITECH

The conferees agree that of the amounts authorized to be appropriated for the MARITECH project in the Advanced Research Projects Agency (ARPA), $10.0 million shall be available for curved plate technology.

ARPA manufacturing technology

The budget request contained $346.1 million for ARPA manufacturing technology.

The Senate bill would authorize an additional $25.0 million for advanced lithography and for the Institute for Advanced Flexible Manufacturing Systems.

The House amendment would authorize an additional $72.2 million for advanced lithography and for coronary angiography.

The conferees agree to authorize an additional $56.2 million for ARPA manufacturing technology: $50.0 million for advanced lithography for a total for lithography of $60.0 million, $2.2 million for coronary angiography, and $4.0 million for the Institute for Advanced Flexibility Manufacturing Systems.

Advanced concept and technology demonstration (ACTD) program

The budget request contained $50.0 million for the advanced concept and technology demonstration (ACTD) program.

The Senate bill would provide $50.0 million in PE 63750D for the ACTD program.

The House amendment recommended a reduction of $25.0 million in the requested amount, because of a need to gain an understanding of the program plans for the individual technologies and advanced development projects selected for the ACTD program.

The conferees strongly endorse the views expressed in the House report (H. Rept. 103–499) on the value of the ACTD initiative. By involving the material developer and the military operational user in the development and demonstration of emerging advanced technologies and, when appropriate, fielding the newly demonstrated capability in limited numbers, ACTD can improve understanding of the military utility of the technology, validate operational concepts for the technology's use in the field, and break the lock-step of the traditional acquisition process. In this way, the development and fielding of new advanced technologies of proven military operational utility would be accelerated.

Because of the limited funding for the ACTD initiative recommended by the Appropriations Committees of the Senate and House of Representatives, the conferees agree to an authorization of only $19.1 million for the ACTD initiative. The conferees believe, however, that a higher funding level is both justified and required to capitalize on the ACTD initiative and would consider authorizing a higher amount, should the Appropriations Committees so recommend in their conference on the fiscal year 1995 defense appropriations bill.

Physical security equipment

The budget request contained $21.409 million for physical security equipment.

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $7.5 million for robotic-related equipment.

The House recedes.

The conferees agree to authorize $3.479 million for a physical security vehicle in the physical security equipment line (PE 63228D) instead of in the Army's light tactical wheeled vehicles line (PE 64642). If a new physical security vehicle is approved by the Secretary of Defense and Congress, it should satisfy the needs of all the services.

The conferees are concerned, however, about a new armored vehicle intended only for physical security forces, including the military police. The conferees do not agree with the levels of protection that have been determined to be required for the Army's proposed armored security vehicle (ASV) and are not convinced that security forces, including military police, need a new vehicle with armor protection levels which exceed those available to scout platoons of tank and mechanized infantry battalions.

The conferees direct that not more than $1.0 million of the $3.479 million provided for the physical security vehicle may be obligated until 30 days after the Secretary of Defense submits to the congressional defense committees a cost and operational effectiveness analysis (COEA) justifying a new start for a separate, dedicated armored security vehicle. The COEA shall consider the need for security forces to have such a vehicle; the requirements of all the services; the potential threats that such security forces would most likely face; and all alternative vehicles currently in the Department of Defense inventory which could possibly fill the role of such a security vehicle, including the Bradley fighting vehicle, the M113 armored personnel carrier, the light armored vehicle, and current and upgraded versions of the armored high mobility multipurpose wheeled vehicle. The COEA shall thoroughly scrutinize ASV requirements for ballistic protection, specifically those against .50 caliber rounds and artillery fragments at close ranges.

Environmental technologies

The budget request included $15.0 million for innovative environmental security technology.

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $10.0 million.

The Senate recedes.

Acquisition and exploitation of foreign technology and material

The budget request contained $49.9 million for the foreign material acquisition and exploitation (FMA&E) program.

The Senate bill and House amendment approved the requested amount.

The House report (H. Rept. 103–499) requested a report by July 1, 1994, on the foreign materiel and technology activities of the Department of Defense. In addition, the classified annex accompanying the Senate report (S. Rept. 103–282) requested answers from the Secretary of Defense and the Director of Central Intelligence to questions concerning foreign technology and acquisition prior to the conference on this act. The Administration's response reflects progress towards meeting essential national requirements.

The conferees are pursuaded that elements of the FMA&E and related programs are underfunded and that there are significant management and coordination problems within these programs. The conferees are prepared to support additional funding, subject to normal reprogramming procedures, provided that progress is evident in solving these problems. The conferees also agree that particular attention should be given to funding the advanced technology acquisition program in order to sustain it at least at the fiscal year 1994 level. Additional guidance is contained in the classified annex to this statement of the managers.

Tactical unmanned aerial vehicles

The budget request included $121.0 million for research and development and $225.3 million in procurement for short-range and maneuver-variant unmanned aerial vehicles (UAVs).

The Senate bill would authorize the requested amount.

The House amendment would authorize $85.7 million for R&D, delete the funds requested for the maneuver-variant UAV, authorize the development of a down-sized

ground station, authorize an additional $7.0 million for the integration of the common automatic recovery system (CARS) with Pioneer UAVs, and authorize the requested amount in procurement.

The short-range UAV program was recently restructured. The low-rate initial procurement was reduced from seven systems to four, and the Defense Airborne Reconnaissance Office (DARO) has requested authority to apply the savings to a system maturation program and to adapting the UAV to Navy ships.

The conferees approve $23.3 million for short-range UAV system maturation and $14.5 million for system testing and evaluation, but deny $30.6 million in procurement for the shipboard-variant. The conferees authorize up to $5.0 million in RDT&E to begin development of a shipboard-variant. The conferees fully support this development but believe that the program office should prove that the basic system is mature before developing variants.

The conferees also deny $21.1 million of the requested amount for the maneuver or close-range UAV system. The conferees recognize that the Marine Corps and Army have agreed on their requirements. However, the cost and operational effectiveness analysis (COEA) has not been completed and sent to Congress, and the conferees are not convinced that a separate UAV system is required to meet the Army-Marine Corps' requirements. The conferees direct the DARO to review the COEA and undertake other analysis, as appropriate, to determine whether (1) the maneuver UAV would overburden brigade- and regiment-level logistics; (2) rapidly advancing brigades would "outrun" the maneuver UAV in terms of range, endurance, and ground support; (3) additional short-range systems at the division level to support brigades and regiments would make more operational sense; and (4) a short-range UAV solution would really be more expensive than the proposed maneuver system. This analysis should be completed and transmitted to the congressional defense committees as soon as possible, but no longer later than the submission of the fiscal year 1996 defense budget request. The conferees would be willing to consider a reprogramming request after the fiscal year 1996 budget is submitted to Congress.

The conferees agree to authorize an additional $7.0 million in RDT&E for the procurement of at least three unit sets of CARS equipment for integration and testing on the Pioneer UAV, but only if the equipment can be applied later to the short-range UAV system when Pioneer is retired.

Stabilized weapons platform system

The budget request included $9.6 million for development of a stabilized weapons platform system (SWPS) for the special operations patrol coastal ship.

The Senate bill and the House amendment approved the requested amount.

After the Senate and House of Representatives each approved the defense authorization bills for fiscal year 1995 (S. 2182 and H.R. 4301), the U.S. Special Operations Command informed the Armed Services Committees that it had decided not to develop the SWPS system any further. Instead, the Command intends to procure a less costly, stabilized, non-developmental gun system and to develop a surface-to-surface missile system. In response to this new plan, the conferees agree to reallocate $7.9 million of the requested amount of $9.6 million for the procurement of a gun system. Because the Department of Defense Appropriations Act for Fiscal Year 1995, as passed by the Senate and House of Representatives, does not contain funds to develop the missile system, the conferees do not recommend funds for that purpose.

The Command's decision to discontinue development of the SWPS system is a realistic recognition of the limited funds that are available for this capability. The conferees are concerned that the Command's plans for developing a surface-to-surface missile may still be too ambitious and costly. The conferees urge the U.S. Special Operations Command to carefully consider the technology and money that are available for a weapons system for a ship of the size and capabilities of the patrol coastal ship.

Ocean research

The budget request contained no funds for ocean research.

The Senate bill would provide $5.0 million for ocean research in the experimental evaluation of major innovative technology account (PE 0603226E).

The House amendment would provide no funds for ocean research.

The conferees agree to provide $5.0 million for ocean research from the funds authorized in PE 0603226E. These funds would be provided to establish a data base to understand the environmental ramifications of potentially harmful materials that have been deposited, dumped, or lost in the world's oceans in significant quantities. Part of this effort should include development of a process to monitor the uncertain or unknown effects of hazardous and non-hazardous contaminants on the marine environment.

Rocket motor demilitarization

The budget request contained no funds for rocket motor demilitarization.

The Senate bill would provide $4.5 million for PE 604704D to evaluate and test the environmentally-sound demilitarization of large rocket motors and other high energetic explosives at the Nevada Test Site (NTS).

The House amendment would provide $4.5 million.

The conferees provide $4.5 million for PE 604704D to evaluate and demonstrate methodologies and technologies for the environmentally-sound demilitarization of high energetic explosives at the Nevada Test Site. These efforts should include an evaluation of the possibility of using the inactive tunnels at the NTS.

Joint service imagery processing system

The budget request included $22.4 million in RDT&E and $47.6 million in procurement for the joint service imagery processing system (JSIPS).

The Senate bill would consolidate service funding for the restructured JSIPS initiative by authorizing $28.3 million in RDT&E and $41.7 million in procurement in the Defense Airborne Reconnaissance Office (DARO).

The House amendment would withhold $28.7 million from Marine Corps JSIPS procurement and $8.3 million from Army JSIPS development until a plan is submitted that better defines the capabilities of JSIPS alternative systems.

The House recedes.

The conferees, however, remain concerned about the Marine Corps proposal that maintains existing acquisition procedures through the Air Force joint program office. The conferees direct DARO and the Marine Corps to take maximum advantage of Navy JSIPS development, commercial off-the-shelf (COTS) technology, and DARO-approved streamlined acquisition practices.

The conferees direct DARO to report to the congressional defense and intelligence committees on the restructured JSIPS program elements prior to obligation of funds for each element. DARO also should report on the overall architecture and operational concept by March 1, 1995.

Multispectral imagery

The budget request included no funds for developing multispectral imaging sensor systems for airborne reconnaissance.

Both the Senate report (S. Rept. 103–282) and the House report (H. Rept. 103–499) directed the Defense Airborne Reconnaissance Office (DARO) to continue development of new multispectral imaging capabilities. Both reports also recommended use of unobligated Landsat funds for this purpose.

The conferees strongly support continued modernization of the U–2 aircraft, including its imaging capabilities. The Department of Defense recently terminated a development program for a high-performance and very expensive new multi-spectral imaging sensor for the U–2. The conferees recently learned that the existing U–2 electro-optical sensor could have been upgraded to achieve most of the capabilities of the terminated sensor at a very small fraction of the cost. The conferees cannot comprehend the reasons for not presenting this option to Congress years ago before hundreds of millions of dollars were wasted on the terminated program.

The conferees authorize $10.0 million to begin developing an upgraded, multispectral sensor for the U–2 (SYERS). The conferees direct the DARO to develop a prototype sensor that can be adapted for operational use, and then to upgrade the existing four sensors and associated ground station functions. The conferees expect the total program cost to be about $60.0 million. The conferees direct the Department to include funds for continuation of this effort in the fiscal year 1996 budget submission.

Cobra Ball upgrade

The budget request contained no research and development funding for the RC–135 Cobra Ball program.

The Senate bill contained no funding for the program.

The House amendment contained $13.646 million in PE 35154D for the infrared acquisition array.

The conferees recommend $13.6 million to upgrade the active ranging system, infrared acquisition sensor, and data processing capabilities. Enhancement of these capabilities is essential in order to provide adequate stand-off range for collection of information on short-range ballistic missile systems and to provide data fusion for onboard sensors. The conferees request the Department to provide a report to the congressional defense committees on its plans and future funding for the Cobra Ball program.

C3I intelligence program

The budget request included $16.0 million for a classified counterproliferation computer database system in PE 0305190D.

The Senate bill would deny authorization of the requested amount.

The House amendment would authorize $16.0 million for the program.

The conferees concur with the Senate position as described in the Senate report (S. Rept. 103–282). The conferees support cooperative counterproliferation efforts between the Defense Department and the intelligence community. However, the conferees are seriously concerned about the proposed counterproliferation database system. From a technical perspective, it is an interesting and promising proposal; however, there are major coordination and funding problems.

VOL 140 PT 16 AG 12 — 18 1994 UMI

This program is described as a joint national foreign intelligence program (NFIP)/tactical intelligence and related activities (TIARA) endeavor. However, with the exception of $4.0 million for general database development, funds for this program were not included in the fiscal year 1995 NFIP budget submission. The conferees also understand that NFIP agencies are reluctant to commit funds without a formal cost-sharing agreement on future funding because of the project's large operation and maintenance costs. This raises questions about the ability of the community to fully fund this program in its current configuration and the advisability of undertaking such an ambitious project as a pilot program.

The conferees also are concerned that a program of this magnitude has not competed with other intelligence community and defense intelligence systems in the intelligence systems board (ISB) system migration process. As a result, at this time, the conferees believe that a financial commitment is not appropriate and deny authorization of the amount requested for this system. The conferees note that this recommendation is made without prejudice and encourage DOD to submit a reprogramming request once specific conditions are met.

The conferees direct the intelligence and communications architectures (INCA) project office, in cooperation with the ISB, to compare current major databases and software capabilities of intelligence community members, military service laboratories, and Department of Energy national weapons laboratories, with the capabilities of the proposed project. The report shall include the following: an assessment of the technical feasibility of the proposed project; an assessment of the feasibility of implementing the proposed project; a proposed plan that would include program plan strategy, milestones, and future funding requirements; an evaluation of the practical aspects of database linkage between existing capabilities of the intelligence community and appropriate nonproliferation and counterproliferation offices within the U.S. government; and an evaluation of the effect of the new program on systems included in ongoing intelligence migration strategies and activities.

As a show of good faith, the conferees make available in section 1504 of this act $4.0 million in the research and development, defense agencies account for counterproliferation agencies. The conferees would limit the obligation and expenditure of these funds until the following conditions are met: the report described above is submitted to the congressional defense and intelligence committees; the ISB has determined that this system is consistent with its developing architecture and that it conforms with community standards for compatibility and interoperability; and a formal cost-sharing agreement between the NFIP and TIARA is reached, which includes sources and future funding. Lastly, the conferees would require that any reprogramming request for this program be matched dollar for dollar by a reprogramming request within the NFIP, or DOD may release the funds for other counterproliferation activities. A parallel provision for NFIP funding will be included in the Intelligence Authorization Act for Fiscal Year 1995, along with an amount of funds to be limited.

Central test and evaluation investment program

The budget request included $115.318 million for the central test and evaluation program in PE 64940D.

The Senate bill would reduce the requested amount by $15.0 million and recommend that the REDCAP-ACETEF real-time data link program continue to be funded within the authorized funds.

The House amendment would provide an additional $3.5 million for the REDCAP-ACETEF real-time data link.

The House recedes.

Animal research

The House report (H. Rept. 103-499) noted that the Department of Defense Inspector General found two DOD facilities, the U.S. Army Medical Department Center and School in San Antonio, Texas and the U.S. Naval Medical Research Institute Detachment in Lima, Peru, to be "not substantially in compliance" with DOD regulations and the Animal Welfare Act. Based on that finding, the House report directed the termination of animal research at the non-complaint facilities until they are accredited by the Animal Association for Accreditation of Laboratory Animal Care (AAALAC).

The conferees note that since the House report was issued, DOD has applied for AAALAC accreditation for the two non-compliant facilities. The conferees applaud the Department's expeditious efforts to gain accreditation for these facilities, and direct the termination of animal use at these facilities one year from the enactment of this act only if they have failed to achieve AAALAC accreditation by that date. The conferees urge DOD to seek AAALAC accreditation for all DOD animal facilities as expeditiously as possible. The conferees note that the other sections relating to animal research in the House report are not affected by this paragraph.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Strategic environmental research and development program (sec. 203)

The Senate bill contained a provision (sec. 203) that would authorize $170.0 million for the strategic environmental research and development program (SERDP).

The House amendment would authorize $111.9 million for the SERDP.

The Senate recedes to the House funding level.

The conferees are pleased that the new executive director of the SERDP is now in place. The conferees urge the director and the chair of the SERDP Council to bring into the SERDP program, using the hiring authority provided to the SERDP Council in the National Defense Authorization Act for Fiscal Year 1994, those persons necessary to run the program, either from within the Defense Department or from outside. The conferees urge the Council to coordinate the SERDP program to demonstrate and test environmental technologies closely with the environmental technology program funded in the office of the Deputy Under Secretary of Defense for Environmental Security.

Molecular design material science (sec. 204)

The budget request contained no funds for molecular design material science (MDMS).

The Senate bill contained no funds for MDMS.

The House amendment would provide $10.0 million in PE 61153N to continue the MDMS program.

The conferees agree to authorize $10.0 million for MDMS in PE 61153N and recommend a provision that would continue the program.

Space launch programs (sec. 211)

The Senate bill contained a provision (sec. 213) that would transfer prior-year funds appropriated for single-stage-to-orbit (SSTO) rocket technology from the Department of Defense to the National Aeronautics and Space Administration (NASA), since the Secretary of Defense submitted a report recommending that NASA be assigned lead responsibility for developing reusable rocket technology. The Senate bill would authorize no funds for reusable rocket technology for fiscal year 1995 and would authorize a total of $20.2 million for expendable rocket technology development.

The House amendment contained a provision (sec. 211) that would (1) establish DOD space launch policy; (2) require the Secretary of Defense to replace current launch systems, conduct flight tests by 1998 of reusable launch vehicles, and conduct flight tests of expendable launch vehicles; and (3) authorize $200.0 million, equally divided, for reusable and expendable rocket technology demonstrations.

The Senate recedes with an amendment.

The conferees agree to (1) authorize no funds for the national launch system program; (2) authorize $10.0 million in PE 62601F to continue concept development of simple, inexpensive expendable rocket systems that do not require complex turbo machinery; (3) transfer prior-year SSTO funds from the Advanced Research Projects Agency to the Air Force PE 63401F and note that these funds would not be for further development of the "Delta Clipper" vehicle built by BMDO; (4) authorize $30.0 million for the Air Force in PE 63401F to initiate reusable rocket technology development efforts, with the stipulation that DOD obligations shall not exceed amounts made available by NASA for such efforts for fiscal year 1995; (5) authorize $50.0 million for the Air Force in PE 35119F to initiate a competitive program to replace existing launch capabilities; and (6) limit the obligation of funds for both reusable and expendable rocket programs until coordinated DOD-NASA program plans are submitted to Congress.

The National Defense Authorization Act for Fiscal Year 1994 required the Administration to conduct another study of space launch capabilities, because Congress was unsatisfied by the space launch Bottom-Up Review, which concluded that acknowledged problems with current systems are not serious enough to warrant displacing other defense programs. The new study has resulted in the development of new national policy in this area. This policy assigns lead responsibility for reusable and expendable space launch vehicles to NASA and DOD, respectively. NASA has been instructed to determine by 1996 whether a reusable vehicle flight demonstration program is feasible and affordable, and by the end of the decade, whether a development program should be pursued. The Deputy Secretary of Defense is examining again whether a new launch initiative is warranted and affordable within the Department of Defense.

Accordingly, the conferees direct that the Department of Defense will not lead any government-financed reusable space vehicle flight demonstration or acquisition programs, at least until the Administration changes its policy. However, if the Department of Defense decides to conduct a competition to replace current DOD launch capabilities, and if DOD concludes that an industry proposal to build a reusable system to meet requirements is realistic, affordable and cost-effective, the conferees will consider a well-justified acquisition plan.

The conferees doubt that DOD can afford to finance any expensive space launch acquisition program. The conferees are aware of claims that the private sector is willing to finance all or most of a new capability. The conferees encourage DOD to explore such claims. However, the conferees expect that such proposals would require commitments from the government, which may entail substantial risk, and therefore require careful consideration by Congress and the Administration.

Standoff air-to-surface munitions technology demonstration (sec. 212)

The House amendment included a provision (sec. 212) that would require the Navy and the Air Force to spend up to $2.0 million each to demonstrate non-developmental technology for adapter kits that would give munitions in the 1,000 pound class and smaller a standoff and near-precision guided capability. The provision would also require the Secretary of Defense to submit a report on the results of that demonstration.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize up to $2.0 million for the Air Force to conduct a demonstration as outlined in the House provision. This provision would require the Secretary of the Air Force to report on the demonstration's results.

Mid-infrared advanced chemical laser (sec. 213)

The House amendment contained a provision (sec. 213) that would prohibit the Secretary of Defense from carrying out a test of the mid-infrared advanced chemical laser (MIRACL) transmitter and associated optics against an object in space during 1994 unless such testing is specifically authorized in law.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would allow the sealite beam director to be utilized with a laser other than the MIRACL for satellite sensor calibration and imaging of space objects at a power level not to exceed that which has been utilized for these purposes as of January 1, 1994 at other Department of Defense laser facilities (including Kirtland Air Force Base, Maui Optical Facility, and the Firepond facility of the Lincoln Laboratory). The conferees reiterate their opposition to utilization of the MIRACL for damaging objects in space. This provision would continue to prevent MIRACL from illuminating any object in space.

Electronic combat testing (sec. 214)

The House amendment contained a provision (sec. 214) that would amend section 220 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) by limiting the applicability of the section to electronic combat systems that have been designated as Acquisition Category I (ACAT 1) systems (major defense acquisition programs) because of their cost of development and acquisition.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would limit the applicability of the House provision to those systems that have not entered engineering and manufacturing development by September 1, 1994. The amendment would also authorize the Secretary of Defense to waive the provision when in the national security interest.

Advanced self protection jammer (ASPJ) program (sec. 215)

The House amendment contained a provision (sec. 215) that would direct the Secretary of the Navy to carry out logistics support, maintenance, and integration of existing advanced self protection jammer (ASPJ) systems in the F-14D aircraft for testing and evaluation.

The Senate bill contained no similar provision.

The Senate recedes. The conferees note that, without ASPJ or another currently unavailable system, F-14D aircraft will have to operate without self protection jamming. The conferees understand that the Director, Operational Test and Evaluation, intends to assess whether the Navy's plans for operational test and evaluation for the F-14D aircraft adequately test the ASPJ system's effectiveness and suitability for combat. The conferees agree that this assessment should be complete before the Navy conducts the operational testing. The conferees urge the Director to take the steps necessary to expedite his assessment of the Navy's plans.

Advanced lithography (sec. 216)

The budget request contained $10.0 million in PE 63739E for advanced lithography.

The House amendment contained a provision (sec. 216) that would provide a statutory mandate for the ARPA advanced lithography program and authorize $100.0 million for the program.

The Senate bill contained no similar provision, but would provide $35.0 million for advanced lithography.

The Senate recedes with an amendment. Total funding for the ARPA lithography program would be authorized at $60.0 million, and the SEMATECH Board of Directors would be strongly encouraged to spend at least $10.0 million more to support lithography efforts consistent with the Semiconductor Industry Association 1994 development plan for lithography. The conferees urge the earliest possible appointment of the Semiconductor Technology Council and agree that an advanced lithography plan should be the principal focus of the Council's initial efforts.

Federally funded research and development centers (sec. 217)

The Senate bill contained a provision (sec. 216) that would require certain changes in DOD management of federally funded research and development centers (FFRDCs).

The House amendment contained a provision (sec. 217) that would allow FFRDCs to participate more fully in the defense conversion program.

The conferees note that federally funded research and development centers are privately-operated organizations sponsored by federal government agencies to work in all areas of basic or applied research. For several years, the conferees have expressed concern about the Defense Department's lack of control over management and funding of the FFRDCs. The conferees support the unique role that FFRDCs play in providing support to the Department of Defense that would be difficult to obtain through other means. The conferees are concerned, however, that as recipients of sole source funding from the Department of Defense, these centers may provide executive, technical, and professional compensation that may exceed the salaries and benefits of comparable government employees, or officers and employees of similar for-profit or non-profit organizations that must compete for defense work.

These concerns have been heightened recently by revelations of executive compensation that varies widely from FFRDC to FFRDC, housing and moving allowances not appropriate to federal institutions, and payments to trustees that do not appear to be justified. Further, the Congress has learned that some centers have contributed to charities, local governments, universities, and individuals. Such contributions are not usually reimbursed under federal contracts, and the conferees believe, not appropriate for sole source institutions to pay from fees.

Consequently the conferees agree to a provision that would limit executive salaries and trustee compensation, prohibit certain contributions to charities, and require the Secretary of Defense to study the need for FFRDCs and the compensation levels of FFRDC executives.

The conferees agree to limit the funding for FFRDCs for fiscal year 1995 to $1.3 billion, a reduction of $52.650 million from the requested amount. The conferees also agree to the House provision that would authorize certain FFRDCs to respond and participate in solicitations and announcements under programs authorized by the federal government for the purpose of promoting the development and transfer of dual-use technology to the U.S. industrial sector.

Digitization (sec. 218)

The budget request contained $75.857 million for the Army's digitization of the battlefield program.

The Senate bill would authorize an additional $3.0 million.

The House amendment included a provision (sec. 219) that would authorize an additional $50.0 million to begin a coordinated, integrated, planned program to provide digital enhancements for the M1-M1A2 tank and other land and air systems by 1996.

The Senate recedes with an amendment.

The conferees strongly support the Army's battlefield digitization concept and the Army's attempt to field a capability rapidly. The conferees seek to ensure, however, that the Army establishes strong management and a coherent integration plan in concert with the Marine Corps for an overall battlefield digitization architecture to guide the efforts of the various platform program offices.

Accordingly, the conferees agree to limit the obligation of funds for the digitization program until the Army defines an overall system architecture, standards and protocols, and integration and interoperability requirements.

The conferees also agree to authorize an additional $20.0 million primarily for the integration of aviation systems into the program.

Electric and hybrid vehicle technology (sec. 219)

The budget request contained no funds for electric and hybrid vehicle technology.

The Senate bill would provide $30.0 million for this program: $15.0 million in RDT&E funding and $15.0 million in procurement funding. The Senate bill also contained a provision (sec. 142) that would require the Department of Defense and the Department of Energy to enter into a memorandum of agreement regarding the execution of the program.

The House amendment would provide $10.0 million in RDT&E funding for electric and hybrid vehicle technology. The House amendment did not contain a provision similar to the Senate provision.

The conferees agree to provide $10.0 million in RDT&E and $15.0 million in Procurement funding for electric and hybrid vehicle technology. The House recedes on the Senate provision. The conferees also direct the Department of Defense to execute the program in accordance with the Senate and House reports (S. Rept. 103-282 and H. Rept. 103-499).

VOL 140 PT 16 AG 12 — 18 1994 UMI

Kinetic energy antisatellite program (sec. 220)

The Senate bill contained a provision (sec. 211) that would make $10.0 million available for engineering development of the critical antisatellite technologies from funds authorized in fiscal year 1995. The provision would also direct the Secretary to utilize unobligated fiscal year 1993 and 1994 funds for this program.

The House amendment contained no similar provision.

The House recedes with an amendment that would make $5.0 million available from funds authorized in fiscal year 1995, in addition to unobligated fiscal year 1993 and 1994 funds, to continue critical development work.

Limitation on dismantlement of ICBMs (sec. 221)

The Senate bill contained a provision (sec. 214) that would prohibit the dismantlement of any ICBM that would reduce the total number of deployed Minuteman III ICBMs to less than 500 missiles. The prohibition would expire 180 days after the Secretary of Defense delivers to the congressional defense committees the results of the Secretary's ongoing Nuclear Posture Review.

The House amendment contained no similar provision.

The House recedes.

Seismic monitoring research (sec. 222)

The Senate bill contained a provision (sec. 215) that would limit the obligation of funds for seismic monitoring research projects unless the projects are authorized in a plan which has been approved by the Secretary of Defense and the Secretary of Energy.

The House amendment did not contain a similar provision.

The House recedes with an amendment that would limit the obligation of funds for seismic monitoring projects which are not contained in the annual plan approved by the Presidential review group established by Presidential Decision Directive 18.

The conferees are concerned that the Defense Department's future seismic monitoring plan calls for the expenditure of hundreds of millions of dollars through the end of the century without sufficient consideration for the affordability of such an undertaking without coordinated cost-sharing agreements between U.S. government agencies and departments and without agreements on international burdensharing. The Department has not provided detailed cost estimates of the U.S. share, or that of other countries, in support of a Comprehensive Test Ban Treaty (CTBT) verification. Further, it appears that the Department has been directed to fund the majority of seismic monitoring activities of the National Science Foundation (NSF) and the U.S. Geological Survey (USGS) under the Department of Interior, in addition to providing full funding for these activities for the Air Force Technical Applications Center (AFTAC).

The conferees direct the Secretary of Defense, in coordination with the Presidential review group, to provide a report to the congressional defense committees by May 1, 1995 on the total funding required and programmed for verification of a CTBT; the amount of total funding which will be cost-shared among departments and by other nations; and the funding and technical role that private seismic arrays and stations are intended to play in verification of a CTBT.

Superconducting magnetic energy storage (sec. 223)

Section 218 of the National Defense Authorization Act for Fiscal Year 1994 allowed the Navy to utilize certain RDT&E funds from fiscal year 1993 to continue the superconducting magnetic energy storage (SMES) program.

The conferees agree to a provision that would extend the authorization of these funds until they were expended.

Military satellite communications (sec. 224)

The Senate bill contained a provision (sec. 212) that would direct the Secretary of Defense to transfer responsibility for program management and funding for the Milstar communications satellite program from the Air Force to the Navy during fiscal year 1995.

The House amendment contained no similar provision.

The Senate recedes.

The Deputy Secretary of Defense is currently reviewing the management of DOD space programs and has assured the conferees that he intends to fundamentally reorganize it. Therefore, the conferees agree to withhold judgment on management of the Milstar program. The conferees stress the importance of improving policy oversight, avoiding the creation of a new large bureaucracy, maintaining a joint requirements process, and maintaining space program expertise within each of the services. The conferees direct the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, to submit a report to the congressional defense committees immediately upon completion of the review. The report should fully explain all the options considered, the rationale for the option selected, and the relationship between the Secretary's proposal and the deliberations of the Commission on Roles and Missions.

The House amendment contained a provision (sec. 234) that would direct the Secretary of Defense to develop a military communications master plan that addresses the projected military communications requirements of the Department of Defense; alternate and innovative ways of meeting those requirements (including greater reliance on the commercial sector); and ways to ensure that those elements of the Department that create the demand for such communications services have an important role in paying for the provision of such services. The provision would also prohibit obligation of $50.0 million in Milstar funding until this report is transmitted to Congress.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The conferees agree to a provision that would authorize the Secretary of Defense to use $20.0 million of Milstar funds either for advance procurement of Milstar satellites 5 and 6 or to accelerate the advanced EHF satellite program, as determined by the Secretary of Defense.

The provision also would require the Secretary of Defense to develop a satellite communications master plan that addresses requirements and innovative ways to meet them. The provision also would require the Secretary to explore options for establishing financial incentives to ensure that communications users do not inflate requirements for which they do not have to pay.

The conferees also direct the Secretary to include in the report an assessment of a number of issues raised by the General Accounting Office (GAO) and the Senate report (S. Rept. 103–282).

A recent GAO report, "Military Satellite Communications," noted that, since Congress directed greater use of commercial satellite communications for general-purpose, unprotected communications, DOD components have drastically redefined their requirements. According to GAO, requirements for total satellite communications have almost doubled, while the proportion, defined as "protected" has grown by a factor of 10. GAO notes that this shift could have occurred because protected communications, provided by dedicated military satellites, are "free" to users, whereas unprotected communications, which can be met through commercial purchases, are charged to users' operation and maintenance budgets. GAO also points out that DOD elements procure most commercial satellite communications on an ad hoc basis; the Defense Commercial Communications Office has no knowledge or control over the process. GAO believes that more central control would save substantial money.

With regard to dedicated military satellite systems, as noted in the Senate report, each has been managed separately in the past, which drives up costs and limits interoperability. All of the current systems will have to be replaced within about 10 years. The Secretary should examine options to consolidate the follow-on programs.

The conferees believe that a sustainable solution to these problems requires a fundamental change in the Department's management of satellite communications services.

The conferees believe that the Department should plan to transition to Milstar III as soon as it is practical. To this end, the conferees believe that the advanced EHF program should be structured as a technology demonstration program that relies as much as possible on the private sector. The technologies demonstrated should be directly related to the areas of greatest technical risk, particularly the antenna suite and the digital electronics processing and packaging. The conferees do not believe that any funding at this stage should be allocated to lower-risk areas such as propulsion, solar panels, or the bus structure for the payload.

Ballistic missile defense programs (secs. 231, 233, and 235)

The Senate bill contained four provisions (secs. 221–224) that would deal with ballistic missile defense issues.

The House amendment also contained four provisions (secs. 221 and 231–233) that would cover similar or related issues.

The Senate report (S. Rept. 103–282) and House report (H. Rept. 103–449) also provided extensive guidance on ballistic missile defense (BMD) issues to the Ballistic Missile Defense Organization (BMDO).

The conferees explain in the following subsections their: broad policy guidance for ballistic missile defense research, development, testing, and deployment; concerns regarding the BMDO funding proposal for fiscal year 1995 and underlying long-term plans; resolution of those concerns; decisions and recommendations on programmatic and funding issues; and additional guidance on specific matters. Specific legislative provisions contained in this conference report will be discussed in the context of this guidance.

BROAD POLICY GUIDANCE

The conferees reiterate the broad policy guidance contained in the statements of the managers (H. Rept. 103–357 and H. Rept. 102–311) accompanying the National Defense Authorization Act for Fiscal Year 1994 and the Missile Defense Act of 1991 (10 U.S.C. 2431 note).

The conferees reaffirm that their highest priority for BMDO is the rapid development and early deployment of more effective theater missile defenses (TMD) designed to meet both existing and realistic near-term threats. In general, the conferees believe that an effective TMD capability will require a layered defense approach, using multiple systems.

In this regard, the conferees are troubled by the BMDO approach to the three follow-on TMD systems—Navy upper tier, CORPS SAM, and boost phase intercept (BPI). BMDO has structured these programs so that overall BMD funding in future years would be insufficient to support engineering and manufacturing development (EMD) for more than one of these TMD systems. Therefore, in its budget request, BMDO arbitrarily limited funding for the first two candidates, while it expanded funding for a variety of less mature BPI concepts. This funding strategy is designed to position all three candidate systems for a selection "contest" during fiscal year 1998, from which only one candidate would be selected for further development. In this area, the conferees find the BMDO strategy and funding assumptions to be flawed. In the judgment of the conferees, this approach has contributed to significantly expanded technical risk within BPI programs.

The conferees believe valid military requirements exist for each of the three follow-on TMD systems, and do not believe the natural pace of development should be either artificially delayed or unduly accelerated. The conferees further believe that a larger share of the overall BMD funding called for in the Bottom-Up Review (BUR) than BMDO apparently plans to allocate to TMD systems can be squeezed from lower priority BMDO activities in order to accelerate the development for deployment of the next generation of TMD systems.

In the statement of the managers accompanying the National Defense Authorization Act for Fiscal Year 1994, the conferees endorsed as second in priority the development of a "hedging" strategy for national missile defenses (NMD), to ensure the availability of proven, flight-tested hardware should a missile threat to the United States arise more rapidly than is currently forecast. The conferees emphasized the importance of reduced lead-times for deployment of a very limited, prototypical, defense capability on very short notice against a quantitatively limited, long-range "rogue" missile threat. In the budget request for fiscal year 1995, BMDO has proposed a series of development "epochs" for NMD hardware. Each "epoch" would emphasize further development, refinement, and cost-reduction of component technologies for NMD systems, but the BMDO proposal contains few system-level or "end-to-end" flight-test intercept demonstrations over the next several years and none during fiscal year 1995. In addition, BMDO delayed for one year the initiation of flight tests of exoatmospheric kinetic kill vehicle prototypes—a key element of an NMD system—in order to complete fabrication and launch of the midcourse space experiment. The conferees find the BMDO approach inadequate to ensure the availability of proven hardware should an unanticipated strategic missile threat emerge.

Last year the conferees agreed that BMDO should focus more funding and management attention on these higher priorities, deemphasize generic, technology-base R&D, and transfer far-term technologies back to the services and defense agencies. The conferees were disappointed that the BMDO budget proposal still devoted more than 25 percent of BMD funding to lower-priority activities. As noted above, the conferees intend to vigorously support the development of selected follow-on TMD systems, and believe this can only be done if the level of effort and funding for lower-priority programs, projects, and activities is reduced.

CONFEREE CONCERNS

NAVY LOWER TIER

The conferees note a major disparity in the Department's approach to the top priority mission of theater ballistic missile defense. Specifically, in the last year, the Department made an important decision concerning the type of warhead to be used in the Patriot PAC–3 defense system. This decision appears to undercut the Department's technical approach to the Navy's lower tier missile defense system and requires a more careful review of its priorities in theater missile defense.

The Department's senior multi-service PAC–3 review group stated unanimously "that the higher quality of protection provided by . . . hit-to-kill lethality, particularly against chemicals submunitions and nuclear weapons . . . could provide a decisive military advantage." Further, the Department chartered an independent review group to review the Army's choice. That group upheld the Army's findings. In affirming the independent review group's findings, the Department said that "hit-to-kill lethality is fundamentally superior against theater ballistic missiles (TBMs) with mass destruction warheads during critical phases of military operations." It termed the candidate lacking a hit-to-kill warhead ". . . relatively ineffective against such threats." More recently, the Army has stated ". . . that U.S. forces would suffer too many casualties to theater ballistic missile attack as a consequence" of selecting a blast-fragmentation warhead. If there were only a blast-fragmentation warhead interceptor available and no hit-to-kill interceptor—which is the case for Navy lower tier—the Army "would seek a different solution" rather than accept the interceptor with a blast-fragmentation warhead.

The Department could hardly be more explicit about the superior lethality of hit-to-kill technology in theater missile defense. However, the conferees note that the planned Navy lower tier interceptor missile, the Standard missile block IV–A, does not use a hit-to-kill warhead. Instead, it uses the same class of warhead that was so emphatically rejected in the PAC–3 competition. The Navy's initial response to this issue was that its lower tier interceptor must also be effective in defending ships from sea-skimming cruise missile attack, against which the blast-fragmentation warhead would be effective. Yet BMDO presentations to Congress this year on the Navy lower tier made no mention of this mission. Later responses emphasized the ability of the block IV–A to cope with non-submunition (unitary) TMD threats, minimized the significance of submunition threats, and remained silent about nuclear threats.

The conferees agree with and support the Department's rationale for the selection of ERINT and its hit-to-kill warhead for the PAC–3 system. However, the conferees are concerned about this fundamental contradiction in lethality approaches between the Patriot PAC–3 and the Navy lower tier system. Accordingly, the conferees are concerned that the Navy lower tier will be unable to provide adequate protection to amphibious landing areas or ports of debarkation against "ballistic missile attacks involving weapons of mass destruction"—the Department's own words for its reasons for designating it as a core TMD program. The conferees acknowledge that the Navy faces a large and growing threat from sea-skimming, anti-ship cruise missiles. The conferees also accept the Navy's judgment that the blast-fragmentation warhead planned for the Navy lower tier system offers superior lethality against that threat. The conferees note, however, that the Navy is developing a number of existing systems and programs that address the cruise missile threat to ships. The conferees further note that, for many short-warning scenarios, the Navy lower tier system may be the only TMD system available to defend U.S. forces in landing zones and ports from the growing theater ballistic missile threat. In these circumstances, the conferees require further assurances that the Navy lower tier system, by itself, can adequately protect U.S. troops going ashore until those troops can set up and make operable additional land-based TMD defenses. The conferees are unable to determine from information provided by the Department whether the proposed Navy lower tier configuration would adequately protect against the most stressing chemical submunition and nuclear warhead threats. This concern extends to the cooperative U.S.-Israeli ARROW ACES program, which also relies on a blast-fragmentation warhead.

Some have suggested that the Standard block IV–A interceptor could be upgraded to embody hit-to-kill capability. The conferees are mindful that the Department concluded that "there were no reasonable upgrades" to the losing missile in the PAC–3 competition "that would substantially improve its performance against weapons of mass destruction."

Other options could possibly fill the requirement, though all have uncertainties. A marinized version of ERINT or the theater high altitude area defense (THAAD) system might be possible. Moreover, accelerating the CORPS SAM program might enable expeditionary forces to take their missile defense with them as they disembarked. If Patriot PAC–3 units could be prepositioned on LHDs or other appropriate ships, protection could be established on land within a matter of hours after arrival. Other options include pre-deploying PAC–3 systems to areas of possible engagement in advance of hostilities, and restricting initial landings to regions beyond the range of hostile TBMs.

The conferees have additional concerns related to this issue that are discussed in the classified annex to this statement of the managers.

NAVY UPPER TIER

Concerns about Navy lower tier warhead lethality affect other major TMD programs. The conferees note that a significant fraction of Navy lower tier funding supports Navy upper tier development. The current Navy upper tier program does involve hit-to-kill technology, but the LEAP vehicle is incompatible with the lower tier mission. The conferees recognize that the combination of Navy lower tier and Navy upper tier may be the lowest-cost combination for sea-based TBM systems; however, they recognize it may also be the least effective. If the Navy lower tier program were to be delayed by the search for greater lethality, or canceled in favor of other options, the program cost of the Navy upper tier would increase. The Navy upper tier program is also affected by the Administration's recent proposals in the Standing Consultative Commission to clarify the ABM Treaty. Under the proposed three kilometer per second interceptor velocity limit, the performance of the Standard missile equipped with a LEAP kill vehicle may be reduced to a point at which its cost and effectiveness relative to a marinized version

VOL 140 PT 16 AG 12 — 18 1994 UMI

of THAAD would require re-examination. Both factors suggest the need for prompt and thorough re-evaluation of the cost and effectiveness of the Navy upper tier program.

FOLLOW-ON TMD SYSTEMS

BMDO is pursuing three follow-on TMD programs that address different aspects of the theater missile threat: the Army's CORPS SAM; the Navy's upper tier; and the Air Force's boost phase intercept (BPI) programs. BMDO is seeking to bring all three programs to an EMD decision in 1998. Given the lack of technological maturity of BPI, the BMDO budget request would constrain funding for both CORPS SAM and Navy upper tier and allocate greater funding for BPI than is warranted by a development program of low-to-medium technical risk—the standard the conferees have traditionally applied.

PATRIOT PAC–3 RISK REDUCTION

The conferees strongly support the PAC–3 program, and believe that adequate risk-reduction funds should be made available to hedge against possible technical difficulties during the EMD phase of the program. In the conferees' view, adequate development funding for the ERINT interceptor that was selected for PAC-3 should be provided, and, as resources permit, funds for further development of selected technologies from the multi-mode missile should also be provided as a hedge against technical problems with comparable ERINT technologies. Given the priority they attach to the Patriot PAC-3 program, the conferees accept the need for both kinds of risk-reduction efforts.

OTHER BOOST-PHASE TECHNOLOGIES

In addition to the BPI program contained in the BMDO follow-on TMD category, funds for three boost-phase intercept concepts were also included in the budget request; the BMDO space-based laser program; the Air Force airborne laser program; and the Air Force air-launched kinetic-kill boost-phase interceptors. Funds requested for these four concepts exceeded $210.0 million. The congressional defense committees have all concluded that this level of funding is unsupportable. Clearly, the number of BPI approaches vying for scarce funds must be reduced so that significant progress can be made on one or two realistic concepts.

CONFEREE ACTIONS TO RESOLVE CONCERNS

NATIONAL MISSILE DEFENSE

The conferees agree to recommend $400 million for the NMD program. The conferees emphasize the importance of demonstrating, on an accelerated basis, the potential effectiveness of a national missile defense system through realistic flight testing. In this regard, the conferees endorse the guidance contained in the Senate report (S. Rept. 103–282) that: "The objective [for the NMD program] should be to develop and test, as rapidly as available NMD funding will permit, a limited, 'UOES-type' capability using existing flight-qualified hardware, even though such hardware may not incorporate the latest 'state of the art' technology." The conferees direct the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, to review the fiscal year 1996 and Future Years Defense Program (FYDP) funding and programmatic content of the BMDO NMD technology readiness program, and to make any changes necessary to ensure BMDO compliance with this guidance.

The conferees also direct the Secretary, in consultation with the Chairman, to study the BMDO plans for fielding a limited "UOES-type" NMD capability against a variety of postulated threats. Within the overall BUR funding guidance to NMD in fiscal year 1996 and throughout the FYDP, the study shall consider those programmatic changes and reallocations of funds among NMD projects within the BMDO NMD technology readiness program that would minimize the lead-time to field an adequate defense of the United States against a quantitatively limited missile threat that could emerge at the end of the years 2000, 2005, and 2010, respectively. For the purpose of the study, the Secretary shall assume that the United States would receive reliable warning of a rogue missile threat three years in advance of each date mentioned, and that appropriate budgetary adjustments to respond to the threat would be made once reliable warning had been received. For each such threat date and set of assumptions, the Secretary shall estimate the date by which effective defenses of (a) the continental United States and (b) all 50 states against a limited strategic threat could achieve a limited operating capability. The report, in both classified and unclassified forms, shall be provided to the congressional defense committees not later than March 1, 1995.

THEATER MISSILE DEFENSE

The conferees further agree to provide substantial funding for the highest priority TMD programs. The conferees, however, also agree to restrict the obligation of portions of those funds until a number of additional analyses are prepared and delivered to the congressional defense committees, and until the committees receive additional assurances that these funds are required.

NAVY LOWER TIER

For the Navy lower tier system, the conferees agree to recommend $140.0 million, a reduction of $39.5 million from the requested amount. In addition, the conferees direct that only $100.0 million be available for obligation until all of the following conditions have been met:

(1) an analysis of the lethality of the Navy lower tier blast-fragmentation warhead against the full threat spectrum used by the Army in the analysis of the two competing Patriot PAC–3 warheads has been conducted and the results reported to the congressional defense committees;

(2) an analysis of the lethality of a notional CORPS SAM system based on ERINT- and GBR-T-type hardware against the same threat spectrum and under the same ground rules as (1) above has been conducted, and the results have been provided to the congressional defense committees;

(3) an analysis of the feasibility of employing either CORPS SAM or Patriot PAC–3 fire units, in lieu of the Navy lower tier system, for defense of amphibious landing zones and ports of debarkation, has been conducted and the results provided to the congressional defense committees. The analysis should evaluate the feasibility of both early deployment to shore from task force ships and operation of such units from the deck of selected task force vessels, and should be conducted against the same threat spectrum and under the same ground rules as described in (1) above.

(4) an analysis of the most cost-effective replacement system or systems for ship self-defense against the low-observable, sea-skimming cruise missile threat, under the assumption that the Navy lower system was terminated at the end of fiscal year 1995, has been conducted, and the results have been provided to the congressional defense committees;

(5) after review of the above analyses, the Chairman of the Joint Chiefs of Staff certifies in writing to the congressional defense committees that, in combination with other available TMD systems, the lethality of the planned Navy lower tier warhead provides an acceptable level of protection from the threat of chemical weapons submunitions for U.S. troops both at ports of debarkation and in amphibious landing operations *prior to* the deployment, setup, and operation of land-based TMD systems; and

(6) after review of the above analyses, the Secretary of Defense certifies in writing to the congressional defense committees that proceeding with the planned Navy lower tier system is a cost-effective use of limited BMDO resources.

NAVY UPPER TIER

For the Navy upper tier program, the conferees agree to recommend $50.0 million. Of this amount, $10.0 million may not be obligated until all of the following conditions have been met:

(1) an updated funding profile and schedule is provided to the congressional defense committees setting forth the cost and schedule for development and deployment of the planned Navy upper tier system if changes were made to the scope and schedule of the Navy lower tier system;

(2) an analysis of the cost-effectiveness of the planned Navy upper tier system (LEAP) relative to a marinized version of the THAAD interceptor missile has been conducted and the results have been provided to the congressional defense committees. The analysis shall be conducted under the following assumptions: (a) that the Navy lower tier program is, in one instance, canceled at the end of fiscal year 1995, and, in a second instance, is continued; (b) that the Army's THAAD program is fully funded through EMD; and (c) that the maximum velocity of a sea-based TMD interceptor is, in one instance, limited to three kilometers per second and, in a second instance, is unconstrained; and

(3) the report on the compliance of the Navy upper tier system has been delivered.

INDEPENDENT REVIEW

The conferees further direct the Secretary of Defense to reconstitute the independent review group originally established to review the Army's selection process for the Patriot PAC–3 interceptor missile decision (or to establish a similar group under the auspices of the Defense Science Board). This independent review group shall thoroughly review the lethality analysis required by item (1) of the "Navy lower tier" subsection above and the lethality analysis required in the "ARROW/ACES" subsection below. The results of their reviews, and their conclusions regarding the comparability of the analyses performed by the Department with the PAC–3 decision analysis, shall be provided to the congressional defense committees not later than 60 days after the Department completes the required lethality studies.

PATRIOT PAC–3 AND "RISK-REDUCTION"

The conferees recommend no funding for the two requested "demonstration/validation" (dem/val) activities labelled "ERINT," for which the requested amount was $58.5 million, and "Patriot," for which the requested amount was $69.2 million.

As a general matter, the conferees agree that "risk-reduction" activities should be focused on the selected system, preferably by providing adequate development funds, rather than through the creation of special "risk-reduction" funds. Therefore, the conferees agree to recommend a total of $284.7 million for Patriot PAC–3 EMD, including the transfer of $69.2 million in dem/val funds labelled "Patriot" to the EMD line. None of these funds may be used for "risk-reduction" activities in connection with multi-mode missile (MMM) technologies.

The conferees recognize the advantage of investing in backups for particularly critical or risky ERINT technologies or components, if such funds can be reallocated from lower-priority programs. The conferees further agree to that, as a general matter, such risk-reduction activities should be reviewed annually, and the funding level should be based on the successful candidate's rate of technical progress.

The conferees were given a DOD "Information Paper" dated May 18, 1994, regarding the Defense Department's proposed three-year, $84.8 million risk-reduction activity. That "Information Paper" recommended utilization of the requested $58.5 million for "ERINT" dem/val for risk mitigation for selected technologies from both the MMM and the ERINT missiles. The conferees agree to recommend the transfer of the $58.5 million requested under the "ERINT" dem/val account to a new line entitled "Patriot PAC–3 risk-reduction." This amount is only available for further research and development activities on selected MMM and ERINT technologies. The conferees direct that all funds allocated for risk-reduction on MMM technologies may only be obligated for technologies that are transferrable to the ERINT missile, in the event of technical difficulties with critical ERINT technologies. The conferees further direct that none of these risk-reduction funds be used for additional flight testing of the MMM interceptor missile during fiscal year 1995.

The conferees were informally notified at a late stage of the conference that DOD is contemplating a significantly larger risk-reduction effort than is contained in the May 18, 1994 "Information Paper," one on the order of $180.0 million. Neither funding details nor any rationale for such a significant increase in the need for risk-reduction was provided. The conferees agree that the relevant committees of jurisdiction should carefully review any such formal DOD risk-reduction proposal in the context of their consideration of the fiscal year 1996 defense budget request, and recommend that, if DOD deems the risk-reduction fund authorized above inadequate, it should submit a prior-approval reprogramming request during fiscal year 1995.

BOOST PHASE INTERCEPT PROGRAMS

The requested amounts for BPI programs in both BMDO and the Air Force totalled $210.6 million. Both the Senate bill and the House amendment would provide substantial funding for all BPI programs. The conferees are disappointed that both the Senate and the House defense appropriations bills have sharply restricted funding for BPI programs to $90.0 million or less. Given this constraint, the conferees recommend $30.0 million within the BMDO budget for high-power laser research. These funds may only be used to complete the integration of the Alpha laser, LAMP optics, and LODE beam control in such a way as to maximize the utility of the results for tactical applications of chemical lasers. The conferees also direct that the funds may not be used to initiate or carry out any work on the shield integration facility or any spacecraft-related activity. The conferees intend that the space-based portion of the chemical laser program end upon completion of the Alpha LAMP integration.

Of the remaining funds for BPI programs within the appropriations ceilings, the conferees recommend $20.0 million for the Air Force's airborne laser program, and $40.0 million for the BMDO boost phase intercept program. No funds are recommended for the boost phase intercept program contained within the Air Force's "theater missile defense" program element.

The conferees are disappointed with the Defense Department's overall effort to manage high-power laser research for tactical applications. The high-power laser guidance report, submitted by the Department in June 1994, does not outline an integrated departmental program for tactical application of high-power lasers. The conferees are concerned that this technology base is slowly withering away outside the Air Force, the one service providing significant support. The conferees, therefore, direct that the high-power laser program guidance be updated by March 31, 1995, with a view toward sustaining a technology base in high-power lasers for Army, Navy, and Air Force tactical applications. The conferees expect an integrated DOD high-power laser program to be reflected in the fiscal year 1996 request for the DOD science and technology base.

PROCUREMENT

The conferees recommend fully funding the $273.4 million requestion for procurement.

ADDITIONAL GUIDANCE

FUNDING RECOMMENDATIONS AND BUDGETARY DATA

The conferees agree to establish a set of distinct program elements for BMDO activities. The conferees' complete recommendation for BMDO funding is contained in the table that follows this discussion, for each program element and for selected programs, projects, and activities within certain program elements. The conferees intend that each program element shown shall be a separate line item, and that these titles shall be used to account for *all* funds for each such item, whether BMDO attributes the funds to exploratory development, demonstration/validation, EMD, or procurement. Since support activities like test and evaluation were not broken out by projects, the conferees direct that, for fiscal year 1995, the funds for the major TMD system program elements be used to carry out the planned research and development activities presented in budget documents and testimony, and that support for items like test and evaluation activities specifically for those programs be funded from the "other TMD activities" program element. Beginning in fiscal year 1996, to the extent possible, test and evaluation funds and other direct supporting activities associated with specific TMD systems should be requested as a project or task within the appropriate program element. The committee expects transfers among the designated program elements to be accomplished through customary prior-approval reprogramming procedures only. The conferees are determined to require BMDO to present budgetary data in an easy-to-comprehend form, allowing the activities comprising major programs and their costs to be readily identifiable. The conferees note that the current submission contains multiple program elements using the same names and that the NMD funding request is commingled in a program element with funds requested for other purposes. That is a totally unacceptable presentation.

ARROW/ACES

Within the "other TMD activities" program element, the conferees recommend $52.4 million for the joint U.S.-Israel ARROW/ACES program, which is the requested amount. The conferees note, however, that the concerns they have expressed regarding the questionable lethality of blast-fragmentation warheads against nuclear warheads and warheads containing chemical weapons submunitions apply even more directly to the ARROW/ACES program than to the Navy lower tier program. The conferees therefore direct BMDO to analyze the lethality of the planned ARROW/ACES warhead against the same threat spectrum and under the same ground rules as were used in the PAC–3 selection and are required to be used in conducting other analyses above. The results of this analysis shall be provided to the congressional defense committees not later than March 31, 1995.

MANAGEMENT SUPPORT

The conferees agree to recommend $170.0 million for the management support activity, a reduction of $50.2 million from the requested amount. The conferees note that in fiscal year 1993, BMDO provided oversight of a $3.7 billion SDIO budget of substantially greater diversity than the present program with a program management budget of $218.3 million. The total funding recommended herein for BMDO for fiscal year 1995 is $2.8 billion, or just over 75 percent of the fiscal year 1993 budget in *nominal* dollars. Yet BMDO requested virtually the same program management budget as in fiscal year 1993. A budget of $170.0 million for program management is in proportion to the decline in overall BMDO funding levels.

The conferees further direct that, in apportioning this program management budget, BMDO management apportion the reductions in rough proportion to the funding changes within the major program categories. Reductions need to be taken at all levels, including reductions in management layers and overhead.

COMPLIANCE REVIEWS

The conferees agree to a provision that would require compliance reviews for both the Brilliant Eyes program and the Navy upper tier program. Guidance for the Brilliant Eyes review is contained in the Senate report (S. Rept. 103–282); for the Navy upper tier program, the conferees require a review of the compliance of the LEAP configuration both as currently planned, and if the kick-stage motor were restricted to limit LEAP velocity to three kilometers per second.

CHANGES TO THE MISSILE DEFENSE ACT OF 1991

The conferees agree to a provision that would further streamline the Missile Defense Act of 1991, as amended.

FLIGHT TESTING OF THAAD INTERCEPTOR MISSILES DURING FISCAL YEAR 1995

The Senate report (S. Rept. 103–282) contained a section entitled "Compliance of THAAD Flight Testing During Fiscal Year 1995." The conferees endorse the views expressed in that section.

79–059 O—97 Vol. 140 (Pt. 16) 11

VOL 140 PT 16 AG 12 — 18 1994 UMI

CONFEREES BMDO RDT&E FUNDING FOR FY 1995
$ in millions

Program Element	Project	Request	Recommend
National missile defense		$ 587.0	$ 400.0
	THAAD	495.69	495.69
	GBR-T	173.2	173.2
	HAWK	26.8	26.8
	BM/C^{3}I	34.055	34.055
	Patriot dem/val	69.24	0
	ERINT dem/val	58.46	0
	PAC-3	217.2	284.705
	PAC-3 risk-reduction	0	58.46
	Navy lower tier	179.543	140.0
	Navy upper tier	17.725	50.0
	CORPS SAM	17.725	17.725
	Boost phase intercept	61.1	40.0
Other TMD activities		383.05	373.05
	ARROW/ACES	(52.4)	(52.4)
	Discrimination	(58.1)	(48.1)
Support technologies		408.984	262.95
	Chemical laser	(77.5)	(30.0)
	Innovative sci & tech	(60.0)	(55.0)
	Countermeasures	(18.303)	(17.0)
Program management		215.233	170.0
Total, RDT&E		$ 2979.855	$ 2526.635

Senate advice and consent on agreements that modify the Anti-Ballistic Missile Treaty (sec. 232)

The Senate bill included a provision (sec. 225) that would require the President to submit any negotiated changes that would substantively modify the Anti-Ballistic Missile Treaty to the Senate. The United States would not be bound by any international agreement negotiated by the President that substantively modified the Anti-Ballistic Missile Treaty unless the agreement was presented to the Senate for its advice and consent to ratification of the agreement, pursuant to the Constitution.

The House amendment contained no similar provision.

The House recedes. The conferees note that there is a wide range of views in the Senate on what might constitute a "substantive modification" to the ABM Treaty which would trigger a requirement to submit the agreement to the Senate for further advice and consent. Since 1972, the ABM Treaty has been clarified or modified on a number of occasions without the Executive Branch submitting the changes to the Senate for its advice and consent. These clarifications or changes, negotiated in the Standing Consultative Commission (SCC) and not submitted to the Senate for its advice and consent, have taken the form of agreement statements.

The conferees believe that the Executive Branch should consult with the Senate on any new agreements reached in the SCC or elsewhere concerning the ABM Treaty to carefully determine whether these new agreements meet the definition of a "substantive modification" to the Treaty, and are required to be submitted to the Senate for advice an consent under Article II of the U.S. Constitution.

Limitation on flight tests of certain target missiles (sec. 234)

The House amendment contained a provision (sec. 235) that would limit certain missiles tests.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

Defense women's health research program (sec. 241)

The budget request contained no funds for the defense women's health research program.

The Senate bill would provide $40.0 million in PE 63002D for the defense women's health research program and contained a provision (sec. 242) that would continue the program.

The House amendment would provide $40.0 million in PE 63002A for the defense women's health research program and contained a similar provision (sec. 241).

The Senate recedes with a clarifying amendment. The conferees agree to provide $40.0 million in PE 63002D.

Submission of Semiconductor Technology Council annual report (sec. 251)

The Senate bill included a provision (sec. 243) that would require the Semiconductor Technology Council to submit its annual report to Congress on March 31 of each year.

The House amendment contained no similar provision.

The House recedes.

Report on oceanographic survey and research requirements to support littoral warfare (sec. 252)

The Senate bill contained a provision (sec. 244) that would require, not later than March 1, 1995, the Secretary of the Navy to submit to Congress a report on the oceanographic survey and research and development requirements needed to support Navy operations in littoral regions.

The House amendment contained on similar provision.

The House recedes.

LANSCE/LAMPF upgrades (sec. 253)

The Senate bill included a provision (sec. 245) that would authorize $20.0 million for the Defense Nuclear Agency to complete the upgrade of the Los Alamos Neutron Scattering Center/Los Alamos Meson Physics Facility (LANSCE/LAMPF).

The House amendment contained no similar provision.

The House recedes with an amendment that would provide funds for the facility from funds made available pursuant to section 201 of this act. These funds would be included in a separate Army program element (PE 65104A).

Study regarding live-fire survivability testing of F-22 aircraft (sec. 254)

The Senate bill contained a provision (sec. 246) that would direct the Secretary of Defense to request the National Research Council of the National Academy of Sciences to study the desirability of waiving the live-fire survivability testing requirements for the F-22 aircraft.

The House amendment contained no similar provision.

The House recedes.

University research initiatives (secs. 255 and 257)

The Senate bill contained a provision (sec. 249) that would provide $10.0 million for the university research support program and $10.0 million for the defense experimental program to stimulate research (DEPSCOR). The provision would limit DEPSCOR awards to states that have received less than 50 percent of the national average investment of federal funds for higher education during the past fiscal year.

The House amendment contained a provision (sec. 218) that would provide $20.0 million for DEPSCOR, establish DEPSCOR in law, and describe the goals of the program.

The House recedes with an amendment that would allow states that have received less than 60 percent of the national average investment of federal funds for higher education during the past fiscal year to receive DEPSCOR awards.

Manufacturing technology (sec. 256)

The budget request contained $97.1 million for the manufacturing science and technology program in the defense agencies' account and $20.2 million for the industrial preparedness program in the Navy research and development account.

The Senate bill would provide $125.0 for the manufacturing science and technology program in the following amounts: $30.0 million for the Army; $50.0 million for the Air Force; $35.0 million for the Navy; and $10.0 million for the Defense Logistics Agency (DLA). The Senate bill would also provide $20.2 million for the Navy industrial preparedness program.

The House amendment would provide $117.1 million in the defense agencies account and $40.5 million for the Navy industrial preparedness program.

The conferees note that the military services have different approaches to manufacturing technology. The Army and Air Force conduct their programs through contracts with industry, while the Navy uses a mixture of contracts with industry and centers of excellence. In recognition of these differences, the conferees recommend authorizations in two separate programs.

The first program is the manufacturing science and technology program, for which the conferees recommend $109.4 million. The conferees agree that this program should be aimed at the manufacturing technology needs of the military departments. The conferees recommend a provision that would require all awards under this program to be made on the basis of competition and all awards involving dual-use technology to be cost-shared. The conferees note the importance of repair technology programs and urge the services to include repair technology programs in their manufacturing technology competitions. The conferees encourage the Army to consider supporting a medical manufacturing technology program for medical needs related to service in the military. The conferees also recognize the need for manufacturing technology in the apparel and microelectronic emulation programs of the Defense Logistics Agency, and commend these and others efforts described in the House report (H. Rept. 103-499).

The conferees recommend the following authorizations: $29.4 million for the Army in PE 78045A; $50.0 million for the Air Force in PE 78011F; $20.0 million for the Navy in PE 65872N; and $10.0 million for DLA in PE 63705D.

The second program is the Navy industrial preparedness program, for which the conferees recommend $45.2 million. The conferees intend this second program to be separate from the manufacturing science and technology program for the specific purpose of authorizing the Navy centers of excellence.

Altimetry convergence study (sec. 258)

The Senate bill contained a provision (sec. 1077) that would require the Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration to study converging radar altimeter programs.

The House amendment contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

High-resolution imaging

The Senate bill contained a provision (sec. 204) that would authorize $10.0 million in Air Force RDT&E funds for high-resolution imaging of space objects using excimer lasers.

The House amendment contained no similar provision.

The Senate recedes from the statutory provision. The conferees would include $10.0 million in PE 63605F to continue the excimer laser high-resolution imaging program.

Limitation on obligation of ballistic missile defense funds

The Senate bill contained a provision (sec. 223) that would restrict the obligation of any fiscal year 1995 funds for ballistic missile defenses until certain overdue reports are provided to the congressional defense committees.

The House amendment contained no similar provision.

The Senate recedes because the reports in question have now been delivered.

Management and budget responsibility for space-based chemical laser program

The Senate bill contained a provision (sec. 224) that would provide guidance regarding the space-based chemical laser program.

The House amendment contained no similar provision.

The Senate recedes.

VOL
140
PT
16
AG
12
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18
1994
UMI

Study on beaming high-power laser energy to satellites

The Senate bill contained a provision (sec. 250) that would require the Secretary of Defense and the Administrator of NASA to study the cost, feasibility, and advisability (including arms control and environmental considerations) of developing a system to deliver energy to satellites by beaming high-power laser energy from ground sources.

The House amendment contained no similar provision.

The Senate recedes. The conferees direct the Secretary of Defense, in consultation with the Administrator of NASA, to carry out a study to determine the cost, feasibility, and advisability of the development and utilization of a system to deliver energy to satellites by beaming high-power laser energy from ground sources. The Secretary shall take into account the impact of such a system on the environment and the effect, if any, of the development and utilization of such a system on the arms control efforts or obligations of the United States. In carrying out the study, the Secretary shall consider the option of the development of a space energy laser (SELENE) system using a free electron laser at the Naval Air Weapons Station, China Lake, California. The Secretary shall submit the study to the congressional defense committees by July 1, 1995.

Advanced threat radar jammer

The Senate bill contained a provision (sec. 251) that would preclude the Secretary of Defense from negotiating or entering into an agreement with a country other than a NATO or major non-NATO ally on a joint development program for advanced threat radar jammers (ATRJ) for combat helicopters until 30 days after the Secretary reviews the program and submits a report to the congressional defense committees. The provision would require the report to address the following:

(1) the legal basis for seeking funds neither authorized nor appropriated for the program;

(2) the consistency of the program with the DOD policy that a system not be sold overseas before it had completed operational testing and evaluation (OT&E);

(3) the mission requirements for the system;

(4) an assessment of the threat for which the system is developed;

(5) the potential for proliferation of sensitive electronic warfare technologies;

(6) the availability of non-developmental, less sophisticated technologies for meeting the needs of U.S. and allied combat helicopters; and

(7) the availability of similar technologies from other foreign countries and the consequences of proliferating such technologies in potential conflict regions.

The House amendment contained no similar provision.

The Senate recedes. The conferees understand that:

(1) the Army's development program is fully funded within the Army budget;

(2) the "no sale until successful OT&E" policy does not apply to potential co-development efforts, only to the sale of systems already developed;

(3) requirements for the ATRJ have already been validated in an operational requirements document (ORD) and in a cost and operational effectiveness analysis (COEA);

(4) the requested threat assessment was made in deriving the analysis supporting the ORD and COEA;

(5) the interagency process already established for evaluating proliferation concerns is addressing such concerns;

(6) the ORD and COEA assessed non-developmental, less sophisticated technologies and found them deficient; and

(7) the potential development partner has a foreign source for similar equipment that would not be subject to U.S. export review and control.

Nevertheless, the conferees believe that enough concerns remain to require the Secretary of Defense, by March 31, 1995, to provide a report on the following matters:

(1) the potential cost-sharing and work-sharing plan for the co-development effort;

(2) the ORD and the COEA underpinning the Department's plans to proceed with the program;

(3) the threat assessment for the receiving nation underpinning the Department's plans to proceed with the program;

(4) an assessment of the potential foreign competitor systems, and the level of technology in those systems; and

(5) the results of the interagency review process that led to the approval of the co-development effort, including the review of potential proliferation concerns.

Missile early warning and tracking

The budget request contained:

(1) $150.0 million for development of the alert, locate, and report missiles (ALARM) early warning satellite, the follow-on to the defense support program (DSP) system. Of this amount, $31.0 million was requested for a technology demonstration program;

(2) $120.0 million within the Ballistic Missile Defense Organization for development and demonstration of Brilliant Eyes (BE); and

(3) $76.4 million for further development of DSP, including new ground processing capabilities.

The Senate bill would deny funding for the ALARM technology demonstration. It would also transfer the BE program to the Air Force, and allow the Secretary of Defense to use the funds to correct technical intelligence and warning shortfalls, accelerate ALARM, continue a BE program focused on theater defense, or continue DSP procurement.

The House amendment contained a provision (sec. 141) that would provide $300.0 million for ballistic missile early warning risk mitigation. These funds could be used for continued procurement of defense support program satellite number 24, accelerated development of ALARM leading to launch of the first satellite no later than the first quarter of 2002, development of BE, acquisition of three additional interim theater missile sensors, or a combination of the above. The House amendment also would reduce the requested amount for DSP RDT&E by $20.0 million.

The House recedes.

The Department of Defense has undertaken a comprehensive review of all space-based infrared (SBIR) requirements and programs for ballistic missile detection, tracking, technical intelligence, and other ancillary missions. The conferees applaud this effort, but not that Congress has directed such an assessment every year for at least the last three years. The conferees also not that this new review follows a major assessment conducted just a year ago in the Bottom-Up Review (BUR). The BUR resulted in decisions to terminate one program, develop a DSP follow-on, and initiate another (ALARM); to terminate further procurement of DSP; and to scale back the BE program substantially.

The BUR process completely upended the fiscal year 1994 budget request, but Congress patiently provided wide latitude to the Secretary of Defense to allocate funds once the BUR was completed. Now Congress is once again in the same position. The conferees intend to provide DOD latitude in this critical area in fiscal year 1995, but their patience is wearing thin. Moreover, if the Department makes major changes in the current program, the planned deployment date of a follow-on capability could be jeopardized.

The conferees deny the $31.0 million requested for the ALARM technology demonstration program. The conferees agree to apply these funds, and an additional $19.0 million, to accelerate the advanced tactical warning and attack assessment system by two years. The conferees agree to authorize the requested amount for BE, but shift the program to the defense agencies. RDT&E account. The Secretary of Defense should determine the appropriate management organization for this program based on the ongoing review and notify the congressional defense committees within 45 days after the date of enactment of this act.

In addition, in light of the ongoing review of SBIR programs within the Department, and the potential for changes to existing programs as a result of the study, the conferees direct the Secretary to promptly report to the congressional defense committees on the results of the study, together with any recommended programmatic, budgetary, and schedule changes. Should the Secretary determine that modifications to existing programs are necessary, the conferees would consider a reprogramming request to implement any such changes.

Mobile off-shore base and landing ship quay causeway program

The House amendment contained a provision (sec. 220) that would prohibit development or acquisition of a mobile off-shore base (MOB) or landing ship quay causeway (LSQ C) until:

(1) the Joint Requirements Oversight Council (JROC) has approved an operational requirement for the MOB or LSQ C; and

(2) the Secretary of Defense has certified to the congressional defense committees that: (a) there was a validated requirement for the MOB or LSQ C, and (b) the acquisition plan and program to fulfill that requirement were fully funded in the Future Years Defense Program.

The Senate bill contained no similar provision. The Senate report (S. Rept. 103-282) stated that, by the end of 1994,: (1) the JROC should determine whether there is an operational requirement for these programs; and (2) the Defense Science Board (DSB) should review the programs and submit the results of its review to Congress prior to the submission of the fiscal year 1996 budget request.

The House recedes.

The conferees agree with the concerns expressed in the Senate report about over-the-shore logistics operations and the need for an ability to sustain operations in austere environments or in locations in which port operations could be disrupted by the use of weapons of mass destruction. The conferees agree with the finding in the House provision that the concepts of the sea-going MOB and related LSQ C could significantly improve the U.S. crisis response capability in areas in which land bases are not available. The conferees also agree that the potential development and acquisition costs of these systems could be large enough that either would be a major defense program subject to review and approval by the Defense Acquisition Board.

The conferees agree with the guidance in the Senate report with respect to actions by the JROC and the Under Secretary of Defense for Acquisition and Technology. The conferees strongly desire that the results of the JROC program evaluation and the DSB report be submitted prior to December 31, 1994.

If the JROC and DSB reviews indicate that the Department should pursue either the MOB or LSQ C program, or both, beyond fiscal year 1995, the conferees direct the Department of Defense to document future funding and development plans for these two programs, including specific development and acquisition milestones, as a part of its fiscal year 1996 budget justification. If the program's scope warrants, the Department should specify a schedule for timely review by the Defense Acquisition Board that can help inform congressional evaluation of the fiscal year 1996 Department of Defense budget request.

ARROW/ACES program

The House amendment contained a provision (sec. 221) regarding funding for the ARROW/ACES program.

The Senate bill contained no similar provision.

The House recedes. Funding for ARROW/ACES is discussed elsewhere in this statement of the managers.

Army helicopter engine upgrade program

The House amendment contained a provision (sec. 222) that would reduce the authorization for Army research and development by $4.5 million. The provision specified that the reduction would be derived from funds intended for developing an electronic fuel control to upgrade the hydro-mechanical unit for the T53-series helicopter engine.

The Senate bill contained no similar provision.

The House recedes. The conferees agree to recommend funding for Army research and development that incorporates this action.

Theater missile defense programs

The House amendment contained a provision (sec. 232) that would provide funding and guidance for the Navy upper tier theater missile defense program.

The Senate bill contained no similar provision.

The House recedes. Funding for the Navy upper tier program is discussed elsewhere in this statement of the managers.

Theater missile defense risk reduction activities

The House amendment contained a provision (sec. 233) that would create a risk-reduction fund for theater missile defenses.

The Senate bill contained no similar provision.

The House recedes.

TITLE III—OPERATION AND MAINTENANCE

The Senate bill would authorize $92,457,460,000 for operation and maintenance for the Department of Defense and $1,618,038,000 for Working Capital Fund accounts in fiscal year 1995.

The House amendment would authorize $90,317,199,000 for operation and maintenance for the Department of Defense and $1,212,038,000 for Working Capital Fund accounts in fiscal year 1995.

The conferees recommend authorization of $91,463,223,000 for operation and maintenance for the Department of Defense and $2,068,038,000 for Working Capital Fund accounts in fiscal year 1995, as reflected in the following tables.

The conferees recommend authorization of all funds for the Defense Health Program, including procurement, under Title III.

UMI 1994 12-18 AG PT 16 140 VOL

TITLE III -- OPERATION AND MAINTENANCE
SUMMARY OF FUNDS RECOMMENDED FOR AUTHORIZATION
[dollars in thousands]

Title	Amended FY 1995 Authorization Request	House Change	FY 1995 House Authorized	Senate Change	FY 1995 Senate Authorized	Conference Change	FY 1995 Conference Authorized
O&M, Army	17,616,814	(458,253)	17,358,561	(223,900)	17,592,914	(390,010)	17,426,804
O&M, Navy	21,226,570	(1,117,043)	20,109,527	149,900	21,376,470	(171,100)	21,055,470
O&M, Marine Corps	1,918,395	78,700	1,997,095	178,300	2,096,695	147,900	2,066,295
O&M, Air Force	19,076,623	(343,583)	18,733,040	(237,600)	18,839,023	(239,000)	18,837,623
O&M, Defense Agencies	10,208,413	(718,592)	9,489,821	(214,088)	9,994,325	(176,837)	10,031,576
O&M, Army Reserve	1,253,709	1,313	1,256,022	0	1,253,709	(14,887)	1,238,822
O&M, Navy Reserve	827,819	0	827,819	500	828,319	0	827,819
O&M, Marine Corps Reserve	81,462	0	81,462	0	81,462	0	81,462
O&M, Air Force Reserve	1,478,990	2,342	1,481,332	0	1,478,990	(14,058)	1,464,932
O&M, Army National Guard	2,447,148	1,467	2,448,615	5,000	2,452,148	(48,733)	2,398,415
O&M, Air National Guard	2,780,178	0	2,780,178	0	2,780,178	(8,500)	2,771,678
Rifle Practice, Army	2,544	0	2,544	0	2,544	0	2,544
Defense Inspector General	128,098	20,000	148,098	12,700	140,798	12,700	140,798
U.S. Court of Military Appeals	6,126	0	6,126	0	6,126	0	6,126
Summer Olympics	0	4,000	4,000	10,000	10,000	10,000	10,000
Environmental Restoration Fund	2,180,200	0	2,180,200	0	2,180,200	(150,000)	2,030,200
Drug Interdiction	714,200	0	714,200	0	714,200	0	714,200
Defense Health Program O&M	9,922,059	0	9,922,059	(67,600)	9,854,459	(67,600)	9,854,459
Overseas Humanitarian, Disaster & Civic Aid	71,900	(11,900)	60,000	0	71,900	14,100	86,000
Cooperative Threat Reduction	400,000	0	400,000	0	400,000	0	400,000
Contingency for International Peacekeeping	300,000	0	300,000	0	300,000	(300,000)	0
DOD 50th Anniversary of WWII	0	500	500	0	0	0	0
Special Olympics	0	2,000	2,000	3,000	3,000	3,000	3,000
Project Peace	0	15,000	15,000	0	0	15,000	15,000
Total	92,841,248	(2,524,049)	90,317,199	(383,788)	92,457,460	(1,378,025)	91,463,223
REVOLVING AND MANAGEMENT FUNDS							
DEFENSE BUSINESS OPERATIONS FUND	1,169,038	43,000	1,212,038	(379,600)	789,438	70,400	1,239,438
NATIONAL DEFENSE SEALIFT FUND	608,600	(608,600)	0	220,000	828,600	220,000	828,600
TOTAL	1,777,638	(565,600)	1,212,038	(159,600)	1,618,038	290,400	2,068,038

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, ARMY							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	LAND FORCES							
250	COMBAT UNITS	1,783,474		1,783,474		1,783,474		1,783,474
300	TACTICAL SUPPORT	1,178,297		1,178,297		1,178,297		1,178,297
350	THEATER DEFENSE FORCES	208,141		208,141		208,141		208,141
400	FORCE RELATED TRAINING/SPECIAL ACTIVITIES	1,186,444		1,186,444		1,186,444		1,186,444
450	FORCE COMMUNICATIONS	61,496		61,496		61,496		61,496
500	DEPOT MAINTENANCE	1,037,338	300,000	1,292,338	65,000	1,102,338	140,000	1,177,338
	DEPOT CONVERSION		40,000					
	EXCESS UNIT DEPOT -LEVEL REPAIRABLES CREDIT		(85,000)					
550	JCS EXERCISES	66,412		66,412		66,412		66,412
600	BASE SUPPORT	3,197,534		3,197,534		3,197,534		3,197,534
650	REPROGRAMMINGS/FUEL CREDIT							
	LAND OPERATIONS SUPPORT							
700	COMBAT DEVELOPMENTS	222,405		222,405		222,405		222,405
750	UNIFIED COMMANDS	74,246		74,246		74,246		74,246
800	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	9,015,787	255,000	9,270,787	65,000	9,080,787	140,000	9,155,787
	BUDGET ACTIVITY 2: MOBILIZATION							
	MOBILITY OPERATIONS							
950	POMCUS	142,299		142,299		142,299		142,299
1000	STRATEGIC MOBILIZATION	284,647		284,647		284,647		284,647
1050	WAR RESERVE ACTIVITIES	54,718		54,718		54,718		54,718
1100	INDUSTRIAL PREPAREDNESS	89,728		91,728		89,728		89,728
	MREs		2,000				2,000	2,000
1150	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 2:	571,392	2,000	573,392	0	571,392	2,000	573,392
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
	ACCESSION TRAINING							
1300	OFFICER ACQUISITION	51,184		51,184		51,184		51,184
1350	RECRUIT TRAINING	12,173		12,173		12,173		12,173
1400	ONE STATION UNIT TRAINING	16,733		16,733		16,733		16,733
1450	RESERVE OFFICER TRAINING CORPS (ROTC)	108,642		108,642		108,642		108,642
1500	BASE SUPPORT (ACADEMY ONLY)	115,300		115,300		115,300		115,300

UMI 1994 AG 12-I-18 PT 16 VOL 140

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill Change From Request	House Bill Authorization	Senate Bill Change From Request	Senate Bill Authorization	Conference Change From Request	Conference Authorization
	BASIC SKILL/ ADVANCE TRAINING							
1600	SPECIALIZED SKILL TRAINING	244,356		249,356		244,356		244,356
	FRIENDLY FIRE/SAFETY TRAINING		5,000				5,000	5,000
1650	FLIGHT TRAINING	258,167		258,667		258,167		258,167
	TOSS		500				500	500
1700	PROFESSIONAL DEVELOPMENT EDUCATION	87,296		87,296		87,296		87,296
1750	TRAINING SUPPORT	390,778		399,268		390,778		390,778
	TELETRAINING (TNET)		8,490				8,490	8,490
1800	BASE SUPPORT (OTHER TRAINING)	1,062,203		1,062,203		1,062,203		1,062,203
1850	REPROGRAMMINGS/FUEL CREDIT							
	RECRUITING/OTHER TRAINING							
1900	RECRUITING AND ADVERTISING	159,959	38,500	198,459	33,000	192,959	33,000	192,959
1950	EXAMINING	66,133		66,133		66,133		66,133
2000	OFF-DUTY AND VOLUNTARY EDUCATION	110,633		110,633		110,633		110,633
2050	CIVILIAN EDUCATION AND TRAINING	92,000		94,000		92,000		92,000
	NONCOMBATANT COUNSELING		2,000				2,000	2,000
2100	JUNIOR ROTC	65,387		65,387		65,387		65,387
2150	BASE SUPPORT (RECRUITING LEASES)	155,075		155,075		155,075		155,075
2200	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 3:	2,998,019	52,490	3,048,509	33,000	3,029,019	46,990	3,045,009
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SECURITY PROGRAMS							
2350	SECURITY PROGRAMS	400,696		386,696		406,396		400,696
	CLASSIFIED		(14,000)		5,700		(5,000)	(5,000)
	LOGISTICS OPERATIONS							
2450	SERVICEWIDE TRANSPORTATION	544,832		544,832		544,832	(16,300)	528,532
2500	CENTRAL SUPPLY ACTIVITIES	478,524		478,524		478,524		478,524
2550	LOGISTIC SUPPORT ACTIVITIES	342,751		327,751		342,751		342,751
	INVENTORIES		(15,000)				(45,000)	(45,000)
2600	AMMUNITION MANAGEMENT	388,599		388,599		388,599		388,599
	SERVICEWIDE SUPPORT							
2700	ADMINISTRATION	316,751		316,751		316,751		316,751
2750	SERVICEWIDE COMMUNICATIONS	805,494		805,494		805,494		805,494
2800	MANPOWER MANAGEMENT	81,413		81,413		81,413		81,413
2850	OTHER PERSONNEL SUPPORT	174,934		54,934		174,934		174,934
2900	OTHER SERVICE SUPPORT	541,957		541,957		541,957		541,957
2950	ARMY CLAIMS ACTIVITIES	177,564		177,564		177,564		177,564
3000	REAL ESTATE MANAGEMENT	98,209		98,209		98,209		98,209

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill Change From Request	House Bill Authorization	Senate Bill Change From Request	Senate Bill Authorization	Conference Change From Request	Conference Authorization
3100	BASE SUPPORT	600,280		884,280		600,280		600,280
	MWR/STARS & STRIPES		(6,000)				(6,000)	(6,000)
3150	DEFENSE ENVIRONMENTAL RESTORATION ACCOUNT							
3170	REPROGRAMMINGS/FUEL CREDIT							
	SUPPORT OF OTHER NATIONS							
3200	INTERNATIONAL MILITARY HEADQUARTERS	265,525		265,525		265,525		265,525
3250	MISC SUPPORT OF OTHER NATIONS	20,267		20,267		20,267		20,267
3300	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 4:	5,237,796	(35,000)	5,372,796	5,700	5,243,496	(72,300)	5,165,496
	UNDISTRIBUTED							
	CIVILIAN PERSONNEL UNDERSTRENGTH		(100,000)	(100,000)	(405,700)	(405,700)	(241,200)	(241,200)
	MILITARY TO CIVILIAN CONVERSION		65,000	65,000				
	RATION CONTROL		(7,000)	(7,000)			(3,500)	(3,500)
	CONTRACTOR & CONSULTING SERVICES		(156,000)	(156,000)			(78,000)	(78,000)
	INFORMATION TECHNOLOGY		(138,743)	(138,743)			(30,000)	(30,000)
	RESIDUAL VALUE		(70,000)	(70,000)			(70,000)	(70,000)
	WARTIME HOST NATION SUPPORT		(100,000)	(100,000)			(100,000)	(100,000)
	DBOF ADJUSTMENT							
	CAPITAL ACCOUNTS		(80,000)	(80,000)			(40,000)	(40,000)
	PRIOR YEAR LOSSES		(81,000)	(81,000)				
	UNOBLIGATED BALANCES		(130,000)	(130,000)			(95,000)	(95,000)
	PLANNED REDUCTION OFFSETS		(100,000)	(100,000)				
	ENVIRONMENTAL COMPLIANCE		(25,000)	(25,000)				
	ARMS CONTROL COMPLIANCE COSTS				(6,000)	(6,000)	(6,000)	(6,000)
	REAL PROPERTY MAINTENANCE				60,000	60,000	30,000	30,000
	FEDERAL WORKFORCE RESTRUCT. ACT				22,600	22,600	22,600	22,600
	ARMY ENVIRON. POLICY INST.				1,500	1,500	1,500	1,500
	GSA FEES	(4,180)		(4,180)		(4,180)		(4,180)
	FOREIGN NATIONAL EMPLOYEES		(120,000)	(120,000)			(120,000)	(120,000)
	U.S. BASE OPERATIONS, OVERSEAS TRANSFERS		290,000	290,000			290,000	290,000
	MWR BILLETING TO BARRACKS		(65,000)	(65,000)				
	BARRACKS MAINTENANCE & REPAIR		65,000	65,000				
	STOCKPILE TRANSFER						(50,000)	(50,000)
	TRAVEL						(19,100)	(19,100)
	TOTAL, O&M, ARMY	17,816,814	(458,253)	17,358,561	(223,900)	17,592,914	(390,010)	17,426,804

UMI 1994 AG 12-18 PT 16 VOL 140

TITLE III — OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, NAVY							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS							
3950	MISSION AND OTHER FLIGHT OPERATIONS	1,922,587		1,922,587		1,922,587		1,922,587
4000	FLEET AIR TRAINING	737,877		737,877		737,877		737,877
4050	INTERMEDIATE MAINTENANCE	67,154		67,154		67,154		67,154
4100	AIR OPERATIONS AND SAFETY SUPPORT	82,359		82,359		82,359		82,359
4150	AIRCRAFT DEPOT MAINTENANCE	659,511	50,000	709,511	30,000	689,511	20,000	679,511
4200	AIRCRAFT DEPOT OPERATIONS SUPPORT	34,001		34,001		34,001		34,001
4250	BASE SUPPORT	1,129,192		1,129,192		1,129,192		1,129,192
4300	REPROGRAMMINGS/FUEL CREDIT							
	SHIP OPERATIONS							
4350	MISSION AND OTHER SHIP OPERATIONS	1,891,202		1,876,202		1,891,202		1,891,202
	INVENTORIES		(15,000)				(45,000)	(45,000)
4400	SHIP OPERATIONAL SUPPORT AND TRAINING	501,771		501,771		501,771		501,771
4450	INTERMEDIATE MAINTENANCE	425,116		425,116		425,116		425,116
4500	SHIP DEPOT MAINTENANCE	2,337,433	50,000	2,387,433	35,000	2,372,433	20,000	2,357,433
	SHIP ALTERATIONS						5,000	5,000
4550	SHIP DEPOT OPERATIONS SUPPORT	867,204		867,204		867,204		867,204
4600	BASE SUPPORT	1,009,960		1,009,960		1,009,960		1,009,960
4650	REPROGRAMMINGS/FUEL CREDIT							
	COMBAT OPERATIONS/SUPPORT							
4700	COMBAT COMMUNICATIONS	213,237		213,237		213,237		213,237
4750	ELECTRONIC WARFARE	8,625		8,625		8,625		8,625
4800	SPACE SYSTEMS AND SURVEILLANCE	116,807		116,807		116,807		116,807
4850	WARFARE TACTICS	134,275		134,275		134,275		134,275
4900	OPERATIONAL METEOROLOGY AND OCEANOGRAPHY	168,699		168,699		168,699		168,699
4950	COMBAT SUPPORT FORCES	280,874		280,874		280,874		280,874
5000	EQUIPMENT MAINTENANCE	168,179		168,179		168,179		168,179
5050	DEPOT OPERATIONS SUPPORT	1,262		1,262		1,262		1,262
5100	BASE SUPPORT	461,296		461,296		461,296		461,296
5150	REPROGRAMMINGS/FUEL CREDIT							
	WEAPONS SUPPORT							
5200	CRUISE MISSILE	130,964		130,964		130,964		130,964
5250	FLEET BALLISTIC MISSILE	780,849		780,849		780,849		780,849
5300	IN-SERVICE WEAPONS SYSTEMS SUPPORT	30,546		30,546		30,546		30,546
5350	WEAPONS MAINTENANCE	475,942		475,942		475,942		475,942
5400	BASE SUPPORT	92,322		92,322		92,322		92,322
5410	UNDISTRIBUTED							

TITLE III — OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
5450	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	14,749,244	85,000	14,834,244	65,000	14,814,244	0	14,749,244
	BUDGET ACTIVITY 2: MOBILIZATION							
	READY RESERVE AND PREPOSITIONING FORCES							
5600	SHIP PREPOSITIONING AND SURGE	455,123		455,123		455,123		455,123
	ACTIVATIONS/INACTIVATIONS							
5700	AIRCRAFT ACTIVATIONS/INACTIVATIONS	12,921		12,921		12,921		12,921
5750	SHIP ACTIVATIONS/INACTIVATIONS	811,129		811,129		811,129		811,129
	MOBILIZATION PREPAREDNESS							
5850	FLEET HOSPITAL PROGRAM	16,473		16,473		16,473		16,473
5900	INDUSTRIAL READINESS	58,785		58,785		58,785		58,785
5950	COAST GUARD SUPPORT	18,308		18,308		18,308		18,308
	TOTAL, BUDGET ACTIVITY 2:	1,372,739	0	1,372,739	0	1,372,739	0	1,372,739
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
	ACCESSION TRAINING							
6150	OFFICER ACQUISITION	58,637		58,637		58,637		58,637
6200	RECRUIT TRAINING	4,436		4,436		4,436		4,436
6250	RESERVE OFFICERS TRAINING CORPS (ROTC)	51,323		51,323		51,323		51,323
6300	BASE SUPPORT	129,170		129,170		129,170		129,170
	BASIC SKILLS AND ADVANCED TRAINING							
6400	SPECIALIZED SKILL TRAINING	216,554		221,554		216,554		216,554
	FRIENDLY FIRE/SAFETY TRAINING		5,000				5,000	5,000
6450	FLIGHT TRAINING	325,683		325,683		325,683		325,683
6500	PROFESSIONAL DEVELOPMENT EDUCATION	54,442		54,442		54,442		54,442
6550	TRAINING SUPPORT	137,174		137,174		137,174		137,174
6600	BASE SUPPORT	454,375		454,375		454,375		454,375
6650	REPROGRAMMINGS/FUEL CREDIT							
	RECRUITING, AND OTHER TRAINING AND EDUCATION							
6700	RECRUITING AND ADVERTISING	89,849	25,700	115,549	31,000	120,849	31,000	120,849
6750	OFF-DUTY AND VOLUNTARY EDUCATION	61,798		61,798		61,798		61,798
6800	CIVILIAN EDUCATION AND TRAINING	24,362		24,362		24,362		24,362
6850	JUNIOR ROTC	21,171		21,171		21,171		21,171
6900	BASE SUPPORT	1,496		1,496		1,496		1,496
	TOTAL, BUDGET ACTIVITY 3:	1,630,470	30,700	1,661,170	31,000	1,661,470	36,000	1,666,470

UMI 1994 AG 12-1-18 PT 16 VOL 140

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SERVICEWIDE SUPPORT							
7100	ADMINISTRATION	382,299		382,299		382,299		382,299
7150	EXTERNAL RELATIONS	18,241		18,241		18,241		18,241
7200	CIVILIAN MANPOWER AND PERSON MANAGEMENT	55,571		55,571		55,571		55,571
7250	MILITARY MANPOWER AND PERSON MANAGEMENT	143,406		143,406		143,406		143,406
7300	OTHER PERSONNEL SUPPORT	386,950		446,950		386,950		386,950
	DEPOT CONVERSION		60,000					
7350	SERVICEWIDE COMMUNICATIONS	216,189		216,189		216,189		216,189
7400	BASE SUPPORT	291,873		291,873		291,873		291,873
7450	REPROGRAMMINGS/FUEL CREDIT							
	LOGISTICS OPERATIONS AND TECHNICAL SUPPORT							
7500	SERVICEWIDE TRANSPORTATION	142,315		142,315		142,315	(5,300)	137,015
7550	PLANNING, ENGINEERING AND DESIGN	243,258		243,258		243,258		243,258
7600	ACQUISITION AND PROGRAM MANAGEMENT	393,047		393,047		393,047		393,047
7650	AIR SYSTEMS SUPPORT	375,095		375,095		375,095		375,095
7700	HULL, MECHANICAL AND ELECTRICAL SUPPORT	54,079		54,079		54,079		54,079
7750	COMBAT/WEAPONS SYSTEMS	37,879		37,879		37,879		37,879
7800	SPACE AND ELECTRONIC WARFARE SYSTEMS	73,660		73,660		73,660		73,660
7850	BASE SUPPORT	131,959		131,959		131,959		131,959
	MWR/STARS & STRIPES		(3,000)	(3,000)			(3,000)	(3,000)
7900	REPROGRAMMINGS/FUEL CREDIT							
	SECURITY PROGRAMS							
7950	SECURITY PROGRAMS	508,727		496,727		503,627		508,727
	CLASSIFIED		(12,000)		(4,900)		(9,000)	(9,000)
8000	BASE SUPPORT	12,805		12,805		12,805		12,805
	SUPPORT OF OTHER NATIONS							
8100	INTERNATIONAL HEADQUARTERS AND AGENCIES	7,433		7,433		7,433		7,433
	TOTAL, BUDGET ACTIVITY 4:	3,474,786	45,000	3,519,786	(4,900)	3,469,886	(17,300)	3,457,486
	UNDISTRIBUTED							
	CONTRACTING & CONSULTING SERVICES		(84,000)	(84,000)			(42,000)	(42,000)
	CIVILIAN PERSONNEL UNDERSTRENGTH		(125,000)	(125,000)				
	MILITARY TO CIVILIAN CONVERSION		55,000	55,000				
	INFORMATION TECHNOLOGY		(138,743)	(138,743)			(30,000)	(30,000)
	DBOF ADJUSTMENT							
	CAPITAL ACCOUNTS		(190,000)	(190,000)			(40,000)	(40,000)
	PRIOR YEAR LOSSES		(690,000)	(690,000)				
	UNOBLIGATED BALANCES		(80,000)	(80,000)			(55,000)	(55,000)
	ENVIRONMENTAL COMPLIANCE		(25,000)	(25,000)				

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	ARMS CONTROL COMPLIANCE COSTS				(3,000)		(3,000)	(3,000)
	REAL PROPERTY MAINTENANCE				50,000	50,000	25,000	25,000
	FEDERAL WORKFORCE RESTRUCT. ACT				11,800	11,800	11,800	11,800
	GSA FEES	(669)		(669)		(669)		(669)
	FOREIGN NATIONALS		(10,000)				(10,000)	(10,000)
	BASE OPERATIONS, OVERSEAS TRANSFERS		10,000				10,000	10,000
	STOCKPILE TRANSFER						(50,000)	(50,000)
	TRAVEL						(6,600)	(6,600)
	TOTAL, O&M, NAVY	21,226,570	(1,117,043)	20,109,527	149,900	21,376,470	(171,100)	21,055,470

UMI 1994 AG 12-18 PT 16 VOL 140

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, MARINE CORPS							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	EXPEDITIONARY FORCES							
8750	OPERATIONAL FORCES	296,897		296,897	62,000	358,897	50,000	346,897
8800	FIELD LOGISTICS	153,233		153,233		153,233		153,233
8850	DEPOT MAINTENANCE	114,749	50,000	164,749	55,000	169,749	50,000	164,749
8900	BASE SUPPORT	700,146		700,146		700,146		700,146
8950	REPROGRAMMINGS/FUEL CREDIT							
	USMC PREPOSITIONING							
9000	MARITIME PREPOSITIONING	70,866		70,866		70,866		70,866
9050	NORWAY PREPOSITIONING	7,868		7,868		7,868		7,868
9100	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	1,343,759	50,000	1,393,759	117,000	1,460,759	100,000	1,443,759
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
	ACCESSION TRAINING							
9250	RECRUIT TRAINING	6,265		6,265		6,265		6,265
9300	OFFICER ACQUISITION	258		258		258		258
9350	BASE SUPPORT	55,466		55,466		55,466		55,466
9400	REPROGRAMMINGS/FUEL CREDIT							
	BASIC SKILLS AND ADVANCED TRAINING							
9450	SPECIALIZED SKILLS TRAINING	19,486		43,486		19,486		19,486
	SKILL PROGRESSION TRAINING		19,000				12,000	12,000
	FRIENDLY FIRE/SAFETY TRAINING		5,000				5,000	5,000
9500	FLIGHT TRAINING	151		151		151		151
9550	PROFESSIONAL DEVELOPMENT EDUCATION	7,654		7,654		7,654		7,654
9600	TRAINING SUPPORT	53,022		53,022		53,022		53,022
9650	BASE SUPPORT	56,647		56,647		56,647		56,647
9700	REPROGRAMMINGS/FUEL CREDIT							
	RECRUITING AND OTHER TRAINING EDUCATION							
9750	RECRUITING AND ADVERTISING	54,608	4,100	58,708	6,600	61,208	6,600	61,208
9800	OFF-DUTY AND VOLUNTARY EDUCATION	11,080		11,080		11,080		11,080
9850	JUNIOR ROTC	7,491		7,491		7,491		7,491
9900	BASE SUPPORT	9,326		9,326		9,326		9,326
10000	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 3:	281,454	28,100	309,554	6,600	288,054	23,600	305,054

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SERVICEWIDE SUPPORT							
10100	LOGISTICS SUPPORT	101,705		96,705		101,705		101,705
	INVENTORIES		(5,000)				(5,000)	(5,000)
10150	SPECIAL SUPPORT	121,415		121,415		121,415		121,415
10200	SERVICEWIDE TRANSPORTATION	35,447		35,447		35,447	(1,300)	34,147
10250	ADMINISTRATION	25,491		25,491		25,491		25,491
10300	BASE SUPPORT	9,124		14,724		9,124		9,124
	FAMILY SUPPORT PROGRAM		5,600				5,600	5,600
10350	REPROGRAMMINGS/FUEL CREDIT							
	CLASSIFIED PROGRAMS				4,700	4,700		
	TOTAL, BUDGET ACTIVITY 4:	293,182	600	293,782	4,700	297,882	(700)	292,482
	UNDISTRIBUTED							
	REAL PROPERTY MAINTENANCE				50,000	50,000	25,000	25,000
	TOTAL, O&M, MARINE CORPS	1,918,395	78,700	1,997,095	178,300	2,096,695	147,900	2,066,295

UMI 1994 AG 12-18 PT 16 VOL 140

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, AIR FORCE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS							
10850	PRIMARY COMBAT FORCES	2,697,173		2,697,173		2,697,173		2,697,173
10900	PRIMARY COMBAT WEAPONS	542,628		542,628		542,628		542,628
10950	COMBAT ENHANCEMENT FORCES	404,060		404,060		404,060		404,060
11000	AIR OPERATIONS TRAINING	567,551		717,551		567,551		567,551
	DEPOT MAINTENANCE		150,000		65,000	65,000	75,000	75,000
11050	COMBAT COMMUNICATIONS	844,372		844,372		844,372		844,372
11100	BASE SUPPORT	2,136,096		2,136,096		2,136,096		2,136,096
11110	REPROGRAMMINGS/FUEL CREDIT							
	COMBAT RELATED OPERATIONS							
11200	GLOBAL C3I AND EARLY WARNING	798,634		798,634		798,634		798,634
11250	NAVIGATION/WEATHER SUPPORT	138,501		138,501		138,501		138,501
11300	OTHER COMBAT OPS SUPPORT PROGRAMS	222,618		222,618		222,618		222,618
11350	JCS EXERCISES	29,265		29,265		29,265		29,265
11400	MANAGEMENT/OPERATIONAL HEADQUARTERS	106,417		106,417		106,417		106,417
11450	TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	180,564		180,564		180,564		180,564
	BOMBER FORCE LEVELS				18,000	18,000	36,100	36,100
	SPACE OPERATIONS							
11550	LAUNCH FACILITIES	275,346		275,346		275,346		275,346
11600	LAUNCH VEHICLES	111,203		111,203		111,203		111,203
11650	SPACE CONTROL SYSTEMS	397,026		397,026		397,026		397,026
11700	SATELLITE SYSTEMS	37,146		37,146		37,146		37,146
11750	OTHER SPACE OPERATIONS	85,740		85,740		85,740		85,740
11800	BASE SUPPORT	348,385		348,385		348,385		348,385
	TOTAL, BUDGET ACTIVITY 1:	9,922,725	150,000	10,072,725	63,000	10,005,725	111,100	10,033,825
	BUDGET ACTIVITY 2: MOBILIZATION							
	MOBILITY OPERATIONS							
12000	AIRLIFT OPERATIONS	1,182,631		1,182,631		1,182,631		1,182,631
12050	AIRLIFT OPERATIONS C3I	15,783		15,783		15,783		15,783
12100	MOBILIZATION PREPAREDNESS	175,871		175,871		175,871		175,871
12150	PAYMENTS TO TRANSPORTATION BUSINESS AREA	1,364,200		1,364,200		1,364,200		1,364,200
12200	BASE SUPPORT	569,236		569,236		569,236		569,236
	TOTAL, BUDGET ACTIVITY 2:	3,307,721	0	3,307,721	0	3,307,721	0	3,307,721

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
	ACCESSION TRAINING							
12400	OFFICER ACQUISITION	46,561		46,561		46,561		46,561
12450	RECRUIT TRAINING	4,398		4,398		4,398		4,398
12500	RESERVE OFFICER TRAINING CORPS (ROTC)	37,529		37,529		37,529		37,529
12550	BASE SUPPORT (ACADEMIES ONLY)	90,478		90,478		90,478		90,478
	BASIC SKILLS AND ADVANCED TRAINING							
12850	SPECIALIZED SKILL TRAINING	200,365		205,365		200,365		200,365
	FRIENDLY FIRE/SAFETY TRAINING		5,000				5,000	5,000
12700	FLIGHT TRAINING	333,228		333,228		333,228		333,228
12750	PROFESSIONAL DEVELOPMENT EDUCATION	80,042		80,042		80,042		80,042
12800	TRAINING SUPPORT	68,293		68,293		68,293		68,293
12850	BASE SUPPORT (OTHER TRAINING)	529,177		529,177		529,177		529,177
12860	REPROGRAMMINGS/FUEL CREDIT							
	RECRUITING, AND OTHER TRAINING AND EDUCATION							
12950	RECRUITING AND ADVERTISING	41,885	900	42,785	1,100	42,985	1,100	42,985
13000	EXAMINING	3,435		3,435		3,435		3,435
13050	OFF DUTY AND VOLUNTARY EDUCATION	78,086		78,086		78,086		78,086
13100	CIVILIAN EDUCATION AND TRAINING	77,656		77,656		77,656		77,656
13150	JUNIOR ROTC	20,908		20,908		20,908		20,908
	TOTAL, BUDGET ACTIVITY 3:	1,612,241	5,900	1,618,141	1,100	1,613,341	6,100	1,618,341
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	LOGISTICS OPERATIONS							
13350	LOGISTICS OPERATIONS	884,155		869,155		884,155		884,155
	INVENTORIES		(15,000)				(45,000)	(45,000)
13400	TECHNICAL SUPPORT ACTIVITIES	349,512		349,512		349,512		349,512
13450	SERVICEWIDE TRANSPORTATION	246,084		246,084		246,084	(6,300)	239,784
13500	BASE SUPPORT	741,932		741,932		741,932		741,932
	MWR/STARS & STRIPES		(3,000)				(3,000)	(3,000)
	SERVICEWIDE ACTIVITIES							
13600	ADMINISTRATION	112,608		112,608		112,608		112,608
13650	SERVICEWIDE COMMUNICATIONS	357,116		357,116		357,116		357,116
13700	PERSONNEL PROGRAMS	75,366		75,366		75,366		75,366
13750	RESCUE AND RECOVERY SERVICES	32,446		32,446		32,446		32,446
13800	SUBSISTENCE-IN-KIND	53,717		53,717		53,717		53,717
13850	ARMS CONTROL	32,620		32,620		32,620		32,620
13900	OTHER SERVICEWIDE ACTIVITIES	684,814		684,814		684,814		684,814
13950	OTHER PERSONNEL SUPPORT	38,160		38,160		38,160		38,160

UMI 1994 12 — 18 AG 16 PT 140 VOL

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

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14000	CIVIL AIR PATROL CORPORATION	4,481	3,800	8,281	3,800	8,281	3,800	8,281
14050	BASE SUPPORT	159,432		159,432		159,432		159,432
14060	REPROGRAMMINGS/FUEL CREDIT							
	SECURITY PROGRAMS							
14150	SECURITY PROGRAMS	454,840		441,300		454,840		454,840
	CLASSIFIED		(13,540)		(28,500)	(28,500)	9,000	9,000
	SUPPORT TO OTHER NATIONS							
14250	INTERNATIONAL SUPPORT	7,071		7,071		7,071		7,071
	TOTAL, BUDGET ACTIVITY 4:	4,234,354	(27,740)	4,209,614	(24,700)	4,209,654	(41,500)	4,192,854
	UNDISTRIBUTED							
	CIVILIAN PERSONNEL UNDERSTRENGTH		(100,000)	(100,000)	(345,700)	(345,700)	(145,700)	(145,700)
	CONTRACTOR & CONSULTING SERVICES		(39,000)	(39,000)			(19,500)	(19,500)
	MILITARY TO CIVILIAN CONVERSION		50,000	50,000				
	INFORMATION TECHNOLOGY		(138,743)	(138,743)			(30,000)	(30,000)
	DBOF ADJUSTMENT							
	CAPITAL ACCOUNTS		(75,000)	(75,000)			(40,000)	(40,000)
	PRIOR YEAR LOSSES		(84,000)	(84,000)				
	UNOBLIGATED BALANCES		(60,000)	(60,000)			(45,000)	(45,000)
	ENVIRONMENTAL COMPLIANCE		(25,000)	(25,000)				
	ARMS CONTROL COMPLIANCE COSTS				(4,000)	(4,000)	(4,000)	(4,000)
	REAL PROPERTY MAINTENANCE				40,000	40,000	20,000	20,000
	FEDERAL WORKFORCE RESTRUCT. ACT				12,700	12,700	12,700	12,700
	GSA FEES	(418)		(418)		(418)		(418)
	FOREIGN NATIONALS		(70,000)	(70,000)			(70,000)	(70,000)
	RESIDUAL VALUE		(30,000)	(30,000)			(30,000)	(30,000)
	U.S. BASE OPERATIONS, OVERSEAS TRANSFERS		100,000	100,000			100,000	100,000
	STOCKPILE TRANSFER						(50,000)	(50,000)
	TRAVEL						(13,200)	(13,200)
	TOTAL, O&M, AIR FORCE	19,076,623	(343,583)	18,733,040	(237,600)	18,839,023	(239,000)	18,837,623

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, DEFENSE-WIDE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
14850	JOINT CHIEFS OF STAFF	400,752		400,752		400,752		400,752
14900	SPECIAL OPERATIONS COMMAND	996,943		1,005,943		996,943		996,943
	SOF LEASED AIRCRAFT		9,000					
	TOTAL, BUDGET ACTIVITY 1:	1,397,695	9,000	1,406,695	0	1,397,695	0	1,397,695
	BUDGET ACTIVITY 2: MOBILIZATION							
15050	DEFENSE LOGISTICS AGENCY	67,800		67,800		67,800		67,800
15100	OFFICE OF THE SECRETARY OF DEFENSE							
15150	WASHINGTON HEADQUARTERS SERVICES	46,311		46,311		46,311		46,311
	TOTAL, BUDGET ACTIVITY 2:	114,111	0	114,111	0	114,111	0	114,111
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
15250	DEFENSE ACQUISITION UNIVERSITY	111,624		111,624		111,624		111,624
15300	DEFENSE BUSINESS MANAGEMENT UNIVERSITY	3,947		3,947		3,947		3,947
	ENVIRONMENTAL EDUCATION PROGRAMS				8,000	8,000	8,000	8,000
	TOTAL, BUDGET ACTIVITY 3:	115,571	0	115,571	8,000	123,571	8,000	123,571
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
15450	AMERICAN FORCES INFORMATION SERVICE	83,183		95,183		83,183		83,183
	STARS & STRIPES		12,000				12,000	12,000
15550	CORPORATE INFORMATION MANAGEMENT	130,318		130,318		130,318		130,318
15600	CLASSIFIED AND INTELLIGENCE	3,176,380	(76,300)	3,100,136	(132,600)	3,043,780	(47,500)	3,128,880
	TELETRAINING (TNET)		56				56	56
15620	DEFENSE CIVILIAN PERSONNEL MANAGEMENT SERVICE	36,479		36,479		36,479		36,479
15650	DEFENSE CONTRACT AUDIT AGENCY	337,910	10,000	347,910		337,910	10,000	347,910
15670	DEFENSE HEALTH PROGRAM							
15750	DEFENSE INVESTIGATIVE SERVICE	196,169		196,169		196,169		196,169
15800	DEFENSE LOGISTICS AGENCY	1,233,209		1,233,209		1,233,209		1,233,209
15850	DEFENSE LEGAL SERVICES AGENCY	7,142		7,142		7,142		7,142
15900	DEFENSE MAPPING AGENCY	698,357	(5,000)	693,357		698,357		698,357
16000	DEFENSE NUCLEAR AGENCY	88,693		88,693		88,693		88,693
16020	DEFENSE POW/MIA OFFICE	13,581		13,581		13,581		13,581
16050	FEDERAL ENERGY MANAGEMENT PROGRAM	171,223		171,223		171,223		171,223
16100	DEPARTMENT OF DEFENSE DEPENDENTS EDUCATION	1,189,102		1,189,102		1,189,102		1,189,102

UMI 1994 AG 12 – 18 PT 16 VOL 140

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
16150	DEFENSE SUPPORT ACTIVITIES	63,109		73,109		63,109		63,109
	DOCUMENT STORAGE		10,000				10,000	10,000
16200	DEFENSE TECHNOLOGY SECURITY ADMINISTRATION	10,386		10,386		10,386		10,386
16250	JOINT CHIEFS OF STAFF	105,058		155,058		105,058		105,058
	MOBILITY INFRASTRUCTURE AND ENHANCEMENT FUND		50,000				50,000	50,000
16300	OFFICE OF ECONOMIC ADJUSTMENT	39,127	15,000	64,127		39,127	15,000	54,127
16350	OFFICE OF THE SECRETARY OF DEFENSE	376,243		401,243		376,243		376,243
	LANDMINE CLEARANCE		25,000					
16370	OFFICE OF THE SECRETARY OF DEFENSE (NO-YEAR)							
16400	ON SITE INSPECTION AGENCY	99,947		99,947	(7,000)	92,947	(7,000)	92,947
16500	WASHINGTON HEADQUARTERS SERVICES	540,122		540,122		540,122		540,122
16600	REPROGRAMMINGS							
	ASSIST LOCAL EDUCATION AGENCIES				58,000	58,000	58,000	58,000
	DNA ATOMIC HOTLINE				3,000	3,000	3,000	3,000
	TROOPS TO LAW ENFORCEMENT		10,000				10,000	10,000
	BILINGUAL EDUCATION						5,000	5,000
	TOTAL, BUDGET ACTIVITY 4:	8,595,738	50,756	8,646,494	(76,600)	8,517,138	118,556	8,714,294
	UNDISTRIBUTED							
	DEFENSE COMMISSARY AGENCY		40,000	40,000				
	SYSTEM TECHNOLOGY DEMONSTRATION		3,000	3,000				
	PERSONNEL TRANSITION DEMONSTRATION		3,000	3,000				
	CIVILIAN PERSONNEL UNDERSTRENGTH		(125,000)	(125,000)	(36,700)	(36,700)	(11,400)	(11,400)
	CONTRACTORS & CONSULTANTS		(71,000)	(71,000)			(35,500)	(35,500)
	INFORMATION TECHNOLOGY		(263,743)	(263,743)			(30,000)	(30,000)
	SEPARATION INCENTIVE DEFERMENT		(50,000)	(50,000)				
	DBOF ADJUSTMENT							
	CAPITAL ACCOUNTS		(155,000)	(155,000)			(40,000)	(40,000)
	PRIOR YEAR LOSSES		(141,000)	(141,000)				
	DIGITAL IMAGING		1,000	1,000			1,000	1,000
	SUPPLEMENTAL FOOD PROGRAM		5,000	5,000				
	ENVIRONMENTAL COMPLIANCE		(25,000)	(25,000)				
	DEFENSE LANGUAGE INSTITUTE							
	TELETRAINING (TNET)		395	395			395	395
	AMERICAN NAT. RED CROSS				14,500	14,500	14,500	14,500
	FEDERAL WORKFORCE RESTRUCT. ACT				7,400	7,400	7,400	7,400
	USUHS				612	612	612	612
	NATIONAL DEFENSE STOCKPILE TRANSFER				(100,000)	(100,000)		
	COUNTERPROLIFERATION TRANSFER				(29,300)	(29,300)	(28,300)	(28,300)
	GSA FEES	(14,702)		(14,702)		(14,702)		(14,702)
	DBOF – CIVILIAN PERSONNEL UNDERSTRENGTH						(171,000)	(171,000)
	MSC RATE CHANGE						(8,900)	(8,900)
	TRAVEL						(2,200)	(2,200)
	TOTAL, O&M, DEFENSE-WIDE	10,208,413	(718,592)	9,489,821	(214,088)	9,994,325	(176,637)	10,031,576

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, ARMY RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	MISSION OPERATIONS							
16900	BASE SUPPORT	306,084		306,084		306,084		306,084
16950	DEPOT MAINTENANCE	91,026		91,026		91,026		91,026
17000	RECRUITING AND RETENTION	33,200		33,200		33,200		33,200
17050	TRAINING OPERATIONS	706,475		707,788		706,475		706,475
	PROFESSIONAL MILITARY TRAINING		1,200				1,200	1,200
	TELETRAINING (TNET)		113				113	113
	TOTAL, BUDGET ACTIVITY 1:	1,136,785	1,313	1,138,098	0	1,136,785	1,313	1,138,098
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES							
17250	INFORMATION MANAGEMENT	25,338		25,338		25,338		25,338
17300	PUBLIC AFFAIRS	416		416		416		416
17350	PERSONNEL ADMINISTRATION	58,106		58,106		58,106		58,106
17400	STAFF MANAGEMENT	33,099		33,099		33,099		33,099
	TOTAL, BUDGET ACTIVITY 4:	116,959	0	116,959	0	116,959	0	116,959
	UNDISTRIBUTED							
	GSA FEES	(35)		(35)		(35)		(35)
	CIVILIAN PERSONNEL UNDERSTRENGTH						(16,200)	(16,200)
	TOTAL, O&M, ARMY RESERVE	1,253,709	1,313	1,255,022	0	1,253,709	(14,887)	1,238,822

UMI 1994 AG 12-18 PT 16 VOL 140

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, NAVY RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	RESERVE AIR OPERATIONS							
17850	MISSION AND OTHER FLIGHT OPERATIONS	275,287		275,287		275,287		275,287
17900	FLEET AIR TRAINING	20,298		20,298		20,298		20,298
17950	INTERMEDIATE MAINTENANCE	1,681		1,681		1,681		1,681
18000	AIR OPERATION AND SAFETY SUPPORT	90,542		90,542		90,542		90,542
18050	AIRCRAFT DEPOT MAINTENANCE	521		521		521		521
18100	AIRCRAFT DEPOT OPS SUPPORT	134,281		134,281		134,281		134,281
18150	BASE SUPPORT							
18200	REPROGRAMMINGS/FUEL CREDIT							
	RESERVE SHIP OPERATIONS							
18250	MISSION AND OTHER SHIP OPERATIONS	45,948		45,948		45,948		45,948
18260	SHIP OPERATIONAL SUPPORT AND TRAINING	658		658		658		658
18300	INTERMEDIATE MAINTENANCE	18,675		18,675		18,675		18,675
18350	SHIP DEPOT MAINTENANCE	52,712		52,712		52,712		52,712
18360	SHIP DEPOT OPERATIONS SUPPORT	1,570		1,570		1,570		1,570
18400	REPROGRAMMINGS/FUEL CREDIT							
	RESERVE COMBAT OPERATIONS SUPPORT							
18450	COMBAT COMMUNICATIONS	648		648		648		648
18500	COMBAT SUPPORT FORCES	27,274		27,274		27,274		27,274
18550	BASE SUPPORT	57,836		57,836		57,836		57,836
	RESERVE WEAPONS SUPPORT							
18650	WEAPONS MAINTENANCE	10,572		10,572		10,572		10,572
	TOTAL, BUDGET ACTIVITY 1:	738,503	0	738,503	0	738,503	0	738,503
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES							
18850	ADMINISTRATION	8,014		8,014		8,014		8,014
18900	CIVILIAN MANPOWER AND PERSONNEL MANAGEMENT	2,995		2,995		2,995		2,995
18950	MILITARY MANPOWER AND PERSONNEL MANAGEMENT	30,493		30,493		30,493		30,493
19000	OTHER PERSONNEL SUPPORT	2,725		2,725		2,725		2,725
19050	SERVICEWIDE COMMUNICATIONS	18,379		18,379		18,379		18,379
19100	BASE SUPPORT	23,748		23,748		23,748		23,748
19150	COMBAT/WEAPONS SYSTEMS	2,962		2,962		2,962		2,962
	CLASSIFIED PROGRAMS				500	500		

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	TOTAL, BUDGET ACTIVITY 4:	89,316	0	89,316	0	89,816	0	89,316
	TOTAL, O&M, NAVY RESERVE	827,819	0	827,819	500	828,319	0	827,819

UMI 1994 12 — 18 AG 16 PT 140 VOL

TITLE III — OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, MARINE CORPS RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	MISSION FORCES							
19550	TRAINING	12,301		12,301		12,301		12,301
19600	MATERIAL READINESS							
19610	OPERATING FORCES	21,401		21,401		21,401		21,401
19650	BASE SUPPORT	18,275		18,275		18,275		18,275
19700	DEPOT MAINTENANCE	2,612		2,612		2,612		2,612
19750	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	54,789	0	54,789	0	54,789	0	54,789
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES							
19900	RECRUITING AND ADVERTISING	7,388		7,388		7,388		7,388
19950	SPECIAL SUPPORT	6,462		6,462		6,462		6,462
20000	SERVICEWIDE TRANSPORTATION	4,936		4,936		4,936		4,936
20050	ADMINISTRATION	5,493		5,493		5,493		5,493
20100	BASE SUPPORT	2,394		2,394		2,394		2,394
	TOTAL, BUDGET ACTIVITY 4:	26,673	0	26,673	0	26,673	0	26,673
	TOTAL, O&M, MARINE CORPS RESERVE	81,462	0	81,462	0	81,462	0	81,462

TITLE III — OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, AIR FORCE RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS							
20500	AIRCRAFT OPERATIONS	1,081,423		1,081,423		1,081,423		1,081,423
20550	MISSION SUPPORT OPERATIONS	40,666		40,666		40,666		40,666
20600	BASE SUPPORT	294,464		294,464		294,464		294,464
20650	DEPOT MAINTENANCE							
20700	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	1,416,553	0	1,416,553	0	1,416,553	0	1,416,553
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES							
20850	ADMINISTRATION	26,085		26,085		26,085		26,085
	TELETRAINING (TNET)		2,342				2,342	2,342
20900	MILITARY MANPOWER AND PERSONNEL MANAGEMENT	22,070		22,070		22,070		22,070
20950	RECRUITING AND ADVERTISING	7,644		7,644		7,644		7,644
21000	OTHER PERSONNEL SUPPORT	5,762		5,762		5,762		5,762
21050	AUDIOVISUAL	676		676		676		676
21100	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 4:	62,437	2,342	62,437	0	62,437	2,342	64,779
	UNDISTRIBUTED							
	CIVILIAN PERSONNEL UNDERSTRENGTH						(16,000)	(16,000)
	TRAVEL						(400)	(400)
	TOTAL, O&M, AIR FORCE RESERVE	1,478,990	2,342	1,481,332	0	1,478,990	(14,058)	1,464,932

UMI 1994 12-18 AG PT 16 VOL 140

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	MISSION OPERATIONS							
21450	TRAINING OPERATIONS	1,799,704		1,801,171		1,799,704		1,799,704
	TELETRAINING (TNET)		1,467				1,467	1,467
21500	RECRUITING AND RETENTION	19,316		19,316		19,316		19,316
21550	MEDICAL SUPPORT	23,070		23,070		23,070		23,070
21600	DEPOT MAINTENANCE	113,557		113,557		113,557		113,557
21650	BASE SUPPORT	298,661		298,661		298,661		298,661
21700	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	2,254,308	1,467	2,255,775	0	2,254,308	1,467	2,255,775
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES							
21850	INFORMATION MANAGEMENT	62,182		62,182		62,182		62,182
21900	PUBLIC AFFAIRS	1,717		1,717		1,717		1,717
21950	PERSONNEL ADMINISTRATION	84,197		84,197		84,197		84,197
22000	STAFF MANAGEMENT	44,744		44,744		44,744		44,744
	TOTAL, BUDGET ACTIVITY 4:	192,840	0	192,840	0	192,840	0	192,840
	UNDISTRIBUTED							
	NG PILOT MEDICAL PROGRAM				5,000	5,000	5,000	5,000
	CIVILIAN PERSONNEL UNDERSTRENGTH						(47,700)	(47,700)
	TRAVEL						(7,500)	(7,500)
	TOTAL, O&M, ARMY NATIONAL GUARD	2,447,148	1,467	2,448,615	5,000	2,452,148	(48,733)	2,398,415

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, AIR NATIONAL GUARD							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS							
22400	AIRCRAFT OPERATIONS	2,072,651		2,072,651		2,072,651		2,072,651
22450	MISSION SUPPORT OPERATIONS	352,283		352,283		352,283		352,283
22500	BASE SUPPORT	324,292		324,292		324,292		324,292
22550	DEPOT MAINTENANCE	22,781		22,781		22,781		22,781
22600	REPROGRAMMING/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	2,772,007	0	2,772,007	0	2,772,007	0	2,772,007
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SERVICEWIDE ACTIVITIES							
22750	ADMINISTRATION	3,338		3,338		3,338		3,338
22800	RECRUITING AND ADVERTISING	4,833		4,833		4,833		4,833
22850	REPROGRAMMING/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 4:	8,171	0	8,171	0	8,171	0	8,171
	UNDISTRIBUTED							
	CIVILIAN PERSONNEL UNDERSTRENGTH						(8,000)	(8,000)
	TRAVEL						(500)	(500)
	TOTAL, O&M, AIR NATIONAL GUARD	2,780,178	0	2,780,178	0	2,780,178	(8,500)	2,771,678

UMI 1994 18-12 AG PT 16 VOL 140

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OTHER O&M ACTIVITIES [$ in thousands]							
30000	Rifle Practice, Army	2,544		2,544		2,544		2,544
30050	Inspector General	128,098	20,000	148,098		140,798		140,798
	DOD IG Staffing				12,700		12,700	
	GSA Fees	(74)						
	Procurement	1,000						
30100	U.S. Court of Military Appeals	6,126		6,126		6,126		6,126
	GSA Fees	(26)						
30150	Summer Olympics		4,000	4,000	10,000	10,000	10,000	10,000
30400	Environmental Restoration	2,160,200		2,160,200		2,160,200	(150,000)	2,030,200
30450	Drug Interdiction	714,200		714,200		714,200		714,200
30500	Defense Health Program, O&M	9,922,059		9,922,059		9,854,459		9,854,459
	Civilian Personnel Understrength				(67,600)		(67,600)	
	GSA Fees	(161)						
	Procurement	308,889						
	Overseas Humenitarian, Disaster & Civic Aid	71,900	(11,900)	60,000		71,900	14,100	86,000
	Cooperative Threat Reduction	400,000		400,000		400,000		400,000
30650	Contingency for International Peacekeeping	300,000		300,000		300,000	(300,000)	0
	DOD 50th Anniversary of WWII	0	500	500				
	Special Olympics	0	2,000	2,000	3,000	3,000	3,000	3,000
	Project Peace	0	15,000	15,000			15,000	15,000

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
REVOLVING AND MANAGEMENT FUNDS [$ in thousands]							
DEFENSE BUSINESS OPERATIONS FUND	1,169,038	43,000	1,212,038	(379,600)	789,438	70,400	1,239,438
NATIONAL DEFENSE SEALIFT FUND	608,600	(608,600)	0	220,000	828,600	220,000	828,600
TOTAL	1,777,638	(565,600)	1,212,038	(159,600)	1,618,038	290,400	2,068,038

VOL
140
PT
16
AG
12
—
18
1994
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ITEMS OF SPECIAL INTEREST

Army National Guard Hawk battalions

The conferees are concerned that the Army has not budgeted sufficient resources to provide the full range of support required for Army National Guard Hawk battalions in fiscal year 1995. The conferees direct the ctive Army and the National Guard Bureau to ensure that these Hawk battalions receive the resources required to maintain their readiness at a level consistent with their mission requirement.

Industrial base for operational rations

The conferees agree to authorize $2.0 million for the defense conversion grant program in support of the operational rations industry. These funds are intended to assist manufacturers of meals ready to eat (MREs) in developing a broader commercial base to offset projected lower levels of MRE purchases by the federal government while maintaining wartime surge capacity, and not for facility relocation.

Mobility infrastructure enhancement

The conferees believe that there is considerable opportunity to improve deployment capability and enhance mobility through investment in en-route infrastructure, including runway ramp space, preservation of en-route base availability, and ammunition loading. The conferees agree to add $50.0 million in this area. This funding is authorized in the operation and maintenance, defense-wide activities account for application to high priority projects with the potential for multiple mobility improvements. The Secretary of Defense is requested to report on the expenditure of these funds to the congressional defense committees prior to their allocation and should seek the view of the Commander in Chief, U.S. Transportation Command, in determining the application of these resources. Further, funding should be made available, if necessary, from this amount to conduct a mobilization exercise to integrate mobilization into the joint commands' exercise scenarios.

Recovery of excess transient lodging service charges

The House report (H. Rept. 103-499) directed the Army to transfer $65.0 million from installation morale, welfare, and recreation funds to Army operation and maintenance accounts for the purpose of performing repair and maintenance on barracks.

The Senate report (S. Rept. 103-499) contained no similar direction.

The conferees agree that the transfer of funding is not necessary because the Department of Defense has implemented specific regulations prohibiting the use of appropriated funds provided for temporary duty or permanent change of station travel to directly or indirectly generate non-appropriated levels. These regulations were issued in response to congressional directives following a series of GAO audits in 1990 which revealed practices of over-charging and inefficient use of on-base lodging.

Additionally, the conferees direct that non-appropriated fund loans between branches of the armed services be terminated by December 31, 1994.

With regard to base closures, the conferees direct the Department of Defense to submit a report to the Committee on Armed Services of the Senate and the House of Representatives on the potential and actual amount of proceeds accruing to non-appropriated fund activities as a result of residual value negotiations in Europe not later than March 31, 1996. Further, the conferees direct the Department of Defense to develop a consistent policy for the disposition of cash and other non-appropriated fund assets as the result of base closures. This policy should be submitted to the Committees on Armed Services not later than December 31, 1994.

DOD tactical intelligence programs

The Senate bill would authorize additional funding in the defense agencies, operation and maintenance (O&M) account for the following programs:

(1) reserves augmentation—$5.0 million;

(2) joint targeting support—$7.0 million; and

(3) intelligence communications architecture project—$2.5 million.

In addition, the Senate bill would shift $1.0 million in defense agencies, O&M funding for the automated message handling system, and $2.4 million in defense agencies, O&M funding for Air Combat Command automatic data processing, from the general defense intelligence program to the tactical intelligence and related activities aggregation.

The House amendment took no similar actions.

The House recedes.

The Senate bill also recommended a reduction of $18.0 million to the requested amount for O&M for the north warning system.

The House amendment would authorize the requested amount.

The conferees agree to reduce the requested amount by $5.0 million.

Information systems security

The budget request contained $19.0 million for the Center for Information Systems Security (CISS) within the Defense Information Systems Agency (DISA). The budget request also contained $693.5 million, an 11 percent decrease from the fiscal year 1994 level, for the information systems security program (ISSP) administered by the National Security Agency.

The Senate bill would authorize the requested amounts.

The House amendment would authorize an additional $4.0 million for the ISSP to be split between the ISSP and the CISS for secure architecture planning and implementation. The additional funds would be offset by a reduction in the DOD foreign counterintelligence program, in accordance with the priorities outlined in the Joint Security Commission report.

The conferees agree to the funding recommendations in the House amendment. The Senate report (S. Rept. 103-282) raised a number of fundamental issues regarding DOD funding and management of information systems security. The conferees endorse the views and direction expressed in the Senate report and in the classified annex to the House report (H. Rept. 103-541, Part 1) on H.R. 4299, the Intelligence Authorization Act for Fiscal Year 1995.

In addition, the conferees note that the CISS at DISA, in conjunction with the National Security Agency, has developed a security architecture that would begin to address the problems identified in the Senate report. However, there is no implementation plan for funding, procuring, and fielding the required network enhancements. Developing this plan will be complicated by the fact that security improvements must be integrated with the fielding of the defense message system and the evolution of the digital switched network (DISN). The conferees direct the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C3I)) to prepare such an implementation plan and submit it to the congressional defense and intelligence committees by March 15, 1995.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Funds for depot-level maintenance and repair work (sec. 304)

The House amendment contained a provision (sec. 304) that would add $600.0 million to the requested amount for the performance of depot-level maintenance and repair work in government facilities. This provision would also limit to 40 percent the amount available for the performance of depot-level maintenance and repair work by non-federal government employees.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The conferees agree to authorize $305.0 million above the requested amount for depot-level maintenance and repair.

Support for 1996 Summer Olympics (sec. 305)

The Senate bill would authorize $10.0 million for Department of Defense support to the 1996 Summer Olympics in fiscal year 1995.

The House amendment contained a provision (sec. 305) that would authorize the Secretary of Defense to provide logistical support and personnel services in connection with the 1996 games of the XXVI Olympiad to be held in Atlanta, Georgia. The House provision would also authorize $4.0 million for Department of Defense support to the 1996 Summer Olympics in fiscal year 1995.

The Senate recedes with an amendment. The conferees agree to authorize $10.0 million for Department of Defense support to the 1996 Summer Olympics in fiscal year 1995.

Support for the 1995 Special Olympics World Games (sec. 306)

The Senate bill contained a provision (sec. 306) that would authorize the Secretary of Defense to provide logistical support and personnel services in connection with the 1995 Special Olympics World Games to be held in New Haven, Connecticut. The provision would authorize $3.0 million for DOD support for these Games in fiscal year 1995.

The House amendment contained a similar provision (sec. 307) that would authorize $2.0 million for DOD support for the 1995 Special Olympics World Games in fiscal year 1995.

The House recedes.

Subtitle B—Defense Business Operations Fund

Defense Business Operations Fund

The Senate bill and the House amendment contained a number of provisions related to the operation of the Defense Business Operations Fund (DBOF) which are described in the following sections.

The transfer of funds to and from the DBOF must be carried out in accordance with normal reprogramming procedures, unless otherwise directed by Congress. For fiscal year 1995, the reductions for civilian personnel understrength and for the DBOF capital asset subaccount that affect the DBOF cash balance have been made to the operation and maintenance accounts. These reductions should be offset by transfers from the DBOF.

The conferees are pleased that the process of advance billing for DBOF work can be eliminated in fiscal year 1995 under current plans. The conferees direct the Secretary of Defense to notify the congressional defense committees prior to reinstituting a policy of routine advance billing.

The annual DBOF budget justification material should clearly identify the surcharges added to the cost of goods and services in each of the DBOF business areas. In addition, this justification material should continue to highlight and explain the reasons for operating losses in the DBOF business areas. The DOD components managing the DBOF business areas must be held accountable for the operating results in these areas.

The conferees endorse the requirement in the Senate report (S. Rept. 103-282) for DOD to review its current policy of recovering all operating losses through the DBOF rate structure and report the results of this review to the congressional defense committees in its February 1, 1995 report on the implementation of the DBOF improvement plan.

Oversight of Defense Business Operations Fund (sec. 311)

The Senate bill contained two provisions (secs. 311 and 312) concerning the management of the Defense Business Operations Fund (DBOF). Section 311 would make permanent the authority of the Secretary of Defense to manage the working capital funds and industrial, commercial, and support activities of the Department of Defense through the DBOF. Section 312 would require the Secretary of Defense to submit to the congressional defense committees a progress report on the implementation of the DBOF improvement plan by February 1, 1995. This section would also require the Comptroller General to report to Congress on the Defense Department's implementation of the DBOF improvement plan by March 1, 1995.

The House amendment contained a provision (sec. 341) that would extend the authority to operate the DBOF and make other changes affecting the transfer, billing, use, and accumulation of funds.

The Senate recedes with an amendment that would make permanent the authority of the Secretary of Defense to operate the DBOF; authorize the purchase of goods and services from a source other than the DBOF; limit the inclusion of certain costs in DBOF charges; establish procedures for the accumulation of funds in the DBOF; require an annual report from the Secretary of Defense on the DBOF; and require a report from the Secretary of Defense and the Comptroller General on the DBOF improvement plan.

Review by Comptroller General of charges imposed by Defense Business Operations Fund (sec. 312)

The House amendment contained a provision (sec. 342) that would require the Comptroller General to review the charges for goods and services imposed by the Defense Business Operations Fund.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment that would limit the review to charges for goods and services imposed by the DBOF in fiscal year 1996.

Limitation on obligations against the capital asset fund (sec. 313)

The Senate bill contained a provision (sec. 313) that would set a cap of $1.5 billion, which is $100.0 million below the requested amount, on obligations from the capital asset subaccount of the DBOF during fiscal year 1995.

The House amendment contained no similar provision.

The House recedes with an amendment that would set a cap of $1.44 billion on obligations from the capital asset fund subaccount of the DBOF during fiscal year 1995.

Limitation on obligations against the supply management divisions (sec. 314)

The Senate bill contained a provision (sec. 314) that would prohibit the Secretary of Defense from incurring obligations against the Defense Business Operations Fund during fiscal year 1995, except for obligations for fuel, subsistence and commissary items, retail operations, repair of equipment, and the cost of operations, in excess of 65 percent of sales from the DBOF during the fiscal year; would allow the Secretary of Defense, or his designee, to waive this 65 percent limitation cap if the Secretary determines that such action is necessary to maintain the readiness and combat effectiveness of the military services; and would require the service secretaries and the Director of the Defense Logistics Agency to report to the Secretary of Defense on the effect of this limitation on their ability to maintain the readiness and combat effectiveness of the armed forces not later than 60 days after enactment of this act.

The House amendment contained no similar provision.

The House recedes.

Subtitle C—Environmental Provisions

Limitation on use of environmental restoration funds for payment of fines and penalties (sec. 321)

The Senate bill contained a provision (sec. 322) that would prohibit the use of funds appropriated to the defense environmental restoration account (DERA) to pay fines and penalties unless the activity for which the fine was assessed was funded by the DERA.

The House amendment contained no similar provision.

The House recedes with an amendment that would extend the prohibition through 1999.

Participation of Indian tribes in agreements for defense environmental restoration (sec. 322)

The Senate bill contained a provision (sec. 323) that would amend section 2701(d) of title 10, United States Code, to allow DOD to enter into environmental agreements with federally-recognized Indian tribes.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Extension of authority to issue surety bonds for certain environmental programs (sec. 323)

The Senate bill contained a provision (sec. 324) that would extend the Defense Department's authority to issue surety bonds for DOD contractors conducting environmental restoration activities from December 31, 1995 to December 31, 1999.

The House amendment contained no similar provision.

The House recedes.

Payment of certain stipulated civil penalties (sec. 324)

The Senate bill contained a provision (sec. 358) that would authorize the Secretary of Defense to pay a $500,000 fine to the hazardous substance superfund.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would clarify that the provision arises out of a violation of an agreement entered into pursuant to the Comprehensive Environmental Response Compensation and Liability Act at the West Virginia Ordnance Works.

Additional exception to prohibition on storage and disposal of nondefense toxic and hazardous materials at military installations (sec. 325)

The House amendment contained a provision (sec. 2858) that would amend section 2692(b) of title 10, United States Code, to allow the treatment and disposal of hazardous material not owned by the Department of Defense, but generated on a military installation, if the treatment and disposal of such property was based on an agreement containing mutually agreeable terms.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the agreement to provide that the generator of the hazardous material would continue to be responsible for the environmental and financial consequences of the treatment and disposal of the material.

Assistance for public participation in defense environmental restoration activities (sec. 326)

The Senate bill contained a provision (sec. 2849) that would authorize the Secretary of Defense to establish restoration advisory boards to assist DOD with environmental restoration activities at military bases and to provide funding for local community members of such boards and existing technical review committees.

The House amendment contained a similar provision (sec. 1055).

The House recedes with an amendment that would allow the Secretary of Defense to provide funding for the local community members of the boards established for installations that are listed on the National Priorities List, using the authority provided by section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). In addition, the amendment would clarify the duties and responsibilities of the boards.

The conferees note that the CERCLA is currently before both Houses of Congress for reauthorization. One of the provisions in the bills under consideration would create community working groups for facilities that are listed on the NPL. The conferees do not believe that more than one advisory board, community group (if eventually established by law), or technical review committee (if eventually established by law), or technical review committee should be at an NPL site. Therefore, the conferees believe that the boards and committees created for the Department of Defense NPL sites prior to the reauthorization of the CERCLA should be transitioned to the community working groups that the conferees anticipate will be included in the reauthorized CERCLA.

Pilot program to develop and demonstrate environmental remediation technologies (sec. 327)

The House amendment contained a provision (sec. 1153) that would authorize $4.0 million for the Secretary of Defense to enter into a cooperative agreement with an institution of higher education to facilitate the development and demonstration of new technologies for environmental restoration.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would provide $1.0 million for the project.

Environmental education and training for defense personnel (sec. 328)

The House amendment contained a provision (sec. 2852) that would direct the Secretary of Defense to establish and conduct an enviromental education and training program for members of the military services and civilian employees of the Department of Defense. The provision would also direct the Secretary to establish training centers.

The Senate bill contained no similar provision.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The Senate recedes with an amendment that would allow the Secretary to identify military facilities with existing environmental training expertise or the ability to develop such expertise. The provision would direct the Secretary to encourage the use of these facilities for training.

Study of establishment of land management and training center at Fort Riley, Kansas (sec. 329)

The Senate bill contained a provision (sec. 360) that would direct the Secretary of the Army to study the feasibility of establishing a center for Department of Defense land management activities at Fort Riley, Kansas.

The House amendment contained no similar provision.

The House recedes with an amendment that would direct the Secretary of the Army to study whether to establish a center for land management and training activities of the Department of Defense and to report on the results of the study by May 1, 1996. If the Secretary determines that establishment of such a center is feasible and advisable, the report shall identify suitable sites and activities for the center.

Subtitle D—Depot Level-Activities

Findings (sec. 331)

The House amendment contained a provision (sec. 321) that would express certain findings concerning depot-level maintenance and repair activities of the Department of Defense.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would modify the findings to emphasize the important role that depot-level activities of the Department of Defense play in meeting the readiness, mobilization, and deployment requirements of the military services.

Modification of limitation on performance of depot-level maintenance (sec. 332)

The House amendment contained a provision (sec. 322) that would revise the current percentage definition codified in section 2466 of title 10, United States Code, for depot-level maintenance and repair workloads that may be performed by non-federal government personnel to not more than 40 percent of the funds made available in a fiscal year to a military department or a defense agency for depot-level maintenance and repair. The House provision would also require that in computing the percentage of funds that are used to contract for depot-level maintenance and repair workload, DOD should include the costs of interim contractor support; contractor logistic support; maintenance and repair workload above the unit level; and the provision of materials and parts.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The conferees agree not to require the inclusion of the costs of maintenance and repair workload above the unit level and the provision of materials and parts in computing the percentage of funds that are used to contract for depot-level maintenance and repair.

Report on performance of depot-level maintenance and repair of new weapons systems (sec. 333)

The House amendment contained a provision (sec. 323) that would require that, within five years after the initial delivery of a weapon system to the Department of Defense, not less than 60 percent of the depot-level maintenance of the weapon system must be performed by employees of the Department of Defense.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to submit a report to Congress by April 1, 1995 that contains the plans of each military department to provide for the depot-level maintenance and repair of any new weapon system by depot-level activities of the Department of Defense.

Review of cost growth in contracts to perform depot-level maintenance and repair (sec. 334)

The House amendment contained a provision (sec. 324) that would require the Secretary of Defense to audit each contract entered into for the performance of depot-level maintenance and repair in order to monitor the costs incurred by the contractor.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to review a representative sample of contracts for the performance of depot-level maintenance and repair to determine the extent to which the costs incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

Authority for depot-level activities of the Department of Defense to compete for maintenance and repair workloads of other Federal agencies (sec. 335)

The House amendment contained a provision (sec. 326) that would allow the Department of Defense depot-level activities to compete for the depot-level maintenance and repair workload of other Federal agencies.

The Senate bill contained no similar provision.

The Senate recedes.

Authority of depots to provide services outside of the Department of Defense (sec. 336)

The House amendment contained a provision (sec. 327) that would authorize the secretary of a military department to lease excess depot-level facilities and equipment on a reimbursable and non-interference basis.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Reutilization initiative for depot-level activities (sec. 337)

The House amendment contained a provision (sec. 329) that would authorize a pilot program to encourage commercial firms to enter into partnerships with depot-level activities of the military departments.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the Secretary of Defense to conduct activities to encourage commercial firms to enter into partnerships with depot-level activities of the military departments.

Change of source for performance of depot-level workloads (sec. 338)

The Senate bill contained a provision (sec. 341) that would require the Secretary of Defense to ensure that any depot-level maintenance workload performed by a depot-level activity of the Department of Defense with a value of $3.0 million or greater is not changed to performance by a contractor or by another DOD depot-level maintenance activity unless the change is made using merit-based selection procedures based upon competition among all DOD depot-level maintenance activities, or competitive procedures, including competition among private and public sector entities.

The House amendment contained no similar provision.

The House recedes. The conferees agree that the merit-based selection procedures required by this section for transferring workload between DOD depots should not affect the orderly transfer of workload as a result of base closure decisions.

Sale of articles and services of industrial facilities of the armed forces to persons outside Department of Defense (sec. 339)

The Senate bill contained a provision (sec. 359) that would authorize the Secretary of Defense to designate up to three DOD industrial facilities to sell articles and services to persons outside DOD if the Secretary determines that the articles or services are not available from a commercial source in the United States.

The House amendment contained a similar provision (sec. 1057) that would authorize DOD industrial facilities to sell articles and services outside DOD without regard to the availability of the goods or services from a commercial source. The House provision would also condition the exercise of the authority granted in the provision on a certification that a cost accounting system had been developed to track the financial activities related to any commercial business undertaken by these facilities. It would also delay the effective date of the authorities granted in the provision to June 1, 1995.

The House recedes with an amendment that would authorize the Secretary of Defense to designate any DOD industrial facility to participate in this program, and would make the authority under the provision effective April 1, 1995.

The conferees note the concerns expressed in both the House and Senate reports (H. Rept. 103-499 and S. Rept. 103-282) over the Defense Department's weak financial management operations. The conferees expect the Secretary of Defense to ensure that DOD industrial facilities have the cost accounting systems needed to keep track of the costs associated with making sales of articles and services under this section, and that expenditures made and revenues generated in such sales are not intermingled with funds authorized and appropriated for the military mission of the industrial facilities.

Subtitle E—Civilian Employees

Extension of certain transition assistance authorities (sec. 341)

The Senate bill contained a provision (sec. 331) that would extend certain personnel drawdown authorities (special reduction-in-force notification rules, separation pay, and continued health benefits). This provision would extend the annual leave carry-over provisions to employees at any installation closed through the base realignment and closure process.

The House amendment contained no similar provision.

The House recedes.

Extension and expansion of authority to conduct personnel demonstration projects (sec. 342)

The Senate bill contained a provision (sec. 332) that would make permanent the authority of the Secretary of the Navy to continue the personnel demonstration project at the Naval Air Warfare Center Weapons Division, China Lake, California, and at the Naval Command, Control, and Ocean Center, San Diego, California. Additionally, this provision would authorize the Secretary of Defense, with the approval of the Office of Personnel Management, to conduct similar, though not necessarily identical, demonstration projects at other Department of Defense science and technology reinvention laboratories.

The House amendment contained no similar provision.

The House recedes with an amendment that would make technical changes and require the approval of the Office of Personnel Management for new demonstration projects.

The conferees recognize the success of the demonstration projects at the Naval Air Warfare Center Weapons Division and at the Naval Command, Control, and Ocean Center, and believe that innovative application of the lessons learned from these projects at other Department of Defense science and technology reinvention laboratories can provide the managerial flexibility in compensation, performance evaluation, and other matters necessary during the drawdown period.

The conferees recognize that no single project can fit all laboratories and encourage the Department of Defense and the Office of Personnel Management to work together in developing demonstration projects tailored to the needs of the individual laboratories.

Limitation on payment of severance pay to certain employees transferring to employment positions in nonappropriated fund instrumentalities (sec. 343)

The Senate bill contained a provision (sec. 333) that would preclude appropriated fund employees from immediately receiving severance pay upon movement to non-appropriated fund positions under the pay and benefits protections of the Portability of Benefits for Non-appropriated Fund Employees Act of 1990.

The House amendment contained no similar provision.

The House recedes.

Retirement credit for certain service in nonappropriated fund instrumentalities before January 1, 1987 (sec. 344)

The Senate bill contained a provision (sec. 334) that would require a study of portability of retirement credit for certain former nonappropriated fund employees not covered by previous portability legislation.

The House amendment contained no similar provision.

The House recedes with an amendment that would request the Defense Department to consult with the Office of Personnel Management on the study. Further, the conferees agree that the Department of Defense has not made a good faith effort to rectify an inequity largely caused by the Department's past personnel policies. The conferees look forward to working closely with the Department in the next fiscal year to resolve this complex issue.

Travel, transportation and relocation expenses of employees transferred from the Department of Defense to the Postal Service (sec. 345)

The Senate bill contained a provision (sec. 335) that would authorize the Department of Defense to pay the cost of travel, transportation, and relocation for employees scheduled for separation when the employee is selected for a position with the Postal Service.

The House amendment contained no similar provision.

The House recedes.

Foreign employees covered under the Foreign National Employees Separation Pay Account (sec. 346)

The Senate bill contained a provision (sec. 336) that would amend section 1581 of title 10, United States Code, to include foreign employees who are employed by a foreign nation for the benefit of the Department of Defense in the category of employees who would be authorized separation pay.

The House amendment contained no similar provision.

The House recedes.

Report on conversion of certain positions to performance by Department of Defense employees (sec. 347)

The House amendment contained a provision (sec. 373) that would require the Secretary of Defense to convert 10,000 military positions to federal civilian employee positions each year during fiscal years 1995, 1996, and 1997.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to (1) submit a report to the Committees on Armed Services of the Senate and House of Representatives on the Secretary's efforts to identify positions to which continued assignment of military personnel is no longer justified under current circumstances; and (2) assign DOD employees to replace military personnel in those positions.

Non-federal employment incentive pilot program (sec. 348)

The House amendment contained a provision (sec. 375) that would authorize the Secretary of Defense to establish a program to offer incentives to encourage non-federal employers to hire and retrain employees at military installations scheduled for closure or realignment.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

The House amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Uniform health benefit programs for employees of the Department of Defense assigned to nonappropriated fund instrumentalities (sec. 349)

The House amendment contained a provision (sec. 376) that would provide for a uniform health benefits program for employees of the Department of Defense assigned to a nonappropriated fund instrumentality of the Department.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle F—Department of Defense Domestic and Overseas Dependents' Schools

Reauthorization of Department of Defense domestic elementary and secondary schools for dependents (sec. 351)

The Senate bill contained a provision (sec. 346) that would authorize continued operation of Department of Defense elementary and secondary schools within the United States, including territories, commonwealths, and possessions of the United States, when local education agencies are unable to provide appropriate education programs.

The House amendment contained a similar provision (sec. 351).

The House recedes with a clarifying amendment. The conferees agree that school boards for DOD elementary and secondary schools established under this section may participate in the development and oversight of fiscal, personnel, and education policies, procedures, and programs for the schools, except that the Secretary of Defense may issue any directive that the Secretary considers necessary for the effective operation of the school or the entire school system. The conference agreement would also require the Secretary to establish a process by which school boards may appeal such directives to the Secretary.

The conferees are concerned that subsection (c) of this conference agreement be cautiously implemented within Puerto Rico. The conferees recognize that continued eligibility for dependents of federal employees from agencies other than the Department of Defense to attend the Antilles Consolidated School System is necessary for the smooth operation of federal government activities in Puerto Rico. During initial implementation, the conferees expect the Department to consider the importance of program continuity when evaluating the educational needs of the children and to reach agreements with parents on the need for continued attendance of those students already enrolled.

Report on calculation and recovery of tuition costs of certain students enrolled in schools of the defense dependents' education system (sec. 352)

The House amendment contained a provision (sec. 353) that would require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives and the Committee on Education and Labor of the House of Representatives not later than March 31, 1995 on the calculation and application of the tuition rate for schools in the defense dependents' education system.

The Senate bill contained no similar provision.

The Senate recedes.

Authority to accept gifts for Department of Defense domestic elementary and secondary schools (sec. 353)

The House amendment contained a provision (sec. 354) that would provide that the authority of the Secretary of Defense to accept gifts for the defense dependents' education system under section 2605 of title 10, United States Code, includes gifts for DOD domestic elementary and secondary schools.

The Senate bill contained no similar provision.

The Senate recedes.

Assistance to local educational agencies that benefit dependents of members of the armed forces and Department of Defense civilian employees (sec. 354)

The Senate bill contained a provision (sec. 347) that would authorize a total of $58.0 million for payments to local school districts heavily impacted by DOD dependents in accordance with the authority contained in section 386 of the National Defense Authorization Act for Fiscal Year 1993.

The House amendment contained no similar provision.

The House recedes.

The conferees remain committed to quality education programs for military dependents and strongly support impact aid payments to school districts with large military-connected student populations. The conferees believe that the Department of Education should continue to manage the impact aid program, and that it should continue to make payments using funds appropriated for that purpose.

The conferees would like to stress that the authorization funds in this provision is the result of the unique problems resulting from the turbulence of the drawdown and the realignment of military forces. The conferees

VOL 140 PT 16 AG 12 — 18 1994 UMI

expect that such payments will be authorized only as necessary during the drawdown period.

Subtitle G—Reviews, Studies and Reports

Reports on transfers of certain operation and maintenance funds (sec. 361)

The House amendment contained a provision (sec. 311) that would prohibit the Secretary of Defense from transferring any amounts in excess of $20.0 million authorized and appropriated for operation and maintenance (O&M) operating forces accounts until after the Secretary submits a notification to Congress. The provision would also require a semiannual report on transfers of funds between and within certain O&M accounts.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would establish reporting requirements for fiscal years 1995, 1996 and 1997 on transfers of funds to and from certain readiness-related activities within the O&M accounts of the military services.

Review and report on use of operation and maintenance funds by the Department of Defense (sec. 362)

The House amendment contained a provision (sec. 358) that would require the Secretary of Defense to review DOD accounts to determine the extent to which funds appropriated for operation and maintenance are used for the activity for which the funds had been appropriated.

The Senate bill contained no similar provision.

The Senate recedes.

Cost comparison studies for contracts for advisory and assistance services (sec. 363)

The Senate bill contained a provision (sec. 363) that would require that, before the Secretary of Defense enters into a contract for advisory and assistance services with a value in excess of $100,000, the Secretary shall determine whether DOD personnel can perform the services proposed to be covered by the contract. If the Secretary determines that such personnel have that capability, the Secretary shall conduct a study comparing the cost of performing the services with DOD and contractor personnel.

The House amendment contained a similar provision (sec. 372).

The House recedes.

Review by Defense Inspector General of cost growth in certain contracts (sec. 364)

The Senate bill contained a provision (sec. 362) that would require the Department of Defense Inspector General to review a representative sample of contracts for the performance of commercial activities which resulted from a cost comparison study conducted under OMB Circular A-76.

The House amendment contained a similar provision (sec. 371) that would require the DOD IG to review not less than 20 percent of such contracts each year.

The House recedes.

SUBTITLE H—OTHER MATTERS

Armed Forces Retirement Home (sec. 371)

The Senate bill contained a provision (sec. 343) that would authorize the Secretary of Defense annually to increase the monthly assessment on active duty enlisted members and warrant officers to support the Armed Forces Retirement Home by fifty cents, up to a total of not more than two dollars per month. This section would also authorize the Armed Forces Retirement Home Board to increase the fee structure for residents of the Home, and direct the Board to identify and evaluate alternatives for modernization of the facilities of the United States Soldiers' and Airmen's Home.

The House amendment contained a provision (sec. 361) that would increase the fees paid by residents of the Armed Forces Retirement Home.

The House recedes with an amendment that would authorize the Secretary of Defense to increase the monthly assessment from fifty cents to one dollar per month. The conferees urge the Secretary and the Armed Forces Retirement Home Board to consider alternative methods of meeting the financial needs of the Armed Forces Retirement Home. The conferees direct the Secretary of Defense to seek the views of the senior enlisted member of each military service prior to December 1, 1994 on the effect of any increase in the current assessment, and report these views to the congressional defense committees.

The conferees strongly endorse the need for the report to identify and evaluate all alternatives for modernization of the facilities of the United States Soldiers' and Airmen's Home.

Limitation on use of appropriated funds for operation of Armed Forces Recreation Center, Europe (sec. 372)

The House amendment contained a provision (sec. 313) that would prohibit the use of appropriated funds to operate the Armed Forces Recreation Center, Europe except for payment of utilities, emergency repairs, and second destination transportation.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would include real property maintenance in the categories for which the use of appropriated funds is permitted.

Limitation on retention of morale, welfare, and recreation funds by military installations (sec. 373)

The House amendment contained a provision (sec. 312) that would limit retention of nonappropriated fund cash balances.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make clarifying changes.

Ships' stores (sec. 374)

The Senate bill contained a provision (sec. 353) that would amend section 371 of the National Defense Authorization Act for Fiscal Year 1994 by repealing the requirement that the Secretary of the Navy convert the operation of all ships' stores to operation by the Navy Exchange Service Command.

The House amendment contained a provision (sec. 378) that would extend the deadline for conversion of ships' stores to operation by the Navy Exchange to October 1, 1995.

The Senate recedes with an amendment that would change the deadline to December 31, 1995 and require a report by the Navy Audit Agency on the costs and benefits of the transfer.

Operation of military exchange and commissary store at Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field (sec. 375)

The House amendment contained a provision (sec. 377) that would provide for the operation by the Army and Air Force Exchange Service, until December 31, 1995, of any military exchange and commissary store located at the Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field.

The Senate bill contained no similar provision.

The Senate recedes. The conferees agree that the operation of this and similar stores provides valuable quality-of-life benefits at no or minimum cost. In the future, the conferees would consider the use of appropriated funds where a compelling case can be made to keep benefits intact, although such stores may not achieve former levels of profitability. The conferees encourage the Secretary of Defense to initiate similar demonstration projects at other sites, including Fort Benjamin Harrison, Indian and Homestead Air Force Base, Florida, as these installations are closed or realigned.

Disposition of proceeds from operation of the Naval Academy laundry (sec. 376)

The Senate bill contained a provision (sec. 348) that would make technical changes to section 6971 of title 10, United States Code, relating to the disposition of proceeds from certain activities at the United States Naval Academy.

The House amendment contained no similar provision.

The House recedes.

Authority to issue military identification cards to so-called honorary retirees of the Naval and Marine Corps Reserves (sec. 377)

The House amendment contained a provision (sec. 382) that would permit the issue of identification cards to certain retirees of the Naval Reserve. Commissary and exchange privileges would not be authorized with the issue of this identification card.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make clarifying changes.

Repeal of annual limitation on expenditures for emergency and extraordinary expenses of the Department of Defense Inspector General (sec. 378)

The Senate bill contained a provision (sec. 349) that would remove the statutory ceiling on the Inspector General, Department of Defense, for emergency and extraordinary expenses authority provided in section 361 of the National Defense Authorization Act for Fiscal Year 1994.

The House amendment contained no similar provision.

The House recedes.

Transfer of certain excess Department of Defense property to educational institutions and training schools (sec. 379)

The Senate bill contained a provision (sec. 352) that would authorize DOD to donate certain industrial machinery, which is currently on loan to educational institutions and training schools, directly to those entities when the Secretary of Defense determines that such a donation contributes materially to national defense.

The House amendment contained a similar provision (sec. 386).

The House recedes with a clarifying amendment.

Operation of overseas facilities of the Department of Defense by United States firms (sec. 380)

The House amendment contained a provision (sec. 384) that would require that a contract for the operation of a DOD facility outside the United States for production or distribution of subsistence items be awarded to a U.S. firm.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would express the sense of Congress that, to the maximum extent practicable, U.S. firms be given preference for operating DOD facilities that serve U.S. servicemen and women.

Requirements for automated information systems of the Department of Defense (sec. 381)

The House amendment contained a provision (sec. 370) that would limit the amount available to the Department of Defense for the new development and modernization of automated data processing programs in fiscal year 1995, and restrict new development and modernization until several determinations are made.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to determine that modernization projects for automated information systems costing more than $50.0 million have met certain criteria. This amendment would also require the Secretary of Defense to (1) develop guidance for the use of automated information systems by the Department of Defense; (2) establish performance measures and management controls for the supervision and management of the development and modernization of such systems; and (3) submit a report to the congressional defense committees on the establishment and implementation of these performance measures and management controls in each of the next three years.

The report required by this amendment should display the total funds provided for the defense information technology program (as identified in the information technology exhibits (43 series)), including funds in the Defense Business Operations Fund, and explain how these funds affect functional mission outcomes. The report shall include information by functional area on the (1) selection and conversion of migration systems for automated information management systems; (2) systems that will be migrated or eliminated; (3) total cost of migration, including conversion and interface costs; (4) number and cost of corporate data elements that have been standardized and implemented; and (5) improvements that have been made to the defense information infrastructure, including the savings that have been achieved by such improvements.

Program to commemorate World War II (sec. 382)

The Senate bill contained a provision (sec. 350) that would extend the authorization through fiscal year 1996 for the Secretary of Defense to conduct a program to commemorate the 50th anniversary of World War II.

The House amendment contained a provision (sec. 379) that would also extend this authorization through fiscal year 1996. In addition, the House provision would authorize the Secretary of Defense to reimburse expenses incurred by a person to provide for the participation of the S.S. Jeremiah O'Brien in programs and activities to commemorate the 50th anniversary of World War II.

The Senate recedes with an amendment that would require a report not later than March 31, 1995 by the Executive Director of the 50th Anniversary of World War II Commemoration Committee to the Secretary of Defense on the reimbursement of persons or groups for expenses incurred in providing voluntary support for activities and programs conducted under the World War II commemoration program. The report shall include the recommendations of the Commemoration Committee on whether such reimbursements are appropriate.

Assistance to Red Cross for emergency communications services for members of the Armed Forces and their families (sec. 383)

The Senate bill contained a provision (sec. 355) that would authorize the Secretary of Defense to reimburse, over a three-year period from the funds authorized for Defense-wide Activities, the American Red Cross for emergency communication services provided to servicemembers and their families.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives each year for the next three years on the need to support the Red Cross emergency communications services provided to servicemembers and their families. This report should include an assessment of the progress made by the Red Cross in developing alternative sources of funding and any recommendations the Secretary deems appropriate.

The conferees believe that the emergency communications services provided to the Department of Defense by the American Red Cross are very important to military readiness and to the welfare of military men and women and their families. The conferees believe it is appropriate for the Department to assist the Red Cross during a limited period of time with funding for this service while the Red Cross develops alternative means of financing these services. This assistance should not exceed $14.5 million per year for a period not to exceed three years. If, at the end of the three-year period, or during the three-year period, the Secretary of Defense determines that the Red Cross cannot provide emergency communication services to the military without funding from the Department of Defense, the Department of Defense should be prepared to implement other means of providing those services.

Clarification of authority to provide medical transportation under National Guard pilot program (sec. 384)

The Senate bill contained a provision (sec. 344) that would clarify that the authority contained in section 376 of the National Defense Authorization Act for Fiscal Year 1993 for the National Guard Bureau to carry out a pilot program to use National Guard personnel in medically underserved communities includes medical care services, dental care services, and transportation by air ambulance and other transportation for medical reasons.

The House amendment contained no similar provision.

The House recedes.

National Guard assistance for youth and charitable organizations (sec. 385)

The Senate bill contained a provision (sec. 1063) that would authorize members or units of the National Guard to provide assistance to specified organizations under certain conditions in conjunction with training. Additionally, this provision would authorize the use of equipment and facilities of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard and the Department of Defense, in carrying out these programs.

The House amendment contained a similar provision (sec. 362), but it would not authorize assistance to include security services or authorize assistance to the U.S. Olympic Committee. Additionally, the House provision did not address the use of equipment and facilities of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard and the Department of Defense.

The House recedes with an amendment that would not authorize the assistance to include security assistance.

One-year extension of certain programs (sec. 386)

The Senate bill contained a provision (sec. 351) that would extend for one year, until the end of fiscal year 1995, the authority for aviation depots and naval shipyards to engage in defense-related production and services.

The House amendment contained a provision (sec. 380) that would extend for one year the demonstration project for the use of proceeds from the sale of certain property; the authority for aviation depots and naval shipyards to engage in defense-related production and services; and the authority of base commanders over contracting for commercial activities.

The Senate recedes.

Procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland (sec. 387)

The Senate bill contained a provision (sec. 361) that would authorize $2.5 million for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

The House amendment contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

National Security Education Trust Fund obligations

The Senate bill contained a provision (sec. 304) that would authorize the obligation of funds from the National Security Education Trust Fund for fiscal year 1995.

The House amendment contained no similar provision.

The Senate recedes.

Maritime prepositioning ship enhancement

Section 2218 of title 10, United States Code, establishes and governs management and funding of the National Defense Sealift Fund. The Senate bill included a provision (sec. 356) that would amend section 2218 to add a new subsection. This new subsection would authorize the Department to purchase up to three foreign-built vessels for the Marine Corps maritime prepositioning ship (MPS) program.

The House amendment contained no similar provision.

The Senate recedes.

Roll-on/roll-off vessels for the Ready Reserve Force

The Senate bill contained a provision (sec. 357) that would permit the Secretary of Defense to transfer up to $43.0 million to the Maritime Administration for purchasing roll-on/roll-off (RO/RO) vessels for the Ready Reserve Force (RRF) of the National Defense Reserve Fleet.

The House amendment contained no similar provision.

The Senate recedes. However, the conferees agree that, should funds be appropriated exclusively for the purchase of RO/RO vessels for the RRF in fiscal year 1995, the Department of Defense may transfer these funds to the Maritime Administration for buying and converting such vessels for the RRF.

Limitation on use of specification for procurement of subsistence items

The House amendment contained a provision (sec. 314) that would prohibit the Secretary of Defense from using specifications

VOL 140 PT 16 AG 12 — 18 1994 UMI

or restrictions in the procurement of subsistence items for use at military installations and shore facilities.

The Senate bill contained no similar provision.

The House recedes.

The conferees note that the Office of the Secretary of Defense recently issued a directive to the military departments and the Defense Logistics Agency stating that, for the purchase of subsistence items for installation and shore facility use, commercial items will be requested and no military specifications or restrictive commercial item descriptions will be used.

Consideration of costs of closing Department of Defense depots in certain cost comparisons

The House amendment contained a provision (sec. 325) that would require including the cost of closing Department of Defense depots in any comparison of the cost of performing depot-level maintenance and repair work by non-federal government personnel with the cost of performing such work by employees of the Department of Defense.

The Senate bill contained no similar provision.

The House recedes.

Maintenance of sufficient depot-level facilities, activities, facilities, and employees of the Department of Defense

The House amendment contained a provision (sec. 328) that would require the Secretary of Defense to maintain sufficient depot-level activities, facilities, and employees to carry out all provisions of title III of the House amendment.

The Senate bill contained no similar provision.

The House recedes.

Survey and pilot program for the transfer of Department of Defense domestic dependent elementary and secondary schools to appropriate local educational agencies

The House bill contained a provision (sec. 352) that would require the Secretary of Defense to conduct a survey to determine the feasibility of, and actions necessary to be taken to effect, the transfer of the DOD schools to local education agencies (LEA). The provision would also require the Secretary to conduct a pilot program and transfer two schools to LEAs prior to the start of the 1995 1996 school year on terms that are agreeable to the LEA.

The Senate amendment contained no similar provision.

The House recedes.

The conferees direct the Secretary of Defense to conduct a survey of domestic elementary and secondary schools operated by the Department of Defense to collect information concerning the possibility of transferring the schools to LEAs. The Secretary shall also conduct a survey of school districts operated by local educational agencies with military-connected student populations of over 30 percent to determine the level of funding for such schools and the sources of that funding.

In conducting the survey of current Department of Defense domestic dependent schools, the Secretary shall coordinate with LEAs adjacent to the DOD-operated schools, education officials of the states in which the schools are located, and parent organizations representing parents with students enrolled in the DOD-operated schools.

The survey of each domestic school system operated by DOD shall include: (1) the opinions and attitudes of the parents of the students enrolled in the schools regarding the quality of education programs and transfer of DOD domestic dependent schools to LEAs; (2) the positions of the LEAs and appropriate education officials of the state in which the school is located regarding the responsibility of LEAs to educate military-connected students who reside on military installations, including the financial and legal basis for those positions; and (3) the positions of the LEAs and appropriate educational officials of the state in which the school is located regarding the transfer of DOD domestic dependent schools to LEAs, including requirements of the LEAs and state education authorities for financial, military construction, and other support needed to facilitate transfer of the schools to the LEAs.

In conducting the survey of school districts operated by local educational agencies with military-connected student populations of over 30 percent, the Secretary shall coordinate with the LEAs operating the school districts, education officials of the state in which the school district is located, and military parents with students enrolled in the schools.

The survey of each school district operated by local educational agencies with military-connected student populations of over 30 percent shall include: (1) the previous level of financial support of DOD and other federal agencies, and the timing of political and fiscal decisions concerning the education of military-connected students; (2) the positions of the LEAs and education officials of the state in which the school district is located regarding the responsibility of LEAs to educate military-connected students who reside on military installations, including the financial and legal basis for those positions and the officials' awareness of differences in federal contributions to dependent education between DOD domestic dependent schools and Department of Education impact aid; (3) an analysis of the funding sources of such school districts, including comparisons with other school districts within the state that do not have a large percentage of military-connected students; and (4) the opinions and attitudes of military parents with children attending such schools districts regarding the quality of education programs in the schools.

The Secretary of Defense shall report the results of the surveys to the Committees on Armed Services of the Senate and the House of Representatives by December 31, 1995.

Department of Defense food inventory program

The House amendment contained a provision (sec. 363) that would require the Secretary of Defense to provide for the expanded use throughout the United States of full-line commercial distributors to meet the food requirements of the Department of Defense not later than October 1, 1996.

The Senate bill contained no similar provision.

The House recedes. The conferees note that the Department of Defense is currently planning expanded use of distributors for peacetime troop feeding within the continental United States.

Requirement of comparative report on operation and maintenance funding

The House amendment contained a provision (sec. 369) that would require the Secretary of Defense to compare the level of funding for operation and maintenance for the next fiscal year with the level of funding for each previous fiscal year beginning with fiscal year 1975.

The Senate bill contained no similar provision.

The House recedes.

The conferees share with the Defense Science Board Task Force on Readiness the concern that the Department has not developed a better link between readiness and the resource allocation process. The conferees note that the Department now plans to develop analytical tools that tie resources to readiness. The conferees are encouraged by this commitment to understand the cost of readiness. The conferees believe it is critical during this time of increasing budget pressures that the Department understand precisely the resources necessary to achieve desired levels of readiness.

Use of service contract funds for separation incentive programs for Department of Defense employees

The House amendment contained a provision (sec. 374) that would require the Secretary of Defense during fiscal year 1995 to fund separation incentive payments for federal civilian employees from those funds authorized and appropriated for service contracts with private sector entities.

The Senate bill contained no similar provision.

The House recedes.

Modification of statute of limitations for certain claims for personal property damage or loss

The House amendment contained a provision (sec. 383) that would change the statute of limitations for a claim for personal property damage from two years to one year.

The Senate bill contained no similar provision.

The House recedes.

Priority to states for the transfer of nonlethal excess supplies of the Department of Defense

The House amendment contained a provision (sec. 387) that would require that Defense Department nonlethal excess supplies be made available to state and local governments before such supplies are made available for humanitarian relief.

The Senate bill contained no similar provision.

The House recedes.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

End strengths for active forces (sec. 401)

The Senate bill contained a provision (sec. 401) that would authorize the active duty end strengths for each of the military services at the levels contained in the budget request.

The House amendment contained a similar provision (sec. 401).

The following table summarizes the authorized active duty end strengths for fiscal year 1995:

ACTIVE FORCES END STRENGTHS FOR FISCAL YEAR 1995

	Fiscal year—		
	1994 Authorization	1995 Request	1995 Recommendation
Army:			
Total	540,000	510,000	510,000
Officer	88,855	82,300	82,300
Navy:			
Total	480,800	441,641	441,641
Officer	62,747	60,490	60,490
Marine Corps:			
Total	177,000	174,000	174,000
Officer	18,440	17,977	17,977
Air Force:			
Total	425,700	400,051	400,051
Officer	84,970	77,740	77,740
Total	1,623,500	1,525,692	1,525,592
Officer	254,739	238,507	238,507

Temporary variation of end strength limitations for Army majors and lieutenant colonels (sec. 402)

The House amendment contained a provision (sec. 502) that would amend section 523 of title 10, United States Code, to authorize a permanent revision in the strength limitations for Army commissioned officers on active duty in the grades of major and lieutenant colonel.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would provide in fiscal years 1995 and 1996 for temporary relief from the limitation on the number of officers on active duty in the grades of major and lieutenant colonel and extend the relief granted in fiscal year 1996 through fiscal year 1997.

The conferees recognize that the current grade tables may not reflect the current officer accession and retention environment. Nonetheless, the conferees remain reluctant to address permanent changes to the grade tables in a piecemeal fashion and do not understand the Defense Department's reluctance to address this matter in a comprehensive manner.

The conferees will consider permanent adjustments to the grade tables when it receives from the Department of Defense the report on officer personnel management systems required by section 502 of the National Defense Authorization Act for Fiscal Year 1993. The conferees expect this report to include recommendations regarding the grade tables in section 524 of title 10, United States Code, for members of the reserve components serving on active duty.

Extension of temporary variation of end strength limitations for Marine Corps majors and lieutenant colonels (sec. 403)

The Senate bill contained a provision (sec. 402) that would extend through fiscal year 1997, the temporary increase in the number of Marine Corps officers authorized to serve in the grades of major and lieutenant colonel that was included in the National Defense Authorization Act for Fiscal Year 1994.

The House amendment contained no similar provision.

The House recedes.

The conferees recognize that the current grade tables may not reflect the current officer accession and retention environment. Nonetheless, the conferees remain reluctant to address permanent changes to the grade tables in a piecemeal fashion and do not understand the Defense Department's reluctance to address this matter in a comprehensive manner.

The conferees will consider permanent adjustments to the grade tables when it receives from the Department of Defense the report on officer personnel management systems required by section 502 of the National Defense Authorization Act for Fiscal Year 1993.

Retention of authorized strength of general officers on active duty in the Marine Corps for fiscal years after fiscal year 1995 (sec. 404)

The Senate bill contained a provision (sec. 403) that would modify section 526(a)(4) of title 10, United States Code, to permit the Marine Corps to retain the current number of 68 general officers serving on active duty after October 1, 1995.

The House amendment contained no similar provision.

The House recedes. The conferees intend the Marine Corps to maintain at least seven general officers assigned to joint positions at all times.

Exemption from grade accountability of certain four-star general and flag officer positions (sec. 405)

The Senate bill contained a provision (sec. 404) that would exempt the combatant commanders (CINCs), the Deputy Commander in Chief of the U.S. European Command (CINCEUR), and the Commander, U.S. Forces, Korea from the ceiling for grades above major general or rear admiral for a test period of three years. The exemption in each instance would be conditioned on (1) the positions being filled by four-star officers and, in the case of the Deputy CINCEUR, on CINCEUR also serving as Supreme Allied Commander, Europe, and 2) each of the services having recommended an officer to the Secretary of Defense for consideration for the position to be exempted. This provision would also authorize the Chairman of the Joint Chiefs of Staff to recommend officers for appointment to these positions.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

The conferees note that this provision would exempt 11 four-star positions from the grade ceilings established for that grade, thereby increasing the number of three- and four-star positions that could be filled by 11 without an increase in the overall number of flag and general officers.

The conferees expressly intend that these exemptions not increase the number of four-star positions. Rather, these exemptions are to be used to fill those joint three-star positions that could not otherwise be filled after October 1, 1995, without this provision. The conferees direct the Department of Defense to use the flexibility provided by section 525(c) of title 10, United States Code, to ensure that each of the four Services can compete for these joint positions without regard to grade ceilings.

Although the CINC positions are open to nominations from each of the Services, the traditional patterns of filling these positions have not really changed. The conferees expect these traditional patterns to change as a result of the exemptions provided by this provision. The conferees hope that the Chairman of the Joint Chiefs of Staff does not have to exercise his authority to nominate officers for these positions, but the conferees expect him to do so if the services are not nominating the very best officers available for each position.

Temporary exclusion of Superintendent of Naval Academy from counting toward number of senior admirals authorized to be on active duty (sec. 406)

The Senate bill and the House amendment contained identical provisions (secs. 405 and 506, respectively) that would amend section 525 of title 10, United States Code, to provide that an officer who retired in the grade of admiral (if recalled to active duty, nominated by the President, and confirmed by the Senate for appointment to the grade of admiral while serving as the next Superintendent of the United States Naval Academy) would not count against the number of officers authorized to be on active duty in the grade of admiral (0–10) while so serving.

The contingencies and conditions in the Senate and House provisions have already been met; therefore, the conferees agree to delete them from the provision.

End strengths for Selected Reserve (sec. 411)

The Senate bill contained a provision (sec. 411) that would authorize Selected Reserve end strengths for each of the military services at the levels contained in the budget request for fiscal year 1995, except for the Naval Reserve and the Coast Guard Reserve. The Senate bill would authorize a Naval Reserve end strength of 109,000, which would exceed the level in the budget request by 8,290. The Senate bill would authorize a Coast Guard Reserve end strength of 8,000, which would exceed the level in the budget request by 1,000.

The House amendment contained a provision (sec. 411) that would authorize Selected Reserve end strengths for each of the military services at the levels contained in the budget request, except for the Coast Guard Reserve. The House amendment would authorize a Coast Guard Reserve end strength of 8,000, which would exceed the level in the budget request for 1,000.

The Senate recedes with an amendment that would authorize Selected Reserve end strengths for fiscal year 1995 as shown below:

	Fiscal year		
	1994 Authonzation	1995 request	1959 Recommendation
Army National Guard	410,000	400,000	400,000
Army Reserve	260,000	242,000	242,000
Naval Reserve	118,000	100,710	102,960
Marine Corps Reserve	42,200	42,000	42,000
Air National Guard	117,700	115,581	115,581
Air Force Reserve	81,500	78,706	78,706
Coast Guard Reserve	10,000	7,000	8,000
Totals	1,039,400	985,997	989,247

The recommended authorization for the Naval Reserve reflects the conferees' expectation of further assessment of the future roles and missions of the Naval Reserve.

The conferees believe the recommended authorization for the Coast Guard Reserve end strength would allow the Coast Guard Reserve to reduce its authorized end strength by 20 percent during fiscal year 1995 while using statutory transition provisions to minimize involuntary separations.

End strengths for reservists on active duty in support of the reserves (sec. 412)

The Senate bill contained a provision (sec. 412) that would authorize the full-time active duty end strengths for each of the reserve components contained in the budget request.

The House amendment contained a similar provision (sec. 412).

The following table summarizes the authorized full-time active duty end strengths for each of the reserve components for fiscal year 1995:

	Fiscal year—		
	1994 Authonzation	1995 Request	1995 Recommendation
Army National Guard	24,180	23,650	23,650
Army Reserve	12,542	11,940	11,940
Naval Reserve	19,718	17,510	17,510
Marine Corps Reserve	2,285	2,265	2,285
Air National Guard	9,389	9,098	9,098
Air Force Reserve	648	648	648
Totals	68,762	65,131	65,131

Delay in increase in number of active component personnel to be assigned for training compatability with Guard units (sec. 413)

The House amendment contained a provision (sec. 413) that would amend section 1132 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) by extending from the beginning of fiscal year 1995 to the beginning of fiscal year 1997 the date by which the Army is to assign 3,000 non-commissioned officers and warrant officers to the pilot program for active component support of the reserves.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The Senate bill contained no similar provision.

The Senate recedes.

Authorization of training student loads (sec. 421)

The Senate bill and the House amendment contained identical provisions (secs. 421 and 421, respectively) that would authorize the active and reserve average military training loads contained in the budget request.

The following table summarizes the authorized military training loads for fiscal year 1995.

MILITARY TRAINING STUDENT LOADS FOR FISCAL YEAR 1995

	Fiscal year—		
	1994 Authorization	1995 Request	1995 Recommendation
Army	75,220	69,420	69,420
Navy	45,269	43,064	43,064
Marine Corps	22,753	25,377	25,377
Air Force	33,439	36,840	36,840
Totals	176,681	174,701	174,701

Increase in appropriations for military personnel (sec. 431)

The Senate bill contained a provision (sec. 431) that would authorize $70,790,397,000.00 to be appropriated for military personnel in fiscal year 1995. This is an increase of $315,000,000.00 to the amount requested by the Department of Defense.

The House amendment contained a provision (sec. 431) that would limit the amount authorized to be appropriated for military personnel to $71,086,397,000, an increase of $611,000,000 above the requested amount.

The Senate recedes with an amendment that would authorize $70,938,597,000.00 to be appropriated for military personnel. This authorization would supersede the requirement to reduce the amount of funds available to the Department of Defense for permanent change of station moves.

General and flag officer requirements

The conferees note that the National Defense Authorization Act for Fiscal Year 1991 requires a significant reduction in the ceiling on the number of general and flag officers. In the statement of the managers accompanying the National Defense Authorization Act for Fiscal Year 1991 (H. Rept. 101–923), the conferees noted that the specific fiscal year 1995 ceilings are for planning purposes and urged the Secretary of Defense to review those ceilings and recommend appropriate reallocations to the Committees on Armed Services of the Senate and House of Representatives.

If relief from the general and flag officer limitations is required, the conferees encourage the Secretary of Defense, in conjunction with the Chairman of the Joint Chiefs of Staff, to forward to the Committees on Armed Services a single, comprehensive legislative proposal that addresses the Department's joint and external general and flag officer requirements, as well as the general and flag officer requirements internal to each service.

TITLE V—MILITARY PERSONNEL POLICY

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Consistency of warrant officer personnel management policies with policies applicable to other officers (sec. 501)

The Senate bill contained a provision (sec. 502) that would amend chapter 33A of title 10, United States Code, concerning the personnel management of warrant officers, to make certain sections in the chapter consistent with provisions applicable to commissioned officers other than warrant officers. The provision would also apply the sections in chapter 33A to retired warrant officers who are recalled for active duty.

The House amendment contained a similar provision (sec. 503).

The House recedes.

Authority for original regular appointments of Navy and Marine Corps limited duty officers serving in grades above pay grade 0–3 under temporary appointments (sec. 502)

The Senate bill contained a provision (sec. 506) that would amend section 5589 of title 10, United States Code, to permit original appointments as regular officers of the Navy or Marine Corps in the same grade held pursuant to a temporary appointment.

The House amendment contained a similar provision (sec. 504).

The House recedes with an amendment that would make clarifying changes.

Navy and Marine Corps limited duty officers twice having failed of selection for promotion (sec. 503)

The Senate bill contained a provision (sec. 503) that would amend section 6383 of title 10, United States Code, to establish the same right to achieve retirement eligibility for limited duty officers of the Navy and Marine Corps that now exists for officers not appointed as limited duty officers and for warrant officers.

The House amendment contained a similar provision (sec. 505).

The House recedes with an amendment that would make clarifying changes.

Selection for designated judge advocate positions (sec. 504)

The Senate bill contained a provision (sec. 507) that would require the Secretary of Defense to ensure that officers selected to serve in senior judge advocate positions are chosen by impartial boards of officers.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes and that would provide that an officer who is appointed to and retires in such a position shall be retired in the grade held while so serving.

Selected Reserve activation authority (sec. 511)

Under section 673b of title 10, United States Code, often called the Presidential call-up authority, when the President determines that it is necessary to augment the active forces for an operational mission, the President may authorize the Secretary of Defense and the Secretary of Transportation to order units of the Selected Reserve to active duty for up to 90 days. The activation authority is limited to calling up not more than 200,000 members of the Selected Reserve at any one time. The President may authorize the Secretary of Defense and the Secretary of Transportation to extend the period of activation for an additional 90 days.

The Senate bill contained a provision (sec. 512) that would allow the President to use the authority under this section for a single 180-day call-up period. The Senate provision also would require the Secretary of Defense to submit to the congressional defense committees, not later than April 1, 1995, an analysis of options for increasing the Presidential call-up authority and an assessment of the effects of these options on recruiting, retention, and employer support for the reserve components. The Senate provision would not affect other provisions of law, such as 10 U.S.C. 672 and 673, which provide broader authority to mobilize the reserves for extended periods of service during war or national emergency.

The House amendment contained a provision (sec. 511) that would increase the initial period of activation in section 673b from 90 to 180 days and would permit a follow-on period of activation for another 180 days as well. The House provision would further specify that, if the President determines that augmentation of the active forces may be necessary for an operational mission that the President authorizes to be carried out, the President may, on or after the date of that mission authorization, authorize the Secretary of Defense and the Secretary of Transportation to order units of the Selected Reserve to active duty for up to 90 days. This additional activation authority would be limited to not more than 25,000 members of the Selected Reserve for a period of 90 days.

The House recedes with an amendment that would amend section 673b of title 10, United States Code, to permit the President to authorize the Secretary of Defense and the Secretary of Transportation to order up to 200,000 members of the Selected Reserve to active duty for a single period of 270 days, without the declaration of war or national emergency required for the general or partial mobilization authorities in sections 672 and 673 of title 10, United States Code. The conference agreement would also require the Secretary of Defense to submit to the congressional defense committees, not later than April 1, 1995, an analysis of options for increasing the Presidential call-up authority and an assessment of the effects of these options on recruiting, retention, and employer support for the reserve components.

The Department of Defense requested broader authority for the President to delegate the Selected Reserve activation authority to the Secretary of Defense and the Secretary of Transportation, which was included in neither the Senate bill nor the House amendment. The conference agreement would not amend the circumstances under which the President can use the authority under section 673b of title 10, United States Code, and would not provide for any broader delegation of authority to the Secretary of Defense and the Secretary of Transportation.

The Department of Defense has indicated that the time required for the President to exercise his authority under section 673b of title 10, United States Code, will cause military planners to exclude reserve component personnel from contingency plans. The conferees reject that line of reasoning and fully expect the Department of Defense, and particularly the commanders of the combatant commands, to continue to plan for, count on, and use members of the Selected Reserve among early deploying forces. Perceived impediments to the planning for and timely use of reserve component personnel and units can and should be overcome without legislative action. In that light, the conferees expect the Department of Defense and the White House to work together to develop and implement the plans and procedures necessary under a wide range of scenarios to ensure timely access to members of the Selected Reserve under section 673b of title 10, United States Code, and other authorities.

Reserve general and flag officers on active duty (sec. 512)

The House amendment contained a provision (sec. 512) that would amend section 526 of title 10, United States Code, to require

that a least 15 reserve component general and flag officers serve on active duty. The authorizations for these reserve component officers would be within the total number of general and flag officers authorized to serve on active duty in each military service. This provision would also authorize a reserve general officer to serve as the military executive to the Reserve Forces Policy Board.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to notify the Committees on Armed Services of the Senate and House of Representatives in writing 60 days prior to taking an action that would: (1) change the grade authorized as of July 1, 1994, for a general or flag officer position in the National Guard Bureau, the office of a chief of a reserve component, or a reserve component command; (2) assign a reserve officer to a general or flag officer position in the National Guard Bureau, the office of a chief of a reserve component, or a reserve component command in a grade other than the grade authorized on July 1, 1994; or (3) assign an officer other than a general or flag officer as the military executive to the Reserve Forces Policy Board. Such a notification would include the analysis which justifies the intended action.

Review of opportunities for ordering individual reservists to active duty with their consent (sec. 513)

The Senate bill contained a provision (sec. 511) that would require the Secretary of Defense to review and report to the Committees on Armed Services of the Senate and the House of Representatives regarding the opportunities for individual members of the reserve components to be called to active duty, with their consent, to serve during peacetime in positions traditionally filled by active duty personnel in support of peacetime requirements.

The House amendment contained no similar provision.

The House recedes.

In another provision in this act, the conferees reduced the minimum required reserve service for eligibility for retired pay for nonregular serve during the force drawdown period. The conferees direct the Secretary of Defense to review the provisions of section 1331 of title 10, United States Code, as part of the review of impediments for members of the reserve components to serve on active duty. The Secretary of Defense should submit any recommended legislative changes to the Congress.

Definition of active Guard and reserve duty (sec. 514)

The House amendment contained a provision (sec. 513) that would amend section 101 of title 10, United States Code, to provide a definition for the term "active Guard and Reserve duty."

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Repeal of obsolete provisions pertaining to transfer of retired regular enlisted members to reserve components (sec. 515)

The Senate bill contained a provision (sec. 513) that would repeal obsolete provisions pertaining to the retired reserve.

The House amendment contained a similar provision (sec. 514).

The Senate recedes.

Semiannual report on separations of active Army officers (sec. 516)

The House amendment contained a provision (sec. 516) that would require the Secretary of the Army to furnish to the Chief, National Guard Bureau, on a semiannual basis, the name, home of record, and last-known mailing address of each officer who was honorably separated from the Army in the grade of major and below during the previous six-month period.

The Senate bill contained no similar provision.

The Senate recedes.

Early reserve retirement eligibility for disabled members of Selected Reserve (sec. 517)

The House amendment contained a provision (sec. 515(a)) that would authorize the service secretaries to provide for early qualification for retired pay at age 60 for certain members of the Selected Reserve who become physically unfit for continued service.

The Senate bill contained no similar provision.

The Senate recedes.

Annual payments for members retired under Guard and reserve transition initiative (sec. 518)

The Senate bill contained a provision (sec. 642) that would modify the special transition program of annual payments for reservists authorized by section 4416 of the National Defense Authorization Act for Fiscal Year 1993. The provision would revise the current program of five annual payments to authorize from one to five such payments.

The House amendment contained a similar provision (sec. 515(b)) that would amend title 10, United States Code, to modify the program of Guard and reserve transition initiatives enacted by the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484).

The House recedes with an amendment that would eliminate the requirement for the recoupment of payments once a member who has received payments under this provision begins to receive retired pay.

Educational requirements for appointment in reserve components in grades above first lieutenant or lieutenant junior grade (sec. 519)

The Senate bill contained a provision (sec. 504) that would modify section 596 of title 10, United States Code, to authorize the acceptance of college credits and degrees from nonaccredited schools for the purpose of meeting the degree requirement of section 596 if at least three accredited schools accept such credits.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify the circumstances under which this authority could be used.

Limited exception for Alaska scout officers from baccalaureate degree requirement for appointment as an officer in the National Guard above first lieutenant (sec. 520)

The Senate bill contained a provision (sec. 505) that would exempt year-round Alaska Native residents who are officers in the Alaska Army National Guard serving in Eskimo Scout units or Eskimo Scout supporting units from the requirement to obtain a baccalaureate degree in order to advance above the grade of lieutenant.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

Sense of Congress concerning the training and modernization of the reserve components (sec. 521)

The Senate bill contained a provision (sec. 514) that would express the sense of the Senate that the Department of Defense should establish a standard readiness and evaluation system and that it would provide in its annual budget submissions adequate resources to ensure that the National Guard and reserve units are trained and modernized to the standards needed for them to carry out the full range of missions required under the Bottom-Up Review.

The House amendment contained no similar provision.

The House recedes with an amendment that would express the sense of Congress that the Secretary of Defense should: 1) establish a standard readiness evaluation system for all forces within each military service and a standard readiness rating that is uniform for the military departments; 2) assess the budget submission of each military department for each year to determine (taking into consideration the advice of the Chairman of the Joint Chiefs of Staff) the extent to which National Guard and reserve units would, under that budget submission, be trained and modernized to the standards needed to carry out the full range of missions required under current Department of Defense plans; and 3) based upon this assessment each year, adjust the budget submissions of the military departments in order to meet the priorities established by the Secretary of Defense for the total force.

Prohibition of retaliatory actions against members of the armed forces making allegations of sexual harassment or unlawful discrimination (sec. 531)

The House amendment contained a provision (sec. 527) that would establish procedures for investigation, review, and corrective action in cases involving alleged reprisal against members of the armed forces making allegations of sexual harassment or unlawful discrimination.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify that the prohibition against retaliatory actions in 10 U.S.C. 1034 applies to matters involving sexual harassment and unlawful discrimination. The amendment would also revise section 1034 to make it clear that it protects communications to a Member of Congress, an Inspector General, a member of a DOD audit, inspection, investigation, or law enforcement organization, or any other person or organization designated by regulations or other established procedures to receive such communications.

Department of Defense policies and procedures on discrimination and sexual harassment (sec. 532)

The Senate bill contained a provision (sec. 1056) that would establish a procedure for review and revision of DOD policies and procedures related to unlawful discrimination and sexual harassment.

The House amendment contained no similar provision.

The House recedes with an amendment. Subsection (a) of the conference agreement would require the Department of Defense Task Force on Discrimination and Sexual Harassment to transmit its report to the Secretary of Defense not later than October 1, 1994. The Secretary of Defense would transmit a copy of the report to Congress not later than October 10, 1994.

Subsection (b) would require the Secretary of Defense to review the recommendations in the report and determine which recommendations to approve or disapprove. Not later than 45 days after receiving the report, the Secretary would be required to complete

VOL 140 PT 16 AG 12 — 18 1994 UMI

the review and transmit a report to Congress that identifies the approved and disapproved recommendations, and explains the reasons for each such approval and disapproval.

Subsection (c) would require the Secretary of Defense to develop a comprehensive DOD policy to ensure that the service secretaries prescribe regulations implementing the approved recommendations not later than March 1, 1995. The provision would require that the approved recommendations be implemented uniformly by the military departments, insofar as practicable. This provision also would require the Secretary of Defense to submit to Congress, not later than March 31, 1995, a proposal for any legislation necessary to enhance the Department's capability to address the issues of discrimination and sexual harassment.

Subsection (d) would require the Secretary of the Navy and the Secretary of the Air Force, in the development of implementing regulations, to revise their equal opportunity and complaint procedures in light of the recommendations of the Task Force and the experience of the other military services. The Air Force and Navy would be required to ensure that their equal opportunity and complaint procedure regulations would be substantially equivalent to the regulations of the Army on such matters. The conferees intend that the requirement for the Navy and Air Force procedures to be "substantially equivalent" to the Army procedures means that the Navy and Air Force regulations must be as specific as the Army regulations in addressing these issues.

The conference agreement would make it clear that the Navy and Air Force could implement regulations that go beyond the substantial equivalent of the Army's regulations. The conference agreement also would require the Army to review and revise its complaint regulations.

Subsection (e) would require the Advisory Board on the Investigative Capability of the Department of Defense to include in its report recommendations as to whether the current DOD organizational structure is adequate to oversee all investigative matters related to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim. This would include examination of the question of whether there should be a separate DOD unit to oversee matters related to allegations of discrimination, sexual harassment, or other misconduct related to the gender of the victim. The conference agreement also would require the Advisory Board to determine whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to deal with discrimination, sexual harassment, and other misconduct related to the gender of the victim.

Subsection (f) would require the Secretary of Defense to ensure that the regulations that currently govern consideration of equal opportunity matters in performance evaluations include consideration of an individual's commitment to elimination of discrimination and sexual harassment.

Annual report on personnel readiness factors by race and gender (sec. 533)

The House amendment contained a provision (sec. 528) that would require the Secretary of Defense to collect data and report annually, starting in fiscal year 1996, on specific recruiting, retention, and readiness issues related to gender and race.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify the subject of the report.

Victims' advocates programs in the Department of Defense (sec. 534)

The House amendment contained a provision (sec. 526) that would require the Secretary of Defense to establish within each of the military departments victim advocate programs for members of the armed forces and their dependents who are victims of sexual and physical abuse, unlawful discrimination, or sexual harassment.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to strengthen the Department's victim and witness assistance programs and its family advocacy program to assist members of the armed forces and their dependents who are victims of crime, intra-familial abuse, sexual harassment, and unlawful discrimination.

Transitional compensation and other benefits for dependents of members separated for dependent abuse (sec. 535)

The Senate bill contained a provision (sec. 522) that would improve the benefits and change the commencement date and duration of the program authorized in section 1058 of title 10, United States Code (as added by section 554(a)(1) of Public Law 103-160) for transitional compensation to dependents of members separated for dependent abuse.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

Study of spousal abuse involving armed forces personnel (sec. 536)

The Senate bill contained a provision (sec. 1084) that would require the Secretary of Defense to study spousal abuse by armed forces personnel.

The House amendment contained no similar provision.

The House recedes.

Extension of Warrant Officer Management Act to Coast Guard (sec. 541)

The House amendment contained a provision (sec. 523) that would amend titles 10 and 14, United States Code, to include Coast Guard warrant officers under the provisions of the Warrant Officer Management Act.

The Senate bill contained no similar provision.

The Senate recedes.

Coast Guard force reduction transition benefits (sec. 542)

The House amendment contained a provision (sec. 522) that would extend eligibility to members of the Coast Guard for the force reduction period for the personnel readjustment benefits authorized by the National Defense Authorization Acts for Fiscal Year 1991 (Public Law 101-510), Fiscal Years 1992 and 1993 (Public Law 102-190), and Fiscal Year 1993 (Public Law 102-484).

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Expand personnel adjustment, education, and training programs to include the United States Coast Guard (sec. 543)

The House amendment contained a provision (sec. 1137) that would expand certain personnel adjustment, education, and training programs to the United States Coast Guard.

The Senate bill contained no similar provision.

The Senate recedes.

Repeal of required reduction in recruiting personnel (sec. 551)

The Senate bill contained a provision (sec. 441) that would repeal section 431 of the National Defense Authorization Act for 1993 which limits the number of personnel carrying out recruiting activities after September 30, 1994.

The House amendment contained an identical provision (sec. 521).

The conference agreement includes this provision.

Authorized active duty strengths for Army enlisted members in pay grade E-8 (sec. 552)

The House amendment contained a provision (sec. 524) that would amend section 517(a) of title 10, United States Code, to provide a new authorized daily average number of enlisted members on active duty (other than for training) in the Army in pay grade E-8.

The Senate bill contained no similar provision.

The Senate recedes.

Prohibition on imposition of additional charges or fees for attendance at certain academies (sec. 553)

The House amendment contained a provision (sec. 531) that would prohibit the imposition of any charge or fee for tuition, room or board for attendance at the United States Military Academy, United States Naval Academy, United States Air Force Academy, United States Coast Guard Academy, or United States Merchant Marine Academy.

The Senate bill contained no similar provision.

The Senate recedes.

Survey on the state of race and ethnic issues in the military (sec. 554)

The House amendment contained a provision (sec. 536) that would require the Secretary of Defense to carry out a biennial survey to measure the state of racial and ethnic issues and discrimination among active duty military personnel.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would change the deadline for the first survey to May 1, 1995.

Review of certain discharges from the United States Military Academy (sec. 555)

The Senate bill contained a provision (sec. 521) that would require the Secretary of the Army to review the discharge from the United States Military Academy of James Webster Smith in 1874 and Jackson Chestnut Whittaker in 1882 to determine whether the proceedings were tainted by racial prejudice or other improper factors.

The House amendment contained a similar provision (sec. 537).

The House recedes with a clarifying amendment.

Administration of athletics programs at the service academies (sec. 556)

The Senate bill contained a provision (sec. 1090) that would establish as a civil service position the position of athletic director at the United States Military Academy, United States Naval Academy, and United States Air Force Academy. The provision would also establish nonappropriated fund accounts for the athletic programs of the academies.

The House amendment contained no similar provision.

The House recedes with an amendment that would change the effective date of this provision to January 1, 1996.

The conferees note a September 1991 report of the General Accounting Office, The Organizational Status, Financial Status, and Oversight of the Naval Academy Athletic Association. Nonetheless, the conferees direct the Secretary of the Navy to report to the

Committees on Armed Services of the Senate and House of Representatives not later than March 15, 1995 on: (1) the projected cost to the Department of the Navy of implementing the changes required by this section; (2) the time lines and milestones for implementing these changes; (3) the details on how the position of athletic director would be established, including the anticipated civil service grade or pay level and any required exemptions to statutes governing Federal civil service employees; and (4) other matters relevant to this issue.

Upon receipt of this report, the Committees on Armed Services will evaluate its information with the intent of adopting, if necessary, perfecting legislation prior to the effective date of this provision.

Reimbursement for certain losses of household effects caused by hostile action (sec. 557)

The Senate bill contained a provision (sec. 654) that would authorize the secretaries of the military departments to reimburse servicemembers for the loss of household goods sustained during a permanent change of station move when the loss is caused by hostile action incident to war or a warlike action by a military force.

The House amendment contained a similar provision (sec. 525).

The House recedes with an amendment that would make clarifying changes.

Military recruiting on campus (sec. 558)

The Senate bill contained a provision (sec. 1076) that would preclude an institution of higher education that denies or prevents recruiting on campus from receiving DOD funds.

The House amendment contained a similar provision (sec. 535), but included "any educational institution" among those to be covered by this provision.

The House recedes.

Authorization for instruction of civilian students at the foreign language center of the Defense Language Institute (sec. 559)

The House amendment contained a provision (sec. 532) that would authorize the Secretary of the Army to establish a program terminating in 1997 to allow civilians to receive instruction at the Defense Language Institute.

The Senate amendment contained no similar provision.

The Senate recedes.

Discharge of members who are permanently non-worldwide assignable (sec. 560)

The House amendment contained a provision (sec. 534) that would require that members of the armed forces who are classified as permanently non-worldwide assignable due to a medical condition be involuntarily separated from the service, either through retirement for those individuals who are retirement eligible, or through discharge for all others. This provision would also allow the service secretary concerned to waive this required separation in certain cases, including through a determination that the retention of these individuals, as a class, would not adversely affect the ability of the service to carry out its mission.

The Senate bill contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authority for officers to serve on successive promotion boards

The Senate bill contained a provision (sec. 501) that would authorize the Secretary of the military department concerned to approve officers to serve as members of successive selection boards concerned under section 628 of title 10, United States Code, for the consideration of officers of the same competitive category and grade if the second board does not consider the same officer or officers as the first board.

The House amendment contained a similar provision (sec. 501) that would authorize the Secretary of the military department concerned to approve officers to serve as members on successive selection boards convened under section 611(a) of title 10, United States Code.

The Senate and House recede.

Detail of defense personnel

The House amendment contained a provision (sec. 538) that would amend section 374 of title 10, United States Code, to authorize the Secretary of Defense to make DOD personnel currently stationed in Europe available to assist the Immigration and Naturalization Service, the United States Border Patrol, and the United States Customs Service.

The Senate bill contained no similar provision.

The House recedes.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Military pay raise for fiscal year 1995 (sec. 601)

The Senate bill contained a provision (sec. 601) that would authorize a 2.6 percent increase on January 1, 1995, in basic pay, basic allowance for quarters, and basic allowance for subsistence for military personnel.

The House amendment contained a similar provision (sec. 601), but included midshipmen and cadets.

The Senate recedes.

Cost-of-living allowance for members of the uniformed services assigned to high cost areas in the continental United States (sec. 602)

The House amendment contained a provision (sec. 602) that would establish a CONUS COLA to partially defray the added nonhousing costs incurred by servicemembers assigned to high-cost areas, effective July 1, 1995.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would substitute "spendable income" for "basic pay" in determining the amount of allowance for a member and would preclude payment of a CONUS COLA allowance until 90 days after the Secretary of Defense provides to Congress:

(1) the method(s) by which the Secretary of Defense would determine the non-housing cost indices;

(2) how the Secretary of Defense would determine the threshold;

(3) how the presence of exchange facilities, commissaries, and medical facilities will be factored into the cost indices for different locations;

(4) what non-housing-related costs would be used in developing the cost indices; and

(5) what features would be in place to avoid uncontrolled growth in the future.

The conferees are sensitive to the difficulties faced by servicemembers assigned to certain areas in which the cost of living is exceptionally high. Nonetheless, the conferees are concerned about growth in entitlements and caution the Department of Defense against allowing a CONUS COLA to expand beyond the rather narrow limits of its original purpose.

Increase in subsistence allowance payable to members of Senior Reserve Officer's Training Corps (sec. 603)

The House amendment contained a provision (sec. 603) that would amend title 37, United States Code, to increase the monthly subsistence allowance for members of the Senator Reserve Officers' Training Corps (ROTC) from the current level of $100 per month to $150 per month, effective September 1, 1995.

The Senate bill contained no similar provision.

The Senate recedes.

Entitlememt for dependents of servicemembers who die while on active duty (secs. 604 and 707)

The conferees agree to two provisions that would improve the entitlements available to survivors of servicemembers who die while on active duty. The first provision would: (1) modify section 1079(g) of title 10, United States Code, to continue the active duty dependent CHAMPUS cost-sharing and benefits package for one year for the dependents of servicemembers who die while on active duty beginning on the date of the servicemember's death, and (2) modify section 1076a of title 10, United States Code, to authorize coverage of the dependents of a servicemember who dies while on active duty by the dependents' dental program for up to one year beginning on the date of the servicemember's death. The second provision would modify sections 403(1)(1) and (2) of title 37, United States Code, to permit the dependents of servicemembers who die while on active duty to remain in government quarters or continue to receive housing allowances for 180 days beginning on the date of the servicemember's death. These provisions would be effective on October 1, 1993.

The conferees expect the Department of Defense to implement these improved entitlements quickly, especially for the dependents of those servicemembers who have died after October 1, 1993. Additionally, the conferees expect the Department of Defense to conduct a thorough outreach program to ensure that every affected dependent is apprised of these entitlements.

Extension of certain bonuses for active and reserve forces (secs. 611 and 613)

The Senate bill contained provisions (secs. 611 and 613) that would extend the authorities to pay certain bonuses for the active and reserve components.

The House amendment contained a similar provision (sec. 612 that would extend the authority for the aviator retention bonus until September 30, 1995.

The House recedes with an amendment that would extend the authority for the nuclear career annual incentive bonus until September 30, 1996.

Extension and modification of certain bonuses and special pay for nurse officer candidates, registered nurses, and nurse anesthetists (sec. 612)

The Senate bill contained a provision (sec. 612) that would extend the authority to pay (a) a nurse accession bonus, (b) incentive special pay to military-certified registered nurse anesthetists, and (c) a nurse officer candidate accession bonus. This provision would also increase annual incentive special pay for military-certified registered nurse anesthetists to a maximum of $15,000.

The House amendment contained a provision (sec. 611) that would increase the annual incentive special pay for military-certified nurse anesthetists to a maximum of $15,000.

The House recedes with an amendment that would extend these bonus authorities

VOL
140
PT
16
AG
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18
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UMI

until September 30, 1996 instead of September 30, 1996.

Responsibility for preparation of transportation mileage tables (sec. 621)

The Senate bill contained a provision (sec. 621) that would transfer responsibility for maintaining the official table of distances from the Secretary of the Army to the Secretary of Defense.

The House amendment contained no similar provision.

The House recedes.

Payment for transient housing for reserves performing certain training duty (sec. 622)

The Senate bill contained a provision (sec. 655) that would authorize the secretaries of the military departments to provide reimbursement for housing service charges for transient government housing for reservists performing annual training duty or inactive training duty.

The House amendment contained no similar provision.

The House recedes.

Change in provision of transportation incident to personal emergencies for members stationed outside the continental United States (sec. 623)

The House amendment contained a provision (sec. 621) that would amend title 37, United States Code, to allow funded travel, incident to personal emergencies for members or dependents located outside the continental United States, from their location to the nearest international airport, and from the airport back to the point of departure.

The Senate bill contained no similar provision.

The Senate recedes.

Clarification of travel and transportation allowance of family members incident to serious illness or injury of members (sec. 624)

The House bill contained a provision (sec. 622) that would amend title 37, United States Code, to clarify the travel and transportation allowances for family members of a seriously ill or injured service member.

The Senate amendment contained no similar provision.

The Senate recedes.

Family separation allowance (sec. 625)

The conference agreement includes a provision that would modify section 427 of title 37, United States Code, to provide that an individual entitled to a family separation allowance (FSA–II) while deployed who returns from that deployment, thereby terminating entitlement to FSA–II, and who is redeployed within 30 days for a period in excess of 30 days shall, for the purposes of entitlement to FSA–II, be treated as if the individual had been deployed continuously.

Elimination of disparity between effective dates for military and civilian retiree cost-of-living adjustments for fiscal year 1995 (sec. 631)

The Senate bill contained a provision (sec. 1075) that would make the 1995 cost-of-living adjustment (COLA) for military retirees effective on April 1, 1995, which is the date on which civil service retiree COLAs will be paid, rather than on October 1, 1995 as provided under current law. This provision would take effect only if an act appropriating funds for the Department of Defense for fiscal year 1995 appropriates sufficient funds to the military retirement trust fund to offset the increased outlays that will result from advancing the COLA by 6 months.

The House amendment contained an identical provision (sec. 631).

In adopting this provision, the conferees reiterate their strong support for the concept of COLA equity. The conferees do not believe military retiree COLAs should be delayed beyond the dates on which civil service retiree COLAs are paid.

The inequity in the treatment of COLAs for military and civil service retirees is a direct result of the reconciliation instructions contained in the Budget Resolution for fiscal year 1994, which had the effect of requiring substantially larger mandatory spending reductions from military retirement benefits than those required from civil service retirement benefits. In order to achieve those reductions, the Omnibus Budget Reconciliation Act of 1993 provided for different COLA delay schedules for military and civil service retirees. The conference agreement would correct that inequity only for 1995.

Under the rules of the House of Representatives and the Senate and the requirements of the Congressional Budget Act, the only choices open to the conferees were to offset the cost advancing the military retirement COLA by cutting the defense budget, or to add the cost to the deficit. Reluctantly, the conferees funded military retiree COLAs (which have not been part of the defense budget for a decade) by cutting the defense budget because the conferees did not believe that increasing the already excessive federal budget deficit was an acceptable alternative.

In order to offset the outlay impact of the COLA provision, the conferees agree to make reductions in the operation and maintenance accounts which support the day-to-day operations and readiness of U.S. military forces. These reductions could result in lower readiness for U.S. military forces at the same time that extra demands are being placed on them in contingency operations around the world.

Since a continued diversion of operation and maintenance funding into the military retirement trust fund over the next 4 years would cause unacceptable reductions in military readiness, the conferees deem it imperative that an alternative method of eliminating this COLA disparity be found for fiscal years 1996, 1997 and 1998.

Requirement for equal treatment of civilian and military retirees in the event of delays in cost-of-living adjustments (sec. 632)

The Senate bill contained a provision (sec. 636) that would ensure equal treatment of civilian and military retirees in the event of delays in cost-of-living adjustments, beginning on October 1, 1998.

The House amendment contained no similar provision.

The House recedes with an amendment that would express the sense of the Congress on this matter.

Clarification of calculation of retired pay for officers who retire in a grade lower than the grade held at retirement (sec. 633)

The Senate bill and the House amendment contained identical provisions (secs. 631 and 632, respectively) that would amend section 1401a(f) of title 10, United States Code, to preclude commissioned officers from receiving retired pay in a grade higher than the grade in which they were retired.

The conference agreement includes this provision.

Computation of retired pay to prevent pay inversions (sec. 634)

The Senate bill contained a provision (sec. 634) that would authorize the secretaries of the military departments to waive the minimum service for retirement requirement which may have existed at the time a servicemember who is affected by the "Tower Amendment" retired.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

The "Tower Amendment" was enacted to ensure that retiring servicemembers not be penalized if their retired pay would be less than if they had retired earlier (pay inversion). Since some members may not have held their retirement grade for sufficient time to qualify for retirement at the earlier date, the secretaries of the military departments were required to waive the time-in-grade requirements. This provision would permit the secretaries of the military departments to waive the time-in-grade requirements retroactively as a class action.

Crediting of reserve service of enlisted members for computation of retired pay (sec. 635)

The Senate bill contained a provision (sec. 632) that would provide equitable treatment, in comparison to officers, for enlisted members retiring after 20 or more years (or 15 or more years if during the force drawdown transition period) by authorizing credit for inactive duty performed while a member of a reserve component.

The House amendment contained a similar provision (sec. 633).

The Senate recedes with an amendment that would make clarifying changes.

Minimum required reserve service for eligibility for retired pay for nonregular service during force drawdown period (sec. 636)

The House amendment contained a provision (sec. 634) that would change the minimum required reserve service for eligibility for retired pay during the force drawdown period.

The Senate amendment contained no similar provision.

The Senate recedes.

SBP premiums for reserve component, child-only coverage (sec. 637)

The House amendment contained a provision (sec. 635) that would clarify the mechanism for payment of premiums for individuals who select a reserve component, child-only election under the Survivor Benefit Plan.

The Senate amendment contained no similar provision.

The Senate recedes.

Discontinuation of insurable interest coverage under Survivor Benefit Plan (sec. 638)

The House amendment contained a provision (sec. 636) that would allow individuals who had previously made non-former spouse insurable interest elections under the Survivor Benefit Plan to terminate participation if they so desire.

The Senate amendment contained no similar provision.

The Senate recedes.

Forfeiture of annuity or retired pay of members convicted of espionage (sec. 639)

The Senate bill contained a provision (sec. 633) that would include the offense of espionage (article 106a of the Uniform Code of Military Justice) in the list of offenses subject to the forfeiture of retired pay or any annuity under 5 U.S.C. 8312.

The House amendment contained no similar provision.

The House recedes.

Treatment of retired and retainer pay of members of cadre of Civilian Community Corps (sec. 640)

The Senate bill contained a provision (sec. 645) that would clarify the intent of Congress concerning compensation for retired military members employed by the National Civilian Community Corps.

The House amendment contained no similar provision.

The House recedes.

Eligibility of members retired under temporary special retirement authority for Servicemen's Group Life Insurance (sec. 651)

The Senate bill contained a provision (sec. 641) that would authorize Servicemen's Group Life Insurance (SGLI) for members of the retired reserve of a uniformed service who retired under the temporary special retirement authority and (1) have not received the first increment of their retired pay, or (2) have not reached age 61 and have completed at least 15 years, but less than 20 years, or service creditable towards retirement.

The House amendment contained no similar provision.

The House recedes.

Transportation of remains (sec. 652)

The House amendment contained two provisions (secs. 365 and 366) concerning the transportation of remains of deceased former members of the armed forces. Section 365 would authorize the transportation of the remains of retired members who die outside the United States on a space-available basis to a point of entry in the United States. Section 366 would authorize transportation on aeromedical evacuation aircraft, on a cost-reimbursable basis, of the remains of certain deceased veterans who die in a Department of Veterans' Affairs medical facility.

The House amendment contained no similar provision.

The House recedes.

Special supplemental food program (sec. 653)

The Senate bill contained a provision (sec. 653) that would authorize the Secretary of Defense to provide special supplemental food benefits to members of the armed forces stationed overseas, and to eligible civilians serving with, employed by, or accompanying servicemembers overseas.

The House amendment contained a similar provision (sec. 364).

The House recedes.

Study of offset of disability compensation by receipt of separation benefits and incentives (sec. 654)

The Senate bill contained a provision (sec. 656) that would require a study on the offset of veterans' disability compensation by the amount of any separation benefits or incentives received by members of the armed forces upon separation from the armed forces.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Cost of living increases in SBP contributions to be effective concurrently with payment of related retired pay cost-of-living increases

The Senate bill contained a provision (sec. 635) that would preclude annual increases in the premiums military retirees pay to participate in the Survivor Benefit Plan (SBP) before annual cost-of-living increases in retired pay are payable.

The House amendment contained no similar provision.

The Senate recedes.

Disability coverage for officer candidates granted excess leave

The Senate bill contained a provision (sec. 651) that would include certain members not entitled to basic pay (officer candidates) among those whose receive physical disability coverage.

The House amendment contained no similar provision.

The Senate recedes.

Use of exchanges and morale, welfare, and recreation facilities by members of reserve components and dependents

The Senate bill contained a provision (sec. 652) that would amend section 1065 of title 10, United States Code, to authorize retired members of the Selected Reserve to use Department of Defense exchanges and other revenue-generating morale, welfare, and recreation facilities.

The House bill contained no similar provision.

The Senate recedes.

Authority for survivors to receive payment for all leave accrued by deceased members

The House amendment contained a provision (sec. 641) that would authorize survivors of members of the uniformed services to receive a payment upon death for all leave accrued, regardless of the 60-day career limitation.

The Senate bill contained no similar provision.

The House recedes.

TITLE VII—HEALTH CARE PROVISIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Revision of the definition of dependents to include young people being adopted by members or former members (sec. 701)

The Senate bill contained a provision (sec. 701) that would authorize coverage in the military health care system for individuals placed in the home of a servicemember or former servicemember by a placement agency for the purpose of adoption. The provision would also make the new category of "dependents" eligible for CHAMPUS as well as military treatment facility care.

The House amendment contained a similar provision (sec. 701) that would further expand the definition of the term "dependent" for the purposes of health care contained in section 1072 of title 10, United States Code, to include certain minors in the legal custody of a member or a former member of the armed forces. The definition would include individuals placed in the home of a member or former member by a state-licensed placement agency for the purpose of adoption.

The House recedes.

Treatment of certain dependents as children for purposes of CHAMPUS, dependents' dental program, and continued health benefits coverage (sec. 702)

The House amendment contained a provision (sec. 702) that would make conforming amendments to title 10, United States Code, to reflect changes to the definition of "dependent" for the purpose of medical care contained elsewhere in the House amendment and in the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

The Senate bill contained no similar provision.

The Senate recedes.

Availability of dependents' dental program outside the United States (sec. 703)

The Senate bill contained a provision (sec. 702) that would direct the Secretary of Defense to use existing authority to provide basic dental benefits for dependents of members of the uniformed services permanently stationed outside the United States.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

Not later than 90 days after enactment of this act, the conferees expect the Secretary of Defense to submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive plan for the delivery of dental care to family members at overseas locations. The plan should specify by service and major installation whether direct care, enrollment in the dependent dental program, or other options will be offered.

Not later than 180 days following enactment, the conferees expect the Secretary of Defense to begin phased implementation of the plan. The conferees expect that the highest priority will be given to those areas demonstrating the greatest problems with access to primary dental care. The conferees direct the Secretary of Defense to report to the Committees on Armed Services on the status of the program by March 1, 1995; July 1, 1995; and September 30, 1995.

Authorization for medical and dental care for abused dependents of certain members (sec. 704)

The Senate bill contained a provision (sec. 703) that would authorize medical and dental care of abused dependents of members of the uniformed services who are administratively discharged from a uniformed service due to a conviction under military or civil law relating to the abuse of the dependent.

The House amendment contained a provision (sec. 703) that would expand the authorization for medical and dental care for the abuse-related injury to the abused dependents of members of the uniformed services who are administratively discharged due to a conviction under section 1076(e) of title 10, United States Code.

The Senate recedes.

Eligibility for participation in demonstration programs for sale of pharmaceuticals (sec. 706)

The Senate bill contained a provision (sec. 709) that would ensure that Medicare-eligible retirees who formerly relied upon a military treatment facility that has been closed or realigned continue to have some pharmaceutical benefit.

The House amendment contained no similar provision.

The House recedes with an amendment that would strengthen the requirement that the retiree relied upon the military treatment facility to obtain pharmaceuticals as a prerequisite for participation in this program and would permit the Secretary of Defense to achieve cost neutrality for this change to the mail-order pharmaceutical and retail pharmacy network demonstrations.

Additional health care services available through the military health care system (sec. 705)

The House bill contained a provision (sec. 704) that would amend section 1077 of title 10, United States Code, to expand covered military health care to include the provision of voice prostheses, including mechanical handheld voice prostheses.

The Senate amendment contained no similar provision.

The Senate recedes.

Coordination of benefits (sec. 711)

The Senate bill contained a provision (sec. 704) that would provide equitable reimbursement procedures for those cases in which CHAMPUS is the secondary payer to Medicare for active duty dependents and retired

VOL 140 PT 16 AG 12 — 18 1994 UMI

members and their dependents under the age of 65.

The House amendment contained no similar provision.

The House recedes. The conferees are sympathetic to the situation of these disabled individuals. However, the conferees remain concerned about the precedent of providing a more generous benefit to one subset of the beneficiary population while the majority of the population continues to receive a lesser benefit.

Authority for reimbursement of professional license fees under resource-sharing agreements (sec. 712)

The Senate bill contained a provision (sec. 705) that would authorize the Secretary of Defense to reimburse a member of the uniformed service for license fees imposed by a state government to provide health care services at a civilian health care facility.

The House amendment contained a similar provision (sec. 711) that would also enable civilian health care providers with whom the Secretary of Defense contracts for the delivery of health care to covered beneficiaries to purchase services or supplies directly from the military treatment facility.

The House recedes.

Imposition of enrollment fees for managed care plans (sec. 713)

The Senate bill contained a provision (sec. 712) that would permit the Secretary of Defense to offer Medicare-eligible beneficiaries who enroll in the health maintenance organization option offered in current managed care programs the opportunity to pay an enrollment fee similar to the enrollment fee that CHAMPUS-eligible enrollees may pay in lieu of meeting the required CHAMPUS deductible.

The Senate bill contained no similar provision.

The Senate recedes.

Strengthening managed health care authorities (sec. 714)

The House bill contained a provision (sec. 714) that would strengthen the ability of the Department of Defense to implement effective managed health care programs.

The Senate bill contained no similar provision.

The Senate recedes.

Delay in deadline for use of health maintenance organization model as option for military health care (sec. 715)

The House amendment contained a provision (sec. 715) that would extend the deadline for the Secretary of Defense to prescribe and implement a health benefit option and cost-sharing requirements modelled on health maintenance organization (HMO) plans in the private sector and other government health insurance programs.

The Senate bill contained no similar provision.

The Senate recedes.

Limitation on reduction in number of reserve component medical personnel (sec. 716)

The House amendment contained a provision (sec. 715) that would permit a reserve component to go below the floor established by section 515(a) of the National Defense Authorization Act for Fiscal Year 1993 if the Secretary of Defense certifies that the number of personnel to be reduced is excess to the current and projected needs of the military department.

The Senate bill contained no similar provision.

The Senate recedes.

Authority to conduct health care surveys of families of retired members (sec. 717)

The Senate bill contained a provision (sec. 707) that would allow the Defense Department to consider all persons receiving health care under chapter 55 of title 10, United States Code, as employees of the United States for the purpose of conducting surveys to determine the availability of health care services to such persons, their familiarity with facilities and services provided, their health, and their level of satisfaction.

The House amendment contained no similar provision.

The House recedes.

Programs related to the Gulf War Syndrome (sec. 721)

The House bill contained a provision (sec. 529) that would direct several actions to improve the medical treatment of veterans of the Persian Gulf War by the Department of Defense.

The Senate amendment contained a provision (sec. 1095) that would mandate the compatibility of the separate Persian Gulf illness registries maintained by the Department of Defense and the Department of Veterans' Affairs. This provision was nearly identical to a subsection of the House provision.

The Senate recedes with an amendment that would incorporate the Senate provision on health registries into the House provision.

The conferees agree that the Department of Defense was slow to react when initially confronted with growing evidence that some veterans of the Persian Gulf War were afflicted with symptoms which could not be diagnosed completely under existing protocols. Further, the conferees agree that the terms of this provision provide the necessary direction to the Department of Defense to continue its programs of treatment of victims of this illness. This provision would require the Secretary of Defense to begin a comprehensive outreach program to inform Persian Gulf veterans on matters related to the illness and to encourage them to register with the Department. The provision would also require the Department of Defense to presume that sick servicemembers who served in the Persian Gulf War are ill as a result of that service until it can be proven otherwise. Additionally, the provision would codify the current Department of Defense practice of not discharging sick Persian Gulf veterans until a suitable disability rating can be established. Further, it would direct the Secretary of Defense, in conjunction with the Secretary of Veterans' Affairs, to review the records of Persian Gulf veterans who have been discharged or retired by a physical evaluation board.

Cooperative Department of Defense/Department of Veterans' Affairs research (sec. 722)

The budget request contained no funds for cooperative research between the Departments of Defense and Veterans' Affairs.

The Senate bill would provide $40.0 million in PE 63738D for cooperative DOD/VA research; $20.0 million for the cost-shared DOD/VA brain and spinal cord injury program; and $20.0 million for Gulf War Syndrome research. The Senate bill also contained a provision (sec. 1093) that would require two studies of the health consequences of military service or employment in Southwest Asia during the Persian Gulf War and a provision (sec. 1094) that would award grants for research into the health consequences of the Persian Gulf War.

The House amendment would provide $30.0 million in PE 63738D for research on the use of artificial neural networks for cancer detection and treatment and for Gulf War Syndrome research.

The House recedes with an amendment.

The conferees agree to authorize $50.0 million in PE 63738D for brain and spinal cord research, in accordance with the Senate report (S. Rept. 103-282); artificial neural network research, lyme disease research, automated mammography, and diabetes research, in accordance with the House report (H. Rept. 103-499); and Gulf War Syndrome research.

The conferees view with great concern the complaints of an unexplained illness—the so-called "Gulf War Syndrome"—that have been made by a large number of veterans of the Persian Gulf War. The conferees note that in some cases these complaints extend to the families of the veterans and to some civilian employees of the U.S. government and support contractors who served in the Southwest Asia theater of operations.

The conferees note that the National Defense Authorization Act for Fiscal Year 1994 contained two provisions (secs. 270 and 271) that provided grants to support research on exposure to hazardous agents and materials and to depleted uranium by military personnel who served in the Gulf War. The conferees further note the congressional hearings on the subject of the Gulf War Syndrome and the several reviews that have been conducted in the past year within the Department of Defense, the Defense Science Board, and the Department of Veterans' Affairs into the potential causes of the medical problems which seem to be associated with service in the Gulf War. The conferees are aware of the review in April 1994 by the National Institutes of Health that considered certain medical complaints to be genuine. The conferees are aware of continuing inquiries and investigation into the basis for the complaints and consideration of a broad range of environmental, battlefield, and other conditions that may have contributed to the complaints.

The conferees strongly believe that the Departments of Defense, Veterans' Affairs, and Health and Human Services must make a concerted effort to determine the consequences to the health of members of the U.S. armed forces, government employees, supporting contractors, and their families of their service in Southwest Asia during the Persian Gulf War. The seriousness and immediate nature of the problem requires a priority, systematic, scientifically-based, and coordinated effort. The conferees believe that the effort should capitalize on work that has already been done or is in progress, but should include new activities which use the best efforts and capabilities of both government and non-government entities to assess the short-term and long-term hazards to the health of the individuals concerned. This effort must consider the broad range of potential environmental, battlefield, and other conditions incident to service in Southwest Asia during the Persian Gulf War.

The conferees direct that such an effort be conducted in accordance with a coordinated plan of research and study activities by federal and non-federal agencies, prepared by the Secretary of Defense, in coordination with the Secretaries of Veterans' Affairs and Health and Human Services, and reviewed by the National Academy of Sciences. The conferees agree that three groups of studies of the Gulf War Syndrome by non-federal entities should be among these efforts: (1) a study of the nature and scope of the syndrome; (2) a study of the health consequences of the administration of pyridostigmine bromide as a pretreatment antidote enhancer; and (3) a final group of clinical studies and other research on the causes, possible transmission, and treatment of undiagnosed illnesses of individuals who served in Southwest Asia in the military, or as DOD or contractor employees, and their spouses and children where appropriate, during the Gulf War.

The conferees note the need for independent research in certain cases to ensure that the results have the highest possible credibility. With this in mind, the conferees direct the Department of Defense to utilize non-federal research entities for the conduct of the epidemiological and pyridostigmine studies. The conferees further note that this non-federal research is in addition to any ongoing federal research or research internal to the federal government which the Secretary may direct. The conferees further direct the Secretary to ensure that the grants for this research be awarded on the basis of competition to non-federal researchers with no financial interest in the outcome of the research.

The first study or studies shall be epidemiological research of individuals who served as members of the armed forces in the Southwest Asia theater of operations during the Persian Gulf War; individuals who were civilian employees of the Department of Defense in that theater during that period; and where appropriate, individuals who were employees of contractors of the Department in that theater during that period and the spouses and children of individuals covered by the study.

The study shall be designed to assess the incidence, prevalence, and nature of the illness and symptoms, the risk factors associated with symptoms of the syndrome that were manifested within three years of deployment in the Southwest Asia theater of operations, and any other matters that the Secretary of Defense deems relevant to the health and welfare of the individuals involved. The potential risk factors assessed shall include exposure to chemical and biological agents, drugs and vaccines, endemic diseases, pesticides, toxins, and any other hazardous materials deemed appropriate. The study shall also assess the relationship between the illnesses and symptoms and stress-producing battlefield and wartime conditions.

The study shall attempt to compare:

(1) the incidence, prevalence, and nature of the illnesses and symptoms suffered by the individuals in the study prior to the commencement of the Persian Gulf War with those suffered by the individuals after the end of the war; and

(2) the incidence, prevalence, and nature of the illnesses, symptoms, and birth defects of any children conceived by such individuals before the commencement of the Persian Gulf War with those experienced after the end of the war.

After each successful applicant for the study or studies has been selected, the successful applicant or applicants shall be required to conduct a small pilot study to demonstrate the feasibility of their proposed study design and instruments.

The second group of studies shall determine the short-term and long-term health consequences of the administration of pyridostigmine bromide as an antidote enhancer for chemical nerve agent toxicity during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances that were present during the Persian Gulf War.

The first project of this second group of studies shall be a retrospective study on members of the armed forces who served in the Southwest Asia theater of operations during the Persian Gulf War and shall be designed to determine the following:

(1) the nature of the undiagnosed and chronic illnesses suffered by such members; and

(2) the extent to which the illnesses are associated with the use of pyridostigmine bromide or other medications or vaccinations, and exposure to pesticides, organophosphates, or carbamates.

The second research project shall use appropriate animal models and non-animal models, including in-vitro systems, as required, in studies designed to determine whether the use of pyridostigmine bromide in combination with exposure to pesticides or other organophos-phates, carbamates, or relevant chemicals will result in increased toxicity in animals and is likely to have a similar effect on humans.

The conferees urge the Secretary of Defense to execute this research in consultation with the Secretaries of Veterans' Affairs and Health and Human Services, the Administrator of the Environmental Protection Agency, the head of the Medical Follow-Up Agency of the Institute of Medicine, and the heads of other appropriate departments and agencies of the federal government.

The third group of studies shall include clinical studies and other research on the causes, possible transmission, and treatment of the Gulf War Syndrome. The Secretary of Defense shall award grants to appropriate non-governmental entities to determine:

(1) the nature and causes of any illnesses suffered by individuals as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War;

(2) the methods of transmission, if any, of such illnesses from such individuals to other individuals; and

(3) the appropriate treatment for such illnesses.

In carrying out this research, the entities conducting the research should consider the following:

(1) illnesses or symptoms associated with exposure to depleted uranium particles, mycotoxins, genetically-altered organisms, petrochemical toxicity, pesticide poisoning, anthrax vaccines, botulinum toxoids, and other chemical hazards and agents;

(2) endemic viral, fungal, bacterial, and rickettsial diseases (including diseases arising from biological warfare activities);

(3) illnesses or symptoms associated with ingestion of silica or sand;

(4) assessment of reproductive risks arising from the illnesses and diseases referred to in paragraphs (1) through (3);

(5) pediatric disorders;

(6) birth defects;

(7) post-traumatic stress disorder;

(8) somatoform disorders;

(9) chronic fatigue syndrome; and

(10) multiple chemical sensitivities.

In awarding grants for the conduct of all of these studies, the Secretary shall select independent peer reviewers to evaluate the proposals received from entities proposing to conduct this research. The Secretary shall ensure that the reviewers:

(1) are not employees of the federal government;

(2) have an expertise in epidemiology, toxicology, neurology, biology, biostatistics, post-traumatic stress disorder, or public health; and

(3) have no financial relationship with any company that manufactures a product that may be addressed in the study.

The Secretary of Defense shall report the results of this research to the Congress.

Chiropractic health care demonstration (sec. 731)

The Senate bill contained a provision (sec. 706) that would require the Department of Defense to conduct a chiropractic health care demonstration.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Demonstration program for admission of civilians as physician assistant students at Academy of Health Sciences, Fort Sam Houston, Texas (sec. 732)

The House amendment contained a provision (sec. 722) that would authorize a demonstration program under which the Secretary of the Army could enter into a reciprocal agreement with an accredited institution of higher education to allow a limited number of students of that institution to attend the didactic portion of the physician assistant training program conducted at the Academy of Health Sciences, Fort Sam Houston, Texas, in return for the provision of certain academic services.

The Senate bill contained no similar provision.

The Senate recedes.

Delay in closure of Army hospital at Vicenza, Italy (sec. 733)

The House bill contained a provision (sec. 721) that would preclude the Secretary of the Army from reducing the level of medical care services provided by the U.S. Army hospital in Vicenza during fiscal year 1995 and direct the Secretary of Defense to submit a report not later than March 1, 1995, addressing a number of issues related to the closure of the Army hospital at Vicenza.

The Senate contained no similar provision.

The Senate recedes.

Oral typhoid vaccine inventory of Department of Defense (sec. 734)

The House amendment contained a provision (sec. 725) that would require the Secretary of Defense to maintain an inventory of an equal number of doses of oral typhoid vaccine and parenteral injection typhoid vaccine. The Secretary of Defense would be able to waive this requirement for reasons of national security.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would permit the Secretary of Defense to waive this requirement for medical reasons.

Report on the expanded use of nonavailability of health care statements (sec. 735)

The House amendment contained a provision (sec. 723) that would direct the Secretary of Defense to report on the Department's plans to require that beneficiaries who use standard CHAMPUS and reside within the catchment area of a military treatment facility (MTF) obtain inpatient services and certain outpatient services from the MTF civilian provider network when the service is not available from the MTF.

The Senate bill contained no similar provision.

The Senate recedes.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Cost analysis of Tidewater Tricare delivery of pediatric health care to military families (sec. 736)

The Senate bill contained a provision (sec. 710) that would require the Assistant Secretary of Defense (Health Affairs) to consider certain cost experience gained from an analysis of the Tidewater Tricare demonstration in prescribing standards, limitations, and requirements relating to the cost of pediatric care under any managed care system established for the Department of Defense.

The House amendment contained no similar provision.

The House recedes with an amendment that would limit the use of data gained from the Tidewater Tricare demonstration to future health care decisions in that area.

Study and report on financial relief for certain Medicare-eligible military retirees who incur Medicare late enrollment penalties (sec. 737)

The Senate bill contained a provision (sec. 708) that would require the Secretary of Defense, in consultation with the Secretary of Health and Human Services, to study and report to the Congress not later than March 31, 1995, on possible financial relief from late enrollment penalties for military retirees and dependents who reside in the service area of a base closure site and who did not enroll in Medicare Part B because they relied on a military treatment facility.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

Sense of Congress on continuity of health care services for certain covered beneficiaries (sec. 738)

The House amendment contained a provision (sec. 724) that would express the sense of Congress that the Secretary of Defense should take all appropriate steps, including a limited extension of the current managed care contract, to protect the continuity of health care services for all beneficiaries eligible for the base realignment and closure (BRAC) site managed health care benefit during the transition period of the TRICARE Region Six managed care contract.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would expand the beneficiary population covered by the sense of Congress to all beneficiaries residing in areas adversely affected by the closure of a military installation under the BRAC process.

Automated medical record capability in the medical information system

The Senate report (S. Rept. 103–282) directed the Department of Defense to implement, during fiscal year 1995, the plan outlined in the report submitted in response to section 714 of the National Defense Authorization Act for Fiscal Year 1994. This report described a test of components of an automated record capability at one or more military medical facilities. The conferees support the conduct of such a test and encourage the Department to work with the Department of Veterans' Affairs to include one or more veterans' facilities in this test so that the development of an automated medical record will be a cooperative effort between the two departments.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Procurement technical assistance centers (sec. 801)

The Senate bill contained a provision (sec. 811) that would authorize $12.0 million for the operation of procurement technical assistance centers in fiscal year 1995. The provision would also authorize up to $600,000 of the $12.0 million to be used to fund such programs sponsored by tribal organizations.

The House amendment contained a similar provision.

The House recedes.

Pilot mentor protege program (sec. 802)

The budget request contained $50.0 million in RDT&E funds for the pilot mentor protege program.

The Senate bill contained a provision (sec. 812) that would provide $50.0 million for the pilot mentor protege program from title I procurement funds.

The House amendment contained no similar provision.

The House recedes.

Historically black colleges and universities (sec. 803)

The budget request contained $15.0 million for historically black colleges and universities and minority institutions (HBCU/MI).

The Senate bill contained a provision (sec. 813) that would provide $35.0 million for these institutions.

The House amendment contained a provision (sec. 813) that would provide $25.0 million for the HBCU/MI program. The House report (H. Rept. 103–499) also recommended $10.0 million for undergraduate centers of excellence at HBCU/MI institutions.

The conferees recommend $25.0 million for the HBCU/MI program. The conferees further recommend that the Department of Defense ensure that minority women's programs, such as undergraduate science centers of excellence, have an opportunity to compete for funding under the HBCU/MI program.

Treatment under subcontracting plans for purchases from qualified nonprofit agencies for the blind or severely disabled (sec. 804)

The Senate bill contained a provision (sec. 816) that would extend until September 30, 1997 the law (10 U.S.C. 2410d) that provides contractors with credit towards their subcontracting goals for subcontracts with qualified nonprofit entities for the blind and severely disabled. The provision also would revise current law by including central nonprofit agencies designated by the Committee for Purchase from People Who are Blind or Severely Disabled.

The House amendment contained no similar provision.

The House recedes.

Industrial mobilization authority (sec. 811)

The Senate bill contained a provision (sec. 822) that would clarify 10 U.S.C. 2538 regarding the delegation of mobilization authority by the President during wartime.

The House amendment contained no similar provision.

The House recedes.

Determinations of public interest under the Buy American Act (sec. 812)

The Senate bill contained a provision (sec. 824) that would add several factors to the series of factors that section 2533 of title 10, United States Code, requires the Defense Department to consider when deciding whether to procure foreign-made goods.

The House amendment contained no similar provision.

The House recedes with an amendment that would delete one of the factors added by the Senate provision and add a reference to the national technology employment base.

Continuation of reporting requirement on noncompetitive awards to colleges and universities (sec. 813)

The Senate bill included a provision (sec. 802) that would continue an annual reporting requirement on the awards of contracts and grants to universities through other than competitive procedures.

The House amendment contained no similar provision.

The House recedes with an amendment.

Consolidation of limitations on procurement of goods other than American goods (sec. 814)

The House amendment contained a provision (sec. 855) that would amend section 2534 of title 10, United States Code, to consolidate miscellaneous limitations and waivers on the procurement of foreign goods.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make technical changes and retain the existing limitation in law on the procurement of sonobuoys.

Environmental consequence analysis of major defense acquisition programs (sec. 815)

The House amendment contained a provision (sec. 871) that would require the Secretary of Defense to analyze the life-cycle environmental costs of major defense system acquisition programs before development begins. The provision would also direct the Secretary to issue implementing guidance for such analysis, as well as implementing guidance for compliance with the National Environmental Policy Act (NEPA), and to establish a NEPA data base.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary to issue guidance, by March 31, 1995, to ensure both that the life-cycle environmental costs of major defense system acquisition are analyzed before production begins, and that the Department complies with the National Environmental Policy Act in making decisions regarding the procurement of major defense systems. The provision would also direct the Secretary to implement the guidance by March 31, 1995.

Demonstration project on purchase of fire, security, police, public works, and utility services from local government agencies (sec. 816)

The House amendment contained a provision (sec. 874) that would require the Secretary of Defense to conduct a demonstration project at Monterey, California, under which any municipal services needed for operation of any Department of Defense asset in Monterey County, California, may be purchased from government agencies located within the county of Monterey.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize, but not require, the Secretary to carry out this demonstration program.

Preference for local residents (sec. 817)

The House amendment contained a provision (sec. 876) that would authorize the Secretary of Defense to give a preference to private contractors performing work at closing military installations, if those contractors

hire, to the maximum extent practicable, residents from the local communities. This work would include environmental restoration contracts.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would permit the Secretary to give a preference only if granting the preference is consistent with all other legally required actions at the installation. The conferees are concerned that environmental restoration not be delayed as a result of any preferences.

Allowability under defense contracts of restructuring costs of a merger or acquisition (sec. 818)

The House amendment contained a provision (sec. 1033) that would bar the Secretary of Defense from authorizing any payments, after May 4, 1994, for any restructuring costs incurred by a defense contractor after a merger or acquisition.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The amendment would require the Secretary of Defense to issue regulations by January 1, 1995, that would govern the allowability of restructuring costs, and that would establish requirements for contract novation resulting from business combinations (mergers and acquisitions). The amendment also would impose an annual reporting requirement on the Department of Defense and would require the Comptroller General to assess the Defense Department's policy and make recommendations to Congress.

The conferees have serious concerns about allowing payment of restructuring costs beyond those costs that would be allowed as a result of an internal reorganization absent a merger or acquisition. The conferees remain convinced that regulations should provide clear restrictions on the reimbursement of costs resulting from mergers and acquisitions, including such controversial areas as the costs attributable to pension underfunding.

The conferees are concerned that the Department of Defense policy on restructuring costs does not require enough accountability. The conferees also are concerned about the absence of clear requirements for calculating and evaluating projections of future cost savings to the government when such savings are used as the basis for allowing payment of restructuring costs.

The conference agreement would require a DOD official at the level of an assistant secretary of defense or above to review restructuring agreements based on projections of future savings, certify that the projections are based on audited data, and certify that the payment of restructuring costs should result in overall reduced costs for the Department of Defense, which is the stated purpose for this policy.

The conferees believe that DOD policy must require the prompt novation of government contracts after a business combination and must require properly supported and audited advance agreements in order to ensure that the government's interests are protected. The Department also must ensure that contracting officers and auditors understand that, in the absence of detailed information showing compelling evidence of the benefit to the government, there is no obligation to pay these costs. Furthermore, DOD policy should ensure that contracting officers make every reasonable effort to price the projected savings into current contracts, thereby increasing the likelihood that actual savings will be obtained for the taxpayers rather than relying only on projections.

Defense acquisition pilot program designations (sec. 819)

The House amendment contained a provision (sec. 875) that would authorize the Secretary of Defense to designate five specified programs for participation in the defense acquisition pilot program established under section 809 of the National Defense Authorization Act for Fiscal Year 1991.

The Senate bill contained no similar provision. The Senate approved a similar provision, authorizing the designation of six specified programs under the pilot program authority, in section 5003 of the Federal Acquisition Streamlining Act of 1994.

The Senate recedes with an amendment that would authorize the Secretary of Defense to designate the following programs for participation in the defense acquisition pilot program to the extent provided in the Federal Acquisition Streamlining Act of 1994: (1) fire support combined arms tactical trainer; (2) joint direct attack munition; (3) commercial derivative aircraft; (4) commercial-derivative engine; and (5) joint primary aircraft training system.

LEGISLATIVE PROVISIONS NOT ADOPTED

Legislative provisions addressed in the Federal Acquisition Streamlining Act of 1994

A number of provisions in the Senate bill and the House amendment duplicate provisions under consideration by the conference committee on S. 1587, the Federal Acquisition Streamlining Act of 1994. The House and Senate conferees each agree to recede from their respective positions on the sections of S. 2182 listed blow in view of the disposition of these issues in the conference on S. 1587.

Item	S. 2182 Senate bill	S. 2182 House amendment	S. 1587 Senate bill	S. 1587 House amendment
Defense procurement policy		811		1501
Special tooling equipment		812	1505	1506
Vouchering procedures		813	2002	2002
Critical spare parts		814	2401	2401
Contractor guarantees		815	2402	2402
Procurement schedules		821		3001
Selected acquisition reports		822		3002
Unit cost reports		823		3003
Independent cost estimates		824	3001	3004
Baseline descriptions		825	3002	3005
Competitive prototyping		826	3004	3006
Competitive alt. sources		827	3005	3007
Operational Test and Evaluation		833–39, 906	3011–13	3011–13
Civil Reserve Air Fleet		841–43	3023	3021–23
Miscellaneous functions		851	3081	3051
Product evaluation		852	3082	3052
Leases		853	3083	3053
Naval vessel contracts		854		3054
Intellectual property		856	5092	8005
Subcontracting test	814	858		4103
Merit-based selections	801	872	4152	1301, 4151
Shipbuilding claims		873	2502	2502

Implementation of acquisition assistance regulations required by Public Law 103–160

The Senate bill contained a provision (sec. 815) that would prohibit obligation and expenditure of certain funds until the Department of Defense issues all regulations required by sections 811(d)(1) and 813(b)(1) of the National Defense Authorization Act for Fiscal Year 1994. The required implementing regulations concern the contract goal for small disadvantaged businesses (10 U.S.C. 2323) and the pilot Mentor-Protege program.

The House amendment contained no similar provision.

The Senate recedes. The conferees agree that implementation of these sections is a matter of high priority, but believe that the Department should be given a final opportunity to issue appropriate regulations before specific action is taken by the Congress.

Department of Defense review of antitrust cases with national security implications

The House amendment contained a provision (sec. 857) that would establish in permanent law a procedure for the Secretary of Defense to review and comment on proposed mergers that might have national security implications.

The Senate bill contained no similar provision.

The House recedes. The conferees note that a report by the Defense Science Board has recommended procedures for DOD to review and comment on proposed mergers, and the conferees urge the Department to promptly implement these recommendations. In accordance with the recommendations of the Defense Science Board Task Force on Antitrust, the conferees direct the Secretary of Defense to ensure: (1) that DOD alerts the antitrust enforcement agencies to any proposed acquisition of a business concern that is a critical defense supplier with respect to which the Attorney General or the Federal Trade Commission receives notice under the antitrust laws; (2) when warranted, that DOD advises the antitrust agencies of relevant facts bearing on the likely effect of the proposed acquisition on the national industrial and technology base and on other national security considerations; and (3) that DOD promptly communicates its views to the Attorney General or the Federal Trade Commission on any national security concerns related to a proposed merger or acquisition.

VOL 140 PT 16 AG 12 — 18 1994 UMI

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Assistant secretary of defense (sec. 901)

The Senate bill contained a provision (sec. 901) that would increase the number of assistant secretaries of defense from 10 to 11.

The House amendment contained no similar provision.

The House recedes.

Order of succession in the military departments (sec. 902)

The Senate bill contained a provision (sec. 902) that would place the position of general counsel of a military department in the order of succession to the position of secretary of a military department immediately following the assistant secretaries.

The House amendment contained no similar provision.

The House recedes.

Change of title of Comptroller of the Department of Defense (sec. 903)

The House amendment contained a provision (sec. 903) that would change the title of the Comptroller of the Department of Defense to Under Secretary of Defense (Comptroller).

The Senate bill contained no similar provision.

The Senate recedes.

Revision of National Guard Bureau charter (sec. 904)

The House amendment contained a provision (sec. 904) that would set out the purpose of the National Guard Bureau; provide for the appointment and minimum grades of the Bureau leadership, including the chief, vice chief, and four additional general officers; provide for a Bureau legal counsel, comptroller, and inspector general; and require an annual report on the state of the National Guard. The provision would also require the Secretary of the Army and the Secretary of the Air Force to jointly develop a Guard Bureau charter.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would specify the grades of the Bureau leadership and provide for the annual report to be submitted to the Secretary of Defense through the Secretaries of the Army and the Air Force.

Marine Corps University: Master of Military Studies (sec. 911)

The Senate bill contained a provision (sec. 931) that would authorize the President of the Marine Corps University to confer the degree of "Master of Military Studies" to certain graduates of the college. This authority would become effective upon approval of the Masters of Military Studies program by the Secretary of Education.

The House amendment contained no similar provision.

The House recedes.

Marine Corps University: board of advisors (sec. 912)

The Senate bill contained a provision (sec. 932) that would establish a board of advisors for the Marine Corps University.

The House amendment contained no similar provision.

The House recedes with an amendment that would direct the Secretary of the Navy to establish a board of advisors for the Marine Corps University.

Air University: Master of Airpower Arts and Sciences degree (sec. 913)

The Senate bill contained a provision (sec. 933) that would authorize the Commander of the Air University to confer the degree of "Master of Airpower Arts and Sciences" to certain graduates of the School of Advanced Airpower Studies. This authority would become effective upon approval of the Masters of Airpower Arts and Sciences program by the Secretary of Education.

The House amendment contained no similar provision.

The House recedes.

Grades of heads of certain professional military education schools (sec. 914)

The House amendment contained a provision (sec. 507) that would specify the grades of the heads of the senior professional military education schools of the Department of Defense, including the separate military departments.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would express the sense of the Congress that the heads of the senior professional military education schools should, while so serving, hold a grade no less than the grade held by the officers presently serving in those positions.

Reserve Forces Policy Board amendments (sec. 921)

The Senate bill contained a provision (sec. 921) that would amend section 175 of title 10, United States Code, by including a regular officer assigned to the Joint Staff and an officer of the regular Marine Corps in the membership of the Reserve Forces Policy Board.

The House amendment contained no similar provision.

The House recedes.

The Uniformed Services University of the Health Sciences (sec. 922)

The Senate bill contained a provision (sec. 922) that would prohibit the closing of the Uniformed Services University of the Health Sciences (USUHS); express the sense of Congress that the Secretary of Defense should budget for the ongoing operation of USUHS; and require a GAO report to the Committees on Armed Services of the Senate and House of Representatives on USUHS, its costs, the quality of its medical education, the requirements for military physicians, and other relevant matters.

The House amendment contained no similar provision.

The House recedes. The conferees believe that continuing efforts to close USUHS harm the University's ability to attract and retain the high quality faculty appropriate for a medical school of its stature, and should only be undertaken after careful, rigorous analysis and a comprehensive review of the USUHS role in the national health care system.

Commission on Roles and Missions (sec. 923)

The Senate bill contained three provisions (secs. 911–913) relating to the Commission on Roles and Missions. The first provision would include the National Guard and other reserve components in the overall framework of the Commission's review and recommendations, and require the Commission to address the roles, missions, and functions of the reserve components within the Total Force. The second provision would require the Secretary, upon the request of the chairman of the Commission, to make available to the Commission, without reimbursement, the services of the federally funded research and development centers (FFRDCs) covered by sponsoring agreements of DOD, of a value of not more than $20.0 million. The third provision would increase the membership of the Commission by one member, require that the additional member have previous military experience and management experience with the reserve components, and require the Secretary to appoint the new member within 15 days after the enactment of this act.

The House amendment contained a provision (sec. 1032) that would increase the membership of the Commission on Roles and Missions from seven to ten members and require the Secretary of Defense to appoint the new members within 45 days after the date of the enactment of this act.

The House recedes with an amendment that would increase the membership of the Commission from seven to eleven members, increase the number of members required for a quorum from four to seven members, require the Secretary of Defense to appoint the additional members within 30 days after the enactment of this act, provide that the Commission may also recommend changes that would better align programs and force structure with projected missions and threats, and provide that any analytic support or related services provided by a federally funded research and development center shall not be subject to any overall ceiling established by law.

The conferees note that the Commission on Roles and Missions has now begun its important work. The conferees are aware of some uncertainty as to whether the Commission's charter includes recommending changes in force structure, programs, and organizations. The provision adopted by the conferees makes it clear that changes in force structure and programs are part of the Commission's charter. The conferees believe that the original statute that established the Commission is already clear that recommendations on changes in organizations are part of the Commission's charter. In essence, the conferees intend that the Commission should have the full authority and means to carry out its important work.

The conferees recognize that limitations on the Commission's analytic staff (even with strong FFRDC support), its budget, and particularly its time will restrict its ability to cover programmatic issues. The conferees, therefore, encourage the Commission to address as many of the more significant programmatic issues as can be treated adequately with available resources and time, and include recommendations in its report as to how other high-priority issues of this type should be addressed.

Redesignation of United States Court of Military Appeals and the Courts of Military Review (sec. 924)

The Senate bill contained a provision (sec. 1061) that would redesignate the United States Court of Military Appeals as the United States Court of Appeals for the Armed Services, and that would redesignate the Courts of Military Review as the Courts of Military Criminal Appeals.

The House amendment contained no similar provision.

The House recedes with an amendment that would change the name of the United States Court of Military Appeals to the United States Court of Appeals for the Armed Forces.

Budget support for reserve special operations forces (sec. 925)

The House amendment contained a provision (sec. 904) that would amend section 167 of title 10, United States Code, to specify that the budget proposal for the U.S. Special Operations Command may not eliminate, or significantly reduce the level of funding for, a reserve component special operations unit without the concurrence of the secretary of the military department concerned.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the commander of the Special Operations Command to consult with the secretaries of the military departments concerning funding for reserve special operations units and to include their differing views, if any, with the budget proposal submitted to the Secretary of Defense. It also would require the secretaries of the military departments to consult with the commander of the Special Operations Command concerning funding for reserve special operations forces in the military personnel budgets of their military departments and to include the differing views, if any, of the commander with the budget proposal submitted to the Secretary of Defense.

LEGISLATIVE PROVISIONS NOT ADOPTED

Joint duty credit for equivalent duty in support of unified, combined, or United Nations military operations

The Senate bill contained a provision (sec. 923) that would authorize the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, to grant full or partial credit for a joint duty assignment to officers for service in a position involving combat or combat-related military operations under unified, combined, or U.N. operational control in which the officers gained significant experience in joint matters.

The House bill contained no similar provision.

The Senate recedes.

The conferees recognize that some level of joint credit is appropriate for officers serving in certain positions involving combat or combat-related joint operations. The conferees are reluctant, however, to attempt to define the necessary statutory parameters for this authority without more than the limited empirical data received. The conferees believe that the collection of additional information over the next several months will better enable the Department and the Congress to devise suitable parameters. Accordingly, the Secretary of Defense is requested to ensure that data on officers who have served or are serving in these kinds of operations are collected and preserved. This will allow the expeditious implementation of legislation that is expected to result from the defense authorization process in 1995.

Upgrade of AFSC wargaming and other capabilities

The House amendment contained a provision (sec. 530) that would require the Secretary of Defense to upgrade the wargaming capability and other facilities and capabilities at the Armed Forces Staff College.

The Senate bill contained no similar provision.

The House recedes.

Army Reserve Command

The House amendment contained a provision (sec. 902) that would provide for a reserve command that would be independent of the Army Forces Command and commanded by an officer who would report directly to the Army Chief of Staff.

The Senate bill contained no similar provision.

The House recedes.

Assignment of reserve forces to combatant commands

The House amendment contained a provision (sec. 903) that would amend existing law that requires all forces to be assigned by the service secretaries to the combatant commands by providing (1) that reserve units, other than those called or ordered to active duty or reserve special operations units, be allocated to the combatant commands to which they may be assigned upon activation; (2) for the combatant commanders to establish standards in the areas of joint training and readiness; and (3) for the service secretaries to meet the standards established by the combatant commanders.

The Senate bill contained no similar provision.

The House recedes. The conferees have been informed that the Joint Chiefs of Staff have reached agreement on the authorities of the combatant commanders with respect to reserve component units that have not been called or ordered to active duty.

TITLE X—GENERAL PROVISIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Emergency supplemental authorization of appropriations for fiscal year 1994 (sec. 1002)

The Senate bill contained a provision (sec. 1002) that would authorize supplemental appropriations for fiscal year 1994 for the incremental costs of operations in Somalia, Bosnia, Southwest Asia, and Haiti.

The House amendment contained no similar provision.

The House recedes with an amendment that would also authorize $270.0 million for emergency supplemental appropriations for the Department of Defense to cover incremental costs related to the ongoing humanitarian relief effort for the refugees in and around the border areas of Rwanda. The conferees agree to authorize emergency supplemental appropriations for Rwanda only for the relief of the refugees. This section should not be construed as authorizing the military forces of the United States to engage in "nation-building" efforts in Rwanda.

Incorporation of classified annex (sec. 1003)

The House amendment contained a provision (sec. 1003) that would incorporate the classified annex that accompanied the House bill (H.R. 4301) into that act.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment that would incorporate the classified annex prepared by the conference committee into law.

The classified annex of legislative provisions to this conference report is incorporated by reference into this act and has the force and effect of law. The classified annex is available to the Senate and House of Representatives during consideration of this conference report, and will be made available to the President at the time of presentment of this legislation.

Date for submission of future-years mission budget (sec. 1004)

The Senate bill contained a provision (sec. 1003) that would require the submission of the future-years mission budget required by section 222 of title 10, United States Code, within 60 days of the submission of the President's budget.

The House amendment contained a similar provision (sec. 1004) that would require submission of the report within 30 days of the submission of the President's budget.

The House recedes.

Submission of future-years defense program in accordance with law (sec. 1005)

The Senate bill contained a provision (sec. 1004) that would require the submission of the fiscal year 1996 future years defense program (FYDP) within 90 days of the submission of the President's budget.

The Senate bill would also require the Secretary of Defense, after consultation with the Inspector General of the Department of Defense, to certify that the FYDP complies with the requirement for consistency between the FYDP and the President's budget contained in section 221(b) of title 10, United States Code.

The Senate bill would also prohibit the Department of Defense from obligating more than 10 percent of any unobligated advance procurement funds during the first 30 days after the end of the 90-day period unless the FYDP and the certification have been submitted. After this 30-day period, no advance procurement funds could be obligated until the FYDP and the certification had been submitted.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Identification and reporting of unauthorized appropriations (sec. 1006)

The House amendment contained a provision (sec. 1005) that would require the Secretary of Defense to submit a report each year upon enactment of the Department of Defense authorization and appropriation acts identifying all unauthorized programs, projects, and activities.

The Senate bill contained no similar provision.

The conferees agree to a provision that would allow the Department of Defense to obligate funds for all fiscal year 1994 programs, projects, and activities for which the amount appropriated exceeded the amount authorized, with the exception of the programs specifically cited in this section. This section would allow fiscal year 1994 funds to be obligated for the manufacturing technology program on the basis of competition.

Support for law enforcement (sec. 1011)

The House amendment contained a provision (sec. 1011) that would extend DOD support for law enforcement authorities contained in section 1004 of the National Defense Authorization Act for Fiscal Year 1991 through fiscal year 1997 and authorize $40.0 million for such support for fiscal year 1995.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would extend section 1004 through fiscal year 1999, delete the specific authorization for fiscal year 1995, and provide a limitation on the future transfer of DOD funds and personnel to another department or agency involved in the national counterdrug effort.

The conferees recognize that the Department's budget request strongly supports activities that are authorized by section 1004 and that a specific statutory authorization for support to law enforcement is no longer necessary.

The conferees continue to support the Department's efforts to develop and demonstrate non-intrusive inspection technology systems and the pilot outreach programs of the services and the National Guard.

The conferees support the integration of a third relocatable over-the-horizon radar (ROTHR) system into the national counterdrug effort. They have reservations, however, about placing the third system in Puerto Rico rather than in a location that would cover Mexico and Guatemala because most of the non-containerized drugs entering the United States come across the southwest

VOL 140 PT 16 AG 12 — 18 1994 UMI

border after being flown into those two countries. Accordingly, the conferees recommend the requested amount for the third system but direct the Department to conduct a comprehensive analysis of the relative contributions that the third system could make if placed in Puerto Rico or in a location in the continental United States from which it could cover Mexico and Guatemala. No funds may be expended for placing the third ROTHR system either in Puerto Rico or elsewhere until the comprehensive analysis is completed and its results reported to the congressional defense committees.

The conferees are concerned about the value and cost-effectiveness of the contribution that the mobile ground-based radars in the Andean region make to the counter-drug effort. The conferees are aware, however, that these radars have taken on important political and symbolic importance since the cessation of intelligence sharing in that region. Accordingly, the conferees agree to authorize most of the funds requested for the radars but deny $11.8 million of the requested amount without prejudice. The conferees direct the Department to review the utility of the ground-based radars for counter-drug use in the Andean region. Upon completion of the review, the Department may submit a prior-approval reprogramming request along with the results of the review to the appropriate congressional committees.

The following table details the conferees' agreement:

Drug Interdiction and Counter-Drug Activities (Operation and Maintenance)

[In thousands of dollars]

Fiscal year 1995 drug interdiction and counter-drug activities, O&M request	714,200
Increases:	
Project 1403 counterdrug R&D	6,000
Project 7403 national interagency CD institute	3,500
Project 8392 pilot outreach	1,000
Project 8393 pilot outreach	200
Project 8394 pilot outreach	200
Project 8395 pilot outreach	500
Project 8396 pilot outreach	400
Total increases	11,800
Decreases:	
Project 4419(T) SOUTHCOM radar support	11,800
Total decreases	11,800
Fiscal Year 1995 drug interdiction and counter-drug activities, O&M budget	714,200

Provision of intelligence where drug trafficking threatens national security (sec. 1012)

The Senate bill contained a provision (sec. 1089) that would enable, without violation of law, employees or agents of foreign governments to damage, render inoperative, or destroy an aircraft in that country's territory or airspace if that aircraft is reasonably suspected to be primarily engaged in illicit narcotics trafficking, provided the President has previously determined that (1) such actions are necessary due to the extraordinary threat posed by drug trafficking to the national security of that country, and (2) the country has appropriate procedures to protect against innocent loss of life, including effective means to identify and warn aircraft. The provision would also enable, without violation of law and without giving rise to civil liability, authorized employees or agents of the United States to provide assistance for the actions of such foreign countries.

The House amendment contained no similar provision.

The House recedes with an amendment that would define the term "illicit drug trafficking" and make clarifying changes.

Report on status of defense random drug testing program (sec. 1013)

The House amendment contained a provision (sec. 1042) that would require the Secretary of Defense to submit a one-time report on the Department of Defense random drug testing program.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Transfer of USNS Maury (sec. 1021)

The House amendment contained a provision (sec. 171) that would authorize the Secretary of the Navy to transfer the USNS Maury (TAGS–39) to the Department of Transportation for assignment as a training ship to the California Maritime Academy at Vallejo, California, on the date of the decommissioning of that vessel.

The Senate bill contained no similar provision.

The Senate recedes.

Transfer of obsolete vessel Guadalcanal (sec. 1022)

The Senate bill contained a provision (sec. 1083) that would permit the Secretary of the Navy, upon the decommissioning of the USS *Guadalcanal* (LPH–7), to transfer the ex-USS *Guadalcanal* to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

The House amendment contained no similar provision.

The House recedes.

Enhanced Marine Corps prepositioning (sec. 1023)

The Senate bill would provide $220.0 million to purchase and convert two additional maritime prepositioning ship (MPS) vessels for use by the Marine Corps MPS squadrons. This program has been described as the MPS enhancement program.

The House amendment contained no similar funding.

The conferees agree to provide $220.0 million in the National Defense Sealift Fund for the purposes intended in the Senate bill and agree to a provision that would exempt the MPS enhancement program from the provisions of section 2218(f) of title 10, United States Code.

Assistance to family members of certain POW/MIAs who remain unaccounted for (sec. 1031)

The Senate bill contained a provision (sec. 1062) that would establish a single point of contact within the Defense POW/MIA Office (DPMO) for the families of the POWs and MIAs from the Korean War and Cold War who are unaccounted for.

The House amendment contained a provision (sec. 1051) that was virtually identical to the Senate provision except that it did not cover the families of Cold War POW/MIAs who are unaccounted for.

The House recedes with an amendment that would designate the National Archives and Records Administration as the centralized record repository.

Review of missing persons laws (sec. 1032)

The Senate bill contained a provision (sec. 1069) that would make certain findings and require the Secretary of Defense, in consultation with the secretaries of the military departments, the national POW/MIA family organizations, and the national veterans organizations, to review the provisions of law relating to missing persons and to submit to Congress within 180 days his recommendation as to whether those laws should be amended.

The House amendment contained no similar provision.

The House recedes with an amendment that would delete the findings and the requirement that the Secretary of Defense consult with the national POW/MIA family organizations and the national veterans organizations. The conferees, nevertheless, urge the Secretary to take the views of those organizations into consideration in conducting his review and making his recommendations to the Congress.

Contact with China on POW/MIA issues (sec. 1033)

The Senate bill contained a provision (sec. 1070) that would make certain findings and express the sense of the Congress that the Secretary of Defense should establish contact with the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American POW/MIAs from the Korean conflict.

The House amendment contained no similar provision.

The House recedes.

Information concerning unaccounted for personnel of the Vietnam conflict (sec. 1034)

The Senate bill contained a provision (sec. 1073) that would require the Secretary of Defense to submit to Congress a listing by name of all unaccounted for U.S. personnel from the Vietnam conflict about whom it is possible that officials of the Socialist Republic of Vietnam or the Lao People's Democratic Republic can produce information that could lead to the maximum possible accounting for those personnel.

The House amendment contained no similar provision.

The House recedes.

Report on POW/MIA matters concerning North Korea (sec. 1035)

The Senate bill contained in a provision (sec. 1074) that would make certain findings and require the Secretary of Defense to submit reports to Congress in January, May, and September 1995 on the status of efforts to obtain from North Korea information on and the remains of U.S. personnel unaccounted for from the Korean War. The provision also would require the Secretary to actively seek to establish a joint working level commission with North Korea to resolve the remaining cases relating to U.S. POW/MIAs from the Korean conflict.

The House amendment contained no similar provision.

The House recedes with an amendment that would reduce the number of reports to two and require the President to give serious consideration to establishing a joint working level commission with North Korea.

Disclosure of information concerning POW/MIAs from the Korean conflict, the Cold War, and the Vietnam era (sec. 1036)

The Senate bill contained a provision (sec. 1071) that would amend section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 that deals with the disclosure of information in the custody of the Department of Defense concerning POW/MIAs from the Vietnam conflict. The provision would extend that section to unaccounted U.S. personnel from the Korean conflict and the Cold War and apply it to the Archivist of the United States who has custody

of records, reports, and information relating to the Korean conflict and the Cold War.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would clarify the meaning of the term "Cold War."

Annual report on denial, revocation, and suspension of security clearances (sec. 1041)

The House amendment contained a provision (sec. 1031) that would require the Secretary of Defense to submit to Congress an annual report concerning the denial, revocation, or suspension of security clearances by the Department of Defense for fiscal year 1995 through fiscal year 2000.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify that the reports should be based upon information that can be obtained through standard DOD data bases without imposing significant new data collection requirements on the Department of Defense.

Study on use of low-enriched uranium to fuel naval reactors (sec. 1042)

The House amendment contained a provision (sec. 1053) that would direct the Secretary of Energy and the Secretary of Defense to study the costs, advantages, and disadvantages of using low-enriched uranium to fuel naval reactors.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary of the Navy to conduct the study.

Commendation of individuals exposed to mustard agents (sec. 1051)

The House amendment contained a provision (sec. 1036) that would express the sense of Congress that the Secretary of Defense should issue a commendation to individuals who were exposed to mustard agents in connection with testing during World War II; require the Secretary to notify such individuals of the exposure, possible health effects, and likely options for treatment; and require the Secretary to provide the Secretary of Veterans' Affairs with any information regarding the exposure, including the names of the individuals involved.

The Senate bill contained no similar provision.

The Senate recedes.

USS INDIANAPOLIS (CA–35): gallantry, sacrifice and a decisive mission to end World War II (sec. 1052)

The House amendment contained a provision (sec. 1035) that would recognize the contributions of the USS INDIANAPOLIS to the ending of World War II.

The Senate bill contained no similar provision.

The Senate recedes.

Increased authority to accept voluntary services (sec. 1061)

The Senate bill contained a provision (sec. 337) that would amend section 1588 of title 10, United States Code, to expand the areas in which volunteers can provide services in military communities. Under the provision, volunteers would be considered government employees for the purpose of compensation for work-related injuries, tort liability, access to records, and conflict of interest restrictions.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to conduct a pilot program involving a variety of services to evaluate the Department's policies and procedures for the acceptance of voluntary services.

Civil Air Patrol (sec. 1062)

The Senate bill contained a provision (sec. 342) that would reorganize the Air Force liaison with the Civil Air Patrol.

The House amendment contained a similar provision (sec. 367).

The House recedes.

Prohibition on the purchase of surety bonds and other guarantees for the Department of Defense (sec. 1063)

The Senate bill contained a provision (sec. 321) that would prohibit the Department of Defense from using funds to provide financial guarantees for the direct performance of the Department of Defense.

The House amendment contained no similar provision.

The House recedes with an amendment that would extend this prohibition.

Use of inmate labor at military installations (secs. 1064 and 1065)

The Senate bill contained a provision (sec. 1051) that would permit installation commanders to enter into agreements with state or local governments under which non-violent offenders could perform certain services on military installations.

The Senate bill also contained two related provisions (secs. 1052 and 1053) that would expand the authority granted to the Department of the Navy in the National Defense Authorization Act for Fiscal Year 1994 to conduct a demonstration project to test the feasibility of using Navy facilities to provide employment training for non-violent offenders in a state penal system.

The House amendment contained no similar provisions.

The Senate recedes on section 1051 and the House recedes on sections 1052 and 1053 with an amendment that would make clarifying changes. These provisions would expand the demonstration project authorized last year to three installations in the Army and Navy. They would also clearly limit the use of inmate labor to specific activities and specify that inmate labor may not displace government or defense contractor employees, impair any contract for services at the installation, or involve services in skills for which there is a local surplus of available labor.

The conferees strongly support the demonstration program and urge the Department of Defense to fully use this authority in fiscal year 1995. Recognizing that the provisions do not require a report until two years after enactment of this act, the Armed Services Committees of the Senate and the House of Representatives will solicit comments from Department of Defense witnesses on the status and initial impressions of the project, including comments from commanders of participating installations, during hearings in fiscal year 1995.

Interagency placement program for federal employees affected by reduction-in-force actions (sec. 1066)

The Senate bill contained a provision (sec. 1080) that would direct the Office of Personnel Management to study and, if feasible, establish an interagency placement program for federal employees affected by reduction-in-force actions.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes and exclude the United States Postal Service and Postal Rate Commission from the definition of "agency" for the purposes of this provision.

National Museum of Health and Medicine (sec. 1067)

The Senate bill contained a provision (sec. 1086) that would require the National Museum of Health and Medicine to be located on or near the Mall in the District of Columbia on land owned by the federal government and/or the District of Columbia, and would express the sense of Congress on the location of the National Museum of Health and Medicine.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Assignments of employees between federal agencies and FFRDCs (sec. 1068)

The Senate bill contained a provision (sec. 1087) that would include federally funded research and development centers (FFRDCs) on the list of institutions eligible to utilize the Intergovernmental Personnel Act for exchanges of employees with federal agencies.

The House amendment contained no similar provision.

The House recedes.

Review of the Bottom-Up Review and the Future Years Defense Program and establishment of new funding requirements and priorities (sec. 1069)

The Senate bill contained a provision (sec. 1091) that would make a number of findings concerning national military strategy, military force structure, and the level of the defense budget. The provision would also express the sense of Congress that (1) the Secretary of Defense should review the assumptions and conclusions of the Bottom-Up Review and the Future Years Defense Program; (2) the Secretary should submit to the President and the Congress a report detailing the force structure required for an effective defense of the United States and its vital national interests; (3) the President should submit to Congress a report detailing the steps he will take to meet the force structure recommended by the Secretary; and (4) the fiscal year 1996 defense budget should reflect the funding necessary to support the force structure recommended by the President.

The House amendment contained a provision (sec. 402) that would prohibit the President from deploying elements of more than one division of the Army's contingency force for operations other than war unless elements of all divisions that are not part of the Army's contingency force are currently deployed for such operations. The provision is related to a proposal that the Army be comprised of twelve divisions as discussed on pages 231–234 of the House report (H. Rept. 103–499).

The House amendment also contained a provision (sec. 553) that would make several findings and express the sense of Congress on a specific force structure for the armed forces and funding for national defense.

The House recedes with an amendment that would add several findings relating to the involvement of U.S. forces in operations other than war and the tradeoffs required among various elements of the defense budget. The amendment would also call for the Secretary of Defense's review and report to consider (1) the participation of U.S. forces in operations other than war, and (2) the potential need to address changes in national security planning, programs, the national

VOL 140 PT 16 AG 12 — 18 1994 UMI

military strategy, and the proposal to structure the Army around 12 active duty divisions. Finally, the amendment would encourage the President to increase defense spending if required to meet new or existing threats.

Technical amendments (sec. 1070)

The Senate bill contained a provision (sec. 1096) that would codify and clarify certain provisions of law and make certain technical amendments.

The House amendment contained no similar provision.

The House recedes with an amendment.

Authorization to exchange certain items for transportation services (sec. 1071)

The House amendment contained a provision (sec. 1056) that would amend section 2572 of title 10, United States Code, to authorize the Secretary of Defense to exchange certain historical artifacts not needed by the armed forces for transportation services which directly benefit the historical collections of the armed forces.

The Senate bill contained no similar provision.

The Senate recedes.

Air National Guard fighter aircraft force structure (sec. 1072)

The Senate bill contained a provision (sec. 307) that would require the Secretary of Defense to review the findings of the Commission on Roles and Missions of the Armed Forces on the role and requirements for general purpose fighter units of the Air National Guard and to complete, within 30 days of the Commission's report, a study which recommends the appropriate level of primary aircraft authorized for such units.

The House amendment contained no similar provision.

The House recedes.

Visas for officials of Taiwan (sec. 1073)

The Senate bill contained a provision (sec. 1078) that would require the President of Taiwan or any other high-level official of Taiwan to be admitted to the United States whenever the official applies to visit the United States to conduct certain discussions.

The House amendment contained no similar provision.

The House recedes with an amendment that would express the sense of Congress that no visas should be denied for high-level officials of Taiwan to enter the United States, unless the official is otherwise excludable under U.S. immigration laws.

Defense Mapping Agency (sec. 1074)

The Senate bill contained a provision (sec. 1064) that would affect the Defense Mapping Agency (DMA) in two ways. First, it would preclude unauthorized use of the name, initials, or seal of the DMA. Second, it would clarify that the United States has not waived sovereign immunity with respect to lawsuits based upon the content of DMA maps and charts.

The House amendment contained no similar provision.

The House recedes.

Limitation regarding telecommunications requirements (sec. 1075)

The Senate bill contained a provision (sec. 1067) that would prohibit the Department of Defense from taking actions to merge "Warner-exempt" telecommunications activities with FTS–2000 until the Secretary of Defense certifies that DOD requirements can be met.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify that nothing in the provision may be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under current laws.

LEGISLATIVE PROVISIONS NOT ADOPTED

Support for international peace operations

The Senate bill contained a provision (sec. 1032) that would establish a contributions for international peacekeeping and peace enforcement activities fund (CIPA); authorize the use of DOD funds to pay the U.S. fair share of assessments for United Nations operations in which U.S. combat forces participate; authorize the furnishing of supplies, services, and equipment on a reimbursable basis in support of U.N. peace operations; require advance notice by the President to designated congressional committees in certain circumstances; provide for the use of reimbursements from the United Nations; and authorize up to $300.0 million for the CIPA fund.

The House amendment contained a provision (sec. 1050) that would prohibit the use of DOD funds to pay U.S. assessments to the United Nations for peacekeeping operations.

The conferees agree to delete both provisions. The conferees were deeply divided on whether DOD funds should be used to pay U.N. peacekeeping assessments. The conferees realize that this issue and a number of others relating to U.N. peace operations will almost certainly have to be dealt with in the next Congress. By then, the conferees will have further experience with U.N. peace operations and an additional year in which to consider these matters through hearings and consultations.

Termination of certain Department of Defense reporting requirements

The Senate bill contained a provision (sec. 1042) that would terminate certain Department of Defense reporting requirements on the date of the enactment of this act.

The House amendment contained no similar provision.

The Senate recedes. Section 1151 of the National Defense Authorization Act for Fiscal Year 1994 required the Secretary of Defense to submit to Congress by April 30, 1994, a list of reports that the Secretary determined to be unnecessary or incompatible with the efficient management of the Defense Department. Unfortunately, Congress did not formally receive the list until July 29, 1994. This late submission did not leave Congress enough time to adequately review the reports proposed for termination.

The list submitted by the Defense Department contains nearly 100 reports that will automatically be terminated on October 30, 1995, unless they are continued by legislation. During their review of this list in 1995, the Armed Services Committees of the Senate and House of Representatives will not consider retaining any report on the list unless it is shown to be necessary for national security or essential to congressional oversight.

Transfer of naval vessels to Brazil

The Senate bill contained a provision (sec. 1065) that would authorize the transfer of two "KNOX" class frigates to Brazil.

The House amendment contained no similar provision.

The Senate recedes. A separate bill that has now been passed by both the Senate and the House of Representatives, H.R. 4429, would authorize the transfer of these frigates as well as five other ships.

Acquisition of strategic sealift ships

The Senate bill contained a provision (sec. 1068) that would transfer $608.6 million from the shipbuilding and conversion, Navy account to the National Defense Sealift Fund. This provision would restore funding to exercise contract options to continue implementation of the strategic sealift program.

The House amendment contained no similar provision.

The Senate recedes. The conferees agree to recommend full funding of the sealift contract options.

Certification of declassification of POW/MIA materials

The Senate bill contained a provision (sec. 1072) that would require the Secretary of Defense to issue a certification within 60 days after enactment of the bill that all materials related to Vietnam-era POWs and MIAs have been declassified.

The House amendment contained no similar provision.

The Senate recedes.

The conferees believe it is important that all available documents related to unaccounted for U.S. personnel from Southeast Asia be located and declassified to the maximum extent possible. Current law requires just that. The conferees are troubled by the proposal to require the Secretary of Defense to formally certify in writing that no more documents remain in federal records in classified form that could shed light on Vietnam-era POW/MIAs when there is always the possibility that additional information may be located by those responsible for declassifying POW/MIA documents. The effect of requiring a formal certification that no more documents remain could be the opposite of that intended. An individual who has told his superior he has searched all the files and no relevant documents exist—leading that superior to sign a formal certification—and who later stumbles across a relevant document may decide to dispose of the document quietly rather than produce it publicly.

The conferees believe that a good-faith effort has been and continues to be made to locate and declassify documents pertaining to Vietnam-era POW/MIAs in accordance with Executive Order requirements and section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note). At the same time, the conferees are aware of the concerns of Members that all pertinent POW/MIA documents have not been disclosed. Accordingly, the conferees direct the Defense POW/MIA Office to ensure that all documents pertaining to Vietnam-era POW/MIAs are disclosed on a continuing basis to POW/MIA family members and the public in accordance with Executive Order requirements, section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, and section 404 of the Intelligence Authorization Act for Fiscal Year 1989 (Public Law 100–453; 50 U.S.C. 401 note).

Review of DOD procedures for investigating deaths from causes determined to be self-inflicted

The Senate bill contained a provision (sec. 1085) that would express the sense of Congress that, upon receipt of the report required by section 1185 of the National Defense Authorization Act for Fiscal Year 1994, the Senate Committee on Armed Services should review the report and hold hearings related to the procedures employed by Department of Defense investigative organizations when conducting an investigation into the death of a member of the armed services who, while serving on active duty, died from a cause determined to be self-inflicted.

The House amendment contained no similar provision.

The Senate recedes. The conferees note that the Senate Armed Services Committee has agreed to review the DOD report in the course of its oversight hearings on military manpower issues. The conferees agree that the report should be reviewed thoroughly by the Armed Services Committees of both the Senate and the House of Representatives. In view of the commitment of the conferees to a thorough review of the report, the conferees agree that a specific sense of Congress provision is unnecessary.

Genocide in Rwanda

The Senate bill contained a provision (sec. 1092) that would express certain congressional findings and policies on the situation in Rwanda.

The House amendment contained no similar provision.

The Senate recedes.

Clarification of scope of authorization

The House amendment contained a provision (sec. 1002) that would specify that no funds are authorized to be appropriated in this act for the Department of Justice.

The Senate bill contained no similar provision.

The House recedes.

Funding for contingency operations

The House amendment contained a provision (sec. 1021) that would amend section 127a of title 10, United States Code, by removing the $300.0 million cap on the total of unreimbursed sums that may be drawn from the resources of the Defense Business Operations Fund (DBOF) at any one time; expand the purposes of the cash account established in fiscal year 1994 to cover any and all costs that cannot be funded through the DBOF; authorize the appropriation of $300.0 million for fiscal year 1995; and restrict the use of the Fund and any of the resources of the DBOF to those operations formally designated as national contingency operations.

The Senate bill contained no similar provision.

The House recedes.

Transfer of certain B–17G aircraft

The House amendment contained a provision (sec. 1034) that would require the Secretary of the Air Force to transfer all right, title, and interest of the Air Force in a certain B–17G aircraft to the organization known as Planes of Fame, Chino, California.

The Senate bill contained no similar provision.

The House recedes.

Armed Forces Expeditionary Medal

The House amendment contained a provision (sec. 1037) that would express the sense of Congress that certain servicemembers who served in El Salvador should be considered eligible to receive the Armed Forces Expeditionary Medal.

The Senate bill contained no similar provision.

The House recedes.

TITLE XI—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Funding for the defense conversion, reinvestment and transition assistance programs for fiscal year 1995 (sec. 1102)

The House amendment contained a provision (sec. 1302) that would summarize the amounts authorized for defense conversion, reinvestment, and transition assistance programs. The House provision would authorize $3,256.4 million.

The Senate bill contained no similar summary provision.

The Senate recedes with an amendment. The conferees agree to authorize $3,090.8 million for defense conversion, reinvestment, and transition assistance programs. The categories in the following table summarize the conferees' agreement:

Funding of Defense Conversion, Reinvestment and Transition Assistance Programs in Fiscal Year 1995

[Millions of dollars]

Defense Technology Conversion and Reinvestment (Funding Source)	
PE 603570E TRP/dual-use partnerships (R&D)	625.0
PE 603739E Mfg. technology (R&D)	398.3
PE 602301E Computing systems (R&D)	394.6
PE 602712E Electronics and materials (R&D)	256.8
various Sm. bus. innovative research (R&D)	161.0
PE 603745E SEMATECH (R&D)	90.0
PE 601101E Basic research (R&D)	87.7
PE 603570D Other reinvestment programs (R&D)[1]	76.0
PE 60x572N Navy reinvestment program (R&D)	50.0
PE 603744E Advanced simulation (R&D)	20.9
PE 603226E Law enforcement/peacekeeping (R&D)	20.0
PE 602702E Law enforcement/peacekeeping (R&D)	10.0
Subtotal	2,190.4
Personnel Assistance Transition	
Temporary early retirement (personnel)[2]	392.1
Separation pay/civilian benefits (O&M)	301.7
Guard and reserve transition (O&M)	139.5
Other initiatives (O&M)	99.0
Transition assistance (O&M)	72.4
Troops to teachers (O&M)	65.0
Troops to law enforcement/public safety (O&M)	25.0
Ship recycling demonstrations (procurement)	7.5
Bilingual math/science education demo projects (O&M)	5.0
Subtotal [all]	1,107.2
Subtotal [requiring authorization]	715.1
Community Assistance	
National Guard youth programs (O&M)	71.4
Junior ROTC expansion (O&M)	59.8
Office of Economic Adjustment	54.1
Subtotal	188.3
Total [all]	3,482.8
Total [Title XI authorized]	3,090.8

[1] $11.0 million provided for law enforcement/peacekeeping initiative.

[2] Authorization not required.

Funding for defense technology reinvestment programs (sec. 1111)

The Senate bill contained a provision (sec. 231) that would allocate funds for the defense technology reinvestment program element of the Defense Agencies research budget.

The House amendment included a similar provision (sec. 1111).

The Senate recedes with an amendment that would make $751.0 million of RDT&E funds available for the following reinvestment programs:

[Dollars in millions]

Defense Reinvestment Program (PE 63570E)	625.0
Dual-use partnerships	245.0
Commercial-military integration	96.0
Regional tech alliances	80.0
Defense adv. manufacturing partnership	30.0
Manufacturing extension	25.0
Def. manufacturing engin. education	24.0
Maritech	50.0
Agile manufacturing	35.0
Materials partnerships	30.0
US-Japan management training	10.0
Defense Reinvestment Program (PE 63570D)	76.0
Defense lab diversification	10.0
Loan guarantees	50.0
Small business technical assistance	5.0
Operations other than warfare/law enforcement	11.0
Navy Reinvestment Program (PEs 61572N, 62572N, and 63572N)	50.0

The conferees agree that the total funding for the operations other than warfare (OOTW)/law enforcement program, including funding to support the memorandum of understanding between DOD and the Justice Department, is $41.0 million. In addition to the $11.0 million described above, the conferees direct that $10.0 million be available for this program in the ARPA tactical technology program element (PE 62702E) and that $20.0 million be available in the ARPA experimental evaluation of major innovative technologies program element (PE 63226E).

Peacekeeping/law enforcement technology (sec. 1112)

The budget request contained $10.0 million for research into non-lethal technologies that are applicable to peacekeeping in PE 62702E.

The Senate bill would provide an additional $20.0 million for peacekeeping technology in PE 63226E. The Senate report (S. Rept. 103–282) expressed support for the April 20, 1994 memorandum of understanding (MOU) between the Department of Defense (DOD) and the Department of Justice (DOJ) on a joint technology development initiative.

The House amendment contained a provision (sec. 1111) that would authorize $37.0 million in funding for support of the DOD/DOJ MOU activities, and the House report (H. Rept. 103–499) described specific technologies of interest to both DOD and the Department of Justice to be pursued in the context of the MOU initiative.

The Senate recedes with an amendment that would explicitly authorize $41.0 million for this initiative from multiple funding sources.

The conferees expect that the MOU operation will maximize the benefits to state and local law enforcement agencies as well as develop technologies related to peacekeeping activities and military operations other than war. The conferees urge both DOD and the Justice Department to fully share the technologies applicable to their respective missions but note that the acquisition and deployment of equipment utilizing these technologies is the responsibility of the respective departments. The conferees also support the discussion in the House report (H. Rept. 103–499) on the technologies to be identified, developed, and deployed with the funding provided in this section. In addition to those

VOL
140
PT
16
AG
12
—
18
1994
UMI

technologies, the conferees also believe that sniper identification and response technologies should be among those reviewed in the context of the DOD/DOJ MOU process.

Federal defense laboratory diversification and Navy reinvestment programs (sec. 1113)

The Senate bill included a provision (sec. 234) that would provide a statutory framework for the federal defense laboratory diversification and Navy reinvestment programs proposed by the Administration.

The House amendment contained no similar provision.

The House recedes.

Loan guarantees under the defense dual-use assistance program (sec. 1114)

The Senate bill contained a provision (sec. 235) that would fund a loan guarantee program for small defense firms.

The House amendment included a provision (sec. 1113) that would add criteria for the loan guarantee program under section 2524 of title 10, United States Code.

The Senate recedes with an amendment. The conferees agree to provide $50.0 million for the Department of Defense to carry out a loan guarantee program in fiscal year 1995 in conjunction with the Small Business Administration (for loans to small businesses), and with the Economic Development Administration or other appropriate federal agency (for loans to medium-sized businesses). At least 60 percent of the funding shall be devoted to loan guarantees to small businesses with the remaining funds to be used for loan guarantees to medium-sized businesses.

The amendment would also include eligibility requirements that emphasize that (1) the recipients of the loans must be DOD contractors and subcontractors; (2) the loans must involve capital improvements that are at least partially utilized by DOD; and (3) the loans should promote the retention of workers under contracts and subcontracts with the Department of Defense.

Financial commitment requirements for small businesses (sec. 1115)

The Senate bill contained a provision (sec. 232) that would allow a small business at least 120 days after receiving an award in certain technology reinvestment programs to obtain the requisite non-federal cost-share from the venture capital market.

The House amendment included a similar provision (sec. 1114).

The Senate recedes with an amendment.

Conditions on funding of technology reinvestment projects (sec. 1116)

The Senate bill included a provision (sec. 233) that would establish conditions for funding technology reinvestment projects, including a requirement for the use of competitive selection procedures.

The House amendment contained a similar provision (sec. 1115).

The Senate recedes with an amendment.

National defense technology and industrial base (sec. 1117)

The Senate bill contained a provision (sec. 821) that would prohibit the Secretary of Defense from obligating or expending any of the funds authorized in PE 65104D until the annual national defense technology and industrial base assessment and plan required by sections 2505 and 2506 of title 10, United States Code, have been submitted.

The House amendment contained no similar provision.

The House recedes with an amendment. The conferees agree that only half the funds in PE 65104D will be subject to the provision. The conferees, however, direct the Secretary to submit the following to the Committees on Armed Services of the House of Representatives and Senate: (1) any industry sector studies prepared to support the annual capability assessment and plan as soon as they are completed; and (2) by September 30, 1994, a detailed description of the reasons for not submitting the annual capability assessment and plan and a schedule for their submission.

Documentation for awards under the technology reinvestment project (sec. 1118)

The Senate bill contained a provision (sec. 825) that would require certain documentation for awards of cooperative agreements or other transactions under the technology reinvestment project.

The House amendment included no similar provision.

The House recedes.

Comptroller General assessment of technology reinvestment project (sec. 1119)

The Senate bill contained a provision (sec. 826) that would require the Comptroller General to assess the extent to which individual technology reinvestment project activities advance national security or other objectives.

The House amendment included no similar provision.

The House recedes.

Funds for adjustment and diversification assistance for states and local governments from Office of Economic Adjustment (sec. 1121)

The House amendment contained a provision (sec. 1121) that would provide $54.1 million for community adjustment and economic diversification assistance.

The Senate bill contained no similar provision.

The Senate recedes.

Studies and plans for market diversification (sec. 1122)

The House amendment contained a provision (sec. 1122) that would amend section 2391(d) of title 10, United States Code, to include a definition of "community adjustment" and "economic diversification", and that would provide $10.0 million to develop feasibility studies and business plans for market diversification in communities adversely affected by defense budget reductions.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Advance community adjustment and economic diversification planning (sec. 1123)

The House amendment contained a provision (sec. 1123) that would provide funding for communities to conduct advance planning in anticipation of base realignment and closure decisions.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify that up to $5.0 million is available for advance planning grants and that would remove the cap on the amount of funds available to any single community.

This funding is provided to assist communities that engage in advance economic planning in anticipation of base closure and realignment actions. Many communities have expressed interest in beginning planning activities in advance of any final decision by the Base Closure Commission and the Congress. This would enable these communities to have a smooth transition in the event that a base is closed in their community. The conferees believe that no more than $500,000 should be made available to one community or group of communities potentially affected by one base.

The conferees direct the Secretary of Defense to monitor these grants closely. In the event a community receives a grant under this section and the local base is not closed, the conferees expect DOD to recoup any unspent funds. In the event that the base is closed, the conferees expect DOD to take into consideration the funds received under this section in awarding any other transition, adjustment, and diversification grants under section 2391 of title 10, United States Code, or any other authorities.

Increased eligibility and application periods for troops-to-teachers program (sec. 1131)

The Senate bill contained a provision (sec. 643) that would ensure that, notwithstanding any other provision of law, servicemembers discharged or released from active duty after October 1, 1990, who meet all other eligibility requirements, are eligible to participate in the troops-to-teachers program described in section 1151 of title 10, United States Code.

The House amendment contained a provision (sec. 1131) that would authorize $65.0 million for teachers and teacher's aide placement programs for fiscal year 1995.

The House recedes with an amendment that would authorize $65.0 million for teachers and teacher's aid placement programs for fiscal year 1995.

Assistance for eligible members to obtain employment with law enforcement agencies (sec. 1132)

The Senate bill contained a provision (sec. 644) that would authorize the Secretary of Defense to enter into an agreement with the Attorney General to establish or participate in a program to assist certain members and former members of the armed services to obtain employment with law enforcement agencies.

The House amendment contained a similar provision (sec. 1132) that would expand the troops-to-law enforcement officer program to authorize the Secretary of Defense to assist the placement of displaced federal fire fighters who worked on military bases and other facilities.

The House recedes with an amendment that would authorize the expansion of the troops-to-law enforcement officer program to include fire fighters if the Secretary of Defense certifies that such expansion would facilitate personnel transition programs in the Department of Defense. The conferees note that the grants to facilitate placement under this program are intended to reimburse participating agencies for costs, including salaries and fringe benefits, of employing individuals under this program. These costs may include training necessary to meet state or local law enforcement certification requirements.

Additionally, the conferees encourage the Department of Defense to review those troops-to-law enforcement officer programs already in operation, such as the certified Georgia peace officer course, to determine whether any aspects of one or more of these programs should be used as a model for application on a regional or national basis.

Pilot program to place separated members and terminated defense employees in teaching positions as bilingual math and science teachers (sec. 1133)

The House amendment contained a provision (sec. 1133) that would authorize $3.0 million for a pilot program designed to encourage bilingual (English-Spanish) servicemembers and DOD civilian employees to become math and science teachers upon leaving federal service. Under the program, individuals who participate would be eligible to receive a stipend, and educational institutions or other non-federal entities would be compensated for reasonable costs incurred in connection with program participation.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize $5.0 million for this program and would authorize the program to also include servicemembers and DoD civilian employees who are bilingual in English and languages other than Spanish. Nonetheless, the conferees expect and strongly encourage the Secretary of Defense, in the execution of this authority, to select the entity for the first cooperative arrangement from among the eligible Hispanic entities.

Demonstration project to assist separated members and terminated defense workers to become business owners (sec. 1134)

The House amendment contained a provision (sec. 1134) that would authorize the Secretary of Defense to establish, in not more than two eligible communities, demonstration projects to assist separated servicemembers and terminated defense workers to own their own businesses.

The Senate bill contained no similar provision.

The Senate recedes.

Demonstration project to promote ship recycling as a method to assist separating members and terminated employees (sec. 1135)

The House amendment contained a provision (sec. 1135) that would authorize $15.0 million for the establishment of a ship recycling and defense worker job creation program.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize $7.5 million for this program and require, at least 180 days prior to carrying out this project, the Secretary of Defense to certify to Congress that the project will facilitate the Department's personnel transition programs and will not disrupt the operation of U.S. companies engaged in ship recycling and scrapping.

Administration and funding of DDP/DCAP under Job Training Partnership Act (sec. 1136)

The House amendment contained a provision (sec. 1136) that would clarify the administration and funding of the defense diversification program and defense conversion adjustment program under the Job Training Partnership Act.

The Senate bill contained no similar provision.

The Senate recedes.

Assistance for certain workers dislocated due to reductions by the United States in the export of defense articles and services (sec. 1137)

The Senate bill and the House amendment contained identical provisions (secs. 924 and 1138, respectively) that would authorize assistance under the defense conversion adjustment program for certain workers dislocated due to reductions by the United States in the export of defense articles and services.

The conferees agree to include this provision.

Armament retooling and manufacturing support (sec. 1141)

The Senate bill contained a provision (sec. 345) that would authorize the Secretary of the Army to enter into agreements with agencies to administer a loan guarantee program as part of the armament retooling and manufacturing support (ARMS) initiative, consistent with the Federal Credit Reform Act of 1990 (title V of the Congressional Budget Act of 1974; 2 U.S.C. 661c). The provision would limit the total amount of loan principal which could be guaranteed at $65.0 million for all borrowers. This provision also would extend the authority for ARMS through fiscal year 1996.

The House amendment contained two provisions that would extend ARMS through fiscal year 1996 (sec. 1141) and provide loan guarantee authority (sec. 1142) limited to $320.0 million.

The House recedes with an amendment that would set the maximum amount of loan principal guaranteed during a fiscal year at $320.0 million.

Changes of notice requirements upon termination of defense programs (sec. 1142)

The Senate bill included a provision (sec. 1082) that would require certain notices to be made to employees of affected firms within 90 days after adverse actions in the budget process.

The House amendment included a similar provision (sec. 1151) that would require the notices within 30 days.

The Senate recedes with an amendment that would require the notices within 60 days of the budgetary actions.

Plan for deployment of defense environmental technologies for dredging of dual-use ports (sec. 1143)

The House amendment contained a provision (sec. 1152) that would direct the Secretary of Defense to establish a plan to encourage the development and deployment of defense environmental technologies in support of dredging requirements for dual-use ports.

The Senate bill contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISION NOT ADOPTED

Eligibility to lead technology reinvestment project activities

The House amendment included a provision (sec. 1112) that would make a labor organization eligible to take the lead in activities under the technology reinvestment project (TRP).

The Senate bill contained no similar provision.

The House recedes.

The conferees note that elsewhere in this act conditions are established for the funding of technology reinvestment projects. The Secretary of Defense is required to ensure that the principal economic benefits and, to the extent practicable, job creation resulting from technology reinvestment awards accrue to the U.S. economy. Accordingly, the conferees direct the Secretary to take appropriate steps to encourage greater participation of labor organizations in the TRP program.

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Cooperative threat reduction with states of the former Soviet Union (secs. 1201–1209)

The budget request contained $400.0 million for cooperative threat reduction (CTR) with states of the former Soviet Union.

The Senate bill included a provision (sec. 1013) that would authorize the requested amount and extend the authorities and reporting requirements contained in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5951 et seq.). The Senate bill also contained a provision (sec. 1041) that would require a report on offensive biological warfare programs of states of the former Soviet Union.

The House amendment contained a provision (sec. 1048) that would authorize the requested amount and extend the semiannual CTR report. Additionally, the House amendment contained a provision that would express the sense of Congress on the safe and secure dismantlement of the Soviet nuclear arsenal (sec. 1046); require a report on the coordination of military-to-military programs (sec. 1047); require Presidential certification that Russia has terminated its offensive biological warfare program (sec. 1049); require a report accounting for CTR assistance (sec. 1201); require a report on the accountability and control of fissile and chemical materials (sec. 1202); require a report on allied support for CTR programs and annual reports on multiyear planning for CTR programs (sec. 1203); and place specific limitations on all CTR programs for fiscal year 1995 (sec. 1204).

The conferees agree to combine the provisions of the Senate bill and the House amendment.

The conferees reiterate that the main focus of cooperative threat reduction must be on activities directly related to the safety, dismantlement, and nonproliferation of weapons of mass destruction. The conferees direct that any environmental restoration or housing activities proposed to be carried out in fiscal year 1995 may be funded only from the subaccount established in paragraph (a)(6) of section 1206 of this act and may be conducted only in accordance with the authorities established in sections 1203(b)(6) and (b)(7) of the National Defense Authorization Act for Fiscal Year 1994. The conferees note that the limitations established in section 1206 of this act would apply only to the $400.0 million authorized to be appropriated in section 301(21) of this act.

TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Cooperative research and development agreements with NATO organizations (sec. 1301)

The Senate bill contained a provision (sec. 241) that would authorize the Defense Department to conduct cooperative research and development projects under section 2350a of title 10, United States Code, with NATO organizations.

The House amendment contained no similar provision.

The House recedes.

North Atlantic Treaty Organization (sec. 1302)

The Senate bill contained a provision (sec. 1097) that would set forth the sense of the Congress on the relationship between the North Atlantic Treaty Organization (NATO) and the United Nations.

The House amendment contained a similar provision (sec. 1041).

The House recedes.

Authorized end strength for military personnel in Europe (sec. 1303)

The Senate bill contained a provision (sec. 1012) that would specify that, beginning on October 1, 1995, the end strength level of U.S. military personnel permanently stationed ashore in European members of NATO may not exceed approximately 100,000. The provision would allow the end strength level to

VOL 140 PT 16 AG 12 — 18 1994 UMI

exceed 100,000, but not 113,000, if the President makes certain certifications to Congress.

The House amendment contained a provision (sec. 385) that would exclude U.S. military personnel permanently stationed ashore in Iceland, Greenland, and the Azores from the end strength limitation.

The Senate recedes with an amendment that would set the end strength limitation at approximately 100,000.

The U.S. European Command is responding to several demanding, but very uncertain, security and humanitarian concerns in its area of responsibility. U.S. military forces permanently stationed in European members of NATO have recently deployed to Macedonia, Croatia, Kenya, the Rwandan relief operation, and the Southern Watch mission in the northern Persian Gulf. In addition, units normally stationed elsewhere in Europe have been deployed to Turkey to protect the Kurds in northern Iraq.

The uncertain nature and length of these and similar deployments that could take place in the future make it very difficult to predict the appropriate end strength level for U.S. military personnel in Europe at the end of fiscal year 1996. Therefore, the conferees agree that the U.S. European Command should have some flexibility in planning the further drawdown of its forces. The conference agreement to set the fiscal year 1996 end strength level at approximately 100,000 and to exclude U.S. military personnel stationed in Iceland, Greenland, and the Azores is intended to assist the Command in managing its personnel level to the appropriate fiscal year 1996 level.

In order to consider this matter in 1995, the conferees direct the Secretary of Defense to submit a report to Congress that includes the following information:

(1) an assessment of the appropriate end strength level for U.S. military personnel permanently stationed ashore in European members of NATO at the end of fiscal year 1996;

(2) a detailed justification for the Secretary's recommended end strength level;

(3) the extent to which the recommended end strength level is determined by security and humanitarian requirements outside the NATO theater; and

(4) the potential for reducing the number of U.S. military personnel assigned to headquarters in Europe by streamlining and consolidating headquarters functions.

The report should be submitted by March 1, 1995.

Allied share of installation costs (sec. 1304)

The House amendment contained a provision (sec. 1043) that would specify that the NATO allies should pay an increasing share of the non-personnel costs of U.S. military installations in European member nations of NATO. The provision would require the withdrawal of 1,000 U.S. military personnel for each percentage point that the NATO allies, as a group, are below certain goals.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would replace the House provision with a statement of U.S. policy that the NATO allies should pay 37.5 percent of the non-personnel costs of U.S. military installations in European members of NATO by the end of fiscal year 1996. According to the Department of Defense, the NATO allies currently pay 36 percent of such costs.

The conferees do not believe that the size and shape of the U.S. military presence in Europe should be determined solely by the extent to which the NATO allies offset U.S. stationing costs. This kind of burdensharing is an important consideration, especially in maintaining public and political support for the forward deployment of U.S. forces. However, it is only one of many factors in the calculation of the security costs and benefits of U.S. military forces in Europe.

The conferees recognize the many ways in which the NATO allies "share the burden" of our collective security efforts. For example, our NATO allies have committed about 15,000 ground personnel to the United Nations Protection Force in the former Yugoslavia. Also, Germany has contributed more assistance than any other country for the reconstruction, democratization, and economic reform of central Europe and the former Soviet Union. It has also absorbed over 500,000 refugees from eastern Europe. All of these allied efforts contribute to the security of the United States and should be considered in determining whether the NATO allies equitably share the burdens and responsibilities of providing for our mutual security.

Payments-in-kind for release of United States overseas military facilities to NATO host countries (sec. 1305)

The Senate bill contained a provision (sec. 1019) that would require the Secretary of Defense to notify the Congress of an agreement to accept military construction projects, facility improvements, or host nation support as a payment-in-kind contribution for release of U.S. overseas military facilities to host nations no later than 30 days before concluding the agreement.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

The conferees agree that the Secretary of Defense should continue efforts to negotiate for cash settlements in the return of U.S. overseas military facilities to host nations. When cash settlements cannot be agreed to, the conferees support the U.S. government receiving payments-in-kind contributions as a form of settlement. Understanding that these negotiations can be sensitive and time consuming in nature, the conferees urge the Secretary of Defense to continue to pursue these settlements in a prompt manner that is in the best interest of the U.S. government.

George C. Marshall Center (sec. 1306)

The Senate bill contained a provision (sec. 1081) that would (1) merge the funds received from the Federal Republic of Germany for its share of the costs of the George C. Marshall Center for Security Studies with the appropriations made available to the Department of Defense for the center for the same period and purpose; and (2) permit the Secretary of Defense to waive reimbursement for the costs of conferences, seminars, courses of instruction, or similar educational activities for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel is in the national security interests of the United States.

The House amendment contained no similar provision.

The House recedes.

Participation in allied defense cooperation (sec. 1307)

The Senate bill contained a provision (sec. 1079) that would express the sense of the Senate regarding the use of existing capabilities to facilitate defense cooperation between the United States and certain nations of the former Warsaw Pact.

The House amendment contained no similar provision.

The House recedes with an amendment.

Limitation on obligation of funds for overseas basing activities (sec. 1311)

The House amendment contained a provision (sec. 1039) that would limit the amount of operation and maintenance and military construction funds that could be obligated for overseas basing activities during fiscal year 1995 to no more than $8.181 billion. The provision would authorize the Secretary of Defense to exceed the limitation by such amount as the Secretary determines to be necessary in the national interest, but not by more than $400.0 million.

The Senate bill contained no similar provision.

The Senate recedes. The conferees note that the budget request included $8.581 billion (the sum of $8.181 billion and $400.0 million) of operation and maintenance and military construction funds for overseas basing activities.

The operation and maintenance tables in this statement of the managers include the following reductions in overseas basing activities:

[Dollars in thousands]

Account	Change from request
Army:	
Wartime host nation support	−100,000
Residual value	−70,000
Foreign national employees	−120,000
Army subtotal	−290,000
Navy:	
Foreign nationals	−10,000
Navy subtotal	−10,000
Air Force:	
Foreign nationals	−70,000
Residual value	−30,000
Air Force subtotal	−100,000
Total	−400,000

The operation and maintenance tables also include a corresponding addition of $400.0 million—$290.0 million, $10.0 million, and $100.0 million in the Army, Navy, and Air Force accounts, respectively.

The conferees want to clarify that if the military services cannot achieve the overseas savings included in the operation and maintenance tables, they are authorized to spend the $400.0 million added in the operation and maintenance tables for overseas basing activities (if the Secretary of Defense makes the determination and notification required by the House provision).

Clarification and codification of overseas military end strength limitation (sec. 1312)

The Senate bill contained a provision (sec. 1011) that would repeal the limitation that is to go into effect on October 30, 1996 on the number of U.S. military personnel permanently stationed ashore outside the United States.

The House amendment contained a provision (sec. 381) that would set the limitation at 200,000 personnel.

The Senate recedes with an amendment that would set the limitation at 203,000 personnel.

Cost-sharing policy and report (sec. 1313)

The Senate bill contained a provision (sec. 1017) that would state that the NATO allies should assist the United States in paying the incremental costs of stationing U.S. military personnel in Europe solely in support of NATO obligations. The provision would also require the Secretary of Defense to include certain information in the annual burdensharing report.

The House amendment contained no similar provision.

The House recedes with an amendment that would delete the requirement for certain information that is already provided in the annual burdensharing report and that would make clarifying changes.

Report assessing the consequences of military cooperation activities (sec. 1314)

The House amendment contained a provision (sec. 1052) that would require the Secretary of Defense to submit a report to Congress assessing, on a regional basis, the national security consequences of U.S. military cooperation programs.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would change the report from a regional to a country-by-country assessment.

Review and report relating to the Western Hemisphere (sec. 1315)

The Senate bill contained a provision (sec. 1018) that would require the Secretary of Defense to review authorities, programs, organizations, defense forums, and defense education institutions relating to cooperative regional security programs in the Western Hemisphere. The provision would require the Secretary to submit to the Armed Services Committees of the Senate and House of Representatives a report concerning U.S. strategic objectives, external and internal threats, and the contributions that the programs, defense contacts, organizations, forums, and institutions make to regional security, host nation security and national development, and the strategic objectives of the United States.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes and require the Secretary of Defense to assess U.S. humanitarian, civic assistance, and civic action programs conducted with regional host countries.

Military-to-military contacts and comparable activities (sec. 1316)

The Senate bill contained a provision (sec. 1015) that would provide a statutory basis for the military-to-military contact program; preclude funds for this program from being used to provide military education and training, defense articles, or defense services; and provide $46.3 million to expand the program to regions other than Eastern Europe and the Baltic states.

The House amendment contained a provision (sec. 1038) that would provide $45.8 million for the program and limit the obligation of funds to not more than $10.0 million until the Secretary of Defense submits a report describing the implementation of the program during fiscal year 1995.

The House recedes with an amendment that would clarify that funds may not be used under this section for the provision of international military education and training programs under chapter 5 of part II of the Foreign Assistance Act of 1961, except for the authorized activities under subsection (c). The amendment would also require the Secretary of Defense to submit a report to Congress not later than February 15, 1995 on the management structure of the military-to-military contacts program.

Acquisition and cross-servicing agreements (sec. 1317)

The House amendment included a provision (sec. 1022) that would allow the Secretary of Defense to enter into acquisition and cross-servicing agreements with the United Nations and regional organizations of which the United States is a member. The provision would also make other changes in the authority of the Secretary of Defense to enter into such agreements.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would (1) delete subsection (c) of the House provision on pricing principles; (2) expand the definition of the term "transfer" to include selling and leasing; and (3) make other changes in subchapter I of chapter 138 of title 10, United States Code, that would facilitate acquisition and cross-servicing agreements between the United States and other countries and organizations.

The conferees agree to limit the expansion of the Secretary's authority to international organizations "of which the United States is a member." If the Defense Department determines after experience with this expanded authority that expanding it further to include international organizations of which the United States is *not* a member would enhance the U.S. national interest, the conferees encourage the Department of Defense to submit a legislative proposal to make this change.

Permanent authority for the Department of Defense to share equitably the costs of claims under international armaments cooperative programs (sec. 1318)

The Senate bill contained a provision (sec. 823) that would extend indefinitely the authority of the Defense Department to pay its share of an international armaments cooperative program's claims in accordance with the program's cost-sharing formula or in accordance with any other equitable formula that is negotiated by the participants.

The House amendment contained no similar provision.

The House recedes.

Defense cooperation between the United States and Israel (sec. 1321)

The Senate bill contained a provision (sec. 1014) that would express the support of Congress for continued cooperation between the United States and Israel in military and technical areas.

The House amendment contained no similar provision.

The House recedes with an amendment. The conferees agree that the national interests of the United States and Israel are best served by strengthening existing mechanisms for cooperation and working toward eliminating unnecessary barriers to collaboration between the two countries.

Readiness of military forces of the Republic of Korea (sec. 1322)

The House amendment contained a provision (sec. 1060) that would express the sense of Congress and require a report on the military capabilities and readiness of South Korea's military forces.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make several clarifying changes.

Military planning for the size and structure of a force required for a major regional contingency on the Korean peninsula (sec. 1323)

The Senate bill contained a provision (sec. 1099) that would express the sense of Congress about the relationship between the force structure identified in the Bottom-Up Review and the situation of the Korean peninsula.

The House amendment contained no similar provision.

The House recedes with an amendment that would make several clarifying changes.

Sense of the Congress concerning the North Korean nuclear weapons development program (sec. 1324)

The House amendment contained a provision (sec. 1058) that would express the sense of Congress about the North Korean nuclear weapons program.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make several clarifying changes.

Report on the United States and Japan security relationship (sec. 1325)

The House amendment contained a provision (sec. 2854) that would require the Secretary of Defense to submit a report to Congress on the U.S. military presence in Okinawa.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary of Defense to submit a report to Congress on the security relationship between the United States and Japan.

TITLE XIV—PEACE OPERATIONS AND HUMANITARIAN ASSISTANCE ACTIVITIES

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Reports on reforming multilateral peace operations (sec. 1401)

The Senate bill contained a provision (sec. 1031) that would require the Secretary of Defense to submit two reports, six months apart, to the congressional defense committees on U.S. proposals for improving U.N. management of peace operations.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the reports to be submitted to Congress instead of the congressional defense committees.

Report on military readiness implications of Bosnia peacekeeping deployment (sec. 1402)

The House amendment contained a provision (sec. 1044) that would require the Secretary of Defense to submit to the congressional defense committees a report assessing the implications for U.S. military readiness of the participation of U.S. ground combat forces in peacekeeping operations in Bosnia-Hercegovina.

The Senate bill contained no similar provision.

The Senate recedes.

Report on intelligence lessons learned from Somalia (sec. 1403)

The House amendment contained a provision (sec. 1045) that would require the Secretary of Defense to submit to Congress a report on lessons learned from U.S. participation in U.N. activities in Somalia.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment that would clarify that the report is limited to intelligence matters.

Bosnia and Hercegovina (sec. 1404)

The Senate bill contained a provision (sec. 1088) that would express the sense of the Congress that the United States should work

VOL 140 PT 16 AG 12 — 18 1994 UMI

with NATO member nations and the U.N. Security Council to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina, including the following:

(a) the preservation of an economically, politically, and militarily viable Bosnian state capable of exercising its rights under the U.N. Charter by the lifting of the arms embargo on the government of Bosnia;

(b) if the Bosnian Serbs, while the contact group's peace proposal is being considered, attack the safe areas, the partial lifting of the arms embargo and the provision of defensive weapons and equipment to the government of Bosnia to defend the safe areas; and

(c) if the Bosnian Serbs do not respond constructively to the contact group's proposal, the President shall promptly propose the multilateral lifting of the arms embargo on the government of Bosnia in the U.N. Security Council and, if the Security Council fails to pass such a resolution, the President shall within five days consult with Congress regarding unilateral termination of the arms embargo.

The House amendment contained four provisions (secs. 1401–1404) that would unilaterally terminate the U.S. arms embargo on Bosnia and authorize the drawdown of defense articles from DOD stocks, DOD defense services, and military education and training in an aggregate value not to exceed $200.0 million, without reimbursement from the government of Bosnia and Hercegovina. U.S. military personnel providing such defense services or military education and training would not perform any duties of a combatant nature.

The conferees agree on a provision that would express the support of the Congress for the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia based upon the contact groups's proposal. The provision would express the policy of the Congress that the United States should exercise leadership within the international community to cause the Bosnian Serb faction to accept the contact group's proposal by taking action on separate but complementary international and unilateral tracks.

The policy under the international track would state that the President should formally introduce and support a resolution in the U.N. Security Council to terminate the arms embargo on Bosnia within 14 days of the later of October 15, 1994, or ten days after this act is enacted.

On the unilateral track, if the Bosnian Serbs have not accepted the contact group's proposal and the U.N. Security Council has not lifted the arms embargo on Bosnia by the earlier of November 15, 1994, or 15 days after the President introduces the resolution in the U.N. Security Council, the provision would prohibit the use of funds to participate in, support, or assist the enforcement of the Bosnian arms embargo. The President would be able to waive this prohibition in the case of U.S. military personnel serving in NATO headquarters positions. The provision would specifically state that the prohibition on the use of funds to enforce the Bosnian arms embargo is not intended to impede enforcement of sanctions against Serbia. The provision would also require the President to submit a plan to and consult with the Congress on the manner in which the armed forces of the United States and friendly states would train the Bosnian armed forces outside the territory of Bosnian and Hercegovina; and require the President to submit a plan to and consult with the Congress regarding the unilateral termination by the United States of observance of the Bosnia arms embargo and the implications thereof.

Finally, the provision would contain an interim policy that if the Bosnian Serb faction attacks any of the U.N. designated safe areas, the President should promptly formally introduce and support a resolution in the U.N. Security Council that authorizes the selective lifting of the Bosnia arms embargo to allow the provision of defensive weapons to enable the Bosnian forces to defend the safe areas.

The conferees note that the President has sent a letter to the Chairmen and Ranking Members of the Armed Services Committees of the Senate and House of Representatives stating, in pertinent part, that, "if by October 15 the Bosnian Serbs have not accepted the Contact Group's proposal, of July 6, 1994, it would be my intention within two weeks to introduce formally and support a resolution at the United Nations Security Council to terminate the arms embargo on Bosnia and Hercegovina."

In prohibiting the use of funds to participate in the enforcement of the Bosnian arms embargo, the conferees were careful to ensure that (a) the President could waive that prohibition in the case of U.S. military personnel who occupy positions throughout several NATO headquarters, including NATO's Supreme Allied Commander and the Commander in Chief, Allied Forces Southern Europe, and (b) U.S. forces could continue to conduct operations to enforce the arms and economic embargo on Serbia.

It is important that there is a clear understanding of the conferees' intent for the funding limitation in this provision. The conferees distinguished between what is *mandatory* under the U.N. Security Council resolution and what is *voluntary*. It is mandatory, for example, that the United States enforce the embargo by using its Customs agents and other law enforcement powers to stop the export of defense articles and services from the United States bound for Bosnia. It is voluntary, on the other hand, for any state to join the naval and air "picket line" that enforces the embargo in the waters of the Adriatic Sea and the air over the Balkans, for example, or to provide assistance or support to other states to help them do so. The conferees direct that the United States withdraw from all voluntary aspects of the enforcement of the embargo, but from no mandatory aspects when the relevant clauses of this provision are triggered. All voluntary participation must end for there to be good faith compliance with the stipulations of this statute.

The conferees intend this provision to encourage our NATO allies and other members of the U.N. Security Council to lift the arms embargo on Bosnia and to pressure the Bosnian Serb faction to accept the contact group's proposal.

Overseas humanitarian, disaster, and civic aid (sec. 1411)

The House amendment contained a provision (sec. 1023) that would establish a single funding account for overseas humanitarian, disaster, and civic aid (OHDACA) programs and limit the obligation of one-half of the funds in the account until regulations and a report required by section 1504 of the National Defense Authorization Act for Fiscal Year 1994 have been prescribed and submitted. The House provisions would authorize $60.0 million for the OHDACA account for fiscal year 1995.

The Senate bill contained no similar provision, but would authorize $71.9 million for humanitarian assistance for fiscal year 1995.

The Senate recedes with an amendment that would delete the reference to the report, which has now been submitted, and authorize $86.0 million for the OHDACA account in fiscal year 1995, of which $20.0 million would be reserved for humanitarian landmine clearing activities.

Foreign disaster relief activities (sec. 1412)

The Senate bill contained a provision (sec. 1016) that would provide a statutory basis for foreign disaster relief activities by authorizing the President to conduct such activities; require a Presidential determination that such activities are in the national interest of the United States and necessary to save lives; and require prompt notice to Congress concerning relevant matters. The provision would authorize $46.3 million for fiscal year 1995.

The House amendment contained a provision (sec. 1024) that would limit the Defense Emergency Response Fund to disasters occurring in the United States; require the Secretary of Defense to designate a foreign disaster relief activity to be a national contingency operation; and provide for the overseas humanitarian, disaster, and civic aid (OHDACA) account to be used for organizing general policies and programs for foreign disaster relief activities, but not for conducting the actual disaster relief activities.

The House recedes with an amendment that would delete the specific authorization of funds and provide that the OHDACA account would fund the development of general policies and programs for foreign disaster relief activities.

Humanitarian assistance program for clearing landmines (sec. 1413)

The Senate bill contained a provision (sec. 354) that would authorize not more than $10.0 million of operation and maintenance funds for the Secretary of Defense to carry out a humanitarian program for clearing landmines.

The House amendment contained two provisions (secs. 306 and 1025) that would address this matter. Section 306 would authorize not more than $25.0 million of operation and maintenance funds to support the clearing of landmines for humanitarian purposes. Section 1025 would direct the Secretary of Defense to carry out a program to assist other nations in clearing landmines.

The House recedes with an amendment that would: (1) authorize not more than $20.0 million for landmine clearing activities from the funds authorized for DOD overseas humanitarian, disaster, and civic aid programs; (2) allow the funds to be used for contributions to non-governmental organizations that have landmine clearing experience; (3) allow the funds to be used to transfer or lease equipment and technology to a foreign government participating in a landmine clearing program; and (4) require the Secretary of Defense to notify Congress of any activity carried out under this authority.

TITLE XV—ARMS CONTROL MATTERS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Counterproliferation (secs. 1501–1507)

The budget request included $30.3 million in the defense-wide operation and maintenance account for counterproliferation.

The Senate bill contained provisions that would recommend extension and revision of authorities contained in section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (sec. 1021); continue the Joint Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 through September 1, 1996, change the name of the Committee, modify the membership of the Committee, and narrow the focus of the group (sec. 1022); require a report to the congressional defense committees on the Committee's findings (sec. 1023); authorize $13.5 million in defense-wide research and development and operation and maintenance accounts for counterproliferation activities, direct the use of $15.0 million by the Advanced Research Projects Agency for two counterproliferation technology projects, and authorize the transfer of up to $100.0 million for counterproliferation technology projects (sec. 1024); and, restrict the use of travel funds by the Assistant Secretary of Defense for International Security Policy, pending receipt of a report (sec. 1025).

The House amendment contained provisions that would recommend extension and revision of authorities contained in section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (sec. 1211); require studies related to counterproliferation policy (sec. 1212); provide $30.1 million of the requested funding (sec. 1213); limit the obligation of funds for counterproliferation studies pending receipt of a report (sec. 1214).

The conferees agree to a series of provisions on counterproliferation.

EXTENSION AND REVISION OF EXISTING AUTHORITIES

Section 1501 of this act would revise and extend the authorities in section 1505 of the National Defense Authorization Act for Fiscal Year 1993 through Fiscal Year 1995. The conference agreement would provide up to $25.0 million in fiscal year 1994 and $20.0 million in fiscal year 1995 to support international nonproliferation activities, including the On-Site Inspection Agency's (OSIA) support to the United Nations Special Commission on Iraq (UNSCOM). Assistance to international organizations would not include the payment of administrative costs of U.S. participation in international organizations.

The conferees have concerns regarding the Department's request to support chemical weapons and ballistic missile dismantlement, nuclear materials control and removal, and the destruction of weapons of mass destruction and their delivery systems in areas outside the former Soviet Union, such as the Middle East, Brazil, Argentina, and South Africa. The conferees direct the Secretary of Defense to provide to the congressional defense and foreign affairs committees, 30 days in advance of any U.S. commitment to support these activities, a report on the activities which the Department seeks to support; the specific support to be provided; the cost of providing such support; potential future funding for this support; the extent to which the United States is obligated to provide such support; and the national security objective for providing the support.

JOINT REVIEW COMMITTEE AND ANNUAL REPORT

The conferees endorse the Senate provision that would continue the Joint Committee for the Review of Counterproliferation Programs through September 1, 1996; change the membership of the committee; and sharpen its focus, as described in the Senate report (S. Rept. 103–282). Additionally, the conferees would require the Joint Committee to submit reports on its findings to Congress in both unclassified and classified form no later than May 1, 1995 and May 1, 1996.

The conferees emphasize that the intent of reducing the membership and narrowing the focus of the Committee is to enable the Defense Department to prioritize program and budget submissions so that they address the priority military needs identified in the May 1, 1994 report to Congress on nonproliferation and counterproliferation activities and programs. The conferees recognize the role of other government agencies and departments in nonproliferation activities and emphasize that the role of the Joint Review Committee is to facilitate the coordination of counterproliferation and nonproliferation activities.

FUNDING FOR COUNTERPROLIFERATION PROGRAMS

The conferees agree to authorize $16.5 million in defense-wide research and development accounts for counterproliferation activities identified by the Joint Review Committee as defense technology gaps. The conferees recommend that funds be made available for counterproliferation projects identified in the May 1994 report on nonproliferation and counterproliferation activities and programs, including the following: (1) a joint demonstration program for the detection, characterization, and defeat of deep and/or hardened underground structures. The conferees also recommend that technology programs at the Defense Nuclear Agency (DNA), the Advanced Research Projects Agency, the service laboratories, the national weapons laboratories, the intelligence community, and the National Test Facility be fully leveraged for this effort; and (2) field demonstrations for operational users utilizing promising and existing technologies like biological detectors and alarms, improved decontamination equipment and solutions, and improved chemical gear and masks. A report shall be submitted to the congressional defense committees within 90 days of enactment of this act identifying the priorities for which these funds would be utilized.

The conferees are concerned that the Defense Department's efforts in this field need more focus and coordination. Therefore, they direct the Department to develop a plan to promote and improve the education of military personnel on proliferation, nonproliferation, and counterproliferation issues. To initiate this program, the conferees recommend $2.0 million in the defense-wide operation and maintenance account. This program would be managed by the Chairman of the Joint Chiefs of Staff. The military services' professional military education schools and the National Defense University would establish or continue their current mission of determining the implications of weapons of mass destruction (WMD) for doctrine and develop recommended solutions to WMD warfighting requirements. Of this amount, not more than $500,000 would be available for the National Defense University counterproliferation program to conduct a broad range of policy research related to WMD proliferation. Additionally, the conferees endorse the Senate recommendation to add $500,000 to the research and development, defense agencies account for technical studies, support, and analysis in program element 605104D to be available to the Joint Chiefs of Staff for the unified commands' preparations to meet power projection challenges.

The conferees are increasingly concerned with the growing problem of criminal activity in Eastern Europe, the Baltic countries, and the former Soviet Union. The possible theft of nuclear materials by these organized crime groups makes it imperative that the United States act to prevent the proliferation of illegally acquired nuclear weapons, components, and related materials, and in particular, to prevent these materials from entering the United States. To fulfill this urgent requirement, the conferees agree that funds authorized for the Advanced Research Projects Agency for counterproliferation technology projects shall be available for two projects: (1) $5.0 million for a program to detect, locate, and disable weapons of mass destruction hidden by terrorists or hostile states in a confined area outside the United States. To the extent possible, the conferees recommend that the existing resources of the national weapons laboratories be utilized; and (2) $10.0 million for a joint Department of Defense-Federal Bureau of Investigation (FBI) law enforcement training program. The purpose of this program would be to expand and improve U.S. efforts to deter the possible proliferation of weapons of mass destruction by crime organizations in Eastern Europe, the Baltic countries, and states of the former Soviet Union.

Lastly, the conferees agree to authorize the Department to transfer up to $100.0 million of funds available in the research and development, defense agencies account for counterproliferation programs, projects, or activities identified by the Joint Review Committee as areas for progress.

RESTRICTIONS AND LIMITATIONS ON FUNDING

The conferees recommend a number of restrictions and limitations on the obligation of funds.

Until the Director of the Federal Bureau of Investigation and the Director of the Advanced Research Projects Agency jointly submit a memorandum of understanding that outlines the program plan and mechanisms for execution of the training program, only $1.0 million shall be available to ARPA and the FBI for the preparation of two reports that: (1) identify the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime groups in Eastern Europe, the Baltic countries, and the former Soviet Union, and (2) assess the actions that the United States should take to assist law enforcement agencies in these countries to prevent and deter the theft of nuclear weapons material and components and other weapons of mass destruction. This report should include information on the costs of personnel, support equipment, and training, the time required to commence the program, and future funding required for the program.

Pending receipt of a report on the proliferation of military satellites required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993, no funds available to the Department for travel expenses may be expended for travel by the Assistant Secretary of Defense for International Security Policy.

Further, the conferees would limit the obligation of $1.0 million of the funds authorized in section 1504(c) for counterproliferation studies until the report on the effect of increased use of dual-use technologies on the ability to control exports required by section 1422 of the National Defense Authorization Act for Fiscal Year 1994 is submitted to the congressional defense committees.

Finally, the conferees agree that $4.0 million of the funds authorized in section 1504 for counterproliferation activities shall not be available for obligation by the Department until the congressional defense and intelligence committees receive the following:

VOL 140 PT 16 AG 12 — 18 1994 UMI

(1) a report from the intelligence and communications architectures (INCA) project office assessing the technical feasibility of a proposed classified counterproliferation database system; and (2) a DOD reprogramming request for this database system that is matched dollar for dollar by a reprogramming request within the national foreign intelligence program (NFIP) by the Director of Central Intelligence. Further details on this program are contained in the research and development, defense agencies portion of the statement of the managers under the C3I intelligence program.

Non-Proliferation Treaty (NPT) review conference (sec. 1508)

The House amendment contained a provision (sec. 1054) that would express the sense of the Congress that the President seek an indefinite and unconditional extension of the Nonproliferation Treaty in the 1995 review conference.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

Negotiations on limiting nuclear weapons testing (sec. 1509)

The House amendment included a provision (sec. 1059) that would urge the Conference on Disarmament to make all possible progress toward a comprehensive test ban treaty and would discourage the nuclear powers from conducting nuclear weapons tests prior to the conclusion of a comprehensive test ban treaty.

The Senate bill did not contain a similar provision.

The Senate recedes with an amendment.

Arms control compliance

The budget request contained $271.4 million for arms control-related programs.

The Senate bill would authorize $251.1 million for these programs.

The House amendment would authorize $271.4 million.

The conferees recommend several adjustments to the requested amount based on consultations with officials from the Office of the Secretary of Defense, the military services, and the On-Site Inspection Agency (OSIA). The adjustments reflect delays in the anticipated date of entry into force of the Strategic Arms Reduction Treaty (START), the Chemical Weapons Convention (CWC), the Bilateral Destruction Agreement (BDA) between the United States and Russia, and the Open Skies Treaty (OST). The adjustments result in an overall reduction of $20.0 million for arms control compliance activities. The reductions are to be made in the following manner: $7.0 million in the O&M account for OSIA, and $6.0 million to the Army, $3.0 million to the Navy, and $4.0 million to the Air Force O&M accounts.

The statement of the managers accompanying the conference report on the National Defense Authorization Act for Fiscal Year 1994 (H. Rept. 103-357) directed the Department of Defense to notify the congressional defense committees in writing 30 days prior to U.S. agreement to any recommendations in the various arms control consultative and verification commissions that would result in a technical change to a treaty that would affect inspection and monitoring provisions or that would increase U.S. costs of implementation. The Department has not complied with this request. The conferees direct the Department to comply with this request without delay. Additionally, the conferees direct the Secretary of Defense to provide a report to the congressional defense committees by February 28, 1995 on (1) all memoranda of understandings and political agreements or statements agreed with parties with whom the United States has a bilateral or multilateral arms control agreement; (2) a detailed accounting of additional expenses incurred as a result of these agreements; and (3) projected costs of the agreements.

FISCAL YEAR 1995 DOD ARMS CONTROL BUDGET

[Dollars in millions]

Account and Program	Request	Recomm	Rec Auth
WPN Arms control compliance	7.944	0.000	7.944
WPAF MMII/MMIII mods	4.728	0.000	4.728
OPAF Spares & repairs	2.496	0.000	2.496
OPA Arms control compliance	3.510	0.000	3.510
RDT&E, AF Arms control implementation	6.456	0.000	6.456
RDT&E, DA Ver tech dem, ONA (6037111)	41.068	0.000	41.068
O&M, Army	39.237	−6.000	33.237
O&M, Navy	34.061	−3.000	31.061
O&M, Air Force	32.010	−4.000	28.010
O&M, DA OSIA	99.947	−7.000	92.947
Total	271.457	−20.000	251.457

TITLE XVI—RESERVE OFFICER PERSONNEL MANAGEMENT ACT (ROPMA)

Reserve Officer Personnel Management Act (secs. 1601-1693)

The House amendment included provisions (sec. 1301-1393) that collectively constitute the Reserve Officer Personnel Management Act (ROPMA).

The Senate bill contained no similar provisions.

The Senate recedes with an amendment that would delay the effective date of ROPMA until October 1, 1996. The conferees note the detailed legislative history of ROPMA contained in the House report (H. Rept. 103-84). The conferees agree that the Senate will consider perfecting legislation new year, including accelerating the effective date of ROPMA.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

OVERVIEW

The budget request for fiscal year 1995 contained $8,322,623,000 for military construction and family housing.

The Senate bill would authorize $8,823,936,000 for military construction and family housing.

The House amendment would provide $8,835,174,000 for this purpose.

The conferees recommend authorization of $8,837,019,000 for military construction and family housing in fiscal year 1995.

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

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AUTHORIZATION OF APPROPRIATIONS

RECAPITULATION

(In thousands of dollars)

	BUDGET REQUEST	H. PASSED	S. PASSED	CONFERENCE AGREEMENT
ARMY	690,576	853,426	490,076	552,976
NAVY	320,470	448,786	340,455	386,760
AIR FORCE	353,313	503,213	526,663	529,313
DEFENSE AGENCIES	481,729	465,009	546,519	508,069
NATO INFRASTRUCTURE	219,000	119,000	219,000	119,000
BASE REALIGN & CLOSURE I	87,600	87,600	87,600	87,600
BASE REALIGN & CLOSURE II	398,700	398,700	398,700	398,700
BASE REALIGN & CLOSURE III	2,189,858	2,005,897	2,189,858	2,189,858
ARMY NATIONAL GUARD	9,929	145,067	180,312	188,062
AIR NATIONAL GUARD	122,770	210,212	240,003	249,053
ARMY RESERVE	7,910	37,410	37,870	57,370
NAVY RESERVE	2,355	11,905	17,355	22,748
AIR FORCE RESERVE	28,190	55,516	43,840	57,066
TOTAL MILITARY CONSTRUCTION	4,912,400	5,341,741	5,318,251	5,346,575
FAMILY HOUSING CONSTRUCTION, ARMY	152,402	164,402	173,502	170,002
FAMILY HOUSING SUPPORT, ARMY	1,121,208	1,121,208	1,067,708	1,013,708
FAMILY HOUSING CONSTRUCTION, NAVY	229,295	267,465	229,295	267,465
FAMILY HOUSING SUPPORT, NAVY	853,599	853,599	937,599	937,599
FAMILY HOUSING CONSTRUCTION, AIR FORCE	222,993	243,682	243,355	247,444
FAMILY HOUSING SUPPORT, AIR FORCE	801,345	801,345	824,845	824,845
FAMILY HOUSING CONSTRUCTION, DEFENSE AGENCIES	350	350	350	350
FAMILY HOUSING SUPPORT, DEFENSE AGENCIES	29,031	29,031	29,031	29,031
TOTAL FAMILY HOUSING	3,410,223	3,480,082	3,505,685	3,490,444
TOTAL MILITARY CONSTRUCTION & FAMILY HOUSING.	8,322,623	8,822,623	8,823,936	8,837,019

VOL
140
PT
16
AG
12
18
1994
UMI

TITLE XXI—ARMY

FISCAL YEAR 1995

The Senate bill would authorize $1,731,286,000 for Army military construction and family housing programs for fiscal year 1995.

The House amendment would authorize $2,139,036,000 for this purpose.

The conferees recommend authorization of $1,736,686,000 for Army military construction and family housing for fiscal year 1995.

Authorization of military construction project at Fort Bragg, North Carolina, for which funds have been appropriated (sec. 2105)

The House amendment contained a provision (sec. 2105) that would authorize the Secretary of the Army, with amounts previously appropriated, to construct a library at Fort Bragg, North Carolina in the total amount of $5.5 million.

The Senate bill contained no similar provision.

The Senate recedes.

Relocation of Army family housing units from Fort Hunter-Liggett, California to Fort Stewart, Georgia (sec. 2106)

The Senate bill contained a provision (sec. 2105) that would amend the Military Construction Authorization Act for Fiscal Year 1992 (Division B of Public Law 102–190) to relocate a portion of the family housing units that had been authorized for construction at Fort Hunter-Liggett, California, to Fort Stewart, Georgia. The provision, which does not alter the amount of the original authorization, reflects basing changes that have occurred since the original authorization.

The House amendment contained no similar provision.

The House recedes.

Highway safety at Hawthorne Army Ammunition Plant, Nevada (sec. 2107)

The Senate bill contained a provision (sec. 2106) that would direct the Secretary of the Army to study traffic safety with respect to the rail and truck crossing on the highway at the Hawthorne Army Ammunition Plant. The Secretary's study would evaluate the feasibility of constructing a vehicle bridge over the rail and truck crossing, and determine if such a project qualifies as a military construction project or as a defense access road construction project as defined in section 210 of title 23, United States Code.

The House amendment contained no similar provision.

The House recedes.

Replacement of destroyed facility, Fort Gordon, Georgia

The conferees note that the 63d Signal Battalion vehicle maintenance facility at Fort Gordon, Georgia was destroyed by fire on January 15, 1994. The estimated replacement cost of the facility is $3.5 million. The conferees direct the Secretary of the Army to reprogram funds for this replacement project using authority in section 2854 of title 10, United States Code.

Authorization of projects for United States Forces, Korea

The conferees agree to authorize for appropriation $34.6 million for construction of barracks at two Army installations, Camp Casey and Camp Red Cloud, located in South Korea. Although these projects were not requested by the Administration, compelling testimony before the Armed Services Committees of the Senate and House of Representatives indicated that living conditions for the soldiers stationed near the Demilitarized Zone in Korea were substandard. Many of the soldiers assigned to these installations are housed in overcrowded, substandard quonset huts and H-relocatable buildings. These substandard facilities are deteriorated, undersized, energy inefficient, and structurally unsound.

The conferees agree that despite substantial contributions by the Republic of Korea toward upgrading U.S.-occupied military facilities, the Congress has an obligation to provide for the welfare of our armed forces. The authorization of these projects will enhance the moral and readiness of U.S. armed forces stationed in South Korea.

Management of military family housing, Hawaii

The conferees note the Secretary of Defense's decision to decentralize the Hawaii military family housing operation and maintenance, and management functions and accounts. The conferees understand that all funding for new construction, improvements, and operations, including furnishings management and maintenance, will now be the responsibility of each of the military services. The Department of the Army will continue to provide consolidated off-post housing referral services. Other functions such as installation master planning and the provision of handicapped-accessible housing will return to each service along with the management of its family housing.

To facilitate this decentralization, the conferees recommend the transfer and redistribution of $107.5 million from the Army's family housing account to the family housing accounts of the Navy and Air Force based on an allocation agreed upon by the military services.

TITLE XXII—NAVY

FISCAL YEAR 1995

The Senate bill would authorize $1,507,349,000 for Navy military construction and family housing programs for fiscal year 1995.

The House amendment would authorize $1,569,850,000 for this purpose.

The conferees recommend authorization of $1,591,824,000 for Navy military construction and family housing for fiscal year 1995.

Restoration of authority to carry out military construction project at Naval Supply Center, Pensacola, Florida (sec. 2205)

The House amendment contained a provision (sec. 2205) that would authorize the Secretary of the Navy to construct a cold storage facility at the Naval Supply Center, Pensacola, Florida and any other construction associated with contract N62467–86–C–0421 which was entered into before the termination of authority, notwithstanding section 2205(b)(1)(D)(ii) of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160).

The Senate bill contained a similar provision (sec. 2205).

The Senate recedes.

Design activities for upgrade of Mayport Naval Station, Florida (sec. 2206)

The House amendment contained a provision (sec. 2206) that would require, at the conclusion of a facilities study, the Secretary of the Navy to begin design activities for military construction projects to provide Mayport Naval Station, Florida with the capability to serve as a homeport for a nuclear-powered aircraft carrier.

The Senate bill contained a similar provision (sec. 2207).

The Senate recedes.

Relocation of Pascagoula Coast Guard Station, Mississippi (sec. 2207)

The Senate bill contained a provision (sec. 2206) that would authorize the Secretary of the Navy to enter into an agreement with the Secretary of Transportation to allow the U.S. Coast Guard to relocate the Pascagoula Coast Guard facilities to the Pascagoula Naval Station.

The House amendment contained no similar provision.

The House recedes with an amendment that would prohibit: (1) the Coast Guard from incurring any cost in the relocation to the Pascagoula Naval Station; and (2) the Pascagoula Coast Guard from relocating if the relocation of the Coast Guard facility would interfere with the performance of the mission of the Navy or be incompatible with Coast Guard operations in the Pascagoula area.

Water processing system upgrade, Construction Battalion Center Port Hueneme, California

The conferees understand that the Department of the Navy and the local water authorities in the Oxnard, California area, represented by the Sub-Regional Water District (SRWD), continue to negotiate the net regional benefits of managed water consumption. Therefore, the conferees intend that the authorization to construct a water processing system upgrade contained in this act should be construed to include other options, as may be negotiated, that provide the same potable water services included in the original project. These options may include, but are not limited to, assigning a portion, up to a maximum of $1.7 million, of the authorized funds to the SRWD for the purpose of construction of a regional reverse osmosis water treatment plant and provision of water to the Navy at favorable rates in lieu of construction of the plant by the Navy.

Defense access road, Blount Island, Florida

The House amendment would authorize $10.0 million for the construction of a defense access road in Blount Island, Florida.

The Senate bill did not provide funds for this project.

The House recedes.

The conferees direct the Secretary of the Navy to study the requirement for the road project and work with the Military Traffic Management Command to determine if the project qualifies for the defense access road (DAR) program as described in section 210 of title 23, United States Code. If the project qualifies for the DAR program, the Navy is encouraged to request authorization of appropriation for the road project in the budget request for fiscal year 1996.

Power plant upgrade, Public Works Center, Guam

The conferees understand that the Department of the Navy and the Guam Power Authority have shared the operating cost and use of power plants serving the Guam island wide power system (IWPS) as agreed to in the Power Pool Agreement of 1972. The Navy is seeking to terminate the 1972 Agreement and release all operating responsibilities of the power systems. As stated in the Agreement, the Navy must upgrade the Piti Power Plant before it can withdraw from the 1972 Agreement.

The House amendment would authorize $21.6 million to upgrade the Piti Power Plant.

The Senate bill did not include funds for this project.

The House recedes.

The conferees note the Navy's desire to terminate the 1972 Agreement and encourage the Navy to request funds for the power plant upgrade in the fiscal year 1996 budget request.

TITLE XXIII—AIR FORCE

FISCAL YEAR 1995

The Senate bill would authorize $1,594,836,000 for Air Force military construction and family housing programs for fiscal year 1995.

The House amendment would authorize $1,548,040,000 for this purpose.

The conferees recommend authorization of $1,601,602,000 for Air Force military construction and family housing for fiscal year 1995.

Authorization of previously appropriated military construction projects at Tyndall Air Force Base, Florida (sec. 2305)

The Senate bill contained a provision (sec. 2305) that would amend section 2301 of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160) to authorize $3.2 million for an addition to a base supply and equipment warehouse and $2.4 million for construction of a security policy operations facility at Tyndall Air Force Base, Florida.

The House amendment contained a similar provision (sec. 2306).

The House recedes.

Revision of authorized family housing project, Tyndall Air Force Base, Florida (sec. 2306)

The Senate bill contained a provision (sec. 2306) that would amend section 2302(a) of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160) to convert the Tyndall Air Force Base, Florida infrastructure project into a 45-unit family housing project.

The House amendment contained a similar provision (sec. 2305).

The House recedes.

Modification of Air Force Plant No. 3, Tulsa, Oklahoma (sec. 2307)

The House amendment contained a provision (sec. 2307) that would authorize the Secretary of the Air Force to use up to $10.0 million of available funds for repair and maintenance to modify Air Force Plant No. 3 located in Tulsa, Oklahoma

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of the Air Force to submit a report to the congressional defense committees certifying the modifications are consistent with the future national security mission of the facility and wait 30 days before funds for modifications to the plant are obligated.

Repeal of limitation on the order of retirement of Minuteman II missiles (sec. 2308)

The House amendment contained a provision (sec. 2308) that would repeal section 2307 of the Military Construction Authorization Act for Fiscal Year 1991 (Division B of Public Law 101–510). The section requires the Secretary of the Air Force to provide that the installation which receives the last operational upgrade for the Minuteman II missile systems be the installation from which the last Minuteman II missile is retired.

The Senate bill contained no similar provision.

The Senate recedes.

Emergency construction

The conferees understand that recent flooding in middle Georgia has caused severe damage to facilities at Robins Air Force Base, Georgia. The base is seeking additional operation and maintenance funds from Air Force Headquarters to repair much of the flood damage. However, the hazardous waste disposal processing center was inundated with flood water and will require replacement.

The conferees are concerned that the flood damage to the hazardous material facility may cause future environmental and health safety hazards and urge the Secretary of the Air Force to consider constructing a $4.1 million replacement facility using emergency construction authority in section 2803 of title 10, United States Code.

Certain construction projects funded through operation and maintenance accounts

The conferees direct, within funds authorized for real property maintenance and repair, the Department of the Air Force to proceed with the following repair projects in fiscal year 1995: (1) $4.5 million, repair parking apron, Minot Air Force Base, North Dakota; (2) $7.6 million, repair depot maintenance hangar (phase I), Kelly Air Force Base, Texas; and (3) $1.7 million, upgrade electrical service to industrial area, McClellan Air Force Base, California.

TITLE XXIV—DEFENSE AGENCIES

FISCAL YEAR 1995

The Senate bill would authorize $3,252,058,000 for Defense Agencies military construction and family housing programs for fiscal year 1995.

The House amendment would authorize $2,999,138,000 for this purpose.

The conferees recommend authorization of $3,213,608,000 for Defense Agencies military construction and family housing for fiscal year 1995.

Energy conservation projects (sec. 2404)

The Senate bill contained a provision (sec. 2404) that would authorize the Secretary of Defense to carry out energy conservation projects using funds authorized in section 2405(a)(8) of this act.

The House amendment contained a similar provision (sec. 2404).

The House recedes.

Community impact assistance with regard to Naval Weapons Station, Charleston, South Carolina (sec. 2406)

The House amendment contained a provision (sec. 2406) that would, within amounts pursuant to the authorization of appropriations in section 2405(a) of the House bill, authorize the Secretary of the Navy to transfer $3.0 million to the South Carolina Department of Highways and Public Transportation to be used for improvements to North Rhett Avenue, Charleston, South Carolina. This would help alleviate the adverse effects of the closure of Charleston Naval Station and Charleston Naval Shipyard, South Carolina, on the surrounding communities.

The Senate bill contained a similar provision (sec. 2407).

The Senate recedes with a technical amendment.

Planning and design for construction in support of consolidation of operations of the Defense Finance and Accounting Service (sec. 2407)

The Senate bill contained a provision (sec. 2408) that would direct that $6.0 million of funds authorized for appropriation in section 2405(a)(7) of the Senate bill be available for planning and design activities to support the consolidation of operations of the Defense Finance and Accounting Service.

The House amendment contained no similar provision.

The House recedes.

Modification of authority to carry out fiscal year 1993 project (sec. 2408)

The Senate bill contained a provision (sec. 2406) that would terminate the fiscal year 1993 authorization for construction of a $390.0 million replacement hospital at Fitzsimons Army Medical Center in Aurora, Colorado.

The House amendment contained no similar provision.

The House recedes with an amendment that would reduce the fiscal year 1993 authorization to $225.0 million. The provision would require the Secretary of Defense, if the fiscal year 1996 budget request includes funds for the construction of a replacement facility at Fitzsimons Army Medical Center, to submit, no later than March 15, 1995, a report to the congressional defense committees that certifies that a replacement facility is needed to meet military health care requirements. The report shall address the following:

(1) the cost-effectiveness of building a replacement facility;

(2) the Department of Defense policy on construction of new military medical facilities where the majority of the beneficiary population is military retirees and their dependents;

(3) the relative percentage of active duty personnel, dependents of active duty personnel, military retirees, and dependents of military retirees that would be served in the catchment area and in the region 8 area;

(4) the availability and cost of medical care from civilian medical facilities in the catchment area for the beneficiary population;

(5) the occupancy rates of civilian medical facilities in the catchment area;

(6) the level of care provided by civilian hospitals in the catchment area;

(7) the relative cost and ability of other Department of Defense medical facilities or civilian medical facilities in region 8 to provide the medical care for patients in region 8 currently provided by Fitzsimons Army Medical Center;

(8) the projected occupancy rates at Fitzsimons Army Medical Center with and without patients from outside the catchment area and the region 8 area; and

(9) the cost-effectiveness and contribution of the graduate medical education program at Fitzsimons Army Medical Center to meeting the Army's requirements for training military medical personnel.

Chemical demilitarization program

The conferees agree to transfer the authorization for military construction associated with the chemical demilitarization program from the Department of the Army account to a Defense-Wide account, with the Army continuing to act as executive agent for the program. The conferees agree to an authorization of appropriation for phase I of construction for two chemical demilitarization facilities located at Pine Bluff Arsenal, Arkansas and Umatilla Army Depot, Oregon. The conferees expect the remainder of the funds necessary to complete these projects to be requested in the fiscal year 1996 budget in the mandated Defense-Wide account.

As executive agent for the chemical demilitarization program, the Army notified the congressional defense committees of the need to include funding for carbon filtration systems for four chemical demilitarization facilities. The conferees agree to authorize $4.0 million for Anniston Army Depot, Alabama and $5.0 million for Tooele Army Depot for these systems. The conferees direct the Department to request funds for the two additional carbon filtration systems for Pine Bluff Arsenal, Arkansas and Umatilla Army Depot, Oregon in the fiscal year 1996 budget request.

VOL 140 PT 16 AG 12 — 18 1994 UMI

TITLE XXV—NATO

FISCAL YEAR 1995

The Senate bill would authorize $219.0 million for the U.S. contribution to the NATO Infrastructure program for fiscal year 1995.

The House amendment would authorize $119.0 million for this purpose.

The conferees recommend authorization of $119.0 million for the U.S. contribution to the NATO Infrastructure program.

This reduction is made without prejudice. The conferees acknowledge the May 1993 NATO report on the "Renewal of the Infrastructure Program." The report brings the infrastructure program in line with the new NATO strategic concept and reduces annual infrastructure funding levels by half from pre-1991 levels. The conferees reduce this authorization in order to meet other priority overseas infrastructure requirements, including quality of life facilities near the Demilitarized Zone in South Korea.

TITLE XXVI—GUARD AND RESERVE

FISCAL YEAR 1995

The Senate bill would authorize $519,380,000 for military construction and land acquisition for fiscal year 1995 for the National Guard and reserve components.

The House amendment would authorize $460,110,000 for this purpose.

The conferees recommend authorization of $574,299,000 for military construction and land acquisition for fiscal year 1995. This authorization would be distributed as follows:

Army National Guard	$188,062,000
Air National Guard	249,053,000
Army Reserve	57,370,000
Naval/Marine Corps Reserve	22,748,000
Air Force Reserve	57,066,000

Prohibition on use of funds for unauthorized Guard and reserve projects (sec. 2602)

The House amendment contained a provision (sec. 2602) that would prohibit the Guard and reserve components from using military construction funds for unauthorized Guard and reserve projects.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would provide for certain exceptions to the prohibition. The prohibition would not apply with respect to Guard and reserve funds for:

(1) unspecified planning and design and for unspecified minor construction;

(2) projects specifically authorized by a law enacted after the date of the enactment of this act;

(3) projects designated as emergency construction;

(4) projects designated as contingency construction;

(5) projects required to carry out an environmental response action;

(6) projects required to repair, restore, or replace damaged or destroyed facilities; and

(7) projects specified in past statements of the managers of conference committees to accompany any acts authorizing military construction projects.

Authorization of projects for which funds have been appropriated (sec. 2603)

The House amendment included a provision (sec. 2603) that would amend section 2601 of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160) to increase the authorization of the Army National Guard and the Naval/Marine Corps Reserve accounts.

The Senate bill contained a similar provision (sec. 2602).

The Senate recedes with an amendment that would authorize additional Army National Guard military construction projects, including:

Fort Irwin, CA—maintenance covers	$1,265,000
Moloki, HI—armory	1,050,000
Oaho, HI—add to/alter armory	4,300,000
Tupelo, MS—Army aviation support facility	3,210,000
Las Cruces, NM—Army aviation support facility	1,014,000
Salem, OR—aviation taxiway repair	3,183,000

State National Guard Headquarters, Fort Dix, New Jersey (sec. 2604)

The House amendment contained a provision (sec. 2604) that would authorize, pursuant to the authorization of appropriations in section 2601(1)(A) of the Military Construction Authorization Act of Fiscal Year 1993 (Division B of Public Law 102–484), the New Jersey National Guard to renovate, alter, and add to an existing facility at Fort Dix, New Jersey to accommodate a consolidated New Jersey National Guard headquarters.

The Senate bill contained no similar provision.

The Senate recedes.

Colorado state area command armory, Englewood, Colorado (sec. 2605)

The conferees agree to a provision that would allow the Secretary of Defense to consider the cost of market value of the buildings and improvements contributed by the State of Colorado to the Colorado National Guard in computing the amount of the federal contribution for construction of an armory in Englewood, Colorado.

Miscellaneous report requirements

The House report (H. Rept. 103–499) and the Senate report (S. Rept. 103–282) discussed military construction items of special interest. The conferees endorse the discussions in both reports and, unless modifications to those reports are contained in this statement of the managers, the positions and requirements contained in the House and Senate reports on the fiscal year 1995 military construction authorization acts are agreed to by the conferees.

General reduction

The conferees agree to a general reduction of $23.5 million in the authorization of appropriation for each of the Army, Navy, and Air Force military construction accounts. The general reductions are to be offset by savings from favorable bids, reduction in overhead costs, cancellation of projects due to force structure changes, and cancellation of projects due to the 1995 base realignment and closure decisions. The general reductions shall not cancel any military construction project authorized by this act.

Planning and design authorizations

The conferees direct that, within amounts authorized for the Army, Army National Guard, Air National Guard, and Air Force Reserve facility planning and design accounts, the services proceed with design activities for the following projects:

Army:	
Fort Benning, GA, consolidated maintenance facility	$1,000,000
Tobyhanna Army Depot, PA, industrial operations facility	1,200,000
Army National Guard:	
Camp Blanding, FL, water system upgrade	400,000
Camp Shelby, MS, multipurpose range complex	1,200,000
Nashville, TN, state area command facility	800,000
Air National Guard:	
Massachusetts Military Reservation, MA, installation restoration facility	1,000,000
Air Force Reserve:	
Luke AFB, AZ, squadron operations facility	266,000

Unspecified minor construction

The conferees direct, within funds authorized for unspecified minor construction for the Department of the Air Force and the Air National Guard, the services to proceed with the following minor military construction projects in fiscal year 1995: (1) $900,000 to alter the mission equipment facility at Moody Air Force Base, Georgia; and (2) $900,000 for an addition to the communications facility at McEntire Air National Guard Base, South Carolina.

Base maintenance and repair

The conferees are concerned with the backlog of maintenance and repair of existing facilities on military bases. During hearings before the Committees on Armed Services of the Senate and House of Representatives, witnesses from the military services testified that the backlog of maintenance and repair is continuing to grow at a rapid pace. For example, an Army witness testified that, at the start of fiscal year 1994, the backlog in maintenance and repair was $2.7 billion and is projected to grow to $4.6 billion by the end of fiscal year 1995.

The conferees understand that this situation is not unique to the Army and that this backlog will continue to grow as facilities age and the funding level for maintenance and repair continues at a steady state.

While eliminating the backlog will require many years, the conferees urge the military services to establish an appropriate level of funding in their future programs to significantly reduce the backlog.

The budget request for fiscal year 1995 included $4.1 billion for real property maintenance and repair. The conferees agree to increase the real property maintenance and repair accounts for the military services by the following amounts: $30.0 million for the Army; $25.0 million for the Navy; and $20.0 million for the Air Force.

TITLE XXVIII—GENERAL PROVISIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Limitation of repair of existing facilities (sec. 2801

The conferees are concerned that major repairs to facilities, funded through operation and maintenance accounts, are conducted without the oversight of the service secretaries or the Committees on Armed Services of the Senate and House of Representatives. The conferees believe improved oversight of the major repairs is required, but do not want to impose additional reporting requirements.

The conferees agree to a provision that would require the service secretary concerned to approve, in advance, any repair project with a total cost in excess of $5.0 million. In determining the total cost of the repair project, the secretary shall include all phases of a multi-year repair project. The secretary shall also consider whether future plans, cost effectiveness, and the use of operation and maintenance funds are appropriate. The conferees note that this provision would not constrain the secretary's

flexibility to proceed with those projects requiring urgent repair.

Clarification of requirement for notification of Congress of improvements in family housing units (sec. 2801)

The Senate bill included a provision (sec. 2801) that would clarify the notification requirements for improvements to military family housing units by requiring congressional notification for only those family housing improvements exceeding $50,000 per unit not previously included in the annual budget justification data.

The House amendment contained no similar provision.

The House recedes.

Limited partnerships for Navy housing (sec. 2803)

The House amendment contained a provision (sec. 2802) that would amend chapter 649 of title 10, United States Code, to authorize the Department of the Navy to invest in limited partnerships to develop privately-owned family housing units near military installations. The House amendment also contained a provision (sec. 2803) that would authorize the Secretary of the Navy to establish a Navy Housing Investment Board consisting of private sector and federal government representatives. The Board would administer a revolving fund for Navy housing investment agreements.

The Senate bill contained no similar provision.

The House recedes on section 2803.

The Senate recedes on section 2802 with an amendment that would authorize the Secretary of the Navy to enter into limited partnership with one or more private developers to encourage the construction of housing near Navy installations. The amendment would also enable the Secretary to establish a Navy Housing Investment Board. The Secretary would also be authorized to contribute between five and 35 percent of the development costs under the limited partnership. Housing provided through these limited partnerships would be available on a preferential and affordable basis to Navy personnel.

Reimbursement for facility services provided by the Department of Defense (sec. 2804)

The conferees agree to a provision that would authorize the Secretary of Defense and the service secretaries to charge a fixed rate to recover the costs of providing planning, supervision, administrative, or overhead services related to construction, repair, or maintenance of real property.

Authority to pay closing costs under the homeowners assistance program (sec. 2805)

The Senate bill contained a provision (sec. 2802) that would amend section 1013(c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(c)) to authorize the Secretary of the Army, using available funds, to pay a qualified applicant's closing costs under the homeowners assistance program.

The House amendment contained no similar provision.

The House recedes.

Prohibition against consideration in base closure process of advance economic planning undertaken by communities adjacent to military installations (sec. 2811)

The Senate bill contained a provision (sec. 2811) that would prohibit any advance economic redevelopment and reuse planning or other conversion planning conducted by communities in anticipation of the base closure process from being taken into consideration during base closure deliberations.

The House amendment contained a similar provision (sec. 2811).

The House recedes.

Prohibition on transfer of certain property located at military installations to be closed pending completion of redevelopment plans (sec. 2812)

The House amendment contained a provision (sec. 2814) that would prohibit, under certain circumstances, the secretary of a military department from transferring personal property at a closing base prior to completion of the redevelopment plan.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the secretary of a military department to consult with the redevelopment authority, prior to completion of the redevelopment plan, to determine the items of personal property that the redevelopment authority might wish to retain at the closing base.

Clarifying and technical amendments to base closure laws (sec. 2813)

The Senate bill contained a provision (sec. 2812) that would make certain clarifying and technical amendments to the base closure laws.

The House amendment contained no similar provision.

The House recedes with an amendment that would delete section (e) of the Senate provision dealing with related personal property.

Governmental rental of facilities located on closed military installations (sec. 2814)

The House amendment contained a provision (sec. 2817) that would allow the Administrator of the General Services Administration to give priority consideration to leases at installations closed under a base closure law and transferred to a non-federal agency.

The Senate bill contained no similar provision.

The Senate recedes.

Report of effect of base closures on future mobilization options (sec. 2815)

The House amendment contained a provision (sec. 2815) that would direct the Secretary of Defense to submit a report to Congress by September 30, 1995, evaluating the effect of base closures and realignments conducted since January 1, 1987, on the ability of the armed forces to mobilize to various historical end strengths.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to submit the report by January 1, 1996.

Restoration of annual leave for civilian employees in connection with certain base realignments (sec. 2816)

The House amendment contained a provision (sec. 2816) that would, under certain conditions, authorize the restoration of annual leave lost by civilian employees at military installations undergoing base realignments.

The Senate bill contained no similar provision.

The Senate recedes.

Reports to Congress on certain agreements of settlement for release of improvements at overseas military installations (sec. 2831)

The Senate bill contained a provision (sec. 2846) that would limit the review of proposed residual value settlements by the Office of Management and Budget to those settlements that have an estimated value in excess of $10.0 million.

The House amendment contained no similar provision.

The House recedes.

Additional lessee of property at Naval Supply Center, Oakland, California (sec. 2821)

The House amendment contained a provision (sec. 2821) that would amend section 2834(b) of the Military Construction Authorization Act for Fiscal Year 1993 (Division B of Public Law 102–484) to include the City of Alameda, California as an additional lessee of the property at the Naval Supply Center, Oakland, California.

The Senate bill contained no similar provision.

The Senate recedes.

Modifications of land conveyance, Fort A.P. Hill Military Reservation, Virginia (sec. 2831)

The Senate bill contained a provision (sec. 2831) that would amend section 603(c)(3) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25) to expand the number of political subdivisions eligible to use the regional correctional facility and to extend the facility construction timeline.

The House amendment contained a similar a provision (sec. 2822).

The House recedes.

Preservation of Calverton Pine Barrens, Naval Weapons Industrial Reserve Plant, New York, as nature preserve (sec. 2823)

The House amendment contained a provision (sec. 2823) that would amend section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (Division B of Public Law 102–484) to ensure that Calverton Pine Barrens is maintained and preserved, in perpetuity, as a nature preserve.

The Senate bill contained a similar provision (sec. 2834).

The Senate recedes.

Modification of conveyance of electricity distribution system, Fort Dix, New Jersey (sec. 2832)

The Senate bill contained a provision (sec. 2832) that would amend section 2846 of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160) by deleting the reversionary clause.

The House amendment contained a similar provision (sec. 2824).

The House recedes.

The conferees understand that the Secretary of the Army has been unable to convey the Fort Dix electrical distribution system to the Jersey Central Power and Lighting Company as authorized in fiscal year 1994. The reversionary clause included in the original provision has precluded Jersey Central Power from bonding and insuring the distribution system. The conferees recommend removing the reversionary clause from the fiscal year 1994 provision to enable Jersey Central to take ownership of and begin operating the distribution system. The conferees note that the interests of the Department of the Army are protected by regulations of the Public Utilities Commission of the State of New Jersey.

Modification of land conveyance Fort Knox, Kentucky (sec. 2325)

The Senate amendment contained a provision (sec. 2833) that would amend section 2816 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (Division B of Public Law 101–189) to authorize the Secretary of the Army to use proceeds from the sale of 12 acres of land in the city of Radcliff for improvements to existing family housing units at Fort Knox.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The House amendment contained no similar provision.

The House recedes.

Revisions to release of reversionary interest, Old Spanish Trail Armory, Harris County, Texas (sec. 2826)

The Senate bill contained a provision (sec. 2847) that would make certain technical corrections to section 2820 of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160).

The House amendment contained no similar provision.

The House recedes.

Modification of height restriction in avigation easement (sec. 2827)

The House amendment contained a provision (sec. 2855) that would amend section 2862 of the Military Construction Authorization Act of Fiscal Year 1991 (Division B of Public Law 101–510) to allow for the construction of a structure, not to exceed 155 feet, on property adjacent to Eglin Air Force Base, Florida. The provision would also require the Secretary of the Air Force to execute and file any instrument necessary to effect the modification of the avigation easement.

The Senate bill contained no similar provision.

The Senate recedes.

Technical amendment to correct reference in land transaction (sec. 2825)

The House amendment contained a provision (sec. 2857) that would amend section 2842(c) of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160) by striking out "Washington Gas Company" and inserting in lieu thereof "American Water Company".

The Senate bill contained no similar provision.

The Senate recedes.

Land conveyances (secs. 2831, 2832, 2833, 2834, 2835, 2837, 2838, 2839, 2840)

The Senate bill contained a provision (sec. 2827) that would establish an expedited screening procedure to determine whether there were qualifying priority uses for certain parcels of real estate identified in the bill. If there were no such priority uses, the provision would authorize the Secretary of Defense to transfer the real estate to certain designated recipients

The House amendment contained a number of provisions (secs. 2831 2832, 2833, 2834, and 2835) that would authorize the Secretary of Defense to transfer certain designated parcels of real estate to certain designated recipients. The House provisions would not require any screening to determine any priority uses.

The Senate recedes to the House provisions and the House recedes to the Senate provision with an amendment that would delete the screening process. The conferees agree to a series of provisions that would authorize the Secretary of Defense to transfer certain designated parcels of real estate contained in the Senate bill and in the House amendment to designated recipients. The provisions would provide authority for the following parcels of real estate:

(1) Rio Vista Army Reserve Facility, Rio Vista, Calif.;

(2) 10 acres at Ft. Dix, New Jersey;

(3) Air Force Plant No. 3, Tulsa, Oklahoma;

(4) Naval Weapons Industrial Reserve Plant, Calverton, N.Y.;

(5) Air Force Plant No. 59, Johnson City, N.Y.;

(6) Housing at the Radar Bomb Scoring Site, Dickinson, N.D.;

(7) Radar Bomb Scoring Site, Finley, North Dakota;

(8) Hawthorne Army Ammunition Plant (Babbitt Housing Area), Mineral County, Nevada; and

(9) Defense Fuel Supply Point, Casco Maine.

The Senate conferees believe that, before any property belonging to the Department of Defense or the military services is transferred, the General Services Administration should have an opportunity, pursuant to the Federal Property and Administrative Services Act of 1949, to determine if there are other priority uses for the property. Of particular concern is the potential for use by other federal agencies. The Senate conferees believe that other federal agencies should be queried to determine if there are valid requirements for the property before it is transferred to a non-federal recipient. This is the only way that the federal government can ensure that it is not giving away property with one hand while acquiring similar property on the other hand. The Senate conferees are also aware, however, that the House conferees were not aware of the Senate conferees' desire to screen the DOD property for other uses prior to transfer at the time that the House conferees were considering the House amendment.

The House conferees agree to consider the screening process in their review and evaluation of any real estate for which authorization to transfer is provided in the fiscal year 1996 defense authorization act.

The conferees urge the subcommittees of jurisdiction of the Armed Services Committees of the Senate and House of Representatives to meet jointly, at the beginning of the 104th Congress, to discuss the effect of such a screening process on proposed land transfers. The conferees also urge that such discussions include consultation with members of the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House, and the Committee on Public Works and Transportation of the House.

Land conveyance, Cornhusker Army Ammunition Plant, Hall County, Nebraska (sec. 2836)

The Senate bill contained a provision (sec. 2826) that would authorize the Secretary of the Army to transfer the Cornhusker Army Ammunition Plant to Hall County, Nebraska for fair market value.

The House amendment contained no similar provision.

The House recedes. The conferees note that this land may not be transferred until it meets the requirements of section 120 of the Comprehensive Environmental Response, Compensation and Liability Act.

Lease of property, Naval Shipyard, Vallejo, California (sec. 2841)

The House amendment contained a provision (sec. 2841) that would authorize the Secretary of the Navy to convey to the City of Vallejo, without consideration, a parcel of real property consisting of dredge ponds located on Mare Island in Vallejo, California, and currently under the control of the Mare Island Naval Shipyard Command.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the Secretary to lease the dredge ponds to the City for a lease term of up to 15 years.

Lease of property, Naval Radio Receiving Facility, Imperial Beach, Coronado, California (sec. 2842)

The House amendment contained a provision (sec. 2836) that would authorize the Secretary of the Navy to lease, at less than fair market value and for 50 years, 45.5 acres of real property at the Naval Radio Receiving Facility, Imperial Beach, Coronado, California, to the Young Men's Christian Association.

The Senate bill contained a similar provision (sec. 2836).

The Senate recedes.

Authority for Oxnard Harbor District, Port Hueneme, California, to use certain Navy property (sec. 2843)

The House amendment contained a provision (sec. 2851) that would authorize the Secretary of the Navy to enter into an agreement with the Oxnard Harbor District, Port Hueneme, California, to permit joint use of Wharf Number 3 and associated real property comprising 25 acres located at the Naval Construction Battalion Center, Port Hueneme, California.

The Senate bill contained a similar provision (sec. 2822).

The Senate recedes.

Transfer of jurisdiction, Air Force housing at Radar Bomb Scoring Site, Holbrook, Arizona (sec. 2844)

The Senate bill contained a provision (sec. 2848) that would authorize the Secretary of the Air Force to transfer jurisdiction of family housing and associated support facilities at the Radar Bomb Scoring Site, Holbrook, Arizona to the Secretary of Interior for use in connection with the Petrified Forest National Park.

The House amendment contained a similar provision (sec. 2839).

The House recedes.

Land transfer, Holloman Air Force Base, New Mexico (sec. 2845)

The Senate bill contained a provision (sec. 2821) that would direct the Secretary of Interior to transfer 1,262 acres of public land to the Secretary of the Air Force for inclusion in the Holloman Air Force Base.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would clarify that the Air Force assumes responsibility for all environmental response actions on the transferred land.

Land transfer, Fort Devens, Massachusetts (sec. 2846)

The Senate bill contained a provision (sec. 2825) that would authorize the Secretary of the Army to transfer to the Department of Interior approximately 800 acres of land located at Fort Devens for inclusion in the Oxbow National Wildlife Refuge.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would clarify that the transfer be made in consultation with the local communities and the State of Massachusetts Land Bank. The conferees direct the Secretary of the Army to transfer this land at no cost to the Department of Interior.

Release of requirements and reversionary interest on certain property in Baltimore, Maryland (sec. 2847)

The House amendment contained a provision (sec. 2837) that would authorize the Secretary of Defense to release the reversionary interest of the United States in property described in section 2 of chapter 310; 20 Stat. 167, which was approved on June 19, 1878.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Release of reversionary interest on certain property in York County and James City County, Virginia, and Newport News, Virginia (sec. 2848)

The Senate bill contained a provision (sec. 2824) that would authorize the Secretary of the Navy to release the reversionary interest of the United States in 62 acres of real property located in James City County, Virginia to the Virginia Department of Transportation, provided that the property would continue to be used for a public purpose.

The House amendment contained a similar provision (sec. 2838).

The House recedes with a technical amendment.

Joint construction contracting for commissaries and nonappropriated fund instrumentality facilities (sec. 2851)

The Senate bill contained a provision (sec. 2841) that would authorize joint construction contracting for commissaries and nonappropriated fund instrumentality facilities.

The House amendment contained no similar provision.

The House recedes.

National Guard facility contracts subject to performance supervision by the Army or the Navy (sec. 2852)

The Senate bill contained a provision (sec. 2842) that would make a technical correction to section 2237 of title 10, United States Code.

The House amendment contained no similar provision.

The House recedes.

The conferees understand that when paragraphs (5) and (6) were added to section 2233(a) of title 10, United States Code, section 2237 was not modified to reflect the change. This technical amendment will correct an oversight by adding paragraphs (5) and (6) to section 2237 of title 10, United States Code.

Repeal of restriction on land transactions relating to the Presidio of San Francisco, California (sec. 2853)

The House amendment contained a provision (sec. 2853) that would repeal section 2856 of the Military Construction Authorization Act for Fiscal Year 1994.

The Senate bill contained no similar provision.

The Senate recedes.

Report on use of funds for environmental restoration at Cornhusker Army Ammunition Plant, Hall County, Nebraska (sec. 2854)

The Senate bill contained a provision (sec. 2844) that would direct the Secretary of the Army to prepare a report describing the manner in which funds would be used for operation and maintenance and environmental restoration activities at the Cornhusker Army Ammunition Plant during the years before the property is transferred to Hall County Nebraska.

The House amendment contained no similar provision.

The House recedes.

Women in Military Service For America Memorial (sec. 2855)

The conferees agree to a provision that would authorize the Secretary of the Army to provide engineering, design, construction management, and related services to the Women in Military Service for America Memorial Foundation, Inc., on a reimbursable basis, for the construction of the Women in Military Service for America Memorial.

Sense of the Senate on authorizing military construction projects not requested in the President's budget request (sec. 2856)

The Senate bill contained a provision (sec. 2850) that would express the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization of funds for military construction projects not included in the annual budget request of the Department of Defense only if:

(1) the project is consistent with past actions of the base realignment and closure process;

(2) the project is included in the five-year military construction plan of the military department concerned;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be executed in that fiscal year.

The provision would also express the sense of the Senate that, in considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects, or activities, including military construction projects, in the budget request, and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

The House amendment contained no similar provision.

The House recedes.

The conferees recognize that each year Congress authorizes and appropriates funds for military construction projects, required by the military services, that are not included in the annual budget request.

The House conferees agree to consider the criteria set forth in this sense of the Senate provision, along with the criteria always used by the House, in their review and evaluation of any military construction projects proposed to be added to the fiscal year 1996 defense authorization request.

The conferees urge the subcommittees of jurisdiction of the Armed Services Committees of the Senate and House of Representatives to meet jointly at the beginning of the 104th Congress in an attempt to agree on the criteria that might be used to judge military construction projects not included in the budget request.

LEGISLATIVE PROVISIONS NOT ADOPTED

Sense of Senate on the activities of the Secretary of Defense in support of communities affected by base closures

The Senate bill contained a provision (sec. 2813) that would express the sense of the Senate that DOD regulations should conform closely with the amendments to the base closure provisions contained in the National Defense Authorization Act for Fiscal Year 1994, and that the Secretary of Defense should establish a base closure incentive award.

The House amendment contained no similar provision.

The Senate recedes.

Waiver of reporting requirements of certain real property transactions in the event of war or national emergency

The Senate bill contained a provision (sec. 2843) that would amend the reporting requirements regarding real property transactions in section 2662 of title 10, United States Code.

The House amendment contained no similar provision.

The Senate recedes.

DOD Laboratory Revitalization Act of 1994

The Senate bill contained a provision (sec. 2845) that would establish a five-year test program for revitalization of Department of Defense laboratories. The provision would increase the threshold for minor military construction projects funded through the unspecified minor military construction and operation and maintenance accounts for Department of Defense laboratories.

The House amendment contained no similar provision.

The Senate recedes.

Repayment of state and local costs incurred in connection with establishment of certain military installations selected for closure

The House amendment contained a provision (sec. 2812) that would, in certain circumstances, prevent the Secretary of a military service from removing items of personal property at a closing base, prior to completion of a redevelopment plan, unless such removal was approved by the redevelopment authority.

The Senate bill contained no similar provision.

The House recedes. In a small number of cases, State and local funds were expended to establish new military facilities in strategic locations around the country. The expenditure of these non-federal funds represented a direct State and local subsidy of federal military projects. The obligation of these monies represented a great financial sacrifice which is still being repaid. Therefore, the conferees direct the Secretary of Defense to include repayment of these State, county, and local expenditures in the calculation of the base on-time cost report (COBRA) used by the Department to determine the cost of closing a particular facility. The COBRA calculation should include the repayment costs to a state, county, or municipality (or an agency or political subdivision of such an entity) for funds raised or bonds issued for military construction, pier construction or improvements, land purchase, and infrastructure and utility improvements in direct support of the establishment of a military installation for which construction began on or after January 1, 1985.

Limitation on sources of funds available to implement base closures and realignments

The House amendment contained a provision (sec. 2813) that would prohibit the use of funds from outside the base closure account from being used for planning and design, minor construction, or operation and maintenance activities at closing bases.

The Senate bill contained no similar provision.

The House recedes.

Sense of the Congress on continued operation of medical facilities

The House amendment contained a provision (sec. 2856) that would urge the Secretary of the Air Force to pursue all practical options necessary to continue operating a health care facility for retired military personnel at K.I. Sawyer Air Force Base, Michigan, which was recommended for closure in 1993.

The Senate bill contained no similar provision.

The House recedes.

The conferees agree to a similar provision in title VII of this act that would urge the Secretary of Defense to take all appropriate steps to protect the continuity of health care services for all beneficiaries residing in areas adversely affected by the base closure process, which would include areas such as K.I. Sawyer, Michigan and Myrtle Beach, South Carolina.

UMI
1994
AG 12 - 18
PT 16
VOL 140

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
1	I	ALABAMA	ARMY	REDSTONE ARSENAL	PHYSICAL FITNESS CENTER ADDITION	0	0	2,600	2,600
2	I	ALABAMA	AIR FORCE	MAXWELL AFB	STUDENT DORMITORIES	9,600	9,600	9,600	9,600
3	I	ALABAMA	AIR FORCE	MAXWELL AFB	BLOCK HOUSE UPGRADE	0	3,700	0	0
4	I	ALABAMA	DEFENSE AGENCIES	ANNISTON ARMY DEPOT	CARBON FILTRATION SYSTEM	0	0	5,000	5,000
5	I	ALABAMA	ARMY NATIONAL GUARD	MOBILE	AVIATION SUPPORT FACILITY	0	7,200	0	7,200
6	I	ALABAMA	AIR NATIONAL GUARD	ABSTON ANG STATION	RELOCATE 232ND COMBAT COMMAND SQUAD	0	7,100	7,100	7,100
7	I	ALABAMA	AIR NATIONAL GUARD	BIRMINGHAM MAP	ADAL SQUADRON OPERATIONS FACILITY	1,100	1,100	1,100	1,100
8	I	ALABAMA	AIR NATIONAL GUARD	BIRMINGHAM MAP	ACFT PARKING APRON & HYDRANT REFUELING SYS	15,000	15,000	15,000	15,000
9	I	ALABAMA	AIR NATIONAL GUARD	BIRMINGHAM MAP	UPGRADE DRAINAGE SYSTEM	2,500	2,500	2,500	2,500
10	I	ALABAMA	AIR NATIONAL GUARD	BIRMINGHAM MAP	COMMUNICATIONS FACILITY	1,700	1,700	1,700	1,700
11	I	ALABAMA	AIR NATIONAL GUARD	DANNELLY FIELD	REPLACE UNDERGROUND FUEL STORAGE TANKS	700	700	700	700
12	I	ALABAMA	AIR NATIONAL GUARD	DANNELLY FIELD	MUNITIONS MAINTENANCE STORAGE COMPLEX	0	0	4,200	0
13	I	ALASKA	AIR FORCE	CAPE LISBURNE	UPGRADE FUEL STORAGE SYSTEM	2,800	2,800	2,800	2,800
14	I	ALASKA	AIR FORCE	EIELSON AFB	CONVENTIONAL MUNITIONS SUPPORT FACILITY	0	0	3,300	0
15	I	ALASKA	AIR FORCE	ELMENDORF AFB	UTILITY UPGRADE	0	0	1,000	1,000
16	I	ALASKA	AIR FORCE	ELMENDORF AFB	CONVENTIONAL MUNITIONS SUPPORT FACILITY	0	0	4,000	4,000
17	I	ALASKA	DEFENSE AGENCIES	ELMENDORF AFB	HOSPITAL REPLACEMENT PHASE II	66,000	66,000	66,000	66,000
18	I	ALASKA	ARMY NATIONAL GUARD	BETHEL	SCOUT ARMY NAVIATION OPERATIONS FACILITY	0	0	6,380	6,380
19	I	ALASKA	AIR NATIONAL GUARD	KULIS ARGB	COMPOSITE ENGINEERING MAINTENANCE FACILITY	0	0	5,300	5,300
20	I	ARIZONA	NAVY	YUMA USMC AIR STATION	BACHELOR ENLISTED QUARTERS	0	0	15,085	0
21	I	ARIZONA	AIR FORCE	DAVIS-MONTHAN AFB	AIRCRAFT PARTS STORE	0	1,400	0	0
22	I	ARIZONA	AIR FORCE	LUKE AFB	STUDENT PILOT DORM	0	0	4,900	4,900
23	I	ARIZONA	AIR FORCE RESERVE	LUKE AFB	AVIONICS MAINTENANCE FACILITY	0	1,800	0	1,800
24	I	ARIZONA	AIR FORCE RESERVE	LUKE AFB	SQUADRON OPERATIONS FACILITY	0	1,900	0	1,900
25	I	ARKANSAS	ARMY	PINE BLUFF ARSENAL	AMMUNITION DEMILITARIZATION FACILITY	97,000	97,000	0	0
26	I	ARKANSAS	AIR FORCE	LITTLE ROCK AFB	DORMITORY	0	0	4,800	4,800
27	I	ARKANSAS	DEFENSE AGENCIES	PINE BLUFF ARSENAL	CARBON FILTRATION SYSTEM	0	0	5,000	0
28	I	ARKANSAS	DEFENSE AGENCIES	PINE BLUFF ARSENAL	AMMUNITION DEMILITARIZATION FACILITY	0	0	3,000	3,000
29	I	ARKANSAS	ARMY NATIONAL GUARD	BENTON	ARMORY	0	0	1,673	0
30	I	ARKANSAS	ARMY NATIONAL GUARD	SEARCY	ARMORY	0	0	2,415	2,415

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
31	I	ARKANSAS	ARMY NATIONAL GUARD	WARREN	OPERATIONAL MAINTENANCE SHOP	0	980	0	802
32	I	ARKANSAS	AIR NATIONAL GUARD	FORT SMITH MAP	MUNITIONS STORAGE FACILITY	0	0	2,200	2,200
33	I	ARKANSAS	AIR NATIONAL GUARD	FORT SMITH MAP	REPLACE UNDERGROUND FUEL STORAGE FACILITY	440	440	440	440
34	I	ARKANSAS	AIR NATIONAL GUARD	LITTLE ROCK AFB	SUPPLY COMPLEX	0	0	5,800	0
35	I	CALIFORNIA	ARMY	FORT IRWIN	EXPANSION OF INE AIRPORT (PHASE I)	0	10,000	0	10,000
36	I	CALIFORNIA	NAVY	CAMP PENDLETON AMPHIBIOUS TASK FORCE	LANDING CRAFT AIR CUSHION FACS (INCR V)	10,700	10,700	10,700	10,700
37	I	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	AMMUNITION HANDLING FACILITY	570	570	570	570
38	I	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	UPGRADE ELECTRIC INFRASTRUCTURE	0	6,900	0	6,290
39	I	CALIFORNIA	NAVY	CHINA LAKE NAVAL AIR WARFARE CTR WPNS DIV	AIRCRAFT READY FUEL STORAGE FACILITY	6,000	6,000	6,000	6,000
40	I	CALIFORNIA	NAVY	EL CENTRO NAVAL AIR FACILITY	WASTEWATER TREATMENT PLANT UPGRADE	1,500	1,500	1,500	1,500
41	I	CALIFORNIA	NAVY	EL CENTRO NAVAL AIR FACILITY	POTABLE WATER DISTRIBUTION SYSTEM UPGRADE	1,500	1,500	1,500	1,500
42	I	CALIFORNIA	NAVY	LEMOORE NAVAL AIR STATION	BACHELOR ENLISTED QUARTERS MODERNIZATION	7,000	7,000	7,000	7,000
43	I	CALIFORNIA	NAVY	NORTH ISLAND NAVAL AIR STATION	DREDGING	18,830	18,830	18,830	18,830
44	I	CALIFORNIA	NAVY	PORT HUENEME NAVAL CONSTR BATTALION CTR	ABRASIVE BLAST AND PAINT SPRAY FACILITY	4,850	4,850	4,850	4,850
45	I	CALIFORNIA	NAVY	PORT HUENEME NAVAL CONSTR BATTALION CTR	WATER PROCESSING SYSTEM UPGRADE	4,800	4,800	4,800	4,800
46	I	CALIFORNIA	NAVY	SAN DIEGO MARINE CORPS RECRUIT DEPOT	PERSONAL HYGIENE FACILITIES	1,090	1,090	1,090	1,090
47	I	CALIFORNIA	NAVY	SAN DIEGO NAVAL STATION	CHAPEL AND RELIGIOUS EDUCATION FACILITY	4,100	4,100	4,100	4,100
48	I	CALIFORNIA	NAVY	TWENTYNINE PALMS MARCORP AIR-GRND COMB CTR	SMALL ARMS RANGE MODERNIZATION	2,900	2,900	2,900	2,900
49	I	CALIFORNIA	AIR FORCE	BEALE AFB	STORM DRAINAGE FACILITIES	1,450	1,450	1,450	1,450
50	I	CALIFORNIA	AIR FORCE	BEALE AFB	CONSOLIDATED SUPPORT CENTER	0	10,400	0	10,400
51	I	CALIFORNIA	AIR FORCE	EDWARDS AFB	F-22 ALTER ENGINEERING TEST FACILITY	4,550	4,550	4,550	4,550
52	I	CALIFORNIA	AIR FORCE	EDWARDS AFB	UPGRADE HYDRANT FUELING SYSTEM	2,500	2,500	2,500	2,500
53	I	CALIFORNIA	AIR FORCE	EDWARDS AFB	IMPROVE AIRCRAFT MAINTENANCE FACILITY	0	7,800	0	0
54	I	CALIFORNIA	AIR FORCE	MCCLELLAN AFB	NEAR FIELD TEST RANGE	0	8,500	0	8,500
55	I	CALIFORNIA	AIR FORCE	MCCLELLAN AFB	UPGRADE ELECTRICAL SERVICE TO INDUSTRIAL AREA	0	1,650	0	0
56	I	CALIFORNIA	AIR FORCE	TRAVIS AFB	DORMITORY	2,300	2,300	2,300	2,300
57	I	CALIFORNIA	AIR FORCE	TRAVIS AFB	FIRE TRAINING FACILITY	1,300	1,300	1,300	1,300
58	I	CALIFORNIA	AIR FORCE	TRAVIS AFB	DORMITORY RENOVATION	0	9,000	0	0
59	I	CALIFORNIA	AIR FORCE	VANDENBERG AFB	SLF1-UPGRADE NATURAL GAS SYSTEM	5,000	5,000	5,000	5,000
60	I	CALIFORNIA	AIR FORCE	VANDENBERG AFB	FIRE TRAINING FACILITY	1,550	1,550	1,550	1,550

UMI
1994
AG 12 — 18
PT 16
VOL 140

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
61	I	CALIFORNIA	DEFENSE AGENCIES	DEF CONTRACT MGMT OFC - EL SEGUNDO	ADMINISTRATIVE BUILDING(CONJUNCTIVE FUND)	5,100	5,100	5,100	5,100
62	I	CALIFORNIA	DEFENSE AGENCIES	MCCLELLAN AIR FORCE BASE	LIFE SAFETY/SEISMIC/UTILITY UPGRADE	10,280	10,280	10,280	10,280
63	I	CALIFORNIA	DEFENSE AGENCIES	SAN DEIGO (SOC)	SOF POC PIER UPGRADE	3,400	3,400	3,400	3,400
64	I	CALIFORNIA	ARMY NATIONAL GUARD	CAMP ROBERTS	MODIFY RECORD FIRE/MAINTENANCE SHOP	0	0	3,910	3,910
65	I	CALIFORNIA	ARMY NATIONAL GUARD	CAMP ROBERTS	COMBAT PISTOL RANGE	0	0	952	952
66	I	CALIFORNIA	ARMY NATIONAL GUARD	LOS ALAMITOS RESERVE CENTER	UPGRADE UTILITY SYSTEM	0	0	6,847	0
67	I	CALIFORNIA	ARMY NATIONAL GUARD	LOS ALAMITOS RESERVE CENTER	DIRECT SUPPORT LOGISITICS FACILITY	0	5,060	5,060	4,218
68	I	CALIFORNIA	AIR NATIONAL GUARD	FRESNO ANG	BASE SUPPLY COMPLEX	0	7,000	0	0
69	I	CALIFORNIA	AIR NATIONAL GUARD	FRESNO ANGB	SITE RESTORATION	3,500	3,500	3,500	3,500
70	I	CALIFORNIA	AIR NATIONAL GUARD	MOFFETT NAS	ALTER VEHICLE MAINTENANCE FACILITY	400	400	400	400
71	I	CALIFORNIA	AIR NATIONAL GUARD	NO HIGHLANDS ANG STATION	REPLACE UNDERGROUND FUEL STORAGE TANKS	400	400	400	400
72	I	CALIFORNIA	AIR NATIONAL GUARD	SEPULVEDA AGS	SUPPLY ENGINEERING SHOP	0	0	1,600	0
73	I	CALIFORNIA	AIR FORCE RESERVE	MARCH AFB	REPLACE SUBSTATION	3,900	3,900	3,900	3,900
74	I	COLORADO	AIR FORCE	PETERSON AFB	UNDERGROUND FUEL STORAGE TANKS	1,750	1,750	1,750	1,750
75	I	COLORADO	AIR FORCE	UNITED STATES AIR FORCE ACADEMY	DORMITORIES	0	0	3,600	0
76	I	COLORADO	ARMY NATIONAL GUARD	DENVER	ARMORY	0	5,000	0	5,000
77	I	COLORADO	ARMY NATIONAL GUARD	ENGLEWOOD	ARMORY	0	2,725	0	2,725
78	I	COLORADO	AIR NATIONAL GUARD	BUCKLEY ANGB	ADD TO F-16 FUEL CELL DOCK	1,300	1,300	1,300	1,300
79	I	COLORADO	AIR NATIONAL GUARD	BUCKLEY ANGB	AIRCRAFT WASHRACK AND DEICING PAD	400	400	400	400
80	I	CONNECTICUT	ARMY NATIONAL GUARD	GROTON	IMPROVEMENTS TO THE CT-AVCRAD FACILITY	0	9,000	9,000	9,000
81	I	DELAWARE	AIR FORCE	DOVER AFB	DORMITORY	4,600	4,600	4,600	4,600
82	I	DELAWARE	AIR FORCE	DOVER AFB	PASSENGER PROCESSING TERMINAL	0	5,900	5,900	5,900
83	I	DISTRICT OF COLUMBIA	DEFENSE AGENCIES	BOLLING AFB	CHILLER COOLING TOWER DIAC	600	600	600	600
84	I	FLORIDA	NAVY	BLOUNT ISLAND	DEFENSE ACCESS ROAD	0	10,000	0	0
85	I	FLORIDA	NAVY	JACKSONVILLE FLT & INDUSTRIAL SUPPLY CTR	HAZARDOUS AND FLAMMABLE STOREHOUSE ADDN	2,200	2,200	2,200	2,200
86	I	FLORIDA	NAVY	PENSACOLA NAVAL AIR STATION	AIR TRAFFIC CONTROL TOWER	2,100	2,100	2,100	2,100
87	I	FLORIDA	AIR FORCE	CAPE CANAVERAL AFS	SLFI-UPGRADE ELECTRICAL DISTRIBUTION SYS	1,750	1,750	1,750	1,750
88	I	FLORIDA	AIR FORCE	CAPE CANAVERAL AFS	DELTA LAUNCH OPERATIONS FACILITY	7,000	7,000	7,000	7,000
89	I	FLORIDA	AIR FORCE	CAPE CANAVERAL AFS	CORROSION CONTROL FACILITY	1,700	1,700	1,700	1,700
90	I	FLORIDA	AIR FORCE	EGLIN AFB	RENOVATE CLIMATIC TEST CHAMBER PHASE II	20,000	20,000	20,000	20,000

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
91	I	FLORIDA	DEFENSE AGENCIES	EGLIN AUX FIELD 9 (SOC)	BENSEN TANK STORAGE FACILITY	0	0	1,550	0
92	I	FLORIDA	DEFENSE AGENCIES	EGLIN AUX FIELD 9 (SOC)	MC-130 NOSE DOCK/AMU	0	0	5,000	5,000
93	I	FLORIDA	DEFENSE AGENCIES	EGLIN AUX FIELD 9 (SOC)	AQUATIC TRAINING FACILITY	0	0	2,900	2,900
94	I	FLORIDA	DEFENSE AGENCIES	EGLIN AUX FIELD 9 (SOC)	SIMULATOR FAC ADD (N)	4,800	4,800	4,800	4,800
95	I	FLORIDA	DEFENSE AGENCIES	EGLIN AUX FIELD 9 (SOC)	MC-130 PARK APRON (N)	7,500	7,500	7,500	7,500
96	I	FLORIDA	ARMY NATIONAL GUARD	CAMP BLANDING	WASTEWATER TREATMENT PLANT	2,083	6,600	2,083	2,083
97	I	FLORIDA	AIR FORCE RESERVE	EGLIN AUXILARY FIELD 3	RENOVATE AIRMEN DINING FACILITY	0	2,650	0	2,650
98	I	FLORIDA	AIR FORCE RESERVE	EGLIN AUXILARY FIELD 3	RENOVATE VISITING AIRMEN LODGING FACILITY	0	3,750	0	0
99	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	RENOVATE BARRACKS QUARTERS (BLD 475)	0	2,550	0	2,550
100	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	REPAIR PHYSICAL FITNESS CENTER	0	1,400	0	1,400
101	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	HYDRANT AND "HOT PIT" FUELING SYSTEM	0	2,000	0	2,000
102	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	RENOVATE BARRACKS QUARTERS (BLD 478)	0	2,450	0	0
103	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	MOBILITY PROCESSING SUPPORT SYSTEM	0	1,150	0	1,150
104	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	RENOVATE BARRACKS QUARTERS (BLD 477)	0	2,450	0	0
105	I	GEORGIA	ARMY	FORT BENNING	UPGRADE CARMOUCHE TANK RANGE	0	0	1,900	1,900
106	I	GEORGIA	ARMY	FORT BENNING	MOBILIZATION DEPLOYMENT WAREHOUSE	4,650	4,650	4,650	4,650
107	I	GEORGIA	ARMY	FORT GORDON	CENTRAL VEHICLE WASH FACILITY	1,650	1,650	1,650	1,650
108	I	GEORGIA	ARMY	FORT GORDON	SECURE COMPARTMENTED INFORMATION FACILITY	2,500	2,500	2,500	2,500
109	I	GEORGIA	ARMY	FORT GORDON	WHOLE BARRACKS RENEWAL	21,000	21,000	21,000	21,000
110	I	GEORGIA	ARMY	FORT GORDON	CONSOLIDATED MAINTENANCE FACILITY	11,000	11,000	11,000	11,000
111	I	GEORGIA	ARMY	FORT GORDON	BRIGADE VEHICLE MAINTENANCE FACILITY	8,600	8,600	8,600	8,600
112	I	GEORGIA	ARMY	FORT GORDON	VEHICLE MAINTENANCE FACILITY	0	3,500	0	0
113	I	GEORGIA	AIR FORCE	MOODY AFB	ALTER MISSION EQUIPMENT FACILITY	0	0	900	0
114	I	GEORGIA	AIR FORCE	MOODY AFB	CONSTRUCT UEPH DORMITORY	3,800	3,800	3,800	3,800
115	I	GEORGIA	AIR FORCE	MOODY AFB	UPGRADE AIRFIELD PAVEMENTS	8,000	8,000	8,000	8,000
116	I	GEORGIA	AIR FORCE	MOODY AFB	SUPPLY/WRSK STORAGE	0	1,600	1,600	1,600
117	I	GEORGIA	AIR FORCE	ROBINS AFB	J-STARS EXPANDED FLIGHT KITCHEN	1,850	1,850	1,850	1,850
118	I	GEORGIA	AIR FORCE	ROBINS AFB	J-STARS ADD TO INTEGRATED SUPPORT FACILITY	3,100	3,100	3,100	3,100
119	I	GEORGIA	AIR FORCE	ROBINS AFB	J-STARS UTILITIES/ MISCELLANEOUS SUPPORT	3,825	3,825	3,825	3,825
120	I	GEORGIA	AIR FORCE	ROBINS AFB	UPGRADE STORM DRAINAGE SYSTEM	2,200	2,200	2,200	2,200

UMI 1994 AG 12 — 18 PT 16 VOL 140

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
121	I	GEORGIA	AIR FORCE	ROBINS AFB	J-STARS DORMITORY	5,525	5,525	5,525	5,525
122	I	GEORGIA	AIR FORCE	WARNER ROBINS AFB	ALTER WEAPON SYSTEMS SUPPORT CENTER	0	4,700	4,700	4,700
123	I	GEORGIA	DEFENSE AGENCIES	FORT MCPHERSON	HEALTH & DENTAL MEDICAL FACILITY	0	11,400	13,400	13,300
124	I	GEORGIA	ARMY NATIONAL GUARD	FORT STEWART	RTS MANAGEMENT FACILITY	0	0	2,400	2,400
125	I	GEORGIA	ARMY RESERVE	FORT MCPHERSON	US ARMY RESERVE COMMAND HQ (PH II)	0	0	21,400	21,400
126	I	GEORGIA	NAVY RESERVE	DOBBINS AIR RESERVE BASE	ADDITION TO RESERVE TRAINING CENTER	0	4,600	4,600	4,600
127	I	GEORGIA	NAVY RESERVE	NAS MARIETTA	TRAINING CENTER	0	2,650	0	2,650
128	I	GEORGIA	AIR NATIONAL GUARD	ROBINS AFB	B-1 CONSOLIDATED AIRCRAFT SPT/HYDRANT SYS	9,400	9,400	9,400	9,400
129	I	GEORGIA	AIR NATIONAL GUARD	ROBINS AFB	B-1 HANGER COMPLEX	8,400	8,400	8,400	8,400
130	I	GEORGIA	AIR NATIONAL GUARD	ROBINS AFB	ALTER B-1 MAINTENANCE HANGER	2,950	2,950	2,950	0
131	I	GEORGIA	AIR FORCE RESERVE	DOBBINS AFB	FIRE FIGHTER DEVELOPMENT CENTER	1,100	1,100	1,100	1,100
132	I	HAWAII	ARMY	SCHOFIELD BARRACKS	WHOLE BARRACKS RENEWAL	10,000	10,000	25,000	20,700
133	I	HAWAII	NAVY	KANEOHE BAY	CHILD CARE CENTER	0	171	4,900	4,900
134	I	HAWAII	ARMY RESERVE	FORT SHAFTER	RESERVE CENTER	0	9,500	0	9,500
135	I	HAWAII	AIR NATIONAL GUARD	HICKAM AFB	REPLACE UNDERGROUND FUEL STORAGE TANKS	1,000	1,000	1,000	1,000
136	I	IDAHO	AIR FORCE	MOUNTAIN HOME AFB	DORMITORY	4,950	4,950	4,950	4,950
137	I	IDAHO	AIR FORCE	MOUNTAIN HOME AFB	RENOVATE AIRCRAFT PARKING APRON	0	0	11,000	11,000
138	I	IDAHO	ARMY NATIONAL GUARD	POST FALLS	EXPAND ARMORY	0	0	2,500	2,500
139	I	IDAHO	AIR NATIONAL GUARD	BOISE AIRPORT	UPGRADE BASE DRAINAGE	380	380	380	380
140	I	IDAHO	AIR NATIONAL GUARD	GOWEN FIELD	HANGAR UPGRADE	0	0	4,000	0
141	I	ILLINOIS	NAVY	GREAT LAKES PUBLIC WORKS CENTER NAVY	SANITARY SEWER SYSTEM UPGRADE	13,000	13,000	13,000	13,000
142	I	ILLINOIS	AIR FORCE	SCOTT AFB	UNDERGROUND FUEL STORAGE TANKS	2,700	2,700	2,700	2,700
143	I	INDIANA	NAVY	NAVAL SURFACE WARFARE CENTER	ELECTRO-OPTICS CENTER	0	8,415	0	7,970
144	I	INDIANA	ARMY NATIONAL GUARD	CAMP ATTERBURY	CENTRAL WASH FACILITY	0	0	4,630	0
145	I	INDIANA	ARMY NATIONAL GUARD	CAMP ATTERBURY	AMMUNITION STORAGE POINT	0	7,340	0	7,340
146	I	INDIANA	ARMY NATIONAL GUARD	INDIANAPOLIS (STOUT FIELD)	COMBINED SUPPORT MAINTENANCE SHOP	0	0	10,080	0
147	I	INDIANA	ARMY NATIONAL GUARD	INDIANAPOLIS (STOUT FIELD)	UNITED STATES PROPERTY AND FISCAL OFFICE	0	4,137	4,137	4,137
148	I	INDIANA	AIR NATIONAL GUARD	FT WAYNE MAP	FIRE STATION AND AGE SHOP	1,950	1,950	1,950	1,950
149	I	INDIANA	AIR NATIONAL GUARD	FT WAYNE MAP	FUEL SYSTEMS MAINTENANCE & CORROSION FAC	5,200	5,200	5,200	5,200
150	I	INDIANA	AIR NATIONAL GUARD	FT WAYNE MAP	AIRCRAFT DEICING APRON	400	400	400	400

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
151	I	INDIANA	AIR NATIONAL GUARD	TERRE HAUTE (HULMAN FIELD)	COMPOSITE SUPPORT FACILITY	0	3,200	0	3,200
152	I	INDIANA	AIR FORCE RESERVE	GRISSOM AFB	CANTONMENT AREA ENV COMPLIANCE	2,200	2,200	2,200	2,200
153	I	IOWA	ARMY NATIONAL GUARD	CAMP DODGE	BATTALION COMPLEX (PHASE III)	0	4,678	0	4,678
154	I	IOWA	ARMY NATIONAL GUARD	CAMP DODGE	ADD/ALTER ORGANIZATIONAL MAINTENANCE SHOP	0	877	0	877
155	I	IOWA	AIR NATIONAL GUARD	DES MOINES	RUNWAY EXPANSION	0	0	4,000	0
156	I	IOWA	AIR NATIONAL GUARD	DES MOINES	ENGINEERING & SUPPLY FACILITY	0	0	2,300	0
157	I	IOWA	AIR NATIONAL GUARD	DES MOINES	FIRE SUPPRESION SYSTEM	0	0	2,300	2,300
158	I	IOWA	AIR NATIONAL GUARD	DES MOINES	ADD MUNITIONS COMPLEX	0	3,900	3,900	3,900
159	I	KANSAS	AIR FORCE	MCCONNELL AFB	STORM DRAINAGE FACILITIES	500	500	500	500
160	I	KANSAS	ARMY NATIONAL GUARD	FORT RILEY	ALTER DYNAMOMETER FACILITY	0	0	1,700	1,700
161	I	KANSAS	ARMY NATIONAL GUARD	SALINA	NICKELL BARRACKS TRAINING CENTER (PH II)	0	0	4,260	4,260
162	I	KANSAS	AIR NATIONAL GUARD	FORBES FIELD	UPGRADE RUNWAY	0	0	4,800	4,800
163	I	KANSAS	AIR NATIONAL GUARD	FORBES FIELD	UPGRADE SANITARY SEWER SYSTEM	670	670	670	670
164	I	KANSAS	AIR NATIONAL GUARD	FORBES FIELD	SITE RESTORATION & FUEL STRG TANK REMOVAL	2,950	2,950	2,950	2,950
165	I	KANSAS	AIR NATIONAL GUARD	MCCONNELL AFB	ALTER SQUADRON OPERATIONS FACILITY	0	0	800	0
166	I	KENTUCKY	ARMY	FORT CAMPBELL	EDUCATION FACILITY, PHASE I	0	0	14,600	8,100
167	I	KENTUCKY	ARMY	FORT CAMPBELL	WHOLE BARRACKS RENEWAL	22,000	22,000	22,000	22,000
168	I	KENTUCKY	ARMY	FORT CAMPBELL	EXPAND RAILROAD NETWORK	14,400	14,400	14,400	14,400
169	I	KENTUCKY	ARMY	FORT CAMPBELL	TACTICAL EQUIPMENT SHOP, PHASE I	0	0	16,400	8,000
170	I	KENTUCKY	ARMY	FORT KNOX	MULTI PURPOSE TRAINING RANGE	0	0	5,300	5,300
171	I	KENTUCKY	ARMY	FORT KNOX	SIMULATOR FACILITY MODIFICATION	0	0	3,200	3,200
172	I	KENTUCKY	ARMY NATIONAL GUARD	WESTERN KENTUCKY RTC, MADISONVILLE	BATTLE TRAINING CENTER (PH I)	0	0	6,500	6,500
173	I	KENTUCKY	AIR NATIONAL GUARD	STANDIFORD FIELD	FUEL CELL AND CORROSION CONTROL DOCK	2,950	2,950	2,950	2,950
174	I	LOUISIANA	AIR FORCE	BARKSDALE AFB	REPLACE APRON/HYDRANT FUEL SYSTEM (PH III)	0	0	11,600	8,200
175	I	LOUISIANA	AIR FORCE	BARKSDALE AFB	CONVENTIONAL MUNITIONS STORAGE FACIL (PH I)	0	0	14,000	6,000
176	I	LOUISIANA	AIR FORCE	BARKSDALE AFB	STORM DRAINAGE FACILITIES	1,500	1,500	1,500	1,500
177	I	LOUISIANA	ARMY NATIONAL GUARD	RUSTON	ARMORY REHABILITATION	0	0	2,745	2,745
178	I	LOUISIANA	NAVY RESERVE	NAVAL AIR STATION NEW ORLEANS	ARMING PAD	840	840	840	840
179	I	LOUISIANA	AIR NATIONAL GUARD	NAVAL AIR STATION, NEW ORLEANS	MAINTENANCE HANGAR	0	5,100	0	5,100
180	I	LOUISIANA	AIR FORCE RESERVE	BARKSDALE AFB	ADD/ALTER SUPPORT FACILITIES	5,000	5,000	5,000	5,000

UMI
1994
12 — 18
AG
PT 16
VOL 140

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
181	I	MAINE	ARMY NATIONAL GUARD	AUGUSTA	ARMORY	0	0	4,000	3,900
182	I	MAINE	AIR NATIONAL GUARD	BANGOR IAP	SQUADRON OPERATIONS FACILITY	0	0	8,800	8,800
183	I	MAINE	AIR NATIONAL GUARD	BANGOR IAP	REFUELING VEHICLE MAINTENANCE FACILITY	379	379	379	379
184	I	MAINE	AIR NATIONAL GUARD	BANGOR IAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	840	840	840	840
185	I	MARYLAND	ARMY	ADELPHI LAB CENTER	COMPUTER CENTER	6,600	6,600	6,600	6,600
186	I	MARYLAND	ARMY	EDGEWOOD ARSENAL	ELECTRICAL SYSTEM MODERNIZATION	0	2,750	0	2,600
187	I	MARYLAND	ARMY	FORT MCHENRY	PHYSICAL TRAINING CENTER	0	0	3,600	0
188	I	MARYLAND	NAVY	INDIAN HEAD NAVAL SURFACE WARFARE CENTER	UPGRADE POWER PLANT	0	5,000	0	4,000
189	I	MARYLAND	NAVY	INDIAN HEAD NAVAL SURFACE WARFARE CENTER	DENITRATION ACID/MIX FACILITY	0	5,000	0	6,400
190	I	MARYLAND	NAVY	PATUXENT NAVAL AIR WARFARE CENTER	AIR ANTI-SUBMARINE CENTER, PHASE I	0	8,200	0	4,200
191	I	MARYLAND	NAVY	US NAVAL ACADEMY, ANNAPOLIS	FIRE STATION REPLACEMENT	0	2,000	0	1,900
192	I	MARYLAND	AIR FORCE	ANDREWS AFB	DORMITORY	6,300	6,300	6,300	6,300
193	I	MARYLAND	AIR FORCE	ANDREWS AFB	CHILD DEVELOPMENT CENTER	0	0	4,500	0
194	I	MARYLAND	DEFENSE AGENCIES	FORT MEADE	SUPERCOMPUTER FACILITY	12,720	0	0	0
195	I	MARYLAND	DEFENSE AGENCIES	FORT MEADE	CRITICAL SUBSTATION CONTROL	5,458	5,458	5,458	5,458
196	I	MARYLAND	DEFENSE AGENCIES	FORT MEADE	FARX II PURCHASE	14,800	0	14,800	0
197	I	MARYLAND	ARMY NATIONAL GUARD	MONTROSE NATIONAL GUARD	ARMORY	0	5,600	8,900	4,558
198	I	MASSACHUSETTS	ARMY NATIONAL GUARD	TAUTON	ARMORY	0	0	2,900	2,900
199	I	MASSACHUSETTS	ARMY NATIONAL GUARD	WESTFIELD	ADD/ALTER OPERATIONAL MAINTENANCE SHOP	0	0	1,200	1,200
200	I	MASSACHUSETTS	AIR NATIONAL GUARD	BARNES ANGB (WESTFIELD)	VEHICLE MAINTENANCE COMPLEX	0	0	2,000	0
201	I	MASSACHUSETTS	AIR FORCE RESERVE	WESTOVER AFB	REPLACE TAXIWAY	5,100	5,100	5,100	5,100
202	I	MASSACHUSETTS	AIR FORCE RESERVE	WESTOVER AFB	REPLACE UNDERGROUND STORAGE TANKS	1,000	1,000	1,000	1,000
203	I	MICHIGAN	ARMY NATIONAL GUARD	CALUMET	ARMORY RENOVATION	0	120	0	120
204	I	MICHIGAN	ARMY NATIONAL GUARD	FORT CUSTER	COMBAT PISTOL QUALIFICATION RANGE	0	0	400	400
205	I	MICHIGAN	ARMY NATIONAL GUARD	FORT CUSTER	MODIFT RECORD RANGE	0	0	900	900
206	I	MICHIGAN	AIR NATIONAL GUARD	ALPENA COUNTY REGIONAL AIRPORT	FIREMEN TRAINING FACILITY	750	750	750	750
207	I	MICHIGAN	AIR NATIONAL GUARD	ALPENA COUNTY REGIONAL AIRPORT	REPLACE UNDERGROUND FUEL STORAGE TANKS	385	385	385	385
208	I	MICHIGAN	AIR NATIONAL GUARD	SELFRIDGE ANG BASE	UPGRADE SANITARY SEWER LINES	0	610	0	610
209	I	MICHIGAN	AIR NATIONAL GUARD	SELFRIDGE ANG BASE	REPAIR PARKING LOT & ROADS	0	2,042	2,042	2,042
210	I	MICHIGAN	AIR NATIONAL GUARD	SELFRIDGE ANGB	UPGRADE HEATING SYSTEM	5,400	5,400	5,400	5,400

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
211	I	MICHIGAN	AIR NATIONAL GUARD	SELFRIDGE ANGB	UPGRADE STORM DRAINAGE SYSTEM	840	840	840	840
212	I	MICHIGAN	AIR NATIONAL GUARD	W.K KELLOGG REGIONAL AIRPORT	FIRE STATION & AIRCRAFT GROUND EQUIP SHOP	1,600	1,600	1,600	1,600
213	I	MINNESOTA	ARMY NATIONAL GUARD	CAMP RIPLEY	COMBINED SUPPORT MAINTENANCE SHOP	0	5,000	0	0
214	I	MINNESOTA	AIR NATIONAL GUARD	MINNEAPOLIS/ST. PAUL INTERN'L AIRPORT	OPERATIONS/AEROMEDICAL BUILDING	0	8,000	8,000	8,000
215	I	MISSISSIPPI	AIR FORCE	COLUMBUS AFB	T-1 JAYHAWK MAINTENANCE SUPPORT FACILITY	0	0	3,400	3,200
216	I	MISSISSIPPI	AIR FORCE	COLUMBUS AFB	BACHELOR ENLISTED QUARTERS	0	10,000	0	10,000
217	I	MISSISSIPPI	AIR FORCE	KEESLER AFB	7-LEVEL TRAINING DORMITORY	8,800	8,800	8,800	8,800
218	I	MISSISSIPPI	AIR FORCE	KEESLER AFB	7-LEVEL TRAINING CLASSROOMS	1,800	1,800	1,800	1,800
219	I	MISSISSIPPI	AIR FORCE	KEESLER AFB	UPGRADE FIRE SUPPRESSION SYSTEM	640	640	640	640
220	I	MISSISSIPPI	ARMY NATIONAL GUARD	CAMP SHELBY	REGIONAL SCHOOL FACILITY	0	7,000	0	0
221	I	MISSISSIPPI	ARMY NATIONAL GUARD	CRYSTAL SPRINGS	ARMORY	0	2,250	0	2,250
222	I	MISSISSIPPI	ARMY NATIONAL GUARD	MINONA	ARMORY	0	1,650	0	1,650
223	I	MISSISSIPPI	AIR NATIONAL GUARD	GULFPORT	OPERATIONS AMU SUPPORT FACILITY	0	0	2,250	2,250
224	I	MISSISSIPPI	AIR NATIONAL GUARD	GULFPORT	TROOP CAMP QUARTERS	0	5,800	5,800	5,300
225	I	MISSISSIPPI	AIR NATIONAL GUARD	THOMPSON AIR NATIONAL GUARD FIELD	FIRE STATION	0	2,400	0	1,750
226	I	MISSOURI	AIR FORCE	WHITEMAN AFB	B-2 ADAL APRON, TAXIWAY, & CONVOY ROADS	4,600	4,600	4,600	4,600
227	I	MISSOURI	AIR FORCE	WHITEMAN AFB	B-2 AIRCRAFT MAINT DOCKS/HYDRANT FUELING	15,000	15,000	15,000	15,000
228	I	MISSOURI	AIR FORCE	WHITEMAN AFB	B-2 ADAL DOCK & HANGAR FIRE PROTECTION SYS	3,400	3,400	3,400	3,400
229	I	MISSOURI	AIR FORCE	WHITEMAN AFB	STORM DRAINAGE FACILITIES	1,290	1,290	1,290	1,290
230	I	MISSOURI	ARMY NATIONAL GUARD	COLUMBIA	ARMORY	0	1,415	0	1,415
231	I	MISSOURI	ARMY NATIONAL GUARD	SKELTON TRAINING CENTER, JEFFERSON CITY	DEFENSE ACCESS ROAD	0	1,500	0	1,396
232	I	MISSOURI	AIR NATIONAL GUARD	JEFFERSON BARRACKS ANG SITE	REPLACE FUEL TANKS/UPGRADE REFUEL BOOTH	500	500	500	500
233	I	MISSOURI	AIR NATIONAL GUARD	ST LOUIS-LAMBERT FIELD	REPLACE UNDERGROUND FUEL STORAGE TANKS	440	440	440	440
234	I	MISSOURI	AIR NATIONAL GUARD	ST. JOSEPH	ADVANCED TACTICAL AIRLIFT TRAINING CENTER	0	0	2,150	2,150
235	I	MISSOURI	AIR NATIONAL GUARD	ST. JOSEPH	CIVIL ENGINEERING FACILITY	0	3,000	0	3,000
236	I	MONTANA	AIR FORCE	MALMSTROM AFB	UNGD FUEL STORAGE TANKS MINUTEMAN III FACS	4,000	4,000	4,000	4,000
237	I	MONTANA	AIR FORCE	MALMSTROM AFB	UNDERGROUND FUEL STORAGE TANKS	3,200	3,200	3,200	3,200
238	I	MONTANA	AIR NATIONAL GUARD	GREAT FALLS IAP	ADAL FUEL CELL AND CORROSION CONTROL HANG	1,150	1,150	1,150	1,150
239	I	MONTANA	AIR NATIONAL GUARD	GREAT FALLS IAP	MUNITIONS STORAGE FACILITY	0	0	3,150	3,150
240	I	NEBRASKA	AIR FORCE	OFFUTT AFB	STORM DRAINAGE FACILITIES	1,500	1,500	1,500	1,500

UMI
1994
AG 12 — 18
PT 16
VOL 140

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
241	I	NEBRASKA	AIR FORCE	OFFUTT AFB	UNDERGROUND FUEL STORAGE TANKS	760	760	760	760
242	I	NEBRASKA	AIR NATIONAL GUARD	LINCOLN MAP	PARKING APRON,JET FUEL STOR AND OPING CON	14,274	14,274	14,274	14,274
243	I	NEBRASKA	AIR NATIONAL GUARD	LINCOLN MAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	500	500	500	500
244	I	NEVADA	AIR FORCE	NELLIS AFB	DORMITORY	0	0	9,900	0
245	I	NEVADA	AIR FORCE	NELLIS AFB	RELOCATE WATER STORAGE TANK	0	0	600	600
246	I	NEVADA	ARMY NATIONAL GUARD	WASHOE COUNTY	ARMORY	0	5,500	5,600	5,520
247	I	NEVADA	ARMY RESERVE	LAS VEGAS	ARMED FORCES RESERVE CENTER	0	20,000	0	10,000
248	I	NEW JERSEY	ARMY	MIL OCEAN TERM BAYONNE	PAVE CARGO STAGING AND HOLDING AREA	4,050	4,050	4,050	4,050
249	I	NEW JERSEY	NAVY	LAKEHURST NAVAIRWARFARE CTR AIRCRAFT DIV	POTABLE WATER DISTRIBUTION SYSTEM ADDN	2,950	2,950	2,950	2,950
250	I	NEW JERSEY	AIR FORCE	MCGUIRE AFB	UPGRADE SANITARY SEWER SYSTEM	4,800	4,800	4,800	4,800
251	I	NEW JERSEY	AIR FORCE	MCGUIRE AFB	UPGRADE STORM DRAINAGE FACILITIES	1,900	1,900	1,900	1,900
252	I	NEW JERSEY	AIR FORCE	MCGUIRE AFB	DORMITORY	8,700	8,700	8,700	8,700
253	I	NEW JERSEY	AIR FORCE	MCGUIRE AFB	DORMITORY	1,600	1,600	1,600	1,600
254	I	NEW JERSEY	DEFENSE AGENCIES	FORT DIX	HOSPITAL LIFE SAFETY UPGRADE	2,000	2,000	2,000	2,000
255	I	NEW JERSEY	AIR NATIONAL GUARD	MCGUIRE AFB	REPLACE UNDERGROUND FUEL STORAGE TANKS	1,000	1,000	1,000	1,000
256	I	NEW JERSEY	AIR NATIONAL GUARD	MCGUIRE AFB	AIRCRAFT PARKING APRON	0	9,600	9,600	9,600
257	I	NEW MEXICO	NAVY	WHITE SANDS NAVAL ORD MISSILE TEST STA	WEAPONS TEST RANGE	1,390	1,390	1,390	1,390
258	I	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	DORMITORY	3,950	3,950	3,950	3,950
259	I	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	ADDITIONAL F-117 HANGARETTE	0	7,000	7,000	7,000
260	I	NEW MEXICO	AIR FORCE	KIRTLAND AFB	UPGRADE ELECTRICAL DISTRIBUTION SYSTEM, PH I	0	0	6,000	3,000
261	I	NEW MEXICO	AIR FORCE	KIRTLAND AFB	REPAIR WATER DISTRIBUTION CENTER	0	0	8,800	8,800
262	I	NEW MEXICO	AIR FORCE	KIRTLAND AFB	BASE SUPPORT CENTER/DINING HALL	0	0	9,500	9,500
263	I	NEW MEXICO	AIR FORCE	KIRTLAND AFB	UNDERGROUND FUEL STORAGE TANKS	3,200	3,200	3,200	3,200
264	I	NEW MEXICO	AIR FORCE	KIRTLAND AFB	CHILD CARE CENTER	0	0	3,500	3,500
265	I	NEW MEXICO	DEFENSE AGENCIES	KIRTLAND AFB (SOC)	AIRCREW TRAINING FACILITY	9,600	9,600	9,600	9,600
266	I	NEW MEXICO	ARMY NATIONAL GUARD	TAOS	ARMORY	0	0	1,690	0
267	I	NEW MEXICO	AIR NATIONAL GUARD	KIRTLAND AFB	REPLACE UNDERGROUND FUEL STORAGE TANKS	900	900	900	900
268	I	NEW YORK	ARMY	FORT DRUM	FLIGHT SIMULATOR BUILDING	0	3,900	0	0
269	I	NEW YORK	ARMY	FORT DRUM	AIRCRAFT PROTECTIVE SHELTERS	0	2,050	0	0
270	I	NEW YORK	ARMY	FORT DRUM	MULTIPURPOSE TRAINING RANGE	0	13,200	0	12,600

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
271	I	NEW YORK	ARMY	U S MILITARY ACADEMY	RENOVATE FOOD PROCESSING FACILITY, PHASE I	28,000	28,000	28,000	14,000
272	I	NEW YORK	ARMY NATIONAL GUARD	CAMP SMITH	OVERHAUL OF WATER SUPPLY AND DISTRIBUTION SYS	0	1,820	1,820	1,820
273	I	NEW YORK	AIR NATIONAL GUARD	HANCOCK FIELD	REPLACE UNDERGROUND FUEL STORAGE TANKS	580	580	580	580
274	I	NEW YORK	AIR NATIONAL GUARD	NIAGARA FALLS INTERNATIONAL AIRPORT	REPLACE UNDERGROUND FUEL STORAGE TANKS	640	640	640	640
275	I	NEW YORK	AIR NATIONAL GUARD	STRATTON AIR NAT'L GUARD BASE	POLICE FACILITY AND FIRE STATION	0	3,200	3,600	3,200
276	I	NEW YORK	AIR FORCE RESERVE	NIAGARA IAP	FUEL MAINTENANCE HANGAR	0	0	5,450	0
277	I	NORTH CAROLINA	ARMY	FORT BRAGG	WHOLE BARRACKS RENEWAL	29,000	29,000	29,000	29,000
278	I	NORTH CAROLINA	ARMY	SUNNY POINT ARMY TERM	DREDGE TERMINAL ENTRANCE	16,500	16,500	16,500	16,500
279	I	NORTH CAROLINA	ARMY	SUNNY POINT ARMY TERM	HOLDING PAD	5,700	5,700	5,700	5,700
280	I	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	OIL SPILL PREVENTION	4,450	4,450	4,450	4,450
281	I	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	MULTI-PURPOSE TRAINING RANGE COMPLEX	10,400	10,400	10,400	10,400
282	I	NORTH CAROLINA	NAVY	CHERRY POINT MARINE CORPS AIR STATION	CYROGENICS FACILITY	2,100	2,100	2,100	2,100
283	I	NORTH CAROLINA	AIR FORCE	POPE AFB	AIRCRAFT PARKING APRON LIGHTING	1,500	1,500	1,500	1,500
284	I	NORTH CAROLINA	AIR FORCE	POPE AFB	FIRE TRAINING FACILITY	1,100	1,100	1,100	1,100
285	I	NORTH CAROLINA	AIR FORCE	POPE AFB	COMBAT CONTROL TEAM SQUADRON FACILITY	0	2,150	0	2,450
286	I	NORTH CAROLINA	DEFENSE AGENCIES	FORT BRAGG	HOSPITAL REPLACEMENT PHASE III	75,000	75,000	75,000	75,000
287	I	NORTH CAROLINA	DEFENSE AGENCIES	FORT BRAGG	SPECIAL OPERATIONS FACILITY	0	0	16,000	8,000
288	I	NORTH CAROLINA	ARMY NATIONAL GUARD	KINSTON	ARMORY AND ORGANIZATIONAL MAINTENANCE SHOP	0	3,519	0	3,519
289	I	NORTH CAROLINA	AIR NATIONAL GUARD	DOUGLAS MAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	690	690	690	690
290	I	NORTH CAROLINA	AIR NATIONAL GUARD	STANLY COUNTY	COMPOSITE TRAINING FACILITY	0	5,100	0	5,100
291	I	NORTH CAROLINA	AIR FORCE RESERVE	KINSTON REGIONAL AIRPORT	HOLDING APRON & RUNWAY IMPROVEMENTS	0	4,960	0	4,960
292	I	NORTH DAKOTA	AIR FORCE	GRAND FORKS AFB	UNDERGROUND FUEL STORAGE TANKS - MISSILE FACS	5,200	5,200	5,200	5,200
293	I	NORTH DAKOTA	AIR FORCE	MINOT AFB	UNGD FUEL STORAGE TANKS - MISSILE FACS	2,950	2,950	2,950	2,950
294	I	NORTH DAKOTA	AIR FORCE	MINOT AFB	UNDERGROUND FUEL STORAGE TANKS	1,400	1,400	1,400	1,400
295	I	NORTH DAKOTA	AIR FORCE	MINOT AFB	STORM DRAINAGE FACILITIES	1,500	1,500	1,500	1,500
296	I	NORTH DAKOTA	AIR FORCE	MINOT AFB	REPAIR PARKING APRON	0	4,500	4,500	0
297	I	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	UPGRADE STORM DRAINAGE SYSTEM	3,350	3,350	3,350	3,350
298	I	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	UPGRADE ELECTRICAL DISTRIBUTION SYSTEM (PH I)	0	0	4,150	0
299	I	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	ACQUISITION MANAGEMENT CENTER (PH III)	0	0	18,300	18,300
300	I	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	WASTE WATER TREATMENT PLANT	0	0	6,900	0

UMI
1994
12 — 18
AG
PT 16
VOL 140

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
301	I	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	NATIONAL AIR INTELLIGENCE CENTER	0	4,900	0	4,900
302	I	OHIO	DEFENSE AGENCIES	DEFENSE CONSTRUCTION SUPPLY CENTER	FIRE STATION	2,200	2,200	2,200	2,200
303	I	OHIO	ARMY NATIONAL GUARD	RAVENNA	ARMORY/TRAINING SITE SUPPORT FACILITY	0	0	4,500	4,500
304	I	OHIO	ARMY NATIONAL GUARD	TOLEDO	ARMORY	0	3,183	0	0
305	I	OHIO	AIR NATIONAL GUARD	MANSFIELD LAHM AIRPORT	REPLACE UNDERGROUND FUEL STORAGE TANKS	770	770	770	770
306	I	OHIO	AIR NATIONAL GUARD	SPRINGFIELD ANG BASE	MEDICAL TRAINING AND DINING HALL FACILITY	0	4,300	0	4,300
307	I	OHIO	AIR NATIONAL GUARD	SPRINGFIELD MAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	400	400	400	400
308	I	OHIO	AIR NATIONAL GUARD	SPRINGFIELD MAP	ADAL FUEL CELL AND CORROSION CONTROL DOCK	1,250	1,250	1,250	1,250
309	I	OHIO	AIR NATIONAL GUARD	TOLEDO EXPRESS AIRPORT	AIRCRAFT DEICING APRON	320	320	320	320
310	I	OHIO	AIR NATIONAL GUARD	TOLEDO EXPRESS AIRPORT	BASE CIVIL ENGINEERING MAINTENANCE COMPLEX	0	2,540	0	2,540
311	I	OHIO	AIR FORCE RESERVE	YOUNGSTOWN MAP	INDUSTRIAL WASTE WATER PRETREAT FACILITY	500	500	500	500
312	I	OKLAHOMA	ARMY	FORT SILL	WHOLE BARRACKS RENEWAL	18,000	18,000	18,000	18,000
313	I	OKLAHOMA	AIR FORCE	ALTUS AFB	ADD TO AND ALTER DORMITORY	3,750	3,750	3,750	3,750
314	I	OKLAHOMA	AIR FORCE	TINKER AFB	STORM DRAINAGE SYSTEM	1,243	1,243	1,243	1,243
315	I	OKLAHOMA	AIR FORCE	TINKER AFB	CORROSION CONTROL FACILITY (DBOF)	8,400	8,400	8,400	8,400
316	I	OKLAHOMA	AIR FORCE	TINKER AFB	EXTEND AND UPGRADE ALTERNATE RUNWAY	0	10,800	0	10,800
317	I	OKLAHOMA	AIR FORCE	VANCE AFB	FIRE TRAINING FACILITY	980	980	980	980
318	I	OKLAHOMA	AIR FORCE	VANCE AFB	ALTER DORMITORIES	2,300	2,300	2,300	2,300
319	I	OKLAHOMA	AIR FORCE	VANCE AFB	UPGRADE STORM DRAINAGE SYSTEM	1,800	1,800	1,800	1,800
320	I	OKLAHOMA	AIR FORCE	VANCE AFB	UPGRADE SANITARY SEWER SYSTEM	1,100	1,100	1,100	1,100
321	I	OKLAHOMA	AIR FORCE	VANCE AFB	AIRCRAFT PARKING APRON (PHASE V)	0	5,500	5,500	5,500
322	I	OKLAHOMA	ARMY NATIONAL GUARD	OKLAHOMA CITY	TROOP COMMAND ARMORY	0	3,911	0	0
323	I	OKLAHOMA	ARMY NATIONAL GUARD	OKLAHOMA MILITARY ACADEMY	BARRACKS AND CLASSROOMS	0	4,463	0	4,463
324	I	OKLAHOMA	AIR NATIONAL GUARD	TULSA IAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	700	700	700	700
325	I	OKLAHOMA	AIR FORCE RESERVE	TINKER AFB	UPGRADE RAMP AND HYDRANT REFUELING SYSTEM	0	0	10,200	10,200
326	I	OREGON	ARMY	UMATILLA ARMY DEPOT	AMMUNITION DEMILITARIZATION FACILITY	179,000	179,000	0	0
327	I	OREGON	DEFENSE AGENCIES	UMATILLA ARMY DEPOT	AMMUNITION DEMILITARIZATION FACILITY, PHASE I	0	0	12,000	12,000
328	I	OREGON	DEFENSE AGENCIES	UMATILLA ARMY DEPOT	CARBON FILTRATION SYSTEM	0	0	4,000	0
329	I	OREGON	ARMY NATIONAL GUARD	CAMP RILEA	TROOP ISSUE ACTIVITY WAREHOUSE UPGRADE	0	0	500	0
330	I	OREGON	ARMY NATIONAL GUARD	HERMISTON	ARMORY	0	0	1,800	1,713

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
331	I	OREGON	ARMY NATIONAL GUARD	PENDLETON	AVIATION SUPPORT FACILITY	0	0	2,000	2,000
332	I	OREGON	AIR NATIONAL GUARD	CAMP RILEA	COMMUNICATION & ELECTRONICS TRAINING FACILITY	0	4,650	4,650	4,650
333	I	OREGON	AIR NATIONAL GUARD	PORTLAND IAP	SITE RESTORATION	1,700	1,700	1,700	1,700
334	I	PENNSYLVANIA	ARMY	TOBYHANNA DEPOT	INDUSTRIAL OPERATIONS FACILITY	0	17,000	0	17,000
335	I	PENNSYLVANIA	NAVY	PHILADELPHIA NAVAL SHIPYARD	PIER 4 REHAB (PHASE II)	0	6,000	0	6,000
336	I	PENNSYLVANIA	NAVY	PHILADELPHIA NAVAL SHIPYARD	RENOVATE AND MODERNIZE FOUNDRY (PHASE II)	0	4,500	0	4,500
337	I	PENNSYLVANIA	NAVY	PHILADELPHIA NAVAL SHIPYARD	FIRE PROTECTION PUMP	0	1,000	0	0
338	I	PENNSYLVANIA	ARMY NATIONAL GUARD	FORD CITY, ARMSTRONG COUNTY	ARMORY	0	1,982	0	1,982
339	I	PENNSYLVANIA	ARMY NATIONAL GUARD	FORT INDIANTOWN GAP	ELECTRICAL TARGETING SYSTEM UPGRADE	0	0	770	770
340	I	PENNSYLVANIA	ARMY NATIONAL GUARD	FORT INDIANTOWN GAP	BARRACKS	0	0	6,200	6,200
341	I	PENNSYLVANIA	ARMY NATIONAL GUARD	FORT INDIANTOWN GAP	FLIGHT SIMULATOR	0	4,600	6,000	4,584
342	I	PENNSYLVANIA	ARMY NATIONAL GUARD	MT PLEASANT TOWNSHIP, WESTMORELAND COUNTY	ARMORY	0	3,954	0	3,594
343	I	PENNSYLVANIA	NAVY RESERVE	TOLSON	RENOVATE ARMED FORCES RESERVE CENTER (BLDG B)	0	2,300	0	2,300
344	I	PENNSYLVANIA	AIR NATIONAL GUARD	FT INDIANTOWN ANG COMMUNICATIONS SITE	REPLACE UNDERGROUND FUEL STORAGE TANKS	1,800	1,800	1,800	1,800
345	I	PENNSYLVANIA	AIR NATIONAL GUARD	GREATER PITTSBURGH INTERNATIONAL AIRPORT	REPLACE UNDERGROUND FUEL STORAGE TANKS	500	500	500	500
346	I	PENNSYLVANIA	AIR NATIONAL GUARD	HARRISBURG IAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	690	690	690	690
347	I	PENNSYLVANIA	AIR NATIONAL GUARD	WILLOW GROVE NAS	REPLACE UNDERGROUND FUEL STORAGE TANKS	470	470	470	470
348	I	RHODE ISLAND	NAVY	NAVAL WAR COLLEGE, NEWPORT	STRATEGIC MARITIME RESEARCH CENTER (PHASE I)	0	10,000	0	10,000
349	I	RHODE ISLAND	NAVY	NEWPORT NAVAL EDUCATION & TRAINING CENTER	SANITARY SEWER SYSTEM UPGRADES	14,500	14,500	14,500	14,500
350	I	SOUTH CAROLINA	ARMY	CHARLESTON NAVAL WEAPONS STATION	STRATEGIC MAINTENANCE COMPLEX (PH I)	0	0	24,000	20,000
351	I	SOUTH CAROLINA	NAVY	MARINE CORPS AIR STATION, BEAUFORT	F/A - 18D SPT. FACILITIES	0	10,800	0	10,800
352	I	SOUTH CAROLINA	NAVY	MARINE CORPS RECRUIT DEPOT, PARRIS ISLAND	RECRUIT TRAINING FACILITY	0	6,000	0	5,800
353	I	SOUTH CAROLINA	NAVY	PARRIS ISLAND MARINE CORPS RECRUIT DEPOT	CHILD DEVELOPMENT CENTER	2,550	2,550	2,550	2,550
354	I	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	ALTER DORMITORIES	9,900	9,900	9,900	9,900
355	I	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	UPGRADE HAZARDOUS WASTE STORAGE FACILITY	1,500	1,500	1,500	1,500
356	I	SOUTH CAROLINA	ARMY NATIONAL GUARD	EASTOVER	CLASS IX AMMUNITION STORAGE FACILITY	0	0	2,300	2,300
357	I	SOUTH CAROLINA	ARMY NATIONAL GUARD	SENECA	ARMORY	0	0	1,400	0
358	I	SOUTH CAROLINA	ARMY RESERVE	NORTH CHARLESTON	RESERVE CENTER/MAINTENANCE COMPLEX	0	0	8,560	8,560
359	I	SOUTH CAROLINA	AIR NATIONAL GUARD	MCENTIRE ANGB	ADD/ALTER COMMUNICATIONS FACILITY	0	0	900	0
360	I	SOUTH DAKOTA	AIR FORCE	ELLSWORTH AFB	STORM DRAINAGE FACILITIES	1,450	1,450	1,450	1,450

UMI
1994
AG 12 — 18
PT 16
VOL 140

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
361	I	SOUTH DAKOTA	AIR FORCE	ELLSWORTH AFB	CONSOLIDATED SUPPORT CENTER (PHASE II)	0	4,500	4,500	4,500
362	I	SOUTH DAKOTA	ARMY NATIONAL GUARD	CAMP RAPID	BARRACKS/ADMINISTRATION FACILITY	0	0	2,200	0
363	I	SOUTH DAKOTA	AIR NATIONAL GUARD	SIOUX FALLS (JOE FOSS FIELD)	POWER CHECK PAD/SOUND SUPPRESSOR	0	0	2,500	2,500
364	I	TENNESSEE	AIR FORCE	ARNOLD ENGINEERING DEV CENTER	HAZARDOUS WASTE/MATERIAL STORAGE FACILITY	1,900	1,900	1,900	1,900
365	I	TENNESSEE	ARMY NATIONAL GUARD	CHATTANOOGA AMG	ARMY NATIONAL GUARD AVIATION UNIT	0	2,949	0	0
366	I	TENNESSEE	ARMY NATIONAL GUARD	CHATTANOOGA AMG	ARMORY ADDITION AND REHABILITATION	0	1,604	0	1,604
367	I	TENNESSEE	ARMY NATIONAL GUARD	DUNLAP	ORGANIZATIONAL MAINTENANCE SUB SHOP	0	715	715	715
368	I	TENNESSEE	ARMY NATIONAL GUARD	JOHNSON CITY	ADD/ALTER JOINT ARMED FORCES RESV CTR	0	6,019	0	6,019
369	I	TENNESSEE	ARMY NATIONAL GUARD	LINDEN	ARMORY	0	1,097	1,097	1,097
370	I	TENNESSEE	ARMY NATIONAL GUARD	MILAN	ARMORY	0	825	825	825
371	I	TENNESSEE	ARMY NATIONAL GUARD	MOUNTAIN CITY	ARMORY	0	1,742	1,742	1,742
372	I	TENNESSEE	ARMY NATIONAL GUARD	ONEIDA	ARMORY	0	0	1,230	1,230
373	I	TENNESSEE	ARMY NATIONAL GUARD	ROGERSVILLE	ARMORY	0	0	1,820	1,820
374	I	TENNESSEE	ARMY NATIONAL GUARD	SPRINGFIELD	ARMORY	0	1,100	1,100	1,115
375	I	TENNESSEE	ARMY NATIONAL GUARD	TRENTON	ORGANIZATIONAL MAINTENANCE SHOP	0	630	630	630
376	I	TENNESSEE	ARMY NATIONAL GUARD	WAVERLY	ARMORY ADDITION AND REHABILITATION (PHASE II)	0	321	321	321
377	I	TENNESSEE	AIR NATIONAL GUARD	MEMPHIS	VEHICLE MAINTENANCE WAREHOUSE	0	0	1,900	1,900
378	I	TENNESSEE	AIR NATIONAL GUARD	MEMPHIS	SIMULATOR FACILITY	0	0	3,500	3,500
379	I	TENNESSEE	AIR NATIONAL GUARD	NASHVILLE	VEHICLE MAINTENANCE COMPLEX	0	0	2,250	2,250
380	I	TEXAS	ARMY	FORT BLISS	MAINTENANCE FACILITY	0	11,200	0	11,200
381	I	TEXAS	ARMY	FORT BLISS	US SERGEANTS MAJOR ACADEMY ADDITION	0	5,600	0	5,600
382	I	TEXAS	ARMY	FORT BLISS	CHILD DEVELOPMENT CENTER	0	4,000	0	0
383	I	TEXAS	ARMY	FORT HOOD	WHOLE BARRACKS RENEWAL	29,000	29,000	29,000	29,000
384	I	TEXAS	ARMY	FORT HOOD	LOGISTICS FACILITY PHASE IV	0	10,000	0	8,800
385	I	TEXAS	ARMY	FORT HOOD	TWO TACTICAL EQUIPMENT SHOPS	0	10,000	0	8,000
386	I	TEXAS	ARMY	FORT SAM HOUSTON	SEWAGE TREATMENT PLANT - CAMP BULLIS	4,300	4,300	4,300	4,300
387	I	TEXAS	ARMY	FORT SAM HOUSTON	DINING FACILITY MODERNIZATION	0	2,750	0	0
388	I	TEXAS	NAVY	INGLESIDE NAVAL STATION	MAGNETIC SILENCING FAC W/LAND ACQUISITION	14,110	14,110	14,110	14,110
389	I	TEXAS	NAVY	KINGSVILLE NAVAL AIR STATION	REPAIR & MAINTAIN NON-AIRBORNE ELECT/COMM EQU	0	1,530	0	1,530
390	I	TEXAS	AIR FORCE	BROOKS AFB	DIRECTED ENERGY FACILITY	0	6,500	0	6,500

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
391	I	TEXAS	AIR FORCE	DYESS AFB	ADD/ALTER DORMITORY	0	5,400	0	0
392	I	TEXAS	AIR FORCE	KELLY AFB	UPGRADE HYDRANT FUELING SYSTEMS	3,700	3,700	3,700	3,700
393	I	TEXAS	AIR FORCE	KELLY AFB	UPGRADE SANITARY SEWER LINES	3,000	3,000	3,000	3,000
394	I	TEXAS	AIR FORCE	KELLY AFB	ADD TO AND ALTER DORMITORY	2,250	2,250	2,250	2,250
395	I	TEXAS	AIR FORCE	KELLY AFB	ALTER DEPOT MAINTENANCE HANGAR, PHASE I	0	7,600	0	0
396	I	TEXAS	AIR FORCE	LACKLAND AFB	7-LEVEL TRAINING CLASSROOMS	1,800	1,800	1,800	1,800
397	I	TEXAS	AIR FORCE	LACKLAND AFB	ALTER RECRUIT DORMITORY	3,400	3,400	3,400	3,400
398	I	TEXAS	AIR FORCE	SHEPPARD AFB	7-LEVEL TRAINING CLASSROOMS	3,300	3,300	3,300	3,300
399	I	TEXAS	ARMY NATIONAL GUARD	EL CAMPO	ARMORY AND ORGANIZATIONAL MAINTENANCE SHOP	0	2,086	0	0
400	I	TEXAS	ARMY NATIONAL GUARD	FORT WORTH / SANDAGE	ARMORY RENOVATION	0	631	0	0
401	I	TEXAS	ARMY NATIONAL GUARD	FORT WORTH / SHOREVIEW	ADD / ALTER ARMORY	0	3,190	0	3,041
402	I	TEXAS	ARMY NATIONAL GUARD	MARSHALL	ORGANIZATIONAL MAINTENANCE SHOP	0	830	0	830
403	I	TEXAS	ARMY NATIONAL GUARD	WYLIE	ORGANIZATIONAL MAINTENANCE SHOP	0	1,261	0	1,261
404	I	UTAH	DEFENSE AGENCIES	TOOELE ARMY DEPOT	CARBON FILTRATION SYSTEM	0	0	4,000	4,000
405	I	UTAH	ARMY NATIONAL GUARD	CAMP WILLIAMS	TROOP SUPPORT ACTIVITY BUILDING (PH II)	0	0	2,290	2,290
406	I	UTAH	ARMY NATIONAL GUARD	ST. GEORGE	ARMORY ADDITION	0	0	880	0
407	I	UTAH	AIR NATIONAL GUARD	SALT LAKE CITY IAP	AIRCRAFT WASHRACK AND DEICE FACILITY	400	400	400	400
408	I	VERMONT	AIR NATIONAL GUARD	BURLINGTON IAP	MEDICAL TRAINING/OPERATIONS FACILITY	0	0	4,800	4,800
409	I	VIRGINIA	ARMY	FORT LEE	UPGRADE ELECTRICAL DISTRIBUTION, PHASE I	0	16,000	0	11,000
410	I	VIRGINIA	ARMY	FORT LEE	SOLDIERS ONE STOP CENTER	0	5,000	0	4,600
411	I	VIRGINIA	ARMY	FORT MYER	WHOLE BARRACKS RENEWAL	7,300	7,300	7,300	7,300
412	I	VIRGINIA	NAVY	CHESAPEAKE NAVAL SECURITY GROUP ACT NW	CHILD DEVELOPMENT CENTER	1,150	1,150	1,150	1,150
413	I	VIRGINIA	NAVY	DAM NECK FLEET COMBAT TRAIN CTR ATLANTIC	CHILD DEVELOPMENT CENTER	1,600	1,600	1,600	1,600
414	I	VIRGINIA	NAVY	DAM NECK FLEET COMBAT TRAIN CTR ATLANTIC	GUNLINE/WEAPONS TRAINING FACILITY	0	5,400	0	5,400
415	I	VIRGINIA	NAVY	LITTLE CREEK AMPHIBIOUS BASE	WEST SIDE FIRE STATION	0	5,000	0	5,000
416	I	VIRGINIA	NAVY	NAVAL BASE NORFOLK	FAMILY SERVICES CENTER	0	5,100	0	5,100
417	I	VIRGINIA	NAVY	NORFOLK MARINE CORPS SEC FORCE BATT LANI	BACHELOR ENLISTED QUARTERS	6,480	6,480	6,480	6,480
418	I	VIRGINIA	NAVY	NORFOLK NAVAL STATION	BACHELOR ENLISTED QUARTERS	16,430	16,430	16,430	16,430
419	I	VIRGINIA	NAVY	NORFOLK NAVAL STATION	NAUTICUS	0	1,000	0	0
420	I	VIRGINIA	NAVY	OCEANA NAVAL AIR STATION	AIRCRAFT FIXED START SYSTEM	0	4,700	0	0

UMI 1994 AG 12 - 18 PT 16 VOL 140

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
421	I	VIRGINIA	NAVY	QUANTICO MARINE CORPS COMBAT DEV COMMAND	SEWAGE TREATMENT PLANT	19,900	19,900	19,900	19,900
422	I	VIRGINIA	AIR FORCE	LANGLEY AFB	CHILD DEVELOPMENT CENTERS (2)	0	5,500	0	5,500
423	I	VIRGINIA	DEFENSE AGENCIES	DEF FUEL SUPPORT POINT CRANEY ISLAND	MAINTENANCE & OPERATIONS FACILITY	3,652	3,652	3,652	3,652
424	I	VIRGINIA	DEFENSE AGENCIES	FORT BELVOIR	CHILD DEVELOPMENT CENTER	4,600	4,600	4,600	4,600
425	I	VIRGINIA	DEFENSE AGENCIES	NAVAL SURFACE WARFARE CENTER, DALGREN	ADD/ALTER SECTION 6 SCHOOL	0	1,300	1,560	1,560
426	I	VIRGINIA	DEFENSE AGENCIES	PORTSMOUTH NAVAL HOSPITAL	HOSPITAL REPLACEMENT PHASE IV	120,000	120,000	120,000	120,000
427	I	VIRGINIA	ARMY NATIONAL GUARD	DANVILLE	EXPAND ARMORY	0	0	1,740	0
428	I	VIRGINIA	AIR NATIONAL GUARD	RICHMOND IAP	FUEL STORAGE COMPLEX	0	0	4,500	4,500
429	I	WASHINGTON	ARMY	FORT LEWIS	WHOLE BARRACKS REMEWAL	32,000	32,000	32,000	32,000
430	I	WASHINGTON	ARMY	FORT LEWIS	WHOLE BARRACKS REMEWAL	32,000	32,000	32,000	32,000
431	I	WASHINGTON	NAVY	BREMERTON PUGET SOUND NAVAL SHIPYARD	INDUSTRIAL WASTEWATER TREATMENT FACILITY	3,200	3,200	3,200	3,200
432	I	WASHINGTON	NAVY	BREMERTON PUGET SOUND NAVAL SHIPYARD	UTILITIES AND SITE IMPROVEMENTS	7,840	7,840	7,840	7,840
433	I	WASHINGTON	NAVY	EVERETT NAVAL STATION	BACHELOR ENLISTED QUARTERS	7,450	7,450	7,450	7,450
434	I	WASHINGTON	NAVY	EVERETT NAVAL STATION	CHILD DEVELOPMENT CENTER	2,900	2,900	2,900	2,900
435	I	WASHINGTON	NAVY	EVERETT NAVAL STATION	FLEET RECREATION CENTER	3,000	3,000	3,000	3,000
436	I	WASHINGTON	NAVY	EVERETT NAVAL STATION	PHYSICAL FEITNESS FACILITIES	6,840	6,840	6,840	6,840
437	I	WASHINGTON	NAVY	EVERETT NAVAL STATION	HAZARDOUS WASTE STORAGE AND TRANSFER FAC	1,500	1,500	1,500	1,500
438	I	WASHINGTON	NAVY	WHIDBEY ISLAND NAVAL AIR STATION	WASTEWATER TREATMENT PLANT UPGRADE	2,400	2,400	2,400	2,400
439	I	WASHINGTON	NAVY	WHIDBEY ISLAND NAVAL AIR STATION	FIRE FIGHTING TRAINING FACILITY	1,400	1,400	1,400	1,400
440	I	WASHINGTON	NAVY	WHIDBEY ISLAND NAVAL AIR STATION	INDUSTRIAL WASTEWATER PRETREATMENT FAC	1,400	1,400	1,400	1,400
441	I	WASHINGTON	AIR FORCE	FAIRCHILD AFB	STORM DRAINAGE FACILITIES	2,450	2,450	2,450	2,450
442	I	WASHINGTON	AIR FORCE	FAIRCHILD AFB	HAZARDOUS MATERIAL STORAGE FACILITY	1,400	1,400	1,400	1,400
443	I	WASHINGTON	AIR FORCE	FAIRCHILD AFB	SURVIVAL TRAINING SCHOOL FACILITY	0	0	5,000	3,750
444	I	WASHINGTON	AIR FORCE	FAIRCHILD AFB	FLIGHT SIMULATOR	0	4,200	0	4,000
445	I	WASHINGTON	AIR FORCE	FAIRCHILD AFB	SQUADRON OPERATIONS/MAINTENANCE	0	6,300	0	6,300
446	I	WASHINGTON	AIR FORCE	MCCHORD	AIR TRAFFIC CONTROL TOWER	0	2,700	0	2,700
447	I	WASHINGTON	AIR FORCE	MCCHORD	ALTER BLDG FOR CONSOLIDATED SUPPORT CENTER	0	7,700	0	7,700
448	I	WASHINGTON	NAVY RESERVE	SEATTLE	JOINT ARMED FORCES RESERVE CENTER	0	0	0	10,400
449	I	WASHINGTON	AIR NATIONAL GUARD	FAIRCHILD AFB	ADD/ALTER SQUADRON OPERATIONS FACILITY	0	0	1,250	1,250
450	I	WEST VIRGINIA	AIR NATIONAL GUARD	E WV REGIONAL APT (MARTINSBURG)	REPLACE UNDERGROUND FUEL STORAGE TANKS	500	500	500	500

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
451	I	WISCONSIN	AIR NATIONAL GUARD	BILLY MITCHELL FIELD	REPLACE CENTRAL HEAT PLANT	800	800	800	800
452	I	WISCONSIN	AIR NATIONAL GUARD	TRUAX FIELD	ADAL AGE SHOP/STORAGE	340	340	340	340
453	I	WISCONSIN	AIR NATIONAL GUARD	VOLK FIELD	FIREMEN TRAINING FACILITY	700	700	700	700
454	I	WISCONSIN	AIR NATIONAL GUARD	VOLK FIELD	BASE FACILITIES IMPROVEMENTS (PHASE I)	0	9,900	0	4,900
455	I	WISCONSIN	AIR FORCE RESERVE	BILLY MITCHELL FIELD	INSTALL AIR EMISSION CONTROL DEVICE	750	750	750	750
456	I	WISCONSIN	AIR FORCE RESERVE	BILLY MITCHELL FIELD	FIRE FIGHTER TRAINING FACILITY	1,450	1,450	1,450	1,450
457	I	WYOMING	AIR FORCE	F E WARREN AFB	UNGD FUEL STORAGE TANKS - MISSILE FAC	2,650	2,650	2,650	2,650
458	I	WYOMING	ARMY NATIONAL GUARD	CAMP GUERNSEY	UTILITY UPGRADE	0	0	6,233	0
459	I	WYOMING	ARMY NATIONAL GUARD	TORRINGTON	ARMORY	0	0	5,300	5,300
460	O	CONUS CLASSIFIED	ARMY	CLASSIFIED LOCATION	CLASSIFIED PROJECT	0	1,900	1,900	1,900
461	O	CONUS CLASSIFIED	NAVY	CLASSIFIED LOCATION	AIRCRAFT FIRE/RESCUE STA & VEH MAINT FAC	2,200	2,200	2,200	2,200
462	O	CONUS CLASSIFIED	AIR FORCE	CLASSIFIED LOCATION	SPECIAL TACTICAL UNIT DETENTION FACILITY	2,141	2,141	2,141	2,141
463	O	CONUS CLASSIFIED	DEFENSE AGENCIES	CLASSIFIED LOCATION	COMMAND SUPPORT FACILITY UTILITY UPGRADE	5,300	5,300	5,300	5,300
464	O	GERMANY	AIR FORCE	RAMSTEIN AB	HAZARDOUS WASTE STORAGE FACILITY	1,150	1,150	1,150	1,150
465	O	GERMANY	AIR FORCE	RAMSTEIN AB	UPGRADE SEWAGE COLLECTION SYSTEM	11,200	11,200	11,200	11,200
466	O	GERMANY	AIR FORCE	SPANGDAHLEM AB	CHILD DEVELOPMENT CENTER .	2,273	2,273	2,273	2,273
467	O	GERMANY	AIR FORCE	SPANGDAHLEM AB	UPGD SEWAGE TREATMENT PLANT & SEWER SYS	7,200	7,200	7,200	7,200
468	O	GREECE	NAVY	SOUDA BAY CRETE NAVAL SUPPORT ACTIVITY	AIRCRAFT PARKING APRON	3,050	3,050	3,050	3,050
469	O	GREENLAND	AIR FORCE	THULE AB	FIRE TRAINING FACILITY	2,450	2,450	2,450	2,450
470	O	GUAM	NAVY	PUBLIC WORKS CENTER	UPGRADE ELECTRICAL POWER PLANT	0	21,600	0	0
471	O	ITALY	NAVY	NAPLES NAVAL SUPPORT ACTIVITY	BACHELOR ENLISTED QUARTERS	19,360	19,360	19,360	19,360
472	O	ITALY	NAVY	NAPLES NAVAL SUPPORT ACTIVITY	QUALITY OF LIFE FACILITIES (INCREMENT II)	9,100	9,100	9,100	9,100
473	O	ITALY	NAVY	SIGONELLA NAVAL AIR STATION	BACHELOR ENLISTED QUARTERS	13,750	13,750	13,750	13,750
474	O	KOREA	ARMY	CAMP CASEY	BARRACKS	0	29,200	0	29,200
475	O	KOREA	ARMY	CAMP COLLIER	BARRACKS	0	6,200	0	0
476	O	KOREA	ARMY	CAMP RED CLOUD	BARRACKS	0	5,400	0	5,400
477	O	KWAJALEIN	ARMY	KWAJALEIN	FUEL CONTAINMENT FACILITY	1,200	1,200	1,200	1,200
478	O	KWAJALEIN	ARMY	KWAJALEIN	COVER RAW WATER TANKS	5,200	5,200	5,200	5,200
479	O	PORTUGAL	AIR FORCE	LAJES FIELD	REFUSE INCINERATOR	2,850	2,850	2,850	2,850
480	O	PUERTO RICO	NAVY	SABANA SECA NAVAL SECURITY GROUP ACTIVITY	OPERATIONS BUILDING ADDITION	1,650	1,650	1,650	1,650

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18
PT
16
VOL
140

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
481	O	PUERTO RICO	AIR NATIONAL GUARD	PUERTO RICO IAP	ADD TO AND ALTER AIRCRAFT CORROSION FAC	750	750	750	750
482	O	PUERTO RICO	AIR NATIONAL GUARD	PUERTO RICO IAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	590	590	590	590
483	O	UNITED KINGDOM	NAVY	ST MAWGAN JOINT MARITIME COMMUNICATION CTR	CHILD DEVELOPMENT AND YOUTH CENTER	3,900	3,900	3,900	3,900
484	O	UNITED KINGDOM	AIR FORCE	RAF LAKENHEATH	ADD TO AND ALTER DORMITORY	3,700	3,700	3,700	3,700
485	O	UNITED KINGDOM	AIR FORCE	RAF LAKENHEATH	UPGRADE STORM DRAINAGE SYSTEM	2,550	2,550	2,550	2,550
486	O	UNITED KINGDOM	AIR FORCE	RAF LAKENHEATH	F-15E ADD TO MUNITIONS MAINTENANCE FAC	850	850	850	850
487	O	OVERSEAS CLASSIFIED	AIR FORCE	OVERSEAS CLASSIFIED	WAR READINESS MAINTENANCE/MANAGEMENT FAC	1,300	1,300	1,300	1,300
488	O	OVERSEAS CLASSIFIED	AIR FORCE	OVERSEAS CLASSIFIED	WAR READINESS MATERIAL MEDICAL STORAGE FAC	2,100	2,100	2,100	2,100
489	O	OVERSEAS CLASSIFIED	AIR FORCE	OVERSEAS CLASSIFIED	WAR READINESS MATERIAL OPEN STORAGE FAC	650	650	650	650
490	01	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	12,000	12,000	12,000	12,000
491	01	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	CIVILIAN UNDERSTRENGTH	0	0	(14,000)	0
492	01	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	ARMY - HOST NATION SUPPORT	25,000	25,000	25,000	10,000
493	01	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	62,926	66,126	63,926	66,126
494	01	WORLDWIDE UNSPECIFIED	NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	7,000	7,000	7,000	7,000
495	01	WORLDWIDE UNSPECIFIED	NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	43,380	43,380	43,380	43,380
496	01	WORLDWIDE UNSPECIFIED	AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	49,386	49,386	49,386	49,386
497	01	WORLDWIDE UNSPECIFIED	AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	7,000	7,000	7,000	7,000
498	01	WORLDWIDE UNSPECIFIED	BASE CLOSURE I	BASE REALIGNMENT & CLOSURE ACCT PART I	BASE REALIGNMENT & CLOSURE PART I	87,600	87,600	87,600	87,600
499	01	WORLDWIDE UNSPECIFIED	BASE CLOSURE II	BASE REALIGNMENT & CLOSURE ACCT PART II	BASE REALIGNMENT & CLOSURE PART II	398,700	398,700	398,700	398,700
500	01	WORLDWIDE UNSPECIFIED	BASE CLOSURE III	BASE REALIGNMENT & CLOSURE ACCT PART III	BASE REALIGNMENT & CLOSURE ACCT PART III	2,189,858	2,005,897	2,189,858	2,189,858
501	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED MINOR CONSTRUCTION	PLANNING AND DESIGN (DIA)	450	450	450	450
502	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN (BMDO)	530	530	530	530
503	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	0	0	6,000	6,000
504	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION (DODDS)	4,430	4,430	4,430	4,430
505	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN (SOF)	5,713	5,713	5,713	5,713
506	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN (OSD)	12,360	12,360	12,360	12,360
507	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	CONTINGENCY CONSTRUCTION (OSD)	10,411	8,511	8,511	3,511
508	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION (OSD)	3,000	3,000	3,000	3,000
509	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION (JCS)	5,873	5,873	5,873	5,873
510	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION (SOF)	4,020	4,020	4,020	4,020

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
511	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	ENERGY CONSERVATION IMPROVEMENT PROGRAM	50,000	50,000	50,000	50,000
512	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION (DMFO)	5,025	5,025	5,025	5,025
513	01	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN (DMFO)	26,907	26,907	26,907	26,907
514	01	WORLDWIDE UNSPECIFIED	NATO	UNSPECIFIED WORLDWIDE LOCATIONS	NATO INFRASTRUCTURE	219,000	119,000	219,000	119,000
515	04	WORLDWIDE UNSPECIFIED	ARMY NATIONAL GUARD	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	5,167	5,167	5,167	5,167
516	01	WORLDWIDE UNSPECIFIED	ARMY NATIONAL GUARD	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	1,000	2,157	15,191	5,900
517	01	WORLDWIDE UNSPECIFIED	ARMY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	5,253	5,253	5,253	5,253
518	01	WORLDWIDE UNSPECIFIED	ARMY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	2,657	2,657	2,657	2,657
519	01	WORLDWIDE UNSPECIFIED	NAVY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	158	158	158	158
520	01	WORLDWIDE UNSPECIFIED	NAVY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	1,357	1,357	11,757	1,800
521	01	WORLDWIDE UNSPECIFIED	AIR NATIONAL GUARD	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	4,000	4,000	4,000	4,000
522	01	WORLDWIDE UNSPECIFIED	AIR NATIONAL GUARD	UNSPECIFIED WORLDWIDE LOCATIONS	GENERAL REDUCTION	0	0	(8,000)	0
523	01	WORLDWIDE UNSPECIFIED	AIR NATIONAL GUARD	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	11,532	11,532	14,823	14,823
524	01	WORLDWIDE UNSPECIFIED	AIR FORCE RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	4,018	4,018	4,018	4,018
525	01	WORLDWIDE UNSPECIFIED	AIR FORCE RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	3,172	3,438	3,172	3,438
526	01	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	GENERAL REDUCTION	0	0	0	(23,500
527	01	WORLDWIDE UNSPECIFIED	NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	GENERAL REDUCTION	0	0	0	(23,500
528	01	WORLDWIDE UNSPECIFIED	AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	GENERAL REDUCTION	0	0	0	(23,500
529	01	WORLDWIDE VARIOUS	ARMY NATIONAL GUARD	VARIOUS LOCATIONS	ARMORY UNIT STORAGE BUILDING	840	840	840	840
530	01	WORLDWIDE VARIOUS	ARMY NATIONAL GUARD	VARIOUS LOCATIONS	INDOOR RANGE MODERNIZATION	839	839	839	839
531	XFH	ALABAMA	FHC-AIR FORCE	MAXWELL AFB	FAMILY HOUSING (25 UNITS)	2,100	2,100	2,100	2,100
532	XFH	ALASKA	FHC-ARMY	FORT RICHARDSON	RENOVATE FAMILY HOUSING (72 UNITS)	0	0	5,000	5,000
533	XFH	ARIZONA	FHC-AIR FORCE	DAVIS-MONTHAN AFB	FAMILY HOUSING REPLACEMENT (110 UNITS)	5,940	10,029	5,940	10,029
534	XFH	CALIFORNIA	FHC-NAVY	MARINE CORPS BASE CAMP PENDLETON	NEW CONSTRUCTION (196 HOMES)	28,552	28,552	28,552	28,552
535	XFH	CALIFORNIA	FHC-NAVY	PUBLIC WORKS CENTER SAN DIEGO	NEW CONSTRUCTION (136 HOMES)	18,262	18,262	18,262	18,262
536	XFH	CALIFORNIA	FHC-AIR FORCE	BEALE AFB	FAMILY HOUSING (76 UNITS)	8,842	8,842	8,842	8,842
537	XFH	CALIFORNIA	FHC-AIR FORCE	EDWARDS AFB	FAMILY HOUSING (34 UNITS)	4,629	4,629	4,629	4,629
538	XFH	CALIFORNIA	FHC-AIR FORCE	LOS ANGELES AFB	NEW CONSTRUCTION (50 UNITS)	0	5,000	8,962	8,962
539	XFH	CALIFORNIA	FHC-AIR FORCE	VANDENBERG AFB	FAMILY HOUSING (128 UNITS)	16,460	16,460	16,460	16,460
540	XFH	COLORADO	FHC-ARMY	FORT CARSON	REPLACEMENT CONSTRUCTION (145)	16,500	16,500	16,500	16,500

UMI 1994 AG 12-18 PT 16 VOL 140

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
541	XFN	DISTRICT OF COLUMBIA	FNC-AIR FORCE	BOLLING AFB	FAMILY HOUSING (100 UNITS)	9,000	9,000	9,000	9,000
542	XFN	FLORIDA	FNC-AIR FORCE	PATRICK AFB	FAMILY HOUSING (75 UNITS)	7,145	7,145	7,145	7,145
543	XFN	GEORGIA	FNC-ARMY	FORT STEWART	REPLACEMENT CONSTRUCTION (128)	10,600	10,600	10,600	10,600
544	XFN	HAWAII	FNC-ARMY	AELEMANO	FAMILY HOUSING ROAD IMPROVEMENT	0	0	-3,500	0
545	XFN	HAWAII	FNC-ARMY	SCHOFIELD BARRACKS	REPLACEMENT CONSTRUCTION (190)	26,000	26,000	26,000	26,000
546	XFN	HAWAII	FNC-NAVY	MOANALUA TERRACE	REPLACEMENT OF (100) FAMILY HOUSING UNITS	0	16,000	0	16,000
547	XFN	IDAHO	FNC-AIR FORCE	MOUNTAIN HOME AFB	FAMILY HOUSING (60 UNITS)	5,712	5,712	5,712	5,712
548	XFN	IDAHO	FNC-AIR FORCE	MOUNTAIN HOME AFB	FAMILY HOUSING (4 UNITS)	881	881	881	881
549	XFN	ILLINOIS	FNC-AIR FORCE	SCOTT AFB	HOUSING RELOCATION, PHASE III (300 UNITS)	0	0	0	0
550	XFN	KANSAS	FNC-ARMY	FORT RILEY	REPLACEMENNI CONSTRUCTION (126 UNITS)	0	0	12,600	12,600
551	XFN	KANSAS	FNC-AIR FORCE	MCCONNELL AFB	FAMILY HOUSING (70 UNITS)	8,322	8,322	8,322	8,322
552	XFN	LOUISIANA	FNC-AIR FORCE	BARKSDALE AFB	FAMILY HOUSING (82 UNITS)	8,236	8,236	8,236	8,236
553	XFN	MARYLAND	FNC-NAVY	NAVAL AIR TEST CENTER PATUXENT RIVER	NEW CONSTRUCTION (NSG OFFICE)	863	863	863	863
554	XFN	MASSACHUSETTS	FNC-ARMY	NATICK RESEARCH CENTER	REPLACEMENT CONSTRUCTION (35)	4,150	4,150	4,150	4,150
555	XFN	MISSISSIPPI	FNC-NAVY	CBC GULFPORT	FAMILY HOUSING (120 UNITS)	0	10,370	0	10,370
556	XFN	MISSOURI	FNC-AIR FORCE	WHITEMAN AFB	HOUSING OFFICE	567	567	567	567
557	XFN	NEW MEXICO	FNC-AIR FORCE	CANNON AFB	FAMILY HOUSING (1 UNIT)	230	230	230	230
558	XFN	NEW MEXICO	FNC-AIR FORCE	HOLLOMAN AFB	FAMILY HOUSING (76 UNITS)	7,733	7,733	7,733	7,733
559	XFN	NEW MEXICO	FNC-AIR FORCE	KIRTLAND AFB	FAMILY HOUSING (106 UNITS)	10,058	10,058	10,058	10,058
560	XFN	NEW YORK	FNC-ARMY	U S MILITARY ACADEMY	REPLACEMENT CONSTRUCTION (56)	8,000	8,000	8,000	8,000
561	XFN	NORTH CAROLINA	FNC-AIR FORCE	POPE AFB	FAMILY HOUSING (120 UNITS)	14,874	14,874	14,874	14,874
562	XFN	NORTH CAROLINA	FNC-AIR FORCE	SEYMOUR JOHNSON AFB	FAMILY HOUSING (74 UNITS)	6,025	6,025	6,025	6,025
563	XFN	NORTH DAKOTA	FNC-AIR FORCE	GRAND FORKS AFB	HOUSING OFFICE	709	709	709	709
564	XFN	SOUTH CAROLINA	FNC-ARMY	FORT JACKSON	FAMILY HOUSING (105 UNITS)	0	12,000	0	0
565	XFN	SOUTH CAROLINA	FNC-AIR FORCE	SHAW AFB	FAMILY HOUSING (3 UNITS)	631	631	631	631
566	XFN	TEXAS	FNC-ARMY	FORT BLISS	REPLACEMENT CONSTRUCTION (110)	10,600	10,600	10,600	10,600
567	XFN	TEXAS	FNC-ARMY	FORT BLISS	REPLACEMENT CONSTRUCTION (105)	10,800	10,800	10,800	10,800
568	XFN	TEXAS	FNC-ARMY	FORT SAM HOUSTON	REPLACEMENT CONSTRUCTION (100)	10,000	10,000	10,000	10,000
569	XFN	TEXAS	FNC-NAVY	CORPUS CHRISTI NAVAL AIR STATION	FAMILY HOUSING UNITS (100)	0	11,800	0	11,800
570	XFN	TEXAS	FNC-AIR FORCE	DYESS AFB	FAMILY HOUSING (59 UNITS)	7,077	7,077	7,077	7,077

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
571	XFN	UTAH	FNC-AIR FORCE	HILL AFB	FAMILY HOUSING REPLACEMENT (138 UNITS)	0	11,400	11,400	11,400
572	XFN	VIRGINIA	FNC-NAVY	NAVAL SHIPYARD PORTSMOUTH	NEW CONSTRUCTION (SELF HELP/WAREHOUSE)	555	555	555	555
573	XFN	VIRGINIA	FNC-AIR FORCE	LANGLEY AFB	FAMILY HOUSING (148 UNITS)	14,421	14,421	14,421	14,421
574	XFN	WASHINGTON	FNC-NAVY	NAVAL STATION PUGET SOUND, EVERETT	NEW CONSTRUCTION (NSG OFFICE)	780	780	780	780
575	XFN	WASHINGTON	FNC-AIR FORCE	FAIRCHILD AFB	FAMILY HOUSING (6 UNITS)	1,035	1,035	1,035	1,035
576	XFN	WYOMING	FNC-AIR FORCE	F E WARREN AFB	FAMILY HOUSING (106 UNITS)	11,321	11,321	11,321	11,321
577	XOFR	BELGIUM	FNC-DEFENSE AGENCIES	BELGIUM	OFFICIAL RESIDENCE PURCHASE	300	300	300	300
578	XOFN	WORLDWIDE UNSPECIFIED	FNC-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS	49,760	49,760	49,760	49,760
579	XOFN	WORLDWIDE UNSPECIFIED	FNC-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING	5,992	5,992	5,992	5,992
580	XOFN	WORLDWIDE UNSPECIFIED	FNC-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	CIVILIAN UNDERSTRENGTH	0	0	(6,000)	0
581	XOFN	WORLDWIDE UNSPECIFIED	FNS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MORTGAGE INSURANCE PREMIUMS	11	11	11	11
582	XOFN	WORLDWIDE UNSPECIFIED	FNS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY	404,414	404,414	356,914	352,514
583	XOFN	WORLDWIDE UNSPECIFIED	FNS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT	283,933	283,933	283,933	250,433
584	XOFN	WORLDWIDE UNSPECIFIED	FNS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT	80,340	80,340	80,340	77,140
585	XOFN	WORLDWIDE UNSPECIFIED	FNS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT	1,856	1,856	1,856	1,856
586	XOFN	WORLDWIDE UNSPECIFIED	FNS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	49,083	49,083	49,083	43,683
587	XOFN	WORLDWIDE UNSPECIFIED	FNS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING	243,442	243,442	243,442	243,442
588	XOFN	WORLDWIDE UNSPECIFIED	FNS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT	58,129	58,129	58,129	44,629
589	XOFN	WORLDWIDE UNSPECIFIED	FNC-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING	24,681	24,681	24,681	24,681
590	XOFN	WORLDWIDE UNSPECIFIED	FNC-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS	155,602	155,602	155,602	155,602
591	XOFN	WORLDWIDE UNSPECIFIED	FNS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MORTGAGE INSURANCE PREMIUMS	85	85	85	85
592	XOFN	WORLDWIDE UNSPECIFIED	FNS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING	114,336	114,336	114,336	114,336
593	XOFN	WORLDWIDE UNSPECIFIED	FNS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT	88,827	88,827	88,827	88,827
594	XOFN	WORLDWIDE UNSPECIFIED	FNS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT	1,217	1,217	1,217	1,217
595	XOFN	WORLDWIDE UNSPECIFIED	FNS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT	48,793	48,793	48,793	48,793
596	XOFN	WORLDWIDE UNSPECIFIED	FNS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	32,233	32,233	32,233	32,233
597	XOFN	WORLDWIDE UNSPECIFIED	FNS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT	184,845	184,845	184,845	184,845
598	XOFN	WORLDWIDE UNSPECIFIED	FNS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY	383,263	383,263	467,263	467,263
599	XOFN	WORLDWIDE UNSPECIFIED	FNC-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS	61,770	61,770	61,770	61,770
600	XOFN	WORLDWIDE UNSPECIFIED	FNC-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING	9,275	9,275	9,275	9,275

VOL 140 PT 16 AG 12 — 18 1994 UMI

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
601	XOFH	WORLDWIDE	UNSPECIFIED	FMS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS				
					MANAGEMENT ACCOUNT	45,076	45,076	45,076	45,076
602	XOFH	WORLDWIDE	UNSPECIFIED	FMS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS				
					MISCELLANEOUS ACCOUNT	5,794	5,794	5,794	5,794
603	XOFH	WORLDWIDE	UNSPECIFIED	FMS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS				
					UTILITIES ACCOUNT	178,472	178,472	178,472	178,472
604	XOFH	WORLDWIDE	UNSPECIFIED	FMS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS				
					MORTGAGE INSURANCE PREMIUMS	26	26	26	26
605	XOFH	WORLDWIDE	UNSPECIFIED	FMS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS				
					SERVICES ACCOUNT	32,724	32,724	32,724	32,724
606	XOFH	WORLDWIDE	UNSPECIFIED	FMS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS				
					MAINTENANCE OF REAL PROPERTY	383,644	383,644	407,144	407,144
607	XOFH	WORLDWIDE	UNSPECIFIED	FMS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS				
					LEASING	112,757	112,757	112,757	112,757
608	XOFH	WORLDWIDE	UNSPECIFIED	FMS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS				
					FURNISHINGS ACCOUNT	42,852	42,852	42,852	42,852
609	XOFH	WORLDWIDE	UNSPECIFIED	FMC-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					CONSTRUCTION IMPROVEMENTS	50	50	50	50
610	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					SERVICES ACCOUNT	341	341	341	341
611	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					FURNISHINGS ACCOUNT	47	47	47	47
612	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					UTILITIES ACCOUNT	460	460	460	460
613	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					MANAGEMENT ACCOUNT	65	65	65	65
614	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					SERVICES ACCOUNT	50	50	50	50
615	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					MAINTENANCE OF REAL PROPERTY	13,272	13,272	13,272	13,272
616	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					LEASING	748	748	748	748
617	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					UTILITIES ACCOUNT	10,779	10,779	10,779	10,779
618	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					MAINTENANCE OF REAL PROPERTY	420	420	420	420
619	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					FURNISHINGS ACCOUNT	222	222	222	222
620	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					MISCELLANEOUS ACCOUNT	75	75	75	75
621	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					MANAGEMENT ACCOUNT	31	31	31	31
622	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS				
					FURNISHINGS ACCOUNT	158	158	158	158
623	XOFH	WORLDWIDE	UNSPECIFIED	FMS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	2,363	2,363	2,363	2,363

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A of Title XXXI of Division C of the Senate bill would authorize appropriations in the amount of $10,325,432,000 for the Department of Energy national security programs.

Subtitle A of Title XXXI of Division C of the House amendment would authorize appropriations in the amount of $10,460,864,000 for these purposes.

The conferees recommend an authorization of $10,305,847,000.

The DOE budget requests, including the amended budget requests, the authorizations contained in the Senate bill and the House amendment, and the conference agreement are presented in the following tables.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Fiscal Year 1995 Department of Energy National Security Programs
[Amount in thousands of dollars]

ATOMIC ENERGY DEFENSE ACTIVITIES	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	House/Senate +/-	Conference Auth.
TOTAL, WEAPONS ACTIVITIES	3,300,368	3,203,369	3,309,668	(106,299)	3,234,069
TOTAL, DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT	5,194,424	5,179,361	5,212,424	(33,063)	5,092,691
TOTAL, MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS	1,898,910	1,948,704	1,893,910	54,794	1,849,657
TOTAL, DEFENSE NUCLEAR WASTE DISPOSAL	129,430	129,430	129,430	0	129,430
AEDA General Reduction			(220,000)	220,000	
TOTAL, ATOMIC ENERGY DEFENSE ACTIVITIES	10,523,132	10,460,864	10,325,432	135,432	10,305,847

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

ATOMIC ENERGY DEFENSE ACTIVITIES	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
WEAPONS ACTIVITIES								
A. Research and development								
1. Research and development – core	649,341	0	0	0	649,341	653,341	649,341	649,341
Operating expenses	69,420	0	0	0	69,420	69,420	69,420	59,420
Capital equipment								
Construction:								
GPD – 101 General plant projects, various locations	8,500	0	0	0	8,500	8,500	8,500	4,500
95 – D – 102 CMR upgrades, Los Alamos National laboratory, NM	3,300	0	0	0	3,300	3,300	3,300	3,300
94 – D – 102 Nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations	13,000	0	0	0	13,000	13,000	13,000	13,000
92 – D – 102 Nuclear weapons research, development, and testing facilities revitalization, phase IV, various locations	21,610	0	0	0	21,610	21,610	21,610	21,610
90 – D – 102 Nuclear weapons research, development, and testing facilities revitalization, phase III, various locations	7,700	0	0	0	7,700	4,900	7,700	4,900
88 – D – 106 Nuclear weapons research, development, and testing facilities revitalization, phase II, various locations	22,480	0	0	0	22,480	20,980	22,480	20,980
Total, Construction	76,790	0	0	0	76,790	72,490	76,790	68,490
Total, Research and development – core	795,551	0	0	0	795,551	795,251	795,551	777,251
2. Stockpile stewardship – OE	0	0	0	0	0	152,419	0	152,419
3. Inertial fusion	166,755	0	0	0	166,755	166,755	166,755	166,755
Operating expenses	9,718	0	0	0	9,718	9,718	9,718	9,718
Capital equipment	176,473	0	0	0	176,473	176,473	176,473	176,473
Total, Inertial fusion								
4. Technology transfer	209,794	0	0	0	209,794	209,794	209,794	209,794
Operating expenses	6,000	0	0	0	6,000	6,000	6,000	6,000
Capital equipment	215,794	0	0	0	215,794	215,794	215,794	215,794
Total, Technology transfer	1,187,818	0	0	0	1,187,818	1,339,937	1,187,818	1,321,937
Total, Research and development								
B. Testing	180,000	0	0	700	180,530	150,000	185,830	165,000
1. Weapons program	152,419	0	0	0	152,419	0	152,419	0
Testing capabilities and readiness – OE	15,000	0	0	0	15,000	15,000	15,470	15,000
Experimentation – OE								
Capital equipment								
Construction:								
GPD – 101 General plant projects, various locations	4,000	0	0	0	4,000	4,000	4,000	4,000

UMI 1994 12-18 AG PT 16 VOL 140

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
93-D-102 Nevada support facility, North Las Vegas, NV	17,000	0	0	0	17,000	17,000	17,000	17,000
Total, Construction	21,000	0	0	0	21,000	21,000	21,000	21,000
Total, Weapons program	368,419	0	0	0	368,419	186,000	374,719	201,000
2. Marshall Islands – Dose Reconstruction								
Operating expenses	5,830	0	0	700	6,530	5,830	0	6,530
Capital equipment	470	0	0	0	470	470	0	470
Total, Marshall Island	6,300	0	0	700	7,000	6,300	0	7,000
3. Solar energy development	0	0	0	0	0	0	10,000	0
Total, Testing	374,719	0	0	700	375,419	192,300	384,719	208,000
Total, Research, development and testing	1,562,537	0	0	700	1,563,237	1,532,237	1,572,537	1,529,937
C. Stockpile support								
Operating expenses	1,399,085	0	83,700	0	1,482,785	1,393,085	1,487,085	1,476,785
Reconfiguration – OE	94,271	0	0	0	94,271	94,271	0	94,271
Capital equipment	12,880	0	7,300	0	20,180	12,880	15,880	20,180
Construction:								
Production base:								
Facilities capability assurance program:								
88-D-122 Facilities capabilities assurance program (FCAP), various locations	19,620	0	0	0	19,620	14,620	19,620	14,820
Production support facilities:								
GPD-121 General plant projects, various locations	1,000	0	0	0	1,000	1,000	1,000	1,000
95-D-123 Replacement transportation safeguards division aviation facility, Albuquerque, NM	0	0	2,000	0	2,000	0	2,000	2,000
Total, Production support facilities	1,000	0	2,000	0	3,000	1,000	3,000	3,000
Total, Production base	20,620	0	2,000	0	22,620	15,620	22,620	17,820
Environment, safety and health:								
95-D-122 Sanitary sewer upgrade, Y-12 Plant, Oak Ridge, TN	2,200	0	0	0	2,200	2,200	2,200	2,200
94-D-124 Hydrogen fluoride supply system, Y-12 Plant, Oak Ridge, TN	6,300	0	0	0	6,300	6,300	6,300	6,300
94-D-125 Upgrade life safety, Kansas City Plant, Kansas City, MO	1,000	0	0	0	1,000	1,000	1,000	1,000
94-D-127 Emergency notification system, Pantex Plant, Amarillo, TX	1,000	0	0	0	1,000	1,000	1,000	1,000
94-D-128 Environmental, Safety and Health analytical lab, Pantex Plant, Amarillo, TX	1,000	0	0	0	1,000	1,000	1,000	1,000
93-D-122 Life safety upgrades, Y-12 Plant, Oak Ridge, TN	5,000	0	0	0	5,000	5,000	5,000	5,000
92-D-126 Replace emergency notification systems, various locations	0	0	0	0	0	0	0	0
85-D-113 Plant power and steam dist. system, Pantex Plant, Amarillo, TX	0	0	0	0	0	0	0	0

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
85-D-115 Renovate plutonium buildings utility systems, Rocky Flats, CO	0	0	0	0	0	0	0	0
85-D-121 Air and water pollution control facilities, Y-12 Plant, Oak Ridge, TN	0	0	0	0		0	0	0
Total, Environment, safety and health	16,500	0	0	0	16,500	16,500	16,500	16,500
Safeguards and security:								
88-D-123 Security enhancement, Pantex Plant, Amarillo, TX	15,000	0	0	0	15,000	15,000	15,000	15,000
Reconfiguration								
93-D-123 Complex-21, various locations	58,000	0	0	0	58,000	58,000	0	58,000
Total, Construction	110,120	0	2,000	0	112,120	105,320	54,120	107,320
Use of prior year balances – OE (WA/SS)	0	0	0	0		0	0	0
Total, Stockpile support	1,616,356	0	93,000	0	1,709,356	1,605,556	1,557,085	1,698,556
D. Program direction								
Weapons program direction – OE	167,498	0	0	0	167,498	152,498	167,498	157,498
Contractor employee transition – OE	0	0	0	0		0	0	0
Capital equipment	2,354	0	0	0	2,354	2,354	2,354	2,354
Total, Program direction	169,852	0	0	0	169,852	154,852	169,852	159,852
E. Complex reconfiguration								
Operating expenses	0	0	0	0	0	0	94,271	0
Construction:								
93-D-123 Complex – 21, various locations	0	0	0	0	0	0	58,000	0
Total, Complex reconfiguration	0	0	0	0	0	0	152,271	0
Subtotal, Weapons activities	3,348,745	0	93,000	700	3,442,445	3,292,645	3,451,745	3,388,345
Adjustments								
Use of prior year balances	(77,077)	0	(54,000)	0	(131,077)	(89,276)	(131,077)	(143,276)
Contractor pay freeze	0	0	0	0	0	0	0	0
Procurement reform/GSA rent reduction	0	(11,000)	0	0	0	0	(11,000)	(11,000)
Total, Adjustments	(77,077)	(11,000)	(54,000)	0	(142,077)	(89,276)	(142,077)	(154,276)
TOTAL, WEAPONS ACTIVITIES	3,271,668	(11,000)	39,000	700	3,300,368	3,203,369	3,309,668	3,234,069
DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT								
A. Corrective activities								
Operating expenses	0	0	0	0	0	0	0	0
Capital equipment	0	0	0	0	0	0	0	0
Construction:								
92-D-403 Tank upgrades project, LLNL	1,012	0	0	0	1,012	512	1,012	512
89-D-142 Reactor effluent cooling water thermal mitigation, Savannah River, SC	0	0	0	0	0	0	0	0
Total, Corrective activities	1,012	0	0	0	1,012	512	1,012	512

UMI 1994 12 — 18 AG PT 16 VOL 140

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
B. Environmental restoration								
Operating expenses	1,531,969	0	0	(7,184)	1,524,785	1,527,469	1,531,969	1,518,549
Productivity savings initiative	(133,900)	0	0	0	(133,900)	(133,900)	(133,900)	(133,900)
Total, Environmental restoration	1,398,069	0	0	(7,184)	1,390,885	1,393,569	1,398,069	1,384,649
C. Waste management								
Operating expenses	2,408,029	0	0	(12,783)	2,395,246	2,384,066	2,408,029	2,390,066
Capital equipment	104,790	0	0	0	104,790	104,790	104,790	90,790
Construction:								
GP–D–171 General plant projects,various locations	23,742	0	0	0	23,742	23,542	23,742	18,832
95–E–600 Hazardous materials training center Richland, WA	0	0	0	0	0	0	0	7,000
95–D–401 Radiological support facilities Richland, WA	1,585	0	0	0	1,585	1,585	1,585	1,585
95–D–402 Install permanent electrical service WIPP, AL	700	0	0	0	700	700	700	700
95–D–403 Hazardous waste storage facility, AL	597	0	0	0	597	597	597	597
95–D–405 Industrial landfill V and construction/ demolition landfill VII, Y–12 Plant, Oak Ridge,TN	1,000	0	0	0	1,000	1,000	1,000	1,000
95–D–406 Road 5–01 reconstruction, area 5, NV	2,338	0	0	0	2,338	2,338	2,338	2,338
95–D–407 219–S Secondary containment upgrade, Richland, WA	2,000	0	0	0	2,000	2,000	2,000	2,000
95–D–408 Phase II liquid effluent treatment and disposal, RL	7,100	0	0	0	7,100	7,100	7,100	7,100
94–D–400 High explosive wastewater treatment system, LANL	1,000	0	0	0	1,000	1,000	1,000	1,000
94–D–402 Liquid waste treatment system, NTS	3,292	0	0	0	3,292	3,292	3,292	3,292
94–D–404 Melton Valley storage tank capacity increase, ORNL	21,373	0	0	0	21,373	21,373	21,373	21,373
94–D–405 Central neutralization facility pipeline extension project, K–25	0	0	0	0	0	0	0	0
94–D–406 Low–level waste disposal facilities, K–25	6,000	0	0	0	6,000	6,000	6,000	6,000
94–D–407 Initial tank retrieval systems, Richland, WA	17,700	0	0	0	17,700	17,700	17,700	17,700
94–D–408 Office facilities – 200 East, Richland, WA	4,000	0	0	0	4,000	4,000	4,000	4,000
94–D–411 Solid waste operation complex Richland, WA	42,200	0	0	0	42,200	42,200	42,200	42,200
94–D–414 Site 300 explosive waste storage facility, LLNL	0	0	0	0	0	0	0	0
94–D–416 Solvent storage tanks installation, Savannah River, SC	1,700	0	0	0	1,700	1,700	1,700	1,700
94–D–417 Intermediate–level and low–activity waste vaults, Savannah River, SC	300	0	0	0	300	300	300	300
93–D–174 Plant drain waste water treatment upgrades, Y–12	1,400	0	0	0	1,400	1,400	1,400	1,400
93–D–175 Industrial waste compaction facility, Y–12	0	0	0	0	0	0	0	0

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
93–D–176 Oak Ridge reservation storage facility, Oak Ridge, TN	0	0	0	0	0	0	0	0
93–D–177 Disposal of K–1515 sanitary water treatment plant waste, K–25	0	0	0	0	0	0	0	0
93–D–178 Building 374 liquid waste treatment facility, Rocky Flats Plant, CO	3,300	0	0	0	3,300	3,300	3,300	3,300
93–D–181 Radioactive liquid waste line replacement, Richland, WA	3,300	0	0	0	3,300	3,300	3,300	3,300
93–D–182 Replacement of cross–site transfer system, Richland, WA	18,910	0	0	0	18,910	14,810	18,910	14,810
93–D–183 Multi–function waste remediation facility, Richland, WA	95,305	0	0	0	95,305	88,605	95,305	88,605
93–D–187 High level waste removal from filled waste tanks, Savannah River, SC	26,525	0	0	0	26,525	26,525	26,525	26,525
93–D–188 New sanitary landfill, Savannah River,SC	0	0	0	0		0	0	0
92–D–172 Hazardous waste treatment and processing facility, Pantex Plant	0	0	0	0	0	0	0	0
92–D–173 NOx abatement facility, ID	0	0	0	0	0	0	0	0
92–D–177 Tank 101–AZ waste retrieval system, Richland, WA	5,000	0	0	0	5,000	5,000	5,000	5,000
92–D–188 Waste management ES&H, and compliance activities, various locations	2,846	0	0	0	2,846	2,846	2,846	2,846
91–D–171 Waste receiving and processing facility, module 1, Richland, WA	3,995	0	0	0	3,995	3,995	3,995	3,995
90–D–172 Aging waste transfer line, Richland, WA	3,819	0	0	0	3,819	3,819	3,819	3,819
90–D–177 RWMC transuranic (TRU) waste characterization and storage facility, ID	11,747	0	0	0	11,747	1,747	11,747	1,747
90–D–178 TSA retrieval enclosure, ID	7,594	0	0	0	7,594	7,594	7,594	7,594
89–D–142 Reactor effluent cooling water thermal mitigation, Savannah River, SC	0	0	0	0	0	0	0	0
89–D–172 Hanford environmental compliance, Richland, WA	0	0	0	0	0	0	0	0
89–D–173 Tank farm ventilation upgrade, Richland, WA	600	0	0	0	600	300	600	300
89–D–174 Replacement high level waste evaporator, Savannah River, SC	18,000	0	0	0	18,000	18,000	18,000	18,000
89–D–175 Hazardous waste/mixed waste disposal facility, Savannah River, SC	500	0	0	0	500	0	500	0
88–D–173 Hanford waste vitrification plant (HWVP) Richland, WA	0	0	0	0	0	0	0	0
87–D–181 Diversion box and pump pit containment buildings, Savannah River, SC	0	0	0	0	0	0	0	0
86–D–103 Decontamination and waste treatment facility, LLNL, Livermore, CA	9,500	0	0	0	9,500	5,900	9,500	5,900
83–D–148 Non–radioactive hazardous waste management, Savannah River, SC	6,000	0	0	0	6,000	6,000	6,000	6,000

UMI 1994 12-18 AG PT 16 VOL 140

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
81-T-105 Defense waste processing facility Savannah River, SC	45,058	0	0	0	45,058	45,058	45,058	45,058
Total, Construction	400,226	0	0	0	400,226	374,626	400,226	374,916
Subtotal, Waste management	2,913,045	0	0	(12,783)	2,900,262	2,863,482	2,913,045	2,855,772
Productivity savings initiative	(160,800)	0	0	0	(160,800)	(160,800)	(160,800)	(160,800)
Total, Waste management	2,752,245	0	0	(12,783)	2,739,462	2,702,682	2,752,245	2,694,972
D. Technology development								
Operating expenses	386,974	0	0	0	386,974	386,974	400,974	380,974
Capital equipment	25,435	0	0	0	25,435	25,435	25,435	24,785
Construction:								
95-E-600 Hazardous materials training center, Richland, Washington	14,000	0	0	0	14,000	14,000	0	0
Total, Technology development	426,409	0	0	0	426,409	426,409	426,409	405,759
E. Transportation management								
Operating expenses	20,240	0	0	0	20,240	20,240	20,240	20,240
Capital equipment	444	0	0	0	444	444	444	444
Total, Transportation management	20,684	0	0	0	20,684	20,684	20,684	20,684
F. Program direction								
Operating expenses	83,748	0	0	0	83,748	83,748	83,748	83,748
Capital equipment	1,200	0	0	0	1,200	1,200	1,200	1,200
Total, Program direction	84,948	0	0	0	84,948	84,948	84,948	84,948
G. Facility transition & management								
Operating expenses	686,550	0	0	(3,033)	683,517	685,550	681,550	676,884
Capital equipment	23,947	0	0	0	23,947	23,947	23,947	18,947
Construction:								
GP-D-171 General plant projects, var. locations	20,495	0	0	0	20,495	20,495	20,495	15,211
95-D-453 Primary highway route north of the Wye Barricade, Richland, WA	2,500	0	0	0	2,500	2,500	2,500	0
95-D-454 324 Facility compliance/renovation, Richland, WA	1,500	0	0	0	1,500	1,500	1,500	1,500
95-D-455 Idaho national engineering laboratory radio communications upgrade, INEL, Idaho	1,440	0	0	0	1,440	1,440	1,440	0
95-D-456 Security facilities upgrade, Idaho chemical processing plant, INEL, Idaho	986	0	0	0	986	986	986	986
94-D-122 Underground storage tanks, Rocky Flats Plant, CO	2,500	0	0	0	2,500	2,500	2,500	2,500
94-D-401 Emergency response facility, INEL, ID	5,219	0	0	0	5,219	5,219	5,219	5,219
94-D-412 300 area process sewer piping system upgrade, Richland, WA	7,800	0	0	0	7,800	7,800	7,800	7,800
94-D-415 Idaho national engineering laboratory medical facilities, INEL, ID	4,920	0	0	0	4,920	4,920	4,920	4,920
94-D-451 Infrastructure replacement, Rocky Flats Plant, CO	10,600	0	0	0	10,600	10,600	10,600	10,600
93-D-172 Idaho national engineering laboratory electrical upgrade, INEL, ID	7,800	0	0	0	7,800	7,800	7,800	7,800

79-069 O—95 (10) QH: (91) 14

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
93-D-184 325 facility compliance/renovation, Pacific Northwest Laboratory, Richland, WA	1,000	0	0	0	1,000	1,000	1,000	1,000
93-D-185 Landlord program safety compliance, phase II, Richland, WA	0	0	0	0	0	0	0	0
93-D-186 200 Area unsecured core area fabrication shop, Richland, WA	4,000	0	0	0	4,000	4,000	4,000	4,000
92-D-125 Master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, CO	2,100	0	0	0	2,100	2,100	2,100	2,100
92-D-181 Idaho national engineering laboratory fire and life safety improvements, INEL, ID	6,000	0	0	0	6,000	6,000	6,000	6,000
92-D-182 Idaho national engineering laboratory sewer systems upgrade, INEL, ID	1,900	0	0	0	1,900	1,900	1,900	1,900
92-D-183 Idaho national engineering laboratory transportation complex, INEL, ID	0	0	0	0	0	0	0	0
92-D-184 Hanford infrastructure underground storage tanks, Richland, WA	0	0	0	0	0	0	0	0
92-D-186 Steam system rehabilitation, phase II Richland, WA	5,600	0	0	0	5,600	5,600	5,600	5,600
92-D-187 300 area electrical distribution conversion and safety improvements, phase II, Richland, WA	0	0	0	0	0	0	0	0
91-D-175 300 area electrical distribution conversion and safety improvements, phase I, Richland, WA	0	0	0	0	0	0	0	0
90-D-175 Landlord program safety compliance, phase I, Richland, WA	0	0	0	0	0	0	0	0
Total, Construction	86,360	0	0	0	86,360	86,360	86,360	77,136
Subtotal, Facility transition and management	796,857	0	0	(3,033)	793,824	795,857	791,857	772,967
Productivity savings initiative	(5,000)	0	0	0	(5,000)	(5,000)	(5,000)	(5,000)
Total, Facility transition and management	791,857	0	0	(3,033)	788,824	790,857	786,857	767,967
Subtotal, Defense environmental management	5,475,224	0	0	(23,000)	5,452,224	5,419,661	5,470,224	5,359,491
Use of prior year balances	(240,300)	0	0	0	(240,300)	(240,300)	(240,300)	(249,300)
General reduction and other adjustements	0	0	0	0	0	0	0	0
Procurement reform/GSA rent reduction	0	(17,500)	0	0	0	0	(17,500)	(17,500)
TOTAL, DEFENSE ENVIRONMENTAL RESTORATION & WASTE MANAGEMENT	5,234,924	(17,500)	0	(23,000)	5,194,424	5,179,361	5,212,424	5,092,691
MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS								
A. Materials Support								
1. Reactor operations	163,634	0	0	0	163,634	163,634	163,634	163,634
2. Processing of nuclear materials	410,468	0	0	0	410,468	410,468	369,468	410,468
3. Supporting services	167,776	0	0	0	167,776	167,776	167,776	167,776
4. Capital equipment	52,427	0	(13,000)	0	39,427	52,427	39,427	39,427
5. Construction:								
a. Environment, safety and health:								
95-D-154 Health physics site support facility, Savannah River, SC	2,000	0	0	0	2,000	2,000	2,000	0
95-D-158 Disassembly basin upgrades-K, L, P,								

UMI 1994 AG 12 – 18 PT 16 VOL 140

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
Savannah River, SC	0	0	13,000	0	13,000	0	13,000	13,000
93-D-147 Domestic water system upgrade Phase I & II, Savannah River, SC	11,300	0	0	0	11,300	11,300	11,300	11,300
93-D-148 Replace high-level drain lines, Savannah River, SC	2,700	0	0	0	2,700	2,700	2,700	2,700
93-D-152 Environmental modification for production facilities, Savannah River, SC	2,900	0	0	0	2,900	2,900	2,900	2,900
92-D-140 F&H canyon exhaust upgrades, Savannah River, SC	0	0	0	0	0	0	0	0
92-D-142 Nuclear material processing training center, Savannah River, SC	0	0	0	0	0	0	0	0
92-D-143 Health protection instrument calibration facility, Savannah River, SC	3,000	0	0	0	3,000	3,000	3,000	3,000
90-D-149 Plantwide fire protection, Phases I and II, Savannah River, SC	21,000	0	0	0	21,000	5,000	21,000	5,000
Total, Environment, safety and health	42,900	0	13,000	0	55,900	26,900	55,900	37,900
b. Programmatic projects:								
GPD-146 General plant projects, various locations	21,000	0	0	0	21,000	21,000	21,000	15,000
95-D-155 Upgrade site road infrastructure, Savannah River, SC	750	0	0	0	750	750	750	750
95-D-156 Radio trunking system, Savannah River, SC	2,100	0	0	0	2,100	2,100	2,100	2,100
95-D-157 D-area powerhouse life extension, Savannah River, SC	4,000	0	0	0	4,000	4,000	4,000	4,000
92-D-150 Operations support facilities, Savannah River, SC	2,000	0	0	0	2,000	2,000	2,000	2,000
92-D-153 Engineering support facility, Savannah River Site, SC	3,200	0	0	0	3,200	3,200	3,200	3,200
86-D-149 Productivity retention program, Phases I, II, III, IV, V, and VI, various locations	0	0	0	0	0	0	0	0
Total, Programmatic projects	33,050	0	0	0	33,050	33,050	33,050	27,050
Total, Construction	75,950	0	13,000	0	88,950	59,950	88,950	64,950
6. Program direction	58,000	0	0	0	58,000	56,000	58,000	56,000
Total, Materials support	926,255	0	0	0	926,255	910,255	867,255	902,255
B. Other national security programs								
1. Verification and control technology								
a. Nonproliferation and verification R&D								
Operating expenses	224,547	0	0	0	224,547	218,547	224,547	215,000
Capital equipment	13,500	0	0	0	13,500	13,500	13,500	13,500
Construction:								
90-D-186 Center for national security and arms control, Sandia National Laboratories Albuquerque, NM	0	0	0	0	0	0	0	0
Total, Nonproliferation & verification R&D	238,047	0	0	0	238,047	232,047	238,047	228,500

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
b. Arms control								
Operating expenses	76,251	0	0	0	76,251	76,251	76,251	76,251
Capital equipment	673	0	0	0	673	673	673	673
Total, Arms control	76,924	0	0	0	76,924	76,924	76,924	76,924
c. Intelligence								
Operating expenses	41,431	0	0	0	41,431	41,431	41,431	41,431
Capital equipment	1,700	0	0	0	1,700	1,700	1,700	1,700
Total, Intelligence	43,131	0	0	0	43,131	43,131	43,131	43,131
Total, Verification and control technology	358,102	0	0	0	358,102	352,102	358,102	348,555
2. Nuclear safeguards and security								
Operating expenses	82,421	0	0	0	82,421	82,421	82,421	82,421
Capital equipment	3,395	0	0	0	3,395	3,395	3,395	3,395
Total, Nuclear safeguards and security	85,816	0	0	0	85,816	85,816	85,816	85,816
3. Security investigations – OE	38,827	0	0	0	38,827	38,827	38,827	33,827
4. Security evaluations – OE	14,760	0	0	0	14,760	14,760	14,760	14,760
5. Office of nuclear safety								
Operating expenses	24,629	0	0	0	24,629	24,629	24,629	21,629
Capital equipment	50	0	0	0	50	50	50	50
Total, Office of nuclear safety	24,679	0	0	0	24,679	24,679	24,679	21,679
6. Worker and community transition	125,000	0	0	0	125,000	125,000	120,000	115,000
7. Fissile materials control and disposition	0	0	9,000	0	9,000	50,000	50,000	50,000
Total, Other national security programs	647,204	0	9,000	0	656,204	691,204	692,204	669,657
C. Naval reactors								
1. Naval reactors development								
a. Plant development – OE	146,700	0	0	0	146,700	146,700	146,700	146,700
b. Reactor development – OE	348,951	0	0	0	348,951	348,951	348,951	348,951
c. Reactor operation and evaluation – OE	136,000	0	0	0	136,000	136,000	136,000	131,000
d. Capital equipment	28,200	0	0	0	28,200	28,200	28,200	28,200
e. Construction:								
GPN-101 General plant projects, various locations	6,200	0	0	0	6,200	6,200	6,200	6,200
95-D-200 Laboratory systems and hot cell upgrades, various locations	2,400	0	0	0	2,400	2,400	2,400	2,400
95-D-201 Advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, ID	700	0	0	0	700	700	700	700
93-D-200 Engineering services facilities Knolls Atomic Power Laboratory, Niskayuna, NY	7,900	0	0	0	7,900	7,900	7,900	7,900
92-D-200 Laboratories facilities upgrades, various locations	2,800	0	0	0	2,800	2,800	2,800	2,800
Total, Construction	20,000	0	0	0	20,000	20,000	20,000	20,000
f. Program direction – OE	18,800	0	0	0	18,800	18,800	18,800	18,800
Total, Naval reactors development	698,651	0	0	0	698,651	698,651	698,651	693,651

VOL 140 PT 16 AG 12 — 18 1994 UMI

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
	32,000	0	0	0	32,000	32,000	32,000	32,000
	730,851	0	0	0	730,651	730,651	730,851	725,651
	2,306,110	0	9,000	0	2,315,110	2,332,110	2,310,110	2,297,563
	(40,000)	0	0	0	(40,000)	(40,000)	(40,000)	(40,000)
	(321,700)	0	(48,300)	0	(369,700)	(343,406)	(369,700)	(401,406)
	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0
	0	(6,500)	0	0	(6,500)	0	(6,500)	(6,500)
	(361,700)	(6,500)	(48,000)	0	(416,200)	(383,406)	(416,200)	(447,906)
GRAMS	1,944,410	(6,500)	(39,000)	0	1,898,910	1,948,704	1,893,910	1,849,657
					0			
	129,430	0	0	0	129,430	129,430	129,430	129,430
	0	0	0	0	0	0	0	0
	129,430	0	0	0	129,430	129,430	129,430	129,430
	10,580,432	(35,000)	0	(22,300)	10,523,132	10,460,864	10,325,432	(220,000) 10,305,847

2. Enrichment materials – OE
Total, Naval reactors
Subtotal, Materials support & other defense programs
Adjustments:
Savannah river pension refund
Use of prior year balances
Contractor pay freeze
General reduction (Materials support)
Procurement reform/GSA rent reduction
Total, Adjustments
TOTAL, MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

DEFENSE NUCLEAR WASTE DISPOSAL
Defense nuclear waste disposal
General reduction
TOTAL, DEFENSE NUCLEAR WASTE DISPOSAL

AEDA General Reduction
TOTAL, ATOMIC ENERGY DEFENSE ACTIVITIES

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Weapons activities (sec. 3101)

The Senate bill contained a provision (sec. 3101) that would authorize $3.310 billion for operating expenses, plant projects, and capital equipment for weapons activities necessary to carry out the Department of Energy national security programs.

The House amendment contained a provision (sec. 3101) that would authorize $3.203 billion.

The conferees recommend $3.234 billion for weapons activities, a reduction of $66.0 million to the requested amount of $3.300 billion. This reduction is necessary due to budgetary constraints; however, it is offset in part by the availability of prior-year funds that have not been obligated, prior-year funds that, although obligated, have not been spent and will probably not be needed for the projects for which they were obligated, and unnecessary prefinancing expenses.

Environmental restoration and waste management (sec. 3102)

The Senate bill contained a provision (sec. 3102) that would authorize $5.212 billion for operating expenses, plant projects, and capital equipment for defense environmental restoration and waste management activities.

The House amendment contained a provision (sec. 3102) that would authorize $5.179 billion.

The conferees recommend $5.093 billion for defense environmental restoration and waste management activities, a reduction of $101.0 million to the requested amount of $5.194 billion. This reduction is necessary due to budgetary constraints; however, it is offset in part by the availability of prior-year funds that have not been obligated, prior-year funds that, although obligated, have not been spent and will probably not be needed for the projects for which they were obligated, and unnecessary prefinancing expenses.

Nuclear materials support and other defense programs (sec. 3103)

The Senate bill contained a provision (sec. 3103) that would authorize $1.894 billion for operating expenses, plant projects, and capital equipment for nuclear materials support and other defense programs.

The House amendment contained a provision (sec. 3103) that would authorize $1.949 billion.

The conferees recommend $1.850 billion for nuclear materials support and other defense programs, a reduction of $49.0 million to the requested amount of $1.899 billion. This reduction is necessary due to budgetary constraints; however, it is offset in part by the availability of prior-year funds that have not been obligated, prior-year funds that, although obligated, have not been spent and will probably not be needed for the projects for which they were obligated, and unnecessary prefinancing expenses.

Defense nuclear waste disposal (sec. 3104)

The Senate bill contained a provision (sec. 3104) that would authorize $129.4 million as the Department of Energy defense contribution to the nuclear waste fund.

The House amendment contained a identical provision (sec. 3104) that would authorize $129.4 million for payment to the fund.

The conferees recommend $129.4 million as the Department of Energy defense contribution to the nuclear waste fund.

Reprogramming (sec. 3121)

The Senate bill contained a provision (sec. 3121) that would set forth requirements and limitations on Department of Energy reprogramming actions. The provision would prevent the Department of Energy from reprogramming funds that would cause a program to exceed the lesser of 105 percent of the funds authorized for any program, or $10.0 million more than the amount authorized for any program, until 30 legislative days following submittal of a report to the Armed Services Committees of the Senate and House of Representatives and to the Energy and Water Appropriations Subcommittees of the Senate and House of Representatives, describing the funding adjustments.

The House amendment contained a similar provision (sec. 3121) that would prevent the Department of Energy from reprogramming funds that would cause a program to exceed the lesser of 102 percent of the funds authorized for any program for $1.0 million more than the amount authorized for any program.

The Senate recedes with an amendment. To ensure a uniform approach to reprogramming actions, the conferees recommend a provision that would prevent the Department of Energy from reprogramming funds that would cause a program to exceed, during any fiscal year, 110 percent of the funds authorized for any program, or $1.0 million more than the amount authorized for any program, until 30 legislative days following the submittal of a report to the congressional defense committees.

Limits on general plant projects (sec. 3122)

The Senate bill contained a provision (sec. 3122) that would allow the Secretary of Energy to carry out construction projects under the general plant projects authorized by title XXXI of the Senate bill if the total estimated cost of the project did not exceed $2.0 million.

The House amendment contained a similar provision (sec. 3122).

The House recedes.

Limits on construction projects (sec. 3123)

The Senate bill contained a provision (sec. 3123) that would prohibit the Secretary of Energy from beginning or incurring additional obligations for an ongoing construction project, if they would exceed by 25 percent or more the amount authorized for the project, or the total estimated cost of the project as shown in the most recent budget justification data submitted to Congress. The Secretary may undertake the prohibited actions if the Secretary notifies the congressional defense committees of the overage and explains the necessity for the overage.

The House amendment contained an identical provision (sec. 3123).

The conferees agree to include this provision.

Transfer authority (sec. 3124)

The Senate bill contained a provision (sec. 3124) that would allow the Secretary of Energy to transfer funds to other agencies for the performance of the work for which the funds were appropriated.

The House amendment contained a similar provision (sec. 3124).

The Senate recedes.

Construction design and conceptual design for construction projects (sec. 3125)

The Senate bill contained a provision (sec. 3125) that would allow the Secretary of Energy to use funds appropriated to the Department of Energy to carry out advance planning and design for construction projects if the total cost for advance planning and design does not exceed $3.0 million. If the total cost of the advance planning and design exceeds $600,000, the Secretary would be required to notify the congressional defense committees. The provision would also require specific congressional authorization if the total estimated cost of the advance planning and design activities exceeds $3.0 million.

The House amendment contained a similar provision (sec. 3125) that would limit the cost of advance planning and design to $2.0 million and would require notification of the appropriate congressional committees if the cost of the advance planning and design activities exceeds $300,000.

The Senate bill contained another provision (sec. 3126) that would require the Secretary of Energy to complete a conceptual design for a construction project before submitting the request for funds to begin the construction project, unless the request is for an emergency construction project.

The House amendment contained a similar provision (sec. 3126).

The conferees agree to combine the provisions into one provision that would require the Secretary of Energy to complete a conceptual design report before submitting an authorization request for a construction project which is estimated to cost more than $2.0 million. In addition, the provision would allow the Secretary to use available funds to complete the conceptual designs unless the cost of the conceptual design will exceed $3.0 million. When the cost of the conceptual design is estimated to exceed $3.0 million, the Secretary must submit a specific request for authorization to prepare the conceptual design.

Authority for emergency planning, design, and construction activities (sec. 3126)

The Senate bill contained a provision (sec. 3127) that would allow the Secretary of Energy to use funds appropriated to the Department of Energy for emergency planning, design, and construction activities if the activity is necessary to protect public health and safety, meet the needs of national defense, or protect property.

The House amendment contained a similar provision (sec. 3127).

The House recedes with an amendment that would allow the Secretary of Energy to use funds appropriated to the Department of Energy for emergency construction activities and that would clarify that completion of a conceptual design is not a prerequisite to initiating an emergency construction project.

Funds available for all national security programs of the Department of Energy (sec. 3127)

The Senate bill contained a provision (sec. 3128) that would provide, subject to the provisions of appropriations acts, that funds made available for DOE management and support activities and for general plant projects are available for use in connection with all national security programs of DOE.

The House amendment contained a similar provision (sec. 3128).

The House recedes.

Availability of funds (sec. 3128)

The Senate bill contained a provision (sec. 3129) that would, subject to appropriations acts, provide that funds appropriated for the Department of Energy remain available until expended.

The House amendment contained an identical provision (sec. 3129).

The conferees agree to include this provision.

VOL
140
PT
16
AG
12
—
18
1994
UMI

Stockpile stewardship recruitment and training program (sec. 3131)

The Senate bill contained a provision (sec. 3131) that would direct the Secretary of Energy, in conjunction with the Chairman of the Joint Nuclear Weapons Council, to establish a program that would provide DOE and its three laboratories that have been traditionally involved in the nuclear weapons programs, a continuing source of highly-trained, highly-educated scientists, engineers, and other individuals. These three laboratories are the Lawrence Livermore National Laboratory, the Los Alamos National Laboratory, and the Sandia National Laboratory. The provision would authorize $4.0 million for the program and would require DOE to submit a report on laboratory personnel demographics.

The House amendment contained a similar provision (sec. 3131) but would provide $5.0 million for the program.

The Senate recedes.

The conferees are deeply concerned about the adverse demographic trends at the nuclear weapons laboratories. Notwithstanding statutory direction to the Secretary "to encourage the preservation of core intellectual and technical competencies of the U.S. in nuclear weapons," the Department has not taken measures to develop an inventory of the skills required to support the enduring nuclear weapons mission, nor the skills available within the laboratories to fulfill those requirements. At the same time, two disturbing trends continue to erode the skills base: (1) early retirement incentives offered at several laboratories have caused a disproportionate number of retirements of senior science professionals in the laboratories' weapons program; and (2) budget cuts and the perception of national ambivalence about the nuclear weapons program have hindered the laboratories' ability to recruit new professionals.

To address the problem of retention and recruitment within the weapons programs at the laboratories, the conferees agree to a provision that would direct the Secretary of Energy to establish a stockpile stewardship recruitment and training program.

The program would have three elements. First, the program would ensure a continuing supply of new scientists through improved recruitment and training. A specialized training program is necessary to develop the skills of new scientists and to maintain the skills of the current scientists. Second, the program would encourage the laboratories to work with graduate and undergraduate students in dual-use programs related to the nuclear weapons programs. This would help to bring into the laboratories a broad variety of new scientists who have wide-ranging skills applicable to both defense and non-defense work.

Third, the Secretary would be directed to establish a retiree corps. This corps could provide unique insight to new scientists by sharing and archiving their years of knowledge of the weapons program, including weapons testing. In addition, the members of the corps would be available to assist in the event any problems arise in the enduring stockpile. The conferees agree that nothing in this provision should be interpreted to amend, abrogate, or affect any retirement system or agreement.

The provision would also require the Secretary to prepare a report, in conjunction with the Nuclear Weapons Council, on the personnel demographics of the weapons laboratories. The report should identify the various tasks and skills necessary for the laboratories to meet their nuclear weapons obligations and to provide a breakdown, by age and skill, of the number of scientists available at each laboratory to meet its requirements. In addition, the report should identify any shortfalls, by skill and by laboratory, either existing now or anticipated over the next five years. In the report, the Secretary must identify the alternatives available to prevent any shortfalls and to maintain a highly competent staff at the laboratories. The conferees expect the data included in the report to be aggregated into statistical categories.

Defense inertial confinement fusion program (sec. 3132)

The Senate bill contained a provision (sec. 3132) that would provide $176.473 million to the Department of Energy for the defense inertial confinement fusion program.

The House amendment contained a similar provision (sec. 3132).

The House recedes.

In September 1990, the National Academy of Sciences completed a review of the inertial confinement fusion program. The review set out a series of milestones and priorities that the Department of Energy has begun to implement. The conferees urge the DOE to implement fully the recommendations of the Academy. The conferees provide $176.473 million for inertial confinement fusion, of which $166.755 million is for operating expenses and $9.718 million is for capital equipment. This is the same level as the requested amount.

This funding would provide $20.765 million to continue the upgrade of the OMEGA laser, $78.650 million for the upgrade of the NOVA laser, and $8.750 for the Naval Research Laboratory. The conferees note that no funds were requested for any litigation expenses or other expenses associated with the close-out or termination of any prior-year contracts. Therefore, the conferees prohibit the use of any of the funds authorized and appropriated for the ICF program for such purposes unless DOE submits a formal reprogramming request prior to obligating funds for litigation, close-out, termination, or related costs connected with prior-year contracts.

The ICF program is an important part of the new science-based stockpile stewardship program. The conferees remain committed to supporting the program.

Payment of penalties (sec. 3133)

The Senate bill contained a provision (sec. 3133) that would authorize the Secretary of Energy to pay two civil penalties, each in the amount of $50,000, assessed under the consent agreements and compliance orders for the Fernald and Portsmouth, Ohio facilities, to the Hazardous Substances Response Trust.

The House amendment contained a similar provision (sec. 3133).

The House recedes.

Water management programs (sec. 3134)

The Senate bill contained a provision (sec. 3134) that would authorize the Secretary of Energy to reimburse the cities of Westminster, Broomfield, Thornton, and Northglenn, Colorado, in the amount of $11.415 million from funds authorized for environmental restoration and waste management.

The House amendment contained an identical provision (sec. 3134).

The conferees agree to include this provision. This represents the fifth and final payment to the communities to allow them to complete a project, known as the "option B project," that will protect Standley Lake from runoff from the Rocky Flats Plant and replace the Great Western Reservoir system with a new water supply and treatment system.

Worker protection at nuclear weapons facilities (sec. 3135)

The Senate bill contained a provision (sec. 3136) that would authorize $11.0 million to continue the training program for workers at the DOE defense nuclear complex facilities established by section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993.

The House amendment contained a similar provision (sec. 3135).

The House recedes with a technical amendment that would clarify that the program will use funds authorized to be appropriated for environmental restoration and waste management in section 3102.

Limitation on use of program direction funds (sec. 3136)

The House amendment contained a provision (sec. 3137) that would prohibit the obligation of 50 percent of the funds appropriated for program direction for environmental restoration and waste management activities until the Secretary submits the first report required by section 3153 of the National Defense Authorization Act for Fiscal Year 1994.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would prohibit obligation of 20 percent of the funds appropriated for program direction until the required report is submitted.

National security programs (sec. 3137)

The Senate bill contained a provision (sec. 3137) that would prohibit obligation of more than 90 percent of the funds authorized to be appropriated under this title until the Secretary of Energy submits to the Congress the five-year budget plan for fiscal year 1996 required by section 3144 of the National Defense Authorization Act for Fiscal Years 1990 and 1991.

The House amendment contained no similar provision.

The House recedes with an amendment that would prohibit obligation of more than 80 percent of the funds available until the plan was submitted.

Programs for persons who may have been exposed to radiation released from Hanford nuclear reservation (sec. 3138)

The Senate bill contained a provision (sec. 3140) that would provide $3.296 million for the first of three additional years to continue the work of the Hanford health information network. Funds for the network were originally authorized in the National Defense Authorization Act for Fiscal Year 1991. In addition, the provision would prohibit the unauthorized use of information gathered by the network.

The House amendment contained a similar provision (sec. 3136) that would provide $2.5 million to continue the network. The House amendment also contained a provision (sec. 3158) that would prevent unauthorized disclosure of the information gathered by the network.

The Senate recedes to the House section 3136. The Senate recedes with an amendment to the House section 3158 that would prevent unauthorized disclosure of the information gathered by the network and that would require the States of Washington, Oregon, and Idaho to agree on a uniform procedure for authorized disclosure of the information gathered. The Secretary could obligate no more than half of the funds to the network until such a procedure is established.

The States of Oregon, Washington, and Idaho submitted a proposal to continue the network originally started in 1992 for three years, beginning in fiscal year 1995. The total cost would be $8.9 million. The conferees support continuation of the network for the additional time, but urge the network to begin planning for the three States to assume responsibility for the network at the end of fiscal year 1997.

Limitation on study or relocation of tritium-related activities and operations (sec. 3139)

The House amendment contained a provision (sec. 3142) that would prohibit the relocation of tritium-related facilities in a manner contrary to the recommendations analyzed in the Department of Energy's non-nuclear reconfiguration environmental assessment.

The Senate bill contained no similar provision.

The Senate recedes.

Hazardous materials management and hazardous materials emergency response training program (sec. 3140)

The Senate bill contained a provision (sec. 3139) that would provide an additional $14.0 million in operating expenses, from the funds authorized to be appropriate for environmental restoration and waste management, to continue training activities at the Department of Energy Hanford, Washington site. The Senate bill would not authorize construction funding requested for a training facility.

The House amendment contained no similar provision but would authorize $14.0 million for construction of a training facility (project 95–E–600) and $6.0 million in operating expenses.

The Senate recedes to the House construction authorization with an amendment that would authorize $7.0 million in construction funding. The House recedes to the Senate provision with an amendment that would provide $6.0 million in operating expenses, and transfer the funding for both construction and operating expenses from section 3102(d), technology development, to section 3102(c), waste management. The conferees believe that funding for hazardous materials management and emergency response training is not a research and development activity, and is thus more appropriately included under waste management activities. The provision would also prohibit the obligation of funds for project 95–E–600 until the Secretary of Energy completes a conceptual design for the project.

The conferees are concerned about the training available to workers at the Hanford site. The nuclear materials processing and production facilities at the site, including nuclear reactors, have to be decontaminated and decommissioned but are old and in a poor state of repair. Clearly, much of the future workload at the site will pose both radiological and physical hazards to the workers, and there is a pressing need for training at the site.

How the Department plans to utilize the training facility, however, is unclear to the conferees, particularly the extent to which the facility will be utilized by Department of Energy employees and contractor employees from other DOE defense complex sites, or by others outside of DOE. This facility should be designed primarily to meet the needs of DOE and contractor employees at Hanford. The DOE mission is not to develop or to provide broad-based hazardous materials training for the general public.

The conferees direct the Secretary to perform a needs assessment for worker training at DOE defense nuclear facilities, and propose a strategy to ensure that all hazardous material management and emergency response workers receive proper training. The report should also define the role of the Hanford training facility within the overall departmental strategy and discuss the extent to which this facility would be utilized by non-departmental employees. This assessment and strategy report should be delivered to Congress within 30 days of the President's budget submission for fiscal year 1996.

International Center for Applied Research (sec. 3141)

The House amendment contained a provision (sec. 3141) that would direct the Secretary of Energy to establish an international center for applied research which would be operated by a specific non-profit entity.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would ensure that selection of an operator for the center will be done on a competitive basis and that the center will run for the economic benefit of the Georgia-South Carolina regional area. This area will be affected by the anticipated downsizing of the workforce at the Savannah River Site.

The funding provided for operating of the center is the first of three annual funding allocations. The conferees agree that this three-year funding will serve as the total amount of operating funds provided for the center, and that the center should be self-sustaining by the time those funds are expended.

Accounting procedures for Department of Energy funds (sec. 3151)

The Senate bill contained a provision (sec. 3151) that would require the Department of Energy to account more fully for the use of its funds. This accounting would be done on a fiscal year basis, notwithstanding that the funds appropriated to the Department of Energy, pursuant to title XXXI for national security programs, are available for obligation until expended.

The House amendment contained a similar provision (sec. 3151).

The House recedes with an amendment that would clarify that this provision would apply to the funds authorized to be appropriated pursuant to title XXXI only and not to other funds of the Department.

DOE continues to have large uncosted balances in all national security programs and continues to retain funds in excess of those required to complete close-out of construction projects in construction project line items. The conferees are concerned that in the current constrained defense budget environment, the Department may not be making maximum use of its funds, or is requesting more funds than are necessary to meet its obligations. This provisions would assist the conferees and the Department in tracking the use of funds for national security programs.

Approval for certain nuclear weapons activities (sec. 3152)

The Senate bill contained a provision (sec. 3152) that would amend section 179 of title 10, United States Code, to include, as an additional responsibility of the Nuclear Weapons Council, coordination and approval of activities conducted by the Department of Energy associated with the study, development, production, and retirement of nuclear warheads.

The House amendment contained a similar provision (sec. 3152). The House provision would also require the Nuclear Weapons Council to conduct an annual review of operations of the Council, the projects approved by the Council, and the activities carried out by the Department of Energy. The results of the review would be discussed in an annual report to the Secretary of Energy, a copy of which would be provided to the congressional defense committees. The report would cover the preceding fiscal year and would be submitted prior to the preparation of the budget request for the next fiscal year.

The Senate recedes with an amendment that would clarify that the report is required to be submitted to the congressional defense committees at the same time the President's budget request is submitted to Congress.

Study of feasibility of conducting certain activities at the Nevada Test Site, Nevada (sec. 3153)

The Senate bill contained a provision (sec. 3153) that would require the Secretary of Energy to study a wide range of alternative uses for the Nevada Test Site.

The House amendment contained a similar provision (sec. 3153).

The House recedes.

Report on waste streams generated by nuclear weapons production cycle (sec. 3154)

The House amendment contained a provision (sec. 3154) that would direct the Secretary of Energy to analyze and describe all waste streams generated during each step of the complete cycle of production and disposition of nuclear weapons components.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary to analyze the waste streams that were generated before 1992 when the Department of Energy was actually producing nuclear weapons. The DOE has not produced any nuclear weapons for several years, has no plans to resume production of any existing nuclear weapons, and has no plans to design or produce any new weapon. Thus, such a review can only consider past production activities. The report must be submitted no later than March 31, 1996.

Communication of restricted data and formerly restricted data (sec. 3155)

The House amendment contained a provision (sec. 3155) that would amend subsection (f) of section 142 of the Atomic Energy Act of 1954 to clarify that restricted data which are exchanged with a member state of the Commonwealth of Independent States, pursuant to a bilateral agreement, need not also be released publicly.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would repeal subsection 142 f. of the Atomic Energy Act and allow the Department of Energy and the Department of Defense to release restricted data or formerly restricted data pursuant to cooperative agreements. The provision would amend section 144 of the Atomic Energy Act to allow DOE and DOD to release the data, as necessary, to further fissile material and other weapons material control and accountability programs; to support atomic weapons control and accountability; for treaty verification; and to assist in establishing a uniform international system of classification.

All releases of restricted or formerly restricted data would be made through agreements for cooperation entered into pursuant to section 123 of the Atomic Energy Act. In addition, the provision would waive the period of notice to Congress required by section 123 d. of the Atomic Energy Act, until

VOL 140 PT 16 AG 12 — 18 1994 UMI

December 31, 1995, for agreements entered into pursuant to the new authority.

The conferees note that, in the past, agreements for cooperation under the Atomic Energy Act have been managed by the executive branch in a cumbersome fashion so that they take an extraordinarily long time to complete. The conferees provide for a streamlined section 123 process with the inclusion of procedural waivers. In turn, the conferees urge DOE and DOD to shorten the length of time necessary to enter into these agreements. The conferees hope that most of the time needed to enter into these agreements would be spent on actual negotiations with the country involved and not on protracted reviews. Close coordination among all parties concerned should help alleviate some of the long bureaucratic delays that section 123 agreements have suffered in the past.

The conferees understand that situations involving the release of restricted or formerly restricted data may require fast action. These new agreements could be very valuable, particularly in areas such as emergency response actions dealing with uncontrolled nuclear weapons or materials, or accident response. The conferees hope that situations in which fast action is required would be contemplated and addressed in these new agreements.

Designation of Marilyn Lloyd Scholarship and Fellowship Program (sec. 3156)

The Senate bill contained a provision (sec. 3138) that would authorize $1.0 million for the Department of Energy environmental scholarship program established by section 3132 of the National Defense Authorization Act for Fiscal Years 1992 and 1993.

The House amendment contained a provision (sec. 3156) that would designate the scholarship program the "Marilyn Lloyd Scholarship and Fellowship Program" in honor of the congresswoman from the third district of Tennessee, who was the original sponsor of the scholarship and fellowship program, and her enduring commitment to higher education in the scientific and technical fields.

The conferees agree to include both provisions.

Report on economic redevelopment and conversion activities resulting from reconfiguration of Department of Energy nuclear weapons complex (sec. 3157)

The House amendment contained a provision (sec. 3157) that would require the Secretary of Energy to submit to Congress information regarding economic redevelopment and conversion activities that may result from reconfiguration of the Department's nuclear weapons complex.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Office of Fissile Materials Disposition (sec. 3158)

The Senate bill contained a provision (sec. 3155) that would amend the Department of Energy Organization Act to establish, within DOE, an Office of Fissile Materials Disposition. This provision would make permanent the fissile materials project office established by the Secretary of Energy.

The House amendment contained no similar provision.

The House recedes.

Extension of authority to loan personnel and facilities at Idaho National Engineering Laboratory (sec. 3159)

The Senate bill contained a provision (sec. 3156) that would amend section 3133 of the National Defense Authorization Act for Fiscal Year 1993 to extend the loaned executive program at the Idaho National Engineering Laboratory until 1997, at which time the program will terminate.

The House amendment contained no similar provision.

The House recedes.

Elimination of requirement for five-year plan for defense nuclear facilities (sec. 3160)

The Senate bill contained a provision (sec. 3157) that would amend section 3135 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 by eliminating Department of Energy defense nuclear facilities from the annual five-year planning requirement.

The House amendment contained no similar provision.

The House recedes with an amendment that would amend section 3153 of the National Defense Authorization Act for Fiscal Year 1994, which directs the Secretary of Energy, for public participation, to prepare annual environmental management reports. The amendment would require the Secretary of Energy to provide for public participation generally in planning the activities of the Office of Environmental Restoration and Waste Management.

The five-year plan included an opportunity for public participation in environmental program planning and preparation of the plan. This element of the five-year plan will now be included in the annual environmental management reports.

The new report will supersede the five-year plan for Department of Energy defense facilities beginning in fiscal year 1995. The provision would not terminate the requirement to submit an annual five-year plan at DOE facilities other than defense facilities. Those facilities would not be included in the new reporting requirement.

Authority for appointment of certain scientific, engineering, and technical personnel (sec. 3161)

The Senate bill contained a provision (sec. 3158) that would allow the Secretary of Energy to hire and pay, without regard to civil service laws, up to 200 scientific, engineering, and technical personnel whose duties would relate to safety at Department of Energy defense nuclear facilities.

The House amendment contained no similar facilities.

The House recedes with an amendment. The amendment would expand the scope of the review conducted by the Office of Personnel Management (OPM) to include whether the rate of pay is appropriate to the qualifications and responsibilities of the individuals hired. In addition, the provision would require the Department to reimburse the Office of Personnel Management for the costs incurred by OPM in performing the required periodic reviews. The amendment would also limit the number of people that the Department may hire during the first year to 100.

The amendment would also require the Administrator of the Environmental Protection Agency (EPA) to consult with the Secretary and to issue a report to Congress after the fiftieth person is hired under this authority. The conferees are concerned that some of the people hired under this new authority may be already employed at a site listed on the national priorities list (NPL), which is established pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act. Some conferees are concerned about the effect of such hiring on such sites. They expressed concern that the Secretary, in using this authority, might delay the work at NPL sites. Therefore, the conferees would require the Administrator of EPA and the Secretary to assess in this report whether the appointments made under this authority have caused serious problems at any NPL site, including:

(a) significant delay or disruption of an environmental remedial action project;

(b) significant cost escalation of personnel for the remediation project; or

(c) significantly increased shortages or critical personnel.

If the Secretary and the Administrator find that these problems have indeed arisen as a result of this authority, they would be required to report jointly to Congress their plan to:

(a) reduce the rate of hiring under the authority provided under this section;

(b) solicit personnel from sources other than NPL sites; or

(c) provide any other effective alternative.

The report must be submitted to the Congress no later than 30 days after appointment of the fiftieth person under the authority provided by this section. The Secretary would be prohibited from making additional appointments under the authority of this section until the report is issued. In order to comply with the time constraints required by this section, the Secretary shall continuously monitor all persons appointed under this authority, record their previous places of employment and any NPL sites on which they were engaged at the time of their appointment under this authority, and provide this information to the Administrator on an ongoing basis.

The conferees direct the Secretary of Energy to submit a second report to Congress describing the use of the authority in fiscal year 1995. In this report, the Secretary should set forth the number of persons hired using the authority, their rates of pay, a general description of their duties and responsibilities including responsibilities associated with overseeing the DOE contractors, any problems associated with finding qualified individuals or with exercising the authority, and plans for use of the authority in fiscal years 1996 and 1997.

Use of funds for computer declassification system (sec. 3162)

The Senate bill contained a provision (sec. 3159) that would provide funds to assist the Department of Energy in supporting the Department's declassification productivity initiative.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would specify that the funds are to support the initiation of a computer-assisted declassification process.

Safety and oversight and enforcement at defense nuclear facilities (sec. 3163)

The Senate bill contained a provision (sec. 3160) that would direct the Secretary of Energy to take appropriate actions to maintain the integrity and independence of the internal nuclear safety oversight function at the Department of Energy.

The House amendment contained no similar provision.

The House recedes with an amendment that would delete the findings in the Senate provision.

Budget justification documents

The conferees are dismayed with the poor quality of the Department of Energy's budget justification documents. In many instances, the information is inaccurate or incomplete. In other instances, the descriptive summaries are so general that it is difficult or impossible to identify the true nature of the program. There are also instances in which a number of projects are combined in the descriptive summary and a large total amount is displayed so that it is not possible to identify the funds requested for any of the individual projects. Finally, descriptions of projects are sometimes combined in ways that make it impossible to understand the project or where the project will be carried out. The conferees believe that it is imperative that the Department improve the quality of the budget documents and are willing to work with the Department to achieve that goal.

Nevada Test Site

The DOE amended budget request contained $338.9 million for operating expenses for weapons testing. This amount included $180.0 million for infrastructure at the Nevada Test Site (NTS), $6.5 million for Marshall Islands dose reconstruction, and $152.4 million for experimentation. The experimentation request was to support activities related to stockpile stewardship.

The conferees agree to transfer the funds requested for experimentation from the weapons testing program to the core research and development account. These funds are shown on the funding tables as stockpile stewardship. This transfer is consistent with the directions to DOE in the National Defense Authorization Act for Fiscal Year 1994. This funding supports experimentation conducted under the stockpile stewardship, and does not support underground nuclear tests. Of the $152.4 million in the stockpile stewardship line, approximately $39.0 million will be allocated to the NTS to allow it to carry out activities in support of the stockpile stewardship program. The balance will be allocated to the laboratories to support their activities in support of the stockpile stewardship program.

The conferees agree to provide $165.0 million for operating expenses for infrastructure activities related to the NTS. This reduction is due to the availability of prior-year funds.

The conferees note that the NTS is a large and unique federal facility for which the conferees believe there are many possible alternative uses. Elsewhere in this act, the conferees recommend $4.5 million for the Department of Defense to use the NTS as a demonstration site for the environmentally-sound demilitarization of large rocket motors and other high-energetic explosives.

The National Defense Authorization Act for Fiscal Years 1992 and 1993 directed the Secretary of Energy to study the solar energy potential of the NTS. The "Nevada Test Site Solar Feasibility Study" is now complete. DOE found the NTS to be "a significant solar resource that can, in turn, provide important employment, local economic development and even export potential if developed." The Nevada Solar Enterprise Zone Task Force was created to implement the study. According to the study, as little as seven percent of the land area of the NTS would be necessary to generate the power equivalent of 10 large coal or nuclear power plants. Thus, the bulk of the NTS would remain available for any of the potential uses that might be identified in the alternative use study required by section 3153 of this act. The conferees agree that the Department of Energy may use $10.0 million from funds available for worker and community transition activities to begin to implement the work of the task force and the recommendations contained in the solar energy study.

Section 3153 of this act would require a study of other possible uses for and activities at the NTS. Alternative missions will enable NTS to maintain, at reduced cost, the infrastructure and personnel necessary to maintain a capability to resume testing, if necessary, in advance of a Comprehensive Test Ban Treaty (CTBT). Presumably, even under a CTBT, some level of readiness to test would be maintained at the NTS. Thus, DOE must focus on dual-use initiatives if this capability is to be maintained. The future of the NTS clearly lies in its potential for many and diverse uses, not just those focused on maintaining a nuclear weapons testing capability.

Funding for stockpile stewardship

The conferees are troubled that the Department of Energy did not request sufficient funds for fiscal year 1995 to support the stockpile stewardship plan developed by the Administration. This underfunding cannot continue without seriously undermining the Department's ability to fulfill its ongoing stewardship responsibilities. Therefore, the conferees direct the Department to request funds for fiscal year 1996 that are consistent with the stockpile stewardship program plan developed by the Administration and that will reverse the loss of nuclear competence at the laboratories.

Technology development

The conferees urge the Department of Energy to ensure that the funds allocated for research and development activities in support of the environmental restoration and waste management program are actually spent on needed research. More needs to be done to ensure that the scarce environmental research and development funds are used first, for research and, second, for research that addresses a priority need of the Department.

The conferees are particularly pleased with the newly-created joint research and development efforts that the DOE and the Department of Defense have initiated. The conferees look forward to more coordination in research and development between the two agencies.

Because the defense budget is decreasing, the environmental restoration and waste management programs will come under increasing budgetary constraints. The conferees believe that many dollars could be saved through the research, development, and demonstration of pollution prevention strategies, new waste characterization and treatment technologies, and remediation methodologies. The conferees urge the Secretary to fund the research and development program consistent with the Department's stated goal of dedicating 10 percent of the environmental budget to research and development.

Fissile material disposition

Disposition of excess weapons-grade fissile materials will continue to be a major challenge to the Department of Energy for the foreseeable future. Although all of the materials must be stored in a safe and secure manner for many years, the disposition of excess plutonium presents the most significant challenge. The conferees are disappointed that the Department did not include in its budget request a request for funding to deal with the many issues associated with the storage and disposition of these materials. The conferees recommend $50.0 million for fissile materials disposition.

The conferees urge DOE to begin assessing in earnest the broad range of technologies, including reactor, advanced reactor, and non-reactor technologies, potentially available for the disposition of plutonium. The assessments should focus on the safe, permanent disposition of surplus weapons material independent of the disposition of civilian plutonium. Each of the possible disposition options present significant challenges.

The conferees also expect the Secretary to use such funds as are available and required to identify the Department's near-term requirements for the storage of fissile materials until the nation has determined a final disposition strategy. The conferees recognize that in fiscal year 1995, the Secretary must also devote significant resources from the fissile materials disposition budget to prepare and issue the environmental impact statement (EIS) necessary for compliance with the National Environmental Policy Act. The conferees urge the Secretary to prepare the EIS in as cost-efficient a manner as possible.

Russia too faces a challenge, similar to that of the United States, in storing and ultimately reducing its excess weapons materials. The conferees believe that to the maximum extent practicable, DOE should work with its Russian counterparts to ensure that the Russian weapons-grade fissile materials are stored in a safe, secure, and accountable manner. Recent news reports about small quantities of weapons-grade plutonium, apparently from Russia, being available for sale in Germany are most troublesome. The conferees urge the Office of Fissile Materials Disposition to coordinate its activities with the DOE Office of Nonproliferation and National Security and other relevant offices and agencies in addressing areas of mutual concern with Russia.

The conferees note that the DOE weapons laboratories have established very successful and productive relationships with various Russian laboratories and urge DOE to expand on this success.

Material control and accounting

The conferees have consistently urged both the Department of Energy and the Department of Defense to develop an accurate accounting of all weapons-grade fissile and special nuclear materials in Russia and the other nations of the Commonwealth of Independent States (CIS). The conferees strongly believe that obtaining an accurate inventory of such materials in the CIS is a fundamental step in establishing an effective nonproliferation regime. The conferees recognize that a bilateral exchange of nuclear weapons stockpile data, including restricted data and formerly restricted data, between the United States and the nuclear states of the CIS will likely be necessary to establish such an accounting. The conferees agree to clarify and expand the authority of the President to provide such data in section 3155 of this act.

Elsewhere in this statement of the managers, the conferees direct the Department of Energy to work with Russia to explore options for excess weapons-grade fissile material disposition and to ensure that Russian weapons-grade fissile materials are stored in a safe, secure, and accountable manner. After discussions with DOE officials, the conferees understand that the Office of Nonproliferation and National Security will manage the Department's activities with Russia in these areas.

The conferees urge the Secretary to make available to the Office of Nonproliferation and National Security funds and resources required to ensure rapid progress in establishing a complete and accurate accounting of all weapons-grade fissile and special nuclear materials in the CIS. The conferees note that the DOE weapons laboratories have established very successful and productive relationships with various Russian laboratories and urge DOE to expand on this

VOL 140 PT 16 AG 12 — 18 1994 UMI

success. The conferees also encourage DOE to consider reprogramming actions, as appropriate, to support these efforts. The Office of Nonproliferation and National Security should coordinate its activities with the Department's Office of Fissile Materials Disposition, other DOE offices, the DOE laboratories, and relevant federal agencies

Finally, the conferees note that title XII of this act authorizes funds for the cooperative threat reduction program that could be used to support the control and accounting of fissile materials in the CIS. The conferees direct the Secretary of Energy to consult with the Secretaries of State and Defense to determine the most effective use of the funds provided in title XII for fiscal year 1995 and prior years to advance material control and accounting objectives.

Naval nuclear propulsion program

The U.S. naval nuclear propulsion program, a joint program of the Department of Energy and the Department of the Navy, has recently achieved a major milestone—nuclear-powered surface ships and submarines have just steamed their 100 millionth mile on nuclear power without a single nuclear accident or harm to the public or the environment. This is a remarkable achievement, and the conferees congratulate the men and women of the naval reactors program for their dedication and exemplary work.

LEGISLATIVE PROVISIONS NOT ADOPTED

General reduction in authorization of appropriations

The Senate bill contained a provision (sec. 3105) that would generally reduce the amount authorized to be appropriated for national security programs at the Department of Energy by $220.0 million. This reduction was offset by the use of prior-year funds that were available because DOE failed to submit the five-year budget plan required by section 3144 of the National Defense Authorization Act for Fiscal Years 1990 and 1991. Section 3139 of the National Defense Authorization Act for Fiscal Year 1994 prohibited the Department of Energy from obligating more than 95 percent of the funds authorized to be appropriated for fiscal year 1994 until the five-year plan was submitted. The plan was due with the President's budget request for fiscal year 1995 in January 1994.

The House amendment contained no similar provision.

The Senate recedes. The conferees agree that this general reduction is no longer necessary. On July 21, 1994, the Secretary of Energy transmitted the five-year budget plan for fiscal year 1995 and beyond.

Limitation on use of funds for special access programs

The Senate bill contained a provision (sec. 3135) that would prohibit 80 percent of the funds authorized to be appropriated to the Department of Energy for fiscal year 1995 from being obligated for special or limited access programs until the Secretary submitted to Congress the report required by section 93 of the Atomic Energy Act of 1954 (42 U.S.C. 2122a).

The House amendment contained a similar provision (sec. 3139) that would prevent obligation of any funds for special or limited access programs until the required report was submitted.

The conferees agree to delete both provisions because the Secretary of Energy has submitted the required report.

Solar energy activities at Nevada Test Site, Nevada

The Senate bill contained a provision (sec. 3141) that would authorize $10.0 million for use at the Nevada Test Site for solar energy activities.

The House amendment contained no similar provision.

The House recedes.

Nuclear Weapons Council membership

The Senate bill contained a provision (sec. 3154) that would add an additional senior representative of the Department of Energy to the membership of the Nuclear Weapons Council.

The House amendment contained no similar provision.

The Senate recedes.

The Senate provision was intended to reinforce the role of the Under Secretary of Energy in ensuring a strong defense program at the Department of Energy. The Senate was concerned that the DOE nuclear weapons program has suffered from lack of attention and planning by senior Department managers. The Senate conferees hoped that the Under Secretary, by his senior position within the Department and with expanded authority, would become an advocate of the defense programs within DOE. The Senate conferees believed that his membership on the Nuclear Weapons Council would serve to both reinforce the role of the defense programs within the Department of Energy and enable greater participation with the Department of Energy and enable greater participation with the Department of Defense and the Joint Chiefs of Staff in maintaining a safe and strong nuclear deterrent.

The Secretary of Energy has recently reaffirmed her commitment to the defense programs at the Department of Energy and to the overall role of the Department in matters relating to national security, such as non-proliferation and fissile materials control and disposition. The conferees look forward to working with the Secretary in ensuring that the Department has a robust defense program in a reduced budget environment. The conferees believe that, while more difficult to achieve, maintaining defense competencies using fewer resources than were available in the past is necessary and possible.

Conditions on contracts between the Federal Government and certain lessees and transferees of Department of Energy property

The Senate bill contained a provision (sec. 3161) that would prevent the Department of Energy management and operating contractors from taking unfair advantage of commercial information gained through their relationships with subcontractors when the management and operating contractors are engaging in a commercial venture utilizing former DOE facilities.

The House amendment contained no similar provision.

The Senate recedes.

The Senate provision originated in the contractual relationship between a DOE management and operating contractor (M&O) at a DOE facility and one of its subcontractors. Because the M&O contractor performed audit, inspection, and quality control functions for DOE on the subcontractor's products, the M&O contractor was given access to the subcontractor's plant and to proprietary and technical data, trade secrets, and commercial and financial information that it would not have had except for its status as an M&O contractor.

DOE is closing the particular facility because it no longer needs it. DOE anticipates that when it stops using the facility, it will be leased, pursuant to sections 3154 and 3155 of the National Defense Authorization Act for Fiscal Year 1994, to the local community, which will then sublet the facility to the M&O contractor. The former M&O contractor proposes to manufacture the same type of product as the subcontractor and compete with the subcontractor. The M&O would lease and use equipment at the former DOE facility that was used in developing the manufacturing process for the product made by the subcontractor. The product is manufactured at facilities owned by the subcontractor.

The Senate conferees were concerned that the former M&O contractor might unfairly use information acquired from the subcontractor to compete against the subcontractor. The Senate provision would permit federal agencies to require former M&O contractors who propose or bid on federal agency procurement to certify that they have not used, in the preparation of their proposal or bid, any information or data of the federal government or another entity that have not been released or otherwise made generally available for the preparation of bids or proposals.

Based on the representations made to the conferees that the Secretary of Energy already has the necessary statutory and regulatory authority to protect appropriately the rights and interests of subcontractors, the conferees agree that the Senate provision is no longer necessary. The conferees rely equally on the assurance made to the conferees by the Secretary of Energy that DOE will continue to work with the M&O contractor and the subcontractor to develop mutually acceptable and appropriate protective mechanisms. The conferees believe that the Secretary should secure an agreement between the subcontractor and the M&O contractor, substantially equal in force to confidentiality agreements commonly used elsewhere in industry, that the contractor and each of the managers and employees of the contractor will not use, in any manner, proprietary information, trade secrets, or other cost, commercial, or financial information acquired from the subcontractor solely as a result of the relationship between the M&O contractor and the subcontractor. These agreements should also specifically prevent the use of such information in the preparation, submission, or negotiation of a bid or offer to any federal agency for similar products. The conferees believe that the agreement should endure for a term sufficiently long to protect the subcontractor. The conferees direct the Secretary to work with the M&O contractor and the subcontractor to reach the agreement before closure of the DOE facility.

The conferees will follow the situation closely. The conferees remain concerned about the potential for unfair use of government and third-party information that was obtained by a former M&O contractor solely by virtue of that special status, and will continue to evaluate the need for legislation. The conferees believe that the principles of procurement integrity and fairness are generally adequate to prevent the M&O contractor from gaining unfair competitive advantage when bidding to supply similar or related products to DOE or to any other federal agency.

The conferees direct the Secretary to report to the congressional defense committees by January 1, 1995, on the resolution of this issue.

Limitation on use of funds for new construction projects

The House amendment contained a provision (sec. 3138) that would prohibit the Secretary of Energy from obligating or expending funds appropriated for a construction project for which funds were requested for the first time in fiscal year 1995, until the Secretary has completed a conceptual design for that project.

The Senate bill contained no similar provision.

The House recedes. Of the two projects to which this provision would have applied, the conferees have indicated elsewhere within this statement of the managers that the Department may not expend funds authorized to be appropriated on one of them until the Secretary has completed the conceptual design, and the conferees did not agree to authorize funds for the other project.

Prohibition on prefinancing

The House amendment contained a provision (sec. 3140) that would prohibit the Secretary of Energy from budgeting funds to retain Department personnel in the event that Congress allows a lapse in funding authority between fiscal years. The Department refers to this practice as "prefinancing."

The Senate bill contained no similar provision.

The House recedes.

The conferees note, however, that while all government agencies can retain essential personnel in the event of a lapse in funding authority, only the Department of Energy actually budgets for such a contingency. The conferees agree that the merits of prefinancing need to be re-examined, and that the Armed Services Committees of the Senate and House of Representatives will address this issue in hearings next year.

The conferees are further concerned that there does not appear to be a consistent rationale or methodology for budgeting for prefinancing Prefinancing should not be a "catch-all" category for otherwise unexplainable uncosted obligations. The conferees urge the Department to review its prefinancing policy while preparing the fiscal year 1996 budget request.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Authorization (sec. 3201)

The Senate bill contained a provision (sec. 3201) that would provide $17.933 million for the Defense Nuclear Facilities Safety Board.

The House amendment contained a provision (sec. 3201) that would provide $18.0 million for the Board.

The House recedes.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Authorized uses of stockpile funds (sec. 3301)

The Senate bill contained a provision (sec. 3302) that would authorize the stockpile manager to obligate $54.2 million from the National Defense Stockpile Transaction Fund during fiscal year 1995 for the authorized uses of funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act.

The House amendment contained no similar provision.

The House recedes.

Rotation of materials to prevent technological obsolescence (sec. 3302)

The Senate bill contained a provision (sec. 3304) that would amend section 6(a)(4) of the Stock Piling Act to allow for modernization and rotation of materials in the stockpile to prevent technological obsolescence.

The House amendment contained no similar provision.

The House recedes.

Extension of limitation on authority to dispose of chromium ferro and manganese ferro (sec. 3303)

The House amendment contained a provision (sec. 3301) that would prohibit the disposal of chromium ferro and manganese ferro from the National Defense Stockpile until the President certifies to Congress that there is a reliable domestic source for the adequate and timely production of these materials, and such source can be called upon in times of a national emergency or a significant mobilization of the armed forces.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would delay the current authority to dispose of chromium ferro and manganese ferro from the stockpile until October 1, 1995.

Limitations on authority to dispose of zinc (sec. 3304)

The House amendment contained a provision (sec. 3304) that would prohibit the disposal of zinc from the National Defense Stockpile unless the President certifies to Congress that any such proposal would not cause any undue disruption of the usual markets of producers, processors, and consumers of zinc.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would prohibit the disposal of zinc from the National Defense Stockpile to anyone outside the federal government prior to April 1, 1995. In order for the Stockpile manager to dispose of zinc after April 1, 1995, the Stockpile manager would have to submit a revised Annual Materials Plan for fiscal year 1995 to the Congress not later than February 15, 1995 that describes any such proposed disposal. This revised Annual Materials Plan would have to include the views of the Market Impact Committee regarding the market impact of any such disposal.

Limitations on the disposal of chromite and manganese ores (sec. 3305)

The House amendment contained a provision (sec. 3303) that would require the Stockpile manager to give a right of first refusal to domestic ferroalloy upgraders on any disposals of chromite and manganese ores of metallurgical grade from the stockpile during fiscal year 1995.

The Senate bill contained no similar provision.

The Senate recedes.

Report on domestic production of high purity electrolytic chromium metal (sec. 3306)

The House amendment contained a provision (sec. 3305) that would require the conversion of low carbon ferro chromium held in the National Defense Stockpile into high purity electrolytic chromium metal.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to enter into an agreement with the President of the National Academy of Sciences under which the Academy would prepare a report regarding the production of high purity electrolytic chromium metal in the United States.

LEGISLATIVE PROVISIONS NOT ADOPTED

Transfer from National Defense Stockpile Transaction Fund

The Senate bill contained a provision (sec. 305) that would authorize, to the extent provided in appropriations acts, the transfer of not more than $250.0 million from the National Defense Stockpile Transaction Fund to the operation and maintenance accounts for fiscal year 1995. This figure represents an increase of $100.0 million above the amount proposed for transfer in the budget request.

The House amendment contained no similar provision.

The Senate recedes. The conferees conclude that authorizing the transfer of funds from the National Defense Stockpile Transaction Fund in anticipation of sales of materials could create pressure on the Stockpile manager to sell excess materials in order to generate revenues for such transfers. The conferees agree that the decision to sell excess materials from the stockpile should be based on market and stockpile management considerations and not on the need to generate revenues.

Disposal of obsolete and excess materials contained in the National Defense Stockpile

The Senate bill contained a provision (sec. 3301) that would authorize disposal of two materials (aluminum and tungsten) from the National Defense Stockpile that were determined to be excess to the stockpile requirements recommended by the Department of Defense in the *1992 Report on National Defense Stockpile Requirements*.

The House amendment contained no similar provision.

The Senate recedes.

Rejection of change in stockpiling principles

The House amendment contained a provision (sec. 3302) that would repeal sections 3311 and 3314 of the National Defense Authorization Act for Fiscal Year 1994 concerning stockpiling principles.

The Senate bill contained no similar provision.

The House recedes. The conferees expect the next stockpile requirements report, to be submitted to the Congress by January 15, 1995 under section 14 of the Stock Piling Act, to contain a complete and thorough discussion of the stockpiling principles proposed by the Department of Defense, and to cover the full range of conflict scenarios on which the stockpile requirements are based. In addition, the conferees request that the next stockpile requirements report also contain an analysis of the capabilities of the U.S. domestic sources of strategic and critical materials and a current analysis of the U.S. dependence on, and reliability of, foreign sources for strategic and critical materials.

Repeal of advisory committee requirement

The Senate bill contained a provision (sec. 3303) that would repeal the requirement to establish an Advisory Committee Regarding Operation and Modernization of the Stockpile contained in section 3306 of the National Defense Authorization Act for Fiscal Year 1993.

The House amendment contained no similar provision.

The Senate recedes.

TITLE XXXIV—CIVIL DEFENSE

Authorization of appropriations (sec. 3401)

The budget request contained $129.658 million to carry out the Federal Civil Defense Act of 1950.

The Senate bill contained a provision (sec. 3401) that would authorize the requested amount.

The House amendment contained a provision (sec. 3401) that would authorize Relief and Emergency Assistance Act.

The Senate recedes.

Restatement of federal civil defense authorities in Robert T. Stafford Disaster Relief and Emergency Assistance Act (secs. 3411 and 3412)

The House amendment contained a provision (sec. 3402) that would repeal the Civil

VOL 140 PT 16 AG 12 — 18 1994 UMI

Defense Act of 1950 (section 2251 et seq. of title 50 App., United States Code) and place its authorities into the Robert T. Stafford Disaster Relief and Emergency Assistance Act (section 5121 et seq. of title 42, United States Code).

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

The conferees understand that the Office of Management and Budget will transfer the civil defense program (i.e., the emergency preparedness program) and other portions of the Federal Emergency Management Agency budget now included in the 050 budget function to a domestic discretionary budget account because these programs no longer have a defense emphasis. This transfer will be incorporated into the President's fiscal year 1996 budget request.

TITLE XXXV—NAVAL PETROLEUM RESERVES

Authorization of appropriations (sec. 3501)

The House amendment contained a provision (sec. 3501) that would authorize funds for activities at the Naval Petroleum Reserves for fiscal year 1995.

The Senate bill contained no similar provision.

The Senate recedes.

Price requirement on sale of certain petroleum during fiscal year 1995 (sec. 3502)

The House amendment contained a provision (sec. 3502) that would establish pricing for sale of products from the Naval Petroleum Reserve.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment that would clarify that 10 U.S.C. 7430(b)(2)(B), the minimum price for Naval Petroleum Reserves 1, 2, and 3 petroleum sold during fiscal year 1995, does not apply. The only statutory minimum price in fiscal year 1995 will be 90 percent of the local market price of comparable petroleum prescribed in section 7430(b)(2)(A).

Extension of existing contract at Naval Pretroleum Reserves (sec. 3503)

The conferees agree to a provision that would allow the Department of Energy to extend the current operating contract at the Naval Petroleum Reserve Number 1 at Elk Hills, California for an additional two years. The conferees are very concerned about the future of this facility, the Department of Energy's plans for management of the facility, and opportunities for reducing its operating costs.

In the statement of the managers accompanying the National Defense Authorization Act for Fiscal Year 1994 (H. Rept. 103-357), the conferees requested a report by May 1, 1994, that would analyze a variety of management options for Elk Hills. The Department of Energy only submitted the requested report on August 2, 1994. In the meantime, the Department has also embarked on an effort to substantially change the management of the Elk Hills facility without analyzing other possible options and without considering the possibility of competition.

The conferees believe there are several potential management options that would reduce costs and achieve maximum value and benefit to the government. While the conferees do not recommend a particular option for the operation and management of the Elk Hills facility, they strongly believe that the Department should fully analyze all possible options before making a change in current operations. The conferees also strongly believe that any change in the operation or management of the Elk Hills facility should be accomplished using competitive procedures, to the extent practical.

This provision would allow the Department of Energy additional time to review fully all possible options before entering into any new management contract for the Elk Hills facility. The Armed Services Committees of the Senate and House of Representatives plan to hold hearings in 1995 on the DOE management options under consideration and the recommendations of the National Academy of Public Administration to ensure that the best interests of the government are fully protected.

TITLE XXXVI—PANAMA CANAL COMMISSION

Panama Canal Commission (secs. 3601–3605)

The Senate bill contained provisions (secs. 3501–3505) that would authorize expenditures from the Panama Canal Revolving Fund for the operations and maintenance of the Panama Canal. They would also authorize the Panama Canal Commission to reimburse eligible employees for the cost of dependent schooling at facilities in the United States in the same manner as is now authorized for the cost of dependent students attending non-Department of Defense dependent schools in Panama. Finally, the provisions would authorize Panamanian U.S. government employees, who are eligible under current law for special immigration benefits, to apply for immigration prior to the effective date of their retirement.

The House amendment contained no similar provisions. A separate House bill contained provisions essentially identical to those in the Senate bill.

The House recedes. The Panama Canal operates on a self-sustaining basis, utilizing tolls and revenues paid by canal users. Appropriated funds for not utilized for the operation and maintenance of the canal.

From the Committee on Armed Services, for consideration of the entire Senate bill and the entire House amendment, and modifications committed to conference.

RONALD V. DELLUMS,
G.V. MONTGOMERY,
PAT SCHROEDER,
EARL HUTTO,
IKE SKELTON,
DAVE MCCURDY,
MARILYN LLOYD,
NORMAN SISISKY,
JOHN M. SPRATT,
SOLOMON P. ORTIZ,
H. MARTIN LANCASTER,
LANE EVANS,
JAMES H. BILBRAY,
JOHN S. TANNER,
GLEN BROWDER,
MARTIN T. MEEHAN,
FLOYD SPENCE,
DUNCAN HUNTER,
JOHN R. KASICH,
HERBERT H. BATEMAN,
CURT WELDON,
JON KYL,
RONALD K. MACHTLEY,
JIM SAXTON,

As additional conferees from the Labor Committee on Education and Labor, for consideration of sections 337, 346–47, 643, 924, 1051, and 1082 of the Senate bill and sections 351–54, 1133, 1136, 1138, and 1151 of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM L. CLAY,
PAT WILLIAMS,
WILLIAM F. GOODLING,
STEVE GUNDERSON,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 142, 324, 708, 2821(e)(3), 2849, 3151, 3155, 3157–58, 3160, and 3201 of the Senate bill and sections 1055, 3201, and 3502 of the House amendment, and modifications committed to conference:

JOHN D. DINGELL,
PHIL SHARP,
AL SWIFT,
CARLOS J. MOORHEAD,
MIKE BILIRAKIS,

Provided, Mr. Waxman is appointed in lieu of Mr. Swift and Mr. Bliley is appointed in lieu of Mr. Bilirakis solely for the consideration of section 708 of the Senate bill:

HENRY A. WAXMAN,
TOM BLILEY,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 221–22, 225, 241, 251, 354, 823, 1012, 1013(b), 1014, 1015(a), 1016–18, 1021(a), 1021(b), 1022–23, 1024(c), 1031–32, 1041, 1065, 1070, 1074, 1078–79, 1088, 1092, and 1097 of the Senate bill and sections 1011(a), 1022–25, 1038, 1041, 1043, 1046–49, 1052, 1054, 1058–60, 1201–14, and 1401–04 of the House amendment, and modifications committed to conference:

LEE H. HAMILTON,
SAM GEJDENSON,
TOM LANTOS,
BILL GOODLING,

As additional conferees from the Committee on Government Operations, for consideration of sections 824, 2812(c), 2827, and 3161 of the Senate bill and modifications committed to conference:

JOHN CONYERS, JR.,
E. TOWNS,
MIKE SYNAR,
BILL CLINGER,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 357, 601, 654, 2206, 2825, 3134, and 3501–05 of the Senate bill and sections 522–23, 527, 531, 601–02, 1137, and 3134 of the House amendment, and modifications committed to conference:

GERRY E. STUDDS,
WILLIAM J. HUGHES,
BILLY TAUZIN,

As additional conferees from the Committee on Natural Resources, for consideration of sections 2853 of the House amendments, and modifications committed to conference:

GEORGE MILLER,
BRUCE F. VENTO,
NEIL ABERCROMBIE,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 331–334, 346, 636, 901, 1080, 1087, 1090, and 3158 of the Senate bill and sections 165, 351, 375, 1031, and 2816 of the House amendments, and modifications committed to conference:

WILLIAM CLAY,
FRANK MCCLOSKEY,
ELEANOR H. NORTON,
JOHN MYERS,
CONSTANCE A. MORELLA,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 324, 1086, and 2827 of the Senate bill and section 3402 of the House amendment, and modifications committed to conference:

NORMAN Y. MINETA,
DOUGLAS APPLEGATE,
JAMES A. TRAFICANT, Jr.,
BUD SHUSTER,
BILL CLINGER,

Provided that Mr. Duncan is appointed in lieu of Mr. Clinger solely for the consideration of section 2827 of the Senate bill:

JOHN J. DUNCAN, Jr.,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 232–33, 243, 249, and 3141 of the Senate bill and sections 211(a), 211(b), 216(a), 216(b), 216(c), 216(e), 217–18, 223(a), 1112–15, and 3141 of the House amendment, and modifications committed to conference:

GEORGE E. BROWN, Jr.,
TIM VALENTINE,
BOBBY SCOTT,

As additional conferees from the Committee on Veterans' Affairs, for consideration of section 641 of the Senate bill and modifications committed to conference:

G.V. MONTGOMERY,
JIM SLATTERY,
DOUGLAS APPLEGATE,
BOB STUMP,
MIKE BILIRAKIS,

Managers on the Part of the House.

SAM NUNN,
JIM EXON,
CARL LEVIN,
TED KENNEDY,
JEFF BINGAMAN,
JOHN GLENN,
RICHARD SHELBY,
ROBERT C. BYRD,
BOB GRAHAM,
CHUCK ROBB,
JOSEPH I. LIEBERMAN,
RICHARD H. BRYAN,
STROM THURMOND,
JOHN WARNER,
WILLIAM S. COHEN,
TRENT LOTT,
DAN COATS,
BOB SMITH,
LAUCH FAIRCLOTH,
KAY BAILEY HUTCHISON,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FIELDS of Louisiana (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. BARTON of Texas (at the request of Mr. MICHEL), for today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HORN) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 5 minutes, today.

Mr. DREIER, for 5 minutes today.

(The following Members (at the request of Mr. NADLER) to revise and extend their remarks and include extraneous material:)

Mr. DERRICK, for 5 minutes, today.

Mr. COOPER, for 5 minutes, today.

Mr. HOAGLAND, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Mr. NEAL of North Carolina, for 5 minutes, today.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. LAROCCO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HORN) and to include extraneous matter:)

Mr. CALLAHAN.

Mr. GOODLING.

Mr. DELAY.

Mr. FAWELL.

Mr. KING.

Mr. SAXON.

Mr. GRAMS.

(The following Members (at the request of Mr. NADLER) and to include extraneous matter:)

Mr. GEJDENSON.

Mr. JACOBS.

Mr. BONIOR.

Mr. LEVIN.

Mr. ROSE.

Mrs. CLAYTON.

Mr. DURBIN.

Mr. RAHALL in two instances.

Mr. ANDREWS of New Jersey.

(The following Members (at the request of Mr. COLLINS of Georgia) and to include extraneous matter:)

Mr. TAUZIN.

Mr. MEEHAN.

Mr. MCDERMOTT.

Mr. CAMP.

Mr. BILBRAY.

Mr. BERMAN.

Mr. PACKARD.

Mr. SOLOMON.

Mr. FRANKS of New Jersey.

Mr. WYDEN.

Ms. BROWN of Florida.

Ms. DELAURO.

Mr. MENENDEZ.

Mr. SHAW.

Mr. TORRES.

Mr. RANGEL.

Mr. STARK.

Mr. EVERETT.

Mr. BURTON in three instances.

Mrs. MALONEY.

Ms. VELÁZQUEZ.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1426. An act to provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes;

H.R. 1933. An act to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, to extend such Commission, and to support the planning and performance of national service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr.;

H.R. 2243. An act to amend the Federal Trade Commission Act to extend the authorization of appropriations in such act, and for other purposes;

H.R. 4277. An act to establish the Social Security Administration as an independent agency and to make other improvements in the Old-Age, Survivor, and Disability Insurance Program;

H.R. 4426. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for such programs for the fiscal year ending September 30, 1994, and for other purposes;

H.R. 4453. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes;

H.R. 4506. An act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes;

H.J. Res. 131. Joint resolution designating December 7 of each year as "National Pearl Harbor Remembrance Day"; and

H.J. Res. 175. Joint resolution designating October 1994 as "Italian-American Heritage and Culture Month."

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1631. An act to amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia.

H.R. 2739. An act to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes.

H.R. 4429. An act to authorize the transfer of naval vessels to certain foreign countries.

ADJOURNMENT

Mr. COLLINS of Georgia. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until Tuesday, August 16, 1994, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3684. A letter from the Assistant Secretary for Legislative Affairs, Department of State,

VOL 140 PT 16 AG 12 — 18 1994 UMI

transmitting a report on military expenditures for countries receiving U.S. assistance; to the Committee on Appropriations.

3685. A letter from the Comptroller General, General Accounting Office, transmitting a compilation of historical information and statistics regarding rescissions proposed by the executive branch and rescissions enacted by the Congress; to the Committee on Appropriations.

3686. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to the People's Republic of China, pursuant to 12 U.S.C. 635(b)(3)(1); to the Committee on Banking, Finance and Urban Affairs.

3687. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 94-47), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3688. A letter from the Acting director, Defense Security Assistance Agency, transmitting notice concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Thailand for defense articles and services (Transmittal No. 94-46), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3689. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 94-44), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3690. A letter from the Assistant Secretary of Legislative Affairs, Department of State, transmitting a copy of the Secretary's determination and justification to exercise the authority granted him under section 451 of the Foreign Assistance Act of 1961, as amended, authorizing funds to support the Tanzanian participation in peacekeeping in Liberia and conflict resolution in Rwanda, pursuant to 22 U.S.C. 2261(a)(2); to the Committee on Foreign Affairs.

3691. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the texts of the International Labor Organization Convention No. 174 and Recommendation No. 181 adopted at its 80th session at Geneva; to the Committee on Foreign Affairs.

3692. A letter from the Chairman, U.S. International Trade Commission, transmitting the 45th report on the operation of the U.S. trade agreements program during 1993, pursuant to 19 U.S.C. 2213(b); to the Committee on Ways and Means.

3693. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the obligation of certain funds; jointly, to the Committees on Appropriations and Foreign Affairs.

3694. A letter from the Secretary of the Interior, transmitting his views regarding H.R. 3433; jointly, to the Committee on Natural Resources, Ways and Means, and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CONYERS: Committee on Government Operations. H.R. 3600. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; with amendments (Rept. 103-601, Pt. 5). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2927. A bill to amend the Plan Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes; with an amendment (Rept. 103-699). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. S. 2099. An act to establish the Northern Great Plains Rural Development Commission, and for other purposes. (Rept. 103-700). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee of Conference. Conference report on S. 2182. An act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. 103-701). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

Referral to the Committee on Government Operations of H.R. 2680 extended for a period ending not later than August 16, 1994.

The Committee on Government Operations discharged from further consideration of H.R. 4263; H.R. 4263 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSE:

H.R. 4945. A bill to establish the Library of Congress Revolving Fund, and for other purposes; to the Committee on House Administration.

By Mr. SANGMEISTER:

H.R. 4946. A bill to establish the Midewin National Tallgrass Prairie in the State of Illinois, and for other purposes; jointly, to the Committees on Armed Services, Agriculture, and Energy and Commerce.

By Mr. BRYANT:

H.R. 4947. A bill to amend title 28, United States Code, to establish additional requirements regarding appointment of an independent counsel; to the Committee on the Judiciary.

By Mr. BACHUS of Alabama (for himself, Mr. BEVILL, Mr. BROWDER, Mr. CALLAHAN, Mr. CRAMER, Mr. EVERETT, Mr. HILLIARD, Mr. MONTGOMERY, Mr. ROWLAND, and Mr. HUTTO):

H.R. 4948. A bill to designate Building No. 137 of the Tuscaloosa Veterans' Medical Center in Tuscaloosa, AL, as the "Claude Harris, Jr. Building"; to the Committee on Veterans' Affairs.

By Mr. FRANKS of New Jersey (for himself, Mr. MEEHAN, Mr. GALLO, and Mr. DELAY):

H.R. 4949. A bill to amend title 5, United States Code, to reform Federal administrative procedures and improve the regulatory process; to the Committee on the Judiciary.

By Mr. GEJDENSON (for himself, Mr. ROTH, Ms. CANTWELL, Mr. JOHNSTON of Florida, Mr. BEREUTER, Mrs. MEYERS of Kansas, Mr. FINGERHUT, Mr. ENGEL, Mr. WYNN, Mr. OBERSTAR, and Mr. SCHUMER):

H.R. 4950. A bill to extend the authorities of the Overseas Private Investment Corporation, and for other purposes; to the Committee on Foreign Affairs.

By Mr. KIM:

H.R. 4951. A bill to amend the Clean Air Act to provide that no Federal implementation plan need be promulgated by the Environmental Protection Agency upon the failure of a State implementation plan to attain certain attainment deadlines which have been superseded by the 1990 amendments to the Clean Air Act, and for other purposes; to the Committee on Energy and Commerce.

H.R. 4952. A bill to amend the Clean Air Act to provide that certain requirements in effect prior to the 1990 amendments to the Clean Air Act shall cease to apply, and for other purposes; to the Committee on Energy and Commerce.

H.R. 4953. A bill to amend the Clean Air Act to prohibit the Environmental Protection Agency from promulgating a Federal implementation plan prior to the disapproval of State implementation plan revisions required pursuant to the Clean Air Act Amendments of 1990, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. MALONEY:

H.R. 4954. A bill to amend the Fair Housing Act to provide sanctions for the filing of certain complaints; to the Committee on the Judiciary.

By Mrs. MALONEY (for herself, Mrs. LOWEY, Mr. NADLER, Mr. WAXMAN, Mr. SAXTON, Mr. PASTOR, and Mr. COOPER):

H.R. 4955. A bill to amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes during the period in which the United States was involved in World War II; jointly, to the Committees on Government Operations, the Judiciary, and Intelligence (Permanent Select).

By Mr. NEAL of North Carolina (for himself, Mr. MCCOLLUM, Mr. LAFALCE, Mr. FRANK of Massachusetts, Mr. LAROCCO, Mr. DOOLEY, Mr. RIDGE, Mr. BAKER of Louisiana, and Mr. KING):

H.R. 4956. A bill to create an open and competitive marketplace for financial services which ensures the safety and soundness of the Nation's financial system as well as the availability of innovative financial products and services for consumers, business, and government at the lowest possible cost, and for other purposes; jointly, to the Committees on Banking, and Finance and Urban Affairs, and Energy and Commerce.

By Mr. RAHALL (for himself, Mr. BORSKI, Mr. DEFAZIO, Mr. COPPERSMITH, Mr. COSTELLO, and Mr. DE LUGO):

H.R. 4957. A bill to amend the Railway Labor Act concerning the applicability of requirements of that act to U.S. air carriers and flight crews engaged in flight operations outside the United States; to the Committee on Public Works and Transportation.

By Mr. ROSE:

H.R. 4958. A bill to amend title 3 of the United States Code to provide immunity from suit for the President of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. TAUZIN (for himself, Mr. STUDDS, Mr. LIPINSKI, Mr. FIELDS of Texas, and Mr. COBLE) (all by request):

H.R. 4959. A bill to reduce the economic burden on U.S.-flagged merchant vessels by streamlining certain regulatory requirements, by expanding the delegation of the performance of marine safety functions to third parties, and by broadening the Coast Guard's marine safety authority, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. WYDEN:

H.R. 4960. A bill to provide health care quality safeguards for consumers of health care insurance and health care products and services; to the Committee on Energy and Commerce.

By Mr. LAROCCO:

H.R. 4961. A bill to establish the Coeur d'Alene Basin Restoration Corporation and authorize the Corporation to undertake all actions necessary for the cleanup of mining wastes and the restoration of natural resources in the watershed encompassing the Coeur d'Alene River, Coeur d'Alene Lake, and its tributaries, and the Spokane River in northern Idaho and western Washington; jointly, to the Committees on Natural Resources, Energy and Commerce, and Public Works and Transportation.

H.R. 4962. A bill to amend the Federal Water Pollution Control Act relating to the Coeur d'Alene Basin Management Conference; jointly, to the Committees on Public Works and Transportation, Natural Resources, Merchant Marine and Fisheries, and Energy and Commerce.

By Ms. MARGOLIES-MEZVINSKY:

H.R. 4963. A bill to clarify that the expenses of administering the Old Age, Survivors, and Disability Insurance Programs are not included in the budget of the U.S. Government, and for other purposes; jointly, to the Committees on Ways and Means, Government Operations, and Rules.

By Mr. MENENDEZ (for himself, Mr. FROST, Mr. FOGLIETTA, Mr. HASTINGS, Mrs. MEEK of Florida, Mr. EHLERS, Ms. KAPTUR, Mr. DE LUGO, Mr. FARR, Mr. ENGEL, and Ms. WOOLSEY):

H.R. 4964. A bill to provide grants for demonstration projects to coordinate the administration of services to needy families with children; jointly, to the Committees on Ways and Means, Agriculture, Education and Labor, Energy and Commerce, and Banking, Finance and Urban Affairs.

By Mr. OWENS:

H.R. 4965. A bill to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that the fans will be able to enjoy the remainder of the baseball season, the playoffs, and the World Series; to the Committee on the Judiciary.

By Mr. FRANKS of New Jersey (for himself, Mr. MEEHAN, Mr. GALLO, Mr. QUINN, Mr. OLVER, Mr. ACKERMAN, Mr. LIPINSKI, Mr. HINCHEY, Mr. TORKILDSEN, Mrs. KENNELLY, Mr. MCNULTY, Mr. BLUTE, Mr. MACHTLEY, Mr. REED, Mr. EVANS, Mr. KLINK, Mr. KASICH, Mr. FINGERHUT, Mrs. JOHNSON of Connecticut, Mr. SWETT, and Mr. COYNE):

H.J. Res. 402. Joint resolution to designate the week beginning March 12, 1995, as "National Manufacturing Week"; to the Committee on Post Office and Civil Service.

By Mr. RAHALL (for himself, Mr. DINGELL, Mr. DEFAZIO, Ms. KAPTUR, Mrs. BYRNE, Mr. MICHEL, Ms. DANNER, Mr. HOKE, Mr. KILDEE, Mr. FINGERHUT, Mr. COX, Ms. MCKINNEY, and Mr. KNOLLENBERG):

H. Con. Res. 282. Concurrent resolution expressing the sense of the Congress concerning the ban on the use of United States passports in Lebanon; to the Committee on Foreign Affairs.

By Mr. GIBBONS:

H. Res. 518. Resolution returning to the Senate the Senate amendments to the bill H.R. 4554; considered and agreed to.

By Mr. DORNAN (for himself, Mr. DOOLITTLE, Mr. SMITH of New Jersey, Mr. GINGRICH, Mr. CALVERT, Mr. HYDE, Mr. DELAY, Mr. ARMEY, Mr. MCCOLLUM, Mr. BARTLETT of Maryland, Mr. GOSS, Mr. PACKARD, Mr. CRANE, Mr. FIELDS of Texas, Mr. BALLENGER, Mr. KIM, Mr. BURTON of Indiana, Mr. SOLOMON, Mr. BUNNING, Mr. STEARNS, Mr. GOODLATTE, Mr. STUMP, Mr. LIVINGSTON, Mr. DUNCAN, Mr. MCKEON, Mr. TALENT, Mr. ROYCE, Mr. HANSEN, and Mr. SUNDQUIST):

H. Res. 519. Resolution expressing the sense of the House of Representatives regarding religious intolerance; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

458. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the Main San Gabriel Groundwater Basin; to the Committee on Natural Resources.

459. Also, memorial of the Legislature of the State of California, relative to COBRA benefits; jointly, to the Committees on Energy and Commerce, Ways and Means, and Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 127: Mr. GEJDENSON, Mr. PASTOR, Mr. FORD of Michigan, Mr. SABO, Mr. GALLEGLY, Mr. YATES, and Mr. DIXON.

H.R. 193: Mr. BONILLA, Mr. BUYER, Mr. CHAPMAN, Mr. COLLINS of Georgia, Mr. DICKEY, Ms. DUNN, Mr. EHLERS, Mr. GINGRICH, Mr. GOODLING, Mr. GUNDERSON, Mr. HALL of Texas, Mr. HOEKSTRA, Mr. INGLIS of South Carolina, Mr. ISTOOK, Mr. SAM JOHNSON, Mr. KASICH, Mr. MCCOLLUM, Mr. MCKEON, Mr. SCHIFF, Mr. SHAYS, Mr. SHUSTER, Mr. STENHOLM, Mr. TAYLOR of North Carolina, Mr. THOMAS of California, Mr. VOLKMER, Mr. HOKE, Mr. HOUGHTON, Mr. SCHAEFER, Mr. TALENT, and Mr. ZELIFF.

H.R. 291: Mr. BURTON of Indiana, Mr. JOHNSON of Georgia, and Mr. GINGRICH.

H.R. 326: Mr. WASHINGTON, Ms. WATERS, and Mr. EDWARDS of California.

H.R. 654: Mr. MATSUI and Mr. EHLERS.

H.R. 1172: Mr. EVANS.

H.R. 1737: Mr. WAXMAN.

H.R. 2019: Mr. BROWN of California.

H.R. 2043: Mr. MARTINEZ.

H.R. 2059: Mr. DOOLITTLE.

H.R. 2424: Mr. BROWN of Ohio.

H.R. 3062: Mr. DOOLITTLE.

H.R. 3064: Mr. MINGE and Mr. PACKARD.

H.R. 3251: Mr. SHAYS and Mr. ZELIFF.

H.R. 3407: Mr. TORKILDSEN.

H.R. 3705: Mr. BAESLER and Mrs. UNSOELD.

H.R. 3990: Ms. MARGOLIES-MEZVINSKY.

H.R. 4051: Mr. MEEHAN.

H.R. 4056: Mr. SARPALIUS, Mr. BACHUS of Alabama, and Mr. LEVIN.

H.R. 4095: Mr. HAYES.

H.R. 4118: Mr. HALL of Texas.

H.R. 4316: Mr. HINCHEY.

H.R. 4345: Mr. SANTORUM.

H.R. 4412: Mr. HAYES.

H.R. 4413: Mr. SKELTON.

H.R. 4474: Mr. ANDREWS of New Jersey, Mr. HOLDEN, Mr. COX, Mr. RAMSTAD, and Mr. TALENT.

H.R. 4477: Mr. HAYES, Mr. MAZZOLI, Mr. JACOBS, Mr. BLUTE, Mr. SMITH of Oregon, Mr. CLAY, Mr. DARDEN, Mrs. LLOYD, Mr. UNDERWOOD, Mr. MURPHY, Mr. CLEMENT, Mr. ROTH, Mr. HUTCHINSON, Mr. MORAN, and Mr. BAKER of Louisiana.

H.R. 4610: Mr. EVANS, Mr. PARKER, Mr. BOUCHER, Mr. DICKEY, Mr. CRAMER, AND MR. BACHUS of Alabama.

H.R. 4702: Mr. MORAN, Mrs. MORELLA, and Mrs. ROUKEMA.

H.R. 4708: Mr. FOGLIETTA.

H.R. 4791: Mr. FRANKS of New Jersey, Mr. PACKARD, and Mr. FIELDS of Texas.

H.R. 4826: Mr. KINGSTON, Mr. EMERSON, Mr. HANSEN, Mr. KOLBE, and Mr. LEVY.

H.R. 4828: Mr. BARRETT of Wisconsin, Mr. BLUTE, Ms. LOWEY, Mr. DEUTSCH, Mr. FRANK of Massachusetts, Ms. SCHENK, and Mr. THORNTON.

H.R. 4831: Mr. GINGRICH.

H.R. 4841: Mr. OLVER and Mr. YATES.

H.J. Res. 365: Mr. CONYERS, Mr. BLILEY, and Mr. GENE GREEN of Texas.

H.J. Res. 369: Mr. HEFNER, Mr. GORDON, and Mr. HOBSON.

H.J. Res. 385: Mr. LANTOS, Ms. DELAURO, and Mr. SMITH of Oregon.

H.J. Res. 397: Mr. DE LUGO, Mr. DIAZ-BALART, Mr. ORTIZ, Ms. VELÁZQUEZ, Mr. RICHARDSON, Mr. LAFALCE, Mr. ROMERO-BARCELO, Ms. ROYBAL-ALLARD, Mr. NEAL of Massachusetts, Mr. FAZIO, Mr. SERRANO, Mr. KOPETSKI, Mr. LIPINSKI, Mr. SARPALIUS, Mr. FILNER, Mr. BERMAN, Mrs. MINK of Hawaii, Mr. DE LA GARZA, and Mr. MCDERMOTT.

H. Con. Res. 249: Mr. GILMAN, Mr. HASTINGS, Mr. JOHNSON of South Dakota, Mr. PRICE of North Carolina, Mr. GUNDERSON, Mr. PORTER, Mr. ROSE, Ms. FURSE, Mr. MACHTLEY, and Mr. LIPINSKI.

H. Con. Res. 254: Mr. WAXMAN.

H. Con. Res. 274: Mr. TOWNS and Mr. DINGELL.

H. Con. Res. 276: Mr. JOHNSON of South Dakota, Mr. WALKER, Mr. MEEHAN, Mrs. JOHNSON of Connecticut, Mrs. MINK of Hawaii, Mr. FIELDS of Texas, Mr. PRICE of North Carolina, Mr. BEILENSON, Mr. LAROCCO, Mr. LIGHTFOOT, Mr. MCHUGH, Mrs. ROUKEMA, Mr. BEREUTER, Mr. CAMP, Mr. KLECZKA, Mr. KILDEE, Mr. WALSH, Mr. WAXMAN, Mr. MINGE, Mr. VISCLOSKY, Mr. COSTELLO, Mr. LEACH, Mrs. LLOYD, Ms. PELOSI, Ms. FURSE, Mr. STENHOLM, Ms. WOOLSEY, Mr. LEVY, Mr. BROWN of California, and Mr. SCHUMER.

H. Res. 424: Mr. HUTTO and Mr. LIPINSKI.

H. Res. 473: Mr. BARRETT of Wisconsin.

VOL 140 PT 16 AG 12 — 18 1994 UMI

DISCHARGE PETITIONS—
ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 22 by Mr. TRAFICANT on H.R. 3261: Andrew Jacobs, Jr.

Petition 22 by Mr. INHOFE on House Resolution 409: Bob Stump.

Petition 23 by Mr. TAUZIN on H.R. 3875: Chet Edwards.

Petition 25 by Mr. CONDIT on House Resolution 489: Ernest J. Istook, Jr., Richard K. Armey, Jack Quinn, Howard Coble, Karen L. Thurman, Thomas E. Petri, Richard H. Baker, Tim Valentine, David Minge, Bill Barrett, James T. Walsh, Dean A. Gallo, James C. Greenwood, Thomas J. Billey, Jr., Jerry Lewis, Bill McCollum, C.W. Bill Young, James A. Leach, Peter T. King, Nick Smith, John Linder, William F. Goodling, Edward R. Royce, Jim McCrery, Floyd Spence, Dave Camp, Jack Fields, Rick Lazio, Curt Weldon, Jim Saxton, Robert K. Dornan, Newt Gingrich, and Helen Delich Bentley.

Petition 26 by Mrs. FOWLER on House Resolution 472: Bob Goodlatte, Hamilton Fish, Jr., Jim McCrery, Peter G. Torkildsen, Craig Thomas, Michael D. Crapo, Roscoe G. Bartlett, Curt Weldon, John L. Mica, Joe Knollenberg, Dana Rohrabacher, Stephen E. Buyer, Thomas W. Ewing, Dan Schaefer, Cass Ballenger, Arthur Ravenel, Jr., John Boehner, Thomas J. Billey, Jr., Jim Kolbe, Jim Saxton, and Vernon J. Ehlers.

SENATE—*Friday, August 12, 1994*

(Legislative day of Thursday, August 11, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights * * * to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed * * *.*—Declaration of Independence.

Gracious, loving, patient God, this is our legacy in 1994—a political system grounded on faith in a Creator-God from whom comes human equality and liberty.

President Lincoln called the Nation to a day of prayer and fasting with these words: "We have grown in numbers, wealth and power as no other nation has ever grown. But we have forgotten God * * * we have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us! It behooves us, then, to humble ourselves * * * to confess our national sins, and to pray for clemency and forgiveness."

Gracious God, give us ears to hear, minds to accept, and wills to obey.

In the name of Him who gave His life for sinners. Amen.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The PRESIDENT pro tempore. Under the order previously entered, the Senate will proceed to the consideration of S. 2082, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2082) to authorize appropriations for fiscal year 1995, for the intelligence activities of the U.S. Government and for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services, with amendments, as follows:

[The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.]

S. 2082

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1995".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the conduct of the intelligence activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The National Reconnaissance Office.
(6) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(7) The Department of State.
(8) The Department of the Treasury.
(9) The Department of Energy.
(10) The Federal Bureau of Investigation.
(11) The Central Imagery Office.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1995, for the conduct of intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany S. 2082 of the One Hundred Third Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations described in subsection (a) shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch of Government.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—The Director of Central Intelligence may authorize the employment of civilian personnel in excess of the number of such personnel authorized for employment for fiscal year 1995 under section 102 of this Act, if the Director determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by subsection (a).

(c) INTELLIGENCE COMMUNITY DEFINED.—As used in subsection (a), the term "intelligence community" has the same meaning given to that term by section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)).

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1995 the sum of $106,300,000. Of the amounts made available under this subsection, funds made available for the Advanced Research and Development Committee and the Environmental Task Force are authorized to remain available until September 30, 1996.

(b) AUTHORIZED PERSONNEL LEVELS.—The Community Management Account of the Director of Central Intelligence is authorized 221 full-time personnel as of September 30, 1995. Such personnel of the Community Management Account may be permanent employees of the Community Management Account or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1995, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Community Management Account staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than 1 year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1995 the sum of $198,000,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

In addition to amounts authorized to be appropriated by this Act for the salary, pay, retirement, and other benefits of Federal employees, there are authorized to be appropriated such additional or supplemental amounts as may be necessary to cover increases in those benefits authorized by law for fiscal year 1995.

SEC. 302. RESTRICTION ON THE CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorizations of appropriations contained in this Act do not constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution of the United States or by the laws of the United States.

SEC. 303. REPEAL OF RESTRICTION ON INTELLIGENCE COOPERATION WITH SOUTH AFRICA.

Section 107 of the Intelligence Authorization Act for Fiscal Year 1987 (Public Law 99–569) is repealed.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL 140 PT 16 AG 12 — 18 1994 UMI

SEC. 304. REPORT REGARDING MANDATORY RETIREMENT FOR EXPIRATION OF TIME IN CLASS.

(a) REPORT REQUIRED.—Not later than December 1, 1994, the Director of Central Intelligence shall submit to the *congressional defense and* intelligence committees [of Congress] a report setting forth a legislative proposal, coordinated as appropriate with elements of the intelligence community, which would provide for mandatory retirement for expiration of time in class, comparable to the applicable provisions of section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007), for all civilian employees of the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, and the intelligence elements of the Army, Navy, Air Force, and Marine Corps. *The report shall include an assessment of the advisability and feasibility of instituting such a mandatory retirement policy, and of alternative means to achieve the objectives of a mandatory retirement policy. The report shall also include an assessment from the Secretary of Defense of the impact of a mandatory retirement policy for intelligence community civilian employees on all other Department of Defense civilian employees.*

(b) DEFINITIONS.—For purposes of this section—

(1) the term ["intelligence committees of Congress"] *"congressional defense and intelligence committees"* means *the Committees on Armed Services of the Senate and House of Representatives, the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives,* the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the term "intelligence community" has the same meaning given to that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)).

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. AMENDMENT OF SECTION 4(a) OF THE CIA ACT OF 1949.

Section 4(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403e(a)) is amended in subparagraphs (A) and (C) of paragraph (5), by striking "not the result of vicious habits, intemperance, or misconduct on his part," each place it appears.

SEC. 402. GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) POSITION ESTABLISHED.—The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following new section:

"GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY

"SEC. 20. (a) There is a General Counsel of the Central Intelligence Agency appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The General Counsel of the Central Intelligence Agency is the chief legal officer of the Central Intelligence Agency.

"(c) The General Counsel of the Central Intelligence Agency shall perform such functions as the Director of Central Intelligence may prescribe.".

(b) PAY FOR POSITION.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel of the Central Intelligence Agency.".

TITLE V—DEPARTMENT OF DEFENSE

SEC. 501. CENTRAL IMAGERY OFFICE.

(a) AMENDMENTS OF THE NATIONAL SECURITY ACT OF 1947.—(1) Section 105(b)(2) of the National Security Act of 1947 (50 U.S.C. 403-5(b)(2)) is amended by striking "a central imagery authority" and inserting in lieu thereof "the Central Imagery Office".

(2) Section 106(b) of such Act (50 U.S.C. 403-6(b)) is amended—

(A) in the subsection caption, by striking out "CENTRAL IMAGERY AUTHORITY" and inserting in lieu thereof "CENTRAL IMAGERY OFFICE"; and

(B) by striking out "Central Imagery Authority" and inserting in lieu thereof "Central Imagery Office".

(b) CIVILIAN PERSONNEL MANAGEMENT FOR THE CENTRAL IMAGERY OFFICE.—(1) Subject to paragraph (2), the Secretary of Defense may exercise the authorities set forth in sections 1601 and 1604 of title 10, United States Code, pertaining to civilian officers and employees in the Defense Intelligence Agency, with respect to civilian officers and employees of the Central Imagery Office.

(2)(A) Civilian personnel administrative support for officers and employees of the Central Imagery Office shall remain a responsibility of the Defense Intelligence Agency.

(B) The authority provided in section 1604(e)(1) of title 10, United States Code, may, with respect to civilian officers and employees of the Central Imagery Office, be delegated by the Secretary of Defense only to the Deputy Secretary of Defense.

SEC. 502. PUBLIC AVAILABILITY OF CERTAIN MAPS, CHARTS, AND GEODETIC DATA.

Section 2796(b)(1)(C) of title 10, United States Code is amended by inserting "jeopardize or interfere with ongoing military or intelligence operations, or" after "disclosed,".

SEC. 503. AUTHORITY TO ESTABLISH A NATIONAL PUBLIC INFORMATION CENTER.

Of the funds made available to the Secretary of Defense under this Act, the Secretary is authorized during fiscal year 1995 to expend not more than $3,000,000 to establish a National Public Information Center for the purpose of—

(1) surveying, collecting, storing, distributing, and presenting unclassified information, including information retained by Government agencies as of the date of enactment of this Act;

(2) providing support for training in decision-making, and for professional education in the Department of Defense and the intelligence community (as defined in section 3(4) of the National Security Act of 1947); and

(3) informing more broadly the American public.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. DISCLOSURE OF CONSUMER CREDIT REPORTS FOR COUNTERINTELLIGENCE PURPOSES.

Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(1) by striking "Notwithstanding" and inserting "(a) DISCLOSURE OF CERTAIN IDENTIFYING INFORMATION.—Notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) DISCLOSURES TO THE FBI FOR COUNTERINTELLIGENCE PURPOSES.—

"(1) CONSUMER REPORTS.—Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish a consumer report to the Federal Bureau of Investigation when presented with a written request for a consumer report, signed by the Director of the Federal Bureau of Investigation, or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(A) such records are necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought is a foreign power or an agent of a foreign power, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(2) IDENTIFYING INFORMATION.—Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(A) such information is necessary to the conduct of an authorized counterintelligence investigation; and

"(B) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(3) CONFIDENTIALITY.—No consumer reporting agency or officer, employee, or agent of such consumer reporting agency may disclose to any person, other than those officers, employees, or agents of such agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this subsection, that the Federal Bureau of Investigation has sought or obtained a consumer report or identifying information respecting any consumer under paragraph (1) or (2), nor shall such agency, officer, employee, or agent include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such a consumer report or identifying information.

"(4) PAYMENT OF FEES.—The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing credit reports or identifying information in accordance with procedures established under this title, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this subsection.

"(5) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this subsection outside of the Federal Bureau of Investigation, except to the Department of Justice as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(6) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this subsection shall be construed to authorize or permit the withholding or information from Congress.

"(7) REPORTS TO CONGRESS.—On a semi-annual basis, the Attorney General of the United States shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to paragraphs (1) and (2).

"(8) DAMAGES.—Any agency or department of the United States obtaining or disclosing credit reports, records, or information contained therein in violation of this subsection is liable to the consumer to whom such records relate in an amount equal to the sum of—

"(A) $100, without regard to the volume of records involved;

"(B) any actual damages sustained by the consumer as a result of the disclosure;

"(C) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(D) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(9) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this subsection and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(10) GOOD-FAITH EXCEPTION.—Any credit reporting agency or agent or employee thereof making disclosure of credit reports or identifying information pursuant to this subsection in good-faith reliance upon a certificate of the Federal Bureau of Investigation pursuant to provisions of this subsection shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(11) LIMITATION OF REMEDIES.—The remedies and sanctions set forth in this subsection shall be the only judicial remedies and sanctions for violation of this subsection.

"(12) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this subsection, injunctive relief shall be available to require compliance with the procedures of this subsection. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

The PRESIDENT pro tempore. Under the previous order, the committee amendments will be agreed to en bloc.

The committee amendments were agreed to en bloc.

The PRESIDENT pro tempore. Under the previous order, there is a 60-minute time limitation on debate on the bill, with up to 20 minutes of that time for opening statements of the managers. Certain amendments as stated on page 2 of today's Calendar of Business are the only amendments that will be in order. They will be considered under the time limits specified.

Mr. DECONCINI addressed the Chair.

The PRESIDENT pro tempore. The Senator from Arizona [Mr. DECONCINI].

PRIVILEGE OF THE FLOOR—S. 2082

Mr. DECONCINI. Mr. President, I ask unanimous consent Joe Sanchez be permitted the privilege of the floor during the course of S. 2082.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I am pleased to join with my distinguished colleague and vice chairman of the Select Committee on Intelligence, Senator WARNER, is presenting to the Senate the intelligence authorization bill for fiscal year 1995.

Senator WARNER and I came to the leadership positions on this committee at the beginning of this Congress, and we will both relinquish our positions at the end of this Congress. I am leaving the Senate, of course, and Senator WARNER's 8-year term on the committee will expire. Although our tenure in these positions has been relatively limited, the last 2 years have been active and, I believe, productive years for the committee. A great deal of the credit for this goes to the senior Senator from Virginia. We have worked well together in addressing what is a complex and often problematic area: the activities of U.S. intelligence agencies.

Senator WARNER has been a partner and we have supported each other, compromised, and found what we felt was the best interests for the intelligence community in the oversight responsibilities of our committee.

This has been and continues to be a difficult period for the intelligence community whose role continues to evolve and whose capabilities continue to adjust in the wake of the cold war. Clearly, the world remains an uncertain and dangerous place. Our policymakers face problems that seem more difficult to deal with, more intractable, than those of the cold war period. It is no longer so easy to predict where U.S. military forces will be deployed round the world or to predict the nature of the threat they can expect to face. Few would argue, in the face of such uncertainty, that we can afford to eliminate our capacity to gather information when such information might mean the difference between life and death of our military service men and women, or mean we take the wrong diplomatic path on a matter of crucial importance to our security.

At the same time, I think most would agree there is room to scale back an intelligence community which over a period of years has grown to considerable proportions largely to deal with the threat to United States security posed by the Soviet Union and its Warsaw Pact allies.

I think the Senate should appreciate the degree to which the intelligence community has been scaled back. This will, in fact, be the fifth consecutive year that the President's budget request for the National Foreign Intelligence Program will be cut by the Congress. Overall, the authorization recommended by the committee for fiscal year 1995 is over 13 percent less than the 1990 appropriation for national intelligence in real terms—fiscal year 1995 dollars since 1990. More importantly, we are recommending cuts to terminate, rather than just scale back, some programs and activities which have significant out-year costs; so, in these cases, a dollar saved in fiscal year 1995 means additional savings in future years.

There have been even greater reductions in personnel. In 1992, Congress mandated an across-the-board cut of 17.5 percent in civilian personnel to be achieved by fiscal year 1997. These reductions are well on track. Indeed, recent administration decisions will extend the downsizing to achieve reductions of at least 22.5 percent by the end of the decade. Personnel costs represents a significant proportion of the overall budget, and therefore we cannot bring the budget under control without bringing the number of intelligence employees down as well.

While the level of funding recommended by the committee for fiscal year 1995 remains classified pursuant to executive branch policy, suffice it to say we are recommending a reduction of almost $300 million to the administration request for national intelligence activities. The administration's request itself represented a slight reduction over the amount appropriated for the previous fiscal year when adjusted for inflation.

Thus, Mr. President, we are recommending a budget somewhat below last year's appropriated level. It is not a deep cut but it is a cut nonetheless. We have reduced in places we can and have added funding in a few places where we think it is needed. The bottom line is that we believe this level of funding will preserve a substantial, flexible, and forward-looking intelligence capability adequate to support the national security needs of the country during the next fiscal year.

Mr. President, I must say to my colleagues that while I do not see the justification for increases in intelligence in the near term, it is becoming increasingly difficult to find places to cut, particularly given the current assumptions and philosophical underpinnings that form the basis for program and budget decisions by the executive branch in this area.

This is one of the principal factors which prompted me to support the creation of the new Commission on Intelligence, which we will propose as an

VOL 140 PT 16 AG 12 — 18 1994 UMI

amendment to this bill. Senator WARNER conceived of this and believed it was the right thing to do earlier than I did, I must admit. And I have been convinced by his leadership that, indeed, we should have such a commission.

I think the time has come for the role of the intelligence agencies to be reevaluated. I think the time has come for the assumptions which underlie the resourcing of intelligence to be reexamined. A new consensus needs to be developed.

The executive branch could do this if it wanted. The oversight committees of the Congress could do this if they wanted. But I believe that a review conducted by either branch would not have the credibility with the other or, for that matter, with the American people.

What is needed, in my view, is a hardheaded, objective review of the fundamentals by a group of outsiders, by smart people, respected people who have no vested interest in preserving the status quo and no ax to grind. If Senator WARNER and I can leave the committee having set this in motion, I believe we will have left a very valuable legacy.

Mr. President, before giving the floor to our distinguished vice chairman, let me briefly summarize the key provisions in this bill.

Principally, of course, the bill authorizes appropriations for fiscal year 1995 for: First, the intelligence activities of the U.S. Government; second, the Central Intelligence Agency Retirement and Disability System; and third, the community management account of the Director of Central Intelligence. It also authorizes the personnel ceilings as of September 30, 1995, for the intelligence activities of the United States and for the community management account of the Director of Central Intelligence. The funding and personnel levels which are authorized for intelligence activities are contained in a classified schedule of authorizations that are given the force of law by the bill itself.

The bill also would repeal the limitation regarding intelligence cooperation with South Africa contained in section 107 of the Intelligence Authorization Act for fiscal year 1987. Motivated by a concern that the intelligence services of South Africa were playing an instrumental role in preserving the apartheid system against internal opposition forces, in 1986 Congress prohibited the United States intelligence agencies from engaging in any form of cooperation with the Government of South Africa "except activities which are reasonably designed to facilitate the collection of necessary intelligence."

With the advent of majority rule in South Africa, the committee believes it appropriate to repeal the longstanding statutory limitation on intelligence cooperation. Indeed, it is in the interests of the United States to have the flexibility to cooperate as may be appropriate with the newly elected South African Government to foster the development of democratic institutions and processes. U.S. intelligence may be able to contribute. We can provide assistance to the intelligence and security services which emerge under the newly elected South African Government to establish internal management and administrative systems. We can help these agencies improve accountability and oversight, and, as may be applicable, to adapt to any legislative oversight that may be established.

The bill also contains a provision requiring appointment by the President, with the advice and consent of the Senate, of the General Counsel of the Central Intelligence Agency. The committee believes that the position of CIA General Counsel warrants Senate confirmation. Not only would this requirement provide greater assurance that the position would not be politicized, it would improve the stature and importance of the office within the Agency itself.

The bill also contains a provision to permit the Secretary of Defense to provide civilian personnel management for the Central Imagery Office consistent with existing authority for the Defense Intelligence Agency subject to certain conditions.

I will address the Aldrich Ames espionage case and the legislative steps the committee has approved to address CIA-FBI counterintelligence problems after the statement of my good friend and vice chairman of the committee, Senator WARNER.

Mr. WARNER addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Virginia [Mr. WARNER] is recognized.

Mr. WARNER. Mr. President, I express my appreciation to my distinguished friend and partner, Senator DECONCINI. We have worked together as full partners. In some areas, we have had disagreements, but we have always been able to reconcile what we thought was in the best interest of our country and that of the Senate. I hope as the record of the achievements of this committee during the 2-year period under his stewardship are examined, from a historical perspective, that they will reflect credit on this Senator as he departs his career in the U.S. Senate.

I am pleased to join our distinguished chairman in recommending approval of S. 2082, the intelligence authorization bill for the fiscal year 1995. While I would have preferred, and indeed I supported at various times, a higher funding level for intelligence activities, I nevertheless believe this bill is an outstanding step forward in our Nation's intelligence capabilities.

Although it contains a reduction of approximately $300 million from the administration's request, which I supported, it does provide funding in excess of the budget request in four very critical areas:

First, intelligence support to U.S. military operations. Ever since our performance in the gulf region, we have been conscious of the need to increase the ability to get real-time intelligence to our troops in forward deployed areas. General Schwarzkopf, I think, made a lasting contribution in this area when he came back from that war and debriefed the Senate and the House on the need to have increased support for our military operations, and we have made an advancement in that area.

Second, activities to reduce the critical problem of the proliferation of weapons of mass destruction. This is a subject on which I and many other Members of this body have spoken very often and, indeed, the Presiding Officer, who is a member of the Senate Armed Services Committee, has addressed the subject of proliferation of weapons of mass destruction.

There is no threat to our Nation or any other nation in this world of any greater magnitude than the proliferation of chemical, biological and, indeed, weapons with fissionable material. I am glad that we made advances in that area.

Third, efforts to improve our counterintelligence capability. I anticipate a very lively and constructive debate on this bill today with regard to a piece of legislation that has been very carefully considered by our committee and, indeed, by a number of Senators not on our committee. The regrettable incidence of the Ames case brought to our attention the need to make legislative—and I emphasize legislative—improvements in this area. For many years, the executive branch—and, indeed, it extends over a number of Presidencies—have tried to deal with these issues by Executive order and other regulatory procedures. It simply, Mr. President, has not worked effectively, and we saw that in the crisis that occurred as a result of the Ames case.

Fourth, the advanced R&D initiatives which will keep our intelligence capabilities on the cutting edge. This Nation is recognized the world over as a superpower and much of that is dependent upon our ability to maintain a strong research and development base to place our Nation in the very forefront of technology across a wide range of subjects. And, indeed, this week we saw quite a controversy over a certain building. We may have occasion to address that later. But there was no dispute throughout that controversy of the essential work that is being performed by the persons who will hopefully soon enter that complex of buildings and continue their efforts to keep the United States on the cutting edge of technology.

At this point, however, I would like to sound a note of caution concerning any further reductions to the intelligence budget. I believe that we are dangerously close to compromising the ability of our U.S. intelligence community to perform its many obligations.

The overall level of intelligence spending has been declining in real terms for each of the last 5 years. In fact, the budget submitted this year by the administration contained a real reduction of approximately 2 percent from last year's appropriated level. Our committee further reduced that request.

Overall funding for the intelligence community has shrunk by over 13 percent in real terms since 1989. Personnel cuts have been even more dramatic. Between 1991 and the year 2001, it is projected that we will achieve a force reduction of 25 percent if we continue as now planned. I personally, just speaking for myself, am not confident that that is the right direction to go. Nevertheless, that is the course we are on under the current administration's plan.

If achieved, one-quarter of the positions that existed as of 1991, in the intelligence community, will be eliminated in this decade. These reductions are taking place against a backdrop of increased conflict around the world and ever-increasing reductions in the U.S. defense budget. At such a time, our need for intelligence could well be even greater, and I say that because of the historical record of how intelligence performs as a force multiplier in terms of our military structure.

It is elementary, Mr. President. Take a battalion of fighting men and women on the front. To the extent that they have intelligence superior to the adversary they face, the fewer we will need to engage that adversary, or the fewer assets we would need to repel that adversary.

So intelligence does serve as a force multiplier and, indeed, it serves to protect, to afford a greater measure of protection to our forward deployed fighting forces.

Overall funding for the intelligence community has shrunk, as I say, by 13 percent in real terms since 1989. I question whether or not we should remain on this course, but nevertheless we have this budget this year. It has been thoroughly reviewed by our committee, and we are here today to proceed on the bill.

These reductions are taking place, Mr. President, against a backdrop of increased conflict around the world and ever-increasing reductions in our U.S. defense budget. Several weeks ago, the Intelligence Committee received testimony from the Defense Intelligence Agency which revealed that there are currently 64 trouble spots or, in their terminology, "hot spots," worldwide, geographic areas in which there is killing taking place, where there is open and active combat.

It is interesting to compare this level of 64 today to that of, say, maybe 7 or 8 years ago when the DIA computed that there were less than half that number of trouble spots in the world.

That indicates the level of difficulty that we face in terms of our leadership role as a nation, and our responsibility as a legislative branch to give adequate support to the men and women of the Armed Forces, who, from time to time, are called upon to engage in the cause of freedom in these hot spots around the world.

Such a world presents the intelligence community with new, diverse and complex challenges. Instead of the overwhelming focus we had for so many years on the Soviet Union and the Warsaw Pact, the intelligence community is now called upon to provide expertise and information on trouble spots around the globe. Maintaining a viable intelligence capability in a rapidly changing world is not easy. It is not inexpensive.

Some have argued that the intelligence budget should be subject to reductions proportionate to those taken in the overall defense budget. I disagree. Again, I point out historically that intelligence has served as a force multiplier of our military capability. Intelligence provides the U.S. military and U.S. policymakers with a critical edge over our potential adversaries. I ask my colleagues to consider how many lives were saved, for example, during World War II, due to the fact that the United States and Great Britain were able to crack the codes of both the German and the Japanese forces. More recently, United States intelligence played a critical role in helping United States and allied forces defeat Iraq with a minimum of losses to our side compared to those experienced by the enemy.

The idea that intelligence is a force multiplier that should be protected in a period of declining budgets is certainly not a new one. It is proven historically. Let me make another historical reference. In 1947, as the U.S. military was drawing down in the aftermath of World War II, Adm. Chester Nimitz wrote the following:

> It is my desire to preserve, to the maximum practicable extent, the Directorate of Naval Communication organization and strength and, if possible, to get them more help. The greater the contraction of the Navy, the more important our DNC and communication intelligence become.

That was his view of intelligence in 1947, and it is my view of intelligence here in 1994.

Admiral Nimitz believed then, indeed as I do today, that intelligence and communication capabilities are more, not less important during a period of declining military budgets and force structure. I will strongly oppose any efforts to further reduce this intelligence budget.

As the chairman mentioned, we will be offering two important amendments to this authorization bill, and indeed, we have formed our partnership to try to move the cutting edge in this very important area. We made those movements, we drew up this bill, and we submit it to our colleagues today based on many hours of long and careful analysis, not only of the situation today, not only of the situation generated by the Ames case, but historically the problems that have confronted the intelligence agencies of our Government. Likewise, we draw on the very valuable work generated by our predecessors in the leadership on the Intelligence Committee, Senator COHEN and Senator BOREN, and indeed a certain committee under their jurisdiction which provided very valuable insight in this area.

The first is legislation to strengthen the counterintelligence capabilities of the United States. In the wake of the arrest of Aldrich Ames, it became clear that legislative changes were needed to assist the Government in deterring potential spies and in detecting espionage activity when deterrence fails. Since today's turncoat traitors are primarily motivated, indeed, according to their own admissions, largely by the dollar bill, the legislation which the committee adopted focuses on the financial activities of individuals with security clearances in our intelligence system, providing for Government access to financial and travel records. These initiatives draw upon groundwork laid by Senators, as I said, BOREN and COHEN, the former chairman and vice chairman of our committee.

Now, at the heart of this initiative is a recognition that in going into the financial background of those who have volunteered —and every one of them is a volunteer—to take on these tasks in special areas of the highest secrecy in our Government, we will have the ability to probe into their personal affairs, particularly their financial affairs. And it is my hope they understand we do this to protect them and to protect their work, and it is essential in terms of our national security that they yield some measure of their own personal privacy to achieve a balanced ability by this country to protect ourselves from spies within our own ranks.

We believe that this legislation is a necessary step forward in our efforts to prevent the disclosure of sensitive information critical to our national security. We must do all we can to stop future turncoats in our country from betraying our national secrets.

The second amendment which we will be sponsoring is the Warner-Graham-DeConcini bill to establish a Presidential commission to examine the roles and missions of the intelligence community. A post-cold-war bottom-up

VOL 140 PT 16 AG 12 — 18 1994 UMI

review of our intelligence agencies is long overdue. In fact, the review which we are calling for would represent the first time since the passage of the National Security Act of 1947—that piece of legislation which created the Central Intelligence Agency—that any Presidential commission will have examined overall the CIA and the other entities associated with it.

I am most appreciative of the important contributions made to this legislation, an idea that I came up with with both Senators GRAHAM and DECONCINI.

I should like to thank the chairman for the cooperative spirit with which we conduct the committee's work, especially the budget deliberations.

As with any piece of legislation, the bill before us today does not contain everything that the chairman or I might desire. Rather, it is the result of extensive deliberations and, indeed, a measure of compromise. The committee has produced a very balanced and appropriate set of recommendations, and I commend our chairman for his effective leadership. Also, I express my thanks now to the very dedicated staff that we have on the Senate Intelligence Committee.

AMENDMENT NO. 2553

Mr. DECONCINI. Mr. President, I now send to the desk under the previous order a managers' amendment offered by Senator WARNER and myself and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself and Mr. WARNER, proposes an amendment numbered 2553.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DECONCINI. Mr. President, the committee amendment that Senator WARNER and I now offer would insert, with one modification which I will explain momentarily, the text of S. 2056—which was reported by the committee on June 30—as a new title of the authorization bill. In our view, this amendment is significant legislation which would vastly improve the ability of the Government to detect and prosecute espionage.

It is, quite simply, what needs to be done in the wake of the Ames case.

We all recognize that no law will stop a person bent on betraying his or her country from finding a way to do so. But there are things we can do to make a person think twice about it, that increase the odds they will be detected and successfully prosecuted. That is the objective of this amendment.

It is a moderate proposal, which carefully balances the Government's needs against the civil liberties of our citizens. Indeed, there were a number of proposals suggested to the committee which were not accepted because of civil liberties concerns. At the same time, this amendment is focused on those gaps in the system where experience has shown there are problems.

This legislation was originally introduced by Senator WARNER and myself at the request of the administration. With the exception of one provision which I will address in a moment, the administration fully supports it. The Intelligence Committee reported the bill by a vote of 15 to 2, and the two Senators who voted not to report the bill did so on the basis of the administration's reservations about the one section I alluded to. In short, the amendment has widespread, bipartisan support.

Before summarizing the provisions of the amendment as a whole, let me say a few words about section 3, regarding the coordination of counterintelligence activities, which the administration has not endorsed and which is the section we have modified somewhat since S. 2056 was reported.

The language at issue in this section requires the heads of departments and agencies within the executive branch to notify the Federal Bureau of Investigation immediately when they have information which indicates that classified information is being, or may have been deliberately disclosed to a foreign power or an agent of a foreign power; and then to consult with the FBI with respect to appropriate follow-up actions. The language goes on to say that once the FBI undertakes an investigation, it shall be given complete and timely access to the records and employees of the agency concerned.

The purpose of this language is to ensure that departments and agencies do not take administrative actions on their own initiative which interfere with or preclude possible criminal prosecution, and to ensure that once a criminal investigation has been opened, the FBI receives complete and timely cooperation.

This is not to say that a criminal investigation by the FBI will always be warranted by these circumstances or that it will not be outweighed by other U.S. interests. The point of this language is only to ensure that all of these interests get sorted out by the agencies concerned without one department or agency unilaterally taking actions that delay or prejudice a possible criminal investigation.

My colleagues may well assume that what this language contemplates is already standard operating procedure. That is certainly what I thought.

But I regret to say, Mr. President, that this is not the way the system has operated. The Select Committee on Intelligence has now held several hearings on this subject. Our staff has been briefed on 36 cases over the last 10 years where coordination has been a problem. We have found there are cases where the failure to bring the FBI in a timely way has delayed, and sometimes even precluded, a criminal prosecution. We have found cases where the failure to provide the FBI with access to records and personnel in a timely manner has delayed bringing culprits to justice. We also found cases where the performance of the FBI, in coordinating its investigative activities with affected departments and agencies, has itself been deficient.

In this regard, the bill as modified imposes reciprocal obligations upon the Federal Bureau of Investigation to work closely with other departments and agencies on counterintelligence matters.

Mr. President, the American people have a right to expect that departments and agencies will work cooperatively with the FBI on matters of national security. They have a right to expect that bureaucratic pettiness and turf fights will not impede or preclude bringing a spy to justice.

The administration has taken the position that this legislation is unnecessary. It points to a new Presidential directive which creates a bureaucratic structure to ensure timely and thorough coordination of counterintelligence activities and asks us to give it time to work. I would like to believe that creating new interagency committees and assigning an FBI agent to the CIA are going to take care of this problem.

But, Mr. President, if past experience is any indication, this is not going to solve the problem.

As a matter of fact, over 10 of them over the last 25 or 30 years. We have had memoranda of understanding, some quite explicit, arising out of incidents where espionage cases have had great publicity, and we have had bureaucratic structures. Yet, the problem persists. The Ames case is the best example today where there was in fact the 1988 memorandum of understanding, that now most recently has been declassified, which specifically directed the agency, in the case the CIA, to turn over all information at any time that they had a suspicion that any of their employees might be giving information to someone of another foreign government. Yet, Mr. Ames operated from 1985 until 1993. It was not until 1993, actually in 1991, when finally a task force was joined together between the FBI and the CIA, but even then the FBI did not have all of the information which the CIA had.

So there has to be a better way. And memoranda of understanding, even though they can be explicit, in bureaucratic structures have not worked, and we have to take a more aggressive position.

There is not one word in what we propose that is inconsistent with what the administration says are its objectives. Rather, this language complements and strengthens the bureaucratic structure established by the administration.

I might add that in the unlikely event there might be a situation where a serious counterintelligence matter could not be notified to the FBI, the bill would permit the President to authorize a waiver of the requirement so long as the oversight committees were advised within 30 days that there had been such a waiver—not what the facts or the circumstances were, just that the waiver had been exercised—and when national considerations permitted, were advised of the reason which prompted such a waiver by the President.

So we took into consideration the administration's caution in infringing on the Executive right to have such confidentiality in counterespionage. The President can do so.

Senator WARNER and I, as well as a solid majority on our committee, have come to believe that legislation is needed here. I remain hopeful that the administration will reach the same conclusion by the time we get to conference.

Now, let me turn to the rest of the amendment and summarize what is in it.

Section 2 requires the President to issue a new Executive order within 180 days setting minimum uniform standards for access to classified information. At present, these standards vary from agency to agency. The bill also provides that the new Executive order shall require written consents from all persons with security clearances permitting authorized investigative agencies to have access to their financial and travel records during the period of their access to classified information and 5 years thereafter in accordance with the criteria established by the bill. The new Executive order also will require reporting of certain financial and travel data by persons in particularly sensitive positions. Both the nature of the reporting and the determination of what positions require such reporting are left to the discretion of the executive branch.

This was brought clearly out in the Ames case, Mr. President, where there was some information that had been derived by investigators within the CIA, never turned over or very lately turned over, to the FBI. And yet, there was not any disclosure that was required by law that brought this to their attention. This would be different.

Section 2 permits authorized investigative agencies to obtain financial and travel records if certain limited criteria are met and such request is certified by at least an assistant secretary level of the department or agency concerned. Private or governmental entities who receive such requests are prohibited from divulging that such a request has been made to others.

I have already described a portion of section 3 on counterintelligence coordination. In addition, this section establishes a national counterintelligence policy board under the National Security Council to develop policy for the President in this area and to resolve disputes between agencies. The board would be chaired by the Attorney General and consist of the Secretary of Defense, Director of Central Intelligence, the Director of the FBI, and the Assistant to the President for National Security Affairs.

Section 4 of the amendment gives the FBI access to consumer credit reports in counterintelligence cases based upon a letter from the FBI Director or Deputy Director certifying that the subject of the request is an agent of a foreign power. Recipients of such requests are prohibited from divulging such requests to the subject or others. Similar legislation passed the Senate last year but was never enacted.

Section 5 of the amendment gives the Attorney General authority to provide rewards up to $500,000 for information leading to espionage arrests, similar to the authority the Attorney General has in the terrorism area.

Section 6 gives Federal courts jurisdiction over espionage where the conduct involved took place outside the United States. This has occasionally been an obstacle in the past.

Section 7 makes the criminal forfeiture provisions for espionage consistent with those provided by law in the drug area. In essence, this provision would allow a court to substitute other property of a defendant in an espionage case where the defendant has deliberately moved the proceeds of his or her espionage activities beyond reach of the court.

Section 8 permits the Attorney General to deny retirement benefits to employees of the U.S. Government convicted of espionage in foreign courts provided the Attorney General certifies that due process was provided and sufficient evidence to prove a violation of U.S. law. There has been at least one case where the United States was compelled to pay retirement benefits in these circumstances.

Section 9 is a particularly significant change to existing law, Mr. President. It would require that physical searches for intelligence purposes be carried out pursuant to a court order, rather than pursuant to the approval of the Attorney General.

It may come as a surprise to many of my colleagues to learn that the executive branch carries out warrantless physical searches within the United States for intelligence purposes. Such searches are not common, but they happen. Indeed, the Attorney General authorized such a search in the course of the Ames investigation.

The Intelligence Committee believes there are compelling reasons to establish statutory procedures for the conduct of physical searches to collect foreign intelligence information similar to those used for electronic surveillance under the Foreign Intelligence Surveillance Act of 1978.

In the absence of legislation, the executive branch will continue conducting physical searches without a judicial warrant based upon the approval of the Attorney General. The committee does not believe this arrangement provides adequate protection for the constitutional rights of U.S. citizens. Searches carried out under a court order would provide such protection. The special court established under the foreign intelligence surveillance act of 1978 is comprised of seven Federal district court judges appointed by the Chief Justice of the United States. The statutory requirements which must be met by the Government before an order approving an electronic surveillance can be issued by this court are detailed and comprehensive. The constitutionality of such orders has been upheld by every Federal court which has considered the issue since 1978.

The constitutionality of warrantless intelligence searches, on the other hand, remains unresolved. There is no authoritative judicial opinion upholding the legality of such searches. Any defendant in an espionage case who is confronted with evidence obtained by an intelligence search can be expected to challenge the legality of such search. Should a court rule against the Government, a successful prosecution could be seriously jeopardized.

Such a ruling would also leave those Federal officers in the Justice Department and FBI who approved and carried out such search potentially liable to civil suits by the defendant for violation of his or her civil rights. The committee is advised that such officers routinely purchase personal liability insurance at their own expense to guard against such contingency.

Thus, from the standpoint of protecting the constitutional rights of Americans, from the standpoint of bringing greater legal certainty to this area, from the standpoint of avoiding problems with future espionage prosecutions, and from the standpoint of protecting Federal officers and employees from potential civil liability, we think the legislation is desirable and necessary.

Finally, Mr. President, section 10 of the amendment provides for a new criminal offense making it a misdemeanor for Government employees knowingly to remove classified materials to an unauthorized location with the intent to retain them at such location. This form of misconduct was evident in the Ames case. In fact, many in

VOL
140
PT
16
AG
12
—
18
1994
UMI

Government believe this to be a widespread practice.

Indeed with an interview I had with Mr. Ames, he indicates there is no security in taking documents in and out of the Central Intelligence Agency. Others have confirmed that as well. There is no inspection of a bag, or a purse, or a briefcase as one walks in or out, and there is no penalty, by law, if you take something outside. There was, under Admiral Turner as the CIA director, a spot check of bags that came in and out with employees of the CIA. There was some resentment, but indeed it made people think that you should not be taking classified information home without authority. And now the law would be clarified.

The unauthorized removal and retention of classified materials at an unsecure location inherently increases the risk that such materials will be disclosed to unauthorized persons. Some employees may even decide to stockpile classified documents waiting for the opportunity to sell them.

Senator KERREY offered this amendment at markup, and I believe it makes sense. There ought to be criminal sanctions for this type of conduct in order to provide greater deterrence and to provide a grounds for prosecution in appropriate cases.

Also, Mr. Ames is a person who had a well-known drinking problem. And yet, outside of several references and one counseling session, was there anything but promotion in job ratings, even though there was a considerable case and Mr. Ames was very clear about his drinking problem. He did not drink all the time, but when he drank, apparently he really drank, to the extent that he would pass out at functions and on the way home be taken to the hospital. Yet, there was no reprimand of Mr. Ames. There was caution and one counseling session.

So there is obviously need of better security, better leadership at the CIA to institute policies and directions that are going to make a difference.

The Ames interview further convinced me that we can do a better job in the counterintelligence area. However, we need to have one agency clearly in charge of investigation, an agency with trained investigators. Investigators at the CIA are not criminal investigators. They are investigators. FBI investigators are trained differently. They understand what they have to go after when they need or might need to do a criminal investigation. This amendment, that is proposed by Senator WARNER and myself, would provide this role to the FBI in this statute.

No more MOU's, no more Executive orders that are well intended and meant to be effective, but indeed permit an Ames case, a Howard case, a Pollard case, and many other cases to continue to function.

Will this legislation stop this? I cannot say to my colleagues that it will. But, indeed, it is going to place the best criminal investigators that we have available to the Federal Government into this process at the very earliest point of view and, as I pointed out, there is ample protection; if the President believes that there is some instance where they do not want the information turned over to the FBI, he can so waive.

The Congress and the American people want and deserve accountability. This amendment that is offered in behalf of the Senator from Virginia and myself, I believe, does just that.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, again, I wish to compliment the distinguished chairman. We did work together on this. There were times when I think individuals of less determination and perhaps less conviction might have folded their tents and just gone along with what appeared to be the wisdom that has prevailed for so many years on this issue. But we want to break new ground because we think it is essential that new ground be broken.

I am proud of the achievements that we have made thus far, and I am ever so hopeful today that our colleagues will accept the challenge that we are going to present to them.

Madam President, this legislation is a result of many months of work by the Intelligence Committee in concert with the executive branch to correct what we perceive as a number of problems revealed in the Ames case.

I am pleased to report that with the exception of section 3, which I will address specifically here momentarily, the administration supports this very important piece of legislation. Unfortunately, the Ames case makes painfully clear that the espionage threat against the United States did not end with the cold war. There are still people, American citizens, American citizens entrusted with the highest secrets that this country possesses; yes, there are citizens who will for one reason or another step forward and share those secrets and thereby compromise the security of our great Nation.

Unlike the spies of the forties, fifties, and sixties who were often motivated by ideology or perhaps other intellectual motivations, today's turncoats are overwhelmingly motivated by the dollar.

For this reason, our counterintelligence legislation focuses on the financial activities of persons with access to this body of highly classified information. This legislation provides valuable tools for deterring espionage activity and detecting violations when deterrence fails.

The amendment before the Senate would require all executive branch employees who are granted a security clearance to consent to Government access to their financial and travel records, and this can be done on a spot-check basis, without notice.

Employees with access to particularly sensitive classified information—and for those following this debate, there are a number of levels of classification of information, so we are talking about particularly sensitive classified information, as determined by our President—would be required to provide reports on their financial and travel information.

A key provision of this bill prohibits the private sector—for example, banks, brokerage houses, and travel agencies—from disclosing that the Government has made a request for access to financial and travel records. This provision prevents employees from being tipped off that they are under scrutiny.

Madam President, employees with access to classified information must be willing to accept certain personal disclosures as a condition of employment. In an area as sensitive and critical as the Nation's security, the scales must tip in favor of protecting our Nation's secrets. Our bill accomplishes that objective.

Other key aspects of this bill include a provision granting the Attorney General the authority to provide rewards of up to $500,000 for information leading to espionage arrests and a provision extending the criminal forfeiture provisions of the drug enforcement statute to the proceeds of espionage.

This legislation is certainly not a panacea. It will not be an absolute deterrence against those who, for what reason we know not, decide to spy and betray our Nation.

There is no law, Madam President, no framework of law today, tomorrow, or in the future, which can keep pace with the vagaries of human nature. But this legislation is a strong step forward to try to stop or limit espionage activities.

If the authorities provided in this legislation had been in effect during the investigation of the Ames case, it is my judgment that in all likelihood this case could have been detected and brought to prosecution, perhaps years earlier.

At this point, I would like to acknowledge the pioneering efforts by Senators BOREN and COHEN in this area. I am hopeful that momentarily the Senator from Maine will join us and speak to this legislation.

In 1989, these two Senators established a panel of outside experts—it was known as the Jacobs Panel—to study the statutory framework for the conduct of U.S. counterintelligence activities and to recommend legislative proposals. Many of the recommendations of the Jacobs Panel are incorporated in this amendment.

It is interesting—I have asked those two distinguished Senators why they did not press forward at that time with these initiatives, and they can speak

best for themselves—but apparently they felt that, with the demise of the Soviet Union and the Warsaw Pact, there was not the feeling of urgency in this country to address this issue.

I acknowledge that in all likelihood, these two Senators would have gone forward had they thought the time was right to pursue counterintelligence legislation. Well, the time is right now. And I am pleased to join with Senator DECONCINI and the majority of the members of our committee to bring it forward.

Madam President, I would like to address the provision of this bill which has generated, somewhat to my surprise, a large measure of controversy. Section 3 deals with the coordination of counterintelligence activities within the executive branch.

It became clear during the committee's examination of the Ames case that there were serious and longstanding problems with coordination between the CIA and the FBI regarding the investigation of counterintelligence cases, including the case of Aldrich Ames.

It is my belief that when the after-action reports are completed on the Ames case, we will find that the failure of the CIA and the FBI to fully cooperate on this investigation, that failure of cooperation, in measure, was responsible for a delay of several years in positively identifying Aldrich Ames as a spy.

Section 3 of the committee amendment attempts to correct this coordination problem by more clearly defining the conditions under which the FBI must be notified of possible compromises of classified information.

And, as a corollary, there is a comparable provision for notification by the FBI of other departments and agencies of such counterintelligence information as might pertain to them.

This section specifically requires agency and department heads to ensure that the FBI is notified whenever it becomes apparent that classified information has been deliberately disclosed to a foreign government or agent of a foreign government. And, in turn, the FBI, as I mentioned previously, is required to keep an affected agency advised of the progress of FBI counterintelligence investigations of any employee of that agency.

Mr. President, the reason for my putting into legislation the provisions of section 3 dealing with CIA–FBI cooperation originates in the long history of fractious relations between the CIA and FBI on counterintelligence agencies.

Frankly, no matter how hard we have tried to pursue an analysis of why these two groups of highly dedicated employees, albeit in different agencies, albeit on different payrolls, but who have equally strong motivations to stop counterintelligence activities, equally strong motivations to stop it and to protect this Nation, why they have not been able to work together, I think, will forever remain a mystery. Today the situation appears to be better than in the past. But, nevertheless, a problem remains.

The committee has been briefed on numerous cases in which the CIA's failure to notify the FBI in a timely manner concerning a counterintelligence case has led to a delay and/or compromise of an investigation.

I would like to quote from a 1986 Senate Intelligence Committee report entitled, "Meeting the Espionage Challenge: A Review of the United States Counterintelligence and Security Program."

Madam President, the report states:

> Another aspect of counterintelligence awareness is the knowledge by agency security officials of when to bring a matter to the attention of a U.S. counterintelligence agency. In the Edward Lee Howard case, CIA security officials failed to alert and involve the FBI in a timely fashion.

If I may repeat that:

> In the Edward Lee Howard case, CIA security officials failed to alert and involve the FBI in a timely fashion.

That is the U.S. Senate. Many of the Members here today were here in 1986 addressing this counterintelligence problem specifically.

The report goes on:

> The CIA has taken steps recently to guard against a recurrence of this problem.

So the Senate apparently received certain assurances that the problem would not occur again.

Continuing to quote from the report:

> The FBI should continue to work closely with security officials of all U.S. Government agencies to ensure that they understand the requirements and guidelines. A good example is the Pollard case, where the Naval Investigative Service brought in the FBI at an early stage. The committee is pleased that the Navy has given a commendation and a monetary award to the official who was responsible for bringing to the FBI the Pollard case promptly when certain questionable behavior was first observed.
>
> The lessons of the Howard and Pollard cases should be extended to all departments and agencies that handle highly sensitive information. Interagency procedures for reporting suspicious conduct to the FBI should be strengthened.
>
> Moreover, the Howard and Pelton cases demonstrate that former employees with grievances or financial problems can compromise our most sensitive national security programs. Individuals who choose to work in positions as sensitive as those occupied by a Howard or a Pelton should expect to be held to a higher security obligation than personnel with access to less sensitive information. Therefore, the FBI should be informed when employees with access to extremely sensitive information resign or are dismissed under circumstances indicating potential motivation for espionage.
>
> The decision as to whether the circumstances justify investigations in varying degrees should be made by the FBI in light of its counterintelligence experience, not by the employing agency. Interagency procedures should be established to address borderline cases.

This body spoke ever so clearly in 1986 about the need for the executive branch to recognize the potential for these problems and to take such steps as were necessary. Nevertheless, the delays in apprehending Aldrich Ames occurred for the very, very reason that was recited in the 1986 Senate report.

Successive administrations—and indeed this is not a political problem. This is not a Clinton administration problem; this is not a Bush administration problem; this is not a Reagan administration problem, exclusively. It goes back throughout the long history of the working relationship between these agencies.

Successive administrations have attempted to solve this problem by Executive orders, memorandums of understanding between various agencies and, to a lesser extent, legislation. Since 1947, there have been no less than 10 attempts to deal with this issue. And yet, the Ames case shows us that lack of coordination continues.

Madam President, may I take the time of this body to read the 10 instances in which either legislation or an Executive order or a memorandum of understanding were utilized in attempts to solve this coordination problem.

First, the National Security Act of 1947; then Section 603 of the Intelligence Authorization Act of fiscal year 1990; then Executive Order 12333; then National Security Directive 47; National Security Council Directive 5; Attorney General-DCI procedures and FBI CI Activities Overseas, 1982; FBI–CIA MOU Regarding Activities of CIA Officers of CI Concern, 1988; Attorney General Guidelines for FBI Espionage Investigations of U.S. Diplomatic Mission Personnel Abroad, 1990; FBI–CIA Supplemental MOU regarding CI Activities Abroad, 1992; CIA-State MOU on CI Response Abroad, 1989.

Time and time again, the executive branch has tried to deal with this problem, but the problem still exists.

Madam President, it is clear that we need legislation in this area now, and I am ever so hopeful that this body will agree with us today.

This history documents why another administrative fix to this problem simply will not work. Any administrative solution would be far too dependent on the personalities of the individuals in charge of CIA and the FBI at the various times that these cases come up.

We have individuals of the best of intentions at the head of the CIA today and at the head of the FBI. But tomorrow—and I am not suggesting that either may be replaced, but eventually all are replaced and there is a rotation of these individuals who serve as the head of these respective agencies and departments. That is the nature of how the executive branch functions. We

VOL
140
PT
16
AG
12
—
18
1994
UMI

cannot have these important areas dependent upon the respective personalities of the individuals in charge of the various departments and agencies.

Those personalities may interact at one period of time in a very cooperative spirit. Yet the same personalities may not cooperate in a subsequent situation. So this important area cannot depend on personalities and good intentions. It must be based on bedrock, sound law. Any administrative solution would be far too dependent upon the personalities of the individuals in charge of the CIA and FBI if we continue the course that we are following at the present time.

For months the chairman and I negotiated in the best of good faith with top administration officials concerning legislative language which would be acceptable to the administration. We went to the White House repeatedly. We came very close to agreement. But unfortunately, for reasons that can best be explained by those who wish to espouse the administration's position, the administration still feels they can solve this problem with yet another Executive order.

The potential damage to our national security is far too great for the Senate to ignore this issue any longer. We must go on record acknowledging that there is a problem. The problem is with us today—it will be with us tomorrow and well into the future—of individuals who want to break ranks and spy. And the only way to correct it in my judgment, and that of the distinguished chairman of this committee and the majority, is to do it legislatively.

Madam President, I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Madam President, I yield such time as may be required by the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. WARNER. Madam President, might I add the Senator from Nebraska has taken a very active role in the affairs of the committee, and the chairman and I are grateful.

Mr. KERREY. I thank my friend from Virginia.

Madam President, the distinguished Senator from Virginia has covered many of the areas that are in this piece of legislation. I intend to deliver a short statement in support of the bill, indicating what is in it that I think is important, and also discuss briefly the National Reconnaissance Building and the process leading to its declassification.

I rise in strong support of the bill that is now before us, the intelligence authorization bill for fiscal year 1995. In the course of crafting this bill, the Intelligence Committee has had outstanding leadership from Senator DECONCINI and Senator WARNER.

It is not easy to produce an intelligence authorization these days. The cold war consensus about the roles and missions of the intelligence community now seems far away. There is real controversy today about what the community should be doing and how it should be organized, and the Intelligence Committee could not be deaf to that controversy. At the same time, our task was more finite: to authorize intelligence programs and activities that will protect America and warn our policymakers about the forces that threaten our country, and also to guide the change that is ongoing in the intelligence community. Our committee essentially funds the President's request in monetary terms. We disagree with some of the administration's priorities for specific programs, but we do not disagree about the dangers of the new world disorder and the need for good intelligence to warn us about them.

We read often in the press that the intelligence community is stuck in a cold war posture and has changed little since the fall of the wall. Do not believe it. Under Jim Woolsey's leadership the Intelligence agencies are covering new targets and providing more value to policymakers than ever. But further change is needed, and this bill supports change in two important ways.

First, we need change in the way the community does counterintelligence, the way it catches spies and keeps secrets. The Ames case is the most recent event to demonstrate that we need to give law enforcement authorities every possible tool to catch and prosecute those who would betray their country. That is why there are provisions in this bill to require that the FBI be promptly informed when espionage is apparent. At the same time, the bill recognizes that in some particularly sensitive cases, the information relating to the case might have to be very closely held, to protect sources or vital information. So the bill gives the President flexibility to waive the FBI notification requirement on what the committee hopes will be rare occasions.

Second, we need to support the intelligence community's efforts to come to grips with this changed world by giving them and ourselves the benefit of the insights of a broad range of experts and national leaders. This bill contains provisions to create a joint Presidential-congressional commission to do just that. Senator WARNER and Senator DECONCINI recognize that it is time for a fundamental review of the roles and missions of the intelligence community, and they also correctly understand that the administration and Congress can not stop their ongoing business to conduct the root-and-branch review that is required. So I agree with my chairman and vice chairman that we need a joint commission, and that it should take about a year to go back to first principles. My hope for this commission is that it will contribute a new direction for intelligence, but I think it has an even bigger task—an even more important task, and that is to restore the consensus in our country that we need intelligence, that the country must be able to collect secrets and analyze secrets and act covertly in the world, and that some secrets are worth keeping. The cold war consensus on national security and secrecy has badly frayed over the years. If in the course of discussion surrounding the commission work, a new consensus can be formed,

I will be proud to have been an original cosponsor of this provision.

NRO HEADQUARTERS

Madam President, I would also like to comment on a defense intelligence issue that has created much controversy in the Senate and in the country: the new headquarters of the National Reconnaissance Office in Chantilly, VA.

Many of our colleagues are angry about the size and scope of the project and about the fact that the Intelligence Committee was not given clear and consistent information about the project. Further, the declassification of the project on Monday came, inevitably, as a surprise to many, and nobody likes to be surprised by a project of this size. A reaction seems to be forming to punish the intelligence community or the NRO or CIA because of this project. Let me suggest, two points.

First, we should calm down and count to 10 before we punish in this case, because the intelligence community and administration have acted very responsibly in recent days in bringing this matter into public view.

Second, in focusing on punishment and on closing barn doors long after the horses have gone, we may overlook the larger issue here, which is the fundamental question of what should be classified in order to protect our country from the real enemies that threaten us, and what information should be declassified so the public can know how their money is spent.

Do not misunderstand me. I agree with my colleagues who are concerned about the size and lavishness of this project, and I would have much preferred that the NRO would have approached Congress about this project years ago in a straightforward manner, like any GSA or military construction project. I also believe that our congressional oversight could have been much better. But things could be worse. First, I do not think there was a conscious effort here to deceive Congress. Second, at least we have some buildings to show for the money. The buildings are excess to the NRO's need, they are nicer than most Government buildings, but they exist and they are on 70

acres of land that will only grow in value.

We all know that this Congress and this Government very often puts a lot of money into things that have no value and at the end of the day people say we just wasted our money. In this case at least we have a hard asset to show for it. We have had expensive Federal court houses go way over budget without anywhere near the criticism that we are now heaping on the intelligence community. To go public when you know criticism is coming is, in my view, a brave act.

When it became apparent to Director Woolsey and Deputy Defense Secretary Deutch that the Senate Intelligence Committee had problems with this project, they agreed with this Senator that public disclosure and public discussion were the way to go. they did not have to do that. They could have kept the wraps on this building. But they took the bold decision to open it up the administration backed them. As a consequences we are able to discuss it in public. That decision required a willingness to part with the old ways of the cold war and ask anew the question: given the new threat environment, what do we keep from our enemies and as a result the American people and what do we fully disclose?

We should greet a bold decision like this one with praise. Instead, we and all together, the news media seize on what they told us and bludgeon them for their honesty.

I will say, if I was a senior intelligence official and witnessed the pillorying of the NRO of the last few days, it would be a cold day in hell before I voluntarily declassified anything. That is not the response we should seek to create, if we are truly interested in having an intelligence community that can protect America against today's threats.

When we encourage the intelligence agencies to hunker down and go to the ground, we also postpone the establishment of a new consensus in America that some secrets are important to our security and must be kept secret.

By declassifying information that no longer needs to be kept secret and by demonstrating that the Government does not use secrecy to cover up its embarrassments, we are giving greater protection to the secrets that must be kept. Therefore, Madam President, I urge that we encourage this process of declassification and openness, rather than lurk in the undergrowth waiting to ambush whoever practices it. Our most urgent business in this field is to determine and rank the threats that face America today and make sure our intelligence resources are properly dedicated against them.

Our next priority, almost as important, is to reconstruct the national consensus that intelligence is necessary and secrets must be kept. Before we rush to punish the intelligence community about this headquarters, let us think about these larger matters and how our reaction affects them.

Madam President, again, I want to thank the distinguished Senator from Virginia and the distinguished Senator from Arizona. The distinguished Senator from Virginia has been a very calm and reassuring hand in all this. As always, in cases like this where you are charting a new ground—and that is exactly what is happening; there is no roadmap in this transaction. We are literally into territory where there is no previous precedent we can cite and say, "Well, we are going to do it like we did in 1991, 1990 or some previous times. In these kinds of environments, what is needed is a steady hand on the tiller, somebody who knows how to operate a compass and stay calm when the ambush occurs, when the firefight begins.

I must say, I am very proud to be able to say that the distinguished Senator from Virginia, all the way through this process, was able to say, "OK, men, let's stay calm here. We've got a problem. There is a way to solve this problem. We don't need to rush to judgment. We don't need to be impulsive. We don't need to do things quickly here. Understand, this is something vital to the national security interest of our country."

Our business is to make sure our intelligence communities can do their job to protect the American people from real threats in the world. I appreciate very much the leadership of the Senator from Virginia.

Mr. COHEN. Madam President, the chairman and vice chairman have described their amendment in detail, and I will not repeat what they have said.

I would like to recount some of the history behind this legislation, though, to emphasize that it is not a reflexive response to events that have been in the headlines in recent months.

When Boris Yeltsin gave his memorable speech to a joint session of Congress in 1991, he bluntly declared, "No more lies." Perhaps because of the thunderous applause that followed, many Americans seem to have misheard him to say "no more spies." We now know better.

The point, though, is that we should have known all along. If anyone got the impression that the end of the cold war meant there would be no one left to come in from the cold, they did not get that impression from Moscow. After the collapse of the Berlin Wall and the Warsaw Pact, Soviet and later, Russian intelligence officials clearly stated that they were still hard at work and even were getting more aggressive at such matters as stealing business secrets.

The CIA, the FBI, and others warned that the end of the cold war would produce no decline in espionage against the United States and, indeed, might lead to an increase since some Americans might be more comfortable selling secrets to countries that no longer appear to threaten us.

During the 1980's, more spies were unmasked than during any other decade in our history. Most were clerks, analysts, military personnel, and other low- to mid-level employees with access to our most important secrets and a willingness to sell those secrets to the highest bidder. Only one-tenth of them were recruited. Nine out of ten were volunteers, initiating contact with a foreign intelligence service.

When Senator BOREN and I became chairman and vice chairman of the Intelligence Committee, we were very familiar with these issues, having participated in the committee's counterintelligence review following the arrest of the Walker spy ring, which resulted in the committee's 1986 report, Meeting the Espionage Challenge. Determined to see that this challenge was, in fact, met and not just studied, we convened a panel of wisemen with significant experience in government, the law, and industry to identify ways to improve the Nation's counterintelligence system without sacrificing the personal liberties our national security apparatus is meant to protect.

This panel—which was led by Eli Jacobs and included such prominent individuals as Warren Christopher, Lloyd Cutler, Arthur B. Culvahouse, Sol Linowitz, Adm. Bobby Imman—worked closely with the intelligence committee and the Intelligence Community for a year in reviewing past espionage cases and identifying means to deter, detect, and prosecute such cases in the future. It is important to note that this effort was not a response to a single incident like the Ames case. Rather, it involved a systematic review of a large number of cases that occurred over a period of decades.

And based upon the committee's work and the Jacob Panel's report, we introduced legislation designed to deter Americans from spying and detect and prosecute those who were not deterred.

Given the pecuniary motives of today's spies, that bill sought to improve the chance that warning lights would start flashing when Americans handling highly classified information lived beyond their means. Or, as was noted in a 1990 statement that is particularly pertinent in light of the Ames cases, "if a guy goes from a Vega to a Jaguar in a year's time, something's wrong" and should be detected.

We concluded that the FBI should be given greater access to financial and foreign travel records of persons who are cleared to handle top secret information and for 5 years thereafter. While constituting a moderate loss of privacy for those handling highly classified information, this would create an

VOL 140 PT 16 AG 12 — 18 1994 UMI

important deterrent to those tempted to spy and a new tool to catch those who do. Being entrusted with the Nation's secrets is a privilege for which the Nation can and should ask reasonable sacrifice.

A second significant change we proposed was to establish uniform requirements for access to highly classified information, which today can vary widely from one agency to another. According to a recent report by a panel appointed by the CIA and the Pentagon, information on a certain technology was subject to discretionary controls by the Department of Energy but protected with deadly force by one of the military services. Similar, if less extreme, variations exist in agencies' requirements for obtaining security clearances.

Beside creating wasteful redundancies, this permits weak links in the chains of security guarding our secrets. It even opens the opportunity for a person to shop around for a security clearance. Jonathan J. Pollard, who pleaded guilty in 1986 of spying for Israel, was denied employment by the CIA in 1977 because of security concerns only to be hired 2 years later as a civilian Navy intelligence analyst.

Other measures identified included better enabling the Government to confiscate spies' ill-gotten gains; establishing jurisdiction in U.S. courts for espionage acts committed abroad; allowing monetary rewards for information leading to the arrest or conviction of spies or prevention of espionage; closing gaps in our espionage laws; and subjecting foreign intelligence physical searches to the same court order process required for electronic surveillance under the Foreign Intelligence Surveillance Act.

It is quite possible that had that legislation been adopted when it was first introduced in 1990, Aldrich Ames would have been caught much sooner. Equally important, unknown persons now spying or considering doing so could be caught or deterred before causing grievous and costly damage.

Unfortunately, as the cold war thawed, the resulting flood of goodwill for our former enemies swept away support for improving counterintelligence. While thoroughly vetted by the Jacobs Panel, public hearings by the Intelligence Committee, and Justice Department reviews, the bill languished in the 101st and 102d Congresses, misperceived as the remnants of an anachronistic cold war agenda.

At the time, we asked whether it would take another security disaster such as that involving Felix Bloch before Congress would be spurred to take action. As the Ames case regrettably reveals, the answer was yes.

After Mr. Ames reminded us that spying for dollars will continue as long as we entrust secrets to fallible human beings, there finally was a broader recognition of the need for Congress to remedy our counterintelligence system.

Among others, Senators DECONCINI and WARNER, the present chairman and vice chairman of the Intelligence Committee, introduced legislation that picked up provisions of the bill Senator BOREN and I introduced in the 101st, the 102d and the 103d Congresses. Senators DECONCINI and WARNER were kind enough to allow Senator BOREN and me to testify to their committee on these various bills, and the legislation the committee reported in June—now before the Senate as the pending amendment—paralleled even more closely the bill we have pursued for so long, with further improvements made by the constructive suggestions of the Justice Department and the intelligence community.

While it is regrettable that it required a major counterintelligence failure, it is gratifying that this legislation has now garnered the kind of broad support in Congress and the executive branch it has long merited. And I commend the chairman and vice chairman of the Intelligence Committee for taking advantage of the favorable circumstances for pressing this legislation forward. It is long overdue, and we should act now before this subject moves out of the public's mind and off Congress's legislative agenda.

I urge my colleagues to support the amendment.

Mr. WARNER. Madam President, I thank my distinguished colleague. Those kind remarks, coming from the Senator from Nebraska, have a particular meaning, because he has displayed a measure of courage which has received appropriate recognition in years past.

I am grateful that he is willing to continue to serve on the Intelligence Committee as I and Senator DECONCINI step down. It is my hope that perhaps he will have the opportunity to take a leadership role in the affairs of that committee in the years to come.

AMENDMENT NO. 2554 TO AMENDMENT NO. 2553

(Purpose: To improve the information available to the Congress and the public on foreign industrial espionage)

Mr. WARNER. Madam President, I send an amendment to the desk in the second degree. I do so on behalf of the Senator from Maine, [Mr. COHEN] and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is in order at this time. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. COHEN, proposes an amendment numbered 2554 to amendment No. 2553.

Mr. WARNER. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

SEC. . REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.

(a) IN GENERAL.—(1) In order to assist Congress in its oversight functions with respect to this Act and to improve the awareness of United States industry of foreign industrial espionage and the ability of such industry to protect against such espionage, the President shall submit to Congress a report that describes, as of the time of the report, the following:

(A) The respective policy functions and operational roles of the agencies of the executive branch of the Federal Government in identifying and countering threats to United States industry of foreign industrial espionage, including the manner in which such functions and roles are coordinated.

(B) The means by which the Federal Government communicates information on such threats, and on methods to protect against such threats, to United States industry in general and to United States companies known to be targets of foreign industrial espionage.

(C) The specific measures that are being or could be undertaken in order to improve the activities referred to in subparagraphs (A) and (B), including proposals for any modifications of law necessary to facilitate the undertaking of such activities.

(D) The threat to United States industry of foreign industrial espionage and any trends in that threat, including—

(i) the number and identity of the foreign governments conducting foreign industrial espionage;

(ii) the industrial sectors and types of information and technology targeted by such espionage; and

(iii) the methods used to conduct such espionage.

(2) The President shall submit the report required under this subsection not later than 6 months after the date of the enactment of this Act.

(b) ANNUAL UPDATE.—Not later than 1 year after the date referred to in paragraph (2) of subsection (a), and on the expiration of each year thereafter, the President shall submit to Congress a report updating the information referred to in paragraph (1)(D) of that subsection.

(c) FORM OF REPORTS.—To the maximum extent practicable, the reports referred to in subsections (a) and (b) shall be submitted in an unclassified form, but may be accompanied by a classified appendix.

(d) REPORT UNDER DEFENSE PRODUCTION ACT.—Section 721(k)(1)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(k)(1)(B)) is amended by inserting "or directly assisted" after "directed".

(e) DEFINITION.—For the purposes of this section, "foreign industrial espionage" means industrial espionage conducted by a foreign government or by a foreign company with direct assistance of a foreign government against a private United States company and aimed at obtaining commercial secrets.

Mr. COHEN. Madam President, the amendment I am offering addresses the problem of industrial espionage committed by or with the assistance of foreign intelligence services.

I am not going to suggest that foreign industrial espionage is the greatest difficulty American industry faces in seeking to succeed in the global market. But it is a real problem that costs the U.S. economy billions of dollars annually and appears to be growing rapidly.

It is also a problem that has attracted far too little attention to date. As a result, efforts to deal with it are grossly inadequate. To far too great an extent, foreign industrial espionage has been an issue of concern to those who specialize in intelligence matters rather than those who are engaged in business.

Some larger companies are acting to protect themselves, but most American businesses are not—including many of the smaller firms which give birth to so much of our new technology.

The cases reported in the media abound. A South Korean computer company penetrates an American competitor with a mole who plants a bug in the United States company's fax machine. A Japanese company recruits an American executive with a drug habit to support, buying sensitive bidding information and other commercial secrets. Maintenance workers walk into a U.S. company's office overseas and reprogram the telephone switching equipment to enable outsiders to eavesdrop on the company's phone calls. An American scientist goes from labcoat to turncoat, selling foreign pharmaceutical companies trade secrets that had cost $750 million in research and development costs to acquire.

While much industrial espionage is solely the work of private firms, in many cases foreign governments assist or even direct economic spying activities.

French intelligence has long engaged in a large-scale industrial espionage program, penetrating foreign businesses, intercepting their telecommunications, and conducting a reported 10 to 15 breakins each day at Parisian hotels to copy documents business people have left in their rooms. The information acquired is passed on to French industry.

The Governments of Japan, Germany, Belgium, the Netherlands, and other allies, as well as such countries as China are also reported to spy on behalf of their countries' industry.

"All of America's major foreign competitors [have] the full weight of their governments' diplomatic and intelligence resources thrown behind their nationals' companies or consortia, especially ones in heavy offshore competition," former senior CIA official George Carver said 3 years ago.

The situation is only getting worse as "foreign intelligence services have turned from politics to economics [with] the United States as their prime target," CIA Director Robert Gates warned in 1992.

The U.S. Government has taken steps to make American industry better informed of the foreign industrial espionage threat and to assist it to defend itself.

Most of these efforts, however, are focused on the defense industry, which has long been targeted by Soviet and other hostile intelligence services. While some progress in protecting nondefense industry has been made in the last few years, the general posture of the Federal Government remains a reactive one—at best telling nondefense industry that "we're ready to help if you come to us with a problem." In my view, the Government should adopt an aggressive approach, going out to industry to explain what the problem is and how to guard against it.

To its credit, the FBI did produce in late 1992 a small pamphlet to raise business travelers' awareness of the industrial espionage threat overseas. The value of the pamphlet, however, was undermined by its almost exclusive focus on industrial espionage by communist or formerly communist countries, which few view as economic competitors and to which fewer still travel.

The General Accounting Office summed up the situation well in 1992 testimony: "The efforts of (intelligence and criminal justice) agencies do not appear to be sufficiently coordinated to adequately protect U.S. industry against economic espionage."

The Justice Department has acknowledged weaknesses in its ability to deal with the threat, noting in a July 1992 letter:

The Attorney General has a limited ability to counter the unfair economic advantages being realized by foreign businesses and industries (through industrial espionage). Therefore, legislation providing additional "economic espionage" investigative jurisdiction to the Attorney General is warranted at this time.

I have considered various legislative options for addressing the problem of foreign industrial espionage. The amendment I am offering today, however, accepts a GAO recommendation that before seeking to legislate, Congress should generate a broader public dialogue and a comprehensive review of how the Federal Government is organized to fight this threat. This will help to ensure that legislative and other remedies adopted will be effective and not just the fodder for flacks.

My amendment would do three things:

First, it would require a one-time report reviewing:

First, the respective roles of the various agencies in identifying and countering foreign industrial espionage threats;

Second, the means by which the Federal Government communicates to U.S. industry information on these threats and on methods to protect against them;

Third, specific measures to improve the Government's internal functioning to counter foreign industrial espionage and its communication with industry on such espionage; and

Fourth, information on the nature of the threat, including the number and identity of foreign governments conducting industrial espionage, industrial sectors and information and technologies being targeted for espionage, and espionage methods used.

Second, my amendment would require an annual update, but only on the nature of the threat, so that the business community and Congress would be aware of trends in the threat.

Third, my amendment would clarify existing requirement for a quadrennial report on foreign industrial espionage targeting critical technologies to ensure that report examines not only espionage directed by foreign governments but also that directly assisted by foreign governments.

I want to emphasize that nothing in my amendment advocates offensive industrial espionage activities against foreign companies, which is opposed by the U.S. intelligence community and most of the U.S. business community.

I would also emphasize that I generally oppose burdening the executive branch with reporting requirements. In fact, Senator LEVIN and I are engaged in an effort to repeal as many congressional imposed reporting requirements as possible.

But this does not mean that all reports should be opposed. Under the right circumstances, reporting requirements can stir the executive branch to action, provide the basis for much needed legislation, or help alter public behavior. I believe that the reports required by this amendment fall into this category.

The need for the amendment is highlighted by the wide chasm between the executive branch's rhetoric and action on the primacy of economic issues such as this.

When the Clinton administration assumed power, it created with much fanfare the National Economic Council. Deliberately modeled on the National Security Council, this new White House based operation was meant to give substance to the campaign rhetoric that in the post-cold-war world economic issues would assume the central focus occupied by security issue during the long twilight struggle.

One would have hoped that a complex issue such as this affecting the health of the Nation's economy and involving many Government agencies that traditionally do not deal with each other would have been precisely the type of problem to be tackled by the National Economic Council. Unfortunately, that does not appear to be the case.

I am hopeful that by compelling the review required by this amendment, we can energize the administration to adopt a more active role in addressing this threat. And by alerting the media and, through it, the business community to the nature of and trends in the threat, the private sector will adopt a more active role in protecting itself and in cooperating with the Federal

VOL 140 PT 16 AG 12 — 18 1994 UMI

Government to counter the threat more effectively.

In the words of the GAO, how these issues are decided may have a dramatic effect on the economic future of America.

Madam President, I refer those interested in this subject to my statement of March 10 (S2731), which includes the various documents and articles I have referenced or quoted today.

Mr. WARNER. Madam President, the chairman and I are quite willing to accept this amendment. If that may be the case, we shall determine from a parliamentary standpoint the voting later on.

May I say, Madam President, I thoroughly agree with the distinguished Senator from Maine that the Government should adopt an aggressive approach in explaining to industry what the problem is.

Mr. LEAHY. Mr. President, I have spoken to the distinguished chairman of the Select Committee on Intelligence about the provisions of this legislation that would amend the Foreign Intelligence Surveillance Act of 1978 to establish court order procedures to govern searchers for foreign intelligence purposes conducted in the United States.

I know that the ACLU and others oppose any legislation in this area in the hope that constitutional uncertainty surrounding whether the executive branch has some inherent authority to conduct warrantless searches for foreign intelligence purposes will act as a deterrent on the extent of such activity.

I would prefer that the Congress establish a fair statute protective of the privacy rights of Americans and sensitive to the delicate balance that is needed between the secrecy that necessarily surrounds our foreign intelligence activities and the openness that is essential to due process, good government and government accountability. I would prefer a statute with strict accountability, with punishment to deter and compensate for abuse, and with the maximum openness possible.

If we are going to have a court process to serve as a check on executive branch excursions into searches for foreign intelligences purposes in the United States and against Americans, we need to be sure that it is an effective check and that the deck is not stacked against individual rights of privacy. The procedures in the bill seem more intent on securing the privacy of the proceedings than the privacy of individuals. They are virtually all done ex parte and in camera without the person or persons whose privacy rights are being affected having any notice or opportunity to contest the Government's actions. Even where the Government has commenced criminal proceedings, the Attorney General can opt to foreclose any adversary procedure to test the Government's submission, assertions, or certifications.

Furthermore, the special court is required to approve the Government's requests unless it can sua sponte determine them to be clearly erroneous. This clearly erroneous standard for review has no place in these proceedings. This standard of review relegates the special court to determining little more than whether the application papers are in suitable form.

There may be other procedures worth considering to ensure that lower court and appellate review of these matters is vigorous and reflects the board sensitivity to first and fourth amendment rights that the Nation and other Federal appellate court judges embody.

I think we should carefully consider the suggestions recently made by Kenneth C. Bass III, who was the initial Counsel for Intelligence Policy, at the Department of Justice during the Carter administration. These suggestions came after Senate hearings had concluded and after the Senate Select Committee had already reported this bill. He acknowledges that surveillance of U.S. persons for foreign intelligence purposes involves a delicate judgmental process and admits that nothing in our present procedures insures that difficult legal issues and close questions will be fully aired and presented for judicial scrutiny.

Mr. Bass suggests that in a small number of cases involving U.S. persons as targets of applications for searches for foreign surveillance purposes it would be possible for the court to appoint an independent counsel to examine an application devoid of the identity of the target and intelligence sources and to appear before the court to present arguments against the issuance of a surveillance order. This guardian at litem approach holds promise and should be fully explored before final passage of any bill.

In addition, I am also troubled that activities protected by the first amendment of the Constitution of the United States are allowed to form any basis to target a U.S. person for a foreign intelligence search. Historically, it has been in this area where the abuses have come. The temptation to target political dissidents is often too great to resist. We can do better.

Finally, I think that the provisions governing congressional oversight can and should be strengthened and improved. This is an area where we are being asked to rely upon the procedures adopted by the Congress to protect the rights of Americans to feel safe and secure from surveillance by their own Government. As the peoples' representatives we must demand greater accountability and provide more extensive oversight in this fundamental area. Thus, for a start I would recommend that oversight reporting be required of both the Foreign Intelligence Surveillance Court and the Attorney General independently and that such reports be made to the Judiciary Committees of the House and Senate, as well as to our Intelligence Committees. Moreover, such reports should include more than the total numbers of applications and orders but also critical information about those applications, including the total number of Americans searched, and an accounting of agency requests that did not result in applications.

I have other suggestions, which I am sharing with Chairman DECONCINI and Vice Chairman WARNER. I have been assured by the chairman that he intends to consult with me and others who are concerned about these provisions in preparation for a House-Senate conference and before agreeing upon a conference report or seeking final passage. I have great respect, admiration, and affection for the Senator from Arizona.

The chairman of the Select Committee on Intelligence has requested that we expedite Senate passage of the committee's bill at this time so that important reforms to the National Security Act to improve our counterintelligence and security posture have a chance to be enacted this year. In the wake of the Ames case, the bombing of the World Trade Center, and the apparent breakdowns in our foreign intelligence efforts, I share with him a desire to expedite necessary corrective action. In light of his personal assurances and the special circumstances that preclude extended debate, I will honor his request and not insist upon extensive debate. I rise to make clear my concerns about the procedures to govern court orders for searches for foreign intelligence purposes within the United States so that we can proceed in good faith to attempt to fashion an improved bill that can command the support of the Senate and the American people.

Mr. DECONCINI. Madam President, we have reviewed this amendment. I think the Senator from Virginia has explained it in some detail, and we are prepared to accept the amendment on the part of the majority.

Mr. WARNER. Madam President, I urge its adoption.

The PRESIDING OFFICER (Mrs. MURRAY). Is all time yielded back?

Mr. DECONCINI. I yield back my time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2554) was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2555

Mr. DECONCINI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 2555 to amendment No. 2553.

Mr. DECONCINI. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

Not less than $10 million from the NSA base budget shall be transferred to U.S. Army signals intelligence activities directed at counternarcotics targets. A detailed operations plan with special emphasis on the United States/Mexico border and including the participation of the National Security Agency, the Drug Enforcement Administration, the Federal Bureau of Investigation, and the U.S. Customs Service, shall be provided to the Senate Select Committee on Intelligence and the House permanent Select Committee on Intelligence not later than November 15, 1994. This plan shall include a detailed description of the planned targets and the type of intelligence collection, dissemination, analysis and tasking that will be included in these operations.

Mr. DECONCINI. Madam President, this amendment provides for transfer of $10 million from the base for better utilization of technical assets of the U.S. intelligence community, specifically in expertise of national security agencies on the war on drugs.

I offer this as a second-degree amendment. I think it has been cleared on the other side of the aisle.

Mr. WARNER. Madam President, it has been cleared, and I urge adoption of the amendment.

The PRESIDENT OFFICER. Is there further debate? Is all time yielded back?

Mr. DECONCINI. I yield back the time, Madam President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2555) was agreed to.

Mr. LEAHY. Madam President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Madam President, I suggest the absence of a quorum.

Mr. DOLE. Will the Senator withhold.

The PRESIDING OFFICER. Does the Senator from Arizona withhold his request?

Mr. DECONCINI. I withdraw the request.

Mr. DOLE. Madam President, was leaders' time reserved?

The PRESIDING OFFICER. Yes, it was.

Mr. DOLE. I ask that I be permitted to use part of that leader time, with my remarks not to interfere with the debate.

The PRESIDING OFFICER. The Senator has that right.

CRIME BILL VOTE

Mr. DOLE. Madam President, yesterday's House vote on the crime bill should not be viewed as a defeat for President Clinton but, rather, as an opportunity, an opportunity to go back to the drawing board and draft the kind of tough, no-nonsense crime-fighting plan the American people deserve.

A tough crime bill would strip out the billions and billions of dollars in social welfare spending. The most effective crime prevention measure is not the pork barrel, but the prison cell.

A tough crime bill would increase funding for State prisons to the $13 billion level passed by the House last April, and condition at least half the funding on the adoption of truth-in-sentencing laws for first-time violent offenders.

A tough crime bill would plug the so-called mandatory minimum "safety valve" that could result in the early release of as many as 10,000 convicted criminals had that bill passed.

A tough crime bill would restore the mandatory minimum penalties for those who use a gun in the commission of a crime.

A tough crime bill would mandate restitution to the victims of violent crime. Unbelievably, this proposal was dropped by the crime conferees.

Mr. President, a tough crime bill would require that the public be notified of the whereabouts of violent sexual predators living in their communities. Congress must pass the Megan Kanka law, and must do so now.

And I might add we did add that provision to the DOD appropriations bill last evening. I know it is not the appropriate place for it, but I hope the conferees will keep that amendment. It is very important.

This is not the time for finger pointing. Playing the blame game will not get us anywhere. The crime bill failed yesterday, not because of the so-called gun issue, as President Clinton would have us believe, but because the American people saw the crime bill for what it really was: An overhyped, multibillion-dollar boondoggle that emphasized social theory over law enforcement.

If President Clinton is serious about passing a tough, no-nonsense crime-control plan, then Republicans are prepared to work with him. But the President must understand that resurrecting the crime bill must be a bipartisan effort, which I think the President forgets far too often.

They pass these bills, load them up with money, money, money, billions and billions of dollars. Then they ask for bipartisan support.

The Republican conferees on the crime bill were totally ignored. The liberals on the conference committee decided to spend billions of dollars without even 1 minute of hearings, not 1 minute, adding up to $10 to $12 billion with no hearings at all.

So the President has to understand if he talks about bipartisanship, it has to be bipartisanship. It has to be Republicans and Democrats sitting down together, not asking Republicans after the fact to support a terrible bill and then complain because Republicans will not do that. No behind-the-scenes meetings; no secret deals; no goodies—goodies passed out to Members who vote right; no one-party drafting sessions. If Republicans have real input, if our ideas are considered and accepted, then there is a chance, a good chance, that Congress may be able to pass a real crime bill later this year.

But I want to reemphasize, the President talks a lot about bipartisanship. I think we all like to have a lot of bipartisanship. But bipartisanship does not mean letting one party put something together and then asking the other party to support it when they have had no input. That is not bipartisanship.

If President Clinton has not gotten the message on the crime bill, he will probably get it on the health care bill. The American people want us to work together. The American people want us to think beyond the beltway. There are real people out there with real problems. They are very interested in crime legislation. They are not interested in a $10- to $12-billion social welfare program for midnight basketball and dancing lessons and self-esteem lessons, and $2 billion going back to local communities. We did not have 1 day of hearings, 1 minute of hearings on any of these provisions.

So, Mr. President, if you are serious about fighting crime and being tough on crime, you are going to have a lot of allies on both sides of the aisle, and we look forward to working together with the Democrats on a bipartisan basis. Bipartisan basis—not a partisan basis but a bipartisan basis.

Mr. WARNER. Madam President, I would like to commend the distinguished Republican leader. Year after year, day after day, hour after hour, he is the first to come to the Senate and the last to leave. And he has shown that kind of leadership which can produce the bipartisan direction to our legislation requested.

Madam President, I say to the Republican leader, most respectfully, that what we witnessed in the House last night is a direct reaction to the people in this country communicating with their legislators and indicating to their legislators that something is basically wrong, as our minority leader has described. In other words, no more of this back-room, locked-door, single-party politics. Break it out into the open. Let us have a voice, and we will express it.

VOL 140 PT 16 AG 12 — 18 1994 UMI

That is the sort of leadership that the Senator has given this body, not only our Republican ranks but the entire Senate, for these many years.

Mr. DOLE. I thank the Senator from Virginia. I know the Senator from Arizona has been one of the key players on the right side of the issue on a tough crime bill.

I want to congratulate him for his efforts in the conference. But I do think a lot of people say it is a stunning defeat. I think it is maybe a stunning opportunity. You can always turn these defeats around. It seems to me that, if we are included, there are a lot of experts on this issue on both sides of the aisle, and there are well-intentioned men and women. And I just suggest now maybe this may be a test case that may overlap into other issues. This is a good opportunity for the President.

I thank the Senator.

Mr. WARNER. Madam President, I will just conclude. It is a stunning victory for the people of the United States.

Mr. DECONCINI. Madam President, it is my judgment that it is a bipartisan bill. I think the foundation will be there.

But in all due respect, I must say that I think the National Rifle Association did win a victory and the American people lost. I am disappointed to see that happen. I have faith in the Members of the House of Representatives that they are going to hear from their people, and there are two issues here. One is whether or not there are programs within that crime bill that came out of conference that some may feel are inappropriate toward the prevention side and what some have even called pork barrel. The other is the assault, weapons prohibition, which passed both Houses.

I think we need to make a distinction. Why did that bill go down? In my judgment it went down—as was clearly stated in the news media this morning—because the NRA was successful in pressuring Members and threatening them, saying that they would be defeated, if indeed, they voted for the rule to let that crime bill come to the floor.

So I would just like to have another opinion inserted in the RECORD.

Mr. WARNER. Madam President, just to conclude with a few comments in response to those of Senator DECONCINI, when I said it was "a stunning victory" for the people, I am not here defending the NRA, or in any way criticizing them. They have their right to express thefr voice.

But, indeed, it was the inclusion in that bill of billions and billions of dollars of programs that were not directly related, I say to my good friend, to the enforcement of crime. Many programs, while they may be beneficial to our country, while they may be needed, were not given any degree of scrutiny in this Chamber; billions of dollars of programs which this Chamber never spent a minute in the context of this crime bill addressing. That is the reason the American people spoke up, and through their elected representatives in the House said, "No. Hold it. Let us stop where we are, and send this big bill back through the process and let it be examined and hopefully take out much of that legislation which is far too costly, given the fiscal situation in this country today, far too costly for this Nation to spend its dollars on."

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2553, AS AMENDED

Mr. DECONCINI. Madam President, I yield the remainder of the time on the pending amendment of the managers.

I ask for its immediate consideration.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2553), as amended, was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2556

(Purpose: To establish a commission on the roles and capabilities of the United States intelligence community, and for other purposes)

Mr. WARNER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. GRAHAM, Mr. DECONCINI, Mr. METZENBAUM, Mr. CHAFEE, Mr. COHEN, Mr. KERREY, Mr. BOREN, Mr. LUGAR, Mr. BRYAN, Mr. BAUCUS, Mr. DURENBERGER, Mr. PELL, Mr. LAUTENBERG, Mr. HATCH, Mr. JOHNSTON, Mr. BUMPERS, and Mr. KERRY, proposes an amendment numbered 2556.

Mr. WARNER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE ___—COMMISSION ON THE ROLES AND CAPABILITIES OF THE UNITED STATES INTELLIGENCE COMMUNITY

SEC. ___01. ESTABLISHMENT.

There is established a commission to be known as the Commission on the Roles and Capabilities of the United States Intelligence Community (hereafter in this title referred to as the "Commission").

SEC. ___02. COMPOSITION AND QUALIFICATIONS.

(a) MEMBERSHIP.—(1) The Commission shall be composed of 17 members, as follows:

(A) Nine members shall be appointed by the President from private life, no more than four of whom shall have previously held senior leadership positions in the intelligence community.

(B) Two members shall be appointed by the Majority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(C) Two members shall be appointed by the Minority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(D) Two members shall be appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(E) Two members shall be appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(2) The members of Commission appointed from private life under paragraph (1) shall be persons of demonstrated ability and accomplishment in government, business, law, academe, journalism, or other profession, who have a substantial background in national security matters.

(b) CHAIRMAN.—The President shall designate one of the members appointed from private life to serve as Chairman of the Commission.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner as the original appointment.

(d) DEADLINE FOR APPOINTMENTS.—The appointments required by section subsection (a) shall be made within 45 days after the date of enactment of this Act.

(e) MEETINGS.—(1) The Commission shall meet at the call of the Chairman.

(2) The Commission shall hold its first meeting not later than four months after the date of enactment of this Act.

(f) QUORUM.—Nine members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings, take testimony, or receive evidence.

(g) SECURITY CLEARANCES.—Appropriate security clearances shall be required for members of the Commission who are private United States citizens. Such clearances shall be processed and completed on an expedited basis by appropriate elements of the executive branch of Government and shall, in any case, be completed within 90 days of the date such members are appointed.

SEC. ___03. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—It shall be the duty of the Commission—

(1) to review the efficacy and appropriateness of the activities of the United States intelligence community in the post-Cold War global environment; and

(2) to prepare and transmit the reports described in section ___04.

(b) IMPLEMENTATION.—In carrying out subsection (a), the Commission shall specifically consider the following:

(1) What should be the roles and missions of the intelligence community in terms of providing support to the defense and foreign policy establishments.

(2) Whether the roles and missions of the intelligence community should extend beyond the traditional areas of providing support to the defense and foreign policy establishments, and, if so, what areas should be considered legitimate for intelligence collection and analysis, and whether such areas should include for example, economic issues, environmental issues, and health issues.

(3) What functions, if any, should continue to be assigned the Central Intelligence Agency and what capabilities should it retain for the future.

(4) Whether the existing organization and management framework of the Central Intelligence Agency provide the optimal structure for the accomplishment of its mission.

(5) Whether existing principles and strategies governing the acquisition and maintenance of intelligence collection capabilities should be retained and what collection capabilities should the Government retain to meet future contingencies.

(6) Whether intelligence analysis, as it is currently structured and executed, adds sufficient value to information otherwise available to the Government to justify its continuation, and, if so, at what level of resources.

(7) Whether the existing decentralized system of intelligence analysis results in significant waste or duplication, and, if so, what can be done to correct these deficiencies.

(8) Whether the existing arrangements for allocating available resources to accomplish the roles and missions assigned to intelligence agencies are adequate.

(9) Whether the existing framework for coordinating among intelligence agencies with respect to intelligence collection and analysis and other activities, including training and operational activities, provides an optimal structure for such coordination.

(10) Whether current personnel policies and practices of intelligence agencies provide an optimal work force to satisfy the needs of intelligence consumers.

(11) Whether resources for intelligence activities should continue to be allocated as part of the defense budget or be treated by the President and Congress as a separate budgetary program.

(12) Whether the existing levels of resources allocated for intelligence collection or intelligence analysis, or to provide a capability to conduct covert actions, are seriously at variance with United States needs.

(13) Whether there are areas of redundant or overlapping activity or areas where there is evidence of serious waste, duplication, or mismanagement.

(14) To what extent, if any, should the budget for United States intelligence activities be publicly disclosed.

(15) To what extent, if any, should the United States intelligence community collect information bearing upon private commercial activity and the manner in which such information should be controlled and disseminated.

(16) Whether counterintelligence policies and practices are adequate to ensure that employees of intelligence agencies are sensitive to security problems, and whether intelligence agencies themselves have adequate authority and capability to address perceived security problems.

(17) The manner in which the size, missions, capabilities, and resources of the United States intelligence community compare to those of the Governments of the United Kingdom, Canada, Australia, France, Israel, Russia, and Germany.

(18) Whether existing collaborative arrangements between the United States and other countries in the area of intelligence cooperation should be maintained and whether such arrangements should be expanded to provide for increased burdensharing.

(19) Whether existing arrangements for sharing intelligence with multinational organizations in support of mutually-shared objectives are adequate.

SEC. ___04. REPORTS.

(a) INITIAL REPORT.—Not later than two months after the first meeting of the Commission, the Commission shall transmit to the congressional intelligence committees a report setting forth its plan for the work of the Commission.

(b) INTERIM REPORTS.—Prior to the submission of the report required by subsection (c), the Commission may issue such interim reports as it finds necessary and desirable.

(c) FINAL REPORT.—No later than March 1, 1996, the Commission shall submit to the President and to the congressional intelligence committees a report setting forth the activities, findings, and recommendations of the Commission, including any recommendations for the enactment of legislation that the Commission considers advisable. To the extent feasible, such report shall be unclassified and made available to the public. Such report shall be supplemented as necessary by a classified report or annex, which shall be provided separately to the President and the congressional intelligence committees.

SEC. ___05. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any intelligence agency or from any other Federal department or agency any information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of any such department or agency shall furnish such information expeditiously to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) SUBCOMMITTEES.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(e) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

SEC. ___06. PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is a private United States citizen shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. All members of the Commission who are Members of Congress shall serve without compensation in addition to that received for their services as Members of Congress.

(b) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission. No member of the staff shall be a current officer or employee of the intelligence community.

(2) COMPENSATION.—The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a non-reimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its administrative and clerical functions, except that no person shall be detailed to the staff of the Commission who is an officer or employee of an intelligence agency.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of Central Intelligence shall furnish the Commission, on a non-reimbursable basis, any administrative and support services requested by the Commission consistent with this title.

SEC. ___07. PAYMENT OF COMMISSION EXPENSES.

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

SEC. ___08. TERMINATION OF THE COMMISSION.

The Commission shall terminate one month after the date of the submission of the report required by section ___04(c).

SEC. ___09. DEFINITIONS.

For purposes of this title—

(1) the term "intelligence agency" means any agency, office, or element of the intelligence community;

(2) the term "intelligence community" shall have the same meaning as set forth in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

79–059 O—97 Vol. 140 (Pt. 16) 15

VOL 140 PT 16 AG 12 — 18 1994 UMI

(3) the term "congressional intelligence committees" refers to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

Mr. WARNER. Madam President, I would like to read the distinguished list of cosponsors that have joined in this legislation. First, the Senator from Florida, Mr. GRAHAM, a very valued member of the Senate Intelligence Committee, who will momentarily address this bill; the distinguished chairman, the Senator from Arizona, Mr. DECONCINI; Senator METZENBAUM; Senator CHAFEE, Senator COHEN; Senator KERREY, Senator BOREN; Senator LUGAR; Senator BRYAN; Senator BAUCUS; Senator DURENBERGER; Senator PELL; Senator LAUTENBERG; Senator HATCH; Senator JOHNSTON; Senator BUMPERS; and Senator KERRY.

I ask unanimous consent that the RECORD may remain open until 2 o'clock today, within which time other Senators desiring to be noted as original cosponsors may do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, in the wake of the Ames case, and the demise of the Soviet Union, and the Warsaw Pact, many tough questions regarding the effectiveness of our intelligence agencies and their proper role in a post-cold-war world are being asked by Members of Congress and the public. These questions deserve careful, sustained, and detailed consideration by a group which is independent of the intelligence community independent of the Congress and the executive branch.

In my view, an independent review is long overdue. The Defense Department has been subject to a variety of reviews that have helped it to keep pace with a changing strategic environment. These reviews have included the Goldwater-Nichols Act largely conducted by the Senate Armed Services Committee under the leadership of Senator NUNN; the Bottom-Up Review, largely conducted under the aegis of the Secretary of Defense, Secretary Aspin; and an ongoing Presidential Commission on the Roles and Missions of the Armed Forces. By contrast, the Intelligence Community has not had an independent top-to-bottom review since it was established in 1947.

I would like to reiterate that point.

The CIA came into being in 1947, and not since the initial legislation establishing it has there been a Presidential commission to examine that agency and other related agencies. So that is why it is timely, I think, to undertake a thorough review. That is the precise reason that I came forward with this concept, and I am pleased to be joined by some distinguished Members of the Senate.

I happen to believe that an independent commission will validate the continued need for a robust intelligence structure to support U.S. national security interests.

Again, Madam President, the concept of the Commission is not in any way to be perceived as a criticism of the employees who are now performing these valued duties. I think if you were to submit to them the question of whether or not their functions, individually and collectively, should be reviewed in the context of the functions of others in like agencies and departments, they would agree it is timely to look at these matters collectively.

Nevertheless, the Commission may well recommend changes that eliminate some duplication and waste that is in the system today. Indeed, I am confident it is there. I think many of the employees who devote their lives and careers to intelligence would be the first to acknowledge that some corrections are now timely.

An independent review—or, as we call it in Government, a scrub—of the existing structure, would provide both the Congress and the American people with assurances that our intelligence organizations and activities are consistent with our great Nation's values, budgets, and goals.

It is not the intent of the sponsors to prevent the implementation of changes already being contemplated. Counterintelligence reforms, for example, should be implemented immediately. So should the reforms underway in the Directorate of Intelligence, which were enumerated by Director Woolsey recently. These are limited efforts which do not include a review of the fundamental missions and organization of the intelligence community.

My colleagues should be aware that the administration has indicated its opposition to this amendment, preferring instead to have a study of the intelligence community conducted by the President's Foreign Intelligence Advisory Board, commonly referred to as PFIAB.

I and the other sponsors of this amendment, however, believe that a study staffed by current employees of the intelligence community would not be as credible as one under the independent aegis of a Presidential commission. A PFIAB study would not provide the fully independent review which is required at this critical time.

I should also point out that the executive branch, as a rule, does not share PFIAB documents with Congress, it being an executive branch agency, and that is quite proper within the framework of our laws and precedence. So congressional committees could not have, perhaps, the full opportunity to review a PFIAB report.

Recently I asked to see a PFIAB report, which I have reason to believe is an excellent report, on Somalia. Senator LEVIN and I, at the direction of the leadership of the Armed Services Committee, are performing a report on that subject. But I was denied, understandably, because of executive branch privilege. That is a clear example.

Our amendment has a number of important features:

First, the commission established by this amendment would review the full range of issues that have arisen concerning the intelligence community in recent years. For example, the commission would be charged with examining the roles and missions of the intelligence community, as well as its budget.

Second, the commission would be comprised of 4 Members of Congress, appointed by the leadership, as well as 13 individuals from the private sector, 9 appointed by the President, and 4 by the congressional leadership. To ensure an independent perspective, the private sector individuals must have a strong background in the national security arena, but a majority of them cannot have previously held senior leadership positions in the intelligence community.

Third, this amendment stipulates that no member of the commission staff shall be a current employee of the intelligence community.

Finally, the commission has been given sufficient time to conduct a thorough review and develop recommendations for Congress and the President. I am hopeful that my colleagues will support this amendment.

Madam President, before the distinguished Senator from Florida, who is my principal cosponsor, addresses this amendment, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. I yield such time as the distinguished Senator from Florida may require.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Madam President, I thank my colleague and copartner in the development of this amendment, the distinguished Senator from Virginia.

As he has so well said, the intelligence community in the United States is largely a product of World War II and the events immediately after World War II leading to the cold war. The CIA was formed during the administration of President Truman and has proceeded for the intervening almost half century, largely operating on the same principles that were in existence at the time of its creation.

Some of those principles were that our enemy was the large empire of the Soviet Union; that it was an empire which was difficult to penetrate; it was an empire which encouraged the development of technology as a means of gathering information; it was a period of time in which we had relationships with special allies, largely the result of experiences during World War II; our intelligence community was an activity which was largely provider rather than user oriented.

Those were some of the characteristics which, for a half century, served this Nation well, as we were dealing with the Soviet Union. Now we are in a new era, and we need to ask a new set of questions, such as: What will be the needs of the users of our intelligence? Who will be the users of our intelligence? How do we best provide for their needs?

I came to this need for a study of the future of our intelligence community, Madam President, during the course of our budget considerations in the Intelligence Committee. Without breaching any of the confidentiality of those discussions, I was struck with the fact that we were largely focused on highly specific, relatively technical questions, when the questions we ought to have been asking were: What is it we are trying to accomplish? How will this particular allocation of resources move us toward the achievement of those objectives? How do we evaluate whether we have accomplished the objectives or are moving in a direction toward their attainment?

Some of the subissues that come out of that analysis will include questions such as: What will be the role of our intelligence community in providing economic intelligence, in addition to its traditional foreign policy and national security orientation? What will be the changes required in our selection of personnel for our intelligence community at a time when the intelligence community is at least stagnating and may be constricting as a result of budget constraints?

And as we begin to move more toward intelligence that human beings gather, rather than intelligence acquired through machines, I have been dismayed, Madam President, in a number of visits to our Embassies and intelligence stations around the world, that there was not more diversity in who our intelligence agents are.

If you are in a country which is largely Hispanic, or largely of African origin, you would think that we would be in a better position to gather human intelligence if we had people who were personally more conversant with and expressed the language, the culture, the background of that particular country. One of the unique things about America is that we are so diverse and therefore have the ability to draw upon a wide range of backgrounds of Americans who can serve American interests in societies with which they have some special affinity. Those are the kinds of questions which I hope this intelligence commission will pursue.

Madam President, as the Senator from Virginia indicated——

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. WARNER. The distinguished chairman and I yield such additional time from our managers' allocation as our colleague from Florida may desire, recognizing that we will need some additional time, both of us. So I hope that will not exceed 6, 7, or 8 minutes.

The PRESIDING OFFICER. Does the Senator yield time from the bill?

Mr. WARNER. Yes, that is correct.

The PRESIDING OFFICER. The Senator from Florida may continue.

Mr. GRAHAM. I appreciate the generosity of my colleague from Virginia. I will not intrude on that generosity to even the extent that he suggested.

I would like to reiterate some of the concerns that the Senator from Virginia expressed relative to the alternative to that which we have presented. I am pleased that in the administration, in the intelligence community, and in the Congress there is a recognition that there needs to be this in-depth study of the mission and role of the intelligence community in the post-cold-war era.

The alternative to doing it in the manner that is suggested in this amendment is to have it done through the Presidential Commission on Foreign Intelligence, which is an agency within the White House which has been in existence to assist the President in his evaluation of intelligence activities.

I believe that the format that is being presented to the Senate today is a superior method of achieving and securing support for a comprehensive examination of our Intelligence Commission of our intelligence community for at least three reasons.

First, the structure that we are suggesting includes both representatives of the executive branch and of the legislative branch. If the report of the Commission is to have the maximum degree of sustained support by the public and by the Government, I believe that it would be enhanced by having all of those persons who will eventually have to be involved in implementation of the policy involved in the establishment of those new policies.

Second, I think that it is important that the membership be people who are primarily selected because of the vision of the questions of what we need to have for the future of our intelligence community, that they can bring to this task.

The President's advisory agency has in the past largely been assigned specific technical responsibilities, important responsibilities but generally focused on question of the appropriate technology for a particular type of information gathering.

I believe that while those questions are critical to the tactical implementation of whatever recommendations are made the questions that we hope will be asked and answered are of a higher level of concept, of basic function, direction and necessary steps in order to achieve goals for our intelligence community.

Third, it is important that there be an independent staff. In the past, the President's advisory agency has been staffed by professionals from the Central Intelligence Agency. That staff was arguably appropriate given the focused nature of the questions that they were asked to answer, but I believe that if we are going to be looking comprehensively at all components of the intelligence community for a long period into the future that the Commission's report would have a great degree of credibility if it had a staff that was not seen as being predisposed to any particular component of the intelligence community or predisposed to the way in which the intelligence community had conducted itself in the past.

Madam President, I believe this is important business that we are discussing today. It represents a significant part of our Nation's effort at maintaining an effective not only foreign policy and national security policy but increasingly an economic policy.

I believe that the Senator from Virginia and those who have joined with him have given us an effective road map as to how to get the right questions asked and answered and I hope that our colleagues will concur and this amendment will be adopted.

Madam President, with the introduction of this amendment, we have the opportunity to lay the groundwork for a pivotal change in the intelligence community. This amendment will establish a blue-ribbon commission to take a fresh look at the roles, missions, and resources of the intelligence community, to refine the objectives and renew the vitality of this essential capability.

The intelligence community as we know it has developed largely during and since World War II. For most of this period, we had a clear, identifiable enemy. The collapse of the Soviet Eastern bloc, however, presents a dramatically changed world. We now face several simultaneous crisis areas around the globe. Regional instability presents a variety of new threats each day.

Our intelligence needs are different today than just a few years ago. As we reduce our defense spending, the focus on intelligence as a force multiplier becomes even greater.

Yet, my sense is that the intelligence community has not confronted and adjusted to this reality. The timing is right with the changes brought about by the post-cold-war era, to readdress the functions and structure of the intelligence community.

VOL
140
PT
16
AG
12
—
18
1994
UMI

Agencies within the intelligence community have been studied, but a comprehensive study of the entire community has not been undertaken since its establishment. In addition, implementation of the recommendations has been limited.

This amendment offers the advantages of an independent and collaborative approach to achieve the most effectiveness. The proposed commission has the independence to freely and comprehensively assess intelligence activities and develop a paradigm for an intelligence community that can better address today's and tomorrow's requirements. A collaborative, bipartisan approach with both executive and legislative branch involvement with nine members appointed by the President, and eight members appointed by congressional leadership—four Members of Congress and four members from the private sector—ensures that recommendations will have support from both areas and can easily be acted upon.

These members are the most critical element of the Commission's credibility and effectiveness. These members—charged with the responsibility for an essential redirection of the intelligence community—must be knowledgeable, respected individuals with appropriate stature; with a background in national security affairs; and with a desire to develop a blueprint to refine our intelligence collection, analysis and management. In keeping with the spirit of the Commission, partisan alliances should be surpassed. Issues should be addressed in the best interest of the Nation to effect a new course for the intelligence community. The Commission will have the necessary independence to take a new look at the intelligence community and consider these key elements:

First, what should the role of the intelligence community be, not only for defense and foreign policy support, but should roles extend into other areas such as economic intelligence; second, do resources—human, material, and funding—appropriately correspond with the Nation's requirements, including contingencies; third, are intelligence efforts properly focused for today's environment as well as poised to address future needs.

A particular concern is whether recruitment, training, and promotion policies of the intelligence community are properly focused to provide the human resources needed to fulfill current and future requirements.

Human intelligence, as a potential source, is increasing, especially in the numerous emerging hot spots around the world where other means of intelligence gathering may be limited. But this source is useful only if we adapt our resources, drawing on the diversity available within our Nation. To accomplish this, the intelligence community must relinquish outmoded cultures and break through to a new mind set which more adequately addresses national requirements.

In a separate effort, the Commission on Roles and Missions of the Armed Forces is beginning their review with recommendations expected by May 24, 1995. This Commission will review intelligence product use and value as a threat assessment for the military services, and, if needed, develop recommendations. Our proposed Commission on the Roles and Capabilities of the Intelligence Community should assess these findings and to the extent that it is pertinent, develop recommendations.

The Commission, proposed in this amendment, will conduct an independent, comprehensive evaluation with executive and legislative branch collaboration, providing an opportunity for a pivotal change which could serve to strengthen the support and renew the vitality of this vital capability essential for our Nation's security.

Madam President, I look forward to creation of this Commission and the recommendations it will provide.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Madam President, I thank our distinguished colleague from Florida. He has worked with me every step of the way on this amendment and provided some very valuable concepts which have been incorporated into the amendment.

Madam President, I anticipate at this time that the distinguished Senator from Pennsylvania [Mr. SPECTER] desires to address the Senate under the time allocation accorded him on this amendment.

Mr. SPECTER. I will in a few minutes.

Mr. WARNER. Recognizing that the Senator from Pennsylvania is not ready to proceed, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. BIDEN. Madam President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is considering S. 2082 under a time agreement.

Mr. BIDEN. Madam President, I ask the distinguished chairman of the committee whether he would be willing to yield me 2 minutes on an unrelated matter.

Mr. DECONCINI. Madam President, I certainly yield to the Senator from Delaware 2 minutes of the manager's time.

If the Senator wants some more time, since we are waiting for another Senator who is coming over to speak, I will yield him additional time or we go outside the bill.

Madam President, I ask unanimous consent that the Senator from Delaware be permitted to speak, as if this morning business, for 5 minutes and the time not be allotted against the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized 5 minutes.

THE CRIME BILL

Mr. BIDEN. Madam President, my distinguished colleague from Virginia, prior to bringing up this bill or once this bill was brought up, referenced the defeat of the crime bill yesterday by the House Republicans and the Democrats, who voted with the NRA, and as did the distinguished Republican leader earlier today. Many have spoken to the crime bill.

I will be necessarily brief this morning. I would like to point out one thing, and I have the utmost respect for my friend from Virginia. He said this morning that the House got a message from the American people. I think the real message from the American people is going to come this weekend. But we will see who is correct on that.

The House did receive two messages yesterday prior to the vote. The first message was from the chairman of the Republican National Committee, who sent a message to the Republicans letting them know if they voted for a rule, which meant voted for this crime bill, they would have their water cut off.

To prove the point that I am not making it up, they later sent out a letter retracting that letter saying, "No, we really do not mean that. You can vote the way you want to vote on this."

But the point, is one message was received very clear from the RNC: Do not vote for this crime bill. This crime bill gives a victory to Clinton.

Now this is me saying, not the NRC, my translation: A victory to Clinton hurts us, notwithstanding the fact it helps the American people.

There was a second message sent, a message that has been sent with resounding clarity for the last 6 years, preventing the American people—and I always wonder about all of us, including me, when I quote "speak for the American people." I do not speak for the American people, but I use that phrase sometimes, but I know I do not speak for the American people. I speak for JOE BIDEN, and I speak with as much honesty as all of us do, and sometimes occasionally clarity, as to what I think the American people want. Everyone's view is equally informed, maybe more informed than mine, as to what the American people want.

But I think the American people want a crime bill. I think the American people want assault weapons off our streets. I think the American people want 100,000 more police officers. I think the American people want the Federal Government to give States moneys to build prisons so no hardened criminal is let out, as they say, before his time. I think the American people want us to have drug treatment for people in prisons so we do not release them addicted to drugs. We are doing no favor for them. I think that.

But something I know—I do not think this—I know what I am about to say. For 6 years, I, along with others, but my responsibility as chairman of the committee, have drafted and attempted to pass a strong crime bill, and for 6 years I have underestimated every year the power of the NRA. I must acknowledge that. I do not like admitting that. I flat out got it wrong. For 6 years, the NRA, in conjunction with our Republican colleagues and a few of our Democratic friends, have blocked the passage of tough crime legislation.

Now we hear a lot about midnight basketball and dancing in prison. That is a bunch of malarkey.

But, beyond that, we also hear about the American taxpayers cannot afford to pay it.

Unlike our Republican friends—some of our Republican friends—I have a very good memory. When we passed this legislation in the Senate for 22.3 billion dollars' worth of spending, what we did, with the help of the leadership of the Republican party in the person of Senator GRAMM and the leadership of the Democratic Party in the person of Senator BYRD, we decided we were not going to spend new tax dollars to pay for any of this, and we set up a trust fund.

We said, we are going to make a trade. We are going to fire bureaucrats and hire cops. We are going to fire bureaucrats and hire prosecutors. We are going to fire bureaucrats and hire judges. We are going to fire bureaucrats and build more prisons. We are going to fire bureaucrats and we are going to make sure we put kids in jail who are violent offenders.

So there is no new money to fund this crime bill. This President has reduced the Federal work force to a lower lever than any time since President Kennedy was President of the United States of America. So there is no new money.

Now, what would be honest, if they want to say it, is, instead of spending the money on crime prevention, they would rather spend the money on reducing the deficit. That is an argument I am willing to have with them. Let the people decide that. Do you want more cops on the street? Do you want more prisons to keep people in jail? Do you want more judges? Do you want more prosecutors? Or do you want to reduce the deficit more?

And, I might add, this President is the only President who has reduced the deficit.

So, Madam President, we talk about truth in sentencing—we put that in the crime bill, by the way, truth in sentencing—let us have a little truth in debate here.

There were two messages received loud and clear by the House of Representatives yesterday—one message from the NRC and the other message from the NRA. I compliment them on their muscle, I dispute them on their judgment, and I resent them for their refusing to allow us to even vote up or down on this bill.

I thank my colleagues for yielding me time.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I ask unanimous consent that I may have 8 minutes to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, before the distinguished chairman leaves the floor, I stand by my statement that the vote in the House yesterday was a victory for the American people and it was a vote that was in reaction to their anger for a variety of reasons.

The distinguished chairman may point his finger at the NRA. I am not here to defend the NRA. He may point his finger at the leadership of the Republicans. They speak for themselves. But let him also address the fact that 58 Democrats of his party in the House of Representatives voted—voted, Mr. Chairman—with the majority.

I urge my distinguished friend to just make a check, as I have, of the switchboard of the U.S. Senate; indeed, the switchboard of the Congress as a whole. It has been jammed with calls all this past weekend and all this week of American people seeking to reach their representatives and express their views—not just the NRA, not just Republicans, but Americans from every walk of life.

I would like to think that that vote yesterday was in reaction to those calls. It puts this bill in the proper posture. It exposed the fact that that bill left this Chamber at the level of $22 billion and emanated from the conference in excess of $30 billion.

I would like to ask the distinguished chairman, because he was a principal in that conference, if, at this time, he is willing to tell this body exactly how you went from $22 billion that your fellow colleagues authorized, and allowed this pork to be stuffed in there like so much sausage and then dumped on the House.

Mr. BIDEN. I would be delighted to answer the question.

Madam President, first of all, it is real basic. And I will be brief, because I know the Senator does not want me to take all the time.

I dispute the notion that this is pork.

But let me tell you how we got that number. We passed over here a requirement that the American people and the localities get 100,000 cops. The House had passed their bill at $29 billion and they only had 50,000 police officers in their bill, No. 1.

No. 2, we did not have as much money in for prisons as the House had for prisons. We had $6.5 billion. The House had $13.5 billion for prisons.

So just taking those two items, cops and prisons, and making sure we went to the Senate number, we had to add to the bill to get to 100,000 cops and to get $8.3 billion for prisons, which my Republican friends say they wanted.

By whatever calculation, they have a minimum of additional $3.6 billion and a maximum of $7.6 billion, because the total cost for 100,000 police officers is $8.8 billion.

So to go to the Senate level, we had to add it to the House level or add the prisons to our level. So, right off the bat, just to get more cops and more prison money, which everyone said they wanted, there was another $3 billion to $4 billion that got added.

In addition to that, we then added, at the request of our Republican friends—the House did not have any money in there for what Senator DOMENICI and I very badly wanted—money for Federal law enforcement. So we added nearly $1 billion for the FBI, for the Drug Enforcement Administration, and for other police agencies, including the ATF and the police organizations in the Department of the Treasury.

We did accept about $3 billion additional money for programs that were prevention programs. In return, the House accepted the additional money for police officers and additional money for Federal law enforcement officers, and we accepted additional money for prisons.

If you add up those broad numbers, that is how you get to the over $30 billion mark.

And how do we pay for it? We paid for it by making sure that the sixth year of savings, which has been scored by OMB; acknowledged by the Budget Committee, acknowledged by the Republican and Democratic leadership as real dollars, we took those moneys, an additional $8 billion, I think the number was, for the sixth year of savings, which would come from firing bureaucrats or reducing the number of Federal workers to pay for those additional costs.

NEW DOLLARS IN CRIME CONFERENCE REPORT

Madam President, since the time we passed the Senate bill, a bill that garnered the votes of 95 Senators it will tell you exactly what was added:

VOL 140 PT 16 AG 12 — 18 1994 UMI

We added $1.8 billion for prisons. When the Biden crime bill passed the Senate back last November, there was $6.5 billion for new prisons. In the conference report, there is now $8.3 billion for prisons.

We added $1 billion to the Byrne Drug Enforcement Grant Program—$1 billion new dollars that will go to State and local police officers on the frontlines of the fight against drugs.

We added $50 million for the Drug Enforcement Administration, the DEA. There was $100 million, now there is $150 million for new DEA agents and new investigations of drug traffickers.

We added $170 million for law enforcement operations in the Treasury Department, for efforts by the Bureau of Alcohol, Tobacco and Firearms to track down illegal arms dealers and major criminal gangs. There was $380 million in the Senate bill for Treasury law enforcement. The conference report has $550 million.

We added $1 billion, $1 billion for criminal alien and immigration enforcement, money for new Border Patrol agents and other enforcement activities to cut down on illegal immigration and to speed up the deportation of illegal aliens who have committed crimes in this country.

I might also point out that we have in the conference report more than twice what the House bill had for State and local law enforcement. The conference report spends $13.1 billion for State, local, and Federal criminal justice—the House-passed bill had only $5.5 billion.

To maintain the same balance we had in the Senate bill, the same comprehensive attack, the conference report also added new money for prevention activities, so that we don't simply keep building prisons and producing enough criminals to put them in—the conference report contains $3.8 billion in new spending for a whole host of programs that will provide the children of this country who must grow up in neighborhoods that are virtual combat zones, where there are no movie theaters, no bowling alleys, no miniature golf courses—where there is nowhere to go and nothing to do but hang out on the corner—that will provide these kids with a safe haven. Programs that will provide them with a range of activities they can participate in that are supervised by responsible adults, not by the thugs out on the corner.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I want to make certain my remarks reflected that it was $23 billion passed by the Senate and $33 billion out of conference.

Mr. BIDEN. Will the Senator yield?

Mr. WARNER. Madam President, first, what is the time allocation?

The PRESIDING OFFICER. The Senator from Virginia controls 2 minutes 10 seconds.

Mr. BIDEN. Will the Senator yield me just 10 seconds to clarify?

Mr. WARNER. Madam President, I would like to yield momentarily to the Senator from Arizona.

Mr. BIDEN. Just 10 seconds to make a point.

The Senator is correct about something he said earlier.

Fifty-eight Democrats did vote with all but 11 Republicans against the bill. But those 58 Democrats said that the reason they were voting against the bill is because of the assault weapons ban.

So I am not contradicting myself when I point out it was the NRC and NRA. There are Democrats in the Senate and the House who feel very strongly about the NRA position on banning assault weapons. He is correct, though, 58 Democrats did vote on those grounds.

Mr. WARNER. Madam President, I am glad I did bring that to the attention of the chairman, my distinguished colleague. But it would have been helpful early on if he had included that to give a more balanced perspective to his statement. But I stand absolutely rigid in my view that the American people, the wide spectrum of the American people, at their own initiative, not just because of the NRA—and the NRA has a perfect right to express its views, as does any other organization—but at their own initiative they came forward and the House reflected their collective judgment.

I yield such time as I have left to the distinguished Senator from Arizona.

Mr. MCCAIN. Madam President, I just say to my friend from Virginia, very quickly, the distinguished chairman of the Judiciary Committee just said 58 of his Democratic colleagues in the House were puppets of the NRA. I would say to the Senator from Delaware, maybe they had strong feelings about the constitutionality of the issue. So there are 58 individuals who voted their consciences, certainly in their opinion.

The fact is, with the explanation the Senator from Delaware just gave as the reason why we got the $33 billion, they wanted more so we gave them more; we wanted more and so they gave more; they wanted more so we gave them more—and therefore we got to $33 billion.

The fact is the American people know there are hundreds of millions and billions of dollars in pure giveaway social programs there, many of which have never been tried, never been tested. But we are going to pump these billions of dollars of their taxpayers' dollars into what they want, instead of crime enforcement, at the same time releasing between 10,000 and 16,000 drug dealers and drug pushers from prison.

Mr. BIDEN. Madam President, I ask the distinguished Senator from Arizona to yield me 30 seconds.

Mr. DECONCINI. Madam President, I yield the Senator from Delaware a minute.

Mr. BIDEN. I am sure the Senator from Delaware did not mean to suggest I used the world "puppet." It is his word, "puppet." I like his vocabulary. It is colorful. But I said very bluntly that 58 Democrats straightforwardly acknowledged they were opposed to the assault weapons provision and voted the NRA position. I did not say they were puppets. I say they believe that. I said, "I said they believe that." Although I am always interested in the Senator's characterization of what he thinks someone said.

The PRESIDING OFFICER. Who yields time? The Senator from Virginia.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. WARNER. Madam President, we are on the pending amendment, that is the amendment by the Senator from Virginia, the Senator from Florida, the Senator from Arizona, to establish a Presidential Commission.

Momentarily the Senator from Pennsylvania [Mr. SPECTER], will address it. But in the meantime, I suggest perhaps our colleague from New York be given an opportunity.

Mr. DECONCINI. How much time does the Senator from Arizona have remaining on the bill?

The PRESIDING OFFICER. The Senator from Arizona controls 21 minutes on the bill; 12½ minutes on the pending amendment.

Mr. DECONCINI. I yield to the Senator from New York 10 minutes on the bill.

The PRESIDING OFFICER. The Senator from New York is recognized for 10 minutes.

Mr. MOYNIHAN. Madam President, it is with no pleasure I rise on this occasion. Rather, I rise with a sense of responsibility to the committee and to the body, to recount experiences of another time in which the intelligence community has been very much less than candid and open with respect to matters that the Intelligence Committee should have been informed about.

There has been some discussion in recent days concerning the failure of the intelligence community to notify the Senate Select Committee on Intelligence of the new headquarters of the National Reconnaissance Office. This is not new. This is not the first time such a thing has happened, nor will it be, I fear, the last such incident, while the existing culture—if I could use that large word—of the intelligence community, of the national security state, of the secrecy system, stays in place.

I served for 8 years on the Intelligence Committee. I joined it the first year after it was created. And in those 8 years I was very closely associated with Barry Goldwater, a man revered in this institution not least because he was incapable of lying. For 4 years I was the vice chairman of the committee and he was chairman and we spent a very great deal of time together. At that time there was an understanding, which I am sure exists today, that there are some matters which, if the chairman and vice chairman are notified about, it can be considered that the Senate has been informed. Unfortunately, this is an Agency which has lied to Congress before. Egregiously.

Perhaps the most extraordinary example was the concerted campaign launched in the spring of 1984 when it emerged that the Central Intelligence Agency had mined harbors in Nicaragua—arguably a violation of international law and treaty, but inarguably a significant anticipated action. As I recall the language of the statute, "the committee will be informed of significant anticipated activities." We were not.

The world knew about the mining of the harbors immediately—it was the intention that the world should know. But that our Government had done this, was not known.

In the spring, the Wall Street Journal reported that this had been an action of the Agency—Mr. David Rogers, specifically. Barry Goldwater was outraged. He had not been told of something as important as the mining of the Nicaraguan harbors, and he so stated. Whereupon the Agency began what Robert R. Simmons, the former staff director of the committee, said "can only be described as a domestic disinformation campaign against the U.S. Congress in which they alleged that the intelligence committees had been fully briefed on the harbor mining program." The attack on Chairman Goldwater was vicious.

They went to the New York Times—which was concerned about this—and told the Times that, no, Senator Goldwater was informed. It is simply that Senator Goldwater is not as keen as he may once have been; that he does not remember everything that happens; that, in effect, senility had set in. And the Times—given the seriousness of the charge and the manifest sincerity with which they were told by Agency officials, regretfully, reported that the Senator has begun to lose it. Repeatedly the Agency claimed that he was told, he just cannot recall having been told. It was a lie, an audacious lie, about a revered Member of this body. And faced with it, and the proposition that it was not going to be retracted, I—then acting chairman in Senator Goldwater's absence—announced I would resign in protest.

When the announcement appeared—it was Easter time and Senator Goldwater was in the Far East—it caused something of a ruckus. And, in time, the then-director, Mr. William J. Casey, came to the committee, we then met up on the 4th floor of the Capitol here, and apologized. He acknowledged the committee had not been adequately informed.

Part of the disinformation operation involved an address given at the Naval Academy—the Naval Academy, I say to Senator WARNER—where we teach standards of truthfulness. Mr. McFarland, then National Security Adviser to the President, went to the Naval Academy and told the cadets that Senator Goldwater and the committee had been informed—lied to the cadets.

Subsequently, Mr. McFarland testified before the Iran-Contra Committees on May 12, 1987—we are now more than 3 years from then. In many ways, Iran-Contra arose out of the mining of the harbors, money was cut off, and so forth.

Here is an exchange between Senator SARBANES and Mr. McFarland who, I want to say, has made clear he wished he had never done any of those things.

Reading from transcript:

Mr. SARBANES. Did you know about the mining of the Nicaraguan harbor?

Mr. MCFARLAND. Yes, sir.

Mr. SARBANES. Did you think that should have been consulted with the Intelligence Committees?

Mr. MCFARLAND. Yes, sir.

Mr. SARBANES: It wasn't done.

Mr. MCFARLAND: No, sir.

But the disinformation campaign almost prevailed and never really got resolved.

Following that episode, Director Casey signed the agreements negotiated with the Intelligence Committees which came to be known as the Casey accords. They were specifically designed to see that something like the mining of the harbors never happened again without the committee being informed. Not that the President could not do what he ordered done, but the committee would be informed.

One was signed while Mr. Goldwater and I were chairman and ranking member, and another one was signed a year later. Whereupon the Agency proceeded to lie to the committees again. During all of this period, the Iran-Contra episode took place and the committee was never involved. Indeed, a second agreement was made the following year which confirmed how well it was working, but it was never informed.

Madam President, I discussed this disinformation matter with Mr. Gates when he was under consideration for the post of—Madam President, may I have 2 additional minutes, if I may ask Senator DECONCINI?

The PRESIDING OFFICER (Mrs. BOXER). Does the Senator yield 2 minutes?

Mr. DECONCINI. I yield up to 5 minutes and I ask the time come off the pending amendment.

Mr. MOYNIHAN. Madam President, I will not take that much time.

At the time Mr. Gates was being considered for the Director of the Agency, I raised with him specifically the question of the disinformation campaign directed against Senator Goldwater, and he undertook to look into this and to clear up the record, which now all agree Mr. Casey and Mr. McFarland had lied about Barry Goldwater.

Mr. Gates did not do a thing. He was there, I recall, for 4 years and never lifted a finger to say the Agency had done what it ought never have done and what it ought not do again.

If I can say, Dean Acheson saw all this coming. In his book, "Present at the Creation," he wrote:

> I had the gravest foreboding about this organization and warned the President that * * * neither he, the National Security Council, nor anyone else would be in a position to know what (the CIA) was doing or to control it.

It is a simple thought that secrecy corrupts. It corrupts analysis. Two years before the Berlin Wall came down, the CIA formally estimated the per capita gross domestic product in East Germany to be higher than West Germany. In his memoir, George P. Shultz, Secretary of State, recalls in 1986 when then President Reagan and he were thinking that perhaps they might have some success with Mr. Gorbachev, Mr. Gates, then the Director of Intelligence, informed him, Mr. Secretary, "the Soviet Union is a despotism that works."

You can reach out and touch the day that the Soviet Union would collapse but, no, secrecy inhibits the correction of error. The error simply gets compounded and extended, and it leads to events such as misleading the Congress. It has done so in the past and will do so in the future, so long as it continues.

The secrecy system is still in place. You may know that we have an Information Security Oversight Office which counts the annual creation of secrets. Its most recent report shows that last year, 6,408,688 secrets were created. Can you imagine that we know there were 6,408,688 secrets created last year, a 1-percent increase in the first year of the Clinton administration?

This will go on until we do something about it, addressing it directly. We have created a Commission on Protecting and Reducing Government Secrecy, which is even now in the process of being assembled. I understand Mr. HAMILTON in the House has agreed to be on the Commission and I have done so on the Senate side. Other Members of Congress and private citizens will be appointed. The mission of the Commission is of singular importance to the Republic. It is no less than examining ways to reclaim the liberties of the people. I welcome the proposal by the Senator from Virginia for a review of current intelligence needs. I ask to be made a cosponsor.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. WARNER. Madam President, will the Senator yield on my time?

We will most assuredly add him as a cosponsor. His cosponsorship has a special meaning because he has, again, served on this committee some 8 years, and has identified himself over these many years with the Intelligence Committee.

But also, Madam President, as I conceived of the idea of the Presidential Commission, I thought back on the Social Security Commission, which was one of the most successful in the 16 years I have been privileged to serve in this body. That is a Commission that laid down a format that was quite readily adopted by the Congress and the executive branch.

The distinguished Senator from New York has a far clearer recollection of the work done by that Commission. And given the fact that this administration at the moment is not wholeheartedly in support of the idea of the Senator from Virginia of a Presidential Commission, I wonder if he might address that Commission and how it could likewise have a parallel effect on supporting this Commission.

Mr. MOYNIHAN. Yes. The Nation's largest domestic program, the Social Security Administration, was in imminent danger of bankruptcy. It would have shaken the society in an extraordinary way. The danger was not perhaps as grave as was perceived, but the unthinkable would have occurred: The checks would not go out.

President Reagan, with the vigorous assistance of the then majority leader, Mr. Baker, and Mr. O'Neill, the Speaker of the House, assembled a Commission, a bipartisan Commission, with representatives of the President, the House, the Senate, and with Alan Greenspan as our executive director, now the distinguished head of the Federal Reserve, and Senator DOLE, who was a leading member. It took us a year to get our work done.

The PRESIDING OFFICER. The Chair advises the Senator from New York that his 5 minutes he was yielded has expired.

Mr. MOYNIHAN. I ask for 1 additional minute.

Mr. DECONCINI. I yield 1 additional minute from the pending amendment.

The PRESIDING OFFICER. Time is yielded.

Mr. MOYNIHAN. As Senator DOLE said, when you first hear about these matters, they seem insoluble. And many people thought this whole Social Security thing could never ever be sound in the first place. But he said the more you learn—it had taken a lot of learning and reading—we can fix this thing. He said it the day after he had been reelected, in the Chamber, sitting right over there. He had written an article in the New York Times to that effect.

I went up to him. I said, "We cannot officially work it out." I said, "We can fix this thing, can't we? Do you think so? Why don't we?" And with the help of James A. Baker III, in about 10 days' time it was done.

But a lot of learning had taken place, a lot of facts had been assembled, and it was bipartisan. And it was something that was not forced on the President. To the contrary, the President welcomed the solution in the end. A secure Social Security System emerged.

If I may say, the last of the recommendations to be concluded was that the Social Security Administration be an independent agency. The Senate adopted a conference report to that effect about 2 weeks ago. The House did yesterday afternoon by a unanimous vote. This kind of unanimity comes out of the bipartisanship and cross-relationship between the Congress and the Executive.

I think we have an excellent idea. It is not a moment too soon. And I wish the Senator very well, every success, and I am honored to be a cosponsor.

The PRESIDING OFFICER. The Chair will state that the Senator's time has now expired, and the Senator from Virginia has no further time remaining on this amendment.

Mr. SPECTER addressed the Chair.

Mr. WARNER. Madam President, would the distinguished Senator seeking recognition just allow me to thank my colleague from New York.

My understanding is the Senator from Pennsylvania is now to be recognized.

The PRESIDING OFFICER. That is correct. The Senator has 15 minutes.

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I thank the Chair.

At the outset, I compliment the distinguished chairman, Senator DECONCINI, and the distinguished ranking member, Senator WARNER, for their leadership of the Intelligence Committee and for bringing to the floor the Intelligence Authorization Act and the pending amendment for the creation of an independent commission to review the roles and capabilities of the U.S. intelligence community, which I support.

The public may wonder why a commission is necessary, but the fact is that the work of the Senate and the House, too, is so involved with so many varied matters that a review by a commission, which can spend the time necessary, is very much in the national interest.

I am glad to see that the final report date has been advanced from December 31, 1996 to March 1, 1996. It would have been my hope that the commission could have finished its work at an earlier date so we would have the advantage of their thinking, but it does take time for clearances. It is important that the commission have enough time to do its work right, but the sooner the better.

I had the privilege of serving on the Intelligence Committee for some 6 years and have been off the committee now for 3½ years and look forward to rejoining the Intelligence Committee next year, hopefully as the chairman, assuming a Republican majority, or in the absence of a Republican majority, then as the vice chairman.

The committee has very, very important work to do. The comments I wish to make today—and I had hoped to be here earlier today but was working with a group meeting on health insurance—relate to the threat of terrorism and how we are going to deal with terrorism and the need institutionally to establish an international criminal court.

Our overhead satellites tell us a great deal, but the most important work is done by what is called in the trade "HUMINT," which means human intelligence. I believe that past limitations of funds set back the intelligence community on human intelligence which is a very slow, time-consuming process to build agents who have the capacity to work within the networks of the terrorists and to work within the networks of those who are planning ill for the world, to find out what is going on so that we can respond.

The recent incident with Aldrich Ames has set back human intelligence even further by his disclosures and by the tragedy of so many of intelligence agents being murdered, being eliminated.

I am hopeful that the intelligence community will work on this very time-consuming, difficult matter to reestablish HUMINT.

With the decrease of international hijacking of airplanes, there may be a public perception that terrorism is on the wane. But the fact is, as disclosed by the Director of the Central Intelligence Agency, international terrorism is on the increase, with some 427 terrorist incidents worldwide last year, which represents a significant increase over the 362 incidents in 1992. The Director of Central Intelligence, James Woolsey, pointed out in open testimony the activities of Iran in continuing to support the Lebanese Hezbollah who are violently opposing progress on the Mideast Peace Accord between Israel and the PLO and now between Israel and Jordan.

We saw the recent bombings of the Israeli Embassy and Jewish Center in Buenos Aires which is linked to foreign terrorism. We saw not too long ago, the bombing of the World Trade Center.

Terrorism remains an enormous problem internationally. What has to be understood publicly is that just because the incidence of international hijackings has decreased, the security of innocent civilians has not increased. Unfortunately, the public focus is too short-lived, and that is understandable because there are so many problems

that confront the country. But those of us in Washington who work on intelligence must pursue the threat in a professional, systematic manner.

One area on which we have not had the progress is in the establishment of an international criminal court which I have spoken about many times during my 14 years in this body and which the Senate and the House have endorsed on many occasions.

Quite candidly, it has not received the support of either Republican or Democrat administrations. If we are to stem the tide of international crimes, it is very important that we move ahead to institutionalize a mechanism to deal with such crimes—an international criminal court. We do have a war crimes tribunal which has been set up for the crimes against humanity and probable genocide in Bosnia. The Senate has debated, as has the House, many times trying to take action against these atrocities. We talk about bombing, which has been limited. We talk about land operations, which have been rejected for very practical reasons. We talk about unilaterally lifting the arms embargo.

But one thing we could do—which we owe victims of war crimes in Bosnia—is not so complicated. It is to bring the war criminals to trial and to show that there is an international rule of law. The United Nations, with U.S. support, did establish a war crimes tribunal and finally laboriously a chief prosecutor. The court must now act.

I took the floor a year ago to earmark some $3 million for the war crimes tribunal to investigate and gather evidence together. The Senate, the House and the administration ought to be pushing much harder for prosecutions and accountability.

Now we have the atrocities in Rwanda. I am gratified to note that the Secretary of State has called for an international criminal court to try the war criminals in Rwanda. But we cannot expect a war crimes tribunal to be established for each and every violation of internationally accepted law. The solution is to establish a permanent international court. There was strong public support years ago for such a court with the hijacking of the *Achille Lauro* and the murder of Leon Klinghoffer, and for what happened when Abu Abbas left Egypt on an airliner to Tunisia, was forced down in Italy, where Abbas was released by Italian authorities, later tried in absentia, and finally received a 30-year jail sentence, which meant absolutely nothing.

I had an opportunity back in 1986 to discuss the incident with the then Prime Minister of Italy, Prime Minister Craxi and then with Yugoslavian President Mojsov, who were concerned about the terrorism implications for their country. Had we had an international criminal court, I think the Italians, the Yugoslavs or Egypt would have turned over Abbas to an international criminal court.

There is a matter of national sovereignty, and Egypt was not prepared to turn over Abu Abbas to the United States. When the Egyptian airliner was forced down in Sicily, there was a standoff between United States military personnel and Italian military personnel, and, as a result, we did not get our hands on Abu Abbas for trial in the United States. Questions had been raised at that time of whether the United States had jurisdiction over terrorism committed against U.S. citizens abroad.

Fortunately, we did correct U.S. law with the 1984 Omnibus Crime Control Act, which gives U.S. courts jurisdiction over hijackers, terrorists, and the 1986 Terrorist Prosecution Act which I introduced and which was passed after the terrorist murders in the Rome and Vienna airports.

We also need a permanent international criminal court to try international drug traffickers.

Examples for this need are the incidents of international drug dealers residing in Colombia, and the U.S. difficulty in gaining their extradition to the United States. Former President Gaveria of Colombia told me that it would have been easier to extradite and try these criminals in an international criminal court.

I would like to focus now on the enormous problem of the proliferation of weapons of mass destruction—nuclear, chemical, and biological, and their missile delivery systems. In North Korea we have good reason to believe that a nuclear bomb is being developed but have insufficient proof to really confront the North Koreans. The same nuclear weapons development problem was true in Iraq, and with the so-called "big gun," it is true in India, Pakistan, and Iran.

Those are problems of overwhelming importance in nations with despots like Saddam Hussein, the despots who run Iran, and the uncertainty and unpredictability in North Korea's reaction as to efforts to persuade them to comply with international conventions such as the Nuclear Non-Proliferation Treaty. There is still a great and concerted need for intelligence, especially human intelligence, even when these violations are not hitting the front pages.

So I think the Intelligence Authorization Act is important. I think the creation of the new independent commission can give us further insight. But I think, most importantly, we have to work institutionally to develop human intelligence, and institutionally we have to work to develop the international criminal court.

I look forward next year to joining the Intelligence Committee. We will be losing a valued member in Senator DECONCINI who will regrettably be leaving this body after 18 years of distinguished service. I think that the Intelligence Committee has done outstanding work. It is obvious that vigilance and oversight is necessary at all times, especially in light of the recent disclosures about the building of the new NRO establishment. But these are items which have to be addressed.

I look forward to working with my colleagues on these important issues in the future.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Madam President, I thank the Senator from Pennsylvania. Indeed, he will be a valuable member of the committee. Certainly he will be on the committee next year, and we look forward to his real leadership.

Mr. WARNER. Madam President, will the Senator yield?

Mr. DECONCINI. Yes.

Mr. WARNER. I join the distinguished chairman in commending our colleague. Indeed, I had the pleasure of serving on the committee at the same time that he served.

Mr. SPECTER. I thank my colleagues for those generous comments. I look forward to serving on the committee.

The PRESIDING OFFICER. Does the Senator yield the remaining 3 minutes and 31 seconds?

Mr. SPECTER. I yield that time to my colleague from Utah, Senator HATCH, and more time, if necessary, off my time.

Mr. DECONCINI. I have no objection.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I ask unanimous consent that my remarks be considered as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair inquires how much time the Senator may use?

Mr. HATCH. I am not sure.

Mr. DECONCINI. May I inquire? How long does the Senator anticipate?

Mr. HATCH. I do not know. It will not be very long; maybe 10 minutes.

Mr. DECONCINI. I do not want to object to the Senator from Utah, but we are trying to pass this bill and vote by 1 o'clock. We have one more amendment. We have a 30-minute limitation. Could the Senator restrict that to 5 minutes?

Mr. HATCH. I do not know if I can. But I will certainly try.

Mr. GRAMM. Madam President, reserving the right to object, maybe I should notify my colleagues. I would like to have an opportunity to speak for 5 minutes. I will limit it strictly to 5 minutes. It is not my objective to hold up this bill. But I would like to make a comment on another subject. The time in which I speak will be strictly limited to 5 minutes.

VOL
140
PT
16
AG
12
—
18
1994
UMI

Mr. DECONCINI. Will the Senators let us just put in some statements, and yield the time on the pending Warner amendment? Then we will ask for some 5 minutes time before we go to the next amendment.

Mr. HATCH. Sure.

Mr. DECONCINI. Madam President, the pending amendment is the Warner amendment.

The PRESIDING OFFICER. That is correct.

COMMISSION ON THE ROLES AND CAPABILITIES OF THE U.S. INTELLIGENCE COMMUNITY

Mr. DECONCINI. Madam President, I rise in support of the amendment offered today by Senators WARNER and GRAHAM to be created a commission on the roles and capabilities of the U.S. intelligence community.

I give Senator WARNER, the distinguished vice chairman of the Select Committee on Intelligence, and Senator GRAHAM, who has made an extremely valuable contribution as a member of the committee, the lion's share of the credit for this initiative. They have for some time now believed such an effort is needed.

I have come to agree with them. Indeed, it has been my hope that the DCI might have initiated such a review, but this has not happened, and, plain and simply, I am tired of waiting. I believe this amendment represents a better way to go.

Madam President, there have been significant changes in the intelligence community since the end of the cold war. There have been personnel reductions and reallocations of resources carried out by individual agencies.

But what we are thus far lacking and what is, in my opinion, sorely needed, is an overall revalidation of the roles and capabilities of the intelligence community in the post-cold-war world. We need to have an objective, hardheaded look at the fundamentals: at what we expect intelligence agencies to do, at what levels they should be resourced, at what capabilities they must retain for the future. Everything should be on the table.

I do not think this can be achieved by the executive branch looking at itself, nor do I think the congressional oversight committees have the capability to do what is needed.

What this amendment proposes is a bipartisan commission with 17 members. Nine would be appointed by the President; two by the majority and minority leaders of the Senate, respectively; and two by the Speaker and minority leader of the House of Representatives, respectively. The President would designate a chairman. The commission would be empowered to hire its own staff and not have to rely on staff from the intelligence agencies.

The end result of its work would be a report to the President and the Congress. To the extent possible, the report would be unclassified and made available to the public. There would necessarily be a classified supplement which would not be made public, but which would be provided to the President and the intelligence committees.

The amendment provides the Commission with sufficient time to do its job. These are difficult issues and should not be assessed in a rush. The amendment provides that the final report of the commission be submitted no later than March 1, 1996. Given the time which will be required for the appointment and security processing of the members of the commission, we think this will allow more than a year for the commission to do its substantive work.

Madam President, in my tenure on the Intelligence Committee and in particular during these last 2 years when I've served as chairman, it has become increasingly clear to me that the political consensus that we once had for this function has eroded and continues to erode. We need a new consensus. We need a new rationale—a revalidation of the approach we have been taking by a group of objective, hardheaded people, with no ax to grind and no stake in the outcome. This is what we contemplate in this commission.

I am convinced this amendment will serve the interests of both the executive and legislative branches and urge my colleagues to support it.

Mr. METZENBAUM. Mr. President, I am pleased to support the Intelligence Authorization Act for fiscal year 1995. This bill does not reduce the intelligence budget by as much as I believe it should. It does represent, however, a sincere effort by the Intelligence Committee to identify those programs that can most readily be cut back without any harm to the national security.

This bill, as amended, will deal with problems that our audit team uncovered in its recent investigation of the new headquarters building for the national reconnaissance office. We held a hearing on this subject on Wednesday, where high officials and veteran NRO personnel admitted that the building project should have been presented to the committee as a separate budget item. The witnesses also agreed that, now that the NRO is publicly acknowledged, there would be no reason for covert procurement of a building such as this one in the future.

The DeConcini-Warner amendment, which is similar to the Bryan and Boren amendments to the Defense appropriations bill, will ensure that these problems do not occur in the future. I am happy to support it.

The Intelligence Authorization Act, as amended today, will also bring about needed reforms in the counterintelligence and security field. And it will mandate a presidential commission to examine the roles and missions of our intelligence agencies.

I am especially pleased that we will make it easier for intelligence agencies to track the financial and travel activities of their employees with access to the most sensitive information. Such activities are far better indicators of possible security problems than are the political and sexual questions that security officers have pursued in the past.

I am also pleased that we are moving to create a system of court orders for physical searches for foreign intelligence purposes. The executive branch conducts secret searches of people's homes and offices today, based upon a constitutionally suspect claim of Presidential powers which are then delegated to the Attorney General. I think that is a terrible way in which to handle such an intrusive technique.

By contrast, the Foreign Intelligence Surveillance Court, which was established by the Foreign Intelligence Surveillance Act of 1978, has consistently passed constitutional muster for the control of foreign intelligence wiretaps, which are a similarly invasive technique. Allowing the FISA court to handle physical searches will enable us to bring judicial supervision to an area that surely warrants it.

I should add that I do hope some changes will be made to the physical search provision in conference. For example, the bill before us would allow a person who is in a legal proceeding to object to the use of seized documents only if that person owned the documents or the premises that were searched. But someone could easily have documents about you that were not owned by you, but either were written by you or were authoritative records concerning you.

I think that in such a case, if the Government is going to use those documents against you in a legal proceeding, you should be permitted to contest the legality of the search. I say this especially because the Government will be allowed to undertake that search without showing probable cause that a crime has been committed.

At a recent hearing of the House Intelligence Committee, former Department of Justice official Kenneth Bass had some additional suggestions for the conference committee. He would broaden the circumstances in which a defense attorney may gain access to the documents underlying a physical search order. And he suggests that when the Government seeks a court order authorizing an intelligence search, an officer of the Foreign Intelligence Surveillance Court be instructed to act as an "advocate of the target arguing against the warrant." All these ideas, which arose after our mark-up, can and should be addressed in conference.

The intelligence authorization bill will put into law a new interagency structure for handling counterintelligence issues. The old system was clearly broke, and the many mistakes

surrounding the Aldrich Ames espionage case merely underscore the tragic lack of coordination and cooperation between the various executive branch agencies that handle personnel security and counterespionage matters.

The bill we approve today will give the new National Counterintelligence Policy Board a permanent chairman, rather than relying upon a rotating chair that can only be a prescription for drift and inaction in future years. I can readily believe that a rotating chair was the best that the White House could get competing agencies to accept. But that is no reason for the Congress to limit its efforts to improve counterintelligence policy making. We will do the country a real service by giving that board one chair, and the Attorney General is as fair a person as you are likely to find for the task.

I am a cosponsor of the Warner-Graham-DeConcini bill to establish a Presidential commission on the roles and missions of our intelligence agencies, so I am delighted to see that idea added to the budget bill today. We may not all agree on how well U.S. intelligence is doing or on how much money to spend on it, but all of us know that a careful look is needed at the role of intelligence after the cold war.

The commission we are proposing will be named largely by the President, but will also have members from the House and Senate. I think it will give the President and the country a fresh view of what intelligence is needed, and how to meet those needs.

Let me note, however, that we do not want the intelligence agencies to just stand around while this commission considers their fate. If there are changes or reforms that an agency knows it should make, it should go right ahead and make them. This commission will be no excuse for drift and inaction.

Let me turn now to the issue of disclosing the total figure for the intelligence budget. Last year, of course, the Senate passed a "sense of Congress" provision calling on the President to find a means of disclosing that figure. I regret that we were forced to drop that provision in conference.

Three things have happened since then to give me confidence that we will eventually win on this issue. First, on November 22 of last year, 11 leaders of Congress joined me in urging the President to disclose the budget figure. The nine Democrats and two Republicans who signed that letter included the majority leader of the Senate, the Speaker and majority leader of the House of Representatives, the chairmen of both the Senate and House Intelligence Committees, and no fewer than six former chairmen or vice chairmen of the Senate Intelligence Committee. I ask unanimous consent, Mr. President, tht the text of that letter be included in the RECORD.

The second hopeful sign was a letter of March 23, 1994, from the Director of Central Intelligence, Jim Woolsey, to our vice chairman, Senator JOHN WARNER. My colleagues may recall that in last year's debate on this issue, one of Senator WARNER'S major points was that other countries do not disclose how much they spend on intelligence. That did not bother me, because I am not frightened by the thought of America being a pioneer. We were the first country to establish congressional oversight of intelligence, and now we see more and more countries following our lead.

A month after he raised that argument, Senator WARNER asked the DCI to study other countries' practices and report back to us. Director Woolsey's reply listed seven countries that do disclose their intelligence budget totals, including Australia, New Zealand, Norway, Greece and—most recently—our closest intelligence partner, the United Kingdom. Now, I still do not believe that we should be bound by the practices of other countries. But I am delighted to see this specious argument die a peaceful death and to report to my colleagues that more recent statements by opponents of disclosure carefully omit any discussion of what our allies are doing.

Finally, Mr. President, I take heart from the recent vote on this issue in the House of Representatives. I am sorry that the House rejected an amendment proposed by House Intelligence Committee Chairman DAN GLICKMAN to require disclosure of the budget total. But I am very pleased that the margin of defeat was only 27 votes. That compares very favorably with the 95-vote margin by which a weaker proposal was defeated just 1 year ago. It demonstrates, in my view, that the march of history is in our direction.

The bill before us today does not contain any provision regarding budget disclosure. Based on last year's experience, moreover, I know that passage of such a provision by the Senate will not achieve our purpose in the face of the recent vote in the House. I will not take up my colleagues' time, therefore, by proposing disclosure language today.

I am confident, however, that within a year or so, a freshman Democratic Senator from Ohio will join a majority of his colleagues in both houses in enacting legislation to strike this modest, but needed, blow for the American people's right to know how the Government is spending their money.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, November 22, 1993.

The PRESIDENT OF THE UNITED STATES,
The White House Office, Pennsylvania Avenue, NW., Washington, DC

DEAR MR. PRESIDENT: Last February, Senator Metzenbaum sent you a letter proposing that the Executive branch disclose to the public the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities. We are writing you now to reinforce that message and to urge you to take decisive action on this issue.

The world has changed greatly since the Cold War days in which the norm of strict secrecy on the intelligence budget was established. We no longer face a monolithic enemy with a massive intelligence establishment that might somehow use this information to harm us. Neither can we rely upon unquestioning public support for secret operations or for the budgets to support them.

You and your administration are well aware of this. In your campaign and in your months in office, you have stood for both greater openness and greater economy in our government. You have also begun the process of drafting a new Executive order on classified information, even as the Director of Central Intelligence and the Secretary of Defense have created a Joint Security Commission to recommend more rational and economical means of defining and protecting the information that truly requires secrecy in order to protect the national security.

We believe that in the post-Cold War world, and especially in a time of budget stringency when national priorities are being reexamined, the level of intelligence spending (although not the details) must be open to the public. In the absence of a legitimate security justification, the norms of our democratic system require that the public be informed.

We stand with you on the need for new approaches in a changed world. We hope you will bring that spirit of change to the issues of intelligence budget disclosure.

Sincerely yours,

Thomas S. Foley, Richard A. Gephardt, Dan Glickman, Dave Durenberger, David L. Boren, Howard M. Metzenbaum, George J. Mitchell, Daniel K. Inouye, Dennis DeConcini, Patrick Leahy, Frank Murkowski, Daniel Patrick Moynihan.

Mr. DECONCINI. Madam President, I ask unanimous consent that a statement by the administration in opposition to, I am sorry to say, our Commission; to section 3 of the bill; and to requiring Senate confirmation of the CIA general counsel, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 12, 1994.

STATEMENT OF ADMINISTRATION POLICY

S. 2082—INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995—(DECONCINI (D) AZ)

The Administration supports S. 2082, but opposes this provision requiring the President to nominate and the Senate to confirm the General Counsel of the Central Intelligence Agency (CIA). All General Counsels serving in the Administration, whether or not the Senate confirms them, are held to the highest standards of professional responsibility. The Administration, while deeply committed to the principles of accountability embodied in the congressional oversight process and to the rule of law, does not believe Senate confirmation of the CIA General Counsel is required at this time.

VOL 140 PT 16 AG 12 — 18 1994 UMI

In addition, the Administration would oppose amendments that would mandate the manner in which counterintelligence activities are coordinated within the Executive branch. The Administration is implementing a Presidential Directive that provides for the reorganization of U.S. counterintelligence policy management and coordination. This Directive makes the necessary improvements to U.S. counterintelligence efforts.

The Administration is committed to conducting a review of intelligence roles and missions through the President's Foreign Intelligence Advisory Board (PFIAB). This review will be undertaken in full consultation with the Congress. The Administration would oppose amendments that would mandate the establishment of a new Commission for this purpose.

Mr. DECONCINI. Madam President, I ask unanimous consent that any time that this Senator has remaining on the pending Warner amendment be applied to the manager's time on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, parliamentary inquiry: It is this Senator's understanding that the yeas and nays have been ordered on the Warner amendment.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Accordingly then, I ask unanimous consent that this amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Now, Madam President, the bill is open for further amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Madam President, to inform the Senate, it is the intention of the distinguished chairman and myself to offer another amendment which would require perhaps 30 minutes equally divided between the two of us. I, of course, will be a cosponsor of the amendment in which we would debate. And then the Senate could, soon after other developments could occur, would vote in about 45 minutes. The first vote will be on the Warner amendment, the second vote would be on the DeConcini-Warner amendment, and then the third vote would be on final passage of the bill itself.

Mr. DECONCINI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the remaining time on the previous amendment is yielded.

AMENDMENT NO. 2557

(Purpose: To require a review of the National Reconnaissance Office Headquarters Building project, the application of existing DOD procurement and contracting procedures to the construction of buildings or facilities and specific congressional authorization and appropriations for the project before more funds are expended)

Mr. DECONCINI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. WARNER, Mr. BAUCUS, Mr. D'AMATO, and Mr. METZENBAUM, proposes an amendment numbered 2557.

Mr. DECONCINI. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 18 and 19, insert the following new section:

SEC. 504. LIMITATIONS ON FUNDING OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) REVIEW OF PROJECT; COMPLIANCE WITH DOD PROCUREMENT AND CONTRACTING PROCEDURES.—Of the funds made available by this Act for the National Reconnaissance Office under the classified Schedule of Authorizations referred to in section 102 of this Act—

(1) $50,000,000 out of the Miscellaneous Support account of the Mission Support Consolidated Expenditure Center may not be obligated or expended until the Director of Central Intelligence and the Secretary of Defense have completed a review of the National Reconnaissance Office Headquarters Building project and the results of such review have been disclosed to the congressional intelligence committees; and

(2) no such funds made available by this Act may be obligated or expended for the purchase of any real property, or to contract for any construction or acquisition, in connection with the construction of buildings or facilities, unless (and to the extent that)—

(A) such purchase or contract is made or entered into in accordance with the policies and procedures applicable to other elements of the Department of Defense; or

(B) the President determines that the national security interest of the United States requires that such policies and procedures shall not apply to a particular purchase or contract and reports such determination in accordance with subsection (b).

(b) WAIVER PROCEDURES.—Not later than 30 days after making a determination under subsection (a)(2)(B), the President shall report in writing the determination to the congressional intelligence committees.

(c) SPECIFIC AUTHORIZATION AND APPROPRIATIONS REQUIRED.—Except to the extent and in the amounts specifically provided in an Act authorizing appropriations and in an appropriation Act, no funds made available under any provision of law may be obligated or expended for the National Reconnaissance Office Headquarters Building project if such funds would cause the total amount obligated or expended for such project to exceed $310,000,000.

(d) DEFINITIONS.—As used in this section:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) NATIONAL RECONNAISSANCE OFFICE HEADQUARTERS BUILDING PROJECT.—The term "National Reconnaissance Office Headquarters Building project" means the project for the headquarters buildings of the National Reconnaissance Office, situated at the so-called Westfields site, and includes all construction and improvement of facilities (including 'fit up') and all actions related to the acquisition of land, communications, computers, furniture and other building furnishings, and vehicle parking facilities.

Mr. DECONCINI. Madam President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

ORDER OF PROCEDURE

Mr. DECONCINI. Madam President, I ask unanimous consent the pending amendment be set aside, and that we proceed in morning business to accommodate the Senator from Utah for not to exceed 8 minutes, and the Senator from Texas for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, reserving the right to object, it would appear to me that in fairness to the Senate as a whole, given the schedule, that we ought to indicate, the chairman and I, that we would interpose objection to any further matters which might take the Senate's attention from this bill and the amendments.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

The Chair would ask the two managers, do they wish to reserve their 15 minutes each on the DeConcini-Warner amendment?

Mr. DECONCINI. That is correct.

The PRESIDING OFFICER. We will now proceed to morning business for 8 minutes to the Senator from Utah, and 5 minutes to the Senator from Texas.

Mr. HATCH. I thank you. I will not take the full 8 minutes.

THE CRIME BILL

Mr. HATCH. Madam President, I was interested in Chairman BIDEN's comments on the floor regarding the crime bill just a little while ago. I felt like I had to respond because my colleagues on the other side of the aisle say we must pass a crime bill, because it took them months to build their fragile coalition. There is little doubt in my mind that building support among social workers and liberals is a tough job, but the administration has never tried to build a coalition which included Republicans.

Earlier in the week, I joined BOB DOLE and other Senate Republican conferees in a letter to President Clinton which laid out the foundation for a compromise. But our input has been ignored by the administration and the other party. The administration did not lead, but followed the liberal wing of its party. The President and his party should seize this opportunity to move forward with a bipartisan bill, a bill which is tougher on criminals than it is on our wallets, a bill which moves to the right.

I ask unanimous consent that the letter Republicans sent to President Clinton be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. As the distinguished Senator from Virginia said, the voice of America is getting through. There are several key elements which a crime bill worthy of Senate passage should contain, and which the conference report omits. It is one of the reasons the rule was defeated.

A crime bill worthy of the Senate's support should have at least $13 billion in real money for the actual construction and operation of prisons.

A crime bill worthy of the Senate's support should not provide for the early release of convicted criminals. We are talking about 10,000 to 15,000 people being released early to just go out and do what they have done before.

A crime bill worthy of the Senate's support should not squander billions upon billions of dollars in scarce crime-fighting resources on gauzy social spending schemes straight out of the failed Great Society of the 1960's. That is what this bill does.

A crime bill worthy of the Senate's support should impose stiff mandatory minimum penalties for the use of a gun in a crime. It should impose stiff mandatory minimum sentences for those selling drugs to kids. That bill does not.

A crime bill worthy of the Senate's support should retain the many tough provisions passed by the Senate and abandoned by the conference—provisions ranging from the Moseley-Braun-Hatch amendment subjecting 13-year-olds committing certain heinous crimes to prosecution as adults, to the tough Dole-Hatch-Brown Federal antigang provision.

A vote for this conference report is a vote for early release from prison for as many as 10,000 to 16,000 Federal convicts. This little shocker has not been mentioned by the news media or by the President.

A vote for this conference report is a vote to spend a woefully inadequate amount of money for the construction and operation of prison space. A careful examination of the conference report's provisions on prisons reveals that it is much better suited for sound bites by the President and those who favor spending as little as possible on real prisons than it is suited for the actual construction and operation of prison space.

A vote for this conference report is a vote to waste literally billions of dollars in 1960's-style social spending boondoggles, rather than spend these precious resources on hardnosed law enforcement programs and more prison space. This is a cave-in by the President who supported this diversion of crime-fighting funds into social spending boondoggles. This diversion is an effort to appease liberal special-interest groups on whom he relies for political support.

A vote for this conference report is a vote to acquiesce in this administration's cynical, back-door betrayal of the American people concerning the death penalty. The administration has said it will implement by Executive order what it cannot achieve through the legislature, that is, the misuse of statistics to undermine, if not end, the use of the death penalty where it is otherwise merited.

A vote for this conference report is a vote soft on crime.

A vote for this conference report is a vote for deficit spending—$13 billion in deficit spending.

A vote for this conference report is a vote to restrict second amendment rights without any real impact on crime.

One last thing, Madam President. The conference report spends an inadequate amount of money on prison construction and operation. Some of the money it purports to spend is not even funded by the crime bill.

The other side of the aisle claims to spend $8.3 billion on prisons. Yet, $1.8 billion of that funding is given to the Attorney General to hand over to the States with total discretion to alleviate the costs associated with the incarceration of criminal aliens. Not one dime of the $1.8 billion in alien incarceration grants has to be spent on prison construction.

The remaining $6.5 billion in so-called prison spending is in the misleadingly rugged-sounding program entitled "Violent Offender Incarceration and Truth in Sentencing Grants" section. Yet, not one dime of this money has to be spent on prison construction or operation. Let me repeat that: Not one dime of that $6.5 billion prison proposal supported by the President must be spent on construction of prisons or operation of prisons.

Rather, the money can be spent on programs, including alternative confinement facilities and drug treatment, intended to free up existing prison space—not to build new prisons. These programs will ostensibly free up existing prison space through early-release-type programs for some offenders, halfway houses for still other offenders, and similar alternatives to prison. In other words, all of the money can be spent on softheaded alternative confinement facilities and other alternatives to prison construction and operation.

Indeed, this program requires State recipients to implement a comprehensive correctional plan. The plan must include, among other things, diversion programs, particularly drug diversion programs, prisoner rehabilitation and treatment programs, prisoner work activities, and job skills programs. What do any of these things have to do with locking up violent criminals?

In effect, in order to qualify for the prison grants, the States have to spend much or all of it on a costly, liberal corrections scheme. This is a shell game. Ironically, the so-called truth in sentencing Republicans had fought for was opposed by some on the other side of the aisle as being too costly for the States. Yet, they have little trouble in requiring the States to implement the Clinton administration's version of appropriate correctional policy—diversion programs, including drug diversion, treatment, and job skills programs—in order to qualify for the prison grants.

To make matters worse, the conference report supporters suggest that the bill conditions as much as 40 percent of the so-called prison grant funding on State implementation of truth in sentencing. Yet, State adoption of a determinate sentencing scheme under their proposal will only apply to second-time violent offenders. Furthermore, these grants are subject to the same condition I mentioned earlier—the State must implement a liberal corrections scheme.

Foreover, for whatever reason, the other side of the aisle is intent on giving the administration broad discretion to distribute the crime bill money how and where they see fit. Although the other side of the aisle eventually inserted a formula, 15 percent of this prison money is turned over to the Attorney General of the United States to do with as she pleases. As well, if the Department chooses to delay allocation of formula funds long enough, the unallocated funds are turned over to the Attorney General's discretionary fund.

The reason criminals serve less than 40 percent of their sentences is not because we have failed to spend precious prison dollars on drug diversion and job skills programs. Our Nation's prisons do not have revolving doors—where murderers are sentenced to 15 years but serve less than 7, and rapists are sentenced to 8 years but serve less than 3—because we have failed to spend an adequate amount of our prison dollars on drug and sex offender treatment programs, and post-release assistance. Our Nation's criminal justice system lacks credibility because we have failed to provide an adequate deterrent to crime and enough places to lock up hardened criminals and throw the key away.

We desperately need an emergency buildup of prison space. A Senate Republican amendment to put $13 billion into actual construction and operation of prisons was rejected in conference.

Madam President, let us get real on this bill. The reason the rule was defeated is that it is a bad bill. We have to fight against it.

I yield the floor.

VOL 140 PT 16 AG 12 — 18 1994 UMI

EXHIBIT 1

U.S. SENATE,
Washington, DC, August 10, 1994.

Hon. WILLIAM J. CLINTON,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: Congress has an historic opportunity to pass anticrime legislation that can make a real difference in the lives of all Americans.

While the crime conference report now pending before Congress contains a number of worthy provisions, it is unfortunately deficient in several critical areas: It provides too few resources for state prison construction and operation. It fails to promote a real truth-in-sentencing plan for America so that violent criminals are kept behind bars where they belong. It permits the early release of as many as 10,000 federal prisoners as a result of a mandatory minimum "repeal" provision. And it needlessly increases the federal budget deficit.

The conference report also devotes billions and billions of dollars to more than 25 separate "prevention" programs. The American people are not fooled by this multi-billion dollar boondoggle: It is an obvious attempt to placate the most liberal wing of the Democratic Party, which otherwise would not support a bill that establishes an enforceable federal death penalty.

Not only is this pork-barrel spending wasteful, it is also unnecessary, a duplication of existing federal programs. The General Accounting Office, for example, recently reported that there are already seven federal agencies sponsoring 266 prevention programs for delinquent and at-risk youth. The annual price-tag for these programs is $3 billion. GAO also estimates that the federal government currently runs 154 separate and overlapping federal employment and training programs at an annual cost of nearly $25 billion. The bottom line is that more pork will not mean more crime prevention.

Mr. President, we want to pass a crime bill, and we want to do so on a bipartisan basis. That is why we urge you to call upon the Senate and House Democratic Leadership to reconvene the conference immediately so that the following improvements to the conference report can be made:

Strip the pork-barrel provisions and divert a significant portion of the savings to the Edward Byrne Memorial Grant Program. The Byrne program is designed to assist state and local law enforcement, the very people who are on the front-lines in the war against crime. This is where the resources are needed most.

Increase funding for state prisons to the $13.5 billion level passed by the House and make it available only for prison construction and operation. Condition at least half of this funding on the adoption of truth-in-sentencing laws for first-time violent offenders.

Narrow the so-called mandatory minimum "safety valve" that the Administrative Office of the U.S. Courts estimates could result in the early release of as many as 10,000 federal prisoners.

Prohibit the use of statistical tests and racial quotas in the enforcement of our nation's death penalty laws.

Restore the mandatory minimum penalties for those who use a gun in the commission of a crime or sell drugs to children.

Restore the provision ensuring the admissibility of evidence of similar crimes in sex offenses cases. This provision was adopted on a bipartisan basis by both Houses of Congress.

Restore the provision requiring mandatory restitution to the victim crime.

Restore the deficit-neutral trust fund.

Republicans would prefer making additional improvements to the conference report. However, if the changes we have listed above are adopted, we are prepared to support the conference report as a compromise measure. If the changes are not adopted, we will have no choice but to oppose a bloated, soft-on-crime conference report that we believe would not be in the best interests of the American people.

We would also like to take this opportunity to urge you not to resurrect the so-called Racial Justice Act through an executive order or other Presidential directive. The American people will rightfully view such a directive as nothing more than a back-door attempt to abolish the federal death penalty.

Mr. President, thank you for your attention to this request. We look forward to hearing from you.

Sincerely.

ORRIN G. HATCH.
STROM THURMOND.
CHUCK GRASSLEY.
ARLEN SPECTER.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM] is recognized.

THE CRIME BILL CONFERENCE REPORT

Mr. GRAMM. Madam President, I am sure that there are a lot of Americans who were stunned when the House defeated the crime bill. After all, we know that 85 percent of the American people believe that our bleeding Nation needs to do something to deal with violent crime. And yet, there it was, real as life on television yesterday. A bipartisan coalition of Democrats and Republicans soundly defeated this bill, and then we had the specter of the President blaming Democrats and Republicans for thwarting the will of the American people.

Sort of in the words of Paul Harvey, let me try to tell you the rest of the story.

What happened here is that an agenda was brought into the crime debate that never was part of that debate.

You see, the President has continued to talk tough on crime, but the policy of his administration has never lived up to that rhetoric. A perfect example is the worst provision of this bill. The President came into office and at a joint session of Congress —the first one he spoke to—he called for getting tough on crime. He then cut prison construction, the FBI, the DEA, and the INS. And the Attorney General started a drive to overturn mandatory minimum sentencing for drug felons.

Now what the House did in the conference committee is adopt a provision that overturns mandatory minimum sentencing for drug felons, a provision that we are now told by officials in the Bureau of Prisons could let as many as 10,000 drug felons who today are in the Federal penitentiary, back out on the streets.

I am sure the American people are asking a question: How can we be passing a crime bill which is aimed at grabbing violent criminals by the throat, and yet at the same time that crime bill has a provision that could give early release to as many as 10,000 drug felons, who have been out selling drugs to our children?

The reason is: That was the President's agenda, but it was not an agenda that he ever told the American people about.

The second big problem with this crime bill is that it is full of pork. From the bill we passed in the Senate, it has added $8 billion of spending programs that basically give money out to different institutions with the idea that they can spend that money however they want to spend it, if they can in any way claim that it might induce someone not to commit a crime. That is why we have funding for midnight basketball in this bill.

Madam President, the crime bill was rejected not because people are against grabbing violent criminals by the throat, but because it has $8 billion of raw, rotten pork in it.

At the same time these two provisions were being added, our provision of 10 years in prison without parole for selling drugs to a minor was dropped. Our provision providing 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony was dropped.

In short, what we have seen is piracy against the crime bill. The get-tough provisions were taken out of the bill and pork was put into it. And in an extraordinary provision, as many as 10,000 drug felons who are in the Federal penitentiary for trying to sell drugs to our children could be let back out on the street.

Now, if the crime bill passes in the House, it is going to come to the Senate. There is a budget point of order against it, and I am going to raise that point of order, and the Senate is going to have to have 60 votes in order to pass this bill. I do not believe we have the 60 votes. The bill will be up for amendment at that point, and I and others are going to move to take the pork out, take the get-out-of-jail-free provision out, and put the get-tough provisions back in.

With those changes made, the bill will pass, and then the President can give America a real crime bill.

But this debate is not about crime. The get-tough-on-criminal provisions were taken out of the bill. This debate is about $8 billion of the worst kind of pork that anybody has ever seen, and this debate is about a provision which the President has fostered, the President has promoted in secret, which could let as many as 10,000 drug felons back out on the streets.

It has been the President's goal and the Attorney General's goal since the day they took office to overturn minimum mandatory sentencing for people who sell drugs to our children. They could not get it adopted in the Senate, but they got it in conference, and it will become the law of the land if this bill becomes law.

I pledge to you it is not going to become the law of the land. That provision is coming out of this bill. If the President will simply help us take the pork out, take the get-out-of-jail-free provision out, and put the get-tough provisions back in, we can all celebrate the passage of a tough, great, crime bill. We can all stand up together and tell the American people that we did a good job for them.

But you cannot, with a straight face, tell people we did a good job with $8 billion of pork and with a provision that could let as many as 10,000 people out of prison who are in prison today.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Massachusetts.

Mr. KERRY. Madam President, I ask unanimous consent to be permitted to proceed for about 5 minutes.

Mr. DECONCINI. Madam President, I say respectfully to the Senator, the Senator from Virginia is not here, and he had indicated he was putting the Senate on notice that he was not going to interrupt this bill. We are trying to get one amendment finished here. So I will have to suggest the absence of a quorum until the Senator comes here and see if we can negotiate something with the Senator from Massachusetts.

Mr. KERRY. Let me suggest this as a compromise. Rather than waste the Senate's time putting in the quorum, I will speak. When he comes here I will stop the minute he comes here and find out what he wants to do.

Mr. DECONCINI. Madam President, I ask unanimous consent that the Senator from Massachusetts be permitted to speak in morning business until the Senator from——

Mr. KERRY. Oh, the Senator is here now.

Madam President, I ask the Senator from Virginia if I could just proceed for approximately 5 minutes.

Mr. WARNER. Madam President, I wish to accommodate our distinguished colleague from Massachusetts. The problem is that the leadership on this bill has informed the Senate that we have one additional amendment requiring no more than 30 minutes of debate, and that the Senate could anticipate then three consecutive rollcall votes, subject to the concurrence of the majority leader and the Republican leader. Those votes will be the normal of a 15-minute vote, followed by two, in sequence, of 10 minutes each.

If the Senator can assure us that he will take no longer than 5 minutes, I will not regard this as a major invasion of the scheduling. But I will have to indicate at this point in time that this Senator will make further objection to any interruptions of the bill for consideration of other matters.

Mr. KERRY. I thank my friend from Virginia and I thank the distinguished chairman of the committee.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

THE CRIME BILL

Mr. KERRY. Madam President, I want to respond to the Senator from Texas, and I want to try to put this crime bill and what happened in its proper perspective.

I think everybody knows how much money has been spent by the National Rifle Association and by the gun lobby in the last days to prevent Americans from getting a crime bill.

When my friend from Texas comes to the floor and suggests to Americans that we did not get a crime bill because it has pork in it, or because somehow there is a provision that is going to let people out of jail free, that is the same kind of phoniness or facade or hiding of reality that Americans are actually sick of. They are fed up with the Washington that makes pretenses about what is really happening in this country:

I say $1.8 billion over 6 years to prevent violence against women, to help police and prosecutors in looking at specific violence that is conducted against women is not pork. It seems to me that a youth league in the inner city, whether it is New York, or Washington, or Boston, to help kids have something to do at night other than walking around toting guns or watching drug dealers, drug deal, or watching pimps be the only role model of the community, is money well spent.

All you have to do is look at programs that are models all across this country to find out how it makes a difference in those kids' lives.

I was recently in Lynn, MA, talking to 16-year olds that have nothing to look forward to in the future, have no parents, nobody giving them a sense of possibilities, and the only programs that make a difference for them are boys' or girls' clubs, or something in the community that gives them an alternative in life.

This bill, finally, for the first time—and I say this as an ex-prosecutor—for the first time in 20 years has a real approach to trying to deal with some of the problems. Sure, we can build prisons. We can put cops on the streets. But if all you want to do is have a whole new supply of kids to fill the prisons or become the object of cop pursuit, then you can continue to ignore young people in America.

I do not consider money for boys' and girls' clubs—when you go to any city in America and you find only 10 or 20 percent of the kids in the community have access to those clubs, it seems to me that labeling $30 million to that as pork is not to understand the concerns of Americans.

What about $630 million for community schools? I have gone from school community to school community, and the people are telling me, why does the school shut at 2:30 or 3 o'clock in the afternoon?

Kids cannot even use school facilities in America in the afternoon because we are unwilling to pay a custodian to be there. Is that pork?

Let me tell you, Madam President, we have violent criminals in America who cannot go to jail today or who are let out early because beds are being taken up by nonviolent first-time offenders.

There was a graduate of college who drove around this country in his Volkswagen. He was following the Grateful Dead. He got to one city and a Federal narcotics officer was urging him, saying, "Look, I need to buy some drugs." The kid never sold drugs, but he had a $400 bill on his Volkswagen and he needed it to go back to school, and he sold some, sold it to them. Whacko—he is in jail for the first time in his life, a first-time offender, a nonviolent offender.

You tell me that is the kind of person you are worried about in a crime bill that you want to put away for 10 years, when a violent offender is let out by a judge because we do not have a bed to put him in?

You look at the statistics across this country for prison after prison—150 percent capacity, 160 percent capacity.

The Republicans are here, or some are here, talking about how this is a get-out-of-jail-free program. This is a put-the-people-in-jail-who-belong-in-jail program and it is a way of immediately responding to concerns of Americans about violence.

If we do not turn around and start to deal with the problems of kids in America, we are going to fill up our prisons endlessly. And if we do not have the money to build those prisons and for the cops on the street, we are not going to restore basic order in America. That is what this crime bill would have done.

Instead, what do you have? You have the greatest advertisement in a long time for campaign finance reform, because you have this extraordinary flow of money coming into people's campaign coffers and a distortion of the whole political process by moneyed interests who prevent the real concerns of Americans from being met.

No wonder people in this country are fed up with Washington. They are fed up because they understand what they want done. And instead, we get things being labeled, and gamey little political phrases thrown around. And, in the end, what happens? Another kid picks up a gun and shoots somebody, and America goes on about its business.

VOL
140
PT
16
AG
12
—
18
1994
UMI

It is extraordinary to me that this bill, the first significant effort to deal with crime in 20 years, did not pass because some people want the weapons of war—assault weapons—on the streets of America. We had better get about the business in the next few days of doing the business of America, and pass this crime bill.

The PRESIDING OFFICER. The Senator's time has expired.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. DECONCINI addressed the Chair.

AMENDMENT NO. 2557

The PRESIDING OFFICER (Mr. MATHEWS). The question is on the DeConcini amendment No. 2557.

The Senator from Arizona.

Mr. DECONCINI. Madam President, I want to talk about the amendment.

I first want to say the purpose of the amendment offered by the Senator from Virginia and myself is to place certain limits upon the funds authorized by the bill for the National Reconnaissance Office of the Department of Defense. The amendment provides that of the funds being authorized for the NRO, $50 million from the miscellaneous support category, may not be expended until the executive branch review of the NRO headquarters project is completed.

It also caps total spending for the NRO complex at $310 million. And how did we come to that figure? We came to that figure through a thorough staff review initiated by this committee. The result of that review was that our audit team found that the budget for the NRO project was $347 million.

Now, when we looked back, we got into this discussion: Did we know or did we not know?

In November 1992, a NRO briefing to staff included their plan to proceed with construction of four office towers and that the cost would be $175 per square foot. This meant that they estimated a cost of $186 million for the construction project excluding utilities, taxes, communication equipment, furniture, office supplies and a margin.

When our staff went to the NRO several months ago, we got an estimate of $347 million for the project. Now, all of a sudden, since that was exposed and declassified, at the credit of the President of the United States himself, the cost has come down to $310 million.

That is what this amendment says. "Fine, Mr. NRO; we hope that that is what you really want to live by," and that is exactly what the amendment does.

The recent controversy over the NRO building project has been fierce, and I want to make sure we stay focused on the real problem. The NRO slid incrementally into a major project in a manner that never made the true dimensions, most importantly the cost, clear to the Congress of the United States. Maybe the NRO made this information known to the House; maybe the House knew that this was a $347 million project and just signed off on it. Maybe the Members said, "Have a grand project. Do what you want." We did not know.

The only clear indication was the November 1992 NRO briefing which indicated that the project cost was $186 million, and now we know the project budget is actually $347 million. In the few days since that we disclosed this information, the NRO suddenly reports that the budget is down to $310 million.

This construction project is a major initiative. One would be quite cynical to say that a $347 million complex is not a major initiative. It was a major initiative. Even today, the budget is a moving target. We do not know what it is. There has been no accountability here, and we are trying to put it in this amendment.

In today's austere budget environment, with Government facilities being closed around the country, it is especially troubling for this organization and the Director of Central Intelligence, Mr. Woolsey, to attempt to justify this by saying, "Well, times have changed. In those days, it was OK—in 1990, 1991. We didn't have to tell anybody. Because this was a classified operation, we did not need to tell anybody."

That is what the oversight committees are for. They have cleared staff to work with and protect classified information. Our staff and Members were cleared to be briefed and they were not thoroughly briefed on this project.

And Mr. Faga, the former NRO Director, was recently quoted in the press as saying, "I know the Senate committee was briefed." Well, between 1991, 1992, and 1993, Mr. Faga never once mentioned it before the Senate Intelligence Committee in closed briefings. His deputy, Mr. Hill, mentioned it once in 1992, with two lines. And those two lines do not mention even the amount. The only insight into this project's cost came from a few questions that were asked by astute Senators and staff in 1991 and 1992. Yet the answers came back in one sentence or two sentences.

The House apparently agrees with the NRO and the DCI concluding, "Oh, it's OK." The former CIA Director, Mr. Gates, came up one time and mentioned the project. Four lines in 1991, that is all we had.

Now, if that is adequate notice, believe me, something had better change in the intelligence community or the American public is not going to support even this reduced expenditure.

Mr. President, I ask unanimous consent that a summary of critical events and selected statements that were made at our recent Senate hearing on this matter, as well as the House hearing, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NRO HEADQUARTERS PROJECT

The overriding concern that was raised by our review of the NRO headquarters project was accountability. Accountability refers to the fact that the NRO, like all government agencies, has an obligation to be answerable, and to justify the expenditures of taxpayer dollars. The oversight committees in this case were the only ones to whom the NRO was accountable. Because the NRO used overt procurement procedures rather than established government facility procurement procedures—MILCON or GSA procedures—no body else was looking—not the DCI, not the CIA, not DOD, certainly not the internal NRO IG, no one but the oversight committees. The information they provided to us fell far short of a complete picture, particularly in terms of the project's cost.

Our committee never knew, at any time, in any form, that as of 1992 when the NRO adopted a total collocation plan, the project price tag would be upward to $347 million. The bits and pieces of cost information that we had was piecemeal, and, at times, contradictory.

The NRO submitted a narrative description of the construction project, beginning in the fiscal year 1993 budget submission, but at no time, did the NRO submit for our approval a comprehensive budget for this project. Instead, the project's budget was included in what is known as the base budget. The base budget is a consolidation of all funds required to "maintain current capabilities." Funding for any new project or capabilities are supposed to be segregated so that they may be considered and separately approved.

Our Committee knew that the NRO was reorganizing. We encouraged that reorganization.

We knew that the NRO was building a permanent facility in northern Virginia. They told us.

We knew, based on the NRO's Fiscal Year 1993 budget request, that the NRO was planning to build 800,000 square feet of office space for the collocation.

We knew, based on the NRO's Fiscal Year 1994 budget request, that they had decided on total collocation and planned to build 4 buildings, with about 1 million square feet, which they were constructing in western Fairfax County, VA.

In fact, we thought we knew the project's price tag. In November of 1992, about 2 months after the construction project's construction contracts were let, the NRO came forward to request some additional money for this construction project. At that time they briefed our staff on the scope and cost of the complex. They told us that they had decided that it was necessary to build 4 towers to implement the total collocation option recommended by the most recent studies. And they told us that the Westfields Project cost would be $175 per square foot. That would have made the project cost $186 million. That cost, they told us, covered everything except taxes, utilities, communication equipment, furniture, office supplies, and margin.

The $186 million cost was the last cost information we had until we raised concerns in October 1993 about the lack of information on certain projects in the NRO's base budget. To that end, in our Fiscal Year 1994 Intelligence Authorization Act we pointed out

our dissatisfaction, and asked the intelligence community display project-related costs in the base budget.

In fact, we had so many concerns about many of the Intelligence Community's facilities, and facility projects that we did a special review in November 1993 in which we asked every intelligence organization to report on its facilities. It was that review that prompted us in April of 1994 to launch a specific review of the new NRO headquarters project.

What would have happened in this case, to ensure effective NRO accountability, is simple. In September of 1990 when the NRO decided that the best collocation option was to build a facility in Fairfax County, VA, they should have come forward with a plan. The plan should have included the options considered, the costs of the options, the option selected with justification. For example:

They should have told us how much that plan would cost and how long it would take.

In addition, since they wanted to "protect the option of total collocation" they should have told us that total collocation would mean approximately 1 million square feet, which would house X number of NRO employees and X number of NRO contractors. That plan should have included a projected cost and schedule.

With that information in hand, we would have had something on which to hold the NRO accountable. And we could have made an informed decision and provided approval prior to the project's initiation. If at a later time the cost went up, the schedule changed, or the scope or design changed, the NRO should have come back to us, justified the proposed change, identified the cost, and once again sought approval.

To have had this level of information is not micromanagement. It is good government, and the right and responsibility of the Congressional oversight committees. We should have had this type of information if this had been a $3 million facility, and we certainly should have had this level of information in this case, for a $347 million facility.

INFO FROM HEARINGS AND NEWS ARTICLES

Senate Aug. 10 hearing, Mr. Roger Marsh, the NRO Headquarters Project director stated: "We have been negligent, clearly negligent, for not showing the budget breakout for this project."

Senate Aug. 10 hearing, Mr. Jeffrey Harris, the current director of the NRO stated: "In hindsight, [the costs buried in the NRO's operation's budget] should have been broken out specifically. It [carrying a construction project in an operation's budget] won't be done in the future."

Senate hearing, according to DCI Woolsey, "If this (building) were begun today, . . . there's no question it would be done differently."

The DCI, in Thursday's House hearing, acknowledged that the 4 buildings were more space than the NRO required. He stated that the 4 buildings could effectively be used with other agencies, and that the NRO planned to bring more people in from other agencies to utilize the extra space.

The Deputy Director of the NRO, in our hearing on Wednesday, said that while the NRO needed some additional space beyond 3 towers, they knew they did not need the amount of space they provided when they built the forth tower.

Senate Aug. 10 hearing, Deputy NRO director Jimmy Hill stated, "We have tried to respond every time the committee has asked a question . . . clearly in this case there was a lack of communication."

Senate Aug. 10 hearing, Mr. Marsh, NRO project director, " . . . We clearly have missed the mark for your expectations for how we break this specific project budget out."

In Thursday's House hearing, Rep. Combest stated: "[Senate] Members and staff need to do their homework." *We don't disagree.* In this case, based on the information provided to us, we thought we knew the total project cost. In fact, we thought we knew the project's price tag. In November of 1992, about 2 months after the construction project's construction contracts were let, the NRO came forward to request some additional money for this construction project. At that time they briefed our staff on the scope and cost of the complex. They told us that they had decided that it was necessary to build 4 towers to implement the total collocation option recommended by the most recent studies. And they told us that the Westfields Project cost would be $175 per square foot. That would have made the project cost $186 million. That cost, they told us, covered everything except taxes, utilities, communication equipment, furniture, office supplies, and margin.In Wednesday's Senate hearing Secretary Deutch stated: "Whenever there is an identifiable project, I think it should be separately identified in a budget account and defended in front of this and other committees straight forwardly. Regardless of its intelligence character I think it should be separately identified.

Sen. DeConcini asked him specifically if that would apply to this kind of project. He replied, "yes." In response to Senator Baucus' questions during our hearing, and regarding what our committee was told about this project in 1992 and 1993, Director Woolsey said, "As the costs were refined, some of the other costs I believe were not provided in a fashion that was readily available for the committee to get at the detail * * *"

Mr. DECONCINI. This amendment goes further and removes the authority of the Director of Intelligence to authorize such buildings.

Mr. Woolsey did not authorize these buildings. This did not happen on his watch. He is not responsible.

What he is responsible for, in my judgment, is trying to defend such an operation at either $347 million or $310 million.

Let me just point out, there were roughly 68 acres that were purchased by the NRO back in 1991. They told us the other day, when Senator WARNER and I were out there, that they decided to buy an additional 4 acres. We said, "Oh, that is nice. Are you going to build a fifth or sixth building?" No, but it so happens the plan they submitted to the planning and zoning people of Fairfax County includes the option for two more buildings, and there may be an explanation.

Why did they buy the 4 acres? They did not want a neighbor. They did not want a motel sitting on the corner. By this time, this is a declassified operation. You mean to tell me they could not provide security for that motel? So they went out and bought 4 additional acres, averaging $8.13 per square foot. That is roughly over $300,000 per acre for land they are not going to use. This is the taxpayers' money being spent.

The CIA Director wants to defend that as a proper notification to the committee.

There was no notification. Senator BOREN, the past chairman, said he never was notified of it. As a matter of fact, Senator BOREN had a reprogramming request for $22 million that was signed, and he told me just the other day that it is not his signature on it.

I make no accusations that anybody did anything improper, but I point out that never did Senator BOREN admit that he had any notice of this. And I know that Senator WARNER—at least I believe—and myself had no notice that there was a $347 million project going on out there until we found it out through the very astute auditors on our committee. These auditors were commissioned by Senator WARNER and myself to go out to the CIA and the other intelligence communities and assess what all their facilities were. You would think that would be pretty easy. It is not easy. It is very classified as to where they are and how many there are. It is a difficult task to get information on these facilities.

When we finally got out there to review this facility, they did answer our questions. But they knew we were on to something and they started to be defensive. To the credit of Mr. Harris, when he came before our committee he said, "We made a mistake. We are not going to do that again." And Deputy Secretary of Defense, Mr. Deutch, to his credit, said, "It should not have happened. We should have had notice and it will not happen again." And the President deserves credit as well. When this was brought to his attention, within 1 week he declassified the whole project because he believes, as I believe, that the American public deserve to know where their taxpayer dollars are going to go. And we in the Congress have a right to say yes or no. We are the ones who appropriate the money. We are the ones who authorize these projects. And this was not authorized in any specific form whatsoever, at least not by the Senate Intelligence Committee.

If it was done in the House, well and good. Apparently the House Members are happy about spending $347 million on this project with no specific funding authorization, and they are saying this is simply an effort by the Senate to be derogatory toward the director—that is nonsense. My colleagues over there know that.

I hope the Members of the Senate will pass this bill. I hope if anything comes out of this, there is truly the commitment from NRO, that we got from Mr. Harris, that in the base budget they will not have such an initiative for any infrastructure spending without being specific. Mr. Deutch and Mr. Woolsey confirmed their commitment to that procedure.

Why was this project declassified? It was declassified because the President

VOL 140 PT 16 AG 12 — 18 1994 UMI

of the United States—not Mr. Woolsey—the President of the United States insisted it be declassified. As a matter of fact, Mr. Woolsey advocated to the White House, to the Hill staff members, as well as one Senator that it be classified for another 18 months. Fortunately, that Senator, I am told, said, "You have 18 hours, as far as I am concerned, to get this project declassified." And the President went ahead and ordered the declassification so we could talk about this and prevent this kind of expenditure without thorough information and congressional approval.

People ask me today how many more buildings are out there? I hope there are none, and I do not want to leave any inferences that there are. But, frankly, when you disguise this kind of elephant in the middle of a football field, and no authority to do it, it makes me wonder. No wonder the American public is sick and tired of the agencies that deal with our national security spending money in such a manner without authority of the U.S. Congress.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, let me go back and recite once again certain procedures, steps which I think, certainly for this Senator, help to bring this situation into proper focus. The chairman and I periodically meet with our audit staff. Those meetings of course are available for all members of the committee but, quite understandably, committees leave to their chair and cochair—ranking—the responsibility for daily activities. We had charged, the chairman and I, the audit staff—we charged them to go out and make an audit.

I remember it well. I was the only Senator in the room. Others had not arrived. I received this briefing. I then turned to staff present and the audit staff and said, "In my judgment there are some serious questions raised. No. 1, why is there nothing in our record to reflect total cost? No. 2, why nothing to reflect total size?"

On the point of size, there is a million square feet in this conglomerate of four rather large buildings. Having had some recollection of the size of the Pentagon—I served in that building for over 5 years—I ascertained the Pentagon is 5 million square feet, usable square feet. All of a sudden we are building, for one relatively small segment of our overall intelligence community, an entity which is roughly, approximately one-fifth the size of the Pentagon.

That I found very troubling. So I recommended to Chairman DECONCINI we promptly write the executive branch, DOD, CIA, and get those facts which we felt necessary to determine this project in terms of its full size and scope. That letter went out on July 29.

I then joined the chairman in a second letter to the executive branch, suggesting this matter be declassified.

Mr. President, I ask unanimous consent to have those two letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, August 4, 1994.

Hon. R. JAMES WOOLSEY,
Director of Central Intelligence, Central Intelligence Agency, Washington, DC.

DEAR DIRECTOR WOOLSEY: The Select Committee on Intelligence will convene a closed hearing on Wednesday, August 10, 1994, at 10:30 a.m. in Room 219, Senate Hart Office Building, to review the process utilized by the National Reconnaissance Office [NRO] to notify Congress, secure the necessary funding, and initiate construction of its new headquarters complex in Chantilly, Virginia. The Committee also intends to examine how remaining construction and future use of the facility can be managed for maximum cost-effectiveness. We would like to invite you to testify at the hearing, and also request your assistance in making available as witnesses Mr. Jeffrey Harris, Director of the NRO; Mr. Jimmie Hill, Deputy Director of the NRO; and Mr. Roger Marsh, Chief of the NRO's Mission Support Organization. We have also invited the Honorable John M. Deutch, Deputy Secretary of Defense, to appear as a witness.

We plan to conduct the hearing in two panels. The first panel, consisting of Mr. Harris, Mr. Hill, and Mr. Marsh, will be asked to review the history of and rationale for the project, including decisions regarding project size and the process by which Congress was informed of the project. The second panel, consisting of yourself and Secretary Deutch, will discuss what options are available to reduce the project's cost and increase its usefulness, including the colocation of other Intelligence Community functions at this site. Members will also want to hear testimony addressing the issue of whether or not the Intelligence Community should retain the special authority which is being utilized to construct this facility.

We believe that prompt public disclosure of this project is in the best interest of the Intelligence Community. We urge you to quickly declassify the essential facts—the location, organization, size, and cost of this project—by the time of the hearing.

Thank you for your attention to our request.

Sincerely,

DENNIS DECONCINI,
Chairman.
JOHN W. WARNER,
Vice Chairman.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, July 29, 1994.

Hon. R. JAMES WOOLSEY,
Director of Central Intelligence, Central Intelligence Agency, Washington, DC.

GENTLEMAN: We recently asked our Committee's Audit Team to review the National Reconnaissance Office's headquarters construction initiative, known as the Westfields project. The Audit Team spent two months working with NRO officials examining the project's requirements, cost, schedule, management procedures and internal controls, and has recently reported their conclusions to us.

We were shocked and dismayed to learn that the facility cost for the new NRO headquarters at Westfields may reach $350 million by completion, nearly double the amount most recently briefed to the Committee. In fact the total anticipated cost of this project, under its current configuration, was never effectively disclosed to our Committee, either in the annual budget submissions or in related briefings. We consider the NRO's failure to coordinate and communicate with this Committee on this large, sensitive and very expensive project to reflect disregard for this Committee's oversight responsibilities for intelligence operations and funding.

In order to address these concerns and further explain the NRO's actions with regard to the new Westfields complex, we request that you provide us with the following information:

1. An explanation of why the Committee was not fully informed of the scope and cost of this project, consistent with facility construction requirements for other intelligence organizations such as CIA and NSA.

The Committee intends to examine how remaining construction and future use of the facility can be managed for maximum cost-effectiveness. We would like to invite you to testify at the hearing. We are also inviting the Honorable R. James Woolsey, Director of Central Intelligence; Mr. Jeffrey Harris, Director of the NRO; Mr. Jimmie Hill, Deputy Director of the NRO; and Mr. Roger Marsh, Chief of the NRO's Mission Support Organization; to appear as witnesses.

We plan to conduct the hearing in two panels. The first panel, consisting of Mr. Harris, Mr. Hill, and Mr. Marsh, will be asked to review the history of and rationale for the project, including decisions regarding project size and the process by which Congress was informed of the project. The second panel, consisting of yourself and Director Woolsey, will discuss what options are available to reduce the project's cost and increase its usefulness, including the colocation of other Intelligence Community functions at this site. Members will also want to hear testimony addressing the issue of whether or not the Intelligence Community should retain the special authority which is being utilized to construct this facility.

We believe that prompt public disclosure of this project is in the best interest of the Intelligence Community. We urge you to quickly declassify the essential facts—the location, organization, size, and cost of this project—by the time of the hearing.

Thank you for your attention to our request.

Sincerely,

DENNIS DECONCINI,
Chairman.
JOHN W. WARNER,
Vice Chairman.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, August 4, 1994.

Hon. JOHN M. DEUTCH,
Deputy Secretary of Defense, Pentagon, Washington, DC.

DEAR MR. SECRETARY: The Select Committee on Intelligence will convene a closed hearing on Wednesday, August 10, 1994, at 10:30 A.M. in Room 219, Senate Hart Office Building, to review the process utilized by the National Reconnaissance Office (NRO) to notify Congress, secure the necessary funding, and initiate construction of its new headquarters complex in Chantilly, Virginia.

2. Reasons why the NRO failed to use either Military Construction or General Services Administration support for the Westfields construction project.

3. Reasons why the NRO included this activity in the base budget rather than presenting it as a new initiative, as the CIA had done for its new headquarters project at Langley.

4. Steps which can be taken immediately to reduce the costs of this project, consistent with the NRO reorganization and Intelligence Community's overall budget reduction initiatives.

5. Ways to efficiently utilize the excess space and unused land which will be available upon completion of the Westfields complex, so as to realize cost savings for the U.S. Government.

6. Reasons why the new NRO headquarters project remains a covert procurement operation, and your plans to manage inadvertent or directed disclosure of the NRO's ownership of this facility.

Please provide your written answers to our committee within 7 days of your receipt of this letter. You may direct your response to Ms. Pat Hanback, who can be reached at 202–224–1700 if you have any questions.

Thank you for your prompt attention to this matter.

Sincerely,

DENNIS DECONCINI,
Chairman.
JOHN WARNER,
Vice Chairman.

Mr. WARNER. By declassifying this project what I wanted to do was make an assessment of the executive branch response before we went out in public with this project. I joined the chairman on a Monday morning on-site inspection. Then that afternoon I was notified by committee staff that certain members of our committee desired to have a press conference. I had hoped we would not get into the public domain with this until we had a chance to assess the executive branch responses, for the reason we could have narrowed whatever gap existed at that time—and which still remains, regrettably—between our analysis of the facts and the executive branch analysis of the facts. Nevertheless, we are where we are today.

The bottom line is as follows. I think this committee quite properly has addressed this project in the context that we did not have the information that the Senate required.

Second, this is a valuable project and it will be completed along the exterior lines as envisioned. And it will be utilized in an efficient and cost-effective manner by the Federal Government. We, as Senators, have to provide for the construction for public employees and we do so in a manner to try to bring about a certain quality of the working spaces and working conditions, but not to give preferential treatment to some employees.

Again drawing on my experience in the Department of Defense, when I, as Secretary of the Navy, had cognizance over the naval portion of the NRO—and the naval portions and other portions have now been consolidated—I remember it to be a comparatively small group, in terms of number of people and in terms of budget. True, it has grown through the years. My first reaction is this was more than was necessary—and that has now been confirmed in the testimony—the new headquarters larger than necessary to house the NRO.

A certain colocation of contractors—that, too, is important. But again, this is a project that our committee, as correctly stated by Chairman DECONCINI—our committee did not possess the full details necessary to keep not only ourselves informed but to fulfill our responsibility to other Senators.

So we now have quick reaction by the executive branch, under the leadership of the Secretary of Defense and the Deputy Secretary, to put together an executive branch team to analyze the facts. I urge all to withhold judgment on this—withhold judgment until that report is completed. And I anticipate that report will corroborate many of the assertions made by myself and the distinguished chairman of this committee, as to the failure to have adequate communications between various segments of the intelligence community and this committee regarding the relevant facts.

Mr. President, the House yesterday had a hearing. It has been contrasted in some ways to the hearing that we held. Certain assertions were made about their level of knowledge. I join with the chairman. I do not presume to have knowledge about what the House knows, but I do point out to the chairman that we had no conference item in the last several years on this subject with the House, at which time we would have had an exchange of views if our views were different. This is the first time that the matter has come up. The House is free to assert its views; we assert ours.

Also, Mr. President, I think that this amendment should in no way be interpreted as an attempt to delay completion of the envisioned project. To the contrary. It is solely for completing the project in a cost-effective, efficient manner, and to assure the American taxpayers that should the NRO, as they have now testified, not require all this space, the balance of the space will be occupied by individuals performing necessary contractor support and/or by other defense-related or intelligence-related entities, so that the project one day will be complete.

I want to assure the local community, I am proud of the fact that it is in the State of Virginia. I knew it was there. I worked on the colocation of all of these entities in our State and, indeed, on this site. I have not been told the specifics. Again, I did not have knowledge of the full cost. I had been relying on the 1992 figures of less than $200 million in terms of the whole project.

Nevertheless, this amendment is a constructive effort to make sure that it is cost-effective, that it is utilized fully by the Government in a proper manner and also that those persons enjoying this very attractive site will do so in a manner commensurate with other Government employees, wherever they are throughout the Federal Government.

Mr. President, I yield the floor.

Mr. DECONCINI. Mr. President, how much time does the Senator from Arizona have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 4 minutes remaining.

Mr. DECONCINI. And on the bill, how much time does the Senator have?

The PRESIDING OFFICER. The Senator has 14 minutes on the bill.

Mr. DECONCINI. Mr. President, I yield 5 minutes from the Senator's time on the bill to the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I thank the Senator from Arizona very much for his generosity.

I support the amendment being offered by the committee chairman and vice chairman. On Wednesday of this week, the committee held what I regard to be a very revealing hearing. At that hearing, the public was presented with a very sorry picture of the intelligence community hiding from the Congress the costs of a huge construction project. I believe this amendment ensures that the cost of the project will not grow any larger than it now already has.

In 1989, the National Reconnaissance Office started a very worthwhile project. They decided to bring together many of their activities which were spread throughout the United States and consolidate them in the Washington, DC area. The intent was clear and the goal was wise: Consolidation would eliminate waste and streamline many of the operations. Unfortunately, the intent and the goal became lost in the desire to build a huge, modern, spacious, and extremely well-equipped headquarters complex.

This complex, as has already been stated, is located in the Westfields area, along Route 28, in Northern Virginia. In order to get an idea of the size and the impact of this new headquarters, you do not need to have a security clearance. You only have to stand outside of the security fence and see that the National Reconnaissance Office will be working in an office complex that will be unrivaled throughout the entire Federal Government.

Mr. President, not only does it have a great deal of space for every worker, it originally had a sauna and it originally had a fountain. Thankfully, these at least have been dropped from the project. This office complex is large, it is modern, and it is costly.

In my opinion, excessive secrecy has led to the costliness of this project. As

VOL 140 PT 16 AG 12 — 18 1994 UMI

the Director of Central Intelligence admitted to me in the hearing on Wednesday, the intelligence community still—to this day—has not specifically identified to the Congress in any of its budget requests the total cost or budget for this project. Since 1989, during briefings or in letters they have mentioned many different numbers—some as high as $195 million, but only as a result of our committee's special audit did we find out that the National Reconnaissance Office has budgeted $350 million for this 1 million square feet of office space.

Let me give you some perspective on this. The vice chairman reminded everyone on Wednesday that the Pentagon has 5 million square feet. The NRO's office complex, on the other hand, is 1 million square feet. How many people work in the Pentagon? Twenty-eight thousand. But how many will work in the NRO's new headquarters? Three thousand. This gives you some idea of how large and spacious a complex is being built by the taxpayers for a cost of $350 million.

I fully support the chairman's and vice chairman's amendment. It very simply says, enough is enough. It says quite simply that $310 million may be spent on the total project. This is only $40 million less than the NRO has budgeted. It requires that, if for some reason $310 million is not enough to build an office for 3,000 people, the intelligence community must come to the Congress and ask and justify its needs quite specifically.

I commend the chairman and I commend the vice chairman for the speed with which they have responded to the information that has come to their attention and the actions they are taking to bring this costly project under control.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Arizona.

Mr. DECONCINI. Mr. President, I want to thank the Senator from Montana for his participation in the hearings the other day and also for his interest in joining as a member of the committee to get some kind of handle on the cost of intelligence projects.

The Senator from Montana makes an extremely good point about the square footage of offices. Our review shows that almost 50 percent of the offices are going to be single-occupied with the most common office size at 165 square feet—165 square feet—per office. The General Services Administration's recommended square foot per person for Federal Government employees is 125 square feet per person.

Mr. Marsh, the NRO Project Director, said it may be a little bit off and they will supply us with more information if necessary.

The Senator from Montana points out very astutely how many people are going to be here versus how many are in the Pentagon. I do not know if the Senator realized that 1,000 of the 2,900 people moving into the new facility are contractors, not employees of the NRO. So they are building space out here for other people to come in and use.

What right does any agency have to step forward and spend money, build an excess building for a thousand contractors without coming to the Congress, making justification for the expenditure, and seeking our authority? Maybe we would have approved it. The Senator from Montana pointed the other way. It has been his experience in dealing with buildings in the 15 years he has been here that if you come to the committee and make a good case, the committee is pretty receptive.

Mr. BAUCUS. If the chairman will yield, what struck me—and I would like the chairman's reaction to this—was the most common office size for over 40 percent of the building occupants is about 165 square feet per person.

Mr. DECONCINI. That is right.

Mr. BAUCUS. Mr. President, I ask the chairman, do we have any sense of what, say, 20 percent or 30 percent of the personnel will have as office space? If 165 square feet is the most common office size, I have to think that there are an awful lot of offices there that are spacious, luxurious beyond any comprehension. I wonder if we have a sense yet about that.

Mr. DECONCINI. If the Senator will yield, we do not, we do not have the total picture, but we do know there are some offices that are going to have 500 square feet—the office for directors, for example. That is a lot of space. That is more than the Senator has in his office or I have in my office.

Mr. BAUCUS. Much more.

Mr. DECONCINI. Our audit team is still going through that information. When we get it, we will put it in the RECORD.

Mr. BAUCUS. Why does a person need 500 square feet in their office?

Mr. DECONCINI. I think that is a question we should present to the NRO when they come back with the explanation of just how this office space is broken down. We asked them, as the Senator may recall if he was there, how many other facilities do they have, how many are going to be put in here, and what amount do they project will be saved by this consolidation, collocation, that the Congress asked them to do. I am not sure they ever even determined it. And they are going to come and tell us, but they say it may be classified.

Mr. BAUCUS. I thank the Senator.

Mr. DECONCINI. I thank the Senator.

Mr. CONRAD. Will the Senator yield?

Mr. DECONCINI. I will be glad to yield to the Senator from North Dakota.

Mr. CONRAD. The Senator made mention of the fact that of the 2,900 employees that were going to be in this facility, 1,000 would be contractors; that is, I assume he meant by that people who are working on NRO business but that are operating as private contractors.

Mr. DECONCINI. The Senator is correct. That is my understanding.

Mr. CONRAD. What would be the justification for out of 2,900 employees, 1,000 would be private contractors? Why are they not employees of NRO? What is the purpose for that? And what is the cost, if the Senator might know it, of those people operating as private contractors?

Mr. DECONCINI. Well, the Senator raises a question that I cannot answer because the NRO has not answered what the cost is. Their answer is that if they contract for some specialty service that the NRO cannot do in-house—and they do have that legitimate requirement—then, when they contract, those people rent space if they come back here to do the work, and they charge a commission that may be as much as 20 to 25 percent on top of whatever the rent is. So their justification is, put them in here, and then we do not charge them rent, but we do not pay the commission.

But my question is, I would like to know a better argument, and I would like to know, as the Senator from North Dakota just asked, how much is that costing us? They are spending money out there, more than $175 a square foot, to build that building, probably more now than $310 million, for which, believe me, I think you could rent space and even pay a 25 percent premium for a lot less than paying $175 per square foot for office space for contractors.

Mr. CONRAD. If I might just further inquire, it strikes me that we have something here that really begs for further investigation. Why would there be 1,000 contractors out of 2,900 employees? What is the tax effect? Are those people getting favored tax treatment because they are being treated as contractors? Are those people working full-time for the NRO? If so, why are they not on the permanent payroll of NRO? Is this being used as a way to get around certain restrictions with respect to the number of personnel? Is it being used to get around certain restrictions with respect to Federal employees? Is it being used to give them tax-favored treatment?

All of those questions present themselves. I must say when I hear we are building public space for 2,900 people and 1,000 of them are private contractors, that sets off a lot of alarm bells in this Senator's head.

Mr. DECONCINI. I thank the Senator for his questions, and I am going to take them out of the RECORD and send them to the special task force headed by Deputy Secretary Deutch and ask that they be included in its review of this project. I think the Senator raises profoundly important questions that need to be answered. We need to know that. Maybe there is a justifiable reason. But I am like the Senator; the alarms go off.

Mr. CONRAD. I thank the Senator.

The PRESIDING OFFICER. The Chair does indicate to the Senator from Arizona that the time on the amendment has expired.

The Senator from Arizona has 7 minutes 40 seconds remaining on the bill.

Mr. DECONCINI. Mr. President, is there any time remaining to the Senator from Virginia?

The PRESIDING OFFICER. The Senator from Virginia has 6 minutes 35 seconds.

Mr. DECONCINI. How much?

The PRESIDING OFFICER. Six minutes.

Mr. DECONCINI. Mr. President, I will suggest the absence of a quorum, and as soon as the Senator comes back, I am prepared to yield back the time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. In the meantime, the time will be charged equally against each side.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I would like to pose a couple of questions. I had reserved a couple of amendments on this bill under a time agreement.

The PRESIDING OFFICER. Does the Senator from Arizona yield time?

Mr. DECONCINI. I yield whatever time I have left. I yield 4 minutes off the bill, from the time reserved for the manager of the bill.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I have met with the Senator from Arizona and the Senator from Virginia, Senator WARNER, about my concerns on this bill as it was originally drafted. I had reserved a couple of spaces for amendments, but our staffs have been working out the matters I was interested in. It is my understanding that each of the matters that I was concerned about has been dealt with in the managers' amendment that has been adopted. But I would like to make sure that is the case. I would like to therefore pose two or three questions to the Senator from Arizona and the Senator from Virginia.

I have a section, insert section, 3(c) here which deals with the coordination of counterintelligence matters in the Federal Bureau of Investigation. And it says:

> Except as provided in paragraph 3 below, the head of each department or agency within the executive branch shall ensure that—

And this is the key paragraph.

the Federal Bureau of Investigation is advised immediately of any information, regardless of its source, which indicates that classified information is being, or may have been, deliberately disclosed in an unauthorized manner to a foreign power or an agent of a foreign power.

I believe the word "deliberately" was added after our meeting. I believe that achieves my major concern so that there is a certain threshold here of intent so that we do not have simply piles of complaints going over to the FBI on any matters that would not raise concern by any reasonable person.

I believe that has been taken care.

Mr. DECONCINI. If the Senator will yield, I can confirm that is exactly what was suggested by the Senator and his staff. And the word "deliberately" was included in the managers' amendment that we submitted and have agreed to here so as to do away with too much paper, to raise the threshold, as the Senator from Georgia pointed out.

I think the Senator from Virginia has something to say on this as well.

Mr. WARNER. Mr. President, before the distinguished Senator from Georgia came in to consult with the chairman and me, I had discussed this with the director of the Central Intelligence Agency. He, likewise, felt two things should be achieved in this paragraph. One is an affirmative duty on both the FBI and the CIA; that those affirmative duties be parallel in nature; and that there be some limitation of the materials sent back and forth, not in the sense to hide anything, but just to eliminate a lot of the material which might have been caught by more general phraseology, to that material which was essential in the promulgation of their respective responsibilities in counterintelligence and that drafting was incorporated at his recommendation as well as that of the Senator from Georgia.

Mr. NUNN. I thank my friends from Arizona and Virginia.

A couple more questions. The other concern I had—referring to the bill language here—I had a concern that the FBI was going to be consulted by the CIA in the event there was any kind of deliberate informational breach of classified information, but that this was not a two-way street. In other words, once the FBI started the investigation, there was not a corresponding duty of the FBI to keep the appropriate officials of the CIA informed of their activities. It seems to me there has to be a two-way street in terms of coordination.

I believe that the Senators have addressed that concern in this managers' amendment, also; have they not?

Mr. DECONCINI. If the Senator will yield, the Senator from Georgia raised that issue, as did the national security advisers that we met with, and that is section 2, below the (c) on the page the Senator has before him. I believe it does exactly what the Senator suggested we do and what the national security advisers also requested.

Mr. NUNN. I thank the Senator from Arizona.

The third concern, I believe, has also been dealt with. That is, making sure that if there were extraordinary circumstances that perhaps none of us can foresee here on the floor of the Senate, but they nevertheless could occur, when the President of the United States believes that there could be an endangered national security interest, vital national security interests, if this information is immediately turned over to the FBI, and it could be a matter of life or death, or could be a matter of war or peace, for some reason we may not foresee, I was hoping the President would get some waiver authority here for these extraordinary circumstances.

I believe that has also been provided for.

Mr. DECONCINI. It is indicated in paragraph 3, and it gives the President authority to waive on a case-by-case basis. He must only advise the committee that he has exercised that authority—but not the particular matters, until later when he feels he can do so.

Mr. NUNN. I thank the Senators. I think all of the concerns that I had raised with the two Senators and their staffs have been taken care of. I will have no amendment. I am not sure if I have one or two amendments on the list. But I will not be intending to bring those up.

I thank the Senators for their help and leadership.

Mr. DECONCINI. I thank the Senator from Georgia for his constructive discussion here. It has been a great pleasure to work with him as chairman of the Armed Services Committee, which is part of this whole important procession. I appreciate immensely his participation and willingness to work to get this legislation, and the Senator from Virginia and I feel it really is necessary that we do some legislation in this area.

Mr. WARNER. I join the distinguished chairman, and I thank Senator NUNN in his capacity as chairman of the Armed Services Committee. There is a sequential referring of the entire budget that comes up—that is, most of it—and, as such, I have seen, through the years, in working with him, that he exercises his responsibilities. It is not a simple passthrough. It is reviewed by the chairman and members of the Armed Services Committee with care.

Mr. NUNN. I say to my friend that our committee reviews their work carefully on everything—except building and construction.

Mr. WARNER. The Senator's point is not well conceded.

Mr. DECONCINI. I ask unanimous consent that the Senator from Nevada,

VOL 140 PT 16 AG 12 — 18 1994 UMI

Senator BRYAN, be included as an original sponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I am prepared to yield back any remaining time this Senator has.

Mr. WARNER. Mr. President, I likewise yield back whatever time the Senator from Virginia has remaining.

I ask unanimous consent that Senator SPECTER be added as a cosponsor to the amendment of the Senator from Virginia on the Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, on Wednesday evening I expressed my displeasure on this floor over the way the Intelligence Committee has handled the publicity over the headquarters building that is being constructed for the National Reconnaissance Office. I said then, and I repeat now, that if the committee or individual Senators seek only to assign blame rather than looking at how the committee and the Congress may share that blame we are sure to perpetuate rather than solve existing oversight problems.

The committee has been aware of this construction project since its inception, indeed it was largely responsible for the consolidation of the NRO which made this project necessary. At any time over the last several years, the committee could have examined this project in detail. Only recently did the committee bother to take such a look. And when it discovered apparent problems it immediately transformed them into a major public issue. I believe that this approach was highly irresponsible and counterproductive.

Mr. President, as I stated the other night, this will come back to bite the committee. Well, today's Washington Times provides just such a bite. I ask unanimous consent that this editorial be included in the RECORD at the conclusion of my statement.

Mr. President, I do not say that the NRO is without blame or that the committee is not justified in its concern over this issue. But the way it has been handled is nothing short of irresponsible. If the committee seeks only to assign blame, it will surely never correct its own oversight shortcomings.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Aug. 12, 1994]

THE CASE OF THE PURLOINED SPY AGENCY

Even in a city that thrives on hues and cries, it sure was a mighty one that was raised by President Clinton's revelation on Monday that an innocent looking office complex in Westfields, Va., is really going to house a super-secret spy agency, the National Reconnaissance Office, which is in charge of our spy satellite operations.

In fact, so secret is the NRO that even its name was hush-hush until two years ago, when the agency's existence was first officially acknowledged. Not since the Department of Energy revealed that Americans have been unknowingly zapped by government scientists with atomic radiation for 50 years have we seen such an uproar over Cold Warriors conniving and conspiring to hoodwink the American people. Why, this project was so secret that even the president of the United States didn't know about it. How 'bout that?

At Senate Intelligence Committee hearings on the $310 million construction project on Wednesday, members could barely contain their outrage. Sputtered Sen. Richard Byran: "I don't think it can be underestimated the extent or magnitude of the damage done to the intelligence community in terms of its credibility with the Congress and the American people." Chairman Dennis DeConcini intimated that the CIA had been employing the purloined letter technique, hiding the massive complex in plain view (just like the CIA, isn't?). And the always charming Sen. Howard Metzenbaum snarled that perhaps CIA Director James Woolsey's *successor* would be more forthcoming with information. "Where were you?" he demanded of Mr. Woolsey.

Well, where was the Senate Intelligence Committee, you might ask? Where was Mr. DeConcini? Where was Sen. John Warner, ranking minority member of the committee, in whose state the complex is being built? Where was former committee chairman David Boren, who has released a statement saying that he was "never made personally aware that a construction project of this magnitude was being contemplated." Indeed where was George Tenet, staff director for the Intelligence Committee under Mr. Boren and now in charge of intelligence for the National Security Council staff—the man who ought to have been able to spare Mr. Clinton this enormous surprise? Why didn't any of these people know?

The truth, of course, is that they did know. They know very well that the intelligence services are being reorganized and some of their functions consolidated. The NRO complex in Westfields is a part of that process. But no one saw this as an issue until the president decided to declare it a scandal.

Just how much they knew is evident from the ample documentation that Mr. Woolsey and NRO Director Jeffrey Harris brought with them to the hearing.

A few samples:

Back in 1989, a Senate Supplemental to Report No. 101-78 stated that the reorganization plan, combining a number of functions of the CIA, the Air Force, and the NRO in a northern Virginia facility was "feasible" and "should be pursued" and authorized $30 million in fiscal 1990 and $27 million in fiscal 1991 for this purpose.

On Feb. 26, 1990, William Webster, Director of Central Intelligence, and Dick Cheney, Secretary of Defense, wrote to Mr. Boren regarding the NRO headquarters collocation, describing "a phased, incremental facility strategy," and outlined the funding needed for a partial collocation, a total cost of $195.4 million.

On Sept. 17, 1990, then-director of the NRO, Martin Faga, wrote to Mr. Boren giving him "formal notification of the National Reconnaissance Office (NRO) intent to purchase a parcel of land in support of the permanent facility collocation activities of the NRO restructure efforts." The letter describes "a parcel of land approximately 68 acres" and a "current master plan [providing] for the development of approximately 1.3 million square feet on the site. . . . Phase one provides for the construction of approximately 509,000 square feet. . . . Phase two would add an additional 400,000 square feet. Phase three would provide an additional 400,000 square feet. Flexibility is inherent in the master plan to allow phases two and three to be sized differently as the need arises."

In 1992, the FY 1993 Congressional Budget Justification Book, submitted to all appropriate authorization and appropriation subcommittees, stated that "in FY 1991, the NRO acquired a parcel of land sufficient to protect for the option of full collocation. The final NRO facility headquarters will be located in western Fairfax, Virginia on approximately 70 acres. The facility master plan allows for a six-building complex, structured parking, emergency generator building, warehouse, conference facility, and cafeteria. The current construction plan and budget provide for three buildings. . . . occupancy in late 1995. The total construction is approximately 800,000 square feet."

On Nov. 10, 1992, the staff of the Senate Intelligence Staff was briefed on the details of the project. The plan had grown from three to four buildings, a total of 1 million square feet, (with an option to build two more should the need arise).

On Nov. 13, 1992, Mr. Faga wrote to David Boren and Frank Murkowski, committee vice chairman, requesting permission to reallocate $22 million to accelerate the NRO's consolidation plan. He was told, "The Committee does not object to the expenditure of funds for the purpose specified."

In addition, there is report upon report of estimated costs for the three- and four-building options five years' worth of intelligence authorization bills, appropriations bills, conference reports and on an on, in which the project has been specifically mentioned, and, of course, funded.

It's a pity, Mr. Woolsey only has the truth on his side. Apparently, that doesn't count for much when there's posturing and intelligence-bashing to be done.

Mrs. FEINSTEIN. Mr. President, I rise today as a cosponsor of the DeConcini-Warner amendment concerning the construction of a National Reconnaissance Office [NRO] headquarters building.

Frankly, I was extremely troubled to learn that more then $300 million is being spent to secretly construct an NRO facility in northern Virginia to consolidate personnel located in California and throughout the country.

Apparently, construction of the NRO facility was begun in 1990 and undertaken without the full knowledge and approval of Congress. This raises serious concerns about congressional oversight of this project and the entire NRO Organization. In my opinion, the credibility of the NRO has been damaged, and Congress will be forced to more closely scrutinize its budget and activities.

I am trying to get answers about this project and consolidation, but am concerned about the level of cooperation the NRO is giving my office.

Last week, my staff contacted Pentagon officials to inquire about speculation that NRO personnel were moving from offices at Los Angeles Air Force Base [AFB] in California to a new NRO headquarters building near Dulles International Airport. The Air Force denied all knowledge of such a proposed consolidation, and inquiries to the NRO went unanswered. The way these inquiries were handled leads me to believe that the intelligence community was trying to deceive Congress or, at a minimum, me. This is simply unacceptable.

Still today, after Pentagon officials testified before the Senate Intelligence Committee, the NRO has not provided me or my office any information, except a joint statement that was released to the press.

Apparently, construction of the NRO facility was originally planned for a partial consolidation of headquarters personnel that are scattered throughout the Washington area. This would have allowed for construction of a building with two office towers at substantially less cost than current estimates.

However, sometime in 1992, after the fall of the Soviet Union—the primary target of NRO activities—the intelligence community decided to proceed with a full consolidation of NRO personnel · nationwide. This decision caused the estimated cost for the new facility to near $350 million as two additional office towers were added, for a total of four huge towers. This new structure will be far larger than necessary to house NRO and support personnel. I am unclear why additional funds were allocated for this new structure at a time when defense and intelligence budgets were declining.

My staff still has not been able to determine exactly what type of consolidation is being proposed or the details of the approval process. Specifically:

When and how was the decision made to shift from only partial consolidation to full consolidation?

How many military, civilian, and contractor personnel are being affected, and what type of work are they performing?

Where are these personnel currently located?

When is the proposed consolidation occurring?

What implications does the proposed consolidation have on the base realignment and closure [BRAC] process?

Because NRO is partly a Defense Department agency, is it subject to the BRAC process?

Was a true cost-benefit analysis completed to determine whether the associated cost of the NRO facility and full consolidation justified any national security or fiscal gain?

I have already written to Defense Secretary Perry expressing my concern over this matter and submitted some of these questions to him. I expect answers to these questions as soon as possible. I also expect the review currently being undertaken by the Director of the CIA and Deputy Secretary of Defense to address these and other issues.

In addition to my concerns regarding general congressional oversight of the project, I am particularly troubled that, though the consolidation was approved years ago and the Intelligence Committee was notified, I was never made aware that jobs would be moved out of California. Also, I am concerned that the consolidation of personnel from Los Angeles AFB may have an adverse impact—direct or indirect—on the upcoming 1995 base closure process, especially considering that this is just one of a number of planned consolidations out of Los Angeles AFB.

As many of my colleagues know, the Space and Missile Systems Center at Los Angeles AFB is a center of excellence for the design and acquisition of satellites and other space systems. It would seem reasonable and practical that those working on satellites, such as the NRO, would want to be located at or near Los Angeles AFB. This is where the program offices are, this is where the acquisition personnel are, this is where the Aerospace Corporation, a support FFRDC is, and this is where the contractors are.

But, the NRO apparently decided to move its personnel from this center of excellence to a headquarters building near Washington, DC. I believe the decisionmaking process for proceeding to a full consolidation also needs to be examined closely.

Mr. President, this matter needs to be thoroughly looked into and I hope that much of the information surrounding the project can be declassified so the public and taxpayers will have full knowledge of what is being built near Dulles International Airport.

I fully support this amendment and urge its adoption.

The PRESIDING OFFICER. The question occurs on amendment No. 2557, offered by the Senator from Arizona.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Minnesota [Mr. WELLSTONE] is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—99

Akaka	Brown	Conrad
Baucus	Bryan	Coverdell
Bennett	Bumpers	Craig
Biden	Burns	D'Amato
Bingaman	Byrd	Danforth
Bond	Campbell	Daschle
Boren	Chafee	DeConcini
Boxer	Coats	Dodd
Bradley	Cochran	Dole
Breaux	Cohen	Domenici
Dorgan	Kassebaum	Nickles
Durenberger	Kempthorne	Nunn
Exon	Kennedy	Packwood
Faircloth	Kerrey	Pell
Feingold	Kerry	Pressler
Feinstein	Kohl	Pryor
Ford	Lautenberg	Reid
Glenn	Leahy	Riegle
Gorton	Levin	Robb
Graham	Lieberman	Rockefeller
Gramm	Lott	Roth
Grassley	Lugar	Sarbanes
Gregg	Mack	Sasser
Harkin	Mathews	Shelby
Hatch	McCain	Simon
Hatfield	McConnell	Simpson
Heflin	Metzenbaum	Smith
Helms	Mikulski	Specter
Hollings	Mitchell	Stevens
Hutchison	Moseley-Braun	Thurmond
Inouye	Moynihan	Wallop
Jeffords	Murkowski	Warner
Johnston	Murray	Wofford

NOT VOTING—1

Wellstone

So the amendment (No. 2557) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2556

The PRESIDING OFFICER. Under the previous order, the question now occurs on agreeing to amendment No. 2556, offered by the Senator from Virginia [Mr. WARNER].

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Minnesota [Mr. WELLSTONE] is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 284 Leg.]

YEAS—99

Akaka	Dole	Kerrey
Baucus	Domenici	Kerry
Bennett	Dorgan	Kohl
Biden	Durenberger	Lautenberg
Bingaman	Exon	Leahy
Bond	Faircloth	Levin
Boren	Feingold	Lieberman
Boxer	Feinstein	Lott
Bradley	Ford	Lugar
Breaux	Glenn	Mack
Brown	Gorton	Mathews
Bryan	Graham	McCain
Bumpers	Gramm	McConnell
Burns	Grassley	Metzenbaum
Byrd	Gregg	Mikulski
Campbell	Harkin	Mitchell
Chafee	Hatch	Moseley-Braun
Coats	Hatfield	Moynihan
Cochran	Heflin	Murkowski
Cohen	Helms	Murray
Conrad	Hollings	Nickles
Coverdell	Hutchison	Nunn
Craig	Inouye	Packwood
D'Amato	Jeffords	Pell
Danforth	Johnston	Pressler
Daschle	Kassebaum	Pryor
DeConcini	Kempthorne	Reid
Dodd	Kennedy	Riegle

VOL 140 PT 16 AG 12 — 18 1994 UMI

Robb	Shelby	Stevens
Rockefeller	Simon	Thurmond
Roth	Simpson	Wallop
Sarbanes	Smith	Warner
Sasser	Specter	Wofford

NOT VOTING—1

Wellstone

So the amendment (No. 2556) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Senator BOREN be added as a cosponsor to the DeConcini-Warner amendment, and that Senator LEAHY be added as a cosponsor to the Warner-DeConcini amendment that has already been adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the immediate consideration of H.R. 4299, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 4299 is stricken, the text of S. 2082, as amended, is inserted in lieu thereof, and the bill is considered read for a third time.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that this vote be restricted to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is: Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Minnesota [Mr. WELLSTONE] is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 2, as follows:

]Rollcall Vote No. 285 Leg.]

YEAS—97

Akaka	Faircloth	McCain
Baucus	Feingold	McConnell
Bennett	Feinstein	Metzenbaum
Biden	Ford	Mikulski
Bingaman	Glenn	Mitchell
Bond	Gorton	Moseley-Braun
Boren	Graham	Moynihan
Boxer	Gramm	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Heflin	Pell
Burns	Helms	Pressler
Byrd	Hollings	Pryor
Campbell	Hutchison	Reid
Chafee	Inouye	Robb
Coats	Jeffords	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Sarbanes
Conrad	Kempthorne	Sasser
Coverdell	Kennedy	Shelby
Craig	Kerrey	Simon
D'Amato	Kerry	Simpson
Danforth	Kohl	Smith
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Dorgan	Lugar	Wofford
Durenberger	Mack	
Exon	Mathews	

NAYS—2

Hatfield Riegle

NOT VOTING—1

Wellstone

So the bill (H.R. 4299), as amended, was passed.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments and requests a conference with the House of Representatives thereon, and the Chair appoints conferees on the part of the Senate.

The PRESIDING OFFICER (Mr. GRAHAM) appointed Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. KERREY of Nebraska, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY of Massachussetts, Mr. BAUCUS, Mr. JOHNSTON, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, Mr. GORTON, Mr. CHAFEE, Mr. STEVENS, Mr. LUGAR, and Mr. WALLOP; and, from the Committee on Armed Services, Mr. NUNN and Mr. THURMOND.

MEASURES INDEFINITELY POSTPONED

The PRESIDING OFFICER. Under the previous order, S. 2082 and S. 2056 are indefinitely postponed.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator DECONCINI, and then Senator WARNER, be recognized to make brief remarks with respect to the bill just passed; that the Senate then proceed to the consideration of Calendar No. 506, S. 1614, the child nutrition bill; that Senator LEAHY then be recognized to offer an amendment on behalf of himself and the committee; that there be 5 minutes of debate on that amendment; that upon the disposition of that amendment Senator SIMPSON be recognized to speak on health care for up to 20 minutes; that, upon conclusion of Senator SIMPSON's remarks, Senator MCCONNELL be recognized to offer his amendment regarding motor-voter requirements in WIC offices; that there be 90 minutes of debate on the McConnell amendment; that, upon the use or yielding back of that time, the Senate vote without any intervening action on or in relation to Senator MCCONNELL's amendment; that all time be equally divided in the usual form; that no other amendments be in order prior to the disposition of the Leahy and McConnell amendments; and that, upon the disposition of these amendments, S. 1614 be returned to the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

COMMENDATIONS

Mr. DECONCINI. Mr. President, I want to say a particular thank-you to my colleague, and vice chairman, Senator WARNER, for his cooperation in the past couple of years.

This is a difficult time for the intelligence community, and without the cooperation of the Senator from Virginia, we would not have had the bill as constructed and the legislation that we have just passed. He played a major, major role.

I also want to thank all of his staff, particularly Judy Ansley and Chris Mellon for their superb participation in this effort; also a number of other people who have done a tremendous job: Tim Carlsgaard, Charlie Battaglia, Britt Snider, Pat Hanback, and Sarah Holmes for their particular efforts on the audit team; Jim Wolfe, for the strong effort that he has given this year; Jonathan Zittrain and the entire staff. Also, in behalf of the Senator from Florida [Mr. GRAHAM] and myself, I want to thank Al Cumming and Harriet Schneider for their fine work.

This staff at the committee is not a partisan staff at all. It is not divided by minority or majority. I think that bodes well for the votes that we received today on this bill, and the lack of consternation and disagreement that is here when there are areas of disagreement. We work them out. We do not have confrontations. I think it serves the intelligence community well.

The recent exposure we talked about today regarding the NRO happened because this committee took an initiative first under Senators BOREN and COHEN to have an audit staff, only two people—currently Ms. Hanback and Ms. Holmes. We have uncovered a number of things that need to be corrected, and we have attempted to correct them.

I am most grateful to the Senator from Virginia.

Mr. WARNER. Mr. President, I thank my good friend. We work together, and we shall finish up our venue here at the conclusion of this Congress.

But I would say that the strong votes the Senate has just recorded on pieces of legislation, which together we have worked on, I think is an affirmation of the leadership that the Senator from Arizona has given this committee. I regret that in today's paper there is some indication of dissatisfaction on behalf of our counterparts in the House of Representatives. And I hope they, too, will note the votes taken by this Chamber today with regard to pieces of legislation which are landmark, absolutely landmark pieces of legislation taken to strengthen America's intelligence.

I join our distinguished chairman in commending our entire staff; Norm Bradley, the staff director; Tim Carlsgaard; Mrs. Hanback; and Mr. Mellon on my staff. Mr. Mellon came from Senator CHAFEE's staff, and will be returning. Mrs. Ansley at the conclusion of this year, will return to my staff.

But I think the most important thing is that Judy and Steve Ansley have within the past year brought into the world a wonderful baby girl, Rachel Emily Ansley. And she never missed a day on the job. She continued each day at her home, and that shows the dedication that not only this individual has but many, many persons that we are privileged to have in service here in the Senate on our staffs.

I yield the floor.

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask that we now go forward with S. 1614.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1614) to amend the Child Nutrition Act of 1966 and the National School Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such acts through fiscal year 1998, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Better Nutrition and Health for Children Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS

Sec. 101. Delivery of commodities.
Sec. 102. Combined Federal and State commodity purchases.
Sec. 103. Nutritional requirements.
Sec. 104. Elimination of whole milk requirement.
Sec. 105. Use of free and reduced price meal eligibility information.
Sec. 106. Automatic eligibility of Head Start participants.
Sec. 107. Use of nutrition education and training program resources.
Sec. 108. Special assistance for schools electing to serve all children free lunches or breakfasts.
Sec. 109. Definition of school.
Sec. 110. Reimbursement for meals, supplements, and milk under certain programs contingent on timely submission of claims and final program operations report.
Sec. 111. Organically produced agricultural products.
Sec. 112. Food and nutrition projects.
Sec. 113. Summer food service program for children.
Sec. 114. Commodity distribution program.
Sec. 115. Child and adult care food program.
Sec. 116. Homeless children nutrition program; demonstration program for the prevention of boarder babies.
Sec. 117. Pilot projects.
Sec. 118. Food service management institute.
Sec. 119. Compliance and accountability.
Sec. 120. Duties of the Secretary of Agriculture relating to nonprocurement debarment under certain child nutrition programs.
Sec. 121. Nutrition education promotion program.
Sec. 122. Information clearinghouse.
Sec. 123. Guidance and grants for accommodating medical and special dietary needs of children with disabilities.

TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS

Sec. 201. School breakfast program.
Sec. 202. State administrative expenses.
Sec. 203. Competitive foods of minimal nutritional value.
Sec. 204. Special supplemental nutrition program.
Sec. 205. Nutrition education and training program.

TITLE III—EFFECTIVE DATES

Sec. 301. Effective dates.

TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS

SEC. 101. DELIVERY OF COMMODITIES.

(a) IN GENERAL.—Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended—

(1) by striking subsection (b) and inserting the following new subsection:

"(b) The Secretary shall deliver, to each State participating in the school lunch program under this Act, commodities valued at the total level of assistance authorized under subsection (c) for each school year for the school lunch program in the State, not later than September 30 of the following school year.";

(2) by striking subsections (c) and (d); and

(3) by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (j), and clauses (i) and (ii) of subsection (g)(3)(A), of section 14 of such Act (42 U.S.C. 1762a) are amended by striking "section 6(e)" and inserting "section 6(c)".

(2) The last sentence of section 16(a) of such Act (42 U.S.C. 1765(a)) is amended by striking "section 6(e) of this Act" and inserting "section 6(c)".

(3) Section 17(h)(1)(B) of such Act (42 U.S.C. 1766(h)(1)(B)) is amended by striking "section 6(e)" and inserting "section 6(c)".

SEC. 102. COMBINED FEDERAL AND STATE COMMODITY PURCHASES.

Section 7 of the National School Lunch Act (42 U.S.C. 1756) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of law, the Secretary may enter into an agreement with a State agency under which funds payable to the State under section 4 or 11 may be used by the Secretary for the purpose of purchasing commodities for use by schools in the State in meals served under the school lunch program under this Act.".

SEC. 103. NUTRITIONAL REQUIREMENTS.

(a) TECHNICAL ASSISTANCE FOR SCHOOL LUNCH PROGRAM.—Section 9(a)(1) of the National School Lunch Act (42 U.S.C. 1758(a)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school lunch program under this Act, to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.".

(b) MINIMUM NUTRITIONAL REQUIREMENTS MEASURED BY WEEKLY AVERAGE OF NUTRIENT CONTENT OF SCHOOL LUNCHES.—Section 9(a)(1)(A) of such Act (42 U.S.C. 1758(a)(1)(A)) (as amended by subsection (a)) is further amended—

(1) by striking "; except that such minimum nutritional requirements" and inserting the following: ", except that—

"(i) the minimum nutritional requirements";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(ii) the minimum nutritional requirements shall be measured by not less than the weekly average of the nutrient content of school lunches.".

SEC. 104. ELIMINATION OF WHOLE MILK REQUIREMENT.

Section 9(a)(2) of the National School Lunch Act (42 U.S.C. 1758(a)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking "fluid whole milk and fluid unflavored lowfat milk" and inserting "fluid milk, except that a State educational agency may require schools in the State to offer any type or types of milk to students"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) The Secretary shall purchase each calendar year to carry out the school lunch program under this Act, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), lowfat cheese on a

VOL 140 PT 16 AG 12 — 18 1994 UMI

bid basis in a quantity that is the milkfat equivalent of the quantity of milkfat the Secretary estimates the Commodity Credit Corporation will purchase such calendar year as a result of the elimination of the requirement that schools offer students fluid whole milk and fluid unflavored lowfat milk, based on data provided by the Director of Office of Management and Budget.

"(ii) Not later than 30 days after the Secretary provides an estimate required under clause (i), the Director of the Congressional Budget Office shall provide to the appropriate committees of Congress a report on whether the Director concurs with the estimate of the Secretary.

"(iii) The quantity of lowfat cheese that is purchased under this subparagraph shall be in addition to the quantity of cheese that is historically purchased by the Secretary to carry out school feeding programs. The Secretary shall take such actions as are necessary to ensure that purchases under this subparagraph shall not displace commercial purchases of cheese by schools.".

SEC. 105. USE OF FREE AND REDUCED PRICE MEAL ELIGIBILITY INFORMATION.

Clause (iii) of section 9(b)(2)(C) of the National School Lunch Act (42 U.S.C. 1758(b)(2)(C)(iii)) is amended to read as follows:

"(iii) The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clause (ii), shall be limited to—

"(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;

"(II) a person directly connected with the administration or enforcement of a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)); and

"(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

"(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by paragraph (1) or this paragraph.

"(iv) Information provided by a school under clause (iii)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

"(v) A person described in clause (iii) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.".

SEC. 106. AUTOMATIC ELIGIBILITY OF HEAD START PARTICIPANTS.

(a) IN GENERAL.—Section 9(b)(6) of the National School Lunch Act (42 U.S.C. 1758(b)(6)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "a member of";

(B) in clause (i)—

(i) by inserting "a member of" after "(i)"; and

(ii) by striking "or" at the end;

(C) in clause (ii)—

(i) by inserting "a member of" after "(ii)"; and

(ii) by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following new clause:

"(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).''; and

(2) in subparagraph (B), by striking "food stamps or aid to families with dependent children" and inserting "food stamps or aid to families with dependent children, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on September 1, 1995.

SEC. 107. USE OF NUTRITION EDUCATION AND TRAINING PROGRAM RESOURCES.

Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end the following new subsection:

"(f) In carrying out this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a State educational agency shall, particularly with regard to the responsibilities of the agency under subsection (a)(3), use resources provided through the nutrition education and training program authorized under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) for training aimed at improving the quality and acceptance of school meals.".

SEC. 108. SPECIAL ASSISTANCE FOR SCHOOLS ELECTING TO SERVE ALL CHILDREN FREE LUNCHES OR BREAKFASTS.

Section 11(a)(1) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) in the second sentence, by striking "In the case of" and inserting the following:

"(B) Except as provided in subparagraph (C), (D), or (E), in the case of"; and

(3) by striking the third and fourth sentences and inserting the following new subparagraphs:

"(C)(i) Except as provided in subparagraph (D), in the case of any school that—

"(I) elects to serve all children in the school free lunches under the school lunch program during any period of 3 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) during any period of 3 successive school years; and

"(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

special assistance payments shall be paid to the State educational agency with respect to the school during the period on the basis of the number of lunches or breakfasts determined under clause (ii) or (iii).

"(ii) For purposes of making special assistance payments under clause (i), except as provided in clause (iii), the number of lunches or breakfasts served by a school to children who are eligible for free lunches or breakfasts or reduced price lunches or breakfasts during each school year of the 3-school-year period shall be considered to be equal to the number of lunches or breakfasts served by the school to children eligible for free lunches or breakfasts or reduced price lunches or breakfasts during the first school year of the period.

"(iii) For purposes of computing the amount of the payments, a school may elect to determine on a more frequent basis the number of children who are eligible for free or reduced price lunches or breakfasts who are served lunches or breakfasts during the 3-school-year period.

"(D)(i) In the case of any school that, on the date of enactment of this subparagraph, is receiving special assistance payments under this paragraph for a 3-school-year period described in subparagraph (C), the State may grant, at the end of the 3-school-year period, an extension of the period for an additional 2 school years, if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained stable.

"(ii) A school described in clause (i) may reapply to the State at the end of the 2-school-year period described in clause (i) for the purpose of continuing to receive special assistance payments, as determined in accordance with this paragraph, for a subsequent 5-school-year period. The school may reapply to the State at the end of the 5-school-year period, and at the end of each 5-school-year period thereafter for which the school receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent 5-school-year period. The school shall require submission of applications for free and reduced price lunches, or for free and reduced price lunches and breakfasts, in the first school year of each 5-school-year period for which the school receives special assistance payments under this paragraph, for the purpose of calculating the special assistance payments.

"(E)(i) In the case of any school that—

"(I) elects to serve all children in the school free lunches under the school lunch program during any period of 4 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program during any period of 4 successive school years; and

"(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

total Federal cash reimbursements and total commodity assistance shall be provided to the State educational agency with respect to the school at a level that is equal to the total Federal cash reimbursements and total commodity assistance received by the school in the last school year for which the school accepted applications under the school lunch or school breakfast program, adjusted annually for inflation in accordance with paragraph (3)(B) and for changes in enrollment, to carry out the school lunch or school breakfast program.

"(ii) A school described in clause (i) may reapply to the State at the end of the 4-school-year period described in clause (i), and at the end of each 4-school-year period thereafter for which the school receives reimbursements and assistance under this subparagraph, for the purpose of continuing to receive the reimbursements and assistance for a subsequent 4-school-year period. The State may approve an application under this clause if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained consistent with the income level of the population of the school in the last school year for which the school accepted the applications described in clause (i).".

SEC. 109. DEFINITION OF SCHOOL.

(a) IN GENERAL.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended—

(1) in the first sentence—

(A) in subparagraph (A), by striking "under," and inserting "under and";

(B) in subparagraph (B), by striking ", and" and inserting a period; and

(C) by striking subparagraph (C); and

(2) in the second sentence, by striking "of clauses (A) and (B)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on October 1, 1995.

SEC. 110. REIMBURSEMENT FOR MEALS, SUPPLEMENTS, AND MILK UNDER CERTAIN PROGRAMS CONTINGENT ON TIMELY SUBMISSION OF CLAIMS AND FINAL PROGRAM OPERATIONS REPORT.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2), the Secretary may provide reimbursements for final claims submitted to State agencies by eligible schools, institutions, and service institutions for service of meals, supplements, and milk under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) only if—

"(A) the claims have been submitted to the State agencies not later than 60 days after the last day of the month for which reimbursements are claimed; and

"(B) the final program operations report for the month is submitted to the Secretary not later than 90 days after the last day of the month.

"(2) The Secretary may waive the requirements of paragraph (1).".

SEC. 111. ORGANICALLY PRODUCED AGRICULTURAL PRODUCTS.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by section 110) is further amended by adding at the end the following new subsection:

"(k)(1) The Secretary shall make available, at the request of State educational agencies and schools participating in the school lunch program, information about means for schools to obtain organically produced agricultural products (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502)), such as meats, poultry products, fruits, products made from grains, dairy products, and vegetables that are organically produced.".

"(2) Paragraph (1) shall apply beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with such Act (7 U.S.C. 6501 et seq.).".

SEC. 112. FOOD AND NUTRITION PROJECTS.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by section 111) is further amended by adding at the end the following new subsection:

"(l)(1) The Secretary, acting through the Administrator of the Food and Nutrition Service or through the Extension Service, shall award on an annual basis grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula.

"(2) Each organization or institution referred to in paragraph (1) shall be selected by the Secretary and shall—

"(A) assist local schools and educators in offering food and nutrition education that integrates math, science, and verbal skills in the elementary grades;

"(B) assist local schools and educators in teaching agricultural practices through practical applications, like gardening;

"(C) create community service learning opportunities or educational programs;

"(D) be experienced in assisting in the creation of curriculum-based models in elementary schools;

"(E) be sponsored by an organization or institution, or be an organization or institution, that provides information, or conducts other educational efforts, concerning the success and productivity of American agriculture and the importance of the free enterprise system to the quality of life in the United States; and

"(F) be able to provide model curricula, examples, advice, and guidance to school, community groups, States, and local organizations regarding means of carrying out similar projects.

"(3) Subject to the availability of appropriations to carry out this subsection, the Secretary shall make grants to each of the 3 private organizations or institutions selected under this section in amounts of not less than $100,000, nor more than $200,000, for each of fiscal years 1995 through 1998.

"(4) The Secretary shall establish fair and reasonable auditing procedures regarding the expenditure of funds under this subsection.

"(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through 1998.".

SEC. 113. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) ORDER OF PRIORITY.—Section 13(a)(4) of the National School Lunch Act (42 U.S.C. 1761(a)(4)) is amended by striking subparagraphs (A) through (F) and inserting the following:

"(A) School food authorities.

"(B) Units of local, municipal, or county government that have demonstrated successful program performance in a prior year.

"(C) Other units of local, municipal, or county government, and private nonprofit organizations eligible under paragraph (7).".

(b) PRIVATE NONPROFIT ORGANIZATIONS.—Section 13(a)(7) of such Act (42 U.S.C. 1761(a)(7)) is amended by striking subparagraph (C).

(c) NON-SCHOOL SITES.—Section 13(c)(1) of such Act (42 U.S.C. 1761(c)(1)) is amended by inserting before the period at the end of the following: "or that provide meal service at non-school sites to children who are not in school for a period during the months of October through April due to an unanticipated school closure".

(d) REGISTERED FOOD SERVICE MANAGEMENT COMPANY REPORTS.—Section 13(l)(3) of such Act (42 U.S.C. 1761(l)(3)) is amended by striking "and their program record" and inserting "that have been seriously deficient in their participation in the program,".

(e) MANAGEMENT AND ADMINISTRATION PLAN.—Section 13(n) of such Act (42 U.S.C. 1761(n)) is amended—

(1) in paragraph (2), by adding "and" after the semicolon at the end;

(2) in paragraph (3), by striking the semicolon at the end and inserting a period; and

(3) by striking paragraphs (4) through (12).

(f) ELIMINATION OF WARNING IN PRIVATE NONPROFIT ORGANIZATION APPLICATION RELATING TO CRIMINAL PROVISIONS AND RELATED MATTERS.—Section 13(q) of such Act (42 U.S.C. 1761(q)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (4), by striking "paragraphs (1) and (3)" and inserting "paragraphs (1) and (2)".

(g) HEARINGS REGARDING STATE ACTION ON THE BASIS OF FEDERAL REVIEW FINDINGS.—Section 13(q) of such Act (42 U.S.C. 1761(q)) (as amended by paragraphs (1) and (2) of subsection (f)) is further amended by inserting before paragraph (4) the following new paragraph:

"(3) A State shall not be required to provide a hearing to a private nonprofit organization concerning a State action taken on the basis of a Federal review finding with respect to a program carried out under this section. If a State does not provide a hearing to the organization concerning the action, the Secretary, on request, shall provide a hearing to the organization concerning the action.".

(h) EXTENSION OF PROGRAM.—Section 13(r) of such Act (42 U.S.C. 1761(r)) is amended by striking "1994" and inserting "1998".

SEC. 114. COMMODITY DISTRIBUTION PROGRAM.

(a) EXTENSION.—Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking "1994" and inserting "1998".

(b) NUTRITIONAL CONTENT.—Section 14(b) of such Act (42 U.S.C. 1762a(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraphs:

"(2) The Secretary shall improve the overall nutritional quality of entitlement commodities (within the meaning of section 18) provided to schools under the school lunch program to assist the schools in improving the nutritional content of meals served under the program.

"(3) The Secretary shall—

"(A) require that nutritional content information labels be placed on packages or shipments of commodities provided to schools under the school lunch program; or

"(B) otherwise provide nutritional content information regarding the commodities provided to schools under the school lunch program.".

SEC. 115. CHILD AND ADULT CARE FOOD PROGRAM.

(a) REAPPLICATION FOR ASSISTANCE AT 3-YEAR INTERVALS.—Section 17(d)(2)(A) of the National School Lunch Act (42 U.S.C. 1766(d)(2)(A)) is amended by striking "2-year intervals" and inserting "3-year intervals".

(b) USE OF ADMINISTRATIVE FUNDS TO CONDUCT OUTREACH AND RECRUITMENT TO UNLICENSED DAY CARE HOMES.—Section 17(f)(3)(C) of such Act (42 U.S.C. 1766(f)(3)(C)) is amended—

(1) by inserting "(i)" after "(C)"; and

(2) by adding at the end the following new clause:

"(ii) Funds for administrative expenses may be used by a family or group day care home sponsoring organization to conduct outreach and recruitment to unlicensed family or group day care homes so that the day care homes may become licensed.".

(c) INFORMATION AND TRAINING CONCERNING CHILD HEALTH AND DEVELOPMENT.—Section 17(k) of such Act (42 U.S.C. 1766(k)) is amended by adding at the end the following new paragraph:

"(4) The Secretary shall encourage States to provide information and training concerning child health and development to family or group day care home sponsoring organizations.".

(d) EXTENSION OF STATEWIDE DEMONSTRATION PROJECTS.—Section 17(p) of such Act (42 U.S.C. 1766(p)) is amended—

(1) in paragraph (4)(B), by striking "1992" and inserting "1998"; and

(2) in paragraph (5), by striking "1994" and inserting "1998".

(e) WIC INFORMATION.—Section 17 of such Act (42 U.S.C. 1766) is amended by adding at the end the following new subsection:

"(q)(1) The Secretary shall provide State agencies with basic information concerning the importance and benefits of the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(2) The State agency shall—

"(A) provide each child care institution participating in the program established under this section, other than institutions providing day care outside school hours for schoolchildren, with materials that include—

"(i) a basic explanation of the benefits and importance of the special supplemental nutrition program for women, infants, and children;

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(ii) the maximum income limits, according to family size, applicable to children up to age 5 in the State under the special supplemental nutrition program for women, infants, and children; and

"(iii) a listing of the addresses and phone numbers of offices at which parents may apply;

"(B) annually provide the institutions with an update of the information on income limits described in subparagraph (A)(ii); and

"(C) ensure that, at least once a year, the institutions to which subparagraph (A) applies provide written information to parents that includes—

"(i) basic information on the benefits provided under the special supplemental nutrition program for women, infants, and children;

"(ii) information on the maximum income limits, according to family size, applicable to the program; and

"(iii) information on where parents may apply to participate in the program.".

SEC. 116. HOMELESS CHILDREN NUTRITION PROGRAM; DEMONSTRATION PROGRAM FOR THE PREVENTION OF BOARDER BABIES.

(a) HOMELESS CHILDREN NUTRITION PROGRAM.—The National School Lunch Act is amended by inserting after section 17A (42 U.S.C. 1766a) the following new section:

"SEC. 17B. HOMELESS CHILDREN NUTRITION PROGRAM.

"(a) IN GENERAL.—The Secretary shall conduct projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

"(b) AGREEMENTS TO PARTICIPATE IN PROJECTS.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with State, city, local, or county governments, other public entities, or private nonprofit organizations to participate in the projects conducted under this section.

"(2) ELIGIBILITY REQUIREMENTS.—The Secretary shall establish eligibility requirements for the entities described in paragraph (1) that desire to participate in the projects conducted under this section, including requirements that—

"(A) each private nonprofit organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children under the age of 6 at each site; and

"(B) each food service site operated by any of the organizations shall meet applicable State and local health, safety, and sanitation standards.

"(c) PROJECT REQUIREMENTS.—

"(1) IN GENERAL.—A project conducted under this section shall—

"(A) use the same meal patterns, and receive reimbursement payments for meals and supplements at the same rates, as apply to child care centers participating in the child care food program established under section 17 for free meals and supplements; and

"(B) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of the project.

"(2) MODIFICATION.—The Secretary may modify the meal pattern requirements to take into account the needs of infants.

"(3) HOMELESS CHILDREN ELIGIBLE FOR FREE MEALS WITHOUT APPLICATION.—Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without submitting an application.

"(d) FUNDING PRIORITIES.—From the amount described in subsection (f), the Secretary shall provide funding for projects carried out under this section for a particular fiscal year (referred to in this subsection as the 'current fiscal year') in the following order of priority, to the maximum extent practicable:

"(1) The Secretary shall first provide such funding to entities and organizations, each of which—

"(A) received funding under this section or section 18(c) (as in effect on the day before the date of enactment of this section) to carry out a project for the preceding fiscal year; and

"(B) is eligible to receive funding under this section to carry out the project for the current fiscal year;

to enable the entity or organization to carry out the project under this section for the current fiscal year at the level of service provided by the project during the preceding fiscal year.

"(2) From the portion of the amount that remains after the application of paragraph (1), the Secretary shall provide funds to entities and organizations, each of which is eligible to receive funding under this section, to enable the entity or organization to carry out a new project under this section for the current fiscal year, or to expand the level of service provided by a project for the current fiscal year over the level provided by the project during the preceding fiscal year.

"(e) NOTICE.—The Secretary shall advise each State of the availability of the projects conducted under this subsection for States, cities, counties, local governments, and other public entities, and shall advise each State of the procedures for applying to participate in the project.

"(f) FUNDING.—

"(1) IN GENERAL.—From funds made available under section 7(a)(5)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)), the Secretary shall expend $3,000,000 for fiscal year 1995 and each subsequent fiscal year to carry out this section.

"(2) EXCEPTION.—The Secretary may expend less than the amount described in paragraph (1) if there is an insufficient number of suitable applicants to carry out projects under this section. Any funds made available under this subsection to carry out the projects for a fiscal year that are not obligated to carry out the projects in the fiscal year shall remain available until expended for purposes of carrying out the projects.

"(g) DEFINITION OF EMERGENCY SHELTER.—As used in this section, the term 'emergency shelter' has the meaning provided in section 321(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351(2)).".

(b) DEMONSTRATION PROGRAM FOR THE PREVENTION OF BOARDER BABIES.—Subsection (c) of section 18 of the National School Lunch Act (42 U.S.C. 1769(c)) is amended to read as follows:

"(c)(1) Using the funds provided under paragraph (7), the Secretary shall conduct at least 1 demonstration project through a participating entity during each of fiscal years 1995 through 1998 that is designed to provide food and nutrition services throughout the year to—

"(A) homeless pregnant women; and

"(B) homeless mothers or guardians of infants, and the children of the mothers and guardians.

"(2) To be eligible to obtain funds under this subsection, a homeless shelter, transitional housing organization, or other entity that provides or will provide temporary housing for individuals described in paragraph (1) shall (in accordance with guidelines established by the Secretary)—

"(A) submit to the Secretary a proposal to provide food and nutrition services, including a plan for coordinating the services with services provided under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(B) receive the approval of the Secretary for the proposal;

"(C) be located in an urban area that has—

"(i) a significant population of boarder babies;

"(ii) a very high rate of mortality for children under 1 year of age; or

"(iii) a significant population of homeless pregnant women and homeless women with infants;

as determined by the Secretary; and

"(D) be able to coordinate services provided under this subsection with the services provided by the local government and with other programs that may assist the participants receiving services under this subsection.

"(3) Food and nutrition services funded under this subsection—

"(A) may include—

"(i) meals, supplements, and other food;

"(ii) nutrition education;

"(iii) nutrition assessments;

"(iv) referrals to—

"(I) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786);

"(II) the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(III) other public or private programs and services;

"(v) activities related to the services described in any of clauses (i) through (iv); and

"(vi) administrative activities related to the services described in any of clauses (i) through (v); and

"(B) may not include the construction, purchase, or rental of real property.

"(4)(A) A participating entity shall—

"(i) use the same meal patterns, and receive reimbursement payments for meals and supplements at the same rates, as apply to child care centers participating in the child care food program under section 17 for free meals and supplements;

"(ii) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the entity; and

"(iii) maintain a policy of not providing services or assistance to pregnant women, or homeless women with infants, who use a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(B) The Secretary may modify the meal pattern requirements to take into account the needs of infants, homeless pregnant women, homeless mothers, guardians of infants, or the children of the women, mothers, or guardians.

"(C) The Secretary shall provide funding to a participating entity for services described in paragraph (3) that are provided to individuals described in paragraph (1).

"(5) The Secretary shall impose such auditing and recordkeeping requirements as are necessary to monitor the use of Federal funds to carry out this subsection.

"(6) The Secretary shall periodically report to the appropriate committees of Congress on projects carried out under this subsection.

"(7)(A) Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $400,000 for each of fiscal years 1995 through 1998 to carry out this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds.

"(B) Any funds provided under subparagraph (A) to carry out projects under this subsection for a fiscal year that are not obligated in the fiscal year shall be used by the Secretary to carry out the homeless children nutrition program established under section 17B.

"(8) As used in this subsection:

"(A) The term 'boarder baby' means an abandoned infant described in section 103(1) of the Abandoned Infants Assistance Act of 1988 (Public Law 100-505; 42 U.S.C. 670 note).

"(B) The term 'nutrition education' has the meaning provided in section 17(b)(7) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(7)).".

SEC. 117. PILOT PROJECTS.

(a) FORTIFIED FLUID MILK.—Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(e)(1) Subject to the availability of appropriations to carry out this subsection, the Secretary shall establish pilot projects in at least 25 school districts under which the milk offered by schools meets the fortification requirements of paragraph (3) for lowfat, skim, and other forms of fluid milk.

"(2) The Secretary shall make available to school districts information that compares the nutritional benefits of fluid milk that meets the fortification requirements of paragraph (3) and the nutritional benefits of other milk that is made available through the school lunch program established under this Act.

"(3) The fortification requirements for fluid milk for the pilot project referred to in paragraph (1) shall provide that—

"(A) all whole milk in final package form for beverage use shall contain not less than—

"(i) 3.25 percent milk fat; and

"(ii) 8.7 percent milk solids not fat;

"(B) all lowfat milk in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

"(C) all skim milk in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

"(4)(A) In selecting where to establish pilot projects under this subsection, the Secretary shall take into account, among other factors, the availability of fortified milk and the interest of the school district in being included in the pilot project.

"(B) The Secretary shall establish the pilot projects in as many geographic areas as practicable, except that none of the projects shall be established in school districts that use milk described in paragraph (3) or similar milk.

"(5) Not later than 2 years after the establishment of pilot projects under this subsection, the Secretary shall report to the appropriate committees of Congress on—

"(A) the acceptability of fortified whole, lowfat, and skim milk products to participating children;

"(B) the impact of offering the milk on milk consumption;

"(C) the views of the school food service authorities on the pilot projects; and

"(D) any increases or reductions in costs attributed to the pilot projects.

"(6) The Secretary shall—

"(A) obtain copies of any research studies or papers that discuss the impact of the fortification of milk pursuant to standards established by the States; and

"(B) on request, make available to State agencies and the public—

"(i) the information obtained under subparagraph (A); and

"(ii) information about where to obtain milk described in paragraph (3).

"(7)(A) The pilot projects established under this subsection shall terminate on the last day of the third year after the establishment of the pilot projects.

"(B) The Secretary shall advise representatives of all districts participating in the pilot projects that the districts may continue to offer the fortified forms of milk described in paragraph (3) after the project terminates.".

(b) INCREASED CHOICES OF FRUITS, VEGETABLES, LEGUMES, CEREALS, AND GRAIN-BASED PRODUCTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (a)) is further amended by adding at the end the following new subsection:

"(f)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of fruits, vegetables, legumes, cereals, and grain-based products (including, subject to paragraph (7), organically produced agricultural commodities and products) (collectively referred to in this subsection as 'qualified products').

"(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

"(3) The Secretary shall use the funds provided under this subsection to provide to the schools referred to in paragraph (1)—

"(A) per meal reimbursements, in addition to reimbursements otherwise due the schools;

"(B) incentive awards to schools that agree to increase the choices of the schools of qualified products during the school year; or

"(C) qualified products acquired by the Secretary.

"(4) The Secretary may provide a priority for receiving funds under this subsection to—

"(A) schools that are located in areas (as defined by the Secretary); and

"(B) schools that rarely offer 3 or more choices of qualified products per meal.

"(5) On request, the Secretary shall provide information to the appropriate committees of Congress on the impact of the pilot project on participating schools, including—

"(A) the extent to which school children increased consumption of qualified products;

"(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

"(C) the desirability of—

"(i) requiring that each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

"(ii) requiring that each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

"(iii) mandating that the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

"(D) any increases or reductions in costs to the schools in offering the additional qualified products; and

"(E) any increase or reduction in costs to the schools in offering the additional qualified products.

"(6) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $10,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

"(7) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).".

SEC. 118. FOOD SERVICE MANAGEMENT INSTITUTE.

(a) REQUIRED ACTIVITIES.—Section 21(c)(2) of the National School Lunch Act (42 U.S.C. 1769b-1(c)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking "and" at the end of clause (viii);

(B) by redesignating clause (ix) as clause (x); and

(C) by inserting after clause (viii) the following new clause:

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(ix) culinary skills; and";

(2) by striking "and" at the end of subparagraph (D);

(3) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(4) by adding at the end the following new subparagraphs:

"(F) training food service personnel to comply with the nutrition guidance and objectives of section 24 through a national network of instructors or other means;

"(G) preparing informational materials, such as video instruction tapes and menu planners, to promote healthier food preparation; and

"(H) assisting State educational agencies in providing additional nutrition and health instructions and instructors, including training personnel to comply with the nutrition guidance and objectives of section 24.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 21 (42 U.S.C. 1769b–1) is amended—

(1) in subsection (a)(1), by striking "from" and inserting "subject to the availability of, and from,"; and

(2) by striking subsection (e) and inserting the following new subsection:

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) TRAINING ACTIVITIES AND TECHNICAL ASSISTANCE.—There are authorized to be appropriated $3,000,000 for fiscal year 1990, $2,000,000 for fiscal year 1991, and $1,000,000 for each of fiscal years 1992 through 1998 for purposes of carrying out subsection (a)(1).

"(2) FOOD SERVICE MANAGEMENT INSTITUTE.—

"(A) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $2,000,000 for fiscal year 1995 and each subsequent fiscal year to carry out subsection (a)(2). The Secretary shall be entitled to receive the funds and shall accept the funds.

"(B) ADDITIONAL FUNDING.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out subsection (a)(2) $2,000,000 for each of fiscal years 1995 through 1998. The Secretary shall carry out activities under subsection (a)(2), in addition to the activities funded under subparagraph (A), to the extent provided for, and in such amounts as are provided for, in advance in appropriations Acts.".

SEC. 119. COMPLIANCE AND ACCOUNTABILITY.

Not later than 1 year after the date of enactment of this Act, the Director of the Office of Technology Assessment shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that analyzes—

(1) the status of the coordinated review system authorized under section 22 of the National School Lunch Act (42 U.S.C. 1769c);

(2) the advantages and disadvantages of the system; and

(3) the cost impact of the system on schools.

SEC. 120. DUTIES OF THE SECRETARY OF AGRICULTURE RELATING TO NONPROCUREMENT DEBARMENT UNDER CERTAIN CHILD NUTRITION PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) in recent years, there has been an alarming number of instances of price-fixing and bid-rigging regarding foods purchased for—

(A) the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); and

(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(2) effective educational and monitoring programs can greatly reduce the incidence of price-fixing and bid-rigging by companies that sell products to schools;

(3) reducing the incidence of price-fixing and bid-rigging in connection with the school lunch and breakfast programs could save school districts, parents, and taxpayers millions of dollars per year; and

(4) the Comptroller General of the United States has noted that bid-rigging awareness training is an effective means of deterring improper collusion and bid-rigging.

(b) NONPROCUREMENT DEBARMENT.—The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 25. DUTIES OF THE SECRETARY RELATING TO NONPROCUREMENT DEBARMENT.

"(a) PURPOSES.—The purposes of this section are to promote the prevention and deterrence of instances of fraud, bid rigging, and other anticompetitive activities encountered in the procurement of products for child nutrition programs by—

"(1) establishing guidelines and a timetable for the Secretary to initiate debarment proceedings, as well as establishing mandatory debarment periods; and

"(2) providing training, technical advice, and guidance in identifying and preventing the activities.

"(b) DEFINITIONS.—As used in this section:

"(1) CHILD NUTRITION PROGRAM.—The term 'child nutrition program' means—

"(A) the school lunch program established under this Act;

"(B) the summer food service program for children established under section 13;

"(C) the child and adult care food program established under section 17;

"(D) the homeless children nutrition program established under section 17B;

"(E) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

"(F) the school breakfast program established under section 4 of such Act (42 U.S.C. 1773); and

"(G) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786).

"(2) CONTRACTOR.—The term 'contractor' means a person that contracts with a State, an agency of a State, or a local agency to provide goods or services in relation to the participation of a local agency in a child nutrition program.

"(3) LOCAL AGENCY.—The term 'local agency' means a school, school food authority, child care center, sponsoring organization, or other entity authorized to operate a child nutrition program at the local level.

"(4) NONPROCUREMENT DEBARMENT.—The term 'nonprocurement debarment' means an action to bar a person from programs and activities involving Federal financial and nonfinancial assistance, but not including Federal procurement programs and activities.

"(5) PERSON.—The term 'person' means any individual, corporation, partnership, association, cooperative, or other legal entity, however organized.

"(c) ASSISTANCE TO IDENTIFY AND PREVENT FRAUD AND ANTICOMPETITIVE ACTIVITIES.—The Secretary shall—

"(1) in cooperation with any other appropriate individual, organization, or agency, provide advice, training, technical assistance, and guidance (which may include awareness training, training films, and troubleshooting advice) to representatives of States and local agencies regarding means of identifying and preventing fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program; and

"(2) provide information to, and fully cooperate with, the Attorney General and State attorneys general regarding investigations of fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program.

"(d) NONPROCUREMENT DEBARMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (3) and subsection (e), not later than 180 days after notification of the occurrence of a cause for debarment described in paragraph (2), the Secretary shall initiate nonprocurement debarment proceedings against the contractor who has committed the cause for debarment.

"(2) CAUSES FOR DEBARMENT.—Actions requiring initiation of nonprocurement debarment pursuant to paragraph (1) shall include a situation in which a contractor is found guilty in any criminal proceeding, or found liable in any civil or administrative proceeding, in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, of—

"(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

"(B) fraud, bribery, theft, forgery, or embezzlement;

"(C) knowingly receiving stolen property;

"(D) making a false claim or statement; or

"(E) other obstruction of justice.

"(3) EXCEPTION.—If the Secretary determines that a decision on initiating nonprocurement debarment proceedings cannot be made within 180 days after notification of the occurrence of a cause for debarment described in paragraph (2) because of the need to further investigate matters relating to the possible debarment or for other good cause (as determined by the Secretary), the Secretary may have such additional time as the Secretary considers necessary to make a decision, but not to exceed an additional 180 days.

"(4) MANDATORY CHILD NUTRITION PROGRAM DEBARMENT PERIODS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of law except subsection (e), if, after deciding to initiate nonprocurement debarment proceedings pursuant to paragraph (1), the Secretary decides to debar a contractor, the debarment shall be for a period of not less than 1 year.

"(B) PREVIOUS DEBARMENT.—If the contractor has been previously debarred pursuant to nonprocurement debarment proceedings initiated pursuant to paragraph (1), and the cause for debarment is described in paragraph (2) based on activities that occurred subsequent to the initial debarment, the debarment shall be for a period of not less than 3 years.

"(C) SCOPE.—At a minimum, a debarment under this subsection shall serve to bar the contractor for the specified period from contracting to provide goods or services in conjunction with the participation of a local agency in a child nutrition program.

"(D) REVERSAL, REDUCTION, OR EXCEPTION.—Nothing in this section shall restrict the ability of the Secretary to—

"(i) reverse a debarment decision;

"(ii) reduce the period or scope of a debarment;

"(iii) grant an exception permitting a debarred contractor to participate in a particular contract to provide goods or services; or

"(iv) otherwise settle a debarment action at any time;

in conjunction with the participation of a local agency in a child nutrition program, if the Secretary determines there is good cause for the action, after taking into account factors set forth in paragraphs (1) through (6) of subsection (e).

"(5) INFORMATION.—On request, the Secretary shall present to the appropriate congressional committees information regarding the decisions required by this subsection.

"(6) RELATIONSHIP TO OTHER AUTHORITIES.—A debarment imposed under this section shall not reduce or diminish the authority of a Federal, State, or local government agency or court to penalize, imprison, fine, suspend, debar, or take other adverse action against a person in a civil, criminal, or administrative proceeding.

"(7) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection.

"(e) MANDATORY DEBARMENT.—Notwithstanding any other provision of this section, the Secretary shall initiate the nonprocurement debarment proceedings described in subsection (d)(1) against the contractor who has committed a cause for debarment (as determined under subsection (d)(2)), unless the action—

"(1) is likely to have a significant adverse effect on competition or prices in the relevant market or nationally;

"(2) will interfere with the ability of a local agency to procure a needed product for a child nutrition program;

"(3) is unfair to a person that is not involved in the improper activity that would otherwise result in the debarment;

"(4) is likely to have significant adverse economic impacts on the local economy in a manner that is unfair to innocent parties;

"(5) is not justified in light of the penalties already imposed on the contractor for violations relevant to the proposed debarment; or

"(6) is not in the public interest, or otherwise is not in the interests of justice, as determined by the Secretary.

"(f) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Prior to seeking judicial review in a court of competent jurisdiction, a contractor against whom a nonprocurement debarment proceeding has been initiated shall—

"(1) exhaust all administrative procedures prescribed by the Secretary; and

"(2) receive notice of the final determination of the Secretary.

"(g) INFORMATION RELATING TO PREVENTION AND CONTROL OF ANTICOMPETITIVE ACTIVITIES.—On request, the Secretary shall present to the appropriate congressional committees information regarding the activities of the Secretary relating to anticompetitive activities, fraud, nonprocurement debarment, and any waiver granted by the Secretary under this section.".

(c) APPLICABILITY.—Section 25 of the National School Lunch Act (as added by subsection (b)) shall not apply to a cause for debarment as described in section 25(d)(2) of such Act that is based on an activity that took place prior to the effective date of section 25 of such Act.

(d) NO REDUCTION IN AUTHORITY TO DEBAR OR SUSPEND A PERSON FROM FEDERAL FINANCIAL AND NONFINANCIAL ASSISTANCE AND BENEFITS.—The authority of the Secretary of Agriculture that exists on the day before the date of enactment of this Act to debar or suspend a person from Federal financial and nonfinancial assistance and benefits under Federal programs and activities shall not be diminished or reduced by this Act or the amendment made by subsection (b).

SEC. 121. NUTRITION EDUCATION PROMOTION PROGRAM.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 120(b)) is further amended by adding at the end of each the following new section:

"SEC. 26. NUTRITION EDUCATION PROMOTION PROGRAM.

"(a) IN GENERAL.—The Secretary, using amounts received under subsection (d), shall establish a nutrition education promotion program to promote healthy eating habits among participants in the domestic food assistance programs of the Department.

"(b) CONDUCT OF PROGRAM.—In carrying out the program described in subsection (a), the Secretary may—

"(1) develop or assist other persons in developing appropriate educational materials, including public service announcements, promotional publications, and press kits for the purpose of promoting nutrition education;

"(2) distribute or assist other persons in distributing the materials to appropriate public or private individuals and entities; and

"(3) provide funds to public or private individuals and entities, including teachers, child care providers, physicians, health professional organizations, food service personnel, school food authorities, and community-based organizations for the purpose of assisting the individuals and entities in conducting nutrition education promotion programs to promote healthy eating habits among the participants in the domestic food assistance programs of the Department.

"(c) COOPERATIVE AGREEMENTS AND GRANTS.—The Secretary may enter into cooperative agreements with, and make grants to, Federal agencies, State, and local governments, and other entities, to carry out the program described in subsection (a).

"(d) GIFTS, BEQUESTS, AND DEVISES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of establishing and carrying out the program described in subsection (a). Gifts, bequests, or devises of money and proceeds from the sale of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement on order of the Secretary.

"(2) CRITERIA FOR ACCEPTANCE.—The Secretary shall establish criteria for determining whether to solicit and accept gifts, bequests, or devises under paragraph (1), including criteria that would ensure that the acceptance of any gifts, bequests, or devises would not—

"(A) reflect unfavorably on the ability of the Secretary to carry out the responsibilities of the Secretary in a fair and objective manner, or

"(B) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in the program.".

SEC. 122. INFORMATION CLEARINGHOUSE.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 121) is further amended by adding at the end the following new section:

"SEC. 27. INFORMATION CLEARINGHOUSE.

"(a) IN GENERAL.—The Secretary shall enter into a contract with a nongovernmental organization described in subsection (b) to establish and maintain a clearinghouse to provide information to nongovernmental groups located throughout the United States that assist low-income individuals or communities regarding food assistance, self-help activities to aid individuals in becoming self-reliant, and other activities that empower low-income individuals or communities to improve the lives of low-income individuals and reduce reliance on Federal, State, or local governmental agencies for food or other assistance.

"(b) NONGOVERNMENTAL ORGANIZATION.—The nongovernmental organization referred to in subsection (a) shall be selected on a competitive basis and shall—

"(1) be experienced in the gathering of first-hand information in all the States through on-site visits to grassroots organizations in each State that fight hunger and poverty or that assist individuals in becoming self-reliant;

"(2) be experienced in the establishment of a clearinghouse similar to the clearinghouse described in subsection (a);

"(3) agree to contribute in-kind resources towards the establishment and maintenance of the clearinghouse and agree to provide clearinghouse information, free of charge, to the Secretary, States, counties, cities, antihunger groups, and grassroots organizations that assist individuals in becoming self-sufficient and self-reliant;

"(4) be sponsored by an organization, or be an organization, that—

"(A) has helped combat hunger for at least 10 years;

"(B) is committed to reinvesting in the United States; and

"(C) is knowledgeable regarding Federal nutrition programs;

"(5) be experienced in communicating the purpose of the clearinghouse through the media, including the radio and print media, and be able to provide access to the clearinghouse information through computer or telecommunications technology, as well as through the mails; and

"(6) be able to provide examples, advice, and guidance to States, counties, cities, communities, antihunger groups, and local organizations regarding means of assisting individuals and communities to reduce reliance on government programs, reduce hunger, improve nutrition, and otherwise assist low-income individuals and communities become more self-sufficient.

"(c) AUDITS.—The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

"(d) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary to provide to the organization selected under this section, to establish and maintain the information clearinghouse, $200,000 for each of fiscal years 1995 and 1996, $150,000 for each of fiscal years 1997 and 1998, and $75,000 for fiscal year 1999. The Secretary shall be entitled to receive the funds and shall accept the funds.".

SEC. 123. GUIDANCE AND GRANTS FOR ACCOMMODATING MEDICAL AND SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 122) is further amended by adding at the end the following new section:

"SEC. 28. GUIDANCE AND GRANTS FOR ACCOMMODATING MEDICAL AND SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

"(a) DEFINITIONS.—As used in this section:

"(1) CHILDREN WITH DISABILITIES.—The term 'children with disabilities' means individuals, each of which is—

"(A) a participant in a covered program; and

"(B) an individual with a disability, as defined in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) for purposes of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) COVERED PROGRAM.—The term 'covered program' means—

"(A) the school lunch program established under this Act;

"(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

"(C) any other program established under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) that the Secretary determines is appropriate.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means a school food service authority, or institution or organization, that participates in a covered program.

"(b) GUIDANCE.—

"(1) DEVELOPMENT.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall develop and approve guidances for accommodating the medical

VOL 140 PT 16 AG 12 — 18 1994 UMI

and special dietary needs of children with disabilities under covered programs in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) TIMING.—In the case of the school lunch program established under this Act and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the Secretary shall develop the guidance as required by paragraph (1) not later than 90 days after the date of enactment of this section.

"(3) DISTRIBUTION.—Not later than 60 days after the date that the development of the guidance relating to a covered program is completed, the Secretary shall distribute the guidance to school food service authorities, and institutions and organizations, participating in the covered program.

"(4) REVISION OF GUIDANCE.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall periodically update and approve the guidance to reflect new scientific information and comments and suggestions from persons carrying out covered programs, recognized medical authorities, parents, and other persons.

"(c) GRANTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations provided in advance to carry out this subsection, the Secretary shall make grants on a competitive basis to State educational agencies for distribution to eligible entities to assist the eligible entities with nonrecurring expenses incurred in accommodating the medical and special dietary needs of children with disabilities in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) ADDITIONAL ASSISTANCE.—Subject to paragraph (3)(A)(iii), assistance received through grants made under this subsection shall be in addition to any other assistance that State educational agencies and eligible entities would otherwise receive.

"(3) ALLOCATION BY SECRETARY.—

"(A) PREFERENCE.—In making grants under this subsection for any fiscal year, the Secretary shall provide a preference to State educational agencies that, individually—

"(i) submit to the Secretary a plan for accommodating the needs described in paragraph (1), including a description of the purpose of the project for which the agency seeks such a grant, a budget for the project, and a justification for the budget;

"(ii) provide to the Secretary data demonstrating that the State served by the agency has a substantial percentage of children with medical or special dietary needs, and information explaining the basis for the data; or

"(iii) demonstrate to the satisfaction of the Secretary that the activities supported through such a grant will be coordinated with activities supported under other Federal, State, and local programs, including—

"(I) activities carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(II) activities carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

"(III) activities carried out under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) or by the food service management institute established under section 21.

"(B) REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by the agency within a reasonable period (as determined by the Secretary).

"(C) APPLICATIONS.—The Secretary shall allow State educational agencies to apply on an annual basis for assistance under this subsection.

"(4) ALLOCATION BY STATE EDUCATIONAL AGENCIES.—In allocating funds made available under this subsection within a State, the State educational agency shall give a preference to eligible entities that demonstrate the greatest ability to use the funds to carry out the plan submitted by the State in accordance with paragraph (3)(A)(i).

"(5) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources to accommodate the needs described in paragraph (1) shall not be diminished as a result of grants received under this subsection.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1995 through 2000 to carry out this subsection.".

TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS

SEC. 201. SCHOOL BREAKFAST PROGRAM.

(a) TECHNICAL ASSISTANCE FOR SCHOOL BREAKFAST PROGRAM.—Section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide through State educational agencies technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school breakfast program established under this section, to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide through State educational agencies additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.".

(b) STARTUP AND EXPANSION OF SCHOOL BREAKFAST PROGRAM AND SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Subsection (g) of section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773(g)) is amended to read as follows:

"STARTUP COSTS

"(g)(1) The Secretary shall make payments, totalling not less than $5,000,000 for each of fiscal years 1991 through 1996, $6,000,000 for each of fiscal years 1997 and 1998, and $7,000,000 for fiscal year 1999 and each subsequent fiscal year, on a competitive basis and in the following order of priority (subject to other provisions of this subsection), to—

"(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

"(i) initiating a school breakfast program under this section; or

"(ii) expanding a school breakfast program; and

"(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

"(i) initiating a summer food service program for children; or

"(ii) expanding a summer food service program for children.

"(2) Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) and section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(3) To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary a plan to expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to expand the programs.

"(4) In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

"(A) have in effect a State law that requires the expansion of the programs during the year;

"(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

"(C) do not have a breakfast program available to a large number of low-income children in the State; or

"(D) serve an unmet need among low-income children, as determined by the Secretary.

"(5) In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

"(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the national school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

"(ii) that do not have a summer food service program for children available to a large number of low-income children in the State; and

"(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

"(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

"(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

"(6) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

"(7) The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(8) Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a breakfast program or a summer food service program for children, respectively.

"(9) Expenditures of funds from State and local sources for the maintenance of the breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.

"(10) As used in this subsection:

"(A) The term 'eligible school' means a school—

"(i) attended by children a significant percentage of whom are members of low-income families; and

"(ii) that agrees to operate the breakfast program established with the assistance provided under this section for a period of not less than 3 years.

"(B) The term 'service institutions' means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)(1)(B) or (7)).

"(C) The term 'summer food service program for children' means a program authorized by section 13 of such Act (42 U.S.C. 1761).".

SEC. 202. STATE ADMINISTRATIVE EXPENSES.

(a) FUNDING FOR HOMELESS CHILDREN NUTRITION PROGRAM.—Section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "paragraphs (2), (3), and (4) of this subsection" and inserting "paragraphs (2) through (5)"; and

(2) in paragraph (5), by striking subparagraph (B) and inserting the following new subparagraph:

"(B)(i) Notwithstanding any other provision of this subsection, of the amounts that are provided under paragraph (1), before making the allocations required under paragraphs (2), (3), and (4), the Secretary shall allocate $3,000,000 for fiscal year 1995 and each subsequent fiscal year to carry out section 17B of the National School Lunch Act.

"(ii) After making the allocations required under clause (i) and paragraphs (2), (3), and (4), the Secretary shall allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for the amounts.".

(b) WITHHOLDING OF FUNDS FOR SERIOUS DEFICIENCY IN STATE ADMINISTRATION OF PROGRAMS.—Section 7(a) of such Act (42 U.S.C. 1776(a)) is amended by adding at the end the following new paragraph:

"(9)(A) If the Secretary determines that the administration of any program by a State under this Act (other than section 17) or under the National School Lunch Act (42 U.S.C. 1751 et seq.), or compliance with a regulation issued to carry out a program pursuant to either of such Acts, is seriously deficient, and the State fails to correct the deficiency within a period of time specified by the Secretary, the Secretary may withhold from the State all or part of the funds allocated to the State under this section and sections 13(k)(1) and 17 of the National School Lunch Act (42 U.S.C. 1761(k)(1) and 1766).

"(B) On a subsequent determination by the Secretary that the administration of the program for which the Secretary withheld funds under subparagraph (A), or compliance with the regulation issued to carry out the program, is no longer seriously deficient and is carried out in an acceptable manner, the Secretary may allocate all or part of the funds withheld under subparagraph (A) to the State.".

(c) EXTENSION OF AUTHORITY TO PROVIDE FUNDS FOR STATE ADMINISTRATIVE EXPENSES.—Section 7(h) of such Act (42 U.S.C. 1776(h)) is amended by striking "1994" and inserting "1998".

(d) PROHIBITION OF FUNDING UNLESS STATE AGREES TO PARTICIPATE IN CERTAIN STUDIES OR SURVEYS.—Section 7 of such Act (42 U.S.C. 1776) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) The Secretary may not provide amounts under this section to a State for administrative costs incurred in any fiscal year unless the State agrees to participate in each study or survey of a program authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.) that is conducted by the Secretary.".

SEC. 203. COMPETITIVE FOODS OF MINIMAL NUTRITIONAL VALUE.

Section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) is amended—

(1) by designating the first, second, and third sentences as subsections (a), (b), and (c), respectively;

(2) in subsection (b) (as so designated)—

(A) by striking "Such regulations" and inserting "(1) The regulations"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall develop and provide to elementary schools, through each State agency, model language that bans the sale of competitive foods of minimal nutritional value anywhere on elementary school grounds before the end of the last lunch period.

"(3) The Secretary shall provide to secondary schools, through State agencies, a copy of regulations (in existence on the effective date of this paragraph) concerning the sale of competitive foods of minimal nutritional value.

"(4) Paragraphs (2) and (3) shall not apply to a State that has in effect a ban on the sale of competitive foods of minimal nutritional value in schools in the State.".

SEC. 204. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM.

(a) DEFINITION OF NUTRITIONAL RISK.—Section 17(b)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(8)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E);

(2) by inserting after "health," at the end of subparagraph (C) the following new subparagraph: "(D) conditions that directly affect the nutritional health of a person, such as alcoholism or drug abuse,"; and

(3) in subparagraph (E) (as so redesignated), by striking "alcoholism and drug addiction, homelessness, and" and inserting "homelessness and".

(b) PRESUMPTIVE ELIGIBILITY.—Section 17(d)(3) of such Act (42 U.S.C. 1786(d)(3)) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B) Under the procedures, a pregnant woman who meets the income eligibility standards shall be considered presumptively eligible to participate in the program and shall be certified for participation immediately, without delaying certification until an evaluation is made concerning nutritional risk. A nutritional risk evaluation of the woman shall be completed not later than 60 days after the woman is certified for participation. If it is subsequently determined that the woman does not meet nutritional risk criteria, the certification of the woman shall terminate on the date of the determination.".

(c) TECHNICAL CORRECTIONS.—Section 17(e) of such Act (42 U.S.C. 1786(e)) is amended by redesignating paragraph (3) (as added by section 123(a)(3)(D) of the Child Nutrition and WIC Reauthorization Act of 1989 (Public Law 101-147; 103 Stat. 895)) and paragraphs (4) and (5) as paragraphs (4), (5), and (6), respectively.

(d) COORDINATION OF WIC AND MEDICAID PROGRAMS USING MANAGED CARE PROVIDERS.—Section 17(f)(1)(C)(iii) is amended by inserting before the semicolon at the end the following: ", including medicaid programs that use managed care providers under section 1903(m) or 1915(b) of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)) (including coordination through the referral of potentially eligible women, infants, and children between the program authorized under this section and the medicaid program)".

(e) PRIORITY CONSIDERATION FOR CERTAIN MIGRANT POPULATIONS.—The first sentence of section 17(f)(3) of such Act (42 U.S.C. 1786(f)(3)) is amended by inserting before the period at the end the following: "and shall ensure that local programs provide priority consideration to serving migrant participants who are residing in the State for a limited period of time".

(f) INCOME ELIGIBILITY GUIDELINES.—Paragraph (18) of section 17(f) of such Act (42 U.S.C. 1786(f)(18)) is amended to read as follows:

"(18) Not later than July 1 of each year, a State agency may implement income eligibility guidelines under this section concurrently with the implementation of income eligibility guidelines under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).".

(g) USE OF RECOVERED PROGRAM FUNDS IN YEAR COLLECTED.—Section 17(f) of such Act (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(23) A State agency may use funds recovered as a result of violations in the food delivery system of the program in the year in which the funds are collected for the purpose of carrying out the program.".

(h) EXTENSION OF PROGRAM.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(1) in the first sentence of subsection (g)(1), by striking "1991, 1992, 1993, and 1994" and inserting "1991 through 1998"; and

(2) in the first sentence of subsection (h)(2)(A), by striking "1990, 1991, 1992, 1993 and 1994" and inserting "1990 through 1998".

(i) USE OF FUNDS FOR TECHNICAL ASSISTANCE AND RESEARCH EVALUATION PROJECTS.—Section 17(g)(5) of such Act (42 U.S.C. 1786(g)(5)) is amended—

(1) by striking "and administration of pilot projects" and inserting "administration of pilot projects";

(2) by inserting before the period at the end the following: ", and carrying out technical assistance and research evaluation projects of the programs established under this section"; and

(3) by adding at the end the following new sentence: "The Secretary may allow the interagency transfer of funds made available to carry out this paragraph to Federal and other agencies to carry out projects and initiatives that are consistent with program goals.".

(j) BREASTFEEDING PROMOTION AND SUPPORT ACTIVITIES.—

(1) IN GENERAL.—Section 17(h)(3) of such Act (42 U.S.C. 1786(h)(3)) is amended—

(A) in subparagraph (A)(i)(II), by striking "$8,000,000," and inserting "the national minimum breastfeeding promotion expenditure, as described in subparagraph (E),"; and

(B) by adding at the end the following new subparagraph:

"(E) The national minimum breastfeeding promotion expenditure shall be—

"(i) with respect to fiscal year 1995, the amount that is equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program, based on the average number of pregnant women and breastfeeding women during the last 3 months for which the Secretary has final data; and

"(ii) with respect to each of fiscal years 1996 through 1998, the amount described in clause (i) adjusted for inflation in accordance with paragraph (1)(B)(ii).".

(2) IMPLEMENTATION.—The Secretary of Agriculture may permit a State agency a period of not more than 2 years after the effective date of this subsection to comply with the expenditure required by reason of the amendments made by paragraph (1).

(k) DEVELOPMENT OF STANDARDS FOR THE COLLECTION OF BREASTFEEDING DATA.—Section 17(h)(4) of such Act (42 U.S.C. 1786(h)(4)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E)(i) not later than 1 year after the effective date of this subparagraph, develop uniform requirements for the collection of data regarding the incidence and duration of breastfeeding among participants in the program; and

"(ii) effective beginning on the date of the establishment of the uniform requirements, require each State agency to report the data for inclusion in the report to Congress described in subsection (d)(4).".

(l) SUBMISSION OF INFORMATION TO CONGRESS ON WAIVERS WITH RESPECT TO PROCUREMENT OF INFANT FORMULA.—Section 17(h)(8)(D)(iii) of

VOL 140 PT 16 AG 12 — 18 1994 UMI

such Act (42 U.S.C. 1786(h)(8)(D)(iii)) is amended by striking "at 6-month intervals" and inserting "on a timely basis".

(m) COST CONTAINMENT.—

(1) IN GENERAL.—Section 17(h)(8)(G) (42 U.S.C. 1786(h)(8)(G)) is amended—

(A) in clause (i)—

(i) in the first sentence, by striking "The" and inserting "During each of fiscal years 1995 and 1996, the"; and

(ii) by striking the second sentence and inserting the following new sentence: "If an offer made under the preceding sentence results in the implementation of contracts by 2 or more State agencies, the Secretary shall also make offers in accordance with the preceding sentence during each of fiscal years 1997 and 1998.";

(B) in clause (viii), by inserting after the first sentence the following new sentence: "In conducting an offer under this clause, the Secretary shall attempt to develop and use procurement procedures that are likely to be broadly acceptable among State agencies."; and

(C) by adding at the end the following new clause:

"(ix) If an offer made under clause (i) results in the implementation of contracts by 2 or more State agencies, the Secretary shall promptly offer to solicit bids on behalf of State agencies regarding cost containment contracts to be entered into by infant cereal or infant juice manufacturers, or both, and State agencies. In carrying out this clause, the Secretary shall, to the maximum extent feasible, follow the procedures prescribed in this subparagraph regarding offers made by the Secretary with regard to soliciting bids regarding infant formula cost containment contracts. If the offer of the Secretary to solicit bids regarding cost containment contracts for infant cereal or infant juice, or both, results in the implementation of contracts by 2 or more State agencies, the Secretary shall renew the offer at appropriate intervals.".

(2) REPEAL OF TERMINATION OF AUTHORITY.—Section 209 of the WIC Infant Formula Procurement Act of 1992 (Public Law 102–512; 42 U.S.C. 1786 note) is repealed.

(n) PROHIBITION ON INTEREST LIABILITY TO FEDERAL GOVERNMENT ON REBATE FUNDS.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) is amended by adding at the end the following new subparagraph:

"(L) A State shall not incur an interest liability to the Federal Government on rebate funds for infant formula and other foods if all interest earned by the State on the funds is used to carry out the program.".

(o) USE OF UNSPENT NUTRITION SERVICES AND ADMINISTRATION FUNDS.—Section 17(h) of such Act (42 U.S.C. 1786(h)) is amended by adding at the end the following new paragraph:

"(10)(A) For each of fiscal years 1995 through 1998, the Secretary shall use, for the purposes specified in subparagraph (B), the lesser of $10,000,000 or the amount of unspent funds for nutrition services and administration from the previous fiscal year.

"(B) Funds under subparagraph (A) shall be used for—

"(i) the development of infrastructure for the program under this section, including management information systems;

"(ii) special State projects of regional or national significance directed toward improving the services of the program under this section; and

"(iii) special breastfeeding support and promotion projects, including projects to assess the effectiveness of particular breastfeeding promotion strategies and to develop State or local agency capacity or facilities to provide quality breastfeeding services.".

(p) SPENDBACK FUNDS.—Section 17(i)(3) of such Act (42 U.S.C. 1786(i)(3)) is amended—

(1) in subparagraph (A)(i), by inserting "(except as provided in subparagraph (H))" after "1 percent"; and

(2) by adding at the end the following new subparagraph:

"(H) The Secretary may authorize a State agency to expend not more than 3 percent of the amount of funds allocated to a State under this section for supplemental foods for a fiscal year for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary determines that there has been a significant reduction in rebates provided to the State agency that would affect the ability of the State agency to at least maintain the level of participation by eligible participants served by the State agency.".

(q) ELIMINATION OF DUPLICATIVE MIGRANT REPORTS.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(1) in subsection (d)(4), by inserting after "Congress" the following: "and the National Advisory Council on Maternal, Infant, and Fetal Nutrition established under subsection (k)"; and

(2) by striking subsection (j).

(r) INITIATIVE TO PROVIDE PROGRAM SERVICES AT COMMUNITY AND MIGRANT HEALTH CENTERS.—Section 17 of such Act (42 U.S.C. 1786) (as amended by subsection (q)(2)) is further amended by inserting after subsection (i) the following new subsection:

"(j)(1) The Secretary and the Secretary of Health and Human Services (referred to in this subsection as the 'Secretaries') shall jointly establish and carry out an initiative for the purpose of providing both supplemental foods and nutrition education under the special supplemental nutrition program and health care services to low-income pregnant, postpartum, and breastfeeding women, infants, and children at substantially more community health centers and migrant health centers than are served on the date of enactment of the Better Nutrition and Health for Children Act of 1994.

"(2) The initiative shall also include—

"(A) activities to improve the coordination of the provision of supplemental foods and nutrition education under the special supplemental nutrition program and health care services at facilities funded by the Indian Health Service; and

"(B) the development and implementation of strategies to ensure that, to the maximum extent feasible, new community health centers, migrant health centers, and other federally supported health care facilities established in medically underserved areas provide supplemental foods and nutrition education under the special supplemental nutrition program.

"(3) The initiative may include—

"(A) outreach and technical assistance for State and local agencies and the health centers referred to in subparagraphs (A) and (B) of paragraph (2);

"(B) demonstration projects in selected States or local areas; and

"(C) such other activities as the Secretaries consider appropriate.

"(4) As used in this subsection:

"(A) The term 'community health center' has the meaning provided in section 330(a) of the Public Health Service Act (42 U.S.C. 254c(a)).

"(B) The term 'migrant health center' has the meaning provided in section 329(a)(1) of such Act (42 U.S.C. 254b(a)(1)).".

(s) FARMERS' MARKET NUTRITION PROGRAM.—

(1) MATCHING REQUIREMENT FOR INDIAN STATE AGENCIES.—Section 17(m)(3) of such Act (42 U.S.C. 1786(m)(3)) is amended by adding at the end the following new sentence: "The Secretary may negotiate with an Indian State agency a lower percentage of matching funds than is required under the preceding sentence, but not lower than 10 percent of the total cost of the program, if the Indian State agency demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council.".

(2) EXPANSION.—Section 17(m)(5)(F) of such Act (42 U.S.C. 1786(m)(5)(F)) is amended—

(A) in clause (i), by striking "15 percent" and inserting "17 percent"; and

(B) by striking clause (ii) and inserting the following new clause:

"(ii) During any fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State to use up to 1 percent of total program funds for market development or technical assistance to farmers' markets if the Secretary determines that the State intends to promote the development of farmers' markets in socially or economically disadvantaged areas, or remote rural areas, where individuals eligible for participation in the program have limited access to locally grown fruits and vegetables.".

(3) NOTIFICATION OF AWARD OF FUNDS.—Section 17(m)(6)(A) of such Act (42 U.S.C. 1786(m)(6)(A)) is amended by adding at the end the following new sentence: "The Secretary shall inform each State of the award of funds as prescribed by subparagraph (G) by February 15 of each year.".

(4) MINIMUM AMOUNT OF GRANTS.—Section 17(m)(6)(B)(ii) of such Act (42 U.S.C. 1786(m)(6)(B)(ii)) is amended by striking "$50,000" each place it appears and inserting "$75,000".

(5) STATE PLAN SUBMISSION DATE.—Section 17(m)(6)(D)(i) of such Act (42 U.S.C. 1786(m)(6)(D)(i)) is amended by striking "at such time and in such manner as the Secretary may reasonably require" and inserting "by November 15 of each year".

(6) MAINTENANCE OF EFFORT.—Section 17(m)(6)(F)(iii) of such Act (42 U.S.C. 1786(m)(6)(F)(iii)) is amended by striking "reduce in any fiscal year" and inserting "reduce, in the first full fiscal year of the Federal grant,".

(7) ALLOCATION OF ADDITIONAL FUNDS.—Section 17(m)(6)(G) of such Act (42 U.S.C. 1786(m)(6)(G)) is amended—

(A) in the first sentence of clause (i), by striking "45 to 55 percent" and inserting "60 percent"; and

(B) in the first sentence of clause (ii), by striking "45 to 55 percent" and inserting "40 percent".

(8) DATA COLLECTION REQUIREMENTS.—Section 17(m)(8) of such Act (42 U.S.C. 1786(m)(8)) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraphs:

"(D) if available, information on the change in consumption of fresh fruits and vegetables by recipients;

"(E) if available, information on the effects of the program on farmers' markets; and".

(9) AUTHORIZATION OF APPROPRIATIONS.—Section 17(m)(10)(A) of such Act (42 U.S.C. 1786(m)(10)(A)) is amended by striking "and $8,000,000 for fiscal year 1994" and inserting "$8,000,000 for fiscal year 1994, $10,500,000 for fiscal year 1995, $12,500,000 for fiscal year 1996, $15,000,000 for fiscal year 1997, and $18,000,000 for fiscal year 1998".

(10) ELIMINATION OF REALLOCATION OF UNEXPENDED FUNDS OF DEMONSTRATION PROJECTS.—Section 17(m)(10)(B)(ii) of such Act (42 U.S.C. 1786(m)(10)(B)(ii)) is amended by striking the second sentence.

(11) DEFINITION OF STATE AGENCY.—Section 17(m)(11)(D) of such Act (42 U.S.C. 1786(m)(11)(D)) is amended by inserting before the period at the end the following: "or any other agency approved by the chief executive officer of the State".

(12) PROMOTION BY THE SECRETARY.—The Secretary of Agriculture shall promote the use of farmers' markets by recipients of Federal nutrition programs administered by the Secretary.

(t) CHANGE IN NAME OF PROGRAM.—

(1) IN GENERAL.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(A) by striking the section heading and inserting the following new section heading:

"SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN";

(B) in the first sentence of subsection (c)(1), by striking "special supplemental food program" and inserting "special supplemental nutrition program";

(C) in the second sentence of subsection (k)(1), by striking "special supplemental food program" each place it appears and inserting "special supplemental nutrition program"; and

(D) in subsection (o)(1)(B), by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(2) CONFORMING AMENDMENTS.—

(A) The second sentence of section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(B) Section 685(b)(8) of the Individuals with Disabilities Education Act (20 U.S.C. 1484a(b)(8)) is amended by striking "Special Supplemental Food Program for Women, Infants and Children" and inserting "special supplemental nutrition program for women, infants, and children".

(C) Section 3803(c)(2)(C)(x) of title 31, United States Code, is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(D) Section 399(b)(6) of the Public Health Service Act (42 U.S.C. 280c–6(b)(6)) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(E) Paragraphs (11)(C) and (53)(A) of section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) are each amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(F) Section 202(b) of the WIC Infant Formula Procurement Act of 1992 (Public Law 102–512; 42 U.S.C. 1786 note) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(3) REFERENCES.—Any reference to the special supplemental food program established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) in any law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the special supplemental nutrition program established under such section.

SEC. 205. NUTRITION EDUCATION AND TRAINING PROGRAM.

(a) NAME OF PROGRAM.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended by striking "information and education" each place it appears in subsections (b), (c), (d)(1), and (j)(1) and inserting "education and training".

(b) NUTRITION EDUCATION PROGRAMS.—The second sentence of section 19(c) of such Act (42 U.S.C. 1788(c)) is amended—

(1) in subparagraph (B), by striking "school food service" and inserting "child nutrition program";

(2) by striking "and" at the end of subparagraph (C); and

(3) by inserting before the period at the end the following: "; and (E) providing information to parents and caregivers regarding the nutritional value of food and the relationship between food and health".

(c) NUTRITION EDUCATION AND TRAINING.—Section 19(d) of such Act (42 U.S.C. 1788(d)) is amended—

(1) in paragraph (1)(C), by inserting before the period at the end the following: ", and the provision of nutrition education to parents and caregivers";

(2) in the first sentence of paragraph (4), by striking "educational and school food service personnel" and inserting "educational, school food service, child care, and summer food service personnel"; and

(3) in the first sentence of paragraph (5), by inserting after "schools" the following: ", and in child care institutions and summer food service institutions,".

(d) USE OF FUNDS.—Section 19(f) of such Act (42 U.S.C. 1788(f)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) The funds made available under this section may, under guidelines established by the Secretary, be used by a State educational agency for—

"(A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs;

"(B) undertaking an assessment of the nutrition education needs of the State;

"(C) developing and carrying out a State plan of operation and management for nutrition education;

"(D) coordinating and promoting nutrition education and training activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs);

"(E) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purpose of this section;

"(F) providing funding for a nutrition component in the health education curriculum offered to children in kindergarten through grade 12;

"(G) instructing teachers, school administrators, or other school staff on how to promote better nutritional health and to motivate children to practice sound eating habits;

"(H) developing means of providing nutrition education to children, and families of children, through after-school programs;

"(I) creating instructional programming for teachers, food service personnel, and parents on the relationships between nutrition and health and the role of the Food Guide Pyramid established by the Secretary;

"(J) encouraging public service advertisements to promote healthy eating habits for children; and

"(K) achieving related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials."; and

(2) by striking paragraph (3) and inserting the following new paragraph:

"(3) A State agency may use an amount equal to not more than 15 percent of the funds made available through a grant under this section for expenditures for overall administrative and supervisory or program purposes in connection with the program authorized under this section if the State makes available at least an equal amount for the expenditures.".

(e) STATE COORDINATORS FOR NUTRITION; STATE PLAN.—Section 19(h) of such Act (42 U.S.C. 1788(h)) is amended—

(1) in the first sentence of paragraph (2), by inserting "and training" after "education"; and

(2) in the third sentence of paragraph (3)—

(A) by striking "and" at the end of subparagraph (D); and

(B) by inserting before the period at the end the following: "; and (F) a comprehensive plan for providing nutrition education during the first fiscal year beginning after the submission of the plan and the succeeding 4 fiscal years".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i)(2)(A) of such Act (42 U.S.C. 1788(i)(2)(A)) is amended by striking "nutrition education and information programs" and all that follows through the period at the end and inserting "nutrition education and training programs $10,000,000 for fiscal year 1995 and each subsequent fiscal year.".

(g) AVAILABILITY OF FUNDS.—Section 19(i) of such Act (42 U.S.C. 1788(i)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Funds made available to any State under this section shall remain available to the State for obligation in the fiscal year succeeding the fiscal year in which the funds were received by the State.".

TITLE III—EFFECTIVE DATES

SEC. 301. EFFECTIVE DATES.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on October 1, 1994.

Mr. LEAHY. Mr. President, the Better Nutrition and Health for Children Act, represents a new direction in child nutrition programs.

The programs addressed in the bill can make a big difference in the nutritional health of children. They can save medical costs years down the road, and help create an educated and productive American work force for the 21st century.

We must start with our children in preventing hunger and improving the health of our Nation. This bill does both.

This legislation has already let the way for major improvements in the school lunch program.

Last year, the school lunch program served 25 million children each school day. For some children, school lunches are the main meal of the day. The bill helps schools by requiring USDA to improve the quality of commodities donated to schools, and to label those commodities regarding their nutritional content.

I am pleased the Department of Agriculture has proposed major improvements in the school lunch and breakfast programs. These new proposals of Secretary Espy and Assistant Secretary Ellen Haas will result in more nutritious school meals. They, and the staff at USDA, have done an outstanding job in promoting the health of children. Parents want schools to provide improved and healthier lunches to their children. The USDA proposal is a very significant step in that direction.

USDA is taking action in part because of the results of a Department study which found that lunches contain an average of 38 percent of calories from fat and 15 percent from saturated fat. The government's dietary guidelines recommend intakes of only 30 percent and 10 percent respectively.

The proposed rules are designed to help schools meet these dietary guidelines. And this bill works hand-in-hand with those proposal to improve the nutritional health of America's children.

VOL 140 PT 16 AG 12 — 18 1994 UMI

I am pleased that the committee reported this bill without any objection. This bill continues our bipartisan tradition of support for child nutrition programs.

I also want to highlight one new provision included in the managers' amendment to the bill. A number of companies have been ripping off the school lunch program by selling mislabeled or contaminated juice to schools.

One company sold more than $100 million worth of orange juice adulterated with beet sugar to consumers and the school lunch program. In another case, prosecutors allege that a company added unknown preservatives to orange juice. The preservatives were found in containers with the warning in German that they held "dangerous goods of the highest classification."

I want to commend the Office of Consumer Litigation of the Department of Justice, as well as the various U.S. attorney's offices, which have aggressively investigated and prosecuted incidents of illegally adulterated juice sold to child nutrition programs. Yet while the Department of Defense has debarred some of these companies from selling juice to the military, the Department of Agriculture has not done the same.

This bill provides tough penalties for companies who defraud the school lunch program. It will debar dairies who price-fix; it will debar juice companies who contaminate their products for a profit; it will debar any company convicted of breaking the law and cheating our schools.

Companies convicted of fraud against child nutrition programs can no longer get away with a slap on the wrist—this bill will prevent those companies from continuing to make profits at the expense of school children.

The Managers' amendment also corrects a problem relating to inspection of juice used in schools. School lunch contracts for juice purchased by USDA currently require in-plant, on-line inspection 90 days prior to shipment. But schools which purchase their juice independently of USDA do not have the same inspection assurance.

Concerns have been raised by some about possible adverse economic effects that this provision may have on some legitimate suppliers of fruit juice to school meal programs. Those concerns will be carefully assessed during the conference committee deliberations with the House.

The goal of this provision is to ensure that we have the highest level of confidence in the quality of juice served to America's school children, while preserving an adequate variety of purchasing options for schools.

In implementing this provision, USDA should inform schools that pure juice products purchased for the school lunch or breakfast programs must be inspected by the Agricultural Marketing Service. This notice will help schools to know that the juice they are serving their children have met rigorous AMS standards for quality.

The bill includes a number of other improvements. It makes permanent the homeless preschool nutrition program, the Nutrition Education and Training program, and the Food Service Management Institute. It nearly triples the minimum requirements for breastfeeding promotion activities in WIC. And it strengthens the authority of the Secretary to debar companies that defraud child nutrition programs.

I must commend the ranking Republican on the committee, Senator LUGAR, for his dedication to these programs and his helpful advice. He has earned the respect of every member of the committee for his continued, earnest support of nutrition programs.

Senator HARKIN held two informative and very productive hearings on the bill and has been a leader in terms of the health of America's children. He has worked to promote better nutrition through the school lunch and breakfast programs.

The ranking member on the nutrition subcommittee, Senator MCCONNELL, has again distinguished himself for his thorough understanding and support of these programs.

And, as has been the case for many years, the Republican leader is a "nutrition leader" as well. Senator DOLE has worked with me over the years—under several Presidents—to enhance the health and well-being of America's children.

This year I was pleased that every member of the committee helped craft the bill and shape its final form. Staff worked diligently together to present ideas to us for our consideration.

As always, my chief nutrition staff person, Ed Barron, has been of great assistance to me and other members of the committee. As deputy chief counsel to the committee, Ed has done an outstanding job working with me over the last 7 years.

His two boys, James and Stephen, will both be in school this September. They will be able to benefit from healthier school lunches, along with 25 million other school children, as provisions of this bill are implemented.

Doug O'Brien has also done an outstanding job working on these issues and has worked many long hours on behalf of low-income Americans. I am proud of his work for the committee and the professionalism which he has brought to these issues.

Amy Brown played a leading role in orchestrating a successful outcome to this legislative effort. She led staff negotiations and ensured that numerous important improvements to the Special Supplemental Nutrition Program for Women, Infants and Children [WIC] and other child nutrition programs are a part of the bill before us today.

Amy joined my staff last year as a Javits Fellow, and I am pleased that she is now a permanent member of my staff. Through all the complex issues and technical matters, Amy always keeps her focus on what really counts—improving the lives of low-income children and families. She has become a major committee resource in the fight against hunger.

Alicia Bambara, press secretary of the committee, has worked tirelessly many nights and weekends to ensure that the pilot project for the prevention of boarder babies will become a reality. Alicia knows first hand the crisis of abandoned infants through her volunteer work with the Junior League of Washington, and she made an invaluable contribution in designing and shaping this program. Alicia's dedication has helped create what promises to be a model Federal program.

Many other staff were very helpful in this process and I will only single out a few. Stacy Hoffhaus, who formerly handled nutrition issues for Senator DOLE, is now very ably and expertly doing the same for Senator LUGAR. Her addition to committee staff will continue the tradition of outstanding staffing on nutrition matters.

Stacy deserves to be recognized for her early efforts while with Senator DOLE in developing the concept of a program to assist schools in meeting the medical and special dietary needs of children with disabilities. Under the direction of the Republican leader, Stacy held meetings, convinced staff, and gathered information that was ultimately used in the formulation of section 123 of this bill. Stacy can be very proud of this achievement.

Dave Johnson, minority counsel to the committee, is also an expert on nutrition programs. Having him back with the committee is a major boost to the staff resources of the committee.

Mark Halverson, who is with Senator HARKIN, has distinguished himself over the last several years and plays a significant role on nutrition issues. He has been very helpful to my staff on these matters.

Patti Fine has greatly assisted Senator MCCONNELL and this committee over the last several years. She provides thoughtful input and good counsel and has ably promoted the child care food program interests.

Vicky Urcuyo, who is on a detail with Senator DOLE, was also a great help in this effort. Her knowledge of these programs, from her years at USDA, helped ensure that many provisions of the bill were effectively targeted.

Many other staff made major contributions of ideas and effort in this process including: Brian Cavey, with Senator BAUCUS; Morris Goff, with Senator BOREN; Hunt Shipman, with Senator COCHRAN; Scott Carlson, with Senator CONRAD; Tom Dayley, with Senator CRAIG; Ace Gallagher, with Senator DASCHLE; Jeannine Kenney, with Senator FEINGOLD; Shannon Royce, with Senator GRASSLEY; Chuck Penry, with Senator HEFLIN; Nancy Hammer, with Senator KERREY; and Theresa Sachs, with Senator PRYOR.

I want to make special mention of a dedicated staff member of the House Committee on Education and Labor. Margaret Kajeckas is leaving the House to attend Columbia University in a program leading to a masters in public administration.

Margaret has done an outstanding job for the committee and is a credit to the other body. She has been a major force in helping the Congress to improve child nutrition programs throughout the United States.

As always, the fine work of Senate Legislative Counsel needs to be recognized. Gary Endicott, Liz Aldridge and Janine Johnson are important assets to the Senate and make the legislative process work smoothly. Senate legislative counsel staff have always been willing to work 24 hours a day to get the job done correctly and on time. I intend to have them live up to this praise during the farm bill next year.

Complex budget rules and procedures now play a critical role in the process of enacting legislation. Special credit needs to be paid to Joan Huffer with the Senate Budget Committee who made a lot of this bill possible with helpful advice and assistance.

The counsel to the Congressional Budget Office, Gail Del Balzo, has provided my staff with important advice over the years about budget rules and procedural requirements. Julie Isaacs and Cory Oltman with CBO deserve special credit for the time they spent figuring out what each provision of this bill will cost over the next 5 years. They often had to analyze new ideas under intense time pressure.

Jean Jones and Joe Richardson of the Congressional Research Service are instant sources of information and maintain the longer term institutional memory regarding nutrition programs. Their help is always greatly appreciated.

Chris Sarcone and Bob Sturm were once again pressed into special duty to keep track of all the details that need to get done, and to complete the longest part of the report—the Cordon rule section. I want to thank them for staying late and getting the job done.

In addition, the fine support staff of this committee should be recognized. Mary Kinzer has a special interest in these nutrition programs and did a fine job helping out.

Diane Coates, who formerly worked for me up in Vermont, is now working with me in Washington. She did a great job helping out on the background and committee consideration sections of the report. Our summer interns, Charles Finn, Leesa Klepper, and Jonathan Lamy were also a great help.

I am proud of the Better Nutrition and Health for Children Act. As I mentioned when I introduced this bill I received letters of support from the American Academy of Pediatrics, the American Heart Association, the American Cancer Society, the Children's Defense Fund, Public Voice for Food and Health Policy, the Center for Science in the Public Interest, the Food Research and Action Center, the American School Food Service Association, and many other groups.

A fundamental basis of this bill is that there is a crucial link between good nutrition and good health—good nutrition is an extremely cost-effective way to reduce health care costs and improve the lives of Americans. Dr. Joseph Hagan, President of the Vermont Chapter of the American Academy of Pediatrics, testified at a committee hearing that healthy eating habits are vital to the growth and development of children. The important of this concept is evident throughout the bill.

Title I of the Better Nutrition and Health for Children Act, as introduced, was intended to guarantee full funding for the WIC program. That language has now been included in key Senate and House health care bills.

Many Members of this body, and the other body, have worked toward full funding of WIC for years. Senator BUMPERS, as chairman of the Appropriations subcommittee with jurisdiction, has worked hard to increase funding. Many other Members have as well, including the majority leader of the Senate—Senator GEORGE MITCHELL.

I want to especially thank Senator MITCHELL for including full funding for WIC in his health care bill. And I want to single out one member of his staff—Lisa Nolan—for all of her help. Lisa is a tremendous resource and very ably represents the majority leader.

In addition to the nutrition and health benefits WIC brings to participants, full funding of WIC results in significant savings in other Federal programs. A 1992 General Accounting Office report showed that WIC reduces the incidence of very low birth weight by 44 percent. GAO calculated that the Government investment in pregnant women through WIC would pay for itself within a year—and would avert $1 billion in medical and other expenses in the next 18 years.

I will continue to press for inclusion of full funding for WIC in any health care bill that passes the Congress. Many groups have been supportive of guaranteeing full funding for WIC and I appreciate their efforts. Bread for the World has been in the forefront in this effort. Their president, David Beckmann, and their congressional liaison, Barbara Howell, have provided continuous support. The National Association of WIC Directors has also been a leader in this fight.

Dr. Richard Narkewicz of Vermont, who is a former president of the American Academy of Pediatrics, has worked with me over the years on this fight to fully fund WIC. He is a champion on this issue.

Bob Greenstein and Ellen Nissenbaum of the Center on Budget and Policy Priorities has been very helpful in providing advice and good counsel to me and other Members of Congress.

I want to especially thank Dr. Carl Sagan and Dr. T. Berry Brazelton for the input they provided at a hearing on this bill. Dr. Sagan, director of the Laboratory for Planetary Studies at Cornell University and 1994 recipient of the Public Welfare Medal, made a powerful case for full funding for WIC. He also discussed the important link between undernutrition and cognitive impairment.

Dr. Brazelton, a pediatrician at Children's Hospital in Boston, professor emeritus at Harvard Medical School and noted expert on early childhood development, offered further evidence that undernutrition severely affects children's development and activity. He stressed the importance of WIC and school feeding programs.

A major purpose of the bill is to encourage good nutrition for children from the beginning of their lives by encouraging breastfeeding among mothers enrolled in WIC. It follows from the recommendation of the Department of Health and Human Services in its Healthy Children 2000 National Health Promotion and Disease Prevention Objectives.

The health benefits of breastfeeding have been fully documented and include the immunological effects of breastmilk which cannot be duplicated in formula. Breastfeeding rates are especially low among low-income mothers.

This bill improves breastfeeding promotion and support in WIC by setting aside funding based on a formula of $21 per pregnant and breastfeeding woman, adjusted for inflation. States are allowed up to 2 years to adjust breastfeeding promotion expenditures to comply with the new formula.

Minda Lazarov, a research associate for Nurture, Center to Prevent Childhood Nutrition, championed the funding formula which the committee adopted. Her search and compelling advocacy have been major reasons for the increase in Federal support for breastfeeding efforts through WIC. Dr. Sandra Huffman, President of Nurture, has worked to prevent childhood malnutrition in other countries as well as this country and I commended her for the excellent job she has done.

VOL 140 PT 16 AG 12 — 18 1994 UMI

I also want to thank Stefan Harvey and Janice Steinschneider, at the Center on Budget and Policy Priorities, for their analysis and advice regarding improvements in breastfeeding promotion and other areas of the WIC program.

The bill begins to track breastfeeding in WIC by adding breastfeeding rates and expenditures to the list of items to be included in biennial reports from the States to the Secretary. Such statistical data is essential in evaluating both the cost and success of the WIC breastfeeding promotion program.

The bill also continues the WIC Infant Formula Cost Containment Program originally begun in 1987 and expanded in 1989. According to USDA, that program now saves over $950 million per year and puts 1.5 million eligible women, infants and children onto WIC at no additional cost to taxpayers.

The bill promotes consumption of fresh produce among low-income individuals and families while helping farmers' markets. Over 400,000 people participate in the highly successful WIC Farmers' Market Nutrition Program in 11 States. Fruits, vegetables and other farm products provide a healthy supplement to the dairy products, juices and fortified cereals included in the WIC package.

The success of the WIC Farmers' Market Program gives evidence that introduction of more low-income individuals and families to fresh fruits and vegetables can have a positive effect on nutrition and eating habits.

The National Association of Farmers' Market Nutrition Programs has become a potent force in assisting farmers' markets. I appreciate their detailed input. Mary Carlson of the Vermont Office of Economic Opportunity is an officer with that association and has provided me with very helpful information and good advice. I am very pleased that the association's next major meeting will be in Burlington, VT.

Dan Cooper of Iowa and Jim Stephenson of Pennsylvania have also played a key role in suggesting improvements to that program. Both Dan and Jim are leaders in promoting and expanding farmers' market programs.

The bill authorizes increases in funding for the WIC Farmers' Market Program to $10.5 million in 1995 and $18 million by 1998. This will allow States to remain in the program and encourage others to join.

Another focus of the Better Nutrition and Health for Children Act is to ensure that more children from low-income families have the opportunity to eat a nutritious breakfast. Children who start the day hungry jeopardize not only their health, but also their ability to learn.

Jo Busha, director of child nutrition for Vermont, testified at one of the nutrition hearings that the school breakfast startup grant program played a "major rule" in the expansion of the breakfast program in Vermont. I was pleased to have included that program in the last reauthorization bill in 1989. Jo has played a major role in helping additional Vermont schools take advantage of this Federal program.

A few provisions of the bill as introduced are no longer necessary because USDA has already acted on them. For example, the bill as introduced sought to improve nutrition in school breakfasts and lunches by permitting schools to offer low-fat yogurt as an alternative for eggs, meat, peanut butter, or other meat alternatives. Low-fat yogurt is a good source of vitamins, mineral's and protein, and has become increasingly popular with children.

Since the introduction of S. 1614, the Department has proposed regulations which will replace the current food-group-based meal patterns and make meals eligible for reimbursement based on their nutrient content. I am pleased that such a change would make yogurt an allowable food as part of a school breakfast or lunch.

The National School Lunch Program provides lunch to 25 million children each day, with over half the lunches served to low-income children. That represents an opportunity to make a lasting difference in the nutrition and health of children.

As always, the help and counsel of the American School Food Service Association is greatly appreciated. Dorothy Caldwell has done a great job as President of that association. Over the years, Kevin Dando has proven to be a great asset to ASFSA.

I relied on ASFSA input throughout the process and look forward to working with them and their local counsel, Marshall Matz, during the conference with the other body. I also want to note that the testimony of Marilyn Hurt, legislative chair of the ASFSA, was extremely helpful. I want to congratulate the new president of ASFSA, Vivian Pilant. She has done a great job as director of child nutrition programs in South Carolina since 1979, and I look forward to working with her.

I want to thank the New York City Coalition Against Hunger and their Executive Director, Judith Walker, for their role in the child nutrition reauthorization. The soup kitchens and food pantries which make up NYCCAH know firsthand the reality of hunger among America's children. I welcome their continued input as we consider food stamp reauthorization in 1995.

The Community Food Resource Center was also very helpful in this reauthorization process. CFRC has run a successful universal meal program in New York City, and gave the committee valuable advice for improving universal feeding options.

While lack of funding precluded a greater effort, I am pleased that the bill authorizes the appropriation of funds to purchase organically produced agricultural products, such as fruits, vegetables, grains, meats, poultry, and dairy products. As interest in organic food grows nationwide, many schools have expressed an interest in offering these items.

The bill requires USDA to provide schools, on request, with information on where to obtain organic products. To the extent schools do consider buying organic, they should look to their local organic growers first. This has the dual advantage of promoting local businesses and reducing transit costs and spoilage. In providing schools with information about organic suppliers USDA should make certain to provide schools with the names of local suppliers if they are available.

To help schools meet the new higher nutritional standards, the bill instructs the Secretary to improve the nutritional quality of entitlement commodities provided to schools. It also requires that nutritional information be provided to schools regarding such commodities. This will help school food service personnel in preparing nutritious meals which include commodities.

The bill increases school choice by eliminating the current requirement that schools offer whole milk for school lunch programs. This is based on a bill introduced by Senator LUGAR and allows schools to choose what types of milk to offer children. Under current law schools must offer both whole milk and low-fat milk. Many schools would prefer to decide that issue themselves.

I want to especially thank one person for the courage she displayed in testifying before the committee. Carol A. Meiki is a food service supervisor for the Chicago Public Schools. Ms. Meiki's testimony was very helpful regarding the competitive foods section of this bill.

The bill also educates parents concerning the importance of nutrition for good health by funding parent-student education programs and programs to encourage parents to visit the school lunch program with their children. Educating parents will help them reinforce at home the nutrition lessons children learn at school.

The bill makes improvements in the summer food service program. The goal is to encourage the creation of more summer food service programs so that more low-income children who get school lunch and breakfast can receive meals in the summertime too.

Summer food service participation is very low compared to participation in the school lunch program. Nationwide only 15 percent of the targeted population is being reached by this program. Barriers to participation include initial startup costs and the cost of transporting children to summer food sites in very rural areas.

The bill provides funding for grants to help States defray the costs of setting up additional summer food service program sites. Similar start-up grants have been highly successful in promoting expansion of the school breakfast program.

I am disappointed that we had to drop a provision providing a higher reimbursement rate for rural areas for the summer food service program. Julie Cadwallader Staub of Vermont convinced me of the merits of that approach but a lack of funds precluded including it in the final bill.

Mike Haga of the Food Research and Action Center was helpful in suggesting various proposals to improve the summer food service program. As the committee report on this bill notes, FRAC staff were extremely helpful in designing many aspects of the bill. Rob Fersh, ED Cooney, Michelle Tingling-Clemens, Lynn Parker, and Ellen Teller all deserve a lot of credit for their efforts.

The bill reauthorizes two State pilot projects for the child and adult care food program by allowing for-profit centers to be eligible if 25 percent or more of the children they serve meet the guidelines for free or reduced price school meals. Those two programs are working very well and should continue to be funded by the Congress.

The bill addresses the situation on preschool age children living in homeless shelters. GAO reports that 25,000 children under age 6 live in homeless shelters. These children are at nutritional risk and often go hungry while their older brothers eat in school. The homeless preschool nutrition program feeds them meals that USDA reports are "more balanced, more nutritious, and more frequently included fresh fruit, milk, vegetables and full-strength juices" than they would otherwise receive.

This bill expand the homeless preschool nutrition program and provides a stable source of guaranteed funding. The program, which began as a demonstration project, is currently funded from "leftover" administrative expense funds not used by states.

I want to commend His Eminence, Cardinal Anthony J. Bevilaqua, Archbishop of Philadelphia, for his foresight, his leadership and his support of this program. His Eminence testified at a hearing that "when one homeless child goes hungry, we are all starved." Patrick Temple-West, of the Archdiocese of Philadelphia, has done a tremendous job administering the projects in Philadelphia which benefit homeless children.

At a hearing I held on this bill, Cardinal Bevilaqua spoke of the importance of the homeless preschool nutrition program in providing children with adequate and nutritious meals. Cardinal Bevilaqua noted that at present only 10 percent of the 25,000 children under the age of 6 who are in shelters are reached by the program.

I am pleased that the city of New York may soon use this program at five homeless shelters in the city. Ms. Barbara Johnson who is director of their Family Emergency Assistance Program is working to expand the program to sites in addition to the Jamaica Assessment Center. This will increase the nutritional quality of means served by those shelters and provide New York City with much-needed local cost savings. A member of my staff recently visited the Jamaica site on a Saturday with very little advance notice and was impressed with how well the program operated.

While it may seem in obvious point research clearly shows that homeless preschool children are at great nutritional risk. A study by Martha Taylor and Sally Koblinsky, "Food Consumption and Eating Behavior of Homeless Preschool Children," show that the diets of these children is "very low in dairy products and fruits and vegetables, and low in grains when compared with USDA recommendations for an adequate diet." Minerals and vitamins provided by these food groups are critical to children's growth, development and ability to learn. The study also found that "a third of the sample of homeless preschoolers went to bed hungry several times a month."

The bill also establishes a pilot project for the prevention of boarder babies. A boarder baby is a baby that remains in the hospital even after he or she is medically able to leave. The baby may be abandoned, or the mother may simply have no home where she can take the infant. Under the pilot, grants totalling up to $400,000 a year in 1995 through 1998 will be made to shelters for homeless pregnant women, infants, and the mothers or guardians of those infants. The grants will provide for coordination with the WIC program, as well as additional food and nutrition services.

The idea for the pilot project came from a program called the "The Sunshine Project," in Washington, DC. The Junior League of Washington and the Temporary Emergency Residential Resource Institute for Families in Crisis [TERRIFIC] joined with D.C. General Hospital to form the program in an effort to provide comprehensive assistance to keep babies with their mothers. I hope that Federal funding will enable them and others to provide expanded food and nutrition services to pregnant women, infants, and homeless mothers, and guardians. I want to commend the Junior League, TERRIFIC and D.C. General Hospital for establishing this important program. I also want to single out Ms. Caroline Stinebower, chairwoman of the Maternal-Child Health Project at D.C. General Hospital, and Dr. Shirley Grant, chief of ambulatory care at Johns Hopkins University Hospital and a board member of the Washington Junior League, who spoke eloquently about the need for such programs before the committee. Dr. Grant noted that the total annual cost of caring for these babies in hospitals is close to $300 million.

I also want to thank Ms. Angela Holland, a former WIC participant who also participated in the D.C. General program. Ms. Holland was able to successfully turn her life around and offers a true model for the effect these programs can have. Her strength and courage are impressive.

The Better Nutrition and Health for Children Act also aims to improve understanding of proper nutrition among children and to educate parents and school staff about child nutrition. The bill provides grants to state educational agencies and local schools through the nutrition education and training (NET) program.

Child nutrition programs should not only provide nutritious meals to kids when they are in school, but should also teach them about good nutrition. Nutrition education will assist them in making positive choices about what they eat both in and out of school so they will grow into healthy adults.

The bill also looks ahead to the future of nutrition education. It provides for competitive grants of between $100,000 and $300,000 per year through 1998 in three States to nonprofit educational organizations to create and demonstrate food and nutrition based projects which are fully integrated with elementary school curricula. These demonstrations can provide models for teaching nutrition education in the future.

The first such program that should be funded by USDA is the FoodWorks "Common Roots" Program in Vermont so effectively run by Joseph Keifer. Joseph has earned the extensive praise he has received from Vermont teachers, parents and students. His program fits in perfectly with the new nutrition initiatives of USDA.

I expect in addition that some of the funds provided to the Secretary for nutrition and education would go to other excellent projects around the Nation that teach young children about farming, farming techniques, harvesting, and marketing.

Right in Washington's backyard there is a great community farm and nutrition project called "From the Ground Up." It is a partnership between the Chesapeake Bay Foundation and the Capital Area Food Bank.

The project brings homeless families, low-income children and families to Upper Marlboro, MD, to farm 10 acres of land owned by the Bay Foundation. The food they grow is channeled to five community farm stands in low-income neighborhoods and sold at very low prices. Educational instruction is provided on the farm on a variety of topics

VOL
140
PT
16
AG
12
—
18
1994
UMI

including how to cook and handle farm products and how to safely store foods. Instruction on healthy food preparation is stressed.

A major goal of the project in addition to education is to create access to nutritious foods in low-income neighborhoods. The director is Greg Sandor and he has done a great job with his project. Lynn Brantley, the executive director of the Capital Area Food Bank, and Michael Heller of the Chesapeake Bay Foundation also deserve a lot of credit for getting this project started. Also the firm of Booze, Allen & Hamilton has donated time and effort to help out. I appreciate that public-spirited attitude.

The bill also makes administrative improvements so child nutrition programs will work better. These changes will help reduce paperwork, improve program management, and facilitate access for eligible low-income children.

For example, the bill makes children who are income-eligible for Head Start automatically eligible for free meal reimbursements under the Child and Adult Care Food Program. CACFP provides meals to the great majority of Head Start participants. Although children who are income-eligible for Head Start necessarily meet CACFP income guidelines, current law requires eligibility information to be specifically processed to establish eligibility for CACFP. This provision will result in significant paperwork savings for Head Start Programs.

The Better Nutrition and Health for Children Act addresses anticompetitive activities in order to prevent price-gouging and bid-rigging in child nutrition programs, including school lunch, school breakfast and WIC.

During the past several years, the Antitrust Division of the U.S. Department of Justice has filed over 100 criminal cases against persons and companies accused of bid-rigging, price-fixing and similar activities involving dairy products sold to schools or the Department of Defense. As of March 1992, the Secretary of Agriculture had neither suspended nor debarred any of the 13 dairy companies or 28 individuals convicted of milk-contract bid-rigging from participating in the school lunch or breakfast programs.

Effective educational and monitoring programs can greatly reduce the incidence of price-fixing and bid-rigging by companies that sell products to schools. Reducing the incidence of these anticompetitive activities could save school districts, parents, and taxpayers millions of dollars per year.

For these reasons, the bill provides training and technical assistance to States and local agencies in identifying and preventing anticompetitive activities in conjunction with child nutrition programs, and instructs the Secretary to cooperate with the Attorney General and State attorneys general regarding investigations of anticompetitive activities in conjunction with these programs.

It establishes guidelines and a timetable for the Secretary to consider debarment of contractors for committing various criminal or civil offenses, and establishes mandatory child nutrition program debarment periods unless certain factors are found.

I would like to make note of an additional provision, included in the managers' amendment, on the bar coding of WIC vouchers. I am concerned that too much low-iron infant formula is being incorrectly or inadvertently purchased through the WIC Program. The bill would require pilot tests to see how effectively bar codes could be used to eliminate this problem.

This test should be large enough to reflect the diversity of the WIC recipient population and retailers. Tests should be conducted in large as well as small population States, and in cities as well as rural areas. Factors to be examined should include: costs and benefits to WIC participants and retail vendors, benefits to State WIC Programs, and the impact on the accuracy of WIC redemptions.

I would hope that these tests could be completed fairly quickly since the technology has been in use in many locations for years. I would expect that the tests should be completed and the information provided to the Congress well before September 30, 1995.

Finally, I want to make a special note of the contributions of Mickey Weiss in the battle against hunger. Mickey is a retired produce wholesaler who established the Nation's first wholesale produce distribution program in Los Angeles in 1987. He has developed a system where produce that has cosmetic imperfections or a short anticipated shelf life is donated to hundreds of groups in Los Angeles that feed the hungry.

Instead of wasting millions of pounds of edible and wholesome produce each year, Mickey has rerouted that food to the needy. His motto is: Donate, Don't Dump. He has been helped in his good deeds by many people, but I would like to focus on two that I recently met.

Dr. Susan Evans and Dr. Peter Clark with the Institute of Health Promotion and Disease Prevention Research of the Department of Preventive Medicine, University of Southern California School of Medicine, have been tirelessly working with Mickey Weiss to transfer the Los Angeles model to other cities. They have helped launch programs in Houston; Baltimore; San Francisco; Dallas; Chicago; Philadelphia; San Mateo, California; Detroit, and Columbus, Ohio.

I know that several additional cities are working with Mickey, Dr. Evans and Dr. Clark. I am pleased that they are having a great deal of success in getting other cities interested in similar programs. I would like USDA to continue to work with them to get this message across to other communities.

As chairman of the committee with jurisdiction over child nutrition programs, I want to clarify my position on how the Department should implement statutory language in the committee amendments to S. 1614.

The amendment creates a new section 9(f)(2) of the National School Lunch Act, which sets forth in more detail how schools can implement the dietary guidelines. My colleagues and I expect schools to meet the guidelines, but we believe they should have flexibility in how to achieve that goal.

USDA's proposed regulations, published on June 10, allow schools to use "menu cycles" which incorporate the nutrition standards as an alternative to nutrient standard menu planning. We are pleased that USDA has included this approach.

USDA will offer schools specific menus of menu systems that meet the guidelines and nutrient standards. This alternative will be very helpful for many schools, and I know some Vermont schools will likely prefer this approach. It will allow them to plan healthy meals without doing a computer analysis of the foods consumed, for example by following menu options or cycles. USDA will have to rely on nutrient analysis in designing those systems or cycles.

I also understand that States and local school food authorities may want to customize menus to local preferences. This alternative approach would achieve the same result—implementation of the dietary guidelines and nutrition requirements.

It is unclear from USDA's proposal who would pay for creating these model menus. USDA should provide these menu cycles or "menu systems with nutrient analysis" to States or to schools at no cost to them.

These model menus systems should be easy to use and contain a variety of options. This does not eliminate the requirement that schools comply with the dietary guidelines; it simply provides options to reach that end. My colleagues and I expect USDA to fully implement this approach.

It is very important that USDA provide schools with menu options or choices so that it is easy for them to meet the dietary guidelines. USDA should not simply provide a "meal pattern" as now found in the regulations that sets forth few choices for schools to follow. That meal pattern clearly does not take into account the various levels of fat and saturated fat found in foods.

My colleagues and I have in mind something more detailed and tailored than the current meal pattern, something which will truly help schools meet the dietary guidelines.

For example, in designing these menu systems USDA must take into account the various levels of fats and saturated fats found in foods. This is important because the only quantitative guideline proposed by USDA focuses on fat and saturated fat levels. The information provided by USDA should allow schools to generate a variety of menus that will meet guidelines and other nutrient requirements set by the Secretary.

Under USDA's proposed rules, only schools "without the capability to conduct nutrient standard menu planning" as decided by the State educational agency would be able to use other approaches. We believe that all schools should have the choice of what approach to use.

One additional point needs to be made. The committee amendment requires USDA to provide materials and information to States and schools to help them implement the dietary guidelines. The Secretary needs to provide these materials and advice, including publications in the Federal Register, in advance so that schools can use them to provide meals that comply with the guidelines.

The ability of local schools across the country to implement the guidelines in a timely manner will depend upon the Department providing the standardized recipes, menu cycles, food product specification, and preparation techniques, nutrient standard menu planning, assisted nutrient standard menu planning, food-based menu systems with nutrient analysis and other approaches in a timely manner.

S. 1614, the Better Nutrition and Health for Children Act, is a good bill. It was reported unanimously out of committee and deserves the unanimous support of the full Senate as well. I hope all my colleagues will join me in this preventive effort to ensure that today's American children become tomorrow's healthy citizens.

In concluding my remarks today, I would like to look to the work ahead for my committee. As we complete work on reauthorization of child nutrition programs this year, we are beginning to prepare for our major work next year in the farm bill, when food stamps, TEFAP, and other nutrition programs need to be reauthorized.

One issue that needs to be resolved in the Food Stamp Act reauthorization involves funding for the American Samoa Nutrition Assistance Program. This program is currently funded through appropriations, making funding unsure each year, and making it difficult for administrators to plan ahead. It is a small, $5.4 million program which provides nutrition assistance to the elderly, blind, and disabled in American Samoa.

Similar programs for Puerto Rico and the Commonwealth of Northern Mariana Islands are funded through the Food Stamp Act. There is no reason that American Samoa should be treated any differently. It should be funded through the same mechanism.

I am very interested in seeing this change become law and will work to achieve it in the farm bill next year.

Mr. President, what is the unanimous-consent agreement now on?

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized for purposes of offering an amendment upon which there shall be 5 minutes of debate.

AMENDMENT NO. 2558

Mr. LEAHY. Mr. President, I offer that amendment, and I ask that it be read, and then I will yield the floor to the Senator from Wyoming.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2558.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, between lines 19 and 20, insert the following new subsection:

(c) DIETARY GUIDELINES FOR AMERICANS.—Section 9 of such Act (42 U.S.C. 1758) is amended by adding at the end the following new subsection:

"(f)(1) Not later than July 1, 1996, the Secretary, State educational agencies, schools, and school food service authorities shall, to the maximum extent practicable, inform students who participate in the school lunch and school breakfast programs, and parents and guardians of the students, of—

"(A) the nutritional content of the lunches and breakfasts that are served under the programs; and

"(B) the consistency of the lunches and breakfasts with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the 'Guidelines'), including the consistency of the lunches and breakfasts with the guideline for fat content.

"(2)(A) Except as provided in subparagraph (B), not later than July 1, 1996, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the programs that are consistent with the Guidelines (as measured in accordance with subsection (a)(1)(A)(ii)).

"(B) State educational agencies may grant waivers from the requirements of subparagraph (A) subject to criteria established by the appropriate State educational agency. The waivers shall not permit schools to implement the requirements later than July 1, 1998, or a later date determined by the Secretary.

"(C) To assist schools in meeting the requirements of this paragraph, the Secretary shall—

"(i) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

"(ii) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and other approaches, including food-based menu systems with nutrient analysis, as determined by the Secretary.

"(D) Schools may use any of the approaches described in subparagraph (C) to meet the requirements of this paragraph.

"(3)(A) Not later than 120 days after the date of enactment of this subsection, the Secretary shall submit to the authorizing committees of Congress a detailed and specific plan that describes the actions the Secretary will take to encourage schools that are participating in the school lunch and school breakfast programs to serve lunches and breakfasts under each program that are consistent with the Guidelines.

"(B) The Secretary shall include in the plan—

"(i) a strategy for providing technical assistance to States, State educational agencies, schools, and school food service authorities to encourage consistency with the Guidelines; and

"(ii) a strategy for informing State child nutrition directors, school food service directors, parents, guardians, and students of—

"(I) the provisions of the Guidelines;

"(II) the importance of implementing the Guidelines; and

"(III) specific suggestions for dietary modifications that would achieve the objectives of the Guidelines.".

On page 84, line 6, strike "is amended" and insert "(as amended by section 103(c)) is further amended".

On page 84, line 8, strike "(f)" and insert "(g)".

On page 95, between lines 12 and 13, insert the following new subsection:

(i) ALL-DAY ACTIVITIES.—The Secretary of Agriculture shall—

(1) not later than 180 days after the date of enactment of this Act, identify sources of Federal funds that may be available from other Federal agencies for service institutions under the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) to carry out all-day educational and recreational activities for children at feeding sites under the program; and

(2) notify through State agencies, as determined appropriate by the Secretary, the service institutions of the sources.

On page 97, between lines 13 and 14, insert the following new paragraph:

(1) in paragraph (1)(A), strike "25 percent of the children served by such organization" and insert "25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less,";

On page 97, line 14, strike "(1)" and insert "(2)".

On page 97, line 16, strike "(2)" and insert "(3)".

On page 117, between lines 18 and 19, insert the following new subsection:

(b) USE OF FOOD SERVICE MANAGEMENT INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—Section 21(d) (42 U.S.C. 1769b–1(d)) is amended—

(1) by striking "(d) COORDINATION.—The" and inserting the following:

"(d) COORDINATION.—

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following new paragraph:

"(2) USE OF INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—The Secretary shall use any food service management institute established under subsection (a)(2) to assist in carrying out dietary and nutrition activities of the Secretary.".

VOL 140 PT 16 AG 12 — 18 1994 UMI

On page 117, line 19, strike "(b)" and insert "(c)".

On page 117, line 19, insert "of such Act" after "Section 21".

On page 118, lines 19 and 20, strike "$2,000,000" for each of fiscal years 1995 through 1998" and insert "such sums as are necessary for fiscal year 1995 and each subsequent fiscal year".

On page 118, line 25, strike the quotation marks and the following period.

On page 118, after line 25, add the following new subparagraph:

"(C) FUNDING FOR EDUCATION, TRAINING, OR APPLIED RESEARCH OR STUDIES.—In addition to amounts made available under subparagraphs (A) and (B), from amounts otherwise appropriated in discretionary appropriations, the Secretary may provide funds to any food service management institute established under subsection (a)(2) for projects specified by the Secretary that will contribute to implementing dietary or nutrition initiatives. Any additional funding under this subparagraph shall be provided noncompetitively in a separate cooperative agreement.".

On page 140, between lines 6 and 7, insert the following new sections:

SEC. 124. INSPECTION OF JUICE AND JUICE PRODUCTS.

(a) IN GENERAL.—The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 123) is further amended by adding at the end the following new section:

"SEC. 29. INSPECTION OF JUICE AND JUICE PRODUCTS.

"(a) DEFINITION OF JUICE AND JUICE PRODUCT.—As used in this section, the terms 'juice' and 'juice product' mean juice and a juice-based product, respectively, for which a United States standard for a grade has been issued by the Secretary under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

"(b) PROHIBITION.—No State, State agency, or local agency shall contract to procure, or make available, juice or a juice product for use in the school lunch program established under this Act or the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) unless the juice or juice product was processed under in-plant inspection conducted by the Secretary.

"(c) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date that is 270 days after the date of enactment of this Act.

SEC. 125. ADMINISTRATION OF NUTRITION PROGRAMS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations that—

(1) significantly ease the administrative and paperwork burdens on participating schools and families with respect to—

(A) the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); and

(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(2) streamline Federal, State, and local administration of all programs established under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

On page 140, lines 18 and 19, after "preparation of", insert the following: "foods high in complex carbohydrates and".

On page 156, after line 24, add the following new subsection:

(o) USE OF UNIVERSAL PRODUCT CODES.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) (as amended by subsection (n)) is further amended by adding at the end the following new subparagraph:

"(M)(i) The Secretary shall establish pilot projects to determine the feasibility and cost of requiring States to carry out a system for using universal product codes to assist retail food stores that are vendors under the program in providing the type of infant formula that the participants in the program are authorized to obtain. In carrying out the projects, the Secretary shall determine whether the system reduces the incidence of incorrect redemptions of low-iron formula or brands of infant formula not authorized to be redeemed through the program, or both.

"(ii) If the Secretary determines that the system is feasible, cost-effective, and reduces the incidence of incorrect redemptions described in clause (i), the Secretary shall establish such procedures as the Secretary determines appropriate to require States to carry out the system.

"(iii) The system shall not require a vendor under the program to obtain special equipment and shall not be applicable to a vendor that does not have equipment that can use universal product codes.".

On page 157, line 1, strike "(o)" and insert "(p)".

On page 157, line 23, strike "(p)" and insert "(q)".

On page 158, line 16, strike "(q)" and insert "(r)".

On page 158, line 24, strike "(r)" and insert "(s)".

On page 159, line 2, strike "(q)(2)" and insert "(r)(2)".

On page 160, line 18, strike "(s)" and insert "(t)".

On page 164, line 7, strike "(t)" and insert "(u)".

On page 169, between lines 4 and 5, insert the following new subparagraph:

"(H) increasing public awareness of the importance of breakfasts for providing the energy necessary for the cognitive development of school-age children;".

On page 169, line 5, strike "(H)" and insert "(I)".

On page 169, line 8, strike "(I)" and insert "(J)".

On page 169, line 11, strike "role" and insert "importance".

On page 169, line 13, strike "(J)" and insert "(K)".

On page 169, line 14, strike "and".

On page 169, line 15, strike "(K)" and insert "(L)".

On page 169, line 18, strike "materials."; and" and insert "materials; and".

On page 169, between lines 18 and 19, insert the following new subparagraph:

"(M) coordinating and promoting nutrition education and training activities carried out under child nutrition programs, including the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) and the child and adult care food program established under section 17 of such Act (42 U.S.C. 1766).".; and

On page 171, between lines 8 and 9, insert the following new title:

TITLE III—OTHER RELATED PROVISIONS

SEC. 301. DISTRIBUTION OF COMMODITIES ON CERTAIN INDIAN RESERVATIONS.

Section 3(j) of the Food Stamp Act of 1977 (7 U.S.C. 2012(j)) is amended by adding at the end the following new sentence: "For the purpose of the distribution of commodities under section 4(b), the term 'reservation' includes the geographically defined area or areas (including an urban area or areas) within the boundaries of former reservations in Oklahoma, as defined by the Secretary of the Interior, over which a tribal organization exercises governmental jurisdiction.".

On page 171, line 9, strike "**III**" and insert "**IV**".

On page 171, line 10, strike "301" and insert "401".

Mr. DASCHLE. Mr. President, today we are taking action to reauthorize and improve several important nutrition programs under the National School Lunch Act and the Child Nutrition Act. The bill reported by the Senate Agriculture Committee provides a comprehensive vehicle for continuing and strengthening access to good nutrition for some of our most vulnerable children. I am pleased to be a cosponsor of this legislation.

This reauthorization of child nutrition programs is timely, as it coincides with the administration's effort to elevate child welfare concerns on the national policy agenda. The bill is an important element of health reform, as it has become increasingly apparent that investment in child nutrition programs today will pay rich dividends in terms of the future health and productivity of our Nation.

Chairman LEAHY, in particular, deserves credit for his longstanding leadership in the child nutrition area. That leadership, and his commitment to child nutrition programs, is evident in this reauthorization bill.

The National School Lunch Program is the linchpin of this bill. It currently serves more than 25 million meals each day and boasts voluntary participation rate of 90 percent of all schools nationwide. However, S. 1614 also reauthorizes the special supplemental nutrition program for women, infants and children [WIC] and allots a greater number of grants for schools interested in initiating school breakfast programs.

There is, however, one additional aspect of this bill that I believe merits brief mention. That is, the encouragement it offers schools to comply with new nutritional standards governing the school lunch and breakfast programs that will ensure children have access to a healthy diet.

In June, USDA proposed a major rule to update nutrition standards for school meals. The proposed USDA regulations, the School Meals Initiative for Healthy Children, require that by July 1, 1998 school meals meet the 1990 dietary guidelines, which establish a 30-percent limit on daily dietary fat, and a 10-percent limit on saturated fat.

I commend the Department for insisting that the dietary guidelines be incorporated into school meals. It does concern me, however, that the Department's rule allows 8 years from the date of publication for schools to comply with this important health initiative.

The time is long overdue to have our school meals conform to the fat standards of the dietary guidelines. Quite frankly, I am not comfortable with four year implementation schedule proposed by USDA.

In discussing this issue with school officials from South Dakota and other interested parties, it seems reasonable to me to expedite the implementation of these nutrition standards. I am pleased that the committee agrees, and that the managers' amendment requires that schools participating in school meals programs comply with the dietary guidelines by July 1, 1996, rather than by July 1, 1998.

This certainly is a worthwhile objective that will have a real impact on the health of children who participate in school meals programs. It should be aggressively pursued, as the amendment suggests.

At the same time, however, I can appreciate the effort it takes to implement an extensive rule and the importance of providing schools ample time to comply with it. I fully realize that not all schools will be able to comply with the dietary guidelines by 1996.

To address that issue, the amendment offers schools the option of seeking an exemption from the July 1, 1996 compliance deadline. Schools that encounter difficulty with this compliance date will be able to apply for a waiver from their own State education department.

State educational agencies are in the best position to determine if a school can or cannot reasonably meet the expedited deadline. Under the bill, if compliance is truly problematic, the State can grant a 2-year extension to July 1, 1998.

Our intention is not to force compliance at any cost. Rather, it is to encourage aggressiveness on this health initiative. Schools that have the ability to implement the dietary guidelines before 1998 should do so.

Mr. President, allow me to briefly explain why I feel so strongly that expedited implementation is crucial.

The USDA proposal would allow schools four more years to comply with the dietary guidelines. That is not an insignificant amount of time.

Four years is one-third of a child's elementary and secondary education. Children who entered school in 1990, when the dietary guidelines were first issued, will be freshman in high school in 1998. Their formative years will be behind them.

Moreover, information compiled by USDA consistently shows that children's diets, including meals served in schools, do not conform to the recommendations of the dietary guidelines. The 1989 and 1990 Continuing Survey of Food Intakes by Individuals, conducted by USDA, reports that fat comprises, on average, 35 percent of calories for the diets of children ages 6 to 19.

Given what we have learned about the importance of diet to good health, that should be unacceptable. Encouraging our Nation's schoolchildren to eat low-fat, nutritious school breakfasts and lunches is a sound, cost-effective public health policy.

It is well known that high-fat, high-salt diets can lead to many health problems later in life, such as heart disease. By offering children healthy options for school breakfast and lunch and helping them develop nutritionally sound eating habits, we may be able to reduce the incidence of these conditions.

Another USDA study entitled "The School Nutrition Dietary Assessment [SDNA] Study," released in October 1993, found that while school lunches meet or exceed one-third of the recommended dietary allowance [RDA] for key nutrients, they do not meet the recommended levels of fat and saturated fat in the dietary guidelines. In fact, the report showed that the lunches exceeded the recommendations.

More to the point, the report showed the average percentage of calories from total fat was 38 percent compared with the recommended goal of 30 percent or less; and the saturated fat was 15 percent, compared with the recommended goal of less than 10 percent.

In addition, the SDNA report found that children who ate the school lunch consumed a much higher amount of calories from fat than those children who brought their lunch from home or purchased a lunch from vending machines.

There are currently no requirements or limitations on the percentage of calories from fat in school meals. Moreover, recent reports suggest that few schools are in compliance with the dietary guidelines. To me, that is unacceptable.

I am not suggesting that schools are not taking any initiative. In fact, in my home State of South Dakota, there has been great effort by schools to adhere to the dietary guidelines on their own.

South Dakota school food service officials tell me that the publication of the dietary guidelines in 1990 gave them incentive to implement more changes. Those changes include serving more poultry, fish, and leaner ground beef; using low-fat or 50/50 blend cheeses and low-fat margarine; offering more fresh fruits, canned fruits in juice or light syrup, fresh vegetables and frozen vegetables; providing low-fat dressing for salads, relishes, and potatoes; using small amounts of salt when cooking vegetables and meat; draining the ground beef very thoroughly; and serving unbreaded chicken patties.

In Mitchell, SD, nutrient information is calculated daily. Their meals average 550 calories per meal and 31 percent fat. According to the food service director at Mitchell, this is a significant drop since the 1980's when the meals consisted of 38 to 39 percent fat.

The Nutrition Service Program in Watertown, SD, plans menus that offer students an attractive variety of highly nutritious foods that meet the dietary guidelines for Americans. In September of 1992, the Watertown Board of Education endorsed the concept of offering daily food service menus based on the dietary guidelines and resources available from the Department of Agriculture and Department of Health. The healthier menus in Watertown are a result of the guidelines, which encourage the food service to serve healthier diets.

In addition, I heard from several other schools in my State that are taking steps voluntarily to comply with the dietary guidelines. I find that development very encouraging.

It appears that a number of our Nation's schools will meet the July 1, 1996 deadline. Others could meet it with relatively little difficulty. S. 1614 encourages them to do so.

While many schools around the country are taking steps on their own to conform to the dietary guidelines, I realize that not all schools have the resources to meet the July 1, 1996 deadline. Under the manager's amendment, those schools can apply to their State education agency for a waiver of the July 1, 1996 compliance date.

The dietary guidelines were issued in 1990, and the Department's proposal says these standards must be met by 1998. I agree with the committee's assessment that an 8-year implementation schedule is overly generous.

In 1961, we launched the effort to put a man on the Moon, and 8 years later it was done. The question I ask is, does it really take the same amount of time to provide our kids a low-fat diet?

Our children deserve better. Students should have nutritious diets, that is the bottom line. With a concerted effort between the Department, the States, and the school food service authorities, this should be done prior to 1998.

A second provision in the managers' amendment requires schools to inform students and parents of the nutritional content of school meals served and how those meals correspond to the dietary guidelines. This provision sets the same July 1, 1996, deadline for compliance.

A child can go into a store and buy a candy bar or a bottle of juice and know the nutritional content by looking at the label. School meals should provide the same information.

Children should be cognizant of what they are consuming. Healthy eating habits begin with health choices. In order to make healthy choices, information about the nutritional content of the food we eat must be readily available.

Parents should also be able to learn the nutritional content of the school meals their children are consuming.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Parents, together with their children, should have access to the nutrition facts, so that they cannot only evaluate the quality of school meals, but also apply this awareness to meals consumed outside the school environment.

Again, I commend the chairman for pushing forward with this child nutrition reauthorization bill. It is a good bill, and I urge its adoption by the Senate.

Mr. LEAHY. Mr. President, this amendment has been cleared, and will be done by a voice vote. At this point, I retain the balance of my time, and yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank my friend from Vermont, Senator LEAHY. He is a good friend and very accommodating. I am most appreciative. I thank the majority leader for giving us this opportunity to speak. He has been very gracious in accommodating me and very patient. That is his strength, his patience.

I must return to Wyoming for the personal reason of the health of a family member. Hold no votes for me. I know that is a statement that is often made. But nevertheless, it is true. I shall return to your midst soon, the first part of the week.

HEALTH CARE REFORM AND THE MITCHELL BILL

Mr. SIMPSON. Mr. President, for the past 2½ years, it has been a privilege for me to be involved in a Republican health care task force chaired by my friend and colleague, the junior Senator from Rhode Island, JOHN CHAFEE. It is quite impossible to fully describe the hard work and dedication this man displayed in taking up this task; steady, thoughtful, reflective, bright, persistent, congenial, and much more. And the Senator from Rhode Island educated 35 to 40 Republican Senators on the complexities of U.S. health care, principles of health care reform, with 2 years of meetings, every Thursday at 8:30 in the morning. I was a reluctant and tardy schoolboy on several of those occasions. Breakfasts were very sparse. And we did our work. We traveled to Annapolis for 2-day seminars, and finally produced legislation with sound principles of health care.

This rigorous education enabled us to learn more about the full glossary of health care terminology. We came to realize how complex it is. We struggled with the technical issues. We sat and scratched our heads for weeks. Every time we would come up with a solution, we would find something on the other side that prevented it. We discussed all of the issues, how best to achieve reform in the health care system, and how much that reform would cost the American people. I am no master at this, but I have been paying attention.

To my knowledge, the Senate Democrats have never organized such a comprehensive study group, and there are many on that side of the aisle who are very adroit and knowledgeable on this issue.

So I think it is fair to remind my colleagues, as well as the public, that the Republicans do not need to be lectured about the urgency of health care reform. We have been immersed in the issue for over 2 years. We have been through the whole gamut of issues and concerns. We have learned the hard way that it can take weeks of meetings to fully understand and prescribe proper solutions. The process in which we are currently participating—one in which we are presented with one bill one day, only to receive another a few days later just as we were reviewing the cost estimates of the preceding one—makes a mockery of the process of study and reflection in which we Republicans have been faithfully engaged in these past years.

We have done our level best to play a constructive role in this process. Republicans were, in a sense, kept in the dark when the First Lady's plus member task force began its confidential deliberations over the details of the President's health care plan. Regrettably, Mrs. Clinton led this effort without consulting some of the very people who created the very best health care system in the world. The Republicans anxiously waited for months for the President's plan. We were quite dismayed to find then that his agenda called for these mandates, taxes, layers of bureaucracy, price controls, and deficit spending. Then we watched the House and Senate committees hold hearings and mark up their versions of the Clinton Health Security Act. It soon became very obvious to everyone involved that the President's bill was not going to get the support of the American people.

In fact, my friend and colleague on the Environment and Public Works Committee, Senator MOYNIHAN, chairman of the Committee on Finance, together with a majority of the Senate Finance Committee, recognized this fact early in the deliberations and decided to go with a stripped-down version of the bill with no automatic mandates, and slightly less Government bureaucracy.

So then, of course, we returned to a bill which is the essence of the Clinton bill after watching it hacked apart by criticism from the American public. The American people have spoken very clearly in opposition to the Clinton bill, and I have no doubt they will continue to oppose it in its latest, repackaged version, when they discover all of the ingredients in the cauldron. Macbeth would envy the "odious brew."

Let me list some of the salient features of this bill. One is a triggered mandate that can only result in a loss of jobs. We think that is a payroll tax. Even the small business exemption contained in the Mitchell bill—employers with 25 or fewer employees are exempt from the mandate—could create daunting disincentives for small business to expand. What happens when you hire the 26th worker? Then it would include the cost of insuring the entire firm. These are things we must look at.

Under the Mitchell bill, more than 100 million people—almost 1 out of every 2 Americans—would be eligible for subsidies. That is more than the number of beneficiaries currently in Medicare and Medicaid and Social Security combined. Some families that include a pregnant woman and children, if they have incomes of up to 300 percent of the poverty level, would be eligible for subsidies—meaning that a family of four with an income of $44,000 would be eligible for subsidies to purchase health insurance coverage. The cost of this new entitlement program is totally unclear, but CBO has previously estimated that a much less generous subsidy contained in the Finance Committee bill would cost nearly $924 billion over the first 8 years. It would almost immediately become the third largest entitlement program in the entire Federal budget.

This is not the only new entitlement. There are two others. These programs are estimated to cost up to $150 billion. There is a new prescription drug benefit added to the Medicare Program and a new long-term care program for the severely disabled.

This new home and community-based long-term care program covering all Americans would cover all persons who are severely disabled, regardless of their age or their income or net worth.

I can only tell you, Mr. President, that my family knows too well about the costs and heartaches of caring for elderly parents. My father, who suffered from Parkinson's disease, was in the West Park long-term care center for in Cody, WY, for several years. My mother is still in her own home, but requires around-the-clock nursing care. This type of care, ladies and gentlemen, is not inexpensive. It costs us $8 an hour, 365 days a year. But I come from a family that has always looked out for one another, and we have been blessed with enough means to do so and are very privileged to be able to do that. My brother, Pete, and I never thought twice about taking care of our parents, as they always took care for us so lovingly. Not everyone can afford that, and the Government cannot afford it. So those are things we are going to have to deal with. Now we are talking about home care. The problem with all of this is the cost. The senior groups keep pushing and pushing and pushing for long-term care benefits, regardless of net worth or income, but none of these groups have realistically addressed the actual costs of such a program. They are always simply wanting more. This would expose the Federal Treasury to a huge new entitlement, one that could not possibly be handled.

So this is not going to be something that we are going to like. Somebody is going to have to pay for this. I just finished work with the entitlements commission, a bipartisan group, chaired by Senators KERREY and DANFORTH. They have worked doggedly, and they have done yeoman work. This is an interesting committee and commission.

I ask unanimous consent that the names of the members of that Commission be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Chairman: Robert Kerrey (D–NE).
Vice Chairman: Jack Danforth (R–MO).
Bill Archer (R–TX).
Dale Bumpers (D–AR).
Eva Clayton (D–NC).
Michael Castle (R–DE).
Thad Cochran (R–MS).
Christopher Cox (R–CA).
Kika de la Garza (D–TX).
Robert Denham.
John Dingell (D–MI).
Pete Domenici (R–NM).
Tom Downey.
Sandra Freedman.
Porter Goss (R–FL).
William Gray.
Robert Greenstein.
Judd Gregg (R–NH).
Karen Horn.
Tom Kean.
Alex McMillan (R–NC).
Carol Moseley-Braun (D–IL).
Daniel Patrick Moynihan (D–NY).
Pete Peterson.
Harry Reid (D–NV).
Roy Romer.
Dan Rostenkowski (D–IL).
Martin Sabo (D–MN).
Jim Sasser (D–TN).
Alan Simpson (R–WY).
Richard Trumka.
Malcolm Wallop (R–WY).

Mr. SIMPSON. So here is this group, going across party lines to present the bare, raw facts. Here is one of the charts contained in the report. It shows you that if we do nothing, Federal health care spending will triple by the year 2030. Here it is, 1993, 3.3 percent of gross domestic product. We are not talking about a percentage of the budget. We are talking about GDP. It will go 3.3 percent in 2030 to 11.0 to GDP, not budget, sucking up more than we can ever imagine.

I remind my colleagues of what that means. That is a tripling as a percentage of the economy, it is growing so much faster than the economy that it will take up three times as large a share of it. So that is where we are—even if we add nothing with regard to health care.

We often hear that "if we enact health care reform, all of our problems will be solved." We often hear that said. Wrong, forget it. That is certainly not true with this health care reform, which preserves, even accelerates, Federal health care spending trends. Even if we had perfect health care reform—meaning that if we slowed health care costs down to the point where they grew no faster than inflation, the aging of the population would by itself assure that Federal health care spending would still take up twice the share of our national economy in the year 2030 that it does today. So we are not going to get this done, even if we had hallowed perfection in health care reform. This is not my conclusion alone; it is the conclusion of 30 out of 32 members of the bipartisan Entitlement Reform Commission.

When the subject of health care reform was first debated, I was receptive and eager to work in a bipartisan fashion—and I still am. I reflected on information such as this and reached the unavoidable conclusion that some types of reforms would be necessary to avoid fiscal disaster.

So why do we need health care reform? When people say we do not need it, remember how we got here. We were spending $900 billion a year on it. In 2030, it would cost $2 trillion. We are going to add to this picture of skyrocketing costs portrayed in this chart.

In the flurry of all this, we have forgotten the fundamental issue in the debate: containing health care costs, trying to rein in health care. Those are the major reasons we became involved in this. Now it seems that this has been overshadowed by this issue of universal coverage. All of us have discovered there are no easy solutions to this problem; and that consumers' desires for physician choice often run counter to the idea of managed care and cost controls. Cost containment in the form of premium taxes is an administrative nightmare and even more difficult to understand and explain.

Senator PACKWOOD has spent days trying to figure out the cost containment provisions in the Mitchell bill for us, and he still cannot understand them to his satisfaction.

In fact, the other night, we heard Senator PACKWOOD state that in the Democratic Policy Committee summary of the Mitchell bill, there was no section on cost containment. Senator MITCHELL'S own Policy Committee cannot figure it out either.

I commend BOB PACKWOOD. He is back. He is astute. He is knowledgeable. He is as bright as a dollar, and he is ready. Do not step into the ring with him unless you have a little more knowledge than he does, because he is deeply involved.

We heard him present his case. We heard Senator CHAFEE. We heard Senator DANFORTH. We heard Senator DURENBERGER. We heard Senator KASSEBAUM.

Health care reform absolutely must save money if it is to be reform at all. Do not forget how we got here. Yet the legislation seems designed to ensure the fiscal "train wreck" we must try to avoid. I would refer to the budget-enforcement mechanisms in particular. There is no ceiling to limit the expansion of the Federal health care budget, and no limit on how much it might grow from year to year.

The original version even contained a $10 billion cushion above deficit-neutrality, meaning that the health care reform plan would not only fail to save money, and would permit us to spend larger and large amounts of taxpayer dollars, but it would have assuredly added to the deficit, even with all of the new taxes collected. I am pleased to learn that this loophole seems to be missing in the latest revision of the bill.

One other item. During the course of this, I often hear references to other countries: Why do not we do like other countries? And we are the only industrialized country on Earth that does not provide for its citizens. I hear that every day, several times a day. We are happy to do that, if you are willing to bear the cost.

Do you want to do it like Sweden does, where they suck up 53.2 percent of revenues to fund all levels of Government? Should we do it like Norway where they have 47.1 percent of the revenue that they earn going to health care and social programs? Shall we do it like my native land in the Netherlands where it is 47 percent, sucking up that much revenue to take care of social programs? We can do it. I think perhaps he wants to think about it. We are only at 29.8 percent. We can move it up to another 10. That is exactly where we will go with this situation. And then add long-term care. That is particularly troublesome. It cannot be funded.

Let me give one example of how the cost controls in this legislation are insufficient to control the spending that it introduces, by returning to the long-term care program. This long-term care program is particularly troublesome. I and many others do not believe that this benefit comes even close to being fully funded under the Mitchell bill. The fully funded program would cost approximately $45 billion in 2004, with Federal costs of about $38 billion if the Feds were paying 75 percent of costs—this program is a State-run program using Federal matching funds. The amount provided in the Mitchell bill would pay for less than half of those costs in just the year 2004.

And to think that groups like AARP still demand long-term health care regardless of net worth or income. With regard to the AARP, I am getting a lot of mail from home saying: The AARP does not speak for me. Scratch me off the list. They did not poll the membership out here. And I think we are going

VOL
140
PT
16
AG
12
—
18
1994
UMI

to watch them begin to decline in influence here. The greed will be exposed as we probe through their activities.

Let me just show you this one. Here is the cost given in the Mitchell program. There is a huge discrepancy here in financing. The bottom orange line shows what the Mitchell-Clinton bill provides for funding from 1998 to 2004. The figure for 2004 is $15.4 billion. The top yellow line is the estimated public cost of a fully funded home care and community-based benefit. These costs have been modeled by the Lifeplan computer modeling and policy group from Brandeis University that has been working on the long-term care issue for a number of years. These numbers have been determined by taking the number of eligible persons defined under the bill times the estimated cost of such a home health care benefit. In 2004, the chart shows that the cost of such a benefit is estimated to be $44.1 billion.

Where are we going to get the funds to make up this huge difference of almost $30 billion? And this would only be at the early stages of this program.

I do not think we have any idea, I say to my colleagues, about the cost of these benefits because no one has figured demographics and the aging of the population into the equation. In addition, no one has even bothered to take a look at how much home health care program costs are rising within the Medicare program. They have increased an average of 40 percent annually since 1988.

So one of the most distressing and less than candid situations with regard to this bill is the promise to disabled citizens that a long-term benefit will be available to them when they need it most, and that is impossible. It will not take place. It will be yanked away from them, or given to them and yanked away.

The only responsible alternative is to completely review these long-term care provisions, and rewrite them to achieve their goals more modestly and within the bounds of practicality.

As our national debt rapidly approaches the $5 trillion mark, I think most American's agree that we are long past the point at which the Federal Government can "pick up the tab" for everyone regardless of their financial circumstances. Seniors in particular ought to be very concerned about the effect the national debt will have on their children and grandchildren in the 21st century. Most of them know that we have to set priorities and make rational decisions about who should qualify for assistance—and how much help they should receive—under any new programs that Congress enacts. If their voices are heard above the roar of some of the irresponsible senior citizen groups, I am confident we can craft a health care plan that is not only accessible to those who need this coverage, but affordable and realistic as well.

I find it offensive that Democrats have taken individual cases and tried to portray their proposals as panacea for these people in need. The implication is that Democrats alone have a monopoly on sensitivity. Further, that only through Democrat legislative proposals can we achieve health care reform combined with compassion. Contrary to the image which Democrats would like to create, Republicans are sensitive and compassionate, too. We also want health care reform, but we do not want to further accelerate the national fiscal disaster that truly is around the corner even under the existing system. Democrat proposals which promise everything, even if they cannot be delivered; which are guaranteed to come equipped with huge new Government bureaucracies, and which, when we are in dire need of cost containment, would increase Government costs exponentially—do not constitute Republican principles of health care reform.

I have listened carefully to the thoughtful views expressed by Senators PACKWOOD, DURENBERGER, KASSEBAUM, and others. I commend their analysis to every American. It will stun and alarm most Americans to discover the scope, the expanse, of the new spending in this legislation. We ourselves are still being surprised by it, and this is why it is our duty to go through this legislation word for word and describe it for the American people before passing billions of dollars in costs on to them.

That's not a filibuster, and it's not gridlock. It's called "doing our jobs." The employer mandates in this bill are a problem. However, we have a responsibility to the American people to explain to them the whole spectrum of this bill's other defects. Doing less would be irresponsible.

Finally, let me close my remarks by commending the majority leader for giving those of us on this side of the aisle our chance to deliver our views. Even as there are those who criticize any inspection of this legislation as a form of delay, we know that we will continue to be able to voice our concerns, and we will have our chance to amend and to correct. We do not expect to prevail on every vote, but we do expect to offer our alternatives, of which we have many. So let me close on that note. I urge my colleagues to completely study the impact of this legislation on Federal spending. I am confident that as they do, there will be much less enthusiasm for passing the full cost of this legislation on to the beleaguered American public.

I thank the Chair. I note that my time has expired. I appreciate the courtesy.

I simply say this is about people. It is about cost. It is not about case-by-case events. All of those are poignant. It is about how do we pay for it. We all are compassionate. We all will be trying hard.

I thank very much the Chair and the majority leader for the accommodation.

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I understand the Chair has before it the committee amendments. They have been cleared, and I urge their adoption.

I ask unanimous consent that the time be reserved to me, but they are to be in order to move now to the consideration of the committee amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Kentucky is to be recognized for an amendment.

Mr. LEAHY. Mr. President, have the committee amendments been agreed to?

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 2559

(Purpose: To improve the administration of the WIC Program)

Mr. MCCONNELL. Mr. President, I send an amendment to the desk on behalf of myself, Mr. LUGAR, Mr. CRAIG, Mr. DOLE, Mr. COCHRAN, Mr. HELMS, Mr. COVERDELL, Mr. GRASSLEY, and Mr. CHAFEE.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] for himself, Mr. LUGAR, Mr. CRAIG, Mr. DOLE, Mr. COCHRAN, Mr. HELMS, Mr. COVERDELL, Mr. GRASSLEY, and Mr. CHAFEE proposes an amendment numbered 2559.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . IMPROVED ADMINISTRATION OF WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(23) No State agency or local agency shall be considered an office in a State that provides public assistance for purposes of section 7(a)(2)(A) of Public Law 103-31.".

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, the amendment I have offered is very simple. It will remove the burden WIC clinics will face after January 1, 1995, of registering WIC recipients to vote. The National Voter Registration Act, popularly known as the motor-voter bill, requires States to designate public assistance offices as voter registration sites. Included in the report language accompanying this bill was a sentence asserting that "public assistance offices" includes WIC, as well as AFDC, food stamp, and Medicaid offices. Mr. President, I believe this inclusion of WIC clinics is shortsighted and needs to be revisited.

Mr. President, at the outset it is important to stress that this amendment is not about the merits of the motor-voter bill. This Chamber knows well my views on that legislation. This amendment is about the WIC Program. It is about burdening one of our most successful programs with totally unrelated responsibilities. The requirements of motor-voter will impair the ability of local WIC clinics to meet the needs of needy pregnant women, infants, and children, and to fulfill the mission of the program.

The WIC Program was designed specifically for low-income pregnant, postpartum, and breastfeeding women; infants; and children under age 5 who are at nutritional risk. Benefits participants receive include vouchers for supplemental foods such as infant formula, iron-fortified cereal, and vitamin C-rich juices. Equally important, and arguably more so than the foods provided, are the health screenings, nutrition education sessions, and one-on-one contacts WIC workers have with moms to teach them about the nutritional needs of their fetus and/or child.

The potential impact this program has on the health and well-being of our children is significant. In Kentucky, over half of the babies born are on WIC, and that figure is similar nationwide. The link between adequate nutrient intake and the development of a child is clear. Tufts University researchers have found that undernutrition can have a detrimental impact on the intellectual and behavioral development of a child. Iron deficiency, for example, has an adverse effect on a child's ability to concentrate and retain information. Prolonged undernourishment can harm a child's social and cognitive development.

Mr. President, WIC is successful in improving the nutritional status of the participants: studies show that pregnant women on WIC and Medicaid are less likely to deliver premature or low birth weight babies, which saves Medicaid expenditures and puts the infant on a healthy path at the start. Another study found that WIC reduced the prevalence of anemia, and reduced height and weight abnormalities among children.

But, the National Voter Registration Act requires public assistance offices, including WIC, to distribute voter registration application forms to all applying for public assistance, to assist the applicants with completing the forms unless the applicant refuses such assistance, and to accept the completed registration form and forward it to the appropriate State officials.

Further, the offices can be asked to maintain copies of the forms applicants sign when declining to register, as well as register non-program-applicants who walk in off the street.

The administrative burden this imposes on WIC is considerable and indisputable. In fact, it is specifically recognized in the congressional reports accompanying the National Voter Registration Act. Both the House and Senate reported that "Costs for registration application assistance for these offices [public assistance offices] should be considered matchable under the current Federal match rate for these programs." Agencies are interpreting this to mean that offices can be reimbursed at a Federal match for the additional expenses incurred by fulfilling the requirements of motor voter.

But, Mr. President, WIC is not a program to which the State contributes funds to match Federal dollars. WIC is a grant program under which Federal money is given to the States for both administrative and food expenses. WIC is a discretionary program, not a mandatory program.

Every year for the last 6 years at least, a large, bipartisan group of Senators—including myself—has written to our colleagues on the Appropriations Committee urging them to continue on the road to fully funding WIC. And the committee obliges. This year alone, appropriators have recommended an increase of $260 million to $3.47 billion so that we can continue to increase participation in this successful program.

Requiring WIC workers to register people to vote detracts from the primary mission of the WIC program—improving the nutritional health of our Nation's underprivileged children. Mandating clinics to administer the motor-voter requirements consumes the scarce Federal dollars that are appropriated for the important WIC activities such as health screening, nutrition education, and breastfeeding promotion.

If WIC clinics are subject to the motor-voter mandates, then WIC workers will have to spend valuable time and money on an activity that is totally unrelated to the mission of the WIC program. Further, it could take away from efforts to expand participation in WIC. As we, as appropriators, continue to increase funds for WIC, I would hope that those funds go to adding recipients onto this successful program, and continuing the health and nutrition education efforts.

Mr. President, I want to make one final point before yielding the floor for the moment. This is not, as will probably be contended, an assault on the motor-voter bill. It does not eviscerate the motor-voter bill. It is important to remember that 77 percent of WIC participants are children under age 5. Now, clearly, 5-year-olds are not going to be registered voters. Seventy-seven percent of WIC recipients are under 5. Only 23 percent, or 1.4 million, WIC participants are women—a very small fraction of the motor-voter universe.

In reporting on the motor-voter bill, CBO estimated that 80 to 90 percent of voters would register through the driver's license system, while the remaining 10 to 20 percent would register through the mail-in and agency-based systems. And, WIC is but a small component of the agency-based system. Is a small fraction-of-a-fraction of the scope of the motor-voter bill. But for WIC, voter registration is a very significant burden and certainly unrelated to its purpose.

Mr. President, I think it is important to point out that the National Association of WIC Directors supports my amendment—exempting WIC from the burdens of motor-voter is an item on their 1994 legislative agenda.

I ask unanimous consent that a letter, dated June 21, from the National Association of WIC Directors, Executive Director Douglas A. Greenaway, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF WIC DIRECTORS,
June 21, 1994.

Hon. MITCH MCCONNELL,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCONNELL: The National Association of WIC Directors, NAWD, applaud your efforts to ensure that the essential mission of the Special Supplemental Food Program for Women, Infants and Children, WIC—the provision of quality nutrition education and breastfeeding promotion and support services—is maintained and not be diluted by unrelated activities.

NAWD expressed concern in its broadly distributed 1994 legislative agenda about the negative consequences the National Voter Registration Act will have upon WIC Clinics.

VOL 140 PT 16 AG 12 — 18 1994 UMI

NAWD urged the Congress to either exempt the WIC Program from the Act or provide additional monies to perform this new unrelated task.

NAWD's canvass of state and local agency directors and nutrition coordinators confirms that the requirements to implement the Act in WIC clinics will only further reduce the already stretched time, staff, financial and other resources available to ensure that WIC participants receive the quality nutrition services to which they are eligible.

NAWD is dedicated to maximizing WIC Program resources through effective management practices. Our members—State, U.S. Territory and Native American Agency Directors, Local Agency Directors, Nutritionists and others—have made important contributions toward improving the quality of life of America's low-income women, infants and children.

NAWD is pleased to learn that you will offer an amendment to the Child Nutrition Act reauthorizing legislation to exempt WIC from implementation requirements of the National Voter Registration Act. NAWD is grateful to you for your generous and continued support of the WIC Program.

Should you have any questions or if I may provide additional information, please feel free to contact me on 202-232-5492.

Sincerely,

DOUGLAS A. GREENAWAY,
Executive Director.

Mr. MCCONNELL. In sum, this amendment would relieve WIC clinics—not any other public assistance office—of the burden of complying with the motor-voter bill. As the WIC program celebrates it's 20th birthday this year, let us not stray from the important mission of this program: to improve the nutritional health and well-being of underprivileged women, infants, and children. I hope my colleagues to join me in support of this amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 35 minutes remaining.

Mr. MCCONNELL. Mr. President, I retain the remainder of my time for the moment.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I ask the distinguished Senator from Kentucky for as many as 7 minutes.

Mr. MCCONNELL. I yield 7 minutes to the Senator.

Mr. LUGAR. I thank the Senator.

Mr. President, I commend the distinguished junior Senator from Kentucky, Senator MCCONNELL, who is the ranking member on the Senate Nutrition Subcommittee and has done so much to ensure the successful legislation that we are considering today.

I thank him especially for his amendment to exempt WIC from the provisions of the National Voter Registration Act. The Senator has made the case with eloquence and cogency. But let me simply underline some of the important points that he has raised.

I share his concern that requiring WIC agency staff to offer voter registration services will detract from the fundamental goal of the Women, Infants, and Children Program, which is to promote the health of at-risk, low-income mothers and children through the provision of nutrition services and nutritious food.

In fact, the time element in these services is important, Mr. President. I cannot stress enough the diligence with which the staffs of WIC programs approach these responsibilities and opportunities. But the women and infants that they serve are fully in need of their total devotion and concentration. And, in my judgment, the National Voter Registration Act is extraneous to nutrition and feeding programs. In fact, a 1994 report by the Urban Institute cited voter registration as one of the new Federal and State initiatives that, without additional funding—and I quote from the Urban Institute—"will inevitably reduce sources devoted to core WIC services." That is from an objective agency, devoted to the urban poor, looking specifically at the objectives of the WIC Program.

The services provided at WIC clinics are qualitatively different from those provided by other public assistance agencies. That, certainly, is the central point of our case today. The WIC services qualitatively are different. WIC agency staff offer nutrition education. They conduct nutrition assessments. They make referrals to other health care and social service providers. They promote breast feeding and tailor food packages to meet individual needs.

It is these services which have helped WIC to achieve its proven effectiveness in reducing infant mortality. It is these services which have led WIC to a special effectiveness, in making certain that the birth weight of infants was higher and thus the incidence of infant mortality declined. WIC has been especially effective in lowering the incidence of iron deficiency anemia for infants.

I just state obvious common sense, that mandating the WIC staff to spend time on something totally unrelated to these overriding health goals and nutrition goals is simply not sound public policy. Therefore, I commend the McConnell amendment to my colleagues. I strongly support it and have asked to be a cosponsor, and the distinguished Senator from Kentucky has included me among the cosponsors. I am hopeful it will have strong support in this body.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Kentucky.

Mr. FORD. Mr. President, let me start out by saying I am a strong supporter of the WIC Program. There is nothing I see out on the horizon that does better work as it relates to women, infants and children than the WIC Program. It is a little odd to me, however, that we heard about the WIC Program here today and how devastating it will be to that program if the recipients who bring their children in are asked if they would like to register to vote. That is all. They can say yes or no.

If they say "no" it is over. There is no cost. There is no time lost.

This is just an effort by those who vehemently opposed the motor voter registration bill. This is not a simple amendment just to prevent those who are on the WIC Program from being participants in this program. What it says is "the office."

In checking around I find many of our States are combining health care offices. So when you combine a health care office and WIC is within that office when they walk through the front door—this eliminates it. So this is a back-door effort to gut the Motor Voter Registration Act that we passed here and the President signed into law. It will not take effect until January. So we do not know whether it is going to help or hurt.

But if this goes through, then those who have supported the ability of individuals to be reconnected with their Government—and I do not believe anybody on the other side will tell me that people are not riled up, they want to be registered to vote. What we have done is eliminated the patriotic duty, if you want to call it that, or the blood-given right, by all of the hurdles that we have placed in front of an individual wanting to have the opportunity to vote to prevent them from registering.

You cannot tell me that having the form there and asking the mother, on the form, if she is registered—if the answer is yes, that ends it; if you are not registered, do you want to register? If the answer is no, that ends it.

But do not take my word for it. The motor voter law requires public employees, like those who administer the WIC Program, to assist citizens in the voter registration process. Contrary to what the WIC directors are saying, the process is not a burden. But you do not have to take my word for it. Listen to the Center on Budget and Policy Priorities, one of the most respected—and I underscore respected—advocates for the WIC Program. I think everybody—I think—will agree to that. But here is what they have to say.

> The costs of this procedure are marginal, and whatever small costs are entailed are treated like any other WIC administrative costs * * *
>
> In short, these tasks would not add substantial burden. And they would help achieve a fundamental democratic goal—increased citizen participation in the affairs of our democracy.

That is a quote directly from the letter from the Center on Budget and Policy Priorities. I ask unanimous consent to have that letter printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FORD. You do not have to take my word for it. Here is something the Center on Budget and Policy Priorities has clearly stated about the goal of the motor voter law: We must eliminate the barriers that are preventing citizens from getting to the ballot box. Voter registration should be simple, convenient and accessible to all citizens. The registration of citizens in WIC offices as well as other social service agencies—motor vehicle license bureaus and other State and local offices—will achieve that goal. And on election day, those who choose to vote will be able to do so. And that is democracy in action.

So what we are saying here is that there is no extra effort. How many times can that mother that is there to get some help in the WIC Program—how many times can she get to the post office or the registrar's office? Can she only go Saturday? Or noon, when the office is closed? Can she only get there Saturday, when the office is closed? The answer is probably so.

So, with this amendment we deny her, that woman, the opportunity to register and to vote. She probably has more emotion, probably understands the problems better than most. What we are saying here in this amendment, if it passes, is that we want to deny that woman the ability to register and express her opinion.

So what we are doing is denying the women an easier route to register and to vote and to express their opinion. Mr. President, this amendment must be defeated. And the work of implementing the motor voter law must proceed.

We did not think this up all by ourselves, this procedure.

We went to the State of Pennsylvania and we copied from them. We went to the State of Minnesota and took it from them. It is something that has been tried, something that is good.

So now they are saying in this amendment that we can eliminate the ability of everyone going to a public assistance office, under this amendment, from having the opportunity to register to vote, because the amendment says "office."

If there is a 10-by-12 space for WIC, is that all this amendment is going to cover? Or is it the office in which WIC has a portion of the square feet? When you walk in the front door, you are in the office. They will say, "You can't have them over here, but you can have them all around." So if you have them all around, could the WIC mother then go over and get one from the other office in the building or on the floor?

Oh, Mr. President, this is just another way to try to use a motion to stop some people, particularly women, from having the opportunity to register to vote.

I am one who says that these women have every right to be registered. We should not prevent them the opportunity that others are given. What we are seeing here is denying to their infants and children the facilities and services that they are entitled to, when we have it refuted by the Center on Budget and Policy Priorities, it really is not going to take up any time; it really is not going to cost any money; whatever problem there is might be marginal.

So if you want to deny these women who are having trouble with their children, trying to lead a good life, and trying to make them healthy, and say to them, "You can't register to vote as others can register to vote," then I think you are denying a segment of our population the opportunity that should not be.

Mr. President, I yield the floor and reserve the remainder of my time.

EXHIBIT 1

CENTER ON BUDGET AND POLICY PRIORITIES

PROPOSALS TO EXEMPT WIC FROM THE NATIONAL REGISTRATION ACT

It has been suggested that WIC be exempted from the National Voter Registration Act (also known as the Motor Voter Act). Such an action would be unwise. It could be the first step in a process toward unraveling the Motor Voter Act.

The tasks involved for WIC programs to comply with the Motor Voter Act are modest. During a certification interview at a WIC clinic, participants would be given a 5" 8" voter registration card and a short form asking them if they want to register at the WIC clinic. If a participant checks the "NO" box on the form, the WIC clinic has no additional tasks. If the WIC participant wishes to register at the clinic, the participant fills out the simple card (with the caseworker's assistance, if the participant requests it) and the participant or caseworker drops the card in a box. Once every 10 days, the clinic would send the cards in the box to the elections office. The costs of this procedure are marginal, and whatever small costs are entailed are treated like other WIC administrative costs and charged against a state's WIC grant for administrative and nutrition services. It should be noted that under legislation sought by state WIC agencies and enacted in 1989, grants to states for administrative and nutrition services this year reached 25 percent of total WIC funding. This exceeds the percentage for any prior fiscal year.

In addition, USDA's Food and Nutrition Service has sent a directive to its regional offices, directing them to work with states to insure that these procedures are implemented in the least burdensome ways possible. The FNS directive also clears up a misunderstanding on the part of a number of states who mistakenly thought they would be subject to various additional requirements under the Motor Voter legislation.

In short, these tasks would not add substantial burden. And they would help achieve a fundamental democratic goal—increased citizen participation in the affairs of our democracy. Citizen participation in elections has been declining for some time. The National Voter Registration Act holds promise of helping to stem that trend, and the WIC program—which is now a mature program—has a role to play and a contribution to make. It is understandable that some WIC administrators would not see this task as central to WIC and urge that they be excluded from it. But from the standpoint of the well-being of our nation's democratic values, the National Voter Registration Act—including its application to WIC—should be maintained.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL addressed the Chair.

Mr. MCCONNELL. Mr. President, I listened very carefully to my colleague from Kentucky, and I want to commend him for the good work that he did on this legislation. I was not in favor of it, but he succeeded through the legislative process and it became law. That is not really the issue before us today.

My colleague talks about whether or not it is going to inconvenience the WIC directors. I think they themselves would be the best testimony, the best evidence of whether this legislation, if applied to them come January, is going to create a problem.

In the letter that I referred to earlier from the National Association of WIC Directors, it is rather clear how they feel about it. In a letter to me dated June 21 from the director, it says:

> Dear Senator MCCONNELL: The National Association of WIC Directors applaud your efforts to ensure that the essential mission of the Special Supplemental Food Program for Women, Infants, and Children—the provision of quality nutrition education and breastfeeding promotion and support services—is maintained and not diluted by unrelated activities.

Later in the letter, the Director says their,

> * * * canvass of State and local agency directors and nutrition coordinators confirms—

Confirms, these are the people actually working there and dealing with the WIC clients.

> that the requirements to implement the act in WIC clinics will only further reduce the already stretched time, staff, financial, and other resources available to ensure that WIC participants receive the quality nutrition services to which they are eligible.

Mr. President, how many folks are we talking about here? First, it is important to remember that 77 percent of the people that come into the WIC clinic are under age 5—77 percent are under age 5; 23 percent of the WIC participants are women. But of that group, 12 percent are under 18. So 77 percent of the people who are coming into the clinic are under age 5, and of the women who are coming in with their children into the clinic, 23 percent of those women are under age 18.

It is important also to note that two-thirds of the WIC clients go to other agencies for other services, and those agencies are required to participate through the National Voter Registration Act.

So it is not like these adults who come into the WIC office are not going

VOL
140
PT
16
AG
12
—
18
1994
UMI

to be dealing with some other agency required to register under the National Voter Registration Act. Two-thirds of the WIC recipients are on Medicaid, food stamps, and/or AFDC. This amendment does not affect those programs. So two-thirds of that six-tenths of 1 percent of the population will be provided with voter registration options at the other agencies.

We are talking about a minuscule percentage of the eligible voting-age population that might—might—miss an opportunity to be registered through this agency-based effort.

Let us go over that one more time: 77 percent of the WIC clients are under 5; 23 percent are women, but of that group, 12 percent are under 18, so they are not eligible; and two-thirds of the overall WIC recipients go to some other agency, such as Medicaid, food stamps, and/or AFDC. So two-thirds of those folks are going to be exposed to other agency-based registration efforts.

It could hardly be persuasively argued, Mr. President, that this is blowing a gaping hole in the National Voter Registration Act. I come at this as ranking member of the Nutrition Subcommittee. I fully admit I was not supportive of the Motor-Voter Act, but that is over. The supporters of that prevailed.

The question is, at this point, on this bill, whether this six-tenths of 1 percent of the population is going to be affected in this adverse way.

I am going to retain the remainder of my time, but we are talking here largely about an agency that serves children who are not eligible to vote and a reasonable percentage of women who have children who are under 18, two-thirds of which go to some other agency which is required to engage in voter registration under the Motor-Voter Act. Clearly, this is not blowing a gaping hole in the national Motor-Voter Act.

So, Mr. President, I retain the remainder of my time and yield the floor at this point.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Will the Senator yield to me?

Mr. FORD. I yield such time as the Senator from Oregon might use.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HATFIELD. Mr. President, I thank my colleague for yielding the time.

I would like to say from the very beginning that on most things that involve electoral and political processes, I follow the lead of my colleague from Kentucky, Senator MCCONNELL. I know few, if any, on my side of the aisle who have greater expertise or have a better background in commenting on these matters.

On this one issue, I do take a different position, in part because my own State of Oregon had proven motor-voter registration to be an effective instrument by which we expanded participation in government and brought more people into the voting process.

I might also say, as a former secretary of state from Oregon, meaning the head of the elections office, I presided over a number of election cycles where we had, of course, State supervision, State roles, State involvement. In all of these roles, I must say, Mr. President, that I feel that the State should be paramount. I think the Federal Government has a limited role to play in the matter of these basic procedures. With the mobility of our population and for other reasons, however, I think that the matter of mail-in registration is a very legitimate kind of Federal role to create uniformity across the country. I think making voter registration available at the time of your driver's license application is another legitimate Federal role. I think also, when you are at a Federal agency conducting business, a further appropriate role would be for the agency to supply registration forms.

In the motor-voter bill, which, by the way, has not taken effect yet—it was postponed until January 1995 to skip this election cycle in order for the States and the local governments to become involved in the process—we left it to the States to negotiate as to which Federal agencies would make available the voter registration system. We did not designate the agencies in the bill.

This fight today is basically symbolic because this is the first Federal agency authorization program potentially affected by motor-voter that has come up in this Congress. I think it is important to defeat this effort to undermine the motor-voter registration law because I assume that we could possibly face this same amendment on each and every other Federal agency program that may come along subsequent to the one that we are dealing with today.

And so even though there is a small percentage of potential registrants involved, as cited by the author of the amendment, Senator MCCONNELL, I think it is very important to set the precedent today that we are not going to have an erosion of the basic concept of the motor-voter registration bill which was passed and signed into law to take effect in January 1995.

A recent study by the Department of Transportation found that almost 50 percent of the people in the low-income families and minorities do not have drivers' licenses and have annual incomes of less than $10,000. Five States already offer some form of public agency voter registration system; Alaska, Iowa, Minnesota, New Jersey, and Ohio. Again, this idea has already been proven at the State level. We are not venturing into some strange field of experimentation. All we are saying in effect is let the Federal agencies that are designated out of State negotiations be also the source of such registration forms.

A number of my colleagues opposed the original bill that includes agency registration because of the fear of coercion, fear of coercion by Federal agencies when a recipient of a Federal program is handed a check in one hand and a voter registration form in the other. Is it intimidation? Is it coercion?

As one of the cosponsors of this bill initially, we paid very careful attention to anticoercion safeguards, to protect against manipulation or intimidation of public assistance recipients who register.

These safeguards are threefold. One, clients in public agencies will not be registered unless they specifically indicate they want to be registered.

Second, registration forms will explain that no action can be taken against those clients who do not want to register in a Federal agency.

And No. 3, the name and number of the person with whom to file a complaint—a complaint—if abuse occurs or if the recipient assumes or feels or considers that there has been some kind of intimidation—must be given to that recipient.

We do have safeguards against coercion. Should such coercion still happen and a complaint be filed, and it was found that coercion was a valid complaint by the recipient, this is now a Federal offense, including criminal penalties.

I believe that adequate protections are in place to prevent the manipulation of Americans. Furthermore, I support my colleague, Mr. FORD, the chairman of our committee, in his view that we have worked hard to ensure that the agency-based registration aspect of this law would have a minimal impact on any agency's work. In other words, we are not imposing an additional great demand for work, for being registrars, with that fulfilling the basic mission of the agency. In this specific case, WIC agencies have been asked to make available registration forms and to provide the same assistance in completing those forms as they would for their own forms in their agency.

Mr. President, this bill is not rooted in partisanship. This bill is rooted in democratic philosophy. It stands for the premise that we are all Americans, first, not Democrats or Republicans. It also has a focus of providing for the individual and helping the individual to understand and to involve himself or herself as an individual voice in an expression of interest in the political process. Its purpose is to protect the value and integrity of votes, the votes cast through a strong registration process, not to keep any element of society from exercising their right to vote.

I urge my colleagues to meet this first attack of what I assume to be many others to follow, by defeating this amendment offered by my good friend from Kentucky.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 25 minutes, both Senators from Kentucky have 25 minutes remaining.

Mr. FORD. Mr. President, I yield 5 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 5 minutes.

Mr. JEFFORDS. Mr. President, I do not think any of my colleagues are more knowledgeable and diligent than my colleague from Kentucky on matters such as that contained in the amendment before us today. He knows his stuff and he makes a very persuasive argument.

I also have been with him on many of the issues, especially when they become partisan. However, on this issue, I disagree very strongly with him. So, too, does a majority of the Senate. We had a full and exhaustive debate on this issue many months ago. We have fought this battle, and those of us in favor of encouraging Americans to participate in the election process prevailed.

Having torn down some of the barriers to voting, I think it is unfortunate that my friend from Kentucky feels it necessary to try to resurrect those barriers. All eligible Americans have the right and responsibility to vote. If we can make it easier for them to fulfill this responsibility and exercise their rights, we should do so.

I understand that there may be some questions as to whether the language of the amendment comports with the Senator's intention to block voter registration in connection with the Women, Infants, and Children Feeding Program. If there is a problem, I know it was inadvertent, so I will restrict my few comments to the impact on WIC.

Why should we single out the WIC Program? Of any of the Federal programs serving low-income Americans, I think it probably has the strongest bipartisan support. President Bush boosted WIC funding tremendously with the active help of Republicans in both the Senate and the House.

And why on Earth should we single out pregnant women and those with infants? Becoming a parent often has a profound positive impact on an individual, who is all of a sudden given a much greater stake in our society by a birth.

But with this amendment, half a million women, who often face many barriers to voting, would be denied easier access to our political system. I strongly supported the motor-voter bill, and I just as strongly oppose the amendment of the Senator from Kentucky to deny its benefits to some 500,000 women in this country.

I appreciate his concern for the WIC Program, however, and know that he and those who support the amendment must share my support for the provisions relating to WIC in the Health Security Act, which we will be facing sometime later this year.

Mr. President, I hope this amendment is defeated, and urge my colleagues to do so.

Mr. President, I yield the floor. I yield the remainder of my time to the Senator from Kentucky.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, how much time does the distinguished Senator from Washington desire?

Mrs. MURRAY. If I could have about 3 minutes.

Mr. FORD. I yield up to 5 minutes to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mrs. MURRAY. I thank my colleague from Kentucky for his leadership on this issue and for his consideration in opposing this amendment today.

I rise to oppose this amendment. Mr. President, I remember a little over a year ago when I was a very proud Member of the U.S. Senate to vote with the majority in behalf of the motor-voter bill. It was a message that fit all Americans who care about its citizens. We care about them being involved in our Government, and being part of that Government. And we were doing everything we could to make it easier for every American, no matter who they were or where they came from, to be a part of this democracy by allowing them to vote.

I am simply amazed that we are on the floor of the U.S. Senate today beginning to try to repeal that act by going after group by group, and the very first group we are going to make it tougher for is mothers with young children.

I can think of no one that we should be more accommodating to than mothers with young children. That is from one of the few people on the floor who had the experience of being a young mother with children at one time in my life. I can tell you how difficult it is for these women to get their kids ready to go out to do anything, grocery shopping or whatever, much less getting out to register to vote.

I think it would be the worst move, the worst message to send to these mothers that we are going to exclude them from our democracy by passing this amendment.

I urge all of my colleagues to vote a resounding "no" to this amendment.

I thank my colleague. I thank the chairman for yielding time.

Mr. LEAHY. Mr. President, the amendment before us brings up an issue that was decided by the Senate over a year ago.

In passing the National Voter Registration Act, we decided that access to our electoral system of government should be open to all Americans, and that voter registration procedures should not be a barrier to participation.

Motor-voter requires States to provide voter registration services when people apply for a driver's license and at public assistance agencies, including AFDC, food stamps, Medicaid, and WIC.

Opponents of motor-voter are making a desperate attempt to chip away at the edges of the National Voter Registration Act.

They claim voter registration will pose too great a burden on WIC clinics, but those claims are grossly exaggerated.

Agencies are only required to provide and accept voter registration applications when clients apply or are recertified for WIC. They are not required to offer voter registration services in any mailings to participations, nor at each appointment.

Public assistance agencies, such as WIC, were included in the National Voter Registration Act to ensure that all citizens have equal access to voter registration.

WIC applicants should have the same opportunity as people who apply for driver's licenses to participate in our political process.

When the motor-voter bill was being debated, WIC was recognized as a program likely to have contact with citizens who do not have driver's licenses. Estimates are that if WIC were exempt from the mandates of the National Voter Registration Act, 500,000 poor women will be excluded from voter registration services because they do not receive food stamps, Medicaid, or AFDC.

The Clinton administration and the Department of Agriculture stand firmly behind motor-voter. USDA has told WIC directors that the Department is committed to the successful implementation of motor-voter in WIC clinics.

In fact, USDA is allowing any costs associated with voter registration to be covered by WIC administrative funds.

Since 1974, I have been an outspoken champion of the WIC Program in Congress, and I am sensitive to concern that WIC is weakened with each additional demand put on it.

But motor-voter was signed into law with a goal in mind, and I believe in that goal. WIC is just the first target of opponents of motor-voter. And if they succeed here, it will be just the first step. What will be next? Food stamps? Unemployment? Medicaid?

VOL 140 PT 16 AG 12 — 18 1994 UMI

We cannot start tearing apart motor-voter piece by piece.

I see it very simply: The intention of this amendment is to keep poor women from voting. But poor women have the same rights as rest of us, and they deserve every chance to participate in the political process.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I think the message is getting through loud and clear that we are going after young mothers; that we are going after young mothers who have problems of not being in the mainstream, who are going for help, and we are trying to deny to those women help.

Let me make two points. Mr. President, I want to make a point again that the letter that my colleague has that WIC directors do not want this, they want to maintain the status quo, but the status quo for voter registration in my opinion is not acceptable.

I go back to the statement I made earlier where the strong advocate of the WIC Program, the Center on Budget and Policy Priorities, one of the most respected advocates for the WIC Program, has said, in short, that these tasks would not add any substantial burden, that they would help achieve a fundamental democratic goal of increasing citizen participation in the affairs of our democracy.

Mr. President, I ask unanimous consent that the statement from the Center on Budget and Policy Priorities be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTER ON BUDGET AND POLICY PRIORITIES

PROPOSALS TO EXEMPT WIC FROM THE NATIONAL REGISTRATION ACT

It has been suggested that WIC be exempted from the National Voter Registration Act (also known as the Motor Voter Act). Such an action would be unwise. It could be the first step in a process toward unraveling the Motor Voter Act.

The tasks involved for WIC programs to comply with the Motor Voter Act are modest. During a certification interview at a WIC clinic, participants would be given a 5" x 8" voter registration card and a short form asking them if they want to register at the WIC clinic. If a participant checks the "NO" box on the form, the WIC clinic has no additional tasks. If the WIC participant wishes to register at the clinic, the participant fills out the simple card (with the caseworker's assistance, if the participant requests it) and the participant or caseworker drops the card in a box. Once every 10 days, the clinic would send the cards in the box to the elections office. The costs of this procedure are marginal, and whatever small costs are entailed are treated like other WIC administrative costs and charged against a state's WIC grant for administrative and nutrition services. It should be noted that under legislation sought by state WIC agencies and enacted in 1989, grants to states for administrative and nutrition services this year reached 25 percent of total WIC funding. This exceeds the percentage for any prior fiscal year.

In addition, USDA's Food and Nutrition Service has sent a directive to its regional offices, directing them to work with states to insure that these procedures are implemented in the least burdensome ways possible. The FNS directive also clears up a misunderstanding on the part of a number of states who mistakenly thought they would be subject to various additional requirements under the Motor Voter legislation.

In short, these tasks would not add substantial burden. And they would help achieve a fundamental democratic goal—increased citizen participation in the affairs of our democracy. Citizen participation in elections has been declining for some time. The National Voter Registration Act holds promise of helping to stem that trend, and the WIC program—which is now a mature program—has a role to play and a contribution to make. It is understandable that some WIC administrators would not see this task as central to WIC and urge that they be excluded from it. But from the standpoint of the well-being of our nation's democratic values, the National Voter Registration Act—including its application to WIC—should be maintained.

Mr. FORD. Mr. President, it has been indicated that this would be a tremendous burden on the WIC directors. Let me read from the instructions from the Department of Agriculture Food and Nutrition Service that says:

Voter registration services are required to be offered by WIC clinics at every application, reapplication, and change of address. Such services need not again be offered during other participant contacts such as voucher pickups, nutrition education sessions, or other instances where a parent comes into the clinic. There are no requirements to offer voter registration services in any mailing to participants.

So it is just one time, the first blush, and that is it. That is the end of it. They either say "yes" or "no." Or they say, "I am registered. I don't need to register again." Or they say, "Yes. I want to register." Then they are helped. If they say, "No. I do not want to register," that ends it.

I do not understand why you want to take on the motor-voter, and you take on the young mothers of this country with children and try to prevent them from having an opportunity to register.

I do not know what six-tenths of 1 percent is. I do not know. By my calculation, we have roughly 250 million people in this country. And six-tenths of 1 percent of our population does not sound too big. But when you get into the millions, it sounds pretty good. We are denying over 1 million, if my calculations are right, and those of the smarter people in the Chamber when they put the pencil to it, that it is well over 1 million young mothers, mothers with infant children. So six-tenths of 1 percent does not sound very big.

Seventy-three percent of those that come for help are with children. Somebody has to bring them. Their mother brought them. We are saying to the mother of those children that they are not going to have equal access.

Where in the world are we going to come out here on the floor and say we are going to deny young mothers that have real problems, that do not have equal access to register to vote, to express the voice of those 5-year olds? Oh, they say 3 percent of them are 5-year olds. So we do not have to worry about them. But the mother ought to be able to exercise her voice. And what those children ought to have, as anybody knows what they need the mother does, and we are saying to her, "You cannot have the same access to register to vote that others have."

Mr. President, we have gone too far in this amendment. If you look at the amendment, it says "office." What does that mean? When all of the State governments are trying to combine and have a one-stop health center, when you walk in the front door, it is the office, and WIC is back here in the corner. So we deny it to the whole floor, to all the help. This is a back-door way of trying to gut motor-voter, and I think it is a dreadful way to start.

I yield the floor. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky has 15 minutes. The junior Senator from Kentucky has 25 minutes.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, it is unfortunate that this turned into a motor-voter debate when it really is about child nutrition. My interest in this was stimulated, not by my opposition last year to motor-voter, which I concede and make no apologies for, but my interest at this point was generated by the National Association of WIC Directors who wrote, and who asked to be relieved of this responsibility. It is not just the National Association of WIC Directors. I have a letter here from the county health department in Shepherdsville, KY. I will read a couple of paragraphs of that letter before asking that it be printed in the RECORD. It says:

DEAR SENATOR MCCONNELL: . . . WIC staff . . . doing voter registration rather than nutritional education or breast feeding promotion, then there will be some major disruptions that deal with WIC clients (most of whom are far too young to vote yet anyway).

"Most of whom are far to young to vote anyway."

The lack of reimbursement mechanisms for costs associated with motor voter tells me that without the McConnell amendment I am looking at an unfunded mandate to provide staff and space for voter registration while taking these same staff away from other clinical duties.

I am quoting, Mr. President, from the people who administer these WIC clinics on the scene. I did not make this up. This is their view of the onerous requirement that they participate in registering voters.

Let me repeat here. Seventy-seven percent of the WIC clients are under age 5. Surely the proponents of this are not suggesting that they be registered. Twenty-three percent of the WIC participants are women. Twenty-three percent of the WIC participants are women, but of that group 12 percent are under 18. They are not eligible to vote. Two-thirds of the WIC lines go to other agencies which are entitled and required to register people to vote.

So we are talking about a minuscule percent of the target audience of the National Voter Registration Act, but a very important group of soldiers out there in the field trying to adequately feed women, infants, and children under the WIC Program.

Mr. President, in order for the WIC clinics to comply with motor voter, they are going to have to utilize administrative funds. WIC has two pots of money: food and administrative. Unlike food stamps, unlike AFDC, unlike Medicaid, WIC is not an entitlement program and does not have a Federal mandate for State matching dollars.

Activities that are funded from the administrative pot of money include eligibility determination, enrolling new participants, health screening for nutritional risk, and nutritional education sessions. So when you have a limited pot of money, Mr. President, it is only logical that paying for one activity will take away from the efforts on other projects.

Motor voter would undermine the ability of WIC workers to increase participation and to focus on nutrition-related activities—the very activities that have made this program so successful in reducing anemia and the incidence of premature and low birthweight babies. As local and State agencies work hard to maximize the use of funds to increase participation, obviously it would be better if we did not divert those funds away from it.

I ask unanimous consent that the letter from the Bullitt County Health Department to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BULLITT COUNTY HEALTH DEPARTMENT

Shepherdsville, KY.

DEAR SENATOR MCCONNELL: I strongly endorse the McConnell WIC/Motor Voter Amendment to the National Voter Registration Act. It's wrong that WIC clinics are to be considered as public assistance offices for purposes of this Act.

WIC has been one of the very few strongly successful government programs. Simply, put, WIC works. It works because the WIC Program is very specific about its mission and has kept focus on it: Improving nutritional status of women and children at risk.

If WIC staff are doing voter registration rather than Nutritional Education or Breastfeeding Promotion, then there were be some major distractions in dealing with WIC clients (most of whom are far too young to vote yet anyway).

The lack of reimbursement mechanisms for costs associated with Motor Voter tells me that without the McConnell Amendment, I am looking at an unfunded mandate to provide staff and space for voter registration while taking these same staff away from other clinical duties.

In closing, I would say that without the McConnell Amendment, the Motor Voter Act penalizes the WIC Program (and all its participants) for its success by infringing upon it.

That's the wrong way to reward an outstanding program like WIC.

Consequently, I again state how strongly I support the McConnell WIC/Motor Voter Amendment.

Sincerely,

NED FITZGIBBONS,
Director.

Mr. MCCONNELL. I want to make one point, and I will be ready to wrap up here. I do not know about my senior colleague, but the League of Women Voters, obviously, was opposed to this amendment. And there has been some correspondence between the National Association of WIC Directors and the League of Women Voters. It is interesting that in the letter to the President of the League of Women Voters, the executive director of the National Association of WIC Directors points out:

Some nineteen tangentially related programmatic requirements have been placed on the program in the last several years. Experience has shown that the time required to serve the nutrition education and breastfeeding support and promotion needs of WIC participants has been seriously eroded by additional requirements placed upon the program by policymakers.

That is, other things before they get to this.

While these requirements benefit participants, they detract from WIC's ability to meet its primary mission. Infrastructure problems (insufficient space, staffing shortages and constrained MIS systems) combined with added requirements, often totally unrelated to nutrition education efforts of the program, e.g. the NVRA, are forcing many participants to experience delays in appointments and others to go unserved.

I ask unanimous consent that this letter be printed in the RECORD as well.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF WIC DIRECTORS,

July 25, 1994.

MS. BECKY CAIN,
President, The League of Women Voters, Washington, DC.

DEAR MS. CAIN: I am in receipt of a copy of your Memorandum to Members of the U.S. Senate dated 11 July regarding the National Voter Registration Act, NVRA.

Just as the League of Women Voters supports WIC, the National Association of WIC Directors, NAWD, is fully supportive of efforts to register voters.

The WIC Program prides itself on being the Gateway to Health Care. WIC strives to reach its mission of providing quality nutrition education and services, breastfeeding promotion and education, dietary food supplements and health care referrals to low income women, and their children at nutritional risk. Programmatic requirements totally unrelated to the mission of WIC infringe upon that mission and seriously detract from the need of staff and participants alike to focus on the health and well-being of the nation's women, infants and children.

In your memorandum, you advised that ". . . efforts to exempt WIC from the NVRA are precipitous. We believe that the concerns that have been expressed . . . will prove to be unfounded."

NAWD takes exception to these comments. Some nineteen tangentially related programmatic requirements have been placed on the Program in the last several years. Experience has shown that the time required to serve the nutrition education and breastfeeding support and promotion needs of WIC participants has been seriously eroded by the additional requirements placed upon the Program by policy makers. While these requirements benefit participants, they detract from WIC's ability to meet its primary mission. Infrastructure problems (insufficient space, staffing shortages and constrained Management Information Systems systems) combined with the added requirements, often totally unrelated to the nutrition education efforts of the Program, e.g. the NVRA, are forcing many participants to experience delays in appointments and others to go unserved.

Your Memorandum goes on to state that "limited voter registration services are required. Effective motor voter programs have demonstrated that this is a minimal responsibility that should not detract from the agencies' primary mission. WIC applicants, should have the same opportunity as driver's license applicants to participate in our political process." According to a USDA study "in 1992 nearly two-thirds of WIC participants received benefits from at least one other public assistance program." NAWD feels confident that the majority of WIC's participants will receive adequate voter registration information without WIC Program involvment in NVRA.

NAWD has expressed its concerns to Members of Congress about the negative consequences voter registration requirements embodied in the NVRA would have on WIC clincs and efforts to successfully accomplish the WIC mission. NAWD advised that if WIC is not exempted from this Act, additional monies must be appropriated to perform this service.

NAWD has calculated that approximately $25.6 million in personnel costs alone will be expended for interview and registration efforts by WIC. This figure does not include MIS or other administrative costs involved in processing information, reproducing materials, the cost of materials or space requirements. Conservatively estimating the cost per participant to be served by the WIC Program at $41 per month, expenditures by WIC on NVRA could force over 624,000 participants to go unserved.

NAWD urges you to reconsider your position and calls upon the League of Women Voters to endorse a healthy future for all Americans. Granting everyone a healthy future stake in the successes of the nation makes for better citizens—willing and fully empowered to participate in the rights of citizenship—among them the right to vote!

Sincerely,

DOUGLAS A. GREENAWAY,
Executive Director.

Mr. MCCONNELL. Finally, let me ask my friend and colleague from Kentucky. He was concerned that the way the amendment was crafted, it might impact other personnel jointly occupying an office. I understand that under

VOL
140
PT
16
AG
12
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18
1994
UMI

the agreement under which we were operating, it would take unanimous consent for me to modify my amendment. If he gives me unanimous consent, I would modify it in such a way that it was more specifically crafted to effect only the personnel who work in an office which provide supplemental food and nutrition education under the section and shall not be considered to be working in an office in a State that provides public assistance for the purposes of this section.

That modification, I believe would deal—I understand it would not gain support if the modification is allowed, but it would deal with the issue he raised.

Mr. FORD. If the Senator will withhold so we can look at that.

Mr. MCCONNELL. Yes.

Mr. President, while the staff is looking at that modification, let me repeat one more time. In the universe of people who come into a WIC clinic, 77 percent are under 5 years old. Of the remaining 23 percent—and they are women who have brought in the children—12 percent of them are under the age of 18. Of this whole universe of people who come into a WIC office, WIC clients, two-thirds of them go to other agencies that are required under motor-voter to provide voter registration assistance.

I offer this amendment today not as an opponent of motor voter, which I confess to have been last year; I offer this as the ranking member of the nutrition subcommittee of the Senate Agriculture Committee, and I do it on behalf of the Nation's WIC directors, the people who are there dealing with the clients every day, who feel that this will get in the way of their providing this service, mostly to children, and mostly to clients who also go to other offices that are required to offer this service under the National Voter Registration Act.

So with all due respect to those who have spoken in opposition to the amendment, I do not see how you can argue this is blowing a gaping hole in the motor voter bill. It seems to me that this is an amendment clearly designed to deal with the nutritional needs of women, infants, and children, and not an amendment designed to eviscerate the Motor Voter Act.

How much time is remaining?

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator has 16 minutes 47 seconds.

Mr. MCCONNELL. I reserve the remainder of my time.

Mr. FORD. I will accept the Senator's modification.

Mr. MCCONNELL. Madam President, I ask unanimous consent to modify my amendment in the way I described.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be so modified.

The amendment (No. 2559), as modified, is as follows:

At the appropriate place, insert the following new section:

SEC. . IMPROVED ADMINISTRATION OF WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(23) The personnel who work in an office which provides supplemental foods and nutrition education under this section shall not be considered to be working in an office in a State that provides public assistance for purposes of section 7(a)(2)(A) of Public Law 103–31."

Mr. FORD. Madam President, I imagine the audience gets confused that each of us is referred to as the Senator from Kentucky. I am the one who is opposed to the amendment. My friend is the one that is the proponent.

I made a point and I think I caught the amendment that was going to eliminate every agency that was combined. I guess you can term it either way you wanted to. But at least I made a point here that this amendment could have eliminated the ability of any office to register.

Madam President, they say they cannot imagine why we would object to something like this. The only issue here has been emotion. We find in the amendment that it could have eliminated the use of registration forms in all offices. Now it has been modified in an effort to limit it. I have shown and filed for the RECORD an amendment from the Center on Budget and Policy Priorities, one of the most respected advocates for the WIC Program, saying it would not take up any time or money. I have a statement from the Department of Agriculture, Nutrition Services, that says you only offer it one time. When they come back, you do not have to offer it again. Here is the Pennsylvania form, right here. You give this to the recipient the first time, and that recipient has a little bit to fill out here, some to fill out here, and questions over here.

There is one question on there. "Does anyone in your household want to register to vote?" You can say, "no," and that is the end of it. You can say "yes," so the employee is required then to say, "Here is the form, and you fill it out. If you have any questions I will help you." That is all.

But what we are doing here is we are denying even the possibility of that mother having this much. We hear a lot of figures—we do not get numbers—77 per percent of those who come into the WIC office are under 5. That is expected, is it not? Then you have 23 percent that are left, and 12 percent of those would go to some other office.

Then you say it is only six-tenths of 1 percent of those who are really meaningful in this. So it is over a million. I am not sure exactly how many, and I do not think six-tenths of 1 percent is a real figure.

But how many mothers are denied under this amendment to have an opportunity to register? They say that this is getting into the voter registration. That is true. That is what he is trying to eliminate. That is what I am trying to keep.

When you have a respected speaker say it is not going to cost much, if anything, it is just the supervisors do not want more work to do—bureaucrats. They say they are robbing them of time with the mother.

So here is the form. Go fill it out. Do you want to register to vote? Here is another form. Fill it out.

How much time does that take? That is not denying anybody anything. It is giving them an opportunity to participate in democracy for those children under 5 that she brought in with her. To pick on women, the very first pop out of the box before this law takes effect, then I just have a lot to wonder about, Madam President, and that is all there is to it. And that is going to deny someone the ability to perform their services.

So, I am going to leave it at that.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Madam President, I think we ought not to beat this to death.

The important thing to remember is that WIC is a child nutrition program. Yes, it serves women. But it does so with the intent of producing a healthy, well-nourished baby and teaching the moms about nutritional feeding habits to pass on to the children.

If the Senate believes WIC as a child nutrition program should register people to vote, then do you also think that school lunch and breakfast programs, child care food programs, and the summer food programs should provide the same registration services?

If that is the rationale, maybe we ought to carry it over to school lunch, breakfast, child care food, and summer food programs. Those programs deal also with children.

If WIC is required to be a voter registration agency, should the election officers be required to administer WIC? Voter registration is totally unrelated to WIC, just as WIC services are totally unrelated to registering voters.

I hope the Senate will not conclude that this amendment, which is the result of correspondence to me as the ranking member of the nutrition subcommittee, correspondence from the National Association of WIC Directors, would be an effort on their part or mine to unravel motor voter.

I hope that people might conclude that the best efforts of those offices should be put forward in dealing with nutritional problems of these folks who come there for services.

I am prepared at this point, if the senior Senator from Kentucky is, to yield back the remainder of my time.

The PRESIDING OFFICER. If I understood the Senator is yielding back the remainder of the time.

Mr. MCCONNELL. No. I want to see if we have finished here.

Mr. FORD. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, I am pleased to join Senator MCCONNELL in offering this amendment to exempt WIC clinics from the requirements of the National Voter Registration Act. Passage of the amendment will help ensure that the integrity of the WIC Program is not jeopardized by unrelated administrative requirements.

Forcing WIC clinics to comply with the requirements of the National Voter Registration Act means that limited administrative funds are diverted from program purposes and redirected to pay for voter registration. WIC is a discretionary program that is attempting to stretch its funds to meet the needs of as many recipients as possible. Using these funds for voter registration is a mistake.

We all know how successful the WIC Program is at meeting the food and nutrition education needs of its clients. I, for one, don't want to see that success imperiled. WIC mothers go to the clinics to receive instruction on breastfeeding and proper nutrition for their children and themselves. They are not there to be registered to vote.

In fact, mothers represent only 23 percent of the WIC client population. Seventy-seven percent of WIC clients are under age 5. So, obviously, WIC clinics are not the best places to seek out and register potential voters.

As my colleagues know, I opposed the passage of the motor-voter bill last year. Motor-voter is yet the latest in a string of unfunded mandates imposed on the States and localities by the Federal Government. With a credit-card mentality, the Federal Government mandates and the States and cities pick up the tab.

Mr. President, in closing I want to thank the distinguished ranking member on the Nutrition Subcommittee, Senator MCCONNELL, for his hard work on this issue. I am pleased to join him and Senator LUGAR, Senator CRAIG, Senator COCHRAN, Senator HELMS, and Senator COVERDELL in cosponsoring this important amendment, and I urge my colleagues to support its passage. What's at stake is nothing less than the integrity of the WIC Program.

THE FOLLY OF REQUIRING WIC OFFICES TO REGISTER VOTERS

Mr. CHAFEE. Mr. President, I am pleased to be a cosponsor of Senator MCCONNELL'S amendment that would exempt WIC offices from the requirements of the National Voter Registration Act, which was approved and signed into law last year.

Some might wonder what voter registration has to do with providing nutrition services to low-income women and infants. That's a very good question. The National Voter Registration Act contains a provision that requires all agencies providing public assistance to offer voter registration services. Of course, this provision included WIC offices.

Although I have never supported the National Voter Registration Act, for a number of reasons that I discussed last year during debate on that measure, I have no argument with the intent of the act. I agree that we should make every reasonable effort to increase voter registration in the hope of encouraging greater participation in the election process. Rhode Island has a motor-voter program that has worked very well since its inception in 1990. The National Voter Registration Act, while well motivated, is seriously flawed, and the effect its implementation will have on WIC offices is one example of the flaws in this act.

But we aren't here to debate the wisdom of the National Voter Registration Act. We are here to reauthorize the Child Nutrition Act and the National School Lunch Act. These programs, particularly the Child Nutrition Act, have been extremely successful. I always have supported expansion of the WIC Program, as has my colleague from Kentucky, who offered this amendment.

In recent weeks, I have received letters and phone calls from the WIC office in Rhode Island asking for my assistance in relieving the burdens that would be imposed by the National Voter Registration Act. John L. Smith, chief of the WIC Program at the Rhode Island Department of Health, wrote to me on June 2, 1994. He took the time to express support for the goals of the National Voter Registration Act but went on to say:

As enlightened as this seems, however, to carry out the provisions of the NVRA requires significant WIC staff time. Such staff time cannot be procured without either purchasing more time or substituting NVRA for other staff activities.

Mr. Smith went on to point out:

At the WIC clinic level, over 80% of the available funds are used for direct nutritional services to WIC clients. Therefore, if the program is required to conduct NVRA activities, it must subtract the time required for these activities from an already expanding set of requirements to provide nutrition assessment and education, drug abuse assessment and referral, breast feeding promotion and support, and information and referral services for health care, financial aid and other nutrition support services, immunization assessment and referral and support services.

In short, Mr. President, we have required the WIC offices to undertake an enormous list of highly beneficial activities. On top of these requirements, we have added registering clients to vote.

There is no doubt in the mind of Kathleen A. Stento, chairwoman of the Rhode Island WIC advisory board, that the requirements of the National Voter Registration Act would have a detrimental effect on the quality of the services provided at Rhode Island's WIC clinics. The advisory council represents the 23 local WIC clinics in Rhode Island. Ms. Stento wrote:

On this matter, we are united: we DO NOT want to give up any of our nutrition education time (nutrition education is the key to our program * * * it is what makes the program unique to any other food assistance programs, and it is what makes the program work). The National Voter Registration Act is worthwhile, but it is not fair to burden the WIC program with its implementation.

I ask unanimous consent that the full text of the letters from Mr. Smith and from Ms. Stento be printed in the RECORD in their entirety.

I do not believe that this is the appropriate time to debate the National Voter Registration Act, but I do believe that we should take the appropriate step of relieving WIC clinics of this terribly burdensome requirement by supporting the McConnell amendment.

There being no objection, the letters were ordered to be printed in the RECORD as follows:

RHODE ISLAND WIC ADVISORY COUNCIL,
Providence, RI, May 26, 1994.

Hon. JOHN H. CHAFEE,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR CHAFEE: I am writing on behalf of the Rhode Island WIC Advisory Council. The Council requests your further support of the WIC Program for the 1994 Reauthorization legislation.

In particular, we look to you to support full funding for the program so that all eligible needy mothers and children can be served and to preserve the nutrition and health prevention focus of the program.

As you are aware, Rhode Island WIC aggressively built the Program over the years and now serves one of the highest proportions of need in the nation. This means, however, that the State does not share in the annual growth funding provided by Congress, under current federal funding formulas. Nevertheless, about 30% of eligible Rhode Islanders are still unserved, and Council members often have to tell eligible parents that their children must be placed on a waiting list, perhaps for a long period of time, until funds are available.

Only with commitment to a full funding approach will resources nationally be sufficient to allow Rhode Island to participate in growth.

I also write to you today, asking that you please consider our strong reservations regarding the National Voter Registration Act, and the negative impact we feel it will have on the local WIC agencies here in your home state.

As chairwoman of the Council, I represent the 23 local agencies in Rhode Island. The WIC Advisory Council meets regularly to discuss matters that affect the WIC program in

VOL 140 PT 16 AG 12 — 18 1994 UMI

Rhode Island, at the grass roots level. We feel very strongly that the potential is great for the National Voter Registration Act to have an extremely negative impact on the quality of the nutrition services we provide at our WIC sites.

The overwhelming consensus among the local agencies is that the time it would take to register voters, would be decreasing the time we have to provide nutrition education services, too greatly. On this matter, we are united: we do not want to give up any of our nutrition education time (nutrition education is the key to our program * * * it is what makes the program unique to any other food assistance programs, and it is what makes the program work).

The National Voter Registration Act is worthwhile, but it is not fair to burden the WIC program with its implementation. Please consider the validity of our argument and do what you can to exempt the WIC program from providing Voter Registration services.

In conclusion, let me again urge you to work towards exempting the WIC program from the National Voter Registration Act. Additionally, I extend to you an invitation to join the WIC Advisory Council of Rhode Island at an upcoming meeting, to discuss in person, our concerns regarding this matter. Please contact me to arrange a place and date if your busy schedule allows. Thank you for your time and attention to this letter, we hope to meet with you at your convenience.

Sincerely,

KATHLEEN A. STENTO,
Chairwoman.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, DEPARTMENT OF HEALTH,
Providence, RI, June 2, 1994.

Hon. JOHN H. CHAFEE,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR CHAFEE: This is to express my appreciation for the opportunity to meet with Coates Lear recently to discuss legislative matters impacting on the WIC Program. This meeting was particularly timely in light of the current consideration of WIC Program reauthorization. At the request of your office, this is to provide additional detail about the potential impact of the National Voter Registration Act (NVRA) on the WIC Program.

This Office believes deeply that the WIC Program's existence, success and support represent an important public policy and that the determination of such important public policies should be made with the fullest possible participation by all members of society eligible to vote. To this end, it is entirely appropriate of government to encourage voter participation and educate citizens to be aware of and knowledgeable about the issues that face the country and which their votes may impact. It is in this spirit that the National Voter Registration Act was passed.

As enlightened as this seems, however, to carry out the provisions of the NVRA requires significant WIC staff time. Such staff time cannot be procured without either purchasing more time or substituting NVRA for other staff activities.

The NVRA, and parallel state legislation, provides no additional financial resources to the WIC Program to purchase more staff time to carry out its activities. Therefore it is apparent that the WIC Program can only carry out NVRA activities by reducing its efforts in other areas. At the WIC clinic level, over 80% of the available funds are used for direct nutritional services to WIC clients. Therefore, if the program is required to conduct NVRA activities, it must subtract the time required for those activities from an already expanding set of requirements to provide nutrition assessment and education, drug abuse assessment and referral, breastfeeding promotion and support, and information and referral services for health care, financial aid and other nutrition support services, immunization assessment and referral, and general preventive health care participation referral and support services.

It is fairly obvious that the preceding activities are all deeply allied with the program's mission of preventive health care. Activities aimed at NVRA support are not so obviously allied. Virtually all Rhode Island WIC clinics are certified voluntary, nonprofit health care sites. They are surprised that the NVRA law defines them as "public assistance agencies". The customary and accepted meaning of that term is defined by the various financial assistance Titles of the Social Security Act, and usually applied to government administered offices or other agencies primarily providing assistance under the Social Security Act. I believe that non governmental subgrantee programs primarily engaged in health care services, should not be defined as public assistance providers, for NVRA purposes.

We respectfully request, therefore, that Congress reconsider the role of the WIC Program with respect to NVRA and determine that either the NVRA activities detract from and do not fit with the preventative health activities, traditional and recently added, of WIC or that NVRA activities should be supported by additional appropriated funds for WIC in order not to detract from the program's nutritional and health assistance role, which has been the basis of its success in reducing low birth rate, infant mortality and poor childhood development.

I thank you for the opportunity to bring these ideas, concerns and recommendations directly to your office.

Please feel free to call on this office at any time for information about how the WIC Program can be of assistance to our fellow Rhode Islanders or how policy options might further or deter the Program's mission, locally or nationally.

Sincerely,

JOHN L. SMITH,
Chief, WIC Program.

UNANIMOUS-CONSENT AGREEMENT

Mr. FORD. Madam President, I understand we now have an agreement between both sides.

I ask unanimous consent that the vote on the McConnell amendment or in relation to his amendment occur at 6:20 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Madam President, I understand that Senator MCCONNELL and I are both ready to yield back.

Mr. MCCONNELL. Madam President, I yield back the remainder of my time.

Mr. FORD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The vote will be at 6:20 p.m.

Mr. FORD. Madam President, I ask for the yeas and nays on the McConnell amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. Mr. President, a few days ago I spoke here about the compelling need for comprehensive health care reform in our country. I said then, as I have on many other occasions, that we need to put far more emphasis on preventive health care so that we can change our current sick care system into a true health care system. By emphasizing more preventive care we will not only promote better health for Americans, but we will also ensure that we spend our money in a smarter way.

Child nutrition programs stand as one of the very best examples of how smart spending on prevention pays dividends in money saved and in healthier and more fulfilling lives for our people. We know that sound nutrition, beginning even before birth, can prevent many problems throughout life. Programs like the school lunch and breakfast programs; the summer food service program; the special supplemental nutrition program for women, infants and children [WIC]; the special milk program; and the child and adult care food program are critically important tools in the effort to improve—and indeed save—lives while spending smarter.

As the chairman of the Nutrition Subcommittee of the Committee on Agriculture, Nutrition, and Forestry, I was pleased to hold hearings earlier this year on this legislation and more generally on the crucial role of sound nutrition in building promising futures for our children. Those hearings followed hearings held by Chairman Leahy which dealt with related aspects of this legislation and the child nutrition programs.

The necessity of sound childhood nutrition and the important role of Federal child nutrition programs could not be clearer. Children who are hungry or undernourished suffer impaired health, growth, physical development and cognitive and behavioral development. Good nutrition is a sound prevention strategy against a host of serious and costly health problems including infant mortality, premature births, low birth weight, anemia, and even lead poisoning. For example, studies have shown that each $1 invested in WIC prenatal assistance saves from $11.92 to $4.21 in Medicaid costs. In a study I requested, the GAO estimated that the initial investment in WIC prenatal benefits of $296 million in 1990 would save $1.036 billion in health and education expenditures over the next 18 years.

Undernourished children simply do not learn as well as they should. The President recently signed the goals 2000 education bill, which included the goal that every U.S. child enter school ready to learn. But without proper nutrition our children simply will not be ready to learn.

We are also gaining a much clearer picture of the specific ways in which nutrition and dietary patterns early in life affect health throughout life. Three of four leading causes of death in our Nation have been linked to diet. Sound nutrition and dietary habits in childhood and adolescence have been linked to the prevention of chronic disease and illness later in life. And healthy dietary habits formed in childhood provide a solid foundation for a lifetime of healthier eating.

Simply put, without sound nutrition our Nation's children will be foreclosed from attaining their full human potential for leading healthy and fulfilling lives. When our children's lives are diminished, each and every one of us is also diminished in some way, as is our Nation. And despite the encouraging progress that has been made, millions of children in our Nation remain at risk for the damaging consequences of inadequate or unsound nutrition. With all that is at stake, we simply cannot afford to be complacent about the nutrition of our Nation's children.

Once again, I want to congratulate Chairman LEAHY for his leadership on this legislation that we have put together in the Agriculture Committee and to commend him for his heartfelt commitment to nutrition issues, particularly regarding children. This bill reauthorizes and makes improvements in the various Federal child nutrition programs. The legislation will improve the ability of the programs to meet the nutritional needs of our Nation's children. And, in recognition of the link between diet and health, the legislation will help improve the nutritional quality of the meals children receive.

Despite severe budgetary limitations, this legislation will achieve significant improvements in child nutrition programs. The bill provides for stronger efforts to include more children in the school breakfast and summer food service programs. The bill provides for more help to local school districts to improve the nutritional quality of the meals they serve and to meet new USDA nutrition guidelines. USDA will be directed to improve the nutritional quality of commodities provided to schools and to label commodities in order to enhance the benefit to schools of the commodity distribution program.

The bill also reauthorizes the WIC program and makes a number of improvements designed to help the program better achieve its objectives and to facilitate administration of the program. In particular, the bill reinforces and strengthens efforts within the WIC program to promote increased breastfeeding. I worked to include breastfeeding promotion in the 1989 WIC reauthorization, and am very pleased that this bill expands these efforts. I am also pleased that this bill reauthorizes the WIC Farmers Market Program and provides for the growth of program, both in States like my State of Iowa already in the program and through the participation of additional States. We also initiated this program through the 1989 bill, and it is very gratifying to see that it has become a very popular and successful program.

Finally, I want to mention the important provisions of the bill designed to prevent and deter fraud, bid-rigging and other anticompetitive activities in procurement for the child nutrition programs. The bill will significantly strengthen USDA debarment procedures, and will provide training, technical assistance, advice and guidance to help State and local agencies prevent and avoid fraud and anticompetitive activities. I have a keen interest in these provisions of the bill. Any fraud against Government programs is detestable, but cheating child nutrition programs surely falls into a distinct category of outrageous behavior.

Mr. President, this legislation represents a crucial part of our Nation's prevention strategy. It is not only nutrition legislation. It is also health legislation. And it is education legislation. I urge my colleagues to support this important bill.

Mr. DOLE. Mr. President, I rise in support of legislation to reauthorize the child nutrition programs. This legislation revises and extends the Supplemental Nutrition Program for Women, Infants and Children [WIC], the Summer Food Service Program, the Commodity Distribution Program, State administrative expenses and the Nutrition Education and Training Program. The bill also makes a number of changes in those child nutrition programs which are permanently authorized.

One provision addresses an issue which is very important to me. In compliance with USDA child nutrition and section 504 regulations many schools around the country are working to make the National School Lunch and School Breakfast Programs accessible to children who, because of disability or chronic illness, are unable to eat what is on the regular menu. To accomplish this task, these schools need specific technical guidance.

A popular maxim among those of us here in Congress who actively support school meal programs is that a hungry child cannot learn. This is doubly true of children with special dietary needs. For a child with diabetes or severe allergies, appropriate nutrition can mean the difference between sickness and health. For a severely disabled child, appropriate nutrition can mean the difference between being alert and responsive or passive and withdrawn.

When the school lunch program was established in 1946, and when I was involved in expanding it during the early 1970's, no one envisaged that regular schools would be asked to serve children with such a wide array of disabilities and chronic illness. Many of these children come from low-income families without the financial resources to provide them adequate nutrition, making their needs that much more pressing.

Section 123 of this bill requires USDA to issue guidance to assist schools and other institutions in accommodating the special dietary needs of these children. The guidance will give meal providers a greater understanding of how they can meet these needs. In many cases, accommodation may require no more than substituting fruit for a piece of cake or making available a special plate or cup. In other cases, the preparation of special meals may be necessary.

This section also contains discretionary funding for grants to States to cover nonrecurring costs associated with accommodating special needs children. These funds will be awarded on a competitive basis and can be used to purchase special feeding and food preparation equipment. Other appropriate uses would include providing training or purchasing educational videos, manuals, or other training materials dealing with accommodating children with special dietary needs.

The grants included in this bill will assist the food service community in providing for the special needs of these children. This bill contains other worthy provisions which refine operating procedures, reduce paperwork and establish targeted discretionary pilot programs and assistance grants.

Mr. President, in closing I want to thank the distinguished chairman and the ranking member of the Agriculture Committee, Senator LEAHY and Senator LUGAR, the chairman and ranking member of the Nutrition Subcommittee, Senator HARKIN and Senator MCCONNELL, and Senator COCHRAN, their staffs, and their members of the Senate Agriculture Committee for their hard work on this legislation. This bipartisan effort addresses needed changes in the child nutrition programs and will ensure their continued effectiveness. I urge my colleagues to give it their support.

Mr. GRASSLEY. Mr. President, I am pleased that we have come to the place of floor action on S. 1614, the Better Nutrition and Health of Children Act of 1993. This Act has several provisions that historically have been very important to our country. It also has provisions that have been particularly important to Iowa.

The WIC Program has received overwhelming support over the years from Republicans and Democrats alike. It has proven successful in providing preventative care for women, infants, and children by providing good basic nutrition.

I, like many of my colleagues, have consistently supported greater funding

VOL 140 PT 16 AG 12 — 18 1994 UMI

for the program as a means of reducing other health costs down the road.

I am pleased to see an increase in funding for the WIC breastfeeding program. Medical research shows that children who are breasted are less likely to encounter certain physical challenges than children who are formula fed. The Iowa WIC program has consistently encouraged WIC recipients to breastfeed their children for both physical and emotional health reasons.

The Farmers' Market WIC Program has been one of the projects in which I have had special interest for several years. The program provides fruits and vegetables for nutritionally at-risk women and children. In Iowa alone, it serves countless thousands who would not have received fruits and vegetables otherwise. Additionally, it helps farmers who need to diversify their market and encourages use of farmers' markets generally. Research shows that women continue to use farmers markets even after they are no longer officially part of the Farmer Market WIC Program.

I am pleased with several provisions of the committee bill being considered today. The committee language has increased funding for the Farmers Market Program and provided for a greater administrative match. Because farmers markets are not year round in many States, there are special considerations, such as start up and shut down costs for these programs that other programs do not face. Additionally, the bill allows States to use up to 1 percent of its funds for market development in areas where there are no farmers markets for nutritionally at risk families. This provision will allow States to develop farmers markets in underserved areas.

Of course, the school breakfast and lunch program are an important part of any child nutrition reauthorization. The bill before us provides appropriate attention to the millions of children served through these programs. It addresses the issue of moving toward school breakfast and lunches serving nutritious foods, but does so in a way that is not overly burdensome to school districts trying to care for our children. It also provides flexibility to school districts to choose lowfat or skim milk products if they prefer these products to whole milk.

I am pleased that the committee has been able to address my chief concern with the proposal, which was its original cost. Many of the high cost provisions originally in the bill have been dropped so that we have a balanced bill before us today. I join my colleagues in supporting this final proposal.

Mr. FORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

the legislative clerk proceeded to call the roll.

Mr. FORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Madam President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF ADM. HENRY MAUZ, JR., U.S. NAVY, TO RETIRE IN GRADE

Mr. NUNN. Madam President, the Committee on Armed Services today reported the nomination of Adm. Henry Mauz, Jr., U.S. Navy, to retire in grade. In view of the media attention to certain allegations about this nomination, the committee has directed the chairman and ranking minority member to prepare a statement describing the committee's action. I ask unanimous consent that a joint statement prepared by myself and Senator THURMOND be included in the RECORD at this point, along with the documents referred to in the joint statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT BY SENATOR SAM NUNN, CHAIRMAN OF THE SENATE ARMED SERVICES COMMITTEE AND SENATOR STROM THURMOND, RANKING MINORITY MEMBER, CONCERNING THE NOMINATION OF ADM. HENRY MAUZ, JR., U.S. NAVY, TO RETIRE IN GRADE

Admiral Henry Mauz, Jr. is currently serving as the Commander in Chief, U.S. Atlantic Fleet. On May 10, 1994, he was nominated by President Clinton to retire in grade as a four star admiral after more than 35 years of outstanding service.

The Committee was prepared to act on the Mauz nomination in July, when we received a letter about the nomination from the Government Accountability Project (GAP), a non-profit organization, dated July 11, 1994. The letter contained allegations of inappropriate action by Admiral Mauz with respect to investigation and disposition of sexual harassment incident. The letter also contained allegations that Admiral Mauz had inappropriately used government assets and retaliated against a whistleblower.

The Committee followed its normal procedures and forwarded the material to the Navy, directing the Navy to address the issues set forth in the letter. The Committee subsequently received an additional letter from GAP, dated August 5, 1994, which also was forwarded to the Navy.

Adm. J.M. Boorda, the Chief of Naval Operations, responded to the first letter from GAP in a letter dated July 27, 1994. Secretary of the Navy John Dalton responded to the second letter on August 5, 1994. The Committee has carefully considered the material provided by GAP and the responses provided by the Navy, copies of which are attached. The Committee has received a report on these and other matters. Based on the material provided by the Navy, and Admiral Mauz's record of service, the Committee has recommended that the Senate confirm his nomination to retire in grade.

CHIEF OF NAVAL OPERATIONS,
July 27, 1994.

Hon. SAM NUNN,
Chairman, Senate Armed Services Committee, U.S. Senate; Washington, DC.

DEAR MR. CHAIRMAN, I am responding to your letter of July 21, 1994 to the Secretary of the Navy which enclosed a letter from the Government Accountability Project, concerning the retirement confirmation of Admiral Henry Mauz, Jr., U.S. Navy. I have reviewed the letter as well as the letters from Lieutenant Darlene Simmons and Senior Chief George Taylor that were included. It is my judgment that the allegations in these letters are not correct. Admiral Mauz has served faithfully and well in every assignment including this final one as a four star officer and deserves to retire in grade.

Before turning to these allegations, I want to state that Admiral Mauz is completing a career that exceeds thirty-five years of dedicated service to our Nation. He is scheduled to retire and desires to do so. His relief has been confirmed and is ready to assume the duties of Commander in Chief, U.S. Atlantic Fleet. Admiral Mauz's plans to enter the next phase of his personal and professional life are being delayed as is the assumption of command by the relieving officer. Admiral Mauz's performance has been outstanding throughout his career including, especially including, this final tour as Commander in Chief, U.S. Atlantic Fleet.

With regard to LT Simmons, Admiral Mauz did not suppress the evidence of any inquiry, did not fail to take corrective action on behalf of LT Simmons, nor did he fail to follow proper procedures in inquiring into allegations. Further, the Inspector General of the Atlantic Fleet did not cover-up the nature and extent of underlying problems nor prevent appropriate remedial action in the case.

The case of LT Simmons is an involved one with several complaints, overlapping in time, and inquiries that took place over nearly two years. It is clear that in 1992 LT Simmons was sexually harassed while stationed aboard USS CANOPUS (AS-34). While serving as Legal Officer in that ship she received repeated requests for dates and comments about her physical appearance from another officer who was one rank senior to her and with whom she worked closely in the performance of her duties.

The case was initiated at the shipboard level on 1 June 1992, when LT Simmons reported to the ship's Executive Officer that she was being sexually harassed by another officer. The allegations involved repeated requests for dates and comments about her physical appearance. On 5 June 1992, the officer was counseled and administrative action was taken. He requested retirement from the Navy as was his prerogative.

Unfortunately—and unacceptably—an atmosphere of harassment and hostility persisted, particularly as the retirement of the officer involved was not effective until April 1993, and he remained on duty on the ship. On 9 October 1992, an anonymous DOD IG hot line call and a call by LT Simmons to Congresswoman Schroeder and to the then Assistant Secretary of the Navy, Barbara Pope, raised the visibility of this case.

Admiral Mauz responded promptly when informed of the matter as a result of these calls. To assure fairness and high-level attention, he directed his Special Assistant for Women's Affairs, CDR Miller, to join an investigation by COMSUBGRU 10. Following a briefing by Commander Miller, the offending officer was moved off the ship by the Commanding Officer in October 1992. The CO assembled all officers and told them that LT Simmons had been sexually harassed, condemned this behavior, and emphasized that any harassment would not be tolerated.

LT Simmons states in her letter that Commander Miller substantiated the sexual harassment. That is true. There is no question that LT Simmons was sexually harassed. As the Commander in Chief, U.S. Atlantic Fleet, Admiral Mauz acted promptly and appropriately. He directed the necessary actions to ensure a thorough and timely response to LT Simmons's allegations. The expeditious assignment of Commander Miller to examine the case and ensure that LT Simmons had a direct conduit to him clearly substantiates his personal concern and direct involvement in investigating LT Simons's allegations.

Nor was this the end of Admiral Mauz's concern. In December 1992, Admiral Mauz returned to this matter. He personally intervened with the Chief of Naval Personnel to extend LT Simmons on active duty and assure her assignment to another command.

At this time also, LT Simmons complained that her transfer fitness report was issued in reprisal. The Inspector General investigation, completed in the spring of 1993, substantiated LT Simmons's original allegations of sexual harassment and also concluded the Commanding Officer of CANOPUS failed to recognize the development of a hostile command climate. Accordingly, the Commanding Officer was counseled by his immediate superior. While the Inspector General concluded the fitness report was not reprisal, the Secretary of the Navy later concluded that he would review, through the Board for Correction of Naval Records, any alleged injustice in her military record and that LT Simmons would be given the option of a new duty station with orders retaining her on active duty until September 1996. The Secretary stated that his decision was based on his recognition that ". . . your [LT Simmons] harassment, and the energy required on your part to address issues springing from it, impaired your ability to demonstrate fully what you can contribute to the Navy." The Secretary's action in correcting the fitness report, intended to provide LT Simmons with an opportunity to continue her naval career, was a decision that only the Secretary is empowered to make.

On his own initiative, Admiral Mauz returned to this matter for a third time in 1993. In a series of actions he manifested his concern that improvements should be made in handling cases of this kind. To effect change in this regard, Admiral Mauz, in April of 1993, issued a policy statement for the "Prevention of Sexual Harassment" to all Atlantic Fleet activities. It addressed Department of the Navy policy and the need for training in place. It asked every manager, supervisor, and employee, military and civilian, within Admiral Mauz's command with the responsibility for carrying out the DON policy on prevention of sexual harassment.

In June 1993, Admiral Mauz signed a combined LANT/PACFLTINST 5354.1 (Equal Opportunity) that revised the Command Managed Equal Opportunity program and incorporated sexual harassment requirements from a new SECNAVINST.

In September 1993, Admiral Mauz issued a PERSONAL FOR to ensure each commander was cognizant of the contents of the combined LANT/PAC Equal Opportunity instruction. He directed each commander to review the implementation of the program, including sexual harassment, in his command to ensure compliance. ISIC's were directed to include this as a special interest item for command inspections, and were directed to utilize Equal Opportunity Program Specialists in their inspections to the maximum extent possible.

Going well beyond normal bureaucratic requirements, in April 1994, Admiral Mauz returned to this matter again. To assure that fleet priorities and procedures would be as good as they could be, he personally conducted a training session for all flag officers assigned to the Atlantic Fleet. The subject was a case study in sexual harassment, and on addressing it, Admiral Mauz used both information obtained from the inquiry about LT Simmons case and information provided by LT Simmons herself. Finally, Admiral Mauz recognized that additional training was needed beyond what the initial curriculum in sexual harassment provided. Accordingly, he directed the development and distribution of a kit to assist commanders with the investigation and disposition of sexual harassment complaints. This kit formed the nucleus for the newly published Navy Sexual Harassment Handbook.

In January 1994, LT Simmons forwarded allegations of criminal dereliction by Admiral Mauz in the handling of her case. As the facts of the case did not, in fact, justify criminal charges, they were determined to be more appropriate for resolution under the provisions of Article 1150, U.S. Navy Regulations, Redress of Wrong Committed by a Senior, than under the Uniform Code of Military Justice (UCMJ). The allegations were accordingly returned to LT Simmons by the Vice Chief of Naval Operations, on advice of counsel, for forwarding as a matter under Article 1150. In response, LT Simmons indicated she did not desire to pursue an Article 1150 complaint. Nevertheless, LT Simmons's allegations were referred to the Naval Inspector General. The Inspector General found the allegations against Admiral Mauz to be without merit. Admiral Mauz did not influence, or attempt to influence, the Inspector General's decision in this matter.

With regard to Senior Chief Taylor, the allegation that Admiral Mauz influenced the charges against Senior Chief Taylor after Senior Chief Taylor arrived at Port Hueneme, California, is without basis.

By way of background, there were charges brought against Senior Chief Taylor after he began his tour of duty in California. These charges addressed irregularities in the manner in which Senior Chief Taylor performed his duties. Senior Chief Taylor declined to have his case heard under Article 15 of the UCMJ, as was his right. As a result, charges were referred to a special court-martial. After charges were referred, Senior Chief Taylor's chain of command in the Pacific decided it was appropriate to move the case out of the Port Hueneme area to ensure an independent review of the case. Accordingly, the charges were considered by a Flag Officer in command in the San Diego area.

Following a newspaper account which stated that the charges against Senior Chief Taylor had been withdrawn in response to allegations of retaliation for his whistle-blowing activity in Bermuda, Admiral Mauz's Executive Assistant asked the senior Staff Judge Advocate to call his counterpart at Port Hueneme for additional information. A call was made and the situation was clarified. The senior Staff Judge Advocate verbally reported his findings to the Executive Assistant who then briefed Admiral Mauz as to the action he had taken. There was no influence on the case and, in fact, the charges had already been withdrawn at the time of the call.

Subsequently, unbeknownst to either the senior Staff judge Advocate or Admiral Mauz, a junior Staff Judge Advocate obtained a copy of the defense motion that was the basis for withdrawal of the charges, as well as a copy of the charge sheets, from a friend who was then Officer in Charge, Navy Legal Service Office, Port Hueneme. The Officer in Charge believed that in providing that documentation, he was responding to an official request from Admiral Mauz's staff and acting quite properly he informed Senior Chief Taylor's military counsel of the actions he had taken to comply with that request. While these documents were shared with the senior Staff Judge Advocate, he did not speak of them to any other staff member. Clearly, the junior Staff Judge Advocate's inquiry and receipt of documents did not stem from Admiral Mauz. In fact, Admiral Mauz did not become aware of the documents until their existence was revealed during my inquiry into Senior Chief Taylor's allegation preparatory to making this letter response. In this vein, Admiral Mauz's statement to Navy Times on July 21, 1994, that "I don't really recall this, but I think I said ok," to an inquiry regarding the newspaper account was not an accurate recollection. In fact, Admiral Mauz's Executive Assistant states that he, independently and without Admiral Mauz's knowledge, instituted the lawyer's inquiry into the newspaper article. These matters, taking place after the withdrawal of charges at Port Hueneme, could not have had any impact in any event.

The San Diego commander convened an Investigation under Article 32 of the UCMJ to inquire into the matter and make recommendations as to appropriate disposition. The senior Judge Advocate assigned to conduct the Article 32 Investigation concluded there were reasonable grounds to believe that four offenses should be charged, with a total of seven specifications thereunder. The senior Judge Advocate recommended that the charges be adjudicated under Article 15 of the UCMJ, but noted that should Senior Chief Taylor decline Article 15, referral of the charges to special court-martial would be appropriate. The Commander in Chief of U.S. Pacific Fleet, however, determined that the nature of charges did not warrant referral to court-martial and directed counseling as the appropriate remedy, thereby closing the case.

In summary, Admiral Mauz was not involved in Senior Chief Taylor's case in California. He played no role in the charges themselves or in the disposition of the charges.

Senior Chief Taylor had accused Admiral Mauz of misconduct with regard to Admiral Mauz's travel to Bermuda. As a result of Senior Chief Taylor's allegations regarding Admiral Mauz's travel to Bermuda, the Naval Inspector General conducted a complete and thorough investigation. The investigation did not disclose any misuse of government facilities. The Inspector General determined that Admiral Mauz conducted significant official business while in Bermuda, including an inspection of the air station's facilities, addressing base personnel at an "All Hands" meeting and making calls on the U.S. Consul General and the Governor of Bermuda. Admiral Mauz took two days of leave while in Bermuda, in compliance with Navy guidelines for combining leave and official travel. The Inspector General determined that the scheduling of the trip created

VOL 140 PT 16 AG 12 — 18 1994 UMI

the perception of impropriety and that there was a violation in the use of government drivers during the period of time that Admiral Mauz was on leave, as a result of which Admiral Mauz received informal written counseling.

Admiral Mauz did not remove Senior Chief Taylor from his duties or attempt to prosecute Senior Chief Taylor for insubordination as a result of Senior Chief Taylor having publicly accused Admiral Mauz of misconduct, as alleged by Mr. Ruch of the Government Accountability Project. Senior Chief Taylor originally alleged that his Commanding Officer in Bermuda had taken those actions as reprisals for his whistle-blowing activity in Bermuda. After a thorough investigation of the facts surrounding those actions, however, the DoD IG concluded that the actions were warranted under the circumstances and did not constitute reprisal. In fact, at the time the actions were taken, no one was aware of Senior Chief Taylor's whistle-blowing activity. The difficulties Senior Chief Taylor was experiencing in Bermuda preceded any knowledge by naval personnel, including his Commanding Officer and Admiral Mauz regarding his complaints.

Admiral Mauz has served his Navy and Nation for over thirty-five years. He has served in positions of great responsibility and he has served his Nation well.

I have discussed this letter with the Secretary of the Navy and he and I are in complete agreement that Admiral Mauz should be confirmed to retire in his four star grade and that he should be permitted to depart his command in a timely manner.

I am, of course, prepared to provide you any additional information that you or the other members of the Committee may require. Thank you for your consideration. I have sent an identical letter to Senator Thurmond.

Very respectfully,

J.M. BOORDA,
Admiral, U.S. Navy.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, DC, August 9, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, I am responding to your letter of August 5, 1994, concerning the retirement confirmation of Admiral Henry Mauz, Jr., U.S. Navy.

The latest GAP letter alleges improper communications between the members of Admiral Mauz staff and persons assigned in the Port Hueneme area who had knowledge of the court-martial case involving Senior Chief Taylor. In order to be able to assure the Committee that we were providing all information relevant to this matter, OPNAV staff spoke with the persons concerned and confirmed the accuracy of those parts of the Chief of Naval Operations' 27 July letter to you that addressed this issue (pages 4 and 5).

Senior Chief Taylor had charges brought against him arising out of actions in November 1993 while serving at the Naval Construction Battalion Center (NCBC), Port Hueneme, California. He had previously requested in writing to be transferred outside the Commander in Chief, U.S. Atlantic Fleet (CINCLANTFLT) chain of command, and the Bureau of Naval Personnel approved that request by assigning him to an appropriate billet in his rating at Port Hueneme. He reported to NCBC Port Hueneme for duty in December 1992.

After referral to trial of the November 1993 charges, the convening authority (NCBC Port Hueneme) decided it was appropriate to move the case out of the Port Hueneme area to ensure the fair and independent disposition of the case. To this end, the convening authority withdrew the charges on March 26, 1994. My inquiry revealed no communications between Admiral Mauz or anyone on his staff and those involved with bringing the charges, and ultimately withdrawing the charges, against Senior Chief Taylor prior to the withdrawal of charges in March 1994.

The proceedings in Senior Chief Taylor's case were mentioned in a short Orlando Sentinel article of March 29, 1994, which appeared in a Pentagon compilation of news articles on 1 April. In describing the withdrawal of charges relating to Senior Chief Taylor's alleged negligent and improper arrest of a service member, the article stated that his attorneys had filed documents "contending the misconduct charges were retaliation for Taylor's comments" in the past regarding Bermuda. Admiral Mauz' Executive Assistant saw the article and asked the senior Staff Judge Advocate to ascertain what, if any, connection there could have been between Senior Chief Taylor's current situation in Port Hueneme and Bermuda. Both officers were confident that CINCLANTFLT had taken no action whatsoever in retaliation against Senior Chief Taylor, and they were understandably concerned that such a suggestion might have been made and believed it important to ascertain the basis, if any, for such an allegation.

The CINCLANTFLT staff Judge Advocate called the NCBC Staff Judge Advocate, who confirmed the news article was indeed misleading and that there was no suggestion during the proceedings of any involvement by CINCLANTFLT or his subordinates in Senior Chief Taylor's case. The NCBC Staff Judge Advocate explained the charges involved Senior Chief Taylor's law enforcement activities while assigned to NCBC Port Hueneme. The charges included an allegation that Senior Chief Taylor engaged in unauthorized off-base law enforcement activities, including carrying a government-issued firearm off-base. The CINCLANTFLT Staff Judge Advocate recounted this information to the Executive Assistant, who then spoke briefly to Admiral Mauz about the matter. The request for clarification of the short news article was appropriate in order for CINCLANTFLT to ascertain whether there were grounds for investigation into any alleged impermissible actions by anyone under the command of CINCLANTFLT.

Neither Admiral Mauz, nor any other CINCLANTFLT official, was involved with the referral or withdrawal of the charges, which arose solely from events centered in NCBC Port Hueneme nearly a year after Senior Chief Taylor's transfer to that command. On 23 March 1994, Senior Chief Taylor's defense counsel in the pending case filed a "motion to dismiss for vindictive prosecution," alleging the Port Hueneme convening authority had made an unlawful decision to prosecute Senior Chief Taylor. The defense motion complained mainly about he vigor with which the Port Hueneme command pursued the charges against Senior Chief Taylor, alleging that members of that command "had distaste" for his previous whistleblowing activities and the charges were being pursued because Senior Chief Taylor exercised his rights to remain silent and to refuse nonjudicial punishment for his alleged improper law enforcement activities. The defense pointed to alleged statements by officials in Port Hueneme suggesting that they had focused inordinate attention on his previous, well-publicized disclosures relating to Bermuda. The defense motion did not allege "personal interest" or any actions or involvement relating to this case by Admiral Mauz or anyone subordinate to him.

With regard to receipt of a copy of the defense motion by a member of the office of the CINCLANTFLT Staff Judge Advocate, the GAP letter is incorrect in stating that this occurred prior to the call seeking clarification of the news article. I have reconfirmed the office of the CINCLANTFLT Staff Judge Advocate received the motion more than a week after the charges were withdrawn. This occurred when a Navy judge advocate assigned to an NCBC Port Hueneme tenant command called some of his lawyer colleagues to offer to send them copies of the document, which he found to be unique and very interesting from a professional perspective. One of these officers was an attorney in the office of the CINCLANTFLT Staff Judge Advocate with whom he had worked closely in the past. The two officers had maintained a close professional association and friendship, and spoke with each other and exchanged faxes regularly on professional issues. The CINCLANTFLT Lieutenant accepted the offer, but upon receipt noticed that portions of it were illegible. In order to obtain a better copy, she called the Officer in Charge, Naval Legal Service Office Detachment, Port Hueneme, who was reluctant to provide the document, despite the fact that it was one of the papers in a public court proceeding, to people who were merely curious about the case and had no official reason to have it. The CINCLANTFLT Lieutenant replied that when allegations relating to a command appear in the press, the command has a valid interest in ascertaining the basis, if any, of such allegations. The Officer in Charge agreed that this was a valid reason and, believing that he had received a reasonable request from the CINCLANTFLT staff, he faxed her a copy. Since the Officer in Charge viewed the call as a CINCLANTFLT request, he so informed Senior Chief Taylor's defense counsel.

The request for the document did not stem from Admiral Mauz. During the further inquiry by OPNAV staff, the Officer in Charge verified the CINCLANTFLT Lieutenant neither demanded a copy of the motion, nor stated that her call was at the personal request of Admiral Mauz. Moreover, the document was not shared outside the CINCLANTFLT Staff Judge Advocate's office. Since the document included no allegations of impropriety by Admiral Mauz or anyone in CINCLANTFLT, and had not been requested by Admiral Mauz or anyone else on his staff, there was no reason for the Staff Judge Advocate to provide the document to, or discuss it with others.

There is simply no basis whatsoever for any claim that Admiral Mauz took a personal interest in the case involving Senior Chief Taylor. The facts as confirmed by thorough inquiry show the accuracy of Admiral Mauz' public statement categorically denying any such allegation. The communications by members of his staff were permissible and in no way alter this conclusion. There was no attempt or intent in any of these communications to affect the case.

I have sought to answer the GAP letter's claims candidly, thoroughly and accurately in order to assist the Committee in its deliberations on Admiral Mauz' confirmation to retire in his four-star grade. I believe strongly that there is no basis for the GAP claims and that Admiral Mauz' confirmation—and the assumption of command by his successor—should not be further delayed.

I am available at any time to discuss this matter further with you or to provide you any further information you desire. Please do not hesitate to call on me. I have sent a similar letter to Senator Thurmond.

Sincerely,

JOHN H. DALTON,
Secretary of the Navy.

GOVERNMENT ACCOUNTABILITY PROJECT,
Washington, DC, July 11, 1994.

Hon. SAM NUNN,
Chairman, Senate Armed Services Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR NUNN. On behalf of the Government Accountability Project (GAP) I am writing to bring information to the attention of your committee bearing on the merits of the retirement of Admiral Henry Mauz at the "four star" level.

GAP is a non-partisan, non-profit whistleblower protection organization. GAP provides legal representation and other support services to workers both within and outside federal service. Two of our clients, Senior Chief Master-at-Arms George R. Taylor and Lt. Darlene S. Simmons, JAGC, USNR, have had direct, recent experiences with Admiral Mauz and their letters are attached for your consideration (Attachments 1 and 2).

As Senior Chief TayIor's letter indicates, Admiral Mauz misused government facilities and property at the Bermuda Naval Air Station for his and his family's personal use. When these actions were brought to public attention, Admiral Mauz and his staff retaliated against Taylor, stripping him of his duties and attempting to prosecute him for insubordination. Following his transfer to the base at Port Hueneme, California, Taylor was faced with a 48-count court martial on a supposedly unrelated matter. This incident was closely monitored by Admiral Mauz's legal staff for the Atlantic Fleet. All charges against Taylor were subsequently dismissed.

As Lt. Simmons's letter indicates, Admiral Mauz was aware of sexual harassment against Lt. Simmons and the failure of her command to take proper action. Admiral Mauz suppressed the findings of his own command's inquiry into the issue. Despite his personal involvement and knowledge of the situation, Admiral Mauz failed to order any corrective action be taken on behalf of Lt. Simmons. Finally, the Vice Chief of Naval Operations, Admiral S.R. Arthur, refused to accept a formal complaint from Lt. Simmons alleging dereliction of duty in violation of the Uniform Code of Military Justice against Admiral Mauz.

While the Secretary of the Navy, John H. Dalton, recently ordered corrective action on behalf of Lt. Simmons (an apology, clearing her record, a new duty station and letters of censure for three officers in her former chain of command [see Attachment 3]), * * *

PONTE VEDRA, FL,
July 8, 1994.

Senator SAM NUNN,
Chairman Armed Services Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR NUNN: I am writing this letter to express my concern that Admiral Henry Mauz may retire at the Four Star Level, a distinction indicative of extraordinary service. I request that during the deliberation process of this issue the information regarding Admiral Mauz's involvement in the handling of my sexual harassment case be considered. I believe Admiral Mauz was (1) Derelict in his Duty through his culpable inefficient and negligent handling of my case of sexual harassment. (2) Admiral Mauz failed to act on my report of sexual harassment, retaliation and reprisal. I specifically report to you that Admiral Mauz failed to follow those procedures directed by the Department of Defense and the Department of the Navy. (3) Admiral Mauz in his position as Commander In Chief of the Atlantic Fleet Mauz intentionally allowed sexual harassment, retaliation and reprisal by senior officers in my chain of command to go unchecked. Admiral Mauz used his official position to protect those guilty of sexual harassment and then to cover up his inefficient handling of the matter.

Admiral Mauz had knowledge in October 1992 that I was sexually harassed. This harassment was substantiated by a member of his staff, Commander Cathleen Miller. Admiral Mauz was also aware of the failure of my chain of command to handle the matter from May 1992 until October 1992. A command inquiry was conducted in October 1992. This command inquiry substantiated the sexual harassment which I had reported in May 1992. The command inquiry also substantiated the existence of a hostile environment in which I worked from May 1992 until October 1992. Admiral Mauz was familiar with those substantiated facts and took no action.

On December 28, 1992 I suffered reprisal for my report of sexual harassment when I received an adverse fitness report. I reported this retaliation and reprisal directly to the aide of Admiral Mauz. I was assured on that same day that Admiral Mauz was personally involved and that proper corrective action would follow. I relied in good faith on these assurances. My good faith reliance was not justified. Instead of taking corrective action the reprisal was covered up. Admiral Mauz was personally involved in this negligent handling of my report of reprisal. Admiral Mauz was the highest level of leadership in my chain of command.

I then reported the failure by my entire chain of command to properly handle my report of sexual harassment and reprisal to the Department of Defense, Inspector General's, office. This report was then referred to the Navy Inspector General. I believe that Admiral Mauz used his position to influence the report from the Navy Inspector General's office in order to protect himself because he knew that he and the chain of command had failed to take appropriate action in my case of sexual harassment.

I actually swore to these facts on a charge sheet for violation of the Uniform Code of Military Justice Article 92 by Admiral Mauz. This charge sheet and supporting memorandum was returned to me without any investigation whatsoever. This was inappropriate and not in accordance with applicable instructions and orders.

I believe Admiral Mauz has perpetuated the discrimination against women in the U.S. Navy with his failure to take swift and tough action against sexual harassment. I believe his failure to hold anyone accountable in my case of sexual harassment was Dereliction of his duties. One who is derelict in the performance of duty should not be rewarded for extraordinary service.

Sincerely,

DARLENE S. SIMMONS.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, DC, May 12, 1994.

Lt. DARLANE S. SIMMONS, JAGC, USNR,
Naval Legal Service Office, Mayport, FL.

DEAR LIEUTENANT SIMMONS: I am writing to discuss your future in the U.S. Navy. Before doing so, however, I wish to express my profound regret over the harassment that you unfortunately experienced. No one in our Navy or Marine Corps should be treated as you were. My goal is to send the message to every Sailor, Marine, and civilian in our Department that we are to treat others with the same respect and dignity we expect ourselves.

I believe we have made significant progress during the past 18 months to implement a comprehensive program aimed at eliminating sexual harassment from the workforce. As you know, we issued our revised policy guidance in January 1993 and also established an Advice and Counseling Line and an Informal Resolution System. Our Department-wide Reporting and Tracking System will provide us with information on formal complaints, results of investigations and administrative and judicial actions taken to resolve complaints. In March, we released the "Commander's Handbook," a single reference for commanders that addresses investigation, resolution, and prevention of sexual harassment. I thank you for your lessons learned, which were integrated into the first edition. While we have done much, I realize we still have far to go.

After you testified, I directed my staff to thoroughly review the circumstances of your case. Our review leads me to conclude that: you were sexually harassed by a fellow officer, aboard USS CANOPUS; he retaliated against you by fostering a hostile work environment and polarizing the wardroom against you; the shipboard chain of command did not correct this environment; and your fitness report for the period 9 February 1992 to 28 December 1992 was improperly handled by the command.

As a result of my review of your case, I am issuing a Secretarial letter of censure to the officer who committed the harassment. The Chief of Naval Operations is also taking action with regard to two other officers in your former chain of command who did not measure up to our standards.

With regard to your specific situation, I recognize that your harassment, and the energy required on your part to address issues springing from it, impaired your ability to demonstrate fully what you can contribute to the Navy. Therefore, I have directed that the Navy make available to you the option to transfer to a new duty station with orders that you be retained on active duty until 1 September 1996. This represents an additional two years beyond the date currently established for your departure from active duty, and will afford you the opportunity to compete again for augmentation to the Regular Navy.

I have been informed that you have applied to the Board for Correction of Naval Records (BCNR) in accordance with 10 U.S.C. 1552 to correct any injustice in your performance records. I have final authority to review the BCNR's recommendation and will direct action to correct your military record as necessary.

While my actions can never wipe the slate clean, they reflect my genuine desire that you have the opportunity to continue to serve, if you wish. Should you nevertheless decide to leave active duty on 1 September 1994, however, I want you to know that you have my respect and gratitude for your Navy service.

I have directed Rear Admiral H. E. Grant, the Judge Advocate General of the Navy, to meet personally with you to discuss your decision.

JOHN H. DALTON,
Secretary of the Navy.

VOL 140 PT 16 AG 12 — 18 1994 UMI

JULY 8, 1994.

Hon. SAM NUNN,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN, I would like to introduce myself. My name is George R. Taylor. I am a Senior Chief Petty Officer (E–8) currently on active duty with the U.S. Navy stationed at the U.S. Naval Construction Battalion Center, Port Hueneme, California. Additionally, I am a whistleblower.

Sir, In December 1992, I blew the whistle on fraud, waste, and abuse concerning mismanagement at the U.S. Naval Air Station Bermuda. I would like to give you a very brief rundown on some of the events that transpired and are continuing to unfold in regards to Admiral Henry Mauz Jr., USN, Commander in Chief, U.S. Atlantic Fleet.

In November 1992, Admiral Mauz abused his power and authority as CINCLANTFLT by traveling to NAS Bermuda along with 12 other military and civilian personnel for a five day vacation.

Admiral Mauz was flown to Bermuda at government expense along with the other personnel. During his time on the island, his entire "official" visit consisted of playing golf, dining in the best restaurants, and shopping. This was in fact exposed on national television on ABC New's "Primetime Live" program. I appeared on the show and commented on the behavior of not only Admiral Mauz but numerous flag officers within the Armed Forces who had visited the beautiful island at taxpayer's expense. Additionally, Senator McCain had visited the island with a large group of family members and the nanny for his grandchildren all at taxpayer's expense or at reduced rate.

As you know, this was not a popular thing for me to do. I was not politically correct. Needless to say, numerous high ranking officers within the Department of Defense were offended. Representative Schroeder made arrangements for me to be transferred to NCBC Port Hueneme, CA. I was very naive. I believe in the system. However, I have very little faith left at this time. During the past 18 months numerous things have occurred that in my opinion and the opinion of my attorney have been nothing short of criminal.

Admiral Mauz in my opinion has not only abused his power but is a disgrace to the uniform of the Naval Service. He was a key player in me being charged with over 48 offenses of violating the Uniform Code of Military Justice in a supposed "unrelated to Bermuda situation." His attorney requested and received all legal documents and a brief in regards to my status. All charges were dismissed by Admiral Kelley, CINCPACFLT, 8 months later. Admiral Mauz took a personal interest in the prosecution of a case where nothing had been done wrong.

Senator, there is no doubt that if you or I committed some of the things that Admiral Mauz has, we would have been ran out of town.

As you know, the Navy has gone through a lot. However, I do believe with the current leadership in the Navy things will improve, but in order to correct wrongs and to ensure that senior, military officers do not continue to abuse their power and authority, you should take the lead in retiring Admiral Mauz at a two-star level.

You sir are in the position to send a message to the entire Armed Forces announcing that misconduct at any level will not be tolerated, also that everyone in the Armed Forces from E1 to O–10 will be held accountable for their actions.

Sir, if you or your staff needs additional information feel free to call me at (805) 388–3915 or my attorney, Jeff Ruch at (202) 408–0034.

Very Respectfully,
GEORGE R. TAYLOR,
MACS(SW), USN.

GOVERNMENT ACCOUNTABILITY PROJECT,
Washington, DC, August 3, 1994.

Hon. SAM NUNN,
Chairman, Senate Armed Services Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR NUNN, last month my client, Senior Chief Master-at-Arms George R. Taylor (USN) wrote to you concerning the pending four-star retirement of Admiral Henry Mauz. In his letter, Senior Chief Taylor wrote that Admiral Mauz had taken "a personal interest" in the prosecution, that was later dismissed, against Senior Chief Taylor and the members of his security detachment. This personal interest raised questions concerning retaliatory motive since the attempted prosecution took place within the Pacific Command at a time when Admiral Mauz served as Commander of the Atlantic Fleet.

In the August 1, 1994 edition of *Navy Times*, Admiral Mauz told reporter Patrick Pexton that Taylor's allegation was "without foundation" and "nonsense." Mauz told the reporter that his staff contacted Port Hueneme authorities only once and then only for the purposes of learning the status of the case. In fact, Captain Joseph Baggett, the legal advisor to Admiral Mauz, did contact the legal advisor for the base at Port Hueneme after the withdrawal of the 48-count court martial against Taylor and his detachment on April 9, 1994.

Prior to Captain Baggett's call to Port Hueneme, however, Lt. Noreen Hagerty-Ford, a JAG attorney on Admiral Mauz's staff, contacted Lt. John Tamboer, the supervisor of Taylor's military defense counsel, Lt. Carter Brod., Lt. Hagerty-Ford asked Lt. Tamboer to provide her with a copy of a motion filed by Lt. Brod seeking dismissal of all charges against Taylor on the grounds of "vindictive prosecution" [attached]. Lt. Tamboer refused her request, on the grounds that the Atlantic Fleet had no legitimate reason to obtain defense filings. Lt. Hagerty-Ford called Lt. Tamboer later that same day and demanded a copy of the motion stating that her call was at the personal request of Admiral Mauz. Lt. Tamboer acceded to this direct request from a flag officer and provided a copy of the motion to Lt. Hagerty-Ford.

Admiral Mauz's public statements with respect to his role and the role of his personal staff in the Taylor prosecution do not square with the facts. The lack of candor displayed here is consistent with the "damage control" approach to high profile personnel cases Admiral Mauz has exhibited. More disturbingly, these repeated contacts represent an attempt to influence the prosecution of Taylor and to intimidate his military defense counsel.

As always, if you or your staff desire any further information from my clients, please do not hesitate to contact me.

Sincerely,
JEFFREY P. RUCH,
Policy Director,
Government Accountability Project.

[Navy-Marine Corps Trial Judiciary, Southwest Judicial Circuit, Port Hueneme, CA. Special Court-Martial]

MOTION TO DISMISS FOR VINDICTIVE PROSECUTION PURSUANT TO THE FIFTH AMENDMENT

UNITED STATES *v.* TAYLOR, GEORGE R., MACS, E–8 424–86–0238, U.S. NAVY, DATE: MARCH 23, 1994.

1. Nature of motion

This is a Motion to Dismiss for Vindictive Prosecution filed pursuant to the Fifth Amendment of the U.S. Constitution. This motion is filed as a direct result of an unlawful decision by Commander, Naval Construction Battalion Center, Port Hueneme, to prosecute MACS George R. Taylor, USN, the accused in this case.

2. Summary of facts

PRIOR TO MACS TAYLOR'S REPORTING AT NCBC

a. In 1992, MACS George R. Taylor, USN, held the position of Chief of Military Police at Naval Air Station Bermuda. While serving at NAS Bermuda, MACS Taylor produced evidence that the air station existed as a resort for top military officials at the expense of taxpayers. MACS Taylor and another "whistleblower" were featured on the 10 December 1992 episode of ABC's "Primetime Live" (tape of which will be hereinafter referred to as "the Bermuda tape"), which prompted Defense and Inspector General Investigations. As a result of MACS Taylor's activities, Congress voted to close the Bermuda base in 1995.

b. MACS Taylor was transferred to Naval Construction Battalion Center, Port Hueneme, (hereinafter "NCBC"), in January 1993, under the protection of the Military Whistleblowers Protection Act.

c. Before MACS Taylor arrived at NCBC members of the base security department posted an article about MACS Taylor's activities in Bermuda on the security department bulletin board. In addition, members of the security department gathered in a conference room to view the Bermuda tape.

d. Before MACS Taylor arrived, a file was sent to NCBC from Bermuda which included a non-punitive letter of caution and materials related to MACS Taylor's activities at Bermuda.

e. Prior to MACS Taylor's arrival at NCBC, RADM David Nash, USN, Commanding Officer of NCBC, requested a copy of the Bermuda tape from Kari Lee Patterson, a civilian employee at NCBC. Ms. Patterson delivered the tape to Mr. W.E. Hudson, NCBC Security Officer, who delivered the tape to RADM Nash.

AFTER REPORTING AT NCBC

f. Upon MACS Taylor's arrival, RADM Nash held a meeting with top base officials to discuss the arrival of MACS Taylor.

g. Upon reporting on board NCBC, MACS Taylor was taken to Executive Officer's Inquiry for activities in Bermuda. At the XOI, Taylor was awarded the Nonpunitive Letter of Caution sent from Bermuda. The charge was for disrespect to a commissioned officer at Bermuda.

h. Immediately upon arriving at NCBC, MACS Taylor was directed to meet with LCDR Cole in his office. At that meeting, which was attended by BMCS Kossman, LCDR Cole told MACS Taylor that "this isn't Bermuda" and "You aren't going to get away with that s--t here", or words to that effect.

i. In January 1993, LCDR Cole was called by Jeff Ruch, an attorney with the Government Accountability Project, a public interest organization which was involved with the

incident in Bermuda. Mr. Ruch called LCDR Cole to discuss the pending Captain's Mast for Disrespect in Bermuda. After the phone conversation, LCDR Cole confronted MACS Taylor, saying he had just gotten a call from his "liberal lawyers" and "this is bull----", or words to that effect. LCDR Cole told MACS Taylor that "they're not gonna get you out of this. . . . This package was sent here. We're going to adjudicate this here", or words to that effect.

j. Approximately one month after MACS Taylor reported aboard, MACS Taylor suggested to LCDR Cole that one of his practices was improper. LCDR Cole had, on several occasions, sent sailors to the Long Beach Brig with full knowledge that there would never be a court-martial. This was typically done on a Friday afternoon, where the magistrate would be unable to release the sailor until the following Monday. When MACS Taylor suggested to LCDR Cole that this practice was improper, LCDR Cole became incensed, telling MACS Taylor "I'm the f---ing lawyer on this base; who made you the base lawyer?", or words to that effect.

k. A meeting to discuss Workman's Compensation issues was held in September 1993 and was attended by LCDR Cole, MACS Taylor, NCBC Executive Officer, NCBC Command Master Chief, and other officials. At the meeting, LCDR Cole confronted MACS Taylor due to rumors he had heard about members of the Special Investigations Unit, of which Taylor was a member, being deputized by the federal government. MACS Taylor denied ever spreading the rumor. LCDR Cole responded by admonishing MACS Taylor for not addressing him as "Sir" when making a statement.

l. In a Memorandum dated 5 September 1993, LCDR Cole requested to the Commanding Officer, NCBC, that MACS Taylor be relieved of his duties. RADM Nash, however, declined to carry out LCDR Cole's request.

m. MACS Taylor has also had numerous personal confrontations with Mr. W.E. Hudson, NCBC Security Officer, since reporting aboard. Mr. Hudson is MACS Taylor's direct superior in the Security Department.

n. On 30 September 1993, MACS Taylor received a performance evaluation which covered the period since MACS Taylor's arrival on board NCBC and was signed by RADM Nash. Taylor received straight 4.0 evaluations on this evaluation. There was no mention whatsoever of any problems with MACS Taylor's performance. MACS Taylor was described as having "great depth of professional knowledge" and a "keen sense of responsibility". He was praised for "drafting and immediate implementation of the department's quality-focused Standard Operating Procedures." He was also praised for conducting a special task force to curtail the flow of drugs onto the base and for assisting civilian police in drug operations.

16 NOVEMBER ARREST

o. On 16 November 1993, MACS Taylor participated in the arrest of CE3 Richard Miller, USN, a deserter who had escaped from the Long Beach Brig. There were three other NCBC police officers at the scene. The arrest took place in the City of Oxnard with the participation of the Oxnard Police. No complaints were made by any persons involved in the arrest. Officers Ernie Eglin and L.E. Robertson of Oxnard Police executed the arrest and believe that MACS Taylor acted entirely properly.

p. On 17 November 1993, Mr. Hudson called MACS Taylor into his office and accused him of acting improperly during the previous night's arrest. Mr. Hudson then discussed with MACS Taylor the possibility of an early retirement for MACS Taylor.

q. On 18 November 1993, Mr. Hudson met with LCDR Cole to discuss this situation. At this meeting, the two men agreed to have Naval Investigative Service investigate MACS Taylor's activities on the night of the arrest.

r. On 22 November 1993, Mr. Hudson informed MACS Taylor that he planned to have NIS investigate the arrest.

s. Pursuant to advice from military defense attorneys, MACS Taylor and each of the other three officers consistently invoked his right to remain silent during the investigation.

t. On 3 January 1994, MACS Taylor was given a Report Chit citing one specification of violation of Article 92 related to the arrest of CE3 Miller. LCDR Cole's signature appears on the Chit for "person submitting report". Along with the Report Chit, MACS Taylor received formal notification of contemplated Nonjudicial Punishment.

u. On numerous occasions after the Report Chit was drafted, LCDR Cole attempted to persuade MACS Taylor and the other three NCBC officers involved to answer questions about the arrest. On or about 3 January 1994, LCDR Cole informed MACS Taylor that the Incident Complaint Report for the incident in question had never been received, and he gave MACS Taylor a direct order to write a report describing what happened on the night in question. MACS Taylor has consistently maintained that he submitted the report immediately after the arrest. Pursuant to advice from LT Carter F. Brod, JAGC, USNR, Defense Counsel, MACS Taylor nevertheless prepared a new report to avoid violating a direct order.

v. When discussing with MACS Taylor his potential Captain's Mast, LCDR Cole ordered MACS Taylor to sit locked at attention. LCDR Cole told MACS Taylor that he would "add twenty more ——— charges" if Taylor refused Captain's Mast.

w. On or about 6 January 1994, LCDR Cole called LT Brod and asked LT Brod to give MACS Taylor pre-Mast Advice. LCDR Cole told LT Brod that MACS Taylor was being really stupid in his attitude and that if he did not accept Mast then they were going to "throw the book at him". LCDR Cole told LT Brod that, if MACS Taylor refused Mast, "we have lots of other stuff on him to use which we will throw on there", or words to that effect.

x. On 10 January 1994, MACS Taylor refused Nonjudicial Punishment.

y. LCDR Cole has made numerous attempts to persuade the other three NCBC officers to discuss the details of the arrest. On 6 January 1994, LCDR Cole told LT Brod in a telephone conversation that "the command is unlikely to dismiss the charges against Senior Chief Taylor but would probably dismiss on the others if they opened up."

z. In a telephone conversation with civilian police Lieutenant Byron Frank, which lasted over one hour, LCDR Cole told Lt. Frank that "if you all had just cooperated with the NIS investigation, then you would have just gotten a slap on the wrist", or words to that effect. LCDR Cole stated that "Senior Chief Taylor is manipulating the other three officers. I feel really sorry for them", or words to that effect. LCDR Cole stated that "ABC bailed his ass out in Bermuda. They won't come to his rescue now", or words to that effect. LCDR Cole asked Lt. Frank, who was also an African-American, "why won't you just tell me what happened? I'm the smartest black attorney in the JAG Corps. Let's just talk brother to brother", or words to that effect.

aa. On 21 January 1994, 48 specifications of UCMJ violations were preferred against MACS Taylor. Many of the specifications related to the 16 November arrest, but 16 of the 47 new specifications related to incidents in April, May and June of 1993.

bb. Naval Criminal Investigative Service conducted an extensive investigation of the charges against MACS Taylor. Included as part of the NCIS investigation were interviews of over twenty-one witnesses. Many of the witnesses, including Petty Officer Pringle, Detective Wunsch and Lieutenant Frank, were asked questions about MACS Taylor's activities in Bermuda.

cc. LT Robert P. Morean, JAGC, USNR, Trial Counsel, conducted several witness interviews at NCBC on or about 15 February 1994. LCDR Cole was present for many of these interviews and occasionally participated in questioning. In the interview with BMCS Kossman, USN, LCDR Cole corrected BMCS Kossman for giving an answer LCDR Cole believed was incorrect. When MS3(SS) Doyle was interviewed, LCDR Cole was "right there, only two feet away from me." When MS3 Doyle told LT Morean that he felt MACS Taylor was an excellent cop and excellent leader, LCDR Cole stormed out of the meeting and slammed the door. LCDR Cole also assisted LT Morean in the questioning of Dan Gordon, Security Department Training Officer.

dd. On 9 February 1994, LCDR Cole approached DT3 Fredia Wright, USN, who had a son living on base who had been barred from the base for juvenile delinquency. LCDR Cole offered DT3 Wright that her son could continue to live on the base if he would testify in the court-martial of MACS Taylor. LCDR Cole told her that she could disregard the barring notice if her son would cooperate.

ee. On or about 18 February 1994, LCDR Cole discussed the 16 November arrest while teaching a class to new NCBC security officers. While teaching this class, LCDR Cole referred to the four officers who made the 16 November arrest as "the four", and used their arrest as an example of illegal police activities.

OTHER SIMILAR NCBC SECURITY CASES

ff. In the past, there have been several other arrests by NCBC Police with the same characteristics as the 16 November arrest. No prosecution or disciplinary action was taken in any of the other arrests. There have also been egregious cases of clear dereliction of duty by NCBC Military Police where no prosecution was undertaken.

gg. On 23 September 1992, NCBC Detective A. Carpenter, MA1 Woods, USN, and NCBC Detective P. Wunsch arrested EOCN Jason S. Tyree, USN, a deserter from NMCB–40, offbase in the City of Oxnard. The facts of that arrest were effectively identical to those in the case at bar. There was no disciplinary action of any kind taken against any of the officers.

hh. In December 1993, a complaint was filed alleging that GSM2 E.J. Beman used unlawful force in an arrest of a female suspect. The investigation of the incident was handled internally; NCIS was never asked to investigate. Beman was not court-martialed for his actions.

ii. In mid-1992, evidence existed that civilian NCBC police officer Carlos Tengonan used unnecessary force by bitting a suspect in the mouth with a baton. No investigation of any kind was undertaken, and no disciplinary action followed.

VOL 140 PT 16 AG 12 — 18 1994 UMI

jj. On 21 January 1992, F.D. Forbes, a civilian NCBC police officer arrested a suspect in the City of Port Hueneme by pursuing him on an off-base street, drawing his service revolver and ordering the suspect to freeze. The suspect was unarmed and seen climbing over the base fence from on-base to off-base, which is not an offense under any criminal code. The "suspect" was not charged with any crime. Forbes was not disciplined in any way for making this off-base arrest.

kk. Many members of the NCBC Security Department believe that, based on their knowledge of the facts, the 16 November arrest was entirely legal and consistent with NCBC police practices.

RECENT FACTS

ll. On 22 February 1994, LCDR Cole offered LT Brod that MACS Taylor could still go to Captain's Mast if he wanted. LCDR Cole told LT Brod that, if MACS Taylor accepted Mast, the charges would include only two specifications of dereliction of duty.

mm. On 9 March 1994, LCDR Cole ordered an administrative questioning of Byron Frank regarding the arrest of 16 November 1993. LT Morean told LT Caroline Goldner, JAGC, USNR, that this was done as a "discovery tool" for the court-martial of MACS Taylor.

nn. On 17 March 1994, LT Morean told LT Brod in a telephone conversation, that "it is my understanding that if everyone had been forthcoming, there would have been no charges. The Admiral just got ticked when everyone clammed up."

3. Statement of law

a. R.C.M. 907, MCM 1984. Motions to Dismiss.

b. Fifth Amendment, United States Constitution "No person shall be . . . compelled in any case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law."

c. *Bordenkircher* v. *Hayes*, 434 U.S.C. 357 (1978). "To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort."

d. *Chaffin* v. *Stynchcombe*, 412 U.S.C. 17 (1973). For an agent of the state to pursue a course of action whose object is to penalize a person's reliance on his constitutional rights is "patently unconstitutional."

e. *U.S.* v. *Davis*, 18 MJ 820 (AFCMR 1984). For a claim of prosecutorial vindictiveness to succeed, it must be established that the decision to prosecute was based on impermissible considerations such as race, religion, or the desire to prevent the exercise of a legal right. "In the classic prosecutorial vindictiveness case the subsequent charges are harsher variations of the same decision to prosecute." See also *U.S.* v. *Spence*, 719 F.2d 358 (11th Cir. 1983), *Hardwick* v. *Doolittle*, 558 F.2d 292 (5th Cir. 1977).

f. *U.S.* v. *Spence*, 719 F.2d 358 (11th Cir. 1983). "To help simplify prosecutorial vindictiveness claims, the Supreme Court developed a 'presumption of vindictiveness'." 719 F.2d at 361. "Courts in this circuit construing post-Blackledge decisions have held that whenever a prosecutor brings more serious charges following the exercise of procedural rights, 'vindictiveness' is presumed, provided that the circumstances demonstrate either actual vindictiveness or a realistic fear of vindictiveness." 719 F.2d at 361.

g. *U.S.* v. *Krezdorn*, 718 F.2d 1360 (5th Cir. 1983). If the defendant challenges as vindictive a prosecutorial decision to increase the number or severity of charges following the exercise of a legal right, the court must examine the prosecutor's actions in the context of the entire proceedings. If "the course of events provides no objective indication that would allay a reasonable apprehension by the defendant that the more serious charge was vindictive, i.e. inspired by a determination to 'punish a pesky defendant for exercising his legal rights,' a presumption of vindictiveness applies which cannot be overcome unless the government proves by a preponderance of the evidence occurring since the time of the original charge decision altered that initial exercise of the prosecutor's discretion." 718 F.2d at 1365.

h. *U.S.* v. *Blanchette*, 17 M.J. 512 (AFCMR 1983). "The test for prosecutorial vindictiveness is whether, in a particular factual situation, there is a realistic likelihood of vindictiveness for the preferral of charges against the accused." 17 M.J. at 514.

i. *U.S.* v. *Hagen*, 25 M.J. 78 (CMA 1987). Once a prima facie case of vindictiveness is made out, the burden shifts to the prosecution to disprove the misconduct. See also *U.S.* v. *Garwood*, 20 M.J. at 154 (CMA 1985).

j. *U.S.* v. *Falk*, 479 F.2d 616, 620 (7th Cir. 1973). If a defendant alleges intentional or purposeful discrimination and presents facts to raise a reasonable doubt about the prosecutor's purpose, then the prosecutor can be called to the stand to testify.

k. *U.S.* v. *Green*, 37 M.J. at 384 (CMA 1993). "This Court has previously stated that 'in referring a case to trial, a convening authority is functioning in a prosecutorial role'". See also *U.S.* v. *Fernandez*, 24 M.J. at 78 (CMA 1987), *Cooke* v. *Orser*, 12 MJ 335 (CMA 1982), *U.S.* v. *Hardin*, 7 M.J. at 404 (CMA 1979).

l. In assessing a claim of prosecutorial vindictiveness, the Supreme Court focuses on practices which tend to chill the assertion of defendant's rights. *Blackledge* v. *Perry*, 417 U.S. 21 (1974), *NC* v. *Pearce*, 395 U.S. 711 (1969), *Bordenkircher* v. *Hayes*, 434 U.S. 357 (1978).

4. Discussion

a. There are essentially three independent bases upon which the prosecution of MACS Taylor is vindictive. The first basis is due to retaliation for MACS Taylor's whistleblowing in Bermuda and his personal relationship with the convening authority's attorney, LCDR Cole. These two issues have been grouped together because they support the premise that MACS Taylor is being prosecuted for who he is, not what he had done. Second, MACS Taylor is being prosecuted for exercising his constitutional right to remain silent. Third, MACS Taylor is being prosecuted for exercising his right to refuse Captain's Mast.

b. In light of the nature of these charges, the fact that forty-eight total specifications were preferred in this case, in itself, is strong evidence of the government's vindictiveness. An inference can be drawn that by charging MACS Taylor with such a large number of charges, the government intended to intimidate him, "show" him, or otherwise "retaliate" against him for any one of the three bases supporting this motion. The context of these charges, including the content and tone of statements made by the convening authority's attorney, further clarifies that this prosecution was undertaken with a vindictive purpose.

BASIS 1: BERMUDA AND PERSONAL RELATIONSHIP

c. Under this basis, this motion seeks dismissal of all charges pending against MACS Taylor. None of these charges would have been brought but for MACS Taylor's whistleblowing in Bermuda and his personal relationship with LCDR Cole. Pursuant to *U.S.* v. *Davis* and *Blackledge* v. *Perry*, these are both impermissible bases for undertaking a prosecution.

d. There is substantial evidence that the convening authority knew about MACS Taylor's activities in Bermuda and had distaste for those activities. RADM Nash requested a copy of the Bermuda tape before MACS Taylor arrived. Articles were posted and the tape was watched at the security department prior to MACS Taylor's arrival. LCDR Cole's statements to MACS Taylor when he arrived at NCBC show his distaste for MACS Taylor's whistleblowing. MACS Taylor was taken to XOI by the convening authority for activities in Bermuda. The convening authority awarded him a letter of caution at this XOI for activities in Bermuda. NCIS, in conducting the investigation of these charges for the convening authority, asked numerous witnesses if they knew anything about the Bermuda incident. Furthermore, LCDR Cole's statement that "ABC bailed him out of Bermuda, they won't come to his rescue here", shows the vindictive tone of LCDR Cole based on MACS Taylor's activities in Bermuda.

e. There is also substantial evidence that LCDR Cole had a personal animosity for MACS Taylor. The statement by LCDR Cole at the meeting upon MACS Taylor's arrival is evidence of that animosity. MACS Taylor questioned LCDR Cole's professionalism by challenging his practice with regard to pretrial confinees. LCDR Cole was incensed at MACS Taylor's complaint. The 5 September 1993 memorandum shows that prior to this arrest, LCDR Cole sought to have MACS Taylor fired from his job. Ever since the first meeting when MACS Taylor reported at NCBC, there have been continual confrontations between the two men.

f. In addition to the evidence of vindictiveness, there is considerable evidence of fact situations similar to those in the case at bar that were not prosecuted. The off-base arrests involving detectives Forbes and Wunsch were very similar to this arrest, and no disciplinary action followed. There was evidence of dereliction by GSM2 Beman, but no disciplinary action was initiated. There was evidence of dereliction by Officer Tangonan, and no investigation was initiated. An examination of these other situations demonstrates that the government would not have ordinarily prosecuted this case but for MACS Taylor's activities in Bermuda and his personal relationship with LCDR Cole.

g. The vigor with which the command initiated this prosecution is further evidence of the other-than-official interest in seeing MACS Taylor prosecuted. For example, NCIS was called in to investigate and devoted a great deal of resources to this investigation. NCIS jurisdiction, however, is normally over major offenses only. LCDR Cole used his influence as base SJA over other legal matters to affect the investigation in this court-martial. LCDR Cole used the pressure of a barring order to enlist the support of an unwilling witness, Doug Lively. He used his administrative power to order a civilian, Byron Frank, to give, against his will, information to use against MACS Taylor. LCDR Cole also actively participated in interviewing witnesses with the Trial Counsel.

h. In sum, there is substantial evidence that this prosecution would not have normally been initiated but for the fact that MACS Taylor was the subject. Dislike of a sailor based on his past legal activities (Bermuda) and his personality is not a permissible basis upon which to initiate a prosecution. For the foregoing reasons, all funding charges against MACS Taylor should be dismissed.

BASIS 2: RIGHT TO REMAIN SILENT

i. Ever since initially being accused of dereliction, MACS Taylor has exercised his Constitutional right to remain silent. There is substantial evidence that all forty-eight charges in this court-martial are a result of vindictiveness due to MACS Taylor's invoking this constitutional right. Under this basis, this motion seeks dismissal of all charges.

j. On 17 March 1994, the Trial Counsel told the Defense Counsel that it was his understanding, based on his discussions with the Convening Authority, that no charges would have been brought for MACS Taylor's invocation on this right. The Trial Counsel further stated that it was his understanding that the Admiral "got ticked" when MACS Taylor invoked this right. The Trial Counsel's statement is clear evidence that the government's decision to prosecute was based on MACS Taylor's decision to remain silent.

k. In discussing Taylor's court-martial charges with Byron Frank, LCDR Cole stated that "if they had just cooperated with NIS, then it would've been a slap on the wrist", implying that the charges would not have been brought at all but for MACS Taylor's invocation of his right to remain silent.

l. LCDR Cole has made numerous attempts at pressuring MACS Taylor to give up his right to remain silent, including attempts to persuade LT Brod * * * MACS Taylor. LCDR Cole further told MACS Taylor that if he didn't "open up" there would be "twenty more charges."

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m. The convening authority has taken several other actions which demonstrate the vigor with which it has attempted to get MACS Taylor to give up his right to remain silent. First, LCDR Cole gave MACS Taylor a direct order to write a new Incident Complaint Report, alleging that the original had been lost. Second, LCDR Cole administratively ordered civilian police lieutenant Byron J. Frank, who participated in the arrest, to give details of the arrest. LT Morean described this administrative order as a "discovery tool".

n. In sum, there is considerable evidence that the convening authority was angered by MACS Taylor's silence, and was in fact motivated to prosecute in retaliation for MACS Taylor's silence. In fact, the convening authority expressly told the Trial Counsel that there would have been a prosecution at all had Taylor not "clammed up". It is evident that all forty-eight charges are in direct retaliation for MACS Taylor's exercise of a constitutional right, the right to remain silent.

o. To allow the government to prosecute as retaliation for exercising the right to remain silent would be to chill the exercise of this important constitutional right. Based on the foregoing, all charges now pending should be dismissed.

BASIS 3: RIGHT TO REFUSE CAPTAIN'S MAST

p. After MACS Taylor refused Captain's Mast, the charges against him rose from one specification of dereliction of duty to 48 specifications in total at special court-martial. There is substantial evidence that the additional 47 specifications were preferred in retaliation for MACS Taylor's refusal to accept Mast. Under this basis, this motion seeks dismissal of all charges added after the refusal of Captain's Mast. The charges sought to be dismissed include all additional specifications related to the 16 November arrest (beyond the one specification from Mast) as well as all specifications related to previous incidents.

q. LCDR Cole explicitly told MACS Taylor and LT Brod that if Taylor refused Mast "there would be twenty more charges" and that he would "throw the book at him". These statements demonstrated LCDR Cole's intentions to retaliate if MACS Taylor refused Mast.

r. Supreme Court and military decisions support that a large increase in charges after the invocation of a legal right is a strong sign of prosecutorial vindictiveness. Here, the charges jumped from one to forty-eight after MACS Taylor exercised his right to a court-martial. In *U.S.* v. *Davis*, the court states that the classic prosecutorial vindictiveness case involves a harsher variation of the same decision to prosecute. Clearly, if the first decision to prosecute was for only one specification, then a second decision for 48 specifications is a harsher variation.

s. In *U.S.* v. *Martino*, 18 M.J. 526 (AFCMR 1984), the government raised the number of charges after the accused refused NJP. The court held such prosecution to be proper. Martino can be distinguished on several bases. First, the court emphasized that the defense counsel asserted prosecutorial vindictiveness with no evidence whatsoever of a vindictive motivation. Further, the government showed evidence of a valid motivation for the difference in number of charges. In the case at bar, however, there is considerable evidence of vindictiveness and there is no evidence of valid government motive for increasing the charges from 1 to 48.

t. In *Bordenkircher* v. *Hayes*, the Supreme Court held that in the normal give and take of plea bargaining, a prosecutor has valid discretion to increase and decrease the number of charges in order to secure a guilty plea. Bordenkircher is distinguishable on several grounds. First, in Bordenkircher, the only evident motive on the part of the prosecutor was the non-vindictive motive to receive a guilty plea. In the case at bar, there is considerable evidence of vindictiveness unrelated to the desire to secure a Mast conviction. Second, in Bordenkircher, it was not disputed that the defendant was properly chargeable for the additional charges. In the case at bar, however, there is considerable evidence that there was no valid basis for the additional charges. MACS Taylor's performance evaluation of September 1993 shows the convening authority's acknowledgement that there was no case of dereliction for any prior incidents. Third, the additional charges in the case at bar were not part of the course of normal plea bargaining. MACS Taylor was ordered to attention and threatened with more charges if he did not accept Mast. Further, the military relationship between a Lieutenant Commander and a Senior Chief Petty Officer is one of unequal bargaining power.

u. In *U.S.* v. *Davis*, a claim of prosecutorial vindictiveness was rejected. In *Davis*, however, there were no additional charges brought in the move from Mast to court-martial. In the case at bar, the charges rose from one to forty-eight. Justifying its rejection of the prosecutorial vindictiveness claim, the *Davis* court stated that the classic case of prosecutorial vindictiveness occurs when the number of charges is raised.

v. *U.S.* v. *Blanchette* also involved a rejected prosecutorial vindictiveness claim. That case can be distinguished in that the reason for not charging the accused initially was due to insufficiency of evidence. The court found that the additional charges were justified due to the availability of new evidence. No such evidentiary justifications exist for the government in the case at bar.

w. In sum, because MACS Taylor refused Mast on one specification of dereliction of duty, the convening authority retaliated by preferring forty-seven additional charges against him at a court-martial. The possibility of retaliation is clearly "realistic", and the impression made on the accused is clearly one of intimidation. The statements by LCDR Cole are evidence that the convening authority was in fact motivated by vindictiveness. Dismissing the additional charges would be consistent with Supreme Court and Military case law. To allow vindictive charging as occurred here would be to chill the exercise of a sailor's legal right to refuse Captain's Mast. For the foregoing reasons, all charged beyond the initial specification of dereliction of duty should be dismissed.

5. Evidence

a. Witnesses. The defense offers the testimony of the following witnesses in support of this motion: Detective Wunsch, Sergeant Forbes, LCDR Cole, MACS Taylor, Lieutenant Frank, Officer Eglin, Officer Robertson, MACS Kossman, Kari Lee Patterson, DT3 Wright, MS3 Doyle, Mr. Hudson, Mr. Flynt, R.J. Bryan, Petty Officer Bassett, Petty Officer Pringle, Andrew Stewart, LT Morean, Petty Officer Beman, Officer Tangonan.

b. Documents. The following documents will be presented as evidence in support of this motion: Incident Complaint Report (ICR) for Wunsch arrest, ICR for Forbes incident, report of Beman incident, 5 September 1993 Memorandum from LCDR Cole, Bermuda file, MACS Tayor evaluation, Mast charges, Report chit, NJP Refusal Form, Court-martial charges, letter of caution, Bermuda tape, new ICR for 16 November arrest, Barring notice for Doug Lively.

6. Relief requested

Pursuant to Basis 1, the defense respectfully requests that all charges be dismissed. Pursuant to Basis 2, the defense respectfully requests that all charges be dismissed. Pursuant to Basis 3, the defense respectfully requests that all charges other than the one specification charged at Mast be dismissed.

7. Oral argument

The defense desires to make oral argument on this motion.

Date: March 23, 1994.

CARTER F. BROD,
LT, JAGC, USNR,
Defense Counsel.

CERTIFICATE OF SERVICE

I, Lieutenant Carter F. Brod, JAGC, USNR, certify that on this 23rd day of March 1994, I personally served upon government trial counsel a true and correct copy of this Motion.

TRIBUTE TO NICK C. AQUILINA

Mr. REID. Madam President, on September 3, 1994, Nick Aquilina will retire from the Department of Energy after 32 years of Federal service. As the manager of the Nevada Operations Office of the Department of Energy for the last 7 years, he has been a valuable partner to the elected officials of the State of Nevada and the community of southern Nevada. We, along with all his coworkers, will miss him.

Nick Aquilina's career chronicles the vision and achievement of our nuclear

VOL 140 PT 16 AG 12 — 18 1994 UMI

weapons program and the people who made it possible. He characterizes the spirit and dedication of a generation of Americans who dedicated their lives to maintaining our nuclear deterrent.

Nick began his career at the Nevada Test Site in 1962 as an employee of Reynolds Electrical and Engineering Company. He went on to management positions in the Atomic Energy Commission, the Energy Research and Development Agency and in the Department of Energy.

His career started as our country emerged from its first nuclear testing moratorium and it is ending as we find ourselves in our second moratorium, one which will likely be followed by a comprehensive test ban. During those intervening years, Nick and his coworkers developed a nuclear arsenal that was a critical element of our Nation's national security policy. That policy lead to the demise of the Soviet Union and the end of the cold war.

Throughout his career, and in his capacity as manager of the Nevada Operations Office, Nick has shown us the importance of commitment; commitment to the mission, commitment to the community, and commitment to his values and his heritage.

Nick has never lost sight of the mission of the test site and of the Department. He has always worked with the test side customers to meet their mission needs and with the Department leadership to make sure that the programs was conducted safely and in compliance with national objectives.

Nick has been committed to the community and the positive role that the Department can play in the community. He has supported educational and outreach programs in the Las Vegas area and contributed innumerable hours of his personal time to the community.

As he has risen through his career he has never forgotten his roots, his Italian heritage with its sense of family and community, and his youthful test site days with its hard work and dedication to excellence and achievement. These early values have become the foundation for the outstanding character and the leadership that Nick has shown us as manager of the Nevada Operations Office.

Over the last decade, Nick has held various management positions in the Department of Energy. During this same period, the leadership of the Department and the world situation has changed dramatically. While immersed in this sea of change, Nick has shown an outstanding ability to assess the changing environment, to keep focused on the important elements of the missions and his values, and to lead the Nevada Operation and its partners into the future.

Nick has built on the strong culture of the testing community to meet the challenge of change. By focusing on teamwork, the needs of the customer, and a positive, can-do, attitude in the face of uncertainty, Nick and the test community are creating a new future for the test site. Their new vision, created under Nick's leadership, will be a final legacy that Nick leaves to provide guidance and leadership to a future generation of test site workers.

Nick believed in the mission, he dedicated his career to the mission, and he accomplished the mission. And finally he set the vision of the future.

I wish to extend my recognition and appreciation to Nick C. Aquilina, who has served his Nation and the community of southern Nevada so well.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Madam President, the incredibly enormous Federal debt is like the weather—everybody talks about it but nobody does anything about it. Many Senators talk a good game when they are back home about bringing Federal deficits and the Federal debt under control, but look how they vote on bloated spending bills passing the Senate.

As of Thursday, August 11, at the close of business, the Federal debt stood—down to the penny—at exactly $4,645,161,184,155.52. The debt, do not forget, was run up by the Congress of the United States. The big-spending bureaucrats in the executive branch of the U.S. Government cannot spend a dime unless and until it has been authorized and appropriated by the U.S. Congress. The U.S. Constitution is quite specific about that, as every school boy is supposed to know.

And do not be misled by declarations by politicians that the Federal debt was run up by one President or another, depending on party affiliation. Sometimes they say Ronald Reagan ran it up; sometimes they say George Bush. These buck-passing declarations are false because the Congress of the United States is the culprit.

Most people cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban Missile Crisis was going on. A billion minutes ago, not many years had elapsed since the crucifixion of Jesus Christ.

That sort of puts it in perspective, does it not, that Congress has run up a Federal debt of 4,645 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stands today at $4,645,161,184,155.52.

PACIFIC PENSION INSTITUTE

Mr. PRESSLER. Madam President, a few weeks ago, I attended a conference of the Pacific Pension Institute. The primary objective of the conference was to discuss the cross border flow of investment capital among the Pacific rim countries. The participants consisted primarily of public pension plan administrators.

I was invited to attend the conference to discuss current pension issues, including actions by the Clinton administration as well as legislative proposals pending in Congress. I ask unanimous consent to insert in the RECORD excerpts from my speech immediately following my remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

PACIFIC PENSION INSTITUTE PENSION ISSUES

One of the primary legislative initiatives being considered during the 103rd Congress is designed to shore up the Pension Benefit Guarantee Corporation (PBGC). As you probably know, the PBGC has a growing underfunded balance—a deficit which has increased for the fifth year in a row. This is causing some alarm due to the massive taxpayer bailout needed from the S&L collapse.

The measure being considered is the Retirement Protection Act (H.R. 3396 and S. 1780). This legislation is based on recommendations from an interagency working group headed by the Secretary of the Department of Labor, Robert Reich. The group was tasked to study the problems facing the PBGC and they completed their work last fall.

The proposed legislation is designed to ensure the financial stability of the insurance program of the PBGC—due to underfunded pension plan growth. It would require underfunded plans to pay higher overall insurance premiums and fund their obligations more quickly. Hearings have been held in both the House and Senate. Passage is considered likely.

While public pension plans are not directly related to the PBGC, you may be interested to learn of recent action that does concern public plans. During last week's mark-up in the House Ways and Means Committee, a provision was added to the proposed Retirement Protection Act. The amendment would direct the General Accounting Office (GAO) to conduct a study on the underfunding of State, local, and Federal government plans.

In addition, the amendment provides for the GAO to consider the causes and implications of public plan underfunding. The report would be due April 30, 1995. This bill is continuing through the House legislative process.

In addition to the Administration's focus on the PBGC, the Department of Labor (DOL) also has recently issued an "Interpretive Bulletin" regarding pension investments. Specifically, it clarifies the DOL's "interpretation" of the ERISA law concerning the investment of Economically Targeted Investments (ETIs). Let me briefly describe the DOL's bulletin.

The DOL issued its bulletin on June 23, 1994. The document "sets forth the view of the DOL concerning the legal standard imposed by sections 403 and 404 of Part 4 of Title 1 of ERISA with respect to a plan fiduciary's decision to invest plan assets in economically targeted investments (ETIs)." ETIs are generally defined as investments that are selected for the economic benefits they create in addition to the return on investment.

In the DOL document, the Department states—"the requirements of ERISA do not prevent plan fiduciaries from deciding to invest plan assets in an ETI if the ETI has an expected rate of return that is commensurate to rates of return of alternative investments with similar risk characteristics that are available to the plan, and if the ETI is otherwise an appropriate investment for the plan in terms of such factors as diversification and the investment policy of the plan."

While the DOL's bulletin directly effects private plans, I understand public plan administrators may be interested in the DOL's bulletin too. After all, public plans abide by many regulations and fiduciary responsibility similar to those interpreted by the DOL. Therefore, public fund managers are always wise to pay attention to DOL actions.

At first glance it may raise concerns that the Administration's bulletin could result in limitations on public fund investment options—or rather forcing managers to invest in ETIs. However, I view the DOL's actions in a different light.

First, as you know, it does only apply to private plans. Second, it really is no more than a "clarification" of DOL's interpretation of ERISA. That is, that if all things are equal, it is okay to invest in an economically disadvantaged target. Now, I think it is rare to find that level of equality in risk assessment. In fact, if you want to look at the possible implications of the DOL bulletin on public plans, it could be argued that the DOL is adding further credence to the public pension fiduciaries desire to invest in non-typical investments. I would consider the DOL's bulletin as no more than a "sprinkling of holy water" for ETIs.

At the same time, it is true the Clinton Administration is on record regarding their desire to encourage pension managers to take into account social concerns as they make their investments. Reportedly, the Administration would like to tap into pension funds to help pay for improving our nation's infrastructure. This is based on recommendations from the Infrastructure Investment Council.

Of course, this idea has raised serious concerns. What are the rights and protections of pension plan participants and retirees? What is the risk of taxpayers and workers in the investment of these funds? What are the long-range returns? How will such investing contribute to overall economic growth and societal well-being? While such investing may be "politically correct", is it fiscally prudent? These questions and more remain unanswered. Many of these same questions should be asked in regard to ETIs.

What else is the Clinton Administration up to? Only yesterday, Secretary Reich issued guidelines to prod pension managers to take a more active role in the governance of their companies. The DOL's guidelines are aimed at making fund managers use their voting power more. In short, its a push to get pension managers involved in issues ranging from job training to corporate appointments.

Frankly, I do not think it is the role of the federal government to be nosing around in this area. Businesses need less government interference, not more. As ranking member of the Senate Small Business Committee, I will be monitoring the Administration's actions very closely in this area. And I encourage you all to continue to watch closely the actions by both the Administration and Congress. After all, what you don't know can hurt you.

As you are all aware, some public pension plans do have limitations imposed by State legislatures on their ability to invest in international markets. In fact, thirty-nine percent of U.S. public pension systems are subject to a state law that prohibits or restricts pension fund investments in foreign securities. Sixty-one percent have no such restriction.

Let's consider the public pension plan in my home state of South Dakota. Public pension funds for South Dakota state and local employees, as well as educators, are covered under the South Dakota Retirement System. This multiple employer, defined benefit retirement plan covers over 400 separate public employers and over 50,000 members.

The international investment of South Dakota's public pension funds is allowed. However, the South Dakota Benefit Board has imposed some limitations (note, the limitations were not imposed by state law). According to the South Dakota Benefit Board, a maximum of fifteen percent of the assets may be invested internationally. This figure of 15 percent includes one percent in an "emerging country".

I thought you may be interested to hear a bit more about South Dakota's Retirement plan and how they are doing with their international investments:

The State Investment Council manages $2.2 billion in funds for the South Dakota Retirement System—

—$270 million (or 12.4 percent) of the $2.2 billion is invested internationally;

—$197 million is invested internally.

—the remainder—$70 million—is invested by outside management. The outside managers handle the "emerging country" funds. Internally, they handle the "high-quality" funds.

Of the 12.4 percent of the South Dakota public pension funds that are invested internationally, the investment breakdown is as follows:

21.0 percent = United Kingdom.
20.0 percent = Japan.
9.0 percent = Switzerland.
8.5 percent = Germany.
7.0 percent = Hong Kong.
5.0 percent = France.
4.0 percent = Netherlands.
3.5 percent = Spain.
3.5 percent = Australia.
3.0 percent = Sweden.
2.5 percent = Belgium.
2.5 percent = Mexico.
2.5 percent = Singapore.
2.0 percent = Italy.
1.6 percent = Norway.
0.5 percent = New Zealand.
0.5 percent = Malaysia.

I thank you for the opportunity to take part in this important conference and discuss some aspects of the regulation and management of pension funds and investment alternatives.

These indeed are important subjects for your consideration as investment managers. Your decisions are vital to millions of people who depend upon their retirement benefits for their livelihood in their later years. Again, it has been a pleasure to be with you.

LOST AT SEA: TERMS OF INTERNATIONAL SEA AUTHORITY STILL DO NOT SAIL WITH THE UNITED STATES

Mr. PRESSLER. Madam President, today I express my opposition to Senate ratification of the Law of the Sea Convention. The treaty itself was signed by Madeleine Albright, the U.S. Ambassador to the United Nations on July 29, 1994. This signature provisionally binds the United States to the stipulations of the treaty for the next 4 years. Although the United States has gone this far, the Senate should not give final approval to the treaty.

First of all, no other industrialized country has ratified this treaty. It could be that these countries are waiting to see the outcome for the United States and will then decide whether signing the treaty is beneficial for them. As a signed member, the United States is required also to contribute a substantial sum of money, for which we would receive little or no return. Ratifying the treaty is, therefore, not an investment for the United States, but rather it is a donation to an experimental international governmental organization of less developed and developing countries.

Aside from the fact we would have to pay one quarter of the total implementation costs as well as year to year costs, we would have only a partial veto. This means that even if we truly were opposed to something being voted on, we essentially would have no power to protect ourselves from the outcome of such a vote if we held a minority position. Partial veto seems meager compensation considering the huge sums of resources we could be required to contribute.

An even larger problem emerges, however, with our ratification of the terms of this treaty. We challenge our own economic philosophy. Since Adam Smith wrote the "Wealth of Nations," the United States has been the most liberal country in terms of backing a position of governmentally unregulated business. The United States, having grown to and retained the position of the world's largest economy, has experienced success in business because our various industries are allowed to compete with each other. This natural, healthy competition results in resources flowing to their highest valued use, the most efficient technology being employed leading to lower prices for consumers, and the incentive to keep using the most efficient methods of production.

The treaty is in conflict with our economic philosophy. Resources and revenues will have to be distributed equally according to the treaty. Is this what we want when obviously the United States' input is far more than equal? Why would we pay 25 percent of all costs when our return would be significantly less?

The deep seabed mining provisions of this treaty are greatly anticompetitive. In fact, the rules of this treaty may conflict with rules of the GATT. As one of the few industrialized signatory members, there is a chance that the less developed country members would use this opportunity to discriminate against us.

It has been said that the new amendments deal with these objections and criticisms, but have we seen exactly

VOL 140 PT 16 AG 12 — 18 1994 UMI

how? Is the treaty amended to an acceptable extent? Now that we have no choice but to remain bound provisionally to this treaty for a certain extent of time, we should leave it at that. We can see how it develops over the next 4 years, look for places that still need improvement, and then ratify the treaty sometime down the road if it then seems beneficial to the United States.

Madam President, with unanimous consent I would like to submit an article from the Wall Street Journal written by Doug Bandow at the conclusion of my remarks. Mr. Bandow is a senior fellow of the Cato Institute, and served as deputy representative to the third U.N. Conference on the Law of the Sea. Having been involved at the forefront of the negotiations of this treaty, Mr. Bandow is an expert on the issues at hand. His article raises valid points and elicits useful information. I ask unanimous consent to place Mr. Bandow's article in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[The Wall Street Journal, July 28, 1994]

DEEP-SIX THE LAW OF THE SEA

(By Doug Bandow)

The Law of the Sea Treaty—that "constitution of the oceans" that surfaced during the Carter years—is back in the news. The regulation-heavy treaty was properly torpedoed by Ronald Reagan in 1982, but the Clinton administration has resurrected it. Indeed, the U.S. plans to sign the accord tomorrow at the United Nations. Then only the Senate can block its ratification.

The treaty has a predictable pedigree, given its U.N. origins. Throughout the 1970s and early 1980s, most Third World states saw socialism as the wave of the future and promoted the New International Economic Order—global redistribution of resources, technology and wealth. The Law of the Sea was the quintessential expression of this new order, and the most far-reaching.

The ocean floor is littered with manganese nodules and other resource deposits. Visions of vast wealth free for the taking led Malta's U.N. representative, Arvid Pardo, to propose in 1967 that the seabed be declared the "common heritage of mankind." The U.N. General Assembly created an ad hoc Seabed Committee and, in 1973, organized the Third United Nations Conference on the Law of the Sea.

SEABED MINING

That conference eventually gave birth to a convention with more than 400 articles, on subjects ranging from ocean transit to marine pollution. But its most contentious provisions addressed seabed mining.

The treaty created the International Seabed Authority to regulate private mining, and the Enterprise to develop the ocean floor. The Authority was ruled by an Assembly and a Council: The Soviet bloc was guaranteed three seats on the latter, while the U.S. was assured of none. Western countries and firms were to provide funds and technology for redistribution to developing states. The treaty limited mineral production, failed to guarantee private firms access to the seabed and subsidized the Enterprise. Little wonder that President Reagan—joined by other leaders of the industrialized world and event the Soviet Union—rejected the treaty.

But diplomats are attracted to treaties as moths to lights. Informal discussions began in 1990 over revising the accord, culminating in Secretary of State Warren Christopher's announcement that the administration will sign a revised treaty. And yet earlier this year David Colson, deputy assistant secretary of state for oceans, admitted that "the basic flaws of [the treaty's] deep seabed mining regime are manifold." "Why, then, bother trying to "fix" it?

The Law of the Sea Treaty was created in a different era with a purpose of extracting wealth from the West. Since then, most developing states have begun moving away from collectivism. Yet the original treaty structure remains. Even the State Department acknowledges that the agreement "retains the institutional outlines of Part XI," as the labyrinthine seabed mining provisions are known.

In contrast, a decentralized process, perhaps with a small international office, providing for mutual recognition of mine-sites and arbitration of conflicts at minimal expense, would provide adequate security of tenure for mining companies. The U.S. and the Europeans implemented such a system after they rejected the first treaty. This framework could be expanded to other nations. The newest version of the treaty is simply a solution in search of a problem.

Supporters of the Law of the Sea Treaty point out that the convention covers other subjects, such as navigation and scientific research. However, while these provisions are generally noncontroversial, they are also largely irrelevant, since most merely codify customary international law. The Pentagon worries about naval transit, but few countries have the incentive, let alone the ability, to interfere with American ships: Not once over the past decade has a U.S. vessel been denied freedom of transit. In any case, it is the U.S. Navy, and not the Law of the Sea Treaty, that will ultimately guarantee U.S. interests.

As for the seabed provision, State Department negotiator Wesley Scholz claims that "we have been successful in fixing all the major problems raised by the Reagan administration. We have converted the seabed part of the agreement into a market-based regime."

Well, not quite. Administration officials have turned a disastrous accord into merely a bad one.

Overall, the International Seabed Authority remains an unnecessary bureaucratic boondoggle, likely to end up as enervating, expensive and politicized as the U.N. The Treaty retains both the ISA and the Enterprise, an international version of the state enterprises that have failed so miserably all over the world. The governing process is almost comically complicated, with an Assembly, Council, and such subsidiary bodies as a Finance Committee and a Legal and Technical Commission, all of which have their own arcane rules for membership and voting. For each site they wish to mine, private companies are still required to survey and provide, gratis, a separate site for the Enterprise. Antimonopoly and density provisions would continue to threaten U.S. firms disproportionately.

Companies would still owe a $250,000 application fee and some as-yet-undetermined level of royalties and profit-sharing. (The "system of payments," intones the compromise text, shall be "fair both to the contractor and to the Authority," whatever that means.) Any surplus funds would still be distributed "taking into particular consideration the interests and needs of the developing States and the peoples who have not attained full independence or other self-governing status," like the PLO.

Even some of the changes look inadequate. Under the revised treaty, the U.S. would be guaranteed a seat on the Council, but no veto. Rather, the Council would consist of four chambers, any one of which could block action if a majority of its members voted no. On matters of vital interest, the U.S. probably could round up the necessary two extra votes within its chamber, but over time the career foreign service officers likely to staff most nations' ISA delegations, including that of the U.S., might grow uncomfortable being known as obstructionists.

Moreover, developing states and the land-based mineral producers—whose interests are antagonistic to the very idea of seabed mining—are to have their own chambers, and thus de facto vetoes over the ISA's operations. They may therefore be able to extract some potentially expensive concessions, like new limits on production, before allowing the ISA to function.

Funding remains a problem as well, despite America's seat on the Finance Committee. The U.S., naturally, would be expected to provide the largest share of the ISA's budget, 25% to start. How much would that be? Years ago the U.N. estimated that the ISA could cost between $41 million and $53 million annually, on top of initial building costs of $104 million and $225 million. The administration contends that the new agreement provides for "reducing the size and costs of the regime's institutions"—by the adoption of a paragraph pledging that "all organs and subsidiary bodies to be established under the Convention and this Agreement shall be cost-effective." Like the U.N. itself?

Finally, the mandatory technology transfer requirement has been discarded, a major advance, only to be replaced by a provision requiring sponsoring states to facilitate the acquisition of mining technology if the Enterprise or Third World nations "are unable to obtain" equipment commercially. Could the ISA then hold the industrialized countries, as well as private miners, responsible for subsidizing the Enterprise's acquisition of technology? Provisions like this are potential time bombs.

'A VERY IMPORTANT DEVELOPMENT'

The revised Law of the Sea Treaty "is a very important development for the United State because it gives us an opportunity to, in a market-oriented context, gain the benefits of some of the resources of the Law of the Sea," explained Mr. Christopher to Congress in June.

If only that were true. In fact, consumers worldwide are far more likely to gain the benefits of those minerals without the treaty. Created at a time when redistributionist economics held sway internationally, the treaty is beyond fixing. With the administration nevertheless committed to signing the record, it is up to the Senate to consign it to the ash heap (or ocean floor) of history—where it belongs.

WELCOMING PRESIDENT LEVON TER-PETROSSIAN OF ARMENIA TO THE UNITED STATES

Mr. PRESSLER. Mr. President, I rise today to welcome President Levon Ter-Petrossian of Armenia to the United States. I feel greatly honored, as I am sure my colleagues do, that we had the opportunity to meet with President Ter-Petrossian and discuss the current status of Armenia-United States relations.

Since his election in October 1991, the first democratic presidential election in the Republic of Armenia, President Ter-Petrossian has worked to establish friendly and close diplomatic and economic ties with many other countries. His success in diplomacy can be proved by the fact that more than 120 countries, including the United States, have formally recognized Armenia, and over 70 have established diplomatic relations with Armenia. In fact, an Armenian Embassy already has opened here in Washington, DC.

Furthermore, it is to the credit of President Ter-Petrossian that through the efforts of his administration, Armenia has become an active participant in global issues and concerns and has become a member of prominent international organizations. Some of those organizations include the United Nations, the Commonwealth of Independent States, the Conference on Security and Cooperation in Europe, the World Bank, and the International Monetary Fund.

President Ter-Petrossian is an extremely well-educated individual with a clearly defined sense of purpose, even though he faced strong opposition from outside during the pre-independence days of Armenia. After he led the Armenian Legislature to unanimously adopt its Declaration of Independence, the United States was one of the first nations to recognize Armenia's Independence. Consequently, good ties with the United States are a top priority on Armenia's foreign policy agenda. Much progress has been made on that front. Bilateral agreements have been signed—strengthening relations between our two countries.

On August 9, 1994, President Ter-Petrossian and President Clinton met for the first time. Such a meeting holds great significance, because it emphasizes President Ter-Petrossian's commitment to promoting greater understanding and cooperation between the world's leading democracy and Armenia, one of the newest democracies. Once again, I would like to extend a most vigorous welcome to President Ter-Petrossian as he continues to meet with various U.S. officials. I offer my best wishes for the continued success in Armenia's transition to a market-oriented, democratic state.

Mr. LOTT. I ask unanimous consent to proceed for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I might say to the Senator we are in morning business and he has up to 15 minutes now.

Mrs. BOXER. Will the Senator yield for a question on time?

Mr. LOTT. Madam President, I would be delighted to yield to the Senator from California.

Mrs. BOXER. I would ask the distinguished majority whip if he can tell me how much time is set aside for morning business?

Mr. FORD. It is indefinite until we bring up the bill.

How much time would the distinguished Senator from California need?

Mrs. BOXER. I request 15 minutes.

Mr. LOTT. Madam President, I yield to the Senator from Kentucky for another question.

Mr. FORD. I apologize. With the yielding of the Senator from Mississippi, I ask unanimous consent the Senator from Mississippi have 15 minutes, and following the distinguished Senator, the Senator from California have 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Mississippi is recognized for 15 minutes.

THE HEALTH CARE BILL

Mr. LOTT. Madam President, since we have had questions about the time, that is one of the reasons I rise this afternoon, to protest the fact that we are now back in morning business. It is 4:30 on Friday afternoon. We have not had, that I know of, any time allocated today at all for debate or discussion on health care. Yet we are hearing in the news media there are going to be amendments on the health care bill today or tomorrow.

I know there are many Senators who have yet to have an opportunity to utter the first word on the so-called Clinton-Mitchell health package, so I do not understand why we are not continuing debate on that very important issue. The American people think we are involved in a heated debate now on health care reform, yet I do not think anything has been said on the floor of the U.S. Senate this whole day on health care. We have been on other issues. Not that they are unimportant, but certainly health care is supposed to be the issue of the day.

I also thought we had some sort of time agreement that would take 90 minutes, I think it was, on the issue that is just being debated. I had been waiting for that to be completed so we could go to the health care debate—so we could have a vote and then go to the health care debate. Now we are told there will be no vote—we may have a vote at 6:20 on Friday night and we may then, or may not, go back to health care at 6:30 or 7 or 7:30 tonight.

I do not know, it does not seem to me this is a good way to run a train. If we are serious about finding out what is in the Clinton-Mitchell package, it seems to me we ought to be looking into it, discussing it, asking questions about it, having an opportunity to engage each other in debate, and at some point even have amendments. But we are not doing that.

I do not know what happened. I guess we are trying to accommodate some Senators who are somewhere in this town, maybe at the White House, or maybe in Minnesota. I do not know where they are. But I know this. It looks to me like once again, for the sake of a few or one—I do not know—that the other 99 are being asked to stand around and wait until 6:20 on Friday night. So I object to the way this is being done. I am prepared to stay tonight, but I would like at least to know what the schedule is going to be, and I object to the fact we are not even taking up the important issues of the day: Health care.

I am ready to go when my opportunity comes. I have been waiting for 3 days to have an opportunity to get engaged in a debate. I believe only eight Republican Senators have been able to speak on health care.

Madam President, I am running out of appropriate ties and shirts to be able to make my presentation on health care. Let us get on with it, or let us do the wise thing—like the House of Representatives—go home and think about this issue, learn what is really involved. Maybe we would finally get a bill we might have to vote on.

I understand now we are looking at the third version of the Clinton-Mitchell bill. Every time I think I have a grip on it, it changes on me. So I just hope the American people are looking at this, and watching it. And they have to be wondering what in the world is going on.

THE CRIME BILL

Mr. LOTT. Madam President, I wanted to speak at this time to go back and correct the record a little bit on the crime issue. I was very proud of the Senate last year—last year, I believe it was in late November or December—we debated at great length a true crime package. We had a lot of amendments that were offered—some were rejected, many were accepted. We voted on it, and it passed. It passed overwhelmingly. I voted for it, even though it had some things I did not like in it and even though I would have liked to have had some strong language on limiting the ridiculous number of appeals of sentences, improving habeas corpus—it still was a pretty good package.

Included in that package was some language that I offered called the three-strikes-and-you're-out amendment. I offered that amendment last year before it was made popular by a lot of other folks. But that is unimportant. The important thing is to get the job done.

Now the President goes on the stump and he refers to this thing that came out of conference—which is truly a

VOL
140
PT
16
AG
12
—
18
1994
UMI

very questionable bill in terms of fighting criminals—and one of the things he points out is it has the "three strikes and you're out" in it. Take a look at it. It is not the same language we passed in the Senate. The language we passed in the Senate was a lot tougher. What we wound up with is language that might affect 1 percent of the violent felons in the Federal system—maybe 100 felons.

What happened in conference is they neutered the strength of the "three strikes and you're out." That is what happened to the whole package.

I do not understand why the Senate conferees did not stand and fight for the Senate-passed bill that really was tough on criminals. It really did have enough money in there for prisons. It did have money in there for policemen on the streets. And it was not just another pork barrel bill.

Then it came out of the House—in several pieces, I might add—and all of a sudden it got to be a social welfare package. It grew. The President, I think, maybe originally asked for less than $20 billion; the Senate passed something around $20 billion; the House passed something like $28 billion, and it came out of conference higher than any of the other bills. What it is, is $33 billion. So at every stop it picked up money. Yet the true crime fighting packages at every stop were reduced. So we took money from prisons and we put it over in so-called prevention.

I urge my colleagues, look at what is really in that so-called prevention. What are these items? Would the mayors like to have it? Great. Sure they would like to have it. Would the cities and towns like to have $40 million for midnight basketball? Sure. I think it is a great idea. But how much does it cost to go down to the local gym, flip on the lights, and here is a ball: Play ball. We are going to pay $40 million for that? And that is just one example.

So in the conference they reduced the amount of money for prisons. They increased overall money, but they reduced the amount of money for prisons. They increased the amount of money for so-called prevention. And they turned this into a bill that was more about pork than prisons, more about so-called prevention instead of policemen.

It is a very different bill. And, oh, yes, the assault weapons language that we passed in the Senate—and, Madam President, you were very actively involved in that and did an excellent job—it was in there. A lot of us voted for it anyway.

Remember that—a lot of people seem to forget that—we thought fighting crime was very important and this bill was going to do something. I thought in the conference they would make some improvements in this language; that this would not just be a gun control bill with a lot of pork in it; it would really fight crime. And it does not do any of those.

This bill was destroyed in conference again. It happened 2 years ago in 1992. We had an extended debate on the floor, we thought it was a good bill, it went to conference, came back, and the House conferees prevailed. The House is much, much more liberal on this issue than the Senate. I believe the record shows that.

Some of the House people voted against it because it added some additional death penalty sentences for certain crimes. It would have more death penalties, up to 60, so people voted against it because of that. I bet you the American people think that improved the bill. But you had House Members voting against the rule because it was tougher on allowing the death penalty.

This argument that the President makes about parliamentary trickery, procedural trick. I served in the House for 16 years. Everybody over there—Conservative, Liberal, Republican, Democrat, Westerner or Southerner—we have all used the rules and the procedure. The key vote in 1981 on the budget resolution that actually cut some spending for a change was a vote on the rule. That is what won the whole debate. I was there when it happened. We wound up having six votes on the budget, but after the first vote on the rule, it was all said and done; it was going to be passed.

So this is nothing new. And for somebody to allege the Republicans did it, the Republicans cannot do anything in the House without a lot of Democratic votes—58; 58 Democrats, including people like Lee Hamilton of Indiana, not exactly your run-of-the-mill right-wing Member of the House, a very thoughtful guy who said, "Look, the funding is very spongy."

The truth of the matter is, it "ain't" going to be paid for. Because of this bill at that level, it will be added to the deficit. You have some line items in there, little projects for various House Members. This is a bad bill. It ought to be sent back to conference and changed significantly.

I urge my colleagues in the Senate who have been conferees, I urge the President, let us all cool the rhetoric, let us cut the amount of spending in the bill, let us knock out some of the unnecessary pork spending that is in the bill, and let us make sure it is paid for and then we can have a real crime-fighting package.

Madam President, I am sure my time is about to expire. I just wanted to reflect a little bit on the actual history of this legislation because there has been a lot of rewriting of what happened. I think we should work together. We should try to get a strong crime bill, but it ought to be closer to the Senate bill instead of the House bill, one that is tough on crime and not one that is just tough on the budget and the American taxpayers.

I yield the floor at this time, Madam President.

Mr. FORD. Madam President, will the distinguished Senator yield? I ask unanimous consent that the Senator from Nebraska [Mr. EXON] have 15 minutes following the Senator from California.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized for 15 minutes.

CRIME

Mrs. BOXER. Madam President, I thank the majority whip. I want to talk a little bit about the setback that occurred in the House of Representatives on the crime bill, a bill that you and I care deeply about for our State, Madam President, a bill that we each worked very hard on. You worked hard on the assault weapons ban. I worked on the Violence Against Women's Act and the Driver's Privacy Protection Act. Clearly, we both feel very strongly about this bill.

For 2 years now, since I got elected to the Senate, I have had the chance to meet with people from all over the great State of California. Every chance they get they send me a message. They tell me to do something to stop the wave of violence that is crashing over our communities, our schools and our streets. They tell me this because they understand that no child should have to choose between their safety and their education, and yet a lot of our children are afraid to go to school. A lot of our young parents are afraid to send them there.

When I was a kid growing up a long time ago, my parents worried about my crossing the street. They said make sure you look both ways, be very careful, pay attention. Today our parents worry about whether their children will make it home in one piece. They worry that their children are going to get shot by a stray gang bullet or someone driving by in a car.

No woman should have to look fear in the face every time she walks into a parking lot at night, and let me tell you, we feel that fear. We feel that fear. Sometimes I say to my male colleagues and my friends and to my son and to my husband, "Do you feel that same fear women feel?" And they say, "Well, not really, not quite as much."

Tragically, the women in this country have to be ever mindful, wherever we are, that someone could attack us, could hurt us, could brutalize us. Every 6 minutes in America a woman gets raped, and every 15 seconds a woman gets beaten. This is wrong.

No police officer should be outgunned by a thug wielding a military-style assault weapon. And no American, no matter how they live or where they live, should be prisoners in their homes. The people want tough laws to lock up violent offenders. We put that in the crime bill. It survived in the crime bill.

The half-truths you hear around here are unbelievable. Let me read you about what emerged from conference on the three strikes and you are out:

Requires life imprisonment for those convicted for the third time of crimes of violence or drug trafficking.

Yes, it is true that they added a proviso that someone who is 70 years old or older who is determined to be no longer dangerous could get out after serving 30 years, but they have to have been deemed safe; they have to have served for 30 years, and they have to be over 70 years of age.

Madam President, I held a series of violence summits all over the State of California. Do you know who were the strongest voices for programs like midnight basketball? Do you know who were the strongest voices for programs like Boys Clubs and Girls Clubs to help our children turn away from crime? Do you know who the strongest voices were? It stunned me. They were not the teachers. They were not the social workers. They were not the elected officials. They were the police officers. The police officers said, "Senator, by the time those kids come to us, it is too late. Yes, we should lock them up when they do things that are bad, and we know you are for that, but you have to help us in the early stages to give these kids something to say yes to."

I was so surprised. When I had my first meeting in the northern part of the State, I thought, well, maybe this is the thinking in the northern part of the State. Then I went into the central valley, the farmland area, and it was the same thing. And I went down south, the same thing. The police officers are asking us to invest in the broad spectrum of crime fighting tools—in prevention, enforcement, in drug interdiction, and in new prisons. And that is what we did in this bill.

What really amazes me is that people stand up on the Senate floor and say this bill is loaded with pork. They did not think it was pork on that side of the aisle when they fought for more prison money. And I voted with them for prison money because I believe we need to get the hardened criminals locked up. They never said it was pork to put 100,000 police officers on the street. They didn't say that because they know and I know that is what the people want. And that is what this bill is about.

When they talk about pork, they always mention midnight basketball and girls clubs and boys clubs. They call it pork. I call it smart.

And then they say the bill is terrible because it lets drug offenders out on the streets. Well, we need to get to the truth of that. We are faced with a problem because we need prison space for hardened, violent criminals. We are desperate to lock these people up, absolutely; three strikes and you are out. You stay in jail. We all supported that.

We need prison space. We are building prisons. But we also need the space now. So what we say in this bill is if there is a first-time nonviolent drug offender, the judge has the option to waive the minimum mandatory sentence but the person has to serve a minimum of 2 years.

The American people, in my opinion, want us to pass this crime bill because this crime bill is tough and it is smart.

How do we fund it? We cut down the bureaucracy. We cut jobs in the Federal Government. And we have set up a trust fund. And when Senator BYRD brought that plan to the floor, everyone—Republicans and Democrats—praised Senator BYRD for it.

Well, unfortunately, yesterday marked a victory for the special interests and the guardians of gridlock. It was a sad day for the House of Representatives, in which I served for 10 years, and even a sadder day for the American people.

Yesterday, those who want to see our President fail joined up with the gun extremists to halt the wheels of progress and break our promise to the American people. But I say the issues are on our side, and those who stand in the way of this bill I think will begin to feel the pressure, because the people want what is in this bill. They want 100,000 new police on the streets. They want $1 billion in funding to help States fight drugs. They want tough new penalties like three strikes and you are out to get violent offenders off our streets. They want to extend the death penalty to cover approximately 60 offenses. They want money for prisons and boot camps so we can lock up our most violent felons and steer our young people along the right track. They want drug court programs to get offenders off drugs and out of the criminal justice system.

And, Madam President, they want the Violence Against Women Act, of which I am so proud to be an author. Violence against women has reached epidemic proportions. We address it in a big way in this bill. Do you know we have more animal shelters than we have shelters for battered women and their children?

This bill changes that. This bill is a necessity. The ban on assault weapons, Madam President, is crucial, and I am sure that you will have more to say on that subject.

I think that those who are trying to bring gridlock back are distorting what has happened over in the House. Some have said that it was the Democrats who brought down this bill, but I want to give you the numbers because they are very clear. An overwhelming number of Democrats voted for that rule, and an overwhelming number of Republicans voted against that rule—198 Democrats voted for the rule, and 11 Republicans; 167 Republicans voted against a crime bill, and 58 Democrats joined them.

When you have 198 Democrats who support getting this crime bill to the floor and only 11 Republicans, I think it is pretty clear.

So, Madam President, as I wind up my remarks, I have an appeal to make to the American people.

When we ask the American people what they worry about, they are very clear in their response. Crime is about the number one issue. Health care is very close behind. And I say to the American people, you watch these proceedings. You listen. You make your own judgment. Who is willing to step up to the plate to face these long-neglected issues, to try to solve them, and who plays the part of Dr. No? No, we cannot have this crime bill because I do not like one of the thousands of things in it. No, we cannot have the health bill because I do not like 3 of the 2,000 things in it.

The bottom line is we are a legislative body. There is give and take in this legislative body, Madam President. We fashioned a crime bill that is very wise. Prevention, punishment, and enforcement all go hand in hand. We need to go back and make sure that the House of Representatives brings out that rule and we have an opportunity to make good on the promises we made to the American people.

I thank the Chair, and I thank the majority whip for his generosity. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Kentucky is recognized.

Mr. FORD. Will the Senator from Nebraska yield me just 1 minute so I might ask unanimous consent?

Mr. EXON. I yield.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT—MESSAGE FROM THE HOUSE

Mr. FORD. I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4554.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That Senate amendment No. 83 to the bill H.R. 4554 making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill with the Senate

VOL
140
PT
16
AG
12
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18
1994
UMI

amendments thereto be respectfully returned to the Senate with a message communicating this resolution.

Mr. FORD. Madam President, I ask unanimous consent the Chair lay before the Senate a message on H.R. 4554, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for fiscal year 1995, which was returned to the Senate by the House; that Senate amendment 83 be modified with the amendment I now send to the desk; that the Senate insist on its amendments, request a new conference with the House, and that those Senators currently serving as conferees on this bill be reappointed.

The PRESIDING OFFICER. Without objection, the amendment will be modified.

The amendment is as follows:

In lieu of Senate amendment No. 83, insert the following: "On page 70 of the bill insert the following after line 6: *Notwithstanding any other provision of law, no employee of the United States Department of Agriculture shall be preemptorily removed without a hearing from his or her position because of remarks made during personal time regarding Departmental policies or proposed policies.*"

Mr. FORD. I yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 15 minutes.

HEALTH CARE REFORM

Mr. EXON. I thank the Chair very much. I thank my colleague from the State of Kentucky.

Madam President, I am about to make some remarks with regard to health care. I apologize to the Senate and the television cameras that I do not have any charts. It seems to me that we are going down the course where without a chart you cannot hardly discuss anything in the Senate anymore. But I hope that my words will be descriptive enough, possibly different enough from some of the other debate that we have had on the health care issue.

Madam President, I come here with rancor to none, with accusations against none, with an understanding of the passion that grips Americans and Nebraskans on the health care issue, and with an understanding of the strongly held views of my colleagues of all persuasions.

I suggest that a little peacemaking might be in order. I am one of those Senators who rejected early on the President's health care plan, but I am genuinely undecided on all of the proposals now before the Senate. All of them have some pluses and some minuses, and would need substantive amendment before I could support anyone.

In my 24 years of public service, I have never seen my constituents so divided and concerned. They, like those of us here representing them, have been so bombarded by conflicting and competing claims, charges, and countercharges that they are understandably leery of the outcome. So am I. Thus far most of the debate has created lots of political heat, but not a lot of health care light.

But out of all of this chaos and confusion might come the courage to lay partisanship aside, quell our rhetoric, harness our individual determinations that we know best, and come forth with a health care plan that will have some sense of broad-based support.

True, we have generally good health care for most Americans, based primarily on employer based insurance plans. Why then some ask, are we trying to destroy it? We are not! We are trying to make it more affordable for all and provide a means toward a reasonable degree of coverage for all.

We are trying to recognize that neither the Government, nor business, nor individuals can possibly afford the spiraling costs of health care we have experienced in the last 20 years. We must control costs and the costs of any plan we approve.

It is clear that we can never begin to get our Government fiscal house in order and stop deficit spending unless we harness health care spending. If we cannot understand that, we cannot understand anything. We cannot turn the clock back to the days of yesteryear. We do not want to. We would not be satisfied with the lesser quality health care of those days. We must salute and thank the health care delivery system and its dedicated professionals for the greatest half-century in advancement of health care in the history of mankind.

But that does not mean we can or should give them the green light or a blank check from individuals, business or the Government to continue the dizzying pace of the cost spiral. What quality of life is it that finds us scrambling to find the money to pay for care that still leaves us always behind the curve?

From the very beginning of the serious considerations for addressing this truly national issue, I pleaded and argued against the various socializing schemes and a government run system. I insisted on keeping the insurance policy concept as the centerpiece. I am pleased to note that essentially those two principles are the key ingredients in all of the plans.

But key insurance reform is essential as is a better understanding of who is taking advantage of whom under the present system that cries out for correction. There are many Americans who seem to believe that we should let well enough alone. That this is not a legitimate national issue. That is nonsense in my view. Social security, almost universally endorsed as a sound and fair concept, paid for half by the individual and half by the employer, is a national program that would not be in place were it not for the actions of the Federal Government. If social security is good, what is so bad about health security?

Many do not seem to realize that they are paying dearly now for the uninsured, for whatever reason, by clandestine "cost shifting," and higher taxes. Unless corrected, it is going to get much worse in the future.

Let me be clear. There is a tremendous cost to doing nothing and allowing the status quo to prevail. And that cost goes beyond the individual family hardships that exist today for those who need health care coverage and cannot get it.

There is a collective cost to all taxpaying Americans as well. In 1970, the combined cost of Medicare and Medicaid together was $9 billion. By 1990, that cost rose to $137 billion. By the year 2000, if we continue on our current course, that cost will rise to $458 billion. This is staggering. And this, more than any other part of the Federal budget, will drive us deeper into the despair of red ink and add to the already crushing burden of debt we are piling on to our children and grandchildren. This "cost shifting" must stop, too.

I am not sure who has the right bill or solution. I wish that I could be as self-confident and certain as some of my colleagues are of their solutions.

I call and plead for all sides to cease and desist from tearing apart and questioning the motives of others. Throughout all of the plans there appears to be many underlying and fundamental agreements. Why do we not start talking together and in a less accusatory fashion? In my view there are some good concepts in the Dole plan, the Chafee plan, the Moyhihan plan, and the Mitchell plan. There may be others.

In the end I am fearful that on the present course we will preach gridlock. That will be the likely outcome after all of the shouting, the litmus test votes and all the political posturing.

My suggestion is to proceed as quickly as possible to a workable solution through a process that I suggested personally to the President some time ago.

It embodies a process we have employed successfully previously.

The record shows that when we were faced with a serious issue like the solvency of the Social System we went to the summit. I cite that, and I also cite the summit that we went to at Andrews Air Force Base to try to solve the budget crisis. I cite only these two summits of recent vintage that rescued the solvency of Social Security, and the Andrews summit on the budget problems that were partially solved there.

The process is not complicated. The President summons the elected leadership of the House and Senate, on a bipartisan basis, to come together with him out of the spotlight in an attempt to reach a compromise. If it can be worked out, fine. If not, the gridlock is so declared and we dismiss the issue for this session. Any agreement, of course, would have to be brought back, explained and debated in the Congress and voted on.

It should be clear to all that unless something of this nature can be tried we are not likely to succeed, but rather be further bogged down in endless and relentless debate and recriminations.

Let us reject needless discontent. Let us try to agree on a measure that would have a chance to succeed and bring the country together. Let us quit dividing. Let us seek to be positive and meet in serious, attempted compromise on this important issue.

In closing, I suggest, Mr. President, that we silence the cannons, sheath the political knives, and count the blessings for Americans of today and tomorrow. I think all of us would be proud to some day look back and say: I was a part of the beginning of the process that brought the elimination of the fear of all Americans, young and old alike, to be without adequate health care. Mr. President, I think God would also be proud of us.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

HEALTH SECURITY ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now resume consideration of S. 2351, the health care reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 2560

(Purpose: To provide for a substitute amendment)

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 2560.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MITCHELL. I ask unanimous consent that there be printed in the RECORD a statement of changes from the prior proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHANGES FROM AUGUST 9 MITCHELL HEALTH PROPOSAL

Subtitle B of Title II. This provision makes the labor protections under the Home and Community Based Care program conform with labor protections affecting all dislocated workers resulting from enactment of this legislation. From the August 9 document, conforming changes have been made on page 367, line 14; on page 588, lines 14 through page 590, line 13; on page 591, line 13; on page 591; on page 679, strike line 14 and all that follows through line 19 on page 684; on page 691, after line 10, insert new subsection.

Part 3 of Subtitle E of Title III. This part—Payments to Hospitals Serving Vulnerable Populations—has been deleted, as it was replaced by Part 3 of Subtitle B of Title IV in the previous document.

Title VII. Section 7132. The self-employment income provision in the original bill (from the Finance Committee bill) modifies the self-employment tax base of S corporation shareholders and limited partners who own at least a 2 percent interest and provide significant services to service related businesses. In this amendment, the provision is modified to provide that all two-percent owners who provide significant services to S corporations and limited partnerships will include as net earnings from self-employment the lesser of their net share of the income from the trade or business or 30 percent of their Social Security wage base ($18,200).

Subtitle A of Title VIII. The authorization of funds for the Indian Health Service (included in the original bill) was inadvertently omitted from the August 9 document. The original language has been restored. The provision relating to the direct spending allotment for IHS, which was in Title VIII of the August 9 document, has been returned to Subtitle H of Title III, as it was in the original bill.

Title XI. Throughout Title XI, the word "sequester" has been replaced by the word "reductions."

Mr. DOLE. Mr. President, I ask for the yeas and nays on amendment No. 2560.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I have discussed with the distinguished Republican leader earlier today, and just a short time ago, the process for determining the schedule for dealing with this bill over the next 2 days, and beyond. I indicated to him that we had several amendments ready for consideration and will be prepared to proceed with an amendment to be offered by Senator DODD first.

I invited the distinguished Republican leader to have an alternate procedure, where Republican amendments could be considered as well. He indicated that they do not have any at this time. Therefore, we will proceed with Senator DODD's amendment, and following that, we will be prepared to proceed with other amendments, which I have identified to Senator DOLE.

Therefore, if agreeable, Senator DODD is now prepared to offer his amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, the majority leader is correct. We did have a discussion earlier today and one a few moments ago. Following the earlier discussion, we had a meeting in my office with some of the Republican colleagues, particularly Senator PACKWOOD, who will be directing the effort on this side of the aisle. At this time, we do not have any amendments.

As I indicated to the majority leader earlier today, we have a number of Members who wish to make statements, who have not made those statements. As the majority leader said, and I have said many times, obviously, if Members are here with something to say and they are not repeating it every half-hour or every hour, the same Senators, I hope they will have that opportunity. Of course, once the amendment is offered, I assume they can speak to the amendment or the bill generally. But we are prepared to proceed on that basis.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I thank my colleague for his comments. As I indicated, I advised Senator DOLE earlier today of the amendments we were considering and sent a copy of the amendment to his office this afternoon so that they would have prior notice of the amendment before being offered. We would be prepared to proceed on that. What I hope is that Senator DOLE and I can have a discussion sometime in the near future to determine how our colleagues want to proceed with respect to that amendment itself. We will have further amendments, as well.

Following those discussions, I expect to make a decision, following consultation with Senator DOLE and the managers of the bill, with respect to the schedule for this evening and for tomorrow.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. DODD] is recognized.

AMENDMENT NO. 2561

(Purpose: To promote early and effective health care services for pregnant women and children)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. KENNEDY, Mr. RIEGLE, Mrs. MURRAY, Mr. SIMON, Mrs. BOXER, Mr.

VOL 140 PT 16 AG 12 — 18 1994 UMI

WOFFORD, and Mr. LEVIN, proposes an amendment numbered 2561.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 1201, insert the following new subsection:

(d) APPLICATION OF INTERIM STANDARDS.—

(1) IN GENERAL.—During the interim standards application period, a health plan sponsor may only issue or renew a health plan in a State if such plan covers clinical preventive services according to a periodicity schedule established under paragraph (3), including prenatal care, well baby care, and immunizations, for pregnant women and children without imposing cost-sharing requirements on such services.

(2) INTERIM STANDARDS APPLICATION PERIOD.—The interim standards application period is on or after July 1, 1995, and before January 1, 1997.

(3) PERIODICITY SCHEDULE.—

(A) IN GENERAL.—Not later than July 1, 1995, the Secretary shall establish a schedule of periodicity that reflects the general, appropriate frequency with which clinical preventive services should be provided routinely to children. In establishing the schedule under the preceding sentence the Secretary shall consult with the American Academy of Pediatrics regarding children's preventive care.

(B) EFFECTIVENESS.—The schedule established by the Secretary under subparagraph (A) shall be effective until the Board develops a periodicity schedule under section 1213(a)(2).

(4) APPLICATION OF RULES.—Paragraphs (4), (5), and (6) of section 1111(e) shall apply to this subsection.

Mr. DODD. Mr. President, I offer this amendment that deals, I say to my colleagues, primarily with the issue of children, an issue on which I hope there is unanimity of thought here. We are talking about some 12 million young Americans who are without any health insurance today. They make up some 36 percent of the uninsured population of this country, even though they represent a little more than 25 percent of the entire population of the United States.

There is a disproportionate representation of children among the uninsured in this country. While there will be, I am confident, significant debate, Mr. President, about various aspects of the bill being proposed by the majority leader, on the issue of mandates, and on the question of cost containment, and whether or not benefit packages ought to be larger or smaller; and I presume we will go through that process over the next several days, and possibly weeks.

But I would hope, Mr. President, that on the issue of one constituency, we will all try to come together to do what we can to increase the possibility of the most helpless in our society from being covered—that is, America's children.

As I said, there are some 12 million of them, Mr. President. Today, they are not getting the kind of proper protection they should have. I point out as well, Mr. President, that a significant number of this 12 million are the children of working families. These are not children whose parents are living on public assistance, or depending upon someone else for their survival for maintenance on a daily basis. Rather, these are children whose parents go out every single day and try and hold down jobs and provide for their families through hard work and labor.

These children, through no fault of their own, and through no fault of their parents, find themselves exposed not only to the dangers of the diseases that can afflict a child at the earliest stages of life, but also to those diseases and problems that go unattended and can cost significant dollars in later years. I will demonstrate very shortly, Mr. President, exactly how that happens.

So, while there is a small cost involved in prevention and prenatal care and in providing for the well child, we now know statistically, that children that get the kind of immunizations early on, women who are pregnant who get care during pregnancy, not only save that child and save that family from the tremendous pain and suffering that can accompany an illness, but for those who are not affected by that particular argument, if they are only concerned about the costs, if you can catch a problem early, or stop one from happening, then there are literally thousands and thousands of dollars to be saved for the American taxpayers, and to others who end up picking up the costs in many cases because the children and families do not have adequate coverage.

So this amendment, which I will explain, is very simple. It is one that can be endorsed and supported across the board. I am particularly pleased that this is the very first amendment to be considered by this body on the issue of health care.

We are not talking about some arcane issue, some formula that no one could possibly understand. We are not talking about some narrow constituency.

We are talking about a group of people in this country that I believe all Americans, regardless of party, regardless of ideology, regardless of political persuasion, want us to do our best to see that they are covered and helped.

For that reason, Mr. President, I offer this amendment as the very first amendment to be considered in the national health care reform debate.

Mr. President, the issue of children is one that we have debated and discussed. In fact, it is with some degree of irony that the last bill that was considered prior to returning to the health care bill was a child nutrition bill. I listened to many of the arguments and debating points raised here. Again there was virtual support and unanimity about WIC Programs and seeing to it that our children are well served.

I see the presence of my good friend, the minority leader, on the floor. Very few people, I would say, fought as hard for food programs, for food stamps, than the Senator from Kansas throughout his career.

Again, I point this out because the issues involving young people, by and large, enjoy broad-based support. When we talk about health care, we talk about the uninsured; we talk about trying to reach all Americans. While it may be difficult to get everybody, because of the problems associated with cost and a variety of other questions, I would hope that we could at least reach these children. While adults and others may be hard to deal with, children ought to be one population that we can serve.

We all lose, obviously, when the worker or the person of tomorrow is crippled for life by untreated illness. That occurs today. We all lose when a completely preventable disease—let me emphasize that it is a completely preventable disease—like measles ripple through the child population. We all lose when parents cannot change jobs for fear of losing coverage for their children.

The failings of our current health system are magnified when we look at how it treats our youngest citizens. Children are overrepresented among the uninsured. I made that point a moment ago. They represent some 36 percent of the uninsured population. Of that 37 million or 40 million people that are uninsured in America today, 36 percent are children.

Children are overrepresented among the uninsured, and our lack of emphasis on preventative care hurts children more than any other age groups. Americans under the age of 21 comprise a little over 25 percent of the total population of our Nation, but 36 percent of the uninsured are children.

There are 12 million Americans under 21 without health coverage. There are 9.5 million children under the age of 18 without health insurance. And I point out on a parochial basis 44,000 of this population of uninsured live in my home State of Connecticut.

Mr. President, the United States ranks 21st out of 23 industrialized nations in the world in terms of infant mortality. I get chilled when I just state that statistic. Let me repeat it. Out of 23 industrialized nations in the world, the United States ranks 21st in infant mortality. We beat only Portugal and Greece. They are 22nd and 23rd. Our infant mortality in the United States of America in 1994 is 30 percent higher than Germany, 35 percent higher than our neighbor to the north, Canada, and twice as high as our chief economic competitor in the world, Japan.

This, Mr. President, is a middle-class issue, in my view. In fact, nearly 58 percent of uninsured children are dependents of parents with full-time, full-year jobs. These are children from hardworking families who want nothing more than to provide the basics for their kids; food to eat, a roof over their heads, and a visit to the doctor when they get sick or need a checkup.

This problem, Mr. President, is embodied in the case of young Chelsea Tourigny of Norwich, CT, the town of my family in Connecticut. Chelsea's mother wrote about her problem.

Chelsea suffers from a rare blood disorder that causes frequent bruising and occasionally uncontrolled bleeding. Chelsea's father died in 1989. But his health insurance was through Electric Boat Division. My colleagues are more than familiar with that company because of the debates we have had about submarines in this body from time to time. I know they have heard me talk about Electric Boat with some frequency. This is not an obscure corporation in Connecticut. Electric Boat, the father's employer, continued for 3 years after his death the health care coverage for Chelsea's treatment, a pretty generous program that the Electric Boat Division of General Dynamics provides its employees.

But then, Mr. President, as happens, the policy expired. Companies cannot continue to maintain benefits in perpetuity. The fact that they did it for 3 years after the employee's death, I think was rather good.

Chelsea's mother was able to purchase health insurance for herself, for her son, but no health insurance company—no company —would take young Chelsea. She had a preexisting condition and was on her own.

This is a family that works, a family that contributed to the economic well-being of the country. In fact, I add in this particular case contributed to the security of the country since her father worked for a major defense contractor. They did everything right, played by the rules. A child incurred an illness through no fault of the parents. They had done nothing wrong. They worked hard, contributed to their community and their society. Yet, when her father died and they lost their company provided benefits 3 years later, the mother went out and tried to find some coverage for her family.

They will take her. They will take the son. But Chelsea falls through the cracks.

Mr. President, the point I made earlier that is illustrated by this case is that the overwhelming majority of the uninsured children in this country have parents who work full-time, full-year jobs.

As to welfare children, if you are a welfare child in America, you do not get counted in this number because under Medicaid you get covered. So children of welfare parents do not have this worry. This is an issue that affects the children of working, middle-class Americans. That is why it is important that we consider it and do everything we can for them.

The Tourignys, as I point out, are not poor. They are middle-class citizens, who do not qualify for public assistance, and, I suspect, would not ask for it. As Barbara Tourigny said, "You've got to lose everything in order to get health coverage. I am not destitute enough yet," she said. But she will be if she cannot buy health care for her daughter, or has to sell the home, or incur significant financial obligations for her.

Unfortunately, Mr. President, Chelsea is not alone. More and more children are joining them. The number of children in this country covered by employment-related insurance is dropping. It fell from 64.1 percent in 1987 to 59.6 percent in 1992. Let me repeat that; in 1987, 64.1 percent of the population was covered. Now it is dropping to 59.6 percent. All the trend lines are working in the wrong direction. If these trends continue nearly half of all American children will not be covered by job-related insurance by the year 2000.

The majority leader's plan, with its promise of greatly expanded coverage for all Americans, will bring health care to millions of children who now go without it. And I think everybody, everybody in this Chamber ought to get behind that idea. Whatever other differences we may have, that issue and that constituency ought to unite all of us.

In addition, the Mitchell health care proposal recognizes how important preventative care is. This amendment that I have offered seeks to build on what he has done in this area.

I finally believe, Mr. President, that this is a moral issue, it is an economic issue, and it is inexcusable for us to allow millions of our children to go without the medical care that they need. But this is also, as I said a moment ago, an economic issue.

According to the Institute of Medicine, every dollar that we spend on immunizing children will save $10 in long-term health care costs. To look at this issue through an economic prism, one need only look at the managed care companies operating today. All health maintenance organizations—some of the most prominent ones, I might point out, are operated or based in my home State of Connecticut. These HMO's all readily cover preventive services like immunizations and well-child checkups. Most HMO's have outreach programs to educate patients and encourage them to take advantage of immunizations and other preventive services.

A Rand study found that children in HMO's receive preventive care at least 40 percent more often than children in traditional insurance plans. They also have a 50 percent higher rate of overall medical visits:

HMO's, Mr. President, do these things because they know it makes business sense to do so. HMO's know that providing preventive services and encouraging patients to use them are investments that in the long run will reduce illness and, very important to them, reduce and cut costs.

In crafting his bill, Mr. President, the majority leader recognized the compelling moral and economic reasons for providing preventive services for children. Under his plan all health insurance policies will cover children's preventive services, like shots and checkups, in 1997.

This amendment that I offer this afternoon, Mr. President, would move that date up to July 1995. A year and a half may not sound like much I suppose in legislative time—less than one Congress, one might point out—or in economic terms, I suppose. But it can represent an entire lifetime for a young infant and the family.

Those first 18 months of life are critical. Health problems that go undetected then can cause problems for decades, if not a lifetime.

Mr. President, I say that we should make sure that insurance policies cover these critical services sooner, far sooner, rather than later. I see no reason to wait until 1997 to detect and prevent diseases in our children. I see no reason to wait until 1997 to begin reaping the savings preventive care can deliver.

This amendment would also direct the Secretary of Health and Human Services to establish an interim schedule of childhood preventive services. That schedule would be enforced until the National Health Benefits Board, created by this legislation, developed its own permanent schedule.

That is needed, Mr. President, because the date by which the board must define the benefits package does not kick in until July of 1995. So you have to have HHS come up with some rules ahead of time in order to make this work.

Again, I suppose some might say, what is a year and a half? But, again, Mr. President, if you are a young family out there, particularly working families that want to see their children receive the kind of benefits and help they need, this becomes important.

Mr. President, I want to particularly point out, because sometimes we say a dollar here, a dollar there, but I think it may be worthwhile for my colleagues to just get some sense of what happens just in the area of low-birthweight babies, which is a common problem, unfortunately, in this country.

Over 90 percent of infants born to mothers who did not see a health care provider during pregnancy—this is the March of Dimes study of 1994, so I presume it was the year before or 1992—

VOL 140 PT 16 AG 12 — 18 1994 UMI

these babies, we are told, are three times more likely to be born low-birthweight than those mothers who receive timely prenatal care.

Close to 40,000 infants die each year—and again I repeat the statistic, Mr. President, that we rank 21st in the world among industrialized nations in infant mortality.

The costs for doing this preventive care, what does it mean? The average cost of care for low-birthweight infants ranges from $14,000 to $50,000, with costs increasing as the birthweight decreases. The source for this information is the Annie C. Casey Foundation Kids Count Data Book. In 1994, the costs for treating just those low-birthweight children born to adolescent mothers was approximately $1.2 billion in 1989.

That is a number that ought to get somebody's attention around here. Just in the low-birthweight category, $1.2 billion—$1.2 billion—in health care costs because of low-birthweight children.

That is a problem that could get solved if we would reach these children of these working families earlier and provide the kind of prenatal services and the kind of care they can get. We are not going to save every nickel of this, but just think if we could cut into these numbers and help these children get a start in life with a good average birthweight, instead of going to have to go through the trauma these families do. We must remember the staggering costs associated with just one problem, just the problem of low-birthweight children.

The cost we have from the National Adolescent Health Information Center is $1.23 billion. It costs $20,000, on average, to provide initial hospital care for a low-birthweight infant and $400,000 in lifetime medical costs. That is from the Department of Health and Human Services Public Health Service, 1990. I might point out that in 1990 we were under the Bush administration, so these are their numbers.

We are talking here, as I say, about an amendment that merely moves the date when health insurance plans will include preventive care for children up 18 months.

Most of us here, I think, understand and accept the notion that some major parts of the health care bill will have to be phased in over time. But, again, as I said at the outset, I hope with this one constituency of children, that we might do a little better by speeding up the process, saving lives and supporting families that are feeling tremendous pressure. I think it is so important to make that point.

And let me just go to this chart.

Mrs. BOXER. Will the Senator yield for a question before he presents his chart?

Mr. DODD. I am glad to yield.

Mrs. BOXER. I want to say to the Senator, to me, as a mom, as someone who is very anxious to get into this health care debate, I am very pleased that this is the first amendment. I want to thank the Senator for that.

I wondered, does the Senator have a list of the countries that do better than we do in terms of infant mortality? Would the Senator be willing to read that out loud? Because I think it is important that our colleagues on the Republican side and the Democratic side listen to the countries that do better than the United States of America when it comes to infant mortality.

And while the Senator's staff may be trying to get that, I wanted to point out to the Senator, when I was in the House, I was chair of the health task force of the Budget Committee. And in San Diego we learned of a child who got the measles because the child did not get a vaccine, which, at that time, would have cost $14, and it wound up costing the city and county of San Diego $800,000.

So I think what the Senator from Connecticut is pointing out is that here we have morality meeting economic sense. I hope that all of our colleagues on both side of the aisle will make that connection. This is the right thing to do and it is the smart thing to do.

I hope the Senator will find the list and let us hear those countries that do better than we do on infant mortality.

Mr. DODD. I thank my colleague from California. We will try to get that list for you.

I have made note that we are 21st among industrialized nations. Portugal and Greece are the two that come after us at 22 and 23. Actually, Canada does much better than we do.

Here is the list. Here is the United States right here at 22d. That is where we rank in infant mortality.

Japan ranks No. 1 with the lowest infant mortality rates.

Ireland—I am proud to say Ireland comes in No. 2.

I say to the distinguished Senators from New York and Massachusetts, you will be pleased to know that Ireland is No. 2 in infant mortality.

Finland, Singapore, Hong Kong, Sweden, The Netherlands, Norway, Denmark, Canada, Germany, Switzerland, Australia, United Kingdom, France, Austria, South Korea, Greece, Spain, Italy, New Zealand all do better than the United States in infant mortality.

We rightfully take so much pride in this country in things that we do well. We lead the world in so many areas. I think everybody would like to see the United States do far better in the area of infant mortality than we do today so we could take pride in this area, too.

Mr. DOLE. Will the Senator yield?

Mr. DODD. I am glad to yield.

Mr. DOLE. I think the Senator makes a good point.

But I would also point out that a lot of these countries do not have the drug culture we have, they do not have AIDS babies, crack babies, babies having babies. There are a lot of reasons. If you look down some of those countries, they have not been infested like we have with some of these problems. That makes a difference. It does not lessen the problem.

But I think we have some basic problems we need to face up to that may or may not deal with this particular amendment that gets back to families and values and things of that sort.

Mr. DODD. I thank my colleague from Kansas.

It is correct that we do have a diverse population, and that is worth noting.

The bottom line, I suppose, at the end of the day is, we are still ranked 22d in this area.

We are not exclusive or alone in some of these areas. There are a number of countries in Europe and elsewhere that suffer from many of the same problems.

But, nonetheless, I think, as we are looking at the health care bill, the fact that children are about 36 percent of the uninsured in the United States America is a staggeringly high statistic. And, it is something we can and should do something about.

I might further point out regarding a couple of the problems my colleague and friend from Kansas mentioned, the drug problem and the like, we unfortunately did not get a rule passed last night in the other body on the crime bill. A lot of that crime bill—a good part of it—some of it was to deal with prevention and deal with issues that might be of some assistance in the problem areas we needed to face. At any rate, those are the countries, I say to my colleague from California, that do a better job than we do.

Let me point out with this chart, if I may, the statistic I pointed out earlier, because I think this needs to be emphasized. I think there is a great misunderstanding about who we are talking about in this population of uninsured. This amendment focuses on children, and I think it is important not only to point out the majority of these children are within working families, but also where trend lines are going. The basic point of this chart is that 64 percent of the children uninsured were within working families. And the number now, of those who are covered, is dropping to 60 percent. Families with one or more full-time workers have roughly the same numbers: 64 percent down to 60 percent. So we are seeing the problem getting worse. I think it is critically important to point out the direction we are going in this area.

The last chart I will put up, if we have it here, is the one that points out the poorest Americans. Again, there may be some truth to what my colleague from Kansas has said that it is because of myriad problems we face in this country. But I think something of a source of shame is, of all the industrialized nations, the United States has the unique distinction of having, as the poorest sector of its population, its children. In most countries, it is the older population. They are on fixed incomes, struggling to make ends meet. The United States is the only country that has kids as the poorest part of the population.

I think we all know and appreciate how important it is going to be for this next generation of children to be the best educated, best prepared generation that this country has ever produced. We are not going to reach those goals if they start out in life at the earliest days, even before birth, not getting the kind of treatment and care and nurturing that is necessary for them to succeed.

We know now, as a result of the Carnegie Foundation study, General Accounting Office reports, Head Start reviews, and so forth, the children that get adequate nutrition, the children who start out right and get the help and support in the earliest days of their lives, are less likely to have the learning problems. A child that is well fed, that is healthy, learns at a far better rate and retains knowledge at a much higher rate than children who are not.

That is not some theory I am espousing here. That is just a fact. So when we talk about "these kids," these kids become parents pretty soon. They raise children. If this trend continues, then these numbers begin to explode. So the importance of focusing on 12 million—again, I cite we are talking about 37 million to 40 million uninsured in the country; 12 million of that number are children. Hence, the reason I think it so important that this amendment that is focused on children be a critical part of the majority leader's proposal to deal with national health care reform. If we do not focus on these kids and get them started early, then, as I pointed out earlier, we pay an awful price financially as well.

So I am very hopeful this amendment will be adopted. I am pleased to have as my cosponsor my colleague from Michigan, Senator RIEGLE, who has done terrific work, I point out, on the Finance Committee during the consideration of the health reform package in that committee, and my colleague from Massachusetts, as well as my colleague from Illinois, Senator SIMON, and others who are cosponsoring this amendment.

I hope we can have a good debate and discussion and bipartisan support as we begin the process of fashioning a health care reform package.

I will just end on this note, Mr. President, and yield the floor to others to comment on this. We have now started the debate and the process of dealing with this bill. My hope is we will find some common ground for children.

It is quite clear the American public would like us to come up with a sound, intelligent, well thought out health care reform package. The majority leader has put forward a bill that I think deserves support. He is the first to admit it is not perfect. People have other ideas. But let us get to it. Let us drop the labels. Let us not sit back, as we too often do, and engage in the partisan politics that have caused this institution to grind to a halt.

We have a chance now, in these next few weeks here, to do something that seven Presidents and six decades of effort in previous Congresses have failed to accomplish. This is the first time we have had a health care bill on the floor of this body. We have an opportunity to make a difference, and my hope is we will do that.

Mr. RIEGLE. Will the Senator yield for a moment?

Mr. DODD. I yield to my colleague from Michigan.

Mr. RIEGLE. Mr. President, I appreciate my colleague yielding. I thank him for his leadership on this amendment and also, over the years, on issues related to children.

I want to say to the Senator, these children we are talking about are in working families across America. They have no health insurance now. You know, they are not Republican children or Democratic children. They are America's children. They need this coverage; they need this preventive care so they have a chance to grow up and be well, healthy, and strong so they will be able to move into the work force at some time and form families of their own. They are our Nation's future. What happens to our children and our country is really the story of the future.

I appreciate the point, as well, that Senator DOLE made a minute ago about some of the special problems that we have in our country with drugs and teenage unwed mothers, and things of that kind. But by the same token, if you look at these other nations, they have some of those problems, too; but these nations that are doing better than we are with their children are far poorer nations. In other words, they have less to work with and are still managing, somehow, to see to it that their children have a full chance in life.

All of us here, one way or another, have experienced situations—either personally or within our families—where a medical situation can strike, and it can come without any warning. Certainly I think if we could ward something off, if we can prevent a child from having to go through a terrible trauma of some kind of health crisis that might take their life or impair them for life—why would we not want to do that? Is that not one of the reasons we formed ourselves as a Nation, to look after our own well-being as a people, and especially our children?

Whatever else we do not do on health care—I hope we can do it all, or do as much as we can—the kids of the country who are uninsured and are underinsured cannot fend for themselves. They need our help. We owe that to them. We want them to love this country and understand the country matters. We want them to be devoted to the country. But I think we have to show a certain measure of love and devotion to them. It is a reciprocal arrangement. If we are going to expect people to feel as if they are part of America and the country matters, we have to show they matter to the country. They are important to us. We want to help them.

We hear a lot of citations around here, religious citations of one kind or another. But from the teachings that I got from the earliest age in the church I was taken to by my parents, I think I remember as vividly as anything the notion in the Bible of the teachings that Jesus said: Let the little children come unto me.

Mr. MOYNIHAN. "Suffer."

Mr. RIEGLE. "Suffer the little children to come unto me."

Regardless of one's religious practice, I think because of the universal humanity and decency that is so manifest and powerful, that is one thing we can do in this country—care for our children.

I thank the Senator for yielding.

Mr. PACKWOOD. Mr. President, parliamentary inquiry. Do I understand when we yield, we are supposed to be yielding for questions, not yielding the floor for purposes of statements?

Mr. MOYNIHAN. Will the Senator from Connecticut yield for a question?

The PRESIDING OFFICER. The Chair will enforce the rules of debate.

Mr. MOYNIHAN. Is the Senator aware——

The PRESIDING OFFICER. The Senator from Connecticut still has the floor.

Mr. DODD. I was yielding, for a question, to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Is the Senator aware, as I am sure he is, that in the underlying measure here, the bill reported by the Committee on Finance, there is a provision that the subsidies for health insurance will be available to all children under 21, and all pregnant women—an extraordinarily universal proposition—and that this measure was offered to the committee bill by the distinguished Senator from Michigan, who forbears to identify himself with the measure? But it should be acknowledged that it is his—and, indeed, ours.

The Senator brings forward now essentially those provisions, for which I

VOL
140
PT
16
AG
12
—
18
1994
UMI

am, for one, very grateful; and the Senator is aware of its "paternity"?

Mr. DODD. Mr. President, I mentioned a moment ago—in fact the Senator from Michigan had authored a very significant provision within the Finance Committee bill's package that relates to this issue very specifically—the Senator from New York is absolutely correct—and enjoyed, I gather, pretty broad-based support.

Again, I make the point, I think these issues are ones that ought to bind us together. I thought, Mr. President, because there has been so much animosity as part of the debate that we might begin considering this bill on an issue that ought to bind us together a bit. I have listened over the last several days to one set of accusations being fired back and forth here. Here is a group of people we all care about in this country and something we can do something about.

So while there are those who want to just make a good political issue out of this question, I think people sent us here to try and get something done, and clearly health care is an area they want us to work on.

Rather than get into this business of back and forth, here is an area we can work together on. If we cannot work together on this, then I do not hold out much hope of working on anything. If 12 million kids in this country, many of whom are children of working families, if we cannot do a better job for them in all of this, then I do not know what we can do well.

Looking down the States—and I mentioned the number generally—the State of Texas, 23 percent of the children uninsured in that State; 22 percent in New Mexico; Arkansas, 19 percent; California, 17 percent; Louisiana, 19 percent.

I am going to ask unanimous consent to print this list in the RECORD, because my colleagues may be interested in how their States come out in this area.

Mr. President, we all need to do work in this area, to do a better job to see to it these kids are getting the kind of coverage they ought to have. I am sure everybody has gotten letters, gotten calls from families within our States citing one example after another, whether because of a preexisting condition or whatever.

I have a telephone number in my office that is very similar to the Capitol number. I am not going to give out my office number because I can imagine what would occur if I did, but that number, CA4-3121, is very similar. So I answered the phone and just this afternoon have taken a bunch of calls.

The last call I received, I will say to my colleague from New York, is a constituent of yours. She works at Bloomingdale's in New York City and called to express her deep concern. She has two daughters, one 24, one 29. One is married, both have jobs, neither have health insurance today, and she is worried about them. She has health coverage at Bloomingdale's where she is working, but she is concerned with the Macy's acquisition, and so forth, and that she may lose it. But she is worried about her two adult daughters.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. DODD. I will be glad to.

Mr. MOYNIHAN. Is he aware—I am sure he is—that he is describing working families?

Mr. DODD. Absolutely.

Mr. MOYNIHAN. The indigent, dependent families of the country have Government health insurance in the form of Medicaid. It is those who are working who do not, and it is an irrational arrangement and this would respond to it.

Mr. DODD. My colleague is absolutely correct. I make this point——

The PRESIDING OFFICER. If the Senator will withhold for a moment. The Chair reminds Senators they may ask the Senator from Connecticut questions.

Mr. DODD. Mr. President, I am responding to the question of the Senator from New York, and I appreciate him raising the question. I think it needs to be emphasized, and that is, 82 percent of the uninsured population in this country are working people, out every day, holding down jobs, trying to keep their families together.

As I said a moment ago, it is a great irony in a sense. If you are incarcerated and watching this debate somewhere in America and you get sick, you get health care. Imagine that. Or if you are on welfare in the United States somewhere, you get health care. If you are a part of the Federal employment force or one of us here, you have health care. The people who are out working are not watching this program because they have a job, they cannot watch this program, they are out there without health care coverage. We have to do more for working families in this country. Working people——

Mr. GREGG. Will the Senator yield for a question?

Mr. DODD. Let me complete the thought. I will be glad to yield. These are working people. We take care of the incarcerated, the welfare recipients and take care of Federal employees. And yet if you are out working, avoiding those situations, we do not do a very good job. Eighty-two percent of the uninsured in this country are working, and 12 million of that population are kids and a significant percentage of them are children of working families.

We ought to be able to do better in a great country like this and a strong Nation. We lag behind. And the Senator from Michigan pointed out correctly. We have great wealth. The nations that are ahead of us, with the exception of Japan, I suppose, have far less resources than we do. If they can do a better job in infant mortality, I would like to think my country can. I think being a patriot in this country means a lot of things, not the least of which is that we take care of working people and their children on something as basic as health. That is not a privilege, that is a right: Basic health care. That ought to be something that joins all of us together.

Mr. GREGG. Will the Senator yield for a question?

Mr. DODD. I will be glad to yield.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for the purpose of a question.

Mr. GREGG. The Senator made an eloquent statement.

Mr. DODD. I have to take a question.

Mr. GREGG. This will be a question, I assure you. I duly noted the Chair's admonitions. Actually, I wanted to ask a question earlier and you were into your speech, so I could not get in there. But the Senator from New York raised the issue of the underlying bill, which is the Finance bill. And now we have the Mitchell bill, which has just, as I understand, been delivered to the desk, which is the third configuration of that bill.

What I am trying to figure out is how they work relative to the people that you are concerned about, especially children and pregnant women. I read the CBO language on how this works relative to children and women. I note that they say:

> The system of subsidies for families which would also change significantly raises concerns about affordability and equity. The special subsidies for low-income children and pregnant women would be dropped, making health insurance more expensive for low-income families without an employer contribution, even though they would now be required to purchase coverage.

What they are talking about here is a State that has been a mandated State under the plan. That, of course, is under the Mitchell plan as it was originally presented in the bill 3 days ago and has been amended. Maybe the plan has been amended again under this proposal. I was wondering if you could explain to me, because I am trying to understand this, how, if you are in a mandated State versus an unmandated State under the Mitchell plan, this subsidy works in relationship to what the CBO is saying here, which is that it does not work? The CBO is essentially saying, to quote again:

> The special subsidies for low-income children—

Who I think are the people you are targeting—

> and pregnant women would be dropped.

I am just trying to get a sense of how the Mitchell bill works.

Mr. DODD. You are asking how the Mitchell bill works. We can have a good debate over the next several days.

I should have pointed out earlier what the Senator from Michigan, Senator RIEGLE, has done in the Finance Committee bill in the area of principally subsidies. We are dealing with benefits, rather than subsidies. They complement each other.

So for purposes of clarity, that is a slight distinction here. What we are doing is saying—and I pointed this out earlier—that the guidelines in this area will have to be developed by the Health and Human Services administration because the effective date of this amendment would actually occur prior to the time that the board is established that would set the benefits within this category. So that board would then make the suggestions in this area.

As for the issue of a mandated State, or a State that is not—staff provided me a response to your question. The subsidies of pregnant women and children are used in the voluntary situation until the year 2000 to get us to 95 percent. It would continue beyond that.

So I guess the question of if you did not meet that 95 percent number, then by the year 2000—that would continue beyond that particular period of time as well in a State that was under the mandate.

Mr. GREGG. Will the Senator yield for a further question? I understand the point you are making is to basically energize the activity of the bill relative to the manner in which payment is applied at an earlier date. It is all tied into the issue of subsidy.

Under this bill, as I understand it from the CBO report and from the small amount I have been able to read of the prior bills, there are approximately 100 to 120 million people who receive subsidies, with those subsidies being fairly significantly targeted on the group that you are concerned about, children. But the mandated language in this bill that creates a mandated State versus an unmandated State has created a situation where CBO says that because of the disruption, complication, and inequities that would result, CBO does not believe it would be feasible to implement the mandated system in some States but not in others and the system would have to include either all States or no States.

I guess what I am getting to——

Mr. DODD. If I could respond to the Senator——

Mr. GREGG. How is your system going to improve the situation if CBO is saying that the underlying bill is going to undermine the situation?

Mr. DODD. Let me respond to my friend and neighbor from New England in this way. This amendment does basically one thing, and that is accelerate the benefits to pregnant women and infant children by a space of a year and a half. That is what it is designed to do, to speed up the delivery of those particular benefits for children.

The issue of the mandates is a very legitimate question. I presume we are going to spend some time discussing that issue. But it does not pertain to my amendment.

Mr. GREGG. If the Senator will yield further, it does because the CBO language—that is the group they are talking about—they are saying special subsidies for low-income pregnant women would be dropped and essentially would not work.

So I guess my concern is that even though you may accelerate these benefits, that the underlying bill undermines these benefits, and because of its complexity in the manner in which it has required different States—as I understand it, the complexity occurs when different States do not reach 95 percent.

I guess all I am trying to get is an explanation, and what the Senator is saying is, well, this is not the proper time to explain it because it does not apply to this language. I guess my concern is that this is an integrated effort here. We are dealing with a system that is a matrix of a lot of different—a very heavily woven matrix, and when you pull on one end, as you are here, I presume you affect the other end of the bill. And one of the other ends of the bill is in language which they say does not work.

I am just trying to get an explanation of how it works.

Mr. DODD. Mr. President, I think I heard a question at the end of that; the intonation of the voice rose to a question.

I just say once again that the issue of whether States trigger in, in the year 2000, based on the 95 percent coverage rule has nothing to do with my amendment. My amendment places a condition on private insurance plans. What I am talking about is the acceleration of the benefit so that children would be able to receive that benefit at an earlier date. And the question of the state mandate in the year 2000 is irrelevant.

Mr. LOTT. Will the Senator yield on that point?

Mr. DODD. I think the Senator from West Virginia wanted to ask me to yield to him.

I will be glad to yield.

I would point out, I presume he has a question which he would like to raise.

Mr. LOTT. Is he yielding for a question?

Mr. DODD. He is yielding for a question.

Mr. ROCKEFELLER. I thank the Senator from Connecticut for his courtesy.

I wish to point out, before I begin what is a defense of this current amendment, that the Senator from New York, the chairman of the Finance Committee, has been on this whole subject for three decades or more. And I keep thinking of the time back in 1965 when he wrote a book which was criticized by many, but which was absolutely accurate, and which is even more accurate today because it predicted what was true at the time, and predicted what would happen, and what would happen has happened. And this amendment gets to a number of those matters.

I think this is a first-class amendment because I think it puts children first. I think it is going to make a real difference in people's lives.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator will remember that the Senator holding the floor can yield only for a question.

Mr. ROCKEFELLER. Then, in that case, I would ask of the Senator from Connecticut, I would simply stipulate that I would like to make a statement in defense of the amendment.

Mr. COATS. Does the Senator yield the floor?

Mr. DODD. I yielded for a question, and if my colleague has a question——

Mr. ROCKEFELLER. I do not have a question. I have a statement.

Several Senators addressed the Chair.

Mr. LEAHY. May we have order.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. I thank the Chair.

Mr. COATS. Would my friend yield to me for a true question?

Mr. DODD. In a minute. Let me see if we cannot move along a little bit. I do not intend to hold the floor. I offered the amendment. I would hope we would have discussion of the amendment. If people have questions about it, so be it. A lot of people want to talk on this amendment so, Mr. President, at this point I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. COATS. Mr. President, parliamentary inquiry.

Mr. KENNEDY. I thank the Chair——

Mr. COATS. Parliamentary inquiry.

Mr. MOYNIHAN. Mr. President, may we have order.

Mr. KENNEDY. For the opportunity to speak on this amendment generally.

May we have order, Mr. President. I do not yield to the Senator.

Mr. COATS. I did not ask the Senator to yield.

Mr. KENNEDY. I have been recognized.

Mr. COATS. I am asking for a parliamentary inquiry.

The PRESIDING OFFICER. The Senate will come to order.

Mr. KENNEDY. I do not yield to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. COATS. Parliamentary inquiry, Mr. President.

Mr. KENNEDY. I do not yield to the Senator and ask for the regular order.

Mr. COATS. I did not ask the Senator to yield.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. KENNEDY. I ask for the regular order.

Mr. COATS. I am not asking the Senator to yield.

Mr. KENNEDY. The regular order is the Senator from Massachusetts is recognized, and I intend to proceed under the time honored code of this institution and not to be interrupted at this time.

Mr. DODD. Does the Senator have the right to make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Indiana——

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. If the Senator from Massachusetts will withhold for just a moment, I want to remind Senators, the Senator from Indiana must have the floor in order to make a parliamentary inquiry, and the Senator from Massachusetts has the floor.

Mr. KENNEDY. Thank you, Mr. President.

Generally, in the institution, we permit those who are the principal sponsors, or the principal cosponsors of the amendment at least a brief opportunity to indicate why they are supporting the amendment. The Senator from Connecticut has been the primary sponsor of this amendment, and the Senator from Michigan, Senator RIEGLE, who had been a primary sponsor of a similar amendment in the Finance Committee. I see our friend and colleague from West Virginia, who is chairman of the children's commission, who did so much work for the children; Senator MURRAY, and others who wanted to speak on it.

But I hope, at least as one of those who supports the amendment, I will be allotted time to make a very brief comment. I see others here. And I know there has been set a time for a vote to happen.

I will just take one aspect of the reason for the support of this amendment, because the Senator from Connecticut has outlined the case extremely well.

I think everyone in this body understands that parents are the first responsibility for their children. All of us understand that that is a given. All of us understand that the most important opportunities for children to develop are in a home in which there is going to be nurturing, caring, loving, and affection, and where there is going to be the opportunity to receive health care. We understand that great African adage that it takes a village to bring up a child. It takes loving parents; it takes loving members of a family; it takes those members within a community. And we understand that.

But we also take note of what has happened in our society over the period of recent times, and the pressures which children, particularly, are under. And the Senator has reviewed that in very great detail.

I will just mention very briefly what has happened between 1980 and 1990 in terms of the change in the number of poor infants and toddlers by State according to the GAO: In Arizona, the total numbers have increased by 90 percent; in the State of California, 49 percent; in Colorado, 57 percent; in the State of Florida, 47 percent; in Wyoming, 69 percent; in Texas, 60 percent—percentage increase in numbers of those children that are living in poverty in this country from 1980 to 1990. This is not something of a few statistics.

This is a real human tragedy. And the interesting irony is if you look through the GAO study, the one State which has had the most dramatic reduction is where? Good old Hawaii—the only State that has shared benefits, that has a requirement that employers are going to provide for their employees and have the kind of preventive programs that are included in this Dodd amendment.

Mr. President, I find that I am somewhat amazed by the characterizations of the bill as an employer mandate, particularly with regard to this amendment. Whether you are for an employer mandate or against, this amendment does not include them. No employer is required to offer coverage. No employer is required to contribute to coverage. All this amendment says is that insurers must start including preventive services for children and pregnant women in any policy they sell.

The Mitchell bill provides for a standard, comprehensive benefit package to be offered by all Americans. This is not a radical approach. Twenty-one States already mandate coverage of well-child care. Many insurance policies are already voluntarily included, the FEHB plan offered by Blue Cross, which most of us have, includes it as well.

So this is not a radical program. We know there are a list of various studies that have indicated why this is necessary. I would just mention one, and then I will yield because I see others who desire the floor.

That is the excellent study that was developed by Dr. Hamberger, a former president of the Insurance Institute of Medicine, one of the most distinguished health philosophers, I think, head of the Carnegie Commission. His view of what was happening to children was not really directed to the numbers of children that were in poverty, teenage pregnancies, the numbers of children that were dropouts in terms of schools. He did the health analysis, benefiting from the studies that have been done on the development of the brain and what happens to these children in the earliest of years from 0 to 3 without having adequate nutrition, without having adequate nurturing, without having adequate caring.

He did this excellent study, which the Members of this body should be concerned with, and the Carnegie Commission talked about the impact that it has on children in terms of their life's experience. He talks about what it means in terms of costs, and we are going to hear, What is the cost of this? What is the cost of that? He does that in terms of showing why this is sound. But he talks about what it means in terms of the real possibilities of these children in their lives and their future and how they are going to socialize with their neighbors and with the members of their families.

No one can read, no one can pay attention to that Carnegie Commission report, which really is an indictment of our society for failing to understand the real challenge that this Nation faces in caring for its children.

This Dodd amendment addresses in an important way, perhaps not as much as any of us would, a strong downpayment, advancing the time of coverage over the Mitchell bill, advancing it to demonstrate that we in this Congress say that children should no longer be left out and left behind.

It is a compelling amendment. I am so glad at least, I say to my good friend and colleague from New York, that finally we are talking about health care in this body, that finally we are talking about dealing with something that really makes a difference for peoples' families. And Members here are on their feet ready to speak and ready to debate this issue. I hope that we will be able to get to an early resolution of an amendment which reaches to the heart and soul of what this debate is all about; that is, whether we are going to care about the needs of our children as much as we are going to care for the special interests.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, we have a filibuster going on here this afternoon. At least it appears that way. We have those who offer amendments, and they have dominated the floor. At this point, if we are not going to start this debate, we are not going to make any agreements anymore. We should have had the bill read. It is 1,400 and some pages.

But I understood, in visiting with the majority leader, that there would be some give and take. We have not had any opportunity. We have numbers of Members who want to make statements who are on the floor. It has taken since 5 o'clock to have amendments offered and farm it over to everybody on that side. It is probably by design. Maybe they have been losing the debate. Maybe they think they can bring up a couple of amendments and talk about the children, or talk about the disabled. Maybe that will somehow change the tide of American public opinion. It is not going to happen.

We want to find out how it is paid for. Nobody opposes helping children, or pregnant women, or the disabled. Somebody is going to pay higher premiums. We ought to find that out. If we ever get to ask the question, we will find out some of these things.

Even more importantly, we have only had on this side about 6 hours to speak on a bill that is going to affect everyone in America. If this is how we are going to conduct the business, then we will have to revise what we have in mind. If we are going to have a balance in time, OK. But if the Democrats are going to decide they will speak a certain time, and that we can have whatever is left, then it is not going to work.

So I just suggest to my colleagues that we came on this floor in good faith today. We agreed to the majority leader's unanimous consent request. We did not have to. We could have had the bill read.

Then we have this kind of display, which I think is unfair and unseemly when we are talking about health care. We want to talk about health care on this side of the aisle, too. We have as much right to talk about health care. We are going to take every right to talk about health care. We want the American people to know what is in this bill.

Somebody ought to explain the bill before we start offering amendments.

I would suggest the absence of a quorum. We will have a vote at 6:20. Then we will determine after that vote how we are going to play this game.

I suggest the absence of a quorum.

Mr. MITCHELL. Mr. President, would the Senator withhold it for a moment to permit me to make a few comments?

Mr. DOLE. Sure.

Mr. MITCHELL. Mr. President, the previous days of debate were conducted in a manner in which the time was equally divided. Indeed, on one occasion the Democratic manager yielded time to a Republican colleague to give him additional time to finish his remarks.

We have now been on this amendment for about an hour, and I can assure the Senator and all of our colleagues that there was no design or intent or plan to foreclose our Republican colleagues from speaking. We recognize that every Senator has the opportunity, the right, to be heard, and that clearly will be the case here.

Second, with respect to the agreement to permit the bill to come up by unanimous consent today, as the distinguished Republican leader knows, that was agreed to by him and me on Tuesday of this week as part of a broader discussion involving the days of debate only, leading up to until now.

I indicated at that time that I would withhold filing a motion to invoke cloture on the motion to proceed if we had an assurance that we would be able to go to the legislation, and that if we did not receive that assurance—for which I am grateful to the distinguished Republican leader. We have proceeded as we did agree. We have no intention of foreclosing anyone from speaking. And there will be ample opportunity. As I said, only about 1 hour has transpired on this amendment.

I have seen many, many occasions when the introductory statements with respect to amendments by the cosponsors have vastly exceeded 1 hour.

So I do not think any implication can or should be drawn from the fact that just about an hour having elapsed it has all been by the sponsors of the legislation. That is, I think, a rather common occurrence in the Senate.

I really want to say that it is our desire and intention that everyone have full opportunity, that there is no—the Senator suggested or asked whether it was by intention or design. That is not the case. I do not think there has been any such action on our part. So everybody will have full opportunity, and we want everyone to be heard on any aspect of the amendment or the bill.

It is my hope that we can proceed to a vote on the amendment after there has been ample opportunity for consideration and debate on that. Of course, Senators are free to debate other issues during the same time as well as the amendment.

But I do want to make that comment in response to the Senator.

Mr. DOLE. I thank the majority leader. We have tried to sort this thing out. But I must say, and maybe I have not been here long enough to understand what I am talking about, about what is going on over there. Or maybe I have been here too long and I understand what I thought was going on. There is not any doubt in my mind about what is happening; any doubt in the mind of the people who are participating. They did not offer the amendment and sit down. They offered the amendment and farmed it out to the floor.

I assume the inference must be the Democrats love children and we do not like children, so we should not be entitled to speak; or that the Democrats are concerned about pregnant women and the Republicans are not, so we should not be allowed to speak on things like that. So we should not be allowed to speak on things like that. That is not the case, and we are not going to be denied the opportunity to present our case. As I have said to the majority leader, this is an important issue. We have a lot of statements to make. Our people are concerned in our States. We want to know what all these things are going to cost. How much is the bill going to cost. It is going to cost the State of Wisconsin about $900 million over the next few years. We would like to find out some of these facts before we start offering anything. There may not be any problem with the amendment. This moves up the date a year and a half, but somebody has to pay for it. Subsidies do not kick in and——

Mr. DODD. Will my colleague yield?

Mr. DOLE. I would, but it is time to vote and we would not want to miss the vote.

Mr. DODD. I ask unanimous consent to speak for another minute.

Several Senators objected.

The PRESIDING OFFICER. Objection is heard.

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT

The PRESIDING OFFICER. The hour of 6:20 having arrived, under the previous order, the Senate will continue with the consideration of S. 1614.

The bill will be stated.

The legislative clerk read as follows:

A bill (S. 1614) to amend the Child Nutrition Act of 1966 and the National School Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes.

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENT NO. 2559

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2559 offered by the Senator from Kentucky [Mr. MCCONNELL].

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DOLE. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Delaware [Mr. ROTH], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 59, as follows:

[Rollcall Vote No. 286 Leg.]

YEAS—36

Bennett	Dole	Lugar
Bond	Faircloth	Mack
Brown	Gorton	McConnell
Burns	Gramm	Nickles
Chafee	Grassley	Packwood
Coats	Gregg	Pressler
Cochran	Hatch	Smith
Cohen	Helms	Specter
Coverdell	Hutchison	Stevens
Craig	Kassebaum	Thurmond
D'Amato	Kempthorne	Wallop
Danforth	Lott	Warner

NAYS—59

Akaka	Bryan	Dorgan
Baucus	Bumpers	Durenberger
Biden	Byrd	Exon
Bingaman	Campbell	Feingold
Boren	Conrad	Feinstein
Boxer	Daschle	Ford
Bradley	DeConcini	Glenn
Breaux	Dodd	Graham

VOL
140
PT
16
AG
12
—
18
1994
UMI

Harkin	Leahy	Pryor
Hatfield	Levin	Reid
Heflin	Lieberman	Riegle
Hollings	Mathews	Robb
Inouye	Metzenbaum	Rockefeller
Jeffords	Mikulski	Sarbanes
Johnston	Mitchell	Sasser
Kennedy	Moseley-Braun	Shelby
Kerrey	Moynihan	Simon
Kerry	Murray	Wellstone
Kohl	Nunn	Wofford
Lautenberg	Pell	

NOT VOTING—5

Domenici	Murkowski	Simpson
McCain	Roth	

So the amendment (No. 2559) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, S. 1614 is returned to the calendar.

HEALTH SECURITY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 2351, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT UNDER SECTION 27 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, on behalf of the Committee on the Budget, under section 27 of the concurrent resolution on the budget, House Concurrent Resolution 218, I hereby submit revised budget authority and outlay allocations to the Senate Committee on Finance and revised aggregates in connection with the Mitchell amendment to S. 2351, the Health Security Act.

Section 27 of the budget resolution states, in relevant part:

SEC. 27. DEFICIT-NEUTRAL RESERVE FUND IN THE SENATE.

(a) * * *

(2) BUDGET AUTHORITY AND OUTLAY ALLOCATIONS AND REVENUE AGGREGATES.—In the Senate, budget authority and outlays may be allocated to a committee (or committees) and the revenue aggregates may be reduced (as provided under subsection (c)) for direct-spending or receipts legislation in furtherance of any of the purposes described in subsection (b)(2) within that committee's jurisdiction, if, to the extent that this concurrent resolution on the budget does not include the costs of that legislation, the enactment of that legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

* * * * * *

(b) * * *

(2) PURPOSES UNDER SUBSECTION (a)(2).—Budget authority and outlay allocations may be revised or the revenue floor reduced under subsection (a)(2) for—

* * * * * *

(B) to make continuing improvements in ongoing health care programs, to provide for comprehensive health care reform, to control health care costs, or to accomplish other health care reforms;

* * * * * *

(c) REVISED ALLOCATIONS AND AGGREGATES.—

(1) UPON REPORTING.—Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on that legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate may submit to the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised aggregates to carry out this section.

(2) ADJUSTMENTS FOR AMENDMENTS.—If the chairman of the Committee on the Budget submits an adjustment under this section for legislation in furtherance of the purpose described in subsection (b)(2)(B), upon the offering of an amendment to that legislation that would necessitate such a submission, the chairman shall submit to the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised aggregates, if the enactment of that legislation (as proposed to be amended) will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(d) EFFECT OF REVISED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates submitted under subsection (c) shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this concurrent resolution on the budget.

On August 9, 1994, I submitted an adjustment under this section for S. 2351, the Health Security Act. Within the meaning of section 27(c)(2) of the budget resolution, the Health Security Act constitutes "legislation in furtherance of the purpose described in subsection (b)(2)(B)."

The Mitchell amendment to the Health Security Act also meets the other requirement of section 27(c)(2) of the budget resolution that:

* * * the enactment of that legislation (as proposed to be amended) will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

As the Mitchell amendment to the Health Security Act complies with the conditions set forth in the budget resolution, under the authority of section 27(c)(2) of the budget resolution, I hereby submit to the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) and revised aggregates to carry out this subsection.

Note that, as this reserve fund submission accommodates an amendment, it covers the time that the amendment is either pending or adopted (if the amendment is adopted). If the Senate rejects the amendment, this reserve fund submission shall lapse, and the allocations and aggregates shall revert to the levels they would have in the absence of this reserve fund submission.

I ask unanimous consent that the reserve fund table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

RESERVE FUND FILING PURSUANT TO SECTION 27 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1995

[Adjustments to aggregates and allocations, $ billions]

Reserve fund filing for	The Mitchell substitute				
	1995	1996	1997	1998	1999
Aggregate totals:					
Budget authority	−2.400	−4.900	10.900	24.200	32.500
Outlays	−2.400	−4.900	10.900	24.200	32.500
Revenues	−2.400	−4.900	10.900	24.200	32.500

Finance committee allocations	1995	1995–99
Budget authority	−2.400	60.300
Outlays	−2.400	60.300
Revenue	−2.400	60.300

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I seek recognition on this amendment.

I would like to begin by yielding for a question to the Senator from Connecticut about his amendment.

I yield to the Senator from Indiana, Senator COATS.

Mr. COATS. If I could just get the attention of the Senator from Connecticut.

Mr. DODD. If the Senator will withhold. It is a little difficult.

The PRESIDING OFFICER. Is there objection to the Senator from Indiana directing a question to the Senator from Connecticut?

Without objection, it is so ordered.

Mr. LOTT. I do not believe I have to ask for unanimous consent. I had the floor and I yielded to the Senator from Indiana for a question.

The PRESIDING OFFICER. The Senator from Indiana may ask a question of the Senator from Mississippi under the regular order.

Mr. MOYNIHAN. Mr. President, we must have order at the moment.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DODD. Mr. President, if the Senator will yield, I will be glad to respond to a question.

Mr. LOTT. If the Senator will address the question to me, I will yield to the Senator from Connecticut to respond.

Mr. COATS. I would like to ask the Senator from Mississippi if he will ask the Senator from Connecticut a question.

I have been trying to get an answer here now for nearly 45 minutes and I apologize for not knowing the procedure to do that.

One of the problems that we have on this side is trying to analyze the bill, because the underlying bill keeps changing. So in order to respond to amendments that are offered from the Senator from Connecticut, or indications or references to the bill, we are not sure which bill we are talking about.

The amendment that was offered by the Senator from Connecticut, I ask the Senator from Mississippi, says that it is an amendment to S. 2351 which, as I understand it, is the underlying Finance Committee bill.

The amendment says, "At the end of section 1201, insert the following new subsection."

I cannot find section 1201 in the underlying Finance Committee bill. I was wondering if the Senator from Mississippi will ask the Senator from Connecticut how I find section 1201 in the bill that the amendment is offered to.

While we were debating the amendment offered by the Senator from Connecticut, a third health bill was delivered to the desk, unbound, but it is now the third Mitchell bill. So we have three Mitchell bills, plus the underlying Finance Committee bill.

I signed a pledge to read all the bills. I want to know which bill to read.

Mr. BREAUX. All of them.

Mr. COATS. Maybe I should read all of them. It will take an awful lot of time.

I would like to know which bill we are on. I would like to find section 1201.

Mr. LOTT. I will be glad to yield to the distinguished Senator from Connecticut to respond to that question. It is certainly a valid question, because we do not know which bill we are dealing with or which section we are dealing with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I will not respond by asking some other Senator to respond to the Senator from Mississippi, to respond to the Senator from Indiana.

The amendment is offered as an amendment to the substitute that was offered by the majority leader. Now, there may be a particular glitch, which we will be glad to correct to conform to the appropriate section as it relates to children and the effective date. That is a very appropriate question and we will conform it to that.

I will in a moment ask to modify my own amendment, from the parliamentary standpoint, to modify the amendment to see that it does conform to the Mitchell substitute, which is the pending bill

Mr. LOTT. Mr. President, I will be glad to yield to the Senator from Indiana.

Mr. COATS. One last followup question, I say to the Senator from Mississippi.

Do we know or have reason to find out whether or not the third Mitchell bill, which was just delivered, whether it is carried through the section in the Finance Committee bill, which went to the first Mitchell bill, which went to the second Mitchell bill; do we now know that that is part of the second Mitchell bill?

Mr. LOTT. I ask unanimous consent to yield to the Senator from Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I respond as I did a moment ago. The pending matter is the substitute offered by the majority leader. There may be a requirement to modify it to make sure it conforms.

Clearly, the section pertains, as I said in my opening remarks. I pointed out specifically what was in the Mitchell proposal as it related to benefits to be provided to pregnant women, infants, and children.

We are merely extending, or backing, the effective date on that from 1997 to July of 1995. That is all the amendment does except for some minor points. I will be glad to see to it that the appropriate pages conform. But that is the purpose.

Mr. LOTT. Mr. President, if I could proceed now to reclaim my time? Perhaps the Senator from Connecticut——

Mr. DODD. I would just say, if the Senator will yield?

Mr. LOTT. I yield.

Mr. DODD. The bill reads "S. 2351." That is the Mitchell substitute.

Mr. LOTT. Mr. President, again claiming my time, I think it is time to review the bidding here a little bit. This afternoon at about 5 o'clock the majority leader laid down a bill that we do now have the yeas and nays on. This was the third version of his bill.

Here is the latest version. I note the first Mitchell bill that we got, I think it was last week, maybe Thursday, was 1,410 pages. The one we saw earlier this week I believe was 1,438. And the latest one now is 1,443 pages long. And we first saw this bill at 5 o'clock this afternoon. We have not had a chance to go through it, certainly. We do not know how the sections or subsections relate to the earlier iterations, and so we are going to have to take some time to go through that.

It makes it very difficult to offer amendments, by the Senator from Connecticut, the Senator from Indiana, or any other Senator, because we are not sure exactly what we have before us and how an amendment would or could or should be offered.

So I understand the Senator from Connecticut will need some time to make that correction and other Senators will need some time to draft amendments.

Mr. DODD. Will the Senator yield for just one point?

Mr. LOTT. I will be glad to, yes.

Mr. DODD. I am informed now the amendment as submitted is correct, that it amends amendment No. 2560 to S. 2351, which is the Mitchell substitute.

So the amendment as presented to the clerk conforms.

Mr. LOTT. Clarification, because it is very confusing. Then you have the right section to the third version of the Clinton-Mitchell bill. But the mistake apparently was there is an indication there it was to the Finance Committee bill? Instead of to the Clinton-Mitchell bill?

Mr. DODD. Amendment offered by Mr. DODD to S. 2351 to amendment No. 2560, which is the Mitchell substitute.

Mr. LOTT. We will work with you on that.

But, again, I think it is important to emphasize, after having heard this discussion, that there is confusion and we are going to need time to make sure we are all talking on the same level. We need more time to talk about this whole area of health care, let alone this specific bill. I want to emphasize, while we have had 8 speakers, I think, on this side during the week at different times, three times, to speak on this subject, we still have 20 Senators on this side who are very anxious to make an opening statement or express their interest in or concern or support for, you know, the Dole bill or Mitchell bill, I, II, or III.

I have really, like a lot of others, been waiting for 3 days for an opportunity to just make an opening statement on that subject. I am glad I am going to have that chance tonight at 7 o'clock on a Friday night. Others will speak tomorrow, I am sure. We will be speaking on this amendment before us on over to next week.

I want to note the fact that one Senator said, "At last we are getting to health care."

I agree. You know, this week everybody has been trying to be accommodating so we have been on the Labor-HHS appropriations bill. Then we have been on health care. Then we are on

VOL
140
PT
16
AG
12
—
18
1994
UMI

DOD appropriations. Then we are on health care. Today we have been on intelligence authorization and child nutrition—and now at 5 o'clock we got back on health care.

I do not think that is a very good way to debate what everybody agrees is clearly one of the most important issues we have had before this body in 25, 40, 50 years—in a kind of disjointed fashion, a little bit here and a little bit there.

Now, all of a sudden, we have a bill, the third version of the same bill, and an amendment which we are now trying to discuss. I am sure this will, hopefully, move forward. I know the distinguished Senator from New York would like it to be done in an orderly, sensible way. I guess next week we will all get our desks cleared off and really get down to being serious about it and continue to work only on health care. But it is confusing not to know exactly what version we are talking about and how an amendment should be offered.

I thank the Senator from Indiana for his point. I would like to ask a question, if I could, before the Senator works on making sure to get all the corrections on his amendment.

One of the points that you made that I think is very important, that really bothers me on this amendment you offered, is the fact that, as I understand it, it would go into effect immediately——

Mr. DODD. That is not correct.

Mr. LOTT. Let me propound the question—go into effect immediately before the subsidies begin. Which would mean, I take it, there is an interim, then, after which this amendment would take effect but before the subsidies begin, and, therefore, there would be an additional cost for families with children to have to deal with; is that correct?

Mr. MOYNIHAN. Mr. President, may I offer a parliamentary inquiry?

Mr. LOTT. Mr. President, I understand——

The PRESIDING OFFICER. The Senator from Mississippi has the floor.

Mr. LOTT. I understand I do not have to yield for the purpose of a parliamentary inquiry, but because of my high regard for the chairman of the Finance Committee, I am delighted to yield.

Mr. MOYNIHAN. Mr. President, is it not the case Senators must address the Chair and not one another directly?

The PRESIDING OFFICER. Senators should address their questions to other Senators through the Chair in the third person.

Mr. MOYNIHAN. I thank the Chair.

Mr. LOTT. I thank the Senator for that point. It is obvious we need to maintain absolute decorum in how we handle this debate. I would be glad, Mr. President, to address the question through the Chair to the Senator from Connecticut because I think this is a very important question and I am very sincere about it.

Is your amendment intended—Mr. President, does the Senator intend for it to go into effect immediately? Is there a lag before the subsidies begin? If that is true, then I think we are going to need to know what the costs of that amendment would be in the interim for families with children? And in that connection, I wonder, has his amendment been costed out by CBO? Do we have a CBO estimate of the cost of this particular amendment? Because if, in fact, families with children—in the private sector, Mr. President, I might say—are going to have this additional cost to make up for the fact that they will not have the subsidies involved, then you are talking about revenue loss, and we need to know what that is going to be. What is the CBO estimate? What is the revenue impact? And what is the impact on families with children? I would be glad to yield to the Senator from Connecticut for a response to that question without——

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me respond to my friend from Mississippi. Others have raised issues about this. This amendment has nothing to do with the subsidy program, nothing whatsoever to do with the subsidy program. All this amendment says is that insurers, private insurers, private areas must start including preventive services for children and pregnant women in any policy that they sell. That they sell. So there is no subsidy issue here at all.

So, while that is an interesting question, if you are looking at cost here, what do the carriers—what is the effect on the premiums to other insured parties?

I inquired. Just to give you some idea, it works out Travelers Insurance Co. has told me that the benefit for this, for children, would cost roughly about 9 cents a day for other insured parties. Estimates run a little higher than that when you talk to others.

So, again, I emphasize to you, this is not a part of the subsidy program. It deals with the benefits. And all it says is that, if you are selling insurance, we require that as a part of that package you include assistance to pregnant women and children for prevention. So it is not a part of the subsidy deal.

The cost implications regarding CBO—and we made inquiries on that—the estimates are roughly $100 million for the first year, and as much as $300 million in the outyears. I would say to my colleague, Mr. President, responding to my colleague from Mississippi, we were initially told there would be no budgetary implications or impact. Then last evening we were informed there may be some.

There is built into the majority leader's proposal a surplus into the several billions of dollars. If there are any financial or fiscal implications, that is the maximum extent to which they would occur, according to the CBO's response to our inqulries.

Mr. LOTT. Mr. President, again, I do think we should make clear we at least understand what the impacts will be. I appreciate the clarification I received here. But as I understand it, one of the impacts would be, as he suggested, premiums would go up, which would affect the tax deductions, which would go up. There clearly would be a revenue loss. And we need to know before we vote—eventually, sometime, I guess, next week or whenever—on this amendment what that effect would be.

Mr. DODD. If my colleague will yield?

Mr. LOTT. If I could proceed? I hope my colleague from Connecticut will pursue that further. We will pursue that later, what revenue impact that might have. And we will have a chance to clear it up before we vote on this amendment.

Mr. President, I certainly am going to review this amendment more in the next few hours and days. We will have a great deal more discussion on it to try to understand exactly what it means in the overall debate, but I have some other points I would like to make here.

In addition to talking about the fact we are dealing with the third version of this bill, I think it is important to also note to our colleagues that the House, the other body, is not going to deal with health care this month—not at all.

They are going to leave this weekend, and they are coming back next week. They are going to take up some suspensions and deal with the crime bill. They are not going to take up or vote on health care at all this month.

So we are talking about the Senate proceeding down an uncertain path. We do not know where it is leading or how long it is going to lead us there. But at some point, I presume we will have a vote or votes on what I think really is a revenue bill which really I thought had to pass the House first before we could even take it up.

They are not even going to take this issue up. They are doing the right thing. They are making sure that the various alternatives they have pending are understood by the Members, have been costed out by CBO, which is overworked and overtaxed, I am sure, and have time to think about it.

Also, they are going to have to listen to their constituents. They are going to be back in their various States, and they are going to be listening to the people. And when they come back, there will not be a Gephardt bill. It is history. And more than likely, there is not going to be a Mitchell bill 1, 2, 3, or 5, or 6, or whatever, because when they get home and start listening to the people, they are going to find out the people do not want this Government

takeover. They do not want this bill. They do not want the Gephardt bill.

I am sure my colleagues are very well aware of the fact that in a recent CNN poll, 68 percent of the American people, who are smarter than we are, obviously, say keep talking about this thing, keep working on it and do it next year in the cool of the night when you understand what you are doing, because they know that we do not know what we are doing.

There may be a few Senators on the Finance Committee who have some foggy idea of what is in this bill, but not many.

The only way this bill will have a chance, I presume, is after we adopt a lot of amendments—a lot of amendments—and a lot of them probably will not be adopted even if the effort is made.

So I think we need to think about that. This is a case where we Btu'd the House last year. That was on the tax issue. They voted for the Btu tax. It came over here and we wisely knocked it out. And they said, "Oh, my goodness, you made us walk the plank, we have been Btu'd."

They are turning the tables this time. They say this may be a revenue bill, and any other time they would be screaming that we are proceeding on a bill that should constitutionally have begun in the House of Representatives. But this time, they are saying, "You all go first; go ahead on." Yes, we are going to go ahead, we are going to cast the votes, and they are going to come back and say the people do not want this thing.

The people do not want and we do not need a government takeover of health care to make the improvements we do need in health care. We do not need this massive thing. I do not understand why we are insisting on moving the envelope forward on something that the people are rejecting.

We do not need 18 new taxes to fix the problems we have in the American health care system. It is not necessary, it is not needed, and the people do not want it.

We do not need 50 new bureaucracies and a whole list of other commissions and Government controls, including the National Health Benefits Board with new powers that we are not quite sure what they are. I keep asking myself: Why should 85 percent of the American people who now are insured or covered one way or the other be taxed more, get less, lose choice and all kinds of things we are not sure of yet so that another 10 percent of the people may be covered somewhere down the line?

It is not necessary to do all these things to address the problems we need to cover millions that do need insurance coverage.

Mr. President, I am not saying that we should do nothing. I am saying there are some things we should do. I have been saying it for years. Others have said that. And as proof of it, I offer the fact that last October, a year ago—well, October, not quite a full year—I introduced as the original sponsor in the Senate the bill developed primarily under the leadership of Congressman BOB MICHEL, the Republican leader in the House, the bill, Affordable Health Care Now Act of 1993.

So this is something that I was working on a year ago, and it is a bill that really addresses the problems we have that we can fix. It is a bill that probably 98 Senators could say, "Yeah, we could do all that, or we should do all that, but we would like to do a lot more."

In talking about this whole area, in talking about the Senator's amendment and health care in general, I want tonight to point out what was in that bill that I sponsored last year.

It sought three things: Better access to health care, security of health coverage, and control of health care costs.

The bill was introduced by the distinguished minority leader in the House, BOB MICHEL, along with about 140 other House Members. You might say, "Well, that bill didn't have a lot of support." This bill has more cosponsors than any other bill pending in the Congress: 140, approximately, House Members and about 14 Senators. So we have 154 Members of the Congress that are cosponsors of this bill.

It would increase employee access to coverage by requiring all employers to offer but not pay for basic insurance. It allows employers to obtain affordable insurance through group purchasing arrangements.

I do not understand how in the world or why in the world we have not allowed that long before now. It would really provide a lot of help, a lot of relief, and certainly we should do that.

It would require insurers who sold small group plans to offer a standard plan, catastrophic plan and a medisave plan to all companies with two to 50 workers and mandate targeted insurance reforms to limit premium rate variations and to remove regulatory barriers.

The bill encourages the creation of tax-exempt personal medical savings accounts which could be used to purchase insurance or pay for out-of-pocket expenses.

Medicaid reform, 100 percent tax deductibility of health costs to individuals lacking coverage and the self-employed and expansion of community and rural health programs are also in this legislation.

One of the problems we have in my State is not just coverage but access. In a lot of rural areas, you cannot get to a doctor or clinic, let alone a hospital. So I do feel any bill that we pass has to have a strong rural community service center aspect, and it has to include urban areas, too. So it has to be rural and urban community centers. I support that so that we will have people, even if they have insurance, who can get to some sort of preventive maintenance or some sort of health care.

The bill, known as the Michel-Lott bill, eliminates the fear of losing coverage by limiting preexisting condition restrictions and allowing portability of insurance. That is the issue that has driven an awful lot of desire for health care reform; that issue right there, plus costs and the transfer payments. If we can fix just those three areas, most people would say, "Hallelujah, let that be done," and that would be enough.

The bill also controls the growth of health care costs by real malpractice reform removing antitrust impediments and eradicating fraud and abuse.

Mr. President, you might wonder why I have not mentioned the word "Government" yet when describing this package. The reason is my legislation seeks to make our current health care system—now the best in the world—even better through market reforms. It is a commonsense, free-market solution to fixable problems.

I cannot say the same for the main bill that we are now discussing, even though I have not had a chance to look at the latest version of the Clinton-Mitchell bill. It is high time to tell the truth about the so-called health reform bills that have the Government taking over 14.5 percent of our economy.

Over the past year and a half, opponents of Government-run health care legislation, like the original Clinton bill, the Clinton-Mitchell bill 1, 2 and 3 and the House Clinton-Gephardt bill have been trying to scare the middle-income Americans to death. These bills are really less health care and more health scare.

I really worry about their impact on middle-income working Americans. I do think that there are a lot of good things we could do. We all agree. The amendment of the Senator from Connecticut, how could you be against that?

But I think it is also irresponsible if we do not say, How much is this going to cost? Who is going to pay for it? There seems to be this mythical bank in the sky in which we say, "Don't worry about that; you know, nobody really gets hurt."

Well, think about it a minute. Somebody pays. It is not going to be the low-income folks. They get help whether it is at 100 percent of parity, 200, 300. Whatever it is, they will be helped. There are not enough rich people to pay all these extra costs. Guess who pays? The same folks that pay every time. The working people of America are going to get this bill. The shipyard workers in my hometown where my father was a pipefitter, hard hat, blue-

VOL 140 PT 16 AG 12 — 18 1994 UMI

collar guy, that is who always gets the bill. That is where the money is. It is in the middle. They are going to get this bill, and it is going to be big, monstrous, a $1 trillion increase over the next 8 years.

So I am here tonight to make two points. One, there are reasonable alternatives. There are bipartisan opportunities. I know the chairman of the Finance Committee would prefer that that is the way we would go, hard as it may be, but it may be the way we eventually do go somehow or another.

But I want to make one more point, and I will make it over and over and over as we go through this debate. On every amendment that comes up, I am going to ask, How much is it going to cost? And who is going to pay? The middle-income workers will pay, and they are being squeezed to death already. My 26-year-old, working, entrepreneurial son is going to have to pay, and he is going to be told, you have to pay a lot more under these so-called community ratings. You are going to get really jacked up. And he is the guy that is out there working trying to create jobs—not just take care of himself, create jobs. He is trying to find a way to make sure that the people that work with him get health care coverage.

But as I understood the earlier version of the Clinton-Mitchell bill, one of the things that was in there—maybe it is not now; I do not know—if you cover one of your workers with health care, even if it is supervisory or management, you must cover them all.

If that is the case, there are very many things that could happen, but here are some of them. One, nobody will get the coverage—zero. None of the supervisory, none of the management, none of the desk workers, none of the people. Or he is going to have to lay off people; raise his costs.

All the options are bad. But what you have been hearing here in this health scare debate, the mantra that you have heard is you may lose your insurance; you may go broke and use up all of your savings; you may not be fully covered unless the Government steps in and takes over.

Oh, yes, let the Government do it all. Why should we be worried about the people that are working and paying the taxes? They can handle it. They can take a little more. They can pay for everybody else. Sooner or later, everybody is going to say, "Hey, I want to ride on the wagon. I don't want to pull it. It's heavy. It's hard. I want to get all this free stuff myself."

Where is the Senate going to be? We raised taxes last year on bonuses. People that work hard, make some savings, make a little extra money, they got their taxes raised. It is discouraging people from working hard, making some savings.

This is all about a bunch of quackery. Those who want the Government to run health care with the efficiency of the Postal Service and the compassion of IRS are not, in my opinion, telling the truth about what Government would do if it takes over health care. Government-run health care will not save money, but it will cost jobs. And guess whose jobs? Some of them will be low-income jobs, but a lot of middle-income jobs are really going to get hit. The middle class after Government-run health care are going to find their wallets a lot thinner and in far too many instances pink slips in their wallets.

One of the things that we have come across in looking at this legislation is the fact that these employer mandates have a particularly hard impact on families with children. In fact, I have a study here, and I would like to submit it for the RECORD, Mr. President. I ask unanimous consent to insert a study from the Family Research Council in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOWHERE TO RUN, NO PLACE TO HIDE: STATE DATA ON THE FAMILY IMPACT OF EMPLOYER-MANDATED HEALTH CARE

In June, the Family Research Council released a family-impact analysis of leading employer-mandated health care proposals being considered in Congress. The principal finding of the econometrics study FRC commissioned is that parents with children under 18 will suffer the brunt of the job losses for all types of employer-mandates studied.

FRC's econometric study also found that families with children in every region of the country—indeed, each state—will disproportionately experience job loss. This is significant because it means that families thrown out of work in one area of the country are not likely to find better job prospects in another state or region of the country.

CONSAD Research Corporation supplied the data in the FRC analyses. CONSAD is an independent, Pittsburgh-based, public policy research firm that focuses on applied social system research. Founded in 1963, it has for thirty years produced numerous analyses on a wide spectrum of subjects ranging from program and management evaluations to economic and environmental impact assessments. It specializes in econometric modeling, which combines traditional economic theory, public and private databases, and statistical methods to define problems and identify solutions

The following charts present the data for each state, based on the particular legislative provisions of 3 employer-mandated health care proposals studied—the Clinton bill, the Kennedy bill, and the House Education and Labor bill. The state data is listed for each plan with and without the benefit of the business subsidies included in each (depicted by the italicized columns).

The data displays a uniform pattern of disproportional impact on families for each of the states. A quite similar pattern occurs in analyses of the aggregated data for the nation. Families with children generally by represent about 46 percent of a state's work force, but they experience about 55 percent of the job losses. When the impacts are computed for the plans without their subsidies to businesses to defray the cost of health insurance, the disproportional impact climbs to about 60 percent. Assessing the family impact of plans without business subsidies provides insight into scenarios where future political considerations affect the level of subsidy associated with the mandate being phased-in or "triggered" at some later date, as some have purposed.

Jobs losses are of special concern where children are impacted. The state analysis cannot provide a statistically valid estimate of the actual number of implicated children. However, it is reasonable to assume that the total number of children living in homes with a jobless parent is in excess of the numbers of jobs lost by families with children.

TECHNICAL NOTE

The econometric model that CONSAD has developed to estimate the impacts of health care reform on employment and the federal deficit incorporates detailed representations of the work force, the numbers of businesses in specific industries, and the sizes of businesses. The databases and economic theory used for these analyses are widely accepted as "state of the art" in the field.

The CONSAD model characterizes the population of workers in the U.S. with data from the March 1993 current Population Survey (CPS), a database maintained by the U.S. Department of Commerce. The March 1993 CPS contains sample data on the occupations of workers, the industries in which they work, their full-time or part-time status, their annual wages, whether or not they have health care insurance, and the source of that insurance. In order to describe the number of business establishments and average salaries of workers in businesses in different industry sectors and size categories, data is compiled from the 1990 County Business Patterns (CBP) of the U.S. Department of Commerce. The model uses estimates of current health insurance premiums from the U.S. Congressional Budget Office and wage elasticities of demand (econometric parameters necessary for the estimation of the amount of job loss) from the economics literature.

CLINTON PLAN

State	Total jobs lost	Total jobs lost by families	Families percent of total loss	Families percent of total work force	Total jobs lost without subsidies	Total jobs lost by families	Families percent of total loss
Alabama	12,100	6,700	55	47	53,400	32,500	60
Alaska	1,200	600	50	47	6,500	3,800	60
Arizona	10,800	5,900	55	46	53,000	31,700	60
Arkansas	6,900	3,700	54	46	30,500	18,400	60
California	101,000	54,400	55	46	459,000	275,600	60
Colorado	10,800	5,900	55	46	52,000	31,000	60
Connecticut	14,000	7,700	55	46	58,500	35,000	60

CLINTON PLAN—Continued

State	Total jobs lost	Total jobs lost by families	Families percent of total loss	Families percent of total work force	Total jobs lost without subsidies	Total jobs lost by families	Families percent of total loss
Delaware	2,600	1,500	58	46	11,500	6,900	60
District of Columbia	4,800	2,700	56	45	18,600	11,000	59
Florida	39,500	21,200	54	46	203,000	121,000	60
Georgia	20,900	11,400	55	46	96,800	58,000	60
Hawaii	3,800	2,000	53	46	19,000	11,400	59
Idaho	2,500	1,400	56	46	13,200	8,000	60
Illinois	42,000	23,500	55	46	182,000	109,000	60
Indiana	20,100	11,000	55	46	88,700	53,700	60
Iowa	9,100	5,000	55	46	43,100	26,000	60
Kansas	8,000	4,400	55	46	37,500	22,600	60
Kentucky	10,400	5,700	55	46	49,400	29,700	60
Louisiana	10,700	5,800	54	47	51,900	31,200	60
Maine	3,800	2,100	55	46	18,700	11,200	60
Maryland	15,800	8,500	54	46	75,600	45,000	60
Massachusetts	27,300	15,000	55	46	114,000	68,400	60
Michigan	32,000	17,800	55	46	144,200	87,200	60
Minnesota	16,500	9,000	55	46	74,000	44,600	60
Mississippi	6,200	3,400	55	47	33,800	20,300	60
Missouri	18,600	10,200	55	46	81,900	49,300	60
Montana	1,700	900	53	4646	10,400	6,200	60
Nebraska	5,400	2,900	54	46	25,500	15,300	60
Nevada	6,100	3,400	56	46	25,100	15,000	60
New Hampshire	3,700	2,000	54	46	18,800	11,300	60
New Jersey	27,500	15,000	55	46	120,200	72,100	60
New Mexico	3,500	1,900	54	46	19,100	11,400	60
New York	71,100	39,000	55	46	287,000	172,000	60
North Carolina	24,700	13,600	55	47	106,000	64,000	60
North Dakota	1,600	900	53	46	8,900	5,300	60
Ohio	39,900	21,900	55	45	174,400	105,000	60
Oklahoma	8,100	4,400	54	46	39,800	24,000	60
Oregon	8,200	4,400	54	45	53,400	25,400	60
Pennsylvania	43,000	23,600	55	46	187,500	112,800	60
Rhode Island	3,600	2,000	56	46	16,300	9,800	60
South Carolina	11,400	6,200	55	46	50,700	30,000	60
South Dakota	1,700	900	53	45	9,400	5,600	60
Tennessee	17,000	9,300	55	46	74,000	44,700	60
Texas	51,900	28,300	55	45	238,000	142,800	60
Utah	5,600	3,100	55	45	29,000	17,400	60
Vermont	1,700	900	53	46	9,300	5,500	60
Virginia	20,000	11,100	55	46	96,000	57,000	60
Washington	15,500	8,400	54	45	72,000	44,000	61
West Virginia	4,300	2,300	53	47	20,600	12,400	60
Wisconsin	17,400	9,500	55	46	79,000	47,600	60
Wyoming	900	500	56	47	5,500	3,300	60

Note—Actual numbers listed for job losses have been rounded down to the nearest one hundred. Percentages listed reflect the relationships of the numbers before rounding

(Mr. AKAKA assumed the chair.)

Mr. LOTT. It points out that the employer-mandated health care would have a disproportionate impact on families with children and that there will be total jobs lost—now, I do admit this is under, I think the original Clinton bill, and there have been a lot of changes. Maybe it is not as bad. Maybe it will be different. But you are talking about total jobs lost under the employer mandate under the Clinton bill: 18,600 in Missouri; 8,200 in Oregon; in my own State of Mississippi, which can ill afford it, 6,200. You are talking about job losses for families with children.

Obviously, there are problems with our health care system. We can fix specific problems, problems that most Americans fear—portability, availability, exclusion of those Americans with preexisting conditions. Targeted reforms are popular, are possible, and I think are essential.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. LOTT. And sooner or later that is what we are going to.

Mr. President, if I could, I do have a few more pages to go. Allow me to complete that, and I will be glad to yield further.

We do not need Government-run health care. We do not need new bureaucracy. We do not need mandates. Government-run health care is like giving a lobotomy when they only have a headache. It is overkill. Middle-class Americans know this, Mr. President.

So I ask unanimous consent to enter at this point in the RECORD an article from the July 21, 1994, Wall Street Journal by Dr. Martin Feldstein, who wrote an article called "Mandates Would Hurt the Middle Class."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MANDATES WOULD HURT THE MIDDLE CLASS

(By Martin Feldstein)

President Clinton's campaign to rescue his health care plan emphasizes that his proposed health insurance mandates would be good for the middle class. Although the president repeats this claim in every speech, nothing could be further from the truth. Mr. Clinton said this week that there might be room for compromise on mandates, but if Congress enacts anything like the Clinton health plan, the American middle class would be the big losers.

The Clinton health program would hurt the vast middle class in order to provide insurance to a relatively small number of currently uninsured low-income people and to transfer income to many more low-income people who are already insured. The program would be wasteful and inefficient, a "negative sum game" in which the middle class would lose far more than the poor gain. It can be understood only as a technique for achieving a redistribution of income that could not be enacted in a more straightforward way.

PRIMARY CONCERN

If President Clinton really wanted to help the middle class, he would focus on the health insurance issue that he knows is its primary concern: the ability to maintain existing insurance coverage after a job change or the loss of an employed spouse. Relatively simple legislation could require insurance companies not to cancel existing policies and not to exclude pre-existing conditions when an individual transfers to a new group. Companies that sell insurance could also be required to offer periodic enrollment opportunities for any one who wishes to purchase insurance with premiums limited by using assigned risk pools to deal with high-risk individuals or groups.

But instead of reforming the existing insurance to deal with the legitimate concerns of the middle class, the president and Mrs. Clinton have pursued the goal of building a massive government-managed system for redistributing health care and income.

The middle class could hardly be the big winner from mandating universal coverage, as President Clinton claims, since more than two-thirds of the uninsured are in families with below average income. Moreover, the relatively small number of currently uninsured middle-class families who would become insured under the Clinton plan would have to pay for that insurance by a decline in their wages.

Virtually all economists agree that most firms that are required to provide health insurance must offset the higher cost of fringe benefits by paying lower wages or laying off workers. The Congressional Budget Office has stated this clearly in its analysis of health insurance options. Even the administration has recognized this in its congressional testimony.

A currently uninsured individual who now earns $40,00 would suffer a wage decline of more than $2,500 because of the Clinton employer mandate. A two-earner couple with

VOL 140 PT 16 AG 12 — 18 1994 UMI

$10,000 of combined earnings would experience twice as large a wage decline. These wage cuts might not be immediate, but within a few years wages would inevitably be depressed below what they would otherwise have been. If wages could not fall that much, jobs would be lost as firms respond to the higher overall cost of labor by moving production offshore, subcontracting, and substituting equipment for employees.

Some firms would be able to avoid reducing wages by the full amount of the mandated insurance costs because they have the market power to pass along some of the higher employment costs through price increases. When that happens, middle-class consumers as a whole would pay for the expanded insurance.

The currently insured middle class would also be hit in other ways. The Clinton plan would require middle-class-income families to pay substantial premiums out of their own pockets. For the typical married couple, the required out-of-pocket premium would be $872 a year. The administration has acknowledge that more than 40% of Americans would face higher out-of-pocket premium under the Clinton plan than they do today.

Although the middle class has to pay for its health insurance through reduced wages, the Clinton plan would subsidize the premiums of low-wages firms. These subsidies would translate into higher incomes for millions of lower-wage employees who are now insured. The cost of providing these subsidies would be borne by the middle-class in the form of extra premium payments and an explicit increase in taxes.

The administration has claimed that it can finance the subsidies to low-income employees with a tax on cigarettes (another hit to the middle-class). In reality, the Clinton plan would face a much larger financing gap of about $120 billion a year before the end of the decade. This gap could be financed only by substantially higher taxes on the middle class. Official estimates might understate the financing cost in order to make it easier for Congress to enact the legislation. But once the benefits are enacted, the middle-class taxpayers will have to pay for them.

Little is heard these days of the administration's early claim that, by controlling the cost of care, it could avoid such a financing gap. No one really believed that the administration could achieve cost reductions of the magnitude that it projected. Moreover, middle-class voters were rightly worried that controls on health-care costs would restrict their choice of doctors and hospitals and would force reductions in the quality and quantity of care that they received.

But although such tough cost controls are not part of the president's current sales pitch for his health plan, they would play an important role if the Clinton plan were enacted. Only by controlling middle-class spending on health care can doctors and other health providers be redirected to meet the increased demands from lower-income individuals that would result from expanding their health insurance. And limiting the future growth of government health spending is crucial to the president's goal of containing the budget deficit while increasing welfare payments and expanding other government social programs.

VERY BAD-DEAL

So the middle class would not only face lower wages, higher premiums, and a substantial tax increase but would also see a decline in the quantity and quality of middle-class health care. In short, the Clinton health plan would be a very bad deal for the middle class.

If the president is the expert on domestic policies that he claims to be, why doesn't he understand all this? And if he does understand it, why doesn't he level with the middle class and admit that it is being asked to pay more and accept less health care in order to redistribute income and health care to lower-income groups?

Mr. LOTT. Mr. President, Dr. Feldstein is the former chairman of the President's Council of Economic Advisers, and he wrote, among other things, in this article about health care, this quote. And it really caught my attention when I saw it. This is not some professor off the street or somebody who has not studied this issue. This is a guy that is very qualified, an eminent professor, and he has really studied the subject. He said:

The middle class—

I do not like that terminology. I do not like this class warfare, but the middle-income people,

would not only face lower wages, higher premiums, and substantial tax increases, but also see a decline in quantity and quality of middle-class health care.

And I believe that was true under the original Clinton bill, probably more so than under the latest version. But we need to study it and see exactly what is in it.

Mr. President, I would like to ask unanimous consent to also enter into the RECORD an article from the July 13, 1994, Washington Post by Robert J. Samuelson called "Congress Should Simply Start Over."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 13, 1994]

CONGRESS SHOULD SIMPLY START OVER

(By Robert J. Samuelson)

The best thing Congress could do now on health care would be to start over next year. The most important social legislation in a quarter-century should not be approved as a last-minute, poorly understood patchwork. From the start, the debate has suffered from the Clintons' wild promises that they could achieve "universal coverage" at little extra cost. This has produced five inconsistent congressional bills that all—in one way or another—fantasize a health care future that will never happen.

Health politics has become bumper-sticker politics. Everything is being done for image and immediate bragging rights. Vast promises are made of new benefits with little effective control on cost. Health spending already constitutes 21 percent of Federal spending and one-seventh of all spending in the economy. The danger of a poorly crafted program is that, although it might be "popular in the short-run, [it] could encumber our economy with long-term commitments that we simply cannot afford," warns the bipartisan Committee for a Responsible Federal Budget.

What really is at stake is the integrity of government. Popular cynicism is no secret. In surveys, Americans express discontent with government. Yet surveys also show that Americans want more from government in the way of health care, education, environmental protection and economic security. Politicians pander to the inconsistencies by posing government as a "solution" to a multitude of problems. The Clintons are practitioners of this style of politics. The trouble is that when the "solutions" don't match the promises, public disillusion deepens.

"Universal coverage" is a swell slogan but a meaningless concept. Almost no one today has complete insurance coverage against all health risks. For example, only about 5 percent of the elderly have insurance for long-term care. And the idea that complete coverage can be constructed is a mirage, because health care is an infinitely elastic concept. It expands with every new technology, drug or discovered ailment. Consider: Between 1982 and 1991, the number of cornea transplants doubled, from 18,500 to 41,400. We will never be able to afford everything; some rationing, by income or availability, will always exist.

What the debate skirted is the morally awkward issue of whether health care is a "right"—and if so, what care is a "right." The Clintons evaded this question by promising to control costs and expand benefits. The claim was always dubious. Five outside groups re-estimated the Clintons' "basic package" of insurance benefits. All found higher costs than the White House did. For individual coverage, the costs were put from 9 percent to 26 percent higher; for two-parent families, the costs were 13 to 59 percent higher. No matter. The Clintons set Congress's agenda.

How bad are the resulting bills? Examine the Senate Finance Committee bill, described as "moderate." Its goal is to raise the share of Americans with insurance to 95 percent by the year 2002. Small firms with fewer than 100 workers could buy health insurance from big purchasing cooperatives. Insurers would have to accept almost anyone who applied. There would be insurance subsidies for everyone with an income of up to twice the poverty line (in 1992, the poverty line for a family of four was $14,335). What are the bill's defects? Herewith the top three:

(1) It creates a huge "off budget" entitlement. True, the bill doesn't compel companies to buy insurance. But it does decree what all insurance must cover, and the coverage is lavish. Aside from most doctor and hospital bills, it also includes mental health, rehabilitation services, drug- and alcohol-abuse services, hospice care and family-planning services. Although a National Health Board would set the details, Congress would have the final say. And it has little reason to resist inevitable demands for new benefits, because "mandates" could be expanded without imposing new taxes.

(2) There is no effective cost control. Indeed, because the bill mandates comprehensive insurance, it would probably accelerate spending. The new spending pressures would overwhelm the tiny measures intended to curb costs: putting small companies in buying pools and instituting a complex, probably unworkable tax on "high-priced" insurance plans.

(3) Subsidies for the poor aren't financed. No one yet knows how much the subsidies should cost, but the tax increases in the bill (the cigarette tax goes from $0.24 a pack to $1.24 a pack) might cover only half the amount.

In short, the Finance bill would probably speed up health spending, skimp on subsidies and miss its 95 percent coverage target. Other bills are as bad or worse. The House Ways and Means Committee wants bigger mandates and subsidies. It pays for its subsidies mainly from "savings" generated by price and spending controls. But no one knows whether the controls would work or be acceptable. A "single-payer" bill has the honesty of avoiding mandates and pays for government insurance with taxes. However, benefits are so generous that, by one estimate, they would raise health spending by an extra $300 billion by the year 2000. The increase is assumed away with cost controls.

All these bills indulge in make-believe. Although they sound good, they would break down in practice. A sensible bill might be put together with some modest insurance reforms. But this seems unlikely, precisely because it would be so politically unexciting. What should not be forgotten in the inevitable clamor to "do something" is that a bad bill would be worse than no bill at all. Opposing such a bill is prudence, not obstructionism.

The country deserves a more candid debate than Congress can provide this year. It is between those who consider health care a "right" and those (like me) who think the first focus should be on cost control. If it is a "right," then put the spending in the budget and pay for it with the taxes. If the focus is costs, then curb tax subsidies for insurance or impose strict spending controls. Neither approach would be easy. Any sweeping reform requires public understanding. This is now missing. "Great innovations" Thomas Jefferson once said, "should not be forced on slender majorities."

Mr. LOTT. That is a great idea. Start over. I know members of the Finance Committee would not want to do that. But I think we have gotten so far into this we are completely balled up. We have no idea what we are really debating. We cannot figure out how to stop it or change it.

I wish we could just take a clean sheet—and we could get four or five of our experts here, the Senator from New York, the Senator from Oregon—and say, "Look, let's do what we need to do, what we can afford and no more. Get it for us by the morning." They could do it. And we ought to start all over.

Mr. Samuelson points out that the health scare legislation like the Clinton-Mitchell bill and the Clinton-Gephardt bill create large off-budget entitlements. The Clinton-Mitchell bill mandates that all insurance policies cover a mandated—mandated—set of benefits, even benefits like drug counseling, which many people, certainly most people, do not need, and the benefits are set by a National Health Benefits Board and approved by Congress.

Great. No doubt, in the future, the number of benefits will expand because of political pressure. There will be more. We will include this and then they will do that, and then there will be another one. Senators have an endless stream of great ideas of benefits that ought to be covered. And the way it works, even though you know there is a tremendous cost involved, and it is not being paid for, when the amendment is offered to add more benefits in the Congress—and that is included in the legislation—who is going to walk up here and vote against more assistance for children? Or more assistance for mental health?

Mental health, now, I think there is maybe—I do not know what is in the latest bill, but I think there was like 30 days' assistance, so maybe we could double that to 60. Anybody want to vote against that? It is very hard.

So there is going to be an endless stream of more benefits added. We ought to just go ahead and put everything in it we can think of at once, get it over with, and see if there is any way we can pay for it, which I doubt. When benefits expand, costs will soar and spending will go through the roof. Who will pay for this? The middle-class, middle-income people. They will pay. Not the poor, very little of the wealthy.

The Clinton-Mitchell and the Clinton-Gephardt bills also tax "high-priced private insurance plans."

I want to get more into what is the definition of the high-priced plans. But I will bet you this: A lot of middle-income people would have what would be described as "high-priced private insurance plans." Once again, the middle-income folks are going to be told, "You have to pay more taxes; more money out of your pockets; less choice in health care."

Yes. There are subsidies also in the Clinton-Mitchell and Clinton-Gephardt bills because these are not fully financed, as I understand it. Maybe in the new version it is. I doubt it. But we are going to have to address that at some point.

If health insurance for the poor is not fully financed, guess who pays? The middle-income folks get it again.

These are the general problems with all of this health scare legislation. The bills cost too much, and the costs are passed on to the middle-income folks in the form of higher taxes and less health coverage.

The bills also have what I would consider to be extreme criminal penalties, or at least criminal penalties for what is quite often relatively harmless behavior. But in the earlier version of the Clinton-Mitchell bill, "criminal" and "crime" are words mentioned many, many times. I saw a count on that earlier; that it ran way up. I believe the earlier Mitchell bill uses the terms "ban," "criminal," "enforce," "fine," "limit," "penalty," "prison," "prohibit," "requires," "restriction," "sanction," "violate" a total of 1,488 times.

Hey. That is a new idea. This is the crime bill. We have been looking for it. Maybe this is the crime bill. Because the earlier version—and I presume the latest version of the Clinton-Mitchell bill has an astronomical number of instances where crime and criminal acts are included. I do not understand that.

In fact, under the earlier bill, Section 5324 of the Clinton-Mitchell bill, if you tip your doctor to get an extra special care, you could spend up to 15 years in prison. Maybe that has been taken out, and we will look for that and see what happened. But it was in there. There is no way you can deny that.

Further, these health scare bills will suck jobs out of the economy. Many people—in fact almost everybody knows—know it is going to cost some jobs. Some of the bills have direct employer mandates. Maybe they will not in the end. I do not know. But if you do not have employer mandates, how is this thing going to be paid for? I do not see it. If employer mandates go down, this legislation probably goes down.

There have been many studies on the effects of employer mandates on the employment in this country. None of the studies I know of have said that mandates will create jobs; none of them.

In a February 1994 report, the CBO put the range of job loss because of employer mandate at between 300,000 and 1.2 million. A research study commissioned by the National Association of Independent Businesses estimates that an employer mandate would cost 850,000 jobs nationally with potential job loss of 3.8 million. The study found 34 million workers would suffer wage cuts of over $63 billion because of these mandates.

So when the Senator from Connecticut says we need to add things that are very good, somebody is going to pay, and somebody is going to be forced to pay for it, and employer mandates are an important part of it. And jobs are at stake.

A study done by the Office of Planning and Research by the State, in this case the State of California, estimates that employer mandates would cost America 2.6 million jobs.

The Employment Policy Institute estimates that a Clinton-like plan with mandates in a best-case scenario would destroy between 780,000 and 890,000 jobs; in the worst-case scenario, as high as 2.1 million jobs would be destroyed.

Guess where so many of these jobs come from? Some of them will be low-income jobs. But a great number of them once again would impact middle-income jobs.

I see the majority leader on the floor. Did he want me to yield for point of business?

Mr. MITCHELL. I am awaiting the appearance of the Republican leader, so I then can make an announcement with respect to the schedule.

I thank the Senator for his courtesy. I suggest he proceed until such time as the Republican leader arrives.

Mr. LOTT. I thank the majority leader.

The President's own Council of Economic Advisers—this is not some Republican group or some conservative group—the President's advisers in its 1994 report found that between 350,000 and 600,000 jobs would be lost.

So there is instance after instance of respected groups that point out that

VOL
140
PT
16
AG
12
—
18
1994
UMI

employer mandates would cost jobs. Yes. We want people to have insurance coverage. We want access in rural areas. But do we want to lose hundreds of thousands, maybe a million jobs in the process?

My point tonight is it does not have to be that way. We can do what we need to do and not lose the jobs. But what we need to do is only what we need to do, and not in our wildest dreams that we have been thinking about for 20 years.

I would be glad at this point to yield to the majority leader for this important announcement.

Mr. MITCHELL. Mr. President, I thank my colleague. I ask unanimous consent that my remarks appear in the RECORD so as not to interrupt the remarks of the Senator from Mississippi.

Mr. President, I understand that the distinguished Republican leader will not be coming to the floor but will be represented by the Senator from Oregon.

So I would like to advise Senators of my decision with respect to the schedule, and the proposal that I have made for proceeding to the Republican leader.

Earlier today, I met with the Republican leader and advised him that we Democrats had several amendments which we were prepared to offer, and provided our Republican colleagues with copies of two of those amendments, and the remainder will be provided as soon as they are ready.

I suggested to Senator DOLE that we were prepared to proceed in a manner that we would offer one amendment, and it would be debated and disposed of. And then the Republicans would offer an amendment, and that we would alternate in an effort so that both sides could have amendments ready.

Senator DOLE indicated that the Republicans had no amendments ready at that time. We agreed that we would then proceed with our amendments until such time as our Republican colleagues had amendments which they wished to offer.

We therefore began with the first amendment which is the pending amendment offered by Senator DODD regarding children. I expressed to Senator DOLE my hope that we could proceed to have a vote on that amendment either today or tomorrow.

As all Senators know, under the rules of the Senate, any Senator can speak for as long as he or she wants, and prevent the Senate from voting or acting. And, of course, the minority has that ability.

Senator DOLE has advised me that our Republican colleagues will prevent the vote from occurring on that amendment this week and will use their right of unlimited debate to prevent any vote from occurring. I regret that. But I accept it as the reality of the Senate's rules.

I, therefore, suggested the following course of procedure to Senator DOLE: That we would continue to debate this evening, and tomorrow, under a procedure in which the time would be equally divided between the two parties, and would alternate in 30-minute segments; so that the Republicans would speak for 30 minutes and Democrats would have 30 minutes and back and forth, and that way the time would not only be equally divided, but equally divided in reasonable segments every time.

Mr. LOTT. That would begin from here forward? That would not be applicable to me, would it?

Mr. MITCHELL. No. But since the Senator has been talking about 45 minutes, I hope he will wrap up in a reasonable time and permit the process to begin.

Mr. LOTT. I have about another 10 or 12 minutes. I was not aware of this agreement. These things have welled up inside me, and I finally got my chance to talk. I hope I will be able to conclude.

Mr. MITCHELL. I am describing the circumstances leading up to the proposed agreement. It is not an agreement yet.

I think it is appropriate that it would be completed in that time, because prior to the last vote, Democrats spoke for about an hour, so that would make it roughly even on the subject during the day today.

I then suggested that we reconvene on Monday morning and that we offer the second amendment, a copy of which was provided to our Republican colleagues several hours ago, and that we then debate that on Monday, and that we have votes on the two amendments at 5 p.m. on Monday.

I further suggested to Senator DOLE that if we could identify a subject on which Republicans would have amendments ready by Tuesday, then we could devote time to that subject on Tuesday, and Republicans could offer amendments on that subject, and Democrats could as well. And we could deal with a discrete subject, discrete provisions in the bill that are of interest to both sides and all parties.

Since it is clear that Republicans have the ability under the rules to prevent any vote from occurring on the amendment today or tomorrow, and since the only recourse I would have would be to insist on votes on procedural matters, I have concluded that I will not at this time exercise that right, because I do not believe any useful purpose will be served by it.

Therefore, there will be no further votes this evening, or tomorrow. Senator DOLE has indicated that he is not able at this time to agree to the proposal I outlined with respect to the schedule on Monday and beyond, but hopes to be able to do so tomorrow. Therefore, I will limit my request this evening to the allocation of time this evening and tomorrow. I will make an announcement tomorrow with respect to the schedule on Monday.

I have attempted to proceed on this matter in a way that is fair to all, and also which would permit a full exploration of the issues, both with respect to the bill and the pending and future amendments. I hope that we can do that in the coming days.

Mr. President, the Senator from Mississippi wanted how much more time?

Mr. LOTT. Well——

Mr. MITCHELL. Would 15 minutes be reasonable?

Mr. LOTT. I think so, Mr. President.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator LOTT have up to 15 minutes more time; that following that, the Senate proceed to debate only on the pending amendment and the bill itself, with the time to be equally divided in alternating 30-minute segments, with the 30 minutes immediately following Senator LOTT's remarks to be on the Democratic side, and thereafter, so long as Senators wish to speak for the evening; that when the Senate reconvenes tomorrow at 9:30 a.m., there be a period for morning business not to extend beyond 10 a.m.; that the Senate then continue to debate the matter from 10 a.m. until 5 p.m. tomorrow, under the same procedure—that is, 30-minute alternating segments, with the first 30 minutes tomorrow, beginning at 10 a.m., under the control of our Republican colleagues, and that the designation of time, if need be, be under the control of the Senators MOYNIHAN and PACKWOOD.

Mr. COATS. Reserving the right to object.

Mr. PACKWOOD. Reserving the right to object, did you say confine debate tomorrow to the amendments?

Mr. MITCHELL. No; debate on the amendment or the bill.

Mr. PACKWOOD. That is the first question I ask. I want to make sure. I have, at the moment, 27 Senators who want to make opening statements, and some of them are 3, 4 hours long. I do not think they want to be interrupted in half hour segments.

Mr. MITCHELL. Some of the opening statements are 3 or 4 hours long?

Mr. PACKWOOD. Yes.

Mr. MITCHELL. Of course there was vigorous protest today when Democrats spoke for about an hour. It was suggested that there was some kind of scheme or design to prevent Republicans from speaking, and now you are suggesting that Republicans want to speak 3 or 4 hours at a time.

Mr. PACKWOOD. I am perfectly willing to go on an equal basis. I want the leader to know some of these statements are quite long. I have no objection to 4-hour opening statements on the Democrat side either. Most of them are in the neighborhood, I would judge,

of an hour to an hour and a half. But some are 3 or 4 hours.

Mr. MITCHELL. Well, then, in order to accommodate our Republican colleagues, why do I not suggest that we stay in session tomorrow from 10 a.m. until midnight, and that the time be allocated in 1 hour segments?

Mr. PACKWOOD. From 8 a.m. until midnight?

Mr. MITCHELL. Ten a.m.

Mr. PACKWOOD. Well, as the leader knows, either side can tie up the other side. Earlier on the product liability bill we were unable to come to a vote because the majority of Democrats did not want to do it. And the leader is aware that last session we could never vote on capital gains because we could not get enough votes to get to cloture.

All I am suggesting is this. I am looking at the majority leader's statement of 2 days ago. It says, "There will be ample opportunity to debate this bill." Of course, he was referring to the previous bill, but I assume it applies to this one. "I have said many times no one will be rushed. We will stay here as long as it takes us, as many days, weeks, or months, if necessary, for every Senator to be able to consider the bill amply."

Mr. MITCHELL. If the Senator would like to stay in session beyond midnight, I am agreeable to that.

Mr. PACKWOOD. You know there is no purpose in doing that. If we are going to stay here until midnight every night, you and I know nothing will be accomplished. You can have procedural votes, if that is what you insist upon.

I thought you really meant that our side could make opening statements of some consequence and serious nature. We have been preparing for this. We have divided up into teams, and we have serious things to say on the different issues. The opening statements will relate to different sections of the bill. In a sense, the majority leader is saying there is something wrong with that.

Mr. MITCHELL. I am certainly not suggesting that. I think the Senator is entitled to have the time he wants to speak, but I am trying to accommodate that. I do not appear to be reaching him in an accommodation.

Mr. PACKWOOD. I suggest this for tomorrow. Divide the time equally, but not put it into statements.

Mr. MITCHELL. The problem with that, of course, is that when one Senator gets the floor and speaks 3, 4, 5, 6 hours, other Senators are totally inconvenienced, I think. I think it is better if we have a reasonable schedule in which Senators can plan their appearances and, therefore, Senators will not be inconvenienced by the actions of any one Senator.

Mr. PACKWOOD. I will talk to those who want to make opening speeches. For those who can confine themselves to an hour, I suggest they speak tomorrow.

Why do we not divide the time in hour segments instead of half hour, rotating back and forth, and quit at 4 or 5 o'clock, whatever you said, in the afternoon.

Mr. MITCHELL. I just proposed that a moment ago.

Mr. PACKWOOD. OK. I did not hear. What is the proposal now?

Mr. MITCHELL. My initial proposal was half-hour segments. In response to the Senator's earlier objection, I proposed 1-hour segments, which I take it the Senator now proposes.

Mr. PACKWOOD. Yes.

Mr. COATS. Mr. President, reserving the right to object, I want to make sure I understand this, because many of us have been waiting very, very patiently.

I am very high on the list. Since I serve on the Labor Committee and have dealt with the labor bill that Senator KENNEDY proposed, I feel like I have some knowledge of the bill.

I was told that we were assured we were going to take up the health bill at 2:15 p.m. Tuesday, without interruption. Once on the bill, we would be on the bill. Senators would have the opportunity to speak on the bill.

Yet, there has been a very limited amount of time allocated to that purpose.

I said I am high on the list. My turn is finally coming up tomorrow, on Saturday. But I have been waiting patiently all week while we have disposed of all kinds of other business.

We have been willing on our side to do that. We accommodated that, including today. It is impossible for any of us to make any kinds of plans for family, including dinner.

I came today thinking my turn was finally here, only to learn that 5 hours will be allocated to a bill we were not even talking about earlier in the week.

So I waited patiently for that 5 hours to expire, and then came down ready to make my statement, and an amendment was dropped on even before the new bill was presented to the desk.

I was here when the bill came in. The amendment was already offered before the bill was here.

So now, having waited and been patient, when we are now asked to limit what we were going to say to some arbitrary time limit and do it on a Saturday, it is difficult for this Senator to just do it, to keep changing and agree to changing the rules, or what I think are the rules. Maybe they were not rules. In fact, I am willing to let my statement be limited. I have no intention of filibustering. I have no intention of speaking 4 hours. I have not timed my statement. I do not know if it is 39 minutes or 53 minutes or 64 minutes.

But I would like to give my statement, and I am going to do so in a reasonable amount of time. Then I am going to sit down and let whoever else wants to talk deliver their statement.

Mr. MITCHELL. Mr. President, if I might respond, first I am sure it was inadvertent, but the Senator is incorrect. The amendment was not offered before the bill was introduced.

Second, as the Senator well knows, unanimous consent is required in the Senate before any procedure is ultimately approved. And I do not know what he was told or what reports he had, but in the absence of unanimous consent, then the schedule is, of course, always subject to change.

It is quite common that I make proposals, as I have just indicated I have earlier this evening, as to the schedule for Monday. But until consent is granted by our Republican colleagues, there is no agreement to that effect.

If the Senator acts on the basis of a proposal, surely all of us are sufficiently familiar with the Senate to be aware that unless and until agreement is obtained and approved by consent, it is subject to change.

I regret any inconvenience to the Senator, but I urge him in the future to base his decisions on agreements as opposed to proposals which I may make.

Mr. COATS. Mr. President, further reserving the right to object, I certainly understand how the unanimous consent procedure works, and I am attempting to abide by that.

It has been a floating crap game this week in terms of what we are doing and when we are doing it. It literally changed several times an hour. It is extraordinarily difficult for any Senator to understand what the next procedure is going to be. But I understand that is how the Senate works.

I do believe that operating on a Saturday with the Members having changed travel plans, it is important to keep some semblance of order. I will not object to an hour time limit imposed for tomorrow on individual speakers, and going back and forth.

However, I just hope that if it turns out that this Senator needs—or a Senator from the other side needs—another 3 minutes or 7 minutes to finish a statement they have been working on for a long time, there will be some consideration in granting that. I have no doubt the Senator will grant that.

Mr. MITCHELL. I say to the Senator that we are in tomorrow. I do not know if the Senator was here earlier.

I indicated it had been my intention and hope that we be in session and voting tomorrow, but the distinguished Republican leader has advised me that the Republicans would use their ability under the rules of unlimited debate to prevent a vote from occurring tomorrow. That is the reason there is not going to be a vote tomorrow.

Second, as I stated earlier and I repeat, the only recourse I have to guarantee a vote would be to call for a vote on a procedural matter. I have concluded that I will not do so tomorrow

VOL
140
PT
16
AG
12
—
18
1994
UMI

because I do not believe it would serve any useful purpose.

So if the Senator is inconvenienced because we are not going to be doing something that we thought we were, that is the reason for it.

Mr. COATS. Mr. President, further reserving the right to object, I ask the floor manager, how many Republican Senators have had the opportunity to give opening statements.

Mr. PACKWOOD. So far?

Mr. COATS. So far.

Mr. PACKWOOD. Eight.

Mr. COATS. Eight of forty-four Republican Senators.

Mr. LOTT. I think I am the ninth one.

Mr. PACKWOOD. We have 28 signed up who want to give opening statements. The remainder want to, but 28 have not given them yet.

Mr. COATS. Mr. President, it seems to this Senator, on the most important bill I have certainly faced since I have been in the Congress since 1981, and what many consider one of the most important pieces—if not the most important piece—of legislation that Congress has ever considered, there ought to be some willingness to allow individual Members to express their opinions on this without the implication that Senators on this side are somehow not cooperating with the majority leader or the majority party simply because they are not ready to vote on a Saturday after we have had 6 hours and eight Senators allowed to speak.

The implication is that somehow the Republicans are being unfair, that we are trying to delay consideration of this legislation, when 36 of us have not even had an opportunity to say the first word.

So again, I say I will not object to the unanimous-consent request. But this Senator certainly does not want to be left in the position where the impression is given that I am asking for something extraordinary and out of the ordinary, when 36 of our colleagues have not even had a chance to say the first word on probably one of the most—if not the most—important bill this Senate has taken up in a long, long time.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

The Senator from Oregon.

Mr. PACKWOOD. I object.

I was going to change the unanimous consent for tomorrow to 6 hours equally divided, and if one of my speakers happens to go for 15 or 20 or 25 minutes, to take it out of the 3 hours rather than trying to confine that person.

The Senator from Indiana may need 47 minutes or 53 minutes, or something like that. We end up with the same amount of time. At least, we will have a little more flexibility in allocating it.

Mr. MOYNIHAN. Fine.

Mr. MITCHELL. Mr. President, I have no objection to that.

I want to note, if I can make a comment, we had a situation earlier where Democrats spoke for 1 hour, and not only an implication but a direct accusation was made that this was some scheme to prevent Republicans from speaking. So my proposal was directly responding to that concern to accommodate what were Republican protests. I just want to make that clear.

Now, those who have protested to the prior situation are objecting to what I have proposed to accommodate their concerns. But the managers are fully capable of allocating the time and I am perfectly prepared to renew my request with just the time equally divided under the control of the managers.

Mr. DODD. Mr. President, reserving the right to object, I just point out, and I will not object to this, but it is not inconceivable we are playing the numbers game again very briefly where one colleague of ours on the other side could end up taking the 2 hours or 3 hours, and we will be hearing the argument on Monday that only 10 Senators have had an opportunity to make opening statements.

So I just point out that I hope we do not hear that argument on Monday.

Mr. MITCHELL. I expect the Senator will.

Mr. DODD. I hope we do not hear the argument that we were unable to get the statements out because someone used all the time.

I do not object to this. I wanted to make that point.

Mr. MITCHELL. That is what already happened during part of this week.

Mr. President, let me restate the request so there can be no misunderstanding. There has been so much back and forth here.

Mr. President, I ask unanimous consent that, as to this evening, upon the completion of Senator LOTT's remarks, there be debate to continue for so long as Senators wish to debate, with the time allocated in alternating 30-minute segments this evening, and the first segment following Senator LOTT be for Democratic Senators to be followed by Republican Senators, and so on for, as long as Senators wish to stay and speak; that tomorrow, the Senate reconvene at 9:30; that there be a period for morning business until 10 a.m.; that the time between 10 and 5 be for debate only; and that it be equally divided and under the control of the managers.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

Mr. LOTT. Mr. President, I am delighted to be able to begin to return now to the general debate and discussion of the amendment of the Senator from Connecticut.

I think one of the points that the Senator from Indiana tried to make was that this bill, which is the latest Clinton-Mitchell bill, version No. 3, was laid down at 5 o'clock, an amendment was offered immediately today, and then, and only then, did we get this bill delivered to us.

Now it is being said, we should vote tonight. I do not know what the cost estimates are. I think that is a legitimate question.

Mr. DODD. I have the cost estimates. I gave them earlier. The CBO estimates $100 million the first year, $300 million the second year, $100 million the third year, and no cost in the years thereafter. That is the CBO's estimate.

Mr. LOTT. Those are very legitimate questions, and there are others on this amendment and on other amendments.

Clearly, to infer that we are, you know, delaying things because we are not ready to vote on amendments to a bill we did not see until 5 o'clock this afternoon, is not appropriate.

We have, I think, every right—in fact a responsibility—to take a look at this legislation and to take a look at amendments before we are forced to start voting.

All right, maybe we had eight Senators speak on our side for 6 hours. That is less than 1 hour each. But there are a lot of Senators that do want to speak on this issue. In fact, I have had my own constituents already saying, "Now, where are you? I thought you would be speaking up on this issue." I have been waiting my turn.

If you look at other major pieces of legislation, I think you will find they were debated not for a few hours, and in broken fashion, or a week or 2. They went on for days, weeks, and I believe even perhaps months in one or two instances.

So for us to be able to have some time to speak on this issue before we start addressing amendments, I think is fundamentally fair—and I know the chairman of the Finance Committee would support that effort.

Like tonight, there are so many questions I have, there are so many areas I would like to speak on, but I would really be trying to relate this to the alternative bill that I have and, in fact, to the middle-class.

I am going to speak for about an hour. And for an old House guy, it is not easy. I used to speak in 5-minute bursts. I know the Senator from Connecticut used to do that. But, after a while in the Senate, it certainly takes a little longer. Certainly this legislation deserves a little time.

We want to cooperate, but we are not going to be rushed into it.

Under the Clinton-Mitchell bill that we saw earlier this week, if 95 percent of the population is not covered by the year 2,000 and, if Congress does not act, businesses with more than 25 employees will have to pick up 50 percent of their employees's insurance.

The Clinton-Mitchell bill also has a lot of other taxes than what has been mentioned in my earlier remarks here today.

We could fix the problems with health care without raising any taxes, but yet in this bill—the latest version, I presume, also—we do have a 45-cent-per-pack tax increase on cigarettes. We have a 1.75 percent tax on all insurance premiums, not the high-priced ones, not for just some, but for all insurance premiums, as I understand it; plus a 25 percent excise tax on the so-called high-priced insurance plans.

Businesses also would lose health plan deductions if the plans—listen to this—businesses would lose their health plan deductions if the plans they offer do not conform to the standard, expensive Government benefits plan.

Do it our way or you cannot do it. You will lose your deduction.

This is an indirect mandate, but a very serious one. If businesses provide insurance for their employees, the only policies that will not be heavily taxed will be the Government-tailored plans, and they will be very costly. The employers must pass this along in the form of lower wages, less jobs, and/or higher prices for the consumers.

Employers, because of the Clinton-Mitchell "antidiscrimination" clauses, must provide insurance to all employees, if even one single employee is covered. These mandates are bad, once again, for middle-income people.

How will business react to these mandates? A Hewit study of large employers found that 34 percent of them would reduce or terminate part-time job positions if insurance coverage was mandated for these workers.

Keep in mind now that the Clinton-Gephardt version has that mandate at 80 percent, and much earlier than even the Clinton-Mitchell plan.

The Clinton-Mitchell bill's exemption for companies with less than 26 employees would stunt business growth—hiring of that 26th worker would mean wages for that worker, and health coverage for the entire firm. There would be little incentive, certainly, for businesses to expand.

Now we all represent our respective States. So I keep saying, what is it going to mean in my own State?

There will be some benefits, there is no question, in this plan. But in my State, a Government-run health care system would, once again, destroy thousands of jobs that we really cannot afford to lose.

Mr. President, there is a report by the Family Research Council, entitled, "Families With Children in Mississippi Bear the Brunt of Job Losses to Employer-Mandated Health Care proposals."

Mr. President, this report shows that families with dependent children in Mississippi will bear a disproportionate share of the job losses under any employer mandate. Under a Clinton-like bill with subsidies, 3,400 of the estimated 6,200 jobs lost in Mississippi would be shouldered by families with dependent children—55 percent of the job losses will come from families with children, even though working parents are only 47 percent of the State's labor force.

Without subsidies—paid for by the middle class—job loss for families with dependent children would climb to 61 percent of all job losses—working parents would absorb 17,500 of the 28,900 jobs lost. Surely, Government-run health care will make thousands of families in the middle-income area in Mississippi worse off than they are today. They could very likely lose jobs, as these statistics show.

This bill, this 1,443-page bill, as I understand it, has 17 new taxes; community rating mandates in the bill, that will make younger workers heavily subsidize the insurance costs of older workers and retirees; some 50 new bureaucracies; and, as I mentioned earlier, a projected cost of over $1 trillion over 8 years. To me that is disaster. This is the second largest entitlement program in human history, as I have been told, bringing over 100 million people into the Government-mandated health care system.

That is the key factor. We are going to bring all these people into the Government-run system.

It is untrue that Government-run health care will help the middle-class. It will hurt it. Under the Government-run plan, premiums could cost families up to $6,946 a year, according to the Hewit study I referred to. The people back home need to remember this statistic. That is almost $2,000 more per year than the 1992 average cost of $5,028 a year.

You folks that are working, blue-collar workers, you are going to pay $2,000 more than you were paying in 1992 under this plan.

The health scare bills have frightened middle-class Americans. The American people see the debate turning in a dangerous direction, towards a new, costly, bureaucracy that will not solve our problems. In fact, it make their problems worse.

That is why almost two out of three people think that Congress should take their time and do this, this legislation, next year. Common sense and prudence have been replaced by desperation, by those who want bureaucrats to take over one-seventh of the Nation's economy. I think we need to calm down and take a serious look at what we are doing. We can fix the problems with the system, and the plan that Senator DOLE and Senator PACKWOOD have offered will solve those problems of high cost, portability of insurance, availability of affordable insurance, and the inclusion of those Americans with preexisting conditions through the free market. They give people the medical savings accounts which would certainly help middle-income Americans by allowing families flexibility in choosing their health insurance. And the Dole-Packwood bill does have assistance for low-income people. I believe about $100 billion——

Mr. PACKWOOD. It is $108 billion, I think.

Mr. LOTT. There is $108 billion for that purpose. We can let Americans continue to choose their own doctors. We can have real malpractice reform. We can plug the holes in the system without new taxes, without new bureaucracies, and without price controls.

We fix all this without decimating the middle class. Americans do not want this Government-run, Government-controlled system. The market works. We have seen time and time again that Government-run programs do not work. The costs almost invariably spiral out of control. Under this Clinton-Mitchell plan or any other Government-first, people-last plan, middle-income families will pay more for less health care.

So, with that, Mr. President, I yield my time at this point. I surely will have, perhaps, some more questions for the Senator from Connecticut later on, and I will have at least one amendment I will be prepared to offer before we finish this legislation, directed at trying to be helpful to middle-income Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, may I congratulate the Senator from Mississippi for forceful and factual argument which will not find much support on our side of the aisle but will be, nonetheless, admired.

May I make one point to him? The Republican mayor of New York City, my good friend and our respected mayor, Rudolf Giuliani, wrote a letter to the House leadership in which he was joined by two eminent labor leaders, Stanley Hill and Dennis Rivera. And Mayor Giuliani made this point, a rather important point from our perspective. He said:

> America is debating universal health care. New York has given universal health care for most of this century.

I might point out, you know, we grew to be the preeminent Nation in the world under arrangements that are different from other parts. Hawaii has universal employer mandate. But we have had universal health care. I can speak as the child who has the normal range of mishaps and number of visits to hospitals and doctors. There were no bills. You could pay, but if you did not pay there was no consequence. It was understood that health care would always be available in New York City. So

VOL 140 PT 16 AG 12 — 18 1994 UMI

we are not exactly embarking on an enterprise heretofore unknown in North America. There are those who think New York City sometimes may not be part of North America but I insist to the contrary, island though it may be in large measure.

A vigorous proponent of health care, an able and informed Senator who has been patiently awaiting without making any points of order as to gain any special attention, the distinguished Senator from Washington—I am happy to yield her. Would half a hour be sufficient?

Mrs. MURRAY. Mr. President, 15 minutes will be sufficient.

Mr. MOYNIHAN. I yield as much time as she wants within the half-hour.

Mrs. MURRAY. Mr. President, I thank the distinguished Chair.

We have heard many statements over the last several days, meant to be scary and frightening, but I submit to this body who is really frightened and in a frightening position today is our Nation's children. Because if we continue in today's trend without passing health care reform, they will not grow up with affordable, quality health care and have the quality of life that I hope to pass on to my children and my grandchildren.

I am pleased tonight to join Senators KENNEDY and DODD in offering the amendment that is before us for our Nation's children.

I ask unanimous consent that Senators DASCHLE, BOXER, and MITCHELL be added to this amendment.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mrs. MURRAY. The American people have heard discussions on this floor about employer mandates, premium caps, and triggers. We have heard a lot about purchasing co-ops, alliances, and malpractice limits. Why? Because these are the issues that affect big interests, those who control our Nation's health care system today.

But my parents taught me a lesson a long time ago, that the little guy is just as important as the big guy. And that is what this amendment is all about. It takes us back to why this debate started in the first place. It reminds us that our society is not well served by the current system.

Parents across this country worry about our children's health. Parents who have no health insurance worry about what they will do when their child gets sick. Those who are insured worry about whether they are covered against everything that could and often does happen to our children.

I know what it is like to sit in a doctor's office with a sick child. I know the frustration, trying to ease a child's tears and the silent helplessness of soothing pain. And I know the anxiety.

Too many times I have rushed to the doctor's office waiting to hear the physician ask, "What's wrong with this little one?" But all too often I was questioned by the receptionist: "Do you have health insurance? Well, we will have to call the company to see if this is covered."

Unfortunately, nearly 10 million children in this Nation never even hear that question. Unless we change the system, 10 million children will remain on the outside, without adequate health care.

And what happens to these children as they grow older? The social cost is enormous. These children at risk grow into adolescents and young adulthood, toughened by hardship. And they come to believe that no adult really cares for them. Is it any wonder that we see higher dropout rates and more brutal juvenile violent crime? Of the medical costs that are preventable—that are preventable—teen health problems now surpass $27 billion a year. Can this country afford this?

The Mitchell bill puts our Nation's children on the right path towards a healthy future. The purpose of this amendment is to give them a jump start. We heard before that this amendment has to do with subsidies. It has nothing to do with subsidies. It simply requires private insurance companies to provide coverage for preventive services for pregnant women and children for any plan issued after July 1, 1995. Our children grow up fast. This amendment gets them on the right road from the start.

Raising kids has become more complicated and scarier. This amendment takes one worry away from America's families. Our country cannot afford to neglect our future generation. As John Kennedy once said, "The needs of our children should not be made to wait." I hope this body keeps that statement in mind as we continue to debate this bill. "The needs of our children should not be made to wait."

I yield the floor.

Mr. MOYNIHAN. May I thank once again the distinguished Senator from Washington, who cares so very much about this subject and knows so very much about it, for a remarkably concise and moving statement.

The majority leader?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I would like to make just two points briefly. First, the distinguished Senator from Mississippi and several of our colleagues have referred to the Government-run system, in an obvious effort to create the impression that the legislation I have proposed and which is being considered would create a Government-run system. Those were the exact words used.

Let me make clear that my amendment will have just the opposite effect. One of the largest Government-run systems now is the Medicaid system, which provides health insurance for persons with incomes below the poverty level. Under my legislation, most of that program will be abolished and the assistance now going to them under a Government program would be channeled to them to encourage them to purchase private health insurance.

So, in effect, a very large Government program would be abolished and those persons would enter the private health insurance system where most Americans are.

I recognize that our colleagues are obviously engaged in a tactic of, if you repeat something often enough, people will come to accept it, even if it is not correct. That is what has occurred with respect to this Government-run system. Much the same thing occurred a year ago, Mr. President, when we were debating the President's economic plan. Many of our colleagues today making these charges about the pending bill repeatedly talked about how the President's economic plan would raise taxes on small business and raise the tax rates of large numbers of Americans, and they were successful in persuading Americans of that, even though it was not true.

Polls showed last year that a large number of Americans believed that their income tax rates were going up when, in fact, only about 1.2 percent of Americans, those at the very top of the income scale, did have their income tax raised. A large number of other Americans, much larger numbers, had their taxes gradually reduced or they received some significant benefit.

So I accept the fact that campaigns of misinformation do work, but I think it is important that those of us involved in the debate make clear what the circumstances are.

Finally, if I could make one comment on one aspect of the discussion this evening. We have had a lot of colorful talk by some of our colleagues about the fact that there have been some changes in the bills that have been presented, and to a person unfamiliar with Senate procedure and the practices of the Senate, it might sound unusual or uncommon or strange that a bill is changed in the process. But, of course, as every Senator knows and as everyone who follows the legislative process knows, it is a common event that bills are changed in the process and a draft bill is introduced, labeled as such, technical corrections are found, typographical errors occur, substantive changes are made to accommodate concerns expressed by one or another Senator.

And so I hope that most people have enough of an awareness of the legislative process to understand that it is a common event that change occurs as bills move through the process.

Indeed, just yesterday, Senator DOLE described one such circumstance with respect to his bill, the bill that he and Senator PACKWOOD introduced earlier this week. Senator DOLE told us that when he announced his plan to introduce a bill in June and after that plan was studied, the Governors Association issued a letter criticizing it and he then, as he put it, worked with the Governors over the next few weeks to change his plan to accommodate their concerns. And, therefore, the bill introduced by Senators DOLE and PACKWOOD this week was, by their own account, different from the plan they announced in June because they made a legitimate and appropriate effort to accommodate the concerns of Governors.

Indeed, I am going through the same process now with Governors. They have sent a memorandum to me expressing concerns about some parts of our bill, and we are meeting with them in an effort to accommodate those concerns.

I fully expect, Mr. President, that when Senators DOLE and PACKWOOD introduce their bill as an amendment to be considered, it may well have some changes from the version that was introduced earlier this week. Should we then engage in flamboyant rhetoric about the fact that they may make a couple changes in their bill and suggest that is something unusual and we then get up and hold up the two bills in our hands and wave them around like a pair of fans and suggest that there is something unusual or different or inappropriate with that? The answer is, of course, no. This is a regular part of the process.

The legislation I introduced today as a substitute amendment has a few minor changes from the version introduced on August 9, and I expect now within the legislative process there are going to be many other changes proposed by Senators and adopted by the Senate.

So I hope that no Americans are diverted or distracted by all of the fuss and feathers about changes made in the bill. It is a common event. It occurs regularly. I am certain it will occur with respect to other bills that are proposed here. We accept it as a part of the process. We are now reviewing the bill that was introduced by our colleagues in an attempt to determine in what respect it differs from the plan announced in June, and I hope that the debate now can focus on the real issues.

Mr. DODD. Will the majority leader yield?

Mr. MITCHELL. Yes; certainly.

Mr. DODD. I am pleased the majority leader has made this point, because I think some of you have seen some of our colleagues wave these volumes around. If I understand what you said, in effect, the substitute introduced this afternoon at approximately 5 o'clock is virtually the same bill we have been talking about for the past several days with literally technical and minor corrections; is that not correct?

Mr. MITCHELL. A couple of the changes are substantive, but there are very few in there.

Mr. DODD. But this notion of holding one bill in your left hand and another bill in your right hand and implying or suggesting that we are dealing with entirely two distinct products is engaging in a bit of hyperbole or exaggeration.

Mr. MITCHELL. Well, it gets you on TV.

Mr. DODD. I just lastly ask the majority leader, I think I understood the unanimous consent request in the sense that now the pending business is the amendment I offered at roughly 5:30 this afternoon.

Mr. MITCHELL. That is correct.

Mr. DODD. We have no agreement on when this amendment can be considered and voted upon; is that correct? Or do I have a time when I can anticipate we might get a vote on that amendment?

Mr. MITCHELL. I have proposed to the distinguished Republican leader that we vote on that amendment at 5 p.m. on Monday, but he has not yet been able to get that cleared or has not responded on that. So as of now, there is no time, but my hope is we can go to that amendment——

Mr. DODD. So it being Friday night now at 8 o'clock, and Saturday and Sunday and virtually all day Monday would be time devoted to the general discussion of either this amendment or the bill at large.

Mr. MITCHELL. That is correct, although there will be no session on Sunday.

Mr. DODD. I thank the majority leader.

Mr. MITCHELL. I yield the floor.

Mr. MOYNIHAN. Mr. President, I happily yield such time as he may wish—and I believe he indicated 10 minutes, but it does not matter—to the Senator who has so singularly helped bring us to this historic moment, the Senator from Pennsylvania, my friend, HARRIS WOFFORD.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. I thank the Senator.

I wish to thank the Senator from Connecticut for bringing this amendment to us as the first amendment of this bill. And I want to thank the majority leader just now for cutting through some of the fog of confusion that has been laid down over the country and helping to start make it clear that this is not more government-run medicine but it is building on our private health insurance, pointing out that in the Medicaid program it is helping to move people into the kind of choices that other people have in the private health insurance system.

This is an amendment that deals with extending the private health insurance system to make it real and effective for children and pregnant women in this country.

Winston Churchill used to say that buying milk for babies was the best investment a nation could make in the future.

The second best investment we can make is in well-baby care and childhood immunization and adequate prenatal care. That is why we need this amendment, to give kids a good, fighting chance.

There are members of this Senate who, for reasons I do not understand, seem almost proud of how far they can stretch out the deadline for universal coverage. With all due respect to them, I disagree strongly.

Wherever we possibly can, and especially wherever it costs us nothing, we must move ahead sooner rather than later. That should be our guiding principle in evaluating this and every other amendment to the health care bill. For health care delayed is health care denied.

I congratulate the Senator from Connecticut and Senator KENNEDY from Massachusetts for seeing that this is obviously a first priority and the first place to begin in strengthening and improving this bill so that it will make sense and dollars and cents for the American people.

This amendment will save dollars and lives. We know that from experience. In Pennsylvania, in 1985, two ministers in Pittsburgh approached Blue Cross/Blue Shield of Western Pennsylvania to see what could be done to help the thousands of Pittsburgh children whose families could not afford even basic health services.

Out of that encounter came a program called the Caring Program. It is funded jointly by Blue Cross/Blue Shield and private contributions. The Caring Program provides to thousands of children the same kinds of services this amendment would cover. Pennsylvania's Blue Cross/Blue Shield knows that covering preventive services for children and pregnant women is the right thing to do. And as tough-minded business people, they also know it makes sense, dollars and cents.

Infants who get their immunizations and well-baby care, whose mothers get prenatal care are not nearly as likely to get sick. The old saying is true, an ounce of prevention is worth a pound of cure. The investment in preventive care pays for itself many times over.

Another Pennsylvania program is built on that same common sense approach. We call it CHIP, the Children's Health Insurance Program. Governor Casey established this in 1992. CHIP provides free or low-cost health care for children living in low-income families. It is administered by Blue Cross/Blue Shield and U.S. Healthcare. Thirty-two thousand Pennsylvania children are enrolled in CHIP; 32,000 children are healthier and better able to learn because Pennsylvania said no child's health should depend solely on his family's income.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Tending to the same basic health needs of children and pregnant women works, whether it is in a fee-for-service plan or a managed care plan. These programs are part of the reason that Pennsylvania's percentage of uninsured children is less than half the national average. Pennsylvania is showing that the solutions are out there and they work.

A Pennsylvania pediatrician, Dr. Elias Schwartz wrote to me this week, and I quote:

> Our children are our future. When we care for them and their mothers, we also care for the productive, contributing citizens they will become.

This amendment alone cannot close the health care gap for America's children, but it can make a big difference. What this amendment says is simply that insurance companies must include and cannot charge co-pays for well-baby care and childhood immunizations and prenatal care.

I do not know how many Members of this Senate have ever seen a 2-pound baby, as I have. It is an amazing sight. And I have seen some of these babies who survived and thrived and seen the joy of their families. I have seen it at a hospital cost of half a million dollars. And I have seen and held a million-dollar baby.

The doctors often point out to me that with the mother's lack of health insurance, those costs then are shifted to other people's bills and that with just a few hundred dollars of prenatal care, this $500,000, this $1 million baby would have been born healthy.

My colleague, Senator GRAMM, said yesterday that "not even God can prevent preexisting conditions." That may be so. But this Congress can prevent discrimination based on pre-existing conditions. And we can prevent many of the illnesses that rob our children of their health, their potential, and their lives by passing this amendment.

Mr. President, I call for action as soon as possible on this amendment, to move forward to build a bill which the Finance Committee and the Labor Committee jointly have put together, a bill that has been known and debated for months, a bill in which this principle and the purpose of this amendment has been an essential guiding point from the very beginning. By this strengthening amendment, we can make that bill better and bring the process, for which so many of us have worked for so long, to fruition.

I thank the Chair.

Mr. MOYNIHAN. Mr. President, may I ask the Chair how much time remains?

The PRESIDING OFFICER. Four minutes and 40 seconds.

Mr. MOYNIHAN. We have on this side 4 minutes and 40 seconds. I yield to the Senator.

Mr. ROCKEFELLER. I would say to the distinguished chairman from New York my remarks will take more time than that, so perhaps, if on the half-hour rule, we would have a quorum call or something, then it would go to the Republican side and then I could speak in the next half-hour.

Mr. MOYNIHAN. I think I will suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Democratic side might have an additional 12 minutes, I believe is required.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MOYNIHAN. I yield 15 minutes, an accumulated 15 to the distinguished Senator from West Virginia.

Mr. ROCKEFELLER. I thank the distinguished chairman of the Finance Committee.

Mr. President, I am extremely pleased to rise in support of our first amendment that would expand vital coverage for preventive services to children and pregnant women. I am extremely pleased that our first amendment puts children first because, frankly, that is a very large part of what health care reform must be about, creating a secure health future for our Nation's children.

This amendment is extremely important. It is an amendment that matters. It is an amendment that will make a real difference in people's lives.

Three years ago, the National Commission on Children, which I chaired—this is sort of a summary of it. It is very interesting, Mr. President, I would note—and I would also point out to my friend from New York—this was a commission that had 32 members, including 3 members of the Bush administration, that had about as many Republicans as Democrats. It was all about children and all about health care and all about all kinds of other things, and we had a completely unanimous vote. After 2 years of work, the vote was unanimous, and we covered the waterfront so far as children's issues are concerned.

One of the things we suggested was moving forward on universal health coverage for children, and 2 years before that the Pepper Commission made similar recommendations. The distinguished Senator from Minnesota certainly remembers that. That was this effort: Universal coverage, in fact, starting with children. Pregnant women and children were the first order of priority.

An overall theme and major strength of the Mitchell bill is its special emphasis on children and mothers through special targeted subsidies that will begin as quickly as feasible. The Mitchell bill gives children a head start on health coverage, and this amendment gives children a real jump start. It will give a large number of hardworking families an immediate health benefit beginning July 1, 1995, less than I year away.

Under this amendment, private insurance policies will be required to offer preventive services to children, and to mothers without any cost-sharing requirements. The amendment is long awaited and way overdue, according at least to this Senator's timetable. But we are finally here, and this is what matters the most. I predict that this amendment will be favorably voted on. I pray that it will be favorably voted on, and I pray that the vote will be bipartisan.

I believe and I deeply hope we are going to start putting aside some of what we saw earlier this evening—that is, the politics and the rhetoric—and focus on what we are hired on by our constituents to do here in the Congress; that is, to focus on health care policies as a first priority.

As we begin debating the majority leader's bill and focus on its policies, I think we are going to be surprised in fact by the amount of agreement that can be reached in many, many areas if there is the will for us to do so on both sides. I hope that this is just the first example of a potentially emerging consensus.

Why children and why preventive services? For all the obvious reasons, and more. America's record on children is not particularly admirable. We have lost some very important ground over the past decade and a half. Since 1980, no progress has been made in reducing the overall rate in which babies are born too small and too soon. Low-birthweight babies are 40 times more likely to die in their first month of life, and 5 times more likely to die later in their first year.

In my own State of West Virginia, we have made some progress in reducing the number of babies born at a low-birthweight and lowering our infant mortality rate. But it is still much too high. Forty-four percent of our teen mothers in West Virginia, and 26 percent of all mothers in West Virginia, do not receive adequate prenatal care.

The U.S. infant mortality rate remains stuck well below many other industrialized countries, something which our colleagues on both sides of the aisle are very, very aware of. The emotional and physical tragedy of a baby starting off his or her first few days, sometimes months, in a neonatal intensive care unit is bad enough. But it is also a tremendous waste of our precious health care dollars. The average cost of providing neonatal intensive care for one low-birthweight baby could finance the cost of providing prenatal care for 58 women for the entire trimester. It is time, Mr. President, that we got much smarter about spending our health care dollars, and this amendment is one way that will advance that.

Another example is immunizations. In 1979, the Surgeon General set a goal of immunizing 90 percent of 2-year-olds against common childhood diseases by the year 1990. Today, we are at 72 percent, a 2-percent increase from 1990, and a long way from our goal. I do not think that the cost-benefit of adequately immunizing our children even needs repeating.

Ninety percent of private health insurance for children is purchased through their parents' job-based health plans. The amendment before us will be of significant benefit to many of those children and their families, since less than half of conventional indemnity policies even cover preventive care services for children.

Only about 42 percent of children with health insurance have coverage for routine immunizations, less than half, and only a third of health insurance policies in medium and large firms—the percentage for small firms would be much less, of course—even cover well-baby care. This amendment will give those children and those infants without immunization and without well-baby coverage a direct benefit, and it will do it in less than 1 year from today.

About 5 million women, Mr. President, have private insurance policies that do not cover maternity. These women will directly benefit from the amendment before us. They will no longer have to worry about seeking early prenatal care because of the expense, because it will be there for them.

Under this amendment, cost-sharing requirements for preventive, cost-effective care would be prohibited. This is extremely important and very cost effective. We know from studies that cost-sharing requirements can deter people from seeking care, including necessary, very necessary, medical care. One study found that even nominal copayments for doctor services kept people from seeking early medically necessary care.

So not having copayment responsibilities means that people are going to take advantage of health care, and are going to get prenatal care, and a lot of children are going to start life off a lot healthier.

Mr. President, I would also like to take a second to remind my colleagues that job-based coverage for children has diminished significantly over the past 15 years. And that is a cause for alarm. Having a job is no longer an assurance of reliable health insurance coverage. In 1980, 40 percent of employers paid for dependent coverage in full. In 1990, 10 years later, that number is only one-third of employers.

The majority leader's bill provides us the road map to stop the deterioration of job-based coverage, beginning with insurance reforms and voluntary purchasing cooperatives to help small companies afford coverage for their workers and for their families.

By 1997, which is really just a few years from now, the Mitchell bill will mean that 74 percent of all currently uninsured children in my State of West Virginia—that is 48,000 children—will have private health insurance coverage. That is enormously important public policy. And it is of enormous importance to my people in West Virginia. Not Medicaid; I am not talking about Medicaid or some other new Government-run health program—but a private health insurance policy with decent reimbursement rates and wide doctor acceptance.

Mr. President, in closing, as I said earlier, the majority leader's bill will give children a stable, secure health care system. This amendment is a good start because it will give millions of our children a better start. I urge my colleagues, when the time comes, to adopt Senator DODD's excellent amendment.

I thank the Chair and the distinguished chairman of the Finance Committee.

I yield the floor.

Mr. MOYNIHAN. Very well done, sir. It appears that no other Senator is seeking recognition on either side.

Mr. PACKWOOD. Mr. President, I have a few remarks.

Mr. MOYNIHAN. Forgive me.

PRIVILEGE OF THE FLOOR

Mr. PACKWOOD. I ask unanimous consent that the privilege of the floor be granted to John Ratner, an employee of the General Accounting Office on Detail, Committee on Finance, during each day this bill or other health care reform is the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, let me tell you a bit what bothers us on our side. If you will notice, the House of Representatives the other day voted to apply all of the laws that apply to all other American citizens to the House of Representatives—the National Labor Relations Act, the Fair Labor Standards Act, and many others, including the Occupational Safety and Health Act, OSHA. Many or all of the pages that we have in the Senate, who do extraordinary work—and we work them long hours—are high school students, and they go to a special school here. But they would be very much like our young high school sons and daughters.

What I think we are coming to, first, is this, Mr. President. There are four bills here. The top one is the finance bill we were first considering, and then the majority leader's first bill, his second bill, and third bill. I weighed this. If we adopt the Occupational Safety and Health Act for the Senate, the pages will not be allowed to pick up this stack. It is too heavy for them. We are being asked to consider this stack in a very short period of time.

The majority leader was just on the floor saying there are minor changes, and that it is common and we do this all of the time. And we do make technical corrections all of the time. But I want to emphasize to the Senate the quantity of changes he was talking about. Between his first bill and his second bill—and we have his third bill tonight—he made amendments to every title of the bill. A title is the legal language we use in bills, like title 1, 2, and 3. He made changes to every title of the bill in 139 sections of the bill. Those are not minor, modest, minuscule changes.

The RECORD will show that I asked yesterday whether or not it was true that a particular part of the bill that both the Chairman, Senator MOYNIHAN, and I were interested in, was in or out of the second bill. I had heard it was out. This was a section that dealt in the law, not in the Finance Committee bill. It is the only bill that was introduced that did not have this section in it. We were going to tell every medical school in this country how many residents they could have. Residents are graduate medical students. We were going to tell them what kinds of residents they could have—surgeons, ophthalmologists, podiatrists, whatever. We were going to tell them on the theory that we knew better than they do. This is a section that offended very greatly the Chairman and I.

I was assured by one of the Democratic Senators that in the new bill—it is no longer new; it is yesterday's—introduced by the majority leader that section was out; indeed, the section was out. Do you know what was in? A commission. And a commission was to determine how many residents and what kind of residents, and the word reduced—and they shall determine to what extent the number of residents shall be reduced. Well, darn it, that answer misled me. I thought it was out of the bill. And I hope before we are done, this pernicious section is going to be out of any bill that we are considering.

But how on Earth are we to know when we get, tonight, the leader's bill? We got this tonight. Some amendment has been offered to this, or something else, we are not yet sure, and the leader wants to vote on it tonight. That is our problem.

There is one thing we do know about the leader's bill of yesterday. I do not know about it today. I do not have the CBO estimates yet. We know that the leader's bill, yesterday, would spend more money on health over the next

79-059 O—97 Vol. 140 (Pt. 16) 18

VOL 140 PT 16 AG 12 — 18 1994 UMI

decade than if we pass no bill at all. People have been talking about the waste, the excess, and ineptness of our present medical system. And if we did nothing, we would spend less money than if we passed the majority leader's bill intact. Maybe we want to spend more money. It is a fair argument. I would prefer not to. But it is a fair philosophical argument and, on balance, it divides, on average, Republicans from Democrats. On average, Democrats are more comfortable spending money, Republicans are not. Democrats are more comfortable with a centralized bureaucracy, Republicans are not. I am not saying every Democrat and Republican fall into those categories; I am just saying on average. You can tell it from the speeches. With a few exceptions, all of the Democratic opening statements have been horror stories of somebody who is sick or injured and had no insurance coverage. In essence, every one of their opening statements was that little Nellie is tied to the railroad tracks, and the train is coming down the track, and the train is going to cut off her legs and she does not have any insurance coverage; and the solution of the Democrats is to make sure she is insured. I think the solution of the Republicans would be to try to stop the train. And yet, we are not going to be allowed to stop the train if we pass the majority leader's bill.

I am going to quote a few statistics, and it ought to bother everybody in this country, because it happens so slightly that we are unaware of it. In 1950, every government in the United States—Federal Government, State government, local, cities, counties, fire districts, school districts, water districts—taxed 21 percent of all the money in this country, or $1 in $5. That was in 1950. All of those same governments, in 1950—all of them put together—spent about 23 percent of all the money we had. So we were taxing 21 percent and spending 23 percent. We had a deficit, collectively, if you add all the governments together. The argument is, first off, that we should raise taxes to narrow the deficit. Well, over the last 40 years, that has not happened. As I said, in 1950, we taxed 21 percent, we spent 23 percent.

Forty-four years later all of the same governments, all Federal Government, all the State governments, cities, counties, fire districts, water districts are taxing not 21 percent, $1 in $5 roughly. They are all collectively taxing 33 percent, $1 in $3. So the taxes have gone up rather significantly. Spending, however, for all of the governments is 36 percent.

So in 1950, we taxed 21 percent; we spent 23 percent. In 1994, we taxed 33 percent; we spent 36 percent.

We have raised the taxes. We have not narrowed the deficit. And the bill that we have before us raises an immense quantity of taxes and spends an immense quantity of money.

As I have said, the bill we have before us will spend more money on health than if we pass no bill at all. But the question we ought to ask ourselves is, do we want to look in another 10 or 20 or 30 or 40 years like Sweden, because if we keep going the way we are going gradually we will end up taxing 40, 45, or 50 percent of all the money we have, and we will spend 2 or 3 percent more than we have. We will never balance the budget. We will just spend the money.

The bill that we have before us, Mr. President, is an immense taxing and spending bill. And before we rush pell-mell into it, we would like a legitimate chance to know it and to talk about it and to present our arguments to the American public.

We normally in the Senate have a recess schedule starting tonight. If we had the recess, we would be home, and we would be talking with our constituents about this bill. And we would be asking their opinion and their judgment.

But the majority leader has said that we cannot go home. He has said we are going to stay here as long as it takes, as many days, weeks, and months, if necessary, for every Senator to be able to consider the bill amply. That is fine. But, Mr. President, there is one problem with that. We can consider it amply, but our constituents cannot, and the only chance we are going to have, because we cannot go home to educate them, is to attempt to educate them through debate on the Senate floor and through opening statements that are going to thoroughly dissect this bill.

A few moments ago, I was called off the floor and interviewed by one of the better reporters who is covering this subject, and she indicated one of the Democratic Senators had gone up to the press gallery after I had indicated that we had many Senators who wanted to make opening statements and that some might be 4 or 5 hours long, not all, but two or three may be 4 or 5 hours long. Many of them will be an hour, some a half-hour, some an hour and a half.

And that Senator accused us of using filibuster tactics. He called that a filibuster.

I ask you if we cannot go home and talk to our constituents and if the only way we have where we otherwise would be a month at home talking to them, if the only way we have to get the point across that we feel so strongly about on this bill is to talk on the floor of the Senate, is that some kind of an immoral, unethical process? Is that a filibuster?

And this was from a Senator who voted against allowing us to have a vote on product liability, who filibustered the bill so that we could not vote on it, then goes upstairs and says to the press that the Republicans are filibustering this when we cannot go home, and we have no other opportunity to bring this bill to the public's attention.

Mr. President, we are going to bring this bill to the public's attention. It may take us days or weeks or months. General Grant said he was prepared to fight it out on this line if it takes all summer. I think we are prepared to equal General Grant.

With that, I am prepared to yield such time as I have remaining of my half-hour section to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. DASCHLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DASCHLE. What is the current time allocation for the Senator from Oregon?

The PRESIDING OFFICER. Under the previous order, each side is allocated 30 minutes. The Republican floor manager has 15 minutes and 5 seconds under his control and, as I understand, he has yielded that time to the Senator from Texas.

Mr. DASCHLE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President, and I thank the distinguished managers of the bill, Senator MOYNIHAN and Senator PACKWOOD, for allowing me this time. I do not intend to speak for 2 or 3 hours I say to Senator PACKWOOD. And unlike Senator LOTT, it is not welling up in me and having to come out all at once tonight. But I have been watching the debate for the last week, and I did want to say a few things tonight before I do give my opening statement later in the next week or whenever my time comes.

Mr. President, I did spend the last weekend at home going through Texas, walking through Dairy Queens, coffee shops, talking to people, not talking about health care in particular, but saying, "What is on your mind?" Not one person that I talked to did not blurt out something along the lines of, "What are you people in Washington going to do with our health care system?" That is a variation of everything I hear as I go through my State, just talking to people in the airports, walking down the street, walking into a building. It is the topic that people most fear, and it seems to me that the more they hear the more afraid they become, because they are being educated on all of the things that could change in the health care system as we know it.

I would like to put in perspective what we are talking about here. Eighty-five percent of the people in our country have health care coverage.

Most are satisfied with that coverage or, if they do not like it, at least they know that they are going to be covered and something catastrophic will not happen to them. Ninety-five percent is now considered universal coverage.

So what are we going to do to bring the other 10 percent into the fold, because we do want them to be covered? We want them to know that something catastrophic will not happen to them when they do not have coverage.

It seems to me that President Clinton and Senator MITCHELL and the people who are supporting the kind of plan that will, in fact, throw out the system we have and replace it with something that is a massive Federal takeover of our system are asking a different question from what I think we should be asking.

President Clinton is saying how can we bring the other 10 percent into the fold? That is the question. I think the question should be, how are we going to bring the other 10 percent into the fold without damaging the system that 85 percent of our people have and to make sure that the full 95 or 100 percent have a great quality health care system as we do in our country now?

I think that should be the question. So if that is the question, I think you will come to a different answer from the Clinton-Mitchell type of approach.

Senator MITCHELL's plan has mandates. They do not come until after the year 2000, if we do not have the 95-percent coverage, but, nevertheless, the mandates are there. It is a 50-percent mandate for employers, but it includes individual mandates as well. So it is going to be mandates for all of the people in our country.

It includes massive tax increases, the 1.75 percent tax on every premium, so if you are covered, you are going to pay that tax, and if you cover yourselves or your employees with a better plan, you are going to have a 25-percent excise tax.

It seems to me that that is the wrong approach, having a massive tax increase if you are going to do better for your employees. We should be trying to encourage people to cover themselves fully, trying to encourage employers to do better, as best they can, for their employees.

And there are so many things in there that I think we just do not know yet. That is why I have been uncomfortable with the bill that was introduced last week, taking it up immediately, 1,400 pages, because all of these new Federal programs and Federal agencies and commissions that are going to decide what all of us have in our cookie-cutter plans.

But one thing did jump out at me, because I am very supportive of medical education, and that is that we are also talking about engineering our medical profession in these plans.

What about the young man or woman who wants to go to medical school because his or her mother and father or mother or father were ophthalmologists and they want to go to medical school so they can come home and be in the family of ophthalmology? That is what they have grown up in, working in the summers when they were in high school. They know what ophthalmology is and they love it.

So they go to medical school under one of these new plans and they graduate from medical school and they get ready to go into their ophthalmology specialty. And the agency that is in charge of saying how many specialties are available says, "I'm sorry, but ophthalmology is filled. You are not going to be able to do that."

That is not what this country is looking for in health care reform. We are looking for keeping our choices, for our best young men and women to go into the medical profession knowing that they will be able to pick the specialty that they want or to be able to do a family practice, which is what we hope they will do, especially in our rural areas. But we do not want in this country to start engineering our medical practice, because that is going to take away from the quality that we have known in this country.

It seems that we are patterning these new bills, the Clinton-Mitchell-Gephardt type bills, after what we have seen in Canada. In fact, President Clinton said in the campaign that he was looking at the Canadian system as the model for his plan.

But I wish you would talk to someone who has lived in Canada and lived under their health care system. If someone is well in the Canadian system, they do fine. But if you are sick in the Canadian system, you have a problem. There is rationed health care because there is a limit on what can be spent and that causes rationing. You wait 6 months for heart bypass surgery; hope you have that luxury. A lot of people who can afford it will go to the United States to have surgery because they cannot wait 9 months for cataract surgery or 3 months for a mammogram.

I read an article by a woman who had just had a baby in Canada. She said that she had thought she would have anesthesia. But there was only one anesthetist in the hospital there and the anesthetist was taken up with emergency surgery, and by the time he could get to her it was too late.

That would not happen in America. No woman has a baby without anesthesia if she wants it, regardless of whether she can pay or not. That is because we have the quality of health care system that we do. I do not think we want to give up that quality for a system that is not working in Canada and we certainly do not want to put that kind of system in place in America where we do have the quality.

So, Mr. President, I would just say that I think we do need to take our time. I do have some concerns, and I do want to more fully explore those concerns.

But I think the people of this country deserve to be able to really know what is in this bill and what the effects are and have time to study it. I think they want to know what impact these bills are going to have on their quality of life. Because that is what this is. It is one-seventh of our economy. Millions of jobs in the health care industry are at stake here.

But, most of all, it is a basic quality of life issue for every American, what we do. I do not think we have to do it in the next 2 weeks, because if we make a mistake, it will be very difficult to reverse the mistake.

You know, we passed a tax bill in this body last year, and I was against it. But I know that we will be able at some point in the future to repeal a bad tax. We have passed some regulations and mandates that I think are not going to work. We can repeal a bad regulation.

But, Mr. President, when you overhaul the health care system, throwing out everything that we know today and putting in a whole new Government structure, we cannot reverse that. We cannot reverse it. And we must remember that. We are talking about something so important to so many families.

The only responsible approach is to take it one step at a time. Let us improve the system as we know it. We can do that.

There are some things that we need to do. We need more accessibility. The Mitchell plan provides that, so does the Dole plan. The Dole plan does it without mandates and taxes and without a massive Government bureaucracy. We need access, and we can do that. That will be a responsible thing for this Congress to do.

And we can bring health care costs down with malpractice reform. The Dole plan is the only bill that has malpractice reform. I think that is the only way we are going to really bring the costs down. We can also do some of the things in the Mitchell-Clinton-Gephardt bills that take away some of the duplication of paperwork in our insurance forms. We need to do that. But we also need malpractice reform if we are going to bring the costs down so that we can keep the quality in our system.

And we can make affordable access possible through voluntary pools. We do not have to have mandates for that. We can have voluntary pools with tax incentives to help people pay, along with subsidies for people who are at the poverty level or 150 percent of the poverty level.

You know, I have seen so many of the President's press conferences and his town hall meetings. He has some tragic stories. Most of the people that are mentioned in the press conferences

VOL 140 PT 16 AG 12 — 18 1994 UMI

that do have needs that we must address would be covered in a plan like the Dole plan. We can bring those people into the system without hurting the system for the other 85 percent of our population. Let us do this responsibly.

Mr. President, let us do this responsibly. Let us make sure that we take one responsible step at a time. We do not need a crisis, and we are going to make a crisis if we take an action that we have not experimented with, that we are not sure what the consequences will be.

So, Mr. President, I thank you for recognizing me, and I thank the managers of the bill.

I just hope that Americans will listen to the debate. I hope that we will be able to debate fully enough that they will have the education they need to make a choice. If they want this massive, new Federal bureaucracy taking over the health care system, do they want the new taxes?

Let me just make one point before I close. And that is that we are told that there are people now not in the system and we pay for them anyway. And we can take those costs off by making sure that everyone is covered.

I submit to you that it is just a matter of how we pay for the people who are not covered. I doubt that there is much difference between how we take care of people today through Medicaid, through county health clinics, through emergency facilities that are open to people who do not have coverage, versus the new taxes in the Mitchell-Clinton-Gephardt bills that are used to pay for the people who are not covered, to pay for the subsidies for the people who are not covered. The subsidies in the Mitchell bill are estimated now to cost $1 trillion over the next 8 years—that is what I have seen in print.

That is a cost that we must pay for. Someone is going to have to do it. It is going to be the people who are taxed on their premiums, especially if they decide to go the extra mile and pay 25-percent tax. There are taxes all through this bill. So that is how we are going to pay for the people who are not covered.

We are doing that now. And people have a quality health care system to rely on. So let us try to help the people who do not have coverage. Let us try to bring them into the system, make sure they get the prenatal care, the preventive care, the care that will keep them from having the emergencies or the premature babies. We need to do that. Let us do it in a responsible way that brings everyone the quality that we have in our system. That is the responsible approach.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Texas for her very thoughtful and carefully modulated remarks. I think on that happy note we conclude our debate for the day.

There is just some concluding business for the Senate, I say to the Presiding Officer who has been waiting patiently, well past the hour in which his watch was to have concluded.

MORNING BUSINESS

FISCAL YEAR 1995 ENERGY AND WATER APPROPRIATIONS BILL

Mr. DURENBERGER. Mr. President, the forces of nature are both awesome and horrible. Every year America suffers natural disasters: lethal tornados, devastating earthquakes, scarring wildfires like those plaguing our western forests, savage hurricanes along our southern coasts, bone-dry droughts, and wrenching floods like those experienced last month in south Georgia and last summer in my state of Minnesota, Iowa, and Missouri.

The cost of these disasters cannot be measured in dollars only; lives are lost, crops and livelihoods are wiped out, treasured memories destroyed, and lands are scarred.

While government cannot control Mother Nature, wise planning and engineering can lessen her threat. This is what the U.S. Army Corps of Engineers does: it plans, constructs and manages flood control measures throughout the country. And, this is why this Energy and Appropriations bill is so important: it funds the Corps of Engineers.

The committee has funded projects on numerous Minnesota streams and lakes: on the Zumbro River through Rochester, on Basset Creek through Golden Valley, on the Mississippi River in St. Paul, on the reservoir lakes in northern Minnesota, on the St. Croix River by Stillwater, and on the Minnesota River in Chaska. All these projects have saved property and just as importantly, withstood the test of time.

Also, Mr. President, coming from Minnesota, one cannot overlook the great value of keeping America's internal shipping lanes open to oceangoing traffic. Minnesota serves as both the starting point of the Mighty Mississippi and the St. Lawrence Seaway of the Great Lakes. Billions of dollars of goods use both passage-ways each year.

Thus, the funds made available by the Committee for such projects as upgrading Lock and Dam number 26 on the Mississippi River allows barge traffic from the Twin Cities of St. Paul and Minneapolis to flow unhindered southward to the Gulf of Mexico. Likewise the harbor dredging and lock maintenance on the St. Lawrence Seaway preserves Duluth as a great shipping port.

So, Mr. President, since the bill before the Senate today is the last Energy and Water appropriations bills that I will have the privilege to be a part of, I want to thank the Chairman and Ranking Member for their assistance in making Minnesota a better and safer state.

FLOOD CONTROL PROJECTS

Mr. President, in my 16 years in the Senate, eight flood control projects have been either finished or started. These projects are bringing more than just flood control to Minnesotans, they are bringing peace of mind. Although there are so many, let me just remark on several of the most important:

In 1976, the City of Rochester was ravaged by flood waters from the Zumbro River, killing 5 people, and destroying homes and croplands. In response, my first legislative action in the Senate was to introduce an amendment to the Water Resource Development Act to authorize the Army Corps of Engineers to construct a series of levees on the South Fork of Zumbro River, Bear Creek, and Cascade Creek. The project was designated to provide protection from the 200 year flood event—and was even put to the test during last summer's floods. Since then, the Federal Government has provided over $76 million in funding, and the project is now scheduled for completion next year.

The Bassett Creek flood control project is currently scheduled for completion in 1995. This project began after severe floods damaged property in such towns as Golden Valley, New Hope, and Crystal in 1974, 1975, 1978, and 1987. With a Federal share of $29 million, flood storage in recreational areas and open spaces will be created throughout the watershed, with a new tunnel in the outlet reach under a highly urbanized area of Minneapolis. Finally, we will be able to provide the necessary flood protection to the people of these cities.

The City of Chaska, on the Minnesota River now has 1.1 miles of upgraded levee and 1.5 miles of new levee as well as new drainage and pumping facilities. This construction is designed to protect residents from flooding of the River, and the Chaska and East Creeks. Thanks to assistance from this Committee, the project will be completed in 1996.

In Marshall, levees from the 1960s were already in place to protect the town from the smaller floods which occurred from the Redwood River with such regularity. However, during particularly high waters, the Redwood has been known to escape the boundaries of its banks, and flow out over the county highway and into the city. The funding provided by this Committee beginning in 1986 was used to improve the existing levee system and drainage facilities, and implement channel improvements. The first stage of construction was completed in 1993.

Our capitol city of St. Paul lies on the upper reaches of the Mississippi River, and has been ravaged by record-breaking floods. After floods in 1952 1965 and 1969, a flood barrier was constructed to protect 448 floodprone acres. But, with the threat of future floods and the potential for over $270 million in damages if the project were to fail, the Crops determined that protection must be increased. Improvements were authorized in the Water Resources Development Act of 1986 and 1990 to raise the existing flood barrier by 4 feet, thus protecting the area from a 588-year flood. The project also includes raising the height of existing floodwalls, and improving levees, closures and dumping stations. I am pleased to say that the Corps plans to complete this project within the next few months.

The historic city of Stillwater's retaining wall system was built in 1937–38 as a Works Progress Administration project to protect the fragile riverfront from flooding and erosion when the locks and dams were built on the Mississippi River at Red Wing, MN. Unfortunately, over the years the structural integrity of the wall had seriously degenerated. But last year, this Committee awarded $2.4 million to expand the existing flood wall system to protect the local residents, fragile riverbank and surrounding property—much of which is listed on the National Register of Historic sites. Construction of this project is well under way, thanks to the efforts of Mayor Hooley of Stillwater, and Ed Cain.

The city of Houston, located in the flood plain of the Root River, has been hit by major flooding 10 times since 1960. Improvements to the existing flood system were authorized in the Water Resources Act of 1986, but it was not until this year that the Senate was finally able to designate funding to construct a new dike system to enlarge the channel and reduce the danger of flash flooding. While this worthy project was removed by the conference committee, I am hopeful that the Army Corps will continue to support this project by providing funding under the Section 205 authority. For a Federal promise of $140,000, local and State interests will contribute matching funds upwards of $1.1 million.

In beautiful northwestern Minnesota lies the Sauk Lake, and several tributaries. This area is hailed as one of Minnesota's finest vacation spots—boasting such recreational activities as fishing, boating, swimming, and camping. However, in the mid 1980s, the area was plagued with major aquatic plant growth and algae problems. Currently, the Corps is working under a Local Cooperative Agreement to plan a weed harvesting program. This success story is a wonderful example of how Federal, State and local representatives can work together, sharing cost and equipment, to restore the natural beauty to this recreation area.

Minnesota's North Shore of Lake Superior is the most dangerous on the Great Lakes because of its rocky coastline, frequent unexpected and violent storms, and extremely cold waters. For small craft operators, the best protection available are the few commercial boat harbors or natural cove areas. However, these are still dangerous because of the rough waters within the bay during storms. Last year, for the first time, this Committee recognized the danger of having no safe havens on Lake Superior by appropriating funds for construction of a harbor of refuge at Silver Bay. Finally, small boat operators will have somewhere they can go to escape the tempestuous moods of the Great Lake. I am hopeful that the importance of such havens will continue to receive recognition long after I leave this chamber.

NAVIGATION MAINTENANCE

In the Water Resources Development Act of 1986, I authored legislation that led to the expansion of the twin locks at Lock and Dam 26 on the Mississippi River. This expansion significantly improved the transportation capabilities of this great waterway. During discussion of this bill, I worked hard to break the deadlock on how to finance the cost of improving and expanding the capacity of our Nation's waterways. In the end, we developed a barge tax which enabled America's farmers to continue using the waterways to transport most agricultural products.

Rivaling the Lock and Dam in the quest for Federal dollars is the Upper Mississippi Environmental Management Plan, also created in the 1986 Water Resources Development Act, and then extended in 1990. This effort began with the formation of GREAT—the Great River Environmental Action Team—which consisted of Minnesota as well as Illinois, Iowa, Missouri, and Wisconsin. Our goal was to implement a coordinated plan which addressed commercial navigation and ecosystem management on the Upper Mississippi River.

In other areas, we eliminated unfair tolls on the St. Lawrence Seaway. Instead of tolls we pursued the more fair funding method of imposing an ad valorem-based fee to cover the Army Corps operations and maintenance at the ports on Duluth—the westernmost port to the Atlantic in the country. At first, tolls were paid to the Harbor Maintenance Trust Fund, and later rebated. This year, for the first time, we have done away with the rebates. Now shippers using the Seaway no longer pay any tolls. And the ad valorem tax is perfect for the type of cargo shipped from the Great Lakes. The tax is paid on the value of the cargo, rather than on the size of the vessel. And most of the exports from Duluth are items like grains and taconite—products whose value rests in bulk.

CONCLUSION

In conclusion, Mr. President, the funds that the Chairman and Ranking Member of the Energy and Water Appropriations Committee have provided to projects in my State of Minnesota are greatly appreciated by me and by millions of Minnesotans whose property has been protected.

In addition, I cannot conclude without thanking the tireless work of Lou Kowalski of the Corps of Engineers, St. Paul District. Lou is the fountain of knowledge and hardwork. He has spent a career shepherding these complex projects through the often tortuous process from drawing board to ribbon cutting.

FACES OF THE HEALTH CARE CRISIS

Mr. RIEGLE. Mr. President, I rise today in my continuing effort to illustrate the need for health care reform. Today, I would like to tell the story of Gary and Joann Smith from my hometown of Flint, MI. [Their names have been changed at their request.]

Gary worked as a bricklayer for the Jones and Simpson Construction Co. for more than 40 years. He was a member of Brick Layers Union Local No. 12 and has been retired for the last 6 years. He is 66 and his wife Joann is 69. Joann has never worked outside the home.

While Gary was employed by the construction company, he and his wife received comprehensive health care coverage, including prescription drugs, through Blue Cross/Blue Shield of Michigan. They incurred no out-of-pocket expenses. When Gary retired in 1988 at age 60, the company offered continued health coverage, as a retiree benefit, that cost the Smiths only $100 per month.

With affordable coverage and enjoying good health, Gary and Joann felt confident that their health care needs would be met throughout their golden years. When Gary became eligible for Medicare, their retiree health policy continued to provide supplemental coverage for prescription drugs, dental, and vision services.

But on February 22, 1994, Gary required emergency surgery to treat an aneurism. During his hospital stay, Gary was notified that his supplemental policy would be canceled as of April 1, because the company was going out of business. All retirees would lose their coverage.

This was a terrible blow for Gary and Joann, as well as for all the other retirees who lost coverage, who knew the difficulty they would face in finding affordable health insurance.

Since his surgery, Gary has required constant medication. Joann takes medication to treat high blood pressure and severe allergies. She is so unsettled by their loss of prescription drug coverage that she is delaying getting care

VOL
140
PT
16
AG
12
18
1994
UMI

for a recently diagnosed kidney problem because she is afraid that they cannot afford drug treatment for her husband and herself.

Gary and Joann live on monthly income of $2,000. Their drug costs now average $400 per month, or 20 percent of their income. The loss of prescription drug coverage has left them feeling vulnerable and insecure. They are distraught that the savings that were supposed to last them through their retirement may be eaten up by ever increasing medical costs that they never imagined they would have to pay. Despite his fragile condition, Gary has attempted to work doing some small side jobs to supplement their income, but such work leaves him utterly exhausted.

Once secure and looking forward to their retirement years, the Smith's are now frightened and left wondering how they will afford to pay these ever increasing prescription drug costs.

Mr. President, rising health care costs have forced companies across the country to cut benefits to retirees who thought their coverage was guaranteed. Because Medicare does not cover prescription drug costs, our seniors are losing any sense of security for their later years. Senator MITCHELL'S health reform bill would add affordable drug coverage to Medicare and guarantee access to comprehensive coverage to everyone. Mr. President, I will continue to work with my colleagues to pass a health care reform bill this season.

CONCURRENT RESOLUTION 57 TO DESIGNATE 1995 AS JAZZ CENTENNIAL YEAR

Mr. CHAFEE. Mr. President, I rise today to cosponsor and lend my full support to Concurrent Resolution 57, which would designate 1995 as Jazz Centennial Year.

Last year in New Orleans, the Louisiana Music Commission, in consultation with historians, jazz musicians, and supporters, determined 1945 to be the 50th anniversary of the inception of jazz, and thus, 1995 to be the centennial.

Jazz, of course, thrives in such diverse places as Chicago, New Orleans, New York, and Newport, RI. In fact, this weekend is the 40th annual Newport Jazz Festival.

The Newport Jazz Festival continually attracts the biggest names and the brightest stars to Rhode Island's shores each summer. This year's line up includes George Benson, Manhattan Transfer, David Sanborn, Dave Brubeck, and the Newport All-Stars, a jazz band formed by George Wein, the founder of the Newport Jazz Festival. The All-Stars have been performing their signature blend of traditional jazz across the Nation since the 1950's.

The festival showcases jazz's rich history and musical diversity, which make it such a unique art form. Both the old masters, and their students who will shape jazz's future, will be performing.

Mr. President, jazz music embodies the distinct American spirit of innovation and improvisation, freedom and honesty, and discipline and study. These are attributes and ideals that have made our Nation great, and I would urge my colleagues to cosponsor this concurrent resolution.

ELI LILLY AND CO. ASSISTANCE TO RWANDA REFUGEES

Mr. LUGAR. Mr. President, I would like to draw my colleagues' attention to an act of humanity in an otherwise inhumane situation. Eli Lilly and Co., headquartered in Indianapolis, IN, has begun shipping what may ultimately be tens of millions of dollars worth of antibiotics to the Rwanda relief effort.

Working through relief organizations including MAP International and the American Red Cross, nearly 1.3 million refugees may be treated for a variety of infections with this medicine, including pneumonia, bronchitis, and wound infections.

While Lilly has a longstanding history of product donation, this is the largest single donation toward such a relief effort, and is believed to be the largest onetime pharmaceutical product donation ever made by a pharmaceutical company. We are proud of Lilly and its employees in this historic effort.

Mr. PELL. The Senator from Indiana has every right to be proud of Eli Lilly's generous donation. They are to be commended. The loss of life and the suffering of the Rwandan refugees is beyond the comprehension of man to grasp. The efforts of companies such as Eli Lilly are a necessary and very welcome act of compassion if we are to ease the suffering of innocents. I hope that recognition of Eli Lilly and their efforts will encourage other companies to come forward and contribute as well.

PRIVILEGE OF THE FLOOR—S. 2351

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Oliver Fein be granted privilege of the Senate floor during the pendency of the Health Security Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—S. 2351

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Parashar Patel and Judy Whang be granted privilege of the Senate floor during the pendency of the Health Security Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL FAMILY CAREGIVERS WEEK

Mr. MOYNIHAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a joint resolution (S.J. Res. 153) to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week."

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 153) entitled "Joint resolution to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as 'National Family Caregivers Week'", do pass with the following amendments:

Page 2, lines 3 and 4, strike out "the week beginning on November 21, 1993 and ending on November 27, 1993, and".

Page 2, line 6, strike out "are each", and insert: "is".

Page 2, line 9, strike "weeks", and insert: "*week*".

Amend the title so as to read: "Joint resolution to designate the week beginning on November 20, 1994, and ending on November 26, 1994, as 'National Family Caregivers Week'.".

Mr. MOYNIHAN. I move the Senate concur en bloc to the House amendments to the joint resolution and to the title.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MOYNIHAN. I move to reconsider the motion.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Nos. 558, 559, and 560, that the joint resolutions be read three times, passed and the motions to reconsider be laid upon the table, en bloc; that the preambles be agreed to en bloc; further that any statements relating to these Calendar items appear at the appropriate place in the RECORD, and the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL BREAST CANCER AWARENESS MONTH

The joint resolution (S.J. Res. 185) to designate October 1994 as "National Breast Cancer Month" was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

The text of the joint resolution (S.J. Res. 185) will be printed in a future edition of the RECORD.

CRIME PREVENTION MONTH

The joint resolution (S.J. Res. 192) to designate October 1994 as "Crime Prevention Month" was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

The text of the joint resolution (S.J. Res. 192) will be printed in a future edition of the RECORD.

YEAR OF THE GRANDPARENT

The joint resolution (S.J. Res. 198) designating 1995 the "Year of the Grandparent" was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

The text of the joint resolution (S.J. Res. 198) will be printed in a future edition of the RECORD.

Mr. MOYNIHAN. Mr. President, I ask the senior Senator from New York be instructed to advise Mr. Richard Avedon of the adoption of 1995, as the year of the grandparent.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXCECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:59 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4822. An act to make certain laws applicable to the legislative branch of the Federal Government.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following bills and joint resolution:

H.R. 1933. An act to authorize appropriations for the Martin Luther King Jr. Federal Holiday Commission, extend such Commission, establish a National Service Day to promote community service, and for other purposes.

H.R. 4453. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

H.J. Res. 131. Joint resolution designating December 7 of each year as "National Pearl Harbor Remembrance Day."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. BYRD).

At 3:43 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, without amendment:

S. 2009. An act to amend title IV of the Social Security Act by reforming the Aid to Families with Dependent Children Program, and for other purposes.

S.J. Res. 196. Joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

The message also announced that the House has agreed to (H.Res. 518) and that the Senate amendment No. 83 to the bill (H.R. 4544) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill with the Senate amendments thereto be respectfully returned to the Senate with a message communicating this resolution.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1426. An act to provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

H.R. 4277. An act to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program.

H.R. 4426. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995.

H.J. Res. 175. A joint resolution designating October 1993 and October 1994 as "Italian-American Heritage and Culture Month."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. BYRD).

ENROLLED BILLS SIGNED

At 4:50 p.m., a message from the House of Representatives, delivered Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2243. An act to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes.

H.R. 4506. An act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 4822. An act to make certain laws applicable to the legislative branch of the Federal Government; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment:

S. 2069. A bill to grant consent of Congress to the Northeast Interstate Dairy Compact (Rept. No. 103-333).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2251. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes (Rept. No. 103-334).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2383. An original bill to authorize the sale of the Alaska Power Administration (Rept. No. 103-335).

S. 2384. An original bill to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes (Rept. No. 103-336).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

H.R. 1779. A bill to designate the facility of the United States Postal Service located at 401 South Washington Street in Chillicothe, Missouri, as the "Jerry L. Litton United States Post Office Building".

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 3197. A bill to redesignate the Post Office building located at 13th and Rockland Streets in Reading, Pennsylvania, as the "Gus Yatron Federal Postal Facility".

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

H.R. 3285. A bill to redesignate the postal facility located at 1401 West Fort Street, Detroit, Michigan, as the "George W. Young Post Office".

VOL 140 PT 16 AG 12 — 18 1994 UMI

H.R. 4190. A bill to designate the United States Post Office located at 41-42 Norre Gade in Saint Thomas, Virgin Islands, as the "Alvaro de Lugo United States Post Office".

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 4576. A bill to designate the Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue, Southwest, in Washington, District of Columbia, as the "Jamie L. Whitten Federal Building".

H.R. 4577. A bill to designate the Federal building and United States courthouse located at 242 East Main Street in Bowling Green, Kentucky, as the "William H. Natcher Federal Building and United States Courthouse".

H.R. 4790. A bill to designate the United States courthouse under construction in St. Louis, Missouri, as the "Thomas F. Eagleton United States Courthouse".

S. 2073. A bill to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes.

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation To Subcommittees of Budget Totals from the Concurrent Resoltuion for Fiscal Year 1995" (Rept. No. 103-337).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Roger C. Viadero, of Virginia, to be Inspector General, Department of Agriculture, and

Jose M. Amador, of Texas, to be an Assistant Secretary of Agriculture.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BAUCUS, from the Committee on Environment and Public Works:

Norma Udall, of Virginia, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of six years;

Matt James, of California, to be Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of six years;

Terrence L. Bracy, of Virginia, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of four years;

Bill Anoatubby, of Oklahoma, to be Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of six years;

William A. Nitze, of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency;

Kay Collett Goss, of Arkansas, to be an Associate Director of the Federal Emergency Management Agency; and

Robert James Huggett, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be admiral

Adm. Henry H. Mauz, Jr., U.S. Navy, 578-48-6674.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 2382. A bill to amend the Tariff Act of 1930 to provide parity between the United States and certain free trade agreement countries with respect to the exemption for personal and household effects purchased abroad by returning residents, and for other purposes; to the Committee on Finance.

By Mr. JOHNSTON:

S. 2383. An original bill to authorize the sale of the Alaska Power Administration; from the Committee on Energy and Natural Resources; placed on the calendar.

S. 2384. An original bill to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mr. DECONCINI:

S. 2385. A bill to require the Secretary of Agriculture to establish and carry out a Sustainable Ecosystems and Economies Demonstration Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. HUTCHISON:

S. 2386. A bill to authorize the Administrator of General Services to enter into agreements for the construction and improvement of border stations on the United States international borders with Canada and Mexico, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. DASCHLE, Mr. AKAKA, Mr. MURKOWSKI, Mr. THURMOND, Mr. SIMPSON, Mr. SPECTER, and Mr. JEFFORDS):

S. 2387. A bill to amend the Service Members Occupational Conversion and Training Act of 1992 to permit a period of training under the Act of more than 18 months, and for other purposes; to the Committee on Veterans Affairs.

By Mr. HATCH (for himself, Mr. DOLE, Mr. BINGAMAN, Mr. MCCAIN, Mr. KENNEDY, Mr. DOMENICI, Mr. DODD, Mr. DANFORTH, Mr. REID, Mr. MACK, Mr. BRYAN, Mr. GRAMM, Mr. CAMPBELL, Mr. KEMPTHORNE, Mr. MOYNIHAN, Mr. CRAIG, Mrs. FEINSTEIN, Mr. LUGAR, Mr. LIEBERMAN, Mr. BROWN, Mrs. BOXER, Mr. CHAFEE, Mr. SIMON, Mr. WARNER, Mr. DECONCINI, Mr. SPECTER, Mr. D'AMATO, and Mr. THURMOND):

S.J. Res. 216. A joint resolution designating the week beginning September 12, 1994, as "National Hispanic Business Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 2382. A bill to amend the Tariff Act of 1930 to provide parity between the United States and certain free-trade agreement countries with respect to the exemption for personal and household effects purchased abroad by returning residents, and for other purposes; to the Committee on Finance.

BORDER TARIFFS ACT OF 1994

• Mr. BINGAMAN. Mr. President, I offer a bill to correct an inequity that has developed along our border with Mexico with respect to tariffs on goods crossing the border.

The United States currently permits duty-free entry of $400 of retail goods for personal consumption each month. There is a 10 percent duty on the next 1,000 dollars' worth of purchases brought into the United States. Mexico, by contrast, limits the amount of goods that can be imported for personal consumption to $50 per day. Goods above that amount have a duty of approximately 33 percent.

Mr. President, this difference in policy obviously hampers trade along our borders. It is ironic that this problem exists at a time when both the United States and Mexico have made a commitment to increasing trade through enactment of the North American Free-Trade Agreement.

Initially, I hoped that this problem could be corrected administratively. I wrote to the Secretary of State about this issue. With my fellow border Senators, I also contacted the Commissioner of Customs in our country and President Salinas in Mexico. All, ultimately, to no avail.

There are two tracks we can take to persuade the Government of Mexico to increase its duty-free limit, and I believe that we should pursue both of them. The first is to get our government to negotiate with the Government of Mexico to equalize the duties. My good friend and colleague from Arizona, Senator DECONCINI, inserted language in the Commerce, State, Justice Appropriations report that would direct the U.S. Trade Representative to make doing so a priority. Simultaneously, I believe that we should change the exemption provided for in our tariff laws to match that of Mexico's. Together, these two actions can help ensure that retail businesses on both sides of the border are on the same footing.

So, today, I rise to offer legislation that would equalize the amount of personal retail goods that can cross the border duty-free in either direction. This legislation simply says that our duty will not be lower than Mexico's.

It is my hope that this measure, which provides equity for our border business and ultimately promotes trade, will win speedy approval.•

By Mr. DECONCINI:

S. 2385. A bill to require the Secretary of Agriculture to establish and carry out a Sustainable Ecosystems and Economies Demonstration Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUSTAINABLE ECOSYSTEMS AND ECONOMIES DEMONSTRATION ACT

• Mr. DECONCINI. Mr. President, I am today introducing the Sustainable Ecosystems and Economies Demonstration Act. This bill authorizes a demonstration program to implement ecosystem management practices on lands within our National Forest System. This will be accomplished through the use of ecosystem management contracts and includes every region of the country.

We must begin managing our public lands by looking at the entire ecosystem. This holistic approach will take into account the vegetation, the wildlife, the water, the land, the air, and the people—the people that make their living from the resources as well as those who come to visit.

Our national forests have been very much in the news lately. The news has not been good—the forests are burning. Hundreds of thousands of acres have been destroyed. The lives of expert and courageous firefighters have been lost trying to save not only the natural resources but the lives and the homes of those in the path of the fires.

Should we fight all natural fires? Should we use fire as a management tool to eliminate fuel loading and thus reduce the number of large fires? Are these fires natural occurrences that we must learn to live with or have our past management practices added fuel to this problem? Have our logging practices, our grazing methods, our fire management contributed to this problem or is it merely the human intrusion into pristine areas bringing this issue to the boiling point? What strategies can the Forest Service use to limit the harmful effect of fire on the resources and the humans who live in the area?

These same questions just posed regarding fires can also be asked for the management of disease, insects, and soil erosion. Mr. President, we must find a balanced use of our natural resources. The goal must be to maintain a healthy ecosystem and be sensitive to the economic and social effects of these management strategies. The effects of natural disasters, the extraction of commodities such as minerals and timber, and the management of the national forests for recreation, wildlife habitat, and other resources have an effect on those that live in the area, own adjacent property, and rely on the resources for their livelihood.

The Forest Service must have more tools to effectively deal with the future of our forests. This act provides two important new tools.

Mr. President, let me explain these two new initiatives. The first tool is a mechanism to fund the demonstration areas. Numerous separate accounts are currently utilized to fund the Forest Service which cumulatively result in inadequate amounts. The General Accounting Office, in 1987, concluded that the current funding mechanisms prevented land managers at the forest and district levels from implementing end-results management practices. This bill designs demonstration areas to be self funding with no appropriations required. The Federal portion of the receipts generated from sales of timber within the demonstration area will be placed in an account to be used within the area for projects that benefit the ecosystem. That portion of the forest revenue shared with local government will continue. The concept is not to divert money from the treasury but to target areas with significant problems, especially where there are major conflicts between resource issues and local needs.

The second tool is a mechanism to create land management service contracts. The idea is to create a contract between the Forest Service and a third party for certain activities such as wildlife habitat improvement, reforestation, wetlands enhancement, recreation opportunity development, et cetera, as determined by the local Forest Service official. Again, the funding for this contract will be from the receipts generated as I just discussed.

Beginning in 1987, according to report language I had included in the Interior appropriations, the Forest Service was able to try the concept in several forests in the southwest. After several years of developing the concept, the Forest Service reported that current laws prevent the exchange of timber receipts for services.

The fiscal year 1992 Interior appropriations bill included bill language at my request to authorize stewardship end-result contract projects in the Dixie and Kaibab National Forests. In a floor colloquy with Senator LEAHY we discussed the purposes of the program. Senator LEAHY made the point that the amendment would "* * * provide the authority aggressively move forward in implementing a pilot project." Senator LEAHY also clarified the fact that the language did not amend any environmental statutes and that the contracts should be used to promote ecosystem-based programs. He also said that the treatments should be tailored to localized conditions and examine a wide range of products, services, and management options.

The Forest Service feels there is great potential in the contract approach. What has been discovered is that these demonstration contracts in effect now allow more coordinated, effective, and less costly treatments.

The purpose of any pilot program is to find out what works and does not work. These pilot projects in the southwest have provided a lot of information. It is time to apply what we have learned on a national scale and continue gaining knowledge on the most effective methods to accomplish ecosystem management.

This bill offers a 5-year national program to provide for more diverse experiences. The only limitation in the bill is that contracts be restricted to two districts in two forests in each region to ensure equitable distribution. I recommend to the authorizing committee that flexibility be provided to the Forest Service in selecting the demonstration areas; however, the bill is written to allow a grandfathering of the forests where the program was initiated in the fiscal year 1992 and 1993 appropriations acts.

This bill gives priority to communities which have been severely impacted by reductions in timber sales due to endangered species or other environmental concerns. This demonstration program is experimental and should provide the Forest Service an expanded role in dealing with local government and local issues.

I would like to thank Jim Magner and Jim Matson, organizers of the Sustainable Ecosystem Coalition, and those in the Forest Service who have been so creative in exploring solutions to the complex issues in this area. Additionally, I am most appreciative of the work provided by Dr. Dave Garrett of the Northern Arizona University School of Forestry. Finally, I would like to thank Senator LEAHY, the chairman of the Agriculture Committee, for his early support and guidance for the demonstration program and Senator BYRD for his leadership and support.

I urge my colleagues to give this bill serious consideration. I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sustainable Ecosystems and Economies (SEE) Demonstration Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

VOL 140 PT 16 AG 12 — 18 1994 UMI

(1) The successful implementation of new and innovative processes is required to assist in determining ecosystem management practices for Federal lands.

(2) A reduction in timber sales and the available volume of timber has had significant adverse impacts on the economic health and well-being of many small communities that are dependent on Federal timber resources.

(3) Conditions in many forests, including heavy fuel loads, tree density, and increasing threats from catastrophic fires, disease, and insect infestations adversely affect the biodiversity, health, and sustainability of forests.

(4) The achievement of ecosystem management will be greatly hindered, unless the Federal Government determines a means of balancing sustainable ecosystem requirements with the growing demands on timber resources in an expeditious manner.

(5) The authority granted to managers of Federal lands does not provide for the distribution of receipts of revenue from timber and other products to fund actions properly or to achieve ecosystem management.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide for demonstration projects to establish and implement new ecosystem management practices on specific lands managed by—

(A) the Secretary and the heads of other Federal agencies; and

(B) States and private landowners.

(2) To test the feasibility of ecosystem management contracts.

(3) To improve the health of forest resources.

(4) To provide for needed flexibility in contracting and funding practices and distribution of receipts of revenue from timber and other products to ensure that Federal land managers have the necessary means to implement ecosystem management.

(5) To provide an economic stimulus to communities that are profoundly dependent on Federal timber resources.

(6) To provide the Secretary of Agriculture the authority to enter into ecosystem management demonstration contracts to achieve management requirements prescribed in the following provisions of law:

(A) The Multiple Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.).

(B) The Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(C) The Act of June 7, 1924 (commonly known as the "Clarke-McNary Act of 1924") (43 Stat. 653, chapter 348).

(D) The Act entitled "An Act to facilitate and simplify national-forest administration", approved June 15, 1940 (54 Stat. 398; 41 U.S.C. 20a).

(E) The Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001 et seq.).

(F) The last paragraph in the matter under the heading "FOREST SERVICE," in the Act of May 23, 1908 (popularly referred to as the "Twenty-Five Percent Fund Act") (35 Stat. 260, chapter 192; 16 U.S.C. 500).

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ACCOUNT.—The term "Account" means the Sustainable Ecosystems and Economies Account established under section 5.

(2) COORDINATOR.—The term "Coordinator" means the Coordinator for the Forest Service selected by the Secretary under section 4(b).

(3) DEMONSTRATION PROJECT.—The term "demonstration project" means a demonstration project carried out under the Program.

(4) ECOSYSTEM MANAGEMENT CONTRACT.—The term "ecosystem management contract" means a contract that a local land use manager enters into pursuant to section 4 to carry out a demonstration project.

(5) ECOSYSTEM MANAGEMENT AREA.—The term "ecosystem management area" means any unit of a national forest selected by a local land manager, in consultation with the Coordinator, as a site for a demonstration project pursuant to section 4(c).

(6) LOCAL LAND MANAGER.—The term "local land manager" means the supervisor of each national forest selected as a site for demonstration projects pursuant to section 4(d).

(7) PROGRAM.—The term "Program" means the Sustainable Ecosystems and Economies Demonstration Program established under section 4.

(8) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. SUSTAINABLE ECOSYSTEMS AND ECONOMIES DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and implement in the Forest Service a Sustainable Ecosystems and Economies (SEE) Demonstration Program to investigate and demonstrate strategies to provide for new management practices to—

(1) ensure sustainable ecosystems; and

(2) provide technical and economic assistance to forest resource-dependent communities.

(b) ECOSYSTEM MANAGEMENT CONTRACTS.—Each local land manager may enter into an ecosystem management contract with a qualified non-Federal entity. The contract shall contain a description of the elements of the demonstration project, including the following:

(1) Site-specific criteria.

(2) Clearly delineated treatments and services.

(c) APPLICATION OF PRODUCT VALUE.—A local land manager who is an official of the Forest Service may apply all or part of the revenues received from the sale of timber or any other forest product removed from within an ecosystem management area pursuant to an ecosystem management contract as an offset against the cost of stewardship services to carry out a demonstration project under the Program. Such services may include site preparation, recreation, replanting, wildlife habitat enhancement, silviculture programs, watershed improvements, and other enhancements made pursuant to the demonstration project to achieve the ecosystem management objectives prescribed in the contract.

(d) COORDINATOR FOR THE FOREST SERVICE.—As soon as practicable after the date of enactment of this Act, the Secretary shall appoint an individual to serve as Coordinator for the Forest Service. The Coordinator shall—

(1) administer the Program; and

(2) provide, upon request, support and technical assistance to local land managers.

(e) DESIGNATION OF ECOSYSTEM MANAGEMENT AREAS.—Not later than 120 days after the date of the enactment of this Act, the Secretary, acting through the Coordinator, shall designate locations for ecosystem management areas, including the following:

(1) Not more than two districts located in each of two national forests located in each region of the Forest Service.

(2) Districts within a forest authorized to enter into a stewardship end result contract, as described in the twenty-third paragraph in the matter under the heading "ADMINISTRATIVE PROVISIONS, FOREST SERVICE" under the heading "FOREST SERVICE" under title II of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102-381; 106 Stat. 1403).

(f) RESEARCH AND OTHER TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—To the maximum extent feasible, in hiring part-time employees for conducting inventories and related activities, the Secretary shall ensure that priority is given to qualified unemployed individuals in rural communities in close proximity to national forests.

(2) PARTICIPATION BY NON-FEDERAL INDIVIDUALS AND ENTITIES.—The Secretary shall ensure that non-Federal individuals or entities are involved in the design, monitoring, and evaluation of a sufficient number of demonstration projects conducted under this section to provide an adequate assessment of such processes.

(g) SUSTAINABLE ECOSYSTEMS AND ECONOMIES DEMONSTRATION PROGRAM ACCOUNT.—The Secretary, acting through the Coordinator, shall advise the Secretary of the Treasury concerning the administration of the Sustainable Ecosystems and Economies Demonstration Program Account established under section 5.

(h) REQUIREMENTS FOR SELECTION OF ECOSYSTEM MANAGEMENT AREAS AND IMPLEMENTATION OF PROGRAM.—To the maximum extent practicable, in selecting ecosystem management areas and implementing the Program, the Secretary, acting through the Coordinator, shall provide for the use of existing land use plans, public review processes, and current administrative review processes in effect at the time of the implementation, and consult with appropriate existing advisory councils.

(i) PROJECT PRIORITIES.—To the maximum extent practicable, the demonstration projects shall be designed—

(1) to serve communities that have been designated by the Secretary as timber dependent or have significant unemployment rates attributable to land management decisions made by the Federal Government, as determined by the Secretary;

(2) to maximize the employment of qualified local individuals; and

(3) to initially give priority to wildland interface areas (as defined by the Secretary) with respect to reducing wildfire hazards and minimizing the effects of insect or disease infestation in a manner consistent with ecosystem management objectives established by the local land manager.

(j) REGULATIONS.—To the maximum extent possible the Secretary shall carry out the Program without prescribing additional regulatory requirements.

(k) APPLICATION OF SMALL BUSINESS ACT.—In carrying out this Act, the Secretary shall give such preferential treatment to small businesses, including small business concerns (within the meaning of section 3(a) of the Small Business Act (15 U.S.C. 632(a))), under existing laws and policies relating to the allocation of timber sales programs in the Forest Service.

(l) TSPIRS.—Any timber offset made pursuant to subsection (k), and any other value for timber that is approved by the Secretary as an offset pursuant to a demonstration project, shall be credited as a revenue for the purposes of the Timber Sales Program Information Reporting System (commonly referred to as the "TSPIRS") of the Forest Service.

(m) ACRES TREATED.—A local land manager may use the number of acres subject to

treatments and services prescribed under an ecosystem management contract as a standard for assessing the relative merit of a demonstration project.

(n) PAYMENT TO LOCAL GOVERNMENTS.—The Secretary (acting through the Chief of the Forest Service) shall consider the tract value (as defined and determined by the Secretary) of timber or other product (as defined and determined by the Secretary) removed pursuant to a demonstration project as money received for the purposes of computing and distributing payments to States under the last paragraph in the matter under the heading "FOREST SERVICE." in the Act of May 23, 1908 (popularly referred to as the "Twenty-Five Percent Fund Act") (35 Stat. 260, chapter 192; 16 U.S.C. 500).

(o) JOINT OR COOPERATIVE DEMONSTRATION PROJECTS.—As part of the Program, the Secretary may enter into agreements and memoranda of understanding to conduct joint or cooperative demonstration projects with—

(1) the heads of other Federal agencies;

(2) appropriate officials of the governments of States and political subdivisions of States; and

(3) appropriate officials of other public and private entities that the Secretary considers appropriate for carrying out a demonstration project.

(p) COMPLIANCE WITH ENVIRONMENTAL LAWS.—The Secretary shall ensure that the entity that intends to carry out the demonstration project has met all applicable Federal environmental laws (as determined by the Secretary).

(q) TERMINATION OF PROGRAM.—The Program established under this section shall terminate 5 years after the date of enactment of this Act. A demonstration project established under the Program shall terminate not later than 5 years after the date on which a management contract is executed, or with respect to a demonstration project described in subsection (o), 5 years after the date the Secretary executes an agreement or enters into a memorandum of understanding under such subsection.

SEC. 5. SUSTAINABLE ECOSYSTEMS AND ECONOMIES DEMONSTRATION PROGRAM ACCOUNT; SUPPLEMENTAL FUNDING.

(a) PURPOSE.—There is hereby established in the Treasury of the United States a Sustainable Ecosystems and Economies Account. The Secretary of the Treasury shall maintain a subaccount in the Account for each national forest that is selected as a site for demonstration projects under section 4.

(b) ADMINISTRATION OF ACCOUNT.—The Secretary of the Treasury shall administer the Account in consultation with the Secretary of Agriculture, acting through the Coordinator.

(c) DEPOSITS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall deposit in the Account the amount of revenues received from demonstration projects in excess of any amount required to offset the cost of stewardship services pursuant to section 4(b).

(d) EXPENDITURES.—On the request of the Secretary, acting through the Coordinator, the Secretary of the Treasury shall make available to the Secretary of Agriculture from the appropriate subaccount of the Account, funds directly related to the development, planning, and implementation of demonstration projects carried out in a national forest in an amount equal to the revenues received in the subaccount from the sale of forest products from such national forest.

(e) TERMINATION DATE FOR DEPOSITS.—No deposits may be made into the Account after the earlier of—

(1) the date that is 5 years after the date of enactment of this Act; or

(2) the date on which all demonstration projects authorized under this Act have been terminated.

(f) TRANSFER OF FUNDS.—Upon the termination of the Account, funds remaining in the Account shall be transferred to the general fund of the Treasury.

(g) SUPPLEMENTAL FUNDS.—In addition to using funds from the Account established under this section, the Secretary may use funds made available to the Secretary by appropriations to carry out the mission of the Forest Service (as defined and determined by the Secretary).

SEC. 6. DISSEMINATION OF RESEARCH AND DEMONSTRATION RESULTS.

(a) IN GENERAL.—The Secretary shall disseminate to public and private forest owners the results of the research and demonstration projects carried out under section 4 that may be beneficial to such forest owners.

(b) APPLICATION OF AUTHORITIES.—In carrying out this section, the Secretary may exercise the authorities related to the dissemination of information granted to the Secretary under the following provisions of law:

(1) The Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.).

(2) The Act commonly known as the "McIntyre-Stennis Act of 1962" (Public Law 87-788).

(3) The Wood Residue Utilization Act of 1980 (16 U.S.C. 1681 et seq.).

(c) REPORTS TO CONGRESS.—Not later than 180 days after the date of termination of each demonstration project, the Secretary shall prepare and submit to Congress a summary and evaluation of the elements of the demonstration project (as described in the applicable ecosystem management contract) and the results of the demonstration project. The report may include the following:

(1) A summary of the beneficial and adverse environmental impacts associated with the activities conducted pursuant to the demonstration project.

(2) The functional role of the ecosystem management area that is the site of the demonstration project with respect to—

(A) the ecosystem encompassing the ecosystem management area and other associated ecosystems; and

(B) the long-term demands of the health and biodiversity of the forest.

(3) The economic impacts on local employment and adjacent rural communities of the activities conducted under the demonstration project.

(4) The project costs and revenues and cost savings, if any, resulting from coordinated treatments, including an identification of revenues realized from the sale of forest products.

(5) With respect to the ecosystem management contract, a summary of the following:

(A) The benefits and limitations of the ecosystem management contract.

(B) The number of applicants for participation in the demonstration project.

(C) A description of the regulatory process that governs the ecosystem management contract.

(D) The effectiveness of the ecosystem management contract in defining and achieving results in the demonstration project.

(6) The impacts on small businesses.

(7) The effectiveness of the public involvement process in the development and implementation of the demonstration project.

(8) The number and nature of appeals associated with the development and implementation of the demonstration project.

(9) The use of research in developing and implementing the development project.

(10) An evaluation of the work conducted under agreements or contracts with institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) or other appropriate educational or research institutions (including a nonprofit corporation, a private foundation, or a consortium of such institutions) to carry out research, establish project criteria, or conduct project end-result evaluations.

(11) A determination of measurable units that were used to measure progress or improvement toward achieving sustainability for the ecosystem.

(12) The relative effectiveness of the provisions under the last paragraph in the matter under the heading "FOREST SERVICE." in the Act of May 23, 1908 (popularly referred to as the "Twenty-Five Percent Fund Act") (35 Stat. 260, chapter 192; 16 U.S.C. 500) in determining the amounts of payments to local governments in comparison with the effectiveness of the determinations made under the demonstration projects.

SEC. 7. REPORT BY THE PRESIDENT.

(a) IN GENERAL.—The President shall submit to Congress an annual report concerning the status of the Program. The President shall submit the first report not later than 1 year after the date of enactment of this Act, and shall submit a final report not later than 1 year after the date on which the Program terminates.

(b) FINAL REPORT.—The final report submitted by the President under this section shall contain the following:

(1) An evaluation of the results of the demonstration projects conducted under the Program and an evaluation of the Program, on the basis of—

(A) costs and the quantities of outputs; and

(B) environmental costs and benefits.

(2) Such recommendations concerning the achievement of ecosystem management and other matters related to the Program as the President determines to be appropriate.•

By Mrs. HUTCHISON:

S. 2386. A bill to authorize the Administrator of the General Services Administration to enter into agreements for the construction and improvement of border stations on the United States international borders with Canada and Mexico, and for other purposes; to the Committee on Environment and Public Works.

THE BORDER INFRASTRUCTURE ENHANCEMENT ACT

• Mrs. HUTCHISON. Mr. President, I introduce a bill that will facilitate much-needed enhancement of border crossing infrastructure by permitting the Federal Government to take advantage of private and local financing for border stations. This legislation permits the Federal Government to lease these facilities from local governments or private entities on an annual basis for use by Federal agencies. Passage of the North American Free Trade Agreement [NAFTA] provides an excellent

VOL 140 PT 16 AG 12 — 18 1994 UMI

opportunity to focus on the issues and problems related to cross-border trade. In Texas these trade flow problems precede NAFTA. Trade with Mexico has increased 250 percent since the 1980's. Seventy-four percent of this trade crosses at Texas border crossings. Therefore, Texas is long familiar with lengthy, idling, lines at the border crossings—which generate air pollution and impose enormous economic costs on cross-border trade. These environmental and efficiency problems are only growing with increases in NAFTA trade.

Many of the problems that impede the efficient flow of goods across our southern border are unique to that border; however, there are also many similarities between the northern and southern borders, especially inadequate infrastructure financing. Growth in north-south trade is straining the border station infrastructure at the northern frontier as well. My bill is designed to address this problem on both borders and in a way that empowers local communities, and draws upon their resources and expertise in international trade.

Much-needed border crossings are not being constructed because, in this era of increasing budgetary constraints, the Federal Government cannot afford the cost of constructing the accompanying border stations which house Customs, INS, and the U.S. Department of Agriculture inspection services. The $360 million Congress authorized in 1988 for the Southwest Border Capital Improvements Program to construct 40 new and expanded border stations along the United States-Mexico border have been exhausted. Yet, the need for these facilities continues to grow.

Just recently, citizens in the border city of Pharr, TX, expressed their frustration about this situation to me. A much-needed new bridge will open in Pharr next year, yet Pharr will need to spend $500,000 building temporary facilities for Customs and INS to use until the General Services Administration is able to build permanent facilities in 1996. Under the legislation I am introducing today, local government or private entities would have been able to construct the border station by the time the bridge opened. The border communities in my State indicate that they are more than willing to provide the upfront financing necessary for the construction of these needed border stations and enter into long-term leases with the Government, if only Washington will cooperate.

This bill permits, indeed I would hope encourages, the Federal Government to enter into 30-year leases with local governments or corporate entities for these facilities. It allows Congress to appropriate the sums necessary on an annual basis, rather than require an appropriation equal to the cost of the lease in the first year of the lease. This legislation will save Federal dollars because it allows the Government to get out of the border stations construction business. Local governments or private parties will be able to bring necessary border stations on line more quickly and efficiently than the current multi-year process the Government undertakes to plan and construct border stations.

Similar legislation has been introduced in the House of Representatives by House Agriculture Committee Chairman DE LA GARZA, with whom I am working very closely on this and other border infrastructure issues. I look forward to working with all the border State representatives as we look for innovative ways to enhance hemispheric trade and improve the quality of life in our border communities, our Nation's gateways for NAFTA trade.●

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, MR. DASCHLE, Mr. AKAKA, Mr. MURKOWSKI, Mr. THURMOND, Mr. SIMPSON, Mr. SPECTER, and Mr. JEFFORDS):

S. 2387. A bill to amend the Service Members Occupational Conversion and Training Act of 1992 to permit a period of training under the Act of more than 18 months, and for other purposes; to the Committee on Veterans' Affairs.

SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT

● Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced S. 2387, a bill to amend the Service Members Occupational Conversion and Training Act [SMOCTA], Public Law 102–484.

SMOCTA authorizes payment of a subsidy to employers who train recently separated service members whose military skills do not transfer to the civilian job market. The subsidy is 50 percent of the training wage payable over a period of 18 months up to a maximum of $10,000, or $12,000 in the case of a disabled veteran.

Under current law, the 18-month limitation on payment of the subsidy is phrased in terms of an 18-month limit on the period of training. This limitation has prevented veterans from entering into some training programs for stable, well-paying jobs.

The proposed amendment would, among other things, allow an employer and veteran to agree to a training program that lasts longer than 18 months if they are willing to do so without the benefit of a subsidy for the extended training period. Removing the 18-month cap on training will not increase the amount of the subsidy payable under a training program.

Another provision in the bill would clarify that the existing provision that requires employers to pay a wage normally paid to other employees in the same or comparable training programs refers to other employees and programs in the community where the veteran is being trained. It also clarifies that this provision will be applicable throughout the entire training period, not just during the period that a training subsidy is paid.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVEMENTS TO SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT OF 1992.

(A) PERIOD OF TRAINING.—

(1) ELIMINATION OF 18-MONTH CAP ON PERIOD.—Section 4485(d) of the Service Members Occupational Conversion and Training Act of 1992 (10 U.S.C. 1143 note) is amended by striking out "or more than 18 months".

(2) STANDARD FOR WAGES AND BENEFITS.—

(A) IN GENERAL.—Section 4486(d)(2) of such Act (10 U.S.C. 1143 note) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "in the community during the entire program period of the eligible person.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to programs of training under the Service Members Occupational Conversion and Training Act of 1992 that are begun on or after the date of the enactment of this Act.

(b) PAYMENTS.—Section 4487(a)(1) of such Act (10 U.S.C. 1143 note) is amended—

(1) in subparagraph (A), by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B), (C), and (D)"; and

(2) by adding at the end thereof the following new subparagraphs:

"(C) In determining under the third sentence of subparagraph (A) the amount of the payment which an employer shall receive on behalf of an eligible person, the number of hours for which payment will be received may not exceed the number of hours equivalent to 18 months of training.

"(D) Assistance may be paid under this subtitle on behalf of an eligible person to that person's employer for training under two or more programs of job training under this subtitle if such employee has not received on that person's behalf assistance in an aggregate amount in excess of the applicable amount set forth in subparagraph (B).".

(c) ENTRY INTO PROGRAM OF JOB TRAINING.—Section 4488(a) of such Act (106 Stat. 2764; 10 U.S.C. 1143 note) is amended by striking out the third sentence thereof and inserting in lieu thereof "The eligible person may begin such program of job training with the employee on the day that notice is transmitted to such official by means prescribed by such official. However, assistance under this subtitle may not be provided to the employer if such official, within two weeks after the date on which such notice is transmitted, disapproves the eligible person's entry into that program of job training in accordance with this section.".●

ADDITIONAL COSPONSORS

S. 921

At the request of Mr. CHAFEE, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 921, a bill to reauthorize and amend the Endangered Species Act for the conservation of threatened and endangered species, and for other purposes.

S. 2071

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2294

At the request of Mr. HATFIELD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2294, a bill to amend the Public Health Service Act to provide for the expansion and coordination of research concerning Parkinson's disease and related disorders, and to improve care and assistance for its victims and their family caregivers, and for other purposes.

S. 2312

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2312, a bill to maintain the ability of United States agriculture to remain viable and competitive in domestic and international markets, to meet the food and fiber needs of the United States and international consumers, and for other purposes.

S. 2330

At the request of Mr. ROCKEFELLER, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

S. 2347

At the request of Mr. WARNER, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2347, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution.

S. 2363

At the request of Mr. GORTON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2363, a bill to establish registration and tracking procedures and community notification with respect to released sexually violent predators.

SENATE JOINT RESOLUTION 189

At the request of Mr. ROTH, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Joint Resolution 189, a joint resolution designating October 1994 as "National Decorative Painting Month."

AMENDMENTS SUBMITTED

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

DECONCINI (AND OTHERS) AMENDMENT NO. 2553

Mr. DECONCINI (for himself, Mr. WARNER, Mr. GLENN, Mr. D'AMATO, Mr. DURENBERGER, Mr. LUGAR, Mr. KERREY, Mr. BUMPERS, Mr. GRAHAM, Mr. CHAFEE, and Mr. BRYAN) proposed an amendment to the bill (S. 2082) to authorize appropriations for fiscal year 1995 for the intelligence activities of the U.S. Government and for the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

At the end of the bill insert the following new title:

"TITLE VII—COUNTERINTELLIGENCE AND SECURITY

SECTION 701. SHORT TITLE.

This title may be cited as the "Counterintelligence and Security Enhancements Act of 1994".

SEC. 702. ACCESS TO CLASSIFIED INFORMATION.

(a) AMENDMENT OF THE NATIONAL SECURITY ACT OF 1947.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—ACCESS TO CLASSIFIED INFORMATION

"PROCEDURES

"SEC. 801. Not later than 180 days after the date of enactment of this title, the President shall, by Executive order or regulation, establish procedures to govern access to classified information which shall be binding upon all departments, agencies, and offices of the executive branch of Government. Such procedures shall, at a minimum—

"(1) provide that, except as may be permitted by the President, no employee in the executive branch of Government may be given access to classified information by any department, agency, or office of the executive branch of Government unless, based upon an appropriate background investigation, such access is determined to be clearly consistent with the national security interests of the United States;

"(2) establish uniform minimum requirements governing the scope and frequency of background investigations and reinvestigations for all employees in the executive branch of Government who require access to classified information as part of their official responsibilities;

"(3) provide that all employees in the executive branch of Government who require access to classified information shall be required as a condition of such access to provide written consent to the employing department or agency which permits access by an authorized investigative agency to relevant financial records, other financial information, consumer reports, and travel records, as determined by the President, in accordance with section 802 of this title, during the period of access to classified information and for a period of five years thereafter;

"(4) provide that all employees in the executive branch of Government who require access to particularly sensitive classified information, as determined by the President, shall be required, as a condition of maintaining access to such information, to submit to the employing department or agency, during the period of such access, relevant information concerning their financial conditions and foreign travel, as determined by the President, as may be necessary to ensure appropriate security; and

"(5) establish uniform minimum standards to ensure that employees whose access to classified information is being denied or terminated under this title are appropriately advised of the reasons for such denial or termination and are provided an adequate opportunity to respond to all adverse information which forms the basis for such denial or termination before final action by the department or agency concerned, except that, wherever such information is derived from a classified source, appropriate measures shall be taken to conceal the identity of such source from the employee concerned.

"REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES

"SEC. 802. (a)(1) Any authorized investigative agency may request from any financial agency, financial institution, or holding agency, or from any consumer credit reporting agency, such financial records, other financial information, and consumer reports as may be necessary in order to conduct any authorized law enforcement investigation, counterintelligence inquiry, or security determination.

Any authorized investigative agency may also request records maintain by any commercial entity within the United States pertaining to travel by a person outside the United States.

"(2) Requests may be made under this section where—

"(A) the records sought pertain to a person who is or was an employee required by the President in an Executive order or regulation, as a condition of access to classified information, to provide consent, during a background investigation and for such time as access to the information is maintained, and for a period of not more than 5 years thereafter, permitting access to financial records, other financial information, consumer reports, and travel records; and

"(B)(i) there is information or allegations indicating that the person is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

"(ii) information comes to the attention of the employing agency indicating the person has incurred excessive indebtedness or has acquired a level of affluence which cannot be explained by other information known to the agency; or

"(iii) circumstances indicate the person had the capability and opportunity to disclose classified information which is known to have been lost or compromised to a foreign power or an agent of a foreign power.

"(3) Each such request—

"(A) shall be accompanied by a written certification signed by the department or agency head or deputy department or agency head concerned, or by a senior official designated for this purpose by the department or agency head concerned (whose rank shall be no lower than Assistant Secretary of Assistant Director), and shall certify that—

"(i) the person concerned is or was an employee within the meaning of paragraph (2)(A);

"(ii) the request is being made pursuant to an authorized inquiry or investigation and is authorized under this section; and

"(iii) the records or information to be reviewed are records or information which the

VOL 140 PT 16 AG 12 — 18 1994 UMI

employee has previously agreed to make available to the authorized investigative agency for review;

"(B) shall contain a copy of the agreement referred to in subparagraph (A)(iii).

"(C) shall identify specifically or by category the records or information to be reviewed; and

"(D) shall inform the recipient of the request of the prohibition described in subsection (b).

"(b) Notwithstanding any other provision of law, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person, other than those officers, employees, or agents of such entity necessary to satisfy a request made under this section, that such entity has received or satisfied a request made by an authorized investigative agency under this section.

"(c)(1) Notwithstanding any other provision of law (other than section 6103 of the Internal Revenue Code of 1986), an entity receiving a request for records or information under subsection (a) shall, if the request satisfies the requirements of this section, make available such records or information within 30 days for inspection or copying, as may be appropriate, by the agency requesting such records or information.

"(2) Any entity (including any officer, employee, or agent thereof) that discloses records or information for inspection or copying pursuant to this section in good faith reliance upon the certifications made by an agency pursuant to this section shall not be liable for any such disclosure to any person under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(d) Any agency requesting records or information under this section may, subject to the availability of appropriations, reimburse a private entity for any cost reasonably incurred by such entity in responding to such request, including the cost of identifying, reproducing, or transporting records or other data.

"(e) An agency receiving records or information pursuant to a request under this section may disseminate the records or information obtained pursuant to such request outside the agency only—

"(1) to the agency employing the employee who is the subject of the records of information;

"(2) to the Department of Justice for law enforcement or counterintelligence purposes; or

"(3) with respect to dissemination to an agency of the United States, if such information is clearly relevant to the authorized responsibilities of such agency.

"(f) Nothing in this section may be construed to affect the authority of an investigative agency to obtain information pursuant to the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

"EXCEPTIONS

"SEC. 803. Except as otherwise specifically provided, the provisions of this title shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President.

"DEFINITIONS

"SEC. 804. For purposes of this title—

"(1) the term 'authorized investigative agency' means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information;

"(2) the term 'classified information' means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successive orders, or the Atomic Energy Act of 1954, to require protection against unauthorized disclosure and that is so designated;

"(3) the term 'consumer credit reporting agency' has the meaning given such term in section 603 of the Consumer Credit Protection Act (15 U.S.C. 1681a);

"(4) the term 'employee' includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government or an employee thereof, is an unpaid consultant of the United States Government, or otherwise act for or on behalf of the United States Government;

"(5 the terms 'financial agency' and 'financial institution' have the meanings given to such terms in section 5312(a) of title 31, United States Code, and the term 'holding agency' has the meaning given to such term in section 1101(6) of the Right of Financial Privacy Act of 1978 (12 U.S.C. 3401);

"(6) the terms 'foreign power' and 'agent of a foreign power' have the same meanings as set forth in sections 101 (a) and (b), respectively, of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(7) the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (until such time as the Compact of Free Association is ratified), and any other possession of the United States.".

(b) CLERICAL AMENDMENT.—The table of contents of the National Security Act of 1947 is amended by adding at the end the following:

"TITLE VIII—ACCESS TO CLASSIFIED INFORMATION

"Sec. 801. Procedures.
"Sec. 802. Requests by authorized investigative agencies.
"Sec. 803. Exceptions.
"Sec. 804. Definitions.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect 180 days after the date of enactment of this Act.

SEC. 703 COORDINATION OF COUNTERINTELLIGENCE ACTIVITIES.

(a) ESTABLISHMENT OF COUNTERINTELLIGENCE POLICY BOARD.—(1) There is established within the executive branch of Government a National Counterintelligence Policy Board (in this section referred to as the "Board"). The Board shall report to the President through the National Security Council.

(2) The Board shall consist of the following individuals:

(A) The Attorney General, who shall serve as Chair.

(B) The Secretary of Defense.

(C) The Director of Central Intelligence.

(D) The Director of the Federal Bureau of Investigation.

(E) The Assistant to the President for National Security Affairs.

(b) FUNCTION OF THE BOARD.—The Board shall serve as the principal mechanism for—

(1) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

(2) resolving conflicts, as directed by the President, which may arise between elements of the Government which carry out such activities.

(c) COORDINATION OF COUNTERINTELLIGENCE MATTERS WITH THE FEDERAL BUREAU OF INVESTIGATION.—(1) Except as provided in paragraph (3) below, the head of each department or agency within the Executive branch shall ensure that—

(A) the Federal Bureau of Investigation is advised immediately of any information, regardless of its source, which indicates that classified information is being, or may have been, deliberately disclosed in an unauthorized manner to a foreign power or an agent of a foreign power;.

(B) following a report made pursuant to subparagraph (A), the Federal Bureau of Investigation is consulted with respect to all subsequent actions which may be undertaken by the department or agency concerned to determine the source of such loss or compromise; and

(C) where, after appropriate consultation with the department of agency concerned, the Federal Bureau of Investigation undertakes investigative activities to determine the source of the loss or compromise, the FBI is given complete and timely access to its employees and records for purposes of such investigative activities.

(2) Except as provide in paragraph (3), below, the Director of the Federal Bureau of Investigation shall ensure that counterintelligence information obtained by the Federal Bureau of Investigation pertaining to the personnel, operations, or information of departments or agencies of the Executive branch, is provided through appropriate channels to the department or agency concerned, and that such departments or agencies are consulted in advance with respect to any action taken by the Federal Bureau of Investigation involving the personnel, operations, or information of such department or agency after a report is provided pursuant to subparagraph (1)(A).

(3) Where essential to meet extraordinary circumstances affecting vital national security interests of the United States, the President may on a case-by-case basis waive the requirements of paragraphs (1) or (2), above, as they apply to the head of a particular department or agency, or the Director of the Federal Bureau of Investigation. Such waiver shall be in writing and shall fully state the justification for such waiver. Within thirty days of issuing such waiver, the President shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that such waiver has been issued, and at that time or as soon as national security considerations permit, provide these committees with a complete explanation of the circumstances which necessitated such waiver.

(4) The Director of the Federal Bureau of Investigation shall, in consultation with the Director of Central Intelligence and the Secretary of Defense, report annually, beginning on February 1, 1995, and continuing each year thereafter, to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

(5) Nothing in this section may be construed to alter the existing jurisdictional arrangements between the Federal Bureau of Investigation and the Department of Defense with respect to investigations of persons subject to the Uniform Code of Military Justice, nor to impose additional reporting requirements upon the Department of Defense with respect to such investigations beyond those required by existing law and executive branch policy.

(6) As used in this section, the terms 'foreign power' and 'agent of a foreign power', have the same meanings as set forth in subsections 101(a) and (b), respectively, of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

SEC. 704. DISCLOSURE OF CONSUMER CREDIT REPORTS FOR COUNTERINTELLIGENCE PURPOSES.

Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(1) by striking "Notwithstanding" and inserting

"(a) DISCLOSURE OF CERTAIN IDENTIFYING INFORMATION.—Notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) DISCLOSURES TO THE FBI FOR COUNTERINTELLIGENCE PURPOSES.—

"(1) CONSUMER REPORTS.—Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish a consumer report to the Federal Bureau of Investigation when presented with a written request for a consumer report, signed by the Director or Deputy Director of the Federal Bureau of Investigation who certifies compliance with this subsection. The Director or Deputy Director may make such a certification only if he has determined in writing that—

"(A) such records are necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought is a foreign power or an agent of a foreign power, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(2) IDENTIFYING INFORMATION.—Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former address, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or Deputy Director, which certifies compliance with this subsection. The Director or Deputy Director may make such certification only if the Director or Deputy Director has determined in writing that—

"(A) such information is necessary to the conduct of an authorized foreign counterintelligence investigation; and

"(B) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power, as so defined.

"(3) CONFIDENTIALITY.—No consumer reporting agency or officer, employee, or agent of such consumer reporting agency may disclose to any person, other than those officers, employees, or agents of such agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this subsection, that the Federal Bureau of Investigation has sought or obtained a consumer report or identifying information respecting any consumer under paragraph (1) or (2), nor shall such agency, officer, employee, or agent include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such a consumer report or identifying information.

"(4) PAYMENT OF FEES.—The Federal Bureau of Investigation may, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing credit reports or identifying information in accordance with this title, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this subsection.

"(5) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this subsection outside of the Federal Bureau of Investigation, except to the Department of Justice or as may be necessary for the conduct of a foreign counterintelligence investigation.

"(6) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this subsection shall be construed to authorize or permit the withholding of information from Congress.

"(7) REPORTS TO CONGRESS.—On an annual basis, the Attorney General of the United States shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made pursuant to paragraphs (1) and (2).

"(8) DAMAGES.—Any agency or department of the United States obtaining or disclosing credit reports, records, or information contained therein in violation of this subsection is liable to the consumer to whom such records relate in an amount equal to the sum of—

"(A) $100, without regard to the volume of records involved;

"(B) any actual damages sustained by the consumer as a result of the disclosure;

"(C) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(D) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney's fees, as determined by the court.

"(9) GOOD FAITH EXCEPTION.—Any credit reporting agency or agent or employee thereof making disclosure of credit reports or identifying information pursuant to this subsection in good faith reliance upon a certificate of the Federal Bureau of Investigation pursuant to this subsection shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State. As used in this subsection, the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

"(10) LIMITATION OF REMEDIES.—The remedies set forth in this subsection shall be the only judicial remedies for violation of this subsection.

"(11) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this subsection, injunctive relief shall be available to require compliance with the procedures of this subsection. In the event of any successful action under this subsection, costs of the action, together with reasonable attorney's fees, as determined by the court, may be recovered.".

SEC. 705. REWARDS FOR INFORMATION CONCERNING ESPIONAGE.

(a) REWARDS.—Section 3071 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "With respect to"; and

(2) by adding at the end the following new subsection:

"(b) With respect to acts of espionage involving or directed at the United States, the Attorney General may reward any individuals who furnishes information—

"(1) leading to the arrest or conviction, in any country, of any individual or individuals for commission of an act of espionage against the United States;

"(2) leading to the arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of espionage against the United States; or

"(3) leading to the prevention or frustration of an act of espionage against the United States.".

(b) DEFINITIONS.—Section 3077 of such title is amended by adding at the end the following new paragraph:

"(8) 'act of espionage' means an activity that is a violation of—

"(A) section 793, 794, or 798 of title 18, United States Code; or

"(B) section 783(b) of title 50, United States Code.".

(c) CLERICAL AMENDMENTS.—The items relating to chapter 24 in the table of chapters at the beginning of such title, and in the table of chapters at the beginning of part II of such title, are each amended by adding at the end the following: "and espionage.".

SEC. 706. ESPIONAGE NOT COMMITTED IN ANY DISTRICT.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§3239. ESPIONAGE AND RELATED OFFENSES NOT COMMITTED IN ANY DISTRICT

"The trial for any offense involving a violation of—

"(1) section 793, 794, 798, 952, or 1030(a)(1) of this title,

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421), or

"(3) subsection (b) or (c) of section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) or (c)), begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district,

may be in the District of Columbia or in any other district authorized by law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 211 of such title is amended by inserting after the item relating to section 3238 the following:

"3239. Espionage and related offenses not committed in any district.".

SEC. 707. CRIMINAL FORFEITURE FOR VIOLATION OF CERTAIN ESPIONAGE LAWS.

(A) IN GENERAL.—Section 798 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(d)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly as the result of such violation; and

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1).

"(3) Except as provided in paragraph (4), the provisions of subsections (b), (c), and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property, if not inconsistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.

"(e) As used in subsection (d) of this section, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (until such time as the Compact of Free Association is ratified), and any other possession of the United States.".

(b) AMENDMENTS FOR CONSISTENCY IN APPLICATION OF FORFEITURE UNDER TITLE 18.—(1) Section 793(h)(3) of such title is amended in the matter above subparagraph (a) by striking out "(o)" each place it appears and inserting in lieu thereof "(p)".

(2) Section 794(d)(3) of such title is amended in the matter above subparagraph (A) by striking out "(o)" each place it appears and inserting in lieu thereof "(p)".

(c) SUBVERSIVE ACTIVITIES CONTROL ACT.—Section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783) is amended by adding at the end the following new subsection:

"(g)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

"(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1).

"(3) Except as provided in paragraph (4), the provisions of subsections (b), (c), and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property, if not inconsistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.".

SEC. 708. DENIAL OF ANNUITIES OR RETIRED PAY TO PERSONS CONVICTED OF ESPIONAGE IN FOREIGN COURTS INVOLVING UNITED STATES INFORMATION.

Section 8312 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For purposes of subsections (b)(1) and (c)(1), an offense within the meaning of such subsections is established if the Attorney General certifies to the agency administering the annuity or retired pay concerned—

"(1) that an individual subject to this chapter has been convicted by an impartial court of appropriate jurisdiction within a foreign country in circumstances in which the conduct violates the provisions of law enumerated in subsections (b)(1) and (c)(1), or would violate such provisions had such conduct taken place with the United States, and that such conviction is not being appealed or that final action has been taken on such appeal;

"(2) that such conviction was obtained in accordance with procedures that provided the defendant due process rights comparable to such rights provided by the United States Constitution, and such conviction was based upon evidence which would have been admissible in the courts of the United States; and

"(3) that such conviction occurred after the date of enactment of this subsection.".

SEC. 709. PROVIDING A COURT ORDER PROCESS FOR PHYSICAL SEARCHES UNDERTAKEN FOR FOREIGN INTELLIGENCE PURPOSES.

(a) AMENDMENT OF THE FOREION INTELLIGENCE SURVEILLANCE ACT OF 1978.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating title III as title IV and section 301 as section 401, respectively;

(2) in section 401 (as redesignated) by inserting "(other than title III)" after "provisions of this Act"' and

(3) by inserting after title II the following new title:

"TITLE III—PHYSICAL SEARCHES WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

"AUTHORIZATION OF PHYSICAL SEARCHES FOR FOREIGN INTELLIGENCE PURPOSES

"SEC. 301. (a) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the Foreign Intelligence Surveillance Court. Notwithstanding any other law, a judge of the court to whom application is made may grant an order in accordance with section 303 approving a physical search in the United States of the premises, property, information, or material of a foreign power or an agent of a foreign power for the purpose of collecting foreign intelligence information.

"(b) The Foreign Intelligence Surveillance Court shall have jurisdiction to hear applications for and grant orders approving a physical search for the purpose of obtaining foreign intelligence information anywhere within the United States under the procedures set forth in this title, except that no judge shall hear the same application which has been denied previously by another judge designated under section 103(a) of the Act. If any judge so designated denies an application for an order authorizing a physical search under this title, such judge shall provide immediately for the record a written statement of each reason for his decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established under section 103(b).

"(c) The court of review established under section 103(b) shall have jurisdiction to review the denial of any application made under this title. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

"(d) Judicial proceedings under this title shall be concluded as expeditiously as possible. The record of proceedings under this title, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of Central Intelligence.

"APPLICATION FOR AN ORDER

"SEC. 302. (a) Each application for an order approving a physical search under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge of the Foreign Intelligence Surveillance Court. Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements for such application as set forth in this title. Each application shall include—

"(1) the identity of the Federal officer making the application;

"(2) the authority conferred on the Attorney General by the President and the approval of the Attorney General to make the application;

"(3) the identity, if known, or a description of the target of the search, and a detailed description of the premises or property to be searched and of the information, material, or property to be seized, reproduced, or altered;

"(4) a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that—

"(A) the target of the physical search is a foreign power or an agent of a foreign power;

"(B) the premises or property to be searched contains foreign intelligence information; and

"(C) the premises or property to be searched is owned, used, possessed by, or is in transit to or from a foreign power or an agent of a foreign power;

"(5) a statement of the proposed minimization procedures;

"(6) a statement of the nature of the foreign intelligence sought and the manner in which the physical search is to be conducted;

"(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive branch officers employed in the area of national security or defense and appointed by the President by and with the advice and consent of the Senate—

"(A) that the certifying official deems the information sought to be foreign intelligence information;

"(B) that the purpose of the search is to obtain foreign intelligence information;

"(C) that such information cannot reasonably be obtained by normal investigative techniques;

"(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

"(E) includes a statement explaining the basis for the certifications required by subparagraphs (C) and (D); and

"(8) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, premises, or property specified in the application, and the action taken on each previous application.

"(b) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

"(c) The judge may require the applicant to furnish such other information as may be necessary to make the determinations requiring by section 303.

"ISSUANCE OF AN ORDER

"SEC. 303. (a) Under an application made pursuant to section 302, the judge shall enter an ex parte order as requested or as modified approving the physical search if the judge finds that—

"(1) the President has authorized the Attorney General to approve applications for physical searches for foreign intelligence purposes;

"(2) the application has been made by a Federal officer and approved by the Attorney General;

"(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

"(A) the target of the physical search is a foreign power or an agent of a foreign power, except that no United States person may be considered an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States;

"(B) the premises or property to be searched is owned, used, possessed by, or is in transit to or from an agent of a foreign power or a foreign power; and

"(C) physical search of such premises or property can reasonably be expected to yield foreign intelligence information which cannot reasonably be obtained by normal investigative means;

"(4) the proposed minimization procedures meet the definition of minimization contained in this title; and

"(5) the application which has been filed contains all statements and certifications required by section 302, and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 302(a)(7)(E) and any other information furnished under section 302(c).

"(b) An order approving a physical search under this section shall—

"(1) specify—

"(A) the identity, if known, or a description of the target of the physical search;

"(B) the nature and location of each of the premises or property to be searched;

"(C) the type of information, material, or property to be seized, altered, or reproduced;

"(D) a statement of the manner in which the physical search is to be conducted and, whenever more than one physical search is authorized under the order, the authorized scope of each search and what minimization procedures shall apply to the information acquired by each search; and

"(E) the period of time during which physical searches are approved; and

"(2) direct—

"(A) that the minimization procedures be followed;

"(B) that, upon the request of the applicant, a specified landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or assistance necessary to accomplish the physical search in such a manner as will protect its secrecy and produce a minimum of interference with the services that such landlord, custodian, or other person is providing the target of the physical search;

"(C) that such landlord, custodian or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the search or the aid furnished that such person wishes to retain;

"(D) that the applicant compensate, at the prevailing rate, such landlord, custodian, or other person for furnishing such aid; and

"(E) that the Federal officer conducting the physical search promptly report to the court the circumstances and results of the physical search.

"(c)(1) An order issued under this section may approve a physical search for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve physical search targeted against a foreign power, as defined in paragraph (1), (2), or (3) of section 101(a), for the period specified in the application or for one year, whichever is less.

"(2) Extensions of an order issued under this title may be granted on the same basis as the original order upon an application for an extension and new findings made in the same manner as required for the original order, except that an extension of an order under this Act for a physical search targeted against a foreign power, as defined in section 101(a)(5) or (6), or against a foreign power, as defined in section 101(a)(4), that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no property of any individual United States person will be acquired during the period.

"(3) At or before the end of the period of time for which a physical search is approved by an order or an extension, or at any time after a physical search is carried out, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

"(d)(1) Notwithstanding any other provision of this title, whenever the Attorney General reasonably determines that—

"(A) an emergency situation exists with respect to the execution of a physical search to obtain foreign intelligence information before an order authorizing such search can with due diligence be obtained, and

"(B) the factual basis for issuance of an order under this title to approve such a search exists,

the Attorney General may authorize the execution of an emergency physical search if—

"(i) a judge having jurisdiction under section 103 is informed by the Attorney General or the Attorney General's designee at the time of such authorization that the decision has been made to execute an emergency search, and

"(ii) an application in accordance with this title is made to that judge as soon as practicable but not more than 24 hours after the Attorney General authorizes such search.

"(2) If the Attorney General authorizes an emergency search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

"(3) In the absence of a judicial order approving such a physical search, the search shall terminate the earlier of—

"(A) the date on which the information sought is obtained;

"(B) the date on which the application for the order is denied; or

"(C) the expiration of 24 hours from the time of authorization by the Attorney General.

"(4) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the search, no information obtained or evidence derived from such search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General, if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 301.

"(e) Applications made and orders granted under this title shall be retained for a period of at least 10 years from the date of the application.

"USE OF INFORMATION

"SEC. 304. (a) Information acquired from a physical search conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No information acquired from a physical search pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

"(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

"(c) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from a physical search of the premises or property of that aggrieved person pursuant to the authority of this title, the United States shall, prior to the trial, hearing, or the other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

"(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any

VOL 140 PT 16 AG 12 — 18 1994 UMI

trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof against an aggrieved person any information obtained or derived from a physical search of the premises or property of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

"(e)(1) Any person against whom evidence obtained or derived from a physical search to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such search on the grounds that—

"(A) the information was unlawfully acquired; or

"(B) the physical search was not made in conformity with an order of authorization or approval.

"(2) Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

"(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to a physical search authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from a physical search authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the physical search as may be necessary to determine whether the physical search of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the physical search only where such disclosure is necessary to make an accurate determination of the legality of the physical search.

"(g) If the United States district court pursuant to subsection (f) determines that the physical search was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the physical search of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the physical search was lawfully authorized or conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

"(h) Orders granting motions or requests under subsection (g), decisions under this section that a physical search was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the physical search shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

"(i) If an emergency execution of a physical search is authorized under section 303(d) and a subsequent order approving the search is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to the search as the judge may determine in his discretion it is the interests of justice to serve, notice of—

"(1) the fact of the application;

"(2) the period of the search; and

"(3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge, the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed 90 days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

"CONGRESSIONAL OVERSIGHT

"SEC. 305. (a) On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all physical searches conducted pursuant to this title. On an annual basis the Attorney General shall also provide to those committees a report setting forth with respect to the preceding calendar year—

"(1) the total number of applications made for orders approving physical searches under this title; and

"(2) the total number of such orders either granted, modified, or denied.

"PENALTIES

"SEC. 306. (a) OFFENSE.—A person is guilty of an offense if he intentionally—

"(1) under color of law for the purpose of obtaining foreign intelligence information, executes a physical search within the United States except as authorized by statute; or

"(2) discloses or uses information obtained under color of law by physical search within the United States, knowing or having reason to know that the information was obtained through physical search not authorized by statute, for the purpose of obtaining intelligence information.

"(b) DEFENSE.—It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the physical search was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

"(c) PENALTY.—An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

"(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

"CIVIL LIABILITY

"SEC. 307. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b)(1)(A), respectively, of this Act, whose premises, property, information, or material has been subjected to a physical search within the United States or about whom information obtained by such a physical search has been disclosed or used in violation of section 306 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

"(1) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

"(2) punitive damages; and

"(3) reasonable attorney's fees and other investigative and litigation costs reasonably incurred.

"AUTHORIZATION DURING TIME OF WAR

"SEC. 308. Notwithstanding any other law, the President, through the Attorney General, may authorize physical searches without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by the Congress.

"DEFINITIONS

"SEC. 309. As used in this title:

"(1) The terms 'foreign power', 'agent of a foreign power', 'international terrorism', 'sabotage', 'foreign intelligence information', 'Attorney General', 'United States person', 'United States', 'person', and 'State' shall have the same meanings as in section 101 of this Act.

"(2) 'Aggrieved person' means a person whose premises, property, information, or material is the target of physical search or any other person whose premises, property, information, or material was subject to physical search.

"(3) 'Foreign Intelligence Surveillance Court' means the court established by section 103(a) of this Act.

"(4) 'Minimization procedures' with respect to physical search, means—

"(A) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purposes and technique of the particular physical search, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

"(B) procedures that require that non-publicly available information, which is not foreign intelligence information, as defined in section 101(e)(1) of this Act, shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand such foreign intelligence information or assess its importance; and

"(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes.

"(5) 'Physical search' means any physical intrusion into premises or property (including examination of the interior of property by technical means) that is intended to result in a seizure, reproduction, inspection, or alteration of information, material, or property, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, but does not include 'electronic surveillance', as defined in section 101(f) of this Act.".

(b) CLERICAL AMENDMENT.—The table of contents for the Foreign Intelligence Surveillance Act of 1978 is amended by striking the items relating to title III and inserting the following:

"TITLE III—PHYSICAL SEARCHES WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

"Sec. 301. Authorization of physical searches for foreign intelligence purposes.
"Sec. 302. Application for an order.
"Sec. 303. Issuance of an order.
"Sec. 304. Use of information.
"Sec. 305. Congressional oversight.
"Sec. 306. Penalties.
"Sec. 307. Civil liability.
"Sec. 308. Authorization during time of war.
"Sec. 309. Definitions.

"TITLE IV—EFFECTIVE DATE

"Sec. 401. Effective Date.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect 90 days after the date of enactment of this Act, except that any physical search approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of title III of the Foreign Intelligence Surveillance Act of 1978 (as added by this Act), if that search is conducted within 180 days after the date of enactment of this Act pursuant to regulations issued by the Attorney General, which were in the possession of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the date of enactment of this Act.

SEC. 710. LESSER CRIMINAL OFFENSE FOR UNAUTHORIZED REMOVAL OF CLASSIFIED DOCUMENTS.

(a) IN GENERAL.—Chapter 93 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1924. Unauthorized removal and retention of classified documents or material

"(a) IN GENERAL.—Whoever, being an officer, employee, contractor, or consultant of the United States, and, by virtue of his office, employment, position, or contract, becomes possessed of documents or materials containing classified information of the United States, knowingly removes such documents or materials without authority and with the intent to retain such documents or materials at an unauthorized location shall be fined not more than $1,000, or imprisoned for not more than 1 year, or both.

"(b) DEFINITION.—In this section, the term 'classified information of the United States' means information originated, owned, or possessed by the United States Government concerning the national defense or foreign relations of the United States that has been determined pursuant to law or Executive order to require protection against unauthorized disclosure in the interests of national security.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1924. Unauthorized removal and retention of classified documents or material.".

COHEN AMENDMENT NO. 2554

Mr. WARNER (for Mr. COHEN) proposed an amendment to amendment No. 2553 proposed by Mr. DECONCINI to the bill S. 2082, supra; as follows:

At the end of the amendment, add the following:

SEC. . REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.

(a) IN GENERAL.—(1) In order to assist Congress in its oversight functions with respect to this Act and to improve the awareness of United States industry of foreign industrial espionage and the ability of such industry to protect against such espionage, the President shall submit to Congress a report that describes, as of the time of the report, the following:

(A) The respective policy functions and operational roles of the agencies of the executive branch of the Federal Government in identifying and countering threats to United States industry of foreign industrial espionage, including the manner in which such functions and roles are coordinated.

(B) The means by which the Federal Government communicates information on such threats, and on methods to protect against such threats, to United States industry in general and to United States companies known to be targets of foreign industrial espionage.

(C) The specific measures that are being or could be undertaken in order to improve the activities referred to in subparagraph (A) and (B), including proposals for any modifications of law necessary to facilitate the undertaking of such activities.

(D) The threat to United States industry of foreign industrial espionage and any trends in that threat, including—

(i) the number and identity of the foreign governments conducting foreign industrial espionage;

(ii) the industrial sectors and types of information and technology targeted by such espionage; and

(iii) the methods used to conduct such espionage.

(2) The President shall submit the report required under this subsection not later than 6 months after the date of the enactment of this Act.

(b) ANNUAL UPDATE.—Not later than 1 year after the date referred to in paragraph (2) of subsection (a), and on the expiration of each year thereafter, the President shall submit to Congress a report updating the information referred to in paragraph (1)(D) of that subsection.

(c) FORM OF REPORTS.—To the maximum extent practicable, the reports referred to in subsections (a) and (b) shall be submitted in an unclassified form, but may be accompanied by a classified appendix.

(d) REPORT UNDER DEFENSE PRODUCTION ACT.—Section 721(k)(1)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(k)(1)(B)) is amended by inserting "or directly assisted" after "directed".

(e) DEFINITION.—For the purposes of this section, "foreign industrial espionage" means industrial espionage conducted by a foreign government or by a foreign company with direct assistance of a foreign government against a private United States company and aimed at obtaining commercial secrets.

DECONCINI (AND ROBB) AMENDMENT NO. 2555

Mr. DECONCINI (for himself and Mr. ROBB) proposed an amendment to amendment No. 2553 proposed by him to the bill S. 2082, supra; as follows:

At the end of the amendment, add the following:

Not less than $10 million from the NSA base budget shall be transferred to U.S. Army signals intelligence activities directed at counternarcotics targets. A detailed operations plan with special emphasis on the U.S./Mexico border and including the participation of the National Security Agency, the Drug Enforcement Administration, the Federal Bureau of Investigation, and the U.S. Customs Service, shall be provided to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence no later than November 15, 1994. This plan shall include a detailed description of the planned targets and the type of intelligence collection, dissemination, analysis and tasking that will be included in these operations.

WARNER (AND OTHERS) AMENDMENT NO. 2556

Mr. WARNER (for himself, Mr. GRAHAM, Mr. DECONCINI, Mr. METZENBAUM, Mr. CHAFEE, Mr. COHEN, Mr. KERREY, Mr. BOREN, Mr. LUGAR, Mr. BRYAN, Mr. BAUCUS, Mr. DURENBERGER, Mr. PELL, Mr. LAUTENBERG, Mr. HATCH, Mr. JOHNSTON, Mr. BUMPERS, Mrs. BOXER, Mr. MOYNIHAN, Mr. SPECTER, Mr. LEAHY, Mr. ROBB, and Mr. KERRY) proposed an amendment to the bill S. 2082, supra; as follows:

At the end of the bill, add the following new title:

TITLE ___—COMMISSION ON THE ROLES AND CAPABILITIES OF THE UNITED STATES INTELLIGENCE COMMUNITY

SEC. ___01. ESTABLISHMENT.

There is established a commission to be known as the Commission on the Roles and Capabilities of the United States Intelligence Community (hereafter in this title referred to as the "Commission").

SEC. ___02. COMPOSITION AND QUALIFICATIONS.

(a) MEMBERSHIP.—(1) The Commission shall be composed of 17 members, as follows:

(A) Nine members shall be appointed by the President from private life, no more than four of whom shall have previously held senior leadership positions in the intelligence community.

(B) Two members shall be appointed by the Majority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(C) Two members shall be appointed by the Minority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(D) Two members shall be appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(E) Two members shall be appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(2) The members of Commission appointed from private life under paragraph (1) shall be persons of demonstrated ability and accomplishment in government, business, law, academe, journalism, or other profession, who have a substantial background in national security matters.

(b) CHAIRMAN.—The President shall designate one of the members appointed from private life to serve as Chairman of the Commission.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner as the original appointment.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(d) DEADLINE FOR APPOINTMENTS.—The appointments required by section subsection (a) shall be made within 45 days after the date of enactment of this Act.

(e) MEETINGS.—(1) The Commission shall meet at the call of the Chairman.

(2) The Commission shall hold its first meeting not later than four months after the date of enactment of this Act.

(f) QUORUM.—Nine members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings, take testimony, or receive evidence.

(g) SECURITY CLEARANCES.—Appropriate security clearances shall be required for members of the Commission who are private United States citizens. Such clearances shall be processed and completed on an expedited basis by appropriate elements of the executive branch of Government and shall, in any case, be completed within 90 days of the date such members are appointed.

SEC. ___03. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—It shall be the duty of the Commission—

(1) to review the efficacy and appropriateness of the activities of the United States intelligence community in the post-Cold War global environment; and

(2) to prepare and transmit the reports described in section __04.

(b) IMPLEMENTATION.—In carrying out subsection (a), the Commission shall specifically consider the following:

(1) What should be the roles and missions of the intelligence community in terms of providing support to the defense and foreign policy establishments.

(2) Whether the roles and missions of the intelligence community should extend beyond the traditional areas of providing support to the defense and foreign policy establishments, and, if so, what areas should be considered legitimate for intelligence collection and analysis, and whether such areas should include for example, economic issues, environmental issues, and health issues.

(3) What functions, if any, should continue to be assigned the Central Intelligence Agency and what capabilities should it retain for the future.

(4) Whether the existing organization and management framework of the Central Intelligence Agency provide the optimal structure for the accomplishment of its mission.

(5) Whether existing principles and strategies governing the acquisition and maintenance of intelligence collection capabilities should be retained and what collection capabilities should the Government retain to meet future contingencies.

(6) Whether intelligence analysis, as it is currently structured and executed, adds sufficient value to information otherwise available to the Government to justify its continuation, and, if so, at what level of resources.

(7) Whether the existing decentralized system of intelligence analysis results in significant waste or duplication, and, if so, what can be done to correct these deficiencies.

(8) Whether the existing arrangements for allocating available resources to accomplish the roles and missions assigned to intelligence agencies are adequate.

(9) Whether the existing framework for coordinating among intelligence agencies with respect to intelligence collection and analysis and other activities, including training and operational activities, provides an optimal structure for such coordination.

(10) Whether current personnel policies and practices of intelligence agencies provide an optimal work force to satisfy the needs of intelligence consumers.

(11) Whether resources for intelligence activities should continue to be allocated as part of the defense budget or be treated by the President and Congress as a separate budgetary program.

(12) Whether the existing levels of resources allocated for intelligence collection or intelligence analysis, or to provide a capability to conduct covert actions, are seriously at variance with United States needs.

(13) Whether there are areas of redundant or overlapping activity or areas where there is evidence of serious waste, duplication, or mismanagement.

(14) To what extent, if any, should the budget for United States intelligence activities be publicly disclosed.

(15) To what extent, if any, should the United States intelligence community collect information bearing upon private commercial activity and the manner in which such information should be controlled and disseminated.

(16) Whether counterintelligence policies and practices are adequate to ensure that employees of intelligence agencies are sensitive to security problems, and whether intelligence agencies themselves have adequate authority and capability to address perceived security problems.

(17) The manner in which the size, missions, capabilities, and resources of the United States intelligence community compare to those of the Governments of the United Kingdom, Canada, Australia, France, Israel, Russia, and Germany.

(18) Whether existing collaborative arrangements between the United States and other countries in the area of intelligence cooperation should be maintained and whether such arrangements should be expanded to provide for increased burdensharing.

(19) Whether existing arrangements for sharing intelligence with multinational organizations in support of mutually-shared objectives are adequate.

SEC. ___04. REPORTS.

(a) INITIAL REPORT.—Not later than two months after the first meeting of the Commission, the Commission shall transmit to the congressional intelligence committees a report setting forth its plan for the work of the Commission.

(b) INTERIM REPORTS.—Prior to the submission of the report required by subsection (c), the Commission may issue such interim reports as it finds necessary and desirable.

(c) FINAL REPORT.—No later than March 1, 1996, the Commission shall submit to the President and to the congressional intelligence committees a report setting forth the activities, findings, and recommendations of the Commission, including any recommendations for the enactment of legislation that the Commission considers advisable. To the extent feasible, such report shall be unclassified and made available to the public. Such report shall be supplemented as necessary by a classified report or annex, which shall be provided separately to the President and the congressional intelligence committees.

SEC. ___05. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any intelligence agency or from any other Federal department or agency any information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of any such department or agency shall furnish such information expeditiously to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) SUBCOMMITTEES.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(e) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

SEC. ___06. PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is a private United States citizen shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. All members of the Commission who are Members of Congress shall serve without compensation in addition to that received for their services as Members of Congress.

(b) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission. No member of the staff shall be a current officer or employee of the intelligence community.

(2) COMPENSATION.—The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS-15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a non-reimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its administrative and clerical functions, except that no person shall be detailed to the staff of the Commission who is an officer or employee of an intelligence agency.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of Central Intelligence shall furnish the Commission, on a non-reimbursable basis, any administrative and support services requested by the Commission consistent with this title.

SEC. ___07. PAYMENT OF COMMISSION EXPENSES.

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

SEC. ___08. TERMINATION OF THE COMMISSION.

The Commission shall terminate one month after the date of the submission of the report required by section __04(c).

SEC. ___09. DEFINITIONS.

For purposes of this title—

(1) the term "intelligence agency" means any agency, office, or element of the intelligence community;

(2) the term "intelligence community" shall have the same meaning as set forth in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

(3) the term "congressional intelligence committees" refers to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

DECONCINI (AND OTHERS) AMENDMENT NO. 2557

Mr. DECONCINI (for himself, Mr. WARNER, Mr. BAUCUS, Mr. D'AMATO, Mr. BOREN, Mrs. FEINSTEIN, Mr. BRYAN, and Mr. METZENBAUM) proposed an amendment to the bill S. 2082, supra; as follows:

On page 11, between lines 18 and 19, insert the following new section:

SEC. 504. LIMITATIONS ON FUNDING OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) REVIEW OF PROJECT; COMPLIANCE WITH DOD PROCUREMENT AND CONTRACTING PROCEDURES.—Of the funds made available by this Act for the National Reconnaissance Office under the classified Schedule of Authorizations referred to in section 102 of this Act—

(1) $50,000,000 out of the Miscellaneous Support account of the Mission Support Consolidated Expenditure Center may not be obligated or expended until the Director of Central Intelligence and the Secretary of Defense have completed a review of the National Reconnaissance Office Headquarters Building project and the results of such review have been disclosed to the congressional intelligence committees; and

(2) no such funds made available by this Act may be obligated or expended for the purchase of any real property, or to contract for any construction or acquisition, in connection with the construction of buildings or facilities, unless (and to the extent that)—

(A) such purchase or contract is made or entered into in accordance with the policies and procedures applicable to other elements of the Department of Defense; or

(B) the President determines that the national security interest of the United States requires that such policies and procedures shall not apply to a particular purchase or contract and reports such determination in accordance with subsection (b).

(b) WAIVER PROCEDURES.—Not later than 30 days after making a determination under subsection (a)(2)(B), the President shall report in writing the determination to the congressional intelligence committees.

(c) SPECIFIC AUTHORIZATION AND APPROPRIATIONS REQUIRED.—Except to the extent and in the amounts specifically provided in an Act authorizing appropriations and in an appropriation Act, no funds made available under any provision of law may be obligated or expended for the National Reconnaissance Office Headquarters Building project if such funds would cause the total amount obligated or expended for such project to exceed $310,000,000.

(d) DEFINITIONS.—As used in this section:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) NATIONAL RECONNAISSANCE OFFICE HEADQUARTERS BUILDING PROJECT.—The term "National Reconnaissance Office Headquarters Building project" means the project for the headquarters buildings of the National Reconnaissance Office, situated at the so-call Westfields site, and includes all construction and improvement of facilities (including 'fit up') and all actions related to the acquisition of land, communications, computers, furniture and other building furnishings, and vehicle parking facilities.

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT OF 1994

LEAHY AMENDMENT NO. 2558

Mr. LEAHY proposed an amendment to the bill (S. 1614) to amend the Child Nutrition Act of 1966 and the National Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such acts through fiscal year 1998, and for other purposes; as follows:

On page 79, between lines 19 and 20, insert the following new subsection:

(c) DIETARY GUIDELINES FOR AMERICANS.—Section 9 of such Act (42 U.S.C. 1758) is amended by adding at the end the following new subsection:

"(f)(1) Not later than July 1, 1996, the Secretary, State educational agencies, schools, and school food service authorities shall, to the maximum extent practicable, inform students who participate in the school lunch and school breakfast programs, and parents and guardians of the students, of—

"(A) the nutritional content of the lunches and breakfasts that are served under the programs; and

"(B) the consistency of the lunches and breakfasts with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the 'Guidelines'), including the consistency of the lunches and breakfasts with the guideline for fat content.

"(2)(A) Except as provided in subparagraph (B), not later than July 1, 1996, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the programs that are consistent with the Guidelines (as measured in accordance with subsection (a)(1)(A)(ii)).

"(B) State educational agencies may grant waivers from the requirements of subparagraph (A) subject to criteria established by the appropriate State educational agency. The waivers shall not permit schools to implement the requirements later than July 1, 1998, or a later date determined by the Secretary.

"(C) To assist schools in meeting the requirements of this paragraph, the Secretary shall—

"(i) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

"(ii) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and other approaches, including food-based menu systems with nutrient analysis, as determined by the Secretary.

"(D) Schools may use any of the approaches described in subparagraph (C) to meet the requirements of this paragraph.

"(3)(A) Not later than 120 days after the date of enactment of this subsection, the Secretary shall submit to the authorizing committees of Congress a detailed and specific plan that describes the actions the Secretary will take to encourage schools that are participating in the school lunch and school breakfast programs to serve lunches and breakfasts under each program that are consistent with the Guidelines.

"(B) The Secretary shall include in the plan—

"(i) a strategy for providing technical assistance to States, State educational agencies, schools, and school food service authorities to encourage consistency with the Guidelines; and

"(ii) a strategy for informing State child nutrition directors, school food service directors, parents, guardians, and students of—

"(I) the provisions of the Guidelines;

"(II) the importance of implementing the Guidelines; and

"(III) specific suggestions for dietary modifications that would achieve the objectives of the Guidelines.".

On page 84, line 6, strike "is amended" and insert "(as amended by section 103(c)) is further amended".

On page 84, line 8, strike "(f)" and insert "(g)".

On page 95, between lines 12 and 13, insert the following new subsection:

(i) ALL-DAY ACTIVITIES.—The Secretary of Agriculture shall—

(1) not later than 180 days after the date of enactment of this Act, identify sources of Federal funds that may be available from other Federal agencies for service institutions under the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) to carry out all-day educational and recreational activities for children at feeding sites under the program; and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(2) notify through State agencies, as determined appropriate by the Secretary, the service institutions of the sources.

On page 97, between lines 13 and 14, insert the following new paragraph:

(1) in paragraph (1)(A), strike "25 percent of the children served by such organization" and insert "25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less.";

On page 97, line 14, strike "(1)" and insert "(2)".

On page 97, line 16, strike "(2)" and insert "(3)".

On page 117, between lines 18 and 19, insert the following new subsection:

(b) USE OF FOOD SERVICE MANAGEMENT INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—Section 21(d) (42 U.S.C. 1769b–1(d)) is amended—

(1) by striking "(d) COORDINATION.—The" and inserting the following:

"(d) COORDINATION.—

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following new paragraph:

"(2) USE OF INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—The Secretary shall use any food service management institute established under subsection (a)(2) to assist in carrying out dietary and nutrition activities of the Secretary.".

On page 117, line 19, strike "(b)" and insert "(c)".

On page 117, line 19, insert "of such Act" after "Section 21".

On page 118, lines 19 and 20, strike "$2,000,000 for each of fiscal years 1995 through 1998" and insert "such sums as are necessary for fiscal year 1995 and each subsequent fiscal year".

On page 118, line 25, strike the quotation marks and the following period.

On page 118, after line 25, add the following new subparagraph:

"(C) FUNDING FOR EDUCATION, TRAINING, OR APPLIED RESEARCH OR STUDIES.—In addition to amounts made available under subparagraphs (A) and (B), from amounts otherwise appropriated in discretionary appropriations, the Secretary may provide funds to any food service management institute established under subsection (a)(2) for projects specified by the Secretary that will contribute to implementing dietary or nutrition initiatives. Any additional funding under this subparagraph shall be provided noncompetitively in a separate cooperative agreement.".

On page 140, between lines 6 and 7, insert the following new sections:

SEC. 124. INSPECTION OF JUICE AND JUICE PRODUCTS.

(a) IN GENERAL.—The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 123) is further amended by adding at the end the following new section:

"SEC. 29. INSPECTION OF JUICE AND JUICE PRODUCTS.

"(a) DEFINITION OF JUICE AND JUICE PRODUCT.—As used in this section, the terms 'juice' and 'juice product' mean juice and a juice-based product, respectively, for which a United States standard for a grade has been issued by the Secretary under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

"(b) PROHIBITION.—No State, State agency, or local agency shall contract to procure, or make available, juice or a juice product for use in the school lunch program established under this Act or the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) unless the juice or juice product was processed under in-plant inspection conducted by the Secretary.

"(c) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date that is 270 days after the date of enactment of this Act.

SEC. 125. ADMINISTRATION OF NUTRITION PROGRAMS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations that—

(1) significantly ease the administrative and paperwork burdens on participating schools and families with respect to—

(A) the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); and

(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(2) streamline Federal, State, and local administration of all programs established under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

On page 140, lines 18 and 19, after "preparation of", insert the following: "foods high in complex carbohydrates and".

On page 156, after line 24, add the following new subsection:

(o) USE OF UNIVERSAL PRODUCT CODES.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) (as amended by subsection (n)) is further amended by adding at the end the following new subparagraph:

"(M)(i) The Secretary shall establish pilot projects to determine the feasibility and cost of requiring States to carry out a system for using universal product codes to assist retail food stores that are vendors under the program in providing the type of infant formula that the participants in the program are authorized to obtain. In carrying out the projects, the Secretary shall determine whether the system reduces the incidence of incorrect redemptions of low-iron formula or brands of infant formula not authorized to be redeemed through the program, or both.

"(ii) If the Secretary determines that the system is feasible, cost-effective, and reduces the incidence of incorrect redemptions described in clause (i), the Secretary shall establish such procedures as the Secretary determines appropriate to require States to carry out the system.

"(iii) The system shall not require a vendor under the program to obtain special equipment and shall not be applicable to a vendor that does not have equipment that can use universal product codes.".

On page 157, line 1, strike "(o)" and insert "(p)".

On page 157, line 23, strike "(p)" and insert "(q)".

On page 158, line 16, strike "(q)" and insert "(r)".

On page 158, line 24, strike "(r)" and insert "(s)".

On page 159, line 2, strike "(q)(2)" and insert "(r)(2)".

On page 160, line 18, strike "(s)" and insert "(t)".

On page 164, line 7, strike "(t)" and insert "(u)".

On page 169, between lines 4 and 5, insert the following new subparagraph:

"(H) increasing public awareness of the importance of breakfasts for providing the energy necessary for the cognitive development of school-age children;".

On page 169, line 5, strike "(H)" and insert "(I)".

On page 169, line 8, strike "(I)" and insert "(J)".

On page 169, line 11, strike "role" and insert "importance".

On page 169, line 13, strike "(J)" and insert "(K)".

On page 169, line 14, strike "and".

On page 169, line 15, strike "(K)" and insert "(L)".

On page 169, line 18, strike "materials."; and" and insert "materials; and".

On page 169, between lines 18 and 19, insert the following new subparagraph:

"(M) coordinating and promoting nutrition education and training activities carried out under child nutrition programs, including the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) and the child and adult care food program established under section 17 of such Act (42 U.S.C. 1766).".; and

On page 171, between lines 8 and 9, insert the following new title:

TITLE III—OTHER RELATED PROVISIONS

SEC. 301. DISTRIBUTION OF COMMODITIES ON CERTAIN INDIAN RESERVATIONS.

Section 3(j) of the Food Stamp Act of 1977 (7 U.S.C. 2012(j)) is amended by adding at the end the following new sentence: "For the purpose of the distribution of commodities under section 4(b), the term 'reservation' includes the geographically defined area or areas (including an urban area or areas) within the boundaries of former reservations in Oklahoma, as defined by the Secretary of the Interior, over which a tribal organization exercises governmental jurisdiction.".

On page 171, line 9, strike "**III**" and insert "**IV**".

On page 171, line 10, strike "301" and insert "401".

McCONNELL (AND OTHERS) AMENDMENT NO. 2559

Mr. McCONNELL (for himself, Mr. LUGAR, Mr. CRAIG, Mr. DOLE, Mr. COCHRAN, Mr. HELMS, Mr. COVERDELL, Mr. GRASSELY, and Mr. CHAFFE) proposed an amendment to the bill S. 1614, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . IMPROVED ADMINISTRATION OF WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(23) No State agency or local agency shall be considered an office in a State that provides public assistance for purposes of section 7(a)(2)(A) of Public Law 103-31.".

HEALTH SECURITY ACT

MITCHELL AMENDMENT NO. 2560

Mr. MITCHELL proposed an amendment to the bill (S. 2351) to achieve universal health insurance coverage, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Security Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED ACCESS TO STANDARDIZED AND AFFORDABLE HEALTH PLANS

Subtitle A—Rules and Definitions of General Applicability

PART 1—RULES OF GENERAL APPLICABILITY

Sec. 1001. Access to standardized coverage.
Sec. 1002. Standard health plan principles.
Sec. 1003. Protection of consumer choice.

PART 2—DEFINITIONS

Sec. 1011. Definitions relating to health plans.
Sec. 1012. Definitions relating to employment and income.
Sec. 1013. Other general definitions.

Subtitle B—Health Plan Standards

PART 1—ESTABLISHMENT AND APPLICATION OF STANDARDS

Sec. 1101. Establishment of national standards.
Sec. 1102. General rules.

PART 2—INSURANCE MARKET REFORM

Sec. 1111. Guaranteed issue, availability, and renewability.
Sec. 1112. Enrollment.
Sec. 1113. Coverage of dependents.
Sec. 1114. Nondiscrimination based on health status.
Sec. 1115. Benefits.
Sec. 1116. Community rating requirements.
Sec. 1117. Risk adjustment and reinsurance.
Sec. 1118. Financial solvency requirements and consumer protection against provider claims.

PART 3—DELIVERY SYSTEM REFORM

Sec. 1121. Prohibition of discrimination.
Sec. 1122. Quality assurance standards.
Sec. 1123. Consumer grievance process.
Sec. 1124. Health security cards.
Sec. 1125. Information and marketing standards.
Sec. 1126. Information regarding a patient's right to self-determination in health care services.
Sec. 1127. Contracts with purchasing cooperatives.
Sec. 1128. Health plan arrangements with providers.
Sec. 1129. Utilization management protocols and physician incentive plans.

PART 4—SUPPLEMENTAL HEALTH BENEFITS PLANS

Sec. 1141. Supplemental health benefits plans.

Subtitle C—Benefits and Cost-Sharing

PART 1—STANDARD BENEFITS PACKAGES

Sec. 1201. General description of standard benefits packages.
Sec. 1202. Description of categories of items and services.
Sec. 1203. Definitions.

PART 2—NATIONAL HEALTH BENEFITS BOARD

Sec. 1211. Creation of National health benefits board; membership.
Sec. 1212. Qualifications of board members.
Sec. 1213. General duties and responsibilities.
Sec. 1214. Powers.
Sec. 1215. Funding.
Sec. 1216. Applicability of Federal Advisory Committee Act.
Sec. 1217. Congressional consideration of Board proposals.

Subtitle D—Access to Health Plans

PART 1—ACCESS THROUGH EMPLOYERS

Sec. 1301. General employer responsibilities.
Sec. 1302. Auditing of records.
Sec. 1303. Prohibition of certain employer discrimination.
Sec. 1304. Evasion of obligations.
Sec. 1305. Prohibition on self-insuring cost-sharing benefits.
Sec. 1306. Development of large employer purchasing groups.
Sec. 1307. Responsibilities in single-payer States.
Sec. 1308. Rules governing litigation involving retiree health benefits.
Sec. 1309. Enforcement.

PART 2—ACCESS THROUGH HEALTH INSURANCE PURCHASING COOPERATIVES

SUBPART A—GENERAL REQUIREMENTS–

Sec. 1321. Organization and operation.
Sec. 1322. Membership.
Sec. 1323. Agreements with certified standard health plans.
Sec. 1324. Membership and marketing fees.

SUBPART B—COMMUNITY-RATED EMPLOYERS

Sec. 1331. Duties of purchasing cooperatives.

SUBPART C—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Sec. 1341. Requirements applicable to FEHBP.
Sec. 1342. Special rules for FEHBP supplemental plans.
Sec. 1343. Definitions.

PART 3—TREATMENT OF ASSOCIATION PLANS

Sec. 1351. Rules relating to multiple employer welfare arrangements.
Sec. 1352. Association plans.

Subtitle E—Federal Responsibilities

PART 1—SECRETARY OF HEALTH AND HUMAN SERVICES

SUBPART A—GENERAL DUTIES

Sec. 1401. General duties and responsibilities.
Sec. 1402. Annual report.
Sec. 1403. Assistance with family collections.
Sec. 1404. Advisory opinions.
Sec. 1403. Funding.

SUBPART B—RESPONSIBILITIES RELATING TO REVIEW AND APPROVAL OF STATE SYSTEMS

Sec. 1411. Federal review and action on State systems.
Sec. 1412. Failure of participating States to meet conditions for compliance.
Sec. 1413. Reduction in payments for health programs by Secretary of Health and Human Services.
Sec. 1414. Review of Federal determinations.
Sec. 1415. Federal support for State implementation.

SUBPART C—RESPONSIBILITIES IN ABSENCE OF STATE SYSTEMS

Sec. 1421. Application of subpart.
Sec. 1422. Federal assumption of responsibilities in non-participating States.
Sec. 1423. Imposition of surcharge on premiums under federally-operated system.
Sec. 1424. Return to State operation.

SUBPART D—ESTABLISHMENT OF CLASS FACTORS FOR CHARGING PREMIUMS

Sec. 1431. Premium class and age class factors.

SUBPART E—RISK ADJUSTMENT AND REINSURANCE METHODOLOGY FOR PAYMENT OF PLANS

Sec. 1435. Development of a risk adjustment and reinsurance methodology.

SUBPART F—RESPONSIBILITIES FOR FINANCIAL REQUIREMENTS

Sec. 1441. Capital standards for community-rated plans.
Sec. 1442. Standard for guaranty funds.

SUBPART G—OPEN ENROLLMENT

Sec. 1445. Periods of authorized changes in enrollment.
Sec. 1446. Distribution of comparative information.

PART 2—ESSENTIAL COMMUNITY PROVIDERS

Sec. 1461. Certification.
Sec. 1462. Categories of providers automatically certified.
Sec. 1463. Standards for additional providers.
Sec. 1464. Certification process; review; termination of certifications.
Sec. 1465. Notification of participating States.
Sec. 1466. Health plan requirement.
Sec. 1467. Recommendation on continuation of requirement.
Sec. 1468. Definitions.

PART 3—SPECIFIC RESPONSIBILITIES OF SECRETARY OF LABOR.

Sec. 1481. Responsibilities of Secretary of Labor.
Sec. 1482. Federal role with respect to multistate self-insured health plans.
Sec. 1483. Assistance with employer collections.
Sec. 1484. Penalties for failure of large employer purchasing groups to meet requirements.
Sec. 1485. Applicability of ERISA enforcement mechanisms for enforcement of certain requirements.
Sec. 1486. Workplace wellness program.

PART 4—OFFICE OF RURAL HEALTH POLICY

Sec. 1491. Office of Rural Health Policy.

PART 5—COLLECTIVE BARGAINING DISPUTE RESOLUTION

Sec. 1495. Findings and purpose.
Sec. 1496. Application limited to transition period.
Sec. 1497. Request for appointment of board of inquiry.
Sec. 1498. Appointment of board of inquiry.
Sec. 1499. Public factfinding.
Sec. 1499A. Compensation of members of boards of inquiry.
Sec. 1499B. Maintenance of status quo.

Subtitle F—Participating State Responsibilities

PART 1—GENERAL RESPONSIBILITIES

Sec. 1501. State plan and certification of standard health plans and supplemental health benefits plans.
Sec. 1502. Community rating areas and health plan service areas.
Sec. 1503. Open enrollment periods.
Sec. 1504. Risk adjustment program.
Sec. 1505. Guaranty funds.
Sec. 1506. Enrollment activities.
Sec. 1507. Rural and medically underserved areas.
Sec. 1508. Public access sites.
Sec. 1509. Requirements relating to possessions of the United States.
Sec. 1510. Right of recovery of certain taxes against providers.

PART 2—TREATMENT OF STATE LAWS

Sec. 1511. Preemption of certain State laws relating to health plans.
Sec. 1512. State law restrictions on health professional licensure.
Sec. 1514. Preemption from State benefit mandates.

PART 3—STATE FLEXIBILITY

SUBPART A—EXISTING STATE LAWS

Sec. 1521. Continuance of existing Federal law waivers.
Sec. 1522. Hawaii Prepaid Health Care Act.
Sec. 1523. Alternative State provider payment systems.
Sec. 1524. Alternative State hospital services payment systems.

VOL 140 PT 16 AG 12 — 18 1994 UMI

SUBPART B—REQUIREMENTS FOR STATE SINGLE-PAYER SYSTEMS
Sec. 1531. Single-payer system described.
Sec. 1532. General requirements for single-payer systems.
Sec. 1533. Special rules for States operating Statewide single-payer system.
Sec. 1534. Special rules for community rating area-specific single-payer systems.
SUBPART C—EARLY IMPLEMENTATION OF COMPREHENSIVE STATE PROGRAMS
Sec. 1541. Early implementation of comprehensive State programs
Subtitle G—Miscellaneous Provisions
Sec. 1601. Provision of items or services contrary to religious belief or moral conviction.
Sec. 1602. Antidiscrimination.
Sec. 1603. Neutrality concerning union organizing.
TITLE II—NEW BENEFITS
Subtitle A—Coverage of Outpatient Prescription Drugs in Medicare
Sec. 2000. References in subtitle.
Sec. 2001. Coverage of outpatient prescription drugs.
Sec. 2002. Payment rules and related requirements for covered outpatient drugs.
Sec. 2003. Medicare rebates for covered outpatient drugs.
Sec. 2004. Prescription Drug Payment Review Commission.
Sec. 2005. Coverage of home infusion drug therapy services.
Sec. 2006. Medicare drug benefit plans.
Sec. 2007. Payment for covered outpatient drug benefit under medicare contracts with HMOs and CMPs.
Sec. 2008. Maintenance of effort.
Subtitle B—Home and Community-Based Services
PART 1—HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES
Sec. 2101. State programs for home and community-based services for individuals with disabilities.
Sec. 2102. State plans.
Sec. 2103. Individuals with disabilities defined.
Sec. 2104. Home and community-based services covered under State plan.
Sec. 2105. Cost sharing.
Sec. 2106. Quality assurance and safeguards.
Sec. 2107. Advisory groups.
Sec. 2108. Payments to States.
Sec. 2109. Appropriations; allotments to States.
Sec. 2110. Federal evaluations.
PART 2—GRANTS RELATING TO THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS
Sec. 2111. Information and technical assistance grants relating to development of hospital linkage programs.
Subtitle C—Long-Term Care Insurance Improvement and Accountability
Sec. 2200. Short title.
PART 1—PROMULGATION OF STANDARDS AND MODEL BENEFITS
Sec. 2201. Standards.
PART 2—ESTABLISHMENT AND IMPLEMENTATION OF LONG-TERM CARE INSURANCE POLICY STANDARDS
Sec. 2211. Implementation of policy standards.
Sec. 2212. Regulation of sales practices.
Sec. 2213. Additional responsibilities for carriers.
Sec. 2214. Renewability standards for issuance, and basic for cancellation of policies.
Sec. 2215. Benefit standards.
Sec. 2216. Nonforfeiture.
Sec. 2217. Limit of period of contestability and right to return.
Sec. 2218. Civil money penalty.
PART 3—LONG-TERM CARE INSURANCE POLICIES, DEFINITION AND ENDORSEMENTS
Sec. 2221. Long-term care insurance policy defined.
Sec. 2222. Code of conduct with respect to endorsements.
Subtitle D—Life Care
Sec. 2301. Short title.
Sec. 2302. Life care: public insurance program for nursing home care.
Subtitle E—Study and Report
Sec. 2401. Study of issues related to end of life care.
TITLE III—HEALTH PROFESSIONS WORKFORCE AND PUBLIC HEALTH INITIATIVES
Subtitle A—Workforce Priorities Under Federal Payments
Sec. 3000. Definitions.
PART 1—INSTITUTIONAL COSTS OF GRADUATE MEDICAL EDUCATION; WORKFORCE PRIORITIES
SUBPART A—NATIONAL COUNCIL REGARDING WORKFORCE PRIORITIES
Sec. 3001. National Council on Graduate Medical Education.
SUBPART B—AUTHORIZED POSITIONS IN SPECIALTY TRAINING
Sec. 3012. Cooperation regarding approved physician training programs.
Sec. 3013. Annual authorization of number of specialty positions; requirements regarding primary health care.
Sec. 3014. National Council recommendation of number of graduate medical education positions.
Sec. 3015. Allocations among specialities and programs.
SUBPART C—COSTS OF GRADUATE MEDICAL EDUCATION
CHAPTER 1—OPERATION OF APPROVED PHYSICIAN TRAINING PROGRAMS
Sec. 3031. Federal formula payments to qualified entities for the costs of the operation of approved physician training programs.
Sec. 3032. Application for payments.
Sec. 3033. Availability of funds for payments; annual amount of payments.
Sec. 3034. Payments for dental and podiatric positions.
CHAPTER 2—FEDERAL FORMULA PAYMENTS FOR NURSING AND HEALTH PROFESSIONS EDUCATION
Sec. 3041. Federal formula payments for nursing and health professions education.
Sec. 3042. Availability of funds for payments; amount of payments.
CHAPTER 3—ACADEMIC HEALTH CENTERS AND OTHER ELIGIBLE INSTITUTIONS
Sec. 3051. Federal formula payments to academic health centers and other eligible institutions.
Sec. 3052. Request for payments.
Sec. 3053. Availability of funds for payments; annual amount of payments.
SUBPART D—TRANSITIONAL PROVISIONS
Sec. 3055. Transitional payments to institutions.
Sec. 3056. Waiver of foreign country residence requirement with respect to international medical graduates.
PART 2—HEALTH PROFESSIONS SCHOOLS PAYMENTS
SUBPART A—PAYMENTS TO MEDICAL SCHOOLS
Sec. 3061. Federal payments to medical schools.
Sec. 3062. Application for payments.
Sec. 3063. Authorization of appropriations; annual amount of payments.
SUBPART B—PAYMENTS TO NURSING PROGRAMS
Sec. 3071. Federal payments to graduate nurse training programs.
Sec. 3072. National Council on Graduate Nurse Training.
SUBPART C—PAYMENTS TO DENTAL SCHOOLS
Sec. 3073. Dental schools.
SUBPART D—PAYMENTS TO SCHOOLS OF PUBLIC HEALTH
Sec. 3074. Schools of public health.
PART 3—RELATED PROGRAMS
SUBPART A—WORKFORCE DEVELOPMENT
Sec. 3081. Programs of the Secretary of Health and Human Services.
Sec. 3082. Programs of the Secretary of Labor.
SUBPART B—TRANSITIONAL PROVISIONS FOR WORKFORCE STABILITY
Sec. 3091. Application.
Sec. 3092. Definitions.
Sec. 3093. Obligations of displacing employer and affiliated enterprises in event of displacement.
Sec. 3094. Employment with successors.
Sec. 3095. Collective bargaining obligations during transition period.
Sec. 3096. General provisions.
Subtitle B—Academic Health Centers
Sec. 3101. Discretionary grants regarding access to centers.
Subtitle C—Health Research Initiatives
PART 1—PROGRAMS FOR CERTAIN AGENCIES
Sec. 3201. Biomedical, behavioral and health services research.
Sec. 3202. Health services research.
Sec. 3203. AHCPR conforming amendments.
PART 2—FUNDING FOR PROGRAM
Sec. 3211. Authorizations of appropriations.
PART 3—MEDICAL TECHNOLOGY IMPACT STUDY
Sec. 3221. Medical technology impact study.
Subtitle D—Core Functions of Public Health Programs; National Initiatives Regarding Preventive Health
PART 1—FUNDING
Sec. 3301. Authorizations of appropriations.
PART 2—CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS
Sec. 3311. Purposes.
Sec. 3312. Grants to States for core functions of public health.
Sec. 3313. Submission of information.
Sec. 3314. Reports.
Sec. 3315. Application for grant.
Sec. 3316. Allocations for certain activities.
Sec. 3317. Definitions.
Sec. 3318. Single application and uniform reporting systems for core functions of public health and public health categorical grant programs administered by the Centers for Disease Control and Prevention.
PART 3—NATIONAL INITIATIVES REGARDING HEALTH PROMOTION AND DISEASE PREVENTION
SUBPART A—GENERAL GRANTS
Sec. 3331. Grants for national prevention initiatives.

Sec. 3332. Priorities.
Sec. 3333. Submission of information.
Sec. 3334. Application for grant.
SUBPART B—DEVELOPMENT OF TELEMEDICINE IN RURAL UNDERSERVED AREAS
Sec. 3341. Grants for development of rural telemedicine.
Sec. 3342. Report and evaluation of telemedicine.
Sec. 3343. Regulations on reimbursement of telemedicine.
Sec. 3344. Authorization of appropriations.
Sec. 3345. Reimbursement for telemedicine services under the medicare program.
Sec. 3346. Maintenance of effort.
Sec. 3345. Definition.
Subtitle E—Health Services for Medically Underserved Populations
PART 1—INITIATIVES FOR ACCESS TO HEALTH CARE
SUBPART A—AUTHORIZATION OF APPROPRIATIONS
Sec. 3411. Authorizations of appropriations.
SUBPART B—DEVELOPMENT OF COMMUNITY HEALTH GROUPS AND HEALTH CARE SITES AND SERVICES
Sec. 3421. Grants and contracts for development of plans and networks and the expansion and development of health care sites and services.
Sec. 3422. Certain uses of awards.
Sec. 3423. Application.
Sec. 3424. Purposes and conditions.
SUBPART C—CAPITAL COST OF DEVELOPMENT OF COMMUNITY HEALTH GROUPS AND OTHER PURPOSES
Sec. 3441. Direct loans and grants.
Sec. 3442. Certain requirements.
Sec. 3443. Defaults; right of recovery.
Sec. 3444. Provisions regarding construction or expansion of facilities.
Sec. 3445. Application for assistance.
Sec. 3446. Administration of programs.
SUBPART D—ENABLING AND SUPPLEMENTAL SERVICES
Sec. 3461. Grants and contracts for enabling and supplemental services.
Sec. 3462. Authorizations of appropriations.
SUBPART E—RURAL HEALTH PLAN DEMONSTRATION PROJECTS
Sec. 3465. Rural health plan demonstration projects.
PART 2—NATIONAL HEALTH SERVICE CORPS
Sec. 3471. Authorizations of appropriations.
Sec. 3472. Allocation for participation of nurses in scholarship and loan repayment programs.
Sec. 3473. Allocation for participation of psychiatrists, psychologists, and clinical social workers in scholarship and loan repayment programs.
Subtitle F—Mental Health; Substance Abuse
PART 1—AUTHORITIES REGARDING PARTICIPATING STATES
Sec. 3510. Integration of mental health and substance abuse systems.
Sec. 3511. Report on integration of mental health systems.
PART 2—ASSISTANCE FOR STATE MANAGED MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS
Sec. 3531. Availability of assistance.
Sec. 3532. Plan requirements.
Sec. 3533. Additional Federal responsibilities.
Sec. 3534. Authorization of appropriations.
Subtitle G—Comprehensive School Health Education; School-Related Health Services
PART 1—HEALTHY STUDENTS-HEALTHY SCHOOLS GRANTS FOR SCHOOL HEALTH EDUCATION
Sec. 3601. Purposes.
Sec. 3602. Healthy students-healthy schools grants.
Sec. 3603. Healthy Students-Healthy Schools Interagency Task Force.
Sec. 3604. Duties of the Secretary.
PART 2—SCHOOL-RELATED HEALTH SERVICES
SUBPART A—DEVELOPMENT AND OPERATION
Sec. 3681. Authorization of appropriations.
Sec. 3682. Eligibility for grants.
Sec. 3683. Preferences.
Sec. 3684. Planning and development grants.
Sec. 3685. Grants for operation of school health services.
SUBPART B—CAPITAL COSTS OF DEVELOPING PROJECTS
Sec. 3691. Funding.
Subtitle H—Public Health Service Initiative
Sec. 3695. Public Health Service initiative.
Subtitle I—Additional Provisions Regarding Public Health
Sec. 3901. Curriculum development and implementation regarding domestic violence and women's health.
Sec. 3902. Community scholarship programs.
Subtitle J—Occupational Safety and Health
Sec. 3903. Occupational injury and illness prevention.
Sec. 3905. Full funding for WIC.
Subtitle L—Border Health Improvement
Sec. 3908. Border Health Commission.
TITLE IV—MEDICARE AND MEDICAID
Sec. 4000. References in title.
Subtitle A—Medicare
PART 1—INTEGRATION OF MEDICARE BENEFICIARIES
Sec. 4001. Individual election to remain in certain health plans.
Sec. 4002. Enrollment and termination of enrollment.
PART 2—PROVISIONS RELATING TO PART A
Sec. 4101. Inpatient hospital services update for PPS hospitals.
Sec. 4102. Reduction in payments for capital-related costs for inpatient hospital services.
Sec. 4103. Reductions in disproportionate share payments.
Sec. 4104. Extension of freeze on updates to routine service cost limits for skilled nursing facilities.
Sec. 4105. Medicare-dependent, small rural hospitals.
Sec. 4106. Provisions relating to rural health transition grant program.
Sec. 4107. Payments for sole community hospitals with teaching programs and multihospital campuses.
Sec. 4108. Moratorium on designation of new long-term hospitals.
Sec. 4109. Revised payment methodology for rehabilitation and long-term care hospitals.
Sec. 4110. Termination of indirect medical education payments.
Sec. 4111. Limited service hospital program.
Sec. 4112. Subacute care study.
Sec. 4113. Psychology services in hospitals.
PART 3—PROVISIONS RELATING TO PART B
Sec. 4201. Updates for physicians' services.
Sec. 4202. Substitution of real GDP to adjust for volume and intensity; repeal of restriction on maximum reduction permitted in default update.
Sec. 4203. Payment for physicians' services relating to inpatient stays in certain hospitals.
Sec. 4204. Changes in underserved area bonus payments.
Sec. 4205. Correction of MVPS upward bias.
Sec. 4206. Demonstration projects for medicare State-based performance standard rate of increase.
Sec. 4207. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 4208. Eye or eye and ear hospitals.
Sec. 4209. Imposition of coinsurance on laboratory services.
Sec. 4210. Application of competitive acquisition process for part B items and services.
Sec. 4211. Application of competitive acquisition procedures for laboratory services.
Sec. 4212. Expanded coverage for physician assistants and nurse practitioners.
Sec. 4213. Elimination of balance billing.
Sec. 4214. Development and implementation of resource-based methodology for practice expenses.
Sec. 4215. Payments for durable medical equipment.
Sec. 4216. Clarification of regulations to distinguish orthotics and prosthetics from durable medical equipment.
Sec. 4217. General part B premium.
PART 4—PROVISIONS RELATING TO PARTS A AND B
Sec. 4301. Medicare secondary payer changes.
Sec. 4302. Increase in medicare secondary payer coverage for end stage renal disease services to 24 months.
Sec. 4303. Expansion of centers of excellence.
Sec. 4304. Reduction in routine cost limits for home health services.
Sec. 4305. Imposition of 20 percent coinsurance on home health services.
Sec. 4306. Termination of graduate medical education payments.
Sec. 4307. Medicare select.
PART 5—REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK
Sec. 4401. Repeal of medicare and medicaid coverage data bank.
Subtitle B—Medicaid Program
PART 1—INTEGRATION OF CERTAIN MEDICAID ELIGIBLES INTO REFORMED HEALTH CARE SYSTEM
Sec. 4601. Limiting coverage under medicaid of items and services covered under standard benefit package.
PART 2—COORDINATED CARE SERVICES FOR DISABLED MEDICAID ELIGIBLES
Sec. 4605. Coordinated care services for disabled medicaid eligibles.
PART 3—PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS
Sec. 4611. Replacement of DSH payment provisions with provisions relating to payments to hospitals serving vulnerable populations.
PART 4—MEDICAID LONG-TERM CARE PROVISIONS
Sec. 4615. Increased resource disregard for individuals receiving certain services.
Sec. 4616. Frail elderly demonstration project waivers.

Sec. 4617. Elimination of requirement of prior institutionalization with respect to habilitation services furnished under a waiver for home or community-based services.
Sec. 4618. Elimination of rule regarding availability of beds in certain institutions.
Sec. 4619. Preadmission screening for mentally retarded individuals.
PART 5—MISCELLANEOUS
Sec. 4621. Medicaid coverage of all certified nurse practitioner and clinical nurse specialist services.
Sec. 4622. Relief from third party liability requirements when cost-effective.
Sec. 4623. Extension of moratorium on treatment of certain facilities as institutions for mental diseases.
Sec. 4624. Allowing certain entities to participate in a waiver.
TITLE V—QUALITY AND CONSUMER PROTECTION
Subtitle A—Quality Management and Improvement
Sec. 5001. National Quality Council.
Sec. 5002. National goals and performance measures of quality.
Sec. 5003. Standards and performance measures for health plans.
Sec. 5004. Plan data analysis and consumer surveys.
Sec. 5005. Evaluation and reporting of quality performance.
Sec. 5006. Development and dissemination of practice guidelines.
Sec. 5007. Research on health care quality.
Sec. 5008. Quality improvement foundations.
Sec. 5009. Consumer information and advocacy.
Sec. 5010. Authorization of appropriations.
Sec. 5011. Role of health plans in quality management.
Sec. 5012. Information on health care providers.
Sec. 5013. Conforming amendments to Public Health Service Act.
Subtitle B—Administrative Simplification
PART 1—PURPOSE AND DEFINITIONS
Sec. 5101. Purpose.
Sec. 5102. Definitions.
PART 2—STANDARDS FOR DATA ELEMENTS AND INFORMATION TRANSACTIONS
Sec. 5111. General requirements on Secretary.
Sec. 5112. Standards for data elements of health information.
Sec. 5113. Information transaction standards.
Sec. 5114. Standards relating to written explanations of benefits.
Sec. 5115. Timetables for adoption of standards.
PART 3—REQUIREMENTS WITH RESPECT TO CERTAIN TRANSACTIONS AND INFORMATION
Sec. 5121. Requirements with respect to certain transactions and information.
Sec. 5122. Timetables for compliance with requirements.
PART 4—ACCESSING HEALTH INFORMATION
Sec. 5131. Accessing health information for authorized purposes.
Sec. 5132. Responding to access requests.
Sec. 5133. Length of time information should be accessible.
Sec. 5134. Timetables for adoption of standards and compliance.
PART 5—STANDARDS AND CERTIFICATION FOR HEALTH INFORMATION NETWORK
Sec. 5141. Standards and certification for health information network services.
Sec. 5142. Ensuring availability of information.
PART 6—PENALTIES
Sec. 5151. General penalty for failure to comply with requirements and standards.
PART 7—MISCELLANEOUS PROVISIONS
Sec. 5161. Imposition of additional requirements.
Sec. 5162. Effect on State law.
Sec. 5164. Health information continuity.
Sec. 5165. Protection of commercial information.
Sec. 5166. Payment for health care services or health plan premiums.
Sec. 5167. Health security cards.
Sec. 5168. Misuse of health security card or personal health identifier.
Sec. 5169. Direct billing for clinical laboratory services.
Sec. 5170. Authorization of appropriations.
PART 8—ASSISTANCE TO THE SECRETARY
Sec. 5171. General requirement on Secretary.
Sec. 5172. Health Information Advisory Committee.
PART 9—DEMONSTRATION PROJECTS FOR COMMUNITY-BASED CLINICAL INFORMATION SYSTEMS
Sec. 5181. Grants for demonstration projects.
Subtitle C—Privacy of Health Information
PART 1—FINDINGS AND DEFINITIONS
Sec. 5201. Findings and purposes.
Sec. 5202. Definitions.
PART 2—AUTHORIZED DISCLOSURES
SUBPART A—GENERAL PROVISIONS
Sec. 5206. General rules regarding disclosure.
Sec. 5207. Authorizations for disclosure of protected health information.
Sec. 5208. Certified health information network services.
SUBPART B—SPECIFIC DISCLOSURES RELATING TO PATIENT
Sec. 5211. Disclosures for treatment and financial and administrative transactions.
Sec. 5212. Next of kin and directory information.
Sec. 5213. Emergency circumstances.
SUBPART C—DISCLOSURE FOR OVERSIGHT, PUBLIC HEALTH, AND RESEARCH PURPOSES
Sec. 5216. Oversight.
Sec. 5217. Public health.
Sec. 5218. Health research.
SUBPART D—DISCLOSURE FOR JUDICIAL, ADMINISTRATIVE, AND LAW ENFORCEMENT PURPOSES
Sec. 5221. Judicial and administrative purposes.
Sec. 5222. Law enforcement.
SUBPART E—DISCLOSURE PURSUANT TO GOVERNMENT SUBPOENA OR WARRANT
Sec. 5226. Government subpoenas and warrants.
Sec. 5227. Access procedures for law enforcement subpoenas and warrants.
Sec. 5228. Challenge procedures for law enforcement warrants and subpoenas.
SUBPART F—DISCLOSURE PURSUANT TO PRIVATE PARTY SUBPOENA
Sec. 5231. Private party subpoenas.
Sec. 5232. Access procedures for private party subpoenas.
Sec. 5233. Challenge procedures for private party subpoenas.
PART 3—PROCEDURES FOR ENSURING SECURITY OF PROTECTED HEALTH INFORMATION
SUBPART A—ESTABLISHMENT OF SAFEGUARDS
Sec. 5236. Establishment of safeguards.
Sec. 5237. Accounting for disclosures.
SUBPART B—REVIEW OF PROTECTED HEALTH INFORMATION BY SUBJECTS OF THE INFORMATION
Sec. 5241. Inspection of protected health information.
Sec. 5242. Amendment of protected health information.
Sec. 5243. Notice of information practices.
SUBPART C—STANDARDS FOR ELECTRONIC DISCLOSURES
Sec. 5246. Standards for electronic disclosures.
PART 4—SANCTIONS
SUBPART A—NO SANCTIONS FOR PERMISSIBLE ACTIONS
Sec. 5251. No liability for permissible disclosures.
Sec. 5252. No liability for institutional review board determinations.
Sec. 5253. Reliance on certified entity.
SUBPART B—CIVIL SANCTIONS
Sec. 5256. Civil penalty.
Sec. 5257. Civil action.
SUBPART C—CRIMINAL SANCTIONS
Sec. 5261. Wrongful disclosure of protected health information.
PART 5—ADMINISTRATIVE PROVISIONS
Sec. 5266. Relationship to other laws.
Sec. 5267. Rights of incompetents.
Sec. 5268. Exercise of rights.
Subtitle D—Expanded Efforts To Combat Health Care Fraud and Abuse Affecting Federal Outlay Programs
PART 1—IMPROVED ENFORCEMENT
Sec. 5301. Health care fraud and abuse affecting Federal outlay programs.
Sec. 5302. Establishment of Federal Outlay Program Fraud and Abuse Control Account.
Sec. 5303. Use of funds by Inspector General.
Sec. 5304. Rewards for information leading to prosecution and conviction.
PART 2—CIVIL PENALTIES AND RIGHTS OF ACTION
Sec. 5311. Civil monetary penalties.
Sec. 5312. Permitting parties to bring actions on own behalf.
Sec. 5313. Exclusion from program participation.
PART 3—AMENDMENTS TO CRIMINAL LAW
Sec. 5321. Health care fraud.
Sec. 5322. Theft or embezzlement.
Sec. 5323. False Statements.
Sec. 5324. Bribery and graft.
Sec. 5325. Injunctive relief relating to health care offenses.
Sec. 5326. Grand jury disclosure.
Sec. 5327. Forfeitures for violations of fraud statutes.
PART 4—AMENDMENTS TO CIVIL FALSE CLAIMS ACT
Sec. 5331. Amendments to Civil False Claims Act.
PART 5—EFFECTIVE DATE
Sec. 5341. Effective date.
Subtitle E—Medical Liability Reform
PART 1—SYSTEM REFORMS
Sec. 5401. Federal tort reform.
Sec. 5402. State-based alternative dispute resolution mechanisms.
Sec. 5403. Requirement of certificate of merit.

Sec. 5404. Limitation on amount of attorney's contingency fees.
Sec. 5405. Periodic payment of awards.
Sec. 5406. Federal study on medical negligence.
PART 2—DEMONSTRATION PROJECT RELATING TO MEDICAL MALPRACTICE LIABILITY
Sec. 5411. Pilot program applying practice guidelines to medical malpractice liability actions.
Sec. 5412. Enterprise liability demonstration project.
Subtitle F—Remedies and Enforcement
PART 1—REVIEW OF BENEFIT DETERMINATIONS FOR ENROLLED INDIVIDUALS
SUBPART A—GENERAL RULES
Sec. 5501. Health plan claims procedure.
Sec. 5502. Review in area complaint review offices of grievances based on acts or practices by health plans.
Sec. 5503. Initial proceedings in complaint review offices.
Sec. 5504. Hearings before hearing officers in complaint review offices.
Sec. 5505. Civil money penalties.
SUBPART B—EARLY RESOLUTION PROGRAMS
Sec. 5511. Establishment of early resolution programs in complaint review offices.
Sec. 5512. Initiation of participation in mediation proceedings.
Sec. 5513. Mediation proceedings.
Sec. 5514. Legal effect of participation in mediation proceedings.
Sec. 5515. Enforcement of settlement agreements.
Sec. 5516. Due process for health care providers.
PART 2—ADDITIONAL REMEDIES AND ENFORCEMENT PROVISIONS
Sec. 5531. Judicial review of Federal action on State systems.
Sec. 5532. Civil enforcement.
Sec. 5533. Priority of certain bankruptcy claims.
Sec. 5534. Private right to enforce State responsibilities.
Sec. 5535. Private right to enforce Federal responsibilities in operating a system in a State.
Sec. 5536. Private right to enforce responsibilities of cooperatives and health plans.
Sec. 5537. Enforcement of consumer protections.
Sec. 5538. Discrimination claims.
Sec. 5539. Nondiscrimination in federally assisted programs.
Sec. 5540. Civil and administration action by essential community provider.
Sec. 5541. Facial constitutional challenges.
Sec. 5542. Treatment of plans as parties in civil actions.
Sec. 5543. Whistleblower protections.
Sec. 5544. General nonpreemption of rights and remedies.
Subtitle G—Repeal of Exemption
Sec. 5601. Repeal of exemption for health insurance.
TITLE VI—INDIVIDUAL AND EMPLOYER SUBSIDIES
Sec. 6000. Marketing fees and cooperative fees included in premium.
Subtitle A—Individual Premium and Cost-Sharing Assistance
Sec. 6001. Requirement to operate State program.
Sec. 6002. Assistance with certified standard health plan premiums.
Sec. 6003. Assistance with cost-sharing for certified standard health plans.
Sec. 6004. Eligibility determinations.
Sec. 6005. End-of-year reconciliation for premium assistance.
Sec. 6006. Enrollment outreach.
Sec. 6007. Payments to States.
Sec. 6008. Definitions and determinations of income.
Sec. 6009. Coordination with premium financing provisions.
Subtitle B—Employer Subsidies
Sec. 6101. Purpose.
Sec. 6102. Eligible employers.
Sec. 6103. Employer certification.
Sec. 6104. Amount of subsidy.
Sec. 6105. Definition.
TITLE VII—REVENUE PROVISIONS
Sec. 7000. Amendment of 1986 Code.
Subtitle A—Financing Provisions
PART 1—INCREASE IN TAX ON TOBACCO PRODUCTS
Sec. 7101. Increase in excise taxes on tobacco products.
Sec. 7102. Modifications of certain tobacco tax provisions.
Sec. 7103. Imposition of excise tax on manufacture or importation of roll-your-own tobacco.
PART 2—HEALTH RELATED ASSESSMENTS
Sec. 7111. Assessments on insured and self-insured health plans.
Sec. 7112. High cost health plan assessment.
PART 3—RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES
Sec. 7121. Recapture of certain health care subsidies received by high-income individuals.
PART 4—OTHER PROVISIONS
Sec. 7131. Increase in tax on certain hollow point and large caliber handgun ammunition.
Sec. 7132. Modification to self-employment tax treatment of certain S corporation shareholders and partners.
Sec. 7133. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.
Subtitle B—Tax Treatment of Employer-Provided Health Care
PART 1—GENERAL PROVISIONS
Sec. 7201. Limitation on exclusion for employer-provided health benefits.
Sec. 7202. Health benefits may not be provided under cafeteria plans.
Sec. 7203. Increase in deduction for health insurance costs of self-employed individuals.
Sec. 7204. Limitation on prepayment of medical insurance premiums.
PART 2—EMPLOYER HEALTH CARE CONTRIBUTIONS
Sec. 7211. Tax treatment of employer health care contributions.
Subtitle C—Exempt Health Care Organizations
PART 1—GENERAL PROVISIONS
Sec. 7301. Qualification and disclosure requirements for nonprofit health care organizations.
Sec. 7302. Excise taxes for private inurement by tax-exempt health care organizations.
Sec. 7303. Treatment of health maintenance organizations, parent organizations, and health insurance purchasing cooperatives.
Sec. 7304. Tax treatment of taxable organizations providing health insurance and other prepaid health care services.
Sec. 7305. Repeal of section 833.
Sec. 7306. Tax exemption for high-risk insurance pools.
PART 2—TAX TREATMENT OF SECTION 501(C)(3) BONDS
Sec. 7311. Tax treatment of 501(c)(3) bonds similar to governmental bonds.
Subtitle D—Tax Treatment of Long-Term Care Insurance and Services
Sec. 7401. Qualified long-term care services treated as medical care.
Sec. 7402. Treatment of long-term care insurance.
Sec. 7403. Tax treatment of accelerated death benefits under life insurance contracts.
Sec. 7404. Tax treatment of companies issuing qualified accelerated death benefit riders.
Subtitle E—Other Revenue Provisions
PART 1—EMPLOYMENT STATUS PROVISIONS
Sec. 7501. Employment status proposal required from Department of the Treasury.
Sec. 7502. Increase in services reporting penalties.
PART 2—TAX INCENTIVES FOR HEALTH SERVICES PROVIDERS
Sec. 7511. Nonrefundable credit for certain primary health services providers.
Sec. 7512. Expensing of medical equipment.
PART 3—MISCELLANEOUS PROVISIONS
Sec. 7521. Post-retirement medical and life insurance reserves.
Sec. 7522. Credit for cost of personal assistance services required by employed individuals.
Sec. 7523. Disclosure of return information for administration of certain programs under the Health Security Act.
Subtitle F—Graduate Medical Education and Academic Health Centers Trust Fund
Sec. 7601. Establishment of Graduate Medical Education and Academic Health Centers Trust Fund.
TITLE VIII—OTHER FEDERAL PROGRAMS
Subtitle A—Indian Health Service
Sec. 8101. Purposes.
Sec. 8102. Definitions.
PART 1—INDIAN HEALTH PLANS
Sec. 8111. Organization of health care facilities as health plans.
Sec. 8112. Contract authority for facilities operating as or within health plans.
Sec. 8113. Resource sharing authority.
Sec. 8114. Administrative and personnel flexibility.
Sec. 8115. Expenditure authority.
Sec. 8116. Indian Health Care Investment Fund.
Sec. 8117. Tribal authority.
PART 2—ELIGIBILITY, BENEFITS AND COVERAGE
Sec. 8121. Eligibility and health service coverage of Indians.
Sec. 8122. Benefits.
Sec. 8123. Supplemental Indian health care benefits.
Sec. 8124. Premiums, copayments, and other charges.
Sec. 8125. Provision of health services to non-Indians.
Sec. 8126. Essential community providers.
Sec. 8127. Payment by other providers.
Sec. 8128. Contracting authority.
Sec. 8129. Consultation.

VOL 140 PT 16 AG 12 — 18 1994 UMI

VOL 140 PT 16 AG 12 — 18 1994 UMI

Sec. 8130. Transitional studies.
Sec. 8131. Loans and loan guarantees.
Sec. 8132. Simplification of billing.
Sec. 8133. Long-term care demonstrations.
Sec. 8134. Technical assistance.
Sec. 8135. Public health programs.
Sec. 8136. Survey of health services available to Indian veterans.
Sec. 8137. Rule of construction.
PART 3—AUTHORIZATION OF APPROPRIATIONS
Sec. 8141. Authorization of appropriations.
Sec. 8142. Funding methodology.
Subtitle B—Department of Veterans Affairs
Sec. 8201. Short title.
Sec. 8202. Benefits and eligibility through Department of Veterans Affairs Medical System.
Sec. 8203. Organization of Department of Veterans Affairs facilities as health plans.
TITLE IX—WORKERS COMPENSATION AND AUTOMOBILE INSURANCE COORDINATION
Subtitle A—Workers Compensation Medical Services
Sec. 9001. Application of information requirements.
Sec. 9002. Provision of care in disputed cases.
Sec. 9003. Demonstration projects.
Sec. 9004. Commission on Workers Compensation Medical Services.
Subtitle G—Automobile Insurance
Sec. 9101. Definitions.
PART 1—REQUIREMENTS RELATING TO AUTOMOBILE INSURANCE MEDICAL SERVICES
Sec. 9111. Provision of automobile insurance medical services through health plans.
Sec. 9112. Payment for automobile insurance medical services.
PART 2—ADMINISTRATION
Sec. 9121. Payment facilitation.
TITLE X—PREMIUM FINANCING
Subtitle A—National Health Care Cost and Coverage Commission
Sec. 10001. National Health Care Cost and Coverage Commission.
Sec. 10002. Composition.
Sec. 10003. Duties of Commission.
Sec. 10004. Congressional consideration of Commission recommendations.
Sec. 10005. Operation of the Commission.
Subtitle B—Employer and Individual Premium Requirements and Assistance
Sec. 10101. Application of subtitle.
Sec. 10102. Definitions.
PART 1—EMPLOYER PREMIUM PAYMENTS
Sec. 10111. Obligation.
Sec. 10112. Community-rated employers.
Sec. 10113. Experience rated employers.
Sec. 10114. Payments relating to nonenrolling employees.
Sec. 10115. Rules of construction.
PART 2—FAMILY PAYMENT RESPONSIBILITIES
Sec. 10131. Enrollment and premium payments.
Sec. 10132. Family share of premiums.
Sec. 10133. Amount of premium.
Sec. 10134. Collection shortfall add-on.
Sec. 10135. No loss of coverage.
PART 3—REPORTING
Sec. 10141. Reporting requirements.
TITLE XI—ENSURING HEALTH CARE REFORM FINANCING
Sec. 11001. Ensuring health care reform financing.

TITLE I—IMPROVED ACCESS TO STANDARDIZED AND AFFORDABLE HEALTH PLANS

Subtitle A—Rules and Definitions of General Applicability

PART 1—RULES OF GENERAL APPLICABILITY

SEC. 1001. ACCESS TO STANDARDIZED COVERAGE.

(a) IN GENERAL.—A participating State system shall require that each health plan (whether insured or self-insured) or long-term care policy issued, sold, offered for sale, or operated in the State shall be certified by the appropriate certifying authority as one of the following:

(1) A certified standard health plan.

(2) A certified supplemental health benefits plan.

(3) A certified long-term care policy under part 2 of subtitle B of title II.

(b) FEDERAL CERTIFICATION OF MULTISTATE SELF-INSURED PLANS.—For Federal certification of multistate self-insured health plans, see section 1482.

SEC. 1002. STANDARD HEALTH PLAN PRINCIPLES.

In accordance with this Act, the following principles shall apply to all standard health plans:

(1) No standard health plan may discriminate on the basis of medical history, health status, pre-existing medical conditions, or genetic predisposition to medical conditions.

(2) A standard health plan—

(A) shall offer an annual open enrollment period and accept all eligible individuals for coverage;

(B) shall not impose a rider that serves to exclude coverage to an individual; and

(C) shall not impose waiting periods before coverage begins.

(3) A standard health plan shall ensure that all medically necessary or appropriate services, as defined in the benefits package, are provided.

(4) Health benefits coverage shall be portable from one standard health plan to another.

Nothing in this section shall be construed so as to relieve a standard health plan of any obligation or requirement imposed under this Act.

SEC. 1003. PROTECTION OF CONSUMER CHOICE.

Nothing in this Act shall be construed as prohibiting the following:

(1) An individual from purchasing any health care services.

(2) An individual from purchasing supplemental insurance (offered consistent with this Act) to cover health care services not included within the standard benefits package established under subtitle C.

(3) An individual who is not an eligible individual from purchasing health insurance.

(4) Employers from providing coverage for benefits in addition to such standard benefits package (subject to part 1 of subtitle D).

(5) An individual from obtaining (at the expense of such individual) health care from any health care provider of such individual's choice.

PART 2—DEFINITIONS

SEC. 1011. DEFINITIONS RELATING TO HEALTH PLANS.

Except as otherwise specifically provided, in this Act the following definitions and rules apply:

(1) HEALTH PLAN.—

(A) IN GENERAL.—The term "health plan" means any plan or arrangement which provides, or pays the cost of, health benefits.

(B) EXCLUSIONS.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accidental death or dismemberment.

(ii) Coverage providing wages or payments in lieu of wages for any period during which the employee is absent from work on account of sickness or injury.

(iii) A medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act).

(iv) Coverage issued as a supplement to liability insurance.

(v) Worker's compensation or similar insurance.

(vi) Automobile medical-payment insurance.

(vii) A long-term care policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy provides sufficiently comprehensive coverage of a benefit so that it should be treated as a health plan).

(viii) An equivalent health care program.

(ix) Such other plan or arrangement as the Secretary determines is not a health plan.

(C) CERTAIN PLANS INCLUDED.—Such term includes any plan or arrangement not described in any clause of subparagraph (B) which provides for benefit payments, on a periodic basis, for—

(i) a specified disease or illness, or

(ii) period of hospitalization,

without regard to the costs incurred or services rendered during the period to which the payments relate.

(B) INSURED HEALTH PLAN.—

(i) IN GENERAL.—The term "insured health plan" means any health plan which is a hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by a carrier.

(ii) CARRIER.—The term "carrier" means a licensed insurance company, a hospital or medical service corporation (including an existing Blue Cross or Blue Shield organization, within the meaning of section 833(c)(2) of Internal Revenue Code of 1986 as in effect before the date of the enactment of this Act), a health maintenance organization, or other entity licensed or certified by the State to provide health insurance or health benefits. The Secretary may issue regulations that provide for affiliated carriers to be treated as a single carrier where appropriate under this Act.

(C) SELF-INSURED HEALTH PLAN.—The term 'self-insured health plan' means an employee welfare benefit plan, church plan, or other arrangement which—

(i) provides health benefits funded in a manner other than through the purchase of one or more insured health plans, but

(ii) does not include any coverage or insurance described in clauses (i) through (ix) of subparagraph (A).

(2) CERTIFIED STANDARD HEALTH PLAN.—

(A) IN GENERAL.—The term "certified standard health plan" means a standard health plan which is certified by the appropriate certifying authority as meeting the other applicable requirements of this title.

(B) STANDARD HEALTH PLAN.—The term "standard health plan" means a health plan which provides for the standard benefits package or the alternative standard benefits package established under subtitle C.

(3) CERTIFIED SUPPLEMENTAL HEALTH BENEFITS PLAN.—

(A) IN GENERAL.—The term "certified supplemental health benefits plan" means a supplemental health benefits plan which is certified by the appropriate certifying authority as meeting the applicable requirements of part 4 of subtitle B.

(B) SUPPLEMENTAL HEALTH BENEFITS PLAN.—The term "supplemental health benefits plan" means an insured or self-insured health plan which provides health benefits which consist of supplemental services or cost-sharing described in part 4 of subtitle B. Such term does not include a plan which provides for benefit payments, on a periodic basis, for a specified disease or illness or period of hospitalization without regard to the costs incurred or services rendered during the period to which the payments relate.

(4) CERTIFIED LONG-TERM CARE INSURANCE POLICY.—

(A) IN GENERAL.—The term "certified long-term care insurance policy" means a long-term care insurance policy which is certified by the applicable certifying authority as meeting the applicable requirements of part 2 of subtitle B of title II.

(B) LONG-TERM CARE INSURANCE POLICY.—The term "long-term care insurance policy" has the meaning given such term by section 2721.

(5) TERMS AND RULES RELATING TO COMMUNITY AND EXPERIENCE RATING.—

(A) COMMUNITY-RATED PLAN.—The term "community-rated plan" means a health plan provided to community-rated individuals which meets the requirements of section 1116.

(B) COMMUNITY-RATED EMPLOYER.—The term "community-rated employer" means, with respect to an employee, an employer that is not an experience-rated employer with respect to such employee.

(C) COMMUNITY-RATED INDIVIDUAL.—The term "community-rated individual" means an individual—

(i) who is not an experience-rated individual, or

(ii) who is an experience-rated individual (determined without regard to this subparagraph) who is not a full-time employee of an experience-rated employer and who does not enroll in a certified standard health plan offered by the employer.

(D) EXPERIENCE-RATED PLAN.—The term "experience-rated plan" means a health plan which—

(i) is a self-insured health plan of an experience-rated employer, or

(ii) is an insured health plan which is experience-rated,

but any such plan may cover only experience-rated individuals.

(E) EXPERIENCE-RATED EMPLOYER.—

(i) IN GENERAL.—The term "experience-rated employer" means, with respect to any calendar year—

(I) any employer if, on each of 20 days during the preceding calendar year (each day being in a different week), such employer (or any predecessor) employed more than 500 employees for some portion of the day; or

(II) a multiemployer plan or rural electric cooperative or rural telephone cooperative association plan that covers 500 or more individuals.

(ii) SPECIAL RULE FOR LEASING BUSINESSES.—In the case of an employer the primary trade or business of which is employee leasing—

(I) all of the employees which such employer leases to other employers shall be treated as community-rated individuals, and

(II) this Act shall be applied separately with respect to its other employees.

(iii) U.S. POSTAL SERVICE.—Such term includes the United States Postal Service for any period during which the Postal Service is not covered by the FEHBP.

(F) EXPERIENCE-RATED INDIVIDUAL.—The term "experience-rated individual" means an individual who is an employee of an experience-rated employer or a member of a plan described in subparagraph (E)(i)(II).

(6) FULL-TIME EMPLOYEE.—The term "full-time employee" means, with respect to any month, an employee who normally performs at least 24 hours of service per week for an employer in the month (not including the month which includes the hiring date of such employee).

(7) SPECIAL RULE FOR SPOUSES AND DEPENDENTS.—If any individual is offered coverage under a health plan as the spouse or a dependent of a primary enrollee of such plan, such individual shall have the status of such enrollee unless such individual is eligible to elect other coverage and so elects.

SEC. 1012. DEFINITIONS RELATING TO EMPLOYMENT AND INCOME.

Except as otherwise specifically provided, in this Act the following definitions and rules apply:

(1) EMPLOYER, EMPLOYEE, EMPLOYMENT, AND WAGES DEFINED.—Except as provided in this section—

(A) the terms "wages" and "employment" have the meanings given such terms under section 3121 of the Internal Revenue Code of 1986,

(B) the term "employee" has the meaning given such term under section 3121 of such Code, subject to the provisions of chapter 25 of such Code, and

(C) the term "employer" has the same meaning as the term "employer" as used in such section 3121.

(2) EXCEPTIONS.—For purposes of paragraph (1)—

(A) EMPLOYMENT.—

(i) EMPLOYMENT INCLUDED.—Paragraphs (1), (2), (5), (7) (other than clauses (i) through (iv) of subparagraph (C) and clauses (i) through (v) of subparagraph (F)), (8), (9), (10), (11), (13), (15), (18), and (19) of section 3121(b) of the Internal Revenue Code of 1986 shall not apply.

(ii) EXCLUSION OF INMATES AS EMPLOYEES.—Employment shall not include services performed in a penal institution by an inmate thereof or in a hospital or other health care institution by a patient thereof.

(iii) EXCLUSION OF PART-TIME DOMESTIC SERVICE.—Employment shall not include domestic service in a private home of the employer (within the meaning section 3121(a)(7)(B), determined without dollar limitation) by an individual who is not a full-time employee.

(iv) EXCLUSION OF SEASONAL OR TEMPORARY.—Employment shall not include seasonal or temporary services performed for an employer for less than 6 months in a calendar year.

(v) CONSIDERATION OF INDUSTRY PRACTICE.—As provided under regulation by the Secretary of Labor, an employee shall be considered to be employed on a full-time basis by an employer (and to be a full-time employee of an employer) for a month (or for all months in a 12-month period) if the employee is employed by that employer on a continuing basis that, taking into account the structure or nature of employment in the industry, represents full-time employment in that industry.

(B) WAGES.—Paragraph (1) of section 3121(a) of the Internal Revenue Code of 1986 shall not apply.

(C) EMPLOYEES.—

(i) TREATMENT OF SELF-EMPLOYED.—The term "employee" includes a self-employed individual.

(ii) EXCLUSION OF CERTAIN FOREIGN EMPLOYMENT.—The term "employee" does not include an individual with respect to service, if the individual is not a citizen or resident of the United States and the service is performed outside the United States.

(3) AGGREGATION RULES FOR EMPLOYERS.—For purposes of this Act—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer, and

(B) under regulations of the Secretary of Labor, all employees of organizations which are under common control with one or more organizations which are exempt from income tax under subtitle A of the Internal Revenue Code of 1986 shall be treated as employed by a single employer.

The regulations prescribed under subparagraph (B) shall be based on principles similar to the principles which apply to taxable organizations under subparagraph (A).

SEC. 1013. OTHER GENERAL DEFINITIONS.

Except as otherwise specifically provided, in this Act the following definitions apply:

(1) APPROPRIATE CERTIFYING AUTHORITY.—The term 'appropriate certifying authority' means—

(A) except as provided in subparagraph (B), in the case of a standard health plan, a supplemental health benefits plan, or a long-term care insurance plan, the State commissioner or superintendent of insurance or other State authority in the participating State; or

(B) in the case of a multistate self-insured health plan or a multistate self-insured supplemental health benefits plan, the Secretary of Labor.

(2) COMMUNITY RATING AREA.—The term "community rating area" means an area specified by a State under section 1502(a).

(3) EQUIVALENT HEALTH CARE PROGRAM.—The term "equivalent health care program" means—

(A) part A or part B of the medicare program under title XVIII of the Social Security Act,

(B) the medicaid program under title XIX of the Social Security Act,

(C) the health care program for active military personnel under title 10, United States Code,

(D) the veterans health care program under chapter 17 of title 38, United States Code,

(E) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code,

(F) the Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.), and

(G) a State single-payer system approved by the Secretary under subpart B of part 3 of subtitle F.

(4) ESSENTIAL COMMUNITY PROVIDER.—The term "essential community provider" means an entity certified as such a provider under subpart B of part 2 of subtitle E.

(5) HEALTH PLAN SPONSOR.—The term "health plan sponsor" means—

(A) with respect to a community-rated plan, the carrier providing the plan,

(B) with respect to an insured experience-rated plan, the carrier providing the plan, and

(C) with respect to a self-insured experience-rated plan, the experience-rated employer providing the plan.

(6) MEDICARE PROGRAM.—The term "medicare program" means the health insurance program under title XVIII of the Social Security Act.

(7) MEDICARE-ELIGIBLE INDIVIDUAL.—The term "medicare-eligible individual" means

VOL 140 PT 16 AG 12 — 18 1994 UMI

an individual who is entitled to benefits under part A of the medicare program.

(8) MULTIEMPLOYER PLAN.—The term "multiemployer plan" has the meaning given such term in section 3(37) of the Employee Retirement Income Security Act of 1974, and includes any plan that is treated as such a plan under title I of such Act.

(9) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(10) PARTICIPATING PROVIDER.—The term "participating provider" means, with respect to a health plan, a provider of health care services who is a member of a provider network of the plan.

(11) PARTICIPATING STATE.—The term "participating State" means a State establishing a State program under this title.

(12) PURCHASING COOPERATIVE.—The term "purchasing cooperative" means a health insurance cooperative established under part 2 of subtitle D.

(13) RESIDENCE.—

(A) IN GENERAL.—An individual is considered to reside in the location in which the individual maintains a primary residence (as established under rules of the Secretary).

(B) MULTIPLE RESIDENCES.—Under such rules and subject to section 1112, in the case of an individual who maintains more than one residence, the primary residence of the individual shall be determined taking into account the proportion of time spent at each residence.

(C) COUPLE.—In the case of a couple only one spouse of which is a qualifying employee, except as the Secretary may provide, the residence of the employee shall be the residence of the couple.

(14) RURAL ELECTRIC COOPERATIVE.—The term "rural electric cooperative" has the meaning given such term in section 3(40)(A)(iv) of the Employee Retirement Income Security Act of 1974.

(15) RURAL TELEPHONE COOPERATIVE ASSOCIATIONS.—The term "rural telephone cooperative association" has the meaning given such term in section 3(40)(A)(v) of the Employee Retirement Income Security Act of 1974.

(16) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(17) STATE.—The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(18) UNITED STATES.—The term "United States" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and Northern Mariana Islands.

Subtitle B—Health Plan Standards

PART 1—ESTABLISHMENT AND APPLICATION OF STANDARDS

SEC. 1101. ESTABLISHMENT OF NATIONAL STANDARDS.

In order for a standard health plan to be eligible to be certified as a standard health plan by an appropriate certifying authority, the standard health plan shall, beginning on January 1, 1997, meet the requirements of this Act, including the following uniform national standards established in this subtitle and described in regulations promulgated by the Secretary:

(1) The insurance market reform standards of part 2.

(2) The delivery system reform standards of part 3.

(3) Standards for participation in a guaranty fund established by the State under section 1505 established by the Secretary of Labor in the case of multistate self-insured standard health plans), except in the case of a health plan described in section 1011(1)(C).

(4) Standards for the collection and reporting of data in accordance with subtitle B of title V.

(5) Standards for effective grievance procedures that enrollees may utilize in pursuing complaints in accordance with subtitle C of title V.

SEC. 1102. GENERAL RULES.

(a) CONSTRUCTION.—Whenever in this subtitle a requirement or standard is imposed on a standard health plan, the requirement or standard is deemed to have been imposed on the insurer or sponsor of the plan or policy in relation to that plan or policy.

(b) USE OF INTERIM, FINAL REGULATIONS.—In order to permit the timely implementation of the provisions of this subtitle, the Secretary and the Secretary of Labor are each authorized to issue regulations under this subtitle on an interim basis that become final on the date of publication, subject to change based on subsequent public comment.

PART 2—INSURANCE MARKET REFORM

SEC. 1111. GUARANTEED ISSUE, AVAILABILITY, AND RENEWABILITY.

(a) GUARANTEED ISSUE.—Except as otherwise provided in this section, a standard health plan sponsor—

(1) offering a community-rated standard health plan shall offer such plan to any community-rated individual applying for coverage (either directly with the plan or through an employer or a purchasing cooperative); and

(2) offering an experience-rated standard health plan shall offer such plan to any experience-rated individual eligible for coverage under the plan through such individual's experience-rated employer.

No plan may engage in any practice that has the effect of attracting or limiting enrollees on the basis of personal characteristics, such as occupation or affiliation with any person or entity, or other characteristics described in section 1602.

(b) AVAILABILITY.—

(1) IN GENERAL.—A community-rated standard health plan shall be made available to community-rated individuals throughout the entire community rating area in which such plan is offered, including through any employer purchasing cooperative choosing to offer such plan.

(2) GEOGRAPHIC LIMITATIONS.—

(A) NONNETWORK PLANS.—A community-rated nonnetwork plan (as defined in section 1128(d)(6)(D)) may deny coverage under the plan to a community-rated individual who resides outside the community rating area in which such plan is offered.

(B) NETWORK PLANS.—A community-rated network plan (as defined in section 1128(d)(6)(A)) may deny coverage under the plan to a community-rated individual who resides outside the health plan service area in which such plan is offered.

(C) RULES REGARDING DENIALS.—No denial may be made under subparagraph (A) or (B) unless such denial is applied uniformly, without regard to health status, insurability of individuals, or other characteristics described in section 1602.

(3) CAPACITY LIMITATIONS.—

(A) IN GENERAL.—With the approval of the appropriate regulatory authority, a standard health plan may limit enrollment because of the plan's capacity to deliver services or to maintain financial stability. If such a limitation is imposed, the limitation may not be imposed on a basis of personal characteristics, such as occupation or affiliation with any person or entity, or other characteristics described in section 1602.

(B) RESTRICTIONS.—If such a limitation is imposed—

(i) the plan may only enroll individuals under the plan consistent with rules established by the State consistent with subparagraph (C); and

(ii) the plan may not discriminate based on the method through which a family seeks enrollment under the plan.

(C) STATE OVERSIGHT.—Each State shall, in accordance with rules promulgated by the Secretary, establish procedures and methods to assure equal opportunity of enrollment for all families, regardless of when during the open enrollment period, or the method by which, the enrollment has been sought.

(c) RENEWABILITY; LIMITATION ON TERMINATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a standard health plan that is issued to an individual shall be renewed, at the option of the individual.

(2) GROUNDS FOR REFUSAL TO RENEW OR TERMINATE.—A standard health plan sponsor may refuse to renew, or may terminate, a standard health plan under this title only for—

(A) in the case of plan in a participating State and any community rating area in such State with respect to which the requirements of title X have not become effective, nonpayment of premiums;

(B) fraud on the part of the individual relating to such plan; or

(C) misrepresentation of material facts on the part of the individual relating to an application for coverage or claim for benefits.

(3) TERMINATION OF PLANS.—A standard health plan may elect not to renew or make available the standard health plan through a particular type of delivery system in a community rating area, but only if the standard health plan—

(A) elects not to renew all of its standard health plans using such delivery system in such community rating area; and

(B) provides notice to the appropriate certifying authority and each individual covered under the plan of such termination at least 180 days before the date of expiration of the plan.

In such case, a standard health plan sponsor may not provide for the issuance of any standard health plan using such a delivery system in such community rating area during a 5-year period beginning on the date of the termination of the last plan not so renewed. For purposes of this paragraph, the term "delivery system" means a delivery system used by a network plan (as defined in section 1128(d)(6)(A)) or a nonnetwork plan (as defined in section 1128(d)(6)(D)).

(d) CERTAIN EXCLUDED PLANS.—The provisions of this section, other than subsections (c) and (e)(2)(B), shall not apply to any religious fraternal benefit society in existence as of September 1993, which bears the risk of providing insurance to its members, and which is an organization described in section 501(c)(8) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code.

(e) APPLICATION OF INTERIM STANDARDS.—

(1) IN GENERAL.—During the interim standards application period, a health plan sponsor may only offer a health plan in a State if such plan sponsor publicly discloses the health plans such sponsor offers in the State and each offered plan meets the standards specified in paragraph (2).

(2) SPECIFIED STANDARDS.—

(A) ISSUE AND AVAILABILITY.—The standards specified in subsections (a) and (b) if the individual or group applies for coverage during the open enrollment period required under section 1112(h).

(B) RENEWAL.—The standards specified in subsection (c), except paragraph (3) shall be applied by substituting "State" for "community rating area".

(3) INTERIM STANDARDS APPLICATION PERIODS.—The interim standards application period is—

(A) in the case of the standard specified in paragraph (2)(A), on or after January 1, 1995, and before January 1, 1997; and

(B) in the case of the standard specified in paragraph (2)(B), on or after August 1, 1994, and before January 1, 1997.

(4) PREEMPTION.—The requirements of this subsection do not preempt any State law unless State law directly conflicts with such requirements. The provision of additional protections under State law shall not be considered to directly conflict with such requirements. The Secretary may issue letter determinations with respect to whether this subsection preempts a provision of State law.

(5) CONSTRUCTION.—The provisions of this subsection shall be construed in a manner that assures, to the greatest extent practicable, continuity of health benefits under health plans in effect on the effective date of this title.

(6) SPECIAL RULES FOR ACQUISITIONS AND TRANSFERS.—The Secretary may issue regulations regarding the application of this subsection in the case of health plans (or groups of such plans) which are transferred from one health plan sponsor to another sponsor through assumption, acquisition, or otherwise.

SEC. 1112. ENROLLMENT.

(a) IN GENERAL.—Each standard health plan shall establish an enrollment process consistent with this section.

(b) ANNUAL OPEN ENROLLMENT PERIOD.—Each standard health plan shall permit eligible individuals to enroll (or change enrollment) in the plan during each annual open enrollment period for each community rating area specified by the appropriate certifying authority under section 1503.

(c) ADDITIONAL PERIODS OF AUTHORIZED CHANGES IN ENROLLMENT.—

(1) IN GENERAL.—Each standard health plan shall provide for changes in enrollment with respect to such other periods and occurrences (including changes in residence, appropriate changes in employment, and the insolvency of carriers or experience-rated employers) for which an individual is authorized to change enrollment in standard health plans, as the Secretary shall specify.

(2) DISENROLLMENT FOR CAUSE.—

(A) IN GENERAL.—The Secretary shall establish procedures by which individuals enrolled in a standard health plan may disenroll from such plan for good cause (as defined by Secretary) at any time during a year and enroll in another standard health plan. Such procedures shall be implemented by participating States in a manner that ensures continuity of coverage for the standard benefits package or the alternative standard benefits package for such individuals during the year.

(B) ADDITIONAL REMEDIES.—In the case of an individual who changes enrollment from a plan for good cause due to a pattern of underservice under a plan, the Secretary may provide rules under which the carrier providing the standard health plan is liable, to the subsequent standard health plan in which the individual is enrolled, for excess costs (as identified in accordance with such rules) during the period for which it may be reasonably anticipated that the individual would (but for such cause) have continued enrollment with the original standard health plan.

(d) EFFECTIVENESS OF CHANGE OF ENROLLMENT.—Except as the Secretary may provide, changes in enrollment during an annual open enrollment period under subsection (a) shall take effect as determined by the appropriate certifying authority. The Secretary shall also provide when a change of enrollment under subsection (c) becomes effective.

(e) DIRECT ENROLLMENT.—

(1) IN GENERAL.—Subject to paragraph (2), each community-rated standard health plan shall provide for the direct enrollment of community-rated individuals in the plan under methods and procedures established by the Secretary.

(2) ENROLLMENT PROCESSES.—The Secretary shall provide standards for States to ensure the broad availability and processing of enrollment forms, including direct enrollment through the mail, and other such processes as the Secretary may designate.

(f) MARKETING FEES.—

(1) PLANS OFFERED OUTSIDE PURCHASING COOPERATIVES.—A community-rated standard health plan may impose a marketing fee surcharge for community-rated individuals enrolling in the plan through an agent, broker, or other authorized sales method, or through a direct enrollment process. Such surcharge shall be in addition to the weighted average of marketing fees of such plan for community-rated individuals enrolled in such a plan through any purchasing cooperative in the community rating area. Such surcharges shall be applied uniformly for individuals using the same enrollment mechanism.

(2) PLANS OFFERED THROUGH PURCHASING COOPERATIVES.—For the imposition of marketing fees in the case of enrollment in standard health plans through purchasing cooperatives, see section 1324(b).

(g) CHANGE OF ENROLLMENT.—As used in this section, the term "change of enrollment" includes, with respect to an individual—

(1) a change in the standard health plan in which the individual is enrolled,

(2) a change in the type of family enrollment, and

(3) the enrollment of the individual at the time the individual's status changes to a community-rated individual, experience-rated individual, or a premium subsidy-eligible individual under section 6002.

(h) APPLICATION OF INTERIM STANDARD.—

(1) IN GENERAL.—During the interim standard application period, a health plan sponsor may only offer a health plan in a State if such plan sponsor publicly discloses the health plans such sponsor offers in the State and each offered plan provides for an annual open enrollment period of at least 30 days.

(2) INTERIM STANDARD APPLICATION PERIODS.—The interim standard application period is on or after January 1, 1995, and before January 1, 1997.

(3) APPLICATION OF RULES.—Paragraphs (4), (5), and (6) of section 1111(d) shall apply to this subsection.

SEC. 1113. COVERAGE OF DEPENDENTS.

(a) IN GENERAL.—Except as otherwise provided in this Act, a standard health plan shall enroll all members of the same family (as defined in subsection (b)).

(b) FAMILY DEFINED.—In this Act, unless otherwise provided, the term "family"—

(1) means, with respect to an individual who is not a child (as defined in subsection (c)), the individual; and

(2) includes the following persons (if any):

(A) The individual's spouse.

(B) The individual's children (and, if applicable, the children of the individual's spouse).

(c) CLASSES OF ENROLLMENT; TERMINOLOGY.—

(1) IN GENERAL.—In this Act, each of the following is a separate class of enrollment:

(A) Coverage only of an individual (referred to in this Act as the "individual" enrollment or class of enrollment).

(B) Coverage only of a child (referred to in this Act as the 'single child' enrollment or class of enrollment).

(C) Coverage only of 2 or more children (referred to in this Act as the 'multiple children' enrollment or class of enrollment).

(D) Coverage of a married couple without children (referred to in this Act as the "couple-only" enrollment or class of enrollment).

(E) Coverage of an individual and one or more children (referred to in this Act as the "single parent" enrollment or class of enrollment).

(F) Coverage of a married couple and one or more children (referred to in this Act as the "dual parent" enrollment or class of enrollment).

(2) REFERENCES TO FAMILY AND COUPLE CLASSES OF ENROLLMENT.—In this Act:

(A) FAMILY.—The terms "family enrollment" and "family class of enrollment", refer to enrollment in a class of enrollment described in any subparagraph of paragraph (1) (other than subparagraph (A)).

(B) COUPLE.—The term "couple class of enrollment" refers to enrollment in a class of enrollment described in subparagraph (D) or (F) of paragraph (1).

(d) SPOUSE; MARRIED; COUPLE.—

(1) IN GENERAL.—In this Act, the terms "spouse" and "married" mean, with respect to a person, another individual who is the spouse of the person or married to the person, as determined under applicable State law.

(2) COUPLE.—The term "couple" means an individual and the individual's spouse.

(e) CHILD DEFINED.—

(1) IN GENERAL.—In this Act, except as otherwise provided, the term "child" means an individual who is a child (as determined under paragraph (3)) who—

(A) is under 25 years of age or is disabled,

(B) is unmarried, and

(C) is a dependent of another individual (within the meaning of section 152(a) of the Internal Revenue Code of 1986.

The Secretary may adjust the age limitation in subparagraph (A) with respect to part-time or full-time students.

(2) APPLICATION OF STATE LAW.—Subject to paragraph (3), determinations of whether a person is the child of another person shall be made in accordance with applicable State law.

(3) NATIONAL RULES.—The Secretary may establish such national rules respecting individuals who will be treated as children under this Act as the Secretary determines to be necessary. Such rules shall be consistent with the following principles:

(A) STEP CHILD.—A child includes a step child who is an individual living with an adult in a parent-child relationship.

(B) DISABLED CHILD.—A child includes an unmarried dependent individual regardless of age who is incapable of self-support because of mental or physical disability which existed before age 25.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(C) CERTAIN INTERGENERATIONAL FAMILIES.—A child includes the grandchild of an individual if—

(i) the parent of the grandchild is a child and the parent and grandchild are living with the grandparent; or

(ii) the grandparent has legal custody of the grandchild.

(D) TREATMENT OF EMANCIPATED MINORS.—An emancipated minor shall not be treated as a child.

(E) CHILDREN PLACED FOR ADOPTION.—

(i) IN GENERAL.—A child includes a child who is placed for adoption with an individual, except when the child is a child in State-supervised care.

(ii) PLACED FOR ADOPTION.—The term "placed for adoption" in connection with any placement for adoption of a child with any individual, means the assumption and retention by such individual of a legal obligation for total or partial support of such child in anticipation of the adoption of such child.

(f) ADDITIONAL RULES.—

(1) IN GENERAL.—The Secretary shall provide for such additional exceptions and special rules, including rules relating to—

(A) families in which members are not residing in the same area or in which children are not residing with their parents,

(B) changes in family composition occurring during a year,

(C) treatment of children in State-supervised care, and

(D) treatment of children of parents who are separated or divorced,

as the Secretary finds appropriate.

(2) CHILDREN IN STATE-SUPERVISED CARE.—

(A) IN GENERAL.—In the case of a child in State-supervised care (as described in subparagraph (B)), the child shall be considered as a family of one and enrolled by the State agency who has been awarded temporary or permanent custody of the child (or which has legal responsibility for the child) in a high cost-sharing plan unless the State agency has established a special health service delivery system designated to customize and more efficiently provide health services to children in State-supervised care, in which case the State agency will enroll the child in the plan appropriate to ensure access to such a special health service delivery system.

(B) CHILDREN IN STATE-SUPERVISED CARE.—For purposes of subparagraph (A), the term "child in State-supervised care" means any child who is residing away from the child's parents and is temporarily or permanently, on a voluntary or involuntary basis, under the responsibility of a public child welfare or juvenile services agency or court. Such term includes any child who is not yet made a ward of the court or adjudicated as a delinquent residing in emergency shelter care, any child in the physical custody of public or private agencies, and any child who is with foster parents, or other group or residential care providers. Such term also includes any child who is legally adopted and for whom the Federal or State government is providing adoption assistance payments.

(g) APPLICATION OF INTERIM STANDARDS.—

(1) IN GENERAL.—During the interim standards application period, a health plan sponsor may only offer a health plan in a State if such plan meets the standards specified in this section.

(2) INTERIM STANDARDS APPLICATION PERIODS.—The interim standards application period is on or after January 1, 1995, and before January 1, 1997.

(3) APPLICATION OF RULES.—Paragraphs (4), (5), and (6) of section 1111(d) shall apply to this subsection.

SEC. 1114. NONDISCRIMINATION BASED ON HEALTH STATUS.

(a) NO LIMITS ON COVERAGE; NO PRE-EXISTING CONDITION LIMITS.—Except as provided in subsections (b) and (c), a standard health plan may not—

(1) terminate, restrict, or limit coverage or establish premiums based on the health status, medical condition, claims experience, receipt of health care, medical history, anticipated need for health care services, disability, genetic predisposition to medical conditions, or lack of evidence of insurability of an individual;

(2) terminate, restrict, or limit coverage in any portion of the plan's community rating area, except as provided in section 1111(b)(2);

(3) except as provided in section 1111(c)(2), cancel coverage for any community-rated individual until that individual is enrolled in another applicable standard health plan;

(4) impose waiting periods before coverage begins; or

(5) impose a rider that serves to exclude coverage of particular individuals or particular health conditions.

(b) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS.—

(1) IN GENERAL.—Subject to paragraph (4), before January 1, 2002, a standard health plan may impose a limitation or exclusion of benefits relating to treatment of a condition based on the fact that the condition preexisted the effective date of the plan with respect to an individual if—

(A) the condition was diagnosed or treated during the 3-month period ending on the day before the date of enrollment under the plan;

(B) the limitation or exclusion extends for a period not more than 6 months after the date of enrollment under the plan;

(C) the limitation or exclusion does not apply to an individual who, as of the date of birth, was covered under the plan; or

(D) the limitation or exclusion does not relate to pregnancy.

(2) CONTINUOUS COVERAGE.—A standard health plan shall provide that if an individual under such plan is in a period of continuous coverage with respect to particular services as of the date of enrollment under such plan, any period of exclusion of coverage with respect to a preexisting condition as permitted under paragraph (1) shall be prohibited.

(3) DEFINITIONS.—As used in this subsection:

(A) PERIOD OF CONTINUOUS COVERAGE.—The term "period of continuous coverage" means the period beginning on the date an individual is enrolled under a health plan or health care program which provides benefits equivalent to those provided by the plan in which the individual is seeking to enroll with respect to coverage of a preexisting condition and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

(B) PREEXISTING CONDITION.—The term "preexisting condition" means, with respect to coverage under a standard health plan, a condition which was diagnosed, or which was treated, within the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

(4) NO EXCLUSION DURING AMNESTY PERIOD OR WITH RESPECT TO A SUBSIDY-ELIGIBLE INDIVIDUAL.—This subsection shall not apply—

(A) during the first annual open enrollment period specified by the appropriate certifying authority under section 1503, and

(B) with respect to the enrollment of an individual eligible for a full premium subsidy under subtitle A of title VI.

(c) SPECIAL PREEXISTING RULE FOR CERTAIN PLANS.—In the case of a health plan described in section 1011(1)(C)(i), subsection (b) shall be applied by substituting—

(1) "Beginning in January 1, 1995," for "Subject to paragraph (4), before January 1, 2002," in paragraph (1);

(2) "5-year" for "3-month" in paragraphs (1)(A) and (3)(B); and

(3) "5 years" for "6 months" in paragraph (1)(B).

(d) APPLICATION OF INTERIM STANDARDS.—

(1) IN GENERAL.—During the interim standard application period, a health plan sponsor may only offer a health plan (other than a plan described in subsection (c)) in a State if such plan meets the standards specified in paragraph (2).

(2) SPECIFIED STANDARDS.—

(A) EXCLUSION.—The standards specified in subsection (b) by substituting "6-month" for "3-month" in paragraphs (1)(A) and (3)(B).

(B) COVERAGE.—A self-insured health plan may not reduce or limit coverage of any condition or course of treatment that is expected to cost more than $2,500 during any 12-month period.

(3) INTERIM STANDARDS APPLICATION PERIOD.—The interim standards application period is—

(A) in the case of the standard specified in paragraph (2)(A), on or after January 1, 1995, and before January 1, 1997.

(B) in the case of the standard specified in paragraph (2)(B), on or after August 1, 1994, and before January 1, 1997.

(4) APPLICATION OF RULES.—Paragraphs (4), (5), and (6) of section 1111(e) shall apply to this subsection.

SEC. 1115. BENEFITS.

(a) IN GENERAL.—A standard health plan (other than a health plan described in section 1011(1)(C)) shall offer to all enrollees in the plan the standard benefits package or the alternative standard benefits package established under subtitle C.

(b) ALTERNATIVE STANDARD BENEFITS PACKAGE.—

(1) IN GENERAL.—A carrier may only offer a standard health plan with an alternative standard benefits package in a community rating area if such carrier also offers a standard health plan with a standard benefits package in such area.

(2) INCLUSION IN RISK ADJUSTMENT AND REINSURANCE PROGRAMS.—Any standard health plan with an alternative standard benefits packages shall be included in any reinsurance or risk adjustment program under section 1117 operating in the community rating area in which such plan is offered.

(3) OFFER PROHIBITED IF MANDATES REQUIRED.—A carrier may not offer an alternative benefits package in a participating State and any community rating area in such State with respect to which the requirements of title X have become effective.

SEC. 1116. COMMUNITY RATING REQUIREMENTS.

(a) APPLICABILITY.—Except as provided in subsection (e), the provisions of this section shall apply to community-rated standard health plans.

(b) STANDARD PREMIUMS WITH RESPECT TO COMMUNITY-RATED INDIVIDUALS.—Subject to subsection (d), each community-rated standard health plan shall establish within each community rating area in which the plan is to be offered a standard premium for individual enrollment for the standard benefits package and the alternative standard benefits package established under subtitle C.

(c) UNIFORM PREMIUMS WITHIN COMMUNITY RATING AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), the standard premium described in subsection (b) shall be the same for all community-rated individuals within a community rating area.

(2) APPLICATION TO ENROLLEES.—

(A) IN GENERAL.—The premium charged for coverage in a standard health plan shall be the product of—

(i) the standard premium established under paragraph (1);

(ii) in the case of enrollment other than individual enrollment, the family adjustment factor specified under subparagraph (B); and

(iii) the age adjustment factor specified under subparagraph (C).

(B) FAMILY ADJUSTMENT FACTOR.—The Secretary, in consultation with the NAIC, shall develop a family adjustment factor that reflects the relative actuarial costs of benefit packages based on the applicable family enrollment (as compared with such costs for individual enrollment).

(C) AGE ADJUSTMENT FACTOR.—The Secretary, in consultation with the NAIC, shall specify, within 6 months of the date of the enactment of this Act, uniform age categories and rating increments for age adjustment factors that reflect the relative actuarial costs of benefit packages among enrollees. The highest age adjustment factor may not exceed twice the lowest age adjustment factor for individuals 18 to 65 years of age. The Secretary shall also provide for the gradual phaseout of age adjustment factors during the period beginning after December 31, 2004, and ending before January 1, 2010.

(d) LOWER PREMIUM THROUGH PURCHASING COOPERATIVES.—Notwithstanding any other provision of this section, no premium may be charged to a community-rated individual by a community-rated standard health plan in a community rating area which is not the lowest premium negotiated for such plan offered through any purchasing cooperative in such area.

(e) EXPERIENCE RATING.—

(1) APPLICABILITY.—The provisions of this subsection shall apply to experience-rated standard health plans.

(2) RATING.—For purposes of applying this section to experience-rated employers, the employees of the employer involved shall constitute the community with respect to the determination of the premium.

(3) PREMIUMS.—An experience-rated standard health plan may not vary the premium imposed with respect to experience-rated individuals enrolled in the plan, except as may be allowed under this section with respect to geographic and family coverage factors (as determined by the Secretary of Labor) under the plan.

SEC. 1117. RISK ADJUSTMENT AND REINSURANCE.

(a) IN GENERAL.—Except as provided in subsection (b), each standard health plan (other than a health plan described in section 1011(1)(C)) shall participate in a standard health plan risk adjustment program and a reinsurance program implemented by the State in accordance with section 1504.

(b) MULTISTATE PLANS.—Each multistate self-insured standard health plan shall participate in a reinsurance program developed by the Secretary of Labor under section 1482.

SEC. 1118. FINANCIAL SOLVENCY REQUIREMENTS AND CONSUMER PROTECTION AGAINST PROVIDER CLAIMS.

(a) SOLVENCY PROTECTION.—Each standard health plan shall meet financial solvency requirements to assure protection of enrollees with respect to potential insolvency. Each standard health plan shall meet requirements relating to capital and solvency established by the Secretary under section 1401(h).

(b) PROTECTION AGAINST PROVIDER CLAIMS.—In the case of a failure of a standard health plan to make payments with respect to the standard benefits covered under the plan for any reason, an individual who is enrolled under the plan is not liable to any health care provider with respect to the provision of health services within such set of benefits for payments in excess of the amount for which the enrollee would have been liable if the plan were to have made payments in a timely manner.

PART 3—DELIVERY SYSTEM REFORM

SEC. 1121. PROHIBITION OF DISCRIMINATION.

(a) IN GENERAL.—Each standard health plan shall comply with the antidiscrimination requirements of section 1602.

(b) ADDITIONAL ANTIDISCRIMINATION REQUIREMENTS.—

(1) IN GENERAL.—No State, standard health plan, or standard health plan sponsor may discriminate in participation, reimbursement, or indemnification against a health care provider who is acting within the scope of the provider's license or certification under applicable State or Federal law solely on the basis of such license or certification of such provider.

(2) NUMBER AND TYPE.—Nothing in this Act shall—

(A) prevent a standard health plan from matching the number and type of health care providers to the needs of the plan members; or

(B) except as specifically provided in this Act, establish any other measure designed to maintain quality or to control costs.

SEC. 1122. QUALITY ASSURANCE STANDARDS.

(a) IN GENERAL.—Each standard health plan shall comply with the plan performance standards in accordance with subtitle A of title V. Each standard health plan shall establish procedures, including ongoing quality improvement procedures, to ensure that the health care services provided to enrollees under the plan will be provided under reasonable standards of quality of care consistent with prevailing professionally recognized standards of medical practice and the quality standards established under subtitle A of title V.

(b) INTERNAL QUALITY ASSURANCE PROGRAM.—Each standard health plan shall establish, and communicate to its enrollees and its providers, an ongoing internal program, including periodic reporting, to monitor and evaluate the quality and cost effectiveness of its health care services, pursuant to standards established by the National Quality Council.

SEC. 1123. CONSUMER GRIEVANCE PROCESS.

Each standard health plan shall demonstrate to the appropriate certifying authority the capability to administer the plan in a manner which ensures due process for all enrollees under rules established by the Secretary under subtitle F of title V.

SEC. 1124. HEALTH SECURITY CARDS.

Each standard health plan shall issue a health security card to each individual enrolled in such plan in accordance with subtitle B of title V and regulations promulgated by the Secretary.

SEC. 1125. INFORMATION AND MARKETING STANDARDS.

(a) IN GENERAL.—Each standard health plan shall provide information to the participating State and each purchasing cooperative through which such plan is offered which is required to be provided under sections 1401(d) and 5009, other applicable information requirements of this Act, and rules promulgated by the Secretary.

(b) MARKETING METHODS; ADVERTISING MATERIALS.—A standard health plan may utilize direct marketing, agency, or other arrangements to distribute health plan information, subject to applicable fair marketing practices laws and standards established by the State or by the Secretary, including standards to prevent selective marketing. All advertising, promotional materials, and other communications with health plan members and the general public must be factually accurate and responsive to the needs of served populations. A standard health plan may not distribute marketing materials to an area smaller than the entire community rating area of the plan.

(c) PAYMENT OF AGENT COMMISSIONS.—A standard health plan—

(1) may pay a commission or other remuneration to an agent or broker in marketing the plan to individuals or groups, but

(2) may not vary such remuneration based, directly or indirectly, on the anticipated or actual claims experience associated with the group or individuals to which the plan was sold.

(d) MATERIALS IN APPROPRIATE LANGUAGES.—In the case of a community rating area that includes a significant number or proportion of residents with limited English proficiency, each standard health plan in such area shall provide materials under this Act in the native languages of such residents, as appropriate.

SEC. 1126. INFORMATION REGARDING A PATIENT'S RIGHT TO SELF-DETERMINATION IN HEALTH CARE SERVICES.

(a) IN GENERAL.—Each standard health plan shall—

(1) provide written information to each individual enrolling in such plan of—

(A) such individual's right under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning medical care, including the right to accept or refuse medical treatment and the right to formulate advance directives (as defined in section 1866(f)(3) of the Social Security Act (42 U.S.C. 1395cc(f)(3))), and

(B) the written policies of the plan with respect to such right; and

(2) require participating primary care physicians to include in their patients' charts the wishes of the patient concerning advance directives and organ donation.

(b) PROMOTION OF SHARED DECISION MAKING.—Each standard health plan shall promote shared decision making by assuring that patients are appropriately informed about health care treatment options.

SEC. 1127. CONTRACTS WITH PURCHASING COOPERATIVES.

(a) CONTRACTS WITH COOPERATIVES.—A community-rated standard health plan provided by a carrier shall enter into contracts with each purchasing cooperative seeking such a contract in the community rating area served by the plan.

(b) PRICING.—No community-rated standard health plan shall offer a rate to a purchasing cooperative in the community rating area served by the plan that is more than the premium rate determined under section 1116. Such a plan may charge a marketing fee as specified under section 1324(b)(1).

SEC. 1128. HEALTH PLAN ARRANGEMENTS WITH PROVIDERS.

(a) PROVIDERS OUTSIDE AREA.—A State may not limit the ability of any plan to contract with a health care provider located

VOL 140 PT 16 AG 12 — 18 1994 UMI

outside of the geographic boundaries of a community rating area or the State.

(b) TREATMENT OF COST-SHARING.—Each standard health plan which provides the standard benefits package established under subtitle C shall include in its payments to health care providers such additional reimbursements as may be necessary to reflect cost-sharing reductions to which individuals are entitled under subtitle A of title VI.

(c) PROVIDER VERIFICATION.—Each standard health plan shall ensure that all health care providers reimbursed by the plan are authorized under State law to provide applicable services. Each standard health plan shall—

(1) verify the credentials of practitioners and facilities;

(2) ensure that all health care providers meet applicable State licensing and certification standards;

(3) ensure that each health care provider participating in the plan annually discloses information regarding operations, ownership, finances, and workforce necessary to evaluate the provider's compliance with this Act;

(4) oversee the quality and performance of participating providers, consistent with section 1122; and

(5) investigate and resolve consumer complaints against participating providers.

(d) REQUIREMENTS FOR NETWORK PLANS.—

(1) ARRANGEMENTS WITH HEALTH CARE PROVIDERS.—

(A) IN GENERAL.—Each network plan through its provider network shall demonstrate that it appropriately recognizes and serves the diverse health care needs of the population in the health plan service area (established under section 1502(d)) served by the plan.

(B) AVAILABILITY.—Each network plan through its provider network shall include a sufficient number, mix, and distribution of participating health care providers within the network to ensure that all network items and services are available and accessible to all enrollees throughout the health plan service area of the plan—

(i) with reasonable promptness;

(ii) within reasonable proximity to the residence of the enrollees;

(iii) during reasonable hours of operation, including after-hours services; and

(iv) in the case of emergency and urgent care services, when medically necessary, 24-hours a day, 7-days a week,

in a manner which does not conflict with the plan's responsibilities to establish measures designed to maintain quality and to control costs.

(2) INFORMATION TO ENROLLEES AND PROSPECTIVE ENROLLEES.—Each network plan shall provide enrollees and prospective enrollees with information identifying—

(A) the number, mix, and distribution of participating health care providers; and

(B) any such health care provider refusing to provide a network item or service pursuant to section 1601.

(3) GATEKEEPER.—With respect to each network plan that utilizes a gatekeeper or similar process to approve network items and services, such plan shall ensure that such gatekeeper or process does not create an undue burden for enrollees with complex or chronic health conditions and shall ensure access to relevant specialists for the continued care of such enrollees when medically indicated. In cases of a patient with a severe, complex, or chronic health condition, such plan shall determine, in conjunction with the enrollee and the enrollee's primary care provider, whether it is medically necessary or appropriate to use a specialist or a care coordinator from an interdisciplinary team as the gatekeeper or in the health care approval process.

(4) CONTINUED CARE.—Each network plan shall develop and implement mechanisms for coordinating the delivery of care among different providers so as to enhance continuity of care for the patient.

(5) ELIGIBLE CENTERS OF SPECIALIZED TREATMENT EXPERTISE.—

(A) IN GENERAL.—Each network plan shall demonstrate that adults, children, and individuals with disabilities have access to specialized treatment expertise when medically indicated by meeting evaluation criteria established by the Secretary. In establishing such criteria, the Secretary may consider a process by which a network plan could be deemed to meet such evaluation criteria if such plan demonstrates referrals to designated centers of specialized care when medically necessary or appropriate, informs enrollees of the availability of referral care, and ensures compliance with section 1123.

(B) ELIGIBLE CENTERS.—The Secretary shall establish criteria for designating centers of specialized care and shall designate eligible centers based on such criteria. The criteria shall include requirements for staff credentials and experience, and requirements for measured outcomes in the diagnosis and treatment of patients. The Secretary shall develop additional criteria for outcomes of specialized treatment as research findings become available. To be designated as a center of specialized care, a center shall—

(i) attract patients from outside the center's local geographic region, from across the State or the United States; and

(ii) either sponsor, participate in, or have medical staff who participate in peer-reviewed research.

(C) LIMITATION.—A State may not establish rules or policies that require or encourage network plans to give preference to centers of specialized treatment expertise within the State or within the community rating area. A network plan shall not prohibit an academic health center, teaching hospital, or other center for specialized care with which the plan contracts from contracting with one or more other plans.

(D) SPECIALIZED TREATMENT EXPERTISE.—For purposes of this paragraph, the term "specialized treatment expertise", with respect to the treatment of a health condition by an eligible center, means expertise in diagnosing and treating unusual diseases or conditions, diagnosing and treating diseases or conditions which are unusually difficult to diagnose or treat, and providing other specialized health care.

(6) DEFINITIONS RELATING TO NETWORK PLANS.—For purposes of this Act—

(A) NETWORK PLAN DEFINED.—The term "network plan" means a standard health plan that utilizes a provider network.

(B) PROVIDER NETWORK DEFINED.—The term "provider network" means, with respect to a standard health plan, health care providers that have entered into an agreement with the plan under which such providers are obligated to provide network items and services to individuals enrolled in the plan, or have an agreement to provide network items and services on a fee-for-service basis.

(C) NETWORK ITEMS AND SERVICES.—The term "network items and services" means items or services provided to an individual enrolled under a standard health plan with a standard benefits package established under subtitle C by a health care provider who is a member of a provider network of the plan.

(D) NONNETWORK PLAN DEFINED.—The term "nonnetwork plan" means a standard health plan that does not utilize a provider network.

(E) NONNETWORK ITEMS AND SERVICES.—The term "nonnetwork items and services" means items or services provided to an individual enrolled under a standard health plan by a health care provider who is not a member of a provider network of the plan.

(e) EMERGENCY AND URGENT CARE SERVICES.—

(1) IN GENERAL.—Each standard health plan shall cover emergency and urgent care services provided to enrollees, without regard to whether or not the health care provider furnishing such services has a contractual (or other) arrangement with the plan to provide items or services to enrollees of the plan and in the case of emergency services without regard to prior authorization.

(2) PAYMENT AMOUNTS.—In the case of emergency and urgent care provided to an enrollee outside of a standard health plan's community rating area, the payment amounts of the plan shall be based on the applicable fee schedule described in subsection (f).

(f) APPLICATION OF PLAN FEE SCHEDULE.—

(1) IN GENERAL.—Subject to paragraph (2), each standard health plan that provides for payment for services on a fee-for-service basis and has not established an agreement or contractual arrangement with health care providers specifying a basis for payment shall make such payment to such providers under a fee schedule established by the plan.

(2) RULE OF CONSTRUCTION.—Nothing in the paragraph (1) shall be construed to prevent a standard health plan from providing for a different basis or level of payment than the fee schedule established under such paragraph as part of a contractual agreement with participating providers under the plan.

(g) PROVIDER PARTICIPATION PROGRAM; REQUIREMENT OF DIRECT BILLING.—

(1) PROVIDER PARTICIPATION PROGRAM.—Each standard health plan shall establish a program under which participating health care providers may agree to accept the plan's payment schedule as payment in full, and agree not to charge patients more than the cost-sharing required by such plan for nonnetwork items and services. Each such plan shall make available the list of participating health care providers to enrollees and prospective enrollees. To the extent possible, the program under this subparagraph shall meet the requirements of subsection (d).

(2) DIRECT BILLING.—

(A) IN GENERAL.—A health care provider may not charge or collect from an enrollee amounts that are payable by the standard health plan (including any cost-sharing reduction assistance payable by the plan) and shall submit charges to such plan in accordance with any applicable requirements of subtitle B of title V (relating to health information systems).

(B) PROHIBITION.—An individual or entity that performs clinical laboratory services may not present or cause to be presented, a claim, bill, or demand for payment to any person other than the individual receiving such services, or to the standard health plan of the individual, except that the Secretary may by regulation establish appropriate exceptions to the requirement of this subparagraph.

(3) PROHIBITION OF BALANCE BILLING OF TAXES.—Any agreement entered into between a standard health plan and a health care provider shall prohibit the provider from charging patients the amount of any tax recovered from the provider under section 4518 of the Internal Revenue Code of 1986.

(4) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(A) require or force an individual to receive health care solely through the individual's standard health plan; or

(B) prohibit any individual from privately contracting with any health care provider and paying for the treatment or service provider by such provider on a cash basis or any other basis as agreed to between the individual and the provider.

(i) RELATION TO DETENTION.—A standard health plan is not required to provide any reimbursement to any detention facility for services performed in that facility for detainees in the facility.

(j) PHYSICIAN PARTICIPATION.—

(1) IN GENERAL.—Each standard health plan shall establish mechanisms through which physicians have input into matters affecting patient care and through which patients have the ability to choose any primary care physician from available practitioners.

(2) CONTRACT PROCEDURES.—Each standard health plan shall provide not less than 30 days notification to physicians of decisions to cancel or deny renewal of contracts and shall establish an informal, non-binding, and advisory review process for appeals.

(k) ETHICAL BUSINESS CONDUCT.—Each standard health plan shall develop and implement a code of ethical business conduct for its activities, including those of its components, and assure proficient management and planning functions.

(l) ENROLLMENT.—A standard health plan may not knowingly accept the enrollment of an individual who is enrolled in another standard health plan.

SEC. 1129. UTILIZATION MANAGEMENT PROTOCOLS AND PHYSICIAN INCENTIVE PLANS.

(a) REQUIRING CONSUMER DISCLOSURE.—Each standard health plan shall disclose upon request to enrollees (and prospective enrollees) and to participating providers (and prospective providers), the protocols and financial incentives used by the plan, including utilization management protocols and physician incentive plans for controlling utilization and costs, while protecting proprietary business information to the extent specified by the Secretary.

(b) UTILIZATION MANAGEMENT.—The utilization review and management activities of each standard health plan, provided either directly or through contract, shall meet the following standards as defined by the Secretary:

(1) PERSONNEL.—All review determinations shall be made by health care providers are licensed, certified, or otherwise credentialed and who are qualified to review utilization of the treatment being sought.

(2) REVIEW PROCESS.—Each standard health plan shall base utilization management on current scientific knowledge, stress the efficient delivery of health care and quality outcomes, rely primarily on evaluating and comparing practice patterns rather than routine case-by-case review, be consistent and timely in application, and have a process for making review determinations for urgent and emergency care 24 hours a day.

(3) NO FINANCIAL INCENTIVE.—Utilization management by each standard health plan may not create financial incentives for reviewers or health care providers to reduce or limit medically necessary or appropriate services.

(c) PHYSICIAN INCENTIVE PLANS.—A standard health plan may not operate a physician incentive plan unless such incentive plan meets the requirements of section 1876(i)(8)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(8)(A)).

PART 4—SUPPLEMENTAL HEALTH BENEFITS PLANS

SEC. 1141. SUPPLEMENTAL HEALTH BENEFITS PLANS.

(a) TREATMENT OF SUPPLEMENTAL HEALTH BENEFITS PLANS.—

(1) IN GENERAL.—Nothing in this Act may be construed as preventing a standard health plan sponsor from offering and pricing (in a manner that is separate from the offering and pricing of the standard health plans offered by such sponsor in the community rating area) supplemental health benefits plans pursuant to the State certification plan, the requirements of this section, and regulations promulgated by the Secretary.

(2) PLANS DEFINED.—In this Act—

(A) SUPPLEMENTAL HEALTH BENEFITS PLAN.—The term "supplemental health benefits plan" means a supplemental services plan or a cost-sharing plan.

(B) SUPPLEMENTAL SERVICES PLAN.—The term "supplemental services plan" means a health plan which provides—

(i) coverage for services and items not included in the standard benefits package established under subtitle C,

(ii) coverage for items and services included in such package but not covered because of a limitation in amount, duration, or scope of benefits, or

(iii) both.

(C) COST-SHARING PLAN.—The term "cost-sharing plan" means a health plan which provides coverage for deductibles and coinsurance imposed as part of the standard benefits package established under subtitle C.

(b) REQUIREMENTS FOR SUPPLEMENTAL SERVICES PLANS.—

(1) APPLICATION OF CERTAIN HEALTH PLAN STANDARDS.—

(A) IN GENERAL.—The standards specified in subparagraph (B) shall apply with respect to each supplemental services plan in the same manner as such standards apply with respect to a certified standard health plan.

(B) SPECIFIED STANDARDS.—The standards specified in this subparagraph are as follows:

(i) Section 1111 (relating to guaranteed issue, availability, and renewability).

(ii) Section 1112 (relating to enrollment).

(iii) Section 1114 (relating to nondiscrimination based on health status).

(iv) Section 1116 (relating to rating limitations for community-rated market).

(2) NO DUPLICATIVE HEALTH BENEFITS.—A standard health plan sponsor or any other entity may not offer any supplemental services plan that—

(A) duplicates the standard benefits package established under subtitle C, or

(B) duplicates any coverage provided under the medicare program to any medicare-eligible individual.

(3) RESTRICTIONS ON MARKETING ABUSES.—Not later than May 1, 1995, the Secretary shall develop minimum standards that prohibit marketing practices by standard health plan sponsors and other entities offering supplemental services plans that involve—

(A) providing monetary incentives for, or tying or otherwise conditioning, the sale of the plan to enrollees in a certified standard health plan of the sponsor or entity;

(B) linking in any manner to the plan's standard benefits package; or

(C) using or disclosing to any party information about the health status or claims experience of participants in a certified standard health plan for the purpose of marketing a supplemental services plan.

(c) REQUIREMENTS FOR COST-SHARING PLANS.—

(1) RULES FOR OFFERING OF POLICIES.—A cost-sharing plan may be offered to an individual only if—

(A) the plan is offered by the standard health plan in which the individual is enrolled;

(B) the standard health plan offers the plan to all individuals enrolled in the standard health plan;

(C) the individual is not enrolled in an alternative benefits package; and

(D) the plan is offered only during the enrollment periods for standard health plans specified in section 1112.

(2) PROHIBITION OF COVERAGE OF COPAYMENTS.—A cost-sharing plan may not provide any benefits relating to any copayments established under subtitle C.

(3) EQUIVALENT COVERAGE FOR ALL SERVICES.—A cost-sharing plan shall provide coverage for items and services in the standard benefits package to the same extent as the plan provides coverage for all items and services in the package.

(4) REQUIREMENTS FOR PRICING.—

(A) IN GENERAL.—The price of any cost-sharing plan shall—

(i) be the same for each individual or class of family to whom the plan is offered;

(ii) include any expected increase in utilization resulting from the purchase of the plan by individuals enrolled in the standard health plan; and

(iii) not result in a loss-ratio of less than 90 percent.

(B) LOSS-RATIO DEFINED.—In subparagraph (A)(iii), a "loss-ratio" is the ratio of the premium returned to the consumer in payout relative to the total premium collected.

Subtitle C—Benefits and Cost-Sharing

PART 1—STANDARD BENEFITS PACKAGES

SEC. 1201. GENERAL DESCRIPTION OF STANDARD BENEFITS PACKAGES.

(a) STANDARD BENEFITS PACKAGE.—For purposes of this title, a standard benefits package is a benefits package that—

(1)(A) provides all of the items and services under the categories of health care items and services described in section 1202; and

(B) provides for at least one of the 3 cost-sharing schedules established under section 1213(c)(2) by the National Health Benefits Board established under section 1211 (referred to in this part as the "Board") for such a package; and

(2) has an actuarial value that is equivalent to the actuarial value of the benefits package provided by the Blue Cross/Blue Shield Standard Option under the Federal Employees Health Benefits Program during 1994, adjusted for cost differences after 1994.

(b) ALTERNATIVE STANDARD BENEFITS PACKAGE.—For purposes of this title, an alternative standard benefits package is a benefits package that—

(1)(A) provides all of the items and services under the categories of health care items and services described in section 1202; and

(B) provides for the very high deductible cost-sharing schedule established under section 1213(c)(3) by the Board for such a package; and

(2) has an actuarial value that is less than the actuarial value of the benefits package provided by the Blue Cross/Blue Shield Standard Option under the Federal Employees Health Benefits Program during 1994, adjusted for cost differences after 1994.

(c) ACTUARIAL VALUES.—The Board shall determine the actuarial values referred to in

VOL 140 PT 16 AG 12 — 18 1994 UMI

subsections (a)(2) and (b)(2). In determining whether a benefits package meets the requirements of subsection (a)(2) or (b)(2), the Board shall use utilization and unit cost measures based on nationwide experience and shall make appropriate adjustments to reflect differences in the cost effectiveness of the delivery system used by the health plan providing the package.

SEC. 1202. DESCRIPTION OF CATEGORIES OF ITEMS AND SERVICES.

(a) IN GENERAL.—The categories of health care items and services described in this section are the following, as defined by the Board under section 1213(a):

(1) HOSPITAL SERVICES.—The hospital (as defined in section 1203(7)) services described in this paragraph include the following:

(A) Inpatient hospital services.

(B) Outpatient hospital services.

(C) 24-hour a day hospital emergency services.

(2) HEALTH PROFESSIONAL SERVICES.—The items and services described in this paragraph are—

(A) health professional services (as defined in section 1203(3)), including consultations, that are provided in a home, office, or other ambulatory care setting, or an institutional setting; and

(B) services and supplies (including drugs and biologicals which cannot be self-administered) furnished as incident to such health professional services.

(3) EMERGENCY AND AMBULATORY MEDICAL AND SURGICAL SERVICES.—The items and services described in this paragraph are 24-hour a day emergency services and ambulatory medical or surgical services provided in a facility that is legally authorized to provide such services in the State in which such services are provided.

(4) CLINICAL PREVENTIVE SERVICES.—The items and services described in this paragraph are clinical preventive services, including services for high risk populations, age-appropriate immunizations, tests, and clinician visits furnished consistent with any periodicity schedule specified by the Board under section 1213(a)(2)(B).

(5) MENTAL ILLNESS AND SUBSTANCE ABUSE SERVICES.—The items and services described in this paragraph are mental illness and substance abuse services, including inpatient, outpatient, residential non-hospital, and intensive non-residential services, for the treatment of mental illness and substance abuse disorders (as defined in section 1203(9)).

(6) FAMILY PLANNING SERVICES AND SERVICES FOR PREGNANT WOMEN.—The services described in this section include the following items and services:

(A) Voluntary comprehensive family planning services, including counseling and education.

(B) Contraceptive drugs and devices that are subject to approval by the Secretary under the Federal Food, Drug, and Cosmetic Act.

(C) Services for pregnant women.

(7) HOSPICE CARE.—The hospice care described in this paragraph is items and services provided for end of life care (as defined in section 1203(6)).

(8) HOME HEALTH CARE.—

(A) IN GENERAL.—The home health care described in this paragraph is home health care (as defined in section 1203(4)) and home infusion drug therapy services (as defined in section 1203(5)).

(B) LIMITATIONS.—Coverage for home health care is subject to the following limitations:

(i) INPATIENT TREATMENT ALTERNATIVE.—Such care is covered only as an alternative to inpatient treatment in a hospital, skilled nursing facility (as defined in section 1203(15)), or rehabilitation facility (as defined in section 1203(14)) after an illness, injury, disorder, or other health condition.

(ii) REEVALUATION.—At the end of each 60-day period of home health care, the need for continued care shall be reevaluated by the person who is primarily responsible for providing the home health care. Additional periods of care are covered only if such person determines that the requirement in clause (i) is satisfied.

(9) EXTENDED CARE SERVICES—

(A) IN GENERAL.—The extended care services described in this section are the items and services described in section 1861(h) of the Social Security Act, when provided to an inpatient of a skilled nursing facility or a rehabilitation facility.

(B) LIMITATIONS.—Extended care services are covered only as an alternative to receiving inpatient hospital services as a result of an illness, injury, disorder, or other health condition.

(10) AMBULANCE SERVICES.—

(A) IN GENERAL.—The ambulance services described in this paragraph are covered only when indicated by the medical condition of the individual receiving such services. Such services include the following:

(i) Ground transportation by ambulance.

(ii) Air or water transportation by an aircraft or vessel equipped for transporting an injured or sick individual in cases in which there is no other method of transportation or where use of another method of transportation is contra-indicated by the medical condition of such individual.

(11) OUTPATIENT LABORATORY, RADIOLOGY, AND DIAGNOSTIC SERVICES.—The items and services described in this paragraph are laboratory, radiology, and diagnostic services provided upon prescription to individuals who are not inpatients of a hospital, hospice, skilled nursing facility, or rehabilitation facility.

(12) OUTPATIENT PRESCRIPTION DRUGS.—The items described in this paragraph are the following used for a medically accepted indication (as defined in section 1203(8)):

(A) Outpatient prescription drugs.

(B) Blood clotting factors (as defined in section 1203(1)).

(C) Drugs used for home infusion therapy.

(D) Biologicals.

(E) Accessories and supplies used directly with the items described in subparagraphs (A) through (D).

(13) OUTPATIENT REHABILITATION SERVICES.—

(A) IN GENERAL.—The outpatient rehabilitation services described in this paragraph are—

(i) outpatient occupational therapy;

(ii) outpatient physical therapy;

(iii) outpatient respiratory therapy; and

(iv) outpatient speech-language pathology services and outpatient audiology services.

(B) LIMITATIONS.—Coverage for outpatient rehabilitation services is subject to the following limitations:

(i) SERVICE LIMITATION.—Such services shall include only items or services used to restore or maintain functional capacity or to prevent or minimize limitations on physical and cognitive functions as a result of an illness, injury, disorder, or other health condition, including items or services used to attain new functional abilities at an age-appropriate rate.

(ii) REEVALUATION.—At the end of each 60-day period of outpatient rehabilitation services, the need for continued services shall be reevaluated by the person who is primarily responsible for providing the services. Additional periods of services are covered only if such person determines that the requirement of clause (i) is satisfied.

(14) DURABLE MEDICAL EQUIPMENT AND PROSTHETIC AND ORTHOTIC DEVICES.—

(A) IN GENERAL.—The items and services described in this paragraph are—

(i) durable medical equipment (as defined in section 1203(2);

(ii) prosthetic devices (as defined in section 1203(12);

(iii) orthotics (as defined in section 1203(10)) and prosthetics (as defined in section 1203(11)); and

(iv) accessories and supplies used directly with the equipment or devices described in clauses (i) through (iv).

(B) REPAIR, MAINTENANCE, ETC.—The items and services described in this paragraph include the following with respect to the equipment and devices described in subparagraph (A):

(i) Repair and maintenance of such equipment or devices.

(ii) Replacement of such equipment or devices when required due to loss, irreparable damage, wear, or because of a change in the patient's condition.

(iii) Fitting and training for the use of such equipment or devices.

(15) VISION CARE, HEARING CARE, AND DENTAL CARE.—

(A) IN GENERAL.—The items described in this paragraph are the vision care described in subparagraph (B), dental care described in subparagraph (C), and hearing care described in subparagraph (D).

(B) VISION CARE.—The vision care described in this subparagraph is routine eye examinations, diagnosis, and treatment for defects in vision furnished to individuals who are under 22 years of age, including eyeglasses and contact lenses furnished according to a periodicity schedule established by the Board.

(C) DENTAL CARE.—

(i) INDIVIDUALS UNDER 22.—The dental care described in this subparagraph shall include the following, as specified by the Board, furnished to individuals who are under 22 years of age:

(I) Emergency dental treatment.

(II) Prevention and diagnosis of dental disease.

(III) Treatment of dental disease.

(IV) Space maintenance procedures to prevent orthodontic complications.

(V) Interceptive orthodontic treatment to prevent severe malocclusion.

(ii) INDIVIDUALS OVER 22.—The dental care described in this subparagraph for individuals who are over 22 years of age is emergency dental treatment, as specified by the Board.

(D) HEARING CARE.—The hearing care items and services described in this paragraph are the following when furnished to an individual who is under 22 years of age:

(i) Routine ear examinations and diagnosis for defects in hearing as part of a physician visit.

(ii) Hearing aids when recommended by a physician or audiologist.

(16) INVESTIGATIONAL TREATMENTS.—The items and services described in this paragraph are items and services required to provide patient care pursuant to the design of a qualified investigational treatment (as defined in section 1203(13)).

(b) LIMITATION.—

(1) IN GENERAL.—Items and services under the categories described in subsection (a) shall be furnished to health plan enrollees when medically necessary or appropriate.

(2) DEFINITION.—For purposes of this subtitle, the term "medically necessary or appropriate" when referring to an item or service means an item or service intended to maintain or improve the biological, psychological, or functional condition of a health plan enrollee or to prevent or mitigate an adverse health outcome to an enrollee.

SEC. 1203. DEFINITIONS.

For purposes of this subtitle:

(1) BLOOD CLOTTING FACTORS.—The term "blood clotting factors" has the meaning given such term in section 1861(s)(2)(I) of the Social Security Act.

(2) DURABLE MEDICAL EQUIPMENT.—The term "durable medical equipment" has the meaning given such term in section 1861(n) of the Social Security Act.

(3) HEALTH PROFESSIONAL SERVICES.—The term "health professional services" means professional services that—

(A) are lawfully provided by a physician; or

(B) would be described in subparagraph (A) if provided by a physician, but are provided by another person who is legally authorized to provide such services in the State in which the services are provided.

(4) HOME HEALTH CARE.—The term "home health care" means the items and services described in section 1861(m) of the Social Security Act.

(5) HOME INFUSION DRUG THERAPY SERVICES.—The term "home infusion drug therapy services" means the home infusion drug therapy services described in section 1861(ll) of the Social Security Act.

(6) HOSPICE CARE.—The term "hospice care" means the items and services described in paragraph (1) of section 1861(dd) of the Social Security Act, except that in applying such section for purposes of this paragraph—

(A) paragraphs (4)(B) and (5) shall be disregarded; and

(B) all references to the Secretary of Health and Human Services shall be treated as references to the Board.

(7) HOSPITAL.—The term "hospital" has the meaning given such term in section 1861(e) of the Social Security Act, except that such term shall include a facility operated by the uniformed services, the Department of Veterans Affairs, and the Indian Health Service that is primarily engaged in providing services to inpatients that are equivalent to the services provided by a hospital defined in such section 1861(e).

(8) MEDICALLY ACCEPTED INDICATION.—The term "medically accepted indication" means with respect to the use of a drug, any use which has been approved by the Food and Drug Administration for the drug, and includes another use of the drug if—

(A) the drug has been approved by the Food and Drug Administration; and

(B) such use is supported by one or more citations which are included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, the United States Pharmacopoeia-Drug Information, and other authoritative compendia as identified by the Secretary.

(9) MENTAL ILLNESS AND SUBSTANCE ABUSE DISORDERS.—The term "mental illness and substance abuse disorder" means a mental or substance abuse disorder listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, or the International Classification of Diseases, 9th Revision, the Clinical Modification, Third Edition, or revised versions of such manuals or texts.

(10) ORTHOTICS.—The term "orthotics" includes—

(A) an accessory or supply used directly with a prosthetic device to achieve therapeutic benefits and proper functioning; and

(B) leg, arm, back, and neck braces.

(11) PROSTHETICS.—The term "prosthetics" includes artificial legs, arms, and eyes.

(12) PROSTHETIC DEVICES.—The term "prosthetic devices" means devices that replace all or part of the function of a body organ.

(13) QUALIFIED INVESTIGATIONAL TREATMENT.—The term "qualified investigational treatment" means an investigational treatment that is part of a peer-reviewed and approved research program (as defined by the Secretary) or research trials approved by the Secretary, the Directors of the National Institutes of Health, the Commissioner of the Food and Drug Administration, the Secretary of Veterans Affairs, the Secretary of Defense, or a qualified nongovernmental research entity as defined in guidelines of the National Institutes of Health, including guidelines for cancer center support grants designated by the National Cancer Institute.

(14) REHABILITATION FACILITY.—The term "rehabilitation facility" means an institution (or a distinct part of an institution) which is established and operated for the purpose of providing diagnostic, therapeutic, and rehabilitation services to individuals for rehabilitation from illness, injury, disorder, or other health condition. An entity qualifying as a hospital (as defined in paragraph (7)) may also qualify as a rehabilitation facility for the purposes of section 1202(a)(9).

(15) SKILLED NURSING FACILITY.—The term "skilled nursing facility" means an institution (or a distinct part of an institution) which is primarily engaged in providing to residents—

(A) skilled nursing care and related services for residents who require medical or nursing care; or

(B) rehabilitation services to residents for rehabilitation from illness, injury, disorder, or other health condition.

PART 2—NATIONAL HEALTH BENEFITS BOARD

SEC. 1211. CREATION OF NATIONAL HEALTH BENEFITS BOARD; MEMBERSHIP.

(a) IN GENERAL.—There is hereby established in the Department of Health and Human Services a National Health Benefits Board (referred to in this part as the "Board").

(b) COMPOSITION.—The Board is composed of 7 members appointed by the President, by and with the advice and consent of the Senate. No more than 4 members of the Board may be affiliated with the same political party. Members shall be appointed not later than 90 days after the date of the enactment of this title.

(c) CHAIR.—The President shall designate one of the members of the Board as chair.

(d) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the term of each member of the Board is 6 years and begins when the term of the predecessor of that member ends.

(2) INITIAL TERMS.—The initial terms of the members of the Board first taking office after the date of the enactment of this title, shall expire as designated by the President, two at the end of two years, two at the end of four years, and three at the end of six years.

(3) CONTINUATION IN OFFICE.—Upon the expiration of a term of office, a member shall continue to serve until a successor is appointed and qualified.

(e) VACANCIES.—

(1) IN GENERAL.—If a vacancy occurs, other than by expiration of term, a successor shall be appointed by the President, by and with the consent of the Senate, to fill such vacancy. The appointment shall be for the remainder of the term of the predecessor.

(2) NO IMPAIRMENT OF FUNCTION.—A vacancy in the membership of the Board does not impair the authority of the remaining members to exercise all of the powers of the Board.

(3) ACTING CHAIR.—The Board may designate a member to act as chair during any period in which there is no chair designated by the President.

(f) MEETINGS; QUORUM.—

(1) MEETINGS.—The chair shall preside at meetings of the Board, and in the absence of the chair, the Board shall elect a member to act as chair pro tempore.

(2) FREQUENCY.—The Board shall meet not less frequently than 4 times each year.

(3) QUORUM.—Four members of the Board shall constitute a quorum thereof.

SEC. 1212. QUALIFICATIONS OF BOARD MEMBERS.

(a) CITIZENSHIP.—Each member of the Board shall be a citizen of the United States.

(b) BASIS OF SELECTION.—Board members shall be selected on the basis of their experience and expertise in relevant subjects, including the practice of medicine, nursing, or other clinical practices, health care financing and delivery, State health systems, consumer protection, business, law, and delivery of care to vulnerable populations.

(c) PAY AND TRAVEL EXPENSES.—

(1) PAY.—

(A) CHAIR.—The chair of the Board shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level II of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the chair is engaged in the actual performance of duties vested in the Board.

(B) MEMBERS.—Each member of the Board shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Board.

(2) TRAVEL EXPENSES.—Members of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 1213. GENERAL DUTIES AND RESPONSIBILITIES.

(a) CLARIFICATION AND REFINEMENT OF ITEMS AND SERVICES.—

(1) IN GENERAL.—The Board shall promulgate such regulations or establish such guidelines as may be necessary to clarify and refine the items and services under the categories of health care items and services described in section 1202 in accordance with the requirements of subsections (a)(2) and (b)(2) of section 1201.

(2) SCHEDULES FOR ITEMS AND SERVICES.—

(A) IN GENERAL.—The Board shall establish and update periodicity schedules for the items and services in the categories of health care items and services described in section 1202.

(B) SPECIAL RULE WITH RESPECT TO CLINICAL PREVENTIVE SERVICES.—With respect to clinical preventive services, the Board—

(i) shall specify and define specific items and services as clinical preventive services and shall establish and update a periodicity schedule for such items and services; and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(ii) in specifying clinical preventive services and establishing and updating periodicity schedules under clause (i), shall consult with experts in clinical preventive services, including, for clinical preventive services with respect to immunization, the Advisory Committee on Immunization Practices, for clinical preventive services for reproductive health and other related women's health issues, the American College of Obstetricians and Gynecologists, for clinical preventive services for children, the American Academy of Pediatrics, and for clinical preventive services in general, the U.S. Preventive Services Task Force.

(3) MENTAL ILLNESS AND SUBSTANCE ABUSE SERVICES.—

(A) PARITY.—

(i) IN GENERAL.—The Board shall design mental illness and substance abuse services so as to achieve parity with services for other medical conditions. Except as provided in clause (iii), day or visit limits or cost-sharing requirements, including out-of-pocket limits, may not be applied to mental illness and substance abuse services that are not applied to services for other medical conditions.

(ii) PARITY DEFINED.—For purposes of this subparagraph, the term "parity" means comprehensive coverage for all medically necessary or appropriate mental illness and substance abuse services in inpatient, outpatient, residential, and intensive non-residential settings.

(iii) SPECIAL RULE.—

(I) EFFECT ON OTHER BENEFITS.—If the Board determines that parity of mental illness and substance abuse services with services for other medical conditions cannot be achieved without imposing unduly burdensome cost-sharing requirements on other services, the Board may design mental illness and substance abuse services such that they include the limit described in subclause (II). If, after limiting mental illness and substance abuse services as described in subclause (II), the Board determines that such parity cannot be achieved without imposing unduly burdensome cost-sharing requirements on other services, the Board may also limit such services as described in subclause (III).

(II) LIMIT ON INPATIENT HOSPITAL CARE.—The Board may limit inpatient hospital care, but in the case of mental illness the limit may not be set at a level below 30 days per year, and in the case of substance abuse services the limit may not be set at a level below the level sufficient to provide detoxification services.

(III) COINSURANCE FOR OUTPATIENT ADULT PSYCHOTHERAPY.—The Board may set the coinsurance for outpatient adult psychotherapy at a level higher than the coinsurance for other services, but no higher than a 50 percent coinsurance level, after the first 5 visits for such services.

(IV) REQUIREMENT TO ACHIEVE PARITY BY DATE CERTAIN.—Consistent with the process described in section 3510, the Board shall ensure that parity for mental illness and substance abuse services with services for other medical conditions is established no later than January 1, 2001. If the Board finds that establishing parity for mental illness and substance abuse services with services for other medical conditions cannot be achieved by January 1, 2001, without imposing unduly burdensome cost-sharing on all services, the Board shall develop a legislative proposal for an extension of such date. Not later than January 1, 2000, the Board shall submit to the Congress an implementing bill which contains such statutory provisions as are necessary or appropriate to implement the legislative proposal developed under the preceding sentence.

(B) MANAGEMENT OF SERVICES.—

(i) IN GENERAL.—The Board shall develop standards for the appropriate management of mental illness and substance abuse services. Such standards shall include quality managed care techniques.

(ii) QUALITY MANAGED CARE.—For purposes of clause (i), the term "quality managed care" refers to the administration of benefits through methods of central intake, preauthorization, and utilization review under circumstances that protect individuals from unwarranted denial of services.

(C) SETTINGS.—The Board shall give priority to ensuring that mental illness and substance abuse services are provided in the least restrictive setting that is clinically appropriate and encouraging the use of outpatient and intensive nonresidential treatments to the greatest extent possible.

(b) DETERMINING MEDICAL NECESSITY OR APPROPRIATENESS.—

(1) IN GENERAL.—The Board shall be authorized to establish—

(A) criteria for determinations of medical necessity or appropriateness;

(B) procedures for determinations of medical necessity or appropriateness; and

(C) regulations or guidelines to be used in determining whether an item or service under the categories of health care items and services described in section 1202 is medically necessary or appropriate.

(2) REQUIREMENTS.—The Board shall include the following in establishing criteria, procedures, and regulations under this subsection:

(A) SPECIAL RULES WITH RESPECT TO ENROLLEES UNDER 22 YEARS OF AGE.—In making any determination with respect to medical necessity or appropriateness with respect to an enrollee under 22 years of age, the Board shall consider whether the item or service is—

(i) is appropriate for the age and health status of the enrollee;

(ii) will prevent or ameliorate the effects of a condition, illness, injury, or disorder;

(iii) will aid the overall physical and mental growth and development of the enrollee; or

(iv) will assist in achieving or maintaining maximum functional capacity in performing daily activities

This subparagraph shall apply to all items and services under the categories of health care items and services described in section 1202 as clarified and refined by the Board under subsection (a).

(B) CONSULTATIONS WITH EXPERT AUTHORITIES.—The Board shall consider the opinions of outside experts in establishing criteria, procedures, and regulations with regard to medical necessity or appropriateness.

(C) RECOMMENDATIONS TO SECRETARY.—In the absence of sufficient evidence to develop regulations with respect to any particular coverage determination, the Board shall recommend to the Secretary specific areas for which priorities should be given to undertake clinical trials or establish practice guidelines.

(3) HEALTH PLAN REQUIREMENTS.—The regulations established by the Board under this subsection shall provide that—

(A) in reviewing any determination with respect to medical necessity or appropriateness made by an enrollee and the health professional furnishing any item or service, health plans shall consider the criteria and procedures established by the Board under this subsection and available scientific evidence; and

(B) if a health plan has developed a clinical practice guideline or utilization protocol, or has made a general coverage determination, the plan shall—

(i) provide a copy of, and a written statement of the basis for, the guideline, protocol, or determination at least 60 days prior to the effective date of such guideline, protocol, or determination, to each affected provider with which the plan has a contract and the government entity which certifies the plan;

(ii) provide any or all of such information upon request to enrollees, potential enrollees, or other interested parties, including provider groups and specialty organizations; and

(iii) revise such guidelines, protocols, or determinations periodically, or, if new scientific evidence becomes available, as soon as possible after such evidence is available.

(c) COST-SHARING.—The Board shall establish cost-sharing schedules to be provided by health plans providing a standard benefits package or an alternative standard benefits package. In establishing such cost-sharing schedules, the Board shall meet the following requirements:

(1) ANNUAL BASIS.—The Board shall review and update cost-sharing schedules as determined appropriate by the Board, but on at least an annual basis.

(2) PLANS PROVIDING STANDARD BENEFITS PACKAGE.—The Board shall establish 3 cost-sharing schedules for health plans providing the standard benefits package which permit a variety of delivery system options, including fee-for-service, preferred provider organizations, point of service, and managed care. Such cost-sharing schedules shall consist of—

(A) a low cost-sharing schedule;

(B) a high cost-sharing schedule; and

(C) a combination cost-sharing schedule.

(3) PLANS PROVIDING ALTERNATIVE STANDARD BENEFITS PACKAGE.—The Board shall establish only one very high deductible cost-sharing schedule for health plans providing the alternative standard benefits package. Such cost-sharing schedule shall provide for a higher deductible than any deductible under a schedule established for health plans providing a standard benefits package.

(4) CLINICAL PREVENTIVE SERVICES.—No cost-sharing schedule established by the Board for health plans providing the standard benefits package may include cost-sharing for clinical preventive services and prenatal care.

(5) COST-SHARING RULES.—Cost-sharing schedules established by the Board shall include copayments, coinsurance, deductibles, and out-of-pocket limits. The copayments, coinsurance, deductibles and out-of-pocket limits on cost-sharing for a year under the schedules shall be applied based upon expenses incurred for covered items and services furnished in the year.

(6) LIFETIME LIMITS.—No cost-sharing schedule established by the Board may include lifetime limits.

(d) LEGISLATIVE PROPOSALS ON ACTUARIAL EQUIVALENCE AND HEALTH SERVICE CATEGORIES.—

(1) IN GENERAL.—The Board may develop legislative proposals for modifications to the actuarial equivalence provisions of section 1201 and the categories of health care items and services under section 1202.

(2) IMPLEMENTING BILL.—The Board shall submit to the Congress an implementing bill which contains such statutory provisions as

are necessary or appropriate to implement the legislative proposals developed under paragraph (1).

(e) REPORTS.—

(1) DENTAL CARE.—The Board shall undertake a study to determine the costs of providing—

(A) preventive dental care to all adults;

(B) restorative dental care to all adults; and

(C) preventive dental care to adults with developmental, cognitive, and other mental disabilities.

Not later than July 1, 1996, the Board shall prepare and submit to the Secretary and the Congress, a report concerning such study.

(2) IN VITRO FERTILIZATION.—The Board shall undertake a study to determine the costs of providing coverage for in vitro fertilization in the standard benefits package. Not later than July 1, 1996, the Board shall prepare and submit to the Secretary and the Congress, a report concerning such study.

(3) SUBSTANCE ABUSE COST-SHARING.—

(A) IN GENERAL.—Not later than 1 year after the date on which all members of the Board are appointed under this part, the Board shall conduct a study and make recommendations to Congress regarding the feasibility of eliminating any cost-sharing requirements imposed on substance abuse treatment services under the cost-sharing schedules established by the Board under subsection (c).

(B) ELEMENTS OF STUDY.—The study conducted by the Board under subparagraph (A) shall—

(i) examine separately the implications of eliminating cost-sharing requirements on substance abuse treatment services for each of the following groups of individuals—

(I) pregnant and post-partum women;

(II) alcohol abusers; and

(III) abusers of illegal drugs; and

(ii) quantify the health, economic, crime-control, and other benefits of eliminating such requirements.

(f) OTHER REQUIREMENTS.—The Board shall satisfy any other requirements imposed on the Board under this title.

SEC. 1214. POWERS.

(a) EXECUTIVE DIRECTOR; STAFF.—

(1) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Board shall, without regard to section 5311(b) of title 5, United States Code, appoint an Executive Director.

(B) PAY.—The Executive Director shall be paid at a rate equivalent to a rate for the Senior Executive Service.

(2) STAFF.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Executive Director, with the approval of the Board, may appoint and fix the pay of additional personnel.

(B) PAY.—The Executive Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for GS-15 of the General Schedule.

(C) DETAILED PERSONNEL.—Upon request of the Executive Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Board to assist the Board in carrying out its duties under this Act.

(b) CONTRACT AUTHORITY.—To the extent provided in advance in appropriations Acts, the Board may contract with any person (including an agency of the Federal Government) for studies and analysis as required to execute its functions. Any employee of the Executive Branch may be detailed to the Board to assist the Board in carrying out its duties.

(c) CONSULTATIONS WITH EXPERTS.—The Board may consult with any outside expert individuals or groups that the Board determines appropriate in performing its duties under section 1213. The Board may establish advisory committees.

(d) ACCESS TO INFORMATION.—The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out its functions, to the extent such information is otherwise available to a department or agency of the United States. Upon request of the chair, the head of that department or agency shall furnish that information to the Board.

(e) DELEGATION OF AUTHORITY.—Except as otherwise provided, the Board may delegate any function to such officers and employees as the Board may designate and may authorize such successive redelegations of such functions with the Board as the Board deems to be necessary or appropriate. No delegation of functions by the Board shall relieve the Board of responsibility for the administration of such functions.

(f) RULEMAKING.—The Board is authorized to establish such rules as may be necessary to carry out this subtitle.

SEC. 1215. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board $5,000,000 for each year and such additional sums as may be necessary to carry out the purposes of this part.

(b) SUBMISSION OF BUDGET.—Under the procedures of chapter 11 of title 31, United States Code, the budget for the Board for a fiscal year shall be reviewed by the Director of the Office of Management and Budget and submitted to the Congress as part of the President's submission of the Budget of the United States for the fiscal year.

SEC. 1216. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

SEC. 1217. CONGRESSIONAL CONSIDERATION OF BOARD PROPOSALS.

(a) IN GENERAL.—Any implementing bill described in section 1213 shall be considered by Congress under the procedures for consideration described in subsection (b).

(b) CONGRESSIONAL CONSIDERATION.—

(1) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementing bill described in subsection (a), and supersedes other rules only to the extent that such rules are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(2) INTRODUCTION AND REFERRAL.—On the day on which the implementing bill described in subsection (a) is transmitted to the House of Representatives and the Senate, such bill shall be introduced (by request) in the House of Representatives by the Majority Leader of the House, for himself or herself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which the implementing bill is transmitted, the bill shall be introduced in the House, as provided in the preceding sentence, on the first day thereafter on which the House is in session. The implementing bill introduced in the House of Representatives and the Senate shall be referred to the appropriate committees of each House.

(3) AMENDMENTS PROHIBITED.—No amendment to an implementing bill shall be in order in either the House of Representatives or the Senate and no motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(4) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the committee or committees of either House to which an implementing bill has been referred have not reported it at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the implementing bill and it shall be placed on the appropriate calendar. A vote on final passage of the implementing bill shall be taken in each House on or before the close of the 45th day after the implementing bill is reported by the committees or committee of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the implementing bill. If prior to the passage by one House of an implementing bill of that House, that House receives the same implementing bill from the other House then—

(i) the procedure in that House shall be the same as if no implementing bill had been received from the other House; but

"(ii) the vote on final passage shall be on the implementing bill of the other House.

(B) COMPUTATION OF DAYS.—For purposes of subparagraph (A), in computing a number of days in either House, there shall be excluded—

(i) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain, or an adjournment of the Congress sine die, and

(ii) any Saturday and Sunday not excluded under clause (i) when either House is not in session.

(5) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(A) MOTION TO PROCEED.—A motion in the House of Representatives to proceed to the consideration of an implementing bill shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) DEBATE.—Debate in the House of Representatives on an implementing bill shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill. A motion

VOL 140 PT 16 AG 12 — 18 1994 UMI

further to limit debate shall not be debatable. It shall not be in order to move to recommit an implementing bill or to move to reconsider the vote by which an implementing bill is agreed to or disagreed to.

(C) MOTION TO POSTPONE.—Motions to postpone, made in the House of Representatives with respect to the consideration of an implementing bill, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) APPEALS.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an implementing bill shall be decided without debate.

(E) GENERAL RULES APPLY.—Except to the extent specifically provided in the preceding provisions of this paragraph, consideration of an implementing bill shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(6) FLOOR CONSIDERATION IN THE SENATE.—

(A) MOTION TO PROCEED.—A motion in the Senate to proceed to the consideration of an implementing bill shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) GENERAL DEBATE.—Debate in the Senate on an implementing bill, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(C) DEBATE OF MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with an implementing bill shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of the implementing bill, except that in the event the manager of the implementing bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an implementing bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) OTHER MOTIONS.—A motion in the Senate to further limit debate is not debatable. A motion to recommit an implementing bill is not in order.

Subtitle D—Access to Health Plans

PART 1—ACCESS THROUGH EMPLOYERS

SEC. 1301. GENERAL EMPLOYER RESPONSIBILITIES.

(a) OFFER OF PLANS.—

(1) IN GENERAL.—Each employer—

(A) shall make available to each employee of the employer the opportunity—

(i) in the case of an experienced-rated employer, to enroll through the employer in one of at least 3 certified experience-rated standard health plans which provide the standard benefits package established under subtitle C, including, if available, a fee-for-service plan, a combination cost-sharing plan, and a low cost-sharing plan as established under such subtitle, or

(ii) in the case of a community-rated employer—

(I) to enroll in any community-rated plan offered through a purchasing cooperative operating in the community rating area in which such employer is located, and if such cooperative is not a purchasing cooperative described in section 1341, then also through a cooperative so described, and

(II) at the option of the employer, to enroll through the employer in one of at least 3 certified community-rated standard health plans which provide the standard benefits package established under subtitle C, including, if available, a fee-for-service plan, a combination cost-sharing plan, and a low cost-sharing plan as established under such subtitle; and

(B) shall provide, upon request, payroll withholding of the employee's premiums.

(2) WAIVER OF REQUIREMENT.—The Governor of a participating State (or, the Secretary of Labor, in the case of sponsors of multistate self-insured health plans) may waive the requirement under paragraph (1) for any employer in a rural area of such State which demonstrates an insufficient population density to support 3 types of certified standard health plans. Such an employer shall at least offer a fee-for-service plan as established under subtitle C.

(3) PROHIBITION ON OFFERING OF ALTERNATIVE PACKAGE.—No employer may offer an alternative standard benefits package established under subtitle C.

(b) FORWARDING OF INFORMATION.—

(1) INFORMATION REGARDING PLANS.—An employer must provide each employee of such employer—

(A) with information provided by the State under section 1508 regarding all certified standard health plans offered in the community rating area in which the employer is located, and

(B) if the employer knows that an employee resides in another community rating area, information regarding how to obtain information on certified standard health plans offered to residents of such other community rating area.

(2) INFORMATION REGARDING EMPLOYEES.—An employer shall forward the name and address (and any other necessary identifying information specified by the Secretary) of each employee enrolling through the employer—

(A) to the certified standard health plan in which such employee is enrolling, or

(B) to the purchasing cooperative (if any) through which such employee is enrolling.

SEC. 1302. AUDITING OF RECORDS.

Each employer shall maintain such records, and provide the participating State for the area in which the employer maintains its principal place of employment (as specified by the Secretary of Labor) with access to such records, as may be necessary to verify and audit the information reported under this Act.

SEC. 1303. PROHIBITION OF CERTAIN EMPLOYER DISCRIMINATION.

(a) IN GENERAL.—No employer may discriminate with respect to an employee on the basis of the family status of the employee or on the basis of the class of family enrollment selected with respect to the employee.

(b) OTHER PROHIBITIONS.—For the prohibition of other employer discriminatory practices, see section 4522 of the Internal Revenue Code of 1986.

SEC. 1304. EVASION OF OBLIGATIONS.

It shall be unlawful for any employer or other person to discharge, fine, suspend, expel, discipline, discriminate, or otherwise take adverse action against any employee, if a purpose of such action is to interfere with the employee's attainment of status as community-rated or experience-rated individual, as a full-time employee, or as a part-time employee, or if a purpose of such action is to evade or avoid any obligation under this Act.

SEC. 1305. PROHIBITION ON SELF-INSURING COST-SHARING BENEFITS.

A community-rated employer (and an experience-rated employer with respect to employees who are community-rated eligible individuals) may provide benefits to employees that consist of the benefits included in a cost-sharing plan (as defined in section 1141(a)(2)(C)) only through a contribution toward the purchase of a cost-sharing plan which is funded primarily through insurance.

SEC. 1306. DEVELOPMENT OF LARGE EMPLOYER PURCHASING GROUPS.

(a) IN GENERAL.—Nothing in this title shall be construed as prohibiting 2 or more experience-rated employers from joining together to purchase insurance for their employees, except that each such employer shall be responsible for meeting the employer's requirements under this title with respect to its employees.

(b) RULES BY SECRETARY.—The Secretary of Labor shall provide rules for large employer purchasing groups similar to the rules applicable to purchasing cooperatives, including rules regarding fiduciary responsibilities and financial management.

(c) NO USE OF PURCHASING COOPERATIVES.—An experience-rated employer shall be ineligible to purchase health insurance through a purchasing cooperative, except with respect to health insurance for individuals described in paragraphs (1) and (2) of section 1308(d).

SEC. 1307. RESPONSIBILITIES IN SINGLE-PAYER STATES.

In the case of an individual who resides in a single-payer State and an employer with respect to employees who reside in such a State, the responsibilities of such individual and employer under such system shall supersede the obligations of the individual and employer under this subtitle.

SEC. 1308. RULES GOVERNING LITIGATION INVOLVING RETIREE HEALTH BENEFITS.

(a) MAINTENANCE OF BENEFITS.—

(1) IN GENERAL.—If—

(A) retiree health benefits or plan or plan sponsor payments in connection with such benefits are to be or have been terminated or reduced under an employee welfare benefit plan; and

(B) an action is brought by any participant or beneficiary to enjoin or otherwise modify such termination or reduction,

the court without requirement of any additional showing shall promptly order the plan and plan sponsor to maintain the retiree health benefits and payments at the level in effect immediately before the termination or reduction while the action is pending in any court. No security or other undertaking shall be required of any participant or beneficiary as a condition for issuance of such relief. An order requiring such maintenance of benefits may be refused or dissolved only upon determination by the court, on the basis of clear and convincing evidence, that the action is clearly without merit.

(2) MODIFICATIONS.—Nothing in this section shall preclude a court from modifying the obligation of a plan or plan sponsor to the extent retiree benefits are otherwise being paid.

(b) BURDEN OF PROOF.—In addition to the relief authorized in subsection (a) or otherwise available, if, in any action described in subsection (a), the terms of the employee welfare benefit plan summary plan description or other materials distributed to employees at the time of a participant's retirement or disability are silent or are ambiguous, either on their face or after consideration of extrinsic evidence, as to whether retiree health benefits and payments may be terminated or reduced for a participant and his or her beneficiaries after the participant's retirement or disability, then the benefits and payments shall not be terminated or reduced for the participant and his or her beneficiaries unless the plan or plan sponsor establishes by a preponderance of the evidence that the summary plan description and other materials about retiree benefits—

(1) were distributed to the participant at least 90 days in advance of retirement or disability;

(2) did not promise retiree health benefits for the lifetime of the participant and his or her spouse; and

(3) clearly and specifically disclosed that the plan allowed such termination or reduction as to the participant after the time of his or her retirement or disability.

The disclosure described in paragraph (3) must have been made prominently and in language which can be understood by the average plan participant.

(c) REPRESENTATION.—Notwithstanding any other provision of law, an employee representative of any retired employee or the employee's spouse or dependents may—

(1) bring an action described in this section on behalf of such employee, spouse, or dependents; or

(2) appear in such an action on behalf of such employee, spouse or dependents.

(d) RETIREE HEALTH BENEFITS.—For the purposes of this section, the term "retiree health benefits" means health benefits (including coverage) which are provided to—

(1) retired or disabled employees who, immediately before the termination or reduction, are entitled to receive such benefits upon retirement or becoming disabled; and

(2) their spouses and dependents.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to actions relating to terminations or reductions of retiree health benefits which are pending or brought, on or after July 20, 1993.

SEC. 1309. ENFORCEMENT.

In the case of a person that violates a requirement of this subtitle, the Secretary of Labor may impose a civil money penalty, in an amount not to exceed $10,000, for each violation with respect to each individual.

PART 2—ACCESS THROUGH HEALTH INSURANCE PURCHASING COOPERATIVES

Subpart A—General Requirements

SEC. 1321. ORGANIZATION AND OPERATION.

(a) DESIGNATION OF COOPERATIVES.—A State shall certify health insurance purchasing cooperatives (in this Act referred to as "purchasing cooperatives") in accordance with this part. Each cooperative shall be chartered under State law and operated as a not-for-profit corporation.

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each cooperative shall be governed by a Board of Directors to be composed of members of the cooperative who are representatives of community-rated employers, community-rated employees, and community-rated individuals elected by the members of the purchasing cooperative.

(2) INITIAL BOARD.—The initial Board of Directors of a purchasing cooperative shall be composed of members selected by the sponsoring entity of the cooperative. Subsequent members of the Board of Directors shall be elected as provided for under paragraph (1) after being nominated by a nominating committee appointed by the preceding Board of Directors.

(c) ESTABLISHMENT BY STATE OR LOCAL GOVERNMENT.—A State or local government may establish or sponsor a purchasing cooperative to serve a community rating area. The Secretary shall establish special rules concerning the legal and governing structure of a State or local government purchasing cooperative.

(d) MEMBERSHIP.—A purchasing cooperative shall accept all community-rated employers, community-rated employees, and community-rated individuals residing within the area served by the cooperative as members if such employers, employees, or individuals request such membership. Members of a cooperative shall have voting rights to select members of the Board of Directors consistent with rules established by the State.

(e) PROHIBITION.—An insurer may not form or underwrite a purchasing cooperative but may administer such a cooperative.

(f) DUTIES OF COOPERATIVES.—Each purchasing cooperative shall—

(1) negotiate (regarding premiums and marketing fees) with and enter into agreements with certified standard health plans under section 1323;

(2) enter into agreements with community-rated employers;

(3) enroll community-rated employees and community-rated individuals in certified standard health plans;

(4) collect premiums and make payments to certified standard health plans on behalf of community-rated employers and community-rated individuals;

(5) provide for coordination with other purchasing cooperatives;

(6) provide comparative information to the public and the participating State on certified standard health plans offered through the purchasing cooperative from information provided by the plans under section 1125;

(7) have the capability of accepting data from certified standard health plans as required under subtitle B of title V;

(8) comply with such fiduciary responsibility, financial management, and administrative requirements as the Secretary may establish;

(9) comply with rules established by the Secretary to prohibit conflicts of interest on the part of officers and employees of the purchasing cooperative; and

(10) carry out other functions provided for under this title.

(g) LIMITATION ON ACTIVITIES.—A cooperative shall not—

(1) perform any activity (including review, approval, or enforcement) relating to payment rates for providers;

(2) perform any activity (including certification or enforcement) relating to compliance of standard health plans with the requirements of this Act;

(3) assume insurance risk; or

(4) perform other activities identified by the State as being inconsistent with the performance of its duties under this Act.

(h) RULES OF CONSTRUCTION.—

(1) MULTIPLE COOPERATIVES.—Nothing in this section shall be construed to prevent a State from certifying or establishing more than one purchasing cooperative in a community rating area.

(2) EXCLUSIVE COOPERATIVE.—

(A) IN GENERAL.—Nothing in this section shall be construed as requiring a State to certify or establish more than one purchasing cooperative serving a community rating area.

(B) SPECIAL RULES.—If a State chooses to certify only one purchasing cooperative in a community rating area, then such cooperative (other than a cooperative established under section 1341) may not negotiate regarding premiums as described in subsection (f)(1) and, notwithstanding section 1323(a)(1), shall enter into an agreement with each certified standard health plan operating in the area which desires such an agreement.

(2) SINGLE ORGANIZATION SERVING MULTIPLE COMMUNITY RATING AREAS.—Nothing in this section shall be construed as preventing a single not-for-profit corporation from being the purchasing cooperative for more than one community rating area.

(3) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed as requiring any community-rated individual, community-rated employee, or community-rated employer to purchase a certified standard health plan exclusively through a cooperative.

SEC. 1322. MEMBERSHIP.

(a) IN GENERAL.—A purchasing cooperative shall offer all community-rated individuals and community-rated employees residing within the community rating area served by the cooperative the opportunity to enroll in any certified standard health plan that has entered into an agreement with the cooperative under section 1323.

(b) ENROLLMENT PROCESS.—A purchasing cooperative shall establish an enrollment process for certifieu standard health plans in accordance with rules established by the Secretary.

(c) COORDINATION AMONG PURCHASING COOPERATIVES.—Each participating State shall establish rules consistent with this section for coordination among purchasing cooperatives in cases in which community-rated employers are located in one community rating area and their community-rated employees reside in a different community rating area.

SEC. 1323. AGREEMENTS WITH CERTIFIED STANDARD HEALTH PLANS.

(a) AGREEMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each purchasing cooperative for a community rating area may enter into an agreement under this section with any certified standard health plan that the purchasing cooperative desires to be made available through such purchasing cooperative.

(2) MINIMUM REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each purchasing cooperative shall enter into an agreement under paragraph (1) with at least 3 types of certified standard health plans which provide the standard benefits package established under subtitle C, including, if available, a fee-for-service plan, a combination cost-sharing plan, and a low cost-sharing plan as established under such subtitle.

(B) WAIVER OF REQUIREMENT.—The Governor of a participating State may waive the requirement under subparagraph (A), in a manner consistent with section 1301(a)(2)), for any purchasing cooperative in a rural area of such State which demonstrates an insufficient population density to support 3 types of certified standard health plans. Such a purchasing cooperative shall at least offer a fee-for-service plan as established under such subtitle.

(3) LIMITATION.—A purchasing cooperative may not enter into an agreement under this section with a standard health plan unless such plan is certified by the State under subtitle E.

(4) TERMINATION OF AGREEMENT.—An agreement under paragraph (1) shall remain in effect for a 12-month period. The State shall establish a process for the termination of agreements entered into under this section and a process for appealing such termination under this paragraph. In accordance with rules established by the State—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(A) a cooperative may terminate an agreement with a certified standard health plan if the health plan's certification for the community rating area involved is terminated or if the health plan fails to fulfill the requirements of the agreement; and

(B) a certified standard health plan may appeal the termination of an agreement with a cooperative under this paragraph to the State in accordance with rules and procedures established by the State.

(b) RECEIPT OF GROSS PREMIUMS.—

(1) IN GENERAL.—A purchasing cooperative may require that a certified standard health plan with which such cooperative has an agreement under this section provide for the payment of premiums directly to the cooperative in accordance with rules promulgated by the Secretary.

(2) FORWARDING OF PREMIUMS.—A purchasing cooperative that requires direct payment of premiums under paragraph (1) shall forward to the certified standard health plan the amounts collected on the behalf of the enrollees in such plan in accordance with the State program of reinsurance and risk adjustment.

(3) CERTIFIED STANDARD HEALTH PLANS RETAIN RISK OF NONPAYMENT.—Nothing in this subsection shall be construed as placing upon a purchasing cooperative any risk associated with the failure of individuals and employers to make prompt payment of premiums (other than the portion of the premium representing the purchasing cooperative administrative fee under section 1324(a)).

SEC. 1324. MEMBERSHIP AND MARKETING FEES.

(a) COOPERATIVE FEES.—A purchasing cooperative shall charge members a uniform membership fee to cover the cost of activities undertaken by the cooperative (including all administrative costs incurred by the cooperative).

(b) MARKETING FEES.—

(1) IN GENERAL.—A purchasing cooperative shall charge members a separate marketing fee which a certified standard health plan may charge to cover the cost of marketing and administrative activities undertaken by such plan in such cooperative.

(2) NEGOTIATION.—A purchasing cooperative and a certified standard health plan shall negotiate the marketing fee. Such negotiated fee shall not be binding on such health plan with respect to other purchasing cooperatives through which the plan is offered.

(3) LIMITATION.—In no case shall a marketing fee assessed by a certified standard health plan offered outside of a purchasing cooperative be lower than the weighted average of the marketing fees negotiated with all purchasing cooperatives for the community rating area involved.

(c) OVERALL LIMITATION ON MEMBERSHIP AND MARKETING FEES.—In no event may the sum of the membership fee and the marketing fee charged by a purchasing cooperative with respect to a certified standard health plan exceed 1.5 percent of the premium for such plan.

(d) DISCLOSURE AND MULTIPLE COOPERATIVES.—

(1) DISCLOSURE.—A purchasing cooperative shall, prior to the time of enrollment, publish the membership fee of such cooperative and the marketing fees for each certified standard health plan offered through the cooperative. Such fees shall be calculated and identified as separate charges from the premium charged by the certified standard health plans offered by the purchasing cooperative.

(2) SUBMISSIONS TO STATE.—

(A) IN GENERAL.—Each purchasing cooperative in a community rating area shall provide the State with information on the fees described in paragraph (1) under rules developed by the State.

(B) DOCUMENTATION.—Pursuant to regulations issued by the Secretary, certified standard health plans shall submit actuarial data and such other documentation as the State may require in order to verify the basis for variation in marketing fees across cooperatives and other insurance distribution sources. States shall use such information in order to make a determination that each plan's marketing fees are based on legitimate variation in marketing and distribution costs across alternative distribution sources.

(3) MULTIPLE COOPERATIVES.—In community rating areas in which States have certified multiple purchasing cooperatives, such cooperatives may compete for members on the basis of the fees described in this section.

Subpart B—Community-Rated Employers

SEC. 1331. DUTIES OF PURCHASING COOPERATIVES.

(a) IN GENERAL.—A purchasing cooperative for a community rating area shall offer to enter into an agreement under this section with each community-rated employer that employs individuals in the community rating area and that desires to join the cooperative. An agreement between such an employer and a cooperative shall include provisions consistent with the requirements of this subtitle.

(b) ELECTION OF ENROLLMENT.—

(1) IN GENERAL.—An employee of a community-rated employer may select coverage under any of the certified standard health plans offered through a purchasing cooperative of which the employer is a member.

(2) ENROLLMENT OUTSIDE THE COOPERATIVE.—An employee of a community-rated employer may elect to enroll in a plan offered through the purchasing cooperative with which the employer has entered into an agreement or directly with a certified standard health plan selected by the employer (if such plan is not offered by the cooperative selected by the employer). A community-rated employee not residing in the community rating area served by the purchasing cooperative selected by the employer shall enroll in a certified standard health plan consistent with rules promulgated by the Secretary. The purchasing cooperative selected by the employer shall be responsible for forwarding premium payments to the appropriate plan or cooperative for each community-rated employee.

(3) VOLUNTARY EMPLOYER CONTRIBUTION.—If an employer voluntarily contributes to the cost of health insurance coverage for its employees, the employer shall not be required to make a contribution on behalf of an employee who elects to obtain coverage directly from a certified standard health plan not chosen by such employer or from a purchasing cooperative not chosen by such employer, unless such cooperative is one established under section 1341.

(c) FORWARDING INFORMATION ON ELIGIBLE EMPLOYEES.—Under an agreement between an employer and a cooperative, the employer must forward to the appropriate cooperative such information as may be required by the Secretary.

Subpart C—Federal Employees Health Benefits Program

SEC. 1341. REQUIREMENTS APPLICABLE TO FEHBP.

(a) AVAILABILITY OF PLANS.—

(1) COMMUNITY-RATED INDIVIDUALS.—All certified standard health plans offered by FEHBP through a purchasing cooperative joined or established by FEHBP in a community rating area under subsection (b) shall be made available to all community-rated individuals residing within that area at the community-rated premium established under section 1116.

(2) FEDERAL EMPLOYEES AND ANNUITANTS.—Until January 1, 2005, any Federal employee or annuitant shall obtain coverage under any FEHBP plan offered through such a purchasing cooperative in the community rating area in which such employee or annuitant resides at the rate established under chapter 89 of title 5, United States Code, for such plan.

(3) OFFER OF NATIONAL PLANS.—Each purchasing cooperative joined or established under paragraph (1) shall, not later than January 1, 1998, offer to community-rated individuals covered by such cooperative all national FEHBP plans (including employee organization plans) at a community-rated premium under rules established by the Office of Personnel Management.

(b) AGREEMENTS WITH PURCHASING COOPERATIVES.—

(1) IN GENERAL.—The Office of Personnel Management shall make every effort to enter into an agreement with a purchasing cooperative in each community rating area in the United States to carry out its responsibilities under this section.

(2) ESTABLISHMENT BY OPM.—During the period in which no purchasing cooperative exists in an area or the Office of Personnel Management is unsuccessful in reaching such an agreement, the Office of Personnel Management shall establish and administer a purchasing cooperative in such area. Such cooperative shall meet all the requirements of this part except rules regarding governance and fiduciary responsibility.

(3) DESIGNATION AS PURCHASING COOPERATIVE.—All FEHBP eligible employees residing in the community rating area served by a cooperative described in paragraph 1 or (2) shall enroll in a certified standard health plan through such cooperative.

(c) REQUIREMENT OF OPM.—

(1) IN GENERAL.—The Office of Personnel Management is hereby authorized to take such actions as are appropriate to fulfill its responsibilities under this subpart.

(2) RATE BLENDING.—The Office of Personnel Management shall implement rules to blend after January 1, 2005, the premiums for FEHBP plans offered through purchasing cooperatives to Federal employees and community-rated individuals in each community rating area.

(d) AMENDMENTS TO TITLE 5.—

(1) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 8915. Relationship to the Health Security Act

"(a) The provisions of this chapter shall be subject to the provisions of the Health Security Act, to the extent of any inconsistency between such provisions.

"(b) Individuals who are not Federal employees or annuitants and who are enrolled in a health benefits plan pursuant to section 1341 of the Health Security Act shall for all administrative purposes be treated separately from Federal employees and annuitants enrolled under this chapter.

"(c) No provision of the Health Security Act shall be construed to authorize the payment or deposit of any monies from or into the Employees Health Benefits Fund, except

as authorized by the Office of Personnel Management to facilitate the termination of a plan provided under this chapter to employees and annuitants of the United States Postal Service and the reestablishment of such plan as a certified standard health plan under the Health Security Act.".

(2) CONFORMING AMENDMENT.—Section 8914 of title 5, United States Code, is amended by striking out "Any provision of law" and inserting in lieu thereof "Except for the provisions of the Health Security Act, any provision of law".

(3) TECHNICAL AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by adding after the item relating to section 8914 the following new item:

"8915. Relationship to the Health Security Act.".

SEC. 1342. SPECIAL RULES FOR FEHBP SUPPLEMENTAL PLANS.

(a) DEVELOPMENT.—The Office of Personnel Management shall develop FEHBP supplemental health benefit plans. The Office of Personnel Management shall meet and confer with representatives of Federal employees and annuitants regarding the supplemental services plans and the cost-sharing plans to be offered (including premium contributions, if any, to be made by the Federal Government with respect to such plans for Federal employees and annuitants) through a process to be established by the National Partnership Council.

(b) OFFERING.—The Federal Government shall offer FEHBP supplemental health benefit plans developed in accordance with subsection (a) and cost-sharing plans as provided in section 1141 to Federal employees, annuitants, and any other community-rated individual.

SEC. 1343. DEFINITIONS.

For purposes of this Act:

(1) ANNUITANT.—The term "annuitant" means an "annuitant" as defined by section 8901 of title 5, United States Code.

(2) FEHBP.—The term "FEHBP" means the health insurance program under chapter 89 of title 5, United States Code.

(3) FEDERAL EMPLOYEE.—The term "Federal employee" means an "employee" as defined by section 8901 of title 5, United States Code.

PART 3—TREATMENT OF ASSOCIATION PLANS

SEC. 1351. RULES RELATING TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

(a) GENERAL RULE.—A multiple employer welfare arrangement—

(1) shall meet all requirements of this Act applicable to standard health plans, and

(2) may elect to be treated as a health insurance purchasing cooperative if it meets the requirements of part 2 and other applicable requirements of this Act.

(b) TREATMENT FOR RATING PURPOSE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a plan to which subsection (a) applies shall be treated as a community-rated plan and shall meet all requirements of this Act applicable to a community-rated plan.

(2) EXPERIENCE-RATED PLAN.—A plan shall be treated as an experience-rated plan only if the only participants in the plan are experience-rated individuals.

(b) COORDINATION WITH ERISA.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by striking paragraph (6).

(c) MULTIPLE EMPLOYER WELFARE ARRANGEMENT.—For purposes of this section, the term "multiple employer welfare arrangement" has the meaning given such term by section 3(40) of the Employer Retirement Income Security Act of 1974.

SEC. 1352. ASSOCIATION PLANS.

(a) GENERAL RULE.—Any health plan to which section 1351 does not apply which is maintained by a trade association, industry association, professional association, chamber of commerce, a religious organization, or a public entity association, or similar entity shall meet all requirements of this Act applicable to standard health plans.

(b) TREATMENT FOR RATING PURPOSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), a plan to which subsection (a) applies shall be treated as a community-rated plan and shall meet all requirements of this Act applicable to a community-rated plan.

(2) EXPERIENCE-RATED PLAN.—A plan shall be treated as an experience-rated plan only if the only participants in the plan are experience-rated individuals.

Subtitle E—Federal Responsibilities

PART 1—SECRETARY OF HEALTH AND HUMAN SERVICES

Subpart A—General Duties

SEC. 1401. GENERAL DUTIES AND RESPONSIBILITIES.

(a) IN GENERAL.—Except as otherwise specifically provided in this Act (or with respect to the administration of provisions in the Internal Revenue Code of 1986 or in the Employee Retirement Income Security Act of 1974), the Secretary of Health and Human Services shall administer and implement all of the provisions of this Act.

(b) COVERAGE AND FAMILIES.—The Secretary shall develop and implement standards relating to the eligibility of individuals for coverage in applicable health plans under subtitle B and may provide such additional exceptions and special rules relating to the treatment of family members under section 1113 as the Secretary finds appropriate.

(c) QUALITY MANAGEMENT AND IMPROVEMENT.—The Secretary shall establish and have ultimate responsibility for a performance-based system of quality management and improvement as required by section 5001.

(d) INFORMATION SYSTEM AND INFORMATION RELATED FUNCTIONS.—

(1) IN GENERAL.—The Secretary shall—

(A) develop and implement standards to establish a national health information system to measure quality as required by title V;

(B) provide model format and content requirements for summary plan descriptions, to be made available at public access sites under section 1508;

(C) provide model format and content requirements for comparative plan brochures under section 1125, to be made available by purchasing cooperatives under section 1321, and at public access sites under section 1508; and

(D) establish standards for the provision of information on purchasing cooperatives in accordance with section 1508, including information on marketing and purchasing cooperative fees and purchasing cooperative membership applications.

(2) INFORMATION RELATED FUNCTIONS.—

(A) DESIGNATION.—The Secretary shall provide for the use of entities in the national health data network to perform information related functions under this section with respect to employers, States, contracting entities, and purchasing cooperatives.

(B) FUNCTIONS.—The functions referred to in subparagraph (A) shall include—

(i) receipt of information submitted by employers under section 1301,

(ii) with respect to the information received, transmittal to the States, and

(iii) such other functions as the Secretary specifies.

(e) PARTICIPATING STATE REQUIREMENTS.—Consistent with the provisions of subtitle F, the Secretary shall—

(1) establish requirements for participating States,

(2) monitor State compliance with those requirements, and

(3) provide technical assistance,

in a manner that ensures access to the standard benefit package for all eligible individuals.

(f) DEVELOPMENT OF PREMIUM AND AGE CLASS FACTORS.—The Secretary shall establish premium class and age class factors under subpart D.

(g) DEVELOPMENT OF REINSURANCE AND RISK-ADJUSTMENT METHODOLOGY.—The Secretary shall develop a methodology for the reinsurance and risk-adjustment of premium payments to community-rated and experience-rated health plans in accordance with section 1504.

(h) FINANCIAL REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall establish minimum capital requirements and requirements for guaranty funds and financial reporting and auditing standards under subpart F.

(2) FINANCIAL MANAGEMENT STANDARDS.—The Secretary, in consultation with the Secretary of Labor, shall establish, for purposes of section 1118, standards relating to the management of finances, maintenance of records, accounting practices, auditing procedures, and financial reporting for States, consumer purchasing cooperatives and health plans. Such standards shall take into account current Federal laws and regulations relating to fiduciary responsibilities and financial management of funds.

(3) AUDITING STATE PERFORMANCE.—The Secretary shall perform periodic financial and other audits of States to assure that such States are carrying out their responsibilities under this Act consistent with this Act. Such audits shall include audits of State performance in the areas of—

(A) assuring enrollment of all community-rated individuals in health plans;

(B) management of premium and cost sharing discounts and reductions provided;

(C) financial management (including the financial activities of cooperatives and State-designated contracting entities); and

(D) assuring enforcement of the anti-discrimination provisions of this Act.

(i) STANDARDS FOR HEALTH PLAN GRIEVANCE PROCEDURES.—The Secretary shall establish standards for health plan grievance procedures that are used by enrollees in pursuing complaints.

(j) FIDUCIARY REQUIREMENTS.—The Secretary shall, in consultation with the Secretary of Labor, develop and promulgate fiduciary requirements for the management of funds by States, plans, cooperatives, and employers.

(k) GUARANTY FUNDS.—The Secretary shall establish standards for guaranty funds as provided for in section 1442.

(l) STANDARDS FOR UTILIZATION MANAGEMENT PROGRAMS.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with interested parties which may include one or more accrediting organizations, shall promulgate uniform Federal standards for utilization management programs, to include the activities described in section 1129.

VOL
140
PT
16
AG
12
—
18
1994
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(2) COMPLIANCE.—States shall ensure compliance with the Federal standards established under paragraph (1), consistent with their role in certifying health plans.

(3) REVIEW AND UPDATE.—The Secretary shall periodically review and update utilization management standards to reflect appropriate policies and practices in health care delivery.

(m) COLLECTION ACTIVITIES.—The Secretary may provide (through contract or otherwise) for collection activities for the collection of amounts owed to States, health plans and purchasing cooperatives for health insurance coverage subject to the provisions of this title.

SEC. 1402. ANNUAL REPORT.

(a) IN GENERAL.—The Secretary, in consultation with the National Health Benefits Board and the Health Care Cost and Coverage Commission, shall prepare and submit to the President and the Congress an annual report concerning the overall implementation of the new health care system under this Act.

(b) MATTERS TO BE INCLUDED.—The Secretary shall include in each annual report under this section the following:

(1) Information on Federal and State implementation.

(2) Data related to quality improvement.

(3) Recommendations or changes in the administration and regulation of laws related to health care financing, delivery, and coverage.

SEC. 1403. ASSISTANCE WITH FAMILY COLLECTIONS.

The Secretary shall provide States with such technical and other assistance as may promote the efficient collection of amounts owed by families under this Act.

SEC. 1404. ADVISORY OPINIONS.

(a) IN GENERAL.—Community- and provider-based plans, and individuals and organizations seeking to establish such plans, shall be eligible to receive advisory opinions from appropriate Federal entities, including opinions concerning whether their arrangement complies with Federal self-referral, fraud and abuse, and anti-trust laws.

(b) REGULATIONS.—The Secretary shall issue regulations setting forth the procedures for obtaining advisory opinions described in subsection (a).

(c) TIMING OF OPINIONS.—An advisory opinions shall be issued not later than 90 days after receipt of a request for such opinion from a plan.

(d) FEES.—Applicants under this section shall pay a fee, the amount of which to be determined by the Secretary, to cover the costs of providing an opinion under this section.

SEC. 1403. FUNDING.

There are authorized to be appropriated to the Secretary, such sums as may be necessary to carry out this subpart for each of the fiscal years 1995 through 1999.

Subpart B—Responsibilities Relating to Review and Approval of State Systems

SEC. 1411. FEDERAL REVIEW AND ACTION ON STATE SYSTEMS.

(a) APPROVAL OF STATE SYSTEMS BY SECRETARY.—

(1) IN GENERAL.—The Secretary shall approve a State health care system for which a plan is submitted under section 1501(a) unless the Secretary determines that the system (as set forth in the plan) does not (or will not) meet the responsibilities for a participating State under this Act.

(2) REGULATIONS.—Not later than July 1, 1995, the Secretary shall issue regulations prescribing the requirements for State health care systems under this title, except that in the case of a plan submitted under section 1501(a) before the date of issuance of such regulations, the Secretary shall take action on such document notwithstanding the fact that such regulations have not been issued.

(3) NO APPROVAL PERMITTED FOR YEARS PRIOR TO 1996.—Except as otherwise specifically provided in this Act, the Secretary may not approve a State health care system under this subpart for any year prior to 1996.

(b) REVIEW OF COMPLETENESS OF PLANS.—

(1) IN GENERAL.—When a State submits a plan under subsection (a)(1), the Secretary shall notify the State, not later than 7 working days after the date of submission, whether or not the plan is complete and provides the Secretary with sufficient information to approve or disapprove the document.

(2) ADDITIONAL INFORMATION ON INCOMPLETE PLAN.—If the Secretary notifies a State that the State's plan is not complete, the State shall be provided such additional period (not to exceed 45 days) as the Secretary may by regulation establish in which to submit such additional information as the Secretary may require. Not later than 7 working days after the State submits the additional information, the Secretary shall notify the State respecting the completeness of the plan.

(c) ACTION ON COMPLETED DOCUMENTS.—

(1) IN GENERAL.—The Secretary shall make a determination (and notify the State) on whether the State's plan provides for the implementation of a State system that meets the applicable requirements of this title—

(A) in the case of a State that did not require an additional period described in subsection (b)(2) to file a complete plan, not later than 90 days after notifying a State under subsection (b) that the State's plan is complete, or

(B) in the case of a State that required an additional period described in subsection (b)(2) to file a complete plan, not later than 90 days after notifying a State under subsection (b) that the State's plan is complete.

(2) REVIEW OF COVERAGE AREA.—The Secretary shall review the State designation of community rating area boundaries to determine whether such boundaries comply with sections 1502 and 1602, and in particular, the requirements of such sections concerning non-discrimination in the establishment of coverage area boundaries.

(3) PLANS DEEMED APPROVED.—If the Secretary does not meet the applicable deadline for making a determination and providing notice under paragraph (1) with respect to a State's plan, the Secretary shall be deemed to have approved the State's plan for purposes of this Act.

(d) OPPORTUNITY TO RESPOND TO REJECTED PLAN.—

(1) IN GENERAL.—If (within the applicable deadline under subsection (c)(1)) the Secretary notifies a State that its plan does not provide for the implementation of a State system that meets the applicable requirements of this title, the Secretary shall provide the State with a period of 60 days in which to submit such additional information and assurances as the Secretary may require.

(2) DEADLINE FOR RESPONSE.—Not later than 30 days after receiving additional information and assurances under paragraph (1), the Secretary shall make a determination (and notify the State) on whether the State's plan provides for the implementation of a State system that meets the applicable requirements of this title.

(3) PLAN DEEMED APPROVED.—If the Secretary does not meet the deadline established under paragraph (2) with respect to a State, the Secretary shall be deemed to have approved the State's plan for purposes of this Act.

(e) APPROVAL OF PREVIOUSLY TERMINATED STATES.—If the Secretary has approved a State system under this part for a year but subsequently terminated the approval of the system under section 1412(b)(2), the Secretary shall approve the system for a succeeding year if the State—

(1) demonstrates to the satisfaction of the Secretary that the failure that formed the basis for the termination no longer exists, and

(2) provides reasonable assurances that the types of actions (or inactions) which formed the basis for such termination will not recur.

(f) REVISIONS TO STATE SYSTEM.—

(1) SUBMISSION.—A State may revise a system approved for a year under this section, except that such revision shall not take effect unless the State has submitted to the Secretary a document describing such revision and the Secretary has approved such revision.

(2) ACTIONS ON REVISIONS.—Not later than 60 days after a document is submitted under paragraph (1), the Secretary shall make a determination (and notify the State) on whether the implementation of the State system, as proposed to be revised, meets the applicable requirements of this title. If the Secretary fails to meet the requirement of the preceding sentence, the Secretary shall be deemed to have approved the implementation of the State system as proposed to be revised.

(3) REJECTION OF REVISIONS.—Subsection (d) shall apply to an amendment submitted under this subsection in the same manner as it applies to a completed plan submitted under subsection (b).

SEC. 1412. FAILURE OF PARTICIPATING STATES TO MEET CONDITIONS FOR COMPLIANCE.

(a) IN GENERAL.—In the case of a participating State, if the Secretary determines that the operation of the State system under this title fails to meet the applicable requirements of this Act, the Secretary shall apply against the State in accordance with subsection (b).

(b) TYPE OF SANCTION APPLICABLE.—The sanctions applicable under this section are as follows:

(1) If the Secretary determines that the State's failure does not substantially jeopardize the ability of eligible individuals in the State to obtain coverage for the standard benefit package, the Secretary shall reduce payments with respect to the State in accordance with section 1413.

(2) If the Secretary determines that the failure substantially jeopardizes the ability of eligible individuals in the State to obtain coverage for the standard benefit package—

(A) the Secretary shall terminate its approval of the State system; and

(B) the Secretary shall assume the responsibilities described in section 1422.

(c) TERMINATION OF SANCTION.—A State against which a sanction is imposed under this section may submit information at any time to the Secretary to demonstrate that the failure that led to the imposition of the sanction has been corrected.

(d) PROTECTION OF ACCESS TO BENEFITS.—The Secretary shall take actions under this section with respect to a State only in a manner that assures the continuous coverage of eligible individuals enrolled in community-rated health plans.

SEC. 1413. REDUCTION IN PAYMENTS FOR HEALTH PROGRAMS BY SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) IN GENERAL.—Upon a determination by the Secretary under section 1412(b)(1), the Secretary shall reduce the amount of any of the payments described in subsection (b) that would otherwise be made to individuals and entities in the State by such amount as the Secretary determines to be appropriate.

(b) PAYMENTS DESCRIBED.—The payments described in this subsection are as follows:

(1) Payments to academic health centers in the State under subtitle B of title III.

(2) Payments to individuals and entities in the State for health research activities under section 301 and title IV of the Public Health Service Act.

(3) Payments to hospitals in the State under part 4 of subtitle E of title III (relating to payments to hospitals serving vulnerable populations)

SEC. 1414. REVIEW OF FEDERAL DETERMINATIONS.

Any State affected by a determination by the Secretary under this subpart may appeal such determination in accordance with section 5531.

SEC. 1415. FEDERAL SUPPORT FOR STATE IMPLEMENTATION.

(a) PLANNING GRANTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall, to the extent amounts are appropriated, make available to each State a planning grant to assist the State in the development of a health care system necessary to enable the State to become a participating State under this title.

(2) FORMULA.—The Secretary shall establish a formula for the distribution of funds made available under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 1995 and 1996 for grants under this subsection.

(b) GRANTS FOR START-UP SUPPORT.—

(1) IN GENERAL.—The Secretary shall, to the extent amounts are appropriated, make available to States, upon their becoming participating States, grants to assist in the establishment of purchasing cooperatives.

(2) FORMULA.—The Secretary shall establish a formula for the distribution of funds made available under this subsection.

(3) STATE MATCHING FUNDS REQUIRED.—Funds are payable to a State under this subsection only if the State provides assurances, satisfactory to the Secretary, that amounts of State funds (at least equal to the amount made available under this subsection) will be expended for the purposes described in paragraph (1).

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $313,000,000 for fiscal year 1996, $625,000,000 for fiscal year 1997, and $313,000,000 for fiscal year 1998, for grants under this subsection.

Subpart C—Responsibilities in Absence of State Systems

SEC. 1421. APPLICATION OF SUBPART.

(a) INITIAL APPLICATION.—This subpart shall apply with respect to a State as of January 1, 1997, unless—

(1) the State submits a plan for a State system under section 1411(a)(1) by July 1, 1996, and

(2) the Secretary determines under section 1411 that such system meets the requirements of subtitle F.

(b) TERMINATION OF APPROVAL OF SYSTEM OF PARTICIPATING STATE.—In the case of a participating State for which the Secretary terminates approval of the State system under section 1412(b)(2), this subpart shall apply with respect to the State as of such date as is appropriate to assure the continuity of coverage for the standard benefit package for eligible individuals in the State.

SEC. 1422. FEDERAL ASSUMPTION OF RESPONSIBILITIES IN NON-PARTICIPATING STATES.

Upon determining that this subpart will apply to a State for a calendar year, the Secretary shall take such steps as are necessary to ensure that the standard benefit package is provided to eligible individuals in the State during the year, including the establishment of community-rating areas within such State as appropriate.

SEC. 1423. IMPOSITION OF SURCHARGE ON PREMIUMS UNDER FEDERALLY-OPERATED SYSTEM.

If this subpart applies to a State for a calendar year, the premiums charged by community-rated health plans in the State shall be equal to premiums that would otherwise be charged, increased by 15 percent. Such 15 percent increase shall be used to reimburse the Secretary for any administrative or other expenses incurred as a result of establishing and operating the system in that State.

SEC. 1424. RETURN TO STATE OPERATION.

(a) APPLICATION PROCESS.—After the establishment and operation of a system by the Secretary in a State under section 1422, the State may at any time apply to the Secretary for the approval of a State system in accordance with the procedures described in section 1411.

(b) TIMING.—If the Secretary approves the system of a State for which the Secretary has operated a system under this subpart during a year, the Secretary shall terminate the operation of the system, and the State shall establish and operate its approved system, as of January 1 of the first year beginning after the Secretary approves the State system. The termination of the Secretary's system and the operation of the State's system shall be conducted in a manner that assures the continuous coverage of eligible individuals in the State under community-rated health plans.

Subpart D—Establishment of Class Factors for Charging Premiums

SEC. 1431. PREMIUM CLASS AND AGE CLASS FACTORS.

(a) IN GENERAL.—For purposes of this title and title X, the Secretary shall establish premium class and age class factors in accordance with section 1113(c).

(b) CONDITIONS.—In establishing such factors, the factor for the class of individual enrollment shall be 1 and the factor for the couple-only class of family enrollment shall be 2.

Subpart E—Risk Adjustment and Reinsurance Methodology for Payment of Plans

SEC. 1435. DEVELOPMENT OF A RISK ADJUSTMENT AND REINSURANCE METHODOLOGY.

(a) ESTABLISHMENT.—The Secretary shall develop a risk adjustment and reinsurance methodology in accordance with section 1504.

(b) RESEARCH AND DEMONSTRATION.—The Secretary shall conduct and support research and demonstration projects to develop and improve, on a continuing basis, the risk adjustment and reinsurance methodology under this subpart.

(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States in implementing the methodology developed under this subpart.

Subpart F—Responsibilities for Financial Requirements

SEC. 1441. CAPITAL STANDARDS FOR COMMUNITY-RATED PLANS.

(a) IN GENERAL.—The Secretary shall establish, in consultation with the States, minimum capital requirements for carriers, for purposes of section 1118.

(b) $500,000 MINIMUM.—Subject to subsection (c), under such requirements there shall be not less than $500,000 of capital maintained for each carrier.

(c) ADDITIONAL CAPITAL REQUIREMENTS.—The Secretary shall establish standards that provide for additional capital for purposes of this section. The amount of such additional capital required shall reflect factors likely to affect the financial stability of a carrier, including the following:

(1) Projected plan enrollment and number of providers participating in plans of the carrier.

(2) Market share and strength of competition.

(3) Extent and nature of risk-sharing with participating providers and the financial stability of risk-sharing providers.

(4) Prior performance of the carrier, risk history, and liquidity of assets.

(d) COMMUNITY- AND PROVIDER-BASED PLANS.—

(1) IN GENERAL.—States shall consider alternative financial instruments and methods for community- and provider-based plans (as defined in paragraph (2)) to meet the capital and solvency standards developed in accordance with this section. Provisions made for such plans shall ensure the fiscal integrity and financial solvency of such plans.

(2) ELIGIBLE PLANS.—Plans eligible for special consideration by States must be offered by public or not-for-profit entities that are owned, or in which a majority share of the plan's investment is held by—

(A) health care providers who practice in the plan;

(B) individuals who live in the area, or not-for-profit organizations located in the area serviced by the plan;

(C) a combination of individuals and organizations described in subparagraphs (A) and (B); or

(D) organizations located outside the service area which provide for control over local operations by individuals described in subparagraphs (A) or (B).

(e) DEVELOPMENT OF STANDARDS BY NAIC.—The Secretary may request the National Association of Insurance Commissioners to develop model standards for the additional capital requirements described in subsection (c) and to present such standards to the Secretary not later than July 1, 1995. The Secretary may accept such standards as the standards to be applied under subsection (c) or modify the standards in any appropriate manner.

SEC. 1442. STANDARD FOR GUARANTY FUNDS.

(a) IN GENERAL.—In consultation with the States, the Secretary shall establish standards for guaranty funds established by States for community-rated health plans.

(b) GUARANTY FUND STANDARDS.—The standards established under subsection (a) for a guaranty fund shall include the following:

(1) Each fund must have a method to generate sufficient resources to pay health providers and others in the case of a failure of a health plan in order to meet obligations with respect to—

(A) services rendered by the health plan for the standard benefit package, including any supplemental coverage for cost sharing provided by the health plan, and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(B) services rendered prior to health plan insolvency and services to patients after the insolvency but prior to their enrollment in other health plans.

(2) Each fund shall be liable for all claims against the plan by health care providers with respect to their provision of items and services covered under the standard benefit package to enrollees of the failed plan. Such claims, in full, shall take priority over all other claims. The fund is liable, to the extent and in the manner provided in accordance with rules established by the Secretary, for other claims, including other claims of such providers and the claims of contractors, employees, governments, or any other claimants.

(3) The fund stands as a creditor for any payments owed the plan to the extent of the payments made by the fund for obligations of the plan.

(4) The fund has authority to borrow against future assessments in order to meet the obligations of failed plans participating in the fund.

Subpart G—Open Enrollment

SEC. 1445. PERIODS OF AUTHORIZED CHANGES IN ENROLLMENT.

The Secretary shall specify periods of enrollment in accordance with section 1112(c).

SEC. 1446. DISTRIBUTION OF COMPARATIVE INFORMATION.

The Secretary shall specify a period of time prior to open enrollment during which States must provide for the distribution to community-rated individuals enrollment materials and comparative information on health plans and purchasing cooperatives.

PART 2—ESSENTIAL COMMUNITY PROVIDERS

SEC. 1461. CERTIFICATION.

For purposes of this Act, the Secretary shall certify as an "essential community provider" any health care provider or organization that—

(1) is within any of the categories of providers and organizations specified in section 1462(a); or

(2) meets the standards for certification under section 1463(a).

SEC. 1462. CATEGORIES OF PROVIDERS AUTOMATICALLY CERTIFIED.

(a) IN GENERAL.—The categories of providers and organizations, including subrecipients, specified in this subsection are as follows:

(1) CATEGORY 1 ENTITIES.—The following entities shall be considered category 1 entities:

(A) Covered entities as defined in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)), except that subsections (a)(4)(L)(iii) and (a)(7) of such section shall not apply.

(B) School health services centers under title III.

(C) Public or nonprofit hospitals, including children's hospitals—

(i) that meet the criteria for public hospitals which are eligible entities under section 340B of the Public Health Service Act in any cost reporting period in the 3-year period prior to the date of enactment of this Act, except that subsection (a)(4)(L)(iii) of such section shall not apply; or

(ii) meeting alternative criteria developed by the Secretary after the date of enactment of this Act which are comparable to the criteria utilized in determining eligibility under such section 340B;

(D) Public and private, nonprofit mental health and substance abuse providers receiving funds under title V or XIX of the Public Health Service Act.

(E) Runaway homeless youth centers or transitional living programs for homeless youth providing health services under the Runaway Homeless Youth Act of 1974 (42 U.S.C. 5701 et seq.).

(F) Public or nonprofit maternal and child health providers that receive funding under title V of the Social Security Act.

(G) Rural health clinics as defined under section 1861(aa)(2) of the Social Security Act.

(H) Programs of the Indian Health Service (as defined in section 8302(3)).

(2) CATEGORY 2 ENTITIES.—The following entities shall be considered category 2 entities:

(A) Medicare dependent small rural hospitals under section 1886(d)(8)(iii) of the Social Security Act.

(B) Children's hospitals meeting comparable criteria determined appropriate by the Secretary.

(b) STUDY OF FEDERALLY CERTIFIED RURAL HEALTH CLINICS.—The Secretary shall conduct an evaluation of the Rural Health Clinics program as defined in section 1861(aa)(2) of the Social Security Act to examine the causes of the growth in the program and the characteristics of providers certified as rural health clinics and the characteristics of the population served by rural health clinics to ensure that the program meets the needs of rural underserved communities. The Secretary shall report the findings of such evaluation, together with any recommended changes in the rural health clinics program, to the Congress not later than January 1, 1996.

SEC. 1463. STANDARDS FOR ADDITIONAL PROVIDERS.

(a) STANDARDS.—The Secretary shall publish standards for the certification of additional categories of health care providers and organizations as essential community providers, including the categories described in subsection (b). Such a health care provider or organization shall not be certified unless the Secretary determines, under such standards, that health plans operating in the area served by the applicant would not otherwise be able to assure adequate access to items and services included in the standard benefit package if such a provider was not so certified.

(b) CATEGORIES TO BE INCLUDED.—The categories described in this subsection are as follows:

(1) CERTAIN HEALTH PROFESSIONALS.—A health professional who—

(A) for at least 20 hours per week—

(i) is located in an area (or areas) designated as a health professional shortage area (under section 332 of the Public Health Service Act) or serves a population (or populations) designated as a medically underserved population (under section 330 of the Public Health Service Act); or

(ii)(I) is located or provides services in a neighborhood or community whose residents are at risk of underservice; and

(II) is available to patients at such location on evenings and weekends; and

(B) if the health professional is a physician—

(i) is licensed to practice in the jurisdiction; and

(ii) is either—

(I) granted privileges to practice at one or more hospitals; or

(II) has a consultation and referral arrangement with one or more physicians who are granted privileges to practice at one or more hospitals.

(2) INSTITUTIONAL PROVIDERS.—Public and private nonprofit hospitals and other public and nonprofit institutional health care providers, including family planning clinics, located in health professional shortage areas (as defined under section 332 of the Public Health Service Act) or receiving funding under subtitle E of title III of this Act).

(3) OTHER PROVIDERS.—

(A) IN GENERAL.—Other public and private nonprofit agencies and organizations that—

(i) are located in such an area or providing health services to such a population, and

(ii) provide health care and services essential to residents of such an area or such populations.

(B) NONPROFIT HOSPITALS.—Nonprofit hospitals with a minimum of 200 beds, located in urban areas where—

(i) the cumulative total of its services provided to individuals who are entitled to benefits under title XVIII of the Social Security Act or under a State plan under title XIX of such Act equals a minimum of 65 percent; and

(ii) a minimum of 20 percent of its services are provided to individuals eligible for assistance under such title XIX.

SEC. 1464. CERTIFICATION PROCESS; REVIEW; TERMINATION OF CERTIFICATIONS.

(a) CERTIFICATION PROCESS.—

(1) PUBLICATION OF PROCEDURES.—The Secretary shall publish, not later than 6 months after the date of the enactment of this Act, the procedures to be used by health care professionals, providers, agencies, and organizations seeking certification under this subpart, including the form and manner in which an application for such certification is to be made.

(2) TIMELY DETERMINATION.—The Secretary shall make a determination upon such an application not later than 60 days (or 15 days in the case of a certification for an entity described in section 1462) after the date the complete application has been submitted. The determination on an application for certification of an entity described in section 1462 shall only involve the verification that the entity is an entity described in such section.

(b) REVIEW OF CERTIFICATIONS.—The Secretary shall periodically review whether professionals, providers, agencies, and organizations certified under this subpart continue to meet the requirements for such certification.

(c) TERMINATION OR DENIAL OF CERTIFICATION.—

(1) PRELIMINARY FINDING.—If the Secretary preliminarily finds that an entity seeking certification under this section does not meet the requirements for such certification or such an entity certified under this subpart fails to continue to meet the requirements for such certification, the Secretary shall notify the entity of such preliminary finding and permit the entity an opportunity, under subtitle C of title V, to rebut such findings.

(2) FINAL DETERMINATION.—If, after such opportunity, the Secretary continues to find that such an entity continues to fail to meet such requirements, the Secretary shall terminate the certification and shall notify the entity and the State of such termination and the effective date of the termination.

SEC. 1465. NOTIFICATION OF PARTICIPATING STATES.

(a) IN GENERAL.—Not less often than annually the Secretary shall notify each participating State of essential community providers that have been certified under this subpart.

(b) CONTENTS.—Such notice shall include sufficient information to permit each State to notify health plans of the identity of each entity certified as an essential community provider, including—

(1) the location of the provider within each plan's service area,

(2) the health services furnished by the provider, and

(3) other information necessary for health plans to carry out this subpart.

SEC. 1466. HEALTH PLAN REQUIREMENT.

(a) IN GENERAL.—

(1) CATEGORY 1 ENTITIES.—With respect to each essential community provider described in section 1462(a)(1) (other than a provider of school health services) that makes an election under subsection (d), that serves the health plan service area of such health plan, and that requests participation under this section, a health plan shall either—

(A) enter into a written provider participation agreement (described in subsection (b)) with such providers, or

(B) make payments to such provider in accordance with subsection (c).

(2) CATEGORY 2 ENTITIES.—

(A) IN GENERAL.—With respect to at least one essential community provider described in subparagraph (A) and at least one essential community provider described in subparagraph (B) of section 1462(a)(2), that makes an election under subsection (d), that serves the health plan service area of such health plan, and that requests participation under this section, a health plan shall either—

(i) enter into a written provider participation agreement (described in subsection (b)) with such providers, or

(ii) enter into a written agreement under which the plan shall make payments to such provider in accordance with subsection (c).

(B) EXCEPTION.—A State, as part of the State plan under section 1501(a), may submit to the Secretary for approval a request that the Secretary permit the State to—

(i) require health plans operating in certain community rating areas in the State to contract with more than one essential community provider of each type referred to in subparagraph (A), based on geographic proximity, cultural and language needs, capacity to meet the needs of enrollees, or other factors determined relevant by the State; and

(ii) establish additional types of essential community providers under section 1462(a)(2) that a health plan must contract with under subparagraph (A).

(C) DISCRETION OF SECRETARY.—With respect to a State request under subparagraph (B), the Secretary shall—

(i) approve such request; or

(ii) require the designation of such additional essential community providers in the State as the Secretary determines necessary.

(b) PARTICIPATION AGREEMENT.—A participation agreement between a health plan and an electing essential community provider under this subsection shall provide that the health plan agrees to treat the provider in accordance with terms and conditions the same as those that are applicable to other providers participating in the health plan with respect to each of the following:

(1) The scope of services for which payment is made by the plan to the provider.

(2) The rate of payment for covered care and services.

(3) The availability of financial incentives to participating providers.

(4) Limitations on financial risk provided to other participating providers.

(5) Assignment of enrollees to participating providers.

(6) Access by the provider's patients to providers in medical specialties or subspecialties participating in the plan.

(c) PAYMENTS FOR PROVIDERS WITHOUT PARTICIPATION AGREEMENTS.—

(1) IN GENERAL.—Payment in accordance with this subsection is payment based, as elected by the electing essential community provider, either—

(A) on the fee schedule developed by the State; or

(B) on payment methodologies and rates used under the applicable Medicare payment methodology and rates (or the most closely applicable methodology under such program as the Secretary specifies in regulations).

(2) SPECIAL RULE FOR FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—With respect to each federally qualified health center (as such term is defined in section 1861(aa) of the Social Security Act) and each rural health clinic that is an essential community provider, a health plan shall make payments based on the reasonable cost rates applicable under section 1833(a)(3) of the Social Security Act, except that the federally qualified health center may accept other payment amounts.

(3) NO APPLICATION OF GATE-KEEPER LIMITATIONS.—Payment in accordance with this subsection may be subject to utilization review, but may not be subject to otherwise applicable gatekeeper requirements under the plan.

(d) ELECTION.—

(1) IN GENERAL.—In this part, the term "electing essential community provider" means, with respect to a health plan, an essential community provider certified under this subpart that elects under this subpart to apply to the health plan.

(2) FORM OF ELECTION.—An election under this subsection shall be made in a form and manner specified by the Secretary, and shall include notice to the health plan involved. Such an election may be made annually with respect to a health plan, except that the plan and provider may agree to make such an election on a more frequent basis.

(e) SPECIAL RULE FOR PROVIDERS OF SCHOOL HEALTH SERVICES.—A health plan shall pay, to each provider of school health services located in the plan's service area, an amount determined by the Secretary for such services furnished to enrollees of the plan.

SEC. 1467. RECOMMENDATION ON CONTINUATION OF REQUIREMENT.

(a) STUDIES.—In order to prepare recommendations under subsection (b), the Secretary shall conduct studies regarding essential community providers, including studies that assess—

(1) the definition of essential community provider,

(2) the sufficiency of the funding levels for providers, including the special rule for federally qualified health centers under section 1466(c)(2), for both covered and uncovered benefits under this Act,

(3) the effects of contracting requirements relating to such providers on such providers, health plans, and enrollees,

(4) the impact of the payment rules for such providers, and

(5) the impact of national health reform on such providers.

(b) RECOMMENDATIONS TO AND CONSIDERATION BY CONGRESS.—

(1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to Congress, specific recommendations concerning whether, and to what extent, section 1466 should continue to apply to some or all essential community providers. Such recommendations may include a description of the particular types of such providers and circumstances under which such section should continue to apply.

(2) JOINT RESOLUTION AND CONSIDERATION BY CONGRESS.—

(A) IN GENERAL.—The recommendations under paragraph (1) shall be implemented unless a joint resolution (described in subparagraph (B)) disapproving such recommendations is enacted in accordance with the provisions of subparagraph (C), before the end of the 45-day period beginning on the date on which such recommendations were submitted. For purposes of applying the preceding sentence and subparagraphs (B) and (C), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(B) JOINT RESOLUTION OF DISAPPROVAL.—A joint resolution described in this subparagraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the Secretary submits recommendations under paragraph (1) and—

(i) which does not have a preamble;

(ii) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Secretary of Health and Human Services concerning the extension of certain essential community provider provisions, as submitted by the Secretary on _____.", the blank space being filled in with the appropriate date; and

(iii) the title of which is as follows: "Joint resolution disapproving recommendations of the Secretary of Health and Human Services concerning the extension of certain essential community provider provisions, as submitted by the Secretary on _____.", the blank space being filled in with the appropriate date.

(C) PROCEDURES FOR CONSIDERATION OF RESOLUTION OF DISAPPROVAL.—Subject to subparagraph (D), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in subparagraph (B) in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(D) SPECIAL RULES.—For purposes of applying subparagraph (C) with respect to such provisions—

(i) any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to an appropriate Committee of the House of Representatives (specified by the Speaker of the House of Representatives at the time of submission of recommendations under paragraph (1)) and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to an appropriate Committee of the Senate (specified by the Majority Leader of the Senate at the time of submission of recommendations under paragraph (1)); and

(ii) any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the Secretary submits a recommendation under paragraph (1).

SEC. 1468. DEFINITIONS.

As used in subpart:

(1) CHILDREN'S HOSPITAL.—The term "children's hospital" means those hospitals whose inpatients are certified by the Secretary or the State to be predominantly under the age of 18.

(2) HEALTH PROFESSIONAL.—The term "health professional" means a physician, nurse, nurse practitioner, certified nurse midwife, physician assistant, psychologist, dentist, pharmacist, chiropractor, clinical

VOL 140 PT 16 AG 12 — 18 1994 UMI

social worker, and other health care professional recognized by the Secretary.

(3) SUBRECIPIENT.—The term "subrecipient" means, with respect to a recipient of a grant under a particular authority, an entity that—

(A) is receiving funding from such a grant under a contract with the principal recipient of such a grant, and

(B) meets the requirements established to be a recipient of such a grant.

PART 3—SPECIFIC RESPONSIBILITIES OF SECRETARY OF LABOR.

SEC. 1481. RESPONSIBILITIES OF SECRETARY OF LABOR.

(a) IN GENERAL.—The Secretary of Labor is responsible—

(1) under subtitle D, for the enforcement of requirements applicable to employers (including requirements relating to payment of premiums under title X if applicable) and the administration of large employer purchasing groups;

(2) for the temporary assumption of the operation of self-insured employer sponsored health plans that are insolvent;

(3) for carrying out any other responsibilities assigned to the Secretary under this Act; and

(4) for administering title I of the Employee Retirement Income Security Act of 1974 as it relates to group health plans maintained by large employer purchasing groups.

(b) AGREEMENTS WITH STATES.—The Secretary of Labor may enter into agreements with States in order to enforce responsibilities of employers and large employer purchasing groups, and requirements of employer sponsored health plans, under subtitle B of title I of the Employee Retirement Income Security Act of 1974.

(c) CONSULTATION.—In carrying out activities under this Act with respect to large employer purchasing groups, employer sponsored health plans, and employers, the Secretary of Labor shall consult with the Secretary of Health and Human Services.

(d) GUARANTY FUNDS.—

(1) IN GENERAL.—The Secretary of Labor shall establish standards for guaranty funds to be established by a State with respect to a self-insured plan operating wholly within the State.

(2) MULTISTATE PLANS.—The Secretary of Labor shall establish and administer a guaranty fund with respect to multistate self-insured plans.

(e) EMPLOYER-RELATED REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary, shall be responsible for assuring that employers—

(A) make payments of any employer premiums (and withhold and make payment of the family share of premiums with respect to qualifying employees) and provide discounts to employees as required under this Act, including auditing of collection activities with respect to such payments,

(B) submit timely reports as required under this Act, and

(C) otherwise comply with requirements imposed on employers under this Act.

(2) AUDIT AND SIMILAR AUTHORITIES.—The Secretary of Labor—

(A) may carry out such audits (directly or through contract) and such investigations of employers and States and large employer purchasing groups,

(B) may exercise such authorities under section 504 of Employee Retirement Income Security Act of 1974 (in relation to activities under this Act),

(C) may provide (through contract or otherwise) for such collection activities (in relation to amounts owed to large employer purchasing groups, and for the benefit of such groups), and

(D) may impose such civil penalties in accordance with this Act,

as may be necessary to carry out such Secretary's responsibilities under this section.

(3) AUDITING OF EMPLOYER PAYMENTS.—

(A) IN GENERAL.—Each State is responsible for auditing the records of community-rated employers to assure that employer payments (including the payment of amounts withheld) were made in the appropriate amount as provided under subtitle B of title X.

(B) EMPLOYERS WITH EMPLOYEES RESIDING IN DIFFERENT COMMUNITY-RATING AREAS.—In the case of a community-rated employer which has employees who reside in more than one community rating area in more than one State, the Secretary of Labor, in consultation with the Secretary, shall establish a process for the coordination of State auditing activities among the States involved.

(C) APPEAL.—In the case of an audit conducted by a State on an employer under this paragraph, an employer or other State that is aggrieved by the determination in the audit is entitled to review of such audit by the Secretary of Labor in a manner to be provided by such Secretary.

(f) AUTHORITY.—The Secretary of Labor is authorized to issue such regulations as may be necessary to carry out section 1305 and responsibilities of the Secretary under this Act.

SEC. 1482. FEDERAL ROLE WITH RESPECT TO MULTISTATE SELF-INSURED HEALTH PLANS.

(a) IN GENERAL.—In the case of a multistate self-insured health plan or a multistate self-insured supplemental health benefits plan, the Secretary of Labor shall be responsible for certifying such plans and carrying out activities under this title in the same manner as a participating State would carry out activities under this title with respect to a standard health plan.

(b) SELF-INSURED PLAN STANDARDS.—The Secretary of Labor shall develop and publish standards applicable to self-insured plans offered by large employers. The Secretary shall develop and publish such standards by not later than the date that is 6 months after the date of enactment of this Act. Such standards shall be the certified standard health plan standards applicable to self-insured plans under this title.

(c) DETERMINATION OF MULTISTATE STATUS.—For purposes of this Act, a self-insured health plan or a self-insured supplemental health benefits plan shall be considered a multistate health plan if established or maintained by an experience-rated employer which has a substantial number of employees enrolled in such plan in each of 2 or more States (as determined by the Secretary of Labor).

SEC. 1483. ASSISTANCE WITH EMPLOYER COLLECTIONS.

The Secretary of Labor shall provide States with such technical and other assistance as may promote the efficient collection of all amounts owed under this Act by employers.

SEC. 1484. PENALTIES FOR FAILURE OF LARGE EMPLOYER PURCHASING GROUPS TO MEET REQUIREMENTS.

If the Secretary of Labor finds that a large employer purchasing group has failed substantially to meet the applicable requirements of subtitle D, the Secretary shall impose a civil money penalty of not to exceed $10,000 for each such violation.

SEC. 1485. APPLICABILITY OF ERISA ENFORCEMENT MECHANISMS FOR ENFORCEMENT OF CERTAIN REQUIREMENTS.

The provisions of sections 502 (relating to civil enforcement), 504 (relating to investigative authority) and 506 (relating to criminal enforcement) of the Employee Retirement Income Security Act of 1974 shall apply to enforcement by the Secretary of Labor of the applicable requirements for large group purchasers in the same manner and to same extent as such provisions apply to enforcement of title I of such Act.

SEC. 1486. WORKPLACE WELLNESS PROGRAM.

(a) IN GENERAL.—The Secretary shall develop certification criteria for workplace wellness programs.

(b) APPLICATION OF SECTION.—Any health plan may offer a uniform premium discount, not to exceed 5 percent, to employers maintaining certified workplace wellness programs.

PART 4—OFFICE OF RURAL HEALTH POLICY

SEC. 1491. OFFICE OF RURAL HEALTH POLICY.

(a) APPOINTMENT OF ASSISTANT SECRETARY.—

(1) IN GENERAL.—Section 711(a) of the Social Security Act (42 U.S.C. 912(a)) is amended—

(A) by striking "by a Director, who shall advise the Secretary" and inserting "by an Assistant Secretary for Rural Health (in this section referred to as the 'Assistant Secretary'), who shall report directly to the Secretary"; and

(B) by adding at the end the following new sentence: "The Office shall not be a component of any other office, service, or component of the Department.".

(2) CONFORMING AMENDMENTS.—(A) Section 711(b) of the Social Security Act (42 U.S.C. 912(b)) is amended by striking "the Director" and inserting "the Assistant Secretary".

(B) Section 338J(a) of the Public Health Service Act (42 U.S.C. 254r(a)) is amended by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(C) Section 464T(b) of the Public Health Service Act (42 U.S.C. 285p-2(b)) is amended in the matter preceding paragraph (1) by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(D) Section 6213 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 1395x note) is amended in subsection (e)(1) by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(E) Section 403 of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 U.S.C. 300ff–11 note) is amended in the matter preceding paragraph (1) of subsection (a) by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(3) AMENDMENT TO THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Health and Human Services (5)" and inserting "Assistant Secretaries of Health and Human Services (6)".

(b) EXPANSION OF DUTIES.—Section 711(a) of the Social Security Act (42 U.S.C. 912(a)) is amended by striking "and access to (and the quality of) health care in rural areas" and inserting "access to, and quality of, health care in rural areas, and reforms to the health care system and the implications of such reforms for rural areas".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

PART 5—COLLECTIVE BARGAINING DISPUTE RESOLUTION

SEC. 1495. FINDINGS AND PURPOSE.

(a) FINDING.—Congress finds that—

(1) consistent with the intention of this Act to eliminate waste and inefficiency in the health care industry, it is important to avoid costly and disruptive labor disputes; and

(2) such disputes are particularly likely to take place during the period of transition to a restructured health care delivery system because of disruptions to established employment relationships resulting from that restructuring.

(b) PURPOSE.—It is the purpose of this part to expand the role of the Federal Mediation and Conciliation Service, acting through the Boards of Inquiry provided for in limited terms under section 8(g) of the National Labor Relations Act (29 U.S.C. 158(g)) and section 213 of the Labor Management Relations Act of 1947(29 U.S.C. 183), to avoid labor disputes by providing for public fact finding in contract negotiations.

SEC. 1496. APPLICATION LIMITED TO TRANSITION PERIOD.

The provisions of this part are intended to avoid costly and disruptive labor disputes during the period of transition to a restructured health care delivery system, and shall be repealed effective upon the end of calendar year 2000.

SEC. 1497. REQUEST FOR APPOINTMENT OF BOARD OF INQUIRY.

(a) IN GENERAL.—A health care entity (as defined in section 3082(a)) or a labor organization that has been lawfully certified or recognized as the representative of the employees of a health care entity for the purpose of engaging in collective bargaining concerning wages, hours and other terms and conditions of employment, may request that the Director of the Federal Mediation and Conciliation Service (hereafter referred to in this part as the "Director") appoint an impartial Health Care Board of Inquiry to investigate the issues involved in a collective bargaining dispute between the entity and the labor organization.

(b) TIME FOR REQUEST.—Such request may be made no earlier than 60 days after notice of the existence of a contract dispute has been provided to—

(1) the Federal Mediation and Conciliation Service in accordance with clause (A) or (B) of the last sentence of section 8(d) of the Labor Management Relations Act (29 U.S.C. 158(d)); or

(2) where the health care entity is otherwise exempt from coverage under such Act, any comparable State or territorial agency established to mediate and conciliate disputes to which notice is required to be given under applicable State law.

SEC. 1498. APPOINTMENT OF BOARD OF INQUIRY.

(a) IN GENERAL.—Except as provided in subsection (b), the Director shall appoint a Health Care Board of Inquiry not later than 10 days after receipt of a request under section 1496. Each such Board shall be composed of such number of individuals as the Director may deem desirable. No member appointed under this section shall have any interest or involvement in the health care institutions or the employee organizations involved in the dispute.

(b) LIMITATION.—With respect to the appointment of a Health Care Board of Inquiry under paragraph (1), if the Director determines that—

(1) the health care entity is—

(A) otherwise exempt from coverage under the Labor Management Relations Act, as amended (29 U.S.C. 141 et seq.); and

(B) subject to State laws containing procedures for the resolution of impasses in collective bargaining that are comparable to those that would be followed by a Board of Inquiry under this section; or

(2) the parties involved have agreed to procedures for the resolution of the impasse in collective bargaining that are comparable to those that would be followed by a Board of Inquiry;

the Director may refuse the request for the appointment of such a Board.

SEC. 1499. PUBLIC FACTFINDING.

A Health Care Board of Inquiry appointed under this part shall investigate the issues involved in the dispute and make a written report thereon to the parties and to the Director within 30 days after the establishment of such a Board. The written report shall contain the findings of fact together with the Board's recommendations for settling the dispute, with the objective of achieving a prompt, peaceful and just settlement of the dispute. The Board shall arrange for publication of such report within the community served by the health care entity involved.

SEC. 1499A. COMPENSATION OF MEMBERS OF BOARDS OF INQUIRY.

(a) EMPLOYEES IF FEDERAL GOVERNMENT.—Members of any board established under this part who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by such members in carrying out its duties under this section.

(b) OTHER MEMBERS.—Members of any board established under this section who are not subject to subsection (a) shall receive compensation at a rate prescribed by the Director but not to exceed the daily rate prescribed for GS-128 of the General Schedule under section 5332 of title 5, United States Code, including travel for each day they are engaged in the performance of their duties under this section and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this part.

SEC. 1499B. MAINTENANCE OF STATUS QUO.

After the establishment of a board under section 1497, and for 15 days after any such board has issued its report, no change in the status quo in effect prior to the expiration of the contract in the case of negotiations for a contract renewal, or in effect prior to the time the parties began their bargaining in the case of an initial beginning negotiation, except by agreement, shall be made by the parties to the controversy.

Subtitle F—Participating State Responsibilities

PART 1—GENERAL RESPONSIBILITIES

SEC. 1501. STATE PLAN AND CERTIFICATION OF STANDARD HEALTH PLANS AND SUPPLEMENTAL HEALTH BENEFITS PLANS.

(a) STATE PLAN.—

(1) IN GENERAL.—For purposes of the approval of a State health care system by the Secretary under section 1411, a State is a "participating State" if the State meets the applicable requirements of this subtitle.

(2) SUBMISSION OF PLAN.—In order to be approved as a participating State under section 1411, a State shall submit to the Secretary a State plan (in a form and manner specified by the Secretary) that describes the State health care system that the State is establishing (or has established).

(3) DEADLINE.—If a State is not a participating State with a State health care system in operation by January 1, 1997, the provisions of subpart C of part 1 of subtitle E (relating to responsibilities in absence of State systems) shall take effect.

(4) SUBMISSION OF INFORMATION SUBSEQUENT TO APPROVAL.—A State approved as a participating State under section 1411 shall submit to the Secretary an annual update to the State health care system not later than February 15 of each year following the first year for which the State is a participating State. The update shall contain—

(A) such information as the Secretary may require to determine that the system shall meet the applicable requirements of this Act for the succeeding year; and

(B) such information as the Secretary may require to determine that the State operated the system during the previous year in accordance with the Secretary's approval of the system for such previous year.

(b) HEALTH PLAN ACCREDITATION, CERTIFICATION AND ENFORCEMENT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a program for the accreditation, certification and enforcement of health plan standards by States (hereafter referred to in this subsection as the "ACE program"). Under such program, the Secretary shall—

(A) develop guidelines for the accreditation, certification and enforcement of standards for certified standard health plans;

(B) approve State ACE programs as meeting such guidelines; and

(C) monitor the compliance of States with such guidelines.

(2) PROGRAM ELEMENTS.—The guidelines referred to in paragraph (1) shall include the following components:

(A) CERTIFICATION.—State certification, and recertification not less frequently than once during each 3-year period, of standard health plans determined by the State to be in compliance with the standards established under subtitle B and with the regulations promulgated by the Secretary concerning such standards.

(B) DISENROLLMENT DATA.—State review of enrollee disenrollment from each standard health plan to determine whether there is a pattern of disenrollment that does not reflect the distribution of such plans' reenrolling membership.

(C) MONITORING.—State monitoring of the performance of each standard health plan to ensure that such plans continue to meet the criteria for certification.

(3) STATE PROGRAMS.—Each participating State shall develop accreditation, certification and enforcement programs in accordance with the guidelines established by the Secretary under paragraph (1).

(4) USE OF PRIVATE ORGANIZATIONS.—

(A) IN GENERAL.—A State may utilize private accreditation organizations to review the compliance by standard health plans with specific standards with which such organizations have demonstrated expertise. A State may use such reviews as the basis for determining plan compliance with such standards. The Secretary shall approve eligible accreditation organizations and promulgate regulations prohibiting conflicts of interest in the use of such bodies by States.

(B) LIMITATIONS.—The use of private accreditation organizations by a State under subparagraph (A) shall not relieve such State of its obligations under this subsection. In no case shall a State delegate enforcement authority or enforcement responsibilities to private organizations.

(5) ENFORCEMENT.—A State ACE program shall establish a process for imposing sanctions on standard health plans that fail to comply with the standards established under this title. Such sanctions may include—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(A) limiting or prohibiting new member enrollment;

(B) permitting existing members to disenroll from the health plan without penalty;

(C) State operation of a health plan to provide transitional access;

(D) the imposition of civil monetary penalties in accordance with this Act;

(E) requiring that a plan follow a corrective action plan developed by the State; and

(F) decertification or denial of recertification, but only after the plan has been provided a reasonable opportunity to comply with such standards.

(6) MULTI-STATE PLANS.—The Secretary of Labor, in consultation with the Secretary, shall carry out all certification and enforcement activities described in this subsection with respect to multistate self-insured plans.

(c) OTHER STATE DUTIES.—A participating State shall—

(1) certify each purchasing cooperative that meets the requirements of part 2 of subtitle D; and

(5) administer the State subsidies as provided for in title VI.

(d) EFFECTIVE DATE.—Subsection (b) shall apply to standard health plans and supplemental health benefits plans sold, issued, or renewed on or after January 1, 1997.

SEC. 1502. COMMUNITY RATING AREAS AND HEALTH PLAN SERVICE AREAS.

(a) IN GENERAL.—In accordance with this section, each participating State shall, subject to approval by the Secretary, provide for the division of the State into 1 or more community rating areas.

(b) MULTIPLE AREAS.—With respect to a community rating area—

(1) no metropolitan statistical area in a State may be incorporated into more than 1 such area in the State;

(2) the number of individuals residing within such an area may not be less than 250,000; and

(3) no area incorporated in a community rating area may be incorporated into another such area.

(c) BOUNDARIES.—

(1) IN GENERAL.—In establishing boundaries for community rating areas, a participating State shall comply with the antidiscrimination requirements of section 1602.

(2) COORDINATING MULTIPLE COMMUNITY RATING AREAS.—Nothing in this section shall be construed as preventing a participating State from coordinating the activities of one or more community rating areas in the State.

(3) INTERSTATE COMMUNITY RATING AREAS.—Community rating areas with respect to interstate areas shall be established in accordance with rules established by the Secretary.

(4) COORDINATION IN MULTI-STATE AREAS.—One or more participating States may coordinate their operations in contiguous community rating areas. Such coordination may include the following activities, adoption of joint operating rules, contracting with standard health plans, enforcement activities, and establishment of fee schedules for health providers.

(d) HEALTH PLAN SERVICE AREAS.—

(1) IN GENERAL.—Pursuant to guidelines developed under paragraph (2), each State shall designate, by not later than January 1, 1997, health plan service areas.

(2) GUIDELINES.—The State shall designate one or more health plan service areas within each community rating area in the State that—

(A) prevent discrimination in accordance with section 1602; and

(B) do not cross community rating area boundaries.

SEC. 1503. OPEN ENROLLMENT PERIODS.

Each participating State, based on rules and procedures established by the Secretary, shall specify a uniform, annual open enrollment period for each community rating area during which all eligible individuals are permitted the opportunity to change enrollment among the standard health plans offered to such individuals in such area under this Act. The initial annual open enrollment period shall be for a period of 90 days.

SEC. 1504. RISK ADJUSTMENT PROGRAM.

(a) REQUIREMENT FOR IMPLEMENTATION.—In accordance with rules established by the Secretary, each State shall implement a risk adjustment methodology developed by the Secretary under subsection (d).

(b) STATE RISK ADJUSTMENT ORGANIZATION.—Each State shall establish a State risk adjustment organization to carry out the adjustments required under the methodology implemented by the State under subsection (a) and make payments in accordance with subsection (c). Such organization shall meet standards established by the Secretary relating to organizational structure, operation, fiduciary responsibilities and financial management.

(c) ADJUSTMENTS AND PAYMENTS.—

(1) CLASSES OF PURCHASERS.—The Secretary shall specify classes of individual health plan purchasers whose expected expenditures are higher than those of employed individuals covered under community-rated plans.

(2) ESTIMATES.—The Secretary shall annually estimate the amount by which the expected expenditures related to specified high-cost community-rated individual health plan purchasers (as specified by the Secretary under the methodologies developed under subsection (a)) for the year involved will exceed the expected average expenditures for other community-rated health plan enrollees. Based on such estimates, the Secretary shall develop a per capita adjustment amount with respect to each community rating area.

(3) PAYMENTS.—

(A) IN GENERAL.—The State risk adjustment organization shall, using the methodologies developed by the Secretary under subsection (a), apply the per capita adjustment amount to community-rated and experience-rated (and multistate plans under subparagraph (C)) health plans offered within each community rating area in the State.

(B) STANDARD PLANS.—Standard health plans subject to an assessment under subparagraph (A) shall make payments to the State risk adjustment organization for the State in which such plans provide coverage.

(C) MULTISTATE PLANS.—A multistate community-rated or experience-rated plan that is subject to an assessment under subparagraph (A) shall make payments to a single State risk adjustment organization and provide such organization with information concerning the geographic distribution of the enrollees in such plan. Such organization shall determine the amount of such payments that are applicable to each community rating area and distribute such amounts to the appropriate State risk adjustment organization.

(D) DISTRIBUTION.—State risk adjustment organizations shall distribute amounts collected under this paragraph to community-rated or experience-rated health plans that are determined to have expected expenditures for items and services provided to enrolled individuals that are greater than the average expenditures for enrollees in standard health plans. The amounts of such distributions shall be based on the methodology applied by the organization involved.

(d) DEVELOPMENT OF METHODOLOGIES.—

(1) IN GENERAL.—Not later than January 1, 1995, the Secretary, in consultation with an advisory committee established by the Secretary, shall develop a risk adjustment and reinsurance methodology for use by States in accordance with this section.

(2) METHODOLOGY.—

(A) PURPOSES.—The risk adjustment methodology developed under paragraph (1) shall—

(i) ensure that assessments imposed on or payments provided to standard health plans reflect the expected relative utilization and expenditures for covered items and services by the enrollees of each plan compared to the average utilization and expenditures for all eligible individuals, and

(ii) protect standard health plans that enroll a disproportionate share of eligible individuals with respect to whom expected utilization of health care services (included in the benefit package) and expected health care expenditures for such services are greater than the average level of such utilization and expenditures for eligible individuals.

(B) FACTORS TO BE CONSIDERED.—The methodology shall take into account the following factors:

(i) Demographic characteristics.

(ii) Health status, including prior use of health services.

(iii) Geographic area of residence.

(iv) Socio-economic status.

(v) The cost sharing of the plan.

(vi) Any other factors determined by the Secretary to be material to the purposes described in subparagraph (A).

(3) SPECIAL CONSIDERATION FOR MENTAL ILLNESS AND MENTAL RETARDATION.—In developing the methodology under this section, the Secretary shall give consideration to the unique problems of adjusting payments relating to health plans with respect to individuals with mental illness and mental retardation.

(4) MANDATORY REINSURANCE.—

(A) IN GENERAL.—The methodology developed under this section shall include a system of mandatory reinsurance as a component of the risk adjustment methodology.

(B) REINSURANCE SYSTEM.—The Secretary, in developing the methodology for a mandatory reinsurance system under subparagraph (A), shall—

(i) provide for standard health plans to make payments to state-established reinsurance programs for the purpose of reinsuring all or part of the health care expenditures for items and services included in the standard benefit package for classes of high-cost individual health plan purchasers (as specified by the Secretary) or specific high-cost treatments or diagnosis; and

(ii) specify the manner of creation, structure, and operation of the system in each State, including—

(I) the manner (which may be prospective or retrospective) in which standard health plans make payments to the system, and

(II) the type and level of reinsurance coverage provided by the system.

(5) COST-SHARING ADJUSTMENT.—The standards developed by the Secretary under this subsection shall include a cost-sharing adjustment mechanism to adjust for losses among all standard health plans, except multistate self-insured health plans, resulting from the reduced cost-sharing obligations of individuals receiving assistance as is

provided under the program described in subtitle A of title VI.

(6) CONFIDENTIALITY OF INFORMATION.—The methodology shall be developed under this section in a manner that is consistent with privacy standards promulgated under title V. In developing such standards, the Secretary shall take into account any potential need of States for certain individually identifiable health information in order to carry out risk-adjustment and reinsurance activities under this Act, but only to the minimum extent necessary to carry out such activities and with protections provided to minimize the identification of the individuals to whom the information relates.

SEC. 1505. GUARANTY FUNDS.

A State, in accordance with the standards established by the Secretary under section 1442, shall establish a State guaranty fund with respect to community-rated plans offered in such State. The State shall establish a separate guaranty fund with respect to self-insured plans operating in the State in accordance with section 1481.

SEC. 1506. ENROLLMENT ACTIVITIES.

(a) PROVIDER-BASED ENROLLMENT MECHANISMS.—The Secretary shall promulgate rules regarding the establishment by each participating State, in accordance with section 6006, of provider-based enrollment mechanisms for individuals seeking care who are not enrolled in a standard health plan. Such rules shall include provisions requiring standard health plans to pay providers for care delivered to individuals prior to the individual's enrollment in the plan and be consistent with section 1114.

(b) COORDINATION OF ENROLLMENT ACTIVITIES.—Each participating State shall coordinate its activities, including plan enrollment and disenrollment activities, with other States in a manner specified by the Secretary that ensures continuous, nonduplicative coverage of community-rated and experience-rated individuals in standard health plans and that minimizes administrative procedures and paperwork.

SEC. 1507. RURAL AND MEDICALLY UNDERSERVED AREAS.

(a) IN GENERAL.—If, in accordance with appropriate rules established by the Secretary, a State determines that there is inadequate access in the provision of health services by standard health plans in any area of a State, the State may authorize—

(1) a standard health plan to be the only standard health plan in the area; or

(2) two or more standard health plans to take joint action to develop and implement a program.

(b) MEDICALLY UNDERSERVED AREA DEFINED.—For purposes of this subtitle the term "medically underserved area" means an urban or rural area designated by the Secretary as an area with a shortage of health professional or of health services or facilities.

SEC. 1508. PUBLIC ACCESS SITES.

(a) DESIGNATION.—A State shall designate public access sites within each community rating area through which residents of such areas can obtain consumer information concerning health plans and purchasing cooperatives offered in such areas. Such sites shall be designated in a manner that ensures ready access to such information by health care consumers throughout the community rating area.

(b) INFORMATION.—

(1) IN GENERAL.—A State shall, through the public access sites designated under subsection (a) and using the information provided to the State under sections 1125, 1321(f)(6), 1401, and 5005 prepare and make available information, in a comparative form, concerning standard health plans certified by the State and purchasing cooperatives operating in the State, including summary plan descriptions, consumer report cards and performance reports and other consumer information required under this Act. The State shall provide such materials to employers located within the State.

(2) 1995-1997.—With respect to calendar years 1995 through 1997, a State shall, through the public access sites designated under subsection (a), provide the information disclosed by plans under section 1111(e)(1).

SEC. 1509. REQUIREMENTS RELATING TO POSSESSIONS OF THE UNITED STATES.

(a) IN GENERAL.—A possession of the United States shall be a participating State meeting the requirements of this Act only if there is an agreement in effect between the United States and such possession pursuant to which—

(1) the laws of such possession impose a part B premium recapture assessment (as defined in subsection (b));

(2) nothing in any provision of law, including the law of such possession, permits such possession to reduce or remit in any way, directly or indirectly, any liability to such possession by reason of such assessment;

(3) any amount received in the Treasury of such possession by reason of such assessment shall be paid (at such time and in such manner as the Secretary of the Treasury shall prescribe) to the Federal Supplementary Medical Insurance Trust Fund;

(4) such assessment is coordinated with the assessment imposed by section 59B of the Internal Revenue Code of 1986 such that, for any period, an individual would be required to pay (in the aggregate) not more than the applicable amount for such period; and

(5) the possession complies with such other requirements as may be prescribed by the Secretary and the Secretary of the Treasury to carry out the purposes of this paragraph, including requirements prescribing the information individuals to whom such assessment may apply shall furnish to the Secretary and the Secretary of the Treasury.

(b) QUALIFIED PART B PREMIUM RECAPTURE ASSESSMENT.—In subsection (a), the term "qualified medicare part B premium recapture assessment" means an assessment imposed and collected by such a possession that is—

(1) equivalent to the assessment imposed under section 59B of the Internal Revenue Code of 1986; and

(2) imposed on all individuals who are bona fide residents of the possession, to the extent such individuals have not paid the assessment imposed under such section 59B to the United States by reason of subsection (d)(5) of such section.

SEC. 1510. RIGHT OF RECOVERY OF CERTAIN TAXES AGAINST PROVIDERS.

Each participating State shall provide that issuers and plan sponsors of certified standard health plans shall have the right of recovery against providers described in section 4518 of the Internal Revenue Code of 1986 and shall provide methods of enforcing such right.

PART 2—TREATMENT OF STATE LAWS

SEC. 1511. PREEMPTION OF CERTAIN STATE LAWS RELATING TO HEALTH PLANS.

(a) LAWS RESTRICTING PLANS OTHER THAN FEE-FOR-SERVICE PLANS.—Except as may otherwise be provided in this section, no State law shall apply to any services provided under a health plan that is not a fee-for-service plan (or a fee-for-service component of a plan) if such law has the effect of prohibiting or otherwise restricting plans from—

(1) limiting the number and type of health care providers who participate in the plan;

(2) requiring enrollees to obtain health services (other than emergency services) from participating providers or from providers authorized by the plan;

(3) requiring enrollees to obtain a referral for treatment by a specialized physician or health institution;

(4) establishing different payment rates for participating providers and providers outside the plan;

(5) creating incentives to encourage the use of participating providers; or

(6) requiring the use of single-source suppliers for pharmacy, non-serviced medical equipment, and other health products and services.

(b) PREEMPTION OF STATE CORPORATE PRACTICE ACTS.—Any State law related to the corporate practice of medicine and to provider ownership of health plans or other providers shall not apply to arrangements between health plans that are not fee-for-service plans and their participating providers.

SEC. 1512. STATE LAW RESTRICTIONS ON HEALTH PROFESSIONAL LICENSURE.

(a) IN GENERAL.—Except as otherwise provided in this section, nothing in this title shall be construed as limiting any State's authority to enact and enforce laws with respect to the licensure or certification of any class of health professional or the provision of any class of health professional services.

(b) SCOPE OF PRACTICE.—Effective as of January 1, 1996, a State may not restrict through licensure or otherwise the practice of any class of health professionals beyond what is justified by the skills and training of such professionals.

(c) ACADEMIC DEGREE.—Effective as of January 1, 1996, a State may not restrict the participation, reimbursement, or indemnification of a health professional solely on the basis of the academic degree of such professional if the professional is acting within the scope of the professional's license under applicable State law.

SEC. 1513. PREEMPTION FROM STATE BENEFIT MANDATES.

Effective as of January 1, 1996, no State shall establish or enforce any law or regulation that requires any standard health plan to cover items and services that are different from the items and services specified under subtitle C.

PART 3—STATE FLEXIBILITY

Subpart A—Existing State Laws

SEC. 1521. CONTINUANCE OF EXISTING FEDERAL LAW WAIVERS.

Nothing in this Act shall preempt any feature of a State health care system operating under a waiver granted before the date of the enactment of this Act under titles XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 1396 et seq.) or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

SEC. 1522. HAWAII PREPAID HEALTH CARE ACT.

(a) ERISA WAIVER.—

(1) IN GENERAL.—Section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

"(5)(A) Except as provided in subparagraphs (B) and (C), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§393-1 through 393-51).

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any

VOL 140 PT 16 AG 12 — 18 1994 UMI

State tax law relating to employee benefits plans.

"(C) If the Secretary of Labor notifies the Governor of the State of Hawaii that as the result of an amendment to the Hawaii Prepaid Health Care Act enacted after the date of the enactment of this paragraph—

"(i) the proportion of the population with health care coverage under such Act is less than such proportion on such date, or

"(ii) the level of benefit coverage provided under such Act is less than the actuarial equivalent of such level of coverage on such date,

subparagraph (A) shall not apply with respect to the application of such amendment to such Act after the date of such notification.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) HSA WAIVER.—

(1) IN GENERAL.—The Secretary shall, at the request of the Governor of the State of Hawaii and in accordance with this section, grant a waiver to the State from the requirements of this Act (other than the requirements specified in paragraph (3)).

(2) SCOPE OF WAIVER.—The waiver granted under paragraph (1) shall exempt—

(A) the State of Hawaii;

(B) health plans offered within the State; and

(C) health plan participants, including employers, employees, residents, and health plan sponsors within the State,

from requirements otherwise applicable to the State and such plans and participants.

(3) REQUIRED COMPLIANCE OF OTHER REQUIREMENTS.—The waiver shall initially be granted under paragraph (1) if the State of Hawaii demonstrates to the Secretary that the State maintains—

(A) a requirement that employers make premium contributions comparable to the requirements of this Act;

(B) a comprehensive benefit package (including cost sharing) that is comparable with the requirements of subtitle B of this title;

(C) a percentage of State population with health care coverage that is not less than the national average;

(D) a quality control mechanism and data system that are comparable to the applicable requirements of title V; and

(E) health care cost containment consistent with the provisions of this Act.

(4) WAIVER PERIOD.—The waiver initially granted under paragraph (1) shall extend for the period during which the State of Hawaii continues to comply with the requirements specified in paragraph (3). The Secretary may require the State, every 5 years, to demonstrate to the Secretary the State's continued compliance with such requirements.

(5) PROCEDURE IN THE EVENT OF NON-COMPLIANCE.—

(A) NOTICE.—If, at any time after granting a waiver under paragraph (1), the Secretary finds that the State of Hawaii is not meeting the requirements specified in paragraph (3), the Secretary shall notify the State of the Secretary's findings.

(B) OPPORTUNITY TO CONTEST.—The State may contest the Secretary's findings under the procedures provided under section 5231.

(C) OPPORTUNITY FOR CORRECTION.—

(i) FINDINGS NOT CONTESTED.—If the State does not contest the Secretary's findings within the 30-day period beginning on the date of receipt of a notice of such findings, the State shall have—

(I) a 90-day period beginning on such date to show a good faith effort to remedy the non-compliance, and

(II) an additional 12-month period to take such actions as may be required to bring the State into compliance with the requirements specified in paragraph (3).

(ii) CONTESTED FINDINGS.—If the State contests the Secretary's findings within such 30-day period but such findings are upheld, the State shall have—

(I) a 90-day period beginning on the date of final adjudication to show a good faith effort to remedy the non-compliance, and

(II) an additional 12-month period to take such actions as may be required to bring the State into compliance with the requirements specified in paragraph (3).

(D) TERMINATION.—If the State fails to demonstrate a good faith effort under subparagraph (C)(i)(I) or (C)(ii)(I) or to take actions under subparagraph (C)(i)(II) or (C)(ii)(II) within the time period specified, the Secretary may revoke the waiver granted in paragraph (1).

(6) COOPERATIVE AGREEMENT WITH THE SECRETARY.—The Secretary shall enter into cooperative agreements with appropriate officials of the State of Hawaii—

(A) to develop standards and reporting requirements necessary for the issuance and maintenance of the State's waiver under paragraph (1); and

(B) otherwise to effectuate the provisions of this subsection.

(7) ELIGIBILITY FOR FEDERAL FUNDS PROVIDED TO PARTICIPATING STATES.—Nothing in this subsection shall preclude the eligibility of the State of Hawaii to participate in any public health initiative, grant, or financial aid program under this Act (including the medicaid program under title XIX of the Social Security Act), or the sharing of revenue resulting from the amendments made by title VII, designed to implement the purpose of this Act. The Secretary shall work with appropriate officials of the State of Hawaii to develop comparable, alternative standards to govern the State's entitlement under title XI.

SEC. 1523. ALTERNATIVE STATE PROVIDER PAYMENT SYSTEMS.

Notwithstanding any other provision of law, if a hospital reimbursement system operated by a State meets the requirements of section 1814(b) of the Social Security Act (42 U.S.C. 1395f(b)) and has been approved by the Secretary and in continuous operation since July 1, 1977, the payment rates and methodologies required under the system for services provided in the State shall apply to all purchasers and payers, including those under employee welfare benefit plans authorized under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), workers' compensation programs under State law, the Federal Employees' Compensation Act under chapter 81 of title 5, United States Code, and Federal employee health benefit plans under chapter 89 of title 5, United States Code.

SEC. 1524. ALTERNATIVE STATE HOSPITAL SERVICES PAYMENT SYSTEMS.

(a) IN GENERAL.—No State shall be prevented from enforcing—

(1) a State system described in subsection (b), or

(2) a State system described in subsection (c),

by any provision of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or chapter 81 or 89 of title 5, United States Code.

(b) REIMBURSEMENT CONTROL SYSTEM.—A State system is described in this subsection if it is a State reimbursement control system in operation before the date of the enactment of this Act which—

(1) applies to substantially all non-Federal acute care hospitals in the State, and

(2) regulates substantially all rates of payment (including maximum charges) in the State for inpatient hospital services, except payments made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(c) HEALTH INSURANCE REFORM SYSTEM.—A State system is described in this subsection if it is a State health insurance reform system in operation before the date of the enactment of this Act which requires any insurer (including a health maintenance organization) to comply with requirements governing open enrollment and community rating, including premium adjustments or other health care assessments for the purpose of risk adjustment.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (b).—In the case of a State system described in subsection (b), the provisions of this section shall apply before, on, and after the date of the enactment of this Act.

(2) SUBSECTION (c).—In the case of a State system described in subsection (c), the provisions of this section shall apply before, on, and after the date of the enactment of this Act, and before the effective date of section 1116 of this Act.

Subpart B—Requirements for State Single-Payer Systems

SEC. 1531. SINGLE-PAYER SYSTEM DESCRIBED.

The Secretary shall approve an application of a State to operate a single-payer system if the Secretary finds that the system—

(1) meets the requirements of section 1532;

(2)(A) in the case of a system offered throughout a State, meets the requirements for a Statewide single-payer system under section 1533; or

(B) in the case of a system offered in a single community rating area of a State, meets the requirements for an area specific single-payer system under section 1534.

SEC. 1532. GENERAL REQUIREMENTS FOR SINGLE-PAYER SYSTEMS.

Each single-payer system shall meet the following requirements:

(1) ESTABLISHMENT BY STATE.—The system is established under State law, and State law provides for mechanisms to enforce the requirements of the system.

(2) OPERATION BY STATE.—The system is operated by the State or a designated agency of the State.

(3) ENROLLMENT OF INDIVIDUALS.—

(A) MANDATORY ENROLLMENT OF ALL COMMUNITY-RATED INDIVIDUALS.—The system shall provide for the enrollment of all community-rated individuals residing in the State (or, in the case of an area-specific single-payer system, in the community rating area) who are not medicare-eligible individuals.

(B) OPTIONAL ENROLLMENT OF MEDICARE-ELIGIBLE INDIVIDUALS.—At the option of the State and if the Secretary has approved an application submitted by the State, the system may provide for the enrollment of medicare-eligible individuals residing in the State (or, in the case of an area-specific single-payer system, in the community rating area).

(C) OPTIONAL ENROLLMENT OF EXPERIENCE-RATED INDIVIDUALS.—At the option of the State, a single-payer system may provide for the enrollment of experience-rated individuals residing in the State (or, in the case of an area-specific single-payer system, in the community rating area).

(D) OPTIONS INCLUDED IN STATE SYSTEM DOCUMENT.—A State may not exercise any of the options described in subparagraphs (B) or (C) for a year unless the State included a description of the option in the submission of its system document to the Secretary for the year under section 1501(a).

(E) EXCLUSION OF CERTAIN INDIVIDUALS.—A single-payer system may not require the enrollment of veterans, active duty military personnel, and American Indians.

(4) DIRECT PAYMENT TO PROVIDERS.—

(A) IN GENERAL.—With respect to providers who furnish items and services included in the standard benefits package established under subtitle C to individuals enrolled in the system, the State shall make payments directly, or through fiscal intermediaries, to such providers and assume (subject to subparagraph (B)) all financial risk associated with making such payments.

(B) CAPITATED PAYMENTS PERMITTED.—Nothing in subparagraph (A) shall be construed to prohibit providers furnishing items and services under the system from receiving payments on a capitated, at-risk basis based on prospectively determined rates.

(5) PROVISION OF STANDARD BENEFITS PACKAGE.—

(A) IN GENERAL.—The system shall provide for coverage of the standard benefits package established under subtitle C, including the cost-sharing provided under the package (subject to subparagraph (B)), to all individuals enrolled in the system.

(B) IMPOSITION OF REDUCED COST-SHARING.—The system may decrease the cost-sharing otherwise provided in the standard benefits package established under subtitle C with respect to any individuals enrolled in the system or any class of services included in the package, so long as the system does not increase the cost-sharing otherwise imposed with respect to any other individuals or services.

(6) COST CONTAINMENT.—The system shall provide for mechanisms to ensure, in a manner satisfactory to the Secretary, that—

(A) the rate of growth in health care spending will not be higher than the target established under this Act;

(B) the expenditures described in subparagraph (A) are computed and effectively monitored;

(C) automatic, mandatory, nondiscretionary reductions in payments to health care providers will be imposed to the extent required to assure that such per capita expenditures do not exceed the applicable target referred to in subparagraph (A); and

(D) Federal payments to a single payer State or health care coverage area shall be limited to the payments that would have been made in the absence of the implementation of the single payer system.

(7) FEDERAL PAYMENTS.—The system shall provide for mechanisms to ensure, in a manner satisfactory to the Secretary, that Federal payments to a single-payer State or community rating area shall be limited to the payments that would have been made in the absence of the implementation of the single-payer system.

(8) REQUIREMENTS GENERALLY APPLICABLE TO STANDARD HEALTH PLANS.—The system shall meet the requirements applicable to a standard health plan, except that—

(A) the system does not have the authority provided to standard health plans under section 1111(b)(3) (relating to permissible limitations on the enrollment of community-rated eligible individuals on the basis of limits on the plan's capacity); and

(B) the system is not required to meet the requirements of sections 1116 (relating to rating limitations for community-rated market), 1118(a) (relating to plan solvency), and section 1125 (relating to restrictions on the marketing of plan materials).

SEC. 1533. SPECIAL RULES FOR STATES OPERATING STATEWIDE SINGLE-PAYER SYSTEM.

(a) IN GENERAL.—In the case of a State operating a Statewide single-payer system—

(1) the State shall operate the system throughout the State; and

(2) except as provided in subsection (b), the State shall meet the requirements for participating States under part 1.

(b) EXCEPTIONS TO CERTAIN REQUIREMENTS FOR PARTICIPATING STATES.—In the case of a State operating a Statewide single-payer system, the State is not required to meet the following requirements otherwise applicable to participating States under part 1:

(1) ESTABLISHMENT OF COMMUNITY RATING AND SERVICE AREAS.—The requirements of sections 1502(a) (relating to the establishment of community rating areas) and 1502(b) (relating to the designation of health plan service areas).

(2) OTHER REFERENCES INAPPLICABLE.—Any requirement which the Secretary determines is not appropriate to apply to a State single-payer system.

(c) FINANCING.—

(1) IN GENERAL.—A State operating a Statewide single-payer system shall provide for the financing of the system using, at least in part, a payroll-based financing system that requires employers to pay at least the amount that the employers would be required to pay if the employers were subject to the requirements of title X (determined without regard to any effective date).

(2) USE OF FINANCING METHODS.—Such a State may use, consistent with paragraph (1), any other method of financing.

(d) SINGLE-PAYER STATE DEFINED.—In this title, the term "single-payer State' means a State with a Statewide single-payer system in effect that has been approved by the Secretary in accordance with this part.

SEC. 1534. SPECIAL RULES FOR COMMUNITY RATING AREA-SPECIFIC SINGLE-PAYER SYSTEMS.

(a) IN GENERAL.—In the case of a State operating a community rating area specific single-payer system, except as provided in subsection (b), the State shall meet the requirements for participating States under part 1.

(b) EXCEPTIONS TO CERTAIN REQUIREMENTS FOR PARTICIPATING STATES.—

(1) ESTABLISHMENT OF SERVICE AREAS.—The requirement of section 1502(b) (relating to the designation of health plan service areas).

(2) OTHER REFERENCES INAPPLICABLE.—Any requirement which the Secretary determines is not appropriate to apply to a community rating area specific single-payer system.

Subpart C—Early Implementation of Comprehensive State Programs

SEC. 1541. EARLY IMPLEMENTATION OF COMPREHENSIVE STATE PROGRAMS

(a) APPLICATION.—

(1) IN GENERAL.—In accordance with this section, each State desiring to implement the reform standards established in this Act before the applicable effective date for such standards, may submit an application to the Secretary of Health and Human Services and the Secretary of Labor to request approval of a State comprehensive health care reform program established under State law which meets the requirements specified in subsection (b).

(2) ESTABLISHMENT OF CRITERIA.—The Secretaries shall establish not later than January 1, 1995, criteria for—

(A) the approval of such applications, and

(B) the continuing review of such State programs consistent with the provisions of subpart B of part 1.

(3) EXPEDITED PROCEDURE.—The Secretaries shall establish an expedited procedure for the consideration and disposition of applications under this subsection. The procedure established by the Secretaries shall provide that such consideration and disposition be completed within 90 days, and that if the application is approved, multistate employers be notified of such approval.

(b) REQUIREMENTS SPECIFIED.—The State program shall be consistent with the reform standards established in this Act and the interim and final (if any) regulations promulgated by the Secretaries, including—

(1) a standardized benefits package meeting the requirements established under subtitle C, or in the event such requirements have not been fully promulgated on the date of the application, the requirements for a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d));

(2) insurance reforms and rating requirements as specified under part 2 of subtitle B;

(3) standards for health plans as specified under part 3 of subtitle B;

(4) the recognition of, and standards for, purchasing cooperatives, as specified in part 2 of subtitle D;

(5) compliance with the data collection and privacy procedures established under subtitle B of title V;

(6) consumer grievance process as specified in section 1123;

(7) the imposition of employer and individual responsibilities as specified in part 1 of subtitle D and title X (determined without regard to any effective date);

(8) the establishment of the subsidy program under this Act; and

(9) health care cost containment under this Act.

(c) QUALIFICATION FOR FEDERAL FUNDS.—For purposes of this Act, a State with an approved State program under this section shall be considered a participating State and shall maintain such status if such State meets the requirements of this Act as such provisions become effective.

(d) EMPLOYER CERTIFICATION PROCESS.—In the case of any multistate self-insured health plan, certification by the plan to the Secretary of Labor that such plan is in compliance with the applicable Federal standards described in subsection (b) shall satisfy compliance with any State program approved under this section.

(e) FUNDING.—The Secretary of Health and Human Services shall pay over to each State with an approved application under this section for each calendar quarter ending before 1997 an amount equal to the estimated decrease in Federal expenditures (net of any estimated decrease in Federal revenues) for such quarter with respect to such State resulting from the implementation of the State comprehensive health care reform program.

Subtitle G—Miscellaneous Provisions

SEC. 1601. PROVISION OF ITEMS OR SERVICES CONTRARY TO RELIGIOUS BELIEF OR MORAL CONVICTION.

(a) IN GENERAL.—A health professional or a health facility may not be required to provide an item or service in the standard benefit package if the professional or facility objects to doing so on the basis of a religious belief or moral conviction.

VOL
140
PT
16
AG
12
—
18
1994
UMI

(b) NOTICE.—A health professional or health facility that intends to refuse to provide an item or service in the standard benefit package under subsection (a), shall provide written notice with respect to such item or service to any health plan through which such professional or facility offers or intends to offer items or services.

SEC. 1602. ANTIDISCRIMINATION.

(a) IN GENERAL.—The Secretary of Health and Human Services, and any State, health plan, purchasing cooperative, employer, health program or activity receiving Federal financial assistance, or other entity subject to this Act, shall not directly or through contractual arrangements—

(1) deny or limit access to or the availability of health care services, or otherwise discriminate in connection with the provision of health care services; or

(2) limit, segregate, or classify an individual in any way which would deprive or tend to deprive such individual of health care services, or otherwise adversely affect his or her access to health care services;

on the basis of race, national origin, sex, religion, language, income, age, sexual orientation, disability, health status, or anticipated need for health services.

(b) APPLICATION OF SECTION TO SPECIFIC ACTIONS.—This section shall apply to, but is not limited to, the following actions:

(1) The establishing of boundaries for community rating areas under section 1502, the enrollment of individuals in a health care plan or the marketing of a health care plan, and the selection of providers or the setting of the terms or conditions under which providers participate in a health care plan or provider network.

(2) The determination of the scope of services provided by a health care plan, and the providing of such services and determining of the site or location of health care facilities.

(c) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue regulations to carry out this section.

(d) EFFECT ON OTHER LAWS. Nothing in this Act shall be construed to limit the scope of, or the availability of relief under, any other Federal or State law prohibiting discrimination or providing relief therefore.

SEC. 1603. NEUTRALITY CONCERNING UNION ORGANIZING.

Amounts appropriated to carry out this Act may not be utilized to assist, promote or deter union organizing.

TITLE II—NEW BENEFITS

Subtitle A—Coverage of Outpatient Prescription Drugs in Medicare

SEC. 2000. REFERENCES IN SUBTITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subtitle, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

SEC. 2001. COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS.

(a) COVERED OUTPATIENT DRUGS AS MEDICAL AND OTHER HEALTH SERVICES.—Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended to read as follows:

"(J) covered outpatient drugs;".

(b) DEFINITION OF COVERED OUTPATIENT DRUG.—Section 1861(t) (42 U.S.C. 1395x(t)) is amended—

(1) in the heading, by adding at the end the following: "; Covered Outpatient Drugs";

(2) in paragraph (1)—

(A) by striking "paragraph (2)" and inserting "the succeeding paragraphs of this subsection", and

(B) by striking the period at the end and inserting ", but only if used for a medically accepted indication."; and

(3) by striking paragraph (2) and inserting the following:

"(2) Except as otherwise provided in paragraph (3), the term 'covered outpatient drug' means any of the following products used for a medically accepted indication:

"(A) A drug which may be dispensed only upon prescription and—

"(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling.

"(B) A biological product which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product.

"(C) Insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(D) Enteral nutrients (but only if provided as a covered home infusion drug).

"(3) The term 'covered outpatient drug' does not include any product—

"(A) which is administered through infusion in a setting described in paragraph (5)(A)(ii) unless the product is a covered home infusion drug;

"(B) when furnished as part of, or as incident to, any other item or service for which payment may be made under this title (other than physicians' services or services which would be physicians' services if furnished by a physician); or

"(C) which is listed under paragraph (2) of section 1927(d) (other than subparagraph (I) or (J) of such paragraph) as a drug which may be excluded from coverage under a State plan under title XIX and which the Secretary elects to exclude from coverage under part B.

"(4) For purposes of this subsection, the term 'medically accepted indication', with respect to the use of an outpatient drug, includes any use which has been approved by the Food and Drug Administration for the drug, and includes another use of the drug if—

"(A) the drug has been approved by the Food and Drug Administration; and

"(B)(i) such use is supported by one or more citations which are included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, the United States Pharmacopoeia-Drug Information, and other authoritative compendia as identified by the Secretary, unless the Secretary has determined that the use is not medically appropriate or the use is identified as not indicated in one or more such compendia, or

"(ii) the carrier involved determines, based upon guidance provided by the Secretary to carriers for determining accepted uses of drugs, that such use is medically accepted based on supportive clinical evidence in peer reviewed medical literature appearing in publications which have been identified for purposes of this clause by the Secretary.

The Secretary may revise the list of compendia in subparagraph (B)(i) designated as appropriate for identifying medically accepted indications for drugs.

"(5)(A) For purposes of this subsection, the term 'covered home infusion drug' means a covered outpatient drug dispensed to an individual that—

"(i) is administered intravenously, subcutaneously, or epidurally, using an access device that is inserted into the body and an infusion device to control the rate of flow of the drug (or through other means of administration determined by the Secretary);

"(ii) is administered—

"(I) in the individual's home,

"(II) in an institution used as the individual's home, but only if the drug is administered during an inpatient day for which payment is not made to the institution under part A for inpatient or extended care services furnished to the individual, or

"(III) in a facility other than the individual's home if the administration of the drug at the facility is determined by the Secretary to be cost-effective (in accordance with such criteria as the Secretary may establish); and

"(iii) with respect to a drug furnished in a home setting—

"(I) is an antibiotic drug and the Secretary has not determined, for the specific drug or the indication to which the drug is applied, that the drug cannot generally be administered safely and effectively in such a setting, or

"(II) is not an antibiotic drug and the Secretary has determined, for the specific drug or the indication to which the drug is applied, that the drug can generally be administered safely and effectively in such a setting.

"(B) Not later than January 1, 1999, (and periodically thereafter), the Secretary shall publish a list of the drugs, and indications for such drugs, that are covered home infusion drugs, with respect to which home infusion drug therapy may be provided under this title.".

(c) CONFORMING AMENDMENTS REPEALING SEPARATE COVERAGE OF CERTAIN DRUGS AND PRODUCTS.—(1) Effective January 1, 1999, section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (A), by striking "(including drugs" and all that follows through "self-administered)";

(B) by striking subparagraphs (G) and (I);

(C) by adding "and" at the end of subparagraph (M); and

(D) by striking subparagraphs (O), (P), and (Q).

(2) Effective January 1, 1999, section 1861 (42 U.S.C. 1395x) is amended by striking the subsection (jj) added by section 4156(a)(2) of OBRA-1990.

(3) Effective January 1, 1999, section 1881(b) (42 U.S.C. 1395rr(b)) is amended—

(A) in the first sentence of paragraph (1)—

(i) by striking ", (B)" and inserting ", and (B)", and

(ii) by striking ", and (C)" and all that follows and inserting a period; and

(B) in paragraph (11)—

(i) by striking "(11)(A)" and inserting "(11)", and

(ii) by striking subparagraphs (B) and (C).

SEC. 2002. PAYMENT RULES AND RELATED REQUIREMENTS FOR COVERED OUTPATIENT DRUGS.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) PAYMENT FOR AND CERTAIN REQUIREMENTS CONCERNING COVERED OUTPATIENT DRUGS.—

"(1) DEDUCTIBLE.—

"(A) IN GENERAL.—Payment shall be made under paragraph (2) only for expenses incurred by an individual for a covered outpatient drug during a calendar year after the individual has incurred expenses in the year for such drugs (during a period in which the individual is entitled to benefits under this part) equal to the deductible amount for that year.

"(B) DEDUCTIBLE AMOUNT.—

"(i) For purposes of subparagraph (A), the deductible amount is—

"(I) for 1999, an amount equal to the amount determined under clause (ii)(I);

"(II) for 2000, the amount (rounded to the nearest dollar) that the Secretary estimates will ensure that the percentage of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876, an organization described in section 1833(a)(1)(A), or a medicare drug benefit plan under section 1851) during the year who will incur expenses for covered outpatient drugs equal to or greater than such amount will be the same as the percentage for the previous year;

"(III) for 2001, an amount equal to the amount determined under clause (ii)(II); and

"(IV) for any succeeding year, the amount (rounded to the nearest dollar) that the Secretary estimates will ensure that the percentage of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876, an organization described in section 1833(a)(1)(A), or a medicare drug benefit plan under section 1851) during the year who will incur expenses for covered outpatient drugs equal to or greater than such amount will be the same as the percentage for the previous year.

"(ii) For purposes of clause (i), the amount determined under this clause is—

"(I) in 1999, an amount determined by the Secretary such that the amount so determined will result in projected incurred spending and administrative costs (net of projected rebates under section 1851 and any portion of the part B premium attributable to the covered outpatient drug benefit) for providing payment under this title for covered outpatient drugs that would be equal to a spending target equal to $13,400,000,000; and

"(II) in 2001, an amount determined by the Secretary (based on actual experience) that the Secretary estimates will ensure that the percentage of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876, an organization described in section 1833(a)(1)(A), or a medicare drug benefit plan under section 1851) during the year who will incur expenses for covered outpatient drugs equal to or greater than such amount will be the same as the percentage for the previous year as the percentage for the previous year.

"(iii) The Secretary shall promulgate the deductible amount for 1999 and each succeeding year not later than October 1 of the previous year.

"(2) PAYMENT AMOUNT.—

"(A) IN GENERAL.—Subject to the deductible established under paragraph (1), the amount payable under this part for a covered outpatient drug furnished to an individual during a calendar year shall be equal to—

"(i) 80 percent of the payment basis described in paragraph (3), in the case of an individual who has not incurred expenses for covered outpatient drugs during the year (including the deductible imposed under paragraph (1)) in excess of the out-of-pocket limit for the year under subparagraph (B); and

"(ii) 100 percent of the payment basis described in paragraph (3), in the case of any other individual.

"(B) OUT-OF-POCKET LIMIT DESCRIBED.—

"(i) For purposes of subparagraph (A), the out-of-pocket limit for a year is equal to—

"(I) for 1999, $1275; and

"(II) for any succeeding year, the amount (rounded to the nearest dollar) that the Secretary estimates will ensure that the percentage of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876, an organization described in section 1833(a)(1)(A), or a medicare drug benefit plan under section 1851) during the year who will incur expenses for covered outpatient drugs equal to or greater than such amount will be the same as the percentage for the previous year.

"(ii) The Secretary shall promulgate the out-of-pocket limit for 1999 and each succeeding year not later than October 1 of the previous year.

"(3) PAYMENT BASIS.—For purposes of paragraph (2), the payment basis is the lesser of—

"(A) the actual charge for a covered outpatient drug, or

"(B) the applicable payment limit established under paragraph (4).

"(4) PAYMENT LIMITS.—

"(A) PAYMENT LIMIT FOR SINGLE SOURCE DRUGS AND MULTIPLE SOURCE DRUGS WITH RESTRICTIVE PRESCRIPTIONS.—In the case of a covered outpatient drug that is a multiple source drug which has a restrictive prescription, or that is a single source drug, the payment limit for a payment calculation period is equal to the amount of the administrative allowance (established under paragraph (5)) plus the product of the number of dosage units dispensed and the per unit estimated acquisition cost for the drug product (determined under subparagraph (C)) for the period.

"(B) PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS WITHOUT RESTRICTIVE PRESCRIPTIONS.—In the case of a drug that is a multiple source drug which does not have a restrictive prescription, the payment limit for a payment calculation period is equal to the amount of the administrative allowance (established under paragraph (5)) plus the product of the number of dosage units dispensed and the unweighted median of the unit estimated acquisition cost (determined under subparagraph (C)) for the drug products for the period.

"(C) DETERMINATION OF UNIT PRICE.—

"(i) IN GENERAL.—The Secretary shall determine, for the dispensing or providing of a covered outpatient drug product in the payment calculation period, the estimated acquisition cost for the drug product. With respect to any covered outpatient drug product, the estimated acquisition cost may not exceed 93 percent of the published average wholesale price for the drug, as determined one month prior to the beginning of the payment calculation period.

"(ii) COMPLIANCE WITH REQUEST FOR INFORMATION.—If a wholesaler or direct seller of a covered outpatient drug refuses, after being requested by the Secretary, to provide price information requested to carry out clause (i), or deliberately provides information that is false, the Secretary may impose a civil money penalty of not to exceed $10,000 for each such refusal or provision of false information. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under the previous sentence in the same manner as they apply to a penalty or proceeding under section 1128A(a). Information gathered pursuant to clause (i) shall not be disclosed except as the Secretary determines to be necessary to carry out the purposes of this part and to permit the Comptroller General to review the information provided.

"(5) ADMINISTRATIVE ALLOWANCE FOR PURPOSES OF PAYMENT LIMIT.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the administrative allowance established under this paragraph is—

"(i) for 1999, an amount equal to $5; and

"(ii) for each succeeding year, the amount for the previous year, adjusted by the percentage change in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that previous year.

"(B) NO DISPENSING FEE FOR CERTAIN DRUGS AND PRODUCTS.—No administrative allowance may be provided under this paragraph with respect to any of the following covered outpatient drugs:

"(i) Erythropoietin provided to dialysis patients.

"(ii) Drugs and biologicals provided as incident to a physician's service or to a service which would be a physician's service if furnished by a physician.

"(iii) Covered home infusion drugs.

"(6) MAIL ORDER PHARMACY OPTION.—

"(A) ESTABLISHMENT OF MAIL ORDER OPTION.—The Secretary may establish a competitive bidding process to award contracts to mail order pharmacies for the provision of covered outpatient drugs that are maintenance drugs to individuals who opt to receive

VOL 140 PT 16 AG 12 — 18 1994 UMI

such drugs through the mail order pharmacies. The payment amount for a covered outpatient drug under this section to a mail order pharmacy under such a contract shall be equal to the amount bid by such plan under this subparagraph instead of the payment limit determined in accordance with paragraph (4).

"(B) SHARING OF SAVINGS.—To the extent that payment is made under this section for maintenance drugs that are provided through a mail order pharmacy pursuant to subparagraph (A), an individual that opts to receive such drugs from such pharmacy shall receive from the Secretary a rebate or a contribution toward the individual's cost sharing in an amount equal to 25 percent of the excess of the payment limit determined in accordance with paragraph (4) over the amount charged by the mail order pharmacy for such drug.

"(7) ASSURING APPROPRIATE PRESCRIBING AND DISPENSING PRACTICES.—

"(A) IN GENERAL.—The Secretary shall develop a program to—

"(i) provide on-line prospective review of prescriptions on a 24-hour basis (in accordance with subparagraph (B)) and retrospective review of claims;

"(ii) establish standards for counseling individuals to whom covered outpatient drugs are prescribed; and

"(iii) identify (and to educate physicians, patients, and pharmacists concerning)—

"(I) instances or patterns of unnecessary or inappropriate prescribing or dispensing practices for covered outpatient drugs,

"(II) instances or patterns of substandard care with respect to such drugs,

"(III) potential adverse reactions, and

"(IV) appropriate use of generic products.

"(B) PROSPECTIVE REVIEW.—

"(i) IN GENERAL.—The program under this paragraph shall provide for on-line prospective review of each covered outpatient drug prescribed for a patient before the prescription is filled or the drug is furnished, including screening for potential drug therapy problems due to therapeutic duplication, drug-to-drug interactions, and incorrect drug dosage or duration of drug treatment.

"(ii) DISCUSSION OF APPROPRIATE USE.—In conducting prospective review under this subparagraph, any individual or entity that dispenses a covered outpatient drug shall offer to discuss with the patient to whom the drug is furnished or the patient's caregiver (in person if practicable, or through access to a toll-free telephone service) information regarding the appropriate use of the drug, potential interactions between the drug and other drugs dispensed to the individual, and such other matters as the Secretary may require.

"(iii) ADDITIONAL DUTIES.—In carrying out this subparagraph, the Secretary shall—

"(I) develop public domain software which could be used by carriers and pharmacies to provide the on-line prospective review; and

"(II) study the feasibility and desirability of requiring patient diagnosis codes on prescriptions and to the extent that the Secretary finds such a requirement to be feasible and desirable, to implement such a requirement to be effective on and after January 1, 2000.

"(C) PRIOR AUTHORIZATION.—

"(i) DEVELOPMENT OF LIST OF MISUSED DRUGS.—The Secretary shall develop (and periodically) update a list of covered outpatient drugs which the Secretary has determined, based on data collected, may be subject to misuse or inappropriate use. The Secretary shall provide a means for manufacturers to appeal an initial decision to include a drug on the list.

"(ii) PRIOR AUTHORIZATION FOR DRUGS ON LIST.—The Secretary shall establish a process under which (subject to clause (iii)) the Secretary may require advance approval for any covered outpatient drug included on the list developed under clause (i).

"(iii) RESTRICTIONS ON DENIAL OF APPROVAL.—The Secretary may not deny the approval of a drug under the process established under clause (ii) before its dispensing unless the process—

"(I) provides responses by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

"(II) provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in emergency situations (as defined by the Secretary).

"(iv) EXPANSION TO OTHER DRUGS.—If the rate of growth of payments under this part for covered outpatient drugs exceeds the average rate of growth for parts A and B expenditures and the Secretary finds such action to be feasible and desirable, the Secretary may require advance approval under this subparagraph for the dispensing of a covered outpatient drug in cases where a more cost-effective therapeutically or generically equivalent drug is available

"(D) DRUG USE REVIEW.—As part of the program established under subparagraph (A), the Secretary shall provide for a drug use review program to provide for the ongoing periodic examination of claims data and other records on covered outpatient drugs furnished to patients under this title in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and patients.

"(E) ADOPTION OF MEDICAID PROGRAMS.—To the extent considered appropriate by the Secretary, the program developed under this paragraph with respect to drugs furnished in a State may include elements applicable to the furnishing of covered outpatient drugs under the State medicaid program under section 1927.

"(8) BILLING REQUIREMENTS.—

"(A) MANDATORY ASSIGNMENT.—(i) Payment under this part for a covered outpatient drug may only be made on an assignment-related basis.

"(ii) Except for deductible, coinsurance, or copayment amounts applicable under this part, no person may bill or collect any amount from an individual enrolled under this part or other person for a covered outpatient drug for which payment may be made under this part, and no such individual or person is liable for payment of any amounts billed in violation of this clause. If a person knowingly and willfully bills or collects an amount in violation of the previous sentence, the Secretary may apply sanctions against such person in accordance with section 1842(j)(2). Paragraph (4) of section 1842(j) shall apply in this clause in the same manner as such paragraph applies to such section.

"(B) USE OF ELECTRONIC SYSTEM.—The Secretary shall establish, by not later than January 1, 1998, a point-of-sale electronic system for use by carriers and pharmacies in the submission of information respecting covered outpatient drugs dispensed to medicare beneficiaries under this part. Such system shall be consistent with the standards established by the National Council of Prescription Drug Programs.

"(10) REQUIRING PHARMACY SUPPLIER NUMBERS.—

"(A) IN GENERAL.—Payment may not be made under this part with respect to a covered outpatient drug dispensed by a pharmacy unless the entity has obtained a supplier number from the Secretary.

"(B) STANDARDS FOR ISSUING SUPPLIER NUMBERS.—The Secretary may not issue a supplier number to an entity for purposes of subparagraph (A) unless the entity demonstrates to the Secretary that it will maintain patient records (in accordance with such standards as the Secretary may impose) and meet the other applicable requirements of this subsection and section 1848(g).

"(11) STUDY ON PHARMACEUTICAL CARE SERVICES.—The Secretary shall conduct a study to develop, in consultation with actively practicing pharmacists, a payment methodology (to be in addition to the administrative allowance established under paragraph (5)) which is based upon and reflects the reasonable charges for varying levels of pharmacist services, including patient consultations provided to individuals under this section. The Secretary shall submit a report, including such recommendations as the Secretary determines to be appropriate, to Congress on the methodology developed under this paragraph not later than September 30, 1998.

"(12) DEFINITIONS.—In this subsection:

"(A) MULTIPLE AND SINGLE SOURCE DRUGS.—The terms 'multiple source drug' and 'single source drug' have the meanings given those terms under section 1927(k)(7), except that the reference in such section to a 'covered outpatient drug' shall be considered a reference to a covered outpatient drug under this part.

"(B) RESTRICTIVE PRESCRIPTION.—A drug has a 'restrictive prescription' only if—

"(i) in the case of a written prescription, the prescription for the drug indicates, in the handwriting of the physician or other person prescribing the drug and with an appropriate phrase (such as 'brand medically necessary') recognized by the Secretary, that a particular drug product must be dispensed, or

"(ii) in the case of a prescription issued by telephone—

"(I) the physician or other person prescribing the drug (through use of such an appropriate phrase) states that a particular drug product must be dispensed, and

"(II) the physician or other person submits to the pharmacy involved, within 30 days after the date of the telephone prescription, a written confirmation which is in the handwriting of the physician or other person prescribing the drug and which indicates with such appropriate phrase that the particular drug product was required to have been dispensed.

"(C) PAYMENT CALCULATION PERIOD.—The term 'payment calculation period' means a calendar year.".

(b) REQUIRING PHARMACIES TO SUBMIT CLAIMS.—Section 1848(g)(4) (42 U.S.C. 1395w-4(g)(4)) is amended—

(1) in the heading—

(A) by striking "PHYSICIAN", and

(B) by inserting "BY PHYSICIANS AND SUPPLIERS" after "CLAIMS";

(2) in the matter in subparagraph (A) preceding clause (i)—

(A) by striking "For services furnished on or after September 1, 1990, within 1 year" and inserting "Within 1 year (or 90 days in the case of covered outpatient drugs)",

(B) by striking "a service" and inserting "an item or service", and

(C) by inserting "or of providing a covered outpatient drug," after "basis,"; and

(3) in subparagraph (A)(i), by inserting "item or" before "service".

(c) SPECIAL RULES FOR CARRIERS.—

(1) USE OF REGIONAL CARRIERS.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following:

"(D) With respect to activities related to covered outpatient drugs, the Secretary may enter into contracts with carriers under this section to perform the activities on a regional basis.".

(2) ADDITIONAL FUNCTIONS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by adding "and" at the end of subparagraph (L);

(C) by redesignating subparagraph (L) as subparagraph (I); and

(D) by inserting after subparagraph (I) (as so redesignated) the following new subparagraphs:

"(J) if it makes determinations or payments with respect to covered outpatient drugs, will—

"(i) receive information transmitted under the electronic system established under section 1834(d)(8)(B), and

"(ii) respond to requests by pharmacies (and individuals entitled to benefits under this part) as to whether or not such an individual has met the prescription drug deductible established under section 1834(d)(1)(A) for a year; and

"(K) will enter into such contracts with organizations described in subsection (f)(3) as the Secretary determines may be necessary to implement and operate (and for related functions with respect to) the electronic system established under section 1834(d)(8)(B) for covered outpatient drugs under this part;".

(3) PAYMENT ON OTHER THAN A COST BASIS.—Section 1842(c)(1)(A) (42 U.S.C. 1395u(c)(1)(A)) is amended—

(A) by inserting "(i)" after "(c)(1)(A)",

(B) in the first sentence, by inserting ", except as otherwise provided in clause (ii)," after "under this part, and", and

(C) by adding at the end the following:

"(ii) To the extent that a contract under this section provides for activities related to covered outpatient drugs, the Secretary may provide for payment for those activities based on any method of payment determined by the Secretary to be appropriate.".

(4) BATCH PROMPT PROCESSING OF CLAIMS.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended—

(A) in paragraphs (2)(A) and (3)(A), by striking "Each" and inserting "Except as provided in paragraph (4), each";

(B) by adding at the end the following new paragraph:

"(4)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), with respect to claims for payment for covered outpatient drugs shall provide for a payment cycle under which each carrier will, on a monthly basis, make a payment with respect to all claims which were received and approved for payment in the period since the most recent date on which such a payment was made with respect to the participating pharmacy or individual submitting the claim.

"(B) If payment is not issued, mailed, or otherwise transmitted within 5 days of when such a payment is required to be made under subparagraph (A), interest shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after such 5-day period and ending on the date on which payment is made.".

(5) USE OF OTHER ENTITIES FOR COVERED OUTPATIENT DRUGS.—Section 1842(f) (42 U.S.C. 1395u(f)) is amended—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by adding at the end the following:

"(3) with respect to activities related to covered outpatient drugs, any other private entity which the Secretary determines is qualified to conduct such activities.".

(6) DESIGNATED CARRIERS TO PROCESS CLAIMS OF RAILROAD RETIREES.—Section 1842(g) (42 U.S.C. 1395u(g)) is amended by inserting "(other than functions related to covered outpatient drugs)" after "functions".

(e) CONFORMING AMENDMENTS.—

(1)(A) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(i) by striking "and" at the end of clause (O), and

(ii) by inserting before the semicolon at the end the following: ", and (Q) with respect to covered outpatient drugs, the amounts paid shall be as prescribed by section 1834(d)".

(B) Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended in the matter preceding subparagraph (A) by inserting ", except for covered outpatient drugs," after "and (I) of such section".

(2) Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by inserting "or with respect to covered outpatient drugs" before the comma.

(3) The first sentence of section 1842(h)(2) (42 U.S.C. 1395u(h)(2)) is amended by inserting "(other than a carrier described in subsection (f)(3))" after "Each carrier".

(4) The first sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended—

(A) in clause (i), by inserting "section 1834(d)," after "section 1833(b),", and

(B) in clause (ii), by inserting ", other than for covered outpatient drugs," after "provider)".

SEC. 2003. MEDICARE REBATES FOR COVERED OUTPATIENT DRUGS.

(a) IN GENERAL.—Part B of title XVIII is amended by adding at the end the following new section:

"REBATES FOR COVERED OUTPATIENT DRUGS

"SEC. 1850. (a) REQUIREMENT FOR REBATE AGREEMENT.—In order for payment to be available under this part for covered outpatient drugs of a manufacturer dispensed or provided on or after January 1, 1999, the manufacturer must have entered into and have in effect a rebate agreement with the Secretary meeting the requirements of subsection (b).

"(b) TERMS, IMPLEMENTATION, AND ENFORCEMENT OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—

"(A) IN GENERAL.—A rebate agreement under this section shall require the manufacturer to pay to the Secretary for each calendar quarter, not later than 30 days after the date of receipt of the information described in paragraph (2) for such quarter, a rebate in an amount determined under subsection (c) for all covered outpatient drugs of the manufacturer described in subparagraph (B).

"(B) DRUGS INCLUDED IN QUARTERLY REBATE CALCULATION.—Drugs subject to rebate with respect to a calendar quarter are drugs which are dispensed or provided during such quarter to individuals (other than individuals enrolled with an entity with a contract under section 1876 or a medicare drug benefit plan with a contract under section 1851) eligible for benefits under this part, as reported to the Secretary.

"(2) INFORMATION FURNISHED TO MANUFACTURERS.—

"(A) IN GENERAL.—The Secretary shall report to each manufacturer, not later than 60 days after the end of each calendar quarter, information on the total number, for each covered outpatient drug, of units of each dosage form, strength, and package size dispensed or provided under the plan during the quarter, on the basis of the data reported to the Secretary described in paragraph (1)(B).

"(B) AUDIT.—The Comptroller General may audit the records of the Secretary to the extent necessary to determine the accuracy of reports by the Secretary pursuant to subparagraph (A). Adjustments to rebates shall be made to the extent determined necessary by the audit to reflect actual units of drugs dispensed.

"(3) PROVISION OF PRICE INFORMATION BY MANUFACTURER.—

"(A) QUARTERLY PRICING INFORMATION.—Each manufacturer with an agreement in effect under this section shall report to the Secretary, not later than 30 days after the last day of each calendar quarter, on the average manufacturer retail price and the average manufacturer non-retail price for each dosage form and strength of each covered outpatient drug for the quarter.

"(B) BASE QUARTER PRICES.—Each manufacturer of a covered outpatient drug with an agreement under this section shall report to the Secretary, by not later than 30 days after the effective date of such agreement (or, if later, 30 days after the end of the base quarter), the average manufacturer retail price, for such base quarter, for each dosage form and strength of each such covered drug.

"(C) VERIFICATION OF AVERAGE MANUFACTURER PRICE.—The Secretary may inspect the records of manufacturers, and survey wholesalers, pharmacies, and institutional purchasers of drugs as necessary to verify prices reported under subparagraph (A).

"(D) PENALTIES.—

"(i) CIVIL MONEY PENALTIES.—The Secretary may impose a civil money penalty on a manufacturer with an agreement under this section—

"(I) for failure to provide information required under subparagraph (A) on a timely basis, in an amount up to $10,000 per day of delay;

"(II) for refusal to provide information about charges or prices requested by the Secretary for purposes of verification pursuant to subparagraph (C), in an amount up to $100,000; and

"(III) for provision, pursuant to subparagraph (A) or (B), of information that the manufacturer knows or should know is false, in an amount up to $100,000 per item of information.

Such civil money penalties are in addition to any other penalties prescribed by law. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(ii) TERMINATION OF AGREEMENT.—If a manufacturer with an agreement under this section has not provided information required under subparagraph (A) or (B) within

VOL 140 PT 16 AG 12 — 18 1994 UMI

90 days of the deadline imposed, the Secretary may suspend the agreement with respect to covered outpatient drugs dispensed after the end of such 90-day period and until the date such information is reported (but in no case shall a suspension be for less than 30 days).

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of not less than one year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall afford a manufacturer an opportunity for a hearing concerning such termination, but such hearing shall not delay the effective date of the termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVE DATE OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO PHARMACIES.—In the case of a termination under this subparagraph, the Secretary shall notify pharmacies and physician organizations not less than 30 days before the effective date of such termination.

"(c) AMOUNT OF REBATE.—

"(1) BASE REBATE.—Each manufacturer shall remit a basic rebate to the Secretary for each calendar quarter in an amount, with respect to each dosage form and strength of a covered outpatient drug, equal to the product of—

"(A) the total number of units subject to rebate for such quarter, as described in subsection (b)(1)(B); and

"(B)(i) in the case of a single-source drug or innovator-multiple source drug, 15 percent of the average manufacturer retail price, or

"(ii) in the case of a noninnovator-multiple source drug, insulin, or an enteral nutrient, 6 percent (or the applicable percent if the Secretary implements the sliding scale developed in accordance with paragraph (4)) of the average manufacturer retail price.

"(2) ADDITIONAL REBATE.—Each manufacturer shall remit to the Secretary, for each calendar quarter, an additional rebate for each dosage form and strength of a single-source or innovator-multiple-source drug, in an amount equal to—

"(A) the total number of units subject to rebate for such quarter, as described in subsection (b)(1)(B), multiplied by

"(B) the amount, if any, by which the average manufacturer retail price for such drugs of the manufacturer exceeds the average manufacturer retail price for the base quarter, increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. average) from the end of such base quarter to the month before the beginning of such calendar quarter.

"(3) DEPOSIT OF REBATES.—The Secretary shall deposit rebates under this section in the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

"(4) APPLICABLE PERCENT.—

"(A) NONINNOVATOR-MULTIPLE SOURCE DRUG.—

"(i) IN GENERAL.—For purposes of this subparagraph, the Secretary may develop and implement a sliding scale to determine the applicable percent for rebates based on the relationship between the average manufacturer retail price of the noninnovator-multiple source drug and the average manufacturer retail price of the equivalent innovator drug (except as provided in subparagraph (B)).

"(ii) SLIDING SCALE DESCRIBED.—The sliding scale developed by the Secretary under clause (i) shall—

"(I) require that the applicable percent be not less than 2 percent and not be greater than 15 percent; and

"(II) ensure that the total level of rebates collected under such a sliding scale would be equivalent to a flat 6 percent rebate on such drugs.

"(B) ENTERAL NUTRIENTS AND INSULIN.—For purposes of this subparagraph, the applicable percent for enteral nutrients and insulin under the sliding scale would be equal to 6 percent.

"(d) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by a manufacturer under this section is confidential and shall not be disclosed by the Secretary (or a carrier), except—

"(A) as the Secretary determines to be necessary to carry out this section,

"(B) to permit the Comptroller General to review the information provided, and

"(C) to permit the Director of the Congressional Budget Office to review the information provided.

"(e) DEFINITIONS.—For purposes of this section—

"(1) AVERAGE MANUFACTURER RETAIL PRICE.—The term 'average manufacturer retail price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the average price (inclusive of discounts for cash payment, prompt payment, volume purchases, and rebates (other than rebates under this section), but exclusive of nominal prices) paid to the manufacturer for the drug in the United States for drugs distributed to the retail pharmacy class of trade.

"(2) AVERAGE MANUFACTURER NON-RETAIL PRICE.—The term 'average manufacturer non-retail price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the weighted average price (inclusive of discounts for cash payment, prompt payment, volume purchases, and rebates (other than rebates under this section), but exclusive of nominal prices) paid to the manufacturer for the drug in the United States by hospitals and other institutional purchasers that purchase drugs for institutional use and not for resale.

"(3) BASE QUARTER.—The term 'base quarter' means, with respect to a covered outpatient drug of a manufacturer, the calendar quarter beginning April 1, 1993, or (if later) the first full calendar quarter during which the drug was marketed in the United States.

"(4) DRUG.—The terms 'innovator multiple source drug', 'noninnovator-multiple source drug', and 'single source drug' have the meanings given those terms under section 1927(k)(7), except that the reference in such section to a 'covered outpatient drug' shall be considered a reference to a covered outpatient drug under this part.

"(5) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug—

"(A) the entity whose National Drug Code number (as issued pursuant to section 510(e) of the Federal Food, Drug, and Cosmetic Act) appears on the labeling of the drug; or

"(B) if the number described in subparagraph (A) does not appear on the labeling of the drug, the person named as the applicant in a human drug application (in the case of a new drug) or the product license application (in the case of a biological product) for such drug approved by the Food and Drug Administration.".

(b) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "and" at the end of paragraph (15),

(2) by striking the period at the end of paragraph (16) and inserting "; or", and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) consisting of a covered outpatient drug (as described in section 1861(t)) furnished during a year for which the drug's manufacturer does not have in effect a rebate agreement with the Secretary that meets the requirements of section 1850 for the year.".

SEC. 2004. PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION.

Part B of title XVIII is amended by inserting after section 1846 the following new section:

"PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

"SEC. 1847. (a)(1) The Director of the Congressional Office of Technology Assessment (in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a Prescription Drug Payment Review Commission (in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of covered outpatient drugs appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than January 1, 1996, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

"(3) The membership of the Commission shall include recognized experts in the fields of health care economics, medicine, pharmacology, pharmacy, and prescription drug reimbursement, as well as at least one individual who is a medicare beneficiary, one individual representing a research-based pharmaceutical company, and one individual representing a biotechnology company.

"(b)(1) The Commission shall submit to Congress an annual report no later than May 1 of each year, beginning with 1997—

"(A) concerning the implementation and the operation of the coverage of covered outpatient drugs under this part, including recommendations to Congress on changes to the program to improve access to prescription drugs, the quality of prescription drug care, and program efficiencies;

"(B) reviewing the process of contracting with medicare drug benefits plans under section 1851;

"(C) concerning the fiscal soundness of the furnishing of covered outpatient drugs under this part;

"(D) concerning the appropriateness, fairness and effectiveness of the rebate structure under section 1850; and

"(E) concerning the advisability of developing a review process to exempt small manufacturers of single source or innovator multiple source drugs from rebates under section 1850 based on the manufacturer's sales and the historic pricing of the manufacturer's products.

"(c) Section 1845(c)(1) shall apply to the Commission in the same manner as it applies to the Physician Payment Review Commission.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

SEC. 2005. COVERAGE OF HOME INFUSION DRUG THERAPY SERVICES.

(a) IN GENERAL.—Section 1832(a)(2)(A) (42 U.S.C. 1395k(a)(2)(A)) is amended by inserting "and home infusion drug therapy services" before the semicolon.

(b) HOME INFUSION DRUG THERAPY SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) by redesignating the subsection (jj) inserted by section 4156(a)(2) of the Omnibus Budget Reconciliation Act of 1990 as subsection (kk); and

(2) by inserting after such subsection the following new subsection:

"Home Infusion Drug Therapy Services

"(ll)(1) The term 'home infusion drug therapy services' means the items and services described in paragraph (2) furnished to an individual who is under the care of a physician—

"(A) in a setting described in subsection (t)(5)(A)(ii),

"(B) by a qualified home infusion drug therapy provider (as defined in paragraph (3)) or by others under arrangements with them made by that provider, and

"(C) under a plan established and periodically reviewed by a physician.

"(2) The items and services described in this paragraph are such nursing, pharmacy, and related services (including medical supplies, intravenous fluids, delivery, and equipment) as are necessary to conduct safely and effectively a drug regimen through use of a covered home infusion drug (as defined in subsection (t)(5)), but do not include such covered home infusion drugs.

"(3) The term 'qualified home infusion drug therapy provider' means any entity that the Secretary determines meets the following requirements (or, in the case of a home health agency or an entity with respect to which the only items and services described in paragraph (2) furnished by the entity are enteral nutrition therapy services, meets any of the following requirements which the Secretary considers appropriate):

"(A) The entity is capable of providing nursing or pharmacy services and providing or arranging for the other items and services described in paragraph (2) and covered home infusion drugs.

"(B) The entity maintains clinical records on all patients.

"(C) The entity adheres to written protocols and policies with respect to the provision of items and services.

"(D) The entity makes services available (as needed) seven days a week on a 24-hour basis.

"(E) The entity coordinates all services with the patient's physician.

"(F) The entity conducts a quality assessment and assurance program, including drug regimen review and coordination of patient care.

"(G) The entity assures that only trained personnel provide covered home infusion drugs (and any other service for which training is required to provide the service safely).

"(H) The entity assumes responsibility for the quality of services provided by others under arrangements with the entity.

"(I) In the case of an entity in any State in which State or applicable local law provides for the licensing of entities of this nature, the entity (i) is licensed pursuant to such law, or (ii) is approved, by the agency of such State or locality responsible for licensing entities of this nature, as meeting the standards established for such licensing.

"(J) The entity meets such other requirements as the Secretary may determine are necessary to assure the safe and effective provision of home infusion drug therapy services and the efficient administration of the home infusion drug therapy benefit.".

(c) PAYMENT.—

(1) IN GENERAL.—Section 1833 (42 U.S.C. 13951) is amended—

(A) in subsection (a)(2)(B), by striking "or (E)" and inserting "(E), or (F)",

(B) in subsection (a)(2)(D), by striking "and" at the end,

(C) in subsection (a)(2)(E), by striking the semicolon and inserting "; and",

(D) by inserting after subsection (a)(2)(E) the following new subparagraph:

"(F) with respect to home infusion drug therapy services, the amounts described in section 1834(j);", and

(E) in the first sentence of subsection (b), by striking "services, (3)" and inserting "services and home infusion drug therapy services, (3)".

(2) AMOUNT DESCRIBED.—Section 1834 is amended by adding at the end the following new subsection:

"(j) HOME INFUSION DRUG THERAPY SERVICES.—

"(1) IN GENERAL.—With respect to home infusion drug therapy services, payment under this part shall be made in an amount equal to the lesser of the actual charges for such services or the fee schedule established under paragraph (2).

"(2) ESTABLISHMENT OF FEE SCHEDULE.—

"(A) IN GENERAL.—The Secretary shall establish by regulation before the beginning of 1999 and each succeeding year a fee schedule for home infusion drug therapy services for which payment is made under this part. A fee schedule established under this subsection shall be on a per diem basis.

"(B) ADJUSTMENT FOR SERVICES FURNISHED BY INSTITUTIONS.—The fee schedule established by the Secretary under subparagraph (A) shall provide for adjustments in the case of home infusion drug therapy services for which payment is made under this part that are furnished by a provider of services to avoid duplicative payments under this title for the service costs associated with such services.".

(d) CERTIFICATION.—Section 1835(a)(2) (42 U.S.C. 1395n(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (E),

(2) by striking the period at the end of subparagraph (F) and inserting "; and", and

(3) by inserting after subparagraph (F) the following:

"(G) in the case of home infusion drug therapy services, (i) such services are or were required because the individual needed such services for the administration of a covered home infusion drug, (ii) a plan for furnishing such services has been established and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(e) CERTIFICATION OF HOME INFUSION DRUG THERAPY PROVIDERS; INTERMEDIATE SANCTIONS FOR NONCOMPLIANCE.—

(1) TREATMENT AS PROVIDER OF SERVICES.—Section 1861(u) (42 U.S.C. 1395x(u)) is amended by inserting "home infusion drug therapy provider," after "hospice program,".

(2) CONSULTATION WITH STATE AGENCIES AND OTHER ORGANIZATIONS.—Section 1863 (42 U.S.C. 1395z) is amended by striking "and (dd)(2)" and inserting "(dd)(2), and (ll)(3)".

(3) USE OF STATE AGENCIES IN DETERMINING COMPLIANCE.—Section 1864(a) (42 U.S.C. 1395aa(a)) is amended—

(A) in the first sentence, by striking "an agency is a hospice program" and inserting "an agency or entity is a hospice program or a home infusion drug therapy provider,"; and

(B) in the second sentence—

(i) by striking "institution or agency" and inserting "institution, agency, or entity", and

(ii) by striking "or hospice program" and inserting "hospice program, or home infusion drug therapy provider".

(4) APPLICATION OF INTERMEDIATE SANCTIONS.—Section 1846 (42 U.S.C. 1395w-2) is amended—

(A) in the heading, by adding "AND FOR QUALIFIED HOME INFUSION DRUG THERAPY PROVIDERS" at the end,

(B) in subsection (a), by inserting "or that a qualified home infusion drug therapy provider that is certified for participation under this title no longer substantially meets the requirements of section 1861(ll)(3)" after "under this part", and

(C) in subsection (b)(2)(A)(iv), by inserting "or home infusion drug therapy services" after "clinical diagnostic laboratory tests".

(f) USE OF REGIONAL INTERMEDIARIES IN ADMINISTRATION OF BENEFIT.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(k) With respect to carrying out functions relating to payment for home infusion drug therapy services and covered home infusion drugs, the Secretary may enter into contracts with agencies or organizations under this section to perform such functions on a regional basis.".

(g) CONFORMING AMENDMENTS.—(1) Section 1834(h)(4)(B) (42 U.S.C. 1395m(h)(4)(B)) is amended by striking ", except that" and all that follows through "equipment".

(2) Section 1861(n) (42 U.S.C. 1395x(n)) is amended by striking: "Such term does not include any home infusion drug therapy services described in section 1861(ll) or any covered outpatient drug used as a supply related to the furnishing of an item of durable medical equipment.".

(3) Section 1861(s)(8) (42 U.S.C. 1395x(s)(8)) is amended by inserting after "dental" the following: "devices or enteral and parenteral nutrients, supplies, and equipment".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1999.

SEC. 2006. MEDICARE DRUG BENEFIT PLANS.

(a) IN GENERAL.—Part B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by section 2003, is further amended by adding at the end the following new section:

"SEC. 1851. MEDICARE DRUG BENEFIT PLANS.

"(a) IN GENERAL.—

"(1) GENERAL PERMISSION TO CONTRACT.—The Secretary shall enter into contracts with medicare drug benefit plans in a State for the provision of covered outpatient drugs (as defined in section 1861(t)(2)) (except as

VOL 140 PT 16 AG 12 — 18 1994 UMI

provided in subsection (i)(3)(G)) to individuals entitled to benefits under part A and enrolled under part B if the plan meets the requirements of this section with respect to individuals enrolled under this section.

"(2) ENTITIES ELIGIBLE TO ENTER INTO A CONTRACT.—The Secretary may enter into a contract under this section with a medicare drug benefit plan that is—

"(A) a certified standard health plan but only if such plan has not entered into a contract with the Secretary under section 1876 in the State;

"(B) a network of chain and independent pharmacy providers;

"(C) a pharmacy benefit management company; or

"(D) any other entity that the Secretary determines is appropriate.

"(3) AVAILABILITY OF PLANS.—

"(A) IN GENERAL.—Every individual entitled to benefits under part A and enrolled under part B shall be eligible to enroll under this section with any medicare drug benefit plan with a contract under this section which serves the State in which the individual resides.

"(B) ENROLLMENT BY AN INDIVIDUAL.—In accordance with the enrollment periods established under subsection (e)(1), an individual may enroll under this section with a medicare drug benefit plan with a contract under this section only through a third party designated by the Secretary in regulations and the individual may only terminate enrollment in accordance with subsection (e)(2).

"(C) INFORMATION DISTRIBUTED BY THE SECRETARY.—

"(i) IN GENERAL.—The Secretary shall develop and distribute comparative materials to individuals eligible to enroll under this section regarding all medicare drug benefit plans with contracts under this section, the availability of payment for covered outpatient drugs under section 1834(d), and the availability of covered outpatient drugs to enrollees of entities with contracts under section 1876. Each medicare drug benefit plan with a contract in the State shall contribute to the cost of developing and distributing such materials in accordance with a method to be determined by the Secretary. The Secretary shall include in such comparative materials a notice that each medicare drug benefit plan with a contract under this section is authorized by law to terminate or refuse to renew the contract, and that termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the plan under this section.

"(ii) PROVISION OF INFORMATION BY THE PLAN.—Each medicare drug benefit plan with a contract under this section shall collect and provide such standard information as the Secretary shall prescribe by regulation as necessary to evaluate the performance and quality of such plan, including enrollee satisfaction, and to compare such performance and quality with competing plans.

"(4) PAYMENTS.—

"(A) PAYMENTS IN LIEU OF NORMAL PAYMENTS.—Payments under a contract to a medicare drug benefit plan under this section shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to section 1834, for covered outpatient drugs furnished by or through the plan to individuals enrolled with the plan under this section.

"(B) SOURCE OF PAYMENT.—The payment to a medicare drug benefit plan under this section for individuals enrolled under this section with the plan and entitled to benefits under part A and enrolled under part B shall be made from the Federal Supplementary Medical Insurance Trust Fund.

"(5) DEFINITIONS.—

"(A) SERVICE AREA.—The term 'health plan service area' means a health plan service area designated by the State under section 1502(d) of the Health Security Act.

"(B) CERTIFIED STANDARD HEALTH PLAN.—The term 'certified standard health plan' has the meaning given such term in section 1011(2) of the Health Security Act.

"(b) PAYMENT RULES UNDER CONTRACTS.—

"(1) IN GENERAL.—

"(A) PAYMENTS.—With respect to any calendar year, each medicare drug benefit plan with a contract under this section shall receive a payment under this title with respect to each individual enrolled with the plan for each month such individual is enrolled equal to the applicable monthly percentage of the lesser of—

"(i) 95 percent of the fee for service component determined under paragraph (2)(B)(i) adjusted by the rate factor determined under subparagraph (C) for the class of such individual; or

"(ii) the medicare drug benefit plan component determined under paragraph (2)(B)(ii) for the plan's service area adjusted by the rate factor determined under subparagraph (C) for the class of such individual.

"(B) APPLICABLE MONTHLY PERCENTAGE.—For purposes of subparagraph (A), the Secretary shall annually set the applicable monthly percentage for each month of the calendar year. Such percentage for a month shall be equal to the Secretary's estimate of the proportion of the total covered outpatient drug benefit incurred in such month under section 1834 to the total covered outpatient drug benefit incurred for such year under section 1834.

"(C) DETERMINATION OF CLASSES OF INDIVIDUALS AND RATE FACTORS FOR SUCH CLASSES.—

"(i) DETERMINATION OF CLASSES.—For purposes of this section, the Secretary shall define appropriate classes of individuals based on such factors as the Secretary determines to be appropriate.

"(ii) RATE FACTORS.—The Secretary shall annually determine the rate factors for each class of individuals defined in clause (i) reflecting the differences in the average per capita spending for providing covered outpatient drug coverage under part B among individuals in such classes.

"(2) DETERMINATION OF PAYMENT RATE.—

"(A) DETERMINATION BY SECRETARY.—The Secretary shall annually determine under subparagraph (B), and shall announce (in a manner intended to provide notice to interested parties) not later than October 1 before the calendar year concerned, the payment for each service area.

"(B) FORMULAS FOR DETERMINING PAYMENT AMOUNTS.—

"(i) FEE-FOR-SERVICE COMPONENT.—The amount determined under this clause is the projected average annual per capita drug fee-for-service costs (as defined in subparagraph (D)) for covered outpatient drugs for the service area for individuals not enrolled in medicare drug benefit plans with contracts under this section or entities with contracts under section 1876, adjusted by the factor described in clause (ii)(I).

"(ii) MEDICARE DRUG BENEFIT PLAN COMPONENT.—The medicare drug benefit plan component determined under this clause is the sum of the following amounts determined with respect to each medicare drug benefit plan—

"(I) the amount of the uniform annual premium submitted by the plan to the Secretary under subparagraph (C), adjusted by a factor determined by the Secretary to normalize the difference in the distribution of individuals projected to be enrolled in the plan among the various classes of individuals defined by the Secretary to the national distribution of all individuals in the program under this title among such classes; multiplied by

"(II) a fraction (expressed as a percentage), the numerator of which is the number of all individuals enrolled in the plan (as projected by the plan using either historical experience or some other methodology developed by the Secretary), and the denominator of which is the number of all individuals enrolled in all medicare drug benefit plans in the service area.

"(C) UNIFORM ANNUAL PREMIUMS; PREMIUM FOR ADDITIONAL SERVICES.—

"(i) IN GENERAL.—Each medicare drug benefit plan shall, not later than August 1 of each year, submit to the Secretary a bid for the next calendar year for each service area with respect to which the plan proposes to serve under a contract under this section. A bid with respect to a service area shall include the following:

"(I) UNIFORM ANNUAL PREMIUM.—A statement of the uniform annual premium amount that the plan intends to charge for individuals enrolled under this section with the plan.

"(II) PREMIUM FOR SUPPLEMENTAL PLAN.—A statement of the fixed monthly premium amount that the plan intends to charge for each supplemental plan offering additional cost-sharing benefits.

"(ii) NOTICE BEFORE BID SUBMISSIONS.—At least 45 days before the date for submitting bids under clause (i) for a year, the Secretary shall provide for notice to medicare drug benefit plans of—

"(I) proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous calendar year and shall provide such plans an opportunity to comment on such proposed changes;

"(II) the applicable monthly percentage for each month of the calendar year as determined by the Secretary under paragraph (1)(B); and

"(III) the rate factors for such calendar year determined under paragraph (1)(C).

"(D) PROJECTED AVERAGE ANNUAL PER CAPITA FEE-FOR-SERVICE COSTS.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'projected average annual per capita drug fee-for-service costs' means, with respect to a service area, the annual amount that the Secretary estimates in advance would be payable in any contract year for providing payment for covered outpatient drugs for individuals enrolled under part B (including administrative costs incurred by organizations described in section 1842), if the services were to be furnished by other than a medicare drug benefit plan with a contract under this section or by an entity with a contract under section 1876.

"(ii) BASIS FOR ESTIMATES.—The estimate made by the Secretary under clause (i) shall be made on the basis of actual experience of the service area or, if the Secretary determines that the data in that service area are inadequate to make an accurate estimate, the Secretary may use the actual experience of a similar area, with appropriate adjustments to assure actuarial equivalence, including adjustments the Secretary may determine appropriate to adjust for demographics, health status, and the presence of specific medical conditions. For the first 2 years that contracts are entered into under this section, the Secretary shall base such estimates on the best available data.

"(3) PAYMENT RULES.—

"(A) AMOUNT OF PREMIUM.—

"(i) STANDARD PACKAGE.—Each medicare drug benefit plan with a contract under this section must provide to individuals enrolled with the plan under this section, for each month of the duration of such enrollment during each contract period, the coverage described in subsection (d) for the lesser of—

"(I) the applicable monthly percentage of the uniform annual premium amount submitted under paragraph (2)(C)(i)(I); or

"(II) the applicable monthly percentage of the amount described in subsection (b)(1)(A).

"(ii) SUPPLEMENTAL PLAN.—

"(I) IN GENERAL.—Each medicare drug benefit plan with a contract under this section must provide to individuals enrolled with the plan under this section, for the duration of such enrollment during each contract period, a fixed monthly premium for the supplemental plan described in paragraph (2)(C)(i)(II) equal to the premium amount determined by the plan under such paragraph. An individual that elects to enroll in the supplemental plan shall be responsible for paying to the plan the fixed monthly premium amount described in the preceding sentence.

"(II) PAYMENT GREATER THAN FIXED MONTHLY PREMIUM.—If, with respect to any individual enrolled in a medicare drug benefit plan with a contract under this section, the amount paid to the plan under subsection (b)(1)(A) exceeds the applicable monthly percentage of the uniform annual premium amount submitted under paragraph (2)(C)(i)(I), the plan shall apply such excess to a premium for any supplemental policy described in paragraph (2)(C)(ii) that the individual may elect. If the individual does not elect such a policy, the medicare drug benefit plan shall pay such excess to the Secretary for deposit in the Federal Supplementary Medical Insurance Trust Fund.

"(B) MONTHLY PAYMENTS.—

"(i) IN GENERAL.—The Secretary shall make monthly payments in advance and in accordance with the rate determined under paragraph (1)(A) to each medicare drug benefit plan with a contract under this section for each individual enrolled with the plan under this section.

"(ii) ADJUSTMENTS.—The amount of payment under this subparagraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(iii) PAYMENT TO PLAN ONLY.—If an individual is enrolled under this section with a medicare drug benefit plan with a contract under this section, only the plan shall be entitled to receive payments from the Secretary under this title for covered outpatient drugs furnished to the individual.

"(d) COVERAGE OF BENEFITS.—

"(1) DRUGS PROVIDED.—A medicare drug benefit plan with a contract under this section must provide to individuals enrolled in the plan under this section covered outpatient drugs (as defined in section 1861(t)(2)), except as provided in subsection (i)(3)(G).

"(2) PROVISION OF MEDICALLY NECESSARY CARE.—Each medicare drug benefit plan with a contract under this section must—

"(A) make the covered outpatient drugs described in paragraph (1)—

"(i) available and accessible to enrolled individuals within the State with reasonable promptness and in a manner which assures continuity, and

"(ii) when medically necessary, available and accessible twenty-four hours a day and seven days a week, and

"(B) provide for reimbursement with respect to drugs which are described in subparagraph (A) and which are provided to such an individual other than through the plan, if—

"(i) the drugs were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(ii) it was not reasonable given the circumstances to obtain the drugs through the plan.

"(3) COST-SHARING.—Each medicare drug benefit plan with a contract under this section must provide to individuals enrolled under this section with respect to the drugs described in paragraph (1), cost-sharing requirements that are equal to 95 percent of the actuarial value of the cost sharing requirements under section 1834.

"(4) COST-SHARING FOR SUPPLEMENTAL PLANS.—A supplemental plan may not have cost-sharing that applies differential cost-sharing based on the therapeutic class of drug prescribed or other cost-sharing structures that the Secretary determines would be likely to discourage enrollment by individuals with medical conditions that require extensive use of prescription drugs.

"(5) ACTUARIAL EQUIVALENCE OF STANDARD PLAN AND SUPPLEMENTAL PLAN.—The premium charged to an individual enrolled under this section for a supplemental policy that eliminates or reduces the cost-sharing requirement imposed on such individual and the actuarial value of any remaining cost-sharing requirement under the plan shall not exceed 95 percent of the actuarial value of the cost-sharing requirements under section 1834.

"(e) ENROLLMENT.—

"(1) ENROLLMENT PERIODS.—Each medicare drug benefit plan with a contract under this section must have a uniform open enrollment period (which shall be the period specified by the Secretary under section 1876(c)(3)(A)(i)), for the enrollment of individuals under this section, of at least 30 days duration every year. The plan must also have additional enrollment periods in accordance with the enrollment periods required under clauses (ii), (iii), and (iv) of section 1876(c)(3)(A).

"(2) TERMINATION.—An individual may only terminate an individual's enrollment with a medicare drug benefit plan during an open enrollment period described in paragraph (1).

"(3) NONDISCRIMINATION.—The medicare drug benefit plan must provide assurances to the Secretary that it will not discriminate against any individual because of the individual's health status, requirements for covered outpatient drugs, claims experience, medical history, or other factors that are generally related to the need for covered outpatient drugs and that it will notify each individual of such fact at the time of the individual's enrollment.

"(4) NOTICE OF RIGHTS, ETC.—Each medicare drug benefit plan with a contract under this section shall provide each enrollee, at the time of enrollment and not less frequently than annually thereafter, an explanation of the enrollee's rights under this section, including an explanation of—

"(A) the enrollee's rights to benefits from the plan,

"(B) the restrictions on payments under this title for covered outpatient drugs furnished other than by or through the plan,

"(C) out-of-plan coverage provided by the plan, and

"(E) appeal rights of enrollees.

"(f) MEMBERSHIP REQUIREMENTS.—

"(1) NON-MEDICARE REQUIREMENT.—

"(A) IN GENERAL.—Each entity with a contract under this section shall provide that at least ½ of the individuals who are provided with drug coverage by the entity are individuals who are not enrolled in a medicare drug benefit plan under this section.

"(B) SUSPENSION OF ENROLLMENT.—If the Secretary determines that a medicare drug benefit plan with a contract under this section has failed to comply with the requirements of this subsection, the Secretary may provide for the suspension of enrollment of individuals under this section or of payment to the plan under this section for individuals newly enrolled with the plan, after the date the Secretary notifies the plan of such noncompliance.

"(2) 5000 INDIVIDUALS.—Each medicare drug benefit plan with a contract under this section shall provide covered outpatient drug coverage to at least 5000 individuals, except that the Secretary may enter into such a contract with a medicare drug benefit plan that has fewer enrollees if the plan primarily serves members residing outside of urbanized areas.

"(g) PAYMENT RULES FOR PLANS.—

"(1) SUBROGATION RIGHTS.—Notwithstanding any other provision of law, the medicare drug benefit plan may, (in the case of the provision of covered outpatient drugs to an individual enrolled under this section for a drug for which the member is entitled to benefits under a workmen's compensation law or plan of the United States or a State, under an automobile or liability insurance policy or plan, including a self-insured plan, under no fault insurance, or under a primary plan (as defined in section 1862(b)(2)(A)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

(B) such enrollee to the extent that the enrollee has been paid under such law, plan, or policy for such services.

"(2) PROMPT PAYMENT REQUIREMENT.—

"(A) IN GENERAL.—A contract under this section shall require the medicare drug benefit plan to provide prompt payment (consistent with the provisions of section 1842(c)(4)) of claims submitted for covered outpatient drugs furnished to individuals pursuant to such contract, if the drugs are not furnished under a contract between the plan and the provider or supplier.

"(B) FAILURE.—In the case of a plan which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with subparagraph (A), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for such covered services furnished to individuals enrolled under this section under the contract. If the Secretary provides for such direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the plan under this section to reflect the amount of the Secretary's payments (and costs incurred by the Secretary in making such payments).

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(h) DURATION, TERMINATION, EFFECTIVE DATE, AND TERMS OF CONTRACT; POWERS AND DUTIES OF SECRETARY.—

"(1) DURATION AND TERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(B) EXCEPTION.—The Secretary may terminate a contract at any time (after such reasonable notice and opportunity for hearing to the medicare drug benefit plan involved as the Secretary may provide in regulations), if the Secretary finds that the plan—

"(i) has failed substantially to carry out the contract,

"(ii) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or

"(iii) no longer substantially complies with the requirements of this section.

"(2) EFFECTIVE DATE.—The effective date of any contract executed pursuant to this section shall be specified in the contract.

"(3) TERMS.—Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by the Secretary—

"(i) shall have the right to inspect or otherwise evaluate—

"(I) the quality, appropriateness, and timeliness of drugs provided under the contract, and

"(II) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(ii) shall have the right to audit and inspect any books and records of the medicare drug benefit plan that pertain—

"(I) to the ability of the plan to bear the risk of potential financial losses, or

"(II) to drugs provided or determinations of amounts payable under the contract;

"(B) shall require the plan with a contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the plan;

"(C)(i) shall require the plan to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members);

"(ii) shall require the plan to provide and supply information determined appropriate by the Secretary in the manner determined appropriate by the Secretary; and

"(iii) shall require the plan to notify the Secretary of loans and other special financial arrangements which are made between the plan and subcontractors, affiliates, and related parties; and

"(D) shall contain such other terms and conditions not inconsistent with this section (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(4) PERIOD OF DISQUALIFICATION.—The Secretary may not enter into a contract with a medicare drug benefit plan if a previous contract with that plan under this section was terminated at the request of the plan within the preceding 5-year period or if the plan submits a bid under subsection (b)(2)(C) and does not enter into a contract, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) DISREGARD OF CERTAIN INCONSISTENT LAWS, ETC.—The authority vested in the Secretary by this section may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(6) FINDINGS OF FAILURE.—

"(A) IN GENERAL.—If the Secretary determines that medicare drug benefit plan with a contract under this section—

"(i) fails substantially to provide medically necessary covered outpatient drugs that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this section in excess of the premiums permitted;

"(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this section;

"(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the plan whose medical condition or history indicates a need for substantial future covered outpatient drugs;

"(v) misrepresents or falsifies information that is furnished—

"(I) to the Secretary under this section, or

"(II) to an individual or to any other entity under this section;

"(vi) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in subparagraph (B).

"(B) REMEDIES.—The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A) or, with respect to a determination under clause (iv) or (v)(I) of such subparagraph, of not more than $100,000 for each such determination, plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iv), $15,000 for each individual not enrolled as a result of the practice involved,

"(ii) suspension of enrollment of individuals under this section after the date the Secretary notifies the plan of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(iii) suspension of payment to the plan under this section for individuals enrolled after the date the Secretary notifies the plan and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(i) OTHER GENERAL REQUIREMENTS ON PLANS.—

"(1) GRIEVANCE PROCEDURES.—Each medicare drug benefit plan with a contract under this section must provide meaningful procedures for hearing and resolving grievances between the plan (including any entity or individual through which the plan provides health care services) and individuals enrolled with the plan under this section.

"(2) APPEALS.—An individual enrolled with a medicare drug benefit plan under this section who is dissatisfied by reason of the individual's failure to receive any covered outpatient drug to which the individual believes the individual is entitled and at no greater charge than the individual believes the individual is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the plan a party. If the amount in controversy is $1,000 or more, the individual or plan shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the plan shall be entitled to be parties to that judicial review.

"(3) ADDITIONAL REQUIREMENTS.—Not later then January 1, 1998, the Secretary shall establish standards for additional requirements for medicare drug benefit plans with contracts under this section, that to the extent possible are consistent with the standards relating to eligible organizations that have entered into risk contracts under section 1876, and which provide that a medicare drug benefit plan—

"(A) must demonstrate financial solvency;

"(B) must demonstrate the ability to provide benefits to all potential enrollees throughout the State served by the plan;

"(C) must not engage in marketing or other practices designed to discourage or limit the issuance of a medicare outpatient drug coverage plan to any potential enrollee on the basis of health status, claims experience, medical history, or other factors that are generally related to utilization of covered outpatient drugs;

"(D) must inform individuals eligible to enroll with the plan about the plan only in accordance with procedures and conditions determined by the Secretary and may not distribute promotional or informational material unless—

"(i) at least 45 days before its distribution, the plan has submitted the material to the Secretary for review,

"(ii) the material is made available to all individuals eligible to enroll in the plan in the State served by the plan, and

"(iii) the Secretary has not disapproved the distribution of the material due to a determination that in the Secretary's discretion, the material is materially inaccurate or misleading or otherwise makes a material misrepresentation; and

"(E) must provide convenient access to pharmacies for individuals in each zip code region of the State taking into account the special needs of individuals who are enrolled in part B;

"(F) in addition to the access described in subparagraph (E), may provide enrollees with a mail-order pharmacy option;

"(G) may establish a formulary system (to be maintained throughout the 1-year contract period) which ensures that—

"(i) the formulary shall cover at least one covered outpatient drug in each therapeutic class of drugs representing a unique mechanism of action (as defined by the Secretary); and

"(ii) that any covered outpatient drug excluded by the formulary is subject to a prior authorization process in which the plan may not deny approval of any drug unless the plan complies with the process described in section 1834(d)(7)(C)(ii));

"(H) must disclose any special relationships or arrangements with drug manufacturers, including ownership arrangements, distribution arrangements, or alliances;

"(I) must have standards to assure the appropriate use of outpatient prescription medications, including a program of prospective and retrospective drug use review, consistent with standards under the drug use review program developed by the Secretary under section 1834(d)(7), including for any mail order services operated or used by the plan; and

"(J) is able to process claims for outpatient prescription drugs under the program through an on-line real time point of sale system, and has developed a process for processing out-of-area claims.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to contracts which became effective on or after January 1, 1999.

SEC. 2007. PAYMENT FOR COVERED OUTPATIENT DRUG BENEFIT UNDER MEDICARE CONTRACTS WITH HMOS AND CMPS.

(a) IN GENERAL.—In providing for payments for the covered outpatient drug benefit, as added by section 2001, to entities with risk contracts under section 1876 of the Social Security Act, the Secretary of Health and Human Services may base such payment on classes of enrollees or geographic factors that are different than the classes or geographic factors otherwise utilized for determining payment under such section.

(b) EFFECTIVE DATE.—This section shall apply to contracts entered into on or after January 1, 1999.

SEC. 2008. MAINTENANCE OF EFFORT.

(a) MAINTENANCE OF EFFORT WITH RESPECT TO PRESCRIPTION DRUGS.—Section 1862(b)(1)(42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following new subparagraph:

"(F) PRESCRIPTION DRUGS.—

"(i) IN GENERAL.—A group health plan may not take into account that an individual (or the individual's spouse) who is covered under the plan by virtue of the individual's current retirement status with an employer may be eligible to receive covered outpatient drug coverage under part B, except that this subparagraph shall not prohibit a plan from taking into account that an individual is eligible to receive covered outpatient drug coverage under part B on or after January 1, 2002. To the extent that the group health plan furnishes prescription drugs pursuant to a collectively bargained agreement, this subparagraph shall prohibit a plan from taking into account that an individual is eligible to receive covered outpatient drug coverage under part B for the greater of the period of the agreement or until January 1, 2002.

"(ii) CURRENT RETIREMENT STATUS.—An individual has 'current retirement status' with an employer if the individual no longer has current employment status due to the individual's retirement from such employment status.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to group health plans offering prescription drug coverage on or after January 1, 1994.

Subtitle B—Home and Community-Based Services

PART 1—HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 2101. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 2102(b) is entitled to payment in accordance with section 2108.

(b) ENTITLEMENT TO SERVICES.—Nothing in this subtitle shall be construed to create a right to services for individuals or a requirement that a State with an approved plan expend the entire amount of funds to which it is entitled under this subtitle.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this subtitle, the Secretary shall designate an agency responsible for program administration under this subtitle.

SEC. 2102. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this subtitle shall provide that the State will, during any fiscal year that the State is furnishing services under this subtitle, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this subtitle or the State plan under title XIX of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1998, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1998 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1994, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act during fiscal year 1994 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index which reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act.

(iv) Community supported living arrangements services under section 1930 of such Act.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), within the amounts provided by the State and under section 2108 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 2103(a)) in the State.

(C) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 2103(b)(1)) shall be conducted by a public agency.

(D) RESTRICTIONS.—The plan may not limit the eligibility of individuals with disabilities based on—

(i) income,

(ii) age,

(iii) residential setting (other than an institutional setting), or

(iv) other grounds specified by the Secretary.

(E) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State medicaid plan under title XIX of the Social Security Act as of the date a State's plan is approved under this subtitle, the State will continue to make available (either under this plan, under the State medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 2104, the plan shall specify—

(i) the services made available under the plan,

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities, and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CARE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care.

(D) ALLOCATION.—The State plan—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities,

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding,

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions,

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A), and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than,

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements which the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 2105.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVIII; and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash or vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set payment rates for—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B)) and any cost sharing permitted or provided for under section 2105 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 2106.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 2107(b), and

(B) include the documentation prepared by the group under section 2107(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this subtitle with the State medicaid plan under title XIX of the Social Security Act, titles V and XX of such Act, programs under the Older Americans Act of 1965, programs under the Developmental Disabilities Assistance and Bill of Rights Act, the Individuals with Disabilities Education Act, and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities, and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2004, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subtitle, including the processing of claims under the plan, and

(B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subtitle.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program, including procedures to assist any employees who may be displaced in exercising rights under section 3093.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days, and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1998, shall be effective as of January 1, 1998). In order to budget funds allotted under this subtitle, the Secretary shall establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this subtitle according to specified performance standards. In accordance with section 2108(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 2108(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SEC. 2103. INDIVIDUALS WITH DISABILITIES DEFINED.

(a) IN GENERAL.—For purposes of this subtitle, the term 'individual with disabilities' means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)), and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living,

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies, or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) which create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this subtitle, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3), and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 2104(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this subtitle, the term 'activity of daily living' means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 2104. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitle shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals), and

(B) any limits with respect to such services.

(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all need services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The Secretary shall provide guidance to the States with regard to the appropriate qualifications for individuals who conduct comprehensive assessments.

(B) INDIVIDUALIZED PLAN OF CARE.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed. A plan of care under this subparagraph shall—

(i) specify which services included under the individual plan will be provided under the State plan under this subtitle,

(ii) identify (to the extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan,

(iii) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual, and

(iv) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in clause (ii). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified under the State plan),

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative), and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services, and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this subtitle.

(B) EXCEPTION.—A person who provides home and community-based services under this subtitle may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this subtitle may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive devices, as defined in the Technology Related Assistance for Individuals with Disabilities Act.

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities, and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board,

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary, or

(3) items and services to the extent coverage is provided for the individual under a health plan or the medicare program.

(g) PAYMENT FOR SERVICES.—In order to pay for covered services, a State plan may provide for the use of—

(1) vouchers,

(2) cash payments directly to individuals with disabilities,

(3) capitation payments to health plans, and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this subtitle, the term 'personal assistance services' means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, and cueing with activities of daily living, whether agency-administered or consumer-directed (as defined in paragraph (2)).

(2) CONSUMER-DIRECTED.—For purposes of this subtitle:

(A) IN GENERAL.—The term 'consumer-directed' means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient,

VOL 140 PT 16 AG 12 — 18 1994 UMI

trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this subtitle, the term 'agency-administered' means, with respect to such services, services that are not consumer-directed.

SEC. 2105. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level (referred to in paragraph (2)) applicable to a family of the size involved.

(2) OFFICIAL POVERTY LEVEL.—The term 'applicable poverty level' means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COINSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this subtitle. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this subtitle.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 2106. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities,

(B) setting the minimum standards for agency providers and how such standards will be enforced,

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this subtitle and how the competency of such employees will be enforced,

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services,

(E) establishing a process to receive, investigate, and resolve allegations of neglect and/or abuse,

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services,

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities, and

(I) specifying the role of the long-term care ombudsman (under the Older Americans Act of 1965) and the Protection and Advocacy Agency (under the Developmental Disabilities Assistance and Bill of Rights Act) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this subtitle, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on States or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training programs for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 2109(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the long-term care ombudsman (under the Older Americans Act of 1965) and the Protection and Advocacy Agency (under the Developmental Disabilities Assistance and Bill of Rights Act) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representative payees), of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this subtitle.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(B) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing, certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards which restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1998, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances,

(B) be told how to complain to State and local authorities, and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 2107. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this subtitle.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subtitle.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from the those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan,

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan,

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable,

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan,

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed, and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 2108. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 2102(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this subtitle, for each quarter (beginning on or after January 1, 1998), from its allotment under section 2109(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 2109(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 2109(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2004, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term 'Federal home and community-based services matching percentage' means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) increased by 15 percentage points, except that the Federal home and community-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE RELATED TAXES.—The provisions of section 1903(w) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 1903(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this subtitle fails to comply with the State plan approved under this subtitle, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 2109. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1998 THROUGH 2004.—Subject to paragraph (5)(C), for purposes of this subtitle, the appropriation authorized under this subtitle for each of fiscal years 1998 through 2004 is the following:

(A) For fiscal year 1998, $1,800,000,000.
(B) For fiscal year 1999, $2,900,000,000.
(C) For fiscal year 2000, $3,600,000,000.
(D) For fiscal year 2001, $5,000,000,000.
(E) For fiscal year 2002, $7,900,000,000.
(F) For fiscal year 2003, $11,400,000,000.
(G) For fiscal year 2004, $15,400,000,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for State plans under this subtitle for each fiscal year after fiscal year 2004 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year, and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(A) the annual average index of the consumer price index for the preceding fiscal year, to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this subtitle, that would have been paid for such individuals under the State medicaid plan but for the provision of similar services under the program under this subtitle. At the time a State first submits its plan under this subtitle and before each subsequent fiscal year (through fiscal year 2004), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2004), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this subtitle shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATION.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2004) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by the Secretary) that would have been made under part A of title XIX for home and community based services for disabled individuals but for the provision of similar services under the program under this subtitle.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this subtitle.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year (specified in subsection (a)) to the States with plans approved under this subtitle in accordance with an allocation formula developed by the Secretary which takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 2105(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 2106(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 1903(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 2110. FEDERAL EVALUATIONS.

(a) IN GENERAL.—Not later than December 31, 2003, December 31, 2006, and each December 31 thereafter, the Secretary shall provide to Congress analytical reports that evaluate—

(1) the extent to which individuals with low incomes and disabilities are equitably served;

(2) the adequacy and equity of service plans to individuals with similar levels of disability across States;

(3) the comparability of program participation across States, described by level and type of disability; and

(4) the ability of service providers to sufficiently meet the demand for services.

(b) GERIATRIC ASSESSMENTS.—Not later than 18 months after the date of enactment of this part, the Secretary shall report to Congress concerning the feasibility of providing reimbursement under health plans and other payers of health services for full geriatric assessment, when recommended by a physician.

PART 2—GRANTS RELATING TO THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS

SEC. 2111. INFORMATION AND TECHNICAL ASSISTANCE GRANTS RELATING TO DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) demonstration programs and projects have been developed to offer care management to hospitalized individuals awaiting discharge who are in need of long-term health care services that meet individual needs and preferences in home and community-based settings as an alternative to long-term nursing home care or institutional placement; and

(2) there is a need to disseminate information and technical assistance to hospitals and State and local community organizations regarding such programs and projects and to provide incentive grants to State and local public and private agencies, including area agencies on aging, to establish and expand programs that offer care management to individuals awaiting discharge from acute care hospitals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home and community-based settings as an alternative to long-term placement in nursing homes or other institutional settings.

(b) DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE, AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—Part C of title III of the Public Health Service Act (42 U.S.C. 248 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 327B. DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

"(a) DISSEMINATION OF INFORMATION.—The Secretary shall compile, evaluate, publish and disseminate to appropriate State and local officials and to private organizations and agencies that provide services to individuals in need of long-term health care services, such information and materials as may assist such entities in replicating successful programs that are aimed at offering care management to hospitalized individuals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home and community-based settings as an alternative to long-term nursing home placement. The Secretary may provide technical assistance to entities seeking to replicate such programs.

"(b) INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—The Secretary shall establish a program under which incentive grants may be awarded to assist private and public agencies, including area agencies on aging, and organizations in developing and expanding programs and projects that facilitate the discharge of individuals in hospitals or other acute care facilities who are in need of long-term care services and placement of such individuals into home and community-based settings.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (b) an entity shall be—

"(A)(i) a State agency as defined in section 102(43) of the Older Americans Act of 1965; or

"(ii) a State agency responsible for administering home and community care programs under title XIX of the Social Security Act; or

"(B) if no State agency described in subparagraph (A) applies with respect to a particular State, a public or nonprofit private entity.

"(2) APPLICATIONS.—To be eligible to receive an incentive grant under subsection (b), an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including—

"(A) an assessment of the need within the community to be served for the establishment or expansion of a program to facilitate the discharge of individuals in need of long-term care who are in hospitals or other acute care facilities into home and community-care programs that provide individually planned, flexible services that reflect individual choice or preference rather than nursing home or institutional settings;

"(B) a plan for establishing or expanding a program for identifying individuals in hospital or acute care facilities who are in need of individualized long-term care provided in home and community-based settings rather than nursing homes or other institutional settings and undertaking the planning and management of individualized care plans to facilitate discharge into such settings;

"(C) assurances that nongovernmental case management agencies funded under grants awarded under this section are not direct providers of home and community-based services;

"(D) satisfactory assurances that adequate home and community-based long term care services are available, or will be made available, within the community to be served so that individuals being discharged from hospitals or acute care facilities under the proposed program can be served in such home and community-based settings, with flexible, individualized care which reflects individual choice and preference;

"(E) a description of the manner in which the program to be administered with amounts received under the grant will be continued after the termination of the grant for which such application is submitted; and

"(F) a description of any waivers or approvals necessary to expand the number of individuals served in federally funded home and community-based long term care programs in order to provide satisfactory assurances that adequate home and community-based long term care services are available in the community to be served.

"(3) AWARDING OF GRANTS.—

"(A) PREFERENCES.—In awarding grants under subsection (b), the Secretary shall give preference to entities submitting applications that—

"(i) demonstrate an ability to coordinate activities funded using amounts received under the grant with programs providing individualized home and community-based case management and services to individuals in need of long term care with hospital discharge planning programs; and

"(ii) demonstrate that adequate home and community-based long-term care management and services are available, or will be made available to individuals being served under the program funded with amounts received under subsection (b).

"(B) DISTRIBUTION.—In awarding grants under subsection (b), the Secretary shall ensure that such grants—

"(i) are equitably distributed on a geographic basis;

"(ii) include projects operating in urban areas and projects operating in rural areas; and

"(iii) are awarded for the expansion of existing hospital linkage programs as well as the establishment of new programs.

"(C) EXPEDITED CONSIDERATION.—The Secretary shall provide for the expedited consideration of any waiver application that is necessary under title XIX of the Social Security Act to enable an applicant for a grant under subsection (b) to satisfy the assurance required under paragraph (1)(D).

"(4) USE OF GRANTS.—An entity that receives amounts under a grant under subsection (b) may use such amounts for planning, development and evaluation services and to provide reimbursements for the costs of one or more case managers to be located in or assigned to selected hospitals who would—

"(A) identify patients in need of individualized care in home and community-based long-term care;

"(B) assess and develop care plans in cooperation with the hospital discharge planning staff; and

"(C) arrange for the provision of community care either immediately upon discharge from the hospital or after any short term nursing-home stay that is needed for recuperation or rehabilitation;

"(5) DIRECT SERVICES SUBJECT TO REIMBURSEMENTS.—None of the amounts provided under a grant under this section may be used to provide direct services, other than case management, for which reimbursements are otherwise available under title XVIII or XIX of the Social Security Act.

"(6) LIMITATIONS.—

"(A) TERM.—Grants awarded under this section shall be for terms of less than 3 years.

"(B) AMOUNT.—Grants awarded to an entity under this section shall not exceed $300,000 per year. The Secretary may waive the limitation under this subparagraph where an applicant demonstrates that the number of hospitals or individuals to be served under the grant justifies such increased amounts.

"(C) SUPPLANTING OF FUNDS.—Amounts awarded under a grant under this section may not be used to supplant existing State funds that are provided to support hospital link programs.

"(d) EVALUATION AND REPORTS.—

"(1) BY GRANTEES.—An entity that receives a grant under this section shall evaluate the effectiveness of the services provided under the grant in facilitating the placement of individuals being discharged from hospitals or acute care facilities into home and community-based long term care settings rather than nursing homes. Such entity shall prepare and submit to the Secretary a report containing such information and data concerning the activities funded under the grant as the Secretary determines appropriate.

"(2) BY SECRETARY.—Not later than the end of the third fiscal year for which funds are appropriated under subsection (e), the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the results of the evaluations and reports conducted and prepared under paragraph (1).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1994 through 1996.".

Subtitle C—Long-Term Care Insurance Improvement and Accountability

SEC. 2200. SHORT TITLE.

This subtitle may be cited as the "Long-Term Care Insurance Improvement and Accountability Act".

PART 1—PROMULGATION OF STANDARDS AND MODEL BENEFITS

SEC. 2201. STANDARDS.

(a) APPLICATION OF STANDARDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, in consultation with the NAIC, shall develop and publish specific standards to implement the standards specified in this subtitle.

(2) STATE STANDARDS.—Nothing in this subtitle shall be construed as preventing a participating State from applying standards that provide greater protection to insured individuals under long-term care insurance policies than the standards promulgated under this subtitle, except that such State standards may not be inconsistent with any of the standards specified in this subtitle.

(b) DEADLINE FOR APPLICATION OF STANDARDS.—

(1) IN GENERAL.—Subject to paragraph (2), the date specified in this subsection for a State is—

(A) the date the State adopts the standards established under subsection (a)(1); or

(B) the date that is 1 year after the first day of the first regular legislative session that begins after the date such standards are first established under subsection (a)(2);

whichever is earlier.

(2) STATE REQUIRING LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(A) requiring State legislation (other than legislation appropriating funds) in order for the standards established under subsection (a) to be applied; but

(B) having a legislature which is not scheduled to meet within 1 year following the beginning of the next regular legislative session in which such legislation may be considered;

the date specified in this subsection is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1995. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) ITEMS INCLUDED IN STANDARDS.—The standards promulgated under subsection (a) shall include—

(1) minimum Federal standards for long-term care insurance consistent with the provisions of this subtitle;

(2) standards for the enhanced protection of consumers with long-term care insurance; and

(3) procedures for the modification of the standards established under paragraph (1) in a manner consistent with future laws to expand existing Federal or State long-term care benefits or establish a comprehensive Federal or State long-term care benefit program.

(d) CONSULTATION.—In establishing standards and models of benefits under this section, the Secretary shall, after consultation with representatives of carriers, consumer groups, and providers of long-term care services—

(1) recommend the appropriate inflationary index to be used with respect to the inflation protection benefit portion of the standards;

(2) recommend the uniform needs assessment mechanism to be used in determining the eligibility of individuals for benefits under a policy;

(3) recommend appropriate standards for the regulation of the insurance aspects of supported housing arrangements; and

(4) perform such other activities as determined appropriate by the Secretary.

PART 2—ESTABLISHMENT AND IMPLEMENTATION OF LONG-TERM CARE INSURANCE POLICY STANDARDS

SEC. 2211. IMPLEMENTATION OF POLICY STANDARDS.

(a) IN GENERAL.—

(1) REGULATORY PROGRAM.—No long-term care policy (as defined in section (2221)) may be issued, sold, or offered for sale as a long-term care insurance policy in a State on or after the date specified in section 2201(b) unless—

(A) the Secretary determines that the State has established a regulatory program that—

(i) provides for the application and enforcement of the standards established under section 2201(a); and

(ii) complies with the requirements of subsection (b);

by the date specified in section 2201(b), and the policy has been approved by the State commissioner or superintendent of insurance under such program; or

(B) if the State has not established such a program, or if the State's regulatory program has been decertified, the policy has been certified by the Secretary (in accordance with such procedures as the Secretary may establish) as meeting the standards established under section 2201(a) by the date specified in section 2201(b).

VOL 140 PT 16 AG 12 — 18 1994 UMI

For purposes of this subsection, the advertising or soliciting with respect to a policy, directly or indirectly, shall be deemed the offering for sale of the policy.

(2) REVIEW OF STATE REGULATORY PROGRAMS.—The Secretary shall review regulatory programs described in paragraph (1)(A) at least biannually to determine if they continue to provide for the application and enforcement of the standards and procedures established under section 2201(a) and (b). If the Secretary determines that a State regulatory program no longer meets such standards and requirements, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the program to continue to meet such standards and requirements. If the Secretary makes a final determination that the State regulatory program, after such an opportunity, fails to meet such standards and requirements, the Secretary shall assume responsibility under paragraph (1)(B) with respect to certifying policies in the State and shall exercise full authority under section 2201 for carriers, agents, or associations or its subsidiary in the State plans in the State.

(b) ADDITIONAL REQUIREMENTS FOR APPROVAL OF STATE REGULATORY PROGRAMS.—For purposes of subsection (a)(1)(A)(ii), the requirements of this subsection for a State regulatory program are as follows:

(1) ENFORCEMENT.—The enforcement under the program—

(A) shall be designed in a manner so as to secure compliance with the standards within 30 days after the date of a finding of noncompliance with such standards; and

(B) shall provide for notice in the annual report required under paragraph (5) to the Secretary of cases where such compliance is not secured within such 30-day period.

(2) PROCESS.—The enforcement process under each State regulatory program shall provide for—

(A) procedures for individuals and entities to file written, signed complaints respecting alleged violations of the standards;

(B) responding to such complaints within 90 days;

(C) the investigation of—

(i) those complaints which have a reasonable probability of validity, and

(ii) such other alleged violations of the standards as the program finds appropriate; and

(D) the imposition of appropriate sanctions (which include, in appropriate cases, the imposition of a civil money penalty as provided for in section 2218) in the case of a carrier, agent, or association or its subsidiary determined to have violated the standards.

(3) PRIVATE ACTIONS.—An individual may commence a civil action in an appropriate State or United States district court to enforce the provisions of this title and may be awarded appropriate relief and reasonable attorney's fees.

(4) CONSUMER ACCESS TO COMPLIANCE INFORMATION.—

(A) IN GENERAL.—A State regulatory program shall provide for consumer access to complaints filed with the State commissioner or superintendent of insurance with respect to long-term care insurance policies.

(B) CONFIDENTIALITY.—The access provided under subparagraph (A) shall be limited to the extent required to protect the confidentiality of the identity of individual policyholders.

(5) PROCESS FOR APPROVAL OF PREMIUMS.—

(A) IN GENERAL.—Each State regulatory program shall—

(i) provide for a process for approving or disapproving proposed premium increases or decreases with respect to long-term care insurance policies; and

(ii) establish a policy for receipt and consideration of public comments before approving such a premium increase or decrease.

(B) CONDITIONS FOR APPROVAL.—No premium increase shall be approved (or deemed approved) under subparagraph (A) unless the proposed increase is accompanied by an actuarial memorandum which—

(i) includes a description of the assumptions that justify the increase, including a financial report on expenditures;

(ii) contains such information as may be required under the Standards; and

(iii) is made available to the public.

(C) APPLICATION.—Except as provided in subparagraph (D), this paragraph shall not apply to a group long-term care insurance policy issued to a group described in section 4(E)(1) of the NAIC Long Term Care Insurance Model Act (effective January 1991), except that such group policy shall, pursuant to guidelines developed by the NAIC, provide notice to policyholders and certificate holders of any premium change under such group policy.

(D) EXCEPTION.—Subparagraph (C) shall not apply to—

(i) group conversion policies;

(ii) the group continuation feature of a group policy if the insurer separately rates employee and continuation coverages; and

(iii) group policies where the function of the employer is limited solely to collecting premiums (through payroll deductions or dues checkoff) and remitting them to the insurer.

(E) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the Secretary, in consultation with the NAIC, from promulgating standards, or a State from enacting and enforcing laws, with respect to premium rates or loss ratios for all, including group, long-term care insurance policies.

(6) ANNUAL REPORTS.—Each State regulatory program shall provide for annual reports to be submitted to the Secretary on the implementation and enforcement of the standards in the State, including information concerning violations in excess of 30 days.

(7) ACCESS TO OTHER INFORMATION.—The State regulatory program shall provide for consumer access to actuarial memoranda, including financial information, provided under paragraph (4).

(8) DEFAULT.—In the case of a State without a regulatory program approved under subsection (a), the Secretary shall provide for the enforcement activities described in subsection (c).

(c) SECRETARIAL ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—The Secretary shall exercise authority under this section in the case of a State that does not have a regulatory program approved under this section.

(2) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

(A) for individuals and entities to file written, signed complaints respecting alleged violations of the requirements of this subtitle;

(B) for responding on a timely basis to such complaints; and

(C) for the investigation of—

(i) those complaints that have a reasonable probability of validity; and

(ii) such other alleged violations of the requirements of this subtitle as the Secretary determines to be appropriate.

In conducting investigations under this subsection, agents of the Secretary shall have reasonable access necessary to enable such agents to examine evidence of any carrier, agent, or association or its subsidiary being investigated.

(3) HEARINGS.—

(A) IN GENERAL.—Prior to imposing an order described in paragraph (4) against a carrier, agent, or association or its subsidiary under this section for a violation of the requirements of this subtitle, the Secretary shall provide the carrier, agent, association or subsidiary with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary by regulation) of the date of the notice, a hearing respecting the violation.

(B) CONDUCT OF HEARING.—Any hearing requested under subparagraph (A) shall be conducted before an administrative law judge. If no hearing is so requested, the Secretary's imposition of the order shall constitute a final and unappealable order.

(C) AUTHORITY IN HEARINGS.—In conducting hearings under this paragraph—

(i) agents of the Secretary and administrative law judges shall have reasonable access necessary to enable such agents and judges to examine evidence of any carrier, agent, or association or its subsidiary being investigated; and

(ii) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this subparagraph and upon application of the Secretary, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

(D) ISSUANCE OF ORDERS.—If an administrative law judge determines in a hearing under this paragraph, upon the preponderance of the evidence received, that a carrier, agent, or association or its subsidiary named in the complaint has violated the requirements of this subtitle, the administrative law judge shall state the findings of fact and issue and cause to be served on such carrier, agent, association, or subsidiary an order described in paragraph (4).

(4) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY.—

(A) IN GENERAL.—Subject to the provisions of subparagraphs (B) through (F), an order under this paragraph—

(i) shall require the agent, association or its subsidiary, or a carrier—

(I) to cease and desist from such violations; and

(II) to pay a civil penalty in an amount not to exceed $15,000 in the case of each agent, and not to exceed $25,000 for each association or its subsidiary or a carrier for each such violation; and

(ii) may require the agent, association or its subsidiary, or a carrier to take such other remedial action as is appropriate.

(B) CORRECTIONS WITHIN 30 DAYS.—No order shall be imposed under this paragraph by reason of any violation if the carrier, agent, or association or its subsidiary establishes to the satisfaction of the Secretary that—

(i) such violation was due to reasonable cause and was not intentional and was not due to willful neglect; and

(ii) such violation is corrected within the 30-day period beginning on the earliest date the carrier, agent, association, or subsidiary knew, or exercising reasonable diligence could have known, that such a violation was occurring.

(C) WAIVER BY SECRETARY.—In the case of a violation under this subtitle that is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the civil money penalty imposed under subparagraph (A)(i)(II) to the extent that payment of such penalty would be grossly excessive relative to the violation involved and to the need for deterrence of violations.

(D) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge under this paragraph shall become the final agency decision and order of the Secretary unless, within 30 days, the Secretary modifies or vacates the decision and order, in which case the decision and order of the Secretary shall become a final order under this paragraph.

(E) JUDICIAL REVIEW.—A carrier, agent, or association or its subsidiary or any other individual adversely affected by a final order issued under this paragraph may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(F) ENFORCEMENT OF ORDERS.—If a carrier, agent, or association or its subsidiary fails to comply with a final order issued under this paragraph against the carrier, agent, association or subsidiary after opportunity for judicial review under subparagraph (E), the Secretary shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

SEC. 2212. REGULATION OF SALES PRACTICES.

(a) DUTY OF GOOD FAITH AND FAIR DEALING.—

(1) IN GENERAL.—Each agent (as defined in section 2233) or association that is selling or offering for sale a long-term care insurance policy has the duty of good faith and fair dealing to the purchaser or potential purchaser of such a policy.

(2) POLICY REPLACEMENT FORM.—With respect to any individual who elects to replace or effect a change in a long-term care insurance policy, the individual that is selling such policy shall ensure that such individual completes a policy replacement form developed by the Secretary, in consultation with the NAIC. A copy of such form shall be provided to such individual and additional copies shall be delivered by the selling individual to the old policy issuer and the new issuer and kept on file for inspection by the State regulatory agency.

(3) PROHIBITED PRACTICES.—An agent or association is considered to have violated paragraph (1) if the agent or association engages in any of the following practices:

(A) TWISTING.—Knowingly making any misleading representation (including the inaccurate completion of medical histories) or incomplete or fraudulent comparison of any long-term care insurance policy or insurers for the purpose of inducing, or tending to induce, any individual to retain or effect a change with respect to a long-term care insurance policy.

(B) HIGH PRESSURE TACTICS.—Employing any method of marketing having the effect of, or intending to, induce the purchase of long-term care insurance policy through force, fright, threat or undue pressure, whether explicit or implicit.

(C) COLD LEAD ADVERTISING.—Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(D) OTHERS.—Engaging in such other practices determined inappropriate under guidelines issued by the Secretary, in consultation with the NAIC.

(b) FINANCIAL NEEDS STANDARDS.—The Secretary, in consultation with the NAIC, shall develop recommended minimum financial needs standards (including both income and asset criteria) for the purpose of advising individuals as to the costs and amounts of insurance needed when considering the purchase of a long-term care insurance policy.

(c) PROHIBITION OF SALE OR ISSUANCE TO MEDICAID BENEFICIARIES.—An agent, an association, or a carrier may not knowingly sell or issue a long-term care insurance policy to an individual who is eligible for medical assistance under title XIX of the Social Security Act.

(d) PROHIBITION OF SALE OR ISSUANCE OF DUPLICATE SERVICE BENEFIT POLICIES.—An agent, association or its subsidiary, or a carrier may not sell or issue a service-benefit long-term care insurance policy to an individual—

(1) knowing that the policy provides for coverage that duplicates coverage already provided in another service-benefit long-term care insurance policy held by such individual (unless the policy is intended to replace such other policy); or

(2) for the benefit of an individual unless the individual (or a representative of the individual) provides a written statement to the effect that the coverage—

(A) does not duplicate other coverage in effect under a service-benefit long-term care insurance policy; or

(B) will replace another service-benefit long-term care insurance policy.

In this subsection, the term "service-benefit long-term care insurance policy" means a long-term care insurance policy which provides for benefits based on the type and amount of services furnished.

(e) PROHIBITION BASED ON ELIGIBILITY FOR OTHER BENEFITS.—A carrier may not sell or issue a long-term care insurance policy that reduces, limits, or coordinates the benefits provided under the policy on the basis that the policyholder has or is eligible for other long-term care insurance coverage or benefits.

(f) PROVISION OF OUTLINE OF COVERAGE.—No agent, association or its subsidiary, or carrier may sell or offer for sale a long-term care insurance policy without providing to every individual purchaser or potential purchaser (or representative) an outline of coverage that complies with the standards established under section 2201(a).

(g) PENALTIES.—Any agent who sells, offers for sale, or issues a long-term care insurance policy in violation of this section may be imprisoned not more than 5 years, or fined in accordance with title 18, United States Code, and, in addition, is subject to a civil money penalty of not to exceed $15,000 for each such violation. Any association or its subsidiary or carrier that sells, offers for sale, or issues a long-term care insurance policy in violation of this section may be fined in accordance with title 18, United States Code, and in addition, is subject to a civil money penalty of not to exceed $25,000 for each violation. Nothing in this subsection shall be construed as preempting or otherwise limiting the penalties that may be imposed by a State for conduct that violates this section.

(h) AGENT TRAINING AND CERTIFICATION REQUIREMENTS.—The Secretary, in consultation with the NAIC, shall establish requirements for long-term care insurance agent training and certification that—

(1) specify requirements for training insurance agents who desire to sell or offer for sale long-term care insurance policies; and

(2) specify procedures for certifying and recertifying agents who have completed such training and who are qualified to sell or offer for sale long-term care insurance policies.

SEC. 2213. ADDITIONAL RESPONSIBILITIES FOR CARRIERS.

(a) REFUND OF PREMIUMS.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is denied or an applicant returns a policy or certificate within 30 days of the date of its issuance pursuant to subsection 2217, the carrier shall, not later than 30 days after the date of the denial or return, refund directly to the applicant, or in the case of an employer to whomever remits the premium, any premiums paid with respect to such a policy (or certificate). Any such refund shall not be made by delivery by the carrier.

(b) MAILING OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the carrier shall provide each individual applicant the policy (or certificate) of insurance and outline of coverage not later than 30 days after the date of the approval.

(c) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the carrier shall, within 15 days of the date of a written request by the policyholder or certificate holder (or representative)—

(1) provide a written explanation of the reasons for the denial;

(2) make available all medical and patient records directly relating to such denial; and

(3) provide a written explanation of the manner in which to appeal the denial.

Except as provided in subsection (e) of section 2215, no claim under such a policy may be denied on the basis of a failure to disclose a condition at the time of issuance of the policy if the application for the policy failed to request information respecting the condition.

(d) REPORTING OF INFORMATION.—A carrier that issues one or more long-term care insurance policies shall periodically (not less often than annually) report, in a form and in a manner determined by the Secretary, in consultation with the NAIC, to the Commissioner, superintendent or director of insurance of each State in which the policy is delivered, and shall make available to the Secretary, upon request, information in a form and manner determined by the Secretary, in consultation with the NAIC, concerning—

(1) the long-term care insurance policies of the carrier that are in force;

(2) the most recent premiums for such policies and the premiums imposed for such policies since their initial issuance;

(3) the lapse rate, replacement rate, and rescission rates by policy;

(4) the names of that 10 percent of its agents that—

(A) have the greatest lapse and replacement rate; and

(B) have produced at least $50,000 of long-term care insurance sales in the previous year; and

(5) the claims denied (expressed as a number and as a percentage of claims submitted) by policy.

Information required under this subsection shall be reported in a format specified in the standards established under section 2201(a).

VOL 140 PT 16 AG 12 — 18 1994 UMI

For purposes of paragraph (3), there shall be included (but reported separately) data concerning lapses due to the death of the policyholder. For purposes of paragraph (4), there shall not be included as a claim any claim that is denied solely because of the failure to meet a deductible, waiting period, or exclusionary period.

(e) STANDARDS ON COMPENSATION FOR SALE OF POLICIES.—

(1) IN GENERAL.—Until the Secretary, in consultation with the NAIC, promulgates mandatory standards concerning compensation for the sale of long-term care policies, a carrier that issues one or more long-term care insurance policies may provide a commission or other compensation to an agent or other representative for the sale of such a policy only if the first year commission or other first year compensation to be paid does not exceed—

(A) 200 percent of the commission or other compensation paid for selling or servicing the policy in the second year, or

(B) 50 percent of the premium paid on the first year policy.

(2) SUBSEQUENT YEARS.—The commission or other compensation provided for the sale of long-term care policies to an individual during each of the years during the 5-year period subsequent to the first year of the policy shall be the same as that provided in the second subsequent year.

(3) LIMITATION.—No carrier shall provide compensation to its agents for the sale of a long-term care policy which replaces an existing policy, and no agent shall receive compensation for such sale greater than the renewal compensation payable by the replacing carrier on renewal policies.

(4) COMPENSATION DEFINED.—As used in this subsection, the term "compensation" includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy, including, but not limited to, deferred compensation, bonuses, gifts, prizes, awards, and finders fees.

SEC. 2214. RENEWABILITY STANDARDS FOR ISSUANCE, AND BASIC FOR CANCELLATION OF POLICIES.

(a) IN GENERAL.—No long-term care insurance policy may be canceled or nonrenewed for any reason other than nonpayment of premium, material misrepresentation, or fraud.

(b) CONTINUATION AND CONVERSION RIGHTS FOR GROUP POLICIES.—

(1) IN GENERAL.—Each group long-term care insurance policy shall provide covered individuals with a basis for continuation or conversion in accordance with this subsection.

(2) BASIS FOR CONTINUATION.—For purposes of paragraph (1), a policy provides a basis for continuation of coverage if the policy maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premiums when due. A group policy which restricts provision of benefits and services to, or contains incentives to use certain providers or facility, may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy.

(3) BASIS FOR CONVERSION.—For purposes of paragraph (1), a policy provides a basis for conversion of coverage if the policy entitles each individual—

(A) whose coverage under the group policy would otherwise be terminated for any reason; and

(B) who has been continuously insured under the policy (or group policy which was replaced) for at least 6 months before the date of the termination;

to issuance of a policy providing benefits not less than, substantially equivalent to, or in excess of, those of the policy being terminated, without evidence of insurability.

(4) TREATMENT OF SUBSTANTIAL EQUIVALENCE.—In determining under this subsection whether benefits are substantially equivalent, consideration should be given to the difference between managed care and non-managed care plans.

(5) GROUP REPLACEMENT OF POLICIES.—If a group long-term care insurance policy is replaced by another long-term care insurance policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all individuals covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(c) STANDARDS FOR ISSUANCE.—

(1) IN GENERAL.—

(A) GUARANTEE.—An agent, association or carrier that sells or issues long-term care insurance policies shall guarantee that such policies shall be sold or issued to an individual, or eligible individual in the case of a group plan, if such individual meets the minimum medical underwriting requirements of such policy.

(B) PREMIUM FOR CONVERTED POLICY.—If a group policy from which conversion is made is a replacement for a previous group policy, the premium for the converted policy shall be calculated on the basis of the insured's age at the inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

(2) UPGRADE FOR CURRENT POLICIES.—The Secretary, in consultation with the NAIC, shall establish standards, including those providing guidance on medical underwriting and age rating, with respect to the access of individuals to policies offering upgraded benefits.

(3) RATE STABILIZATION.—The Secretary, in consultation with the NAIC, shall establish standards for premium rate stabilization.

(d) EFFECT OF INCAPACITATION.—

(1) IN GENERAL.—

(A) PROHIBITION.—Except as provided in paragraph (2), a long-term care insurance policy in effect as of the effective date of the standards established under section 2201(a) may not be canceled for nonpayment if the policy holder is determined by a long-term care provider, physician, or other health care provider (independent of the issuer of the policy), to be cognitively or mentally incapacitated so as to not make payments in a timely manner.

(B) REINSTATEMENT.—A long-term care policy shall include a provision that provides for the reinstatement of such coverage, in the event of lapse, if the insurer is provided with proof of cognitive or mental incapacitation. Such reinstatement option shall remain available for a period of not less than 5 months after termination and shall allow for the collection of past due premium.

(2) PERMITTED CANCELLATION.—A long-term care insurance policy may be canceled under paragraph (1) for nonpayment if—

(A) the period of such nonpayment is in excess of 30 days; and

(B) notice of intent to cancel is provided to the policyholder or designated representative of the policy holder not less than 30 days prior to such cancellation, except that notice may not be provided until the expiration of 30 days after a premium is due and unpaid.

Notice under this paragraph shall be deemed to have been given as of 5 days after the mailing date.

SEC. 2215. BENEFIT STANDARDS.

(a) USE OF STANDARD DEFINITIONS AND TERMINOLOGY, UNIFORM FORMAT, AND STANDARD BENEFITS.—Pursuant to standards established under section 2201(a), each long-term care insurance policy shall, with respect to services, providers or facilities—

(1) use uniform language and definitions, except that such language and definitions may take into account the differences between States with respect to definitions and terminology used for long-term care services and providers; and

(2) use a uniform format for presenting the outline of coverage under such a policy;

as prescribed under guidelines issued by the Secretary, in consultation with the NAIC, and periodically updated.

(b) DISCLOSURE.—

(1) OUTLINE OF COVERAGE.—

(A) REQUIREMENT.—Each carrier that sells or offers for sale a long-term care insurance policy shall provide an outline of coverage to each individual policyholder under such policy that meets the applicable standards established pursuant to section 2201(a), complies with the requirements of subparagraph (B), and is in a uniform format as prescribed in guidelines issued by the Secretary, in consultation with the NAIC, and periodically updated.

(B) CONTENTS.—The outline of coverage for each long-term care policy shall substantially and accurately reflect the contents of the policy or the master policy and shall include at least the following:

(i) A description of the benefits and coverage under the policy.

(ii) A statement of the exclusions, reductions, and limitations contained in the policy.

(iii) A statement of the terms under which the policy (or certificate) may be continued in force or discontinued, the terms for continuation or conversion, and any reservation in the policy of a right to change premiums.

(iv) Consumer protection information, including the manner in which to file a claim and to register complaints.

(v) A statement, in bold face type on the face of the document in language that is understandable to an average individual, that the outline of coverage is a summary only and not a contract of insurance, and that the policy (or master policy) contains the contractual provisions that govern.

(vi) A description of the terms, specified in section 2217, under which a policy or certificate may be returned and premium refunded.

(vii) Information on—

(I) national average costs for nursing facility and home health care and information (in graph form) on the relationship of the value of the benefits provided under the policy to such national average costs and State average costs; and

(II) other public and private long-term care insurance products and long-term care programs were made available by the Federal Government or by a State government.

(viii) A statement of the percentage limit on annual premium increases that is provided under the policy pursuant to this section.

(2) CERTIFICATES.—A certificate issued pursuant to a group long-term care insurance policy shall include—

(A) a description of the principal benefits and coverage provided in the policy;

(B) a statement of the principal exclusions, reductions, and limitations contained in the policy; and

(C) a statement that the group master policy determines governing contractual provisions.

(3) LONG-TERM CARE AS PART OF LIFE INSURANCE.—In the case of a long-term care insurance policy issued as a part of, or a rider on, a life insurance policy, at the time of policy delivery there shall be provided a policy summary that includes—

(A) an explanation of how the long-term care benefits interact with other components of the policy (including deductions from death benefits);

(B) an illustration of the amount of benefits, the length of benefits, and the guaranteed lifetime benefits (if any) for each covered individual; and

(C) any exclusions, reductions, and limitations on benefits of long-term care.

(4) ADDITIONAL INFORMATION.—The Secretary, in consultation with the NAIC shall develop recommendations with respect to informing consumers of the long-term economic viability of carriers issuing long-term care insurance policies.

(c) LIMITING CONDITIONS ON BENEFITS; MINIMUM BENEFITS.—

(1) IN GENERAL.—A long-term care insurance policy may not condition or limit eligibility—

(A) for benefits for a type of services to the need for or receipt of any other services;

(B) for any benefit on the medical necessity for such benefit;

(C) for benefits furnished by licensed or certified providers in compliance with conditions which are in addition to those required for licensure or certification under State law, or if no State licensure or certification laws exists, developed by the Secretary, in consultation with the NAIC; or

(D) for residential care (if covered under the policy) only—

(i) to care provided in facilities which provide a higher level of care; or

(ii) to care provided in facilities which provide for 24-hour or other nursing care not required in order to be licensed by the State.

(2) HOME HEALTH CARE OR COMMUNITY-BASED SERVICES.—If a long-term care insurance policy provides benefits for the payment of specified home health care or community-based services, the policy—

(A) may not limit such benefits to services provided by registered nurses or licensed practical nurses;

(B) may not require benefits for such services to be provided by a nurse or therapist that can be provided by a home health aide or a home care worker who is licensed or certified under State licensure or certification laws, or if no such laws exist, who is in compliance with qualifications developed by the Secretary, in consultation with the NAIC;

(C) may not limit such benefits to services provided by agencies or providers certified under title XVIII of the Social Security Act; and

(D) shall provide, at a minimum—

(i) benefits for personal care services (including home health aide and home care worker services as defined by the Secretary, in consultation with the NAIC), home health services, adult day care, and respite care in an individual's home or in another setting in the community; or

(ii) any of such benefits on a respite care basis.

(3) NURSING FACILITY SERVICES.—If a long-term care policy provides benefits for the payment of specified nursing facility services, the policy shall provide such benefits with respect to all nursing facilities in the State. Except as provided by the Secretary, in consultation with the NAIC, under uniform language and definitions established under section 2215(a)(1)), the term 'nursing facilities' has the meaning given such term by section 1919(a) of the Social Security Act.

(4) PER DIEM POLICIES.—

(A) DEFINITION.—For purposes of this subtitle, the term "per diem long-term care insurance policy" means a long-term care insurance policy (or certificate under a group long-term care insurance policy) that provides for benefit payments on a periodic basis due to cognitive impairment or loss of functional capacity without regard to the expenses incurred or services rendered during the period to which the payments relate.

(B) LIMITATION.—No per diem long-term care insurance policy (or certificate) may condition, limit or otherwise exclude benefit payments based on the receipt of any type services from any type providers of long-term care service providers.

(d) PROHIBITION OF DISCRIMINATION.—A long-term care insurance policy may not, with respect to benefits under the policy, treat an individual with Alzheimer's disease, with any related progressive degenerative dementia of an organic origin, with any organic or inorganic mental illness, or with mental retardation or any other cognitive or mental impairment, differently from an individual having a functional impairment for which such benefits may be made available.

(e) LIMITATION ON USE OF PREEXISTING CONDITION LIMITS.—

(1) INITIAL ISSUANCE.—

(A) IN GENERAL.—Subject to subparagraph (B), a long-term care insurance policy may not exclude or condition benefits based on a medical condition for which the policyholder received treatment or was otherwise diagnosed before the issuance of the policy.

(B) 6-MONTH LIMIT.—A long-term care policy or certificate issued under this subtitle may impose a limitation or exclusion of benefits relating to treatment of a condition based on the fact that the condition preexisted the effective date of the policy or certificate with respect to an individual if—

(i) a condition that was diagnosed or treated during the 6-month period ending on the day before the first date of coverage under the policy or certificate; and

(ii) the limitation or exclusion extends for a period not more than 6 months after the date of coverage under the policy or certificate.

(2) REPLACEMENT POLICIES.—If a long-term care insurance policy replaces another long-term care insurance policy, the issuer of the replacing policy shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new policy for similar benefits to the extent such time was spent under the original policy.

(f) ELIGIBILITY FOR BENEFITS.—

(1) LONG-TERM CARE POLICIES.—Each long-term care insurance policy shall—

(A) describe the level of benefits available under the policy; and

(B) specify in clear, understandable terms, the level (or levels) of physical, cognitive, or mental impairment required in order to receive benefits under the policy.

(2) FUNCTIONAL ASSESSMENT.—In order to submit a claim under any long-term care insurance policy, each claimant shall have a professional functional assessment of his or her functional or cognitive abilities. Such initial assessment shall be conducted by an individual or entity, meeting the qualifications established by the Secretary, in consultation with the NAIC, to assure the professional competence and credibility of such individual or entity and that such individual meets any applicable State licensure and certification requirements. The individual or entity conducting such assessment may not control, or be controlled by, the issuer of the policy.

(3) CLAIMS REVIEW.—Except as provided in paragraph (4), each long-term care insurance policy shall be subject to final claims review by the carrier pursuant to the terms of the long-term care insurance policy.

(4) APPEALS PROCESS.—

(A) IN GENERAL.—Each long-term care insurance policy shall provide for a timely and independent appeals process, meeting standards established by the Secretary, in consultation with the NAIC, for individuals who dispute the results of the claims review conducted under paragraph (3) or the policyholder's functional assessment conducted under paragraph (2).

(B) INDEPENDENT ASSESSMENT.—An appeals process under this paragraph shall include, at the request of the claimant, an independent assessment of the claimant's functional or cognitive abilities.

(C) CONDUCT.—An independent assessment under subparagraph (B) shall be conducted by an individual or entity meeting the qualifications established by the Secretary, in consultation with the NAIC, to assure the professional competence and credibility of such individual or entity and any applicable State licensure and certification requirements and may not be conducted—

(i) by an individual who has a direct or indirect significant or controlling interest in, or direct affiliation or relationship with, the issuer of the policy;

(ii) by an entity that provides services to the policyholder or certificate holder for which benefits are available under the long-term care insurance policy; or

(iii) by an individual or entity in control of, or controlled by, the issuer of the policy.

(5) STANDARD ASSESSMENTS.—Not later than 2 years after the date of enactment of this subtitle, the advisory committee established under section 2201(d) shall recommend uniform needs assessment mechanisms for the determination of eligibility for benefits under such assessments.

(6) CONTROL DEFINED.—For purposes of paragraphs (2) and (4), the term "control" means the direct or indirect possession of the power to direct the management and policies of a person. Control is presumed to exist, if any person directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing at least 10 percent of the voting securities of another person.

(g) INFLATION PROTECTION.—

(1) OPTION TO PURCHASE.—A carrier may not offer a long-term care insurance policy unless the carrier also offers to the proposed policyholder, including each group policyholder, the option to purchase a long-term care insurance policy that provides for increases in benefit levels, with benefit maximums or reasonable durations that are meaningful, to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. A carrier may not offer to a policyholder an inflation protection feature that is less favorable to the policyholder than one of the following:

VOL 140 PT 16 AG 12 — 18 1994 UMI

(A) With respect to policies that provide for automatic periodic increases in benefits, the policy provides for an annual increase in benefits in a manner so that such increases are computed annually at a rate of not less than 5 percent.

(B) With respect to policies that provide for periodic opportunities to elect an increase in benefits, the policy guarantees that the insured individual will have the right to periodically increase the benefit levels under the policy without providing evidence of insurability or health status so long as the option for the previous period was not declined. The amount of any such additional benefit may not be less than the difference between—

(i) the existing policy benefit; and

(ii) such existing benefit compounded annually at a rate of at least 5 percent for the period beginning on the date on which the existing benefit is purchased and extending until the year in which the offer of increase is made.

(C) With respect to service benefit policies, the policy covers a specified percentage of the actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

(2) EXCEPTION.—The requirements of paragraph (1) shall not apply to life insurance policies or riders containing accelerated long-term care benefits.

(3) REQUIRED INFORMATION.—Carriers shall include the following information in or together with the outline of coverage provided under this subtitle:

(A) A comparison (shown as a graph) of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. Such comparison shall show benefit levels over not less than a 20-year period.

(B) Any expected premium increases or additional premiums required to pay for any automatic or optional benefit increases, whether the individual who purchases the policy obtains the inflation protection initially or whether such individual delays purchasing such protection until a future time.

(4) CONTINUATION OF PROTECTION.—Benefit increases under a policy described in paragraph (1) shall continue without regard to an insured's age, claim status or claim history, or the length of time the individual has been insured under the policy.

(5) CONSTANT PREMIUM.—A policy described in paragraph (1) that provides for automatic benefit increases shall include an offer of a premium that the carrier expects to remain constant. Such offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

(6) REJECTION.—Inflation protection under this subsection shall be included in a long-term care insurance policy unless a carrier obtains a written rejection of such protection signed by the policyholder.

SEC. 2216. NONFORFEITURE.

(a) IN GENERAL.—Each long-term care insurance policy (or certificate) shall provide that if the policy lapses after the policy has been in effect for a minimum period (specified under the standards under section 2201(a)), the policy will provide, without payment of any additional premiums, nonforfeiture benefits as determined appropriate by the Secretary, in consultation with the NAIC.

(b) ESTABLISHMENT OF STANDARDS.—The standards under section 2201(a) shall provide that the percentage or amount of benefits under subsection (a) shall increase based upon the policyholder's equity in the policy.

SEC. 2217. LIMIT OF PERIOD OF CONTESTABILITY AND RIGHT TO RETURN.

(a) CONTESTABILITY.—A carrier may not cancel or renew a long-term care insurance policy or deny a claim under the policy based on fraud or intentional misrepresentation relating to the issuance of the policy unless notice of such fraud or misrepresentation is provided within a time period to be determined by the Secretary, in consultation with the NAIC.

(b) RIGHT TO RETURN.—Each applicant for a long-term care insurance policy shall have the right to return the policy (or certificates) within 30 days of the date of its delivery (and to have the premium refunded) if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

SEC. 2218. CIVIL MONEY PENALTY.

(a) CARRIER.—Any carrier, association or its subsidiary that sells or offers for sale a long-term care insurance policy and that—

(1) fails to make a refund in accordance with section 2213(a);

(2) fails to transmit a policy in accordance with section 2213(b);

(3) fails to provide, make available, or report information in accordance with subsections (c) or (d) of section 2213;

(4) provides a commission or compensation in violation of section 2213(e);

(5) fails to provide an outline of coverage in violation of section 2215(b)(1); or

(6) issues a policy without obtaining certain information in violation of section 2215(f);

is subject to a civil money penalty of not to exceed $25,000 for each such violation.

(b) AGENTS.—Any agent that sells or offers for sale a long-term care insurance policy and that—

(1) fails to make a refund in accordance with section 2213(a);

(2) fails to transmit a policy in accordance with section 2213(b);

(3) fails to provide, make available, or report information in accordance with subsections (c) or (d) of section 2213;

(4) fails to provide an outline of coverage in violation of section 2215(b)(1); or

(5) issues a policy without obtaining certain information in violation of section 2215(f);

is subject to a civil money penalty of not to exceed $15,000 for each such violation.

(c) EFFECT ON STATE LAW.—Nothing in this section shall be construed as preempting or otherwise limiting the penalties that may be imposed by a State for the types of conduct described in this section.

PART 3—LONG-TERM CARE INSURANCE POLICIES, DEFINITION AND ENDORSEMENTS

SEC. 2221. LONG-TERM CARE INSURANCE POLICY DEFINED.

(a) IN GENERAL.—As used in this section, the term "long-term care insurance policy" means any insurance policy, rider or certificate advertised, marketed, offered or designed to provide coverage for not less than 12 consecutive months for each covered individual on an expense incurred, indemnity prepaid or other basis, for one or more necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes—

(1) group and individual annuities and life insurance policies, riders or certificates that provide directly, or that supplement long-term care insurance; and

(2) a policy, rider or certificates that provides for payment of benefits based on cognitive impairment or the loss of functional capacity.

(b) ISSUANCE.—Long-term care insurance policies may be issued by—

(1) carriers;

(2) fraternal benefit societies;

(3) nonprofit health, hospital, and medical service corporations;

(4) prepaid health plans;

(5) health maintenance organizations; or

(6) any similar organization to the extent they are otherwise authorized to issue life or health insurance.

(c) POLICIES EXCLUDED.—The term "long-term care insurance policy" shall not include any insurance policy, rider or certificate that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage. With respect to life insurance, such term shall not include life insurance policies, riders or certificates—

(1) that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement,

(2) that provide the option of a lump-sum payment for those benefits, or

(3) with respect to which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

(d) APPLICATIONS.—Notwithstanding any other provision of this subtitle, this subtitle shall apply to any product advertised, marketed or offered as a long-term insurance policy, rider or certificate.

SEC. 2222. CODE OF CONDUCT WITH RESPECT TO ENDORSEMENTS.

Not later than 1 year after the date of enactment of this subtitle, the Secretary, in consultation with the NAIC, shall issue guidelines that shall appiy to organizations and associations (other than employers and labor organizations that do not accept compensation) that provide endorsements of long-term care insurance policies, or that permit such policies to be offered for sale through the organization or association. Such guidelines shall include at minimum the following:

(1) In endorsing or selling long-term care insurance policies, the primary responsibility of an organization or association shall be to educate their members concerning such policies and assist such members in making informed decisions. Such organizations and associations may not function primarily as sales agents for insurance companies.

(2) Organizations and associations shall provide objective information regarding long-term care insurance policies sold or endorsed by such organizations and associations to ensure that members of such organizations and associations have a balanced and complete understanding of both the strengths and weaknesses of the policies that are being endorsed or sold.

(3) Organizations and associations selling or endorsing long-term care insurance policies shall disclose in marketing literature provided to their members concerning such policies the manner in which such policies and the insurance company issuing such policies were selected. If the organization or association and the insurance company have interlocking directorates, the organization

or association shall disclose such fact to their members.

(4) Organizations and associations selling or endorsing long-term care insurance policies shall disclose in marketing literature provided to their members concerning such policies the nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support that the organization or association receives) from the endorsement or sale of the policy to its members.

(5) The Boards of Directors of organizations and associations selling or endorsing long-term care insurance policies, if such organizations and associations have a Board of Directors, shall review and approve such insurance policies, the compensation arrangements and the marketing materials used to promote sales of such policies.

Subtitle D—Life Care

SEC. 2301. SHORT TITLE.

This title may be cited as the "Life Care Act".

SEC. 2302. LIFE CARE: PUBLIC INSURANCE PROGRAM FOR NURSING HOME CARE.

The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XXVII—LIFE CARE: PUBLIC INSURANCE PROGRAM FOR NURSING HOME CARE

"SEC. 2701. ESTABLISHMENT OF VOLUNTARY LONG-TERM CARE INSURANCE PROGRAM.

"The Secretary shall establish a voluntary insurance program for individuals 35 years of age and over to cover the nursing home stays of such individuals. The Secretary shall establish a process for enrollment in the Life Care program.

"SEC. 2702. BENEFITS.

"(a) IN GENERAL.—

"(1) ENTITLEMENT TO BENEFITS.—An individual who is eligible for benefits under this program pursuant to section 2703 shall be entitled to coverage in accordance with subsection (c) for necessary services des ribed in subsection (b) that are provided to the individual by a nursing facility while the individual is an inpatient of the facility.

"(2) NONFORFEITURE.—The Secretary shall establish standards to ensure the nonforfeiture of benefits for which premiums have been paid.

"(b) TYPES.—Coverage may be provided under this part for—

"(1) nursing care provided by or under the supervision of a registered professional nurse;

"(2) physical, occupational, or speech therapy furnished by a facility or by others under arrangements with a facility;

"(3) medical social work services;

"(4) drug, biological, supply, appliance, and equipment for use in the facility, that is ordinarily furnished by the facility for the care and treatment of an inpatient;

"(5) such other services necessary to the functioning of a patient, including personal care and assistance with activities of daily living, as are generally provided by a nursing home facility; and

"(6) with respect to the initial 6 months of covered residence in a nursing facility, such room and board costs as are not covered by beneficiary copayment.

"(c) COVERAGE.—

"(1) IN GENERAL.—An individual eligible for benefits under this program shall be entitled, subject to subsection (d), to have payments made, for services described in subsection (b), up to an amount (based on the election made by the individual equal to $30,000, $60,000, or $90,000 (or to such greater amount as adjusted by the Secretary to reflect increases in the Consumer Price Index for fiscal years after fiscal year 1995); and

"(2) to asset protection in accordance with section 2708.

"(d) WAITING PERIOD.—

"(1) COVERAGE PURCHASED DURING INITIAL PERIOD.—BENEFITS UNDER INDIVIDUAL COVERAGE PURCHASED UNDER THIS PART DURING THE INITIAL PERIOD SPECIFIED IN SECTION 2703A(A)(2) SHALL BE UNAVAILABLE DURING THE 3-YEAR PERIOD FOLLOWING THE DATE OF SUCH PURCHASE, EXCEPT AS PROVIDED IN PARAGRAPH (3).

"(2) ALL OTHER COVERAGE.—In the case of individual coverage under this part purchased after the initial bperiod specified in section 2703A(a)(2), the Secretary may provide for a waiting period (of not longer than 3 years) after such purchase during which covered benefits are unavailable, if necessary to ensure the affordability or actuarial soundness of such coverage or to prevent adverse selection among purchasers.

"(3) SECRETARY'S DISCRETION TO SHORTEN WAITING PERIOD.—The Secretary may reduce or eliminate any waiting established under this subsection if the Secretary determines that such reduction or elimination will not adversely affect the actuarial soundness of coverage under this part.

"(e) PAYMENT.—Amounts provided under this part with respect to an eligible individual for the services described in subsection (b) shall be paid from the general fund of the Treasury of the United States.

"(f) RESIDENTIAL CARE FACILITIES.—The Secretary shall consider the feasibility of making payments under this part for services delivered in residential care facilities. Not later than 2 years after the date of enactment of this Act, the Secretary shall report its findings to the Congress with respect to the feasibility of making such payments.

"SEC. 2703. ELIGIBILITY.

"(a) IN GENERAL.—An individual who is a legal resident of the United States and has purchased coverage under this part in accordance with section 2703A shall be eligible for benefits under this part if—

"(1) the individual has been determined by a Screening Agency through a screening process (conducted in accordance with section 2707)—

"(A) to require hands-on or stanby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living; or

"(B)(i) to have achieved a score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, that indicates either severe cognitive impairment or sever mental impairment, or both; and

"(ii)(I) to require handson or standby assistance, supervision, or cueing with at least one activity of daily living or with at least such instrumental activity of daily living or with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary Specifies; or

"(II) to display symptoms of one or more seriours behavioral problems (that is on a list is on a list of such problems specified by the Secretary) which create a need for supervision to prevent harm to self or others; and

"(C) to require such assistance, supervision, or cueing over a period of at least 90 days; and

"(2) an application for such benefits has been filed—

"(A) by such individual, or

"(B) on behalf or such individual by the individual's legal guardian (or representative, in the case of an individual who is cognitively impaird.

"(C) PUBLIC EDUCATION.—In the 12 months preceding the initial enrollment period, the Secretary shall, either directly or through grants and contracts, conduct a public service and education campaign designed to inform potentially eligible individuals as to the nature of the benefits and the limited enrollment period. In conducting such campaigns the Secretary shall make information available to individuals through the open enrollment process for obtaining health care benefits under this Act.

"SEC. 2703A. PURCHASE OF COVERAGE.

"(a) PERIOD OF AVAILABILITY.—

"(1) IN GENERAL.—An individual may purchase coverage under this part, subject to subsection (b), when the individual is within 6 months of the individual's 35th, 45th, 55th, or 65th birthday.

"(2) INITIAL PERIOD.—Any individual aged 35 or older may purchase coverage under this part, subject to subsection (b)—

"(A) during the 1-year period beginning on the date of publication of final regulations implementing this part; or

"(B) in the case of such an individual who at no time during such 1-year period is eligible, for at least 60 consecutive days, during the subsequent 1-year period.

"(b) COVERAGE NOT AVAILABLE TO INSTITUTIONALIZED INDIVIDUALS.—An individual shall not be eligible to purchase coverage under this part—

"(1) while an inpatient in a hospital or nursing home;

"(2) within the 6-month period after the individual's discharge from a nursing home; or

"(3) within the 90-day period after the individual's discharge from a hospital.

"(c) PUBLIC EDUCATION.—In the 12 months preceding the initial enrollment period, the Secretary shall, either directly or through grants and contracts, conduct a public service and education campaign designed to inform potentially eligible individuals as to the nature of the benefits and the limited enrollment period. In conducting such campaigns the Secretary shall make information available to individuals through the open enrollment process for obtaining health care benefits under this Act.

"SEC. 2704. PREMIUM RATES.

"(a) ESTABLISHMENT OF RATES.—The Secretary shall determine one actuarially fair, age-rated premium for the initial year of coverage under this part for each of the following age groups:

"(1) for individuals who initially purchase such coverage, after the initial period specified in section 2703A(a)(2), at ages 35, 45, 55, and 65; and

"(2) for individuals in each one-year age group for ages 35 and higher who initially purchase such coverage during such initial period.

"(b) REVISION.—The Secretary shall revise premium rates annually to increase such rates to reflect the amount of the increase in the cost of living adjustment with respect to benefits under title II of the Social Security Act.

"(c) RATES.—In developing premium rates under the program established under this part, the Secretary shall establish rates that are expected to cover 100 percent of the reimbursement amount provided under this part for nursing home stays for those individuals enrolled in the program.

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(d) WAIVER.—An individual electing to purchase coverage under this part shall not be required to pay premiums during any period in which such individual is receiving benefits under this part.

"(e) PAYMENT.—Premiums shall be paid under this section into the general fund of the Treasury of the United States.

"SEC. 2705. QUALIFIED SERVICE PROVIDERS.

"(a) IN GENERAL.—To be considered as a covered nursing home service under this part, such service must have been provided by a qualified service provider.

"(b) TYPES.—A provider shall be considered a qualified service provider under this part if the provider is a nursing facility that is certified by the State and meets the requirements of this part and any other standards established by the Secretary by regulation for the safe and efficient provision of services covered under this part.

"SEC. 2706. REIMBURSEMENT.

"(a) AMOUNT.—Monthly reimbursement for nursing facility services under this part shall equal 65 percent (or during the initial 6 months of coverage, 80 percent) of the amount the Secretary determines to be reasonable and appropriate to cover the cost of care provided under this part.

"(b) PROSPECTIVE PAYMENT.—To the extent feasible, the Secretary shall establish a prospective payment mechanism for payment for nursing home services under this part that takes into account the expected resource utilization of individual patients based on their degree of disability, the methodology recommended for reimbursement of skilled nursing facilities under title XVIII of the Social Security Act, and other factors determining service requirements.

"(c) ROOM AND BOARD PAYMENT.—An individual receiving benefits under this program shall be responsible for the payment of an amount for room and board that is equal to—

"(1) with respect to the initial 6 months of residence in a nursing facility, 20 percent of the average per diem rate paid by the Secretary to nursing facilities receiving reimbursement under this part; and

"(2) with respect to subsequent periods of residence, 15 percent of the average per diem rate paid by the Secretary to nursing facilities receiving reimbursement under this part. Payments under subsection (a) and (c) shall be considered payment in full for services received under this section.

"(d) PRIORITY PAYERS.—Notwithstanding any other provision of this part, reimbursement for nursing facility services provided under this part to an individual shall, to the extent available, be made under the Medicare program, under Department of Veterans Affairs' programs, or under private insurance policies prior to reimbursement under this part.

"SEC. 2707. LONG-TERM CARE SCREENING AGENCY.

"(a) ESTABLISHMENT.—The Secretary shall contract with entities to act as Long-Term Care Screening Agencies (hereafter referred to in this part as the 'Screening Agency') for each designated area of a State. It shall be the responsibility of such agency to assess the eligibility of individuals residing in the geographic jurisdiction of the Agency, for services provided under this part according to the requirements of this part and regulations prescribed by the Secretary. In entering into such contracts, the Secretary shall give preference to State governmental entities and private nonprofit agencies.

"(b) ELIGIBILITY.—The Screening Agency shall determine the eligibility of an individual under this part based on the results of a preliminary telephone interview or written questionnaire (completed by the applicant, by the caregiver of the applicant, or by the legal guardian or representative of the applicant) that shall be validated through the use of a screening tool administered in person to each applicant determined eligible through initial telephone or written questionnaire interviews not later than 15 days from the date on which such individual initially applied for services under this part.

"(c) QUESTIONNAIRES AND SCREENING TOOLS.—

"(1) IN GENERAL.—The Secretary shall establish a telephone or written questionnaire and a screening tool to be used by the Screening Agency to determine the eligibility of an individual for services under this part consistent with requirements of this part and the standards established by the Secretary by regulation.

"(2) QUESTIONNAIRES.—The questionnaire shall include questions about the functional impairment and mental status of an individual and other criteria that the Secretary shall prescribe by regulation.

"(3) SCREENING TOOLS.—The screening tool should measure functional impairment caused by physical or cognitive conditions as well as information concerning cognition disability, behavioral problems (such as wandering or abusive and aggressive behavior), and any other criteria that the Secretary shall prescribe by regulation. The screening tool shall be administered in person.

"(d) NOTIFICATION.—Not later than 15 days after the date on which an individual initially applied for services under this part (by telephone or written questionnaire), the Screening Agency shall notify such individual that such individual is not eligible for benefits, or that such individuals must schedule an in-person screening to determine final eligibility for benefits under this part. The Screening Agency shall notify such individual of its final decision not later than 2 working days after the in-person screening.

"(e) IN-PERSON SCREENING.—An individual (or the legal guardian or representative of such individual) whose application for benefits under this part is denied on the basis of information provided through a telephone or written questionnaire, shall be notified of such individual's right to an in-person screening by a nurse or appropriate health care professionals.

"(f) APPEALS.—The Secretary shall establish a mechanism for hearings and appeals in cases in which individuals contest the eligibility findings of the Screening Agency.

"(g) PAYMENT.—

"(1) PAYMENT FOR SCREENING.—The Screening Agency may require payment from individuals only in accordance with standards established by the Secretary.

"(2) NO PAYMENT FOR POOREST.—The Screening Agency may not require payment for individuals with incomes of less than 150 percent of the official poverty line.

"SEC. 2708. ASSET PROTECTION.

"Notwithstanding any other provision of law, the assets an eligible individual may retain and be determined eligible for nursing facility benefits, including payments of room and board under this part, under State Medicaid programs (in accordance with section 1902(a)(10)) shall be increased by the amount of coverage ($30,000, $60,000, or $90,000) elected under section 2702.

"SEC. 2709. RELATION TO PRIVATE INSURANCE.

"(a) IN GENERAL.—Except as provided in subsection (b), an insurer may not offer a long-term care insurance policy to an individual who has purchased coverage under this part if the coverage under such policy duplicates the coverage provided under this part.

"(b) DEVELOPMENT OF STANDARD PACKAGES.—The Secretary shall develop standard long-term care insurance benefits packages that insurers may offer to insured individuals under this part. Such packages shall provide coverage for benefits that compliment, but do not duplicate, those covered under this part.

"SEC. 2710. DEFINITIONS.

"As used in this part:

"(1) NURSING FACILITY.—The term 'nursing facility' means—

"(A) a skilled nursing facility (as defined in section 1819(a) of the Social Security Act); or

"(B) a facility that is a nursing facility (as defined in section 1919(a) of such Act) which meets the requirements of section 1819(b)(4)(C) of such Act (relating to nursing care).

"(2) SPELL OF ILLNESS.—The term 'spell of illness' means a period of consecutive days beginning with the first day on which an individual is furnished services as an inpatient in a hospital or nursing facility and ending with the close of the first 6 consecutive months thereafter during which the individual is no longer an inpatient of a nursing facility, or 90 days after the individual is no longer an inpatient in a hospital.

"SEC. 2711. REPORTS.

"(a) IN GENERAL.—Prior to the promulgation of regulations implementing this title, the Secretary shall report to Congress on—

"(1) the actuarially-sound premium rates to be used in the implementation of this Act, including whether the premiums will cover 100 percent of the benefits paid out, and whether Federal funds will be required to support the payment of benefits;

"(2) an assessment of the impact of such premium rates on the affordability of coverage under this Act;

"(3) a projected enrollment of individuals by age category; and

"(4) an estimate of current and projected enrollment of individuals, by age category in coverage under private long-term care insurance.

"(b) LIFE CARE REPORT.—Not later than 2 years after the promulgation of regulations implementing this title, the Secretary shall report to Congress on the following aspects of the Life Care Act:

"(1) The current and projected premium rates.

"(2) The current and projected enrollment of individuals, by age category and an estimate of current and projected enrollment of individuals by age category in private long-term care insurance.

"(3) The projected use of benefits and the impact of use on premium rates.

"(4) An assessment of the impact of projected premium rates on the affordability of coverage under this Act.

"(c) RECOMMENDATIONS.—The Secretary shall make recommendations to Congress regarding necessary revisions to the Life Care Act as a result of the findings provided in the reports submitted under this section.".

Subtitle E—Study and Report

SEC. 2401. STUDY OF ISSUES RELATED TO END OF LIFE CARE.

(a) STUDY.—

(1) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary shall enter into an agreement with the Institute of Medicine of the National Academy of Sciences (or with another nonprofit, nongovernmental organization or consortium of institutions if the Institute declines to perform the study) to investigate and report on issues relating to appropriate care at the end of life, including how to determine the appropriateness of curative or life-prolonging or palliative services for gravely or terminally ill or injured persons of all ages.

(2) SPECIFIC ISSUES.—The study described in paragraph (1) shall specifically include an examination of the following issues:

(A) The epidemiology of dying.

(B) The feasibility and utility of clinical practice guidelines for appropriate care.

(C) Conditions that promote or impede appropriate care (such as professional training and beliefs, financing and organization of services, patient and public knowledge and attitudes).

(D) Priorities for research on the issues described in the preceding subparagraphs.

(E) Concerns of health care practitioners and providers, medical educators, the general public, and those responsible for public and private decisions about the organization, financing, and quality of health care in the United States.

(b) REPORT.—The Institute of Medicine (or the organization conducting the study under this section) shall submit to the Secretary and the Congress a report on the study described in subsection (a) within 27 months after the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

TITLE III—HEALTH PROFESSIONS WORKFORCE AND PUBLIC HEALTH INITIATIVES

Subtitle A—Workforce Priorities Under Federal Payments

SEC. 3000. DEFINITIONS.

For purposes of this subtitle:

(1) The term "academic year" has the meaning given such term in section 3012(b)(3)(A).

(2) The term "allocation period" has the meaning given such term in section 3015(d).

(3) The term "annual number of specialty positions" has the meaning given such term in section 3013(g)(1).

(4) The term "approved physician training program" has the meaning given such term in section 3012(b)(1).

(5) The term "consumer price index" has the meaning given such term in section 3033(e)(1).

(6) The term "designation period" has the meaning given such term in section 3013(g)(2).

(7) The term "funding agreement" has the meaning given such term in section 3012(b)(3)(B).

(8) The term "general health care inflation factor" has the meaning given such term in section 3033(e)(4).

(9) The term "medical school" has the meaning given such term in section 3001(e)(2).

(10) The term "medical specialty" has the meaning given such term in section 3012(b)(3)(C).

(11) The term "National Council" has the meaning given such term in section 3001(e)(3).

(12) The term "primary health care" has the meaning given such term in section 3013(g)(3).

(13) The term "qualified applicant" has the meaning given such term in section 3012(b)(2), in the case of subpart B; and has the meaning given such term in section 3031(c), in the case of subpart C.

(14) The term "specialty position" has the meaning given such term in section 3013(g)(4).

(15) The term "training participant" has the meaning given such term in section 3013(g)(5).

PART 1—INSTITUTIONAL COSTS OF GRADUATE MEDICAL EDUCATION; WORKFORCE PRIORITIES

Subpart A—National Council Regarding Workforce Priorities

SEC. 3001. NATIONAL COUNCIL ON GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—There is established within the Department of Health and Human Services a council to be known as the National Council on Graduate Medical Education.

(b) DUTIES.—The Secretary shall carry out subpart B acting through the National Council.

(c) COMPOSITION.—

(1) IN GENERAL.—The membership of the National Council shall include between 12 and 16 individuals who are appointed to the Council from among individuals who are not officers or employees of the United States. Such individuals shall be appointed by the Secretary, and shall include individuals from each of the following categories in the following proportions:

(A) One-quarter composed of consumers of health care services, at least one of whom resides in a rural area.

(B) One-quarter composed of primary health care physicians who are faculty members of medical schools (including officials of medical schools and executive officers of teaching hospitals) and primary health care physicians who are practicing and are not faculty members of medical schools, at least one of whom resides in a rural area.

(C) One-quarter composed of non-primary health care specialty physicians who are faculty members of medical schools, non-primary health care specialty physicians who are not faculty members of medical schools, officials of medical schools, and executive officers of teaching hospitals.

(D) One-quarter composed of officers and employees of health plans, and officers or members of purchasing cooperatives.

(2) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the National Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary or other Federal officers who are appointed by the President with the advice and consent of the Senate.

(d) CHAIR.—The Secretary shall, from among members of the National Council appointed under subsection (c)(1), designate an individual to serve as the Chair of the Council.

(e) DEFINITIONS.—For purposes of this subtitle:

(1) The term "academic health center" means an entity defined in section 3051(c)(1).

(2) The term "medical school" means a school of medicine (as defined in section 799 of the Public Health Service Act) or a school of osteopathic medicine (as defined in such section).

(3) The term "National Council" means the council established in subsection (a).

(f) CONFORMING AMENDMENT REPEALING THE COUNCIL ON GRADUATE MEDICAL EDUCATION (COGME).—Effective on the date of the first meeting of the National Council, section 30 of the Health Professions Education Extension Amendments of 1992 (Public Law 102-408) is repealed.

Subpart B—Authorized Positions in Specialty Training

SEC. 3012. COOPERATION REGARDING APPROVED PHYSICIAN TRAINING PROGRAMS.

(a) IN GENERAL.—With respect to an approved physician training program in a medical specialty, a funding agreement with a qualified applicant for payments under section 3031 and section 3051 for a calendar year is that the qualified applicant will ensure that the number of individuals enrolled in the program in the subsequent academic year is in accordance with this subpart.

(b) DEFINITIONS.—

(1) APPROVED PROGRAM.—For purposes of this subtitle:

(A) The term "approved physician training program", with respect to the medical specialty involved, means a residency or other postgraduate program that trains physicians and meets the following conditions:

(i) Participation in the program may be counted toward certification in the medical specialty as determined under the applicable standards of the American Board of Medical Specialties or the Council on Postdoctoral Training of the American Osteopathic Association.

(ii) The program is accredited by the Accreditation Council on Graduate Medical Education, or approved by the Council on Postdoctoral Training of the American Osteopathic Association.

(B) The term "approved physician training program" includes any postgraduate program described in subparagraph (A) that provides health services in an ambulatory setting, without regard to whether the program provides inpatient hospital services.

(C) The term "approved physician training program" includes any postgraduate program described in subparagraph (A), whether operated by academic health centers, teaching hospitals, group practices, ambulatory care providers, prepaid health plans, or other entities.

(D) The term "approved physician training program" includes any postgraduate program described in subparagraph (A) that provides fellowship training in family medicine, general internal medicine or general pediatrics, and provides training for a faculty position in family medicine, general internal medicine, or general pediatrics.

(2) QUALIFIED APPLICANT; SUBPART DEFINITION.—For purposes of this subpart, the term "qualified applicant", with respect to an academic year, means an entity that trains individuals in an approved physician program that receives payments under subpart C for the calendar year in which the academic year begins.

(3) OTHER DEFINITIONS.—For purposes of this subtitle:

(A)(i) Except as provided in clause (iii), the term "academic year" means the 1-year period beginning on July 1. The academic year beginning July 1, 1993, is academic year 1993–1994.

(ii) With respect to the funding agreement described in subsection (a), the term "subsequent academic year" means the academic year beginning July 1 of the calendar year for which payments are to be made under the agreement.

(iii) For purposes of determining the academic year in which a training participant enters an approved physician training program, the academic year is the 1-year period beginning on or after June 1.

(B) The term "funding agreement", with respect to payments under section 3031 and

VOL
140
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16
AG
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3051 to a qualified applicant, means that the Secretary may make the payments only if the qualified applicant signs the agreement involved.

(C) The term "medical specialty" includes all medical, surgical, and other physician specialties and subspecialties.

SEC. 3013. ANNUAL AUTHORIZATION OF NUMBER OF SPECIALTY POSITIONS; REQUIREMENTS REGARDING PRIMARY HEALTH CARE.

(a) ANNUAL AUTHORIZATION OF NUMBER OF POSITIONS.—In the case of each medical specialty, the National Council shall, pursuant to section 3012, designate for academic year 1998–1999 and each subsequent academic year the number of individuals nationwide who are authorized to be enrolled in eligible programs in each medical specialty for the academic year involved.

(b) PRIMARY HEALTH CARE.—

(1) REQUIREMENT ACROSS SPECIALITIES.—In carrying out subsection (a) for an academic year, the National Council shall ensure that, of the class of training participants entering all eligible programs for their first year of graduate medical education for academic year 1998–1999 or any subsequent academic year, the percentage of such class that completes eligible programs in primary health care and does not subsequently enter a non-primary health care training program, is not less than the following, as applicable to the academic year involved:

(A) For academic year 1998–1999, 39 percent.

(B) For academic year 1999–2000, 44 percent.

(C) For academic year 2000–2001, 49 percent.

(D) For academic year 2001–2002 and each subsequent academic year, 55 percent, except as provided in section 3014.

(2) RULE OF CONSTRUCTION.—The requirement of paragraph (1) regarding a percentage applies in the aggregate to training participants entering eligible programs for the academic year involved, and not individually to any eligible program.

(c) DESIGNATIONS REGARDING 3-YEAR PERIODS.—

(1) DESIGNATION PERIODS.—For each medical specialty, the National Council shall make the annual designations under subsection (a) for periods of 3 academic years.

(2) INITIAL PERIOD.—The first designation period established by the National Council after the date of the enactment of this Act shall be the academic years 1998–1999 through 2000–2001.

(d) CERTAIN CONSIDERATIONS IN DESIGNATING ANNUAL NUMBERS.—

(1) IN GENERAL.—Factors considered by the National Council in designating the annual number of specialty positions for an academic year for a medical specialty shall include the extent to which there is a need for additional practitioners in the specialty, as indicated by the following:

(A) The characteristics of diseases, disorders, or health conditions treated, including—

(i) the incidence and prevalence (in the general population and in various other populations) of the diseases, disorders, or other health conditions with which the specialty is concerned;

(ii) the intensity of care required for each of these diseases, disorders, or health conditions;

(iii) the relevant training received and experience attained by primary health care and specialist physicians in caring for each of these diseases, disorders, or health conditions; and

(iv) should sufficient data become available, the extent to which individuals with certain diseases, disorders, or health conditions have better health outcomes when treated by non-primary health care physicians than by primary health care physicians.

(B) The number of physicians who will be practicing in the specialty in the academic year.

(C) The number of physicians who will be practicing in the specialty at the end of the 5-year period beginning on the first day of the academic year.

(D) Whether, after examining medical specialty requirements, the National Council determines that specialty is a medical shortage specialty (as defined by the National Council).

(2) RECOMMENDATIONS OF PRIVATE ORGANIZATIONS.—In designating the annual number of specialty positions for an academic year for a medical specialty, the National Council shall consider the recommendations of organizations representing physicians in the specialty, organizations representing academic medicine, and the recommendations of organizations representing consumers of the services of such physicians.

(3) TOTAL OF RESPECTIVE ANNUAL NUMBERS.—

(A) IN GENERAL.—For academic year 1998–1999 and subsequent academic years, the National Council shall ensure that the total of the respective annual numbers designated under subsection (a) for an academic year is a total that—

(i) bears a relationship to the number of individuals who graduated from medical schools in the United States in the academic year 1997–1998; and

(ii) is consistent with the purposes of this subpart.

(B) REDUCTION.—For each of the academic years 1998–1999 through 2001–2002, the total determined under subparagraph (A) shall be reduced by a percentage determined by the National Council.

(e) VOLUNTARY COMPLIANCE.—

(1) ESTABLISHMENT OF THE POSITIONS FOR FIRST DESIGNATION PERIOD.—Not later than June 1, 1996, the National Council shall establish the number of positions in each medical specialty that will be allocated under subsection (a) for the academic years 1998–1999, 1999–2000, and 2000–2001.

(2) VOLUNTARY COMPLIANCE.—A medical specialty shall not be subject to the mandatory allocation system described in section 3015 if—

(A) by June 1, 1997, each eligible approved physician training program has submitted to the National Council a proposal for first year positions in approved physician training programs in that particular medical specialty for the academic years 1998–99, 1999–2000, and 2000–2001 and the total proposed number of all such positions for the specialty does not exceed the number of positions established for such specialty under paragraph (1) for each such academic year; and

(B) in subsequent academic years, the total proposed number of first year positions in approved physician training programs in that particular medical specialty does not exceed the number of individuals nationwide who are authorized to be enrolled in approved medical training programs for such medical specialty for such year pursuant to subsection (a).

(3) LOSS OF COMPLIANCE.—The National Council may, at any time, determine that a specialty is not in compliance with the number of positions established by the Council under paragraph (1) or subsection (a) and initiate, with respect to that specialty, the system of mandatory allocations described in section 3015.

(f) STUDY.—Not later than January 1, 2005, the Secretary shall arrange for the completion, by the Institute of Medicine or other similiar entity, of an independent study concerning the effect of medical workforce regulation and planning in general and in particular geographic areas. The results of such study together with recommendations concerning the appropriateness of modifying or eliminating workforce regulations shall be compiled in a report and transmitted by the Secretary to the President and the Congress.

(g) DEFINITIONS.—For purposes of this subtitle:

(1) The term "annual number of specialty positions", with respect to a medical specialty, means the number designated by the National Council under subsection (a) for eligible programs for the academic year involved.

(2) The term "designation period" means a 3-year period under subsection (c)(1) for which designations under subsection (a) are made by the National Council.

(3) The term "primary health care" means the following medical specialties: Family medicine, general internal medicine, general pediatrics, geriatric medicine, and obstetrics and gynecology. Only those participants in programs with a significant primary care training emphasis will be considered to have completed an eligible program in primary care for the purposes of subsection (b)(1). Determination of the meaning of a "significant primary care training emphasis" will be made by the National Council.

(4) The term "specialty position" means a position as a training participant.

(5) The term "training participant" means an individual who is enrolled in an approved physician training program.

SEC. 3014. NATIONAL COUNCIL RECOMMENDATION OF NUMBER OF GRADUATE MEDICAL EDUCATION POSITIONS.

(a) IN GENERAL.—

(1) RECOMMENDATIONS.—Beginning with academic year 2001–2002 and each subsequent academic year, the National Council may after considering the factors described in paragraph (2) annually recommend to the Secretary a change in accordance with subsection (b), the distribution of positions among medical specialties determined under section 3013(a) and 3013(b)(1)(D).

(2) FACTORS FOR CONSIDERATION.—In developing a recommendation under paragraph (1), the Secretary shall consider the impact on rural, inner city, and public hospitals of reducing numbers of individuals authorized to enter approved physician training programs and the appropriate supply of physicians in the aggregate and in particular medical specialties.

(b) LIMITATIONS ON RECOMMENDED PERCENT FOR PRIMARY CARE FOR ACADEMIC YEAR 2001–2002.—For the academic year 2001–2002, the number that the National Council may recommend under subsection (a)(1) may not be more than 5 percentage points less or 5 percentage points more than the number described in section 3013(b)(1)(D).

(c) CONSIDERATION AND IMPLEMENTATION BY THE SECRETARY.—The Secretary shall in the Secretary's discretion implement the recommendations by the National Council under subsection (a) in accordance with section 3013(b)(1). The Secretary may not modify such recommendations.

SEC. 3015. ALLOCATIONS AMONG SPECIALITIES AND PROGRAMS.

(a) IN GENERAL.—Subject to the provisions of section 3013, for each academic year, the National Council shall for each medical specialty make allocations among eligible programs of the annual number of specialty positions that the Council has designated for such year. The preceding sentence is subject to subsection (b)(3).

(b) ALLOCATIONS REGARDING 3-YEAR PERIOD.—

(1) IN GENERAL.—For each medical specialty, the National Council shall make the annual allocations under subsection (a) for periods of 3 academic years.

(2) ADVANCE NOTICE TO PROGRAMS.—With respect to the first academic year of an allocation period established by the National Council, the National Council shall, not later than July 1 of the preceding academic year, notify each eligible program of the allocations made for the program for each of the academic years of the period.

(3) INITIAL PERIOD.—The first allocation period established by the National Council after the date of the enactment of this Act shall be the academic years 1998–1999 through 2000–2001.

(c) CERTAIN CONSIDERATIONS.—

(1) GEOGRAPHIC AREAS.—In making allocations under subsection (a) for eligible programs of the various geographic areas, the National Council shall include among the factors considered the—

(A) distribution of approved physician training programs with respect to population and community need; and

(B) historical distribution of approved physician training programs among the geographic areas.

(2) QUALITY OF PROGRAMS.—In making allocations under subsection (a) for eligible programs, the National Council shall consider the quality of such programs.

(3) UNDERREPRESENTATION OF MINORITY GROUPS AND WOMEN.—In making an allocation under subsection (a) for an eligible program, the National Council shall include among the factors considered the following:

(A) The extent to which the population of training participants in the program includes training participants who are members of racial or ethnic minority groups and women.

(B) With respect to a racial or ethnic group or women represented among the training participants, the extent to which the group is underrepresented in the field of medicine generally and in the various medical specialities.

(4) UNDERSERVED RURAL AND INNER-CITY COMMUNITIES.—In making allocations under subsection (a) for eligible programs, the National Council shall consider the extent to which the population of training participants in the program includes training participants who have resided in rural or inner-city communities for a substantial period, as defined by the Council and the proportion of past participants in the program who are practicing in rural or inner-city communities.

(5) RECOMMENDATIONS OF PRIVATE ORGANIZATIONS.—In making allocations under subsection (a) for eligible programs, the National Council shall consider the recommendations of organizations representing physicians in the medical specialties, the recommendations of organizations representing academic medicine and the recommendations of organizations representing consumers of the services of such physicians.

(d) DEFINITIONS.—For purposes of this subtitle, the term "allocation period" means a 3-year period under subsection (b)(1) for which allocations under subsection (a) are made by the National Council.

Subpart C—Costs of Graduate Medical Education

CHAPTER 1—OPERATION OF APPROVED PHYSICIAN TRAINING PROGRAMS

SEC. 3031. FEDERAL FORMULA PAYMENTS TO QUALIFIED ENTITIES FOR THE COSTS OF THE OPERATION OF APPROVED PHYSICIAN TRAINING PROGRAMS.

(a) IN GENERAL.—In the case of a qualified entity that in accordance with section 3032 submits to the Secretary an application for calendar year 1997 or any subsequent calendar year, the Secretary shall make payments for such year to the qualified entity for the purpose specified in subsection (b). The Secretary shall make the payments in an amount determined in accordance with section 3033 and 3034, and may administer the payments as a contract, grant, or cooperative agreement.

(b) PAYMENTS FOR OPERATION OF APPROVED PHYSICIAN TRAINING PROGRAMS.—The purpose of payments under subsection (a) is to assist a qualified applicant with the costs of operation of an approved physician training program. A funding agreement for such payments is that the qualified applicant involved will expend the payments only for such purpose or for such other related purposes as the Secretary may authorize.

(c) QUALIFIED APPLICANT; SUBPART DEFINITION.—

(1) IN GENERAL.—For purposes of this subpart, the term "qualified applicant", with respect to the calendar year involved, means an entity—

(A) that trains individuals in approved physician training programs; and

(B) that submits to the Secretary an application for such year in accordance with section 3032.

(2) ENTITIES INCLUDED.—The term "qualified applicant" may include an approved physician training program, teaching hospital, medical school, group practice, an entity representing two or more parties engaged in a formal association, a community health center or another entity operating an approved physician training program.

(d) TREATMENT OF PODIATRIC AND DENTAL RESIDENCY PROGRAMS.—Except as provided in section 3034, for the purposes of this subpart, an approved physician training program includes training programs approved by the Commission on Dental Accreditation or the Council of Podiatric Medical Education of the American Podiatric Medical Association. This subsection shall not apply for purposes of subpart B.

SEC. 3032. APPLICATION FOR PAYMENTS.

(a) IN GENERAL.—

(1) IN GENERAL.—For purposes of section 3031(a), an application for payments under such section for a calendar year is in accordance with this section if—

(A) the eligible entity involved submits the application not later than the date specified by the Secretary;

(B) the application demonstrates that the condition described in subsection (b) is met with respect to the program;

(C) the application contains each funding agreement described in this part and the application provides such assurances of compliance with the agreements as the Secretary may require; and

(D) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(2) CERTAIN ENTITIES.—If an applicant under paragraph (1) is an entity representing two or more parties—

(A) the application shall contain a written agreement, signed by all participants, in which all of the participants agree as to the manner in which the payments will be allocated; and

(B) the applicant shall agree to submit additional documentation, if requested by the National Council, that demonstrates that the funds are distributed in the manner agreed upon by all participants.

(b) CERTAIN CONDITIONS.—An eligible entity meets the condition described in this subsection for receiving payments under section 3031 for a calendar year if—

(1) the entity agrees to use such funds only to support an approved physician training program;

(2) with respect to—

(A) a specialty for which programs have received allocations under section 3015, the entity agrees that funds will be used only to support approved training programs for which the number of specialists in training is consistent with the allotment under section 3015; and

(B) a specialty for which a voluntary program has received allocations under section 3013(e), the entity agrees that funds will only be used to support approved training programs for which the number of specialists in training is consistent with the allocations under section 3013(e); and

(3) the entity notifies each residency training program director of each approved physician training program operated by the entity of the amount of payments received by the entity under this section and sections 3051 and 3055 that is attributable to the number of training participants in the program.

(c) COMPLIANCE WITH SPECIALTY ALLOCATIONS.—A funding agreement for payments under section 3031 is that an eligible institution that operates or is affiliated with an approved physician training program shall receive such payments only if the number of specialists in such a program is consistent with the allotment under section 3015 or 3013(e).

(d) RESIDENCY TRAINING PROGRAM DIRECTOR.—For purposes of this section, the term "residency training program director" means an individual specified in the application of the entity as the official with primary administrative responsibility for an approved physician training program.

SEC. 3033. AVAILABILITY OF FUNDS FOR PAYMENTS; ANNUAL AMOUNT OF PAYMENTS.

(a) GRADUATE MEDICAL EDUCATION ACCOUNT.—

(1) IN GENERAL.—Subject to paragraph (2) and except as provided in section 3034, the following amounts shall be available for a calendar year for making payments under sections 3031 and 3055 from the Graduate Medical Education Account established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986:

(A) In the case of calendar year 1997, $3,200,000,000.

(B) In the case of calendar year 1998, $3,600,000,000.

(C) In the case of calendar year 1999, $5,800,000,000.

(D) In the case of calendar year 2000, $6,100,000,000.

(E) In the case of calendar year 2001, $6,500,000,000.

(F) In the case of each subsequent calendar year, the amount specified in subparagraph (E) increased by the product of such amount and the general health care inflation factor for such year (as defined in subsection (e)).

(2) ALLOCATION OF ACCOUNT FOR PAYMENTS TO TRAINING PROGRAMS AND FOR TRANSITIONAL

VOL 140 PT 16 AG 12 — 18 1994 UMI

PAYMENTS.—If the sum of the amounts specified in subsection (b), section 3034(c), and section 3035(a) exceeds the amounts available for such calendar year in the Graduate Medical Education Account established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986, then each such amount shall be reduced by an amount which bears the same ratio to such amount as the amounts available bear to the sum of such amounts.

(b) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Except as provided in section 3034, payment amounts with respect to any physician training program under this section shall be equal to the product of the number of full time equivalent training participants in the program, and the per resident amount for the training program.

(2) PER RESIDENT AMOUNT.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the per resident amount for a training program shall be equal to—

(i) with respect to—

(I) the first calendar year during which the program receives payment under subsection (a), 90 percent;

(II) the second calendar year during which the program receives payment under subsection (a), 80 percent;

(III) the third calendar year during which the program receives payment under subsection (a), 70 percent;

(IV) the fourth calendar year during which the program receives payment under subsection (a), 60 percent; and

(V) the fifth and subsequent calendar year during which the program receives payment under subsection (a), 50 percent;

of the approved FTE resident amount that would have been determined under section 1886(h)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(h)(2)(D)) for the hospital operating such approved physician training program for a cost reporting period beginning in such calendar year if the amendments made by section 4306 of the Health Security Act had not been made; and

(ii) with respect to—

(I) the first calendar year during which the program receives payment under subsection (a), 10 percent;

(II) the second calendar year during which the program receives payment under subsection (a), 20 percent;

(III) the third calendar year during which the program receives payment under subsection (a), 30 percent;

(IV) the fourth calendar year during which the program receives payment under subsection (a), 40 percent; and

(V) the fifth and subsequent calendar years during which the program receives payment under subsection (a), 50 percent;

of the geographically adjusted national average per resident amount.

(B) MINIMUM PER RESIDENT AMOUNT.—Notwithstanding the provisions of subparagraph (A), the per resident amount for a training program shall not be less than 75 percent of the geographically adjusted national average per resident amount determined in accordance with subparagraph (A)(ii).

(C) NO HISTORIC PAYMENT BASIS.—For purposes of subparagraph (A)(i), the Secretary shall determine the appropriate per resident amount applicable to an entity that—

(i) trains individuals in an approved physician training program that is sponsored by or is affiliated with more than one entity that had a per resident amount determined under section 1886(h) of the Social Security Act which reflects the average per resident amounts under such section for such entities; or

(ii) trains individuals in an approved physician training program that is sponsored by or is affiliated with an entity that did not have a per resident amount determined under such section for cost reporting periods beginning before 1996 which reflects the national average per resident amount.

(3) ADJUSTMENT FACTOR.—Payments under this section shall be subject to an adjustment factor, as determined by the Secretary, so that total payments in any year will not exceed the amounts specified in subsection (a) and as provided in subsection (d).

(4) ADDITIONAL PROVISIONS REGARDING NATIONAL AVERAGE COST.—

(A) DETERMINATION OF NATIONAL AVERAGE COST.—The Secretary shall in accordance with clause (ii) of subsection (b)(2)(A) determine, for academic year 1992–1993, an amount equal to the geographically adjusted national average per resident amount described in such clause with respect to training a participant in an approved physician training program. The national average applicable under such clause for a calendar year for such programs is, subject to subparagraph (B), the amount determined under the preceding sentence increased by the amount necessary to offset the effects of inflation occurring since academic year 1992–1993, as determined through use of the consumer price index.

(B) GEOGRAPHIC ADJUSTMENT.—The national average determined under subparagraph (A) and applicable to a calendar year shall, in the case of the eligible entity involved, be adjusted by a factor to reflect regional differences in the applicable wage and wage-related costs.

(5) FUNDING LEVEL AND ALLOCATION METHOD.—Not later than January 1, 1998, the Secretary shall complete a study to determine the effect and appropriateness of the funding level and allocation method described in subsection (a) and paragraphs (1), (2), (3), and (4) of this subsection on the operation of training programs and on national workforce goals and shall compile the findings and recommendations derived from such study in a report to be submitted to the President and the Congress.

(c) DETERMINATION OF FULL-TIME-EQUIVALENT TRAINING PARTICIPANTS.—

(1) RULES.—The Secretary shall establish rules consistent with this subsection for the computation of the number of full-time-equivalent training participants in approved physician training programs under subsection (b)(1).

(2) ADJUSTMENT FOR PART-YEAR OR PART-TIME TRAINING PARTICIPANTS.—Such rules shall take into account individuals who serve as training participants for only a portion of a period in an approved physician training program or simultaneously with more than one such program.

(3) WEIGHTING FACTORS FOR CERTAIN TRAINING PARTICIPANTS.—

(A) IN GENERAL.—Subject to paragraph (4), such rules shall provide, in calculating the number of full-time-equivalent training participants in an approved physician training program—

(i) for a training participant who is in the participant's initial training period, the weighting factor is 1.00,

(ii) except as provided in clause (iii), for a training participant who is not in the participant's initial training period, the weighting factor is 0.75, and

(iii) in an academic year in which the total number of training participant positions in all approved physician training programs in all medical specialities does not exceed—

(I) 134 percent of United States medical school graduates in academic year 1997–1998, the weighting factor for a training participant who is not in the training participant's initial training period is 0.85;

(II) 126 percent of United States medical school graduates in academic year 1997–1998, the weighting factor for such a participant is 0.90;

(III) 118 percent of United States medical school graduates in 1997–1998, the weighting factor for such a participant is 0.95 percent; and

(IV) 110 percent of United States medical school graduates in academic year 1997–1998, the weighting factor for such a participant, the weighting factor is 1.0.

(B) STUDY.—Not later than January 1, 1998, the Secretary shall complete a study to determine the effect that applying weighting factors in calculating the number of full-time-equivalent training participants would have on supporting national workforce goals.

(4) INTERNATIONAL MEDICAL GRADUATES REQUIRED TO PASS FMGEMS EXAMINATION.—Such rules shall provide that, in the case of an individual who is an international medical graduate, the individual shall not be counted as a training participant unless—

(A) the individual has passed the FMGEMS examination or the U.S. Medical Licensing Examination, or

(B) the individual has previously received certification from, or has previously passed the examination of, the Educational Commission for Foreign Medical Graduates.

(5) COUNTING TIME SPENT IN OUTPATIENT SETTINGS.—Such rules shall provide that only time spent in activities relating to patient care shall be counted and that all the time so spent by a training participant under an approved physician training program shall be counted towards the determination of full-time equivalency, without regard to the setting in which the activities are performed.

(d) LIMITATION.—Subject to subsection (a), if the amount available from the Graduate Medical Education Account established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986 for a calendar year is insufficient for providing each eligible entity with the amount of payments determined under subsection (b) for the entity for such year, the Secretary shall make such pro rata reductions in the amounts so determined as may be necessary to ensure that the total of payments made under section 3031 for such year equals the amount specified under section 3033(a).

(e) DEFINITIONS.—For purposes of this subtitle:

(1) CONSUMER PRICE INDEX.—The term "consumer price index" means the Consumer Price Index for All Urban Consumers (U.S. city average).

(2) INTERNATIONAL MEDICAL GRADUATE.—The term "international medical graduate" means a training participant who is a graduate of a school of medicine, school of osteopathy, school of dentistry, or school of podiatry that is not—

(A) a school of medicine accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges (or approved by such Committee as meeting the standards necessary for such accreditation),

(B) a school of osteopathic medicine accredited by the American Osteopathic Association, or approved by such Association as meeting the standards necessary for such accreditation,

(C) a school of dentistry which is accredited by the Commission on Dental Accreditation, or

(D) a school of podiatric medicine which is accredited by the Council of Podiatric Medical Education of the American Podiatric Medical Association.

(3) FMGEMS EXAMINATION.—The term "FMGEMS examination" means parts I and II of the Foreign Medical Graduate Examination in the Medical Sciencs or any successor examination recognized by the Secretary for this purpose.

(4) GENERAL HEALTH CARE INFLATION FACTOR.—(A) The term "general health care inflation factor", with respect to a year, means the percentage increase in the consumer price index for the year plus the following:

(i) For 1997, 1.0 percentage points.

(ii) For 1998, 0.5 percentage points.

(iii) For 1999 and for 2000, 0 percentage points.

(B) YEARS AFTER 2000.—

(i) RECOMMENDATION TO CONGRESS.—In 1999, the Secretary shall submit to Congress recommendations, after consultation with the Federal Reserve Board, on what the general health care inflation factor should be for years beginning with 2001.

(ii) FAILURE OF CONGRESS TO ACT.—If the Congress fails to enact a law specifying the general health care inflation factor for a year after 2000, the Secretary, in January of the year before the year involved, shall compute such factor for the year involved. Such factor shall be the product of the factors described in subparagraph (C) for that fiscal year, minus 1.

(iii) STUDY BY FEDERAL RESERVE BOARD.—Not later than January 1, 1999, the Federal Reserve Board shall conduct a study, and report to the Secretary, concerning what the general health care inflation factor should be for years beginning with 2001. Such study shall consider whether continued indexing with respect to such factor is advisable and whether the consumer price index should be used (in whole or in part, modified or unmodified) with respect to premium caps for future years. The recommendations of the Federal Reserve Board under such study shall be considered in the recommendations submitted under clause (i).

(C) FACTORS.—The factors described in this subparagraph for a year are the following:

(i) CPI.—1 plus the percentage change in the CPI for the year, determined based upon the percentage change in the average of the CPI for the 12-month period ending with August 31 of the previous fiscal year over such average for the preceding 12-month period.

(ii) REAL GDP PER CAPITA.—1 plus the average annual percentage change in the real, per capita gross domestic product of the United States during the 3-year period ending in the preceding calendar year, determined by the Secretary based on data supplied by the Department of Commerce.

(5) INITIAL TRAINING PERIOD.—The term "initial training period" means the period of time required for board eligibility, except that—

(A) except as provided in subparagraph (B), in no case shall the initial period of participation exceed an aggregate period of formal training of more than 5 years for any individual, and

(B) a period, of not more than 2 years, during which an individual is in a—

(i) residency or fellowship program in geriatric medicine, preventive medicine, or adolescent medicine, or

(ii) a fellowship program in family medicine, general internal medicine or general pediatrics, which provides training for a faculty position in family medicine, general internal medicine or general pediatrics,

shall be treated as part of the initial training participation period, but shall not be counted against any limitation on the initial training period.

The initial training period shall be determined, with respect to a training participant, as of the time the training participant enters any approved physician training program.

(6) PERIOD OF TIME REQUIRED FOR BOARD ELIGIBILITY.—

(A) GENERAL RULE.—Subject to subparagraphs (B) and (C), the term "period of time required for board eligibility" means, for a training participant, the minimum number of years of formal training necessary to satisfy the requirements for initial board eligibility in the particular specialty for which the training participant is training.

(B) APPLICATION OF 1985–1986 DIRECTORY.—Except as provided in subparagraph (C), the period of time required for board eligibility shall be such period specified in the 1985–1986 Directory of Residency Training Programs published by the Accreditation Council on Graduate Medical Education or a more current version of such Directory or the equivalent directory regarding postdoctoral training for osteopathic physician training programs.

(C) CHANGES IN PERIOD OF TIME REQUIRED FOR BOARD ELIGIBILITY.—If the Accreditation Council on Graduate Medical Education, in its Directory of Residency Training Programs or the equivalent directory regarding postdoctoral training for osteopathic physician training programs—

(i) increases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, above the period specified in its 1985–1986 Directory, the Secretary may increase the period of time required for board eligibility for that specialty, but not to exceed the period of time required for board eligibility specified in that later Directory, or

(ii) decreases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, below the period specified in its 1985–1986 Directory, the Secretary may decrease the period of time required for board eligibility for that specialty, but not below the period of time required for board eligibility specified in that later Directory.

SEC. 3034. PAYMENTS FOR DENTAL AND PODIATRIC POSITIONS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the provisions of this chapter shall apply with respect to dental and podiatric medicine training programs.

(b) LIMITATION.—Subject to the amount made available under section 3033(a), the aggregate amount available for making payments to all approved physician training programs in dentistry and podiatric medicine may not exceed $200,000,000 in any calendar year.

(c) PAYMENT METHODOLOGY.—The Secretary shall determine the amount to be paid to approved dental and podiatric training programs on the basis of a methodology to be developed by the Secretary that is equivalent to the methodology described in section 3033(b)(4).

CHAPTER 2—FEDERAL FORMULA PAYMENTS FOR NURSING AND HEALTH PROFESSIONS EDUCATION

SEC. 3041. FEDERAL FORMULA PAYMENTS FOR NURSING AND HEALTH PROFESSIONS EDUCATION.

(a) IN GENERAL.—The Secretary shall make payments for calendar year 1997 and each subsequent calendar year to an eligible entity that submits an application in accordance with subsection (b) for the purpose specified in subsection (c). The Secretary shall make such payments in accordance with section 3042.

(b) ELIGIBLE ENTITY.—For purposes of this chapter, the term "eligible entity" means an entity that would have been eligible to receive payments for nursing or health professions education under section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) (as in effect on the day before the date of the enactment of the Health Security Act).

(c) PURPOSE.—The purpose specified in this subsection is to assist an eligible entity with the costs of nursing or health professions education.

SEC. 3042. AVAILABILITY OF FUNDS FOR PAYMENTS; AMOUNT OF PAYMENTS.

(a) IN GENERAL.—The following amounts shall be available for making payments under section 3041 from the Nursing and Health Professions Education Account established under section 9551(a)(2)(C) of the Internal Revenue Code of 1986:

(1) In the case of calendar year 1997, the amount of payments that were made under title XVIII of the Social Security Act in the previous calendar year that were attributable to payments made pursuant to section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) for the purpose described in section 3041(c) in the previous calendar year, updated by the annual expected rate of growth in such payments, based upon the average rate of growth in such payments over the previous 4 calendar years.

(2) In subsequent calendar years, the amount of payments that were made under this subsection in the previous calendar year, updated by the annual expected rate of growth in such payments, based upon the average rate of growth over the previous 4 calendar years.

(b) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Subject to paragraph (2), the payment amount with respect to any eligible entity under this section shall be equal to the amount that the entity would have received for such calendar year under the payment methodology for payments under section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) (as in effect on the day before the date of the enactment of the Health Security Act) for such payments.

(2) ADJUSTMENT FACTOR.—Payments under paragraph (1) shall be subject to an adjustment factor, as determined by the Secretary, so that total payments in any year will not exceed the amounts specified in subsection (a).

CHAPTER 3—ACADEMIC HEALTH CENTERS AND OTHER ELIGIBLE INSTITUTIONS

SEC. 3051. FEDERAL FORMULA PAYMENTS TO ACADEMIC HEALTH CENTERS AND OTHER ELIGIBLE INSTITUTIONS.

(a) IN GENERAL.—In the case of an eligible institution that in accordance with section 3052 submits to the Secretary a written request for calendar year 1997 or any subsequent calendar year, the Secretary shall make payments for such year to the eligible institution for the purpose specified in subsection (b). The Secretary shall make the

VOL 140 PT 16 AG 12 — 18 1994 UMI

payments in an amount determined in accordance with section 3053, and may administer the payments as a contract, grant, or cooperative agreement.

(b) PAYMENTS FOR COSTS INCURRED BY ELIGIBLE INSTITUTIONS.—

(1) COSTS ATTRIBUTABLE TO ACADEMIC NATURE OF INSTITUTIONS.—With respect to an eligible institution that is a qualified academic health center or a qualified teaching hospital, the purpose of payments under subsection (a) is to assist such institutions with costs that are not routinely incurred by other entities in providing health services, but are incurred by such institutions in providing health services by virtue of the academic nature of such institutions. Such costs include—

(A) with respect to productivity in the provision of health services, costs resulting from the reduced rate of productivity of faculty due to teaching responsibilities;

(B) the uncompensated costs of clinical research; and

(C) exceptional costs associated with the treatment of health conditions with respect to which an eligible institution has specialized expertise (including treatment of rare diseases, treatment of unusually severe conditions, and providing other specialized health care).

(2) HIGH INTENSITY NONTEACHING RURAL HOSPITAL.—With respect to an eligible institution that is a high intensity nonteaching rural hospital, the purpose of payments under subsection (a) is to assist the institution with the costs of treating a substantial number of severely ill patients.

(c) DEFINITIONS.—

(1) ACADEMIC HEALTH CENTER.—For purposes of this subtitle, the term "academic health center" means an entity that operates a teaching hospital that sponsors or is affiliated with an approved physician training program.

(2) ELIGIBLE INSTITUTION.—For purposes of this subtitle, the term "eligible institution", with respect to a calendar year, means a qualified academic health center, qualified teaching hospital, or high intensity nonteaching rural hospital that submits to the Secretary a written request in accordance with section 3052.

(3) HIGH INTENSITY NONTEACHING RURAL HOSPITAL.—For purposes of this subtitle, the term "high intensity nonteaching rural hospital" means a nonteaching hospital located in a rural area as defined in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)) that the Secretary determines has a case-mix index (defined as the average weight of all cases in the hospital for all diagnosis-related groups as determined in accordance with section 1886(d)(4) of such Act (42 U.S.C. 1395ww(d)(4)) of greater than 120 percent of the national average case-mix index for all rural hospitals.

(4) QUALIFIED CENTER OR HOSPITAL.—For purposes of this subtitle:

(A) The term "qualified academic health center" means an academic health center that operates a teaching hospital.

(B) The term "qualified teaching hospital" means any teaching hospital other than a teaching hospital that is operated by an academic health center.

(6) TEACHING HOSPITAL.—For purposes of this subtitle, the term "teaching hospital" means a hospital that sponsors or is affiliated with an approved physician training program (as defined in section 3012(b) or section 3031(d)).

SEC. 3052. REQUEST FOR PAYMENTS.

(a) IN GENERAL.—For purposes of section 3051, a written request for payments under such section is in accordance with this section if—

(1) the eligible institution involved submits the request not later than the date specified by the Secretary;

(2) the request is accompanied by each funding agreement described in this part; and

(3) the request is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(b) CONTINUED STATUS AS ELIGIBLE INSTITUTION.—A funding agreement for payments under section 3051 is that the eligible institution involved will maintain status as such an eligible institution. For purposes of this subtitle, the term "funding agreement", with respect to payments under section 3051 to such an eligible institution, means that the Secretary may make the payments only if the eligible institution makes the agreement involved.

(c) COMPLIANCE WITH SPECIALTY ALLOCATIONS.—A funding agreement for payments under section 3051 is that an eligible institution that operates or is affiliated with an approved physician training program shall receive such payments only if the number of specialists in such a program is consistent with the allotment under section 3015 or 3013(e).

SEC. 3053. AVAILABILITY OF FUNDS FOR PAYMENTS; ANNUAL AMOUNT OF PAYMENTS.

(a) ANNUAL ACADEMIC HEALTH CENTER ACCOUNT.—

(1) AVAILABILITY OF FUNDS FROM ACCOUNT.—Except as provided in paragraph (2), the following amounts shall be available for a calendar year for making payments under section 3051 from the Academic Health Center Account established under section 9551(a)(2)(B) of the Internal Revenue Code of 1986 is the following, as applicable to the calendar year:

(A) In the case of calendar year 1997, $6,300,000,000.

(B) In the case of calendar year 1998, $7,300,000,000.

(C) In the case of calendar year 1999, $8,200,000,000.

(D) In the case of calendar year 2000, $9,400,000,000.

(E) In the case of calendar year 2001, $10,600,000,000.

(F) In the case of each subsequent calendar year, the amount specified in subparagraph (E) increased by the product of such amount and the general health care inflation factor (as defined in subsection (d)).

Each of the amounts specified under the preceding subparagraphs for a calendar year shall be reduced by an amount equal to the amount specified under section 3041(a) for such year.

(2) SPECIAL ALLOTMENTS.—Of the amounts available for a calendar year for making payments under subsection (a) pursuant to paragraph (1)—

(A) such amounts as are necessary shall be reserved to make payments to eligible institutions that are high intensity nonteaching rural hospitals; and

(C) the remainder of the amounts available for making payments under subsection (a), shall be expended for making payments under section 3051 to other eligible institutions.

(b) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE INSTITUTIONS.—

(1) QUALIFIED ACADEMIC HEALTH CENTERS AND QUALIFIED TEACHING HOSPITALS.—The amount of payments required in section 3051 to be made to a qualified academic health center or a qualified teaching hospital for a calendar year is an amount equal to the product of—

(A) the amount available for making such payments for the calendar year from the Academic Health Center Account established under section 9551(a)(2)(B) of the Internal Revenue Code of 1986; and

(B) the percentage constituted by the ratio of—

(i) the product of—

(I) the sum, for all discharges of individuals, of the amounts otherwise paid on behalf of such individuals; and

(II) an adjustment factor equal to (e raised to the power (.405 r) –1), where "r" is the ratio of the qualified academic health center's or the qualified teaching hospital's full-time equivalent training participants to beds and "e" is the natural log of one; and

(ii) the sum of the respective amounts determined under clause (I) for qualified academic health centers and qualified teaching hospitals.

(2) HIGH INTENSITY NONTEACHING RURAL HOSPITAL.—Subject to the annual amount reserved for high intensity nonteaching rural hospitals under subsection (a)(2)(A) for a calendar year, the amount required under section 3051 to be made to a high intensity nonteaching rural hospital is an amount equal to 5 percent of the inpatient costs of patient care for all patients of the hospital.

(3) ADJUSTMENT FACTOR.—Payments under this section shall be subject to an adjustment factor, as determined by the Secretary, so that total payments in any year will not exceed the amounts specified in 3053(a).

(c) REPORT REGARDING MODIFICATIONS IN FORMULA.—Not later than July 1, 2000, the Secretary shall submit to the Congress a report containing any recommendations of the Secretary for the modification of the program of formula payments described in this chapter. In preparing such report the Secretary shall consider—

(1) the costs described in section 3051(b) incurred by academic health centers;

(2) the adequacy of the formula payments established in this chapter to cover such costs, taking into account any additional revenues to cover such costs paid by other payers, including private health plans;

(3) the impact of the current payment methodology on training in the ambulatory setting of national workforce goals, and its effect on the education and training of primary care physicians;

(4) the importance to the maintenance of a quality national health care system of academic health centers in providing for the training of health professionals, in conducting clinical research, and in providing innovative, technically advanced care; and

(5) the overall impact of the reformed health care system on the ability of academic health centers to perform such functions.

(d) GENERAL HEALTH CARE INFLATION FACTOR.—For purposes of this subtitle, the term "general health care inflation factor", with respect to a year, has the meaning given such term in section 3033(e)(4) for such year.

Subpart D—Transitional Provisions

SEC. 3055. TRANSITIONAL PAYMENTS TO INSTITUTIONS.

(a) PAYMENTS REGARDING EFFECTS OF SUBPART B ALLOCATIONS.—For each of the calendar years specified in subsection (b)(2), in the case of an eligible entity that submits to the Secretary an application for such year in accordance with subsection (d), the Secretary shall make payments for the year to the entity for the purpose specified in subsection (c). The Secretary shall make the payments in an amount determined in accordance with subsection (e), and may administer the payments as a contract, grant, or cooperative agreement.

(b) ELIGIBLE ENTITIES LOSING SPECIALTY POSITIONS; RELEVANT YEARS REGARDING PAYMENTS.—

(1) ELIGIBLE ENTITIES LOSING SPECIALTY POSITIONS.—The Secretary may make payments under subsection (a) to an eligible entity only if, with respect to the calendar year involved, the entity meets the following conditions:

(A) During the year preceding the initiation of transitional payments, the entity—

(i) received payments under section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)) for residents in one or more approved programs, or

(ii) sponsored or was affiliated with one or more approved physician training programs that received payments under section 3031.

(B) The aggregate number of full-time-equivalent training participant positions in such programs has been reduced below the aggregate number of full-time-equivalent training participant positions for the academic year 1993–1994.

(C) The aggregate number of full-time-equivalent training participant positions in such programs spent in patient care activities at the entity has been reduced below the aggregate number of full-time-equivalent training participant positions for the academic year 1993–1994, as a result of allocations under subpart B, or as a result of voluntary changes under section 3013(e) prior to January 1, 2002.

(2) RELEVANT YEARS.—Except as provided in subsection (e)(3), the Secretary may make payments under subsection (a) to an eligible entity only for the first four calendar years after the initial calendar year for which the entity meets the conditions described in paragraph (1).

(3) ELIGIBLE ENTITY.—For purposes of this section, the term "eligible entity" means a qualified academic health center or teaching hospital entity that submits to the Secretary an application in accordance with subsection (d).

(c) PURPOSE OF PAYMENTS.—The purpose of payments under subsection (a) is to assist an eligible entity with the costs of operation. A funding agreement for such payments is that the entity involved will expend the payments only for such purpose.

(d) APPLICATION FOR PAYMENTS.—For purposes of subsection (a), an application for payments under such subsection is in accordance with this subsection if—

(1) the eligible entity involved submits the application not later than the date specified by the Secretary;

(2) the application demonstrates that the entity meets the conditions described in subsection (b)(1) and that the entity has cooperated with the approved physician training programs of the entity in meeting the condition described in section 3032(b);

(3) the application contains each funding agreement described in this subpart and the application provides such assurances of compliance with the agreements as the Secretary may require; and

(4) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(e) AMOUNT OF PAYMENTS.—

(1) IN GENERAL.—Subject to the amounts available from the Graduate Medical Education Account established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986 in the calendar year involved, the amount of payments required in subsection (a) to be made to an eligible entity for such year is the product of the amount determined under paragraph (2) and the applicable percentage specified in paragraph (3).

(2) NUMBER OF SPECIALTY POSITIONS LOST.—For purposes of paragraph (1), the amount determined under this paragraph for an eligible entity for the calendar year involved is the product of—

(A) an amount equal to the aggregate number of full-time equivalent specialty positions lost; and

(B) the amount that would be received under section 3033 for each speciality position lost.

(3) APPLICABLE PERCENTAGE.—

(A) IN GENERAL.—Except as provided under subparagraph (B), for purposes of paragraph (1), the applicable percentage for a calendar year is the following, as applicable to such year:

(i) For the first calendar year after calendar year 1996 for which the eligible entity involved meets the conditions described in subsection (b)(1), 100 percent.

(ii) For the second such year, 75 percent.

(iii) For the third such year, 50 percent.

(iv) For the fourth such year, 25 percent.

(B) EXCEPTIONS.—

(i) URBAN OR RURAL UNDERSERVED COMMUNITIES.—If the Secretary determines that access to health care in a rural or urban underserved community would be impaired by the annual reductions of the applicable percentage described in subparagraph (A), the Secretary may eliminate such annual reduction or adjust such percentage (at the discretion of the Secretary) to eligible institutions in such a community.

(ii) VOLUNTARY COMPLIANCE POSITIONS.—For the number of positions determined in paragraph (4)(A) that result from voluntary reductions in the number of specialty positions under section 3013(e), the applicable percentage for a calendar year is the following as applicable to such year:

(I) For the first 2 calendar years after calendar year 1996 for which the eligible entity involved meets the conditions described in subsection (b)(1), 100 percent.

(II) For the third such year, 75 percent.

(III) For the fourth such year, 50 percent.

(IV) For the fifth such year, 25 percent.

(4) DETERMINATION OF SPECIALTY POSITIONS LOST.—

(A) For purposes of this paragraph, the aggregate number of specialty positions lost, with respect to a calendar year, is the difference between—

(i) the aggregate number of specialty positions described in subparagraph (B) for the eligible entity involved for the academic year beginning in such calendar year; and

(ii) the aggregate number of such specialty positions at the entity for academic year 1993–1994.

(B) For purposes of subparagraph (A), the specialty positions described in this subparagraph are specialty positions in the medical specialities with respect to which payments under section 3031 are made to the approved physician training programs of the eligible entities involved.

(C) The total number of positions lost for all eligible entities may not exceed the number by which the aggregate number of specialty positions with respect to which payments are made under section 3031 for the academic year beginning in such calendar year is below the number of full-time-equivalent positions for the academic year 1993–1994.

SEC. 3056. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) WAIVER.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended—

(1) in the first proviso by inserting "(or, in the case of an alien described in clause (iii), pursuant to the request of an interested State agency)" after "interested United States Government agency"; and

(2) by inserting after "public interest" the following: "except that in the case of a waiver requested by an interested State agency the waiver shall be subject to the requirements of section 214(k)".

(b) RESTRICTIONS ON WAIVER.—Section 214 of that Act (8 U.S.C. 1184) is amended by adding at the end the following:

"(k)(1) In the case of a request by an interested State agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country the Director of such country furnishes a statement in writing that it has no objection to such waiver;

"(B) the alien demonstrates a bona fide offer of full-time employment at a health facility and agrees to begin employment at such facility within 90 days of receiving such waiver and agrees to continue to work in accordance with paragraph (2) at the health care facility in which the alien is employed for a total of not less than 3 years (unless the Attorney General determines that extenuating circumstances such as the closure of the facility or hardship to the alien would justify a lesser period of time);

"(C) the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed twenty.

"(2) Whenever an interested State agency requests the waiver of the two-year residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall change the status of the alien to that of an alien described in section 101(a)(15)(H)(b).

"(3) If an alien whose status was changed under paragraph (2) demonstrates that the alien has worked for a period of 5 years in a health professional shortage area, then the Attorney General may approve a petition filed on the alien's behalf by the health care facility in which the alien is employed seeking change of the alien's status to that of a special immigrant described in section 101(a)(27)(L).

"(4) Notwithstanding any other provision of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien described in clause (iii) of that section, who has not otherwise been accorded status under section 101(a)(27)(L), if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C).".

VOL 140 PT 16 AG 12 — 18 1994 UMI

(c) SPECIAL IMMIGRANT STATUS.—Section 101(a)(27) of the Immigration and Nationality Act is amended by adding at the end the following new subparagraph:

"(L) immigrants whose status have been changed from that of an alien described in paragraph (15)(H)(b) pursuant to section 214(k)(2), except that not more than 500 immigrants may be admitted in any fiscal year under this subparagraph.".

(d) GROUNDS FOR DEPORTATION.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended by adding at the end the following new subparagraph:

"(I) FAILURE TO MAINTAIN EMPLOYMENT AS A HEALTH CARE PROFESSIONAL.—Any alien described in section 212(e)(iii) who fails to maintain employment in accordance with subparagraphs (B) and (C) of section 212(k)(1).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after the date of enactment of this Act and before June 1, 2005.

PART 2—HEALTH PROFESSIONS SCHOOLS PAYMENTS

Subpart A—Payments to Medical Schools

SEC. 3061. FEDERAL PAYMENTS TO MEDICAL SCHOOLS.

(a) ENTITLEMENT.—Each eligible medical school that in accordance with section 3062 submits to the Secretary an application for academic year 1997, or any subsequent academic year, shall be entitled to payments for such year for the purpose specified in subsection (b). The Secretary shall make such payments in an amount determined in accordance with section 3063, and shall administer the payments as a grant. The preceding sentence constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide funding for such payments in the amounts, and for the years specified in this subpart.

(b) PAYMENTS TO MEDICAL SCHOOLS.—The purpose specified in this subsection is to assist an eligible medical school with the direct costs of academic programs including the education of medical students (especially in primary health care and ambulatory training), graduate students in biomedical sciences, and otherwise unfunded faculty research. Payments under this section shall supplement and not supplant existing resources for this purpose. A funding agreement for such payments is that the medical school involved will expend the payments received pursuant to section 3063(b) as follows:

(1) 50 percent shall be expended for primary health care education (including prevention), and peer reviewed primary care research in departments and divisions of primary care, including family medicine departments, and divisions of general internal medicine, geriatric medicine, and general pediatrics, or in medical schools in which primary care activities are primarily performed by other organizational units of the medical school, such other units. The medical school will distribute such amounts among the departments, divisions, or other units of primary care so that the distribution of such amounts bears a reasonable relationship to the amount of ambulatory primary care education of medical students in such departments and divisions and the national workforce goals and shall specify such information and the distribution of funds in the application under section 3062.

(2) 25 percent shall be expended for other ambulatory training. The medical school shall give priority for expending such amounts to funding ambulatory care training in community and rural area health centers.

(3) 25 percent shall be expended for the support of peer-reviewed faculty research in biomedicine and health services.

(c) PER CAPITA PAYMENTS BY MEDICAL SCHOOLS FOR OFF-SCHOOL EDUCATION.—A funding agreement for payments under subsection (a) for an eligible medical school for an academic year is that if, for the academic year, one or more students is enrolled (or accepted for enrollment) in the medical school on the contingency of successfully completing for the academic year a substantial number of hours in medical education through an educational institution that does not operate a medical school, and if the medical school provides credit toward a doctorate in medicine for the hours successfully completed at such other institution, then the medical school will pay to the other institution for such academic year an amount equal to the product of—

(1) the product of—

(A) the number of such students attending the other institution for such academic year; and

(B) the percentage of the academic year spent at the other institution; and

(2) the quotient of—

(A) the amount of payments made to the medical school under subsection (a) for the academic year; over

(B) the number of students in the eligible medical school in the academic year (including students described in this subsection).

(d) ELIGIBLE MEDICAL SCHOOL; SUBPART DEFINITION.—For purposes of this subpart, the term "eligible medical school" with respect to the academic year involved, means an approved medical school that submits to the Secretary an application for such year in accordance with section 3062.

SEC. 3062. APPLICATION FOR PAYMENTS.

For purposes of section 3061(a), an application for payments under such section for an academic year is in accordance with this section if—

(1) the dean (or appropriate presiding official) of the eligible medical school submits the application not later than the date specified by the Secretary;

(2) the application contains each funding agreement described in this subpart and provides such assurances of compliance with the agreements as the Secretary may require; and

(3) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

SEC. 3063. AUTHORIZATION OF APPROPRIATIONS; ANNUAL AMOUNT OF PAYMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—The appropriation authorized for each of the following academic years for making payments pursuant to section 3061(a) shall not be less than or in excess of the following:

(A) In the case of academic year 1997, $200,000,000.

(B) In the case of academic year 1998, $300,000,000.

(C) In the case of academic year 1998, $400,000,000.

(D) In the case of academic year 2000, $500,000,000.

(E) In the case of academic year 2001, $600,000,000.

(F) In the case of each subsequent academic year, the amount specified in subparagraph (F) increased by the product of such amount and the general health care inflation factor (as defined in subsection (d)).

(b) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE PROGRAMS.—Subject to the annual amount available for making payments pursuant to subsection (a) for an academic year, the amount of the payment required under section 3041 to be made to an eligible medical school for the academic year is an amount equal to the sum of—

(1) the product of ½ of the amount available for the academic year pursuant to subsection (a) and the proportion of students (as determined by the Secretary) at the eligible medical school in academic year 1993-1994 compared to all students enrolled in eligible medical schools nationwide in academic year 1993-1994;

(2) the product of ¼ of the amount available for the academic year pursuant to subsection (a) and the proportion of peer-reviewed research conducted by the faculty at the eligible medical school (including health services research) compared to all such research conducted by the faculty at all eligible medical schools nationwide; and

(3) the product of ¼ of the amount available for the academic year pursuant to subsection (a) and the proportion of the eligible medical school's number of graduates in primary care specialties from the class graduating 6 years prior to such academic year who complete eligible programs in primary health care and do not subsequently enter a nonprimary health care training program compared to such number of graduates of all eligible medical schools nationwide in such year.

The Secretary shall establish a method for measuring faculty research contributions.

(c) STUDIES.—

(1) FUNDING LEVEL AND ALLOCATION METHOD.—Not later than January 1, 1998, the Secretary shall arrange for an independent study and report to be completed, by the Institute of Medicine or other similar entity, concerning the amount of and allocation method for medical school funding, and the impact of the payments under this part on national workforce goals, including the education and training of primary care physicians. Such report shall be submitted to the President and the Congress and shall include findings and recommendations as to the appropriateness of modifying funding levels or allocations.

(2) IMPACT OF HEALTH CARE REFORM ON MEDICAL EDUCATION.—Not later than January 1, 2000, the Secretary shall arrange for an independent study and report to be completed, by the Institute of Medicine or other similar entity, concerning the impact of health reform on undergraduate medical education. Such report shall be submitted to the President and the Congress and shall include appropriate findings and recommendations.

(d) GENERAL HEALTH CARE INFLATION FACTOR.—As used in this subtitle, the term "general health care inflation factor" with respect to a year, has the meaning given such term in section 3033(e)(4) for such year.

Subpart B—Payments to Nursing Programs

SEC. 3071. FEDERAL PAYMENTS TO GRADUATE NURSE TRAINING PROGRAMS.

(a) FEDERAL PAYMENTS TO GRADUATE NURSE TRAINING PROGRAMS.—

(1) ENTITLEMENT.—Each eligible graduate nurse training program that in accordance with paragraph (2) submits to the Secretary an application for calendar year 1997 or any subsequent calendar year shall be entitled to payments for such year to the program for the purpose specified in paragraph (3). The Secretary shall make such payments in an amount determined in accordance with subsection (b), and shall administer the payments as a grant. The preceding sentence constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide funding for such payments in the amounts, and for the years specified in this subpart.

(2) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments for a calendar year is in accordance with this paragraph if—

(A) the eligible graduate nurse training program involved submits the application not later than the date specified by the Secretary;

(B) the application provides such assurances as the Secretary may require that the program will expend payments only for the purpose described in paragraph (3);

(C) the application contains each funding agreement described in this subpart and the application provides such assurances of compliance with the agreements as the Secretary may require;

(D) the application contains an assurance that the graduate nurse training program shall annually submit a report on the costs of clinical training of nurses in such manner as the Secretary may require; and

(E) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(3) PAYMENTS FOR OPERATION OF GRADUATE NURSE TRAINING PROGRAMS.—The purpose of payments under paragraph (1) is to assist an eligible graduate nurse training program with the costs of the clinical portions of training programs and supporting full-time enrollees in such training programs.

(b) AUTHORIZATION OF APPROPRIATIONS; ANNUAL AMOUNT OF PAYMENTS.—

(1) IN GENERAL.—The appropriation authorized for each of the following calendar years for making payments pursuant to subsection (a)(1) shall not be less than or in excess of the following:

(A) In the case of calendar year 1997, $200,000,000.

(B) In the case of each subsequent calendar year, the amount specified in subparagraph (A) increased by the product of such amount and the general health care inflation factor as defined in subsection (c).

(2) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE PROGRAMS.—Subject to the annual amount available under paragraph (1) for a calendar year, the amount of payments required under subsection (a) to be made to an eligible graduate nurse training program that submits to the Secretary an application for such year in accordance with subsection (a)(2) is an amount equal to the product of—

(A) the number of full-time enrollees in the program; and

(B) the estimated national average per full-time enrollee cost of each graduate nurse training program described in subsection (c)(1) for the calendar year (as determined by the Secretary), adjusted by a factor to reflect regional differences in the applicable wage and wage related costs.

(3) LIMITATION.—If the annual amount available under paragraph (1) for a calendar year is insufficient for providing each eligible graduate nurse training program that submits to the Secretary an application for such year in accordance with subsection (a)(2) with the amount of payments determined under paragraph (2) for the program for such year, the Secretary shall make such pro rata reductions in the amounts so determined as may be necessary to ensure that the total of payments made under subsection (a) for such year equals the total of such amount.

(c) DEFINITIONS.—For purposes of this part:

(1) ELIGIBLE GRADUATE NURSE TRAINING PROGRAM.—The term "eligible graduate nurse training program" means programs in advanced practice nurse education that are programs for education as nurse practitioners, programs for education as nurse midwives, programs for education as nurse anesthetists, and programs for training clinical nurse specialists that are—

(A) designated by the Secretary as eligible graduate nurse training programs;

(B) accredited programs that award a master degree or a post-master certificate and provide training preparing an individual for practice as an advanced practice nurse; and

(C) existing programs funded in 1994 under section 822 or 831 of the Public Health Service Act that do not award a master degree may also be designated eligible programs.

(2) PROGRAMS FOR EDUCATION AS NURSE PRACTITIONERS.—The term "programs for education as nurse practitioners" means programs meeting the conditions to be programs for which awards of grants and contracts may be made under section 822 of the Public Health Service Act for education as a nurse practitioners.

(3) PROGRAMS FOR EDUCATION AS NURSE MIDWIVES.—The term "programs for education as nurse midwives" means programs meeting the conditions to be programs for which awards of grants and contracts may be made under section 822 of the Public Health Service Act for education as nurse midwives.

(4) PROGRAMS FOR EDUCATION AS NURSE ANESTHETISTS.—The term "programs for education as nurse anesthetists" means programs meeting the conditions to be programs for which awards of grants may be made under section 831 of the Public Health Service Act for education as nurse anesthetists.

(5) PROGRAMS FOR TRAINING CLINICAL NURSE SPECIALISTS.—The term "programs for training clinical nurse specialists" means programs in advanced practice nurse education meeting the conditions to be programs for which awards of grants and contracts may be made under section 821 of the Public Health Service Act.

(6) FULL-TIME ENROLLEE.—The term "full-time enrollee" means an individual who is enrolled in an advanced nurse training program and qualifies as a full-time student at the institution operating such program.

(7) GENERAL HEALTH CARE INFLATION FACTOR.—The term "general health care inflation factor", with respect to a year, has the meaning given such term in section 3033(e)(4) for such year.

SEC. 3072. NATIONAL COUNCIL ON GRADUATE NURSE TRAINING.

(a) IN GENERAL.—There is established within the Department of Health and Human Services a council to be known as the National Council on Graduate Nurse Training.

(b) DUTIES.—The National Council on Graduate Nurse Training shall—

(1) collect and analyze data on trends of supply and demand for advanced practice nurses;

(2) analyze and consider the supply of advanced practice nurses in the context of changes in the overall supply of health professionals;

(3) recommend priorities for support of graduate nurse training by type of programs described in section 3071(c);

(4) report to Congress annually and include in its report the number of students who graduated the previous year from funded programs; and

(5) consider and recommend appropriate standards for assessing the quality of advanced practice nursing clinical training programs.

(c) COMPOSITION.—

(1) IN GENERAL.—The membership of the National Council on Graduate Nurse Training shall include between 12 and 16 individuals who are appointed to the Council from among individuals who are not officers or employees of the United States. Such individuals shall be appointed by the Secretary, and shall include—

(A) a nurse practitioner, a nurse-midwife, a nurse anesthetist, and a clinical nurse specialist; and

(B) an official of a school of nursing, an official of a teaching hospital or other health services entity, and other experts in health care financing, delivery, and professions training.

(2) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the National Council on Graduate Nurse Training shall include individuals designated by the Secretary, the Secretary of Veterans Affairs, and the Secretary of the Department of Defense to serve as members of the Council from among Federal officers or employees who are appointed by the President, by the Secretary, the Secretary of Veterans Affairs, the Secretary of Defense, or other Federal officers who are appointed by the President with the advice and consent of the Senate.

(d) CHAIR.—The Secretary shall, from among members of the National Council on Graduate Nurse Training appointed under subsection (c)(1), designate an individual to serve as the Chair of the Council.

Subpart C—Payments to Dental Schools

SEC. 3073. DENTAL SCHOOLS.

(a) FEDERAL PAYMENTS TO DENTAL SCHOOLS.—

(1) ENTITLEMENT.—Each eligible school of dentistry that in accordance with paragraph (2) submits to the Secretary an application for calendar year 1997 or any subsequent calendar year shall be entitled to payments for such year to the program for the purpose specified in paragraph (3). The Secretary shall make such payments in an amount determined in accordance with subsection (b), and shall administer the payments as a grant. The preceding sentence constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide funding for such payments in the amounts, and for the years specified in this subpart.

(2) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments for a calendar year is in accordance with this paragraph if—

(A) the dean (or appropriate presiding official of the eligible school of dentistry involved) submits the application not later than the date specified by the Secretary;

(B) the application provides such assurances as the Secretary may require that the program will expend payments only for the purpose described in paragraph (3);

(C) the application contains each funding agreement described in this subpart and the application provides such assurances of compliance with the agreements as the Secretary may require; and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(D) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(3) PURPOSE.—With respect to an eligible school of dentistry, the purpose of payments under paragraph (1) is to assist such school with the costs of training dental students, including unreimbursed oral health care costs associated with such training. A funding agreement for such payments is that the school of dentistry involved will expend the payments only for direct expenses determined as allowable by the Secretary.

(4) SCHOOL OF DENTISTRY.—For purposes of this subtitle, the term "eligible school of dentistry" means an accredited public or nonprofit private school in a State that provides training leading to a degree of doctor of dentistry or an equivalent degree, and any advanced training relating to such training.

(b) AUTHORIZATION OF APPROPRIATIONS; ANNUAL AMOUNT OF PAYMENTS.—

(1) IN GENERAL.—The appropriation authorized for each of the following calendar years for making payments pursuant to subsection (a)(1) shall not be less than or in excess of the following:

(A) In the case of each of calendar years 1997, 1998, 1999 and 2000, $50,000,000.

(B) In the case of each subsequent calendar year, the amount specified in subparagraph (A) increased by the product of such amount and the general health care inflation factor as defined in subsection (c).

(2) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE PROGRAMS.—Subject to the annual amount available under paragraph (1) for a calendar year, the amount of payments required under subsection (a) to be made to an eligible school of dentistry that submits to the Secretary an application for such year in accordance with subsection (a)(2) is an amount equal to the sum of—

(A) 75 percent of the amount available pursuant to paragraph (1) multiplied by the ratio of the number of full-time equivalent training participants in the school of dentistry (determined in accordance with a method to be developed by the Secretary) to the national number of full-time equivalent training participants in all schools of dentistry (as determined by the Secretary) in the academic year 1993–1994; and

(B) 25 percent of the amount available pursuant to paragraph (1) multiplied by the ratio of the unreimbursed oral health care costs of the school of dentistry to the national unreimbursed oral health care costs of all schools of dentistry (as determined by the Secretary).

(c) ELIGIBLE SCHOOL OF DENTISTRY.—For purposes of this subpart, the term "eligible school of dentistry" with respect to a calendar year involved, means a school of dentistry that submits to the Secretary an application for such year in accordance with subsection (a)(2).

Subpart II—Payments to Schools of Public Health

SEC. 3074. SCHOOLS OF PUBLIC HEALTH.

(a) FEDERAL PAYMENTS TO SCHOOLS OF PUBLIC HEALTH.—

(1) ENTITLEMENT.—Each eligible school of public health that in accordance with paragraph (2) submits to the Secretary an application for calendar year 1997 or any subsequent calendar year shall be entitled to payments for such year to the program for the purpose specified in paragraph (3). The Secretary shall make such payments in an amount determined in accordance with subsection (b), and shall administer the payments as a grant. The preceding sentence constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide funding for such payments in the amounts, and for the years specified in this subpart.

(2) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments for a calendar year is in accordance with this paragraph if—

(A) the dean (or appropriate presiding official of the eligible school of public health involved submits the application not later than the date specified by the Secretary;

(B) the application provides such assurances as the Secretary may require that the program will expend payments only for the purpose described in paragraph (3);

(C) the application contains each funding agreement described in this subpart and the application provides such assurances of compliance with the agreements as the Secretary may require; and

(D) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(3) PURPOSE.—With respect to an eligible school of public health, the purpose of payments under this paragraph is to assist such school with the costs of training public health professionals in disease prevention and health promotion, the management of health services, health care policy and health care organization, public health practice, outcomes and quality of care, and epidemiologic and biostatistical research. A funding agreement for such payments is that the school of public health involved will expend the payments only for direct expenses determined as allowable by the Secretary.

(4) SCHOOL OF PUBLIC HEALTH.—For purposes of this subpart, the term "school of public health" means an accredited public or non-profit private school in a State that—

(A) is located within a university accredited by one of the recognized regional accrediting bodies;

(B) has as its central concept the prevention of disease and the promotion of health through research, education and professional practice;

(C) offers the Master of Public Health degree;

(D) provides, with sufficient faculty and other resources, education at the master degree level with an emphasis in at least each of the following areas:

(i) Behavioral sciences.

(ii) Biostatistics.

(iii) Environmental and health sciences.

(iv) Epidemiology.

(v) Health services administration; and

(E) offers graduate education at the doctoral degree level in at least 1 of the 5 areas described in subparagraph (D).

(b) AUTHORIZATION OF APPROPRIATIONS; ANNUAL AMOUNT OF PAYMENTS.—

(1) IN GENERAL.—The appropriation authorized for each of the following calendar years for making payments pursuant to subsection (a)(1) shall not be less than or in excess of the following:

(A) In the case of each of calendar years 1997, 1998, 1999 and 2000, $25,000,000.

(B) In the case of each subsequent calendar year, the amount specified in subparagraph (A) increased by the product of such amount and the general health care inflation factor.

(2) PAYMENTS TO SCHOOLS OF PUBLIC HEALTH.—

(A) IN GENERAL.—The amount required under subsection (a) to be made to an eligible school of public health is an amount equal to the product of—

(i) the amount available for making such payments for the calendar year pursuant to paragraph (1); and

(ii) the percentage constituted by the ratio of the number of full-time students enrolled in degree programs in such schools and the number of full-time equivalents of part-time students enrolled in degree programs in such school (determined in accordance with subparagraph (B)) to the national number of all such students in all schools of public health in the academic year beginning in the previous fiscal year.

(B) FULL-TIME EQUIVALENTS.—For the purposes of this paragraph, the number of full-time equivalents of part-time students for a school of public health for any school year is a number equal to—

(i) the total number of credit hours of instructions in such year for which study leading to a graduate degree in public health or an equivalent degree, divided by

(ii) the number of credit hours of instructions which a student pursuing a full-time course of study leading to a graduate degree in public health or equivalent degree.

(C) NEW SCHOOL.—In the case of a new school of public health which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subparagraph (A)(ii) shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made.

(c) ELIGIBLE SCHOOL OF PUBLIC HEALTH.—The term "eligible school of public health" with respect to the calendar year involved, means a school of public health that submits to the Secretary for such year in accordance with subsection (a)(2).

PART 3—RELATED PROGRAMS

Subpart A—Work Force Development

SEC. 3081. PROGRAMS OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) IN GENERAL.—

(1) FUNDING.—For purposes of carrying out the programs described in this section, there is authorized to be appropriated (in addition to amounts that may otherwise be authorized to be appropriated for carrying out the programs)—

(A) $126,000,000 in fiscal year 1996;
(B) $135,000,000 in fiscal year 1997;
(C) $120,000,000 in fiscal year 1998;
(D) $115,000,000 in fiscal year 1999;
(E) $91,500,000 in fiscal year 2000;
(F) $54,900,000 in fiscal year 2001;
(G) $32,010,000 in fiscal year 2002; and
(H) $22,900,000 in each of fiscal years 2003 and 2004.

(2) ADMINISTRATION.—The programs described in this section and carried out with amounts made available under subsection (a) shall be carried out by the Secretary of Health and Human Services.

(b) PRIMARY CARE PHYSICIAN AND PHYSICIAN ASSISTANT TRAINING.—For purposes of subsection (a), the programs described in this section include programs to support projects to train additional numbers of primary care physicians and physician assistants, including projects to enhance community-based generalist training for medical students, residents, and practicing physicians; to retrain mid-career physicians previously certified in a nonprimary care medical specialty; to expand the supply of physicians with special training to serve in rural and inner-city medically underserved areas; to support expansion of service-linked educational networks that train a range of primary care providers in community settings; to provide for training in managed care, cost-effective practice management, and continuous quality improvement; to provide interdisciplinary training for medical students, residents or practicing physicians, and dental students, residents, and dental hygienists, to deliver primary care to individuals with mental, physical, and developmental disabilities, including mental retardation, particularly those who are more than 18 years of age; and to develop additional information on primary care workforce issues as required to meet future needs in health care.

(c) TRAINING OF UNDERREPRESENTED RACIAL AND ETHNIC MINORITIES AND DISADVANTAGED PERSONS.—For purposes of subsection (a), the programs described in this section include a program to support projects to increase the number of racial and ethnic underrepresented minority and disadvantaged persons in medicine, osteopathy, dentistry, advanced practice nursing, public health, psychology, and other health professions, including projects to provide continuing financial assistance for such persons entering health professions training programs; for financial assistance for facility renovation or construction; to increase support for recruitment and retention of such persons in the health professions; to maintain efforts to foster interest in health careers among such persons at the preprofessional level; and to increase the number of racial and ethnic minority health professions faculty at programs that have a significant number of underrepresented racial and ethnic minorities.

(d) EXPANDING RURAL HEALTH CAREER OPPORTUNITIES AND RETENTION EFFORTS.—

(1) IN GENERAL.—For purposes of subsection (a), the programs described in this section include programs to support projects to increase the number of individuals living in rural, underserved communities who enter the fields of medicine, osteopathy, dentistry, advanced practice nursing, public health, psychology, and other health professions, and to encourage the retention of such health care professionals in rural, underserved communities.

(2) RURAL HEALTH CAREER TRAINING.—Projects to increase the number of individuals recruited from rural, underserved areas include projects—

(A) to provide continuing financial assistance for such persons entering health professions education and training programs;

(B) to increase efforts to foster interest in health careers among such persons at the preprofessional level;

(C) to foster the development of training curricula appropriate to rural health care settings; and

(D) to increase support for recruitment of such persons in the health professions.

(3) RETENTION OF RURAL HEALTH CARE PROVIDERS.—Projects to encourage the retention of individuals providing health care in rural, underserved areas include projects—

(A) to establish State and regional locum tenans programs in rural health care settings so that substitute health care providers are available when permanent staff is absent from the health care setting;

(B) to implement programs to foster interdisciplinary team approaches to rural health training and practice; and

(C) to develop state-of-the-art network telecommunications and telemedicine systems to link rural health professionals to other health care providers and academic health care centers.

(e) NURSE TRAINING.—For purposes of subsection (a), the programs described in this section include a program to support projects to support midlevel provider training and address priority nursing workforce needs, including projects to train additional nurse practitioners and nurse midwives; to support baccalaureate-level nurse training programs providing preparation for careers in teaching, community health service, and specialized clinical care; to train additional nurse clinicians and nurse anesthetists; to support interdisciplinary school-based community nursing programs; and to promote research on nursing workforce issues.

(f) INAPPROPRIATE PRACTICE BARRIERS; FULL UTILIZATION OF SKILLS.—For purposes of subsection (a), the programs described in this section include a program—

(1) to develop and encourage the adoption of model professional practice statutes for advanced practice nurses and physician assistants; and to otherwise support efforts to remove inappropriate barriers to practice by such nurses and such physician assistants; and

(2) to promote the full utilization of the professional education and clinical skills of advanced practice nurses and physician assistants.

(g) ADVISORY BOARD ON HEALTH CARE WORK FORCE DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall establish an Advisory Board known as the National Advisory Board on Health Care Workforce Development to advise, consult with, and make recommendations to the Secretary and to the Secretary of Labor on matters relating to—

(A) health care worker supply and its adequacy to assure proper health care delivery system staffing in both rural and urban areas; and

(B) the impact of this Act, and of related changes in law regarding health care, on health care workers and the needs of such workers, including needs regarding education, training, and other career development matters and the relationship of health care workers to health care professionals.

(2) COMPOSITION.—The Board established under paragraph (1) shall be composed of the following members with expertise in health care workforce issues appointed by the Secretary in consultation with the Secretary of Labor:

(A) Five representatives of labor organizations representing health care workers.

(B) Five representatives of health care delivery institutions.

(C) Two representatives from health care education organizations.

(D) Two representatives from consumer organizations.

(3) ASSISTANCE.—The Secretary shall provide the Board with such administrative assistance as may be necessary for the Board to carry out this subsection.

(h) OTHER PROGRAMS.—For purposes of subsection (a), the programs described in this section include a program to train health professionals and administrators in managed care, cost-effective practice management, continuous quality improvement practices, and provision of culturally sensitive care.

(i) RELATIONSHIP TO EXISTING PROGRAMS.—This section may be carried out through programs established in title VII or VIII of the Public Health Service Act, as appropriate and as consistent with the purposes of such programs.

(j) MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES.—Title VII of the Public Health Service Act is amended by inserting after section 778, the following new section:

"SEC. 779. MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES.

"(a) IN GENERAL.—The Secretary may make grants and enter into contracts with university affiliated programs, schools of medicine, and schools of dentistry to assist in meeting the costs of such programs or schools to—

"(1) improve the interdisciplinary training of primary care physicians and dentists in the health care services needs of individuals with mental, physical, and developmental disabilities, including mental retardation, particularly those who are more than 18 years of age;

"(2) develop, evaluate, and disseminate curricula relating to the health care service needs of individuals with mental, physical, and developmental disabilities, including mental retardation, particularly those individuals who are more than 18 years of age;

"(3) support the training and retraining of faculty to provide such instruction; and

"(4) support continuing education of health professionals who provide health care services and support to individuals with mental, physical, and developmental disabilities, including mental retardation, particularly those who are more than 18 years of age.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated, $10,000,000 for each of the fiscal years 1995 through 2000.".

SEC. 3082. PROGRAMS OF THE SECRETARY OF LABOR.

(a) IN GENERAL.—

(1) FUNDING.—For purposes of carrying out the programs described in this section, and for carrying out section 3083, there is authorized to be appropriated (in addition to amounts that may otherwise be authorized to be appropriated for carrying out the programs)—

(A) $252,000,000 in fiscal year 1996;
(B) $180,000,000 in fiscal year 1997;
(C) $160,000,000 in fiscal year 1998;
(D) $153,000,000 in fiscal year 1999;
(E) $122,000,000 in fiscal year 2000;
(F) $73,200,000 in fiscal year 2001;
(G) $42,680,000 in fiscal year 2002; and
(H) $30,500,000 in each of fiscal years 2003 and 2004.

(2) ADMINISTRATION.—The programs described in this section and carried out with amounts made available under subsection (a) shall be carried out by the Secretary of Labor (in this section referred to as the "Secretary").

(b) RETRAINING PROGRAMS; ADVANCED CAREER POSITIONS; WORKFORCE ADJUSTMENT PROGRAMS.—

(1) IN GENERAL.—For purposes of subsection (a), the programs described in this section are the following:

(A) A program for skills upgrading and occupational retraining (including retraining health care workers for more advanced positions as technicians, nurses, and physician assistants), and for quality and workforce improvement.

(B) A demonstration program to assist workers in health care institutions in obtaining advanced career positions.

(C) A program to develop and operate health care industry worker job banks in local employment services agencies or one-stop career centers, subject to the following:

(i) Such job banks shall be available to all health care providers in the community involved.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(ii) Such job banks shall begin operation not later than 90 days after the date of the enactment of this Act.

(iii)(I) With respect to each affected community, the local employment service agency or one-stop career center serving such community shall be allocated not less than one counselor whose responsibility it shall be to develop and operate health and insurance industry worker job banks. Where the impact of health care industry restructuring in the affected community is such that the functions required under this clause cannot be adequately provided by one counselor, additional counselors shall be allocated to carry out such functions.

(II) Such counselor shall solicit job openings from local health care industry employers, maintain frequent contacts with these and other employers, and monitor and update all job listings appropriate for displaced health care workers seeking employment.

(III) The local employment service agency or one-stop career center shall provide directly, or facilitate the provision of, labor exchange services to displaced health care industry workers, including assessment, counseling, testing, job-search assistance, job referral and placement, and referral to training and educational programs, where appropriate.

(IV) The Secretary of Labor shall develop performance goals for the effective performance of such job banks with respect to the number and quality of jobs listed, the degree of participation by employers in the affected community, and success in placement of job bank users in jobs listed, taking into account specific geographic, economic and labor market characteristics of the community served.

(D) A program to provide for joint labor-management decision-making in the health care sector on workplace matters related to the restructuring of the health care delivery system provided for in this Act.

(E) A program to collect data regarding the adequacy of the supply of health care workers by occupation and sector of the health industry in light of existing and projected demand for such workers.

(F)(i) A program to encourage the adoption and utilization of high performance, high quality health care delivery systems, including employee participation committees and employee team systems that will contribute to more effective health care by increasing the role and the area of independent decisionmaking of health care workers.

(ii) For purposes of this subparagraph, the term "employee participation committees" means committees of workers independently selected by and from a facility's nonmanagerial workforce, or selected by unions where collective bargaining agreements are in effect, and which operate independently without employer interference and consult with management on issues of efficiency, productivity, and quality of care, except that an employee participation committee established under and operating in conformity with this subparagraph shall not be considered a labor organization within the meaning of section 2(5) of the National Labor Relations Act or a representative within the meaning of section 1, sixth, of the Railway Labor Act.

(2) USE OF FUNDS.—Amounts made available under subsection (a) for carrying out this section may be expended for program support, faculty development, trainee support, workforce analysis, and dissemination of information, as necessary to produce required performance outcomes.

(c) CERTAIN REQUIREMENTS FOR PROGRAMS.—In carrying out the programs described in subsection (b), the Secretary shall, with respect to the organizations and employment positions involved, provide for the following:

(1) Explicit, clearly defined skill requirements developed for all the positions and projections of the number of openings for each position.

(2) Opportunities for internal career movement.

(3) Opportunities to work while training or completing an educational program.

(4) Evaluation and dissemination.

(5) Training opportunities in several forms, as appropriate.

(d) ADMINISTRATIVE REQUIREMENTS.—In carrying out the programs described in subsection (b), the Secretary shall, with respect to the organizations and employment positions involved, provide for the following:

(1) Joint labor-management implementation and administration.

(2) Discussion with employees as to training needs for career advancement.

(3) Commitment to a policy of internal hirings and promotion.

(4) Provision of support services.

(5) Consultations with employers and with organized labor.

Subpart B—Transitional Provisions for Workforce Stability

SEC. 3091. APPLICATION.

(a) LIMITATION TO TRANSITION PERIOD.—The provisions of this subpart are intended to minimize, to the extent possible, disruptions in established employment relationships during the period of transition to a restructured health care delivery system, and shall terminate December 31, 2000.

(b) HEALTH CARE ENTITIES COVERED BY SUBPART.—The provisions of this subpart, including references to displacing employers, hiring employers, successors and contractors, apply only to health care entities that employ more than 25 individuals.

SEC. 3092. DEFINITIONS.

(a) HEALTH CARE ENTITY.—As used in this subpart, the term "health care entity" includes individuals, sole proprietorships, partnerships, associations, business trusts, corporations, governmental institutions, and public agencies (including state governments and political subdivisions thereof) that—

(1) provide health care services under title I (including nonmandatory health care services under title I) or under the amendments made or programs referred to in titles II, III, IV, and VIII; or

(2) provide necessary related services, including administrative, food service, janitorial or maintenance services, to an entity that provides health care services (as described in subparagraph (1));

except that an entity that solely manufactures or provides goods or equipment to a health care entity shall not be considered a health care entity.

(b) AFFILIATED ENTERPRISE.—As used in this subpart, the term "affiliated enterprise" means a health care entity that, together with the displacing employer, is considered a single employer as defined under 414 of the Internal Revenue Code of 1986. For purposes of this subpart, a health care entity which contracts with a State to provide services pursuant to a State program under part I of subtitle B of title II shall be deemed to be an affiliated enterprise of such State.

(c) PREFERENCE ELIGIBLE EMPLOYEE.—As used in this subpart, the term "preference eligible employee" means an employee who—

(1) has been employed for in excess of 1 year by a health care entity; and

(2) has been displaced by or has received notice of an impending displacement by such entity.

(d) DISPLACEMENT.—As used in this subpart, the term "displacement" includes a lay off, termination, significant cutback in paid work hours, or other loss of employment, except that a discharge for just cause shall not constitute a displacement within the meaning of this paragraph.

SEC. 3093. OBLIGATIONS OF DISPLACING EMPLOYER AND AFFILIATED ENTERPRISES IN EVENT OF DISPLACEMENT.

(a) NOTICE.—A health care entity which displaces a preference eligible employee shall provide such employee with—

(1) written notice, no later than the date of displacement, of employment rights under this subpart, including employment rights with respect to affiliated enterprises of the displacing employer; and

(2) notice of any existing or subsequent vacancies with the displacing employer or an affiliated enterprise, which notice may be given by posting of such vacancies wherever notices to applicants for employment are customarily posted, by listing such vacancies with the local employment services agency, or in such other manner as the Secretary of Labor, by regulation, may hereafter specify.

Any such vacancy shall remain open for applications by preference eligible employees for not less than 14 calendar days from the date on which the initial notice is provided.

(b) HIRING PREFERENCE.—

(1) IN GENERAL.—A qualified preference eligible employee who applies during the notice period described in subsection (a)(2) for a vacant position with the displacing employer or an affiliated enterprise, which position is in the employee's occupational specialty and is located in the same State or Standard Metropolitan Statistical Area in which the employee was employed prior to the displacement, shall be given the right to accept or decline the position before the employer may offer the position to a nonpreference eligible employee.

(2) MULTIPLE APPLICATIONS.—When considering applications from more than one qualified preference eligible employee, the hiring health care entity shall have discretion as to which of such employees will be offered the position.

(3) EMPLOYMENT QUALIFICATIONS.—Nothing in this subsection shall be construed to prohibit the hiring health care entity from establishing reasonable employment qualifications for a vacancy to which this subpart applies, except that employees who performed essentially the same work prior to their displacement shall be deemed presumptively qualified for comparable positions.

(c) TERMINATION OF PREFERENCE ELIGIBILITY.—A displaced employee's preference eligibility shall terminate—

(1) at such time as the displaced employee obtains substantially equivalent employment with the displacing employer; or

(2) if the employee does not obtain such employment—

(A) with respect to health care entities other than the displacing employer, 2 years after the date of the displacement; or

(B) with respect to the displacing employer, upon the termination of this subpart pursuant to section 3081(a).

SEC. 3094. EMPLOYMENT WITH SUCCESSORS.

A health care entity that succeeds another health care entity through merger, consolidation, acquisition, contract, or other similar manner shall provide employees of the previous health care entity who would otherwise be displaced the right to continued employment in the job positions held by such employees prior thereto, unless the employer can establish that such positions no longer exist.

SEC. 3095. COLLECTIVE BARGAINING OBLIGATIONS DURING TRANSITION PERIOD.

(a) CONTINUATION OF PREVIOUSLY RECOGNIZED BARGAINING REPRESENTATIVES AND AGREEMENTS.—If a majority of the employees in an appropriate bargaining unit consists of employees who were previously covered by a bargaining agreement or represented by an exclusive representative with respect to terms and conditions of employment, and there has not been a substantial change in the operations performed by the employees in that unit, the employer shall recognize such representative as the exclusive representative for the unit and shall assume the bargaining agreement, except that where application of this subsection would result in the recognition of more than one bargaining representative for a single unit, the question concerning which representative shall be recognized as the exclusive representative for the unit shall be resolved in accordance with applicable Federal or State law.

(b) JOINT EMPLOYER STATUS.—If employees of a contractor are assigned on a regular basis to perform work on the premises of a contracting entity and the tasks performed by these employees are functionally integrated with the operations of the contracting entity on whose premises such employees work, both the contractor and the contracting entity shall be considered joint employers of the employees with respect to work performed on those premises for purposes of determining compliance with labor relations laws. Employees of such joint employers may not be excluded from a bargaining unit within either entity on the basis of such joint employer status.

SEC. 3096. GENERAL PROVISIONS.

(a) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall promulgate regulations to implement the requirements of section 3093.

(b) OTHER LAWS.—The standards and requirements of this subpart shall not preempt or excuse noncompliance with any other applicable Federal or State law, regulation or municipal ordinance that establishes additional notice and preference standards or requirements concerning employee dislocation, employee representation, or collective bargaining.

(c) RULES OF CONSTRUCTION.—Nothing in this subpart shall be construed—

(1) to excuse or otherwise limit the obligation of an employer to comply with any collective bargaining agreement or any employment benefit plan that provides rights to employees in addition to those provided under this subpart; or

(2) to require an employer to recognize or bargain with a labor organization in violation of State law.

(d) ENFORCEMENT.—Unless otherwise specifically provided in this subpart, the enforcement provisions of section 107 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617) shall apply with respect to the enforcement of the individual rights, including notice requirements, provided under section 3093. The collective bargaining and contractual rights provided under sections 3094 and 3095 shall be enforced through administrative and judicial procedures otherwise provided under Federal or State law with respect to such rights.

Subtitle B—Academic Health Centers

SEC. 3101. DISCRETIONARY GRANTS REGARDING ACCESS TO CENTERS.

(a) RURAL INFORMATION AND REFERRAL SYSTEMS.—The Secretary may make grants to eligible centers for the establishment and operation of information and referral systems to provide the services of such centers to rural health plans.

(b) OTHER PURPOSES REGARDING URRAN AND RURAL AREAS.—The Secretary may make grants to community- and provider-based health plans as defined in section 1441(c)(2) to carry out activities (other than activities carried out under subsection (a)) for the purpose of providing the services of eligible centers to residents of rural or urban communities who otherwise would not have adequate access to such services.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriate, $5,000,000 for each of the fiscal years 1996 and 1997, $4,000,000 for each of the fiscal years 1998 and 1999, $3,050,000 for fiscal year 2000, $1,830,000 for fiscal year 2001, $1,067,000 for fiscal year 2002, and $760,000 for each of the fiscal years 2003 and 2004.

Subtitle C—Health Research Initiatives

PART 1—PROGRAMS FOR CERTAIN AGENCIES

SEC. 3201. BIOMEDICAL, BEHAVIORAL AND HEALTH SERVICES RESEARCH.

(a) FINDINGS.—Congress finds the following:

(1) Nearly 4 of 5 peer reviewed research projects deemed worthy of funding by the National Institutes of Health are not funded, and 9 of 10 peer reviewed research projects deemed worthy of funding by the Agency for Health Care Policy and Research are not funded.

(2) Less than 2 percent of the nearly one trillion dollars our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research.

(3) Public opinion surveys have shown that Americans want more Federal resources put into health research and support by having a portion of their health insurance premiums set aside for this purpose.

(4) Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from the HIV virus, progress against cardiovasculor disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

(5) Among the most effective methods to control health care costs are the prevention of intentional and unintentional injury and the prevention and cure of disease and disability, thus, health research which holds the promise of prevention of intentional and unintentional injury and cure and prevention of disease and disability is a critical component of any comprehensive health care reform plan.

(6) The state of our Nation's research facilities at the National Institutes of Health and at universities is deteriorating significantly. Renovation and repair of these facilities are badly needed to maintain and improve the quality of research.

(7) Because the Omnibus Budget Reconciliation Act of 1993 freezes discretionary spending for the next 5 years, the Nation's investment in health research through the National Institutes of Health and the Agency for Health Care Policy and Research is likely to decline in real terms unless corrective legislative action is taken.

(8) A health research fund is needed to maintain our Nation's commitment to health research and to increase the percentage of approved projects which receive funding at the National Institutes of Health and the Agency for Health Care Policy and Research to at least 33 percent.

(b) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—With respect to each calendar year, the Secretary shall provide for payment, from funds in the Treasury not otherwise appropriated, for activities under this section, an amount equal to 0.25 percent in 1997 and subsequent years, of all private premiums required to be paid in accordance with the Act.

(2) DEFINITION.—For purposes of this subsection, the term "private health premiums" means all premium related payments made by employers, individuals, and families for coverage under this Act.

(3) MAINTENANCE OF EFFORT.—No amounts made available under this subsection shall replace or reduce the amount of appropriations for the National Institutes of Health or the Agency for Health Care Policy and Research.

(c) PURPOSES FOR EXPENDITURES.—Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 404F. EXPENDITURES FOR BIOMEDICAL AND BEHAVIORAL RESEARCH.

"(a) IN GENERAL.—With respect to 80 percent of the amounts made available under section 3201 of the Health Security Act in a fiscal year, the Secretary shall distribute—

"(1) 2 percent of such amounts during any fiscal year to the Office of the Director of the National Institutes of Health to be allocated at the Director's discretion for the following activities:

"(A) for carrying out the responsibilities of the Office of the Director, in including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of Alternative Medicine and the Office of Rare Diseases Research; and

"(B) for construction and acquisition of equipment for or facilities of or used by the National Institutes of Health;

"(2) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

"(3) 1 percent of such amounts during any fiscal year for carrying out section 301 and part D of title IV with respect to health information communications; and

"(4) the remainder of such amounts during any fiscal year to member institutes of the National Institutes of Health and Centers in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and Centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and Centers of the National Institutes of Health for the fiscal year.

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(b) PLANS OF ALLOCATION.—The amounts transferred under subsection (a) shall be allocated by the Director of NIH or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors".

SEC. 3202. HEALTH SERVICES RESEARCH.

(a) IN GENERAL.—The Secretary shall distribute the remainder of the amounts made available under section 3201 in a fiscal year (not to exceed 20 percent of the total of amounts available in a fiscal year under such section), to the Agency for Health Care Policy and Research for policy-initiated and investigator-initiated research.

(b) RESEARCH ON HEALTH CARE REFORM.—Section 902 of the Public Health Service Act (42 U.S.C. 299a), as amended by section 2(b) of Public Law 102-410 (106 Stat. 2094), is amended by adding at the end the following subsection:

"(f) RESEARCH ON HEALTH CARE REFORM.—

"(1) IN GENERAL.—In carrying out section 901(b), the Administrator shall conduct and support research on the reform of the health care system of the United States, as directed by the Secretary.

"(2) PRIORITIES.—In carrying out paragraph (1), the Administrator shall give priority to the following:

"(A) Conducting and supporting research on the appropriateness and effectiveness of alternative clinical strategies (including community-based programs and preventive services), the quality and outcomes of care, and administrative simplification.

"(B) Conducting and supporting research on the appropriateness and effectiveness of alternative community-based and clinical strategies including integrating preventive services into primary care, the effectiveness of preventive counseling and health education, and the efficacy and cost-effectiveness of clinical preventive services.

"(C) Conducting and supporting research on consumer choice and information resources; on the role of shared decision making in enhancing patient and provider therapeutic options; the effects of health care reform on health delivery systems; methods for risk adjustment; factors influencing access to health care for vulnerable populations, including children, persons with low-income, persons with disabilities, or individuals with chronic or complex health conditions, and primary care.

"(D) The development of clinical practice guidelines consistent with section 913, the dissemination of such guidelines consistent with section 903, and the assessment of the effectiveness of such guidelines.".

SEC. 3203. ABCPR CONFORMING AMENDMENTS.

(a) TRAINEESHIP PROGRAM.—Section 902(c) of such Act (42 U.S.C. 299a(c)) is amended—

(1) by redesignating the matter following the subsection heading as paragraph (1) and realigning the margin of such so as to align with the margin of section 903(a)(1);

(2) by inserting before "The Administrator" the following: "IN GENERAL.—"; and

(3) by adding at the end thereof the following new paragraph:

"(2) TRAINEESHIP PROGRAM.—The Administrator shall establish a traineeship program for not to exceed 25 investigators, to enable such investigators to carry out research at the Agency that would benefit the mission of the Agency and further the educational needs of such investigators. Such investigator positions shall not be counted against any Federal employment ceilings affecting the Agency".

(b) PRINTING SERVICES.—Section 902 of such Act (42 U.S.C. 299a) is amended by adding at the end thereof the following new subsection:

"(f) AUTHORITY TO CONTRACT FOR PRINTING SERVICES.—The Administrator may publish or arrange for the publication of research findings and practice guidelines, without regard to section 501 of title 44, United States Code.".

(c) PANELS.—Section 913(a) of such Act (42 U.S.C. 299b-2(a)) is amended by adding at the end thereof the following new flush sentence: "Panels convened for the purpose of carrying out paragraphs (1) and (2) shall not be considered advisory committees within the meaning of section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App. 3(2)), and prior to publication by the Administrator, clinical practice guidelines, performance measures, and review criteria as described in section 912(a) are not subject to the requirements of section 552 of title 5, United States Code.".

(d) ARRANGEMENTS.—Section 913 of such Act (42 U.S.C. 299b-2) is amended by adding at the end thereof the following new subsection:

"(d) ARRANGEMENTS.—

"(1) IN GENERAL.—Upon the request of a public or private entity, the Administrator may collect, tabulate, and analyze statistics, perform technology assessments, carry out health services and outcomes and effectiveness research, and facilitate the development of clinical practice guidelines under arrangements with such entities under which such entities compensate the Administrator for the costs of the services provided.

"(2) AMOUNTS AND PERSONNEL.—Amounts collected from payments under this subsection shall be available to the Administrator for obligation until expended, and personnel used to provide such services shall not be counted against any Federal employment ceilings affecting the Agency.".

(e) TECHNICAL AMENDMENT.—Section 913(c) of such Act (42 U.S.C. 299b-2(c)) is amended by moving the first sentence so as appear after the subsection heading.

PART 2—FUNDING FOR PROGRAM

SEC. 3211. AUTHORIZATIONS OF APPROPRIATIONS.

(a) RELATION TO OTHER FUNDS.—Amounts made available under this subtitle are in addition to any other authorizations of appropriations that are available to carry out section 3202 and the amendments made by such section.

(b) TRIGGER AND RELEASE OF MONIES.—No expenditure shall be made pursuant to section 3201(b) during any fiscal year in which the annual amount appropriated for the National Institutes of Health and the Agency for Health Care Policy and Research is less than the amount so appropriated for the prior fiscal year. With respect to amounts available for expenditure pursuant to section 3201(b) which, as a result of the application of this subsection remain unexpended, such amounts shall be obligated by the Secretary of Health and Human Services under the public health initiative under subtitle H.

PART 3—MEDICAL TECHNOLOGY IMPACT STUDY

SEC. 3221. MEDICAL TECHNOLOGY IMPACT STUDY.

(a) ASSESSMENT OF THE STANDARD IMPACT OF MEDICAL TECHNOLOGIES.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research (hereafter referred to in this section as the "Administrator"), shall undertake an interdisciplinary study (to be known as the "Medical Technology Impact Study") to assess the overall economic costs, economic benefits, and effect on patient outcomes of medical technologies used in treating each of a list of target diseases and conditions. The Secretary shall submit the report of the Administrator to Congress (in accordance with subsection (c)) concerning the results of the study and may provide any recommendations determined to be necessary to ensure the availability, access, and appropriate use of medical technologies to improve the quality of health care in the United States.

(2) PURPOSE.—The purpose of the study under paragraph (1) is to assess the impact of old, new, and emerging medical technologies on health care costs, social costs, and patient outcomes, and to identify the factors, including government and private payor reimbursement policies, that impede or encourage innovation that improves patient outcomes. Congress intends that the study complement the technology assessment, outcomes research, and guideline development activities authorized under title IX of the Public Health Service Act by providing a comprehensive context for understanding the economic and social factors related to the development and use of medical technologies.

(3) DEFINITIONS.—As used in this section:

(A) ECONOMIC BENEFITS.—The term "economic benefits" may include, based on available data—

(i) reductions in the economic costs of disease;

(ii) increases in employment attributable to the medical technology industry;

(iii) increases in Federal and State tax revenues attributable to the medical technology industry and its employees;

(iv) improvements in the balance of trade deficit attributable to the medical technology industry; and

(v) other benefits that are determined by the Advisory Committee established under subsection (b) to be relevant to assessing the impact of medical technology.

(B) ECONOMIC COSTS.—The term 'economic costs' may include, based on available data—

(i) the financial costs to the health care system of diagnosing and treating disease, including the costs of nontreatment and palliative care;

(ii) the financial costs to employers resulting from worker illness, including the costs of productivity losses and worker absenteeism;

(iii) the financial costs to families resulting from illness of a family member, including costs associated with loss of income, hiring of caretakers, and long term and hospice care;

(iv) the financial costs to government of illness, including reductions in income tax revenues attributable to worker illness and worker related injuries and increases in transfer payments, including unemployment, disability, welfare, and survivor benefit payments, made to individuals and families on account of illness; and

(v) other costs that are determined by the Advisory Committee established under subsection (b) to be relevant to assessing the impact of medical technology.

(C) MEDICAL TECHNOLOGIES.—The term 'medical technologies' includes drugs, biologics (including vaccines), medical devices, drug delivery systems, and surgical services and other procedures for preventing, diagnosing, and treating diseases or health conditions.

(D) MEDICAL TECHNOLOGY INDUSTRY.—The term 'medical technology industry' includes

the biotechnology, pharmaceutical, and medical device industries, and such other industries that invent, develop, or market medical technologies.

(E) PATIENT OUTCOMES.—The term 'patient outcomes' may include—

(i) changes in clinical outcomes, including stabilization of patients with progressive disease or health conditions, resulting from the use of safe and effective medical technology in prevention, diagnosis, or treatment;

(ii) changes in mortality, morbidity, and health service use, including stabilization of patients with progressive diseases;

(iii) changes in quality of life, including ability to perform activities of daily living, ability to return to work, relief from discomfort or pain, alleviation of fatigue, and improved mental functioning and well-being; and

(iv) other outcomes that are determined by the Advisory Committee to be relevant to assessing the impact of medical technology.

(b) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Administrator shall establish an Advisory Committee to assist the Agency for Health Care Policy and Research in preparing the reports required under subsection (c). Except as provided in paragraph (3), no member of the Advisory Committee shall be an employee of the Federal Government.

(2) MEMBERSHIP.—The Advisory Committee shall be balanced in its representation of interested parties and shall be composed of at least two individuals appointed by the President of the Institute of Medicine and two individuals from each of the following categories to be appointed by the Administrator:

(A) Experts in medical technology assessment.

(B) Experts in objective measures of improved patient outcomes, such as clinical outcomes, mortality, morbidity, and health service use.

(C) Experts in subjective measures of improved patient outcomes, such as quality of life.

(D) Experts in quantifying the economic costs of disease to the health care system, including public and private payers.

(E) Experts in quantifying the economic impact of the medical technology industry.

(F) Experts in health statistics and epidemiology.

(G) Physicians and other health care providers.

(H) Officers or employees of health plans and other health care payers.

(I) Experts in the ethical implications of health care.

(J) Experts in private sector financial market investment in the medical technology industry.

(K) Consumers and members of patient advocacy groups.

(L) Health professional organizations.

(M) Officers or employees of biotechnology companies.

(N) Officers or employees of medical device companies.

(O) Officers or employees of pharmaceutical companies.

(3) EX OFFICIO.—The following individuals or their designees shall serve as ex officio members of the Advisory Committee:

(A) The Director of the National Institutes of Health.

(B) The Commissioner of Food and Drugs.

(C) The Director of the Centers for Disease Control and Prevention.

(D) The Administrator of the Health Care Financing Administration.

(E) The Under Secretary of Commerce for Technology.

(F) The Director of the Congressional Office of Technology Assessment.

(c) INTERDISCIPLINARY STUDY AND REPORT.—

(1) IN GENERAL.—The Administrator, in consultation with the Advisory Committee established under subsection (b), shall determine which diseases or conditions should be studied in the Medical Technology Impact Study under subsection (a). In carrying out the medical technology assessment required under this subsection, the Administrator shall consider various factors, including those outlined in section 904(b)(2) of the Public Health Service Act and government and private payor reimbursement policies that impede or encourage innovation that improves patient outcomes. The diseases or conditions studied in such Study shall be those considered to be high priority according to the following criteria:

(A) Aggregate economic costs to the United States.

(B) Overall importance to public heath.

(C) Potential for improvements in patient outcomes.

(D) Significant changes expected in management of the condition.

(E) Other criteria identified by the Advisory Committee.

(2) DESIGN.—The Administrator, in consultation with the Advisory Committee established under subsection (b), and the Institute of Medicine pursuant to paragraph (3), shall develop a design, based on the list of target diseases and conditions, for undertaking the Medical Technology Impact Study under subsection (a).

(3) CONTRACT.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to enter into a contract to review the design of the Medical Technology Impact Study under subsection (a) and report to the Administrator concerning any recommendations for revising such design, in the interest of assuring that it reflects the best available scientific methodologies.

(4) PUBLICATION.—The Administrator shall publish the study design under this section and list of target diseases and conditions, the recommendations of the Institute of Medicine, and the response of the Administrator to such recommendations in the Federal Register for a 60-day period for public comment. Any such comments shall be considered by the Administrator in completing the proposed study design for submission to the Secretary.

(5) DESIGN REPORT.—The Secretary shall report to Congress concerning the proposed design of the Medical Technology Impact Study, together with recommendations for appropriations necessary to carry out the Study.

(6) GRANTS AND CONTRACTS.—Beginning in the first fiscal year for which Congress appropriates funds under subsection (d), and ending on September 30 of that year, the Administrator shall enter into grants and contracts with appropriate entities to conduct any investigations and analyses that may be required to carry out the design of the Medical Technology Impact Study under subsection (a).

(7) REPORT ON FINDINGS.—The Administrator, in consultation with the Advisory Committee established under subsection (b), shall develop a draft comprehensive report concerning the findings of the Medical Technology Impact Study under subsection (a), shall make copies of the draft report available to the public, and shall publish a notice in the Federal Register providing for a 60-day period of public comment. Any such comments shall be considered by the Administrator in completing and submitting the final report to the Secretary.

(8) FINAL REPORT.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit the report of the Administrator under this section to Congress, and may include any recommendations determined necessary to assure the availability, access and appropriate use of medical technologies to improve the quality of health care in the United States.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle D—Core Functions of Public Health Programs; National Initiatives Regarding Preventive Health

PART 1—FUNDING

SEC. 3301. AUTHORIZATIONS OF APPROPRIATIONS.

(a) CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS.—For the purpose of carrying out part 2, there are authorized to be appropriated $284,000,000 for fiscal year 1996, $292,000,000 for fiscal year 1997, $339,000,000 for fiscal year 1998, $383,000,000 for fiscal year 1999, $381,300,000 for fiscal year 2000, $228,800,000 for fiscal year 2001, $133,370,000 for fiscal year 2002, and $95,300,000 for each of the fiscal years 2003 and 2004.

(b) NATIONAL INITIATIVES REGARDING HEALTH PROMOTION AND DISEASE PREVENTION.—For the purpose of carrying out part 3, there are authorized to be appropriated $158,000,000 for fiscal year 1996, $112,000,000 for fiscal year 1997, $100,000,000 for fiscal year 1998, $115,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004.

(c) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsections (a) and (b) are in addition to any other authorizations of appropriations that are available for the purposes described in such subsections.

PART 2—CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS

SEC. 3311. PURPOSES.

Subject to the subsequent provisions of this subtitle, the purposes of this part are to strengthen the capacity of State and local public health agencies to carry out the following functions:

(1) To monitor and protect the health of communities against communicable diseases and exposure to toxic environmental pollutants, occupational hazards, harmful products, and poor quality health care.

(2) To identify and control outbreaks of infectious disease and patterns of chronic disease and injury.

(3) To inform and educate health care consumers and providers about their roles in preventing injury, preventing and controlling disease and the appropriate use of medical services.

(4) To develop and test new prevention and public health control interventions.

(5) To integrate and coordinate the prevention programs and services of standard health plans, community-based providers, local health departments, State health departments, purchasing cooperatives, and other sectors of State and local government that affect health, including education, labor, transportation, welfare, criminal justice, environment, agriculture, and housing.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(6) To conduct research on the effectiveness and cost-effectiveness of public health programs.

SEC. 3312. GRANTS TO STATES FOR CORE FUNCTIONS OF PUBLIC HEALTH.

(a) IN GENERAL.—The Secretary shall make grants to States that submit applications as prescribed in section 3313 in an amount which bears the same ratio to the available amounts for that fiscal year as the amounts provided by the Secretary under the provisions of law listed in section 1902(2) of the Public Health Service Act to the State for fiscal year 1981 bear to the total amount appropriated for such provisions of law for fiscal year 1981.

(b) CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS.—For purposes of subsection (a), the functions described in this subsection are, subject to subsection (c), as follows:

(1)(A) Data collection, activities related to population health (including the population of individuals ineligible for the standard benefit package) measurement and outcomes monitoring, including the acquisition and installation of hardware and software, personnel training and technical assistance to operate and support automated and integrated information systems, the regular collection and analysis of public health data, vital statistics, and personal health services data and analysis for planning and needs assessment purposes of data collected from health plans through the information system under title V of this Act.

(B) Data measures under this paragraph must include an ethnic identifier on all forms. To the extent feasible, ethnic identifiers should be classified by ethnic sub-group populations. Access to data must be ensured for research organizations and data clearinghouses. Population health measurement and outcome monitoring should focus on health status differentials between racial, and ethnic groups, by subpopulation, and gender differences.

(2) Activities to protect the environment and to assure the safety of housing, workplaces, food and water, including the following activities:

(A) Monitoring and improving the overall public health quality and safety of communities.

(B) Assessing exposure to high lead levels and water contamination.

(C) Providing support for poison control centers.

(D) Monitoring sewage and solid waste disposal, radiation exposure, radon exposure, and noise levels.

(E) Abatement of lead-related hazards.

(F) Assuring recreation, home and worker safety.

(G) Public information and education programs that help to reduce intentional and unintentional injuries, including training parents and children on use of safety devices.

(H) Enforcing public health safety and sanitary codes.

(I) Other activities relating to promoting the public health of communities.

(3) Investigation and control of adverse health conditions, including improvements in emergency treatment preparedness, injury prevention, cooperative activities to reduce violence levels in homes and communities, activities to control the outbreak of disease, exposure related conditions and other threats to the health status of individuals.

(4) Public information and education programs to reduce risks to health such as use of tobacco, alcohol and other drugs, sexual activities that increase the risk to HIV transmission and sexually transmitted diseases, domestic violence, poor diet, physical inactivity, and low childhood immunization levels.

(5) Accountability and quality assurance activities, including monitoring the quality of personal health services furnished by health plans and providers of medical and health services in a manner consistent with the overall quality of care monitoring activities undertaken under title V, and monitoring communities' overall access to health services.

(6) Provision of public health laboratory services to complement private clinical laboratory services and that screen for diseases and conditions such as metabolic diseases in newborns, provide toxicology assessments of blood lead levels and other environmental toxins, diagnose sexually transmitted diseases, tuberculosis and other diseases requiring partner notification, test for infectious and food-borne diseases, and monitor the safety of water and food supplies.

(7) Training and education to assure provision of care by all health professionals, with special emphasis placed on the training of public health professions including epidemiologists, biostatisticians, health educators, public health administrators, sanitarians and laboratory technicians.

(8) Leadership, policy development and administration activities, including needs assessment, the setting of public health standards, the development of community public health policies, and the development of community public health coalitions.

(9) Establishment of programs that encourage partnerships among local law enforcement and community groups for the purpose of developing community response teams to assist victims of domestic violence.

(c) RESTRICTIONS ON USE OF GRANT.—

(1) IN GENERAL.—A funding agreement for a grant under subsection (a) for a State is that the grant will not be expended—

(A) to provide inpatient services;

(B) to make cash payments to intended recipients of health services;

(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

(E) to provide financial assistance to any entity other than a public or nonprofit private entity.

(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—A funding agreement for a grant under subsection (a) is that the State involved will not expend more than 10 percent of the grant for administrative expenses with respect to the grant.

(d) MAINTENANCE OF EFFORT.—A funding agreement for a grant under subsection (a) is that the State involved will maintain expenditures of non-Federal amounts for core health functions at a level that is not less than the level of such expenditures maintained by the State for the fiscal year preceding the first fiscal year for which the State receives such a grant.

(e) DOMESTIC VIOLENCE.—As used in this section, the term "domestic violence" means any intentional violence, controlling, or coercive behavior or pattern of behavior by an individual who is currently or who was previously, in an intimate or acquaintance relationship with the victim. Such behavior may occur at any stage of the lifecycle and may encompass single acts or a syndrome of actual or threatened physical injury, sexual assault, [illegible] psychological abuse, or neglect. Such term includes behavior which currently may be described as "child neglect", "child abuse", "spousal abuse", "domestic violence", "woman battering", "partner abuse", "elder abuse", and "date rape".

SEC. 3313. SUBMISSION OF INFORMATION.

The Secretary may make a grant under section 3312 only if the State involved submits to the Secretary the following information:

(1) A description of existing deficiencies in the State's public health system (at the State level and the local level), using standards of sufficiency developed by the Secretary.

(2) A description of health status measures to be improved within the State (at the State level and the local level) through expanded public health functions.

(3) Measurable outcomes and process objectives for improving health status and core health functions for which the grant is to be expended.

(4) Information regarding each such function, which—

(A) identifies the amount of State and local funding expended on each such function for the fiscal year preceding the fiscal year for which the grant is sought; and

(B) provides a detailed description of how additional Federal funding will improve each such function by both the State and local public health agencies.

(5) A description of the core health functions to be carried out at the local level, and a specification for each such function of—

(A) the communities in which the function will be carried out; and

(B) the amount of the grant to be expended for the function in each community so specified.

SEC. 3314. REPORTS.

A funding agreement for a grant under section 3312 is that the States involved will, not later than the date specified by the Secretary, submit to the Secretary a report describing—

(1) the purposes for which the grant was expended; and

(2) describing the extent of progress made by the State in achieving measurable outcomes and process objectives described in section 3313(3).

SEC. 3315. APPLICATION FOR GRANT.

The Secretary may make a grant under section 3312 only if an application for the grant is submitted to the Secretary, the application contains each agreement described in this part, the application contains the information required in section 3314, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

SEC. 3316. ALLOCATIONS FOR CERTAIN ACTIVITIES.

Of the amounts made available under section 3301 for a fiscal year for carrying out this part, the Secretary may reserve not more than 5 percent for carrying out the following activities:

(1) Technical assistance with respect to planning, development, and operation of core health functions carried out under section 3312, including provision of biostatistical and epidemiological expertise and provision of laboratory expertise.

(2) Development and operation of a national information network among State and local health agencies.

(3) Program monitoring and evaluation of core health functions carried out under section 3312.

(4) Development of a unified electronic reporting mechanism to improve the efficiency of administrative management requirements regarding the provision of Federal grants to State public health agencies.

SEC. 3317. DEFINITIONS.

For purposes of this part:

(1) The term "funding agreement", with respect to a grant under section 3312 to a State, means that the Secretary may make the grant only if the State makes the agreement involved.

(2) The term "core health functions", with respect to a State, means the functions described in section 3312(b).

SEC. 3318. SINGLE APPLICATION AND UNIFORM REPORTING SYSTEMS FOR CORE FUNCTIONS OF PUBLIC HEALTH AND PUBLIC HEALTH CATEGORICAL GRANT PROGRAMS ADMINISTERED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) SINGLE APPLICATION.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a single consolidated application to enable States to apply for the Core Functions of Public Health Grants Program and any or all of the Public Health Service Act categorical programs described in subsection (b).

(2) REQUIREMENTS.—The application developed under paragraph (1) shall—

(A) be designed so that information collected will be consistent with the requirements of this part including subsection (b);

(B) be designed and implemented not later than 1 year after the date of enactment of this Act; and

(C) be developed with resources made available under section 3316 (not resources made available for the programs described in subsection (b)).

(3) STATE PUBLIC HEALTH OFFICERS.—In developing the single consolidated application form to be used under this subsection the Secretary shall consult with Federal, State and local public health agencies.".

(4) ELIGIBILITY.—States and local governments that have grants, contracts or cooperative agreements in effect with the Centers for Disease Control and Prevention on the date of enactment of this Act shall be eligible to use a single application under this section to apply for any or all of the Public Health Service Act categorical programs described in subsection (b).

(b) ELIGIBLE PUBLIC HEALTH SERVICE ACT PROGRAMS.—Eligible Public Health Service Act categorical programs described in this subsection are the following:

(1) The Preventive Health and Health Services Block Grant under section 1903 of the Public Health Service Act.

(2) The Childhood Lead Poisoning Prevention Program under section 317A of the Public Health Service Act.

(3) The Sexually Transmitted Diseases Program under section 318 of the Public Health Service Act.

(4) The Prevention of Sexually Transmitted Diseases-Related Infertility Program under section 318A of the Public Health Service Act.

(5) The Breast and Cervical Cancer Early Detection Program under sections 1501 through 1509 of the Public Health Service Act.

(6) The National Program of Cancer Registries under section 399H of the Public Health Service Act.

(7) The Injury Control and Prevention Program under sections 391 through 394 of the Public Health Service Act.

(8) The Preventive Health for Prostate Cancer Program under section 317D of the Public Health Service Act.

(9) The Birth Defects Data Program under section 317C of the Public Health Service Act.

(10) Programs under subtitle D of this title.

(11) Other relevant programs as determined appropriate by the Secretary.

(c) ALLOCATION OF FUNDS.—In awarding grants to States and local governments under a single application under this section, the Secretary shall delineate to each grantee the amounts to be dedicated to each of the programs described in subsection (b) and ensure that funding allotments for each of such programs are consistent with the requirements of Federal law.

(d) UNIFORM CORE FUNCTIONS OF PUBLIC HEALTH REPORTING SYSTEM.—

(1) DEVELOPMENT.—The Secretary, acting through the Director of the Office of Disease Prevention and Health Promotion and the Director of the Centers for Disease Control and Prevention, in consultation with other relevant Federal and State health agencies with data collection responsibilities, shall develop and implement a Uniform Core Public Health Functions Reporting System to collect program and fiscal data concerning the programs described in subsection (b).

(2) REQUIREMENTS.—The system developed under paragraph (1) shall—

(A) use outcomes consistent with the goals of Healthy People 2000;

(B) be designed so that information collected will be consistent with the requirements of this part including subsection (b);

(C) be designed and implemented not later than 2 years after the date of enactment of this Act; and

(D) be developed with resources made available under section 3316 of this Act (not resources made available for the programs described in subsection (b)).

(3) STATE PUBLIC HEALTH OFFICERS.—In developing the data set to be used under Uniform Core Public Health Functions Reporting System the Secretary shall consult with Federal, State and local public health agencies.

(e) STUDY.—

(1) IN GENERAL.—Within a reasonable period of time after the date of enactment of this Act, the Secretary shall request that the Institute of Medicine conduct a study concerning—

(A) the effects of consolidating any or all of the grant programs administered by the Centers for Disease Control and Prevention and described in subsection (b) into a Core Functions of Public Health Block Grant Program;

(B) the development of alternative methods for implementing a block grant program or categorical grant program; and

(C) alternative formulas for allocating State grants that incorporate measures of health status, population and degree of poverty.

In particular, the impact of program consolidation on the targeted recipients, including women and vulnerable populations, shall be addressed in the study. If the Institute of Medicine declines to do the study, the Secretary shall make grants to or enter into contracts with a public or nonprofit private entity with relevant expertise for the conduct of such a study.

(2) REPORT.—Not later than 1 year after the date of the receipt of the contract under paragraph (1), the contract recipient shall prepare and submit to the Secretary, the Energy and Commerce Committee of the House of Representatives, and the Committee on Labor and Human Resources of the Senate a report that contains the results of the study conducted under paragraph (1).

(3) ISSUANCE OF PLAN.—Not later than 1 year after the date on which the report under paragraph (2) is received by the Secretary and the committees referred to in such paragraph, the Secretary shall issue a plan in response to the report. Such a plan shall include the identification of relevant changes in authorizing language.

PART 3—NATIONAL INITIATIVES REGARDING HEALTH PROMOTION AND DISEASE PREVENTION

Subpart A—General Grants

SEC. 3331. GRANTS FOR NATIONAL PREVENTION INITIATIVES.

(a) IN GENERAL.—The Secretary may make grants to entities described in subsection (b) for the purpose of carrying out projects to develop and implement innovative community-based strategies to provide for health promotion and disease prevention activities for which there is a significant need, as identified under section 1701 of the Public Health Service Act.

(b) ELIGIBLE ENTITIES.—The entities referred to in subsection (a) are agencies of State or local government, private nonprofit organizations (including research institutions), and coalitions that link two or more of these groups.

(c) CERTAIN ACTIVITIES.—The Secretary shall ensure that projects carried out under subsection (a)—

(1) reflect approaches that take into account the special needs and concerns of the affected populations;

(2) are targeted to the most needy and vulnerable population groups and geographic areas of the Nation;

(3) examine links between various high priority preventable health problems and the potential community-based remedial actions; and

(4) establish or strengthen the links between the activities of agencies engaged in public health activities with those of purchasing cooperatives, health care providers, and other entities involved in the personal health care delivery system described in title I.

SEC. 3332. PRIORITIES.

(a) ESTABLISHMENT.—

(1) ANNUAL STATEMENT.—The Secretary shall for each fiscal year develop a statement of proposed priorities for grants under section 3331 for the fiscal year.

(2) ALLOCATIONS AMONG PRIORITIES.—With respect to the amounts available under section 3301(b) for the fiscal year for carrying out this part, each statement under paragraph (1) for a fiscal year shall include a specification of the percentage of the amount to be devoted to projects addressing each of the proposed priorities established in the statement.

(3) PROCESS FOR ESTABLISHING PRIORITIES.—

(A) PREFERENCE.—In establishing priorities for grants under this part, preference shall be given to projects that—

(i) reduce the prevalence of chronic diseases including cardiovascular disease, stroke, diabetes, and cancer;

(ii) prevent violence against women by training providers and other health care professionals to identify victims of domestic violence, to provide appropriate examination and treatment, and to refer the victims for appropriate social and legal services; and

(iii) establish community health advisor programs described in subparagraph (B).

VOL 140 PT 16 AG 12 — 18 1994 UMI

(B) COMMUNITY HEALTH ADVISOR PROGRAMS.—For purposes of subparagraph (A)(iii), the term "community health advisor program" means a program that performs the following functions:

(i) Provides outreach services to inform the community of the availability of program services.

(ii) Collaborate efforts with health care providers and related entities to facilitate the provision of health services and health related social services.

(iii) Provide public education on health promotion and disease prevention and efforts to facilitate the use of available health services and health-related social services.

(iv) Provide health-related counseling.

(v) Make referrals for available health services and health-related social services.

(vi) Improve the ability of individuals to use health services and health-related social services under Federal, State, and local programs, through assisting individuals in establishing eligibility under the programs.

(vii) Establish a community health advisor training program.

(viii) Provide services in the language and cultural context most appropriate for the individuals served by the program.

(ix) Provide compensation for the services of, and opportunities for training and employment of, community health advisors.

(x) Such other services as the Secretary determines to be appropriate, which may include transportation and translation services.

(C) PUBLICATION OF STATEMENT.—Not later than January 1 of each fiscal year, the Secretary shall publish a statement under paragraph (1) in the Federal Register. A period of 60 days shall be allowed for the submission of public comments and suggestions concerning the proposed priorities. After analyzing and considering comments on the proposed priorities, the Secretary shall publish in the Federal Register final priorities (and associated reservations of funds) for approval of projects for the following fiscal year.

(D) DEFINITION OF COMMUNITY HEALTH ADVISOR.—For purposes of subparagraph (B), the term "community health advisor" means an individual—

(i) who has demonstrated the capacity to carry out one or more of the authorized program services;

(ii) who, for not less than 1 year, has been a resident of the community in which the community health advisor program involved is to be operated; and

(iii) is a member of a socioeconomic group to be served by the program.

(b) APPLICABILITY TO MAKING OF GRANTS.—

(1) IN GENERAL.—The Secretary may make grants under section 3331 for projects that the Secretary determines—

(A) are consistent with the applicable final statement of priorities and otherwise meets the objectives described in subsection (a); and

(B) will assist in meeting a health need or concern of a population within a defined health care coverage area or other service area.

(2) SPECIAL CONSIDERATION FOR CERTAIN PROJECTS.—In making grants under section 3331, the Secretary shall give special consideration to applicants that will carry out projects that, in addition to being consistent with the applicable published priorities under subsection (a) and otherwise meeting the requirements of this part, have the potential for replication in other communities.

SEC. 3333. SUBMISSION OF INFORMATION.

The Secretary may make a grant under section 3331 only if the applicant involved submits to the Secretary the following information:

(1) A description of the activities to be conducted, and the manner in which the activities are expected to contribute to meeting one or more of the priority health needs specified under section 3332 for the fiscal year for which the grant is initially sought.

(2) A description of the total amount of Federal funding requested, the geographic area and populations to be served, and the evaluation procedures to be followed.

(3) Such other information as the Secretary determines to be appropriate.

SEC. 3334. APPLICATION FOR GRANT.

The Secretary may make a grant under section 3331 only if an application for the grant is submitted to the Secretary, the application contains each agreement described in this part, the application contains the information required in section 3333, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

Subpart B—Development of Telemedicine in Rural Underserved Areas

SEC. 3341. GRANTS FOR DEVELOPMENT OF RURAL TELEMEDICINE.

(a) IN GENERAL.—

(1) GRANTS AWARDED.—The Secretary, acting through the Office of Rural Health Policy, shall award grants to eligible entities that have applications approved under subsection (b) for the purpose of expanding access to health care services for individuals in rural areas through the use of telemedicine. Grants shall be awarded under this section to encourage the initial development of rural telemedicine networks, expand existing networks, link existing networks together, or link such networks to existing fiber optic telecommunications systems.

(2) ELIGIBLE ENTITY.—For purposes of this section, the term "eligible entity" includes hospitals and other health care providers in a health care network of community-based providers that includes at least three of the following:

(A) Community or migrant health centers.

(B) Local health departments.

(C) Community mental health centers.

(D) Nonprofit hospitals.

(E) Private practice health professionals, including rural health clinics.

(F) Other publicly funded health or social services agencies.

(b) APPLICATION.—To be eligible to receive a grant under this section an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including the anticipated need for the grant, a description of the use to which the eligible entity would apply any amounts received under such grant, the source and amount of non-Federal funds the entity would pledge for the project, a showing of the long-term viability of the project and evidence of the provider commitment to the network. The applicant should demonstrate the manner in which the project will promote the integration of telemedicine in the community so as to avoid redundancy of technology and achieve economies of scale.

(c) PREFERENCE.—The Secretary shall, in awarding grants under this section, give preference to applicants that—

(1) are health care providers in rural health care networks or providers that propose to form such networks, and the majority of the providers in such a network are located in a medically underserved or health professional shortage area;

(2) can demonstrate broad geographic coverage in the rural areas of the State, or States in which the applicant is located;

(3) propose to use Federal funds to develop plans for, or to establish, telemedicine systems that will link rural hospitals and rural health care providers to other hospitals and health care providers;

(4) will use the amounts provided under the grant for a range of health care applications and to promote greater efficiency in the use of health care resources;

(5) demonstrate the long-term viability of projects through use of local matching funds (cash or in-kind); and

(6) demonstrate financial, institutional, and community support for the long-range viability of the network.

(d) USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall be utilized for the development of telemedicine networks. Such amounts may be used to cover the costs associated with the development of telemedicine networks and the acquisition of telemedicine equipment and modifications or improvements of telecommunications facilities including—

(1) the development and acquisition through lease or purchase of computer hardware and software, audio and visual equipment, computer network equipment, modification or improvements to telecommunications transmission facilities, telecommunications terminal equipments, interactive video equipment, data terminal equipment, and other facilities and equipment that would further the purposes of this section;

(2) the provision of technical assistance and instruction for the development and use of such programming equipment or facilities;

(3) the development and acquisition of instructional programming;

(4) demonstration projects for teaching or training medical students, residents, and other health professions students in rural training sites about the application of telemedicine;

(5) transmission costs, maintenance of equipment, and compensation of specialists and referring practitioners;

(6) development of projects to use telemedicine to facilitate collaboration between health care providers; or

(7) such other uses that are consistent with achieving the purposes of this section as approved by the Secretary.

(e) PROHIBITED USES.—Amounts received under a grant awarded under this section may not be used for any of the following:

(1) Expenditures to purchase or lease equipment to the extent the expenditures would exceed more than 60 percent of the total grant funds.

(2) Expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 10 percent of the total grant funds.

SEC. 3342. REPORT AND EVALUATION OF TELEMEDICINE.

Not later than October 1, 1995, the White House Information Infrastructure Task Force shall prepare and submit to Congress a report that evaluates telemedicine. Such report shall evaluate—

(1) whether telemedicine expands access to health care services;

(2) the effectiveness and cost effectiveness of telemedicine services;

(3) the quality of telemedicine services delivered; and

(4) all Federal activity regarding telemedicine and recommendations for a coordinated

Federal strategy to increase access to health care through telemedicine.

SEC. 3343. REGULATIONS ON REIMBURSEMENT OF TELEMEDICINE.

Not later than July 1, 1996, the Secretary, in consultation with the Director of the Office of Rural Health and the Administrator of the Health Care Financing Administration, shall issue regulations concerning reimbursement for telemedicine services provided under title XVIII of the Social Security Act.

SEC. 3344. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subpart.

SEC. 3345. REIMBURSEMENT FOR TELEMEDICINE SERVICES UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish demonstration projects under which eligible entities that have received grants under this section may receive payments in accordance with subsection (b) for the purpose of developing appropriate reimbursement and coverage policies for telemedicine services provided under title XVIII of the Social Security Act.

(b) DEVELOPMENT OF PAYMENT METHODOLOGIES AND PAYMENTS PROVIDED.—For purposes of subsection (a), the Health Care Financing Administration shall reimburse a provider of telemedicine services from funds made available under subsection (d) in accordance with a methodology or varying methodologies to be developed by the Secretary.

(c) REPORT AND EVALUATION.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a repot that evaluates the demonstration projects under this section.

(d) TRANSFER.—The Secretary shall transfer not to exceed $10,000,000 from the Hospital Insurance Trust Fund for the purpose of carrying out demonstration programs under this section.

SEC. 3346. MAINTENANCE OF EFFORT.

Any funds available for the activities covered by a demonstration project or grant program conducted under this subpart shall supplement, and not supplant, funds that are expended for similar purposes under any State, regional, or local program.

SEC. 3345. DEFINITION.

As used in this part the term "rural health care network" means a group of rural hospitals or other rural health care providers (including clinics, physicians and non-physicians primary care providers) that have entered into a relationship with each other or with nonrural hospitals and health care providers for the purpose of strengthening the delivery of health care services in rural areas or specifically to improve their patients' access to telemedicine services. At least 75 percent of hospitals and other health care providers participating in the network shall be located in rural areas.

Subtitle E—Health Services for Medically Underserved Populations

PART 1—INITIATIVES FOR ACCESS TO HEALTH CARE

Subpart A—Authorization of Appropriations

SEC. 3411. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IMPROVING ACCESS TO HEALTH SERVICES.—

(1) SUBPART B.—

(A) Except as provided in subparagraph (B), for the purpose of carrying out subpart B, there are authorized to be appropriated, $309,000,000 for fiscal year 1996, $346,000,000 for fiscal year 1997, $252,000,000 for fiscal year 1998, $188,000,000 for fiscal year 1999, $64,050,000 for fiscal year 2000, $38,430,000 for fiscal year 2001, $22,400,000 for fiscal year 2002, and $16,000,000 for each of the fiscal years 2003 and 2004.

(B) With respect to awards to federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act) under subpart B, there are authorized to be appropriated $132,000,000 for fiscal year 1996, $148,000,000 for fiscal year 1997, $108,000,000 for fiscal year 1998, $81,000,000 for fiscal year 1999, $27,450,000 for fiscal year 2000, $16,470,000 for fiscal year 2001, $9,600,000 for fiscal year 2002, and $6,860,000 for each of the fiscal years 2003 and 2004.

(2) SUBPART C.—For the purpose of providing grants and loans under subpart C, there are authorized to be appropriated $63,000,000 for fiscal year 1996, $45,000,000 for fiscal year 1997, $40,000,000 for fiscal year 1998, $38,000,000 for fiscal year 1999, $30,500,000 for fiscal year 2000, $18,300,000 for fiscal year 2001, $10,670,000 for fiscal year 2002, and $7,620,000 for each of the fiscal years 2003 and 2004.

(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

(c) ELIGIBLE ENTITIES.—For purposes of this part, the term "eligible entities" means—

(1) covered entities as defined in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)), except that subsection (a)(4)(L)(iii) and (a)(7) of such section shall not apply;

(2) school health service sites under title III of this Act;

(3) nonprofit hospitals meeting the criteria for public hospitals which are eligible entities under section 340B of the Public Health Service Act, except that subsection (a)(4)(L)(ii) of such section shall not apply, and children's hospitals meeting comparable criteria as determined appropriate by the Secretary;

(4) public and private, nonprofit community mental health centers and substance abuse treatment providers receiving funds from the Substance Abuse and Mental Health Services Administration;

(5) runaway homeless youth centers or transitional living programs for homeless youth for the provision of health services under the Runaway Homeless Youth Act of 1974 (42 U.S.C. 5701 et seq.);

(6) rural referral centers under section 1886(d)(5)(C) of the Social Security Act, except that such eligibility is restricted to the receipt of grants under section 3441; and

(7) public or nonprofit entities in nonmetropolitan areas (as defined by the Department of Commerce) in a consortium of community-based providers that includes at least three of the following:

(A) community or migrant health centers;

(B) local health departments;

(C) community mental health centers;

(D) nonprofit hospitals;

(E) private practice health professionals;

(F) rural health clinics; or

(F) other publicly funded health or social services agencies;

except that such eligibility is restricted to the receipt of grants or contracts under sections 3421(a) and 3461(a).

(d) CONSIDERATION.—The Secretary shall give adequate assistance to federally qualified health centers in order to ensure the provision of comprehensive primary health care services, other covered services and benefits, and enabling services to medically underserved populations that were served by such centers prior to the date of enactment of this Act, except that such federally qualified health centers must continue to meet the requirements for designation under section 1861(aa)(4) of the Social Security Act.

(e) EQUITABLE DISTRIBUTION.—The Secretary shall, in awarding grants, entering into contracts, and making loans under this part, assure an equitable distribution of funds between rural and urban areas.

Subpart B—Development of Community Health Groups and Health Care Sites and Services

SEC. 3421. GRANTS AND CONTRACTS FOR DEVELOPMENT OF PLANS AND NETWORKS AND THE EXPANSION AND DEVELOPMENT OF HEALTH CARE SITES AND SERVICES.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with eligible entities described in section 3411(c) for—

(A) the development of community health groups whose principal purpose is to provide the standard benefit package under title I in one or more health professional shortage areas or to provide such items and services to a significant number of individuals who are members of a medically underserved population; and

(B) the expansion of existing health delivery sites and services and the development of new health delivery sites and services.

(2) CONSIDERATION BY SECRETARY.—In awarding grants or contracts under paragraph (1), the Secretary shall give consideration to—

(A) the geographic proximity of the grant applicants and recipients;

(B) cultural and language differences existing within the communities to be served under the grants or contracts; and

(C) the capacity needs of the communities to be served.

(b) SERVICE AREA.—In making an award under subsection (a), the Secretary shall designate the geographic area with respect to which the community health group involved is to provide health services.

(c) PRIORITY.—In making awards under subsection (a)(1), the Secretary shall give priority to proposals in which a greater number of eligible entities and other health care providers, especially providers in community-and provider-based health plans under section 1441(d)(2), are participants in the community health group, except in areas such as rural areas, where providers are severely limited in number.

(d) LIMITATION ON AWARDS.—The Secretary may not make awards under subsection (a)(1) for more than 5 years to the same community health group.

(e) DEFINITIONS.—For purposes of this subpart:

(1) The term "community health group" means—

(A) a community health network that—

(i) is a public or nonprofit private consortium of health care providers that principally provides some of the items and services of the standard benefit package to medically underserved populations, and residents of health professional shortage areas;

(ii) has an agreement with one or more health plans; and

(iii) has a written agreement governing the participation of health care providers in the consortium to which each participating provider is a party; or

(B) a community health plan that—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(i) is a public or nonprofit private entity that principally provides all of the items and services of the standard benefit package to medically underserved populations, and residents of health professional shortage areas;

(ii) is a participant in one or more health alliances; and

(iii) has a written agreement governing the participation of health care providers in the consortium to which each participating provider is a party.

(2) The term "health professional shortage areas" means health professional shortage areas designated under section 332 of the Public Health Service Act.

(3) The term "medically underserved population" means a medically underserved population designated under section 330(b)(3) of the Public Health Service Act, populations residing in health professional shortage areas under section 332 of the Public Health Service Act, and populations eligible for premium subsidies and cost sharing reductions based on income under title I.

SEC. 3422. CERTAIN USES OF AWARDS.

(a) IN GENERAL.—Amounts awarded under section 3421 may be expended for—

(1) the development of a community health group, including entering into contracts between the recipient of the award and health care providers who are to participate in the group;

(2) the expansion, development and ongoing operation of health delivery sites and services; and

(3) activities under paragraphs (1) and (2) which include—

(A) the recruitment, compensation, and training of health professionals and administrative staff;

(B) the purchase and upgrading of equipment, supplies, and information systems including telemedicine systems; and

(C) the establishment of reserves required for furnishing services on a prepaid or capitated basis, except that eligible entities may use non-cash mechanisms (including bonds, letters of credit and federally guaranteed reinsurance pools) for establishing and maintaining financial reserves.

(b) LOANS AND GRANTS.—The Secretary may provide for payment, in any fiscal year, of not to exceed 10 percent of the amounts appropriated to carry out this subpart to make loans and grants to eligible entities to support the types of activities described in section 3441, subject to the requirements of subpart C, except that, with respect to amounts available for non-federally qualified health center activities, such funds may be used to convert facilities from providers of acute care service to providers of primary, emergency or long-term care.

SEC. 3423. APPLICATION.

The Secretary may not make an award to an entity under section 3421 until such entity submits an application to the Secretary, in such form and containing such assurances and information as the Secretary determines appropriate, including—

(1) an assessment of the need that the medically underserved population or populations proposed to be served by the applicant have for health services and for enabling services (as defined in section 3461);

(2) a description of how the applicant will design the proposed community health plan or practice network (including the service sites involved) for such populations based on the assessment of need;

(3) a description of efforts to secure financial and professional assistance and support for the project; and

(4) evidence of significant community involvement in the initiation, development and ongoing operation of the project.

SEC. 3424. PURPOSES AND CONDITIONS.

Grants shall be made under this subpart for the purposes and subject to all of the conditions under which eligible entities otherwise receive funding to provide health services to medically underserved populations under the Public Health Service Act. The Secretary shall prescribe comparable purposes and conditions for eligible entities not receiving funding under the Public Health Service Act.

Subpart C—Capital Cost of Development of Community Health Groups and Other Purposes

SEC. 3441. DIRECT LOANS AND GRANTS.

(a) IN GENERAL.—The Secretary shall make grants and loans to—

(1) eligible entities (as defined in section 3411(c));

(2) hospitals designated by the Secretary as essential access community hospitals under section 1820(i)(1) of the Social Security Act; or

(3) rural primary care hospitals under section 1820(i)(2) of such Act;

for the capital costs of developing community health groups (as defined in section 3421(e)) and expanding existing health delivery sites or developing new health delivery sites.

(b) USE OF ASSISTANCE.—

(1) IN GENERAL.—The capital costs for which grants and loans made pursuant to subsection (a) may be expended are, subject to paragraphs (2) and (3), the following:

(A) The acquisition, modernization, expansion or construction of facilities, or the conversion of unneeded hospital facilities to facilities that will assure or enhance the provision and accessibility of health care and enabling services to medically underserved populations.

(B) The purchase of major equipment, including equipment necessary for the support of external and internal information systems.

(C) The establishment of reserves required for furnishing services on a prepaid or capitated basis.

(D) Such other capital costs as the Secretary may determine are necessary to achieve the objectives of this section.

(2) PRIORITIES REGARDING USE OF FUNDS.—In providing grants and loans under subsection (a) for an entity, the Secretary shall give priority to authorizing the use of amounts for projects for the renovation and modernization of medical facilities necessary to prevent or eliminate safety hazards including asbestos removal, avoid noncompliance with licensure or accreditation standards, or projects to replace obsolete facilities.

(3) LIMITATION.—The Secretary may authorize the use of grants and loans under subsection (a) for the construction of new buildings only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, expanding or converting existing buildings, or that construction new buildings will cost less.

(c) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—The principal amount of loans under subsection (a) may cover up to 90 percent of the costs involved.

(2) GRANTS.—Grants under this subsection may not exceed 75 percent of the costs involved.

(d) INTEREST SUBSIDIES.—Amounts provided under this section may be used to provide interest subsidies for loans provided under this section where such subsidies are necessary to make a project financial feasible.

SEC. 3442. CERTAIN REQUIREMENTS.

(a) IN GENERAL.—The Secretary may approve a loan under section 3441 only if—

(1) the Secretary is reasonably satisfied that the applicant for the project for which the loan would be made will be able to make payments of principal and interest thereon when due; and

(2) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(b) TERMS AND CONDITIONS.—Any loan made under section 3441 shall, subject to the Federal Credit Reform Act of 1990, meet such terms and conditions (including provisions for recovery in case of default) as the Secretary, in consultation with the Secretary of the Treasury, determines to be necessary to carry out the purposes of such section while adequately protecting the financial interests of the United States. Terms and conditions for such loans shall include provisions regarding the following:

(1) Security.

(2) Maturity date.

(3) Amount and frequency of installments.

(4) Rate of interest, which shall be at a rate comparable to the rate of interest prevailing on the date the loan is made.

SEC. 3443. DEFAULTS; RIGHT OF RECOVERY.

(a) DEFAULTS.—

(1) IN GENERAL.—The Secretary may take such action as may be necessary to prevent a default on loans under section 3441, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes.

(2) FORECLOSURE.—The Secretary may take such action, consistent with State law respecting foreclosure procedures, as the Secretary deems appropriate to protect the interest of the United States in the event of a default on a loan made pursuant to section 3441, including selling real property pledged as security for such a loan and for a reasonable period of time taking possession of, holding, and using real property pledged as security for such a loan.

(3) WAIVERS.—The Secretary may, for good cause, but with due regard to the financial interests of the United States, waive any right of recovery which the Secretary has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made pursuant to section 3441, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(b) TWENTY-YEAR OBLIGATION; RIGHT OF RECOVERY; SUBORDINATION; WAIVERS.—

(1) IN GENERAL.—With respect to an eligible entity for which a grant or loan was made under section 3441, the Secretary may award the grant or loan only if the applicant involved agrees that the applicant will be liable to the United States for the amount of the grant or loan, together with an amount representing interest, if at any time during the 20-year period beginning on the date of completion of the activities involved, the entity—

(A) ceases to be an eligible entity utilized by a community health group, or by another public or nonprofit private entity that provides health services in one or more health professional shortage areas or that provides such services to a significant number of individuals who are members of a medically underserved population; or

(B) is sold or transferred to any entity other than an entity that is—

(i) a community health group or other entity described in subparagraph (A); and

(ii) approved by the Secretary as a purchaser or transferee regarding the facility.

(2) SUBORDINATION; WAIVERS.—With respect to essential community providers, the Secretary may subordinate or waive the right of recovery under paragraph (1), and any other Federal interest that may be derived by virtue of a grant or loan under section 3441, if the Secretary determines that subordination or waiver will further the objectives of this part.

SEC. 3444. PROVISIONS REGARDING CONSTRUCTION OR EXPANSION OF FACILITIES.

(a) SUBMISSION OF INFORMATION.—In the case of a project for construction, conversion, expansion or modernization of a facility, the Secretary may provide loans under section 3441 only if the applicant submits to the Secretary the following:

(1) A description of the site.

(2) Plans and specifications which meet requirements prescribed by the Secretary.

(3) Information reasonably demonstrating that title to such site is vested in one or more of the entities filing the application (unless the agreement described in subsection (b)(1) is made).

(4) A specification of the type of assistance being requested under section 3441.

(b) AGREEMENTS.—In the case of a project for construction, conversion, expansion or modernization of a facility, the Secretary may provide loans under section 3441 only if the applicant makes the following agreements:

(1) Title to such site will be vested in one or more of the entities filing the application (unless the assurance described in subsection (a)(3) has been submitted under such subsection).

(2) Adequate financial support will be available for completion of the project and for its maintenance and operation when completed.

(3) All laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a et seq; commonly known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 276c of title 40.

(4) The facility will be made available to all persons seeking service regardless of their ability to pay.

SEC. 3445. APPLICATION FOR ASSISTANCE.

The Secretary may provide loans under section 3441 only if an application for such assistance is submitted to the Secretary, the application contains each agreement described in this subpart, the application contains the information required in section 3444(a), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

SEC. 3446. ADMINISTRATION OF PROGRAMS.

This subpart, and any other program of the Secretary that provides loans, shall be carried out by a centralized loan unit established within the Department of Health and Human Services.

Subpart D—Enabling and Supplemental Services

SEC. 3461. GRANTS AND CONTRACTS FOR ENABLING AND SUPPLEMENTAL SERVICES.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with eligible entities described in section 3411(c) to assist such entities in providing the services described in subsections (b) and (c) for the purpose of increasing the capacity of individuals to utilize the items and services included in the standard benefits package under title I, and to provide access to essential supplemental services that are not fully reimbursable under title I prior to January 2001.

(2) CONSIDERATION BY SECRETARY.—In awarding grants or contracts under paragraph (1), the Secretary shall give consideration to—

(A) the geographic proximity of the grant applicants and recipients;

(B) cultural and language differences existing within the communities to be served under the grants or contracts; and

(C) the capacity needs of the communities to be served.

(b) ENABLING SERVICES.—Enabling services shall include transportation, community and patient outreach, patient and family education, translation services, case management, home visiting, and such other services as the Secretary determines to be appropriate in carrying out the purpose described in such subsection.

(c) SUPPLEMENTAL SERVICES.—Supplemental services shall include items or services described in section 1106 or section 1118 of this Act that would otherwise be excluded from coverage prior to January 1, 2001.

(d) CERTAIN REQUIREMENTS REGARDING PROJECT AREA.—The Secretary may make an award of a grant or contract under subsection (a) only if the applicant involved—

(1) submits to the Secretary—

(A) information demonstrating that the medically underserved populations in the community to be served under the award have a need for enabling services; and

(B) a proposed budget for providing such services;

(2) the applicant for the award agrees that the medically underserved residents of the community will be consulted with respect to the design and implementation of the project carried out with the award;

(3) agrees that the services will not be denied because the individual is unable to pay for such services; and

(4) agrees that the applicant will utilize existing resources to the maximum extent practicable.

(e) APPLICATION FOR AWARDS OF ASSISTANCE.—The Secretary may make an award of a grant or contract under subsection (a) only if an application for the award is submitted to the Secretary, the application contains each agreement described in this subpart, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

SEC. 3462. AUTHORIZATIONS OF APPROPRIATIONS.

(a) ENABLING SERVICES.—For the purpose of carrying out section 3461(b), there are authorized to be appropriated $88,000,000 for fiscal year 1996, $252,000,000 for fiscal year 1997, $224,000,000 for fiscal year 1998, $215,000,000 for fiscal year 1999, $213,500,000 for fiscal year 2000, $128,100,000 for fiscal year 2001, $74,690,000 for fiscal year 2002, and $53,300,000 for each of the fiscal years 2003 and 2004.

(b) SUPPLEMENTAL SERVICES.—For the purpose of carrying out section 3461(c), there are authorized to be appropriated $189,000,000 for fiscal year 1996, $225,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $192,000,000 for fiscal year 1999, $152,500,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, and $38,100,000 for each of the fiscal years 2003 and 2004.

(c) FEDERALLY QUALIFIED HEALTH CENTERS.—With respect to federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act) for the purpose of carrying out section 3461(b), there are authorized to be appropriated $38,000,000 for fiscal year 1996, $108,000,000 for fiscal year 1997, $96,000,000 for fiscal year 1998, $92,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004.

(d) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

(e) EQUITABLE DISTRIBUTION.—The Secretary shall, in awarding grants, entering into contracts, and making loans under this part, assure an equitable distribution of funds between rural and urban areas.

Subpart E—Rural Health Plan Demonstration Projects

SEC. 3465. RURAL HEALTH PLAN DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Labor, shall establish and implement not more than 3 demonstration projects for the designation of rural health plan areas. To be designated as a rural health plan area under this section, an area must be a rural area (as defined in section 1866(d)(2)(D) of the Social Security Act) or an underserved nonurban area in accordance with other criteria specified by the Secretary.

(b) APPLICATION.—To be eligible to conduct a demonstration project under this section, an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require to ensure that project participants meet the goals described in subsection (d). An application submitted under this section shall—

(1) identify the area in which the demonstration project will be conducted; and

(2) provide assurances that the area described in paragraph (1) meets the requirements of subsection (a).

(c) REQUIREMENTS.—An entity offering a health plan through a demonstration project under this section shall—

(1) have a recognized, long-standing relationship with the rural community in which the project is being conducted;

(2) ensure that the health plan is operated as a standard health plan;

(3) ensure that the plan meets the requirements for standard health plans under title I;

(4) ensure that the plan offers enrollment—

(A) on an experience-rated basis to experience-rated employees of the plan sponsor; and

(B) on a community-rated basis to community-rated individuals in the community rating area in which such plan operates; and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(5) meet the requirements of subtitle B of title I.

(d) GOALS.—The goals referred to in this subsection are as follows:

(1) To develop a reliable supply of health care providers and rural health service delivery infrastructures with a sound financial footing.

(2) To develop a mechanism to begin to provide the benefits of networking found in urban health systems to rural Americans living in rural health plan areas.

(e) DURATION.—The Secretary may revoke the designation of a rural health plan area if the Secretary determines that the entity conducting the project in such area has failed to comply with the requirements of this section. The Secretary may not designate a rural health plan area under this section after December 31, 1999.

(f) EVALUATIONS AND REPORTS.—

(1) EVALUATIONS.—Each entity offering a health plan through a demonstration project under this section shall submit to the Secretary such interim evaluations as the Secretary may require.

(2) REPORT.—Not later than 360 days after the date on which the first demonstration project is implemented under this section, and annually thereafter for each year in which a project is being conducted, the Secretary shall submit to Congress a report that evaluates the effectiveness of such projects. Such reports shall include any legislative recommendations determined appropriate by the Secretary.

PART 2—NATIONAL HEALTH SERVICE CORPS

SEC. 3471. AUTHORIZATIONS OF APPROPRIATIONS.

(a) ADDITIONAL FUNDING; GENERAL CORPS PROGRAM; ALLOCATIONS REGARDING NURSES.—For the purpose of carrying out subpart II of part D of title III of the Public Health Service Act, and for the purpose of carrying out section 3472, there are authorized to be appropriated $189,000,000 for fiscal year 1996, $135,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $192,000,000 for fiscal year 1999, $152,500,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, and $38,100,000 for each of the fiscal years 2003 and 2004.

(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

SEC. 3472. ALLOCATION FOR PARTICIPATION OF NURSES IN SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.

Of the amounts appropriated under section 3471, the Secretary shall reserve such amounts as may be necessary to ensure that, of the aggregate number of individuals who are participants in the Scholarship Program under section 338A of the Public Health Service Act, or in the Loan Repayment Program under section 338B of such Act, the total number who are being educated as nurse practitioners, nurse midwives, or nurse anesthetists or are serving as nurse practitioners, nurse midwives, or nurse anesthetists, respectively, is increased to 20 percent.

SEC. 3473. ALLOCATION FOR PARTICIPATION OF PSYCHIATRISTS, PSYCHOLOGISTS, AND CLINICAL SOCIAL WORKERS IN SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.

Of the amounts appropriate under section 3471, the Secretary shall reserve such amounts as may be necessary to ensure that of the aggregate number of individuals who are participants in the scholarship program under section 338A of the Public Health Service Act, the number who are being educated as psychiatrists, psychologists, and clinical social workers or are serving as psychiatrists, psychologists, and clinical social workers, respectively, is increased to 15 percent.

Subtitle F—Mental Health; Substance Abuse

PART 1—AUTHORITIES REGARDING PARTICIPATING STATES

SEC. 3510. INTEGRATION OF MENTAL HEALTH AND SUBSTANCE ABUSE SYSTEMS.

(a) IN GENERAL.—As a condition of being a participating State under title I, each State shall, not later than January 1, 2001, achieve the integration of the mental illness and substance abuse services of the State and its political subdivisions with the mental illness and substance abuse services offered by health plans pursuant to title I of this Act. A State may petition the Secretary for a waiver of the requirement of this subsection under the circumstances described in section 3511(b)(7).

(b) CERTIFICATION OF READINESS.—

(1) PETITION.—A State may petition the Secretary to integrate the mental illness and substance abuse services of the State and its political subdivisions with the mental illness and substance abuse services offered by health plans pursuant to title I of this Act prior to January 1, 2001.

(2) STATE READINESS TO INTEGRATE.—Upon receiving such a petition, the Secretary shall, based on the reports submitted pursuant to subsections (b) and (c) of section 3511 and the criteria promulgated pursuant to paragraph (3), ascertain the State's readiness to integrate its mental illness and substance abuse services with the mental illness and substance abuse services offered by health plans pursuant to title I of this Act and certify whether the State is prepared to conduct such an integration.

(3) CRITERIA.—The certification by the Secretary of a State's readiness to integrate under paragraph (2) shall be based on objective criteria promulgated by the Secretary after consultation with the States.

(c) APPLICATION OF PROVISIONS.—Upon the issuance of a certification of readiness by the Secretary for a State, the limits set forth in subsections (a)(3)(A)(iii)(I)(aa) and (bb) of section 1213 shall not apply to the provision of mental illness and substance abuse services in the State.

SEC. 3511. REPORT ON INTEGRATION OF MENTAL HEALTH SYSTEMS.

(a) IN GENERAL.—As a condition of being a participating State under title I, each State shall, not later than October 1, 1998, submit to the Secretary a report containing the information described in subsection (b) on (including a plan for) the measures to be implemented by the State to achieve the integration of the mental illness and substance abuse services of the State and its political subdivisions with the mental illness and substance abuse services that are included in the standard benefit package under title I. The plan required in the preceding sentence shall meet the conditions described in section 3083(b). In addition, each State shall submit to the Secretary a report containing the information described in subsection (c) for each year up to and including the year 2001 or the date on which an unlimited benefit for mental illness and substance abuse services is provided.

(b) REQUIRED CONTENTS OF INTEGRATION REPORT.—With respect to the provision of items and services relating to mental illness and substance abuse, the report of a State under subsection (a) shall, at a minimum, contain the following information:

(1) Information on the number of individuals served by or through mental illness and substance abuse programs administered by State and local agencies and the proportion who are eligible persons under title I.

(2) Information on the extent to which each health provider furnishing mental illness and substance abuse services under a State program participates or will participate in one or more health plans, and, in the case of providers that do not so participate, the reasons for the lack of participation.

(3) With respect to the two years preceding the year in which the State becomes a participating State under title I—

(A) the amount of funds expended by the State and its political subdivisions for each of such years for items and services that are included in the standard benefit package under such title;

(B) the amount of funds expended for medically necessary and appropriate items and services not included in such benefit package, including medical care, other health care, and supportive services related to the provision of health care.

(4) An estimate of the amount that the State will expend to furnish items and services not included in such package once the expansion of coverage for mental illness and substance abuse services is implemented.

(5) A description of how the State will assure that all individuals served by mental illness and substance abuse programs funded by the State will be enrolled in a health plan and how mental illness and substance abuse services not covered under the benefit package will continue to be furnished to such enrollees.

(6) A description of the conditions under which the integration of mental illness and substance abuse services can be achieved, and an identification of changes in participation and certification requirements that are needed to achieve the integration of such programs and providers into health plans.

(7) If the integration of mental illness and substance abuse programs operated by the State into one or more health plans is not medically appropriate or feasible for one or more groups of individuals treated under State programs, a description of the reasons that integration is not feasible or appropriate and a plan for assuring the coordination for such individuals of the care and services covered under the standard benefit package with the additional items and services furnished by such programs.

(8) A description of the manner in which the resources that the State and its political subdivisions currently spend on mental health and substance abuse services will be used to facilitate integration.

(c) REQUIRED CONTENTS OF TRANSITION REPORT.—With respect to the a report required under this subsection, the report shall, at a minimum, contain the following information:

(1) The amount of funds expended for substance abuse and mental health services by the source of revenue, including, Federal block grant funds under title XIX of the Public Health Service Act, Federal categorical grant funds, funds under title XIX of the Social Security Act, State and local revenues and health plan payments.

(2) The amount of funds expended for supportive services to individuals enrolled in substance abuse and mental health treatment programs, including transportation, child care, educational and vocational training and coordination with other public systems such as the social service, child welfare and juvenile and criminal justice systems, by source of revenue.

(3) The amount of funds expended on medically necessary and appropriate items and services not covered or reimbursed in the standard benefit package by source of revenue.

(4) The amount of funds expended by the State on substance abuse and mental illness services for individuals who are not eligible to receive the standard benefit package pursuant to this Act, and the source of revenue for such services.

(d) GENERAL PROVISIONS.—Reports under subsections (b) and (c) shall be provided at the time and in the manner prescribed by the Secretary. The Secretary shall also determine what, if any, reports shall be submitted in years following the implementation of an unlimited benefit for mental illness and substance abuse services.

(e) REPORTING REQUIREMENT.—Each State shall report annually to the Secretary on the incidence and prevalence of mental illness and substance abuse disorders in the prison population, changes in such incidence and prevalence in the prison population, and potential causative factors with respect to such changes, including an estimate of the extent to which the denial of treatment, or the provision of inadequate treatment, to individuals with mental illness and substance abuse disorders is contributing to the criminal activity of such individuals.

(f) REDEPLOYMENT OF HEALTH CARE WORKERS.—In addition to any other requirements imposed under this section, the plan described in subsection (a) shall provide for the following:

(1) COMMENCEMENT OF NEGOTIATIONS.—Before initiating the process of implementing the integration of mental illness and substance abuse services, negotiations shall be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(2) REQUIREMENTS WITH RESPECT TO NEGOTIATIONS.—The negotiations described in paragraph (1) shall address—

(A) the impact of the proposed changes upon the workforce; and

(B) methods to redeploy workers to positions in the proposed system, in the case of workers affected by the proposed changes, including procedures to assist employees who may be displaced in exercising rights under section 3093.

(3) EVIDENCE OF COMPLIANCE.—The plan shall provide evidence that there has been compliance with paragraphs (1) and (2), including a description of the results of the negotiations.

PART 2—ASSISTANCE FOR STATE MANAGED MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS

SEC. 3531. AVAILABILITY OF ASSISTANCE.

(a) IN GENERAL.—The Secretary shall make grants to States for the development and operation of comprehensive managed mental health and substance abuse programs that are integrated with the health delivery system established under this Act. Such programs shall—

(1) promote the development of integrated delivery systems for the management of the mental health and substance abuse services provided under the standard benefits package;

(2) give priority to providing services to low-income adults with serious mental illness or substance abuse disorders and children with serious emotional disturbance or substance abuse disorders and provide for the phase-in of such services for all eligible persons within 5 years;

(3) ensure that individuals participating in the program have access to all medically necessary mental health and substance abuse services;

(4) promote the linkage of mental health and substance abuse services with primary and preventive health care services; and

(5) meet such other requirements as the Secretary may impose.

(b) EXCEPTION.—Nothing in this part shall be construed as preventing States that have separate administrative entities for mental health and for substance abuse services from establishing separate comprehensive managed care programs for such services and receiving assistance under this part for either or both programs.

SEC. 3532. PLAN REQUIREMENTS.

In order to receive a grant under this part, a State must have a plan for a comprehensive managed mental health and substance abuse program which is approved by the Secretary. Such plan shall—

(1) describe the management, access, and referral structure that the State will use to promote and achieve integration of mental health and substance abuse services with the health delivery system established under this Act for eligible individuals in the State;

(2) describe how the State will ensure that providers of specialized services will meet appropriate standards and provide assurances that the State has complied with section 1501 as it affects mental health and substance abuse services;

(3) describe payment, utilization review, and other mechanisms that the State will use to encourage appropriate service delivery and management of costs;

(4) describe uniform patient placement criteria that the State will use to ensure placement in appropriate substance abuse treatment programs;

(5) describe the processes the State will use to ensure that individuals will continue to have access to treatment through referrals from nonhealth public entities, such the juvenile or criminal justice systems, or social service systems;

(6) specify the methods the State will use to ensure that individuals receiving services under the program have access to all medically necessary and appropriate mental health and substance abuse services;

(7) define terms that will be used by the State in determining the eligibility of individuals for services under the program;

(8) describe how health plans will use services under the comprehensive managed mental health and substance abuse programs established under this part;

(9) describe the role of local government in financing and managing the integrated mental illness and substance abuse treatment system;

(10) describe the sources of funding, including Medicaid (title XIX of the Social Security Act) and the block grants authorized by title XIX of the Public Health Service Act, that will be used by the State, other than the grant received under this part, to operate the program, and provide the status of any request for a Medicaid waiver made by the State to the Secretary;

(11) describe how the State provided for broad-based public input in the development of the plan, and the mechanism that will be used for ongoing public comment on and review of amendments to the plan; and

(12) describe grievance procedures that will be available for individuals dissatisfied with their health plan's participation in the comprehensive managed mental health and substance abuse program, and mechanisms that will be available to review the performance of health plans and fee-for-service arrangements to ensure against under treatment.

SEC. 3533. ADDITIONAL FEDERAL RESPONSIBILITIES.

The Secretary shall, upon the submission of a State's plan under section 3532, ensure the timely consideration of any Medicaid waiver requests submitted by the State, affirm that section 1501 has been implemented, and ensure the timely implementation of section 1504(d)(3).

SEC. 3534. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under this part, $126,000,000 for fiscal year 1996, $90,000,000 for fiscal year 1997, $80,000,000 for fiscal year 1998, $77,000,000 for fiscal year 1999, $61,000,000 for fiscal year 2000, $36,600,000 for fiscal year 2001, $21,340,000 for fiscal year 2002, and $15,200,000 for each of the fiscal years 2003 and 2004.

Subtitle G—Comprehensive School Health Education; School-Related Health Services

PART 1—HEALTHY STUDENTS-HEALTHY SCHOOLS GRANTS FOR SCHOOL HEALTH EDUCATION

SEC. 3601. PURPOSES.

It is the purpose of this part—

(1) to support the development and implementation of comprehensive age appropriate health education programs in public schools for children and youth kindergarten through grade 12; and

(2) to increase access to preventive and primary health care services for children and youth through school-based or school-linked health service sites in accordance with locally determined needs.

SEC. 3602. HEALTHY STUDENTS-HEALTHY SCHOOLS GRANTS.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Education, shall award grants to State educational agencies in eligible States to integrate comprehensive school health education in schools within the State, with priority given within States to those communities in greatest need as defined by section 3683(a).

(b) ELIGIBLE USES OF FUNDS.—Funds made available under this section shall be used—

(1) to implement comprehensive school health education programs, as defined in subsection (f)(1) through grants to local educational agencies;

(2) to provide staff development and technical assistance to local educational agencies, schools, local health agencies, and other community organizations involved in providing comprehensive school health education programs;

(3) to evaluate and report to the Secretary on the progress made towards attaining the goals and objectives described under subsection (c)(1)(A); and

(4) to conduct such other activities to achieve the objectives of this subpart as the Secretary may require.

(c) APPLICATION.—An application for a grant under subsection (a), shall be jointly developed by the State educational agency and the State health agencies of the State involved, and shall contain—

(1) a State plan for comprehensive school health education programs, that outlines—

(A) the goals and objectives of the State for school health education programs, and the manner in which the State will allocate funds to local educational agencies in order to achieve these goals and objectives;

(B) the manner in which the State will coordinate programs under this part with other Federal, State and local health education programs and resources, and school health services;

VOL 140 PT 16 AG 12 — 18 1994 UMI

(C) the manner in which comprehensive school health education programs will be coordinated with other Federal, State and local education programs (such as programs under titles I, II, and IV of the Elementary and Secondary Education Act of 1965), with the school improvement plan of the State, if any, under title III of the Goals 2000: Educate America Act, and with any similar programs;

(D) the manner in which the State shall work with State and local educational agencies and with State and local health agencies to reduce barriers to implementing school health education programs;

(E) the manner in which the State will monitor the implementation of such programs by local educational agencies and establish outcome criteria by which to evaluate their effectiveness in achieving progress towards the goals and objectives described in subparagraph (A);

(F) the manner in which the State will provide staff development and technical assistance to local educational agencies, and build capacity for professional development of health educators; and

(G) the manner in which such school health education programs will be, to the extent practicable, culturally competent and linguistically appropriate and responsive to the diverse needs of the students served;

(2) a description of the respective roles of the State educational agency, local educational agencies, the State health agency and local health agencies in developing and implementing the State's school health education plan and resulting programs;

(3) a description of the input of the local community (including students and parents) in the development and operation of comprehensive school health education programs;

(4) an assurance that communities identified in section 3683(a) receive priority as locations for comprehensive school health education programs for all grades to the extent that a State does not implement a statewide program; and

(5) an assurance that grants to local educational agencies under subsection (b)(1) are contingent upon submission by such agencies of a plan consistent with the requirements for the State plan as required under this subsection.

(d) WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.—

(1) WAIVERS.— Except as provided in paragraph (4), upon the request of an entity and under a relevant program described in paragraph (2), the Secretary of Health and Human Services and the Secretary of Education may grant to the entity a waiver of any requirement of such program regarding the use of funds, or of the regulations issued for the program by the Secretary involved, if the following conditions are met with respect to such program:

(A) The Secretary involved determines that the requirements of such program impede the ability of the State educational agency to achieve more effectively the purposes described in section 3601.

(B) The Secretary involved determines that, with respect to the use of funds under such program, the requested use of the funds by the entity would be consistent with the purposes described in section 3601.

(C) The State educational agency provides all interested local educational agencies in the State with notice and an opportunity to comment on the proposal and makes these comments available to the Secretary.

(2) RELEVANT PROGRAMS.—For purposes of paragraph (1), the programs described in this subparagraph are the following:

(A) In the case of programs administered by the Secretary of Health and Human Services, the following:

(i) The program known as the Prevention, Treatment, and Rehabilitation Model Projects for High Risk Youth, carried out under section 517 of the Public Health Service Act.

(ii) The program known as the State and Local Comprehensive School Health Programs to Prevent Important Health Problems and Improve Educational Outcomes, carried out under such Act.

(B) In the case of programs administered by the Secretary of Education, any program carried out under part B of the Drug-Free Schools and Communities Act of 1986, except that a component of such comprehensive school health education must be consistent with the statutory intent and purposes of such Act.

(3) WAIVER PERIOD.—A waiver under this paragraph shall be for a period not to exceed 3 years, unless the Secretary involved determines that—

(A) the waiver has been effective in enabling the State to carry out the activities for which it was requested and has contributed to improved performance of comprehensive health education programs; and

(B) such extension is in the public interest;

(4) WAIVERS NOT AUTHORIZED.—The Secretary involved under paragraph (1), may not waive, under this section, any statutory or regulatory requirements relating to—

(A) comparability of services;

(B) maintenance of effort;

(C) parental participation and involvement;

(D) the distribution of funds to States or to local educational agencies or other recipients of funds under the programs described in paragraph (2);

(E) maintenance of records;

(F) applicable civil rights requirements; or

(G) the requirements of sections 438 and 439 of the General Education Provisions Act.

(5) TERMINATION OF WAIVER.—The Secretary involved under paragraph (1) shall terminate a waiver under this subsection if the Secretary determines that the performance of the State affected by the waiver has been inadequate to justify a continuation of the waiver or if it is no longer necessary to achieve its original purpose.

(e) DEFINITIONS.—As used in this section:

(1) COMPREHENSIVE SCHOOL HEALTH EDUCATION.—The term "comprehensive school health education" means a planned, sequential program of health education that addresses the physical, emotional and social dimensions of student health in kindergarten through grade 12. Such program shall—

(A) be designed to assist students in developing the knowledge and behavioral skills needed to make positive health choices and maintain and improve their health, prevent disease and injuries, and reduce risk behaviors which adversely impact health;

(B) be comprehensive and include a variety of components addressing personal health, community and environmental health, injury prevention and safety, nutritional health, the effects of substance use and abuse, consumer health regarding the benefits and appropriate use of medical services including immunizations and other clinical preventive services, and other components deemed appropriate by the local educational agencies;

(C) be designed to be linguistically and culturally competent, and responsive to the needs of the students served; and

(D) address locally relevant priorities as determined by parents, students, teachers, and school administrators and health officials.

(2) ELIGIBLE STATE.—The term "eligible State" means a State with a memorandum of understanding or a written cooperative agreement entered into by the agencies responsible for health and education concerning the planning and implementation of comprehensive school health education programs. Among these States a priority shall be given to qualified States as defined in section 3682(c).

(3) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(f) AUTHORIZED FUNDING.—For the purpose of carrying out this section, out of the funds available under section 3681, there are made available, not to exceed $15,000,000 for fiscal year 1995, $20,000,000 for fiscal year 1996, $25,000,000 for fiscal year 1997, $30,000,000 for fiscal year 1998, $40,000,000 for fiscal year 1999, and $50,000,000 for fiscal year 2000.

SEC. 3603. HEALTHY STUDENTS-HEALTHY SCHOOLS INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish a Healthy Students-Healthy Schools Interagency Task Force to be composed of representatives of the Office of Disease Prevention and Health Promotion, the National Institutes of Health, the Centers for Disease Control and Prevention, the Health Resources and Services Administration, the Office of School Health Education within the Department of Education, and other Federal agencies and departments which have responsibility for components of school health and education.

(b) CO-CHAIRPERSONS.—The Assistant Secretary for Health and the Assistant Secretary for Elementary and Secondary Education shall serve as co-chairpersons of the task force established under subsection (a).

(c) FUNCTIONS AND ACTIVITIES.—The task force established under subsection (a) shall—

(1) review and coordinate all Federal efforts in school health education and health services;

(2) provide scientific and technical advice concerning the development and implementation of model comprehensive school health education programs and curricula;

(3) develop model student learning objectives and assessment instruments that shall be made available to all States;

(4) develop a uniform grant application form (a form that serves as the principal document containing the core information concerning a particular entity) and procedures

that may be used with respect to all school health education-related programs (including supplementary information procedures to be implemented when an entity that has already submitted an application form is applying for additional assistance) that require the submission of an application; and

(5) recommend to the Secretary, for inclusion in the biennial report required by section 3604(2), methods for effectively linking school health education and health services research findings at the Federal level with implementation at the State and local levels.

(d) CONSOLIDATION OF INITIATIVES.—Not later than 12 months after the date of enactment of this Act, the task force established under subsection (a) shall prepare and submit to the Congress a report containing the recommendations of the task force for the consolidation of Federal school health education initiatives.

(d) CONSOLIDATION OF INITIATIVES.—Not later than 12 months after the date of enactment of this Act, the task force established under subsection (a) shall prepare and submit to the Congress a report containing the recommendations of the task force for the consolidation of Federal school health education initiatives.

SEC. 3604. DUTIES OF THE SECRETARY.

The Secretary shall—

(1) establish and maintain a national clearinghouse, using advanced technologies to the maximum extent practicable, and mechanisms for the diverse dissemination of school health education material, including written, audio-visual, and electronically conveyed information to educators, schools, health care providers, and other individuals, organizations, and governmental entities;

(2) submit a biennial report to the Committee on Labor and Human Resources of the Senate and the appropriate committees of the House of Representatives on the implementation and contribution of comprehensive school health education programs funded under this part toward achieving relevant National Healthy People 2000 objectives established by the Secretary; and

(3) encourage coordination among Federal agencies, State and local governments, educators, school health providers, community-based organizations, and private sector entities to support development of comprehensive school health education programs and school health services.

PART 2—SCHOOL-RELATED HEALTH SERVICES

Subpart A—Development and Operation

SEC. 3681. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDING FOR SCHOOL-RELATED HEALTH SERVICES.—For the purpose of carrying out this subpart, there are authorized to be appropriated, $252,000,000 for fiscal year 1996, $292,000,000 for fiscal year 1997, $359,000,000 for fiscal year 1998, $441,000,000 for fiscal year 1999, $427,000,000 for fiscal year 2000, $256,200,000 for fiscal year 2001, $149,380,000 for fiscal year 2002, and $107,000,000 for each of the fiscal years 2003 and 2004.

(b) FUNDING FOR PLANNING AND DEVELOPMENT GRANTS.—Of amounts made available under this section, not to exceed $10,000,000 for each of fiscal years 1995 and 1996 may be utilized to carry out section 3684.

SEC. 3682. ELIGIBILITY FOR GRANTS.

(a) IN GENERAL.—

(1) PLANNING AND DEVELOPMENT GRANTS.—Entities eligible to apply for and receive grants under section 3684 are—

(A) State health agencies that apply on behalf of local community partnerships; or

(B) local community partnerships in States in which health agencies have not successfully applied.

(2) OPERATIONAL GRANTS.—Entities eligible to apply for and receive grants under section 3685 are—

(A) a qualified State as designated under subsection (c) that apply on behalf of local community partnerships; or

(B) local community partnerships in States that are not designated under subparagraph (A).

(b) LOCAL COMMUNITY PARTNERSHIPS.—

(1) IN GENERAL.—A local community partnership under subsection (a)(1)(B) and (a)(2)(B) is an entity that, at a minimum includes—

(A) a local health care provider, which may be a local public health department, with experience in delivering services to children and youth or medically underserved populations;

(B) local educational agency on behalf of one or more public schools; and

(C) one community based organization located in the community to be served that has a history of providing services to at-risk children and youth.

(2) RURAL COMMUNITIES.—In rural communities, local partnerships should seek to include, to the fullest extent practicable, providers and community based organizations with experience in serving the target population.

(3) PARENT AND COMMUNITY PARTICIPATION.—An applicant described in subsection (a) shall, to the maximum extent feasible, involve broad-based community participation (including parents of the youth to be served).

(c) QUALIFIED STATE.—A qualified State under subsection (a)(2)(A) is a State that, at a minimum—

(1) demonstrates an organizational commitment (including a strategic plan) to providing a broad range of health, health education and support services to at-risk youth; and

(2) has a memorandum of understanding or cooperative agreement jointly entered into by the State agencies responsible for health and education regarding the planned delivery of health and support services in school-based or school-linked centers.

SEC. 3683. PREFERENCES.

In making grants under sections 3684 and 3685, the Secretary shall give priority to applicants whose communities to be served show the most substantial level of need for health services among children and youth.

SEC. 3684. PLANNING AND DEVELOPMENT GRANTS.

(a) IN GENERAL.—The Secretary may make grants during fiscal years 1995 and 1996 to entities eligible under section 3862 to develop school-based or school-linked health service sites.

(b) USE OF FUNDS.—Amounts provided under a grant under this section may be used for the following:

(1) Planning for the provision of school health services, including—

(A) an assessment of the need for health services among youth in the communities to be served;

(B) the health services to be provided and how new services will be integrated with existing services;

(C) assessing and planning for the modernization and expansion of existing facilities and equipment to accommodate such services; and

(D) an affiliation with relevant health plans.

(2) recruitment and training of staff for the administration and delivery of school health services;

(3) the establishment of local community partnerships as described in section 3682 (b);

(4) in the case of States, the development of memorandums of understanding or cooperative agreements for the coordinated delivery of health and support services through school health service sites; and

(5) other activities necessary to assume operational status.

(c) APPLICATION FOR GRANTS.—To be eligible to receive a grant under this section an entity described in section 3682 (a) shall submit an application in a form and manner prescribed by the Secretary.

(d) NUMBER OF GRANTS.—Not more than one planning grant may be made to a single applicant. A planning grant may not exceed 2 years in duration.

(e) AMOUNT AVAILABLE FOR DEVELOPMENT GRANT.—The Secretary may award not to exceed—

(1) $150,000 to entities under section 3682(a)(1)(A) and to localities planning for a citywide or countywide school health services delivery system; and

(2) $50,000 to entities under section 3682(a)(1)(B).

SEC. 3685. GRANTS FOR OPERATION OF SCHOOL HEALTH SERVICES.

(a) IN GENERAL.—The Secretary may make grants to eligible entities described in section 3682(a)(2) that submit applications consistent with the requirements of this section, to pay the cost of operating school-based or school-linked health service sites.

(b) USE OF GRANT.—Amounts provided under a grant under this section may be used for the following—

(1) health services, including diagnosis and treatment of simple illnesses and minor injuries;

(2) preventive health services, including health screenings follow-up health care, mental health, and preventive health education;

(3) enabling services, as defined in section 3461(b), and other necessary support services;

(4) training, recruitment, and compensation of health professionals and other staff necessary for the administration and delivery of school health services; and

(5) referral services, including the linkage of individuals to health plans, and community-based health and social service providers.

(c) APPLICATION FOR GRANT.—To be eligible to receive a grant under this section an entity described in section 3682(a)(2) shall submit an application in a form and manner prescribed by the Secretary. In order to receive a grant under this section, an applicant must include in the application the following information—

(1) a description of the services to be furnished by the applicant;

(2) the amounts and sources of funding that the applicant will expend, including estimates of the amount of payments the applicant will receive from health plans and other sources;

(3) a description of local community partnerships, including parent and community participation;

(4) a description of the linkages with other health and social service providers; and

(5) such other information as the Secretary determines to be appropriate.

(d) ASSURANCES.—In order to receive a grant under this section, an applicant must meet the following conditions—

(1) school health service sites will, directly or indirectly, provide a broad range of health

VOL 140 PT 16 AG 12 — 18 1994 UMI

services, in accordance with the determinations of the local community partnership, that may include—

(A) diagnosis and treatment of simple illnesses and minor injuries;

(B) preventive health services, including health screenings and follow-up health care, mental health and preventive health education;

(C) enabling services, as defined in section 3461(b);

(D) referrals (including referrals regarding mental health and substance abuse) with follow-up to ensure that needed services are received;

(2) the applicant provides services recommended by the health provider, in consultation with the local community partnership, and with the approval of the local education agency;

(3) the applicant provides the services under this subsection to adolescents, and other school age children and their families as deemed appropriate by the local partnership;

(4) the applicant maintains agreements with community-based health care providers with a history of providing services to such populations for the provision of health care services not otherwise provided directly or during the hours when school health services are unavailable;

(5) the applicant establishes an affiliation with relevant health plans and will establish reimbursement procedures and will make every reasonable effort to collect appropriate reimbursement for services provided; and

(6) the applicant agrees to supplement and not supplant the level of State or local funds under the direct control of the applying State or participating local education or health authority expended for school health services as defined by this Act;

(7) services funded under this Act will be coordinated with existing school health services provided at a participating school; and

(8) for applicants in rural areas, the assurances required under paragraph (4) shall be fulfilled to the maximum extent possible.

(e) STATE LAWS.—Notwithstanding any other provision in this part, no school based health clinic may provide services, to any minor, when to do so is a violation of State laws or regulations pertaining to informed consent for medical services to minors.

(f) LIMITATION ON ADMINISTRATIVE FUNDS.—In the case of a State applying on behalf of local educational partnerships, the applicant may retain not more than 5 percent of grants awarded under this subpart for administrative costs.

(g) DURATION OF GRANT.—A grant under this section shall be for a period determined appropriate by the Secretary.

(h) AMOUNT OF GRANT.—The annual amount of a grant awarded under this section shall not be more than $200,000 per school-based or school-linked health service site.

(i) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraph (3), a grant for services awarded under this section may not exceed—

(A) 90 percent of the non-reimbursed cost of the activities to be funded under the program for the first 2 fiscal years for which the program receives assistance under this section; and

(B) 75 percent of the non-reimbursed cost of such activities for subsequent years for which the program receives assistance under this section.

The remainder of such costs shall be made available as provided in paragraph (2).

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share required by paragraph (1) may be in cash or in-kind, fairly evaluated, including facilities, equipment, personnel, or services, but may not include amounts provided by the Federal Government. In-kind contributions may include space within a school facilities, school personnel, program use of school transportation systems, outposted health personnel, and extension of health provider medical liability insurance.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (1) for any year in accordance with criteria established by regulation. Such criteria shall include a documented need for the services provided under this section and an inability of the grantee to meet the requirements of paragraph (1) despite a good faith effort.

(j) TRAINING AND TECHNICAL ASSISTANCE.—Entities that receive assistance under this section may use not to exceed 10 percent of the amount of such assistance to provide staff training and to secure necessary technical assistance. To the maximum extent feasible, technical assistance should be sought through local community-based entities. The limitation contained in this subsection shall apply to individuals employed to assist in obtaining funds under this part. Staff training should include the training of teachers and other school personnel necessary to ensure appropriate referral and utilization of services, and appropriate linkages between class-room activities and services offered.

(k) REPORT AND MONITORING.—The Secretary will submit to the Committee on Labor and Human Resources in the Senate and the Committee on Energy and Commerce in the House of Representatives a biennial report on the activities funded under this Act, consistent with the ongoing monitoring activities of the Department. Such reports are intended to advise the relevant Committees of the availability and utilization of services, and other relevant information about program activities.

Subpart B—Capital Costs of Developing Projects

SEC. 3691. FUNDING.

Amounts available to the Secretary under section 3412 for the purpose of carrying out subparts B and C of part 2 of subtitle E are, in addition to such purpose, available to the Secretary for the purpose of carrying out this subpart.

Subtitle H—Public Health Service Initiative

SEC. 3695. PUBLIC HEALTH SERVICE INITIATIVE.

(a) IN GENERAL.—Subject to subsection (c), the Secretary of Health and Human Services shall provide for payment, from funds in the Treasury not otherwise appropriated, to individuals and entities that are eligible to receive assistance pursuant to the provisions referred to in paragraphs (1) through (13) of subsection (b), to the extent of the amounts specified under subsection (b).

(b) AMOUNTS SPECIFIED.—The amounts specified in subsection (a) with respect to a fiscal year shall be—

(1) with respect to the core functions of public health programs authorized under part 2 of subtitle D of title III, $284,000,000 for fiscal year 1996, $292,000,000 for fiscal year 1997, $339,000,000 for fiscal year 1998, $383,000,000 for fiscal year 1999, $381,300,000 for fiscal year 2000, $228,800,000 for fiscal year 2001, $133,370,000 for fiscal year 2002, and $95,300,000 for each of the fiscal years 2003 and 2004;

(2) with respect to the national initiatives regarding health promotion and disease prevention under part 3 of subtitle D of title III, $158,000,000 for fiscal year 1996, $112,000,000 for fiscal year 1997, $100,000,000 for fiscal year 1998, $115,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004;

(3) with respect to occupational injury and illness prevention under section 3903, $189,000,000 for fiscal year 1996, $135,000,000 for fiscal year 1997, $120,000,000 for fiscal year 1998, $115,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004;

(4) with respect to activities for the development of plans and networks under subpart B of part 1 of subtitle E of title III—

(A) $309,000,000 for fiscal year 1996, $346,000,000 for fiscal year 1997, $252,000,000 for fiscal year 1998, $188,000,000 for fiscal year 1999, $64,050,000 for fiscal year 2000, $38,430,000 for fiscal year 2001, $22,400,000 for fiscal year 2002, and $16,000,000 for each of the fiscal years 2003 and 2004; and

(B) with respect to awards to federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act) under subpart B, $132,000,000 for fiscal year 1996, $148,000,000 for fiscal year 1997, $108,000,000 for fiscal year 1998, $81,000,000 for fiscal year 1999, $27,450,000 for fiscal year 2000, $16,470,000 for fiscal year 2001, $9,600,000 for fiscal year 2002, and $6,860,000 for each of the fiscal years 2003 and 2004;

(5) with respect to capital costs under subpart C of part 1 of subtitle E of title III, $63,000,000 for fiscal year 1996, $45,000,000 for fiscal year 1997, $40,000,000 for fiscal year 1998, $38,000,000 for fiscal year 1999, $30,500,000 for fiscal year 2000, $18,300,000 for fiscal year 2001, $10,670,000 for fiscal year 2002, and $7,620,000 for each of the fiscal years 2003 and 2004;

(6) with respect to enabling services under subpart D of part 1 of subtitle E of title III—

(A) $88,000,000 for fiscal year 1996, $252,000,000 for fiscal year 1997, $224,000,000 for fiscal year 1998, $215,000,000 for fiscal year 1999, $213,500,000 for fiscal year 2000, $128,100,000 for fiscal year 2001, $74,690,000 for fiscal year 2002, and $53,300,000 for each of the fiscal years 2003 and 2004; and

(B) with respect to awards to federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act), $38,000,000 for fiscal year 1996, $108,000,000 for fiscal year 1997, $96,000,000 for fiscal year 1998, $92,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004;

(7) with respect to supplemental services under subpart D of part 1 of subtitle E of title III $189,000,000 for fiscal year 1996, $225,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $192,000,000 for fiscal year 1999, $152,500,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, and $38,100,000 for each of the fiscal years 2003 and 2004;

(8) with respect to the National Health Service Corps program referred to under section 3471, $189,000,000 for fiscal year 1996, $135,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $192,000,000 for fiscal year 1999, $152,500,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, and $38,100,000 for each of the fiscal years 2003 and 2004;

(9) with respect to school-related health service programs under subpart A of part 5 of subtitle G of title III, $252,000,000 for fiscal year 1996, $292,000,000 for fiscal year 1997, $359,000,000 for fiscal year 1998, $441,000,000 for fiscal year 1999, $427,000,000 for fiscal year 2000, $256,200,000 for fiscal year 2001, $149,380,000 for fiscal year 2002, and $107,000,000 for each of the fiscal years 2003 and 2004;

(10) with respect to the development and operation of comprehensive managed mental health and substance abuse programs under section 3534, $126,000,000 for fiscal year 1996, $90,000,000 for fiscal year 1997, $80,000,000 for fiscal year 1998, $77,000,000 for fiscal year 1999, $61,000,000 for fiscal year 2000, $36,600,000 for fiscal year 2001, $21,340,000 for fiscal year 2002, and $15,200,000 for each of the fiscal years 2003 and 2004;

(11) with respect to programs of the Secretary of Health and Human Services under section 3081, $126,000,000 for fiscal year 1996, $135,000,000 for fiscal year 1997, $120,000,000 for fiscal year 1998, $115,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004;

(12) with respect to programs of the Secretary of Labor under section 3082, $252,000,000 for fiscal year 1996, $180,000,000 for fiscal year 1997, $160,000,000 for fiscal year 1998, $153,000,000 for fiscal year 1999, $122,000,000 for fiscal year 2000, $73,200,000 for fiscal year 2001, $42,680,000 for fiscal year 2002, and $30,500,000 for each of the fiscal years 2003 and 2004;

(13) with respect to academic health centers access under section 3131, $5,000,000 for fiscal year 1996, $5,000,000 for fiscal year 1997, $4,000,000 for fiscal year 1998, $4,000,000 for fiscal year 1999, $3,050,000 for fiscal year 2000, $1,830,000 for fiscal year 2001, $1,067,000 for fiscal year 2002, and $760,000 for each of the fiscal years 2003 and 2004; and

(14) with respect to programs of the Indian Health Service under title VIII, $133,330,000 for each of the fiscal years 1996 through 2004.

(c) AUTHORITY TO TRANSFER FUNDS.—The Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, acting through appropriations Acts, may transfer the amounts specified under subsection (b) in each fiscal year among the programs referred to in such subsection.

Subtitle I—Additional Provisions Regarding Public Health

SEC. 3901. CURRICULUM DEVELOPMENT AND IMPLEMENTATION REGARDING DOMESTIC VIOLENCE AND WOMEN'S HEALTH.

(a) IN GENERAL.—The Secretary shall make grants to eligible entities for the purpose of implementing and developing for trainees a curriculum that includes training in identification, treatment and referral of victims of domestic violence, including elder abuse, and women's health needs.

(b) ELIGIBLE ENTITIES.—For purposes of subsection (a), eligible entities are any school of medicine, school of osteopathic medicine, school of public health, graduate program in mental health practice, school of nursing as defined in section 853 of the Public Health Service Act, a program to train physician assistants, a program for training allied health professionals, and a program for training of family medicine physicians, general internists, general pediatricians, geriatricians, and obstetrician/gynecologists.

(c) CURRICULUM.—A curriculum developed under this section shall include—

(1) identification of victims of domestic violence and maintaining complete medical records that include documentation of the examination, treatment provided, and referral made and recording the location and nature of the victim's injuries;

(2) examining and treating such victims within the scope of the health professional's discipline, training, and practice, including at a minimum providing medical advice regarding the dynamics and nature of domestic violence;

(3) referring the victims to public and nonprofit entities that provide support services for such victims;

(4) training in the identification and diagnosis of diseases afflicting women and other medical disorders as they affect women;

(5) training in the treatment of such diseases and disorders with emphasis on the unique needs of women; and

(6) research into the causes of such diseases and disorders, including determination of appropriate means of prevention.

(d) ALLOCATION OF APPROPRIATIONS.—Of the amounts made available under section 3301(b) for a fiscal year, the Secretary shall reserve not to exceed $20,000,000 for a fiscal year for carrying out this section.

(e) DOMESTIC VIOLENCE.—As used in this section, the term "domestic violence" means any intentional violence, controlling, or coercive behavior or pattern of behavior by an individual who is currently or who was previously, in an intimate or acquaintance relationship with the victim. Such behavior may occur at any stage of the lifecycle and may encompass single acts or a syndrome of actual or threatened physical injury, sexual assault, rape, psychological abuse, or neglect. Such term includes behavior which currently may be described as "child neglect", "child abuse", "spousal abuse", "domestic violence", "woman battering", "partner abuse", "elder abuse", and "date rape".

SEC. 3902. COMMUNITY SCHOLARSHIP PROGRAMS.

Section 338L of the Public Health Service Act (42 U.S.C. 254t) is amended—

(1) in the section heading, by striking "DEMONSTRATION";

(2) in subsection (a)—

(A) by striking "for the purpose of carrying out demonstration programs"; and

(B) by striking "health manpower shortage areas" and inserting "Federally-designated health professional shortage areas";

(3) in subsection (c)—

(A) by striking "health manpower shortage areas" and inserting "Federally-designated health professional shortage areas" in the matter preceding paragraph (1); and

(B) by striking "in the health manpower shortage areas in which the community organizations are located," and inserting "in a Federally-designated health professional shortage area that is served by the community organization awarding the scholarship," in paragraph (2);

(4) in subsection (e)(1)—

(A) by striking "health manpower shortage area" and inserting "a Federally-designated health professional shortage area"; and

(B) by striking "in which the community" and all that follows through "located";

(5) in subsection (k)(2), by striking "internal medicine" and all that follows through the end thereof and inserting "general internal medicine, general pediatrics, obstetrics and gynecology, dentistry, or mental health, that are provided by physicians or other health professionals."; and

(6) in subsection (l)(1), by striking "$5,000,000" and all that follows through "1993" and inserting "$1,000,000 for fiscal year 1994, and such sums as may be necessary for each fiscal year thereafter".

Subtitle J—Occupational Safety and Health

SEC. 3903. OCCUPATIONAL INJURY AND ILLNESS PREVENTION.

(a) IN GENERAL.—The Secretary of Health and Human Services and the Secretary of Labor shall work together to develop and implement a comprehensive program to expand and coordinate initiatives to prevent occupational injuries and illnesses.

(b) SECRETARY OF LABOR.—The Secretary of Labor after consultation with the Secretary of Health and Human Services shall directly or by grants or contracts—

(1) provide for training and education programs for employees and employers in the recognition and control of workplace hazards and methods and measures to prevent occupational injuries and illnesses;

(2) develop model educational materials for training and educating employees and employers on the recognition and control of workplace hazards, including a core curriculum for general safety and health training and materials related to specific safety and health hazards; and

(3) provide programs and services for technical assistance to employers and employees on the recognition and control of workplace safety and health hazards including programs for onsite consultation.

Technical assistance and consultative services under paragraph (3) shall be provided in a manner that is separate from the enforcement programs conducted by the Secretary of Labor.

(c) SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services after consultation with the Secretary of Labor shall directly or by grants or contracts—

(1) provide education programs for training occupational safety and health professionals including professionals in the fields of occupational medicine, occupational health nursing, industrial hygiene, safety engineering, toxicology and epidemiology;

(2) provide education programs for other health professionals and health care providers and the public to improve the recognition, treatment and prevention of occupationally related injuries and illnesses;

(3) conduct surveillance programs to identify patterns and to determine the prevalence of occupational illnesses, injuries and deaths related to exposure to particular safety and health hazards;

(4) conduct investigations and evaluations to determine if workplace exposures to toxic chemicals, harmful physical agents or potentially hazardous conditions pose a risk to exposed employees; and

(5) conduct research, demonstrations and experiments relating to occupational safety and health to identify the causes of and major factors contributing to occupational illnesses and injuries.

(d) NATIONAL ADVISORY BOARD.—

(1) ESTABLISHMENT.—There is established a National Advisory Board for Occupational Injury and Illness Prevention to provide oversight, advice and direction on the occupational injury and illness prevention programs and initiatives conducted by the Secretary of Labor and Secretary of Health and Human Services.

(2) COMPOSITION.—The Board shall be composed of 10 members appointed by the Secretary of Labor, 5 of whom are to be designated by the Secretary of Health and Human Services. Such members shall be composed of representatives of employers, employees, and occupational safety and health professionals.

(e) DIRECTOR OF NIOSH.—The responsibilities of the Secretary of Health and Human

VOL 140 PT 16 AG 12 — 18 1994 UMI

Services established under this section shall be carried out by the Director of the National Institute for Occupational Safety and Health.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section there are authorized to be appropriated $189,000,000 for fiscal year 1996, $135,000,000 for fiscal year 1997, $120,000,000 for fiscal year 1998, $115,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004.

SEC. 3905. FULL FUNDING FOR WIC.

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in the second sentence of subsection (a)—

(A) by striking "authorized" and inserting "established"; and

(B) by striking ", up to the authorization levels set forth in subsection (g) of this section," and inserting ", up to the levels made available under this section,";

(2) in subsection (c)—

(A) in the first sentence of paragraph (1), by striking "may" and inserting "shall";

(B) in paragraph (2), by striking "appropriated" and inserting "made available";

(3) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1)(A) There are authorized to be—

"(i) appropriated to carry out this section such amounts as are necessary for each of fiscal years 1995 through 2000; and

"(ii) made available such amounts as are necessary for the Secretary of the Treasury to fulfill the requirements of subparagraph (B).

"(B)(i) Out of any money in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary of Agriculture, on January 1 of each fiscal year, to carry out this subsection—

"(I) $349,000,000 for fiscal year 1996;

"(II) $507,000,000 for fiscal year 1997;

"(III) $521,000,000 for fiscal year 1998;

"(IV) $534,000,000 for fiscal year 1999; and

"(V) $549,000,000 for fiscal year 2000.

"(ii) The Secretary of Agriculture shall be entitled to receive the funds and shall accept the funds.

"(C) In lieu of obligating the funds made available under subparagraph (B) to carry out this subsection, if the amount appropriated (other than the amount provided under subparagraph (B)(i)) to carry out this subsection for—

"(i) fiscal year 1996 is less than $3,565,000,000, the amount referred to in subparagraph (B)(i)(I) shall be obligated by the Secretary, during the period beginning December 31, 1995, and ending June 30, 1996, to increase the special assistance factor prescribed under section 11(a) of the National School Lunch Act (42 U.S.C. 1759a(a)) for free lunches served under the school lunch program (as established under section 4 of such Act (42 U.S.C. 1753));

"(ii) fiscal year 1997 is less than $3,659,000,000, the amount referred to in subparagraph (B)(i)(II) shall be obligated by the Secretary, during the period beginning December 31, 1996, and ending June 30, 1997, to increase the special assistance factor prescribed under section 11(a) of such Act for free lunches served under the school lunch program (as established under section 4 of such Act);

"(iii) fiscal year 1998 is less than $3,757,000,000, the amount referred to in subparagraph (B)(i)(III) shall be obligated by the Secretary, during the period beginning December 31, 1997, and ending June 30, 1998, to increase the special assistance factor prescribed under section 11(a) of such Act for free lunches served under the school lunch program (as established under section 4 of such Act);

"(iv) fiscal year 1999 is less than $3,859,000,000, the amount referred to in subparagraph (B)(i)(IV) shall be obligated by the Secretary, during the period beginning December 31, 1998, and ending June 30, 1999, to increase the special assistance factor prescribed under section 11(a) of such Act for free lunches served under the school lunch program (as established under section 4 of such Act); and

"(v) fiscal year 2000 is less than $3,963,000,000, the amount referred to in subparagraph (B)(i)(V) shall be obligated by the Secretary, during the period beginning December 31, 1999, and ending June 30, 2000, to increase the special assistance factor prescribed under section 11(a) of such Act for free lunches served under the school lunch program (as established under section 4 of such Act).

"(D) Any increase in the special assistance factor prescribed under section 11(a) of such Act as a result of subparagraph (C) shall not affect any annual adjustment in the factor under section 11(a)(3) of such Act.

"(E) Notwithstanding any other provision of law, no additional amounts shall be made available under this provision for any fiscal year after fiscal year 2000.";

(B) in the first sentence of paragraph (4), by striking "appropriated" and inserting "made available"; and

(C) in paragraph (5), by striking "appropriated" and inserting "made available";

(4) in subsection (h)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "appropriated" both places it appears and inserting "made available"; and

(ii) in subparagraph (C), by striking "appropriated" both places it appears and inserting "made available"; and

(B) in the first sentence of paragraph (2)(A), by striking "1990, 1991, 1992, 1993 and 1994" and inserting "1990 through 2000"; and

(5) in subsection (l), by striking "funds appropriated" and inserting "funds made available".

Subtitle L—Border Health Improvement

SEC. 3906. BORDER HEALTH COMMISSION.

(a) ESTABLISHMENT.—The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

(b) DUTIES.—It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to develop and implement a comprehensive plan for carrying out the actions recommended by the needs assessment through—

(A) assisting in the coordination of public and private efforts to prevent potential health problems and resolve existing health problems,

(B) assisting in the coordination of public and private efforts to educate the population, in a culturally competent manner, concerning such potential and existing health problems; and

(C) developing and implementing culturally competent programs to prevent and resolve such health problems and to educate the population, in a culturally competent manner, concerning such health problems where a new program is necessary to meet a need that is not being met through other public or private efforts; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private person in the other country for the cost of a health care service that such person furnishes to a citizen or resident alien of the first country who is unable, through insurance or otherwise, to pay for the service.

(c) OTHER AUTHORIZED FUNCTIONS.—In addition to the duties described in subsection (b), the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to public or private persons who act to prevent or resolve such problems or who educate the population concerning such health problems.

(d) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(A) The Secretary of Health and Human Services or the Secretary's delegate.

(B) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(C) Two individuals residing in United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individuals—

(i) who have a demonstrated interest or expertise in health issues of the United States-Mexico Border Area; and

(ii) whose name appears on a list of 6 nominees submitted to the President by the chief executive officer of the State where the nominees resides.

(2) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(3) COMPENSATION.—Members of the United States section of the Commission who are not employees of the United States—

(A) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS–15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(B) shall be allowed travel expenses, including per diem in lieu of subsistence at

rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

(e) REGIONAL OFFICES.—The Commission should designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's governor and directly involved in border health issues.

If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

(f) REPORTS.—Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

(g) DEFINITIONS.—As used in this section:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission.

(2) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. Such term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) RESIDENT ALIEN.—The term "resident alien", when used in reference to a country, means an alien lawfully admitted for permanent residence to the United States or otherwise permanently residing in the United States under color of law (including residence as an asylee, refugee, or parolee).

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(5) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

TITLE IV—MEDICARE AND MEDICAID

SEC. 4000. REFERENCES IN TITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

Subtitle A—Medicare

PART 1—INTEGRATION OF MEDICARE BENEFICIARIES

SEC. 4001. INDIVIDUAL ELECTION TO REMAIN IN CERTAIN HEALTH PLANS.

(a) IN GENERAL.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Notwithstanding any other provision of this section, each eligible organization with a risk-sharing contract (or which is eligible to enter into such a contract, as determined by the Secretary) that is the sponsor of a standard health plan under subtitle B of title I of the Health Security Act shall provide each individual who meets the requirements of paragraph (2) with the opportunity to elect (by submitting an application at such time and in such manner as specified by the Secretary) to continue enrollment in such plan (for the same benefits as other individuals enrolled in the plan) and to have payments made by the Secretary to the plan on the individual's behalf in accordance with paragraph (3). The premium imposed with respect to such an individual by the plan shall be in an amount (determined in accordance with rules of the Secretary and notwithstanding other provisions of such Act) which reflects the difference between the premium otherwise established (adjusted by a factor to reflect the actuarial difference between medicare beneficiaries and other plan enrollees) and the amount payable under paragraph (3).

"(2) An individual meets the requirements of this paragraph if the individual is—

"(A) enrolled in the health plan of an eligible organization in a month in which the individual is either not entitled to benefits under part A, or is an employee (as defined in the Health Security Act) or the spouse or dependent of an employee,

"(B) entitled to benefits under part A and enrolled under part B in the succeeding month,

"(C) a community-rated individual under the Health Security Act in that succeeding month, and

"(D) not an experience-rated employee (as defined in the Health Security Act) or the spouse or dependent of an experience-rated employee in that succeeding month.

"(3) The Secretary shall make a payment to an eligible organization on behalf of each individual enrolled with the organization for whom an election is in effect under this subsection in an amount determined by the rate specified by subsection (a)(1)(C) (notwithstanding the second sentence of paragraph (1)). Such payment shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund as provided under subsection (a)(5) (other than as provided under subparagraph (B) of that paragraph).

"(4) The period for which payment may be made under paragraph (3)—

"(A) begins with the first month for which the individual meets the requirements of paragraph (2) (or a later month, in the case of a late application, as may be specified by the Secretary); and

"(B) ends with the earliest of—

"(i) the month following the month—

"(I) in which the individual notifies the Secretary that the individual no longer wishes to be enrolled in the health plan of the eligible organization and to have payment made on the individual's behalf under this subsection; and

"(II) which is a month specified by the Secretary as a uniform open enrollment period under subsection (c)(3)(A)(i), or

"(ii) the month in which the individual ceases to meet the requirements of paragraph (2).

"(5) Notwithstanding any other provision of this title, payments to an eligible organization under this subsection on behalf of an individual shall be the sole payments made with respect to items and services furnished to the individual during the period for which the individual's election under this subsection is in effect.".

(b) CONFORMING AMENDMENT.—Section 1838(b) (42 U.S.C. 1395q(b)) is amended by inserting after "section 1843(e)" the following: ", 1876(c)(3)(B) or 1876(k)(4)(B)".

SEC. 4002. ENROLLMENT AND TERMINATION OF ENROLLMENT.

(a) UNIFORM OPEN ENROLLMENT PERIODS.—

(1) FOR CAPITATED PLANS.—The first sentence of section 1876(c)(3)(A)(i) (42 U.S.C. 1395mm(c)(3)(A)(i)) is amended by inserting "(which may be specified by the Secretary)" after "open enrollment period".

(2) FOR MEDIGAP PLANS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(A) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "paragraph (1), (2), or (3)",

(B) by redesignating paragraph (3) as paragraph (4), and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) Each issuer of a medicare supplemental policy shall have an open enrollment period (which shall be the period specified by the Secretary under section 1876(c)(3)(A)(i)), of at least 30 days duration every year, during which the issuer may not deny or condition the issuance or effectiveness of a medicare supplemental policy, or discriminate in the pricing of the policy, because of age, health status, claims experience, receipt of health care, or medical condition. The policy may not provide any time period applicable to pre-existing conditions, waiting periods, elimination periods, and probationary periods (except as provided by paragraph (2)(B)). The Secretary may require enrollment through a third party designated under section 1876(c)(3)(B).".

(b) ENROLLMENTS FOR NEW MEDICARE BENEFICIARIES AND THOSE WHO MOVE.—Section 1876(c)(3)(A) (42 U.S.C. 1395mm(c)(3)(A)) is amended—

(1) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) through (iv)", and

(2) by adding at the end the following:

"(iii) Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (d) during any enrollment period specified by section 1837 that applies to that individual. Enrollment under this clause shall be effective as specified by section 1838.

"(iv) Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (d) who has previously resided outside the geographic area which the organization serves. The enrollment period shall begin with the beginning of the month that precedes the month in which the individual becomes a resident of that geographic area and shall end at the end of the following month. Enrollment under this clause shall be effective as of the first of the month following the month in which the individual enrolls.".

(c) ENROLLMENT THROUGH THIRD PARTY; UNIFORM TERMINATION OF ENROLLMENT.—The first sentence of section 1876(c)(3)(B) (42 U.S.C. 1395mm(c)(3)(B)) is amended—

(1) by inserting "(including enrollment through a third party)" after "regulations", and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(2) by striking everything after "with the eligible organization" and inserting "during an annual period as prescribed by the Secretary, and as specified by the Secretary in the case of financial insolvency of the organization, if the individual moves from the geographic area served by the organization, or in other special circumstances that the Secretary may prescribe.".

(d) EFFECTIVE DATE.—The amendments made by the previous subsections apply to enrollments and terminations of enrollments occurring after 1995 (but only after the Secretary of Health and Human Services has prescribed the relevant annual period), except that the amendments made by subsection (a)(2) apply to enrollments for a medicare supplemental policy made after 1995.

PART 2—PROVISIONS RELATING TO PART A

SEC. 4101. INPATIENT HOSPITAL SERVICES UPDATE FOR PPS HOSPITALS.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by amending subclauses (XII) and (XIII) to read as follows:

"(XII) for fiscal year 1997, the market basket percentage increase minus 1.0 percentage point for hospitals in all areas,";

"(XIII) for fiscal years 1998 through 2004, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas, and"; and

(2) by adding at the end the following new subclause:

"(XIV) for fiscal year 2005 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

SEC. 4102. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—

(1) REDUCTION IN BASE PAYMENT RATES FOR PPS HOSPITALS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.31 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Health Security Act) and shall reduce by 10.41 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on the date of the enactment of the Health Security Act).".

(2) REDUCTION IN UPDATE.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(A) in subparagraph (B)(i)—

(i) by striking "and (II)" and inserting "(II)", and

(ii) by striking the semicolon at the end and inserting the following: ", and (III) an annual update factor established for the prospective payment rates applicable to discharges in a fiscal year which (subject to reduction under subparagraph (C)) will be based upon such factor as the Secretary determines appropriate to take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality;";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C)(i) With respect to payments attributable to portions of cost reporting periods or discharges occurring during each of the fiscal years 1996 through 2003, the Secretary shall include a reduction in the annual update factor established under subparagraph (B)(i)(III) for discharges in the year equal to the applicable update reduction described in clause (ii) to adjust for excessive increases in capital costs per discharge for fiscal years prior to fiscal year 1992 (but in no event may such reduction result in an annual update factor less than zero).

"(ii) In clause (i), the term 'applicable update reduction' means, with respect to the update factor for a fiscal year—

"(I) 4.9 percentage points; or

"(II) if the annual update factor for the previous fiscal year was less than the applicable update reduction for the previous year, the sum of 4.9 percentage points and the difference between the annual update factor for the previous year and the applicable update reduction for the previous year.".

(b) PPS-EXEMPT HOSPITALS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is further amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal years 1996 through 2003.".

SEC. 4103. REDUCTIONS IN DISPROPORTIONATE SHARE PAYMENTS.

Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking "The amount" and inserting "Subject to clause (ix), the amount";

(2) in clause (vi), by striking "In" and inserting "Subject to clause (x), in"; and

(3) by adding at the end the following new clauses:

"(ix) Notwithstanding any other provision of this subparagraph, the Secretary shall reduce the amount of any additional payment made to a hospital under this subparagraph for discharges occurring on or after the date on which the State in which such hospital is located becomes a participating State (as such term is defined in title I of the Health Security Act), by 50 percent of such additional payment.

"(x) Not later than July 1, 1996, the Secretary and the Prospective Payment Assessment Commission shall submit to the Congress a recommendation on a methodology for measuring and allocating funds for hospitals that receive an additional payment under this paragraph including a replacement for the fraction described in clause (vi)(II).".

SEC. 4104. EXTENSION OF FREEZE ON UPDATES TO ROUTINE SERVICE COST LIMITS FOR SKILLED NURSING FACILITIES.

(a) PAYMENTS BASED ON COST LIMITS.—Section 1888(a) (42 U.S.C. 1395yy(a)) is amended by striking "112 percent" each place it appears and inserting "100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13503(a)(1) of the Omnibus Budget Reconciliation Act of 1993)".

(b) ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by inserting the following sentence at the end: "The effect of the amendment made by section 4104(a) of the Health Security Act shall not be considered by the Secretary in making adjustments pursuant to this subsection."

(c) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Section 1888(d)(2)(B) (42 U.S.C. 1395yy(d)(2)(B)) is amended by striking "105 percent" and inserting "100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13503(b) of the Omnibus Budget Reconciliation Act of 1993)".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to cost reporting periods beginning on or after October 1, 1995.

SEC. 4105. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.

(a) CLARIFICATION OF ADDITIONAL PAYMENT.—Section 1886(d)(5)(G)(ii)(I) (42 U.S.C. 1395ww(d)(5)(G)(ii)(I)) is amended by striking "the first 3 12-month cost reporting periods that begin" and inserting "the 36-month period beginning with the first day of the cost reporting period that begins".

(b) SPECIAL TREATMENT EXTENDED.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(1) in clause (i), by striking "October 1, 1994" and inserting "October 1, 1999"; and

(2) in clause (ii)(II), by striking "October 1, 1994" and inserting "October 1, 1999".

(c) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(1) in the matter preceding clause (i), by striking "March 31, 1993" and inserting "September 30, 1999"; and

(2) by amending clause (iii) to read as follows:

"(iii) with respect to discharges occurring in fiscal years 1994 through 1999, the target amount for the cost reporting period beginning in the previous fiscal year increased by the applicable percentage increase under subparagraph (B)(iv).".

SEC. 4106. PROVISIONS RELATING TO RURAL HEALTH TRANSITION GRANT PROGRAM.

(a) ELIGIBILITY OF RURAL PRIMARY CARE HOSPITALS FOR GRANTS.—

(1) IN GENERAL.—Section 4005(e)(2) of the Omnibus Budget Reconciliation Act of 1987 is amended in the matter preceding subparagraph (A) by inserting "any rural primary care hospital as defined in section 1861(mm)(1), or" after "means".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to grants made on or after October 1, 1993.

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 4005(e)(9) of Omnibus Budget Reconciliation Act of 1987 is amended—

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of the fiscal years 1993 through 1999".

(c) FREQUENCY OF REQUIRED REPORTS.—Section 4008(e)(8)(B) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "every 6 months" and inserting "every 12 months".

SEC. 4107. PAYMENTS FOR SOLE COMMUNITY HOSPITALS WITH TEACHING PROGRAMS AND MULTIHOSPITAL CAMPUSES.

(a) IN GENERAL.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended by adding at the end the following new clause:

"(vi) The Secretary shall determine payment under clause (i) for a sole-community hospital that is a part of a multi-campus hospital by making the determination under such clause for each facility of the multi-campus hospital if any facility of the hospital would have a value of 'r' greater than 0, as 'r' is defined in subparagraph (B)(ii). In making a determination for each such facility, the Secretary shall determine the DRG-specific rate applicable to the facility based on its location in accordance with paragraph (3)(D).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1993, from multi-campus hospitals that merged facilities on or after October 1, 1987.

SEC. 4108. MORATORIUM ON DESIGNATION OF NEW LONG-TERM HOSPITALS.

Notwithstanding clause (iv) of section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)), a hospital which has an average inpatient length of stay (as determined by the Secretary of Health and Human Services) of greater than 25 days shall not be treated as a hospital described in such clause for purposes of such title unless such hospital was treated as a hospital described in such clause for purposes of such title as of the date of the enactment of this Act.

SEC. 4109. REVISED PAYMENT METHODOLOGY FOR REHABILITATION AND LONG-TERM CARE HOSPITALS.

(a) REHABILITATION HOSPITALS AND DISTINCT PART UNITS.—

(1) DEFINITION.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by adding at the end the following new sentence: "In defining a rehabilitation hospital and a rehabilitation unit of a hospital which is a distinct part of a hospital, the Secretary shall take into account the impact of new technologies, survival rates, and changes in the practice of rehabilitation medicine.".

(2) TARGET AMOUNT CALCULATION FOR REHABILITATION HOSPITALS AND DISTINCT PART UNITS.—

(A) IN GENERAL.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(i) in subparagraph (A), by striking "(D), and (E)" and inserting "(D), (E), and (F)";

(ii) in subparagraph (B)(ii), by striking "and (E)" and inserting "(E), and (F)"; and

(iii) by adding at the end the following new subparagraph:

"(F)(i) Subject to clause (ii), for cost reporting periods beginning on or after October 1, 1994, in the case of a hospital described in subsection (d)(1)(B)(ii) or a rehabilitation unit described in such subparagraph, the term 'target amount' means—

"(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital or unit—

"(aa) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital or unit for the 12-month cost reporting period (in this subparagraph referred to as the 'base cost reporting period') preceding the first cost reporting period for which this subparagraph was in effect with respect to such hospital, increased (in a compounded manner), by

"(bb) the applicable percentage increases applied to such hospital or unit under this paragraph for cost reporting periods after the base cost reporting period and up to and including such first 12-month cost reporting period, or

"(II) with respect to a later cost reporting period, the target amount for the preceding 12-month cost reporting period, increased by the applicable percentage increase under subparagraph (B).

There shall be substituted for the allowable average costs of inpatient hospital services determined under subclause (I)(aa), the average of the allowable average costs of inpatient hospital services (as so defined) recognized under this title for the hospital or unit for cost reporting periods beginning during fiscal years 1990 and 1991 (if any).

"(ii)(I) Notwithstanding the provisions of clause (i), in the case of a hospital or unit to which the last sentence of clause (i) applies, the hospital or unit's target amount under such clause for a cost reporting period shall be—

"(aa) not less than 70 percent of the national weighted average of all target amounts calculated under such clause for all hospitals and units described in such clause (as determined by the Secretary), and

"(bb) not less than the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4) for such hospital or unit in the base cost reporting period (including any payments made to such hospital or unit pursuant to paragraph (1)(A)), multiplied by the applicable percentage increase for such cost reporting period under subparagraph (B).

"(II) Notwithstanding the provisions of clause (i), in the case of a hospital or unit that is not described in subclause (I), the hospital or unit's target amount under such clause for a cost reporting period shall be—

"(aa) not less than the amount described in subclause (I)(aa), and

"(bb) not greater than 110 percent of the national weighted average of all target amounts calculated under clause (i) for all hospitals and units described in such clause (as determined by the Secretary).".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply with respect to cost reporting periods beginning on or after October 1, 1994.

(3) DEVELOPMENT OF NATIONAL PROSPECTIVE RATES FOR REHABILITATION HOSPITALS AND DISTINCT PART UNITS.—

(A) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall develop a proposal to replace the current system under which rehabilitation hospitals and rehabilitation units of a hospital which are a distinct part of a hospital (as described in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) receive payment for the operating and capital-related costs of inpatient hospital services under part A of title XVIII of such Act with a prospective payment system. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall develop a system that provides for—

(i) a payment on a per-discharge basis, and

(ii) an appropriate weighting of such payment amount as it relates to the classification of the discharge.

(B) REPORTS.—Not later than October 1, 1996, the Secretary shall submit the proposal developed under subparagraph (A) to the Congress.

(b) ASSIGNMENT OF NEW BASE YEAR FOR CERTIFIED LONG-STAY HOSPITALS THAT ALSO SERVE A SIGNIFICANT PROPORTION OF LOW-INCOME PATIENTS.—

(1) REBASING FOR LONG-TERM HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsection (a), is further amended—

(i) in subparagraph (A), by striking "(E), and (F)" and inserting "(E), (F), and (G)";

(ii) in subparagraph (B)(ii), by striking "(E), and (F)" and inserting "(E), (F), and (G)"; and

(iii) by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) For cost reporting periods beginning on or after October 1, 1994, in the case of a hospital described in subsection (d)(1)(B)(iv) that—

"(I) has not received the additional payment amount described in paragraph (1)(A) for at least the preceding 2 consecutive 12-month cost reporting periods; and

"(II) for which the sum of the amounts described in subclauses (I) and (II) of subsection (d)(5)(F)(vi) during the period described in clause (I) exceeds 25 percent,

the term 'target amount' has the meaning given such term by clause (ii).

"(ii) In the case of a hospital described in clause (i), the term 'target amount' means—

"(1) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital—

"(aa) the average allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital during cost reporting periods of the hospital beginning during fiscal years 1990 and 1991 for such hospital (in this subparagraph referred to as the 'base cost reporting period'), increased (in a compounded manner), by

"(bb) the applicable percentage increases applied to such hospital or under this paragraph for cost reporting periods after the base cost reporting period and up to and including such first 12-month cost reporting periods, or

"(II) with respect to a subsequent 12-month cost reporting period, the target amount for the preceding 12-month cost reporting period, increased by the applicable percentage increase under subparagraph (B).

"(iii) Notwithstanding clause (ii)(II), if, after 2 consecutive 12-month cost reporting periods, a hospital continues to be described in subclauses (I) and (II) of clause (i), there shall be substituted for the base cost reporting period described in clause (ii)(I)(aa) the most recent preceding 2 12-month cost reporting periods of the hospital for which data is available (as determined by the Secretary), but only if such substituting results in an increase in the target amount for the hospital. The substitution under the preceding sentence may not occur more often than every 2 years.

"(iv) Effective October 1, 1994, the Secretary shall take into account the enactment of this subparagraph in making available to the hospital the payments described in section 1815(e)(2), and, shall increase such payments as if the target amount of the hospital had been established pursuant to this subparagraph as of such date.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall be effective with respect to cost reporting periods beginning on or after October 1, 1994.

(c) BUDGET NEUTRALITY.—The Secretary shall reduce the amount of payments to be made under subparagraphs (F) and (G) of section 1886(b)(3) of the Social Security Act for a cost reporting period beginning on or after October 1, 1994, by an amount the Secretary determines necessary so that such payments do not exceed an amount equal to the total amount that would have been paid under such subparagraphs if the amendments made by subsections (a) and (b) had not been enacted.

VOL 140 PT 16 AG 12 — 18 1994 UMI

SEC. 4110. TERMINATION OF INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended in the matter preceding clause (i) by striking "The Secretary" and inserting "For discharges occurring before January 1, 1997, the Secretary".

(b) ADJUSTMENT TO STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "excluding" and inserting "for discharges occurring before January 1, 1997, excluding".

SEC. 4111. LIMITED SERVICE HOSPITAL PROGRAM.

(a) LIMITED SERVICE HOSPITAL PROGRAM.—Section 1820 (42 U.S.C. 1395*i*–4) is amended to read as follows:

"LIMITED SERVICE HOSPITAL PROGRAM

"SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

"(1) make available alternative hospital models to small rural or isolated rural communities in which facilities are relieved of the burden of selected regulatory requirements by limiting the scope of inpatient acute services required to be offered;

"(2) alter medicare reimbursement policy to support the financial viability of alternative facilities by limiting the financial risk faced by such small hospitals through the use of reasonable cost reimbursement; and

"(3) promote linkages between facilities designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

"(b) IN GENERAL.—Any State that submits an application in accordance with subsection (c) may establish a limited service hospital program described in subsection (d).

"(c) APPLICATION.—A State may establish a limited service hospital program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) in the case of a State applying to establish a rural primary care hospital program (described in subsection (d)(1)(A)), provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that it will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan); and

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of designating, rural nonprofit or public hospitals or facilities located in the State as rural primary care hospitals facilities or medical assistance facilities; and

"(3) such other information and assurances as the Secretary may require.

"(d) LIMITED SERVICE HOSPITAL PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a limited service hospital program that includes—

"(A) a rural primary care hospital program under which—

"(i) at least one facility in the State shall be designated as a rural primary care hospital in accordance with paragraph (2), and

"(ii) the State shall develop at least one rural health network (as defined in subsection (e)) in the State;

"(B) a medical assistance facility program under which at least one facility in the State shall be designated as a medical assistance facility in accordance with paragraph (2); or

"(C) both.

"(2) STATE DESIGNATION OF FACILITIES.—A State may designate one or more facilities as a rural primary care hospital or medical assistance facility in accordance with subparagraph (A) or (B).

"(A) CRITERIA FOR DESIGNATION AS RURAL PRIMARY CARE HOSPITAL.—A State may designate a facility as a rural primary care hospital only if the facility—

"(i) is located in a rural area (as defined in section 1886(d)(2)(D)), or is located in a county whose geographic area is substantially larger than the average geographic area for urban counties in the United States and whose hospital service area is characteristic of service areas of hospitals located in rural areas;

"(ii) at the time such facility applies to the State for designation as a rural primary care hospital, is a hospital (or, in the case of a facility that closed during the 12-month period that ends on the date the facility applies for such designation, at the time the facility closed), with a participation agreement in effect under section 1866(a);

"(iii) has in effect an agreement to participate with other hospitals and facilities in a rural health network;

"(iv) provides 24-hour emergency services to ill or injured persons prior to admission to the facility or prior to their transportation to a full-service hospital;

"(v) provides not more than 15 inpatient beds (meeting such conditions as the Secretary may establish) for providing acute inpatient care;

"(vi) provides inpatient care for a period not to exceed an average length of 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions);

"(vii) meets such staffing requirements as would apply under section 1861(e), to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to provide emergency care on a 24-hour basis under clause (v) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, onsite dietician, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, offsite basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (vii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(viii) meets the requirements of subparagraphs (C) through (I) of paragraph (2) of section 1861(aa), and of clauses (ii) and (iv) of the second sentence of that paragraph, except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(B) CRITERIA FOR DESIGNATION AS MEDICAL ASSISTANCE FACILITY.—A State may designate a facility as a medical assistance facility only if the facility—

"(i) is located in a county (or equivalent unit of local government)—

"(I) with fewer than 6 residents per square mile, or

"(II) in a rural area (as defined in section 1886(d)(2)(D)) that is located more than a 35-mile or 45-minute drive from a hospital, a rural primary care hospital, or another facility described in this subsection;

"(ii) at the time such facility applies to the State for designation as a medical assistance facility—

"(I) is a hospital (or in the case of a facility that closed during the 12-month period that ends on the date the facility applies for such designation, at the time the facility closed), with a participation agreement in effect under section 1866(a); or

"(II) is licensed in accordance with applicable State and local laws and regulations;

"(iii) meets the requirements of clauses (iv), (vi), and (vii) of subparagraph (A); and

"(iv) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(e) RURAL HEALTH NETWORK DEFINED.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization—

"(1) consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a rural primary care hospital, and

"(B) at least 1 hospital that furnishes services that a rural primary care hospital cannot furnish, and

"(2) the members of which have entered into agreements regarding—

"(A) patient referral and transfer,

"(B) the development and use of communications systems, including (where feasible) telemetry systems and systems for electronic sharing of patient data,

"(C) the provision of emergency and nonemergency transportation among the members, and

"(D) credentialing and quality assurance.

"(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a rural primary care hospital or medical assistance facility (as the case may be) if the facility—

"(1) is located in a State that has established a limited service hospital program in accordance with subsection (d);

"(2) is designated as a rural primary care hospital or medical assistance facility by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a rural primary care hospital or medical assistance facility solely because, at the time the facility applies to the State for designation as a rural primary care hospital or medical assistance facility, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care in a rural primary care facility pursuant to subsection (d)(2)(A)(vi)). The Secretary may establish additional conditions of participation for rural primary care hospitals with a substantial number of such beds. For purposes of the first sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital or medical assistance facility.

"(h) GRANTS.—

"(1) LIMITED SERVICE HOSPITAL PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) in the case of a rural primary care hospital program described in subsection (d)(1)(A), engaging in activities relating to planning and implementing rural health networks; and

"(C) designation of facilities as rural primary care hospitals or medical assistance facilities.

"(2) RURAL EMERGENCY MEDICAL SERVICES.—

"(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

"(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

"(i) STUDY ON CLINICALLY BASED ALTERNATIVE TO 96-HOUR RULE.—The Secretary shall conduct a study on the feasibility of admitting patients to rural primary care hospitals and medical assistance facilities on a limited DRG basis instead of using the 96-hour average length of stay criteria described in subsection (d)(2)(A)(vii).

"(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund—

"(1) for making grants under subsection (h)(1) to States that have established a rural primary care hospital program in the State under subsection (d)(1)(A), $15,000,000 for each of fiscal years 1993 through 1995; and

"(2) for making grants to all States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 1999.".

(b) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND MEDICAL ASSISTANCE FACILITIES.—

(1) DEFINITIONS.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"MEDICAL ASSISTANCE FACILITY; MEDICAL ASSISTANCE FACILITY SERVICES

"(oo)(1) The term 'medical assistance facility' means a facility certified by the Secretary as a medical assistance facility under section 1820(f).

"(2) The term 'medical assistance facility services' means items and services, furnished to an inpatient for a medical assistance facility by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A)(i) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "inpatient hospital services" the first place it appears and inserting ", inpatient hospital services and inpatient medical assistance facility services"; and

(ii) by striking "inpatient hospital services" the second place it appears and inserting "such services".

(B) Section 1814 (42 U.S.C. 1395f) is amended—

(i) in subsection (b), by striking "inpatient rural primary care hospital services," and inserting "inpatient rural primary care hospital services, other than a medical assistance facility providing inpatient medical assistance facility services,"; and

(ii) by amending subsection (*l*) to read as follows:

"(*l*) PAYMENT FOR INPATIENT RURAL PRIMARY CARE SERVICES AND INPATIENT MEDICAL ASSISTANCE FACILITY SERVICES.—The amount of payment under this part for inpatient rural primary care services and inpatient medical assistance facility services is the reasonable costs of the rural primary care hospital or medical assistance facility in providing such services.".

(3) TREATMENT OF MEDICAL ASSISTANCE FACILITIES AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by inserting "medical assistance facility,"after "rural primary care hospital,".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by inserting "a medical assistance facility, as defined in section 1861(oo)(1)," after "1861(mm)(1),".

(C) The third sentence of section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by striking "or 1861(mm)(1)" and inserting "1861(mm)(1), or 1861(oo)(1),".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended—

(i) by striking "or a rural primary care hospital" the first place it appears and inserting ", a rural primary care hospital, or a medical assistance facility"; and

(ii) by striking "or a rural primary care hospital" the second place it appears and inserting ", the rural primary care hospital, or the medical assistance facility".

(B) Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is amended by inserting "medical assistance facility," after "rural primary care hospital,".

(C) Section 1134 (42 U.S.C. 1320b–4) is amended by striking "or rural primary care hospitals" each place it appears and inserting ", rural primary care hospitals, or medical assistance facilities".

(D) Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "or rural primary care hospital" and inserting ", rural primary care hospital, or medical assistance facility", and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "or rural primary care hospital" and inserting ", rural primary care hospital, or medical assistance facility".

(E) Section 1164(e) (42 U.S.C. 1320c–13(e)) is amended by inserting "medical assistance facilities," after "rural primary care hospitals,".

(F) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by inserting "medical assistance facility," after "rural primary care hospital,".

(G) Section 1833 (42 U.S.C. 1395*l*) is amended—

(i) in subsection (h)(5)(A)(iii)—

(I) by striking "or rural primary care hospital" and inserting "rural primary care hospital, or medical assistance facility"; and

(II) by striking "to the hospital" and inserting "to the hospital or the facility";

(ii) in subsection (i)(1)(A), by inserting "medical assistance facility," after "rural primary care hospital,";

(iii) in subsection (i)(3)(A), by striking "or rural primary care hospital services" and inserting "rural primary care hospital services, or medical assistance facility services";

(iv) in subsection (*l*)(5)(A), by inserting "medical assistance facility," after "rural primary care hospital," each place it appears; and

(v) in subsection (*l*)(5)(C), by striking "or rural primary care hospital" each place it appears and inserting ", rural primary care hospital, or medical assistance facility".

(H) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by adding at the end the following: "A medical assistance facility shall be considered a hospital for purposes of this subsection.".

(I) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by inserting "medical assistance facility," after "rural primary care hospital,".

(J) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in the last sentence of subsection (e), by striking "1861(mm)(1))" and inserting "1861(mm)(1)) or a medical assistance facility (as defined in section 1861(oo)(1))).",

(ii) in subsection (w)(1) by inserting "medical assistance facility," after "rural primary care hospital,", and

(iii) in subsection (w)(2), by striking "or rural primary care hospital" each place it appears and inserting ", rural primary care hospital, or medical assistance facility".

(K) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "or rural primary care hospital" each place it appears and inserting ", rural primary care hospital, or medical assistance facility".

(L) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by inserting "medical assistance facilities," after "rural primary care hospitals,";

(ii) in subparagraph (H)—

(I) in the matter preceding clause (i), by inserting "and in the case of medical assistance facilities which provide inpatient medical assistance facility services" after "rural primary care hospital services"; and

(II) in clauses (i) and (ii), by striking "hospital" each place it appears and inserting "hospital or facility";

(iii) in subparagraph (I)—

(I) in the matter preceding clause (i), by striking "or rural primary care hospital" and inserting ", a rural primary care hospital, or a medical assistance facility"; and

(II) in clause (ii), by striking "the hospital" and inserting "the hospital or the facility"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "and rural primary hospitals" and inserting ", rural primary care hospitals, and medical assistance facilities";

VOL 140 PT 16 AG 12 — 18 1994 UMI

(II) in clause (i), by striking "or rural primary care hospital," and inserting ", rural primary care hospital, or medical assistance facility," and

(III) in clause (ii), by striking "hospital" and inserting "hospital or facility".

(M) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital," each place it appears in subparagraphs (A) and (B) and inserting "rural primary care hospital, medical assistance facility,", and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals," each place it appears and inserting "rural primary care hospitals, medical assistance facilities".

(N) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) or a medical assistance facility (as defined in section 1861(oo)(1)),".

(c) PART B AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND MEDICAL ASSISTANCE FACILITIES.—

(1) COVERAGE.—(A) Section 1861(oo) (42 U.S.C. 1395x(oo)) as added by subsection (b)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient medical assistance facility services' means medical and other health services furnished by a medical assistance facility on an outpatient basis.".

(B) Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(i) in subparagraph (I), by striking "and" at the end,

(ii) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(K) outpatient medical assistance facility services (as defined in section 1861(oo)(3)).".

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395*l*(a)) is amended—

(i) in paragraph (2), in the matter preceding subparagraph (A), by striking "and (I)" and inserting "(I), and (K)";

(ii) in paragraph (6), by striking "and" at the end;

(iii) in paragraph (7), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following new paragraph:

"(8) in the case of outpatient medical assistance facility services, the amounts described in section 1834(g).".

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(i) in the subsection heading by inserting "AND OUTPATIENT MEDICAL ASSISTANCE FACILITY SERVICES" after "SERVICES";

(ii) in paragraph (1), by striking "provided during a year before 1993 in a rural primary care hospital under this part shall be determined by one of the following methods as elected by the rural primary care hospital" and inserting "in a rural primary care hospital or medical assistance facility under this part shall be determined by one of the following methods as elected by the rural primary care hospital or medical assistance facility";

(iii) in paragraph (1)(A)(ii), by striking "outpatient rural primary care hospital services" each place it appears and inserting "outpatient rural primary care hospital services or outpatient medical assistance facility services"; and

(iv) in paragraph (1)(B), by striking "hospital" and inserting "hospital or facility".

(d) PAYMENT CONTINUED TO DESIGNATED EACHS.—

(1) TERMINATION OF EACH DESIGNATION.—Section 1820(i)(1)(A) (42 U.S.C. 1395*i*(4)(i)(1)(A)) is amended by inserting at the end the following new flush sentence:

"The Secretary shall not designate any hospital as an essential access community hospital on or after July 1, 1994 (October 1, 1994, in the case of a hospital located in a State receiving a grant under this section before July 1, 1994).".

(2) PERMITTING PAYMENT TO PRIOR DESIGNATED EACHS.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(A) in clause (iii)(III), by inserting "as in effect on July 2, 1994" before the period at the end; and

(B) in clause (v), by inserting "as in effect on July 2, 1994" after "1820(i)(1).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on July 1, 1994.

(e) TECHNICAL AMENDMENT RELATING TO PART A DEDUCTIBLE, COINSURANCE AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)), as amended by subsection (b)(2)(A), is amended—

(A) by striking "inpatient medical assistance facility services" and inserting "inpatient medical assistance facility services, inpatient rural primary care hospital services, or inpatient medical assistance facility services"; and

(B) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services, inpatient rural primary care hospital services, or inpatient medical assistance facility services,".

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services, inpatient medical assistance facility services,".

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraph (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services, inpatient medical assistance facility services,"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital, rural primary care hospital, or medical assistance facility".

(f) REPEAL OF DEVELOPMENT OF PPS SYSTEM FOR INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IN GENERAL.—Section 1814(*l*) (42 U.S.C. 1395f(*l*)) is amended by striking paragraph (2).

(2) CONFORMING AMENDMENTS.—Section 1814(*l*)(1) (42 U.S.C. 1395F(*l*)(1)) is amended—

(A) by striking "(*l*)(1)" and inserting "(*l*)";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(C) in paragraph (2), as redesignated, by striking "paragraph" and inserting "subsection"; and

(D) in the last sentence, by striking "paragraph" and inserting "subsection".

(g) REPEAL OF DEVELOPMENT AND IMPLEMENTATION OF ALL INCLUSIVE PPS SYSTEM FOR OUTPATIENT RURAL PRIMARY CARE SERVICES.—

(1) IN GENERAL.—Section 1834(g) (42 U.S.C. 1395m(g)), as amended by subsection (c)(2)(B), is amended by striking paragraph (2).

(2) CONFORMING AMENDMENTS.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended—

(A) by striking "(1) IN GENERAL.—"

(B) by redesignating subparagraph (A) and clauses (i) and (ii) of such subparagraph as paragraph (1) and subparagraphs (A) and (B) of such paragraph, respectively;

(C) by redesignating subparagraph (B) as paragraph (2);

(D) in paragraph (1)(A), as redesignated, by striking "subparagraph (B)"; and

(E) in paragraph (1)(B), as so redesignated, by striking "subparagraph" and inserting "paragraph".

(h) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to services furnished on or after October 1, 1994.

SEC. 4112. SUBACUTE CARE STUDY.

(a) STUDY.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall—

(1) define the level and type of care that should constitute subacute care;

(2) determine the appropriateness of furnishing subacute care in different settings by evaluating the quality of care and patient outcomes;

(3) determine the cost and effectiveness of providing subacute care under the medicare program under title XVIII of such Act to individuals who are eligible for benefits under part A of such title;

(4) determine the extent to which hospital DRG prospective payment rates under section 1886(d) of such Act (42 U.S.C. 1395ww(d)) are appropriate for the less restrictive institutional settings that provide subacute care; and

(5) study the relationships between institutions and their payment methodologies in order to develop ways in which to maximize the continuity of care for each patient episode in which subacute care is furnished.

(b) REPORT.—Not later than October 1, 1996, the Secretary shall submit to the Congress a report on the matters studied under subsection (a).

SEC. 4113. PSYCHOLOGY SERVICES IN HOSPITALS.

Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

PART 3—PROVISIONS RELATING TO PART B

SEC. 4201. UPDATES FOR PHYSICIANS' SERVICES.

Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is amended—

(1) in subparagraph (A), by inserting after "subparagraph (B)" the following: "and, in the case of 1995, specified in subparagraph (C)";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL PROVISION FOR 1995.—For purposes of subparagraph (A), the conversion factor specified in this subparagraph for 1995 is—

"(i) in the case of physicians' services included in the category of primary care services (as defined for purposes of subsection (j)(1)), the conversion factor established under this subsection for 1994 reduced by 1 percent and adjusted by the update established under paragraph (3) for 1995; and

"(ii) in the case of any other physicians' services, the conversion factor established under this subsection for 1994 reduced by 4.0 percent and adjusted by the update established under paragraph (3) for 1995.".

SEC. 4202. SUBSTITUTION OF REAL GDP TO ADJUST FOR VOLUME AND INTENSITY; REPEAL OF RESTRICTION ON MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.

(a) USE OF REAL GDP TO ADJUST FOR VOLUME AND INTENSITY.—Section 1848(f)(2)(A)(iii) (42 U.S.C. 1395w-4(f)(2)(A)(iii)) is amended to read as follows:

"(iii) 1 plus the average per capita growth in the real gross domestic product (divided by 100) for the 5-fiscal-year period ending with the previous fiscal year (increased by 1.5 percentage points for the category of services consisting of primary care services), and".

(b) REPEAL OF RESTRICTION ON MAXIMUM REDUCTION.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w-4(d)(3)(B)(ii)) is amended—

(1) in the heading, by inserting "IN CERTAIN YEARS" after "ADJUSTMENT";

(2) in the matter preceding subclause (I), by striking "for a year";

(3) in subclause (I), by adding "and" at the end;

(4) in subclause (II), by striking ", and" and inserting a period; and

(5) by striking subclause (III).

(c) REPEAL OF PERFORMANCE STANDARD FACTOR.—

(1) IN GENERAL.—Section 1848(f)(2) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(2) CONFORMING AMENDMENT.—Section 1848(f)(2)(A) is amended in the matter following clause (iv) by striking "1, multiplied by 100" and all that follows through "subparagraph (B))" and inserting "1 and multiplied by 100".

(d) EFFECTIVE DATE.—

(1) VOLUME PERFORMANCE STANDARDS.—The amendments made by subsections (a) and (c) shall apply with respect to volume performance standards established beginning with fiscal year 1995.

(2) REPEAL OF RESTRICTION ON MAXIMUM REDUCTION.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1997.

SEC. 4203. PAYMENT FOR PHYSICIANS' SERVICES RELATING TO INPATIENT STAYS IN CERTAIN HOSPITALS.

(a) IN GENERAL.—

(1) LIMITATIONS DESCRIBED.—Part B of title XVIII (42 U.S.C. 1831 et seq.) is amended by inserting after section 1848 the following new section:

"LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES RELATING TO INPATIENT STAYS IN CERTAIN HOSPITALS

"SEC. 1849. (a) DEFINITIONS.—In this section, the following definitions apply:

"(1) HOSPITAL.—The term 'hospital' means a subsection (d) hospital as defined in section 1886(d)(1)(B).

"(2) MEDICAL STAFF.—An individual furnishing a physician's service is considered to be on the medical staff of a hospital—

"(A) if (in accordance with requirements for hospitals established by the Joint Commission on Accreditation of Health Organizations)—

"(i) the individual is subject to bylaws, rules, and regulations established by the hospital to provide a framework for the self-governance of medical staff activities;

"(ii) subject to such bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body; and

"(iii) under such clinical privileges, the individual may provide physicians' services independently within the scope of the individual's clinical privileges, or

"(B) if such physician provides at least one service to a medicare beneficiary in such hospital.

"(3) RURAL AREA; URBAN AREA.—The terms 'rural area' and 'urban area' have the meaning given such terms under section 1886(d)(2)(D).

"(4) TEACHING HOSPITAL.—The term 'teaching hospital' means a hospital which has a teaching program approved as specified in section 1861(b)(6).

"(b) SERVICES SUBJECT TO REDUCTION.—

"(1) DETERMINATION OF HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1997), the Secretary shall determine for each hospital—

"(A) the hospital-specific per admission relative value under subsection (c)(2) for the following year; and

"(B) whether such hospital-specific relative value is projected to exceed the allowable average per admission relative value applicable to the hospital for the following year under subsection (c)(1).

"(2) REDUCTION FOR SERVICES AT HOSPITALS EXCEEDING ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—If the Secretary determines (under paragraph (1)) that a medical staff's hospital-specific per admission relative value for a year (beginning with 1998) is projected to exceed the allowable average per admission relative value applicable to the medical staff for the year, the Secretary shall reduce (in accordance with subsection (d)) the amount of payment otherwise determined under this part for each physician's service furnished during the year to an inpatient of the hospital by an individual who is a member of the hospital's medical staff.

"(3) TIMING OF DETERMINATION; NOTICE TO HOSPITALS AND CARRIERS.—Not later than October 1 of each year (beginning with 1997), the Secretary shall notify the medical executive committee of each hospital (as set forth in the Standards of the Joint Commission on the Accreditation of Health Organizations) of the determinations made with respect to the medical staff of such hospital under paragraph (1).

"(c) DETERMINATION OF ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE AND HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUES.—

"(1) ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—

"(A) URBAN HOSPITALS.—In the case of a hospital located in an urban area, the allowable average per admission relative value established under this subsection for a year is equal to 125 percent (or 120 percent for years after 1999) of the median of 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

"(B) RURAL HOSPITALS.—In the case of a hospital located in a rural area, the allowable average per admission relative value established under this subsection for 1998 and each succeeding year, is equal to 140 percent of the median of the 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

"(2) HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—

"(A) IN GENERAL.—The hospital-specific per admission relative value projected for a hospital (other than a teaching hospital) for a calendar year shall be equal to the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding such calendar year, adjusted for variations in case-mix and disproportionate share status among hospitals (as determined by the Secretary under subparagraph (C)).

"(B) SPECIAL RULE FOR TEACHING HOSPITALS.—The hospital-specific per admission relative value projected for a teaching hospital in a calendar year shall be equal to the sum of—

"(i) the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding such calendar year adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under subparagraph (C)); and

"(ii) the equivalent per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by interns and residents of the hospital during the second calendar year preceding such calendar year, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under subparagraph (C)). The Secretary shall determine such equivalent relative value unit per admission for interns and residents based on the best available data for teaching hospitals and may make such adjustment in the aggregate.

"(C) ADJUSTMENT FOR TEACHING AND DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall adjust the allowable per admission relative values otherwise determined under this paragraph to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5). The adjustment for teaching status or disproportionate share shall not be less than zero.

"(d) AMOUNT OF REDUCTION.—The amount of payment otherwise made under this part for a physician's service that is subject to a reduction under subsection (b) during a year shall be reduced by 15 percent, in the case of a service furnished by a member of the medical staff of the hospital for which the Secretary determines under subsection (b)(1) that the hospital medical staff's projected relative value per admission exceeds the allowable average per admission relative value.

"(e) RECONCILIATION OF REDUCTIONS BASED ON HOSPITAL-SPECIFIC RELATIVE VALUE PER ADMISSION WITH ACTUAL RELATIVE VALUES.—

"(1) DETERMINATION OF ACTUAL AVERAGE PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1999), the Secretary shall determine the actual average per admission relative value (as determined pursuant to section 1848(c)(2)) for the physicians' services furnished by members of a hospital's medical staff to inpatients of the hospital during the previous year, on the basis of claims for payment for such services that are submitted to the Secretary not later than 90 days after the last day of such previous year. The actual average per admission relative value shall be adjusted by the appropriate case-mix, disproportionate share factor, and teaching factor for the hospital medical staff (as determined by the Secretary under subsection (c)(2)(C)).

"(2) RECONCILIATION WITH REDUCTIONS TAKEN.—

"(A) REIMBURSEMENT.—In the case of a hospital for which the payment amounts for

VOL 140 PT 16 AG 12 — 18 1994 UMI

physicians' services furnished by members of the hospital's medical staff to inpatients of the hospital were reduced under this section for a year—

"(i) if the actual average per admission relative value for such hospital's medical staff during the year (as determined by the Secretary under paragraph (1)) did not exceed the allowable average per admission relative value applicable to the hospital's medical staff under subsection (c)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff by the amount by which payments for such services were reduced for the year under subsection (d), including interest at an appropriate rate determined by the Secretary; and

"(ii) if the actual average per admission relative value for such hospital's medical staff during the year (as determined by the Secretary under paragraph (1)) exceeded the allowable average per admission relative value applicable to the hospital's medical staff under subsection (c)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff, as a percent of the total amount of payment otherwise determined under this part for physicians' services furnished during the year to inpatients of the hospital by the hospital's medical staff (prior to the reduction under subsection (d)), the difference between 15 percentage points and the actual number of percentage points that the medical staff exceeded the allowable average per admission relative value, including interest at any appropriate rate determined by the Secretary.

"(B) NO REIMBURSEMENT.—The Secretary shall not pay the fiduciary agent for the medical staff of a hospital any amounts by which payments for physicians' services provided by the medical staff were reduced for a year under this section if the actual average per admission relative value for such hospital's medical staff during the year (as determined by the Secretary under paragraph (1)) exceeded the allowable average per admission relative value applicable to the hospital's medical staff under subsection (c)(1) for the year by 15 percentage points or more.

"(3) MEDICAL EXECUTIVE COMMITTEE OF A HOSPITAL.—Each medical executive committee of a hospital whose medical staff is projected to exceed the allowable relative value per admission for a year, shall have 1 year from the date of notification that such medical staff is projected to exceed the allowable relative value per admission to designate a fiduciary agent for the medical staff to receive and disburse any appropriate amounts withheld made by the carrier.

"(4) ALTERNATIVE REIMBURSEMENT TO MEMBERS OF STAFF.—At the request of a fiduciary agent for the medical staff, if the fiduciary agent for the medical staff is owed the reimbursement described in paragraph (2)(A)(ii) for excess reductions in payments during a year, the Secretary shall make such reimbursement to the members of the hospital's medical staff, on a pro-rata basis according to the proportion of physicians' services furnished to inpatients of the hospital during the year that were furnished by each member of the medical staff.

"(f) CLAIMS TO BE SUBMITTED NOT LATER THAN 90 DAYS AFTER END OF YEAR.—Notwithstanding any other provision of law, no payment may be made under this part for any physician's service furnished by a member of the medical staff of a hospital to an inpatient of the hospital during a year unless the hospital submits a claim to the Secretary for the payment for such service not later than 90 days after the last day of the year.".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(a)(1)(N) (42 U.S.C. 1395l(a)(1)(N)) is amended by inserting "(subject to reduction under section 1849)" after "1848(a)(1)".

(B) Section 1848(a)(1)(B) (42 U.S.C. 1395w-4(a)(1)(B)) is amended by striking "this subsection," and inserting "this subsection and section 1849,".

(b) REQUIRING PHYSICIANS TO IDENTIFY HOSPITAL AT WHICH SERVICE FURNISHED.—Section 1848(g)(4)(A)(i) (42 U.S.C. 1395w-4(g)(4)(A)(i)) is amended by striking "beneficiary," and inserting "beneficiary (and, in the case of a service furnished to an inpatient of a hospital, report the hospital identification number on such claim form),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 4204. CHANGES IN UNDERSERVED AREA BONUS PAYMENTS.

(a) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended—

(1) by inserting "(1)" after "(m)",

(2) by inserting "described in paragraph (2)" after "physicians' services",

(3) by striking "10 percent" and inserting "the applicable percent",

(4) by striking "service" the last place it appears and inserting "services", and

(5) by adding at the end the following new paragraph:

"(2)(A) The applicable percent referred to in paragraph (1) is 20 percent in the case of primary care services, as defined in section 1842(i)(4), and 10 percent for services other than primary care services furnished in health professional shortage areas located in rural areas as defined in section 1886(d)(2)(D).

"(B) The Secretary shall reduce payments for all services (other than primary care services) for which payment may be made under this section by such percentage as the Secretary determines necessary so that, beginning on the date of the enactment of the Health Security Act, the amendments made by section 4204(e) of such Act would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) are effective for services furnished on or after January 1, 1995.

SEC. 4205. CORRECTION OF MVPS UPWARD BIAS.

(a) IN GENERAL.—Section 1848(f)(2)(A)(iv) (42 U.S.C. 1395w-4(f)(2)(A)(iv)) is amended by striking "including changes in law and regulations affecting the percentage increase described in clause (i)" and inserting "excluding anticipated responses to such changes".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to performance standard rates of increase determined for fiscal year 1995 and succeeding fiscal years.

SEC. 4206. DEMONSTRATION PROJECTS FOR MEDICARE STATE-BASED PERFORMANCE STANDARD RATE OF INCREASE.

Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended by adding at the end the following new paragraph:

"(6) STATE-BASED PERFORMANCE STANDARD RATES OF INCREASE DEMONSTRATION PROJECTS.—The Secretary shall establish demonstration projects in not more than 3 States under which a State elects State-based performance standard rates of increase to substitute for the national performance standard rates of increase established for the year under paragraph (2). The Secretary shall develop criteria for the establishment of such demonstration projects which shall include the requirement of budget-neutrality for payments made under this part with respect to physicians' services furnished in a State participating in the demonstration project.".

SEC. 4207. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after July 1, 1994.

SEC. 4208. EYE OR EYE AND EAR HOSPITALS.

Section 1833(i)(4)(A) (42 U.S.C. 1395l(i)(4)(A)) is amended in the matter following clause (iii) by striking "January 1, 1995" and inserting "September 30, 1997".

SEC. 4209. IMPOSITION OF COINSURANCE ON LABORATORY SERVICES.

(a) IN GENERAL.—Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended—

(1) by striking "(or 100 percent" and all that follows through "the first opinion))"; and

(2) by striking "100 percent of such negotiated rate" and inserting "80 percent of such negotiated rate".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to tests furnished on or after January 1, 1995.

SEC. 4210. APPLICATION OF COMPETITIVE ACQUISITION PROCESS FOR PART B ITEMS AND SERVICES.

(a) GENERAL RULE.—Part B of title XVIII is amended by inserting after section 1846 the following:

"COMPETITION ACQUISITION FOR ITEMS AND SERVICES

"SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—

"(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1995. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

"(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall—

"(A) initially be, or be within, metropolitan statistical areas; and

"(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area.

"(b) AWARDING OF CONTRACTS IN AREAS.—

"(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

"(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity meets quality standards specified by the Secretary for the furnishing of such item or service.

"(3) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

"(A) the quantity of items and services the entity shall provide; and

"(B) such other terms and conditions as the Secretary may require.

"(c) SERVICES DESCRIBED.—The items and services to which the provisions of this section shall apply are as follows:

"(1) Magnetic resonance imaging tests and computerized axial tomography scans, including a physician's interpretation of the results of such tests and scans.

"(2) Enteral and parenteral nutrients and supplies.".

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; or"; and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.".

(c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section during 1996 does not result in a reduction of at least 10 percent in the projected payment amount that would have applied to the items or services under part B if the items or services had not been furnished through competitive acquisition under such section in such year, the Secretary shall reduce for such year the payment amount for all such services by such percentage as the Secretary determines necessary to result in such a reduction for such year.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished under part B of title XVIII of the Social Security Act on or after January 1, 1995.

SEC. 4211. APPLICATION OF COMPETITIVE ACQUISITION PROCEDURES FOR LABORATORY SERVICES.

(a) IN GENERAL.—Section 1847(c), as added by section 4210, is amended by inserting after paragraph (2) the following new paragraph:

"(3) Clinical diagnostic laboratory tests.".

(b) REDUCTION IN FEE SCHEDULE AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE SAVINGS.—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following new paragraph:

"(7) Notwithstanding any other provision of this subsection, if the Secretary applies the authority provided under section 1847 to establish competitive acquisition areas for the furnishing of clinical diagnostic laboratory tests during 1996 and the application of such authority does not result in a reduction of at least 10 percent in the projected payment amount that would have applied to such tests under this section in such year if the tests had not been furnished through competitive acquisition under section 1847, the Secretary shall reduce for such year each payment amount for all such tests otherwise determined under the fee schedules and negotiated rates established under this subsection by such percentage as the Secretary determines necessary to result in such a reduction for such year.".

SEC. 4212. EXPANDED COVERAGE FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.

(a) COVERAGE IN OUTPATIENT SETTINGS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (II); and

(B) by inserting "or (IV) in an outpatient setting as defined by the Secretary" following "shortage area,"; and

(2) in clause (ii), by striking "section 1919(a)" and inserting "section 1919(a) or in an outpatient setting as defined by the Secretary".

(b) PAYMENT BASED ON PHYSICIAN FEE SCHEDULE.—

(1) Section 1833(a)(1)(O) (42 U.S.C. 1395l(a)(1)(O)) is amended—

(A) by striking "section 1861(s)(2)(K)(iii) (relating to nurse practitioner and clinical nurse specialist services provided in a rural area)" and inserting "section 1861(s)(2)(K)";

(B) by striking "for services furnished on or after January 1, 1992," and inserting "for services described in section 1861(s)(2)(K)(iii) furnished on or after January 1, 1992, and for services described in clauses (i), (ii), and (iv) of section 1861(s)(2)(K) furnished on or after January 1, 1997,"; and

(C) by striking "subsection (r)(2)" and inserting "subsection (r)(2) or subparagraph (A) or (B) of section 1842(b)(12)".

(2) Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended—

(A) by striking "and" at the end of clause (i);

(B) in clause (ii) in the matter preceding subclause (I), by striking "the prevailing" and inserting "for services furnished before January 1, 1997, the prevailing";

(C) by striking the period at the end of clause (ii)(II) and inserting "; and"; and

(D) by inserting at the end the following clause:

"(iii) in the case of services furnished on or after January 1, 1997, the fee schedule amount shall be equal to—

"(I) in the case of services performed as an assistant at surgery, 65 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistance at surgery,

"(II) in the case of services performed (other than as an assistant at surgery) in a hospital, 75 percent of the fee schedule amount specified under section 1848, and

"(III) in the case of other services, 85 percent of the fee schedule amount specified under section 1848.

(c) RURAL NURSE PRACTITIONERS AS ASSISTANTS AT SURGERY IN URBAN AREAS.—Section 1861(s)(2)(K)(ii) (42 U.S.C. 1395x(s)(2)(K)(ii)), as amended by subsection (a)(2), is further amended by adding "or services as an assistant at surgery furnished by a nurse practitioner whose primary practice location (as defined by the Secretary) is in a rural area (as defined in section 1886(d)(2)(D)) to an individual who resides in a rural area when the service is furnished to such individual in an urban area by such practitioner when such practitioner refers such individual to an urban area for the furnishing of services" after "as defined by the Secretary".

(d) CONFORMING AMENDMENTS.—

(1) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "subsection (s)(2)(K)".

(2) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)), as amended by section 4108(b)(4)(K), is amended by striking "section 1861(s)(2)(K)(i)" and inserting "section 1861(s)(2)(K)".

(3) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)), as amended by section 4108(b)(4)(L)(ii), is further amended by striking "section 1861(s)(2)(K)(i)" and inserting "section 1861(s)(2)(K)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1997.

SEC. 4213. ELIMINATION OF BALANCE BILLING.

Effective January 1, 1996, notwithstanding any provision of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), a nonparticipating physician, or nonparticipating supplier or other person (as such terms are defined in section 1842(i)(2) of such Act (42 U.S.C. 1395u(i)(2)) may not receive payment for services or items under such title.

SEC. 4214. DEVELOPMENT AND IMPLEMENTATION OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative value units for each physician's service. The methodology utilized shall recognize the staff, equipment, and supplies used in the provision of various medical and surgical services in various settings.

(2) REPORT.—The Secretary shall transmit a report by January 1, 1996, on the methodology developed under paragraph (1) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—Section 1848(c)(2)(C)(ii) (42 U.S.C. 1395w-4(c)(2)(C)(ii)) is amended—

(A) by inserting "for the service for years before 1997" before "equal to",

(B) by striking the period at the end of subclause (II) and inserting a comma, and

(C) by adding after and below subclause (II) the following:

"and for years beginning with 1997 based on the relative practice expense resources involved in furnishing the service.".

(2) CONFORMING AMENDMENT.—Section 1848(c)(3)(C)(ii) (42 U.S.C. 1395w-4(c)(3)(C)(ii)) is amended by striking "The practice" and inserting "For years before 1997, the practice".

(3) APPLICATION OF CERTAIN PROVISIONS.—In implementing the amendment made by paragraph (1)(C), the provisions of clauses (ii)(II) and (iii) of section 1848(c)(2)(B) of the Social Security Act shall apply in the same manner

VOL 140 PT 16 AG 12 — 18 1994 UMI

as they apply to adjustments under clause (ii)(I) of such section.

SEC. 4215. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—Subparagraph (B) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended by striking the period at the end and inserting ", except that such percentage increase shall—

"(i) be reduced by 2 percentage points for each of years 1995 and 1996;

"(ii) be reduced by 1.5 percentage points for 1997;

"(iii) be reduced by 2 percentage points for 1998; and

"(iv) be reduced by 1 percentage point for 1999.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on the date of the enactment of this Act.

SEC. 4216. CLARIFICATION OF REGULATIONS TO DISTINGUISH ORTHOTICS AND PROSTHETICS FROM DURABLE MEDICAL EQUIPMENT.

The Secretary of Health and Human Services shall—

(1) redesignate section 414.228 of title 42, Code of Federal Regulations, as section 414.62 of title 42, Code of Federal Regulations, and shall insert such section, as redesignated, at the end of subpart A of part 414 of subchapter B of chapter IV of title 42, Code of Federal Regulations; and

(2) shall strike "and Prosthetic and Orthotic Devices" from the heading of subpart D of part 414 of subchapter B of chapter IV of title 42, Code of Federal Regulations.

SEC. 4217. GENERAL PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by striking "and prior to January 1999"; and

(2) in paragraph (2), by striking "prior to January 1998".

PART 4—PROVISIONS RELATING TO PARTS A AND B

SEC. 4301. MEDICARE SECONDARY PAYER CHANGES.

(a) EXTENSION OF DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) REPEAL OF SUNSET ON APPLICATION TO DISABLED EMPLOYEES OF EMPLOYERS WITH MORE THAN 100 EMPLOYEES.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended—

(1) in the heading, by striking "SUNSET" and inserting "EFFECTIVE DATE"; and

(2) by striking ". and before October 1, 1998".

(c) EXTENSION OF PERIOD FOR END STAGE RENAL DISEASE BENEFICIARIES.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended in the second sentence by striking "and on or before October 1, 1998,".

SEC. 4302. INCREASE IN MEDICARE SECONDARY PAYER COVERAGE FOR END STAGE RENAL DISEASE SERVICES TO 24 MONTHS.

(a) IN GENERAL.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)), as amended by section 4301(c), is amended by striking the last sentence and inserting: "Effective for items and services furnished on or after January 1, 1996 (with respect to periods beginning on or after July 1, 1994), this subparagraph shall be applied by substituting '24-month' for '12-month' each place it appears.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services provided on or after January 1, 1996.

SEC. 4303. EXPANSION OF CENTERS OF EXCELLENCE.

(a) IN GENERAL.—The Secretary of Health and Human Services shall use a competitive process to contract with centers of excellence for cataract surgery, coronary artery by-pass surgery, and such other services as the Secretary determines to be appropriate. Payment under title XVIII of the Social Security Act will be made for services subject to such contracts on the basis of negotiated or all-inclusive rates as follows:

(1) The center shall cover services provided in an urban area (as defined in section 1886(d)(2)(D) of the Social Security Act) for years beginning with fiscal year 1995.

(2) The amount of payment made by the Secretary to the center under title XVIII of the Social Security Act for services covered under the contract shall be less than the aggregate amount of the payments that the Secretary would have made to the center for such services had the contract not been in effect.

(3) The Secretary shall make payments to the center on such a basis for the following services furnished to individuals entitled to benefits under such title:

(A) Facility, professional, and related services relating to cataract surgery.

(B) Coronary artery bypass surgery and related services.

(C) Such other services as the Secretary and the center may agree to cover under the contract.

(b) REBATE OF PORTION OF SAVINGS.—In the case of any services provided under a contract conducted under subsection (a), the Secretary shall make a payment to each individual to whom such services are furnished (at such time and in such manner as the Secretary may provide) in an amount equal to 10 percent of the amount by which—

(1) the amount of payment that would have been made by the Secretary under title XVIII of the Social Security Act to the center for such services if the services had not been provided under the contract, exceeds

(2) the amount of payment made by the Secretary under such title to the center for such services.

SEC. 4304. REDUCTION IN ROUTINE COST LIMITS FOR HOME HEALTH SERVICES.

(a) REDUCTION IN UPDATE TO MAINTAIN FREEZE IN 1996.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in subclause (II), by striking "or" at the end;

(2) in subclause (III), by striking "112 percent," and inserting "and before July 1, 1996, 112 percent, or"; and

(3) by inserting after subclause (III) the following new subclause:

"(IV) July 1, 1996, 100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13564(a)(1) of the Omnibus Budget Reconciliation Act of 1993),".

(b) BASING LIMITS IN SUBSEQUENT YEARS ON MEDIAN OF COSTS.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)), as amended by subsection (a), is amended in the matter following subclause (IV) by striking "the mean" and inserting "the median".

(2) ADJUSTMENT TO LIMITS.—Section 1861(v)(1)(L)(ii) (42 U.S.C. 1395x(v)(1)(L)(ii)) is amended by adding at the end the following new sentence: "The effect of the amendments made by 656(b) of the Health Security Act shall not be considered by the Secretary in making adjustments pursuant to this clause.".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to cost reporting periods beginning on or after July 1, 1997.

SEC. 4305. IMPOSITION OF 20 PERCENT COINSURANCE ON HOME HEALTH SERVICES.

(a) PART A.—Section 1813(a) (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

"(5) The amount payable for a home health service furnished to an individual under this part shall be reduced by a copayment amount equal to 20 percent of the average of all the per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year).".

(b) PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)), as amended by section 4108(c)(2), is amended—

(1) in subparagraph (A), by striking "to home health services," and by striking the comma after "opinion)";

(2) in subparagraph (E), by striking "and" at the end;

(3) in subparagraph (F), by striking the semicolon at the end and inserting "; and"; and

(4) by adding at the end the following new subparagraph:

"(G) with respect to any home health service—

"(i) the lesser of —

"(I) the reasonable cost of such service, as determined under section 1861(v), or

"(II) the customary charges with respect to such service,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), or

"(ii) if such service is furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2),

less a copayment amount equal to 20 percent of the average of all per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year);".

(c) PROVIDER CHARGES.—Section 1866(a)(2)(A)(i) (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(1) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(2) by striking "or (a)(4)" and inserting "(a)(4), or (a)(5)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after July 1, 1995.

SEC. 4306. TERMINATION OF MEDICAL EDUCATION PAYMENTS.

(a) IN GENERAL.—Section 1886(h) (42 U.S.C. 1395ww(h)) is amended by adding at the end the following new paragraph:

"(6) TERMINATION OF PAYMENTS ATTRIBUTABLE TO COSTS OF TRAINING PHYSICIANS.—Notwithstanding any other provision of this section or section 1861(v), no payment may be made under this title for direct graduate medical education costs attributable to an approved medical residency training program for any cost reporting period (or portion thereof) beginning on or after January 1, 1997.".

(b) PROHIBITION AGAINST RECOGNITION OF COSTS OF TRAINING PHYSICIANS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 4102(b), is amended by adding at the end the following new subparagraph:

"(U) Such regulations shall not include any provision for specific recognition of the costs of graduate medical education for hospitals for any cost reporting period (or portion thereof) beginning on or after January 1, 1997. Nothing in the previous sentence shall be construed to affect in any way payments to hospitals for the costs of any approved educational activities that are not described in such sentence.".

(c) PROHIBITION AGAINST RECOGNITION OF COSTS OF NURSE PROFESSIONS OR OTHER HEALTH PROFESSIONS EDUCATION.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 4102(b) and subsection (b) is amended by adding at the end the following new subparagraph:

"(V) Such regulations shall not include any provision for specific recognition of the costs of nursing or other health professions education beginning on or after January 1, 1997.".

SEC. 4307. MEDICARE SELECT.

(a) AMENDMENTS TO PROVISIONS RELATING TO MEDICARE SELECT POLICIES.—

(1) PERMITTING MEDICARE SELECT POLICIES IN ALL STATES.—Subsection (c) of section 4358 of the Omnibus Budget Reconciliation Act of 1990 is hereby repealed.

(2) REQUIREMENTS OF MEDICARE SELECT POLICIES.—Section 1882(t)(1) (42 U.S.C. 1395ss(t)(1)) is amended to read as follows:

"(1)(A) If a medicare supplemental policy meets the requirements of the 1991 NAIC Model Regulation or 1991 Federal Regulation and otherwise complies with the requirements of this section except that—

"(i) the benefits under such policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), and

"(ii) in the case of a policy described in subparagraph (C)(i)—

"(I) the benefits under such policy are not one of the groups or packages of benefits described in subsection (p)(2)(A),

"(II) except for nominal copayments imposed for services covered under part B of this title, such benefits include at least the core group of basic benefits described in subsection (p)(2)(B), and

"(III) an enrollee's liability under such policy for physician's services covered under part B of this title is limited to the nominal copayments described in subclause (II),

the policy shall nevertheless be treated as meeting those requirements if the policy meets the requirements of subparagraph (B).

"(B) A policy meets the requirements of this subparagraph if—

"(i) full benefits are provided for items and services furnished through a network of entities which have entered into contracts or agreements with the issuer of the policy,

"(ii) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network,

"(iii) the network offers sufficient access,

"(iv) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network,

"(v)(I) the issuer of the policy provides to each enrollee at the time of enrollment an explanation of—

"(aa) the restrictions on payment under the policy for services furnished other than by or through the network,

"(bb) out of area coverage under the policy,

"(cc) the policy's coverage of emergency services and urgently needed care, and

"(dd) the availability of a policy through the entity that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation without regard to this subsection and the premium charged for such policy, and

"(II) each enrollee prior to enrollment acknowledges receipt of the explanation provided under subclause (I), and

"(vi) the issuer of the policy makes available to individuals, in addition to the policy described in this subsection, any policy (otherwise offered by the issuer to individuals in the State) that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation and other requirements of this section without regard to this subsection.

"(C)(I) A policy described in this subparagraph—

"(I) is offered by an eligible organization (as defined in section 1876(b)),

"(II) is not a policy or plan providing benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, and

"(III) provides benefits which, when combined with benefits which are available under this title, are substantially similar to benefits under policies offered to individuals who are not entitled to benefits under this title.

"(ii) In making a determination under subclause (III) of clause (i) as to whether certain benefits are substantially similar, there shall not be taken into account, except in the case of preventive services, benefits provided under policies offered to individuals who are not entitled to benefits under this title which are in addition to the benefits covered by this title and which are benefits an entity must provide in order to meet the definition of an eligible organization under section 1876(b)(1).".

(b) RENEWABILITY OF MEDICARE SELECT POLICIES.—Section 1882(q)(1) (42 U.S.C. 1395ss(q)(1)) is amended—

(1) by striking "(1) Each" and inserting "(1)(A) Except as provided in subparagraph (B), each";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end the following new subparagraph:

"(B)(i) In the case of a policy that meets the requirements of subsection (t), an issuer may cancel or nonrenew such policy with respect to an individual who leaves the service area of such policy; except that, if such individual moves to a geographic area where such issuer, or where an affiliate of such issuer, is issuing medicare supplemental policies, such individual must be permitted to enroll in any medicare supplemental policy offered by such issuer or affiliate that provides benefits comparable to or less than the benefits provided in the policy being canceled or nonrenewed. An individual whose coverage is canceled or nonrenewed under this subparagraph shall, as part of the notice of termination or nonrenewal, be notified of the right to enroll in other medicare supplemental policies offered by the issuer or its affiliates.

"(ii) For purposes of this subparagraph, the term 'affiliate' shall have the meaning given such term by the 1991 NAIC Model Regulation.".

(c) CIVIL PENALTY.—Section 1882(t)(2) (42 U.S.C. 1395ss(t)(2)) is amended—

(1) by striking "(2)" and inserting "(2)(A)";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(3) in clause (iv), as redesignated—

(A) by striking "paragraph (1)(E)(i)" and inserting "paragraph (1)(B)(v)(I); and

(B) by striking "paragraph (1)(E)(ii)" and inserting "paragraph (1)(B)(v)(II)";

(4) by striking "the previous sentence" and inserting "this subparagraph"; and

(5) by adding at the end the following new subparagraph:

"(B) If the Secretary determines that an issuer of a policy approved under paragraph (1) has made a misrepresentation to the Secretary or has provided the Secretary with false information regarding such policy, the issuer is subject to a civil money penalty in an amount not to exceed $100,000 for each such determination. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(d) EFFECTIVE DATES.—

(1) NAIC STANDARDS.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (hereafter in this subsection referred to as the "NAIC") makes changes in the 1991 NAIC Model Regulation (as defined in section 1882(p)(1)(A) of the Social Security Act) to incorporate the additional requirements imposed by the amendments made by this section, section 1882(g)(2)(A) of such Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed under this paragraph (such changed Regulation referred to in this subsection as the "1995 NAIC Model Regulation").

(2) SECRETARY STANDARDS.—If the NAIC does not make changes in the 1991 NAIC Model Regulation (as so defined) within the 9-month period specified in paragraph (1), the Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall promulgate a regulation and section 1882(g)(2)(A) of the Social Security Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed by the Secretary under this paragraph (such changed Regulation referred to in this subsection as the "1995 Federal Regulation").

(3) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State adopts the 1995 NAIC Model Regulation or the 1995 Federal Regulation, or

(ii) 1 year after the date the NAIC or the Secretary first adopts such regulations.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(i) requiring State legislation (other than legislation appropriating funds) in order for

VOL 140 PT 16 AG 12 — 18 1994 UMI

medicare supplemental policies to meet the 1995 NAIC Model Regulation or the 1995 Federal Regulation, but

(ii) having a legislature which is not scheduled to meet in 1995 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART 5—REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK

SEC. 4401. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) REPEAL OF DATA BANK.—Section 1144 of the Social Security Act (42 U.S.C. 1320b-14), as added by section 13581 of the Omnibus Budget Reconciliation Act of 1993, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1862(b)(5) of such Act (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking "the information received under" and all that follows and inserting "the information received under subparagraph (A) for the purposes of carrying out this subsection."; and

(B) in subparagraph (C)(i), by striking "subparagraph (B)(i)" and inserting "subparagraph (B)".

(2) MEDICAID.—Section 1902(a)(25)(A)(i) of such Act (42 U.S.C. 1396(a)(25)(A)(i)) is amended by striking "(including the use of information collected by the Medicare and Medicaid Coverage Data Bank under section 1144 and any additional measures as specified" and inserting "(as specified".

(3) CONFORMING AMENDMENT RELATED TO DATA MATCHES.—Subsection (a)(8)(B) of section 552a of title 5, United States Code, is amended—

(A) in clause (v), by adding "; or" at the end;

(B) in clause (vi), by striking "; or" and inserting a semicolon; and

(C) by striking clause (vii).

(4) CONFORMING AMENDMENT TO ERISA.—

(A) Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1031) is amended—

(i) by striking subsection (f); and

(ii) by redesignating subsection (g) as subsection (f).

(B) Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(i) in paragraph (6), by striking the semicolon at the end and inserting "; or";

(ii) in paragraph (7), by striking "; or" and inserting a period; and

(iii) by striking paragraph (8).

(C) Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by striking paragraph (4).

(D) Section 502(e)(1) of such Act (29 U.S.C. 1132(e)(1)) is amended by striking "fiduciary, or any person referred to in section 101(f)(1)" and inserting "or fiduciary".

Subtitle B—Medicaid Program

PART 1—INTEGRATION OF CERTAIN MEDICAID ELIGIBLES INTO REFORMED HEALTH CARE SYSTEM

SEC. 4601. LIMITING COVERAGE UNDER MEDICAID OF ITEMS AND SERVICES COVERED UNDER STANDARD BENEFIT PACKAGE.

(a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et seq.) is amended by redesignating section 1931 as section 1932 and by inserting after section 1930 the following new section:

"TREATMENT OF ITEMS AND SERVICES IN THE STANDARD BENEFIT PACKAGE

"SEC. 1931. (a) ITEMS AND SERVICES COVERED UNDER STANDARD BENEFIT PACKAGE.—Except as provided in subsection (c), a State plan under this part shall not provide medical assistance consisting of payment for items and services in the standard benefit package described in section 1201(a) of the Health Security Act.

"(b) MEDICAL ASSISTANCE NOT AFFECTED.—Subsection (a) shall not be construed as—

"(1) affecting the eligibility of any individual for medical assistance consisting of payment for items and services not covered under the standard benefits package; or

"(2) with respect to individuals under the age of 19, prohibiting payment of medical assistance for items and services covered under the standard benefits package to the extent that the items and services under this part exceed the items and services covered under such package with respect to amount, duration, and scope.

"(c) EXCEPTIONS.—Subsection (a) shall not affect the provision of medical assistance consisting of payment for items and services in the standard benefits package—

"(1) which are provided to—

"(A) an individual eligible for medical assistance under the State plan who is not a premium subsidy eligible individual (as defined in 6002(a)(2) of the Health Security Act);

"(B) an individual with respect to whom supplemental security income benefits are being paid under title XVI; and

"(C) an individual who is eligible for benefits under part A of title XVIII; or

"(2) which consist of emergency services to certain aliens under section 1903(v)(2).

"(d) STATE MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—

"(A) REDUCTION IN QUARTERLY PAYMENTS.—For any calendar quarter in an applicable year (as defined in subparagraph (B)), the amount otherwise payable to a State under section 1903 for the quarter shall be reduced by the State maintenance of effort amount for the quarter determined under paragraph (2).

"(B) APPLICABLE YEAR.—For purposes of this paragraph, the term 'applicable year' means 1997 and any succeeding year.

"(2) MAINTENANCE OF EFFORT AMOUNT.—

"(A) IN GENERAL.—The maintenance of effort amount for a State for a calendar quarter in an applicable year shall be equal to 25 percent of the sum of—

"(i) the State's AFDC eligibles payment amount for the year determined under paragraph (3); and

"(ii) the State's non-cash eligibles payment amount for the year determined under paragraph (4).

"(3) STATE AFDC ELIGIBLES PAYMENT AMOUNT.—

"(A) IN GENERAL.—The AFDC eligibles payment amount for a State for a year is an amount equal to the product of—

"(i) the adjusted State per capita amount for the year determined under subparagraph (B); multiplied by

"(ii) the number of AFDC eligible individuals receiving premium assistance under section 6002 of the Health Security Act during the year (as estimated by the Secretary).

"(B) ADJUSTED STATE PER CAPITA AMOUNT.—

"(i) IN GENERAL.—The adjusted State per capita amount for a year is the base State per capita amount determined under clause (ii) updated by the percentage change in the State per capita health expenditures index (as described in paragraph (5)(A)) during the period beginning on October 1, 1994, and ending on December 31 of the year preceding the applicable year (as determined by the Secretary).

"(ii) BASE STATE PER CAPITA AMOUNT.—The base per capita amount for a State shall be an amount, as determined by the Secretary, equal to the quotient of—

"(I) the total expenditures from State funds made under the State plan during fiscal year 1994 with respect to medical assistance consisting of items and services of the type included in the standard benefit package for AFDC eligible individuals; divided by

"(II) the average total number of AFDC eligible individuals who received such medical assistance under the State plan in any month during fiscal year 1994.

"(iii) DISPROPORTIONATE SHARE PAYMENTS NOT INCLUDED.—In applying clause (ii), payments made under section 1923 shall not be counted in the gross amount of payments.

"(C) AFDC ELIGIBLE DEFINED.—For purposes of this paragraph, the term 'AFDC eligible' means an individual who receives aid or assistance under any plan of the State approved under part A or part E of title IV.

"(4) NON-CASH ELIGIBLES PAYMENT AMOUNT.—

"(A) IN GENERAL.—The non-cash eligibles payment amount for a State for a year is an amount equal to the State's base payment amount (determined under subparagraph (B)) for the applicable year updated by the percentage change in the State per capita health expenditures index (as described in paragraph (5)(A)) and the State population index (as described in paragraph (5)(B)) during the period beginning on October 1, 1994, and ending on December 31 of the year preceding the applicable year (as determined by the Secretary).

"(B) STATE BASE PAYMENT AMOUNT.—

"(i) IN GENERAL.—The base payment amount for a State for an applicable year shall be an amount, as determined by the Secretary, equal to the total expenditures from State funds made under the State plan during fiscal year 1994 with respect to medical assistance consisting of items and services of the type included in the standard benefit package for non-cash eligible individuals who would not have received such medical assistance if the provisions of this section and subtitle A of title VI of the Health Security Act had been in effect in fiscal year 1994.

"(ii) DISPROPORTIONATE SHARE PAYMENTS INCLUDED.—

"(I) IN GENERAL.—In applying clause (i), the applicable percentage (as determined under subclause (II)) of payments made under section 1923 shall be counted in the gross amount of payments.

"(II) APPLICABLE PERCENTAGE.—The applicable percentage determined under this subclause is the amount (expressed as a percentage) equal to—

"(aa) the State's inpatient hospital expenditures for noncash eligible individuals in fiscal year 1994; divided by

"(bb) the State's inpatient hospital expenditures for all individuals eligible for medical assistance under the State plan in fiscal year 1994.

"(C) NON-CASH ELIGIBLE DEFINED.—For purposes of this paragraph, the term 'non-cash eligible' means any individual who received medical assistance under the State plan during fiscal year 1994 other than an AFDC eligible individual or an individual described in subsection (b).

"(5) INDEXES.—

"(A) STATE PER CAPITA HEALTH EXPENDITURES INDEX.—The Secretary shall establish

a State per capita health expenditures index for each State which measures the change in State per capita health expenditures from year to year.

"(B) STATE POPULATION INDEX.—The Secretary shall establish a State population index which measures the change in the number of individuals residing in a State from year to year.".

(b) NO FEDERAL FINANCIAL PARTICIPATION.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) with respect to items and services covered under the standard benefit package described in section 1201(a) of the Health Security Act for individuals to whom section 1931(a) applies.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to items or services furnished in a State on or after January 1, 1997.

PART 2—COORDINATED CARE SERVICES FOR DISABLED MEDICAID ELIGIBLES

SEC. 4605. COORDINATED CARE SERVICES FOR DISABLED MEDICAID ELIGIBLES.

(a) STATE EXPENDITURES LIMITED TO CERTIFIED HEALTH PLANS.—Section 1903(m) (42 U.S.C. 1396b) is amended by adding at the end the following new paragraph:

"(7) No payment shall be made under this part to a State with respect to expenditures incurred by the State for payment for services provided by an entity with a contract under this subsection unless such entity is a standard health plan (as defined in section 1011(2)(B) of the Health Security Act).".

(b) MODIFICATION TO 75/25 RULE.—Section 1903(m)(2)(A)(ii) (42 U.S.C. 1396b(m)(2)(A)(ii)) is amended by striking "75 percent" and inserting "50 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1997.

PART 3—PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS

SEC. 4611. REPLACEMENT OF DSH PAYMENT PROVISIONS WITH PROVISIONS RELATING TO PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS.

(a) AMENDMENTS TO PROVISIONS REQUIRING STATES TO MAKE DSH PAYMENT ADJUSTMENTS.—

(1) ADJUSTMENTS TO NATIONAL DSH PAYMENT LIMIT.—Section 1923(f)(1)(B) (42 U.S.C. 1396r-4(f)(1)(B)) is amended to read as follows:

"(B) NATIONAL DSH PAYMENT LIMIT.—

"(i) IN GENERAL.—Except as provided in clause (ii), the national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under the State plans under this part for medical assistance during the fiscal year.

"(ii) REDUCTION IN LIMIT.—For fiscal years ending in a calendar year during which the percentage of individuals covered by insurance, as determined by the National Health Care Cost and Coverage Commission established under section 10001 of the Health Security Act—

"(I) equals or exceeds 85 percent but is less than 88 percent, '10 percent' shall be substituted for '12 percent' in clause (i);

"(II) equals or exceeds 88 percent but is less than 90 percent, '8 percent' shall be substituted for '12 percent' in clause (i);

"(III) equals or exceeds 90 percent but is less than 92 percent, '6 percent' shall be substituted for '12 percent' in clause (i); and

"(IV) equals or exceeds 92 percent, '4 percent' shall be substituted for '12 percent' in clause (i).

(2) ADJUSTMENTS TO STATE ALLOTMENT LIMITS.—Section 1923(f)(2)(B) (42 U.S.C. 1396r-4(f)(2)(B)) is amended to read as follows:

"(B) EXCEPTIONS.—

"(i) IN GENERAL.—Except as provided in clause (ii), a State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year.

"(ii) REDUCTION IN LIMIT.—For fiscal years ending in a calendar year during which the percentage of individuals covered by insurance, as determined by the National Health Care Cost and Coverage Commission established under section 10001 of the Health Security Act—

"(I) equals or exceeds 85 percent but is less than 88 percent, '10 percent' shall be substituted for '12 percent' in clause (i);

"(II) equals or exceeds 88 percent but is less than 90 percent, '8 percent' shall be substituted for '12 percent' in clause (i);

"(III) equals or exceeds 90 percent but is less than 92 percent, '6 percent' shall be substituted for '12 percent' in clause (i); and

"(IV) equals or exceeds 92 percent, '4 percent' shall be substituted for '12 percent' in clause (i).

(3) ELIMINATION OF HIGH DSH STATES AND STATE SUPPLEMENTAL AMOUNTS.—

(A) IN GENERAL.—Section 1923(f)(2)(A) (42 U.S.C. 1396r-4(f)(2)(A)) is amended to read as follows:

"(A) IN GENERAL.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year increased by the State growth factor (as defined in paragraph (3)(B)) for the fiscal year.".

(B) CONFORMING AMENDMENTS.—(i) Section 1923(f) (42 U.S.C. 1396r-4(f)) is amended by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(ii) Section 1923(f)(3) (42 U.S.C. 1396r-4(f)(3)), as redesignated by clause (i), is amended by striking subparagraphs (A) and (C) and redesignating subparagraphs (B), (D), and (E) as subparagraphs (A), (B), and (C).

(iii) Section 1923(f)(3)(B) (42 U.S.C. 1396r-4(f)(3)(B)), as redesignated by clauses (i) and (ii), is amended to read as follows:

"(B) STATE GROWTH AMOUNT.—The term 'State growth amount' means, with respect to a State for a fiscal year, the product of the State growth factor and the State DSH payment limit for the previous fiscal year.".

(iv) Section 1923(f)(1)(A) (42 U.S.C. 1396r-4(f)(1)(A) is amended by striking "(as defined in paragraph (4)(B))" and inserting "(as defined in paragraph (3)(A))".

(3) TERMINATION OF REQUIREMENT ON STATES TO MAKE DSH PAYMENT ADJUSTMENTS.—Section 1923 (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(h) TERMINATION OF REQUIREMENT TO MAKE PAYMENT ADJUSTMENTS.—

"(1) IN GENERAL.—Any requirement imposed by this section on a State to increase the rate or amount of payment for inpatient hospital services provided by a hospital which serves a disproportionate number of low income patients with special needs shall terminate in the year described in paragraph (2).

"(2) YEAR DESCRIBED.—The year described in this paragraph is the first year beginning after the year during which the percentage of individuals covered by insurance, as determined by the National Health Care Cost and Coverage Commission established under section 10001 of the Health Security Act, equals or exceeds 92 percent.".

(4) NO FEDERAL FINANCIAL PARTICIPATION.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 4601(b), is amended—

(1) by striking "or" at the end of paragraph (15),

(2) by striking the period at the end of paragraph (16) and inserting "; or", and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) during or after the year described in section 1923(h)(2) with respect to any payment made by a State to a hospital which serves a disproportionate number of low income patients with special needs that is in excess of the payment otherwise required under this part.".

(5) EFFECTIVE DATE.—The amendments made by this section shall be effective for calendar quarters beginning on or after January 1, 1997.

(b) PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS.—Title XIX (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new part:

"PART B—PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS

"SEC. 1951. PAYMENTS TO HOSPITALS.

"(a) ENTITLEMENT STATUS.—The Secretary shall provide for payment in accordance with this part to eligible hospitals described in section 1952. The preceding sentence constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide funding for such payments in the amounts, and for the fiscal years, specified in subsection (b).

"(b) AMOUNT OF ENTITLEMENT.—For purposes of subsection (a), the amounts and fiscal years specified in this subsection are (in the aggregate for all eligible hospitals) $2,500,000,000 for the first applicable fiscal year (as defined in section 1954) and for each subsequent fiscal year.

"(c) PAYMENTS MADE ON QUARTERLY BASIS.—Payments to an eligible hospital under this section for a year shall be made on a quarterly basis during the year.

"SEC. 1952. IDENTIFICATION OF ELIGIBLE HOSPITALS.

"(a) HOSPITALS IN PARTICIPATING STATES.—In order to be an eligible hospital under this part, a hospital must be located in a State that is a participating State under title I of the Health Security Act.

"(b) STATE IDENTIFICATION.—In accordance with the criteria described in subsection (c) and such procedures as the Secretary may require, each State shall identify the hospitals in the State that meet such criteria and provide the Secretary with a list of such hospitals.

"(c) CRITERIA FOR ELIGIBILITY.—A hospital meets the criteria described in this subsection if the hospital's low-income utilization rate for the base year under section 1923(b)(3) (as such section is in effect on the day before the date of the enactment of this part) is not less than 25 percent.

"SEC. 1953. AMOUNT OF PAYMENTS.

"(a) IN GENERAL.—The total amount available for payments under this part in a year shall be allocated to hospitals for low-income assistance in accordance with this subsection.

"(b) DETERMINATION OF HOSPITAL PAYMENT AMOUNT.—The amount of payment to an eligible hospital during a year shall be equal to

VOL 140 PT 16 AG 12 — 18 1994 UMI

the hospital's low-income percentage (as defined in subsection (c)) of the total amount available for payments under this part for the year.

"(c) LOW-INCOME PERCENTAGE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, an eligible hospital's 'low-income percentage' for a year is equal to the amount (expressed as a percentage) of the total low-income days for all eligible hospitals for the year that are attributable to the hospital.

"(2) LOW-INCOME DAYS DESCRIBED.—For purposes of paragraph (1), an eligible hospital's low-income days for a year shall be equal to the product of—

"(A) the total number of inpatient days for the hospital for the year (as reported to the Secretary by the State in which the hospital is located, in accordance with a reporting schedule and procedures established by the Secretary); and

"(B) the hospital's low-income utilization rate for the base year under section 1923(b)(3) (as such section is in effect on the day before the date of the enactment of this part).

"SEC. 1954. DEFINITIONS.

"For purposes of this part:

"(1) BASE YEAR.—The term 'base year' means 1995.

"(2) FIRST APPLICABLE FISCAL YEAR.—The term 'first applicable fiscal year' means first fiscal year that begins after the fiscal year ending in the calendar year during which the percentage of individuals covered by insurance, as determined by the National Health Care Cost and Coverage Commission established under section 10001 of the Health Security Act, equals or exceeds 92 percent.".

(c) CONFORMING AMENDMENTS.—(1) Title XIX (42 U.S.C. 1396 et seq.) is amended by striking the title and inserting the following:

"TITLE XIX—MEDICAL ASSISTANCE PROGRAMS AND PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS"

"PART A—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS".

(2) Title XIX (42 U.S.C. 1396 et seq.) is amended by striking each reference to "this title" and inserting "this part".

PART 4—MEDICAID LONG-TERM CARE PROVISIONS

SEC. 4615. INCREASED RESOURCE DISREGARD FOR INDIVIDUALS RECEIVING CERTAIN SERVICES.

(a) IN GENERAL.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by adding "and" at the end of subparagraph (F); and

(3) by adding at the end the following new subparagraph:

"(G) provide that, in determining the eligibility of any unmarried individual who has applied for or is receiving medical assistance consisting of community-based services furnished under a waiver under subsection (c) or (d) of section 1915, personal care services described in section 1905(a)(24), or home and community care for functionally disabled elderly individuals under section 1929, the first $4,000 of resources may, at the option of the State, be disregarded,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1995.

SEC. 4616. FRAIL ELDERLY DEMONSTRATION PROJECT WAIVERS.

(a) EXPANSION OF NUMBER OF WAIVERS.—Section 9412(b)(1) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "15" and inserting "40".

(b) DEVELOPMENT OF PROTOCOLS AND MODEL CERTIFICATION GUIDELINES.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 is amended by adding at the end the following new paragraphs:

"(5) The Secretary, in consultation with the States and organizations operating projects in accordance with waivers under this subsection shall develop and publish a waiver protocol that will establish minimum standard requirements that an organization must meet to be eligible for a waiver under this subsection. In developing the protocol under the preceding sentence, the Secretary shall incorporate standards for organizations to deliver integrated acute and long-term care services for the elderly, children, and young adults.

"(6) The Secretary shall develop model guidelines that shall be available to States that choose to establish a comprehensive procedure for the licensure and certification of an organization operating a demonstration project under a waiver granted pursuant to this subsection. Such guidelines shall encompass the range of services provided by such an organization.

(c) EVALUATIONS AND REPORTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(7)(A) The Secretary shall develop standard evaluation protocols to assess the cost-effectiveness and quality of service provided under—

"(i) demonstration projects operating on the date of the enactment of this paragraph under waivers granted pursuant to this subsection; and

"(ii) demonstration projects granted waivers after the date of the enactment of this paragraph.

"(B) The Secretary shall conduct evaluations of the demonstration projects in accordance with the protocols developed under subparagraph (A) and based on the results of such evaluations, report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Subcommittee on Health and the Environment of the Committee on Energy and Commerce of the House of Representatives by—

"(i) not later than January 1, 1998, with respect to demonstration projects described in subparagraph (A)(i); and

"(ii) not later than January 1, 2003, with respect to demonstration projects described in subparagraph (A)(ii);

on the desirability of granting permanent status under titles XVIII and XIX of the Social Security Act to such demonstration projects that the Secretary has determined to be successful.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4617. ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1915(c)(5) (42 U.S.C. 1396n(c)(5)) is amended in the matter preceding subparagraph (A) by striking ", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1995.

SEC. 4618. ELIMINATION OF RULE REGARDING AVAILABILITY OF BEDS IN CERTAIN INSTITUTIONS.

(a) IN GENERAL.—The first sentence of section 1915(c)(1) (42 U.S.C. 1396n(c)(1)) is amended by inserting the following before the end period: "(at the option of the State, such determination may be made without regard to the availability of beds in such a hospital, nursing facility, or intermediate care facility for the mentally retarded located in the State)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to waivers granted or renewed on or after January 1, 1995.

SEC. 4619. PREADMISSION SCREENING FOR MENTALLY RETARDED INDIVIDUALS.

(a) IN GENERAL.—Section 1919(b)(3)(F)(ii) (42 U.S.C. 1396r(b)(3)(F)(ii)) is amended by striking "that, because" and all that follows through the period at the end and inserting "that the individual's primary need is for medical services that are at the level provided by the nursing facility and that the nursing facility has the capability to provide any specialized services necessary for habilitation of the individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to admissions on or after July 1, 1995.

PART 5—MISCELLANEOUS

SEC. 4621. MEDICAID COVERAGE OF ALL CERTIFIED NURSE PRACTITIONER AND CLINICAL NURSE SPECIALIST SERVICES.

(a) IN GENERAL.—Paragraph (21) of section 1905(a) (42 U.S.C. 1396d(a)) is amended to read as follows:

"(21) services furnished by all certified nurse practitioners (as defined by the Secretary) or clinical nurse specialists (as defined in subsection (t)) which the certified nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider;".

(b) CLINICAL NURSE SPECIALIST DEFINED.—Section 1905 (42 U.S.C. 1396) is amended by adding at the end the following new subsection:

"(t) The term 'clinical nurse specialist' means an individual who—

"(1) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(2) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1995.

SEC. 4622. RELIEF FROM THIRD PARTY LIABILITY REQUIREMENTS WHEN COST-EFFECTIVE.

(a) IN GENERAL.—Section 1902(a)(25)(B) (42 U.S.C. 1396a(a)(25)(B)) is amended to read as follows—

"(B) that in any case where such a legal liability is found to exist after medical assistance has been made available, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability, unless—

"(i) the amount of reimbursement the State can reasonably expect to recover for

medical assistance furnished to an individual does not exceed the costs of such recovery, or

"(ii) with respect to case management services (as defined in section 1915(g)(2)), the State demonstrates to the satisfaction of the Secretary (using the methods specified by the Secretary under subsection (aa)) that it is not cost-effective in the aggregate to seek such recovery with respect to such services furnished to individuals covered under the State plan;".

(b) METHODS FOR DEMONSTRATION.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended by adding at the end the following new subsection:

"(aa) The Secretary shall specify in regulations the methods by which a State may demonstrate that it is not cost-effective in the aggregate to seek reimbursement for medical assistance paid for case management services under subsection (a)(25)(B)(ii). The methods specified by the Secretary under the preceding sentence shall include allowing a State to demonstrate that case management services are not generally covered by health insurers in the State.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1995.

SEC. 4623. EXTENSION OF MORATORIUM ON TREATMENT OF CERTAIN FACILITIES AS INSTITUTIONS FOR MENTAL DISEASES.

Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "December 31, 1995" and inserting "the year described in section 1923(h)(2) of the Social Security Act".

SEC. 4624. ALLOWING CERTAIN ENTITIES TO PARTICIPATE IN A WAIVER.

Section 1903(m)(6)(D) (42 U.S.C. 1396b(m)(6)(D)) is amended to read as follows:

"(D) The undertaking described in subparagraph (A) shall be eligible to participate in a waiver under section 1915(b).".

TITLE V—QUALITY AND CONSUMER PROTECTION

Subtitle A—Quality Management and Improvement

SEC. 5001. NATIONAL QUALITY COUNCIL.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall establish a council to be known as the National Quality Council to oversee a national program of quality management and improvement designed to enhance the quality, appropriateness, and effectiveness of health care services and access to such services in the United States.

(b) APPOINTMENT.—The National Quality Council shall consist of 15 members appointed by the President, with the advice and consent of the Senate, who are broadly representative of the population of the United States and shall include the following:

(1) Individuals and health care providers distinguished in the fields of medicine, public health, health care quality, and related fields of health services research. Such members shall constitute at least one-third of the Council's membership.

(2) Individuals representing consumers of health care services. Such members shall constitute at least one-third of the Council's membership.

(3) Other individuals representing purchasers of health care, health plans, States, and nationally recognized health care accreditation organizations.

(c) DUTIES.—The National Quality Council shall—

(1) develop national goals and performance measures of quality;

(2) develop uniform quality goals and performance measures for plans;

(3) oversee the design and implementation of a program of national surveys of plans and consumers;

(4) oversee the design and production of Consumer Report Cards;

(5) oversee Quality Improvement Foundations;

(6) oversee National and State-based Consumer Information and Advocacy Centers; and

(7) oversee the evaluation of the impact of the implementation of this Act on the quality of health care services in the United States and the access of consumers to such services.

(d) COORDINATION AND CONSULTATION.—

(1) COORDINATION WITH MEDICARE.—The Secretary shall promulgate regulations necessary to ensure the coordination and eventual integration of the functions and activities of the Council established under this part with respect to Medicare and non-Medicare populations.

(2) CONSULTATION.—In carrying out the duties under this section, the National Quality Council shall establish a process of consultation with appropriate interested parties.

(e) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Council shall serve for a term of 4 years.

(2) STAGGERED ROTATION.—Of the members first appointed to the Council under subsection (b), the President shall appoint members to serve for a term of between 1 and 4 years so that no more than one third of the Council seats are vacated each year.

(3) SERVICE BEYOND TERM.—A member of the Council may continue to serve after the expiration of the term of the member until a successor is appointed.

(f) VACANCIES.—If a member of the Council does not serve the full term applicable under subsection (e), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(g) CHAIR.—The President shall designate an individual to serve as the chair of the Council.

(h) MEETINGS.—The Council shall meet not less than once during each 4-month period and shall otherwise meet at the call of the President or the chair.

(i) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Council shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Council. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(j) CONFLICTS OF INTEREST.—Members of the Council shall disclose upon appointment to the Council or at any subsequent time that it may occur, conflicts of interest.

(k) EXECUTIVE DIRECTOR; STAFF.—

(1) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Council shall, without regard to section 5311(b) of title 5, United States Code, appoint an Executive Director.

(B) PAY.—The Executive Director shall be paid at a rate equivalent to a rate for the Senior Executive Service.

(2) STAFF.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Executive Director, with the approval of the Council, may appoint and fix the pay of additional personnel.

(B) PAY.—The Executive Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for GS–15 of the General Schedule.

(C) DETAILED PERSONNEL.—Upon request of the Executive Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Council to assist the Council in carrying out its duties under this Act.

(l) CONTRACT AUTHORITY.—To the extent provided in advance in appropriations Acts, the Council may contract with any person (including an agency of the Federal Government) for studies and analysis as required to execute its functions. Any employee of the Executive Branch may be detailed to the Council to assist the Council in carrying out its duties.

(m) CONSULTATIONS WITH EXPERTS.—The Council may consult with any outside expert individuals or groups that the Council determines appropriate in performing its duties under this section. The Council may establish advisory committees.

(n) ACCESS TO INFORMATION.—The Council may secure directly from any department or agency of the United States information necessary to enable it to carry out its functions, to the extent such information is otherwise available to a department or agency of the United States. Upon request of the chair, the head of that department or agency shall furnish that information to the Council.

(o) DELEGATION OF AUTHORITY.—Except as otherwise provided, the Council may delegate any function to such officers and employees as the Council may designate and may authorize such successive redelegations of such functions with the Council as the Council deems to be necessary or appropriate. No delegation of functions by the Council shall relieve the Council of responsibility for the administration of such functions.

(p) RULEMAKING.—The Council is authorized to establish such rules as may be necessary to carry out this section.

(q) HEALTH CARE PROVIDER.—For purposes of this subtitle, the term "health care provider" means an individual who, or entity that, provides an item or service to an individual that is covered under the health plan (as defined in section 1111) in which the individual is enrolled.

SEC. 5002. NATIONAL GOALS AND PERFORMANCE MEASURES OF QUALITY.

(a) IN GENERAL.—The National Quality Council shall develop a set of national quality goals and performance measures of quality for both the general population and for population subgroups defined by demographic characteristics and health status. The goals and measures shall incorporate goals identified by the Secretary of Health and Human Services for meeting public health objectives utilizing, but not limited to, goals delineated in Healthy People 2000.

(b) SUBJECT OF MEASURES.—National measures of quality performance shall be developed under subsection (a) in a manner that provides statistical and other information on at least the following subjects:

(1) Outcomes of health care services and procedures.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(2) Population health status.
(3) Health promotion.
(4) Prevention of diseases, disorders, disabilities, injuries, and other health conditions.
(5) Access to care and appropriateness of care.
(6) Consumer satisfaction.
(c) ACCURACY OF MEASURES.—A State shall periodically audit the national measures of quality performance to assure accuracy.

SEC. 5003. STANDARDS AND PERFORMANCE MEASURES FOR HEALTH PLANS.

(a) DEVELOPMENT.—
(1) IN GENERAL.—The National Quality Council shall establish national standards and performance measures for health plans, which may be used to assess the provision of health care services and access to such services, both for the general population and population subgroups defined by demographic characteristics and health status. In subject matter areas with which the National Quality Council determines that sufficient information and consensus exist, the Council shall establish goals for performance by health plans consistent with the national goals and performance measures established under section 5002.
(2) MEASURES AND STANDARDS.—
(A) MEASURES.—Quality measures under this section shall relate, at a minimum, to:
(i) Access by consumers to health care services and providers.
(ii) Appropriateness of health care services.
(iii) Consumer satisfaction.
(iv) Outcomes of care.
(v) Disease prevention and health promotion.
(B) STANDARDS.—Quality standards under this section at a minimum shall relate to:
(i) Health plan compliance with members' rights under this Act.
(ii) Quality improvement and accountability.
(iii) Documentation and review of provider credentialing and competency.
(iv) Management of clinical, and administrative and financial information.
(b) CERTIFICATION OF PLANS.—The National Quality Council shall provide information and technical assistance to the Secretary and the States concerning the use of national standards and performance measures developed under this section for State certification of health plans.

SEC. 5004. PLAN DATA ANALYSIS AND CONSUMER SURVEYS.

(a) IN GENERAL.—The National Quality Council shall oversee the design and conduct of periodic surveys of health care consumers and plans to gather information concerning the quality measures established under sections 5002 and 5003. The surveys shall monitor consumer reaction to the implementation of this Act and, in coordination with relevant data from health plans and other sources, be designed to assess the impact of this Act both for the general population of the United States and for populations vulnerable to discrimination or to receiving inadequate care due to health status, demographic characteristics, or geographic location.
(b) SURVEY ADMINISTRATION AND DATA ANALYSIS.—The National Quality Council shall approve a standard design for the consumer surveys and sampling of relevant plan data described in subsection (a) which shall be administered by the Administrator of the Agency for Health Care Policy and Research or such other appropriate entity as the Council shall designate on a plan-by-plan and State-by-State basis. Sufficient consumer survey and plan data shall be collected and verified to provide for reliable and valid analysis. A State may add survey questions on quality measures of local interest to surveys conducted in the State. The plan-level survey shall include a subset of consumer survey questions related to consumer satisfaction, perceived health status, access, and such other survey items designated by the Council.
(c) SAMPLING STRATEGIES.—The National Quality Council shall approve sampling strategies under subsection (a) that ensure that appropriate survey samples adequately measure populations that are considered to be at risk of receiving inadequate health care or may be difficult to reach through consumer-sampling methods, including individuals who—
(1) fail to enroll in a health plan;
(2) resign from a plan; or
(3) are vulnerable to discrimination or to receiving inadequate care due to health status, demographic characteristics, or geographic location.
(d) SURVEY INTEGRATION.—To the extent feasible, the consumer and plan surveys developed under this section shall be integrated with existing Federal surveys.

SEC. 5005. EVALUATION AND REPORTING OF QUALITY PERFORMANCE.

(a) HEALTH PLAN REPORTS.—Each State annually shall publish and make available to the public and Consumer Information and Advocacy Centers a performance report, in a standard format designated by the National Quality Council, outlining the performance of each health plan offered in the State with respect to the set of national measures of quality performance developed under sections 5002 and 5003. The report shall include—
(1) the results of a smaller number of such measures for health care providers if the available information is statistically meaningful; and
(2) the results of consumer surveys and an analysis of the plan data collected in section 5004.
(b) CONSUMER REPORT CARDS.—The health plan reports under subsection (a) shall be summarized in a consumer report card as specified by the National Quality Council and made available by the State through the Consumer Information and Advocacy Centers to all individuals in the State.
(c) QUALITY REPORTS.—The National Quality Council annually shall provide recommendations to the Congress, the National Health Benefits Board, and the Secretary in the form of a summary report that—
(1) outlines in a standard format the performance of each State;
(2) discusses State-level and national trends relating to health care quality; and
(3) presents data for each State from health plan reports and consumer surveys that were conducted during the year.

SEC. 5006. DEVELOPMENT AND DISSEMINATION OF PRACTICE GUIDELINES.

(a) IN GENERAL.—The National Quality Council may advise the Secretary and the Administrator of the Agency for Health Care Policy and Research concerning priorities for the development and periodic review and updating of clinically relevant guidelines established under section 912 of the Public Health Service Act.
(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as precluding other agencies in the Public Health Service from carrying out guidelines and activities under the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act.

SEC. 5007. RESEARCH ON HEALTH CARE QUALITY.

The National Quality Council may make recommendations to the Secretary and the Administrator of the Agency for Health Care Policy and Research concerning priorities for research with respect to the quality, appropriateness, and effectiveness of health care.

SEC. 5008. QUALITY IMPROVEMENT FOUNDATIONS.

(a) ESTABLISHMENT.—The National Quality Council shall oversee the operation of quality improvement foundations in performing the duties specified in subsection (c).
(b) STRUCTURE AND MEMBERSHIP.—
(1) GRANT PROCESS.—The Secretary, in consultation with the Council, shall, through a competitive grantmaking process, award grants for the establishment and operation of a quality improvement foundation in each State or region (as defined in paragraph (2)(B)).
(2) ESTABLISHMENT OF GEOGRAPHIC AREAS.—The Secretary shall establish throughout the United States geographic areas with respect to which grants under this section will be made. In establishing such areas, the Secretary shall take into account the following criteria:
(A) STATE AREAS.—Each State shall generally be designated as a geographic area for purposes of this paragraph.
(B) MULTI-STATE AREAS.—The Secretary may establish geographic areas comprised of multiple contiguous States only where the Secretary determines that volume of activity or other relevant factors justifies such an establishment.
(3) ELIGIBLE APPLICANTS.—To be eligible to receive a grant for the establishment of a quality improvement foundation under paragraph (1), an applicant entity shall meet the following conditions:
(A) NOT-FOR-PROFIT.—The entity shall be a not-for-profit entity operating within the State or region involved.
(B) BOARD.—The entity shall have a board which includes—
(i) representatives of health care providers from throughout the State or region involved, including both practicing providers and experts in the field of quality measurement and improvement, which together shall comprise at least one-fourth of the board's membership;
(ii) at least one representative of Academic Health Centers, Schools of Public Health or other schools as defined in section 799 of the Public Health Service Act operating within the State or region involved (or operating outside of the State or region if no such Centers or schools operate within the State or region), which shall comprise up to one-fourth of the membership;
(iii) representatives of consumers residing within the State or region involved, who shall comprise one-fourth of the membership; and
(iv) representatives of purchasers of health care, health plans, State or local health departments, and other interested parties residing within the State or region involved, and representatives of the State or States within a region.
(C) STAFFING.—Each entity shall have sufficient, competent staff of experts possessing the skills and knowledge necessary to enable the foundation to perform its duties.
(c) DUTIES.—
(1) IN GENERAL.—Each quality improvement foundation shall carry out the duties described in paragraph (2) for the State or region in which the foundation is located. The foundation shall establish a program of activities incorporating such duties and shall be able to demonstrate the involvement of a broad cross-section of the providers and health care institutions throughout the State or region. A foundation may apply for and conduct research described in section 5007.
(2) DUTIES DESCRIBED.—The duties described in this paragraph include the following:
(A) Collaboration with and technical assistance to providers and health plans in ongoing efforts to improve the quality of health care provided to individuals in the State.
(B) Population-based monitoring of practice patterns and patient outcomes on an other than a case-by-case basis.
(C) Developing programs in lifetime learning for health professionals to improve the quality of health care by ensuring that health professionals remain informed about new knowledge, acquire new skills, and adopt new roles as technology and societal demands change.
(D) Disseminating information about successful quality improvement programs, practice guidelines, and research findings, including information on innovative staffing of health professionals.
(E) Assist in developing innovative patient education systems that enhance patient involvement in decisions relating to their health care, including an emphasis on shared decisionmaking between patients and health care providers.
(F) Issuing a report to the public regarding the foundation's activities for the previous year including areas of success during the previous year and areas for opportunities in improving health outcomes for the community, and the adoption of guidelines.
(G) Providing notice to the State or appropriate entity if the foundation determines, after reasonable opportunities for improvement, that the quality of a provider or plan remains so inadequate that the patients or enrollees of such a provider or plan are potentially subject to substantial harm in utilizing the services of such provider or services under such plan.
(d) RESTRICTIONS ON DISCLOSURE.—The restrictions on disclosure of information under section 1160 of the Social Security Act shall apply to quality improvement foundations under this section, except that—
(1) such foundations shall make data available to qualified organizations and individuals for research for public benefit;
(2) individuals and qualified organizations shall meet standards consistent with the Public Health Service Act and policies regarding the conduct of scientific research, including provisions related to confidentiality, privacy, protection of humans and shall pay reasonable costs for data; and
(3) such foundations may exchange information with other quality improvement foundations.

SEC. 5009. CONSUMER INFORMATION AND ADVOCACY.

(a) ESTABLISHMENT.—
(1) IN GENERAL.—The Secretary shall establish (by grant or contract) and oversee a National Center of Consumer Information and Advocacy to provide technical assistance, adequate training and support to States and Consumer Information and Advocacy Centers in each State (hereafter referred to in this section as the "Center") to carry out the duties of this section, including providing public education to consumers concerning this Act.
(2) REQUIREMENTS FOR NATIONAL CENTER.—The National Center of Consumer Information and Advocacy shall be a national nonprofit organization with public education and health advocacy expertise and shall have sufficient staff to carry out its duties and a demonstrated ability to represent and work with a broad spectrum of consumers, including vulnerable and underserved populations.
(3) STATE-BASED CENTERS.—The Consumer Information and Advocacy Center in each State shall disseminate State reports on quality performance (as defined in section 5005(4)) and health plan consumer report cards (as defined in section 5005(2)) in order to facilitate consumer choice of health plans, perform public outreach and provide education and assistance regarding consumer rights and responsibilities under this Act, and assist consumers in dealing with problems that arise with consumer purchasing cooperatives, large group purchasers, health plans, insurance agents, and health care providers operating in such State.
(b) CONTRACTS.—
(1) SOLICITATION.—The Secretary shall solicit contracts from private non-profit organizations based in each State to fulfill the duties of the Center in the State. The Secretary may develop such regulations and guidelines as necessary to oversee the process of considering and awarding competitive contracts under this section. In awarding such contracts, the Secretary shall consult with the National Center of Consumer Information and Advocacy and shall, at a minimum, consider the demonstrated ability of the organization to represent and work with a broad spectrum of consumers, including vulnerable and underserved populations.
(2) CONTRACT PERIOD.—The contract period for the State-based Consumer Information and Advocacy Centers and the National Center of Consumer Information and Advocacy under this section shall be not less than 4 years and not more than 7 years.
(c) FUNCTIONS AND RESPONSIBILITIES.—
(1) DISSEMINATION OF REPORTS.—Each Center shall disseminate State reports on quality performance (as defined in section 5005(2)) and health plan consumer report cards (as defined in section 5005(2)) in order to facilitate consumer choice of health plans.
(2) STAFF, OFFICES AND HOTLINES.—Each Center shall have sufficient staff, local offices throughout the State, and a State-wide toll-free hotline to carry out the advocacy duties of this section. Through direct contact and the hotline, the Center shall provide the following services in the State, including appropriate assistance to individuals with limited English language ability—
(A) outreach and education relating to consumer rights and responsibilities under this Act, including such rights and services available through the Center;
(B) assistance with enrollment in health plans, or obtaining services or reimbursement from health plans;
(C) assistance with filing an application for premium or cost sharing subsidies;
(D) information to enrollees about existing grievance procedures and coordination with other entities to assist in identifying, investigating, and resolving enrollee grievances under this Act (including grievances before State medical boards);
(E) referrals to appropriate local providers of legal assistance and to appropriate State and Federal agencies which may be of assistance to aggrieved individuals in the area; and
(F) conduct public hearings no less frequently than once a year to identify and address community health care needs.
(d) ACCESS TO INFORMATION.—The Secretary and the States shall ensure that, for purposes of carrying out the Center's duties under this section, the Center (and officers and employees of the Center in local offices) have appropriate access to necessary information subject to protections for confidentiality of enrollee information. Each Center shall have the capability to accept electronic quality data from plans as required under subtitle B.
(e) EVALUATION AND REPORT.—The Secretary shall have the right to evaluate the quality and effectiveness of the organization in carrying out the functions specified in the contract. The Center shall report to the Secretary and the State annually on the nature and patterns of consumer complaints received in the Center and its local offices during each year and any policy, regulatory, and legislative recommendations for needed improvements together with a record of the activities of the Center.
(f) CONFLICTS OF INTEREST.—The Secretary shall ensure that no individual involved in the designation of a State Center, the Center itself, or of any delegate thereof is subject to a conflict of interest, including affiliation with (through ownership or common control) a health care facility, managed care organization, health insurance company or association of health care facilities or providers. No grantee under this section may have a direct involvement with the licensing, certification, or accreditation of a health care facility, a health care plan, or a provider of health care services .
(g) LEGAL COUNSEL.—The Secretary shall ensure that adequate legal counsel is available, and is able, without conflict of interest, to assist the Center, and the local offices thereof in the performance of their official duties.
(h) COORDINATION.—The Center shall coordinate its activities with all appropriate entities including Quality Improvement Foundations (established under section 5008) and the State agencies designated to carry out client advocacy activities pursuant to section 2106.
(i) CONSTRUCTION.—Nothing in this section shall replace grievance procedures established or otherwise required under this Act.

SEC. 5010. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL QUALITY COUNCIL.—For the purpose of carrying out this subtitle with respect to the establishment and activities of the National Quality Council, there are authorized to be appropriated $4,000,000 for each of the fiscal years 1995 through 2000.
(b) QUALITY IMPROVEMENT FOUNDATIONS.—For the purpose of carrying out section 5008, the are authorized to be appropriated $100,000,000 for fiscal year 1996, $200,000,000 for fiscal year 1997, and $300,000,000 for each of the fiscal years 1998 through 2000.
(c) CONSUMER INFORMATION AND ADVOCACY CENTERS.—For the purpose of carrying out section 5009, the are authorized to be appropriated $100,000,000 for fiscal year 1996, $200,000,000 for fiscal year 1997, $300,000,000 for each of the fiscal years 1998 through 2000, of which $4,000,000 for each fiscal year shall be made available to the National Center of Consumer Information and Advocacy.

SEC. 5011. ROLE OF HEALTH PLANS IN QUALITY MANAGEMENT.

Each health plan shall—
(1) measure and disclose performance on quality measures as designated by this Act;
(2) furnish information required under subtitles B and of this title and provide such

VOL 140 PT 16 AG 12 — 18 1994 UMI

other reports and information on the quality of care delivered by health care providers who are members of a provider network of the plan as may be required under this Act; and

(3) maintain quality management systems that—

(A) use the national measures of quality performance developed by the National Quality Council under section 5003; and

(B) measure the quality of health care furnished to enrollees under the plan by all health care providers of the plan where practical.

SEC. 5012. INFORMATION ON HEALTH CARE PROVIDERS.

(a) STATE OBLIGATIONS.—Each State shall make available to consumers, upon request, information concerning providers of health care services or supplies. Such information shall include—

(1) the identity of any provider that has been convicted, under Federal or State law, of a criminal offense relating to fraud, corruption, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a health care service or supply;

(2) the identity of any provider that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care service or supply;

(3) the identity of any provider that has been convicted, under Federal or State law, of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance; and

(4) the identity of any provider whose license to provide health care services or supplies has been revoked, suspended, restricted, or not renewed, by a State licensing authority for reasons relating to the provider's professional competence, professional performance, or financial integrity, or any provider who surrendered such a license while a formal disciplinary proceeding was pending before such an authority, if the proceeding concerned the provider's professional competence, professional performance, or financial integrity.

(b) PUBLIC AVAILABILITY OF INFORMATION IN NATIONAL PRACTITIONER DATA BANK ON DEFENDANTS, AWARDS, AND SETTLEMENTS.—

(1) IN GENERAL.—Section 427(a) of the Health Care Quality Improvement Act (42 U.S.C. 11137 (a)) is amended by adding at the end the following new sentence: "Not later the January 1, 1996, the Secretary shall promulgate regulations under which individuals seeking to enroll in health plans under the Health Security Act shall be able to obtain information reported under this part with respect to physicians and other licensed health practitioners participating in such plans for whom information has been reported under this part on repeated occasions.".

(2) ACCESS TO DATA BANK FOR POINT-OF-SERVICE CONTRACTORS UNDER MEDICARE.—Section 427(a) of such Act (42 U.S.C. 11137(a)) is amended—

(A) by inserting "to sponsors of point-of-service networks under section 1990 of the Social Security Act,", and

(B) in the heading, by inserting "RELATED" after "CARE".

SEC. 5013. CONFORMING AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

Title IX of the Public Health Service Act is amended—

(1) in section 903(a)(4) (42 U.S.C. 299a-1(a)(4)), by inserting "and Quality Improvement Foundations" after "health agencies";

(2) in section 904(c)(1) (42 U.S.C. 299a-2(c)(1)), by inserting "the National Quality Council and" after "in consultation with";

(3) in section 912(b)(4) (42 U.S.C. 299b-1(b)(4))—

(A) by inserting "outcomes," before "risks"; and

(B) by inserting before the semicolon "to the extent feasible given the availability of unbiased, reliable, and valid data";

(4) in section 914 (42 U.S.C. 299b-3)—

(A) in subsection (a)(2)(B)—

(i) by inserting "the National Quality Council," after "shall consult with"; and

(ii) by inserting before the period "and relevant sections of the Health Security Act";

(B) in subsection (c), by inserting "Quality Improvement Foundations and other" after "carried out through"; and

(C) in subsection (f)—

(i) by striking "TO ADMINISTRATOR" in the subsection heading;

(ii) by striking "Administrator" and inserting "National Quality Council and the"; and

(5) in section 927 (42 U.S.C. 299c-6), by adding at the end thereof the following new paragraphs:

"(5) The term 'National Quality Council' means the Council established under section 5001 of the Health Security Act.

"(6) The term "Quality Improvement Foundations" means the Foundations established under section 5008 of the Health Security Act.".

Subtitle B—Administrative Simplification

PART 1—PURPOSE AND DEFINITIONS

SEC. 5101. PURPOSE.

It is the purpose of this subtitle to improve the efficiency and effectiveness of the health care system by encouraging the development of a health information network through the establishment of standards and requirements for the electronic transmission of certain health information.

SEC. 5102. DEFINITIONS.

For purposes of this subtitle:

(1) CODE SET.—The term "code set" means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

(2) COORDINATION OF BENEFITS.—The term "coordination of benefits" means determining and coordinating the financial obligations of health plans when health care benefits are payable under 2 or more health plans.

(3) HEALTH CARE PROVIDER.—The term "health care provider" includes a provider of services (as defined in section 1861(u) of the Social Security Act), a provider of medical or other health services (as defined in section 1861(s) of the Social Security Act), and any other person furnishing health care services or supplies.

(4) HEALTH INFORMATION.—The term "health information" means any information, whether oral or recorded in any form or medium that—

(A) is created or received by a health care provider, health plan, health oversight agency (as defined in section 5202), health researcher, public health authority (as defined in section 5202), employer, life insurer, school or university, or health information network service certified under section 5141; and

(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

(5) HEALTH INFORMATION NETWORK.—The term "health information network" means the health information system that is formed through the application of the requirements and standards established under this subtitle.

(6) HEALTH INFORMATION PROTECTION ORGANIZATION.—The term "health information protection organization" means a private entity or an entity operated by a State that accesses standard data elements of health information through the health information network, processes such information into non-identifiable health information, and may store such information.

(7) HEALTH INFORMATION NETWORK SERVICE.—The term "health information network service"—

(A) means a private entity or an entity operated by a State that enters into contracts to—

(i) process or facilitate the processing of nonstandard data elements of health information into standard data elements;

(ii) provide the means by which persons are connected to the health information network for purposes of meeting the requirements of this subtitle, including the holding of standard data elements of health information;

(iii) provide authorized access to health information through the health information network; or

(iv) provide specific information processing services, such as automated coordination of benefits and claims transaction routing; and

(B) includes a health information protection organization.

(8) HEALTH PLAN.—The term "health plan" has the meaning given such term in section 1011(1)(B) except that such term shall include clauses (iii), (iv), (v), (vi), and (viii) of such section.

(9) NON-IDENTIFIABLE HEALTH INFORMATION.—The term "non-identifiable health information" means health information that is not protected health information as defined in section 5202.

(10) HEALTH RESEARCHER.—The term "health researcher" shall have the meaning given such term under section 5202.

(11) PATIENT MEDICAL RECORD INFORMATION.—The term "patient medical record information" means health information derived from a clinical encounter that relates to the physical or mental condition of an individual.

(12) STANDARD.—The term "standard" when referring to an information transaction or to data elements of health information means the transaction or data elements meet any standard adopted by the Secretary under part 2 that applies to such information transaction or data elements.

PART 2—STANDARDS FOR DATA ELEMENTS AND INFORMATION TRANSACTIONS

SEC. 5111. GENERAL REQUIREMENTS ON SECRETARY.

(a) IN GENERAL.—The Secretary shall adopt standards and modifications to standards under this subtitle that—

(1) are consistent with the objective of reducing the costs of providing and paying for health care;

(2) give priority to standards in use and generally accepted or developed or modified by the standards setting organizations accredited by the American National Standard Institute (ANSI); and

(3) are consistent with the objective of protecting the privacy of protected health information (as defined in section 5202).

(b) INITIAL STANDARDS.—The Secretary may develop an expedited process for the

adoption of initial standards under this subtitle.

(c) FAILSAFE.—If the Secretary is unable to adopt standards or modified standards in accordance with subsection (a) that meet the requirements of this subtitle—

(1) the Secretary may develop or modify such standards and, after providing public notice and after an adequate period for public comment, adopt such standards; and

(2) if the Secretary adopts standards under paragraph (1), the Secretary shall submit a report to the appropriate committees of Congress on the actions taken by the Secretary under this subsection.

(d) PAPER FORMATS.—The Secretary—

(1) shall develop written forms that are consistent with the standards adopted by the Secretary under this subtitle for use prior to the date on which the health information network is fully operational; and

(2) after the health information network is fully operational, may develop methods by which a person may use the standards adopted by the Secretary under this subtitle with respect to health information that is in written rather than electronic form.

SEC. 5112. STANDARDS FOR DATA ELEMENTS OF HEALTH INFORMATION.

(a) IN GENERAL.—The Secretary shall adopt standards necessary to make data elements of the following health information uniform and compatible for electronic transmission through the health information network:

(1) the health information that is appropriate for transmission in connection with transactions described in subsections (a), (b), and (d) of section 5121;

(2) the quality information required to be submitted by a health plan under title I and subtitle A of this title; and

(3) patient medical record information.

(b) ADDITIONS.—

(1) IN GENERAL.—The Secretary may make additions to the sets of data elements adopted under subsection (a) as the Secretary determines appropriate in a manner that minimizes the disruption and cost of compliance with such additions.

(2) DATA ELEMENTS REQUIRED FOR RISK ADJUSTMENT, ETC.—The additions to the sets of data elements made by the Secretary under paragraph (1) may include the data elements required for risk adjustment or reinsurance and reconciliation of payments and subsidies under titles VI and X.

(c) CERTAIN DATA ELEMENTS.—

(1) UNIQUE HEALTH IDENTIFIERS.—The Secretary shall establish a system to provide for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system. The personal health identifier for an individual shall be an encrypted form of the social security account number assigned to the individual by the Secretary under section 205(c)(2) of the Social Security Act.

(2) CODE SETS.—

(A) IN GENERAL.—The Secretary, in consultation with experts from the private sector and Federal agencies, shall—

(i) select code sets for appropriate data elements from among the code sets that have been developed by private and public entities; or

(ii) establish code sets for such data elements if no code sets for the data elements have been developed.

(B) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution of code sets and modifications to such code sets under section 5115(c).

SEC. 5113. INFORMATION TRANSACTION STANDARDS.

(a) IN GENERAL.—The Secretary shall adopt technical standards relating to the method by which data elements of health information that have been standardized under section 5112 may be transmitted electronically, including standards with respect to the format in which such data elements shall be transmitted.

(b) SPECIAL RULE FOR COORDINATION OF BENEFITS.—Any standards adopted by the Secretary under paragraph (1) that relate to coordination of benefits shall provide that a claim for reimbursement for medical services furnished is tested by an algorithm specified by the Secretary against all records of enrollment and eligibility for the individual who received such services to determine any primary and secondary obligors for payment.

(c) ELECTRONIC SIGNATURE.—The Secretary, in coordination with the Secretary of Commerce, shall promulgate regulations specifying procedures for the electronic transmission and authentication of signatures, compliance with which will be deemed to satisfy State and Federal statutory requirements for written signatures with respect to information transactions required by this Act and written signatures on medical records and prescriptions.

SEC. 5114. STANDARDS RELATING TO WRITTEN EXPLANATIONS OF BENEFITS.

The Secretary shall adopt standard methods and formats which shall be used by health plans to submit a written explanation of benefits to an enrollee.

SEC. 5115. TIMETABLES FOR ADOPTION OF STANDARDS.

(a) INITIAL STANDARDS FOR DATA ELEMENTS.—The Secretary shall adopt standards relating to—

(1) the data elements for the information described in section 5112(a)(1) not later than 9 months after the date of the enactment of this subtitle (except in the case of standards with respect to data elements for claims attachments which shall be adopted not later than 24 months after the date of the enactment of this subtitle);

(2) the data elements for the information described in section 5112(a)(2) not later than 9 months after the date of the enactment of this subtitle;

(3) data elements for patient medical record information not earlier than 24 months and not later than 7 years after the date of the enactment of this subtitle; and

(4) any addition to a set of data elements, in conjunction with making such an addition.

(b) INITIAL STANDARDS FOR INFORMATION TRANSACTIONS.—The Secretary shall adopt standards relating to information transactions under section 5113 not later than 9 months after the date of the enactment of this subtitle (except in the case of standards for claims attachments which shall be adopted not later than 24 months after the date of the enactment of this subtitle).

(c) STANDARDS FOR WRITTEN CLAIMS AND EXPLANATIONS OF BENEFITS.—The Secretary shall adopt standard methods and formats described in section 5114 not later than 9 months after the date of the enactment of this subtitle.

(d) MODIFICATIONS TO STANDARDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under this subtitle and shall adopt modified standards as determined appropriate, but no more frequently than once every 6 months. Any modification to standards shall be completed in a manner which minimizes the disruption and cost of compliance.

(2) SPECIAL RULES.—

(A) MODIFICATIONS DURING FIRST 12-MONTH PERIOD.—Except with respect to additions and modifications to code sets under subparagraph (B), the Secretary shall not adopt any modifications to standards adopted under this subtitle during the 12-month period beginning on the date such standards are adopted unless the Secretary determines that a modification is necessary in order to permit compliance with requirements relating to the standards.

(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets to accommodate changes in biomedical science and health care delivery.

(ii) ADDITIONAL RULES.—If a code set is modified under this subsection, the modified code set shall include instructions on how data elements that were encoded prior to the modification are to be converted or translated so as to preserve the value of the data elements. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

(e) EVALUATION OF STANDARDS.—The Secretary may establish a process to measure or verify the consistency of standards adopted or modified under this subtitle. Such process may include demonstration projects and analysis of the cost of implementing such standards and modifications.

PART 3—REQUIREMENTS WITH RESPECT TO CERTAIN TRANSACTIONS AND INFORMATION

SEC. 5121. REQUIREMENTS WITH RESPECT TO CERTAIN TRANSACTIONS AND INFORMATION.

(a) REQUIREMENTS ON PLANS AND PROVIDERS RELATING TO FINANCIAL AND ADMINISTRATIVE TRANSACTIONS.—If a health care provider or a health plan conducts any of the following transactions, such transactions shall be standard transactions and the information transmitted or received in connection with such transaction shall be in the form of standard data elements:

(1) Claims (including coordination of benefits).

(2) Claims attachments.

(3) Responses to research inquiries by a health researcher.

(4) Other transactions determined appropriate by the Secretary consistent with the goal of improving the functions of the health care system or reducing administrative costs.

(b) REQUIREMENT ONLY ON PLANS RELATING TO FINANCIAL AND ADMINISTRATIVE TRANSACTIONS.—If a person desires to conduct any of the following transactions with a health plan as a standard transaction, the health plan shall conduct such standard transaction and the information transmitted or received in connection with such transaction shall be in the form of standard data elements:

(1) Enrollment and disenrollment.

(2) Eligibility.

(3) Payment and remittance advice.

(4) Premium payments.

(5) First report of injury.

(6) Claims status.

(7) Referral certification and authorization.

(8) Other transactions determined appropriate by the Secretary consistent with the

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VOL 140 PT 16 AG 12 — 18 1994 UMI

goal of improving the functions of the health care system or reducing administrative costs.

(c) REQUIREMENT ON PLANS RELATING TO QUALITY INFORMATION.—Any quality information required to be submitted by a health plan under title I or subtitle A of this title shall be in the form of standard data elements and the transmission of such data shall be in the form of a standard transaction.

(d) REQUIREMENT ONLY ON PURCHASING COOPERATIVES.—If a person desires to conduct any of the following transactions with a purchasing cooperative (as defined in section 1013(12)) as a standard transaction, the cooperative shall conduct such standard transaction and the information transmitted or received in connection with such transaction shall be in the form of standard data elements:

(1) Enrollment and disenrollment.

(2) Premium payments.

(e) REQUIREMENT WITH RESPECT TO DISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—A health plan or health care provider shall make the standard data elements transmitted or received by such plan or provider in connection with the transactions described in subsections (a), (b), and (c) or acquired under section 5164(a) available for disclosure as authorized by this subtitle.

(2) SPECIAL RULE.—In the case of a health care provider that does not file claims, such provider shall be responsible for making standard data elements for encounter information available for disclosure as authorized by this subtitle.

(f) SATISFACTION OF REQUIREMENTS.—A health care provider, health plan, or consumer purchasing cooperative may satisfy the requirement imposed on such provider, plan, or cooperative under subsection (a), (b), (c), (d), or (e) by—

(1) directly transmitting standard data elements;

(2) submitting nonstandard data elements to a health information network service certified under section 5141 for processing into standard data elements and transmission; or

(3) in the case of a provider, submitting data elements to a plan which satisfies the requirements imposed on such provider on the provider's behalf.

(g) TIMELINESS.—A health care provider or health plan shall be determined to have satisfied a requirement imposed under this section only if the action required is completed in a timely manner, as determined by the Secretary. In setting standards for timeliness, the Secretary shall take into consideration the age and the amount of information being requested.

SEC. 5122. TIMETABLES FOR COMPLIANCE WITH REQUIREMENTS.

(a) INITIAL COMPLIANCE.—

(1) IN GENERAL.—Not later than 12 months after the date on which standards are adopted under part 2 with respect to a type of transaction or data elements for a type of health information, a health plan, health care provider, or purchasing cooperative shall comply with the requirements of this subtitle with respect to such transaction or information.

(2) ADDITIONAL DATA ELEMENTS.—Not later than 12 months after the date on which the Secretary adopts an addition to a set of data elements for health information under part 2, a health plan, health care provider, or purchasing cooperative shall comply with the requirements of this subtitle using such data elements.

(b) COMPLIANCE WITH MODIFIED STANDARDS.—

(1) IN GENERAL.—If the Secretary adopts a modified standard under part 2, a health plan, health care provider, or purchasing cooperative shall be required to comply with the modified standard at such time as the Secretary determines appropriate taking into account the time needed to comply due to the nature and extent of the modification.

(2) SPECIAL RULE.—In the case of modifications to standards that do not occur within the 12-month period beginning on the date such standards are adopted, the time determined appropriate by the Secretary under paragraph (1) shall be no sooner than the last day of the 90-day period beginning on the date such modified standard is adopted and no later than the last day of the 12 month period beginning on the date such modified standard is adopted.

PART 4—ACCESSING HEALTH INFORMATION

SEC. 5131. ACCESSING HEALTH INFORMATION FOR AUTHORIZED PURPOSES.

(a) IN GENERAL.—The Secretary shall adopt technical standards for appropriate persons, including health plans, health care providers, health information network services certified under section 5141, health researchers, and Federal and State agencies, to locate and access the health information that is available through the health information network due to the requirements of this subtitle. Such technical standards shall ensure that any request to locate or access information shall be authorized under subtitle C.

(b) PROCUREMENT RULE FOR GOVERNMENT AGENCIES.—

(1) IN GENERAL.—Health information protection organizations certified under section 5141 shall make available to a Federal or State agency pursuant to a Federal Acquisition Regulation (or an equivalent State system), any non-identifiable health information that is requested by such agency.

(2) CERTAIN INFORMATION AVAILABLE AT LOW COST.—If a health information protection organization described in paragraph (1) needs information from a health plan or health care provider in order to comply with a request of a Federal or State agency that is necessary to comply with a requirement under this Act, such plan or provider shall make such information available to such organization for a charge that does not exceed the reasonable cost of transmitting the information. If requested, a health information protection organization that receives information under the preceding sentence must make such information available to any other such organization that is certified under section 5141 for a charge that does not exceed the reasonable cost of transmitting the information.

(c) FUNCTIONAL SEPARATION.—The standards adopted by the Secretary under subsection (a) shall ensure that any health information disclosed under such subsection shall not, after such disclosure, be used or released for an administrative, regulatory, or law enforcement purpose unless such disclosure was made for such purpose.

(d) PUBLIC USE FUNCTIONS.—Nothing in this subtitle shall be construed to limit the authority of a Federal or State agency to make non-identifiable health information available for public use functions.

SEC. 5132. RESPONDING TO ACCESS REQUESTS.

(a) IN GENERAL.—The Secretary may adopt, and modify as appropriate, standards under which a health care provider or health plan shall respond to requests for access to health information consistent with this subtitle and subtitle C.

(b) STANDARDS DESCRIBED.—The standards under subsection (a) shall provide—

(1) for a standard format under which a provider or plan will respond to each request either by satisfying the request or responding with an explanation of the specific restriction which results in a failure to satisfy the request; and

(2) that any restrictions will not prevent a plan or provider from responding to a request in a timely manner taking into account the age and amount of the information being requested.

(c) CONSTRUCTION.—Nothing in this section shall be construed as permitting a health care provider or health plan to refuse to disclose any health information that is required to be disclosed by law.

SEC. 5133. LENGTH OF TIME INFORMATION SHOULD BE ACCESSIBLE.

The Secretary shall adopt standards with respect to the length of time any standard data elements for a type of health information should be accessible through the health information network.

SEC. 5134. TIMETABLES FOR ADOPTION OF STANDARDS AND COMPLIANCE.

(a) INITIAL STANDARDS.—The Secretary shall adopt standards under this part not later than 9 months after the date of the enactment of this subtitle and such standards shall be effective upon adoption.

(b) MODIFICATIONS TO STANDARDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under this part and shall adopt modified standards as determined appropriate, but no more frequently than once every 6 months. Any modification to standards shall be completed in a manner which minimizes the disruption and cost of compliance. Any modifications to standards adopted under this part shall be effective upon adoption.

(2) SPECIAL RULE.—The Secretary shall not adopt modifications to any standards adopted under this part during the 12-month period beginning on the date such standards are adopted unless the Secretary determines that a modification is necessary in order to permit compliance with the requirements of this part.

PART 5—STANDARDS AND CERTIFICATION FOR HEALTH INFORMATION NETWORK

SEC. 5141. STANDARDS AND CERTIFICATION FOR HEALTH INFORMATION NETWORK SERVICES.

(a) STANDARDS FOR OPERATION.—The Secretary shall establish standards with respect to the operation of health information network services, including standards ensuring that—

(1) such services develop, operate, and cooperate with one another to form the health information network;

(2) such services meet all of the requirements under subtitle C that are applicable to such services;

(3) such services make public information concerning their performance, as measured by uniform indicators such as accessibility, transaction responsiveness, administrative efficiency, reliability, dependability, and any other indicator determined appropriate by the Secretary;

(4) such services have security procedures that are consistent with the privacy requirements under subtitle C, including secure methods of access to and transmission of data;

(5) such services, if they are part of a larger organization, have policies and procedures in place which isolate their activities with

respect to processing information in a manner that prevents access to such information by such larger organization.

(b) CERTIFICATION BY THE SECRETARY.—

(1) ESTABLISHMENT.—Not later than 12 months after the date of the enactment of this subtitle, the Secretary shall establish a certification procedure for health information network services which ensures that certified services are qualified to meet the requirements of this subtitle and the standards established by the Secretary under this section. Such certification procedure shall be implemented in a manner that minimizes the costs and delays of operations for such services.

(2) APPLICATION.—Each entity desiring to be certified as a health information network service shall apply to the Secretary for certification in a form and manner determined appropriate by the Secretary.

(3) AUDITS AND REPORTS.—The procedure established under paragraph (1) shall provide for audits by the Secretary and reports by an entity certified under this section as the Secretary determines appropriate in order to monitor such entity's compliance with the requirements of this subtitle, subtitle C, and the standards established by the Secretary under this section.

(4) RECERTIFICATION.—A health information network service must be recertified under this subsection at least every 3 years.

(c) LOSS OF CERTIFICATION.—

(1) MANDATORY TERMINATION.—Except as provided in paragraph (3), if a health information network service violates a requirement imposed on such service under subtitle C, its certification under this section shall be terminated unless the Secretary determines that appropriate corrective action has been taken.

(2) DISCRETIONARY TERMINATION.—If a health information network service violates a requirement or standard imposed under this subtitle and a penalty has been imposed under section 5151, the Secretary shall review the certification of such service and may terminate such certification.

(3) CONDITIONAL CERTIFICATION—The Secretary may establish a procedure under which a health information network service may remain certified on a conditional basis if the service is operating consistently with a plan intended to correct any violations described in paragraphs (1) or (2). Such procedure may provide for the appointment of a trustee to continue operation of the service until the requirements for full certification are met.

(d) CERTIFICATION BY PRIVATE ENTITIES.—The Secretary may designate private entities to conduct the certification procedures established by the Secretary under this section. A health information network service certified by such an entity in accordance with such designation shall be considered to be certified by the Secretary.

SEC. 5142. ENSURING AVAILABILITY OF INFORMATION.

The Secretary shall establish a procedure under which a health plan or health care provider which does not have the ability to transmit standard data elements directly or does not have access to a health information network service certified under section 5141 shall be able to make health information available for disclosure as authorized by this subtitle.

PART 6—PENALTIES

SEC. 5151. GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall impose on any person that violates a requirement or standard imposed under this subtitle a penalty of not more than $1,000 for each violation. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under section 1128A of such Act.

(b) LIMITATIONS.—

(1) NONCOMPLIANCE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—A penalty may not be imposed under subsection (a) if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person failed to comply with the requirement or standard described in subsection (a).

(2) FAILURES DUE TO REASONABLE CAUSE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a penalty may not be imposed under subsection (a) if—

(i) the failure to comply was due to reasonable cause and not to willful neglect; and

(ii) the failure to comply is corrected during the 30-day period beginning on the 1st date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

(B) EXTENSION OF PERIOD.—

(i) NO PENALTY.—The period referred to in subparagraph (A)(ii) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

(ii) ASSISTANCE.—If the Secretary determines that a health plan, health care provider, or purchasing cooperative failed to comply because such person was unable to comply, the Secretary may provide technical assistance to such person. Such assistance shall be provided in any manner determined appropriate by the Secretary.

(3) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (2) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

PART 7—MISCELLANEOUS PROVISIONS

SEC. 5161. IMPOSITION OF ADDITIONAL REQUIREMENTS.

(a) DATA ELEMENT STANDARDS.—A person may not impose a standard on another person that is in addition to the standards adopted by the Secretary under section 5112 unless—

(1) such person voluntarily agrees to such standard; or

(2) a waiver is granted under subsection (c) to impose such standard.

(b) TRANSACTIONS AND ACCESS STANDARDS.—A person may not impose a standard on another person that is in addition to the standards adopted by the Secretary under section 5113 or 5131 unless such person voluntarily agrees to such standard.

(c) CONDITIONS FOR WAIVERS.—

(1) IN GENERAL.—A person may request a waiver from the Secretary in order to require another person to comply with a standard that is in addition to the standards adopted by the Secretary under section 5112.

(2) CONSIDERATION OF WAIVER REQUESTS.—No waiver may be granted unless the Secretary determines that the value of the data to be exchanged for research or other purposes significantly outweighs the administrative cost of the additional standard taking into consideration the burden of the timing of the imposition of the additional standard.

(3) ANONYMOUS REPORTING.—If a person attempts to impose a standard in addition to the standards adopted by the Secretary under section 5112, the person on whom such additional standard is being imposed may contact the Secretary. The Secretary shall develop a procedure under which the contacting person shall remain anonymous. The Secretary shall notify the person imposing the additional standard that the additional standard may not be imposed unless the other person voluntarily agrees to such standard or a waiver is obtained under this subsection.

SEC. 5162. EFFECT ON STATE LAW.

(a) IN GENERAL.—A provision, requirement, or standard under this subtitle shall supersede any contrary provision of State law, including—

(1) a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form, and

(2) a provision of State law which provides for requirements or standards that are more stringent than the requirements or standards under this subtitle;

except where the Secretary determines that the provision is necessary to prevent fraud and abuse, with respect to controlled substances, or for other purposes.

(b) PUBLIC HEALTH REPORTING.—Nothing in this subtitle shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

SEC. 5164. HEALTH INFORMATION CONTINUITY.

(a) INFORMATION HELD BY HEALTH PLANS AND PROVIDERS.—If a health plan or health care provider takes any action that would threaten the continued availability of the standard data elements of health information held by such plan or provider, such data elements shall be obtained by the State in which such plan or provider is located. The State shall ensure that such data elements are transferred to a health plan or health care provider in accordance with procedures established by the Secretary.

(b) INFORMATION HELD BY HEALTH INFORMATION NETWORK SERVICES.—If a health information network service certified under section 5141 loses its certified status or takes any action that would threaten the continued availability of the standard data elements of health information held by such service, such data elements shall be transferred to another health information network service certified under section 5141, as designated by the Secretary.

SEC. 5165. PROTECTION OF COMMERCIAL INFORMATION.

In adopting standards under this subtitle, the Secretary shall not require disclosure of trade secrets and confidential commercial information by entities operating in the health information network except as required by law.

SEC. 5166. PAYMENT FOR HEALTH CARE SERVICES OR HEALTH PLAN PREMIUMS.

Nothing in this subtitle shall be construed to prohibit payments for health care services or health plan premiums from being made by debit, credit, or other payment cards or numbers or other electronic payment means.

SEC. 5167. HEALTH SECURITY CARDS.

(a) IN GENERAL.—The Secretary shall establish standards relating to the form of

VOL 140 PT 16 AG 12 — 18 1994 UMI

health security cards issued by health plans and the information to be encoded electronically on such cards.

(b) FORM DESCRIBED.—The standard form for a health security card shall be a card which—

(1) is made of plastic or a similar durable material with a useful life of at least 5 years;

(2) is resistant to counterfeiting;

(3) can store information that can be encoded and retrieved electronically;

(4) can be produced in a cost-effective manner and used in all types of health care locations; and

(5) specifies on its face the social security account number assigned to the individual who is the cardholder by the Secretary under section 205(c)(2) of the Social Security Act.

(b) INFORMATION DESCRIBED.—The information electronically encoded on a health security card shall include the identity of the individual to whom the card was issued, including such individual's personal health identifier specified under section 5112(c)(1), and may include any other information that the Secretary determines may be useful in order for the card to serve the purpose of easing access to and paying for health care services. A health plan shall make available to an individual cardholder, upon demand by such individual, a printed copy of all information electronically encoded on such individual's health security card.

SEC. 5168. MISUSE OF HEALTH SECURITY CARD OR PERSONAL HEALTH IDENTIFIER.

(a) HEALTH SECURITY CARD.—A person who—

(1) requires the display of, requires the use of, or uses a health security card for any purpose other than obtaining or paying for health care;

(2) falsely makes, forges, counterfeits or alters a health security card;

(3) without lawful authority prints, photographs, or makes any impression in the likeness of any health security card; or

(4) sells, transfers, or otherwise delivers a false, forged, counterfeited, or altered health security card knowing that the card is false, forged, counterfeited, or altered;

shall be fined not more than $25,000, imprisoned not more than 2 years, or both.

(b) PERSONAL HEALTH IDENTIFIER.—A person who requires the disclosure of, requires the use of, or uses an individual's personal health identifier for any purpose that is not authorized by the Secretary, shall be fined not more than $25,000, imprisoned not more than 2 years, or both.

SEC. 5169. DIRECT BILLING FOR CLINICAL LABORATORY SERVICES.

(a) IN GENERAL.—

(1) REQUIREMENT.—Except as provided in paragraph (2), in the case of a claim for payment for a clinical diagnostic laboratory test for which payment may otherwise be made, payment may be made only to the person who, or entity which, performed or supervised the test.

(2) EXCEPTION.—Payment for a clinical diagnostic laboratory test may be made to a physician with whom the physician who performed the test shares a practice.

(b) ADDITIONAL EXCEPTIONS.—The Secretary may, by regulation, establish exceptions to the requirement under subsection (a)(1) that are in addition to the exception under subsection (a)(2). In establishing such exceptions the Secretary shall take into account—

(1) circumstances in which an individual's privacy might be violated; or

(2) the need for confidentiality on the part of the person furnishing the test.

SEC. 5170. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.

PART 8—ASSISTANCE TO THE SECRETARY

SEC. 5171. GENERAL REQUIREMENT ON SECRETARY.

In complying with any requirements imposed under this subtitle, the Secretary shall rely on recommendations of the Health Information Advisory Committee established under section 5172 and shall consult with appropriate Federal agencies.

SEC. 5172. HEALTH INFORMATION ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established a committee to be known as the Health Care Information Advisory Committee.

(b) DUTY.—

(1) IN GENERAL.—The committee shall—

(A) provide assistance to the Secretary in complying with the requirements imposed on the Secretary under this subtitle and subtitle C;

(B) be generally responsible for advising the Secretary and the Congress on the status of the health information network; and

(C) make recommendations to correct any problems that may occur in the network's implementation and ongoing operations and to refine and improve the network.

(2) TECHNICAL ASSISTANCE.—In performing its duties under this subsection, the committee shall receive technical assistance from appropriate Federal agencies.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The committee shall consist of 15 members to be appointed by the President not later than 60 days after the date of the enactment of this subtitle. The President shall designate 1 member as the Chair.

(2) EXPERTISE.—The membership of the committee shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the committee.

(3) TERMS.—Each member of the committee shall be appointed for a term of 5 years, except that the members first appointed shall serve staggered terms such that the terms of no more than 3 members expire at one time.

(4) VACANCIES.—

(A) IN GENERAL.—A vacancy on the committee shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(C) EXPIRATION OF TERMS.—The term of any member shall not expire before the date on which the member's successor takes office.

(5) CONFLICTS OF INTEREST.—Members of the committee shall disclose upon appointment to the committee or at any subsequent time that it may occur, conflicts of interest.

(d) MEETINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the committee shall meet at the call of the Chair.

(2) INITIAL MEETING.—Not later than 30 days after the date on which all members of the committee have been appointed, the committee shall hold its first meeting.

(3) QUORUM.—A majority of the members of the committee shall constitute a quorum, but a lesser number of members may hold hearings.

(e) POWER TO HOLD HEARINGS.—The committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the committee considers advisable to carry out the purposes of this section.

(f) OTHER ADMINISTRATIVE PROVISIONS.—Subparagraphs (C), (D), and (H) of section 1886(e)(6) of the Social Security Act shall apply to the committee in the same manner as they apply to the Prospective Payment Assessment Commission.

(g) REPORTS.—

(1) IN GENERAL.—The committee shall annually prepare and submit to Congress and the Secretary a report including at least an analysis of—

(A) the status of the health information network established under this subtitle, including whether the network is fulfilling the purpose described in section 5101;

(B) the savings and costs of the network;

(C) the activities of health information network services certified under section 5141, health care providers, health plans, and other entities using the network to exchange health information;

(D) the extent to which entities described in subparagraph (C) are meeting the standards adopted under this subtitle and working together to form an integrated network that meets the needs of its users;

(E) the extent to which entities described in subparagraph (C) are meeting the privacy and security protections of subtitle C;

(F) the number and types of penalties assessed for noncompliance with the standards adopted under this subtitle;

(G) whether the Federal Government and State Governments are receiving information of sufficient quality to meet their responsibilities under the Health Security Act;

(H) any problems with respect to implementation of the network;

(I) the extent to which timetables under this subtitle for the adoption and implementation of standards are being met; and

(J) any legislative recommendations related to the health information network.

(2) AVAILABILITY TO THE PUBLIC.—Any information in the report submitted to Congress under paragraph (1) shall be made available to the public unless such information may not be disclosed by law.

(h) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, the committee shall continue in existence until otherwise provided by law.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

PART 9—DEMONSTRATION PROJECTS FOR COMMUNITY-BASED CLINICAL INFORMATION SYSTEMS

SEC. 5181. GRANTS FOR DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary may make grants for demonstration projects to promote the development and use of electronically integrated community-based clinical information systems and computerized patient medical records.

(b) APPLICATIONS.—

(1) SUBMISSION.—To apply for a grant under this part for any fiscal year, an applicant shall submit an application to the Secretary in accordance with the procedures established by the Secretary.

(2) CRITERIA FOR APPROVAL.—The Secretary may not approve an application submitted under paragraph (1) unless the application includes assurances satisfactory to the Secretary regarding the following:

(A) USE OF EXISTING TECHNOLOGY.—Funds received under this part will be used to apply telecommunications and information systems technology that is in existence on the date the application is submitted in a manner that improves the quality of health care, reduces the costs of such care, and protects the privacy and confidentiality of information relating to the physical or mental condition of an individual.

(B) USE OF EXISTING INFORMATION SYSTEMS.—Funds received under this part will be used—

(i) to enhance telecommunications or information systems that are operating on the date the application is submitted;

(ii) to integrate telecommunications or information systems that are operating on the date the application is submitted; or

(iii) to connect additional users to telecommunications or information networks or systems that are operating on the date the application is submitted.

(C) MATCHING FUNDS.—The applicant shall make available funds for the demonstration project in an amount that equals at least 20 percent of the cost of the project.

(c) GEOGRAPHIC DIVERSITY.—In making any grants under this part, the Secretary shall, to the extent practicable, make grants to persons representing different geographic areas of the United States, including urban and rural areas.

(d) REVIEW AND SANCTIONS.—The Secretary shall review at least annually the compliance of a person receiving a grant under this part with the provisions of this part. The Secretary shall establish a procedure for determining whether such a person has failed to comply substantially within the provisions of this part and the sanctions to be imposed for any such noncompliance.

(e) ANNUAL REPORT.—The Secretary shall submit an annual report to the President for transmittal to Congress containing a description of the activities carried out under this part.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Subtitle C—Privacy of Health Information

PART 1—FINDINGS AND DEFINITIONS

SEC. 5201. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:

(1) The improper disclosure of individually identifiable health care information may cause significant harm to an individual's interests in privacy, health care, and reputation and may unfairly affect the ability of an individual to obtain employment, education, insurance, and credit.

(2) The movement of people and health care related information across State lines, the availability of, access to, and exchange of health care related information with Federally funded health care systems, the medicare program under title XVIII of the Social Security Act, and the medicaid program under title XIX of such Act, through automated data banks and networks, and the emergence of other multistate health care providers and payors create a need for a uniform Federal law governing the disclosure of health care information.

(b) PURPOSE.—The purpose of this subtitle is to establish effective mechanisms to protect the privacy of individuals with respect to individually identifiable health care information that is created or maintained as part of health treatment, enrollment, payment, testing, or research processes.

SEC. 5202. DEFINITIONS.

(a) TERMS RELATING TO PROTECTED HEALTH INFORMATION.—In this subtitle:

(1) PROTECTED HEALTH INFORMATION.—The term "protected health information" means any information, including demographic information collected from an individual, whether oral or recorded in any form or medium, that—

(A) is created or received by a health care provider, health plan, health oversight agency, health researcher, public health authority, employer, life insurer, school or university, or certified health information network service; and

(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and—

(i) identifies an individual; or

(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.

(2) DISCLOSE.—The term "disclose", when used with respect to protected health information, means to provide access to the information, but only if such access is provided to a person other than the individual who is the subject of the information.

(b) TERMS RELATING TO HEALTH CARE SYSTEM PARTICIPANTS.—In this subtitle:

(1) HEALTH INFORMATION TRUSTEE.—The term "health information trustee" means—

(A) a health care provider, health plan, health oversight agency, certified health information network service, employer, life insurer, or school or university insofar as it creates, receives, maintains, uses, or transmits protected health information;

(B) any person who obtains protected health information under section 5213, 5217, 5218, 5221, 5222, 5226, or 5231; and

(C) any employee or agent of a person covered under subparagraphs (A) or (B).

(2) HEALTH CARE.—The term "health care"—

(A) means—

(i) a preventative, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, counseling, service, or procedure—

(I) with respect to the physical or mental condition of an individual; or

(II) affecting the structure or function of the human body or any part of the human body; or

(ii) any sale or dispensing of a drug, device, equipment, or other item to an individual, or for the use of an individual, pursuant to a prescription; but

(B) does not include any item or service that is not furnished for the purpose of examining, maintaining, or improving the health of an individual.

(3) HEALTH CARE PROVIDER.—The term "health care provider" means a person who is licensed, certified, registered, or otherwise authorized by law to provide an item or service that constitutes health care in the ordinary course of business or practice of a profession.

(4) HEALTH OVERSIGHT AGENCY.—The term "health oversight agency" means a person who—

(A) performs or oversees the performance of an assessment, evaluation, determination, or investigation relating to the licensing, accreditation, or certification of health care providers; or

(B)(i) performs or oversees the performance of an assessment, evaluation, determination, or investigation relating to the effectiveness of, compliance with, or applicability of legal, fiscal, medical, or scientific standards or aspects of performance related to the delivery of, or payment for, health care or relating to health care fraud or fraudulent claims for payment regarding health; and

(ii) is a public agency, acting on behalf of a public agency, acting pursuant to a requirement of a public agency, or carrying out activities under a Federal or State law governing the assessment, evaluation, determination, or investigation described in clause (i).

(5) HEALTH PLAN.—The term "health plan" shall have the meaning given such term under section 5102.

(6) HEALTH RESEARCHER.—The term "health researcher" means a person who conducts a biomedical, public health, epidemiological, health services, or health statistics research project or a research project on social and behavioral factors relating to health.

(7) INSTITUTIONAL REVIEW BOARD.—The term "institutional review board" means—

(A) a board established in accordance with regulations of the Secretary under section 491(a) of the Public Health Service Act;

(B) a similar board established by the Secretary for the protection of human subjects in research conducted by the Secretary; or

(C) a similar board established under regulations of a Federal Government authority other than the Secretary.

(8) PUBLIC HEALTH AUTHORITY.—The term "public health authority" means an authority or instrumentality of the United States, a State, or a political subdivision of a State that is (A) responsible for public health matters; and (B) engaged in such activities as injury reporting, public health surveillance, and public health investigation or intervention.

(c) REFERENCES TO CERTIFIED ENTITIES.—In this subtitle:

(1) CERTIFIED HEALTH INFORMATION NETWORK SERVICE.—The term "certified health information network service" means a health information service (as defined under section 5102) that is certified under section 5141.

(2) CERTIFIED HEALTH INFORMATION PROTECTION ORGANIZATION.—The term "certified health information protection organization" means a health information protection organization (as defined in section 5102) that is certified under section 5141.

(d) OTHER TERMS.—In this subtitle:

(1) INDIVIDUAL REPRESENTATIVE.—The term "individual representative" means any individual legally empowered to make decisions concerning the provision of health care to an individual (where the individual lacks the legal capacity under State law to make such decisions) or the administrator or executor of the estate of a deceased individual.

(2) LAW ENFORCEMENT INQUIRY.—The term "law enforcement inquiry" means an investigation or official proceeding inquiring into whether there is a violation of, or failure to comply with, any criminal or civil statute or any regulation, rule, or order issued pursuant to such a statute.

(3) PERSON.—The term "person" includes an authority of the United States, a State, or a political subdivision of a State.

PART 2—AUTHORIZED DISCLOSURES

Subpart A—General Provisions

SEC. 5206. GENERAL RULES REGARDING DISCLOSURE.

(a) GENERAL RULE.—A health information trustee may disclose protected health information only for a purpose that is authorized under this subtitle.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(b) DISCLOSURE WITHIN A TRUSTEE.—A health information trustee may disclose protected health information to an officer, employee, or agent of the trustee, but only for a purpose that is compatible with and related to the purpose for which the information was collected or received by that trustee.

(c) SCOPE OF DISCLOSURE.—

(1) IN GENERAL.—Every disclosure of protected health information by a health information trustee shall be limited to the minimum amount of information necessary to accomplish the purpose for which the information is disclosed.

(2) REGULATIONS.—The Secretary, after notice and opportunity for public comment, may issue regulations under paragraph (1), which shall take into account the technical capabilities of the record systems used to maintain protected health information and the costs of limiting disclosure.

(d) NO GENERAL REQUIREMENT TO DISCLOSE.—Nothing in this subtitle that permits a disclosure of health information shall be construed to require such disclosure.

(e) USE AND REDISCLOSURE OF INFORMATION.—The protected health information received under a disclosure permitted by the subtitle may not be used or disclosed unless the use or disclosure is necessary to fulfill the purpose for which the information was obtained and is not otherwise prohibited by law. Protected health information about an individual that is disclosed under this subtitle may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual unless specifically permitted by this subtitle.

(f) IDENTIFICATION OF DISCLOSED INFORMATION AS PROTECTED INFORMATION.—

(1) IN GENERAL.—Except with respect to protected health information that is disclosed under section 5213 and except as provided in paragraph (2), a health information trustee may not disclose protected health information unless such information is clearly identified as protected health information that is subject to this subtitle.

(2) ROUTINE DISCLOSURES SUBJECT TO WRITTEN AGREEMENT.—A health information trustee who routinely discloses protected health information to a person may satisfy the identification requirement in paragraph (1) through a written agreement between the trustee and the person with respect to the protected health information.

(g) CONSTRUCTION.—Nothing in this subtitle shall be construed to limit the ability of a health information trustee to charge a reasonable fee for the disclosure or reproduction of health information.

(h) INFORMATION IN WHICH PROVIDERS ARE IDENTIFIED.—The Secretary, after notice and opportunity for public comment, may issue regulations protecting information identifying providers in order to promote the availability of health care services.

SEC. 5207. AUTHORIZATIONS FOR DISCLOSURE OF PROTECTED HEALTH INFORMATION.

(a) WRITTEN AUTHORIZATIONS.—A health information trustee may disclose protected health information pursuant to an authorization executed by the individual who is the subject of the information, if each of the following requirements is met:

(1) WRITING.—The authorization is in writing, signed by the individual who is the subject of the information, and dated on the date of such signature.

(2) SEPARATE FORM.—The authorization is not on a form used to authorize or facilitate the provision of, or payment for, health care.

(3) TRUSTEE DESCRIBED.—The trustee is specifically named or generically described in the authorization as authorized to disclose such information.

(4) RECIPIENT DESCRIBED.—The person to whom the information is to be disclosed is specifically named or generically described in the authorization as a person to whom such information may be disclosed.

(5) STATEMENT OF INTENDED DISCLOSURES.—The authorization contains an acknowledgment that the individual who is the subject of the information has read a statement of the disclosures that the person to receive the protected health information intends to make, which statement shall be in writing, on a form that is distinct from the authorization for disclosure, and which statement must be received by the individual authorizing the disclosure on or before such authorization is executed.

(6) INFORMATION DESCRIBED.—The information to be disclosed is described in the authorization.

(7) EXPIRATION DATE SPECIFIED.—The authorization specifies a date or event upon which the authorization expires, which shall not exceed 2 years from the date of the execution of the authorization.

(8) AUTHORIZATION TIMELY RECEIVED.—The authorization is received by the trustee during a period described in subsection (c)(1).

(9) DISCLOSURE TIMELY MADE.—The disclosure occurs during a period described in subsection (c)(2).

(b) AUTHORIZATIONS REQUESTED IN CONNECTION WITH PROVISION OF HEALTH CARE.—

(1) IN GENERAL.—A health information trustee may not request that an individual provide to any other person an authorization described in subsection (a) on a day on which—

(A) the trustee provides health care to the individual requested to provide the authorization; or

(B) in the case of a trustee that is a health facility, the individual is admitted into the facility as a resident or inpatient in order to receive health care.

(2) EXCEPTION.—Paragraph (1) does not apply if a health information trustee requests that an individual provide an authorization described in subsection (a) for the purpose of assisting the individual in obtaining counseling or social services from a person other than the trustee.

(c) TIME LIMITATIONS ON AUTHORIZATIONS.—

(1) RECEIPT BY TRUSTEE.—For purposes of subsection (a)(8), an authorization is timely received if it is received by the trustee during—

(A) the 1-year period beginning on the date on which the authorization is signed under subsection (a)(1), if the authorization permits the disclosure of protected health information to a person who provides health counseling or social services to individuals; or

(B) the 30-day period beginning on the date on which the authorization is signed under subsection (a)(1), if the authorization permits the disclosure of protected health information to a person other than a person described in subparagraph (A).

(2) DISCLOSURE BY TRUSTEE.—For purposes of subsection (a)(9), a disclosure is timely made if it occurs before the date or event specified in the authorization upon which the authorization expires.

(d) REVOCATION OR AMENDMENT OF AUTHORIZATION.—

(1) IN GENERAL.—An individual may in writing revoke or amend an authorization described in subsection (a), in whole or in part, at any time, except when—

(A) disclosure of protected health information has been authorized to permit validation of expenditures for health care; or

(B) action has been taken in reliance on the authorization.

(2) NOTICE OF REVOCATION.—A health information trustee who discloses protected health information pursuant to an authorization that has been revoked shall not be subject to any liability or penalty under this subtitle if—

(A) the reliance was in good faith;

(B) the trustee had no notice of the revocation; and

(C) the disclosure was otherwise in accordance with the requirements of this subtitle.

(e) DECEASED INDIVIDUAL.—The Secretary shall develop and establish through regulation a procedure for obtaining protected health information relating to a deceased individual when there is no individual representative for such individual.

(f) MODEL AUTHORIZATIONS.—The Secretary, after notice and opportunity for public comment, shall develop and disseminate model written authorizations of the type described in subsection (a) and model statements of intended disclosures of the type described in subsection (a)(5).

(g) COPY.—A health information trustee who discloses protected health information pursuant to an authorization under this section shall maintain a copy of the authorization.

SEC. 5208. CERTIFIED HEALTH INFORMATION NETWORK SERVICES.

(a) IN GENERAL.—A health information trustee may disclose protected health information to a certified health information network service acting as an agent of the trustee for any purpose permitted by this subtitle. Such a service, acting as an agent of a trustee, may disclose protected health information to another person as permitted under this subtitle to facilitate the completion of the purpose for which such information was disclosed to the service.

(b) CERTIFIED HEALTH INFORMATION PROTECTION ORGANIZATIONS.—A health information trustee may disclose protected health information to a certified health information protection organization for the purpose of creating non-identifiable health information (as defined in section 5102).

Subpart B—Specific Disclosures Relating to Patient

SEC. 5211. DISCLOSURES FOR TREATMENT AND FINANCIAL AND ADMINISTRATIVE TRANSACTIONS.

(a) HEALTH CARE TREATMENT.—A health care provider, health plan, employer, or person who receives protected health information under section 5213, may disclose protected health information to a health care provider for the purpose of providing health care to an individual if the individual who is the subject of the information has not previously objected in writing to the disclosure.

(b) DISCLOSURE TO HEALTH PLANS FOR FINANCIAL AND ADMINISTRATIVE PURPOSES.—A health care provider or employer may disclose protected health information to a health plan for the purpose of providing for the payment for, or reviewing the payment of, health care furnished to an individual.

(c) DISCLOSURE BY HEALTH PLANS FOR FINANCIAL AND ADMINISTRATIVE PURPOSES.—A health plan may disclose protected health information to a health care provider or a health plan for the purpose of providing for the payment for, or reviewing the payment of, health care furnished to an individual.

SEC. 5212. NEXT OF KIN AND DIRECTORY INFORMATION.

(a) NEXT OF KIN.—A health care provider or person who receives protected health information under section 5213 may disclose protected health information to the next of kin, an individual representative of the individual who is the subject of the information, or an individual with whom that individual has a close personal relationship if—

(1) the individual who is the subject of the information—

(A) has been notified of the individual's right to object and has not objected to the disclosure;

(B) is not competent to be notified about the right to object; or

(C) exigent circumstances exist such that it would not be practicable to notify the individual of the right to object; and

(2) the information disclosed relates to health care currently being provided to that individual.

(b) DIRECTORY INFORMATION.—A health care provider and a person receiving protected health information under section 5213 may disclose protected health information to any person if—

(1) the information does not reveal specific information about the physical or mental condition of the individual who is the subject of the information or health care provided to that person;

(2) the individual who is the subject of the information—

(A) has been notified of the individual's right to object and has not objected to the disclosure;

(B) is not competent to be notified about the right to object; or

(C) exigent circumstances exist such that it would not be practicable to notify the individual of the right to object; and

(3) the information consists only of 1 or more of the following items:

(A) The name of the individual who is the subject of the information.

(B) If the individual who is the subject of the information is receiving health care from a health care provider on a premises controlled by the provider—

(i) the location of the individual on the premises; and

(ii) the general health status of the individual, described as critical, poor, fair, stable, or satisfactory or in terms denoting similar conditions.

(d) IDENTIFICATION OF DECEASED INDIVIDUAL.—A health care provider, health plan, employer, or life insurer, may disclose protected health information if necessary to assist in the identification of a deceased individual.

SEC. 5213. EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—A health care provider, health plan, employer, or person who receives protected health information under this section may disclose protected health information in emergency circumstances when necessary to protect the health or safety of an individual from imminent harm.

(b) SCOPE OF DISCLOSURE.—The disclosure of protected health information under this section shall be limited to persons who need the information to take action to protect the health or safety of the individual.

Subpart C—Disclosure for Oversight, Public Health, and Research Purposes

SEC. 5216. OVERSIGHT.

(a) IN GENERAL.—A health information trustee may disclose protected health information to a health oversight agency for an oversight function authorized by law.

(b) USE IN ACTION AGAINST INDIVIDUALS.—Notwithstanding section 5206(e), protected health information about an individual that is disclosed under this section may be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information if the action or investigation arises out of and is directly related to receipt of health care or payment for health care or an action involving a fraudulent claim related to health.

SEC. 5217. PUBLIC HEALTH.

A health care provider, health plan, public health authority, employer, or person who receives protected health information under section 5213 may disclose protected health information to a public health authority or other person authorized by law for use in a legally authorized—

(1) disease or injury reporting;

(2) public health surveillance; or

(3) public health investigation or intervention.

SEC. 5218. HEALTH RESEARCH.

(a) IN GENERAL.—A health information trustee may disclose protected health information to a health researcher if an institutional review board determines that the research project engaged in by the health researcher—

(1) requires use of the protected health information for the effectiveness of the project; and

(2) is of sufficient importance to outweigh the intrusion into the privacy of the individual who is the subject of the information that would result from the disclosure.

(b) RESEARCH REQUIRING DIRECT CONTACT.—A health information trustee may disclose protected health information to a health researcher for a research project that includes direct contact with an individual who is the subject of protected health information if an institutional review board determines that—

(1) the research project meets the requirements of paragraphs (1) and (2) of subsection (a);

(2) direct contact is necessary to accomplish the research purpose; and

(3) the direct contact will be made in a manner that minimizes the risk of harm, embarrassment, or other adverse consequences to the individual.

(c) USE OF HEALTH INFORMATION NETWORK.—

(1) IN GENERAL.—A health information trustee may disclose protected health information to a health researcher using the health information network (as defined in section 5102) only if an institutional review board certified by the Secretary under paragraph (2) determines that the research project engaged in by the health researcher meets the requirements of this section.

(2) CERTIFICATION OF INSTITUTIONAL REVIEW BOARDS.—

(A) REGULATIONS.—The Secretary, after notice and opportunity for public comment, shall issue regulations establishing certification requirements for institutional review boards under this subtitle. Such regulations shall be based on regulations issued under section 491(a) of the Public Health Service Act and shall ensure that institutional review boards certified under this paragraph have the qualifications to access and protect the confidentiality of research subjects.

(B) CERTIFICATION.—The Secretary shall certify an institutional review board that meets the certification requirements established by the Secretary under subparagraph (A).

(d) OBLIGATIONS OF RECIPIENT.—A person who receives protected health information pursuant to subsection (a)—

(1) shall remove or destroy, at the earliest opportunity consistent with the purposes of the project, information that would enable an individual to be identified, unless—

(A) an institutional review board has determined that there is a health or research justification for retention of such identifiers; and

(B) there is an adequate plan to protect the identifiers from disclosure that is inconsistent with this section; and

(2) shall use protected health information solely for purposes of the health research project for which disclosure was authorized under this section.

Subpart D—Disclosure For Judicial, Administrative, and Law Enforcement Purposes

SEC. 5221. JUDICIAL AND ADMINISTRATIVE PURPOSES.

A health care provider, health plan, health oversight agency, or employer may disclose protected health information—

(1) pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, or comparable rules of other courts or administrative agencies in connection with litigation or proceedings to which the individual who is the subject of the information is a party and in which the individual has placed the individual's physical or mental condition in issue;

(2) to a court, and to others ordered by a court, if the protected health information is developed in response to a court-ordered physical or mental examination; or

(3) pursuant to a law requiring the reporting of specific medical information to law enforcement authorities.

SEC. 5222. LAW ENFORCEMENT.

(a) IN GENERAL.—A health care provider, health plan, health oversight agency, employer, or person who receives protected health information under section 5213 may disclose protected health information to a law enforcement agency (other than a health oversight agency governed by section 5216) if the information is requested for use—

(1) in an investigation or prosecution of a health information trustee;

(2) in the identification of a victim or witness in a law enforcement inquiry; or

(3) in connection with the investigation of criminal activity committed against the trustee or on premises controlled by the trustee.

(b) CERTIFICATION.—When a law enforcement agency (other than a health oversight agency) requests that a health information trustee disclose protected health information under this section, the law enforcement agency shall provide the trustee with a written certification that—

(1) specifies the information requested;

(2) states that the information is needed for a lawful purpose under this section; and

(3) is signed by a supervisory official of a rank designated by the head of the agency.

(c) RESTRICTIONS ON ADDITIONAL DISCLOSURE.—Notwithstanding section 5206(e), protected health information about an individual that is disclosed to a law enforcement agency under this section may be used in, or disclosed for, an administrative, civil, or criminal action or investigation against the individual if the action or investigation arises out of and is directly related to the action or investigation for which the information was obtained.

Subpart E—Disclosure Pursuant to Government Subpoena or Warrant

SEC. 5226. GOVERNMENT SUBPOENAS AND WARRANTS.

(a) IN GENERAL.—A health care provider, health plan, health oversight agency, employer, or person who receives protected

VOL 140 PT 16 AG 12 — 18 1994 UMI

health information under section 5213 may disclose protected health information under this section if the disclosure is pursuant to—

(1) a subpoena issued under the authority of a grand jury, and the trustee is provided a written certification by the grand jury seeking the information that the grand jury has complied with the applicable access provisions of section 5227;

(2) an administrative subpoena or a judicial subpoena or warrant, and the trustee is provided a written certification by the person seeking the information that the person has complied with the applicable access provisions of section 5227; or

(3) an administrative subpoena or a judicial subpoena or warrant, and the disclosure otherwise meets the conditions of section 5216, 5217, 5221, or 5222.

(b) RESTRICTIONS ON ADDITIONAL DISCLOSURE.—

(1) ACTIONS OR INVESTIGATIONS.—Notwithstanding section 5206(c), protected health information about an individual that is received under subsection (a) may be disclosed for, or used in, any administrative, civil, or criminal action or investigation against the individual if the action or investigation arises out of and is directly related to the inquiry for which the information was obtained.

(2) SPECIAL RULE.—Protected health information about an individual that is received under subsection (a)(3) may not be disclosed by the recipient unless the recipient complies with the conditions and restrictions on disclosure with which the recipient would have been required to comply if the disclosure had been made under section 5216, 5217, 5221, or 5222.

SEC. 5227. ACCESS PROCEDURES FOR LAW ENFORCEMENT SUBPOENAS AND WARRANTS.

(a) PROBABLE CAUSE REQUIREMENT.—A government authority may not obtain protected health information about an individual under paragraph (1) or (2) of section 5226(a) for use in a law enforcement inquiry unless there is probable cause to believe that the information is relevant to a legitimate law enforcement inquiry being conducted by the government authority.

(b) WARRANTS.—A government authority that obtains protected health information about an individual under circumstances described in subsection (a) and pursuant to a warrant shall, not later than 30 days after the date the warrant was executed, serve the individual with, or mail to the last known address of the individual, a notice that protected health information about the individual was so obtained, together with a notice of the individual's right to challenge the warrant in accordance with section 5228.

(c) SUBPOENAS.—Except as provided in subsection (d), a government authority may not obtain protected health information about an individual under circumstances described in subsection (a) and pursuant to a subpoena unless a copy of the subpoena has been served on the individual on or before the date of return of the subpoena, together with a notice of the individual's right to challenge the subpoena in accordance with section 5228, and—

(1) 15 days have passed since the date of service on the individual and within that time period the individual has not initiated a challenge in accordance with section 5228; or

(2) disclosure is ordered by a court after challenge under section 5228.

(d) APPLICATION FOR DELAY.—

(1) IN GENERAL.—A government authority may apply ex parte and under seal to an appropriate court to delay (for an initial period of not longer than 90 days) serving a notice or copy of a subpoena required under subsection (b) or (c) with respect to a law enforcement inquiry. The government authority may apply to the court for extensions of the delay.

(2) REASONS FOR DELAY.—An application for a delay, or extension of a delay, under this subsection shall state, with reasonable specificity, the reasons why the delay or extension is being sought.

(3) EX PARTE ORDER.—The court shall enter an ex parte order delaying or extending the delay of notice, an order prohibiting the disclosure of the request for, or disclosure of, the protected health information, and an order requiring the disclosure of the protected health information if the court finds that—

(A) the inquiry being conducted is within the lawful jurisdiction of the government authority seeking the protected health information;

(B) there is probable cause to believe that the protected health information being sought is relevant to a legitimate law enforcement inquiry;

(C) the government authority's need for the information outweighs the privacy interest of the individual who is the subject of the information; and

(D) there is reasonable ground to believe that receipt of notice by the individual will result in—

(i) endangering the life or physical safety of any individual;

(ii) flight from prosecution;

(iii) destruction of or tampering with evidence or the information being sought; or

(iv) intimidation of potential witnesses.

SEC. 5228. CHALLENGE PROCEDURES FOR LAW ENFORCEMENT WARRANTS AND SUBPOENAS.

(a) MOTION TO QUASH.—Within 15 days after the date of service of a notice of execution or a copy of a subpoena of a government authority seeking protected health information about an individual under paragraph (1) or (2) of section 5226(a), the individual may file a motion to quash—

(1) in the case of a State judicial warrant or subpoena, in the court which issued the warrant or subpoena;

(2) in the case of a warrant or subpoena issued under the authority of a State that is not a State judicial warrant or subpoena, in a court of competent jurisdiction; or

(3) in the case of any other warrant or subpoena issued under the authority of a Federal court or the United States, in the United States district court for the district in which the individual resides or in which the warrant or subpoena was issued.

(b) COPY.—A copy of the motion shall be served by the individual upon the government authority by registered or certified mail.

(c) PROCEEDINGS.—The government authority may file with the court such papers, including affidavits and other sworn documents, as sustain the validity of the warrant or subpoena. The individual may file with the court reply papers in response to the government authority's filing. The court, upon the request of the individual or the government authority or both, may proceed in camera. The court may conduct such proceedings as it deems appropriate to rule on the motion, but shall endeavor to expedite its determination.

(d) STANDARD FOR DECISION.—A court may deny a motion under subsection (a) if it finds there is probable cause to believe the protected health information is relevant to a legitimate law enforcement inquiry being conducted by the government authority, unless the court finds the individual's privacy interest outweighs the government authority's need for the information. The individual shall have the burden of demonstrating that the individual's privacy interest outweighs the need by the government authority for the information.

(e) SPECIFIC CONSIDERATIONS WITH RESPECT TO PRIVACY INTEREST.—In reaching its determination, the court shall consider—

(1) the particular purpose for which the information was collected;

(2) the degree to which disclosure of the information will embarrass, injure, or invade the privacy of the individual;

(3) the effect of the disclosure on the individual's future health care;

(4) the importance of the inquiry being conducted by the government authority, and the importance of the information to that inquiry; and

(5) any other factor deemed relevant by the court.

(f) ATTORNEY'S FEES.—In the case of a motion brought under subsection (a) in which the individual has substantially prevailed, the court may assess against the government authority a reasonable attorney's fee and other litigation costs (including expert's fees) reasonably incurred.

(g) NO INTERLOCUTORY APPEAL.—A ruling denying a motion to quash under this section shall not be deemed to be a final order, and no interlocutory appeal may be taken therefrom by the individual. An appeal of such a ruling may be taken by the individual within such period of time as is provided by law as part of any appeal from a final order in any legal proceeding initiated against the individual arising out of or based upon the protected health information disclosed.

Subpart F—Disclosure Pursuant to Private Party Subpoena

SEC. 5231. PRIVATE PARTY SUBPOENAS.

A health care provider, health plan, employer, or person who receives protected health information under section 5213 may disclose protected health information under this section if the disclosure is pursuant to a subpoena issued on behalf of a private party who has complied with the access provisions of section 5232.

SEC. 5232. ACCESS PROCEDURES FOR PRIVATE PARTY SUBPOENAS.

A private party may not obtain protected health information about an individual pursuant to a subpoena unless a copy of the subpoena together with a notice of the individual's right to challenge the subpoena in accordance with section 5233 has been served upon the individual on or before the date of return of the subpoena, and—

(1) 15 days have passed since the date of service on the individual, and within that time period the individual has not initiated a challenge in accordance with section 5233; or

(2) disclosure is ordered by a court under section 5233.

SEC. 5233. CHALLENGE PROCEDURES FOR PRIVATE PARTY SUBPOENAS.

(a) MOTION TO QUASH SUBPOENA.—Within 15 days after service of a copy of the subpoena seeking protected health information under section 5231, the individual who is the subject of the protected health information may file in any court of competent jurisdiction a motion to quash the subpoena and serve a copy of the motion on the person seeking the information.

(b) STANDARD FOR DECISION.—The court shall grant a motion under subsection (a) unless the respondent demonstrates that—

(1) there is reasonable ground to believe the information is relevant to a lawsuit or other judicial or administrative proceeding; and

(2) the need of the respondent for the information outweighs the privacy interest of the individual.

(c) SPECIFIC CONSIDERATIONS WITH RESPECT TO PRIVACY INTEREST.—In determining under subsection (b) whether the need of the respondent for the information outweighs the privacy interest of the individual, the court shall consider—

(1) the particular purpose for which the information was collected;

(2) the degree to which disclosure of the information would embarrass, injure, or invade the privacy of the individual;

(3) the effect of the disclosure on the individual's future health care;

(4) the importance of the information to the lawsuit or proceeding; and

(5) any other relevant factor.

(d) ATTORNEY'S FEES.—In the case of a motion brought under subsection (a) in which the individual has substantially prevailed, the court may assess against the respondent a reasonable attorney's fee and other litigation costs and expenses (including expert's fees) reasonably incurred.

PART 3—PROCEDURES FOR ENSURING SECURITY OF PROTECTED HEALTH INFORMATION

Subpart A—Establishment of Safeguards

SEC. 5236. ESTABLISHMENT OF SAFEGUARDS.

(a) IN GENERAL.—A health information trustee shall establish and maintain appropriate administrative, technical, and physical safeguards—

(1) to ensure the integrity and confidentiality of protected health information created or received by the trustee; and

(2) to protect against any anticipated threats or hazards to the security or integrity of such information.

(b) REGULATIONS.—The Secretary shall promulgate regulations regarding security measures for protected health information.

SEC. 5237. ACCOUNTING FOR DISCLOSURES.

(a) IN GENERAL.—

(1) REQUIREMENT TO CREATE OR MAINTAIN RECORD.—A health information trustee shall create and maintain, with respect to any protected health information disclosed in exceptional circumstances (as described in paragraph (2)), a record of—

(A) the date and purpose of the disclosure;

(B) the name of the person to whom or to which the disclosure was made;

(C) the address of the person to whom or to which the disclosure was made or the location to which the disclosure was made; and

(D) the information disclosed, if the recording of the information disclosed is practicable, taking into account the technical capabilities of the system used to maintain the record and the costs of such maintenance.

(2) EXCEPTIONAL CIRCUMSTANCES DESCRIBED.—For purposes of paragraph (1) protected health information is disclosed in exceptional circumstances if the disclosure—

(A) is not a routine part of doing business, as determined in accordance with guidelines promulgated by the Secretary; or

(B) is permitted under sections 5213 and 5217.

(b) DISCLOSURE RECORD PART OF INFORMATION.—A record created and maintained under paragraph (a) shall be maintained as part of the protected health information to which the record pertains.

Subpart B—Review of Protected Health Information By Subjects of the Information

SEC. 5241. INSPECTION OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (c), a health care provider or health plan—

(1) shall permit an individual who is the subject of protected health information to inspect any such information that the provider or plan maintains;

(2) shall permit the individual to have a copy of the information;

(3) shall permit a person who has been designated in writing by the individual who is the subject of the information to inspect, or to have a copy of, the information on behalf of the individual or to accompany the individual during the inspection; and

(4) may offer to explain or interpret information that is inspected or copied under this subsection.

(b) ADDITIONAL REQUESTS.—Except as provided in subsection (c), a health plan or health care provider shall, upon written request of an individual—

(1) determine the identity of previous providers to the individual; and

(2) obtain protected health information regarding the individual.

(c) EXCEPTIONS.—A health care provider or health plan is not required by this section to permit inspection or copying of protected health information if any of the following conditions apply:

(1) MENTAL HEALTH TREATMENT NOTES.—The information consists of psychiatric, psychological, or mental health treatment notes, and the provider or plan determines, based on reasonable medical judgment, that inspection or copying of the notes would cause sufficient harm to the individual who is the subject of the notes so as to outweigh the desirability of permitting access, and the provider or plan has not disclosed the notes to any person not directly engaged in treating the individual, except with the authorization of the individual or under compulsion of law.

(2) INFORMATION ABOUT OTHERS.—The information relates to an individual other than the individual seeking to inspect or have a copy of the information and the provider or plan determines, based on reasonable medical judgment, that inspection or copying of the information would cause sufficient harm to 1 or both of the individuals so as to outweigh the desirability of permitting access.

(3) ENDANGERMENT TO LIFE OR SAFETY.—The provider or plan determines that disclosure of the information could reasonably be expected to endanger the life or physical safety of any individual.

(4) CONFIDENTIAL SOURCE.—The information identifies or could reasonably lead to the identification of a person (other than a health care provider) who provided information under a promise of confidentiality to a health care provider concerning the individual who is the subject of the information.

(5) ADMINISTRATIVE PURPOSES.—The information—

(A) is used by the provider or plan solely for administrative purposes and not in the provision of health care to the individual who is the subject of the information; and

(B) has not been disclosed by the provider or plan to any other person.

(d) INSPECTION AND COPYING OF SEGREGABLE PORTION.—A health care provider or health plan shall permit inspection and copying under subsection (a) of any reasonably segregable portion of a record after deletion of any portion that is exempt under subsection (c).

(e) CONDITIONS.—A health care provider or health plan may require a written request for the inspection and copying of protected health information under this subsection. The health care provider or health plan may require a cost reimbursement for such inspection and copying.

(f) STATEMENT OF REASONS FOR DENIAL.—If a health care provider or health plan denies a request for inspection or copying under this section, the provider or plan shall provide the individual who made the request (or the individual's designated representative) with a written statement of the reasons for the denial.

(g) DEADLINE.—A health care provider or health plan shall comply with or deny a request for inspection or copying of protected health information under this section within the 30-day period beginning on the date on which the provider or plan receives the request.

SEC. 5242. AMENDMENT OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—A health care provider or health plan shall, within the 45-day period beginning on the date on which the provider or plan receives from an individual a written request that the provider or plan correct or amend the information—

(1) make the correction or amendment requested;

(2) inform the individual of the correction or amendment that has been made; and

(3) inform any person who is identified by the individual, who is not an officer, employee or agent of the provider or plan, and to whom the uncorrected or unamended portion of the information was previously disclosed, of the correction or amendment that has been made.

(b) REFUSAL TO CORRECT.—If the provider or plan refuses to make the corrections, the provider or plan shall inform the individual of—

(1) the reasons for the refusal of the provider or plan to make the correction or amendment;

(2) any procedures for further review of the refusal; and

(3) the individual's right to file with the provider or plan a concise statement setting forth the requested correction or amendment and the individual's reasons for disagreeing with the refusal of the provider or plan.

(c) BASES FOR REQUEST TO CORRECT OR AMEND.—An individual may request correction or amendment of protected health information about the individual under paragraph (a) if the information is not timely, accurate, relevant to the system of records, or complete.

(d) STATEMENT OF DISAGREEMENT.—After an individual has filed a statement of disagreement under paragraph (b)(3), the provider or plan, in any subsequent disclosure of the disputed portion of the information—

(1) shall include a copy of the individual's statement; and

(2) may include a concise statement of the reasons of the provider or plan for not making the requested correction or amendment.

(e) RULE OF CONSTRUCTION.—This section shall not be construed to require a health care provider or health plan to conduct a formal, informal, or other hearing or proceeding concerning a request for a correction or amendment to protected health information the provider or plan maintains.

(f) CORRECTION.—For purposes of paragraph (a), a correction is deemed to have been

VOL 140 PT 16 AG 12 — 18 1994 UMI

made to protected health information when information that is not timely, accurate, relevant to the system of records, or complete is clearly marked as incorrect or when supplementary correct information is made part of the information.

SEC. 5243. NOTICE OF INFORMATION PRACTICES.

(a) PREPARATION OF WRITTEN NOTICE.—A health care provider or health plan shall prepare a written notice of information practices describing the following:

(1) PERSONAL RIGHTS OF AN INDIVIDUAL.—The rights under this subpart of an individual who is the subject of protected health information, including the right to inspect and copy such information and the right to seek amendments to such information, and the procedures for authorizing disclosures of protected health information and for revoking such authorizations.

(2) PROCEDURES OF PROVIDER OR PLAN.—The procedures established by the provider or plan for the exercise of the rights of individuals about whom protected health information is maintained.

(3) AUTHORIZED DISCLOSURES.—The disclosures of protected health information that are authorized.

(b) DISSEMINATION OF NOTICE.—A health care provider or health plan—

(1) shall, upon request, provide any individual with a copy of the notice of information practices described in subsection (a); and

(2) shall make reasonable efforts to inform individuals in a clear and conspicuous manner of the existence and availability of the notice.

(c) MODEL NOTICE.—The Secretary, after notice and opportunity for public comment, shall develop and disseminate a model notice of information practices for use by health care providers and health plans under this section.

Subpart C—Standards for Electronic Disclosures

SEC. 5246. STANDARDS FOR ELECTRONIC DISCLOSURES.

The Secretary shall promulgate standards for disclosing protected health information in accordance with this subtitle in electronic form. Such standards shall include standards relating to the creation, transmission, receipt, and maintenance, of any written document required or authorized under this subtitle.

PART 4—SANCTIONS

Subpart A—No Sanctions for Permissible Actions

SEC. 5251. NO LIABILITY FOR PERMISSIBLE DISCLOSURES.

A health information trustee who makes a disclosure of protected health information about an individual that is permitted by this subtitle shall not be liable to the individual for the disclosure under common law.

SEC. 5252. NO LIABILITY FOR INSTITUTIONAL REVIEW BOARD DETERMINATIONS.

If the members of an institutional review board make a determination in good faith that—

(1) a health research project is of sufficient importance to outweigh the intrusion into the privacy of an individual; and

(2) the effectiveness of the project requires use of protected health information,

the members, the board, and the parent institution of the board shall not be liable to the individual as a result of the determination.

SEC. 5253. RELIANCE ON CERTIFIED ENTITY.

If a health information trustee contracts with a certified health information network service to make a disclosure of any protected health information on behalf of such trustee in accordance with this subtitle and such service makes a disclosure of such information that is in violation of this subtitle, the trustee shall not be liable for to the individual who is the subject of the information for such unlawful disclosure.

Subpt B—Civil Sanctions

SEC. 5256. CIVIL PENALTY.

(a) VIOLATION.—Any health information trustee who the Secretary determines has substantially failed to comply with this subtitle shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $10,000 for each such violation.

(b) PROCEDURES FOR IMPOSITION OF PENALTIES.—Section 1128A of the Social Security Act, other than subsections (a) and (b) and the second sentence of subsection (f) of that section, shall apply to the imposition of a civil monetary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1128A of such Act.

SEC. 5257. CIVIL ACTION.

(a) IN GENERAL.—An individual who is aggrieved by conduct in violation of this subtitle may bring a civil action to recover—

(1) the greater of actual damages or liquidated damages of $5,000;

(2) punitive damages;

(3) a reasonable attorney's fee and expenses of litigation;

(4) costs of litigation; and

(5) such preliminary and equitable relief as the court determines to be appropriate.

(b) LIMITATION.—No action may be commenced under this section more than 3 years after the date on which the violation was or should reasonably have been discovered.

Subpart C—Criminal Sanctions

SEC. 5261. WRONGFUL DISCLOSURE OF PROTECTED HEALTH INFORMATION.

(a) OFFENSE.—A person who knowingly—

(1) obtains protected health information relating to an individual in violation of this subtitle; or

(2) discloses protected health information to another person in violation of this subtitle,

shall be punished as provided in subsection (b).

(b) PENALTIES.—A person described in subsection (a) shall—

(1) be fined not more than $50,000, imprisoned not more than 1 year, or both;

(2) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both; and

(3) if the offense is committed with intent to sell, transfer, or use protected health information for commercial advantage, personal gain, or malicious harm, fined not more than $250,000, imprisoned not more than 10 years, or both.

PART 5—ADMINISTRATIVE PROVISIONS

SEC. 5266. RELATIONSHIP TO OTHER LAWS.

(a) STATE LAW.—Except as provided in subsections (b), (c), and (d), this subtitle preempts State law.

(b) LAWS RELATING TO PUBLIC OR MENTAL HEALTH.—Nothing in this subtitle shall be construed to preempt or operate to the exclusion of any State law relating to public health or mental health that prevents or regulates disclosure of protected health information otherwise allowed under this subtitle.

(c) PRIVILEGES.—Nothing in this subtitle is intended to preempt or modify State common or statutory law to the extent such law concerns a privilege of a witness or person in a court of the State. This subtitle does not supersede or modify Federal common or statutory law to the extent such law concerns a privilege of a witness or person in a court of the United States. Authorizations pursuant to section 5207 shall not be construed as a waiver of any such privilege.

(d) CERTAIN DUTIES UNDER STATE OR FEDERAL LAW.—This subtitle shall not be construed to preempt, supersede, or modify the operation of—

(1) any law that provides for the reporting of vital statistics such as birth or death information;

(2) any law requiring the reporting of abuse or neglect information about any individual;

(3) subpart II of part E of title XXVI of the Public Health Service Act (relating to notifications of emergency response employees of possible exposure to infectious diseases); or

(4) any Federal law or regulation governing confidentiality of alcohol and drug patient records.

SEC. 5267. RIGHTS OF INCOMPETENTS.

(a) EFFECT OF DECLARATION OF INCOMPETENCE.—Except as provided in section 5268, if an individual has been declared to be incompetent by a court of competent jurisdiction, the rights of the individual under this subtitle shall be exercised and discharged in the best interests of the individual through the individual's representative.

(b) NO COURT DECLARATION.—Except as provided in section 5268, if a health care provider determines that an individual, who has not been declared to be incompetent by a court of competent jurisdiction, suffers from a medical condition that prevents the individual from acting knowingly or effectively on the individual's own behalf, the right of the individual to authorize disclosure may be exercised and discharged in the best interest of the individual by the individual's representative.

SEC. 5268. EXERCISE OF RIGHTS.

(a) INDIVIDUALS WHO ARE 18 OR LEGALLY CAPABLE.—In the case of an individual—

(1) who is 18 years of age or older, all rights of the individual shall be exercised by the individual; or

(2) who, acting alone, has the legal right, as determined by State law, to apply for and obtain a type of medical examination, care, or treatment and who has sought such examination, care, or treatment, the individual shall exercise all rights of an individual under this subtitle with respect to protected health information relating to such examination, care, or treatment.

(b) INDIVIDUALS UNDER 18.—Except as provided in subsection (a)(2), in the case of an individual who is—

(1) under 14 years of age, all the individual's rights under this subtitle shall be exercised through the parent or legal guardian of the individual; or

(2) 14, 15, 16, or 17 years of age, the rights of inspection and amendment, and the right to authorize disclosure of protected health information of the individual may be exercised either by the individual or by the parent or legal guardian of the individual.

Subtitle D—Expanded Efforts To Combat Health Care Fraud and Abuse Affecting Federal Outlay Programs

PART 1—IMPROVED ENFORCEMENT

SEC. 5301. HEALTH CARE FRAUD AND ABUSE AFFECTING FEDERAL OUTLAY PROGRAMS.

(a) IN GENERAL.—Not later than January 1, 1995, the Secretary and the Attorney General

of the United States shall establish a joint program—

(1) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse affecting Federal outlay programs,

(2) to conduct investigations (including consumer complaint investigations), audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States, and

(3) to facilitate the enforcement of this subtitle and other statutes applicable to health care fraud and abuse.

(b) COORDINATION WITH LAW ENFORCEMENT AGENCIES.—In carrying out the program under subsection (a), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data and resources with Federal, State and local law enforcement agencies, State Medicaid Fraud Control Units, and State agencies responsible for the licensing and certification of health care providers.

(c) COORDINATION WITH PURCHASING COOPERATIVES AND CERTIFIED HEALTH PLANS.—In carrying out the program under subsection (a), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of purchasing cooperatives and certified standard health plans.

(d) AUTHORITIES OF ATTORNEY GENERAL AND SECRETARY.—In carrying out duties under subsection (a), the Attorney General and the Secretary—

(1) shall conduct, supervise, and coordinate audits, civil and criminal investigations, inspections, and evaluations relating to the program established under such subsection;

(2) shall have access (including on-line access as requested and available) to all records available to purchasing cooperatives and certified standard health plans relating to the activities described in paragraph (1) (subject to restrictions based on the confidentiality of certain information under subtitles B and C of this title); and

(3) may issue advisory opinions, fraud alerts, and other appropriate educational material to assist in compliance with the provisions of this subtitle.

(e) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information or communications to the Secretary or the Attorney General in conjunction with their performance of duties under this section, in the same manner as such section applies to information provided to organizations with a contract under part 2.

(f) USE OF POWERS UNDER INSPECTOR GENERAL ACT OF 1978.—In carrying out duties and responsibilities under the program established under subsection (a), the Inspector General is authorized to exercise all powers granted under the Inspector General Act of 1978 to the same manner and extent as provided in that Act.

(g) DEFINITIONS.—In this subtitle:

(1) CERTIFIED STANDARD HEALTH PLANS; PURCHASING COOPERATIVES.—The terms "certified standard health plan" and "purchasing cooperative" have the meanings given such terms by sections 1011(2) and 1013(16), respectively.

(2) FEDERAL OUTLAY PROGRAMS.—The term 'Federal outlay programs' means—

(A) any program under title XVIII of the Social Security Act,

(B) any State health care program (as defined in section 1128(h) of the Social Security Act),

(C) any program under the Public Health Service Act, and

(D) any program under this Act, including any State program approved under title I which certifies standard health plans, supplemental health benefits plans, and long-term care policies.

(3) INSPECTOR GENERAL.—The term "Inspector General" means the Inspector General of the Department of Health and Human Services.

SEC. 5302. ESTABLISHMENT OF FEDERAL OUTLAY PROGRAM FRAUD AND ABUSE CONTROL ACCOUNT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established an account to be known as the "Federal Outlay Program Fraud and Abuse Control Account" (in this section referred to as the "Anti-Fraud Account"). The Anti-Fraud Account shall consist of—

(A) such gifts and bequests as may be made as provided in paragraph (2);

(B) such amounts as may be deposited in the Anti-Fraud Account as provided in section 5311(d)(2) and title IX of the Social Security Act; and

(C) such amounts as are transferred to the Anti-Fraud Account under paragraph (3).

(2) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account or any activity financed through the Anti-Fraud Account.

(3) TRANSFER OF AMOUNTS.—

(A) IN GENERAL.—Subject to the limitation in subparagraph (B), the Secretary of the Treasury shall transfer to the Anti-Fraud Account an amount equal to the sum of the following:

(i) Criminal fines imposed in cases involving a Federal health care offense (as defined in subsection (d)).

(ii) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution).

(iii) Administrative penalties and assessments imposed under section 5311 (except as otherwise provided by law).

(iv) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(B) LIMITATION.—The Secretary of the Treasury shall not transfer more than the $75,000,000, plus 50 percent of the excess (if any) of the amount described in subparagraph (A) for any fiscal year (beginning in fiscal year 1995).

(b) USE OF FUNDS.—

(1) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available without appropriation and until expended as determined jointly by the Secretary and the Attorney General of the United States in carrying out the Federal Outlay Program Fraud and Abuse Control Program established under section 5301 (including the administration of the Program), and may be used to cover costs incurred in operating the Program, including costs of—

(A) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(B) investigations;

(C) financial and performance audits of health care programs and operations;

(D) inspections and other evaluations;

(E) rewards paid under section 5304; and

(F) provider and consumer education (including the provision of advisory opinions) regarding compliance with the provisions of this subtitle.

Not more than twenty percent of the amounts available in the Anti-Fraud Account for any fiscal year shall be used for costs described in subparagraph (F).

(2) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(c) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(d) FEDERAL HEALTH CARE OFFENSE DEFINED.—For purposes of subsection (a)(3)(A)(i), the term "Federal health care offense" means a violation of, or a criminal conspiracy to violate—

(1) sections 226, 668, 1033, or 1347 of title 18, United States Code;

(2) section 1128B of the Social Security Act;

(3) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of title 18, United States Code, if the violation or conspiracy relates to health care fraud;

(4) sections 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud; or

(5) sections 301, 303(a)(2), or 303 (b) or (e) of the Federal Food Drug and Cosmetic Act, if the violation or conspiracy relates to health care fraud.

SEC. 5303. USE OF FUNDS BY INSPECTOR GENERAL.

(a) REIMBURSEMENTS FOR INVESTIGATIONS.—

(1) IN GENERAL.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

(2) CREDITING.—Funds received by the Inspector General as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of their deposit.

(3) EXCEPTION FOR FORFEITURES.—This subsection does not apply to investigative costs paid to the Inspector General from the Department of Justice Asset Forfeiture Fund, which monies shall be deposited and expended in accordance with subsection (b).

(b) HHS OFFICE OF INSPECTOR GENERAL ASSET FORFEITURE PROCEEDS FUND.—

(1) IN GENERAL.—There is hereby established the "HHS Office of Inspector General Asset Forfeiture Proceeds Fund", to be administered by the Inspector General, which shall be available to the Inspector General without fiscal year limitation for expenses relating to the investigation of matters within the jurisdiction of the Inspector General.

(2) DEPOSITS.—There shall be deposited in the Fund all proceeds from forfeitures that have been transferred to the Inspector General from the Department of Justice Asset Forfeiture Fund under section 524 of title 28, United States Code.

SEC. 5304. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

(a) IN GENERAL.—In special circumstances, the Secretary and the Attorney General of

VOL 140 PT 16 AG 12 — 18 1994 UMI

the United States may jointly make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution of a Federal health care offense (as defined in section 5307(d)).

(b) INELIGIBLE PERSONS.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) DEFINITION.—For the purposes of subsection (b)(3)(C), the term "original source" means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the government prior to disclosure by the news media.

(d) NO JUDICIAL REVIEW.—Neither the failure of the Secretary and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

PART 2—CIVIL PENALTIES AND RIGHTS OF ACTION

SEC. 5311. CIVIL MONETARY PENALTIES.

(a) ACTIONS SUBJECT TO PENALTY.—

(1) IN GENERAL.—Any person who is determined by the Secretary to have committed any action with respect to a certified standard health plan or certified long-term care plan or long-term care services provided under this Act that would subject the person to a penalty under paragraphs (1) through (11) of section 1128A of the Social Security Act if the action was taken with respect to title V, XVIII, XIX, or XX of such Act, shall be subject to a penalty in accordance with subsection (b).

(2) TREATMENT OF AMOUNTS RECOVERED.—Any amounts recovered under the preceding sentence shall be paid to the Secretary and such portions of the amounts recovered as is determined to have been improperly paid from a certified standard health plan or certified long-term care policy for the delivery of or payment for health care items or services shall be repaid to such plan or policy (and enrollees of such plan or policy as appropriate) and the remainder of the amounts recovered shall be deposited in the Federal Outlays Program Fraud and Abuse Control Account established under section 5302.

(b) PENALTIES.—

(1) GENERAL RULE.—In the case of a person who the Secretary determines has committed an action described in subsection (a), the person shall be subject to the civil monetary penalty (together with any additional assessment) to which the person would be subject to under section 1128A of the Social Security Act if the action was taken with respect to title V, XVIII, XIX, or XX of such Act.

(2) PENALTIES DESCRIBED.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "$2,000" and inserting "$10,000"; and

(B) by striking "twice the amount claimed" and inserting "3 times the amount claimed".

(3) INTEREST ON PENALTIES.—Section 1128A(f) of such Act (42 U.S.C. 1320a-7a(f)) is amended by adding after the first sentence the following: "Interest shall accrue on the penalties and assessments imposed by a final determination of the Secretary in accordance with an annual rate established by the Secretary under the Federal Claims Collection Act. The rate of interest charged shall be the rate in effect on the date the determination becomes final and shall remain fixed at that rate until the entire amount due is paid. In addition, the Secretary is authorized to recover the costs of collection in any case where such penalties and assessments are not paid within 30 days after the determination becomes final, or in the case of a compromised amount, where payments are more than 90 days past due. In lieu of actual costs, the Secretary is authorized to impose a charge of up to 10 percent of the amount of such penalties and assessments owed to cover the costs of collection.".

(c) ADDITIONAL OFFENSES.—

(1) IN GENERAL.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraphs (1) and (2);

(B) by striking the comma at the end of paragraph (2) and inserting a semicolon; and

(C) by inserting after paragraph (3) the following new paragraphs:

"(4) offers, pays, or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a Federal outlay program (as defined in section 5301(g)(1) of the Health Security Act) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a Federal outlay program;

"(5) in the case of a person who is not an organization, agency, or other entity, who is excluded from participating in a program under title XVIII or a Federal outlay program in accordance with this section, section 1128, or section 1156 and who, during the period of exclusion, retains either a direct or indirect ownership or control interest of 5 percent or more in, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII;

"(6) engages in a practice that circumvents a payment methodology intended to reimburse for two or more discreet medical items or services at a single or fixed amount, including but not limited to, multiple admissions or readmission to hospitals and other institutions reimbursed on a diagnosis reimbursement grouping basis;

"(7) engages in a practice which has the effect of limiting (as compared to other plan enrollees) the appropriate utilization of health care services covered by law or under the service contract by title XIX or other publicly subsidized patients, including but not limited to differential standards for the location and hours of service offered by providers participating in the plan;

"(8) fails to comply with a quality assurance program or a utilization review activity;

"(9) employs or contracts with any individual or entity who is excluded from participating in a program under title XVIII or a Federal outlay program in accordance with this section, section 1128, or section 1156, for the provision of any services (including but not limited to health care, utilization review, medical social work, or administrative), or employs or contracts with any entity for the direct or indirect provision of such services, through such an excluded individual or entity; or

"(10) submits false or fraudulent statements, data or information, or claims to the Secretary, the Secretary of Labor, any other Federal agency, a State health care agency, a purchasing cooperative, or any other Federal, State or local agency charged with implementation or oversight of a certified health plan under this Act or a public program that the person knows or should know is fraudulent;".

(4) REMUNERATION DEFINED.—Section 1128A(i) of such Act (42 U.S.C. 1320a-7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value, except that such term does not include the waiver of coinsurance or deductible amounts by a person or entity, if—

"(A) the waiver is not offered as part of any advertisement or solicitation;

"(B) the person does not routinely waive coinsurance or deductible amounts; and

"(C) the person—

"(i) waives the coinsurance and deductible amounts after determining in good faith that the individual is indigent;

"(ii) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(iii) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary.".

(5) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) of such Act (42 U.S.C. 1320a-7a(a)(1)) is amended—

(A) in subparagraph (A), by striking "claimed," and inserting the following: "claimed, including any person who presents or causes to be presented a claim for an item or service which includes a procedure or diagnosis code that the person knows or should know will result in a greater payment to the person than the code applicable to the item or service actually provided or actual patient medical condition,";

(B) in subparagraph (C), by striking "or" at the end;

(C) in subparagraph (D), by striking "; or" and inserting ", or"; and

(D) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or".

(c) PROCEDURES FOR IMPOSITION OF PENALTIES.—

(1) APPLICABILITY OF PROCEDURES UNDER SOCIAL SECURITY ACT.—Except as otherwise provided in paragraph (2), the provisions of section 1128A of the Social Security Act (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil monetary penalty, assessment, or exclusion under this section in the same manner as such provisions apply with respect to the imposition of a penalty, assessment, or exclusion under section 1128A of such Act.

(4) AUTHORITY OF SECRETARY OF LABOR TO IMPOSE PENALTIES, ASSESSMENTS, AND EXCLUSIONS.—

(A) IN GENERAL.—The Secretary of Labor may initiate an action to impose a civil monetary penalty, assessment, or exclusion under this section with respect to actions relating to a certified multistate self-insured health plan if authorized by the Attorney General of the United States and the Secretary pursuant to regulations promulgated by the Secretary in consultation with the Attorney General.

(B) REGULATIONS DESCRIBED.—Under the regulations promulgated under subparagraph (A), the Attorney General and the Secretary shall review an action proposed by the Secretary of Labor, and not later than 60 days after receiving notice of the proposed action from the Secretary of Labor, shall—

(i) approve the proposed action to be taken by the Secretary of Labor;

(ii) disapprove the proposed action; or

(iii) assume responsibility for initiating a criminal, civil, or administrative action based on the information provided in the notice.

(C) ACTION DEEMED APPROVED.—If the Attorney General and the Secretary fail to respond to a proposed action by the Secretary of Labor within the period described in paragraph (2), the Attorney General and the Secretary shall be deemed to have approved the proposed action to be taken by the Secretary of Labor.

(e) NOTIFICATION OF LICENSING AUTHORITIES.—Whenever the Secretary's determination to impose a penalty, assessment, or exclusion under this section becomes final, the Secretary shall notify the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33) of the Social Security Act) that such a penalty, assessment, or exclusion has become final and the reasons therefore.

SEC. 5312. PERMITTING PARTIES TO BRING ACTIONS ON OWN BEHALF.

(a) IN GENERAL.—Subject to subsections (b) and (c), a certified standard health plan (as defined in section 1011(2)) or an experience-rated employer (as defined in section 1011(5)(E)) that suffers harm or monetary loss exceeding the sum or value of $10,000 (excluding interest) as a result of any activity of an individual or entity which makes the individual or entity subject to a civil monetary penalty under section 5311 may, in a civil action against the individual or entity in the United States District Court, obtain treble damages and costs including attorneys' fees against the individual or entity and such equitable relief as is appropriate.

(b) REQUIREMENTS FOR BRINGING ACTION.—A person may bring a civil action under this section only if—

(1) the person provides the Secretary with written notice of—

(A) the person's intent to bring an action under this section,

(B) the identities of the individuals or entities the person intends to name as defendants to the action, and

(C) all information the person possesses regarding the activity that is the subject of the action that may materially affect the Secretary's decision to initiate a proceeding to impose a civil monetary penalty under section 5311 against the defendants, and

(2) one of the following conditions is met:

(A) During the 60-day period that begins on the date the Secretary receives the written notice described in paragraph (1), the Secretary does not notify the person that the Secretary intends to initiate an investigation to determine whether to impose a civil monetary penalty under section 5311 against the defendants.

(B) The Secretary notifies the person during the 60-day period described in subparagraph (A) that the Secretary intends to initiate an investigation to determine whether to impose a civil monetary penalty under such section against the defendants, and the Secretary subsequently notifies the person that the Secretary no longer intends to initiate an investigation or proceeding to impose a civil monetary penalty against the defendants.

(C) After the expiration of the 1-year period that begins on the date written notice is provided to the Secretary, the Secretary has not initiated a proceeding to impose a civil monetary penalty against the defendants.

(c) TREATMENT OF EXCESS AWARDS.—If a person is awarded any amounts in an action brought under this section that are in excess of the damages suffered by the person as a result of the defendant's activities, 20 percent of such amounts shall be withheld from the person for payment into the Federal Outlays Program Fraud and Abuse Control Account established under section 5302.

(d) STATUTE OF LIMITATIONS.—No action may be brought under this section more than 6 years after the date of the activity with respect to which the action is brought.

(e) NO LIMITATION ON OTHER ACTIONS.—Nothing in this section shall limit the right of any person to pursue any other right of action or remedy available under the law.

(f) PENDANT JURISDICTION.—Nothing in this section shall be construed, by reason of a claim arising under this section, to confer on the Courts of the United States jurisdiction over any State law claim.

SEC. 5313. EXCLUSION FROM PROGRAM PARTICIPATION.

(a) MANDATORY EXCLUSION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall exclude an individual or entity from participating in any applicable health plan if the individual or entity—

(A) is excluded from participation in a public program under, or is otherwise described in, section 1128(a) of the Social Security Act (relating to individuals and entities convicted of health care-related crimes or patient abuse);

(B) has been convicted after the date of the enactment of this section, under Federal or State law, in connection with the delivery of a health care item or service of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct; or

(C) has been convicted after such date, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

(2) WAIVER PERMITTED.—

(A) IN GENERAL.—When, in the opinion of the Secretary, mandatory exclusion under paragraph (1) of an individual or entity would significantly harm the public health or pose a significant risk to the public health, the Secretary may waive such exclusion and shall apply such other appropriate penalties as authorized under this subtitle.

(B) APPLICATION FOR WAIVER OF EXCLUSION.—

(i) IN GENERAL.—An individual or entity subject to mandatory exclusion under this subsection may apply to the Secretary, in a manner specified by the Secretary in regulations, for waiver of the exclusion.

(ii) SECRETARIAL RESPONSE.—The Secretary may waive the exclusion for the reasons described in subparagraph (A).

(b) PERMISSIVE EXCLUSION.—The Secretary may exclude an individual or entity from participating in any applicable health plan if the individual or entity—

(1) is excluded from participation in a public program under, or is otherwise described in, section 1128(b) of the Social Security Act (other than paragraphs (3), (6)(A), (6)(C), (6)(D), (10), or (13) of such section);

(2) has been convicted after the date of the enactment of this section, under Federal or State law, in connection with the delivery of a health care item or service of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct; or

(3) has been convicted after the date of the enactment of this section, under Federal or State law, of a criminal offense consisting of a misdemeanor relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

(c) PERIOD OF EXCLUSION.—

(1) NOTICE OF EXCLUSION.—An exclusion under this section shall be effective at such time and upon such reasonable notice to the public and to the individual or entity excluded as may be specified in regulations consistent with paragraph (2).

(2) EFFECTIVE DATE OF EXCLUSION.—Such an exclusion shall be effective with respect to services furnished to an individual on or after the effective date of the exclusion.

(3) PERIOD OF EXCLUSION.—

(A) IN GENERAL.—The Secretary shall specify, in the notice of exclusion under paragraph (1), the minimum period (or, in the case of an exclusion of an individual excluded from participation in a public program under, or is otherwise described in, section 1128(b)(12) of the Social Security Act, the period) of the exclusion.

(B) MINIMUM PERIOD FOR MANDATORY EXCLUSIONS.—In the case of a mandatory exclusion under subsection (a), the minimum period of exclusion shall be not less than 2 years.

(C) MINIMUM PERIOD FOR CERTAIN PERMISSIVE EXCLUSIONS.—

(i) FRAUD, OBSTRUCTION OF INVESTIGATION, AND CONTROLLED SUBSTANCE CONVICTION.—In the case of an exclusion of an individual excluded from participation in a public program under, or is otherwise described in, paragraph (1) or (2) of section 1128(b) of the Social Security Act or paragraph (1), (2), or (3) of subsection (b) of this section, the period of exclusion shall be a minimum of 1 year, unless the Secretary determines that a longer period is necessary because of aggravating circumstances.

(ii) SUSPENSIONS.—In the case of an exclusion of an individual or entity excluded from participation in a public program under, or is otherwise described in, paragraph (4), (5)(A), or (5)(B) of section 1128(b) of the Social Security Act, the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

(iii) UNNECESSARY SERVICES.—In the case of an exclusion of an individual or entity described in paragraph (6)(B) of section 1128(b) of the Social Security Act, the period of the exclusion shall be not less than 1 year.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(d) NOTICE TO ENTITIES ADMINISTERING PUBLIC PROGRAMS FOR THE DELIVERY OF OR PAYMENT FOR HEALTH CARE ITEMS OR SERVICES.—

(1) IN GENERAL.—The Secretary shall exercise the authority under this section in a manner that results in an individual's or entity's exclusion from all certified standard health plans under such program for the delivery of or payment for health care items or services.

(2) NOTIFICATION.—The Secretary shall promptly notify each sponsor of an applicable health plan and each entity that administers a State health care program described in section 1128(h) of the Social Security Act of the fact and circumstances of each exclusion (together with the period thereof) effected against an individual or entity under this section or under section 5311(b)(3).

(e) NOTICE TO STATE LICENSING AGENCIES.—The provisions of section 1128(e) of the Social Security Act shall apply to this section in the same manner as such provisions apply to sections 1128 and 1128A of such Act.

(f) NOTICE, HEARING, AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Subject to paragraph (2), any individual or entity that is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b) of the Social Security Act, and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g) of such Act, except that such action shall be brought in the Court of Appeals of the United States for the judicial circuit in which the individual or entity resides, or has a principal place of business, or, if the individual or entity does not reside or have a principal place of business within any such judicial circuit, in the United States Court of Appeals for the District of Columbia Circuit.

(2) ADMINISTRATIVE HEARING.—Unless the Secretary determines that the health or safety of individuals receiving services warrants the exclusion taking effect earlier, any individual or entity that is the subject of an adverse determination based on paragraphs (6)(B), (7), (8), (9), (11), (12), (14), or (15) of section 1128(b) of the Social Security Act, shall be entitled to a hearing by an administrative law judge (as provided under section 205(b) of the Social Security Act) on the determination before any exclusion based upon the determination takes effect. If a hearing is requested, the exclusion shall be effective upon the issuance of an order by the administrative law judge upholding the determination of the Secretary to exclude.

(g) CONVICTED DEFINED.—In this section, the term "convicted" has the meaning given such term in section 1128(i) of the Social Security Act.

(h) REQUEST FOR EXCLUSION.—

(1) IN GENERAL.—The sponsor of any standard health plan, the board of any purchasing cooperative, and the Secretary of Labor in the case of a multistate self-insured health plan may request that the Secretary of Health and Human Services exclude an individual or entity with respect to actions under a certified health plan in accordance with this section.

(2) RESPONSE BY SECRETARY.—

(A) IN GENERAL.—An individual or entity excluded (or directed to be excluded) from participation under this section or section 5411(b)(3) may apply to the Secretary, in a manner specified by the Secretary in regulations and at the end of the minimum period of exclusion (or, in the case of an individual or entity described in section 1128(b)(12) of the Social Security Act, the period of exclusion) provided under this section or section 5411(b)(3) and at such other times as the Secretary may provide, for termination of the exclusion.

(B) SECRETARIAL RESPONSE.—The Secretary may terminate the exclusion if the Secretary determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Secretary at the time of the exclusion, that—

(i) there is no basis under this section or section 5411(b)(3) for a continuation of the exclusion, and

(ii) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

(C) NOTIFICATION OF TERMINATION.—The Secretary shall promptly notify each sponsor of an applicable health plan and each entity that administers a State health care program described in section 1128(h) of the Social Security Act of each termination of exclusion made under this paragraph.

(i) EFFECT OF EXCLUSION.—Notwithstanding any other provision of this Act, no payment may be made under a certified standard health plan for the delivery of or payment for any item or service (other than an emergency item or service, not including items or services furnished in an emergency room of a hospital) furnished—

(1) by an individual or entity during the period when such individual or entity is excluded pursuant to this section from participation in a certified standard health plan; or

(2) at the medical direction or on the prescription of a physician during the period when the physician is excluded pursuant to this section from participation in a certified health plan and the person furnishing the item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).

PART 3—AMENDMENTS TO CRIMINAL LAW

SEC. 5321. HEALTH CARE FRAUD.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any purchasing cooperative, certified standard health plan, certified long-term care insurance policy, or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any purchasing cooperative, certified standard health plan, certified long-term care insurance policy, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title) such person shall be imprisoned for any term of years.

"(b) As used in this section the terms 'purchasing cooperative', 'certified standard health plan', and 'certified long-term care insurance policy' have the meanings given those terms in sections 1013(16), 1011(2), and 1011(4) of the Health Security Act, respectively.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 5322. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"§ 668. Theft or embezzlement in connection with health care

"(a) Whoever embezzles, steals, willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, securities, premiums, credits, property, or other assets of a purchasing cooperative, certified standard health plan, certified long-term care insurance policy, or of any fund connected with such a cooperative, plan, or policy, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) As used in this section, the terms 'purchasing cooperative', 'certified standard health plan', and 'certified long-term care insurance policy' have the meanings given those terms in sections 1013(16), 1011(2), and 1011(4) of the Health Security Act, respectively.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"668. Theft or embezzlement in connection with health care.".

SEC. 5323. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1033. False statements relating to health care matters

"(a) Whoever, in any matter involving a purchasing cooperative, certified standard health plan, or certified long-term care insurance policy, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section, the terms 'purchasing cooperative', 'certified standard health plan', and 'certified long-term care insurance policy' have the meanings given those terms in sections 1013(16), 1011(2), and 1011(4) of the Health Security Act, respectively.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 5324. BRIBERY AND GRAFT.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"§ 226. Bribery and graft in connection with health care

"(a) Whoever—

"(1) directly or indirectly, corruptly gives, offers, or promises anything of value to a health care official, or offers or promises a health care official to give anything of value to any other person, with intent—

"(A) to influence any of the health care official's actions, decisions, or duties relating to a purchasing cooperative, certified standard health plan, or certified long-term care insurance policy;

"(B) to influence such an official to commit or aid in the committing, or collude in or allow, any fraud, or make opportunity for the commission of any fraud, on a purchasing cooperative, certified standard health plan, or certified long-term care insurance policy; or

"(C) to induce such an official to engage in any conduct in violation of the lawful duty of such official; or

"(2) being a health care official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to accept anything of value personally or for any other person or entity, the giving of which violates paragraph (1) of this subsection;

shall be fined under this title or imprisoned not more than 15 years, or both.

"(b) Whoever, otherwise than as provided by law for the proper discharge of any duty, directly or indirectly gives, offers, or promises anything of value to a health care official, for or because of any of the health care official's actions, decisions, or duties relating to a purchasing cooperative, certified standard health plan, or certified long-term care insurance policy, shall be fined under this title or imprisoned not more than two years, or both.

"(c) As used in this section—

"(1) the term 'health care official' means—

"(A) an administrator, officer, trustee, fiduciary, custodian, counsel, agent, or employee of any purchasing cooperative, certified standard health plan, or certified long-term care insurance policy;

"(B) an officer, counsel, agent, or employee, of an organization that provides services under contract to any purchasing cooperative, certified standard health plan, or certified long-term care insurance policy;

"(C) an official or employee of a State agency having regulatory authority over any purchasing cooperative, certified standard health plan, or certified long-term care insurance policy;

"(D) an officer, counsel, agent, or employee of a health care sponsor;

"(2) the term 'health care sponsor' means any individual or entity serving as the sponsor of a certified health plan for purposes of the Health Security Act, and includes the joint board of trustees or other similar body used by two or more employers to administer a certified standard health plan for purposes of such Act; and

"(3) the terms 'purchasing cooperative', 'certified standard health plan', and 'certified long-term care insurance policy' have the meanings given those terms in sections 1013(16), 1011(2), and 1011(4) of the Health Security Act, respectively.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"226. Bribery and graft in connection with health care.".

SEC. 5325. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense (as defined in section 5302(d) of the Health Security Act);".

SEC. 5326. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) A person who is privy to grand jury information concerning a health law violation—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any civil proceeding related to a Federal health care offense (as defined in section 5302(d) of the Health Security Act).".

SEC. 5327. FORFEITURES FOR VIOLATIONS OF FRAUD STATUTES.

Section 982(a) of title 18, United States Code, is amended by inserting after paragraph (5) the following:

"(6) The court, in imposing sentence on a person convicted of a Federal health care offense (as defined in section 5302(d) of the Health Security Act), shall order such person to forfeit to the United States any property, real or personal, constituting or traceable to the gross proceeds obtained, directly or indirectly, as a result of the commission of the offense, if the violation results in serious bodily injury (as defined in section 1365).".

PART 4—AMENDMENTS TO CIVIL FALSE CLAIMS ACT

SEC. 5331. AMENDMENTS TO CIVIL FALSE CLAIMS ACT.

Section 3729 of title 31, United States Code, is amended—

(1) in subsection (a)(7), by inserting "or to a certified standard health plan or certified long-term care insurance policy" after "property to the Government";

(2) in the matter following subsection (a)(7), by inserting "or certified standard health plan or certified long-term care insurance policy" before "sustains because of the act of that person,";

(3) at the end of the first sentence of subsection (a), by inserting "or certified standard health plan or certified long-term care insurance policy" before "sustains because of the act of the person.";

(4) in subsection (c)—

(A) by inserting "the term" after "section,"; and

(B) by adding at the end the following: "The term also includes any request or demand, whether under contract of otherwise, for money or property which is made or presented to a certified standard health plan or certified long-term care insurance policy."; and

(5) by adding at the end the following:

"(f) CERTIFIED STANDARD HEALTH PLAN AND CERTIFIED LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the terms 'purchasing cooperative', 'certified standard health plan', and 'certified long-term care insurance policy' have the meanings given those terms in sections 1013(16), 1011(2), and 1011(4) of the Health Security Act, respectively.".

PART 5—EFFECTIVE DATE

SEC. 5341. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, the provisions of, and amendments made by, this subtitle shall be effective on and after January 1, 1996.

Subtitle E—Medical Liability Reform

PART 1—SYSTEM REFORMS

SEC. 5401. FEDERAL TORT REFORM.

(a) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in section 5402, this subtitle shall apply with respect to any medical malpractice liability action brought in any State or Federal court, except that this subtitle shall not apply to a claim or action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the claim or action.

(2) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this subtitle shall be construed to—

(A) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(B) waive or affect any defense of sovereign immunity asserted by the United States;

(C) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(D) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(E) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(3) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

(b) DEFINITIONS.—In this subtitle, the following definitions apply:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of medical malpractice claims in a manner other than through medical malpractice liability actions.

(2) CLAIMANT.—The term "claimant" means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(4) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(5) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice liability action or a medical malpractice claim.

(6) MEDICAL MALPRACTICE LIABILITY ACTION.—The term "medical malpractice liability action" means a cause of action brought in a State or Federal court against a health care provider or health care professional by which the plaintiff brings a medical malpractice claim.

(7) MEDICAL MALPRACTICE CLAIM.—The term "medical malpractice claim" means a claim brought against a health care provider or health care professional in which a claimant alleges that injury was caused by the provision of (or the failure to provide) health care

VOL
140
PT
16
AG
12
—
18
1994
UMI

services, except that such term does not include—

(A) any claim based on an allegation of an intentional tort;

(B) any claim based on an allegation that a product is defective that is brought against any individual or entity that is not a health care professional or health care provider; or

(C) any claim brought pursuant to subtitle F.

SEC. 5402. STATE-BASED ALTERNATIVE DISPUTE RESOLUTION MECHANISMS.

(a) APPLICATION TO MALPRACTICE CLAIMS UNDER PLANS.—Prior to or immediately following the commencement of any medical malpractice action, the parties shall participate in the alternative dispute resolution system administered by the State under subsection (b). Such participation shall be in lieu of any other provision of Federal or State law or any contractual agreement made by or on behalf of the parties prior to the commencement of the medical malpractice action.

(b) ADOPTION OF MECHANISM BY STATE.—Each State shall—

(1) maintain or adopt at least one of the alternative dispute resolution methods satisfying the requirements specified under subsection (c) and (d) for the resolution of medical malpractice claims arising from the provision of (or failure to provide) health care services to individuals enrolled in a standard health plan; and

(2) clearly disclose to enrollees (and potential enrollees) the availability and procedures for consumer grievances, including a description of the alternative dispute resolution method or methods adopted under this subsection.

(c) SPECIFICATION OF PERMISSIBLE ALTERNATIVE DISPUTE RESOLUTION METHODS.—

(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall, by regulation, develop alternative dispute resolution methods for the use by States in resolving medical malpractice claims under subsection (a). Such methods shall include at least the following:

(A) ARBITRATION.—The use of arbitration, a nonjury adversarial dispute resolution process which may, subject to subsection (d), result in a final decision as to facts, law, liability or damages.

(B) CLAIMANT-REQUESTED BINDING ARBITRATION.—For claims involving a sum of money that falls below a threshold amount set by the Secretary, the use of arbitration not subject to subsection (d). Such binding arbitration shall be at the sole discretion of the claimant.

(C) MEDIATION.—The use of mediation, a settlement process coordinated by a neutral third party without the ultimate rendering of a formal opinion as to factual or legal findings.

(D) EARLY NEUTRAL EVALUATION.—The use of early neutral evaluation, in which the parties make a presentation to a neutral attorney or other neutral evaluator for an assessment of the merits, to encourage settlement. If the parties do not settle as a result of assessment and proceed to trial, the neutral evaluator's opinion shall be kept confidential.

(2) STANDARDS FOR ESTABLISHING METHODS.—In developing alternative dispute resolution methods under paragraph (1), the Attorney General shall assure that the methods promote the resolution of medical malpractice claims in a manner that—

(A) is affordable for the parties involved;

(B) provides for timely resolution of claims;

(C) provides for the consistent and fair resolution of claims; and

(D) provides for reasonably convenient access to dispute resolution for individuals enrolled in plans.

(3) WAIVER AUTHORITY.—Upon application of a State, the Attorney General, in consultation with the Secretary, may grant the State the authority to fulfill the requirement of subsection (b) by adopting a mechanism other than a mechanism established by the Attorney General pursuant to this subsection, except that such mechanism must meet the standards set forth in paragraph (2).

(d) FURTHER REDRESS.—Except with respect to the claimant-requested binding arbitration method set forth in subsection (c)(1)(B), and notwithstanding any other provision of a law or contractual agreement, a plan enrollee dissatisfied with the determination reached as a result of an alternative dispute resolution method applied under this section may, after the final resolution of the enrollee's claim under the method, initiate or resume a cause of action to seek damages or other redress with respect to the claim, to the extent otherwise permitted under State law. The results of any alternative dispute resolution procedure are inadmissible at any subsequent trial, as are all statements, offers, and other communications made during such procedures, unless otherwise admissible under State law.

SEC. 5403. REQUIREMENT OF CERTIFICATE OF MERIT.

(a) REQUIRING SUBMISSION WITH COMPLAINT.—Except as provided in subsection (c) and subject to the penalties of subsection (e), no medical malpractice liability action may be brought by any individual unless, at the time the individual commences such action, the individual or the individual's attorney submits an affidavit declaring that—

(1) the individual (or the individual's attorney) has consulted and reviewed the facts of the claim with a qualified specialist (as defined in subsection (d));

(2) the individual or the individual's attorney has obtained a written report by a qualified specialist that clearly identifies the individual and that includes the specialist's determination that, based upon a review of the available medical record and other relevant material, a reasonable medical interpretation of the facts supports a finding that the claim against the defendant is meritorious and based on good cause; and

(3) on the basis of the qualified specialist's review and consultation, the individual (or the individual's attorney) has concluded that the claim is meritorious and based on good cause.

(b) IDENTITY OF SPECIALIST.—Only upon a showing of good cause may a court order that the identity of the specialist used for purposes of subsection (a) be revealed. In such an event, such identity shall be reviewed by the court on an in camera basis only.

(c) EXTENSION IN CERTAIN INSTANCES.—

(1) IN GENERAL.—Subject to paragraph (2), subsection (a) shall not apply with respect to an individual who brings a medical malpractice liability action without submitting an affidavit described in such subsection if—

(A) despite good faith efforts, the individual is unable to obtain the written report before the expiration of the applicable statute of limitations;

(B) despite good faith efforts, at the time the individual commences the action, the individual has been unable to obtain medical records or other information necessary, pursuant to any applicable law, to prepare the written report requested; or

(C) the court of competent jurisdiction determines that the affidavit requirement shall be extended upon a showing of good cause.

(2) DEADLINE FOR SUBMISSION WHERE EXTENSION APPLIES.—In the case of an individual who brings an action to which paragraph (1) applies, the action shall be dismissed unless the individual submits the affidavit described in subsection (a) not later than—

(A) in the case of an action to which subparagraph (A) of paragraph (1) applies, 90 days after commencing the action; or

(B) in the case of an action to which subparagraph (B) of paragraph (1) applies, 90 days after obtaining the information described in such subparagraph or when good cause for an extension no longer exists.

(d) QUALIFIED SPECIALIST DEFINED.—

(1) IN GENERAL.—As used in subsection (a), the term "qualified specialist" means, with respect to a medical malpractice liability action, a health care professional who is reasonably believed by the individual bringing the action (or the individual's attorney) to have expertise in the same or substantially similar area of practice to that involved in the action.

(2) EVIDENCE OF EXPERTISE.—For purposes of paragraph (1), evidence of required expertise may include evidence that the individual—

(A) practices (or has practiced) or teaches (or has taught) in the same or substantially similar area of health care or medicine to that involved in the action; or

(B) is otherwise qualified by experience or demonstrated competence in the relevant practice area.

(e) SANCTIONS FOR SUBMITTING FALSE AFFIDAVIT.—Upon the motion of any party or on its own initiative, the court in a medical malpractice liability action may impose a sanction on a party, the party's attorney, or both, for—

(1) any knowingly false statement made in an affidavit described in subsection (a);

(2) making any false representations in order to obtain a qualified specialist's report; or

(3) failing to have the qualified specialist's written report in his or her custody and control;

and may require that the sanctioned party reimburse the other party to the action for costs and reasonable attorney's fees.

SEC. 5404. LIMITATION ON AMOUNT OF ATTORNEY'S CONTINGENCY FEES.

(a) IN GENERAL.—An attorney who represents, on a contingency fee basis, a plaintiff in a medical malpractice liability action may not charge, demand, receive, or collect for services rendered in connection with such action (including the resolution of the claim that is the subject of the action under any alternative dispute resolution system) in excess of—

(1) 33⅓ percent of the first $150,000 of the total amount recovered by judgment or settlement in such action; plus

(2) 25 percent of any amount recovered above the amount described in paragraph (1);

unless otherwise determined under State law. Such amount shall be computed after deductions are made for all the expenses associated with the claim other than those attributable to the normal operating expenses of the attorney.

(b) CALCULATION OF PERIODIC PAYMENTS.—In the event that a judgment or settlement includes periodic or future payments of damages, the amount recovered for purposes of computing the limitation on the contingency fee under subsection (a) may, in the discretion of the court, be based on the cost of the annuity or trust established to make the payments. In any case in which an annuity or trust is not established to make such payments, such amount shall be based on the present value of the payments.

(c) CONTINGENCY FEE DEFINED.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 5405. PERIODIC PAYMENT OF AWARDS.

(a) IN GENERAL.—A party to a medical malpractice liability action may petition the court to instruct the trier of fact to award any future damages on an appropriate periodic basis. If the court, in its discretion, so instructs the trier of fact, and damages are awarded on a periodic basis, the court may require the defendant to purchase an annuity or other security instrument (typically based on future damages discounted to present value) adequate to assure payments of future damages.

(b) FAILURE OR INABILITY TO PAY.—With respect to an award of damages described in subsection (a), if a defendant fails to make payments in a timely fashion, or if the defendant becomes or is at risk of becoming insolvent, upon such a showing the claimant may petition the court for an order requiring that remaining balance be discounted to present value and paid to the claimant in a lump-sum.

(c) MODIFICATION OF PAYMENT SCHEDULE.—The court shall retain authority to modify the payment schedule based on changed circumstances.

(d) FUTURE DAMAGES DEFINED.—As used in this section, the term "future damages" means any economic or noneconomic loss other than that incurred or accrued as of the time of judgment.

SEC. 5406. FEDERAL STUDY ON MEDICAL NEGLIGENCE.

(a) STUDY.—To improve the level of empirical data on the incidence and effect of medical negligence in the United States, the Secretary of Health and Human Services shall commission and oversee a nationwide interdisciplinary study to evaluate—

(1) the incidence of injuries resulting from medical treatment, including a determination of the percentage of such injuries that resulted from the negligence of a physician, other health care provider or health care institution;

(2) the costs of medical expenses and lost wages to the victims of medical negligence and their families, and their compensation for such losses under the current malpractice system;

(3) methods to reduce the incidence and costs of medical negligence; and

(4) methods to promote the efficient and fair resolution of legal claims stemming from the incidence of medical negligence.

(b) ACCESS TO RECORDS.—For the purposes of the study conducted under subsection (a), the Secretary of Health and Human Services shall have the powers necessary to access hospital patients' records while maintaining patient confidentiality.

(c) REPORT TO CONGRESS.—Not later than 3 years after the commission of the study under subsection (a), the study shall be completed and the Secretary of Health and Human Services shall prepare and submit to Congress a report describing the findings of the study.

PART 2—DEMONSTRATION PROJECT RELATING TO MEDICAL MALPRACTICE LIABILITY

SEC. 5411. PILOT PROGRAM APPLYING PRACTICE GUIDELINES TO MEDICAL MALPRACTICE LIABILITY ACTIONS.

(a) ESTABLISHMENT.—Not later than 1 year after the Secretary of Health and Human Services determines that appropriate practice guidelines are available and were developed with the input of health care providers, legal professionals and consumer representatives, the Secretary shall establish pilot programs under which the Secretary shall provide funds (in such amounts as the Secretary determines appropriate) to one or more eligible States to determine the effect of applying practice guidelines in the resolution of medical malpractice liability actions.

(b) ELIGIBILITY OF STATE.—To be eligible to participate in a pilot program under subsection (a), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) assurances that, under the law of the State, in the resolution of any medical malpractice liability action, compliance or noncompliance with an appropriate practice guideline shall be admissible by either party at trial as presumptive evidence of nonliability or liability for medical negligence; and

(2) such other information and assurances as the Secretary may require.

(c) REPORTS TO CONGRESS.—Not later than 3 months after the last day of each year for which a pilot program established under subsection (a) is in effect, the Secretary of Health and Human Services shall prepare and submit to Congress a report describing the operation of the program during the year for which the report is submitted. Such report shall contain such recommendations as the Secretary considers appropriate, include recommendations relating to revisions to the laws governing medical practice liability.

SEC. 5412. ENTERPRISE LIABILITY DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a demonstration project under which the Secretary shall provide funds (in such amount as the Secretary considers appropriate) to one or more eligible States to demonstrate whether substituting liability for medical malpractice on the part of the health plan in which a physician participates for the personal liability of the physician will result in improvements in the quality of care provided under the plan, reductions in defensive medical practices, and better risk management.

(b) ELIGIBILITY OF STATE.—A State is eligible to participate in the demonstration project established under subsection (a) if the State submits an application to the Secretary (at such time and in such form as the Secretary may require) containing such information and assurances as the Secretary may require, including assurances that the State—

(1) has entered into an agreement with a health plan (other than a fee-for-service plan) operating in the State under which the plan assumes legal liability with respect to any medical malpractice claim arising from the provision of (or failure to provide) services under the plan by any physician participating in the plan;

(2) has provided that, under the law of the State, a physician participating in a plan that has entered into an agreement with the State under paragraph (1) may not be liable in damages or otherwise for such a claim and the plan may not require such physician to indemnify the plan for any such liability; and

(3) will provide the Secretary with such reports on the operation of the project as the Secretary may require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out demonstration projects under this section.

Subtitle F—Remedies and Enforcement

PART 1—REVIEW OF BENEFIT DETERMINATIONS FOR ENROLLED INDIVIDUALS

Subpart A—General Rules

SEC. 5501. HEALTH PLAN CLAIMS PROCEDURE.

(a) DEFINITIONS.—For purposes of this section—

(1) CLAIM.—The term "claim" means a claim for payment or provision of benefits under a health plan, a request for preauthorization of items or services which is submitted to a health plan prior to receipt of the items or services, or the denial, reduction or termination of any service or request for a referral or reimbursement.

(2) INDIVIDUAL CLAIMANT.—The term "individual claimant" with respect to a claim means any individual who submits the claim to a health plan in connection with the individual's enrollment under the plan, or on whose behalf the claim is submitted to the plan by a provider.

(3) PROVIDER CLAIMANT.—The term "provider claimant" with respect to a claim means any provider who submits the claim to a health plan with respect to items or services provided to an individual enrolled under the plan.

(b) GENERAL RULES GOVERNING TREATMENT OF CLAIMS.—

(1) ADEQUATE NOTICE OF DISPOSITION OF CLAIM.—In any case in which a claim is submitted in complete form to a health plan, the plan shall provide to the individual claimant and any provider claimant with respect to the claim a written notice of the plan's approval or denial of the claim within 15 days after the date of the submission of the claim. The notice to the individual claimant shall be written in language calculated to be understood by the typical individual enrolled under the plan and in a form which takes into account accessibility to the information by individuals whose primary language is not English. In the case of a denial of the claim, the notice shall be provided within 5 days after the date of the determination to deny the claim, and shall set forth the specific reasons for the denial. Such notice shall include an explanation of the specific reasons and facts underlying the decision to reduce or fail to provide services or pay the claim. The notice of a denial shall clearly explain the right to appeal the denial under paragraph (2) and a description of the process for appealing such decision sufficient to allow the claimant to initiate an appeal and submit evidence to the decision maker in support of the position of the claimant. Failure by any plan to comply with the requirements of this paragraph with respect to any claim submitted to the plan shall be treated as approval by the plan of the claim.

(2) PLAN'S DUTY TO REVIEW DENIALS UPON TIMELY REQUEST.—The plan shall review its denial of the claim if an individual claimant or provider claimant with respect to the claim submits to the plan a written request for reconsideration of the claim after receipt of written notice from the plan of the denial. The plan shall allow any such claimant not less than 60 days, after receipt of written notice from the plan of the denial, to submit

VOL 140 PT 16 AG 12 — 18 1994 UMI

the claimant's request for reconsideration of the claim.

(3) TIME LIMIT FOR REVIEW.—The plan shall complete any review required under paragraph (2), and shall provide the individual claimant and any provider claimant with respect to the claim written notice of the plan's decision on the claim after reconsideration pursuant to the review, within 30 days after the date of the receipt of the request for reconsideration.

(4) DE NOVO REVIEWS.—Any review required under paragraph (2)—

(A) shall be de novo,

(B) shall be conducted by an individual who did not make the initial decision denying the claim and who is authorized to approve the claim, and

(C) shall include review by a qualified physician in the same speciality as the treating physician if the resolution of any issues involved requires medical expertise.

(c) TREATMENT OF URGENT REQUESTS TO PLANS FOR PREAUTHORIZATION.—

(1) IN GENERAL.—This subsection applies in the case of any claim submitted by an individual claimant or a provider claimant consisting of a request for preauthorization of items or services which is accompanied by an attestation that—

(A) failure to immediately provide the items or services could reasonably be expected to result in—

(i) placing the health of the individual claimant (or, with respect to an individual claimant who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

(ii) serious impairment to bodily functions, or

(iii) serious dysfunction of any bodily organ or part,

or

(B) immediate provision of the items or services is necessary because the individual claimant has made or is at serious risk of making an attempt to harm such individual claimant or another individual.

(2) SHORTENED TIME LIMIT FOR CONSIDERATION OF REQUESTS FOR PREAUTHORIZATION.—Notwithstanding subsection (b)(1), a health plan shall approve or deny any claim described in paragraph (1) within 12 hours after submission of the claim to the plan. Failure by the plan to comply with the requirements of this paragraph with respect to the claim shall be treated as approval by the plan of the claim.

(3) EXPEDITED EXHAUSTION OF PLAN REMEDIES.—Any claim described in paragraph (1) which is denied by the plan shall be treated as a claim with respect to which all remedies under the plan provided pursuant to this section are exhausted, irrespective of any review provided under subsection (b)(2).

(4) DENIAL OF PREVIOUSLY AUTHORIZED CLAIMS NOT PERMITTED.—In any case in which a health plan approves a claim described in paragraph (1)—

(A) the plan may not subsequently deny payment or provision of benefits pursuant to the claim, unless the plan makes a showing of an intentional misrepresentation of a material fact by the individual claimant, and

(B) in the case of a violation of subparagraph (A) in connection with the claim, all remedies under the plan provided pursuant to this section with respect to the claim shall be treated as exhausted.

(d) TIME LIMIT FOR DETERMINATION OF INCOMPLETENESS OF CLAIM.—For purposes of this section—

(1) any claim submitted by an individual claimant and accepted by a provider serving under contract with a health plan and any claim described in subsection (b)(1) shall be treated with respect to the individual claimant as submitted in complete form, and

(2) any other claim for benefits under the plan shall be treated as filed in complete form as of 10 days after the date of the submission of the claim, unless the plan provides to the individual claimant and any provider claimant, within such period, a written notice of any required matter remaining to be filed in order to complete the claim.

Any filing by the individual claimant or the provider claimant of additional matter requested by the plan pursuant to paragraph (2) shall be treated for purposes of this section as an initial filing of the claim.

(e) ADDITIONAL NOTICE AND DISCLOSURE REQUIREMENTS FOR HEALTH PLANS.—In the case of a denial of a claim for benefits under a health plan, the plan shall include, together with the specific reasons provided to the individual claimant and any provider claimant under subsection (b)(1)—

(1) if the denial is based in whole or in part on a determination that the claim is for an item or service which is not covered by the standard benefit package or exceeds payment rates under the applicable fee schedule, the factual basis for the determination,

(2) if the denial is based in whole or in part on exclusion of coverage with respect to services because the services are determined to comprise an experimental treatment or investigatory procedure, the medical basis for the determination and a description of the process used in making the determination, and

(3) if the denial is based in whole or in part on a determination that the treatment is not medically necessary or appropriate or is inconsistent with the plan's practice guidelines, the medical basis for the determination, the guidelines used in making the determination, and a description of the process used in making the determination.

(f) WAIVER OF RIGHTS PROHIBITED.—A health plan may not require any party to waive any right under the plan or this Act as a condition for approval of any claim under the plan, except to the extent otherwise specified in a formal settlement agreement.

SEC. 5502. REVIEW IN AREA COMPLAINT REVIEW OFFICES OF GRIEVANCES BASED ON ACTS OR PRACTICES BY HEALTH PLANS.

(a) COMPLAINT REVIEW OFFICES.—

(1) IN GENERAL.—In accordance with rules which shall be prescribed by the Secretary of Labor, each State shall establish and maintain a complaint review office for each community rating area established by such State. According to designations which shall be made by each State under regulations of the Secretary of Labor, the complaint review office for a community rating area established by such State shall also serve as the complaint review office for large group sponsors operating in the State with respect to individuals who are enrolled under health plans maintained by such sponsors and who reside within the area of the community rating area.

(2) HEALTH SYSTEMS NOT ESTABLISHED BY STATES.—In the case of any health care system established in any State by the Secretary of Health and Human Services, the Secretary of Health and Human Services shall assume all duties and obligations of such State under this part in accordance with the applicable regulations of the Secretary of Labor under this part.

(b) FILINGS OF COMPLAINTS BY AGGRIEVED PERSONS.—In the case of any person who is aggrieved by—

(1) any act or practice engaged in by any health plan which consists of or results in denial of payment or provision of benefits under the plan or delay in the payment or provision of benefits, or

(2) any act or practice engaged in by any other plan maintained in a community rating area or by a large group sponsor which consists of or results in denial of payment or provision of benefits under a supplemental benefit policy or a cost sharing policy or delay in the payment or provision of the benefits,

if the claimant alleges that the denial or delay consists of a failure to comply with the terms of the plan (including the provision of benefits in full when due in accordance with the terms of the plan), or with the applicable requirements of this Act, such person may file a complaint with the appropriate complaint review office.

(c) EXHAUSTION OF PLAN REMEDIES.—Any complaint including a claim to which section 5501 applies may not be filed until the complainant has exhausted all remedies provided under the plan with respect to the claim in accordance with such section.

(d) FORM OF COMPLAINT.—The complaint shall be in writing under oath or affirmation, shall set forth the complaint in a manner calculated to give notice of the nature of the complaint, and shall contain such information as may be prescribed in regulations of the Secretary of Labor.

(e) NOTICE OF FILING.—The complaint review office shall serve by certified mail a notice of the complaint (including the date, place, and circumstances of the alleged violation) on the person or persons alleged in the complaint to have committed the violation within 10 days after the filing of the complaint.

(f) TIME LIMITATION.—Complaints may not be brought under this section with respect to any violation later than one year after the date on which the complaining party knows or should have reasonably known that a violation has occurred. This subsection shall not prevent the subsequent amending of a complaint.

SEC. 5503. INITIAL PROCEEDINGS IN COMPLAINT REVIEW OFFICES.

(a) ELECTIONS.—Whenever a complaint is brought to the complaint review office under section 5502(b), the complaint review office shall provide the complainant with an opportunity, in such form and manner as shall be prescribed in regulations of the Secretary of Labor, to elect one of the following:

(1) To forego further proceedings in the complaint review office and rely on remedies available in a court of competent jurisdiction.

(2) To submit the complaint as a dispute under the Early Resolution Program established under subpart B and thereby suspend further review proceedings under this section pending termination of proceedings under the Program.

(3) In any case in which an election under paragraph (1) or (2) is not made, or an election under paragraph (2) was made but resolution of all matters in the complaint was not obtained upon termination of proceedings pursuant to the election by settlement agreement or otherwise, to proceed with the complaint to a hearing in the complaint review office under section 5504 regarding the unresolved matters.

(b) DUTY OF COMPLAINT REVIEW OFFICE.—The complaint review office shall provide (in a linguistically appropriate manner) an explanation to complainants bringing complaints to the office concerning the legal and other ramifications of each option available under this section.

(c) EFFECT OF PARTICIPATION IN EARLY RESOLUTION PROGRAM.—Any matter in a complaint brought to the complaint review office which is included in a dispute which is timely submitted to the Early Resolution Program established under subpart B shall not be assigned to a hearing under section 5504 unless the proceedings under the Program with respect to the dispute are terminated without settlement or resolution of the dispute with respect to such matter. Upon termination of any proceedings regarding a dispute submitted to the Program, the applicability of this section to any matter in a complaint which was included in the dispute shall not be affected by participation in the proceedings, except to the extent otherwise required under the terms of any settlement agreement or other formal resolution obtained in the proceedings.

SEC. 5504. HEARINGS BEFORE HEARING OFFICERS IN COMPLAINT REVIEW OFFICES.

(a) HEARING PROCESS.—

(1) ASSIGNMENT OF COMPLAINTS TO HEARING OFFICERS AND NOTICE TO PARTIES.—

(A) IN GENERAL.—In the case of an election under section 5503(a)(3)—

(i) the complaint review office shall assign the complaint, and each motion in connection with the complaint, to a hearing officer employed by the State in the office; and

(ii) the hearing officer shall have the power to issue and cause to be served upon the plan named in the complaint a copy of the complaint and a notice of hearing before the hearing officer at a place fixed in the notice, not less than 5 days after the serving of the complaint.

(B) QUALIFICATIONS FOR HEARING OFFICERS.—No individual may serve in a complaint review office as a hearing officer unless the individual meets standards which shall be prescribed by the Secretary of Labor. Such standards shall include experience, training, ability to communicate with the enrollee, affiliations, diligence, absence of actual or potential conflicts of interest, and other qualifications deemed relevant by the Secretary of Labor. At no time shall a hearing officer have any official, financial, or personal conflict of interest with respect to issues in controversy before the hearing officer.

(2) AMENDMENT OF COMPLAINTS.—Any such complaint may be amended by the hearing officer conducting the hearing, upon the motion of the complainant, in the hearing officer's discretion at any time prior to the issuance of an order based thereon.

(3) ANSWERS.—The party against whom the complaint is filed shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint.

(b) ADDITIONAL PARTIES.—In the discretion of the hearing officer conducting the hearing, any other person may be allowed to intervene in the proceeding and to present testimony.

(c) HEARINGS.—

(1) DE NOVO HEARING.—Each hearing officer shall hear complaints and motions de novo.

(2) TESTIMONY.—The testimony taken by the hearing officer shall be reduced to writing. Thereafter, the hearing officer, in his or her discretion, upon notice may provide for the taking of further testimony or hear argument.

(3) AUTHORITY OF HEARING OFFICERS.—The hearing officer may compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the hearing officer, an appropriate district court of the United States may issue an order requiring compliance with the subpoena and any failure to obey the order may be punished by the court as a contempt thereof. The hearing officer may also seek enforcement of the subpoena in a State court of competent jurisdiction.

(4) EXPEDITED HEARINGS.—Notwithstanding section 5503 and the preceding provisions of this section, upon receipt of a complaint containing a claim described in section 5501(c)(1), the complaint review office shall promptly provide the complainant with the opportunity to make an election under section 5503(a)(3) and assignment to a hearing on the complaint before a hearing officer. The complaint review office shall ensure that such a hearing commences not later than 24 hours after receipt of the complaint by the complaint hearing office and not later than 3 days after the receipt of a complaint, the Complaint Review Office shall provide a decision.

(d) DECISION OF HEARING OFFICER.—

(1) IN GENERAL.—Not later than 120 days after the date on which a complaint is assigned under this section, the hearing officer shall decide if the preponderance of the evidence justifies the denial of services and whether to decide in favor of the complainant with respect to each alleged act or practice. Each such decision—

(A) shall include the hearing officer's findings of fact, and

(B) shall constitute the hearing officer's final disposition of the proceedings.

(2) DECISIONS FINDING IN FAVOR OF COMPLAINANT.—If the hearing officer's decision includes a determination that any party named in the complaint has engaged in or is engaged in an act or practice described in section 5502(b), the hearing officer shall issue and cause to be served on such party an order which requires such party—

(A) to cease and desist from such act or practice,

(B) to provide the benefits due under the terms of the plan and to otherwise comply with the terms of the plan and the applicable requirements of this Act,

(C) to pay to the complainant prejudgment interest on the actual costs incurred in obtaining the items and services at issue in the complaint,

(D) to pay to the prevailing complainant a reasonable attorney's fee, reasonable expert witness fees, and other reasonable costs relating to the hearing on the charges on which the complainant prevails, and

(E) to provide other appropriate relief.

(3) DECISIONS NOT IN FAVOR OF COMPLAINANT.—If the hearing officer's decision includes a determination that the party named in the complaint has not engaged in or is not engaged in an act or practice referred to in section 5502(b), the hearing officer—

(A) shall include in the decision a dismissal of the charge in the complaint relating to the act or practice, and

(B) upon a finding that such charge is frivolous, shall issue and cause to be served on the complainant an order which requires the complainant to pay to such party a reasonable attorney's fee, reasonable expert witness fees, and other reasonable costs relating to the proceedings on such charge.

(4) SUBMISSION AND SERVICE OF DECISIONS.—The hearing officer shall submit each decision to the complaint review office at the conclusion of the proceedings and the office shall cause a copy of the decision to be served on the parties to the proceedings.

(e) FINAL DECISION.—The decision of the hearing officer shall be final and binding upon all parties.

(f) COURT ENFORCEMENT OF ORDERS.—

(1) IN GENERAL.—The complainant may petition any court of competent jurisdiction for enforcement of the order. In any such proceeding, the order of the hearing officer shall not be subject to review.

(2) AWARDING OF COSTS.—In any action for court enforcement under this subsection, a prevailing complainant shall be entitled to a reasonable attorney's fee, reasonable expert witness fees, and other reasonable costs relating to such action.

SEC. 5506. CIVIL MONEY PENALTIES.

(a) DENIAL OR DELAY IN PAYMENT OR PROVISION OF BENEFITS.—

(1) IN GENERAL.—The Secretary of Labor may assess a civil penalty against any health plan, or against any other plan in connection with benefits provided thereunder under a supplemental benefit policy or a cost sharing policy, for unreasonable denial or delay in the payment or provision of benefits thereunder, in an amount not to exceed—

(A) $25,000 per violation, or $75,000 per violation in the case of a finding of bad faith on the part of the plan, and

(B) in the case of a finding of a pattern or practice of such violations engaged in by the plan, $1,000,000 in addition to the total amount of penalties assessed under subparagraph (A) with respect to such violations.

For purposes of subparagraph (A), each violation with respect to any single individual shall be treated as a separate violation.

(2) CIVIL ACTION TO ENFORCE CIVIL PENALTY.—The Secretary of Labor may commence a civil action in any court of competent jurisdiction to enforce a civil penalty assessed under paragraph (1).

(3) SUPPLEMENTAL PLANS.—Nothing in this section shall be construed to limit the rights and remedies available under State law with respect to supplemental benefit plans.

(b) CIVIL PENALTIES FOR CERTAIN OTHER ACTIONS.—The Secretary of Labor may assess a civil penalty described in section 5505(b)(1) against any experience-rated health plan, or against any other plan sponsored by a large employer group purchaser in connection with benefits provided thereunder under a cost sharing policy, for any action described in section 5505(a). The Secretary of Labor may initiate proceedings to impose such penalty in the same manner as the Secretary of Health and Human Services may initiate proceedings under section 5505 with respect to actions described in section 5505(a).

Subpart B—Early Resolution Programs

SEC. 5511. ESTABLISHMENT OF EARLY RESOLUTION PROGRAMS IN COMPLAINT REVIEW OFFICES.

(a) ESTABLISHMENT OF PROGRAMS.—Each State shall establish and maintain an Early Resolution Program in each complaint review office in such State. The Program shall include—

(1) the establishment and maintenance of forums for mediation of disputes in accordance with this subpart, and

(2) the establishment and maintenance of such forums for other forms of alternative dispute resolution (including binding arbitration) as may be prescribed in regulations of the Secretary of Labor.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Each State shall ensure that the standards applied in Early Resolution Programs administered in such State which apply to any form of alternative dispute resolution described in paragraph (2) and which relate to time requirements, qualifications of facilitators, arbitrators, or other mediators, and confidentiality are at least equivalent to the standards which apply to mediation proceedings under this subpart.

(b) DUTIES OF COMPLAINT REVIEW OFFICES.—Each complaint review office in a State—

(1) shall administer its Early Resolution Program in accordance with regulations of the Secretary of Labor,

(2) shall, pursuant to subsection (a)(1)—

(A) recruit and train individuals to serve as facilitators for mediation proceedings under the Early Resolution Program from attorneys who have the requisite expertise for such service, which shall be specified in regulations of the Secretary of Labor,

(B) provide meeting sites, maintain records, and provide facilitators with administrative support staff, and

(C) establish and maintain attorney referral panels,

(3) shall ensure that, upon the filing of a complaint with the office, the complainant is adequately apprised of the complainant's options for review under this part, and

(4) shall monitor and evaluate the Program on an ongoing basis.

SEC. 5512. INITIATION OF PARTICIPATION IN MEDIATION PROCEEDINGS.

(a) ELIGIBILITY OF CASES FOR SUBMISSION TO EARLY RESOLUTION PROGRAM.—A dispute may be submitted to the Early Resolution Program only if the following requirements are met with respect to the dispute:

(1) NATURE OF DISPUTE.—The dispute consists of—

(A) an assertion by an individual enrolled under a health plan of one or more claims against the health plan for payment or provision of benefits, or against any other health plan with respect to benefits provided under a supplemental benefit policy or a cost sharing policy, based on alleged coverage under the plan; and

(B) a denial by the plan of the claims, or a denial of appropriate reimbursement based on the claims, by the plan.

(2) NATURE OF DISPUTED CLAIM.—Each claim consists of—

(A) a claim for payment or provision of benefits under the plan; or

(B) a request for information or documents the disclosure of which is required under this Act (including claims of entitlement to disclosure based on colorable claims to rights to benefits under the plan).

(b) FILING OF ELECTION.—A complainant with a dispute which is eligible for submission to the Early Resolution Program may make the election under section 5503(a)(2) to submit the dispute to mediation proceedings under the Program not later than 15 days after the date the complaint is filed with the complaint review office under section 5502(b).

(c) AGREEMENT TO PARTICIPATE.—

(1) ELECTION BY CLAIMANT.—A complainant may elect participation in the mediation proceedings only by entering into a written participation agreement (including an agreement to comply with the rules of the Program and consent for the complaint review office to contact the health plan regarding the agreement), and by releasing plan records to the Program for the exclusive use of the facilitator assigned to the dispute.

(2) PARTICIPATION BY PLANS OR HEALTH BENEFITS CONTRACTORS.—Each party whose participation in the mediation proceedings has been elected by a claimant pursuant to paragraph (1) shall participate in, and cooperate fully with, the proceedings. The claims review office shall provide such party with a copy of the participation agreement described in paragraph (1), together with a written description of the Program. Such party shall submit the copy of the agreement, together with its authorized signature signifying receipt of notice of the agreement, to the claims review office, and shall include in the submission to the claims review office a copy of the written record of the plan claims procedure completed pursuant to section 5501 with respect to the dispute and all relevant plan documents. The relevant documents shall include all documents under which the plan is or was administered or operated, including copies of any insurance contracts under which benefits are or were provided and any fee or reimbursement schedules for health care providers.

SEC. 5513. MEDIATION PROCEEDINGS.

(a) ROLE OF FACILITATOR.—In the course of mediation proceedings under the Early Resolution Program, the facilitator assigned to the dispute shall prepare the parties for a conference regarding the dispute and serve as a neutral mediator at such conference, with the goal of achieving settlement of the dispute.

(b) PREPARATIONS FOR CONFERENCE.—In advance of convening the conference, after identifying the necessary parties and confirming that the case is eligible for the Program, the facilitator shall analyze the record of the claims procedure conducted pursuant to section 5501 and any position papers submitted by the parties to determine if further case development is needed to clarify the legal and factual issues in dispute, and whether there is any need for additional information and documents.

(c) CONFERENCE.—Upon convening the conference, the facilitator shall assist the parties in identifying undisputed issues and exploring settlement. If settlement is reached, the facilitator shall assist in the preparation of a written settlement agreement. If no settlement is reached, the facilitator shall present the facilitator's evaluation, including an assessment of the parties' positions, the likely outcome of further administrative action or litigation, and suggestions for narrowing the issues in dispute.

(d) TIME LIMIT.—The facilitator shall ensure that mediation proceedings with respect to any dispute under the Early Resolution Program shall be completed within 120 days after the election to participate. The parties may agree to one extension of the proceedings by not more than 30 days if the proceedings are suspended to obtain an agency ruling or to reconvene the conference in a subsequent session.

(e) INAPPLICABILITY OF FORMAL RULES.—Formal rules of evidence shall not apply to mediation proceedings under the Early Resolution Program. All statements made and evidence presented in the proceedings shall be admissible in the proceedings. The facilitator shall be the sole judge of the proper weight to be afforded to each submission. The parties to mediation proceedings under the Program shall not be required to make statements or present evidence under oath.

(f) REPRESENTATION.—Parties may participate pro se or be represented by attorneys throughout the proceedings of the Early Resolution Program.

(g) CONFIDENTIALITY.—

(1) IN GENERAL.—Under regulations of the Secretary of Labor, rules similar to the rules under section 574 of title 5, United States Code (relating to confidentiality in dispute resolution proceedings) shall apply to the mediation proceedings under the Early Resolution Program.

(2) CIVIL REMEDIES.—The Secretary of Labor may assess a civil penalty against any person who discloses information in violation of the regulations prescribed pursuant to paragraph (1) in the amount of three times the amount of the claim involved. The Secretary of Labor may bring a civil action to enforce such civil penalty in any court of competent jurisdiction.

SEC. 5514. LEGAL EFFECT OF PARTICIPATION IN MEDIATION PROCEEDINGS.

(a) PROCESS NONBINDING.—Findings and conclusions made in the mediation proceedings of the Early Resolution Program shall be treated as advisory in nature and nonbinding. Except as provided in subsection (b), the rights of the parties under subpart A shall not be affected by participation in the Program.

(b) RESOLUTION THROUGH SETTLEMENT AGREEMENT.—If a case is settled through participation in mediation proceedings under the Program, the facilitator shall assist the parties in drawing up an agreement which shall constitute, upon signature of the parties, a binding contract between the parties, which shall be enforceable under section 5515.

(c) PRESERVATION OF RIGHTS OF NON-PARTIES.—The settlement agreement shall not have the effect of waiving or otherwise affecting any rights to review under subpart A, or any other right under this Act or the plan, with respect to any person who is not a party to the settlement agreement.

SEC. 5515. ENFORCEMENT OF SETTLEMENT AGREEMENTS.

(a) ENFORCEMENT.—Any party to a settlement agreement entered pursuant to mediation proceedings under this subpart may petition any court of competent jurisdiction for the enforcement of the agreement, by filing in the court a written petition praying that the agreement be enforced. In such a proceeding, the order of the hearing officer shall not be subject to review.

(b) COURT REVIEW.—It shall be the duty of the court to advance on the docket and to expedite to the greatest possible extent the disposition of any petition filed under this section, with due deference to the role of settlement agreements under this part in achieving prompt resolution of disputes involving health plans.

(c) AWARDING OF ATTORNEY'S FEES AND OTHER COSTS AND EXPENSES.—In any action by an individual enrolled under a health plan for court enforcement under this section, a prevailing plaintiff shall be entitled to reasonable costs and expenses (including a reasonable attorney's fee and reasonable expert witness fees) on the charges on which the plaintiff prevails.

SEC. 5516. DUE PROCESS FOR HEALTH CARE PROVIDERS.

(a) PUBLICLY AVAILABLE STANDARDS AND PROCESS.—Each health plan shall establish and utilize—

(1) publicly available standards for contracting with health care providers; and

(2) a publicly available process for dismissing such providers or failing to renew contracts with such providers.

(b) NOTICE REQUIREMENT.—

(1) IN GENERAL.—The process established by a health plan under subsection (a) shall include reasonable notification to a health care provider of a decision to dismiss such provider or not to renew a contract with such provider before such decision takes effect.

(2) EXCEPTION.—The notice required under paragraph (1) shall not apply if failure to dismiss a provider or renewing a provider's contract would adversely affect the health or safety of a patient.

(3) CONTENTS OF NOTICE.—Each notice to a health care provider under paragraph (1) shall contain the reasons for the dismissal or failure to renew. Such reasons shall be consistent with the standards established under subsection (a).

(c) REVIEW.—The process established by a health plan under subsection (a) shall include an opportunity for review of the health plan's action by a health care provider who is dismissed by a health plan or with respect to whom a health plan fails to renew a contract. Such review shall be conducted by—

(1) the provider's peers who have contracts with, or are employed by, the health plan; and

(2) if there is mutual consent of the provider and the health plan, one or more enrollees in the health plan.

A health care provider may have an attorney present in connection with any review under this subsection if the provider notifies the health plan that an attorney will be present in advance of the review proceeding.

(d) EFFECT ON OTHER LAWS.—The provisions of this section shall not supersede any other provision of Federal or State law.

PART 2—ADDITIONAL REMEDIES AND ENFORCEMENT PROVISIONS

SEC. 5531. JUDICIAL REVIEW OF FEDERAL ACTION ON STATE SYSTEMS.

(a) IN GENERAL.—Any State that is aggrieved by a determination by the Secretary under subpart B of part 1 of subtitle E of title I shall be entitled to judicial review of such determination in accordance with this section.

(b) JUDICIAL REVIEW.—

(1) JURISDICTION.—The courts of appeals of the United States (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction to review a determination described in subsection (a), to affirm the determination, or to set it aside, in whole or in part. A judgment of a court of appeals in such an action shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(2) PETITION FOR REVIEW.—A State that desires judicial review of a determination described in subsection (a) shall, within 30 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State is located a petition for review of such determination. A copy of the petition shall be transmitted by the clerk of the court to the Secretary, and the Secretary shall file in the court the record of the proceedings on which the determination or action was based, as provided in section 2112 of title 28, United States Code.

(3) SCOPE OF REVIEW.—The findings of fact of the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

SEC. 5532. CIVIL ENFORCEMENT.

(a) IN GENERAL.—Unless otherwise provided in this Act, the district courts of the United States shall have jurisdiction of civil actions brought by—

(1) the Secretary of Labor to enforce any final order of such Secretary or to collect any civil monetary penalty assessed by such Secretary under this Act; and

(2) the Secretary of Health and Human Services to enforce any final order of such Secretary or to collect any civil monetary penalty assessed by such Secretary under this Act.

(b) ERISA.—Section 502(a)(1)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(1)(B)) is amended by inserting "except in the case of an action by any participant, beneficiary, or fiduciary to which subtitle F of title V of the Health Security Act applies," before "to recover".

SEC. 5533. PRIORITY OF CERTAIN BANKRUPTCY CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended to read as follows:

"(8) Eighth, allowed unsecured claims—

"(A) based upon any commitment by the debtor to the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Director of the Office of Thrift Supervision, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution; or

"(B) for payments under title X of the Health Security Act owed to a State.".

SEC. 5534. PRIVATE RIGHT TO ENFORCE STATE RESPONSIBILITIES.

The failure of a participating State to carry out a responsibility applicable to participating States under this Act constitutes a deprivation of rights secured by this Act for the purposes of section 1977 of the Revised Statutes of the United States (42 U.S.C. 1983). In an action brought under such section, the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law.

SEC. 5535. PRIVATE RIGHT TO ENFORCE FEDERAL RESPONSIBILITIES IN OPERATING A SYSTEM IN A STATE.

(a) IN GENERAL.—The failure of the Secretary of Health and Human Services to carry out a responsibility under subpart C of part 1 of subtitle E of title I, confers an enforceable right of action on any person who is aggrieved by such failure. Such a person may commence a civil action against the Secretary in an appropriate State court or district court of the United States.

(b) EXHAUSTION OF REMEDIES.—In an action under subsection (a), the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law.

(c) RELIEF.—In an action under subsection (a), if the court finds that a failure described in such subsection has occurred, the aggrieved person may recover compensatory damages and the court may award any other appropriate relief.

(d) ATTORNEY'S FEES.—In an action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

SEC. 5536. PRIVATE RIGHT TO ENFORCE RESPONSIBILITIES OF COOPERATIVES AND HEALTH PLANS.

(a) IN GENERAL.—The failure of a purchasing cooperative or health plan to carry out a responsibility applicable to the entity under this Act confers an enforceable right of action on any person who is aggrieved by such failure. Such a person may commence a civil action against the cooperative or health plan in an appropriate State court or district court of the United States.

(b) EXHAUSTION OF REMEDIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), in an action under subsection (a) the court may not exercise jurisdiction until the aggrieved person has exhausted any administrative remedies that may be provided by law.

(2) NO EXHAUSTION REQUIRED.—In an action under subsection (a), the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law if the action relates to—

(A) whether the person is a community-rated or experience-rated individual;

(B) whether the person is eligible for a subsidy or premium discount under title VI of X;

(C) whether the person is eligible for a reduction in cost sharing; or

(D) enrollment or disenrollment in a health plan.

(c) RELIEF.—In an action under subsection (a), if the court finds that a failure described in such subsection has occurred, the court may award any appropriate relief.

(d) ATTORNEY'S FEES.—In any action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

SEC. 5537. ENFORCEMENT OF CONSUMER PROTECTIONS.

(a) COVERED VIOLATIONS.—The provisions of this section shall apply with respect to a health plan that fails to fulfill a duty imposed on the plan under section 1122 and subtitle A of this title.

(b) ADMINISTRATIVE ENFORCEMENT AND CIVIL PENALTIES.—The penalties described in section 1867(d)(1) of the Social Security Act and the procedures described in section 1128A of such Act (other than the first two sentences of subsection (a) and subsection (b)) shall apply to health plans described in subsection (a). In addition to such penalties, an amount not to exceed $1,000,000 may be assessed in the case of a finding of a pattern or practice of such violations. The Secretary shall establish procedures whereby, when a consumer has disenrolled from a health plan violating the duties described in subsection (a), successor health plans may recover from the original health plan for health care costs attributable to such violations.

(c) CORRECTION OF SUBSTANTIAL VIOLATIONS.—Upon an administrative or judicial finding of a substantial violation of the duties described in subsection (a), the State or court may—

(1) inform all current enrollees of the plan of the violation and that they may disenroll immediately from that plan and enroll with another community-rated health plan; and

(2) notify the health plan that it shall immediately cease enrollment activities until it has obtained certifications from the appropriate certifying entity or court that the violation has been corrected.

Such actions shall not be taken without providing the health plan with a reasonable opportunity to correct such violations, except where providing such an opportunity would risk health or safety.

SEC. 5538. DISCRIMINATION CLAIMS.

(a) CIVIL ACTION BY AGGRIEVED PERSON.—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(1) IN GENERAL.—Any person who is aggrieved by a violation of section 1602 may commence a civil action against the party or parties committing such violation in an appropriate State court or district court of the United States.

(2) STANDARDS.—The standards used to determine whether a violation has occurred in a complaint alleging discrimination on the basis of age or disability under section 1602 shall be the standards applied under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(3) RELIEF.—In any action under paragraph (1), if the court finds a violation of section 1602, the court may award such equitable and injunctive relief as it deems appropriate, and may award to the aggrieved person any sums lost as a result of the violation. If the court finds that the party or parties committing a violation engaged in intentional discrimination in violation of section 1602, the aggrieved person may recover compensatory damages. If the court finds that the party or parties committing such violation did so with malice or reckless indifference to the federally protected rights of the aggrieved person, the aggrieved person may recover punitive damages under this section against a defendant other than a government, government agency or political subdivision.

(4) ATTORNEYS' FEES.—In any action under paragraph (1), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees and other litigation expenses) as part of the costs, and the United States shall be liable for costs the same as a private person.

(b) ACTION BY SECRETARY.—Whenever the Secretary of Health and Human Services finds that a party has failed to comply with section 1602 or with an applicable regulation issued under such section, the Secretary shall notify the party. If within a reasonable period of time the party fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) terminate or limit the participation of such party in the programs authorized by this Act;

(3) withhold Federal financial assistance to the party; or

(4) take such other action as may be provided by law.

(c) ACTION BY ATTORNEY GENERAL.—When a matter is referred to the Attorney General under subsection (b)(1), the Attorney General may bring a civil action in a district court of the United States for such relief as may be appropriate, including injunctive relief. In a civil action under this section, the court—

(1) may grant any equitable relief that the court considers to be appropriate;

(2) may award such other relief as the court considers to be appropriate, including in cases of intentional discrimination compensatory and punitive damages; and

(3) may, to vindicate the public interest when requested by the Attorney General, assess a civil money penalty against the party in an amount—

(A) not exceeding $50,000 for a first violation; and

(B) not exceeding $100,000 for any subsequent violation.

SEC. 5539. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS.

Federal payments under this Act shall be treated as Federal financial assistance for purposes of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), section 303 of the Age Discrimination Act of 1975 (42 U.S.C. 6102), and section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

SEC. 5540. CIVIL AND ADMINISTRATION ACTION BY ESSENTIAL COMMUNITY PROVIDER.

(a) IN GENERAL.—An electing essential community provider (as defined in section 1466(d)) who is aggrieved by the failure of a health plan to fulfill a duty imposed on the plan by section 1466 may commence a civil action against the plan in an appropriate State court or district court of the United States.

(b) RELIEF.—In an action under subsection (a), if the court finds that the health plan has failed to fulfill a duty imposed on the plan by section 1466, the electing essential community provider may recover compensatory damages and the court may order any other appropriate relief.

(c) ATTORNEY'S FEES.—In any action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

(d) STATE COMPLAINT SYSTEM REQUIRED.—Prior to commencing an action under subsection (a), the aggrieved essential community provider may first elect to utilize the administrative process provided under this subsection as follows:

(1) The Secretary shall prescribe regulations governing administrative grievance actions by essential community providers that shall be consistent with the requirements of section 5504 and that shall provide for the consolidation of complaints (at the election of the essential community providers) in cases involving multiple complaints against a single health plan.

(2) A State shall make available to each electing essential community provider that is aggrieved by an action of a health plan under section 1466, the opportunity to file a complaint in the complaint review office established under section 5502. In the case of essential community providers located in a cooperative established in any State by the Secretary, the Secretary shall assume all of the duties and obligations of such State under this section.

SEC. 5541. FACIAL CONSTITUTIONAL CHALLENGES.

(a) JURISDICTION.—The United States District Court for the District of Columbia shall have original and exclusive jurisdiction of any civil action brought to invalidate this Act or a provision of this Act on the ground of its being repugnant to the Constitution of the United States on its face and for every purpose. In any action described in this subsection, the district court may not grant any temporary order or preliminary injunction restraining the enforcement, operation, or execution of this Act or any provision of this Act.

(b) CONVENING OF THREE-JUDGE COURT.—An action described in subsection (a) shall be heard and determined by a district court of three judges in accordance with section 2284 of title 28, United States Code.

(c) CONSOLIDATION.—When actions described in subsection (a) involving a common question of law or fact are pending before a district court, the court shall order all the actions consolidated.

(d) DIRECT APPEAL TO SUPREME COURT.—In any action described in subsection (a), an appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order in which the district court—

(1) holds this Act or any provision of this Act invalid; and

(2) makes a determination that its holding will materially undermine the application of the Act as whole.

(e) CONSTRUCTION.—This section does not limit—

(1) the right of any person—

(A) to a litigation concerning the Act or any portion of the Act; or

(B) to petition the Supreme Court for review of any holding of a district court by writ of certiorari at any time before the rendition of judgment in a court of appeals; or

(2) the authority of the Supreme Court to grant a writ of certiorari for the review described in paragraph (1)(B).

SEC. 5542. TREATMENT OF PLANS AS PARTIES IN CIVIL ACTIONS.

(a) IN GENERAL.—A health plan may sue or be sued under this Act as an entity. Service of summons, subpoena, or other legal process of a court or hearing officer upon a trustee or an administrator of any such plan in his or her capacity as such shall constitute service upon the plan. In a case where a plan has not designated in applicable plan documents an individual as agent for the service of legal process, service upon the Secretary of Health and Human Services (in the case of a community-rated health plan) or the Secretary of Labor (in the case of an experienced-rated health plan) shall constitute such service. The Secretary, not later than 15 days after receipt of service under the preceding sentence, shall notify the administrator or any trustee of the plan of receipt of such service.

(b) OTHER PARTIES.—Any money judgment under this Act against a plan referred to in subsection (a) shall be enforceable only against the plan as an entity and shall not be enforceable against any other person unless liability against such person is established in his individual capacity under this Act.

SEC. 5543. WHISTLEBLOWER PROTECTIONS.

(a) IN GENERAL.—A health plan may not discharge, discriminate or otherwise take adverse action against any employee with respect to compensation, terms, conditions or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal, State or private supervisory agency or entity regarding a possible violation of any provision of this Act or any regulation issued under this Act.

(b) CIVIL ACTION.—An employee or former employee who believes that such employee has been discharged, discriminated or otherwise subject to adverse action in violation of subsection (a) may file a civil action in the appropriate United States district court within 2 years of the date of such discharge, discrimination or adverse action.

(c) DETERMINATION OF COURT.—If a court in an action under subsection (b) determines that a violation of subsection (a) has occurred, the court may order the health care entity or plan that committed the violation—

(1) to reinstate the employee to his or her former position;

(2) to pay compensatory damages to the employee;

(3) to pay reasonable costs and attorneys fees incurred by the employee in bringing such action; and

(4) to take such other appropriate actions to remedy any past discrimination.

SEC. 5544. GENERAL NONPREEMPTION OF RIGHTS AND REMEDIES.

Nothing in this subtitle shall be construed to deny, impair, or otherwise adversely affect a right or remedy available under law to any person, except to the extent the right or remedy is inconsistent with this title.

Subtitle G—Repeal of Exemption

SEC. 5601. REPEAL OF EXEMPTION FOR HEALTH INSURANCE.

(a) IN GENERAL.—Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013), known as the McCarran-Ferguson Act, is amended by adding at the end the following:

"(c) Notwithstanding that the business of insurance is regulated by State law, nothing in this Act shall limit the applicability of the following Acts to the business of insurance to the extent that such business relates to the provision of health benefits:

"(1) The Sherman Act (15 U.S.C. 1 et seq.).

"(2) The Clayton Act (15 U.S.C. 12 et seq.).

"(3) Federal Trade Commission Act (15 U.S.C. 41 et seq.).

"(4) The Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 21a et seq.), known as the Robinson-Patman Antidiscrimination Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the sixth month beginning after the date of the enactment of this Act.

TITLE VI—INDIVIDUAL AND EMPLOYER SUBSIDIES

SEC. 6000. MARKETING FEES AND COOPERATIVE FEES INCLUDED IN PREMIUM.

For purposes of this title, the term "premium" includes applicable marketing fees (described in section 1112(f)) and purchasing cooperative membership fees (described in section 1324).

Subtitle A—Individual Premium and Cost-Sharing Assistance

SEC. 6001. REQUIREMENT TO OPERATE STATE PROGRAM.

(a) IN GENERAL.—A participating State shall have in effect a program for furnishing premium assistance and cost-sharing assistance in accordance with this subtitle for calendar years beginning after 1996.

(b) DESIGNATION OF STATE AGENCY.—A State may designate any appropriate State agency to administer the program under this subtitle.

SEC. 6002. ASSISTANCE WITH CERTIFIED STANDARD HEALTH PLAN PREMIUMS.

(a) ELIGIBILITY.—

(1) IN GENERAL.—An eligible individual (as defined in section 6008(4)) who has been determined by a State under section 6004 to be a premium subsidy eligible individual (as defined in paragraph (2)) shall be eligible for premium assistance in the amount determined under subsection (b).

(2) PREMIUM SUBSIDY ELIGIBLE INDIVIDUAL.—For purposes of this subtitle, the term "premium subsidy eligible individual" means any of the following individuals:

(A) INDIVIDUALS WITH INCOMES BELOW A CERTAIN INCOME THRESHOLD.—An eligible individual who has a family income determined under section 6008(3) which does not exceed 200 percent of the poverty line (as defined in section 6008(5)).

(B) CHILDREN.—An eligible individual who—

(i) is a child (as defined in section 6008(2));

(ii) has a family income determined under section 6008(3) which does not exceed 300 percent of the poverty line; and

(iii) has not been enrolled in a health plan offered by an employer during the 6-month period ending on the date the individual submits an application to the State for premium assistance under this subtitle.

(C) PREGNANT WOMEN.—An eligible individual who—

(i) is a pregnant woman (as defined in section 6008(6));

(ii) has a family income determined under section 6008(3) which does not exceed 300 percent of the poverty line; and

(iii) is not enrolled in a health plan on the date the individual submits an application to the State for premium assistance under this subtitle.

(3) SPECIAL RULE WITH RESPECT TO CHILDREN AND PREGNANT WOMEN.—An eligible individual may not be a premium subsidy eligible individual described in subparagraphs (B) or (C) of paragraph (2) if an employer contribution of at least 80 percent of the premium under a certified standard health plan that is available to the individual through the employer is made or offered to be made on behalf of the individual.

(b) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—

(A) DETERMINATION OF AMOUNT.—The amount of premium assistance for a month for a premium subsidy eligible individual is the lesser of—

(i) the premium assistance amount determined under paragraph (2); or

(ii) the amount of the premium for coverage under the certified standard health plan (as defined in section 6008(1)) in which the individual is enrolled that is not paid (or offered to be paid) on behalf of such individual by an employer.

(B) SPECIAL RULES FOR DETERMINING AMOUNT OF EMPLOYER PAYMENTS.—

(i) FAMILY CONTRIBUTIONS.—If an employer makes a payment toward the premium for coverage under a certified standard health plan on behalf of a family (rather than any particular individual), such contribution shall be allocated ratably among the individuals in the family.

(ii) GREATEST EMPLOYER CONTRIBUTION AVAILABLE.—The employer contribution with respect to any individual is the largest employer contribution offered to be made on behalf of the individual by the individual's employer or any employer of any member of the individual's family.

(2) PREMIUM ASSISTANCE AMOUNT DETERMINED.—

(A) IN GENERAL.—The premium assistance amount determined under this paragraph is an amount equal to the lesser of—

(i) the subsidy percentage specified in paragraph (3) multiplied by 1/12th of the annual premium paid for coverage under a certified standard health plan in which the individual is enrolled, or

(ii) the subsidy percentage specified in paragraph (3) multiplied by 1/12th of the weighted average annual premium rate (as defined in subparagraph (B)) for all community-rated certified standard health plans offered in the community rating area in which the individual resides.

(B) WEIGHTED AVERAGE ANNUAL PREMIUM RATE.—For purposes of this paragraph, the term "weighted average annual premium rate" means the average premium for the community-rated certified standard health plans offered in the community rating area in which the individual resides, weighted to reflect the total enrollment of community-rated eligible individuals among such plans.

(3) SUBSIDY PERCENTAGE.—For purposes of paragraph (1)(A), the term 'subsidy percentage' means the following:

(A) INDIVIDUALS WITH INCOMES BELOW CERTAIN INCOME THRESHOLD.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), for a premium subsidy eligible individual described in subsection (a)(2)(A), 100 percent reduced (but not below zero) by 1 percentage point for each 1 percentage point (or portion thereof) by which such individual's family income exceeds 100 percent of the poverty line.

(ii) AFDC RECIPIENTS.—For a premium subsidy eligible individual described in subsection (a)(2)(A) who is a member of a family receiving aid to families with dependent children under part A or E of title IV of the Social Security Act, the subsidy percentage shall be 100 percent.

(iii) NON-CASH MEDICAID ELIGIBLES.—

(I) IN GENERAL.—For a premium subsidy eligible individual described in subsection (a)(2)(A) who is a non-cash medicaid eligible described in subclause (II), the subsidy percentage shall be 100 percent during the 6-month period beginning on January 1, 1997.

(II) NON-CASH MEDICAID ELIGIBLE.—The non-cash medicaid eligibles described in this subclause are individuals receiving medical assistance under the State plan under title XIX of the Social Security Act as of December 31, 1996, who are not individuals—

(aa) who are members of a family receiving aid to families with dependent children under part A or E of title IV of the Social Security Act;

(bb) with respect to whom supplemental security income benefits are being paid under title XVI of such Act; or

(cc) eligible for benefits under part A of title XVIII of such Act.

(B) CHILDREN AND PREGNANT WOMEN.—For a premium subsidy eligible individual described in subparagraph (B) or (C) of subsection (a)(2), 100 percent reduced (but not below zero) by 0.87 percentage point for each 1 percentage point (or portion thereof) by which such individuals family income exceeds 185 percent of the poverty line.

(c) PAYMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the premium assistance available to a premium subsidy eligible individual under subsection (b) shall be paid by the State in which the individual resides directly to the certified standard health plan in which the individual is enrolled. Payments under the preceding sentence shall commence in the first month during which the individual is enrolled in a certified standard health plan and determined under section 6004 to be a premium subsidy eligible individual.

(2) ENROLLMENT REQUIREMENT.—No payment shall be made to a certified standard health plan with respect to an individual unless the individual was enrolled in the plan through an employer or a purchasing cooperative (as defined in section 1013(12)).

(3) SPECIAL RULE WITH RESPECT TO FAMILIES WITH MULTIPLE CHILDREN.—If a family includes more than 1 child described in subsection (a)(2)(B), no premium assistance may be paid to a plan under paragraph (1) on behalf of any such child unless such assistance is paid on behalf of all such children.

(4) ADMINISTRATIVE ERRORS.—A State is financially responsible for premium assistance paid based on an eligibility determination error to the extent the State's error rate for eligibility determinations exceeds a maximum permissible error rate to be specified by the Secretary.

(d) TREATMENT OF CERTAIN ELIGIBLE INDIVIDUALS AS INSURED.—All individuals eligible for full premium subsidies under this section shall be considered to have health coverage under a certified standard health plan.

SEC. 6003. ASSISTANCE WITH COST-SHARING FOR CERTIFIED STANDARD HEALTH PLANS.

(a) NON-AFDC LOW-INCOME INDIVIDUALS.—

(1) INDIVIDUALS WORKING FOR COMMUNITY-RATED EMPLOYERS.—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(A) IN GENERAL.—If a non-AFDC low-income individual described in subparagraph (B) is enrolled in a community-rated certified standard health plan providing a high cost-sharing schedule, such individual shall be eligible for cost-sharing assistance consisting of a reduction in the cost-sharing under such plan to the level of a plan providing a low cost-sharing schedule.

(B) INDIVIDUAL DESCRIBED.—A non-AFDC low-income individual described in this subparagraph is an individual who is employed by a community-rated employer and who is unable to enroll in a certified standard health plan—

(i) with a premium at or below the weighted average premium rate for all community-rated certified standard health plans offered through the purchasing cooperative offered by the individual's employer, and

(ii) providing a low or combination cost-sharing schedule.

(2) INDIVIDUALS WORKING FOR EXPERIENCE-RATED EMPLOYERS.—

(A) IN GENERAL.—If a non-AFDC low-income individual described in subparagraph (B) is enrolled in an experience-rated certified standard health plan providing a high cost-sharing schedule, such individual shall be eligible for cost-sharing assistance consisting of a reduction in the cost-sharing under such plan to the level of a plan providing a low cost-sharing schedule.

(B) INDIVIDUAL DESCRIBED.—A non-AFDC low-income individual described in this subparagraph is an individual who is employed by an experience-rated employer and who is unable to enroll in a certified standard health plan offered by such employer providing a low or combination cost-sharing schedule.

(3) NON-WORKING INDIVIDUALS.—

(A) IN GENERAL.—If a non-AFDC low-income individual described in subparagraph (B) is enrolled in a community-rated certified standard plan providing a high cost-sharing schedule, such individual shall be eligible for cost-sharing assistance consisting of a reduction in the cost-sharing under such plan to the level of a plan providing a low cost-sharing schedule.

(B) INDIVIDUAL DESCRIBED.—A non-AFDC low-income individual described in this subparagraph is an individual who is not employed and who is unable to enroll in a certified standard health plan—

(i) with a premium at or below the weighted average premium rate for all community-rated certified standard health plans offered in the community rating area in which the individual resides, and

(ii) providing a low or combination cost-sharing schedule.

(4) NON-AFDC LOW-INCOME INDIVIDUAL.—For purposes of this subsection, the term "non-AFDC low-income individual" means an eligible individual who—

(A) has a family income determined under section 6003(3) which does not exceed 150 percent of the poverty line; and

(B) is not a member of a family receiving aid to families with dependent children under part A or E of title IV of the Social Security Act.

(b) AFDC RECIPIENTS.—

(1) LOW OR COMBINATION COST-SHARING PLAN.—An AFDC recipient enrolled in a community-rated certified standard plan—

(A) with a premium at or below the weighted average premium rate for all community-rated certified standard health plans offered in the community rating area in which the individual resides, and

(B) providing a low or combination cost-sharing schedule,

shall be eligible for cost-sharing assistance consisting of a reduction in the amount of copayment applied with respect to an item or service in an amount equal to 20 percent of the copayment amount otherwise applicable under the plan, rounded to the nearest dollar.

(2) HIGH COST-SHARING PLAN.—If an AFDC recipient is unable to enroll in a health plan described in paragraph (1) and such individual is enrolled in a community-rated certified standard plan providing a high cost-sharing schedule, such individual shall be eligible for cost-sharing assistance consisting of a reduction in the cost-sharing under such plan to the level of a plan providing a low cost-sharing schedule.

(3) AFDC RECIPIENT.—For purposes of this subsection, the term "AFDC recipient" means an eligible individual who is a member of a family receiving aid to families with dependent children under part A or E of title IV of the Social Security Act.

(c) NOTIFICATION OF HEALTH PLANS.—If a State determines that an individual is eligible for cost-sharing assistance under this section, the State shall notify the certified standard health plan in which such individual is enrolled of such determination in a timely manner.

SEC. 6004. ELIGIBILITY DETERMINATIONS.

(a) IN GENERAL.—The Secretary shall promulgate regulations specifying requirements for State programs under this subtitle with respect to determining eligibility for premium and cost-sharing assistance.

(b) SPECIFICATIONS FOR REGULATIONS.—The regulations promulgated by the Secretary under subsection (a) shall include the following requirements:

(1) APPLICATIONS.—A State program shall provide that an individual may file an application for assistance with an agency designated by the State at any time, in person or by mail.

(2) APPLICATION FORM.—A State program shall provide for the use of an application form developed by the Secretary under subsection (c).

(3) DISTRIBUTION OF APPLICATIONS.—A State program shall make applications accessible at locations where individuals are most likely to obtain the applications.

(4) REQUIREMENT TO SUBMIT REVISED APPLICATION.—A State program shall require individuals to submit revised applications to reflect changes in estimated family incomes, including changes in employment status of family members, during the year. The State shall revise the amount of any premium assistance based on such a revised application.

(5) VERIFICATION.—A State program shall provide for verification of the information supplied in applications under this subtitle. Such verification may include examining return information disclosed to the State for such purpose under section 6103(l)(15) of the Internal Revenue Code of 1986.

(c) ADMINISTRATION OF STATE PROGRAMS.—

(1) IN GENERAL.—The Secretary shall establish standards for States operating programs under this subtitle which ensure that such programs are operated in a uniform manner with respect to application procedures, data processing systems, and such other administrative activities as the Secretary determines to be necessary.

(2) APPLICATION FORMS.—The Secretary shall develop an application form for assistance which shall—

(A) be simple in form and understandable to the average individual;

(B) require the provision of information necessary to make a determination as to whether an individual is eligible for assistance, including a declaration of estimated income by the individual based, at the election of the individual—

(i) on multiplying by a factor of 4 the individual's family income for the 3-month period immediately preceding the month in which the application is made, or

(ii) on estimated income for the entire year for which the application is submitted; and

(C) require attachment of such documentation as deemed necessary by the Secretary in order to ensure eligibility for assistance.

(d) EFFECTIVENESS OF ELIGIBILITY.—A determination by a State that an individual is a premium subsidy eligible individual or an individual eligible for cost-sharing assistance shall be effective for the calendar year for which such determination is made unless a revised application submitted under subsection (b)(4) indicates that an individual is no longer eligible for assistance.

(e) PENALTIES FOR MATERIAL MISREPRESENTATIONS.—

(1) IN GENERAL.—Any individual who knowingly makes a material misrepresentation of information in an application for assistance under this subtitle shall be liable to the Federal Government for the amount any assistance received by individual on the basis of a misrepresentation and interest on such amount at a rate specified by the Secretary, and, shall, in addition, be liable to the Federal Government for $2,000 or, if greater, 3 times the amount any assistance received by individual on the basis of a misrepresentation.

(2) COLLECTION OF PENALTY AMOUNTS.—A State which receives an application for assistance with respect to which a material misrepresentation has been made shall collect the penalty amount required under paragraph (1) and submit such amount to the Secretary in a timely manner.

SEC. 6005. END-OF-YEAR RECONCILIATION FOR PREMIUM ASSISTANCE.

(a) IN GENERAL.—

(1) REQUIREMENT TO FILE STATEMENT.—An individual who received premium assistance under this subtitle from a State for any month in a calendar year shall file with the State an income reconciliation statement to verify the individual's family income for the year. Such a statement shall be filed at such time, and contain such information, as the State may specify in accordance with regulations promulgated by the Secretary.

(2) NOTICE OF REQUIREMENT.—A State shall provide a written notice of the requirement under paragraph (1) at the end of the year to an individual who received premium assistance under this subtitle from such State in any month during the year.

(b) RECONCILIATION OF PREMIUM ASSISTANCE BASED ON ACTUAL INCOME.—

(1) IN GENERAL.—Based on and using the income reported in the reconciliation statement filed under subsection (a) with respect to an individual, the State shall compute the amount of premium assistance that should have been provided under this subtitle with respect to the individual for the year involved.

(2) OVERPAYMENT OF ASSISTANCE.—If the total amount of the premium assistance provided was greater than the amount computed under paragraph (1), the individual is liable to the State to pay an amount equal to the amount of the excess payment. Any amount collected by a State under this paragraph shall be submitted to the Secretary, in a timely manner.

(3) UNDERPAYMENT OF ASSISTANCE.—If the total amount of the premium assistance provided was less than the amount computed under paragraph (1), the State shall pay to the individual an amount equal to the amount of the deficit.

(4) STATE OPTION.—A State may, in accordance with regulations promulgated by the Secretary, establish a procedure under which any overpayments or underpayments of premium assistance determined under paragraphs (2) and (3) with respect to an individual for a year may be collected or paid, as appropriate, through adjustments to the premium assistance furnished to such individual in the succeeding year.

(c) VERIFICATION.—Each State may use such information as it has available to verify income of individuals with applications filed under this subtitle, including return information disclosed to the State for such purpose under section 6103(l)(15) of the Internal Revenue Code of 1986.

(d) PENALTIES FOR FAILURE TO FILE.—In the case of an individual who is required to file a statement under this section in a year who fails to file such a statement, the entire amount of the premium assistance provided in such year shall be considered an excess amount under subsection (b)(2) and such individual shall not be eligible for premium assistance under this subtitle until such statement is filed. A State, using rules established by the Secretary, shall waive the application of this subsection if the individual establishes, to the satisfaction of the State under such rules, good cause for the failure to file the statement on a timely basis.

(e) PENALTIES FOR FALSE INFORMATION.—Any individual who provides false information in a statement filed under subsection (a) is subject to the same penalties as are provided under section 6004(e) for a misrepresentation of material fact described in such section.

SEC. 6006. ENROLLMENT OUTREACH.

(a) IN GENERAL.—The Secretary shall promulgate regulations under which each State operating a program for premium assistance under this subtitle shall have in effect an enrollment outreach system under which individuals may be determined eligible for such assistance by health care providers who furnish services to such individuals.

(b) SPECIFICATIONS FOR REGULATIONS.—The regulations promulgated by the Secretary under subsection (a) shall include the following requirements:

(1) HEALTH CARE PROVIDERS.—Each State shall permit only the classes or categories of health care providers determined appropriate by the Secretary (referred to in this subsection as "eligible health care providers") to participate in an enrollment outreach system established by the State.

(2) APPLICATION FOR ASSISTANCE.—Each State shall develop and make available to eligible health care providers in the State an enrollment package for distribution to potentially eligible individuals which includes a simple form for individuals who receive services from such providers to apply for premium assistance. Such form shall—

(A) permit an individual completing the form to make a declaration that the individual is eligible for a full subsidy under section 6002; and

(B) permit an individual to enroll in a community-rated certified standard health plan offered in the community rating area in which the individual resides.

(3) SUBMISSION OF COMPLETED APPLICATION.—An individual who receives an enrollment application form from an eligible health care provider may complete the form and submit it to the individual's provider or the State agency operating the program for premium assistance under this subtitle. If a health care provider receives an application under this section the provider shall submit the application to the State agency administering the premium assistance program under this subtitle within a period of time determined appropriate by the Secretary in regulations.

(4) SELECTION OF HEALTH PLAN.—An individual may select a community-rated certified standard health plan with which to enroll on the date the individual submits an application form under this section or the individual may make such selection at a later date determined appropriate by the Secretary in regulations. If an individual fails to select a health plan with which to enroll by the date determined appropriate by the Secretary, the State agency shall select such a plan for the individual.

(5) EFFECTIVE DATE OF ENROLLMENT.—An individual who is enrolled in a community-rated certified standard health plan in accordance with the enrollment eligibility system established under this section shall be an enrollee of the plan as of the date the individual submits an application to the State agency or a health care provider.

(6) PERIOD OF ELIGIBILITY.—An individual who submits an application to a health care provider under an enrollment outreach system under this section shall be eligible for premium assistance under this subtitle for the period beginning on the date such application is submitted and ending 60 days after such date.

(7) NO STATE RESPONSIBILITY FOR ADMINISTRATIVE ERRORS.—Section 6002(c)(3) shall not apply to any eligibility determinations made under this section.

(8) NO RECONCILIATION REQUIRED.—The reconciliation provisions of section 6005 shall not apply to any premium assistance paid on behalf of an individual during a period of eligibility for such assistance under this section.

(9) REQUIREMENT ON STATES.—During a period of eligibility for premium assistance under this section, an individual shall be given an opportunity by a State to apply for continuing eligibility for premium assistance under this subtitle.

SEC. 6007. PAYMENTS TO STATES.

(a) IN GENERAL.—

(1) PAYMENTS FROM THE SECRETARY.—A State operating a program for furnishing premium assistance under this subtitle shall be entitled to receive payments from the Secretary in an amount equal to the premium assistance paid on behalf of individuals eligible for such assistance under this subtitle. Such payments shall be made at such time and in such form as provided in regulations promulgated by the Secretary.

(2) STATE ENTITLEMENT.—This subsection constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide payments to States operating programs under this subtitle in accordance with this section.

(b) STATE ASSESSMENTS FOR ADMINISTRATION COSTS.—A State operating a program for furnishing premium and cost-sharing assistance under this subtitle may impose a premium assessment on the insured health plans offered in the State in an amount not to exceed one percent of the amount of the premium. Amounts collected pursuant to this subsection may only be used to cover the administrative costs of the State in operating such program.

(c) AUDITS.—The Secretary shall conduct regular audits of the activities under the State programs conducted under this subtitle.

SEC. 6008. DEFINITIONS AND DETERMINATIONS OF INCOME.

For purposes of this subtitle:

(1) CERTIFIED STANDARD HEALTH PLAN.—The term "certified standard health plan" means a certified standard health plan (as defined in section 1011(2)(A)) providing the standard benefits package as described in section 1201(a).

(2) CHILD.—The term "child" means an individual who is under 19 years of age.

(3) DETERMINATIONS OF INCOME.—

(A) FAMILY INCOME.—The term "family income" means, with respect to an individual who—

"(i) is not a dependent (as defined in subparagraph (B)) of another individual, the sum of the modified adjusted gross incomes (as defined in subparagraph (D)) for the individual, the individual's spouse, and children who are dependents of the individual; or

(ii) is a dependent of another individual, the sum of the modified adjusted gross incomes for the other individual, the other individual's spouse, and children who are dependents of the other individual.

(B) DEPENDENT.—The term "dependent" shall have the meaning given such term under section 152 of the Internal Revenue Code of 1986.

(C) SPECIAL RULE FOR FOSTER CHILDREN.—For purposes of subparagraph (A), a child who is placed in foster care by a State agency shall not be considered a dependent of another individual.

(D) MODIFIED ADJUSTED GROSS INCOME.—The term "modified adjusted gross income" means adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986)—

(i) determined without regard to sections 135, 162(l), 911, 931, and 933 of such Code, and

(ii) increased by—

(I) the amount of interest received or accrued by the individual during the taxable year which is exempt from tax, and

(II) the amount of the social security benefits (as defined in section 86(d) of such Code) received during the taxable year to the extent not included in gross income under section 86 of such Code.

The determination under the preceding sentence shall be made without regard to any carryover or carryback.

(E) SPECIAL RULE FOR INDIVIDUALS TEMPORARILY UNEMPLOYED.—

(i) IN GENERAL.—An individual who becomes unemployed (as described in clause (vi)) is eligible for enhanced income protection in accordance with this subparagraph.

(ii) ENHANCED INCOME PROTECTION DESCRIBED.—For purposes of determining eligibility for premium assistance under section 6002(a)(2)(A) and the subsidy percentage under section 6002(b)(3)(A) for a calendar year for an individual who becomes unemployed, such individual's spouse, and children who are dependents of such individual, the family income for such individuals determined under subparagraph (A) shall be reduced—

(I) for each month during the year before and after the period of unemployment (as defined in clause (iii)), by an amount equal to the lesser of the gross wages of the individual for the month or 1/12th of the amount equal to 75 percent of the poverty line for an individual; and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(II) for each month during the period of unemployment, by an amount equal to any unemployment compensation under an unemployment compensation law of a State or of the United States received by or on behalf of the unemployed individual.

(iii) PERIOD OF UNEMPLOYMENT.—For purposes of this subparagraph, with respect to an individual who becomes unemployed, the "period of unemployment" is the lesser of—

(I) the period beginning on the date the individual becomes unemployed and ending on the date the individual becomes reemployed; or

(II) 6 months.

(iv) SPECIAL RULE.—This subparagraph shall not apply if an employer contribution of at least 80 percent of the premium under a certified standard health plan is available to the unemployed individual through an employer of a member of the individual's family.

(v) APPLICATION OF RECONCILIATION.—The provisions of section 6005 regarding end-of-year reconciliation for premium assistance shall apply to any premium assistance received by an individual by reason of the application of this subparagraph.

(vi) WHEN INDIVIDUAL BECOMES UNEMPLOYED.—For purposes of this subparagraph, an individual becomes unemployed when the individual is involuntarily terminated from employment held for at least 6 months.

(F) RULES RELATING TO DISREGARD OF CERTAIN INCOME.—The Secretary may promulgate rules under which spousal income may be disregarded in instances where a spouse is not part of a family unit.

(4) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term "eligible individual" means an individual who is residing in the United States and who is—

(i) a citizen or national of the United States; or

(ii) an alien permanently residing in the United States under color of law (as defined in subparagraph (C)).

(B) EXCLUSION.—The term "eligible individual" shall not include an individual who is an inmate of a public institution (except as a patient of a medical institution).

(C) ALIEN PERMANENTLY RESIDING IN THE UNITED STATES UNDER COLOR OF LAW.—The term "alien permanently residing in the United States under color of law" means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act), and includes any of the following:

(i) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

(ii) An alien who is granted asylum under section 208 of such Act.

(iii) An alien whose deportation is withheld under section 243(h) of such Act.

(iv) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

(v) An alien who has been paroled into the United States under section 212(d)(5) of such Act for an indefinite period or who has been granted extended voluntary departure as a member of a nationality group.

(vi) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent residence is pending.

(5) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that—

(A) in the case of a family of less than five individuals, is applicable to a family of the size involved; and

(B) in the case of a family of more than four individuals, is applicable to a family of four persons.

(6) PREGNANT WOMAN.—

(A) IN GENERAL.—The term "pregnant woman" includes a woman deemed to be a pregnant woman under subparagraph (B).

(B) PERIOD AFTER TERMINATION OF PREGNANCY.—For purposes of this subtitle, a woman shall be deemed to be a pregnant woman during the period beginning on the date of the termination of the pregnancy and ending on the first day of the first month that begins more than 90 days after such date.

SEC. 6009. COORDINATION WITH PREMIUM FINANCING PROVISIONS.

During any period during which the provisions subtitle B of title X apply to a State—

(1) the provisions of subparagraphs (B) and (C) of section 6002(a)(2) (and any provision relating to such provisions) shall not apply to such State; and

(2) the provisions of subparagraph (E) of section 6008(3) shall not apply to an individual whose spouse is employed on a full-time basis.

Subtitle B—Employer Subsidies

SEC. 6101. PURPOSE.

It is the purpose of this subtitle to provide subsidies to eligible employers to assist such employers in providing, or expanding the provision of, health care coverage for the employees of such employers.

SEC. 6102. ELIGIBLE EMPLOYERS.

(a) IN GENERAL.—To be eligible for a subsidy under this subtitle an employer shall—

(1) comply with the requirements of part 1 of subtitle D of title I;

(2) contribute to the cost of health care coverage for all employees of the same class (limited to full- or part-time) employed by the employer;

(3) contribute not less than 50 percent of the cost of health care coverage for each class of enrollment for each employee so covered;

(4) prepare and submit to the Secretary of Labor an application, at such time, in such manner and containing such information as the Secretary may require.

(b) APPLICATION OF REQUIREMENTS.—

(1) IN GENERAL.—The requirements of paragraphs (2) and (3) of subsection (a) shall only apply with respect to employees of the same class (limited to full- or part-time) described in paragraph (2).

(2) COVERAGE OF EMPLOYEES.—The employees described in this paragraph are those employees—

(A) for which the employer is contributing to the costs of health care coverage; and

(B) for which the employer did not make such a contribution prior to the date of enactment of this Act.

(c) SOLE PROPRIETORSHIPS.—A sole proprietorship with not less than 3 full-time employees (including the sole proprietor) shall be eligible for a subsidy under this subtitle if such proprietorship reports the payment of wages, in the year prior to the year for which the subsidy is applied for, in an amount required under regulations promulgated by the Secretary of Labor.

(d) INELIGIBILITY.—

(1) SELF-EMPLOYED.—A self-employed individual (as such term is defined in section 1011(c)) shall not be eligible for a subsidy under this subtitle.

(2) EMPLOYEE LEASING FIRMS.—An employer that is an employee leasing firm as described in section 1011(5)(E)(ii) shall not be eligible for a subsidy under this subtitle.

(3) STATE OR LOCAL GOVERNMENTS.—An employer that is a State or local government shall not be eligible for a subsidy under this section.

SEC. 6103. EMPLOYER CERTIFICATION.

(a) REQUIREMENT.—An employer that submits an application under section 6102(a)(4) shall certify that such employer, prior to the date of enactment of this Act, did not contribute to the costs of health care coverage for the employees for which the employer is applying for the subsidy.

(b) CONTRIBUTION LIMIT.—For purposes of subsection (a), an employer shall be treated as having contributed to the health care coverage of an employee if the amount of such contribution is $500 or more (on an annualized basis).

(c) UNION SICKNESS FUNDS.—For purposes of this subtitle, employers that contribute to union sickness funds on behalf of their employees shall be deemed to have contributed to the costs of health care coverage for the employees of such employer.

(d) REGULATIONS.—For purposes of this section, the Secretary of Labor shall promulgate regulations to enable an employer to determine whether and to what extent an employer contributed to the costs of an employee's health care coverage prior to the date of enactment of this Act. An employer shall utilize such regulations in submitting a certification under this section.

SEC. 6104. AMOUNT OF SUBSIDY.

(a) IN GENERAL.—With respect to an employee for which a subsidy application submitted by an employer has been approved by the Secretary of Labor under this subtitle, the employer shall receive a subsidy (to be paid each year during the 5-year period beginning with the first calendar year after the date of enactment of this Act) in an amount that equals (but not less than zero)—

(1) with respect to the first 3 calendar years after the date of enactment of this Act—

(A)(i) in the case of a community-rated employer, 50 percent of the least of—

(I) the weighted average premium rate (as defined in section 6002(b)(1)(C)) for the purchasing cooperative through which the employer has contributed to the employee's health care coverage (for the year involved);

(II) the community-rate of the standard health plan under which the employee received coverage (for the year involved); or

(III) the weighted average premium rate of the community rating area in which the employee resides; or

(ii) in the case of an experience-rated employer, 50 percent of the lesser of—

(I) the weighted average premium rate of the community rating area in which the employee resides; or

(II) the premium rate for the experience-rated plan under which the employee received coverage (for the year involved);

less

(B) 8 percent of the wages of the employee (for the year involved);

(2) with respect to the fourth calendar year after the date of enactment of this Act—

(A) 37.5 percent of the lesser of the amounts referred to in subparagraph (A) of paragraph (1) (for the type of employer and the year involved); less

(B) 8 percent of the wages of the employee (for the year involved); and

(3) with respect to the fifth calendar year after the date of enactment of this Act—

(A) 25 percent of the lesser of the amounts referred to in subparagraph (A) of paragraph (1) (for the type of employer and the year involved); less

(B) 8 percent of the wages of the employee (for the year involved).

(b) LIMITATIONS.—

(1) PART-TIME EMPLOYEES.—With respect to subsidies for health care coverage for part-time employee, the Secretary of Labor shall develop a formula for the pro-rata reduction in such subsidies based on the formula described in subsection (a) and the hours of work performed by the employee.

(2) SINGLE SUBSIDY.—An employer shall not be eligible to receive more than one subsidy under this section. The Secretary of Labor shall promulgate regulations to ensure that no employer will receive a second or subsequent subsidy under this subtitle regardless of whether such employer had previously received the previous subsidy as an employer in a capacity different from that of the employer's present capacity.

SEC. 6105. DEFINITION.

For purposes of this Act, an employee who is employed by an employer—

(1) for at least 120 hours in a month shall be deemed to be employed on a full-time basis with respect to that month, or

(2) for at least 40 hours, but less than 120 hours, in a month shall be deemed to be employed on a part-time basis.

TITLE VII—REVENUE PROVISIONS

SEC. 7000. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Financing Provisions

PART 1—INCREASE IN TAX ON TOBACCO PRODUCTS

SEC. 7101. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARETTES.—Subsection (b) of section 5701 is amended by striking paragraph (1) and all that follows and inserting the following:

"(1) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, the amount per thousand determined under the following table:

"In the case of cigarettes removed—	The tax per thousand is—
After July 31, 1995, and before January 1, 1997	$19.50
During 1997	$24.50
During 1998	$29.50
After December 31, 1998	$34.50.

"(2) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, removed at any time, an amount per thousand equal to 2.1 times the tax per thousand imposed by paragraph (1) on cigarettes removed at such time; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette."

(b) CIGARS.—Paragraphs (1) and (2) of section 5701(a) are amended to read as follows:

"(1) SMALL CIGARS.—On cigars, weighing not more than 3 pounds per thousand, the amount per thousand determined under the following table:

"In the case of cigars removed—	The tax per thousand is—
After July 31, 1995, and before January 1, 1997	$1.83
During 1997	$2.30
During 1998	$2.77
After December 31, 1998	$3.23.

"(2) LARGE CIGARS.—On cigars, weighing more than 3 pounds per thousand, the applicable percentage (determined under the following table) of the price for which sold but not more than the applicable limitation (determined under such table) per thousand:

"In the case of cigars removed—	The applicable percentage is—	The limitation is—
After July 31, 1995 and before January 1, 1997	21 percent	$48.75
During 1997	26 percent	$61.26
During 1998	31 percent	$73.74
After December 31, 1998	37 percent	$86.25."

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended—

(1) by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of cigarette papers removed—	The tax for each 50 papers is—
After July 31, 1995 and before January 1, 1997	1.22 cents
During 1997	1.53 cents
During 1998	1.84 cents
After December 31, 1998	2.16 cents."

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended—

(1) by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of cigarette tubes removed—	The tax for each 50 tubes is—
After July 31, 1995 and before January 1, 1997	2.44 cents
During 1997	3.06 cents
During 1998	3.69 cents
After December 31, 1998	4.31 cents."

(e) SNUFF.—Paragraph (1) of section 5701(e) is amended—

(1) by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of snuff removed—	The tax per pound is—
After July 31, 1995 and before January 1, 1997	58.5 cents
During 1997	73.5 cents
During 1998	88.5 cents
After December 31, 1998	$1.03½."

(f) CHEWING TOBACCO.—Paragraph (2) of section 5701(e) is amended—

(1) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of chewing tobacco removed—	The tax per pound is—
After July 31, 1995 and before January 1, 1997	19.5 cents
During 1997	24.5 cents
During 1998	29.5 cents
After December 31, 1998	34.5 cents."

(g) PIPE TOBACCO.—Subsection (f) of section 5701 is amended—

(1) by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of pipe tobacco removed—	The tax per pound is—
After July 31, 1995 and before January 1, 1997	$1.10
During 1997	$1.38
During 1998	$1.66
After December 31, 1998	$1.94."

(h) APPLICATION OF TAX INCREASE TO PUERTO RICO.—Section 5701 is amended by adding at the end the following new subsection:

"(h) APPLICATION OF TAXES TO PUERTO RICO.—Notwithstanding subsections (b) and (c) of section 7653 and any other provision of law—

"(1) IN GENERAL.—On tobacco products and cigarette papers and tubes, manufactured in or imported into the Commonwealth of Puerto Rico, there is hereby imposed a tax at the rate equal to the excess of—

"(A) the rate of tax applicable under this section to like articles manufactured in the United States, over

"(B) the rate referred to in subparagraph (A) as in effect on the day before the date of the enactment of the Health Security Act.

"(2) SHIPMENTS TO PUERTO RICO FROM THE UNITED STATES.—Only the rates of tax in effect on the day before the date of the enactment of the Health Security Act shall be taken into account in determining the amount of any exemption from, or credit or drawback of, any tax imposed by this section on any article shipped to the Commonwealth of Puerto Rico from the United States.

"(3) SHIPMENTS FROM PUERTO RICO TO THE UNITED STATES.—The rates of tax taken into account under section 7652(a) with respect to tobacco products and cigarette papers and tubes coming into the United States from the Commonwealth of Puerto Rico shall be the rates of tax in effect on the day before the date of the enactment of the Health Security Act.

"(4) DISPOSITION OF REVENUES.—The provisions of section 7652(a)(3) shall not apply to any tax imposed by reason of this subsection."

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after July 31, 1995.

(j) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States or the Commonwealth of Puerto Rico which are removed before any tax-increase date and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

VOL 140 PT 16 AG 12 — 18 1994 UMI

(B) the prior tax (if any) imposed under section 5701 or 7652 of such Code on such article.

(2) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the $500 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) on each tax-increase date an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on such date for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any article on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) on any tax-increase date shall be paid on or before the date which is 3 months after such tax-increase date.

(5) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on any tax-increase date shall be subject to the taxes imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means August 1, 1995, January 1, 1997, January 1, 1998, and January 1, 1999.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section, as amended by this Act.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

SEC. 7102. MODIFICATIONS OF CERTAIN TOBACCO TAX PROVISIONS.

(a) EXEMPTION FOR EXPORTED TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TO APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

(1) Subsection (b) of section 5704 is amended by adding at the end the following new sentence: "Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe."

(2) Section 5761 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES FOR EXPORT.—Except as provided in subsections (b) and (d) of section 5704—

"(1) every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation under this chapter,

"(2) every person who sells or receives such relanded tobacco products or cigarette papers or tubes, and

"(3) every person who aids or abets in such selling, relanding, or receiving,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of $1,000 or 5 times the amount of the tax imposed by this chapter. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States, and all vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States."

(3) Subsection (a) of section 5761 is amended by striking "subsection (b)" and inserting "subsection (b) or (c)".

(4) Subsection (d) of section 5761, as redesignated by paragraph (2), is amended by striking "The penalty imposed by subsection (b)" and inserting "The penalties imposed by subsections (b) and (c)".

(5)(A) Subpart F of chapter 52 is amended by adding at the end the following new section:

"SEC. 5754. RESTRICTION ON IMPORTATION OF PREVIOUSLY EXPORTED TOBACCO PRODUCTS.

"(a) IN GENERAL.—Tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d). For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

"(b) CROSS REFERENCE.—

"For penalty for the sale of tobacco products and cigarette papers and tubes in the United States which are labeled for export, see section 5761(c)."

(B) The table of sections for subpart F of chapter 52 is amended by adding at the end the following new item:

"Sec. 5754. Restriction on importation of previously exported tobacco products."

(b) IMPORTERS REQUIRED TO BE QUALIFIED.—

(1) Sections 5712, 5713(a), 5721, 5722, 5762(a)(1), and 5763(b) and (c) are each amended by inserting "or importer" after "manufacturer".

(2) The heading of subsection (b) of section 5763 is amended by inserting "QUALIFIED IMPORTERS," after "MANUFACTURERS,".

(3) The heading for subchapter B of chapter 52 is amended by inserting "**and Importers**" after "**Manufacturers**".

(4) The item relating to subchapter B in the table of subchapters for chapter 52 is amended by inserting "and importers" after "manufacturers".

(c) REPEAL OF TAX-EXEMPT SALES TO EMPLOYEES OF CIGARETTE MANUFACTURERS.—

(1) Subsection (a) of section 5704 is amended—

(A) by striking "EMPLOYEE USE OR" in the heading, and

(B) by striking "for use or consumption by employees or" in the text.

(2) Subsection (e) of section 5723 is amended by striking "for use or consumption by their employees, or for experimental purposes" and inserting "for experimental purposes".

(d) REPEAL OF TAX-EXEMPT SALES TO UNITED STATES.—Subsection (b) of section 5704 is amended by striking "and manufacturers may similarly remove such articles for use of the United States;".

(e) BOOKS OF 25 OR FEWER CIGARETTE PAPERS SUBJECT TO TAX.—Subsection (c) of section 5701 is amended by striking "On each book or set of cigarette papers containing more than 25 papers," and inserting "On cigarette papers,".

(f) STORAGE OF TOBACCO PRODUCTS.—Subsection (k) of section 5702 is amended by inserting "under section 5704" after "internal revenue bond".

(g) AUTHORITY TO PRESCRIBE MINIMUM MANUFACTURING ACTIVITY REQUIREMENTS.—Section 5712 is amended by striking "or" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe, or".

(h) SPECIAL RULES RELATING TO PUERTO RICO AND THE VIRGIN ISLANDS.—Section 7652 is amended by adding at the end the following new subsection:

"(h) LIMITATION ON COVER OVER OF TAX ON TOBACCO PRODUCTS.—For purposes of this section, with respect to taxes imposed under section 5701 or this section on any tobacco product or cigarette paper or tube, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the rate of tax under section 5701 in effect on the article on the day before the date of the enactment of the Health Security Act."

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after December 31, 1994.

SEC. 7103. IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.

(a) IN GENERAL.—Section 5701 (relating to rate of tax), as amended by section 7101, is amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting after subsection (f) the following new subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of the amount determined in accordance with the following table per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

"In the case of roll-your-own tobacco removed—	The tax per pound is—
After July 31, 1995 and before January 1, 1997	$1.10
During 1997	$1.38
During 1998	$1.66
After December 31, 1998	$1.94."

(b) ROLL-YOUR-OWN TOBACCO.—Section 5702 (relating to definitions) is amended by adding at the end the following new subsection:

"(p) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 5702 is amended by striking "and pipe tobacco" and inserting "pipe tobacco, and roll-your-own tobacco".

(2) Subsection (d) of section 5702 is amended—

(A) in the material preceding paragraph (1), by striking "or pipe tobacco" and inserting "pipe tobacco, or roll-your-own tobacco", and

(B) by striking paragraph (1) and inserting the following new paragraph:

"(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and".

(3) The chapter heading for chapter 52 is amended to read as follows:

"CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(4) The table of chapters for subtitle E is amended by striking the item relating to chapter 52 and inserting the following new item:

"CHAPTER 52. Tobacco products and cigarette papers and tubes."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to roll-your-own tobacco removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after July 31, 1995.

(2) TRANSITIONAL RULE.—Any person who—

(A) on the date of the enactment of this Act is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

(B) before August 1, 1995, submits an application under subchapter B of chapter 52 of such Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

PART 2—HEALTH RELATED ASSESSMENTS

SEC. 7111. ASSESSMENTS ON INSURED AND SELF-INSURED HEALTH PLANS.

(a) GENERAL RULE.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding after chapter 36 the following new chapter:

"CHAPTER 37—HEALTH RELATED ASSESSMENTS

"SUBCHAPTER A. Insured and self-insured health plans.

"Subchapter A—Insured and Self-Insured Health Plans

"Sec. 4501. Health insurance and health-related administrative services.

"Sec. 4502. Self-insured health plans.

"Sec. 4503. Definitions and special rules.

"SEC. 4501. HEALTH INSURANCE AND HEALTH-RELATED ADMINISTRATIVE SERVICES.

"(a) IMPOSITION OF TAX.—There is hereby imposed—

"(1) on each taxable health insurance policy, a tax equal to 1.75 percent of the premiums received under such policy, and

"(2) on each amount received for health-related administrative services, a tax equal to 1.75 percent of the amount so received.

"(b) LIABILITY FOR TAX.—

"(1) HEALTH INSURANCE.—The tax imposed by subsection (a)(1) shall be paid by the issuer of the policy.

"(2) HEALTH-RELATED ADMINISTRATIVE SERVICES.—The tax imposed by subsection (a)(2) shall be paid by the person providing the health-related administrative services.

"(c) TAXABLE HEALTH INSURANCE POLICY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'taxable health insurance policy' means any insurance policy providing accident or health insurance with respect to individuals residing in the United States.

"(2) EXEMPTION OF CERTAIN POLICIES.—The term 'taxable health insurance policy' does not include any insurance policy if substantially all of the coverage provided under such policy relates to—

"(A) liabilities incurred under workers' compensation laws,

"(B) tort liabilities,

"(C) liabilities relating to ownership or use of property,

"(D) credit insurance,

"(E) coverage providing wages or payments in lieu of wages for any period during which the employee is absent from work on account of sickness or injury, or

"(F) such other similar liabilities as the Secretary may specify by regulations.

"(3) SPECIAL RULE WHERE POLICY PROVIDES OTHER COVERAGE.—In the case of any taxable health insurance policy under which amounts are payable other than for accident or health coverage, in determining the amount of the tax imposed by subsection (a)(1) on any premium paid under such policy, there shall be excluded the amount of the charge for the nonaccident or health coverage if—

"(A) the charge for such nonaccident or health coverage is either separately stated in the policy, or furnished to the policyholder in a separate statement, and

"(B) such charge is reasonable in relation to the total charges under the policy.

In any other case, the entire amount of the premium paid under such a policy shall be subject to tax under subsection (a)(1).

"(4) TREATMENT OF PREPAID HEALTH COVERAGE ARRANGEMENTS.—

"(A) IN GENERAL.—In the case of any arrangement described in subparagraph (B)—

"(i) such arrangement shall be treated as a taxable health insurance policy,

"(ii) the payments or premiums referred to in subparagraph (B)(i) shall be treated as premiums received for a taxable health insurance policy, and

"(iii) the person referred to in subparagraph (B)(i) shall be treated as the issuer.

"(B) DESCRIPTION OF ARRANGEMENTS.—An arrangement is described in this subparagraph if under such arrangement—

"(i) fixed payments or premiums are received as consideration for any person's agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided, and

"(ii) substantially all of the risks of the rates of utilization of services is assumed by such person or the provider of such services.

"(d) HEALTH-RELATED ADMINISTRATIVE SERVICES.—For purposes of this section, the term 'health-related administrative services' means—

"(1) the processing of claims or performance of other administrative services in connection with accident or health coverage under a taxable health insurance policy if the charge for such services is not included in the premiums under such policy, and

"(2) processing claims, arranging for provision of accident or health coverage, or performing other administrative services in connection with an applicable self-insured health plan (as defined in section 4502(c)) established or maintained by a person other than the person performing the services.

For purposes of paragraph (1), rules similar to the rules of subsection (c)(3) shall apply.

"SEC. 4502. SELF-INSURED HEALTH PLANS.

"(a) IMPOSITION OF TAX.—In the case of any applicable self-insured health plan, there is hereby imposed a tax for each month equal to 1.75 percent of the sum of—

"(1) the accident or health coverage expenditures for such month under such plan, and

"(2) the direct administrative expenditures for such month under such plan.

"(b) LIABILITY FOR TAX.—

"(1) IN GENERAL.—The tax imposed by subsection (a) shall be paid by the plan sponsor.

"(2) PLAN SPONSOR.—For purposes of paragraph (1), the term 'plan sponsor' means—

"(A) the employer in the case of a plan established or maintained by a single employer,

"(B) the employee organization in the case of a plan established or maintained by an employee organization, or

"(C) in the case of—

"(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

"(ii) a voluntary employees' beneficiary association under section 501(c)(9), or

"(iii) a plan described in subsection (c)(2)(F),

the association, committee, joint board of trustees, cooperative, or other similar group of representatives of the parties who establish or maintain the plan.

"(c) APPLICABLE SELF-INSURED HEALTH PLAN.—For purposes of this section, the term 'applicable self-insured health plan' means any plan for providing accident or health coverage if—

"(1) any portion of such coverage is provided other than through an insurance policy, and

"(2) such plan is established or maintained—

"(A) by one or more employers for the benefit of their employees or former employees,

"(B) by one or more employee organizations for the benefit of their members or former members,

"(C) jointly by 1 or more employers and 1 or more employee organizations for the benefit of employees or former employees,

"(D) by a voluntary employees' beneficiary association described in section 501(c)(9),

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(E) by any organization described in section 501(c)(6), or

"(F) in the case of a plan not described in the preceding subparagraphs, by a multiple employer welfare arrangement, a rural electric cooperative, or a rural telephone cooperative association, as such terms are defined in section 3(40) of the Employee Retirement Income Securities Act of 1974.

"(d) ACCIDENT OR HEALTH COVERAGE EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The accident or health coverage expenditures of any applicable self-insured health plan for any month are the aggregate expenditures paid in such month for accident or health coverage provided under such plan to the extent such expenditures are not subject to tax under section 4501.

"(2) TREATMENT OF REIMBURSEMENTS.—In determining accident or health coverage expenditures during any month of any applicable self-insured health plan, reimbursements (by insurance or otherwise) received during such month shall be taken into account as a reduction in accident or health coverage expenditures.

"(3) CERTAIN EXPENDITURES DISREGARDED.—Paragraph (1) shall not apply to any expenditure for the acquisition or improvement of land or for the acquisition or improvement of any property to be used in connection with the provision of accident or health coverage which is subject to the allowance under section 167, except that, for purposes of paragraph (1), allowances under section 167 shall be considered as expenditures.

"(e) DIRECT ADMINISTRATIVE EXPENDITURES.—For purposes of this section, the term 'direct administrative expenditures' means the administrative expenditures under the plan to the extent such expenditures are not subject to tax under section 4501. In determining the amount of such expenditures, rules similar to the rules of subsection (d)(3) shall apply.

"SEC. 4503. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) ACCIDENT OR HEALTH COVERAGE.—The term 'accident or health coverage' means any coverage which, if provided by an insurance policy, would cause such policy to be a taxable health insurance policy (as defined in section 4501(c)).

"(2) INSURANCE POLICY.—The term 'insurance policy' means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

"(3) PREMIUM.—The term 'premium' means the gross amount of premiums and other consideration (including advance premiums, deposits, fees, and assessments) arising from policies issued by a person acting as the primary insurer, adjusted for any return or additional premiums paid as a result of endorsements, cancellations, audits, or retrospective rating. Amounts returned where the amount is not fixed in the contract but depends on the experience of the insurer or the discretion of management shall not be included in return premiums.

"(4) UNITED STATES.—The term 'United States' includes any possession of the United States.

"(b) TREATMENT OF GOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—For purposes of this subchapter—

"(A) the term 'person' includes any governmental entity, and

"(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the taxes imposed by this subchapter except as provided in paragraph (2).

"(2) EXEMPT GOVERNMENTAL PROGRAMS.—In the case of an exempt governmental program—

"(A) no tax shall be imposed under section 4501 on any premium received pursuant to such program or on any amount received for health-related administrative services pursuant to such program, and

"(B) no tax shall be imposed under section 4502 on any expenditures pursuant to such program.

"(3) EXEMPT GOVERNMENTAL PROGRAM.—For purposes of this subchapter, the term 'exempt governmental program' means—

"(A) the insurance programs established by parts A and B of title XVIII of the Social Security Act,

"(B) the medical assistance program established by title XIX of the Social Security Act,

"(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being—

"(i) members of the Armed Forces of the United States, or

"(ii) veterans, and

"(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

"(c) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States."

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by inserting after the item relating to chapter 36 the following new item:

"CHAPTER 37. Health related assessments."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to premiums received, and expenses incurred, with respect to coverage for periods after December 31, 1995.

SEC. 7112. HIGH COST HEALTH PLAN ASSESSMENT.

(a) IN GENERAL.—Subchapter A of chapter 37 (relating to assessments on insured and self-insured health benefits), as added by section 7111, is amended by adding at the end the following new part:

"PART II—HIGH COST HEALTH PLANS

"Subpart A. Community-rated plans.

"Subpart B. Experience-rated plans.

"Subpart C. Definitions and special rules.

"Subpart A—Community-Rated Plans

"Sec. 4511. Community-rated plans.

"Sec. 4512. Reference premiums.

"SEC. 4511. COMMUNITY-RATED PLANS.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—If a community-rated certified standard health plan is a high cost plan for any coverage period beginning after December 31, 1996, there is hereby imposed a tax equal to 25 percent of the excess premiums of the plan for the period.

"(2) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the issuer of the high cost plan.

"(b) HIGH COST PLAN.—For purposes of this section—

"(1) IN GENERAL.—A plan is a high cost plan for any coverage period if—

"(A) it is operating within a noncompetitive community rating area, and

"(B) it has excess premiums for the period.

"(2) NONCOMPETITIVE COMMUNITY RATING AREA.—A community rating area is a non-competitive community rating area for any coverage period if, for the preceding coverage period—

"(A) the average premium for community-rated certified standard health plans in the area, weighted to reflect the total enrollment of community-rated individuals among such plans, exceeded

"(B) the weighted average reference premium for all such plans.

The determination under this paragraph shall be made on the basis of enrollment during the annual open enrollment period for such preceding coverage period and shall take into any applicable plan marketing fees described in section 1112(f) of the Health Security Act and purchasing cooperative membership fees described in section 1324 of such Act.

"(c) EXCESS PREMIUMS.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess premiums' means, with respect to a certified standard health plan, the excess (if any) of—

"(A) the premiums received under the plan during the coverage period, over

"(B) the sum of the amounts determined under paragraph (2) with respect to each class of enrollment.

"(2) EXCESS PREMIUM BASELINE.—

"(A) IN GENERAL.—The amount determined under this paragraph for any class of enrollment for any coverage period is an amount equal to the product of the reference premium for such class and the number of primary insureds in such class for the period.

"(B) PROPORTIONATE REDUCTION OF REFERENCE PREMIUM.—The reference premium applicable under subparagraph (A) to an individual who was a primary insured for only a portion of the coverage period shall be proportionately reduced to reflect the period the individual was not a primary insured.

"(3) DISREGARD OF AGE ADJUSTMENT.—The amount determined under paragraph (1)(A) shall be adjusted to reflect the premiums which would have been received if no age adjustment were permitted under section 1116 of the Health Security Act.

"(4) REDUCTION FOR TAXES.—The amount determined under paragraph (1)(A) shall be reduced by the amount of the tax imposed by this section included in determining the amount of the premiums.

"(d) COVERAGE PERIOD.—For purposes of this subpart, the term 'coverage period' means, with respect to any community rating area, the 12-month period for which an individual is covered under a standard health plan if the individual enrolls in the plan during the annual open enrollment period for the area under section 1503 of the Health Security Act.

"(e) PLANS COVERING MORE THAN ONE AREA.—For purposes of this subpart, if a community-rated plan covers individuals residing in more than 1 community rating area, the plan shall be treated as a separate plan with respect to each such area.

"SEC. 4512. REFERENCE PREMIUMS.

"(a) ESTABLISHMENT OF REFERENCE PREMIUMS.—For purposes of this subpart—

"(1) IN GENERAL.—The Secretary shall, in consultation with the Secretary of Health and Human Services, establish for each coverage period a reference premium for each class of enrollment for community-rated plans within a community rating area. The Secretary shall publish such reference premiums within a reasonable period of time before the annual open enrollment period for the coverage period.

"(2) METHOD OF DETERMINING REFERENCE PREMIUM.—Each reference premium for a class of enrollment for any coverage period shall be the reference premium in effect for such class for the preceding coverage period—

"(A) increased by the target growth rate for the coverage period as provided under subsection (b)(1), and

"(B) adjusted to reflect—

"(i) material changes in the characteristics of community-rated individuals as provided under subsection (b)(2), and

"(ii) changes in the actuarial value of the standard benefits package as provided under subsection (b)(3).

"(b) ANNUAL ADJUSTMENTS TO REFERENCE PREMIUMS.—For purposes of subsection (a)(2)—

"(1) TARGET GROWTH RATE.—The target growth rate for any coverage period is the percentage increase in the Consumer Price Index (as defined in section 1(f)(4)) which the Secretary estimates will occur during the coverage period—

"(A) increased by 2 percentage points (3 and 2.5 percentage points in the case of coverage periods beginning in 1997 and 1998, respectively), and

"(B) increased or decreased by the amount the estimate under this paragraph was incorrect for the preceding coverage period.

"(2) MATERIAL CHANGES.—

"(A) IN GENERAL.—The Secretary may, in consultation with the Secretary of Health and Human Services and pursuant to such method as the Secretary prescribes, adjust the reference premium to reflect—

"(i) changes in the demographic characteristics (including factors such as age, gender, and socioeconomic status) of community-rated individuals in the community rating area which are materially different when compared to the average changes in such characteristics in the United States, and

"(ii) extraordinary changes in the health status of such individuals (as so compared).

"(B) EFFECT ON WEIGHTED AVERAGE.—Any adjustments under subparagraph (A) for any coverage period shall not result in a change in the weighted average of such factors for all community rating areas in the United States.

"(3) CHANGES IN BENEFIT PACKAGE.—If the actuarial value of the standard benefits package is changed pursuant to subtitle C of title I of the Health Security Act, the Secretary shall adjust the reference premiums appropriately to reflect such change.

"(c) COMPUTATION OF REFERENCE PREMIUM FOR 1996.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services, shall compute the reference premium for each class of enrollment for 1996. Each such reference premium shall be the reference premium which is adjusted under subsection (a)(2) in determining the reference premium for coverage periods beginning in 1997.

"(2) METHOD OF DETERMINING REFERENCE PREMIUMS.—Each reference premium under paragraph (1) shall be equal to the national average per capita current coverage health expenditures for 1994 (determined under subsection (d))—

"(A) increased as provided in paragraph (3),

"(B) adjusted to reflect the differences in the community rating area as provided in paragraph (4), and

"(C) modified to reflect the class of enrollment for which it is being determined in the same manner as premiums are modified under section 1116 of the Health Security Act.

"(3) UPDATING FOR 1995 AND 1996.—The Secretary shall update the national average per capita current coverage health expenditures for 1994 to reflect the annual percentage increases for calendar years 1995 and 1996 in private sector health care spending for items and services included in the standard benefits package. Such increase shall not exceed the current projected increase in per capita private health insurance premiums for such years contained in the estimate of national health insurance expenditures published by the Congressional Budget Office in the fall of 1993.

"(4) AREA ADJUSTMENTS.—

"(A) IN GENERAL.—The Secretary shall, using information of the type described in subparagraph (B), establish an adjustment for each community rating area which takes into account the differences among community rating areas, including variations in health care expenditures, in rates of uninsurance and underinsurance, and in the proportion of expenditures for services provided by academic health centers.

"(B) TYPE OF INFORMATION.—The type of information described in this subparagraph is—

"(i) information on variations in premiums across States and across community rating areas within a State (based on surveys and other data);

"(ii) information on variations in per capita health spending by State, as measured by the Secretary;

"(iii) information on variations across States in per capita spending under the medicare program and in such spending among community rating areas within a State under such program; and

"(iv) area rating factors commonly used by actuaries.

"(C) CONSULTATION PROCESS.—The Secretary shall, in cooperation with the Secretary of Health and Human Services, consult with representatives of States and community rating areas before establishing the adjustment under this subsection.

"(d) DETERMINATION OF NATIONAL AVERAGE PER CAPITA CURRENT COVERAGE HEALTH EXPENDITURES.—

"(1) IN GENERAL.—The national average per capita current coverage health expenditures are equal to—

"(A) the total amount of covered current health care expenditures described in paragraph (2), divided by

"(B) the estimated population in the United States of community-rated individuals as of 1994 (as determined under paragraph (4)) for whom such expenditures were determined.

The population under subparagraph (B) shall not include SSI recipients.

"(2) COVERED CURRENT HEALTH CARE EXPENDITURES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'covered current health care expenditures' means the amount of total payments made in the United States during 1994 (other than amounts for cost sharing) for items and services included in the standard benefits package.

"(B) REMOVAL OF CERTAIN EXPENDITURES NOT TO BE COVERED.—The amount determined under subparagraph (A) shall be decreased by the proportion of such amount that is attributable to any of the following:

"(i) Medicare beneficiaries.

"(ii) SSI recipients.

"(iii) Expenditures which are paid for through workers' compensation or automobile or other liability insurance.

"(iv) Any other expenditures by parties (including the Federal Government) that the Secretary estimates will not be payable by

community-rated plans for coverage under the standard benefits package.

"(C) ADDITION OF PROJECTED EXPENDITURES FOR UNINSURED AND UNDERINSURED INDIVIDUALS.—The amount determined under subparagraph (A) (as adjusted under subparagraph (B)) shall be increased to take into account increased utilization of, and expenditures for, items and services covered under the standard benefits package likely to occur, as a result of coverage under a community-rated plan of individuals who, as of 1994, were uninsured or underinsured with respect to the standard benefits package. In making such determination, such expenditures shall be based on the estimated average cost for such services in 1994 (and not on private payment rates established for such services). In making such determination, the estimated amount of uncompensated care in 1994 shall be reduced to reflect the number and characteristics of the currently uninsured who will become insured by reason of the Health Security Act and will not include adjustments to offset payments below costs by public programs.

"(D) ADDITION OF HEALTH PLAN ADMINISTRATION COSTS.—The amount determined under subparagraph (A) (as adjusted under the preceding subparagraphs) shall be increased by an estimated percentage (determined by the Secretary, but no more than 15 percent) that reflects the proportion of premiums that are required for administration and for State premium taxes (which taxes shall be limited to such amounts in 1994 as are attributable to the health benefits to be included in the standard benefits package).

"(E) DECREASE FOR COST SHARING.—The amount determined under subparagraph (A) (as adjusted under the preceding subparagraphs) shall be decreased by a percentage that reflects (i) the estimated average percentage of total amounts payable for items and services covered under the standard benefits package that will be payments in the form of cost sharing under a certified standard benefit plan with a high cost-sharing option, and (ii) the percentage reduction in utilization estimated to result from the application of such cost sharing.

"(3) SPECIAL RULES.—

"(A) BENEFITS USED.—The determinations under this subsection shall be based on the standard benefits package as in effect in 1996.

"(B) ASSUMING NO CHANGE IN EXPENDITURE PATTERN.—The determination under paragraph (2) shall be made without regard to any change in the pattern of expenditures that may result from the enrollment of SSI recipients in community-rated plans.

"(4) ELIGIBLE INDIVIDUALS.—The determination of individuals who are community-rated individuals under this subsection shall be made as though the Health Security Act was fully in effect in each State as of 1994.

"(e) TREATMENT OF CERTAIN STATES.—For purposes of this section—

"(1) NONPARTICIPATING STATES.—In the case of a State that is not a participating State or otherwise has not established community rating areas, the entire State shall be treated as a single community rating area.

"(2) CHANGES IN BOUNDARIES.—In the case of a State that changes the boundaries of its community rating areas, the Secretary shall provide a method for computing reference premiums for each area affected by such change in a manner that—

"(A) reflects the factors taken into account in establishing the adjustment factors under this section, and

"(B) results in the weighted average of the newly computed reference premiums for the

VOL 140 PT 16 AG 12 — 18 1994 UMI

areas affected by the change being equal to the weighted average of the reference premiums for the areas as previously established.

"Subpart B—Experience-Rated Plans

"Sec. 4515. Experience-rated plans.

"SEC. 4515. EXPERIENCE-RATED PLANS.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—In the case of any calendar year beginning after December 31, 1999, there is hereby imposed a tax equal to 25 percent of the excess premium equivalents of an experience-rated standard health plan.

"(2) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the plan sponsor.

"(b) EXCESS PREMIUM EQUIVALENTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess premium equivalents' means the excess (if any) of—

"(A) the premium equivalents of the plan for the calendar year, over

"(B) the product of the reference premium and the number of primary insureds covered by the plan during the calendar year.

"(2) PROPORTIONATE REDUCTION IN REFERENCE PREMIUM.—The reference premium applicable under paragraph (1)(B) to a primary insured covered under the plan for only a portion of the calendar year shall be proportionately reduced to reflect the period the individual was not a primary insured.

"(c) REFERENCE PREMIUM.—For purposes of this section—

"(1) IN GENERAL.—The reference premium for any plan for any calendar year shall be the reference premium in effect for the preceding calendar year—

"(A) increased by the target growth rate for the calendar year as provided under paragraph (2), and

"(B) adjusted to reflect—

"(i) material changes in the characteristics of individuals covered by the plan as provided under paragraph (3), and

"(ii) changes in the actuarial value of the standard benefits package as provided under paragraph (4).

"(2) TARGET GROWTH RATE.—The target growth rate for any calendar year is the percentage increase in the Consumer Price Index (as defined in section 1(f)(4)) which the Secretary estimates will occur during the calendar year—

"(A) increased by 2 percentage points, and

"(B) increased or decreased by the amount the estimate under this paragraph was incorrect for the preceding calendar year.

"(3) MATERIAL CHANGES.—The Secretary may, in consultation with the Secretary of Health and Human Services, establish such method as the Secretary determines appropriate for adjusting the reference premium for any plan to reflect—

"(A) changes in the demographic characteristics (including factors such as age, gender, socioeconomic status, and class of enrollment) of individuals in the plan which are materially different when compared to the average changes in such characteristics in the United States, and

"(B) extraordinary changes in the health status of such individuals (as so compared).

"(4) CHANGES IN BENEFIT PACKAGE.—If the actuarial value of the standard benefits package is changed pursuant to subtitle C of title I of the Health Security Act, the Secretary shall adjust the reference premiums appropriately to reflect such change.

"(d) REFERENCE PREMIUM FOR 1999.—

"(1) IN GENERAL.—The reference premium for calendar year 1999 shall be equal to the average of the per capita premium equivalents for calendar years 1997, 1998, and 1999. Such reference premium shall be the reference premium which is adjusted under subsection (c) for determining the reference premium for calendar year 2000.

"(2) PER CAPITA PREMIUM EQUIVALENT.—

"(A) IN GENERAL.—The per capita premium equivalent for any calendar year shall be equal to the premium equivalent for providing the standard benefits package to each primary insured, adjusted as provided under subparagraph (B).

"(B) GROWTH FACTORS.—The amount determined under subparagraph (A)—

"(i) for calendar year 1997 shall be increased by the target growth rates for calendar years 1998 and 1999, and

"(ii) for calendar year 1998 shall be increased by the target growth rate for calendar year 1999.

For purposes of this subparagraph, the target growth rate shall be determined under subsection (c)(2), except that subsection (c)(2)(A) shall be applied for calendar year 1998 by substituting '2.5' for '2'.

"(e) PREMIUM EQUIVALENTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'premium equivalents' means, with respect to any calendar year, the sum of—

"(A) expenditures described in subsections (d) and (e) of section 4502 with respect to coverage under the plan, and

"(B) in the case of any coverage provided through an insurance policy, premiums paid for such coverage.

"(2) EXCLUSION OF NONSTANDARD COVERAGE.—The premium equivalents for any calendar year shall not include amounts with respect to—

"(A) any coverage other than coverage for the standard benefits package, or

"(B) any cost-sharing coverage.

"(3) RISK ADJUSTMENT PAYMENTS.—The premium equivalents for any calendar year shall include payments under any risk adjustment program established under title I of the Health Security Act.

"(4) TAXES DISREGARDED.—The premium equivalents for any calendar year shall not include the amount of any tax imposed by this section.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—

"(A) PLANS.—All plans maintained by the same plan sponsor shall be treated as 1 plan.

"(B) SPONSORS.—All plan sponsors which are treated as a single employer under subsection (b) or (c) of section 414 shall be treated as 1 plan sponsor.

"(2) STARTUP PLANS.—If a plan sponsor first begins operation of an experience-rated plan after 1997, the reference premium for the first calendar year for which the plan is in operation and to which this section applies shall, under regulations prescribed by the Secretary, be determined as if the reference premium for the preceding calendar year were equal to the average of the reference premiums for all community-rated plans for the preceding calendar year in the areas in which the plan is operating. The Secretary may, in consultation with the Secretary of Health and Human Services, provide a method for adjusting the reference premium determined under the preceding sentence in a manner similar to the manner under subsection (c)(3).

"(3) ACQUISITIONS AND DISPOSITIONS.—The reference premium after an acquisition or disposition described in section 41(f)(3) involving the plan sponsor of an experience-rated plan shall be made pursuant to such regulations as the Secretary may prescribe.

"(4) INFORMATION.—The Secretary may require a plan sponsor of an experience-rated plan to adopt such conventions as are necessary in its accounting practices and financial records to assure that only costs related to the standard benefits package are taken into account in determining the premium equivalents with respect to the plan.

"Subpart C—Definitions and Special Rules

"Sec. 4518. Right of recovery.

"Sec. 4519. Definitions and special rules.

"SEC. 4518. RIGHT OF RECOVERY FROM PROVIDERS.

"(a) GENERAL RULE.—Each issuer or plan sponsor of a certified standard health plan shall be entitled to recover from the providers of items or services covered by the plan an amount equal to 50 percent of the amount of any tax imposed by this part on the issuer or sponsor.

"(b) RECOVERY.—For purposes of subsection (a)—

"(1) any amount recovered from any provider shall not exceed the provider's proportionate share of items or services provided under the plan for the period the tax was imposed, and

"(2) an issuer or plan sponsor may recover an amount from a provider through a reduction in payments under the plan, direct payments from the provider, or such other manner as may be provided under State law adopted pursuant to section 1510 of the Health Security Act.

"(c) BALANCE BILLING.—For prohibition of balance billing of any amount recovered from a provider under this section, see section 1128(h)(3) of the Health Security Act.

"SEC. 4519. DEFINITIONS AND SPECIAL RULES.

"(a) HEALTH PLANS.—For purposes of this part—

"(1) STANDARD HEALTH PLAN.—The term 'standard health plan' has the meaning given such term by section 1011(2)(B) of the Health Security Act, except that such term does not include a plan offering the alternative standard benefit package described in 1201(b) of such Act.

"(2) STANDARD BENEFITS PACKAGE.—The term 'standard benefits package' has the meaning given such term by section 1201(a) of such Act.

"(b) COMMUNITY RATING AREAS AND PLANS.—For purposes of this part—

"(1) COMMUNITY RATING AREA.—The term 'community rating area' means an area established under section 1502 of the Health Security Act.

"(2) COMMUNITY-RATED PLAN.—The term 'community-rated plan' means a plan which is community-rated under section 1116 of such Act.

"(3) EXPERIENCE-RATED PLAN.—The term 'experience-rated plan' means any plan which is not a community-rated plan.

"(c) PREMIUMS.—For purposes of this part—

"(1) IN GENERAL.—The term 'premium' has the meaning given such term by section 4503(a)(3).

"(2) ADMINISTRATIVE COSTS.—Amounts received for health-related administrative services (as defined in section 4501(d)) provided in connection with any standard health plan taken into account under section 4511(c)(3) shall be treated as premiums.

"(3) RISK ADJUSTMENT PAYMENTS.—Payments under a risk adjustment program established under title I of the Health Security Act shall be disregarded in computing the amount of any premiums.

"(d) INSURANCE POLICY AND PLAN SPONSOR.—For purposes of this part—

"(1) INSURANCE POLICY.—The term 'insurance policy' has the meaning given such term by section 4503(a)(2).

"(2) PLAN SPONSOR.—The term 'plan sponsor' has the meaning given such term by section 4502(b)(2), except that in the case of a plan not described in such section, such term means the person or persons who establish or maintain the plan.

"(e) SPECIAL RULES.—For purposes of this part—

"(1) RETURNS.—A return of any tax imposed by this part shall be filed no later than 2½ months after the close of the period to which it relates. The Secretary may require returns to be filed more frequently if the Secretary determines it necessary for the effective administration of this part.

"(2) DEPOSITS.—The Secretary may require deposits of any taxes imposed by subpart A or B at such times as the Secretary determines appropriate.

"(3) GOVERNMENTAL ENTITIES SUBJECT TO TAX.—The rules of section 4503(b) shall apply for purposes of this part.

"(4) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this part shall be covered over to any possession of the United States.

"(f) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out the provisions of this part, including regulations—

"(1) requiring the maintenance of such records, and the reporting of such information as the Secretary determines necessary, and

"(2) which provide that 2 or more plans of a person or any related persons must be aggregated, or a plan must be treated as 2 or more separate plans."

(b) CONFORMING AMENDMENTS.—

(1) Subchapter A of chapter 37, as added by section 7111, is amended by inserting after the subchapter heading the following:

"Part I. Premium and related assessments.

"Part II. High cost health plans.

"PART I—PREMIUM AND RELATED ASSESSMENTS".

(2) Section 4503, as so added, is amended by striking "subchapter" each place it appears and inserting "part".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

PART 3—RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES

SEC. 7121. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 is amended by adding at the end the following new part:

"PART VIII—CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS

"Sec. 59B. Recapture of certain health care subsidies.

"SEC. 59B. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES.

"(a) IMPOSITION OF RECAPTURE AMOUNT.—In the case of an individual, if the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount, such taxpayer shall pay (in addition to any other amount imposed by this subtitle) a recapture amount for such taxable year equal to the aggregate of the Medicare part B recapture amounts (if any) for months during such year that a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part.

"(b) MEDICARE PART B PREMIUM RECAPTURE AMOUNT FOR MONTH.—For purposes of this section, the Medicare part B premium recapture amount for any month is the amount equal to the excess of—

"(1) 150 percent of the monthly actuarial rate for enrollees age 65 and over determined for that calendar year under section 1839(b) of the Social Security Act, over

"(2) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(c) PHASE-IN OF RECAPTURE AMOUNT.—

"(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $15,000, the recapture amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the recapture amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $15,000.

"(2) JOINT RETURNS.—If a recapture amount is determined separately for each spouse filing a joint return, paragraph (1) shall be applied by substituting '$30,000' for '$15,000' each place it appears.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $80,000,

"(B) $100,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married (as determined under section 7703) but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 135, 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) JOINT RETURNS.—In the case of a joint return—

"(A) the recapture amount under subsection (a) shall be the sum of the recapture amounts determined separately for each spouse, and

"(B) subsections (a) and (c) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) TREATED AS TAX FOR SUBTITLE F.—For purposes of subtitle F, the recapture amount imposed by this section shall be treated as if it were a tax imposed by section 1.

"(B) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The recapture amount imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this chapter, or

"(ii) the amount of the minimum tax under section 55.

"(C) TREATED AS PAYMENT FOR MEDICAL INSURANCE.—The recapture amount imposed by this section shall be treated as an amount paid for insurance covering medical care, within the meaning of section 213(d).

"(5) TAXES IMPOSED BY POSSESSIONS.—The tax imposed by this section shall not apply to a bona fide resident of a possession with respect to which the requirements of section 1509 of the Health Security Act are met."

(b) TRANSFERS TO FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Federal Supplementary Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of section 59B(a) of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Federal Supplementary Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the recapture amounts referred to in such section 59B(a) for such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) (relating to returns relating to social security benefits) is amended by striking "and" at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

"(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and".

(2) Paragraph (2) of section 6050F(b) is amended to read as follows:

"(2) the information required to be shown on such return with respect to such individual."

(3) Subparagraph (A) of section 6050F(c)(1) is amended by inserting before the comma "and in the case of the information specified in subsection (a)(1)(D)".

(4) The heading for section 6050F is amended by inserting **"AND MEDICARE PART B COVERAGE"** before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting "and Medicare part B coverage" before the period.

(d) WAIVER OF CERTAIN ESTIMATED TAX PENALTIES.—No addition to tax shall be imposed under section 6654 of the Internal Revenue Code of 1986 (relating to failure to pay estimated income tax) for any period before April 16, 1997, with respect to any underpayment to the extent that such underpayment resulted from section 59B(a) of the Internal Revenue Code of 1986, as added by this section.

(e) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Part VIII. Certain health care subsidies received by high-income individuals."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

PART 4—OTHER PROVISIONS

SEC. 7131. INCREASE IN TAX ON CERTAIN HOLLOW POINT AND LARGE CALIBER HANDGUN AMMUNITION.

(a) INCREASE IN MANUFACTURERS TAX.—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(1) IN GENERAL.—Section 4181 (relating to imposition of tax on firearms) is amended—

(A) by striking "Shells, and cartridges" and inserting "Shells and cartridges not taxable at 10,000 percent", and

(B) by adding at the end the following:

"ARTICLES TAXABLE AT 10,000 PERCENT.—

"Any jacketed, hollow point projectile which may be used in a handgun and the jacket of which is designed to produce, upon impact, sharp-tipped, barb-like projections that extend beyond the diameter of the unfired projectile.

"Any cartridge with a projectile measuring .500 inch or greater in diameter which may be used in a handgun."

(2) ADDITIONAL TAXES ADDED TO THE GENERAL FUND.—Section 3(a) of the Act of September 2, 1937 (16 U.S.C. 669b(a)), commonly referred to as the "Pittman-Robertson Wildlife Restoration Act", is amended by adding at the end the following new sentence: "There shall not be covered into the fund the portion of the tax imposed by such section 4181 that is attributable to any increase in amounts received in the Treasury under such section by reason of the amendments made by section 7131(a)(1) of the Health Security Act, as estimated by the Secretary."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales after December 31, 1994.

(2) FLOOR STOCKS TAX.—

(A) IN GENERAL.—In the case of any article held on January 1, 1995, which is taxable under section 4181 of the Internal Revenue Code of 1986 on and after such date at a tax rate of 10,000 percent, there is hereby imposed a tax equal to the excess of—

(i) the tax which would be imposed under section 4181 of such Code if the article were sold on such date, over

(ii) the prior tax (if any) imposed under such section on such article.

(B) CREDIT.—Each person shall be allowed as a credit against the taxes imposed by subparagraph (A) an amount equal to the taxes imposed on articles which such person destroys (in such manner as the Secretary may prescribe) after December 31, 1994, and before April 1, 1995.

(C) PAYMENT.—The taxes imposed by subparagraph (A) on any article shall be paid by the person holding the article on January 1, 1995. Such taxes shall be paid before April 1, 1995, in such manner as the Secretary of the Treasury may prescribe.

(D) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on January 1, 1995, shall be subject to the tax imposed by subparagraph (A) if—

(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(ii) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(E) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this paragraph.

(F) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4181 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by subparagraph (A), to the same extent as if such taxes were imposed by such section 4181. The Secretary may treat any person who bore the ultimate burden of the tax imposed by subparagraph (A) as the person to whom a credit or refund under such provisions may be allowed or made.

SEC. 7132. MODIFICATION TO SELF-EMPLOYMENT TAX TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS AND PARTNERS.

(a) TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS.—

(1) AMENDMENT TO INTERNAL REVENUE CODE.—Section 1402 (relating to definitions) is amended by adding at the end the following new subsection:

"(k) TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS.—

"(1) IN GENERAL.—In the case of any individual—

"(A) who is a 2-percent shareholder (as defined in section 1372(b)) of an S corporation for any taxable year of such corporation, and

"(B) who provides significant services to or on behalf of such S corporation during such taxable year,

such shareholder's net earnings from self-employment shall include such shareholder's pro rata share (as determined under section 1366(a)) of the taxable income or loss of such corporation for such taxable year from the active conduct by such corporation of trades or businesses, and to the extent provided in regulations, for any other taxable year to the extent such income or loss is attributable to such services.

"(2) LIMITATION.—The amount included under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) 30 percent of the contribution and benefit base (as determined under section 230 of the Social Security Act) for the calendar year in which the taxable year begins, or

"(B) the excess of—

"(i) such contribution and benefit base, over

"(ii) the sum of the net earnings from self-employment of the taxpayer for the taxable year (without regard to this subsection) and the wages of the taxpayer for the taxable year.

"(3) CERTAIN EXCEPTIONS TO APPLY.—In determining the amount to be taken into account under paragraph (1), the exceptions provided in subsection (a) shall apply, except that, in the case of the exceptions provided in subsection (a)(5), rules similar to the rules of subparagraph (B) thereof shall apply to shareholders in S corporations.

"(4) APPLICATION OF DEFERRED COMPENSATION RULES.—For purposes of subchapter D of chapter 1 (and any other provision of this title relating thereto), in the case of an individual who is treated as having net earnings from self-employment by reason of paragraph (1)—

"(A) such individual shall not be treated as a self-employed individual (within the meaning of section 401(c)(1)) with respect to services performed for the S corporation, and

"(B) such net earnings shall be treated as compensation received by the individual as an employee of the S corporation."

(2) AMENDMENT TO SOCIAL SECURITY ACT.—Section 211 of the Social Security Act is amended by adding at the end the following new subsection:

"Treatment of Certain S Corporation Shareholders

"(k)(1) In the case of any individual—

"(A) who is a 2-percent shareholder (as defined in section 1372(b) of the Internal Revenue Code of 1986) of an S corporation for any taxable year of such corporation, and

"(B) who provides significant services to or on behalf of such S corporation during such taxable year,

such shareholder's net earnings from self-employment shall include such shareholder's pro rata share (as determined under section 1366(a) of the Internal Revenue Code of 1986) of the taxable income or loss of such corporation for such taxable year from the active conduct by such corporation of trades or businesses, and to the extent provided in regulations, for any other taxable year to the extent such income or loss is attributable to such services.

"(2) The amount included under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) 30 percent of the contribution and benefit base (as determined under section 230) for the calendar year in which the taxable year begins, or

"(B) the excess of—

"(i) such contribution and benefit base, over

"(ii) the sum of the net earnings from self-employment of the taxpayer for the taxable year (without regard to this subsection) and the wages of the taxpayer for the taxable year.

"(3) In determining the amount to be taken into account under paragraph (1), the exceptions provided in subsection (a) shall apply, except that, in the case of the exceptions provided in subsection (a)(5), rules similar to the rules of subparagraph (B) thereof shall apply to shareholders in S corporations."

(b) TREATMENT OF CERTAIN LIMITED PARTNERS.—

(1) AMENDMENT OF THE INTERNAL REVENUE CODE.—Paragraph (13) of section 1402(a) is amended to read as follows:

"(13) there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than—

"(A) guaranteed payments described in section 707(c) to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services, or

"(B) in the case of a limited partner who provides significant services to or on behalf of the partnership for any taxable year of the partnership, the limited partner's distributive share (determined without regard to payments described in subparagraph (A)) of the taxable income or loss of such partnership,

except that the amount included under this subparagraph for any taxable year shall not exceed the limitation described in subsection (k)(2);".

(2) AMENDMENT OF THE SOCIAL SECURITY ACT.—Paragraph (12) of section 211(a) of the Social Security Act is amended to read as follows:

"(12) there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than—

"(A) guaranteed payments described in section 707(c) of the Internal Revenue Code of 1986 to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services, or

"(B) in the case of a limited partner who provides significant services to or on behalf of the partnership for any taxable year of the partnership, the limited partner's distributive share (determined without regard to payments described in subparagraph (A)) of the taxable income or loss of such partnership—

"(i) for such taxable year from the active conduct by such partnership of trades or businesses, and

"(ii) to the extent provided in regulations, for any other taxable year to the extent attributable to such services,

except that the amount included under this subparagraph for any taxable year shall not exceed the limitation described in subsection (k)(2);".

(c) INVENTORY INCOME.—Section 1402 (relating to definitions), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(l) INVENTORY INCOME.—

"(1) IN GENERAL.—The net earnings from self-employment of any taxpayer for any taxable year under subsection (a) (determined without regard to this subsection) shall be reduced by 40 percent of the lesser of—

"(A) the taxpayer's allocable share of net inventory income, or

"(B) the amount of such net earnings in excess of the applicable amount for the taxable year.

"(2) NET INVENTORY INCOME.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'net inventory income' means net income from the sale of property described in section 1221(1).

"(B) DEALERS IN SECURITIES.—For purposes of subparagraph (A)—

"(i) any security described in section 475(c)(2) (without regard to the last sentence thereof) which is held by a person as a dealer in securities (as defined in section 475(c)(1)) shall be treated as property described in section 1221(1), and

"(ii) net income from any such security shall be taken into account to the extent otherwise taken into account in computing net earnings from self-employment.

"(3) APPLICABLE AMOUNT.—For purposes of paragraph (1), the term 'applicable amount' means the excess of—

"(A) $135,000, adjusted, in the case of any taxable year beginning in any calendar year after 1996, in the same manner as is used in adjusting the contribution and benefit base for the calendar year under section 230(b) of the Social Security Act, over

"(B) the amount of wages paid to the individual during the taxable year."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of individuals beginning after December 31, 1995, and to taxable years of S corporations and partnerships ending with or within such taxable years of individuals.

SEC. 7133. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after September 30, 1995.

(b) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning October 1, 1995, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before October 1, 1995, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with October 1995.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—SECTION 226(G) OF THE SOCIAL SECURITY ACT (42 U.S.C. 426(G)) IS AMENDED—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) is amended by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),".

(2) Subparagraph (B) of section 210(p)(1) of the Social Security Act (42 U.S.C. 410(p)(1)) is amended by striking "paragraphs (2) and (3)." and inserting "paragraph (2)."

(3) Section 218 of the Social Security Act (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after September 30, 1995.

Subtitle B—Tax Treatment of Employer-Provided Health Care

PART 1—GENERAL PROVISIONS

SEC. 7201. LIMITATION ON EXCLUSION FOR EMPLOYER-PROVIDED HEALTH BENEFITS.

(a) GENERAL RULE.—Section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) INCLUSION OF CERTAIN BENEFITS NOT PART OF PERMITTED COVERAGE.—

"(1) IN GENERAL.—Effective on and after January 1, 2004, gross income of an employee shall include employer-provided coverage under any accident or health plan which is not permitted coverage.

"(2) PERMITTED COVERAGE.—For purposes of this subsection, the term 'permitted coverage' means any—

"(A) coverage under a certified standard health plan (as defined in section 1011(2)(A) of the Health Security Act),

"(B) coverage under a certified supplemental health benefit plan (as defined in section 1011(3)(A) of the Health Security Act) which consists of—

"(i) the payment of cost sharing amounts under a certified standard health plan (as so defined) providing the standard benefits package described in part 1 of subtitle C of title I of such Act, or

"(ii) coverage for vision, dental, or hearing care for an individual age 22 or over to the extent not included under subparagraph (A),

"(C) coverage under a qualified long-term care insurance policy (as defined in section 7702B(b)),

"(D) coverage providing wages or payments in lieu of wages for any period during which the employee is absent from work on account of sickness or injury,

"(E) coverage only for accidental death or dismemberment,

"(F) coverage under a medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act),

"(G) coverage under an equivalent health care program (as defined in section 1013(3) of the Health Security Act), and

"(H) other coverage to the extent that the Secretary determines that the continuation of an exclusion for such coverage is not inconsistent with the purposes of this subsection.

"(3) SPECIAL RULES FOR FLEXIBLE SPENDING ARRANGEMENTS.—

"(A) IN GENERAL.—To the extent that any employer-provided coverage is provided through a flexible spending or similar arrangement, paragraph (1) shall be applied by substituting 'January 1, 1996,' for 'January 1, 2004'.

"(B) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this paragraph, a flexible spending arrangement is a benefit program

VOL 140 PT 16 AG 12 — 18 1994 UMI

which provides employees with coverage under which—

"(i) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(ii) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the cost of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(b) EMPLOYMENT TAX TREATMENT.—

(1) SOCIAL-SECURITY TAX.—

(A) Subsection (a) of section 3121 is amended by inserting after paragraph (21) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(B) Subsection (a) of section 209 of the Social Security Act is amended by inserting after paragraph (21) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b) of the Internal Revenue Code of 1986."

(2) RAILROAD RETIREMENT TAX.—Paragraph (1) of section 3231(e) is amended by adding at the end the following new sentence: "Nothing in clause (i) of the second sentence of this paragraph shall exclude from the term 'compensation' any amount which is required to be included in gross income under section 106(b)."

(3) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by inserting after paragraph (16) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(4) WAGE WITHHOLDING.—Subsection (a) of section 3401 is amended by adding at the end the following new sentence:

"Nothing in the preceding provisions of this subsection shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1996.

(2) BENEFITS PROVIDED PURSUANT TO COLLECTIVE BARGAINING AGREEMENTS.—In the case of a flexible spending arrangement maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers which was ratified before June 30, 1994, the amendments referred to in paragraph (1) shall not apply to benefits pursuant to any such agreement before the later of—

(A) January 1, 1996, or

(B) the earlier of—

(i) the date on which the last of such agreements terminate (determined without regard to any extension thereof on or after June 30, 1994), or

(ii) January 1, 1998.

SEC. 7202. HEALTH BENEFITS MAY NOT BE PROVIDED UNDER CAFETERIA PLANS.

(a) GENERAL RULE.—Subsection (f) of section 125 (defining qualified benefits) is amended by adding at the end the following new sentence: "Such term shall not include any benefits or coverage under an accident or health plan."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 125 is amended by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1997.

(2) BENEFITS PROVIDED PURSUANT TO COLLECTIVE BARGAINING AGREEMENTS.—In the case of a cafeteria plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers which was ratified before June 30, 1994, the amendments referred to in paragraph (1) shall not apply to benefits pursuant to any such agreement before the later of—

(A) January 1, 1997, or

(B) the earlier of—

(i) the date on which the last of such agreements terminate (determined without regard to any extension thereof on or after June 30, 1994), or

(ii) January 1, 1999.

SEC. 7203. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) PROVISION MADE PERMANENT.—

(1) IN GENERAL.—Subsection (l) of section 162 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1993.

(b) AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 162(l) are amended to read as follows:

"(1) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c), there shall be allowed as a deduction under this section an amount equal to 50 percent of the amount paid during the taxable year for coverage under a certified standard health plan (as defined in section 1011(2)(A) of the Health Security Act).

"(2) LIMITATIONS.—

"(A) LOWER PERCENTAGE IN CERTAIN CASES.—

"(i) IN GENERAL.—If the taxpayer has 1 or more employees in a trade or business with respect to which such taxpayer is treated as an employee within the meaning of section 401(c), the deduction under paragraph (1) shall not exceed the portion of the amount paid which is equivalent to the largest employer contribution made on behalf of any such employee for coverage under a certified standard health plan.

"(ii) EQUIVALENT CONTRIBUTION.—For purposes of clause (i), the amount paid is equivalent to a contribution if—

"(I) it is the same dollar amount as the contribution,

"(II) it represents the same percentage of cost under the plan to which it is made as does the contribution, or

"(III) it represents the same percentage of the weighted average premium for the class of enrollment (as defined in section 1113(c) of the Health Security Act) for the community rating area in which the employee works as does the contribution.

For purposes of applying subclause (II) or (III), any dollar limitation applicable to all employer contributions (whether expressed as a dollar amount or a percentage described in subclause (III)) shall be disregarded.

"(B) DEDUCTION LIMITED TO EARNED INCOME.—No deduction shall be allowed under paragraph (1) to the extent that the amount of such deduction exceeds the taxpayer's earned income (within the meaning of section 401(c)).

"(C) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or the taxpayer's spouse."

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 162(l)(5) is amended by striking "shall be treated as such individual's earned income" and inserting "shall be included in such individual's earned income".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1995.

SEC. 7204. LIMITATION ON PREPAYMENT OF MEDICAL INSURANCE PREMIUMS.

(a) GENERAL RULE.—Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(10) LIMITATION ON PREPAYMENTS.—If—

"(A) the taxpayer pays a premium or other amount which constitutes medical care under paragraph (1), and

"(B) such premium or other amount is properly allocable to insurance coverage or care to be provided during periods more than 12 months after the month in which such payment is made,

such premium or other amount shall be treated as paid ratably over the period during which such insurance coverage or care is to be provided. The preceding sentence shall not apply to any premium to which paragraph (7) applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid after December 31, 1994.

PART 2—EMPLOYER HEALTH CARE CONTRIBUTIONS

SEC. 7211. TAX TREATMENT OF EMPLOYER HEALTH CARE CONTRIBUTIONS.

(a) IN GENERAL.—Chapter 37 (relating to health-related taxes), as added by section 7111, is amended by adding at the end the following new subchapter:

"Subchapter B—Employer-Provided Health Benefits

"Sec. 4521. Taxable employer-provided health benefits.

"Sec. 4522. Discriminatory employer practices.

"Sec. 4523. Exceptions.

"Sec. 4524. Definitions and special rules.

"SEC. 4521. TAXABLE EMPLOYER-PROVIDED HEALTH BENEFITS.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax equal to the product of—

"(1) the aggregate employer contributions for coverage described in paragraph (1) or (2) of subsection (b) during any portion of the taxable year during which there is discriminatory permitted coverage, and

"(2) the highest rate of tax imposed under section 11(b) for the taxable year.

"(b) APPLICABLE COVERAGE.—This section applies to—

"(1) coverage under a certified standard health plan (as defined in section 1011(2)(A) of the Health Security Act), and

"(2) coverage under a certified supplemental health benefit plan (as defined in section 1011(3)(A) of such Act).

"(c) DISCRIMINATORY PERMITTED COVERAGE.—For purposes of this section, the term 'discriminatory permitted coverage' means, with respect to any period, coverage described in subsection (b) with respect to which the requirements of subsection (a) or (b) of section 4522 are not met during such period.

"SEC. 4522. DISCRIMINATORY EMPLOYER PRACTICES.

"(a) HEALTH STATUS REQUIREMENTS.—For purposes of section 4521(c), an employer meets the requirements of this subsection if, with respect to coverage described in such section—

"(1) there is no waiting period or denial of coverage with respect to an employee, and

"(2) the amount of the employer contribution on behalf of an employee is not conditioned, and does not vary,

by reason of the employee's health status, claims experience, medical history, receipt of health care, or lack of evidence of insurability.

"(b) UNIFORM CONTRIBUTION REQUIREMENTS.—

"(1) IN GENERAL.—For purposes of section 4521(c), an employer meets the requirements of this subsection if the employer contribution on behalf of an employee for coverage described in such section is equivalent to each employer contribution on behalf of all other employees who elect such coverage under plans offered by the employer.

"(2) EQUIVALENT CONTRIBUTION.—For purposes of paragraph (1), a contribution is equivalent to any other contribution if—

"(A) it is the same dollar amount as the other contribution,

"(B) it represents the same percentage of cost under the plan to which it is made as does the other contribution, or

"(C) it represents the same percentage of the weighted average premium for the class of enrollment (as defined in section 1113(c) of the Health Security Act) for the community rating area in which the employee works as does the other contribution.

For purposes of applying subparagraph (B) or (C), any dollar limitation applicable to all employer contributions (whether expressed as a dollar amount or a percentage described in subparagraph (C)) shall be disregarded.

"(3) EXCLUDED EMPLOYEES.—

"(A) IN GENERAL.—The following employees of an employer shall be excluded from consideration under this subsection:

"(i) Any employee before the employee has completed 6 months of service with the employer.

"(ii) Any employee who normally works less than 24 hours per week.

"(iii) Any employee who normally works during not more than 6 months of any year.

"(iv) Any employee who has not attained age 18.

"(v) Any employee who is included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers if there is evidence that employer-provided benefits for standard health benefits coverage was the subject of good faith bargaining between the employee representatives and employer or employers.

"(vi) Any employee who is a nonresident alien and who receives no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(vii) Any former employee.

"(B) COVERAGE OF PART-TIME EMPLOYEES.—

"(i) IN GENERAL.—If an employer makes an employer contribution for any period for coverage described in section 4521(c) for any employee who normally works at least 10 hours but less than 24 hours per week, subparagraph (A)(ii) shall be applied by substituting '10 hours' for '24 hours'.

"(ii) REQUIREMENTS MAY BE MET SEPARATELY.—If an employer elects the application of this clause—

"(I) the requirements of this subsection shall be applied separately to employees to whom this subsection applies by reason of clause (i), and

"(II) such employees shall be excluded in determining whether such requirements are met with respect to any other employees.

"(iii) PRO RATA CONTRIBUTIONS PERMISSIBLE.—For purposes of this subsection, contributions on behalf of any employee to which this subsection applies by reason of clause (i) shall not fail to be treated as equivalent solely because they are proportionate to the number of hours the employee works.

"(4) AGGREGATION RULES.—For purposes of this subsection—

"(A) IN GENERAL.—All employers treated as a single employer under subsection (b) or (c) of section 414 shall be treated as a single employer.

"(B) AFFILIATED SERVICE GROUPS.—All employees of members of an affiliated service group (as defined in section 414(m)) shall be treated as employed by a single employer.

"(5) SEPARATE LINES OF BUSINESS.—If, under section 414(r), an employer is treated as operating separate lines of business for a year, the employer may apply this subsection separately to employees in each separate line of business.

"SEC. 4523. EXCEPTIONS.

"(a) EXCEPTION FOR REASONABLE DILIGENCE.—No tax shall be imposed by this subchapter during any period for which it is established to the satisfaction of the Secretary that the employer did not know, or exercising reasonable diligence would not have known, that the employer had taken any action subject to tax under this subchapter.

"(b) CORRECTIONS WITHIN 30 DAYS.—No tax shall be imposed by this subchapter with respect to any action subject to tax under this subchapter if—

"(1) such action was due to reasonable cause and not to willful neglect, and

"(2) such action is corrected during the 30-day period beginning on the 1st date the employer knew, or exercising reasonable diligence would have known, that such action was subject to such tax.

"(c) WAIVER BY SECRETARY.—In the case of any action subject to tax under this subchapter which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of any tax imposed by this subchapter to the extent that the payment of such tax would be excessive relative to the action involved.

"SEC. 4524. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) EMPLOYER.—

"(A) IN GENERAL.—The term 'employer' means any person or governmental entity for whom an individual performs services, of whatever nature, as an employee (as defined in section 3401(c)).

"(B) SPECIAL RULES.—

"(i) A partnership shall be treated as the employer of each partner who is an employee within the meaning of section 401(c)(1).

"(ii) An S corporation shall be treated as the employer of each shareholder who is an employee within the meaning of section 401(c)(1).

"(2) EMPLOYER CONTRIBUTIONS.—The term 'employer contribution' means, with respect to coverage under a health plan, a reasonable estimate of the portion of the cost of the coverage which is to be provided by the employer.

"(b) LIABILITY FOR TAX.—Any tax imposed by this subchapter shall be paid by the employer.

"(c) TAXES TO APPLY TO GOVERNMENTAL AND OTHER TAX-EXEMPT ENTITIES.—Notwithstanding any other provision of law or rule of law, none of the following shall be exempt from the taxes imposed by this subchapter:

"(1) The United States, any State or political subdivision thereof, the District of Columbia, and any agency or instrumentality of any of the foregoing.

"(2) Any other entity otherwise exempt from tax under chapter 1.

"(d) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this subchapter, including regulations providing for the determination of the amount of any employer contribution, the aggregation of governmental and tax-exempt entities, and the prevention of the avoidance of any tax imposed by this subchapter through the use of any arrangement described in section 414(o)."

(b) EMPLOYEE LEASING.—Paragraph (3) of section 414(n) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) subchapter B of chapter 37."

(c) TAX NOT DEDUCTIBLE.—Section 275(a) is amended by adding at the end the following new paragraph:

"(7) The taxes imposed by section 4521 (relating to taxable employer-provided health benefits)."

(d) CONFORMING AMENDMENT.—The table of subchapters for chapter 37 is amended by adding at the end the following new item:

"SUBCHAPTER B. Employer-provided health benefits."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

Subtitle C—Exempt Health Care Organizations

PART 1—GENERAL PROVISIONS

SEC. 7301. QUALIFICATION AND DISCLOSURE REQUIREMENTS FOR NONPROFIT HEALTH CARE ORGANIZATIONS.

(a) TREATMENT OF HOSPITALS AND OTHER ENTITIES PROVIDING HEALTH CARE SERVICES.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) QUALIFICATION OF HEALTH CARE ORGANIZATIONS AS EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—An organization which is described in paragraph (3) or (4) of subsection (c) and the predominant activity of which is the provision of health care services shall be exempt from tax under subsection (a) only if—

"(A) such organization, with the participation of community representatives, annually—

"(i) assesses its community's needs for health care services and qualified outreach services, and

"(ii) prepares a written plan to meet those needs.

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(B) pursuant to such plan, such organization provides (directly or indirectly) significant qualified outreach services,

"(C) such organization does not discriminate against individuals in the provision of health care services on the basis of participation in a government-sponsored health plan, and

"(D) such organization does not discriminate against individuals in the provision of emergency health care services on the basis of ability to pay.

"(2) SPECIAL RULE FOR HEALTH MAINTENANCE ORGANIZATIONS.—A health maintenance organization shall not be treated as described in subsection (c)(3) unless substantially all of its primary care health services are provided as described in subsection (m)(6)(A).

"(3) DEFINITIONS AND SPECIAL RULE.—For purposes of this subsection—

"(A) QUALIFIED OUTREACH SERVICES.—The term 'qualified outreach services' means health care services (or preventive care, educational, or social services programs related thereto) which are provided—

"(i) in 1 or more medically underserved areas,

"(ii) at below cost to individuals who are otherwise unable to afford such services, or

"(iii) at emergency care facilities which provide specialty services and which normally operate at a loss.

Such term shall not include insurance described in subparagraph (B)(iii) unless such insurance is provided on a subsidized basis.

"(B) HEALTH CARE SERVICES.—The term 'health care services' means—

"(i) any activity which consists of providing medical care (as defined in section 213(d)(1)(A)) to individuals,

"(ii) in the case of an organization described in subsection (c)(3), any activity which is treated as accomplishing an exempt purpose of the organization solely because it is carried on as part of an activity described in clause (i), and

"(iii) insurance (other than commercial-type insurance, as defined in subsection (m)) for the activities described in clauses (i) and (ii).

"(C) MEDICALLY UNDERSERVED AREA.—The term 'medically underserved area' means, with respect to a health care service, any area reasonably determined by the organization (in a manner not inconsistent with regulations prescribed by the Secretary) to have—

"(i) a shortage (relative to the number of individuals needing such service) of health professionals performing such service, or

"(ii) a population group experiencing such a shortage.

Such term includes a health professional shortage area (as defined in section 332 of the Public Health Service Act).

"(4) EXCEPTIONS.—This subsection shall not apply to any organization which—

"(A) demonstrates, in a manner not inconsistent with regulations prescribed by the Secretary, that one of its principal purposes is academic training or medical research, or

"(B) provides health care services exclusively on an uncompensated basis, regardless of ability to pay.

"(5) DISALLOWANCE OF CHARITABLE DEDUCTIONS.—No gift or bequest to an organization which is not exempt from tax by reason of this subsection shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.

"(6) REQUIREMENTS SUPPLEMENT OTHER REQUIREMENTS.—The requirements of this subsection are in addition to, and not in lieu of, the requirements otherwise applicable to an organization described in paragraph (3) or (4) of subsection (c)."

(b) REPORTING AND DISCLOSURE OF NEEDS ASSESSMENT AND PLAN.—

(1) REPORTING.—

(A) ORGANIZATIONS DESCRIBED IN SECTION 501(C)(3).—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) is amended by striking "and" at the end of paragraph (9), by redesignating paragraph (10) as paragraph (12), and by inserting after paragraph (9) the following new paragraphs:

"(10) in the case of an organization which prepares a plan described in section 501(n)(1)(A) (relating to community needs)—

"(A) a copy of such plan for the year, and

"(B) information on the implementation of such plan for the year (including unrecovered costs and revenues foregone in furtherance of such plan),

"(11) such information as the Secretary may require with respect to any taxable inurement (as defined in section 4958(d)), and".

(B) ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—Section 6033 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) and which prepares a plan described in section 501(n)(1)(A) (relating to community needs) for the year—

"(1) shall include a copy of such plan with the return required under subsection (a) for the year, and

"(2) shall include on such return the information referred to in paragraphs (10)(B) and (11) of subsection (b) with respect to such organization."

(2) DISCLOSURE.—

(A) IN GENERAL.—Subsection (e) of section 6104 (relating to public inspection of certain annual returns and applications for exemption) is amended by adding at the end the following new paragraph:

"(3) COMMUNITY HEALTH CARE NEEDS ASSESSMENT AND PLAN.—

"(A) IN GENERAL.—Every organization which is required to prepare a plan described in section 501(n)(1)(A) (relating to community needs)—

"(i) shall make a copy of such plan (and the assessment on which such plan is based) available for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

"(ii) upon request of an individual made at such principal office or such a regional or district office, shall provide—

"(I) a copy of such plan (and assessment), and

"(II) a copy of the annual return filed under section 6033,

to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

If the request under clause (ii) is made in person, such copies shall be provided immediately and, if made other than in person, shall be provided within 30 days.

"(B) PERIOD OF AVAILABILITY.—Subparagraph (A) shall apply—

"(i) with respect to any plan (and assessment) during the 3-year period after the close of the year for which such plan is prepared, and

"(ii) with respect to any return, during the 3-year period beginning on the filing date (as defined in paragraph (1)(D)).

"(C) LIMITATION.—Subparagraph (A)(ii) shall not apply to any request if the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest."

(B) TECHNICAL AMENDMENT.—The heading for subsection (e) of section 6104 is amended by striking "AND APPLICATIONS FOR EXEMPTION" and inserting ", APPLICATIONS FOR EXEMPTION, AND COMMUNITY NEEDS ASSESSMENT AND PLAN FOR HEALTH AND OUTREACH SERVICES".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1995.

(2) HMO SERVICE REQUIREMENT.—So much of the amendments made by this section as relates to section 501(n)(2) of the Internal Revenue Code of 1986, as added by this section, shall take effect on the date of the enactment of this Act.

SEC. 7302. EXCISE TAXES FOR PRIVATE INUREMENT BY TAX-EXEMPT HEALTH CARE ORGANIZATIONS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

"Subchapter D—Private Inurement by Tax-Exempt Health Care Organizations

"Sec. 4958. Taxes on private inurement.

"Sec. 4959. Other definitions.

"SEC. 4958. TAXES ON PRIVATE INUREMENT.

"(a) INITIAL TAXES.—

"(1) ON THE BENEFICIARY.—There is hereby imposed on any taxable inurement a tax equal to 25 percent of the amount thereof. The tax imposed by this paragraph shall be paid by any beneficiary of such inurement.

"(2) ON THE MANAGEMENT.—In any case in which there is a tax imposed by paragraph (1), there is hereby imposed on the participation of any organization manager of an organization in any taxable inurement which occurs with respect to such organization, knowing that it is taxable inurement, a tax equal to 2½ percent of the amount thereof, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the taxable inurement.

"(b) ADDITIONAL TAXES.—

"(1) ON THE BENEFICIARY.—In any case in which an initial tax is imposed by subsection (a)(1) on any taxable inurement and such inurement is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the amount of the taxable inurement. The tax imposed by this paragraph shall be paid by any beneficiary of such inurement.

"(2) ON THE MANAGEMENT.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the taxable inurement. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part or all of the correction.

"(c) SPECIAL RULES RELATING TO LIABILITY FOR TAX.—For purposes of this section—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one taxable inurement, all such persons shall be jointly and severally liable under such paragraph with respect to such inurement.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 taxable inurement, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(d) TAXABLE INUREMENT.—For purposes of this section, the term 'taxable inurement' means any inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be, in a transaction involving an applicable tax-exempt health care organization in which—

"(1) the value of any economic benefit provided to or for the use of a disqualified person exceeds the value of the consideration (including the performance of services) received by the organization for providing such benefit, or

"(2) the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the gross or net revenues of 1 or more activities of the organization.

The amount of any taxable inurement with respect to any such transaction shall be the excess described in paragraph (1) or the amount described in paragraph (2). For purposes of paragraph (1), an economic benefit shall not be treated as provided as consideration for the performance of services unless the organization clearly indicated its intent to so treat such benefit.

"(e) OTHER DEFINITIONS.—For purposes of this section—

"(1) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to any transaction—

"(A) any person who was, at any time during the 5-year period ending on the date of such transaction—

"(i) an organization manager, or

"(ii) an individual (other than an organization manager)—

"(I) in a position to exercise substantial influence over the affairs of the organization, or

"(II) performing substantial medical services as a physician pursuant to an employment or other contractual relationship with the organization or a related organization,

"(B) a member of the family of an individual described in subparagraph (A), and

"(C) a 35-percent controlled entity.

"(2) ORGANIZATION MANAGER.—The term 'organization manager' means, with respect to any applicable tax-exempt health care organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

"(3) 35-PERCENT CONTROLLED ENTITY.—

"(A) IN GENERAL.—The term '35-percent controlled entity' means—

"(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,

"(ii) a partnership in which such persons own more than 35 percent of the profits interest, and

"(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

"(B) CONSTRUCTIVE OWNERSHIP RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this subsection.

"(4) FAMILY MEMBERS.—The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or halfblood) of the individual and their spouses.

"(f) TREATMENT OF PREVIOUSLY EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this section, the status of any organization as an applicable tax-exempt health care organization shall be terminated only if—

"(A)(i) such organization notifies the Secretary (at such time and in such manner as the Secretary may by regulations prescribe) of its intent to accomplish such termination, or

"(ii) there is a final determination by the Secretary that such status has terminated, and

"(B)(i) such organization pays the tax imposed by paragraph (2) (or any portion not abated pursuant to paragraph (3)), or

"(ii) the entire amount of such tax is abated pursuant to paragraph (3).

"(2) IMPOSITION OF TAX.—There is hereby imposed on each organization referred to in paragraph (1) a tax equal to the lesser of—

"(A) the amount which the organization substantiates by adequate records or other corroborating evidence as the aggregate tax benefit resulting from its exemption from tax under section 501(a), or

"(B) the value of the net assets of such organization.

"(3) ABATEMENT OF TAX.—The Secretary may abate the unpaid portion of the assessment of any tax imposed by paragraph (2), or any liability in respect thereof, if the applicable tax-exempt health care organization distributes all of its net assets to 1 or more organizations each of which has been in existence, and described in section 501(c)(3), for a continuous period of at least 60 calendar months. If the distributing organization is described in section 501(c)(4), the preceding sentence shall be applied by treating the reference to section 501(c)(3) as including a reference to section 501(c)(4).

"(4) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (d), (e), and (f) of section 507 shall apply for purposes of this subsection.

"SEC. 4959. OTHER DEFINITIONS.

"(a) APPLICABLE TAX-EXEMPT HEALTH CARE ORGANIZATION.—For purposes of this subchapter, the term 'applicable tax-exempt health care organization' means any organization—

"(1) the predominant activity of which is the provision of health care services (as defined in section 501(n)(3)), and

"(2) which (without regard to any taxable inurement) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a).

Such term does not include a private foundation (as defined in section 509(a)).

"(b) TAXABLE PERIOD; CORRECTION.—For purposes of this subchapter—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any taxable inurement, the period beginning with the date on which the inurement occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1) of section 4958, or

"(B) the date on which the tax imposed by such subsection (a)(1) is assessed.

"(2) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any taxable inurement, undoing the inurement to the extent possible, establishing safeguards to prevent future such inurement, and where fully undoing the inurement is not possible, such additional corrective action as is prescribed by the Secretary by regulations."

(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT HEALTH CARE ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Paragraph (4) of section 501(c) is amended by inserting "(A)" after "(4)" and by adding at the end the following:

"(B) Subparagraph (A) shall not apply to an entity the predominant activity of which is the provision of health care services (as defined in subsection (n)(3)) unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4955 is amended—

(A) by striking "SECTION 4945" in the heading and inserting "SECTIONS 4945 and 4958", and

(B) by inserting before the period "or a taxable inurement for purposes of section 4958".

(2) Subsections (a), (b), and (c) of section 4963 are each amended by inserting "4958," after "4955,".

(3) Subsection (e) of section 6213 is amended by inserting "4958 (relating to private inurement)," before "4971".

(4) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting "4958," after "4955,".

(5) Subsection (b) of section 7454 is amended by inserting "or whether an organization manager (as defined in section 4958(f)) has 'knowingly' participated in taxable inurement (as defined in section 4958(d))," after "section 4912(b),".

(6) The table of subchapters for chapter 42 is amended by striking the last item and inserting the following:

"SUBCHAPTER D. Private inurement by tax-exempt health care organizations.

"SUBCHAPTER E. Abatement of first and second tier taxes in certain cases."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to inurement occurring on or after June 30, 1994.

(2) APPLICATION OF BINDING CONTRACT RULE TO TAX-EXEMPT HEALTH CARE ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—The amendments made by this section shall not apply to any inurement involving an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 occurring before July 1, 1996, pursuant to a written contract which was binding on June 29, 1994, and at all times thereafter before such inurement occurred.

SEC. 7303. TREATMENT OF HEALTH MAINTENANCE ORGANIZATIONS, PARENT ORGANIZATIONS, AND HEALTH INSURANCE PURCHASING COOPERATIVES.

(a) INSURANCE PROVIDED BY HEALTH MAINTENANCE ORGANIZATIONS.—

(1) IN GENERAL.—Section 501(m) (relating to certain organizations providing commercial-type insurance not exempt from tax) is amended by adding at the end the following new paragraph:

"(6) CERTAIN ACTIVITIES PROVIDED BY HEALTH MAINTENANCE ORGANIZATIONS NOT TREATED AS COMMERCIAL-TYPE INSURANCE.—For purposes of this subsection, the provision of (or the arranging for the provision of)

VOL 140 PT 16 AG 12 — 18 1994 UMI

medical care on a prepaid basis by a health maintenance organization shall not be treated as providing commercial-type insurance if (and only if) such care is—

"(A) care provided by such organization to its members at its own facilities through health care professionals who do not provide substantial health care services other than on behalf of such organization,

"(B) care provided by a health care professional to a member of such organization on a basis under which substantially all of the risks of the rates of utilization is assumed by the provider of such care,

"(C) care (other than primary care) provided to a member of such organization pursuant to a referral by such organization, or

"(D) emergency care provided to a member of such organization at a location outside such member's area of residence."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (3) of section 501(m) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(B) Paragraph (5) of section 501(m) is amended by striking "paragraph (3)(E)" and inserting "paragraph (3)(D)".

(b) TREATMENT OF PARENT ORGANIZATIONS OF HEALTH CARE PROVIDERS.—Section 509(a) (defining private foundation) is amended by striking "and" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) an organization which is organized and operated for the benefit of, and which directly or indirectly controls, an organization described in section 170(b)(1)(A)(ii), and".

(c) PURCHASING COOPERATIVES EXEMPT FROM TAX.—

(1) IN GENERAL.—Subsection (c) of section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by adding at the end the following new paragraph:

"(26)(A) Any health insurance purchasing cooperative described in section 1013(12) of the Health Security Act.

"(B) Such a cooperative shall not be exempt from tax pursuant to any provision other than this paragraph.

"(C) Such a cooperative shall not be exempt from tax unless—

"(i) no part of the net earnings of such cooperative inures to the benefit of any private shareholder or individual,

"(ii) no substantial part of the activities of such cooperative is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and

"(iii) such cooperative does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

(2) CERTAIN PROVISIONS APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(C)(3) MADE APPLICABLE TO PURCHASING COOPERATIVES.—Section 501 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CERTAIN PROVISIONS MADE APPLICABLE TO HEALTH INSURANCE PURCHASING COOPERATIVES.—A health insurance purchasing cooperative described in subsection (c)(26) shall be treated—

"(1) as described in subsection (c)(3) for purposes of applying subsection (h) (relating to expenditures by public charities to influence legislation), section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations), and section 4958 (relating to private inurement), and

"(2) as described in subsection (h)(4)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7304. TAX TREATMENT OF TAXABLE ORGANIZATIONS PROVIDING HEALTH INSURANCE AND OTHER PREPAID HEALTH CARE SERVICES.

(a) GENERAL RULE.—Section 831 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF ORGANIZATIONS PROVIDING HEALTH INSURANCE AND OTHER PREPAID HEALTH CARE SERVICES.—

"(1) GENERAL RULE.—Any organization to which this subsection applies shall be taxable under this part in the same manner as if it were an insurance company other than a life insurance company.

"(2) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any organization—

"(A) which is not exempt from taxation under this subtitle,

"(B) which is not taxable as a life insurance company under part I of this subchapter, and

"(C) the primary and predominant business activity of which during the taxable year consists of 1 or more of the following:

"(i) Issuing accident and health insurance contracts or the reinsuring of risks undertaken by other insurance companies under such contracts.

"(ii) Operating as a health maintenance organization.

"(iii) Entering into arrangements under which—

"(I) fixed payments or premiums are received as consideration for the organization's agreement to provide or arrange for the provision of health care services, regardless of how the health care services are provided or arranged to be provided, and

"(II) substantially all of the risks of the rates of utilization of such services is assumed by such organization or the provider of such services.

In the case of an organization which has as a material business activity the issuing of accident and health insurance contracts or the reinsuring of risks undertaken by other insurance companies under such contracts, the administering of accident and health insurance contracts by such organization shall be treated as part of such business activity for purposes of subparagraph (C)(i)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

(2) TRANSITIONAL RULES.—

(A) ORGANIZATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any organization to which section 831(c) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies for such organization's first taxable year beginning after December 31, 1994; except that this paragraph shall not apply if such organization treated itself as an insurance company taxable under part II of subchapter L of chapter 1 of such Code on its original Federal income tax return for its taxable year beginning in 1992 and for all of its taxable years thereafter beginning before January 1, 1995

(B) TREATMENT OF CURRENTLY TAXABLE COMPANIES.—Except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, in the case of any organization to which this paragraph applies—

(i) the amendments made by this section shall be treated as a change in the method of accounting, and

(ii) all adjustments required to be taken into account under section 481 of the Internal Revenue Code of 1986 shall be taken into account for such company's first taxable year beginning after December 31, 1994.

(C) TREATMENT OF CURRENTLY TAX-EXEMPT COMPANIES.—Except as provided in regulations prescribed by the Secretary of the Treasury or his delegates, in the case of any organization to which this paragraph applies and which was exempt from tax under chapter 1 of the Internal Revenue Code of 1986 for such organization's last taxable year beginning before January 1, 1995—

(i) no adjustment shall be made under section 481 (or any other provision) of such Code on account of a change in its method of accounting required by this section for its first taxable year beginning after December 31, 1994, and

(ii) for purposes of determining gain or loss, the adjusted basis of any asset held by such organization on the first day of such taxable year shall be treated as equal to its fair market value as of such day.

SEC. 7305. REPEAL OF SECTION 833.

(a) REPEAL OF SECTION 833.—

(1) IN GENERAL.—Section 833 (relating to treatment of Blue Cross and Blue Shield and similar organizations) is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 56(c) is amended by striking paragraph (3).

(B) The table of sections for part II of subchapter L of chapter 1 is amended by striking the item relating to section 833.

(b) APPLICATION OF SECTION 833 PRIOR TO REPEAL.—

(1) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

"(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

"(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

"(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

"(i) is organized and governed by State laws which are specifically and exclusively applicable to not-for-profit insurance or health-service type organizations, and

"(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization."

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

(c) EFFECTIVE DATE OF REPEAL.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) TRANSITION RULES FOR BLUE CROSS AND BLUE SHIELD AND SIMILAR ORGANIZATIONS.—

(A) PRIOR FRESH START PRESERVED.—The adjusted basis of any asset determined under section 1012(c)(3)(A)(ii) of the Tax Reform Act of 1986 shall not be affected by the amendments made by this section.

(B) RECOUPMENT OF PRIOR RESERVE BENEFIT.—In the case of any organization entitled to the benefits of section 833(a)(3) of the Internal Revenue Code of 1986 (as in effect after the amendment made by subsection (a)) for

such organization's last taxable year beginning before January 1, 1997, the amount determined under paragraph (4) of section 832(b) of such Code for each of such organization's first 6 taxable years beginning after December 31, 1996, shall be increased by an amount equal to 3⅓ percent of its unearned premiums on outstanding business as of the close of such organization's last taxable year beginning before January 1, 1997.

SEC. 7306. TAX EXEMPTION FOR HIGH-RISK INSURANCE POOLS.

Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

"(27)(A) In the case of taxable years beginning after December 31, 1989, and before January 1, 1997, a qualified high risk health insurance pool.

"(B) For purposes of subparagraph (A), the term 'qualified high risk health insurance pool' means an entity—

"(i) which was established by a State or political subdivision thereof to provide health insurance on a nonprofit basis to persons unable to obtain health insurance because of health conditions,

"(ii) with respect to which the State or political subdivision—

"(I) participates in the ongoing governance of the entity, and

"(II) subsidizes the operation of the entity, and

"(iii) no part of the net earnings of which inure to the benefit of any private shareholder, member, or individual."

PART 2—TAX TREATMENT OF SECTION 501(c)(3) BONDS

SEC. 7311. TAX TREATMENT OF 501(c)(3) BONDS SIMILAR TO GOVERNMENTAL BONDS.

(a) IN GENERAL.—Subsection (a) of section 150 (relating to definitions and special rules) is amended by striking paragraphs (2) and (4), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) EXEMPT PERSON.—

"(A) IN GENERAL.—The term 'exempt person' means—

"(i) a governmental unit, or

"(ii) a 501(c)(3) organization, but only with respect to its activities which do not constitute unrelated trades or businesses as determined by applying section 513(a).

"(B) GOVERNMENTAL UNIT NOT TO INCLUDE FEDERAL GOVERNMENT.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(C) 501(c)(3) ORGANIZATION.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a)."

(b) REPEAL OF QUALIFIED 501(c)(3) BOND DESIGNATION.—Section 145 (relating to qualified 501(c)(3) bonds) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 141(b) is amended—

(A) by striking "government use" in subparagraph (A)(ii)(I) and subparagraph (B)(ii) and inserting "exempt person use",

(B) by striking "a government use" in subparagraph (B) and inserting "an exempt person use",

(C) by striking "related business use" in subparagraph (A)(ii)(II) and subparagraph (B) and inserting "related private business use",

(D) by striking "RELATED BUSINESS USE" in the heading of subparagraph (B) and inserting "RELATED PRIVATE BUSINESS USE", and

(E) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(2) Subparagraph (A) of section 141(b)(6) is amended by striking "a governmental unit" and inserting "an exempt person".

(3) Paragraph (7) of section 141(b) is amended—

(A) by striking "government use" and inserting "exempt person use", and

(B) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(4) Section 141(b) is amended by striking paragraph (9).

(5) Paragraph (1) of section 141(c) is amended by striking "governmental units" and inserting "exempt persons".

(6) Section 141 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN ISSUES USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if any portion of the net proceeds of the issue are to be used (directly or indirectly) by an exempt person described in section 150(a)(2)(A)(ii) to provide residential rental property for family units. This paragraph shall not apply if the bond would not be a private activity bond if the section 501(c)(3) organization were not an exempt person.

"(2) EXCEPTION FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS.—Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide—

"(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

"(B) qualified residential rental projects (as defined in section 142(d)), or

"(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

"(3) SUBSTANTIAL REHABILITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) EXCEPTION.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, but the Secretary may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(4) CERTAIN PROPERTY TREATED AS NEW PROPERTY.—Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing—

"(A) IN GENERAL.—If—

"(i) the 1st use of property is pursuant to taxable financing,

"(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

"(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

"(B) SPECIAL RULE WHERE NO OPERATING STATE OR LOCAL PROGRAM FOR TAX-EXEMPT FINANCING.—If, at the time of the 1st use of property, there was no operating State or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) TAX-EXEMPT FINANCING.—The term 'tax-exempt financing' means financing provided by tax-exempt bonds.

"(ii) TAXABLE FINANCING.—The term 'taxable financing' means financing which is not tax-exempt financing."

(7) Section 141(f), as redesignated by paragraph (6), is amended—

(A) by adding "or" at the end of subparagraph (E),

(B) by striking ", or" at the end of subparagraph (F), and inserting in lieu thereof a period, and

(C) by striking subparagraph (G).

(8) The last sentence of section 144(b)(1) is amended by striking "(determined" and all that follows to the period.

(9) Clause (ii) of section 144(c)(2)(C) is amended by striking "a governmental unit" and inserting "an exempt person".

(10) Section 146(g) is amended—

(A) by striking paragraph (2), and

(B) by redesignating the remaining paragraphs after paragraph (1) as paragraphs (2) and (3), respectively.

(11) The heading of section 146(k)(3) is amended by striking "GOVERNMENTAL" and inserting "EXEMPT PERSON".

(12) The heading of section 146(m) is amended by striking "GOVERNMENT" and inserting "EXEMPT PERSON".

(13) Subsection (h) of section 147 is amended to read as follows:

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS AND QUALIFIED STUDENT LOAN BONDS.—Subsections (a), (b), (c), and (d) shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond."

(14) Section 147 is amended by striking paragraph (4) of subsection (b) and redesignating paragraph (5) of such subsection as paragraph (4).

(15) Subparagraph (F) of section 148(d)(3) is amended—

(A) by striking "or which is a qualified 501(c)(3) bond", and

(B) by striking "GOVERNMENTAL USE BONDS AND QUALIFIED 501(C)(3)" in the heading thereof and inserting "EXEMPT PERSON".

(16) Subclause (II) of section 148(f)(4)(B)(ii) is amended by striking "(other than a qualified 501(c)(3) bond)".

(17) Clause (iv) of section 148(f)(4)(C) is amended—

(A) by striking "a governmental unit or a 501(c)(3) organization" each place it appears and inserting "an exempt person",

(B) by striking "qualified 501(c)(3) bonds,", and

(C) by striking the comma after "private activity bonds" the first place it appears.

(18) Subparagraph (A) of section 148(f)(7) is amended by striking "(other than a qualified 501(c)(3) bond)".

(19) Paragraph (2) of section 149(d) is amended—

(A) by striking "(other than a qualified 501(c)(3) bond)", and

(B) by striking "CERTAIN PRIVATE" in the heading thereof and inserting "PRIVATE".

(20) Section 149(e)(2) is amended—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(A) by striking "which is not a private activity bond" in the second sentence and inserting "which is a bond issued for an exempt person described in section 150(a)(2)(A)(i)", and

(B) by adding at the end the following new sentence: "Subparagraph (D) shall not apply to any bond which is not a private activity bond but which would be such a bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person."

(21) The heading of subsection (b) of section 150 is amended by striking "TAX-EXEMPT PRIVATE ACTIVITY BONDS" and inserting "CERTAIN TAX-EXEMPT BONDS".

(22) Paragraph (3) of section 150(b) is amended—

(A) by inserting "owned by a 501(c)(3) organization" after "any facility" in subparagraph (A),

(B) by striking "any private activity bond which, when issued, purported to be a tax-exempt qualified 501(c)(3) bond" in subparagraph (A) and inserting "any bond which, when issued, purported to be a tax-exempt bond, and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person", and

(C) by striking the heading thereof and inserting "BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—".

(23) Paragraph (5) of section 150(b) is amended—

(A) by striking "private activity" in subparagraph (A),

(B) by inserting "and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person" after "tax-exempt bond" in subparagraph (A),

(C) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) such facility is required to be owned by an exempt person, and", and

(D) by striking "GOVERNMENTAL UNITS OR 501(C)(3) ORGANIZATIONS" in the heading thereof and inserting "EXEMPT PERSONS".

(24) Section 150 is amended by adding at the end the following new subsection:

"(f) CERTAIN RULES TO APPLY TO BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—

"(1) IN GENERAL.—Nothing in section 103(a) or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person unless such bond satisfies the requirements of subsections (b) and (f) of section 147.

"(2) SPECIAL RULE FOR POOLED FINANCING OF 501(C)(3) ORGANIZATION.—

"(A) IN GENERAL.—At the election of the issuer, a bond described in paragraph (1) shall be treated as meeting the requirements of section 147(b) if such bond meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A bond meets the requirements of this subparagraph if—

"(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

"(ii) each loan described in clause (i) satisfies the requirements of section 147(b) (determined by treating each loan as a separate issue),

"(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

"(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued).".

(25) Section 1302 of the Tax Reform Act of 1986 is repealed.

(26) Subparagraph (C) of section 57(a)(5) is amended by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(27) Paragraph (3) of section 103(b) is amended by inserting "and section 150(f)" after "section 149".

(28) Paragraph (3) of section 265(b) is amended—

(A) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)).", and

(B) by striking "(other than a qualified 501(c)(3) bond, as defined in section 145)" in subparagraph (C)(ii)(I).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds (including refunding bonds) issued after December 31, 1994.

Subtitle D—Tax Treatment of Long-Term Care Insurance and Services

SEC. 7401. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in subsection (g)), or".

(b) QUALIFIED LONG-TERM CARE SERVICES DEFINED.—Section 213 (relating to the deduction for medical, dental, etc., expenses) is amended by adding at the end the following new subsection:

"(g) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, curing, mitigating, treating, preventive, therapeutic, and rehabilitative services, and maintenance and personal care services (whether performed in a residential or nonresidential setting) which—

"(A) are required by an individual during any period the individual is an incapacitated individual (as defined in paragraph (2)), and

"(B) have as their primary purpose—

"(i) the provision of needed assistance with 1 or more activities of daily living (as defined in paragraph (3)), or

"(ii) protection from threats to health and safety due to severe cognitive impairment,

and

"(C) are provided pursuant to a continuing plan of care prescribed by a licensed professional (as defined in paragraph (4)).

"(2) INCAPACITATED INDIVIDUAL.—The term 'incapacitated individual' means any individual who—

"(A) is unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), at least 2 activities of daily living as defined in paragraph (3), or

"(B) has severe cognitive impairment as defined by the Secretary in consultation with the Secretary of Health and Human Services.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless a licensed professional within the preceding 12-month period has certified that such individual meets such requirements.

"(3) ACTIVITIES OF DAILY LIVING.—Each of the following is an activity of daily living:

"(A) Eating.

"(B) Toileting.

"(C) Transferring.

"(D) Bathing.

"(E) Dressing.

"(4) LICENSED PROFESSIONAL.—The term 'licensed professional' means—

"(A) a physician or registered professional nurse, or

"(B) any other individual who meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

"(5) CERTAIN SERVICES NOT INCLUDED.—The term 'qualified long-term care services' shall not include any services provided to an individual—

"(A) by a relative (directly or through a partnership, corporation, or other entity) unless the relative is a licensed professional with respect to such services, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in paragraphs (1) through (8) of section 152(a)."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended to read as follows:

"(D) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged) covering medical care referred to in—

"(i) subparagraphs (A) and (B), or

"(ii) subparagraph (C), but only if such insurance is provided under a qualified long-term care insurance policy (as defined in section 7702B(b)) and the amount paid for such insurance is not disallowed under section 7702B(d)(4)."

(2) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7402. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a qualified long-term care insurance policy (as defined in subsection (b)) shall be treated as an accident or health insurance contract,

"(2) amounts (other than policyholder dividends (as defined in section 808) or premium refunds) received under a qualified long-term care insurance policy shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance policy shall be treated as an accident or health plan with respect to such coverage,

"(4) except as provided in subsection (d)(4), amounts paid for a qualified long-term care insurance policy providing the benefits described in subsection (b)(6)(B) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance policy shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE POLICY.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified long-term care insurance policy' means any certified long-term care policy (as defined in section 1011(4)(A)) of the Health Security Act) that—

"(A) limits benefits under such policy to individuals who are certified by a licensed professional (as defined in section 213(g)(4)) within the preceding 12-month period—

"(i) as being unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), 2 or more activities of daily living (as defined in section 213(g)(3)), or

"(ii) having a severe cognitive impairment (as defined in section 213(g)(2)(B)), and

"(B) satisfies the requirements of paragraphs (2), (3), (4), (5), and (6).

"(2) PREMIUM REQUIREMENTS.—The requirements of this paragraph are met with respect to a policy if such policy provides that premium payments may not be made earlier than the date such payments would have been made if the contract provided for level annual payments over the life expectancy of the insured or 20 years, whichever is shorter. A policy shall not be treated as failing to meet the requirements of the preceding sentence solely by reason of a provision in the policy providing for a waiver of premiums if the insured becomes an individual certified in accordance with paragraph (1)(A).

"(3) PROHIBITION OF CASH VALUE.—The requirements of this paragraph are met if the policy does not provide for a cash value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed, other than as provided in paragraph (4).

"(4) REFUNDS OF PREMIUMS AND DIVIDENDS.—The requirements of this paragraph are met with respect to a policy if such policy provides that—

"(A) policyholder dividends are required to be applied as a reduction in future premiums or, to the extent permitted under paragraph (6), to increase benefits described in subsection (a)(2),

"(B) refunds of premiums upon a partial surrender or a partial cancellation are required to be applied as a reduction in future premiums, and

"(C) any refund on the death of the insured, or on a complete surrender or cancellation of the policy, cannot exceed the aggregate premiums paid under the contract.

Any refund on a complete surrender or cancellation of the policy shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(5) COORDINATION WITH OTHER ENTITLEMENTS.—The requirements of this paragraph are met with respect to a policy if such policy does not pay, or provide reimbursement for, expenses incurred to the extent that such expenses are also paid or reimbursed under title XVIII of the Social Security Act or are paid or reimbursed under a certified standard health plan (as defined in section 1011(2)(A)) of the Health Security Act).

"(6) MAXIMUM BENEFIT.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the benefits payable under the policy for any period (whether on a periodic basis or otherwise) may not exceed the dollar amount in effect for such period.

"(B) NONREIMBURSEMENT PAYMENTS PERMITTED.—Benefits shall include all payments described in subsection (a)(2) to or on behalf of an insured individual without regard to the expenses incurred during the period to which the payments relate. For purposes of section 213(a), such payments shall be treated as compensation for expenses paid for medical care.

"(C) DOLLAR AMOUNT.—The dollar amount in effect under this paragraph shall be $150 per day (or the equivalent amount within the calendar year in the case of payments on other than a per diem basis).

"(D) ADJUSTMENTS FOR INCREASED COSTS.—

"(i) IN GENERAL.—In the case of any calendar year after 1996, the dollar amount in effect under subparagraph (C) for any period or portion thereof occurring during such calendar year shall be equal to the sum of—

"(I) the amount in effect under subparagraph (C) for the preceding calendar year (after application of this subparagraph), plus

"(II) the product of the amount referred to in subclause (I) multiplied by the cost-of-living adjustment for the calendar year.

"(ii) COST-OF-LIVING ADJUSTMENT.—For purposes of clause (i), the cost-of-living adjustment for any calendar year is the percentage (if any) by which the cost index under clause (iii) for the preceding calendar year exceeds such index for the second preceding calendar year.

"(iii) COST INDEX.—The Secretary, in consultation with the Secretary of Health and Human Services, shall before January 1, 1997, establish a cost index to measure increases in costs of nursing home and similar facilities. The Secretary may from time to time revise such index to the extent necessary to accurately measure increases or decreases in such costs.

"(iv) SPECIAL RULE FOR CALENDAR YEAR 1997.—Notwithstanding clause (ii), for purposes of clause (i), the cost-of-living adjustment for calendar year 1997 is the sum of 1.5 percent plus the percentage by which the CPI for calendar year 1996 (as defined in section 1(f)(4)) exceeds the CPI for calendar year 1995 (as so defined).

"(E) PERIOD.—For purposes of this paragraph, a period begins on the date that an individual has a condition which would qualify for certification under subsection (b)(1)(A) and ends on the earlier of the date upon which—

"(i) such individual has not been so certified within the preceding 12-months, or

"(ii) the individual's condition ceases to be such as to qualify for certification under subsection (b)(1)(A).

"(F) AGGREGATION RULE.—For purposes of this paragraph, all policies issued with respect to the same insured shall be treated as one policy.

"(c) TREATMENT OF LONG-TERM CARE INSURANCE POLICIES.—For purposes of this title, any amount received or coverage provided under a long-term care insurance policy that is not a qualified long-term care insurance policy shall not be treated as an amount received for personal injuries or sickness or provided under an accident or health plan and shall not be treated as excludible from gross income under any provision of this title.

"(d) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by rider on a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract or policy.

"(2) PREMIUMS AND CHARGES FOR LONG-TERM CARE COVERAGE.—Premium payments for coverage under a long-term care insurance policy and charges against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage shall be treated as premiums for purposes of subsection (b)(2).

"(3) APPLICATION OF SECTION 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) described in paragraph (2) made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(4) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the coverage provided by the rider is a qualified long-term care insurance policy under subsection (b).

"(5) AMOUNT OF DISTRIBUTION UNDER RIDER.—This subsection shall not apply to any rider on a life insurance contract unless the percentage reduction in the cash surrender value of the contract by reason of any payment under the rider does not exceed the percentage reduction in the death benefit payable under the contract by reason of the payment.

For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a long-term care insurance policy, except that the coverage under a rider described in this subsection shall not fail to be treated as such an addition by reason of a reduction in the contract's death benefit or

VOL 140 PT 16 AG 12 — 18 1994 UMI

cash surrender value resulting from any payment under the rider.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the requirements of this section, including regulations to prevent the avoidance of this section by providing long-term care insurance coverage under a life insurance contract and to provide for the proper allocation of amounts between the long-term care and life insurance portions of a contract."

(b) CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following new sentence: "Such term does not include any coverage or benefits under a qualified long-term care policy (as defined in section 7702B)."

(c) RESERVES.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a qualified long-term care insurance policy within the meaning of section 7702B)" after "contract".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of long-term care insurance."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to policies issued after December 31, 1995, except that a policy issued before January 1, 1996, which, on January 1, 1996, satisfies the requirements of a qualified long-term care insurance policy as set forth in section 7702B(b) of the Internal Revenue Code of 1986 shall be treated as having been issued on January 1, 1996.

(2) TRANSITION RULE.—If, after the date of enactment of this Act and before January 1, 1996, a policy providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance policy (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange, except that gain (if any) shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a policy providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance policy within 60 days thereafter shall be treated as an exchange.

(3) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying section 101(f), 7702, or 7702A of such Code to any contract, the issuance of a rider on a life insurance contract providing long-term care insurance coverage shall not be treated as a modification or material change of such contract.

SEC. 7403. TAX TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

(a) GENERAL RULE.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, any amount received under a life insurance contract on the life of an insured who is a terminally ill individual shall be treated as an amount paid by reason of the death of such insured.

"(2) NECESSARY CONDITIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any amount received unless—

"(i) the total amount received is not less than the present value (determined under subparagraph (B)) of the reduction in the death benefit otherwise payable in the event of the death of the insured, and

"(ii) the percentage reduction in the cash surrender value of the contract by reason of the distribution does not exceed the percentage reduction in the death benefit payable under the contract by reason of such distribution.

"(B) PRESENT VALUE.—The present value of the reduction in the death benefit shall be determined by—

"(i) using a discount rate which is based on an interest rate which does not exceed the highest interest rate set forth in subparagraph (C), and

"(ii) assuming that the death benefit (or the portion thereof) would have been paid on the date which is 12 months after the date of the certification referred to in paragraph (3).

"(C) RATES.—The interest rates set forth in this subparagraph are the following:

"(i) the 90-day Treasury bill yield,

"(ii) the rate described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for the calendar month ending 2 months before the date on which the rate is determined, and

"(iii) the rate used to compute the cash surrender values under the contract during the applicable period plus 1 percent per annum.

"(D) SPECIAL RULES RELATING TO LIENS.—If a lien is imposed against a life insurance contract with respect to any amount referred to in paragraph (1)—

"(i) for purposes of subparagraph (A), the amount of such lien shall be treated as a reduction (at the time of receipt) in the death benefit or cash surrender value to the extent that such benefit or value, as the case may be, is (or may become) subject to the lien, and

"(ii) paragraph (1) shall not apply to the amount received unless any rate of interest with respect to any amount in connection with which such lien is imposed does not exceed the highest rate set forth in subparagraph (C).

"(3) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who the insurer has determined, after receipt of an acceptable certification by a licensed physician, has an illness or physical condition which can reasonably be expected to result in death within 12 months after the date of certification.

"(4) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured having a financial interest in any trade or business carried on by the taxpayer."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to amounts received after the date of the enactment of this Act.

(2) DELAY IN APPLICATION OF DISCOUNT RULES.—Clause (i) of section 101(g)(2)(A) of the Internal Revenue Code of 1986 shall not apply to any amount received before January 1, 1995.

(3) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying section 101(f), 7702, or 7702A of the Internal Revenue Code of 1986 to any contract, the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)) shall not be treated as a modification or material change of such contract.

SEC. 7404. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract which provides for a distribution to an individual upon the insured becoming a terminally ill individual (as defined in section 101(g)(3))."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

Subtitle E—Other Revenue Provisions

PART 1—EMPLOYMENT STATUS PROVISIONS

SEC. 7501. EMPLOYMENT STATUS PROPOSAL REQUIRED FROM DEPARTMENT OF THE TREASURY.

Not later than January 1, 1996, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a legislative proposal providing statutory standards for the classification of workers as employees or independent contractors.

SEC. 7502. INCREASE IN SERVICES REPORTING PENALTIES.

(a) INCREASE IN PENALTY.—Section 6721(a) (relating to imposition of penalty) is amended by adding at the end the following new paragraph:

"(3) INCREASED PENALTY FOR RETURNS INVOLVING PAYMENTS FOR SERVICES.—

"(A) IN GENERAL.—Subject to the overall limitation of paragraph (1), the amount of the penalty under paragraph (1) for any failure with respect to any applicable return shall be equal to the greater of $50 or 5 percent of the amount required to be reported correctly but not so reported.

"(B) EXCEPTION WHERE SUBSTANTIAL COMPLIANCE.—Subparagraph (A) shall not apply to failures with respect to applicable returns required to be filed by a person during any calendar year if the aggregate amount which is timely and correctly reported on applicable returns filed by the person for the calendar year is at least 97 percent of the aggregate amount which is required to be reported on applicable returns by the person for the calendar year.

"(C) APPLICABLE RETURN.—For purposes of this paragraph, the term 'applicable return' means any information return required to be filed under—

"(i) section 6041(a) but only if such return relates to payments to any person for services performed by such person (other than as an employee), or

"(ii) section 6041A(a)."

(b) CONFORMING AMENDMENT.—Section 6721(a)(1) is amended by striking "In" and inserting "Except as provided in paragraph (3), in".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns

the due date for which (without regard to extensions) is more than 30 days after the date of the enactment of this Act.

PART 2—TAX INCENTIVES FOR HEALTH SERVICES PROVIDERS

SEC. 7511. NONREFUNDABLE CREDIT FOR CERTAIN PRIMARY HEALTH SERVICES PROVIDERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. PRIMARY HEALTH SERVICES PROVIDERS.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

"(1) the number of months during such taxable year—

"(A) during which the taxpayer is a qualified primary health services provider, and

"(B) which are within the taxpayer's eligible service period, and

"(2) $1,000 ($500 in the case of a qualified practitioner who is not a physician).

"(b) QUALIFIED PRIMARY HEALTH SERVICES PROVIDER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified primary health services provider' means, with respect to any month, any qualified practitioner who—

"(A) has in effect a certification by the Bureau as a provider of primary health services and such certification is, when issued, for a health professional shortage area in which the qualified practitioner is providing primary health services,

"(B) is providing primary health services full time in the health professional shortage area identified in such certification, and

"(C) has not received a scholarship under the National Health Service Corps Scholarship Program or any loan repayments under the National Health Service Corps Loan Repayment Program.

"(2) SPECIAL RULES RELATING TO SHORTAGE AREAS.—

"(A) AREAS CEASING TO BE SHORTAGE AREAS.—For purposes of paragraph (1)(B) and subsection (e)(2), a provider shall be treated as providing services in a health professional shortage area when such area ceases to be such an area if it was such an area on the first day of the provider's eligible service period.

"(B) AREAS WITHIN METROPOLITAN AREAS.—A qualified practitioner who is providing services within a metropolitan statistical area (as defined in section 143(k)(2)) shall not be treated as meeting the requirements of paragraph (1)(B) unless such services are provided for, or on behalf of, a governmental or nonprofit entity.

"(3) QUALIFIED PRACTITIONER.—The term 'qualified practitioner' means a physician, a physician assistant, a nurse practitioner, or a certified nurse-midwife.

"(c) ELIGIBLE SERVICE PERIOD.—For purposes of this section, the term 'eligible service period' means the period of 36 consecutive calendar months beginning with the first month the taxpayer is a qualified primary health services provider (as specified in the certification under subsection (b)(1)(A)). A taxpayer shall not have more than 1 eligible service period.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BUREAU.—The term 'Bureau' means the Bureau of Primary Health Care, Health Resources and Services Administration of the United States Public Health Service.

"(2) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act.

"(3) PHYSICIAN ASSISTANT; NURSE PRACTITIONER.—The terms 'physician assistant' and 'nurse practitioner' have the meanings given to such terms by section 1861(aa)(5) of the Social Security Act.

"(4) CERTIFIED NURSE-MIDWIFE.—The term 'certified nurse-midwife' has the meaning given to such term by section 1861(gg)(2) of the Social Security Act.

"(5) PRIMARY HEALTH SERVICES.—The term 'primary health services' has the meaning given such term by section 330(b)(1) of the Public Health Service Act.

"(6) HEALTH PROFESSIONAL SHORTAGE AREA.—The term 'health professional shortage area' has the meaning given such term by section 332(a)(1)(A) of the Public Health Service Act.

"(7) PRACTITIONER CURRENTLY PRACTICING IN SHORTAGE AREAS.—In the case of a qualified practitioner who, on December 31, 1994, was providing primary health services in any health professional shortage area—

"(A) the practitioner's eligible service period shall begin on January 1, 1995, and

"(B) if such practitioner is a physician, subsection (a)(2) shall be applied by substituting '$500' for '$1,000'.

"(e) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If there is a recapture event during any taxable year, then—

"(A) no credit shall be allowed under subsection (a) for such taxable year and any succeeding taxable year, and

"(B) the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the aggregate credits allowed to such taxpayer under this section for all prior taxable years.

"(2) RECAPTURE EVENT DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'recapture event' means the failure of the taxpayer to be a qualified primary health services provider during any of the first 24 months during the taxpayer's eligible service period.

"(B) SECRETARIAL WAIVER.—The Secretary, in consultation with the Secretary of Health and Human Services, may waive any recapture event caused by extraordinary circumstances.

"(3) NO CREDITS AGAINST TAX; MINIMUM TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part or for purposes of section 55."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Primary health services providers."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 7512. EXPENSING OF MEDICAL EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation on expensing of certain depreciable business assets) is amended to read as follows:

"(1) DOLLAR LIMITATION.—

"(A) GENERAL RULE.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $17,500.

"(B) HEALTH CARE PROPERTY.—The aggregate cost which may be taken into account under subsection (a) shall be increased by the lesser of—

"(i) the cost of section 179 property which is health care property placed in service during the taxable year, or

"(ii) $10,000."

(b) DEFINITION.—Section 179(d) (relating to definitions) is amended by adding at the end the following new paragraph:

"(11) HEALTH CARE PROPERTY.—

"(A) IN GENERAL.—For purposes of this section, the term 'health care property' means section 179 property—

"(i) which is medical equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment,

"(ii) which is owned (directly or indirectly) and used by 1 or more physicians (as defined in section 1861(r) of the Social Security Act) in the active conduct of the full-time trade or business of all such physicians of providing primary health services (as defined in section 330(b)(1) of the Public Health Service Act) in a health professional shortage area (as defined in section 332(a)(1)(A) of the Public Health Service Act), and

"(iii) substantially all the use of which is in such area.

"(B) SPECIAL RULE FOR METROPOLITAN STATISTICAL AREAS.—A physician who is providing services within a metropolitan statistical area (as defined in section 143(k)(2)) shall not be treated as meeting the requirements of subparagraph (A)(ii) unless such services are provided for, or on behalf of, a governmental or nonprofit entity."

(c) RECAPTURE.—Paragraph (10) of section 179(d) is amended by inserting "and with respect to any health care property which ceases (other than by an area failing to be treated as a health professional shortage area) to be health care property at any time" before the period.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 1994.

PART 3—MISCELLANEOUS PROVISIONS

SEC. 7521. POST-RETIREMENT MEDICAL AND LIFE INSURANCE RESERVES.

(a) MINIMUM PERIOD FOR WORKING LIVES.—Section 419A(c)(2) (relating to additional reserves for post-retirement medical and life insurance benefits) is amended by inserting "(but not less than 10 years)" after "working lives of the covered employees".

(b) SEPARATE ACCOUNTING.—

(1) REQUIREMENT.—Section 419A(c)(2) is amended by adding at the end the following new flush sentence:

"Such reserve shall be maintained as a separate account."

(2) USE OF RESERVE FOR OTHER PURPOSES.—Paragraph (1) of section 4976(b) (defining disqualified benefit) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) any payment to which subparagraph (C) does not apply which is out of an account described in section 419A(c)(2) and which is not used to provide a post-retirement medical benefit or life insurance benefit."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions paid or accrued after December 31, 1994, in taxable years ending after such date.

(2) SEPARATE ACCOUNTING.—The amendments made by subsection (b) shall apply to contributions paid or accrued after the date

VOL 140 PT 16 AG 12 — 18 1994 UMI

of the enactment of this Act, in taxable years ending after such date.

SEC. 7522. CREDIT FOR COST OF PERSONAL ASSISTANCE SERVICES REQUIRED BY EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 7511, is amended by inserting after section 23 the following new section:

"SEC. 24. COST OF PERSONAL ASSISTANCE SERVICES REQUIRED BY EMPLOYED INDIVIDUALS.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the personal assistance expenses paid or incurred by the taxpayer during such taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below zero) by 10 percentage points for each $5,000 by which the modified adjusted gross income (as defined in section 59B(d)(2)) of the taxpayer for the taxable year exceeds $45,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting '$2,500' for '$5,000' and '$22,500' for '$45,000'.

"(b) LIMITATION.—The amount of personal assistance expenses for the benefit of an individual which may be taken into account under subsection (a) for the taxable year shall not exceed the lesser of—

"(1) $15,000, or

"(2) such individual's earned income (as defined in section 32(c)(2)) for the taxable year. In the case of a joint return, the amount under the preceding sentence shall be determined separately for each spouse.

"(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual (other than a nonresident alien) who, by reason of any medically determinable physical impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, is unable to engage in any substantial gainful activity without personal assistance services appropriate to carry out activities of daily living. An individual shall not be treated as an eligible individual unless such individual furnishes such proof thereof (in such form and manner, and at such times) as the Secretary may require.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) PERSONAL ASSISTANCE EXPENSES.—The term 'personal assistance expenses' means expenses for—

"(A) personal assistance services appropriate to carry out activities of daily living in or outside the home,

"(B) homemaker/chore services incidental to the provision of such personal assistance services,

"(C) in the case of an individual with a cognitive impairment, assistance with life skills,

"(D) communication services,

"(E) work-related support services,

"(F) coordination of services described in this paragraph,

"(G) assistive technology and devices, including assessment of the need for particular technology and devices and training of family members, and

"(H) modifications to the principal place of abode of the individual to the extent the expenses for such modifications would (but for subsection (e)(2)) be expenses for medical care (as defined by section 213) of such individual.

"(2) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' means eating, toileting, transferring, bathing, and dressing.

"(e) SPECIAL RULES.—

"(1) PAYMENTS TO RELATED PERSONS.—No credit shall be allowed under this section for any amount paid by the taxpayer to any person who is related (within the meaning of section 267 or 707(b)) to the taxpayer.

"(2) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—Any amount taken into account in determining the credit under this section shall not be taken into account in determining the amount of the deduction under section 213.

"(3) BASIS REDUCTION.—For purposes of this subtitle, if a credit is allowed under this section for any expense with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expense shall be reduced by the amount of the credit so allowed.

"(f) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after 1996, the $45,000 and $22,500 amounts in subsection (a)(2) and the $15,000 amount in subsection (b) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $1,000, such increase shall be rounded to the nearest multiple of $1,000."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) in the case of any property with respect to which a credit has been allowed under section 24, to the extent provided in section 24(e)(3)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Cost of personal assistance services required by employed individuals."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7523. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN PROGRAMS UNDER THE HEALTH SECURITY ACT.

(a) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF HEALTH SECURITY ACT.—

"(A) IN GENERAL.—The Secretary shall, upon written request, disclose current return information described in subparagraph (B) to any Federal, State, or local agency administering an assistance program under the Health Security Act.

"(B) INFORMATION.—The information described in this subparagraph is information which consists only of adjusted gross income, the untaxed portion of social security benefits, tax-exempt interest income, marital status, and dependents.

"(C) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, assistance provided under the Health Security Act.

"(D) EXCLUSION FROM MATCHING PROGRAM.—Any matches of information under this paragraph shall not be treated as a matching program for purposes of section 552a of title 5, United States Code."

(b) CONFORMING AMENDMENTS.—

(1) Section 6103(9)(2) is amended by inserting "or (15)" after "subsection (l)(7)(D)".

(2) Section 6103(p)(3)(A) is amended by striking "or (14)" and inserting "(14), or (15)".

(3) Section 6103(p)(4) is amended—

(A) by striking "or (12)" in the matter preceding subparagraph (A) and inserting "(12), or (15)", and

(B) by striking "or (14)" in subparagraph (F)(ii) and inserting "(14), or (15)".

(4) Section 7213(a)(2) is amended by striking "or (12)" and inserting "(12), or (15)".

Subtitle F—Graduate Medical Education and Academic Health Centers Trust Fund

SEC. 7601. ESTABLISHMENT OF GRADUATE MEDICAL EDUCATION AND ACADEMIC HEALTH CENTERS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding at the end the following new part:

"PART II—HEALTH CARE TRUST FUNDS

"Sec. 9551. Graduate Medical Education and Academic Health Centers Trust Fund

"SEC. 9551. GRADUATE MEDICAL EDUCATION AND ACADEMIC HEALTH CENTERS TRUST FUND.

"(a) CREATION OF TRUST FUND.—

"(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'Graduate Medical Education and Academic Health Centers Trust Fund', consisting of such amounts as may be appropriated or credited to the Academic Health Centers Trust Fund as provided in this section or section 9602(b).

"(2) ACCOUNTS IN THE TRUST FUND.—The Graduate Medical Education and Academic Health Centers Trust Fund shall consist of the following 3 accounts:

"(A) The Graduate Medical Education Account.

"(B) The Academic Health Centers Account.

"(C) The Nursing and Health Professions Education Account.

Each such account shall consist of such amounts as are allocated to it under this section.

"(b) TRANSFERS TO THE TRUST FUND.—

"(1) TAXES.—There are hereby appropriated to the Graduate Medical Education and Academic Health Centers Trust Fund amounts received in the Treasury under sections 4501 and 4502 (relating to assessments on insured and self-insured health plans) to the extent attributable to the rates of such taxes not in excess of 1.5 percent.

"(2) TRANSFERS FROM OTHER TRUST FUNDS.—The Secretary of Health and Human Services shall transfer each fiscal year to the Graduate Medical Education and Academic Health Centers Trust Fund from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under the Social Security Act the sum of—

"(A) the amount that would have been paid from the Federal Hospital Insurance Trust Fund in such fiscal year under section 1886(d)(5)(B) of such Act (as in effect before the date of the enactment of the Health Security Act), plus

"(B) the amount that would have been paid from such trust funds in such fiscal year under section 1886(h) of such Act (as so in effect).

"(c) GRADUATE MEDICAL EDUCATION ACCOUNT.—

"(1) TRANSFERS.—There is allocated to the Graduate Medical Education Account each fiscal year an amount equal to the amounts made available under section 3033 of the Health Security Act.

"(2) EXPENDITURES.—Amounts in the Graduate Medical Education Account are appropriated to make the payments described in sections 3031 and 3055 of the Health Security Act, and to the extent any such amount is not expended during any fiscal year, such amount shall be available for such purpose for subsequent fiscal years.

"(d) ACADEMIC HEALTH CENTERS ACCOUNT.—

"(1) TRANSFERS.—There is allocated to the Academic Health Centers Account each fiscal year an amount equal to the amounts made available under section 3053 of the Health Security Act.

"(2) EXPENDITURES.—Amounts in the Academic Health Centers Account are appropriated to make the payments described in section 3051 of the Health Security Act, and to the extent any such amount is not expended during any fiscal year, such amount shall be available for such purpose for subsequent fiscal years.

"(e) NURSING AND HEALTH PROFESSIONS EDUCATION ACCOUNT.—

"(1) TRANSFERS.—There is allocated to the Nursing and Health Professions Education Account each fiscal year an amount equal to the amounts made available under section 3042 of the Health Security Act.

"(2) EXPENDITURES.—Amounts in the Nursing and Health Professions Education Account are appropriated to make the payments described in section 3041 of the Health Security Act, and to the extent any such amount is not expended during any fiscal year, such amount shall be available for such purpose for subsequent fiscal years.

"(f) RULES RELATING TO ACCOUNTS.—

"(1) INSUFFICIENT FUNDS.—If, for any fiscal year, the sum of the amounts required to be allocated under subsections (c), (d), and (e) exceeds the amounts received in the Graduate Medical Education and Academic Health Centers Trust Fund, then each of such amounts required to be so allocated shall be reduced to an amount which bears the same ratio to such amount as the amounts received in the trust fund bear to the amounts required to be so allocated (without regard to this paragraph).

"(2) ALLOCATION OF EXCESS FUNDS AND INTEREST.—Amounts received in the Graduate Medical Education and Academic Health Centers Trust Fund in excess of the amounts required to be allocated under subsections (c), (d), and (e), and amounts credited to such trust fund under section 9602(b), for any fiscal year shall be allocated to each account ratably on the basis of the amounts allocated to the account for the fiscal year (without regard to this paragraph).".

(b) CONFORMING AMENDMENT.—Subchapter A of chapter 98 is amended by inserting after the subchapter heading the following new items:

"Part I. General trust funds.

"Part II. Health care trust funds.

"PART I—GENERAL TRUST FUNDS".

TITLE VIII—OTHER FEDERAL PROGRAMS

Subtitle A—Indian Health Service

SEC. 8101. PURPOSES.

The purposes of this subtitle are as follows:

(1) To ensure the delivery of health care services to American Indians and Alaska Natives in a culturally appropriate manner in fulfillment of the unique trust responsibility of the Federal Government and legal obligation to American Indian and Alaska Native people—

(A) derived from the province of international law; and

(B) founded in the treaties, Constitution, statutes, and court decisions of the United States.

(2) To provide sufficient funding for the provision of the standard benefit package as it applies to all eligible beneficiaries under this subtitle.

(3) To ensure that funding levels for services and benefits that are not part of the standard benefits package described in this subtitle are not diluted or diminished.

(4) To raise the health status of American Indians and Alaska Natives to the highest possible level.

(5) To raise the quality of health care delivery to American Indians and Alaska Natives to the highest possible level.

(6) To ensure that health care services provided to American Indians and Alaska Natives are provided in a manner consistent with, and carries out, the recognized Indian self-determination and tribal self-governance policy of the United States.

SEC. 8102. DEFINITIONS.

As used in this subtitle:

(1) AMERICAN INDIAN.—The term "American Indian" has the meaning provided the term "Indian" under paragraph (8).

(2) ALASKA NATIVE.—The term "Alaska Native" has the meaning provided the term "Native" under section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(3) HEALTH PROGRAM OF THE INDIAN HEALTH SERVICE.—The term "health program of the Indian Health Service" means a program which provides or is responsible for obtaining health services under this Act or any other applicable law through programs operated by the Indian Health Service, Indian tribes, or tribal organizations, including Indian tribes or tribal organizations operating under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(4) RESERVATION.—The term "reservation" means the reservation of any federally recognized Indian tribe, former Indian reservations in Oklahoma, and lands held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(5) INDIAN HEALTH PLAN.—The term "Indian health plan" means a health plan that is operated by the Secretary under part 1.

(6) INDIAN ENROLLEE.—The term "Indian enrollee" means an individual enrolled in an Indian health plan.

(7) URBAN INDIAN PROGRAM.—The term "urban Indian program" means any program operated pursuant to title V of the Indian Health Care Improvement Act.

(8) OTHER TERMS.—The terms "Indian", "Indian tribe", "tribal organization", "urban Indian", "urban Indian organization", and "service unit" have the same meaning as given such terms under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

PART 1—INDIAN HEALTH PLANS

SEC. 8111. ORGANIZATION OF HEALTH CARE FACILITIES AS HEALTH PLANS.

(a) ORGANIZATION AND ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary may, subject to the availability of appropriations, organize Indian health plans and operate Indian Health Service facilities as or within Indian health plans under this Act.

(2) STANDARDS.—

(A) REGULATIONS.—The Secretary may prescribe regulations establishing standards for the operation of Indian Health Service facilities as or within Indian health plans under this Act. In prescribing such standards, the Secretary shall ensure that such standards require the provision of the standard benefit package and conform, to the extent possible, with the requirements for health plans generally set forth in subtitle B of title I.

(B) REPORT.—Not later than 30 days after prescribing standards under subparagraph (A), the Secretary shall submit to the Committee on Indian Affairs of the Senate and the appropriate Committee of the House of Representatives a report describing the differences, if any, between such standards and the requirements for health plans generally referred to in subparagraph (A).

(b) FACILITIES.—Health care facilities of the Indian Health Service located within an area or region may be organized to operate as a single health plan encompassing all such facilities within that area or region or may be organized to operate as several health plans.

(c) STATE ACTION.—In carrying out responsibilities under this Act, a State (or a State-established entity)—

(1) may not impose any standard or requirement on an Indian health plan that is inconsistent with this part or any regulation prescribed under this part or other Federal laws regarding the operation of this part; and

(2) may not deny certification of an Indian health plan under this Act on the basis of a conflict between a rule of a State and this part or regulations prescribed under this part or other Federal laws regarding the operation of this Part.

SEC. 8112. CONTRACT AUTHORITY FOR FACILITIES OPERATING AS OR WITHIN HEALTH PLANS.

(a) CONTRACTS OR AGREEMENTS.—The Director of the Indian Health Service may enter into contracts and agreements for the provision of care and services to be provided under the Indian health plan and contracts and agreements for other services (including procurement of equipment, maintenance and repair services, and other services related to the provision of health care services) consistent with this part.

(b) CONTRACTS AND AGREEMENTS.—Contracts and agreements (including leases) under this section shall not be subject to the following provisions of law:

(1) Section 702 of title 5, relating to the right of review of agency wrongs by courts of the United States.

(2) Sections 1346(a)(2) and 1491 of title 28, relating to the jurisdiction of the district courts of the United States and the United States Court of Federal Claims, respectively, for the actions enumerated in such sections.

(3) Subchapter V of chapter 35 of title 31, relating to adjudication of protests of violations of procurement statutes and regulations.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(4) Sections 3526 and 3702 of such title, relating to the settlement of accounts and claims, respectively, of the United States.

(5) Subsections (b)(7), (e), (f), (g), and (h) of section 8 of the Small Business Act (15 U.S.C. 637(b)(7), (e), (f), (g), and (h)), relating to requirements with respect to small businesses for contracts for property and services.

(6) The provisions of law assembled for purposes of codification of the United States Code as section 471 through 544 of title 40 that relate to the authority of the Administrator of General Services over the lease and disposal of Federal Government property.

(7) The provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), relating to the procurement of property and services by the Federal Government.

(8) Chapter 3 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), relating to the procurement of property and services by the Federal Government.

(9) Office of Management and Budget Circular A–76.

SEC. 8113. RESOURCE SHARING AUTHORITY.

(a) AGREEMENTS WITH PLANS AND PROVIDERS.—The Secretary may enter into agreements with other health plans, with health care providers, and with other health industry organizations, and with individuals, for the sharing of resources of the Indian Health Service under an Indian health plan.

(b) OTHER AGREEMENTS.—The Secretary may enter into agreements with other departments and agencies of the Federal Government for the sharing of resources of the Indian Health Service and such departments and agencies in order to provide care and services under an Indian health plan.

SEC. 8114. ADMINISTRATIVE AND PERSONNEL FLEXIBILITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may appoint health care personnel to positions in any facility of the Indian Health Service operating as or within an Indian health plan in accordance with such qualifications for such positions as the Secretary may establish.

(b) MARKETING ACTIVITIES.—Subject to the provisions of this Act, the Secretary may carry out appropriate promotional, advertising, and marketing activities to inform individuals of the availability of Indian health plans.

SEC. 8115. EXPENDITURE AUTHORITY.

(a) DIRECTOR'S DISCRETION.—

(1) IN GENERAL.—To the extent that appropriations are available, the Director of the Indian Health Service may expend funds available to an Indian health plan for any purpose, and in any amount, that the director determines appropriate in order to ensure that the Indian health plan meets the requirements and the requirements of furnishing care and services to Indians.

(2) SPECIFIC EXPENDITURES.—Funds may be expended under this subsection in order to cover the following costs:

(A) The costs of marketing and advertising under an Indian health plan.

(B) The costs of legal services provided to an Indian health plan.

(C) The costs of acquisition (including acquisition of land), construction, repair, or renovation of facilities.

(b) LIMITATION.—Subsection (a) shall not apply to expenditures of funds provided to a facility by the Secretary exclusively for the purpose of the provision of the following services:

(1) Services relating to spinal-cord dysfunction.

(2) Services relating to substance abuse.

SEC. 8116. INDIAN HEALTH CARE INVESTMENT FUND.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund to be known as the Indian Health Care Investment Fund (hereafter referred to in this section referred to as the "Fund").

(b) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary, in addition to amounts otherwise authorized to be appropriated to the Secretary, for Indian health plans, such amounts as are necessary for the Secretary of the Treasury to fulfill the requirement of subsection (c).

(c) REQUIREMENTS.—For each of fiscal years 1995, 1996, and 1997, the Secretary of the Treasury shall, subject to the availability of appropriated funds, credit to the Fund an amount in that fiscal year as follows:

(1) For fiscal year 1995, $400,000,000.

(2) For fiscal year 1996, $400,000,000.

(3) For fiscal year 1997, $400,000,000.

(d) AVAILABILITY OF FUND.—

(1) IN GENERAL.—Subject to paragraph (2), amounts in the Fund shall be available to the Secretary only for the Indian health plans organized and operated under this part.

(2) ESTIMATION AND AVAILABILITY.—

(A) ESTIMATION.—For each of fiscal years 1996 and 1997, the Secretary shall estimate the total amount to be collected or recovered under this subtitle by reason of the provision of care and services through Indian health plans or the enrollment of individuals in such plans under that part. The Secretary shall estimate the amount to be so collected or recovered with respect to each Indian health plan and with respect to all Indian health plans.

(B) AVAILABILITY.—For each such fiscal year, the Secretary shall make available to each Indian health plan an amount that bears the same relationship to the total amount available in the Fund for the fiscal year as the amount estimated to be collected or recovered by the Indian health plan during the fiscal year bears to the total amount estimated to be collected or recovered by all Indian health plans during that fiscal year.

(e) REPORT.—Not later than March 1, 1997, the Secretary shall submit to Congress a report concerning the operation of the Indian Health Services health care system in preparing for, and operating under, national health care reform under the Health Security Act during fiscal years 1995 and 1996. The report shall include a discussion of—

(1) the adequacy of amounts in the Fund for the operation of Indian health plans;

(2) the quality of care provided by such plans; and

(3) the ability of such plans to attract patients.

SEC. 8117. TRIBAL AUTHORITY.

With respect to the provisions of this part, the Secretary shall promulgate regulations with the consent of tribes or urban Indian organizations prior to the implementation of any authority under this part that effects such tribes or organizations.

PART 2—ELIGIBILITY, BENEFITS AND COVERAGE

SEC. 8121. ELIGIBILITY AND HEALTH SERVICE COVERAGE OF INDIANS.

(a) COVERAGE.—The programs of the Indian Health Service shall remain as the principal provider of health care for Indians, except that nothing in this subtitle shall limit the ability of Indians to seek care from providers outside the programs of the Indian Health Service.

(b) ELIGIBILITY.—An Indian is eligible for services under a program of the Indian Health Service or eligible to enroll in an Indian health plan if the individual is—

(1) eligible to receive services pursuant to sections 36.1 through 36.14 of title 42, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act);

(2) an urban Indian residing in an area served by an urban Indian program; or

(3) an Indian described in section 809(b) of the Indian Health Care Improvement Act (25 U.S.C. 1679(b)).

(c) FAMILY MEMBERS.—

(1) IN GENERAL.—The Secretary may authorize an Indian health plan to enroll members of the family of an enrollee under subsection (b), subject to the payment of premiums, deductibles, copayments, and coinsurance as required under the this Act.

(2) FAMILY.—For purposes of paragraph (1), an enrollee's family is those individuals (other than the enrollee) included within the term "family" as defined in section 1113(b).

(d) HEALTH PROGRAMS OF THE INDIAN HEALTH SERVICE.—With respect to an individual that elects to enroll in a health program of the Indian Health Service, such program shall be the applicable Indian health plan.

(e) LIMITATION ON CHARGES.—An eligible Indian (as defined in subsection (b)) receiving services from or being referred by a health program of the Indian Health Service, or being enrolled in or receiving services covered under an Indian health plan, shall not be subject to any charge for deductibles, copayments, coinsurance, or any other cost for health services provided under such program.

SEC. 8122. BENEFITS.

The Secretary shall ensure that each health program of the Indian Health Service and each Indian health plan provide to each enrolled individual the items and services in the standard benefit package, to the extent that such items and services can be provided consistent with appropriations for that purpose. In the event that appropriations are insufficient the Secretary may revise the standard benefit package available to enrolled individuals.

SEC. 8123. SUPPLEMENTAL INDIAN HEALTH CARE BENEFITS.

(a) IN GENERAL.—All individuals described in section 8121(b) shall remain eligible for such benefits under the laws administered by the Indian Health Service as supplement to the standard benefit package. The individual shall not be subject to any charge or any other cost for such benefits.

(b) MAINTENANCE OF EFFORT.—The Secretary shall ensure that the requirements of this subtitle do not result in a reduction of the level of supplemental benefits provided by or through the Indian Health Service.

SEC. 8124. PREMIUMS, COPAYMENTS, AND OTHER CHARGES.

(a) IN GENERAL.—Except as provided in section 8121(c), the Secretary may not impose on or collect from an Indian enrollee a cost-share charge of any kind (whether a premium, copayment, deductible, coinsurance charge, or other charge) for items and services in the standard benefit package that an Indian health plan provides.

(b) LIMITATIONS.—In the case of an Indian enrollee who is not described in section 8121(b), the Secretary shall charge premiums and establish copayments, deductibles, and coinsurance amounts for care and services provided under this subtitle. The premium rate, and the rates for deductibles and copayments, for each Indian health plan shall be

established by that health plan based on rules established under the this Act.

SEC. 8125. PROVISION OF HEALTH SERVICES TO NON-INDIANS.

(a) CONTRACTS WITH HEALTH PLANS.—A health program of the Indian Health Service may enter into a contract with a health plan for the provision of health care services to individuals enrolled in such health plan if—

(1) the appropriate official of the program determines that the provision of such health services will not result in a denial or diminishment of health services to any individual described in section 8111(b); and

(2) each tribe or urban Indian organization served by the program authorizes or has authorized the provision of services to such individuals.

(b) FAMILY TREATMENT.—A health program of the Indian Health Service may provide health care services to insured non-Indian family members of individuals described in section 8111(b) under the same restrictions as those described in subsection (a).

(c) APPLICABLE INDIVIDUAL CHARGES.—Non-Indians receiving services in a program under subsection (b) shall be subject to any applicable deductibles, copayments, coinsurance, or any other cost for health services provided.

SEC. 8126. ESSENTIAL COMMUNITY PROVIDERS.

A health program of the Indian Health Service automatically certified as an essential community provider under section 1462 may elect to accept certification—

(1) only for eligible individuals described in section 8111(b);

(2) for non-Indian individuals if each tribe or tribal organization served by the program authorizes or has authorized serving non-Indians; or

(3) for eligible individuals described in section 8111(b) and family members of such individuals described in section 8111(b) who are enrolled in a plan other than a health program of the Indian Health Service, if each tribe or urban Indian organization served by the program authorizes or has authorized serving such family members.

SEC. 8127. PAYMENT BY OTHER PROVIDERS.

(a) PAYMENT FOR SERVICES PROVIDED BY INDIAN HEALTH SERVICE PROGRAMS.—Nothing in this subtitle shall be construed as amending section 206, 401, or 402 of the Indian Health Care Improvement Act (25 U.S.C. 1621e, 1641, or 1642) or any other provision of law relating to payments on behalf of Indians for health services from other Federal programs or from other third party payers.

(b) PAYMENT FOR SERVICES PROVIDED BY CONTRACTORS.—Nothing in this subtitle shall be construed as affecting any other provision of law, regulation, or judicial or administrative interpretation of law or policy concerning the status of the Indian Health Service as the payer of last resort for Indians eligible for contract health services under a health program of the Indian Health Service.

(c) PAYMENT FOR SERVICES BY MEDICARE.—Programs of the Indian Health Service shall be eligible for payments for services provided to Medicare beneficiaries.

(d) RETENTION OF RECEIPTS.—Notwithstanding any other provision of law, the collections made by a health program of the Indian Health Service shall remain with the health program.

(e) COLLECTION.—Each health program of the Indian Health Service shall make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are covered by public or private health insurance programs.

(f) PAYOR OF LAST RESORT.—The payor of last resort rule described in subsection (b) shall not be applied to require—

(1) enrollment in a Federal or State health plan; or

(2) travel of more than 50 miles or 50 minutes to utilize alternative Indian outpatient health resources.

SEC. 8128. CONTRACTING AUTHORITY.

Section 601(d)(1)(B) of the Indian Health Care Improvement Act (25 U.S.C. 1661(d)(1)(B)) is amended by inserting "(including personal services for the provision of direct health care services)" after "goods and services".

SEC. 8129. CONSULTATION.

(a) OMB AND SECRETARY.—The Director of the Office of Management and Budget and the Secretary shall consult, on an annual basis, with representatives of Indian tribes, tribal organizations, and urban Indian organizations concerning health care reform initiatives that affect Indian communities, and policy, funding, and administration of health programs of the Indian Health Service. The Secretary shall solicit and consider the views and recommendations provided by Indian tribes, tribal organizations, and representatives of urban Indian organizations in making determinations that affect Indians and Indian tribes.

(b) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group to assess all aspects of the development and administration of the budget for programs of the Indian Health Service and advise the Office of Management and Budget, the Secretary and Congress with respect to such aspects.

(2) COMPOSITION.—The advisory group shall be comprised of—

(A) not less than one representative from each area of the Indian Health Service to be appointed by the Secretary from nominees of tribes and tribal organizations in the respective areas;

(B) not less than one urban Indian representative from each area the Indian Health Service with an urban Indian (as defined in section 4(f) of the Indian Health Care Improvement Act (25 U.S.C. 1603(f)) program to be appointed by the Secretary; and

(C) such other appointees as the Secretary determines appropriate, on the condition that a majority of the members are selected from nominations submitted to the Secretary by a tribe or tribal organization.

SEC. 8130. TRANSITIONAL STUDIES.

(a) IN GENERAL.—The Secretary shall conduct planning, feasibility, or similar health services studies related to the transition of the health programs of the Indian Health Service under health care reform. Such studies shall take into account the measurements and the means to accomplish the Healthy People 2000 objectives as required under sections 3 and 214 of the Indian Health Care Improvement Act. Such studies shall include an assessment of—

(1) the feasibility of developing an Indian health plan or plans;

(2) the financing necessary to provide the same level of standard benefits to American Indians and Alaska Natives as will be available to all other Americans;

(3) the staffing, program and infrastructure enhancements required to deliver the standard benefits package;

(4) the facility and capital construction needs necessary to provide the standard benefit package; and

(5) the administrative improvements necessary to network, share and access patient data, quality management and improvement data, and financial information.

(b) ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group to provide the Secretary with advise concerning the focus, content and conduct of studies under subsection (a).

(2) COMPOSITION.—The advisory group shall be comprised of—

(A) not less than one representative from each area of the Indian Health Service to be appointed by the Secretary from among nominees of tribes and tribal organizations in the respective areas;

(B) not less than one urban Indian representative from each area of the Indian Health Service which an urban Indian (as defined in section 4(f) of the Indian Health Care Improvement Act (25 U.S.C. 1603(f)) program to be appointed by the Secretary; and

(C) other appointees as the Secretary determines appropriate, except that the Secretary shall ensure that a majority of the members so appointed are selected from nominations submitted to the Secretary by tribes or tribal organizations.

(c) RECOMMENDATIONS.—Not later than June 30, 1997, the Secretary shall submit to Congress recommendations based on the studies conducted under this section, including recommendations for changes in the structure of Indian Health Services. A timetable for implementing health care reform activities shall be included in such final recommendations.

SEC. 8131. LOANS AND LOAN GUARANTEES.

The Secretary may make loans, and guarantee the payment of principal and interest, to Federal and non-Federal lenders on behalf of health programs of the Indian Health Service or Indian health plans for the purpose of improving and expanding such facilities. Loans and loan guarantees under this section shall be provided under such terms and conditions as the Secretary may prescribe.

SEC. 8132. SIMPLIFICATION OF BILLING.

The Secretary shall take such action as may be necessary to ensure that health programs of the Indian Health Service and Indian health plans may submit all claims for benefits or payment for services entitled to reimbursement in a manner consistent with that of all other health care providers.

SEC. 8133. LONG-TERM CARE DEMONSTRATIONS.

Subject to the availability of appropriations under subtitle B of title II (for home and community-based long-term care services), the Secretary shall establish a demonstration program to provide five grants to health programs of the Indian Health Service to enable such programs to plan and implement innovative methods of providing enhanced home and community-based long-term care services.

SEC. 8134. TECHNICAL ASSISTANCE.

Indian tribes shall be eligible for funds made available under this Act for technical assistance or transitional support.

SEC. 8135. PUBLIC HEALTH PROGRAMS.

Health programs of the Indian Health Service shall be eligible to apply for funding under public health programs authorized under title III of this Act, as deemed appropriate by the Secretary.

SEC. 8136. SURVEY OF HEALTH SERVICES AVAILABLE TO INDIAN VETERANS.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Veterans Affairs, Indian tribes and tribal organizations, shall conduct a survey to assess the availability and accessibility of health care services for Indian veterans residing on Indian reservations.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress that

VOL 140 PT 16 AG 12 — 18 1994 UMI

shall include recommendations concerning the survey conducted under subsection (a).

SEC. 8137. RULE OF CONSTRUCTION.

Unless otherwise provided in this Act, no part of this Act shall be construed to rescind or otherwise modify any obligations, findings, or purposes contained in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) and in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

PART 3—AUTHORIZATION OF APPROPRIATIONS

SEC. 8141. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—For the purpose of carrying out this subtitle, including transitional costs and the purchase of additional contract health care services for individual eligible Indians, there are authorized to be appropriated $515,000,000 for fiscal year 1995, $930,000,000 for fiscal year 1996, and $1,150,000,000 for each of the fiscal years 1997 through 2004.

(2) SUPPLEMENTAL INDIAN HEALTH CARE BENEFITS.—In addition to amounts otherwise authorized to be appropriated (including the amounts authorized to be appropriated under paragraph (1)), for the purpose of carrying out section 8123, there are authorized to be appropriated $360,000,000 for fiscal year 1995, $400,000,000 for each of the fiscal years 1996 through 1999, and such sums as may be necessary for fiscal year 2000 and each fiscal year thereafter.

(3) LOANS AND LOAN GUARANTEES.—In addition to amounts otherwise authorized to be appropriated (including the amounts authorized to be appropriated under paragraph (1)), for the purpose of carrying out section 8131, there are authorized to be appropriated $500,000,000 for the principal of the loan. The authority of the Secretary to make loans and to guarantee loans under such section shall be subject to such amounts as may be provided for in each fiscal year in advance in an appropriations Act.

(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established under this subtitle are in addition to any other authorizations of appropriations that are available for the purposes of carrying out this subtitle.

SEC. 8142. FUNDING METHODOLOGY.

The Secretary shall establish new methodologies, consistent with the Indian Health Care Improvement Act, for the distribution to Indian tribes of all new funds that become available for health care initiatives under this subtitle. New distribution methodologies should consider differences in local resources, status of health (as declared under section 3 of such Act), socioeconomic status of tribal people, and facilities, equipment and staff available in concert with the establishment of Indian epidemiological centers under such Act.

Subtitle B—Department of Veterans Affairs

SEC. 8201. SHORT TITLE.

This Act may be cited as the "Veterans Health Care Reform Act of 1994".

SEC. 8202. BENEFITS AND ELIGIBILITY THROUGH DEPARTMENT OF VETERANS AFFAIRS MEDICAL SYSTEM.

(a) DEPARTMENT OF VETERANS AFFAIRS AS A PARTICIPANT IN HEALTH CARE REFORM.—

(1) IN GENERAL.—Title 38, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—ELIGIBILITY AND BENEFITS UNDER HEALTH SECURITY ACT

"SUBCHAPTER I—GENERAL

"1801. Definitions.

"SUBCHAPTER II—ENROLLMENT

"1811. Enrollment: veterans.
"1812. Enrollment: CHAMPVA eligibles.
"1813. Enrollment: family members.

"SUBCHAPTER III—BENEFITS

"1821. Benefits for VA enrollees.
"1822. Chapter 17 benefits.
"1823. Supplemental health benefits plans.
"1824. Limitation regarding veterans enrolled with health plans outside Department.

"SUBCHAPTER IV—FINANCIAL MATTERS

"1831. Premiums, copayments, and other charges.
"1832. Medicare coverage and reimbursement.
"1833. Recovery of cost of certain care and services.
"1834. Health Plan Fund.

"SUBCHAPTER I—GENERAL

"§ 1801. Definitions

"For purposes of this chapter:

"(1) The term 'health plan' means an entity that has been certified under the Health Security Act as a health plan.

"(2) The term 'VA health plan' means a health plan that is operated by the Secretary under section 7341 of this title.

"(3) The term 'VA enrollee' means an individual enrolled under the Health Security Act in a VA health plan.

"(4) The term 'standard benefit package' means the package of benefits required to be provided by a health plan under the Health Security Act.

"SUBCHAPTER II—ENROLLMENT

"§ 1811. Enrollment: veterans

"Each veteran may enroll with a VA health plan. A veteran who wants to receive the standard benefit package through the Department shall enroll with a VA health plan.

"§ 1812. Enrollment: CHAMPVA eligibles

"An individual who is eligible for benefits under section 1713 of this title may enroll with a VA health plan in the same manner as a veteran.

"§ 1813. Enrollment: family members

"(a) The Secretary may authorize a VA health plan to enroll members of the family of an enrollee under section 1811 or 1812 of this title, subject to payment of premiums, deductibles, copayments, and coinsurance as required under the Health Security Act.

"(b) For purposes of subsection (a), an enrollee's family is those individuals (other than the enrollee) included within the term 'family' as defined in section 1113(b) of the Health Security Act.

"SUBCHAPTER III—BENEFITS

"§ 1821. Benefits for VA enrollees

"The Secretary shall ensure that each VA health plan provides to each individual enrolled with it the items and services in the standard benefit package under the Health Security Act, to the extent that such items and services can be provided consistent with appropriations for that purpose. In the event that appropriations are insufficient the Secretary may revise the standard benefit package available to enrolled individuals.

"§ 1822. Chapter 17 benefits

"The Secretary shall provide to a veteran the care and services not included in the standard benefit package that are authorized to be provided under chapter 17 of this title in accordance with the terms and conditions applicable to that veteran and that care under such chapter, to the extent that such items and services can be provided consistent with appropriations for that purpose. In the event that appropriations are insufficient the Secretary may revise the standard benefit package available to enrolled individuals.

"§ 1823. Supplemental health benefits plans

"(a) As part of a VA health plan, the Secretary may offer to veterans—

"(1) supplemental health benefits plans (as that term is defined in section 1011(3)(B) of the Health Security Act) for the care and services described in subsection (b); and

"(2) cost-sharing plans consistent with the requirements of part 4 of subtitle B of title I of the Health Security Act.

"(b) The care and services referred to in subsection (a) are care and services that—

"(1) are not available under the standard benefit package; and

"(2) can be provided by the Secretary at reasonable cost.

"§ 1824. Limitation regarding veterans enrolled with health plans outside Department

"A veteran who is residing in a community-rated area in which the Department operates a health plan and who is enrolled in a health plan that is not operated by the Department may be provided the items and services in the standard benefit package by a VA health plan only if the plan is reimbursed for the care provided.

"SUBCHAPTER IV—FINANCIAL MATTERS

"§ 1831. Premiums, copayments, and other charges

"(a) Except as provided in paragraph (2), the Secretary may not impose on or collect from a veteran described in subsection (b) who is a VA enrollee a cost-share charge of any kind (whether a premium, copayment, deductible, coinsurance charge, or other charge) for items and services in the standard benefit package that a VA health plan provides.

"(b) The veterans referred to in subsection (a) are the following:

"(1) Any veteran with a compensable service-connected disability.

"(2) Any veteran whose discharge or release from the active military, naval or air service was for a disability incurred or aggravated in the line of duty.

"(3) Any veteran who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such a veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section.

"(4) Any veteran who is a former prisoner of war.

"(5) Any veteran of the Mexican border period or World War I.

"(6) Any veteran who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(7) Any veteran referred to in subparagraph (A), (B), or (C) of section 1710(e) of this title.

"(c)(1) Except as provided in paragraph (2), in the case of a VA enrollee who is not described in subsection (b), the Secretary shall charge premiums and establish copayments, deductibles, and coinsurance amounts for care and services provided under this chapter. The premium rate, and the rates for deductibles and copayments, for each VA health plan shall be established by that health plan based on rules established under the Health Security Act.

"(2) The Secretary may not charge a veteran referred to in paragraph (1) a premium for any care or service that the Secretary provides the veteran under a supplemental health benefits plan offered under section 1823 of this title if the Secretary is required to provide such care or service under chapter 17 of this title.

"§ 1832. Medicare coverage and reimbursement

"(a) For purposes of any program administered by the Secretary of Health and Human Services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), a Department facility shall be deemed to be a Medicare provider.

"(b)(1) A VA health plan shall be considered to be a Medicare HMO.

"(2) For purposes of this section, the term 'Medicare HMO' means an eligible organization under section 1876 of the Social Security Act.

"(c) In the case of care provided under this chapter to a veteran (other than a veteran described in section 1831(b) of this title), or to a family member of a veteran, who is eligible for benefits under the Medicare program under title XVIII of the Social Security Act, the Secretary of Health and Human Services shall reimburse a VA health plan or Department health-care facility providing services as a Medicare provider or Medicare HMO in the same amounts and under the same terms and conditions as that Secretary reimburses other Medicare providers or Medicare HMOs, respectively. The Secretary of Health and Human Services shall include with each such reimbursement a Medicare explanation of benefits.

"(d) When the Secretary provides care to a veteran, or a family member of a veteran, for which the Secretary receives reimbursement under this section, the Secretary shall require the veteran to pay to the Department any applicable deductible or copayment that is not covered by Medicare.

"§ 1833. Recovery of cost of certain care and services

"(a) In the case of an individual provided care or services through a VA health plan who has coverage under a supplemental health benefits plan pursuant to part 4 of subtitle B of title I of the Health Security Act, a Medicare supplemental health insurance plan, or any other provision of law, the Secretary has the right to recover or collect charges for care or services (as determined by the Secretary, but not including care or services for a service-connected disability) from the party providing that coverage to the extent that the individual (or the provider of the care or services) would be eligible to receive payment for such care or services from such party if the care or services had not been furnished by a department or agency of the United States.

"(b) In the case of a veteran referred to in section 1831(b) of this title who is enrolled in a health plan other than a VA health plan and who is provided care or services for a service-connected disability by a VA health plan, the Secretary has the right to recover or collect charges for such care and services from the party operating the health plan to the extent that the veteran (or the provider of the care or services) would be eligible to receive payment for such care or services from such party if the care or services had not been furnished by a department or agency of the United States.

"(c) The provisions of subsections (b) through (f) of section 1729 of this title shall apply with respect to claims by the United States under subsection (a) or (b) in the same manner as they apply to claims under subsection (a) of that section.

"§ 1834. Health Plan Fund

"(a) There is hereby established in the Treasury a revolving fund to be known as the 'Department of Veterans Affairs Health Plan Fund'.

"(b)(1) Subject to paragraphs (2) and (3), amounts collected or recovered by the Department under this subchapter by reason of the furnishing of care and services to an individual by a VA health plan or the enrollment of an individual with a VA health plan (including amounts received as premiums, premium discount payments, copayments or coinsurance, and deductibles, amounts received as third-party reimbursements or reimbursements from Medicare, and amounts received as reimbursements from another health plan for care furnished to one of its enrollees) shall be credited to the revolving fund.

"(2) Premiums collected by the Department under this subchapter during fiscal year 1996 or 1997 by reason of the furnishing of care and services under a VA health plan to a veteran referred to in section 1831(b) of this title shall be credited to the revolving fund established under subsection (a) only if the amount of funds appropriated to the Veterans Health Care Investment Fund established under subsection (a)(1) of section 7346 of this title for the fiscal year concerned is less than the amount specified to be credited to that fund for that fiscal year under subsection (c) of such section 7346.

"(3) Premiums received by the Department under this subchapter in any fiscal year after fiscal year 1997 by reason of the furnishing of care and services under a VA health plan to a veteran referred to in paragraph (2) shall be credited to the revolving fund established under subsection (a) only if the cost of providing such care and services is not covered by appropriations. The amount so credited shall be the amount of such premiums received that is necessary to cover the difference between the cost of such care and services and such appropriations.

"(c) The Secretary shall establish in the revolving fund a separate account for each VA health plan. The Secretary shall credit any amount received under subsection (b) by reason of the furnishing of care and services in or through a VA health plan or the enrollment of an individual with a VA health plan.

"(d) Amounts credited to the account of the revolving fund for a VA health plan under subsection (b) are hereby made available to the VA health plan for the expenses of the delivery by the VA health plan of the items and services in the standard benefit package and any supplemental health benefits plan offered by the VA health plan.".

(2) The table of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, is amended by inserting after the item relating to chapter 17 the following new item:

"18. Benefits and Eligibility Under Health Security Act ..... 1801.".

(b) PRESERVATION OF EXISTING BENEFITS FOR FACILITIES NOT OPERATING AS HEALTH PLANS.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new section:

"§ 1705. Facilities not operating within health plans

"The provisions of this chapter shall apply with respect to the furnishing of care and services by any facility of the Department when it is not operating as or within a health plan certified as a health plan under the Health Security Act.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1704 the following new item:

"1705. Facilities not operating within health plans.".

SEC. 8203. ORGANIZATION OF DEPARTMENT OF VETERANS AFFAIRS FACILITIES AS HEALTH PLANS.

(a) IN GENERAL.—Chapter 73 of title 38, United States Code, is amended—

(1) by redesignating subchapter IV as subchapter V; and

(2) by inserting after subchapter III the following new subchapter IV:

"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM

"§ 7341. Organization of health care facilities as health plans

"(a)(1) The Secretary may, subject to the availability of appropriations, organize health plans and operate Department facilities as or within health plans under the Health Security Act.

"(2)(A) The Secretary may prescribe regulations establishing standards for the operation of Department health care facilities as or within health plans under that Act. In prescribing such standards, the Secretary shall ensure that they conform, to the extent possible under the requirements of section 1821, to the requirements for health plans generally set forth in part 1 of subtitle B of title I of the Health Security Act.

"(B) Not later than 30 days after prescribing such standards, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report describing the differences, if any, between such standards and the requirements for health plans generally referred to in subparagraph (A).

"(b) Health care facilities of the Department located within an area or region may be organized to operate as a single health plan encompassing all Department facilities within that area or region or may be organized to operate as several health plans.

"(c) In carrying out responsibilities under the Health Security Act, a State (or a State-established entity)—

"(1) may not impose any standard or requirement on a VA health plan that is inconsistent with this chapter or any regulation prescribed under this chapter or other Federal laws regarding the operation of this chapter; and

"(2) may not deny certification of a VA health plan under the Health Security Act on the basis of a conflict between a rule of a State and this chapter or regulations prescribed under this chapter or other Federal laws regarding the operation of this chapter.

"§ 7342. Contract authority for facilities operating as or within health plans

"(a) The Secretary shall designate a health plan director for each VA health plan organized and operated under this subchapter.

"(b) The health plan director of a VA health plan may enter into contracts and agreements for the provision of care and services to be provided under the VA health plan and contracts and agreements for other services (including procurement of equipment, maintenance and repair services, and other services related to the provision of health care services) consistent with section 1821 of this title.

"(c) Contracts and agreements (including leases) under subsection (a) shall not be subject to the following provisions of law:

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(1) Section 8110(c) of this title, relating to the contracting of services at Department health-care facilities.

"(2) Section 8122(a)(1) of this title, relating to the lease of Department property.

"(3) Section 8125 of this title, relating to local contracts for the procurement of health-care items.

"(4) Section 702 of title 5, relating to the right of review of agency wrongs by courts of the United States.

"(5) Sections 1346(a)(2) and 1491 of title 28, relating to the jurisdiction of the district courts of the United States and the United States Court of Federal Claims, respectively, for the actions enumerated in such sections.

"(6) Subchapter V of chapter 35 of title 31, relating to adjudication of protests of violations of procurement statutes and regulations.

"(7) Sections 3526 and 3702 of such title, relating to the settlement of accounts and claims, respectively, of the United States.

"(8) Subsections (b)(7), (e), (f), (g), and (h) of section 8 of the Small Business Act (15 U.S.C. 637(b)(7), (e), (f), (g), and (h)), relating to requirements with respect to small businesses for contracts for property and services.

"(9) The provisions of law assembled for purposes of codification of the United States Code as section 471 through 544 of title 40 that relate to the authority of the Administrator of General Services over the lease and disposal of Federal Government property.

"(10) The provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), relating to the procurement of property and services by the Federal Government.

"(11) Chapter 3 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), relating to the procurement of property and services by the Federal Government.

"(12) Office of Management and Budget Circular A-76.

"(c)(1) Contracts and agreements for the provision of care and services under subsection (a) may include any contract or other agreement that the health plan director of a VA health plan determines is consistent with section 1821 of this title and appropriate in order to provide care and services under the VA health plan.

"(2) Contracts and agreements under this subsection may be entered into without prior review by the Central Office of the Department.

"(d)(1) The entry into a contract or agreement under this section for services other than the services referred to in subsection (c) (including contracts and agreements for procurement of equipment, maintenance and repair services, and other services related to the provision of health care services) shall not be subject to prior review by the Central Office if the contract is consistent with section 1821 of this title and the amount of the contract or agreement is less than $250,000.

"(2) The Central Office may conduct a prior review of a contract or agreement referred to in paragraph (1) if the amount of the contract or agreement is $250,000 or greater.

"§ 7343. Resource sharing authority

"(a) The Secretary may, consistent with section 1821 of this title, enter into agreements under section 8153 of this title with other health care plans, with health care providers, and with other health industry organizations, and with individuals, for the sharing of resources of the Department under a VA health plan.

"(b) The Secretary may, consistent with section 1821 of this title, enter into agreements with other departments and agencies of the Federal Government for the sharing of resources of the Department and such departments and agencies in order to provide care and services under a VA health plan.

"§ 7344. Administrative and personnel flexibility

"(a) Notwithstanding any other provision of law, the Secretary may—

"(1) appoint health care personnel to positions in any facility of the Department operating as or within a VA health plan in accordance with such qualifications for such positions as the Secretary may establish; and

"(2) promote and advance personnel serving in such positions in accordance with such qualifications as the Secretary may establish.

"(b) Subject to the provisions of section 1125 of the Health Security Act, the Secretary may carry out appropriate promotional, advertising, and marketing activities to inform individuals of the availability of VA health plans.

"§ 7345. Expenditure authority

"(a)(1) To the extent that appropriations are available, the director of a VA health plan may expend funds available to a VA health plan (including funds available under section 1834(c) of this title, funds available under section 7346(d)(2)(B) of this title, and funds otherwise made available to the VA health plan by the Secretary) for any purpose, and in any amount, that the director determines appropriate in order to ensure that the VA health plan meets the requirements and the requirements of furnishing care and services to veterans under chapter 17 of this title.

"(2) Funds may be expended under this subsection in order to cover the following costs:

"(A) The costs of marketing and advertising under a VA health plan.

"(B) The costs of legal services provided to a VA health plan by the General Counsel of the Department.

"(C) The costs of acquisition (including acquisition of land), construction, repair, or renovation of facilities.

"(3) The exercise by a health plan director of the authority provided in paragraph (1) shall not be subject to prior review by the Central Office of the Department.

"(b) Subsection (a) shall not apply to expenditures of funds provided to a facility by the Central Office of the Department exclusively for the purpose of the provision of the following services:

"(1) Services relating to post-traumatic stress disorder.

"(2) Services relating to spinal-cord dysfunction.

"(3) Services relating to substance abuse.

"(4) Services relating to the rehabilitation of blind veterans.

"§ 7346. Veterans Health Care Investment Fund

"(a) There is hereby established in the Treasury of the United States a fund to be known as the Veterans Health Care Investment Fund (in this section referred to as the 'Fund').

"(b) There is hereby authorized to be appropriated to the Department, in addition to amounts otherwise authorized to be appropriated to the Department for VA health plans, such amounts as are necessary for the Secretary of the Treasury to fulfill the requirement of subsection (c).

"(c) For each of fiscal years 1995, 1996, and 1997, the Secretary of the Treasury shall, subject to the availability of appropriated funds, credit to the Fund an amount in that fiscal year as follows:

"(1) For fiscal year 1995, $1,225,000,000.

"(2) For fiscal year 1996, $600,000,000.

"(3) For fiscal year 1997, $1,700,000,000.

"(d)(1) Subject to paragraph (2), amounts in the Fund shall be available to the Secretary only for the VA health plans organized and operated under this subchapter.

"(2)(A) For each of fiscal years 1996 and 1997, the Secretary shall estimate the total amount to be collected or recovered under sections 1831, 1832, and 1833 of this title by reason of the provision of care and services through VA health plans under chapter 18 of this title or the enrollment of individuals in such plans under that chapter. The Secretary shall estimate the amount to be so collected or recovered with respect to each VA health plan and with respect to all VA health plans.

"(B) For each such fiscal year, the Secretary shall make available to each VA health plan an amount that bears the same relationship to the total amount available in the Fund for the fiscal year as the amount estimated to be collected or recovered by the VA health plan during the fiscal year bears to the total amount estimated to be collected or recovered by all VA health plans during that fiscal year.

"(e) Not later than March 1, 1997, the Secretary shall submit to Congress a report concerning the operation of the Department of Veterans Affairs health care system in preparing for, and operating under, national health care reform under the Health Security Act during fiscal years 1995 and 1996. The report shall include a discussion of—

"(1) the adequacy of amounts in the Fund for the operation of VA health plans;

"(2) the quality of care provided by such plans; and

"(3) the ability of such plans to attract patients.

"§ 7347. Funding provisions: grants and other sources of assistance

"The Secretary may apply for and accept, if awarded, any grant or other source of funding that is intended to meet the needs of special populations and that but for this section is unavailable to facilities of the Department or to health plans operated by the Government if funds obtained through the grant or other source of funding will be used through a facility of the Department operating as or within a health plan.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by striking out the item relating to the heading for subchapter IV and inserting in lieu thereof the following:

"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM

"7341. Organization of health care facilities as health plans.

"7342. Contract authority for facilities operating as or within health plans.

"7343. Resource sharing authority.

"7344. Administrative and personnel flexibility.

"7345. Expenditure authority.

"7346. Veterans Health Care Investment Fund.

"7347. Funding provisions: grants and other sources of assistance.

"SUBCHAPTER V—RESEARCH CORPORATIONS".

TITLE IX—WORKERS COMPENSATION AND AUTOMOBILE INSURANCE COORDINATION

Subtitle A—Workers Compensation Medical Services

SEC. 9001. APPLICATION OF INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The provisions of subtitle B of title V shall apply to the provision of workers compensation medical services provided by a health plan or health care provider in the same manner as such provisions apply with respect to the provision of services included in the standard benefit package.

(b) INFORMATION.—Subject to the provisions of subtitle C of title V, health plans and health care providers that render workers compensation medical services shall provide to the worker and to the workers compensation carrier, the employer or both, as appropriate, relevant health care information necessary to assist the worker in the safe and timely return to work.

(c) COMPLIANCE WITH DUTIES AND REQUIREMENTS.—A health plan to which this section applies and its providers shall comply with legal duties and reporting requirements under State workers compensation laws, and other Federal and State laws, including laws regarding the reporting of occupational injuries and diseases.

(d) RULES.—The Secretary of Labor shall promulgate rules to clarify the responsibilities of health plans and health care providers in carrying out the provisions referred to in subsection (a).

SEC. 9002. PROVISION OF CARE IN DISPUTED CASES.

(a) IN GENERAL.—In cases in which a workers compensation claim is challenged by the employer, the workers compensation carrier, or both, a health plan shall provide or pay for all medical care included in the standard benefit package according to the applicable workers compensation fee schedule, if any, until such time as a determination is made through the adjudication process that the claim is compensable as a workers compensation claim. If such a determination is made, the workers compensation carrier (or the employer, if self-insured) shall reimburse the health plan (for the cost of services delivered to the member for the work-related illness or injury) and the worker (for any copayments, deductibles or coinsurance costs incurred for such services).

(b) APPLICABILITY.—Subsection (a) shall not apply in a case where compensation has been accepted by the insurer or the employer, or paid without prejudice.

SEC. 9003. DEMONSTRATION PROJECTS.

(a) AUTHORIZATION.—The Secretary of Health and Human Services and the Secretary of Labor are authorized to conduct demonstration projects under this section in one or more States with respect to treatment of work-related injuries and illnesses.

(b) DEVELOPMENT OF WORK-RELATED PROTOCOLS.—

(1) IN GENERAL.—The Secretary of Health and Human Services and the Secretary of Labor, in consultation with the States and such experts on work-related injuries and illnesses as each such Secretary finds appropriate, shall develop protocols for the appropriate treatment of work-related conditions.

(2) TESTING OF PROTOCOLS.—The Secretary of Health and Human Services and the Secretary of Labor shall enter into contracts with one or more community-rated health plans to test the validity of the protocols developed under subsection (a).

(c) DEVELOPMENT OF CAPITATION PAYMENT MODELS.—The Secretary of Health and Human Services and the Secretary of Labor shall develop, using protocols developed under subsection (b) if possible, methods of providing for payment by workers compensation carriers to health plans on a per case basis, capitated payment for the treatment of specified work-related injuries and illnesses.

SEC. 9004. COMMISSION ON WORKERS COMPENSATION MEDICAL SERVICES.

(a) ESTABLISHMENT.—There is hereby established a Commission on Workers Compensation Medical Services (hereafter in this section referred to as the "Commission").

(b) COMPOSITION.—

(1) IN GENERAL.—The Commission shall consist of 15 members appointed in accordance with paragraph (2). Members of the Commission shall include—

(A) one or more individuals representing State workers compensation commissioners;

(B) one or more individuals representing State workers compensation funds;

(C) one or more individuals representing labor organizations;

(D) one or more individuals representing employers (other than workers compensation insurance carriers);

(E) one or more individuals representing workers compensation insurance carriers;

(F) one or more members of the medical profession having expertise in occupational health; and

(G) one or more educators or researchers having expertise in the field of occupational health.

Eight members of the Commission shall constitute a quorum.

(2) APPOINTMENTS.—Members of the Commission shall be appointed by the President and shall include—

(A) three members appointed from among individuals recommended by the Speaker of the House of Representatives;

(B) three members appointed from among individuals recommended by the Minority Leader of the House of Representatives;

(C) three members appointed from among individuals recommended by the Majority Leader of the Senate; and

(D) three members appointed from among individuals recommended by the Minority Leader of the Senate.

(3) NO COMPENSATION EXCEPT TRAVEL EXPENSES.—Members of the Commission shall serve without compensation, but each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall study the relationship of workers compensation medical services to the new health system under this Act in terms of impact on the cost of workers compensation medical services, access to appropriate care for injured workers, and quality of medical care and its impact on functional and vocational outcomes for injured workers.

(2) EVALUATION ISSUES TO BE ADDRESSED.—In its deliberations under paragraph (1), the Commission shall consider the following issues in examining the relationship between health plans and workers compensation medical services:

(A) The impact of health reform on workers compensation medical costs and premium rates charged to employers for workers compensation insurance.

(B) The extent and impact of cost-shifting and price discrimination between the workers compensation medical system and traditional health insurers.

(C) The impact of experience rating adjustments resulting from workers compensation medical services on workplace safety.

(D) The advantages and disadvantages of maintaining separate financing, payment and delivery systems for workers compensation medical services, including the impact on—

(i) the quality of medical care delivered to workers injured or made ill on the job;

(ii) the incentives for employers to maintain safe work-places; and

(iii) workers compensation indemnity benefit costs, medical costs and the overall costs of the workers compensation system.

(E) The advisability and appropriateness of transferring financial responsibility for some or all workers compensation medical benefits to health plans.

(F) The impact of State-to-State variations in medical and rehabilitation benefits on costs, access and quality of care.

(G) The options that are available to accomplish the delivery of workers compensation benefits not included in the standard benefit package in integrated systems

(H) Whether capitated rates can be developed for workers compensation medical benefits, and the impact of using such rates on medical and indemnity costs, access, and quality of care.

(I) The impact of provider choice, with respect to an injured worker, on workers compensation medical costs, wage-loss benefits costs, and quality of care.

(d) STAFF SUPPORT.—The Secretary of Health and Human Services and the Secretary of Labor shall provide staff support for the Commission.

(e) REPORTS.—Not later than October 1, 2000, the Commission shall submit a final report on its work to the President, the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives. Such report shall include a recommendation as to whether a transfer of financial responsibility for some or all medical benefits to health plans should be effected, and a detailed implementation plan should such a transfer be recommended. Prior to the submission of the final report, the Commission shall submit such interim reports on issues addressed by the Commission as the members of the Commission determine to be appropriate.

Subtitle G—Automobile Insurance

SEC. 9101. DEFINITIONS.

In this subtitle:

(1) INJURED INDIVIDUAL.—The term "injured individual" means an individual who has a bodily injury or illness sustained in an automobile accident and who is entitled to receive automobile insurance medical services from a certified standard health plan.

(2) AUTOMOBILE INSURANCE MEDICAL SERVICES.—The term "automobile insurance medical services" means services and items covered by automobile insurance that are medically necessary or appropriate for treatment of bodily injuries or illnesses sustained in automobile accidents and that are within the scope of the benefits to which an injured individual who is enrolled in a certified standard health plan is entitled under such health plan.

(3) AUTOMOBILE INSURANCE CARRIER.—The term "automobile insurance carrier" means an insurance company, employer, or fund that is liable for payment for automobile insurance medical services based either on a direct contractual obligation to an injured individual or an obligation on behalf of a

VOL 140 PT 16 AG 12 — 18 1994 UMI

person responsible for causation of an injured individual's bodily injury or illness.

(4) CERTIFIED STANDARD HEALTH PLAN.—The term "certified standard health plan" has the meaning given to such term by section 1011(2)(A).

PART 1—REQUIREMENTS RELATING TO AUTOMOBILE INSURANCE MEDICAL SERVICES

SEC. 9111. PROVISION OF AUTOMOBILE INSURANCE MEDICAL SERVICES THROUGH HEALTH PLANS.

(a) IN GENERAL.—

(1) HEALTH PLANS.—An individual enrolled in a certified standard health plan shall receive automobile insurance medical services under the terms generally applicable to the provision (or arrangement for the provision) of such services by such health plan.

(2) MEDICARE AND MEDICAID.—Paragraph (1) shall not prevent a participating State from requiring automobile insurance carriers to make direct payment to health care providers for automobile insurance medical services that are covered both by (i) medicare under title XVIII of the Social Security Act or a State medicaid program under title XIX of the Social Security Act, and (ii) an automobile insurance contract that is required by law and provides for direct payment of medical services regardless of fault. Payment for automobile insurance medical services in such circumstances shall be made to the extent of the automobile insurance carrier's liability under the applicable contract.

(b) ALTERNATIVE PERMITTED.—Subsection (a) shall not prevent an individual and an automobile insurance carrier from agreeing that treatment for bodily injury or illness sustained in an automobile accident shall be provided other than by or through the certified standard health plan in which the individual is enrolled.

SEC. 9112. PAYMENT FOR AUTOMOBILE INSURANCE MEDICAL SERVICES.

(a) PAYMENT TO HEALTH PLANS.—Each automobile insurance carrier that is liable for payment for automobile insurance medical services provided to an injured individual by a certified standard health plan shall make payment to such health plan for such services to the extent of its obligations under the applicable automobile insurance contract.

(b) REIMBURSEMENT FOR COST-SHARING.—Each automobile insurance carrier shall be liable for the reimbursement or payment of any deductibles, copayments, or coinsurance paid or owed by an injured individual for automobile insurance medical services to the extent of the applicable automobile insurance contract.

(c) LIMITATION OF LIABILITY.—Except as provided in subsections (a) and (b), nothing in this subtitle or any other provision of law shall require an automobile insurance carrier or any person insured by such a carrier to make any payment to a health plan, health care provider, or any other person for (1) automobile insurance medical services, or (2) other health care services or items used to treat an injury or illness sustained in an automobile accident that are not medically necessary or appropriate.

(d) USE OF FEE SCHEDULES.—

(1) IN GENERAL.—Irrespective of the type of health plan providing automobile insurance medical services, payment by automobile insurance carriers for such services shall be made to the plan exclusively in accordance with any fee schedule or schedules established by the plan or the participating State for health care services generally.

(2) MEDICARE FEE SCHEDULES.—If the injured individual is a medicare beneficiary under title XVIII of the Social Security Act, an automobile insurance carrier may use the appropriate fee schedule for health care services established under such title.

(3) ALTERNATIVE PAYMENT METHODOLOGIES.—Fee schedules shall not be required in any case in which an automobile insurance carrier and a health plan have agreed on an alternative payment arrangement.

(e) REIMBURSEMENT FOR PAYMENTS MADE.—Nothing in this subtitle or any other provision of law shall impair the right of a certified standard health plan or automobile insurance carrier to seek reimbursement from any individual liable for a bodily injury or illness sustained in an automobile accident for payments made for automobile insurance medical services to treat such injury or illness.

(f) RIGHTS TO COVERAGE FOR ADDITIONAL TREATMENT.—Subject to the provisions of subsection (c), nothing in this subtitle shall impair any rights with respect to medically necessary or appropriate services and items to which an individual injured in an automobile accident is entitled that are not automobile insurance medical services as defined in this subtitle.

PART 2—ADMINISTRATION

SEC. 9121. PAYMENT FACILITATION.

(a) IN GENERAL.—Each participating State shall establish a system for payment of automobile insurance medical services by automobile insurance carriers to certified standard health plans, including mechanisms for prompt resolution of any issues or disputes that may arise in connection with such payment. Such systems shall require that automobile insurance carriers have an affirmative obligation to identify to such health plans the automobile insurance carrier or carriers liable for payment for automobile insurance medical services, through the use of computer data programs where appropriate and cost effective.

(b) SANCTIONS.—Each participating State shall authorize appropriate sanctions for the failure of a health plan, automobile insurance carrier, or any other person to comply with the requirements established pursuant to subsection (a).

TITLE X—PREMIUM FINANCING

Subtitle A—National Health Care Cost and Coverage Commission

SEC. 10001. NATIONAL HEALTH CARE COST AND COVERAGE COMMISSION.

There is established a commission to be known as the National Health Care Cost and Coverage Commission (hereafter in this title referred to as the "Commission").

SEC. 10002. COMPOSITION.

(a) COMPOSITION.—The Commission shall be composed of 7 members appointed by the President and confirmed by the Senate. Members shall be appointed not later than 9 months after the date of the enactment of this Act based on their expertise and national recognition in the fields of health economics including insurance practices, health care benefit design, health care provider organization and reimbursement, and labor markets. In appointing members of the Commission, the President shall ensure that no more than 4 members of the Commission are affiliated with the same political party.

(b) CHAIRPERSON.—The President shall designate 1 individual described in subsection (a) who shall serve as Chairperson of the Commission.

(c) TERMS.—

(1) IN GENERAL.—The terms of members of the Commission shall be for 6 years to commence on January 1, 1996, except that of the members first appointed, 3 shall be appointed for an initial term of 4 years, 3 shall be appointed for an initial term of 5 years and the chairperson shall be appoint for an initial term of 6 years.

(2) CONTINUATION IN OFFICE.—Upon the expiration of a term of office, a member shall continue to serve until a successor is appointed and qualified.

(d) VACANCIES.—

(1) IN GENERAL.—A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(2) NO IMPAIRMENT OF FUNCTION.—A vacancy in the membership of the Commission does not impair the authority of the remaining members to exercise all of the powers of the Commission.

(3) ACTING CHAIRPERSON.—The Commission may designate a member to act as Chairperson during any period in which there is no Chairperson designated by the President.

SEC. 10003. DUTIES OF COMMISSION.

(a) IN GENERAL.—The general duties of the Commission are to monitor and respond to—

(1) trends in health care coverage; and

(2) changes in per-capita premiums and other indicators of health care inflation.

The Commission may be advised by individuals with expertise concerning the economic, demographic, and insurance market factors that affect the cost and coverage of health insurance.

(b) ANNUAL REPORTS.—

(1) IN GENERAL.—The Commission shall report to Congress annually on January 1 (beginning in 1997) concerning trends in health care coverage and costs. Such reports shall categorize such information on a national basis, a State by State basis, and a community rating area basis.

(2) HEALTH CARE COVERAGE.—For purposes of this title, the term "health care coverage" means coverage under—

(A) a certified standard health plan providing a standard benefits package or an alternative standard benefits package;

(B) the medicare program under title XVIII of the Social Security Act;

(C) the medicaid program under title XIX of the Social Security Act;

(D) the health care program for active military personnel under title 10, United States Code;

(E) the veterans health care program under chapter 17 of title 38, United States Code;

(F) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code;

(G) the Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.);

(H) a State single-payer system approved under subpart B of part 3 of subtitle F of title I; or

(I) any governmental health care program for institutionalized individuals.

(3) CONTENTS OF REPORT.—Each report under paragraph (1) shall include the findings of the Commission with respect to the following:

(A) Demographics and employment status of the uninsured individuals, and findings on why such individuals are uninsured.

(B) Structure of delivery systems.

(C) Status of insurance reforms.

(D) Development and operation of purchasing cooperatives and other buyer reforms.

(E) Success of market and other mechanisms in expanding coverage and controlling

health expenditures and premium costs among employers and families.

(F) Success of the tax imposed under section 4521 of the Internal Revenue Code of 1986.

(G) Success and adequacy of the individual and employer subsidy programs under title VI in expanding coverage through employers and families.

(H) Per capita cost of health care, including—

(i) the rate of growth in health care costs categorized by type of health care provider and type of payor in States and community rating areas;

(ii) the expected rate of growth in per capita health care costs;

(iii) the causes of such growth; and

(iv) proposed strategies for controlling such growth.

(I) The percentage of the resident population in the United States, and each State, that has health care coverage.

(4) BENEFITS ISSUES.—The Commission shall consult with the National Health Benefits Board in gathering data and in making recommendations concerning issues that effect the standard benefit package.

(c) AFFORDABILITY REPORTS.—

(1) IN GENERAL.—As part of each annual report under subsection (b), beginning with the report for 1999, the Commission shall include information on—

(A) the affordability of health care coverage for families and employers; and

(B) the success of market incentives and other provisions of this Act in achieving health care cost containment.

(2) DETERMINATION AND RECOMMENDATIONS.—If the Commission determines for any year that health care coverage is unaffordable (as described in paragraph (3)) or that cost containment efforts under this Act are unsuccessful, the Commission shall submit recommendations in the annual report for systematic improvements as provided for in paragraph (4).

(3) COST OF COVERAGE.—The Commission shall make a determination of unaffordability under paragraph (2) if the Commission finds that, with respect to the year for which the report is submitted, fewer than 35 percent of those eligible to enroll in community-rated health plans were able to enroll in plans with a premium that was at or below the reference premium for the community rating area involved.

(4) RECOMMENDATIONS.—If the Commission makes a finding under paragraph (3) with respect to any year, the Commission shall recommend to Congress a means of controlling health care costs in order to ensure that the growth in the per capita premium for community-rated plans is at or below the growth in the reference premium for the community rating area involved. The Commission may recommend alternative reference premium growth if the Commission determines that such alternative would be more appropriate.

(5) CONGRESSIONAL CONSIDERATION.—The recommendations of the Commission under paragraph (4) shall be submitted to Congress in the form of an implementing bill which contains such statutory provisions as the Commission determines are necessary or appropriate to implement such recommendations. Such bill shall be considered under the procedures established under section 10004.

(d) COVERAGE TRIGGER.—

(1) COMMISSION DETERMINATION.—By January 1, 2000, the Commission shall, on the basis of the most recent data available, make a determination as to the percentage of the resident population in the United States, and each State, that has health care coverage.

(2) ATTAINMENT OF COVERAGE GOAL.—

(A) IN GENERAL.—If, under paragraph (1), the Commission determines that health care coverage of at least 95 percent of the resident population in the United States has been attained, the Commission shall submit recommendations described in subparagraph (B) in its annual report to Congress on January 1, 2000.

(B) RECOMMENDATION REQUIREMENT.—The recommendations of the Commission under subparagraph (A) shall include methods to expand health care coverage to those who are not covered. Such recommendations shall address all relevant parties, including States, employers, employees, unemployed and low-income individuals, and public program participants.

(3) COVERAGE GOAL NOT ATTAINED.—

(A) IN GENERAL.—If, under paragraph (1), the Commission determines that health care coverage of at least 95 percent of the resident population in the United States has not been attained, the Commission shall submit recommendations described in subparagraph (B) in its annual report to Congress not later than May 15, 2000.

(B) RECOMMENDATION REQUIREMENTS.—The recommendations of the Commission under paragraph (1) shall include one or more legislative proposals for expanding health care coverage to cover the remaining uninsured population. Such recommendations shall address all relevant parties, including States, employers, employees, unemployed and low-income individuals, and public program participants.

(C) CONGRESSIONAL CONSIDERATION.—The recommendations of the Commission under subparagraph (A) shall be submitted to Congress in the form of one or more implementing bills which contain such statutory provisions as the Commission determines are necessary or appropriate to implement such recommendations. Such bill shall be considered under the procedures established under section 10004.

SEC. 10004. CONGRESSIONAL CONSIDERATION OF COMMISSION RECOMMENDATIONS.

(a) IMPLEMENTING BILLS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an implementing bill described in section 10003(c)(5) or section 10003(d)(3)(C) shall be considered by Congress under the procedures for consideration described in subsection (b), except that with respect to an implementing bill described in section 10003(c)(5), the date described in subsection (b)(3) shall not apply.

(2) GAO CONSIDERATION.—With respect to an implementing bill described in section 10003(d)(3)(C), to be eligible for Congressional consideration under subsection (b), the General Accounting Office must certify that, if implemented, the legislative proposals in such bill would expand health care coverage to cover the remaining uninsured population.

(b) CONGRESSIONAL CONSIDERATION.—

(1) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementing bill described in subsection (a), and supersedes other rules only to the extent that such rules are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) INTRODUCTION AND REFERRAL.—On the day on which the implementing bill described in subsection (a) is transmitted to the House of Representatives and the Senate, such bill shall be introduced (by request) in the House of Representatives by the Majority Leader of the House, for himself or herself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which the implementing bill is transmitted, the bill shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. If the implementing bill is not introduced within 5 days of its transmission, any Member of the House and of the Senate may introduce such bill. The implementing bill introduced in the House of Representatives and the Senate shall be referred to the appropriate committees of each House.

(3) PERIOD FOR COMMITTEE CONSIDERATION.—If the committee or committees of either House to which an implementing bill has been referred have not reported the bill at the close of July 1, 2000 (or if such House is not in session, the next day such House is in session), such committee or committees shall be automatically discharged from further consideration of the implementing bill and it shall be placed on the appropriate calendar.

(4) FLOOR CONSIDERATION IN THE SENATE.—

(A) IN GENERAL.—Within 5 days after the implementing bill is placed on the calendar, the Majority Leader, at a time to be determined by the Majority Leader in consultation with the Minority Leader, shall proceed to the consideration of the bill. If on the sixth day after the bill is placed on the calendar, the Senate has not proceeded to consideration of the bill, then the presiding officer shall automatically place the bill before the Senate for consideration. A motion in the Senate to proceed to the consideration of an implementing bill shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) TIME LIMITATION ON CONSIDERATION OF BILL.—

(i) IN GENERAL.—Debate in the Senate on an implementing bill, and all amendments and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(ii) DEBATE OF AMENDMENTS, MOTIONS, POINTS OF ORDER, AND APPEALS.—In the Senate, no amendment which is not relevant to the bill shall be in order. Debate in the Senate on any amendment, debatable motion or appeal, or point of order in connection with an implementing bill shall be limited to—

(I) not more than 2 hours for each first degree relevant amendment,

(II) one hour for each second degree relevant amendment, and

VOL
140
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16
AG
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1994
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(III) 30 minutes for each debatable motion or appeal, or point of order submitted to the Senate,

to be equally divided between, and controlled by, the mover and the manager of the implementing bill, except that in the event the manager of the implementing bill is in favor of any such amendment, motion, appeal, or point of order, the time in opposition thereto, shall be controlled by the Minority Leader or designee of the Minority Leader. The Majority Leader and Minority Leader, or either of them, may, from time under their control on the passage of an implementing bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal, or point of order.

(C) OTHER MOTIONS.—A motion to recommit an implementing bill is not in order.

(D) FINAL PASSAGE.—Upon the expiration of the 30 hours available for consideration of the implementing bill, it shall not be in order to offer or vote on any amendment to, or motion with respect to, such bill. Immediately following the conclusion of debate in the Senate on an implementing bill that was introduced in the Senate, such bill shall be deemed to have been read a third time and the vote on final passage of such bill shall occur without any intervening action or debate.

(E) DEBATE ON DIFFERENCES BETWEEN THE HOUSES.—Debate in the Senate on motions and amendments appropriate to resolve the differences between the Houses, at any particular stage of the proceedings, shall be limited to not more than 5 hours.

(F) DEBATE ON CONFERENCE REPORT.—Debate in the Senate on the conference report shall be limited to not more than 10 hours.

(5) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(A) PROCEED TO CONSIDERATION.—On the sixth day after the implementing bill is placed on the calendar, it shall be privileged for any Member to move without debate that the House resolve itself into the Committee of the Whole House on the State of the Union, for the consideration of the bill, and the first reading of the bill shall be dispensed with.

(B) GENERAL DEBATE.—After general debate, which shall be confined to the implementing bill and which shall not exceed 4 hours, to be equally divided and controlled by the Chairman and Ranking Minority Member of the Committee or Committees to which the bill had been referred, the bill shall be considered for amendment by title under the 5-minute rule and each title shall be considered as having been read. The total time for considering all amendments shall be limited to 26 hours of which the total time for debating each amendment under the 5-minute rule shall not exceed one hour.

(C) RISE AND REPORT.—At the conclusion of the consideration of the implementing bill for amendment, the Committee of the Whole on the State of the Union shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto, and the House shall proceed to vote on final passage without intervening motion except one motion to recommit.

(6) COMPUTATION OF DAYS.—For purposes of this subsection, in computing a number of days in either House, there shall be excluded—

(A) the days on which either House is not in session because of an adjournment more than 3 days to a day certain, or an adjournment of the Congress sine die, and

(B) any Saturday and Sunday not excluded under subparagraph (A) when either House is not in session.

(7) POINTS OF ORDER BASED ON EXPANDING COVERAGE.—

(A) IN GENERAL.—It shall not be in order in the Senate to consider—

(i) any bill;

(ii) any bill prior to third reading; or

(iii) any conference report;

under the procedures described in this subsection if such bill or conference report has not been certified by the General Accounting Office under subsection (a)(2) as expanding coverage to cover the remaining uninsured.

(B) WAIVER OR SUSPENSION.—Subparagraph (A) may be waived or suspended in the Senate only by the affirmative vote of ⅗ of the members duly chosen and sworn. An affirmative vote of ⅗ of the members of the Senate duly chosen and sworn shall be required in the Senate to sustain an appeal of the ruling of the chair on a point of order raised under this paragraph.

(c) FAILURE TO ENACT LEGISLATION.—If Congress fails to enact legislation with respect to an implementing bill under section 10003(d)(3)(C) by December 31, 2000, the employer and individual premium financing provisions of subtitle B shall become effective on January 1, 2002 with respect to those States determined by the Commission under 10003(d)(3)(A) to have health care coverage for less than 95 percent of the resident populations of each such State.

SEC. 10005. OPERATION OF THE COMMISSION.

(a) MEETINGS; QUORUM.—

(1) MEETINGS.—The Chairperson shall preside at meetings of the Commission, and in the absence of the Chairperson, the Commission shall elect a member to act as Chairperson pro tempore.

(2) QUORUM.—Four members of the Commission shall constitute a quorum thereof.

(b) ADMINISTRATIVE PROVISIONS.—

(1) FACA NOT APPLICABLE.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(2) PAY AND TRAVEL EXPENSES.—

(A) PAY.—Each member of the Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) TRAVEL EXPENSES.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(3) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint an Executive Director.

(B) PAY.—The Executive Director shall be paid at a rate equivalent to a rate for the Senior Executive Service.

(4) STAFF.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Executive Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(B) PAY.—The Executive Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for GS–15 of the General Schedule.

(C) DETAILED PERSONNEL.—Upon request of the Executive Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) OTHER AUTHORITY.—

(A) CONTRACT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(B) LEASES AND PROPERTY.—The Commission may lease space and acquire personal property to the extent funds are available.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the operation of the Commission.

Subtitle B—Employer and Individual Premium Requirements and Assistance

SEC. 10101. APPLICATION OF SUBTITLE.

(a) IN GENERAL.—The provisions of this subtitle shall apply as provided in section 10004(c).

(b) ELIGIBLE INDIVIDUALS.—

(1) LIMITATION TO LAWFUL RESIDENTS.—

(A) IN GENERAL.—In this subtitle, the term "eligible individual" means an individual who is residing in a State involved and who is—

(i) a citizen or national of the United States; or

(ii) an alien permanently residing in the United States under color of law.

(B) EXCEPTIONS.—The term "eligible individual" shall not include—

(i) an individual who is an inmate of a public institution (except as a patient of a medical institution),

(ii) an individual covered under an equivalent health care program, or

(iii) an individual granted a qualified religious exemption.

(2) ALIEN PERMANENTLY RESIDING IN THE UNITED STATES UNDER COLOR OF LAW.—For purposes of paragraph (1), the term "alien permanently residing in the United States under color of law" means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act), and includes any of the following:

(A) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is withheld under section 243(h) of such Act.

(D) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

(E) An alien who has been paroled into the United States under section 212(d)(5) of such Act for an indefinite period or who has been granted extended voluntary departure as a member of a nationality group.

(F) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent residence is pending.

(3) EQUIVALENT HEALTH CARE PROGRAM.—For purposes of paragraph (1), the term "equivalent health care program" means—

(A) part A or part B of the medicare program under title XVIII of the Social Security Act,

(B) the medicaid program under title XIX of the Social Security Act,

(C) the health care program for active military personnel under title 10, United States Code,

(D) the veterans health care program under chapter 17 of title 38, United States Code,

(E) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code,

(F) the Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.), and

(G) a State single-payer system approved by the Secretary under subpart B of part 3 of subtitle F.

(4) QUALIFIED RELIGIOUS EXEMPTION.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term 'qualified religious exemption' means an exemption granted by the Secretary to an individual—

(i) who is a member of a recognized religious sect or division thereof with respect to which such Secretary makes the findings referred to in subparagraphs (C), (D), and (E) of section 1402(g)(1) of the Internal Revenue Code of 1986,

(ii) who is an adherent of established tenets or teachings of such sect or division as described in such section, and

(iii) who submits an application for such exemption which contains or is accompanied by the evidence described in section 1402(g)(1)(A) of such Code and a waiver described in section 1402(g)(1)(B) of such Code.

(B) LIMITATION.—An exemption granted under this paragraph shall cease to apply beginning on the date such Secretary determines that the individual, or the sect or division, ceased to meet the requirements of subparagraph (A).

(c) INDIVIDUAL RESPONSIBILITIES.—With respect to a State to which this subtitle applies, each eligible individual—

(1) must enroll in (or be covered under) a certified standard health plan, and

(2) must pay any premium required, consistent with this Act, with respect to such enrollment.

SEC. 10102. DEFINITIONS.

For purposes of this title:

(1) DEFINITIONS RELATING TO EMPLOYEES.—

(A) QUALIFYING EMPLOYEE.—The term "qualifying employee" means, with respect to any contributing employer (as defined in section 10111(b)) for a month, an employee who is employed by the employer for at least 40 hours in the month.

(B) FULL-TIME EMPLOYEE.—The term "full-time employee" means, with respect to an employer for any month, an employee who is employed by the employer for at least 120 hours.

(C) PART-TIME EMPLOYEE.—The term "part-time employee" means, with respect to an employer for any month, an employee who is employed by the employer for at least 40 hours but less than 120 hours.

(D) FULL-TIME EQUIVALENT EMPLOYEES.—The term "full-time equivalent employee" means a full-time employee, except that a part-time employee shall be treated as that fraction of a full-time equivalent employee which bears the same ratio to one as the number of hours of employment of the part-time employee for the month bears to 120 hours.

(E) CONSIDERATION OF INDUSTRY PRACTICE.—As provided under rules established by the Secretary of Labor, an employee who is not a full-time or part-time employee (without regard to this subparagraph) shall be considered to be employed on a full-time or part-time basis by an employer (and to be a full-time or part-time employee of an employer) for a month (or for all months in a 12-month period) if the employee is employed by that employer on a continuing basis that, taking into account the structure or nature of employment in the industry, represents full or part-time employment in that industry.

(2) FAMILY ADJUSTED INCOME.—

(A) IN GENERAL.—Except as otherwise provided, the term "family adjusted income" means, with respect to a family, the sum of the adjusted incomes (as defined in subparagraph (B)) for all members of the family.

(B) ADJUSTED INCOME.—In subparagraph (A), the term "adjusted income" means, with respect to an individual, adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986)—

(i) determined without regard to sections 135, 162(l), 911, 931, and 933 of such Code, and

(ii) increased by the amount of interest received or accrued by the individual which is exempt from tax.

(C) PRESENCE OF ADDITIONAL DEPENDENTS.—At the option of an individual, a family may include (and not be required to separate out) the income of other individuals who are claimed as dependents of the family for income tax purposes, but such individuals shall not be counted as part of the family for purposes of determining the size of the family.

(3) ENROLLING AND NONENROLLING EMPLOYEES.—

(A) ENROLLING EMPLOYEE.—The term "enrolling employee" means, with respect to any employer, a qualifying employee who enrolls in a health plan made available by the employer in accordance with the provisions of section 1301(a)(1)(A).

(B) NONENROLLING EMPLOYEE.—The term "nonenrolling employee" means, with respect to any employer, a qualifying employee who is not an enrolling employee.

(C) SPECIAL RULE FOR PART-TIME EMPLOYEES.—A nonenrolling part-time employee of an employer shall be treated as an enrolling employee unless such employee is enrolled in a health plan through the employer of such employee's spouse.

(4) REFERENCE PREMIUM.—The term "reference premium" means the reference premium established under section 4512 of the Internal Revenue Code of 1986.

(5) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(6) SELF-EMPLOYED INDIVIDUAL.—The term "self-employed individual" means, for a year, an individual who has net earnings from self-employment (as defined in section 1402(a) of the Internal Revenue Code of 1986) for the year.

(7) WEIGHTED AVERAGE PREMIUM.—The term "weighted average premium" has the same meaning given such term in section 6002(b)(1)(C).

PART 1—EMPLOYER PREMIUM PAYMENTS

SEC. 10111. OBLIGATION.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, a contributing employer (as defined in subsection (b)) shall make health care coverage premium payments on behalf of the qualifying employees of the employer in accordance with this part.

(b) CONTRIBUTING EMPLOYER.—As used in subsection (a), the term "contributing employer" means an employer that—

(1) employs, on average, 25 or more employees; or

(2) employs less than 25 employees and elects under subsection (c) to be a contributing employer.

(c) ELECTION.—

(1) IN GENERAL.—An employer described in subsection (b)(2) may elect to be treated as a community-rated contributing employer under the procedures to be developed by the Secretary.

(2) TIME ELECTION TAKES EFFECT.—An employer making an election under paragraph (1) shall be treated as a community-rated contributing employer as of the first date of the first year following such election.

(3) SELF-EMPLOYED.—A self-employed individual that does not employ at least one full-time employee may not make an election under paragraph (1).

SEC. 10112. COMMUNITY-RATED EMPLOYERS.

(a) MINIMUM REQUIREMENT.—Each community-rated contributing employer for a month shall pay not less than an amount equal to the sum of the amounts determined under subsection (b) for each qualifying employee of the employer. Such payments shall be made in accordance with standards established by the Secretary.

(b) MINIMUM PREMIUM PAYMENT AMOUNT.—

(1) GENERAL RULE.—Except as otherwise provided in this subsection, the amount of the minimum employer premium payment under subsection (a) for a month for each qualifying employee of the employer who is residing in a community rating area shall be equal to—

(A) in the case of an enrolling employee, 50 percent of the weighted average premium (for the applicable class of enrollment) of the purchasing cooperative through which the employer offered health plan coverage with respect to employees in such area; and

(B) in the case of a nonenrolling employee, 50 percent of the weighted average premium (for the individual class of enrollment) of the purchasing cooperative through which the employer offered health plan coverage with respect to employees in such area.

(2) EMPLOYER COLLECTION SHORTFALL ADD-ON.—The minimum employer premium payment under subsection (a) for a month for any qualifying employee shall be increased by an amount equal to 50 percent of 1/12 of the amount described in section 10134 with respect to each such employee.

(3) CREDIT FOR ENROLLED COUPLES.—

(A) IN GENERAL.—The minimum employer premium payment under subsection (a) for any month for each qualifying employee (other than a nonenrolling employee) in the couple or two-parent class of enrollment shall be reduced by the per capita nonenrolling employee credit for the month.

(B) PER CAPITA NONENROLLING EMPLOYEE CREDIT.—With respect to any community rating area, the term "per capita nonenrolling employee credit" means, with respect to each class of enrollment described in subparagraph (A), an amount equal to 1/12 of—

(i) the sum of—

(I) the total of the employer premium payments in the community rating area for nonenrolling qualifying employees in that class of enrollment, plus

(II) the total of the employer premium payments in the community rating area which represent payments by employers in such area for part-time employees enrolling through employers in that class of enrollment, except that payments shall only be taken into account for purposes of this subclause with respect to any part-time employee to the extent they exceed 50 percent

VOL 140 PT 16 AG 12 — 18 1994 UMI

of the total premium for the employee, divided by

(ii) an amount equal to 12 times the monthly average number of qualifying full-time equivalent employees in that class of enrollment (determined under rules established by the Secretary of Labor).

(C) STATE ESTIMATES.—Each State shall estimate for each community rating area the amount of the per capita nonenrolling employee credit for each applicable class of enrollment for a calendar year and shall publish the amount of each such credit within a reasonable period of time before the beginning of the year. Such estimate shall correct any error in the estimate for the preceding calendar year.

(4) PART-TIME EMPLOYEES.—With respect to a part-time employee, the payment required under paragraph (1) shall be equal to the amount which bears the same ratio to the amount which would be required to be paid if the employee were a full-time employee as the number of hours worked by the employee for the employer for the month bears to 120 hours.

SEC. 10113. EXPERIENCE RATED EMPLOYERS.

(a) REQUIREMENT.—Each experience-rated employer that in a month employs a qualifying employee who is—

(1) enrolled in an experienced-rated health plan sponsored by the employer, shall provide for a payment toward the premium for the plan for such employee in an amount not less than the amount specified under subsection (b); or

(2) a nonenrolling employee, shall make employer premium payments with respect to such employee in an amount not less than the amount that is equal to 50 percent of the weighted average premium (for the individual class of enrollment) of the community rating area in which the employee resides.

(b) MINIMUM PREMIUM PAYMENT AMOUNT.—

(1) GENERAL RULE.—The amount of the minimum experience-rated employer premium payment under subsection (a)(1) for a month for each qualifying employee of the employer shall be equal to 50 percent of the weighted average premium for the applicable class of enrollment of the health plans offered by the employer.

(2) SELF-INSURED PLANS.—In the case of a self-insured health plan, the amount of the premium under subsection (a) shall be equal to the premium equivalent of the self-insured health plan.

(3) PREMIUM AREAS.—An experience-rated plan sponsor employer may, based on regulations promulgated by the Secretary, establish premium areas. Experience-rated employers may base their payments under this section on the weighted average premium of the health plans offered in such premium areas.

(c) CREDIT FOR ENROLLED COUPLES.—

(1) IN GENERAL.—The minimum employer premium payment under subsection (a)(1) for any month for each qualifying employee (other than a nonenrolling employee) in the couple or two-parent class of enrollment shall be reduced by the per capita nonenrolling employee credit for the month.

(2) SELF-INSURED PLANS.—In the case of a self-insured health plan, the employer shall receive a credit in an amount equal to the premium reduction otherwise allowable under paragraph (1). The Secretary shall provide for the method of payment of the credit under section 10114(c).

(3) PER CAPITA NONENROLLING EMPLOYEE CREDIT.—For purposes of paragraph (1), the per capita nonenrolling employee credit for any month shall be determined in the same manner as under section 10112(b)(3).

(d) PART-TIME EMPLOYEES.—With respect to a part-time employee, the minimum payment required under subsection (a) shall be equal to the amount which bears the same ratio to the amount which would be required to be paid if the employee were a full-time employee as the number of hours worked by the employee for the employer for the month bears to 120 hours.

SEC. 10114. PAYMENTS RELATING TO NONENROLLING EMPLOYEES.

(a) COMMUNITY-RATED EMPLOYERS.—Each community-rated employer shall make the minimum employer premium payment described in section 10112(b)(1)(B) for a nonenrolling employee to the purchasing cooperative or other entity in the community rating area in which the employee resides which is designated by the State as the entity to which such premiums are to be paid.

(b) EXPERIENCE-RATED EMPLOYERS.—Each experience-rated employer shall make the minimum employer premium payment described in section 10113(a)(2) for nonenrolling employees—

(1) to the entities described in subsection (a), or

(2) at the election of the employer, to one entity described in subsection (a) selected by the employer.

Any entity receiving payments under paragraph (2) with respect to any employees shall transfer such payments to the entities described in subsection (a) covering such employees.

(c) ALLOCATION TO HEALTH PLANS.—Payments received by an entity under subsection (a) or (b) shall be paid, pursuant to such method as the Secretary may prescribe—

(1) to health plans in amounts proportionate to the reduction in premiums to the plans by reason of the credits under sections 10112(b)(3) and 10113(c), and

(2) to self-insured health plans for payments described in section 10113(c)(2).

SEC. 10115. RULES OF CONSTRUCTION.

Nothing in this Act, or any amendment made by this Act, shall be construed—

(1) to allow any employer to reduce benefits or premium payments provided by the employer in excess of the minimum benefits or payments required under this Act or any amendment made by this Act, or

(2) to discourage employers from adopting or retaining health benefits programs that provide for benefits or premium payments by the employer that are greater than such minimum benefits or payments.

PART 2—FAMILY PAYMENT RESPONSIBILITIES

SEC. 10131. ENROLLMENT AND PREMIUM PAYMENTS.

(a) REQUIREMENT.—Each family enrolled in a community-rated health plan or in a experienced-rated health plan in a class of enrollment is responsible for payment of the family share of premium payable with respect to such enrollment. Such premium may be paid by an employer or other person on behalf of such a family.

(b) FAMILY SHARE OF PREMIUM DEFINED.—In this part, the term "family share of premium" means, with respect to each class of enroHment—

(1) in a community-rated health plan, the amount specified in section 10132(a) for the class; or

(2) in an experienced-rated health plan, the amount specified in section 10132(b) for the class.

SEC. 10132. FAMILY SHARE OF PREMIUMS.

(a) IN GENERAL.—The family share of premiums for any calendar year is an amount equal to—

(1) the total of the monthly premiums for the health plans in which any member of the family was enrolled in during the calendar year, reduced by

(2) the sum of—

(A) the required premium payments by employers for members of the family who were enrolling employees during the calendar year (as determined under part 1 without regard to section 10112(b)(2)), but only to the extent such payments do not exceed 50 percent of the amount determined under paragraph (1), plus

(B) any subsidy payments made under title VI on behalf of members of the family, plus

(C) any voluntary premium payments made on behalf of any family member by an enrolling employer or any other person.

(b) APPLICABLE COLLECTION SHORTFALL ADD-ON.—The family share of premiums under subsection (a) for any calendar year shall be increased by an amount equal to 50 percent of the amount described in section 10134 with respect to each such employee. For purposes of title VI, the amount of any premium subsidy shall be determined without regard to any increase in the premium under this subsection.

SEC. 10133. AMOUNT OF PREMIUM.

(a) COMMUNITY-RATED PLANS.—The amount of the applicable premium charged by a community-rated health plan for a class of enrollment under a community-rated health plan offered in the health care coverage area is equal to the product of—

(1) the final community rate for the plan; and

(2) the premium class factor established by the Secretary of Health and Human Service for that class under subpart D of part 1 of subtitle E of title I,

increased for any applicable plan marketing fees (described in section 1112(f)) and purchasing cooperative membership fees (described in section 1324).

(b) REFERENCE TO OTHER PREMIUMS.—The amount of the premium charged by an experience-rated employer for a class of enrollment under an experience-rated health plan shall be the premium charged by the plan (or in the case of a self-insured plan, the premium equivalent).

SEC. 10134. COLLECTION SHORTFALL ADD-ON.

(a) IN GENERAL.—The collection shortfall add-on for a community rating area for a class of enrollment for a year is a per enrollee amount (determined under rules developed by the Secretary of Health and Human Services), adjusted proportionately by the premium class factors described in section 10133(a)(2), such that the total of the adjusted per enrollee amounts in the community rating area equals the aggregate collection shortfall as determined under subsection (b).

(b) AGGREGATE COLLECTION SHORTFALL.—

(1) IN GENERAL.—Each State shall estimate, for each community rating area for each year (beginning with the first year for which this section applies) the total amount of payments which the State can reasonably identify as owed to community-rated health plans under this Act for the year and not likely to be collected during a period specified by the Secretary beginning on the first day of the year.

(2) EXCLUSION OF GOVERNMENT DEBTS.—The amount under paragraph (1) shall not include any payments owed to a community-rated health plan by the Federal, State, or local governments.

(3) ADJUSTMENT FOR PREVIOUS SHORTFALL ESTIMATION DISCREPANCY.—The amount estimated under this subsection for a year shall

be adjusted to reflect over (or under) estimations in the amounts so computed under this subsection for previous years (based on actual collections), taking into account interest payable based upon borrowings (or savings) attributable to such over or under estimations.

SEC. 10135. NO LOSS OF COVERAGE.

In no case shall the failure to pay amounts owed under this Act result in an individual's or family's loss of coverage.

PART 3—REPORTING

SEC. 10141. REPORTING REQUIREMENTS.

The Secretary shall require employees, health plans, and purchasing cooperatives to provide such information to such persons as are necessary to carry out the provisions of the subtitle.

TITLE XI—ENSURING HEALTH CARE REFORM FINANCING

SEC. 11001. ENSURING HEALTH CARE REFORM FINANCING.

(a) PURPOSE.—The purpose of this section is to ensure that the enactment of this Act does not result in unanticipated increases in the Federal deficit.

(b) LEGAL ENTITLEMENTS CONTINGENT.—Any entitlement provided by this Act, including those to premium assistance, shall be subject to the operation of this section.

(c) DETERMINATION OF UNFINANCED HEALTH SPENDING.—

(1) INITIAL HEALTH CARE ESTIMATE.—Not later than the date that is 60 days after the date of enactment of this Act, the President shall, using up-to-date estimates, issue an order setting forth the initial health care estimate for fiscal year 1995 and for each subsequent fiscal year through 2004, which shall consist of estimates (for each year) projecting the following:

(A) total direct spending outlays resulting from this Act and under the Medicare and Medicaid programs; and

(B) total revenues resulting from this Act.

(2) PRESIDENT'S BUDGET TO INCLUDE A CURRENT HEALTH CARE ESTIMATE.—When the President submits the budget for fiscal year 1997 (as required by section 1105 of title 31), and for each fiscal year through 2004, the President shall include—

(A) a current health care estimate (as specified in paragraph (3)) with respect to the current fiscal year, the upcoming fiscal year, and the 4 following fiscal years; and

(B) an estimate of the difference between the current health care estimate and the initial health care estimate for the current fiscal year, the upcoming fiscal year, and the 4 following fiscal years.

(3) CURRENT HEALTH CARE ESTIMATE.—The current health care estimate shall, for the applicable fiscal year, consist of—

(A) updated spending and revenue amounts contained in the initial projection (as set forth in paragraph (1)); plus or minus

(B) other outlays or revenue changes contained in legislation enacted after the date of enactment of this Act offsetting outlays or revenues resulting from this Act.

(4) COMPARING INITIAL AND CURRENT HEALTH CARE ESTIMATES.—Any difference between the initial and current health care estimates shall be adjusted so that it does not reflect any health care variable not attributable either to this Act or to any legislation described in paragraph (3)(B).

(d) OFFSETTING UNFINANCED HEALTH SPENDING.—

(1) REQUIREMENT FOR REDUCTIONS TO FULLY OFFSET UNFINANCED HEALTH SPENDING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the President's budget includes a determination that the current health care estimate exceeds the initial health care estimate pursuant to subsection (c) for the current fiscal year, the upcoming fiscal year, or both, such determination shall be accompanied by a proposed order to become effective on October 1 of that calendar year which fully offsets in the upcoming fiscal year and the following fiscal year the sum of such excess (for the upcoming fiscal year and the current fiscal year) in the manner provided in this subsection. Such proposed order shall be accompanied by such proposed regulations as the President deems necessary to carry out the reduction.

(B) ADMINISTRATIVE EFFICIENCY.—If, for any year, the Director of the Office of Management and Budget determines that the offsets described in subparagraph (A) would not be administratively cost efficient because the excess described in subparagraph (A) is such a small amount, such offsets shall not be made for that year.

(2) OFFSETS.—

(A) IN GENERAL.—The offsets required by this subsection shall be accomplished through a combination of—

(i) subject to the provisions of subparagraph (B), in the case of the premium assistance program, reducing the percentages otherwise in effect for the fiscal year under subparagraphs (A), (B), and (C) of section 6002(a)(2) of this Act;

(ii) increasing the percentage under paragraphs (1)(B), (2)(B), and (3)(B) of section 6104(a) of this Act (relating to employer subsidy program);

(iii) reducing the percentage under section 162(l)(1) of the Internal Revenue Code of 1986 (relating to deduction for health insurance costs of self-employed individuals);

(iv) adjusting the deductible for Medicare drugs as provided in section 1834(d)(1)(B)(i) of the Social Security Act; and

(v) reducing all other direct spending resulting from this Act by a uniform percentage,

to the extent (subject to paragraph (3)) necessary to accomplish all of the reductions necessary to fully offset the amounts required during the upcoming and following fiscal year.

(B) ELIGIBILITY PERCENTAGE FOR PREGNANT WOMEN AND CHILDREN REDUCED LAST.—Any reduction under subparagraph (A)(i)—

(i) shall be made first by reducing the percentages under section 6002(a)(2)(A) of this Act; and

(ii) to the extent sufficient offsets may not be made under subparagraph (A), shall then be made by reducing the percentages under section 6002(a)(2) (B) and (C) of this Act.

(3) PROPORTIONALITY.—The President shall apply the offset mechanisms provided in paragraph (2)(A) (i), (ii), (iii), (iv), and (v) proportionally (based on the ratio of the outlays caused by each program to the total outlays of all programs subject to reduction under paragraph (2)(A)), to the extent possible, in the upcoming fiscal year and the following fiscal year, but in no case shall the total amount of offsets be less than the amount required by paragraph (1).

(4) EFFECTIVE PERIOD.—For purposes of a fiscal year not subject to an order under this section following a fiscal year subject to an order under this section, this Act and the amendments made by this Act shall be assumed to continue as if the order had not been issued.

(5) CONSULTATION.—The President shall confer with the National Health Benefits Board and the National Health Care Cost and Coverage Commission in carrying out this subsection.

(e) FINAL REDUCTION DETERMINATION.—Using the same economic and technical assumptions as used in making the preliminary determination under subsection (c), the President shall reestimate the current health care estimates on September 15 based on legislation in effect as of September 10. If the President determines that the current estimates exceeds the initial estimates in the current fiscal year, the upcoming fiscal year, or both, the President shall issue a final order (and accompanying final regulations) following the procedure set forth in subsection (d) (including paragraph (1)(B) thereof).

(f) SUSPENSION IN THE EVENT OF WAR OR LOW GROWTH.—

(1) LOW GROWTH.—The President shall not issue either a proposed or final order under this section if the Office of Management and Budget notifies the Congress that—

(A) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, the Office of Management and Budget has determined that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

(B) the most recent of the Department of Commerce's advance preliminary or final reports of actual real economic growth indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than 1 percent.

(2) WAR.—The President shall not issue either a proposed or final order under this section if a declaration of war is in effect.

(g) RECOMMENDATIONS FOR ALTERNATIVE REDUCTIONS.—If the President's budget for a fiscal year is accompanied by an order under subsection (d)(1), the National Health Benefits Board shall, within a reasonable time, transmit to the President, the Speaker of the House of Representatives, and the President of the Senate a report including alternative proposals to offset the projected excess set forth in subsection (c)(4).

(h) GAO AUDIT OF REDUCTIONS.—If the President has issued an order under subsection (d)(1), the General Accounting Office shall report to Congress, as soon thereafter as possible following the date of transmittal of the President's budget, an analysis of whether the order has fully complied with the requirements of this section.

(i) ADDITIONAL OMB REPORTING REQUIREMENTS TO BE INCLUDED IN PRESIDENT'S BUDGET.—

(1) ADJUSTED ESTIMATE OF TOTAL FEDERAL HEALTH CARE COSTS.—

(A) IN GENERAL.—When the President submits the budget for fiscal year 1997, and each fiscal thereafter through 2004, the President shall include an estimate of total Federal health care costs as described in subparagraph (B).

(B) TOTAL FEDERAL HEALTH CARE COSTS.—Total Federal health care costs are—

(i) Federal spending in the current health care estimate (as determined under subsection (c)(3)); plus

(ii) discretionary health care spending on—

(I) the health care program for active military personnel under title 10, United States Code;

(II) the veterans health care program under chapter 17 of title 38, United States Code;

(III) the Civilian Health and Medical Program of the Uniformed Services

VOL 140 PT 16 AG 12 — 18 1994 UMI

(CHAMPUS), as defined in section 1073(4) of title 10, United States Code;

(IV) the Federal Employee Health Benefit Plan under chapter 89 of title 5, United States Code (FEHB); and

(V) the Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

(2) COST AS A PERCENT OF TOTAL REVENUES.—The President shall include with the estimate required by this subsection a calculation by the Director of the Office of Management and Budget of the percentage of personal and corporate income taxes needed to pay for total Federal health care costs, as adjusted by this subsection, in excess of dedicated health revenues. The Director shall assume that all dedicated health revenues resulting from amendments made by this Act will be allocated for total Federal health care costs as adjusted by this subsection.

(j) ADDITIONAL COMMISSION REPORTING REQUIREMENTS.—Effective beginning in 1997, the National Health Care Cost and Coverage Commission shall report annually on how health care expenses are being financed. Among other things, this report shall include—

(1) how much is spent annually in premiums, out-of-pocket expenses, and third party expenses; and

(2) the number of businesses that provide health insurance and a profile of businesses that do not provide health insurance, including the earnings of such businesses.

DODD (AND OTHERS) AMENDMENT NO. 2561

Mr. DODD (for himself, Mr. KENNEDY, Mr. RIEGLE, Mrs. MURRAY, Mr. SIMON, Mrs. BOXER, Mr. WOFFORD, Mr. DASCHLE, Mr. MITCHELL, and Mr. LEVIN) proposed an amendment to amendment No. 2560 proposed by Mr. MITCHELL to the bill S. 2351, supra; as follows:

At the end of section 1201, insert the following new subsection:

(d) APPLICATION OF INTERIM STANDARDS.—

(1) IN GENERAL.—During the interim standards application period, a health plan sponsor may only issue or renew a health plan in a State if such plan covers clinical preventive services according to a periodicity schedule established under paragraph (3), including prenatal care, well baby care, and immunizations, for pregnant women and children without imposing cost-sharing requirements on such services.

(2) INTERIM STANDARDS APPLICATION PERIOD.—The interim standards application period is on or after July 1, 1995, and before January 1, 1997.

(3) PERIODICITY SCHEDULE.—

(A) IN GENERAL.—Not later than July 1, 1995, the Secretary shall establish a schedule of periodicity that reflects the general, appropriate frequency with which clinical preventive services should be provided routinely to children. In establishing the schedule under the preceding sentence the Secretary shall consult with the American Academy of Pediatrics regarding children's preventive care.

(B) EFFECTIVENESS.—The schedule established by the Secretary under subparagraph (A) shall be effective until the Board develops a periodicity schedule under section 1213(a)(2).

(4) APPLICATION OF RULES.—Paragraphs (4), (5), and (6) of section 1111(e) shall apply to this subsection.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Friday, August 12, 1994, after the first vote in Senator GEORGE MITCHELL's conference room to consider the nominations of José M. Amador, of Texas, to be Assistant Secretary of Agriculture for Science and Education and Roger C. Viadero, of Virginia, to be inspector general of the Department of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Friday, August 12, beginning at 10 a.m. to conduct a business meeting to consider various agenda items.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY AND GENERAL LEGISLATION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry, and General Legislation be allowed to meet during the session of the Senate on Friday, August 12, 1994, at 8:30 a.m., in SD-628, to review the administration's proposed legislation on meat and poultry inspection.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS COPYRIGHTS AND TRADEMARKS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate Subcommittee on Patents Copyrights and Trademarks of the Committee on the Judiciary and the House Subcommittee on Intellectual Property and Judicial Administration of the Committee on the Judiciary be authorized to meet during a session of the Senate on Friday, August 12, 1994, at 10 a.m., in room 2237, Rayburn House Office Building, to hold a hearing on implementing the intellectual property provisions of GATT.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Friday, August 12, 1994, at 11 a.m. to receive a closed briefing on the Moscow embassy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ASIANS FEEL BIAS BUILT ON PERCEPTIONS

• Mr. SIMON. Mr. President, recently, the Chicago Tribune ran an item on its editorial page titled, "Asians feel bias built on perceptions" written by Melita Marie Garza.

It tells a story that is not simply a story for the Chicago area but a national story.

It quotes Nancy Chen, a Chinese-American who runs my Chicago office, my largest office outside of Washington, DC.

Asian-Americans are contributing immensely to our country, and we can be proud of that contribution.

But we also ought to be sensitive to some special problems that they face.

I ask to insert this item into the CONGRESSIONAL RECORD at this point.

[From the Chicago Tribune, Aug. 7, 1994]

ASIANS FEEL BIAS BUILT ON PERCEPTIONS

(By Melita Marie Garza)

The constituent was irate about the service she was getting and wanted to complain to her senator's office. But when Nancy Chen appeared on behalf of U.S. Sen. Paul Simon, the woman balked at dealing with someone who was "not American" and had "bombed Pearl Harbor."

"While others may not be as insensitive and crude as this particular person, the perception that Asian-Americans are foreigners contributes to many problems," said Chen, director of Simon's Chicago office.

Vilified by some for appearing "foreign" and by others for appearing "too successful," Asian-Americans are in a Catch-22.

The image of achievement is reinforced by numerous studies—including one released last month by Northern Illinois University, the Chicago Urban League and the Latino Institute—showing that Asian-Americans as a group have experienced greater economic and educational success than other minority groups in the Chicago area during the last 20 years.

But such studies mask the racial discrimination and slurs Asian-Americans endure. And they hide the fact that when it comes to achieving corporate, political and academic power, Asian-Americans, like other minorities, still trail whites.

The numbers also tend to obscure the economic and cultural disparities within the Asian community, which encompasses numerous national and linguistic minorities, immigrants, refugees and those who have been in the United States for generations. The community's complexity often is lost on the rest of society, as in the case of Simon's constituent, who didn't even realize that Chen was Chinese-American, not Japanese-American.

"The feeling that Asian-Americans just do not fit into the vision of America keeps Asian-Americans behind in their professions, in politics and in their overall pursuit of happiness in a country to which they or their ancestors as much as five generations back have chosen to belong," said Chen, a Naperville resident who is a member of the Illinois Advisory Committee to the U.S. Commission on Civil Rights.

Often given short shrift, Asian-American civil rights issues were the subject of a committee-sponsored conference earlier this year that focused on the "model minority myth," "glass-ceiling" barriers, hate crimes and the lack of Asian-American political representation.

Kwang Chung Kim, a Korean-American sociologist at Western Illinois University, challenged the model minority label. After crunching census data, he revealed a different story about the economic and educational success of Asian-Americans.

The United States' six major Asian ethnic groups—Chinese, Japanese, Koreans, Filipinos, Asian Indians and Vietnamese—are frequently labeled as "model minorities" because unlike other minorities, their annual family income is similar to or exceeds that of white families, Kim said.

But according to Kim's analysis, Asian-American workers had greater educational credentials and worked longer hours to achieve the same income as whites in their professions.

Whites with a mean of 15 years of schooling earned $717 more per year for an additional year of schooling. However, U.S.-born Japanese-Americans, with a mean of 16 years of schooling, earned $577 more per year for an additional year of schooling and U.S.-born Chinese-Americans, with a mean of 17 years of schooling, earned $596 more for an additional year of schooling.

In other words, Asian-Americans' high income appears to come at a higher price—perhaps through longer workweeks and greater educational investment.

"Based on a fairness model, the success image of Asian-Americans is a myth," said Kim, adding that the phenomenon disguises discrimination against Asian-Americans in the workforce.

Chen pointed out that "the working status of Asian-Americans ranges from unskilled workers staying at the bottom rung of the job market to those highly trained professionals in the rut of becoming 'frozen talents,' forever stuck in their technical station."

One of those areas in which Asian-Americans face many barriers is the legal profession, according to Sandra Yamate, a founding member of the Asian American Bar Association of Greater Chicago.

Of the 3,279 lawyers who are partners in large Chicago firms, only 10 are Asian-American. Only 53 of 2,901 attorneys at the associate level are Asian-American, according to the 1994 Chicago Lawyer Diversity Survey Yamate said. According to the 1990 census, 1 percent of the 34,394 attorneys in the six-county area are Asian-American, but only 0.3 percent are partners.

The single Asian-American judge on the Cook County Circuit Court is Associate Judge Lynne Kawamoto, Yamate said. And despite burgeoning Asian-American enrollment in the six area law schools, only one, Northwestern University Law School, has a fulltime tenure track Asian-American law professor. Asians now account for about 10 percent of the law school's student body, Yamate said.

The growth in law school enrollment parallels the growth of the Asian-American community. Between 1980 and 1990, the Asian-American community in the Chicago area nearly doubled, growing to almost 300,000.

Nationwide, the Asian-American population grew dramatically in the last three decades, increasing from 1 million in 1965 to 8.8 million in 1993, according to U.S. Census Bureau estimates.

The larger numbers of Asian-Americans and the resulting higher visibility in key states, including California, New York and Illinois, are partly the reason hate crimes against Asian-Americans have been on the rise, said William Yoshino, Midwest director of the Japanese American Citizens League.

"The heightened visibility is accompanied by assumptions that Asian-Americans are foreigners—not American citizens or permanent residents," said William Yoshino, Midwest director of the Japanese American Citizens League, who noted that 60 percent of Asian-Americans are foreign-born.

The 50th anniversary of Pearl Harbor in 1991 led to increased anti-Japanese incidents on the West Coast, Yoshino said. Although there were no dramatic incidents in Chicago, he said, signs were taped to lampposts in the Loop declaring "the spirit of Tojo lives . . . the economic conquest of USA . . . Let's remember Pearl Harbor."

He cited an incident last April in which The Queenship of Mary Church in Glen Ellyn, which has a Vietnamese congregation, was painted with graffiti proclaiming "go home gooks."

Although the Asian-American population is growing quickly, they are still too few in number and too widely dispersed to exert much political influence, said Chicago Urban League Vice President James Lewis. Asian-Americans account for only 2.4 percent of Illinois' population and less than 6 percent of Chicago's. They are the only minority group more numerous in the suburbs than the city.

Moreover, the Northern Illinois University study showed a wide economic disparity between Asian-Americans in the suburbs and those in the city. Asian-American median family income was $53,500 in the suburbs, slightly higher than white median family income. However, Asian-American median family income in the city trailed that of suburban Asians by 40 percent and that of city whites by 10 percent.

In the city, large numbers of Asian-Americans reside in Chinatown, on the Near South Side, and on the Far North Side. Only four precincts in Chicago, however, are at least 50 percent Asian-American in voting age population, Lewis said.

In the latest political redistricting, Chinatown was divided to accommodate creation of the first Latino congressional district and a legally required black district, as well as maintain a predominantly white 11th Ward, Lewis said.

Asian-Americans, who tend to be less dependably Democratic and vote more like whites, likely will find it difficult to forge coalitions with other minorities, Lewis said.

Even within Chicago's Asian community, coalition-building among various ethnic groups has not extended tangibly beyond the Asian-American Coalition, whose principal activity since 1984 has been to sponsor an annual Lunar New Year Celebration dinner, said Calvin Manshio, a Japanese-American attorney.

Given that, the notion of joining forces with blacks and Hispanics on civil rights issues would appear a difficult task. But Chen, of Simon's office, believes it's crucial.

"To achieve full equality for Asian-Americans, we need a lot of allies to help work on common goals," Chen said.•

ACHIEVEMENTS IN MICROGRAVITY: TEN YEARS OF MICROGRAVITY RESEARCH

• Mr. GLENN. Mr. President, I ask that the article entitled "Achievements in Microgravity: Ten Years of Microgravity Research" be made a part of the Record.

The article follows:

ACHIEVEMENTS IN MICROGRAVITY: TEN YEARS OF MICROGRAVITY RESEARCH

(By S.J. Graham and R.C. Rhome, NASA Headquarters, Washington, DC)

ABSTRACT

An overview of microgravity research in space supported by the National Aeronautics and Space Administration during the period 1983 to 1993. Selected activities in the areas of biotechnology, combustion, fluid physics, and material science are discussed. The paper is not intended to be a comprehensive assessment of scientific experimental results.

I. INTRODUCTION

In 1992, the National Aeronautics and Space Administration's (NASA) Microgravity Science program conducted more peer reviewed, hands-on United States microgravity science research in space than performed cumulatively in all prior years since Skylab (1973–74). This was accomplished through the use of the European Space Agency's (ESA) Spacelab and the considerable capabilities offered by NASA's Space Shuttle. The period between Skylab and the present has seen a wide array of basic and applied microgravity research in ground-based and suborbital facilities, as well as orbital flight. The conduct of such experimentation has not been continuous over this period. The hiatus in flight opportunities following the 1986 Challenger tragedy resulted in a slowed evolution of in-space research. The ground-based program did provide steady advances during the late 1980s as preparations were made for the resumption of Shuttle and dedicated Spacelab flights, resulting in the flurry of research activity in 1992. This discussion of ten years of Microgravity research is an overview of selected activities in the broad range of microgravity science disciplines supported by NASA during the period 1983–1993 and is not intended to be a comprehensive assessment of specific results.[1]

Many experiments using the space environment have tested fundamental theories of physics, chemistry, and other disciplines. Data from these experiments have begun to deepen our understanding of these theories. A second class of experiments uses the scientific method to carry out investigations in areas where theories are incomplete. Space research has provided data that challenges our understanding of a particular phenomenon, paving the way for new research. Finally, research in preparation for space experiments has led to significant advancement in the way a large class of experiments are done here on the ground. Such studies lead to new techniques and technologies which can substantially change science and applications research in their respective fields.

II. PROGRAM EVOLUTION

NASA's Office of Life and Microgravity Sciences and Applications (OLMSA) is responsible for planning and executing the scientific research activities associated with

Footnotes at end of article.

VOL 140 PT 16 AG 12 — 18 1994 UMI

the Agency's goals.[2] Within OLSMA, the Microgravity Science and Applications Division undertakes the study of important physical, chemical and biological processes in a microgravity (ug) environment. Initial research into the effects of microgravity began in the early years of the space program, including space experiments conducted during the Apollo, Skylab and apollo-Soyuz programs. The advent of the Space Shuttle program enabled the development of microgravity research instruments that could be flown, modified, and re-flown, allowing scientists to design experiments based on the results of previous investigations. The microgravity research program is divided into two realms of experimental work; experiments that are in refinement stages (ground-based) and experiments that are considered ready and worthy of a space flight opportunity. The ground-based program is intended to select and foster research for those hypotheses that require reduced gravity for an ultimate experimental test. In the early 1980s, the presumption of the appropriateness of a NASA-sponsored research program was the ultimate need for space flight. Less than fifty Principal Investigators were in the NASA-sponsored microgravity research program, almost exclusively working towards a space flight opportunity. As the program has evolved, however, it has become more apparent that there are a broad range of hypotheses in which gravity is the experimental parameter that can and are being addressed by means other than space flight. The ground-based program has grown to become the intellectual underpinning of the flight program, with more than seventy-five percent of the 180 NASA-funded microgravity science Principal Investigators involved in ground-based research. It is anticipated that the ratio of ground-based to space flight investigators will continue to grow as the program heads for a 1998 projected research establishment supporting over 340 NASA-sponsored microgravity research Principal Investigators.

The Microgravity Science and Applications Division is responsible for guiding a comprehensive research program, currently concentrating on biotechnology, combustion science, fluid dynamics and transport phenomena, materials science, and selected studies in gravitational and condensed matter physics. The Division seeks out and coordinates an interdisciplinary science community to conduct the research and to disseminate the results of its science program. It also supports the science community's research through the development of suitable experiment instruments and by choosing the space carrier most suitable for its experiments. The results of the investigations, some of which are reported here, are used to challenge and validate contemporary scientific theories, to identify and describe new physical phenomena that can be uniquely explored in a microgravity environment, and to engender the development of new theories as a result of unexpected or unexplained discoveries often the most exciting part of the research.

III. BIOTECHNOLOGY RESEARCH

Protein Crystal Growth

Protein crystal growth (PCG) has been a promising area of microgravity research ever since early work by Walter Littke (University of Freiberg) aboard Spacelab-1 (1983) indicated that significantly larger and higher quality protein crystals could be grown in a low gravity environment. Now ten years later, with over 70 different proteins flown in orbit, this area of research has emerged as one of the most notable success stories of NASA's microgravity program. (Table 1)

Proteins are basic elements of life. These complex chains of amino acids not only form the physical substance of living organisms but also play an essential role in every biochemical process governing the body. Scientists seek to determine the molecular structures of proteins, and the relationship between protein structure and function. This information will provide a better understanding of living systems and help develop new drugs for medical treatments. The technique used to determine protein structure, X-ray diffraction, requires the use of relatively large, high quality crystals of the protein being studied. Quite often however, in spite of years of research in academic and industrial laboratories, crucial proteins fail to adequately form the needed crystals on Earth. In many cases this failure can be attributed to the effects of Earth's gravity, which not only generates fluid flows which may damage growing crystals but also causes the crystals to sediment to the bottom of their growth container. Once the protein crystal has settled on a container surface the protein solution can no longer reach all sides of the crystal and further growth can be severely distorted. It was these constraints which led early crystal growers to a low gravity environment where buoyancy driven flows could be eliminated and crystals could grow freely suspended in solution.

The first protein crystallization flight experiment was flown by Drs. Littke and John aboard Spacelab-1 in 1983 using two proteins of widely differing weights, betagalactosidase and lysozyme.[3] In microgravity these proteins respectively yielded crystals 27 and 1000 times larger than the ground control experiments. The publication of the results generated many new questions about the fundamental mechanisms of protein crystal growth and led to the organization of the first International Conference on Crystallization of Biological Macromolecules in 1986 at Stanford University. Prior to this, most scientists carrying out protein crystal growth research had grown crystals without great concern for the physics involved, using a primarily trial-and-error approach. The findings of this conference revolutionized thought among investigator in the field and resulted in a redirection of effort in a number of ground-based labs to understand and control the growth of protein crystals and to use the space environment as a means to gain insights into the growth process as well as a method of obtaining better crystals.

Table 1: Proteins grown in space

STS–51D—April 1985

Bugg—Human Purine Nucleoside Phosphorylase (PNP)—Protein for Immunosuppressive and anticancer drugs
Bugg—Lysozyme—Model Protein degrades bacterial cell walls
Bugg—Scorpion Toxin
Bugg—Sea Anemone Toxin
Suddath—Lectin—Binds blycames of glycoproteins on cell surfaces
Suddath & Delucas—Human Serum Transferrin—Iron transport to hemoglobin synthesizing red blood cells
Nagabhushan—Interferon alpha-2b—Stimulates immune system
Bugg—Bacterial PNP—Protein for immunosuppressive and anticancer drugs
Laver—Neuraminidase-Antibody Complex—Surface protein of the influenza virus
LU—Synthetic DNA—Artificial Model of DNA
Delucas & Volanakis—Human C-Reactive Protein—Plays a central role in the human immune system
Ward—Green Fluorescent Protein—Protein found in marine bioluminescent jellyfish
Hogle—Fab—Antibodies with specificity to antigens that occur on cell surfaces
Arnone—Human Nuclear TRNA—Associated with protein synthesis

STS–26—September 1988

McPherson—Canavalin—Major reserve protein of leguminous seeds
Nagabhushan—Gamma Interferon—Antivital agent, stimulates immune system
DeLucas—Human C Reactive Protein—Plays a central role in the human immune system
Bugg—Purine Nucleoside—Degrades anticancer drugs
Carter—Human Serum Albumin—Binds and transports drugs and other materials
Weber—Isocitrate Lyease—Target enzyme for fungicides
Einspahr—Phospholipase—Interacts with phospholipids associated with cell membrane functions
Navia—Porcine Elastase—Involved in lung disease such as emphysema
Einspahr—Renin—Involved in controlling high blood pressure
Krenitsky—Reverse Transcriptase—Enzyme essential to the AIDS virus
Weber—Synthetic Peptide (alpha helicin)—Involved in human cell regulation of electrolytes

STS–29—March 1989

Carter—Alcohol Oxidase—Enzyme involved in cellular metabolism
Eggleston—Aridicin Aglycone—Industrial antibiotic
McPherson—Canavalin—Major reserve protein of leguminous seeds
Rubin—Diacetinase—Glycerol ester hydrolase from bacillus subtilis
Nagabhushan—Gamma Interferon—Stimulates immune system
Jones—Human Growth Hormone—Used in treatment of unusually small children
Weber—Isocitrate Lyase—Target enzyme for fungicides
Lu—Lec Repressor—Regulates the expression of lactose operon in e. coli
Fontecilla—Lectin—Binds glycames of glycoproteins on cell surfaces
Laver—Neuramindase—Surface protein of the influenza virus
Navia—Porcine Elastase—Involved in lung disease such as emphysema
Elnspahr—Renin—Involved in controlling high blood pressure
Yonath—Ribosome—Plays major role in protein processing in cell
McPherson—Satellite Tobacco Mosaic Virus—First virus crystallized

STS–32—January 1990

Voet—12 Base Pair DNA—A segment of DNA which helps control protein synthesis
DeLucas—Aldose Reduciase—Enzyme connected to diabetic complications
Eggleston—Aridicin Aglycone—Industrial antibiotic
McPherson—Canavalin—Major reserve protein of leguminous seeds
McPherson—Catalase—Detoxifying enzyme
Weber—Cyanobacterium—Photosystem 1 Complex Membrane protein complex involved in light-drive electron transfer
Weber—Cyclosporin A-Cyclophillin complex—Used to suppress immune rejection during organ transplant
Rubin—Diectinase—Glycerol ester hydroiase from bacilus subtillis
Senadhi—Gamma Interferon—Antiviral agent, stimulates immune system
Jones—Human Growth Hormone—Used in treatment of unusually small children

Carter—Human Serum Albumin—Binds and transports drugs and other materials
Suddath—Human Serum Transferrin—Iron transport to hemoglobin synthesizing red blood cells
Weber—Isocitrate Lyase—Target enzyme for fungicides
Lu—Lac Repressor—Regulates the expression of Lactose operon in e. coli
Fontecilla—Lectin—Binds glycames of glycoproteins on cell surfaces
DeLucas—Lysozyme—Model protein
Laver—Neuraminidase—Enzyme connected with influenza virus
Einspahr—Phospholipase—Interacts with phospholipids associated with cell membrane functions

STS–31—April 1990

Birnbaum—anti-HPr FAB Fragment—Provides picture of antibody blinding site
McPherson—Canavalin—Major reserve protein of leguminous seeds
Rubin—Carboxyl Ester Hydrolase—Catalyzes the breakdown of carboxylic acid exters like those found in fats
DeLucas—Factor D—Enzyme responsible for activation of the complement system
Reichert—Gamma Interferon—Antiviral agent, stimulates Immune system
Carter—Human Serum Albumin—Binds and transport drugs and other materials
Suddath—Human Serum Transferrin—Iron transport to hemoglobin synthesizing red blood cells
Weber—Isocitrate Lyase—Target enzyme for fungicides
Einspahr—Malic—Enzyme Enzyme Isolated for a parasitic nemalode
Navia—Procine Elastase—Involved in lung disease such as emphysema
Ward—Porcine Pancreatic Phospholipase—Protein involved in rheumatoid arthritis and septic shock
Fonteolilla—Turkey/quail Lysozyme—Model protein
Meyer—Type IV Collegenase—Enzyme obtained from snake venom

STS–43—August 1991

Long—Bovine insulin

STS–48—September 1991

Delbaere—anti-HPr FAB Fragment—Provides picture of antibody binding site
Weber—Apostreptavidin—Binds the vitamin biatin
Ward—Bacterial Luciferase—Protein responsible for bioluminescence in open oceans
Knox—Bets-Lactemese—Enzyme that destroys antibiotic
Navia—Bovine Proline Isomerase—Drug target for anti-rejection treatments
McPherson—Canavalin—Major reserve protein of leguminous seeds
Birnbaum—Fab YST9-1 of Brucella—Antibodies that have specificity to antigens that occur on cell surfaces
Nagabhushan—Interleukin-4—Potential antitumor agent
McPherson—Satellite Tobacco Mosaic Virus—First virus crystallized
Navia—Themolysin—Used in potential method for producing aspartame
Einspahr—Two-Domain CD4—Product being tested as AIDS treatment

STS–42/ML–1—January 1992

Albara—Lysozyme—Model protein
Einspahr—2 Domain CD4:FAB—Product being tested as AIDS treatment
Delbaere—anti-HPr FAB Fragment—Provides picture of antibody binding site
Weber—Apostrepavidin—Binds the vitamin blatin
Navia—Bovine Proline Isomarase—Target enzyme for immuno-suppressive agents
McPherson—Canavalin—Major reserve protein of leguminous seeds
Voet—DNA 12-MER Segment of Lac Operator—DNA sequence recognized by lac operon
Birnbaum—FAB YST9-1 from Brucella—Antibodies that have specificity to antigens that occur on cell surfaces
Stanmers—HIV Reverse Transcriptase—Chemical key to replication of AIDS virus
Arnold—HIV Reverse Transcriptase Complex—Chemical key to replication of AIDS virus
Carter—Human Serum Albumin—Binds and transports drugs and other materials
Ward—Recombinant Bacterial Luciferase—Protein responsible for bioluminescence in open oceans
Frankel—Recombinant Ricin A Chain—Component in immunotixs used as therapeutic drugs
Yonath—Ribosome-30S subunits—Ribosome subunit where genetic code is translated to proteins
McPherson—Satellite Tobacco Mosaic Virus—First virus crystallized

STS–49—May 1992

Long—Bovine Insulin

STS–50/USML–1—June 1992

Eggleston—Aridicin Aglycone—Industrial antibiotic
Ward—Bacterial Luciferase—Protein responsible for bioluminescence in open oceans
Knox—Beta Lactamase—Enzyme that destroys antibiotics
McPherson—Canavalin—Degrades anticancer drugs
Knox—DD-Ligase from e. coli—Enzyme which biosynthesizes bacterial cell walls
Knox—DD-Ligase from S. tymp—Enzyme which biosynthesizes bacterial cell walls
Sundaralingam—DNA Dodecamer CGTTTTAAAACG—DNA sequence of interest in fundamental research
Sundaralingam—DNA Dodecamer: CGAAAATTTTCG—DNA sequence of interest in fundamental research
DeLucas—Factor-D—Enzyme responsible for activation of the complement system
Sundaralingam—Flavodoxin—Involved in biological oxidation and reduction reactions
Carter—gp 41 antibody of HIV–1—Antibody recognizes component of AIDS virus
Ward—Green Flourescent Protein—Protein found in marine bioluminescent jellyfish
Arnold—HIV Reverse Transcriptase Complex—Responsible for copying genome of the AIDS virus
Navia—HIV-1 Protease—Drug target for HIV treatment
Meehan—Horse Serum Albumin—Most abundant serum protein
DeLucas—Human Aldehyde Reductase—Enzyme implicated in the development of diabetic complications
Weber—Human alpha-Thrombin—Serine protease involved in coagulation
Navia—Human Proline Isomerase—Drug target for anti-rejection treatments
Carter—Human Serum Albumin—Binds and transports drugs and other materials
Suddath—Human Transferrin—Major iron transport protein in serum
Nagabhushan—Interferon Alpha-2b—Potential artiviral and anticancer agent
Nagabhushan—Interleukin-4—Potential antitumor agent
Voet—Lac Operator DNA—Sequences involved in DNA expression
Lu—Lac Repressor—Regulates the expression of lactose operon in e. coli
Nauman—Lysozyme—Model protein
Einspahr—Malic Enzyme—Enzyme isoiated fro a parasitic nematode
McPherson—Mouse Monoclonal Antibody—Antibody against dog lymphoma

STS–47/SL–J—September 1992

Betzel—Epidermal Growth factor Receptor—Growth factor receptor associated with tumors
DeLucas—Factor D—Enzyme responsible for activation of the complement system
Albara—Lysozyme—Model protein
McPherson—Mouse Monoclonal Antibody—Antibody against dog lymphoma
Albara—Peroxidase—Enzymes that catalyze oxygen
Yang—TRP-RS-IRNA TRP Complex—Plays role in protein formation

STS–52—October 1993

Long—Interferon alpha-2b—Potent antiviral and anticancer agent
Frankel—Recombinant Ricin-A Chain—Component in immunotixs used as therapeutic drugs
Carter—Recombinant Serum Albumin—Binds and transports drugs and other materials
Naumen—Thermolysin—Model protein
Navia—Thermolysin—Used in potential method for producing aspartame
Einspahr—Two domain CD4—Product being tested as AIDS treatment
Meehan—Urease—Urease inhibitors might have agricultural applications
DeLucas—Lysozyme—Model Protein
Lu—Lac Repressor—Regulates the expression of lactose operon in E. coli

STS–57—June 1993

Carter—Human Serum Albumin—Binds and transports drugs and other materials
Cook—Interferon alpha-2b—Potent antiviral and anticancer agent
DeLucas—Lysozyme—Model protein
Naumann—Ribonuclease S
Einspahr—Malic Enzyme—Development of anti-parasite drug
Long—Human Insulin—Facilitates the incorporation of glucose into cells
Weber—Human alpha-Thrombin—Serine profese involved in the final step of the coagulation cascade

STS–51—September, 1993

Long—Interferon Alpha-2b—Potent antiviral and anticancer agent

After Spacelab-1, simple hand held devices were used by Charles Bugg (University of Alabama at Birmingham) and his collaborators to subsequently grow crystals on a series of space shuttle flights (1985–1986). These experiments contained only a fraction of a milliliter of growth solution and had no temperature control but excellent crystals were obtained for human serum albumin, human C-reactive protein, canavalin, and concanavalin B, which appeared to diffract to higher resolution than those grown on Earth. The hardware developed and repeatedly refined for these experiments utilized the vapor diffusion crystal growth technique, a more technically difficult method than the liquid/liquid diffusion technique of Littke's experiment. These was an important evolutionary step for the microgravity protein program. Since most ground investigators also used the vapor diffusion technique, space results could now be directly compared to the extensive protein data already collected from Earth laboratories.

While these early exploratory experiments indicated that larger protein crystals could be grown in space, the scientific community was not yet convinced that these space crystals exhibited significantly improved internal order. This resistance was due, in part, to the lack of a rigorous theoretical framework for understanding protein crystal

VOL 140 PT 16 AG 12 — 18 1994 UMI

growth in general and interpreting the spacelab results in particular. During the hiatus following the 1986 Challenger accident, an increased emphasis was placed on developing a fundamental understanding of protein crystal growth mechanisms. The field had also begun to attract the attention of investigators with considerable experience in fluid mechanics and crystal growth theory, and substantial advances were made in ground research during this period. As a result of lessons learned at the 1986 Stanford conference, many investigators suspected that temperature might be an important control parameter for PCG. This concern led to the search for a phase diagram and an in-depth study of temperature's influence over solubility. In 1987, Ed Mechan et al. at the University of Alabama published a landmark paper of the phase diagram of lysozyme including salt concentration, pH, and temperature as parameters.[4] This work illustrated that changes in temperature could alter the solubility of proteins under the right conditions. Mechan's work with lysozyme generated a great deal of interest in using temperature shifts to control protein crystallization and a later generation of flight hardware was designed to take advantage of this technique.

When PCG flights resumed in September 1988 aboard STS–26, the experiment hardware had been redesigned to allow it to be accommodated in a constant temperature incubator during the flight. The unprecedented success achieved in growing large, high quality protein crystals on that mission convinced many formerly skeptical protein investigators of the utility of the microgravity environment. In the STS–26 experiment, microgravity-grown crystals of gamma-interferon D, porcine elastase, and isocitrate lyase were larger, displayed more uniform morphologies, and yielded diffraction data to significantly higher resolutions than the best crystals of these proteins grown on Earth.[5]

By 1989 the microgravity protein growth program had undergone considerable expansion, with a large number of co-investigators from academia and industry participating. These investigators contributed a wide range of biological molecules that could be used for evaluating the effects of microgravity on protein crystal growth and for developing more advanced techniques for crystal growth in space. This trend has continued to the present time with over 50 co-investigators involved in the 1992 flight of USML-1.

Changes have also continued in the refinement of both flight hardware and crystal growth techniques as greater experience is gained on each mission. For example, the malic enzyme protein had repeatedly failed to crystallize in microgravity prior to 1992. Through a combination of ground and flight testing it was determined that, despite the mixing protocols used, complete mixing of the viscous experiment solution was not occurring in orbit. Then on USML-1 a hands-on technique, allowed by the presence of a glovebox and the abilities of the highly skilled protein cystallographer Larry DeLucas as Payload Specialist, enabled the growth of large high-quality crystals of malic enzyme. More recent modifications to the syringes used in the crystal growth hardware will produce more turbulent on-orbit mixing of experiment solutions, thus expanding flight opportunities for proteins requiring the use of viscous solutions.

Since 1988 ground research on proteins has continued to complement the findings of flight experiments in several ways. Knowledge gained from the space results has been used by investigators to develop more successful methods of growing proteins on Earth, and at the same time ground work has yielded new insights into the underlying mechanisms of crystal growth. The latter includes research such as that headed by Marc Pusey at the Marshall Space Flight Center on the nucleation and pre-nucleation stages of crystal growth, and by Franz Rosenberger (University of Alabama at Huntsville) on the temperature dependence of protein solubilities. Much of the ground-based work on the mechanisms of protein crystallization has been performed at the University of Alabama's Center for Macromolecular Crystallography which was established by NASA's Office of Commercial Programs in 1985 in order to promote commercial research in protein crystallography. As a result of ground and flight studies, a number of theoretical models have been developed to explain the beneficial effect of low gravity on protein crystal growth. Hardware planned for future missions will test some of these theories by allowing direct observation of crystal nucleation and dynamic control of crystal growth conditions.

Over the course of the last ten years, many more proteins have been flown aboard the shuttle and/or studied on the ground than can be discussed here. These range from an iron transport protein called human serum tranferrin, to antibodies expressed against the AIDS virus. American Bio-Technologies Inc., the major world supplier of synthetic HIV proteins, recently signed a cooperative agreement with NASA to conduct structure oriented AIDS related research. The structural biology research group at MSFC, which recently published the first structure of a human antibody that recognizes the AIDS virus, will use its expertise to grow crystals and perform structural analysis on the storehouse of HIV proteins provided by American Bio-Technologies. A few examples of other proteins for which exceptional results have been obtained, are given below.

Porcine elastase. A number of well-formed elastase crystals in the range of 0.5 to 2.1 mm were obtained from six crystallization experiments flown on STA–26 in 1988. Comparison of data for a space-grown crystal with Earth-grown crystals revealed that the space crystal yielded significantly more data at all resolution ranges. This data allowed significant improvements to be made in the understanding of the protein structure, which in turn has led to the use of porcine elastase in current research on a new class of inhibitors for treating emphysema.

Gamma interferon D. Two crystals of this protein were obtained from STS–26 which were larger than the best that had ever been produced on the ground; one was approximately 50% larger than the largest crystal that had been obtained previously. These large space-grown crystal also displayed an increase in resolution data, revealing that the space grown crystal did indeed have a higher internal molecular order, and allowing the protein structure to be determined for the first time. Pharmaceutical companies are interested in using gamma-interferon as a possible drug for cancer therapy.

Isocitrate lyase. On STS–26, these proteins formed prisms as large as 0.4 X 0.25 X 0.04 mm which yielded better intensity data throughout the resolution range than any previous Earth crystal.[6] The understanding gained from these results was used to redesign ground experiments, and the more compact protein crystals of isocitrate lyase seen in space have now been replicated on Earth by using vapor diffusion cells which limit the area available for evaporation.

Human Serum Albumin. The work done with human serum albumin (HSA), which is the most abundant protein in the circulatory system, provides a good example of knowledge evolving through the ground and flight programs. In 1986 high quality HSA crystals were grown aboard STS–24. In 1989, growth techniques developed in preparation for that flight resulted in the growth of similar crystals on the ground that allowed the 3-dimensional molecular HSA structure to be determined to a resolution of six angstroms. At a recent mission review Dr. DeLucas reported that exceptionally high quality crystals of HSA were grown aboard IML–1 in 1992, and the results have allowed the protein's structure to be further refined. The published results of this work, led by Daniel Carter at MSFC, are considered a breakthrough in rational drug design due to the potential utility of HSA for the transport of many biological and pharmaceutical molecules in the bloodstream. The structures of a number of other albumins have also been refined and comparisons of these structures are revealing a wealth of information regarding the evolution and chemistry of those important macromolecules.

Satellite Tobacco Mosaic Virus (STMV). STMV is a common plant pathogen and one of the smallest viruses known. In 1992, crystals of STMV were grown aboard IML–2 and according to the investigator, Alexander McPherson (University of California, Riverside) they yielded the "best resolution data obtained on any virus crystal, by any method, anywhere". The STMV crystals obtained were 15 times the volume of any seen in the laboratory and their morphology indicated that growth was still incomplete at the end of the eight day mission. Analysis of these crystals not only greatly extended the structural resolution of the virus but also allowed visualization of the nucleic acid contained in STMV for the first time. Some STMV crystals grown at 4°C in the Vapor Diffusion Apparatus formed hexagonal plates (a habit rarely seen in the laboratory) of exceptional size (1.5 mm) and quality. The results of the canavalin and STMV experiments were published in Protein Science, Oct. 1992.

Malic enzyme. Malic enzyme, which has potential use in the development of antiparasitic drugs, was among the proteins benefiting from the program's evolving understanding of how to optimize conditions for space PCG. After unsuccessful attempts to grow crystals of this protein on two previous flights, the 1992 flight of USML–1 yielded the best malic enzyme crystals ever grown.

Factor D. The longest crystal ever seen of factor D, was also grown on this mission. By combining data from USML–1 and ground-grown crystals, investigators have now successfully determined the three dimensional molecular structure of this protein. This represents the first structure of a type of immune system protein known as a complement protein, ever determined at atomic resolution.

Ten years of spacelab experiments have clearly established that *protein crystals of superior size and quality, capable of providing increased structural data, can be grown in microgravity.* Some investigators believe that the higher quality of the crystals grown in microgravity is linked in part to the slower rate of growth that is possible there. The improving technology and methods used in orbit have allowed investigators to make good use of the opportunities available on spacelab in the past. Aboard Space Station the much longer growth periods, and ability to perform continuing adjustments between experimental series, will provide the opportunities needed for the evolution of this science.

Tissue Culturing. Cell culturing, the growth of cells outside the body, allows many tests and studies that cannot be conducted on whole organisms. Concentrations of drugs that are toxic for the test animal as a whole can be readily studied in cultured cells, where the delicate physiology of the entire animal is not present to hinder or complicate the drug study. Separate cell types can also be examined in culture to isolate and characterize cell function.

Work on cell culturing systems during the last decade at Johnson Space Center (JSC) has led to a breakthrough in bioreactor technology that is advancing the state-of-the-art in growing normal and cancerous mammalian tissues. Through studies on the effect of fluid flow on tissue cultures, NASA scientists have developed a ground-based bioreactor that attempts to simulate microgravity's effects on growing tissues by randomizing the gravitational vector. This rotating bioreactor keeps cells suspended in a culture medium without the turbulence associated with standard cell culturing techniques, while still maintaining an adequate flow of oxygen and necessary nutrients. The low-shear culturing environment provided by the bioreactor promotes cell aggregation and differentiation, allowing the formation of three-dimensional tissue which more closely resembles in vivo tissue than cells grown using conventional culturing methods.

The NASA bioreactor is composed essentially of a cylindrical, hollow vessel that is filled with cells and microcarrier beads. This cylinder is continuously rotated around a horizontal axis. The liquid inside the vessel is coupled by viscosity to the rotating wall and begins turning with the wall as a single mass. The cells and carrier beads in the liquid media are carried along with the rotating liquid mass, and this randomizes the gravity vector experienced by the cells. This prevents them from sedimenting out, and they are maintained in a homogeneous suspension throughout the growth media without the use of shear-inducing impeller blades. The end result of this design is that very little shear stress is applied to the cells and beads so that the only residual shear forces in the culture vessel arise from the motion of microcarriers in the media and the contact that the microcarriers occasionally make with the wall and each other.[7]

Although a variety of other research cell culturing technologies currently exist, such as static matrix culturing, roller bottles and stirred suspension cultures; these technologies generally suffer from one or more serious limitations. These include monolayer cell cultures, limited diffusion of nutrients, difficult cell recovery, or excessive cell agitation. In contrast, the fluid dynamic principles upon which the bioreactor operates offer the advantages of 1) co-location of cells, including those with different sedimentation rates, 2) extremely low fluid shear atress and turbulence, 3) three-dimensional spatial freedom and 4) effective gas and nutrient transfer to the cells.[8]

The patent for the basic rotating wall vessel (RWV) design of the JSC bioreactor was issued to NASA in 1991. Additional patents have also been issued for a number of modified RWV designs, technologies incorporated in the RWV, and RWV culturing techniques. Investigators credited with important roles in the development of bioreactor designs include Ray Schwarz, Tinh Trinh and Thomas Goodwin of Krug Life Sciences Inc., astronaut David Wolf, J. Jessup of Harvard Medical School, and Mary Pat Moyer of the University of Texas at San Antonio. In recent years Glenn Spaulding of JSC has overseen further development of the bioreactor and the refinement of the associated cell culturing techniques in collaboration with a number of outside investigators.

Investigators performing medical research have been quick to recognize the enormous potential of the rotating wall vessel and have suggested a wide range of uses. In addition to the more standard cell studies, these have included the growth of large tissue masses for transplant, the cultivation of normal and cancerous cells together in 3-dimensional environment in order to observe their interactions, isolation of tissue specific growth factors, and the investigation of cellular signaling mechanisms. Since the development of the RWV a number of investigators have entered into collaborations with NASA in order to take advantage of the technology's unique features, and a wide range of cell types have been successfully cultivated. Some of the cell culturing accomplishments reported by JSC in 1991 were: (1) First *in vitro* Norwalk viral culture, (2) First normal human intestine culture, (3) First 80-day normal human lung culture and the (4) First advanced glioma culture.

Over the last few years investigators have used the RWV to study an increasing variety of cell lines ranging from skin tissue to brain cancer. The results of a few of these investigations are discussed below.

Glioma. Glioma cell culturing is one of the early successes with the rotating wall bioreactor. Glioma cells are cancers of the tissue which surround nerve cells in the brain. In 1991 JSC investigators Garry Marley and Steve Gonda of JSC and Mary Lou Ingram of Huntington Beach Medical Center in Pasadena, reported that a three dimensional model of a human glioma had been reproduced in a modified version of the NASA bioreactor.[9] In previous research with *in vitro* human tumor cultures, the features of a fully developed tumor, such as a central hypoxia, had failed to develop. However, when the NASA bioreactor was utilized, the spherical aggregates of cells (up to 2.5mm in diameter) achieved were at least 10 times the volume of previously reported cultured glioma colonies. When these spheres were sectioned, at least three different cell morphologies were discovered and the central hypoxia, characteristic of tumors, was evident.[10]

Skeletal Tissue. Large cartilage tissue masses (1 cm) have been grown in the NASA bioreactor, exceeding the previous limit of about 3mm obtained with conventional culturing methods.[11] Growth of mouse limb cells in the RWV have resulted in the formation of aggregates which continue to increase in size over the 65-day culture period. Of particular interest in those experiments, was the observation of cell characteristics that previously had only been seen in space-grown cells. This lends support to the argument that the RWV creates conditions similar to microgravity, and therefore may provide an opportunity to use a relatively simple, low maintenance system to study certain changes produced in microgravity. In the case of akeletal tissue, such a system would be especially useful since the human skeleton is profoundly affected by gravitational changes during space flight. Bone, Cartilage and ligaments of space-flown rats have shown significantly altered differentiation and bone demineralization; and negative calcium balance is observed in astronauts. Other investigators are studying the use of the RWV as a culture system to grow large cartilage tissue masses for implants. Cartilage implants would be created by growing cartilage from a patient on biodegradable scaffolding, and then implanting the final tissue mass back into the patient.[12]

Ovarian Cancer. Cancer of the ovary is the leading cause of death from gynecologic malignancy and investigators consider the development of *in vitro* models critical to its study.[13] Satisfactory culture systems for ovarian tumor cells have been limited in the past because of the poor survival of patient tumor cells grown in primary culture. In contrast to the results obtained from conventional culture methods, ovarian tumor cells cultured in a RWV formed three-dimensional cellular aggregates that were composed of multiple cell types, such as existed in the original tumor specimen. Findings from this RWV study were judged to have a fundamental impact on the theory of müllerian tumor development.

Intestinal and Colon Tissue. Perhaps the most successful culturing attempt to date has been the culture of intestine cells. Prior to the NASA RWV, all attempts to generate small intestine from normal primaries and get fully differentiated tissue had failed. However intestine cells grown in the RWV have exhibited a highly organized structure, including microvilli and crypts characteristic of this tissue. Appropriate biochemical markers were present as well. Two human colon adenocarcinoma cell lines, HT-29 and HT-29KM, grown in this culture system developed three-dimensional tissue masses 1.0-1.5 cm in diameter. Investigators reported that the masses displayed glandular structures, apical and internal glandular microvilli, tight intercellular junctions, desmosomes, cellular polarity, sinusoid development, internalized mucin, and structures akin to normal colon crypt development.[7]

While the RWV offers many advantages to cell growers, it can mimic the beneficial effects of microgravity only to a certain extent. After a maximum of perhaps three months, cell aggregates in the RWV become too large to remain suspended in solution. To address this issue, miniaturized flight versions of the RWV have been developed for use in the microgravity environment, where the decreased shear forces may allow even more extensive tissue development than on Earth. The only requirement for rotation in space is to drive the distribution of oxygen and nutrients to the cells, allowing the shear forces acting on the cells to be reduced by orders of magnitude. To date, space experimentation has consisted of test flights for the purpose of calibrating the bioreactor for use in a low gravity environment. In the future the bioreactor will be used to grow a variety of tissues in a low gravity environment where tissue masses may grow to sizes and cell differentiation far beyond what can be achieved on the ground.

IV. MATERIALS RESEARCH

The goals of materials research in space during the last ten years have been to use the unique characteristics of the space environment to better understand the processes by which various materials are produced and to manipulate the properties of those materials. The role of gravity-driven convection in materials processing has been studied for a wide range of materials (Table 2), including electronic and photonic materials, metals, alloys, composites, glasses, ceramics, and polymers.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Interest in materials processing in space began to evolve in the late 1950's from a number of different disciplines. In considering the likely behavior of liquids and solidification processes in the low-gravity environment of an orbital spacecraft it was recognized that this environment might be useful for a variety of unique processes. This prompted a number of experiments utilizing drop towers, research aircraft flying parabolic trajectories, and small "carry on experiments" on the last several Apollo flights. The knowledge gained from these early experiments was used to develop the more sophisticated investigations which later flew on Skylab, Apollo-Soyuz and Spacelab.[14]

The materials-processing flight experiment program began in 1971 with a set of demonstration experiments performed on the Apollo 14 lunar mission.[15] During the trans-Earth coast period of that flight, a set of experiments was performed which verified that, in low gravity, mixtures of materials of different densities remain separate in their combined liquid state and during solidification. In other words, the materials do not settle into different layers because of sedimentation as they do on Earth. This set of experiments, referred to as the composite casting demonstration, is of special interest because it was conducted in the first space processing furnace, a precursor to some of the Skylab apparatus.[14]

Drop tower tests also proved to be of considerable value in the verification of experimental concepts and the development of apparatus flown on Skylab in the early 70's. One experiment for example, involved the dispersion and solidification, in a drop tower, of the two normally immiscible elements gallium (Ga) and bismuth (Bi).[14] The experiment produced a solid mixture, of finely dispersed Ga and Bi particles, which exhibited a unique temperature dependence of the electrical resistivity quite unlike that found in the pure materials. These results suggested that immiscible materials processed in space could form an entirely new class of electronic materials and led to the development of similar Skylab experiments. The longer periods of microgravity achieved in parabolic aircraft flights (10–20 seconds) permitted investigators to verify the functioning of many Skylab experiments as they were being developed.

TABLE 2: MATERIALS FLOWN SINCE 1982

Date	Mission	Instrument	Material
3/22/82	STS–3	Monodisperse latex reactor	Monomer: styrene, water
6/27/82	STS–4	Monodisperse latex reactor	Polymer
4/4/83	STS–6	Monodisperse latex reactor	Monomer: styrene and water
6/1/83	SPAR 10	Casting Furnace	Aluminum-copper
6/1/83	SPAR 10	Low-Gravity exothermic heating cooling apparatus	$Cu–Cu_2O–O$
6/1/83	SPAR 10	Automated directional solidification system	Manganese-bismuth
6/18/83	STS–7	Single axis acoustic levitator	Al_2O_3, Ga_2O_3–CaO–SiO_2, Ga_2O_3–CaO, Na_2O–B_2O_3
6/18/83	STS–7	Gradient general purpose rocket furnace	GeSe, Xe
6/18/83	STS–7	Monodisperse latex reactor	Monomer: styrene and water
2/3/84	STS 41–8	Monodisperse latex reactor	Monomer: styrene, water
2/3/84	STS 41–8	Acoustic containerless experiment system	ZrF_4, BaF_2, LaF_3
4/29/85	Spacelab 3	Vapor crystal growth system	Mercury-iodide
4/29/86	Spacelab 3	Fluid experiment system	Triglycine sulfate
6/17/85	STS 51–G	Automated directional solidification furnace—1 (low temperature version)	Bismuth-manganese
10/30/85	STS–61A	Single axis acoustic levitator	Al_2O_3, Ga_2O_3–CaO–SiO_2, Na_2O–B_2O_3, Ga_2O_3–CaO
10/30/85	STS–61A	Gradient general purpose rocket furnace	GeSe, Xe
10/30/85	STS–61A	Gradient general purpose rocket furnace	Lead-tin-telluride
1/12/86	STS–61C	Automated directional solidification furnace—2 (high temperature version)	Colbalt-samarium eutictics and peritectics
1/12/86	STS–61C	Electromagnetic levitator	Nickel-Tin
9/29/88	STS–28	Automated directional solidification furnace—2 (high temperature version)	Manganese-bismuth
6/5/91	SLS–1	Gallium arsenide furnace	Selenium doped gallium arsenide
1/22/92	IML–1	Vapor crystal growth system	Mercuric iodide
1/22/92	IML–1	Fluids experiment system	Triglycine sulfate solution
1/22/92	IML–1	Fluids experiment system	Water, ammonia chloride
3/24/92	STS–45		Gallium arsenide
6/25/92	USML–1	Zeolite crystal growth furnace	Aluminum and silicon
6/25/92	USML–1	Crystal growth furnace	Cadmium-zinc-telluride
6/25/92	USML–1	Glovebox	Dow 200 silicone oils with varying surface tensions
6/25/92	USML–1	Crystal growth furnace	Mercury-cadmium-telluride
6/25/92	USML–1	Crystal growth furnace	Mercury-zinc-telluride
6/25/92	USML–1	Crystal growth furnace	Selenium doped gallium arsenide
6/25/92	USML–1	Glovebox	Water, tellon
10/22/92	USMP–1	MEPHISTO	Bismuth and bismuth-tin

In broad terms, one very important outcome of the numerous materials processing experiments performed on Skylab, was the realization that microgravity experiments were sensitive to a host of secondary and tertiary factors that were not normally significant in a one gravity environment. Space experiments have demonstrated that when the manifestations of gravitational forces (such as sedimentation and gravity-driven convection) are reduced other forces such as surface tension and the wetting characteristics of the materials for their containers become predominant. Since those early experiments, the improvements made in analytical techniques, theoretical treatments and experimental hardware, are allowing investigators to explore those sensitivities quantitatively.

During the last decade much of the materials science research sponsored by the Microgravity Science and Applications Division has been directed at improving material properties and creating new materials through an improved understanding of materials processes. Results from microgravity experiments have acted to focus attention on determining the importance of surface tension driven convection in industrially important processes, such as Czochralski crystal pulling, and the floating zone configuration for growing semiconductor single crystals. Virtually all of the world production of silicon produced in single crystal form is produced by these two techniques.

A portion of MSAD research is also funded to carry out investigations in areas where theories are incomplete. As a result of NASA sponsored research, present theories and models are extended to encompass a wider range of problems. For example, new algorithms and mathematical techniques were developed by Julian Szekeley of the Massachusetts Institute of Technology to model the behavior of metallic melts that will be electromagnetically levitated in microgravity. They have subsequently been applied in the metals and semiconductor industries for the purpose of equipment design and quantitative prediction of important materials processing parameters in induction furnaces, induction stirring processes, continuous casting of metal alloys, magnetic damping of turbulent convection in high temperature semiconductor melts, and cold crucible processing of materials with highly corrosive melts.

Metals and Alloys

Dendrites are tiny crystalline structures formed from molten materials during solidification. The size, shape, and orientation of the dendrites determine to a major extent the strength and durability of metallic systems including steel, aluminum, and superalloys. Because many industrially important metal alloys solidify by dendritic processes, enhancing the basic understanding of dendritic solidification is essential to improving industrial production techniques. During the 70's and 80's Martin Glicksman et., al. of Rensselaer Polytechnic Institute performed extensive work with succinonitrile (SCN), a transparent analog to metals, in order to test current theories of dendritic growth. In the course of this research such a large historical database was compiled that SCN has arguably become the best studied dendritic system in the literature and the reference standard for almost all other work on dendritic growth. Findings from the ground-based work demonstrated the limitations of prior growth models, which did not adequately account for the effects of gravity driven convection. Unfortunately it is only at small undercoolings, where gravity effects dominate, that kinetic conditions are suitable for checking dendritic growth theories (Fig. 6). The Isothermal Dendritic Growth Experiment (IDGE) was developed over the last several years in order to study the effect of undercooling or dendritic development in the absence of gravity-driven fluid flows. The space experiment, scheduled for March 1994 on the second flight of the United States Microgravity Payload series, should provide the critical test of these theories.

Other model materials for metals, such as ammonium chloride (NH_4Cl), have also proven useful to investigators studying solidification behavior. Angus Hellawell (Michigan Technological University) used this system to study the formation of channels of low density materials during casting that produce "freckling" in metals, collecting

considerable information on the interaction of dendritices with the mushy zone. The occurrence of freckling in commercial materials, such as stainless steel and super-alloys, tends to limit the useful composition range of many alloys. Mary Helen McCay and Dwayne McCay (University of Tennessee Space Institute) have also performed extensive optical studies of the liquid-solid interface region during alloy solidification by using NH_4Cl. Experiments aboard suborbital rockets and parabolic aircraft flights revealed that the spacing of dendrite arms varies with g-level, indicating that gravity affects the concentration fields immediately adjacent to the dendrite arms. In order to better study solidification without the masking effects of gravity, the system was flown aboard IML–1 in 1992 as the Casting and Solidification Technology experiment. The growth rates of dendritic fronts were generally observed to be much faster in microgravity (factor of 2) and the dendrites developed a much finer, longer structure than seen on the ground. In fact the tip growth occurred at nearly the isotherm translation rate. Preliminary analysis of the results has indicated that, in microgravity, only shrinkage and solute diffusion effects cause mass flow. The enormous amount of data collected from the IML–1 experiment is still being sifted and comparison with ground-based studies is expected to yield considerable insight into the solidification process, including the phenomena which produce freckling.

Electronic materials

Non-silicon based materials often have unique properties not exhibited by the more mature, elemental semiconductor technologies. Examples include, bandgaps which allow direct conversion between light and energy, higher electron mobilities, and improved thermal and radiation tolerance. Much of the materials research sponsored by NASA's microgravity program during the last ten years has been concentrated in areas based on these newer materials, which include various Group III–V compounds (e.g. gallium arsenide) and Group II–VI compounds. However these compound semiconductors still retain stringent requirements for purity, uniformity and perfection. The results of numerous space experiments appear to confirm the expected advantages of growing semiconductor crystals in space, which include improved homogeneity, greater purity, and greater structural perfection.

Germanium Compounds. One area of long term interest in electronic materials research has been the study of vapor transport to grow semiconductor crystals. Herbert Wiedemeier of the Rensselaer Polytechnic Institute grew germanium selenide (GeSe) and germanium telluride (GeTe) crystals by chemical vapor transport on Skylab and Apollo-Soyuz, and by physical vapor transport on STS–7 in 1985 and STS–61A in 1985.[16] The space grown crystals generally showed greatly improved surface morphology and were nearly free of growth defects, leading to the conclusion that gravity-driven convection has a powerful influence on surface morphology. These experiments were among the earliest flight investigations to clearly demonstrate the superiority of spacegrown crystals over those grown on Earth.

Mercury Cadmium Telluride (HgCd(Tel). The results of Dr. Wiedemeier's early experiments were incorporated into further ground research using simpler model materials, which led to the development of a flight experiment using a material of technical interest, $Hg_{0.8}Cd_{0.2}Te$. HgCd(Te is important for its use in infrared detectors and thermal imaging arrays. The first direct measurement of Hg-vacancy concentrations in HgTc. $Hg_{0.8}Cd_{0.4}Te$ and $Hg_{0.6}Cd_{0.4}Te$ was accomplished in the course of the ground work. Such information is valuable for understanding and controlling the formation of defects during the crystal growth process. A layer about 80 micrometers thick of HgCdTe was successfully grown on a CdTe substrate during the 8 hour growth period for the primary sample aboard USML–1 in 1992. Preliminary analysis has revealed a greater than expected improvement in the surface structure of the flight samples compared to ground specimens, and also considerable improvement in both the crystalline perfection and chemical uniformity was measured.

HgCdTe was also used in solidification studies, such as those performed by Sandor Lehoczky and Frank Szofran of Marshall Space Flight Center, who studied methods of growing homogeneous HgCdTe crystals by solidification from bulk melts. Ground work greatly increased the understanding of gravitational limitations in the growth of bulk semiconductor materials such as HgCdTe. This knowledge was carried over to studies of materials with similar optoelectronic properties such as mercury zinc telluride. (HgZnTe) and mercury zinc selenide (HgZnSe). Zinc substitution appeared to stabilize the crystalline lattice and had the potential to lower defects densities in growing crystals. This work led to a directional solidification experiment, using $Hg_{0.84}Zn_{0.16}Te$, aboard USML–1 in 1992. Though this experiment was terminated prematurely, 5.5 mm of growth were achieved and this material is currently being analyzed.

Mercuric Iodide (HgI_2). Mercuric iodide, a nuclear detector material capable of allowing radiation levels to be measured over a range of wavelengths, is produced by a physical vapor transport process. Its utility as a room temperature, solid-state detector has generated a great deal of interest among agencies such as NASA and the Department of Energy, as well as private corporations. Potential uses cited by Lodewijk van den Berg of EG&G Energy Measurement Inc. include environmental monitoring and cleanup, detecting lead in the paint of old buildings, tracking radioactive isotopes in physiological tests, and the construction of large array x-ray and gamma ray telescopes. Thus far the use of HgI_2 has been limited by poor performance factors, such as low charge carrier mobilities and lifetimes, which are related to the structural perfection of the crystal. Research[17] prior to 1985 had indicated the HgI_2 crystal quality was degraded by the effects of gravity (mechanical deformation and irregular convection) during the vapor transport growth process. By growing HgI_2 in space it was hoped that higher quality crystals, with improved performance, could be obtained. Another goal of the experimental work led by Dr. van den Berg was to develop a system which could be used in space to perform critical vapor transport measurements, with the quality of the crystal serving as a test of the system's reliability.

Dr. van den Berg first grew a HgI_2 crystal in space about SL–3 in April 1985 using physical vapor transport. The initial characterization of the SL–3 crystal indicated a very high internal order and the measured charge carrier mobilities were at least a factor of two higher than Earth-grown crystals at that time. Detector efficiency was better than the best Earth-grown crystal by a factor of seven. As a result of the SL–3 experiment, investigators also learned that precise control of the temperature profile was extremely critical during the growth process. This knowledge was incorporated back in the ground-based work and in subsequent years considerable progress was made in improving the methods used to grow HgI_2, resulting in Earth-grown crystals comparable in quality to that obtained from SL–3. Advances were also made during that time in various crystal characterization techniques, such as synchrotron x-ray diffraction imaging. In 1991, a National Institute of Standards and Technology report was published on the use of this technique to re-evaluate several space-grown crystals, including HgI_2. The measurements indicated that lattice regularity might be of less importance to the performance of HgI_2 than the suppression of additional phases in the crystal. The report concluded that these results were so interesting that, "extraordinary efforts to thin samples of this material and to support them in innovative ways seems now to be justified."

A second HgI_2 experiment, performed on IML–1 in 1992, yielded a crystal of higher quality than crystals grown on the ground under the same conditions. Large improvements were also soon in the charge carrier lifetime and mobilities, helping to confirm the SL-3 results. The superior crystals obtained from the two space experiments and the more recent ground work, have recently led to requests by two commercial laboratories to transfer the crystal growth technology to the private sector for use in commercial apparatus development.

As a result of the IML-1 mission it was also confirmed that convective effects are created by gravity during the vapor transport growth process of HgI_2. Previously fluid dynamicists had not believed that such convection could exist due to the extremely low pressures involved. This finding has important ramifications to the field of vapor transport processing in general, and is also expected to lead to further improvements in HgI_2 crystal growth techniques used on the ground.

Magnetic Dampening. In some instances, research in preparation for space experiments in materials science has led to significant leaps forward in the way a large class of experiments and industrial processes are conducted here on the ground. The best known example of this is the use of magnetic damping to retard convective flows during the growth of electronic materials. August F. Witt and Harry C. Gatos at the Massachusetts Institute of Technology developed and applied this technique to an industrially important process for growing semiconductor single crystals (the Czochralski technique) while studying the potential effects of processing crystals in microgravity. Use of this technique by a number of American and Japanese electronic materials companies has brought a new dimension to industrial crystal growth research. It is considered by some to be the primary advance in terrestrial crystal growth research in the last two decades.

V. COMBUSTION RESEARCH[19]

The major objectives of the MSAD combustion research program during the last decade have been to develop understanding of, and define means of controlling and optimizing, combustion processes. Included in the program are studies of premixed gas combustion, gaseous diffusion flames, liquid fuel droplet combustion, particle cloud combustion, flame spread across liquid or solid fuel surfaces, smoldering combustion, and use of combuision processes to produce novel materials. To date, most of the NASA-supported

VOL 140 PT 16 AG 12 — 18 1994 UMI

activities have been ground-based, involving analytical modeling studies and testing in microgravity drop towers (2 and 5 seconds of available test time) at Lewis Research Center and in aircraft (LearJet and KC–135) flying parabolic trajectories to produce up to 20 seconds of reduced gravity. However, Robert Altenkirch's (Mississippi State University) Solid Surface Combustion experiment, which requires test times in excess of those which can be achieved in these facilities has been flown several times on the shuttle in order to gather a series of data points required for testing of modeling hypotheses. In those experiments flame spread was studied by igniting paper and plastic in a specially developed chamber and filming the resulting flame shape and propagation. Several other experiments to be flown on shuttle and/or in sounding rockets (which can produce micro-gravity test times of up to 12 minutes) are also in the development phase.

Microgravity combustion research has demonstrated major differences in structures of various types of flames in microgravity versus normal gravity environments. Significant differences in the sooting characteristics of diffusion flames under these two limiting gravity conditions (of major interest as regards pollutant production from everyday combustion devices) have been observed. Major differences have been documented between the ignition and flame-spreading characteristics of liquids and solids (e.g., plastics, wood, foams, pools of liquid fuels) in microgravity and normal gravity, of major importance as regards fire safety. Besides the immediate practical implications of these results as regards combustion efficiency (energy conservation), pollutant production (environmental considerations) and characterization of materials in terms of flammability (fire safety), these studies have established that better mechanistic understanding of individual processes making up the overall combustion process can be obtained by comparison of result gathered in microgravity vs. normal gravity tests. Potentially, this could lead to major redesign of combustion processes and combustor hardware to yield higher energy conversion efficiency, reduced pollutant production, and increased fire safety on Earth as well as in space.

Work to date has generated significant interest in the academic combustion community. Numerous publications generated under MSAD funding have been accepted in such prestigious journals as Combustion and Flame, Proceedings of the International Symposium on Combustion, and Combustion Science and Technology. Researchers have come to realize that they can obtain a much better understanding of combustion fundamentals through the extra "degree-of-freedom" afforded by experimentation at gravity levels other than normal; and through elimination of a major factor (buoyancy) which tends to obscure some of the more important fundamental phenomena under normal gravity experimentation.

Specific accomplishments of fundamental and widespread scientific interest and/or practical benefit under the Microgravity Combustion Research activity include:

(1) Between 1986 and 1991 several new phenomena related to droplet combustion were found in testing in the NASA Lewis drop tower. These included a new slow burning regime for droplets and disruptive burning in pure fuel droplets. Droplet combustion has been termed the most fundamental heterogeneous combustion problem by the combustion science community and is of longstanding interest.

2) Multiple discoveries, attainable only via microgravity experiments, related to premixed gas combustion (relevant to hazard control and the most basic combustion science) were made between 1986 and 1993. These include self-extinguishing flames, flame balls, flame cylinders, and dilution-enhanced flammability. These discoveries open a new recognition of the stabilization and extinguishment possibilities associated with combustion reactant absorption and product radiation.

3) The first low-gravity data on Burke-Schumann gas jet diffusion flames (a classical flame configuration treated in virtually all combustion textbooks) were obtained and analyzed in 1991. These data represent the first true verification of this zero-gravity theory available since its original development in 1928.

4) The first data on turbulent and transitional (from laminar to turbulent) gasjet flames in microgravity were recently obtained (1993) through droptower testing. Leading university researchers believe this type of microgravity investigation offers the most promising path toward development of understanding/prediction of turbulent combustion, of widespread practical interest since most commercial combustors operate in the turbulent regime.

5) A non-intrusive diagnostic instrument developed over the last three years, for the purpose of determining chemical species concentrations in drop-tower microgravity combustion experiments, has been modified for use in monitoring ammonia concentrations in power-plant smokestacks, an important environmental application.

6) Microgravity experiments (1988) revealing "chattering flame propagation" in freely suspended fuel particle clouds have led to theoretical developments regarding flame-acoustic interactions which have since been revealed to apply to triggering of acoustic instabilities in practical gas turbines.

7) Initial microgravity data were obtained in 1988 on smoldering combustion and air flow effects on solid and liquid material flammability and flame spread (both of great interest in the fire safety area) revealing a new extinction mechanism (radiative quenching) and a lesser-than-assumed margin of safety in acceptance criteria for use of flammable materials in microgravity environments. These data expand significantly the understanding of material ignition and flamespread phenomena.

8) A decades-old question about the ability of a candle to burn in near zero-gravity and the nature of the flame in that environment was addressed in a 1992 Shuttle experiment aboard USML–1. Surprising results included the observation of spontaneous flame oscillations prior to extinguishment.

(9) The first data on soot production (primary and aggregate soot sizes and quantities) in microgravity diffusion flames were collected in 1992; these data represent initiation of new studies on the effects of various parameters on soot generation, growth, and oxidation processes. The understanding which will be obtained from these studies has great potential practical benefits in combustor design and in many manufacturing processes such as carbon-black and carbon-fiber matrix production, and generation of new exotic materials such as fullerenes.

YN. FLUID PHYSICS

The objective of the microgravity fluid physics program during the last decade has been to improve the understanding of fluid dynamics and transport phenomena where fundamental behavior is limited or affected by the presence of gravity. The study of fluid physics in microgravity encompasses a broad range of topics dealing with such fluid behavior as interfacial phenomena, multiphase flow, and drop dynamics.

Fluid physics is often considered to be the central science with respect to microgravity research since nearly all processes studied or performed in low gravity involve a liquid phase and must manage liquid behavior. Thus the principles of fluid physics provide the foundation for most type of research performed in a low gravity environment. This includes biotechnology fields such as protein crystal growth, separation sciences, and cell culturing in space, which all involve the motion of either fluid buffers or electrolytes. Materials processing also relies extensively on melting and solidification processes, and these procedures generate complex fluid flows that affect the quality of the final product. Since gases are also fluids, combustion and fire safety in space requires a full understanding of fluid flow and transport. In addition to research considerations, the use of liquid fuels in space propulsion systems means that an understanding of the positions and motion of these fuels in tanks is critical for insuring proper spacecraft functioning. TThe development of future space technologies will also rely on improved understanding of fluid behavior. Welding in space and energy storage systems relying on solid-liquid transitions involve complex fluid flow issues that are not well understood.[20] In the future, effipient energy transfer and storage devices will require an understanding of how vapor-liquid systems flow and carry heat, and this requires improved understanding of multiphase behavior in liquids.

Although the surface forces in space are usually overshadowed on Earth, these forces remain important even at 1–g, making the field of interfacial phenomena in fluid physics highly significant for Earth-based processing activities. Welding and crystal growing from the melt on Earth are significantly affected by surface-tension forces which can effectively be studied only in space. Theoretical understanding of convection and mass transport behavior around growing crystals on Earth is also incomplete, and requires insights provided by space research into fluid flow.

Fundamental and applied studies on the effects of gravity on static and dynamic liquid-gas interfaces have provided information necessary to design and develop propellant management systems that can function effectively in a reduced gravity environment. For example, an Apollo 7 fluids experiment demonstrated that capillary forces could be used to move fluids in fluid management systems in space. This helped prove that scaling laws worked and could be extrapolated to design systems for fluid management which could only be tested on very small scales in 1–g. The use of this knowledge to design propellant systems such as that used in the Centaur vehicle, was considered it to be a major accomplishment of the early space program. While gaps in knowledge still require the use of conservative designs, the successful on-orbit operation of most propellant management systems in vehicles and satellites are directly dependent on many years of low-gravity fluids research.

Drop Dynamics. An area of fluids research which is particularly difficult to study on Earth is the behavior of free drops. Scientific interest in drop dynamics stems from the many scientific and technological areas in which liquid drops play a role, from studies of rain in the atmosphere to chemical processes. Some early work performed in this area at the Jet Propulsion Laboratory during the latter half of the 80's used drop tubes in order to study spherical shell formation, particularly methods of centering bubbles in liquid drops. Techniques were developed for forming shells from glass and plastics and a number of applications were suggested for such shells, including polymer cell encapsulation and bonding to form lightweight, energy absorbing structures. In 1988 a Center for Microgravity Research and Applications was established at Vanderbilt University to further the study of free liquid drops. Taylor Wang of the Jet Propulsion Laboratory (later at Vanderbilt University) performed preliminary experiments aboard SL–3 in 1985, using acoustic levitation to suspend and manipulate drops. These experiments were successful in conforming classical theoretical assumptions about drop behavior, but investigators were also intrigued by some of the results which were not expected. For example, under certain conditions, the bifurcation point (when a spinning drop takes a dog-bone shape to hold itself together) occurred earlier than had been predicted. In order to resolve some of the differences seen between experiment and theory, a series of drop experiments were conducted in the more advanced Drop Physics Module flown aboard USML–1 in 1992. The USML–1 results agreed well with theory under static conditions and allowed previous flight and ground experimental results to be reconciled with theory as well. Dr. Wang also reported that the USML–1 experiment had produced new insights into other centering mechanisms, of spinning compound drops, needed for encapsulating cells. While difficulties with the drop injection system prevented full success from being achieved on this mission, further investigations using somewhat modified hardware are being pursued aboard USML–2 in 1995.

Surface Tension Driven Convection. Variations in surface tension along the free surface of a liquid, caused by uneven temperature distribution, creates a flow in the bulk liquid known as thermocapillary flow. Since the 1970's most of the advances in understanding the phenomenon of thermocapillary flow resulted from research sponsored by MSAD. Much attention has been given to the study of themocapillary flow in recent years due to its important role in such applications such as crystal growth from melts, two-phase flows with heat transfer and themocapillary migration of bubbles and droplets.[21] It is known that thermocapillary flow becomes oscillitory under certain conditions but its cause is not completely understood. A number of studies performed during the last decade by Simon Ostrach et al. of Case Western University have focused on this phenomenon. The results of that experimental work suggested that free surface deformability played an important role in the oscillations. Dr. Ostrach has since described the oscillation as a three-way coupled flow that is among the most complex fluid phenomena yet understood. In order to test these theories, experiments were designed for flight aboard USML–1 and USML–2. The highly successful Surface Tension Driven Convection Experiment, flown on USML–1 in 1992, studied the velocity and temperature fields in detail in non-oscillatory thermocapillary flows. STDCE represented a milestone experiment in NASA's fluid program; using state-of-the-art diagnostics as part of the first combined theoretical, numerical, and experimental study of the thermocapillary flow phenomenon. Preliminary analysis indicates that the temperature data is in good agreement with Dr. Ostrach's numerical predictions, and data collected during this mission also allowed a complete description of fluid flows which remained steady over an extended period of time.

Laser Light Scattering. A laser light scattering instrument specifically developed for space experiments on colloidal fluids (liquids containing small particles, such as paint, milk, drilling fluids used in the oil industry, and other suspensions or slurries) has been demonstrated to provide accurate, non-invasive measurement of the size distribution of protein molecules in the human eye. Such distributions are believed to be a direct indicator of the progressive stages of cataract development.

TABLE 3: FLUIDS EXPERIMENTS FLOWN SINCE 1983

Date	Mission	Instruments	Expenment Title
6/1/83	SPAR 10	Acoustic levitation space processing rocket instrument	Containerless Processing Technology
6/18/83	STS–7 (MEA–A1)	Isothermal general purpose rocket furnace	Liquid Phase Misability Gap: Gradient Cooling Experiment & Isothermal Plunger Experiment
1/24/85	STS 51–C	Storable fluid management demonstration	Storable Fluid Management Demonstration
4/29/85	STS–51B (Spacelab 3)	Geophysical fluid flow cell	Geophysical Fluid Flow Cell Expenment
4/29/85	STS–51B (Spacelab 3)	Drop dynamics module	Dynamics of Rotating Oscillating Free Drops
7/29/85	STS–51F (Spacelab 2)	Super fluid helium experiment package cryostat and support electronics	Super Fluid Helium Experiment
10/30/85	STS–61A (MEA–A2)	Isothermal general purpose rocket furnace	The Diffusion of Liquid Zinc and Lead
10/30/85	STS–61A (MEA–A2)	Isothermal general purpose rocket furnace	Liquid Phase Miscibility Gap Materials
1/12/86	STS–61C (MSL–2)	Three axis acoustic levitator	Dynamics of Compound Drops
1/22/92	IML–1	Critical point facility with critical fluid thermal equilibration cell	Investigation of the Thermal Equilibrium Dynamics of SF6 Near the Liquid-Vapor Critical Point
6/25/92	USML–1	Glovebox	Nucleation of Crystals from Solutions in a Long-g Environment
6/25/92	USML–1	Drop physics module	Science and Technology of Surface Controlled Phenomena
6/25/92	USML–1	Glovebox	Interface Configuration Experiment
6/25/92	USML–1	Glovebox	Oscillatory Dynamics of Single Bubbles and Agglomeration in an Ultrasonic Sound Field in Microgravity
6/25/92	USML–1	Glovebox	Marangoni Convection in Closed Containers
6/25/92	USML–1	Surface tension driven convection experiment apparatus	Surface Tension Driven Convection Experiment
6/25/92	USML–1	Glovebox	Oscillatory Thermocapillary Flow Experiment
6/25/92	USML–1	Glovebox	Directed Orientation of Polymerizing Collagen Fibers
6/25/92	USML–1	Astroculture flight hardware	Astroculture
6/25/92	USML–1	Glovebox	Solid Surface Wetting Experiment
6/25/92	USML–1	Drop Physics Module	Drop Dynamics Experiment
6/25/92	USML–1	Drop Physics Module	Measurement of Liquid-Liquid Interracial Tension and the Role of Gravity in Phase Separation Kinetics of Fluid Glass Melts
8/12/92	STS–47 (Spacelab J)	Get away special	Nucleate Pool Boiling
10/22/92	USMP–1	Lambda point experiment	Heat Capacity Measurements Near the Lambda Point of Helium
6/21/93	STS–57 (Spacelab–1)	Get away special	Pool Boiling Experiment
11/10/93	STS–60 (Spacelab–2)	Get away special	Pool Boiling Experiment

The advanced technology development activities which enable much of this research is exportable to the U.S. economy. The National Institute of Health is currently considering how to modify this instrument for field tests by medical researchers.

Modeling Studies. As NASA investigators worked to solve increasingly complex problems in terrestrial and low gravity fluid behavior over the last decade, a need was created for highly sophisticated models of fluid behavior. Since 1986 a great deal of this fluid modeling work has been carried out at the Computational Research Lab at Lewis Research Center in support of various areas of both fluid dynamics and materials research. The lab frequently participates in technology transfer efforts as well, such as a recent consortium formed with B.F. Goodrich Aerospace Inc. and the University of Akron. The computational lab contributed is expertise on gas flows in physical vapor transport systems to a process improvement study on carbon/carbon brakes, which are an important export commodity of the U.S. Aerospace industry. In another recently concluded collaboration, this time with General Electric, the Lewis computational lab performed the necessary modeling for the growth of single crystal sapphire filaments. This work built on computational techniques initiated during the 1980's and currently being extended through MSAD sponsored research. The lab also serves as a source of in-house modeling expertise for other NASA or Government agencies which lack computational groups. From 1990 to 1993 the lab provided the training needed for research on silicon carbide as a replacement material for silicon in computer chips. Silicon carbide has higher temperature tolerances than silicon and has potential integrated circuit and sensor applications for use in airplane and high performance auto engines.

VII. SUMMARY AND CONCLUSION

Ten years of ground-based and in-space research in biotechnology, combustion science, fluid physics and materials science has allowed NASA's Microgravity Science Research Program to work toward preserving U.S. preeminence in critical aspects of space science, technology, and applications.

As a result of support and direction by the MSAD, a new paradigm for scientific investigations has been fostered in the microgravity science research community. It has been recognized since the days of Skylab that many of the key issues under investigation require an interdisciplinary approach to research. The close and coordinated efforts of investigators in materials science, fluid physics, chemistry, control systems, and a broad spectrum of engineering disciplines,

VOL 140 PT 16 AG 12 — 18 1994 UMI

bring to bear the rigor and expertise that is necessary to successfully address these problems in a meaningful way.

With the efforts of the past decade as a firm foundation, NASA's Microgravity Science and Applications Division will continue to seek to use the microgravity environment of space as a tool to advance knowledge; to use space as a laboratory to explore the role of physical phenomena, contributing to progress in science and technology on Earth; and to study the role of gravity in technological processes, building a scientific foundation for understanding the consequences of gravitational environments beyond Earth's boundaries.[22]

The authors would like to acknowledge the efforts of David Vu in collecting reference material for this paper and also give special thanks to Luisa Palting and Kristen Youngman for their assistance in document preparation.

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ORDERS FOR TOMORROW

Mr. MOYNIHAN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Saturday, August 13, that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein, with the period for morning business under the control of the Republican leader or his designee; that at 10 a.m., the Senate resume consideration of S. 2351, the Health Security Act, under the conditions and limitations as provided for in a previous unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. MOYNIHAN. Mr. President, if there is no further business to come before the Senate today, and I see no other Senator seeking recognition—I believe my colleague and friend agrees—I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:16 p.m., recessed until Saturday, August 13, 1994, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 12, 1994:

THE JUDICIARY

ROBERT J. CINDRICH, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA VICE GUSTAVE DIAMOND, RETIRED.

DAVID A. KATZ, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO VICE ALVIN I. KRENZLER, RETIRED.

SEAN J. MCLAUGHLIN, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA VICE GLENN E. MENCER, RETIRED.

DEPARTMENT OF STATE

ROBERT EDWARD SERVICE, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PARAGUAY.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. EDWIN E. TENOSO, 550-52-0387, U.S. AIR FORCE.

EXTENSIONS OF REMARKS

MASS MIGRATION FROM CUBA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. SHAW. Mr. Speaker, in 1980 Fidel Castro opened Cuba's borders and 125,000 Cuban refugees flooded the shores of south Florida. Many outstanding Cubans escaped Castro's brutal regime, but the boats at Mariel were also filled with convicts and the mentally ill. As a result of Castro's despicable behavior, much damage was done to south Florida's people and the good name of the Cuban people.

Now the dictator has again threatened a mass migration of his long-suffering people. Mr. Speaker, earlier this week 19 Members of the Florida delegation sent a letter to President Clinton asking him to bring Navy and Coast Guard assets into play to forestall this impending crisis. Last night Attorney General Janet Reno announced that the United States would use Navy and Coast Guard vessels to keep the situation under control. I urge the President to put those assets in place now.

The first lesson from Mariel is that swift American action is needed to prevent another mass migration from Cuba. Everyone in south Florida is well aware of the consequences of Federal inaction and lack of resolve. Let us hope that this time our President acts first to protect our borders and our laws.

NELSON MANDELA AND JOE SLOVO

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BURTON of Indiana. Mr. Speaker, while all of us are very pleased that violence has been reduced in South Africa and that a government of national unity is in place, we must not allow the euphoria of the moment to cloud our sober assessment of potential problems in the South African transition.

I commend to my colleagues' attention this recent article from the Washington Times by William Stearman, formerly of the National Security Council staff, about the strong influence of the South African Communist Party within the new government.

NELSON MANDELA AND JOE SLOVO

The most significant result of the recent South African elections seems to have gone totally unmentioned in the world media: The emerging dominant role of the South African Communist Party (SACP) in the new government officially announced on May 11.

Known members of the SACP in the new government include: The first deputy president (probable successor to 75-year-old Nelson Mandela); minister of defense; minister of safety and security (the police); and minister of posts, telecommunications and broadcasting (a key position for controlling the media). This is a textbook example of how communist parties have always tried to secure control over the military, the police and the media as an essential first step to taking over entirely. SACP members hold other important positions: minister and deputy minister of foreign affairs; housing (which will probably dispense a large part of the state budget); transport; sport and recreation; and a minister without portfolio. Ten other ministers and six other deputy ministers are African National Congress (ANC) members who may or may not be in the SACP, but who owe their positions to ANC committees controlled by an SACP majority and, therefore, are beholden to the party. Thus, the electoral victory has, in effect, actually brought the SACP to power.

I first learned of the SACP's control of the ANC when, during my last stint in the White House, I prepared briefing material on the ANC for President Bush. My research revealed that, contrary to popular belief, there is more than just an "alliance" between the ANC and the SACP.

The ANC is run by its National Working Committee and National Executive Committee, the present members of which were elected in July 1991. The SACP controls majorities in both committees. This dominant SACP role was confirmed in a revealing speech, not reported on outside of South Africa, given by the late Cris Hani, immensely popular ANC leader and once a probable successor to Mr. Mandela, on Nov. 16, 1991: "We in the Communist Party have participated in and built the ANC. We have made the ANC what it is today, and the ANC is our organization."

The ANC ws founded in 1912, and the Communist Party joined it in 1921. For at least the last 50 years, the ANC has been essentially a front for the party, with, of course, the kinds of diverse groups fronts always put forward. A Communist, Bram Fisher, wrote the "new" ANC Constitution in 1943. The Freedom Charter, still the ANC's credot and manifesto, was drafted in 1955 by SACP members Joe Slovo (who now heads the party) and Moses Kotane. In testimony before a U.S. Senate committee, in November 1982, Bartholomew Hlapane, former member of the SACP Central Committee and of the ANC's National Executive Committee, stated: ". . . no major decision could be taken by the ANC without the concurrence and approval of the Central Committee of the SACP. Most major developments were, in fact, initiated by the SACP. On Dec. 16, 1982, Mr. Hlapane and his wife were murdered in their home in Soweto by an ANC assassin.

Where does this all leave Nelson Mandela, who stated he has been "influenced by Marxist thoughts" but is not a Party member? Although he has been masterful and charismatic in representing the ANC, he has never claimed to be running this organization. Just after he was released from prison in February, 1990, he quite accurately described his position: "I am a loyal and disciplined member of the ANC."

At that time, it would have been simple and logical to have had him replace ANC President Oliver Tambo, who had long been seriously ill, but instead, he was eventually given the largely honorific post of deputy president. After leaving prison, he was, in effect, on probation for a year and a half before he was "elected" president. During this period, his first major trial was entering negotiations with President de Klerk at Groote Schurr, May 2–4, 1990. In these meetings, Mr. Mandela's performance was closely monitored by a watchdog contingent of four senior SACP members headed by General-Secretary Joe Slovo, who is both white and reputed (but not proven) to have been a colonel in the KGB. The party obviously thought this proctoring necessary, despite the considerably political liabilities it entailed. At present, Mr. Mandela is clearly more than just a front man and must have no small amount of influence in the ANC, but he does not have the final say. The party has.

Unlike most of the reform-minded or disillusioned communists and ex-communists in Europe, the South African Communists are true believers, less than Stalinst, but certainly, pre-Gorbachev. This became abundantly clear from the positions taken at the last Party Congress in December 1991. Time magazine (May 9, 1994) quite correctly stated it: "While they [SACP members] have forsworn Stalinism, Slovo still argues that 'only under socialism could you have a combination of political and economic democracy'." Mr. Slovo has got to be the most influential and powerful mover and shaker in South Africa today. The Freedom Charter, mostly drafted by Mr. Slovo and still to this day gospel for the ANC, states: "The national wealth of our country . . . shall be restored to the people; the mineral wealth beneath the soil, the banks and monopolies shall be transferred to the ownership of the people as a whole; all other industry and trade shall be controlled to assist the well-being of the people."

When elections became certain, the ANC virtually dropped all the references to nationalization or any other "socialist" programs both to keep the favorable (to them) political process moving to encourage foreign investments and aid. The ANC did, however, briefly show its hand when it announced on Jan. 14 an economic program which seemed to harken back to the Freedom Charter in calling for the nationalization of the "strategic areas" of the economy. However, on May 1 Mr. Mandela insisted there was nothing about Marxism or nationalization in the ANC's economic program.

One can, indeed, expect the new ANC regime to move slowly and deliberately in changing the economy, except for massive expenditures on housing (which Mr. Slovo will directly supervise) and other social programs. At this point, they do not want to destabilize the economy, encourage white flight or discourage foreign investment. Eventually, however, any Marxist-Leninist regime can be counted on to give higher priority to attaining, exercising and maintaining political control than to fostering a free and healthy economy. Such political control inevitably requires the kind of state-controlled economy the SACP and ANC have

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

79–059 O—97 Vol. 140 (Pt. 16) 24

VOL
140
PT
16
AG
12
18
1994
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been advocating for decades. Moreover, such a move is not likely to encounter much opposition from economically deprived voters who gave the ANC its smashing electoral victory.

While one can expect little change in the economic field in the near future, there are ominous signs that human rights might be affected much sooner by the new government. Bill Keller, New York Times correspondent in Johannesburg reported on April 24 that there were "nagging doubts about how devoted the next, presumably ANC-led Government will be to the rule of law. . . . Already the ANC has had minor skirmishes with human rights groups over its support for detention without trial and other extraordinary powers now that power is flowing into its hands." This recalls the revelation in October 1992 about widespread use of torture in ANC prison camps in Angola. Tanzania and Uganda. Geoffrey Wheatcroft, longtime British observer of the South African scene, warned in the Wall Street Journal on April 21: "Press Freedom is visibly under threat. Already there is a high degree of self-censorship by newspapers." He also noted increased ANC influence in the state-owned South African Broadcasting company now headed by an ANC member (who will now be working for a Communist minister.) In this regard, it is a fine irony that the SACP/ANC came to power only by being granted a freedom of expression and assembly rarely, if ever, enjoyed by such a powerful opposition in any other African country.

There are other things to worry about in South Africa. After the South African government announced, in march 1993, that it had a nuclear program, The Washington Post quoted a U.S. official as saying, "There are some members of the ANC who see all this (nuclear) materials as a large and useful toy, while there are others who would like to see it eliminated." (Under the new Communist defense minister, the former are likely to prevail).

The same Post piece also stated that, in this connection, the United States is concerned about the ANC's close ties with Moammar Gadhafi. As a matter of principle, one should not only worry about the ANC's ties with Mr. Gadhafi, but also with Fidel Castro and, in the recent past, with the Soviet union which, until 1990, had for decades been the ANC's main source of financing, arms, training and guidance. Such a long and close association had to have left its mark. The events now being set in motion by the ANC electoral victory should have become obvious when in a speech on Feb. 11, 1990, immediately after his release from prison, Nelson Mandela was so lavish in his praise of the South African Communists that a Washington Post editorial found his remarks "passing uncomfortable," and presently asked whether the ANC "is about to create another of the cruel, undemocratic and inefficient state-centered regimes that are collapsing in other parts of the world." Preventing this may well require at least as much international pressure as that which helped to end apartheid and to bring about the political process which brought the ANC to power.

INTRODUCTION OF REGULATORY REFORM LEGISLATION

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. FRANKS of New Jersey. Mr. Speaker, last month, the Northeast-Midwest Congressional Coalition Manufacturing Task Force released its report on the state of manufacturing in the United States. This report contains over 40 recommendations to assist this vital sector of our economy. Today, I am introducing comprehensive legislation to significantly change the Federal regulatory process, a key component of the report.

The manufacturing task force spent the last year examining barriers which inhibit the manulacturing sector and economic growth. As my colleagues are aware, one of the most frequently cited obstacles to prosperity is the vast scope of regulatory schemes which have created the perception of a government hostile to business. Indeed, with the Federal Government publishing 69,688 pages of new regulations last year, the regulatory process has become so complex that the Federal Register now teaches classes just so individuals can better understand this rulemaking journal.

This legislation would require agencies drafting a major new rule to complete a regulatory impact analysis. Although President Clinton recently announced a change in the regulatory process that could increase agency coordination and implementation of timetables, additional improvements must be adopted. The first step in this process is to reform the Administrative Procedures Act, which governs all rulemaking activity undertaken by the Federal Government. Under my bill, an agency would be required to complete an assessment of the potential impact of its action by completing a detailed checklist found in the bill's regulatory impact analysis.

The regulatory impact analysis will require answers to a series of commonsense questions, which include: The number of persons affected by the rule; the factual, scientific or technical basis for the agency's determination that the regulation will accomplish its intended purpose; estimates of compliance costs including paperwork, burdens, fines, fees, registration, etc.; any alternative approaches considered by the agency or suggested by interested parties and the reasons for their rejection; and whether parties may have to retain or utilize lawyers, accountants, engineers or other professional consultants in order to comply with the regulations.

By requiring regulators to answer these and other questions, my goal is not to eliminate regulations, but to cause regulators and regulated parties, to have full knowledge of the likely impact of a regulatory action before it is made final.

Mr. Speaker, I urge my colleagues to join me in cosponsoring this bipartisan regulatory reform measure.

RESOLUTION TO REMOVE THE PASSPORT RESTRICTION ON UNITED STATES TRAVEL TO LEBANON

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. RAHALL. Mr. Speaker, today I am introducing a resolution calling for the lifting of the travel ban to Lebanon, and replacing it with a travel advisory. In 1987 Secretary of State George Schultz issued a prohibition on the use of United States passports in Lebanon. The basis of such a ban came from "imminent danger to the public health or the physical safety of the United States travelers." (22 USC 211a). In 1987, the travel ban made sense, due to the ongoing civil war. Since the end of the civil war, the situation in Lebanon has dramatically improved. In particular, I would like to draw your attention to these important developments:

Despite the travel ban, Americans have traveled to Lebanon since last 1990, with more than 40,000 visiting in 1993. Most of these were Americans of Lebanese descent, the media, business people, and spouses and fiancees of Lebanese nationals. There have not been any hostile acts reported against these Americans, nor any kidnapings since the last hostage was released December 2, 1991.

On January 27, 1993, the United States Department of Justice announced that it would not extend Temporary Protected Status to Lebanese nationals in this country beyond April 9, 1993 due to improved security in Lebanon. this determination contradicts the State Department's rationale for maintaining the travel ban, instead of a travel advisory.

Reconciliation and reconstruction is underway in Lebanon. Between January 1993 and January 1994, Lebanon has awarded some 100 contracts worth $2.4 billion for both consultancies and redevelopment projects, mostly to French, Italian, and German contractors. For example, Alcatel-CIT of France and Ericcson of Sweden each received $22 million and Siemens of Germany $40 million for installing phone lines. Hyundai of South Korea was awarded $80 million and Clemessey of France was awarded $55 million for equipment and repairs to the Lebanese electric power system. American companies have the goods and the expertise that Lebanon needs for reconstruction. Unfortunately, U.S. firms are hindered in bidding for contracts because they cannot legally send American personnel.

In light of the above developments, a State Department travel advisory may be more appropriate than an outright ban on the travel of United States citizens to Lebanon. Take the cases of Algeria and Somalia where foreigners have been threatened and killed; and Bosnia where a civil war is still raging. For these countries, the U.S. State Department has only issued a travel advisory. Yet for Lebanon, as well as Libya and Iraq, there remains an outright ban on United States travel.

The safety of U.S. citizens is of paramount importance when considering a change in U.S. policy on the travel ban. Lifting the travel ban and replacing it with a travel advisory will enhance United States-Lebanese relations and bring about much needed stability for Lebanon. In particular, the participation of United States business in Lebanon's reconstruction can only further economic development and stability there. Such involvement will enhance United States-Lebanese ties to promote United States exports.

As you can see, the State Department's travel ban to Lebanon is no longer necessary in light of the above developments. The travel ban inhibits American businesses from participating in the reconstruction of Lebanon, slows the building of United States-Lebanese ties, and hinders much needed stability in the region. Such a ban serves no purpose to the United States or to Lebanon, and I strongly urge you to support this resolution to modify the travel ban to a travel advisory.

If you wish to cosponsor the resolution, or have any questions please call me or Mrs. Kyle on my staff at x-53452.

TRAGEDY IN THE STATE OF JAMMU AND KASHMIR

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to shed light on a terrible tragedy that is taking place in the Indian State of Jammu and Kashmir. This situation deserves the immediate attention of the international community. The Indian State of Jammu and Kashmir is being victimized by armed terrorists trained in Pakistan. This action is part of a proxy war being waged by Pakistan, which has had devastating effects on civilians, visitors, visiting diplomats, and Indian dignitaries.

One of the largest groups affected by the proxy war perpetrated by terrorists are the Kashmiri Pandits. These people are the original inhabitants of the valley of Kashmir. Since 1989, fundamentalists, under the influence of religious zealots in Pakistan and other terrorist nations, have pursued a murderous campaign against the Pandits in order to establish an Islamic state. Murder, arson, and rape have been used to terrorize this community, leading to a mass exodus. Leaving everything they owned, the Pandits have been living in subhuman conditions as refugees in their own country for over 4 years. These conditions have led to untimely deaths, physical and mental diseases, and a declining birth rate. Unless this problem is addressed soon, the Pandits' unique culture will become extinct.

Mr. Speaker, the United States should play a larger role in helping to bring peace to this region. We have always supported and defended democratic ideals. India, as the largest democracy in the world, deserves our support. Either through U.N. efforts or through congressional action, we should negotiate peace between India and Pakistan. In the meantime, we should condemn, as we have in past, the state-sponsored terrorism taking place in the valley of Kashmir.

HEALTH CARE REFORM

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. PACKARD. Mr. Speaker, as support for President Clinton's health care reform package continues to dwindle, the liberal leadership has cooked up a new proposal which landed on my desk just the other night. Advertised as "new and improved," the Clinton-Gephardt bill is different—it's worse.

My constituents continue to demand that I keep Big Government out of their doctor's office; and prevent bureaucrats from tinkering with their health care. However, the liberal leadership concocted a plan containing more Government—not less.

The Clinton-Gephardt bill creates a massive, new Government Health Insurance Program, called Medicare Part C. The Federal Government will have unprecedented control over health care delivery.

With more than half this country's population expected to enroll, the private sector will be driven out of the system, taking with it competition, choice, and quality.

Handing the Government more control over health care is ludicrous. The Federal Government already manages Medicare Parts A and B. Actuaries note that these parts of Medicare are technically bankrupt. Adding another layer to the Medicare boondoggle will only make the program more insolvent.

So while the liberal leadership tries to sell the Clinton-Gephardt bill as new and improved, more bureaucracy and more taxes are not the answer.

The American people are asking us to ensure access to health Insurance, to protect them from losing their insurance, and to control costs by reforming malpractice laws.

I urge my colleagues and the American people to read the Michel plan and the Dole plan. These plans give the American people what they want.

NAPERVILLE AND HAROLD MOSER

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. FAWELL. Mr. Speaker, it is particularly appropriate, as the city of Naperville, IL, moves beyond the 100,000 population mark, to examine the dynamics that converted this drowsy farm and college town of 9,000 into a thriving super suburb which retains its small town charm. First, there was the Burlington Railroad which, in the early 1950's, moved its suburban terminal to the west, from Downers Grove to Aurora. Second, and more important to Naperville, there was Harold Moser, proprietor of a local lumber business, who recognized that with vastly improved suburban train service, the potential future of Naperville was as bright as if it had been lifted into a bountiful new land.

And so, in late 1954, the plat for Moser Highlands No. 1 was recorded, Harold Moser's first development in the community's vital new era. This was the first of many subsequent new developments, all of which reflected his resolute commitment to the highest standards of design and planning. Other developers later joined in, but all followed the Harold Moser standards of excellence in providing the amenities which convey to the new resident a pride of ownership and a sense of community.

Mr. Speaker, there is much more to Harold Moser than the gift of vision and keen business acumen. All through the years, he has involved himself personally and diligently in a wide range of community activities, so that his neighbors have always known that he was one of them, and that their vital interests were of serious concern to him.

At this time, Mr. Speaker, I ask that my colleagues join me in taking note of Harold Moser's approaching retirement by joining me in congratulating him for his many past accomplishments, wishing him a retirement that exceeds his greatest expectation, and extending our own salute and say, "Thank You, Mr. Naperville!"

IN HONOR OF THE 20TH ANNIVERSARY OF CROSSROADS

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Ms. DELAURO. Mr. Speaker, I rise today to commemorate the extraordinary efforts of Crossroads, a remarkably successful substance abuse treatment program in my district.

Crossroads is a private, nonprofit residential substance abuse treatment program located in New Haven, CT. Since 1973, the dedicated staff at Crossroads has been serving the people of Connecticut, providing counseling and social services to substance abusers.

What began as a small substance abuse treatment program designed for the State's Latino population today has grown into a multicultural program for chemically dependent people from throughout the State. During its 20 years of service to the State, Crossroads established itself as the first facility in Connecticut to pioneer the treatment of chemically dependent pregnant women and women with children. At this time, Crossroads is providing treatment to over 100 clients at its two locations.

During these frustrating times of budgetary shortfalls and increasing program caseloads, Crossroads has proven that compassion, perseverance, and commitment can pay off in the effort to treat substance abusers. It is comforting to know that despite the disturbing trends in substance abuse, which depict more users starting at younger ages, treatment programs like Crossroads are not only rising to meet these challenges, but are actually succeeding in the face of such adversity.

The key to Crossroads' success has been its unique approach to treatment. Crossroads believes that an individual's path to recovery must involve counseling in all aspects of the person's life. To meet this goal, the devoted staff at Crossroads has instituted an effective treatment program that meets each individual's mental, physical, and spiritual needs. It is

VOL 140 PT 16 AG 12 — 18 1994 UMI

an impressive approach to substance abuse treatment that has withstood the test of time and made Crossroads a preeminent substance abuse treatment program in the State of Connecticut.

On this day, which marks the 20th anniversary of Crossroads, I want to take this opportunity to congratulate the people who have made Crossroads the model of success that it is today. In particular, I want to acknowledge Mr. Miguel Laguna, the executive director and cofounder of Crossroads, who has been with the organization since its inception. The people of Connecticut are indebted to Crossroads for the service it has provided the State, and I know that they join me in wishing the staff of this exceptional program another 20 years of good fortune and achievement.

FAMILY SERVICE CENTER ACT OF 1994

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. MENENDEZ. Mr. Speaker, today I have introduced the Family Service Center Act of 1994, a bill to reinvent the welfare office, and I invite my colleagues to join me in meeting this challenge.

My bill would authorize the creation of modern, efficient one-stop centers where families in need can have access to the Federal programs that can help them achieve self-sufficiency.

Regardless of how Members may feel about the effectiveness of these social programs, there is no down side to delivering them more efficiently. The time that welfare families spend going from government office to government office, waiting in line after line, leaves them no time and no opportunity to escape the welfare trap.

Working Americans have welcomed changes that cut the hassles of shopping, banking, and traveling, so we can do our work and spend quality time with our families. American industry has met our needs and cut its costs through neighborhood ATM's, and easy access to 24-hour 800 numbers, voice mail, credit cards, and automatic reservation systems. We need to use the American genius for good service in the world of welfare, so needy families can get on with the job of getting jobs.

Mr. Speaker, I believe the bill makes good, common sense. It cuts right to the heart of the redtape which holds people back from moving off of welfare, and wastes taxpayer dollars. I urge my colleagues on both sides of the aisle to join me in streamlining the system, and putting people back to work for less.

WELCOME TO PRESIDENT MELES ZENAWI

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BURTON of Indiana. Mr. Speaker, I would like to welcome Ethiopian President Meles Zenawi, Foreign Minister Seyoum Mesfin, and the rest of their delegation, who are here this week on an official visit. The young, dynamic, articulate President of Ethiopia and his government have instituted significant political and economic reforms in Ethiopia.

Three years ago, President Meles led the victory of the people of Ethiopia over Communist dictator Mengistu Haile Mariam and his murderous regime. Those of us who served on the Africa Subcommittee during the Mengistu era can appreciate the positive changes that have been wrought since 1991.

President Meles and his government have set themselves a daunting task: To build a democracy in a country that has never known democracy. They have made a very good beginning. We wish them well and offer our support for the furtherance of their mission.

COMMEMORATING NATIONAL MANUFACTURING WEEK

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing a resolution designating the week of March 12, 1995 as "National Manufacturing Week."

Last month, Congressman MARTY MEEHAN and I, as cochairmen of the Northeast-Midwest Congressional Coalition Manufacturing Task Force, released a national plan of action to revitalize America's industrial base. The 40 proposals in our report are designed to assist the manufacturing sector by pursuing the following five key objectives:

First, encourage the formation of private capital; second, reduce unnecessary regulatory burdens; third, create incentives to increase technology research, development, and deployment; fourth, enhance the skills of American workers; and, fifth, encourage companies to expand into international markets.

Our proposals will help supply the tools for investors to provide the capital; for manufacturers to develop the technology; for workers to obtain the advance training they need to secure high-paying jobs; and will assist small manufacturers by giving them the resources they need to compete more effectively in foreign markets.

The work of the task force represents the first time Congress has ever focused on the needs and problems facing the entire manufacturing sector. I am confident that this work lays out a blueprint for the revitalization of this vital segment of our economy.

Until recently, many in Washington and around the country believed that in the 21st century, the American economy would not need to rely on manufacturing as an engine of growth. This is simply not true. A few figures demonstrate the necessity of a vital industrial base. The manufacturing sector employs 17.8 million workers—16.2 percent of total U.S. employment. Manufacturers spend $30 billion per year on education and training. Manufacturing jobs pay, on average, 15 percent more than other jobs—with 98 percent of these workers receiving company-paid health benefits.

Manufacturers also are responsible for more than 70 percent of all research and development in this country.

However, over the past 15 years, the manufacturing sector has lost over 30 percent of its employment base. Congress needs to commit itself to ensuring that this vital sector thrives in a competitive world market.

It is for these reasons that I am introducing this resolution in creating National Manufacturing Week. I urge my colleagues to cosponsor this resolution in recognition of our Nation's manufacturers.

INTRODUCTION OF A BILL AMENDING THE RAILWAY LABOR ACT TO CLARIFY ITS APPLICABILITY TO WORK PERFORMED BY FLIGHTCREW MEMBERS OF U.S. CARRIERS ENGAGED IN FOREIGN FLYING

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. RAHALL. Mr. Speaker, today, along with a number of my House colleagues, I have introduced legislation to protect the public interest in uninterrupted international air service, and the stability of collective bargaining relationships between U.S. air carriers and their flightcrew employees—flight deck crewmembers and flight cabin crewmembers. It does so by confirming and clarifying that the Railway Labor Act applies to the U.S. air carriers and their flightcrew employees while operating to, from, or between points outside the United States.

Historically, air carriers and labor organizations have understood title II of the Railway Labor Act [RLA] to apply to U.S. Air carriers and their flightcrews when engaged in operations between the United States and foreign nations. Such carriers are increasingly engaged in providing service to additional points outside the United States by engaging in beyond operations from one foreign destination to another. For this and other reasons, the status of negotiated contractual work rules applicable to the overseas flight operations of U.S. air carriers, and the statutory scheme applicable to labor relations during such operations, needs to be clarified.

Recent court decisions have decided questions about the reach of the RLA by relying upon a presumption against extra-territoriality as well as the uncertain terms of the statute itself. But this approach does not effectively guide the courts or the parties in dealing with overseas flight operations of a U.S. carrier, which are essentially extensions of the carrier's domestic operations and are conducted by flightcrews who operate interchangeably throughout the system. As a result, neither the public nor the parties can be certain that the industrial stability fostered by the RLA will protect the public while traveling in the foreign operations of U.S. carriers.

This bill as introduced preserves the RLA's preference for systemwide collective bargaining agreements and permits such agreements to be enforced in the statutory adjustment

board in accordance with the parties' intent. The bill also prevents either a U.S. carrier or a flightcrew labor organization from evading its obligations under the RLA by simply relying on the geographical location of a particular operation or event within the system.

Finally, in order to foster the prompt and orderly settlement of disputes, the bill if enacted will confirm that the RLA and agreements negotiated under it, apply to U.S. air carriers and their flightcrew employees when engaged in operations to and from, or between points, outside the United States.

It is well to note that U.S. airlines and their labor unions have, to date, proceeded as if the RLA and the labor contracts negotiated under it follow the aircraft of U.S.-flag airlines and their flightcrews in both domestic and international operations regardless of their point of operation at any particular moment in time. This is similar, if not identical, to the rules and procedures followed under Maritime law involving U.S. Flagships.

The bill will prevent either a U.S. air carrier or one of its flightcrew labor organizations from evading its obligations under the RLA by simply relying on the geographical location of a particular operation or event within the system. For example, a flightcrew labor organization could not conduct a work stoppage against the U.S. air carrier's foreign operations while such strikes are prohibited under the RLA, nor could the carrier fire or discipline flightcrew employees for engaging in union activities protected under the RLA simply because they are assigned in whole or in part to the carrier's operations outside the United States.

The provisions in the bill apply only to flightcrew employees—pilots and flight attendants—who are the employees engaged in the actual operation and service aboard the aircraft as they traverse international boundaries in global operations. The bill leaves untouched the labor relations arrangements applicable to foreign nationals employed by U.S. carriers to provide ground service and related services at foreign airports. Such ground service employees are frequently represented by unions in their home countries under the laws of those countries.

I hope that my colleagues will join me in cosponsoring and supporting enactment of this bill. If you have any questions, or wish to cosponsor the bill, please call me or Mrs. Kyle on my staff at 5/3452.

VETERANS' PERSIAN GULF WAR BENEFITS ACT

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Ms. BROWN of Florida. Mr. Speaker, earlier this week, the House of Representatives overwhelmingly approved H.R. 4386, the Veterans' Persian Gulf War Benefits Act, which was introduced by Congressman SONNY MONTGOMERY. I commend Chairman MONTGOMERY for all of his work to bring this much-needed bill to the floor and the members of the Veterans' Affairs Committee for responding to Persian Gulf veterans suffering from the Persian Gulf syndrome and their families.

H.R. 4386 provides compensation to Persian Gulf war veterans who suffer from chronic disabilities resulting from a combination of undiagnosed illnesses commonly referred to as the Persian Gulf syndrome. Although I strongly support this bill, I am very disappointed that a large group of veterans will not be eligible for this disability compensation because those Persian Gulf veterans who participated in the military's early separation benefits programs cannot receive disability compensation until they pay back their separation benefits.

During the Veterans' Affairs Committee's markup of H.R. 4386, I attempted to offer an amendment to make these veterans eligible for the disability compensation right now. The amendment was supported by the American Legion, Disabled American Veterans, Veterans of Foreign Wars, and Vietnam Veterans of America.

Unfortunately, I had to withdraw my amendment because the Congressional Budget Office [CBO] was unable to estimate its cost due to its backload of health care bills. It was clear from the discussion during the full committee markup that Members believe that this is a serious issue which needs to be addressed. As a result, I intend to continue my efforts to look for legislative vehicles to solve this problem.

This problem developed in the early 1990's, when Congress established early military separation benefits to help the Defense Department reduce the size of the Armed Forces. Congress included restrictions on these programs preventing military personnel who receive early separation benefits from receiving disability compensation from the Department of Veterans Affairs until the benefits are repaid.

When Congress approved these restrictions, it could not have foreseen the Persian Gulf syndrome and its devastating effects on these veterans and their families. Many of these disabled veterans are unable to work and their families are faced with financial hardship. It is only fair and decent that we provide these veterans with the same disability benefits as any other veteran.

I believe that this view is best summarized in a letter that I received from the Veterans of Foreign Wars supporting my amendment. "To disallow these heroic American from receiving the benefits dictated by H.R. 4386 until their separation benefits are repaid would be both cruel and unfair."

RUSSIA'S CAPRICIOUS ECONOMIC POLICIES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. SOLOMON. Mr. Speaker, "these days, most of Yeltsin's actions have nothing to do with establishing a market economy." This remarkable quote by the ousted Russian finance minister Boris Fyodorov appears at the end of an article by Peter Fuhrman which appeared in the August 15 issue of Forbes. The article describes the capriciousness of Russian economic policy and how this is severely disrupting the investment plans of Western oil companies. Indeed, many companies which were enthusiastically investing in Russia just 2 years ago are now ceasing operations and talking of pulling out altogether.

The reason is that the Russian Government, whether it be Boris Yeltsin's executive branch or the newly elected parliament, cannot make up its mind as to whether Russia should be a modern, market-driven country, or whether it should remain in the dark ages of statism. Lately, the government, including, and especially Yeltsin, has been choosing statism.

For instance, the Philbro Corp. invested in Russia 4 years ago under a guarantee that it would be able to export oil from Russia free of duty. Now, thanks to a few of the more than 3,500 decrees Yeltsin has issued in the past 18 months, Philbro has been slapped with retroactive taxes of up to 70 percent of revenues. Yes, that's revenues, Mr. Speaker. Additionally, Yeltsin stripped Philbro of a drilling license. Just like that.

It's no wonder foreign investment in Russia is drying up, Mr. Speaker. The markets are responding as they always do, swiftly and logically, to the uninviting business climate in Russia, which exists courtesy of the Russian Government.

It's interesting to note that the U.S. Government is responding as it always does too, Mr. Speaker—slowly and illogically. For, while the markets are already giving an emphatic thumbs down on Russia's performance, the Clinton administration and this Congress are still under the delusion that there is a serious reform effort going on in Russia.

By the time Government wakes up to this fact, billions of American taxpayer dollars will have disappeared without a trace.

I submit the Fuhrman article for the RECORD.

WHAT BORIS GIVES . . .

In 1990 Philbro Energy, a subsidiary of Salomon Inc., became the first large U.S. investor in the Russian oil business. Philbro formed a joint venture with a Swiss partner and a Russian partner, poured $115 million into a large field in western Siberia, and today the field is pumping 28,000 barrels a day. Half the production is being exported to Western Europe, at a profit, after transport costs, of around $10 a barrel.

An early success of capitalist investment in postcommunist Russia? No. Philbro is talking about pulling out. Blame the unpredictability of Russian law. In the three years since Philbro began doing business in Russia, Boris Yeltsin has issued thousands of decrees, some of which annulled terms of the contract Philbro signed. Annulled, for example, is a guarantee that Philbro could export oil free of Russian export taxes. In its place are new taxes—many applied retroactively—that effectively grab 70 percent of Philbro's gross revenues—not profits, revenues. Another Yeltsin decree retroactively stripped Philbro of one of its drilling licenses and transferred the license to a tribal group in Siberia.

"Our contract has been constantly breached, and we're being treated like a bunch of suckers," fumes an exasperated Philbro executive.

Philbro is not the only sucker. Gulf Canada is cutting off all additional investment in an

VOL 140 PT 16 AG 12 — 18 1994 UMI

oilfield near the Arctic Circle, where it has already committed $60 million. The company says its Russian tax bill exceeds 100% of its total revenues. "Where I come from," volunteers a Gulf Canada engineer, "that's called expropriation."

Expropriation and worse is the inevitable result of a system where the rule of law is not firmly established. Last year Yeltsin issued 2,300 decrees, and he is on course to top that number in 1994. He is using the decrees as currency to buy political support from the military and the bosses of Russia's large oldline industrial companies.

The decrees lavish benefits on the politically valuable: cheap government credits, lucrative export licenses, exemptions from privatization rules, protection from foreign competition and outright exemptions from tariffs and taxes. Andrey Illarionov, who recently stepped down in disgust as one of the Russian government's top economic advisers, estimates the total of Yeltsin's handouts at $40 billion.

Aeroflot and Avtovaz, the manufacturer of Lada cars, have gotten sweet deals—both receiving exemptions from import duties and taxes. The Russian Army wangled a decree allowing it to keep more of the money made from arms exports. The generals are using the windfall to invest in Moscow real estate.

The richest giveaways are in Russia's oil and gas industry. Yeltsin has kept domestic oil prices low—currently $6.50 a barrel—to hold down transport costs. But to make it up to the big Russian oil companies, he has raised taxes and export levies on foreign oil companies while eliminating them on Russian oil firms.

The new taxes on Western companies have brought in about $100 million so far, but the concessions to Russian oil exporters have cost the Russian Treasury ten times that amount in lost tax revenues. Worse, it has all but stopped the flow of badly needed foreign investment into the industry. Last year the U.S. Congress earmarked $2 billion for credits and guarantees to companies willing to invest in Russia's oil industry. So far not a penny has been claimed. Government credits or not, the oil companies don't trust Yeltsin.

Yeltsin is aware that his free hand with tax benefits was costing Russia badly needed tax revenues and badly needed foreign investment. So, a month before the recent G–7 summit in July that discussed aid to Russia, Yeltsin issued a decree that promised to exempt Western oil companies including Phibro and Gulf Canada from the $5-a-barrel export tax on July 1.

But when July 1 rolled around, nothing happened. The Western oil companies are still paying the tax, and the Russian companies are not.

Adding insult to injury, Yeltsin recently revoked a May decree doing away with special export licenses that channeled virtually all of the $12 billion in annual oil exports through a small group of Russian firms. According to a former minister of economics under Yeltsin, these licenses are the major source of government graft: To obtain one, Russian companies fork over to bureaucrats a bribe equal to 10 percent of the expected annual revenues from the license.

Yeltsin apparently gets many of his oil policy ideas from Russia's prime minister, Viktor Chernomyrdin. A former Communist Party technocrat, Chernomyrdin used to be the boss of Gazprom, the state gas monopoly that is now Russia's largest and most profitable company. Last December a Yeltsin decree exempted Gazprom from paying import duties and taxes. Gazprom also has a special deal that allows it to convert the dollars it earns on gas exports into rubles at double the official rate.

Instead of remedying the mess, Yeltsin apparently thinks he can paper it over with smart flackery. In June Chernomyrdin met with Bill Clinton in Washington and signed a production-sharing agreement with a consortium led by Marathon Oil to develop, at a cost of $10 billion, an offshore field near Sakhalin island. The White House hailed the agreement as history's largest investment in Russian oil.

In fact, the agreement was pure theater. Marathon executives say the signing was carefully staged. Marathon and its partners will invest nothing unless there are big—and irrevocable—changes in Russia's tax and property laws. Not likely.

"These days, most of Yeltsin's actions have nothing to do with establishing a market economy," an exasperated Boris Fyodorov, the former finance minister, tells Forbes. "It's a replay of the last days of Gorbachev, with the leader talking about reform while giving favors and privileges to the groups who most strongly oppose it."

TRIBUTE TO MARY BLOTNA

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. DURBIN. Mr. Speaker, I rise today to pay tribute to Mary Blotna, postmaster at Piasa, IL, in honor of her retirement from the U.S. Postal Service. For over 31 years, Mary Blotna has been working to enhance the quality of mail delivery in the United States and the quality of life in her community.

In addition to a long and successful tenure with the U.S. Postal System, she has been an active member of the National Association of Postmasters of the United States, serving as both State President and National Vice President. Mary has served in the Chamber of Commerce and the PTA, has volunteered for the Salvation Army and the Heart Fund, served as an adviser to the local 4–H Club, and has been a long-time Sunday School teacher.

Mr. Speaker, Mary Blotna is one of the most dedicated public servants I know, both on and off the job. She is to be congratulated for her many past successes and her continuing contributions to her community.

TRIBUTE TO GAYLE B. "SAX" SAXTON

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to honor an outstanding individual on his receiving the Michigan High School Athletic Association's Allen W. Bush Award. Mr. Gayle B. "Sax" Saxton, of Houghton Lake, MI, has served the community for over 30 years as an athletic instructor, teacher, administrator, confidant, and friend to the many people whose lives he touched.

Using athletic competition as one of his classrooms, he taught many students the lessons of sports and life. He served both as a friend and adviser to faculty, students, and community leaders.

Sax began his long and distinguished career in the early 1930's when, as a high school student, he began writing sports columns for local newspapers. His enthusiasm continued to grow as he pursued his interest in athletics and began coaching and competing in football, basketball, and track. His service to the community was interrupted when he answered the call to defend his Nation and entered the U.S Army during the Second World War.

For over 30 years, Sax has been synonymous with Houghton Lake sports. He is an honorary member of the Michigan High School Football Coaches Association and a member of the Alma College Hall of Fame for both track and football. Sax has also earned the respect of his peers for his play-by-play broadcasts of football and basketball games on a local radio station, and his weekly column, "Sax Says," which he continues to write for the Houghton Lake Resorter.

On September 2, 1994, during half-time of the Houghton Lake Bobcats football game, students, coaches, teachers, friends, and family will gather to honor Sax for his outstanding contributions and leadership to the community in his three decades of coaching and participating in interscholastic sports. His accomplishments will long be remembered with the Gayle B. Saxton annual elementary basketball Tournament, which he started over 25 years ago.

Although Sax retired as principal of Collins Elementary School in 1982, his presence is still felt throughout the community. Sax attends numerous sporting events throughout the area where he is recognized and greeted by fans, coaches, and players.

Mr. Speaker, Gayle B. Saxton is truly deserving of the Allen W. Bush Award. I know you will join me in congratulating Sax for his long and distinguished career as a sports enthusiast. His qualities help make Houghton Lake an outstanding community.

TRIBUTE TO EUGENE "GENE" MAYDAY

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BILBRAY. Mr. Speaker, on August 10, 1994, my good friend Eugene "Gene" Mayday passed away. Gene and his wife Geraldine came to Las Vegas in 1964 and started a Checker Cab Co. which grew into one of the largest and most successful cab companies in Nevada. He also was successful in the gambling business and was renowned throughout the international gaming community as a gamer who would take any sports bet in any monetary amount, large or small.

Gene was a respected member of the Las Vegas community, a devoted husband and loving father and grandfather. Debbie, his daughter, and his two grandchildren, Tracy and Katie, were the light of his life. Every time I spoke to him he would talk about his granddaughters and tell me about playing with them.

Las Vegas will miss Gene Mayday. I will miss my friend who was taken from us too early in life.

May God bless you and keep you.

TRIBUTE TO DAVID GURNICK

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BERMAN. Mr. Speaker, we are honored to pay tribute to David Gurnick, the outgoing president of the San Fernando Valley Bar Association. Under David's dynamic leadership, the San Fernando Valley Bar Association has had an outstanding year. His successors will have a hard act to follow.

David's record speaks for itself. During his tenure, the SFVBA adopted a long-range strategic plan, increased membership, accumulated an historic budget surplus and began publication of two new periodicals: The Valley Lawyer Magazine and Bar Notes. In addition, David displayed a keen sense of community when he organized the association's pro bono efforts following the devastating Northridge earthquake.

David is clearly a young lawyer on the rise. Since graduating with his law degree from Boalt Hall in 1984, he has become a partner in the firm of Kindel & Anderson, written numerous articles on franchise law, and is a member of the editorial staff of the ABA Franchise Law Journal. During his brief but busy career, he has also served as judge pro tem of the Los Angeles Municipal Court and is a trustee of the Los Angeles County Bar Association and the Olive View/UCLA Medical Center.

We ask our colleagues to join us today in saluting David Gurnick as he steps down after a highly successful year as president of the San Fernando Valley Bar Association. He is a man who cares deeply about his profession and his community.

INTRODUCTION OF THE MARITIME REGULATORY REFORM ACT OF 1994

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. TAUZIN. Mr. Speaker, I rise to announce the introduction of the Maritime Regulatory Reform Act of 1994. On August 10, Secretary Federico Pena, submitted the act as a legislative proposal and requested its introduction. This act is the product of a cooperative effort between the Department of Transportation, the Coast Guard, various members of the U.S. maritime industry and the Subcommittee on Coast Guard and Navigation. During the 103d Congress, our subcommittee has held three hearings on the maritime regulatory reform issue. I am pleased to see that our efforts have resulted in a bill that, in Secretary Pena's words, promises "to reduce the economic burden on United States-flagged vessels by streamlining certain requirements, by expanding the delegation of the performance of marine safety functions to third parties, and by broadening the Coast Guard's marine safety authority to accommodate these changes." This bill seeks to improve the efficiency and effectiveness of Coast Guard safety regulations; it is not intended to result in any reduction in the safety of life at sea or protection of the marine environment.

This bill hit the fast track within the administration because it is a specific example of the White House's goal to reinvent the way the Federal Government does business. On August 11, 1994, the Subcommittee on Coast Guard on Navigation heard testimony on the reform proposal. Within the varied interest represented on the witness panel, there was a consensus of support for the goals of the reform package. Because the administration's proposal has not had the luxury of a long period for its review, the subcommittee is seeking additional comments from those individuals who might be affected if this bill is enacted. I have tentatively scheduled a subcommittee markup of the bill in early September, and welcome any suggestions to improve the act.

U.S. INTERNATIONAL POSITION ON GLOBAL CLIMATE CHANGE TREATY

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. DELAY. Mr. Speaker, the Clinton/Gore administration is about to stumble into another foreign policy mistake. I'm not talking about Bosnia, Haiti, or North Korea. I'm talking about an important international environmental issue—global warming or global climate change.

In 1992, the United States signed an international treaty to reduce the emissions of gases which some claim may cause global warming. The U.S. Senate ratified the treaty in late 1993 and it went into effect only in March of this year. Already, however, the Clinton administration has concluded that this treaty is not adequate to deal with the issue of global climate change and that more needs to be done.

In a speech at the U.S. State Department on August 3, Under Secretary of State Tim Wirth asserted that the treaty is inadequate and that the first priority for the United States is to convince the international community to set a new aim to control emissions after the year 2000. This new "aim" is a code word, Mr. Speaker, for new international environmental standards, standards that the administration knows would not be approved if brought before Congress.

This simply does not make sense. According to John Shlaes, executive director of the Global Climate Coalition, "The President's voluntary climate action plan, which is just getting underway * * * indicates that the bulk of emissions reductions and energy savings will occur between 2000 and 2010." How can the administration have come to the conclusion now that new standards are needed for the years after 2000?

Furthermore, although the treaty went into effect just 4 months ago, the administration wants to make changes that cannot be justified by the state of the science on climate change. In fact, the U.N.'s next assessment of the state of scientific understanding of climate change is still in the process of being developed and is not scheduled for release until the fall of 1995.

Amending the treaty to include additional directives could also have dramatic negative consequences for the American economy. Some of the policies that could be necessary to implement new international environmental standards could dramatically raise energy prices and cost our economy hundreds of thousands of jobs. And we would be harmed more than some of our international trade competitors.

Mr. Speaker, we do not need a United Nations bureaucracy setting new environmental mandates for the United States. As the U.S. delegates leave this coming week for a round of talks in Geneva on implementing the Climate treaty, they should resist any calls for new limitations beyond what is in the treaty.

AMERICAN TAXPAYERS DESERVE BETTER CRIME BILL

HON. ROD GRAMS

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. GRAMS. Mr. Speaker, I rise in strong opposition to the rule for the crime bill's conference report. This so-called crime bill is nothing more than an election year feel-good measure designed to trick the American voters into thinking we have done something to reduce crime while picking the pocket of taxpayers to the tune of over $33 billion.

The American people have rightfully asked Congress to get tough on criminals and once again Congress has failed by providing a bill that only punishes law-abiding taxpayers and coddles criminals.

Look at the facts: The crime bill grants over 9 billion dollars' worth of failed social spending for our big-city mayors while not requiring criminals to serve their full sentences.

Mr. Speaker, the crime bill is soft on criminals and tough on taxpayers. Let's stop playing political games with our Nation's safety and vote "no" on the rule.

VOL 140 PT 16 AG 12 — 18 1994 UMI

INTRODUCTION OF THE PRESIDENTIAL IMMUNITY ACT OF 1994

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. ROSE. Mr. Speaker, today I am introducing legislation that will provide civil immunity for the President of the United States against suits for money damages filed against him or her. This legislation will prevent time-consuming, legal harassment that is detrimental to the Office of the President, but will not prejudice any individual who has a valid lawsuit.

The election of the President is the ultimate exercise of democracy by the American people, and the President must be free to give undivided attention to the duties and responsibilities of the office. Unwarranted allegations harm the Office of the President. Our Chief Executive and Commander in Chief should not be preoccupied with arranging defenses to a multitude of lawsuits. The United States is best served by a President whose schedule is free of depositions and court appearances. The need to defend against even frivolous suits takes too great a toll on the President's energies, energies better put to use in guiding the Nation through crises abroad and at home.

The President of the United States, like any public figure, is vulnerable to unwarranted and frivolous lawsuits. A President is a likely target of headline seekers and those looking to make a quick buck. Such allegations against a sitting President may eventually be proven false, or simply disappear, yet damage to the office may remain.

This is not a partisan issue. Presidents of both parties are just as vulnerable to unwarranted allegations and frivolous lawsuits. Every President should be free to conduct the business of the Nation without fear of this type of harassment.

My legislation frees the President from legal harassment and allows him or her to continue to do the job he or she was elected to do without distraction. It immunizes the President from any civil suit for money damages filed in any court, State or Federal, until 180 days after the President leaves office. Once the former President has settled back into private life, the immunity disappears.

Of course, my legislation does not assume that every lawsuit filed against a current or former President is frivolous, and I do not argue that any person is above the law. There will be instances where an individual has a legitimate complaint against the President. Because the period that the immunity applies is not counted as part of any statute of limitations, a person with a legitimate lawsuit will not be prejudiced by this legislation. He or she can file the suit after the immunity no longer applies.

It is unfortunate that there is a need for this legislation, but there is no denying the power of unwarranted lawsuits to dominate headlines, ruin reputations, and create distractions. Matters of national significance may not receive the attention so very necessary for the well-being of this country. For the good of our Nation, I urge my colleagues to support this bill.

RELIEF EFFORT IN RWANDA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BURTON of Indiana. Mr. Speaker, the humanitarian tragedy unfolding in Rwanda has rightly gripped our attention and our hearts. When human beings suffer, it is the responsibility of fellow human beings to help in any manner they can. I would like to take this opportunity to express my admiration and appreciation for all the tireless and selfless efforts of those governments, private groups, and individuals that have responded to the Rwandan catastrophe.

In particular, Mr. Speaker, I would like to commend the Government of the Republic of China on Taiwan for their commitment to the relief effort, and Tipper Gore, the Vice President's wife, whose sincerity, caring, and personal involvement during a recent visit to the refugee camps in Goma, Zaire so inspired the American people.

I would like to enter into the RECORD a letter I received from the representative of the R.O.C. about their relief effort, as well as an article from the Washington Times about Tipper Gore's moving visit.

COORDINATION COUNCIL FOR
NORTH AMERICAN AFFAIRS,
Washington, DC, August 1, 1994.

Hon. DAN BURTON,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BURTON: I am writing to inform you of the decision of the government of the Republic of China (ROC) on Taiwan to donate U.S.$2 million to the refugees in Rwanda. It has been followed by a private campaign among ROC citizens to provide medical service and relief goods for the refugees.

The situation in Rwanda is an excruciating one. The tragedy of the Rwandan refugees is beyond comprehension. The Republic of China on Taiwan wishes to join the international community in extending our helping hands.

We have participated in such international humanitarian relief efforts many times, but lack of U.N. membership has always made it difficult for us to funnel our donations into concerted international efforts. This is one of the reasons why we are vigorously seeking U.N. participation.

I sincerely hope that in seeking our membership in the U.N., we could continue to count on your moral support of our just cause.

With warmest regards,
Sincerely,

MOU-SHIH DING,
Representative.

[From the Washington Times, Aug. 9, 1994]

TIPPER HELPS RWANDAN REFUGEES

GOMA, ZAIRE.—Doctors working among sick and hungry Rwandan refugees were assisted yesterday by Tipper Gore, wife of Vice President Al Gore.

Mrs. Gore spent nearly five hours in the largest refugee camp, Kibumbo, aiding Rwandans weakened by malnutrition and potential killers such as cholera and dysentery. On Sunday, she bathed and fed orphans.

"The situation has seemed to turn the corner in respect to the level of dying, but it's still very dire," Mrs. Gore said outside the hut of a woman near death from dysentery, now the principal cause of death among the nearly 1 million refugees around Goma.

Mrs. Gore helped the woman to a pickup truck and rode with her to a field hospital.

She insisted her visit was personal and said she did not intend to draft a report after returning to Washington.

Mrs. Gore said she was particularly moved by the plight of the children.

"They just need someone to hold their hand, love them and hug them," she said. "At least I can do that."

TRIBUTE TO ERIC SOLNIN

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. KING. Mr. Speaker, I rise today to welcome young Eric Solnin and his family to Washington, DC. They will be visiting our Nation's capital later this month. Eric, a young man from the village of Plainview in my home district, has indeed performed a mitzvah. He was so deeply moved by the plight of New York Jets quarterback Boomer Esiason's son, Gunnar, who is afflicted with cystic fibrosis, that he donated half of his bar mitzvah gift money to the Cystic Fibrosis Foundation. His selfless act is an inspiration to people everywhere, proving that each of us can have it in our hearts to reach out and do our part to help make a difference.

Eric not only helped to fight this dread disease through his generous donation, but through his action, helped to focus public attention on the fight to cure cystic fibrosis. He continues in that fight, and led a major walk-a-thon on Long Island to raise money for the Cystic Fibrosis Foundation this May.

[From the New York Newsday, Nov. 4, 1993]

BOOMER'S HERO: TEEN WITH HEART

(By Debby Wong)

After Eric Solnin became a bar mitzvah last month he wasn't quite sure what to do with all the money he received as gifts.

But then the 13-year-old Plainview boy saw Jets Quarterback Boomer Esiason on "Good Morning America," discussing cystic fibrosis, the severe and often fatal lung disease. Esiason's 3-year-old son, Gunnar, has cystic fibrosis, and after watching the show, Eric knew where some of the money would go.

Yesterday, Eric left Mattlin Middle School a bit early to head over to the Jets' training complex at Hofstra University where Eric gave Esiason a $4,176 check made out to the Cystic Fibrosis Foundation, about half his bar mitzvah money.

Eric said yesterday that he thought he had enough material things and was thankful he had escaped a fire at his summer camp without injury.

"I already had everything so I wanted to put it to a good cause," he said. "I saw a lot of coverage on Boomer and his son. I knew cystic fibrosis had to be a bad thing."

A grinning Eric got to watch an hour of the Jets's practice yesterday, and then handed the check to Esiason, who gave the boy a Jets jersey with his number 7 on it, along with an autographed football.

"He was little hero," said Esiason, "As a parent of a CF child, I can't say enough to thank Eric."

Eric's father Gil, said the donation was in character for his son. "Eric was always putting other people in front of himself. He was always willing to share with others not as fortunate as himself.'

Eric, whose chief sport is tennis, said he hopes to be a lawyer or news announcer when he gets older. As for the money, he hopes the donation will help with research and in finding a cure.

And the other half of his bar mitzvah gifts? "I'm going to give to everyone else's bar mitzvah that I'm going to."

[From the New York Daily News, Nov. 4, 1993]

JET FAN ON THE MONEY

(By Paul Needell)

In September, five months after his 2-year-old son, Gunnar, was diagnosed with the disease, Boomer Esiason created the NFL Quarterback Challenge for Cystic Fibrosis.

Since then, about $160,000 worth of donations have come in to help battle the affliction. After practice yesterday at Hofstra, Esiason was presented with one of the more touching contributions.

Thirteen-year-old Eric Solnin of Plainview, who was bar mitzvahed on Oct. 9, donated half of the monetary gifts he was bestowed for the occasion. His father's company chipped in with another $1,000, and Eric handed Esiason a check for $5,176.

Boomer, in turn, gave Solnin an autographed "ESIASON" Jets jersey, and autographed football and a tour of the locker room. With his arm around the teenager, Esiason introduced him to teammates as "my friend Eric."

"Well I thought about what I was going to do with the money, and I couldn't think of anything," Solnin said. "I didn't really need it, so I wanted to give it to people who needed it more than me."

Said Esiason: "I've received four or five gestures similar to this. It bodes well for the next generation. It's an amazing thing that's taking place. It's the nice part of this story. It's very heartwarming, to say the least."

[From the New York Post, Nov. 4, 1993]

YOUNG'S LONG WAIT ENDING

(By Mark Cannizzaro)

In a gesture of enormus generosity, 13-year-old Eric Solnin was so moved when he heard about Boomer Esiason's son, Gunnar, being afflicted with Cystic Fibrosis, he donated $5,176 to the Cystic Fibrosis Foundation.

Solnin, of Plainview, gave $4,176, which was half of his Oct. 9 Bar Mitzvah gift money, and Seagram's, where his father works, added $1,000 to it.

"I wanted to put it to a good cause and I didn't really need it, so I wanted to give it to people who needed it more than me," Solnin said.

The youngster yesterday visited Esiason at Jets camp, where he was given an autographed Esiason jersey, a ball and a tour around the complex after practice.

Several weeks into the season, Esiason formed the NFL Quarterback Challenge for Cystic Fibrosis. Mitzvah, by the way, means good deed.

JOBS THROUGH TRADE EXPANSION ACT OF 1994

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. GEJDENSON. Mr. Speaker, today I, along with several members of the House Foreign Affairs Committee, am introducing the Jobs Through Trade Expansion Act of 1994 which will improve the effectiveness of U.S. export promotion programs and create jobs here at home.

The bill will significantly enhance the ability of the U.S. Government to provide grants, loans, loan guarantees and risk insurance for U.S. export projects and investments overseas, provide specific programs for the expansion of U.S. environmental exports and protect U.S. intellectual property overseas. A conservative estimate of job creation from passage of this bill is 100,000 U.S. jobs.

The following is a summary of the bill:

TITLE I: REWRITE OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION

Title I is a rewrite of the authorities of the Overseas Private Investment Corporation or OPIC. OPIC offers U.S. investors assistance in finding overseas investment opportunities, insurance to protect those investments and loans and loan guarantees to help finance projects. OPIC cannot insure or finance projects that would displace American workers.

This title rewrites sections 231–240B of the Foreign Assistance Act to update OPIC's original language and eliminate outdated provisions. Much of this title is identical to last year's rewrite of OPIC which passed the House. The primary differences are in the eligibility restrictions and in the authorization levels for insurance and financing.

We have amended the eligibility criteria for participating countries to reflect the changing structure of the current international environment. The new language is on page 4 of the bill regarding the process OPIC must follow when a country is no longer eligible for assistance. This provision is much more explicit and strict than past OPIC language on ineligibility. The cosponsors and OPIC believe that this language will remedy the fact that under current law it is difficult to tell when or if a country is ever ineligible for OPIC assistance. Essentially, if a country is no longer eligible for OPIC or foreign aid assistance, OPIC must cease its programs except (1) it does not have to terminate existing contracts and (2) if the President of the United States determines it is the national interest to continue OPIC in that country. This takes the decision out of the hands of OPIC and places it in the office of the President.

The bill provides OPIC with a 3-year authorization and, under this legislation, OPIC will use its own earnings to pay for its programs, instead of drawing funds appropriated from the Treasury. The cosponsors do not believe that the Congress should appropriate scarce foreign assistance resources for OPIC when the Corporation has close to $2 billion in assets. Therefore, wherever appropriate, we have authorized OPIC to use funds available in its noncredit revolving fund account to cover the subsidy costs of its programs..

The bill extends OPIC's program levels in order for the Corporation to work effectively in the former Soviet Union. Under this bill OPIC is authorized to offer up to $15 billion in insurance (current law is $9 billion), and no more than $14.5 billion (maximum outstanding liability) for financing. We break down the financing for direct loans and guarantees as follows: $3 billion for fiscal year 1995, $4 billion for fiscal year 1996, and $5 billion for fiscal year 1997.

There is a change under the financing section. In current law, OPIC can only provide direct loans to small companies. OPIC found that guarantees were very expensive to administer so it has asked for authorization to provide direct loans to medium and large sized businesses as well. They have asked to retain their guarantee authority, however, in the rare cases where it is sensible to offer guarantees over direct loans.

The remainder of the title is similar, if not identical, to last year's bill.

TITLE II: AMENDMENTS TO THE TRADE AND DEVELOPMENT AGENCY (SEC. 661 OF THE FAA)

The U.S. Trade and Development Agency or TDA simultaneously promotes economic development and the export of U.S. goods and services to developing countries. TDA provides funds for feasibility studies and other activities related to development projects which provide opportunities for the use of U.S. exports. In the last Congress the TDA's mandate was expanded to include architectural and engineering design to create a clear advantage in setting the standard for U.S. exports in overseas projects. In addition, TDA has the authority to provide technical assistance for project related activities. TDA conservatively estimates that for every dollar disbursed, the return to the U.S. economy is $25.

The authorizing language for the Trade and Development Agency [TDA] was completely reformed in the Jobs Through Exports Act of 1992. Therefore, TDA's language required minor editing only. Most of the changes reflect language in H.R. 3765, the bill Chairman HAMILTON introduced on behalf of the administration reflecting its vision of foreign aid reform. We also permit TDA to use its funding to do environmental assessments, much like OPIC. We provided TDA with the funding of $65 million for fiscal year 1995, and $90 million for fiscal year 1996, demonstrating the cosponsors continued confidence and support of the program.

TITLE III: REAUTHORIZATION OF FUNDS FOR THE EXPORT PROMOTION PROGRAMS WITHIN THE INTERNATIONAL TRADE ADMINISTRATION

The purpose of this title is to reauthorize the export promotion programs (International Economic Policy, Trade and Development and the U.S. and Foreign Commercial Service) within the International Trade Administration of the U.S. Department of Commerce. Our authorization of $250 million is higher than past years reflecting the need for increases in export counselors both domestically and overseas. We are authorizing $275 million for fiscal year 1996.

TITLE IV: PROMOTION OF U.S. ENVIRONMENTAL EXPORTS

The title promotes U.S. exports of environmental technologies, products, and services by:

VOL 140 PT 16 AG 12 — 18 1994 UMI

(1) Requiring the annual designation of five countries whose markets have the greatest potential for U.S. environmental exports;

(2) Specifying that plans be developed outlining the steps the government's export promotion agencies will take to allow U.S. companies to capture the five priority markets;

(3) Establishing an Environmental Trade Advisory Committee to guide the Trade Promotion Coordinating Committee [TPCC] in carrying out export promotion programs;

(4) Placing environmental technology specialists within the U.S. and Foreign Commercial Service [U.S. & F.C.S.];

(5) Requiring the development of a calendar of significant overseas sales opportunities for U.S. envirotech firms; and

(6) Authorizing matching grants to regional centers which promote environmental exports.

This language is identical to the language passed by the House in H.R. 3813.

TITLE V: INTERNATIONAL PROTECTION OF INTELLECTUAL PROPERTY

Title V requires AID, in conjunction with Commerce's Patent and Trademark Office, to establish a program of training and technical assistance in intellectual property protection. This program is aimed at countries that have expressed a willingness to improve but lack the expertise or the resources to do so. Training assistance could be for patent and trademark examiners, and for law enforcement personnel such as judiciary, police, and customs officials. Technical assistance could include the provision of microfiche and computer software on patents and patent searches, legal advice to governments writing intellectual property law, guidelines on setting up a patent office, and training in the protection of emerging technologies such as biotechnology.

Funding required for this title is expected to be modest and will come out of AID's existing programs (no new authorization required). This language was also introduced as H.R. 4239 in April of this year.

CELEBRATING DEMOCRACY IN THE DOMINICAN REPUBLIC

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. RANGEL. Mr. Speaker, I congratulate the people of the Dominican Republic for proving once again that the democratic system is by far the best way to resolve political differences. The citizens of this key ally of the United States has demonstrated their love for democracy and their faith in their Constitution and the rule of law. Not only did they vote in record numbers in their May 16, 1994, election, but they have come together to reach a political consensus that resolves the controversy arising out of the election.

Last night, President Balaguer signed into law a bill convening a constitutional assembly to amend the Dominican Constitution to provide for a new election for President and Vice President on November 16, 1995; eliminate consecutive terms of the Presidency; create a run-off system; and establish a totally independent judiciary.

I also want to congratulate President Balaguer on his leadership in working with all the Dominican political parties to reach this historic agreement, The Pact for Democracy. President Balaguer's willingness to shorten his term for the good of the Nation is to be commended.

Finally, I want to congratulate President Balaguer upon his inauguration and communicate our best wishes for success in office.

HONORING MARCENE ELEANOR HOVALDT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. TORRES. Mr. Speaker, I rise today to honor Marcene Eleanor Hovaldt. On the morning of August 19, 1934, in the midst of a severe dust storm, a midwife was called to deliver the seventh child to Lily and Chris Hovaldt. Their small farm was located several miles out of town—Parker, South Dakota, population less than 800. Parker was a small farming community made up mostly of immigrants from Denmark, as were the Hovaldts. Thus was born Marcene Eleanor Hovaldt.

Marcene grew up basically as a lone child as her two older sisters were 15 and 17 years older respectively, and the youngest of the four boys was 5 years older. So Marcene played by herself and dreamt while lying under cottonwood trees; and dream she did.

An unfortunate childhood accident left her blinded in one eye, but this nor other hardships, such as epidemics of whooping cough and scarlet fever, even a bout with polio, prevented her from forging ahead. The first 8 years of her education was at country school, a one room schoolhouse. All eight grades were taught by one teacher. High School meant going to school in town. When Marcene graduated from Parker High School she was one of 21 graduates.

The dreams started to come true when Marcene attended Southern Teachers College, this got her off the farm and to the big city, Sioux Falls. Her working career started not as a teacher, but as an underwriter for an insurance company. Several years later, looking for greener pastures, she and a girlfriend headed for Denver, Colorado. Here she found four girls who not only became roommates at the time, but have remained lifelong friends. It was also in Denver that she was married and gave birth to Edward II and Mercedes.

This was a stressful time for Marcene as she lost both parents and due to a genetic heart problem, the premature death of all four brothers before their 45th birthdays. Each of her sisters also suffered multiple heart attacks, as well as bypass surgery with one sister passing in 1988. Marcene has been very fortunate that this malady has not affected her.

Marcie moved to the Washington, D.C. area in 1964. Her marriage ended in divorce and as a single parent, she raised Edward and Mercedes. In 1980 Marcie married Stanley Galkin who also brought to this union Kathleen, Robert, and Laura. Today the marriages of their five children have resulted in Marie's greatest joy, being "Grammy" to her seven wonderful grandchildren.

Marcie's working career led her to become Human Resource Manager of Inter Corporation's Federal Region, later to become the Human Resource Manager of the Lincoln National Life Insurance Co. H.M.O., Washington, DC region. She currently holds a position with the Prince George's County Hospice as director of human resources.

Marcie is always there for everyone, those she knows, as well as those she doesn't. She is not one to hold out a helping hand, it is always two helping hands. She is a good friend and confidante to many. Marcie's life like a pebble thrown into a pond: the ripples multiply and extend further and further.

Mr. Speaker, I ask my colleagues here assembled to join me in paying tribute to the many attributes of Marcie as a community leader and a true American.

TRIBUTE TO MERCY HOSPITAL OF PORT HURON

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Mercy Hospital of Port Huron. Mercy Hospital is commemorating its 40th anniversary this weekend when the archbishop of Detroit, Adam Maida, concelebrates a Mass of thanksgiving with the auxiliary bishop, and the pastors and priests of the area.

Founded in 1954, Mercy Hospital was recently honored by being named one of the nation's top 100 hospitals. As an institution, Mercy Hospital of Port Huron has continually striven for excellence. Based on a foundation of respect, and honesty, everyone at Mercy Hospital has worked as a team to serve the needs of our community. With their beliefs in responsible stewardship and social justice, Mercy Hospital has demonstrated that it is possible to provide quality, cost-effective care while making investments in equipment and operations.

A special tribute will also be paid to the Sisters of Mercy who will mark their 150th anniversary next month. Dedicated to patient care, the development of healthcare systems, and higher learning, the Sisters of Mercy offer many needed services in our community.

On August 15, Mercy Hospital will have served the people of Port Huron and St. Clair County for 40 years. Over these years the hospital has earned recognition and enormous respect. I applaud those whose efforts have made Mercy Hospital a world class medical facility.

On the occasion of the hospital's 40th anniversary, I am pleased to pay tribute to Mercy Hospital of Port Huron. I ask that my colleagues join me in saluting a valued resource in my home community as it prepares for the next 40 years of service.

SINGLE PAYER WILL WORK FOR EVERYONE

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. McDERMOTT. Mr. Speaker, Jack Gordon, a retired Florida banker, who is today president of the Hospice Foundation of America, recently asked an interesting question in a Miami Herald oped article. He wrote, "Doesn't it make sense that if Medicare works for our parents and grandparents—and maybe some of us—it would work for everyone? And if it is good enough for them, why isn't it good enough for everyone else?"

Mr. Gordon advocates the single payer approach after studying health care matters for 20 years as a member of the Florida State Senate, including time as majority leader of that body and as chairman of appropriations and other committees with health care oversight. He is a serious student of health policy having served also for 5 years as director of the public policy institute of Florida International University.

He notes that the market economy does not work in health care delivery, that the American people understand the Medicare approach, that $120 billion can be saved annually in administrative costs, and that paying for it is not complicated or confusing with the single payer approach.

I am inserting his short article in the RECORD and urge all of my fellow colleagues to read it seriously and with an open mind. They will, I hope, arrive at the conclusion that single payer indeed will work for everyone and that it is good enough for us all.

[From the Miami Herald, July 28, 1994]

EXPAND MEDICARE BENEFITS TO COVER EVERYONE

The delusion of "managed competition" in the current health care debate is based on an erroneous assumption that a market economy is at work in health care delivery. It presupposes (1) competition sets market prices, (2) willing buyers deal with willing sellers, and (3) none are under any constraints.

Health care, however, has no independent buyers. If you are sick, you need care. Indeed, if you don't get it, you may die. Beyond that it is the supplier of health services, your doctor, who creates the demand as well as supplies the services.

The doctor says, "Go to the hospital," and only to one where he has staff privileges. Then you become the passive user of ancillary services—laboratories, X-rays, anesthesia, drugs—all requisitioned by the doctor. Neither he nor you are in any position to shop around for alternatives. There isn't any true market.

What happens in the real world of competition among insurance company plans (or health maintenance organizations) is that services are often limited in order to lower costs—hardly a benefit to the patient. Managed care is a delusion ultimately fed by the greed of the large insurance companies. It means a system driven by the profit motive, and excludes your doctor as the basic determiner of necessary services. He is replaced by private enterprise bureaucrats—as real as the government kind but less likely to be held to any standard of public responsibility.

The obvious solution that is largely overlooked in this increasingly stalemated health care debate is to build on an existing system that is known to everyone and that works reasonably well: Expand Medicare to cover everyone.

This approach, partly included in the U.S. House Ways and Means Committee bill, is understood by most Americans, unlike other proposals. It preserves a personal choice of physician, an advantage that doctors are increasingly recognizing. And Medicare provides an administrative role for large or small insurance companies as contract administrators of its 70 regional districts at a cost of about 2 percent of expenditures. In contrast, private plans and HMO administrative costs range from 15 to 25 percent.

Cost control can be achieved by imposing a fee schedule on all providers. And instead of a government bureaucracy to enforce the fee schedule, why not make the provider liable for triple damages and attorneys' fees for excess charges? This might even be a trade-off to the legal profession for limiting malpractice claims.

Projecting from a study reported in 1991 in the New England Journal of Medicine of all 6,400 Medicare hospitals, a fee schedule and the attendant reduced administrative costs would produce an annual savings of some $120 billion. That would go a long way toward providing coverage for the currently uninsured.

Paying for the expanded Medicare system is not that complicated, either. It requires two simple trade-offs: an increase in the corporate income tax equal to the amount that employers are now contributing to their employees' health care, and an increase in either Social Security or personal income tax to equal the amount that individuals are currently paying for coverage.

This plan would save businesses the high cost of administering their own health plans and obviously would save the cost of private insurance. It would also preserve the privacy of employees, whose medical history would no longer be available to their employer.

We don't have to look to Canada or some other foreign country to find a workable single-payer system, because we already have one that can be easily expanded to include all. Doesn't it make sense that if Medicare works for our parents or grandparents (and maybe some of us), it would work for everyone? And if it is good enough for them, why isn't it good enough for everyone else?

CRIME BILL

HON. NYDIA VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Ms. VELÁZQUEZ. Mr. Speaker, yesterday I voted for the rule on H.R. 3355 and was prepared to vote for the conference report on the Violent Crime Control and Enforcement Act, despite strong reservations. I was and remain very distressed that the conferees dropped a major provision passed by this Chamber—the Racial Justice Act. Without exaggeration, that provision dealt with a life or death issue. It would have prevented people from being executed on the basis of their race.

By adopting the Racial Justice Act, this Chamber demonstrated that we would not let ignorance, bias, and intolerance send Latinos and African Americans to their death while their white counterparts got jail time. By dropping those provisions, we again turned a blind eye to a death penalty that is anything but colorblind.

Nevertheless, I had decided to support the conference report because it addressed the No. 1 concern of my constituents. I supported the conference report because it would have put 6,100 more cops on the beat in New York, and taken 19 types of assault weapons off the streets.

Even more importantly, the conference report would have provided 7.4 billion dollars for crime prevention. Opponents argued that the crime problem could be solved by building more prisons, and putting more people to death. They are wrong. It is much too late to start fighting crime when the defendant stands before the judge for sentencing. We have got to start much earlier. We must get to the kids and show them another way before the jailhouse door slams shut.

That is exactly what the conference bill would have done. It supported education, job, and substance abuse programs, and provided for intensive community services in high-crime areas. It increased recreational opportunities for youth, targeting neighborhoods with high youth unemployment rates, crime rates, drug use, or school drop-out rates. The conference report also put the full weight of the Federal Government behind the prevention of violence against women.

However, instead of a crime bill, what the American people got was a stark lesson on special interest politics at its worst. They got mugged by the National Rifle Association and their gang of gunlovers who pulled out all the stops to kill this legislation. The people want safer streets. What they got, care of the NRA, was Street Sweepers. I sincerely hope that next week we can return and take this Chamber back from the special interests, and return it to the people.

THE FREEDOM AND FAIRNESS RESTORATION ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. GOODLING. Mr. Speaker, the current tax system is in need of a serious overhaul. Most of the individuals I have spoken with will never state that it is simpler to file their tax forms today than it was before the 1986 Tax Reform Act. The only real reform we engaged in 1986 was to take many individuals off the tax roles by reducing the incentives for long term economic growth and savings.

The current Federal tax system is complicated and certainly not as progressive, nor as equitable as proponents of the 1986 tax changes promised. Based on the aggregate total 1991 tax returns to the Internal Revenue Service, the top 25 percent of income earners pay 77.2 percent of individual income taxes. In addition, the top 10 percent pay 55.3 percent, the top 5 percent pay 43.4 percent, and the top 1 percent pay 24.6 percent. Progressivity is an admirable goal, but based on our Federal returns, it is simply not evident in our current tax structure.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Our Nation is ready to enter into the 21st century, and yet we have a tax system based on the 19th century. The existing tax laws, rules, and regulations hold back needed investment and savings in our economy which could derail the inventors, and the innovators of the future.

I believe the Congress should consider reigniting the debate on tax simplification. A flat tax system should be considered as a viable option for real tax reform. A flat tax approach would simplify the current Federal tax system. I believe by having every American pay the same flat tax rate, individuals would agree to a more simple and equitable form of taxation.

Mr. Speaker, I am pleased to lend my support as a cosponsor of H.R. 4585, the Freedom and Fairness Restoration Act, introduced by Congressman DICK ARMEY. H.R. 4585 would establish a new flat tax system which would implement the use of a 17 percent flat tax rate for all Americans. This bill would only exempt those below the Federal poverty line. The Armey bill would reduce excessive spending by our Federal Government while also reducing the tax burden on the American people.

Our economy currently lacks the seed money to sustain long term economic growth. H.R. 4585 eliminates the double taxation on long term investments by repealing the current tax on capital gains, tax on Individual Retirement Accounts [IRA's] and tax withholding. I believe elimination of these provisions will provide more individuals with the desire to invest money, which in the end will create more available capital for businesses, and thus spur economic development and jobs.

H.R. 4585 is similar to legislation which I have supported in the past. In 1984, I cosponsored H.R. 2137, which like the Freedom and Fairness Restoration Act, proposed a Federal flat tax system. Under this legislation, a 10 percent income tax rate would have become effective for all individuals, and exempt only those whose income was under $10,000. This bill if enacted 10 years ago would have been much better than the changes in the Internal Revenue Code of 1986. However, I am concerned whether H.R. 4585 will be able to sustain the current level of receipts by reducing Federal tax rates and spending at the same time.

In recent history, Congress tried this approach before and found it was relatively easy to reduce taxes, but harder to reduce the size of the Federal Government. Finally, I also believe every individual should have an obligation to pay Federal taxes to better understand what this great Nation provides them in benefits, even if it is a nominal tax rate.

Mr. Speaker, I believe it is time to begin a discussion on reforming the current tax system. As George Santayana has stated, "those who speak most of progress measure it by quantity and not by quality." Our so called progressive tax system is not anything that the American people were expecting when they asked for reform. Enacting H.R. 4585 would be a step in the right direction. This bill would give the Federal tax system back to the American people and wrest the system away from the bureaucrats in Washington. While I do not agree with every proposal included in this legislation, I do support the need for reforming an inequitable Federal tax system and urge my colleagues to lend their support to this needed legislation.

TRIBUTE TO HENRY MROZ

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. MEEHAN. Mr. Speaker, I rise to note the passing of Mr. Henry Mroz, a former school superintendent and school committeeman of Lowell, MA.

Henry Mroz will be remembered for many great attributes; his professionalism, intellect and dedication to name a few. But more than anything else, Henry Mroz will be remembered for spearheading a $131 million school building and renovation program that is scheduled for completion next year. Mr. Mroz was the prime mover in securing the funding for these schools and in overseeing their construction. These schools will serve as a lasting monument to him for generations to come.

A Lowell High graduate, Mr. Mroz held a master's degree in education from Fitchburg State College and a law degree from the New England school of law.

In 1982 he became superintendent after serving as the director of Federal programs, for the Lowell schools from 1969 to 1981 and the assistant superintendent of the Lowell schools in 1981. He previously taught math, history, and science in the classroom.

Henry Mroz will be remembered for leading the schools through the sometimes turbulent 1980's, when the system's populations of southeast Asian youths skyrocketed from 1 percent to more than 25 percent. During this time, Mr. Mroz demonstrated his leadership skills, keeping the school system on track and guiding it through challenges it had never seen before.

His commitment to education in Lowell will never be surpassed. Mr. Mroz and his wife Theresa had no children of their own, but there was never any doubt that both regarded the 13,000 children of the Lowell public schools as their own.

Henry Mroz succumbed to a heart condition that he had struggled against with strength and courage. Friends and family, as well as the city of Lowell, will be forever in debt to Mr. Mroz for the many contributions he made to the Lowell schools during his long tenure. I join in paying tribute to this distinguished man. He will be missed by all who knew him.

A CONSTITUENT WITH WISDOM BEYOND HIS YEARS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. STARK. Mr. Speaker, I recently received a letter from a young man in my district who wrote after reading about debate on the elementary and secondary education bill. He was as shocked and disappointed as I have been by the fear mongering and grandstanding in both Chambers on the issue of gay and lesbian lifestyles.

Most of his letter is included below. This bright student is now heading off to college. Despite the best efforts of my colleagues who peddle intolerance and bigotry at every opportunity, he has already learned important lessons that can't be taught in the classroom.

The letter follows:

AUGUST 2, 1994.

Mr. FORTNEY PETE STARK,
House of Representatives,
Washington, DC.

DEAR MR. STARK: What I am writing about today is an issue that I have felt strongly about for many years, gay rights. Today when I picked up the San Francisco Examiner, I was shocked. I was literally so angry at the government, which I believe in strongly, that I could have screamed. Apparently, the Senate, and the House, have passed a bill which will cut federal funding to any school which "teaches acceptance of homosexuality as a lifestyle" (quoting the examiner). This is the first time I have read anything about this bill, and I am outraged!!!! How on Earth could this kind of bill be passed? Being gay (which I am not, by the way, so that you know that I am not biased in that sense) is just like being black or white, male or female. It doesn't matter. Gay people are just like you and me, no different. They have just chosen to live their life a slightly different way. There has been incredible amounts of discrimination against them, and now we can't even have a teacher tell our impressionable young minds to even "accept" homosexuals. I'm not saying to go out and tell everyone to become gay, all I'm asking for is to allow those teachers who want to teach their children that being homosexual is OK, not bad. Yet if this bill passes, no such message can get across.

If this bill becomes law, we must ask ourselves, "What kind of message will this give to our youngsters?" The answer is quite plain. It will send a message that gays are horrible, and weird, and different—not worthy of being in the same room as us, and certainly not worthy or our acceptance. We need more teaching of compassion and acceptance, not less. Apparently Mr. Helms said that the material used in schools was "disgusting, obscene material that's laid out before school children in this country every day." What I would like to know is, what material is he talking about. I have been through 12 years of public schooling, and have seen no such material.

I am not back in Washington, quite obviously, and do not know the political climate. What is the likelihood that these two bills will come together in the committee, go on to the president and be passed. If he vetoes it, what is the chance that it will be overridden? Frankly, I am scared when I think of this bill passing. It is frightening. I know some gay people, and I can assure you that they are quite normal. In fact, it is likely that you couldn't pick these guys out of a crowd as being gay.

I am sorry if I have rambled on, but I am quite distressed at hearing of this bill. I literally could not believe my eyes as I was reading the paper. Also, what is your opinion of this bill, and how did you vote on this issue? If possible, could you please clarify any points that I have wrong here (for example: please tell me that this is all a bad dream * * *) about this bill, and exactly what it says.

TRIBUTE TO THE LATE CLARENCE HUBERT STEINER

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. CALLAHAN. Mr. Speaker, this past Saturday the community of Bayou La Batre, AL, lost an outstanding citizen in the death of Mr. Clarence Hubert Steiner, a man respected and remembered for his contributions to business, his family, and his community. I rise to pay tribute to this great man and the life he led.

Born into a family with a tradition of fishing and boatbuilding, his passion for both was rooted in his childhood when he began helping his parents. At age 16 he quit high school to work with his father full time, and only a year later at age 17, he became master of the *Eagle*, a 46-foot vessel he and his father had built together. Today, this vessel is a familiar one in Bayou La Batre, AL, and surrounding communities where it is a regular participant in the annual Blessing of the Fleet.

A few years later, Mr. Steiner moved to Mobile, AL, with his new wife Dorothy Dukes Steiner, and worked as master carpenter for the U.S. Coast Guard base. Many years and six children later, and still working full-time with the Coast Guard, Mr. Steiner bought a small boat repair business which he and his sons built up during their spare time. He finally left the Coast Guard, and that small business eventually became Steiner Shipyard, Inc., one of the finest and most highly respected shipbuilding and repair yards on the entire gulf coast.

Clarence Steiner was described by those who knew him as a quiet, strong, and hard-working man who always wore a smile. He enjoyed the simple things in life, often gave others the credit, and was dedicated to his family, friends, church, business, and community. One of his favorite contributions to his community was cooking for civic events where he became famous for his shrimp and spaghetti.

Though he was hardworking and dedicated to so much, friends and family alike agree that his first priority was his family. He was a devoted husband for almost 60 years before his death and a devoted father of six children, Clarence Gene, Ronald, Russell, Roger Dale, Rebecca, and Carolyn. In turn, his children, along with 18 grandchildren and 24 great grandchildren, remain devoted to his memory and carry on the tradition by continuing to maintain Steiner Shipyard.

Clarence Hubert Steiner was an outstanding citizen who over his eighty years raised a wonderful family, turned his hard work and dreams into a successful and highly respected business, and still took the time to serve his church and community. Let us now take the time to honor this man who was truly a blessing to friends, family, community, and all who knew him.

RISK A AND RISK B

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. SAXTON. Mr. Speaker, the following speech before the New Jersey Society for Environmental, Economic Development offers another cogent argument for my legislation to create a National Institute for the Environment as an independent entity with a mission to improve the scientific basis for making decisions on environmental issues.

The NIE would increase scientific understanding of environmental issues by supporting extramural, competitive peer-reviewed research, providing ongoing comprehensive assessments of current environmental knowledge and its implications, broadening and facilitating current, user friendly information about the environment, and strengthening the Nation's capacity to address environmental issues by sponsoring education and training activities. These activities are lacking in the Federal arena and are desperately needed if policymakers are going to make environmental decisions that will not cause undue hardship on the private sector and economic growth.

I commend this speech to your attention and request your cosponsorship of the NIE bill.

RISK A AND RISK B

(By Merrick Carey, President, Alexis de Tocqueville Institution)

Good evening. In 1967, a U.S.-Soviet summit was being arranged and it was decided that LBJ and Premier Kosygin would meet half way between the White House and the U.N., where Kosygin was speaking. The halfway point is Glassboro, New Jersey, and the Soviet Premier was driven in his limo from Manhattan down the New Jersey Turnpike. He travelled across what is probably the most famous industrial belt in the world, from Jersey City to Newark, Elizabeth, Carteret, and Rahway. Speechless, he saw the amazing array of gigantic oil refineries, chemical factories and other heavy industrial facilities, the sights and smells we in this room know so well. Finally, he turned to his travelling aide and whispered, "Now I know why America is a great country."

It speaks volumes that a former communist leader instinctively knows what so many of our present political leaders have forgotten: that high levels of economic growth, output and productivity, potently mixed with self-government and democracy, have made America the most powerful nation on earth, and arguably in all of history. I think the vast majority of the American people understand this, and it gets to the core of all our current policy debates. What is your social or political goal? Do you want a powerful military? To fight poverty? To clean up the environment? To roll back crime? Those goals are probably not possible unless you pursue policies that foster a dynamic private economy.

Fast forward, if you will, to that same stretch of New Jersey in the late 1980s and early 1990s. A visionary businessman, Bill McCann, whom many of you know, came up with the idea to link all the commuter rail lines that flow through northeast New Jersey at one junction. By conservative estimates, this project will generate 3000 jobs and over a billion dollars in investment over a 7 year period. It has been endorsed, on site, by a myriad of elected officials, including former Governor Jim Florio.

What has become of Allied Junction? It has been stalled, held up, and delayed by unelected officials in the state environmental protection agency and the Army Corps of Engineers. If Bill McCann had not had the environmental regulatory hassles from these agencies, Allied Junction would have broken ground in 1990. They still have not broken ground in early 1994. Unelected staff people at regulatory agencies with uncontrolled authority can discount everything that makes sense, and ignore the actual statutes involved, and apply their own philosophies to monumental projects like Allied Junction. And those philosophies have little to do with generating growth and jobs.

From 1985–1987, I had the good fortune to serve as former Congressman Jim Courter's chief of staff, and I'll never forget driving up and down Route 206 past dozens and dozens of "help wanted" signs. It seemed they were in every window. New Jersey's economy was literally booming in the mid-80's, with full employment a reality, and a labor shortage a potential problem. The kind of problem you like to have. New Jersey's large corporations were hiring and training, at their own expense, handicapped people to undertake crucial corporate tasks . . . Not because the government forced them to, or because they were being sued, but because the companies needed their labor to grow.

I don't need to tell you what has happened in New Jersey since the late 1980s. In my opinion there are a number of reasons your economy has imploded. Top of my list would be the massive tax increases passed on labor and capital—by both Republicans and Democrats at the federal level and by Governor Florio at the state level—that have severely eroded incentives to work, invest and do business in the Garden State. Fortunately, Governor Whitman and the State Legislature have already begun to roll state taxes back.

A second area I would put the spotlight on is excessive environmental regulation and "the glut of special interest groups now vying for attention in Trenton and Washington that show little concern for insuring sound public policy," as NJ SEED says in its charter.

Somewhere along the way to the Endangered Species Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Federal Land Policy and Management Act, the Clean Air Act, the Environmental Education Act * * * I better stop in 1978 * * * Somewhere along the way the environmentalist train went off the tracks.

The top 20 environmental groups in Washington will spend an estimated $500 million this year to pursue their agendas. Aided by these interest groups, the EPA has imposed environmental regulations costing our economy over $150 billion per year. That figure is expected to rise to $185 billion by the year 2000. This outlay does not appear in the federal budget, but it is reflected in higher prices in stores and lower real incomes. It is a thoroughly regressive tax, hitting rich and poor equally, raising the costs of all goods, energy and transportation, and putting an annual burden of nearly $1500 on every American household.

As the level of regulation in the United States has grown in leaps and bounds—measured in number of laws or in pages of the Federal Register—we may be approaching the critical level where in fact the economy

VOL
140
PT
16
AG
12
—
18
1994
UMI

is being strangled—where enterprise is restrained, where entrepreneurship is stifled, where jobs are not created.

For this reason, one cannot stress enough the importance of sound science in issuing environmental regulations. Recent history is replete with policies begun on the basis of nothing more than press releases that were not backed up by peer-review scientific data. There are many examples where science is ignored or misused in order to push particular policies. There are even examples where science has reversed itself, yet the policies march on as if nothing happened. The scares over alar, dioxin, environmental tobacco smoke and pesticides are only a few of the more famous recent examples.

The New York Times has summed it best: "In the last 15 years, environmental policy has too often evolved largely in reaction to popular panics, not in response to sound scientific analysis of which-environmental hazards present the greatest risks. As a result, billions of dollars are wasted each year in battling problems that are no longer considered especially dangerous, leaving little money for others that cause far more harm."

Consider the following examples of the tremendous cost of senseless environmental regulation on businesses, municipalities, and taxpayers:

An analysis of Columbus, Ohio officials found that the impact of complying with the weight of federal environmental mandates on the city's budget would cost every Columbus taxpayer an additional $856 per year by the turn of the century.

According to the National Center for Policy Analysis, EPA's regulation of coke ovens will cost $682 million to prevent a single instance of cancer. The cost of EPA's regulation of the chemical benzine and the Clean Air Act's regulation of air toxins would cost $5.8 billion and $6.5 billion per cancer death averted.

In New Hampshire, $9.3 million was spent a few years ago to make a dump safe for "children to eat small amounts of dirt" for 245 days a year, despite the fact that there were no dirt-eating children in the area—and the area was a swamp.

While EPA regulates 83 specific drinking water contaminants—many of which may not even be in a drinking water system—it does not regulate more dangerous contaminants that do occur such as the cryptosporidium that killed 40 people in Milwaukee last year.

Today's Wall Street Journal has a new item that beautifully captures how far we have descended into the anti-growth swamp: "Come fall of 1995, pleasant bakery smells may be a thing of the past as many communities throughout the country comply with deadlines set by the 1990 Clean Air Act to have industrial plants cut their emissions. The smell of baking bread, it turns out, is a form of air pollution."

It turns out the "yeast police," as bakers now call the EPA, want the nation's large bakers to spend millions of dollars to install new emissions controls. When flour, water and yeast are kneaded together and heated, they create ethanol, a non-toxic substance that contributes to ozone formation. State regulators admit that bread ethanol emission "is not very much" but they have to look everywhere to comply with the radical new federal standards.

The 1990 Clean Air Act is thus far the penultimate environmental act. One title of this law deals with air toxics, the emission of substances that could conceivably cause cancer. The problem is that the cancer risk is calculated for a susceptible person who is maximally exposed to the atmosphere for 70 years, and that the risks are computed based on dubious scientific data. Furthermore, the analysis neglects the obvious: the fact that the person, like you and me, will be indoors for much of his life exposed to an indoor air quality that is likely to be much more hazardous. Even so, cancer risk, normally about 25 percent, would be reduced to only 24.99999 Percent, but at a multi-billion dollar cost that could have been used to save many more lives by reducing more immediate risks. Or perhaps giving the beleaguered taxpayer or entrepreneur (or baker) a break.

In Greek mythology, the gods punished a man by making him too successful. It may be that the anti-growth environmental movement reached its zenith when the Clean Air Act passed in 1990—and the debacle that has resulted from its passage. Now every environmental initiative in Congress is being scrutinized and risk assessment and cost-benefit requirements are seeping into every environmental debate.

In response to the explosion in environmental regulatory costs and the government's practice of spending enormous amounts of money to reduce small risks instead of big risks, Senator Daniel Patrick Moynihan and Congressman Richard Zimmer have introduced the "Environmental Risk Reduction Act" to ensure that the billions spent by the American people on environmental protection is better targeted at reducing the "most serious and probable risks."

The Moynihan-Zimmer bill is designed to sharpen the public debate over risk assessments and require the EPA to set risk reduction priorities based on sound scientific analyses.

Specifically, the bill would create two expert commissions that would provide the EPA with advice on the ranking of relative risks and on estimating the costs and benefits of reducing risks to human health and natural resources. The bill also creates a risk reduction research program that would improve the data, methodology, and accuracy of the government's risk assessments.

For example, if the public knew that an average-sized plate of shrimp contains trace arsenic levels of 30 parts per billion, would they choose to continue paying for a costly EPA water quality rule limiting arsenic levels to no more than 2 to 3 parts per billion?

Similarly, would the public agree with the environmentalists' dream of banning the commercial use of pesticides (thereby raising prices of fruits and vegetables and throwing thousands of farmers out of work) if they were informed of the fact that there are more known carcinogens consumed by drinking one cup of coffee than the amount of potentially carcinogenic pesticide residues the average person eats in a year?

Right now, however, the public isn't aware that they have such a choice. "Relative risk ranking and cost benefit analyses are tools," according to Senator Moynihan. "Crude tools, yes, but perhaps sufficient in some cases to rank activity A as more risky than activity B. If the costs or political realities dictate that we should control B before A, then great!"

In recent months, the U.S. Congress has responded to the public's growing concern about excessive environmental regulation. Last spring, by an overwhelming bipartisan vote of 96 to 3, the U.S. Senate passed legislation sponsored by Senator Bennett Johnston and Congressman John Mica requiring EPA to perform extensive cost benefit and risk analysis to each regulation it issues. Earlier this year, the House of Representatives shelved the bill to elevate the EPA to a cabinet department because it did not include the Johnston-Mica provision.

Proponents of the Johnston-Mica legislation plan to offer it as an amendment to every piece of environmental legislation that the Congress considers until it is approved. Therefore, in order for the environmental movement to advance its ambitious legislative agenda in this Congress, it must accept some form of expanded cost benefit and risk analysis for environmental decisions.

This week, risk assessment language is being discussed in strategy sessions on the Superfund bill, and risk assessment language is in the Safe Drinking Water bill that is heading for the Senate Floor. If the Johnston-Mica legislation is too much for environmentalists to swallow, then they ought to consider the Moynihan-Zimmer approach. This bill could be the ticket to a sensible, bipartisan compromise that would help both the environment and the economy by prioritizing environmental problems and lessening excessive environmental regulatory costs.

I'm going to close with what some might consider a radical statement, but a view that I think gets to the heart of the current environmental debate. If you accept the fact that we have limited resources to deal with environmental problems, you need to make a choice between low risk, which is "A," and high risk, which we will call "B." You can make a choice for "A," to throw money at low risks, but if you make that choice, you will have to live with more suffering, more cancer and more deaths than if you choose "B."

That is a statement that will be categorically rejected by many in the environmental movement and at the regulatory agencies. But I believe it is very hard to refute.

IN RECOGNITION OF LT. COL. STANLEY A. NEWELL

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. EVERETT. Mr. Speaker, I am pleased to rise today to honor Lt. Col. Stanley A. Newell, who is retiring from the U.S. Army after 28 years of dedicated service. On September 14, 1966, Lieutenant Colonel Newell began what would be an active and meritorious career when he was drafted and sent to fight in Vietnam with the 1st Battalion, 12th Infantry, of the 4th Infantry Division, U.S. Army.

While serving in Vietnam, Lieutenant Colonel Newell was wounded in combat and taken as a prisoner of war, enduring almost 6 years of captivity in the infamous Hanoi Hilton. During that period of time, Lieutenant Colonel Newell displayed a fortitude that was an example and encouragement to his fellow POW's. In an unimaginable situation, he acted in a manner that demonstrated his loyalty, both to these men and to his country.

Upon his return home, Lieutenant Colonel Newell attended Officer Candidate School and in 1975 was commissioned as a second lieutenant in the Military Police Corps. An an officer in the U.S. Army, Lieutenant Colonel Newell has exhibited extraordinary service and leadership. He has served as a platoon leader with the 101st Airborne Division at Fort Campbell, KY; company commander and battalion executive officer with the Training Brigade at Fort McClellan, AL; course manager and instructor of the countering terrorism course, also at Fort McClellan, assistant operations officer and WESTCOM provost officer at Fort Shafter, HI; and as a faculty instructor at Air Command and Staff College at Maxwell Air Force Base in Montgomery, AL.

To compliment Lieutenant Colonel Newell's brilliant career, he has been decorated with such honors as the Silver Star, the Bronze Star with an Oak Leaf Cluster, the Meritorious Service Medal with Oak Leaf Cluster, the Combat Infantryman's Badge, the Parachutist's Badge, the Air Assault Badge, the Prisoner of War Medal, and a Purple Heart.

The perseverance that Lieutenant Colonel Newell displayed as a prisoner of war, and the fashion in which he has excelled as an officer in the U.S. Army are reflections of his dedication to serving his country. It is not often that we witness such displays of bravery and patriotism. I appreciate this opportunity to pay tribute to Lieutenant Colonel Newell, to thank him for his service, and to wish him the very best in the years to come.

WHATEVER IT IS, BILL CLINTON PROBABLY DID IT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. JACOBS. Mr. Speaker, I insert the following article from the U.S. News & World Report, August 8, 1994 edition.

It should be noted that the politics of personal attack is, in its essence, character assassination. Character assassination like physical assassination can be effective, that is, it can destroy if someone is willing to stoop to it.

One more conspiracy for the Merchants of Venom to contemplate: who slipped in that commandment on Moses, the one that says, "Thou shalt not bear false witness against thy neighbor."

Violent and destructive words are akin to violent and destructive deeds. They will inspire violence on the part of others. Here is how Kipling said it:

. . . And sure it keeps their honor clean
The learned court believes
They never gave a piece of plate
To murderers or thieves
They never told the ramping crowd
To card a woman's hide
They never marked a man for death
What fault of theirs he died?

They only said intimidate
And talked and went their way
By God, the boys who did the work
Were better men than they.

[From the U.S. News & World Report, Aug. 8, 1994]

WHATEVER IT IS, BILL CLINTON LIKELY DID IT

(By Greg Ferguson and David Bowermaster)

Sitting in a cozy parlor and wearing a red cardigan, Larry Nichols looks into the camera like an earnest Mr. Rogers and tells of "countless people who mysteriously died" after having run-ins with Bill Clinton. Nichols, an Arkansas state employee fired in 1988 for making hundreds of calls to the Nicaraguan Contras from his office, says it's all part of Clinton's "evil society."

So goes "Bill Clinton's Circle of Power," a video made earlier this year by Citizens for Honest Government, a California-based conservative group headed by television producer Pat Matrisciana. The video is filled with dark suggestions that as president and governor, Clinton was connected to the murders and beatings of several people, including political opponents. The Rev. Jerry Falwell promoted the video during a month of TV infomercials, and it has sold more than 100,000 copies, according to its makers. They hope its sequel, "The Clinton Chronicles," which repeats the charges at greater length, might outsell the first, even without Falwell's help.

Beyond last week's congressional Whitewater hearings and the ferment over Paula Corbin Jones' sexual harassment lawsuit, attacks against Clinton have taken a decidedly sinister turn. Televangelists, conservative talk-show hosts, political opponents and some computer bulletin-board aficionados are suggesting that Clinton could be tied to dozens of deaths, from a pneumonia case in Delaware to three of the four federal agents killed in the raid on the Branch Davidian compound in Waco, Texas.

WEIRD ERA

Even at a time of great national anxiety and confusion, the intense, fecund and often bizarre charges leveled against Clinton are startling. He has unusually high negative ratings in many polls, but even that fails to explain fully the extreme nature of the charges leveled at him. "These attacks have reached a level of inventive and viciousness that is unparalleled," complained White House counsel Lloyd Cutler during last week's Whitewater hearings. "There are a great many people who would like to bring President Clinton down who will stop at practically nothing."

No episode seems beyond Clinton's reach in the world of conspiracy buffs. A Wall Street Journal editorial in March chastised the "respectable press" for showing "little-to-no appetite for publishing anything about sex and violence" in Whitewater-related matters. It proceeded to report that while working on a story for the New Republic about incestuous relationships between business leaders and politicos in Arkansas, writer L.J. Davis opened the door to his Little Rock hotel room and remembered next awakening face down on the floor with a hefty bump on his head and "significant" pages of his notes missing. The implication was that some sinister elements had tried to quash Davis' piece. But Davis soon admitted drinking at least four martinis that night. No pages were missing from his notebook, and he had no idea how he ended up on the floor. "I certainly wasn't about to conclude that somebody cracked me on the head," Davis said at the time.

Even the most serious charges are characterized by serious deficiencies in corroborating evidence. In a letter to congressional leaders, former Rep. William Dannemeyer lists 24 people with some connection to Clinton who have died "under other than natural circumstances" and calls for hearings on the matter. On Dannemeyer's list is James Wilhite, a friend of White House adviser Thomas "Mack" McLarty who suffered fatal head injuries in December 1992 when he skied into a tree in Colorado. Clinton was nowhere near the scene. Dannemeyer also mentions Paul Tully, a chain-smoking, overweight Democratic strategist who, according to Little Rock police spokesman Lt. Charles Holladay and the Pulaski County coroner's report, died of a heart attack in 1992. Next is Jon Walker, an administrator in the Resolution Trust Corp. office probing Madison Guaranty; Walker died last year when he jumped from a Northern Virginia apartment building. Tom Bell, a detective with the Arlington, Va., police says Walker was a "particularly clear case of suicide because there was a witness."

Others on the Dannemeyer list are more curious but completely lack evidence implicating Clinton. In March, a plane piloted by 72-year-old Herschel Friday, head of a prestigious Little Rock law firm, crashed on approach to a private runway near Friday's home. Friday served on Clinton's presidential campaign finance committee, and his widow, Beth, says the Clintons were "good friends." However, rumors about a link between Whitewater and Friday's death began circulating soon after the crash. The National Transportation Safety Board has not issued its final report on the crash, but so far investigators have given the family no indication the plane had mechanical problems. Mrs. Friday is confident her husband's death was "purely an accident." Dannemeyer admits that Clinton may have had no involvement in Friday's death and some of the others, but he insists that the "number goes beyond coincidence." He says he merely wants them investigated.

THE CLINTON BODY COUNT

Dannemeyer's list of "suspicious deaths" is taken largely from one compiled by Linda Thompson. She is an Indianapolis lawyer who in 1993 quit her one-year-old general practice to run her American Justice Federation, a for-profit group that promotes progun causes and various conspiracy theories through a shortwave radio program, a computer bulletin board and sales of its newsletter and videos. Her list, called "The Clinton Body Count: Coincidence or the Kiss of Death?" and updated biweekly, now contains 34 names of people she believes died suspiciously and who had ties to the Clinton family. Thompson admits she has "no direct evidence" of Clinton killing anyone. Indeed, she says the deaths were probably caused by "people trying to control the president" but refuses to say who they were. Thompson says her allegations of murder "seem groundless only because the mainstream media haven't done enough digging."

Earlier this year, Thompson released two videotapes and a folksy music video purporting to show that the February 1993 shootout in Waco, Texas, was a conspiracy in which three agents from the Bureau of Alcohol, Tobacco and Firearms were "executed" in the Branch Davidian's armory by their own men because of what they might have witnessed as Clinton's bodyguards. Though the men did help the Secret Service guard Clinton a few times, the Treasury Department's report in the Waco standoff refutes the charge: "Contrary to some publicly disseminated accounts, none of the agents that entered the armory was killed." According to the report, the men were killed in different locations around the compound. ATF spokesman Les Stanford says, "Her videos are replete with falsehood and errors."

Of the "suspicious deaths" listed by Thompson and endorsed by Dannemeyer, many victims have only the most tenuous ties to Clinton—four members of Marine Helicopter Squadron One, for example. The unit

VOL 140 PT 16 AG 12 — 18 1994 UMI

is responsible for transporting the president. The four marines died in May 1993 when the Blackhawk helicopter they had taken out for a maintenance-evaluation flight crashed. According to a Marine spokesman, Chief Warrant Officer Robert Jenks, faulty installation of a spindle pin allowed the helicopter's engines to produce too much power until an overspeed protection device shut them down. There was no evidence of sabotage. Clinton had set foot in the aircraft on only one occasion, two months before, when he traveled from the White House to the USS Theodore Roosevelt. Thompson concedes, "I don't know what Clinton's motive was." But she speculates that they "could have been privy to information about Clinton's plan for Bosnia."

FOSTER'S DEATH

The starting place for all Clinton murder theorists seems to be Vincent Foster, the deputy White House counsel whose death last year unleashed a torrent of speculation. Jerry Falwell, Pat Robinson, Rush Limbaugh and others have suggested that Foster was probably murdered. On the anniversary of Foster's death, July 20, Foster's family made a public appeal to end the speculation. The death has been ruled a suicide in two separate investigations. Foster's family says they fully accept that verdict. That hasn't stopped Clinton's attackers, however. Many have dismissed the report by Whitewater investigator Robert Fiske Jr., a former U.S. attorney for New York under Presidents Ford and Carter and highly respected private attorney, calling Foster's death a suicide. In rejecting more macabre theories about Foster, these critics say, Fiske—a Republican—was simply doing Clinton's bidding. "Fiske was appointed by Janet Reno at the suggestion of Bernard Nussbaum," says Falwell. "It's like putting Hillary Clinton in there." Testifying last week before Congress, Nussbaum said he never mentioned Fiske or anyone else to Reno as a potential special counsel.

There are other suicides that the conspiracy buffs tie to Clinton. In May, Sherwood, Ark., police officer Bill Shelton found his live-in girlfriend, Kathy Ferguson, slumped on the couch in his apartment, dead from a self-inflicted gunshot wound. A month later, Shelton was found on Ferguson's grave, a bullet hole through his head, a gun by his side and a suicide note in his truck.

Less than a week before Ferguson's death, her ex-husband, Danny, was named as a co-defendant in Paula Jones's lawsuit against the president. Rumors began swirling that her death—and later Shelton's—was tied to the president's alleged infidelities. But police have found no reason to think so. The relationship between Ferguson and Shelton had reportedly fallen on hard times, and Ferguson's daughter told police her mother had been upset about a note from Shelton. The only people hinting at ties to Bill Clinton are in the media, police say. "It's like they want me to say something [about a connection]," says Sherwood Police Department spokesman Ray Snider. "It was suicide, period."

Luther "Jerry" Parks's death last September is almost as disputed as Foster's. Indeed, Parks's case is the only murder on Dannemeyer's list that law enforcement authorities do not consider solved. Parks's security company guarded Clinton's campaign headquarters in 1992. His son, Gary, asserts in both "Circle of Power" and "The Clinton Chronicles" that his father collected a secret file of the president's alleged indiscretions. Shortly before the elder Parks was shot to death while driving his car, Gary says, the file was stolen. Lieutenant Holladay says there is no evidence of such a file, nor any evidence that Clinton had anything to do with Parks's death. Gary, he says, "is grasping at straws. We have found his allegations to be baseless." Jerry Parks reportedly had many enemies after he was fired from two Arkansas police departments and after a bitter falling out with a business partner. Still, Larry Nichols says he is helping Gary Parks bring a wrongful death suit against "someone close to Clinton who doesn't have presidential immunity."

One recent death is that of Stanley Huggins, who died in June. In 1987, Huggins examined the loan practices of the thrift, Madison Guaranty, at the center of the Whitewater storm. His 400-gage report has never been made public. But Dr. Richard Callery, Delaware's top medical examiner, says Huggins died of viral myocarditis and bronchial pneumonia. Lt. Joel Ivory of the University of Delaware police says his "exhaustive" investigation of Huggins's death turned up "no sign at all of foul play."

The flood of accusations shows no sign of abating. And to all conspiracy buffs, official sources are suspect. Falwell asks how the Arkansas police could investigate the deaths: "The police in Arkansas brought Clinton's girlfriends to him." He also says that guilty or innocent, Clinton encourages suspicion: "He's trying to get the courts to postpone his sex harassment suit. If he gets by with that, O.J. Simpson should run for president."

INTRODUCTION OF THE CONSUMER HEALTH QUALITY PROTECTION ACT OF 1994

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. WYDEN. Mr. Speaker, by now it seems that every major interest group has newspaper and TV ads and lobbyists fully engaged in the health reform debate. But in my opinion, the single most important voice in the health reform debate has also been one of the quietest vocies—the voice of the consumer.

In an effort to address this imbalance of influence, on May 10, 1993, I joined representatives of 30 national consumer organizations—the core members of what is not the Coalition for Consumer Protection and Quality in Health Reform—to launch a campaign for health care reform built on consumer protection and quality improvement.

We acted out of a shared conviction that there is nothing automatic about achieving quality and accountability in health care reform. I agreed with these consumer groups that the new health care system Congress is now designing must include specific provisions on health care quality. These provisions must not only protect existing quality safeguards from the financial pressures of the health care marketplace, but correct defects in the current system, establish accountability for health insurance companies, and expand opportunities for meaningful consumer choice.

Since we kicked off our campaign for quality care, this coalition of consumer groups has testified before all of the major House and Senate committees, as well as the Subcommittee on Regulation, which I chair. Over the past 18 months, representatives of these 30 organizations have worked closely with me and my staff to draft legislation to promote the health quality agenda.

The legislation I am introducing today was originally drafted as an amendment to health reform legislation marked up by the Committee on Energy and Commerce. Unfortunately, disagreements prevented our committee from reporting a bill. Subsequently, I have shared this language with the committee chairmen who drafted the House bill with the majority leader, and asked for its incorporation in that legislation.

Some of these provisions have been incorporated into the House and Senate health reform bills, and I am hopeful that all will find their way into the bill that emerges from conference.

As decisions are made on each of the consumer protection provisions, one key point I intend to emphasize over the next month is that consumer protections must be funded as fully and equally important components of the new health system Congress is now constructing. I say this because in the current declining budget for discretionary funding, quality assurance mechanisms that depend on new appropriations for funding are unlikely to be funded or to provide meaningful consumer protection.

My legislation funds these essential functions through the same kind of premium draw that is used in both House and Senate bills to fund medical research. I wholeheartedly support medical research, but there is little sense in a policy that gives researchers a more secure funding base than health care quality protections for consumers.

The bill I am introducing today will identify the policies that consumers feel are needed, and, I hope, will provide a useful reference point in evaluating the quality of care safeguards in any legislation considered by the House and Senate.

Here is a brief list of several quality safeguards high on the consumer agenda, which are incorporated in this legislation.

CONSUMER QUALITY INFORMATION

Within the next 60 days, the Congress will most likely finish its work on national health reform legislation that significantly restructures the health care system in this country. Many aspects of health reform are uncertain. But this much is clear: tomorrow's consumers are going to be asked to be more involved in the choice of their health care and their providers.

In my judgment, if the reformed health system is to be built on the principle of consumer choice, consumers must have ready access to reliable, comparative information on quality.

This is no radical, futuristic concept. The last Congress enacted bipartisan legislation I sponsored to publish infertility clinic pregnancy success rates, so consumers can choose which clinic, if any, to invest with their hopes and their cash. In October 1995 this first legally required comparative health outcomes information will hit the streets and start helping consumers to make better health care decisions.

This kind of performance report on health plans is sometimes called a report card. But some report cards provide objective information, and some do not. Health insurance plans are already starting to put out report cards comparing themselves with their competitors, without disclosing their financial interests. Because consumers need to know they are reading an advertisement, and when they are reading objective facts, my bill includes sunshine standards for advertisements masquerading as report cards, to head off a new category of consumer fraud.

But, Mr. Speaker, it's not enough to give consumers information on the quality of health insurance plans. A health plan may be the key component of the health care system to economists and providers, but consumers are more interested in the quality of care provided by doctors, hospitals, and clinics. In fact, when they can afford to, people choose their health plans because of which doctors the plan will let them see, not the other way around.

The sad truth is Americans today have more product performance information available to them when purchasing breakfast cereal than when choosing a heart surgeon. This means that additional measures of quality are needed. Consumers must have easy access to comparative information on plans, providers, and the success rates of the treatments they provide. My bill will provide for these measures, and set deadlines for their publication.

At the very least, consumers must be informed as to which doctors they may wish to avoid. The public has a tremendous appetite for information on disciplinary actions and other markers of poor quality care, and they are outraged to learn that such data exists for thousands of practitioners, but that it is now kept secret in a taxpayer-funded National Practitioner Data Bank. On April 21, 1994, I introduced a companion bill, H.R. 4274, legislation to open the data bank to the public and to close loopholes that allow doctors to avoid reporting to the data bank today. I have worked to persuade my colleagues in the House and Senate to include this important consumer protection provision in final health care reform legislation.

FREEDOM OF CHOICE

In my view, the freedom to choose one's medical providers will be a litmus test for any successful health reform plan enacted in this Congress. And the best information in the world is useless if consumers don't retain some freedom to choose their providers. At the urging of consumer groups and my personal appeals to the Clinton administration, the Health Security Act proposed requiring every HMO to offer a point of service option. Health plans with point of service features allow consumers to use out-of-network non-HMO providers, provided the consumer agrees to pay higher out of pocket charges.

This market-proven alternative shows that you can have real consumer choice and cost containment in peaceful coexistence. It balances personal responsibility with freedom of choice at the individual level—where such decisions belong. What's more, health plans pay close attention to setting up high quality networks of doctors and other health professionals, knowing that a significant number of their enrollees are free to go outside of the network if, for example, they are told they have to wait 6 weeks for an appointment because the plan has too few OB-Gyns or mental health professionals. In this way, the point of service option provides powerful economic feedback that gives plans an incentive to build high quality, accessible networks.

My bill would require every health plan that utilizes a provider network to make available to enrollees the option of going out of that network for care. Preferred Provider Organizations—PPO's—meet this requirement by their very nature; Health Maintenance Organizations—HMO's—would have to offer enrollees an opportunity to purchase a rider that grants coverage for out of network items and services.

People could still enroll in pure HMO's, without buying the point of service feature—but even those people would benefit from the careful management of the plan's provider network, made necessary by the existence of a substantial number of enrollees who are not locked in to the network for unsatisfactory care.

The point of service feature is attractive for one additional reason: it allows people in traditional fee-for-service plans to join HMO's or other managed care plans with provider networks, without fear of being trapped in an unsatisfactory relationship with a limited group of health care practitioners. It is a tool for dramatically expanding enrollment in managed care organizations.

For these reasons, I believe this requirement should be a feature of the House bill, along with specifying the level of out-of-network cost-sharing to rule out unreasonably high coinsurance requirements by some health plans. My bill would also adjust coinsurance requirements for low income consumers, to make these choices meaningful to them.

INDEPENDENT QUALITY OVERSIGHT

Comparative quality information has a long way to go before consumers can rely on it to make life or death decisions. At least for the forseeable future, therefore, consumers want and need reliable, independent oversight of quality. I am proposing the creation of two kinds of oversight organizations: a quality improvement foundation to work directly with doctors, and a consumer health care advocate to work with consumers.

Quality improvement foundations—QIF's—would work with doctors on quality problems, and try to spur a bona fide quality improvement program in every health plan.

The new quality improvement foundations would monitor and compare patient morbidity and mortality in HMO's, hospitals and clinics, looking for areas needing attention. And when they find evidence of quality problems, they can take their evidence to the hospital or HMO and ask that the issue be investigated and, if found to be genuine, corrected.

They can spur collaborative efforts between health plans to address broader public health problems. They could offer to get experts together with doctors who need help to upgrade their skills. If the hospital, health plan, or practitioner is unresponsive or is unable to improve, the quality improvement foundation has the option of referring that plan or provider to State licensing officials or to the appropriate accreditation organization.

CONSUMER HEALTH CARE ADVOCATE

Consumers will need someone in their corner to contend with the new system. Their representatives in Washington have asked for a national network of health care advocates, modeled on the successful long term care ombudsman program that relies on trained volunteers to improve nursing home care. The health care advocate would help resolve complaints and grievances, and work to kick-start public and private officials to ensure that it jumps when consumers call for help.

STATE MEDICAL BOARD REFORMS

Numerous studies and reports from consumer groups and the HHS Inspector General have concluded that State medical licensure boards are underfunded and hamstrung by lack of legal authority and staff expertise to investigate quality of care cases.

The legislation I am introducing today will require States, as a condition of receiving Medicaid matching moneys, to include public members on their governing boards, to utilize licensure fees charged to doctors to fund board operations, to provide the board with basic investigative and disciplinary powers lacking in too many States, and to report annually on the number and type of actions the board has taken with respect to problem practitioners.

Mr. Speaker, I have spent my career working in the health field, and I know how complex the health policy can be. But protecting and improving the quality of health care is too important to let it slip through the cracks, or to go unfunded. I respectfully urge my colleagues to review and compare the safeguards in this bill with the versions which are adopted by the House and Senate, and work with me to get these important questions fully and squarely addressed by the conference committee that takes up health reform this year.

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SENATE—*Saturday, August 13, 1994*

(Legislative day of Thursday, August 11, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Baruch Hashem. Blessed be the Name of the Lord.

God of Abraham, Isaac, and Israel, on this Sabbath morning give us ears to hear, minds to understand, and wills to obey the foundation of all teaching in the Torah.

Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might. And these words, which I command thee this day, shall be in thine heart: And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up. And thou shalt bind them for a sign upon thine hand, and they shall be as frontlets between thine eyes. And thou shalt write them upon the posts of thy house, and on thy gates.—Deuteronomy 6:4–9.

Baruch Hashem. Blessed be the Name of the Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 13, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DORGAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein, with the time to be controlled by the Republican leader.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

ORDER OF PROCEDURE

Mr. KENNEDY. Mr. President, I understand that between now and 10 o'clock, there is time for morning business, and then at 10 o'clock, we return to the agreement that was outlined by the majority leader and agreed to, where we will have divided time during the course of the morning to address the health care issue; am I correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. KENNEDY. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO BOB WIKLUND

Mr. DOLE. Mr. President, I have been on the floor several times recently to recognize members of my staff who were moving on to new jobs. Sometimes they were going to a new position on the Hill.

Sometimes they were headed to K Street to work in the private sector, or elsewhere on the east coast to return to school. I even had a staffer recently who moved all the way to Colorado. But I think Bob Wiklund, a loyal member of my staff for 4 years, takes the record as he prepares to move to Belarus in the former Soviet Union.

A native of Lawrence, KS, Bob began his work in my office as an intern. He did not say too much at first, but he sure turned out a lot of work. He stepped into the duties of a legislative correspondent for foreign policy and defense, and he did so well that I decided to hire him for that job when his internship was over and we could not get him to do it for free anymore. Hiring Bob turned out to be a smart move. As our resident Russian speaker, he was very helpful during visits to my office by Mikhail Gorbachev and Boris Yeltsin. And when President Yeltsin accepted an invitation to visit my home State of Kansas, Bob was invaluable in translating letters, helping coordinate details, and acting as a liaison between my office and the Russian delegation.

After 2 years as a legislative correspondent, Bob began studying for his master's degree in international economics at the Johns Hopkins School for Advanced International Studies, but he continued to work in my office part time. This spring, Bob completed his degree and was selected by the World Bank to act as an adviser on privatization in Belarus. If his work for me is anything to go by, he will do an outstanding job. I appreciate all Bob's hard work over the years, and I wish him and his wife, Carrie, all the best in this adventure.

SALUTE TO LAURA DOVE

Mr. DOLE. Mr. President, on behalf of all my Republican colleagues, I rise to say "Thank you and good luck" to Laura Dove of the Senate Republican Cloakroom.

Today is Laura's last day in the Cloakroom, as she leaves for graduate school at the University of Virginia.

It will not be too long before Laura rivals Senator THURMOND in terms of Senate experience. Not only has she worked in the Cloakroom since May of 1992, but she also worked there from May 1987 to September 1988, and she served as a Republican page from September to December of 1986.

While at University of Virginia, Laura will also be working as a sorority housemother, and I look forward to hearing if riding herd on a bunch of college students is easier than riding herd on a bunch of Senators.

BIPARTISAN CRIME BILL

Mr. DOLE. Mr. President, finally, I would just say on the crime bill, I know we are going to be off on health care here in about 10 minutes for several hours today. It is my hope that the President, as I said yesterday, will see this not as a defeat under some procedural vote in the House but as an opportunity to work out some of the differences with Members of both parties and to indicate again that bipartisanship means you start together and you work together; you do not put it together and then ask the other party, whichever party it is, to come on board.

I am very hopeful that the President will consult with Members of both parties and take out some of the excessive spending in the package that went from a few billion dollars in the bill that passed the Senate by a vote of 95 to 4, I think it was, or 94 to 5 and then was increased, doubled, tripled, quadrupled on the House side, billions of dollars without any hearings and without much debate.

I think if that were done, and then some of the tough provisions that were dropped out of the crime bill were put back in, in my view, that would go a long way toward reaching strong bipartisan support for what is, what could be a very important piece of legislation. It is not a good bill, as the New York Times said today. It is not a good bill now, but it could be a good bill. It should be a good bill, and it should be bipartisan.

If the President is willing to work in that fashion, I think it would be helpful not only with reference to the crime bill but maybe other legislation that is pending and will be pending before we complete our work this year.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum is noted. The clerk will call the roll.

Mr. KENNEDY. Mr. President, will the Senator withhold.

Mr. DOLE. I withhold.

Mr. KENNEDY. I thank the Senator.

Mr. President, I yield myself such time as I might use until other Members come over who wish to address the Senate in morning business, and then I will withhold the rest of my comments until later in the morning.

INSURANCE COVERAGE FOR CHILDREN

Mr. KENNEDY. Mr. President, the amendment that we will be considering today focuses on our Nation's most precious asset, our children. It improves what is already one of the strongest provisions of Senator MITCHELL's health reform proposal.

The Mitchell bill provides affordable insurance coverage for children in every American family beginning in 1997. People with incomes of less than 185 percent of poverty will be able to insure their children without any charge. Subsidies will be provided for people up to 300 percent of poverty. Comparable assistance will be provided for pregnant women.

For hard-working Americans, this bill guarantees that you will never have to choose between putting food on the table, paying a mortgage, and health care for your children.

Under the bill, if you are a family with two children and your income is less than $27,000, you will be able to insure your children at no charge. If your income is $35,000, you will pay approximately $230, less than 1 percent of your income. If you make $37,000, you will pay $1,000, but still less than 3 percent of your income. Families with $44,000 in income, the level at which subsidies phase out, will pay the full price of about $1,800, or about 4 percent of the family income.

The Mitchell bill recognizes that a health insurance card alone is not enough to guarantee timely health care for every child. So for children in the poorest school districts, the program provides Federal financial assistance for school-based or school-related health programs, under local control to make sure that children get the health services they need to do well in school and ultimately do well in life.

I must say on this point, Mr. President, one of the very, very important provisions in the Mitchell legislation, which was also in the President's program, is the development of health clinics in our schools. We have not been able to develop those kinds of programs for a variety of reasons in recent years. Anyone who has had the opportunity to visit schools, both in the inner cities, or out in rural communities, knows the kind of challenge that is out there for the children.

Mr. DASCHLE. Will the Senator yield on that point?

Mr. KENNEDY. Yes.

Mr. DASCHLE. I commend the Senator for drawing attention to the fact that school-based health clinics are one of the major focuses of the Mitchell bill.

As the Senator so eloquently has stated, there are too many occasions when students have access to no other medical care than what they now get in their schools. In some cases they do not even have access to school-based clinics. So with clinics, whether they are in rural or urban settings, we can really put meaning to the word "prevention". We can finally catch children's medical problems prior to the time that they become severe and possibly untreatable. There is no other bill pending before the Senate that emphasizes prevention like the Mitchell bill.

I am glad the Senator pointed that out. I do not know what the situation is in Massachusetts. But I know in South Dakota it is an extraordinary problem. Students today go to school with illnesses that are left undetected and untreated. We have a paucity of nurses. We have a severe shortage of nurse practitioners. We have few clinicians. We have little ability to treat children in rural areas. Under this bill, for the first time, we will be able to give students the opportunity to seek primary and preventive care.

I think the Senator is absolutely right.

Mr. KENNEDY. I thank the Senator because he brings a perspective to this of the importance in terms of the rural communities. In Arkansas, for example, they have developed these health clinics. It has taken some period of time. There was a good deal of resistance and reluctance in the initial development of those programs. I believe it took probably 2 or 3 years to develop half-a-dozen of those programs, all which involve the parents in the fashioning and the shaping of these health clinics as well as the teachers and the health professionals. Now the demand for those clinics, in rural areas as well as in the urban areas, is dramatic. They have been an extraordinary success. They are expanding on the basis of very limited resources.

We have found in my own city of Boston, that the Cambridge Rindge and Latin High School is one of the few schools in an urban area in my State that has developed a health clinic. It has a rather interesting historical background, and I will not take the time of the Senate to point out how it got developed. But it has been an extraordinary success in helping children that are coming from homes where there is abuse, physical abuse, and substance abuse; the problems in terms of hunger; the detection for example in terms of many of these illnesses at an early stage so that the child can be cured and also be participating in schools.

Many parents, hard-working parents, even when they have the children who are sick, still send their children to school because they do not have any day care to provide for them. They are endangering the other children. If you are able to have interventions in the health settings in schools, it makes an important difference.

Mr. DASCHLE. Will the Senator yield on that point?

Mr. KENNEDY. Sure.

Mr. DASCHLE. How many of those clinics does the Senator have in Massachusetts today? Does the Senator have any idea?

Mr. KENNEDY. I could probably count those school-based clinics on two hands, maybe three, but not any more.

Mr. DASCHLE. In South Dakota the situation is exactly the same. We have three or four of those clinics in the entire State. That is one of the key issues. I am glad the Senator has drawn attention to that in his remarks this morning.

Mr. KENNEDY. I want to point out to the Senator, we see our colleagues on the other side, that the provision passed 17 to nothing in our committee. It had unanimous Republican support, and Democratic support. We spent some time in fashioning and in shaping to make sure that it was really going to be reflective of local parents, local health care needs, age-appropriate kinds of interventions, but at the end of the day we were able to come together with virtually a unanimous proposal.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL
140
PT
16
AG
12
—
18
1994
UMI

When we are talking, as we did briefly yesterday, about how this legislation, the Mitchell legislation, affects children, and it has been, I must say, a significant improvement over the course of the development of legislation over that which was even recommended by the President; and it is a great tribute to the work that was done by the Finance Committee, Senator MOYNIHAN, Senator RIEGLE, and others on that committee.

In addition to providing affordable coverage for every American child, the Mitchell bill establishes a standard benefit package that includes comprehensive preventive benefits for children, from prenatal care to immunizations to regular physical examinations. Every physician—and most parents, too—know that good preventive care is the best way to make sure that children get the healthy start in life that they deserve. Preventive care is cost-effective, as well. Every dollar spent on prenatal care saves more than three times as much in reduced medical costs for premature babies and other low birth-weight babies. Every dollar spent on DPT vaccinations save $30.

The Mitchell bill is really a health care bill of rights for every American child. But the Dodd amendment will make it even better. Most of the programs under the Mitchell bill are scheduled to begin in 1997, including the requirement that all insurance plans include comprehensive preventive benefits for children. This amendment starts that part of the program right away. It does not subsidize any family's purchase of insurance in advance of the 1997 implementation date. It does not add any new Government obligations. Instead, it simply says that every new insurance policy sold and every policy renewed, beginning July 1, 1995, must include comprehensive preventive benefits for children. Twenty-one States have already legislated this requirement. Many insurance policies voluntarily cover these services.

This amendment says: Let us not wait until 1997 to bring these benefits to every insured child. Let us not let a single additional child grow up disabled or suffer unnecessary illness or death because we failed to provide preventive care. The cost of this additional benefit for policies that do not already provide it is very small—about $2 per month per child, according to the Traveller's Insurance Co. But the potential value of that ounce of prevention to millions of American children is very great.

I know that many of my Republican friends in this body are strongly committed to better health care for America's children. I urge them to join us in making the Mitchell bill an even better bill for children by adopting this amendment. I urge them to buckle down and join us in the business of legislating. If they think the Mitchell bill needs improvement, let them offer amendments. If they think they have a better alternative, let them offer it—so that we can debate it in the full view of the American people.

When it comes to protection for America's children, the Republican plan simply doesn't measure up to the Mitchell bill. It doesn't achieve affordable coverage and it doesn't guarantee comprehensive preventive care without copayments or deductibles. The Mitchell plan requires coverage of clinical preventive services without any copayments or deductibles. The Republican plan requires only one benefit package to include any preventive services at all.

On the crucial issue of affordability, the Dole plan helps children in the poorest families—and, of course, the rich can always buy coverage—but it provides no assistance or protection for children in the middle-class families that work hard, play by the rules, but still can't afford the coverage they need. The Dole plan makes no coverage available especially for children, and a family earning $22,000 a year would have to pay approximately $5,900 to buy family coverage—more than a quarter of the family's total income.

I think we can do better than that for America's children. So I urge this body to adopt this amendment, and I urge my colleagues to work with us to make the Mitchell bill the best program possible for the American people—and especially for the children who are America's future.

Now before the Senate we have this very interesting proposal that has been introduced by Senator DODD and others that will extend the requirements for the inclusion of these preventive programs that were linked to children's needs in the schools.

So, Mr. President, I will come back and address this issue. I see a number of our colleagues that want to use probably the morning hour. I will come back at an appropriate time in the morning and address it.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

HEALTH SECURITY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2351, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell amendment No. 2560, in the nature of a substitute.

Dodd amendment No. 2561 (to amendment No. 2560), to promote early and effective health care services for pregnant women and children.

The ACTING PRESIDENT pro tempore. The time until 5 p.m. shall be for debate only, to be equally divided and controlled by the managers of the bill or their designees. Who seeks recognition?

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I yield such time as the Senator from Maine may need.

Mr. COHEN. Mr. President, I thank the Senator from Oregon. Mr. President, as the debate on health care reform rages on and Republicans are buffeted with charges of being obstructionists and incrementalists, I am filled with a sense of deja vu—perhaps in Yogi Berra's words, "deja vu all over again."

I must say I was disappointed, but not surprised, to see a story in the Washington Post that was headlined, "Senate Republicans Impede Health Care Legislation."

Mr. President, why did not the headline read: "Senate Republicans Halt Rush to Premature Amendments"?

The story also said that we spent 4 days on this legislation before the first amendment was introduced. We spent portions of 4 days. If you total up the hours spent, it might total one entire day.

As I understand it, only nine Republican Senators have had an opportunity to speak on this legislation—only nine of us. Yet, we are now accused of impeding progress on health care legislation.

Mr. President, this is legislation which we are told has been in the waiting now for some 40 or 50 years. It seems to me that taking several days to at least allow the Members to make opening statements on legislation that they and their constituents are deeply concerned about is not asking too much.

It should not be reported that we are being obstructionists just because we want to give Members the opportunity to speak, not to delay, but to at least express their opinions. Just because we want to have the opportunity to speak, we should not be labeled as obstructionists or incrementalists or accused of impeding health care legislation.

Mr. President, back in the summer of 1990, in response to what was then an emerging issue of increasing national concern, Senator DOLE charged Senator JOHN CHAFEE with the job of forming a Republican task force to develop a comprehensive proposal for national health care reform.

Over the next 3 consecutive years we met regularly—every single Thursday morning for an hour, an hour and a half, and sometimes even 2 hours—to define, discuss, and debate the problems plaguing our health care system. Sometimes we brought in experts to at least try to enlighten us about complex technical issues, such as risk adjustment. But more often than not, we talked among ourselves, discussing a multitude of issues raised by our constituents, and even about our own personal experiences with the health care system.

The problems were clear. Health care spending, which this year is expected to top some trillion dollars, was at an all-time high and rising daily, placing a strain on families and employers and governments alike. As health care costs skyrocketed, more and more Americans were being priced out of the market, leaving some 37 million or more Americans at any given time with no health care coverage whatsoever, and many more living in terror that they would lose their coverage if they became ill or changed jobs.

We all found it both ironic and tragic that under our current system, the very people who need health care coverage and treatment the most are the ones who cannot get coverage simply because they are already sick or suffering from a preexisting condition. We agreed unanimously that health care insurance should be portable; that insurers should be prohibited from denying, canceling, or limiting coverage on the basis of a person's health status.

We agreed that, rather than competing on the basis of their ability to attract the healthiest customers, insurers ought, instead, to be competing on the basis of price, quality, and service. We agreed that insurance market reforms—guaranteed eligibility and renewability, portability and limitations preexisting condition exclusions, should all be a part of any health care reform proposals.

We reached agreement on several other key components that we believed a bipartisan majority in Congress could agree upon; namely, access to health care for all Americans; subsidies for low-income individuals and families; full tax deductibility for the self-employed; encouragement of managed care and cost containment to make coverage more affordable; administrative reforms to reduce costs and paperwork and to make the system more efficient; malpractice reforms to reduce the costly practice of defensive medicine; expanded access to care in rural areas and incentives to encourage more physicians to enter primary care; stronger efforts to combat fraud and abuse which robs our health care system of as much as $100 billion a year; and, finally, greater emphasis on primary and defensive care.

These principles were part of my own legislation, which I offered back in 1990—4 years ago. It is a 76-page document. This bill which I introduced emerged as the major campaign issue in 1990 when I was running for reelection. My opponent, who favored a single-payer plan based on the Canadian system, said my approach was too complicated. This 76-page document was too complicated. We needed a simple system like the single-payer system. So it was dismissed as being too long, too involved, too convoluted and complicated. Most of the principles I just mentioned, that we have bipartisan support upon, were contained in this legislation, but it was dismissed.

Now, we have a new document which is not just 1,410 pages. I checked this morning. It has been amended for the second time and is now 1,443 pages.

Mr. President, I mentioned a moment ago that we incorporated provisions dealing with health care fraud. Over a year ago, I first introduced my health care fraud bill. As I recall, it was in May of last year. Nothing was done until November, when we passed an amendment to the crime bill, trying to come to grips with health care fraud, which, according to GAO, is costing us $100 billion a year. But even though the we passed it on our version of the crime bill, the House objected and dropped it in conference.

Maybe that was a wise thing to do in view of what happened with the crime bill. They said, "Let us save it for the health care debate." So we have saved it for a year and a half now. We may not finish this debate this year. Hopefully, we will. But we have already lost an opportunity to get some of that $100 billion a year that we are losing. We are losing $275 million a day—$275 million a day—to fraud, $11.5 million every hour to fraud. Yet, we have delayed almost 2 years now from taking any action to deal with it.

Mr. President, the key principles agreed to in the Republican health care task force were also contained in the bill submitted by Senator CHAFEE on behalf of some 20 of us who supported his efforts.

They are also contained in many of the Democratic proposals. Indeed, they are even contained in the latest version of the majority leader's amendment. Many of these principles were incorporated into Senator Lloyd Bentsen's proposal that was passed in the Senate—but later dropped in conference—as part of the 1992 tax bill.

So we had broad bipartisan support for those new initiatives.

In the fall of 1992, Senator DOLE, Senator CHAFEE, I, and several others, approached the majority with a list of what we called 11 points of commonality between Republican and Democratic proposals. We met with the majority leader's task force on more than one occasion to press for these reforms on which there was broad-based bipartisan agreement. These were significant steps that we believed could and should be taken immediately to slow the growth of health care costs and increase access to quality health care for millions of Americans.

We were rebuffed. We were told that reforms were not comprehensive enough and that anything short of comprehensive reform would not do.

Mr. President, let me say, very frankly, it was a stall. It was a stonewall. I believe it was a political tactic to delay any reforms until the elections were over in November. That is what happened. The Democratic majority wanted a perfect issue and not an imperfect solution, and it was a perfect political issue at that time. The point is, we had broad-based agreement and we could have passed something.

So here we are, 2 years later, still talking about the same principles on which we know there is broad-based bipartisan agreement: portability, no preexisting condition exclusions, affordable coverage, expanded access, emphasis on prevention, cost containment, administrative simplification, and stronger efforts to combat fraud and abuse.

We agree on those provisions, and they are part of the Dole-Packwood bill. They are also part of the Mitchell bill.

The problem is the majority leader's bill goes far beyond these areas of agreement and would drastically alter the delivery of health care in this country.

I have listened to the debate, and I must tell you I have been moved by the recitation of the tragic stories that have affected and have afflicted so many thousands and perhaps millions of Americans who lack adequate health insurance coverage under the current system. I cannot agree more that we must do everything we can to correct this situation for the families who are suffering on a daily basis.

But what is most tragic of all is that most of the situations that have been so poignantly described in this Chamber during the portions of the past 4 days that have been devoted to the health care debate would have been helped immediately by the proposals

VOL
140
PT
16
AG
12
—
18
1994
UMI

set forth by Senator CHAFEE, myself, and others.

Mr. President, health care reform has often been compared to two other major social reforms of the 20th century—the creation of Social Security in 1935 and then Medicare some 30 years later. However controversial they may have been at the time, both of these major proposals were ultimately passed. The House passed the Social Security Act by a vote of 371 to 33, the Senate by a vote of 77 to 6. The margin on the Medicare bill was somewhat narrower but still conclusive—68 to 21 in the Senate, and 307 to 116 in the House. As controversial as they were, these two measures enjoyed broad bipartisan support.

We are told that the President of the United States is now pursuing a 51-vote strategy. Let me suggest that it may—and I will talk about this at length in a moment—it may be in the political interest of the President to pursue that strategy. I think it is bad for the country. Let me just suggest why.

If we are to pursue a 51-vote strategy in this Chamber, or 52 votes or perhaps even 1 or 2 more, I can assure you that the very next thing that is going to happen after the election in the fall is that the reforms we pass now will begin to unravel.

In the fall elections, we on the Republican side expect to gain several more votes. It may be one; it may be two. Conceivably it could be 10. I do not want to alarm the chairman of the Finance Committee—let me compromise—let me say that we expect that anywhere from one to five may come to our side.

In any event, whatever the margin of increase, I can almost assure you that, from the day we come back into session next January, an effort will be made to undo legislation that passed by a 51-vote strategy. And the President will sit in the White House and he will exercise his veto, and, depending upon how many Members are added to this side of the aisle, he may be successful. He will spend the next 2 years of his administration vetoing legislation.

In the meantime, the country will be in a state of complete turbulence. Our constituents will want to know: Are we in? Are we out? Do we have a plan or not? Is it HIPC or non-HIPC? Is it voluntary or involuntary? What should we plan on?

I can guarantee you the effort will be made on this side to undo something that passes by that narrow a margin. That is not good for the country.

We need not do that. We have an opportunity to put together something that many of us, if not most of us, can support.

But if you are just looking to have 51 votes, and that is it, on a straight, narrow party line vote, you will get a short-term political victory, perhaps—and I am not even sure it will work in the short term to the President's advantage. It may be that it only causes more turbulence in the country prior to November, and it will not redound to his benefit or to anyone else's in this Chamber.

Mr. President, I have a profound sense of apprehension about any strategy that seeks to ram something this important through on a party line basis because there are people of good will on both sides. There are many good things in the Mitchell amendment, and there are many good things in the Dole-Packwood proposal as well.

The decisions we make in the coming weeks will have profound consequences for every single American and will control the future direction of one-seventh of our Nation's economy. We should not even begin to contemplate enacting such sweeping reforms unless they have broad based and bipartisan support.

To date, much of the discussion of Senator MITCHELL's plan has focused on the issues of universal coverage, mandates, and the search for the ever-elusive perfect trigger—what some have called the Goldilocks trigger, one that is not too hard and one that is not too soft.

Mr. President, Gertrude Stein once said, "A rose is a rose is a rose."

An employer mandate is still the equivalent of a tax on jobs, with a trigger or without. Whether you call it a mandate, it is a tax by any other name.

Employers are not going to bear the cost of that insurance—workers will, in the form of lower wages, lost benefits, and lost jobs. And CBO's analysis confirms that fact.

The trigger does nothing to change the essential problems with mandates. It just delays their impact until after the turn of the century. It is a slow-burning fuse that will trigger long-term damage and the loss of thousands of jobs.

Further, all of the focus on mandates and triggers has clouded the much more important issues that have to be decided with regard to what we are proposing to do with the health care system in the interim.

Even without the mandate, there is considerable new regulation in the majority leader's bill. This regulation will not only undermine the most effective and time-proven cost containment mechanism—competition—but it is going to add significantly to the costs of running a small business.

I am not sure those of us in this body appreciate the regulatory burdens that small businesses already face. I have the benefit of a private adviser on these matters. He is my father. He is 85 years old. He works 18 hours a day, 6 days a week. He has no pension plan. He has no investments, no stocks, no bonds. He just has to keep working to support himself and my mother and other members of the family. I know what he has to go through to make ends meet. And he could not do it, he could not stay in business if we imposed a mandate, as the Gephardt bill will do, upon him. It may be the majority leader's amendment's exclusion of employers with 25 or fewer workers will exempt him or others similarly situated.

But once you have a mandate in place, it is only a question of time until it starts to be applied along the line. We will have to deal with the arguments that a small business exemption allows employers with less than 25 workers to cost shift. One can see inevitably that the handwriting on the wall is not forgery. It will ultimately be applied down the line to every single employer.

Another person whose counsel I have taken and would urge others to take on this matter is, surprisingly, that of former Senator George McGovern.

Two years ago, Senator McGovern had printed in the Wall Street Journal what amounted to a mea culpa. He regretted that he never really understood the struggles of running a small business until after he left public service and opened a small inn in Connecticut.

He wished he had this experience before he entered the Senate. He said that he would have been a better Senator and a better Presidential contender. He said he would have been more sensitive to the impact Government mandates and regulations have on small businesses, driving up operating costs and even—as in his case—forcing many of them into bankruptcy.

Mr. President, I ask unanimous consent to have printed at the end of my remarks the article written by Senator McGovern for the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COHEN. Mr. President, as CBO has repeatedly testified and reported to us, no one really knows what the impact of the regulations contained in this amendment are going to be—no one, not the Members of this Chamber, not the other Chamber, not the country, not CBO. No one knows the impact of these regulations, and we ought to proceed with some caution.

I recall a few years ago when Congress instituted a tax on luxury boats.

The chairman of the Finance Committee is nodding.

It was perceived by many simply as a way of squeezing revenue from the rich and the famous. Instead they stopped buying large boats and the workers suffered. We aimed at the wallets of the rich and we hit the blue-collar, middle-class workers in the neck. We put them out of work. We put them out of work because we were trying to tax the rich. "Let's get the rich," we said, and we hit the people right in the middle.

And this legislation runs the risk of hitting those same people right in the middle by putting them out of work as well.

This is a very good example of how Congress often does not appreciate the ultimate consequences of its actions. We ought to keep this in mind as we continue to debate health care legislation.

One of the clear messages that I have received from my constituents is they are concerned about choice, about any plan that takes too much of the decision-making authority about health care out of their hands and puts it into the hands of the Government regulators or bureaucrats.

The majority leader's legislation creates dozens and dozens of new Federal and State bureaucracies that would have unprecedented authority to regulate the way health care is bought, sold and, to a certain extent, even practiced in this country.

We have a powerful new National Health Board that would be making decisions on what medical care is necessary and appropriate—decisions that one would think should be between the patient and his or her physician. A National Council on Graduate Medical Education will set quotas and tell medical students what specialties they can practice. And there is a strange system of mandatory voluntary purchasing cooperatives that is going to herd all employees of businesses that have less than 500 workers into large collectives and destroy their employers' ability to control their costs.

All of this focus has dismissed concerns about costs.

Mr. MOYNIHAN. Will the Senator yield?

Mr. COHEN. I am almost finished. At the end, I will yield.

Now, a key element of cost containment has to be more competition. The more regulated the health care industry becomes, the less competition can occur and the more costs are going to increase.

One of the best ways to control health care costs is to give consumers incentives to choose efficient, cost-conscious plans. However, the majority leader's legislation would impose a complex and convoluted tax on plans whose premiums are growing—no matter how low those premiums might be.

This would lock in existing price differences, penalize plans that have been efficient, and reward plans that are not. It is little more than a backdoor approach to price controls.

Finally, I am concerned that the so-called fail-safe mechanism in this bill—which is intended to ensure that health care reform does not add to the deficit—is too weak. It is almost certain that the spending associated with the new entitlements and subsidies in the bill are going to exceed all expectations and further fuel the deficit that threatens to cripple the economy right now.

And I might point out that when Medicare was first adopted, it was projected to cost, I believe, $500 to $600 million. Lyndon Johnson said, "That is something that we can afford," and we passed it. The cost of Medicare now runs—correct me, Mr. Chairman, if I am wrong—as high as $150 billion per year.

So again we have to exercise some caution when we are projecting what ultimately will be the impact of legislation that we are proposing.

A few days ago, I had lunch with my oldest son, who was recently married. He said to me during lunch, "I hope that Congress will pass something by the end of the year." He will soon be off to graduate school at Dartmouth. He said it would be helpful, he thought, to have a health care bill that we could pass this year.

I assured him that I hoped it was possible. I would like to see legislation passed. But he, like most of my constituents, has no idea what devils lurk in the details of this massive amendment. He has no concept. And, indeed, the Members of this Senate still have limited knowledge and comprehension of what is in here.

There is a group of us meeting as I speak, 15—I think yesterday it reached as high as 17—Members of the Senate who are sitting down, going through this bill page by page, line by line, all individuals who are highly intelligent, who have studied this for several years, and who are confused about the implications of what is contained here.

We are working today. We will start again on Monday. We will continue to work through all next week so we can at least make some constructive proposals in terms of how we think this legislation can be improved.

I also pointed out to my son that the proposal that President Clinton now supports—namely, the majority leader's proposal; and the bill that Mrs. Clinton now opposes, namely the majority leader's proposal—is likely to raise the insurance rates that he and others in his age group will pay in order to reduce the costs to older citizens.

Frankly, he was stunned. He was absolutely stunned. He had no idea that pure or flat community rating would cause such an increase in his own insurance rates, which he cannot even afford now.

There are other provisions in this bill which are likely to stun the American people upon their full disclosure. And, Mr. President, at a future time, I will have more extensive comments to make when we debate these specific provisions of the majority leader's bill.

I would like, in the meantime, to add my own comments of praise to those of Senator CHAFEE for the majority leader, and commend him for modifying the President's proposal in an effort to seek compromise.

The next few weeks give us a very narrow window of opportunity to enact meaningful health care reform legislation. I suggest that the principles—the key principles outlined at the beginning of my statement—could form the basis of a centrist reform bill that relies upon competition rather than Government regulation to control costs, expand choice, and to ensure that everyone has access to the health care they need.

I believe it is the kind of proposal that would attract the broad-based, bipartisan support that is necessary for health care reform to succeed, and it would take us in the direction I believe the American people want to go.

I resist the notion that has been articulated by the White House that it is the majority leader's bill or nothing. If that is the case, we may very well end up with nothing. I have been encouraged by my colleague from Maine and his statement that his proposal is just the beginning and that he welcomes constructive proposals to improve it. And that is the attitude with which I have spent the last 3 years, nearly 4 years, of my own life in this body, working to improve our current system.

Finally, Mr. President, let me say that President Clinton and Mrs. Clinton have, I think, justifiably complained about the negativity that seems to be pervasive in our society. I think that they have been, in many instances, unfairly criticized. I think that they have taken a lot of unneeded, unwarranted, unjustified assaults. This is something that all of us should struggle to overcome and try to do our best to eliminate from our proceedings.

But it also works in the same fashion for them. They cannot, in turn, point to individual Members of the Senate, Senator DOLE in particular, and try to demonize him, saying: "There; the Republican leader is seeking to delay, to impede, to destroy."

Senator DOLE, not alone in this Chamber, but perhaps more than any other individual, has suffered pain during his lifetime. He knows what health care means and what not having it means. He can tell you—and he will not tell you—from family history what it means to go without insurance, to go out and have to raise money to pay for treatment that is not available without it.

So I do not think anyone is in a position to be too pious and point their finger at Senator DOLE or anyone else in this Chamber in an attempt to undermine their motive or cast aspersions upon their character.

What we need to do is to continue a debate which is healthy, constructive, positive, and has respect for all the Members in this Chamber.

There are others who also suffered war wounds and other types of pain

VOL
140
PT
16
AG
12
—
18
1994
UMI

during their lifetime. And no one, be it in this Chamber, the other Chamber, or in the White House, ought to be pointing fingers at those who are seeking to come up with the best possible proposal for the American people.

Mr. President, I hope there will be a cease-fire, a white flag raised, no more ad hominem attacks on individual Members. I think there is good will in this Chamber and that we can work together to come up with something that the majority can support and the majority of the people of this country will rally behind.

I yield the floor.

EXHIBIT I

[From the Wall Street Journal, June 1992]

A POLITICIAN'S DREAM IS A BUSINESSMAN'S NIGHTMARE

(By George McGovern)

Wisdom too often never comes, and so one ought not to reject it merely because it comes late.—Justice Felix Frankfurter

It's been 11 years since I left the U.S. Senate, after serving 24 years in high public office. After leaving a career in politics, I devoted much of my time to public lectures that took me into every state in the union and much of Europe, Asia, the Middle East and Latin America.

In 1988, I invested most of the earnings from this lecture circuit acquiring the leasehold on Connecticut's Stratford Inn. Hotels, inns, and restaurants have always held a special fascination for me. The Stratford Inn promised the realization of a longtime dream to own a combination hotel, restaurant and public conference facility—complete with an experienced manager and staff.

In retrospect, I wish I had known more about the hazards and difficulties of such a business, especially during a recession of the kind that hit New England just as I was acquiring the inn's 43-year leasehold. I also wish that during the years I was in public office, I had had this firsthand experience about the difficulties business people face every day. That knowledge would have made me a better U.S. senator and a more understanding presidential contender.

Today we are much closer to a general acknowledgment that government must encourage business to expand and grow. Bill Clinton, Paul Tsongas, Bob Kerrey and others have, I believe, changed the debate of our party. We intuitively know that to create job opportunities we need entrepreneurs who will risk their capital against an expected payoff. Too often, however, public policy does not consider whether we are choking off those opportunities.

My own business perspective has been limited to that small hotel and restaurant in Stratford, Conn., with an especially difficult lease and a severe recession. But my business associates and I also lived with federal, state and local rules that were all passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc. While I never have doubted the worthiness of any of these goals, the concept that most often eludes legislators is: "Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and government reporting requirements with reams of red tape." It is a simple concern that is nonetheless often ignored by legislators.

For example, the papers today are filled with stories about businesses dropping health coverage for employees. We provided a substantial package for our staff at the Stratford Inn. However, were we operating today, those costs would exceed $150,000 a year for health care on top of salaries and other benefits. There would have been no reasonable way for us to absorb or pass on these costs.

Some of the escalation in the cost of health care is attributed to patients suing doctors. While one cannot assess the merit of all these claims, I've also witnessed firsthand the explosion in blame-shifting and scapegoating for every negative experience in life.

Today, despite bankruptcy, we are still dealing with litigation from individuals who fell in or near our restaurant. Despite these injuries, not every misstep is the fault of someone else. Not every such incident should be viewed as a lawsuit instead of an unfortunate accident. And while the business owner may prevail in the end, the endless exposure to frivolous claims and high legal fees is frightening.

Our Connecticut hotel, along with many others, went bankrupt for a variety of reasons, the general economy in the Northeast being a significant cause. But that reason masks the variety of other challenges we faced that drive operating costs and financing charges beyond what a small business can handle.

It is clear that some businesses have products that can be priced at almost any level. The price of raw materials (e.g., steel and glass) and life-saving drugs and medical care are not easily substituted by consumers. It is only competition or anti-trust that tempers price increases. Consumers may delay purchases, but they have little choice when faced with higher prices.

In services, however, consumers do have a choice when faced with higher prices. You may have to stay in a hotel while on vacation, but you can stay fewer days. You can eat in restaurants fewer times per month, or forgo a number of services from car washes to shoeshines. Every such decision eventually results in job losses for someone. And often these are the people without the skills to help themselves—the people I've spent a lifetime trying to help.

In short, "one-size-fits-all" rules for business ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—e.g., 50 employees or more, $500,000 in sales—takes no account of other realities, such as profit margins, labor intensive vs. capital intensive businesses, and local market economics.

The problem we face as legislators is: Where do we set the bar so that it is not too high to clear? I don't have the answer. I do know that we need to start raising these questions more often.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from New York.

Mr. MOYNIHAN. Mr. President, could I congratulate and thank the Senator from Maine for his remarks and tell him that there is much more I agree with than disagree? But the central point of what he has said is how much in common we have on both sides of the aisle. I would remind him that the Committee on Finance reported a bipartisan bill and that bipartisanship is still here. On the front page of the New York Times—that is my hometown—Mr. Adam Clymer this morning reports, "Mitchell Sees Room for Dealing on Rival Health Care Proposals." "Big Gain Toward a Compromise in the Senate."

Mr. Mitchell, the majority leader, said today that issues raised by bipartisan moderates led by Senator John H. Chafee appeared to be negotiable.

And of course they are.

I think we all need to ask ourselves about this particular form of ineffectiveness, of almost an entropic decline in our capacity to produce results, whether it is institutional, systemic—I do not know. Twenty-five years ago a Republican President—we can say that now—proposed a guaranteed income, which twice passed the U.S. House of Representatives and died in the Senate from those who said it was too much and those who said it was too little and those who made the calculation that, my goodness, if a Republican will do this, think what the next Democrat will do.

That same Republican President proposed universal health care and employer mandate. And I am standing 3 feet from the Republican manager of the bill here, Senator PACKWOOD, who introduced it. And again the calculation was made. Some thought it was too much. But on our side, some said not enough, we can get more. Think; if that man would give us this, think of how much more we can get. And we got nothing. That is the record. We got nothing. It is a quarter century of impasse.

And I think it is only in the spirit of which he speaks that we will move on. Because we are not getting better in some respects. I have frequently spoken of the extraordinary advances in medicine—medical technology, medical science—that we have seen in the last 30 years. But on the subject of infant mortality, in 1960 the United States was 11th among 23 OECD countries in infant mortality, and 30 years go by and we are 21st. We have not been looking to our affairs very competently. And we continually miss these opportunities.

There is an element of the neurotic in this, an element of the individual who repeatedly states one desire and behaves in a way that thwarts that desire. It is a very common neurotic pattern. I do not have to tell a person of the insight into these matters of the Senator from Maine, but I thank him for his address.

Mr. COHEN. Will the Senator yield at this point?

Mr. MOYNIHAN. I yield the floor.

Mr. COHEN. Mr. President, I go back to what I think will be the problem. Articles have been written about "demosclerosis." That our democracy has become——

Mr. MOYNIHAN. Demosclerosis.

Mr. COHEN. Filled with special interest groups that are highly organized; that they will prevent not only attempts to adopt new legislation but prevent any modification of existing legislation. We are suffering from a sclerotic condition.

One of the reasons I feel so strongly about not pursuing this 51-vote strategy, or narrow, partisan strategy, is that what will take place in the country, if the country sees that we are divided virtually on party lines with some minor exceptions, they will then be divided along party lines as well. Our division will be replicated and reflected out in the country. And they, in turn, will mobilize forces to change what we have done. That will continue. I am persuaded that will continue into the future.

If we really want to do something constructive for the country, if we reach broad-based bipartisan support, we send the signal to the country that we are united. If the country and the groups that are out there feel we are divided, as we are today—publicly at least—in terms of these issues they will seek to exploit that. And, year after year, President Clinton—he will not enjoy the next 2 years, I can assure you. He will not enjoy the next 2 years. We will not enjoy the next 2 years. And the country will be in a state of confusion.

I am pleading for both sides to try to find some appropriate middle ground. I am part of the Chafee mainstream group. I have been so. I continue to work in that fashion. I just hope we can stop the attacks. Frankly, I think by going to the amendment—I understand what the strategy is: Let us go to the amendments. Let us get some momentum going, pass some amendments, and give at least the perception that we are doing something constructive, rolling along. And that will give the House the incentive to go ahead.

We are in a situation where we, for the first time, are proceeding on a major tax bill in front of the House because they do not want to go first now, something extraordinary in our history.

I understand the tactics involved. But I plead with my colleagues on the other side, do not believe Members over here are seeking to stall and delay for the purpose of stalling and delaying. There are people over here who have been working on this for years, who would like the opportunity to speak. I have waited 4 years to speak—what was it, 25 minutes? I only consumed 25 minutes. I wanted to make that speech before we got to the amendment stage. There are others who feel equally strongly.

So I just resent the notion that somehow the headline story is Senate Republicans impede progress on health care legislation. We are not seeking to impede. We would like an opportunity to explain our positions to our constituents, to inform them of what we believe to be some of the deficiencies in the proposals, to let them know that a number of us over here, and I would say Senator DOLE is in this category—he has encouraged us to see if we can come up with some constructive solutions.

So it ought not to be labeled obstructionist once again, and pure negativity on the part of the Republican Party. I think we are working to see if we can do something that is in the best interests of the country.

Mr. KENNEDY. Will the Senator yield for a question?

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Let me, when Senator KENNEDY speaks, yield our time.

Mr. KENNEDY. I was listening—and I see others who want to address it. But as we are moving through the course of the debate, I think it is important that we try to find out, as we use these terms, how they are related to the legislation that is at hand. I know there was some question in the presentation of the Senator about the allocations of various residency programs. Of course the Senator understands that the American taxpayers pay for better than half of all the residencies, unlike the law schools where individuals pay or the law schools pay.

So there are those, of whom I am one, who think since the American taxpayer is paying half or even more in many situations across the country, that the idea that the public should have some interest in the percent of residencies in different kinds of areas is not all that radical. Particularly when the AAMC, which is the principal instrument for the medical colleges, supported various—this proposal.

I was wondering, since the Senator mentioned this in what I perceived as somewhat of a derogatory way about the Federal Government making decisions about who are going to be doctors and specialists, what does the Senator—what is the Senator's alternative?

Mr. COHEN. I ask whether or not the Senator from Massachusetts thinks it is in the best interests of the people of the State of New York to tell the State of New York how many orthopedic surgeons it might plan on?

Mr. KENNEDY. Of course that is not in the bill. That is not in the bill, in terms of allocating any kind of formula to any particular medical school. I know there have been those who have been out here for the past days who suggested that, but that is not the bill.

The other point I would make to the Senator and that is on the preexisting conditions. I was just looking through the Dole legislation on preexisting. We are all against preexisting conditions as well. It is in the Mitchell bill. Those provisions are illustrated in the Dole proposal on page 80 where it talks about the preexisting.

I do not question in my own mind that the Senator wants to eliminate preexisting conditions. We have been listening to debate on both sides saying how we all want to eliminate preexisting conditions. Of course, the Dole provision does not provide that. If you have any kind of serious illness, serious sickness, if you have diabetes, if you have cancer, if you have been diagnosed in those particular ways, you are excluded under the Dole proposal.

I am just wondering, as the Senator and the chairman of the Finance Committee has pointed out, in a spirit of comity, if the Senator's position would be whatever we pass will truly eliminate all preexisting conditions, in whatever will be coming through hopefully—prayerfully. I think, quite frankly, there are some provisions in terms of the complete elimination of the preexisting under the Mitchell proposal that might be adjusted to change as well.

But just in terms of where the Senator from Maine is coming out, do I understand he would be for the complete elimination of the preexisting condition and would like to see that changed in the Dole bill or perhaps modified in the Mitchell bill?

Mr. COHEN. I believe that there is quite a similarity between the Mitchell proposal and the Dole proposal, as far as preexisting condition. My own view—I go back to my personal view—is, I favor the elimination of preexisting conditions with perhaps some timeframe to make sure people do not wait until they actually get sick before seeking coverage. I think you will find broad-based support in the Chafee proposal, and I think the Dole proposal is not that far away from the Mitchell proposal on preexisting.

Mr. KENNEDY. There are other Senators waiting.

If you have heart disease today, if you have cancer today, if you have diabetes, juvenile diabetes, under the Dole proposal they are not considered to be eligible, under the language that is printed in there. I will join with the Senator in working to make sure, however, that as we come through this process that we do it.

I certainly know that the Senator—I have talked to him about health care policy on a number of occasions—his own position is the elimination certainly, and mine. And it is one, I think, as we go through this discussion and debate, it is important because I think that is one of the very, very important key items in terms of any health care policy reform: The elimination of that preexisting condition. We can talk about it. The real question, as has been pointed out by our colleagues, is whether the language conforms.

Mr. COHEN. May I say in response, that is one of the benefits of taking our time and going through the legislation so we are all sure exactly where the Mitchell bill is, where the Dole bill is, where the Chafee proposal may take

VOL
140
PT
16
AG
12
—
18
1994
UMI

us. That is the benefit of having this kind of debate without characterizing it as being obstructionist or anyone trying to engage in a filibuster. I have not heard anyone—virtually no one—on this side talk about a filibuster. We want to discuss this measure at length because it is not altogether clear what the distinctions are between the legislative proposals.

I might say, Mr. President, if I can just complete my remarks, it seems to me there is a philosophical approach that is quite different in how we have approached it and how those on your side have approached it.

I believe Senator MITCHELL takes the position, and that is reflected by the majority and Democratic side, that you must have universal coverage in order to reduce costs. Those on this side take the approach that we must reduce costs in order to get universal coverage. Hopefully, these two positions will move closer together. But those are the basic philosophical differences that divide us right now. I believe there is a middle course we can pursue to achieve our goal.

Mr. KENNEDY. If I can ask one final question. When you talk about the cost provisions in the Dole bill, as the Senators——

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I yield as much time as the Senator needs.

Mr. KENNEDY. There are other Senators here.

In looking through this—and I think this is another element in terms of the limitations on costs—I had a good deal of difficulty in identifying on page 82—it basically talks about rating limitations for community-rated plans. There is no limit on how much insurance companies can charge.

We have seen since 1986 that there has been a 117 percent increase in premiums with only a 24 percent increase in wages. We have seen the flow lines. Perhaps the Senator—maybe others on that side—as we go through the day can address that issue. I think it would be helpful. I think we are getting into the substance of preexisting conditions, the children's issues, how are we going to get a handle on costs.

I, quite frankly, think we are going to have to address the issues, at least for me perhaps, even more effectively than we have in the Mitchell bill. In looking through that, I do find that it is difficult to see where the costs would really be restrained in the Dole proposal.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I want to associate myself with the Senator from Maine with respect to what is in this bill.

Several days ago, a week ago, I offered the thought that it would be almost unwise for the Federal Government to start lowering the number of medical graduates who were taking their residency in our hospitals. It would reduce the supply of doctors. It was agreed that this was not to be done, as I understood.

Yet, I open to page 483, "Health Professions Workforce and Public Health Initiatives, Workforce Priorities Under Federal Payments."

We turn here, Mr. President, and we find that we apparently have established a National Council on Graduate Medical Education. It says—the Senator from Maine might want to hear this—on page 491:

ANNUAL AUTHORIZATION OF NUMBER OF POSITIONS.—In the case of each medical specialty, the National Council shall * * * designate for academic year 1998–1999 and each subsequent academic year the number of individuals nationwide who are authorized to be enrolled in eligible programs in each medical speciality. * * *

(b)(1) REQUIREMENT ACROSS SPECIALITIES.—

(B) REDUCTION.—For each of the academic years * * * total determined * * * shall be reduced by a percentage determined by the National Council.

If I may say, Mr. President, this is not my understanding of how science proceeds. I claim no special knowledge of this at all. But I have been a member of the President's Science Advisory Council. I have been a vice president elected to the American Association for the Advancement of Science, the largest organization of its kind in the world.

I feel scientists would recoil at the notion that work which is, by definition, unpredictable and follows extraordinary paths, collapses one discipline into another and then expands in five more—that sort of creative process—for the Government to reach out and require, but most importantly, to reduce.

Do we want fewer doctors in order that there be better health? This has never been debated, never been explained. It just keeps coming out in this legislation. There is a staff member somewhere who wants this. And no matter what we do, we keep getting it.

This is hubristic. This invites the wrath of the gods. This invites the death, the closing of a great moment of medical discovery, unprecedented on Earth. In the history of medicine, no such thing has happened in the advances in the last 30 years made in the United States. This is, if I may say—and I do not wish to introduce first amendment problems to this debate—but this is a sin against the Holy Ghost.

Mr. COHEN. If the Senator will yield——

Mr. MOYNIHAN. I have said all I have to say. I have to go back in the back room and read this again.

Mr. COHEN. I am told that the members of the Finance Committee, the so-called mainstream group that reported out the bill in the Finance Committee, when they saw the actual language of the bill, were stunned; that they found there were measures put in the bill that the committee reported out that there was complete disagreement upon. And the attitude was, well—staff's attitude was, well, since you did not discuss it, we had no prohibition against putting it in. We had members coming out and saying, well, I supported that bill—what I thought was the bill—but I do not support this legislation any longer; that is not what we thought we had agreed upon. Am I incorrect in that?

Mr. MOYNIHAN. I must say there is a staffer somewhere—not on the Finance Committee staff—who does dearly love quotas for thoracic surgeons. How he got that way, or she got that way, I do not know. But we are on the verge of adopting them and we will not know we have done so.

Mr. ROCKEFELLER addressed the Chair.

Mr. MOYNIHAN. Mr. President, I yield the floor. I see the Senator from South Dakota was going to speak but the Senator from West Virginia wants to speak on this point.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the distinguished Presiding Officer.

I thought the Senator from Maine just at the very end of his remarks brought up an extremely important point, and I think it is in fact the core of this whole debate. That is, he said that what the Democrats appear to want to do is to do universal coverage in order that you can reduce cost, and what the Republicans want to do, to the extent that there are differences, what the Republicans want to do is reduce cost and then proceed to universal coverage.

That takes me back to precisely the first subject that was discussed and debated in the Pepper Commission. Senator DAVID DURENBERGER was a member of that Commission. Senator EDWARD KENNEDY was a member of that commission. BOB KERREY was not a member but attended all of the Commission meetings.

And that is the core of the debate. We debated that on our very first series of meetings. They always began at 8 o'clock in the morning. What we decided was that you cannot pick one core or pick the other core, you have to do both at the same time to achieve both or other; that if you do not go for universal coverage in the Mitchell plan, it is not an immediate reach—it is a step-by-step reach—that you can by definition not control costs.

On the other hand, if you just simply control costs, or in the Dole plan, for example, as you cut from Medicaid and Medicare and things of that sort and do not return those into programs for seniors but for subsidies for the poor, that

is not going to get you universal coverage.

We decided on a bipartisan basis—there was not a single dissenting vote in the group—at the beginning of the Pepper Commission, as we set our basic philosophy, we agreed that we had to do both. We had to work for universal coverage, which we achieved in our plan, and cost containment, which in my judgment we achieved but achieved insufficiently in our plan.

I agree with the Senator. I think that is fundamental, and I would lay down that stipulation as a major source of meritorious, substantive debate in these next several weeks. We have to do both, Mr. President. We have to both work toward universal coverage and we have to control cost if we are going to make the American health care system work.

I thank the Chair.

The PRESIDING OFFICER (Mrs. MURRAY). Who yields time?

Mr. MOYNIHAN. Madam President, the distinguished Senator from South Dakota, the chairman of the Democratic Policy Committee, is on the floor equipped with diagrams, and I yield him such time as he may require.

Mr. PACKWOOD. Madam President, would the Senator yield for a unanimous consent request?

Mr. DASCHLE. I would be happy to yield.

Mr. PACKWOOD. I ask unanimous consent that Peter J. Levin, a fellow on health care on Senator MACK's staff, be granted floor privileges during the consideration of S. 2357, the Health Security Act.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PACKWOOD. I thank my friend from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I, too, want to express my strong agreement with some of the points raised by the Senator from Maine just a moment ago.

He, like many of us, has expressed an interest in bipartisanship and trying to reach agreement on many of these difficult points. He indicated he, too, was concerned about the mischaracterization of much of what is being proposed here. He expressed his concern about impugning motives on the Republican leader, and I share that concern.

Like the Senator from Maine, I have immense respect for the Republican leader, as I know he has respect for the Democratic majority leader. Yet, I hear many remarks made on both sides of the aisle that mischaracterize his proposal and use hyperbole to make points.

Last night, as we ended the debate, there were many references made to the Mitchell bill. In fact, if they were just references, I would not be troubled. But many opponents of the Mitchell bill raised what they characterized as three versions of a Mitchell bill. They want us to believe that, somehow, the majority leader, using all of his imagination and legislative prowess, has come up with not one but three versions of his own bill.

That troubles me, frankly, because it is this type of mischaracterization, as the Senator from Maine correctly stated, that undermines our ability to have a substantive discussion of the real issues. Obviously, as concerned as I am with complexity and the need for a better understanding of what it is we are talking about, I asked the majority leader what was the basis for the changes made. His answer was surprising.

All of the changes in the version being characterized as a completely new bill are on one page. This is it. These are all the changes in the Mitchell bill—one page.

This legislation is a melding of the Labor Committee and Finance Committee bills. We have known that from the beginning. So no one should be misled into thinking we are redrafting the entire health care reform proposal and coming up with new versions daily.

The Republican manager of the bill, our colleague from Oregon, is probably as experienced a legislator as we have in the Senate. He has had to manage bills. He, like all of us, understands that as you develop legislation, there are technical corrections and other changes that must be made. He has had to do that himself on countless occasions. And so it makes a nice prop, but in my view it is a mischaracterization of what is going on here. And as the Senator from Maine so ably stated it, it does not serve the Senate or serve those who may be trying to understand this debate to imply that we have completely different versions coming out each day.

I think what is really important to the American people, what is important to this country, what is important to this body, is simply to try to do what we know has to be done. That is what we are here for, to address our health care problems.

I know, as the Senator from Maine also suggested, there are differences in philosophy. He cited one that I think is a very fundamental difference, though I do not think that it is necessarily a partisan difference.

I have a mentor who is no longer with us, who used to admonish the partisanship that often comes in heated debate and cautioned me on many occasions early in my public career not to view debates as Republican and Democrat, but as constructive and destructive. Oftentimes the debate becomes destructive for short-term political gain when, through constructive analysis and constructive debate, we can better realize our common goals.

One of those constructive debates that I hope will occur is how we do achieve the goals that we say we all want. We talk about universal coverage, and we talk about effective cost containment. And as the Senator from Maine implied, there are those who believe that you cannot achieve universal coverage until you have effectively controlled costs.

I believe, Mr. President, it is just the opposite; that until we include everybody in the system, we cannot effectively control costs. So many of the experts who came before the Finance Committee reiterated that point and elaborated on why it is important. All one has to do is think of an emergency room today. What happens when a person is not covered today? What happens is that person comes into an emergency room for what may be a bottle of aspirin costing somewhere between $2 or $3 in a pharmacy. But that trip to the emergency room for a bottle of aspirin for a young child with a fever costs $75. That is the kind of proliferation in costs that we are trying to deal with.

If that person walking into an emergency room had comprehensive insurance coverage, they would not have had to go to the emergency room. They would have been able to go to the pharmacy and get whatever pain relief may be required without exponentially increasing the cost of that one visit. That is how universal coverage affects cost containment. That is what we are talking about.

If people cannot get primary and preventive care, their costs are much higher in the long run. But it is not just running up the costs in a linear fashion. You also cost shift those costs. There are administrative costs involved in trying to figure out who is going to pay. Will it be the Government? Will it be the insurance companies? Will it be the hospital absorbing those costs? Somebody must cover those costs. That cost shift is what we are talking about.

Madam President, we will have many opportunities to debate these very consequential points. But I hope that, as the Senator from Maine suggested, we can do it with civility, that we can do it without impugning motives of those who may disagree with us.

As we have indicated, there is a profound admiration for many of those on the other side of the aisle who have studied this issue and who have come to different conclusions than some of us have on important points.

I hope that, as we try to resolve those differences, we can do so keeping in mind the best interests of this country and the credibility of the Senate.

Mr. REID. Will the Senator yield?

Mr. DASCHLE. I am happy to yield to the Senator from Nevada.

Mr. REID. I note the Senator indicated that the cost of emergency room

VOL 140 PT 16 AG 12 — 18 1994 UMI

treatment for someone needing aspirin is $75. I would say to my friend from South Dakota that may be the case in South Dakota, but in Las Vegas or Reno that same treatment would be closer to $300. That is going to the emergency room in Las Vegas, especially Las Vegas, and in Reno to a lesser degree. And the emergency rooms are filled with people who have no other place to go for health care. It may be a bad sore throat or a broken leg. But the fact is most of the people are there as a result of not of an emergency, not because of a motorcycle accident, but because they are sick and have no other place to go.

Mr. DASCHLE. The Senator makes a very important point. Obviously, the costs vary as you cross the country. Emergency room care is high-technology care involving extraordinarily high costs. In concentrated areas like Las Vegas, they are even higher than they are in rural settings like we have in South Dakota. So $75 may actually be the minimum charge for that kind of care. You could spend as much as $1,000 or $2,000 for emergency care, hundreds of times more than care provided in a traditional outpatient settings.

So I think the Senator makes a very important point. I was conservative with my $75 estimate. It could be much more.

Mr. REID. I would also say to my friend from South Dakota that I have followed this debate very closely. During the first days that we were working on this, our friends from the other side of the aisle rose and spoke on the Mitchell bill in a negative fashion.

Now, with the other bill that has been introduced, and we have stood to critique that bill, suddenly, it is no longer the way to do business here. We should not look at what is inside the Dole bill. Let us not look at the fact that it does not do anything for small business. Let us not look at the fact that it really is not a universal coverage bill. Let us not look at the fact that it does nothing for children or pregnant women.

I say to my friend from South Dakota that I think that is a responsibility we have, not in a mean-spirited fashion, but in an effort to find out what is in the Dole bill. I think we have a responsibility to do that, especially in light of the fact that the majority leader took considerable time before his bill was introduced. He took what he felt was the best out of finance bill, what he felt was best out of the education and labor bill, the best that he found in other plans that have been proposed by the mainstream group and others.

So, I think during the next few days and weeks, if it is necessary, we have to take a look at the bill that is being talked about as being the bill that is going to take care of health care in this country, and that is, namely, the bill offered by the distinguished minority leader. Does the Senator from South Dakota agree that we should take a look at that?

Mr. DASCHLE. Absolutely. I think the Senator from Nevada again makes another point that we ought to recognize. The purpose of this debate is to analyze the different approaches pending before the Senate so that we can come to some conclusions about which is the most appropriate course of action. I think that is the whole purpose of having a good, healthy debate about the different options available to us. We hope to do that again in a civil way, in a way that recognizes differences in philosophy and approach, but also recognizes the consequences of making the most appropriate decision.

The reason I have always felt the majority leader's bill was so critical to us is that, frankly, it does what we have said all along must be done if we are going to achieve meaningful reform and provide health care for all Americans. At the end of this process, we must accomplish our primary goals—offering greater choice, controlling costs, putting emphasis as the Dodd amendment does, on good primary and preventive care, especially for pregnant mothers and children, and providing opportunities for higher quality care.

In South Dakota these are all very serious concerns. How do we achieve good quality? How do we achieve meaningful cost containment? How do we achieve greater emphasis on primary and preventive care? How do we get universal coverage? The Mitchell bill makes a substantial contribution to that goal by melding the Labor and Finance Committee bills, which have been developed over many, many months.

Mr. KENNEDY. Will the Senator yield for a question? As the Senator mentioned, the melding together of the two different committee bills—is the Senator familiar with the fact that actually in the Labor Committee we had 51 hearings on health care since the introduction of the President's bill and a markup, and Finance held 30 hearings from September to June 1994. So those are 81 days of hearings with good representation of the Senate on that which has been included.

Mr. DASCHLE. I think the Senator is absolutely right. There has been an incredible amount of debate and analyses in both the Labor Committee and the Finance Committee. I know the Senator from West Virginia has held many hearings in the Veterans' Committee to explore how veterans would fare under health reform.

We have listened to witnesses from across the country—frankly, from all over the world; we have had people from other countries who have come to Washington to share their concerns and their experience with us.

Our colleague from Oregon has been a significant participant in those hearings. I do not know that he has missed a hearing. That demonstrates the kind of interest, the kind of thoughtful study that has gone into the process so far.

Mr. KENNEDY. Can I ask a question in one other area of public policy?

Mr. DASCHLE. Yes.

Mr. KENNEDY. I know the Senator has been interested in this. We were talking earlier today about the difference between the Mitchell bill and the Dole bill and how it treats preexisting conditions. I would just like to ask whether my understanding of the difference between the two bills is accurate—which is enormously important to families all over this country. There are about 44 million Americans who have some disability, and the 87 million American families have been touched by it. As I understand it—and correct me if I am wrong—under the Dole provision, if you are treated for an illness or a sickness anytime prior to the 3 months before you have an application or get your insurance, then the preexisting condition will not be treated for the next 6 months, will be excluded. As I understand it, that is the position of the Dole bill.

On the other hand, on the Mitchell bill, you have what is called the amnesty provision, so that anyone who has a preexisting condition can be covered. During the first enrollment time, the exclusion of preexisting conditions is waived, if it is the first time. Second, if that individual is receiving any kind of subsidy, which means that they are moderate-income working families, then that exclusion of preexisting conditions is waived, and the bottom line is that by the year 2000 all of it is eliminated, all preexisting conditions, as barring participation in the insurance program.

I am just asking the Senator if that is his understanding, because as we were talking before during the course of the debate, we are finding out many people are using these words: "We are for universality, cost containment, elimination of preexisting condition," but when it comes down to it, we are going to find out what is going to be in the different legislations. On the one hand, under Mitchell, by the year 2000, preexisting conditions are eliminated; and, second, if you have the subsidy, the preexisting condition is effectively eliminated. Third, for the first-time enrollment period, after this bill goes into law, it is a clean deck, an amnesty. You have those three protections for individuals.

I daresay I am sure the Senator would wish, as I do, that the day the bill is passed, we would have what exists in the Mitchell bill for the year 2000. Nonetheless, we are making a commitment to all Americans that may have heart disease, cancer, diabetes, juvenile diabetes, or may have had

any range of health care needs, that those preexisting conditions are going to be out. On the other hand, I have difficulty in finding in the Dole bill any of these kinds of protections. And the one that I have stated—that is, if you have been treated for the 3 months prior to the time you are in, you are excluded for any kind of additional treatment for 6 months. Generally speaking, that is a time when you need help the most, because you have lost your job, because you are not able to perform your work, and you are going to be hard pressed.

That is something that I just ask the Senator, whether he agrees with me, and if that is his understanding of the difference; and second, if he agrees with me that it is a major, major difference between the approach of the majority leader and the minority leader.

Mr. DASCHLE. Madam President, I think the Senator characterized the bills accurately. In fact, I think that is exactly why we have the situation we have now with regard to the two bills. There have been many references made to the length of this bill—1,400 pages. Some reference was made to the fact that the Dole bill is a lot smaller. Well, it is half the size because it does half as much.

One of the most important things that it leaves out, in my view, is the very issue that the Senator from Massachusetts raises. If there is anybody who ought to be concerned about what we do in health reform, it ought to be those today with preexisting conditions. Most are hard-working American people, and they are the ones who would give almost anything to have greater access to doctors, hospitals, and insurance plans, but they are locked out and they and often their children have no access to health insurance.

So what happens, obviously is that the costs go up for them, for the system, for everybody involved. That is really one of the most important distinctions I would draw between the two bills.

We have to be able to say at the end of the day that we have addressed the concerns of all Americans with preexisting conditions. We cannot leave them out. The majority leader's bill does address their concerns, and I think that is one of the most important differences that ought to be recognized in this debate.

I yield to the Senator from Nevada.

Mr. REID. Senator DOLE's plan limits but does not eliminate preexisting conditions. Under the Dole plan, insurance companies would still be able to deny coverage for preexisting conditions for up to 1 year. That is section 21–111 of his bill. While most universal coverage plans use preexisting condition limitations as a necessary transition to them before universal coverage is reached, the Dole bill never achieves universal coverage. It never even comes close. Thus, there is no reason to believe the exclusion in the Dole bill, as indicated by the Senator from Massachusetts, will ever go away.

If I could ask the Senator from Massachusetts—if I can get the attention of the Senator from Massachusetts. We talk about preexisting conditions, and I think the American public thinks of someone in very, very bad shape, almost ready to die, like a heart attack or having cancer. But the fact of the matter is—I am asking the Senator if he agrees—preexisting conditions could be a skin problem. Someone may have had a skin cancer on their face, or they could have orthopedic problems and they are denied coverage.

Is the Senator familiar with cases like that?

Mr. KENNEDY. The Senator is absolutely correct. In so many of these instances, as we have heard in the course of those hearings, you have individuals who may have had a heart attack. And I can think of one woman in Belchertown, MA, Kathy Wojnar, who had worked in a vineyard in California, had a heart attack, then moved back to Massachusetts. She wants to work, but she not only cannot get work, but she cannot get any health insurance, either—and she would be glad to participate and glad to pay, and she has a pretty good prognosis. All of us would hope for her for the future. But she has worked all of her life, and she wants to work. She told us that she cannot get a job, because no one will hire her with her health condition.

Those are real-life stories. It is not only her circumstances, but scores of others, as the Senator has described.

Mr. DASCHLE. That is the point I think we need to constantly keep in mind. There are human faces behind all of this, and human experiences that go beyond statistics and reports and testimony.

Obviously, the Senator from Nevada is as sensitive as anybody in the Chamber to those faces and to the extraordinary implications of failure to act.

Madam President, I know that our time in this round is drawing near. I know the Senator from Illinois has a very important matter to which she must attend, and we have agreed here on the floor that she could utilize the remainder of our time in this round subject, of course, to the managers' agreement.

Mr. MOYNIHAN. So everyone will be clear, we do not have rounds. We just have 7 hours, equally divided. We would like to alternate, as we would do normally. But the Senator from Indiana graciously suggested that the Senator from Illinois might want to speak now as she has a very pleasant family duty to attend.

So I yield to the Senator such time as she may desire.

Ms. MOSELEY-BRAUN. Madam President, I thank very much the Senator from New York, the Senator from South Dakota, and Senator PACKWOOD, for their courtesy.

I mentioned earlier that the Senator from New York was kind enough 2 days ago to mention my son's 17th birthday, and it was the first time in 17 years that I was not with him on his birthday because we were here, engaged in this historic debate.

Madam President, I would like to share a story with you briefly, as I talk about health care reform in a context that to me makes all the difference and why this is so important. When I decided to run for the U.S. Senate, I had a conversation with my son Mathew, who was then 15, who said to me: "You know, Mom, your generation has left this world worse off than you found it."

That was like a body blow to me at the time. Of course, I disputed him about that. I said to him: "You are wrong. My generation does this and this."

For everything I had to say to him, he had a response as I guess one would expect from a 15-year-old who knows everything.

In any event, when I got here I made a point to take a look at some long-term issues that Mathew referenced in our conversation over dinner that night.

So following last year's budget debate, I asked and was appointed to serve on the President's Bipartisan Commission on Entitlement and Tax Reform. Just last week, that Commission issued its findings on the long-term trends this country is facing. Let me just talk about a couple of those findings in the context of health care reform.

Finding No. 1 states, that by the year 2012, "unless appropriate policy changes are made in the interim, projected policy outlays for entitlements and interest on the national debt will consume all tax revenues collected by the Federal Government" all by the year 2012.

It goes on to say that, by the year 2030, "unless appropriate policy changes are made in the interim, projected spending for Medicare, Medicaid, Social Security, and Federal employee retirement programs alone will consume all tax revenues collected by the Federal Government."

That finding also estimates that "if all other Federal programs (except interest on the national debt) grow no faster than the economy, total Federal outlays would exceed 37 percent of the economy. Today, outlays are 22 percent of the economy, and revenues are 19 percent."

Finding No. 4—and this is important with regard to this debate—goes into the trends in health care expenses. It states that "the growth of public and private health care costs poses an immediate problem that must be addressed."

VOL 140 PT 16 AG 12 — 18 1994 UMI

It goes on to state that "Federal health care spending has been increasing at annual rates averaging 10 percent or more during the last 5 years, far in excess of overall economic growth. Private sector health costs have increased comparably."

Now, Madam President, I would like at some later point in this debate to go further in detail about why health care costs are rising so high and why they are so far outstripping the growth in our economy.

We have a chart which shows even if we control health care inflation, Federal health care spending doubles by the year 2030.

There are other charts in this regard—and again I will, at another time when there is more time, discuss the cost implications of the rising explosion in health care spending, address them.

However, Madam President, there has been a lot of discussion in the context of the health care reform debate about partisanship. I have to tell you that the findings of the Entitlement Commission are entirely bipartisan. The Commission's membership includes 12 Members of the Senate, 6 Democrats and 6 Republicans, and 10 Members of the House of Representatives, 5 Democrats and 5 Republicans. All but one of these Members voted for the findings I just quoted to you, because they are facts that we absolutely have to face up to.

It seems to me that in this debate that is the most important thing that we can do, to face up to the economic facts. The Entitlement Commission was formed because Congress and the President recognized that the current trends are not sustainable, and the only way to address those trends in a way that avoids imposing real pain on large numbers of real people is to act now.

Without action on comprehensive health care reform, without action to restrain the growth of private health care costs as well as public health care costs, the American people, including 85 percent of the American people who have health insurance now, face a future of less and less access to medical care, of higher and higher costs out of their own pocket, and of greater and greater risk of losing their health insurance altogether.

Madam President, let us make no mistake about the importance of this debate. Inaction will not protect Americans access to high-quality, affordable health care. In fact, just the opposite is true. Inaction will virtually guarantee that the access of most, if not all, Americans to high quality, affordable health care will be eroded and ultimately lost.

Again, I call you back to the conversation with Matthew. His perception at the time was actually supported by the findings of the Entitlement Commission, and that is why it is absolutely imperative that we move and do something specific about this issue now.

So, Madam President, if we are to keep a health care system of which we are justifiably proud, and I think it is fair to say that America has the greatest health care system in the world, if you can afford it and access it, if we are to keep a good quality health care system, if we are to keep health care affordable and available for the 85 percent of our population who now has insurance, and if we are to deal with the 15 percent of our population who does not now have insurance, if we are to reduce that figure, even if we simply want to keep it from growing dramatically, we must face our health care problems and face the long-term health care costs trends, we must act.

I would be the last one to say that the Mitchell bill represents the be all and the end all in terms of an answer to these cost trend problems. It is not. The cost controls in the bill can and need to be strengthened, in my opinion. The Mitchell bill, however, does represent a solid start in the right direction to put us on the road to achieving the goals that the Entitlement Commission spoke of. We need to work on it in a bipartisan way. We need to work with colleagues on both sides of the aisle to achieve the goals that are so important to rein in the growth in costs in health care and to preserve the kind of quality system that I believe we have.

We are right now in the midst of a historic debate, and I know everyone who has spoken to this issue has talked about that. Many believed that this time would not come. I listened to conversations and debate referencing all the years of trial and error in this regard.

Just in this session of the Congress, the Finance and Labor Committees of the Senate have held over 100 hearings on health care reform and, as Senator MITCHELL said the other day, President Truman proposed reform in 1940's, President Nixon proposed reform in the 1970's, and 50 years is not rushing anything. I agree it is an enormous task and a complicated one, but quite frankly that is what we were elected to do, to tackle enormous problems and to answer complicated questions.

We hear continually from people back home that they are happy with the health care and they are afraid of reform. They do not know what all this means. I would submit that quite frankly what we are dealing with in that regard is what I call the 1,000 points of fright. There has been an awful lot of misinformation out there about what is going on, and frankly, it stands to reason that you will have misinformation where there is complication. You always have people putting out road blocks and diversions and side tracks when you are on the road to genuine change.

But let me say this: I believe that we can achieve that change. I believe that that change is imminent if we work together in the best interest of the country to preserve a quality health care system and to address the long-term trends that the Entitlement Commission spoke of.

Madam President, from the beginning of this debate, I have referenced what I call the four cornerstones of reform, and those four cornerstones of reforms are universal coverage, which is so important I believe, cost containment, maintaining the quality of care, and retaining freedom of choice for the American people in terms of the health care delivery and the providers of health care.

I believe we can achieve those four cornerstones if we approach this debate in a bipartisan way, if we approach this debate with the view to the long-term trend, as well as a view to all that affects us not only in the global macroeconomic sense because it has this kind of implication, but also in the personal sense, how it affects people where they live, what actually is going on in the world of people who need health care.

I recently received a letter, Madam President, from a constituent that described her family's experience in obtaining insurance. The Pascals are self-employed people and they have three healthy children. Over the past 8 years they have been forced to change insurance carriers six times. The first company increased the rates on their individual family policy by 600 percent in a 5-year period.

Finding the cost of that plan prohibitive, the Pascals joined a group plan in order to lower their costs. Unfortunately, the group was dropped because one of the members of that group got sick. The family then moved back to an individual policy, but due to a 65-percent rate increase after the first year, they could not afford that any longer either. So in desperation they settled on a catastrophic coverage plan that has no preventive care in it, that requires a $5,000 deductible and that limits the providers they can go to.

So now the Pascals find themselves in the situation where they can no longer take their children to the pediatrician.

And that, it seems to me, is outrageous. This family has done everything right, they have even managed not to get sick, but affordable, comprehensive health care coverage is still beyond their reach.

Clearly, our system should not work this way, not for the self-employed and not for the employed with employer provided coverage.

Statistics indicate however that over half of employed Americans who receive coverage from their employer have had their health benefits cut back or had their employee contributions increased during the last 2 years.

No wonder, Madam President, a recent poll said that 60 percent of the American people were still worried about losing their current coverage.

Madam President, I used the Pascals as an example. I am sure we will hear and have heard many, many more individual stories. But the fact of the matter is that this system really is broke. It is not working for ordinary people. It is not working for working people.

It is something of an anomaly that we now have a system in which the very wealthy can have health coverage, the very poor can have health coverage, and everybody in the middle is worried about it, either they cannot access it or afford it because they are self-employed or in job lock because they cannot leave because of a preexisting condition or, alternatively, the cost of the health care that the employers are providing is going up and up and up, millions of Americans like the Pascal family cannot afford insurance. Our Government cannot afford it. Our Nation cannot afford it. We absolutely have to have an imperative to change.

Last year, our country spent $1 out of every $7 on health care. That amounts to about 14.3 percent of our GDP and a total of $898 billion. And we know, again, health care costs are rising at twice the rate of inflation still. Medicare and Medicaid take up almost a quarter of the entire Federal budget.

And so, we are looking at these escalating costs and wondering what, if anything, we can do.

I believe that we have now a window of opportunity to begin to correct the situation and fix this problem.

As I see it, we now have two options: One is to use the Mitchell bill as a base for building health security for the American people. The other is to use the Dole plan as the basis.

But in any event, we have to, I think, achieve the four cornerstones and we have to build on this bill, or a compromise of the two or a variation of the two, we have to build on what we have introduced here to come up with a plan that gives us universal coverage, that really, genuinely puts us on the road to universal coverage. Because, quite frankly, without it, we will continue with the cost shifting that has escalated the cost of health care in this country.

We have to maintain choice. We have to maintain high-quality care and we have to achieve cost containment. I hope the cost containment imperative of this issue does not get lost in the debate, because that, after all, has implications for the Matthew Brauns, Madam President, for your children, and for these pages sitting here. If they are going to have health care, we have an obligation to fix this nonfunctioning system.

Madam President, I believe the Mitchell bill puts us on the road toward universal coverage. According to CBO, it will reach 95 percent by 1997. And the employer mandate, of course, will result in universal coverage by the year 2002.

I do not think, frankly, the Dole bill achieves that to the same extent. I believe the Mitchell bill, based on my initial reading of it, significantly improves and expands coverage for millions of Americans. All children and pregnant women up to 300 percent of the poverty level will be covered. And that is $44,000, Madam President. That is a pretty elastic range.

Preexisting condition exclusions will be eliminated under the Mitchell bill. Coverage will be portable. In other words, a person can move from job to job and still not lose coverage.

Insurance discrimination based on age and geographic location will be eliminated. I do not believe, again, that Dole bill achieves that.

But I was delighted to hear my colleagues on the other side talking about wanting to work together to try to fine tune and do these things in a bipartisan way to achieve a bipartisan consensus on this issue.

The Mitchell bill also guarantees choice, which was one of my other cornerstones of reform. Every American will have a choice of at least three private insurance plans—fee for service, HMO, or point of service.

The Federal Employee Health Benefits Program, available now to Congress and to most Federal employees, will be available to many more Americans.

The Mitchell bill—and I think this is important, Madam President—will also maintain the high quality of care that we have in this country. Funds will be made available through assessment on premiums for graduate medical education, for biomedical research and for health care services research.

A National Quality Council will be established to keep the goals of high quality in place.

Consumer information and advocacy centers will be created to give people information about health care services and to hear grievances.

Query: Where do you go for a grievance about the way your insurance company treats you today or the health care services that you receive today? That is a step forward in regard to quality.

And the health plans must ensure that enrollees have access to specialty care, which is so important when it is your kid who needs something special that is not within the range of the generally provided services, when your kid has a special condition. That is so important.

The Mitchell plan, I believe, also has included cost containment measures.

Again, I would like to work with the chairman of the Finance Committee and others. We are going to have to strengthen cost containment. I think that is something that has to come out of this debate and I think will come out of this debate.

Madam President, I know everybody wants to speak on this issue. I have been saying for months that the Senate was going to act as a committee of the whole with regard to this important issue and I am sure that that is correct.

The chairman of the Finance Committee has been more than gracious with me. I have more to say. In fact, I have several pages more to stay, but I will not say it right now. I will wait until another more appropriate time in this debate. We will come back and I am sure I will have other opportunities.

But I wanted to thank my colleagues for this opportunity today to say that we owe it to the Mathews of the world to address this issue as Americans—not as Republicans, not as Democrats, not squabbling over every dot and tittle of every line, although the dot and tittles have to be worked out, because, after all, the devil is in the details, is it not?

But the fact is, we have an obligation as Americans to fix this nonfunctioning health care system, to provide coverage to every American, to maintain the high quality of health care that we have in this country, to maintain the opportunity for people to choose, and to get the cost containment that will preserve the future for these young people.

Madam President, I am just so delighted at all the hard work that has gone into this debate. I very much look forward to working with my colleagues in a bipartisan fashion to achieve the goals of this bill.

My assistant just passed me a note which said, "You forgot to speak about the Dodd amendment," which I have more pages on. I will defer until Monday to speak to the Dodd amendment specifically. I will support it. I hope Dodd will add me as a cosponsor of the amendment. I think it is the right direction.

Again, I congratulate my colleagues and thank them for the opportunity to have a few words about this issue.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Madam President, may I simply use this quick occasion to thank the Senator from Illinois for her able and thoughtful remarks and for the emphasis on a bipartisan approach. That is how we are going to get something that we are not only going to enact but is going to stay enacted.

It was a wonderful note on which to get off to that birthday celebration.

I thank the Senator very much.

Madam President, before I yield the floor, I would like to thank the Senator from Indiana for his courtesy.

The PRESIDING OFFICER. Who yields time?

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. PACKWOOD. I yield such time as the Senator from Indiana may consume.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Madam President, I thank the Senator from New York for his kind remarks, as well as the assistance that I have received over the last several weeks in trying to understand the health care legislation from the Senator from Oregon.

Madam President, not to be the skunk that spoiled the picnic in this wonderful spirit of bipartisanship this morning—the rhetoric obviously cooled down from where we were last evening.

Let me just comment briefly, before I give my statement, on some of the discourse that has taken place here this morning, because it does relate to the discussion that took place last evening relative to the implication and expressed charge that Republicans were attempting to deny the supporters of the Mitchell plan from moving forward with their bill when I think it is clear that what we are attempting to do is trying to understand the nature and the complexity of the bill that is before us and seeking time to understand what all of this means. Just this morning we have had two differences of opinion relative to what the legislation seeks to propose. One of the Senators from the other side of the aisle indicated that there were no specific quotas as to medical specialties. That was corrected by the Senator from New York when he pointed to page 491 of the bill that is now before us, the Mitchell III bill, which specifically states, in section 3013, under title I: "Annual Authorization of Number of Specialty Positions." Line 16 begins: "In the case of each medical specialty, the national council shall"—not may—"the national council shall designate for academic years 1998–1999, and each subsequent academic year, the number of individuals nationwide who are authorized to be enrolled in eligible programs in each medical specialty."

It then continues on for 16 pages describing how this is going to be applied and setting out specific percentages.

Beginning in 1998 and 1999 it says: "The percentage of the graduating class that completes the eligibility programs in primary care shall not be less than 39 percent; in 1999–2000, 44 percent; then in 2000–2001, 49 percent; then academic year 2001–2002, 55 percent."

It is interesting to note there is a requirement in here for a study of the impact of this, but that study is not due until January 1, 2005. So the decision, obviously, has been made without the understanding of Senators, as was indicated on the floor by the Senator from New York. The decision has been made to go forward with a quota system designating which specialties are eligible under this program. And then after it is implemented, we will have a study back to us in the year 2005.

It is this type of confusion, it is this type of mandate that exists throughout this entire 1,433-page piece of legislation that is precisely why many of us believe that we need to take our time, to analyze what is here, to analyze what it is this bill seeks to accomplish and what implications it is going to have, not only on our health care system but our economy as a whole and on all 250 million Americans that will be subjected to the provisions of this act.

We have struggled this week to understand what this bill purports to accomplish. We were delivered a copy of the original Mitchell bill. In fact, many outside organizations delivered pieces of paper to our office asking Members to pledge to read the entire bill before they vote on it. They said it is not fair to impose on all of us as Americans a new health care system unless you, the Representatives and Senators, understand what is in it and read it. I signed that pledge and I began reading the original Mitchell bill, only to be surprised that a second bill was then brought before us. I was part way through a massive tome, weighing 14 pounds, trying to understand the complexity of it and cross-referencing all the sections and then I was suddenly given a new 14-pound bill, "By the way we have made some changes."

The Senator from North Dakota said, "Those changes just fall on one page. It is unfair to imply that the Mitchell II bill, which is of the same size, is a completely new bill." In that respect he is correct, partially correct, because it is not a completely new bill. But that so-called "one page of changes" simply lists the titles that are changed and the sections that are changed. I point out that the changes are comprehensive, and take extensive cross-referencing and understanding to see what changes have been made.

In title I alone, 33 sections were changed. That means we have to check every one of those sections to see what the change is.

In title II, six sections were changed as well as subtitle D.

In title III, 27 sections were changed as well as subpart B of part 3 of subtitle D, and on and on it goes. The entire subtitle A changed of title VIII, subtitle B of title IX, and of title XI it says: "all." So in title XI it is all changed. Which means we have to discard title XI in the original bill, pick up title XI in the second bill and attempt to understand the difference.

This relates back to the question of the quotas under medical specialties, because it says here in title III that section 3012 is changed. Section 3012 is what I just quoted from; 3012 and 3013 is all part of subpart B, Authorized Positions in Specialty Training.

So this is the difficulty that we face. That is why we simply are asking for time to review and analyze the bill and understand the bill and understand its implications. What we learned this morning is that the floor manager of the Mitchell bill, the chairman of the Finance Committee, arguably the individual in this Senate body who knows more about health care than any of the rest of us, was astonished to find that this bill, indeed, despite what he thought were the Finance Committee recommendations to the staff, that this bill indeed includes a 16-page section authorizing specialties.

If that is a discovery to the chairman of the Finance Committee, who knows more about health care than anybody else in this body, you can imagine what that says to a relatively new Member of Congress who does not serve on that committee relative to what may or may not be in this bill. I think that is all the more reason why Members need to read and understand and staff needs to analyze exactly what it is we have before us in this legislation and why there should not be a rush to finish or move legislation in this body. We are up against a time pressure. Members have had to cancel plans with their families, cancel plans with their children who will be going back to school very shortly. The thought is we need to move ahead and get this thing out of here, we will put the finishing touches on it later, so we get at least some semblance of a break.

But we are dealing here with perhaps the most important piece of legislation that this body may have ever dealt with. It certainly has more implications for our economy and obviously more implications for our health care system—which encompasses one-seventh of that economy—than any other piece of legislation that we have ever faced. That is why we feel it is important to take some time to understand what it is we are dealing with and make sure we have a right to be heard, each and every Senator, on our sentiments regarding this bill.

I would also like to correct another misimpression that has been left. That is that the only Members of the Senate or of Congress who have a vision of health care for America—or who care about this issue—are supporters of the Mitchell bill or the Kennedy bill or the Clinton bill. The Republicans simply want to stop all changes, stop all reform. They are just simply naysayers who have no health care thoughts of their own. I think that implication is wrong.

As the Senator from Maine [Mr. COHEN], eloquently outlined this morning, he has been a proponent of health care reform for a number of years, even devised his own plan—even submitted his own legislation—and has been actively working, as many of us have, for a number of years to try to grasp what is going on in health care, to try to understand what changes need to be made and should be made to make it a more efficient system and more accessible to all Americans; and try to bring about those reforms which will preserve what is arguably and, I think, demonstrably the most effective health care system in the world, that provides more quality care to more people than any other system; to retain the benefits of that system, to retain what is good about that system and make reforms and fix those areas that are wrong.

Republicans have offered a variety of plans. Senator NICKLES offered a comprehensive plan. Senator GRAMM has offered a plan which I collaborated on and which incorporated the concept of medical savings accounts—which I will talk about in a moment—which I think truly goes to cost containment and may be perhaps the only concept that truly affects, in the longrun, effective cost containment.

We have had the Lott–Michel bill. We have had a number of other proposals floating around here from Republicans who are sincerely interested in making changes. Senator CHAFEE has spent years working with a group in proposing legislation. Senator PACKWOOD and Senator DOLE now have a plan on the floor before us.

So the implication that Republicans do not care, that Republicans just simply want to say no to anything, that we are just simply out to submarine and torpedo the President, no matter what is proposed for health care, that implication is wrong. I think those who have followed the issue know that it is wrong.

When I came to the Senate in 1989 and tried to evaluate the issues that we would be dealing with during my time here, at the top of the list was health care reform. I told my staff: "This is going to be a major—if not the major—domestic issue of the nineties that the Senate will have to grasp and have to deal with, and I don't feel I am prepared to deal with that. I think I need to do a lot of homework and we, as a staff, need to do a lot of homework." I employed people who had an understanding and knowledge of the health care system, and they have worked diligently to try to incorporate ideas and gather information and bring me up to speed on what is happening in health care.

I have traveled the State of Indiana visiting hospitals and emergency rooms and outpatient clinics, visiting community health centers and migrant health centers, talking with doctors and nurses and physical therapists, and ambulance drivers and patients and recipients of health care. I have visited nursing homes. I have held town forums and health care meetings, I have brought in experts, all in an attempt to understand this massive health care system that exists in the United States, and understand what might be right with it and what might be wrong with it.

Out of that effort, we produced a piece called "A Hoosier Model for Health Care Reform." This was published in 1990. It conceptually discusses what this Senator believes are the major problems in health care, and proposes solutions to those problems. It is a model based on my experience in Indiana and based on the experience of a number of health care providers and consumers in Indiana.

I will just read the table of contents to show how it addresses what I think are some of the concerns that have been raised here:

> The Coats health care plan confronts the fear of rising costs: section 2, How the Coats plan confronts the fear of rising costs; 3, How the Coats plan confronts the fear of losing coverage; 4, Supplements to the Coats plan, women, children, seniors and fighting disease.

It incorporates the models of the medical savings account, which I referenced just a few moments ago, as a cost containment measure and an innovative way of providing health care incentives for individuals to become actual consumers of health care.

So that it is not a third party making a decision about who pays the bill and how much that bill will be, but the actual beneficiary of the health care is an active participant in determining the cost of health care.

It is interesting that in this country, we shop, we are consumers for just about every product and every service in America. We would not think of going to the car lot to buy a new car without checking down the street or across town with a competitor to see if we could get a better deal. We would not think of buying a television simply by picking up the phone and saying, "Just send me a 35-inch, I don't care what it costs."

But in health care, the question is not is there a more cost-effective way I can receive the benefits of health care; is there an alternative treatment that will not cost as much; can I get the same drug or the same diagnostic procedure or the same treatment somewhere else for a better price? Those questions are never asked.

The only question asked is: Is it covered by my insurance? And if the answer is yes, it is covered by my insurance, then we do not care who provides it or how much it costs.

The medical savings account is a way of putting that decision in the hands of an individual. I will just give one brief example of how it works.

A woman in Indianapolis called me and said, "I finally understand the genius of the medical savings account." She said, "I have reached the age where it is important that I get an annual mammography, a mammogram." She said, "I called up the local hospital and said I would like to schedule a mammogram, how much does it cost?"

They said, "$250."

She said, "Wow, that seems like an awful lot of money." She said, "Do you guys ever have sales?"

And they said, "Well, no, we don't have sales, but we offer, in the week preceding Mother's Day every year as a special attraction to women to encourage them to get a mammogram, we offer it for $50 during that week before Mother's Day."

She said, "Sign me up." She said, "It suddenly dawned on me that if someone else is paying the bill, I don't care whether I get it in March or May, or whether it costs $50 or $250. But if I am paying the bill and I stand to benefit and save by getting the same procedure for a better price, then I'm going to look and shop for that procedure at an effective price." She said, "I would have saved $200 had I been a consumer under a medical savings account."

Medical savings account simply says that as an employer or individual, you can choose to go outside of employment and protect yourself with a catastrophic policy, protect yourself from the excess medical costs that can take away a lifetime of savings or run someone into bankruptcy.

So you buy a policy that covers all expenses over $3,000, and you take the $3,000 that you normally would have put into purchasing an insurance policy and you put it in an account in your name, just like an IRA, except this is an MSA, medical savings account, instead of an individual retirement account.

That medical savings account is in your name and your family's name, and it can be used for the first $3,000 of medical expenses. To the extent you do not spend it on medical expenses that year, that savings rolls over tax free and accumulates toward retirement. It can be used then to purchase a long-term care policy, it can be used to supplement Medicare or a number of other medical purposes.

To the extent that you use all that $3,000, you kick into the catastrophic coverage policy and that covers all your extra expenses. So the employee or the individual is not out any more money. They simply are spending it in a different way. But the difference is that they have a personal incentive to be cost conscious in terms of purchase of health care. It is the only way that I have discovered that truly will affect human behavior which will truly affect health care costs.

Right now about 10 percent of Americans, I think, eat shredded wheat without sugar on it in the morning, or some kind of fiber cereal which tastes like oats that you give to the horses. They choke it down every morning because it is good for their health. The rest of us are into all this sugar stuff that dominates the shelves, and so forth. Ten percent of us, I think for altruistic reasons, say I am going to do what is good for my health—eat right, exercise, so forth.

79-059 O—97 Vol. 140 (Pt. 16) 25

VOL
140
PT
16
AG
12
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18
1994
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I met with one of the Nation's leading cardiologists. He said, "You know, Senator, 90 percent of the patients that come into my office are there because of bad choices that they have made. They are either overweight or underexercised, or they smoke too much or they drink too much or they engage in behavior that ends up giving them heart problems." Ninety percent.

As I said, about 10 percent of us will do those things necessary to substantially reduce the risk. Some of this is obviously genetic and some of it is just a fact of life with which we need to live. But most of us will not exercise the discipline because there is no financial incentive to do so.

But it is amazing how Americans respond to financial incentives. It is amazing how we can change behavior when it affects our pocketbook, when it affects the amount of disposable income we have.

A medical savings account provides that incentive. It seems to me, if we truly are going to get at health care costs in this country, we have to provide a means, a way for people to become consumers of health care.

Now, is this the answer to all the health care cost problems? No. It is simply one of the answers because this is an incredibly complex problem. I tried to outline some of that in this proposal that I issued in 1990. But it at least ought to be incorporated as an option, an option for employers and an option for individuals. I am pleased that I brought this idea to Washington. It was incorporated—it is the heart of the Gramm health care plan. It was incorporated in the Nickles plan. It was incorporated now in the Dole-Packwood plan as an option, as a way to help reduce health care costs and give us a more sensible health care spending provision in this legislation.

Unfortunately, it was not incorporated in any of the Democrat plans. It is not part of the Mitchell plan. It is not in the Gephardt plan. It was not in the President's plan. It was not in the Kennedy plan.

In fact, I may be mistaken there. I think we did incorporate it in the Kennedy plan in committee, but it is not part of the plan that is before us.

I also outlined in here the Indiana experience with medical malpractice. I do not know what the total figure is. Many estimate it at $25 to $30 billion a year of unnecessary medical expenses because doctors are ordering tests and conducting procedures and increasing and inflating their charges solely because it is—not because it is in the best interests of the patient but because their lawyer comes into the office and says, "Unless you do this you are going to find yourself in court."

Exercising your best medical judgment today is not enough. This is a litigious society. And there is a substantial portion of the legal profession that makes their living on filing lawsuits and settling them out of court, and you are a prime target because you are in a high-income area.

There are all kinds of gray areas in terms of judgment, in terms of diagnosis and treatment. The medical practice is not an exact science. It is still an art. Even though much of it is a science, it is still an art in terms of establishing the correct diagnosis and prescribing the right treatment. Obviously, human beings are involved and mistakes are made. Those mistakes ought to be paid for and ought to be covered.

What we have found in the malpractice area today is that about 70-some percent of the awards are not going to the patient who is injured but they are going to lawyers or going to the courts. So Indiana, more than 20 years ago, under our then Governor, Dr. Otis Bowen, who later became Secretary of Health and Human Services, implemented liability reform, and it is a model. Is it a perfect model? Probably not. Can it be improved on? I am sure it can, on a Federal basis. But that model ought to be incorporated because we are expending billions and billions, tens of billions of dollars on health care costs that are unnecessary simply because doctors are practicing defensive medicine, because they fear that they will end up in court under a lawsuit that in many cases are not suits that are grounded in negligence that ought to result in needed payments to individuals.

I can talk at length. When we get to that section of the bill, I will. I do not mean to take up time on it.

So the question before us is not whether or not Republicans care or Republicans have ideas or Republicans think there should not be solutions to health care. We have proposed solutions, and many of them I think are innovative solutions and we are disappointed they are not a part of the legislation before us.

But what divides us here, the real issue, is simply this: Can we find solutions to the problems that plague America's health care delivery system today without fundamentally changing the basic nature of a health care system which is, I believe, unarguably the best system in the world and that has provided the best quality care to citizens of any country anywhere in the world? I do not know of any Members of Congress that get on a plane and go to Canada or Sweden or anywhere else in the world for heart surgery or for specialized treatment, or for medical care.

(Mr. WELLSTONE assumed the chair.)

Mr. KENNEDY. Will the Senator yield on that point?

Mr. COATS. I would like to finish my statement, and when I finish my statement I will be happy to yield to the Senator from Massachusetts.

But I know that there are thousands and tens of thousands of people from around the world, who, if they could afford it, would get on a plane and come to the United States. I have a good friend who is a Congressman from upstate New York, from Buffalo, just across the line from Canada. He said, "Our number one industry in Buffalo is the provision of health care services by Americans for Canadians. They stream across the border because they do not want to wait for procedures and because they believe that the health care system in the United States gives them a better quality."

The basic nature of our system is that we as Americans have the freedom to choose our own doctors, choose our own facilities, choose drugs and methods of treatment. That would be limited under a Government-directed and Government-controlled program. We want to retain the freedom to say, "Doctor, I just don't feel confident that I want to pursue the course you have prescribed. I think I will get a second opinion. I think I will search out treatment somewhere else."

I was driving home the other day, and I heard an advertisement from Johns Hopkins, I think, arguably one of the better, if not one of the best, providers of health care in the Nation and maybe in the world. They were saying if you live in McLean or if you live in Springfield or if you live in Oxon Hill or if you live in Bethesda, or any of the Washington areas, or you live in Washington, DC, why not consider Johns Hopkins as the place to get your medical coverage? Why not consider Johns Hopkins Hospital and Johns Hopkins medical facilities as a place to provide even your primary care? Give us a chance.

That is a freedom that Americans want to retain, the right to seek out a second opinion, the right to go to Massachusetts Hospital or Johns Hopkins or the Mayo Clinic or the Cleveland Clinic or the Bluffton Clinic in Indiana, if they think that they can find a doctor or find a treatment that is going to be better in accord with their concerns about their health care.

I think our system, without a doubt, offers the technological innovations that not only improve the quality of our care, but also help curb health care costs that is unparalleled anywhere in the world. We lead the world in technological innovation. It is one of the things that has driven up our costs, but it has also driven down costs. We need to understand that the innovations that have taken place in health care have been dramatic in terms of reducing costs.

Medical innovation in the United States is a product of the system that we have. I know that the drafters of the Mitchell proposal are well intended, but I can guarantee you under that system many of the decisions in terms of how dollars are directed for medical research and drug research are going to be politically decided and not decided on the basis of market needs and not decided on the basis of medical needs, because it is an inevitable consequence of a Government involvement, whether it is State or Federal, that the political process will rear its ugly head and make decisions as to how money is directed.

We do that in every other program we are involved in, whether it is building a road or funding a college or equipping a military facility. Hundreds of millions, if not billions of dollars are directed by a political decision based on who sits on what committee, based on who can form a coalition, based on what interest group has the most influence, and oftentimes those decisions are not the correct decisions. The market has a way of sorting that out in a way that the political process never can.

I spent a day out at NIH not too long ago, and I discussed the funding that goes into medical research. I was told confidentially and privately, because they do not want to ruffle any feathers here on Capitol Hill, that hundreds of millions of dollars are misdirected into research projects that are overlapping and duplicative because Congress has dictated that that is where the money ought to be spent, and that is driven by interest groups pounding on our door; the ones that pound hardest and the ones that form the biggest coalitions and the ones that somehow tug our emotions the most are the ones that get the money.

They said we just are begging, we are crying out—we have areas where we think we are on the verge of breakthroughs that will make substantial, dramatic improvements in the health care of Americans. We cannot direct money there because it is directed to another area on the basis of a political decision, and our hands are tied.

That is going to be multiplied by who knows what factor, if we move further from a market-directed system to a Government-directed system? Just in drug therapy alone, we have had some dramatic breakthroughs in the last several years. Today, we are treating patients at costs one-tenth the cost of what the procedure was previously.

In asthma, a study in the use of an anti-asthma drug showed that it reduced trips to the emergency room by 96 percent, and hospital admissions were reduced by 62 percent, saving up to $2,250 per patient. The annual cost of this asthma medicine is $431.

Patients suffering from osteomyelitis, a bone infection, were often hospitalized in the past in order to receive intravenous antibiotic treatments that lasted several weeks. Now we have a new generation of antibiotics that can treat these people at home. A documented study shows that we have saved $6,000 per patient with this.

Bone marrow transplants, cancer, diabetes, depression, heart conditions, on and on it goes—gall bladder. Today we do laparoscopy. Who would not accept laparoscopy treatment to remove a gallstone or to remove a gall bladder rather than the open chest surgery that was formerly necessary, that kept patients hospitalized for a minimum of 6 days, that required a lengthy time of recovery? Today they go in with a little tube with a miniature TV camera in it, making an incision smaller than a pencil—a couple of incisions, one in the arm, and one in the chest.

Who would not rather sit in a bathtub and have ultrasound dissolve a kidney stone than to go through surgery or the extraordinarily painful process of passing a kidney stone? One of my staff members has had kidney stone problems, and he said it is an inconceivable difference between what he used to go through with a kidney stone, facing surgery to remove that stone or facing the excruciating pain of trying to pass that stone. And today he goes and sits in a bathtub for an hour, and they turn it on. It vibrates a little bit, and the stone is dissolved.

That is innovation that we do not want to stifle. That is innovation that can truly affect the health care costs. Is it the total answer? No. But it is a part of the answer that we do not want to stifle. I am afraid that we will stifle that for the reasons that I have stated.

Mr. President, I was reading the other day in the Washington Post—and there were three articles in that paper. I was fascinated by their relationship one to the other, even though it was not intended. The first article is on welfare reform. It described, "Mr. Clinton's $9.3 billion plan to reform the welfare bureaucracy . . . having now admitted welfare's utter failure . . ."

From HHS Secretary Donna Shalala, "There is no magic solution to the complex problem of chronic welfare dependency."

The article described, " . . . because of the difficulties of changing such an enormous bureaucracy."

The "bureaucracy" under the Mitchell health care plan, the Gephardt plan, the Clinton plan, whatever emerges from all of this, the bureaucracy will make the welfare but bureaucracy welcome. It will dwarf the bureaucracy that currently exists in the welfare system. Yet, the Secretary of HHS said, "We cannot change that system because of the bureaucracy." It is so massive they cannot change it.

The second article describes the problems being faced by European governments, and said it finally recognizes that social welfare spending and government-run enterprises do not work.

I quote:

Western European countries are beginning to reshape longstanding economic policy such as cradle-to-grave welfare benefits, and government ownership of businesses presaging far-reaching changes in the way Europeans work and live. The largest economies in Europe are facing unacceptable levels of government debt.

It says * * * unacceptable levels of high unemployment * * * eleven percent of the European union work force unemployment * * * forecast growing difficult in exporting their once prized goods. As a result, governments from Spain to Scandinavia are inching the way from the social democratic policies that have nourished their people and inspired generations of liberal politicians around the world.

Is it not ironic that at a time when Western Europe and socialized medicine and socialized government programs have created unacceptable unemployment in Europe which has created unacceptable costs of goods which are no longer competitive around the world, and when an abysmal future faces those countries which have engaged in what we are about to attempt? Is it not ironic that at a time when they have now concluded that has been a failure we are rushing to duplicate what they have done?

The third article in the Post that day describes the new U.S. Government bureaucracy that would be created under Mr. MITCHELL's plan to nationalize one-seventh of the American economy. Why is it that when all the world's nations, except maybe a couple of exceptions, are dismantling their government-run industries and social welfare bureaucracies in favor of private enterprise when we have recognized that social welfare programs have led not to prosperity but to dependency?

Why is it that we are now undertaking to enact into law a bill that represents the largest Government entitlement program ever devised?

Perhaps, Mr. President, the thing that concerns me the most is not necessarily just the details of this bill but the incredible establishment of bureaucracy that results in implementing the details of this bill. My staff, along with Senator GREGG's staff, spent an extraordinary amount of time putting together a booklet entitled, "A Primer to Clinton-Mitchell Health Care Bill, New Bureaucracies, New Mandates, and New Federal Powers." I did not number the pages—I should have. There are 81 pages. It is a very, very small print booklet. There is no political propaganda in here. It just simply lists item by item the bureaucracies, mandates, and new Federal powers that exist under the bill before us—81 pages, each one itemized and referenced to a section.

So Members can look at this, and then look in the bill and say there it is. There is no commentary in here.

What we found so far are 50 brand-new bureaucracies, 33 powers that run to the National Health Benefits Board, 177 new statements of responsibilities.

The Secretary of Health and Human Services will have under this bill 815 new powers and duties. How many offices is that? How many individuals,

VOL 140 PT 16 AG 12 — 18 1994 UMI

how many outside consultants, how many staff members, how many telephones, how many clerks, and how many lawyers will be needed at HHS to carry out the 815 new powers and duties granted under this legislation?

I have handed these out to Members. I ask them do not just take my word for it. This is not a Republican up here just throwing out some nice political rhetoric. Take the book, check the reference, look in the bill, read about it, and try to understand and grasp the implications of what this would do.

The Secretary of Labor gets 83 new powers, all listed in here. And just today, I have been handed a piece, and I guess I will have to add this. I do not know if I will bring out a coach, too. Maybe we will bring out an addenda sheet of the 49 new responsibilities that will flow to the employer or a plan sponsor—49 new responsibilities. I will get this printed up and have it available for Members on Monday, with reference to the section number so that you can check it out for yourself. Forty-nine new responsibilities that every employer and every plan sponsor in America will have to comply with. Who knows how much that is going to cost and how many new staff positions that will cost. We may see an explosion of employment under this bill, and it will all be Government employment. Maybe that is one of the intended consequences, I am not sure.

The Washington Post said—and it is not a publication, you know, that is necessarily a tool of the Republican Party. The Washington Post said, "The Mitchell bill would create dozens of new Federal and State agencies that would have the untested authority to centralize, reorganize, monitor and enforce the way medical care is being bought, sold, and to a lesser extent practiced in this country. The Mitchell bill substitutes Government bureaucracy for private."

Let me repeat that. The Washington Post concludes, "The Mitchell bill substitutes Government bureaucracy for private. It challenges States and Federal agencies to set up new agencies with complex responsibilities never before performed on the same scale by public or private enterprise. It would require States to enforce complex new insurance industry laws. It obligates States to verify that plans have had the ability to care for patients in the way the law requires, and forces the States to monitor the transfer of billions of dollars in insurance premiums paid by employers and individuals to private insurers."

A wise man once said, "All futures have one virtue: They never look the way that you imagine them." If the bill before us today passes, I do not believe that any of us can imagine what the future will be under this bill, and that is the problem. I do not believe it is a future imagined by the American people, and I believe that is why they are, in overwhelming numbers, calling our offices and writing to us and stopping us at the airport and stopping us on the streets at home and saying, "Do not pass that Government bill."

They do not know the details. We do not know the details. They do not know them for sure, but they have an inherent distrust in the ability of Government to deliver a service efficiently or cost effectively, and they have an inherent understanding that politics will so complicate and so misdirect resources under this bill, that it will become a political nightmare. They simply have lost confidence in the ability of this institution and in the ability of Government to provide services, particularly when it concerns the thing that is the very closest to them—that is, their health and the health of their loved ones. It is one thing for us to argue whether a road should be built north of the city or south of the city, or in Indiana or Ohio; it is another thing to argue whether or not a Government clerk, or bureaucrat, or Member of Congress, or a national health board, is going to decide the health future for your loved ones, your spouse and your children, and whether we are going to layer a bureaucracy on the health care system that we have never seen the likes of in this country.

Mr. President, several months ago, Mrs. Clinton came before the Congress in a joint meeting with the Finance Committee and Labor Committee. It was held over in the Russell Building in that big caucus room over there, a scene of the McCarthy hearings and Watergate hearings, and a scene of some very important battles. The room was filled, and cameras were there, and the press was there. Mrs. Clinton was introducing her bill and touting its virtues.

It occurred to me, as my time to question was coming, that rather than getting into arguing the details of the bill, we ought to at least question the underlying assumptions, the pillars that were the basis for the bill itself. So I raised those questions with her. I said, "Mrs. Clinton, first of all, I understand the prodigious amount of work that you have engaged in while putting this bill together, and your interest in health care." I said, "But it seems to me that it is based on faulty assumptions." I said, "Let me just raise four assumptions with you briefly, and you tell me where I am wrong." I said, "Assumption No. 1, to me, is that the bill is based on the fact that the Government can deliver services more efficiently than the private sector." I said, "Without going into all the details and the long list of examples as to why I do not think that is correct, if you have a package and it absolutely, positively has to be delivered where you want it by the next morning, do you take it to the post office, or UPS, or Federal Express, a private carrier? If it absolutely has to be there for the sale of a house, or the closing of the contract, or the signing of the legal document, or the birthday gift—absolutely has to be there—what do you instinctively do? Do you say I better not take it to the post office? Why? It is a Government-run monopoly, an entity that does not have a very good history of delivering the mail on time."

We learned the other day that there are truckloads of mail that have been sitting outside post offices for weeks and months that have not been delivered, and there is a huge post office scandal. I said, "It seems to me that the underlying assumption that Government can deliver more effectively than the private sector is just not based on experience."

The second assumption is that the Government is more cost-effective than the private sector. I said, "It seems like we cannot pick up the paper in the morning without reading about a new misuse or misapplication of funds, or cost overruns that occur."

Senator GLENN held a hearing in July highlighting some of the Government's inefficiencies. To quote from part of that:

> The Office of Personnel Management found that it needed to make a $54 billion adjustment to its retirement insurance account.

The Internal Revenue Service testified that, well, yes, it might be able to collect $29 billion more in taxes that are owed, but it cannot be sure because the question is, "Why do you not go out and collect it?" They said, "We are not sure that money is owed, but we think it is 29 million dollars." The State Department cannot account for $250 million it paid out.

The Customs Service says it could not account for 10 tons of illegal confiscated drugs.

The defenders of the Clinton-Mitchell plan say, well, you are comparing the post office to health care, and that is like comparing apples to oranges. Let us compare apples to apples. We recently passed and supported a vaccine for children program. The Government is going to buy one-third of the Nation's vaccine supply, package it, house it, and distribute it, starting this October. It is a well-intended program.

The GAO just gave us a report on the progress of that program. Here are the three findings:

The program is way behind in letting purchase contracts.

Two, GAO is unprepared to evaluate whether the system could efficiently process orders from the 70,000 doctors and clinics that are supposed to receive the vaccines.

Three, they are unprepared to adequately test whether the packaging and delivery system would retain vaccine potency. Vaccines require strict temperature controls.

> Our review indicates that it is unlikely that the Government can fully implement the vaccine for children program by October 1, 1994, and raises questions about whether the vaccine for children program, when fully implemented, can be expected to substantially raise vaccine rates.

If we cannot run a vaccine-for-children program, how are we going to run health care for everything else?

Mr. President, the third assumption that I raised with Mrs. Clinton was: You know, the problem with this is that when you turn things over to Government, politics gets involved instead of the disciplines of the market where, if you do not make a profit, you are out of business and the shareholders are after your neck at the next shareholder business meeting or the stock plummets. Instead of the discipline of the marketplace, the Government does not have a competitor, the Government does not have to make a profit, and the political process always intervenes.

Already, we have seen the interest groups lining up. We have an amendment on the floor now that says—and it is a well-intended amendment, and I take nothing away from its sponsor, who has passionately defended and promoted the rights of children in a whole number of areas, and he cares deeply about that. But already on a political basis we are trying to make decisions that, well, this ought to be included. There are probably 100 areas, 100 items, maybe more, that Members feel just as passionately about for different reasons that they want carved especially in the program, and the decision is going to be made here on the Senate floor rather than in the national health boards or in a commission. It certainly will not be made in the marketplace.

This is not to say that there should not be some of those provisions. This is not to say there should not be a vaccine-for-children program. The question is how can we do this without skewing how the money is allocated, how the resources are allocated? How can we as political entities whose future depends on saying yes and whose career is thought to be terminated when we say no, how can we resist the temptation that we have not resisted, in my experience in Congress, to say, well, maybe we can work that into the next bill. You make a good case. You have an important lobby. That is a touching story. I will talk to the chairman of the Finance Committee to get it in the next tax bill.

Already the litany has started. The Labor Committee added $32 billion of benefits to the President's plan, and when the House Labor Committee took it up, they added benefits. They got a lot of pressure from the dental people, I guess, and they added more. They said they could not draw the line at 18, they had to make dental benefits available to everybody. Some others wanted additional programs for women and children. The mental abuse people are lining up saying, "What do you mean, 30 days? We need 60 days." When they get 60 days, they say they need 90 days of coverage. On and on it goes.

Whatever interest group is not covered right now I guarantee you, if they are not meeting today, they met yesterday, and they are devising their strategy to come and put pressure on us to add benefits and make decisions. We are not the best people to make those decisions. We do not have the expertise. We are politicians.

Everything in us says yes, and we will pay for it later, and if it does not fit, that is OK. You can walk out the door happy. Everything in us says, oh, if we say "no" we are going to have to look for another line of work.

So, I told Mrs. Clinton. I said, it just seems to me that the assumption that we can do this outside of politics undermining your best attempts, undermining the attempts of people who wrote this bill, I just do not think that is within our experience nor see how we can do it.

Her answer to that was kind of disturbing because she said, "Senator, I don't challenge what you have just said in terms of our experience, but I think this time we are going to do it differently."

I just do not believe that is the case.

I know Members are wondering when I am going to quit, and I am just about done. The question, I think, now is, Where do we go from here?

I believe a sensible health care reform bill could be put together on a bipartisan basis in this Chamber in a very short amount of time. We start talking about when Senator Bentsen introduced a bill a few years ago. We talked back and forth. I believe there was majority support for that. It will not solve all the problems, but it will be a huge step forward. It would give us time to analyze progress. It would give us the ability to pay for that progress. It would give us the ability to make changes next year or the following year if we have information back that there is more we could do.

But the President has stated, he has drawn the line in the sand, drawn a couple lines. I was in the Chamber when he said, "See this veto pen. Nothing that is less than 100 percent coverage will get my signature." And that line is now 95 percent. But just the other day he said, "Anything less than the Mitchell bill is totally unacceptable."

Well, we are starting to look at the Mitchell bill, and we already found out that, distressingly, in just one area it is going to set up a Government agency to tell us how many doctors we need in what specialty. Even the chairman of the Finance Committee finds that appalling and unworkable.

Any time we suggest anything less than what the President has outlined, we get nothing but resistance from the White House. So I have concluded that a sensible bill is not going to pass here this year. A bill that is achievable is not going to pass here this year.

I think that only leaves us with one option, and that option is to kill the President's bill, to send a message to the White House, "Mr. President, the American people, as expressed through their representatives in this Congress are not going to support your concept of health care for America."

Until the President gets that message and understands that message, we are not going to make any progress, because he is going to continue to insist that the leadership of the House and the leadership of the Senate pass what he wants. But what he wants has been rejected by the American people. I do not know how many times we have to say this. This thing has been killed six times. Maybe it is like a cat; it has nine lives. We have to kill it three more times. This proposal out of the White House has been dead more times, or thought to be dead more times, than we can count. Yet it keeps trying to resurrect itself.

The President has to understand that his vision of health care for America is not America's vision of health care for America, and unless he understands that, we will not be able to make any changes or any reforms in health care. We will not be able to make any progress.

So I have concluded we have to defeat the Mitchell bill. We have to defeat what essentially is the President's proposal. We have to defeat the Gephardt bill. And we have to send that message, and then and only then can we begin to put together the needed reforms that will truly preserve what is right about our health care system and make changes in those areas that do not work right.

The American people have said they do not want or they do not trust Government to take over the health care system of this country, which is one-seventh of our economy. They do not want or trust Government to make decisions about issues that are the most personal issues in their lives. That is the health of themselves and their spouses and their loved ones and their children.

They do not want most of the critical decisions regarding their health care settled on a political basis.

This is the fundamental issue: Do we as a people want Government-run health care? The American people are saying no. They do not know the details, but their instincts are correct. And those instincts are shaped by experience, time after time after time, with Government-run programs.

That message has to penetrate the White House and only when it does, only then can we begin the process of real health care reform.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

VOL
140
PT
16
AG
12
18
1994
UMI

Mr. MOYNIHAN. Mr. President, before the Senator from Indiana leaves the floor, could I, with great respect, suggest that either I misspoke or was misunderstood, and that is probably both as it frequently happens.

I mentioned surprise to find in Senator MITCHELL's bill provisions that indicate that the Federal Government will designate the number of specialists that will be trained for specific specialties and then will reduce the number of residents, and so forth. I said there must be some staffer who wants that because we had thought it was being taken out of the majority leader's bill. It never was in the Finance Committee bill, and the Finance Committee staff did not add it, as I am sure Senator PACKWOOD will agree.

Mr. COATS. I did not believe it was the Finance Committee.

Mr. MOYNIHAN. They were much concerned.

Mr. COATS. It was distressing. It was on someone else's staff.

Mr. MOYNIHAN. I wonder if the Senator might consider revising his remarks in that regard.

Mr. COATS. Mr. President, I am happy to revise the remarks, based on the statement made by the Senator from New York, implicating a member of the Finance Committee staff as being responsible for the quota system set up for medical specialties under section 3012. Apparently that was inserted by either staff of another Senator or some other staffer but not a member of the Finance Committee or the Finance Committee staff.

Mr. MOYNIHAN. That is right. I appreciate the courtesy.

Mr. President, this question of Government-run medicine, we are going to hear a lot about that.

May I just offer the thought in a bipartisan spirit—and I was happy to hear the Senator from Indiana speak of a bipartisan spirit; happy to hear him speak of Bluffton, where my grandfather, who dug pipelines from Jamestown, NY, around central New York, ended up.

Medicine, by the oldest experience of the Western civilization, is a socialized activity. Individual doctors, no; but hospitals, yes.

There are some for-profit hospitals in the country. Perhaps 15 percent of the patients are in them. But it is not a profitable activity. It is, by definition, socialized.

The largest activities, say, in my city of New York, the main hospitals are religious-supported hospitals. They are Catholic, they are Protestant; Columbia Presbyterian, St. Luke's, Mount Sinai, Montefiore, the latter being associated with a Jewish charity; as a Presbyterian charity; as a Catholic charity.

The Shriners run extraordinary burn centers around the country. There are Masons. And there is never a bill.

We have the hospital systems we have because of generosity from the charitable, the sharing concerns of Americans, not as an enterprise. And I hope we keep that in mind.

I quote my Republican friend, who accompanied the President to the Middle West yesterday, the mayor of New York, who said in a letter to the House, "America is debating universal health care. New York has given universal health care for most of the century."

It is a question of how much more, than whether. And I think we will see that.

I take the Senator's point about the vaccination program we authorized in the last budget. And Senator PACKWOOD and I realize that it is the responsibility of the Finance Committee. It has not gone well. We will have to hold a hearing, and we hope we can do better. But we have had free vaccinations provided by the city of New York in New York since 1890. And it has not turned us into a hopelessly communal society.

Mr. PACKWOOD. Will the Senator yield?

Mr. MOYNIHAN. I yield the floor.

Mr. PACKWOOD. I do not want him to yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield myself a couple of minutes.

We have reached the level of vaccinations that we had hoped to reach in the legislation that we passed. It is not only in the city of New York, but we have found this in any number of towns in major metropolitan areas where we have tried and tried and tried to vaccinate everybody. The problem is not the lack of vaccine. The problem is getting people to wherever your communal vaccination facility is to do it. And the cost has not been the deterring factor. We do not know why they will not. But it is not a question of the vaccine, which was free.

I thank the Chair.

Mr. MOYNIHAN. Mr. President, I make that point. The determinants of health increasingly in the modern world has to do with personal behavior and community behavior.

The change in infant mortality in the world is really striking. How much better things are than they were.

I look at Portugal. In 1960, it had an infant mortality rate of 77.5 per thousand. One child in 13 died before reaching one year of age. It is now down to 11 per thousand or one child in 99.

The United States, which was never that good—it helps to be born in Iceland if you want to prosper as a child—but we were 11th among the 23 OECD countries in 1960. We are now 21st. Not because we have forgotten medicine; medicine roars forward. But, community behavior is less than it obviously once was.

Mr. President, I see my friend from Massachusetts and I yield to him for such time as he may desire.

Mr. KENNEDY. I thank Senator MOYNIHAN.

We are going to get back very quickly to the Dodd amendment on children, and also the comparisons between the Mitchell program and the Dole program, not only on children but on working families and seniors.

But I wanted to just take a moment, before yielding to the Senator——

Mr. REID. Will the Senator from Massachusetts allow me to ask him a question?

Mr. KENNEDY. I will be glad to. Could I just make one brief comment on a matter that I brought up earlier, and then I will yield for a question.

That is, we are hearing on the floor now about how we continue to study the different proposals and find new insights.

I must say that I share that experience, just in the past few hours in further study of the Dole proposal. Earlier I had spelled out the difference on one very key element of the Mitchell proposal and the Dole proposal on the exclusion of treatments for preexisting conditions, which is an absolutely essential part of the different proposals.

I mentioned in the comparison, when I was exchanging comments with the Senator from South Dakota [Mr. DASCHLE] about how the Dole proposal provides that if you are diagnosed or being treated during the 3 months prior to the time of the enrollment, you are therefore excluded, or you are limited in terms of any kind of help and assistance or medical attention for 6 months.

So I looked over on page 81 and found this 3-month period where you would be treated and the limitation of 6 months.

On the next page, it says, "Special rules for individuals." So in the case of an individual who is not enrolling as a member of a group but as an individual, 3 months in paragraph 1(a) is deemed a reference to 6 months. So it is not 3 months, it is 6 months. And in paragraph (b), any reference to 6 months is deemed a reference to 12 months.

So, I agree that 12 months without medical treatment is absolutely devastating for any individuals who are trying to get attention for a medical condition.

But then if you just read further, because we talked about an amnesty provision, which was included in the leader's provision, and also the first open enrollment where they can enter into a program without any exclusion of coverage.

And now we have heard our friend from Indiana talk about the bureaucracy in the administration of the leader's proposal.

Listen to this. Under the Dole proposal, there is also an amnesty provision, but in general this subsection shall not apply during an initial enrollment period described generally, but

the participating State may establish a limit on the number of new enrollees a health plan must accept during the period described based on the plan's share of the applicable community-rated or experienced-rated population.

Now you talk about a bureaucracy. Here the Dole bill says they are going to give it to the State to develop some kind of agency when they are having this limited amnesty period, and then the State is going to decide—on the basis of what? Capacity—who is going to get in and who is going to be left out.

You talk about playing God. You talk about the Mitchell proposal, trying to include people and having administrative procedures to include people—here, under the Dole proposal they are creating a new State agency to keep people out; to keep people out.

This is wise, to try to get through exactly what is the bureaucracy in the two proposals.

Mr. DASCHLE. Will the Senator yield on that point just for a clarification? As I understand it, if that interpretation is correct, then you would have a State governmental agency deciding the eligibility for insurance for every individual with a preexisting condition? You could have someone in North Dakota who has a preexisting condition who would be eligible for care, but a person in South Dakota with the same preexisting condition where Government says you are not allowed any access to that insurance? Is that what that provision says?

Mr. KENNEDY. It is stated. The Senator is exactly correct. The participating State may establish a limit on the number of new enrollees a health plan must accept. So they decide who they are going to accept. There is no consistency in terms of trying to make sure you are making a commitment to those individuals, our fellow citizens who have a disability, and say they are part of this whole process; they are part of the whole process. Here it says the State will establish an agency. The State will decide who will come in and who will be left out.

I think the Senator's interpretation is correct.

Mr. REID. Mr. President, will the Senator yield?

Mr. KENNEDY. I will yield for a question and then yield whatever time, yield the floor.

Mr. REID. Mr. President, through you to my friend from Massachusetts, you will recall the junior Senator from Indiana said, and this is not an exact quote: I am not prepared to go forward on health care legislation. I ask my friend from Massachusetts, is it not true that we have been talking about health care, universal health care, for over 50 years in this country?

Mr. KENNEDY. The Senator is absolutely correct.

Mr. REID. Is it not true we have gone through about six Presidents, talking health care?

Mr. KENNEDY. Certainly Teddy Roosevelt, Franklin Roosevelt, Harry Truman, President Nixon——

Mr. REID. It is also my understanding the Education and Labor Committee and the Finance Committee have held more than 60 hearings on the legislation, the one reported out by the Finance Committee, the bill reported out by the Education and Labor Committee—much of which has been melded into the Mitchell plan? Over 60 hearings; is that right?

Mr. KENNEDY. Over 80 would be more accurate.

Mr. REID. And hundreds of witnesses, is that true?

Mr. KENNEDY. The Senator is correct.

Mr. REID. I am wondering, do you think the Senator from Massachusetts is ready to go forward with this legislation?

Mr. KENNEDY. I think the American people are ready to go. They are ready for the Congress to finally address the more important issues of our time.

Mr. REID. I would say to my friend from Massachusetts, talking, for example, about preexisting disabilities, preexisting conditions, in the small State of Nevada—and it is a small State—we have about 360,000 people with preexisting conditions. Now, under the Dole plan, as has been explained by the Senator from Massachusetts and the Senator from South Dakota, most of them are still out of luck; is that not right? Under the Dole plan, preexisting conditions—in the small State of Nevada we now have about 360,000 people with preexisting conditions. They would still basically be out of luck; is that not right?

Mr. KENNEDY. Certainly they would be out of luck if they have been getting any kind of treatment for 6 months prior to the time—they would be out of luck for the next year for any other kind—any kind of treatment and assistance. If you look at the nature of these kinds of diseases—cancer, heart disease, diabetes, HIV, the whole range of different kinds of diseases—that is the time when people really need the help and assistance. In effect, they would be excluded.

Mr. REID. I hope later on in this debate, we will have an opportunity to talk about some of the other things that need to be addressed, like helping the small business people in this country; like helping women who need prenatal care. I hope we will have the opportunity during this debate to indicate now is the time to go forward with health care legislation for the people of the State of Nevada, the people of the State of Massachusetts, and throughout the United States.

Mr. KENNEDY. I thank my colleague. We are back, hopefully, to the excellent amendment of the Senator from Connecticut.

I think for——

Mr. COATS. Mr. President, may I ask the Senator from Massachusetts to yield to me just to respond in 30 seconds to the Senator from Nevada?

Mr. KENNEDY. For 30 seconds.

Mr. COATS. I thank the Senator.

Perhaps the Senator from Nevada was not here when I spoke last evening. Or maybe he did not hear my entire statement today. If he misinterpreted my statement or if I misstated in my statement, I apologize for misstating it.

This Senator said—meant to say—I am not prepared to go forward with the Mitchell bill or even the Dole bill. I have not had time to analyze it all. I doubt if any Member here has. Certainly, I am prepared, as I indicated in my statement—I closed with it—to go forward with meaningful, sensible health reform legislation. I am not prepared. I do not fully understand—even the Finance Committee chairman said he did not realize the section was in the bill. I do not think any of us have had the chance to fully analyze the situation to the point where we can just do the bill now and get out of here and go home. That is what I meant to say.

But I say to the Senator from the State of Nevada, the premise of the Senator's statement, if it was based on my statement, I think the Senator was wrong.

Mr. KENNEDY. I see the Republican leader. I was wondering if there had been any decisions on the resolution of the two amendments that were going to be voted on—hopefully voted on—on Monday at 5 o'clock. I think the majority leader had indicated he was hopeful of being able to get some kind of response on that request.

Mr. DOLE. I will be meeting with Senator MITCHELL at 1:45 on another matter, and I will be happy——

Mr. KENNEDY. Fine. I thank the Senator. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I yield the Senator from Connecticut as much time as he desires or may require.

Mr. DODD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Dodd amendment No. 2561.

Mr. DODD. Mr. President, I am glad to hear that. To paraphrase Daniel Webster: It is a small amendment, Mr. President, but there are those of us who love it. It is only two pages long. I proposed it last night at 5 o'clock. I gather we are not going to be able to vote on it until maybe Monday or Tuesday. But I just wanted to bring us back a little bit to the subject matter before this body, which I introduced going on 24 hours ago. It is not a difficult amendment to read.

I understand the overall bills are longer but this amendment is just two pages and pretty straightforward as to what it does. I am disappointed we cannot get a vote on it sooner. I just hope we will get a vote at some point.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Just to reemphasize the point that was being made by the Senator from Nevada a moment ago—I hear some people saying how we need a lot more time on this issue before we go forward.

I sit on the Labor and Human Resources Committee. We had 51 hearings on this subject matter in just that committee alone. There were some 30 or 35 different hearings, as I recall, in the Finance Committee. Roughly 40 Members of this body serve either on the Labor and Human Resources Committee or the Finance Committee.

If you add the Veterans' Affairs Committee and the Governmental Affairs Committee, each of which had hearings on this subject matter—and then you consider all of the network programming, all of the stories, the opinion page pieces done on this, the American public is now familiar with a language that I think a year and a half or so ago they would have been totally unfamiliar with; things like preexisting conditions, portability, and the various kinds of plans.

I just want to make the point here that we have had an endless amount of information made available to us. The subject matter of our discussion here should now be tremendously familiar to Members. We must not miss this opportunity. I hear some Members talking about not being ready to proceed. It reminds me of students the night before a school paper is due who have not done their homework. So, a student shows up the next day and says the dog ate his paper and he is very sorry he could not get it done. Or another student takes an incomplete at the end of the semester because he or she did not study.

We cannot take an incomplete on health care. We cannot just quit and go home. Congresses exist for a finite period: 2 years. We are coming toward the end of this 103d Congress after a significant amount of work on health care—including hearing from hundreds of witnesses in countless numbers of hearings.

So while I am certainly patient about people wanting to study and read a bit more, I think this may not pass the smell test, as they say. What we may be really looking at is just some good old-fashioned foot dragging.

So I am hopeful that we might get a vote on my two-page amendment at some point because it is pretty straightforward. It deals with children. It requires private insurance policies to cover pregnant women and children. I will go over it in a minute. That is all it is. It is not a Government program. It does not create some fancy new bureaucracy. It moves the date up for coverage for kids from 1997 to 1995. This should not be heavy lifting in terms of getting us to vote on this. People around here who think we need to study, study, and study some more are not convincing this Senator, and I believe other people, about why that is necessary.

So, let me come back again, if I can, to the subject matter before us because I think a critical point needs to be made over and over and over and over again.

If you are a family living on public assistance today in 1994, your family gets health care. What we are talking about when we talk about those who are not covered are families who are working. They get up every morning and go out the door and hold down a job and try to provide for themselves and their families. They are the ones that are being excluded from basic health care coverage in too high numbers. So we are trying to do what we can to see that they get drawn into the process. That is what this is really all about. Because people talk about this program as some sort of a giveaway, I would just like to share with you some testimony I heard when chairing a hearing before the Children's Subcommittee. My colleague from Indiana serves as the ranking minority member of that subcommittee.

Lynn Morrison testified before our subcommittee last November. Let me read a little of her testimony if I can, because we need to put a human face on the numbers and charts we have before us. While Lynn is only one woman, she speaks, I think, for literally hundreds of thousands in this country:

My name is Lynn Morrison. I want you to know that I'm an average working person. I've worked since I was 14 years of age. But when I was pregnant with Desiree and needed help in getting health insurance, I couldn't get it.

I'm here today to tell my story so that maybe other women won't have to go through what I did. Others won't have to be afraid when they can't get in to see a doctor before they deliver. Others won't get late prenatal care like I did and risk having a problem.

This year money was tight, even though we were both working. We had just bought our first home and had a monthly mortgage to pay. My husband and I had not planned this pregnancy. This was not the best time to have a baby. But my husband and I were delighted to bring a new baby into the world, to care for her and to give Rachel a new sister.

When I learned I was pregnant, I had just changed jobs to be closer to Rachel's kindergarten. I left my job at a pediatrician's office because it was a 1½-hour commute and I had difficulty getting Rachel to and from school. I like my new job, but they don't offer their employees health insurance.

At first, I was not really worried because Rachel is school age and a pretty healthy child. I was feeling fine and healthy, too. When I learned I was pregnant, I tried to get on my husband's health insurance plan through his work. We learned they had been taking out monthly payments from his paycheck as if he had a family plan, but I was never enrolled. When he tried to enroll me with the health insurance company after I was pregnant, I was denied because my pregnancy was considered a "preexisting condition."

I really wanted this baby to have a good start. I was a little nervous. I was 32 years old.

She goes on to say:

Soon after that the welfare office—

She went and applied for welfare. I am leaving some of this out.

told me that my income and my husband's income combined would be too high to be Medicaid eligible. So I tried to find a doctor who would see me without insurance. I found one clinic who would see me, but they wanted $250 to $350 for my first visit and hundreds of dollars for blood tests. We just didn't have it. I was very scared. We were stressed and my husband felt terrible that he couldn't take care of my health needs. I was exhausted from the whole ordeal.

About this time, I was changing from sad and scared for my baby to mad. No one would see me. I thought, I've worked all my life and for what? No one will insure you if you need it, not even if you're pregnant. I have been putting money into the system for 18 years, and isn't it ironic that I can't get any health care when people who have not worked all their lives get Government help? My baby has a right to medical care. I don't understand why I can't get it just because I change jobs and we don't meet certain criteria.

I took the initiative and got on the phone and called around to find help. No one would help me. Before I had the baby, I went into premature labor twice and was hospitalized. I felt scared, but with the help of wonderful doctors—

Which she talked about, her baby was born healthy.

We are very lucky our baby doesn't have health problems. Everybody should be able to get health care if they need it. All this not only put our baby at risk, but we were afraid of losing our home and marriage. Because there is no guaranteed health coverage today, I couldn't get prenatal care until the fifth month of my pregnancy. I hope you hear my story and understand every American should have health care coverage, whether they change jobs, get sick, or have a baby.

I took the time to read that because I think as we go through this bill, we get up and read sections, subsections, talking a lingo and language that would glaze the eyes of an accountant, an actuary. Legislative language is difficult stuff to understand, to go through. We need to talk in terms of real people. Lynn is a real person and there are many, many more like her out there who are worried. This amendment tries to address her kind of situation.

(Mrs. FEINSTEIN assumed the chair.)

Mrs. MURRAY. Madam President, will the Senator from Connecticut yield for a question?

Mr. DODD. I will be glad to.

Mrs. MURRAY. I was startled, as I think most people were, when you read the story and talked about a woman who said pregnancy was a preexisting condition. I have had doctors tell me any woman over 16 has a preexisting condition. I think when we talk about that, we forget when a lot of women go to a doctor, try to find a new insurance plan, that preexisting condition is something they thought was just part of their life. I think it is imperative we remember that during this debate.

I want to ask the Senator from Connecticut, I have heard from my own ob/gyn that many times he has young women, or women in their twenties sitting out in a car and they are in their ninth month of pregnancy; they are in labor and they sit out in their car and in the hospital parking lot until the very last second to go in to deliver because their health care coverage would not cover pregnancy.

Is this something that you heard in your committee hearings?

Mr. DODD. I thank the Senator for her question.

Madam President, I will tell you, this is something we heard over and over again—the nightmarish stories that people go through. Again, each of us ought to be doing everything we possibly can and not just because we are a civil society and because we care about people, but must also I point out that there are some real dollar savings involved here. We are constantly talking about the fiscal implications, as we should, of the various health care proposals. But let me just share, if I may, the incredible dangers of having a low birthweight baby if you have no prenatal health care.

Each year, there are some 250,000 babies born to women who do not receive the necessary kind of prenatal care before the sixth month of pregnancy. These babies are twice as likely to be born with a low birth weight. More than 90,000 infants were born to mothers who did not see a health care provider during their pregnancy at all. These babies are three times more likely to be born with a low birth weight than those mothers who received the appropriate prenatal care.

What does that mean in terms of dollars and cents? Usually, you are looking at a child that ends up in a hospital—and I am sure many of my colleagues have been to these infant intensive care units. It is remarkable what they can do from a technology standpoint, but do not kid yourself, their work is very expensive. It is not uncommon for the cost to be $150,000 to keep one of those infants alive in one of those incubators. I am just stunned by the capabilities that we have in this area. It is wonderful. But it costs a tremendous amount.

Mrs. MURRAY. Madam President, will the Senator yield for a question?

Mr. DODD. I will be glad to yield.

Mrs. MURRAY. The Senator mentioned the tremendous cost of low birthweight babies and mothers who have not had good prenatal care. As a former preschool teacher, my experience was that the young kids when they got to be 3, 4, and 5 and were in my preschool class were the ones that were further behind, took longer to learn, and were much more difficult. Do those costs reflect further in life as these low birthweight babies grow up?

Mr. DODD. It does. As the Senator has correctly pointed out, there are costs when that child enters school without the kind of learning capacity that they should have and a variety of other problems. The following numbers were developed by the Carnegie Foundation, the March of Dimes, and others. Every time a low birthweight delivery is prevented, it saves between $20,000 and $50,000. Every time a low birthweight delivery is prevented, it saves approximately $150,000 or more on neonatal intensive care costs per child.

Mr. REID. Will the Senator yield?

Mr. DODD. I would be glad to.

Mr. REID. I had two gentlemen from Nevada come to my office who were neonatalogists. They indicated—and I think it is a confirmation—I would like the Senator to respond—of what he is telling us here—it is not unusual in their facility to have women come who have never ever seen a doctor, and they are there for delivery, and that they do not have babies that cost $150,000; they have million-dollar babies. By the time the baby gets out of a hospital the first time, the hospital bill is $1 million. Has the Senator heard of cases of that nature?

Mr. DODD. Certainly. In years back, those children would have died. And today, because of our commitment to research and technology, we can now save those lives. But they are tremendously costly. And again, you will hear over and over about the low cost and savings from prevention. I called Travelers Insurance Co., by the way, and asked about my amendment and said, "How much will this cost?" It is 9 cents a day to cover children's care. That is 9 cents a day in premium costs.

By the way, my insurance companies do not oppose this amendment. We hear about the insurance industry and some of the things that are said about them, but I want my colleagues to know that they are behind this and believe it is an acceptable step. Many of them have it already in their plans. A lot of the HMO's have it in their plans and insist upon it. Some 20 States require it. So this amendment would just insist that any private insurance plan cover it as well.

Mr. REID. Will the Senator yield for one final question?

The Senator from Washington stated the problems that women have can be preexisting conditions. To indicate that this is not just a fallacy, I have an organization, a nonprofit organization in the State of Nevada that wrote me a letter—I talked about it once a couple months ago on the floor—the National Association of Latin Americans. They have 23 employees. They had health insurance, and the reason they were able to maintain employees is they had health insurance. The average wage was $4.50. They were glad to work; they had health insurance. They were unable to find someone that would renew or write a new policy because they had preexisting conditions that had developed during the year. Two of the conditions were pregnancies. One of the conditions was diabetes. They were canceled.

Is this what the Senator from Connecticut is talking about?

Mr. DODD. Exactly. Those are exactly the kinds of conditions and problems that people face. And I would like to, Madam President, if I could draw the attention of my colleagues to this chart or graph here. There are a lot of numbers and language here but let me briefly try to explain the comparison between the Mitchell plan and the Dole plan when it comes to children and how they are affected. We are talking about the children of working people here now.

These numbers here on the side of this chart are income levels starting at $14,000 going up to $44,000, which is 300 percent of poverty.

Under the Mitchell plan, the amount of premium you would pay for children is zero through 150 percent of poverty.

I would point out that under the Dole plan, the cost of a family policy does not cost you anything at $14,000, but when you jump up to $22,000, 150 percent of poverty, you don't do very well. Under the Mitchell plan, there is no cost. Under the Dole plan, you pay $5,883, in excess of 26 percent of that family's income.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. DODD. I will in a second. Let me finish the graph. You go to $29,000, $36,000, $44,000. These are working people. We have made a significant effort in the Mitchell plan to assist those families, particularly at that level.

The highest cost a family at the $44,000 level for these children is a little in excess of $1,700 a year—4 percent of that family's income.

One of the things we want to try to do here is not bankrupt people who are out there earning a living, trying to provide for their children's needs. And health care is costly. And so the Mitchell plan makes a significant effort to assist those working families with children and see that they get the kind of support and backing that they need.

With all due respect—as I said last evening—and I will repeat it here now because I do not want to hear it said later, there have been very few people in this Chamber who have fought harder and cared as much about kids as Bob DOLE of Kansas. Food stamps, WIC programs, he has been there.

Now, my reference here is the——

Mr. PACKWOOD. Will the Senator yield?

Mr. DODD. In a second I will. There is a significant difference and people

VOL 140 PT 16 AG 12 — 18 1994 UMI

ought to take note, a significant difference. If you are in that $22,000, $29,000, $36,000 range, under Mitchell you are paying less than 1 percent at $29,000, 2.7 percent of your income at $36,000, 4 percent of your income at $44,000. Under the Dole proposal, at $22,000, you pay 26 percent, at $29,000 you pay almost 20 percent, at $36,000, you pay almost 16 percent, and at $44,000, you spend 13 percent of your income for coverage.

Mr. PACKWOOD. I do have a question.

Mr. DODD. One quick question.

Mr. PACKWOOD. Yes. What benefit package is the Senator using to estimate the Dole-Packwood bill?

Mr. DODD. The Dole bill only covers the family policy. It does not pick up children separately. So there is a distinction. But this is how families are affected across the board.

Mr. PACKWOOD. Where does the Senator——

Mr. DODD. Let me finish. Then I will yield to my colleague.

Mr. PACKWOOD. Where does the Senator——

Mr. DODD. I will yield. Let me answer the question. The Mitchell plan provides for children specifically whereas the Dole proposal covers the family. The coverage and the cost is the same. That is why we have this amendment.

Mrs. MURRAY. Will the Senator yield?

Mr. DODD. I will be glad to yield.

Mr. PACKWOOD. My question is where did the Senator get——

The PRESIDING OFFICER. The Senator from Connecticut has the floor. He has yielded to the Senator from Washington.

Mrs. MURRAY. I thank the Chair, and I thank my colleague from Connecticut.

They probably heard me when I made my opening remarks the other day talk about a young child who I had in my preschool class who was unruly and disruptive, and after observing him I noticed he could not hear, he had ear infections. And I went to his mother and suggested she take him into the physician and help him. It did not occur, and after 3 weeks I went back to her and I said, "Have you taken him in?" And she looked at me in tears and said, "We don't have any health care insurance."

Now, there is a child who remained a problem in my classroom simply because of ear infections. His family did not have coverage. I would guess their income was probably in the $22,000 range. Under the Mitchell plan, what would be the premium she would have to pay?

Mr. DODD. As it is written now—it may be changed if people want to knock it out or modify it—but right now under the Mitchell plan, that family is protected up to 150 percent of poverty so that they would not have a premium cost for those children.

We understand the value of that. If their income falls into the $30,000 range, they participate and pay something. We are trying to help out working families in this area so that that woman——

Mrs. MURRAY. That child would then have gone into the doctor, had his ear infections fixed, and been back and been a nondisruptive member of the class.

Mr. DODD. That is absolutely correct. The Senator made a point. Again, in stating the statistics, Madam President, there are implications here—Lord knows, there are implications. We know now that a dollar invested in prenatal care can save on the average $3 to $4.

So the investment, in the case of a pregnant woman, with the kind of care that we can provide today, does a tremendous amount to save costs when you face the problems that these infants incur with low birthweights. Now, I would say my colleague from Oregon is absolutely correct, in my view, regarding vaccines. My State of Connecticut has a free vaccine program, and I have gone out day after day, in area after area, Hartford, Bridgeport, New Haven, with clowns and food and gimmicks and everything else to get people to come out and take advantage of it. And they do not.

We have a hard time with that. We have to think of more creative ways of doing it. But, nonetheless, it is critically important that these children get some assistance.

So this amendment that is the pending business, Madam President, does not create a bureaucracy. Very simply, it requires every private insurance policy in the country to include preventive services for children and pregnant women in their basic benefits package by next summer.

Let me conclude on this note. I see other colleagues want to address these issues. I come from Connecticut. I come from the insurance capital of this country. I have 55,000 constituents who work in the industry. I also have 23,000 constituents who lose their health insurance every month. Most of them get it back before the year is out. But God forbid something happens to them during that year.

I would not be standing here supporting a program that would destroy the private industry involved in health care. They have done a very good job, in my view. I know other colleagues may have a different point of view. But I believe they have done well. This bill builds on the existing program. It does not tear it down. This amendment specifically builds on the existing program. That is why I think it is important and why I believe it can make such a difference in these young children's lives and their families' lives.

Mr. KENNEDY. Will the Senator yield just on the question about the estimates? As I understand—I would be interested if he agrees—the benefits packages estimate is from the CBO for Mitchell, and both the Mitchell and Dole are estimated equal to Blue Cross standard under the Federal Employees Health Benefits Program. As I understand it, the Dole probably is actually higher because the community rating pool is smaller. It is outlined on pages 86 and 87. But as I understand, that is now the estimate came. Am I correct?

Mr. DODD. The Senator from Massachusetts is absolutely correct. We are talking about the children's features. In the Mitchell bill, we go beyond 150 percent of poverty and try to do something for those families.

Under the Dole proposal, there is an effort, and 100 percent and up to, I guess, 150 percent. It stops at 150 percent.

Mr. KENNEDY. Nothing above 150.

Mr. DODD. That is correct.

Mr. KENNEDY. There is no program in there for children?

Mr. DODD. That is correct. That is why, under the Dole proposal, at 150 percent of poverty—in excess of $22,000 a year—you are going to be in the same category as the person making $44,000 a year when it comes to children. In fairness to Senator DOLE, up to 150 percent the plans both help families. I happen to believe if you are making 200 percent in excess of poverty or 300 percent, you are not a wealthy American. You are a middle-income family trying to hold it together, pay mortgages or rents, clothes, God knows what else. These are not affluent Americans. To suggest that those families can afford 26 percent of their gross income for health care premiums is excessive, in my view. Maybe others do not think it is, but I think it is. That is why the Mitchell proposal is so much better.

Mr. KENNEDY. If I could just ask the Senator about this chart over here. The Senator has addressed the questions about what is happening under the Mitchell program, as I understand it, which has the unique program which is directed toward children. The Senator's amendment addresses this concept and accentuates the benefits of it at an earlier period of time. As I understand it, it has the support of many within the industry as compared to the Dole proposal.

The only question I would like to ask is whether the Senator agrees that we are basically talking about families of working men and women. The Senator has pointed out correctly that those are the most needy children of working families. The poorest are covered by Medicaid.

But does the Senator agree with me that there is a parallel in the difference between the Mitchell program and the Dole program, not just in terms of children, but also for working families;

that the effort of the Mitchell program was to again try to get a very, very affordable program for children, which are the ones that have been left behind in the special interests?

But does the Senator not agree with me that, if you look further down the road in terms of the Mitchell plan and the Dole plan with regard to working families, you see that dramatic difference again reflected in the amounts that would be required in terms of payment? Under the Mitchell program, we still try to keep that figure down. Here you see 4 percent, 6 percent, 8 percent, and 10 percent. Under the Dole program, it goes 12 percent and 26 percent. At $22,000 for a family of four, it is 26 percent, and, particularly since you are talking about the voluntary program, it is going to be virtually prohibitive and really not a program at all.

Mr. DODD. The Senator is absolutely correct. As I pointed out last evening, of the 37 million Americans who have no health insurance today, 12 million are children. They represent roughly 25 percent of the population of the country, yet closer to 36 percent of the uninsured. Eighty-two percent of the adult population are working Americans. If you are on public assistance, you get health care today in America.

As I pointed out last evening, if you are incarcerated in America today, you get health care. But if you are working, it is difficult. Most of the uninsured are working.

I do not have the chart with me, but let me make one last point which I think ought to startle people because of where the trend lines are going. In 1987, 64 to 65 percent of the children of working families, working either full time or part time, had employment related health care coverage. In 1992, that number is now around 59 percent. The number of children who are receiving insurance in families where there are full-time jobs or significant part-time work is declining. The trend lines are moving in the direction where fewer and fewer children are getting covered because of the tremendous costs.

So while you can say, "Well, Senator, look, 60 percent are still covered," you are right. But it is down from 65 percent of just a few years ago and heading in the wrong direction. So while that may be OK for you today, I just caution you. If you think the status quo is doing nothing, folding up our tent, going home, taking the incomplete, in effect, because we did not want to sit around and address these hard questions, you are going to be in potentially greater difficulty as a working family out there in meeting the health care needs of your children. That is statistically the case as you watch those numbers move in the wrong direction, I think, by everyone's estimate.

Mr. REID. Will the Senator yield for a question?

Mr. DODD. I yielded to my colleague from Minnesota.

Mr. WELLSTONE. I yield.

Mr. REID. Just a brief question: The State of Nevada has the highest teenage pregnancy rate in the United States. In addition to that, almost 50 percent of the teenaged mothers have never had prenatal care; zero. Would the underlying bill and the amendment suggested by my friend from Connecticut help the young women in the State of Nevada?

Mr. DODD. I say to my colleague, absolutely. What we are doing here is requiring the private carriers to have this kind of service, to make it available in July 1995. It does not seem like much to many people. But 18 months could make a big difference to these families.

Of course, under the Mitchell proposal, the subsidies go up to 300 percent of poverty. I am presuming that by and large, these teenaged mothers come from poorer families, and are poorer, obviously, given their age and their inability to earn higher incomes. They are going to be particularly assisted in this process, and they should be able to get help.

The Senator from Oregon brings up the point that we have to get them there, too.

So I think it is a critically important question.

Mr. WELLSTONE. Will the Senator yield? First of all, would the Senator agree with me? I have a chart. Actually, when you look at those Americans that are without insurance, a disproportionate number of them, in fact, are working middle-income families.

Mr. DODD. The Senator is absolutely correct. I am stunned that people do not see that. The notion out there, I think, is that the uninsured are all on public assistance, that these are welfare recipients who do not want to work and are just living off everybody else's labor. I am just amazed by this, because the fact is that 82 percent of those without health coverage are working Americans. They may be holding a low-wage or low-salary job but they are working. In a sense, we are trying to amend the welfare laws in this country. If you have kids, you would almost have to be out of your mind to get off welfare and take a $6 an hour job with no health care coverage.

We are trying to get people off welfare and into private sector jobs. What is the inducement if you go out there and take that job and you lose the health care coverage you get as a welfare mother? What is the inducement? You can almost argue that you are being irresponsible to your children if you go off welfare and lose all health protection for them.

We are trying to get people off of welfare without losing health coverage. That is the biggest incentive to decrease welfare dependency I know of. You talk to welfare recipients and they are scared about not having health care coverage for their kids. It is going to be hard to make any progress towards getting people off welfare if we do not provide a good health care system for those kids.

Mr. WELLSTONE. What the Senator is saying is that you actually can have a true welfare reform bill where women or men—usually women are the single parents—are able to work and support their children—although I believe he is saying being at home with the children is very important work. But unless we do something about health care reform to make sure they do not lose their Medicaid on AFDC. Is that what the Senator is saying?

Mr. DODD. The Senator is correct. I feel so strongly about it because we do not value enough those people who say: Look, I am going to try and do this on my own. I do not want to ask for anybody's help. I am going to take that job and try to provide for my family. They are going out that door and they do not get many good jobs, high-paying jobs, and they place their families at risk as a result. If you really claim to care about people and want to see them working, we must have health care.

I have always said the best social program designed by anybody anywhere is a job—a good old 9-to-5 or 8-to-4 job. Nothing does more for families, for one's sense of self esteem and self worth, then to be able to contribute to your family, your neighborhoods and community through a job. So if we are to try to get people to work, we have to do something on the health care issue.

We have about 20 legislative days left in this Congress. After all the work, hearings, discussion and debate, we are down to 20 days, and I am hearing people say, "I have not heard enough yet. I need to examine a bit more." Our various committees have held at least 80 hearings with hundreds of witnesses. Most of us in this body have attended hearings. In my case I participated in 10 days of markups in the Labor and Human Resources Committee as well, and I know there was a similar markup in the Finance Committee. The Presiding Officer may know, or my other colleagues may know exactly how much time was spent.

My Lord, my friends, what is the real situation here? We do not spend this much time on other complicated matters around here. To have somebody say, "I am sorry, I do not quite get it", is ridiculous. When I go home, the people in my State get it. They understand it. They want preexisting conditions eliminated; they want portability, and they want to see kids get covered in this country.

This is not magic. This is not that difficult. This is about rolling up our sleeves, deciding to work together and getting the job done. We have about 3

VOL
140
PT
16
AG
12
—
18
1994
UMI

weeks left to do the job. The American public, I think, expects us to try. We may fail in the end, but let us not fail by filibuster. Let us try and get it done and try and work together. This tactic of 30, 40, 60 hours of general debate is not fooling anybody. This is the tactic of digging in your heels, slowing down the process, hoping the calendar runs out, hoping we go home, and hoping the American people lose.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah [Mr. BENNETT] is recognized.

Mr. BENNETT. I yield such time as he may require to my friend, Senator SHELBY.

Mr. SHELBY. Madam President, "Who shall check the Parliament?" Yes, who shall check the Parliament? John Stuart Mill asked this question over a century ago, and it is appropriate today.

Mill subsequently notes that:

An assembly, if the cry of the moment goes with it, however hastily raised or artificially stirred up, thinks itself and is thought by everybody to be completely exculpated, however disastrous may be the consequences. Besides, an assembly never personally experiences the inconveniences of its bad measures until they have reached the dimensions of national evils.

Those were the words of John Stuart Mill.

Madam President, Mill frames for us the fundamental question that the Senate confronts at this very moment: Will we, in haste, and in the heat of battle, lose our measured and our judicious temperament? Will we, with no sense of culpability and responsibility for our rash actions, pass bad measures that will become national evils for present and future generations?—to paraphrase Mill.

Madam President, in the Federalist Papers, No. 62, Madison informs us that the Senate's constitutional necessity is marked by "the propensity of all single and numerous assemblies to yield to the impulse of sudden and violent passions." Madison reminds us that the Senate "must be, in all cases, a salutary check on the Government."

In the United States, it is the Senate that must watch the Parliament.

The American people are anxiously waiting to see if the Senate—this Senate—fulfills its constitutional role and checks the popular passions that have been unleashed in the rush to pass health care reform.

This health care debate is one of the most critical moments in the economic and social history of modern America. This Senate, Madam President, will decide whether or not we will have the most massive expansion of Federal power and spending commitments since the Great Society programs—a decision that will decide the future of every American's health care, the tax and financial burdens on our children and grandchildren, and the fundamental role of Government in the free market.

The private sector in Europe has created no net new jobs in 20 years as a result of high burdens on employers, big government, and untenable social spending commitments. Furthermore, Western Europe suffers from structural 11 percent unemployment compared to under 7 percent in the United States. As a result, the leaders of the European Community agreed in 1993 that lower labor taxes were needed to enhance competitiveness.

Yet, Madam President, while Europe struggles to throw off the yoke of these big government burdens, this Congress is preparing to put another burden on private employers in the form of insurance mandates, increased taxes on the American people, expanding Federal spending by over a trillion dollars in the next decade and, yes, and give the Government the major role in managing 14 percent of our economy through so-called health care reform.

Throughout the world, governments are slimming down and loosening the shackles on private enterprise. Yet, like a dinosaur, the United States trods down the well-worn path of bigger Government and higher taxes—a path that is less and less attractive to the other advanced industrial societies in the world.

A recent poll taken in my home State of Alabama found that 57 percent of Alabamians believe that Congress should take more time to study the health care issue, rather than acting immediately to pass legislation.

This number reflects the belief expressed by 46 percent of the poll's participants that the net effect of health care reform on an individual's personal health care coverage will be negative. Only 12 percent of the poll's participants felt that their health care would improve under this type of legislation that is before the Senate today.

Madam President, there is deep anxiety in my State, and I believe across the country, that in order to meet an artificial deadline set by the date of congressional adjournment, Congress will pass an ill-conceived, politically compromised piece of legislation—legislation that imposes substantial new tax and fiscal burdens on the American taxpayers and makes our current health care system, a system that provides the highest quality health care in the world, substantially worse.

One-seventh of our economy is tied to our health care system. It would be irresponsible for this Congress to pass legislation making sweeping changes in our system without due consideration and examination of the consequences.

Few Senators have had a chance to adequately review the contents or to consider the consequences of the voluminous document that we are now considering. Only since last week have we seen the bill language of the pending measure. Even more astounding, we are now looking at our third revision of that bill during the past week.

This is no way to reorganize one-seventh of our economy. It would take years to adequately assess the impact of this plan on every American's health care and his or her pocketbook.

At present, all we have is a scant two dozen pages of analysis from the Congressional Budget Office, an analysis that the office itself admits is hardly reliable.

The rush to pass health care reform has failed to take a hard look at the new fiscal commitments that will be made as a part of reform, or to adequately discuss what has become the second major raid on the American taxpayers in this Congress.

I did not support the massive tax increases passed by this Congress last year. I worked actively to defeat that measure and I will oppose the new taxing and spending binge by a taxaholic Congress called for by the pending health care reform bills before the Senate.

The Mitchell bill would put the burden of nearly $300 billion in new taxes over the next decade on the back of the American taxpayer. Most of these taxes will be raised through the taxation of every working American's health benefits.

The 103d Congress has already raised more taxes than any Congress in history. Passage of the Mitchell bill will only ensure that this legacy will not be easily undone or overcome by future Congresses.

I am opposed to employer mandates in any form. I am opposed to price controls. And I am concerned about the impact of so-called reform on the quality of our health care in America. However, the fiscal issues involved in health care reform remain my overriding concern here today.

The Mitchell bill, this so-called moderate bill, will make almost half of the American people dependent upon the Federal Government for their health care. Through the year 2004, the subsidies for expanded coverage will cost the taxpayer over $1 trillion—$1 trillion in new spending, with or without employer mandates.

The Mitchell bill proposes to pay for part of this massive new entitlement by putting four separate taxes on the working American's health benefits taxes that Senator GRAMM, and others, and I will attempt to eliminate from this bill.

One tax would put a 35-percent assessment on any benefits that an employer provides to an employee over a Government-determined minimum level. Can you imagine?

A second tax would levy a 25-percent assessment on health care premiums that exceed 2 percent real growth each year.

The third tax is a 1.75-percent excise tax on every health care premium in the country.

The final health benefit tax is a very cleverly concealed provision that would prevent insurers from offering discounts—can you believe it—for a healthy lifestyle and good health.

This tax would instead require these plans to make payments to underwrite high-risk individuals.

I am going to discuss these taxes at length in the future.

But I want to state here and now that the American people did not count on health care reform being financed on the backs of thejr hard won and well-deserved benefits.

The high-growth plan tax is not only a tax on quality health benefits, but is also intended as a form of price control that would result in rationing of health care services offered by health plans.

However, despite the cynical intention for the tax to reduce the American worker's health benefits to one-size-fits-all health plans that provide fewer benefits for the same amount of money, the tax will not control costs.

According to the CBO, this tax would provide little incentive for cost containment. Instead, the tax is a monster $70 billion revenue raiser that will increase the cost of the working American's health care premiums.

The Mitchell bill also contains a 1.75-percent excise tax on every health care premium in the country. Like all consumption-based taxes, this tax is a substantial revenue raiser, and it will grow.

However, like all sales and excise taxes, the working people of America will feel the pain of the tax in far greater proportion than will the well-to-do. Is taxing the middle class's health benefits to pay for bigger Government health care reform? I say no, Madam President.

This is the Congress that promised to make the wealthy pay their fair share. Yet, once again it is the middle class who must pay the bills for the Federal Government's unchecked growth.

Furthermore, Madam President, the taxes on excess health benefits strike at the heart of our fundamental freedoms and the American spirit. I could never support a measure that would limit any American worker or employer to a Government-defined health plan if they desired to purchase better for themselves or their family.

The right of any American citizen to improve his or her circumstances is as fundamental as the right to free speech or trial by jury. This tax would not do that. It is not right.

Madam President, Congress can take a few simple steps to reform our insurance market, reduce administrative costs, and make insurance more affordable to small businesses this year without giving the Government control over our Nation's health care system or levying new burdens on an overtaxed economy.

A vote for a bad health care bill is not a vote for reform. Health care reform should not become an excuse for expanding the size and power of the Federal Government.

Consequently, I will vote and work against any measure that levies new taxes on the American people, makes unrealistic fiscal commitments for future Congresses to meet, imposes job killing mandates on small business, or threatens to reduce the quality of a health care system that works well for 85 percent of the American people.

I believe Congress must do health care reform the right way or should wait until the next Congress. The stakes are too high to do otherwise.

Madam President, I believe the Mitchell bill is unwise, unworkable, and unwanted by the overwhelming majority of the American people. I urge my colleagues to oppose the Mitchell proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, I say in brief response to my friend from Alabama health care this year is going up over $100 billion. We have to do something about that cost of health care. Also the 17 percent of the people who have no health insurance are not the only ones who suffer. There are many people who have insurance who we call underinsured. It is a problem we must address.

I yield now 1 minute to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Madam President, I thank the Senator from Nevada and the Senator from Minnesota, who has kindly permitted me to go one place ahead of him.

Madam President, I rise today to support the amendment offered by my colleague from Connecticut, Senator DODD, which requires that new health insurance policies or renewals include clinical preventative benefits—without copayments—for pregnant women and children.

This is a very important amendment, because it goes right to the heart of what we're trying to do in this health care debate: spend health care dollars wisely and rationally, and expand access to health care to those who really need it.

I would argue strongly that spending money on preventive care for pregnant women is a good economic deal. I would rather pay for prenatal and postnatal care any day than pay the hundreds of thousands of dollars it can take to care for a child in a neonatal intensive care unit—and I have visited many of them.

Ensuring that children get adequate preventive care, immunizations, et cetera, should reflect what we stand for as a Nation.

Some of my colleagues have spent a great deal of time talking about Lyndon Johnson and his commitment to provide health care to poor Americans through Medicaid and to our Nation's senior citizens through Medicare. I can tell you, firsthand, that Lyndon Johnson was a magnificently generous human being who personally felt the pain and suffering of the people around him. He truly felt injustice. He felt inequities. He was a large man who believed that wrongs could be righted if you had a good product to sell and you worked hard enough.

His oldest daughter, to my own good fortune, is the same way.

As Governor, I established the Southern Governor's Commission on Infant Mortality—and I appointed my wife, Lynda, to serve on commission representing the Commonwealth of Virginia.

During the last decade, Lynda has traveled throughout Virginia, throughout the South, and throughout the Nation—later as a member of the congressionally mandated National Commission to Prevent Infant Mortality—working to make people understand that providing preventive health care to pregnant women is just plain the right thing to do from an economic standpoint, from a moral standpoint, and from an ethical standpoint.

I thank the Senator from Nevada for yielding the time and especially the Senator from Minnesota who will now be recognized.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Madam President, I yield 20 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 20 minutes.

Mr. WELLSTONE. Madam President, I wrote a piece for the Minnesota Star Tribune a couple of weeks ago. I would like to read from the beginning, because it sets the tone and framework for my remarks on the floor of the Senate today, which are a little bit different from everybody else's.

I quote from the piece:

Citizens beware. Health care that is always there is out, and triggers are in. All of you who worry about losing your coverage, who have no coverage, who are not covered for the conditions you most need insurance for, who pay too much for too little, are in danger of being told to just sit tight, all because several health care proposals circulating in Washington are generating a lot more attention than they deserve.

Madam President, let me start out with the obvious, because I think it has been lost in some of the debate. The obvious point is that the Mitchell bill, which represents a lot of hard work on the part of the majority leader, nevertheless leaves out some 14 million Americans for a very long period of

VOL 140 PT 16 AG 12 — 18 1994 UMI

time. It is not a universal coverage bill.

Most people who are following this debate and who think about their own lives understand that when 14 million people are left out, that could very well be them.

Madam President, it is very interesting to me that, as we think about a hard trigger in 2002—if that in fact becomes necessary—that here in the U.S. Senate we are not waiting until 2002 for all of us to be covered.

And one more time, I do not think the Mitchell plan meets the standard set by so many of the speeches I have heard and so much of the rhetoric that I have heard that we ought to pass a reform bill that gives everyone as good a health care plan as we have for ourselves and our children.

Madam President, there is another issue—and this is far less a criticism of the majority leader's plan and far more a criticism of some of the alternatives or lack of alternatives we have heard from some other colleagues. I heard the Senator from South Dakota say he believes universal coverage is so important to cost containment. I heartily agree with his analysis.

Let me take it one step further. If we do not have universal coverage and we move to community rating, which we should do, the premiums for younger people go up, and then they do not participate because they do not have to. And then, in the language of actuaries, what that leads to is a death spiral where, in fact, people's premiums then go up for more people, and then more people drop out. It just simply is unworkable.

Madam President, earlier today we were talking about the Dodd amendment. I asked the Senator from Connecticut—and I appreciate his fine work—whether or not one of the most important aspects of his amendment was to go beyond very low-income people and get some early childhood care or prenatal care to a wider range of women and to their children; and was it not true that, among the 40 million people who have no health insurance, many of them were moderate income, working families? He said, yes. And I agree with him. That is why his amendment is so important.

But the fact of the matter is, whereas the President promised affordable health care, the majority leader's bill still leaves all too many families—when we get beyond this care and these services for women and children, but other services people need and other health care they need—still paying up to 20 percent or more of their family income just for health insurance premiums.

In other words, if you do not have employers paying their fair share—and please remember, colleagues, our employer pays 72 percent—then you have to go to subsidies. But if you want to keep the cost of subsidies down and only cover low-income or low- and moderate-income people, a lot of working and middle-income families do not receive any subsidy or any support. Thus, whether it be pretrigger or even posttrigger, you could still have families paying—and they do pay—20 percent or more of their annual income on premiums. And that is too much for middle-income people. As a matter of fact, I think we pay about 3 percent of our income, as Senators, for our plan. That is quite a difference, Madam President.

Third of all, there is another weakness in the majority leader's plan, for all the positive effort that he has made, and that has to do with low-income families and low-income people.

Madam President, I just would tell you that if we are going to continue to have a $10 copay in fee-for-service health plans, whether it be for Medicaid recipients or whether it be for low-income people, in the State of Minnesota and in many States with rural communities where we do not have HMO's, $10 will be too much.

We are all trying to emphasize family doctors and nurse practitioners and preventive health care. But if your child has a sore throat and you can't afford the $10, you will not go. It will not be universal coverage if it is not affordable. People simply will not go. And if we are talking about low-income families and children, I will just tell you that $10 copay is too much.

Finally, I worry to no end—and I wish this was more a part of the discussion—about two provisions in the majority leader's bill that I really think have to be dealt with in amendments.

Two points, Madam President: We set up commissions. We set up a National Health Benefits Board and we also set up a National Health Care Cost and Coverage Commission.

There is no requirement for consumer representation on these Boards. I will have an amendment saying we ought to make sure consumers are represented on these boards.

But what bothers me the most is the fail-safe mechanism that says that if we do not contain costs—and I am not at all sure we will be able to—automatically the National Health Care Cost and Coverage Commission will cut subsidies.

Well, if you are going to cut subsidies, you are going to cut subsidies for low- and moderate-income people. Are we going to privatize Medicaid, take low- and moderate-income off the coverage they have and offer them coverage in the private sector, only to find that if there is no cost containment, we are cutting their subsidies?

Why don't we really guarantee cost containment? What happened to insurance premiums caps? What happened to finding ways to overhaul health care costs? What happened to making cuts in our administrative load? Why would we want poor people to be the ones to be the first to be cut?

Another amendment is in order to strengthen that provision.

Madam President, the majority leader has really made an effort to bring a bill to the floor and I applaud him for that.

But then I see some of these other efforts.

Yesterday, we had the Boren-Nunn-Domenici-Bennett bill introduced. And I just would have to say—and maybe later on this will be a point of debate—there is no universal coverage in this proposal. It would cover only 90 percent of Americans. We are talking about leaving 24 million men, women, and children without protection. That is what CBO is going to say. That is what CBO has said about similar proposals.

I could raise questions about cost containment. I could raise questions about the comprehensive benefits. Where are the long-term benefits, where are the prescription drug benefits that are in the majority leader's bill?

Finally, just to signal what I think is going to be a very important debate, this proposal does not give States the option of implementing a single-payer program. Madam President, quite frankly, this is a little bit perplexing to me, because a good conservative principle—one, by the way, which I have shared almost all my adult life—is a critique of overly centralized and bureaucratized public policy. I have always felt conservatives have been right about that.

Decentralize health care. After we talk about some basic national goals and standards, let us let States decide on how they might finance and implement reform. Let the creativity and the development and the bargaining and the financing be at the State level.

Utah may not want to go single payer. In that case, Utah should not. But maybe Minnesota should. Or maybe Vermont would. Or maybe California might. And maybe Florida would do everything within managed competition. States are already laboratories of reform. Why would anybody be afraid of letting a State have an option to implement a single payer plan?

Then I read the New York Times today and I got the sense that the majority leader's bill—which does not have universal coverage, which does not include the same benefits that we have, which does not call for employers to contribute 70-some percent, all of which is what we have as Senators—may yet be even further weakened. Now there are all sorts of other discussions about how to water down the bill and weaken the bill. While at the same time, over and over and over again, the vast majority of people in the country say they are for universal coverage. The vast majority of people in the country say they are for employers paying their fair share.

Madam President, these pieces of legislation are alternatives which further weaken the majority leader's bill, which is already quite weak in present form. I myself have made no decision whether I can support this bill in present form, much less if it is weakened. I think then support would be very problematical.

It will do nothing about the trends. In 1980, 24.2 million Americans were uninsured; 1992, 38.9 million. We cannot be talking about legislation that keeps things as they are or weakens the proposal given the kind of trends we see within our country.

(Mr. PRYOR assumed the chair.)

Mr. WELLSTONE. By way of conclusion, let me go to point A and point B. Today I sent a letter to the majority leader, with Senator SIMON, Senator FEINGOLD, Senator MOSELEY-BRAUN, Senator METZENBAUM, and Senator HARKIN. I will just read a paragraph.

> As we continue to support your efforts to achieve affordable health care coverage for every American, we want you to know that we are gravely concerned about several aspects of the bill you have introduced. Further movement away from the goals of universal, affordable coverage would cause us to question even more seriously our ability to support the bill.

Mr. President, I want to make it clear that we meant those words and will be meeting with the majority leader at 11 a.m. on Monday. I will not read from the rest of this letter, but I will tell you, Mr. President, that for myself—and I think I speak for some of my colleagues, although they have very important amendments as well—we are ready to come to the floor with amendments to strengthen this bill. I want to give some examples.

There is no reason why we cannot achieve universal coverage for everyone sooner by having an earlier timeline for insurance reforms triggering an employer mandate by 1999 if necessary. We would like to find a way to get to this commitment we made earlier.

No. 2, Mr. President, we ought to improve the contribution that employers make. If in our case our employer contributes 72 percent of the premium, then we should have an amendment that says that as a matter of fact in this health care reform plan that should be exactly the way we move to financing. The same quality plan, as good as what we have. By the way, another amendment on my part will be a vote on the sense of the Senate that the final plan should provide people with as good health care as what we in the U.S. Congress have. That should be a yardstick.

Mr. President, there ought to be effective cost control measures. But if we do not stay within budget, we should not automatically trigger cuts in coverage for poor people. We ought to trigger a cap on insurance company premiums. I guess the insurance companies have a little more power than low-income people. Maybe that is what is going on. But I assure you, I will have an amendment on the floor that will do that.

If we are talking about employer mandates and about universal coverage, then I would make another proposal. It would seem to me that we might also think about what happens if matters get worse. So we will have an amendment to say that if coverage goes below 1994 level, we will have an automatic trigger for an employer mandate. What if only 80 percent are covered as opposed to 83 percent in 1994? Then we ought not to be talking about year 2002, we ought to be triggering employers paying their fair share earlier.

We have to talk about some kind of maintenance of effort. There are many, many people in this country that worry about a trigger that leads to 50–50 coverage when their employers are contributing 80 percent. What are we going to do to prevent employers from ratcheting down coverage they now provide? We need to come to the floor with an amendment that makes sure that does not happen to so many middle-income and working-income people, the very people we have been talking about all morning.

There is no reason why we should not have disclosure of CEO salaries as a condition of tax deduction, or to get subsidies.

Let me also say that there are a whole range of other amendments which I think will strengthen this, including making sure that consumers have representation on health care boards. If we are going to set up these boards and they are going to deal with cost containment and they are going to deal with benefits, then we absolutely ought to make sure that consumers have representation. I think of amendments that will strengthen the long-term care. I think of amendments that are important in mental health substance abuse. I look forward to introducing one with my colleague, Senator DOMENICI.

But I want to say today on the floor of the Senate that we have now reached the point where the majority leader has brought out a bill. It has some fundamental weaknesses. He believes it is a first step. I hope it will be a first step. Right now I am not sure. But what I do know is that some of these alternative efforts just simply weaken it and water it down to the point where, I guess, all of us can have a fancy name and an acronym and say we have done something great. But certainly it does not live up to the commitment we began with which is: We ought to make sure that each and every citizen, each and every man, woman, and child can afford humane, decent health care for themselves, their loved ones and their children.

We ought to make sure that the health care plan that we pass is as good as the plan we have. We are all covered. Another amendment I am considering with Senator SIMON says if we are going to have 95 percent coverage, then we ought to have an amendment to figure out which five Senators will go without coverage.

We are going to see that health care for everyone is as good as what we have in the Congress. Everyone is covered here, there are no exceptions for preexisting conditions, our employers contribute over 70 percent of the premium, and it is a good comprehensive package of benefits—though it could be improved. I think that is the standard. Over the next couple of weeks to come, we will have the amendments to strengthen it. If this bill gets further weakened, if this reform effort is hijacked, then there are some of us in the Senate who I think are going to fight as hard as we know how to.

Certainly I view this meeting with the majority leader on Monday as being important. It is quite one thing to present your very best as a reform effort and say it is a step forward. It is quite one thing to say, do not make the perfect the enemy of the good. I agree. It is quite another thing to get to the point where you have a piece of legislation that is so weakened, so watered down, so hijacked, so blocked by all those huge interests that have poured all that money into Senators and Representatives with all their power and clout with the people who need this reform the most left out. It seems like the people who need the change do not have the power, and the people who have the power do not want the change.

Whether we reach that point—and I think we are close to it—I think there are a number of us in the Senate who will draw the line in the sand on that.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I yield myself such time as I may require.

Mr. President, I say to my friend from Minnesota, whose enthusiasm is one of the refreshing things about this place, that he need have no fear about voting for the Mitchell plan. Because I am convinced if the Mitchell plan passes, it will be such a disaster, bureaucratically and administratively, that his opportunity to take the opening to offer single payer will be hastened by the failure of the Mitchell plan. And there are some of us, frankly, who would prefer single payer to the disaster of the Mitchell plan. I say that as one who is opposed to single payer, but who, upon examining the Mitchell plan, says administratively single payer makes more sense.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. WELLSTONE. Will the Senator yield for a moment?

Mr. BENNETT. I will be happy to yield.

Mr. WELLSTONE. I thank him for his remarks. I obviously do not agree with his analysis of the Mitchell plan, at least within the Senator's framework. We will not go into it now. But I am very interested in the second point he made. If that is the case—and I know the Senator from Utah to have tremendous intellectual integrity—then I am hoping that I will be able to enlist the Senator's support for at least some language that will enable the States to have flexibility to go forward with their different approaches.

In other words, that was one of the things, as I mentioned in my earlier remarks, which surprised me about the bill. And Senator DOMENICI, who is one of my best friends here, brought out language that would preclude States from being able to do that.

Why not let the States have an opportunity, and if it does not work, it does not work, but let the people and their representatives decide.

Mr. BENNETT. Mr. President, there are some reasons why we adopted the position we have, in our view. But I would be more than happy to sit down with my friend from Minnesota and go through that, because the main point I intend to make in this discussion that is coming up is that the notion that we are facing a window of opportunity here that will close within the next 20 days if we do not take it is a notion that is completely unacceptable to me.

I believe we will meet next year, we will meet the year after. I think we will be discussing this over a period of time, and what I am going to ask for is an intelligent, staged reform that does not rush to judgment or, in my view of the Mitchell bill, rush to disaster in the desire to meet an artificial deadline.

I would be happy to visit with my friend from Minnesota to talk about the place where a single-payer thing might be of some appropriateness, but do it in something other than the kind of frenzy that has been built up around this debate today.

Mr. President, I remember as a freshman Senator some months ago walking onto the floor and falling in step with the distinguished chairman of the Finance Committee, Senator MOYNIHAN. I first met Senator MOYNIHAN when we served together in the Nixon administration. Maybe neither one of us want to admit that now. But he served as domestic counselor to President Nixon, and I was in the Department of Transportation as the head of congressional relations. Ever since that time, I have had great respect for his intellect and his intellectual honesty.

As we stepped onto the floor of the Senate, I said to him, "Senator, are we going to get health care this year? Are we going to be able to pass something?" And he said, "Yes, I think so."

Then with his well-known understanding of history, he gave me the following history lesson:

He said, "Harry Truman tried to do it in the 1940's and the Republicans said no and we didn't get anything."

He said, "Richard Nixon tried to do it in the late 1960's and the Democrats said no and we didn't get anything. But now," he said, "both the Republicans and the Democrats are agreeing that we have to do something about the health care system, and I think we will get a bill."

That is what he was saying, and I was agreeing with him roughly a year, 14, 15 months ago.

Now, where are we today? I turn to the current issue of Newsweek under the head, "National Affairs," and read this headline: "Will Reform Bankrupt Us?"

Health care: 65 percent of Americans say Congress should start over. Newsweek's economics columnist argues that they're right.

How did we get here, from a circumstance where a Republican and a Democrat could walk onto the floor of the Senate agreeing with each other that we are going to get a bill, to the point where a national publication says 65 percent of the Americans say we should wait and start over next year and they argue very persuasively, in my view, that the 65 percent of Americans are right.

What has gone wrong with the process? Have we not discussed this enough? Oh, Heaven knows we have discussed it enough. We heard on the floor of the Senate about the 80 hearings that have been held in the two committees, and that is just in the Senate. We talked about it on the House side. We spent time on the floor. Yes, we talked it through enough. What is left to discuss?

Well, I suggest that we have talked and we have talked and we have talked about the wrong things. We missed some very fundamental points that need to be addressed before we are going to come up with the answer to this. I would like to outline some of those.

No. 1: We have not talked at all, except in a glancing occasional reference, about better health. We have spent all our time talking about health care, but we have not talked at all about providing information or motivation for people to stay well in the first place. Of course, the best cost containment of all in the health care debate is going to be better health on the part of individual Americans. This is not a matter of universal coverage; it is a matter of education and motivation.

We do it in other kinds of insurance. I see the ads, so do you, for auto insurance: "Nonsmokers discount," we see. There is a clear economic incentive for somebody to do something intelligent about their own health and stop smoking.

When I go down for a life insurance physical, the first question I am asked: "Do you smoke? Do you drink? Do you engage in—" and they have a list of other high-risk activities. And when I say, "No, I don't smoke; no, I don't drink," so on, "No, I don't engage in some of these other things," they say, "Well, you will get a better rate."

When we stand on the floor and talk inevitably and incessantly about health care for all Americans that cannot be taken away, we wipe aside the notion that there might be some kind of incentive that could be built into our system that says that people who take better care of themselves should get a better deal when it comes to paying for health care than people who do not. That has not been part of the debate, and that is one of the reasons why we have gone astray in all the talk we have had and missed the point.

If I may quote from the Newsweek article with respect to this issue about better health, Mr. Samuelson says:

We are slowly surrendering our economy to health care—for surprisingly modest gains in our health—and what we needed was a debate that confronted these relentless pressures. "The cost-control imperative has been lost," says John Inglehart, editor of the respected journal Health Affairs. Some day there may be frightful economic consequences. Business groups already say the costs of Government-dictated benefits will destroy jobs. Those would mount if health spending climbs and the costs are imposed on businesses by flat or payroll taxes. Europe's experience is sobering. Since 1974, its unemployment has risen from 3 to 11 percent and private job growth has been meager.

His first point, we have seen all this increase in health spending, but we have gotten very little benefit and results.

Here is the same article:

Economist Charles Phelps of the University of Rochester studied the connection between higher health spending and Nations' improved health. The connection was "tenuous." The biggest health gains come from higher incomes—

If you earn more, presumably you take better care of yourself, not from health care,

higher incomes, better education and inexpensive measures: Vaccinations, antibiotics against infections. Among individuals, diet and personal behavior (smoking, drinking, drug use) often explain who's healthy and who isn't. Even in societies such as England and Sweden, where everyone has insurance, the poor aren't as healthy as the middle classes.

You have not eliminated the disparity in health by eliminating the disparity in health coverage, and that is something I think we should have been talking about.

I keep hearing from my constituents: "As you address health care, Senator, address the issue of high-risk behavior and do something to see to it that there is some kind of economic incentive for people to take better care of themselves." But there is nothing in any of these bills, there has been nothing in any of the hearings that has addressed that issue.

No. 2: In all of the hearings we have had and all the discussions we have had, we have not, in my view, had a serious discussion of the importance of why market forces do not really work in health care.

I have already given a speech on this. I will not repeat it all. But let me summarize it.

First, the basic principle. When it comes to allocating scarce resources, market forces are always more efficient and fairer than Government's. That is a truth that has been established since the days of the ancient Egyptians and Romans, and on through the Renaissance and all through the Industrial Age.

Write it down. You can take it to the bank. When it comes to allocating scarce resources, market forces are always more efficient and fairer than Government's. So we are talking about allocating health resources and market forces do not work. Why do they not work? For one very fundamental reason. The customer has no power in the health care debate. The customer does not control what will happen. Who does? The insurance company. The insurance company is the controller, not the person who is consuming the health care.

I had that brought home to me very vividly during the campaign. I went to a hospital in Ogden, UT, the standard campaign circumstance. I was going through talking to people. I sat down in the boardroom with the administrators of the hospital, and we began talking about some of their problems.

They were commenting that the equipment in their hospital—I do now know whether it was an MRI machine, but let us take that as an example because everybody is talking about too many MRI's in the United States. This piece of equipment in their hospital was utilized about 20 percent of the time.

Well, being a businessman, I immediately said to myself the market is telling you something, hospital administrator. The market is telling you there is no more demand than 20 percent for that machine. You ought to do something to make a deal with the hospital down the street so that you could say, well, we are going to refer everybody who needs an MRI to the hospital down the street, and we will get full utilization of this machine.

My mind is saying we have to do something in Congress about the antitrust laws so the two hospitals can do that; they can talk to each other.

"No, no," they said. "Mr. BENNETT, you do not understand. We have this MRI in this hospital because the market insists on it."

And I say, "Now, wait a minute. You do not understand. With a 20 percent utilization, the market is sending you a message."

They said, "No. You do not understand. We have to have it in order to meet the market."

We stood there and argued back and forth fruitlessly for 4 or 5 minutes until suddenly they enlightened me as to what they were talking about when they said the "market." They said, "If we do not have an MRI machine in our hospital, insurance companies will not allow any of the people that they insure to come to our hospital."

I said, "Oh, wait a minute. You are telling me then that the market is the insurance company, not the sick person."

They looked at me like I was the dumbest guy in the block. "Of course, the market is the insurance company. You think we exist to serve sick people? We exist to serve insurance companies who send us sick people. And the insurance companies say we will not send anybody to your hospital unless you have an MRI, so we have to go out and buy an MRI, even if we do not get enough utilization for it and we have to cost shift."

The light began to go on in my head. Market forces do not work in health care because the consumer is not the customer, and we need to do something about that. But we have not had that point raised in any of these hearings. We have not talked about it in these hearings.

So someone else is making the economic decision for me as the consumer. And who is the someone else? Ultimately, it is the employer. Now, I have been an employer. I have been the CEO of a company. I have made the decision. I have had everybody come in. They make the presentation to me. I am the CEO. I get to decide. The insurance companies are coming to me. The self-insurance regulators are coming to me. The HMO's are coming to me: We want to sell your employees this thing. But really they want to sell me. I make the decision for all my employees.

What kind of market force is that, if one of my employees wants something other than I decide he or she should have?

We perpetuate this in this whole debate. We have never challenged that. We have gone willy-nilly from the notion that the employer should decide what people should have, to the idea that the Government should replace the employer deciding what people should have. And never in the debate have we raised the issue that maybe the people should decide what the people should have, at which point you begin to get market forces coming into the circumstance.

All that these various bills we have before us do is substitute the Government for the employer and leave the underlying problem still in place. We are never going to get true cost containment until we do something about that No. 3.

Never have I heard in all these hearings anybody challenge the absurdity of the notion of first-dollar coverage. Once again, let us look at insurance outside of health care and see how absurd this notion is.

Auto insurance. We all have auto insurance. Talk about mandates. We are mandated to have auto insurance in my State, and I assume every other State. I cannot get a driver's license; I cannot get a license for my car renewed if I do not have auto insurance. It is checked every year when I go in to get it renewed. There is a very firm mandate.

But my auto insurance does not provide first-dollar coverage. It would be absurd for me to think of it. What would it cost for an auto insurance plan that says we will cover through our insurance coverage the cost of changing the oil in your car. It cost me about, if I go to one of these Jiffy Lubes, $19.95 to change the oil and the oil filter in my car.

Suppose, along with the cost of changing the oil and the oil filter, I had to pay the cost of filling out an insurance form and sending it to a third party to scrutinize it to see whether it came under the terms of my policy, and then the insurance company would pay for changing the oil.

I rather suspect, based on various studies that have been made in the health insurance industry, that the cost of handling that insurance claim would be around $20. So what does that mean for the cost of changing my oil? Instead of $20, it is going to be $40. What kind of premium am I going to have to pay for that policy in order to have the insurance company pay for the changing of the oil?

Very quickly, I can put a pencil to it and say it is a whole lot cheaper for me to have an auto insurance policy that pays for catastrophic events like if I run into somebody in an intersection and get sued. But, frankly, I will pay for changing the oil myself.

The same thing in homeowner's insurance. What kind of homeowner's insurance policy would we have if the policy covered the cost of mowing the lawn? It is so absurd nobody even thinks about it. And yet in health care we have it in our heads that somehow, if the insurance is not there to pay for changing the oil in the car, or is not there to pay for the cost of mowing the lawn, then we are not covered.

It is the absurdity of the notion of first-dollar coverage that is driving the cost of medical insurance right through the roof. We need to change our thinking and start saying the insurance principle should be what it has always been in everything else, which is insurance covers catastrophic events and it is not there to pay for a $15, $20 office visit by adding a $15, $20 claim cost on top of the office visit.

VOL 140 PT 16 AG 12 — 18 1994 UMI

No. 4—and it comes out of No. 3—the myth of other people's money. I have heard this on the floor today, and this again is something we have not talked about in this whole debate. The idea that you are paying for your health care with somebody else's money, the employer must pay for my coverage, somebody else's money, is nonsense. Actually, it is all your money.

We have had percentages kicked around. The original bill that we were thinking about that has been the subject of hearings says that 80 percent of the costs will be paid by the employer. We are going to have a mandate that says every employer has to pay 80 percent of the cost. No. There is a flashback against that. So along comes Senator MITCHELL. He says: I recognize that I cannot get an 80-percent mandate. I will go for a 50-percent mandate. So the employer will only pay 50 percent.

I am sure my friend from Minnesota would complain about that and say it ought to go back up to 80 percent. We just heard him say the Federal Government pays 79 percent of ours. Why should not every employer pay 79 or 80 percent? I would say to my friend from Minnesota, if he were here, that the Federal Government does not pay 79 percent. Employers do not pay 80 percent. I pay 100 percent. Every dime that goes for my health care is a form of compensation to me, and in the private sector particularly it represents a lowering of my taxable income by virtue of an employer decision to put the money in health care benefits instead of in my paycheck.

There is no such thing as other people's money here. It is the employee's money in every case. Again, I have been an employer. I know how it works. I explain to my employees, you may think you have a $20,000 a year job, but it is a $30,000 a year job because that is what it is costing me as your employer. I have to pay $30,000 to keep you working for me. I put $20,000 of that on your W–2 form that you take home at the end of the year that you pay taxes on. I put the other $10,000 into a variety of benefits for you. But they are still going to be part of the cost of having you on my payroll.

Indeed, we have heard some of the ads that have been running during this debate that make reference to that. Somebody says, "Hey, I want those benefits. I gave up wage increases to get those benefits." You have heard that on some of the commercials. That employee is beginning to understand that those are his dollars, not the employer's dollars. One hundred percent of the cost of health care falls upon the employee, because the employee is earning enough money for the employer to pay that $30,000 that I referred to in the example, not just the $20,000 he takes home.

So when Senators stand up on this floor and say, "If the Senate of the United States does not pass this health care legislation, I will move to take away their benefits," all he is really saying is, "I will move to cut their salary, cut their compensation, by the amount those benefits represent in dollars."

What will I do if that passes? I will do the same thing every other Member of this body will do. Having taken about a $300 a month salary cut, I will take the money that is left and go out and buy myself some coverage someplace else. The Government does not give me benefits. The Government spends my money for benefits which the Government has decided I need.

So, as I say, these two come out of each other, the myth of other people's money and the earlier point about the lack of market forces operating in health care.

So, Mr. President, I suggest these four things have been missing in this debate in spite of the debate's length and complexity:

No. 1, we have not discussed the impact of this whole thing on people's health, and what it will do to make them healthy.

We have, No. 2, not discussed the failure of true market forces to work.

No. 3, we have not discussed the impact of the absurdity of the notion of first-dollar coverage on health care.

And, No. 4, we have not discussed the impact of the myth of other people's money.

I think we need to do that if we are truly going to restructure the health care system around sound principles.

The end result of all of this, our failure to discuss these underlying points, is summarized again in Newsweek. I go back to the article and give you a few observations.

President Clinton is right about the historic opportunity, and he blew it. Somewhere along the way, health care took a decisive turn towards fantasy.

I agree with that completely.

If Congress passes sweeping health reform, as they urge, we will have compounded all our long-term budget and economic problems by force-feeding the monster of health care spending.

I agree with that completely.

We are headed in the wrong direction. We need to stop and start over again. We are left with a legislative mishmash of ideas cobbled together in the majority leader's office in the last few weeks, put into legislative language that has now been revised twice. So that we have three sets of ideas before us, under an enormous time pressure, pushed onto the floor with an artificial deadline, with no report language, no opportunity for a careful analysis of all of it, no chance to run some of these things by real-life scenarios before we have to vote.

And in the pressure cooker of floor debate, with the threat of a cloture vote designed to embarrass people politically hanging over us, we are told to legislate the most far-reaching piece of social engineering ever proposed since the Great Depression.

Mr. President, that kind of demand upon the Senate is irresponsible; it is dangerous and it is unnecessary. I say it is irresponsible because we are left with a bill that few, if any, have read—I tried, only to have to stop when the next version comes out and start all over again—a bill few understand, and no staff has really been able to summarize it or synthesize it to my satisfaction.

With respect to "one-seventh" of the economy, that statement has been made. I put it into chart form. For the sake of helping us understand just how big it is, we show here on the top line, the red line, the total U.S. health industry economic activity, which is $942 billion. That is a big number, by anybody's imagination.

But let us put it in some kind of context. How big is that? Is it bigger than a bread box, to go back to a phrase that comes out of my youth, on television? Is it bigger than the entire economy of Great Britain? This first yellow line shows the entire economy of the United Kingdom. Do you think that people in the Parliament would be restructuring their entire economy in a single bill in a single Congress, and be considered responsible? No. They would go about something like that very carefully.

Canada—here is the entire size of the Canadian economy. We are talking about nearly twice as much money as the entire Canadian GDP; Spain, The Netherlands, Australia, Belgium, Sweden, Austria, so on and so forth, all the way down. There are only five nations that have GDP's larger than the amount of money that we are talking about. They are Italy, France, Germany, Japan, and of course, the United States, because this represents one-seventh of our GDP. So our total GDP would be seven times bigger than this.

This illustrates the size of the stakes that we are playing with here. It is irresponsible, as I say, to be dealing with something that big in the manner in which we are.

I said that the bill was complicated. The bill is huge. It is almost impossible for anybody to understand it, including the staffs.

There is one group that probably understands it about as well as anybody, and are forced to by virtue of their profession and assignment; I am talking about the Congressional Budget Office. The Congressional Budget Office, after looking at how we would restructure $942 billion worth of economic activity, has this to say:

For the proposed system to function effectively, new data would have to be collected, new procedures and administrative mechanisms developed, and new institutions and administrative capabilities created.

That is a pretty daunting task all by itself.

In preparing the quantitative estimates presented in this assessment, the Congressional Budget Office has assumed—

They have not determined; they have assumed.

not only that all those things could be done, but also that they could be accomplished in the timeframe laid out in the proposal.

Those are two rather significant assumptions. And then in what I consider one of the great understatements in the document, they say:

There is a significant chance that the substantial ranges required by this proposal could not be achieved as assumed.

We are fooling around with something bigger than the entire GDP of Great Britain, and there is a significant chance that the underlying assumptions could not be reached.

What are the implications of this kind of haste to judgment, having, as I said, ignored some of the other things that are outside our normal view of the way this matter should be discussed? I think it is dangerous for us to proceed, because the first indications we have of what will happen can be very, very serious.

Going back to the Congressional Budget Office, it says:

The subsidies for people who are temporarily unemployed would be particularly hard to administrate and monitor. It would be difficult, for example, to determine whether people had left their jobs voluntarily or involuntarily, or whether they would receive employer contributions for health insurance through an employed spouse. Moreover, because of the way these subsidies would be structured, significant horizontal inequities could result. That is, families with similar income could receive quite different subsidy amounts.

Senator Mitchell's proposal, like many other reform bills, would encourage a reallocation of workers among firms in ways that would increase its budgetary costs. In addition to raising the Government's costs, the reallocation of workers could reduce the efficiency of the labor market.

Again, the ripple effect of bad decisions as it goes through the entire economy.

The imposition of the mandate would raise the cost of employing workers at firms that do not currently provide insurance. Economic theory and empirical research both imply that most of this increased cost would be passed back to workers, over time, in the form of lower take-home wages. Such shifting would not be possible, however, for workers whose wages were close to the federally regulated minimum wage. Therefore, the net cost of employing those workers would be raised by the mandate, and some of them would lose their jobs.

Let me pause with a definition that does not come out of Webster's. I take full responsibility and blame for it. But I say here that my definition of a mandate that forces people to spend money is that it is "a tax." If you mandate something that causes people to increase their costs, it has exactly the same impact on the business as if you had raised their taxes. And we are talking about a whole bunch of mandates here. "Oh, no," we are told, "the Mitchell bill does not have any mandates." Oh, yes, it does.

The Mitchell mandates. Who gets hit? Or if I apply my definition, who gets taxed? There is a mandate on future Congresses. This bill tells future Congresses what they must do if certain things do not happen.

There is clearly a mandate on States. Clearly, there are requirements that the States are going to have to spend money—mandates on doctors, health care providers, big businesses, small businesses, independent contractors, individuals.

If the trigger kicks in, clearly there will be mandates all the way through. Who pays? Well, of course, as I said earlier, ultimately the individual pays all of these costs in the form of higher taxes, lower wages, fewer jobs, lower quality, and less choice.

The Mitchell mandates are clearly in the bill.

What will happen if the Mitchell bill passes? In my view, there are a number of things that can be fairly safely postulated. No. 1—and we have talked about it—costs will rise.

If I may turn to an article that appeared in the Wall Street Journal, written by Martin Feldstein, former Chairman of the President's Council of Economic Advisers, currently a professor of economics at Harvard. He is talking about mandates in much the same way I am. This an article entitled "The Hidden $100 Billion Tax Increase." I will repeat that: "The Hidden $100 Billion Tax Increase."

Professor Feldstein says:

President Clinton is increasing the pressure on Congress to enact a massive and irreversible entitlement program to subsidize health insurance and redistribute income. The cost for this largest-ever welfare expansion would top $100 billion a year at today's prices. That is equivalent to raising personal taxes across the board by nearly 20 percent.

Amazingly, the Senate Democratic leadership has managed to conceal this massive tax increase from the public. The legislative wrangling and public discussion have virtually ignored the cost of financing this spending explosion. Members of the business community have been so eager to avoid employer mandates that they have not considered the tax consequences of the pending legislation, and members of the general public have been so concerned about preserving their ability to choose their own doctors that they have not focused on what these plans would mean for their individual wallets.

In short, buried in the CBO numbers is the projection that the Senate Finance Committee plan would have a $63 billion annual cost, at 1994 price levels, and that all but what the CBO estimates to be $14 billion in cigarette levies would be obtained by hidden taxes in the form of cost shifting through health care providers and insurance companies. It's remarkable that the same politicians who have produced this $49 billion in hidden cost shifting have the audacity to say that the public should support their plan in order to eliminate the much more limited cost shifting that occurs under the existing system as hospitals pass on the cost of free care.

Indeed to the extent hospitals are already giving free care, the increase in formal insurance coverage gives that much less to the currently uninsured and confirms that most of the plan's cost is to achieve income redistribution, not expanded health insurance. Costs will rise, and the historic driving force primarily responsible for people being uninsured is high costs.

There are those who suggest, even if the press reports can be believed from Mrs. Clinton herself, that one of the main consequences of passing the Mitchell bill will be to increase the number of the uninsured. I think the fact that the costs will rise is a driving force behind that belief.

People in America are not stupid. They can figure out how to game a system. It is very clear that they will start to game this system. They will split into several companies with under 25 employees in each company. They will hire more temps. That is already happening. We see that phenomenon, clearly, through the economy. And it is cheaper for an employer to pay overtime than it is to pay benefits to a second employee when the benefits have been mandated at such a high level. We are seeing that happen in the economy now.

The community rating experience in New York shows that the number of uninsured raises and does not fall under the community rating system unless, once again, there is a very heavy-handed force that comes in and the Government gets involved more and more and more.

The net effect is that the number of uninsured will go up rather than come down. In my view, it is an absolute certainty that the Mitchell bill will fail to decrease the percentage of the uninsured so that we are certain that if we pass the Mitchell bill we are legislating for the Congress in the year 2002.

The trigger is not a hard trigger. It is not a soft trigger. It is, in fact, a certainty. The Mitchell bill will not work, and the trigger called for in the Mitchell bill will take place. That is inevitable.

So we find ourselves in the circumstance of being arrogant enough to say that this Congress, in the name of going through a window of opportunity that we are told will not reappear for another 30 years, has the wisdom to shape the form of health insurance and health coverage for this country 8 years from now, and that intervening Congresses will be frozen out of doing anything about it.

Well, the absurdity of this is what is causing the rising chorus of dissatisfaction within this Congress, House and Senate. We are getting new bills introduced all the time. I just agreed to go on one, along with my friend, Senator DOMENICI, on the Republican side; and it will be sponsored on the Democratic

VOL
140
PT
16
AG
12
—
18
1994
UMI

side by Senator NUNN and Senator BOREN. It will be along the lines of the bipartisan effort that is being introduced in the House. We will have formal introduction of it sometime early next week.

There is rising dissatisfaction with the options in front of us, a sense that somehow Mr. Samuelson is right. We have missed a historic opportunity. The debate has taken a decisive turn toward fantasy, and we probably ought to start over again next year.

I will say that I do not think we should despair of doing anything in this Congress. I would not be, along with the three Senators I have mentioned, sponsoring a new bill at this late point if I felt that way. We can do something this year. We can do something meaningful this year. We should just make sure we do not do something dangerous or irresponsible this year.

My friend from Minnesota gets all upset because the bill we are sponsoring does not provide universal coverage, and I say to him that he is absolutely right, and it is not designed to. But it is offered on the assumption that the Congress will meet next January. It is offered on the assumption that the Finance Committee will still be in business next year and can address the issues that I have talked about in something less than the pressure cooker we are in—can go back to the fundamentals that have been overlooked, that I mentioned in the beginning of my statement, and try to sift through those. And, in the meantime, we will have at least this year taken some steps to solve the problems we all agree should be solved.

I reject the notion that seems to underlie most of this debate that says if we do not do it in this Congress, we will not get another shot for 30 years. I had that exchange with Dr. Uwe Reinhardt when he appeared before the Joint Economic Committee and said, "Why can't we do it intelligently, one step at a time, and do what we now know we have to do and tackle some of the structural things next year?" He said, in effect, "Senator, that is clearly the right way to do it. But those of us who are junkies on this issue say that we get one opportunity every 30 years, and this is our only opportunity."

I said, "That is stupid," and he looked at me and he said: "Are you willing to commit to addressing this next year?" And I said, "Not only next year, but the year after and the year after, and however long it takes to try to get this thing solved."

He kind of blinked a little and said, "Well, if the Congress really would do that, maybe we do not have to do it all this fall."

So that is my plea. Let us abandon the imagery that comes out of the space program of a window of opportunity. In the space program—you will recall that is where the phrase came from—there is a window of opportunity in space when the weather and the placing of the moon and other things relating to a launch opens up, and it is open for a matter of a few hours, and then the moon moves on or the weather rolls in and the window closes. And the people at the Johnson Space Center in Houston realize it is going to be *x* number of months before they get another window. That is where the phrase comes from, and that is the imagery we have been going on that has been driving the debate.

Let us set that imagery aside and replace it with the understanding that President Clinton has, instead of pointing out a window of opportunity, given us an open door to walk out of the past, into an open, sunlit circumstance, where we can view all our options and make intelligent decisions, and the window will not close once. We are through that door, on the other side, committed to the idea of doing the right thing for health care. We can do it intelligently, gathering the data, waiting until we see what the data tells us before we take the next step, then watching to see what happens, and moving intelligently and soundly in the direction of solving this problem ultimately for all of our citizens.

Am I committed to the idea of universal coverage? If you will let me define what universal coverage is, I will tell you absolutely I am committed to the idea of universal coverage. Am I agreeing with the idea that we are rich enough to provide the proper kind of health care for every American? Absolutely, I agree with that. But I do not want to do it under an artificial deadline, working with a legislative mishmash that has been put together in a political atmosphere of debate that has ignored some of the very basic concepts that I have been talking about.

Back to my imagery. President Clinton has opened the door. I give him full credit for that. I always have. He has had the courage to take on an issue that many of his predecessors ducked. But we are walking into that sunlight on the other side of the door with blinders on, blinders that come out of the paradigm, if you will, that we have lived on this side of the wall, and we need to take the blinders off and look around. And we are not going to be able to do it in the present legislative circumstance.

That is why I say the folks in Newsweek have it right. Sixty-five percent of Americans have it right. We should not rush to judgment on this.

I conclude by quoting once again from the Samuelson argument. He says:

> What we have had this year was the chance to begin grappling with the basic questions. We squandered it. The Clintons imagined that health care will secure their place in history, and in a peculiar way, they may be right. History is written with hindsight, and when it is, it may judge them harshly, not simply because they led us in the wrong direction, but because all the evidence needed to go in the right direction was obvious, and they chose to ignore it.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DASCHLE.) The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I once again take this opportunity, as I have not had it sufficiently, to thank the Senator from Utah for his very thoughtful, important statement. And that statement we have been hearing from both sides of the aisle today. Universal coverage is a goal that this country can achieve and ought to commit to, and will, I think, do both.

That was a very fine statement.

Mr. BENNETT. Mr. President, may I thank my friend from New York for his kind remarks, and in the spirit of what he has just said, remind him of my opening statement. I do not think he was here when I made my opening statement. I quoted him, I hope correctly, at a time when he and I walked onto the Senate floor and I asked him, as a freshman at the feet of the experienced legislator, "Are we going to have health care this year?" And he said to me—he may well have forgotten, and he may now wish to repudiate the notion—but he said to me: "Harry Truman tried it in the 1940's, and the Republicans said 'No.' Richard Nixon tried it in the late 1960's, and the Democrats said 'No.' Now we have both Republicans and Democrats agreeing that it ought to be done, and I think we will get a bill."

If we can go back to the spirit of the Senator's comment to me there, I think we can get a bill, and certainly over time we can solve the problem.

I think it is very significant that every single Republican Member of this body has signed on to some kind of bill calling for basic restructuring of the health care system, and certainly the same is true on the Democratic side. That is a matrix that has not existed in previous growing seasons, and I hope we do not lose it this time.

Mr. MOYNIHAN. I thank the Senator.

And that is the extraordinary central fact of this debate.

Mr. President, the fact that this debate is taking place, the fact that we are here on the floor speaking about universal coverage with such a wide convergence of views on that essential principle, is owing, in more than any one thing, to the extraordinary efforts of the Senator from Pennsylvania.

He raised this issue in the most dramatic way almost 4 years ago in his State in that election. His success rang a bell that is still echoing across this Nation.

He has to leave for Pennsylvania, so his good friend and mine, the Senator from Michigan, has agreed to step aside for a moment.

I ask unanimous consent that the Senator from Pennsylvania be recognized for 15 minutes, followed by the Senator from Michigan.

But, once again, I state my great gratitude. We are indebted to you, sir.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Did the Senator from New York yield to the Senator from Pennsylvania?

Mr. MOYNIHAN. I do so.

Mr. LEVIN. If the Senator from Pennsylvania will yield, was the unanimous consent of the Senator from New York granted that after the Senator from Pennsylvania is finished, that I then be recognized for 15 minutes?

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. WOFFORD. I thank the Chair.

Mr. President, for the last couple of hours, I have been talking to 100 or more people from around Pennsylvania. And there was a great contrast between the clarity with which they saw some of these issues and the lack of clarity and confusion that we have had during part of this debate.

But I want to thank the Senator from Utah for the spirit in which he ended and he began his remarks. I take issue with some of the points in between, but we must find a way not to lose this opportunity. And it is not going to be all done this year. We will be back next year and the year after that.

One of the things I do agree with him on is that we should not focus entirely on an action or a trigger that takes place in the year 2000 and moves into the next century. I certainly do not think any of us should be proud that we are seeking to stretch it out, delay it, move beyond the next century. I hope very much, in addition to whatever happens in the year 2000, to see how far we have come on the way to universal coverage; that every year, once we have set up a health insurance structure charting the way to universal coverage, that every year we have an annual checkup in which we see how far we have gone and how far we have fallen short.

A doctor does not say, "Let's try aspirin, or this little medicine for a while and come back in 6 years." A doctor says, "Call me in the morning."

I think our national health commission, as soon as it comes into being, should report every year on how far we have moved toward coverage or slipped back, whether more employers are contributing or less, whether the burden is being shifted more onto the backs of families and individuals and working people—an annual checkup. And I hope the Senator from Utah will join me and our Presiding Officer and others of us who want to see that there is an annual checkup and a report to the Congress and the people so we can take action sooner rather than later.

I hope that on every key element of this bill we strive for the principle of sooner rather than later. For example, we should look at every element that takes no additional cost but could go into place now—the ending of the preexisting condition rule that excludes people when they change jobs, when they move; a condition my wife has that made her scared that if I lost my job we could not get health insurance, really scared at a time before she was old enough to qualify for Medicare. That rule ought to go on day one. It ought to go next year. That insecurity should be lifted. The shadow of death should be lifted from the people who have a preexisting condition.

And Senator DODD's amendment that is before us now, for children first, for something that, in basic private health insurance plans, preventive care for children and for pregnant women, comes into place sooner, not later; not the year 2000. Sooner rather than later.

But there have been so many myths and misrepresentations and my friends from Pennsylvania were seeing through them so clearly just a little while ago. A lot of them came from Washington, PA. And the contrast between how they understood it from Washington, PA and how some of my colleagues here understand it in Washington, DC was very stark and disappointing.

There were some of them that go back to Harry Truman, too. There was a man that was at Keesler Field, MS, in the Army Air Corps in World War II when I was there. He was out there telling me that he, like I, was there cheering Harry Truman on when he started the battle for universal health insurance.

Some of us in that crowd remember the studies and the hearings and the proposals and the care that went into trying to craft a good plan then, and the special interests and the fog of confusion that was laid down that beat Harry Truman.

There were a lot of people there that remember when President Nixon, aided by the Senator from New York—then not a Senator from New York—when the chairman of the Finance Committee, in a previous incarnation, helped President Nixon present a plan to us, a careful, thought-out plan, and we did not take that opportunity. A terrible lost opportunity then.

Others have heard the Senator from Massachusetts, the chairman of the Labor and Human Resources Committee, over the years, over decades, conduct hearings, present plans.

The Senator from West Virginia, Senator ROCKEFELLER, has been part of some of the most remarkable hearings as part of the Pepper Commission. A mountain of studies have piled up. And my friends from Washington, PA, know in their bones it is not more study that we need.

I have been in the Senate for 3 years. From the day I got here, I have been part of efforts—some of which I have pressed for and some of which my colleagues, who have been in this battle before I got here, were already planning—week after week, hearings, careful proposals, homework. In the Labor Committee, 151 hearings. In the Finance Committee, I think it is 32 hearings; the Veterans' Committee, and other hearings just in this body alone.

We are talking about the bill that has been crafted by the majority leader—the bill that drew on the careful work of the Finance Committee and the Labor Committee and blended those proposals together in a bill that is before us—as too complicated, too long, too heavy a document.

Well, I once on this floor assembled all of the NAFTA documents. I think there were five, it may have been six, volumes. They piled up this high. This Congress knew how to act on that. I did not go along with the way they acted. I opposed it. But it was not too complicated to pass that NAFTA bill. And now we hear this is too complicated.

Well, my friends from Pennsylvania, they have a very simple test. I agree with them. But it is a test that came out of the people of Pennsylvania. And that is, what is good for Congress ought to be good for the American people.

They do not understand why a Congress that has arranged for itself guaranteed health insurance—cannot be canceled, no preexisting conditions, comprehensive benefits, a choice of private plans, not Government-run plans, but Blue Cross-Blue Shield, HMO's, your own plans, choose your own doctor—why Congress can arrange that for themselves and for 9 million Federal employees and their families, with their employer contributing three-quarters of the premiums, why it cannot now move forward, after all this work in this Congress, to take the great step forward in arranging that kind of a private health insurance for the American people.

I think the people in Pennsylvania, through this confusing debate, have gotten the point. This is not new Government-run medicine. It is private health insurance. They have seen the charts that have been put up. I do not know what that chart really is about, but a far more complicated chart would be the chart of our present health insurance system. The doctor from Iowa has charted what the experience is for him. My wife tells me all the time what the paperwork and bureaucracy and back and forth and claims forms, the burden she carries as a patient, is like for her.

One day I was a billing clerk in Jefferson University Hospital. I do workdays in other kinds of work, closer to what people in Washington, PA, do than what we do in Washington, DC. One of those workdays was in a hospital. First, I was an admissions clerk.

VOL 140 PT 16 AG 12 — 18 1994 UMI

I have seen admissions in a lot of hospitals, and there is this appalling experience of following somebody in a stretcher into the operating room saying, "How are you going to pay for it? What's your Social Security number?" Filling out the beginning of the forms.

And then I spent some hours as a billing clerk with the piles of bills, 9 months old, inch-and-a-half files, not just going back and forth with the Government, but with Blue Cross-Blue Shield, Aetna, Prudential, private insurance, dealing with 1,250 different plans and all the different forms. How in the world can the billing clerks figure out how to translate the doctor's notes into a bill? They do not succeed. The plans send it back saying, "You did not fill it out right, our categories are different from the Blue Cross or Medicare plan."

All those different forms. If we cannot have a simple claims form, simple standard system, simple information system—it does not have to be Government run. We put an amendment in the Labor Committee and the Finance Committee, that I pressed for and sponsored, which drew on the work from Senator BOND on the other side of the aisle and Senator RIEGLE on this side, that says the private sector can do the information system with standard measures.

Finally, I want to say the people in Pennsylvania see through to the central point. If Members of Congress can arrange it for themselves but do not believe it is time to have it for the American people, then get off the Government trough, get off the present plan that enables them to be shielded from the experience that the American people have, cease enjoying this Federal benefit plan with guaranteed insurance.

If they want to study it more—if they succeed in persuading us not to act now—if they want to study it more, then study it on a level playing field with those American people whose employer does not contribute and see what it is like to get health insurance in the private market.

I say practice what you preach. If you really believe that should not be what is possible for the American people, then do not require it of your employer, the taxpayers of the United States. And if you want more study, then study it while you feel some of the heat and some of the hurt that the American people are feeling while we delay.

They know, the people I have just been meeting with, just like justice delayed is justice denied, health care reform delayed is health care denied.

Mr. MOYNIHAN. Mr. President, may I congratulate the Senator from Pennsylvania once again. As I keep track, every day of this debate he has stood up, added to the debate, and concluded with that point: Health care delayed is health care denied. It is unmistakable fact. We are deeply in his debt for keeping it before our eyes.

Mr. President, I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, first, let me add my voice of thanks to the Senator from Pennsylvania in what he has done for this Nation, bringing this issue so dramatically to the Congress as he has in recent years. His being on the floor so constantly and his raising the issue of the importance, of the time urgency of this issue is a little bit reminiscent of a Senator from Wisconsin who used to be on the floor, I think, every day on the Genocide Convention, for year after year.

Mr. MOYNIHAN. Senator Proxmire.

Mr. LEVIN. Decade after decade, until finally this Senate ratified the Genocide Treaty.

We see in the Senator from Pennsylvania the same kind of tenacity. We are going to get universal health care or he will be up here every single day of his career here reminding us that we have that obligation.

Congress is famous for not being able to act quickly and expeditiously to meet some of the important problems of the day. But I have to tell you, when it comes to health care I think we are setting a new world's record. This is 50 years. We are told we are rushing to judgment? Fifty years ago, almost, Harry Truman sent messages to the Congress—I have them here and I am going to read from them in a minute—urging the Congress to adopt universal health care. We have been told how many hundreds of hearings we have had in our various committees, and we have, under the chairmanship of Senator MOYNIHAN—I do not know how many hearings the Finance Committee has had. I do not know how many hearings Senator KENNEDY's committee had. Together they total over 100 in the last 2 years alone.

But this goes back for decades. This is an all-time record we are setting here for nonaction if we delay this again.

Harry Truman sent up a message to the Congress in 1945. It was called Special Message To The Congress Recommending a Comprehensive Health Program. It was a Special message to the Congress, November 19, 1945, espousing the right to adequate medical care and saying the following:

> Millions of our citizens do not now have a full measure of opportunity to achieve and enjoy good health. Millions do not now have protection or security against the economic effects of sickness. The time has arrived for action to help them attain that opportunity and that protection.

"The time has arrived for action," that is 1945. He went on to say in his message:

> We should resolve now that the health of this Nation is a national concern: that financial barriers in the way of attaining health shall be removed; that the health of all [all—all] its citizens deserves the help of all the Nation.

That message went on to say:

> The American people are the most insurance minded people in the world. They will not be frightened off from health insurance because some people have misnamed it socialized medicine.

This is President Truman speaking:

> I repeat, what I am recommending is not socialized medicine.

He went on to tell the Congress.

> Socialized medicine means that all doctors work as employees of Government. The American people want no such system. No such system is here proposed.

He could be writing in 1994.

> Under the Plan I suggest, [President Truman said] our people would continue to get medical and hospital services just as they do now on the basis of their own voluntary decisions and choices. Our doctors and hospitals would continue to deal with disease with the same professional freedom as now. There would, however, be this all important difference. Whether or not patients get the services they need would not depend on how much they can afford to pay at the time.
>
> I am in favor [he wrote] of the broadest possible coverage for this insurance system. I believe that all persons who work for a living, and their dependents, should be covered by such an insurance plan.

He wrote another message to the Congress. That was not the only message that President Truman sent to Congress. He kept trying and trying, too, just like HARRIS WOFFORD.

> The truth is [Harry Truman wrote] that all except the rich may at some time be struck by illness which requires care and services they cannot afford. Countless families who are entirely self-supporting in every other respect cannot meet the expense of serious illness.
>
> Although the individual or even small groups of individuals cannot successfully or economically plan to meet the cost of illness, large groups of people can do so.

And the President wrote to Congress back then, in May 1947 when this message was sent:

> If the financial risk of illness is spread among all our people, no one person is overburdened. More important, if the cost is spread in this manner, more persons can see their doctors and will see them earlier. This goal can be reached only—

President Truman wrote—

> only through a national medical insurance program under which all people who are covered by an insurance fund are entitled to necessary medical, hospital and related services.

Fifty years later almost, we are moving in the wrong direction. We are actually seeing more and more people who are becoming uninsured. We are actually losing about one-half million people a year now from insurance coverage. So that about every 2 years, a million more Americans are losing health insurance. These are people who change jobs or now become ill or have someone in their family who has become ill, who are dropped from insurance, who become unemployed and, as has been pointed out so many times on this floor and it is so poignant and so dramatic, the great bulk of our uninsured 40 million Americans are working people.

If you are on welfare in America, you are insured. You have health insurance if you are on welfare. If you work in America—if you work in America—you may or may not have health insurance. There is something wrong with that system, and we have to change it.

We actually now have about 17 percent of Americans, most of them working, who do not have health coverage, and about 6 million children without health coverage. Fourteen years ago that figure was only 12 percent. So that in the last 14 years, the number of uninsured Americans, the vast majority of whom are working people, has grown from 12 percent of our population to 17 percent of our population

Under the existing rules, many people lose insurance when they become sick. They lose insurance when they change jobs. They lose insurance if a family member becomes ill or if a family member loses a job. Forty-six Americans lose health insurance every minute in America.

At the same time this is happening, and partly because of it, health care costs rise at the rate of 10 percent per year, way above the rate of inflation; $1 of every $7 of our economy goes to health care. The average family spent more than $5,000 on health care in 1993, three times what they spent in 1980, and the situation worsens.

Without reform of our health care system, the Commerce Department estimates that by the end of the century the average family will be spending $10,000 each year.

As we debate details—and details are important and they are worth debating—but as we debate the details of the various plans before us—so far the Mitchell plan and the Dole plan basically—we should remain focused on the principal goal, which is that every American be guaranteed health care that is affordable, health insurance which is portable from job to job and which they cannot lose. Every major country in the world does that for its citizens. We are the only advanced nation in the world that does not provide guaranteed health care for every one of its citizens.

Universal coverage is central to reform for many reasons.

First, simple justice. Again, every free democratic nation provides its citizens with a right to basic health care, at a cost which he or she can afford. But second, without universal coverage, prices are going to continue to rise sharply and costs are going to continue to be shifted to those who have insurance in order to pay for services which must be provided to those who do not.

Reforms like portability, allowing a worker to take his or her insurance from job to job, and the elimination of those restrictions relative to preexisting conditions, are not workable without universal health care. The closer and the faster we get to universal guaranteed health coverage, the faster we are going to eliminate the shifting of costs, this bizarre situation which we have in America, where half of the people typically who come to our emergency rooms do not have emergency problems. The reason they are going there is because they do not have health insurance.

I have visited emergency rooms across the State of Michigan. I went to the emergency room in Hurley Medical Center, in Flint. They had 52,000 emergency visits last year; 34,000 of them not emergency cases. Think of the waste, the sheer waste of the present system in that hospital—34,000 of the 52,000 visits in that hospital in Flint, MI, are nonemergency visits. And they go to the emergency room, using the most expensive equipment we have, some of the most expensive talent we have, and multiply that by hundreds of hospitals across this country.

Naturally, two different surveys reached different conclusions. GAO says 43 percent of emergency room patients do not have urgent needs. That is a GAO study. That is across the Nation. Why? They do not have insurance. They go to the emergency room because they cannot go to a doctor, to a clinic, because they do not have insurance. So they go to emergency rooms and use those facilities.

According to a more recent National Center for Health Statistics study in March 1994, 55 percent of the 90 million emergency room visits in this country were not urgent. That is the current system. We have to change it. We cannot change that without universal coverage.

I have a lady whom we have been trying to help in my office, who was covered by three different insurance policies. She cannot get any of them to cover her bills because each of them points to the other insurance company as being the principal company responsible. They all admit one of them is going to have to pay, but they all deny coverage and say go somewhere else. And the other company says go somewhere else.

This is a woman who had three policies covering and cannot get them to pay, and this is for a serious illness that she has.

We think the Mitchell bill is thick, and it is. As complicated as it is, she has a box of bills and a box of paper relative to her problem. The paperwork involving her illness makes this look like a single sheet of paper, this Mitchell bill. That is the current system where she is played like a ping-pong ball from company to company, each one acknowledging, "Yeah, she's covered by someone but not us."

That is eliminated under the Mitchell bill. That cannot happen under the Mitchell bill. Those companies have to pay and then argue among themselves who it is who is ultimately responsible, and not force citizens of this country to be inundated, swamped with paper in the mail, which is meaningless paper and the ultimate in waste.

How many folks go to a hospital and then open up the mail weeks later and get a ton of paper that says, "This is not a bill." Most of the new people that we hire in the health field are clerical people, now in America, not providing nursing care, medical care and health care, but typing out forms.

One insurance provider in my home State has 300 different varieties of policies. That is just one provider—300 versions of a health care policy. That is the current system.

Mr. President, let me close with some numbers that relate to my home State of Michigan. We have about 900,000 people in Michigan that do not have health coverage. Over 700,000 of them are working people. About 74,000 people in Michigan are losing their insurance each month. Those are the figures, the unacceptable figures, in my home State of Michigan.

I received a letter the other day from a man named Bill Carr who lives in the western part of the State. It is addressed to me. It is regarding, in his words, a hurting Michigan family.

> Dear Senator LEVIN: A year ago, I lost my job. For 45 years I worked and paid my dues. Through a quirk of time at the age of 55, there was no work, no unemployment, no place to live, and no medical insurance. During the next 365 days, my wife and I lived a tenuous life. We lived in fear that one of us would get sick, or worse, hospitalized, or God only knows what. We went to County Services for the Unemployed and the Underemployed. They put us on a rating schedule. In other words, we paid according to our income. My wife did become ill. The county treated her but did not know what was the problem, and she ended up going to a hospital. I explained to the hospital I was unemployed, and asked for treatment for my wife. The hospital refused to even talk to a doctor and turned us away.
>
> Today, we still have no insurance, even though I have been working for 30 days. My wife is still ill, and still has not been treated. We are in fear of cancer, but will not know until 60 more days when our insurance kicks in and I can take her to a hospital.

That is the status quo. It is typical of too many letters that come into every one of our offices. Here is a man who, in his own words, represents a hurting Michigan family; in his own words, a man who paid his dues, who is now 55 years old and has lost his job. He then was reemployed, but now is without insurance and they are afraid that his wife has cancer. But they have to wait 60 more days. Only then will insurance kick in and he can take her to a hospital.

That should not happen in America. We are better than that. We are strong

VOL 140 PT 16 AG 12 — 18 1994 UMI

enough, we are rich enough, we are decent enough so that need never happen in America.

And Harry Truman, back in 1947, asked the Congress to end that kind of shame. He closed one of his messages to the Congress asking for universal health care with the following words:

> The total health program which I have proposed is crucial to our national welfare. The heart of that program is national health insurance. Until it is part of our national fabric, we shall be wasting our most precious national resource and shall be perpetuating unnecessary misery and human suffering. I urge the Congress to give immediate attention to the development and enactment of national health insurance.

So President Truman wrote in 1947. It has been true ever since. We should not delay another year, because that will lead to another decade and to another five decades before we end the shame of this kind of a letter, where a person cannot find out if he or she has cancer because they do not have insurance.

I yield the floor.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, as we all know, the rules of the Senate permit unlimited debate; that is, any Senator may speak as long as he or she wishes at any time. Under that rule, any one Senator, or group of Senators, can prevent the Senate from voting or otherwise taking action on measures.

Last night, I proposed to the distinguished Republican leader that we agree to debate the pending amendment, the Dodd amendment on children's health insurance, last night and today, and that on Monday we take up a second amendment, and that we agree to have votes on those amendments at 5 p.m. on Monday. Senator DOLE indicated that he was not able to agree to that, and we so stated last evening.

It had been my hope that we could reach that agreement today, but Senator DOLE has advised me that Republican Senators are unwilling at this time to do so. Senator DOLE is here and will, of course, speak for himself following my remarks.

Therefore, we are in a situation where debate will continue with no assurance, as of today, as to whether or not votes will be permitted on the pending amendment or any other amendment on Monday or at any other time.

Accordingly, I have concluded that no alternative is available to me other than to insist that there be procedural votes on Monday. While I do not have the ability under our rules to compel a vote on the pending amendment or on any other measure, I do have the authority to compel a vote on a procedural matter, and therefore I have concluded and now announce that at 5 p.m. on Monday, if we are unable to reach an agreement prior to then with respect to votes on the pending amendment or other amendments, there will be at least one and possibly more procedural votes.

My meetings with Senator DOLE, as always, have been amicable, and I retain the hope, as I believe he does, that we will be able to reach some kind of an agreement on Monday to permit votes on one or more amendments. So I do not believe that that possibility has been ruled out, simply that there is no ability to reach that agreement today. Therefore, so that all Senators can have full and fair notice of what will occur on Monday, I felt it necessary to make the decision and announcement that I just have this afternoon so that Senators will be able to plan their schedules for Monday accordingly.

Finally, Mr. President, let me say that in view of the fact that the stated reason for an inability to reach agreement on the votes is that several Senators wished to make opening statements, I want to repeat what I said last night, that we are prepared to remain in session today for as long as any Senator wants to stay and speak. So every Senator will have ample opportunity to do so. And on Monday, we will begin our session devoted to this bill and amendments at 10 a.m. and continue for at least 10 hours on that day and possibly 12 hours, and that it will be necessary thereafter to proceed in a similar fashion, subject always, of course, to adjustment pending discussions between myself and Senator DOLE and agreements to the contrary.

Mr. President, as I said, Senator DOLE is present on the floor, and I want at this time to invite him to make any comments he may wish on my remarks. If I have in any way misstated our discussion, I invite him to correct me and make any further remarks he may wish to make.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I do not have any serious, any real disagreement with the majority leader. We did have the discussion.

I think we have a little different view on this side. We think we should first, before we get into the amendment stage, lay the foundation by a discussion on what is a very important bill and one that we are still waiting on our side for CBO numbers. The House is not even going to take up the health care bill because they do not have CBO numbers.

The distinguished majority leader has numbers on his bill, at least on the first version of his bill. We do not have any numbers on our bill. I understand there will be another bill introduced by the mainstream group. They will be without CBO numbers. Then there is another bill that may come forward by Senators NUNN and DOMENICI and others, pretty much like the Rowland-Billirakis bill on the House side.

So for a number of reasons, it seemed to us if we are going to get serious about amendments, then we at least ought to know, because we have had people discussing our bill, some people suggesting they had the CBO numbers. Well, if they have them, we wish they would let us have them because we do not have the numbers on our bill.

But having said that, we will, again, as I told the majority leader, have a meeting Monday morning, and I will get back to him after that meeting to see whether or not there is some way we can dispose of the pending amendment, either with a vote or whatever. And, if not, he did indicate to me that there would be at least one, perhaps more than one, procedural vote starting sometime—I guess the majority leader has now set 5 o'clock.

So I would just say that I do not know of anybody on our side who wants to talk 3 or 4 hours. I have said if that is true, I hope I am not here for all that time. In any event, there are a number of people who have not spoken at all. We are trying to keep a list so we do not have repeaters every day. Some may sneak in, but we are trying to keep the list so if you have spoken on the bill, then you have to wait until everybody else has spoken.

Of course, as the majority leader knows, you can speak in morning business or you can speak on some amendments, so you may have the same people speaking several times during the week. But I have conveyed the results of the majority leader's discussion to my colleagues. Senator PACKWOOD is necessarily absent this afternoon. I will visit with him on Monday morning.

Mr. MITCHELL. Mr. President, I thank my colleague. I agree on the importance of getting the CBO scoring on as many bills as are introduced. And the CBO is, of course, heavily burdened with the many respective bills.

I respect the right of any Senator or group of Senators to introduce a bill. And while I know all of the efforts described have been serious efforts so far, I think it is obvious to the minority leader and to all of us that if we adopted a process that we could not proceed so long as some Senator was going to introduce another bill that had to be scored, why, any Senator who did not want ever to do reform could simply indefinitely prolong the process by introducing a succession of bills that would require scoring, and there would be a new mechanism for delay.

I do not believe that to have been the case so far, as I think all of the bills introduced have been serious efforts and they represent Senators' genuine expressions of how they think we should proceed.

But I look forward to the results of the Republican leader's discussion with his colleagues on Monday and hope that we can resume our dialog and perhaps reach an agreement on Monday to permit a vote on one or more of these amendments.

Mr. DOLE. Could I just add—I think I did—we did make our request on July 25 on Dole-Packwood, and then again we sent a reminder on Tuesday, August 9. We are not faulting CBO. They have a great deal of work to do. But we do think, if we want to offer ours, say, as a substitute to the pending bill, I think other colleagues on the other side of the aisle will say, "What does your bill cost? What do these things cost?" If it is so serious the House cannot bring up theirs with numbers, we are somewhat at a loss to what we do if we reach that point. But maybe we ought to have the numbers soon—we hope.

ORDERS FOR MONDAY, AUGUST 15, 1994

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Monday, August 15; that following the prayer the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter the Senate resume consideration of S. 2351, the Health Security Act, with the time until 5 p.m. equally divided and controlled between Senators MOYNIHAN and PACKWOOD or their designees; provided further that at 5 p.m. the Senate vote on a motion to instruct the Sergeant at Arms to request the presence of absent Senators.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, as I understand it, if there is some other disposition, we should get an agreement to vote on the amendment at 5 o'clock, the majority leader might change the order?

Mr. MITCHELL. That is correct. Yes. This will occur only if we cannot reach an agreement. I wanted to give the maximum notice possible to Senators with respect to that schedule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that it be in order to request the yeas and nays on the motion to instruct.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. I thank the Senator from Michigan for his courtesy.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, has leader time been reserved?

The PRESIDING OFFICER. Leader time is reserved.

Mr. DOLE. Might I use about 2 or 3 minutes of that without upsetting the balance on the health care debate?

The PRESIDING OFFICER. The Senator may use his leader time.

ISSUES BEFORE THE CONGRESS

Mr. DOLE. Mr. President, I think it is pretty clear we have a lot of big issues we are trying to deal with, and one right now is health care. There are other big issues out there, such as crime. One that is coming up is the trade bill—particularly implementing legislation for the Uruguay round agreement.

Mr. President, there are a number of momentous issues before the Congress right now—each of them deserves thorough scrutiny and extensive debate before Congress acts.

I am certain that every office has been like mine. I have had more calls on GATT than I have ever had on NAFTA. For some reason, people say they do not have enough information, or they are just outright opposed to GATT. Maybe it is because they do not understand it.

Calls and letters have been flooding into my office—and I am sure to my colleagues' offices too—on the subject of the GATT. People are uneasy, Mr. President. They are concerned, they are afraid they do not have enough information, or they are just outright opposed.

My own office in Wichita is receiving more calls in opposition to this trade agreement than we received on the North American Free-Trade Agreement. I do not know whether opposition will build to the same national level. But I do know that the administration has done a poor job of explaining this bill, not to mention the underlying trade agreement, to the American people.

It is a big, big agreement. NAFTA, by comparison, is very, very, very small.

Mr. President, I want to make it clear that I favor free trade and opening of foreign markets. I fought hard for the North American Free-Trade Agreement. Overall, I favor the GATT agreement because I believe it will help the American farmer and American manufacturers by providing greater global market access. And it will help the American consumer, by lowering tariffs worldwide and thereby lowering the prices of products.

But, Mr. President, people have a right to know what else is in this agreement. People have a right to know how the World Trade Organization will function, what powers it will have, what authority it will have to tell the United States what to do. People have a right to know how the agreement will be paid for, and how it will benefit them in the long run. I know these are significant concerns to Members on both sides of the aisle here in the Senate.

In addition, people have a right to know how this trade agreement fits into the President's long-term trade strategy. President Clinton wants fast-track authority for future trade agreements.

I do not fault him for that. He wants language in the trade bill referencing all kinds of environmental and labor objectives and linkages of trade policy to environmental policy and labor policy. People want to know whether the President's strategy is to turn over our trade laws to environmental groups to be used as clubs over the heads of less-developed countries. They want to know whether labor unions will decide who we should trade with—based on the level of enlightenment in our trading partners' labor laws.

What disturbs me, Mr. President, is the failure of the administration to allow adequate time for the American people to get answers to these and other valid questions about this trade bill.

We have to ask ourselves, we have to ask ourselves right now: Is there a rush? Do we have to do this this year?

I think everyone on the Finance Committee wants to be cooperative.

What is the rush? There is no rush. Yet we read in this morning's paper about a deal the administration cut yesterday with Members of the House that supposedly will allow this bill to move forward.

Maybe so; maybe not. I have talked to some of the House Members. They are not certain if they have any agreement. But it seems to me that with all the things we have coming up, if we are going to do this, maybe we ought to do it this year; maybe we ought to set the pattern for other countries. But we ought to make certain precisely what we are looking at and what we are dealing with and, I think, also, maybe listen to our constituents.

Again, they want to be heard. They do not maybe understand the fast track or all of these things. What they do not understand, they just do not understand why we are trying to move on something when they think there may be a problem.

So we still have some time. I know the chairman is on the floor. He has worked very hard. We have reported out implementing legislation. But I think what I would say is let us not race to complete a major trade bill before we can calm the doubts of almost everyone.

You are never going to calm the doubts of everyone until we can answer the questions of most people out there. Some are going to be critics forever. But I think for those who have legitimate concerns, they are certainly entitled to legitimate answers.

What is the rush?

VOL 140 PT 16 AG 12 — 18 1994 UMI

There is plenty of time for Congress, and the American people, to take a close look at the results of the Uruguay round. There is no need whatsoever to force this bill through in the closing days of this session, when most Members of Congress are fully engaged in other momentous issues. This is an important issue. This trade agreement will have a profound impact on our trade relations with every nation on Earth, on our rights as the largest trading nation on Earth and on our ability to resolve trade disputes as they arise with other countries.

I urge my colleagues to listen to their constituents, take the time to carefully consider this important legislation, and give the American people the chance to be heard on this issue. This bill gets fast-track treatment in Congress. That means that once the committees complete their work and the House and Senate work out their differences, the President can submit the bill any time and no amendments are permitted.

So let us take the time to get it right. The committees involved do not need to rush to wrap up their work on the GATT bill this week or next week or even next month. The worst thing that happens if we take time for careful consideration is that everyone, including the people who live outside the beltway, will understand what this trade bill is all about, and may even decide it is a good thing for the country.

For now, Mr. President, let us not race to complete a major trade bill before everyone's doubts are calmed and questions fully answered. We owe it to the American people.

I thank the Chair. I thank my colleague.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, if I may just join with the distinguished and indefatigable Republican leader in commenting on the reports in the press this morning that an agreement has been tentatively reached between the administration and the Republican Members of the House, and that authorizing legislation has to be worked out in the Committee on Ways and Means.

The Committee on Finance has finished its work, pending a conference with the House Ways and Means Committee. This Uruguay round is a culmination of 60 years of American foreign trade policy that began literally 60 years ago, in 1934, with the Multilateral Trade Agreements Act under President Roosevelt and Cordell Hull.

The Uruguay round was commenced by President Reagan, and continued by President Bush, and finalized by President Clinton. It is an enormous undertaking. I would hope I could go out to Wichita and tell some of those people that it is the best opportunity for American agriculture that we have ever negotiated—an end to export subsidies.

We are the most competitive agriculture in the world, drowned out by subsidies, particularly in the European Union. We bring activities such as counter under the free trade rules, and 117 nations are brought into the system—well, half of them are—but truly into the system.

It is an enormous opportunity. A curious left and right alliance has risen up against it. I think we can answer their questions. We will certainly have an opportunity to do so in conference with the House. But when the President sends us back the bill, we will have an opportunity on this floor to set it forth.

We think that in the end we will be better off. There will be more jobs, more wealth, and more revenue for the Federal Government. That was the basis on which a substantially unanimous Finance Committee acted. And, of course, the Republican leader was one of the leaders of that action. I acknowledge his leadership and thank him. I say, Mr. President, the news this morning was good news.

I yield the floor.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida [Mr. MACK], is recognized.

Mr. MACK. Mr. President, I yield myself whatever time I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MACK. Mr. President, this debate has been a difficult personal voyage for me. Over the years, my family, like so many others has been in and out of hospitals and doctors offices, as patients, visitors family members, and friends. I have experienced the spectrum of emotions—the grief and depression that set in after my brother Michael died of cancer; the highs and the lows—the roller coaster ride of his 12-year fight against melanoma; the euphoria that followed the delivery of my daughter's third son after her successful fight against cervical cancer; the pride I felt for my mother in her stoic and determined battle she won against breast cancer; the fear of loss, loneliness, and permanent separation that flashed through my mind when my wife, Priscilla, told me she had discovered a lump during a self breast exam; the terror that rocked me when I was told that I was diagnosed with melanoma, the same vicious cancer that had killed my brother 15 years ago.

In a matter of seconds, I relived the trauma, the pain and suffering my family endured during Michael's struggle. Michael's life was extended 12 years, and four of the five of us are alive today because of receiving services from the best health care system in the world.

I will fight the destruction of our system with everything I have because of my own very strong beliefs and because the people of America share these same ideals.

Let me take a few moments to talk about our present system. Our system provides us with the freedom to choose providers and benefits. We have the highest quality of care and lead the world in innovation. These are the defining features which make our system second to none. The quality of our system attracts patients from all over the world, whose own health care system has failed them.

We provide employers with positive incentives to provide health care for their employees. The decision is the employer's as to whether or not they are financially able to do so. We encourage Americans to take advantage of preventive services, such as periodic screening for diseases and immunization for our children. We advocate routine exercise programs and eating a balanced diet. We lead the world in research and development of pharmaceutical drugs and medical devices—products which have saved millions of lives and which have improved the quality of life for so many Americans—individuals with so much life still to live.

Is it a perfect system? No, it is not. There are indeed many reforms needed which would significantly improve opportunities for health care coverage.

While Mrs. Clinton says her opponents lack compassion, this could not be further from the truth. I want health care for all Americans. I just do not believe that big government is the answer. Later I will go over the legislative changes that are needed and should be passed.

Accomplishing specific reforms ought to be straightforward. In fact, the American people should know that these reforms could have been passed already. Two years ago, I served on a bipartisan health care task force to pave the way for passage of reforms. We all agreed it would enhance the opportunity for health care coverage for more Americans. These included: Insurance market reforms and small group purchasing organizations, as advocated in the Bentsen bill; community health centers; deductibility of health insurance premiums for the self employed and individuals; State experimentation; medical liability reform; reduced administrative costs, and primary and preventative care incentives—all would significantly improve the health care of our citizens.

Two years ago, Republicans were prepared to pass these needed reforms—incentives which could already be providing greater access to our health care system at affordable rates. So why did it not pass? Because Democrats informed us that it was all or nothing; either create a Government-controlled system or nothing. During the past 2 years, more people have lost their insurance because the Democrats said, "all or nothing." During the past 2 years, people have been denied coverage because of preexisting conditions because Democrats said "all or nothing." During the past 2 years, the self-employed have been financially disadvantaged because the Democrats said "all or nothing." During the past 2 years, administrative burdens have increased because the Democrats said "all or nothing."

History has a nasty habit of repeating itself. Guess what, folks. Two years later, we are confronted with that same choice: A Government-controlled, Government-dictated health care system with less quality, less choice, and less freedom on the one hand, or a market-driven health care system with high quality and more choice and more freedom on the other. The decision for me is simple—the American people do not want to be told where they must get care, from whom they must receive it, and the type of care they are entitled to, according to an all-powerful Government board.

Much of this debate has focused on the concept of universal coverage. People ask, "Are you for universal coverage or are you against universal coverage?" It has become clear that there is no single definition for the term "universal coverage." Does it mean 100 percent coverage? Does it mean 95 percent coverage? Does it mean 91 percent coverage or, perhaps, something in between? If universal coverage means that everyone is mandated to participate, what does that say about our commitment to individual freedom?

President Clinton continually stresses security as his No. 1 goal, along with universality. The Clinton-Mitchell plan would force everyone to participate in these plans—like it or not. I have friends on the other side of the aisle who want to push through a health care bill regardless of the views of the American people. I believe that a social system that is built on the idea of security and guaranteed benefits, separates consequences from action, separates freedom from responsibility, and will eventually reduce, restrict, limit, and could finally lead to the destruction of our liberties.

Recently, Thomas Sowell wrote an article entitled "Selling Freedom for Rhetoric." I would like to share some of his thoughts with you:

> Make no mistake about it. Your freedom and independence—what you celebrate on the Fourth of July—are precisely what must be taken away, in order that we may all become dependent on the largess of Washington and become the guinea pigs of the social experimenters * * * We are talking about the government telling you and your doctors what you can and cannot do, politicians and bureaucrats micromanaging medicine * * * Government is not about 'asking.'* * * It is about telling * * *

What about our freedoms as Americans? Thomas Sowell could not possibly have been more clear when he said: "No freedom can be more personal than the freedom to decide for yourself what should be done to preserve your health and your life."

Let us examine the destruction of our freedom envisioned in the Clinton-Mitchell health bill.

First, the issue of choice. Polls have consistently shown the American people want to choose the type of care they get and from whom they can get that care. A Government bureaucrat should not be making that decision for them.

I want to go back to my comments earlier about my brother's death due to melanoma in 1979. While that was 15 years ago, it seems as vivid today as it was then. I am going to talk about that in using this chart which shows the bureaucracy in the Clinton-Mitchell bill.

First, I want to say there are probably some who think this is just a chart that someone has made up, a figment of someone's imagination, but I assure you this chart, put together by Senator SPECTER was developed by going through the 1,400-and-some page bill. Senator COATS and Senator GREGG put this primer together which details the 50-plus new bureaucracies. Every one of these new programs, every one of these new bureaucracies is identified as to the section of the bill from which it comes.

I will just say to those who are listening, can you imagine what it must be like or could be like if you were sitting with me in a hospital room in Atlanta, GA, in 1979, when your brother, a brother you loved so dearly, was suffering so much. There you were working with his doctor trying to figure out what was the next best option, what procedure might be used, what medication might be available to reduce his pain, what new technology might be available that could possibly extend his life or improve the quality of his life. Right in the middle of that discussion, right between me and Michael's doctor is this massive new Government bureaucracy—a wall, in essence, that has been established that acts as a barrier, a group of bureaucrats, who I will say are well-intended, who would say to me or to the doctor that that medical procedure is not available any longer or that new technology has not been approved by the Board.

Now, I must tell you I do not believe that this is the kind of health care that the overwhelming majority of Americans want for this country.

(Mr. ROCKEFELLER assumed the chair.)

Mr. MACK. Mr. President, the Clinton-Mitchell bill provides no real choice of health care benefit plans at all. All plans will be cloned with the same set of standard benefits determined by the National Health Benefits Board. Oh, sure, you might be able to decide whether your health care benefits will be handled by an HMO or preferred-provider arrangement or a fee-for-service plan, but all benefits will be the same—fixed by Government. But, despite the rhetoric from my colleagues, you will not have the freedom to choose the physicians or treatment that you need. The Board will be given the power to determine whether health care is medically necessary and appropriate, not the physicians.

Representing a State of more than 13 million people, you can imagine the correspondence and phone calls that I have received on this issue. The other day I received a letter indicative of many others I have received. The writer stated:

> I do not delegate the right to take care of my health care and medical needs to the U.S. Government.

What does the national Board know about what is appropriate and medically necessary for families in Ruskin, FL, or a grandfather in Little Rock, AR? These decisions must be made by a patient in consultation with his or her medical provider—case closed.

What about this take-it-or-leave-it standard benefits package? The American people know that one size does not fit all. I want no part of a plan that forces Americans to change insurance plans they are satisfied with because the Government knows better than the American people what type of benefits they need.

Frankly, this reminds me of the catastrophic coverage debate of 1988 and 1989 when Medicare beneficiaries were being forced to give up the supplemental coverage they already have because the Government believed a one-size-fits-all package was better. Before the ink was dry, we had to repeal it. Americans rebelled then and, Mr. President, they are rebelling today.

One of the bills I sponsored is the Consumer Choice Health Security Act. This legislation is modeled after the Federal Employees Health Benefit Plan [FEHBP], the plan Congress and over 3 million Federal employees belong to around the country. It offers members the choice of more than 300 health insurance plans with a vast variety of benefit options.

The Dole bill encourages Americans to join FEHBP and choose the health care plan with benefit options that are best for them and their families. Unfortunately, the Clinton-Mitchell plan takes a good program full of choice and obliterates it.

Choice will be severely affected by the premium caps in the Clinton-Mitchell bill as well as the 18 new taxes proposed in the bill. As Government squeezes down on resources, we will be forced to give up choices of benefits, of plans, of providers—choices which we have always believed would be available to us in our health care delivery system.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. President, that brings to mind a conference on health care that I held in Jacksonville, FL, several years ago. We had two physicians from Canada who came to talk about the Canadian system. They told us that there was overwhelming support in Canada for their system. But, one of the things that they said that I think is very, very important and should never be forgotten is, that you cannot take the ideas and plans that have created a health care system for society, for some other nation, and superimpose them on yours. They said to us: "You've got to develop a plan, you've got to develop a health care system based on the values of your society."

And that is why this debate is so important, and it is so important for us to listen to what the American people, in fact, are telling us.

Next, let us look at the issue of quality within the Clinton-Mitchell bill. The bill states that the National Health Benefits Board shall be authorized to establish guidelines as to what is medically appropriate. Furthermore, the bill mandates that a health plan has developed a treatment guideline or utilization protocol, then it must provide this in a written statement at least 60 days ahead of time to each affected provider and the Government entity which certifies the plan.

Can you imagine how this process could interfere in the practice of medicine and patient care? Let me give you an example. A person goes to a doctor to have a mole removed from his neck. The doctor discovers that more tissue needs to be removed because what first looked like a harmless mole may possibly be a melanoma. So the guideline for treatment is different. What should the doctor do or have done differently?

The doctor asks a colleague for a second opinion who suggests a different approach because of the appearance of the surrounding tissue. What may be very good medicine may not fit the protocol for the already approved procedure. Did they follow the guideline? Did they modify the guideline? Did the outcome fit with the expectation for the treatment? Is this the thought process we want physicians to go through apart from what they think is best for their patients?

Many of us, who have experienced our children coming down with the croup, can remember the anxious time we spent at night listening to that raspy and painful sounding cough while trying to decide whether to go to the emergency room. The August 4 edition of the New England Journal of Medicine describes how a new drug inhaled through a nebulizer allowed children with the croup to be discharged from the emergency room significantly earlier and needed less medication afterward than the children who had received a placebo.

I assure you, if my grandson had the croup tonight, I would want him to have the option to receive this treatment. How are pediatricians in health plans going to do this if a Government-preapproved guideline is not in place? After all, this is not a tried and true treatment but something new and innovative.

The next area I want to address is price controls. Price controls were originally advocated by President Clinton and are now being proposed by Senator MITCHELL in the form of taxes on insurance plans and a target for premiums which will threaten the quality of care.

Those who favor price controls, in whatever form, often do so without addressing the effects of those controls. For every action, there is an equal and opposite reaction. If we place a cap on how much is spent, there will have to be some reaction to it. The number of medical procedures will decline and rationing of services will occur. Specialty services will be terminated and consolidated with fewer services available to most people. Research and education will be slashed as a means to meet the cap. Development of new drugs will come to a standstill. The quality of our health care will be dramatically affected.

Soon after the Clinton health care bill was introduced, a letter signed by 562 leading economists was sent to the President. These economists wrote that the administration's government-run health care system "will produce shortages, black markets, and reduced quality."

The economists concluded that,

In countries that have imposed these types of regulations, patients face delays of months and years for surgery, government bureaucrats decide treatment options instead of doctors or patients, and innovations in medical techniques, and pharmaceuticals are drastically reduced.

Finally, the economists concluded,

Caps, fee schedules and other government regulations may appear to reduce medical spending, but such gains are illusory. We will instead end up with lower-quality medical care, reduced medical innovation, and expensive new bureaucracies to monitor compliance.

Unfortunately for all Americans, this same letter could have been written about the Clinton-Mitchell plan.

I would like to share with your some examples from other countries that have imposed price controls.

Last Christmas, in an effort to meet budgets, some 100 hospitals in Ontario—Canada's most populous province—shutdown wards and surgeries for 3 weeks with doctors going unpaid and nonemergency patients untreated.

On June 8, 1994, the Times in London featured a story entitled, "Patient with Indigestion gets April 1996 appointment."

Again, "Patient with Indigestion gets April 1996 appointment. Consultant serves 280,000 people, twice recommended level."

The patient, David Fullbrook, received a letter from the National Health Service Trust, which stated the following, "No guarantee can be given that you will be seen precisely at the time stated or by the consultant named."

The article discusses the doctor's frustrations with the fact that he is the only specialist serving a large area. A spokesperson for the British health care system acknowledges that these waiting periods need to be urgently corrected and a review of medical manpower is underway. Can you imagine what this gentleman must be feeling? Two years to see a specialist, but do not worry, he is told, his government is going to study how to speed things up for him.

A woman in Florida told me her father, who gets his care under Britain's Government-controlled system, had to wait so long for a cataract operation that by the time the surgery was scheduled, his eyes were inoperable. My father had cataract surgery when he needed it and I want to make certain our citizens have quality health care when they need it.

The Clinton-Mitchell bill wants to control the number of specialists in our country similar to the British system. The Clinton-Mitchell bill, in fact, creates a National Commission on Graduate Medical Education tasked with controlling the number of specialists in our country. This bureaucracy would require a ratio of 55 percent generalists to 45 percent specialists. So, if your life-long dream has been to be an ophthalmologist or to discover a cure for breast cancer, you might want to rethink your dreams. The Government may have other plans for you. This is an arbitrary ratio which will not only limit care but also reduce research. They have forgotten that specialists are the pioneers of medical innovation. Do we really want to set bureaucratic limits on the talent we allow into the system? I think not. Such limitations will forever change the quality of our care, and severely restrict our choice of providers and services.

Another victim of the Clinton-Mitchell bill is research. We are close to amazing breakthroughs in medicine—maybe the kind of discoveries that could have saved my brother Michael's life. The American spirit of innovation can only flourish with less government, not more government.

Innovations in American laboratories during the first half of this century have practically eradicated such killers as measles, tuberculosis, polio, and whooping cough. We are in danger of destroying that spirit.

The mere threat of price controls by the administration on the pharmaceutical industry has been decreased research and development at drug companies. From December 1992 to March 1994, the total decline of the industry

stock value was approximately $50.5 billion, a decrease of 25 percent. This is capital that would be used to find cures that could affect your family members and loved ones.

Mr. President, this is a point I do want to focus on for just a minute, because I think its consequences could be extremely serious.

Before I make some other relevant points, I have read some rather interesting books on the subject of DNA, gene therapy, immunotherapy, and the work that is being done to identify genes related to specific diseases.

I refer to two books, "The Secret of Life," and the other, "The Transformed Cell," a book written by Dr. Steven Rosenberg, a physician-scientist out at the National Cancer Institute.

This book is of particular interest to me, since Dr. Rosenberg focuses in on the issue of melanoma. About the time Michael was diagnosed with the disease, frankly, there was no treatment. But today, at the National Cancer Institute, we are seeing remarkable things happen. We are seeing people who have, in fact, been cured of melanoma because of work done by Dr. Steven Rosenberg, in being able to turn on the immune system. Ironically, for some reason, the immune system sees cancer cells and believes that those cells are natural cells to the body and the immune system does not attack it.

What Dr. Rosenberg and others have been working on is how do you use a protein to identify that cancer cell which sends a signal to the immune system to turn on and attack it and kill the disease. And they are making real progress.

But, again, Mr. President, my concern is that under a Government-controlled system in which there will be some cap or some effort to control how much we spend on health care, what is going to happen, which is natural through the political process, is that we are going to take scarce resources and we are going to identify and target those to what most people would think should be done. And that is the day-to-day concerns of people in the hospitals, clinics, and doctors' offices around the country. In the end, money that will be available for research will dry up.

The loss in value of American drug companies is one cause among several to have had a profound effect on the ability of American scientists to bring the fruits of their genius and innovation into production for the benefit of patients. This slowdown has occurred for five major reasons. First, the loss of capitalization of American health care product manufacturers, that I just mentioned, affects their ability to borrow and invest in the development of new products. Second, the decline in research funding reduces the fuel to drive the NIH intramural and extramural intellectual scientific engine which is behind the phenomenal medical advances of the last 30 years.

Third, the costly maze of regulation required by the FDA inhibits bringing products to market. Fourth, the impact of the fear of liability by device manufacturers and their suppliers. This is no longer just a question of whether a device worked properly but includes the reluctance of suppliers to sell materials to manufacturers and then have to defend their product later on in court. And, fifth, the refusal by third party payers; insurance companies, HMO's, Medicare; to pay for new or improved technology.

For years university researchers created ideas that were supported by the NIH. Investors then funded these ideas so that they could be further refined into a product which then had to be tested, approved, and brought to market. All of this took place in the United States. Now, we see American companies first bringing products to market overseas. Europeans, South Americans, and others are quickly able to use American products that cannot make it through our regulatory maze. One leading midwestern manufacturer of therapeutic medical devices has not introduced a major new project first to the U.S. market in 10 years. There is a shift in the international center of gravity for medical device innovation out of the United States. Products are now introduced, then manufactured and ultimately developed in research and development facilities overseas.

I ask unanimous consent to print in the RECORD a statement on this problem by Dr. Pierre M. Galletti, professor of medical sciences at Brown University and current president of the American Institute for Medical and Biological Engineering.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BROWN UNIVERSITY,
Providence, RI, August 12, 1994.

Senator CONNIE MACK,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MACK: One neglected issue in the debate on health care reform is the impact of proposed legislation on innovation in medical technology and the resulting competitiveness of the U.S. medical product industry. I speak to these issues as an investigator in artificial organs and implants with substantial experience in technology transfer from the research laboratory to industry, and as chairman or member of Scientific Advisory Boards to several product manufacturers here and abroad.

There is no denying that the mere fact of debating health care reform with the dominant accent on cost containment has had a profound negative influence on technological innovation in medicine. The market valuation of U.S. pharmaceutical companies has been substantially diminished, and with it the capacity to invest in new product development. To maintain competitiveness, a counter-strategy has evolved whereby drug manufacturers seek to protect their market share by alliances with somewhat monopolistic distribution networks or investment in less expensive generic products.

No such strategy exists for medical device manufacturers. This branch of the U.S. industry consists primarily of medium size and small companies. They do not have the cash reserves needed for a major strategic shift and, because of their division in multiple market segments, cannot easily ally themselves with provider or consumer groups. As a result, the stocks of biotech companies have plunged by more than fifty percent compared to a year ago. The willingness of manufacturers to proceed with new products has been discouraged. The availability of private venture capital has been severely curtailed. Clinical product evaluation and, increasingly, production are shifting from the U.S. to Europe, where the business and regulatory climate are felt to be less stifling.

The net effect, after perhaps a short period of savings on health care costs because of unavailability of new products, will be a long term increase in health care costs. Think simply where we would be if there had not been products for one-day hospitalization for gall bladder surgery with minimally invasive technology; no intraocular implants for the treatment of cataracts; and no cardiac pacemakers for controlling chaotic heart action. None of these advances would have been possible without an investment of government funds in research, and a much larger investment of private capital to turn inventions into products. Most researchers are in this game for the satisfaction of being identified with medical advances. Most investors are in the game for turning out a profit. This synergy has worked to the advantage of the American economy; the U.S. medical product industry, particularly in the artificial organ and implantable device area, dominates the world market and has grown to a volume of several billion dollars, employing tens of thousands of people.

If we drive early stage research abroad, if we continue to let our regulatory apparatus delay authorizations to proceed with product evaluation with senseless queries, if we make capital investment in new medical products less rewarding, then we will effectively kill the U.S. leadership in bringing new medical products to the market. Exports will eventually become imports. An apparent short term saving will become a new health care burden, because the American people simply will not do without products which have demonstrably increased their quality of life and, in many cases, their actual life expectancy.

Cordially,

PIERRE M. GALLETTI, M.D., PH.D.
Vice President Emeritus, Biology & Medicine.

Mr. MACK. I also want to read just a bit from that. He says:

There is no denying that the mere fact of debating health care reform with the dominant accent on cost containment has had a profound negative influence on technological innovation in medicine. The market valuation of U.S. pharmaceutical companies has been substantially diminished, and with it the capacity to invest in new product development.

He goes on:

The net effect, after perhaps a short period of savings on health care costs because of unavailability of new products, will be a long term increase in health costs.

As we ratchet down on health care dollars to pay for an explosion in Government bureaucracy, we will ration technology innovation and, in the end,

VOL 140 PT 16 AG 12 — 18 1994 UMI

invest less resources to improve quality of life.

Researchers at the National Center for Human Genome Research and grant recipients from the Center are closing in on identifying the breast cancer gene. Once the gene is discovered, we will actually be able to let women know at an early age if they are predisposed to developing breast cancer due to genetic makeup.

The following are just a few of the many promising drugs in the final phase of FDA approval: Ropinerole, which shows great promise for people with Parkinson's disease; Arvin, which will be used for stroke, and affliction which kills more than 17,000 people a year; and Casodex for prostate cancer, which kills 38,000 men a year. The development of these and other future wonder drugs will be placed at risk by the Clinton-Mitchell Government-controlled medicine.

Let us take a look at innovation in delivery of services under the Clinton-Mitchell bill, specifically the ability to self-insure. The bill makes it illegal to self-insure if you have under 500 employees.

In my travels around the State, I have spoken with many employers who have instituted innovative ideas to ensure a healthy workforce—a company doctor, an onsite health clinic, incentives for healthy lifestyles such as an in-house jogging track and exercise room.

Many employers in my State who have self-insured plans have done a tremendous job in holding down health care costs for their employees. A citrus packer in Ocoee with 13 employees has been self-funded for 3 years and has saved $75,000 during that time. A law firm in Tampa, FL, with 26 employees has saved more than $75,000 over 4 years. How? By being innovative, encouraging their employees to seek preventive care, and by promoting individual responsibility in health care.

Under the Clinton-Mitchell bill these creative and cost-saving ideas as part of a self-insured plan would be outlawed for employers with less than 500. Why? Because Clinton-Mitchell rests on the premise that the Federal Government can make better choices than you can.

Before abdicating our rights to the Government, we should examine the Government's track record in estimating the costs and complexity of Government programs. It is not good.

Last year, Joseph Califano, Secretary of HHS under President Jimmy Carter wrote about the effects of the unintended consequences of Government actions:

> As the President, Hillary Rodham Clinton and Congress set out to reinvent health care in America, they are wise to consult widely, since we got into much of the current mess by acting on the best of intentions without foreseeing the worst of unintended consequences.

Medicare was estimated to cost $9 billion in 1990 when it was originally estimated in 1965. Instead, the actual cost in 1990 was off by 1,178 percent, nearly 12 times higher—the unintended consequenses of Government action.

The Mitchell bill contains at least 50 new bureaucracies designated to simplify the health care system—the National Health Care Cost and Coverage Commission; the National Health Benefits Board; the Mandatory State-based Alternative Dispute Resolution, and the list goes on and on—what will be the unintended consequences of these Government actions? The administration and my Democratic colleagues will try and tell you that the Republicans are using scare tactics.

Earlier I went through how we came up with this information. It is clearly and well defined. It comes right from the Clinton-Mitchell bill that has been introduced.

Finally, let us take a look at the disastrous effects of the Clinton-Mitchell bill when it comes to the employer mandate. Under the original Clinton bill, estimates on job loss ranged from 600,000 to 3.8 million. The new Clinton-Mitchell bill would also clearly result in substantial job loss.

A trigger for an employer mandate in the future is no different than an employer mandate today. A mandate is a disguised tax, making employers legally responsible for financing a huge Government entitlement program. CBO, in essence, acknowledged that employer mandates are taxes.

In the final analysis, a tax trigger as advocated by the Clinton-Mitchell bill will result in job loss, wage reductions, and major administrative paperwork nightmares for small business owners and their employees.

Small business owners are wise to Washington. They know what an employer mandate means—a disguised way to pay for a new social experiment. A recent NFIB survey recognized this truth when over two-thirds of the 600,000 members polled opposed Congress establishing a mandatory national health insurance program.

Since beginning this health care debate over 3 years ago, I have been actively pursuing ways to improve the best health care system in the world.

I have been an active member of the Senate Republican Health Care Task Force, and I worked with my colleagues, Senators NICKLES and HATCH and the Heritage Foundation in developing the Consumer Choice Health Security Act. Modeled after the Federal Employees Health Benefit Plan, the bill provides individuals and families the opportunity to purchase the health care plan that best addresses their individual needs. It empowers individuals with choice and individual responsibility.

Because of my strong interest in prevention and specifically, the issue of cancer prevention, I introduced legislation to provide refundable tax credits for all individuals to avail themselves of cancer screening procedures. The American Cancer Society says this one proposal alone could save up to 100,000 lives per year.

As a member of the Appropriations Committee, I have been a vocal advocate for increased funding for research and for the CDC breast and cervical cancer program for low-income women, a successful program with proven results.

We are on the verge of breakthroughs in many drugs that might one day eradicate cancer, Alzheimer's, and heart disease and cystic fibrosis. But when resources are squeezed to fund a $1 trillion explosion in Government bureaucracy, the prevention of those diseases could be put off to another generation.

I worked with the minority leader and Senator PACKWOOD to develop the Dole/Packwood bill. Forty Members have endorsed this legislation. The legislation recognizes the value of a free market approach and imposes no costly employer mandates that would cause job loss.

The Dole-Packwood bill does not impose a one-size-fit-all standard benefit package that limits the free choice of benefits and outlaws existing health insurance plans.

The Dole-Packwood bill does not create a national health board to oversee a government-run health care system;

Does not prohibit small firms from self-insuring and being innovative in delivery of health care services;

Provides all Americans with access to health insurance that is guaranteed to be renewable, portable, and available regardless of any pre-existing conditions;

Preserves unlimited choice of health care plans that are tailored to your needs;

Phases in tax equity for the self-employed and for individuals who do not have employer-sponsored coverage;

It creates medical savings accounts which can be used to pay medical bills or to meet long-term care expenses. The best cost control known to man is a system which allows individuals to make their own choices with their own money on health care;

Allows self-employed and small businesses, 2 to 50 workers, to enroll in the Federal Employees Health Benefit Plan [FEHBP], giving them the same choices among benefit packages that Members of Congress enjoy;

Provides premium subsidies for low-income people for the purchase of a health care plan;

Reforms medical malpractice laws, including capping awards for noneconomic damages and sliding scale limits on attorney fees;

Allows for the development of truly voluntary purchasing pools.

In conclusion, I once again find myself thinking about the response I gave to the President's health care address to the Nation in September 1993.

The message I send my colleagues today is the same message I delivered almost 1 year ago: The American people don't want more bureaucracy, more mandates, and more Government control over their health care choices.

The Clinton-Mitchell proposal, which comes with a price tag of at least $1 trillion, creates a Government-controlled, Government-dictated health care system that will hinder quality, choice, and freedom. It imposes at least 17 new taxes, including a surtax of 1.75 percent on every health insurance policy, enacts price controls, requires employer mandates, and creates at least 50 new bureaucracies. In short, it's a prescription for disaster.

Two recent letters from my constituents express the concerns of many Floridians:

> Please do not reduce the quality and availability of health care by voting for the Federal Government to "improve" it by using price controls and redtape. The past "accomplishments" of the Government * * * have resulted in the tremendous cost overruns and recent and constant tax increases * * * I strongly feel that the private sector through market competition can reduce health care costs. Please, vote "no" to any proposed Government control of health care.

The second letter reads, and again I quote:

> I am very concerned about the Health care bills before you. The Mitchell bill I'm afraid will be used as a vehicle to get in Conference where Clinton-Gephardt can be inserted under another name and avoid Debate. * * * The best bill will be * * * the * * * simplest with the least Government involved and the most Free Enterprise as has served to make the Country Strong and Rich.

Mr. President, I want to see that other families, just like mine, have health care. While my Democratic colleagues may have the right motives for reforming our health care system, their method will destroy the best health care system in the world.

My vote, on behalf of my constituents, will be a resounding "no" on the Clinton-Mitchell bill. I will work hard with my colleagues to pass the reforms the American people want and I will not impose upon them a solution they do not want.

A Government controlled system? Never. I will never cast away our freedom for the sake of constructing a social experiment on a foundation of quicksand—the Federal bureaucracy. It is a formula proven time and time again to fail. We must look for solid ground to build any such reforms * * * that ground has always been free markets and free choice. They have served as the foundation for every great stride made by this country in the last 200 years. I will not abandon them nor will the American people abandon them either now or later.

I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, if I might inquire of the Chair, how much time is left on this side?

The PRESIDING OFFICER. Just about 28 minutes.

Mr. PRYOR. I thank the Chair.

Mr. President, I first want to congratulate my colleague from Florida for his very timely remarks. I also want to congratulate my colleague, Senator BENNETT, for his remarks earlier today. I thought it was a very, very constructive dialog, a very constructive part of this debate on this late Saturday afternoon in the U.S. Senate. I am glad that this debate is occurring, and I am glad also, Mr. President, that I have the opportunity, to correct some of the misimpressions—I know not intentionally made—by my very good friend and colleague from Florida, Senator MACK.

First, there is something I agree with. I agree with my colleague from Florida that we have the highest quality of medical care of any country in the world. I agree 100 percent. I agree 100 percent with my colleague from Florida that we have the highest quality system of medical care for those who have insurance, for those who are wealthy, for those who can afford it, for those who have not had their insurance canceled, for those who have not lost their jobs, and for those who have not been transferred to another State or to another company where they have lost their insurance.

We have a very high quality of health care. And I would like to further state that for those who are in the system, the system is good.

For those who are outside the system, the system is very, very bad. It is so bad, Mr. President, that we have a crisis, and unless we do something, we are going to see the great majority of American families in the next decade, one, not have insurance coverage and, two, not be able to participate in what our colleague from Florida refers to as the best system of health care in the world.

There is another misimpression that my colleague and others of his friends on his side of the aisle have been leaving for the last several days and weeks, and that is that the so-called Mitchell plan is a Government takeover.

It is just the opposite of a Government takeover. The so-called Mitchell plan is a plan to free up the individual to make their own decisions about health care. It is not a Government takeover, and to imply, to state that 17 new taxes—17 new taxes—are going to be imposed under the Mitchell plan is totally, absolutely in error.

Second, to imply that 50 new bureaucracies—50 new bureaucracies—are going to be created under the Mitchell plan? Mr. President, it is not true.

Earlier in the day I was looking at the chart of my friend from Florida. In fact, I went over to examine that chart. I have seen it on TV; I have seen it on the floor all week. So I took the time to go and look at it.

I looked down in the lower left-hand portion or quadrant, of that particular chart about how bad this Mitchell plan proposal is going to be, how many bureaucracies it is going to create. What I saw in the chart that we have seen displayed most of today on the Senate floor is basically part of the system that we have now, that we are trying to get rid of, that we are trying to replace with a new system that is going to be affordable and accessible to every American citizen. Most of that chart, Mr. President, was a chart and I repeat, of the system that we have now.

It is for this reason that we are using an example from the State of Iowa, a small town in the State of Iowa, Clive, IA. We have a chart of a Dr. Gleason's office before Senator Mitchell's plan. Here it is. Here is what happens in this small doctor's office in this small town in Iowa: The literally hundreds of forms and steps that must take place when a patient of Dr. Gleason receives service.

What do we have first? First, we have 1,500 insurance companies in America. The distinguished occupant of the chair knows all of this, probably better than any Member of this body. He has passionately—passionately—pursued this issue and tried to make those necessary changes that make this system not only the best, but keep it the best and make it accessible and affordable to every American.

Look, Mr. President, here we have Medicare, Medicaid. Here are the Blue Cross/Blue Shield programs right here. Here are all the different color codes that show—each different color code is a new form that must be filled out before Mary Jones has her examination or has her finger bandaged, or what have you. Then we have all of the other insurance companies. We could not put all the rest of them on here because there would be over 1,400 of them and they would encircle this entire Senate Chamber. For every one of those insurance companies, there is a different form to fill out.

Under the Mitchell plan, you are not getting more government, you are getting less government. You are not getting less service, you are getting more service. You are not getting a lower quality of health care, you are getting a higher quality of health care.

What you are ultimately getting, though, Mr. President, is efficiency in that system and you are getting simplicity in that system. Because after Senator Mitchell's plan is enacted—if those on the other side will let us enact it—we will see a much simpler plan with basically only three different forms that have to be filled out when

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mary Jones visits the office of Dr. Gleason in Clive, IA.

We think this is remarkable progress, Mr. President. We think it is progress because we think the Mitchell plan is very far superior to that plan offered by Senator DOLE and Senator MACK and his colleagues on the other side.

Just one example. Because we think it is better, we will give you one reason we think it is better, among others.

The Senator from Florida represents a State with the highest percentage of elderly population. By the way, Arkansas is second or third in line. I am not sure we are second to Florida, but Florida is first. Florida has more elderly people than any other State percentagewise, yet, mysteriously, the proposal by Senator DOLE and Senator MACK does not include prescription drug benefits for seniors. It does not exist. It is not in the Dole plan. It is nonexistent. It is not even mentioned.

Whereas, in the Mitchell plan, we do begin for Medicare recipients a prescription drug plan that we think is a very, very good start. And we are proud of it. We are proud that we have a prescription drug proposal. We are proud of the fact that the elderly and the seniors and those on Medicare are no longer going to have to reach in their pockets and pay the highest conceivable prices for their prescription drugs.

We can do better as a country. We will do better as a country if we adopt the Mitchell plan for prescription drugs. I think this afternoon's debate has been a good debate because we are beginning to compare, really compare, without all the rhetoric, the Mitchell plan to the Dole plan. Another thing we like better about our plan is we have a proposal, as the Presiding Officer knows, because he was one of the instrumental forces in putting it into the Finance Committee bill, merged into the Mitchell bill, is something that we call long-term care. It is a beginning.

The distinguished occupant of the chair, Senator ROCKEFELLER, has worked for years and years to tell our country of the need for long-term care and to keep people as long as possible out of nursing homes.

Well, Mr. President, if we do nothing—and we have the opportunity here to do nothing, which would be the wrong opportunity to take, I might add, Mr. President, but if we do nothing and if we fail to seize upon this opportunity to do something, a once-in-a-lifetime opportunity to do something about a health care system that is unavailable to 37 million people, that is unaffordable to millions and millions of people, a system that is losing hundreds and hundreds of thousands of insured each year, if we fail that opportunity, I think we have failed in our obligation to the American people as Members of the Senate.

Look at this. We have more than 1,500 health insurance companies in this country, and today we see that we have to fill out 15 more forms for one patient's hospital stay. The lack of standardization of these forms is resulting in higher and higher administrative costs. The number of health administrators, for example, has increased by 300 percent during the past decade. The number of physicians has increased by only 18 percent.

The private insurance carriers in this country employ more than 2.4 million people, almost 2½ million. This is almost as many people as are employed in all of the legislative, judicial, and nondefense executive agencies of the American Federal Government, including all of the postal workers.

If we do nothing, this is going to continue to explode. If we do nothing, I say to my friend from Florida, we are going to see Children's Hospital bills not at the $2 million a year it costs to fill out reports today, but $10 million a year in the coming years. We are going to see the continued explosion of the health care bureaucracy in our country.

Mr. President, earlier this morning, one of the lead speakers, a very good speaker, a very good Senator, a good friend, the vice chairman of the Senate Special Committee on Aging, a real addition, a good addition to this body, stated—and I cannot quote him exactly—our friend, Senator COHEN, said he did not know why the newspaper headlines this morning "blamed us, the Republicans, for slowing down the health care bill" or "impeding the health care bill." I do not know exactly the term he used.

Well, I do not know why my friend the junior Senator from Maine, Senator COHEN, was surprised, because only last Wednesday on the floor of the Senate it was Senator PHIL GRAMM; and I quote, who declared "No one person will be able to comprehend the entire bill by next week," so he said he will divide up the measure, assign sections to individual GOP Senators, and have them explain their designated positions on the floor. He said then that process, and I quote, "will take a week, and," he said, "after that, the bill is dead."

"After that, the bill is dead."

So why would our friend from Maine be surprised to see that now the newspapers or the press people, the media, might be accusing or implying that the Republican side of the aisle would like to slow down and ultimately kill this bill.

Our friend from Utah, Senator BENNETT, spoke this afternoon—he gave a very, very good speech, I thought. He quoted from Newsweek regarding the so-called Mitchell bill and the Clinton plan, et cetera. But what he did not state was that Newsweek, in the same article, predicted, and I quote, Mr. President, "The Dole plan will increase premiums for middle-class people and could increase the number of uninsured."

What we are talking about, Mr. President, is 30 million people uninsured, left out of the system, forgotten, run away from should the Dole plan become law.

Mr. President, the other day—and I have used this before; this will be the second time—when we talked about delaying the vote, delaying consideration, stopping now and coming back in September, stopping now and coming back next year, when we do all of this, Mr. President, what I think we were saying is that we are giving up. I do not believe we can give up. I believe that we have to work harder. I do believe that we have to try to achieve a bipartisan proposal that we can take to the American people and say this is a better system than we have now.

When I thought about how to conjure up all the resources of the Senate, I added up the number of years that collectively all of us, all 100 of us that sit in this Chamber on a daily basis, how many years of Senate service have we had collectively. The answer is 1,236 years. I have been here 15 years. Senator THURMOND, I think, has been here over 35 or 36 years. Senator HATCH over there has been here over 20 years. Senator DASCHLE has been here since 1986, so he has not been here quite a decade.

But you add all of our service up together and, Mr. President, it is 12 centuries, over 12 centuries of public service in the U.S. Senate. And somehow I believe, with 12 centuries of experience, we do have the resources, we do have the ability; and hopefully, we have the will to come forward with a proposal that we can support, that we can take to the American people, and that we can be proud of as an institution.

Mr. President, I know that the time is late.

I know that we are all ready to go home. In fact, I would like to go home, Mr. President, and catch the last 30 or 40 minutes of the PGA Golf Tournament. That is where I would rather be this afternoon.

But I want you to know, Mr. President, it has been a high honor and a privilege to be here working with my colleagues today, this week, and this weekend on this proposal. We are going to continue to work on it until we do it, until we do it right. And we can do it, and we must do it, because if we do not, we will have failed our country, we will have failed our children, and we will have failed their children.

Mr. President, I thank the Chair, and I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Arkansas for an excellent statement. He has been a student of this issue now for many years. He is a member of the Finance Committee. He has represented those of us who favor strongly the Mitchell bill.

In closing our debate this afternoon, we thank him for his contribution, participation, leadership, and commend him especially for the excellent statement he has just made.

NATIONAL BREAST CANCER AWARENESS MONTH

The text of the joint resolution (S.J. Res. 185) to designate October 1994 as "National Breast Cancer Awareness Month," as passed by the Senate on August 12, 1994, is as follows:

S.J. RES. 185

Whereas breast cancer will strike an estimated 182,000 women and 1,000 men in the United States in 1994;

Whereas the risk of developing breast cancer increases as a woman grows older;

Whereas breast cancer is the second leading cause of cancer death in women, and will kill an estimated 46,000 women and 300 men in 1994;

Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940's to over 90 percent today;

Whereas most breast cancers are detected by the woman herself;

Whereas educating both the public and health care providers about the importance of early detection will result in reducing breast cancer mortality;

Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;

Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women who have been screened by mammography;

Whereas many women are reluctant to have screening mammograms for a variety of reasons, such as the cost of testing, lack of information, or fear;

Whereas access to screening mammography is directly related to socioeconomic status;

Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and

Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1994 is designated as "National Breast Cancer Awareness Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

CRIME PREVENTION MONTH

The text of the joint resolution (S.J. Res. 192) to designate October 1994 as "Crime Prevention Month," as passed by the Senate on August 12, 1994, is as follows:

S.J. RES. 192

Whereas crime prevention improves the quality of life in every community;

Whereas crime prevention is a cost-effective answer to the problems caused by crime, drug abuse, and fear of crime;

Whereas crime prevention is central to a sound criminal justice system at Federal, State, and local levels;

Whereas millions of United States citizens have demonstrated that by working together, they can reduce crime, drug abuse, and fear of crime;

Whereas all people of the United States, from preschoolers to senior citizens, can help themselves, their families, and their neighborhoods prevent crime and build safer, more caring communities;

Whereas it is important to honor annually those individuals throughout society who work to prevent crime and to build and sustain communities; and

Whereas the National Citizens' Crime Prevention Campaign (featuring McGruff the Crime Dog and sponsored by the Department of Justice, the Crime Prevention Coalition, and the National Crime Prevention Council) encourages effective partnerships to reduce crime and to improve life throughout the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1994 is designated "Crime Prevention Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

YEAR OF THE GRANDPARENT

The text of the joint resolution (S.J. Res. 198) designating 1995 as "Year of the Grandparent," as passed by the Senate on August 12, 1994, is as follows:

S.J. RES. 198

Whereas grandparents bring a tremendous amount of love and power for good into the lives of their grandchildren;

Whereas grandparents, in partnership with parents, help deepen every child's roots and strengthen every child's wings so that every child may soar into adulthood with a glad heart and a confident spirit;

Whereas grandparents are a strong and important voice in support of the happiness and well-being of children;

Whereas grandparents often serve as the primary caregivers for their grandchildren, providing a stable and supportive home environment;

Whereas grandparents should be acknowledged for the important role they play within families, and for the many and varied contributions they make to enhance and further the value of the family and family traditions;

Whereas public awareness of and appreciation for the contributions of grandparents should be strengthened;

Whereas grandparents should be encouraged to continue as a vital force in the shaping of American families today and into the future;

Whereas the Nation acknowledges the contributions of grandparents by celebrating National Grandparents Day each September; and

Whereas there should be a year-long national celebration of grandparents and grandparenting: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1995 is designated the "Year of the Grandparent", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that year with appropriate programs, ceremonies, and activities.

79-059 O—97 Vol. 140 (Pt. 16) 26

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 248. A resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in United States versus Durenberger; considered and agreed to.

ADDITIONAL COSPONSORS

SENATE JOINT RESOLUTION 215

At the request of Mr. DOLE, the names of the Senator from Colorado [Mr. BROWN], the Senator from New York [Mr. D'AMATO], the Senator from Arizona [Mr. DECONCINI], the Senator from New Mexico [Mr. DOMENICI], the Senator from California [Mrs. FEINSTEIN], the Senator from Alabama [Mr. HEFLIN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 215, a joint resolution designating September 5, 1994, Labor Day, as "Try American Day."

SENATE RESOLUTION 243

At the request of Mr. LOTT, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Resolution 243, a resolution recognizing the Realtors Land Institute on the occasion of its 50th anniversary.

SENATE RESOLUTION 248—TO DIRECT THE SENATE LEGAL COUNSEL TO APPEAR AS AMICUS CURIAE IN THE NAME OF THE SENATE IN UNITED STATES VERSUS DURENBERGER

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 248

Whereas, in the case of *United States* v. *Durenberger*, No. 94-3105, pending on appeal in the United States Court of Appeals for the District of Columbia Circuit, the powers and responsibilities of Congress and the relationship among the branches of government have been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288l(a) (1988), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action which places in issue the powers and responsibilities of Congress under the Constitution: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in *United States* v. *Durenberger*, for the limited purpose of requesting

VOL 140 PT 16 AG 12 — 18 1994 UMI

the Court to give plenary consideration to the contentions of the United States and Senator Durenberger in regard to the separation of powers questions presented by the appeal.

AMENDMENTS SUBMITTED

DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT OF 1994

HATCH (AND HARKIN) AMENDMENT NO. 2562

Mr. HATCH (for himself and Mr. HARKIN) proposed an amendment to the bill (S. 784) to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dietary Supplement Health and Education Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) improving the health status of United States citizens ranks at the top of the national priorities of the Federal Government;

(2) the importance of nutrition and the benefits of dietary supplements to health promotion and disease prevention have been documented increasingly in scientific studies;

(3)(A) there is a definitive link between the ingestion of certain nutrients or dietary supplements and the prevention of chronic diseases such as cancer, heart disease, and osteoporosis; and

(B) clinical research has shown that several chronic diseases can be prevented simply with a healthful diet, such as a diet that is low in fat, saturated fat, cholesterol, and sodium, with a high proportion of plant-based foods;

(4) healthful diets may mitigate the need for expensive medical procedures, such as coronary bypass surgery or angioplasty;

(5) preventive health measures, including education, good nutrition, and appropriate use of safe nutritional supplements will limit the incidence of chronic diseases, and reduce long-term health care expenditures;

(6)(A) promotion of good health and healthy lifestyles improves and extends lives while reducing health care expenditures; and

(B) reduction in health care expenditures is of paramount importance to the future of the country and the economic well-being of the country;

(7) there is a growing need for emphasis on the dissemination of information linking nutrition and long-term good health;

(8) consumers should be empowered to make choices about preventive health care programs based on data from scientific studies of health benefits related to particular dietary supplements;

(9)(A) national surveys have revealed that almost 50 percent of the 260,000,000 Americans regularly consume dietary supplements of vitamins, minerals, or herbs as a means of improving their nutrition; and

(B) nearly all consumers indicate that dietary supplements should not be regulated as drugs;

(10) studies indicate that consumers are placing increased reliance on the use of non-traditional health care providers to avoid the excessive costs of traditional medical services and to obtain more holistic consideration of their needs;

(11) the United States will spend over $1,000,000,000,000 on health care in 1994, which is about 12 percent of the Gross National Product of the United States, and this amount and percentage will continue to increase unless significant efforts are undertaken to reverse the increase;

(12)(A) the nutritional supplement industry is an integral part of the economy of the United States;

(B) the industry consistently projects a positive trade balance; and

(C) the estimated 600 dietary supplement manufacturers in the United States produce approximately 4,000 products, with total annual sales of such products alone reaching at least $4,000,000,000;

(13) although the Federal Government should take swift action against products that are unsafe or adulterated, the Federal Government should not take any actions to impose regulatory barriers limiting or slowing the flow of safe products and needed information to consumers;

(14) dietary supplements are safe within a broad range of intake, and safety problems with the supplements are relatively rare; and

(15)(A) legislative action that protects the right of access of consumers to safe dietary supplements is necessary in order to promote wellness; and

(B) a rational Federal framework must be established to supersede the current ad hoc, patchwork regulatory policy on dietary supplements.

(b) PURPOSE.—It is the purpose of this Act to—

(1) improve the health status of the people of the United States and help constrain runaway health care spending by ensuring that the Federal Government erects no regulatory barriers that impede the ability of consumers to improve their nutrition through the free choice of safe dietary supplements;

(2) clarify that—

(A) dietary supplements are not drugs or food additives;

(B) dietary supplements should not be regulated as drugs;

(C) regulations relating to food additives are not applicable to dietary supplements and their ingredients used for food additive purposes, including stabilizers, processing agents, or preservatives; and

(D) the burden of proof is on the Food and Drug Administration to prove that a product is unsafe before it can be removed from the marketplace;

(3) establish a new definition of a dietary supplement that differentiates dietary supplements from conventional foods, while recognizing the broad range of food ingredients used to supplement the diet;

(4) strengthen the current enforcement authority of the Food and Drug Administration by providing to the Administration additional mechanisms to take enforcement action against unsafe or fraudulent products;

(5) establish a series of labeling requirements that will provide consumers with greater information and assurance about the quality and content of dietary supplements, while at the same time assuring the consumers the freedom to use the supplements of their choice;

(6) provide new administrative and judicial review procedures to affected parties if the Food and Drug Administration takes certain actions to enforce dietary supplement requirements; and

(7) establish a Commission on Dietary Supplement Labels within the executive branch to develop recommendations on a procedure to evaluate health claims for dietary supplements and provide recommendations to the President and the Congress.

SEC. 3. DEFINITIONS.

(a) DEFINITION OF CERTAIN FOODS AS DIETARY SUPPLEMENTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(ff) The term 'dietary supplement' means—

"(1) a product intended to supplement the diet by increasing the total dietary intake that bears or contains one or more of the following dietary ingredients:

"(A) a vitamin;

"(B) a mineral;

"(C) an herb or other botanical;

"(D) an amino acid;

"(E) another dietary substance for use by man to supplement the diet by increasing the total dietary intake; or

"(F) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in clause (A), (B), (C), (D), (E) or (F);

"(2) a product that—

"(A)(i) is intended for ingestion in a form described in section 411(c)(1)(B)(i); or

"(ii) complies with section 411(c)(1)(B)(ii); and

"(B) is not represented for use as a conventional food or as a sole item of a meal or the diet; and

"(C) is labeled as a dietary supplement.".

(b) EXCLUSION FROM DEFINITION OF DRUG.—Section 201(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)) is amended by adding at the end the following new subparagraph:

"(3) The term 'drug' does not include a dietary supplement as defined in paragraph (ff), except that—

"(A) an article that is approved as a new drug, certified as an antibiotic (under section 355 or 357), or licensed as a biologic (under section 351 of the Public Health Service Act (42 U.S.C. 262 et seq.)) and was, prior to such approval, certification or license, marketed as a dietary supplement or as a food, may continue to be offered for sale as a dietary supplement unless the Secretary has issued a regulation, after notice and comment, finding that the article when used as or in a dietary supplement under the conditions of use and dosages set forth in the labeling for such dietary supplement, is unlawful under section 402(f); and

"(B) an article that is approved as a new drug, certified as an antibiotic (under section 355 or 357), or licensed as a biologic (under section 351 of the Public Health Service Act (42 U.S.C. 262 et seq.)) and was not prior thereto marketed as a dietary supplement or as a food, may not be considered as a dietary ingredient or dietary supplement unless the Secretary has issued a regulation, after notice and comment, finding that the article would be lawful under section 402(f) under the conditions of use and dosages set forth in the recommended labeling for such article.".

(c) EXCLUSION FROM DEFINITION OF FOOD ADDITIVE.—Section 201(s) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s)) is amended—

(1) by striking "or" at the end of subparagraph (4);

(2) by striking the period at the end of subparagraph (5) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(6) an ingredient described in paragraph (ff) in, or intended for use in, a dietary supplement.".

(d) FORM OF INGESTION.—Section 411(c)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350(c)(1)(B)) is amended—

(1) in clause (i), by inserting "powder, softgel, gelcap," after "capsule,"; and

(2) in clause (ii), by striking "does not simulate and".

SEC. 4. SAFETY OF DIETARY SUPPLEMENTS AND BURDEN OF PROOF ON FDA.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(f) If it is a dietary supplement that—

"(1) the Secretary finds, after rulemaking, presents a substantial and unreasonable risk of illness or injury under conditions of use recommended or suggested in labeling;

"(2) the Secretary declares to pose an imminent and substantial hazard to public health or safety, except that the authority to make such declaration shall not be delegated and the Secretary shall promptly thereafter convene rulemaking pursuant to section 701(e), (f), and (g) to affirm or withdraw the declaration; or

"(3) is or contains a dietary ingredient that renders it adulterated under paragraph (a)(1) under the conditions of use recommended or suggested in the labeling of such dietary supplement.

In any proceeding under this section, the United States bears the burden of proof on each element to show that a dietary supplement is adulterated.".

SEC. 5. DIETARY SUPPLEMENT CLAIMS.

(a) SUPPLEMENT CLAIMS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by inserting after section 403A the following new section:

"DIETARY SUPPLEMENT LABELING EXEMPTIONS

"SEC. 403B. An article, another publication, a chapter in books, or the official abstract of a peer-reviewed scientific publication that appears in the article and was prepared by the author or the editors of the publication, reprinted in its entirety, shall not be defined as labeling when used in connection with the sale of dietary supplements to consumers when it—

"(1) is not false or misleading;

"(2) does not promote a particular brand of a dietary supplement;

"(3) is displayed or presented, or is displayed or presented with other such items on the same subject matter, so as to present a balanced view of the available scientific information on a dietary supplement; and

"(4) if displayed in an establishment, is physically separate from the dietary supplements.

This section shall not apply to or restrict a retailer or wholesaler of dietary supplements in any way whatsoever in the sale of books or other publications as a part of the business of such retailer or wholesaler. In any proceeding under this section, the burden of proof shall be on the United States to establish that an article or other such matter is false or misleading.".

SEC. 6. STATEMENTS OF NUTRITIONAL SUPPORT.

Section 403(r)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(1)) is amended by adding the following new sentence at the end: "For purposes of this subparagraph, a statement for a dietary supplement shall not be considered a claim of the relationship of a nutrient or dietary ingredient to a disease or health-related condition if the statement does not claim to diagnose, prevent, mitigate, treat, or cure a specific disease or class of diseases. A statement for a dietary supplement may be made if the statement claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption of a nutrient or dietary ingredient.".

SEC. 7. CONFORMING AMENDMENTS.

(a) SECTION 201.—The next to the last sentence of section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) (as amended by section 3(b)) is amended to read as follows: "A food or dietary supplement for which a claim, subject to section 403(r)(1)(B) and 403(r)(3) or section 403(r)(1)(B) and 403(r)(5)(D), is made in accordance with the requirements of section 403(r) is not a drug solely because the label or the labeling contains such a claim. A food, dietary ingredient, or dietary supplement for which a truthful and nonmisleading statement is made in accordance with section 403(r)(1) is not a drug solely because the label or the labeling contains such a statement.".

(b) SECTION 403.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following:

"A dietary supplement shall not be deemed misbranded solely because its label or labeling contains directions or conditions of use or warnings.".

SEC. 8. ADMINISTRATIVE AND JUDICIAL REVIEW.

The Federal Food, Drug, and Cosmetic Act is amended by adding at the end of chapter III (21 U.S.C. 331 et seq.) the following new section:

"SEC. 311. WARNING LETTERS.

"Any warning letter or similar written threat of enforcement under the Federal Food, Drug, and Cosmetic Act constitutes final agency action for the purpose of obtaining judicial review under chapter 7 of title 5, United States Code, if the matter with respect to such letter or threat is not resolved within 60 days from the date such letter or threat is delivered to any person subject to this Act. In any proceeding for judicial review of a warning letter or similar written threat of enforcement under the Act, the United States bears the burden of proof on each element of each alleged violation of law described.".

SEC. 9. WITHDRAWAL OF THE REGULATIONS AND NOTICE.

(a) IN GENERAL.—The advance notice of proposed rulemaking concerning dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33690–33700), the notices of proposed rulemaking concerning nutrition labeling for dietary supplements and nutrient content claims for dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33715–33731 and 58 FR 33731–33751), and the final rules and notices published in the Federal Register of January 4, 1994 concerning nutrition labeling for dietary supplements and nutrient content claims for dietary supplements (59 FR 354–378 and 378–395) are null and void and of no force or effect insofar as they apply to dietary supplements. Final regulations and notices published in the Federal Register of January 4, 1994 concerning health claims for dietary supplements under the Nutrition Labeling and Education Act of 1990 (59 FR 395–426) shall not be affected by this section and shall remain in effect until 120 days after the date of the submission of the final report of the Commission established under section 11 to the President and to Congress, or 28 months after the date of enactment of this Act, whichever is earlier.

(b) NOTICE OF REVOCATION.—The Secretary of Health and Human Services shall publish notices in the Federal Register to revoke all of the items declared to be null and void and of no force or effect under subsection (a).

(c) ISSUANCE OF REGULATIONS.—Notwithstanding any provision of the Nutrition Labeling and Education Act of 1990—

(1) no regulation is required to be issued pursuant to such Act with respect to dietary supplements of vitamins, minerals, herbs, amino acids, or other similar nutritional substances; and

(2) no regulation that is issued in whole or in part pursuant to such Act shall have any force or effect with respect to any dietary supplement of vitamins, minerals, herbs, amino acids, or other similar nutritional substances unless such regulation is issued pursuant to rulemaking proceedings that are initiated by an advance notice of proposed rulemaking that is published no earlier than 2 years after the date of enactment of this Act, and followed by, at least, a notice of proposed rulemaking prior to issuance of the final regulation, except insofar as the regulation authorizes the use of labeling about calcium, folic acid, or other matters and does not prohibit the use of any labeling.

SEC. 10. DIETARY SUPPLEMENT INGREDIENT LABELING AND NUTRITION INFORMATION LABELING.

(a) MISBRANDED SUPPLEMENTS.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following new paragraph:

"(s) If—

"(1) it is a dietary supplement; and

"(2)(A) the label or labeling of the supplement fails to list—

"(i) the name of each ingredient of the supplement that is described in section 201(ff); and

"(ii)(I) the quantity of each such ingredient; or

"(II) with respect to a proprietary blend of such ingredients, the total quantity of all ingredients in the blend;

"(B) the label or labeling of the dietary supplement fails to identify the product by using the term 'dietary supplement', which term may be modified with the name of such an ingredient;

"(C) the supplement contains an ingredient described in section 201(ff) (1)(C), and the label or labeling of the supplement fails to identify any part of the plant from which the ingredient is derived;

"(D) the supplement—

"(i) is covered by the specifications of an official compendium;

"(ii) is represented as conforming to the specifications of an official compendium; and

"(iii) fails to so conform; or

"(E) the supplement—

"(i) is not covered by the specifications of an official compendium; and

"(ii)(I) fails to have the identity and strength that the supplement is represented to have; or

"(II) fails to meet the quality (including tablet or capsule disintegration), purity, or compositional specifications, based on validated assay or other appropriate methods, that the supplement is represented to meet.".

(b) SUPPLEMENT LISTING ON NUTRITION LABELING.—Section 403(q)(1) of the Federal

VOL 140 PT 16 AG 12 — 18 1994 UMI

Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(1)) is amended by adding at the end the following: "A dietary supplement may bear on the nutrition label or in labeling a listing and quantity of ingredients that have not been deemed essential nutrients by the Secretary if such ingredients are prominently identified as not having been shown to be essential or not having an established daily value.".

(c) DIETARY SUPPLEMENT LABELING EXEMPTIONS.—Section 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)) is amended by adding at the end the following new clause:

"(H) The labels of dietary supplements shall not be required to bear the nutrition information under subparagraph (1), but shall be required to list immediately above the ingredient listing the amount of nutrients required by the Secretary to be listed pursuant to clause (C), (D) or (E) of subparagraph (1) or clause (A) of subparagraph (2) that are present in significant amounts in the supplement.".

(d) VITAMINS AND MINERALS.—Section 411(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350(b)(2)) is amended—

(1) by striking "vitamins and minerals" and inserting "dietary supplement ingredients described in section 201(ff)";

(2) by striking "(2)(A)" and inserting "(2)"; and

(3) by striking subparagraph (B).

SEC. 11. COMMISSION ON DIETARY SUPPLEMENT LABELS.

(a) ESTABLISHMENT.—There shall be established as an independent agency within the executive branch a commission to be known as the Commission on Dietary Supplement Labels (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 7 members who shall be appointed by the President.

(2) EXPERTISE REQUIREMENT.—The members of the Commission shall consist of individuals with expertise and experience in dietary supplements and in the manufacture, regulation, distribution, and use of such supplements. At least three of the members of the Commission shall be qualified by scientific training and experience to evaluate the benefits to health of the use of dietary supplements and one of such three members shall have experience in pharmacognosy, medical botany, traditional herbal medicine, or other related sciences. No member of the Commission shall be biased against dietary supplements.

(c) FUNCTIONS OF THE COMMISSION.—The Commission shall conduct a study on, and provide recommendations for, the regulation of label claims for dietary supplements, including procedures for the evaluation of such claims. In making such recommendations, the Commission shall evaluate how best to provide truthful and nonmisleading information to consumers so that such consumers may make informed health care choices for themselves and their families.

(d) REPORTS AND RECOMMENDATIONS.—

(1) FINAL REPORT REQUIRED.—Not later than 24 months after the date of enactment of this Act, the Commission shall prepare and submit to the President and to the Congress a final report on the study required by this section.

(2) RECOMMENDATIONS.—The report described in paragraph (1) shall contain such recommendations, including recommendations for legislation, as the Commission deems appropriate.

(e) ADMINISTRATIVE POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 12. GOOD MANUFACTURING PRACTICES.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) (as amended by section 4) is further amended by adding at the end the following:

"(g)(1) If it is a dietary supplement and it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations issued by the Secretary under subparagraph (2).

"(2) The Secretary may by regulation prescribe good manufacturing practices for dietary supplements. Such regulations shall be modeled after current good manufacturing practice regulations for food and may not impose standards for which there is no current and generally available analytical methodology. No standard of current good manufacturing practice may be imposed unless such standard is included in a regulation promulgated after notice and opportunity for comment in accordance with the Administrative Procedure Act.".

SEC. 13. OFFICE OF DIETARY SUPPLEMENTS.

(a) IN GENERAL.—Title IV of the Public Health Service Act is amended by inserting after section 486 (42 U.S.C. 287c-3) the following:

"Subpart 4—Office of Dietary Supplements

"SEC. 486E. DIETARY SUPPLEMENTS.

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Dietary Supplements within the National Institutes of Health.

"(b) PURPOSE.—The purposes of the Office are—

"(1) to explore more fully the potential role of dietary supplements as a significant part of the efforts of the United States to improve health care; and

"(2) to promote scientific study of the benefits of dietary supplements in maintaining health and preventing chronic disease and other health-related conditions.

"(c) DUTIES.—The Director of the Office of Dietary Supplements shall—

"(1) conduct and coordinate scientific research within the National Institutes of Health relating to dietary supplements and the extent to which the use of dietary supplements can limit or reduce the risk of diseases such as heart disease, cancer, birth defects, osteoporosis, cataracts, or prostatism;

"(2) collect and compile the results of scientific research relating to dietary supplements, including scientific data from foreign sources or the Office of Alternative Medical Practice;

"(3) serve as the principal advisor to the Secretary and to the Assistant Secretary for Health, and to provide advice to the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs, on issues relating to dietary supplements including—

"(A) dietary intake regulations;

"(B) the safety of dietary supplements;

"(C) claims characterizing the relationship between—

"(i) dietary supplements; and

"(ii)(I) prevention of disease or other health-related conditions; and

"(II) maintenance of health; and

"(D) scientific issues arising in connection with the labeling and composition of dietary supplements;

"(4) compile a database of scientific research on dietary supplements and individual nutrients; and

"(5) coordinate funding relating to dietary supplements for the National Institutes of Health.

"(d) DEFINITION.—As used in this section, the term 'dietary supplement' has the meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and such sums as may be necessary for each subsequent fiscal year.".

(b) CONFORMING AMENDMENT.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

"(E) The Office of Dietary Supplements.".

TO AMEND THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 784, a bill to establish standards with respect to dietary supplements, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 784) to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2562

Mr. HATCH. Mr. President, I send to the desk a substitute amendment on behalf of myself and Senator HARKIN, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. HARKIN, proposes an amendment numbered 2562.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I am concerned about several provisions of S. 784 in its present form. I am hopeful, however, that this action by the Senate will bring us closer to enacting the kind of worthwhile compromise that is needed to protect the public health while dealing with the legitimate concerns of the large numbers of citizens who use dietary supplements and who deserve to have them available.

Recent Federal legislation, especially the Nutrition Labeling and Education Act, has created a great deal of concern and uncertainty about the status of these products. I believe all of us agree on the need to provide consumers with freedom of choice and access to these products. I believe we also agree on the need for responsible precautions to protect the public against dangerous products and false health claims.

There continue to be differences among us as to how to achieve these goals most effectively. For example, the Hatch legislation offers a definition of dietary supplements that many feel is too broad. It will allow certain products which are treated as prescription drugs in other countries, or as unapproved drugs in this country, to be treated as dietary supplements and therefore subjected to inadequate safeguards.

I addition, for safety purposes, I believe the legislation should contain a protective safety standard to assure the ability of the Food and Drug Administration to act quickly to remove products that are dangerous.

Similar concerns exist with respect to other issues, such as the accuracy of health claims made on behalf of dietary supplements, and the use of promotional literature in connection with the distribution of these products.

To deal with these concerns about the legislation in its present form, Members of both the Senate and the House of Representatives have been engaged in numerous bipartisan meetings over the past several months. We have made significant progress in refining the issues and working out a consensus solution that all of us can support.

I continue to hope that a reasonable compromise can be reached that will protect the public health against dangerous or fraudulent products, without interfering with the large number of legitimate dietary supplements that are now available or that will become available in the future as a result of the remarkable scientific progress that is taking place and the greater and greater knowledge we are acquiring about diets and health.

The issues that divide us are not insurmountable. We all have a responsibility to ensure a fair resolution of these concerns. I hope we can continue to work with our Senate and House colleagues to expedite final action on this measure.

DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT

Mr. HATCH. Mr. President, this is a momentous day in the U.S. Senate.

Today, we honor the wishes of 100 million people, consumers of dietary supplements, people who simply want the ability to lead healthy lifestyles without the constant intervention of one tiny agency which is possessed by a regulatory zeal equaling none.

It is entirely appropriate that we consider the Dietary Supplement Health and Education Act today, as the Senate completes another day of debate on the health care reform legislation. For there is no bill which can lead to improved health more than S. 784.

The substitute that I offer today embodies the text of the Dietary Supplement Health and Education Act as approved by the Labor and Human Resources Committee on May 11, with several important changes negotiated by Senator HARKIN and myself in response to concerns raised by several Senators immediately prior to the markup.

Our overwhelming consideration in considering this legislation today is that the legislative session is rapidly drawing to a close. The specter of our all-consuming debate on health care reform hangs over us. That debate will surely continue for days, if not weeks.

In the interim, we have a legislative proposal which is cosponsored by 66 Senators, two-thirds of this body, and supported by many, many more.

In the House, the counterpart legislation authored by our esteemed colleague, Representative BILL RICHARDSON, has over 250 cosponsors. Unfortunately, that bill has not been marked up yet, either in subcommittee or full committee.

Mr. President, Senate staff has been meeting on almost a daily basis with the staff of Chairmen DINGELL and WAXMAN; we have made some progress, but we have not been able to bring the negotiations to a conclusion after several weeks of discussion.

I am very appreciative of the great amount of time the House staff has devoted to this effort, especially at such a busy time in our legislative agenda. There is no question they have a strong desire to work this out.

Chairman DINGELL's most able counsel, Kay Holcombe, one of the best staffers on Capitol Hill in my estimation, and Chairman WAXMAN's counsel, Bill Schultz, a superb food and drug lawyer, have gone out of their way to make the time for these negotiating sessions. For that, I—and I believe I am speaking for Senator HARKIN as well—owe a great debt of gratitude.

Nevertheless, we have to realize that the situation is very different in the Senate with a bill which has been reported by the Labor and Human Resources Committee on a 13 to 4 vote. I have the greatest respect for our House colleagues, but I recognize that they do have differing views about the regulation of products which fall under the purview of the Food and Drug Administration. The issues surrounding the regulation of dietary supplements are tremendously complicated, and there are many details we have to work out.

I want to make very, very clear, that we recognize there will be no final bill without the participation and agreement of our House colleagues. We are not intending to act unilaterally here, but rather to show the Senate's eagerness to move this issue to a conclusion.

After this amendment passes, as I know it will, I intend that our staffs continue negotiations with the House, in an effort to wrap this up. I will be available any time, day or night, to meet with our House colleagues, as I am sure is the case with Senator HARKIN.

This dialog with the House is one I wish to continue; I want to make that abundantly clear.

As I mentioned, the language we offer today differs from the Dietary Supplement Health and Education Act in several crucial ways which I will outline.

As you know, S. 784 makes clear that dietary supplements are not food additives or drugs, and that the burden of proof shall be on the FDA to prove that a product is unsafe. That basic premise does not change.

Drafters of the legislation, though, were criticized for a definition of dietary supplement which some felt was overly broad. We have tried to tighten that up.

Some then believed that the language would allow drugs such as taxol to be marketed in the United States as dietary supplements. Senator HARKIN and I worked for some time after the markup to resolve that issue, and the language we present today addresses that concern.

Other concerns were raised about the safety standard in the bill; that is, the standard which FDA uses to gauge whether a product is unsafe and thus should be removed from the market.

I continue to believe that the safety standard in the law is adequate. However, in deference to concerns that FDA may not have the authority to remove potentially dangerous products from the market, we have inserted a provision giving the Secretary emergency authority to act against dietary supplements which pose an imminent and substantial public health hazard.

We took this language from a similar provision in the drug law.

Some have argued that this new provision would be ineffective, because the drug language has been in the statute since 1938 and has seldom been utilized.

I look at it the other way. The reason this emergency authority has been seldom used is that the threat of this tool is so effective; it is such a powerful enforcer that it doesn't need to be utilized to be effective.

Another issue about which much concern was expressed is health claims.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Under S. 784, as introduced, dietary supplement health labeling claims would be allowed as long as they are truthful and not misleading and are based on the totality of scientific evidence. Because of FDA's bias against dietary supplements and dietary supplement claims, I was not, and am not, comfortable in allowing the FDA the power to approve claims—simply because they won't approve claims, as history has shown.

However, in deference to concern raised by several of our colleagues, both on and off the Labor Committee, Senator HARKIN and I are willing to consider a fair claims process, on two conditions: First, that consumers will be guaranteed access to information about dietary supplements through truthful and nonmisleading third-party literature such as journals or newspaper articles; and second, dietary supplement manufacturers will be able to make so-called structure/function or nutrition support statements, statements about how a nutrient affects the structure or function of the body.

An example of a structure/function claim is "Calcium builds strong bones." Manufacturers have the right to make such statements under current law, and our bill clarifies that they continue to have this right.

With respect to third-party literature, the Harkin-Hatch compromise states that truthful and nonmisleading information can be provided to consumers in connection with the marketing of dietary supplements, provided that information does not promote any specific product or brand, provided the information is balanced, and provided it is maintained in a location which is physically separate from the products.

It should be emphasized that these new provisions allowing the use of certain independent third-party literature in connection with the sale of dietary supplement products in no way detract from the right of a retail health food store or any other business or person to sell independently both dietary supplements and books or other literature about nutrients.

The United States Court of Appeals for the Second Circuit ruled in *United States* v. *Sterling Vinegar and Honey * * * and an Undetermined Number of Copies of * * * Books*, 333 F.2d 157—2nd Cir. 1964—that a health food store could, properly, sell both a honey-vinegar product and, separately, books about the purported health- and disease-related benefits of a honey-vinegar combination, without having the books be deemed to be labeling when there was no "integrated use" of the books and the honey-vinegar product by the store. That case remains good law, and nothing in this legislation would change it.

Instead, what the legislation would do would be to permit the use of certain types of third party literature in direct connection with the sale of dietary supplement products. The literature would need to meet certain criteria that would generally establish the independence and reliability of the material; that is, the bill would require: First, that any such item would need to be "not false or misleading"; second, that it "not promote a particular brand of dietary supplement"; third, that it be displayed or presented so as to present a "balanced view" of the available information; and fourth, that if displayed in a location in an establishment, it be displayed "physically separate" from the dietary supplements.

Thus, I want to make clear that our language in no way interferes with the current ability of retailers to maintain a library or literature section in their stores which contain both reference materials and materials for sale.

A major way in which this amendment differs from the original Dietary Supplement Health and Education Act is in the treatment of health claims.

This amendment makes clear that dietary supplements will be subject to the preapproval process and standard of Nutritional Labeling and Education Act for the 2-year period that a new, independent Commission determines the most appropriate process.

This is a major compromise, and I was not totally comfortable in agreeing to it. However, I do believe the provision is necessary if we are to get a bill signed this year. As long as the authority is time-limited and Congress has an ability to reexamine it in the future, I believe it is reasonable to include it in our compromise.

Two other changes are important to note.

At the request of our colleague from Washington, Senator MURRAY, we have included a provision requiring that all dietary supplements be labeled with an expiration date. Senator MURRAY's suggestion is a good improvement to our bill.

After S. 784 was introduced, the food industry expressed some concern that the language put them at a competitive disadvantage, since dietary supplement claims could be made under a lower standard than those for foods.

That situation is not the case under this substitute, since all dietary supplement claims during the 2-year period would be subject to the same process and standard as that for foods.

I am aware that some Members of this body sought additional provisions relating to foods in this bill. I sincerely regret that we could not bring together consensus on this matter in the Senate. Senator HARKIN and I tried very hard and we will keep working to pursue this in the House.

Finally, at the suggestion of Chairman DINGELL, the substitute supports the establishment of appropriate dietary supplement good manufacturing practice regulations. Dietary supplements currently are subject to the good manufacturing practices [GMP] requirements for foods.

We believe Chairman DINGELL raised a valid point that dietary supplements may require different manufacturing and quality controls and a provision addressing his concern is included.

The substitute continues other provisions contained in our original bill. One of those is the authorization for an Office of Dietary Supplements at the National Institutes of Health, so that we can encourage more focus on research into the health benefits of nutritional supplements.

Another is a provision allowing judicial review of FDA warning letters, if the issue giving rising to the letter is not resolved within 60 days. The bill makes clear that the provision only allows manufacturers to go to court to challenge the findings in the warning letter; it does not preclude the FDA from taking any action it finds necessary under law to resolve the situation.

Mr. President, I want to underscore here the wide range of support for this amendment.

Our efforts are supported by groups ranging from Citizens for Health, with chapters all throughout the Nation, to the Alliance for Aging Research, to the Utah Natural Products Alliance. Our substitute is supported by the National Nutritional Foods Association, the Nutritional Health Alliance, and the Council for Responsible Nutrition.

In particular, I want to cite the dedicated efforts of Citizens for Health, whose hundreds of members have worked tirelessly and unselfishly to make this an informed and successful debate. There is no question in my mind that the work of this citizen army makes today's victory possible.

Others have worked very closely with us and I want to recognize their special efforts, including the National Council for Improved Health, Michael Onstott and the others at the Alternative Treatment Committee of the AIDS Coalition to Unleash Power [ACT-UP], San Francisco, Dr. Julian Whitaker, a noted physician and president of the American Preventive Medical Association.

Let me also mention the valuable information that has been provided to me by several other individuals, including: the late Royden Brown, a leader in the alternative medicine community; Claire Farr, president of Claire Industries; Ken Murdock, chairman of Nature's Way; Richard Bizzaro, president of Wieder Foods; and Jeff Henricks, president of Solaray.

Finally, I want to cite the stellar testimony at our hearing by nutritionist and author Patricia Hausman, and by Dr. Michael Janson, who is a fellow and member of the board of directors of the American College for Advancement in Medicine and the chairman of their scientific advisory committee.

These people and organizations have all done fabulous work in helping to bring the bill forward to the Senate floor, and I will be counting on them to help Representative RICHARDSON, Representative GALLEGLY, and me move the bill through the House as well.

These organizations recognize what two-thirds of the Senate has recognized: for over 30 years, the FDA has pursued a single-minded regulatory agenda which has stifled the ability of consumers to have access to safe dietary supplements and information about those supplements.

Despite a voluminous scientific record indicating the potential health benefits of dietary supplements, the Food and Drug Administration has pursued a heavy-handed enforcement agenda against nutritional supplements which has forced the Congress to intervene on two previous occasions, and yet again with adoption of this amendment.

In 1962, the FDA published regulations setting minimum and maximum levels for supplements. These regulations were withdrawn in the face of strong citizen protest.

Between 1966 and 1973, the agency issued proposed regulations on the labeling and content of dietary food products. FDA tried to classify vitamins as over-the-counter drugs if the product exceeded 150 percent of the recommended daily allowances [RDA]. Vitamins A and D would have been prohibited under most circumstances. Congress negated this action in 1976 when it approved the Proxmire/Rogers amendment to the Federal Food, Drug and Cosmetic Act.

Blocked by the Proxmire amendment, later in the 1970's, FDA tried to regulate vitamins by claiming they were toxic, and therefore their potencies could be regulated. The Federal courts rejected FDA's attempt to end-run the Proxmire.

In 1980, the FDA issued a proposed over-the-counter drug monograph for vitamins and minerals. The document supposedly dealt only with potency above the RDA, thereby implicitly placing a potency limit on vitamins and minerals. The proposal was withdrawn after strong opposition.

Beginning in the late 1970's, FDA turned from drug potency arguments to enforcement attempts utilizing the food additive theory to prohibit the sale of supplements which bore no claims. Essentially, the theory was that any ingredient added to a capsule or tablet rendered the resulting dietary supplement a food additive because the ingredient was added to the capsule or tablet. Under this theory, FDA could not lose, as it needed only to furnish an affidavit from one of its scientists stating that experts generally did not regard the product as safe. The actual safety of the product was never at issue.

Between 1986 and 1990, the FDA issued four health message documents for food products. This reflected FDA's initial policy with respect to the ability of food manufacturers to make limited claims about how a nutrient might prevent certain chronic diseases, such as fiber and cancer, without rendering those drug products unapproved drugs. FDA left a very narrow area for dietary supplement health messages. The level of proof required for dietary supplement claims was unrealistic in that the degree of scientific consensus and clinical data required eliminated almost all existing supplement claims.

With enactment of the Nutrition Labeling and Education Act [NLEA] of 1990, Congress directed the FDA to use the significant scientific agreement standard when deciding if foods could make claims about the relationship of the nutrient to a disease, so-called health claims. The statute specifically said that the FDA could recommend a different standard and approval procedure for supplements.

In December, 1991, FDA proposed rules implementing the NLEA, but rejected all but one claim for supplements—for calcium/osteoporosis in white and Asian women. Only one other claim has been approved since that time, the claim for folic acid and neural tube defects, and that claim was only approved after intense public pressure on the FDA.

Twice since 1991, FDA has proposed that it use the same standard and procedure for health claims for foods as on dietary supplements. In 1992, the Congress imposed a 1-year moratorium barring FDA from implementing the rule changes for 1 year. In 1993, the Senate unanimously adopted a second moratorium, but the House did not act on that legislation.

The FDA's policies on dietary supplements have not been sustained in the courts as well. FDA has asserted to Congress that in pursuing food additive allegations against dietary supplement ingredients, it is simply applying the current law in a reasonable manner and restricting its actions to products that present serious safety concerns. Two recent Federal judicial decisions, however, show that, in fact, FDA has been distorting the law in its actions to try to prevent the marketing of safe dietary supplement substances.

The FDA's efforts to ban the safe dietary supplement of black currant oil by asserting that it was an unsafe food additive were rejected last year by two unanimous decisions of two different three-judge panels in two different U.S. courts of appeals (*United States* v. *Two Plastic Drums—Viponte Ltd. Black Currant Oil—Traco Labs, Inc.*, 984 F.2d 814 (7th Cir. 1993), *United States* v. *29 Cartons of—an Article of Food—Oakmont Investment Co.*, 987 F.2d 33 (1st Cir. 1993).

In both of these cases, FDA asserted that black currant oil [BCO] was a food additive because it was added to gelatin capsules. The seventh circuit noted that "FDA has not shown that BCO is adulterated or unsafe in any way." The court described the FDA's effort as an "Alice in Wonderland" approach. Further, the decision by the first circuit described FDA's approach as nonsensical.

Despite these two setbacks in the court, the FDA recommended to the Department of Justice that petitions be filed to have these cases overturned in the Supreme Court. The Solicitor General did not file those petitions.

These examples show how the FDA has tried to protect the public against unsafe products for which there is no evidence that the product is unsafe. The FDA has also acted to restrict the information that the public may receive about dietary supplements. Folic acid is a clear example as was brought out at our Labor Committee hearing last October.

In September 1992, the Public Health Service issued a recommendation that all women of child-bearing age have adequate folic acid to prevent against birth defects. The Centers for Disease Control had made a similar recommendation 1 year before. Despite these two recommendations, and despite the fact that the FDA participated in the PHS proceedings leading up to the announcement, FDA did not issue a regulation proposing approval of a health claim for folic acid until October, 1993, 1 week before the committee's hearing on dietary supplements.

Absent approval of a health claim by the FDA, it was illegal for manufacturers or retailers to advise the public about the benefits of folic acid, even though those benefits had been endorsed by the leading Federal public health agencies.

If that isn't significant scientific agreement, I don't know what is.

What is ironic about this situation, Mr. President, is that the one element of today's health care deliberations on which there is unanimous agreement is the need for preventive health care measures and efforts to increase health promotion and disease prevention.

Unfortunately, millions of Americans do not have healthy diets and their nutrition deficit places them at risk. Senior citizens, pregnant women, infants, children, dieters, and smokers are especially vulnerable.

Debate on health care reform in the 103d Congress makes clear that improving the health status of all Americans ranks at the top of our national priorities. It is equally clear that good nutrition, which clinical research has shown to limit the incidence of chronic diseases and reduce health care expenditures, should also be an important national objective. Today, more than 100

VOL 140 PT 16 AG 12 — 18 1994 UMI

million Americans supplement their diets through the regular or occasional use of vitamins, minerals, herbs, amino acids, or other nutritional substances. We have all heard from these consumers, and we all know how strongly they support this legislation.

Let us remember why this legislation is necessary.

It is not one Senator versus another, nor Democrat versus Republican, nor the Senate versus the House.

It is the U.S. Congress versus the Food and Drug Administration.

It is the majority of the U.S. Senate versus the continual harassment by one tiny agency which has constantly misled the American public through deliberately false and misleading statements.

It is the 250 Members of the House of Representatives against mindless Government bureaucracy, against continual overregulation, against an agency whose guiding principle has always been: One way—their way.

Here we are about to enter an unprecedented consideration of the Health Security Act, legislation which attempts to restructure one-seventh of the American economy in the name of good health for our citizens.

Here we are saying we want the American people to be as healthy as they can. Here we are meeting virtually round-the-clock to make this our top priority.

And at the same time, we are letting the FDA stand in the way of 100 million consumers' efforts to make themselves more healthy. It doesn't make any sense.

If we don't pass this bill and correct the situation, we will be parties to that charge of gridlock our constituents condemn.

There is no disagreement among us that consumers must have access to safe dietary supplements and to information about those supplements.

Any concerns that were raised about this bill, Senator HARKIN and I worked very hard to address, as I have outlined.

But let us not kid ourselves. We are starting debate on health care reform this week, and we will not have the opportunity for protracted discussion of the dietary supplement issue.

The Congress has moved a great deal on this issue since Senator REID and I introduced the original bill last April. All of this progress has been made despite the lack of cooperation by the Food and Drug Administration, an agency which, in my mind, has lied to the American public and the Congress.

And let us not forget that FDA has all the authority in the world to take bad products off the market; they just don't use it.

Critics say that the industry is misleading the public by predicting that the FDA will make dietary supplements prescription drugs, even though the FDA published a proposal soliciting comments on whether certain amino acids and herbs should be drugs. That regulation has never been withdrawn.

If you are talking about false and misleading statements, Mr. President, the FDA has a corner on the market.

I draw your attention to our Labor Committee hearing last October, when Dr. Kessler and I discussed his agency's "Unsubstantiated Claims and Documented Health Hazards in the Dietary Supplement Marketplace." I think many of us were astounded to learn of all the inaccuracies FDA made in the name of informing the Congress.

The report was so riddled with error, so flawed, that I think it calls into question the veracity of the officials who prepared it—34 of the 528 products on FDA's list simply don't exist, 142 were assigned to companies that neither manufactured nor sold the product; and 25 products were listed more than once.

At the hearing, I asked Dr. Kessler to withdraw the report; he did not.

After the hearing, BILL RICHARDSON, ELTON GALLEGLY, and I wrote to Secretary Shalala and asked her to withdraw the report; she did not. She said that the FDA would respond on my specific concerns. They sent me a report signed by a junior official which addressed none of my concerns.

At the hearing, I gave Dr. Kessler every opportunity to redeem his agency's credibility. I repeatedly asked him for documentation of his statements, even though his office had provided me with all the documentation which they said existed.

So, FDA said they would provide it for the record.

Well, that was October 21, 1993, almost 1 year ago. The record has been printed. Every single copy of the hearing has been snatched up by eager consumers. And still we have received no documentation. And at least 10 items that Dr. Kessler promised to follow up on for the record were never supplied.

Dr. Kessler brought the dog and pony show of bad products before the committee. I asked them to leave them so we could examine them and see what type of claims FDA thought were a problem.

Dr. Kessler refused, but said, "Senator, we would be happy to make copies of the labels and give you those."

That was almost a year ago and we're still waiting.

Let me tell you what has happened in those 10 months.

FDA has issued its final regulations, regulations so flawed that our only recourse, I believe, is to see them withdrawn.

And while the bureaucrats were over in FDA dotting all the i's and crossing all the t's on these regulations, what were they doing to discharge their authority under the law to protect consumers from false and misleading claims?

What were they doing? Nothing. Zippo. Zip.

You know how many seizures they have recommended against dietary supplement manufacturers since October? Zero.

You know how many prosecutions they have recommended? Zero.

And how many recalls? Just two.

I guess they were expecting us to take action against all those little bottles and boxes they brought up to the hearing, because the FDA sure didn't have any interest in doing so.

So, I go back to my original premise, Mr. President.

I have seen the enemy, and it is not anyone in this Chamber.

We have all worked long and hard. We have had to make compromises that none of us would have liked, but we have done it in the name of good public policy.

I urge that we move this issue forward and that we continue our efforts with the House to see a dietary supplement bill enacted as soon as possible.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 2562) was agreed to.

Mr. DASCHLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dietary Supplement Health and Education Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) improving the health status of United States citizens ranks at the top of the national priorities of the Federal Government;

(2) the importance of nutrition and the benefits of dietary supplements to health promotion and disease prevention have been documented increasingly in scientific studies;

(3)(A) there is a definitive link between the ingestion of certain nutrients or dietary supplements and the prevention of chronic diseases such as cancer, heart disease, and osteoporosis; and

(B) clinical research has shown that several chronic diseases can be prevented simply with a healthful diet, such as a diet that is low in fat, saturated fat, cholesterol, and sodium, with a high proportion of plant-based foods;

(4) healthful diets may mitigate the need for expensive medical procedures, such as coronary bypass surgery or angioplasty;

(5) preventive health measures, including education, good nutrition, and appropriate use of safe nutritional supplements will limit the incidence of chronic diseases, and reduce long-term health care expenditures;

(6)(A) promotion of good health and healthy lifestyles improves and extends lives while reducing health care expenditures; and

(B) reduction in health care expenditures is of paramount importance to the future of the country and the economic well-being of the country;

(7) there is a growing need for emphasis on the dissemination of information linking nutrition and long-term good health;

(8) consumers should be empowered to make choices about preventive health care programs based on data from scientific studies of health benefits related to particular dietary supplements;

(9)(A) national surveys have revealed that almost 50 percent of the 260,000,000 Americans regularly consume dietary supplements of vitamins, minerals, or herbs as a means of improving their nutrition; and

(B) nearly all consumers indicate that dietary supplements should not be regulated as drugs;

(10) studies indicate that consumers are placing increased reliance on the use of nontraditional health care providers to avoid the excessive costs of traditional medical services and to obtain more holistic consideration of their needs;

(11) the United States will spend over $1,000,000,000,000 on health care in 1994, which is about 12 percent of the Gross National Product of the United States, and this amount and percentage will continue to increase unless significant efforts are undertaken to reverse the increase;

(12)(A) the nutritional supplement industry is an integral part of the economy of the United States;

(B) the industry consistently projects a positive trade balance; and

(C) the estimated 600 dietary supplement manufacturers in the United States produce approximately 4,000 products, with total annual sales of such products alone reaching at least $4,000,000,000;

(13) although the Federal Government should take swift action against products that are unsafe or adulterated, the Federal Government should not take any actions to impose regulatory barriers limiting or slowing the flow of safe products and needed information to consumers;

(14) dietary supplements are safe within a broad range of intake, and safety problems with the supplements are relatively rare; and

(15)(A) legislative action that protects the right of access of consumers to safe dietary supplements is necessary in order to promote wellness; and

(B) a rational Federal framework must be established to supersede the current ad hoc, patchwork regulatory policy on dietary supplements.

(b) PURPOSE.—It is the purpose of this Act to—

(1) improve the health status of the people of the United States and help constrain runaway health care spending by ensuring that the Federal Government erects no regulatory barriers that impede the ability of consumers to improve their nutrition through the free choice of safe dietary supplements;

(2) clarify that—

(A) dietary supplements are not drugs or food additives;

(B) dietary supplements should not be regulated as drugs;

(C) regulations relating to food additives are not applicable to dietary supplements and their ingredients used for food additive purposes, including stabilizers, processing agents, or preservatives; and

(D) the burden of proof is on the Food and Drug Administration to prove that a product is unsafe before it can be removed from the marketplace;

(3) establish a new definition of a dietary supplement that differentiates dietary supplements from conventional foods, while recognizing the broad range of food ingredients used to supplement the diet;

(4) strengthen the current enforcement authority of the Food and Drug Administration by providing to the Administration additional mechanisms to take enforcement action against unsafe or fraudulent products;

(5) establish a series of labeling requirements that will provide consumers with greater information and assurance about the quality and content of dietary supplements, while at the same time assuring the consumers the freedom to use the supplements of their choice;

(6) provide new administrative and judicial review procedures to affected parties if the Food and Drug Administration takes certain actions to enforce dietary supplement requirements; and

(7) establish a Commission on Dietary Supplement Labels within the executive branch to develop recommendations on a procedure to evaluate health claims for dietary supplements and provide recommendations to the President and the Congress.

SEC. 3. DEFINITIONS.

(a) DEFINITION OF CERTAIN FOODS AS DIETARY SUPPLEMENTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(ff) The term 'dietary supplement' means—

"(1) a product intended to supplement the diet by increasing the total dietary intake that bears or contains one or more of the following dietary ingredients:

"(A) a vitamin;

"(B) a mineral;

"(C) an herb or other botanical;

"(D) an amino acid;

"(E) another dietary substance for use by man to supplement the diet by increasing the total dietary intake; or

"(F) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in clause (A), (B), (C), (D), (E) or (F);

"(2) a product that—

"(A)(i) is intended for ingestion in a form described in section 411(c)(1)(B)(i); or

"(ii) complies with section 411(c)(1)(B)(ii); and

"(B) is not represented for use as a conventional food or as a sole item of a meal or the diet; and

"(C) is labeled as a dietary supplement.".

(b) EXCLUSION FROM DEFINITION OF DRUG.—Section 201(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)) is amended by adding at the end the following new subparagraph:

"(3) The term 'drug' does not include a dietary supplement as defined in paragraph (ff), except that—

"(A) an article that is approved as a new drug, certified as an antibiotic (under section 355 or 357), or licensed as a biologic (under section 351 of the Public Health Service Act (42 U.S.C. 262 et seq.)) and was, prior to such approval, certification or license, marketed as a dietary supplement or as a food, may continue to be offered for sale as a dietary supplement unless the Secretary has issued a regulation, after notice and comment, finding that the article when used as or in a dietary supplement under the conditions of use and dosages set forth in the labeling for such dietary supplement, is unlawful under section 402(f); and

"(B) an article that is approved as a new drug, certified as an antibiotic (under section 355 or 357), or licensed as a biologic (under section 351 of the Public Health Service Act (42 U.S.C. 262 et seq.)) and was not prior thereto marketed as a dietary supplement or as a food, may not be considered as a dietary ingredient or dietary supplement unless the Secretary has issued a regulation, after notice and comment, finding that the article would be lawful under section 402(f) under the conditions of use and dosages set forth in the recommended labeling for such article.".

(c) EXCLUSION FROM DEFINITION OF FOOD ADDITIVE.—Section 201(s) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s)) is amended—

(1) by striking "or" at the end of subparagraph (4);

(2) by striking the period at the end of subparagraph (5) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(6) an ingredient described in paragraph (ff) in, or intended for use in, a dietary supplement.".

(d) FORM OF INGESTION.—Section 411(c)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350(c)(1)(B)) is amended—

(1) in clause (i), by inserting "powder, softgel, gelcap," after "capsule."; and

(2) in clause (ii), by striking "does not simulate and".

SEC. 4. SAFETY OF DIETARY SUPPLEMENTS AND BURDEN OF PROOF ON FDA.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(f) If it is a dietary supplement that—

"(1) the Secretary finds, after rulemaking, presents a substantial and unreasonable risk of illness or injury under conditions of use recommended or suggested in labeling;

"(2) the Secretary declares to pose an imminent and substantial hazard to public health or safety, except that the authority to make such declaration shall not be delegated and the Secretary shall promptly thereafter convene rulemaking pursuant to section 701(e), (f), and (g) to affirm or withdraw the declaration; or

"(3) is or contains a dietary ingredient that renders it adulterated under paragraph (a)(1) under the conditions of use recommended or suggested in the labeling of such dietary supplement.

In any proceeding under this section, the United States bears the burden of proof on each element to show that a dietary supplement is adulterated.".

SEC. 5. DIETARY SUPPLEMENT CLAIMS.

(a) SUPPLEMENT CLAIMS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by inserting after section 403A the following new section:

"DIETARY SUPPLEMENT LABELING EXEMPTIONS

"SEC. 403B. An article, another publication, a chapter in books, or the official abstract of a peer-reviewed scientific publication that appears in the article and was prepared by the author or the editors of the publication, reprinted in its entirety, shall not be defined as labeling when used in connection with the sale of dietary supplements to consumers when it—

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(1) is not false or misleading;

"(2) does not promote a particular brand of a dietary supplement;

"(3) is displayed or presented, or is displayed or presented with other such items on the same subject matter, so as to present a balanced view of the available scientific information on a dietary supplement; and

"(4) if displayed in an establishment, is physically separate from the dietary supplements.

This section shall not apply to or restrict a retailer or wholesaler of dietary supplements in any way whatsoever in the sale of books or other publications as a part of the business of such retailer or wholesaler. In any proceeding under this section, the burden of proof shall be on the United States to establish that an article or other such matter is false or misleading.".

SEC. 6. STATEMENTS OF NUTRITIONAL SUPPORT.

Section 403(r)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(1)) is amended by adding the following new sentence at the end: "For purposes of this subparagraph, a statement for a dietary supplement shall not be considered a claim of the relationship of a nutrient or dietary ingredient to a disease or health-related condition if the statement does not claim to diagnose, prevent, mitigate, treat, or cure a specific disease or class of diseases. A statement for a dietary supplement may be made if the statement claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption of a nutrient or dietary ingredient.".

SEC. 7. CONFORMING AMENDMENTS.

(a) SECTION 201.—The next to the last sentence of section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) (as amended by section 3(b)) is amended to read as follows: "A food or dietary supplement for which a claim, subject to section 403(r)(1)(B) and 403(r)(3) or section 403(r)(1)(B) and 403(r)(5)(D), is made in accordance with the requirements of section 403(r) is not a drug solely because the label or the labeling contains such a claim. A food, dietary ingredient, or dietary supplement for which a truthful and nonmisleading statement is made in accordance with section 403(r)(1) is not a drug solely because the label or the labeling contains such a statement.".

(b) SECTION 403.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following:

"A dietary supplement shall not be deemed misbranded solely because its label or labeling contains directions or conditions of use or warnings."

SEC. 8. ADMINISTRATIVE AND JUDICIAL REVIEW.

The Federal Food, Drug, and Cosmetic Act is amended by adding at the end of chapter III (21 U.S.C. 331 et seq.) the following new section:

"SEC. 311. WARNING LETTERS.

"Any warning letter or similar written threat of enforcement under the Federal Food, Drug, and Cosmetic Act constitutes final agency action for the purpose of obtaining judicial review under chapter 7 of title 5, United States Code, if the matter with respect to such letter or threat is not resolved within 60 days from the date such letter or threat is delivered to any person subject to this Act. In any proceeding for judicial review of a warning letter or similar written threat of enforcement under the Act, the United States bears the burden of proof on each element of each alleged violation of law described.".

SEC. 9. WITHDRAWAL OF THE REGULATIONS AND NOTICE.

(a) IN GENERAL.—The advance notice of proposed rulemaking concerning dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33690–33700), the notices of proposed rulemaking concerning nutrition labeling for dietary supplements and nutrient content claims for dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33715–33731 and 58 FR 33731–33751), and the final rules and notices published in the Federal Register of January 4, 1994 concerning nutrition labeling for dietary supplements and nutrient content claims for dietary supplements (59 FR 354–378 and 378–395) are null and void and of no force or effect insofar as they apply to dietary supplements. Final regulations and notices published in the Federal Register of January 4, 1994 concerning health claims for dietary supplements under the Nutrition Labeling and Education Act of 1990 (59 FR 395–426) shall not be affected by this section and shall remain in effect until 120 days after the date of the submission of the final report of the Commission established under section 11 to the President and to Congress, or 28 months after the date of enactment of this Act, whichever is earlier.

(b) NOTICE OF REVOCATION.—The Secretary of Health and Human Services shall publish notices in the Federal Register to revoke all of the items declared to be null and void and of no force or effect under subsection (a).

(c) ISSUANCE OF REGULATIONS.—Notwithstanding any provision of the Nutrition Labeling and Education Act of 1990—

(1) no regulation is required to be issued pursuant to such Act with respect to dietary supplements of vitamins, minerals, herbs, amino acids, or other similar nutritional substances; and

(2) no regulation that is issued in whole or in part pursuant to such Act shall have any force or effect with respect to any dietary supplement of vitamins, minerals, herbs, amino acids, or other similar nutritional substances unless such regulation is issued pursuant to rulemaking proceedings that are initiated by an advance notice of proposed rulemaking that is published no earlier than 2 years after the date of enactment of this Act, and followed by, at least, a notice of proposed rulemaking prior to issuance of the final regulation, except insofar as the regulation authorizes the use of labeling about calcium, folic acid, or other matters and does not prohibit the use of any labeling.

SEC. 10. DIETARY SUPPLEMENT INGREDIENT LABELING AND NUTRITION INFORMATION LABELING.

(a) MISBRANDED SUPPLEMENTS.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following new paragraph:

"(s) If—

"(1) it is a dietary supplement; and

"(2)(A) the label or labeling of the supplement fails to list—

"(i) the name of each ingredient of the supplement that is described in section 201(ff); and

"(ii)(I) the quantity of each such ingredient; or

"(II) with respect to a proprietary blend of such ingredients, the total quantity of all ingredients in the blend;

"(B) the label or labeling of the dietary supplement fails to identify the product by using the term 'dietary supplement', which term may be modified with the name of such an ingredient;

"(C) the supplement contains an ingredient described in section 201(ff) (1)(C), and the label or labeling of the supplement fails to identify any part of the plant from which the ingredient is derived;

"(D) the supplement—

"(i) is covered by the specifications of an official compendium;

"(ii) is represented as conforming to the specifications of an official compendium; and

"(iii) fails to so conform; or

"(E) the supplement—

"(i) is not covered by the specifications of an official compendium; and

"(ii)(I) fails to have the identity and strength that the supplement is represented to have; or

"(II) fails to meet the quality (including tablet or capsule disintegration), purity, or compositional specifications, based on validated assay or other appropriate methods, that the supplement is represented to meet.".

(b) SUPPLEMENT LISTING ON NUTRITION LABELING.—Section 403(q)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(1)) is amended by adding at the end the following: "A dietary supplement may bear on the nutrition label or in labeling a listing and quantity of ingredients that have not been deemed essential nutrients by the Secretary if such ingredients are prominently identified as not having been shown to be essential or not having an established daily value.".

(c) DIETARY SUPPLEMENT LABELING EXEMPTIONS.—Section 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)) is amended by adding at the end the following new clause:

"(H) The labels of dietary supplements shall not be required to bear the nutrition information under subparagraph (1), but shall be required to list immediately above the ingredient listing the amount of nutrients required by the Secretary to be listed pursuant to clause (C), (D) or (E) of subparagraph (1) or clause (A) of subparagraph (2) that are present in significant amounts in the supplement.".

(d) VITAMINS AND MINERALS.—Section 411(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350(b)(2)) is amended—

(1) by striking "vitamins and minerals" and inserting "dietary supplement ingredients described in section 201(ff)";

(2) by striking "(2)(A)" and inserting "(2)"; and

(3) by striking subparagraph (B).

SEC. 11. COMMISSION ON DIETARY SUPPLEMENT LABELS.

(a) ESTABLISHMENT.—There shall be established as an independent agency within the executive branch a commission to be known as the Commission on Dietary Supplement Labels (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 7 members who shall be appointed by the President.

(2) EXPERTISE REQUIREMENT.—The members of the Commission shall consist of individuals with expertise and experience in dietary supplements and in the manufacture, regulation, distribution, and use of such supplements. At least three of the members of the Commission shall be qualified by scientific training and experience to evaluate the benefits to health of the use of dietary supplements and one of such three members shall have experience in pharmacognosy, medical botany, traditional herbal medicine, or other related sciences. No member of the Commission shall be biased against dietary supplements.

(c) FUNCTIONS OF THE COMMISSION.—The Commission shall conduct a study on, and provide recommendations for, the regulation of label claims for dietary supplements, including procedures for the evaluation of such claims. In making such recommendations, the Commission shall evaluate how best to provide truthful and nonmisleading information to consumers so that such consumers may make informed health care choices for themselves and their families.

(d) REPORTS AND RECOMMENDATIONS.—

(1) FINAL REPORT REQUIRED.—Not later than 24 months after the date of enactment of this Act, the Commission shall prepare and submit to the President and to the Congress a final report on the study required by this section.

(2) RECOMMENDATIONS.—The report described in paragraph (1) shall contain such recommendations, including recommendations for legislation, as the Commission deems appropriate.

(e) ADMINISTRATIVE POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 12. GOOD MANUFACTURING PRACTICES.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) (as amended by section 4) is further amended by adding at the end the following:

"(g)(1) If it is a dietary supplement and it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations issued by the Secretary under subparagraph (2).

"(2) The Secretary may by regulation prescribe good manufacturing practices for dietary supplements. Such regulations shall be modeled after current good manufacturing practice regulations for food and may not impose standards for which there is no current and generally available analytical methodology. No standard of current good manufacturing practice may be imposed unless such standard is included in a regulation promulgated after notice and opportunity for comment in accordance with the Administrative Procedure Act.".

SEC. 13. OFFICE OF DIETARY SUPPLEMENTS.

(a) IN GENERAL.—Title IV of the Public Health Service Act is amended by inserting after section 486 (42 U.S.C. 287c–3) the following:

"Subpart 4—Office of Dietary Supplements

"SEC. 486E. DIETARY SUPPLEMENTS.

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Dietary Supplements within the National Institutes of Health.

"(b) PURPOSE.—The purposes of the Office are—

"(1) to explore more fully the potential role of dietary supplements as a significant part of the efforts of the United States to improve health care; and

"(2) to promote scientific study of the benefits of dietary supplements in maintaining health and preventing chronic disease and other health-related conditions.

"(c) DUTIES.—The Director of the Office of Dietary Supplements shall—

"(1) conduct and coordinate scientific research within the National Institutes of Health relating to dietary supplements and the extent to which the use of dietary supplements can limit or reduce the risk of diseases such as heart disease, cancer, birth defects, osteoporosis, cataracts, or prostatism;

"(2) collect and compile the results of scientific research relating to dietary supplements, including scientific data from foreign sources or the Office of Alternative Medical Practice;

"(3) serve as the principal advisor to the Secretary and to the Assistant Secretary for Health, and to provide advice to the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs, on issues relating to dietary supplements including—

"(A) dietary intake regulations;

"(B) the safety of dietary supplements;

"(C) claims characterizing the relationship between—

"(i) dietary supplements; and

"(ii)(I) prevention of disease or other health-related conditions; and

"(II) maintenance of health; and

"(D) scientific issues arising in connection with the labeling and composition of dietary supplements;

"(4) compile a database of scientific research on dietary supplements and individual nutrients; and

"(5) coordinate funding relating to dietary supplements for the National Institutes of Health.

"(d) DEFINITION.—As used in this section, the term 'dietary supplement' has the meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and such sums as may be necessary for each subsequent fiscal year.".

(b) CONFORMING AMENDMENT.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

"(E) The Office of Dietary Supplements.".

Mr. DASCHLE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE LEGAL COUNSEL TO APPEAR AS AMICUS CURIAE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 248, a resolution submitted earlier today by Senators MITCHELL and DOLE; that the resolution and the preamble be agreed to; that the motions to reconsider be laid on the table, en bloc; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, Senator DAVE DURENBERGER's appeal from the denial of motions to dismiss his indictment is pending in the U.S. Court of Appeals for the District of Columbia Circuit. The indictment alleges that Senator DURENBERGER submitted false claims to the Senate in regarding reimbursement for lodging in a Minneapolis condominium.

Senator DURENBERGER moved to dismiss the indictment, asserting that Senate rules underlying the indictment cannot be the subject of an adjudication in court and that a statute governing payment of Senator vouchers bars the prosecution. The district court denied the motions, and Senator DURENBERGER has taken an appeal.

The Government has moved to dismiss Senator DURENBERGER's appeal or, in the alternative, moved for summary affirmance of the district court's orders. Either action, on the basis of motion papers alone, may have the effect of limiting Senator DURENBERGER's opportunity to present the points of his appeal as fully as he believes is warranted, and is a form of consideration that the court utilizes sparingly, usually in clear-cut cases.

The Federal courts of appeals have historically given full consideration to claims in appeals by Members of Congress that civil or criminal prosecutions conflict with the constitutional separation of powers, including in a civil appeal the D.C. Circuit decided last month involving a Member of the other body. The Senate shares an interest with Senator DURENBERGER in the thorough consideration by the courts of appeals of cases presenting questions under the separation of powers.

This resolution would authorize the Senate Legal Counsel to file a memorandum as amicus curiae on the Senate's behalf solely in support of Senator DURENBERGER's receiving a full opportunity to brief and argue his appeal.

Senators may recall that the Senate appeared as an amicus curiae once before in this proceeding to support a claim that Senator DURENBERGER was making under the speech or debate clause. Senator DURENBERGER's initial indictment was dismissed because of speech or debate violations. Those problems have been cured in the present case.

In the present filing, the Senate would take no position on the merits of any of Senator DURENBERGER's claims or defenses, but only on his opportunity to be heard.

The resolution (S. Res. 248) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

VOL
140
PT
16
AG
12
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18
1994
UMI

S. RES. 248

Whereas, in the case of *United States* v. *Durenberger*, No. 94-3105, pending an appeal in the United States Court of Appeals for the District of Columbia, the powers and responsibilities of Congress and the relationship among the branches of government have been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288*l*(a) (1988), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action which places in issue the powers and responsibilities of Congress under the Constitution: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in *United States* v. *Durenberger*, for the limited purpose of requesting the Court to give plenary consideration to the contentions of the United States and Senator Durenberger in regard to the separation of powers questions presented by the appeal.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, I enjoyed listening to all of the Senators who spoke on health care today. As the President knows, I have taken a great interest in this matter through the 18 years that I have been in the U.S. Senate. I look forward to somehow or other crafting a health care bill that all of us can, or at least the vast majority of us, can join in.

The last thing on Earth I want to see is a health care bill that passes that only has 50 or 51 people in support of it. So all of us have to keep open minds, look for what we can and do what we can to try to bring about health care that will be beneficial for all Americans.

I was interested in the comments of the distinguished Senator from Arkansas and in the comments of the distinguished Senator from Florida that there were 17 new taxes in this bill. Actually, the Senator from Florida misspoke. There are not just 17, there are 18 new taxes in the Mitchell bill.

I am concerned about that. I have a rough time seeing how people in America are going to want to have to put up with 18 more new taxes.

I ask unanimous consent that a listing of these 18 taxes be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE 18 NEW TAXES IN THE CLINTON-MITCHELL BILL

(Prepared by the office of Senator Judd Gregg)

1. Standard health plans will be subjected to a risk adjustment assessment by a State organization using a methodology developed by the Secretary of HHS. This tax will be levied on large, experience-rated employers as well as community-rated plans. (Sec. 1504.)

2. States may impose a premium assessment on the insurance plans offered in the State of up to one percent of the total premiums collected, to cover administrative costs incurred by the State. (Sec. 6007.)

3. A series of tobacco taxes will be phased in, including a 45-cent per pack tax. (Secs. 7101–7103.)

4. A 1.75 percent tax will be paid by the self-insured, issuers of insurance plans, and individuals providing health insurance administrative services on the amounts received as premium and administration payments. (Sec. 7111.)

5. A premium cap is set in the form of a 25 percent excise tax that will be levied on the excess premiums of high-cost/high-growth health plans. (Sec. 7112.)

6. A "recapture" tax will raise Medicare Part B premiums for individuals whose income is above the threshold of $80,000, or $100,000 for a couple. An even higher tax is charged for those income exceeds the threshold be $15,000 single/$30,000 joint. (Sec. 7121.)

7. A 10,000% excise will be charged on some type of ammunition. (Sec. 7131.)

8. There is a 2.9 percent tax increase on certain S corporation shareholders and partners. (Sec. 7132.)

9. A 2.9 percent Medicare Hospital Insurance Trust Fund tax will be imposed on all State and local employees. (Sec. 7133.)

10. Any benefits richer than those included in the standard benefits package that an employer provides will be included in an employee's income and will be taxed as "non-permitted" benefits. (Sec. 7201.)

11. Any benefits provided through a "cafeteria plan" or flexible benefit account will be included as part of an employee's income earnings and will be taxed. (Sec. 7202.)

12. The deductibility of payments for health insurance costs will be limited. (Sec. 7204).

13. A 35 percent tax will be assessed against the aggregate employer contribution for any insurance plan that do not conform to the standard benefit package, that vary in the amount of employer-provided contribution, or that discriminate under health status requirements. (Sec. 7211.)

14. The rules for tax-exempt status as a health care organization are restricted. (Sec. 7301, 7303–7304.)

15. A 25 percent excise tax is imposed upon beneficiaries of private inurement by tax-exempt health care organizations. Additional taxes will be levied against the management of such organizations, as well as beneficiaries under specific circumstances. (Sec. 7302).

16. Special tax rules that were applied to Blue Cross/Blue Shield are repealed. (Sec. 7305.)

17. Tax penalties are increased on incorrect information returns that are filed on non-employees. (Sec. 7502.)

18. Post-retirement deductions on medical and life insurance are limited. (Sec. 7521.)

Mr. HATCH. Mr. President, today marks what would have been the first day of recess, but I am glad to be here. I am glad to be here, because health care reform should rank at the top of our legislative agenda. It must be a priority.

The only problem I have with being in session today is that I was not able to return to Utah and listen to the people there, whose valuable input is so essential to the success of our legislative process.

And never was such input more crucial.

One thing I can tell you about the people of Utah is that they are a smart bunch. They are not being fooled by the rhetoric of the Clinton-Mitchell-Gephardt health plans, plans which will ultimately provide the Government with total control over the greatest health care system there has ever been.

Utahns understand the fact that when they say "Free health care for all," it really means "Poor quality health care for all." And that is poor quality health care for all, paid for by large burdensome taxes on the hardest working Americans, the middle class.

Utahns also know the term "employer mandate" is only a fancy smoke screen for a very large payroll tax and that payroll taxes by any name mean fewer jobs.

Utahns define the phrase "shared responsibility" to mean the middle class pays more for their health care while receiving less. This is how the administration and my colleagues from the other side of the aisle would like to reward those who pay their fair share.

The people of Utah are not falling for the attractively packaged bomb of burdens known as the Clinton-Mitchell Health Security Act, and neither is the rest of America.

They did not fall for version one.

They did not fall for version two.

And they will not fall for version three which we just received today.

As you can see, these versions are not little versions. This is big stuff. And it is going to affect every American citizen for decades to come if we do not do it right.

Utahns see the Mitchell bill for what it is: a surefire way to dismantle our health care infrastructure and place the costs of renovation on the American people.

I was interested in the comments of the distinguished Senator from Arkansas saying there are not that many new bureaucracies being created. When we have had plans this big, no matter what they have been in the history of the U.S. Senate, tell me when it has not involved a tremendous expansion of bureaucracy. If anybody believes that it does not, then I have a number of things I would like to sell to you, because you sure are a sucker.

That is all I can say about it.

What is so bad about the Health Security Act? A lot.

Today, however, I want to concentrate my remarks on two of its most devastating provisions.

The first problem is that the bill promises things it cannot possibly deliver. Let us look at its impact on the elderly.

Architects of the Health Security Act promise senior citizens the peace of mind that improved access to long-term care and home-and-community-based services belong. No one can dispute the need for that.

But at what price?

When advocates of the Mitchell plan tout its improved benefits for senior citizens, they neglect to read the fine print.

The Mitchell bill is funded through incredible cuts in the Medicare Program, cuts which I predict will jeopardize the whole future of Medicare in this country.

Congressional Budget Office calculations indicate that Medicare cuts in the Mitchell bill between now and 2004 total $198.8 billion. How on Earth can Medicare absorb cuts like that and still be viable, and keep up the high quality of work and medical care and treatment that the elderly have come to expect in this country? There is no way they can.

How can doctors absorb $10 billion in payment reductions and still agree to participate in Medicare? We are already having substantial problems in Utah with physicians who do not want to participate in Medicare because of its low payment rates. This bill will drive physicians out of the Medicare Program.

And it is not just Utah; it is everywhere in the country.

How can hospitals and nursing homes absorb $97.2 billion in cuts and still remain open?

How can clinical labs and patients who use their services absorb $21.2 billion in cuts? How can the home health program—one that I helped to bring into existence, worked hard to get it into existence, and which means so much to people whose lives are coming to an end-and for families who have to watch over them but have to work and need somebody to care for them. How can home health care programs see costs cut $63.9 billion and still remain viable? The answer is simple. They cannot. I have a problem with provisions in any bill which cut too deeply into Medicare. How the Mitchell bill jeopardizes Medicare is one of the hidden stories in this debate, and we ought to get it in the open right now.

Indeed, at the same time we are cutting Medicare, we are offering our citizens a new entitlement: prescription drug coverage. This, too, is a heartless hoax which victimizes the elderly. The drug benefit promised by the Mitchell plan would cost almost $100 billion in its first 6 years of operation, from fiscal years 1999 to year 2004.

What are we getting for our money? Not what you think. Fifty-five percent of the elderly now have prescription drug coverage. The deductible for retirees is typically $100 or less. Contrast that with the Mitchell bill. Estimates indicate that it would cover only a fraction of Medicare beneficiaries, 35 to 42 percent, with a deductible of about $650 and a new cost of $100 billion. What a deal.

Mr. President, nothing is as certain as death and taxes. This bill proves that point: cuts that surely mean the death of a Medicare program, and taxes the public would not believe. The Clinton-Mitchell health care bill contains at least 18 outright tax increases. Most of these are hidden taxes on the middle class that will sneak up on taxpayers like thieves in the night.

CBO numbers show that in the next decade the bill would raise taxes by a net amount of over a quarter of a trillion dollars. This means that every family of five in Utah will pay more than $5,100 in additional taxes because of this bill.

One of the examples of the hidden tax is the 1.75-percent levy on all insurance premiums. This tax will raise $75 billion over the next decade and will be paid, directly or indirectly, by almost everyone. Individuals who buy their own insurance, or who share the cost of health insurance premiums with their employer, will pay the tax directly.

In the case of employer-provided insurance, the tax on premiums will be passed on to employees in the form of lower wages, reductions in benefits or lost jobs.

It is ironic that a bill designed to keep the costs of health care down should immediately raise those costs by assessing a tax on health care insurance premiums.

Another stealth tax in the Clinton-Mitchell bill is the complicated 25 percent tax on health insurance plans whose premiums grow faster than a targeted growth rate. This tax, estimated to raise over $70 billion, would apply to virtually all health plans, according to the CBO.

Although this tax is a barely disguised method of price control, it is obvious already that it will never work. If it were an effective way of holding down premium costs, it would not raise much, if any, revenue.

I was shocked to learn that analysts have forecast that the Mitchell bill will cost Utah businesses $547.6 million a year starting in the year 2002, the year that the employer mandate would be triggered. That says it all.

Mr. President, I am not here to oppose health care reform. As I said, I believe we ought to work together to try and come up with a workable solution. I am here to oppose a version of health care reform that will doom the greatest health care system in the world and, at the same time, suck America's economy right down the drain.

I believe health care reform is possible.

I believe health care reform is desirable.

I believe health care reform is necessary.

But not reform like this.

The architects of the Clinton bill, however it is packaged, should get back to the drawing board and maybe sit down with some of us and work this out, for surely this house of cards is going to tumble.

I am very concerned about it, because I have seen through the years how difficult it is to get small, but effective, health care bills through, from home health care to drug price competition, patent term restoration, to the orphan drug bill, to S. 784, the dietary supplement bill. It takes an inordinate amount of work to get these bills through, and they are part and parcel of the health care program. I can name dozens and dozens of others that I have helped pass or worked on to get through.

I am the only Senator on all three committees involved in the health care debate. The Finance Committee which my dear friend from Arkansas and my dear friend from West Virginia and dear friend from South Dakota are all on, and the Labor and Human Resources Committee which has worked long and hard and, I felt, came up with a horrendous bill which is now part of the Mitchell bill; and, of course, the Judiciary Committee, all three of which have a lot to do with health care.

The Judiciary Committee is really concerned about medical liability issues, about antifraud issues, about ERISA issues. The Finance Committee is worried about almost everything involving taxes, money, and things involving Medicare, Medicaid, Social Security, ERISA, and so forth. The Labor and Human Resources Committee has almost all the public health issues.

Frankly, I am very concerned about what we are doing. But I really believe that this bill would be an absolute albatross around the necks of everybody in America, if we pass it in its current form. Nobody believes we are going to do that. And I want to pay tribute to everybody who is working hard and trying to come up with something that might really work well.

I will not talk any longer today on this, but I wanted to make some of these points, because I am very concerned that we are leading America down a path that is going to be almost impossible to get out of once we start down it. If we do it the wrong way, we are all going to be sorry about it. Of course, we will probably be dead and gone while our children are saddled with this albatross the rest of their lives.

RECESS UNTIL MONDAY, AUGUST 15, 1994, AT 10 A.M.

Mr. HATCH. Mr. President, If there is no further business to come before the Senate today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 5:07 p.m., recessed until Monday, August 15, 1994, at 10 a.m.

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140
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SENATE—*Monday, August 15, 1994*

(Legislative day of Thursday, August 11, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Today, as the Senate offers prayer to the Supreme Lawmaker of the universe, we will be led by the Senate's Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity!—Psalm 133:1.

"The Senate is the living symbol of our union of states."—Inscribed on west wall of Dirksen Senate Office Building.

Eternal God, Lord of history, Governor of the nations, the present situation gives America an opportunity to observe democracy at its best. Sometimes the democratic process seems like an irresistible force meeting an immovable object; yet, however slow and tedious, it is infinitely more desirable than a monarchy or a dictatorship. In the words of Winston Churchill, "Democracy is the worst form of government * * * except for all the other forms of government." We thank Thee, Lord, for a political system which guarantees the best for the most.

Infinite Lord, the needs, desires, opinions of 250 million people, hundreds of cities and counties, 50 States, thousands of organizations and institutions—not to mention global crises—converge on the 100 Members of the Senate who must somehow find resolutions. We thank You, mighty God, for the 100 Senators representing 50 States, many different backgrounds, views, and convictions, who struggle, often under great pressure and frustration, to arrive at solutions.

We thank You, gracious God, for patient, fair, dedicated leadership during these highly pressurized days. It must have been like this during the Constitutional Convention with many resisting independence, many opposed, and many supporting a strong, central government. We recall that, at the suggestion of the wise Ben Franklin, they resorted to prayer. Cover the Senate with divine love, grace, and wisdom as the Members work their way through this very complex democratic process.

In Jesus' name who is the Prince of Peace. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE SCHEDULE

Mr. MITCHELL. Mr. President, I say to Members of the Senate, the Senate today will continue debate on the health care reform legislation and the pending amendment by Senator DODD regarding health insurance for children. That amendment has been pending since late Friday afternoon.

I have repeatedly asked our Republican colleagues to permit a vote to occur on that amendment. So far, I have been unable to gain their assent. As every Senator knows, under the rules of the Senate, any one Senator or a group of Senators may prevent action from occurring by the tactic of unlimited debate and discussion.

While I welcome the opportunity for every Senator to make opening statements and to address any aspect of the bill that he or she wishes, I believe that it is appropriate and timely for the Senate now to begin to vote on amendments, and I hope very much that we will be able to proceed to voting on the pending amendment today.

I have invited Senator DOLE and our Republican colleagues that if they have any amendments that they wish to offer, we welcome those; if not, we have other amendments which we are prepared to offer.

In the event that we cannot reach agreement with respect to this amendment, the only recourse available to me is to require a vote on a procedural matter and, although that is not my preference, if no other alternative is available, that is what will be done. Under an order entered on Saturday, such a vote is scheduled for 5 p.m. today.

I will be discussing the matter further with our colleagues and hope to have an announcement with respect to the schedule during the day today.

The Senate will be in session Monday through Saturday on this legislation. As I have previously stated on many occasions, the Senate will take up the crime bill conference report when that is passed by the House. I do not know when that will occur and, therefore, cannot now state precisely anything with respect to the timing of that legislation. But that is a very important measure, and we will interrupt this debate for that measure after its passage in the House and after it is sent to the Senate.

Mr. President, Senator DASCHLE will be acting as manager on behalf of Senator MOYNIHAN, who is necessarily absent to attend a ceremony at the White House at which the President will sign into law legislation establishing the Social Security Administration as an independent agency. That is an important measure on which Senator MOYNIHAN has worked for many years, and I think it appropriate that the President pay tribute to him in connection with that signing ceremony.

Senator MOYNIHAN has for many years been the leader of our Senate and I believe our Nation in protecting and enhancing the Social Security System, and this legislation is further action in that regard.

Mr. President, I would like to make just one comment about my legislation, if I might, that has been the subject of a lot of debate here. Enough of our colleagues have made their opening statements, and they are identical in many respects, all of them focusing on a single theme that suggests that my bill creates a Government-run insurance system. Some heated rhetoric has been used which I believe has been inaccurate. But I want to and I will, of course, address the subject in a great deal more detail. But I myself am leaving to attend the White House ceremony of which I just spoke. But I just want to make one point in that regard: Saying something over and over again does not by itself make it true.

This is a desk before me, and if I repeat a thousand times that this is a horse, it will not become a horse. It might persuade some people of that, because we all know that repetition can create that impression, but it does not make it so.

We went through a similar exercise just a year ago when the President's economic plan was before the Senate.

Over and over again, our colleagues said of that plan that it would raise everyone's taxes and be a tax on small business. Neither of those statements were correct. Although I acknowledge they were successful in persuading the American people, because polls showed that a large majority of Americans believed their income tax rates would go up as a result of that legislation and believed that it would impose a tax on all small businesses. Neither statement was true. They were proven to be untrue, but the mere repetition of those statements did persuade a majority of Americans even though the statements were incorrect.

Much the same thing is occurring now.

Let me make clear that my bill does not provide for a Government-run health insurance system. It is a voluntary system which builds upon the current private insurance market. Indeed, under my bill, one of the largest Government programs—Medicaid—would be virtually abolished and 25 million Americans who are now in the Medicaid program, a Government Program, would be taken out of that program, which would be virtually abolished, and would be encouraged to purchase private health insurance in the same system of insurance payment and coverage that most Americans are now in.

So not only is it not a Government-run program, it is just the opposite. It is a private program, a voluntary system, in which citizens are encouraged and assisted in the purchase of health insurance. In that respect, it is similar to the legislation offered by Senators DOLE and PACKWOOD. Both programs provide for insurance market reform; very similar in that respect. Both provide subsidies to people to assist them in purchasing insurance in the private market as most people do now.

The Congressional Budget Office has estimated that, if my plan is adopted, 95 percent of Americans will have health insurance by the year 2000. And if that occurs, as both the Congressional Budget Office and I believe it will, then there will be no requirement on anyone under any circumstances to purchase health insurance.

And so I want to make clear that, while it is going to be repeated over and over again, it is simply not correct. The fact of the matter is, I believe we should build upon the current system, take those steps to extend insurance to those who do not now have it, and provide health security to the millions of Americans who have health insurance but who do not have health security. Because right now, most Americans who have health insurance face the risk that if they get sick, their policy could be canceled. Incredible as that seems, that is what can happen under the current system.

A person buys health insurance to cover himself and his family in the event they become sick. And then, if they become sick—the very reason they bought the insurance—the policy can be canceled. It is an incredible catch-22 in which American families find themselves and which my legislation seeks to correct. And those same families, and others like them, do not know if the premiums can be doubled or tripled at any time. They have no assurance that the policy will be renewed. They may lose their insurance if they change jobs or if the employer chooses to discontinue coverage.

So it is important for Americans to understand that what is involved here is not just extending insurance to those who do not now have it.

Of equal, indeed of greater, importance, it provides security to those Americans who do have insurance so that they will know that their policy cannot be canceled at any time and they will have what all American families should have—guaranteed private health insurance to provide access to high quality health care in our system.

What we must do is adopt a mechanism which will permit us to fix what is wrong and to permit what is right to stay intact. I believe my legislation does that through a voluntary system in which 25 million Americans who are now in a Government program will be encouraged and assisted to buy private health insurance, and that Government program will be virtually abolished.

I know there will be arguments to the contrary, and I welcome the debate. But I hope all Americans will keep that in mind during this debate.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Chair seeks advice from the majority leader on two points.

Is the time that has been consumed to be charged against time under the control of Senator DASCHLE or is it to be charged against the majority leader's time?

Mr. MITCHELL. The time under the control of Senator DASCHLE.

The PRESIDENT pro tempore. The Chair also takes guidance from the majority leader on another point.

Is the time between now and 5 p.m. today to be used for debate only, or would an amendment to the amendment in the first degree be in order and would an amendment to the underlying legislation be in order?

Mr. MITCHELL. Mr. President, it was, I believe, Senator DOLE's intention and mine that this time is to be used for debate only, unless and until we reached agreement and announce an agreement to the contrary.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. There is, is there not, an amendment pending?

Mr. MITCHELL. Yes.

The PRESIDENT pro tempore. There is an amendment in the first degree, but it is open to amendment in the second degree.

Mr. MITCHELL. Although we did not address that in the order, I believe it was Senator DOLE's intention, and with which I am agreeable, pending discussions that he and I will have later in the day, that the debate will continue and then we will, if we can, reach an agreement and we will announce that probably sometime early this afternoon.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Chair thanks the majority leader for his clarification.

HEALTH SECURITY ACT

The PRESIDENT pro tempore. The Senate will now resume consideration of the bill, S. 2351, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell amendment No. 2560, in the nature of a substitute.

Dodd amendment No. 2561 (to amendment No. 2560), to promote early and effective health care services for pregnant women and children.

Mr. WALLOP addressed the Chair.

The PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I inform the Chair that I have been asked by Senator PACKWOOD to stand in for him while he goes to the same meeting.

With that, I yield such time to the Senator from Oklahoma as he chooses to take.

The PRESIDENT pro tempore. The Senator from Oklahoma [Mr. NICKLES] is recognized for such time as he may consume.

Mr. NICKLES. Mr. President, I thank my friend and colleague from Wyoming. I just express my sadness that this is his last year in the Senate, because he has been an outstanding Member of the Senate on a lot of issues, including this issue. I appreciate his work and contribution not only on behalf of the State of Wyoming but also for our country, as well.

Mr. President, many have taken to the floor and many of us have had a great deal of discussion on the issue of health care. It is not a new issue, just because we now have a 1,443-page bill. It is a complicated issue. But we have been working on it for a long time. A lot of us have been working on this issue for a long time.

Last year, I introduced the consumer choice health care bill. We had 25 cosponsors, one-fourth of the Senate as cosponsors on that legislation to try to remedy some of the problems that the majority leader just discussed.

The majority leader mentioned problems where some people might have insurance and might lose it because they become ill. We addressed that in our bill. We addressed it in the Dole bill. I hope that we will pass legislation to solve that problem this year.

We addressed problems where some people might not be able to buy insurance because they have a preexisting illness. And I think a lot of us have found that is the case in our families.

A few years ago, I found out that I had a little cancer; no big deal. But I remember, I asked the doctor what that meant. He said, "Well, you won't be able to buy insurance."

Well, he was wrong, because I am under the Federal employee system.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL
140
PT
16
1994
AG
12
18
UMI

And Federal employees' preexisting illnesses are covered, so I was covered.

They do that for 10 million employees and their families, why can we not do that for everybody in America? So we took care of that in the bill I introduced. It is taken care of, frankly, in the bill Senator DOLE offered and I believe in Senator MITCHELL's bill, and we ought to pass that this year. We ought to pass some things that would help solve some of the problems.

I know when President Clinton and Mrs. Clinton are on the road all the time they are talking about somebody who has a terrible health care problem and has a preexisting illness, they cannot get insurance or they lose their insurance because they really become ill, and they had a catastrophe, and the insurance rates go sky high. We ought to solve those problems and we can, and we can solve those in a bipartisan fashion.

I might mention, I think it was a couple years ago, now, we passed legislation that Senator Bentsen and others were working on that incorporated solutions to those problems. Those are positive, significant solutions. We hear people going to the floor and saying, "We have 37 million people who are uninsured, let us help those people." We should, and there are differences of opinion on how we should do that. Some would propose it through a mandate—that was in President Clinton's proposal. It is in Congressman GEPHARDT's proposal. Senator MITCHELL has a kind of delayed mandate. He says if you do not get to 95 percent, then the mandate would hit or would be triggered.

I might mention it would be triggered in a State like mine and probably West Virginia and a lot of States. You would have a big mandate, mandating on every business and every individual that they have to provide a Government-defined package.

I disagree with that solution. I do not disagree with the idea of trying to help those people who need help. I do not disagree with the idea, or the goal of trying to have everybody have some type of health care—which, frankly, they do have today. Not everybody has prepaid health insurance. Not everybody has a prepaid health care system. But everybody has some degree of health care.

Mr. WALLOP. Will the Senator yield for question on the mandate issue he just raised?

Mr. NICKLES. I will be happy to.

Mr. WALLOP. Is it not true that under the Mitchell-Clinton mandate provision, once it triggers, it triggers State by State setting up real distortions in job markets between States that are mandated and States that are not? Would that not be the case?

Mr. NICKLES. The Senator is correct. I will mention that in a moment. But the Senator is right. It is a State-by-State mandate, so if you have one State at 95 percent the mandate would not be triggered. If you have a State that is 90 percent, it would be triggered. And you can easily see a scenario where business becomes flexible and jumps from one State to another, in several States, where you would have businesses fleeing the mandate because, frankly, a lot of businesses cannot afford the mandate. It is very expensive. I will get into the cost of this in just a moment.

The problem I am trying to address is: Let us identify the problem and then let us try to solve it. If 37 million people do not have insurance, how long do they not have it for? Are these chronically uninsured people? Because we hear this term and it sounds pretty large in a population of almost 260 million people in the country.

I did a little homework on it. Actually I did not, the Urban Institute did the homework. It said the figure of 37 million uninsured is a snapshot, at one point. Their study found that most of the people who lose their insurance get it back within a very short period of time. The study found half of the uninsured go without coverage for less than 5 months. That is interesting: 70 percent get coverage back within 9 months. Only 19 percent are uncovered for 2 years or more.

So, 19 percent of 37 million people, that is probably about 7.5 million people who are what I would categorize as chronically uninsured or very hard to insure for whatever reason. I have already said let us solve some of those problems; let us make sure that if somebody has a preexisting illness, they can buy insurance. Let us make sure somebody is not dumped out of the insurance market because they have become ill. This will solve some of the problems.

Let us solve some of the portability problems so if somebody changes jobs or loses jobs, for whatever reason, they can continue to be insured. That is in the legislation I have cosponsored in Senator DOLE's package, and I imagine in most of the bills. We can pass that. We can pass that today or this year. So we can make some positive, constructive steps toward alleviating the problem for the people who are uninsured.

I might mention, too, for the people who are uninsured, the 37 million, 70 percent will have insurance within 9 months. What is the biggest category of people who are uninsured? Young adults, age 18 to 24, who are the most vulnerable to lapses in coverage. I could go on. Most of them had coverage within a month or couple of months of losing the coverage. They might be in a situation like I was. I had a daughter who turned 22. She graduated from college; she was going to go to graduate school. So there might have been a lapse had we not moved pretty quickly to get her enrolled. She was no longer covered under my family plan so we had to enroll her on her own coverage. We did that. But it would be easy to see how that coverage could lapse for a month or two.

But that is not really the problem. That is not the reason why we need a Federal solution. And that is not the reason why we need legislation today. What about some of the others? Not everyone who lacks insurance is poor. According to the Employee Benefit Research Institute, nearly half the uninsured have incomes of more than $20,000, and 17 percent have incomes of more than $40,000. So I think we can exclude those individuals who, for whatever reason, have decided they did not want insurance or they are going to wing it, they are going to gamble that they will be healthy forever. I do not think that is the need for a Federal program. I do not see that as the solution.

Let us solve some of these problems that would help it, but I hope, let us make a rule in the Senate, or try to make sure, that we do no harm. We have quality health care in this country. I know every person in this body—but I would also say in America today—has been a beneficiary to some extent of the best quality health care system in the world; or certainly their families have, for whatever reason. Let us try to make sure we do no harm to this quality health care system.

Some people say, "Wait a minute, we compare the United States to other industrialized countries and we spend more per capita, we spend more per person, we spend more in total amount of dollars—the amount of money we spend in health care today in the United States alone is bigger than the economies in many other countries." That is probably true. But we have an asset, we have a real quality health care system in this country. Let us not emulate countries that do not have quality health care. Let us not emulate countries that cannot give care. Let us not emulate countries that have care, it is cheap—I would guess they would say in the former Soviet Union they had health care for everybody. But I would also venture to say most people would say it is not very good; or in East Germany or some places. Some people say, "Let us emulate Germany or Canada or Great Britain." Again, they have care. They have a government program that covers everybody. But I venture to say if you looked at the waiting lists, if you look at the Government rationing, if you look at the delays that are involved, if you look at the Government improvement that is needed and so on, you find many of those people are coming to the United States as a last resort to get quality health care.

If we emulate their systems, where are Americans going to go? What kind of fallback do we have? The Canadians are coming south. They come into the United States to get health care if they really need it.

The doctor says, "You need a bypass but we have already had our quota. You need it within 6 months or 12 months. We know you are going to need it. We will get around to it, but we cannot do it in this Province now. This is in the fourth quarter of the year and, frankly, we are about out of money. So, elective surgery, we have said, in this Province in Canada, we are going to postpone until next year."

A lot of people might not be willing to take that risk so they come to the United States. If we get into that scenario, where would Americans go?

So I just make a final plea that we do no harm. Let us seriously consider the legislation we have before us. Let us take a look at it. Let us look at all the proposals and pass positive legislation. At the same time, let us not pass legislation that we are going to regret.

I was very involved in the debate—which was a few years ago—the so-called catastrophic health insurance for senior citizens that was going to provide catastrophic coverage. Basically, although we called it catastrophic, really it was a medigap policy. Medicare paid for some, but it did not pay for some of the deductibles. We said we will have a policy to cover that. And a lot of people already had it; actually 75 percent. Senior citizens had medigap policies through the private sector. Congress came in and said we do not care if you have it or not, some people do not, so we are going to mandate it on everybody.

We mandated a Federal program on all senior citizens, whether they wanted it or not. We did not give them an opt-in or opt-out. I might mention we passed it in the Senate and we did make it voluntary, but when it came back from conference, it came back mandatory for everyone.

I debated a couple of hours on that legislation, debated against our friend and colleague, now Secretary of the Treasury, Senator Bentsen. I said this is moving in the wrong direction. Why do we not target our efforts at the 25 percent of senior citizens who do not have Medigap policies and then target the portion of that one-fourth of the senior citizens group who did not have it and could not afford it? Some people did not want it who could afford it. Why should we have a Federal program to cover them? We did not need to.

But no, we did not do that. We did not put a means test on it. What we did do is have a big tax increase. We are going to cover everybody. We do not care if you have private coverage or not, we are going to duplicate it with a Federal program and pay for it with a Federal tax. And at least the Finance Committee was honest and direct and said this is going to be a tax; this is going to be a 25-percent surcharge on your income tax.

I predicted on the floor when we were debating that that when the bill comes due, senior citizens are going to rebel, and they did. Because they rebelled, we repealed it a year later, and I think correctly so.

I hope we do not make that same mistake in this legislation, but I also hope that we are very direct with the American people. I think we ought to tell people what it is going to cost. We ought to tell people what is in the legislation. We ought to do it now before we pass it, not after we pass it and find out, "Oh, I didn't know that was in the legislation." We ought to do it now. We ought to find out what is in the legislation.

Some of us have complained about this process. I have complained about the process and, I will say, going back from the moment of its conception within this administration. The process started out very partisan. Mrs. Clinton and President Clinton put together a task force of over 500 people. They met. Now it appears they met illegally and there is a lawsuit pending. I notice there was an article in the New York Times on Wednesday, August 10. It talked about the "White House Seeks Settlement of the Health Suit."

They have been sued and, frankly, it looks like they are going to lose. I will not read the entire article, but I will insert it in the RECORD.

It says:

The Clinton administration urged a group of doctors today to agree to a swift settlement of their lawsuits seeking disclosure of the records and working papers of Hillary Rodham Clinton's task force * * *

For more than a year, the White House has resisted disclosing the records. But administration officials said today they wanted the lawsuit settled as soon as possible, in part to avoid the need for having Mrs. Clinton and Ira Magaziner, a White House aide who coordinated the work of the task force, to testify.

The 12-member task force and its staff of more than 500 developed most of the President's proposal to control health care costs and guarantee health insurance for all Americans. Major parts of the proposal have been incorporated in the legislation developed by the Democratic leaders of the Senate and House, Senator George Mitchell and Representative Richard Gephardt.

And it goes on in the article. I will just read the last part:

The groups contend—

Talking about Mr. Magaziner.

that he was wrong when he said in an affidavit in March 1993 that all members of the staff of the task force were Government employees. In fact, the three groups said, many staff members came from business in the health care industry that stood to profit from the President's plan.

Mr. President, I am troubled that Presidential adviser, Mr. Magaziner, who coordinated the task force, testified in an affidavit, a sworn statement, that these were all Government employees if they were not. If you had special interest groups who were writing this package and putting a lot of this together—and I am going to mention this in my speech a little later—if they were doing that against the law, that bothers me, and it bothers me that he would sign an affidavit saying they were all Government employees if they were not.

I know the Presiding Officer, the chairman of the Appropriations Committee and President pro tempore, believes people should speak the truth. I am bothered by Mr. Altman's statements before the congressional committee. I am bothered anytime anybody deliberately misleads Congress and does not state the truth, particularly when they are in high levels of power, or abuses that power, and particularly if they are trying to pass legislation or implement legislation that would have a significant impact on my constituents.

I see a lot of things in this bill that I am very troubled by. Where did they come from? We have not had a hearing on this bill. I am troubled by the process of where we are.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 10, 1994]

WHITE HOUSE SEEKS SETTLEMENT OF HEALTH SUIT

(By Robert Pear)

WASHINGTON, Aug. 9.—The Clinton Administration urged a group of doctors today to agree to a swift settlement of their lawsuit seeking disclosure of the records and working papers of Hillary Rodman Clinton's Task Force on National Health Care Reform.

For more than a year, the White House has resisted disclosing the records. But Administration officials said today that they wanted the lawsuit settled as soon as possible, in part to avoid the need for having Mrs. Clinton and Ira C. Magaziner, a White House aid who coordinated the work of the task force, testify.

The 12-member task force and its staff of more than 500 developed most of the President's proposal to control health costs and guarantee health insurance for all Americans. Major parts of the proposal have been incorporated in the legislation developed by the Democratic leaders of the Senate and the House, Senators George J. Mitchell and Representative Richard A. Gephardt.

NEGOTIATIONS ACCELERATE

Justice Department lawyers asked the plaintiffs to start discussing the possibility of a settlement last Thursday, and the negotiations have accelerated this week. The Government appears to be willing to disclose thousands of pages of task force records, but has been reluctant to pay lawyers' fees for the plaintiffs' lawyers.

It is not clear why the Administration is so eager to reach a settlement this week, although the Administration apparently wants to announce a settlement before Congress takes any votes on health care legislation. In addition, the Administration may also want to make sure that Republicans cannot use the litigation in political attacks on the White House.

VOL
140
PT
16
AG
12
—
18
1994
UMI

The plaintiffs in the case, including the Association of American Physicians and Surgeons, have repeatedly asserted that "special interests" from the health care industry influenced the task force at meetings from which the public was excluded. The White House has rejected those assertions.

On July 25, the Administration told a Federal judge that the President's health plan had been devised by "an anonymous horde" of more than 500 people operating in creative confusion with no organized structure and no fixed roster of members. As a result, the Justice Department asserted, the task force was not a formal advisory committee and did not have to divulge its working papers or financial records.

The Judge, Royce C. Lamberth of the Federal District Court here, said last month that he would hold a full trial to examine the composition and operations of the task force. The trial would determine whether the panel and its staff operated legally in excluding the public from meetings from January to May 1993, when it was disbanded.

The plaintiffs, three groups of doctors and consumers, have also asked the judge for a contempt citation against Mr. Magaziner.

The groups contend that he was wrong when he said in an affidavit in March 1993 that all members of the staff of the task force were Government employees. In fact, the three groups said many staff members came from businesses in the health care industry that stood to profit from the President's plan.

Mr. NICKLES. Mr. President, I am concerned about the legislation we have before us. I read a lot. I took home the first print, and it was 1,400-some pages. I worked on it. I had my yellow magic marker. I was going through pages, as hard as I could, and I was marking pages. I was putting question marks down.

I have studied legislation a lot. I have introduced legislation. And I know it is not easy, and I know it is not simple. But last Monday, I believe, was the first day we had the first print. We call it the Mitchell-Clinton print 1. Then there was 2. Then there was 3. I am not sure if this is the amendment or modification of the second or third, but it has over, I think, 133 sections that were changed. I believe that is between the first print and the second print.

All it mentions is the section number and a change. "These following sections have been modified since initial printing." I was working off the initial printing. Mr. President, I invested a lot of hours on that initial printing, the first one that came out. I wanted to know as much about it as anybody. I signed a little card saying I am going to read this bill before I vote on it favorably, and I am going to. Now we have another bill. We have to start over.

There are over 100 sections that have been changed. What is in this bill? Was it reported out of the committee? No. Was this bill reported out of the Finance Committee? No. Was it reported out of the Labor Committee? Has there been a hearing on this bill? No. Does anybody really know what is in this bill? Maybe a few staff members; maybe some of the White House advisers. I am not sure. But I know there is a lot of garbage in the bill. There are a lot of provisions in the bill, in my opinion, that would be very, very negative.

Again, I said let us do no harm. Let us make sure that whatever we do does no harm.

I have listed several little things—I call them little things, I think they are rather significant—provisions in the Clinton-Mitchell bill that, in my opinion, are very bad. I want to talk about them just a little bit. I will go through each one.

First, it denies consumer choice. I know I heard my colleague and friend, Senator MITCHELL, say this bill is a voluntary system. I know if you read section 1003, it says "Protection of Consumer Choices." It makes you think you can keep your own plan. I will just run through this.

This bill imposes a one-size-fits-all benefit package on all Americans. That means people in West Virginia have to buy the same plan that people in Oklahoma buy or in New York City. The Government is going to define the benefit package for everybody in America. So if you want to have a little less, something a little more affordable, that is not an option. So you lose a lot of choices.

It imposes $300 million in new taxes. That is CBO's figure. Dr. Feldstein mentions it is $100 billion per year. I will talk about that in a minute.

It hurts the middle class.

It imposes a hidden tax on the young, a big hidden tax.

It results in substantial job losses. If you put this kind of mandate, this mandate, some people say, if it happens—and I guarantee you, in a lot of States that have 80-some percent of coverage, you are not going to get to 95 percent coverage under the terms of this plan, so you are going to have a mandate—that mandate will cost jobs.

It creates big incentives for people not to work. People are going to realize, "The Government is going to be providing this." We are going to be more than doubling the size of Medicaid. I wonder if people realize that. I know the chairman of the Appropriations Committee has wrestled with expansion of entitlement plans, the fact that Congress actually has less and less control over the Federal budget because we pass programs that grow on automatic pilot; that under the Clinton-Mitchell bill, we will have a massive expansion of people eligible to receive Federal assistance called subsidies. By the year 2004 there will be 117 million people subsidized under this proposal. That is a massive expansion and more than doubles the Medicaid population or people eligible to receive assistance from the low-income side.

It creates an enormous bureaucracy—some people have already talked about this, so I will try not to be too repetitive—over 250 new bureaucracies in boards and commissions, some of which are very, very powerful. Some of them have enough power to say this benefit will be covered and this benefit will not. Some will say we need cost containment and, therefore, this agency or commission is going to do something to contain costs.

Does that mean price controls? In all likelihood, it would.

It creates a huge new entitlement program, actually several new entitlements programs. I will touch on that in a moment.

It vastly increases the number of people on governmental assistance.

It promotes and subsidizes abortion. I know I heard Senator DOLE and others say we are going to have to talk about this for a while. There is no status quo on abortion. This is a program that says we are going to subsidize abortion, whether you want to or not. We are going to have the Federal Government pay for it. We do not do that today under our Federal system under Medicaid. We have passed language for years, and we call it the Hyde language. Basically, it says we are not going to use Federal money to pay for abortions unless it is necessary to save the life of the mother, or in cases of rape or incest.

This says, no; this is a fringe benefit and pays for everything. And it also says you have to have access to abortion everywhere in the country. I would say in West Virginia, and in 80 percent of the counties in the country, they do not provide abortion. This is going to mandate that every place in America or every person in America have access to the whole list of standard benefits coverage, including abortion. It massively promotes and subsidizes abortion throughout the country.

It also caters to special interests. And by special interests, I am talking about the AARP. I will talk about some provisions that were written, in my opinion, probably specifically for AARP, and for organized labor. They are getting a lot of support from those groups as well as from the groups that support and promote abortion.

It would even have some language, I will tell the Presiding Officer, that expands civil rights statutes to include protection for sexual orientation. That is interesting. Most people are not aware of that, but it is in the bill.

And it has no real malpractice reforms. Frankly, the bill, instead of having positive malpractice reform, would override about 20 laws that are on the books that try to limit abuses in the cost of providing limitations on insurance costs. It overrides those. It does more harm than good. And I think that is a serious mistake.

Mr. President, while I am going through the Mitchell-Clinton bill and trying to describe some of the things I think that are wrong with it, let me just state at the outset, again, I want some positive health care reform. I want to cover preexisting illness. I want to make sure that people do not lose insurance if they become ill. I want portability where people can take their insurance from job to job or have control of insurance.

I think one of the big problems we have today in health care is that individuals, the people who buy, the consumers, are not really at the table. Somebody else is paying for it—well, Government is paying for it or the employer is paying for it. So they do not care how much it costs.

I think the individual should have some responsibility, and, unfortunately, the Clinton-Mitchell bill, the Gephardt bill, President Clinton's original proposal move just the opposite direction. Instead of having individual responsibility, they make more people dependent. Instead of giving individual rights and choices, they have the Government making those decisions.

Mr. President, let me just start out by stating I think it is vitally important that all people always give the facts and tell the truth all the time. I am bothered by this statement. This was in the President's statement just recently, August 3. He said: "You can keep your own plan or pick a better one."

Well, that is not accurate, and it is unfortunate to have the President of the United States say you can keep your own plan or pick a better one, but he is not telling the complete truth, in my opinion, in that statement. And that bothers me a lot.

Let us just take this first part: "You can keep your own plan." Let me just give you an example. I hate to use personal examples, but I know not one better.

I used to run a company, Nickles Machine Corporation. We had a plan. Can I keep our plan? No. Why? Because we self-insure. Under the President's plan, firms that have fewer than 500 employees cannot self-insure. So the President's statement is false as far as DON NICKLES and Nickles Machine. We cannot keep our own plan because, under the Clinton-Mitchell bill, it says, if you self-insure and you have less than 500 employees, your plan is illegal. You cannot self-insure.

I think that is really wrong. I think self-insured plans have a lot to offer. We have been able to get our costs down, and we are able to do it a lot less expensively than the President's plan. I am bothered by that.

I mentioned the cost. I will just pull that out. One of the reasons why some people self-insure is they can do a better job for less expense. Under the Clinton-Mitchell package, the cost for a family estimated by CBO—these are 1994 dollars, and you know it will be higher later—is right at $6,000 for a two-parent family—$6,000. They are going to mandate that or tell everybody, if you are going to have insurance, here is what you have to have. They have a standard benefit plan that tells you you cannot buy something less.

In other words, in this little bill—it just happens to be section 1201 and 1202, I believe, unless they changed the sections on this, too. Oh, yes, "standard benefit package." "General description. Standard benefit package." Then they have given enormous power to the National Health Benefits Board, which is section 1211 through 1217. This board is going to determine what has to be in everybody's plan. And we give them about 20 pages that says what Congress says it should be in this plan, and it has a lot of coverage, a lot of coverage you may want, maybe coverage you do not want. I mentioned it has abortion. You have to have it in your plan whether you want it or not under this bill—no opt out, no choice, no conscience clause or anything. It says, you have to have it.

I object to that. I object to it on moral grounds, but I object to Government thinking they have to define every package in America. What in the world makes some of our colleagues and this administration think that they can design a health care package better than anybody else in America? What in the world gives them the right or the power to think they know best in what should be in everybody's health care plan? And we are not talking about a core benefits package. We are not talking about a minimal benefit package, just the bare essentials so that people just get by, something very economical.

No, we are talking about a comprehensive, extensive, expensive benefit package that lots and lots of people in America will not be able to afford. And they are going to mandate. It is mandated under President Clinton's original proposal, it is mandated under the Gephardt proposal, and it will be mandated under the Clinton-Mitchell proposal because we will not get to 95 percent. Maybe we will, but I doubt that we will. I know in a lot of States we will not get there.

To give you an example, I have heard people talk about Hawaii. Hawaii had 90 percent coverage before they went to an employer mandate. And now they have massive subsidies. They have 20 years under an employer mandate and they got up to 94 percent. They are still not up to 95. So I have some questions.

I know CBO says they think they can make it. I think they are doing a little wishful thinking. I think under Senator MITCHELL's package those mandates are going to happen and there are going to be consequences to those mandates.

I might mention, too, looking at the rest of these premiums, for a single adult, the cost of that plan is $2,200. That is pretty expensive. It is especially expensive for young, single adults, and I might mention that as well.

Well, again, going back to President Clinton's comments, he said: "You can keep your own plan or pick a better one."

I just noticed, under the President's bill—I hope people look at it—if you have a cafeteria plan—and I know there are some unions in West Virginia that have cafeteria plans where you choose from a multitude of benefits—health care cannot be in a multitude or menu of benefits. I think cafeteria plans are great because you are putting consumers at the choice: Do you want to spend more money on health care or do you want to spend more money on vacation? Do you want to have more money to take home? You get to choose from a multitude of fringe benefits where employees then recognize the cost of health care. That is a good benefit for putting people at the table to recognize the benefits.

Those are outlawed under the President's plan. You cannot keep your own plan if you have a cafeteria plan in health care.

Wait a minute, Mr. President. You said on August 3 you can, but you cannot. He did not tell the truth. That is not the case. And that bothers me. Those plans are illegal under this bill.

The flexible spending accounts, which a lot of Americans have today, health care is not included in those flexible spending accounts. Again, millions of people have these types of plans.

In the cafeteria plan, well, just by changing this tax and not allowing health care in, they estimate, will raise $52 billion in 10 years. So we are talking about lots of employees, lots of individuals are going to lose that. They are going to lose flexible spending accounts. Again, a lot of people have that today. They are not going to be able to have it tomorrow.

What about the people who have a high-cost plan and maybe these are union plans, maybe they are plans people have and they are designed and very generous.

The President says you can keep your own plan. What he did not tell you, there is a big tax on that plan, a 25-percent tax surcharge.

Well, wait a minute, you are not going to be able to keep that plan probably if you find out it is going to cost you 25 percent more. Think about that. And so maybe legally you could keep it, but the real results are economically, if you find out there is a tax surcharge on it of 25 percent, you are not going to keep it. And you have a lot of union plans, you have a lot of other

VOL
140
PT
16
AG
12
—
18
1994
UMI

plans in the country today, if they happen to be a little bit better than average, anything that is above that average that is determined by a beautiful bureaucratic disaster formula, they are going to have a big tax, a 25-percent tax. So the Tax Code is going to take away that nice benefit they have because people are going to design their plans away from it.

What about if you have a plan that does not conform to the Government plan?

I mentioned one-size-fits-all. What if you say, No. I don't believe in the one-size-fits-all in the Government package. We have a good package, and we are happy with it and we think we can do it more economically. I am going to opt out.

I heard Senator MITCHELL say this is voluntary. If this is voluntary in Nickles Machinery, since I am still involved, we opt out. I do not want any part of it. If it is voluntary, throw it away, and our employees are happy. Guess what? We can do it for $2,400 per family, not $6,000 per family. So I opt out.

What happens to us? If you do not conform to the standard benefit package, there is this 35-percent tax. Wait a minute. Think about that again. President Clinton said you can keep your own plan. He did not tell you that, if you keep your own plan, there will be a 35-percent tax if you did not conform to the Government standard benefit package. How can you keep your own plan, if you have a 35-percent tax?

Let us just assume that you have a plan that does not conform to the standard benefit package, but your plan is more generous. That is possible. You could have a tax surcharge because you do not conform, and you could have a 25-percent tax surcharge for excessive cost. That is a 60 percent additional marginal tax on the health insurance dollars because you said you do not want to play.

They said it is voluntary. Yes. It is a voluntary, with a gun at your head; big taxes; 25-percent tax if you have an expensive plan, and 35 percent tax if you do not conform.

You do not get to keep your own plan. It is not right. So you lose your cafeteria plan, your flexible spending account. If you have an expensive plan, you will be taxed for that. If you do not conform, they will tax you.

It has massive taxes in it. But they use the Tax Code to drive their idea that Government will control it. They will design your plan. This National Health Benefits Board will say what your plan is.

I know that most of our colleagues are not going to read this bill. I hope that they will just take a little time and read the powers that we have granted to the national health benefits board. That is just one of 50 new boards and commissions that are set up and have so much power.

I urge the Presiding Officer, it is not that many pages to read that one section. If we can get other colleagues to read about some of the powers that we are giving to this board and the cost containment board; enormous powers. If they make recommendations, we are telling Congress or future Congresses that we are going to consider this legislation on an expedited basis, in some cases without the right to amendment, and in some cases without the right to filibuster.

So here is this board, a seven-member board appointed by the President. It outlines all of that in here; a seven-member board with all this power to make their decisions. And then they are going to tell Congress we need legislation. Congress has to consider that legislation on an expedited basis without extended debate. That limits your right to amend it.

I know many of us feel we should have that right. Why in the world should we pass legislation today that is going to take away that right and obligate future Congresses? Not everybody is going to be here 5 years from now. I may or may not be here 5 years from now, I don't know.

I am bothered by trying to pass a law that is going to restrict future Congresses as this bill would propose. I think that would be a serious mistake.

This imposes new taxes. I mentioned a few of them; $300 billion in new taxes. I mentioned a couple of the taxes that are used as a hammer to make everybody conform. I hope people look at those because I know when I have heard taxes, I heard most of my colleagues mention the fact that, well, there is a tax of 1.75 percent tax premiums. That is going to drive excess premiums up in America.

So if you want to get health care costs down, this bill is not going to do it. It is going to drive them up. It is almost a 2-percent increase on every premium in America. So that means the costs are going up considerably.

If you have a health care plan that provides benefits that are more generous than what this commission says is appropriate, there will be a 25-percent tax. I might mention the tax is basically on incremental increases.

So if you have a pretty economical plan, and I mentioned that at my company it is $2,400. If we have to provide now this standard benefit, that will maybe cost about $6,000, as we increase. We will probably have to increase pretty rapidly. We are going to get hit with that 25 percent tax. If we have been more frugal, and more economical, we will be penalized. The more generous you have been and the more economically inclined you are, the more you will be taxed. This is a very interesting provision which I think is seriously wrong.

Mr. President, I heard some people who were discussing this bill say, "No. It has only four new taxes." There are 18 new taxes. I will not go through all of those. But I will put them in the RECORD so everybody can see them.

I cite code numbers, and the section number. Of course, they have changed bills on me three times. We are trying to put the latest code numbers in.

I mentioned premium tax, and excise tax. There is a big tax on part B premiums for upper-income people. There is an increase of 15.3 percent on the tax of income of certain S corporation shareholders and partners. There is a 2.9-percent health insurance payroll tax on all State and local work; Medicare coverage to such workers. They include employee income for Federal income and payroll tax purposes, and none is permitted for employer-provided health care coverage other than the standard benefit package and certain supplemental coverage.

So you have something that is not permitted under this standard benefit package. You are going to be taxed. Individuals are going to be taxed. They need to know it now. They need to know what is in this package now, not after it passes. They need to find out before it becomes law.

They are going to include employee income subject to Federal income payroll taxes for Federal benefits provided through a cafeteria plan for the flexible spending account. There are millions of people who have those benefits. They will now be taxed. They are going to lose those benefits because they are losing that tax incentive. We have not taxed health care costs in the past. But now, if you have that type of plan where an employee gets to choose what type and size of benefit they have, they are going to be taxed.

They place a limit on the deductibility of insurance for health insurance made in advance. I have already mentioned they impose a 35-percent tax, nondeductible excise tax, on employer-sponsored plans that do not conform to the standard benefit plan.

So again I go back to President Clinton who says that you can keep your own plan. You can, but you will pay a 35-percent tax if you do not conform to this plan, to this commission.

They make the decision and decide what benefits you should have or your employees should have. It is not you who decides it.

The reason I introduced the consumer choice bill is because I thought consumers should make that decision. They should not decide. You should. You know what is right for your family. I know what is right for my family, not some governmental panel that is also involved in social policy and other things. I want to buy what is the best deal. I want a good buy for my family. If I could it to for $2,400, or less, I want to do it. I am troubled by these costs because I will tell you, there are a lot of families that cannot

afford $6,000 per year. I know others say, "Wait a minute. They subsidize those." I say this bill really hurts the middle class because maybe they have insurance policies but now they will be taxed. Maybe they have insurance policies but they cannot buy cafeteria plans because they have to pay a premium tax. So the premium is going up by 2 percent. It is a big hit.

There is a hidden tax on the young. This is close to my home because I have four kids. I have a 24-year-old son. He is out of the home and on his own. I need to check with him about what his premium is. I know what my daughter's is. She turned 22, is still at home and not out on her own. She has a supplemental policy, and she is not on the family plan. It is about $500. I think it is $40 a year at the university, and that is not a great plan. It covers my daughter. It is going to cover us if she has a serious problem. Most of those cover serious problems, but not everything.

CBO has scored the Mitchell bill at $2,200 per adult. My daughter is an adult. It would quadruple her premium. That is a hidden tax, an increase on my daughter of $1,700. She cannot afford it. Frankly, I would pay that insurance bill. She is not on her own. My son is on his own. Maybe he can afford it now. There are a lot of 24-year-olds, and 28-year-olds that cannot afford $2,200. They should not have to pay that. They should be able to buy another plan, if they can. Maybe they are young and healthy. Maybe they are not going to the hospital, or maybe they will not see a doctor. They should not have to pay over $2,000. But under the Mitchell bill they have to. We have community rating, and that is a serious mistake. It is a hidden tax.

Mr. President, I want to insert in the RECORD an article by Martin Feldstein who worked in the previous administration, and he talks about the tax increase in the Mitchell bill. It is entitled "A Hidden $100 Billion Tax Increase." Most of the figures we use are over a 10-year period of time. There are $300 billion in new taxes over a 9- or 10-year period of time.

Dr. Feldstein is talking about a $100 billion tax increase—that is per year, and these are direct taxes as scored by CBO. He adds that the hidden taxes are in community rating, which is in the Clinton bill.

I ask unanimous consent to have this printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 9, 1994]

THE SENATE'S HEALTH CARE FOLLIES—A HIDDEN $100 BILLION TAX INCREASE

(By Martin Feldstein)

President Clinton is increasing the pressure on Congress to enact a massive and irreversible entitlement program to subsidize health insurance and redistribute income. The tax cost for this largest-ever welfare expansion would top $100 billion a year at today's prices. That's equivalent to raising personal taxes across the board by nearly 20%.

Amazingly, the Senate Democratic leadership has managed to conceal this massive tax increase from the public. The legislative wrangling and public discussion have virtually ignored the cost of financing this spending explosion. Members of the business community have been so eager to avoid employer mandates that they have not considered the tax consequences of the pending legislation. And members of the general public have been so concerned about preserving their ability to choose their own doctors that they have not focused on what these plans would mean for their individual wallets.

CBO ANALYSIS

Although the Democrats have yet to agree among themselves on the details of the final plan, it is likely to be closely related to the Senate Finance Committee bill. (The recent proposal by Senate Majority Leader George Mitchell that President Clinton said he would accept is essentially an expanded version of the committee's plan.) To understand the magnitude of the potential tax hike that would be required to finance such a plan, it's useful to look at the Senate Finance Committee bill and the recent analysis of it by the Congressional Budget Office.

Under the Senate Finance Committee plan, the government would pay the full cost of a standard private insurance premium for anyone below the poverty level and would provide a partial premium subsidy that declines with income between the poverty level and twice that income. The insurance premium would vary with family composition but would average about $2,000 per person. A single parent and child would receive a subsidy with income below $20,500, while a couple with three children would receive a subsidy with income up to $37,700.

More than 60 million individuals would be eligible for subsidies in addition to the 60 million already covered by Medicaid and Medicare. The Senate Finance Committee plan would raise insurance coverage by about 21 million individuals, bringing total coverage to 93% of the American population.

The budget analysis prepared by the CBO never states its estimate of the total additional cost that taxpayers would have to bear to finance the new insurance subsidies. But the CBO figures do imply that the public would be paying about $63 billion a year (at 1994 prices) by the year 2000 when the plan is fully operational, and estimates that I have made with the help of colleagues at the National Bureau of Economic Research indicate that the CBO figures understate the true cost by about $40 billion a year.

Most of the $63 billion tax burden implied by the CBO numbers is hidden in cost-shifting through insurance companies and providers of health services. Only a relatively small part of the financing plan is an explicit increase in the tax on tobacco products. A second small piece is a 1.75% excise tax on private health insurance premiums. Although this tax of $7 billion a year (at 1994 levels) would be paid by the insurance companies, they would pass it on in the form of higher premiums.

These higher premiums would be a direct tax on individuals who buy their own insurance. Companies would offset the higher premiums on the insurance that they provide to their employees by keeping wages lower than they would otherwise be. The true burden of the premium tax would therefore fall on everyone who is now privately insured.

The largest part of the financing is a hidden tax that is built into the plan to replace the current Medicaid program for the poor by subsidized private insurance. Medicaid provides much more generous benefits than the proposed standard insurance package, since Medicaid covers a broader range of services and has no out-of-pocket copayments. Although the government would pay the insurance companies the same subsidies for former Medicaid beneficiaries as it pays for everyone else, the proposed law would require the insurance companies to provide those who are currently eligible for Medicaid with the much more expensive coverage that they have today.

That complex maneuver would save the government about $29 billion a year on the current Medicaid program and would add that amount to the annual costs of the insurance companies. The insurance firms would in turn shift it to everyone who is privately insured in the same way they would shift the explicit premium tax.

A second very large hidden tax would result from reducing government payments to hospitals and other providers of Medicare services without any reduction in the care that they are expected to give. As a result, the hospitals and other providers would just raise their prices to patients and insurance companies. In the end, it would be the privately insured individuals who bear those costs in the form of higher insurance premiums and lower wages. At 1994 levels, this cost-shifting burden is equivalent to at least a $13 billion annual tax.

In short, buried in the CBO numbers is a projection that the Senate Finance Committee plan would have a $63 billion annual cost (at 1994 price levels) and that all but what the CBO estimates to be $14 billion in cigarette levels would be obtained by hidden taxes in the form of cost-shifting through health care providers and insurance companies.

It's remarkable that the same politicians who have produced this $49 billion in hidden cost-shifting have the audacity to say that the public should support their plan in order to eliminate the much more limited cost-shifting that occurs under the existing system as hospitals pass on the cost of free care. Indeed, to the extent that hospitals are already giving free care, the increase in formal insurance coverage gives that much less to the currently uninsured and confirms that most of the plan's cost is to achieve income redistribution, not expanded health insurance.

The CBO report is careful to note that its estimates are "preliminary" and "unavoidably uncertain," and fully half of the report is devoted to discussing why there is "a substantial chance that the changes required by this proposal—and by other systemic reform proposals—could not be achieved as assumed."

My own analysis confirms that the CBO's caution is justified and that the CBO estimates understate the likely annual cost by at least $40 billion that would eventually have to be financed by higher taxes. A key reason is that there is no way to limit the premium subsidies to those who are currently uninsured. Those who are not buying their own insurance would automatically receive the government subsidy. Those who now receive insurance from their employers could qualify for an insurance subsidy by switching to an employment situation that paid higher cash wages instead of providing health benefits.

VOL
140
PT
16
AG
12
—
18
1994
UMI

That subsidy would be worth a very significant $2,000 for a single mother with a child who earns $15,000; if she earns $10,000, the subsidy would be worth more than $4,000. It wouldn't take long for employers and employees to recognize that some combination of new pay arrangements, explicit outsourcing of some work, and individual job changes would be handsomely rewarded by the government.

There are now more than 30 million individuals who could qualify for a subsidy. The CBO estimate recognizes that the roughly six million of them who now buy their own insurance would receive government subsidies. But when it comes to those who are already insured by their employers, the CBO assumes that only about one-fifth of the income-eligible group would eventually choose to qualify for the subsidy, leaving $27 billion of potential subsidies (at 1994 levels) on the table. It seems totally implausible to me that employees and employers would permanently pass up subsidies of $1,000-plus per person that they could get by relatively easy changes in employment arrangements. When they do choose to qualify, taxpayers would have to pay an additional $27 billion to finance the plan.

The CBO calculation also ignores the effect of the subsidy phase-out between poverty and twice poverty on the incentives to work and to report earnings. The phase-out rule that gives a women with a child $4,660 of subsidy when she earns $10,250 and then takes away more than 40 cents of subsidy for every extra dollar that she earns is a powerful incentive to work less and to shift work to the underground economy.

The CBO's report acknowledges that "the effective marginal levy on labor compensation could increase by as much as 30 to 45 percentage points for workers in families eligible for low-income subsidies" so that "some low-wage workers would keep as little as 10 cents of every additional dollar earned." But then, quite incredibly, the CBO calculations do not take into account that this would reduce reported earnings, thereby cutting income and payroll tax receipts and raising the health insurance subsidies for which individuals are eligible. Estimates made at the NBER indicate that these reactions would reduce taxes and increase subsidies by a combined total of at least $17 billion a year.

This estimate makes no allowance for the impact of increased demand on health care costs in general. Extending insurance to at least 20 million people who are currently uninsured and giving private insurance to the more than 25 million nonaged Medicaid beneficiaries would inevitably raise the demand for health services and increase health care prices. But even without that, the analysis that I have laid out shows that the Senate Finance Committee bill would cost the American public more than $100 billion a year at today's prices. The Clinton-Mitchell plan for even broader coverage would cost even more.

INCOME REDISTRIBUTION

A cost of $100 billion-plus a year to increase the number of insured by 20 million means a cost to the taxpayers of more than $5,000 for each additional person insured—a cost of $20,000 for a family of four. Since the actual insurance premiums are $2,000 per person, it's clear that most of the tax dollars in these plans are for income redistribution rather than the expansion of insurance coverage.

The most fundamental social program in a generation should not be enacted without full and careful consideration of its costs. Once enacted, the benefits would be an irrevocable entitlement for nearly 100 million people.

The ability of the politicians to hide a $100 billion-plus tax increase is both amazing and frightening. Using mandates on insurance companies or mandates on all businesses as substitutes for direct taxes destroys the budget process and provides a ready way for politicians to deceive the voters. The politics of tax and spend has entered a new era when politicians can spend $100 billion a year and hide the taxes that we pay for those outlays.

If President Clinton and his congressional allies succeed in ramming this legislation through Congress in the weeks ahead, the American people will have lost not just $100 billion a year. We will also have lost our ability to check the excesses of the political process and to unmask the chicanery of the politicians.

If political leaders want to deceive the voters, the only safeguard is a democracy in which long and careful public debate and congressional hearings can expose such deception. Although Congress has held hearings on the now defunct Clinton plan and on the broad issues of health care, there has been no serious consideration of the cost and financing of the plans that have recently emerged. The American public deserves a chance to know what we are being asked to pay and what we will get for our money. We should be suspicious of any politician who says there isn't time for such a careful examination.

Mr. NICKLES. Mr. President, this bill would result in substantial job loss. That is very regrettable.

Mr. WALLOP. Before the Senator leaves that issue, would he yield for a question?

Mr. NICKLES. I would like to plow through, but go ahead.

Mr. WALLOP. Well, there is another tax in here that is pretty ominous, and that is the 15 percent tax on every health plan premium in the State where the Federal Government takes over a system. This is the voluntary program, of course, but if the Federal Government does not like what the State has done, it takes over the system and applies another 15 percent premium tax on health care plans.

(Mrs. FEINSTEIN assumed the chair.)

Mr. NICKLES. I appreciate my colleagues' work. As I mentioned in my introductory remarks, the Senator from Wyoming has done great work in the Finance Committee in trying to inform people of the potential harm in some of the taxes. He also stated—and I did not mention this one—there is also the provision that allows the States to have a tax on premiums as well. So you have a 1.75 percent Federal tax on premiums, but it says, States, you can tax the premiums, too; that power is yours. It results in substantial job loss. That is exactly right.

Mr. President, I used to have a janitorial service when I was working my way through school, and we did not provide health insurance for our employees. Our employees worked part time. Some were married. Under the Mitchell bill, a married couple with a child would be about $6,000. We had a couple of married couples in my janitorial service. The cost for that is about $4,400. I had single adults, students, which would cost me $2,200. I could not afford it, and they could not afford it. I know Senator MITCHELL and others say, "We are going to subsidize those people. We are going to provide them the same insurance everybody else has. We are going to subsidize them and take care of that problem so they do not need to worry."

I am on the Appropriations Committee and on the Budget Committee. We cannot afford that subsidy. We cannot afford to go down the subsidy trail that we are getting ready to take.

I mentioned that it is going to cost jobs. If you do not have the subsidies—that janitorial service did not earn enough money to pay those kinds of premiums. So if you are going to mandate something that costs $6,000 per family, figure the hours and divide that out, and you are talking about increasing the minimum wage by over $2.60 per hour—well, some of these jobs only pay a few dollars an hour. You are going to be pricing those jobs out of the marketplace. So not only will you not be giving people health insurance, you are basically passing a law that says unless you have a good enough income to pay minimum wage, other benefits and health insurance, which are enormously expensive, it is illegal for you to have a job. I will tell you that there are lots of jobs which some call menial jobs, sacking groceries, sweeping floors, or whatever—but I do not think any job is menial; I think it is preferable to no job. I would hate to pass laws in Congress that tell people it is against the law for them to have a job unless they meet a certain economic criteria. I would hate to pull that economic ladder up to where they cannot even get on it and climb that ladder. That is what we would be doing with the mandates.

Some people would say this is a mandate on employers and, therefore, it does not cost individuals. I just totally disagree with that. You put a mandate that costs $6,000 on a family, and if an employer has insurance and says, "OK, I cannot afford it, but I will go ahead and do it," I will tell you who pays for that; it is not the employers, it is the employees. They lose that money. That comes in the form of a pay raise that does not come or maybe in a direct reduction, but they will lose that money. So the employer mandate is 80 percent in the Gephardt bill, and it is 50 percent in the Clinton-Mitchell bill. It still comes out of employees' wages whether it is 20, 50 or 80 percent. If you are going to mandate that an employer has to provide this coverage, then you are looking at a very expensive provision that will cost employees. Does it cost employers? I doubt it. They will pass it on.

I also noticed the majority leader saying, "This is voluntary, we do not mandate anything on anybody." The company I used to manage provides health care, but we do it for a whole lot less than $6,000. So he is mandating that I provide a much more expensive health care plan. Eighty-five percent of the American people have health care insurance today, and maybe they can afford it, or barely afford it. But many have insurance that is a whole lot less expensive than this—$6,000. So maybe if they are paying $2,000, $3,000, you are going to mandate $6,000. That is a big increase. That is a hidden tax people have not talked about and that they have not looked at. If you mandate a Cadillac-type plan, or UAW-type plan, or AFL-CIO-type plan, a lot of businesses in California, Oklahoma, or wherever, cannot afford it. That is exactly what we are getting ready to do.

My little janitor service could not afford it. So if you had this kind of mandate—unless you greatly subsidize it—we would say, no way. Some people would say, wait a minute, we are not going to do that unless you have less than 25 employees. I do not think that is in the Gephardt bill. It was not in the original Clinton bill. They said, "We are just going to subsidize it." I am not looking for subsidies, and I know Congress cannot afford that.

I have mentioned that it creates an enormous bureaucracy of entitlement programs. Most people are not aware, and they really have not focused on the cost and expansion of Government that is in the Clinton-Mitchell package. The new entitlements are enormous. Let me just touch on them. The entitlement program of subsidies for health insurance premiums creates more than $1.1 trillion in 8 years. I would like my colleagues to think about that. We have had various expansions also in Medicare, Medicaid, and so on, over the years. But nothing has ever been proposed as large and as expansive as the proposal we are debating today.

This is a new entitlement program that will expand entitlements to 57 million new people over the next 10 years. Think about that. Fifty-seven million people will be receiving subsidies in 10 years that are not receiving subsidies today. That is more than doubling the eligibility of Medicaid. That bothers me. Where is that money coming from? It is going to be coming from taxpayers and, frankly, from senior citizens, because we take big reductions in Medicaid and Medicare to pay for these subsidies.

So we are creating new entitlements, and we are going to have a subsidy program for unemployed, a subsidy program for women and children. We are going to have subsidies for anybody at less than 200 percent of poverty. Well, 200 percent of poverty is about $30,000. So you are going to be subsidizing a lot of people. You are going to be subsidizing my daughter, and right now you are not. I pay for her insurance. It is $500, but you are going to be subsidizing her and charging her $2,200, when she can buy it for $500; but we are going to pay subsidies so she can help pay it. I would just as soon keep the Government out of it and let me buy her a $500 policy. We are going to mandate that she buy a $2,000 policy, and we are going to subsidize it and have the Government pay for it instead of the private sector, or myself, paying $500 as a family responsibility for my daughter. No, we are going to create a new Government program, and it will go up to $2,000. I think that is a serious mistake.

Under the Clinton-Mitchell bill, they have subsidies that go all the way up to people making $44,000 a year, which is 300 percent of poverty. Well, they have children. That is nice, but not everybody that makes $44,000 needs a Federal subsidy, but they are going to be on the Federal subsidy rolls. Again, it is estimated that 57 million new people will be receiving entitlements under the Mitchell bill by the year 2004. That is a massive expansion of Government.

So when I hear my colleagues say, "Oh, we do not have a Government program,"—no? We are going to be subsidizing 117 million people under the Clinton-Mitchell bill. Let me repeat that. Again, these are not my figures. These are figures that came from CBO. They said by the year 1997, only 3 years from now, we are going to be subsidizing 108 million people, and by the year 2004, 117 million people. CBO figures 117 million people will be receiving subsidies under the Clinton-Mitchell bill.

This is a massive expansion of Government, estimated to cost over $1.1 trillion, and people have not even looked at it. We make speeches that we need to balance the budget, we need to cut a couple hundred million dollars here and a couple million here, and talking about expanding entitlements $1.1 trillion over 8 years and bringing on 57 million new people to be subsidized, including my daughter, who does not need a subsidy, who did not ask for a subsidy, who wants to be left alone so she can buy a $500 policy instead of the Government selling her a $2,000 policy.

This is a ridiculous and massive raid on future generations. We cannot let that happen. Again, a lot of people just are not aware of the fact that it is in this program.

Mr. President, I mentioned as well this bill has a lot of things in it for various special interest groups, and it does. It makes you wonder who is supporting it and why.

One of the groups that has been very active in supporting passage of this bill is the abortion rights group, people who want to promote and encourage abortion, people who want everybody in America to have access to abortions. And that includes President and Mrs. Clinton. Unfortunately it is in the Mitchell package, and I am sure it will be in the Gephardt package. And I am sure in whatever package comes out of the conference committee, it will be in there as well.

This bill promotes, expands, and subsidizes abortion in a way untold of in our country. Let me just touch on a couple ways. I will even refer to section numbers.

A lot of people are not aware abortion will be covered as a part of every Federal benefit package. It is not today. Also, every worker will be required to pay for abortions with taxes and health care premiums. They are not today.

Federal employees can choose whether they want to have abortion coverage or not. Individuals can choose whether they want to buy a plan that covers abortion services or not. This says no. Under the Mitchell bill abortion services are covered whether you want them or not.

We might keep in mind this is supposed to be a health care bill. We also might keep in mind that abortion terminates the life of an unborn child. It kills an innocent unborn child, and this bill is saying we want it to be in every health care plan in America. That is serious. It is, whether you want it or not. There are no opt-out provisions—whether you want it or not.

Then it goes a little bit further and says we are going to subsidize it. Right now there is the Medicaid population, which is more than doubling under the Mitchell package. We do not subsidize abortion except for cases of rape and incest or in case of the mother's life in danger. In other words, for 99 percent of the abortions which are performed, we do not pay for them—we do not pay for them. We pay for very, very few on a Federal level, and I think that is appropriate.

This bill says no, no, you are going to pay for it; it is going to be in every health care package. Taxpayers, you are going to pay for it, too. Under the Medicare population, hey, we are going to put it in the plan. This is going to be a benefit. A lot of people will use it like a benefit. They will use it for birth control purposes. And just as in D.C. where the majority of abortions are performed on people who already had one, two, or three abortions, you will find this being the case if we put in this package.

That is really troubling, telling the people we are going to take taxpayers dollars to be used to pay to destroy an innocent unborn child. Unfortunately, it is in this package and it should not be in the package.

Then the bill has another massive expansion of abortion services that the bill requires. On page 77, section 1128, the bill requires federally-guaranteed

VOL
140
PT
16
AG
12
—
18
1994
UMI

services, including abortion, to be uniformly available across the Nation, and readily accessible within each service region in each State.

Madam President, most States do not have abortion services everywhere. Most States have them in big cities. They do not have them in rural counties. This is going to mandate those services be available whether people want them or not. They are going to mandate that those services be available. That is a massive expansion and that is a massive promotion of abortion.

I think again it is a very, very serious mistake. That again is catering to a special interest group that has an agenda in this legislation, and that bothers me.

Madam President, there are some other special interest provisions in this bill, one of which I almost find interesting, but I hope that someone will pay a little attention to. Last week the American Association of Retired Persons endorsed this package. We note in reading the bill—I hope I am reading the right bill and the right section because we have three different Mitchell bills. I find a very interesting proposal in the Medicare prescription drug benefit. Even in the last few days, I heard many colleagues talk about what a great benefit this would be for seniors. Madam President, I am not so sure that is the case.

Now, we have before us a proposal to add a benefit to Medicare that once again many seniors already have through Medigap coverage. The bill does not even tell us what the bill will be. We do not know what the deductible will be or how it will compare to policies most seniors already have. Again, keep in mind 75 percent of the senior citizen population already have a Medigap policy. Many or most of them cover prescription drugs. Here is what the bill says about the deductible.

Section 2002 (a) state the deductible amount for purposes of subparagraph (a) the deductible amount is amount equal to the amount determined under iii.

That section begins on page 273. It states: For purposes of clause I the amount determined under the clause is (I) in 1999 the amount to be determined by the Secretary is such the amount determined will result in projected incurred spending administrative cost providing for payment under this for covered title outpatient I equal the intention target of $13.4 billion.

In other words, sometime in 1998 the Secretary will sit down and figure out how high to set the deductible. The overall cost of the new program to offer drug programming $14.4 million.

It means senior citizens will have to pay higher for a benefit that may be less generous than they now have under Medigap. Unless the organization understands this on the Mitchell bill—the AARP announced support for the bill on August 9.

My office, and I imagine other offices, was contacted by constituents who say that they want to share their belief that they do not agree with the AARP and they do not agree with this bill.

Mr. President, I do not know why they endorse the bill, but there is a very interesting provision on page 281. The provision authorizes the Secretary of HHS to establish a mail order pharmacy option under Medicare. Under this program the Secretary would solicit bids from various mail order pharmacies, enter into contract with one or more pharmacies to offer prescription drugs through the mail to beneficiaries.

In paragraph 6 (a) the payment amount for covered outpatient drug delivery through mail order pharmacy under such contract will be equal to the amount bid by such plan under the subparagraph instead of the payment limit determined in accordance with paragraph 4.

Paragraph 4 begins on page 277, line 13. This paragraph sets payment limits, price controls, for the maximum amount the Medicare will pay for prescription drugs, but mail order pharmacies are exempt from payment limits. In paragraph 4 they are exempt. So we are going to have price controls on drugs except for mail order pharmacies. That means mail order pharmacies who contract with the Secretary of HHS can charge Medicare more for a particular drug, than a pharmacy or other supplier.

So we are going to have price controls on everything else except mail order pharmacies. Mail order pharmacies would be given special treatment under this bill. They will be the only supplier of prescription drugs that charge more than the Government-imposed price controls.

What happens to a senior who ends up paying more for a drug through a mail order pharmacy?

Subparagraph 6(b) says on page 281, beginning on line 20: Such individuals receive from the Secretary a rebate or contribute toward individual cost sharing amount equal to 25 percent excess of payment limiting to reimburse seniors who get stuck, because we did not have price controls on mail order, and put it on everything but not pharmacy.

That is interesting. In other words, the Secretary which means, by the way, the taxpayer, will rebate 25 percent which the mail order pharmacy price exceeds the Government mandated price for the drug.

So every dollar that the mail order charges above the Government payment limit, the taxpayers are out 25 cents for rebate, and the Medicare beneficiary is out 75 cents. The mail order pharmacy pockets the dollar.

Madam President, I do not know why mail order pharmacies are made exempt from the stringent price controls imposed by Government in this legislation, nor why AARP endorsed the Clinton-Mitchell bill.

But I do note that the AARP operates one of the largest, if not the largest, mail order pharmacies in the country. It also is the case that any mail order pharmacy that wanted to contract with the Secretary will be exempt from price controls that apply to all other manufacturers and suppliers of prescription drugs. In this instance, with the special treatment of labor unions in this bill, a powerful special interest is receiving special treatment.

Does this go all the way back to the individuals who were putting this bill together in a cloud of secrecy and, quite frankly, in all probability illegally? Is this the reason this Times article alluded to the administration wanting to seek settlement of the health suit so people will not find out what went on behind closed doors? Is this the reason Ira Magaziner said all members of the staff were Government employees when they are were not? Is it a fact that there were actually people on the task force serving as staffers, putting this package together, working for special interest groups, maybe working for special interest groups like AARP, so they could exempt mail order pharmacies; maybe working for special interest groups like the National Organization of Women and other groups that are trying to promote and expand abortion access throughout the country; or maybe special interest groups like organized labor, which has certain exemptions from some of these actions I have alluded to?

Madam President, I will just mention one final comment, and that is in the area of medical malpractice reform. In the bill that I introduced originally, the consumer choice bill, we had medical malpractice reform. Senator CHAFEE's bill has medical malpractice reform. Senator DOLE's package has medical malpractice reform. The Clinton-Mitchell bill is a sham. It preempts State laws in 20 States, where they have done some good work to try curb medical malpractice. It preempts those.

Basically, it does nothing that would help to get down excessive litigation and excessive defensive medicine; again, a serious mistake.

I believe, again, it caters to special interest groups. The American trial lawyers support this legislation.

Madam President, I think there are several fatal flaws in this bill. I want to repeat one, this idea when I hear somebody say this bill is voluntary, but yet they tell me what benefits I have to provide. When I see CBO says the cost of this bill is $6,000 per family, I do not think that is voluntary. When they tell me if I have a benefits package that does not quite fit this one, that I am subjected to a 35-percent tax surcharge, I do not think that is voluntary. When they tell me that if I have a high-cost plan there is a 25-percent tax surcharge that would push me down to have the same benefits that Government deems appropriate, I do not think that is voluntary. When they mandate that you provide abortion service when you do not want to, mandate that this be subsidized, and mandate they be in rural communities in North and South Dakota and Oklahoma, that is not voluntary.

Madam President, there is an enormous bureaucracy, there is enormous taxes, over $300 billion in taxes. There is enormous new spending, $1.1 trillion in new spending and new bureaucracies, over 50 new agencies and boards and commissions, some of which are worthless and some of which have enormous power, enormous power, where boards will be determining what benefits everybody in America will have, where boards will be determining the power of price controls, and so on. That is a serious mistake. That is a Government-controlled plan that we have before us. This is doing harm.

And I opened my comments saying, let us do positive health care reform that helps the system. Let us take care of preexisting illnesses. Let us make sure people are not terminated from their insurance because they become ill, or see their insurance rates skyrocket. Let us put in some portability provisions. Let us put in some real medical malpractice reform. Let us simplify the paperwork. We can do a lot of things in a bipartisan fashion and we have this year, but this is not the solution. This is a prescription for disaster. This is a prescription for big Government. This is a prescription for the quality of health care to go tumbling down, and we should not let that happen.

Madam President, I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I yield to the distinguished Senator from South Dakota such time as he may desire.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for as much time as he will consume.

Mr. DASCHLE. I thank the distinguished Senator from the Finance Committee, the manager of the bill, and I appreciate having the opportunity to speak again on many of the issues that we began addressing last week.

I could not help but note the many references made by the distinguished Senator from Oklahoma to the Mitchell bill as a "Government plan." I would also note that last week a number of Members on both sides of the aisle expressed their concerns regarding the mischaracterization of either the Mitchell bill or Dole bill.

I was interested in a comment made by our Majority Leader just yesterday about references made on the other side of the aisle to a "Government health plan." I find it ironic that while the Republicans claim they oppose Government health plans they have not introduced, as far as I am aware, a bill to repeal Medicare, a Government plan. I do not know of any Member on the other side of the aisle who has proposed that we repeal FEHBP, the Federal Employee Health Benefits Plan, a Government plan. I do not know that anyone has introduced a plan or a bill or a proposal at this point to repeal the Veterans Administration, another Government plan.

As Members of Congress, when we visit the doctor, we go to Bethesda Naval Hospital or Walter Reed, both Government hospitals. When we need a doctor, we go to the Capitol physician, an employee of the Federal Government.

So, in essence, what my colleagues on the other side of the aisle seem to be telling the American people, is that Government is good enough for us but not for you. Government is good enough for us when we get sick, when our families get sick, when we have an emergency, but it is not good enough for you.

That would alone makes a very compelling argument about the kind of duplicity that occurs sometimes on the Senate floor, except for the fact that the Mitchell bill is not a Government plan. In fact, it is ironic that anyone would call it a Government plan since the 30 million Americans currently covered under Medicaid, a Government plan, would now be covered by private insurance.

What we are saying is that there ought to be some regulatory framework. And if it is not Government who creates that regulatory framework, who does?

Do we just turn over the entire system to the insurance industry for them to do whatever they wish? Do we turn it over to the doctors, the hospitals? How would it be if we let the airline industry run the entire system without any kind of oversight and regulatory control by the FAA. As we all know, because of this oversight the United States has one of the most safe—if not the safest—air control systems in the world today.

How would it be if our banking system did not have a regulatory framework? How would it be if we simply threw the entire system of highways open to the private sector and let them design roads for whatever purposes they deemed appropriate?

That is all we are saying, that we want that some framework, some standards and safeguards in our health care system. I think everyone recognizes the need for standards. To say that our banking system, our air traffic control system, our highway system is entirely run by the Government would be a gross exaggeration and an overstatement. The same is true when others characterize the Mitchell bill as a system run by the Government. So I hope we could properly characterize the Mitchell plan and recognize that we must have the kind of oversight and framework that we have been able to acquire in other sectors of our economy. I certainly hope, ultimately, when we pass the legislation that I know we can pass in the coming weeks, that it will recognize the importance of a private sector system in an appropriate governmental framework.

There are a number of provisions that we all indicate are important to us. We have heard speeches on both sides of the aisle about the importance of uniform coverage. We have heard statements about the importance of effective cost control. We have heard many statements from Members of both sides of the aisle that if indeed we do anything, we have to ensure that there be market reforms.

Finally I think I have heard Members on both sides of the aisle repeat with some frequency how important it is that we give the American people the same opportunities for coverage that we have in Congress. Those are statements made, I think, with similar frequency on both sides of the aisle. But when you really begin to compare what is offered by the Republican leader and what is offered by the majority leader, you begin to see there is a difference between rhetoric and fact, between statements of intent and the actual creation of a mechanism to accomplish what we say we all want.

So I would like to spend a little time this morning talking about the way both bills address those things that we feel are critical to meaningful health reform. When I say "we," I am talking about Members on both sides of the aisle, Republicans and Democrats, who acknowledge the importance of universal coverage, effective cost containment, who acknowledge the importance of meaningful insurance reforms, and access to a health system that we as Members of Congress take for granted.

Universal coverage, I think, is an important beginning. Universal coverage has certainly been the subject of a great deal of analysis and discussion and consideration for many years. The Clinton administration made universal coverage its No. 1 goal. Senator MITCHELL, the majority leader, has indicated that his bill would put us on the road to universal coverage by a date certain, reaching at least 95 percent coverage by the year 2000.

The Dole bill, as I indicated last week, is just beginning to be better understood. We have not had a chance to look at all of its provisions in great detail and subject it to the analysis of CBO, which will be performed at some point.

VOL 140 PT 16 AG 12 — 18 1994 UMI

But we do know this: We do know that the Dole plan leaves millions of Americans uninsured. On that fundamental goal that we deem so critical, according to a Lewin-VHI analysis, the Dole proposal leaves out three out of four uninsured Americans by the year 2000. So 75 percent of those who are uninsured today will be uninsured under the Dole bill in the year 2000—6 years from now. More than 6 million children will still be uninsured under the Dole bill at the end of the decade. Congress is not even required to consider recommendations for achieving the goal of universal coverage.

Madam President, if we enacted the Dole bill today, 30 million Americans would still not have health insurance 6 years from now. That is one of the biggest differences between the Dole bill and the Mitchell bill. Not only are we reversing the downward trend of insured Americans today under the Mitchell bill, going from 85 percent to 83 percent just in the last 2 years—the Mitchell bill would reverse that trend. According to the Congressional Budget Office, health insurance coverage would jump from 83 percent in 1994 to at least 95 percent by the year 2000. Attaining universal coverage, our most fundamental goal, is one of the real differences between the Dole and the Mitchell bills.

So what is the implication to that? It is not just an egalitarian motive. It is not just important we provide coverage to everybody simply because it is the right thing to do. What expert after expert has reported to the Congress, what Lewin-VHI has indicated in their reports to the Congress, is that if we fail to achieve universal coverage, the extraordinary problem of cost shifting will continue. An individual who is uninsured today will is most likely to get care in most expensive setting possible, in an emergency room. Despite their lack of insurance, the hospital will still provide care to them. However, the hospital will shift these uncompensated costs onto others. These uncompensated care costs will be shifted onto the insurance companies, shifted onto individuals, shifted onto businesses, shifted onto the Government. Everybody but that individual receiving the services will be required to pay something for the costs associated with uncompensated care provided in the emergency room or any other setting. This cost shifting has increased premiums by as much as 30 percent. Under the Dole bill, since it does not achieve universal coverage, cost shifting will continue.

So we have a very fundamental difference of opinion with regard to what ought to be the ultimate goal of meaningful health reform. The Mitchell bill, quite simply, says let us achieve 95 percent coverage in the next 6 years. And let us get onto the road to universal coverage sometime shortly after that. And let us end the very serious problem of cost shifting by achieving universal coverage.

The Dole bill says that achieving universal coverage is something we just cannot do. The best we can do is try to insure one out of every four Americans over the next 6 years, leaving three out of those four who are uninsured, still uninsured even in the year 2000.

So I think that is something everyone ought to fully appreciate as we are beginning to analyze how we compare and contrast the Dole and Mitchell bills in the coming days.

The second issue has to do with cost containment. If there is another very critical point upon which there is vast agreement in the speeches on either side of the aisle, it is that we must have effective cost containment. It is no secret that costs have skyrocketed over the last several years. We are now at 14 percent of GDP: CBO says if we do nothing we could reach 20 percent of GDP in the next 6 years. So clearly cost containment is something that we all recognize is critical to meaningful health reform.

Universal coverage is essential to cost control. You cannot really have one without the other. You cannot have meaningful cost containment if you leave a lot of people uninsured and out of the system because, again, cost shifting is going to drive up costs, both administrative and direct costs.

There is no cost containment anywhere to be found in the Dole bill as it is currently written. And for that reason alone, I think you could call the Dole bill the Insurance Industry Protection Act. Furthermore, the market reforms in Senator Dole's bill are riddled with loopholes and fine print and will not encourage competition on price and quality.

Many people have indicated the Mitchell bill is 1,400 pages; the Dole is about 700 pages. I think I happen to have both of them right here with me. It is half as thick because it does half as much. It does little, if anything, on universal coverage, and it does virtually nothing when it comes to cost containment. Cost shifting, as I indicated, has cost businesses more than $40 billion more per year than they ought to be paying—that $40 billion could be going into higher salaries, more profits, greater dividends for shareholders—$40 billion that makes us completely uncompetitive when it comes to our international competition.

There needs to be a recognition that cost-shifting costs the individual family 15 to 20 percent more in higher premiums to cover the uninsured. So without any doubt, employers are paying the price today for those without coverage. The free-rider competitors that are not required to contribute to health insurance are the ones shifting the costs of their employees coverage onto businesses that do not provide insurance.

If we do not have meaningful cost containment, if we do not have a way to ensure that businesses can control their health costs, then I have to tell you, Madam President, I think we will have failed as a country—we certainly will have failed in the U.S. Senate—to respond to those businesses who have made it very clear to us, that, while they want universal coverage, they also need more confidence they can control their future health care costs.

A family in 1998 making between $30,000 and $40,000 would pay $713 more in a nonuniversal system than with universal coverage, according to Lewin VHI.

So businesses and families beware, if we pass health insurance reform without effective cost containment, costs will continue to rise. That, Madam President, will be a tragedy not only for those families and businesses, but for the economy, for competitiveness, and for health security.

We should recognize that the Dole bill is substantially different when it comes to cost containment than the Mitchell bill. Time after time, we have heard on the other side of the aisle how the Mitchell bill fails to achieve the goals the Clinton administration has set out. Let me tell you, there is no comparison between the Dole bill and the Mitchell bill when it comes to cost containment. In the Dole bill, there simply is no cost containment. Everyone should recognize this as we deal with this issue over the next several days.

The third issue that we have discussed at some length has to do with insurance market reforms, and the fact that if, indeed, we are going to build upon the current system, we must recognize some of the inadequacies of the current system. Many insurance reforms have been proposed over the years.

But the Dole Insurance Industry Protection Act, leaves out many of these reforms. The Senator from Oklahoma earlier had made a point about the fact that both Dole and Mitchell eliminate preexisting condition exclusions. In fact, the Dole bill does not eliminate preexisting condition exclusions. They are still allowed.

Anyone who has had the chance to read the bill carefully will be concerned about the coverage that one is allowed to acquire if they lose their job, if they move to another State, if there is a change in their personal circumstances. There is no guarantee of portability, Madam President, in the Dole bill.

Third, the Dole bill contains, in effect, a 15-percent premium tax. It allows insurance companies to charge up to 15 percent in administrative cost to anybody who is in the community-rated pool; 15 percent over and above the standard premium.

Fourth, access to an FEHBP plan—something we say ought to be available to all Americans—is limited.

And fifth, there is absolutely no guarantee of choice. In fact, under the Dole plan, you may not even have a fee-for-service plan available to you.

I want to talk briefly about all five of those points, if I can, because I think they are very noteworthy and, again, a significant departure from what the Mitchell bill attempts to do.

As I said at the beginning of my discussion with regard to market reform, perhaps the only issue about which there is no disagreement, that we ought to do as much as we can to eliminate preexisting condition exclusions. The preexisting condition exclusion, precludes someone with any medical condition or disability from obtaining coverage for that condition—if they have heart disease, if they have cancer, if they have diabetes, if they have any one of a number of diseases today, often they cannot get insurance.

If they acquire those diseases after they have insurance, chances are at some point in the process, they will be dropped. As was indicated, there probably are differences with regard to how we would interpret preexisting conditions, but there is no difference at all in the stated determination on both sides of the aisle to eliminate preexisting condition exclusions. And yet if you look at the Dole bill, in spite of its stated intentions, coverage can be denied up to 12 months for individuals with preexisting conditions and 6 months for those purchasing coverage in a group. While the Mitchell bill phases out preexisting conditions entirely with universal coverage, during the transition period, the exclusion is only for 6 months.

Let me try to contrast the Mitchell and the Dole bills on this point.

Under the Mitchell bill, there is a 6-month exclusion allowed initially but it is phased out entirely over a 6-year period of time. Under the Dole bill, a 12-month exclusion is allowed for an indefinite period of time. So 10, 15, or 20 years from now, if you have a preexisting condition, you may be excluded from your insurance company's policy for whatever preexisting condition you may have.

What kind of coverage is that? What kind of protection, what kind of security, what kind of guarantee are we providing the American people if after 10 years, a preexisting condition can still preclude you from getting the kind of care that you ought to have?

Clearly, there is a significant difference between the Mitchell and the Dole bills when it comes to insurance market reforms, specifically regarding preexisting conditions.

The Dole bill also contains exceptions to portability. Senator DOLE's bill allows insurance plans to enroll individuals and firms on a first-come-first-served basis. Insurance companies and their agents can, therefore, control who they will insure. They may want to insure only a white collar group in the middle of a city. They may not be interested in insuring farmers or an agricultural co-op in South Dakota. Under the Dole bill, they will have that right to preselect, to enroll people that they might prefer to have in their plan, leaving vulnerable those who cannot enroll.

Madam President, the Mitchell bill does something entirely different in this regard. It guarantees everyone an equal opportunity to enroll in the plan of their choice, regardless of what point during the open enrollment period they sign up for coverage. The insurance plan must take everybody up to its capacity. If you want to enroll in Blue Cross/Blue Shield, that is your right. If you want to enroll in some other plan, that is your right.

So we talk a lot about the importance of having choice of plans and providers, but there is a substantial difference between what the Mitchell bill will do with regard to the opportunity for individuals to enroll in the plan of their choice and what the Dole bill does in this regard.

I mentioned another aspect of market reform, Madam President, the fact that the Dole bill includes a 15-percent insurance company premium tax. The Senator from Oklahoma talked a good deal about taxes in the Mitchell bill. I wish I had time to go through a clarification of many of those taxes he pointed to.

The Mitchell bill does say there will be a 25-percent tax, only on those plans whose premium increases exceed a target rate. That is, if a plan exceeds the CPI plus a certain percentage, there is an automatic mechanism to contain those costs in the future by levying an assessment on those plans. There is nothing like that in the Dole bill. If an insurance company wants to charge policy holders 15 or 20 percent in additional premiums, that is their right. There is nothing in the Dole bill to control insurance company premiums. There is no commitment to restrain growth in a given year.

The Dole plan says, "Go ahead, insurance companies, continue to increase your premiums at 15 or 20 percent; we're not going to stop you."

But we are going to let you charge 15 percent above your base premium for community-rated plans—we will allow a 15-percent administrative charge to be tacked on to all insurance plans.

Mr. WALLOP. Will the Senator yield for a question?

Mr. DASCHLE. I will be happy to yield at the end of my statement. I note that the Senator from Oklahoma preferred to continue with his statement, so I will do that, and I would be happy to open it up to the distinguished Senator from Wyoming if he so chooses afterward.

The fourth point that I make, Madam President, has to do with access to FEHBP, the Federal Employee Health Benefits Plan. The Dole bill does not provide everyone access to FEHBP, in spite of the fact we all have indicated that that is something we ought to provide. We talk about the importance of giving the American people the same coverage we have, and I think that is a fundamental difference, between what the Republicans have proposed and what we are proposing.

Under the Dole plan, the only people that would be allowed access to the FEHBP are those who are working for an employer who chooses an FEHB Plan. But there is a further constraint in order to be eligible for FEHBP. You must work for an employer with fewer than 50 workers. If you work for any employer with more than 51 workers, you are out of luck.

In spite of all the recognition of the importance of having access to the Federal Employee Health Benefits Plan, under the Dole bill any employer with more than 51 people is automatically excluded from FEHBP. And that is not the only constraint. Outside enrollment is limited to 5 percent of the health plan's overall FEHBP enrollment. If the Dole bill were to pass, FEHBP would be available only to 5 percent more individuals.

On top of that, the Dole bill suggests that people who are not Members of Congress or employees of the Federal Government would pay a 15-percent surcharge for enrollment in FEHBP. Apparently what we are saying is it is OK for us to have discounted premiums, but if you are going to enroll in the same plans that Members of Congress have, you may have to pay 15 percent more. You can be a worker with a limited income, working for a small businessman who for the first time may be offering insurance. You can have the same access to the plan we have if your employer chooses to give you access to an FEHB Plan, but if you go through all these hoops and hurdles, you still have to pay 15 percent more than what Members of Congress pay for the same coverage. That is the Dole provision on FEHBP.

Finally, under market reform, Madam President, let me touch on another matter that I think is very important. We have heard a lot of discussion about choice—choice of doctor and choice of health plan. Under the Dole bill, cooperatives and employers are not required to offer a choice of plans or a choice of doctor. They may offer their employees plans that do not include a fee-for-service plan. Employers do not have to make available a fee-for-service plan. You can offer anything you want. So if your employer decides to go for the least-cost plan, he may sign you up with an HMO, a PPO, or a plan with very limited options, and if you are the employee, you have

VOL
140
PT
16
AG
12
—
18
1994
UMI

to take that policy, or you do not take anything at all.

Where is the choice? We talk a lot about choice just as we talk a lot about universal coverage and cost containment and market reform. But where is the choice if an employer today can deny you the same choices that the Mitchell bill, the Clinton original bill, and all of those plans have said is so critical to meaningful health reform? Where is the choice when an employer can cut you out of a fee-for-service plan, and can restrict your choice of doctor? There is no choice, and that is something I hope will be well understood as we compare and contrast the Mitchell and the Dole bills.

The next point that I think has been made in the past but is worth repeating is the importance of cost when it comes to the working families.

I have a chart that outlines the average cost of a plan in terms of percent of income under the Mitchell bill. Under the Mitchell bill, if you have an income of $22,172—that is about 150 percent of poverty—your payment would be $1,471, which is about 6.6 percent of family income. Under the Dole plan, the average premium would be $5,883, or 26.5 percent of family income. That is the difference, Madam President. A working family of four with a reasonable income of $22,000 will pay 6 percent of their income under the Mitchell plan, and 26 percent under the Dole plan.

If you look at the impact on children, the situation is even more stark. Under the Mitchell bill, that same family with a $22,000 income, at 150 percent of poverty, would pay no premium to cover two children. Under the Dole plan, a family with children would pay 26.5 percent of their income in premiums.

As we go through these calculations, it becomes clear the Dole plan is an expensive plan. The Dole plan not only does not cover everybody, but costs will be very high for those it does cover.

Madam President, a question was raised today about why seniors would support the Mitchell bill and not the Dole bill.

I think it is pretty obvious why the Mitchell bill enjoys the support of seniors across the country. The Mitchell bill is endorsed by AARP and many individual seniors because it does something for seniors. It recognizes the importance of prescription drug coverage for seniors. It recognizes that more than 18 million Americans over the age of 65 would obtain drug coverage under the Mitchell bill, but would have no coverage under the Dole bill.

The Dole bill does not ensure drug coverage for seniors. It leaves seniors completely out in the cold.

It is not just seniors who are left out. I mentioned earlier the fact that businesses are going to absorb $30 billion this year to cover the uninsured. We are told by Lewin-VHI, if we do nothing or if we pass the Dole bill, the cost shift on American business today would go from $30 billion to $45 billion by 1998.

That is a substantial increase in the cost that businesses are going to have to absorb simply because there are currently free riders in the system today. Family coverage will still be one-third more expensive in 1998 than it is right now to pay for these free riders. Under the Dole bill, there are no employer discounts, no incentives to provide coverage, no guarantee that we are going to end the cost shifting. Businesses, small and large, are going to continue to absorb the costs that they are absorbing today. They are just going to absorb a whole lot more.

Finally, let me touch on an issue that is very important to the manager of the bill, the chairman of the Finance Committee. We have talked at length about research and work force training. These topics are important not only to the State of New York but to every State. Science is important. Medical research is perhaps the key to our long-term future. We must continue to send the message, not only to those in our country but around the world, that we are going to invest in technological innovation and medical research in a way that gives us the ability to respond to the medical problems that we have in the country today.

Under the Dole bill, there is no additional Federal money for research or work force training. Under the Dole bill, the only additional NIH research funding would be funded through a voluntary $1 tax return add-on. This is another reason why the Dole bill is slimmer than the Mitchell bill. The Dole bill leaves out research.

(Mr. BYRD assumed the chair.)

Mr. DASCHLE. Under the Dole bill, public support for academic health centers is reduced without any increase in coverage or funding to offset the loss from the reduced ability to cover costs from the private sector.

Mr. President, I hope that as we go through the coming days we will have the opportunity to compare the Dole and Mitchell bills, and that we will have the opportunity to prove that the Mitchell bill is a thicker bill because it simply does more. In fact, I believe it does more than twice what the Dole bill does. I hope that throughout the day today we will have opportunities to revisit many of these issues again.

I yield the floor.

Mr. WALLOP addressed the Chair.

The PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I am about to yield to the Senator from Texas 3 minutes. But let me say to my friend that I do not know why anybody is talking about the Dole bill a lot of us have cosponsored. It has more cosponsors than any other bill around. But the fact of it is that we are not to be allowed to debate it or discuss it because we are not to be allowed to have CBO's estimate on it. We are not to be allowed because it is taking place behind the House's need for CBO's estimate. We have the CBO estimate on the Clinton-Mitchell bill. But we are not to be allowed. So whatever you say about the Dole bill may or may not be true. I suggest that I quarrel with most of what the Senator said. But the fact of it is, it is irrelevant because we are not to allowed to have that as a part of the debate.

The PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM] is recognized for 3 minutes.

Mr. GRAMM. Mr. President, in listening to our colleague from South Dakota, I am stunned that anybody could be against the Mitchell bill and be for the Dole bill. Listen to what our colleague said. He said if you are making $22,000 a year, under the Dole bill you will have to pay 26 percent of your insurance premiums. Somebody else is going to pay the rest of it. Under the Mitchell bill, you are only going to pay 6 percent, and somebody else is going to pay the other 94 percent.

Our dear colleague from South Dakota said that under the Mitchell bill, we are going to give $96 billion of new benefits to our senior citizens. How could anybody listening to those wonderful numbers be for the Dole approach and not be for the Mitchell approach? There is only one reason, and the reason is that the Mitchell bill cost $1.1 trillion over a 10-year period.

In 1950, the average American family with two children sent $1 out of every $50 it earned to Washington, DC. Today, that same family sends $1 out of every $4 it earns to Washington, DC, and under the Mitchell bill, in 10 years that family would send $1 out of every $3 it earns to Washington, DC.

So there is only one reason that someone would not think it is such a great and wonderful idea for the Government to give all of these benefits away. And the reason is the Government is broke. The reason is that when somebody gets something for nothing from the Federal Government, some working person somewhere gets nothing for something. Who is paying for all of these great subsidies? Who is picking up the cost of the other 94 percent of the cost of health insurance under the Mitchell bill? The taxpayer. Who is picking up the tab for all of these new and wonderful benefits that we all wish the Lord had simply provided? They probably were provided in the Garden of Eden. But having arrived in the state we are currently in, ultimately the only way we can give things away is to take them from other people.

There are literally tens of millions of Americans who believe that we have already taken away too much from the people who do the work, pay the taxes, and pull the wagon in America and that this process has to stop.

The big difference between the Dole bill and the Mitchell bill is that the Dole bill seeks to reform health care by promoting a more efficient system. The Dole bill will help working people by paying part of their premiums, not as much as the Mitchell bill—but without the 18 new taxes found in the Mitchell bill. The Mitchell bill has 40 new Government regulatory agencies, and over 100 unfunded mandates.

It is a miracle what you can do with $1.1 trillion, which is what the Mitchell bill would spend in a decade. There are only two problems, however. No. 1, it is not our money. No. 2, the only way we can get the money is by reaching into the pockets of the working men and women of America and taking it away.

So if all you want is more Government, then you are for the Mitchell bill because it gives you more Government, and it gives you more Government in a greater abundance than any other bill ever considered in the history of the United States of America.

The problem is that the American people do not want all of this Government. That is why the Mitchell bill is losing, why the Gephardt bill is losing, and why the Clinton bill has lost. The sooner we stop talking about all of the free things that are given away and start talking about how we are going to pay for them, the sooner we might actually be able to write a bill that would meet the needs, not just of all the people riding in the wagon, but meet the needs of the people pulling the wagon.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon, [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, I believe the Senator from South Dakota has a statement. Are we under controlled time?

The PRESIDENT pro tempore. We are not under controlled time. The time is equally divided.

Mr. REID. Parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator does not have the floor.

Mr. PACKWOOD. I yield such time as the Senator from South Dakota may need.

The PRESIDENT pro tempore. Does the Senator from Oregon yield for a parliamentary inquiry to the Senator from Nevada?

Mr. PACKWOOD. Yes.

Mr. REID. Parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator will state the parliamentary inquiry.

Mr. REID. I was told by the manager of the bill on this side that we would go side to side, and that I would have time during today. That being the case, the Senator from Texas just completed his statement.

The PRESIDENT pro tempore. The Chair is not aware of any such provision in the unanimous-consent agreement.

Mr. PACKWOOD. I wonder if I might solve it in this fashion. I apologize to the Senator from Nevada. Senator GRAMM indicated that he wanted to respond to a point raised by Senator DASCHLE. When we were debating this last week, we went to one side and then to the other. I would appreciate it because the Senator from South Dakota has been waiting and was scheduled to go—his statement is not a long statement—if he could do it. Senator GRAMM says he spoke 2 minutes 20 seconds.

So I would very much appreciate it if the Senator from Nevada would indulge us. I apologize if that agreement was made. But Senator PRESSLER was from our standpoint scheduled to go next.

Mr. MOYNIHAN. Mr. President, I am sure we can work this out. Senator GRAMM's intervention was in the way of a response to a specific point that had been made by the previous speaker. I had fully expected that there would be a proper address on this side, and at the conclusion of which the Senator from Nevada will have as much time as he would like.

Mr. PACKWOOD. I thank the chairman. I thank very much the Senator from Nevada. I yield such time as the Senator from South Dakota may need.

The PRESIDENT pro tempore. It is the Chair's understanding now that no order has been entered for alternate recognition.

Mr. MOYNIHAN. Mr. President, I do not know that this would be necessary. I believe that as the respective managers we have worked this out on the basis of comity. It may be that a time will come when no speaker appears on one side and the attendance is not excessive, as is evidenced by the graciousness of the President pro tempore to preside. We do not request that.

The PRESIDENT pro tempore. The Chair understands. The Chair will have to make it clear that the Chair will accord recognition on the basis of the rules, unless an order is entered that there be alternate recognition.

The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, let me begin by saying that I welcome the debate which will occur over the next few weeks. It will be a spirited debate, and it will force us to take a stand on difficult issues. It also will require us to stop the rhetoric and begin voting. As we debate, we must not overlook one simple fact: Health care reform will literally affect every man, woman, and child in this country. We need to proceed with extreme caution. Our decisions will impact all of our constituents.

We all agree that our health care and health insurance systems need some reforming. Our differences are not about whether we need reform. Rather, this debate is about how best to reform those systems. The health care debate really boils down to one simple question: How much Federal Government do we want in our health care system?

Medicine is defined as the study, treatment, and prevention of disease. Our medical system is one of the best in the world. In 1920, the average life expectancy of an American was 54 years. Today, that has climbed to 75. In 1920, the 10 most serious diseases were tuberculosis, influenza, pneumonia, nephritis, sclerosis, cephalitis, diphtheria, whooping cough, measles, and gastritis.

Today, vaccines and medications have greatly reduced the occurrence of these disorders. Over one-half of all medical technology—the life-saving machines, treatments, and medications that make our system great—have been developed in the United States. Over 90 percent of our medical technology is developed in the private sector.

Despite its flaws, our medical system is the best in the world. It does work. Our system has enabled us to live longer and more productive lives. Change for change's sake must not be permitted to jeopardize this achievement.

The primary focus of the health care debate has been on those Americans who do not have health insurance. We need to help them. This can best be done, in my judgment, through insurance reforms and subsidies. However, the health care debate has failed to focus on those Americans who do have health insurance. An estimated 85 percent of Americans have health insurance. We cannot forget them in this debate. We must not jeopardize the health care of these individuals.

A poll conducted by a newspaper in my State indicated that 80 percent of all South Dakotans were satisfied with their health insurance. Poll after poll confirms that most Americans are satisfied with their health insurance. Consequently, I ask, why do some advocate a radical overhaul of the entire health care system?

Do Americans desire to pay less for their health care? Of course. Can steps be taken which will reduce medical costs? Of course.

Do Americans want some changes? Yes, they do. However, they do not want reform just for the sake of reform.

Mr. President, my point is this: We need to listen to all Americans. They are telling us to proceed with caution and to fix only the broken elements of the system. South Dakotans are letting me know how they feel. My office has been receiving over 100 calls and letters each day on this issue. Between

VOL 140 PT 16 AG 12 — 18 1994 UMI

the time the President introduced his health plan last fall and April 1 of this year, over 19,000 South Dakotans contacted me to express opposition to all or part of President Clinton's health plan. The message is clear—South Dakotans do not want a Government-controlled health care system.

I normally do not find myself quoting newspaper editorials. However, several papers in my home State have printed editorials that reflect the sentiments of South Dakotans. The Mitchell Daily Republic gives this advice:

There's no question that changes in health care are needed. But to change for change's sake would be folly.

Our advice: Slow down. Depoliticize. Do it right the first time.

The Yankton Press and Dakotan writes:

Bulling through "something" that will get a majority vote in Congress may be good politics, but it's bad policy.

The Watertown Public Opinion writes:

Gephardt, Gibbons, and others who favor employer mandates apparently feel the tremendous job losses and reductions in wages are not too high a price to pay for health reform. We suspect most working Americans feel differently * * *.

The Huron Plainsman writes:

There are alternatives on the table that could do some good without starting from scratch—for example, portability of health insurance from job to job, insurance pools for preexisting conditions, and those struck by catastrophic illness * * *.

Mr. President, these articles reflect the views of my constituents.

I ask unanimous consent to insert the full newspaper editorials I have referred to in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Daily Republic, Aug. 10, 1994]

BAD HEALTH BILL WORSE THAN NONE

It was one of those sound bites television is known for, which means it's done in a flash, so we apologize for not attributing it.

But in essence, the voice was saying, "Passing a bad health care bill would be worse then passing no bill at all."

We couldn't agree more.

Why are some so eager to rush to judgment on health care? In a word, politics.

There is a theory making the rounds that if President Clinton and the Democrat controlled House and Senate can pass a health bill soon, it will help them during the November elections.

It's no secret that Republicans believe they can make inroads in the Democrat majorities in both houses. Maybe they will. If so, it would not be unusual in an off year election.

But political strategies should be left out of a reform measure that promises to be the most far-reaching legislation since Medicare. The key question should be if a hastily pasted-together health care bill would be good for the public. That's an easy one to answer.

Just the sheer complexities of the proposals are enough to boggle the experts, let alone Congress. And, the differing characteristics of each plan has splintered the support. For instance, the bill proposed by Senate Majority Leader George Mitchell last week, which was a far cry from Clinton's original bill, still has so many negatives that it has failed to attract the needed bipartisan support.

The bill proposed by House Majority Leader Richard Gephardt faces a similar fate. And for good reason. The mandates forced on businesses in the Gephardt proposal could cost thousands of jobs because it forces businesses with more than 100 employees to pay 80 percent of their employees' health insurance.

That aspect alone would run up $58.8 billion in new costs, or about $586 for each employee, according to some analyses.

What is deeply troubling is the mindset that "some" sort of health care plan must be passed this summer or fall. Never mind that no firm dollar figures have been attached to any of the administration's proposals; never mind that an increasing number of Americans are seeing that a blank check for a new federally administered program would be disastrous.

Thre's no question that changes in health care are needed. But to change for change's sake would be folly.

Our advice: Slow down. Depoliticize. Do it right the first time. It will be less costly in dollar and human terms and the end product will be of far better quality.

ANY FEDERAL HEALTH CARE PLAN DESERVES MORE TIME FOR IN-DEPTH STUDIES

Whether Sen. Larry Pressler has the best ideas on health care plans or the worst, the South Dakota Republican's comment recently to reporters on the subject is worth analysis.

Says Pressler, Democrats will try to blame Republicans for blocking health care reform efforts, but it's the Democrats themselves who can't get together on a single plan.

While an analysis by an opposing politician usually is poopooed, this one makes pretty good sense.

So also does Pressler's comment that, "This is a very important bill to South Dakota and the nation. I think we should have time to study it, at least."

Pressler is at least 100 percent right on that.

Whether the reader is absolutely convinced that the country really needs fully socialized medicine, or whether the preference is for no public involvement at any level, Pressler still is right.

There has been, and will continue to be, too much hype on health care.

The major problems have likely been ignored, anyway.

Assuming that "the wheels" are right in their figures that only about 20 percent of Americans aren't covered, and that surveys show that health care is not even a top issue for most of us, one wonders what is driving the health care legislation engine.

It might be that the worst problems are in urban areas where there is the most representation.

It might also be that hospitals and doctors are tired of messing with "charity" patients whose medical bills then must be paid for from inflating the bills of paying customers who have insurance of one sort or another.

It might also be that there are some folks who genuinely believe that socialized medicine, Soviet style, is the only fair way to offer treatment to Americans.

And don't forget the possibility that there are some folks who are looking at the trends, and figure that there is no way on earth for the country to pay for the highest level of medicine when the baby boom hits retirement age.

There are all kinds of disagreements on policy and philosophy to be found in any bill. The situation with various cost-inflation factors—$10 sneeze-tissue boxes, for example—is enough to make the most dedicated right-winger cringe and suggest federal regulation.

Also for example, those who sincerely object to abortion or blood transfusions should have their rights upheld along with those who fervently disagree. That won't be easy.

Anyone studying the question also agrees that, morally distasteful as it may be, there likely will be quotas on treatment and spending that will result in deaths when more treatment might have some slight chance of success.

As this column has said before, there are many deep philosophical questions on medical ethics that the country must generally agree to. Otherwise, no "federal health care program" can succeed.

That's why Pressler is right in suggesting more time to study any bill: Bulling through "something" that will get a majority vote in Congress may be good politics, but it's bad policy.

Bad, politically correct law is still bad law.

HEALTH CARE MANDATES APPEAR TO BE UNHEALTHY

House majority leader Richard Gephardt, D-Mo., is putting the last touches on a health reform bill that he expects to bring to the floor for a vote in the near future. Like so many issues coming out of Washington, the more we read about them the more confusing they become.

However, this much we know about the forthcoming bill: It is a derivative of a measure previously approved by the taxwriting House Ways and Means Committee. It would finance universal coverage of all Americans, primarily by imposing employer mandates.

Like President Clinton's original proposal, Gephardt's bill would require that employers pay 80 percent of workers' health insurance premiums. At the moment, it appears unlikely that a majority of the House will support such a crushing mandate.

Even House Speaker Thomas Foley, D-Wash., has backed away from full-blown support for the most controversial element of the Clinton plan. Recently, he floated the idea of setting the employer mandate at 50 percent with workers picking up the remainder.

But it matters not politically, whether the employer mandate is set at 80 percent or 50 percent. If liberal leaders want to pass a health reform bill this year, if they hope to win any support from conservatives, they must jettison the employer mandate altogether.

Of course, many of the liberal lawmakers continue to insist that employers be forced to pay much of the cost of health reform. The acting chairman of the Ways and Means Committee, Rep. Sam Gibbons, D-Fla., warns that even reducing the employer mandate from 80 percent to 50 percent would require the government to spend an additional $30 billion a year on health care subsidies.

The problem with Gibbons and other advocates of employer mandates is that they have too little appreciation for the dynamics of the American economy. They think they can hit employers with a mandate—essentially an indirect tax, costing upward of $100 billion a year—and that those employers will continue to conduct business as usual.

Of course they won't. If employers are forced to pay an expensive new mandate, they will have to cut costs. The likeliest way of doing that is by lowering the overall wages of their workers or paring altogether from their payrolls those whose productivity does not cover their salary plus the additional cost of their health benefits.

Harvard professor Martin Feldstein, who also presides over the National Bureau of Economic Research, estimates the employer mandate would result in a 6.4 percent reduction in average wages by 1997. That's a $115 billion net loss in worker income. This, in turn, would lead to a loss of $49 billion in tax revenue in 1997 alone, he reports.

Meanwhile, an analysis by the consulting firm of DRI/McGraw Hill estimates job losses stemming from the employer mandate at anywhere from 888,000 to 2.4 million.

Even the Clinton administration has conceded the mandate would eliminate at least 600,000 jobs.

Gephardt, Gibbons and others who favor employer mandates apparently feel the tremendous job losses and reductions in wages are not too high a price to pay for health reform. We suspect most working Americans feel differently. . .

[From the Plainsman, Aug. 9, 1994]

HEALTH-CARE BILL COMES DOWN TO THE WIRE

Eleven months after President Clinton unveiled his health-care reform package to Congress and the nation, the issue he has called the cornerstone of his presidency has all but crumbled.

The reason: The White House and Democrats have seriously misjudged the public's vital signs, while Republicans have forced the debate into a referendum on whether citizens want more government in their lives.

Everday Americans, who have the most at stake with legislation that would nudge medical insurance coverage to 95 percent of the population by 2000, are asking reasonable questions about cost and services. They want to know why government wants a substantial role in running the health-care system, which accounts for one-seventh of the U.S. economy. People naturally are skeptical—a necessary predisposition among those who want to keep their liberty. In fact, two-thirds in a Newsweek poll say it would be better to wait until next year to tackle health-care reform.

In response, the administration has lumped all who have doubted the benefits of the Clinton health care bill as nearly traitors.

This is what Mr. Clinton said over the weekend: "The violent, extremist interests in this country that are trying to keep health care out of the reach of ordinary American working people are a disgrace to the American dream."

Some would say this outburst was frustration borne of a struggle to make life better for citizens.

But why make excuses? It's uncalled for and shifts attention away from the merits of the case for reform.

There are alternatives on the table that could do some good without starting from scratch—for example, portability of health insurance from job to job, insurance pools for pre-existing conditions and those struck by catastrophic illness, and incentives to stay well instead of traipsing to the doctor with every sniffle. On these issues, there is near unanimity, and they are doable and affordable.

Still, some within the administration aren't reading from the same page of the hymnal. "Tinkering around the edges . . . will not work," said Health Secretary Donna Shalala.

Congress has time yet to use politics in the best sense—as the art of the possible. Compromise on health-care reform will serve the interests of most of the public. Congress should stay in Washington until they vote on a plan, and voters will decide in November whether they did too much or too little.

"Our View" is the opinion of the Plainsman's editorial board: Publisher Daryl Beall, Editor Cliff Hadley, Managing Editor Roger Larsen, Associate Editor Dave Harles and Regional Editor Crystal Pugsley.

Mr. PRESSLER. Mr. President, I have held several meetings in recent months on the issue of health care reform. As always, the advice obtained from these meetings is valuable. A comment from one farmer stands out in my mind. He told me a story about a farmer who had 10 pieces of farm equipment. Every spring he would take them out of the barn and get them ready for the spring work. He would overhaul only those machines that needed overhauling. He would just tune up the others. That is how we should proceed on health care reform. Let us fix that which is broken and leave alone the elements that work.

I want to air some of my concerns about the full-court press to pass a health care bill before the American people have adequate time to digest the details. I am not opposed to moving right along. A year ago in April, I said we should start voting on health care reform. In fact, I would like to start voting today, if we could, because we all have about as much information as we are going to get.

I am concerned that political motives are the driving force behind this push. I am concerned that the mission of the Democratic leadership has been to get a health care bill—any health care bill. As I mentioned, in April of 1993, Senator SPECTER and I came to the Senate floor and said, "Where is the bill?" President Clinton had failed to meet his goal of giving us a health care reform proposal within the first 100 days of his administration. Our point was simple: Health care reform had been debated long enough. It was time to start voting in the Senate.

Let me say that it is very ironic that the Senate has not had any real votes on this issue. It seems that the legislative process normally would be that the Finance Committee would pass a bill, which they did, and that bill would come to the floor, and we would have amendments—perhaps an amendment every hour—for several days, and the Senate would work its will. But that is not happening because the majority party's own Members would not vote for the bill. They would lose their own Members on the amendments. So, therefore, we are in the position of negotiating behind the scenes with different bills popping up here and there.

Why do we not start offering amendments and vote every hour, letting the Senate work its will, instead of negotiating behind closed doors?

Well, the reason is, the majority party does not have the votes. If the Mitchell bill were brought up on the floor this afternoon, it would be defeated, not necessarily by Republicans, but by a bipartisan coalition. Indeed, I have read in the papers that Senators from my neighboring rural and small city States have raised serious concerns about the Mitchell bill.

What if we brought a group of political science students to watch the Senate of the United States today, or this week, while we are debating health care reform?

This would be a very strange demonstration of our legislative process for them to witness.

It is the opinion of this Senator that we should have proceeded in the normal way, brought the Finance Committee bill to the floor, began to offer amendments on it, and voted on those amendments with a time agreement of an hour.

This is a very bizarre August situation in which we are staying in session longer, supposedly to pass a bill. But the people in the galleries and the people watching this process do not see any amendments, they do not see any votes being taken. What is going on here? Our side has not filibustered. Why does the Senate not work its will? The reason is because the majority party does not want to vote. They want to maneuver around to a position where they can blame the Republicans if they do not get a bill. It is not a constructive process.

I would much rather be recorded on votes every day than be giving this speech, after which there will be no vote. There will be one vote today, and that is essentially a bed check vote. We are going to be in session next Saturday. We were in session all day last Saturday, and there was not a single vote on anything. But, we are showing the country how hard we are working.

So let us remember who is doing this and how strange it is and how sad it is. This is not the way the Senate and the House are supposed to function.

We may not start voting until September, and then the bill would be brought to the floor in such a way that individual votes would not be allowed on certain issues.

The situation is similar in the House. The Rules Committee prevents the House from voting on a lot of tough issues, and then the bill is put into a big package in which the details are concealed. This is why the public is disgusted with Congress.

In any event, it is ironic that the biggest proponents of the Mitchell plan argue they need more time. They argue the issue is too complex and last year was not the time to vote.

Several weeks ago, the President and the Democratic leadership declared the

VOL
140
PT
16
AG
12
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18
1994
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Clinton plan dead. They did not take a single vote on it. Why did they not bring it up for a vote?

They did bring the Clinton plan up for a vote over in the Ways and Means Committee in the House, and the majority of the Democrats voted "present" because none of them wanted to vote on record for it. That is what happened.

This is very strange in a democracy, for here in Congress we have all these negotiations going on behind closed doors with no votes. Let us face the facts. The Democratic Party controls the House, the Senate, and the White House. They can start votes any time they wish. I wish they would.

The Democratic leadership indicated they were taking a new approach to reform. This would be less bureaucratic and less confusing than the President's plan, we were told. The legislation we are debating now was unveiled a week ago. It is some 1,410 pages and weighs 14 pounds. No hearings have been held on this proposal. The American people do not know what is in the bill. Things have not changed. It calls for more Big Government and higher taxes. And the American people are not being told these facts.

President and Mrs. Clinton should be commended for their role in bringing the health care issue to the national forefront. In fact, the First Lady was in Lennox, SD, last February. She is impressive. She understands the issues. She listened tirelessly to hundreds of South Dakotans discuss the shortcomings of our current system, although I must say that the Clintons' exact proposals for changing it were not very clear.

The portions I have read of the Clinton-Mitchell bill convince me that it is bad medicine for South Dakota. It will hurt my State. Apparently the Democratic Senators from Oklahoma, Nebraska, and North Dakota have decided the same thing, as I as a Republican have decided, because they have raised serious concerns about the Clinton-Mitchell bill.

Does this mean that I oppose reform? No. Does this mean that every provision in the Clinton-Mitchell bill is flawed? Of course not. However, in totality, the Clinton-Mitchell bill is the reconstituted Clinton plan, which would result in more taxes, more bureaucracy, more government and lost jobs.

The bill is bad for South Dakotans for several reasons, including:

More government.

The Clinton-Mitchell bill would result in the creation of at least 50 new Government agencies and offices. The Multinational Business Services, Inc., completed a study of the original Clinton bill. This group concluded that the President's plan would result in the creation of 98,000 new bureaucrats, 59 new Government offices, and 4,348 pages of new Federal regulation.

Proponents of the Clinton-Mitchell bill claim that the new plan is less bureaucratic. Do not be fooled. It would create more Government bureaucracy.

More Taxes.

The Clinton-Mitchell bill includes 17 new taxes. Some examples include: a 1.75-percent tax on all health insurance premiums, a 25-percent tax on all high cost premium plans, and a requirement to force all State and local government officials to pay Medicare taxes. No one would be exempt from these taxes.

Rural areas.

The Clinton-Mitchell bill would hurt small cities and rural areas.

Why? The plan would cut Medicare by $278 billion over the next 10 years. The bill indicates this on page 723. South Dakota hospitals, particularly those in rural areas, are dependent on Medicare for their survival. Cuts of this magnitude would force hospitals to close.

The Clinton-Mitchell bill does not allow the self-employed to deduct the full cost of their health insurance premiums. Truckers, farmers, and ranchers tell me the best tool to help them purchase insurance is to make their insurance premiums tax deductible.

Finally, the Clinton-Mitchell bill does not allow individuals to set up medical savings accounts.

Employer mandate.

Regarding the employer mandate, any requirement mandating employers to pay the medical insurance costs of their employees would result in lost wages and lost jobs.

A study by the American Legislative Exchange Council projected 2,900 South Dakota jobs would be lost if the Clinton employer mandate were implemented.

Another study indicates that 52,545 South Dakotans would experience annual wage reductions of $1,200 for a family of four.

Standard benefits package.

All Americans would be required to obtain an identical benefits package. This package includes abortions.

There are many Americans, both pro- and anti-abortion, who do not want the Government to set up abortion clinics. They do not want taxpayer dollars to fund abortions on demand, which is essentially what the Clinton-Mitchell bill provides for. There are many people who are pro-choice who disagree with this massive new Government abortion program. We should consider this viewpoint.

More entitlements.

Under the Clinton-Mitchell proposal, some 100 million Americans, families and individuals with incomes under $35,520 or 240 percent of the poverty level, would be eligible for a subsidy to help pay for their health insurance. One out of every 2.5 Americans would receive a Federal subsidy.

In short, the Mitchell bill and the Clinton plan from which it is derived, is too costly, too bureaucratic, and will increase taxes.

We need to make some changes in our health care system. We do not need to overhaul the entire system. We need to fix what is broken.

Now let me say what I am for. I did not get elected to the Senate just to oppose things. I am for a positive program. In any event, the health care reform should include:

Universal access to health insurance;

Insurance reforms, including insurance coverage that cannot be canceled;

No denial of coverage for preexisting conditions;

Voluntary purchasing pools;

Revision of medical malpractice laws, including caps on attorneys fees and a $250,000 limit on noneconomic damages;

Abolition of unnecessary paperwork;

Reduction of Federal regulations;

Modification of antitrust laws;

Subsidies to help the poor purchase private insurance;

Establishment of medical saving accounts; and

Full tax deduction of medical costs, including insurance premiums, for the self-employed.

Mr. President, the health care reform legislation we are considering is extremely complex. We would be well-advised to be careful in writing this bill. As everyone should know by now, we are talking about one-seventh of our economy.

If we are at all unsure about the consequences of our votes on the cost an quality of health care, we owe it to the people to vote no or, at least postpone making certain decisions until more information is available to us. It is within our power to recognize and act upon those specific problems about which all of us agree.

We can have a bill that fixes those commonly recognized problems. We can set aside what is now caught up in extreme controversial—mandates new bureaucracies, and higher taxes.

In conclusion, Mr. President, let me say that this Senator believes the Senate should proceed the old fashioned way. We should have taken the Finance Committee bill, brought it to the floor, offered amendments and voted on it.

This Senator would not object to a vote every half-hour, with 15 minutes equally divided, so that the Senate can work its will. This Senator thinks it is very strange that the Senate and the House are proceeding in this manner.

I want to legislate. For a year, since last April, I have said, let us bring legislation to the floor and the Senate will vote. That is what we are supposed to do. That is my judgment.

Let me also say that we have the best health care delivery system in the world. I think it needs some reform, some fixing, some tuning up, but let us not throw the baby out with the bath. Let us proceed to come up with a bill that will solve the problems without hurting the main body of our health care system.

But let us begin to vote. Let us begin to legislate. That is what Senator SPECTER and I said on the floor a year ago in April. This Senator is ready to go.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDENT pro tempore. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, may I offer my congratulations to the Senator from South Dakota for his statement that it is time to start voting. And may he have much influence on that side of the aisle, which I know he does, although it may not be on this particular point. But we are in complete accord.

Mr. President, I have the great pleasure to yield to my friend, the learned Senator from Nevada, as much time as he may require.

The PRESIDENT pro tempore. The Senator from Nevada [Mr. REID] is recognized for such time as he may require.

Mr. REID. Mr. President, you and other Members of this body were present today when the majority leader pointed to his desk and he said, "No matter how many times you call this desk a horse, it will never become a horse. Even though if you repeat it often enough, there will be some who believe this desk that stands in front of me now would be a horse, it is not. It is a desk. It is a wooden desk."

I say to my friend, through the Chair, the senior Senator from South Dakota, that he should check with the leadership on that side of the aisle. We are ready to vote. We have an amendment that is now pending to this legislation.

But I sat on this floor Saturday and Friday and heard the distinguished minority leader say, "We need more time. We have only had 11 or 14 Senators on our side that have been able to make statements about the bill. Therefore, go slowly."

In fact, one Senator stated he was not ready to proceed at this time. He needed more time to study it. And it was at that time that the dialog on the Senate floor came that there had been some 85 hearings on health care on this side of the Capitol; reams of reports.

We are ready to go forward, Mr. President. I have some amendments that I would like to offer. There are others that would like to offer some amendments to the bill that is pending before this body.

I also say that I disagree with my friend from South Dakota. I think a political science class from high school, college level, whatever level, would be very instructive for students to come to this body today, tomorrow, or had they been here last week. This is what our country is all about. The legislative process is the art of compromise.

We are trying to work out legislation based upon a bill reported out by the Labor Committee and a bill reported out by the Finance Committee. The majority leader has taken what he feels is the best of both bills. He has taken what he feels is the best of the Clinton proposal. He has been working with the House leadership and he has given us a bill, something that you can look to and read about.

That is much different than I hear on that side of the aisle. We have people on that side of the aisle stand up and say, as they have—not all of them, but most of them—"We want a bill that contains costs, that allows portability, that would not prohibit insurance being offered as a result of a preexisting condition," and all these buzz words. But where is the legislation?

What they have now, the bill offered by the Senator from Kansas, the minority leader, does not cover that, does not take care of that. So where is this ideal piece of legislation that they want?

And again, I refer, Mr. President, back to the majority leader. This is a desk. This is not a horse. And no matter how many times you say it is a horse it is not going to be a horse.

On the other side, one of my friends who I work with, the junior Senator from Oklahoma, I serve with him on the Appropriations Committee, work with him on the Interior Subcommittee; I have great respect for his ability. However, his saying that we do not have medical malpractice reform in the Mitchell proposal means that he has not read the bill or that staff has not advised him of what is in this bill.

Again, this Mitchell proposal relating to medical malpractice insurance does the possible, not the impossible. They can talk all they want about the ultimate in medical malpractice reform, but what we have in this bill on page 1,037 is medical malpractice reform.

Mr. President, I know a little bit about medical malpractice litigation. Before I came here, I did quite a bit of it. I defended doctors and I prosecuted claims for people that were injured.

This is pretty good reform; not the ultimate, but pretty good reform. It sets up a program. First of all, it limits contingent fees. People say, "What is that?" It is a lot. It limits contingent fees to one-third of a claim up to $150,000 and anything over that is 25 percent.

The reason that is important, in Nevada—and we are not different than a lot of States—in Nevada sometimes attorneys took 50 percent contingent fees; 40 percent on a medical malpractice case was not unusual at all. So this is significant reform.

It also set up, Mr. President, every State, it is mandated under the Mitchell bill that they set on a State basis, because one of the things we do not want to do in this area of the law is take away States' rights.

What this does is mandate in a State that they set up an alternate dispute system for medical malpractice cases. It does not tell them what they have to do, but that they set it up. And before you can prosecute a case, you have to file a certificate saying you have been attempting to comply with that.

I am not going to go into all that is in here with regard to medical malpractice. But it is significant reform. And no matter how many times on the other side of the aisle they say there is no medical malpractice reform does not mean it is true, because it is not true. There is medical malpractice reform

Mr. President, I have heard a number of people say today that we have the greatest health care delivery system in the world; what we need to do is tinker with the edges, refine it a little bit.

I acknowledge we have a great health care delivery system in this country. But it is in trouble because it is bankrupting us.

The State of Nevada has had to call two special sessions of the legislature because of escalating health care costs.

What is driving the deficit on the national level? Health care costs. So, we have to do something about it.

This year, Mr. President, health care costs in America will go up over $100 billion—not $100 million. This year, 1994, health care costs in our country will go up over $100 billion, and we will not have better health care as a result of that. It is going to bureaucratic red-tape, Government and insurance company red-tape, and fraud, waste, and abuse. The Mitchell bill goes to the heart of that. The Mitchell bill will not cut out all the waste, fraud and abuse, but it will get to a big chunk of it. It will significantly damage those who like redtape.

It does a great deal. For example, I have heard a couple of people on the other side of the aisle complain about commissions being set up. It was interesting to see, from the first speaker to the second speaker, the number of commissions dropped by 28—not by 28 percent, by 28. They went from 48 to 20.

But regardless of that, we could look at each one of them, recognizing that the purpose of the Mitchell plan is to do away with Government inefficiency, to get Government out of health care delivery systems. For example, Medicare and Medicaid, that will be privatized under the Mitchell plan. I think that is important.

I think it is also important to indicate we want to do away with the power of the insurance industry as it relates to health care. I will bet every Senator, and certainly every Senator's office, has heard time after time from physicians saying, "I am tired of not

79-059 O—97 Vol. 140 (Pt. 16) 27

VOL 140 PT 16 AG 12 — 18 1994 UMI

being able to practice medicine. I have to get it cleared with an insurance clerk or some other clerk who is going to tell me whether or not I can do a procedure." We need to get away from that, and the Mitchell plan does that. For example, in the majority leader's legislation now pending before this body, there is something set up called the National Quality Council. This is important because we want to make sure, after this is all over with, we have better quality medicine delivered and the consumer is protected more than previously. This national council will establish performance measures for health plans, including measures of access, waiting times, patient-provider ratios.

What that means is help if you are going to choose a health plan. When I choose one, I am part of 9 million other Federal employees. That is how many are in this Federal plan that the Presiding Officer, I am sure, and other Senators and staff in this Chamber—that is how many people are involved in that, 9 million members. We have a so-called open season, when each year we can pick a new policy. I would like to think I am fairly sophisticated in being able to understand difficult things. I cannot understand it. I do not know what all those policies mean. But if we had this, I would be able to understand because I would be able to tell, for example, for open heart surgery, what is the survival rate. You can compare plans. Institutions would have to put that out. If you have a particular plan, there would be a determination as to how long patients have to wait, on an average. These are the kinds of things that are in the Mitchell plan. And these are the kinds of things that will improve health care in our country.

I was just responding to some of the statements that had been brought up by the two previous speakers on the other side of the aisle. I hope that, before this is all over with, we will have a coalition, a uniting of Senators on both sides of the aisle. I am very sorry he left—I saw the senior Senator from Minnesota, someone who will be retiring from this body at the end of this year. I know he has spent a lot of time on health care legislation in his career. I hope he will see fit to join with the majority leader in working out something in this legislation. He has the knowledge and counsel. I think it would be a shame if he left this body without having had an imprint on health care legislation.

I say that to other Senators on the other side of the aisle. This is the time to get health care legislation. It is not the time to talk about how good it could be, but to do the possible. What can we do to improve health care reform in America today?

What I wanted to talk about today is small business. On the other side of the aisle we hear the constant drone that the Mitchell plan is not fair to small business.

Again, this is a wooden desk. It is not a horse. And no matter how many times they say that health care reform is unfair to small business, it will not sell because it is wrong. An indication of that is a telephone call I had last week, Thursday or Friday of last week. I had never heard the name before, but I got on the phone with a man by the name of Edward Atwell, from Reno, NV.

Edward Atwell runs a business, a small business. He has 11 employees. He works awfully hard. It is the Big-O Tire Co. in Reno, NV. He sells tires and fixes tires. Again, I had never met him, did not know he existed. He called me and said, "Senator REID, I am a dyed-in-the-wool Republican, always have been. But I want you to know as my Senator that I want you and your colleagues to do something about health care reform for me." He said, "I have 11 employees and I have health insurance for my employees." He said, "It is very expensive, but I want to do that for my employees. But it is getting harder and harder to do it." And he said, "The tire companies that have no health insurance have a competitive edge over me. Do something about health insurance reform. Do it for the small business community of America."

Well, Edward Atwell wants health care reform. Why would he be concerned as a small businessman? He is concerned because he knows that it is hard for him to get insurance, and he knows that once he gets it, it is hard to keep it. He has been fortunate. He has not had one of his 11 have a heart attack, get pregnant, get cancer—because if they did, his policy would never be rewritten the next time. Just like my ophthalmologist in Las Vegas whom I went to see to get my new glasses. He says, "Harry, you have to do something. I have 27 employees. They will not rewrite my policy because one of my employees got cancer. I cannot get them to rewrite it. I cannot find anybody to give me a policy for my employees."

That is why Mr. Atwell is concerned. Mr. Atwell pays about 35 percent more for the same insurance policy that big business pays. The same coverage, he pays 35 percent more. And, if that were not bad enough, he pays increases of 50 percent more than big business. So the mere fact you have insurance, if you are a small business person, keeps you going further and further in the hole. Mr. Atwell expressed, to say the least, his frustration with the skyrocketing premiums he has and the fact that he is having a difficult time competing. Small business owners who, like Edward Atwell, do the right thing, are penalized under today's system. That is only one of a lot of reasons why we have to change the system. Because they are paying for the health care of their competitors who do not provide insurance for their employees.

If I marched in here with 51 Senators and we said, "We have a plan for the American public and here is what it is. Everyone who wants to buy health insurance, or is lucky enough to work for somebody who provides health insurance—everyone who has health insurance, no matter how they get it, are going to have to pay for those who do not." The American public would say, "What, are you out of your mind? What kind of system is that? I thought you were doing your best to represent us?"

And I would say, "That is the system we now have." And that is the system we have now. Right now, the insurance system we have in America for health coverage is one where those who have it pay for those who do not in the way of higher insurance premiums, higher hospital and doctor bills, and higher taxes for indigent care. That is an unfair system we have today and it should be changed.

Under the plan submitted by the majority leader, small businesses would no longer be forced to pay 35 percent more than big business. The Mitchell bill creates purchasing pools to give individuals and small businesses bargaining power to get high-quality care and coverage they can afford and they can count on and not be canceled at whim as was my ophthalmologist's. Small businesses and individuals will be able to get coverage at the same rates as big businesses, and insurance companies will no longer be able to pick and choose who to cover. The Mitchell plan, in effect, puts the consumer back in the driver's seat for a lot of reasons.

If health care costs had been kept under control—that is, if health care costs had increased at the rate of growth in our overall economy for the past 12 years—small businesses, if they had insurance, would be paying an average of about $1,300 a year less per employee for health care coverage. Small business premiums have risen as much as 50 percent a year. This is from the U.S. Department of Commerce, a report they did in January 1994.

More than 90 percent of small business owners agree that health care is becoming prohibitively expensive and is a serious business problem. There are 90 percent of small business people who feel like Edward Atwell of Reno, NV. About 60 to 65 percent of small businesses have health insurance, but those who have it say, help us some way or we are going to drop it. We cannot afford it.

Nearly 70 percent of small business owners want to offer employees better health care benefits and agree all Americans have a right to basic health insurance. Small businesses, as I have indicated, Mr. President, now pay from 35 to 50 percent more than large firms for the same insurance. Large corporations can offer more benefits at a lower

cost, thus, putting smaller firms at a greater disadvantage.

Paperwork and administrative burdens on small businesses that offer employees coverage, costs firms as much as 40 percent out of every health dollar, while large firms average a nickel. So if you are a small business person, you have insurance, the administrative costs out of $1 paid eat up 40 cents; big business, a nickel. Small businesses can pay, as I have indicated, 35 percent more than large businesses for the same coverage. I mentioned that several times, but I have done it on purpose.

By the year 2000, if we do not do something, health care costs may eat up as much as 60 to 65 percent of businesses' pretax profits. In a poll, the NFIB, who is not, for a lot of reasons, excited about health care reform because of the way their institution is set up, found that 64 percent of small business owners would like to provide some or better health insurance to their workers.

Let us talk about the plan that is now up at the desk submitted by the minority leader. The Washington Post reported:

> The Dole proposal supports reform in name while largely avoiding it in fact.

Small business under that plan would face higher costs. Edward Atwell knows that and other small business people know that. It does nothing to protect small businesses with more than 50 employees who can still see premiums rise dramatically if a few of their employees get sick. Small firms can continue to pay more for administrative costs than large businesses.

The plan submitted by the minority leader exempts trade associations from community rating. This loophole, in effect, permits discrimination in premiums based on what the industry does. A small coal miner—there are lots of diseases involved in coal mining—they would have to pay more. No discounts for small businesses. Unlike that of the majority leader which provides millions of small business people the ability to have coverage for the first time, the plan of the minority leader offers no small business discounts.

There is continuation, under the plan of the minority leader, of discrimination against self-employed individuals. Self-employed individuals are denied 100 percent tax deductibility until the year 2000. Cost shift remains. Small business insurance rates would rise and small businesses are forced to share the cost of high Medicaid patients and other high-cost individuals.

There are incentives for small businesses not to take responsibility. Under the minority leader's nondiscrimination provision, if a business provides any insurance at all to any of its employees, they have to provide it to their low-income employees as well, without any discounts to help them pay for the coverage.

This will not work. And if it is a matter of choice, you know they are not going to have the insurance. If a business contributes any amount to their employees' insurance, even a minimal contribution, their workers would not be eligible for any low-income subsidies.

Mr. President, for those who have suggested that the best policy may be—and this is my term, not theirs—to muddle through with only small incremental changes, our analysis, my analysis, suggests that the number of uninsured workers in small businesses will continue to grow. In the publication "Health Affairs," they said:

> Thirty percent of small businesses currently providing insurance will drop their insurance coverage because of high cost.

It is only going to get worse.

We know that small businesses are the least likely to offer insurance today, in large part because insurance companies often limit small business access to insurance by refusing to cover some firms and dropping others from coverage whenever just one worker gets sick. And we have talked about that.

Mr. President, this is not a rare situation where small business decides not to carry insurance. In the State of Nevada, there is a woman by the name of Rose Dominguez. Rose is a woman who is involved in a lot of activities in southern Nevada. She is very interested in the community. She is interested in her employees. She has a travel agency. But she had to arrive at a point where she could no longer carry health insurance for her employees. The names are myriad in the small State of Nevada.

So, we know that small businesses pay at least three times for their insurance. They pay for their own employees, they pay for the dependents of their employees, sometimes, and third, they pay through higher premiums for the uncompensated care of other people. Higher insurance premiums, higher hospital and doctor bills, and higher indigent taxes for indigent care.

The system, according to the Wall Street Journal, will only get worse. I quote:

> By using their clout with health care providers to demand lower costs, big employers help squeeze out inefficiencies but also stop helping hospitals care for those with no insurance or with Government insurance. Those costs won't disappear, however. As big companies shed them, insurance premiums for smaller employers will be forced up.

I appreciate very much the Senator from New York yielding time to the Senator from Nevada. I have brought out two points: Malpractice reform, and I gave one example of a commission that will be set up so that consumers will have a better understanding of the health care that is provided to them.

I have also talked about small business. I have talked about small business because they need to be cut some slack, as told to me by Edward Atwell of Big-O Tires, Reno, NV. No matter how many times those who want to maintain the status quo, no matter how many times they say that we do not have health care reform in the matter now before the Senate, in the form of Senator Mitchell's bill, no matter how many times they say that, it will not work because it is not the truth. No matter how many times they say this desk is a horse, it does not matter, it is still a desk.

Mr. MOYNIHAN addressed the Chair.

The PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I congratulate the Senator from Nevada. I remarked earlier on his great learning in this field and I particularly thank him for the points about malpractice reform. It is so important to the medical profession, and not just the doctors, but the nurses and all the people involved that we take this opportunity to relieve them of a needless anxiety, but anxieties which can be pervasive. If anyone gets to know people in this work, you will find that is on their minds all the time.

Mr. REID. Mr. President, if I can respond to the manager of the bill, I think we are trying to do the possible. I am a great supporter of having consumers have the ability to file a lawsuit and have their grievances redressed in a court of law. But still there are things that need to be done to make the system better.

I have only talked about a few of the things in the Mitchell bill, but I think it is a significant step forward and I wholeheartedly support Senator MITCHELL's attempt to reform medical malpractice.

I appreciate very much the comments of the Senator from New York.

Mr. MOYNIHAN. I thank the Senator. I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield such time as the Senator from Mississippi may require.

The PRESIDENT pro tempore. The Senator from Mississippi [Mr. COCHRAN] is recognized for such time as he may consume.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator for yielding me time.

It was interesting to me to read the accounts of the debates that we have had in the Senate in the New York Times and the Washington Post over the weekend. One writer for the New York Times talked about the misstatements and malapropisms and other errors that the writer perceived to have occurred in the debate during the discussion of the health care reform bill.

VOL
140
PT
16
AG
12
—
18
1994
UMI

One very interesting story was written by Dave Barry: "The Power Trip. Washington Outsider Trashes Town." He talks about how there is nothing in Washington to make it look like the planet Earth. But then he talks about the health care debate and he did have this to say, which I am going to read. He says:

For more than a year now, the Clinton administration, Congress, and scores of special interest groups have debated the health care issue with such intense passion that their photocopying machines routinely burst into flames. This debate, although bitter at times, has resulted in a broad national consensus on two fundamental conclusions: 1. The United States has the best system of health care in the world, and 2. Something needs to be done about this.

Well, he then goes on to talk in his humorous way, as only Dave Barry can, about many of the other things that have made it possible for us from time to time to laugh at ourselves. But this health care issue is not really a laughing matter. I will agree what Mr. Barry points out in his first conclusion and his assessment of the national consensus is right when he says the United States does have the highest quality health care—and, I might add, with more choices—than any other nation in the world. That will be put at risk by the Clinton-style plan proposed by the Democratic leader. That plan will result in higher costs, longer waiting lines, and endanger the health care choices of most Americans. The mandates, the taxes, the alliances, and the premium caps all mean sweeping new Federal controls over American medicine.

Before we vote, we should ask: Do we really want to create this new Government-controlled health care program? And we should ask specific questions about their plan such as: What would the new overhead costs be?

Senator MITCHELL's bill would set up a National Health Care Cost and Coverage Commission and a National Health Benefits Board that would make many decisions about the kind of health care that would be available in the future to all American citizens, including decisions about medical necessity and appropriateness. Under this bill, many new State and Federal agencies would be established.

We had first heard in a report, in an analysis from our distinguished colleague from Indiana, Mr. COATS, that there would be 20 new State and Federal agencies created under the Mitchell bill—now we are told that that could go as high as 70—and many mandates imposed on the States, 177 new obligations imposed on the States, by this new Federal law if it is enacted. No one has been able to tell us what the new overhead costs of the program would be at either the Federal level or the State level. We also need to ask, we should ask: What has happened to the costs of the Federal health programs we already have?

In 1990, Medicaid spending totaled $41.1 billion. In 1995, Congressional Budget Office projections indicate that Medicaid spending will total $105 billion. From 1990, $41.1 billion, to 1995, $105 billion: a program we already have. This could be an indication of the kind of cost spiral we will see if the Federal Government were to administer our entire health care system.

We should also ask about the costs of other entitlement programs and how much they have increased in costs during the past 30 years.

I have a chart here—and I apologize for using a chart, but it clearly illustrates better than I can in just my statements—showing how entitlement costs have grown over the last 30 years.

From 1963, if we look at this line here as illustrating 100 percent of the Federal budget—this is the total Federal budget line here from zero to 100 percent—the discretionary spending in 1963, that which the Appropriations Committee approved for allocation among all the Federal activities and programs, amounted to 70 percent of the total budget. Entitlement spending—Social Security, Medicare, Medicaid, other programs that were mandated by law, to which people were entitled as a matter of law—amounted to only 30 percent. In 1973, that had gone up to 45 percent, in 1983 to 56 percent, and in 1993, just last year, it reached 61 percent of the total Federal budget. And the projections are that even without this new health care plan, which will increase entitlement spending considerably, we will have a Federal budget that will require 72 percent of total outlays to go to support entitlement programs, and only 28 percent by the year 2003 that would be available for discretionary spending.

A recent article in my hometown paper, in Jackson, MS, the Clarion Ledger—it was written by Miles Benson for Newhouse News Service—talks about this entitlement spending trend and what it means in the context of the health reform proposals before the Congress. He says:

Over the years, the Government has promised a lot of costly benefits to middle-class Americans and now it is trying to make one more big one—universal health care. But where is the money to pay for Social Security, Medicare, and a plethora of previous promises? Their fast-growing costs, along with interest on the national debt, add up to 60 percent of all Federal spending, even without the enormous added expense health reform will bring. Unless changes are made soon, the Government won't have enough money to continue even the existing programs. And that means either higher taxes or benefit cuts or both.

He goes on to say, in another part of this article, which I will ask unanimous consent be printed in its entirety at the conclusion of my remarks, that:

The fastest-growing entitlement programs are Medicare, which helps 35 million elderly and handicapped people pay their medical bills regardless of their income from other sources, and Medicaid, which pays for doctors' care for 30 million. The costs of these two programs are expected to increase at a rate of 10 percent per year over the next decade, increases driven by the growth of the eligible population, the increasing intensity of medical services available to participants, and hyperinflation in the costs of health care.

Medicare hospital insurance payments already exceed tax revenues dedicated to the program, and the trust fund dedicated to the program will run out of money within seven years unless something changes.

And he concludes by saying:

President Clinton insists his health care reform plan would, over time, curtail the growth of health care costs, but he also seeks to extend health care coverage to 39 million uninsured Americans financed partly by new Federal subsidies. And he wants to broaden the benefits available under Medicare and Medicaid. Many experts believe expanding coverage will substantially drive up Federal spending on health care.

Mr. President, I ask unanimous consent that the entire article by Miles Benson of Newhouse News Service be printed at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COCHRAN. Mr. President, the Mitchell plan creates at least eight new entitlements. It commits the Federal Government to new entitlement spending which is estimated to be $1.5 trillion over 8 years. And, if it does not work to achieve the predetermined goal of coverage, then employers will be required by the new Federal mandate to pay one-half of the premium cost of their employees beginning in the year 2002.

Somebody asked me, "Why is this delayed? If you need the money now, why put it off for this long period of time?" I frankly think the reason is political. One reason is that people who have to pay this tax will not know who voted for it when they have to pay it. I mean, we are putting it over from now, if it is enacted this year, to the year 2002. And those folks who are going to have to pay this new payroll tax, which is what the employer mandate turns out to be, are not going to know who is responsible. As a matter of fact, somebody suggested that may be why they called it a trigger. The trigger means that if they do know who did it, they might shoot them. But the fact is, if States are not up to the 95 percent coverage rate by the year 2000, those businesses in that State with 25 or more employees are going to be required to pay the new payroll tax.

Who will that be? The National Federation of Independent Business has done a study trying to estimate and determine what States are going to be required to pay this added payroll tax. Not all States may be covered by it. But there is a way to figure out now which States are the most likely that have to pay. They did this list.

Mr. President, Mississippi and West Virginia are at the top of the list. Utah, New Mexico, Arkansas, Louisiana, South Carolina, Montana, Idaho, and Oklahoma, and it goes on down through a long list of 25 States that most likely will have to pay this tax. Ohio is the 25th.

As a matter of fact, we have done this in a graphic so you can get an idea just by looking at a map of the United States. Almost the entire South, except Florida, is covered, and the Southwest out to Arizona, including New Mexico and Arizona, and the upper Northwest, except for the State of Washington, will be covered; some of the heartland States right here in the industrial Midwest, Indiana, Ohio, West Virginia, Kentucky. The fact of the matter is, do not forget Maine. They are one of the most likely to have to pay this tax too.

What they have done is try to determine the number of people who are now covered by insurance in all of the States, and the per capita income of the residents of all those States to figure out for which States it will be hard to meet this predetermined 95 percent of coverage. These are the States. So they are the most likely to have to pay the tax.

Where do you need the economic growth the worst? It is in many of these States. We need new jobs. We need to be attracting new industry into these areas to help provide jobs. But if you are going to have a new requirement now that employers in those States have a mandate to pay premium costs for health insurance and the other States do not have it, what is that going to do to your opportunity to attract new business, to create new jobs? I say it hurts it. It puts you at a disadvantage. That is what this mandate does, as far as economic development and the attractiveness of certain States as compared to others.

Senators ought to think about that. Some say that the mandate is bad, it is bad for business, it may cost jobs, and it may be harmful to our entrepreneurial spirit as a country. If it is bad now, it certainly is just as bad in the year 2002 when it will be triggered, if this predetermined 95 percent of coverage is not achieved. Most think, obviously, that some States will not achieve it or cannot because of demographic differences, because of economic differences, and because of the realities that exist out there in the real world.

Senator MITCHELL's bill states that if a 95-percent coverage target is not achieved by the year 2000, the employer mandate would be triggered requiring businesses with 25 or more employees to pay 50 percent of their employees' health insurance premium costs.

Many experts tell us that these mandates, these new taxes, on selected States, would destroy jobs, threaten the survival of many businesses, and reduce wage growth. If mandates are a bad idea today, when they are triggered they will be a bad idea then.

A triggered mandate only in States that do not achieve that 95-percent coverage will hit the small business-intensive States the hardest. I do not know how many businesses will actually fold up. Nobody does. Those who cannot afford the new costs, because they are on a tight profit margin or maybe no margin of profit at all; there is no question that fewer new businesses would be started in those States that have to have the new tax. They have many other burdens imposed by the Federal Government already that cost money, that add to overhead.

Studies conducted by Consad Research, the Urban Institute, and others, forecast anywhere from 700,000 to 3 million jobs will be lost as a result of the new employer taxes. A Gallup Poll of small business owners indicates that a majority of them would either let some employees go, restrict wage increases, or increase prices as a result of an employer mandate. No matter which job loss study you look at, they all point in the same direction—employer mandates cost jobs.

I would suggest that another serious result could be that many small business owners will decide that it is just not worth the hassle to stay in business, and others who might otherwise consider starting a new enterprise would be discouraged from doing so, especially if they are in a State where the trigger has been pulled.

When these new taxes and new regulations are combined with other burdens that are placed on small business by the Government, the American entrepreneurial spirit surely will be dampened, and our economic vitality will be put at risk.

Mr. President, some of the rhetoric we heard has suggested that Republicans want to stop health care reform in its tracks. I think most Republicans in the Senate want to solve the problems in the health care system. We can do it by providing portability of coverage, and eliminating unfair underwriting practices, by providing subsidies and tax breaks to assist people in getting and keeping the coverage they want. Senate Republicans produced two comprehensive health care plans last year, one sponsored by Senator JOHN CHAFEE and the other sponsored by Senator DON NICKLES.

This year, 40 Senate Republicans joined in support of Senators DOLE and PACKWOOD when they introduced their plan that also confronts the real problems that exist in today's health care system.

The Dole-Packwood plan enhances quality, preserves health care choices, controls costs, and promotes security without imposing the new taxes that will unnecessarily burden small businesses and their employees.

The Dole-Packwood bill has the greatest support of any plan in the Senate, including the proposal of President Clinton and Senator MITCHELL.

The Dole-Packwood plan would provide choice to ensure that consumers, and not the Federal Government, decide how they get their care, and from whom; preserve American jobs by protecting small businesses from job-destroying mandates and taxes; increase access and remove the fear of losing insurance because of job loss or job change, moving, or a serious illness; maintain quality to ensure America's health care remains the best in the world, and consumers do not pay more for less care; be financially responsible, by phasing in financing of reform as other savings are available and not through deficit spending or increased taxes; achieve flexibility by allowing States and localities options to design plans best fitting their particular needs.

Mr. President, we should not adopt the Democratic leader's newest version of the Clinton plan, which would mean quotas on doctors and training; a premium tax on graduate medical education; Government spending limits that will lead to rationing of care, higher levels of taxation, new entitlements, and a big, new Federal bureaucracy.

Before passing the Clinton-Mitchell bill, we should remember the enactment and repeal of catastrophic insurance in the Medicare program in 1988 and 1989. The lesson of this experience is that it is not enough to promise health care benefits to Americans. We have to make it clear how any new program will affect them and how much it will cost them, and we need their support. Last time out, we forgot to do that. We should not make that mistake again.

I suggest when all the facts are understood, American citizens will prefer the Republican alternative, because it will mean less bureaucracy, less costs, more quality, more choices, and no new taxes.

I urge the Senate to reject the Mitchell bill.

EXHIBIT 1

UNLESS ACTION TAKEN, RETIREMENT MEANS POVERTY

(By Miles Benson)

WASHINGTON.—Over the years, the government has promised a lot of costly benefits to middle-class Americans and now it is trying to make one more big one—universal health care.

But where is the money to pay for Social Security, Medicare and a plethora of previous promises? Their fast-growing costs, along with interest on the national debt, add up to 60 percent of all federal spending, even without the enormous added expense health reform will bring.

Unless changes are made soon, the government won't have enough money to continue even the existing programs. And that means either higher taxes or benefit cuts or both.

VOL
140
PT
16
AG
12
—
18
1994
UMI

The middle class and the wealthy, who receive more than half the benefits, will feel the pain, as well as the poor, and there's very little anyone is going to be able to do about it.

The current generation of people in their 60s may be the last generation to collect the full benefits now available from Social Security.

Rising health care costs, longer life expectancy, and the advancing legions of 76 million baby boomers, who will begin retiring at the end of the next decade, are setting the stage "an economic and social disaster," said Sen. Robert Kerry, D-Neb., who wants President Clinton and Congress to begin dealing with the problem now.

The technical name for these benefits is entitlements, and Kerry chairs a 32-member Bi—Partisan Commission on Entitlement and Tax Reform. The commission will report its recommendations in December.

According to commission members, administration officials, congressional budget experts, and numerous outside economic experts, this is the reality the nation faces:

If allowed to continue without change, entitlements plus interest on the federal debt will consume all federal revenues by the year 2012, just 18 years off, leaving nothing for defense, disaster relief, law enforcement, air traffic control or anything else—including the salaries of federal workers who write the federal benefit checks.

Financing the entitlements in their present form could require a 50 percent increase in all federal taxes on current and future generation of taxpayers—increases that would be politically impossible to enact and, even if enacted, would probably be self-defeating. The economy would collapse under their weight.

Deficit financing would be equally unrealistic. Such deficits would dwarf even the monster deficits of recent year years, blocking investments needed to boost productivity, create jobs and raise living standards.

Some combination of increased taxes and reductions in benefit levels is inevitable, many experts, believe. These solutions could include caps on spending or reducing benefits to middle- and high-income people. Some economists are studying the feasibility of new taxes on consumption.

Today, entitlement programs automatically pump out benefits to every eligible person who signs up for them. The biggest are Social Security, Medicare, Medicaid and the federal retirement system covering both civilian and military retirees. These four programs account for 75 percent of entitlement spending.

The rest consists of much smaller programs that include, in descending order of cost, food stamps supplemental security income payments that go mostly to the disabled and to poor elderly people, veterans benefits, welfare payments to mothers and children, agricultural price supports and earned income tax credits for the poor.

This year, 1994, total entitlement benefits come to $800 billion. More than half of all entitlement benefits go to middle-class and affluent Americans. In the case of Social Security, the average retiree is getting back far more than he or she paid in plus interest,—on average $40,000 more per retiree over his or her lifetime.

And under this system, families with private incomes of more than $50,000 a year got $49 billion in Federal benefits in 1990. About $12 billion of those benefits flowed to families with income of more than $100,000.

Last year, the 2.2 million federal civilian and military retirees received benefits worth $65 billion.

Many experts say those now in the 60s are the last generation that will enjoy such a sweet deal. The generosity of benefits will subside because there won't be enough money to support them. And future retirees will have paid higher taxes for a longer time than current retirees.

Workers with average earnings who retired in 1980 got back their retirement taxes—the share paid by themselves and the share paid by their employers on their behalf-plus interest in less than three years.

When average-wage workers now in their late 20s retiree, they will need more than 18 years to recover their contributions—two years longer than their life-expectancy. And that assumes the money will be there to pay them, which it won't be if benefits aren't cut or the taxes aren't raised.

The fastest-growing entitlement programs are Medicare, which helps 35 million elderly and handicapped people pay their medical bills regardless of their income from other sources, and Medicaid, which pays for doctors' care for 30 million poor. The costs of these two programs are expected to increase at a rate of 10 percent per year over the next decade, increases driven by the growth of the eligible population, the increasing intensity of medical services available to participants and hyper-inflation in the cost of health care.

Medicare hospital insurance payments already exceed tax revenues dedicated to the program and the trust fund dedicated to the program will run out of money within seven years unless something changes.

President Clinton insists his health care reform plan would, over time, curtail the growth of health care costs, but he also seeks to extend health care coverage to 39 million uninsured Americans financed partly by new federal subsidies. And he wants to broaden the benefits available under Medicare and Medicaid. Many experts believe expanding coverage will substantially drive up federal spending on health care.

Social Security is the third rail for elected officials—touch it and you die.

Social Security means regular monthly checks to 42 million elderly and disabled and members of their families this year. For millions of Americans, the benefits are all that separates them from poverty. For additional millions of already affluent elderly, the benefits are merely gold-plating on an already secure and dignified retirement.

Thanks to lengthening life spans, the average couple retiring today can expect to collect Social Security checks for 25 years. The insurance value of that pension combined with Medicare benefits is more than half a million dollars.

Older people, one of the country's most potent blocs of voters, are organized to fight any attempt to reduce benefits. The flavor and intensity of the opposition is evident in the blizzard of mail already pouring into the entitlement commission's offices on Capitol Hill.

"If you intend to mess with Social Security, you all should be thrown out of office," wrote one enraged senior. "It's our money, not to be used by you or no one."

Said another: "Don't fool with Social Security. Don't try balancing the budget with my money."

For now, the tax structure of the Social Security system generates a surplus that reduces the federal deficit and helps pay for other federal programs.

But the surplus will disappear during the next 20 years as the baby boomers retire and the payouts to them surge. Unless changes are made, the Social Security trust funds will run out of money to pay benefits to today's 20- and 30-year-olds when they are ready to retire. Today's 40-year-olds would drain the funds dry by the time they are 75 years old.

Low birth rates and longer life expectancy mean that the ratio of workers to retirees is shrinking. In 1950 there were more than seven workers paying taxes to support the benefits of each retiree. In 1985 there were five workers for each retiree. Today there are four and by 2030 there will be fewer than three.

"What it really boils down to is that revenues and spending in our budget as a whole are out of whack, out of balance," said Robert Reischauer, director of the Congressional Budget Office.

"We can solve the problem by cutting back on entitlement programs or cutting back on non-entitlements or by raising revenues. The answer to the dilemma will be a little of all three," Reischauer predicted.

The problems are clearly visible now. They will be no surprise when they erupt as full-blown crises—if nothing is done now.

"If we do something modest and prudent now we can avoid taking more drastic remediation 15 years from now," Reischauer said.

For example, putting the Social Security system into balance for the next 75 years would require a 1 percent increase in payroll tax on employees and employers, if that is done now, Reischauer said.

Meanwhile, younger workers cannot expect they will get as much out of the system as current retirees.

"The system was very good to our grandparents and parents and people retiring right now, because it represented a huge intergenerational transfer," Reischauer said of the shift of wealth from the young to the old. "But that will not be true in the future unless life expectancy takes another big jump."

In the mid-1930s, when Social Security was established, the average life expectancy was 60 years. Today it is 76. Under current law, the age for full benefits retirement will increase gradually from 65 to 67 between the years 2000 and 2017.

Crusaders for sweeping entitlement reform, like Peter G. Peterson, former Secretary of Commerce, and former senators Paul Tsongas, D–Mass., and Warren Rudman, R–N.H., urges raising the retirement age to 68 to 2006, reducing Social Security and Medicare benefits to retirees with incomes above $40,000 a year on a sliding scale as incomes go up.

Reform of the Social Security System, in both the financing and the benefit, is "inevitable" said C. Eugene Steuerle, an economist at the Urban Institute, a public policy think tank.

"Social Security will be there and remain a fairly generous system, but we must cut back on some of the built-in growth," Steuerle said. The budgetary problems are self-induced, the result of the fact that people are living longer and getting better health care. "In a crazy way, it's a nice set of problems to have," Steuerle said.

But changes must be made, he warns.

"Every year of delay in resolving these issues will make the required changes harder and harder to bear," Steuerle said. "Expected liabilities are accumulating quickly relative to assets and anticipated revenues. The longer that reform is delayed, the greater the adjustments required of beneficiaries and taxpayers."

Mr. RIEGLE addressed the Chair.

The PRESIDENT pro tempore. Who yields time?

Mr. RIEGLE. I yield such time as I may consume off of the time of the majority.

The PRESIDENT pro tempore. The Senator is recognized for such time as he may consume from the time under the control of Mr. MOYNIHAN.

Mr. RIEGLE. Mr. President, let me just say that when the Senator from West Virginia assumes that position, there is no finer Presiding Officer.

This issue that we are here to try to deal with—namely, health care for our country—is a vital issue for our people. It certainly is in the State of West Virginia, where the President pro tempore comes from, and in my home State of Michigan. I know there is great frustration in the country as this debate has gone on now over several days in the Senate. I think citizens listening to this and watching think that probably all we do is talk and that nothing more than that happens, or at least not as often as it should.

I think we are reaching a point in this debate where a lot of the words are more for effect and have a purpose other than trying to settle the issue, because this question of health care reform has been around a long, long time. It goes back, in fact, for decades.

One of the prior Presidents had offered a plan very similar to the Mitchell bill or the Clinton bill that has been put forward. It was President Nixon, who at that time was a Republican President; but to his great credit, he saw the need to try to reform the health care system, to make it less expensive, less bureaucratic, and try to make sure everybody had a chance to have insurance, especially working families, so they could protect their children and all their family members.

I must say that over the last 2 or 3 days, the debate has taken on much more of the character and feeling of a filibuster—namely, a tactic of delay, rather than actually getting down to and voting on the basic aspects of a health care reform plan.

We actually have an amendment on the floor right now. It has been presented at the desk, and we are ready to vote on that. It is offered by Senators DODD, KENNEDY, and myself, and I believe there are other cosponsors. It is designed to expedite coverage of preventive health services for children and pregnant women in our country, to make sure these services are the first covered in the standard benefit plan—in July of 1995, instead of January of 1997. Those, today, in working families who do not have the protection of comprehensive insurance will get it under this plan. So that is the first amendment. It has actually been sent down to the desk. It is in writing and is down there right now. If this odd kind of filibuster were to stop, we could vote on that in the next 10 minutes, and we could find out where Senators are. There are 100 of us here, and we all have the chance to vote and settle that issue, and then we would be ready for the next amendment. And that might be an amendment from the Republican side. They could come to the floor and present it, and we could have a period of debate on that and then vote, it either wins or loses, and that issue is settled and we go on to the next issue. We can work through these issues, I think, and get them done this week, if Senators were willing to actually decide these questions rather than just use endless debate as a delaying tactic.

I want to talk a little bit about the amendment we actually have at the desk and what it is designed to do. I want to make reference, as I have before, to an article that ran some time ago in the Detroit newspaper in Michigan. It is a story about a woman named Cynthia Fyfe. There is a picture of her here, and this is her 6-year-old son Anthony in the lower part of this picture. He is wearing glasses. Obviously, he needs them and fortunately has them. This article says, "She Can't Pay Her Big Medical Bills." It goes on to explain in the text of this story her situation. She is a single parent, a working mother, as are millions of women in America today. She has partial insurance at her workplace for herself, but none for her 6-year-old son, Anthony. In fact, their health insurance is so inadequate that when she got sick, she had a lot of expenses associated with the care that she needed, and her health insurance did not cover most of it. So now she owes nearly $3,000 in medical bills, and she cannot pay.

It talks here about how they live very modestly, in a trailer park, and she uses just about every cent she has just on the bare essentials of food and clothing and shelter for herself and her son. But Anthony does not have any health insurance. This little fellow right here, and millions more like him in our country today, have no health insurance at all. So if he gets sick and she has to take him in for care, whether it is to a specialist or, God forbid, if he were stricken with something very serious like appendicitis or such and she had to take him to the hospital for acute care, she has no insurance that can cover those expenses. So, obviously, he is unprotected. And people in this situation are also oftentimes reluctant to take their children in for care when they need it, because they have no way to pay the bills. That is the situation here.

The irony of it is that if Cynthia Fyfe would quit her very modest-paying job and go on welfare, go on public assistance, then she would receive health care coverage; she would receive it under Medicaid, and so would her son, Anthony. So one way she could get health care coverage for her son is to actually quit her job and go on welfare and then, under our system, we would provide health insurance to this little 6-year-old boy in Detroit.

When you hear that, you almost wonder if you are hearing right. Can it be possible that in America we have things so upside-down that we say to a mother who is out there working, who obviously loves her child and wants to provide health care insurance coverage for her child, that if she cannot earn enough to be able to pay for it, that if she will quit her job and go on welfare, then we will see to it that she can have health insurance for herself and also for her son?

That is what we are trying to fix here. It is not that complicated. It is pretty darn simple, although we have heard a million words spoken here over the last 4 or 5 days since this amendment has been sitting down at the desk. But the amendment is very straightforward. It has to do with seeing to it that we provide comprehensive coverage for these children in America who today do not have comprehensive care.

We are not talking about frills. We are not saying let us enable this child to go down to a fancy department store and pick out a whole wardrobe or have some fancy house to live in or to give someone a big car to drive.

We are talking about something a lot more basic and a lot more important than that. We are talking about the question of making sure this little kid has a chance to grow up and be well and healthy in America, which every child in America ought to have the chance to do, because every child in this country is important. You should not have to be born into a certain family situation or to be in a favored status in some way or another to be important enough in this country as a child to have health care protection. Every child should have it, because every child is important.

If we were driving down a highway right now and we came upon the scene of an accident that had just happened ahead of us, a car had gone off the road and a terrible accident happened and people had been hurt, and if there was a child there by the side of the road needing help, would we just drive on by? Would we just drive right on by that child and keep going? Of course, we would not. We would stop, and we would get out, and we would help. You would try to save that child's life and see that that child got the care it needed.

But as a country right now we are driving right on by these children. It is as if they are not really there or—we obviously know they are there—it is as if they do not really matter or they do not matter enough.

But what is this country? What is America? Is it just this great big piece of real estate? Is it just something we call a country that we started over 200 years ago? That is part of what we are. We are a nation of people, and we are bound together in this Nation in a relationship to one another where the well-

VOL 140 PT 16 AG 12 — 18 1994 UMI

being of America, our country, in the future depends upon how our people are able to live. Can they work? Can they get an education? If they are living in West Virginia, do they have a chance to take the talents that they have within themselves and develop those talents? Or if they are in Michigan, or one of the other 50 States, do they have the chance to come forward and make of themselves what they can?

But if you need eyeglasses or you need to go to the doctor or you need your immunization so that you do not get some dread sickness, or as in the case that we have seen in my own family circle when my daughter Ashley, nine and half when it was found she had a terrible appendicitis, nearly died, the doctors could not figure it out for a while. Thank God, she got the care in the end that enabled her to survive.

There are kids across the country right now with problems like that. Anthony needs help. How important is he? Is he important enough for us to do something about?

I think we ought to vote on this amendment and do something about helping children like this, because this matters. This is important. It is real. It is tangible, and it will make a difference in terms of making our country stronger for the future.

You say, well, wait a minute. You are just talking about this little 6-year-old boy and are now talking about the country being stronger. What is the connecting link? The connecting link is that our country in the future is going to have this little fellow, and boys and girls all across this country—they are what our country is. They are our future.

So we want them well and healthy and strong. We also want them well educated. We want them to be able to go into the work force at a point in time to support themselves and to support the country and strengthen the country. That is what we want. I think that is why we came and formed this country in the first place. It was for those kinds of basic things.

Now, what is so ironic is that every other country in the world, every other advanced country in the world and many of the not very advanced countries in the world have decided this issue is so basic that they provide health insurance coverage one way or another for their children because they understand the importance that those children have to their Nation.

But there is another part to this. I mean, our people are the heart and soul of this Nation. We want them well and healthy and able to function at full potential. But there is another part to this, and that is just the basic humanity and decency of it and whether we care about whether other people suffer, whether someone else's pain matters to us.

Well, on that count, I am thoroughly one of those people who feels strongly about other people that I see who suffer needlessly. It bothers me. I do not have to know who they are. They do not have to be from my town. They do not have to be my race. They do not have to be my gender. Whoever it is, if I see that, I feel badly about it, and I want to do something about it. I want to help that person get out of that situation of pain or misery or danger to their own well-being.

I do not understand why everybody does not feel that way. But some feel it more strongly than others obviously. But I think we ought to help people who need help because it is the right thing to do. I do not think we ought to leave people in pain. Today we have an epidemic of breast cancer in this country. I do not think we ought to leave women in this country with undiagnosed breast cancers because they do not have the money to get regular preventive care and get mammograms and other things they need to find out if they have this problem so it can be dealt with in time to save their lives. The same with other problems, but especially with the children, because the children are very vulnerable, and they cannot fend for themselves quite the same way.

This little fellow right here, if he had the strength and the ability to give his mother two or three times the income that she now has so they could live at a higher standard and have health care, surely he would do it, but he is 6 years old. He cannot do it. He cannot do it for her, and he certainly cannot do it for himself. But we can do it for both of them, and we ought to because it is decent and because it is good for the country. It will make us stronger and better as a nation. We want this little kid to succeed. We want him to know his country cares about him.

Well, there is a way for us to let that message come through loud and clear, and it is to vote for this amendment that is at the desk right now that has been there for 4 days. Some tried to talk it to death. Let us vote on it. If you want to vote against it, vote against it. I want to vote for it. I think when people have to cast their votes on this, I think there will be more votes for it than against it, because I think most Senators understand the value and the moral and imperative aspect of seeing to it that children in this country have the kind of health care protection that they deserve.

So let us vote on it. If you want to vote it down, vote it down. But let us not just talk about it endlessly hour after hour, day after day, because there are needs out here. This little fellow is counting on us to get something done here and not just come in here and blow a lot of hot air at each other.

Cynthia Fyfe has just a little bit of coverage. But how does a child feel about the fact that his parents or parent is in a situation where they are going without health insurance coverage, let alone themselves? I mean, children love their parents. Think of the anxiety these people live with every single day.

Do we want to live with that anxiety, those of us fortunate enough to have health insurance coverage? Are we prepared to give ours away or to do without it? Of course not, because we know how important it is. We would not want to put our family members in that kind of position of insecurity and danger. If you do not treat health needs ahead of time when you can or promptly when they arrive, it is dangerous. People die.

I talked last week about Cheryl Eichler, a 29-year-old woman in Michigan, who was the manager of a 7-Eleven, with Crohn's disease; as lovely a person as I ever met. She came to testify before our committee one day on health care needs. She actually left the hospital to do it because she felt so desperately about the need for working people like herself to have health insurance coverage. She could not have it; did not have it; and could not afford to pay these medical bills. Oftentimes, she would delay going to the doctor when she was having terrible pains from this Crohn's disease.

She died 6 months after she testified before our hearing, not quite 30 years old. There is no doubt in my mind she would be alive today if she had gotten health care when she needed it. She should have gotten it.

Other people in the country should have it. I am willing to pay my share so that other people can have it, because I do not want their kids going without the things they need. It is not good enough in America that some of us have it and some of us do not, not in this area.

We are talking about something here that you need to have. We are talking about trying to keep people well and healthy.

It is so basic and it is so fundamental. Why is it that we have such a hard time understanding the need to do it?

I am open to the way to do it, quite frankly. If somebody can offer a better amendment than we have here, then I am willing to look at the amendment, as long as it covers the kids and the expectant mothers, as well.

Why do we include expectant mothers here? Because we know that if a woman is carrying a child, if she goes to the doctor and gets good prenatal care, that child is going to much more likely go to full term, the full 9-month term of the pregnancy, and be a healthy baby, and then have a prospect for a good life down the road because they got off to a good start during the pregnancy and during the birth process.

We know that we save many times over the money we spend on prenatal care for an expectant mother in terms of a good outcome from that birth, as opposed to denying that care and having the baby come early or having problems that could have been prevented and then spending tens of thousands of dollars, or even sometimes millions of dollars, to try to help these little tykes. Oftentimes, it is done through Medicaid, through the public assistance system.

But it makes no sense. It does not make sense economically and it does not make sense morally. So we have to stop doing that.

You know, that does not build a strong America. That hurts America. It hurts us in terms of our basic strength, because we are squandering people and squandering money and we are not holding ourselves out to a higher standard, which is what we ought to do in America. We sort of lift ourselves up to a higher standard of conduct with respect to what happens in our country that affects the lives of our people.

Do you want people to love America? Do you want people in the underclass to care about this country? Well, I think we better make it clear that the country cares about them, as well; that this is a two-way relationship. I think it is so fundamental.

You could go into any church or synagogue or mosque in America or around the world and listen to what is being said by the religious leaders about what our relationship ought to be to one another. If there is not a foundation, a moral and an ethical and a religious foundation, in looking after each other's health needs, I do not know where there is one. It is so manifest.

I have seen it, you know, in hospitals, as everybody here has. I lost both my mother and my father in the last 2 years. That has been a terribly painful experience, and I know what it is like for everybody else that goes through it.

I watched, in the intensive care ward in St. Joseph's Hospital in Flint during both of those occasions, the dedicated services of the nurses, particularly, and the doctors and other caregivers to try to help people in these extreme situations. And I saw families, in addition to my own, going through these terrible moments, the travail and heartache and loss; sometimes recovery.

Do we not want to be there helping? Do we not want to help each other? If we pass that accident scene by the side of the road, do we not want to help? I hope that we are the kind of country that, in our heart and soul, would say, "Yes. Yes, we want to help."

We do not want to just go to Somalia and help; we do not want to just go to some other country around the world. We help every other country in the world, and a lot of that is necessary, and certainly it is driven by a humanitarian impulse. But is it more important to help the rest of the world than it is to help our own people? Are we going to find the money to help somebody in some distant land that we will never see, and say to little Anthony Fyfe here, "I'm sorry; we can't get you up on the radar screen. You are not that important. We'd like to help, but we can't find the money. We can't, we can't, we can't, we can't."

Well, we can. We ought to start voting. The whole weekend went by with talk, even though there is an amendment right down at that desk right now. That reading clerk right now could call the roll on that amendment, and every one of the 100 Senators could say yes or no, and we could settle that issue. We could decide whether we want to cover the children or we do not want to cover the children. And then we could go on to other issues.

I will finish in just a moment here. I feel very strongly about it.

I think this is a very important moment for our country. There are times when we have a chance to sort of grow as a nation and grow up to a higher level of achievement and relationship of our Nation and ourselves to one another. This is one of those moments.

It would be nice if it were simpler. The health care system is, by its very nature, complicated. It is 14 percent of the economy. It touches everybody in the country in one way or another. We know that going in.

But there are some basic elements, some basic truths embedded in all of this, and one, sort of the bedrock is, are we going to see to it that people get the health care coverage and protection they need? Are we going to do that? Yes or no? Are we going to see that it gets done?

Right now, this amendment says, all right, let us just take one group in this society. Let us take the most vulnerable group. Let us take the children, because they are not, in many cases, able to fend for themselves; certainly not 6-year-olds or 2-year-olds or 6-month-olds. They need somebody else helping.

And if their families are in situations where they cannot get health care, cannot afford health care—now, if this little boy right now had asthma and his mother had money, she could not buy him a health insurance policy even if she had the money, because the insurance companies do not want to insure a kid who needs the insurance. That is a preexisting condition. They would say no, we do not want Anthony because he has an asthmatic problem.

He is part of America. I want Anthony insured. I want every kid in America insured so they can get the care they need when they need it because it is right and because every child in this country is as important as every other child in this country. You should not have to be the child of somebody who is rich and famous and powerful, with a lot of money, in order to get health care protection in America. It ought to be there for every last kid in our country because each one is important. Each one is important.

So let us vote. Let us vote—or at least let us set a time to vote. It is 10 minutes to 2 o'clock. What if we talk until 4? Or talk until 6? Or talk until 8? Or talk until 10? Or talk until midnight? Or talk all night, if people want to talk all night. But then let us have a vote down here. Let us let that reading clerk right there call the roll. Call the 100 Senators' names, and let us find out where people are.

If we do not have the votes then we do not have the votes. I think we may just have the votes. We will find out. But it is time we start voting and put an end to this filibuster and these delaying tactics.

Once we have dealt with this amendment we will take an amendment from that side because we are going to rotate amendments. This amendment has come off the Democratic side. The next amendment, once we dispose of this one, will come off the Republican side. We will debate that amendment. And we will all vote on that and we will settle that issue and then we will rotate back over to an amendment on this side.

But let us get at it. The country deserves an answer on this and not just a lot of additional hot air. We have an amendment at the desk. I have helped draft it. I think it is time that we vote on it.

I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. I yield to the Senator from Missouri such time as he may need.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. BOND] is recognized for such time as he may require.

Mr. BOND. Mr. President, my thanks to our distinguished ranking Republican on the Finance Committee. I wanted to congratulate my colleague and good friend from Michigan for his very compelling comments on why health care reform is needed. There are clearly some very, very good reasons for us to pass health care reform. That is why many of us on this side of the aisle have been working for better than 4 years to develop effective, responsible, and private-sector solutions to the problems that we face in health care.

It has been mentioned that we are engaged in endless debate. Let me point out to my colleagues and my constituents that we are seeing some very significant changes going on, literally as we speak. As we all know, there was a bill passed out by the Finance Committee and a bill passed out by the Labor Committee. Now our majority

VOL 140 PT 16 AG 12 — 18 1994 UMI

leader put forward, about 2 weeks ago, the Clinton-Mitchell I version. We started to work on that. And last week, then, another 1,400-plus-page bill, Clinton-Mitchell II, came out. And we had been working to understand what was in the first Clinton-Mitchell bill and we found out that there were some changes. Some of them were good. There were some outrageous things in the first one that were dropped out.

I think my colleague from Michigan would be interested to know that one of the things, unfortunately, that was dropped out of the second Clinton-Mitchell version was something that he and I have been working on, on a bipartisan basis, for several years. We believe that one element, an important one but just one element in health care reform, is to establish a system by which we can go to electronic filing for health care insurance claims file processing and paying. This was developed on a bipartisan basis with the active participation of the Department of Health and Human Services, the people in the industry who provide health care information, groups from health care providers to the American Civil Liberties Union. We were working because it makes no sense to have a quill and scroll kind of recordkeeping in health care when it takes up one-seventh of the American economy. We waste $150 to $180 billion a year just on pushing paper, and it is a headache for each one of us who are consumers. It takes up too much time, it wastes money, and besides, we do not have good information on which to base long-term decisions about the utility of various health care procedures. It is called outcomes research. You need to have a good data base.

We developed a proposal. We worked on it with the new administration, the Clinton administration's Health and Human Services. They signed off on it. We have groups from the ACLU to the AMA, the American Medical Association, American Hospital Association, and all the major data information groups which had come together on a good bill, and it was included in the Finance bill. It was included in the Labor bill. It was included in the first Clinton-Mitchell bill. But it got dropped out in the second Clinton-Mitchell bill. And that is part of the problem.

I was on a talk show in Missouri this weekend and one of the callers said, "Why are you saying you do not know what is in health care? You have been working on health care for over a year."

My answer on that is we have been working on health care a lot longer than that but we have had a different 1,400-plus-page amendment put in about every 3 or 4 days. And there was a third version that came out this Friday.

As we are talking about it, we are reading it and trying to find out what goes into it. I think it is important for us to look at some of the problems in the current amendment by the majority leader that he would have us substitute for the Finance Committee bill. And with apologies to the people who were on late nights, we just picked 10 reasons why, back at the home office in my State, the Mitchell bill should not be approved—the amendment by the majority leader.

First, starting out with No. 10, "Government-mandated purchasing groups are back." This was a feature of the original Clinton bill. They were called HIPC's, Health Insurance Purchasing Cooperatives. HIPC's became one of the first things that the public focused on, that is, a Government-designated purchasing organization. Every State that had talked about having a mandated or a Government-run purchasing cooperative, a HIPC, moved away from it. The American people moved away from it as we discussed the original proposal by President Clinton. They looked like they were dead; however, they have come back. They have come back in a new form.

The Government will now designate its official HIPC in every region of the country. It will designate an existing purchasing cooperative as one of its HIPC's. And every employer in that area will have to designate one. It puts the Government-run purchasing group at the head of the line and it gives them the power to run the health care market as a bureaucracy. There is no option for the businesses, the employers in that area. They have to offer it.

When they were first proposed the American people said, "No, we don't want them. You would either have a choice between a State-run store or a private enterprise operation, and we have found in this country that the private operations are the ones that provide the best service at the best price."

Reason No. 9, the plaintiffs' attorneys, the trial lawyers, will love it. Because there are, shot through this bill, all kinds of incentives for people to sue their health plan. This creates a new private cause of action on which we could award damages if the plan does anything that would deprive anyone or tend to deprive anyone of health care or adversely affected access to health care services. This is a tremendous expansion of the civil rights measures. We worked very hard and passed a civil rights law a couple of years ago. This includes, in the new amendment which is offered by the majority leader, a whole range of new remedies and new causes of action for the attorneys who want to bring suits.

We need real malpractice reform, not the encouragement of new suits. You can sue your health plan. The Attorney General can bring suits against health plans. And a recipient, a citizen, gets new grounds even to sue the State if they are not happy with the way the State operates.

The Congressional Budget Office, in analyzing the first Mitchell plan, says that the plan would have great incentives for people to sue the health care providers. It says that it would offer significant encouragements to lawsuits that would be disruptive and that would have an adverse impact on costs, because the litigation costs would wind up being passed along to the others who are participating in the system.

Reason No. 8, the States are given 177 new responsibilities and there are no grants for the States. If the States do not run the program the way the Federal Government wants it, they can take over the State programs. That is bad enough, but if this takeover occurs any time after January 1, 1997, then the Federal Government comes into that State and imposes a 15-percent surtax on all premiums. So that if a State does not like the way it is being told by the Federal Government to run it, the Federal Government has the ultimate club. The Federal Government takes over and the Secretary of Health and Human Services has the option to run it and impose a 15-percent surtax, driving up the cost of insurance to the people in the State.

Again, the Congressional Budget Office says that the difficulties facing the States would be tremendously high.

On page 11 of the Congressional Budget Office report, it states:

> The States have to certify standard health plans and health insurance purchasing cooperatives, establish separate guarantee funds for community rating and self-insured health plans, monitor variations in the marketing fees of HIPC's and other systems for purchasing insurance, and ensure carriers meet minimum capital standards.

These standards are largely federally determined, and the CBO said:

> It is doubtful that all States could develop the capabilities to perform these functions effectively in the near future.

They go on to say in the system of subsidies, again quoting from page 11:

> Integrating these three subsidies in a sensible and administrable fashion would be extremely difficult especially as some families could receive subsidies from more than one program.

And they point out several kinds of subsidies that would be very difficult to integrate.

This, to me, seems like an open invitation to have the Federal Government take over the State responsibilities and move even more directly into the job of running and controlling health care in our Nation.

Reason No. 7: Health care insurance premiums will skyrocket for young families. My colleagues, and those who have been following health care reform that has been implemented around this country, know that a real problem has arisen in New York because New York says everybody is going to pay the same insurance premium under their community-rating system, regardless of their age.

The fact is that those of us who are older require more health care coverage than those who are younger. Typically in this country, as people get older, their incomes go up, so they are better able to afford that higher cost health insurance. But to go to strict community rating without age adjustment means that young families just getting started with small children and the burdens of starting a family will have to pay a subsidy in their health insurance program for their parents and for others in their parents' generation who, because of their age, simply have higher health care costs.

We already have burdens on the working young today. They have to pay for the Social Security, they have to pay for Medicare for the seniors, and now there is going to be a windfall for the older wealthy who will be able to take advantage of the lower health care costs of the younger while the younger people are paying more in their premiums to take into account the fact that everybody has to be charged the same premium regardless of age.

That simply does not make sense. That is the one reason that is driving the New York system to force younger people out of the plan. It is moving away from universal coverage.

Reason No. 6: There are 50 new bureaucracies created in the Mitchell bill. I am not going to list all 50 here. But let me give you some of the most interesting.

There is a Government health insurance purchasing cooperative; a National Health Benefits Board; a National Council on Graduate and Medical Education, and I believe the chairman of the Finance Committee, the distinguished senior Senator from New York, has pointed out that the Federal Government would use that body to determine what kind of degrees students at medical schools should receive, a very frightening prospect if you have followed the record of other Government agencies in predicting what various professions are going to need in the future.

There is a National Council on Graduate Nurse Training; a National Advisory Board on Health Care Work Force Developments; there is the United States-Mexico Border Health Commission; there is a State Compliant Review Office; there is a Commission on Worker's Compensation Medical Services; and there is a National Health Care Cost and Coverage Commission.

I do not believe we need more bureaucracies. We do not need 50 new bureaucracies. We need to fix what is wrong with health care, not create 50 new positions from which problems can arise in health care.

Reason No. 5: Employer mandates will cost jobs. We have talked about that before. The Clinton plan went directly to employer mandates. Everybody knows that when you force a new cost on a business, there are several things that can happen: Either wages can go down or profits can go down, or, most likely, wages will either go down or people will be laid off.

Under the Clinton-Mitchell plan, there is a trigger. If you do not reach 95 percent by the year 2000, then either Congress acts or an employer mandate and an individual mandate are triggered into effect in that State. It is not just a burden on the employer; it is a requirement that you, the individual, have to get insurance. The combination of these, No. 1 sets up such a mixed scheme. The Congressional Budget Office thinks there is no way to implement a State-by-State trigger. Let me tell you what would happen.

If, for example, in my State, say Missouri was only at 94 percent—or it could happen in any other State; frankly, based on our experience, it might happen in most States—there would be a trigger and there would be a mandate that everybody in that State has to get insurance and employers would have the responsibility of providing 50 percent of their health care costs.

The Congressional Budget Office has pointed out that this is going to have a significant impact on employment. On page 17 of the Congressional Budget Office report on the Mitchell bill, it says:

> The imposition of the mandate would raise the cost of employing workers at firms that do not currently provide insurance. Economic theory and empirical research both imply most of this cost would be passed back over to workers in time in the form of lower take-home wages.

They go on to state that for people near the minimum wage, the likely outlook would be that they would lose their jobs or some of the employers could go out of business if, in fact, they were not able to pay those additional costs.

If that mandate went into effect in my State but not in surrounding States, it is quite likely that the jobs would move out of our State into other States, further worsening an economic problem. This happened, as we all know, during the last decade in the Massachusetts miracle, where Massachusetts came up with a delayed employer mandate. As it got close to the time, the economy was collapsing, implementation of the employer mandate was postponed again and again because everybody realized in Massachusetts that if they had an employer mandate and other States did not, the jobs would pick up and move to the other States.

Well, the people of Massachusetts imposed a remedy, a remedy I happen to believe was a sensible one. They elected a Republican Governor. But that, to me, is a recognition of the reality of employer mandates.

Hard triggers are imposed regardless of the economic or social stability in the State. These hard triggers are likely to create uncertainty and chill economic growth, and they are simply a way to go after an employer mandate and an individual mandate without having to vote for it. You can say, "Well, it is off in the future, so maybe I can get reelected before the people in my State feel the impact of the employer mandate and the burdens of the individual mandates, which would require major changes in the economy."

This hard trigger can produce irresistible demands for price controls, you can see workers being laid off—part- and full-time workers being laid off—delayed capital investment, hiring decisions and hiring of low-wage workers in a much less generous fashion.

Reason No. 4: This creates a new trillion-dollar Federal entitlement program. The total subsidies under the Clinton-Mitchell plans 1 and 2—and we have not had a chance to analyze fully the Clinton-Mitchell No. 3 to see if there are any changes in it—but under the first two, the subsidies in the entitlement plan would cost over $1 trillion over 8 years.

This is a new entitlement of subsidies for low-income people to purchase health insurance. It is likely that they will be overly expensive, and as we have seen time and time again in other entitlement programs, they tend to cost far more than we expected they would cost. That is why we have an entitlement reform commission headed by the distinguished junior Senator from Nebraska and the senior Senator from my State, Senator BOB KERREY and Senator JACK DANFORTH, who are warning us in this country that we are about to destroy our economic future, bankrupt the Federal Government, and put our children and grandchildren in a trick box that they can never get out of. That is by reason of the entitlements that grow like Topsy, and even worse. This is, I believe, a very frightening aspect of the Clinton-Mitchell bills 1, 2, and 3.

No. 3, moving down to this line, this new bill—if I recall, President Clinton said, when he introduced his tax bill in 1993, that health care reform will save $300 billion over 5 years—results in $285 billion additional spending on health care in the future.

One of the reasons we got into the health care debate was to get costs under control. Now, we have all heard, and we talked about—and I agree with the statements here—the problems with people who do not have health insurance and the tragedies of people who have been denied health insurance when they or someone in their family have had a serious illness.

That is something we have to remedy, but let us not forget the other side of the equation. We got into this health care reform debate because Medicare and Medicaid were eating the budget of the Federal Government. Medicaid was

VOL
140
PT
16
AG
12
18
1994
UMI

eating up State budgets, and health care costs were hitting businesses and the self-employed and retired people across this country.

The costs of health care are going out of control. That is why President Clinton as a candidate endorsed managed competition, because where we have seen some success in getting health care costs under control is through the use of market-based competition. It can work and it will work. But we cannot afford another $285 billion of spending.

Let me go back to what the Congressional Budget Office said about the spending. It says that there are going to be extremely high costs. They would have to be paid by taxes, a tax on high-cost health care plans. They are going to have a very complex system of generating the taxes and determining how much they cost. The expenses of the plan could be expected to grow with assessments, and such assessments would increase premiums, and in addition to costing more would discourage participation during the voluntary period.

In the analysis by CBO, they say there ought to be a tax cap, with which I agree, on the tax deductibility to get costs under control rather than having new spending built into the plan.

Reason No. 2—and this one is of concern to me because this one was in the original Clinton bill, as well as in this one—after the mandate clicks in, you do not have to pay your premiums. After the employer mandates, there are provisions in the bill that encourage freeloaders not to pay for coverage. Health plans cannot cancel health coverage for anyone who does not pay their insurance bill. That means once you go to a mandate, why bother to pay? Who pays? Well, the Mitchell bill imposes a collection shortfall add-on on honest workers and families to pay for freeloaders in the system. Now, freeloaders could get by with not paying their premiums and automatically passing on the payments to their honest neighbors.

Guess what happens? Honest neighbors will not be able to pay either. And then we get somewhere I expect to get—Government running the whole system.

That is one of the outcomes that I think is outrageous. It would not affect the low-income individuals for whom we are going to provide a 100-percent subsidy for their premiums if they are at poverty level or below. It would affect the working middle class. And those who are dishonest or wanting to shirk their duties and stick the bill on their neighbors just would not pay, driving the cost up to where everybody would be forced out of the payment of premiums because they would go through the ceiling.

Well, the first and best reason I think that the Mitchell bill will not fly is that it is longer than the Clinton bill. This latest volume is 1,443 pages long. I have talked about just a few of the problems in this bill. Every time we get a new version, we find new problems.

This is a bill which contains so much we do not need that I believe we should start afresh and work with something that has either been passed by the committees so every provision has had a chance to be fully aired or we ought to adopt a shorter substitute. With all the bureaucracies, with all the taxes, with all the mandates on the States, there are too many things bad about this bill.

I still believe, however, that we need health care reform in this country. I think the stage has been set. As I mentioned earlier, I have been working at Senator DOLE's direction on the health care task force with Senator CHAFEE and many of my colleagues for over 4 years. Week after week, we looked at what was wrong with health care and developed reasons and ways of improving the health care system. During that time, we fought battles with the Bush administration to try to get them to move forward with health care. Frankly, they did not do it, and I commend the President and Mrs. Clinton for making health care reform a priority because I think there are things that need to be done.

We need to make sure that people do not lose their health care if they get sick. We need to make sure that those who cannot afford it now can get resources to get health care. We need to cut down on expensive malpractice costs. But most of all, we need to get the system under the control that the marketplace will accomplish for us. We have lost track, when we are considering a 1,400-page bill, of doing the things that need to be done and not doing others.

I have been told by person after person in my home State of Missouri, as I have been back and talked and listened to them for the last several months: We do not want a Government bureaucracy running health care. Sure, we would like to see changes in health care, but do not hurt it. We do not want a system that does more harm. We do not want to see ill-considered, extensive, bureaucratic, overreaching Federal legislation.

The first principle of medicine is do no harm. In politics, the first principle ought to be if it is not broke, do not fix it. Well, I think that these 1,400-plus pages fix far more than is broken.

I believe the American people want us to have a bipartisan plan. I think they want to have something in which every American can have confidence. They want to have something with which they can go forward and say this has been fully considered and we have a good, sound basis for health care reform.

We have heard from the White House that, well, maybe it would be enough just to get a bill through here with 51 votes. Then they can take it to conference and no telling what will happen. As has already been pointed out on this floor, if we are going to make major changes in a program that affects every one of us and consumes one-seventh of our national economy, our gross domestic product, we better do it with broad bipartisan agreement so that the people of America can know that they are getting something that has been fully considered, fully aired, and has the best interests of the people of America at heart.

First, we need to get everyone into the system. We know that there are about 39 million people uninsured in this country today. If we are going to make sure that everyone gets into the system, we need to know who these people are. Who are the uninsured? Most of the uninsured are working adults—57 percent. There are 25 percent of them who are uninsured children, and the unemployed are 18 percent. Most of the uninsured are in families headed by a worker—84 percent. Perhaps most revealing is that most of the uninsured are farm families headed by a worker employed continuously throughout the year—never unemployed. That is 60 percent.

In fact, the largest segment of uninsured live in families headed by a full-time worker. Where do the working uninsured work? Well, most of them work in the retail trade, the services industry, or other areas. You have 7 percent in government, 18 percent in services, 23 percent are self-employed, 26 percent in retail, 32 percent in construction, and 46 percent in agriculture.

We need to eliminate barriers. First, we have to make sure that people are treated fairly under the tax laws. Most of the people in agriculture are farm families.

I listened to farm families throughout Missouri say, "Why don't we get to deduct 25 percent of our health insurance premiums? That is not fair." And I agree. Somebody working with a very wealthy corporation can have unlimited benefits, tax free to the employee and tax deductible by the employer. But the farmer and his or her family only get to deduct 25 percent. That is why the figures are so high in agriculture. That is a disincentive. That is a glitch in our tax system that we have to deal with.

People in the retail trade, if they work for a retailer—and the average profit margin for the retail employee in the country today is $1,700—if the employer does not provide health insurance, then the employee working full time in a retail establishment has to pay 100 percent—no tax deduction.

So the Tax Code itself causes, as some have estimated, as many as 9 million people to be uninsured.

Then next we would go to Federal subsidies to purchase insurance. Generally the subsidies that have been agreed on by a Republican and Democratic basis alike are from 100 percent of subsidy and 100 percent of poverty phasing out at 150 percent to 200 percent to 240 percent. This is a major undertaking by the Federal Government. This is something we have to pay for. But this is to make sure that no one is denied health access and health services because they cannot afford the insurance.

Once they get it, however—and one of the things that scares many people is that they will lose their health care insurance once they have it.

I have heard of too many problems, too many tragedies of families who thought they had good insurance policies, and, if they had a major, catastrophic illness to a parent or even to a child, they have found their health insurance canceled or their premiums jacked up through the roof. We cannot accept that. I think everybody in this body, on each side of the aisle, would agree that the time has come to stop that practice.

Health insurance reform ought to ensure that health insurance spreads the risk, not allow a sharp, practicing company to come in and cherry pick off very low premiums to healthy people, then throw them out, and somebody that they covered gets sick. This, to me, does not make sense.

The next major goal of health care reform is to contain costs. I believe that the marketplace will work. We have seen where groups of employers or groups in a community get together to purchase health care insurance. They have the information. They go to health care providers and get information on the quality and cost of care. They can make a tremendous difference in the cost of insurance.

I talked with people who are working in a small purchasing cooperative through a third party administrator in Springfield, MO. Some of them have been in the program for 7 years, and they find their health care costs are still what they were 7 years ago. They have not come back up to that height because they are exercising the discipline of the marketplace. It is the discipline of the marketplace that gives us the best standard of living in the world, whether it be for food, clothing, or anything else you want. It has made a success out of the rest of our economy. The reason that marketplace competition has not worked in the United States is because there have been impediments, first dollar coverage which takes away any incentive to purchase health care services wisely and at the best cost.

I believe we need more managed competition, not more Government bureaucracy. I believe that the Mitchell bill is Government run amok, with all the bureaucracies, with millions and millions of dollars in new spending only marginally relevant to the urgent health care needs of our Nation.

Here are just a few:

There is $50 million per year for school-based health education. I believe health education is important. But I believe that local communities and local school boards should decide upon the curriculum and fund the program, not the Federal Government.

There is $82 million a year for school-based services. The idea is to get the children into health care services so they are covered by a health plan.

We do not need to be paying more money for school-based services from the Federal Government. The Federal Government is going broke rapidly. Let us not start piling more expensive programs on it.

There is $200 million per year for the Department of Labor to retrain and deploy displaced health care workers.

We thought that when the Clinton bill was initially proposed, that there would not be any displacement or dislocation. In addition, there are about 154 different training programs in any event. So why do we need more training programs.

There is $92 million a year for OSHA, the Occupational Safety and Health Administration. A new program entitled "Occupational Injury and Illness Prevention." I thought that was the job of the agency already. What are we funding it for? Why do they need another $92 million?

Let us take these new spending programs out, consider them separately, and if they are really needed, if we need to tell OSHA what it is supposed to prevent, occupational illness and injury prevention, let us cut out some of the money we are now providing OSHA, and tell them you ought to be preventing occupational illness and injury. That seems to be what the agency was all about. I would like to see them go back and do that job.

Another problem is that it makes the women, infants and children spending program mandatory. It becomes an entitlement program. I support the women, infants and children, the WIC program, and have backed efforts in the Agriculture Appropriations Subcommittee to move the program towards full funding. Why do we set it up as a new entitlement that is called an entitlement which would join the others in growing without control, without legislative oversight?

I believe we need reform that puts Americans, not politics, first. I am committed to working to get a bill on this Senate floor that will do the job and that will do it right. We cannot walk away from families who desperately need relief from insurance company cherry picking. They need affordable coverage, and they should not have to wait as we fuss about the Government bureaucracy bill. We need to have both sides working together.

I think there is a lot we can agree on. I think we could get a solid majority in this body, and I would hope the other body would follow us—to say that these are the things that are wrong. Let us do what really is necessary, and what is pressing now. But let us throw the baggage overboard. There are too many burdens. There are too many costs. There are too many taxes. There are too many mandates. This Clinton-Mitchell bill in any of its transmogrifications from 1 to 2 to 3 is a far bigger bite than we can or should bite off because I do not intend to vote for a bill that would harm the health care system, that would further burden our Government, and that would put the people of American at the dependence of the Federal Government to get health care.

This is an effort to put big Government first. We do not need that. I think there are key features that a majority agree are essential to achieve real health care reform. I will work for a bill that includes those and leaves the rest out.

First, fair tax treatment for the self-employed and uninsured.

Second, insurance market reforms to ensure you do not lose your health care coverage or your insurance, or have your premiums escalated if you get sick or lose your job.

Third, provide subsidies for low-income individuals not covered by health care now.

Fourth, real malpractice reform.

I commend the majority leader because between transmogrification one and two, he knocked out a provision that would have preempted all State malpractice reform laws. The State of Missouri and the State of California have gone a long way. First, they were going to repeal all of the State laws. We do not need that. We need real malpractice reform.

Fifth, we need to move toward electronic filing of health care claims, information with privacy protection, security protections to the individuals, so their health information is not disclosed. We need electronic filing to lower costs, to provide better information on the effectiveness of health care procedures. I hope we can go back to the provision that, along with Senator RIEGLE in this body and with a bipartisan cosponsorship in the House, we have already worked on.

Finally, I believe that we need to rely on the market competition to keep health care costs under control.

Madam President, I believe these are the outlines of a bill we can pursue, and we can achieve great things. I will continue to work with my colleagues on both sides of the aisle. We do not need 1,400 pages of bureaucracy. We do need real health care reform. I stand ready to work with my colleagues to achieve it.

I reserve the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH] is recognized.

VOL
140
PT
16
AG
12
—
18
1994
UMI

Mr. HATCH. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CRIME BILL

Mr. HATCH. Madam President, the most apt comment one can make about President Clinton on the crime bill is: There he goes again. Instead of taking up the good faith offer of myself and other Republican leaders to meet and negotiate a truly bipartisan, truly tough crime bill, he is playing the same old inside-the-beltway partisan blame game. The people of Utah and across the Nation will not benefit from the President's partisan tactics.

It is time for the news media to expose some myths in this crime debate.

First, President Clinton has not exerted leadership on this issue. He has exalted rhetoric over leadership. He has never submitted a remotely comprehensive crime bill to Congress. Indeed, his administration sat largely on the sidelines during the Senate's consideration of a crime bill last year.

Second, the Clinton administration is promoting the phony line that the crime bill emerging from conference had already received majority support in both Houses and that opposition to it is mere politics. In fact, the bill that I voted for and which passed the Senate 94 to 4 in November did not contain the $1.8 billion for the so-called Local Partnership Act, and open-ended social spending boondoggle which slaps an anticrime label on a liberal, 1960's-style Great Society Program. The money in this pork program can be spent on education to prevent crime, job programs to prevent crime, and drug treatment to prevent crime. What we need to prevent crime, however, is more support for local, State, and Federal law enforcement and more prison space.

The Senate bill I supported last November did not have $900 million in yet another job training program. What we need in the fight against crime is not to spend this $900 million on yet more job training, but to spend it on building new prison space.

The Senate bill I supported in November did not contain the $895 million Model Intensive Grant Program, which would spend precious crime fighting resources on transportation, public facilities, and yet more job programs. The conference report contains all of these social spending boondoggles.

The bill I supported in November did not provide for the release of as many as 10,000 or even 16,000 Federal convicts, many of whom are going to commit more crimes when they would otherwise be in Federal prison. The conference report supported by President Clinton provides for such early release. This is unconscionable. Yet, it has been ignored by the pundits.

The bill I voted for in November contained numerous tough provisions dropped in conference. For example:

Tough Federal penalties for violent juvenile gang offenses, the Dole-Hatch-Brown provision—dropped.

The Moseley-Braun-Hatch provision for mandatory prosecution for violent juveniles age 13 or older as adults in appropriate cases—dropped.

Tough mandatory minimum sentences for using a firearm in the commission of a crime, the D'Amato provision—dropped.

Mandatory minimum sentences for selling drugs to minors or employing minors in a drug crime, the Gramm provision—dropped.

Amending the rules of evidence to allow evidence of prior offenses of rape and child abuse in prosecutions for those offenses in appropriate cases, the Dole provision—dropped.

Allowing the notification of communities that a convicted sexually violent predator has been released into their midst, the Gorton provision—dropped.

Requiring mandatory restitution to victims of violent crime, the Nickles provision—dropped.

HIV testing of accused rapists, the Hatch provision—dropped.

Ensuring the swift removal of alien terrorists without disclosing national security secrets in the deportation process, the Smith-Simpson provision—dropped.

Ensuring that criminal aliens are swiftly deported after they have served their sentences, the Simpson provision—dropped.

The crime bill conference report, I might add, is not the same bill that emerged from the other body either. As one example, the bill sent to us by the other body contained $13.5 billion, at least ostensibly for prisons, compared to the conference report's $6.5 billion.

So it is time for the new media to call this administration's bluff and set the record straight—this crime conference bill is not the same bill either House sent into conference.

Let me turn to a third myth fostered by this administration and its congressional allies—that this bill contains billions for prisons. Nonsense. Not one dime in the bill the President supports must be spent on building one prison cell.

The other side of the aisle claims to spend $8.3 billion on prisons. Yet, $1.8 billion of that funding is simply to reimburse States for costs associated with incarceration of criminal aliens—funding that will go overwhelmingly to only a handful of States in any event.

The remaining $6.5 billion in so-called prison spending is in the misleadingly rugged-sounding program entitled "Violent Offender Incarceration and Truth in Sentencing Grants" section. Yet, not one dime of this money has to be spent on the construction or operation of prisons. The pundits should read that section and stop repeating this administration's misleading rhetoric about it. I say it again, not one dime of the so-called prison provision of the bill supported by the President must be spent on prison construction or operation.

Rather, the money can be spent on programs, including alternative confinement facilities and drug treatment, intended to free up existing prison space—not to build new prisons. These programs will ostehsibly free up existing prison space through early release-type programs for some criminals, half-way houses for still other criminals, and similar alternatives to prison. This administration is hostile to a real buildup in new prison space. They do not really believe in new prisons—they believe in rehabilitation, job training, drug and sex offender treatment, and softer sanctions as alternatives to prisons. The American people know better: The best way to prevent crime is not to coddle criminals but lock them up for a long time.

Indeed, the so-called prisons section of the conference report requires States, as a condition to receiving any of this so-called prison money, to implement a "comprehensive correctional plan." The plan must include, among other things, "diversion programs, particularly drug diversion programs * * * prisoner rehabilitation and treatment programs, prisoner work activities, and job skills programs." What do any of these things have to do with locking up violent criminals?

In effect, in order for the States to qualify for the so-called prison grants, they have to spend much or all of it on a costly, liberal corrections scheme backed by the President. This is a shell game. And it is a waste of money that ought to be spent on the construction and operation of something this administration seems to feel is, old-fashioned—bricks and mortar for prisons.

Myth No. 4: This conference report contains tough truth-in-sentencing requirements. Supporters of this bill claim it conditions 40 percent of the so-called prison grant funding on State implementation of truth-in-sentencing. The provision is a sham. State adoption of a determinate sentencing scheme will only apply to second-time violent offenders. Moreover, these grants are subject to the same condition I mentioned earlier—the State must implement a liberal corrections policy.

Myth No. 5: The conference report contains a tough three strikes and you're out. It does not. The impact of any such provision is directly related to the scope of its qualifying convictions. The conference report's provision is far too narrow, affecting as few as 500 cases a year.

The Senate-passed crime bill, on the other hand, contained a broad approach to dealing with recidivist, violent criminals. In fact, the Senate-passed bill provided mandatory life imprisonment for two-time losers who sell drugs to children, employ children in the drug trade, or who commit murder. But that was too tough for this administration, and it was dropped in conference. The Senate bill, which federalizes crimes committed with a firearm, would subject thousands of three-time violent offenders and drug traffickers to life imprisonment. But this was too tough for this administration, and it was dropped in conference.

Myth No. 6: The crime conference report is going to put 100,000 new police officers on the street. In the spirit of bipartisanship, Republicans have supported spending the money the administration's own analysis says would result in putting all of these new police officers on the street. But, frankly, independent analysts scoff at the administration's claims.

For example, consider the remarks of John Dilulio, professor of politics and public affairs at Princeton University, director of the Brookings Center for Public Management in Washington, DC, and self-described card carrying Democrat. He said, on August 8,

> The bill calls for 100,000 new cops. But when you read the relevant titles of the bill, what you discover is that that really means about 20,000 fully funded positions. And if you're stouthearted enough to look at this bill in light of the relevant academic literature, you know that it takes about 10 police officers to put the equivalent of one police officer on the streets around the clock. This is factoring in everything from sick leave and disabilities to vacations and three shifts a day to desk work and so on. So that 20,000 funded positions becomes 2,000 around-the-clock cops. And 2,000 around-the-clock cops gets distributed over at least 200 jurisdictions for an average of about 10 cops per city.

Indeed, Madam President, the irony of the other side of the aisle claiming that opposition to this conference report is political is this: President Clinton has treated this issue largely in a political way. He claims he will put 100,000 police officers on the street, which will sound good in 1996, but this bill will not produce anything close to that number of new police on the street by 1996 or 2006. He claims he backs the death penalty, but he apparently has cut a deal with death penalty opponents to implement unilaterally the concept of the so-called Racial Justice Act, which will end the death penalty. He claims he backs a three-time loser provision, but endorses a very weak version of such a law. In order to satisfy the liberal social spending interests in his party, he has endorsed squandering of billions of dollars in scarce crime-fighting resources to be spent, instead, on liberal social spending pork.

Madam President, again, I call upon President Clinton to meet with Republicans on this matter. We can get a good crime bill to his desk. But that bill must be a bipartisan bill, not one which merely tinkers with the conference report, and not one which only satisfies the liberal wing of his party.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Madam President, I ask unanimous consent that Lucia Giudici and Jeffery Geller, congressional fellows of my office, be granted floor privileges during the consideration of S. 2351.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, I yield such time as he may consume to the distinguished Senator from Massachusetts, Senator KENNEDY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Thank you very much, Madam President. I have been listening over the course of the late morning and this afternoon to the various speeches about the Mitchell bill, and the Dole bill, and some general expressions of concern, particularly with regard to children.

It is important for the American people to understand that this is the third day that we have been debating the Dodd amendment, of which I am proud to be a cosponsor, to accelerate protections for preventive services for children in this country, up to 1995.

We have been trying to get the Senate to go on record to approve this particular measure, which is of such incredible importance to children in this country. I spoke earlier in the debate about the importance of Senator DODD's amendment, as did Senator RIEGLE, who offered a similar amendment to the Finance Committee bill, which was approved with bipartisan support. The Senator from Illinois, and a number of other Members also spoke in favor of this measure.

But we are trying now, in our third day, to come to a decision. Those who have put forward this amendment—which is not very complicated and is supported by a number of insurance companies—feel that we must build on the protections for children established in the Mitchell bill. If we are going to have a bill—and I believe we will have a bill—we ought to give priority to children, for all the reasons outlined in the earlier discussion.

But we are now in the early afternoon of the third day, and many of us would like to see a resolution of this matter, so that we can move on to other proposals to strengthen the Mitchell bill. Senator HARKIN has a proposal with regard to disability issues, which I think makes a great deal of sense. It will be cost effective and responsive to some of the very special needs of persons with disabilities. There will be other amendments to strengthen the bill that deal with rural health needs and mental health provisions.

In the brief discussion last week between Senator DOMENICI, Senator MOYNIHAN, myself and others, we talked about various provisions in this legislation dealing with mental health. The issue is parity of coverage for individuals with physical health care needs and mental health care needs.

We are eager to debate all these issues and to permit the Senate to go on record on these matters. Nonetheless, 3 days into the debate we are still discussing the first amendment. There are those who say "We are not trying to stall this proposal," and yet we cannot come to grips with something that is as basic, as fundamental as the amendment that is before us, which would improve coverage for the 12 million children who do not have coverage under Medicaid or through a working parent's health insurance policy.

The number of children without insurance is growing year after year after year. The Carnegie Commission estimates that by the year 2000 about half of all of the children in the country will not be covered by a parent's employment-based health insurance policy. We are talking about working parents, men and women who are playing by the rules, working 40 hours a week, 52 weeks a year, trying to provide for themselves and their families.

All this amendment does is say that beginning next year insurance policies are going to cover a range of preventive health care services for children. Contrary to what we heard from some of our colleagues, this amendment is not about subsidies. It is a very simple proposal that ensures that beginning in 1995 private insurance policies will provide preventive health care services for children.

That is what we would like to see the Senate decide this afternoon. I imagine we will have a chance this afternoon to talk about some of the other principal differences between the Mitchell bill and the Dole bill. We will discuss not only how these bills affect children but how they affect working families and senior citizens. The Dole proposal does not provide prescription drug coverage or home and community-based long term care services for our seniors, as the Mitchell bill does.

We are hearing the voices on the Senate floor saying that they care about the elderly and they care about prescription drugs. One bill covers it and the other bill does not.

We hear Members saying they care about community-based long term care services so that seniors are able, as a matter of choice, to remain home and get the health care services and support they need. Seniors may want to be

VOL 140 PT 16 AG 12 — 18 1994 UMI

able to receive community-based long term care services during the day, and then return home to receive the care, affection, and love of the members of their family. There are provisions in the Mitchell bill to provide these services to seniors and the disabled. There are no such provisions in the Dole bill.

I will take just a few moments to review once again why this particular amendment is important.

First of all, I will take a moment to describe the difference between the Mitchell proposal and the Dole proposal when it comes to protecting children. Families with income below 100 percent of poverty would be protected under either proposal. However, for a family with income at 150 percent of the poverty level, which is $22,000 for a family of four, you see that under the Dole proposal the family would have to pay $5,883 to provide insurance for their children, while under the Mitchell proposal the same family would receive a full subsidy to buy a health insurance policy for their children. We can see that the Mitchell bill targets subsidies to provide coverage for children. Working families earning $29,000 per year would have to pay only $232 for coverage for their children under the Mitchell bill, compared to $5,883 under the Dole bill. Families earning 250 percent of poverty, or $37,000 would be able to provide coverage for their children at a cost of only 2.7 percent of their income, compared to 15.9 percent under the Dole bill. For working families that want to provide insurance for their children, the cost is virtually prohibitive under the Dole bill, and that is unfortunate.

Mr. President, we have seen also in recent times that the percentage of children who are being covered by Medicaid has been increasing for the past several years. So we have a phenomenon where of more and more children are falling into the Medicaid Program. That is certainly better than no coverage at all. However, the percentage of children being covered by their working parents is going down, and the percentage with no insurance at all is increasing every year.

The majority of uninsured children, as I pointed out earlier, are from working families. I can not overstate the importance of providing preventive services for these children, and for all children. The Mitchell bill provides these necessary services for children without deductibles or copayments. Under the Dole bill, we can not be sure that preventive services for children will be available without copayments or deductibles. The Mitchell bill also provides vision care, dental care, and hearing care for children. Under the Dole bill, we can not be sure whether these services will be available to children.

We heard from our colleagues recently that they support the WIC Program, but they do not believe necessarily believe that we ought to fully fund the WIC Program. The WIC Program helps ensure that children will get the nutritious food they need to develop and grow. And yet some of our colleagues do not want to provide adequate funding for this program, which helps keep children healthy.

We heard one of our colleagues earlier in the day talk about the need for school-based health clinics that are to be developed with input from parents, school officials, and teachers. In the areas where they have been developed, this is enormous support for these clinics.

We passed this provision in our committee 17 to nothing. We had Republican support for it. We worked with our Republican friends who recognized the importance of making sure that we address the needs of America's children. We need to provide assistance not only to parents, but also to children, in the form of school-based health clinics, which can make such a difference in improving the health of children.

When you read through the Carnegie Commission report and other reports, you read about the problems facing many schoolchildren today. Many are suffering from hunger and malnutrition, and many have to deal with problems at home such as spousal abuse, or other violence or substance abuse. When a child is sick, many times a working parent can not stay home to care for the child. If a parent can not afford to pay someone to look after the sick child, the parent must send the child off to school. The child not only does not learn, but in many instances may pose a health threat to other children. School-based health clinics can make an important difference not only for the sick child, but also for his or her classmates.

The difference between how the Mitchell bill and the Dole bill treat children and families is quite apparent from that chart. You can see the difference in the cost to families that want to provide insurance for their children. Many families simply can not afford to pay 13, 15, 19, or even 26 percent of their income to provide insurance for their children.

Then if you go even beyond just the special program to provide coverage for children, you can see that the Mitchell proposal, which assumes shared responsibility at some point in the future, makes insurance coverage much more affordable for families than the Dole proposal, based on CBO estimates of the premiums.

The chart shows that families with income from at 125 percent of poverty pay only about 4 percent of income for family coverage under the Mitchell bill, compared to 12.7 percent under the Dole bill. Under the Dole proposal working families would be forced to pay 3 or 4 times as much as under the Mitchell bill.

And we can listen to our colleagues talk about how their proposal is going to deal with and solve the kinds of problems that the Mitchell program addresses, but the Dole approach it is just unrealistic. It is absolutely unrealistic to think that families will be able to afford coverage under the Dole proposal. Sure they will be able under the Dole proposal to participate in a health care program and a health care system, but this is what they are going to have to pay.

And does that really improve on the current situation for most families? In theory everyone has health care available to them today, but many people cannot afford it, and most of them will not be able to afford it under the Dole proposal either.

So, Madam President, just very briefly on this, I am hopeful that we will be able to get to a resolution this afternoon on the issue of the children's amendment. I hope we will also be able, as we move on through, to talk about how the different bills treat working families. This chart indicates at least what the cost of coverage would be for working families. We also must discuss the comparison between how the Dole and Mitchell bills treat senior citizens.

We must include a comprehensive program that to improve coverage for our seniors. We have studied that issue enough. We have the excellent bipartisan Pepper Commission report that made a series of recommendations. Some of those recommendations have been adopted in the Mitchell proposal, including additional asset protection to ensure that seniors will not be wiped out with an extraordinary, sudden illness that would basically swallow all of their savings.

There are also provisions in the Mitchell bill to ensure the integrity of the insurance programs that many individuals, the seniors, participate in. We find extraordinary facts that many of the long-term care insurance programs for our elderly, are not available to those who need them.

We have standards that have been established. I must say, those standards were worked out a year ago in a bipartisan way and have been included in this legislation. Senator HATCH and I reported it out of our committee. It is very, very important in terms of protecting those seniors who do have long-term health care needs.

We have important features. One, we have an asset protection for our seniors in the Mitchell bill, which the Dole bill does not provide. Second, we have the preservation of the integrity of the long-term insurance, which the Dole bill does not provide. Third, we have the prescription drug proposals that will be fully implemented by the year 1999. And beyond that, you have the home- and community-based long-term care program, which is phased in to help assist our elderly and disabled.

These are all very solid, responsible programs.

In each of these areas, we find a difference of approach between the Dole bill and the Mitchell bill.

So we are very hopeful, Madam President, that we will be able to have some early resolution of these particular amendments in an early way.

Madam President, I ask unanimous consent that certain staff members be able to have access to the floor during the consideration of this legislation. I send their names to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DASCHLE. Madam President, I yield such time as he may consume to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Madam President, I am pleased to speak again on this health coverage for all of our citizens.

We face now two choices: The proposal by Senator MITCHELL, the majority leader, that frankly is not as strong as I would like, but moves us in the right direction; and the bill proposed by the minority leader, that I think should be called the Insurance Industry and Tobacco Industry Protection Act, because that is what it does. It offers no taxes, no taxes whatsoever on tobacco, and it has a whole series of loopholes that are designed specifically for the insurance industry.

Let us take a look at where we are in this country. It really is incredible, when you think of it. We join other industrial countries in providing health insurance protection for one group and one group alone—that is people who are in our prisons. If you are convicted of murder and you go to prison, you will get health protection in our country. But if you are someone who is struggling at a job that may be a minimum-wage job, working 40 hours a week, two countries do not protect you in the Western World—South Africa and the United States of America.

If you work in France, you are protected. If you work in Great Britain, you are protected. If you work in Japan, you are protected. If you work in Italy, you are protected. But in the United States of America, you are not protected. Every one of those other countries protects all children. We do not.

I fear that we may not do what is right in this country and, in the next few weeks, as we make the decision, I fear we will not do what the American people want us to do, and that is to protect all of our citizens.

We are also unfair to employers. If you were to start with a blank slate, Madam President, and say: Let us design a system where you can volunteer as an employer to protect your employees and if you volunteer then you can also pick up the tab for those who do not volunteer, we would say that is a ridiculous system. And yet, that is precisely the system that we have. And under the Dole proposal, we will continue to shift that burden.

It is very interesting, as you look at the series of proposals made by the minority leader. In his bill, he says, just as the Mitchell bill says, if you want to get the same protection that Senator MURRAY from Washington has, Senator CRAIG from Idaho has, Senator WELLSTONE from Minnesota, Senator REID from Nevada, Senator DASCHLE from South Dakota, or PAUL SIMON from Illinois, if you want to get the same protection we have in the Mitchell bill, you have a 1.5-percent administrative fee that insurance companies can collect for this cost. The Dole bill says you can do that, but there is a 15 percent administrative fee, 10 times as much. That is a pretty nice largess for the insurance companies.

The American public wants coverage. I have never seen a poll like the New York Times poll that says 79 percent of the American people say it is very important that we have universal coverage for all of our citizens; 17 percent say it is somewhat important. That is a total of 96 percent. Three percent say it is not important and 1 percent do not know. Madam President, 96 percent—I cannot think of another controversial issue in which 96 percent of the American people are on one side, properly so. And the question is whether we are going to respond.

The bill that came out of the Labor Committee which Senator KENNEDY chairs by bipartisan vote says we are going to cover everyone. We had special breaks in there for small businesses. Employers who now cover everyone would be better off, clearly, under that bill.

The Clinton bill calls for universal coverage. Both of them do not attain it as rapidly as I would like but they cover it. The Mitchell bill covers 95 percent by the year 2000. That is not as strong as I would like but at least it moves us in the right direction.

The Dole bill—we are now at 83 percent coverage, 17 percent of all Americans not covered. That means if there are 100 people in the gallery right now, 17 of them are not covered. I do not think you will find 17 people in the gallery who do not want to have health insurance coverage.

Last week my secretary went to dinner with two friends and during the course of the dinner one of the people at the dinner—some of my friends, at least on this side of the aisle, know her because she has helped raise funds, she is a fundraiser and has been a professional fundraiser—and she started to perspire and turn pale and had some of the symptoms of a heart attack. They wanted to take her to a hospital. But she said no, she could not go to a hospital. They then got in a cab to take her home and she had nausea in the cab on the way home. Fortunately it turned out she had food poisoning rather than a heart attack. But she did not have health insurance and she was afraid to go to the hospital.

(Mr. BYRD assumed the chair.)

Mr. SIMON. We should not have that in this country. Every American ought to be covered. If we pass the Dole bill, we are not only going to stay at the 17 percent, we are going to slip further. I want to see every citizen of West Virginia covered, Mr. President. I want to see every citizen of Illinois covered. If that means that we have to have a tobacco tax—I am speaking for myself now, not any Senators from West Virginia—if we have to have a tobacco tax, I am willing to vote for it. If we have to have a payroll tax, I am willing to vote for it. I know you cannot do this on the cheap. We have to pay for it. There is no free lunch. But we are paying for it in the worst possible way right now.

Mr. President, 14 percent of our national income is going for health care. No other nation on the face of the Earth spends that much. And 38 million Americans are left out.

I want all Americans to be covered. That is what the American people want and I hope we do the right thing in this body.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. President, I yield myself such time as I may consume.

The PRESIDENT pro tempore. The Senator is recognized for such time as he may consume.

Mr. CRAIG. Mr. President, for a good number of days now, the Senate has been engaged in what I have to believe and what I think most Senators believe to be probably the most valuable debate or at least the most important debate that we have been about in a good number of years.

We are debating S. 2351, better known as the Clinton-Mitchell health care proposal. While at this very moment the Dodd amendment is pending on the floor, the one thing that became very obvious to this side of the aisle, to Republicans, was that we were not going to be openly granted the opportunity to debate the Clinton bill in its entirety before we started the amendment process. So we found it very important to come to the floor and, as best we could, to not only debate the Dodd amendment but, more important, to discuss with our colleagues here in the Senate and the American people the Clinton-Mitchell health care proposal.

I say that because I think most Americans agree with me, this is probably the most important and substantive debate that has occurred on the floor of the U.S. Senate in a good number of years. Why? Because it affects every American in the most personal of ways. It affects whether he or

VOL
140
PT
16
AG
12
—
18
1994
UMI

she, or they will be able to deliver to themselves or their families, the quality of health care that every American desires. That is the substance of this debate and that is why it is important and that is why it is more important that we are here today—not in the August recess—debating this issue.

So for the next few moments I would like to talk about the importance of that debate, talk some about the Clinton bill, but also to talk about a variety of other issues that I think spiral around this debate that certainly the citizens of Idaho have engaged me in over the course of the last several years and that I think are important.

This morning I attended a press conference with some citizens and business people and representatives of small businesses especially from the State of Hawaii. The reason I was with them was because they flew all night from Hawaii here to tell the American people in a press conference that the much-touted State-mandated health care plan in Hawaii is not what many have said it is, or that it has been ever since it was enacted in 1971.

The Governor of Hawaii was over, saying, my, this is a marvelous program and it just covers everybody. But State employees are exempt from it. Why are State employees exempt from it if it is such a wonderful program? The reason is because the State program is a better program. And that the employer-mandated program in Hawaii is causing great problems in the small business community today. You are finding a lot of employment that is part time simply because if it is over 20 hours a week, then it is full time, and the employer has to pay for the mandate.

So there are a lot of people working part time in Hawaii—maybe a great number of jobs—but not getting the kind of coverage because it is a mandated tax. It is a requirement if you are in business in Hawaii that you have to have this program. And if you have to have it, doggone it, the average human beings being what they are and trying to save a little money and oftentimes trying to just keep their business doors open are going to find a way around that kind of mandate, a legal way, if they can, so they can make ends meet so they can hire the people they can afford to hire. And that is an important issue that is embodied in the Clinton-Mitchell bill, and that is an employer mandate that a lot of people will be talking about over the course of the next several days that a good number of us are very concerned about.

Whether it is the Rand study that showed it could put 300,000 to 400,000 people out of work in this country or whether it is the NFIB CONSTAD study that showed nearly 800,000 people could be put out work by this kind of mandate, the very simple and often rhetorical comment back from the other side is, "Oh, well, but this program is going to hire a lot more people."

What about those who are put out of work? They are not saying they will be put back to work, because it is a different kind of work. It is a different kind of employment under a different kind of knowledge or understanding or training base than that which those people who were mandated out of work by this kind of legislation found themselves working at when they were put on the unemployment rolls. That is an issue we are all going to have to deal with in the coming days of this debate.

But I think what is fundamentally important here are some of the remarks that I want to pass on that are well beyond the general range of philosophy or attitude about whether we do or do not want a particular kind of health care reform. Because what I think is most significant is that every Senator that I visited with, that I have worked with here in the last several years as this issue of health care reform has emerged amongst the American people, has said they want health care reform. We not only want it, we not only desire it, we think it is important for our country to resolve the problems of the current health care delivery system, as numerous as they are.

But the question is, what kind of reform? That is why this debate becomes so important. That is why it is darned important that we have canceled the August recess because this is the time that the majority leader, Mr. MITCHELL, decided we are going to debate health care.

Then let us be here debating it. Let us put all of these bills out on the table, spread them out for the American people to understand, spread them out for them to leaf through and to read the fine print and to be able to make the individual determination as to whether this is going to affect them in the right way or the wrong way, whether it is going to give them the options that they need.

Mr. President, before I go any further, I would like to add that I am extremely frustrated, though, by this process, and I am frustrated because I am not quite sure where we are at this moment.

When I say that, I am not sure which version we are talking about, because when the debate began, we had Clinton-Mitchell 1, some 1,404 pages that we were to study, to understand and to spread upon the table, as I have just mentioned. But that is not the case at this moment. At this moment, we are on Clinton-Mitchell 3 or, as Senator PACKWOOD would say, Lethal Weapon 3. But we are on the third version in less than 1 week's period of time. I do not blame the American people for scratching their heads and saying, "What are you doing?" But more importantly, "Why are you doing it that way? Why aren't we being given the ample opportunity to see, to understand and to compare the differences of all of these programs and then to be able to call you or write you, Senator CRAIG, and say, 'we prefer this over this or this particular bill will affect us in this way, as this bill would cause us some problems.'"

That is the frustration we are dealing with, and my constituents have been clamoring to see the bills since they were originally introduced. The moment the Mitchell bill became available, we started getting phone calls. So we sent copies of those bills out to our district offices across the State. But as I just mentioned, the mail takes 3 days from the time you send it from the office here in the Senate to an Idaho office. And in that 3 days, that 1,400 page document that was in transit in the mail was obsolete because Leader MITCHELL had come to the floor with another bill.

As a result, we said to our district offices, "Cancel that bill; it is out of date, wait for the other bill. As citizens come in, they can take a look at it. Tell them the chapters, sections, and subsections will be different, because the new bill, version 2, is on its way."

Mr. President, before version 2 got to our district offices in Idaho, version 3 was on its way.

I am told that the first printing of this particular piece of legislation cost the American taxpayers about half a million dollars, give or take. If it is true that the first version cost a half a million dollars, I think it is reasonable to assume, when you look at the sizes of them, that the second version of Clinton-Mitchell, and possibly the third version of Clinton-Mitchell, cost about the same amount to print and to disseminate a given number.

So we are already well over a million dollars in costs just to print a concept or an idea, long before it gets debated, long before it gets amended, long before it arrives at the refinement process that then might be acceptable to you or to me or to anyone else serving in the U.S. Senate.

Why is this going on? I am not a veteran legislator compared to you, Mr. President, but I do know one thing: That normally this kind of activity happens in committees. When we get a bill to the floor, it is usually the final version, it usually has been worked over by all of the people of authority in a given committee or a committee of authority, or maybe two committees, and then it is merged into a final product that has had months and months of work before it ever comes to the floor for a final vote. We have not only saved the taxpayers a phenomenal amount of money, we have done the workings, the craftings of the legislative process in the right way.

I cannot say that that has happened here. I am not proud of this process,

and I do not think the American people are proud of it and, frankly, I do not think they are very happy with it. But that is another matter. We are going to debate it and we are going to try to resolve the differences and, in the end, we will decide whether the product that is in process today is worthy of our support, worthy of the support of the American people or, in fact, it ought to be defeated and then we ought to go home and talk again with our constituency and come back and try to resolve it another day.

There is a bottom line, and that bottom line is that the American people believe, as I do, that the current health care system of our country deserves to be reformed; that it should not be a moving target; that it ought to be a very real, stationary, subject that we all know the pros and cons about, that we were given ample opportunity to see and work out, and then we decide in the appropriate legislative fashion that this Senate has become known for and respected for over the last 200-plus years.

For the next few minutes then, let me talk about the debate that has gone on in Idaho, in my home State, for the last several years, and what I have done as a participant in that debate and as a Federal legislator for the citizens of the State of Idaho.

Starting back in 1989 and working forward to today, I have been the sponsor of a variety of health care conferences. They have really ended up being quite large conferences, 300, 400, 500 people attending from all over the State. We have been able to draw in such speakers as former Secretary of Health and Human Services Lewis Sullivan; former Administrator of the Health Care Financing Administration, better known as HCFA, Gail Wilensky; from the Heritage Foundation, Stuart Butler; from the University of North Carolina, Kenneth Thorpe; and from Harvard School of Public Health, Dr. William Hsiao—all of these people, noted authorities of their time, of their day in health care. They have come to our State at my encouragement to explain, to debate and to answer questions for the citizens of the State of Idaho.

I have also held town meetings and health care conferences—in a smaller fashion—on reform across the State. I guess in the last year I have probably held six or seven of these kinds of conferences, providing for the citizens of Idaho just as much information as was available at the time.

And there has been one theme line that I have encouraged in Idaho—not that I showed a bias, or not that I suggested one program over another. I told them the programs that I was a cosponsor of, but I said, "It is time, Idaho, that you get involved in this debate, that you get to know as much as you can about President Clinton's plan or about the Heritage plan or about any other plan that is out there," because at that time, and very similar to what I said just a few moments ago, I used a very simple line, and that was, Mr. President, to the citizens of Idaho, I said: "This is the most significant piece of public policy that you will be involved in, in your lifetime. You deserve to know about it and, more importantly, I deserve to know what you think about it before I cast my final vote."

As a result of that, from the conferences to the town meetings to the publications, to all of these Mitchell plans that I have been sticking in the mail and shoving out to our district offices and letting the people know that they were there and they could come in and read them, sort through them, question them, call me back, Idahoans became engaged in this debate more than any other I have ever been involved in, in the 14 years I have represented them.

Thousands of cards and letters have come back, telegrams, faxes. We are receiving hundreds of letters a week now from them on the health care issue. That is what I hoped Idahoans would do. Their resounding message that comes back in almost all instances would be and is, Idahoans are saying to their Senator: We would prefer no bill to a bad bill.

So the question is, Mr. President, what, by the definition of the Idaho understanding, is a bad bill? In my opinion, in reading all of those letters, Idahoans define a bad bill as that which requires more Government involvement in the health care delivery system of their State. They want reform, because all of those letters that talk about getting a piece of legislation talk about reform.

But I am telling you, they understand very clearly the kind of reform they want. They recognize what needs to be done. But Idahoans also recognize a lot of other things, as I think most of our citizens do. Idahoans realize the importance of the fact that 84 percent of all Idahoans are now currently insured, are now currently covered under a variety of health care insurance programs. In anyone's book, that is an overwhelming majority.

Does that mean there are no problems? No, I have already said, Idahoans want reform because they recognize that there are problems, significant problems. But they also recognize that when you look at the figures of 84 percent insured, that means there are 16 percent that are uninsured. And guess what? As logical and conservative as Idahoans are, they say, "Why don't you work to solve the problems of the 16 percent instead of creating a whole new, large, Federal bureaucracy to deal with the whole system when 84 percent of Idahoans, like many other Americans, are already covered?"

That is the issue at hand.

So I think Idahoans have defined what they think is the problem. People are worried that they will lose their health care if they have a serious illness, because their insurance might be canceled. They think that is a problem in Idaho, and they want us to solve that problem, or try to work with them in solving it.

They worry that they would be kept from getting insurance if they were to change their jobs. I think we call that portability around here. And Idahoans say, "LARRY, fix that." They are concerned about whether they will be able to afford insurance by reason of the rate of increase in cost. And they say, "Can't you resolve some of the cost factors that are driving that?"

They have a strong desire to be able to purchase the services they want from a doctor or a health care provider they choose. In other words, Idahoans want choice of the kind they have felt they have always had. They do not want a Federal agency or a regional agency or some kind of federally created co-op saying no, here are the doctors that are going to provide you with this kind of care. We are not going to give you that kind of flexibility or choice. That is a concern that I think most Idahoans have.

And another thing I think they feel is most important is they do not want what they have changed. In other words, they say, "Take care of the 16 percent, adjust us around a little bit, deal with some of these problems, if you can, but do not change the system to an all-federalized system."

In other words, they are saying we do not have to sacrifice the quality that we are getting or pay billions more in new taxes to make that system accessible for those who are currently locked out.

Let me make it very clear, Mr. President. I am not saying we do not need reform. Idahoans are not saying we do not need reform. It is quite the opposite. We need reform, the kind that will solve the problems in the system. What we need is not a new Government program that costs us billions of dollars to resolve this problem. There are pieces of legislation, there are bills before us that approach it just exactly the way I think a majority of Idahoans would want us to deal with it.

Idahoans are not unique in their rejection of the Clinton bill or other Clinton-like proposals. Their concerns arise from the fact that most Government one-size-fits-all programs really do not fit Idaho.

Idaho and other frontier States have unique needs in health care delivery. For example, Idaho has one of the worst doctor-to-patient ratios in the Nation. Therefore, access to care is not merely a question of the ability to pay. Under the bill that we now know as Dole-Packwood, there are a number of

VOL
140
PT
16
AG
12
—
18
1994
UMI

very important provisions listed under title III, "Special Assistance to Rural, Frontier and Unserved Urban Areas."

There is a special word in the title, Mr. President. I have now used it twice. And that is the word "frontier." That word does not appear in the Clinton-Mitchell bill. According to my research and a run of the computer and a check in the way we can check things today, the word does not appear. It is alarming to me that the Clinton-Mitchell bill does not recognize, nor does it understand, what I call the rural West.

Frontier and rural are two very different situations because they, say, "Well, Senator, if you are talking about rural, then we are dealing with the question of frontier." But I will tell you that it means two distinctly different kinds of communities that we clearly have in our State of Idaho and that many other Western States have. Residents may have the benefit of a clinic but often they have to travel many miles to a larger community to be treated for a complex health problem.

It is important to note that in Idaho that drive is not 20 miles down a stretch of interstate. Rather, it is on a winding mountain road that is closed part of the year because of snow or ice. While that depiction may seem melodramatic, it is also very accurate and relates to the definition of frontier. And I suspect in the President's State of West Virginia that definition also applies, because oftentimes it is not 20 miles down the interstate but 200 miles to the nearest doctor or the clinic or to any environment in which health care can be delivered.

The question of access in Idaho is more than we can afford these medical services. It is can we get to a doctor or a hospital when we need help. Idaho and other frontier States face this and other very unique problems. The Dole-Packwood bill does more than reference our needs.

Now, remember, I have just said a computer check of the language suggests that those words do not even appear in the Clinton-Mitchell proposal. The Dole-Packwood bill speaks to rural or frontier provisions in title III, as I have mentioned.

For example, there are funding provisions to help providers and health plans establish networks in underserved areas. Subtitle A provides for demonstration grants, subtitle B provides for technical assistance grants, and subtitle C includes capital assistance loans and loan guarantees.

The Packwood-Dole bill also establishes safeguards to enhance access to local health care services and practitioners for vulnerable populations.

Under subtitle D, there is funding to increase the number of primary care providers in medically underserved areas which is critical to my State of Idaho and many of the, by definition, rural and frontier States of the West and other parts of the country where we have the worst doctor-patient ratio than any other place in the Nation.

Another important provision under this rural frontier title is subtitle F, which is on the emergency medical system side. This subtitle includes grants to States for aircraft in transporting victims in medical emergencies, and that is section 361. In Idaho, Life Flight and other similar services have saved many lives, and I think the President knows what I am talking about. A person injured in the back country can be brought out instantly, or nearly instantly, as fast as the helicopter can fly from the point where the person was injured to a major medical complex sometimes 200 and 300 miles away.

The Dole-Packwood bill addresses this issue very clearly. Again, it goes unaddressed in the Clinton-Mitchell proposal.

Now, I have also mentioned Idaho has a varied terrain and climate with many remote frontier communities that are unreachable during certain times of the year except by aircraft, and section 361 is critical in any kind of health care reform we do to make sure that all of America is served, not just the urban areas but certainly the rural and, by definition, the frontier areas of our country. Again, the continual reference to and focus on frontier health issues in the Dole-Packwood bill are two of the many reasons why I have been able to support it and why most Idahoans, after they have been given the opportunity to read it and understand it, begin to support it also.

As we work out a health care reform bill, we must address the unique needs of frontier States and acknowledge that a one-size-fits-all plan simply will not work in Idaho, and other rural or frontier States.

In light of some of these frontier access problems that I have mentioned, I would like to talk a little bit about how Idahoans are already working to solve problems in our State. I will be brief about these topics, but I think they are important to understand, because Idaho is not unique. Like many other States, they are working to solve their own problems. Proposals under consideration, and already passed by the Idaho Legislature, clearly begin to drive the issue of health care delivery in our State and make it more accessible to more people.

Specific strategies are being employed by the Idaho Legislature. Communities like Twin Falls, ID, are developing unique plans, and in the five northern Idaho counties, health care facilities, along with health care providers, are coming together in a very innovative community health care network.

So, Mr. President, my purpose in sharing these ideas and activities going on in Idaho is to encourage my colleagues to take a close look at what is happening in their own States.

In this Congress, we have the unique opportunity of developing an infrastructure that will empower people. Empowerment should be our focus, not restrictions and prohibitions.

Let me restate that. When we look at what our States are doing, Mr. President—and many of our States are being very innovative at this moment in health care delivery—what we do here ought to be played in the backdrop, or at least alongside, of what our States are doing. We ought to assure that what we do empowers our States and does not restrict them or prohibit them, and saying again that we know better and that one size fits all. Because of our very specific needs—and I have addressed some of them—the reforms in Idaho have been focused on increasing accessibility while containing costs.

Over the past few years, the Idaho Legislature has passed laws to improve health care accessibility and coverage by reforming the insurance industry. You and I both know that the insurance industry of our country is primarily regulated at the State level. We have not ever created a great national, federalized bureaucracy that controls that industry. We have said that is primarily a State responsibility. And, as a result, almost every State to my knowledge has an insurance commission. An insurance company, to do business in that State, has to conform with the rules and the regulations of the State.

Our Idaho Legislature, understanding that of course, then has worked inside the State to reform the insurance industry to develop a variety of things, but beyond that, to make sure that there is greater accessibility.

The Idaho Legislature has also allowed the development of medical savings accounts. Of course, that means you can put away pretax dollars, State tax dollars, to be used for the purposes of purchasing health care. Guaranteeing health care access to individuals in small communities has been improved by these kinds of approaches.

Other proposals under consideration include the development of incentives to further reduce health care costs and improve that doctor-to-patient ratio that I mentioned that in Idaho is the worst of any rural State in the Nation. Insurance reforms that passed the Idaho Legislature this immediate past session include the transferability of policies so that people will not lose insurance coverage simply because they change jobs. In other words, the Idaho Legislature has done what we are debating about doing. It is called portability. But let us make sure that our portability, if we can get that far, does not wipe out the kind of portability that the Idaho Legislature has provided for the citizens who live within

that State and buy health care coverage there.

There is also an individual insurance plan called the Individual Health Insurance Availability Act, which guarantees access to health insurance for individuals. That legislation was passed a couple of years ago in Idaho. For the last year and a half, I have met with a variety of insurance companies that have worked together to build a basic policy that allowed people of lesser means to buy minimum health care coverage to gain access to that system. That policy is now available in the State of Idaho. It costs less but provides the kind of minimum coverage that many of our citizens are looking for. That is what health care reform is all about. The Idaho Legislature is doing that right now.

We should not, by our actions here, risk-canceling out any of those kinds of activities. These provisions are similar to provisions included in many of the health care reform proposals that I have mentioned here. They are also real solutions to problems that cut people out of the current system.

That is what I think our reform should be dealing with, Mr. President. I am not saying that the Clinton-Mitchell bill does not deal with some of those because they attempt to in their own way. But they set up this vast bureaucracy around it that is going to create the Federal regulator determining what is good or bad for Idaho, instead of an Idaho Legislature or an insurance company working with an Idaho insurance commission to assure the portability or to ensure the minimum insurance policy that Idahoans can afford.

Reducing paperwork and establishing medical savings accounts are both proposals that I support and are included in legislation that I have cosponsored here in the U.S. Senate. The Idaho Legislature has already addressed those very items. But under a Clinton-Mitchell type bill, all those positive actions in most instances would be wiped out and in other circumstances could be wiped out.

In addition, new burdens would be placed on States both financially and administratively. Why should we do anything that would wipe out any action that any of our States would be taking to drive down these costs, to reduce the paperwork, and create the greater accessibility?

In recent reviews of the original language received on the Clinton-Mitchell bill, there were 175 new responsibilities that would be imposed on our States. I would suggest that probably the State of Idaho is not going to be able to afford to administer the kind of very simple, clean, and adequate proposals that it has brought about if it has to address the 175 new responsibilities that are involved in the Clinton-Mitchell approach.

The Idaho Legislature has taken major steps toward solving the State's health care problems. As I have already mentioned, Federal reform should enhance, rather than inhibit, what we are doing here. In other words, what I said before, let us empower people, let us empower our States, and let us empower the systems of government that are closest to the people to reform their health care instead of prohibit them from doing so or restricting them or burdening them down with bureaucracies through this legislation.

In the private sector, a number of voluntary actions have been taken to improve access to care in Idaho. Over the past 6 months, as I mentioned earlier, a group of community leaders in the Twin Falls area have adopted the vision to make their region the healthiest place in America. That is the program they are talking about. They are calling it the "Healthiest Place in America." County facilities are beginning to work together under the joint exercise of powers agreement, and physicians are beginning to form larger group practices to work with hospitals under physicians and hospital organizations. Why? To allow greater coverage, to drive down costs, to make access simpler. That is going on as we speak.

In Twin Falls, ID—and in the "Twin Falls" across this Nation—whether it is in your State of West Virginia or any other State, communities and providers are coming together saying they can solve a lot of these problems on our own, and they are doing it. The tragedy is: Is what we are doing here going to thwart that or wipe it out? More than likely, it could. However, for the Twin Falls community to develop its network, it cannot be obscured by Federal legislation.

Mr. President, I hope that the Senate will take into consideration the reform efforts already passed by State legislatures across this country.

In my opinion, after having read at least half of the Clinton-Mitchell bill now and having read all of the Dole-Packwood bill, I would say that the Dole-Packwood bill comes much, much closer to working as a cooperating partner with States and local providers than the large, Federal dictating bureaucracy that inevitably will be constructed coming out of final passage of a Clinton-Mitchell approach. The Congress needs to focus on establishing a framework in which the market can develop a process that naturally fits the States and that the States are working toward today.

I mentioned also the communities in the north end of my State. One-hundred-sixty physicians and north Idaho hospitals have come together to create what they have called the North Idaho Physicians' Association. They will serve as a discussion and an educational group. They are working together with a coalition of hospitals in the area. This association has performed a local study of the needs of the beneficiaries, the employers, and the providers. It is very likely that there is no other group that understands the health care needs of northern Idaho better than that association I have just mentioned and the residents of the communities they serve—certainly not the bureaucrats here in Washington, or certainly not a regional office or offices that would be established in Seattle, or Portland, or Salt Lake City, or some other place, that would dictate and begin to control under any of the plans being proposed that we call greater bureaucratic plans, much like the Clinton-Mitchell approach.

The north Idaho organization is dedicated to providing accessible, high-quality health care while containing costs in their communities. This confirms my belief that health care is most efficient when it is coordinated both locally and privately. And, again, I hope that this Senate in its debate and in the amendment process and in the final resolution of health care will clearly recognize that in communities and States around this Nation today, health care is being revolutionized not by a Federal edict, not by overpowering Federal legislation, but by the simple needs of the marketplace and the recognition that you can get quality health care if you deliver it privately, or if you cooperate with State and local units of government instead of a large Federal bureaucracy.

Propelled by a sense of community and desire to improve health care in their own area, I have just mentioned three major efforts going on in Idaho, whether it was the legislative effort, the community effort in north Idaho, or whether it is Twin Falls wanting to make themselves the healthiest place in the country.

Mr. President, these are examples of what we can do and, more importantly, what we are doing in our health care delivery system in this country. The pressure is on, or we would not be debating health care reform here today. But let us make sure that pressure does not drive us over the edge toward a greater Federal bureaucracy but, in fact, it causes us to work hand in hand.

Before going on to discuss legislation here in the Senate that I support, I would like to add that thousands of letters and phone calls have been pouring into my office stating opposition or concern about the Clinton-Mitchell bill.

I ask unanimous consent that two letters in opposition to the National AARP endorsement of the Clinton-Mitchell bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

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JAMES O. MCMAINS,
CERTIFIED PUBLIC ACCOUNTANT,
Lewiston, ID, August 11, 1994.

EUGENE LEHRMAN,
AARP, Washington, DC.

DEAR MR. LEHRMAN: I watched as you endorsed the Democratic Health Care bills on National TV yesterday on behalf of the members of AARP.

How dare you presume to speak for me without asking my opinion first!

I know there are many, many members who feel as I do; that the principal reason for the rise in health care costs over the past three decades has been the Government programs that are already in existence (including Medicare, Medicaid, Welfare, etc.).

The federal Government has no business mucking about in health care. This is solely a concern of the various states and individual citizens.

I thought AARP, because of the age and experience of it's members would have better sense. Apparently the leadership of the organization has concluded that money grows on trees and that the Government can give people something without taking it from someone else (your children and grandchildren).

Since the AARP does not represent my views, and since I was not even asked my views before the announcement of support for the Government takeover of the health care system, I hereby cancel my membership. My membership card is enclosed.

Sincerely,

JAMES O. MCMAINS.

BOISE, ID.
August 10, 1994.

ANNE MAY KINSEY,
President,
American Association of Retired Persons, Washington, DC.

DEAR MS. KINSEY: It may come as a surprise to the individuals at A.A.R.P. who took it upon themselves to announce their support, and by inference, my support of the Clinton-Mitchell health plan today, but I did not give them my proxy to do my thinking for me or to represent my beliefs to others.

Like millions of others, I have followed the health care debates for some months, and when the smoke and mirrors are eliminated, one must conclude, at least based on the information available to us to date, that the opposition's charges of political expediency, massive boon-doggling and a liberal dose of socialism are correct.

I can not believe that anyone at the A.A.R.P. has made a careful study of the two major bills presented by the administration, much less have an intelligent and objective opinion at this stage as to the merits and/or demerits of same.

You may be sure that the arrogance of the A.A.R.P. "leadership" in supporting the Clinton Mitchell plans is resented by a large share of its membership. This is merely one more example of an unwarranted belief by may residents of the Washington, DC "beltway" that they possess superior intellect and judgemental capability, whereas just the opposite would appear to be the case.

Now that the A.A.R.P. has taken it upon its self to falsely represent my views, I have a right to insist that, following your "careful evaluation" of the Clinton-Mitchell plans, you tell me:

(1) How much will the Clinton-Mitchell plans cost me, including EVERY SINGLE HIDDEN COST, and

(2) What benefits will I receive as compared to what I am able to obtain from existing private health plans, including the A.A.R.P./Prudential Plan.

I look forward to a detailed early reply, complete with your SPECIFIC evaluations which caused you to arrive at your publicly announced decision to support the Clinton/Mitchell plans.

Sincerely,

VERNON B. CLINTON.

Mr. CRAIG. For the last several days, there have been a great deal said on the other side of the aisle about this AARP endorsement. I noticed that in the last few hours those comments have gone silent. Let me refer to these letters, to give you an example of why no longer do we talk so openly or do the Clinton-Mitchell supporters talk so openly about this kind of an endorsement.

Here is a letter from James McMains, in Lewiston, ID, to Eugene Lehrman, AARP, 1909 K Street, Washington, DC.

DEAR MR. LEHRMAN: I watched as you endorsed the Democratic health care bills on national TV yesterday on behalf of the members of AARP.

How dare you presume to speak for me without asking my opinion first!

The reason a member of AARP can say that is because, historically, that organization has been very good at polling its members before it took positions on a major piece of legislation.

Mr. McMains goes on to say:

I know there are many, many members who feel as I do; that the principal reason for the rise in health care costs over the past three decades has been Government programs that are already in existence (including Medicare, Medicaid, Welfare, etc.).

The Federal Government has no business mucking about in health care. This is solely a concern of the various States and individual citizens.

I thought AARP, because of the age and experience of its members, would have better sense. Apparently, the leadership of the organization has concluded that money grows on trees and that Government can give people something without taking it from someone else (your children and grandchildren).

Since the AARP does not represent my views, and since I was not even asked my views before the announcement of the support for the Government takeover of the health care system, I hereby cancel my membership. My membership card is enclosed.

Sincerely, James O. McMains of Lewiston, Idaho.

Here is a letter to Anna May Kinsey, President, American Association of Retired Persons. This letter is from Vernon B. Clinton of Boise, ID.

DEAR MS. KINSEY: It may come as a surprise to the individuals at AARP who took it upon themselves to announce their support, and by inference, my support, of the Clinton-Mitchell health plan today, but I did not give them my proxy to do my thinking for me or to represent my beliefs to others.

Like millions of others, I have followed the health care debates for some months, and when the smoke and mirrors are eliminated, one must conclude, at least based on the information available to us to date, that the opposition's charges of political expedience, massive boondoggling and a liberal dose of socialism are correct.

I cannot believe that anyone at the AARP has made a careful study of the two major bills represented by the administration, much less have an intelligent and objective opinion at this stage as to the merits and/or the demerits of same.

You may be sure that the arrogance of the AARP "leadership" in supporting the Clinton Mitchell plans is resented by a large share of its membership. This is merely one more example of an unwarranted belief by many residents of the Washington, D.C. "beltway" that they possess superior intellect and judgmental capability, whereas just the opposite would appear to be the case.

Now that the AARP has taken it upon themselves to falsely represent my views, I have a right to insist that, following your careful evaluation of the Clinton-Mitchell plan, you tell me: (1) How much will the Clinton-Mitchell plans cost me, including every single hidden cost and, (2) What benefits will I receive as compared to what I am able to obtain from existing private health plans, including the AARP/Prudential Plan.

I look forward to a detailed early reply, complete with your specific evaluations which caused you to arrive at your publicly announced decision to support the Clinton-Mitchell plans.

That is signed Vernon B. Clinton from Boise, Idaho.

Well, at least this gentleman did not resign his membership card. But he does call upon that organization to examine thoroughly the very bills we are talking about.

Mr. President, you know, it is the same kind of call that many of us have made and why we are now here on the floor asking the questions and debating this issue. I know that, earlier on, Senator KENNEDY asked, "Why are we not debating the Dodd amendment?" I do not argue that that is not an important amendment. It is a critical amendment, as is any kind of legislation that we do.

Mr. KENNEDY. Mr. President, will the Senator yield just on that point?

Mr. CRAIG. I am happy to yield.

Mr. KENNEDY. Mr. President, I was listening with great interest to the Senator talk about the different initiatives that were taking place in the State of Idaho. I found those enormously interesting.

I was just reviewing the census figures on the number of uninsured children, because this is something which the Dodd amendment was addressing, and I thought at least I gathered from the Senator from Idaho he is indicating that Idaho was really just reacting, dealing with their own kinds of problems, and, therefore, we did not need or at least have the kind of comprehensive approach that might be included in the Mitchell proposal or perhaps even in the Dole proposal.

According to last census, which is March 1992, there are 13 States in the United States that have a higher percentage of uninsured children than Idaho.

The PRESIDENT pro tempore. The Chair will observe that the Republicans' time has expired.

Mr. KENNEDY. Mr. President, will the Senator yield 4 or 5 minutes?

Mr. MOYNIHAN. Of course, Mr. President. I am happy to yield 5 minutes to the distinguished Senator from Idaho.

Mr. CRAIG. Mr. President, let me respond to the Senator from Massachusetts. He does bring up a very valuable point. That is why I said at least twice or three times during my discussion this afternoon that the Dodd proposal is a worthy proposal and ought to be debated.

This is why the Idaho legislature 2 years ago said by law to their insurance providers in the State you have to do better, and that is why those providers came together and are just introducing a new plan that is now on the ground in Idaho that is a comprehensive minimum plan that would allow hopefully increased coverage for many of those children the Senator talks about.

Idahoans are very aware and very concerned about that problem. That is why Idahoans say we want health care reform.

I have said that, Mr. President, today time and time again on the floor. We want health care reform. We want Idahoans to have that choice. We want to make sure that our children are covered.

The tragedy is Idahoans cannot pay for the 20 percent tax increase that the Clinton-Mitchell proposal would require of most Idahoans to be able to afford that kind of insurance.

We in Idaho believe that under the proposal of the Idaho legislature that is created and the portability issue that they are now addressing and the medical savings account issue that they are now addressing we can handle the issue of uninsured children in our State more adequately than can be provided under a larger Federal bureaucratic umbrella.

I thank the Senator for questioning. He is absolutely correct. It is of major concern in my State. We want to be responsive to it. But I think Idahoans under the choice of their plans would prefer to be responsive under a Dole-Packwood plan and a plan that would not cancel out the initiatives that are currently underway in our State.

Mr. KENNEDY. I thank the Senator for his comments.

There are several States that effectively have included what the Dodd amendment would achieve and accomplish. I was not aware that Idaho was one of those. But I appreciate the fact. In the Dole proposal, to which the Senator referred, according to the Lewin VHI assessment, there will be 6 million children that will be uninsured at the end of the decade.

I also heard the Senator talk about the value that Idahoans place on the freedom of choice proposal. I have examined the Dole legislation, all 600 pages of it, and I cannot find where the guarantee of choice is evident in that legislation. I do not know.

If the Senator wanted to review it and answer another time, I will be glad to defer. I do think, that one of the key elements of any reform is what is going to happen to children. The Dodd proposal does provide the requirement that States make available to children preventive health care services which quite frankly, according to other GAO studies, show just about every other industrialized society in the world provides except the United States.

Would the Senator reason with me about how we are going to try and deal with the needs of the 6 million children that will be left uninsured by the Dole proposal. Maybe there will not be as many uninsured children in the State of Idaho as might be even now. But if we are looking at how we are going to insure the total coverage of children, how would he expect that the Dole proposal would do it, and if he could help me locate within the Dole proposal where freedom of choice is guaranteed.

Choice is a major factor that is included in the Mitchell proposal, but as we move on through now in the third day of at least the debate on the children's proposal we would like to find out how you are going to address the studies that show there will still be 6 million that will not be covered, and there are no guarantees of freedom of choice under the Dole proposal. If the Senator could just respond to that.

The PRESIDENT pro tempore. The time has expired.

Mr. MOYNIHAN. Mr. President, I am happy to yield to my friend from Idaho such time as he requires to answer the Senator from Massachusetts and to finish his opening statement.

Mr. CRAIG. I thank my colleague for yielding.

The PRESIDENT pro tempore. The Senator from Idaho is recognized for such time as he may consume for such purposes.

Mr. CRAIG. Mr. President, the Senator from Massachusetts makes an excellent point, and I must restate again that the citizens of Idaho are very aware and very concerned about uninsured, uncovered, and underserved children. It would be wrong to suggest in any regard that the children are not being served. We all know that they are being served.

The question is, is it of the ongoing quality accessible in reasonable fashion that, first of all, creates a healthy environment for that child? By that I mean from the time of that child's birth forward, and of course through the mother's pregnancy, are those services being provided and do they get their necessary immunization, and all of that?

That is what concerns Idaho most. While I recognize that it is hard for the Senator from Massachusetts to realize that the Dole bill does not speak to choice, it is choice. It does not have to speak to choice because it does not control the marketplace. It only enhances the marketplace. So choice by itself is the bill.

The difference between the Dole and Mitchell bill is that in the Mitchell bill you create a restricted Federal bureaucracy that says you do thus and so and that guarantees certain kinds of things. The Dole bill says, and I refer to the section which talks about insurance reform and the standard applicable health care plans and the right of renewal, and all of that, and that was the very thing that Idahoans attempted to address was that when you make those kinds of programs available by driving costs down you bring uninsured families into the market. You bring them into coverage.

There is another issue that has to be spoken to here when you talk about uninsured children. Dad may be insured because he works under an environment in which he is covered, or mom may be insured, but the family may not be insured. That does not say that the children are not going to be cared for or that they are not being covered. By the very nature that their family can afford health care coverage, they are being covered.

So we know that those statistics, depending on how you break them out, always vary a little bit. But what I think we are talking about here are two fundamentally different proposals. I have not analyzed the Dodd amendment. I do not know how it fits inside the Clinton-Mitchell proposal or whether something similar could fit inside the Dole-Packwood proposal. I do recognize when you drive down costs and when you create the kind of reforms that are out there is a substantial chance that you are going to create greater coverage for children who are uninsured or you are going to create a much more affordable environment so that the parents of those children can provide for their children as, of course, most of them want to do.

Let me make a few closing comments because the chairman has been generous in his time with me in so doing.

Mr. President, this debate is one of the most significant debates our Nation has ever held. Now, the Congress will work to approve a bill.

It is my hope that we can work to represent the will of the American people and will end up with legislation that will change what is not working in the health care system, while retaining what is good in it.

There are numerous issues that will be debated over the next few days or weeks—as long as it takes to work through these issues. We should be here debating and developing a better understanding of what we do.

Mr. President, I have been dismayed by the remarks made regarding those of us who wish to clearly express our opinions on this issue and the bills before us prior to entering debate on amendments.

VOL 140 PT 16 AG 12 — 18 1994 UMI

This bill is lengthy and has changed no less than three times as of today. The points of debate on the bill will likely range from major philosophical differences to more technical details.

As we work through this process we need to remember that what is done here will dramatically affect the lives of each and every American and deserve careful consideration. Therefore, our efforts should reflect what our constituents have been telling us. In the final days of the 103rd Congress—health care reform should not be used as a political tool to save a President. Health care—quality-accessible health care and its reform is more important than a President and his political life.

Mr. President, I would now like to talk a little about what the people of Idaho have been telling me about health care reform, and the position I have taken as a result of those comments and my study of this issue. It is also important that I explain the concerns I have about the Clinton-Mitchell bill.

Mr. President, before I go any further, I would like to add that I am also extremely frustrated that not only have we had very little time to review the very lengthy Clinton-Mitchell bill, but it remains a moving target.

We now have version three—Senator PACKWOOD would say lethal weapon III—of the Clinton-Mitchell before us. Numerous changes were made in version two and as I have begun to review version three, it appears that changes again have not been minor.

My constituents have been clamoring to see the bill since the original introduction. Copies of Clinton-Mitchell one were immediately mailed to my State offices so that Idahoans could come in and review areas of interest. Before those bills even reached my State, they were outdated.

In addition to being outdated, it came to my attention that the cost of that first printing was in the range of half a million dollars.

Again, Mr. President, we are on Clinton-Mitchell three—this bill is costing American taxpayers too much before it has even passed the Congress. We all knew these bills were costly—what we did not know is that millions would be spent before they ever became law.

IDAHO

Mr. President, in Idaho we have all been working to educate ourselves on this moving target called health care reform.

I felt that it was important to get information out to the State and to help pursue this debate in Idaho.

Toward that end starting in 1989 I have sponsored health care conferences that have drawn such speakers as: former Secretary of Health and Human Services Louis Sullivan, former Administrator of the Health Care Financing Administration Gail Wilensky, Ph.D., from the Heritage Foundation Stuart Butler, Ph.D., from the University of North Carolina, Kenneth Thorpe, Ph.D., and from Harvard School of Public Health Professor William Hsiao.

I have also held town meetings on health care reform all over the State and spoken to a variety of civic and private groups on this issue, in addition to receiving thousands of letters.

A resounding message that has been coming from Idahoans is that:

They would prefer no bill to a bad bill. And Idaho defines a bad bill that requires more Government involvement in health care.

Reforms should focus on what is wrong with the system and leave what is good alone.

Idahoans realize the importance of the fact that 84 percent of Idahoans have health insurance.

In anyone's book that is an overwhelming majority.

Does that mean that there is no problem?

Not at all, but it does mean that some things in the system are working.

In reform, we need to focus on what is not working and resolve those problems—the problems that are keeping 16 percent of Idahoans and other Americans uninsured.

Many Idahoans have written in explaining problems they have experienced. Some of the biggest problems Idahoans have identified are things like:

People worrying they will lose their health insurance if they get a serious illness.

Worries we can not keep an insurance plan we like, or need, if we lose a job or decide to change jobs.

Concerns about whether we'll be able to afford insurance because the costs of health care go up too fast.

A strong desire to be able to purchase the services they want from the doctor or health care provider they choose.

Those are important concerns and important problems and they're what I want the Congress to address.

Mr. President, as we address these concerns, we must not lose what is good in the system—what takes care of most Americans—in order to get coverage for those without insurance.

We do not have to sacrifice quality or pay billions more in new taxes to make the system accessible for those who are currently locked out. Let me be clear Mr. President, I am not saying we don't need reform. Quite the opposite. We need reform, the kind that will solve the problems in the system.

What we do not need, Mr. President, is a new Government program that costs us billions in new taxes and doesn't meet our needs.

Idahoans are not unique in their rejection of the Clinton bill or other Clinton-like proposals. Their concerns arise from the fact that most Government one-size-fits-all programs don't usually fit Idaho.

Idaho and other frontier States have unique needs in health care delivery. For example, Idaho has one of the worst doctor-to-patient ratios in the Nation; therefore, access to care is not merely a question of the ability to pay.

Under the Dole-Packwood bill there are a number of very important provisions listed under title III: special assistance for rural, frontier and underserved urban areas.

There is a very special word in the title, Mr. President, and that is "frontier." That word does not appear in the Mitchell-Clinton bill, according to my research. This should be an alarming point for the rural west.

Frontier and rural are two very different situations. Idaho is a State of both rural and frontier communities. Some communities in Idaho do not have a physician.

Residents may have the benefit of a clinic, but often have to travel many miles to a larger neighboring community for treatment of more complex health problems.

Mr. President, it is important to note that in Idaho that drive is not 20 miles down a stretch of interstate. Rather, it is often a winding mountain road that is closed part of the year because of snow and ice. While that depiction may seem melodramatic, it is also very accurate and relates to this definition of "frontier." 200 miles to a doctor or a clinic is just not an unusual situation.

The question of access in Idaho is more than "can we afford these medical services?" It is, "can we get to a doctor or a hospital when we need help?" Idaho and other frontier States face this and other unique problems.

The Dole-Packwood bill does more than reference our needs. There are a variety of rural or frontier provisions in title III of Dole-Packwood:

For example, there are funding provisions to help providers and health plans establish networks in underserved areas. Subtitle A provides for demonstration grants. Subtitle B provides for technical assistance grants. And, subtitle C includes capital assistance loans and loan guarantees.

The Packwood-Dole bill also establishes safeguards to enhance access to local health services and practitioners for vulnerable populations. Under subtitle D there is funding to increase the number of primary care providers in medically underserved areas, which is critical for Idaho—where we have the worst doctor-to-patient ratio in the Nation.

Another important provision under this rural/frontier title is subtitle F, which is on emergency medical systems. This subtitle includes grants to States for aircraft for transporting rural victims of medical emergencies (Sec. 361). In Idaho, Life Flight and other similar services have saved many lives. As I mentioned before, Idaho is a State with varied terrain and climate, with many remote frontier communities that are unreachable during certain times of the year except by aircraft.

Again, the continual reference and focus on frontier health issues in Dole-Packwood are one of many reasons why I have supported it.

As we work out a health care reform bill, we must address the unique needs of frontier States and acknowledge that a one-size-fits-all plan simply will not work in Idaho and other rural or frontier States.

In light of some of these frontier access problems I have mentioned, I would like to talk a little about how Idahoans are already working to solve problems in our State. I will briefly address three specific topics today:

First, proposals under consideration and already passed by the Idaho State Legislature;

Second, specific strategies being employed in the Twin Falls area; and

Third, an innovative community health network developing in five northern Idaho counties.

Mr. President, my purpose in sharing these ideas and activities going on in Idaho is to encourage my colleagues to take a closer look at what is happening in their own States.

In this Congress, we have the unique opportunity of developing an infrastructure that will empower people. And, empowerment should be our focus, not restrictions and prohibitions.

Because of our specific needs, reforms in Idaho have focused on increasing accessibility while containing costs.

Over the past few years the Idaho Legislature has passed laws to improve health care accessibility and coverage by reforming the insurance industry, developing medical savings accounts, and guaranteeing health care access to individuals and small businesses.

Other proposals under consideration include developing incentives to further reduce health car costs and improve the doctor-to-patient ratio.

Insurance reforms that passed Idaho's legislature this session include the transferability of policies so that people will not lose insurance coverage simply because they change jobs. That's call portability, there is also an Individual Health Insurance Availability Act which guarantees access to health insurance for individuals. I have met with the insurance companies as they worked to offer this affordable approach. These provisions are similar to provisions included in many Federal health care reform proposals. They are real solutions to problems that cut people out of the current system.

Mr. President, in addition to these insurance reforms, Idaho has passed laws reducing the amount of paperwork required and establishing medical savings accounts.

Reducing paperwork and establishing medical savings accounts are both proposals I support and are included in legislation I have cosponsored here in the U.S. Senate.

Under a Clinton-Mitchell type bill all those positive actions would be wiped out. In addition, new burdens will be placed on the States both financially and administratively. Why should anything we do here wipe out what our States are trying to do.

A recent review of the original language revealed no less than 175 new responsibilities will be imposed on States under Mitchell-Clinton.

The Idaho State Legislature has taken major steps toward solving the State's health care problems. Mr. President, as I have already said, Federal reforms should enhance rather than inhibit what we are doing in Idaho.

In the private sector, a number of voluntary actions have been taken to improve access to care in Idaho. Over the past 6 months, a group of community leaders in the Twin Falls area has adopted the vision to make their region "The Healthiest Place in America."

County facilities are beginning to work together under the joint exercise of powers agreement, and physicians are beginning to form larger group practices to work with hospitals under physician-hospital organizations.

However, for the Twin Falls community to develop its network, it cannot be obstructed by Federal legislation.

Mr. President, I hope that the Senate will take into consideration the reform efforts already passed in the Idaho State Legislature.

The Congress needs to focus on establishing a framework in which the market can develop and progress naturally in the States.

Coinciding with the developments in the Twin Falls area, the 160 physicians of northern Idaho founded the North Idaho Physicians Association to serve as a forum for discussion and education.

Together with the coalition of hospitals in the area, this association has performed a local study of the needs of beneficiaries, employers, and providers.

It is very unlikely that any single group understands the health care needs of northern Idaho better than this association and the residents of the communities they serve—certainly not bureaucrats in Washington DC.

This northern Idaho organization is dedicated to providing accessible, high-quality health care while containing costs in their communities. This confirms my belief that health care is most efficient when coordinated locally and privately.

Propelled by a sense of community and desire to improve health care in their own area, the organization is implementing solutions to problems.

Mr. President, these examples I have mentioned clearly illustrate how the health care market can successfully respond to pressures when given the liberty to do so.

Before going on to discuss legislation in the Senate that I support, I would like to add that thousands of letters and phone calls have been pouring into my office stating opposition or concerns about the Clinton-Mitchell bill. I ask unanimous consent that two letters in opposition to the national AARP endorsement of Clinton/Mitchell be inserted into the RECORD.

They are talking about the endorsement a few days ago now they don't. Here is why.

The Congress can enhance what is already happening in Idaho, or it can put up obstacles and restrictions. It is my hope that the choice will be enhancement.

BILLS THAT PROMOTE CONSUMER CHOICE

Mr. President, the various reform bills that I have cosponsored in this Congress and in the previous Congress are designed to resolve the problems identified by Idahoans that I mentioned earlier, without throwing away what is good in the system.

I have heard some people criticizing Republicans saying we are not for reform. Or, Republicans have no bill. That is simply not true, Mr. President.

Just because many of us are not for Clinton-style reform doesn't mean we are opposed to reform or improving our health care system.

Quite the contrary, Mr. President, Republicans are for reform. Look at the numerous bill introduced this Congress on health care reform, and many of them have been sponsored or cosponsored by Republicans.

I have cosponsored several bills that are focused on resolving problems, improving access, retaining what is good in our system, and without increased Government involvement.

These bills have included provisions that would:

Establish medical savings accounts;

Require no new taxes or tax increases;

Reform medical malpractice; and

Reform antitrust laws.

They would reform the insurance market: People could not have their insurance canceled or their premiums increased because they get sick.

They would provide assistance to the poor through vouchers for low-income families: States would be allowed to privatize Medicaid, and low-income families would qualify for subsidies to purchase private insurance, at or below 150 percent of poverty.

They would retain the high quality of care we currently have in this country: There are no mandatory alliances or excessive Government involvement or other provisions that could contribute to a decline in quality.

They would not include employer mandates that would cost jobs;

VOL
140
PT
16
AG
12
—
18
1994
UMI

They would not limit or standardize the benefits people could choose;

They would not limit our choice of health care provider; and

They would improve health care in our rural and frontier areas.

The goal of these private-oriented plans has been to empower the individual to improve the system by maximizing the ability to make choices.

Individuals are certainly better able to determine their needs than the Federal Government, just as experienced health professionals can best decide on the best method of treatment.

We do not need extensive Government intervention to reform our system and improve access to health care.

There are major differences between the Clinton-Mitchell bill and the Dole-Packwood bill. Some of the main concerns I have are as follows:

CLINTON-MITCHELL

Overall, I have concerns about the massive increase in the Federal Government's involvement in our health care system. In my review of the Clinton-Mitchell bill I found a continual theme of boards or commissions in all three versions that would be established to examine and evaluate all aspects of health care imaginable.

With each of the new Government bureaucracies comes a price tag that the American taxpayers will have to cover.

Conservative estimates on the increase in the Federal Government's involvement show that Clinton-Mitchell as originally introduced would create: 50 overall new bureaucracies; 83 new responsibilities for the Secretary of Labor; 175 new responsibilities imposed on States; and 815 new responsibilities for the Secretary of Health and Human Services.

These figures may have changed with the numerous changes that have been made to the bill since the introduction. But even a fraction of these numbers would be unreasonable and oppressive.

Other main concerns with the Mitchell-Clinton bill include:

New and increased taxes: Clinton-Mitchell imposes at least 17 new taxes, including a tax on every health insurance premium. These 17 new taxes will hit: health insurance plans, flexible spending accounts, Medicare beneficiaries, and State and local government workers—not good for the middle class;

The lack of a medical savings account provision: The Mitchell-Clinton does not allow for medical savings accounts [MSA's].

One of the most innovative ideas advanced during the debate on health care reform has been medical savings accounts, a portable fund that can be used to pay out-of-pocket medical expenses and control costs.

MSA's would provide a source of funds for people to keep their coverage continuous during periods of unemployment and would significantly reduce the numbers of short-term uninsured.

MSA's also represent the one idea that has the real potential to reduce health care costs without resorting to the rationing of care and artificial price controls.

Along the lines of cost containment, MSA's also would restore the patient-physician relationship, thus empowering people to become knowledgeable consumers of health care services and would make patients more cognizant of the cost and quality of their care.

Mr. President, early in the 102d Congress Senator Steve Symms and I introduced the Affordable Health Income Tax Act, which would have established medical saving accounts. It was a good idea then and is an even better idea now.

Also, as I mentioned before, my home State of Idaho has passed a statewide provision for medical savings accounts.

Less choice: The Mitchell-Clinton bill contains a Government-defined standard benefit package that will make existing health insurance policies illegal or taxable.

Current employer-sponsored and individual plans that respond to the varied needs of American families would be supplanted by a one-size-fits-all plan designed by the Federal Government, and many self-insured programs would no longer be allowed to exist.

Additional concerns are:

The impact it will have on jobs and our economy;

Price controls on health insurance that will impose taxes on some health insurance plans;

The establishment of a National Health Board;

The ban on self-insured plans for firms with fewer than 500 workers; and

The numerous mandates, including a "triggered" mandate on employers that would be triggered by State in the year 2000.

The Congressional Budget Office didn't seem to think it was such a great idea, reporting that:

Because of the disruptions, complications, and inequities that would result [from the Mitchell triggered mandate], CBO does not believe that it would be feasible to implement the mandated system in some States but not others.

In fact, Mr. President, CBO's estimate includes a number of references to difficulties in implementing other provisions in the Clinton-Mitchell bill.

The mandate issue is a very important part of this debate, which I intend to discuss in greater detail at a later time on this bill. However, I would like to share with Senators the concerns of one of my constituents who is a small business restaurateur.

In short, he is concerned about maintaining the number of employees he has, the increased financial burden he would face with an employer mandate, and the lack of options to pay for the increased cost. He is in the fast food market, so raising prices is not an options. Mr. President, I ask unanimous consent that my constituent's letter be included in the RECORD.

The impact it will have on our budget deficit, safeguarding the Federal Treasury, not to mention taxpayers' wallets, is hardly the top concern in the Clinton-Mitchell bill. The so-called fail-safe provisions intended to prevent runaway spending are in the very last portion of the bill. They appear to have been tacked on at the end as a sort of hollow salute to questions about spending.

The Clinton-Mitchell bill attempts to control what will be runaway health care spending by requiring the President to make sequesters in health care spending if it goes over budget.

Sequesters are ordered every October 1, if necessary. What's the track record for Congress with October sequesters? This begs the question of what happened to the Gramm-Rudman law. The first cuts—if they ever actually occur—come in premium subsidies, the heart of the program:

Insurance premium subsidies for individuals;

Subsidies for small businesses paying for insurance;

Reduce the tax break for self-employed buying insurance;

Raise the deductible for Medicare prescriptions;

Reduce direct Federal health spending across the board.

Who's the main target when costs rise out of control? In an earlier draft authors of the Clinton-Mitchell plan tripped their hand—increasing Medicare deductibles was the No. 2 target.

SEQUESTER EXCEPTIONS

The Clinton so-called economic bailout package comes to mind. Though the Bush recovery was under way, the stampede for unemployment pork was nearly unstoppable.

Economic projections, on which sequesters could be suspended, can come from either the Department of Commerce or the President's OMB. If you were President, which would you pick?

The National Health Benefits Board is required to issue, "A report including alternative proposals to offset the projected excess." Can you read "higher taxes" between those lines?

Mr. President, there are many more issues to be covered, and in more detail, than I have included today. I fully intend to make further comments as this debate continues.

CONCLUSION

Mr. President, I cannot say strongly enough that this is one of the most important debates that we, as a nation, have ever entered into. There are some who feel a bad bill is better than no bill. I don't happen to agree with that philosophy.

It is important for all of us to be involved in this debate, and I mean the American people, not just the Congress, because:

Health care is a very personal issue;

Health care reform touches each of our lives;

Health care reform could affect a large portion of our economy;

Health care means taking care of people and their needs;

Health care means jobs.

Mr. President, in closing, let us remember that when most of us were kids and caught colds, we'd stay home from school and get some rest, maybe take some common cold medicine.

That's the way you treat a cold. You take care of it so it doesn't get worse. You don't have x rays and other tests, or surgery. It's unnecessary and wasteful.

That's how I see the Clinton-Mitchell plan for health care reform. It's an amputation, when what we need is some commonsense treatment.

I would close by saying this afternoon that in all of those trips to Idaho and all of those health care conferences and town meetings there has been the emergence of what I believe most Idahoans recognize as the kind of health care reform they want. They want their own choice. They largely want to be able to control their own health care, but they do recognize that there are some overpowering consequences across the country that would cause them to have to ask us to deal with some of the issues.

And those issues they want are the establishment of medical savings accounts. They require no new taxes, so they could have more spendable income to deal with it. They recognize that medical malpractice is a very real problem and that there has to be some tort reform. There needs to be some antitrust law change. And they clearly recognize the need for insurance reform in the broad scale.

I had once said to me very clearly, "If you could get the U.S. Congress to do what the Idaho Legislature has already done, we think you would go a long way towards driving health care down so that it would be increasingly more affordable, not just for Idaho's citizens, but for the rest of the country."

In closing, I think something else that concerns Idahoans a great deal—and I am talking about the primary employer in Idaho, and that is a small business person—is that a Clinton-Mitchell-like bill is going to have to cause them to fire or to release several of their employees so they can provide health care for their other employees. That is a very high risk and, frankly, in my opinion, and in the opinion of an awful lot of others, that is the wrong approach.

So whether it is the Clinton-Mitchell bill, as amended, or whether it is another approach, let us stay here, debate these issues, and understand them in a way that the American people can respond to us as to the type of health care proposal that they want that will ultimately get the majority support here in the U.S. Senate and in the United States Congress, and that can be signed into law.

I thank the distinguished chairman of the Finance Committee for yielding the necessary time for me to conclude my remarks.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from New York.

Mr. MOYNIHAN. Madam President, I thank the Senator from Idaho for a thoughtful and factual account of the situation in the State of Idaho. And I note a thing that might not occur to an Easterner, that the term "rural" does not extend to the reality of the frontier. There are areas legitimately so described and we have to think about them.

But may I say, with respect to this business of bureaucratic organizations, just 3 days ago the Republican mayor of New York, a very distinguished and able man, Mayor Giuliani, in the company of two union leaders, wrote to Mr. GEPHARDT on the House side that: "America is debating universal health care. New York has given universal coverage for most of this century." I make the point that we have done. And that universal health coverage in New York City provides an extraordinarily diverse environment. There are municipal hospitals; there are for-profit hospitals—I think there are some. The greater part of the system is run by private, nonprofit hospitals, most of them either began or continue to be associated with a religious denomination.

We have a large municipal work force that handles these things. But the greater part of the workforce involved is in the private sector. And the coverage is not only good, it is, in fact, the best in the world—not for every individual. But the finest medicine practiced on Earth is practiced in the city of New York.

So there are ways of getting from where we are in the main in the country to universal coverage without a Federal dictate on every detail, and I hope we will find one.

I see the Senator from Hawaii, who made such a striking address the other day about the effects and about the fortunate fit that the universal coverage in health care has had with the growth and prosperity of small business, has risen. I want to note that I was struck by the statistics, by the data he brought to us. I look forward to his remarks and yield him such time as he may desire.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I thank the chairman for yielding time.

Madam President, it appears that there are those who feel afraid that the success of Hawaii's health care system represents too good an example when used by the proponents of meaningful health care reform. During the past week, we have witnessed the dissemination of misleading and erroneous information about the effectiveness of the Aloha State's health care system and, more particularly, its impact on small business.

The health care system is being blamed for supposedly some of the problems in businesses that Hawaii has had. I want to present some facts here that will allude to this. Let me give you just one example.

As they have in recent weeks, and they did again this morning, the National Federation of Independent Business cites a jump in 1992 business failures and 1993 job losses in Hawaii and implies that these events are somehow related to the Hawaii Prepaid Health Care Act.

Do you find this to be strange, to pick two different indices from two different years to illustrate the supposed evils of a 20-year-old program?

It is not so strange when you note that the NFIB fails to mention one other "very small" concurrent event of that unfortunate time for local businesses. That event was the September 1992 billion-dollar devastation of Hurricane Iniki, whose economic impact was felt well into 1993 and is still being felt today.

Let us get some basic perspective on this, Madam President. Hawaii is not the small business black hole of the universe. The facts are simply these: According to accepted small business indicators, Hawaii ranges from being far better than the national averages to—at the very least—on par with the rest of the country. At the same time, we are the only State that requires the employer and employee to contribute to health insurance coverage. The point is, shared responsibility is not the fear of some poison arrow it is characterized to be by those who oppose serious health care reform.

At this time I feel that I must address the scare tactic information being spread, so let me just direct your attention to two matters of Hawaii's Prepaid Health Care Act history that I believe are of special interest because they mirror so well what we are now going through on the national level today.

First, when Hawaii's Prepaid Health Care Act was being considered, it was opposed—it was opposed—by the Employers' Council, the chambers of commerce, and a raft of small business associations. They were afraid of the economic consequences, and no reasonable person could have blamed them at that time. Naturally, the greatest concern by far was the potential impact on small businesses, the lifeblood of our economy. As a result, the Hawaii Prepaid Health Care Act specifically

VOL 140 PT 16 AG 12 — 18 1994 UMI

sought to ensure adequate protection, especially protection for the most vulnerable of all small businesses, those with less than eight employees, the little mom-and-pop operations.

The act established the premium supplementation fund to provide small business relief, and $375,000 was set aside solely for that purpose. Today, in 1994, without any further appropriation having been made in the last 20 years, the fund now stands at $2.5 million. Assistance was applied for by only five businesses during that time, and paid for by the fund over two decades, and that amounted to a total of $110,000. There has been no apocalypse.

My second example of deja vu all over again is this. All of the groups I previously mentioned were joined in their opposition to the Prepaid Health Care Act by, among others, the Hawaii Medical Association. Here is an excerpt from the HMA's testimony in 1973:

> The national Government is already moving in the direction of a national health insurance program which seems likely to become law within the next year or two. It would seem foolish for the State of Hawaii to embark on a program that would perhaps be superseded by Federal regulation within a short period of time.

At that time, HMA, the Hawaii Medical Association, felt that a Federal national program was going to happen in 2 years. Here it is, in 1994, and we still have not had one. And we need it today.

The Medical Association recommended that we not proceed with such major reform, but that we defer action. Does that not sound familiar? You bet. Fortunately, Hawaii had the courage to act and not wait. And Hawaii, indeed, became the health State of our country.

Our country cannot afford to wait. We must have the courage to pass a universal health care act. Our people need it. It is the best thing for our country at this time. And I urge my colleagues to support this act.

Mr. MOYNIHAN. Madam President, may I once again thank the Senator from Hawaii, who comes to the floor with experience and with facts. Some have experience; some have facts. But singularly, the State of Hawaii represents both. And we are grateful for that.

I see the Senator from South Dakota. I am happy to yield him 5 minutes. Would that be helpful?

Mr. DASCHLE. I thank the chairman. I appreciate his yielding me time.

Madam President, what is the pending business?

The PRESIDING OFFICER. S. 2351, and the question is the Dodd amendment.

Mr. DASCHLE. The Dodd amendment is the pending business?

The PRESIDING OFFICER (Mr. AKAKA). That is the pending question, to the Mitchell substitute.

Mr. DASCHLE. Mr. President, I asked that somewhat rhetorically, there has been very little discussion today of the Dodd amendment. We have heard many long and very eloquent speeches about health reform. Members on both sides of the aisle have indicated their positions. But the amendment of Senator Dodd now has been pending 4 days. I think the message in all that is we have waited and waited, accommodated and accommodated. The majority leader has laid down a proposal, now 2 weeks tomorrow. He introduced the proposal 2 weeks ago tomorrow—2 weeks ago, August 2. On August 3, he introduced the bill. That was Wednesday, 2 weeks from this coming Wednesday.

On August 9, the floor debate began. That was Thursday. The Republican leader asked for a week's delay to be able to look at that. The majority leader accommodated that request. They requested no votes to be taken last Monday and Tuesday to study the bill. That request was accommodated. There was a request that no amendments to health reform be voted on last week. That, too, was accommodated. We were told that no votes would be allowed last Saturday; no votes would be allowed today. Yet, with speech after speech, requests are made to seek yet additional time to talk about the bill.

My question would simply be, if you do not like the bill, where are the amendments? I hope we can get to work. We have accommodated every single request from Members on the other side, every one. I hope we can go to some votes and finally get on with the real nuts and bolts of trying to improve the bill, change the bill, do whatever we are going to do with the bill. But let us get to work. We have waited now 2 weeks. The last time we went to war, it did not take this long.

So I hope we could get on with some constructive debate, that we could talk about amendments, we could have a vote on the Dodd amendment.

There are many other amendments pending, at least on our side. We could go to those votes. But let us get on with it. I think the American people expect us to finish this legislation. I hope we can do it sometime prior to Labor Day. But with each passing day, with each passing additional request, I become increasingly pessimistic, frankly, about whether we are ever going to be able to get to amendments.

Let us vote.

Mrs. BOXER. Will the Senator yield?

Mr. DASCHLE. I am happy to yield to the Senator from California.

Mrs. BOXER. Mr. President, I thank the Senator from South Dakota for his leadership in bringing us back to the matter at hand. As a matter of fact, the Senator from Hawaii was kind enough to take the chair for me for just a moment so I can say to the Senator how pleased I am he reminded the Senate that we have been supposedly debating this first amendment for many, many hours.

I say to the Senator, according to the numbers I have, approximately 12 million Americans under the age of 21 do not have health insurance—12 million young Americans. I have been in the Senate for a couple of years, in the House for 10 years, and the Senator and I have served for a long time together. I have heard the most eloquent speeches from both sides of the aisle in all those many years about how children are our future, and if we do not care about the children, what is going to happen to America?

I would say this is the moment to stop the talk and start to vote for the children of this country. It is absolutely immoral not to cover the children. It is also economically insane not to do it. We know every dollar we spend on immunization saves $10. We know when we give prenatal care, we save money and we get healthy babies. This is an amendment that deserves to be voted on.

I just ask the Senator a question, since I must do that under the rules, and that question is: Does the Senator feel—and I ask because he has been in such a leading role in this, along with Senator KENNEDY—does the Senator form a sense from the other side of the aisle that we are moving together in a bipartisan way to begin voting on this bill?

Mr. DASCHLE. Mr. President, I wish I could answer in the affirmative to the Senator from California, but the fact is, I do not. We still do not have a commitment from the other side to allow us a vote on the Dodd amendment. This is the fourth day now that we have debated the Dodd amendment, although there is very little discussion about the Dodd amendment from the other side. This is an important amendment. Senator DODD made a very compelling case for its passage. I believe in other circumstances, there would be strong bipartisan support for it.

The Senator has indicated there are a lot of people who are really riding on the decisions we are making here; 48 people every minute lose their health insurance, so with every 10-minute speech, we have 480 additional people who have lost health insurance in that period of time.

How many people, day after day over the last couple of weeks, would have been covered, would have been protected, had we been able to enact this legislation months ago?

So I am pleading, at some point in the not-too-distant future, that we get on with it, we go to work, we offer amendments, we have votes. If there are differences of opinion, let us work them out. If there are ways by which we can improve the Mitchell bill, let us work them out. Let us offer amendments and resolve these differences. Let us go to work.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). Who yields time?

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. MOYNIHAN. Certainly, I yield for a question to my friend.

Mr. PACKWOOD. Madam President, the question is as follows: Did Senator MITCHELL not indicate—and I am quoting—"There will be ample opportunity to debate this bill. I have said many times no one will be rushed. We will stay here as long as it takes, as many days, weeks, months as necessary for every Senator to be able to consider the bill amply?"

I think Senator MITCHELL said that, and there are still many Senators who want to discuss this bill amply.

Mr. MOYNIHAN. Which we understand.

Mr. COATS. I wonder if I could also ask a question of the Senator from South Dakota.

Mr. MOYNIHAN. I am afraid our time is constrained by the 5 o'clock cutoff. The Senator from Missouri wishes to make his opening statement. So I yield 5 minutes to the Senator from Massachusetts, our champion from Massachusetts.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, I want to join in the, I think, compelling question that has been raised by the Senator from South Dakota and the Senator from California. The issue about children is an issue that is well understood by the Members of this body.

We are a country that has one of the highest infant mortality rates in the world, and this has been stated and restated and restated on both sides of the aisle. We have one of the highest incidence of low-birthweight babies in the world and this has been stated by Republicans and Democrats. We produce about 80 percent of the world's vaccine, and we still have one of the poorest records in terms of vaccinating children throughout the country. And this is a real problem.

Time after time we have had demonstrated on the floor of the U.S. Senate what is happening in other countries of the world, countries that have standards of living similar to ours and have had health insurance, universal health coverage. What has happened when they have given focus and attention to preventive health care programs for their children? Their children grow, their children blossom, their children are healthy. They have seen the savings that have been out there in terms of financial resources and the savings that have been there in terms of health challenges. Day in and day out, it is uncontroverted.

What the Senator from South Dakota and the Senator from California and the Senator—I am sure—from New York and I are saying is, let us get about the business of just having the vote on that particular measure and then get on with other areas, get on to other provisions of the legislation. But the majority leader, when he was out here the other night, said, fine, all right, go ahead and have equal division of time on Saturday, but maybe we will get some kind of answer if we can talk and find out whether we can vote on the basis of either the Dodd amendment or the other three or four amendments which have been shared, as I understand it, with the minority leader; that we were prepared to move ahead on and we were hopeful that on Saturday we would get some indication.

Now we are here in the late afternoon on the floor of the U.S. Senate on an amendment that is understood by the Members, all the Members of this body, and unquestionably will make a significant and important difference to the children of this country. The only responses are: Other Members want to make opening statements; other Members want to talk at length; other Members want to get off their chest, and say what is on their minds on health care.

When are we going to say that the children are the important ones and call the roll on that issue, and let us get about the business of what this debate should be about, and that is making some judgments?

Maybe this amendment will not carry. I think the compelling case has been made for it by the Senator from Connecticut and the other Senators who have spoken for it.

All we are asking is, let us shorten our speeches and try to take some action. I think the American people would applaud that action. I understand what the Senator from Oregon is saying, that we are going to have day after day after day after day of long speeches, and we wonder why people back home do not believe that this institution is relevant.

The issue is children; the issue is preventive care; the issue is their future and whether they are going to have a bright and hopeful and healthy future, and do it in a way that is going to save money. We ought to be able to agree on that.

I would think that we could go shorter on the long and extended speeches that have been talked about, I think even threatened. Talk about Senators wanting to talk 3 and 4 hours—we have to ask ourselves, do the American people think this institution is better served by Senators speaking 3 or 4 hours on these matters of general subject, or taking action for children?

Mr. COATS. Will the Senator from Massachusetts yield to me for a question?

Mr. KENNEDY. Whatever time I have, I will gladly yield for a question.

The PRESIDING OFFICER. The Senator has spoken for 5 minutes. The Senator from New York controls the time.

Mr. MOYNIHAN. I do not want to be in any way discourteous, but the Senator from Missouri has been very patiently waiting.

Mr. COATS. I will propound it at a different time.

Mr. KENNEDY. I will be around.

Mr. MOYNIHAN. He will be around. As soon as we vote at 5 o'clock, we resume debate.

Madam President, I am happy to yield the remainder of our time to the able and learned Senator from Missouri, who is one of those who helped pass the Finance Committee's bill out of committee.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 34 minutes.

Mr. DANFORTH. Madam President, I thank my chairman.

I will offer my view of where we are in the health reform debate and how I think we should proceed from here. Maybe I am the only person in the Senate who feels this way. But I will unburden myself of my thoughts.

Right now we are hopelessly bogged down. We, not only being the Senate, but the Congress and, indeed, the country. We are hopelessly bogged down on the question of health care reform legislation. I do not think we are going to get moving by continuing to spin our wheels on the floor of the Senate by proceeding from amendment to amendment.

I think that there is one answer, and that is that we regroup, and attempt to come up with a consensus health care reform proposal that can be passed. It is my judgment now—and it has been my judgment for a very long time—that where we are going to end up is approximately where Senator CHAFEE has been for about 4 years now. Therefore, I think that if we are going to pass health care legislation this year, it should be a bill which is somewhere in the neighborhood of the effort that is now underway in the various meetings being held by Senator CHAFEE and Senator BREAUX, and others, who have styled themselves as the so-called mainstream coalition.

Let me say that there are, obviously, a whole variety of opinions in the Senate. There are people who think that we should pass no legislation; either we should pass no legislation at any time or we should pass no legislation this year because when the election comes, the makeup of the Congress will be changed. On the other hand, there are people who think we should pass very sweeping legislation and the sooner we do it the better.

However, I believe there is a strong core group in the middle in this Congress and in the country that believes that we should pass legislation, that

VOL
140
PT
16
AG
12
—
18
1994
UMI

we should attempt to reform health care, but that what we should do is avoid the extremes that have been presented to us.

The interest in health care reform legislation on the part of Senator CHAFEE and those who have rallied around him is not something that has begun in the last few months. It did not even begin with the Clinton administration. It began 4 years ago.

Four years ago, our Republican leader, Senator DOLE, with, I think, great foresight, saw that health care was going to be a coming issue, and he asked Senator CHAFEE to chair a task force of Republican Senators to address the question of health care.

Senator CHAFEE has done that with great determination. Virtually every Thursday morning while the Senate has been in session, over a 4-year period of time, Senator CHAFEE convened a meeting in his hideaway office to educate Republican Senators on the question of health care.

Those meetings were held in a very systematic fashion, well prepared in advance. And normally there were 15, 20, 25 Senators who would show up at 8:30 on Thursday mornings for an hour to discuss health care and various aspects of health care.

Then, after a period of time—years really—we finally put together a bill. This bill was introduced by Senator CHAFEE and it had something like 19 or 20 Republican cosponsors.

The ideas in that bill have continued to be the views which have been held by the mainstream coalition, a group of people consisting of Republicans and Democrats. It is something of a changing group, but last week we had up to 16 Senators, just about evenly split between Republicans and Democrats, who showed up at our meetings. The basic ideas of the Chafee legislation have been at the heart of what we have been discussing and, in fact, were at the heart of the bill that was reported out of the Senate Finance Committee about 5 or 6 weeks ago.

What are those ideas? Universal coverage, but universal coverage achieved as and when Government can pay for the subsidies that would undergird universal coverage; insurance reform to assure portability and to assure that people who become sick are not dropped from insurance coverage; cost control, not by price control or premium caps, but cost control achieved by enhanced competition, with a view that a competitive marketplace works better than Government; control of Government spending through a failsafe device which provides that we are not going to have the runaway spending by the Federal Government which has characterized Government health care spending for the past couple of decades; and significant medical malpractice reform.

These were the core concepts of the Chafee legislation, and these have been the core concepts of the mainstream group that has been meeting. I believe they are good concepts and sensible concepts, and I do not believe they are the kinds of ideas that frighten the American people.

One of the significant things about these meetings is the attitude that has been manifested in them. Go to the floor of the Senate and obviously there is a lot of contentiousness. But back in the hideaway office of Senator CHAFEE, when we meet for a couple of hours at a spell, Democrats and Republicans, the basic attitude is one of cooperation and attempting to seek mutual understanding.

But there is something else that characterizes those meetings, and that is nervousness, nervousness that we are dealing with something very big and very important, nervousness that we are dealing with the whole health care system of this country, nervousness in knowing that what we are touching is something that affects the lives of every American, nervousness and worry that maybe we are going to make our health care system worse, not better, and nervousness about the budget, the cost of health care, and the concern that already our Federal budget is spinning out of control.

So there has been a lot of goodwill in those meetings and there has been a lot of nervousness. And I think the nervousness is important as we proceed with this legislation because we do not want to do something that is terrible for the country. The basic feeling of the group, and the basic feeling that is obviously shared by a lot of Republicans because they have been making speeches on it in the last week, is we just do not think the Mitchell bill is a very good bill. We think it is too big, that it goes too far. And so I would like to talk about the Mitchell bill, not in a partisan way, but simply to point out where it differs from where we are and from what we think in our group.

Now, much of the discussion in the media about the Mitchell bill, and the Clinton bill, and the Gephardt bill, and the Dole bill has been on the subject of universal coverage, and particularly employer mandates. In about 1 minute I am going to stop talking about employer mandates.

One of the interesting things about our meetings is that almost no time have we spent talking about employer mandates. That may be an exaggeration, but I would say maybe 5 percent of our time, and no more than 5 percent of our time, have we spent on the subject of employer mandates. But if you read the newspapers, you think that is all we talk about, that is the only subject.

So when Senator MITCHELL introduces his new legislation, and he seems to be making compromises on the subject of employer mandates, the way that is covered in the media is, "Well, Senator MITCHELL has come our way, and he has met us halfway. Isn't that good? We are on the brink of compromise."

He has not met us halfway. We are light years away from Senator MITCHELL. He has come closer to us on employer mandates, but not on other subjects. Then, when, I have tried to make that point to the media, the conclusion is, well, these mainstream people do not care about the employer mandate idea, or they have given up on that. Well, there are a variety of opinions among our 15 or 16 Senators on the question of employer mandates. But I think it would be fair to say that most of us do not like the idea. We do not think it is a good idea. We do not think it should be included in the legislation. But my point is that that is a fraction, and a small fraction, of the total issues before us.

Now, what are these other major issues? I would like to talk about them.

The first question is cost. Cost. First of all, cost with respect to the Federal Government—the cost to the Federal Government of this program is thought to be in the neighborhood of $1.2 trillion of new Government spending on entitlement programs over the next 10 years—$1.2 trillion of new entitlement programs over the next 10 years. That is a lot of money. Every program that we are talking about—the Dole program, the Chafee-Breaux program, all of these have more spending on at least one entitlement, and that is subsidies for low income people to help them purchase coverage. But the problem with the Mitchell program is that it is just too much. It is too extreme. It does not start with one new entitlement program, a subsidy program for low-income people, but adds all kinds of other entitlements and some very big ones:

Prescription drug benefit. Is that a good idea?

Well, helping people pay for prescription drugs, who can argue with that? But it is expensive—$95 billion over the next 10 years.

Home health care. Is that an important thing to do? You bet it is. And I say that as the father of a home health care nurse. But can we afford $48 billion for home health care? I would suggest that the answer to that question is no, not now.

I want to point out with a chart that I have here why I think the answer to the question has to be no. Senator BOB KERREY and I are the chairman and the vice chairman of the bipartisan Commission on Entitlements. This is a very striking chart because it shows what is now happening in Federal Government outlays as a percentage of gross domestic product. The green line shows the rate of taxation in our country, which has hovered at about 18 or 19 percent since the 1970's.

What this chart shows is what is happening to Federal spending. The fact of the matter is that by the year 2012, entitlement spending plus interest on the national debt will consume all of the money that we raise in Federal taxes in our country. By the year 2012—18 years from now—entitlement spending and interest on the national debt will spend everything we raise. There will be nothing left, other than borrowed money, for everything else that we do as a country.

Take national defense, some people say we spend too much, some say we spend too little. Assume we spend nothing on national defense. We have a crime bill. Some people will say that is too much to spend on a crime bill. Assume you close down all the prisons; assume you close down the court houses and you close down the FBI. That is what we would have to do. There would be nothing for national defense, nothing for crime, nothing for highways, airports, the environment, and whatever else we do as a country. All of it would be consumed by interest on the national debt, plus entitlements.

By the year 2030, four entitlement programs—Social Security, Medicaid, Medicare, and the Federal retirement program—will consume all of our revenues. We will not even be able to pay for the interest on the debt. There will be nothing left over.

So that is why I think we have to be very careful about getting into new entitlement programs.

Are they popular? Of course, they are. That is why we do them. Yes, they are popular. But how much can we do? We cannot afford $1.2 trillion in new entitlement programs, no matter how wonderful they are.

So, from a cost standpoint, I believe that the Mitchell program is just too expensive.

A number of Senators have talked about the additional bureaucracy. More than 30 new Federal agencies or commissions are created by the Mitchell program. It is too much; it is just too much for us to choke down as a country. It is too much. It is too big. If we are going to pass health care legislation, we are just going to have to get off of this Mitchell bill. And I do not say that in a disparaging way to the majority leader. I am just saying it is too much. It is not going to be passed. We have to cut it down to a reasonable size, and to a reasonable concept. That is what Senator CHAFEE and Senator BREAUX and others, on a bipartisan basis, have been trying to do.

Let me make some additional comments about the Mitchell bill and where it differs from our legislation. Again, I am not even getting into the subject of employer mandates. But what I want to make clear is that there are other big areas where we believe that the Mitchell bill is just wrong. I want to underscore the fact that I do not think it can be amended back into shape. I think we are going to have to start with something new. I would recommend that it is the Chafee approach.

First of all, with respect to cost containment, cost containment has a couple of aspects to it. One is cost containment relative to the chart that is behind me now. The Federal Government costs: How do we contain the Federal Government cost of health care?

Senator MITCHELL has a proposal to do that, so he says. Senator CHAFEE and Senator BREAUX and the so-called "mainstream group" have a very different kind of proposal. The basic problem with Senator MITCHELL's proposal is that he excludes from the purview of cost containment existing Government health care programs, and the Chafee-Breaux approach includes within cost containment existing Government health care programs.

That is the big difference. Should they be included or should they be excluded? Should Medicare, which is the biggest one, just be excluded? Should there be a constant debate on whether or not the increased cost of health care is caused by the legislation that we may be about to pass, or by an existing program?

Should that kind of gaming of the system be part of the ongoing national debate on health care? Or, instead, should the so-called fail-safe device for making sure that whatever we do is not going to create a worse budget deficit than we have right now, should that apply to all of health care? That is the issue. Our view is quite different from Senator MITCHELL's view on the design of fail-safe.

The second big question pertains to the cost of health care, not just from the standpoint of the Federal Government, but from the standpoint of the Nation as a whole. Some people do not want any cost containment. Some of my Republican colleagues really do not have cost containment in their legislation. That is popular, I know. It is good politically. But it is not really responsible.

So if you believe that there has to be some way of containing the cost of health care, not only for the Government, but for the country as a whole, how do you achieve that cost containment? How do we put together the kind of legislation designed to control the cost of health care?

Again, there is a very different approach between the Chafee-Breaux idea and the Mitchell idea. The Mitchell idea is very close to price controls, to premium caps. Senator MITCHELL's bill would tax the increase in cost of health care. It would tend to lock in—almost grandfather—high-cost existing plans, ratifying them, and then create a Government formula for taxing increase over a set rate.

It is our view that low-cost plans would be penalized if that kind of calculation were put into place. It is also our view that to tax increases is very much like a premium cap. It is a premium cap using a tax mechanism as the device to accomplish the premium cap.

The Chafee concept is designed to enhance competition between plans, between insurance companies; to create competition so that insurance companies are competing with each other to try to keep the cost of insurance down for the American people.

That is a very shorthand way of explaining the difference between the two. The Chafee idea is closer to a tax cap. The Mitchell idea is closer to a premium cap. The Chafee idea builds on competition. The Mitchell idea builds on Government control. They are philosophically different. We believe that the Chafee plan is much, much better.

What are some of the other problems with the Mitchell proposal, as we see it? One set of problems is what the Mitchell plan does to health care networks such as health maintenance organizations.

One thing it does is to mandate that these health care networks have to contract with what are called the "essential community providers" and the essential community providers are defined in a very sweeping way. What it says is that these networks which are supposed to be competing and trying to keep prices down are required by Government to do business with various hospitals and health care organizations which they might not want to do business with.

You cannot have a market system that works effectively when you tell people who are trying to work within the market that you have to do business with people who you do not think are very good; or you have to have large numbers of institutions as part of our program that you do not necessarily want, or even very high-cost institutions. Furthermore, the Mitchell bill causes health plans to have to hire every type of specialist, even if the health plan does not think that the specialists are needed and even if they are costly.

There is another big problem we see with the Mitchell plan: Litigation. We thought that trying to get a handle on litigation was essential to health reform. It is estimated that defensive medicine costs $25 billion a year in the United States—just doctors and hospitals trying to prevent lawsuits. And access to medicine is affected by the litigation explosion. Take, Howell County, MO; the county seat is West Plains. Nine counties surround Howell County, some in Arkansas and some in Missouri. In these nine counties, there is nobody that will deliver a baby except at the West Plains Hospital. Nobody will deliver a baby because people who have done it are out of that business. It is the lawsuit explosion that

VOL 140 PT 16 AG 12 — 18 1994 UMI

has done this. To deal with this, we have real malpractice reform in our legislation. We provide real incentives for alternative dispute resolution. Senator MITCHELL does not. He has alternative dispute resolution, but it is add-on litigation. There is no incentive built into it to use alternative dispute resolution. We have that incentive.

We have caps for noneconomic damages. We have real reform for the punitive damage system so that it is something more than a windfall for attorneys. Senator MITCHELL scraps all that.

This is not just a matter of trying to further amend the Mitchell bill. His whole bill is wrong. And crammed into that bill are all kinds of incentives for litigation. He has so-called anti-discrimination provisions. He has major, major changes in the civil rights laws of the United States contained in his legislation. I know something about civil rights laws, because in 1990 and 1991 I spent the better part of 2 years of my life working on what became the Civil Rights Act of 1991. That whole legislation would be changed in this health care legislation. We took 2 years working on it and, believe me, it was tough going. Now we have in the health care legislation major changes.

For example, we cap both punitive damages and compensatory damages in our current civil rights law. In the Mitchell bill there is no cap—unlimited compensatory and unlimited punitive damages for lawsuits—and there is an expansion of the groups that are protected by civil rights laws in the United States. Under his bill, there would be causes of action on the basis of language, or income, or sexual orientation. That is a big change in the civil rights laws. Some people might say that is good. But what does it mean? Does it mean that, henceforth, hospitals have to have interpreters in the hospitals? Say, in California, where our Presiding Officer resides, are the hospitals supposed to have, for all the various nationality groups that live in California, interpreters or they will risk a lawsuit? How about income discrimination? We have had hospitals in my community of St. Louis that have moved. Saint Luke's Hospital, for example, and DePaul Hospital have moved from the city of St. Louis to St. Louis County. If they were to do that in the future, would they be sued because they were violating civil rights laws? I think that the answer is clearly, yes, they would be, under the Mitchell legislation.

And then there are the Section 1983 Actions. I spent 8 years of my life as a State attorney general, and Section 1983 was the biggest problem I had as State attorney general. These are civil suits against State and Federal officials. In 1993, there were 51,000 civil rights suits filed under Section 1983 against the Federal Government. In general, 10 percent of the cases pending in State attorney generals' offices are Section 1983 cases.

This Mitchell bill has a major expansion of civil rights causes of action, so that lawsuits will be filed against the Federal Government and the State government, as well as against insurance companies, insurance plans, employers and the like. And the so-called Mitchell-3 provided yet another new cause of action against health plans and purchasing co-ops if they fail to carry out their responsibilities under his bill.

Graduate medical education. Do we really want a national council on graduate medical education telling us how many physicians we should train and in what specialties and in what hospitals?

So, Mr. President, these are some of the problems with the Mitchell bill. I do not state them because I want to pick on the bill that is before us. I simply want to make one fundamental point: This thing cannot be passed. It cannot be passed. We could be here for the next 2 months. We could come back for a lame duck session and start again next year. It is too big, it is too much, it is too expensive, it is too bureaucratic, and it is way too litigious.

So where do we go from here? I believe that the answer to that question is within this mainstream group. I believe that it is not too late to put together a bill that can be enacted into law if we stick to the principles where we can build consensus, and that is my recommendation.

I think we should go back to the drawing boards. We are at the drawing boards and we hope to have legislative language, possibly tomorrow, with specific recommendations.

This underlying bill that is before us now is never going to be amended to a point where it is not something that scares the willies out of the people of this country, and for good reason. It is just too much for us as a country to choke down.

VOTE ON MOTION TO INSTRUCT SERGEANT AT ARMS

The PRESIDING OFFICER (Mr. FEINGOLD). Under the previous order, the hour of 5 p.m. having arrived, the Senate will now vote on the motion to instruct the Sergeant at Arms to request the presence of absent Senators.

The question is on agreeing to the motion of the Senator from Maine [Mr. MITCHELL] to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Georgia [Mr. NUNN], are necessarily absent.

Mr. DOLE. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Wyoming [Mr. SIMPSON], are necessarily absent.

The result was announced—yeas 78, nays 16, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—78

Akaka	Exon	Lugar
Baucus	Feingold	Mathews
Bingaman	Feinstein	Metzenbaum
Bond	Ford	Mikulski
Boren	Glenn	Mitchell
Boxer	Gorton	Moseley-Braun
Bradley	Graham	Moynihan
Bryan	Grassley	Murray
Bumpers	Gregg	Packwood
Burns	Harkin	Pell
Byrd	Hatch	Pressler
Campbell	Hatfield	Pryor
Chafee	Heflin	Reid
Coats	Hollings	Riegle
Cochran	Hutchison	Robb
Cohen	Jeffords	Rockefeller
Conrad	Johnston	Roth
Coverdell	Kassebaum	Sarbanes
Craig	Kempthorne	Sasser
Danforth	Kennedy	Shelby
Daschle	Kerrey	Simon
DeConcini	Kerry	Stevens
Dodd	Kohl	Thurmond
Dole	Leahy	Warner
Domenici	Levin	Wellstone
Durenberger	Lieberman	Wofford

NAYS—16

Bennett	Helms	Nickles
Breaux	Inouye	Smith
Brown	Lott	Specter
Dorgan	Mack	Wallop
Faircloth	McCain	
Gramm	McConnell	

NOT VOTING—6

Biden	Lautenberg	Nunn
D'Amato	Murkowski	Simpson

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, if I may have the attention of Senators?

Mr. LEAHY. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

The majority leader.

Mr. MITCHELL. Mr. President, several Senators have inquired about the schedule for this evening and thereafter, with respect to this legislation.

First, to recapitulate, I introduced legislation on Tuesday, August 2, 2 weeks ago tomorrow. On Tuesday, August 9, 1 week ago tomorrow, the Senate began debate on health care reform. There were 4 hours of debate on Tuesday, 4 hours on Wednesday, 4 hours on Thursday, 4 hours on Friday, 7 hours on Saturday, and more than 7 hours today.

The first amendment was laid down on late Tuesday afternoon. Notwithstanding that, there have been no votes on any amendment. I initially requested that there be a vote scheduled on the first amendment on Saturday,

but the distinguished Republican leader advised me that Republicans would use their right under the rules to prevent a vote from occurring by making statements. I then requested that there be an opportunity for a vote on that amendment today, and I received the same reply.

It is my desire to accommodate as many Senators as possible with respect to the schedule, but also to recognize that our paramount responsibility is to act on the matters before us. And, therefore, in an effort to reach a conclusion that gives all Senators fair notice of the manner in which we will proceed, and also attempt to make progress, there will be no further votes this evening. The Senate will remain in session for as long as Senators wish to debate. I want to emphasize that point because, although we were told last week that there were a large number of Senators who wanted to speak, not long after we announced there would be no more votes on Friday, all of those Senators left.

And then on Saturday, although I offered to stay in session for as long as Senators wished to speak, the session terminated at about 5 o'clock. So those Senators who have stated a desire to speak, please be aware that the Senate will remain in session for as long as possible—as long as anyone wishes to speak this evening.

We will resume the debate at 9:30 tomorrow. And if we have not been able to have a vote on an amendment by tomorrow evening, then the Senate will remain in continuous session thereafter, through the evening, through the night. If there is going to be delay, then those Senators who are going to delay will simply have to be here around the clock to do it.

I hope that does not occur. I hope we can get to the amendments; all Senators who have amendments will offer them.

But to repeat, in summary: In an effort to accommodate all of the conflicting concerns and interests here, and so as to give Senators full notice and not take any precipitous action, there will be no further rollcall votes this evening. The Senate will return to debate this matter at 9:30 tomorrow morning. And if, by tomorrow evening, we are still in a situation where no votes have been permitted on amendments, then the Senate will simply remain in session on a continuous basis thereafter.

I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, if I might respond to my good friend from Maine, at least the chairman of the Finance Committee and I were here until 9:30 on Friday night. And there were speakers going on. We were here 7 hours on Friday. I do not think there has been a quorum call.

79-059 O—97 Vol. 140 (Pt. 16) 28

This is not a question of delaying. But the majority leader indicated several days ago that we would have ample opportunity, and every Senator would not be rushed and they could say what they wanted on the most important bill we have seen in a quarter of a century. But we have not wasted time in quorum calls. We have had our people here to speak. As a matter of fact, we used up all of our time ahead of time today, and the chairman was very kind to give Senator DANFORTH part of his time.

If what you are saying is because Senators want to speak—and these are simply opening statements; they have not started to speak on title I, title II, title III, on taxes or mandates or risk adjustment or anything else—are you suggesting, if they want to speak, are you going to force them to speak 24 hours a day?

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I think Senator PACKWOOD's position was made clear when he announced the other day that there were 27 Senators who wished to give speeches of 3 or 4 hours in length, opening statements.

Second, what I said with respect to Friday was that shortly after the announcement was made that there would be no more votes, that Senators left, indicating that the desire to speak was outweighed by the desire to leave——

Mr. PACKWOOD. Except we did speak——

Mr. MITCHELL. As soon as it was announced there would be no more votes.

Mr. PACKWOOD. There may have been no more votes, but——

Mr. MITCHELL. If I might finish? Then, as the Senator will recall, he and I had a colloquy with respect to the schedule on Saturday. I offered to remain in session for as long as Senators wished to speak. He indicated that he did not wish that we remain in session beyond 5 p.m.

I am not attempting to foreclose anyone from speaking. But if that is to be used as an excuse to prevent any action from occurring on any amendment on this bill, then I think we must recognize it as such and deal with it.

Second, the fact that we vote on an amendment or amendments does not mean that a Senator is thereafter precluded from speaking on the bill. We are going to be on this bill for weeks, and every Senator is going to have ample opportunity to address the matter.

But, of course, if, as the Senator said, 27 Senators want to give each a 4-hour speech, why, that is 110 hours right there, which is nearly 2 weeks of regular sessions. If that is the case, it seems to me there is no alternative but to stay in longer than 5 o'clock, 6:30, or 7 o'clock. Otherwise, we would be accepting a condition where we would have a period of several weeks in which there would be a series of 24-hour speeches, and I think that it is better to recognize the situation and deal with it as it exists.

So my view is that we ought to proceed. We have had a lengthy period of opportunity for statements to be made. No one will be precluded from making a statement after the first amendment is voted, between the first and second amendment, after the second amendment is voted and I believe that everyone will have that opportunity. But I do not think we can continue indefinitely in a situation where there can be no vote on any amendment and we simply continue with these statements.

Mr. NICKLES. Will the majority leader yield?

Mr. MITCHELL. Certainly.

Mr. NICKLES. This is the proposal—correct me if I am wrong—that just came out, the latest Clinton-Mitchell proposal 3. This has been in print, what, since Saturday? Saturday is the first day this it was available to Senators?

Mr. COATS. Friday at 5.

Mr. NICKLES. I am informed by Senator COATS Friday at 5. There are significant changes—correct me if I am wrong—there are significant changes between this proposal and the previous proposals.

Mr. MITCHELL. There were a total of five changes, some of them changing one word. All of the changes were listed on a single sheet of paper.

Mr. NICKLES. If the majority leader will yield, to give an example, I did a lot of homework on the leader's proposal, but it was on the first proposal on things like nonconformance to standard benefit plans and there was a 35-percent penalty for nonconformance. I have been told by my staff today that was replaced by a $10,000 civil penalty.

My point being, I have not raised that on the floor because I want to study it a little bit more. We have only had this, I guess, Friday evening—most of us have seen this proposal on Monday for the first time. This is the most expensive or extensive expansion of Government proposed in a long time.

I see a list of 133 changes that were made since the first proposal, sections anyway. I would like to know a little more about it before we start making amendments that are so vitally important.

There are other proposals as the majority leader knows. Some we are also looking at. I do not think we are trying to stall, and the implication that many of us are filibustering I do not think is correct. We are trying to learn what is in the proposal. I think we are trying to be serious in our deliberations in doing so because we have not had a hearing on this proposal that I am aware of.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. MITCHELL. Mr. President, the Finance Committee and the Labor Committee held more than 50 hearings between them. The Labor Committee completed action on its work more than 2 months ago; the Finance Committee more than 1 month ago. The overwhelming majority of provisions in that bill are drawn from the work of those two committees, which have been well known to most Senators for a very long period of time.

Mr. President, we can stand up here and talk about the length of the bill and how much study is necessary. We have had a survey made of legislation over the past several years, their length and how much time there has been to review them, and it provides some very interesting results which I will not bother to go into now.

The fact of the matter is, we are going to be on this for some time. There has been nothing to preclude Senators from carefully reviewing it. The reality is that we have been prevented from voting on any amendment, on a single amendment, over this period of time, and we believe that it is appropriate that we begin to do so.

I understand, the Senator's concern, and I know that he is going to study the measure very carefully and perhaps have some amendments to it. We have been prevented from voting on any amendment and have been prevented from taking any action until now.

That is available to our colleagues under the rules, and there is only limited recourse that a majority leader has under those circumstances. One has been to call for procedural votes. I deliberately refrained from doing so on Saturday because I had not given prior notice of it to Senators, and I try very hard not to take any action without prior notice. I have limited the number of those votes to one today.

I simply want to make clear, so there can be no misunderstanding on anyone's part, if we have not been able to have a vote on an amendment or amendments by tomorrow evening, if we have been prevented from doing so, then the Senate will remain in continuous session: there will be procedural votes at any time without any prior notice so that we can get moving on this bill.

If Senators then wish to speak in an unlimited way, they, obviously, have that right under the rules, and I accept that fact. But we are not going to have a situation where one party uses the rules to the full extent without the other party responding within the rules in the only manner that is available.

So I simply say to my colleagues, we will stay in session this evening for as long as anyone wishes to talk. Perhaps some of the 27 Senators who want to give 4-hour speeches will grace us with them this evening. We will come back at 9:30 tomorrow morning, and if we are still in this situation by tomorrow evening—that is, prevented from voting on any measure—the Senate will remain in session on a continuous basis. And in the event that quorum calls are put in, then procedural votes can occur at any time thereafter without any prior notice.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, let me correct the record first. When I indicated we had, I think I had 27 left, as a matter of fact, to do opening statements at that time, I thought I said 2 or 3 who might want to speak 4 hours. Most have been speaking a half hour, 20 minutes, 45 minutes. My hunch is our opening statements, depending on how we divide up the time—if we did it straight, I would say in a day; if we divide up the time, 2 days, assuming the Democrats fill up an equal amount of time, and they have so far.

But here is the problem we face. This bill does change. The Senate may recall that I asked Senator MITCHELL what had happened to the number of residents and interns and general practitioners, and I was assured it had been dropped out of the bill. I then discovered it has not been dropped out of the bill; it has been changed to a commission, and the commission is directed to find certain numbers of how many people are going to be residents and medical students, even though two Senators assured me it was out of the bill. It was not.

It takes time to find it. Now I have heard—I do not know if it is true—that the 35-percent tax penalty you are assessed if you do not offer the standard benefit plan has been changed to $10,000 per employee. I do not know that. Those are not insignificant changes.

So in fairness, we should have time to do that. I am not going to argue with the leader for a moment on that. We will finish our opening statements in a day or a day and a half, but I hope the leader is not saying that he regard it somehow as an abuse of the rules—I am not going to say it violates them, because he clearly says we are within them—if we come over here and we want to spend a day on the tax titles of that bill and go down the taxes one at a time and say who it is going to affect and here is how it affects them. I hope just for the sake of motion—and that is what I sense it is—the majority leader says we will have procedural votes. That is just what we had. I suggest, a rollcall of absent Members, I say to the majority leader, if that is your idea of motion, Einstein is right.

That is not motion. That is a vote. It does not show us making any progress. Progress maybe is when we have a chance to argue this bill on the merits which is what we have been trying to do. I do not think there has been a speech yet on either side that was not addressing the issue. This was not Huey Long reading the telephone book. They are statements on the bill, which I would hope the leader does not think is an abuse of the rules.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I did not use the word "abuse" of the rules. Those are the words of the Senator from Oregon.

Second, I have seen and heard many filibusters in which the Senators talked about the bill. The fact that someone is talking about the bill does not mean that it is not a filibuster or a delay. There is simply no correlation between the two, and it is, in my judgment, wholly illogical to suggest that because someone has been talking about the bill they are not engaging in delay. The suggestion that the only way one can delay is to read the telephone book is, of course, inconsistent with both reality and the past practice of the Senate.

With respect to changes in the bill, the Senator from Oregon has repeatedly attempted to create the impression that that is somehow an unusual circumstance, that somehow there is something wrong or fishy with it.

I look forward to the time when the Senator from Oregon offers his bill as an amendment. I fully expect there will be changes in it, perhaps there will not. We will consider that at the time. But every Member of the Senate knows that legislation changes in process. It is an ordinary event. It occurs with respect to most of the legislation we have here. And that really in my judgment is not a serious argument.

I have described the circumstances as I believe they exist and have attempted to respond to them in a manner that I believe most fair and appropriate under the circumstances. The Senator is the one who has chosen to use other words, and that is his right, of course. I believe that we should proceed in a manner that I have suggested, and to the extent that I have authority to do so, that is the manner in which we will proceed. Senators are free to remain here this evening.

I would note that after I announced last Friday there would be no more votes, although we were told that there were 27 Republican Senators who wanted to make opening statements, only two chose to speak. And that is the point that confirms the point I was making, that there was ample opportunity then. Any 1 of the 27 who wanted to do so could have spoken then for any length of time. Other than two relatively brief statements, none chose to do so.

And so we are simply, I repeat, not going to get into a situation where, under the guise of wanting to make 27 statements of 4 hours each, we are not permitting action to occur on any amendment or any subsequent matter

with respect to this bill and then being unwilling to stay to give those speeches when the Senate is in session and available to permit such speeches to occur.

Therefore, I believe that the decision I have made is the fair and appropriate one under the circumstances and I need not repeat it here.

The Senator from Ohio had asked, and then I will yield to the Senator from Oklahoma following that.

I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have been around here about 19 years, and in the 19 years I have been here I have seen filibusters and I have seen majority leaders on the floor of the Senate and with no exception, no disrespect to any of his predecessors, this majority leader has been more patient, more considerate, more concerned that everyone be given a fair opportunity than anybody I have ever seen in that position. And I do not say that disrespectfully of his predecessors. He leans over backward to be fair. He is patient. He is far more patient than any of us would be under the circumstances.

He is well aware of the statements that have been made by the Senator from Texas and other Senators as well that they will do everything possible to keep this bill from becoming law, or an amended version of this bill, who are determined that there be no health care legislation enacted by this session of the Congress.

He has been patient. When an amendment was offered by Senator DODD and many of us were anxious to move forward and vote on it, either vote it up or down, he was patient; he was restrained.

I just want to commend him for saying that he will keep us in session around the clock so that we can move forward on national health care. A filibuster by any other name is a filibuster. When you keep the Senate from moving forward and acting on the legislative process, that is a filibuster. You can say that you need all the time, that 27 speakers need to speak but the fact is you at some time let some legislation move forward, let the legislative process move forward.

But that is not what is happening on the floor of the Senate. It is one delay after another. And this cute idea of how much a bill weighs, well, many of you were here when the tax bill was here, which was much higher than that. You were not worried about what it weighed because you were taking care of some of the special interests who were being provided for in that tax bill.

This is a bill that does not take care of the special interests; it takes care of the interests of all of the American people who want a national health care program. And delaying it, delaying the Senate from moving forward on this legislation is irresponsible. We ought to move forward. If we have the votes, we have them. If we do not have the votes, we ought to lose. But all I hear is talk, talk, talk. And the American people say, "What are they doing there on the floor of the Senate?" They are not doing much.

I say to my colleagues on the other side of the aisle, if you have the votes and you have the amendments, come forward with them. You may win. I read all these different things in the newspapers about this group and that group and all the groups that are making special kinds of deals. If you have something and you have the votes, then vote it up or down and maybe you will prevail.

Let us get on with the business of the Senate, but let us—more importantly than the business of the Senate—move forward to enact or defeat, if that be the will of the Senate, a national health care program. Mr. President, 260 million Americans expect no less of us. What we are doing here is playing games. We are playing political games, games that are not of credit to the Members of the Senate, games that are of no credit to the political system. I think it is high time we get on with the business of the Senate, that we pass a national health care bill or defeat it.

I think the leader is to be commended for saying that we will stay in session. I hope we would stay in session as of tonight. I was prepared to start early. But it is his will—and he is the leader—that we wait until tomorrow night in order to start working overnight. We have worked overnight in the Senate on previous occasions, and it was productive; it really gets a lot of the attention of the Members of this body. They realize what is going on. Under the circumstances now, some do not know what is going on. They just know it is delay and delay and delay.

And so I say, Mr. President, I commend the majority leader. I am proud of him and to be on his team in trying to move forward a national health care bill. I think we have had too much delay already, and I think we ought to get about our business.

Mr. MITCHELL. I thank my colleague.

I yield to the Senator from Oklahoma.

Mr. NICKLES. If the majority leader will yield.

Mr. MITCHELL. May we have order, Mr. President, so the Senator may be heard.

Mr. NICKLES. If the majority leader will yield, we have had the Finance Committee bill, correct me if I am wrong, on the floor of the Senate for 2 weeks.

Let me amend that. We have had the Mitchell No. 1 proposal on the floor for 2 weeks. Is that correct? How long has the original Mitchell proposal been on the floor? I will ask the majority leader, how long have we had the original Mitchell proposal?

Mr. MITCHELL. I stated in my earlier remarks it was produced on Tuesday, August 2. That is my recollection.

Mr. NICKLES. Today is August 15, so it has been 13 days.

We have a list of section changes that were made to the original proposal. I might mention the original proposal was on the floor for some time, and I think I counted 139 section changes, including a change to every title in the bill. Has there been a list of explanations of what the changes were section by section so we would know?

Mr. MITCHELL. I am sorry; I was distracted.

Mr. NICKLES. Has there been a list or an explanation—there are 139 section changes from the original Mitchell proposal. Has that list of changes and an explanation of those changes been submitted so we can look at that without having to try to reread the entire proposal?

Mr. MITCHELL. The section changes are identified.

Mr. NICKLES. If the majority leader will yield, I know the section changes are listed. That is 139, but that does not tell us what change. I have tried to read the first proposal, and I sort of got started in the second proposal, and then was informed by staff last Friday that there was a third proposal which we had, I guess, received Friday evening. I was not aware of it. And I have started trying to study it.

I am trying to figure out if there is a list of changes. The majority leader said they were not significant changes from the second proposal to the third proposal. If we could have a list of those changes, that would help us because some of us—in contrast to my good friend from Ohio—some of us are trying to understand what we have on the floor so we know what we should be considering.

There are some big changes that have taken place between Mitchell 1, Mitchell 2, and Mitchell 3. I think it would help us if we could have an explanation.

Mr. MITCHELL. We will do our best. I want to note that some changes were made at the request of the Republican Senators. I feel it is an irony to be criticized by Republican Senators when we are trying to accommodate other Republican Senators. But I understand it is all part of the process. We will do the best we can to accommodate.

Mr. NICKLES. If the majority leader would yield, I am not being critical. I am trying to find out what is in the legislation. When you get a sheet which says 13 sections are changed, that means a very significant revision. I do not know how many revisions were made in Mitchell 3. But we only had Mitchell 3 on the floor of the Senate Saturday and today. I do not think we

VOL 140 PT 16 AG 12 — 18 1994 UMI

are being dilatory or prolonging the process to try to find out what is in this proposal if it is just laid down on Friday. And to insist on amendments specifically when we do not really know what is in this bill, I think is premature.

Mr. MITCHELL. Mr. President, we have had a lot of theater here in the Senate holding up bills and referring to the length and complexity.

This is a tax reform bill of 1984 when the Republicans were in the majority. The bill is 1,517 pages long, and 52 out of 53 Republicans voted for it. We searched the record, and we cannot find where a single Republican complained about the length and complexity. I am sure that all of those Republican Senators who are complaining about my bill read every word of this bill before they voted on it—[Laughter]—and could answer questions about every single provision in the bill. Let everyone outside this Chamber understand what everyone inside this Chamber knows is going on.

Mr. NICKLES. Would the majority leader yield?

Mr. MITCHELL. Such a long bill as this are common bills. We have had many of them. We have voted on them. The Senator has a perfect right to debate and criticize alternatives to the bill. But let us not go on with this kind of game that somehow the length of the bill or the changes to the bill are what is causing the events here.

Did the Senator vote for this bill?

Mr. NICKLES. I am not sure.

Let me ask the majority leader a question. Was that bill not reported out of the Finance Committee and did we not have more than 48 hours to look at the bill?

Mr. MITCHELL. Let me tell the Senator. He did vote for it.

Did the Senator read this whole bill?

Mr. NICKLES. No.

Let me ask the majority leader.

Mr. MITCHELL. Did the Senator know everything in this bill before he voted on it?

Mr. NICKLES. I doubt that, too.

If the majority leader would answer this question: Was this bill not reported out of committee and available with the committee report? Was that bill not on the desk of Senators for more than 48 hours, more than 24 hours before Senators were asked to vote on it?

Mr. MITCHELL. I do not know how long it was on the floor. But I know one thing. This discussion has gone from providing good information to no information.

I think we have all had—at least I have had all I care to say about the length and weight of the bill, and the changes. And the Senator had asked me to yield for that purpose. Is there anything further he wishes to add with respect to that?

Mr. NICKLES. I did ask the majority leader; I would like a section-by-section analysis or a definition of the changes on these 13 sections. That would help us in our analysis of the bill so we do not have to start all over on this new proposal which we have only had on the floor of the Senate basically for 1 day. If one is available—I would think somebody put these 139 changes together—it would be nice if they would share them with the minority so we may have a chance to analyze those changes as well. They may well be changes for the better. There may be changes and questions from both sides.

I would like to know what is in this bill to some extent, since it has only been on the floor basically for 24 hours, before we start amending.

Mr. MITCHELL. Mr. President, in the Senator's own words, the bill was available on Friday. By any calendar, that is more than 24 hours in the day. It is a small point. But I think it illustrates what is going on in this debate.

Mr. DOMENICI. Might I inquire? I did not get the nature of that bill you were holding. What is that?

Mr. MITCHELL. It says, "That the bill from the House of Representatives (H.R. 4170) entitled 'An Act to provide for tax reform, and for other purposes,' do pass with the following amendments:"

It says "Title I—Tax Reforms Generally," and "* * * may be cited as the 'Deficit Reduction Tax Act of 1984.' "

Mr. DOMENICI. So it is a reconciliation bill, not a freestanding bill like the one we have. It is not subject to amendments, only motions to strike, and debate is limited by operation of law, not by the normal rules of the Senate.

Mr. MITCHELL. Which is an even better argument. I thank the Senator for making my point.

Mr. DOMENICI. That is not a better argument. It means that we have an opportunity here to amend this bill, and debate is open on this bill.

Mr. MITCHELL. Mr. President, I have no desire to hold the floor. I made my statements. Unless any Senator has a further question, I would yield the floor.

Mr. GRAMM. Mr. President, will the Senator yield?

Mr. MITCHELL. Yes.

Mr. GRAMM. I would like to make a couple of points.

Mr. MITCHELL. Senator, I am going to yield the floor.

Mr. MOYNIHAN. Mr. President, will the Senator yield for parliamentary inquiry?

Mr. MITCHELL. Yes.

Mr. MOYNIHAN. Mr. President, is it not the case that Senators must address the Chair?

The PRESIDING OFFICER. That is correct.

Mr. MOYNIHAN. I thank the President.

Mr. MITCHELL. Mr. President, I have said what I intended to say, and I will repeat it now so there can be no possible misunderstanding.

There will be no further votes this evening. The Senate will resume consideration of this measure at 9:30 a.m. tomorrow. The Senate will remain in session this evening for as long as any Senator wishes to speak on the subject.

If by tomorrow evening we continue in a situation where no vote has been permitted to occur on any amendment to the bill, then the Senate will remain in session thereafter, and procedural votes may occur at any time without notice.

I want to repeat that. This is the notice to all Senators, that procedural votes may occur at any time with no further notice beyond the notice now being provided.

I thank my colleagues. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me make a couple of points.

First of all, we have been operating under a time agreement where each side has controlled half the time. I am not aware of there being a quorum call during this debate. Members have come to the floor, they have spoken on the bill, and they have had an opportunity to tell the American people where they stand on one of the most important issues considered by the Senate in a quarter of a century. We are now in the process of narrowing down the list of Senators who still would like to give their opening statements. Clearly the majority leader has every right to hold us around the clock.

I would like to make two points. First, when the amendments come, they will come in a torrent. I would predict that this week will not end without the distinguished majority leader standing up and trying to stop these amendments rather than inviting more.

Second, let me say that we all understand the rules of the Senate. When the distinguished majority leader opposed cutting the capital gains tax rate, he actually was willing to engage in a real filibuster. We disagreed with him, but we respected him for it, and he killed the capital gains tax rate cut. When the distinguished Senator from Ohio wanted to stop reform of product liability, he killed that bill through debate and through a filibuster. We did not agree with him, but we respected his right.

So here is my point. We are not in a filibuster now, and everybody knows it. We have been operating under an agreement where debate time has been equally divided. We have alternated from side to side, and Senators on both sides of the aisle have made opening statements. I do not see how anybody could call this anything remotely similar to a filibuster.

So simply asking that everybody have a chance to understand the bill and to make an opening statement is not, I believe, unreasonable. But if the Senate Majority Leader wants to hold the Senate in session 24 hours a day, he has a right to do that, and we will all be prepared. The point is that when the amendments come, they will come in a torrent, and they will not stop.

Third, when we have a filibuster—if that is what it takes to stop a government takeover of health care—people will know it, and they will not have to speculate about it. I am hopeful that we can adopt amendments, that we can fix this bill, that we can improve the system, and that we can preserve consumer choice. If we can do that, then I think we can move forward. I do not think we hasten the day we complete the bill by forcing Senators to begin voting on something when demonstrably the vast majority of the Members of the Senate are only now becoming conversant with this bill. I think that is the bottom line.

I think the American people understand that. The point I want to make is that we have been continuously debating this legislation. I do not remember there being quorum calls during this debate. We have an amendment pending, and people have a right to debate it. People have continued their opening statements. Maybe the process will speed up by staying in session 24 hours a day, and maybe it will not. I do not know. But the point is, I do not think anybody can make a reasonable argument that there has been a filibuster. There has been an orderly process, mutually respectful on both sides, where people have made opening statements.

But when people are ready for amendments, be ready. They will come, and they will come in a torrent. I want to make this point, having listened to our dear majority leader—my guess is that by the end of the week, the majority leader will be standing by the same desk with the same smile urging us to stop these amendments.

(Mr. MATHEWS assumed the chair.)

Mr. MITCHELL. Mr. President, I have listened with interest and attention, as I always do, to the Senator from Texas, particularly with his reference to trying to rush on the bill that people had not read. As memory often does, it took me back to my first year in the Senate when the House of Representatives took up a bill that bore the Senator's—and then Representative's—name. I think it was called Gramm-Latta.

I recall reading with interest the stories at the time about how it was slapped together too hurriedly in the House, and that someone had written down his girlfriend's phone number, and that appeared on one of the pages of the bill. It was a Xerox, not a printed copy. Dozens of House Members protested about trying to rush through this massive bill before anyone had a chance to read it, and it was put together in such slap-dash fashion that there were blank pages, blank sections, handwriting, girlfriends' phone numbers, and all other kinds of things.

I just remark with amazement at the Senator's words now about this bill, in the light of that history. But I thank him.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2178

Mr. EXON. Mr. President, I ask unanimous consent that in the engrossment of H.R. 2178, the Hazardous Materials Transportation Act, the Senate amendment be changed to reflect the technical corrections I now send to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, if the Chair will hold that a moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I have made a request as a part of the RECORD. I renew that request at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

In section 119(c)(4) of the amendment of the Senate—

(1) insert "(1)" after "Section 5127(b)", and

(2) insert "(1)" before "There" in the language inserted as new text for section 5127(b) of title 49, United States Code.

In section 211(b) of the amendment of the Senate—

(1) strike paragraph (2) and insert the following:

(2) Section 11501(e) is amended—

(A) by striking all but paragraph (5),

(B) by redesignating paragraph (5) as subsection (e), and

(C) by striking "paragraph" and inserting "subsection".

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, I believe it is the case that there is no time agreement at this point, and the Chair will simply recognize Senators as they seek recognition.

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. I yield the floor.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WOFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. WOFFORD. Mr. President, I, first, commend the majority leader for his plan that beginning tomorrow, if necessary, we remain in session night and day to get this work done. For the people who do not have health insurance, they do not get to sleep easily at night. The people who are in fear of losing health insurance if they change a job, if they have a preexisting condition, they do not get much sleep at night. I think it is fitting that we not sleep at the switch and that we go ahead, and now that this is within reach that we reach it and get it done.

Mr. President, fortunately, there are Republicans and Democrats who are working together seriously on real health reform, but there are others who want only to block action. They seem to think it will help them politically. They do not put it that way. Instead, they say we must slow down because health care is too big to tackle for this Congress. Instead of acting, they say we ought to study some more. Call it what you want, but as Shakespeare and the Senator from Ohio would say a filibuster by any other name would still smell like gridlock.

Mr. President, we have had six decades of studies, rivers and mountains of studies. We do not need more study about what is wrong with our health care system. We need the backbone to face up to the special interests and take action to protect middle-class families from a health care insurance system which is out of control from those insurance companies who are charging them more and giving them less.

But if they want to study health care, let them study it firsthand, personally and directly what it is like to be a middle-class family caught up in the health insurance mess. Let them study what it is like when your employer cancels your insurance and you have to go out and buy it on the open market. Maybe then we would get action sooner rather than later.

That is why I warned the Senate last week that if the defenders of the status quo succeed in delaying action on health care I will propose an amendment to disqualify every Member of Congress from the Federal Employees Health Plan until we pass a health care bill for the American people. So I am saying support the plan you live under or live under the plan you support.

Americans deserve the same kind of guaranteed coverage and choice of affordable private health plans that Members of Congress have arranged for themselves. Why? Because taxpayers foot the bill for our health coverage

VOL
140
PT
16
AG
12
—
18
1994
UMI

and Members of Congress do not have Government-run health care. They have a range of private health insurance options. They do not have a one-size-fits-all system. They have a consumer-choice system, more choice than most Americans are getting today.

The Mitchell bill will make the Federal Employees Health Plan that Congress enjoys available to other Americans and make it a model for reform. Private health insurance that cannot be taken away. No exclusions for preexisting conditions—you take it from job to job. Affordable premiums paid by a shared contribution from employer and employee. A choice of doctor and health plans.

And what about the Dole bill?

First, unlike the Mitchell bill, the Dole bill will not put us on the path to universal coverage. It does not even pretend to.

Second, unlike the Mitchell bill, the Dole bill is a green light to employers to shift billions of dollars in costs onto the backs of working families.

Third, unlike the Mitchell bill, the Dole bill will not protect millions of people from being denied coverage because of preexisting conditions.

Fourth, unlike the Mitchell bill, the Dole bill will not guarantee that when you leave your job, you can keep your health insurance. It will let the insurance companies keep loopholes that they use to cancel coverage when people change jobs.

Fifth, unlike the Mitchell bill, the Dole bill will not guarantee a choice of doctor and health plan.

And sixth, unlike the Mitchell bill, the Dole bill will prevent most Americans from joining the Federal Employees Plan available to Members of Congress.

Beyond those fatal weaknesses, the Dole bill is especially punishing to older citizens and their families.

Unlike the Mitchell bill, the Dole bill would take billions of dollars in the Medicare program without investing any of this money, these savings, into protecting older Americans.

Unlike the Mitchell bill, the Dole bill has no coverage for prescription drugs.

Unlike the Mitchell bill, the Dole bill has no coverage for long-term care in the home and community.

Unlike the Mitchell bill, the Dole bill will not do anything to change today's absurd system that forces an older person to give up their life savings—and often their dignity—in order to pay for nursing home care and qualify for Medicaid, because it does not include a voluntary, long-term nursing home insurance program.

Unlike the Mitchell bill, the Dole bill will let insurance companies charge older citizens up to four times more than everyone else.

Of course, Americans are skeptical about health reform and about almost everything else we do in this body. After the millions that special interests have spent to mislead and misinform, to spread fear and smear, it is no wonder people are concerned. But they are even more skeptical about those in the insurance industry, not all but far too many, who are blocking this bill and who seem to exist to charge ever higher premiums and cancel coverage just when people need it most.

And they ought to be skeptical of any so-called reform which does not crack down on insurance company practices and policy loopholes that leave middle-class families out in the cold. If the Dole bill is so good, why do so many of those naysaying insurance industry forces like it so much?

Americans want to see a reform that protects above all middle-class families from losing the insurance they have today and a reform that puts us on the road to universal private health insurance coverage.

They want to have the kind of affordable coverage and choice of private health plans that Members of Congress have arranged for themselves. The Mitchell bill does that. The Dole bill does not.

Mr. President, there is hope for a truly bipartisan effort that will go a long way toward real reform. But to those who simply want to protect the status quo, to scare people about change, to use every tactic in the book to bring this reform effort to a grinding halt, I say you are on the wrong side of history.

People are tired of Washington's finger pointing and game playing. They do not want this Congress to squander this chance. They do not want special interests to hijack this reform. And they certainly do not want their health security held hostage to anybody's political agenda.

So on, Mr. President, night and day, let us go on to succeed in winning the battle that Harry Truman started nearly 50 years ago.

I yield the floor, Mr. President.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I yield to the Senator from Washington State as much time as he may require.

The PRESIDING OFFICER. The Chair would announce the time is not controlled, so the Senator can be recognized in his own right.

The Senator from Washington is recognized.

Mr. GORTON. Mr. President, the challenge before the Senate is whether we will approve changes that will be positive, acceptable, and affordable to the American people, or, on the other hand, are we going to pursue remedies that serve Big Government political agendas and endanger the very system of care on which we all depend for our families' health?

This debate is historical because it is about nothing less than the role of Government in the most intimate decisions and fearful moments in our lives—the times at which we are in need of urgent medical care to heal ourselves and those we love.

From the outset, this Senator admits to a presumption against Government expansion into areas in which market forces can operate more effectively and cost-efficiently. I am not against Government, but I believe that it should be limited, as the Framers intended, due to its often unaccountable, expensive, arrogant, and sometimes oppressive nature. Consistent with that belief, I am convinced that the Senate should restrain itself from arrogantly approving sweeping measures that will have unpredictable consequences. The Senate should limit itself to those measures we know are likely to improve the financing and delivery of health care. In short, we should fix only that which is broken.

I should like to begin briefly by stating my health care reform objectives and those of the people of Washington State, followed by a discussion of the majority leader's proposal, and then other alternatives to reach appropriate objectives.

I have been on an odyssey of sorts in looking for solutions to the high costs and market distortions of our current health care system. I have sought ways to achieve broad bipartisan reform that truly expresses the diverse concerns of the American people without jeopardizing the quality and choice that makes American medicine the best in the world. In pursuing these goals I have kept the physician's Hippocratic Oath in mind: First we must do no harm.

I have cosponsored proposals ranging from the earlier Chafee plan to the present Dole-Packwood proposal. While I have disagreements with elements of both plans, each includes principles that I believe will bring improvements to our health care system. While there is considerable disagreement over how we get there, there are good reasons that call us to act responsibly.

We need health care reform because the increasing costs of health care threaten to bankrupt both our Government and our families. Too often families facing catastrophic illnesses must first spend down by selling their assets to qualify for public assistance. Due to demographics and unrestrained entitlement spending, health care spending is likely to absorb an increasing proportion of State and national budgets until it makes up 20 percent of the gross national product within the next decade.

We need reform because too many Americans today do not have health care coverage. Millions of hard-working Americans are without health care insurance and their health expenses are paid for indirectly through a wide range of cost shifting.

Here are my objectives to meet the twin goals of affordability and access to health insurance:

We must allow workers to take their health insurance with them when they switch jobs. Too many Americans are locked in jobs because of a fear of losing good health insurance coverage.

We must protect small businesses from oppressive employer mandates, while we help them provide health insurance for their workers. Our current Tax Code includes absurd disincentives to the self-employed and small businesses that want to insure their employees. We can and should give them the same purchasing power as big corporations and provide meaningful incentives for them to cover their employees.

We must have meaningful medical malpractice reform dedicated to protecting legitimate victims of negligence and our legion of dedicated doctors and other health care professionals rather than providing unlimited business to trial lawyers. The average doctor has a 37-percent chance of being sued at sometime in his or her career. The odds are an incredible 52 percent for a surgeon and an even greater 78 percent for an obstetrician. Defensive medicine, the wasteful procedures performed to protect physicians from lawsuit, cost a good $25 billion in 1991. Meanwhile, the Rand Corp. found that legal costs account for 38 percent of medical liability claims and only 43 cents of every $1 spent on litigation reaches the injured patient. We cannot pretend to tackle waste in our health care system without meaningful medical malpractice reform.

We must promote individual responsibility for the health our people. While our system provides access to the world's finest health care when needed, the obligation to take care of oneself and to avoid preventable illnesses is vital to relieving the current stresses in our health care system. In all the talk of how the Government can help with health care security, we have forgotten the obvious fact that individuals are first and foremost responsible for avoiding their own preventable illnesses.

Similarly, we must promote preventive care so that our current system, which focuses on healing the ills, will save money by preventing illness in the first place. We must support biomedical research and the innovations in biotechnology that are an important basis for preventive care as well as for dealing ever more effectively with serious illnesses and disabilities.

We must insure quality and choice for families when they make their health care decisions. From every corner of the Earth, people come to the United States for the very best medicine and care the world has ever known. They come to train in our medical schools that provide the best education and residency programs. They come for miracles that occur on a daily basis, and must not be taken for granted.

Most important, we must acknowledge that increased coverage will cost money. To some that may be stating the obvious. To this Senator, the obvious deserves equal time in this debate.

Similarly, we must acknowledge that our health care system provides millions of good jobs for individuals who have dedicated their lives to the health of others. We cannot ignore the impact on these jobs that some health care reform proposals will have.

In addition, we must acknowledge the reality that our system of financing and delivering health care is radically changing as we slowly contemplate our own perhaps less proposed relevant changes. This Senator is convinced that by the time a national health care reform program is enacted, we will need to alter it just to keep up with a much more responsive and efficient marketplace.

Just look at health care inflation. While inflation was among the primary reasons for demanding the reform of our health care system less than a year ago, it is now hardly mentioned because health inflation is at its lowest point in 20 years. Some inside the beltway assert that it is only the threat of Government action that has restrained health care spending. While the threat of Government-run medicine has caused some health care stocks to plummet, it is primarily employers tightening their belt, negotiating with insurers, and eliminating waste that has slowed the increase in health care spending. Again, the marketplace has responded to inefficiencies and high costs much more quickly than the Government could imagine.

A major source of innovation and efficiency in the marketplace is the right of companies to self-insure. Self-insurance is possible only because of the Employee Retirement Income Security Act, or ERISA, which gives self-insured employers the flexibility to negotiate plan design without the expensive and explosive mandated benefits required by State governments. As my senior colleague from Minnesota so eloquently has informed us, ERISA has provided a national uniform rule that permits true competition in the health insurance marketplace to occur. Self-insurance and ERISA are not broken and therefore need not be fixed in health care reform.

Another example of market ingenuity that must be preserved and promoted in health care reform are medical savings accounts or medical IRAs. Under this option, employers establish an account for their employees to which they contribute monthly amounts for employees to spend on medical costs or premiums for health plans of the employees', not the employers' choosing. This promotes consumer awareness, value, and responsibility while guaranteeing flexibility and lower administrative costs for the employer.

Here is what we must avoid: Government run medicine that turns decisions between a physician and his or her patient over to Government bureaucrats rationing care under a global budget. The more obstacles you put in the way of a decision by a physician to determine the most appropriate care for his or her patient and the application of that care, the more you jeopardize the quality and add to the costs of the health care received. That is simply the reality of centralized medicine illustrated by literally thousands of Canadians who come south each week to the United States to pay out of their own pockets for health care when and how they want it. The fundamental goal for reform must be market-based or it will not have my support or the support of the American people.

Most important, we must not punish those States that have moved forward with health care reform, that have imposed new taxes, new regulations, new bureaucracies, and new mandates. My State of Washington has enacted a comprehensive plan for which the details are still being worked out. Enormous change is underway that may be positive or negative depending on the substance and timing of Federal and State action. Careful consideration must be given to these States so that ultimately their citizens do not pay twice for health care reform.

My goals are ambitious and my concerns are many. They are the product of an extensive listening process to the people of Washington State for the last 3 years. People, who, like the rest of the Nation want positive, affordable, and acceptable changes in our health care system. They, too, are skeptical that the current proposal by the majority leader will meet those goals and address those concerns.

My first impression of the 1,400-plus page Mitchell health care proposal reminded me of Mark Twain's description of how Tom Sawyer felt when he first approached that "thirty yards of board fence nine feet high."

Now, we all know how Tom finished the job. He convinced everyone who stopped by that this was the finest chore imaginable, almost a historic opportunity. Sooner or later, all the neighborhood kids were swapping their treasures just so they could have at that fence.

The Senate has before us in the Mitchell bill an enormous board fence.

VOL
140
PT
16
AG
12
—
18
1994
UMI

The question is, in this case, do we have to whitewash the fence, or do we need to construct another fence altogether? After examining the costs, new bureaucracies, mandates, taxes, malpractice provisions, and regulations in this proposal, this Senator is convinced that reconstruction, not whitewash, is the only practical solution. This proposal is simply not affordable, constructive, or acceptable to the American people.

The Congressional Budget Office, the umpire given the dubious task of judging the economic impact of the majority leader's health care plan, recently came to the same conclusion. It found that between 1997 and 2004, the subsidy program to cover 26 million people in the Mitchell bill would exceed $1 trillion. The annual cost of this premium assistance would average $100 billion annually, or approximately $3,850 per person currently without insurance. In only its second year of operation, this new entitlement program would be the third largest Federal expenditure behind Social Security and Medicare.

Assuming that these projections are correct is itself a risky venture. Keep in mind that actual costs for Medicare spending in 1962 were 10 times higher than estimated. In any case, such an announcement came during the same week in which the Bipartisan Commission on Entitlement and Tax Reform announced its dire predictions of the future under our present spending habits, including the following:

> In 2012, unless appropriate policy changes are made in the interim, projected outlays for entitlements and interest on the national debt will consume all tax revenues collected by the Federal government.

Of course, that did not include any of the new entitlements in this bill.

Yes, expanded coverage through subsidies will be expensive, but an even more important question is whether we would get our money's worth and a guarantee that this is not just another major expansion of government? We need to help make health insurance affordable to those in need, but another open-ended entitlement program is clearly not what the country needs or can afford. Difficult choices lie ahead, but the option of having the American taxpayer forking over more hard-earned pay is not an appropriate one. Everywhere but on Capitol Hill it is obvious that this option is not affordable. We can do better. CBO's analysis of the tax increases called for in the Mitchell plan raises serious doubts as to the plans level of acceptability to the American taxpayer. Of particular concern is the 25-percent excise tax on high-growth premiums. CBO found that the tax:

> * * * would be difficult to implement. In addition, its contribution to containing health care costs would be limited, and it might be considered inequitable and an impediment to expanding coverage.

What CBO has found is simply common sense. Those plans which currently are efficient and carry low costs will be penalized significantly more than those plans that are wasteful and expensive. In an effort to protect constituencies with Cadillac health care plans and to avoid a blatant tax cap, the majority leader suggests we punish those who have succeeded in keeping their costs low. CBO concludes:

> Such an assessment would increase premiums, and higher premiums would discourage participation in the voluntary period.

In other words, we may pay more and get neither cost control nor expanded coverage. That is not acceptable to the American people. These are tax increases which I believe to be unnecessary. And any tax increases certainly should have to be justified by achieving their intended ends.

We have often heard proponents of employer mandates make the following argument: Since our current health care financing system is employer-based, why not take it one step further and demand that all employers pay for health insurance and then give it a nice term like "shared responsibility." They neglect the obvious and vital fact that employers offer voluntary employer-based system insurance to attract and keep employees. That is like ignoring the difference between a draft and a volunteer army. It is not subtle; it goes to the very difference between market forces and Government mandates.

The results of our voluntary system have been impressive. In 1992, employers spent $252 billion for health benefits. Outlays for all health benefits have increased as a proportion of total compensation from 1 percent in 1960 to 7 percent in 1992. Even so, that is not good enough for advocates of employer mandates.

The goal of universal coverage in the majority leader's proposal rests on the false security of an employer mandate that would kick in 8 years from now and cover not only employees but their dependents as well. Although the mandate is claimed to be conditional on less than 95 percent coverage, it is actually inevitable due to another mandate: the one-size-fit-all benefits package. By forcing conformity to essentially one product, those employers who could not afford that product would simply opt out—increasing the number of uninsured.

The employer mandate does not affect the employer as one might imagine—it will be the employee who suffers. Even CBO agrees that:

> Economic theory and empirical research both imply that most of this increased cost would be passed back to workers over time in the form of lower take-home wages.

Moreover, the employee mandated share—50 percent—would amount to new payroll tax of up to 8 percent. How the individual mandate is enforced or monitored by the employer is a question the majority leader does not answer.

One needs to look no further than my own State of Washington to see the impact that employer mandates and mandated benefits packages will have on the job force. There small businessmen and women are preparing for an estimated 70,000 lost jobs by the time the State health care reform is fully implemented in 1999. While proponents espouse subsidies as a relief for small business, the reality is that most entrepreneurs do not care for assistance, do not believe that the funds will be there, and would rather go broke before taking their own tax money from the Government.

We must improve our current voluntary system by establishing purchasing cooperatives to ease the administrative and financial strain of finding health coverage for employees. Small businesses should have the same tax incentives to purchase health insurance as large corporations and be allowed to organize to their similar purchasing power. While some may argue that an employer mandate is a simple small step to universal coverage, this Senator simply does not accept the idea that we must trade jobs for health care reform.

While the new taxes, mandates, and costs of the Mitchell plan render it neither affordable or acceptable to the American people, it is the exceptionally large new role of Government bureaucracies weaved throughout the entire measure that alarm me the most. In its report, CBO acknowledges that:

> For the proposed system to function effectively, new data would have to be collected, new procedures and administrative mechanisms developed, and new institutions and administrative mechanisms developed, and new institutions and administrative capabilities created.

While the majority leader claims that this bill is based on a private system of delivery, his proposal creates no fewer than 50 new bureaucracies, including a National Health Benefit Board, State Risk Adjustment Organizations, Health Plan Service Areas, Prescription Drug Payment Review Commission, National Council on Graduate Medical Education, National Advisory Board on Health Care Workforce Development, Healthy Students-Healthy Schools Interagency Task Force, United States-Mexico Boarder Health Commission, Health Information Advisory Committee, Mandatory State-based Alternative Dispute Resolution, Compliant Review Offices per each area, and the National Health Care Cost and Coverage Commission, just to name a few.

Only after reviewing the duties and obligations of these new offices can one truly begin to understand the scope of radical change and expansion in the Government's role in health care we are contemplating. Some advocates of Government-run medicine believe that if you just "build it they will come"—

that somehow if you build an infrastructure of bureaucracies you can address all the needs of the people more efficiently than they can themselves. This Field of Dreams, however, is clearly a nightmare that should never be built.

CBO concludes with the following understatement:

> There is a significant chance that the substantial changes required by his proposal—and by other systematic reform proposals—could not be achieved as assumed.

In other words, these enormous and expensive changes may not prove positive.

As I have noted, this Senator is not anti-Government—I simply believe that Government must be limited and that empowered individuals can usher in positive change more readily than mandates and big Government. I subscribe to the theory Jefferson expressed when he wrote:

> I know no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion.

We can address the shortfalls of our current system without creating an unprecedented growth in Government to control more and more elements of our health care decisions.

As I stated earlier, meaningful reforms in our medical malpractice system are a prerequisite for my support of any plan. The current medical malpractice system serves neither legitimate claimants or defendants well and is a source of unnecessary expense and waste in the health care industry. Only 43 cents of every dollar spent in medical malpractice litigation reaches injured patients, while the price of defensive medicine may well add as much as $25 billion to our national health care spending every year. Comprehensive medical malpractice reform could save as much as $35 billion over the next 5 years by curbing premium cost increases and many defensive medical practices.

The rear of frivolous malpractice cases and real increases in malpractice insurance premiums is taking a toll. The Institute of Medicine concluded in 1989 that the traditional tort system is a slow and costly method of resolving obstetrical disputes and that it contributes to the disruption of the delivery of obstetrical care in this Nation, especially in rural areas. Almost one out of eight obstetrician/gynecologists has dropped obstetrical practice as a result of liability risks. One study found that increasing liability costs and threats have led 70 percent of physicians to order more consultation, 66 percent to order more diagnostic tests, 54 percent to order more follow-up visits, and 28 percent to perform procedures they ordinarily would have delegated to other medical personnel. For health care providers, a frivolous or meritless malpractice claim can lead to personal and professional ruin.

Considering that the Washington Post reported by last April 20 that the majority leader was inclined against including medical malpractice reform in health care reform, I was pleased to see a section dedicated to it in his proposal. Unfortunately, after I reviewed the sections—providing open-ended litigation, and an entire new source of remedies—I concluded that these provisions alone would be reason to oppose the entire measure.

Instead of limiting the waste that zealous attorneys bring to our health care system, the Mitchell plan offers endless opportunities for trial lawyers to seek more causes of action and deeper pockets. He proposes State-mandated alternative dispute resolution mechanisms that have not been proven to save significant ligation costs, but do keep lawyers employed. He proposes certificates of merit that unfortunately are as easy to produce as an expert witness. He allows for periodic payments and studies on medical negligence, medical guidelines, and enterprise liability. Finally, the majority leader proposes limitations on attorney's fees at a level which regrettably only reflect the status quo.

But an entire new section on remedies for claims disputes will bring a smile to every medical malpractice plaintiffs' lawyer in America. Under the majority leader's plan an entire new source and process for remedies is mandated on the States. Section 5502 dictates that each State:

> shall establish and maintain a complaint review office for each community rating area established by such State.

Throughout the remedies sections, the Mitchell bill ignores attempts to deter frivolous cases by providing for "reasonable attorney's fees, reasonable expert witness fees, and other reasonable costs relating to such action." Section 5505 provides new civil money penalties available from the Department of Labor.

On top of all that, complete judicial review in a court of law is available, as well as private rights of action, in case the responsible bureaucracies do not pursue certain claims. Essential community providers are provided civil and administrative causes of action for "failure of a health plan to fulfill a duty imposed on the plan."

In a bizarre attempt to blur the doctrine of separation of powers and preempt a court's discretionary powers, section 5540 provides that the U.S. District Court for the District of Columbia, which has original jurisdiction over constitutional challenges to the measure,

> may not grant any temporary order or preliminary injunction restraining the enforcement, operation, or execution of this Act or any provision of this Act.

In addition to these measures, the Mitchell provisions relating to discrimination include some unprecedented litigation opportunities that may render the entire health care system unworkable. It is worth restating the entire section. Section 1602 provides that:

> The Secretary of Health and Human Services, and any State, health plan, purchasing cooperative, employer, health program or activity receiving Federal financial assistance, or other entity subject to this Act, shall not directly or through contractual arrangements—
>
> (1) deny or limit access to or the availability of health care services, or otherwise discriminate in connection with the provision of health care services; or (2) limit, segregate, or classify an individual in any way which would deprive or tend to deprive such individual of health care services, or otherwise adversely affect his or her access to health care services; on the basis of race, national origin, sex, religion, language, income, age, sexual orientation, disability, health status, or anticipated need for health services.

The section provides further that the section will apply, but is not limited to, the determination of the scope of services provided by a health care plan, and the provision of such services and determination of the site or location of health care facilities.

This section would have two predictable effects that undermine the entire delivery of health care and many unpredictable ones that will be litigated endlessly. First, a provider would always be vulnerable to a lawsuit if it chose to deny care that it felt was inappropriate or decided on a course of treatment that was not preferred by the patient. The result is the formation of an even more costly health care system based entirely on defensive medicine.

Second, for the first time, discrimination based on health status, anticipated need for health services, language, income, and sexual orientation would be actionable grounds for Federal civil rights claims.

Instead, we should pursue caps on noneconomic damages at $250,000, several liability for noneconomic and punitive damages, periodic payments, the collateral sources rule, limits on contingent attorneys fees, statutes of limitation, and effective consumer protection. Instead of weakening the relationship between doctor and patient by encouraging malpractice claims, we should strengthen the relationship. Instead of leaving injured patients at the mercy of attorneys and the courts, we should provide mechanisms for quick and fair relief.

The medical malpractice reform provision in the Mitchell bill provide clear examples of why the American people want us to proceed with caution in health care reform. They will make changes for the worse, cost more, and cripple a legal system already under strain from too much litigation.

VOL 140 PT 16 AG 12 — 18 1994 UMI

My greatest concern is that the Mitchell plan will leave the people of the State of Washington paying twice for health care reform either through the new taxes, mandates, regulations, or additional layers of bureaucracy. Of particular concern is the tax on growing health care premiums that punish States like Washington which now have lower health care costs than average that will inevitably rise under community rating. The 1.75-percent tax on all plans does not spare Washingtonians who have already paid taxes for health care reform. As our State plan is implemented, this Senator will insist that the cumulative Federal and State changes ultimately provide changes that are positive, acceptable, and affordable to the people of Washington State and do not charge them twice for the same services.

Regrettably, all the whitewash in the world will not cover up the taxes, mandates, and bureaucracies. We need to build a different fence. Fortunately, there are other fences from which to choose.

In the next 10 days, my colleagues from New Mexico, Georgia, and elsewhere intend to introduce a Bipartisan Health Care Reform Act similar to the Rowland-Bilirakis measure in the House of Representatives. Unlike other proposals, the American people can at the very least trust its title.

This market-based, voluntary proposal builds on wide areas of agreement among members both Liberal and Conservative, Democrat and Republican. It focuses primarily on that which is broken in our health care system.

Specifically, it includes health insurance reforms so that employees won't lose coverage when they switch jobs. It limits preexisting condition exclusions and provides additional safeguards against harmful insurance practices. Employers would be required to provide, but not pay for, at least two options—a standard coverage and one high-deductible plan. Medical savings accounts would also be an option.

Small employers would be enabled to gain the same purchasing power as large corporations for the purpose of purchasing affordable health insurance for their employees. Medical malpractice reform, clarification in antitrust laws, fraud and abuse control, and administrative simplification aim to lower wasteful health care spending. The cost of the plan is estimated to be approximately $140 billion over 5 years, a fraction of the majority leader's proposal. Savings in Medicare and Medicaid are intended to make the plan budget neutral.

Quality and choice are preserved under this measure. Employers will not lay off employees due to coercive mandates. It does not trade jobs for health care. It helps those in need get assistance through limited subsidies. The entire spending side of the proposal is subject to a fail-safe mechanism that ensures an affordable outcome. This is a bare-bones, market approach for the 1990's—not a big government, taxpayer financed boondoggle of the 1960's.

Will it solve all the problems in our health care system overnight? Probably not. It does not pretend to. Is it revolutionary or radical? No. It builds on the successes of American medicine. It recognizes that market forces in the health care industry are moving more rapidly than we can respond. It recognizes that open-ended entitlements and employer mandates are not the legacy we want to leave our children.

I am anxious to see the cost estimates for this proposal from the Congressional Budget Office. Meanwhile, my impression is that it is the kind of health care reform that the American people will find to be positive, acceptable, and affordable. In fact, this proposal seems to build on the Better Access to Affordable Health Care Act of 1991 introduced by then-Senator Bentsen and Representative DAN ROSTENKOWSKI, which I cosponsored in the Senate.

The sponsors of the Bipartisan Health Care Reform Act truly reflect the concerns of the American people. They are fiscal conservatives devoted to improving the health security of American families. I trust their motives, commend their dedication for positive changes in health care, and look forward to hearing their arguments.

While advocates of more radical health care reform have called for immediate and revolutionary changes in our health care system, this Senator advises his colleagues to take a different course. Now is not the time for hurried consideration or blind faith in complex redesigns of something as important as our health care system. Now is the time for humility, not hubris.

As Adam Smith wrote in the Wealth of Nations:

> It is the highest impertinence and presumption, therefore, in kings and ministers to pretend to watch over the economy of private people, and to restrain their expense. They are themselves always, and without exception, the greatest spendthrifts in the society. Let them look well after the own expense, and they may safely trust private people with theirs.

Now is the time to trust the American people, who are making it overwhelmingly clear that radical exchange in their health care system is not their desire. The cameras are on and they cannot be fooled. They know that "shared responsibility" means mandates. They know "contribution" means "tax." They know that a product of a conference committee that rejects the consensus of a Chamber should be rejected. More than ever, and some for the first time, are watching because they are rightly concerned that we will do the very harm they want us most desperately to avoid.

Mr. President, I urge my colleagues once again to heed the words of my constituents for whom the future impact of some types of health care reform is happening now. Kim Ward, a small business owner in Kirkland, WA, offers the following advice:

> If there is one thing that I could pass along to the Senate it would be—take your time. It is important that the things Washington State is currently doing * * * be done prior to passing any law. If Washington State had talked openly about health care, its effect on business and their employees, the outcome may have been different than the law passed. Currently, everyone is trying to figure out how to fix the current law.

Mr. President, you and I both know that you can not fix comprehensive health care reform once it passes and impacts one-seventh of the Nation's economy. We have only one opportunity to do health care reform, and we must do it right or not at all. Right is more important than fast.

Mr. President, most of this I wrote or thought about before the remarks by the majority leader early this evening. Those remarks and my own I think are even more relevant at this point. This Senator is absolutely convinced that the proposal before us, all 1,400 pages, can only be passed if the people of the United States do not know what is included in it. They do not want the radical changes and governmentalization of this proposal. They want it and its alternatives thoroughly discussed. They want it discussed in the light of day, not in the middle of the night. They want to be able to have an influence over the major elements in that debate on amendments, on proposed changes, on total and complete substitutes.

Overwhelmingly, their advice to us is to make certain that we get it right the first time, not to pass something that we do not understand and they do not understand. If it takes another year to do it right, the American people want us to take another year. If we can take some steps forward now, if we can do some things to improve our health care system, they wish us to do it. But they do not wish the Senate of the United States, which alone of the bodies of our Government has the power, the authority, the right, and the duty to deliberate carefully, to pass this bill by the end of this week or the end of next week before the American people understand it at all. They want us to do this job right, and it is far more important to do it right than to do it fast.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, before I yield the floor to the Senator from Texas, may I make an observation as follows? Other than as a very small child when my grandfather worked for the then Great Northern Railroad and used to take me on trips to the great Pacific Northwest, I think about 1984 was the very first time that I returned to Washington State. I was there at the invitation of the then junior Senator who just finished speaking. I was there to talk about health care, and I was there to listen on the issue of health care because he was persistent that I do. I was impressed by the time and quality of the people in the State of Washington to health care and health care reform, and especially the quality of the commitment of the Senator who has just finished speaking.

I have not yet in this debate heard an explanation of what is at stake in health care reform that has been quite as complete, quite as thorough, and quite as on the point than the one we just heard.

I have welcomed the work of our colleague from Washington in everything that we have done in health care reform. And as he has pointed out, he has been in the middle of the debate in an ideological or philosophical sense. He participated with us though the mainstream having worked with Senator DOLE on his bill and now having expressed an interest in the similarities all of these bills have to what is in the House bill. I think out of that should come a message not only to the people of America but to the people of this Chamber as to where the consensus lies if we are to do health care reform this year.

I would suggest that the majority leader, and others in a position to do so, could do worse than open up the CONGRESSIONAL RECORD tomorrow morning and read the statement by our colleague from Washington State, and take his advice. He has been sent here by the people of that State because they are trying to do reform in the State of Washington. I think they passed legislation, as he pointed out. But they, as the people in Minnesota, recognize that you cannot do this a State at a time. We need a set of national rules by which health care markets can work. As he has already pointed out, it is impossible to believe that we need this much ruling from the National Government.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I thank my dear friend and colleague from Minnesota for those kind remarks.

As he knows, I have relied very greatly on him for advice during the course of not just this debate this year, but, as he knows, for the last 2, or 3, or 4 years during which we have tried to work on this issue. I suspect he shares the view that every time we work out a conflict and we have correctly answered one question, we find two or three other questions popping up. And the more we learn about this issue the more humility we have about it, and the more we want to make sure that we are absolutely right with every step that we take forward because we are dealing with perhaps the most profound of the concerns of each of our constituents.

Mr. DURENBERGER. Mr. President, I yield such time as she may require to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, the health care industry constitutes one-seventh of our Nation's economy. That cold fraction represents millions of jobs, and the livelihood of millions of families in our country. But even more sweeping is that every American's quality of life is at stake in this debate. The excellence and availability of health care determines the quality of American life.

I have heard so many moving stories of people struggling with illness, and I want to mention some of them. A Florida man employed seven people in his furniture store. Over the last few years his health care premiums have increased dramatically. Last year, he learned that he could no longer insure all of his workers because two of his employees had become high risk due to their older age.

A nurse here in Washington said that when a little boy asked her to sit with him during a chemotherapy session she had to leave that little boy alone to go to a mandatory class on how to fill out a form that had no direct bearing on the health of the children she was treating.

An elderly couple in New Hampshire had to sell food out of their refrigerator to pay for their medicine. Another woman had to quit her job and go on public assistance in order to afford expensive treatment for her sick son.

Another couple had a sick child, and their only source of insurance was one of their parent's employers, forcing the employer to either let that employee go or raise the insurance premiums on all 20 of that firm's employees by $200.

Do these stories sound familiar? They are all true, and they are all tragic. And they have all been told by the President of the United States in an attempt to incite a revolution that would cause a radical change in American life. These stories are a legitimate cause of action. They call for responsible actions, not impetuous experimental upheaval.

These sad stories should not be used to argue that a good but imperfect system should be destroyed. They should be used as an incentive to perfect the system.

Let me put this in perspective. Eighty-five percent of the American people have health care coverage, and most are happy with it. Of those who are uninsured, almost half will be covered within four months, and every plan introduced in this Congress would allow them to have continuous coverage. President Clinton, Senator MITCHELL, and Congressman Gephardt are asking the question, how can we bring the other seven or eight percent into the system? I think the better question would be how can we bring the other 7 or 8 percent into the system without harming the quality for the 85 percent now covered?

These are two very different questions, and they produce very different answers, as you can see, when you compare the Mitchell plan to the Dole plan.

The Clinton, Mitchell, and Gephardt plans have all a universal feature. They put universal coverage above everything, including quality of care. What will our universal coverage buy us under these systems? Is it the Canadian system, the system where you must wait 6 months for a heart bypass operation, 9 months for cataract surgery, 3 months for a mammogram?

What about the woman who wrote of her experience having a baby in Canada? There was only one anesthetist in the hospital. Since there was an emergency surgery in progress, when she went into labor he was not available. By the time the emergency surgery was over, it was too late to help the woman having the baby.

In America, any woman, regardless of coverage, can have anesthesia if she wants it when she is having a baby. That is because we have the best quality available.

I experienced this firsthand when I was a volunteer, a Red Cross nurse's aid, at Ben Taub Hospital in Houston, TX. Ben Taub was the charity hospital. I worked in the labor room taking their blood pressure, holding their hands, trying to make the women in labor more comfortable before they received anesthesia and went into delivery. The care they got was excellent. And it made me proud that in America everyone would be treated so well.

Mr. President, supporters of the Clinton-Mitchell plan say they want universal coverage. That is a noble goal and one that I share. But let us look at the method for achieving that goal.

The most important feature is mandates—employer and individual. What is wrong with mandates? Well, for one thing, they do not work. The Government of Canada mandated universal coverage, but Canadians do not have it. The government of Hawaii mandated universal coverage, but Hawaiians do not have it. Now the Government of the United States is debating a mandate and even its biggest proponent, President Clinton, admitted recently that it will not provide universal coverage here either. So why would we tear down our system for a goal of universal coverage when we know it cannot be achieved?

The President talked about employer mandates, to make everyone who is not

VOL 140 PT 16 AG 12 — 18 1994 UMI

an employer feel safe under the Clinton-Mitchell plan. But no one would be safe. An employer mandate is really a tax on employees. Many small business owners have told me that it will affect what they can pay in wages. The legacy of the Clinton-Mitchell plans would be more unemployment, less income, and less output.

The American people know what is best for their own families. If we make health care coverage accessible, affordable, and portable, those who have coverage now can keep it, and more will be able to come into the system and buy it. The American people are sick and tired of having decisions made for them by the Federal Government.

The individual mandates in this bill are onerous because the individual will be required to either contribute to an employer-offered standard benefit package, or individually purchase and fully pay for that standard package. The choice of what is best for you and your family will be taken away by this Government mandate.

Why are the Clinton-Mitchell bills so unresponsive to our Nation's needs? I think the answer is that the administration has failed to target the problem in our system. A faulty diagnosis leads to a harmful cure. So what are the real problems? I believe the major one is underinsurance. Eight to 15 percent of Americans have no insurance. Many have partial insurance that excludes serious, often expensive, major ailments. Both of these groups face severe financial costs if their conditions get worse. That is the major problem: not enough insurance.

There are other problems in our system: a malpractice explosion, too little prenatal and preventive care, and doctors and hospitals that are too far removed from rural Americans. We will be discussing these and others over the next couple of weeks, and I will support bills and amendments to address these problems. But the simple problem is access to care and access to insurance.

Before we rush to recommend a cure, we should examine the healthy parts of our system and make sure we protect those healthy parts. The Hippocratic oath that doctors have taken for centuries says, "primum, non nocere: first do no harm." So we need to look to our strengths and make sure to protect them.

In spite of its flaws, our hope is to improve the system. The United States does have the greatest health care system in the world and the finest doctors in history. We have the most advanced medical technology, the best drugs, the most intense research, and the best medical training. People from every other nation on Earth come to America for serious medical treatment because they know it is the best.

Our colleague from Georgia, Senator PAUL COVERDELL captured this truth a few months ago when he said, "If you are a cancer survivor, it is because, by the grace of God, you live in the United States of America."

Many of our colleagues have related experiences with constituents during this debate and I had one, too, that illustrates this point. I was at a town hall meeting in Irving, TX, and a beautiful, poised young woman, who was the picture of health, revealed that she had just survived a colostomy, another grave ailment, and she must wear equipment 24 hours a day for the rest of her life. None of this was apparent. She looked like any other person in the room, except that she was drop-dead gorgeous. I asked her to come to the front of the room so everybody could look at her as a walking symbol of the health care system in America.

Good quality also requires competition. That is the secret of our economy and why we are the strongest Nation on Earth. That is why we have been able to develop the best health care system in the world. Competition works throughout the system. Students compete to get into medical school, and the brightest are the only ones that get in. Medical schools compete for those students, and the results of this competition is outstanding medical training. Doctors compete for patients, hospitals, and HMO's compete for doctors, and again the system rewards quality.

This is not the first time that a nation built on competition has seen one segment of its society try to abolish competition. But it may be the most dangerous.

Why do you think most companies now offer health insurance? It is not because of a government mandate. Companies compete for workers. They offer health insurance because it is a good way to attract them. If it is customary for many Americans to purchase health care through their employers, it is not surprising that you will find that many uninsured people are among the unemployed. The latest estimates tell us that 58 million people are uninsured for an average of less than one month in a year. Half of all uninsured spells last less than 6 months, and three quarters last for less than a year. So among the chronically uninsured are those who do not file income taxes and do not have mailing addresses. We all know that if they walk into an emergency room, they will get care. But as for insurance, no version of the Clinton bill will cover them, and everyone knows it.

I represent a State that is largely rural. My constituents and their farms and ranches in the small towns across Texas are concerned that they have access to regular care without the burden of traveling to one of our large cities. The Mitchell bill has some good provisions aimed at helping rural Americans. But it also needs other parts to be added to really help rural America.

The Mitchell bill lacks complete deductibility of insurance premiums for self-employed citizens. It lacks medical savings accounts which would help everyone, but especially those in rural areas. It hurts rural small businesses by outlawing their self-insurance. It would punish good insurance plans that seek to expand into rural areas.

The Mitchell bill also contains massive new taxes. There is a 1.75-percent tax on every American health insurance plan. The Mitchell bill levies a 25-percent excise tax on high-growth plans.

If you had any doubt about claims that the Mitchell bill would harm quality, lay them aside. It taxes quality. If the cost or value of a benefit plan exceeds the target growth rate, that plan will be taxed. So if you go beyond the Federal cookie-cutter benefit plan, a confiscatory 25-percent tax is levied. Studies show that taxing benefits does not control health care costs. It simply shifts more of the Nation's health care bill onto the middle class—the middle class. They seem to get it every time.

Benefits have always been designed to attract employees. But the Mitchell bill says loudly to employers: Do not be generous with your employees or the Government will punish you. This is a step backward from health reform.

Let us look at some projections about Clinton-style health care in the future. Last winter a staff report from the Joint Economic Committee projected that, in addition to the new taxes it would need now, it would run out of money so fast that Congress would face the following choices by the year 2000: Increase the deficit by $426 billion, or a $3,500 tax on every family in America, or a 15-percent payroll tax on every business in America, or rationed health care.

None of us wants to face that kind of choice, and we can stop that choice from happening today and this week and when we pass the bills that we are taking up right now and will be debating for the next few weeks.

If you look at the taxes and mandates in this bill together, you will see the full burden of the Clinton-Mitchell health care plans on business. The Heritage Foundation found that in the first year of mandates, Texas companies alone would pay an additional $5.6 billion.

I want to read a few letters from some small business people that wrote me about their concerns.

Danco is a small air-conditioning and refrigeration business in Waco, TX, employing six people. Kim Obenoskey says:

> We have been in business for 10 years. Presently our third largest expenditure following only the direct cost of labor and materials is the cost of insurance. We do not offer health insurance coverage to our employees because it is an expensive cost that has escalated at unpredictable rates.
>
> What we do not need is mandates on employers. We spend enormous amounts of money on government regulations at present. This is money we could and would be compensating our employees with.
>
> I do hope that Congress can see straight enough to know that there ought to be a guide not a dictator. The human race is not yet completely incapable of getting out of bed in the morning without government to tell us which side is best suited to our needs.

CPI Systems in Houston, TX, R. Bailey—no relation—writes to me:

> As a small business owner, I do not want the federal government to control or participate in any health care program. Any program or re-vamp of the existing health care system needs a deliberate view of all existing benefits. Not just any cobbled up program to meet a calendar deadline.

From S & S Enterprises in Hughes Springs, TX:

> DEAR SENATOR: Regarding President Clinton's plan for health care reform: I am convinced, as the owner of a small business, that enactment of such legislation would seriously cripple, if not kill, the operation of my business, thus eliminating employment for myself and my ten (10) employees.

I hope these figures and these letters put the problem into perspective, and by perspective I do not mean ignoring part of them. I share the goal of making insurance accessible to everyone. But there is a bill that will give access without harming our economy or our liberty, and that is the bill offered by the Republican leader.

Mr. President, the Dole-Packwood bill will make insurance portable from one job to another. People would no longer need to fear changing jobs or losing their job since they could take their policy with them.

Mr. President, the Dole bill, also called the American Option, will outlaw discrimination against the sick, the injured, and the dying—the very people who need health care and insurance the most. It will prohibit insurance companies from excluding preexisting conditions from their policies.

The American Option will create medical savings accounts, similar to IRA accounts, so that people can save money tax-free for their medical needs. Six States have changed their tax codes to accommodate medi-save accounts. They do not pretend to provide for catastrophes. But, by giving Americans the ability to save for their minor medical expenses, we can bring competition back into that system and bring down costs the real way. Medi-save accounts give patients the ability to use money that would otherwise be spent on insurance company overhead. The Clinton and Mitchell bills will not allow medi-save accounts.

Time and time again, Mr. President, the Clinton administration has used horrible stories to sell its plan. Yet the stark truth is that the Dole plan would prevent those horrible stories, and the Clinton plan would bring new horrors down on the heads of the people he has brought into his press conferences and all other Americans as well.

Our system is strong because we have good doctors. They are well-trained, they can choose a specialty, and they can choose the type of practice in which they can excel, and they can offer their patients their best professional advice, plus the security of a stable doctor-patient relationship.

Americans take their liberty to choose doctors for granted. This relationship, and doctors' freedom to offer the treatment they think best, is as old as the medical profession, and quite frankly, it is what makes medicine a profession. Certainly, if patients have concerns about one type of treatment, they can raise them with their doctor and the two of them can discuss the options confidentially and agree on a choice.

Mr. President, the Clinton and Mitchell bills insert the cold hand of Government into this private discussion and tell doctors and patients what sort of care will be covered and what sort will not. There will be an engineering from Washington, DC, engineering of the type of care and which doctors can go into a specialty area. The National Health Care Cost and Coverage Commission, the National Health Benefits Board, the Commission on Workers Compensation Medical Services, and the National Council on Graduate Medical Education are just some of the new bureaucracies that Clinton and Mitchell will create.

The administration said it was going to create new jobs in our country. Now we know what he meant—new Government jobs, new bureaucracies.

These bureaucracies will be powerful, and the power that we will give them now resides in the American people. It will be a massive takeover of the free enterprise system and a transfer of personal liberty to Big Brother in Washington.

When you turn to the Dole bill, you will find that it establishs no national health boards, no other Government agencies, because the Dole bill leaves those choices to doctors and patients. If we pass the Clinton-Mitchell type bills, we will have all of the new bureaucracies that I listed. If we pass the Dole bill, we will have none. A major problem in our system now is the growing crisis in medical liability. Medical malpractice suits have inflated the cost of health care delivery in the United States and it cuts access to patient care. Yet the only bill before us that seriously addresses this problem is the Dole-Packwood bill.

On this issue, as on so many others, the States are ahead of Washington; 21 States now have some limit on damages, and 12 States have limits on attorneys' fees.

The Dole bill caps noneconomic damages at $250,000. That is exactly the cap the State of California already has. But the Clinton and Mitchell bills not only fail to provide a Federal limit, but they also preempt the laws that are now in place in the State of California and every other State that has been able to rein in malpractice damages and the economic harm they cause.

I would like to read a few letters from individuals that I have received against the Clinton plan.

This is from Harry and Anita Kattegat from Grovetown, GA:

> By now I guess that you can imagine why we are so concerned about the current Health Care Reform efforts. In its rush to "fix the system," Congress must consider the millions of Americans who have insurance and how they will be affected by some of the proposed changes. Let's focus on the people who really don't have any health care, and not destroy or downgrade what the large majority of Americans have.
>
> Keep government out of the health care system. We must maintain "Freedom of Choice" and not resort to some form of health care rationing.

And from Jayne Hover, who signs it "Jayne Hover, Citizen," from San Antonio, TX:

> The issue of health care has greatly disturbed me. I totally agree that the current system is not efficient for every individual. But I strongly disagree that the answer is a federal system. To repeat what so many of you are saying on this issue. * * * Show me even one area that the Federal Government has taken over and done better than the private sector.
>
> As you have expressed your frustration over not being in closer contact with the people back here in Texas, I too am frustrated that we, the American people, are not being listened to in Washington, DC. I am amazed that folks who have been placed in office, I believe, to express the wishes of us who can't go to Washington would choose to not express the wishes of their people whom they represent. * * * It is regrettable that such an attitude prevails in Washington, DC. I am asking you as my representative * * * to please hear my voice and do everything you can possibly do to stop the health care profession from coming under the control of Washington. The amazing thing to me is that I have heard people say that they know the way things are now isn't perfect, but not one person I speak to is in favor of the federal government taking it over. Is anyone listening?! Just because a system is faulty doesn't mean big government can come in and make it better. We aren't asking Washington to do that! Who is?! There are clinics all over the United States. Walk into one and ask yourself if that's the way you want to see a doctor in the future. Right now it's bad for some folks (and that's not good), but if this program gets passed, we will all have equal care—equally bad care!

And this letter is from Austin, TX.

> DEAR SENATOR HUTCHISON: I am writing to tell you I am worried, no, more than worried, scared of what may happen to us if this Clinton Health Plan (or one like it) should be passed. * * * I am 68 years old, my husband is 70 years old. He is retired military enlisted. I have many health problems, but all are under control with medication and the supervision of a good doctor. I had hoped to keep him until I die. If this health plan should pass, I may not have that choice. * * *
>
> I know your job is not easy and I do not presume to tell you how to do it. I can only ask that you watch carefully that they don't push something through in a hurry and we will all suffer in the end.

VOL 140 PT 16 AG 12 — 18 1994 UMI

From Mrs. Dorothy Tillman.

And this letter, from Hurst, TX, Natalie Cooper.

Though I am just one of many residents in Texas, I ask that you please consider my experience with our health care system as you plan to influence its future. * * *

I am a 23-year-old resident of Hurst who formerly pursued a music education degree at Baylor University before becoming seriously ill. I have been disabled for the last two years of my life and ill for the last five. I firmly believe I would not be on the road to recovery if I had been forced to receive care under the proposed health plan. * * * Instead, I would be on the road to death, if not there already.

I have been through a series of tests and diagnoses ranging from multiple sclerosis to my illness being a figment of my imagination. * * *

Yes, my insurance, like so many others, was canceled. Social Security denied me disability, and the medical costs have consumed my husband's and my financial resources. Our insurance system does need improvement as does its availability, but dooming our successful medical system to one of socialistic demise is outrageous!

The Clinton plan isn't about health care. It is about the lifeblood of America—Freedom! To know that such atrocities are even considered in this country is frightening beyond that which words cannot describe.

Mr. President, I would now like to address the charge of gridlock, which the President's supporters have frequently leveled against the Republican Members.

A study of the debate during the writing of our Constitution makes clear that the reason the legislative branch of Government was created was to consider closely, and debate carefully, legislation that profoundly affects our Nation. We are supposed to weigh the values and interests of the people we represent and do what we think is best for them. We were not elected, and this Chamber was not constituted, to be a rubber stamp for the President, no matter how impassioned his challenges.

A great legislator, Edmund Burke, said, "Where the great interests of mankind are concerned through a long succession of generations, that succession ought to be admitted into some share in the councils which are so deeply to affect them." Think, therefore, of the generations after us who will build businesses and raise families in the Nation we leave them.

If we think the Clinton-Mitchell plans are dangerous, and I do, then we are required by our oath of office not to pass such laws. If we think we have better ideas, and I think we do, then we must propose them.

And if our proposal is not passed and we face a choice between passing no bill or passing a bad bill—I believe it is my duty to object to passing a bill that I think will hurt future Americans.

If a good bill must wait until next month or next year, I will do everything I can to make sure that it waits.

No amount of bullying from the President will persuade me to sell my constituents into a world of long lines, new taxes, and bureaucrats rationing treatment. The President can rail against us from a bus, but I will not abandon my countrymen's liberty to a National Health Board.

Mr. President, the American people do not want a Government-defined standard benefits package. They want to choose their health care in the marketplace.

Our forefathers who founded this Nation were independent and self-sufficient. The Clinton-Mitchell plans would take away that individual choice and decision. While universal coverage is a worthy goal, it is also an impossible one. Hawaii and Canada have proven that. On the other hand, universal access is not impossible. Let us give the American people choices, not mandates. Let us give them the American option.

Mr. President, a few weeks ago we learned that the Vice President of the United States holds dinners for Washington luminaries to discuss Metaphor. Not metaphor in the sense of a correlation between literature and life, but succumbing to the notion that theories of subatomic physics can explain human social interaction. I find this not just amusing, but also illuminating. It may be a Washington disease to try to explain human action in other terms, and I think it is a good bet that the designers of the Clinton plan have been dining with the Vice President.

Mr. President, we are being asked to spend the next 2 weeks voting on a rapid series of detailed amendments to an enormous bill that will capture one seventh of our economy. We are taking up a plan that adds billions to the deficit, is anti-liberty, anti-small business and pro-bureaucracy, and we are trying to whip it into a good reform in 2 weeks.

Mr. President, when you have a horse with four broken legs, you do not ride it. You put it out of its misery and find a different horse.

I cannot stop this charge by myself. One of the oldest moral lessons in our civilization tells us always to act as though what we do makes a difference, even when we have no assurance that it will. That is why I stand here on the floor of the Senate opposing the efforts of the President of the United States.

We owe it to our Nation to make another choice. And there are really two options before us. We could put the clever commercials off until next year, and then begin the debate anew with a clean start and plenty of time to deliberate and study what we have learned during this Congress. Waiting, and building on what we have learned, would be far better than hastily passing a bad bill.

Or we can pass the bill offered by the Republican Leader. It is a good bill. It will provide access to affordable insurance for every American, rich or poor, young or old, sick or healthy. It contains sensible reforms and preserves liberty and quality. If its turns up a few weaknesses after a couple of years, we can address those with future legislation. But passing the Dole-Packwood bill will not put our growth and our security at risk. That is the choice I advocate today.

If we approve the Clinton-Mitchell approach, we enter a nightmare system of Government coercion, rationed health care, new taxes totalling $100 billion dollars, special punishment of Americans who have made sacrifices for good health plans, intrusion into the doctor-patient relationship, loss of jobs, reduction of wages, and harm to our Nation's fiscal, economic, and medical health—a harm, Mr. President, that can never be reversed.

We can reverse bad tax increases and we can reverse bad regulations, but, Mr. President, how can we put a broken health care system back together when the quality is gone? It would be like patching a broken egg.

President Clinton can go on television and tell truly sad stories from which he draws false conclusions. He can call those of us who oppose rationing, and mandates and new spending and new taxes and government control of health care, obstructionist. He can practice whatever desperate measures he wants to make radical changes in American life, but I will not yield.

Henry Wadsworth Longfellow, our great American poet, said that "We judge ourselves by what we feel capable of doing; others judge us by what we have done." I submit to my colleagues that we are capable of expanding access to health insurance for those who lack it, without consigning those who are insured to Governmental control, and without harming the quality of care, our economy, our liberty, our medical training, or research. If we pass constructive change like the Dole bill, then our grandchildren will look back on our choice with gratitude, and will be able to judge us by what we have done, and to believe that our course was wise.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota, Senator DURENBERGER.

Mr. DURENBERGER. Mr. President, I have a brief comment. Of course I do not know that I agree with my colleague from Texas about the possibility of putting health care reform off until next year. I hope we would do it this year. But I must say and must reinforce what she said about the importance of doing it right. I think that is the bottom line in her presentation.

Not only are we talking about one-seventh of the economy, we are talking about a system in which 50 States—some part of 50 States have been sending us messages and signals for a long time about the need to do national reform so they in their communities can

respond. I do not think we are going to change the system if we found we have made a mistake—we are not going to change it.

The other thing I appreciate her reminding us of again, I just thought of this in the last 24 hours or so and was reminded of it an hour or 2 ago, this is not simple work we are doing. You do not just pick this thing up and pick through it and find your favorite solution. I recall President Clinton, when he came to office, promised he would do health care reform—would have a bill up here in 100 days. The bill did not get up here until almost 300 days after he made that statement. Why? Because he was lazy? No. Because he lacked commitment? No. Because it is a very, very complex issue. It is very difficult.

So no one should be too surprised, even though we have sort of been at this issue in one way or another, that on the floor of the Senate, a lot of us on both sides of the aisle who have not been involved in one or the other committees, want to spend some time not only reading the bills but discussing some of the principles that are involved, because they are of such critical nature.

So I compliment my colleague from Texas for that contribution and for all of the contributions which she has made and will continue to make to this effort.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota, Senator DASCHLE.

Mr. DASCHLE. I will yield such time as he may consume to the Senator from Nebraska and then I will yield to the Senator from West Virginia.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska, Senator EXON.

Mr. EXON. Mr. President, before I make the remarks that I am about to make, I would like to repeat what I told the Senate Friday last when I discussed this matter. I said then, "I come here with rancor to none, with accusations against none, with an understanding of the passion that grips Americans and Nebraskans on this health care issue, and with the understanding of the strongly-held views by my colleagues of all persuasions."

I go on to say that I rejected the President's bill some time ago. I was looking at the other bills that are before us. I hope we could reach compromise. I pleaded for debate that would be informative, as truthful as possible, and not to get off on tangents.

I have been listening to the Senator from Texas. There are several things I think need correction. While I would say that there were many good remarks made by our colleague from Texas, in the remarks she has just finished, once again the Senator from Texas has been the typical case of several of the presentations made on that side of the aisle. They talk about mandates, mandates, automatic mandates, mandates. That is a scare tactic.

The representation of the mandates in the Mitchell bill—that I have not agreed to support—but I am looking at that bill and others, trying to be objective. Let us, once again, set the record straight on what mandates are in the Mitchell bill. The Mitchell bill has no mandates in it at all. It simply says that if the bill does not reach the goal of 95 percent coverage by the year 2002, then the board or commission would make recommendations to the Congress as to how we would reach that goal.

The board or commission at that time would not be unlike the Base Closure Commission, which makes recommendations to the Congress, and we are all familiar with that. It is very similar in nature.

It makes recommendations to the Congress to as to what we have to do, now that we have not met the 95-percent coverage that we hope we will meet at that particular time. It then goes on to say that if the board makes recommendations—and there is no assurance that the board would put mandates in there—to the Congress, and then if the Congress ignores the Board, takes no action whatsoever, then and only then would the mandates, that 50 percent of the cost by the employer and 50 percent by the employee, only then it would kick in.

I would simply emphasize once again that before mandates could go into effect there would be ample time, ample reason, every opportunity for either the House of Representatives or the U.S. Senate to step in at that time and say we are not going to have any mandates. So the mandates, way into the future on this bill, would only take over if the Congress of the United States fails to take action. But even at that time, I would point out that Senate and that House could overturn the mandates by a simple majority vote.

So mandates have been blown all out of proportion, as if they were the same mandates in the original Clinton bill, which they are not.

I also have heard some statement that we have a competitive system in the United States of America. We sure do. It is a competitive system. I agree, we deliver good health care to those who have coverage. But it is not good for all the citizens of the United States. Competitive system? It sure is. But I would simply say that too many people on both sides of the aisle are overlooking the fact that the Mitchell bill, the Dole bill, the Moynihan bill—and there are others—are trying as best they can to address the matter of costs. We have a competitive system but the costs are going right through the roof.

Just one example of that. Certainly the people of the United States who pay premiums monthly for their health care recognize that they are reaching a point when they cannot afford to pay for what they have. Medicare and Medicaid cost the U.S. Government $9 billion in 1970; $137 billion in 1990; and it is projected to go to $458 billion by the year 2000. We have to do something.

So let us continue to talk in a fashion that is reasonable, not making false claims and accusations as I indicated in my speech Friday, but to see if we cannot come to some kind of compromise and bring us all together.

There were statements made about the Canadian plan. I am not a supporter of the Canadian plan, that is a one-payer, socialized system. But I have talked to many Canadians that like their plan very, very much. My wife, when we were in Canada one time, went to the hospital under the Canadian system. We were treated very well.

The Canadian system is not as good as ours and the Canadians know that. They have never had as good a medical system in Canada as we have here, and we can be proud of that.

But talk on the floor of the Senate that seems to try to relate whatever failures there are with the Canadian system—and there are some—as part and parcel of what we will have, the same coverage like that in America if we pass the Mitchell bill, is nonsense. There is no real resemblance between the Canadian plan and the Mitchell plan. They are totally different. And I think it is not fair, it is not proper to try to use those kinds of tactics and statements, because I think they tend to confuse the issue rather than address it squarely.

I say again, in closing, that I am looking at all the plans. I think there are some good parts in all of the plans. I am not committed to vote for any one. I am going to see what amendments are put on to control the costs, above everything else. I cited the costs on Medicare and Medicaid. If those costs are high, what do you think has happened to the premium of Mr. and Mrs. John Q. Public?

We are trying to address costs. I have not decided yet which one of the plans best controls costs, or would continue to provide the health care that we want and expect and are going to have in the United States of America.

I simply say, Mr. President, that I hope that we can talk about these things objectively and fully understand some of the basic principles of the Mitchell plan and forget talking about mandates, automatic mandates. They are not in the bill, and we should have a clear understanding of that.

I thank the Chair, I thank the Senator from South Dakota. I thank my friend from West Virginia for allowing me to go first.

Mr. DASCHLE. Mr. President, let me thank the Senator from Nebraska for

VOL 140 PT 16 AG 12 — 18 1994 UMI

his clarification and for, once again, drawing attention to the fact that there has been a good deal of mischaracterization about the Mitchell bill and about many of the provisions in several of the bills that are currently pending before the Senate.

Obviously, that is one of the purposes of this debate: To be able to sift through fact and fiction, to be able to lay straight the mischaracterizations, the misinformation, and he certainly has contributed to that this evening. I appreciate his contribution a good deal.

At this time, I yield to the distinguished Senator from West Virginia such time as he may consume.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank my very dear friend, the Senator from South Dakota, who is just pouring unlimited energy and integrity into this battle. I note, just before I make my remarks here, sort of a nice irony and circumstance, that the two gentlemen on the Republican side of the aisle who are here—Senator DURENBERGER and Senator CONRAD BURNS—are very, very dear friends of mine, people that over the years I have been able to work with very easily and very well on very important matters.

That gives me comfort, Mr. President. It gives me hope and comfort as I look to these coming weeks because I can remember the Senator from Minnesota who I admire very, very much and who taught me everything I know about health care. I have worked with him on a number of things. I can remember one, wonderfully obscure but very important piece of information called the Resource Base Relative Value Scale. We were working on it together and our staffs were together, and we came to a critical point in the negotiations against those on the other side of this issue. We were seated in the Senate dining room, and we decided to do nothing.

By the act of doing absolutely nothing at that particular moment, the other side caved in and we won. There have been many other examples—working on the Pepper Commission with Senator DURENBERGER, exchanging ideas on many, many occasions with him. It has been an honor to work with him, a pleasure to work with him and a very constructive experience for this Senator to work with the senior Senator from Minnesota. I enjoy the fact very much that he is here. I would like to think of that as emblematic of what could take place.

And I see Senator BURNS, who is clearly fascinated by what I am saying because he is lost in his newspaper there, but he and I have worked together on the Commerce Committee on a number of occasions. We work together all the time on NASA matters, on technology matters. I remember one of the bills that was most crucial to Montana, to West Virginia and to the country called S. 4. It has to do with competitiveness technology—a whole lot of things. It is a very, very important bill, not very well known.

The party Senator BURNS represents was not necessarily in full agreement with parts of this bill. But the people who Senator BURNS represents, he felt, could not get their just due unless this bill came to fruition. It was a remarkable experience just to watch him and to work with him as he just went ahead and did what he thought was right. We prevailed in the Senate. We worked together in the Senate on that, floor managed together in the Senate. It was another example of both parties working together and coming out with something that was constructive for Montana, for my State and for the country.

I just take note of that, Mr. President, and I am very happy with that.

Mr. President, I did some reflecting yesterday on what we have seen and heard—I guess particularly heard—over this past week. And I keep thinking about the millions and millions of Americans listening in, trying to figure out the accusations, the charts, the endless volleys of words that go back and forth like extended tennis rallies.

Out of all of this, I think one very clear, very simple fact has emerged; and that is that the Senate is divided over health care reform. In many ways honestly divided.

There is one group that wants to pass a bill to fix the wrongs of our health care system, and some of its Members have been here on the floor arguing for the majority leader's plan, the so-called Mitchell plan.

Others, we hear, are still trying to sort through what is most important to them in defining a bill that is worth passing, that deserves their strong vote.

And then I think there is clearly another group that feels very threatened by the very idea of a health care reform bill passing at all.

I hope, Mr. President, and I pray that we will discover that this group represents only a fraction of the Senate, and I believe in the end it will. I am optimistic by nature. I need to be that way. I have to be that way. I want to be that way. I know from years of working with Senators, like Senator DURENBERGER and Senator BURNS, on health care on both sides of the aisle, as well as the distinguished Senator from Nebraska, that there is a majority in this body whose hearts and heads are gravely concerned about real problems in health care facing our people.

You cannot be in the profession that we are in, the craft that we practice and not run into serious situations where one is genuinely moved by family circumstances that you see, people who are caught without health insurance or who are caught where they are really hopeless against forces far larger than they are, which is why we are here.

But, on the other hand, having reflected on this, there is really nothing very new about the fact, the very clear fact, that some Senators are determined to—and I emphasize some Senators, not all—prevent the rest of this body from working out something to deal with a very major social problem.

Most people, when they talk about the health care reform bill, refer to this as the most important piece of social legislation in the last 30 or 40 years, 50 or 60 years. Social Security was tremendously important but, in a sense, it was an add-on. Medicare was tremendously important, but it was an add-on. This is reform. This asks a lot from each one of us and is complex by nature, contentious on the merits intellectually and very difficult.

The Senate has had naysayers and delayers in the past on this floor trying to kill off virtually every major piece of legislation dealing with an important issue in the lives of Americans. There are some even on the Democratic side. You pore through the history books and CONGRESSIONAL RECORDS and you will find relief in that the current situation is by no means unique. I think the stakes are higher, but the situation is not unique.

Some or many Senators threw their verbal spears at Social Security, at New Deal programs, at Medicare, the civil rights bill. Senator DOLE, on television yesterday, indicated that he voted against Medicare a number of years ago in 1965 and still had that same view: That Medicare was not the right way to go at it; there was a better way, in his judgment. People balked at civil rights bills and environmental protection bills. At the idea of guaranteeing a minimum wage—the concept of increasing the minimum wage can create an enormous firestorm in this Chamber—a safe workplace, reliable prescription drugs, creating the Food and Drug Administration, uncontaminated food, even toys. Toys that will not kill children still demand the attention of Government. You have to step in sometimes to protect consumers, which is in a sense what Government has to do. Government protects our people as a whole from foreign enemies, and we have to protect practices within our own society; we have to protect our consumers from events and practices which are not safe or proper.

(Mr. AKAKA assumed the chair.)

Mr. ROCKEFELLER. The list goes on and on. I confess I really hoped that it would be different this time, particularly on this subject. I care deeply about health care. I care passionately about health care. And here we are, talking about a problem that preys on

and threatens Americans in every single State with no exception, and in many places with not much variation, in every part of town, among every age group, from birth through the very last days of life, among business owners, minimum wage workers. Any group that you can think of, they are afflicted, preyed upon, and unsuccessful in dealing with something called a health care problem.

Now, what do all these people, all Americans have in common today? What they have in common is not being able to count on their health insurance when they need it. It is just as simple as that: Not being able to count on your health insurance when you need it, having the fear that the day the doctor says that you have a tumor, that you get pregnant, or that you need an operation is the day that the fine print in your insurance which you were given by your employer or which you negotiated but failed to read the fine print, that the fine print in your insurance plan takes over and, frankly, walks right over you—not being able to hold onto your health insurance when you change jobs or lose your job through no fault of your own. Perhaps your company is downsizing; you are out of a job, get wiped out of a job because of, perhaps, an unfair trade practice. These things happen, having to fear the day that you get the pink slip or the moving truck comes is the day that the footnote in your insurance plan takes over. And that little footnote says sorry, we do not have any need for you any longer.

Mr. President, the point of the Mitchell plan before this body is to put a stop to this. It is the main point and thrust of that bill, together with working toward universal coverage.

The only thing the Government is doing here is to say that health insurance should be there when you need it. And I think it seems not unreasonable for the Congress to insist on that, and insist on that in very clear terms. I think the American people expect that of us, and I think we should be expectant of ourselves to be able to deliver that to them.

So let me tell you in just a word what is good and sensible and sound in Senator MITCHELL's bill, and why this bill is the most reasonable and rational place to begin working on health care reform.

Start with the fact that the Mitchell bill provides a path to universal coverage and pursues it in gradual and moderate steps.

It allows, in a very definite timeframe and without burdens on business or Government takeovers, the market system to work. We want each and every American to count on reliable, effective, affordable health care coverage that can never be lost or never be taken away. Anyone fearing a massive overhaul by Government should listen up. There is no heavy Government hand at work here. There simply is not. And we will have a chance to discuss this as we get more into the debate.

So far, most of the attack has come from the other side, and relatively little of the defense has come from this side. But the defense will come at the right time and in the right way.

The Mitchell plan gives the health care market—the free market, the competitive market—the first chance to fix itself by allowing market forces and competition to keep prices down. The CBO believes that they can do that and at the same time achieve coverage for 95 percent of all Americans.

It penalizes abusers of the system in order to help phase in benefits for children and pregnant women. The Senator from Minnesota will remember very well on the Pepper Commission back in the 1980's, that was one of our top priorities. And that is where we ought to start on health care reform, with pregnant women and children.

It is absolutely amazing to me, astounding, stunning, unbelievable, that in America; not in every case but in most cases, if you are a young woman and you get married and you do not have health insurance and you become pregnant, you have a preexisting condition and most times you cannot get health insurance. If there is anything that requires health insurance it is being pregnant. But that is classified as a preexisting condition in most insurance policies and is an uninsurable event. In America, that is extraordinary, not something of which to be proud.

The Mitchell bill's plan has a foundation that rests very firmly on preserving the strengths of our current system. It does not turn it upside down—no Government takeover—but preserves the strengths of a private guaranteed, job based insurance market, just the way it is today, the way people are fundamentally comfortable with it, and then easing in reforms to fix the faults.

That is the major change between the Clinton bill and the Mitchell bill. The Clinton bill was much more aggressive. The Mitchell bill takes a more careful posture, trying to reach out to more people, to make itself more amenable, more comfortable, so people feel more free to embrace the idea as a plan that one can trust and put one's faith in.

If there is one general guide to the Mitchell bill, it is consumer protection. And that is a very proper guide and a very proper role. I come back again to misleading fine print. There is a lot of it in the land, Mr. President. The Senator from Minnesota and I and Senator DANFORTH and others were very involved in reforming medigap, a $15-billion industry at the time, a few years ago. The whole problem was that there was so much fine print, and people preyed on seniors, and people worked on commissions and so often seniors were buying much more insurance, medigap insurance, which in a sense fills in for what Medicare does not provide, and they were buying more than they needed.

Salesmen would come to the door and make a persuasive case. The senior would not necessarily agree, and like most of us might not agree with the fine print. So they were paying too much for overlapping, and in some cases simply absent, benefits.

So misleading fine print and deceptive practices are stopped cold by the Mitchell bill. "No lifetime limits." People are going to have to be very familiar with that phrase: "No lifetime limits." Most insurance policies these days have the amount of money that you can spend or your insurance policy will spend for you on your health care. But when that runs out, it stops. Well, we do not allow that in the Mitchell bill. "No lifetime limits," an extraordinary combination of three words, and a very powerful phrase: no refusal for serious illness. If you get cancer, the insurance policy stays right there. Nothing changes. Not even for one moment do you fear that somebody will come in and raise your rates or take your insurance away. The thought will not even occur to Americans because nothing will happen. The insurance will stay there. It will remain there, no matter what the disease or what the problem.

And for seniors, long-term care and prescription drugs is pretty basic stuff, but very, very important. Long-term care, particularly community and home-based care, is much less costly than hospital care, and much less costly than nursing home care. Sometimes hospital care is needed. Sometimes nursing home care is needed but very often it is not.

Whenever you go into a nursing home—I know the Presiding Officer has been to many to visit his constituents and others—the rooms in the nursing home are always made to look much like the rooms at the home that the person left. Of course, the reason for that is the person would rather be home. So in the Mitchell bill, we emphasize home-based and community-based care; and, especially, Mr. President, to those people who work so hard is all of this significant, who play by the rules, who pay premiums but still get dunked—inexplicable to them—and cut off when they need insurance the most.

We do not have to worry in Congress, do we? Our health care is paid for by a combination of ourselves and the American taxpayers. It is the same with Federal employees, and the same with the President. We have made that arrangement. We have made that arrangement for ourselves to take care of ourselves and our families. Then the

VOL
140
PT
16
AG
12
—
18
1994
UMI

American people would have the right to ask, "Would it not be fair that we would get the same kind of arrangement that you, who work for us, and who receive our taxes so that you can have a salary; that we should have the same kind of arrangement?" Well, I think that is fair. I think most Americans feel very, very strongly about that.

For those families now struggling with the health care burdens, the Mitchell plan offers help to make ends meet. Rates cannot be arbitrarily jacked up. They can be now. An insurance company can unilaterally on its own decision simply take your rates and increase them by 20, 30, or 40 percent if you are a small business. They could do it because it is the end of a year, or they could do it because let us say one of the 10 people in that small business had come down with an illness and they wanted to minimize the risk, minimize the chance of losing profit. So they jack up the rates. That cannot happen under the Mitchell bill. Insurance will be affordable, and insurance will be dependable.

All of this adds up to a bill that is good for the American people, that is moderate and sensible, and not intrusive, and not punitive in any way; using the system that we have, building upon it, and then fixing some of the flaws that exist. It will be a private system of guaranteed health insurance, and not Government health insurance. People will not pay their premiums to the Government. They will pay to a private health insurance company just as they do today.

Still some are offering up Senator DOLE's, what I would call tinkering proposal, as a better alternative. I do not see it that way. I do not see how others could see it that way. For starters, it does very little to protect consumers. Again, that is an area where Government has a legitimate right. We protect the country from foreign enemies. We ought to be able to protect consumers of health care on basic matters. There is very little of that in the Dole bill. All of those loopholes, all those restrictions that work against consumers, all of these things which I have mentioned which are eliminated in the Mitchell bill will remain under the Dole plan were it to be passed.

There is no guarantee in that plan of decent coverage, and no assurance that coverage will remain portable. Remember I talked about jacking up rates. That can happen in the Dole plan. There is no preventive care coverage. It is gone with the Dole plan.

I listened to Senator DOLE and Senator MITCHELL yesterday on a Sunday television program, and the final thing that Senator MITCHELL said was that the thing which is closest to his heart, that he cares most about in health care, is primary care and preventive care. So it is carefully observed in his bill, and is widely ignored in Senator DOLE's bill. If you fall seriously ill, and need your insurance, do not count on it under the Dole bill. Under the Dole plan, the fine print which today lets insurance companies cut and run stays in place.

For seniors, the news is no better under the Dole plan. Medicare gets cut as it does under the Mitchell plan but you get nothing back for it; no new coverage. Under the Mitchell plan, of course, it is very different. In the Dole plan there are no prescription drug coverage. In the Mitchell plan there is prescription drug coverage. For seniors that is important. It is their major expense. There is no long-term care in the Dole plan. But there is in the Mitchell plan. For seniors, long-term care is everything. It is everything, and for all of us parents, grandparents, and friends, long-term care is perhaps the most essential, sustaining continuing, agonizing part of health care.

If you lose your job, or if you get too sick, or if you own your own business, or you just get old, I will tell you what BOB DOLE's health plan says to you. It says basically that you are out of luck. Health care should not be a matter of luck. It should not be left to quick-fix half-measures. I am afraid the Dole plan is in that category. Think about this. In the United States today we make sure that the electric company and the gas company and the telephone company cannot just operate recklessly. They are subject to a public service commission, cable—something so American as cable. We make sure that utility rates cannot be raised suddenly without review by a public body. That is called consumer protection, which is widely understood and appreciated. And we make sure that service cannot be cut off arbitrarily, because in America people are not left sitting in the dark and the cold to freeze to death. We do not do that with our people with utility bills, and we should not do that with health care, which is at least, and probably substantially more over the long-term, important.

Well, health care is just as essential. It should not be left to some inexact, ineffective certain rules. Consumers deserve as much protection and consideration when it comes to health care, and the Mitchell bill provides that consumer protection.

The Mitchell plan, as I have indicated, is moderate and thoughtful and uses, in many ways, a rather light touch. It is sensible as an approach, seeks to be effective but not intrusive. I would hope that approach would be appreciated, and I would think that that approach would be applauded. It is pretty rare around here to take such a reasonable tack, and it should be, I think, appreciated.

So, in conclusion, I just hope, Mr. President, on this evening that my colleagues can finally focus on the strengths, stop offering up lesser plans as equals, stop wasting time because time is now precious, and join me and many others in a determined effort to begin building on Senator MITCHELL's plan to pass health care in this Congress.

I thank the Chair and my friend from South Dakota.

I yield the floor.

Mr. DURENBERGER. Mr. President, I appreciate the opportunity to make a few remarks. Before I do—and I intend tonight to speak not only on the bill itself, but also the Dodd amendment, which I understand is the pending business.

Let me acknowledge not only the respect I have for my colleague from West Virginia, but acknowledge how much pleasure it has been for me to serve with him in not only some of the projects he has already outlined but quite a variety of others which he has not. It only serves to underline, I think, the fact that the appearance of partisanship in the health care reform debate masks a tradition around here, as long as I have been here, of bipartisanship. I was pleased to hear him talk about the way we, together, used Medicare as a way to begin to reform the health care system in the 1980's.

I, in particular, will never forget not the time we sat in the dining room doing nothing, but the time that the then-chairman of the Finance Committee, Lloyd Bentsen, said, "I cannot get this RBRVS thing approved by the folks at Ways and Means, and I think I am inclined to just drop it."

Senator ROCKEFELLER came to me and said, "What do you think about that?"

I said, "That is not the right question, I am in the minority. What do you think?"

He said, "I think we ought to fight him." And we did and passed the bill. I must say the credit is to him.

In addition to other things, he got PETE STARK and HENRY WAXMAN, who were either not speaking to each other, or speaking in four-letter words, to come to my office one Saturday. I guess I was neutral ground, and we spent the better part of a Saturday hammering out the agreement which became the reform part of part B of Medicare. I will always be grateful to him for that experience, and others which I would love to share tonight, but I will save them perhaps for next month. I appreciate very much his comments.

Before I begin my comments on the bill, on a related matter, the place I represent and the people I represent in Minnesota are always being very creative in one way or another, and they have made an incredible contribution to universal coverage and universal access. The latest is another accomplishment by the wonderful nuns who go by the name of Carondelet LifeCare Ministries of St. Paul.

Sister Mary Madonna Ashton, who is a nun of the Carondelet Order and CEO of Carondelet LifeCare Ministries, has opened another free clinic, serving this time the uninsured and underinsured residents of the Twin Cities area around Wayzata, part of our community most people do not think about as uninsured and underinsured.

I ask unanimous consent that an article that appeared in the Minneapolis Star Tribune, August 15, 1994, describing the launching of this clinic and putting it in the context of universal access in our community, together with comments by the CEO, Sister Mary Madonna Ashton about the need for universal coverage, which she has conveyed to me personally, and not all with which I agree, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A SMALL STEP FOR REFORMING HEALTH CARE—NEW WAYZATA CLINIC GIVES UNINSURED A PLACE TO TURN

(By Dan Wascoe, Jr.)

While Congress wrangles over whether to provide health insurance and adequate health care to those without coverage, a 10th free clinic serving uninsured and underinsured residents of the Twin Cities area is about to open, this time in Wayzata.

The clinics' doctors and nurses are all volunteers. Office space is donated. Patients need not pay a dime.

The St. Mary's Clinics, most of them open one afternoon a week, are sponsored by Carondelet LifeCare Ministries of St. Paul.

Since 1992, Carondelet has opened four clinics in Minneapolis, four in St. Paul and one in Spring Lake Park. Wayzata's will open Aug. 31 in the Interfaith Outreach and Community Partners center.

Why Wayzata, that tiny suburb on the shore of Lake Minnetonka?

"It isn't all riches and boats," said Sister Mary Madonna Ashton, the former Minnesota health commissioner who is Carondelet LifeCare's chief executive.

Cracks in the health insurance system appear everywhere, she said.

"That's something that people need to learn," she said.

The Wayzata clinic also will serve people in Hamel, Long Lake, Medicine Lake, Medina, Minnetonka Beach, Orono, Plymouth and neighboring communities.

Not all patients are expected to be chronically poor; many will be laid-off workers, employees of small businesses, single mothers and children.

The key is that they must not qualify for other health care programs.

St. Mary's Clinics are low-tech, low-budget operations. They offer such basic services as throat cultures, pap smears, ear checks, blood pressure readings, pregnancy tests and general physicals.

The doctors and nurses also have ties with specialists who provide free care when the clinics make referrals. The clinics also negotiate discounts for prescription drugs.

Even so, "Our Largest expense is medications, "Ashton said.

Some services, including emergency care, family planning and prenatal care, are not offered in order to keep the clinics' malpractice insurance rates lower.

Many clinics are located in churches, community centers and office buildings. LaDonna Hoy, executive director of the Interfaith center in Wayzata, said space normally used for the center's transportation office, volunteer coordination and newsletter production will be converted one afternoon a week to an examination room, a waiting room and a place to record weight and blood pressure.

Ashton, who was state health commissioner from 1983 to 1991 under Gov. Rudy Perpich, said Carondelet will open six to 10 more clinics in the Twin Cities area in the next year or two.

She and the state health department said they believe St. Mary's Clinics are the only strictly free ones in the metropolitan area. Others offer service on a sliding scale based on patients' income.

But she's less than confident that will happen, especially in light of last week's decision to delay the start of the health care debate in the House of Representatives. She's also irked by talk that "universal" coverage, even if passed by Congress, may mean 90 to 95 percent of the population instead of everyone.

She said she's "terribly worried" that those left uncovered will be the very people whom St. Mary's Clinics are trying to help.

If health insurance reform doesn't cover low-paid employees, temporary workers, the unemployed, employees of small businesses, women and children who aren't on Medicaid, then reform "is not addressing the problem," she said.

Even MinnesotaCare, the state-backed insurance plan that helps some residents who can't afford insurance, doesn't yet pay for dependents. And its premiums remain out of reach for some Minnesotans, she said.

Since the first clinic opened in 1992, Ashton said more than 4,000 people have been served—an average of 9 to 10 patients per four-hour day.

That's not much, compared to Ashton's estimate that 350,000 to 400,000 Minnesotans are without health insurance at any time. But Hoy said the care is particularly important to those who receive it.

Because of contributed space and services, the clinics's budget for next year will be only about $800,000, Ashton said. The volunteers' time is worth about $500,000, she said. The Sisters of St. Joseph provide about one-third of the total budget. The rest comes from donations from organizations such as United Health Care, the Phillips Foundation, the Woman's Club of Minneapolis and the North Suburban Hospital District.

A federal program provides money for breast and cervical cancer screening, and a state program underwrites pap smears, mammograms and colposcopy for vaginal examinations. An administrative staff of seven to eight employees in St. Paul takes appointments and performs other duties.

Pat Hein, the clinics' director of nursing, said St. Mary's has negotiated discounts of up to 100 percent for inpatient and outpatient care at five Twin Cities hospitals: St. Joseph's, St. John's, Unity, Fairview Riverside and Methodist. Negotiations are underway with North Memorial Medical Center. In any case, the care is free to patients; any hospital bills go to Carondelet, she said.

Although only a small minority of patients require surgery, "those who need it get it," Hein said. The most severe cases so far have been two patients who require mastectomies.

William McGuire, chairman and chief executive of Minnetonka-based United HealthCare Corp., said he strongly endorses both the idea behind the clinics and their performance. Although there's an abundance of hospital beds, doctors and specialized services, "we don't always have appropriate distribution of these things," he said "Importantly, it is not being executed other than through an organization like this."

Although Ashton would like to see the need for the clinics fade away, McGuire doesn't consider that realistic. Providing health services to specific uninsured groups will be necessary regardless of political health care remedies, he said. As evidence, he pointed to the founding of St. Mary's Clinics "in a state with one of the top two or three health quality measurements, one of the lower per-capita health-care costs.

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Mr. DURENBERGER. Mr. President, our colleague from Nebraska is not here, but while he was commenting on the statement by our colleague from Texas, he made quite a business out of saying there are no mandates in the Mitchell bill. Well, that just is not true. I am sure what he is talking about is the employer mandate to pay, although he was not that specific. I feel compelled—then, off the top of my head, without reading the Mitchell bill, remembering what is in the bill as I went through it—to say that he has to be talking only about this overt employer mandate to pay premiums, because in the Mitchell bill there are a lot of mandates.

I was informed by one of my colleagues today that the word "shall"—as in such and such an agency shall—appears over 2,200 times in the Mitchell bill—the latest version. To give you an idea of the mandates on employers and on working people, all employers in America, in groups of fewer than 500 employees, are mandated to join a cooperative. They are mandated to participate in community-rated risk pools. The employers are mandated to offer three plans, and they are mandated, if they make contributions, to make equal contributions to all three of the plans. They are mandated to offer the standard benefit package. For large employers, they are mandated to participate in the cost shift through risk adjustment. There is a specific provision in there that shifts risk from community pools onto large employers.

Large employers are required also—mandated—to offer three plans. Large employers are also mandated to withhold premium payments.

Having said all that and not having been totally complete in my description of mandates, I will add that mandates are not necessarily all bad. If a mandate means a national rule to which a market is going to have to adhere, then that is what we need. If mandates are a way to cost shift onto working people, or to cost shift onto businesses in implicit ways, then they are bad. That has been the consistent objection of everyone who has objected to employer mandates.

I will speak at another time probably to the issue of cost shifting. But the reality is that the cost shifting of doctor

VOL
140
PT
16
AG
12
—
18
1994
UMI

and hospital bills in America is not coming so much from the uninsured, the businesses that do not insure their employees; it is coming from this place. The money that we do not commit to Medicare and Medicaid for the elderly, disabled, and low income, go to Hawaii in reduced payments to doctors and hospitals, come to Minnesota in reduced payments to doctors and hospitals. And that shift keeps getting wider and wider all the time. Today, I understand that on $1 of services at the hospital level, Medicare pays—the Government—only 71 cents, and for a billed dollar of doctor services only 59 cents. Where do you suppose the rest goes? The rest goes on someone else's bill in the private system, not in the Government system.

An employer mandate is simply a way to say we cannot raise taxes, we cannot go deeper in debt. What we are going to do is guarantee everybody in America you can enroll in a health plan and the costs of that will be shifted onto all the working people in this country.

Again, I will say I will have more to say on that subject another time, but just a reality. Every working person in America today is carrying the cost of his own in what he pays at work. He is bearing the cost not only of his own medical expenses but of one other family's medical expenses.

Just keep that in mind. If you have a GDP today of 14 percent, those people are paying about effectively 28 percent into the system, and half of it is going for someone else's health care.

At least the Germans are honest about that. In Germany it cost 13 percent, 6½ percent from the employer and 6½ percent from the employee, and they get 13 percent worth of service. The overall cost in Germany is about 7 percent of the GDP, but in America we are doubling the burden on every single working person.

So those of us who have resisted the notion of a mandate that all employees have to pay are resisting the notion in this Congress, in this Senate we can continue to reduce our obligations to pay our bills in the Medicare and Medicaid system and cause all of those extra costs to be shifted onto working people. That has to stop.

Mr. President, at this time, before I make any further comments, I yield such time as he may need to my colleague, Senator CONRAD BURNS from Montana.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana, Senator BURNS.

Mr. BURNS. Mr. President, I thank my friend from Minnesota.

Finally, the time has come when we finally get to see a piece of legislation on the floor and being talked about even though it has only been here since Friday at 5 o'clock.

So, as we look at this, I was interested in some of the comments that were made earlier this evening as we started this debate tonight. Someone wanted to define gridlock awhile ago. Nobody has to define gridlock to us. We went through 4 years of it prior to January of 1993.

If you want to talk about scare tactics, what about the scare tactics that everything is going to run out and if the Government does not act to do something this country is going to come crumbling down on top of itself?

I do not think that is the case here in America. I think the American people are very inventive and have the ingenuity and the fortitude to take this country and go on.

I am reminded of my parents who bought a farm in 1931. I do not think there were very many white clouds in 1931. Not very many in this body can remember those times. I read a lot about and heard a lot about it. I was born in 1935, and I know the last thing you wanted was kids. But nonetheless those were pretty dark times. They did not have a thing called national health insurance. In the depth of the Depression there were scare tactics.

That this country would not survive without this Government acting I think is a little far-fetched. In other words, what are we going to do? Are we going to create the problem and then going to be the knight in shining armor to ride in and take care of it? But I am afraid that the solution is going to be worse than the perceived disease.

There are a couple of areas that I want to talk about tonight, and one of them is right here to my right, which is a map of my State of Montana.

My friend from Nebraska just now said that we are trying to address the costs of health care. That is what we are wrestling with. Nothing could be farther from the truth. We are trying to address the way to pay for it. At the heart of every one of these speeches is how do we pay for it? How do we come up with the money to pay for it? And how much do we want to spend on health care?

You can spend any amount that you want. But I think the patient and the people who need health care should make some of those decisions instead of the Government making it for them.

There are a couple of areas. This is the State of Montana. That is where I take my counsel. And to give you some idea what problems we have in our State, from way up here in Lincoln County in a little town called Eureka, down here in Carter County in a town called Alzada, it is farther than it is from Chicago to Washington, DC, and there are only 800,000 wonderful people who live in 58 counties in that great State.

So we have some problems to look at when you start talking about health care delivery systems. How do we pay for it? We have a lot to be concerned with, but mine primarily is, how do we cover all of this area where we have quite a lot of dirt between light bulbs?

I want to take a very close look at the rural health care provisions, the ability for patients to choose their services and their providers, their health care plans, the size of the new bureaucracy that will be created, the amount of taxes that are included in financing a huge big new entitlement, that is if it becomes a reality.

They say this is the greatest debate since Social Security. You know what I hear from some young folks who are saying, listen, you give me the amount of money that I put into Social Security and I can take care of my own retirement because the rate of return is not all that good for what it is starting to cost.

We also get letters about people who have been caught between a rock and a hard place and had some bad things happen to them, and you have to feel for those folks. You have to feel compassion for them, but there is a way to take care of those folks. But I am wondering, and I speak from being an auctioneer, how much emotion goes through when you sell out a person that has gone broke because maybe it is Government mandated, maybe its expenses got so high that they just could not stay in business. And when do we know where that breaking point is? It is not easy to go out and sell out a good friend in a bankruptcy. In fact, I think that is more crushing than anything that can happen to anybody in this country.

It is important that we not only read this bill but that we also have some kind of understanding of the impact that it will have on us. But more importantly, it is important that America gets the opportunity to read this bill and understand the impact it may have on them as individuals, because here in the United States we are still not to the point where they throw us all in a sack and shake us up and turn us all out and we are all equal.

Let me first say that I think the process we have gone through in the last 10 months has been very useful and very educational. I did not come from an area of the medical field. When I joined the task force on this side of the aisle to deal with some of the very problems that we are going to talk about here in just a little bit, I would say that I probably know more about it now than I ever cared to want to know.

Having a chance to understand what was in the Clinton bill, to review the impact on individuals and on companies in our State has led to maybe some positive changes, but it has also been mostly food for thought. It has tripped our trigger on curiosity. Maybe there is a different way to approach it. But that is what the democratic process is all about: Taking an idea to the public, getting their feedback, and proceeding with our constituents in mind,

and that is called responsible legislating.

I honestly believe it was understanding the Clinton bill and what it would actually do that led to the demise of the Clinton bill. Americans got ahold of it, they read it, they had a pretty good grasp and understanding of it, and then they said "no."

Not just special interests, but the people who vote, people who want to maintain their quality of life, and people who vote to preserve their family, people who enjoy their freedom and independence, those folks are the folks that I have been hearing from. They said they did not like the Clinton plan.

But do you know what else they said? My State of Montana was no different. In a poll taken in my State by an independent firm here in Washington, DC, 70 percent of Montanans say Congress should take the time, study the issue, and take action next year.

I do not know whether this is a prudent way or not, and I think maybe we might be shirking our duties if we did not try to do some tune up on a system that sort of needs a tune up.

Dorothy Bradley, the Democratic nominee for Governor in Montana and now the Chairman of the Health Care Authority charged with designing reform within my State of Montana, made the statement recently. In all the hearings she has held around the State, she found that "people have become very cautious about reform."

She said, "You don't have to embrace a whole new package to make significant gains. We are not going to work this through overnight." They want meaningful reform, but not just for reform's sake. And that is what has me worried here, is the timing. We are coming to the close of the 103d Congress and we are not well positioned to serve this issue or the American people very well.

We have here now a bill that has been crafted behind closed doors and yet, it seems to me that this is the Clinton bill reincarnated. The first chance we had to see what is inside it was just a few days ago. That was last Friday. Yes, the leader said we have been able to examine this for months. Perhaps, in concept, we have. But it was not put into writing until last Friday. It has been changed already more than a hundred times. Now we are expected to debate it, understand it, and even vote on it—all in a matter of days.

I have a great staff. I would have to have a great staff, because they wrote it into my speech. No, I do not want to say that. But I have no doubt if they had been working night and day—and they have been working night and day on this issue, trying to see what is in this bill, to grasp it and how it affects our State of Montana—they might even have been able to call a few people in Montana to get some feedback on the key provisions. But there is no way that the folks in the mountain time zone can have any idea what we are trying to decipher and disseminate and make some decisions for them. This is legislating in the dark of night.

We do not want to make this decision for them. We want them to make the decision and then tell us what to do. That is what we were sent here to do. We were sent here to listen and to carry those views out, what they think is best.

So the feedback from this great State, this great 148,000 square miles, is what I listen to. They sent me here to represent them. I am supposed to work with them.

This health care reform bill promises to be the largest program ever—certainly the largest I have ever worked on or voted on in my history in the Senate. I think it is only right that we have time to let our folks back home take a look at just what we are doing. No one will fault us for caution, but it is darn sure they will fault us, though, if we pass something that they know nothing about.

So given that, we have no time to discuss this with the folks back home, I think we need to proceed with even more and more caution.

My colleagues, especially those who sat on the Labor and Finance Committees, have a deep understanding of the details. And that is where really the devil lies, in the details.

I do not serve on either committee, the Finance Committee or the Labor Committee. So we have to do our work as it is presented to us, go through it, make sure our people are informed and make our decisions from there. I must concentrate on those areas that I know are important to Montana. Let us start with those.

First, it is crucial that this reform addresses the challenges of the rural health. When the First Lady visited Montana, she coined a new term. She called it "mega-rural." There are a lot of issues that need attention if we are truly to expand the access all across America. We have eight counties in Montana that are without a health care provider.

Can you imagine that?

I am going to turn up some maps here to show you just what we are talking about.

Eight counties that have no doctors, no medical care whatsoever. And we have to travel huge distances, so we have a difficult time recruiting where there is no support, and even a tougher time keeping them there. And we have now areas served by a single physician who wants to retire, but there is no one to take his place.

By the way, this county right here is Garfield County, MT. Only 1,800 folks live in that county. It is bigger than Delaware. And then, of course, we have some more spaces. But these are areas where we have no doctors whatsoever.

To magnify the problem in my State of Montana, the counties in red are counties that we have that are without ob/gyn—no prenatal care afforded those people.

And I think this area right here, the central part of Montana, is larger than the State of Indiana. So that is what we are talking about here when I say I have to look at my State and rural health care and how we regard it; and are we going to do something to give some incentives for doctors and nurses and technicians to practice medicine in these rural areas.

Second, Montanans want choice. That is what we are looking at. We are very independent. We do not want the Government dictating to us what services to have or what not to have or where to go get them. I cannot imagine there is a State in this Union that does. But, regardless, there are provisions in many plans that dictate just what kind of health care we should have. If the Clinton-Mitchell bill limits choice—choice of services, of providers, of hospitals, of health care plans—and I believe that this does—I will tell you that I have to strongly oppose those parts of it.

Cost containment comes when people can take some personal responsibility for their health care decisions. When they are given the information, they need to make wise and educated decisions. They will take cost into account. If control over health care choices is in the hands of the Government or any other bureaucracy, there is no incentive to be cost conscious.

I know it is hard to walk into a doctor's office and be diagnosed. I have always said, you know, doctors have a terrible time. Sometimes they intimidate you a little bit. But you walk in there, and they say, "Well, CONRAD you have to have your tonsils taken out."

And it completely shatters their whole life if you ask them, "What's it going to cost?"

They come back and say, "Why do you want to know?"

"Because I am going to go down the street and I am going to find somebody else that does tonsils and I am going to ask him what he charges."

That kind of gets their attention. We must never take choice out of this thing.

Third, health care reform cannot be allowed to destroy jobs or businesses, large or small. Consider my State of Montana; 98 percent of our businesses are considered small. So that is where my focus is going to be.

Yes, we have heard those stories about those people who have been caught up in a very, very bad situation. Again, I want somebody from this body to go down the street and be responsible for selling out of bankruptcy of a family that has gone on the rocks and a business that has gone on the rocks. Those small businesses are the people I

VOL
140
PT
16
AG
12
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18
1994
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have heard from. And they are very, very loud. It has not been a whisper, Mr. President. They cannot handle more mandates; they cannot handle more taxes; they cannot handle the Government telling them how to run their business anymore.

The stories that have been relayed to me are real. They speak of laying off people. Those of us who have run businesses—and maybe some of them not too successful—know it is pretty easy to hire people. It is pretty hard to tell them that they have no job left, because an employer feels a responsibility to a family, not only to the working person they are involved with, but their whole family. They sort of take that personally—anyway, I do.

Let me remind you, this is the middle class. This is where the financial burden will fall, on these folks. The very folks we hit with tax increases last year are just about ready to be hit again.

There is no rational reason for businesses to bear the brunt of a new program. But if they think they can, they will—but it has to be voluntary. And given the choices, given the options, the vast majority of them do the right thing.

Fourth, and I have touched on this earlier, I want to keep the Government out of our lives. There are States where a strong presence of the Government is not there. In public lands areas, like the West, we understand bureaucracy—oh, do we understand bureaucracy, and what it takes to get things done. When you have to deal with the Forest Service, BLM, U.S. Fish and Wildlife, the Park Service, that is not to contend with OSHA, the IRS, EPA—just a host of Government entities, it seems like, are in your life every day. They do not run their bureaucracies very well, and I am wondering if I want them to run my health care system. Would it end up like the Post Office? Does my time to go get my hip replacement end up in a dead-letter office? I would sure hate for it to. I think Americans kind of worry about that, too.

So I don't like any plan that expands Government, that increases bureaucracy, or imposes more regulations on an already overburdened system. No new commissions—I do not like that very much—no new boards, no bureaucrats sitting in Washington, DC, this Government on the Potomac, deciding what is best for me in Montana.

The system needs streamlining; it needs simplification. But it does not need expansion. I have not heard one of my constituents say, "I wish I had more Government in my life."

Fifth is an issue that comes up with many farmers and ranchers in my State. I am from an agricultural State. I am from a natural-resource-based State. That is how we produce new wealth in this country. That is the only place we produce new wealth, is what comes from mother earth. The issue of allowing the self-employed to deduct 100 percent of their health insurance cost is very important to us. The last version I saw of the Clinton-Mitchell bill only increased this to about 50 percent. That is not enough. If we really want to help those folks who produce wealth, and I believe we all do, we need to give them a full break, and that is 100 percent. Large corporations get a 100-percent deduction for their health care costs, and the self-employed should have equal treatment. So let us do it. It is one big step toward making health care more affordable.

Sixth and last, and definitely not least, the bottom line is cost. This is one area that has caused numerous bills to stumble already. It is my understanding that the CBO has not yet figured out how much the Clinton-Mitchell bill will cost. We need a price tag on it. Without that, I am not going to go back home and even try to offer it to the people or try to sell it to the people of Montana. To establish brand new entitlements, brand new programs, expand Government, and impose new requirements on our States—and by the way, even with the majority leader's own words and with the communications with the Governors around the States, these mandates we put on the States to administer this are almost unworkable. They cannot get it done.

Those of us who worked in county government, where the rubber hits the road, understand, because it will finally fall at that level. Increased taxes, we got the biggest tax increase we have ever gotten in the history of this country last year. I am not really sure we can go through another one of those because I think that would be irresponsible. Montanans would oppose it, and I will join them.

I bring my concerns to the floor today because these are the concerns of the people of Montana that they are sharing with me. They want reform that makes sense in rural America. They want reform that guarantees choice. They want reform that does not jeopardize their jobs and small businesses. And they want reform without new Government bureaucracies, taxes, and mandates. Most of all, they expect and they want us to make wise decisions because what we do with health care reform will reach into their lives like no other piece of legislation passed in the last three decades.

I have reviewed the limited portions of this bill. I am glad to see the bill includes several provisions to increase access to health care services in rural and underserved areas. But is changing the graduate medical education focus to primary care important? It may be. But let me tell you, seeing those results is way, way down the road. I have a daughter, Keely. She is in her second year of medical school, and she is committed to returning to Montana, to work in rural Montana. But it will be years before she gets to that point. Rural America needs help now.

We need incentives to get physicians into the country: Repayment of loans, tax deductions, and peer support. The latter incentive can easily be accomplished by increasing the use of telemedicine. It is a new technology, a technology not only bringing specialty health care to areas where there is no specialist, but bringing much needed support to the providers. The technology is up and running in many States across the country, Montana being one of those. The only barrier is Government.

I was pleased to see the efforts to expand telemedicine included in this bill. I can remember when we just had to argue and fight and scratch and claw and fiddle around here to get a study done by the Department of Transportation on the impact that telecomputing would have on transportation. They did not want to do the study. And folks around here did not want them to do the study. But we got it in the bill. They did the study, and guess what? It is the centerpiece of transportation. Because there are going to be a lot of folks staying home 2 or 3 days out of a 5-day week and doing their work at home without filling our highways or using the gasoline and fossil fuels. Is it not funny how ideas take hold and all at once it becomes their idea? I have always had the idea around here if you do not care who gets the credit, you will get more done. That is usually pretty true.

These rural-specific provisions are important in this bill. But just as important is the rest of the package and what it will do to rural America.

What will it do to limit the choices we now make? If it has anything to do with making the right decision, taking that away from the patient, I will fight that. One thing that makes our current system the best in the world, besides the high quality, is the freedom the patient has to choose what they want. They can choose their doctor. They can choose their health insurance, their hospital, their pharmacy, and the services they want. Yes, the services may be unnecessary. Who knows? Who is going to make that judgment? Or some tests may be done for ease of mind. But is that decision not for a patient and a doctor? Do we still live in America? Somebody is going to make that decision.

I have a little cartoon here. There is one thing about this town; if you do not maintain your sense of humor around here, it soon goes away. What I am hearing—I think it is indicative here of the fears I am hearing about, the fears of what will happen if the Government gets involved, if patients and their doctors lose their ability to make their own decisions.

Let me read it to you. It is Doonesbury. It says:

Mmm * * * a lot of fluid here * * *
So what are we looking at?

Another person comes in:

I don't know yet. Could be a damaged anterior—

I do not know what that stuff is, but "I have a hurt knee."

Uh-hum. What's your plan?

But the second person ends up being the man's insurance agent. That is what we are looking at here. Government is already wondering about these kinds of things. That is what Montanans are telling me: They do not want a bureaucrat in Washington, DC, to make decisions for them.

You may think that some folks in the country do not know enough to make an informed decision. I think they do. They are very capable, hard-working people, trying to take care of their families. They do not like the folks inside the beltway making those decisions, and I realize the folks inside the beltway probably do not like that, but it is true.

Then there are the taxes. Taxes are taxes, whether you call them payroll contributions, revenue assessments, or whatever. It is all the same. They are taxes. I have seen a phony tax. Remember the old one: "How much did you make last year?" The next line says: "Send it in."

We may get to that point. We already took a big tax hit last year and, yes, you might say it did not hit the middle class. It did. It went a little bit deeper than we all think it did.

We live on the Canadian border. We heard some folks talk about the Canadian system, single-payer system. This comes out of the July 15 Calgary Herald. There are probably some Westerners here who probably understand what the picture is here. I will hold it up. But on that day when the Calgary stampede was on, they have a picture of a steer wrestler who is in a bit of a bind. He caught a horn in the chin. In other words, that is a plumb wreck. I thought what better thing to put across on the page than the headline: "Axe Falls on Calgary Hospitals."

Hospitals are being closed because they do not have enough money to make it to the end of the fiscal period so they closed the hospital. So you can say in the United States we have universal access but not universal coverage. They have universal coverage, but they do not have universal access.

In Montana, if you go down to the medical corridor in Billings, MT, one out of every five cars in the parking lot bears a Canadian license plate. They are not there for a social occasion, I can tell you that.

But the highlights of the story is that the Bow Valley, Holy Cross, and Grace Hospitals are to be closed, their programs are moving somewhere else. Holy Cross renovations and Bow Valley renovation plans have been canceled. Alberta's Children's Hospital remains open on the current site and continues to offer care but limited.

Of course, you can go all through this newspaper and even on the back where the unions are saying we have to have more money or we are going to close these hospitals. If you get sick, they are going to say, "Well, we didn't make it till Thursday. You've got to find another hospital to go to." All of this in this newspaper, and basically what you are looking at is a old steer wrestler and he is in a wreck, folks, and that is not funny. He catches one of those horns in the chops. I guarantee you that.

So we have a lot of folks here who want to offer their opinion on what it would do if we went to a single-payer or a big-Government bureaucracy or a Government-run plan and mandates. And they are in this bill, do not ever let anybody tell you any different because when you get to 2002, they are there. Even some of them will apply to South Dakota.

I also want to put in the RECORD "Government Health Care. Thanks Anyway, Says Libby, Montana." Libby, MT is a little town up in northwest Montana. They have had mill closings. They are completely dependent on public lands to make a living. I do not know of a tougher town in America, but they just take things. But there was a little article that came out of their newspaper up there, and I ask unanimous consent that it be printed in the RECORD because I think it deserves the attention of my colleagues who serve in the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOVERNMENT HEALTH CARE: THANKS ANYWAY, SAYS LIBBY, MONTANA

(By William Perry Pendley)

What were the odds that the Montana town of Libby would be hit with three catastrophic health care cases in such a short period of time?

In February 1992, Sally Sauer, 26 year old daughter of an unemployed forester, discovered she needed a heart transplant. In February 1993, 5 year old Amanda Johnson, daughter of an uninsured logging truck driver, needed heart valve surgery. Six months later, Kyle Rosling, 17 year old son of an uninsured sawyer needed heart surgery.

Libby is a tiny community of 2800 in Lincoln County where 78% of the land is owned by the U.S. Government. As a result of U.S. Forest Service timber harvest cut backs, to "protect" the grizzly bear, Libby's unemployment has been double digit for months.

Nonetheless, the people of Libby and neighboring Troy set out to save Sally, Amanda and Kyle. Through a variety of campaigns and through the generosity and hard work of the industries and individuals of northwestern Montana, the "Sally's Heart", "Hour Amanda", and "Kids for Kyle", campaigns raised more than $325,000. Today Sally can be seen jogging around town, Amanda is completely cured and Kyle is wrestling in the 152 pound class on the Libby Loggers varsity team.

What happened to Libby's Sally, Amanda and Kyle might well be cited, by the Clinton White House, as proof that America needs federal health care. Certainly Libby's experience is no less compelling than the other anecdotal evidence heard by Hillary Rodham Clinton's secret health care panel. At least that's what ABC's "Home Show" thought.

When ABC heard about Sally, Amanda and Kyle, it sent a crew to Libby to film men and women citing their ordeal as proof that America needs a federal health care plan. The film crew heard plenty about Sally, Amanda and Kyle, but the lessons the people drew from their experience surprised the folks from ABC.

Yes, Sally, Amanda and Kyle had been pretty sick. Yes, getting them well had cost a lot of money. Yes, many of the people in Libby didn't have their own health care plan. However, the people of Libby were unwilling to whine about their experience or to jump to conclusions about the state of the nation's health care and what ought to be done about it.

What the ABC crew heard was not the rhetoric of the Washington, D.C. crowd, but questions real people ask if given the chance. "What's all of that going to cost?" "Who's going to pay for it?" "Will we get to select our own doctors?" One viewpoint the ABC crew heard over and over was that the health care proposal the people had been hearing about was a very expensive program that the American people simply couldn't afford.

The ABC crew heard something else. Many of the men and women interviewed had been covered by a health care plan; that is, until environmental policy gone wild had taken their jobs. What many of them said was that if President and Mrs. Clinton wanted to do something about health care, the Clintons could get the environmentalist off the backs of the people and allow the harvesting of trees in the forests around Libby once again. Just let the mills reopen, they said. Then health care will take care of itself.

When people talk about a federal health care program, they forget about all the other things the U.S. Government can't seem to get right. The people of Libby aren't that forgetful. Perhaps it is because they know first hand how the federal government operates. Perhaps it is because they have seen what federal control means to their lives. Whatever the reason, the people of Libby, interviewed on the streets of their struggling town, have said "no" to federal health care. Having heard President Clinton's State of the Union Address and his commitment to health care in 1994, they wonder what the rest of the nation will say.

Mr. BURNS. Mr. President, I want to thank my colleague from Minnesota for the time. And as we move this through, we have great challenges. But a rush to judgment on this issue does not serve the issue or this country or its people very well.

I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, my colleague from Montana pointed out that there are two committees that deal with health care in the Senate, and he has not been fortunate enough to be on either one of them. I must say, I have had the misfortune, if you will, of being on both of them.

VOL 140 PT 16 AG 12 — 18 1994 UMI

It also demonstrated something else to me, and that is, we do not have a health committee, as such, in the U.S. Senate. So we are working at it from a variety of other sources which makes the job very, very difficult.

I want to thank my colleague from Montana for his commitment. We have been going to breakfast together on Thursdays for 4 straight years down the Hall. He has been part of the Republican health reform task force, medical malpractice reform program, and a variety of others. I am really very appreciative of his comments.

I am reminded also of what he said about the Mitchell bill; that it took those of us who think we know something about it 4 straight days to get through the first draft of that bill and found in our efforts to try to come up with amendments, it is almost impossible to amend.

So I appreciate very much his comments, and as one who sees a lot of Canadian license plates—Ontario, in particular—in parking lots and hospital parking lots in Grand Forks, ND, Duluth, MN—a whole variety of cities. I am sure glad he told us what happened during the Calgary stampede to the hospitals in Canada. That happens in Toronto and other areas as well. It is not just in Saskatchewan.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I listened with great interest to our dear friend from Montana. I have a profound respect for him and admiration for his great sense of humor. But I must say, I must differ with him on a number of points. I have not seen license plates on either side of the border enough to count, but I know that there are plenty of U.S. license plates on the other side of the Canadian border because that is where they get primary care, good preventive care at times. I know there are those Canadians who tell us that it is cheaper for them to fly first class to the United States and use our high technology than it is for them to buy it.

So I know there are plenty of arguments on both sides. But I think the main point that I would make is the same point I made this morning, a point the majority leader has made so eloquently on so many occasions, most recently last Sunday. And that we talk about how concerned we are, or I should say some of our colleagues talk about the concern that they have with regard to Government health care. Yet I have not yet seen a bill or an amendment to abolish Medicare. I have not seen a bill or amendment to abolish the Federal Employees Health Benefits Plan. I have not seen a bill or amendment to abolish the Capitol physician, or our opportunity to use Walter Reed or Bethesda when we need health care.

The fact of the matter is every Member of Congress uses the health care that is so criticized on the other side of the aisle so frequently every time we get sick. The President uses it. Senators use it. Members of Congress use it. There are times, of course, when our families have to use the health care provided so well in the Federal Employees Health Benefits Plan.

We talk about how extraordinary a plan it is and how we really do want to give everybody else the same opportunity to have access to good quality care that we have through the Federal Employees Health Benefits Plan. That is a Government plan. I have not seen any effort to abolish the Veterans Administration or the defense hospital system that has done such a good job.

I think we need to be clear here. Every Member of Congress benefits substantially from a Government health program and has chosen not to offer any legislation that I am aware of to abolish it. So that is point No. 1.

Point No. 2 is that it is somewhat ironic, frankly, that we talk about a Government-controlled plan when Senator MITCHELL's bill does just the opposite in providing 30 million Americans who are now under Medicaid the opportunity to buy private insurance. So we shift away from Government insurance in that case to a private plan. We want to build as much as we can on the private system. Now, ought there be some regulation? I think every Member of the Senate would agree that as we regulate the air traffic control system, the banking system, our agricultural system, our highway system, there has to be some form of a regulatory framework within which the private sector works to assure us access and confidence and cost control and all of the things we say we want.

So I would hope that as we go through this debate, we can have an honest debate, recognize the differences that exist in philosophy and position. But I would hope that we also would acknowledge that there are Government systems that work pretty well or we would not avail ourselves of them so frequently, and that, indeed, while we understand how good Government systems can be, that is not the purpose of the Mitchell bill.

ANTITRUST AND THE HEALTH SECURITY ACT

Mr. HATCH. Mr. President, we have had a very informative exchange of information today, which has revealed a number of defects in both our current health care delivery system and in attempts by the majority to remedy those problems.

One area which our discussion has not touched upon in any great detail is antitrust.

I have been dismayed that, despite a clear need for antitrust reform, as evidenced by hearings in both the Judiciary and Finance Committees, neither the Mitchell, nor the Kennedy, nor the Moynihan bills contain any antitrust relief for the myriad actors in the rapidly changing health care marketplace.

As my colleagues are aware, in an attempt to address the need for antitrust reform, last year Senator THURMOND and I introduced S. 1658, the Health Care Antitrust Improvements Act. Our colleague, Representative BILL ARCHER, introduced the companion House legislation, which served as a model for amendments adopted by the House Judiciary Committee.

Since Senator THURMOND and I introduced S. 1658, a number of provider groups have expressed concern about provisions in this legislation which they believe would afford greater protection to doctors than to other health care providers.

As we have made abundantly clear on a number of occasions, that was neither our intent nor, we believe, the effect of the legislation we drafted.

However, due to substantial and continuing apprehension about that provision, Senator THURMOND and I offered to make changes in the legislation to address those concerns.

I think it would be useful for my colleagues to be aware of those changes, and for the health care community to be aware that I continue to believe that antitrust relief is a necessary part of health care reform.

For those reasons, I am inserting in the RECORD at this point a summary of our revised legislation, which I commend to my colleagues for their serious consideration.

SUMMARY OF HATCH-THURMOND HEALTH CARE ANTITRUST IMPROVEMENTS LEGISLATION

Following is a summary of the Hatch-Thurmond Health Care Antitrust Improvements legislation, which has been revised to address concerns raised about the "Health Care Antitrust Improvements Act" as introduced last November by Senators Hatch and Thurmond (S. 1658), and by Representative Archer (H.R. 3486). The principal changes made are indicated in bullet points.

The Hatch-Thurmond legislation is intended to resolve some of the uncertainty that surrounds the application of the antitrust laws to health care activities. The purpose is to save money and improve quality in health care, not for the benefit of providers, but for the ultimate benefit of patients and those who pay the bills. Four methods of achieving greater clarity in the antitrust laws are employed:

I. SAFE HARBORS

To reduce the costs of antitrust regulation in the health care marketplace and decrease the burden of repetitive review under the certificate process, the Department of Justice is directed to develop "safe harbors." DOJ must solicit input on possible safe harbors through notice and comment procedures. The safe harbors will be defenses in all federal, state and private antitrust suits, except for injunctive relief by the DOJ or FTC in "extraordinary circumstances."

The safe harbors to be developed must cover at least the following areas:

A. Joint Purchasing of Health Care Services;

B. Small Hospital Mergers;
C. Network Formation and Operation;
D. Medical Self-Regulatory Entities;
E. Provision of Information by Providers;
F. Participation in Surveys;
G. High-Tech and Tertiary Joint Ventures;
H. Market Power Screens;
I. Joint Purchasing Arrangements; and
J. Good Faith Negotiations.

The major change is that the safe harbors are not created by statute. DOJ may add to safe harbors it establishes, and may modify or eliminate them. This allows flexibility in the safe harbors, while giving meaningful legal effect to the standards established by DOJ.

Activitiy within a safe harbor is subject to antitrust actions for injunctive relief by DOJ or FTC. This encourages providers to monitor their own conduct to ensure that it does not cause anticompetitive harm even if it is technically within a safe harbor. Additional categories for safe harbors have been added.

II. CERTIFICATES OF REVIEW

Health care providers who seek greater certainty under the antitrust laws may apply to DOJ for a certificate of review, which will be granted (if appropriate) based on a review of the facts of the case. DOJ must take into account health care concerns such as access to care in underserved areas, in addition to conducting a traditional antitrust competition analysis. Activity covered by a certificate later found to be anticompetitive is subject to injunctive relief.

Certificates of review are not automatically approved by the end of a 90 day period. Private, state and federal antitrust actions for injunctive relief are permitted to stop anticompetitive conduct covered by a certificate of review. Judicial review of DOJ decisions concerning certificates of review is limited to abuse of discretion and must be brought in the U.S. District Court for the District of Columbia. "User fees" of up to $5000 may be collected to cover costs, on a sliding scale based on size of transactions proposed.

III. NOTIFICATION

Health care providers which form joint ventures may file a notification of their activities with DOJ and in return will, if sued under the antitrust laws, receive Rule of Reason analysis (analyzing procompetitive and anticompetitive effects of conduct) and be subject to actual damages (rather than treble damages).

Notification is restricted to joint ventures, rather than any collaborative activity. Provisions "deeming" notification without written submission of required information have been eliminated. Excludes "naked" price-fixing, bid-rigging, and market allocation from notification provision, but permits showing that conduct has procompetitive aspects. Authorizes collection of user fees of up to $250 to cover costs.

IV. GUIDELINES

DOJ is directed to issue guidelines regarding legitimate collaborative activities of health care providers to further health care reform, including:

Product and geographic market definitions;
Special rules for underserved areas, such as rural or inner city markets;
Provider networks;
Community health centers;
The subject matter areas of the safe harbors listed above. Additional categories for guidelines have been added.

Mr. DASCHLE. Mr. President, my friend, the Senator from Minnesota, has kindly consented to allow us to complete our work on a couple of the housekeeping chores, and I will do that at this point.

Mr. DURENBERGER. Will my colleague yield to me just a minute?

Mr. DASCHLE. I would be happy to yield to the Senator from Minnesota.

Mr. DURENBERGER. Before we leave the subject of Government-run programs, I think it is fair to make a distinction between the Federal Employees Health Benefit Plan, which is merely an OBM or human resource run process by which each of us can buy a private health plan, and access to a private system. The only role the Government plays in there is the role of the employer, and they pay 72 percent of the premiums.

On the other hand, Medicare and Medicaid are Government-run systems, where the Government pays a specific fee for a service much like they do in Canada. And I think it is appropriate to at least make that distinction. Where, in the private health plan that President Clinton promised to all Americans, that could not be taken away from them, the Mitchell bill does not give the elderly or the disabled the opportunity to get the same kind of health care through the same system that we can.

Mr. DASCHLE. I appreciate the Senator's clarification, but I would only say that I think it fits certainly my definition of Government program when it is limited to Government employees and their families. It is run by Government employees. It is designated to be a governmentwide system specifically designed for all agencies of Government and their employees, paid for by the Federal Government as the employer.

So from that perspective it would seem to me that it would meet the definition of Government. But that is, I suppose, a matter of interpretation, and I appreciate the Senator from Minnesota making his point.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let us have a little pop quiz: How many million dollars would you say are in a trillion dollars? And when you answer that, just remember that Congress has run up a debt exceeding 4½ trillion dollars.

To be exact, as of the close of business this past Friday, August 12, the Federal debt stood—down to the penny—at $4,645,748,084,784.22, meaning that every man, woman, and child in America owes $17,819.53, computed on a per capita basis.

Mr. President, to answer the question—how many million in a trillion—there are a million million dollars in a trillion dollars. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than 4½ trillion dollars.

CURIOUSER AND CURIOUSER

Mr. DECONCINI. Mr. President, I do not necessarily believe everything I read in the paper. And I certainly do not believe everything Mr. Greenspan has to say. But the overwhelming weight of what I hear is that Mr. Greenspan and the Federal Reserve are planning on raising interest rates again.

Do not do it, Mr. Greenspan. If you are bored down there at the Fed, if a rosy economic outlook makes you blue, get out of town, take a vacation, do anything, but just do not raise those interest rates.

There seems to be general agreement that we can expect another increase in interest rates at the Fed's August 16th meeting. This fact is seen as a done deal, in spite of economic indications that it is not necessary. The August 15 edition of Business Week notes that even the Fed's own August 3 survey of regional economies points to a slowing in the economy, but acknowledges that "it is unlikely to prevent another widely expected hike in short rates by the Federal Reserve in mid-August." Why not, Mr. President? Does Mr. Greenspan like bad news so much that he wants to create more?

The Commerce Department estimates that the first quarter growth rate was 3.3 percent and the second merely 3.7 percent—substantially below the 4½ to 5 percent that Business Week asserts was widely anticipated. But clearly this isn't gloomy enough for Mr. Greenspan. Following Mr. Greenspan's logic is a little like Alice in Wonderland—it gets curiouser and curiouser.

Do America a favor, Mr. Greenspan, defy conventional wisdom, do not raise interest rates. Economic growth is good. Americans working is good. Low interest rates are good.

Alan Greenspan reminds me a little of Shakespeare's Hamlet who said "Nothing is either good or bad but thinking makes it so." Hamlet was a tragedy, do not turn the American economy into a tragedy as well, Mr. Greenspan.

VERMONT LAWYERS HELP DEVELOP RULE OF LAW IN FORMER SOVIET UNION

Mr. LEAHY. Mr. President, Vermont lawyers have been volunteering their

VOL 140 PT 16 AG 12 — 18 1994 UMI

time and energies to help develop the rule of law in the emerging Democracies of the former Soviet Union.

They have been helping their counterparts in Russia and other democratic states learn the values of the American system of jurisprudence, lecturing, and providing videotape instruction on the conduct of jury trials and establishing the rule of law for civil disputes and criminal matters.

Many Vermonters are involved in this effort, including our esteemed Associate Justice of the Vermont Supreme Court, and my very good friend, John A. Dooley.

Mr. President, I ask that the following news report that appeared in the Times-Argus of August 10, 1994, be reproduced in its entirety in the CONGRESSIONAL RECORD so that the efforts of Justice Dooley, the Vermont Bar Foundation, and George Burrill, president of Associates in Rural Development of Burlington can be shared with the American people.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Times Argus, Aug. 10, 1994]

VERMONTERS HELP LAWYERS IN RUSSIA ESTABLISH RULE OF LAW, TRIAL BY JURY

Russian lawyers and judges will be getting legal advice from their Vermont counterparts under a contract signed Tuesday between the U.S. Agency for International Development and representatives of the Vermont Bar Foundation and a Burlington based company that specializes in third world development.

At a ceremony hosted by Sen. Patrick Leahy of Vermont, Associate Justice John A. Dooley and George Burrill, president of Associates in Rural Development of Burlington signed a $75,000 contract with AID to continue an exchange program with the Russian Province of Karelia that Vermont judges and lawyers have been pursuing on a voluntary basis since 1992.

Project Harmony, which has been part of Vermont's special relationship with Karelia since 1990, and the Vermont Bar Foundation, have created exchanges between the two countries on Vermont and U.S. Constitutional law, judicial systems and federalism, commercial law and environmental laws and regulations.

On July 26, Justice Dooley and Burril signed the first formal contract for staff services under the Freedom Support Act. The law, enacted two years age, establishes a rule of law exchange between the United States and emerging democracies in the former Soviet Union.

Nine regions of Russia now experiment with jury trials—but the first was held only last December.

The Vermont contribution to the establishment of a legal base in Karelia includes videotapes of a jury trial, lectures and detailed procedural advice on establishing the rule of law in civil disputes and criminal matters.

A delegation of Vermont legal representatives, led by former Gov. Phil Hoff, John Downs and Jan Eastman began developing a legal exchange with Karelia in 1990.

Justice Dooley, Downs, William Sessions, Mark Oettinger, David Kelley, Eastman and the late Bishop John Marshall lectured to audiences of lawyers, government and business representatives in Russia.

A delegation of Karelian judges and Ministry of Justice staff visited Vermont in October 1993 to study the Vermont legal system. Upon their return to Karelia, the group formed a bar association similar to the Vermont model and the government began examining options to license and regulate the profession.

At ceremonies in Leahy's Agriculture Committee hearing room, the Senator praised the efforts of the Vermont Bar and Project Harmony for "helping the Russians understand the laws that govern our lives as Americans—and guiding them toward greater Democratic participation in the system."

TRIBUTE TO SHERIFF HENRY QUILLIAN EVATT, JR.

Mr. SASSER. Mr. President, today I rise to pay tribute to a shining star of Hamilton County—Sheriff Henry Quillian Evatt, Jr.—known fondly as "H.Q." He is retiring after 37 years of public service—including 22 years as chief law enforcement officer of Hamilton County.

H.Q. was born the youngest of four boys on September 9, 1929, to Hettie Lou Wallen and Henry Quillian Evatt, Sr. His father died when H.Q. was only eight, but he instilled in his sons a strong work ethic. H.Q. attended East Lake Elementary and Junior High Schools, where he was a member of championship basketball teams. After graduating from Central High School, H.Q. enlisted in the U.S. Marines and served in Camp Pendleton, CA, and the Island of Guam.

When he returned home in 1957, H.Q. was hired as the bookkeeper at the county jail. Due to the small size of the staff, he quickly took on the jobs of desk sergeant and dispatcher. H.Q. decided to further his education and completed training at the Tennessee Law Enforcement Training Academy and the Chattanooga Police Academy Law Enforcement Training School. In 1963, he became chief deputy to Sheriff Frank Newell. Following Sheriff Newell's retirement, H.Q. declared his candidacy for sheriff and was elected in September of 1968.

H.Q.'s accomplishments as sheriff are numerous. From his first term, Sheriff Evatt was committed to a high degree of competency for his officers. He instituted mandatory training for all officers, established an in-service training school for his own department, updated all recordkeeping systems for jail and crime reports, and utilized private contributions to start a fitness program for his officers.

Reacting to the diverse needs of the community, H.Q. created the first Community Relations Council and implemented a drug education program for youth. At the same time, he worked to enhance educational opportunities for inmates by providing counseling, literacy courses and a full-time chaplaincy program as part of prisoner rehabilitation.

In order to meet the increasing demands on the department, Sheriff Evatt expanded the uniformed and patrol detective divisions, started the first traffic division and expanded the major crimes division. He established a D.U.I. task force and school patrol division, and created a marine patrol division.

At a time when the crime rate is increasing and many people are frightened to leave their homes, we can all be proud of this public servant who has dedicated his life to ensuring the safety and well-being of the citizens of Hamilton County. On behalf of a grateful Nation and State, I extend appreciation to Sheriff Evatt and his family—his wife Bobbie and his children Mike Evatt, Ricky Anderson, and Sherry Swilling—for the sacrifices they have made over the years. H.Q., congratulations on a job well-done. Please accept our wishes for a healthy and fruitful retirement.

A MEETING WITH ARMENIA'S PRESIDENT

Mr. PELL. Mr. President, the Foreign Relations Committee just had a very productive meeting with the President of Armenia, Levon Ter-Petrossian. Just a few short years ago, President Ter-Petrossian was in a Moscow prison for his role in founding the Karabakh Committee, one of the first democratic movements in the Soviet Union. As one who helped to secure the Karabakh Committee's release, I was particularly gratified to welcome one of its founding members to the Foreign Relations Committee—as free, independent Armenia's head of state.

I told the President that I remember well our last meeting—in January 1992 in Yerevan—where I witnessed the terrible impact of the Azeri blockade of Armenia and the remaining effects from the devastating 1988 earthquake. I am very much impressed with President Ter-Petrossian and the notable progress Armenia had made in the face of such difficult circumstances.

During our discussion, the President brought us up to date on the ongoing conflict over Nagorno-Karabakh and the severe economic toll it is taking on the entire region. I very much welcome the news that the parties to the conflict have agreed to a formal cease-fire, and I hope that progress can be made on achieving a lasting peace.

Currently, two competing plans—one put forth by Russia and the other by the Conference on Security and Cooperation in Europe [CSCE]—are on the table. A unified CSCE-Russian approach might prove to be the best strategy. President Ter-Petrossian acknowledged that U.S. diplomatic involvement is key to this process and I would encourage the administration to heed President Ter-Petrossian's call for greater U.S. engagement.

On a related matter, I am pleased that the State Department has tapped Joe Presel, who I might add is a Rhode Islander, to be the Department's Coordinator for Regional Affairs in the New Independent States. His portfolio includes Nagorno-Karabakh, but that is just one of many issues that he must address. I also do hope that the administration will appoint a special representative to the negotiations on Nagorno-Karabakh. That position has been vacant since Ambassador Maresca retired this spring. Since that time, there has been a great deal of movement on the diplomatic front. I believe that in appointing a new representative to deal exclusively with the Nagorno-Karabakh issue, we can greatly contribute to the process of finding a lasting peace in the region.

ALLEGATIONS AGAINST A U.S. SENATOR

Mrs. FEINSTEIN. Mr. President, allegations have been made against me in my role as a United States Senator.

One of my greatest joys is to give young professionals a chance early in their career so they can become top notch, skilled professionals. Paul McDonald is just one of dozens of recent college graduates I have hired with the hope that they will learn a great deal about the Senate and serving constituents. It saddens me greatly that Paul, who chose to leave my office, has made charges against this office that are entirely untrue and false. There is not one iota of truth to his charges.

I take any charges of racial or sexual harassment very seriously. In no way did this office try to prevent Paul McDonald from pursuing his case. I have no way of knowing if his charges against Princeton and the U.S. Department of Education are valid, nor is it my place to make that determination. I know that Paul has followed a long course of legal action against Princeton. The truth is that my office never stood in his way.

Paul was not discharged from this office. He was not asked to stop pursuing his complaint of racial discrimination against Princeton and the U.S. Department of Education. He was only asked to not use office time to pursue his complaint and to not make it seem that his communication was connected to the official functions of the Senate office.

Paul joined my staff in September 1993. He competed in an application process and was selected among many other applicants for the job of legislative correspondent.

In December, Paul wrote to every member of the Senate Judiciary Committee, on which I serve, asking for an investigation into charges of racial discrimination he had made against Princeton University and the U.S. Department of Education. In his correspondence, Paul included his business card and asked members to contact him at my office.

This left the erroneous impression with my colleagues on the Judiciary Committee that this correspondence was officially connected to my office. In fact, my legislative director, Susy Elfving, received calls from the counsels of other members of the Judiciary Committee to ask if this was an official communication from my office. My staff said that clearly it was not official and that we learned about this at the same time as the other offices.

After my senior staff brought this fact up to Paul, he agreed to write a letter to each member correcting this impression. In addition, he agreed that if he chose to write similar letters in the future to Members of the Senate that he would simply notify the Senator that the communication was independent of the office.

Three weeks later, on January 25, Paul again wrote each Senator on the Judiciary Committee. In this letter, he called a response from Senator SPECTER to the earlier letter "racist." Paul threatened to hold a news conference during Black History Month in February and publicly expose the complaint if the Judiciary Committee did not respond properly. Just a few weeks earlier, Paul had agreed to attach to his letter a note explaining that his communication had no connection to my office. He failed to do so. This failure created the impression that my office had somehow condoned the communication.

After the second letter was sent to my colleagues, we simply reiterated our view that Paul not connect his complaint to this office and that he should not pursue it during office hours when he had other responsibilities.

On February 10, Paul notified us of his personal decision to leave this office and began looking for another job. He asked if he could stay on staff while he looked for a job. Three-and-one-half months later, on May 27, he voluntarily resigned to take another position on Capitol Hill.

I would like to submit the following documents for the RECORD to provide background on this matter.

January 4, 1994

To: Paul McDonald, Legislative Correspondent.

From: Michael McGill, Chief of Staff, Susy Elfving, Legislative Director.

Subject: Agreement to revise personal letter of 12/29/93.

Per our discussion of this morning, you agreed to personally retrieve all originals of the letter dated December 29, 1993, which you directed to Members of the Judiciary Committee and their staff. You will revise these letters to delete any reference to your employment by this office, including the name of your employer, your office address and phone number, so there is no implication that the issue which you are pursuing as a private citizen has been officially sanctioned by this office.

Since your employer is a Member of the Judiciary Committee, you further agreed that the copy of your correspondence that you direct to her will include a cover memo from you to her explaining that you are pursuing this action independent of your employment by this office and that you are not informing anyone involved in the process of your employment in this office.

Upon the successful completion of these actions, we agree that this entire affair will not be treated as a negative item in your personnel file. Rather, it represents a well intentioned but incorrect assumption on your part that such an identification would be useful merely for the purposes of communication between you and the addressees of your letter, and would in no way imply any sort of official sanction or support by this office.

We appreciate your positive response to this situation.

MICHAEL S. MCGILL,
Chief of Staff.
SUSY ELFVING,
Legislative Director.

ALEXANDRIA, VA.,
January 7, 1994.

Sent to all Judiciary Committee Counsels:

Attached is a letter from my father and a revision of the first page of my December 29, 1993 letter requesting a meeting with the Committee on the Judiciary members and their counsel to discuss my family's call for a Committee investigation of our complaints of racial discrimination, harassment and bias against Princeton University and the U.S. Department of Education. The first page has been revised to delete the reference to my employment by Senator Dianne Feinstein in order to emphasize that my request is independent of my employment. The reference to my employment was informational and for the purpose of identifying how I may be contacted during working hours to discuss this request. I have made this request on behalf of my family and as a private citizen. Questions should be addressed either to my father, Walter E. McDonald, or to me. My father can be reached at these phone numbers: Home: (713) 265-2056, Work: (713) 656-6334.

The first page has also been revised to include Ruth Simmons, Vice Provost of Princeton University, in the list of administrators and trustees of Princeton University who supported or participated in acts of racial discrimination and harassment against me.

Please return to me the original first page to confirm receipt of this revision. I have enclosed a self-addressed, stamped envelope for your convenience.

PAUL MCDONALD.

ALEXANDRIA, VA.,
December 29, 1993.

Hon. DIANNE FEINSTEIN,
Counsel,
Hart Senate Office Building.

I am requesting a meeting with Committee on the Judiciary members and their counsel to discuss my family's call for a Committee investigation of our complaints of racial discrimination, harassment and bias against Princeton University and the U.S. Department of Education. My request has been delivered to Chairman Joseph Biden and the Chief Counsel Cynthia Hogan; this letter is being delivered to each member of the Committee. Our complaints are based on:

Princeton University administrators' racial discrimination against and harassment of me, an African-American male student

VOL 140 PT 16 AG 12 — 18 1994 UMI

leader with the support and participation of: Harold Shapiro, President of Princeton University; Hugo Sonnenschein, then Provost of Princeton University, now President of the University of Chicago; Ruth Simmons, Vice Provost of Princeton University; R.H. Rawson, Chairman of the Board of Trustees; Senator John Danforth, Member of the Board of Trustees; Hodding Carter, Member of the Board of Trustees.

U.S. Department of Education's racial discrimination and bias against my family in repeated refusal to investigate discrimination complaints against Princeton University and mistreatment of my family with the support and participation of: Richard Riley, Secretary of the U.S. Department of Education; Norma Cantú, Assistant Secretary for Civil Rights, U.S. Department of Education; Paula Kuebler, Regional Civil Rights Director, U.S. Department of Education.

I am an African-American male, recent graduate of Princeton University and former President of the Princeton University Undergraduate Student Government (president of the student body). My accomplishments at Princeton University while I was being discriminated against and harassed by university administrators are described in my resume and a Princeton Alumni Weekly article which are enclosed. I am appealing to the Judiciary Committee because my family has made every attempt to resolve my complaints against Princeton University with the U.S. Department of Education. In our pursuit of equal justice and protection under Title VI of the Civil Rights Act of 1964, we have been misled, lied to, disrespected, patronized, and summarily dismissed by Office for Civil Rights Region II Director Paula Kuebler, Assistant Secretary for Civil Rights Norma V. Cantú, and Secretary Richard Riley. Each has demonstrated racial discrimination and bias against me and my family in their refusal to investigate my complaints against Princeton University's highest-ranking administrators.

My complaints against Princeton University administrators are serious; this is not just my family's belief.

In his January 15, 1993 letter to me, R.H. Rawson, Chairman of the Princeton Board of Trustees wrote, "Your allegations are serious and need to be addressed forthrightly and promptly. * * *"

In her May 2, 1993 letter to my father (attached at end of this letter), Senator Carol Moseley-Braun wrote, "The problem of discrimination in higher education is of great concern to me. * * * The allegations you raise * * * are very serious."

My complaints against Princeton University administrators address discrimination and harassment during my last four semesters at Princeton. The stress and frustration of fighting this racism had its toll. I had abnormal fatigue and migraine headaches that were diagnosed after my junior year in the summer of 1992; I had to take medication for the migraines during my senior year. I also had periods of depression and was often unable to focus or concentrate on academics because of the persistent and isolating nature of harassment I experienced. I had considered withdrawing from the university before my father made his first of two trips to Princeton to remove me from campus so that I could concentrate and complete assignments without harassment. Before the harassment began I had maintained a 3.6 grade point average while chairing the Undergraduate Student Government committee on undergraduate life, and I had been nominated for the Harry S. Truman Scholarship for which I later became a national finalist. The harassment and discrimination caused significant drops in my grades and effectively denied me opportunities for academic honors and graduate scholarships, influencing my decision to postpone law school studies. In my last semester, administrators placed me on disciplinary probation with a threat to expel me after I initially filed a complaint against them with the U.S. Department of Education Office for Civil Rights Region II and mailed information to fellow minority students advising them to do the same if they had complaints against representatives of the university.

That my complaints were found without racial discrimination or harassment by Office for Civil Rights Region II Director Paula Kuebler, Assistant Secretary for Civil Rights Norma Contú, and Secretary Richard Riley without investigation suggests they are more interested in closing my case against Princeton University than in enforcing the law. It is therefore my family's position that the U.S. Department of Education must not be involved in any forthcoming investigation or adjudication of my complaints against Princeton University. With this letter, I am filing racial discrimination and bias complaints against Paula Kuebler, Norma Cantú and Richard Riley for their actions as representatives of the U.S. Department of Education; it is my family's hope that their actions are not indicative of a general insensitivity to and condoning of racial discrimination and harassment of African-American males on the part of public officials who are charged with protecting our civil rights. To this point, my family has found that there are few advocates for young African-American males who commit themselves to excellence and demand equal justice and respect. It appears the only young African-American males whom public officials are concerned about are those who are incarcerated.

Proper and thorough investigation of my complaints against Princeton University is important in the struggle for equal protection and justice for African-American students on predominantly white college campuses across the nation. The racism I experienced on the Princeton University campus is indicative of the 'new age' racism confronting African-American students. The 'new age' racists on college campuses are administrators and faculty who use their positions of authority in the university community to demean African-Americans, treating us as if we have no reason to expect the same attention, treatment and respect white students receive and seeking to confine us to subordinate roles they have set aside for us. For African-Americans to challenge these administrators or faculty members instead of accepting or tolerating mistreatment is unacceptable. Their response is seldom to call us 'nigger'; calling us 'nigger' is often rejected in their circles as 'unsophisticated' and, for the purposes of punishing us for standing up to them, is often not considered damaging enough. Instead their response is to use their authority to undermine our academics and activities, intending to dismantle us from the inside as our frustration and feelings of isolation increase with the realization that in this environment they determine what is right and wrong and answer to no one. Some students transfer from one college to another. Some students take time off from college. Some students dropout and do not complete their degrees. All African-American students that have experienced this 'new age' racism are denied their potential—the grades, opportunities, experiences, and peace of mind they would and should have had.

The following are brief accounts of my experiences. More information is available upon request.

PRINCETON UNIVERSITY

Princeton University's highest-ranking administrators demeaned me as a person, stigmatizing me as an African-American male representing a threat to white females and stigmatizing my parents as "rude and inappropriate" when they challenged administrators' mistreatment of me. They demeaned me as a student, stereotyping me as an irresponsible and underqualified African-American student fortunate to attend Princeton in communications to professors, threatening to rescind the university's sponsorship of a colleague's nomination of me for the Harry S. Truman Scholarship (I became a national finalist for the scholarship) and causing a significant drop in grades from the psychological stress associated with their actions against me. They demeaned me as a leader, refusing to accept me as the legitimate and elected president of the student body and subverting my agenda at the behest of a white female student who held a lower position in the student government. Again, I ask you to look at my resume. Had I been white, administrators would have heralded me instead of harassing me; they would have lifted me up instead of trying to string me up.

Enclosed are complaints I filed in the Office of the Provost at Princeton University and the U.S. Department of Education Region II Office for Civil Rights. These complaints describe specific acts of racial discrimination and harassment committed against me by: Thomas Wright, Vice President and General Counsel; Ruth Simmons, Vice Provost; Nancy Weiss Malkiel, Dean of the College; Diane Balestri, Assistant Dean of the College; Eugene Lowe, Dean of Students; Joyce Clark, Associate Dean of Students; Kathleen Deignan, Associate Dean of Students; Sandy Silverman, Assistant Dean of Students; Michael Rodriguez, Director of the Third World Center.

These complaints also describe racist actions taken against me with the assistance or approval of administrators by Jennifer Weller-Polley '93, a white female student, and the student editors of The Daily Princetonian campus newspaper. The academic department I was enrolled in, the Woodrow Wilson School of Public and International Affairs, also discriminated against me in assigning me to a public policy conference.

President Harold Shapiro is implicated in these complaints because the McDonald family appealed to him, in person and in letters, to protect me from the racial discrimination and harassment of the administrators listed above. From our communications, Shapiro understood the injurious effects the actions of administrators had on me (academic, physical and psychological) but did nothing to stop the harassment. I appealed to Chairman of the Princeton University Board of Trustees Robert H. Rawson and Trustees Senator John Danforth and journalist W. Hodding Carter III asking that the Board of Trustees intervene since the highest-ranking administrators were involved. In his response Rawson acknowledged my charges were "serious and need to be addressed forthrightly and promptly by the University" but insisted the administration could handle my charges despite the fact top administrators had either committed, supported, or condoned the racist actions that I was challenging. Through their silence on the matter after I had sent copies of my complaint to them, the entire membership of the Board of Trustees also indicated that their interest was not in addressing racism on campus but instead in covering up campus racism.

Princeton University's indifference and sometime hostility to student concerns of racial discrimination and harassment in the past and present (as I have documented in the enclosed race record and my open letters to the university community) and its failure to adopt a racial harassment policy despite repeated attempts by students to establish a policy as recently as this past March make it clear that minority students on Princeton's campus have no rights which administrators, faculty or students have to respect. The fact that no minority student has been successful in challenging administrators has permitted them to become more resistant and arrogant in their racism over the years. Minority students have no recourse on Princeton University's campus.

Administrators placed me on disciplinary probation with a threat to expel me after I had filed a complaint against the university with the U.S. Department of Education Office for Civil Rights and mailed information to fellow minority students advising them to do the same if they were unsatisfied with the university's handling of their racial discrimination and harassment complaints (see enclosed New York Times and Associated Press articles). They isolated me on campus with the assistance of student editors of the Daily Princetonian through their attempts to assassinate my character in campus newspaper articles. Vice Provost Ruth Simmons, an African-American female who was supposed to be an advocate for minority student concerns, took every opportunity to make false accusations about me in articles in an effort to discredit me. Frankly, she considered my statements on the university's lack of commitment on racial issues a threat to her career plans; the Provost Hugo Sonnenschein and announced he would be leaving to become president of the University of Chicago, and Simmons had been mentioned for the position because of her supposed efforts to improve race relations. The administration and editors of the campus newspaper made repeated personal attacks on my character, but one instance particularly stands out from others. The editor-and-chief of the newspaper decided to print a negative article about me written by the son of an administrator against whom I had filed a racial discrimination complaint. The editor printed this negative article after I had written a letter to President Harold Shapiro, Vice Provost Ruth Simmons, and her asking that the article not be run because of the personal bias of the reporter. The editor then refused to print letters written in support of me after running the negative article; two students even contacted me to tell me their letters of support had been refused by the editorial board.

Dean of Students Eugene Y. Lowe admitted to my father that there were, in Lowe's words, "several administrators" who were "upset" with me during my father's trip to Princeton in March 1993. Lowe's comment was remarkable—not just because it was so candid a statement of administrator's biases against me, but also because he even spoke with my father. After my father had arrived for a meeting scheduled in the previous fall semester with an Associate Provost to discuss my family's concerns about racial discrimination against me, he had been handed a letter informing him that Vice President and General Counsel Thomas Wright had "directed university administrators not to deal with you [my father] either by telephone, or in person, or in writing" and that the meeting had been cancelled. My father wrote a letter to Wright and President Harold Shapiro indicating that he had not been notified of the cancellation before he had arrived for the meeting. Wright refused to apologize or offer to reimburse my father for the expenses he incurred making the trip from Houston to Princeton. Furthermore, Wright wrote, "I regret that you believe a number of University administrators have treated you and your son unfairly on the basis of race. In light of the way you make these charges, I do not see any productive means of responding to them."

U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS

After the Princeton University Board of Trustees had failed to intervene, I filed racial discrimination and harassment complaints against Princeton administrators at the U.S. Department of Education Region II Office for Civil Rights (OCR) in New York City. I thought I had found an impartial agent that had authority by law (Title VI of the 1964 Civil Rights Act) to both adjudicate the complaints and impose sanctions upon those found to have discriminated against me. But OCR Region II demonstrated a lack of will and commitment to confronting racial discrimination. More importantly OCR officials in their insensitive questioning of whether the discrimination and harassment I had experienced was based on my race, their reluctance to either investigate complaints in a timely fashion (by their own official timelines) or investigate the most serious complaints at all, and their disrespectful treatment of my family in their communications to us have proven they are not qualified to investigate 'new age' racism and are in fact racist themselves.

Consider that in OCR's Annual Report to Congress: Fiscal year 1991 it is reported that their offices receive few if any alleged racial discrimination or harassment complaints brought by students against universities or colleges based on direct actions employees or representatives of the institution took against the complainant.

Seventy-nine percent of the complaints received in FY 1991 alleged discrimination in the delivery of services, while most of the remainder alleged discrimination in employment. As in previous years, nearly two-thirds of all complaints alleged discrimination on the basis of handicap.

Only 17 percent of complaints alleged discrimination on the basis of race. This is not because racism has declined on campuses across the nation; according to most reports, there has been an increase of racist incidents on campuses. The small percentage of complaints alleging racial discrimination can be attributed to the general lack of information about the U.S. Department of Education Office for Civil Rights and its purpose. Simply put, most minority students (it is possible 90 percent or more) do not know OCR exists because OCR has made no attempt to increase awareness among minority students. It appears that African-Americans whose grandparents and parents gave and risked the most for civil rights are among the last to be protected by OCR's annual $48 million efforts to insure compliance of civil rights laws. Yet members of Congress certainly assume, if for no other reason than the title "Office for Civil Rights," that OCR champions equal justice and respect for African-Americans. My experience proves otherwise and is strong argument that OCR should be investigated by Congress for condoning the racism the office is supposed to fight.

My father and I personally delivered a 30 page racial discrimination and harassment complaint to OCR Region II in New York City on January 21. This complaint, which I had previously filed in the Office of the Provost at Princeton University, fully detailed the racial discrimination and harassment that I had experienced at Princeton University in the previous semesters. Eddie Pinkney of OCR reviewed this 30 page complaint and told my father and me that it was too lengthy and detailed for purposes of filing a complaint at OCR. Pinkney did not indicate that the 30 page complaint lacked any information needed to initiate an investigation nor did he question the validity of my charges of racial discrimination. He did suggest I fill in one of the standard OCR discrimination complaint forms while in the office and submit this form instead of the 30 page complaint. The official discrimination complaint form has little space for detailed description of a complaint; Pinkney said simple statements to the effect "I was discriminated by * * *" for each instance of discrimination would be enough for filing a complaint. He also instructed me to request an extension of the normal six month OCR filing period in a letter to Paula Kuebler, Regional Director of OCR Region II.

I submitted a complaint and request for a waiver of the 6 month limit normally applied to complaints to Paula Kuebler, Regional Director of OCR Region II, on January 26 (enclosed). In a letter to me dated February 12 (enclosed), OCR Region II stated "We have carefully reviewed your complaint and determined that you have provided this Office with insufficient information concerning most of your allegations to initiate an investigation." OCR also stated "it will be necessary for you to request a waiver of the timeliness requirement [180 calendar days of the last act of alleged discriminatory conduct]." OCR listed nine requests for information.

A critique of OCR's requests for more information (enclosed) in light of the details in the complaint filed on January 26 reveals that OCR did not "carefully review" my complaint and that their claim of "insufficient information" had no merit. OCR's insincere response to my complaint intended to either postpone investigation or discourage me from further pursuing the entire complaint in their office. OCR hoped to appease me in stating that the complaint against instructors for refusal to grant class assignment extensions was complete; this complaint in fact had less detail than the other complaints against top Princeton University administrators, but appears to be the easiest complaint to resolve because at first glance there seems to be a possible compromise or conciliation, i.e. the granting of extensions and changing of grades. But the complaints against administrators do not suggest means of conciliation; these complaints require confrontation and strict sanctions to resolve. I am convinced that OCR never intended to investigate my complaints against Princeton University administrators.

I did not respond to OCR's requests for more information; as stated and demonstrated in the enclosed critique of OCR's requests, my original complaint was in fact complete. I was frustrated by OCR's insensitivity and incompetence and had more or less abandoned hope. University administrators had begun to retaliate against me for making minority students aware of the option of filing discrimination complaints against the university with OCR. In order to

VOL 140 PT 16 AG 12 — 18 1994 UMI

graduate in June. I had to research and write an 80 page thesis by April 5. I did not have the time or energy to conduct the investigation for OCR, which is what OCR seemed to expect me to do in their repeated requests for "factual information which would support your feeling that these actions were discriminatory because other individuals in similar circumstances were treated in a more favorable manner than yourself." The determination of discrimination—through the gathering of factual information from all parties and through considering both the treatment of others in similar circumstances and the potential that the circumstances affecting the complainant are unique—is OCR's job, not the complainants. This is so if for no other reason than the fact that the accused institution has no incentive to cooperate with the complainant and provide him or her factual information supporting his or her feeling that the institution's actions were discriminatory but must cooperate with OCR because OCR has authority to enforce Title VI of the Civil Rights Act of 1964.

My father and I called OCR and asked to speak with Regional Director Paula Kuebler, but she refused to discuss the original complaint with us. My father filed a retaliation complaint on my behalf on April 12 against Princeton University administrators for their placing me on disciplinary probation after I had informed minority students of their right to file discrimination and harassment complaints against the university with OCR; this complaint was sent with a cover letter to Secretary of Education Richard Riley and Attorney General Janet Reno (enclosed) requesting that they take action from their offices because of the incompetence and insensitivity demonstrated by OCR Region II. When my father called the Department of Education to inquire about the retaliation complaint, he was transferred to the office of Jeanette Lim, then Acting Assistant Secretary for Civil Rights. Lim's assistant said that she had prepared a letter to be sent to my father. My father asked if the letter could be faxed to him, to which Lim's assistant replied, "We don't fax letters and don't call here again." My father then faxed letters to Secretary Riley and Attorney General Reno requesting meetings to discuss all my complaints (the entire original complaint and the retaliation complaint) and OCR's mistreatment of us. On June 3, Norma Cantú, who had recently been appointed Assistant Secretary for Civil Rights, responded to my father's request to meet with Secretary Riley stating that "communicating with increasingly higher level Government officials will not affect the OCR regional offices' careful, deliberate evaluation * * *" She told us to direct questions about all complaints to OCR Region II despite the fact we had indicated reservations about the regional office's handling of the original complaints. OCR agreed to investigate the retaliation complaint after Senator Carol Moseley-Braun, whom my father had copied in his letter attached to the retaliation complaint, wrote Secretary of Education Riley in support of our request for a full investigation of all my complaints. But in her response to Senator Moseley-Braun, Cantú purposely misled the Senator, stating that "my staff have looked into your constituent's situation and advised me that Mr. McDonald's complaints are under investigation." In fact, the majority of the original complaints addressing the most damaging actions against me were still not being investigated.

When we finally spoke with Regional Director Paula Kuebler, we indicated that we wanted to appeal OCR Region II's determination that insufficient information had been provided on the complaints against Princeton administrators and OCR Region II's subsequent decision not to investigate these complaints; she said there was no appeal process and accused us of "asking for special treatment." On August 3, I wrote a letter to Norma Cantú appealing OCR Region II's decision not to investigate my original racial discrimination complaints against Princeton administrators; I included the critique of OCR's request for more information that is enclosed here. I requested that Cantú appoint a special counsel to investigate all my complaints and the mishandling of the original complaint by OCR Region II. In Cantú's response (signed by Jeanette Lim), she once again lied about the status of the original complaints against university administrators stating that the "regional office is currently investigating your complaint" in response to my specific inquiry about the original complaints against administrators. She again told us to direct further questions to OCR Region II despite the fact I had specifically called for an investigation of that office in my appeal. OCR Region II should have been disqualified from investigating or adjudicating any of my complaints based on their mishandling of complaints and mistreatment of me and my father. I delivered a letter to Cantú's office on August 24 requesting a meeting with her. Her chief of staff responded in a letter that Cantú would not meet with me and that OCR was "sorry if we have been unable to resolve this matter to your satisfaction."

I did receive an OCR letter of finding dated October 21 from OCR Region II Director Paula Kuebler. This letter of finding was considerably late in its issuance by OCR's official timelines for complaint decisions. The letter of finding addressed the complaint I had filed against two professors for denying me extensions on class assignments that conflicted with my attempts to resolve my racial discrimination complaints with the university. OCR Region II found the professors innocent of the charges I filed. My critique of the OCR letter of finding is included in my December 29 letter to Senator Edward Kennedy. This letter to Senator Kennedy also addresses a December 10 letter Cantú sent to him in response to his November 9 request for her report on the status of the appeal of OCR Region II that I had filed. These letters are all in the last section of the enclosures binder. I have still heard nothing from OCR on the retaliation complaint. The official deadline for a decision on the retaliation complaint has long passed. The fact that Cantú does not refer to it in her correspondence to Senator Kennedy suggests that OCR does not intend to investigate the retaliation complaint even though it was deemed complete and given a case number.

New age racists like the Princeton University administrators named in my discrimination and harassment complaints hold African-American students captive on college campuses. The university community is their plantation—and on this plantation African-American students have no rights these administrators, or faculty and white students, have to respect. These administrators do whatever they want to whenever they want to because they believe that African-American students have no recourse. Unfortunately, my experience with the U.S. Department of Education Office for Civil Rights supports this belief. It appears no one is willing to stand with young African-Americans who are committed to excellence and demand respect, equal justice, and equal protection under the law.

If you have any questions or need more information, please do not hesitate to contact me. I have accumulated extensive documentation, including letters to and from individuals involved in my complaints, in support of my claims. My family and I thank you for your time and consideration. We look forward to hearing from you.

Sincerely,

PAUL L. MCDONALD.

January 25, 1994.

Hon. DIANNE FEINSTEIN,
Counsel,
Hart Senate Office Building.

Attached is a January 12, 1994 letter Senator Arlen Specter sent to me regarding my December 29, 1993 request for a meeting with Committee on the Judiciary members and counsel to discuss my family's call for a Committee investigation of our complaints of racial discrimination, harassment and bias against Princeton University and the U.S. Department of Education. This letter in response is being delivered to each member of the Committee.

It is my family's hope that Senator Specter's response is not an indication of the Committee's position as we consider his response racist in its condoning of the U.S. Department of Education Office for Civil Rights' (OCR) actions to deny me due process and equal protection. We consider Senator Specter's response to be hostile to the plight of African-American students on predominantly white campuses, which I described in my December 29, 1993 letter to you as the 'new racism.' It is apparent Senator Specter is comfortable with assuming this public posture; as we have not received a response from the Committee on our request, it remains to be seen if the membership is also.

In his statement that my "administrative claim has been concluded" because of "[my] failure to file an * * * appeal within the time provided by law," Senator Specter conveniently chooses to ignore both my complaints against the U.S. Department of Education in my December 29 letter to the Committee membership and my critique of the Office for Civil Rights' findings in my December 29 letter to Senator Edward Kennedy enclosed with the materials sent to the Committee membership. In his attempt to clean his hands of the matter, however, he betrays his own reasoning. Senator Specter states, "The allegations you make regarding Princeton University * * * are quite serious." (Senator Carol Moseley-Braun had also stated that the "allegations you raise * * * are very serious" in her May 2, 1993 letter to my father attached to the December 29 letter to you.) But Senator Specter has concluded that my complaints are "serious" based on the same information that the U.S. Department of Education determined was insufficient to warrant investigation. In effect, Senator Specter acknowledges that my family has a complaint against the U.S. Department of Education for denying us due process. It is our complaint that the U.S. Department of Education has been more interested in closing our case against Princeton University than in enforcing the law. There is no other explanation for the U.S. Department of Education's decision not to investigate complaints two members of the Senate Committee on the Judiciary have characterized as "serious."

In my December 29 letters to the Committee membership, I stated that I had written to Assistant Secretary for Civil Rights Norma Cantú on August 3, 1993 to appeal OCR Region II's decision not to investigate my complaints. I critiqued OCR Region II's request for more information and maintained through point-by-point analysis that sufficient information had been provided in the original complaint I sent to OCR to initiate an investigation. OCR Region II had "administratively closed" the majority of the original complaint based on its reasoning that I had failed to provide sufficient information by a later deadline, but if enough information had in fact been provided initially as I maintain, the deadline is moot. I remind the Committee that Senators Carol Moseley-Braun and Arlen Specter characterized my complaints as "serious" based on the same information that the U.S. Department of Education determined was insufficient to warrant investigation. I also remind you that OCR Region II after "carefully reviewing" my original complaint had informed me in their February 12, 1993 letter that it would "be necessary for [me] to request a waiver of the timeliness requirement [180 calendar days of the last act of alleged discriminatory conduct]" and address this request to Regional Director Paula Kuebler. I had made this request in the third sentence of my January 26, 1993 letter to Paula Kuebler included with my original complaint. (The letters and critiques referred to here were enclosed with the materials sent to the Committee membership with my December 29 letter.)

Although the Office for Civil Rights has issued a letter of finding on my complaints against German professors (Case. No. 02-93-2051), i.e. "administratively closed" this case, OCR has not issued a letter of finding on the retaliation complaint my father filed against Princeton University administrators for their placing me on disciplinary probation after I had informed minority students of their right to file complaints against the university with the Office for Civil Rights. This retaliation complaint (Case No. 02-93-2092) has not been closed by any official regulations. OCR simply does not intend to investigate this complaint. It is incredible that Senator Specter could ignore this pending case, and it further suggests that he has no interest in insuring due process or equal protection for African-Americans.

In his closing, Senator Specter "question[s] the propriety of Judiciary Committee review over the issues [I] present." I came to this Committee because my family has been discriminated against by a federal agency responsible for enforcing civil rights laws. Senator Specter is suggesting that those responsible for enforcing the law may not be held accountable when breaking the law and, furthermore, that law enforcement officials may adjudicate and subsequently "administratively close" cases in which they have participated in the breaking of laws in order to escape appeals, scrutiny, and sanctions. Must there be an abuse of force on the part of the police before the Judiciary decides it has propriety over the issues? It appears that although Senator Specter has admitted that my complaints are serious, he has no moral qualms about condoning the U.S. Department of Education's decision to ignore them. My family and I are convinced he has not taken me seriously because I am an African-American male. If I were a woman alleging sexual harassment, the public officials with whom my family has dealt would have shown more sensitivity and concern. It seems the only African-American males whom public officials are concerned about are those of us who are incarcerated.

My family and I remain hopeful that Senator Specter's feelings are not shared by the Committee membership. We would appreciate a response from the Committee on our request by Wednesday, February 9 as we are now making preparations to publicly expose our complaints and experiences during Black History Month if it is necessary to continue our pursuit of equal justice. We have been fighting for more than two years now. We have not come this far to turn back.

Sincerely,

PAUL L. MCDONALD.
WALTER E. MCDONALD.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Environment and Public Works.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3208. A communication from the Principal Deputy Under Secretary of Defense, transmitting, pursuant to law, the Selected Acquisition Reports for the quarter ending June 30, 1994; to the Committee on Armed Services.

EC-3209. A communication from the Chairman and President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving U.S. exports to the People's Republic of China; to the Committee on Banking, Housing and Urban Affairs.

EC-3210. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to reduce the economic burden on United States-flagged merchant vessels by streamlining certain regulatory requirements, by expanding the delegation of the performance of marine safety functions to third parties, and by broadening the Coast Guard's marine safety authority to accommodate these changes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3211. A communication from the Secretary of Energy, transmitting, pursuant to law, a notice of delay in the submission of a report relative to energy management and conservation programs; to the Committee on Energy and Natural Resources.

EC-3212. A communication from the Deputy Associate Director for Compliance, Department of Interior, transmitting, pursuant to law, a report relative to refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-3213. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, a report relative to International Labor Organization Convention No. 174 and Recommendation No. 181; to the Committee on Foreign Relations.

EC-3214. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report relative to international agreements other than treaties entered into by the United States within the sixty day period prior to August 11, 1994; to the Committee on Foreign Relations.

EC-3215. A communication from the Assistant Secretary of State, Legislative Affairs, transmitting, pursuant to law, a report relative to the authorized furnishing of defense articles to the Dominican Republic; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM:

S. 2388. A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsement for employment in coastwise trade for each of two vessels named *Gallant Lady*, subject to certain conditions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BRYAN (for himself and Mr. GRAHAM):

S. 2389. A bill to reform habeas corpus procedures; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 2390. A bill entitled the "Mentorship for American Indian Small Enterprise Act"; to the Committee on Indian Affairs.

By Mr. SIMON (for himself, Mr. PRYOR, Mr. DECONCINI, Mr. METZENBAUM, and Mr. REID):

S. 2391. A bill to repeal the prohibitions against political recommendations relating to Federal employment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JOHNSTON (by request):

S.J. Res. 217. A joint resolution to approve the location of a World War II Memorial; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD (for himself and Mr. DOLE):

S. Res. 249. A resolution to authorize testimony by an employee of the Senate and to authorize representation by the Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM:

S. 2388. A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsement for employment in

VOL
140
PT
16
AG
12
—
18
1994
UMI

coastwise trade for each of two vessels named *Gallant Lady*, subject to certain conditions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION FOR THE VESSELS "GALLANT LADY"

Mr. GRAHAM. Mr. President, today I am introducing legislation which would grant a narrow waiver to the Jones Act for two vessels to operate in coastwise trade.

The vessels, both named *Gallant Lady*, would be authorized under the bill to be used to assist charitable organizations in their fundraising activities.

The waiver would expire if the owner sold the vessels. Further, the owner must agree prior to October 1, 1996, to have a vessel of at least 130 feet built by a U.S. shipyard.

I am hopeful the Senate will approve this legislation and look forward to working with my colleagues to ensure that the bill meets its narrow goals.

By Mr. PRESSLER:

S. 2390. A bill entitled the "Mentorship for American Indian Small Enterprise Act"; to the Committee on Indian Affairs.

MENTORSHIP FOR AMERICAN INDIAN SMALL BUSINESS ENTERPRISE ACT

Mr. PRESSLER. Mr. President, I rise today to introduce a bill creating the Mentorship for American Indian Small Enterprise [MAISE] Program. This legislation targets a portion of section 7(m) of the Small Business Act, the Small Business Administration's Microloan Demonstration Program, for Indian lands experiencing severe economic stagnation.

The concept of this legislation was born out of a hearing I chaired in Pine Ridge, SD, in September of 1993. The hearing, the first ever of the Senate Small Business Committee on an Indian reservation, was held on the Pine Ridge Indian reservation. Pine Ridge contains the Nation's poorest county on a per capita basis, vividly demonstrating the dire economic conditions that often have persisted on Indian reservations. The three panels of witnesses included tribal, State, and community leaders, as well as entrepreneurs and private lenders. While the testimony acknowledged and addressed the unfortunate circumstances existing on most Indian lands, witnesses focused on solutions to the problems that stunt job creation and entrepreneurial success.

Small business development will not and cannot be a panacea to the profound and complex problems that American Indians experience. Business opportunity, however, is a proven pathway to economic independence. My bill provides some of the tools necessary for American Indians caught in a seemingly endless cycle of economic dependency to break out of that defeating spiral. Although my greater MAISE concept will include welfare reform and tax incentives, committee jurisdictional complications prevent me from offering all of the program as a single piece of legislation. Nonetheless, the Microloan portion of the MAISE Program eventually could allow aspiring entrepreneurs to learn from established members of the local business community and put themselves firmly on the road to success.

As I mentioned earlier, there tools would be provided by modifying the SMA microloan Program, found under section 7(m) of the Small Business Act. This bill takes a comprehensive approach to stimulating economic growth on Indian lands by adding another tier of assistance to the existing Microloan Program. My bill would target a portion of the current program by requiring the SBA to select no less than the ten percent of participating intermediaries to provide loans and technical assistance to members of qualified Indian tribes. A qualified Indian tribe, as defined in the act, must have "an employable adult population of not less than 400 persons" and "an unemployment rate of not less than 40 percent." This reserve parallels a portion of the current program requiring at least 50 percent of intermediaries to serve rural areas. This reserve is not designed to act as a quota or mandate; rather, it is a primer for these particularly needy areas to become full partners in the SBA Microloan Program.

In addition to intermediary involvement, the legislation provides technical assistance grants to be awarded to institutions of higher education. Tribal, State, or private colleges or universities would provide training to intermediaries and established members of the business community—referred to as mentors in this legislation. With the cooperation of the intermediaries, these mentors would bolster their personal business knowledge with formal instruction so that they, in turn, could advise fledgling entrepreneurs.

The bill also amens the purposes for which microloans may be used. Under current statute, microloans may be used for "working capital or the acquisition of materials, supplies, or equipment." This bill would allow loans to be used for the purchase of commercial real estate in addition to these other purposes. Inexpensive real estate is readily accessible not only to businesses located on Indian reservations, but also to many businesses located in rural areas and cities. South Dakota's only participating intermediary in the SBA Microloan Program, the Northeast South Dakota Energy Conservation Corp. [NESDECC], recently informed me that almost half of the businesses seeking microloans from NESDECC would like to use such loans to purchase commercial real estate. NESDECC also stated that many buildings in the area it serves can be purchased for as little as $5,000. To allay fears that introducing real estate loans to the Microloan Program may jeopardize its revolving fund concept, my colleagues should know that this legislation does nothing to modify the $25,000 loan limit, or the $10,000 average loan portfolio requirement of the current law. I believe these two provisions provide an adequate safeguard against intermediaries making too many large, long-term loans.

Mr. President, I truly believe this program would be an excellent way for this Nation's Indian reservations to work their way out of economic stagnation. The Microloan Program was created specifically "to assist women, low-income, and minority entrepreneurs and business owners." By coupling intensive business assistance with access to credit, this program could be just the catalyst that budding American Indian entrepreneurs need to hone their skills and talents. Such a tremendous resource and such enormous potential must not continue to go to waste. The MAISE Program will transform ideas into reality and allow economically disadvantaged American Indians to declare social and economic independence.

The legislation I introduce today owes a great deal to the honest, straight forward testimony of people like Elsie Meeks, executive director of the Lakota Fund of Kyle, SD. At the Pine Ridge field hearing, Elsie explained the value of microenterprise development to Indian reservations. She stated that microenterprise development reaches out to the "poorest of the poor" and puts them on "the road to economic self-sufficiency." Despite the limited business skills and depressed economic conditions that surround these new businesses, the Lakota Fund maintains a default rate below 10 percent. Another microlender, the Sincangu Enterprise Center located on the Rosebud Indian Reservation, serves as another powerful example of how microlending can empower the once impoverished. Sincangu has been fortunate enough to have the support of Farmers State Bank of Mission, SD. Farmers State Bank, located just off of the Rosebud Reservation, has built a strong working relationship with the members of the Rosebud Sioux tribe, as well as with the Sincangu Enterprise Center. Cooperative efforts among this bank, Sinte Gleska University, and the people of the Rosebud area have allowed the Sincangu Enterprise Center to create over 30 new small businesses in the last 4 years.

Since last September, I have kept in close contact with many of the witnesses who testified at this hearing. They have been instrumental to the development of this bill. Their advice and assistance carries the utmost importance and credibility on this subject. They are, after all, the individuals who live and work in these communities and deal with the problems there every day. Clearly, they know what it will take to make their communities prosper. I believe that this bill captures that spirit.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MICROLOAN DEMONSTRATION PROGRAM AMENDMENTS.

(a) PURPOSES.—Section 7(m)(1)(A)(iii) of the Small Business Act (15 U.S.C. 636(m)(1)(A)(iii)) is amended—

(1) in subclause (I), by inserting "commercial real estate," after "acquisition of"; and

(2) in subclause (III), by striking "and" at the end;

(3) by redesignating subclause (IV) as subclause (VI); and

(4) by inserting after subclause (III) the following new subclauses:

"(IV) to make grants to eligible intermediaries that, together with non-Federal matching funds, will enable such intermediaries to provide marketing, management, and technical assistance to microloan borrowers that are members of qualified Indian tribes;

"(V) to make grants to institutions of higher education serving Indian lands that, together with non-Federal matching funds, will enable such institutions to provide instruction on marketing, management, and technical assistance to eligible intermediaries and to mentors, in order to enable such intermediaries and mentors to assist members of qualified Indian tribes to obtain private sector financing for their businesses, with or without loan guarantees; and".

(b) ESTABLISHMENT.—Section 7(m)(1)(B) of the Small Business Act (15 U.S.C. 636(m)(1)(B)) is amended—

(1) in clause (II), by striking "and" at the end;

(2) in clause (III), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

"(iv) in conjunction with loans made under clause (i) and subject to the requirements of paragraph (4), make grants to eligible intermediaries for the purpose of providing marketing, management, and technical assistance to members of qualified Indian tribes that are seeking to start or enlarge their small business concerns and that are borrowers under this subsection; and

"(v) subject to the requirements of paragraph (7), make grants to institutions of higher education serving Indian lands for the purpose of providing instruction on marketing, management, and technical assistance to eligible intermediaries and to mentors, in order to enable such intermediaries and mentors to assist members of qualified Indian tribes to obtain private sector financing for their businesses, with or without loan guarantees.".

(c) INTERMEDIARY APPLICATIONS.—Section 7(m)(3)(A)(i) of the Small Business Act (15 U.S.C. 636(m)(3)(A)(i)) is amended—

(1) in subclause (VII), by striking "and" at the end;

(2) in subclause (VIII), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subclause:

"(IX) with respect to eligible intermediaries serving Indian lands, any plan to work with—

"(aa) an institution of higher education that has received a grant under paragraph (1)(B)(v); or

"(bb) a mentor that has received training from any such institution of higher education pursuant to such a grant.".

(d) ADDITIONAL TECHNICAL ASSISTANCE GRANTS FOR MAKING CERTAIN LOANS.—Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended in the matter preceding subparagraph (A), by striking "subparagraph (B)(ii) of paragraph (1)" and inserting "clause (ii) or (iv) of paragraph (1)(B)".

(e) LOANS FROM ELIGIBLE INTERMEDIARIES.—Section 7(m)(6)(A) of the Small Business Act (15 U.S.C. 636(m)(6)(A)) is amended by inserting "commercial real estate," after "acquisition of".

(f) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) by redesignating paragraphs (7) through (11) as paragraphs (9) through (13), respectively; and

(2) by inserting after paragraph (6) the following new subparagraph:

"(7) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—Grants made in accordance with paragraph (1)(B)(v) shall be subject to the following requirements:

"(A) GRANT AMOUNTS.—For each eligible intermediary receiving a grant under paragraph (1)(B)(iv), 1 grant shall be made to a qualified institution of higher education serving the same tribal lands as the eligible intermediary. The amount of the grant to the institution of higher education shall not exceed the grant amount received by the eligible intermediary pursuant to paragraph (1)(B)(iv).

"(B) CONTRIBUTION.—As a condition of any grant made under subparagraph (A), the Administration shall require the institution of higher education to contribute an amount equal to 25 percent of the amount of the grant, obtained solely from non-Federal sources. In addition to cash or other direct funding, the contribution may include indirect costs or in-kind contributions paid for under non-Federal programs.

"(C) INDIAN MENTOR EDUCATION GRANTS.—Institutions of higher education receiving grants under paragraph (1)(B)(v) shall be eligible to receive grants to educate owners, managers, or employees of established small business concerns for purposes of providing additional technical assistance to small business concerns located on or near Indian lands that are borrowers under this subsection, as well as to other small business concerns seeking private sector financing.".

(g) INDIAN ASSISTANCE.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by inserting after paragraph (7), as added by subsection (f), the following new paragraph:

"(8) INDIAN ASSISTANCE.—In funding microloan programs, the Administration shall ensure that not less than 10 percent of the programs funded under this subsection will provide microloans to small business concerns located on or near Indian lands.".

(h) REPORT TO CONGRESS.—Section 7(m)(12)(F) of the Small Business Act (15 U.S.C. 636(m)(12)(F)), as redesignated by subsection (f), is amended by inserting "and to small business concerns located on or near Indian lands" immediately before the semicolon.

(i) DEFINITIONS.—Section 7(m)(13) of the Small Business Act (15 U.S.C. 636(m)(13)), as redesignated by subsection (f), is amended—

(1) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(2) by adding at the end the following new subparagraphs:

"(D) the term 'Indian lands' has the same meaning as in section 4(4) of the Indian Gaming Regulatory Act;

"(E) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act;

"(F) the term 'institution of higher education' has the same meaning as in section 1201(a) of the Higher Education Act of 1965;

"(G) the term 'mentor' means a business concern that demonstrates, to the satisfaction of the Administration, the capability to assist members of qualified Indian tribes to obtain private sector financing for their businesses, with or without loan guarantees; and

"(H) the term 'qualified Indian tribe' means an Indian tribe with—

"(i) an employable adult population of not less than 400 persons; and

"(ii) an unemployment rate of not less than 40 percent;

based on the statistics of the Bureau of Indian Affairs, Department of the Interior.".

SEC. 2. IMPLEMENTATION.

Not later than 270 days after the date of enactment of this Act, the Small Business Administration shall promulgate final regulations implementing the amendments made by section 1.

SEC. 3. REPORT TO CONGRESS.

Not later than 180 days after the effective date of the regulations promulgated in accordance with section 2, the Small Business Administration shall report to the Congress regarding the effectiveness of the amendments made by section 1 in improving the small business climate and promoting business development on or near Indian lands, as such term is defined in section 7(m)(13) of the Small Business Act.

SECTION-BY-SECTION ANALYSIS OF THE MENTORSHIP FOR AMERICAN INDIAN SMALL ENTERPRISE ACT

The Mentorship for American Indian Small Enterprise (MAISE) Act would stimulate job creation on or near Indian reservations through small business creation. This legislation would target a portion of the current Small Business Administration Microloan Demonstration Program (Section 7(m) of the Small Business Act) for small businesses located on or near Indian reservations. This legislation also would amend the existing statute to allow all microloans to be use for purchase of commercial real estate.

Section 1. Microloan Demonstration Program amendments:

(a) Purposes:

(1-2) Allows all microloans to be used for purchase of commercial real estate.

(3-4) Makes grants available to intermediaries for the purpose of providing technical assistance to prospective or established American Indian small business owners.

Creates grants for institutions of higher education serving Indian lands. These grants

VOL 140 PT 16 AG 12 — 18 1994 UMI

would be used by colleges and universities to educate intermediaries and mentors. Mentors would supplement intermediaries' efforts to assist new businesses and start-ups to offer technical assistance.

(b) Establishment:

(1–3) Establishes that technical assistance grants would be made available to intermediaries helping American Indian small business concerns to secure loans.

Establishes grants to higher education institutions for technical assistance to intermediaries and mentors to help American Indian small businesses secure loans.

(c) Intermediary Applications:

(1–3) Adds new intermediary application requirements for those serving Indian lands by asking for information regarding plans to work with colleges and universities that have received grants under this program, as well as plans to work with mentors.

(d) Additional Technical Assistance Grants:

Amends this reference to include new provisions for American Indian intermediaries.

(e) Loans From Eligible Intermediaries:

Allows all microloans to be used for the acquisition of commercial real estate.

(f) Grants to Institutions of Higher Education:

Establishes a new subparagraph (7) outlining provisions of the higher education grants.

Allows for one grant recipient serving an Indian land, which also has an eligible intermediary serving the same Indian land.

Requires the institution to supplement grants with non-Federal contributions of at least 25 percent of the Federal contribution.

Describes the purpose of the grant as a means of educating mentors.

(g) Indian Assistance:

Ensures that not less than ten percent of all intermediaries participating in the SBA Microloan Program provide microloans to small businesses located on or near Indian lands.

(h) Report to Congress:

Specifies that the SBA would report to Congress on the program's effect upon American Indian small business development.

(i) Definitions:

Provides definitions of Indian lands, institution of higher education, mentor, and

Qualified Indian Tribe—Indian tribe with a workforce of at least 400 persons and an unemployment rate of at least 40 percent.

Section 2. Implementation:

Regulations shall be promulgated by the SBA not later than 270 days after enactment.

Section 3. Report to Congress:

SBA would report to Congress not later than 180 days after regulations are promulgated.

By Mr. JOHNSTON (by request):

S.J. Res. 217. A joint resolution to approve the location of a World War II Memorial; to the Committee on Energy and Natural Resources.

APPROVAL OF THE LOCATION FOR THE WWII MEMORIAL

Mr. JOHNSTON. Mr. President, at the request of the Department of the Interior, I send to the desk a joint resolution approving the location of a World War II memorial.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the joint resolution, and the communication which accompanied the proposal from the Secretary be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 217

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas section 6(a) of the Act entitled "To provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (Public Law 99–652, 100 Stat. 3650), provides that the location of a commemorative work in the area described therein as Area I shall be deemed disapproved unless the location is approved by law not later than 150 days after the Secretary of the Interior or the Administrator of General Services notifies the Congress of his determination that the commemorative work may be located in Area I; and

Whereas Public Law 103–32, approved May 25, 1993 (107 Stat. 90), authorized the American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia to members of the Armed Forces who served in World War II; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial may be located in Area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of a World War II Memorial, authorized by Public Law 103–32, within either Area I or Area II as described in Public Law 99–652 (100 Stat. 3650), is hereby approved.

THE SECRETARY OF THE INTERIOR,
Washington, DC, August 8, 1994.

Hon. ALBERT GORE, JR.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is enclosed a draft joint resolution, "To approve the location of a World War II Memorial." We recommend that the joint resolution be introduced, referred to the appropriate committee for consideration, and enacted.

Public Law 103–32 (May 25, 1993, 107 Stat. 90) authorized the American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia to members of the Armed Forces who fought in World War II and to commemorate United States participation in that conflict.

The enclosed draft joint resolution would grant authority to consider location of the World War II Memorial in Area I, the area comprising the central monumental core of the District of Columbia as defined by Public Law 99–652 (November 14, 1986, 100 Stat. 3650; hereinafter referred to as "the Act".)

The American Battle Monuments Commission has made this request so that all sites within Area I and Area II as defined by the Act may be available for consideration as the site for the World War II Memorial. Section 6(a) of the Act provides that the Secretary of the Interior (the Secretary) may approve the location of a commemorative work in Area I only if he finds that the subject of the work is of preeminent historical and lasting significance to the Nation. That section further provides that the Secretary, after consultation with the National Capital Memorial Commission, shall notify the Congress of his determination that a commemorative work may be located in Area I. Further, the Act provides that an Area I location shall be deemed disapproved unless within 150 days of the notification it is approved by law by the Congress.

On September 2, 1993, the National Capital Memorial Commission recommended that the World War II Memorial is eligible for location within Area I. I agree with this determination, and find the subject to be of preeminent historical and lasting significance to the Nation. I recommend that the World War II Memorial may be located within Area I.

In accordance with section 6(a) of the Act approved November 14, 1986, notice is hereby given that I recommend the potential location of this authorized memorial in Area I, that through my designee, I have consulted with the National Capital Memorial Commission, and that I have determined that the World War II Memorial may be located in Area I. Under section 6(a) of the Act, the recommendation for Area I location shall be deemed disapproved unless, within 150 days after this notification, this recommendation is approved by law. Therefore, we urge prompt action on the enclosed joint resolution.

The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

BRUCE BABBITT,
Secretary.

ADDITIONAL COSPONSORS

S. 277

At the request of Mr. SIMON, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 1726

At the request of Mr. SIMON, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Missouri [Mr. BOND], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 1726, a bill to provide for a competition to select the architectural plans for a museum to be built on the East Saint Louis portion of the Jefferson National Expansion Memorial, and for other purposes.

S. 1822

At the request of Mr. HOLLINGS, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1822, a bill to foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

S. 2081

At the request of Mr. GREGG, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2081, a bill to amend the Internal Revenue Code of 1986 to treat recycling facilities as exempt facilities under the tax-exempt bond rules, and for other purposes.

S. 2242

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2242, a bill to establish a National Institute for the Environment, to improve the scientific basis for decisionmaking on environmental issues, and for other purposes.

S. 2288

At the request of Mr. GREGG, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2288, a bill to amend the Internal Revenue Code of 1986 to provide that a foster care provider and a qualified foster individual may share the same home.

S. 2330

At the request of Mr. ROCKEFELLER, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

S. 2347

At the request of Mr. SASSER, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2347, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution.

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. METZENBAUM, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Concurrent Resolution 69, a concurrent resolution expressing the sense of the Congress that any legislation that is enacted to provide for national health care reform should provide for compensation for poison control center services, and that a commission should be established to study the delivery and funding for poison control services.

SENATE RESOLUTION 249—AUTHORIZING TESTIMONY BY AN EMPLOYEE OF THE SENATE AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. FORD (for himself and Mr. DOLE) submitted the following resolution, which was considered and agreed to:

S. RES. 249

Whereas, the Department of Justice has caused a subpoena to be issued for the testimony of Mary Leblanc, an employee of the Senate on the staff of Senator George J. Mitchell, as a witness in connection with a pending investigation into potential fraud by private citizens in Farmers Home Administration programs;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas issued to them in their official capacities: Now, therefore, be it

Resolved, That Mary Leblanc is authorized to testify in conjunction with the law enforcement investigations or related proceedings, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Mary Leblanc in connection with the testimony authorized by section 1 of this resolution.

ADDITIONAL STATEMENTS

IN HONOR OF MS. GUADALUPE REYES AND EL VALOR: THE STRENGTH OF FEW THAT BENEFITS SO MANY

• Mr. SIMON. Mr. President, recently, I had the wonderful opportunity of meeting Ms. Guadalupe Reyes and visiting her organization, the El Valor Corp. Ms. Reyes founded El Valor, the first bilingual rehabilitation program for Hispanics in Illinois, to foster education and achievement for individuals with disabilities and their families.

El Valor works with government, business, individuals, and the community to prevent inner-city children and adults from falling behind and not reaching their fullest academic and intellectual potential. El Valor, under Ms. Reyes's leadership, continues to affect approximately 1,000 adults and children a year through positive and stimulating interaction.

Approximately 20 years ago, Ms. Guadalupe Reyes could not find a rehabilitation center for her son, Bobby, who had spinal meningitis. Since Ms. Reyes did not want to place her son in an institution and she could not find a center to help him, she took it upon herself to create one. Ms. Reyes believed that there were other families like hers, faced with a similar dilemma. She started an arts and crafts program in the basement of a church. When Ms. Reyes realized that the basement could not accommodate everyone who wanted to participate, she began to take out loans and El Valor gradually expanded to become the organization that it is today.

Since Ms. Reyes's first vocational programs in the basement of a church, El Valor has moved forward to address other concerns within the community. El Valor's latest undertaking is a program called Tocar el Futuro, or Touch the Future. Tocar el Futuro empowers the inner-city community to provide early intervention and educational awareness to benefit those who need it the most.

To grasp the strength of Ms. Reyes, one must look beyond El Valor. Ms. Reyes works with several other organizations to benefit her community and the rest of society. She works with the Harrison Parks Seniors. She recently was appointed to the Chicago Transit Authority Board. Her talents have passed onto her children; her daughter Mary Gonzales founded Pilsen Neighbors to motivate and unify her community.

Ms. Reyes has worked with companies and residents to expand vocational and rehabilitative services. Ms. Reyes is an advocate for her community and is driven to make a difference. She looks at her society and sees not what is wrong but what can be done.

I congratulate Ms. Guadalupe Reyes for her strength and care to create an extraordinary organization through her efforts. I congratulate those who work with Ms. Reyes and enhance the community through their own efforts. Imagine what could change in our society if every individual had the same spirit and energy as Ms. Guadalupe Reyes.•

COMMUNITY DEVELOPMENT BANKING ACT—H.R. 3474

• Mr. BOND. Mr. President, I strongly support H.R. 3474, the Community Development Banking Act. This conference bill reflects a true bipartisan compromise on legislation that addresses a number of key issues important to the American public and American businesses. The bill includes significant provisions intended to enhance the development of community development banking and small business capital formation, provisions designed to reduce bank paperwork requirements and provide bank regulatory relief, provisions to reform money laundering statutes, and provisions to reform the National Flood Insurance Program.

All titles of the bill merit support in my view. The community development bank provisions in title I of the legislation focus on helping to revitalize our distressed communities through the infusion of capital. These provisions also recognize the important contributions that traditional financial institutions can provide to distressed communities by allowing banks and other entities to form community partnerships with community development financial institutions.

Title II of the legislation is designed to increase the ability of small businesses to access capital by removing

VOL 140 PT 16 AG 12 — 18 1994 UMI

existing impediments to the securitization of small business loans. Small business is the backbone of our Nation's economy and part of the American dream. It is high time that we take steps to ensure the availability of credit to these businesses. I hope that these provisions will help create new jobs and stimulate economic growth.

Title III of the bill provides a number of important provisions intended to reduce paperwork and regulatory burden on financial institutions through measures which require the bank regulatory agencies to streamline rules and regulations, coordinate examinations, modernize reporting, and establish a regulatory appeals process. These provisions are a critical first step and I trust that we will be able to continue to address unnecessary regulatory burden on banks in future bills and in the next Congress.

Title IV of the legislation makes a number of reforms and changes to existing laws regarding money laundering. These provisions should reduce the regulatory burden on financial institutions while providing better safeguards against money laundering schemes.

Title V of the bill provides a number of comprehensive reforms to the National Flood Insurance Program. I have been deeply involved in the development of this legislation and consider its enactment critical. In particular, two of the largest rivers in the world run through Missouri, and the State also claims a number of major tributaries. Because of the tragic flooding of 1993, it should be clear to everyone that for Missouri to continue to prosper, our citizens must be able to insure against the possibility and, in a few cases, even the probability, of flooding. Currently, almost 15,000 Missouri policies provide more than $760 million in flood insurance coverage for homes and businesses.

The key elements of the flood insurance reform legislation include strict requirements to ensure the placement of flood insurance on properties in flood-prone areas; an increase in flood insurance coverage; the establishment of a community rating system to provide premium rate credits for communities that implement land use and loss control measures that exceed minimum criteria; and the establishment of new programs for mitigation assistance.

I, however, do want to make it clear that the National Flood Insurance Program is not intended to provide the Federal Government with a backdoor for implementing environmental policies by overriding local land use control and decisionmaking. In particular, the bill conferees specifically removed a House provision that would have established an environmental purpose for the National Flood Insurance Program. Again, I emphasize that the Federal Government should defer, whenever possible, to State and local land use decisionmaking.•

IN HONOR OF PROF. LOUIS STERN: THE 1994 AMA/ERWIN DISTINGUISHED MARKETING EDUCATOR

• Mr. SIMON. Mr. President, it is with great honor that I congratulate Prof. Louis W. Stern for receiving the AMA/Erwin Distinguished Marketing Educator Award for 1994. He received the AMA/Erwin Award on Sunday, August 7, at a ceremony held by the American Marketing Association. Mr. Stern is the 10th individual to have received this award.

As Representative PETER W. BARCA states, "Louis Stern is known as the father of modern channels research, having introduced the concepts of power and conflict to marketing channels."

Professor Stern shares his knowledge and creativity through his various publications that involve marketing management, behavioral science, and law. He continues to dedicate his talents to higher education at Northwestern University's Kellogg Graduate School of Management.

Again, I congratulate Prof. Louis Stern for his award and wish him well in his future endeavors.•

AUTHORITY TO TESTIFY WITH REPRESENTATION

Mr. DASCHLE. On behalf of the majority whip and the Republican leader, I send a resolution to the desk authorizing a Senate employee to testify with representation, and I ask unanimous consent that the Senate proceed to its immediate consideration; that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that a statement by Senator FORD appear at the appropriate place in the RECORD.

Mr. DURENBERGER. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, the Department of Justice has caused a subpoena to be issued to a Senate employee on Senator MITCHELL's staff named Mary Leblanc to testify in connection with a pending investigation into potential fraud in Farmers Home Administration programs. The Justice Department's investigation is into possible wrongdoing by private citizens in connection with applications for Federal loan assistance. The Department has advised the Office of Senate Legal Counsel with regard to this subpoena that no wrongdoing by anyone on Senator MITCHELL's staff is in any way involved.

In response to this subpoena, this resolution would authorize Mary Leblanc to testify in this investigation and to be represented by the Senate Legal Counsel.

So the resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 249), with its preamble, is as follows:

S. RES. 249

Whereas, the Department of Justice has caused a subpoena to be issued for the testimony of Mary Leblanc, an employee of the Senate on the staff of Senator George J. Mitchell, as a witness in connection with a pending investigation into potential fraud by private citizens in Farmers Home Administration programs;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas issued to them in their official capacities: Now, therefore, be it

Resolved, That Mary Leblanc is authorized to testify in conjunction with law enforcement investigations or related proceedings, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Mary Leblanc in connection with the testimony authorized by section 1 of this resolution.

ORDERS FOR TUESDAY, AUGUST 16, 1994

Mr. DASCHLE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m. Tuesday, August 16; that following the prayer, the Journal of the proceedings be deemed approved to date, and the time for the two leaders reserved for their use later in the day; that there be a period for morning business with Senators permitted to speak therein for up to 5 minutes each, with Senator METZENBAUM recognized to speak up to 15 minutes; and that at 9:30 the Senate resume consideration of S. 2351, the Health Security Act; that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. DASCHLE. Mr. President, I ask unanimous consent that upon the conclusion of the remarks by the Senator from Minnesota, the Senate stand in recess as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I thank again my colleague from Minnesota and I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

HEALTH CARE REFORM

Mr. DURENBERGER. Mr. President, I really appreciate the indulgence of the Senator from Hawaii, who is currently occupying the chair. The hour is late and the majority leader has already announced that we may be here all night and morning tomorrow. So I wish to express, as I begin my comments, my appreciation to him and maybe more particularly, since he is elected to do that, to all of the staff here at the same time who are not able to leave until I finish this statement.

The comment by my colleague from South Dakota about health care reform, about an understanding of Government's role, reminds me that we are going to be here for quite a while. If we cannot understand the difference between the Federal Employee Health Benefit Plan and Government-run programs like Medicare and Medicaid, I, for one, am going to spend a lot of time here educating my colleagues, and I do not want anybody to call it a filibuster.

The Federal Employee Health Benefit Plan, or plans, if you will, are a series of health plans which all of us have an opportunity to buy. But they are all private plans everybody in this community can buy if they have an employer who provides it to them or they can buy it in the open market.

There are Blue Cross/Blue Shield plans in that, and I think there is a Kaiser plan in this community, but they are private plans. What they do is ensure all of our access to the doctors, hospitals, and so forth, that we need in this area—Washington, DC, northern Virginia, Maryland, and so forth—but it is basically a private plan.

It is an American system. The doctors and hospitals set the fees. They charge the insurance companies. The insurance companies pay the bills. You pay your deductible or your cost share, something like that. That is an American system. This one happens to be very costly.

I can get the same health plan in Minnesota for half of what I pay for it here, for example, and you are all paying 72 percent of that bill. But it shows you that health care costs in one community can differ substantially from another.

My son and his wife just had a child by cesarean section in St. Paul, MI. It was about $6,000 for the doctor and hospital bill. Here in this community it is like $14,000, $15,000. That is why your health care expenses are so high in this community. But it is still basically your American system.

But inside that American system we run a Canadian system. We run it right here. For the poor, it is called Medicaid because they are welfare eligible. For the elderly, it is called Medicare. For people with disabilities, it is Medicare. But it is run by the Government. All the prices are set right here by the Government, just like in Canada. There are 7,000 procedures that doctors can use and each one has a dollar value, and we set that value, or it is set over here, just like Canada. There are 468 procedures in hospitals. Every one of them has a price put on it by a Government agency and that is what is paid. Every year we decide how much money we are going to spend on Medicaid—we, the Government—and Medicare. And to the extent that the cost to the doctors and hospitals goes up faster than what we pay, what do you suppose happens to the difference? The difference is shifted onto the private system here in the District of Columbia or back home.

So make no mistake about it, we are running a Canadian system right inside America, in every community in this country. It is called Medicare and Medicaid.

It is about time we stopped it. It is about time we stopped it. If we did not have an American system around onto which we could shift the bills, we would be in trouble because you cannot keep working for 59-cent dollars if you are a doctor. You cannot keep working for 71-cent dollars if you are a hospital. It does not work. So only the cost shift makes it possible to keep doctors and hospitals serving Medicare and Medicaid patients.

But suppose everybody were in a Government system and all doctors got paid 59 cents on the dollar and all hospitals got a buck on the dollar. You would not have doctors and hospitals. That is what is happening in Calgary, and that is what is happening in Canada. If the Canadians did not have a United States, there would not be any medicine in Canada, and it would cost a lot more.

So when people make these comparisons about how cheaply it is done up there, and so forth, versus what is done down here, remember, the same thing is happening right here in your own community.

Health care reform used to be, and maybe still is, possible. But Bill Clinton says we cannot find an immediate solution to the health care reform problem because BOB DOLE "never stops moving to his right." How many times have we heard that statement? BOB DOLE keeps moving to his right so we cannot get him to stop and get health care reform.

Well, BOB DOLE about 5, 6 weeks ago decided he was not moving anymore, if that is what they were accusing him of. He introduced a bill with 40 Republicans on it, and he stopped moving. There it is.

There it is. So we are waiting for President Clinton to decide how close to BOB DOLE he is going to come. That is what this whole issue is all about. The other fear in all of this, and let us say that is Bill Clinton's problem right now, he cannot figure out if he is fearful of what BOB DOLE might do. I doubt that he might fear BOB DOLE might move any further. BOB DOLE's concern is there are four Republican Senators who might sign on to a modified version of Senator MITCHELL's bill thus depriving him the power of the filibuster. That is the other side of this problem. If the Mitchell bill is as bad as we all say it is, and I believe it is—I will not take your time tonight to debate that, you can understand why the minority leader, the Republican leader, with the responsibility riding on his shoulder—83 percent of my phone calls from Minnesota, and over 2,000 we have gotten, are all negative on this health reform bill. Look at the responsibility he has. He has four Republican Senators that might switch, leaving him with only 40 votes. What does he do? So unfortunately, a lot of this debate is driven by leadership concerns.

Tomorrow those of us in the so-called mainstream rump group on our right will present our package of bills. It is very similar to the bill that Senator CHAFEE and others put together called S. 1770, as modified by the work we did on the Finance Committee, the learning curve that we have all been on; very bipartisan arrangement. We had 17 Members at the last meeting, Democrats and Republicans. It is no longer just a handful of us. It certainly is not just three Republicans who started out on it.

Tomorrow, I understand SAM NUNN and PETE DOMENICI and DAVID BOREN and BOB BENNETT will also put in a bipartisan bill. So you will have two major bipartisan pieces of legislation, and Senator DOLE's bill with 39 other Republicans on it. Then the question is going to be for the people on this side of the aisle, when are you going to move it? They are going to suggest to us that we ought to go through an amendment process in order to bring us to the middle. I am here to tell you that is not possible.

As I said earlier, I am on both of these committees. I have been through this several times already—the drafting process, and putting bills together. I am a cosponsor with JOHN BREAUX on a bipartisan bill which has now moved to its right, passing CHAFEE on its way, if you will. You cannot amend that bill. We would be here until the first of the year, if we were going to try to amend that Mitchell bill, not just because it is in its third iteration, because it was too complicated to begin with.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Our staffs for a dozen committees spent literally 4 straight days last Friday, Saturday, Sunday, and Monday—not this past week, but the weekend before that—going through the first iteration of the Mitchell bill. They came to us frustrated at the end of the day on Monday saying that you cannot amend it. You will not believe this language.

So it is not hardhearted filibustering over here. It is people for the most part with a genuine concern for doing health policy right who have looked at that bill, and said as a practical matter we cannot stand here, even if we got off of our opening speeches, finally, and got to the heart of this debate—we cannot stand here and make this bill what the American people deserve.

There is clearly a concern also articulated by an article today which I will ask unanimous consent be printed in the RECORD in full at the conclusion of my remarks, by Bill Safire in the New York Times called, "Why the Rush?" in which he talks among other things about, "The health care push, on the contrary, is now seen by voters for what it is: a return to Great Societyism." That is a characterization of Clinton-Mitchell.

After calling the Dole-Packwood insurance reform bill sensible, he says:

> Mitchell's first fallback position was launched as a bill to set up a compromise with a group headed by Republican Senator John Chafee of Rhode Island.
>
> Chafee had been placed at the head of the bipartisan group that has labeled itself "mainstream," not so subtly suggesting that conservative opposition to Government-dominated medicine is extremist.
>
> Obviously, Chafee is using Mitchell's liberal bill as his lodestar.

To that, I say bull. We have invested on this side of the aisle 4 years in reform breakfasts, every Thursday morning starting in August 1990, just down the hall; for an hour every Thursday morning with lots of Republican Senators. Last fall, 20 Republican Senators signed up on a John Chafee bill.

So this notion that somehow or other a rump group with CHAFEE put in charge of it is—what does he call it?—"using MITCHELL's liberal bill as his lodestar," that somehow or other we are here sneaking a Democratic bill through a Republican caucus just does not hold up.

So for those of you who think that everyone seems around this place as William Safire obviously does, maybe as some people hope, I am here to tell you there is no truth to it.

Partisan rhetoric, Mr. President, is what this debate has been characterized as. I would characterize it more as a lack of problem definition, and a substantial difference on solution as we have gone at the health care reform debate so far.

One issue in particular needs clarification. That involves what is called the standard benefit package. I have been reading since I discovered the material from the Progressive Policy Institute. Let me tell you what the Progressive Policy Institute is, although the current Chair may know what I am talking about. It is a project of the Democratic Leadership Council. It is a center for policy innovations, to develop alternatives, a conventional left-right debate. Thank God somebody is doing it.

Anyway, from the publication they put out in June of this year, let me read:

> The key issue in health care reform is this: Where should responsibility for restraining costs be lodged, in the Government or in market? PPI supports a decentralized approach, seeks to harness the power of choice, competition and market incentives to control cost, to enhance quality, to reward efficiency, to encourage innovation, and to empower consumers. It promotes individual responsibilities instead of bureaucratic micromanagement as the remedy for our current cost-unconscious health care plan.

It is a terrific presentation. They point out some of the problems in the current system. The main problem they say is what is called risk skimming in the insurance business. This is a process by which health insurance companies compete with each other by avoiding risks rather than managing them—risk skimming, in which health insurance companies compete by avoiding risks rather than managing them.

What is the answer to that? It says here on page 8: "Create a standard benefits package."

If you do not like risk skimming or risk avoidance, because it leads to cost unconscious health care financing, then the answer is to create a standard benefits package. This gives consumers a basis for comparing competing plans, like we do in the Federal employee health benefit plan, one of the few places in America where you can actually open up the book, and you can actually compare the plan. But you have to have a standard benefit package in order to compare these plans. It is not some Government scheme. It is simply a way to make a comparison, like opening up the catalog, whichever catalog you get in the mail, and see the statistics for your golf hobby, compare golf clubs, compare golf bags, and compare golf balls. That is basically what we are talking about here; competing, comparing, plans. It prevents insurers from segmenting the market by offering customized packages of benefits.

Alain Enthoven illustrates the problem of segmenting in this way: Imagine two health plans, one that offers vision care but no podiatry, and another that offers podiatry but no vision care. People with bad eyes and good feet sign up for the first plan; those with good eyes and bad feet sign up for the second. Differences in price will be irrelevant to people who choose a plan because it meets their particular needs.

Some Republicans have equated the standard package with the loss of freedom, loss of choice, loss of all of this sort of stuff we are going to lose.

Some Democrats have equated the standard benefit package with a giant entitlement program which describes every kind of a service you could possibly imagine jammed into this program. So no wonder it is confusing to people watching it.

So tonight I want to step back to the first principle and try to put a context on the discussion, and then I will suggest to my colleagues why the Dodd amendment, which is the pending business, is not good for the health of moms and babies, why a benefit package is part of insurance reform. I have already laid the ground work for this.

There seems one element of health care reform everybody wants included, and that is insurance reform. The idea of a standard benefit package is essential to insurance market reform. We all seem to agree on many of the elements—guaranteed issue, renewability, limits on preexisting conditions—but we cannot have informed consumers purchasing health plans on the basis of price, value, satisfaction with the services and quality, unless there is a similarity or a comparability about the product that is being sold.

There are 27,000—get this—in the State of North Carolina, there are 27,000 Blue Cross-Blue Shield plans. Every one of them is different. I do not mean 27,000 people with Blue Cross-Blue Shield plans; I mean 27,000 different Blue Cross-Blue Shield plans. They are going after the people with the good feet and this sort of thing. That is what is going on out there today. There are 1,400 insurance companies who are all looking for healthy people to sell insurance to.

Contracts present a confusing array of options, exclusions, and fine print. People are frustrated even if they have a choice when they discover what they bought is not what they thought it was. Let me tell you about a policy sold to the daughter of one of my staff in the State of Florida. It was offered to graduate students—she had become a graduate student at the University of Florida—by a private insurance company. She is a 24-year-old single woman. The policy excludes sports injuries, reproductive services, injuries associated with the use of drugs and alcohol, and has a lifetime limit of $200,000, and no coverage for outpatient services. The policy excludes 90 percent of what a 24-year-old woman is likely to use and, God forbid, she gets a serious illness, because in Florida, a $200,000 lifetime limit is not going to get her through a catastrophe. So the price is low, only $500 a year. She is going to discover that it is not real coverage when she experiences health problems.

We need some standardization so consumers can exercise real choice, and we need it so we can protect consumers from risk selection through benefit design.

The Senator from Texas said earlier that 85 percent of Americans have health insurance, and most of them are happy. That is not true. It is true they have health insurance, but they are not happy. Many do not have any choice. Others know they are paying a higher price for the same product than somebody who lives next door and works for another company in the same town. We would not have started doing health insurance reform 4 years ago if all the Americans who had insurance were happy with it. They are not.

My friend, DON NICKLES, has a 22-year-old daughter who bought one of those $500 plans. He does not know yet what she bought. I hope he is listening. What DON does not know if, in fact, the law permitted him to include her on the FEHB plan, or whatever it might be, it would probably cost him and his wife $100 a year, maybe not even that.

Whether people buy an HMO or PPO, or whatever it is, everyone choosing a plan in this program knows what they are buying. What am I talking about? I am talking about the Health Insurance Plan of California, HIPC. This is like the Federal Employee Health Benefit Plan, an HMO product. They have indemnity products, and so forth. This is the HMO product. What this has is a list of the benefits on the left-hand side, and then what you must pay to get that benefit, and what some of the services are that are described in that. But the important thing is over here on the left-hand side.

This is not a list of all the services available to you; it is a list of the basic benefits to which you are entitled. And all this does is help you as a consumer compare among all the plans that are offered. Somewhere in the back of this book it lists each of the plans. You can go through each, the Sharp Health Plan, the Qual-Plan, the Smart Care Plan, and so forth. And you can get the detailed information of those plans. This is the heart of it. This is the comparison. Benefits are over here—1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, up to 14 benefits. By comparison, the Mitchell plan has 16 benefits and myriad services. The Finance Committee bill has 12 benefits. But it does not have a whole lot of services listed.

Well, the benefit plan really got its origin around here in the Federal Employee Health Benefit Plan. While we are debating whether our benefits ought to be 61 pages in length, which is a whole list of services, or just one page in length, like the Finance Committee package. Let me remind everybody that the Federal Employee Health Benefit Plan, which all of us have, is described also on one page. We do not need 61 pages of services. We do not need—and I will get to this in a minute—all of this stuff the Senator from Connecticut wants us to ram into every health plan in America. Yet, the FEHBP benefit plan is pretty simple: Hospital, surgical, in-hospital, ambulatory, supplemental, and obstetrical. Under the indemnity benefit plan are similar categories. In the Finance benefit package, there are: Inpatient and outpatient care, including hospital and health professional services, emergency services, and clinical preventive services, mental illness and substance abuse, family planning services, family planning services and services for pregnant women, prescription drugs and biological, hospice care, home health care, outpatient lab, radiology, and diagnostic, outpatient rehabilitation services, vision care, dental and hearing aids for kids under 22. That is it.

Where do the services come? They sure do not come in here, if you are smart. The services come in the plan you buy in the District of Columbia, northern Virginia, or Maryland. That is where you find all of the services. Every year you determine how well your plan is doing with the services they have agreed to provide to you. But benefits are categorized like these 12 basic benefits for the purposes of comparison, not for the purposes of making sure the chiropractors get in every plan, or that we have, as the Senator from Connecticut suggests, a periodicity schedule in all of our insurance plans in America. That is not the purpose. The services come from the plan you buy. The services are developed by your relationship with the medical professionals in your community. The benefit package is put in the statute in its 12 components, and in the case that we recommend, elaborated on by a benefit commission.

A category of covered benefits is a general term, like I have illustrated—hospital, outpatient care, whatever. It incorporates thousands of items, such as bandages, pacemakers, cancer surgery, office visits. You do not have to put that in a statute in order for you to be entitled every year to a choice of plans that will give you that service. But you need a basic benefit set by which each of these plans can be described so that you can be protected from the skimming, so that you have the information to which you are entitled as a buyer at which you can compare all of these plans.

So what has happened to the concept of a basic or standard benefit package? It fell into the hands of the task force at the White House, and it was captured by special interests of all kinds. What was once a tool to help the market work better for people got subverted into a giant entitlement program.

Clinton had 61 pages of detailed and specific items and services. I am going to read to you just one of those pages. This is under "Durable Medical Equipment and Prosthetic and Orthotic Devices."

> (a) COVERAGE.—The items and services described in this section are—
>
> (1) durable medical equipment, including accessories and supplies necessary for repair, function, and maintenance of such equipment;
>
> (2) prosthetic devices (other than dental devices) which replaces all or part of the function of an internal body organ (including colostomy bags and supplies directly related to colostomy care), including replacement of such devices;
>
> (3) accessories and supplies which are used directly with a prosthetic device to achieve the therapeutic benefits of the prosthesis or to assure the proper functioning of the device;
>
> (4) leg, arm, back, and neck braces;
>
> (5) artificial legs, arms, and eyes, including replacements if required because of a change in the patient's physical condition; and
>
> (6) fitting and training for use of the items described in paragraphs (1) through (5).

What is the point of all this? What is the point of all of this? What it does is handicap your doctor and your plan from being creative because once it is put in the law you cannot change it. We have not changed the statute and other descriptions of the health benefit plan since 1960. So once you decide colostomy bags are in and out that is it for colostomy bags.

So, this looks like Congress making promises to provide lots and lots of specific items and services. Whatever happened to the doctor making judgments? What happens to innovation? What happens when there is a new procedure or treatment?

My friend CONNIE MACK is right to be concerned about this. He expressed concerns on Saturday. It is bad enough that the President wanted Congress to draft benefit contracts in legislation, not satisfied with Congress creating a benefit contract in legislation. Senator MITCHELL goes even further. He has removed some legislative detail, but he creates a huge regulatory bureaucracy called the National Health Benefits Commission with a long list of powers and regulatory activity.

And instead of having all this detail, or quite all this detail, he creates his National Health Benefits Board which will:

First, promulgate regulations and establish guidelines;

Second, establish and update periodicity schedules for items and services, including clinical preventive services;

Third, design mental illness and substance abuse services;

Fourth, establish criteria for determinations of medical necessity or appropriateness;

Fifth, set up procedures for determinations of medical necessity and appropriateness;

Sixth, issue regulations and guidelines to be used to make determinations of whether items or services are medically necessary and appropriate;

Seventh, recommend to the Secretary specific areas for which priorities should be given to undertake clinical trials or establish practice guidelines;

VOL 140 PT 16 AG 12 — 18 1994 UMI

Eighth, establish cost-sharing schedules;

Ninth, develop legislative proposals for modifications to the actuarial equivalence provisions;

Tenth, undertake studies on the costs of adding dental benefits for adults, in vitro fertilization coverage, substance abuse cost sharing.

This is not private insurance. It is a big Government bureaucracy just like all my colleagues have been describing it. It smells like HCFA, which is a huge bureaucracy employing over 4,000 people in Baltimore to price 7,000 medical services and nearly 500 hospital billing codes called DRG's.

What do we do now, Mr. President? We must go back to basics.

So do we junk the concept because it has been completely subverted by our left.

No, we go back to basic principles.

In his remarks Saturday my colleague CONNIE MACK praised the FEHBP program for the choices it provides.

FEHBP has a standard benefit package. I have just described it to you. It is one page in length, same size as the Finance Committee, only the Finance Committee has 12 amendments in it.

The FEHBP has an implementing body. It is called the Office of Personnel Management. OPM has approximately 110 people in it like the huge resources department in a large corporation.

It issues what looks like a set of guidelines or instructions. It is called a call letter. They take this one page that is in the statute and then they issue to all the health plans in this area, for example, something called a call letter, in which they invite plans to submit annually what their bids would be. That is the way it works.

It sets up the parameters upon which those health plans and insurers offering to see or compete in the FEHBP market, what conditions they must meet.

Lots of insurers bid to offer the categories of benefits along the parameters that OPM sets forth in their call letter. OPM is not a regulatory agency.

OPM has 117 employees working on all aspects of FEHPB. HCFA has 4,000. OPM does not decide what your doctor can and cannot do as to specific items and services, specific procedures and treatment. OPM is the human resources department of the company we all work for.

Thus, my friends CONNIE MACK and DON NICKLES see that program as one that is the epitome of choice.

So, Mr. President, this is the model for the mainstream moderate proposal. That was the intention in the original managed competition approach.

How does it work?

Congress sets forth the broad parameters—actuarial limits, broad categories of benefits, and a body like OPM to administer it.

That is it. The board does not regulate. The board does not substitute its decisions for those of doctors. The board, like OPM, defines the structure in which the choices are offered.

The result—the health plans, the doctors and the hospitals are free to provide the medically necessary or appropriate items, services, procedures that fall within the broad categories of benefits.

People can choose on the basis of price and quality, on the basis of satisfaction, proven performance—that is, results. They can choose with reasonable certainty that there is real coverage, not selection on the basis of gamesmanship which benefits only insurers.

No longer are people going to be cheated by insurers trying to cherry pick healthy people out of the pool and leave out the sick.

My colleague Senator MITCHELL assumes people cannot make choices of services in a health plan. It is true that they can't if we don't make benefits comparable, services understandable, and results public. This issue is not choice, the issue is informed choice through useful information.

The result: consumer protection; consumer information; more competition on price, quality, and satisfaction.

I want to point out to my colleagues that we are likely to have many, many amendments on the benefit package. They will likely require more items and services to be covered. These amendments came from the left and the right. On my side of the aisle, there was an amendment to include a specific service—flexible sigmoidoscopy—in the package. Later we heard angry voices from the barium enema supporters saying if you put in the flexible signoidoscopy benefit, you must put in the barium enema.

Others pushed to get specific providers groups into the benefit package. My colleague from South Carolina, Mr. THURMOND, had an amendment to include chiropractors.

On the Democratic side, mostly the push was for more specific benefits—more for women, more for children, more for the disabled, and so forth.

This is just a replay of State-mandated benefits elevated to the Federal level. States have already mandated that every benefit package include a whole series of benefits. States are telling DON NICKLES what he has to buy now. And many of those specific items and services—hair loss in Minnesota, for example, or massage therapy in Florida—are probably not high on DON's list or his family's list.

They will be packaged in politically irresistible ways—more for children, more for the disabled, more for women, more for mentally ill, more for whatever other group in the society has champions in Congress.

Members will be hard pressed to resist. We are not known for our ability to say no.

We are famous for mandating services, not paying for them. That is why the FEHBP and HMO and five pages of benefits are bound by dollar limitations. Guess which competing plans have to bid for services? Do not be fooled, Mr. President. This is politics as usual.

It is not surprising that the first two amendments that have been proposed are for more mandated benefits, one by our colleague from Connecticut, and the other by our colleague from Iowa, with whom I serve on the Labor Committee, and that one deals with people or persons with disabilities. That is where I want to conclude my remarks.

As I recall the amendment by my colleague, the amendment of the Senator from Connecticut reads as follows on behalf of himself, Mr. KENNEDY, and Mr. RIEGLE:

(1) IN GENERAL.—During the interim standards application period, a health plan sponsor may only issue or renew a health plan in a State if such plan covers clinical preventive services according to a periodicity schedule established under paragraph (3), including prenatal care, well baby care, and immunizations, for pregnant women and children without imposing cost-share requirements on such services.

The Secretary shall establish a schedule of periodicity that reflects the general, appropriate frequency with which clinical preventive services should be provided routinely to children.

Do you know what this is going to end up becoming, if she ever gets it out? It will probably take 10 years to get out the regulation, and by then, all of the rest of this bill will have been implemented. But if she ever gets it out, it is going to be the best guess about how many visits she ought to have to a doctor before a delivery, and how many you want to have afterwards.

I have to tell you, Mr. President, that is not the way the real world works. That is not the way the real world works.

And I am just a recent expert, having lived with my first grandchild, through my eldest son's first venture as a father. The poor kid is so nervous, and every day there is something wrong, where their kid is not doing this, not doing that; she is drooling at the mouth and they want to rush to see the doctor. Fortunately, they have a health plan and a relationship with the doctor that has a way to express that. They pick up the telephone, dial a number, describe what is wrong, and get some reassuring advice.

The Secretary is going to decide this.

There is a schedule of services and so forth. It is flexible, depending upon the kid, depending upon the language barriers, depending upon the culture, depending on so much.

Forty percent of Hawaii is Asian. I will bet you some of those children are somewhat different, and it is kind of different from the kind of clinic you are going to find in a predominantly Spanish-speaking area—not drastically different, but hopefully different, adjusted to the family, the individual involved, and so forth.

That is really what you want. You do not want the Secretary of HHS deciding this, when you have this precious little thing, whether it is not yet born or just born. You want a relationship between the mother and a caregiver to develop the kind of care that little kid needs. You want a health plan that is intended to help the mom carry that child to term. That is what you want.

U Care—a Minnesota managed care program specifically designed to meet the needs of low-income individuals—will call women who miss prenatal checkups and, if necessary, will pay for taxis or babysitters so they can make their appointments. If the woman does not have a phone, they will even have one installed during the pregnancy.

Why? Because if that baby delivers a couple of months short, a pound and a half, something like that, think of what the costs are to the health plan.

Health Partners of Philadelphia has a program called "Little Partners." Trained women from the local community—and this is why you take into this the race, culture, and community, in the most appropriate sense of the word—trained women from the local community make home visits to pregnant women and infants through their first year of life.

Other plans lure patients to their appointments by providing free diaper service, baby care seats, or baby bunting. Baltimore's Prudential Health Care Plan found that what works best for their enrollees is to pay low-income pregnant women $10—pay them $10—every time they come in for a prenatal visit.

Now, there are some folks over here who would say, "Why do they have to pay them to come in? They ought to pay to come in."

You know, this is the way it is. If you care about the kids, you have to go out of your way to care about the mom. And to have the Secretary of HHS decide by some rule and some regulation that all moms are alike and all pregnancies are the same and we can put it into law does not make any sense.

But you cannot tell that from the bleeding-heart rhetoric which we have been hearing for the last 3 days from our colleagues—we are not doing enough for mothers and children, and infant mortality.

I can show you infant mortality statistics that come down when you give a health plan—I got them from Kaiser; I can get them from other people—when you give the plan an incentive to keep moms healthy, they go out of their way to do it.

Mr. President, I know this little explanation went longer than I thought. I am very grateful to you and other Members, and I am grateful, particularly, to staff for staying through this whole thing and allowing me to finish my comments.

RECESS UNTIL TOMORROW AT 9:15 A.M.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:55 p.m., recessed until Tuesday, August 16, 1994, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate August 15, 1994:

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

KENNETH BURTON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF 2 YEARS (NEW POSITION)

D MICHAEL RAPPOPORT, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF 2 YEARS (NEW POSITION)

VOL
140
PT
16
AG
12
—
18
1994
UMI

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, August 16, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 17

9:00 a.m.
Labor and Human Resources
Business meeting, to mark up S. 1821, Comprehensive Fetal Alcohol Syndrome Prevention Act, S. 1781, Black Lung Benefits Restoration Act, S. 1037, Justice for Wards Cove Workers Act, proposed legislation to reform civil and criminal money penalties, and proposed legislation authorizing funds for the Nurse Education Act, and to consider pending nominations.
SD-430

2:00 p.m.
Judiciary
To hold hearings on the nominations of William C. Bryson, of Maryland, to be U.S. Circuit Judge for the Federal Circuit, Salvador E. Casellas and Daniel R. Dominguez, each to be a U.S. District Judge for the District of Puerto Rico, and Sarah S. Vance, to be U.S. District Judge for the Eastern District of Louisiana.
SD-226

AUGUST 18

9:30 a.m.
Armed Services
To resume hearings to examine the military implications of the Chemical Weapons Convention (Treaty Doc. 103-21).
SR-222

Judiciary
To hold hearings on the nomination of Lois Jane Schiffer, of the District of Columbia, to be an Assistant Attorney General, Department of Justice.
SD-226

10:00 a.m.
Foreign Relations
Business meeting, to mark up S. 1329, to provide an investigation of the whereabouts of the U.S. citizens and others who have been missing from Cyprus since 1974, and to consider H. Con. Res. 215, honoring James Norman Hall and recognizing his outstanding contributions to the U.S. and the South Pacific, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Treaty Doc. 103-24), and pending nominations.
SD-419

Judiciary
To hold hearings on the nominations of Nancy E. Gist, of Massachusetts, to be Director of the Bureau of Justice Assistance, Laurie O. Robinson, of the District of Columbia, to be Assistant Attorney General for the Office of Justice Programs, Jan M. Chaiken, of Massachusetts, to be Director of the Bureau of Justice Statistics, and Jeremy Travis, of New York, to be Director of the National Institute of Justice, all of the Department of Justice.
SD-628

AUGUST 29

10:00 a.m.
Environment and Public Works
Clean Air and Nuclear Regulation Subcommittee
To hold hearings to examine the potential health effects resulting from radium nasopharyngeal irradiation treatment.
SD-406

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HOUSE OF REPRESENTATIVES—*Tuesday, August 16, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. KLINK].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
August 16, 1994.

I hereby designate the Honorable RON KLINK to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of February 11, 1994, and June 10, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes and each Member other than the majority and minority leaders limited to 5 minutes.

The Chair recognizes the gentleman from California [Mr. MOORHEAD] for 5 minutes.

THE CRIME BILL

Mr. MOORHEAD. Mr. Speaker, I rise today to urge the House to vote against the Clinton crime bill.

We need a crime bill in America very badly, but we do not need a bill that is more friendly to the criminal than to their victims in the United States. The American people will not accept a crime bill that protects criminal rights more than it protects victim's rights.

Nearly one-third of this $33 billion bill is to pay for over 30 new social spending programs. More Government programs are not the answer.

Our criminal justice system has become a revolving door, and this bill fails to address the loopholes and inadequacies that continue to allow violent criminals to operate freely on our streets after serving only a portion of their sentence. In fact, it greases the revolving-door system by relaxing mandatory minimum sentences and watering down truth-in-sentencing requirements for prison grants.

There are many difficulties with this legislation. There are some fine points in it that I would like to see enacted into law such as building up the Boarder Patrol and doing something about some of the death penalty issues, but in this bill, we have approximately 60 new death penalties, and I wonder, when you go into this particular subject that deeply, whether we are actually going to see more people executed or only more delays and more opposition from the American people.

The people we need to bring to justice are those people that are out willfully killing our citizens on the streets with thousands of people killed each year throughout the United States.

We need to bring those people to justice and to bring them to justice as rapidly as we can. I know that during this debate many people have been misled about what this legislation does. The legislation provides that we have social programs, midnight basketball for areas that have 2 percent or more HIV-positive people, it provides some social programs that perhaps in the long run will do some good. But to spend $33 billion on a piece of legislation that really does not address the crime problems of our Nation the way they need to be addressed is a travesty of justice.

We need more people on our police departments, but in this legislation we are told we have 100,000 new positions that are created. That is a total fallacy. There is actually going to be money for about 22,000, and we are taking the money from our Federal drug programs and from the FBI, from our ability as a Federal Government to stamp out crime on a Federal level.

Much of the money we give to local police departments will be used for salaries, but over half of the cost that our police departments have is the need to provide the automobiles, the technical equipment, the guns, the uniforms, and the other things that police officers need. When you mandate a program of this kind, many of our departments are not going to be able to use them. If you gave them the money to build up the programs they have, they could really fight crime, but if you tell them that they have to use them in an area where they do not have the money to supplement their use to really make them effective, you are wasting your money.

I have been told by the head of the FBI, who was in my office the other day, that much of this money is going to come from their ability to enforce the Federal laws and from the money for the DEA and their drug enforcement programs.

I want to do something about crime very, very badly, but I want to do something with legislation that meets the problems and not one that only misleads the American people that something is being done when we are passing a pork-barrel bill that helps some people's special projects, like giving a little money to colleges here and there, a little money for other social programs. We need to fight crime and not to build up pork-barrel programs.

Polly Klaas was kidnaped and murdered in California by a hardened criminal who was allowed to go free under our current system. This is the system we must change.

I cannot support a crime bill that ignores the rights of victims of violent crimes and continues to allow violent criminals to rule our streets.

Let us correct this legislation. Let us get a bill that does something to fight crime in America.

THE CRIME BILL IS WELL BALANCED

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. MILLER] is recognized during morning business for 5 minutes.

Mr. MILLER of California. Mr. Speaker, Members of the House, the gentleman that preceded me in the well talked about the tragedy of Polly Klaas when our community in northern California was rocked by her kidnap and her violent death and how somehow this bill would not be helpful in that situation, and yet her father was at the White House yesterday supporting this legislation because he recognizes that this legislation has a very tough provision on three strikes and you are out for serious violent crimes.

It also recognizes, as does the President and as do the people of this country, this bill is a well-proportioned bill that provides some $13 billion for law enforcement, for the needs that the law enforcement community has told this Congress, told the President, and told others that it needs in response to the crime on our streets. It provides over $8 billion for construction of new prisons, so that we can start to keep people off the streets for a longer period of time that have engaged in violent activity against our citizens. It also provides money for States to help them construct some prisons if those States enter into an agreement to provide that people will serve at least 85 percent of their sentences, and it also provides some $8 billion for prevention programs.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 140 PT 16 AG 12 — 18 1994 UMI

I do not know what other Members of Congress have been doing, but I have been meeting with my district attorneys, with my chiefs of police, with my sheriffs, with other law enforcement individuals in the district that I represent, and they have demanded more prisons, they have demanded more resources for law enforcement, but they have also demanded that they be given additional tools where they can work in conjunction with recreational agencies, with our schools, with the boys' and girls' clubs to try to create activities to provide a diversion and to provide an outlet for young people in many communities where there simply are no resources for those people through most of the day. This is about prevention.

My colleagues on the other side of the aisle want to keep talking about the social workers. This is not about social workers. This is about coaches and teachers and recreational individuals that work in some of our toughest neighborhoods trying to provide some alternatives. Yes, it includes midnight basketball, which includes the requirements that you sign up to work for your high school equivalency, that you get engaged in a counseling program to try to help you find work, and you can also play basketball as the organizing principle to bring these young people together where we can start to provide and inform them of some alternatives to their life on the streets.

This legislation is tougher on crime, and it is tough on crime prevention. This bill provides that kind of balance. It recognizes the needs of our community.

Mayor Giuliani of New York was on TV today, and he made a very important point. He said he did not know a lot about the rhetoric surrounding this bill, but he knew the needs of his city and of most of the cities in this country, and what they needed was this legislation to provide them the tools of dealing with crime in our environment on a daily basis on the streets of America, not as we would like it to be in the Halls of Congress.

□ 1040

Not as we would like it to be in the Halls of Congress, not as we would like to see it as we trade facts back and forth between the two parties, but based upon his experience as a prosecutor and now his experience as mayor of our largest city; joined in by Mayor Riordan of Los Angeles, supporting this legislation, the mayor of Philadelphia saying we need these programs; the mayor of Chicago.

We need these programs to try and provide some opportunity, to extend our school hours, to take the school buildings of our Nation and expand them as a resource after hours. But schools do not have the money to do that. School boards do not have the money. But maybe we can knit that together out of some assistance from the Federal Government, the States and local agencies, so that those schools can remain open, as they did when I was a young person.

There was no question where I could go after school. I could hang out at my school, play kickball, volleyball, baseball, I could go to tutoring, I could go to study hall. It was available.

It is not available today. That is why this program addresses those who prey on our society, by lengthening prison terms, by building more prisons, by making sure they serve their sentence and making sure that those who choose to do it more than twice pay on "three strikes and you're out" with a life sentence.

That is why this bill goes to the issue of making room for violent criminals, by deciding that those who are in jail because of a nonviolent, minor drug arrest can be let out of jail so we can put a violent individual who threatens our neighborhoods, threatens our families, away for a long period of time.

I would hope the Congress, along with the American public, will support this legislation.

CAUGHT IN THE ACT; ARRESTED AT THE SCENE

The SPEAKER pro tempore (Mr. KLINK). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Illinois [Mr. HYDE] will be recognized during morning business for 5 minutes.

Mr. HYDE. Mr. Speaker, on Sunday the President engaged in some rather unusual campaign strategy to pass his crime bill. He told us from a church in the District vicinity that God wants us to vote for this bill.

Now, if Pat Robertson had said that, or Jerry Falwell or even BOB DORNAN, I am sure that Mr. FAZIO and the other crusaders on the left against the religious right would not swing into high gear. But it is the President, and he, I suppose, by virtue of his office, has the right to tell us that God wants us to vote for a bill. And I just hope that Mr. FAZIO is not too tough on him, because he is the President.

Occasionally you encounter somebody who has written something that rings so true that it overwhelms your own idea of what to say. And I must say that that has happened to me on this crime bill.

Yesterday, Monday, in the Washington Times, Pat Buchanan, a favorite demon of the left, has a column on this crime bill. And when I read it, lights went on all over the room because it is so true. And I think the best thing I could do with my time is share it with you, parts of it anyway.

He says:

The degeneration and defeat of the crime bill raises a question. Why is Congress incapable of getting it right? Stopping crime, like educating children, is not horribly difficult. The old America used to do it rather well. What happened?

Well, some years ago, cultural and political power in America passed to a new elite that had come to believe the old America had to be made over. All the old notions had to go.

From our public schools they effected the expulsion of all Bible-based ideas about right and wrong. On the streets, brutal cops were thought to be the real social problem, and in need of constant oversight to keep their natural instincts under check. In the courts, the balance of power was shifted toward the criminally accused, in the name of fairness. In society at large, traditional views on morality, the permanence of marriage, the importance of families, the indispensable role that religion plays in character formation, were tossed out. The new elite had decided to replace the pastors and preachers of old with themselves as America's moral tutors.

Don't tear a fence down until you know why it was put up, Robert Frost wrote. Well, as we tore down the old fences with cheerful abandon, we forgot they had been erected over centuries as society's first line of defense against the return of barbarism.

And barbarism returned with a vengeance.

So, who is responsible for our crime crisis?

Go back and discover: Who did most to discredit the two-parent family and bring about its collapse? Who did the most to purge all religious ideas and moral instruction from the public schools upon which the poor so heavily depend? Who worked ceaselessly to make it ever more difficult to arrest, prosecute, convict and incarcerate criminals?

Those are some very important thoughts for people to think about as we grapple with the idea of what to do about crime in this world, in this country.

Now, one of the reasons why this was a bad bill was the incorporation of nearly $9 billion in social programs. Are all the social programs bad? No. I dare say many of them are good. Many of them would be useful if we knew which ones they are. The trouble is they did not have hearings. They just took a wish list of certain things that people wanted, all Democrats, I might add, and put together a list about $9 billion, and said "Let's do it."

Now, midnight basketball is one of the programs that is funded. Now, I have an open mind on midnight basketball. It is certainly while someone is playing midnight basketball they are not mugging you—at least there is a referee there to blow the whistle if they do. But how do they get up the next morning and go to work or go to school if they are all geared up at 3 in the morning after a game? I do not know. I would like to know.

I would like to know which of these programs duplicate other programs, because we already have 156 job training programs at a cost of $25 billion a year already in place. And this bill superimposes 30 new programs, many of which are duplicative, triplicative of existing programs.

Now, we all promised our constituents we were going to be frugal and cut unnecessary spending. It is not responsible to vote for this bill as it is.

CRIME BILL EMPHASIZES PREVENTION

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I am glad to have a little time on this floor to try to bring back something to the crime bill that has been lacking, and that is: facts and truth.

If you really look at what has happened, we in America won the cold war and we have lost the war on crime. And this crime bill does go a different direction. I think it is a very important direction. That is why we are having so much trouble getting it moving.

What do we have in this crime bill that we have not had in crime bills for the last 12 years? We have a prevention piece, a prevention piece. Why is it in this crime bill? Because even today, after 12 years of passing tougher and tougher and tougher and tougher crime bills, and this one also has even more tough provisions, believe me—the gentleman from California talked about those, they are there, they are real, "three strikes, you're out," all sorts of things. But we still know, after all of that, 95 percent of the crimes in America often there is no arrest for. The figures go between 91 percent and 95 percent.

So the idea is, if there is anything that could prevent the crime from happening in the first place, the average American citizen is much better off. In military terms we call that deterrence.

We looked around, we had all sorts of hearings. Midnight basketball was one of them. We had hearings on it. I am sorry it was named midnight basketball. Let us call it late-night. It can start at 8 in the evening if you want it to. There is nothing that says it has to be at midnight. But the reason that it was named that was because in order to get into the basketball league, you had to, A, be in school or a job training program and, B, come from the study hall first that lasted a couple of hours.

□ 1050

Mr. Speaker, I think to call it pork is really ridiculous because it is very targeted. It is only targeted to the neighborhoods that need it, the neighborhoods where they do not have a father presence, and that is what this is, coaches, volunteers, and study hall people trying to become a father presence. This program has been tried in both Chicago and Maryland. It had strong bipartisan support. In fact, it was unanimously supported by the Select Committee on Children, Youth, and Families.

And all this for $2,000; that is all of what it costs an average community to fund an eight-person team for midnight basketball, and that $2,000 just pays for the insurance, the rental of the place, and the kind of things that bother volunteers, so all the volunteers have to focus on is those kids, and get them to go the right way, and where it has been in effect we find there has not been the crime going on by these young people, many of whom had an arrest record, and had been in trouble and were doomed to do it again.

Mr. Speaker, I want to say to my colleagues, civilizations are known not by how many prisons they build, but by the next generation they build, and we have not been doing a very good job as a nation on this next generation.

So, yes, we put some prevention programs in there, and we have been tried and true, and we have had hearings, and they are so cost efficient that my colleagues may not be able to believe it because it is $2,000 for eight people on a basketball team versus $40,000 apiece for each of those kids per year if they go on to jail, not to even mention the crime costs.

What else did we put in this bill we have never done before? We put in things like assault weapon bans. Yes, those are military weapons. Those weapons do not belong in the hands of citizens out there. We do not even have them in the hands of our law enforcement officials. They are way overarmed. Again put it in cold war terms. The criminals are better armed than our policemen.

We need more policemen; we have it in this bill. We need more prevention because when we are only arresting people for about somewhere between 9 and 5 percent of the crimes committed, we got to do a better job of preventing it on the front end.

There is an old, wonderful Ben Franklin saying about an ounce of prevention is worth a pound of cure. That is what this bill is trying to tilt toward.

And we also have in there the Violence Against Women Act which is terribly important. When this bill left the House the people voted for, there was $500 million more in programs than when it came back, and people voted for it then. There was also a lot less money for violence against women that there is now.

Mr. Speaker, I think the excuses my colleagues are hearing are not based in fact. I think it is indeed criminal that we are having such a tragic factless debate on this, and I hope we get this crime bill back on track. America certainly needs it.

A BETTER CRIME BILL IS POSSIBLE

The SPEAKER pro tempore (Mr. KLINK). Under the Speaker's announced policy of February 11, 1994, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, the problem is not the GOP and five dozen Democrats. The problem is the crime bill. We can have a much better crime bill, one that is paid for, and one that will get tough on crime, and one that will fix some of the problems that the conferees wanted to be fixed. The conferees took out four or five get-tough measures that the Senate put in. The conferees ignored seven motions to instruct that this House of Representatives put in. The conferees did sneak in, or at least Members in the conference snuck in, projects that neither body, apparently, knew about, what we call pure pork, $10 million for a university somewhere in Texas. The conference report required a rule to protect parts of this bill that we do not even know what it said, or did not know at the time we voted, and the other thing is that most Members of this Congress; in fact I think I can say every Member of this House, had not read the crime bill we voted on because there was not time to do it under the rule we reported out.

Mr. Speaker, the crime bill, as we had a chance to look at it, that we voted on in the past 5 days, had some good and some bad parts. There is quite a list of social programs, about 9 billion dollars' worth. Part of the problem with those, they are not high priority, and they are paid through the patronage system: they are not paid through competitive grants. They are done on the who-you-know-in-Washington basis.

There is also no accountability for a great deal of that money. Nine billion dollars; we do not know whether it is going to work. There is no standard, there is no measure, there is no come back, and report, and find out if this worked. Nine billion dollars is a lot of money.

Mr. Speaker, that talk about getting tough on crime sort of goes pale when we see that we are going to let something like 10,000 people who have been convicted of drug crimes, who are in jail now, out because they are lower priority and we need those prison spaces for higher priority. I have already been asked by some constituents in my district if one of those 10,000 is going to be the son of Joycelyn Elders who was recently convicted of such a crime. I do not know the answer to that.

This supposed 100,000 policemen on the streets that are going to be put in that we have heard so much about from the White House, actually there is only funding in this bill for about 20,000 policemen on the streets, and, if we were to divide that into three 8-hour shifts, which is what we have to do when we are running a police department at any

VOL 140 PT 16 AG 12 — 18 1994 UMI

given moment in America, right now that will be an additional 6,000 or 7,000 policemen. I say to my colleagues, "Well, when you divide that countrywide, you can see that's a help, but it's not going to be a gigantic help, and frankly most of those police are going to go into the urban areas that are decided by somebody else, and most communities are not going to get those policemen."

There is no habeas corpus reform in this bill, and this bill is not paid for. It is a budget buster. It is about $25 billion added to the deficit over the next 10 years or so, and we do not even know how much it will cost beyond that.

Nevertheless, Mr. Speaker, we need a crime bill, and we have the ability to get a crime bill and to deliver a crime bill, and if we had, perhaps, little more help from the White House on focusing on a get-tough crime bill that would pass here instead of the demagoguery that is going on, I think we can accomplish it.

Some of the things that we are worried about is that my colleague and friend, the gentlewoman from Washington [Ms. DUNN], introduced an amendment for tracking sexually violent predators and community notification. Now, some of my colleagues may remember picking up a paper a few weeks ago and reading about a 7-year-old youngster in a town in New Jersey who was strangled is a sex crime by a known sexual offender who was living in that community, been no community notification. We wanted those requirements put in this bill so that that kind of thing cannot happen again, and I ask, "You know what? We instructed the conferees to put it in, and you know what? They left it out, and you know what? They're accountable-less to tell us why, and you know what? They didn't tell us." So, Mr. Speaker, that family was not invited to the Rose Garden yesterday by the White House, and I do not know why. I hope the President will correct that oversight. I feel very sorry for that family and all families in that situation, and we have the ability to fix that and make this crime bill right in this country.

We asked for $13.5 billion for prison funding by a vote of 338 to 81 in this Chamber, and do my colleagues know what? The conferees did not do that. They cut it by $5 billion, and they did not explain why. They just ignored the instructions of 338 Members of this House.

Mr. Speaker, it seems to me we can do better when everybody in America is saying, "Lock up the criminals. Please lock up the criminals. We want to be safe on the streets, in our houses, in our cars, when we go to the store, and, if you let those criminals out, we will not be safe."

Mr. Speaker, everybody in America understands that. Why did we chop out $5 billion? I do not know. We need to do better than that.

We had a provision to instruct the conferees for minimum sentences for crimes carried out with handguns. Now, my colleagues would think that would be pretty simple to do. We are having all this fuss about an assault weapons ban, but we cannot even get a provision in, in this crime bill, this supposedly get-tough-on-crime bill, that says, "If you carry out a crime with a handgun, that you get a severe minimum sentence." It seems to me that is pretty basic stuff if we are trying to do a bill on crime.

Mr. Speaker, we can do this better, and we will.

A LETTER IN SUPPORT OF THE CRIME BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from South Carolina [Mr. DERRICK] is recognized during morning business for 5 minutes.

Mr. DERRICK. Mr. Speaker, yesterday I received a faxed letter from Carlos and Sharon Luria of Salem, SC, a small town in my district. I would like to read it to you.

Sharon and I would like to congratulate you on supporting the President's crime bill even though, as you were subsequently quoted as saying, there is little downside in saying "no" to him. You put the broader interests of the Nation ahead of narrow political concerns, and we admire you for it. I would also like you to know that I am a hunter who once supported the NRA but quit that organization in disgust over its obdurate stand on assault weapons.

While so many seem to deride the social programs that are incorporated into the crime bill, we support these measures strongly. Building more prisons and putting more police officers on the street are necessary to stem the bleeding, but they don't keep the wounds from happening in the first place.

We whole-heartedly support early intervention programs that work with kids when they first begin to evidence antisocial behavior. Sharon works with abused children in a local program called Helping Hands and sees the difference it makes at first hand.

It is good to hear from people like Sharon and Carlos, who understand the importance of hands-on community involvement and socially responsible action to prevent crime. I often hear from people opposing social programs that would fight crime. They do not see the use of such programs, or misunderstand their purpose.

Mr. Speaker, we need more prisons, more police, and stricter sentencing, but vengeance alone may be the least effective and most irresponsible method of stanching a crime epidemic. If we sanction the most excoriating punishments without addressing the cases of crime, we do no better than the most capricious despot.

In effect we will have abandoned any ideal of social redemption, the idea that men and women might improve themselves or their communities or that such things are even possible. We will have settled for writing off those who break our laws or might break them as redeemable human trash we can only rid ourselves of.

I cannot think of a more cynical approach. We would presuppose the worst human behavior, in which case we could only expect to get it. If we hope to stop crime in a socially responsible way that actually improves the daily lives of our communities, we must fight it with a judicious balance of punishment and prevention. The crime bill would have done that. We can do it still.

□ 1100

COMMENTS ON THE CRIME BILL

The SPEAKER pro tempore (Mr. KLINK). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Florida [Mr. MICA] is recognized during morning business for 5 minutes.

Mr. MICA. Mr. Speaker, there are many wonderful people in my Seventh Congressional District that stretches from Orlando to Daytona Beach, FL.

We have people who have lived there all their lives, and folks who just moved there recently. We have young and old working and retired and, like other parts of America, we have people looking for work and new opportunities.

After meeting with many of my constituents again this past weekend I know how smart the people of my district are. I know a little bit more about their hopes and dreams.

Like me, they want something done about crime. But also they realize that Congress could do a better job in crafting a crime bill that addresses the real problems of crime in this country.

The people in my district work hard to make a living, struggle to pay their bills, try to lead an honest life and strive to educate and raise their children. They want to live in peace and with personal security.

They want to feel safe in their homes and on their streets. They do not want to sleep, shop, go to work, or drive in fear. They want their children and grandchildren to be raised in safe neighborhoods.

Now let me tell you what they have told me they do not want. They are tired of supporting people who do not care to work or contribute to our society.

They are sick and tired of seeing their hard-earned money support fancy prisons and those who rip off the system.

They are tired of the revolving door system of justice—where they pay for the cost of crime, they pay for the criminals' legal counsel, and they pay for the criminals' fancy prison surroundings.

They pay to support the criminal's family while he's in prison, they pay for the halfway house, they pay for the parole and counseling, and then they pay all over again when the system produces a repeat offender.

They are tired of supporting the small numbers who commit the large numbers of crimes. They are tired of it, and I am tired of it.

We know that 40 years of social programs have bred welfare dependency, destroyed the traditional family unit, discouraged work and self respect, and killed self-reliance.

The NRA did not kill this rule to bring up the crime bill and neither did the Republican Party or 58 Democrats. The American people finally rebelled.

The American people know that carelessly throwing more money at the crime problem is not the answer.

The American people know that 40,000 more social workers is not the answer and the American people know that releasing 10,000 convicted drug dealers in our neighborhoods is not the solution.

Mr. Speaker, we need a crime bill that gets tough on crime. Let us send this bill back to conference committee because we can do a better job.

Let us restore the good provisions stricken in conference.

Restore the provision to notify neighbors of sexual predators. Restore minimum mandatory sentencing that keeps drug felons behind bars.

Restore minimum mandatory sentences for selling drugs to minors. Restore HIV testing for rapists. Restore a provision to require criminal restitution to victims.

Restore the provision to deport criminal aliens immediately after they leave prison. Restore minimum mandatory penalties for commission of crimes with firearms. Restore provisions to help convict prior rapists and child abusers.

Let us be honest with the American people and restore these tough measures.

Then, Mr. Speaker, after the conference committee has restored these provisions of substance that were stripped from the bill, we ask for your help.

Please cut some of the $9 billion added to this bill for a bigger social agenda. Leave billions for prisons, billions for police, and even billions for good treatment and enforcement programs.

But let us be honest and cut the social programs that have not worked in the past, do not work now, and will not work in the future. Also Mr. Speaker, we ask that you contact President Clinton and tell him the House voted on June 16, with a vote of 264 to 149, to instruct conferees to delete the racial quota provision from the conference report.

Remind him that we did not want President Clinton to promise to restore this deleted provision by executive order. Remind him that we wanted to strengthen, not weaken, the death penalty.

Finally, there is no one in this Congress that does not want a crime bill—what we want is truth in legislating and truth in sentencing.

Our hearts ache for those who have been the victims of crime. But we have a responsibility to legislate both with our hearts and our minds.

GOOD ASPECTS OF THE CRIME BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Maryland [Mr. HOYER] is recognized during morning business for 5 minutes.

Mr. HOYER. Mr. Speaker, there has been much said on this floor today about the crime bill and on days before. There will be much said hereafter, because we know that the American public is very concerned about the issue of safety in their communities, in their homes, on their streets, and in their schools. That is a concern that every Member of this House wants to respond to. It is a concern that the President of the United States wants to respond to. It is a concern, I suggest to my colleagues, that we have responded to in very handily passing a crime bill through this House of Representatives.

It had in it prevention; it had in it punishment; it had in it more cops on the beat, more police in our communities to respond, to be a presence.

Last week, however, we fell short. Not in voting on the crime bill, but in allowing this House to vote on the crime bill. The rule became an issue of great magnitude, because those who oppose now the bill were not sure that they could garner the votes to vote against the crime bill and defeat it. In point of fact, they felt the opposite, that a large number, a great majority of this House, would in fact have supported the crime bill, had it been allowed to come to a vote on the floor of this House.

My colleague who spoke before me talked of social programs that have not worked. There is prevention in this bill. Law enforcement officials that I talk to know, citizens know, that it is not enough to incarcerate, it is not enough to arrest. That is important and critical. And to keep people who continue to threaten our communities and persons in jail, in some cases, for life. I was the sponsor, Mr. Speaker, of the three-time-loser bill in this House which is a part of the crime bill.

In opposition to the crime bill, some have said this is a pork bill. And in fact on the Republican side of the aisle, the minority whip leading the charge, the accusation has been that there is money in there for midnight basketball, and some are saying we do not need kids playing basketball at midnight. They need to be at home in their beds with their families at midnight.

□ 1110

I think most of us would agree with that. But most of us would also readily admit that that is not always the case.

Mr. Speaker, today I rise to share with my colleagues a quote by our President on midnight basketball, a major topic of discussion these past few days.

I quote: "The last thing midnight basketball is about is basketball." I am quoting our President now.

"It's about providing opportunity for young adults to escape drugs and the streets and get on with their lives. It's not coincidental that the crime rate is down 60 percent since this program began."

That was our President talking in Prince Georges County at our midnight basketball function. That was our President. He is not our President now. His name is George Bush. That is what he had to say about midnight basketball.

He said that in 1991, as he participated in recognizing the first midnight basketball program in the Nation in Glenarden, MD.

This crime bill, my colleagues, is not about midnight basketball. It is about 100,000 new cops on the beat to prevent crime. It is about three strikes, you're out, to punish repeat violent offenders and get them out of our communities so they can no longer threaten us. It is about programs to stem the violence against women.

As President Bush said, it is about providing opportunity for young adults to escape drugs and the streets by not only allowing them to play basketball but, between these games, providing academic seminars and vocational workshops and family counseling to keep them out of trouble.

Tonight, Mr. Speaker, I invite my colleagues to join me and the chief of police in Prince Georges County, David Mitchell, to the finals of our midnight basketball program, to see a successful crime reduction program in action; 8 p.m. tonight, my colleagues who would stand on this floor or have press conferences criticizing this program.

IN SUPPORT OF THE DUNN-DEAL MOTION TO INSTRUCT

The SPEAKER pro tempore (Mr. KLINK). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Washington [Ms. DUNN] is recognized during morning business for 5 minutes.

Ms. DUNN. Mr. Speaker, with the recent national media attention given to the sexual predator language in the crime bill in the New York and LA

VOL
140
PT
16
AG
12
—
18
1994
UMI

Times, I want to take this opportunity to reiterate my support for opening up the conference to include the original Dunn-Deal motion. The language instructs conferees on the crime bill to encourage States to establish registration and tracking procedures and community notification with respect to released sexually violent predators. This same language was accepted by unanimous consent as a part of the Senate crime bill and overwhelmingly supported in the House by a vote of 407 to 13.

Mr. Speaker, the House sent a precise message to conferees on the importance not only of registration and tracking provision, but of notification when a sexually violent predator has moved into a community. But the will of the U.S. Congress was ignored. I believe that American women and families deserve better.

Mr. Speaker, community notification is a proven approach. The legislative language is modeled after a successful Washington State law and will monitor sexually violent predators—including those convicted of stalking—wherever they may locate once they are released from prison, even if they move across State lines. Washington State leads the Nation in coping with this small group of criminals who terrorize primarily women in their neighborhoods, homes, and workplaces.

When rapists, women-beaters, or convicted violent stalkers are released into the community, the women in that community have a right to know. In fact, the Washington State Supreme Court already has ruled that this type of law is constitutional.

Already, both the House and Senate have passed legislation that requires law enforcement officials to notify communities when child molesters and others who pose a threat to children are released. That is right and good: a warning that society owes to parents and their children.

In the same way, our society owes to its women some notification that a predator is being released. And law enforcement officials should be encouraged to track their movements just as they do for those who have committed crimes against children.

By contrast, Mr. Speaker, the language that is being proposed in the conference report unacceptably weakens community notification, and instead protects the rights of criminals. Law-abiding citizens, especially women, have a right to know when a predator is being released into their community.

What is the point of registering and tracking these convicted predators if we are not going to share that information with the very citizens who are at risk? How can we justify knowing where a sexual predator has located, and not notify the women and families in that neighborhood, especially when so many of them move across State lines to settle next door to one of our constituents. The rate of recidivism for these crimes is astronomical because these people are compulsive. We know that. And that is why it is incumbent upon us to ensure that community notification is encouraged. Without the community notification, the effort is reduced to the simple collection of data.

I would hope the House would recognize this fact and open up the conference report to strengthen this important language.

The next time a young girl is attacked by one of these repeat offenders it should rest heavy upon the conscience for every conferee who voted to weaken this provision. The problem of sexually violent predators has unfortunately become too widespread in our society. We need only recall the recent tragic case of young Megan Kanka, of New Jersey, lured to her death by a repeat sexual offender, who told her he had a new puppy in his house or of Polly Klaas of Petaluma, CA, who was snatched from her home and brutally murdered. Yet, the conferees felt it necessary to protect the rights of criminals instead of protecting the rights of the citizens from a predator.

Mr. Speaker, on behalf of the women who work here on Capitol Hill, on behalf of the millions of women across the country and in every congressional district represented here, I respectfully ask that the House open up the conference and give us a bill that we would be proud to take back to our constituents.

THE CRIME BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New Mexico [Mr. RICHARDSON] is recognized during morning business for 5 minutes.

Mr. RICHARDSON. Mr. Speaker, I yield to the distinguished chairman of the caucus, the gentleman from Maryland [Mr. HOYER], to complete his very eloquent statement on the crime issue.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding to me.

I had one additional quote I wanted to use of our President, Mr. Bush. As I said, he visited Prince Georges County, which inaugurated the midnight basketball. When he was there in Glenarden he said this, and I quote, "Here everybody wins, everybody gets a better shot at life," President Bush also said on that April evening in 1991.

That is what this crime bill is all about, a better and safer shot at life for our children and grandchildren.

Mr. Speaker, I hope that we can stop the partisan propaganda and pass a tough, strong crime bill. The crime bill that we failed to approve the rule on last week was such a bill. We need to pass it. We need to do what America sent us here to do, to act and respond to the problems that confront them every day.

Mr. RICHARDSON. Mr. Speaker, I thank my colleague for his eloquence. I want to echo it. We need to pass the crime bill this week. Politics wounded the crime bill last week. The Republican leadership and special interests and others have tried to kill this bill, but it is not dead yet.

It is our responsibility to bring it back, to stop the partisanship and to pass the crime bill. It is as simple as that.

I have never seen President Clinton get so mad as he did after the bill went down. I have never seen him so energized, as he crisscrosses the country trying to rally national support for the bill. He is energizing the country. He is using the bully pulpit and he has already changed some votes.

□ 1120

Most importantly, Mr. Speaker, he is sending a message that the National interest has to override parochial and special interests. There is no more important issue that the American people want us to deal with than crime. If we go home for our recess without a crime bill, I could not enter a town meeting in New Mexico with my head held high, because I know that I, for one, would be ashamed that we have not acted.

Mr. Speaker, let me make a comment about the social spending that some of my colleagues keep criticizing. The final passage of the crime bill, not the conference report, contained less social spending than the conference report. Why is that? Because in the conference report, the much-admired and positive program to fight violence against women was raised to $1.2 billion.

Again, this talk about too much social spending in the conference report rings very hollow when close to 260 Members of the House, including many on the other side, voted for some of these programs when it came to final passage of the bill.

Mr. Speaker, it is clear that politics killed this bill. Last week in my congressional district a 21-year-old woman was brutually strangled to death in her home in one of the smallest and most rural areas of my State. Years ago, shocking crimes such as this were unheard of in Portales, NM. Now these crimes are occurring in small towns like Portales throughout the country, without regard to race, population, or wealth.

The bottom line is that crime is everywhere, and I am amazed that some of my colleagues have not yet listened to the pleas of the American people, in big cities and small, that we do something about this.

How about those who say that this crime bill is not tough enough? With three-strikes-and-you're-out, death penalty statutes, money for more prisons, which mandates that violent offenders serve at least 85 percent of their sentence, I think that this anticrime bill is very tough on criminals.

Mr. Speaker, let us end the politics. Let us pass this crime bill. Let us get it done this week.

THE PRESIDENT'S HEALTH CARE REFORM PLAN DETRIMENTAL TO FEDERAL EMPLOYEES HEALTH BENEFIT PLAN

The SPEAKER pro tempore (Mr. KLINK). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Virginia [Mr. WOLF] is recognized during morning business for 5 minutes.

Mr. WOLF. Mr. Speaker, I rise to discuss the detrimental effects of the Clinton-Gephardt health care bill on the Federal Employees Health Benefit Plan [FEHBP] and what Federal employees and retirees and the groups that represent them should be focusing on.

For most Federal employees and retirees, health care security is spelled FEHBP: the Federal Employee Health Benefits Plan. Over the past year of health care debate, the FEHBP has been threatened with abolishment, by the Clinton plan, or dramatic changes that would alter the benefits that Federal employees have negotiated over the years—Clinton-Gephardt and Clinton-Mitchell.

The FEHBP, however, is not broken and does not need the Clinton or the Clinton-Gephardt fix. In fact, it is a shining example of what is right in our health care system and should be a model for reform of those things that are wrong in the private sector. The FEHBP is built on two solid principles: consumer choice and market competition. These principles work in concert to provide the best possible health care plan and the most inexpensive cost. In 1994, the average premium increase in the FEHBP has been 3 percent, far outperforming private, employer-based insurance, where employees have little or no personal choice over benefits or price. Moreover, about 40 percent of FEHBP enrollees benefited from a reduction in premiums.

The FEHBP should be the model for reform and is a splendid example of how the private sector could work given the appropriate market reforms and incentives. The FEHBP does not have a huge bureaucracy managing the almost 400 plans which provide a wide array of choice in the FEHBP. The 34-year-old law creating the FEHBP is only 26 pages long, with 83 pages of rules in the Code of Federal Regulations, and another 93 pages of instructions in the Federal Personnel Manual. Most Government-run programs could fill a library. Furthermore, there are only 144 administrative staff that implement the program and only 1 percent of each plan's premium costs are set aside for OPM's administration of the system. Little redtape and low overhead result in lower health insurance premiums which saves money for Federal employees and retirees and the American taxpayer.

Consumer choice and market competition provide the following key features of the FEHBP:

The FEHBP permits Federal workers to choose different plans as well as very different benefit packages.

The FEHBP allows the consumer to decide whether a plan is a too expensive or a good value for their hard earned dollar.

Federal employees with preexisting conditions are not denied coverage.

Federal employees pick and keep their plans. Those decisions are not reserved to administrative personnel.

The FEHBP is not burdened by premium caps or price controls.

Federal employees around the country should ask their Representatives and Senators to reform America's health care system in the image and likeness of the FEHBP—a proved effective, market-based, consumer-oriented system. Feds should not settle for the untested Clinton-Gephardt or Clinton-Mitchell plan. I understand that the House bipartisan legislation, the so called Rowland-Billirakis bill, which came out yesterday, preserves the FEHBP as does the Michel bill.

Feds have recently received assurances that FEHBP will be preserved and they will have as good a plan or better under the new government scheme. But those proposals still include dramatic changes to the FEHBP: a mandated benefits package that alters what many employees currently receive, a different risk pool that could raise rates, and reduced hospitalization coverage to name a few. The Capitol Hill newspaper, Roll Call, accurately noted, "FEHBP is more attractive than Mrs. Clinton's own proposal . . . federal employees will lose their breadth of choice if the Clinton plan is enacted."

Proposals for Federal employees to get supplemental packages to compensate for what they would lose by being included in the Clinton-Gephardt plan are a risky gamble that could result in reduced benefits. Office of Personnel Management Director James King wrote to the First Lady last year, "I think it is important to FEHBP population be given the opportunity to see that national health reform is working before they are transitioned into it."

There are a number of commonsense health care reforms that enjoy broad-based support such as making insurance plans portable between jobs, eliminating preexisting medical conditions, allowing medical savings accounts, providing small market insurance reforms and reforming medical malpractice. All of these are a part of the Republican health care bills, and apparently they are included in the House bipartisan approach, and they do not touch the FEHBP nor threaten Federal employee.

The real issue is that the Government should not be fixing what isn't broken. Remember it is the Clinton administration which is sending out RIF notices by the thousands and cutting back on Federal COLA's. How confident are you of the fix Federal employees will get on health care? Should Federal employees really risk buying into the Clinton-Gephardt plan? I do not think so.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 12 noon.

Accordingly, at 11:28 a.m., the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, we pray, to savor the moments of quiet when the intensity of the day is eased and the burdens of responsibility are laid aside. Teach us then, in the silence of meditation and reflection, to place before You our thoughts and ideas, our feelings and worries, so that You can forgive us and nurture us and strengthen us for the days ahead. O gracious God, as You have created the Heavens and the Earth and each of us, bless us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SYNAR. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. SYNAR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

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The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Arkansas [Mr. HUTCHINSON] come forward and lead the House in the Pledge of Allegiance?

Mr. HUTCHINSON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4299. An act to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 4554. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes; and

H.R. 4650. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4299) "An Act to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. KERREY, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY, Mr. BAUCUS, Mr. JOHNSTON, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, Mr. GORTON, Mr. CHAFEE, Mr. STEVENS, Mr. LUGAR, and Mr. WALLOP; and appoints from the Committee on Armed Services: Mr. NUNN and Mr. THURMOND; to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4554) "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes," requests a new conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BUMPERS, Mr. HARKIN, Mr. KERREY, Mr. JOHNSTON, Mr. KOHL, Mrs. FEINSTEIN, Mr. BYRD, Mr. COCHRAN, Mr. SPECTER, Mr. BOND, Mr. GRAMM, Mr. GORTON, and Mr. HATFIELD; to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4650) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. STEVENS, Mr. D'AMATO, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM, Mr. BOND, and Mr. HATFIELD; to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 784. An act to amend the Federal Food, Drug, and cosmetic Act to establish standards with respect to dietary supplements, and for other purposes;

S.J. Res. 185. Joint Resolution to designate October 1994 as "National Breast Cancer Awareness Month";

S.J. Res. 192. Joint Resolution to designate October 1994 as "Crime Prevention Month"; and

S.J. Res. 198. Joint Resolution designating 1995 the "Year of the Grandparent."

The message also announced that the Senate agrees to the amendments of the House to the resolution (S.J. Res. 153) entitled "Joint resolution to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as National Family Caregivers Week."

DISPENSING WITH CALL OF PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the private calendar.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the call of the private calendar be dispensed with today.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

TAXPAYERS SHOULD BE CONSIDERED INNOCENT UNTIL PROVEN GUILTY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the IRS said that the Congress should not mess with the burden of proof in a tax case: Taxpayers are guilty until proven innocent. And they say they need that, and it is justified, because it is a "voluntary compliance" system.

Voluntary: The dictionary says voluntary means behaving without force, threat, or persuasion. If that is the case, tell me, Mr. Speaker, if you do not voluntarily pay your taxes, why does the IRS take your bank account? Why does the IRS take your house? Why does the IRS take your kids, your lawnmower, your goldfish, your dog?

It sounds to me, Mr. Speaker, that voluntary compliance sounds an awful lot like voluntary manslaughter, if you know what I mean.

A national poll says that this bill, changing the burden of proof, that a taxpayer is innocent until proven guilty, is the highest-rated supported bill in almost 10 years. And the American people, 95 percent, say they want the law changed; they say the taxpayers should be considered innocent until proven guilty.

I say, Congress would be wise to listen to the American people once in a while. Sign discharge petition No. 12. If it's good enough for the "Son of Sam"—it should be OK for Mom and Dad.

NOT A TOUGH CRIME BILL

(Mr. EVERETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVERETT. Mr. Speaker, why is it that conservative Republicans and Democrats do not support the crime bill, but liberal Democrats do support it?

Does anyone believe if this was really tough anti-crime legislation that conservatives would not support the bill? Come on, let us get back to reality here. This crime bill is an ineffective response to an incredible problem.

Our criminal justice system does not work because criminals rarely face justice. And the frustration most Americans feel about that reality is what drives their desire for a tough crime bill. The liberal impulse on crime no longer resonates with the American people. It is not society's fault that criminals commit crimes: It is the criminals' fault.

But the crime bill perpetuates the myth that criminals are not at fault when they commit their heinous crimes. The crime bill seeks to build self-esteem. It gives social welfare workers more money for vague and poorly thought-out programs.

Write a good, tough bipartisan crime bill, Congress, and it will pass.

A PERFECT EXAMPLE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the battle over the crime bill is a perfect example of what is wrong with Democrat leadership in the Congress and in the country.

Instead of working with Republicans to craft a bill that would punish criminals, Democrat leaders ignored Republicans in the conference and produce a bill that would punish taxpayers. Instead of providing money to fund 100,000 new police officers, the conference report only provides enough money for 20,000. Instead of keeping tough language that would inform neighborhoods about sexual predators, the conference report radically weakened that language.

Mr. Speaker, President Clinton and House Democrat leaders have ignored, vilified, and condemned Republicans for trying to craft a real anticrime bill.

They have slapped away our efforts to work with them in an effort to find real punishments for criminals. They have politicized this issue for narrow partisan reasons, and that is a shame.

LET US PREVENT CRIME

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I thought it might be fun to just come and put a few facts out here about the crime bill.

The fact is when the crime bill passed the House the first time, it had half a billion dollars more, more in prevention spending than it had when it failed last week. And 65 Members on the other side voted for that.

So it was out.

We were lower on the violence against women Act. Guess what? The bill we turned down last week had more money for that. We also passed in this House an assault weapons ban, which I think a reasonably prudent American would think belonged in a crime bill.

So we have a crime bill that I think makes an inordinate amount of sense, adds all sorts of new punishment—in fact, we have had Members say they could not take all that punishment—but it also deals with the prevention part because until you deal with the prevention part, you are not going to stop crime in America.

Of the crimes committed in America today, 91 percent they never make an arrest for. So if you can work on that end, we are going to have much safer streets.

That is why this was such a smart bill. How tragic it is we did not have it passed.

CONGRATULATIONS DUE CONGRESSMAN BOB INGLIS ON BIRTH OF DAUGHTER

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, I rise today to offer hearty congratulations to my dear friend and colleague, Congressman BOB INGLIS of South Carolina, the proud father of a baby girl born Sunday, August 14, at 7:05 am at Greenville Memorial Hospital in Greenville, SC. Mabel Andrews Inglis weighed in at 7 pounds 13 ounces and she and Mary Anne are doing fine. This is their fourth child, so I join my colleagues in wishing them best wishes.

SUPPORT THE GUARANTEED HEALTH INSURANCE ACT

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, the health care status quo keeps 38 million Americans uninsured and millions more underinsured. If Congress does not reform the system, we can expect these people to stay that way.

That is why America supports comprehensive reform. It is becoming clear that alternatives to the plan will not work. Half-way insurance reforms and subsidies only lead to higher premiums and less coverage.

That is why these long time advocates for health care reform support the Gephardt bill:

The Lupus Foundation of America; the American Counseling Association; Eldercare America, Inc., the AIDS Action Council; the National Osteoporosis Foundation; the Foundation of Behavioral, Psychological, and Cognitive Sciences; the Alzheimer's Association; the National Psoriasis Foundation; the American Council for the Blind; the Human Rights Campaign Fund, and the Association of Maternal and Child Health Programs.

Give America serious reform. Support the Guaranteed Health Insurance Act.

□ 1210

NO HELP NEEDED FROM MEXICO ON SOS

(Mr. CALVERT asked and was given permission to address the House for 1 minute.)

Mr. CALVERT. Mr. Speaker, yesterday, Mexican Deputy Foreign Minister Andres Rozental denounced the Save Our State proposition on the California ballot.

He said his Government would work closely with those in our State who oppose the proposition in order to bring about its defeat.

Well, thank you very much, Mr. Rozental, but the people of California are perfectly capable of determining public policy without the help of a foreign government.

If the Mexican Government wishes to be helpful to our state, perhaps their public officials will consider making a greater effort to keep their citizens from violating the immigration laws of the United States.

Mr. Speaker, the Save Our State or SOS initiative in California is not an anti-Mexican or anti-anybody proposition. It is a pro-American initiative. And, that means a pro-Irish American; pro-Japanese American; pro-Vietnamese American, and yes, Mr. Speaker, it is a pro-Mexican-American proposition.

SOS is not aimed against anyone. It is aimed at protecting the economy of California so that it will continue to be a land of opportunity for past, present and future legal immigrants.

So, thank you for your interest, Mr. Rozental, but the people of California will decide this issue, not the public officials of our neighbor and friend to the south.

WHAT THE CRIME BILL IS AND IS NOT

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, the President's credibility is being stretched beyond the breaking point, far beyond the debate over the crime bill. Let us remember that this is the administration that began by calling a tax a contribution, by calling spending an investment, and now we see a social welfare bill being called an anticrime bill, and the message is getting out to the American people.

Eight billion dollars in this anticrime bill is for arts and crafts, midnight basketball and other social welfare spending, all in the name of being anticrime, this at the same time when we are being told a hundred thousand new policemen are going to be put on the streets, yet we realize that only 20,000 policemen will be put on the street temporarily by this bill when all of that social welfare spending that I just mentioned is permanent by this bill.

Mr. Speaker, the American people can see what is in this bill and what is not in this bill. They can see that the provisions I worked for strenuously to deport criminal illegal aliens once they have served their term, that was taken out of the bill, as were other very heavy law enforcement, strong law enforcement, issues. Instead what we have is a social welfare bill that is being mislabeled, and I say, "If you believe that taxation is nothing more than a contribution, you'll believe this is an anticrime bill."

VOL 140 PT 16 AG 12 — 18 1994 UMI

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TRAFICANT). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the end of legislative business today, but not before 5 p.m.

SATELLITE HOME VIEWER ACT OF 1994

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1103) to amend title 17, United States Code, with respect to secondary transmissions of superstations and network stations of private home viewing, and with respect to cable systems, as amended.

The Clerk read as follows:

H.R. 1103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Satellite Home Viewer Act of 1994".

SEC. 2. STATUTORY LICENSE FOR SATELLITE CARRIERS.

Section 119 of title 17, United States Code, is amended as follows:

(1) Subsection (a)(2)(C) is amended—

(A) by striking "90 days after the effective date of the Satellite Home Viewer Act of 1988, or";

(B) by striking "whichever is later,";

(C) by inserting "name and" after "identifying (by" each place it appears; and

(D) by striking ", on or after the effective date of the Satellite Home Viewer Act of 1988,".

(2) Subsection (a)(5) is amended by adding at the end the following:

"(D) BURDEN OF PROOF.—In any action brought under this paragraph, the satellite carrier shall have the burden of proving that its secondary transmission of a primary transmission by a network station is for private home viewing to an unserved household.".

(3) Subsection (b)(1)(B) is amended—

(A) in clause (i) by striking "12 cents" and inserting "17.5 cents per subscriber in the case of superstations not subject to syndicated exclusivity under the regulations of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations subject to such syndicated exclusivity"; and

(B) in clause (ii) by striking "3" and inserting "6";

(4) Subsection (c) is amended—

(A) in paragraph (1) by striking "December 31, 1992,";

(B) in paragraph (2)—

(i) in subparagraph (A) by striking "July 1, 1991" and inserting "January 1, 1996"; and

(ii) in subparagraph (D) by striking "December 31, 1994" and inserting "December 31, 1999, or in accordance with the terms of the agreement, whichever is later";

(C) in paragraph (3)—

(i) in subparagraph (A) by striking "December 31, 1991" and inserting "July 1, 1996";

(ii) by amending subparagraph (D) to read as follows:

"(D) ESTABLISHMENT OF FAIR MARKET RATES.—In determining royalty fees under this paragraph, the Arbitration Panel shall establish a rate, for the secondary transmission of network stations and superstations, that reflects the fair market value of such secondary transmissions. The Arbitration Panel shall base its decision upon economic, competitive, and programming information presented by the parties, and shall take into account the competitive environment in which such programming is distributed.";

(iii) in subparagraph (E) by striking "60" and inserting "180"; and

(iv) in subparagraph (G) by striking ", or until December 31, 1994".

(5) Subsection (a) is amended—

(A) in paragraph (5)(C) by striking "the Satellite Home Viewer Act of 1988" and inserting "this section"; and

(B) by adding at the end the following:

"(8) TRANSITIONAL SIGNAL INTENSITY MEASUREMENT PROCEDURES.—

"(A) IN GENERAL.—Subject to subparagraph (C), upon a challenge by a network station regarding whether a subscriber is an unserved household within the predicted Grade B Contour of the station, the satellite carrier shall, within 60 days after the receipt of the challenge—

"(i) terminate service to that household of the signal that is the subject of the challenge, and within 30 days thereafter notify the network station that made the challenge that service to that household has been terminated; or

"(ii) conduct a measurement of the signal intensity of the subscriber's household to determine whether the household is an unserved household.

"(B) EFFECT OF MEASUREMENT.—If the satellite carrier conducts a signal intensity measurement under subparagraph (A) and the measurement indicates that—

"(i) the household is not an unserved household, the satellite carrier shall, within 60 days after the measurement is conducted, terminate the service to that household of the signal that is the subject of the challenge, and within 30 days thereafter notify the network station that made the challenge that service to that household has been terminated; or

"(ii) the household is an unserved household, the station challenging the service shall reimburse the satellite carrier for the costs of the signal measurement within 60 days after receipt of the measurement results and a statement of the costs of the measurement.

"(C) LIMITATION ON MEASUREMENTS.—(i) Notwithstanding subparagraph (A), a satellite carrier may not be required to conduct signal intensity measurements during any calendar year in excess of 5 percent of the number of subscribers within the network station's local market that have subscribed to the service as of the effective date of the Satellite Home Viewer Act of 1994.

"(ii) If a network station challenges whether a subscriber is an unserved household in excess of 5 percent of the subscribers within the network's station local market within a calendar year, subparagraph (A) shall not apply to challenges in excess of such 5 percent, but the station may conduct its own signal intensity measurement of the subscriber's household. If such measurement indicates that the household is not an unserved household, the carrier shall, within 60 days after receipt of the measurement, terminate service to the household of the signal that is the subject of the challenge and within 30 days thereafter notify the network station that made the challenge that service has been terminated. The carrier shall also, within 60 days after receipt of the measurement and a statement of the costs of the measurement, reimburse the network station for the cost it incurred in conducting the measurement.

"(D) OUTSIDE THE PREDICTED GRADE B CONTOUR.—(i) If a network station challenges whether a subscriber is an unserved household outside the predicted Grade B Contour of the station, the station may conduct a measurement of the signal intensity of the subscriber's household to determine whether the household is an unserved household.

"(ii) If the network station conducts a signal intensity measurement under clause (i) and the measurement indicates that—

"(I) the household is not an unserved household, the station shall forward the results to the satellite carrier who shall, within 60 days after receipt of the measurement, terminate the service to the household of the signal that is the subject of the challenge, and shall reimburse the station for the costs of the measurement within 60 days after receipt of the measurement results and a statement of such costs; or

"(II) the household is an unserved household, the station shall pay the costs of the measurement.

"(9) LOSER PAYS FOR SIGNAL INTENSITY MEASUREMENT; RECOVERY OF MEASUREMENT COSTS IN A CIVIL ACTION.—In any civil action filed relating to the eligibility of subscribing households as unserved households—

"(A) a network station challenging such eligibility shall reimburse the satellite carrier for any signal intensity measurement that is conducted by that carrier in response to a challenge by the network station and that establishes the household is an unserved household; and

"(B) a satellite carrier shall reimburse the network station challenging such eligibility for any signal intensity measurement that is conducted by that station and that establishes the household is not an unserved household.

"(10) INABILITY TO CONDUCT MEASUREMENT.—If a network station makes a reasonable attempt to conduct a site measurement of its signal at a subscriber's household and is denied access for the purpose of conducting the measurement, the satellite carrier shall within 60 days notice thereof, terminate service of the station's network to that household.".

(6) Subsection (d) is amended—

(A) by amending paragraph (2) to read as follows:

"(2) NETWORK STATION.—The term 'network station' means—

"(A) a television broadcast station, including any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station, that is owned or operated by, or affiliated with, one or more of the television networks in the United States which offer an interconnected program service on a regular basis for 15 or more hours per week to at least 25 of its affiliated television licensees in 10 or more States; or

"(B) a noncommercial educational broadcast station (as defined in section 397 of the Communications Act of 1934).";

(B) in paragraph (6) by inserting "and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations" after "Commission"; and

(C) by adding at the end the following:

"(11) LOCAL MARKET.—The term 'local market' means the area encompassed within a network station's predicted Grade B contour as that contour is defined by the Federal Communications Commission.".

SEC. 3. DEFINITIONS.

(a) CABLE SYSTEM.—Section 111(f) of title 17, United States Code, is amended in the paragraph relating to the definition of "cable system" by inserting "microwave," after "wires, cables,".

(b) LOCAL SERVICE AREA.—Section 111(f) of title 17, United States Code, is amended in the paragraph relating to the definition of "local service area of a primary transmitter" by inserting after "April 15, 1976," the following: "or such station's television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any modifications to such television market made, on or after September 18, 1993, pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations,".

SEC. 4. TERMINATION.

(a) EXPIRATION OF AMENDMENTS.—Section 119 of title 17, United States Code, as amended by section 2 of this Act, ceases to be effective on December 31, 1999.

(b) CONFORMING AMENDMENT.—Section 207 of the Satellite Home Viewer Act of 1988 (17 U.S.C. 119 note) is repealed.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (d), this Act and the amendments made by this Act take effect on the date of the enactment of this Act.

(b) BURDEN OF PROOF PROVISIONS.—The provisions of section 119(a)(5)(D) of title 17, United States Code (as added by section 2(2) of this Act) relating to the burden of proof of satellite carriers, shall take effect on January 1, 1997, with respect to civil actions relating to the eligibility of subscribers who subscribed to service as an unserved household before the date of the enactment of this Act.

(c) TRANSITIONAL SIGNAL INTENSITY MEASUREMENT PROCEDURES.—The provisions of section 119(a)(8) of title 17, United States Code (as added by section 2(5) of this Act), relating to transitional signal intensity measurements, shall cease to be effective on December 31, 1996.

(d) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The amendment made by section 3(b), relating to the definition of the local service area of a primary transmitter, shall take effect on July 1, 1994.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 1103, the Satellite Home Viewers Act of 1994.

House Resolution 1103 has several purposes. It extends until December 31, 1999, the compulsory license in section 119, Title 17, United State Code, which is now scheduled to expire at the end of this year. That license permits satellite carriers to deliver television programming to the public for private home viewing so long as they have complied with the conditions for the compulsory license.

The bill also clarifies that wireless cable television systems are entitled to avail themselves of the section 111 compulsory license. And, it amends the definition of "Local service area of a primary transmitter" in section 111(F) to correct an anomaly in the Copyright Act that has resulted in newer television stations being treated as distant signals while older stations in the same geographic area are treated as local signals, and I want to commend the particularly fine work of this committee's subcommittee on Intellectual Property and Judicial Administration. The chairman of that subcommittee the gentleman from New Jersey [Mr. HUGHES] has done an outstanding job, and I just want to say again that we deeply regret that he is retiring and we will no longer have the advantages of his fine service and his keen intellect. The gentleman from California [Mr. MOORHEAD], the ranking Republican, has worked tirelessly on this matter and deserves much credit as well. In addition subcommittee members, the gentleman from Oklahoma [Mr. SYNAR] and the gentleman from Virginia [Mr. BOUCHER], have played a very prominent role in developing a proper, workable policy in this area and will continue to do so, and I urge all Members to support passage of H.R. 1103.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend our subcommittee chairman, the gentleman from New Jersey [Mr. HUGHES] for his hard work and leadership in this area; also the gentleman from New York [Mr. FISH] has been instrumental in drafting and moving this legislation to the floor. Also, the chairman, the gentleman from Texas [Mr. BROOKS] has been helpful.

Although the main purpose of this legislation is a 5-year extension of the Satellite Home Viewer Act which this subcommittee processed in 1988, this bill also contains a provision dealing with the definition of wireless cable which is very similar to a bill, H.R. 759, that the gentleman from Virginia [Mr. BOUCHER] and I introduced and which was part of the overall hearings on H.R. 1103. That bill was prompted by a 1992 ruling by the Register of Copyrights that would strip the industry of its compulsory license which it has enjoyed for a number of years under section 111 of the Copyright Act.

The bill before us today, provides that wireless and other cable-like systems will be made part of the compulsory license. I believe it is important to encourage these new technologies because they will become real competitors of cable TV in the marketplace. Competition is an important factor in keeping cable TV rates at a reasonable price. The consumer will be the ultimate benefactor of this increase in competition.

In 1988 when we drafted the original Satellite Home Viewer Act we intended that after 6 years the industry involved would be able to move into voluntary private contracts for the licensing of copyrighted programming. Although the act has worked very well we are not yet to that point where the marketplace can take over, so we still need the regulation provided in H.R. 1103. However, I am pleased to see that during the next negotiations that the arbitrators will at least be able to consider the fair market value of this copyrighted programming; that is, if the parties have been unable to come to an agreement on their own. But I think we have come a long way—it is important legislation, and I urge a favorable vote on H.R. 1103.

Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES] chairman of the Subcommittee on Intellectual Property and Judicial Administration.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 1103, the Satellite Home Viewer Act of 1994. H.R. 1103 will extend the current compulsory license in section 119 of the Copyright Act until December 31, 1999. This extension ensures that millions of Americans who cannot receive over-the-air television signals or cable will have access to network signals.

At the same time, H.R. 1103 makes a number of improvements in the existing statute, including a voluntary system of testing households for unserved status, and establishment of fair market value as the benchmark by which arbitrators will set the midcourse rate adjustment. H.R. 1103 also requires that the names of subscribers be provided. In some cases, current contracts between satellite carriers and their distributors regard these names as proprietary to the distributor. For this reason, network stations should work with the carriers during an expected transition period while these contracts are being redone. I would like to take the balance of my time explaining this last provision.

The section 119 compulsory license is a government set fee for the unconsented to use of copyrighted television programming: It is not a free market rate; it is, basically, a government-mandated subsidy by copyright owners for the benefit of satellite carriers. Having paid a subsidized rate, satellite carriers sell copyright owners' programming to consumers at whatever the market will bear.

The difference between the compulsory license rate paid by satellite carriers to copyright owners, and the rate they charge consumers is eye opening: For the three network signals, satellite carriers pay copyright owners a total of $2.16 a year. One carrier charges consumers $50 a year for these same signals, a mark up of $47.84.

I have heard concerns that H.R. 1103, by requiring the arbitrators to set a fair market rate in late 1996, will discourage satellite carriers from competing with cable. I don't agree. In most cases, there are no cable systems to compete with. Most rural Americans have a single source—the satellite carrier—and we've seen what satellite carriers charge in the absence of competition.

As importantly, cable has invested heavily in satellite carriers. TCI, our

VOL 140 PT 16 AG 12 — 18 1994 UMI

largest cable company, owns an 80-percent share in one of the two satellite carriers delivering network signals, and a 23-percent interest in the other.

This is not a dispute between copyright owners and rural dish owners. It is, instead, an understandable effort by cable companies and their satellite partners to hang on to a profitable government subsidy, a sibsidy they are receiving at the expense of copyright owners. If my colleagues are concerned about the prices home dish owners are being charged, and I believe there is reason for such concern, the source of that concern cannot be the meager $2.16 network copyright owners receive. One solution may be found in last Congress's Cable Act's price discrimination provisions. There may be others, and I will be pleased to explore any suggestions my colleagues may develop.

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Mr. Speaker, this is a good bill. I do not think there is any great controversy, although we do have to resolve some differences in conference.

Mr. Speaker, I want to commend the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the full committee, and his ranking Republican, the gentleman from New York [Mr. FISH]. I want to thank in particular the gentleman from California [Mr. MOORHEAD], who is my partner and colleague on the Subcommittee on Intellectual Property and Judicial Administration, for his work. I commend also the gentleman from Virginia [Mr. BOUCHER], as well as the gentleman from Oklahoma [Mr. SYNAR], who has worked very hard on this particular legislation.

The staff has worked very hard on this and on other bills that are pending on the Senate side. I am referring to Hayden Gregory, the chief counsel, and his counterpart, Tom Mooney, on the Republican side, along with Bill Patry on the majority side, and Joe Wolfe on the minority side. I commend them for their work also.

Mr. Speaker, it is a good bill, and I urge my colleagues to support it.

Mr. MOORHEAD. Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Virginia [Mr. BOUCHER], a member of the committee.

Mr. BOUCHER. Mr. Speaker, I want to express my appreciation to the gentleman from Texas [Mr. BROOKS], the distinguished chairman of our committee, for yielding this time to me, and also I wish to commend him for his leadership. I commend also the gentleman from New Jersey [Mr. HUGHES] for his leadership in bringing the Home Satellite Viewer Act through the committee process and onto the House floor.

In 1988 we enacted the initial version of this legislation for the very important purpose of assuring that owners of backyard satellite dishes could receive unscrambled signals from the major networks. In the 1980's networks were beginning to scramble their signals, and millions of backyard dish owners found that they could no longer receive the popular programming provided by CBS, ABC, and NBC, the major networks. The 1988 act was a response to the need of dish owners to receive that programming.

At the same time, in 1988 we took into account the entirely legitimate concern of local broadcast stations that carried the networks that they not lose viewers due to dish owners subscribing to network signals over the satellite rather than picking up the signal over the air from local broadcast stations. In striking a balance between these competing interests, the 1988 act assured that dish owners could subscribe to satellite-delivered network signals but only if they could not receive that signal by some other means, namely, over the air from the local broadcast station or by means of cable TV.

During the past 6 years millions of primarily rural viewers have benefited by receiving network-delivered satellite signals from the major networks. There has, however, been controversy, as local stations charged that many dish owners who subscribed to network-delivered signals could have received those same signals by means of a local broadcast from the local affiliate. Local stations argued that this practice deprived them of viewers and, therefore, deprived them of advertising revenues, and they pointed out that the problem could worsen as direct broadcast satellite services that transmit from a very high-powered satellite to very small 18-inch dishes become available nationwide and, therefore, expand the number of viewers who receive signals generally by means of satellite delivery.

The bill that we consider today contains new provisions written with the assistance of the satellite carriers and the local network affiliates that will specify how to ascertain whether dish owners are eligible to receive satellite-delivered network signals. The controversy between local affiliates and the satellite networks had threatened the long-term viability of the satellite license and the ability of people who live beyond the reach of local stations to receive network signals.

We have structured a workable agreement, and I want to thank the parties to it for approaching this reform legislation in such a constructive manner. I also want to express thanks to the gentleman from California [Mr. MOORHEAD] with whom I was pleased to introduce legislation at the start of this Congress to renew the 1988 license. It is always a pleasure to work with him. I also want to commend the gentleman from Oklahoma [Mr. SYNAR] for his very fine work on this measure.

Mr. Speaker, I urge the adoption of H.R. 1103.

Mr. SYNAR. Mr. Speaker, H.R. 1103, the Satellite Home Viewer Act is necessary legislation that will amend the copyright law to extend the satellite compulsory license. Compulsory licenses, first enacted for the nascent cable industry, and later for an infant satellite broadcast industry, allow the transmission of copyrighted television programming in return for a statutorily determined fee. The compulsory license mechanism has been essential for the development of the cable and satellite broadcast industry by facilitating the clearance of the thousands of copyrights related to television programming thereby ensuring access to that programming by cable system operators and satellite broadcasters.

H.R. 1103, which extends the satellite compulsory license for a period of 5 years, will also reform the arbitration process used to arrive at the statutorily determined copyright royalty fee charged to satellite broadcasters for retransmitting copyrighted programming. Under the legislation, future adjustments of the royalty fees payable under section 119 of the Copyright Act for secondary transmissions by satellite carriers are to be determined by arbitration panels applying a fair market value standard.

This concept, strongly favored by the chief sponsor of H.R. 1103, Congressman HUGHES, is an attempt to embody a worthy policy goal—to direct the arbitration panel to come up with a royalty fee that replicates, as closely as possible, the price two private parties negotiating on their own behalf would agree to. Unfortunately, while it is an honest attempt, fair market value as contemplated in H.R. 1103, will not result in a fair outcome of the arbitration proceeding.

I fear such an outcome because the arbitration panels are given very little guidance in H.R. 1103 as to what fair market value means. Aside from the business uncertainty this will foster, without any real direction in the statute itself, Panel members will necessarily have to look elsewhere to divine what fair market value is supposed to mean. Unfortunately, there is virtually no other place for the panels to look for the guidance they will need to set a fair royalty fee rate. They cannot look to current law because there is no concept of fair market value anywhere else in the copyright code. They cannot look to an already established private market to set the fee for broadcast signals because there is no existing private market to look to. And finally, the little guidance H.R. 1103 does offer discourages the arbitration panel from doing what they have always done in the past—take into account the royalty fees paid by the satellite industry's chief competitor—the cable industry.

Which raises the other serious concern I have with the concept of fair market value. Because the compulsory license under which the cable industry operates does not look to fair market value to set the fees charged to cable for the retransmission of programming, I fear that fair market value will put satellite industry at a competitive disadvantage to cable by charging satellite carriers more in copyright fees for carrying the exact same programming carried by cable. The satellite industry directly competes with cable right now.

Thirty to forty percent of all satellite dish households live in areas wired for cable. Already, satellite carriers pay higher copyright fees than cable for carrying the same exact programs carried by cable. If fair market value is enacted, I fear this gap will grow. For consumers who have a choice between satellite and cable, this will make satellite services a less attractive alternative to cable television, thus denying the benefits of effective video competition to consumers around the country.

Fair market value becomes even more troublesome when one considers the potential impact on the infant Direct Broadcast Satellite [DBS] industry which is expected to directly compete with cable in urban and suburban America in the coming years. DBS, whose copyright royalty fees will also be determined under the proposed arbitration reforms of H.R. 1103, could see its price of programming raised relative to the cost of programming for cable systems. This could immediately put this newborn industry at a competitive disadvantage to cable at a time when Congress is trying to encourage vigorous cable competition for the benefit of video consumers.

For these reasons, the Senate, in its consideration of similar legislation, rejected the concept of fair market value. Others, including the Consumer Federation of America and the House Rural Caucus have ratified the Senate's position by opposing H.R. 1103's ill-defined notion of fair market value.

It is my hope that if this bill reaches a House-Senate conference, the House will recede to the relevant Senate provisions and preserve the royalty fee arbitration process found in current law. While I agree with Mr. HUGHES that Congress must move this process in a direction that more closely resembles the negotiations of private parties, I cannot support the concept of fair market value currently found in H.R. 1103. It's lack of guidance for the Copyright Office's arbitration panels will ultimately hurt competition in the video programming distribution industry and that is bad public policy.

For these reasons I urge my colleagues to vote against this legislation.

Ms. LONG. Mr. Speaker, I rise today in support of H.R. 1103, legislation to extend satellite broadcast retransmission rights.

As Chair of the Congressional Rural Caucus, I strongly support the provisions of H.R. 1103 to ensure that rural home satellite dish consumers will be able to continue to receive retransmitted broadcast programming. This is essential because in many rural areas satellite technologies represent the only way that rural families can receive the kind of information and entertainment programming that many urban Americans take for granted.

However, I remain concerned with provisions in the legislation which could result in unfair discrimination against these same rural families. Specifically, this legislation would sever the link between cable and satellite fees and instruct an arbitration panel to determine these fees based on fair market value. I, along with many other members of the Rural Caucus, believe that this could lead to unfair, and increased rates for our rural constituents.

Mr. Speaker, rural satellite television consumers are already charged higher retransmission fees than cable subscribers. On behalf of my rural colleagues, I respectfully request that the House conferees recede to the Senate on this matter. In addition, I have included following my statement a letter signed by 32 members of the Rural Caucus on this matter.

The letter follows:

CONGRESSIONAL RURAL CAUCUS,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 14, 1994.

Hon. JACK BROOKS,
Chairman, Judiciary Committee, Washington, DC.

Hon. WILLIAM J. HUGHES,
Chairman, Judiciary Subcommittee on Intellectual Property and Judicial Administration, Washington, DC.

DEAR CHAIRMAN BROOKS AND CHAIRMAN HUGHES: As Members of the Congressional Rural Caucus, we write to thank Chairman Hughes and his Subcommittee for their hard work on H.R. 1103. This legislation is essential to the many rural Americans who are unable to receive either cable or clear off-the-air broadcast programming; and thus rely on satellite technologies to receive the popular news, information, entertainment and other video programming that many urban Americans take for granted.

While we are supportive of the intent of H.R. 1103, we have specific concerns with the legislation that we hope can be addressed in an appropriate manner. In particular, we are concerned that as currently written, this legislation could impose an unjustifiable and disproportionate rate increase on rural satellite home viewers.

As you know, rural satellite home viewers are able to receive network and superstation broadcast programming through the compulsory license provided by the Satellite Home Viewer Act (SHVA) of 1988—which expires at the end of 1994. While H.R. 1103 extends the SHVA compulsory license, we are concerned with the provisions of H.R. 1103 that would serve to (1) sever the link between the rates paid for satellite retransmission compared with rates paid by cable companies, and (2) establish a new pricing approach for satellite rates while continuing the statutory formula for determining cable rates.

Although H.R. 1103 would not alter the formula used for determining cable fees, it would fundamentally alter the criteria used for setting these fees for retransmission to home satellite dish consumers. Under current law, fees for broadcast retransmission for the satellite industry are determined by an arbitration panel (established by the SHVA) based on several factors, the first of which is the "approximate average cost to a cable system for the right to secondarily transit to the public a primary transmission made by a broadcast station."

Under H.R. 1103 these satellite fees would no longer be based on the average cost to cable operators—which are determined by a statutory formula—but instead on the "fair market value" of the retransmitted signals. We believe that this unprecedented "fair market value" determination could result in substantially higher rates for satellite carriers compared to their cable counterparts.

Our rural constituents should not be asked to pay more money to receive the same network and superstation programming commonly available in cable-wired urban areas simply because they utilize satellite technologies. Satellite carriers already pay substantially more than the average rates paid by cable companies for retransmission of broadcast signals—with no difference in the costs to broadcasters or copyright owners providing these signals.

With this in mind, we respectfully request that you amend H.R. 1103 to continue the criteria of current law—which was recently approved by the Senate in S. 1485. We believe that this is an essential step to ensure that our rural satellite television consumers are not unfairly disadvantaged or used to test a mew pricing approach from which the predominately urban cable industry is exempted.

Again, we appreciate the work so far, and are hopeful that we can fully support this bill as it moves through Congress. In advance, thank you for your serious consideration of our views.

Sincerely,

JILL LONG, Chair.
MARTIN LANCASTER, Vice Chair.
PAT ROBERTS.
BILL RICHARDSON.
COLLIN C. PETERSON.
CHARLES WILSON.
PETER A. DEFAZIO.
EARL POMEROY.
TIM JOHNSON.
CHARLES H. TAYLOR.
KARAN ENGLISH.
PETE PETERSON.
JAMES E. CLYBURN.
JIM CHAPMAN.
THOMAS J. BARLOW.
DAVID MINGE.
EVA M. CLAYTON.
IKE SKELTON.
STEVE GUNDERSON.
MICHAEL G. OXLEY.
FRED UPTON.
FLOYD SPENCE.
BARBARA F. VUCANOVICH.
CHARLIE ROSE.
JOHN M. SPRATT.
JIM COOPER.
PAT DANNER.
PAT WILLIAMS.
BILL ORTON.
DOUG BEREUTER.
JOHN M. MCHUGH.
MIKE PARKER.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TRAFICANT). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1103, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1485) to extend certain satellite carrier compulsory licenses, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

VOL 140 PT 16 1994 AG 12 — 18 UMI

There was no objection.

The Clerk read the Senate bill as follows:

S. 1485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Satellite Compulsory License Extension Act of 1994".

SEC. 2. STATUTORY LICENSE FOR SATELLITE CARRIERS.

Section 119 of title 17, United States Code, is amended—

(1) in subsection (a)(2)(C)—

(A) by striking out "90 days after the effective date of the Satellite Home Viewer Act of 1988, or";

(B) by striking out "whichever is later,";

(C) by inserting "name and" after "identifying (by)" each place it appears; and

(D) by striking out ", on or after the effective date of the Satellite Home Viewer Act of 1988,";

(2) in subsection (a)(5)—

(A) in subparagraph (C) by striking out "the Satellite Home Viewer Act of 1988" and inserting in lieu thereof "this section"; and

(B) by adding at the end thereof the following new subparagraphs:

"(D) BURDEN OF PROOF.—In any action brought under this subsection, the satellite carrier shall have the burden of proof (in the case of a primary transmission by a network station) that a subscriber is an unserved household.

"(E) SIGNAL INTENSITY MEASUREMENT; LOSER PAYS.—

"(i) GRADE B CONTOUR.—(I) Within the Grade B Contour, upon a challenge by a network affiliate regarding whether a subscriber is an unserved household, the satellite carrier shall—

"(aa) deauthorize service to that household; or

"(bb) conduct a measurement of the signal intensity of the subscriber's household to determine whether the household is unserved.

"(II) If the carrier conducts a signal intensity measurement under subclause (I) and the measurement indicates that—

"(aa) the household is not an unserved household, the carrier shall immediately deauthorize the service to that household; or

"(bb) the household is an unserved household, the affiliate challenging the service shall reimburse the carrier for the costs of the signal measurement, within 45 days after receipt of the measurement results and a statement of the costs.

"(III)(aa) Notwithstanding subclause (II), a carrier may not be required to test in excess of 5 percent of the subscribers that have subscribed to service before the effective date of the Satellite Compulsory License Extension Act of 1994 within any market during a calendar year.

"(bb) If a network affiliate challenges whether a subscriber is an unserved household in excess of the 5 percent of the subscribers within any market, the affiliate may conduct its own signal intensity measurement. If such measurement indicates that the household is not an unserved household, the carrier shall immediately deauthorize service to that household and reimburse the affiliate, within 45 days after receipt of the measurement and a statement of costs.

"(ii) OUTSIDE THE GRADE B CONTOUR.—(I) Outside the Grade B Contour, if a network affiliate challenges whether a subscriber is an unserved household the affiliate shall conduct a signal intensity measurement of the subscriber's household to determine whether the household is unserved.

"(II) If the affiliate conducts a signal intensity measurement under subclause (I) and the measurement indicates that—

"(aa) the household is not an unserved household, the affiliate shall forward the results to the carrier who shall immediately deauthorize service to the household, and reimburse the affiliate within 45 days after receipt of the results and a statement of the costs; or

"(bb) the household is an unserved household, the affiliate shall pay the costs of the measurement.

"(iii) RECOVERY OF MEASUREMENT COSTS IN A CIVIL ACTION.—In any civil action filed relating to the eligibility of subscribing households, a challenging affiliate shall reimburse a carrier for any signal intensity measurement that indicates the household is an unserved household.";

(3) in subsection (b)(1)(B)—

(A) in clause (i) by striking out "12 cents" and inserting in lieu thereof "17.5 cents per subscriber in the case of superstations not subject to syndicated exclusivity under the regulations of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations subject to such syndicated exclusivity"; and

(B) in clause (ii) by striking out "3" and inserting in lieu thereof "6";

(4) in subsection (c)—

(A) in the heading for paragraph (1) by striking out "DETERMINATION" and inserting in lieu thereof "ADJUSTMENT";

(B) in paragraph (1)—

(i) by striking out "December 31, 1992, unless"; and

(ii) by striking out "After that date," and inserting in lieu thereof "All adjustments of";

(C) in paragraph (2)—

(i) in subparagraph (A) by striking out "July 1, 1991," and inserting in lieu thereof "January 1, 1996,"; and

(ii) in subparagraph (D) by striking out "until December 31, 1994" and inserting in lieu thereof "in accordance with the terms of the agreement"; and

(D) in paragraph (3)(A) by striking out "December 31, 1991," and inserting in lieu thereof "July 1, 1996,"; and

(5) in subsection (d)—

(A) by amending paragraph (2) to read as follows:

"(2) NETWORK STATION.—The term 'network station' means—

"(A) a television broadcast station, including any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station, that is owned or operated by, or affiliated with, one or more of the television networks in the United States which offer an interconnected program service on a regular basis for 15 or more hours per week to at least 25 of its affiliated television licensees in 10 or more States; or

"(B) any noncommercial educational station, as defined in section 111(f) of this title, that is a member of the public broadcasting service."; and

(B) in paragraph (6) by inserting "and operates in the Fixed Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations," after "Commission,".

SEC. 3. CABLE COMPULSORY LICENSE.

Section 111(f) of title 17, United States Code, is amended—

(1) in the paragraph relating to the definition of "cable system" by striking out "wires, cables" and inserting in lieu thereof "wires, microwave, cables"; and

(2) in the paragraph relating to the definition of "local service area of a primary transmitter"—

(A) by striking out "comprises the area" and inserting in lieu thereof "comprises either the area"; and

(B) by inserting after "April 15, 1976," the following: "or such station's television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any subsequent modifications to such television market made pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations,".

SEC. 4. TERMINATION.

(a) EXPIRATION OF AMENDMENTS.—Section 119 of title 17, United States Code, as amended by section 2 of this Act, ceases to be effective on December 31, 1999.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 207 of the Satellite Home Viewer Act of 1988 (17 U.S.C. 119 note) is repealed.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided under subsection (b), the provisions of this Act and amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) BURDEN OF PROOF PROVISIONS.—The provisions of section 119(a)(5)(D) of title 17, United States Code, (as added by section 2(2)(B) of this Act) relating to the burden of proof of satellite carriers, shall take effect on January 1, 1997, with respect to civil actions relating to the eligibility of subscribers who subscribed to service as an unserved household before the date of the enactment of this Act.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike all after the enacting clause of the Senate bill, S. 1485, and insert in lieu thereof the provisions of H.R. 1103, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend title 17, United States Code, with respect to secondary transmissions of superstations and network stations for private home viewing, and with respect to cable systems."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 1103) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1485

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 1485, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees on S. 1485: Messrs. BROOKS, HUGHES, SYNAR, BOUCHER, FRANK of Massachusetts, MOORHEAD, COBLE, and FISH.

There was no objection.

□ 1230

CONCURRING IN SENATE AMENDMENT TO H.R. 1305, MINOR BOUNDARY ADJUSTMENTS AND MISCELLANEOUS PARK AMENDMENTS ACT OF 1993, WITH AN AMENDMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 520) providing for the concurrence by the House, with an amendment, in the amendment by the Senate to the bill H.R. 1305.

The Clerk read as follows:

H. RES. 520

Resolved, That, upon adoption of this resolution, the bill (H.R. 1305) to make boundary adjustments and other miscellaneous changes to authorities and programs of the National Park Service, with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table, and the same hereby agreed to with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minor Boundary Adjustments and Miscellaneous Park Amendments Act of 1994".

TITLE I—MINOR BOUNDARY ADJUSTMENTS

SEC. 101. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001–B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION BY DONATION.—(1) Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SEC. 102. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in Section 28 to the park and to exclude the 5.51 acres in Section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire two years after the date of the enactment of this Act.

SEC. 103. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on a map entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore", numbered 625–80, 043A and dated July 1992.

SEC. 104. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Historical Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SEC. 105. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the Moon National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment", numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands, and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands, and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands, and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SEC. 106. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection:

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SEC. 107. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundary of the Wupatki National Monument, Arizona, is hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322–80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands, and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

TITLE II—MISCELLANEOUS SPECIFIC PARK AMENDMENTS

SEC. 201. ADVISORY COMMISSIONS.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK, HI.—

(1) This subsection may be cited as the "Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1994".

(2) Notwithstanding section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505(f), as amended by subsection (b) of this section.

(3) Section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1994.".

(b) WOMEN'S RIGHTS NATIONAL HISTORICAL PARK, NY.—Section 1601(h)(5) of the Act of December 28, 1980 (16 U.S.C. 410ll(h)(5)), is amended by striking "ten years" and inserting in lieu thereof "twenty-five years".

SEC. 202. AMENDMENT OF BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z–1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.".

TITLE III—GENERAL AUTHORIZATIONS AND REPEALERS

SEC. 301. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR", which appears under the heading "UNDER THE DEPARTMENT OF THE INTERIOR", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SEC. 302. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j–2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

VOL 140 PT 16 AG 12 — 18 1994 UMI

SEC. 303. FERAL BURROS AND HORSES.

Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this Act shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this Act, or section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft and helicopters, or contract for such use, in furtherance of the management of the National Park System, and the provisions of section 47(a) of title 18, United States Code, shall not be applicable to such use.".

SEC. 304. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in paragraph (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"SEC. 2. ADDITIONAL FUNCTIONS.

"(a) In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purposes of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) The Secretary shall ensure that museum objects and museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following:

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITIONS.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SEC. 305. VOLUNTEERS IN THE PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,750,000".

SEC. 306. COOPERATIVE AGREEMENTS FOR RESEARCH PURPOSES.

Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a-2), is amended—

(1) in paragraph (1), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, or private conservation organizations for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

SEC. 307. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 1691-1691-1 is amended by striking "Federal Lands Cleanup Day" each place it occurs and inserting in lieu thereof, "Carl Garner Federal Lands Cleanup Day".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 520.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 520 is a measure to provide for House consideration of the bill, H.R. 1305, with the Senate amendment and to concur in the Senate amendment, with an amendment. H.R. 1305 is a noncontroversial housekeeping bill making minor boundary adjustments and other miscellaneous changes in programs and authorities of the National Park Service. It is a bipartisan bill which I introduced along with the ranking minority member of the Subcommittee on National Parks, Forests and Public Lands, Mr. HANSEN of Utah. The bill originally passed the House on July 19, 1993. The Senate passed an amendment in the nature of a substitute on May 3, 1994. The Action before the House today is to concur in the Senate amendment with an amendment.

H.R. 1305 as passed by the House makes seven minor park boundary adjustments, extends the advisory commissions at two park units, clarifies the authority for the National Park Service to enter into agreements regarding cooperative park study units, provide the National Park Service with greater flexibility in handling museum objects and makes several other miscellaneous authorizations that in the past had been carried in appropriations bills. Nearly all of the provisions of H.R. 1305 were drafted and presented to the committee by the National Park Service and most were passed by the House in the 102d Congress as part of another bill. Unfortunately, action on this earlier bill was not completed prior to adjournment of the 102d Congress.

The Senate amendment to H.R. 1305 keeps all of the House passed provisions of the bill except one minor provision relating to Fort Pulaski National Monument. The Senate added two new sections to the bill. The first is a provision supported by Senator BUMPERS to designate Carl Garner Federal Lands Cleanup Day. The second section is legislation authorizing the construction of a new visitor center to interpret the siege and Battle of Corinth, MS. The Subcommittee on National Parks, Forests and Public Lands recently held a hearing on the Corinth visitor center issue, which was the subject of freestanding legislation by Representative JAMIE WHITTEN and Senator TRENT LOTT. While the hearing demonstrated the historical importance of the events surrounding the battle at Corinth, questions were raised by the National Park Service and others about the cost and precedent of building a new visitor center for an area not even in the National Park System. I will be working with the members of the Mississippi delegation to fashion a legislative initiative which addresses the historical resources of the Corinth area. However, the inclusion of such a proposal on this bill is not appropriate. H.R. 1305 is a bipartisan bill consisting of long delayed housekeeping measures proposed by the National Park Service, and the Corinth proposal, whatever its merit, is neither housekeeping nor a National Park Service initiative. The action we are taking today is supported by the minority and the National Park Service.

Mr. Speaker, H.R. 1305 as amended is a noncontroversial bipartisan bill which deserves our support and I urge the adoption of the resolution.

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bipartisan effort which led to development of this measure actually began last Congress. The legislation was passed by the House last session, but was not acted on by the Senate because the long list of useful housekeeping measures included in this bill did not gather sufficient sponsorship in the Senate. My only concern today is that by sending this bill to the Senate a third time, there is a significant likelihood that time will run out before the Senate has another chance to consider the measure.

However, I do not intend to oppose the chairman's decision to modify this bill and return it to the Senate, and therefore I urge my colleagues to support this resolution today.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and agree to the resolution, House Resolution 520.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENTS TO H.R. 2815, FARMINGTON WILD AND SCENIC RIVER ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2815) to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

The Clerk read as follows:

Senate amendments:

Page 4, strike out lines 4 to 23 and insert:

(6) the Colebrook Dam and Goodwin Dam hydroelectric projects are located outside the river segment designated by section 3, and based on the study of the Farmington River pursuant to Public Law 99-590, continuation of the existing operation of these projects as presently configured, including associated transmission lines and other existing project works, is compatible with the designation made by section 3 and will not unreasonably diminish the scenic, recreational, and fish and wildlife values of the segment designated by such section as of the date of enactment of this Act.

Page 6, strike out lines 2 to 4 insert:

(a) COMMITTEE.—The Director of the National Park Service, or his or her designee, shall represent the Secretary on the Farmington River Coordinating Committee provided for in the plan.

Page 6, line 5, strike out all after "ROLE.—" down to and including "(2)" in line 15 and insert: (1)

Page 7, line 7, strike out "(3)" and insert "(2)".

Page 7, line 10, strike out "(4)" and insert "(3)".

Page 7, line 21, strike out "Director" and insert "Secretary".

Page 8, strike out lines 23, and 24.

Page 9, line 1, strike out "(3)" and insert "(2)".

Page 9, line 7, strike out "(4)" and insert "(3)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2815, and the Senate amendments thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2815 is a bill introduced by Representative JOHNSON of Connecticut and cosponsored by the entire delegation from that State, including our colleague on the Natural Resources Committee, Mr. GEJDENSON.

It would designate a segment of the Farmington River, in Connecticut, as a component of the National Wild and Scenic Rivers System.

The House passed H.R. 2815 back in March. More recently, the Senate returned the bill to us with some amendments that make minor revisions to one finding and clarify the role of the National Park Service in connection with the local coordinating committee provided for in the bill. After a review, we have concluded that the bill as amended by the Senate remains completely consistent with the original purpose and intent of the House-passed bill, as explained in the report of the Natural Recourse Committee.

Therefore, we are seeking to concur in the Senate amendments and send the bill to President Clinton for signature into law.

The gentlewoman from Connecticut [Mrs. JOHNSON] should be congratulated for her hard work and leadership on this matter. This is a good bill that deserves enactment, and I urge the House to concur in the Senate's minor amendments, and send the bill to the President.

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2815 as amended by the Senate. This legislation, which has been fully explained by Chairman VENTO, already passed the House by voice vote several months ago.

I would like to commend the gentlewoman from Connecticut [Mrs. JOHNSON] for her hard work on this legislation affecting her district. I believe she has worked nearly 8 years trying to broker a compromise with the many diverse groups along the Farmington River.

I urge my colleagues to support H.R. 2815.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of H.R. 2815 and commend the Committee on Natural Resources for bringing this legislation to closure.

It has been a long road for this bill, Mr. Speaker, and this glorious day would not have been possible without broad local support of my constituents, the 17-member Farmington River Advisory Committee, the local Watershed Association, the Metropolitan District Commission, the Connecticut Department of Environmental Protection, and the National Park Service.

With today's action, this bill is cleared for the President's signature.

But, more notably for my constituents back home, we will at long last have a federally recognized natural asset protected for all time in an area that my western colleagues might not consider wild but would surely honor as scenic. Further, I want to underscore the precedent-setting nature of this bill, Mr. Speaker, because it gives hope to other people who wish to protect remarkable rivers in relatively densely populated areas of America, and particularly, New England.

As I have noted in earlier remarks, this legislation develops a new model for the governance of wild and scenic rivers. The goals of our Federal preservation program will be achieved through cooperative efforts that honor the tradition of local power that is embodied in our town meeting form of government. This new model will enable many New England areas to participate in the Federal preservation effort embodied in our Wild and Scenic Rivers Act.

I deeply appreciate the committee's work and especially thank the chairman of the subcommittee, Mr. VENTO, and its ranking member, Mr. HANSEN, for their tireless efforts to bring a complex process to conclusion.

VOL 140 PT 16 AG 12 — 18 1994 UMI

I yield back the balance of my time.

Mrs. KENNELLY. Mr. Speaker, we are considering today a bill to protect one of Connecticut's most treasured resources—the Farmington River. This bill, sponsored by my good friend, Mrs. JOHNSON and supported by all of us in the Connecticut delegation, will protect 14 miles of the west branch of the Farmington River by including it in the National Wild and Scenic Rivers System.

A wild and scenic designation is the only protection that can permanently guarantee that no federally licensed or funded water project be allowed to harm the river. It will protect the waterway's fisheries, wildlife, and recreation potential, and contribute significantly to our enjoyment of the river.

Today's legislation will not only protect the Farmington River, but has the potential to help rivers nationwide. The bill contains important language to promote local autonomy and self-determination, which will help local governments settle the sometimes difficult issues which arise during consideration of preservation status.

This local stewardship approach states that the Federal Government cannot pursue land acquisition or management, ensuring that local authorities will retain significant influence. This can be particularly important when rivers abut private property. It is an important distinction which should contribute to greater preservation efforts.

This legislation is the result of cooperation among many different parties—Governor Weicker, the Connecticut Department of Environmental Protection, the Metropolitan District Commission, the Farmington River Watershed Association, and local municipal authorities. Many people have worked together on this project—this bill is testimony to their efforts and to the merits of their project.

Mr. Speaker, I would like to commend my colleague, Mrs. JOHNSON, for her hard work and encourage this Chamber to quickly pass this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspended the rules and concur in the Senate amendments to H.R. 2815.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENTS TO H.R. 2947, COMMEMORATIVE WORKS ACT AMENDMENTS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2947) to amend the Commemorative Works Act, and for other purposes.

The Clerk read as follows:

SENATE AMENDMENTS:

Page 6, line 1, after "Administrator" insert "(as appropriate)".

Page 6, line 3, after "the" insert "Secretary or Administrator determines the fundraising efforts with respect to the commemorative work have misrepresented an affiliation with the commemorative work or the United States".

Page 6, strike out lines 4 to 13.

Page 6, lines 15 and 16, strike out "operations prepared" and insert "operations, including financial statements audited".

Page 6, line 18, strike out "work." and insert "work.".

Page 6, strike out lines 19 to 25.

Page 7, line 6, strike out "(1) Section" and insert "Section".

Page 7, strike out lines 12 to 16.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes of the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2947, and the Senate amendments thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2947 as amended is legislation to extend for 3 years the authorization for the Black Revolutionary War Patriots Memorial, the National Peace Garden Memorial, and the Women in Military Service Memorial. It also makes several technical and conforming amendments to the Commemorative Works Act. The bill originally passed the House on November 23, 1993. It passed the Senate with several amendment on April 12, 1994. The action before the House today is to concur in the Senate amendments and send the bill to the President.

As originally introduced by Congresswoman NANCY JOHNSON, H.R. 2947 would have extended the authorization for the Black Revolutionary War Patriots Memorial, a memorial to those African-Americans who fought with the American Colonists for independence from Great Britain. As amended by the Committee on Natural Resources, the bill extends the authorization for two other commemorative works to be constructed here in the Nation's Capital. The Black Revolutionary War Patriots Memorial, the Women in Military Service to America Memorial, and the National Peace Garden have all been authorized under the Commemorative Works Act. All three obtained the initial site and design approvals as required by the law. But for various reasons, particularly because of the difficulty of fundraising, each of them has requested an extension for the completion of their commemorative works. This legislation extends their authorizations to 10 years—an additional 3 years for each. I support this extension with the understanding that there will be no further extensions.

H.R. 2947 also makes various changes to the Commemorative Works Act. Congress enacted the Commemorative Works Act in 1986 out of concern that numerous memorials were being proposed for the scarce public lands in the Nation's Capital and that a process for establishing those of the highest merit should be developed. The changes in H.R. 2947 were requested by the National Capital Memorial Commission and by those responsible for administering the act. The most significant changes are provisions to require an annual report including an audited financial statement and authorization for the Secretary of the Interior to suspend a memorial organization's activities if misleading fundraising tactics are used. These provisions were including to increase accountability and to ensure that the public's trust is not abused.

The Senate deleted a provision in the House-passed bill authorizing the Secretary to suspend a memorial organization's activity, if there are excessive administrative and fundraising expenses. It is the committee's intent that the National Park Service develop guidelines which provide direction to memorial organizations on the subject of unreasonable or excessive administrative costs and fundraising fees. The committee believes that guidelines from the National Park Service would also be helpful to avoiding problems in the future. The committee expects the National Park Service to monitor the fundraising activities of the memorial organizations more closely and it intends that all of the provisions of H.R. 2947 apply to all commemorative works authorized under the Commemorative Works Act.

Mr. Speaker, H.R. 2947 as amended is a meritorious bill which will allow three important memorial efforts in our Nation's Capital to continue. It will also make needed changes to the general process used for evaluating and approving commemorative works. This bill has bipartisan support and is supported by the administration. I urge its passage today.

□ 1240

Mr. Speaker, I reserve the balance of my time.

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2947, the extension of the Black Revolutionary War Patriots Foundation. This legislation has been fully explained by Chairman VENTO and I support the changes made in the other body. This side of the aisle urges the Foundation to complete their work within the time period we are granting in order to avoid such an extension 2 years from now.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am pleased to endorse H.R. 2947, my bill to extend the life of the Black Patriots Foundation so that it may gather the resources necessary to establish a memorial to black Revolutionary War patriots.

Mr. Speaker, several years ago, a constituent of mine, Maurice Barboza, brought me the forgotten story of the thousands of black Revolutionary War patriots who fought and died for the birth of this Nation. Shoulder to shoulder with white patriots, these 5,000 18th century heroes sacrificed mightily so that we can stand here today, a free people and a beacon of hope in today's world.

Though the Black Revolutionary War Patriots Foundation has worked hard to accomplish its important goal, fundraising is never easy. Through the public notice of this legislation and in a period of greater ecomonoic growth, I hope more people will take part in the journey to full recognition of the Black Revolutionary War Patriots Foundation by contributing to the cause.

Again, I appreciate the understanding and support of Chairman VENTO and Ranking Member HANSEN and look forward to a successful drive, and construction of a fitting memorial to the black Revolutionary War patriots.

As generations of children visit our Nation's capitol and walk the mall, they should have a concrete reminder that America was born as a result of blacks and whites fighting together for freedom and justice for all. We are one Nation because people of all races and ethnic origins have been willing to fight for and then build a new nation of free and equal citizens. If we fail to understand our past, we cannot assume a future worthy of our visionary ancestors. Mr. Speaker, this monument is about cherishing, affirming, and comprehending our past each day we build our future.

Mrs. KENNELLY. Mr. Speaker, I rise in support of H.R. 2947, a bill to extend the authorization for the construction of the Black Revolutionary War Patriots Memorial. I would like to thank the chairman of the Subcommittee on National Parks, Forests and Public Lands, Mr. VENTO, for his support of this legislation and the work he and his staff have done to make the extension possible.

It is a little known fact that in the Revolutionary War, approximately 5,000 African-American soldiers fought for the United States. It is a shame that these brave men have not yet received proper recognition, but now we have an opportunity to change that by allowing the completion of the black patriots memorial.

In addition, H.R. 2947 also provides for an extension in authorization for the Women In Military Service for America Memorial. This structure, which will be located at the gates of Arlington Cemetery, will serve as a monument to the approximately 1.8 million American women who have served their country in peacetime and in war, from the American Revolution to the Persian Gulf conflict. By extending the memorial's authorization, we allow the Women In Military Service for America Memorial Foundation to raise the rest of the funds needed to begin construction of this important monument. It is vital that this project be completed, because a comprehensive account of the contributions of servicewomen throughout our Nation's history has never been assembled. This is an oversight which must be corrected. We have had a long tradition of distinguished service by women and it is time they received due recognition. Once again, I stand in strong support of H.R. 2947, and I urge my colleagues to vote for this bill.

Mr. ALLARD. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TRAFICANT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendments to H.R. 2947.

The question was taken.

Mr. VENTO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMMUNICATION FROM THE HONORABLE J. DENNIS HASTERT, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable J. DENNIS HASTERT, Member of Congress:

HOUSE OF REPRESENTTIVES,
Washington, DC, August 10, 1994.

Hon. THOMAS FOLEY,
Speaker of the House,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the Circuit Court for the Sixteenth Judicial District, County of Kane, Illinois relating to a constituent casework matter.

After consultation with the General Counsel to the House, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

J. DENNIS HASTERT,
Member of Congress.

THE CRIME BILL

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, on Friday last I traveled with President Clinton to Minnesota as he addressed the National Organization of Police Officers and their association. I must say that the response at home with regards to the failure of the House to act on the crime bill was one of outrage. Universally, as I met with the police officers and other officials that were impacted by that decision, they and the general public in Minnesota were very concerned.

The fact is, that there has been a lot of complaints about the provisions of the bill referred to as being "porked up." I would suggest to my colleagues that this claim of pork is a cooked-up excuse to, in fact, disarm this bill, to take out the weapons ban, to, in fact, distort the provisions of the bill which has for sometime on regular basis been pushed forward.

I would suggest my colleagues ought to hit the books a little more in looking at what is in the bill; the design of the opponents is to defund the bill, taking out the important dollars for prevention, which goes for police training, for programs that have universal support in the Congress in terms of providing for prevention, small programs for sports that offer vision, that offer hope to youngsters and young people and others who live in troubled communities. The dollars that are spent for prevention in terms of eliminating or trying to prevent people that are incarcerated from using drugs and treatment afterwards and monitoring programs for individuals released.

Most of this criticism is simply a heat shield that is being put up in terms of suggesting these dollars are being wasted. These are noncontroversial programs, proven programs. They have been considered carefully.

Furthermore, each one of these programs are subject to be separately appropriated, although there is a trust fund, Congress would still have the right and responsibility to vote individually on those appropriations. Members would have the right to stand up on this floor and move to strike an appropriation in any appropriation bill that dealt with those particular topics over the next 5 or 6 years.

Mr. Speaker, I do not think it is asking too much to commit $30 billion over a period of 5 or 6 years in terms of fighting crime, which is a very important issue in this country. Twenty-two million people are affected each year by crime. There are provisions in that bill that each of us could look at and disagree with, the death penalty provisions I personally find objectionable and what the message is with regard to that issue and the dehumanization of how to address punishment and crime to resort to the death penalty. It illustrates to me the great frustration with crime in this Nation today. Members of this House could all find a basis to abandon or to rail against the crime bill. I think after 6 years of debate and failure to act the need persists. We need those 100,000 new police officers on the street. Sadly we need to construct the additional prison space to deal with the problems of overcrowding and the fact that there are mandatory minimum penalties that have been put in place by this Congress in recent years that have caused the overcrowding.

VOL 140 PT 16 AG 12 — 18 1994 UMI

We need prevention dollars to provide hope, to offer vision, to offer alternatives, and to provide the special community-based organization assistance such as the Boys and Girls Clubs of America. We need those programs. I hope that after my colleagues have been home, after they have had a chance to read this crime conference report over more carefully, that we will rally together this week and finally pass this important new crime bill. All of us can find some things we disagree with in the crime bill, but I think the people we represent are telling us they want a crime bill, they want it to pass, they want the Congress to get on with its business and pay attention to the people, not just the special interests, the narrow special interest groups and partisan interests that rallied last week to prevent the crime bill consideration.

This tactic has backfired on Members that have tried to move in this negative direction and to oppose this particular bill last Thursday. I hope Members will come back this week with a different attitude and a changed vote.

□ 1250

SEMI-AUTOMATIC WEAPONS WITH EASE BECOME AUTOMATIC MACHINE GUNS

Mr. VENTO. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore (Mr. TRAFICANT). Without objection, the gentleman is recognized for 1 minute.

There was no objection.

Mr. VENTO. Mr. Speaker, on Saturday last, I had the opportunity to work with BATF special agents in charge of St. Paul Field Division, Bob Witzer and his colleague James Kuboushek who worked for the Bureau of Alcohol and Tobacco and Firearms, Department of Treasury, who helped me put on a demonstration of a number of the assault weapons that are included in the 19 weapons that are included in the proposed assault ban, and showing the power and danger of these particular weapons and the problem they pose.

Mr. Speaker, as my colleagues are aware with regard to this issue, very often when these weapons are sold as semiautomatic assault weapons they are, with ease and readily converted to an automatic weapon. Most of the assault models of weapons are produced abroad, and some were banned by President Bush under an executive order in 1989, banned in terms of the importation, they are, in fact, today being produced by U.S. manufacturers and-or sent into the United States as parts and than assembled.

I think the important point that is glossed over by opponents and what the public ought to understand is that many times they are sold as semiautomatic, but these weapons are, in fact, easily convertible and used as automatic weapons, so they literally can be turned into a machine gun. This is the normal mode of operation as an automatic weapon used in armed conflict by and for a military purpose.

It is surprising to me that this particular facet has not been well-recognized by the public, or even by some Members, because in the 1930's, when the then Thompson submachine guns were banned and other machine guns were banned in the mid-1980's in this country, and now in the 1990's we have these weapons that are brought in that have an automatic mode but are sold on a semiautomatic basis, they, in fact, are easily convertible, so we basically have circumvention of the law and the assault weapon present on the streets and rural routes across America.

That is why it is important, Mr. Speaker, to include this assault weapon ban in the new crime bill and finally in the law, so we can eliminate the future and prospective sale of these assault weapons and prevent these weapons from slipping into the hands of the naive or the hardened criminal.

CRIMINAL JUSTICE INFORMATION SERVICES PLACEMENT ASSISTANCE ACT

Mr. MCCLOSKEY. Mr. Speaker I move to suspend the rules and pass the bill H.R. 4884, to authorize noncompetitive, career or career-conditional appointments for employees of the Criminal Justice Information Services of the Federal Bureau of Investigation who do not relocate to Clarksburg, WV, as amended.

The Clerk read as follows:

H.R. 4884

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Justice Information Services Placement Assistance Act".

SEC. 2. NONCOMPETITIVE CAREER OR CAREER-CONDITIONAL APPOINTMENTS FOR NONRELOCATING EMPLOYEES OF THE CRIMINAL JUSTICE INFORMATION SERVICES OF THE FBI.

(a) IN GENERAL.—Except as provided in subsection (c), an individual described in subsection (b) may be appointed noncompetitively, under a career or career-conditional appointment, to a position in the competitive service if—

(1) the individual meets the qualification requirements prescribed by the Office of Personnel Management for the position to which appointed;

(2) the last previous Federal employment of the individual was as an employee of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(3) the individual is appointed to such position within two years after separating from the Criminal Justice Information Services Division.

(b) INDIVIDUAL DESCRIBED.—An individual described in this subsection is an individual who—

(1) on the date of the enactment of this Act—

(A) is an employee of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(B) is serving in an appointed position (i) to be relocated from Washington, District of Columbia, to Clarksburg, West Virginia, and (ii) that is excepted by law or regulation from the competitive service; and

(2) has not relocated with his or her position in the Criminal Justice Information Services Division to Clarksburg, West Virginia.

(c) APPLICATION.—This section does not apply to an individual serving on the date of the enactment of this Act in an appointed position on a temporary or term basis.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4884, as amended, which would grant competitive status to certain FBI employees. I want to commend my esteemed colleague, ELEANOR HOLMES NORTON, chair of the Subcommittee on Compensation and Employee Benefits for her hard work and leadership on this bill.

Due to disturbing trends which occurred in the Identification Division [ID] during the eighties, in 1989 the Federal Bureau of Investigation embarked on a plan to revitalize the Identification Division. In addition, a feasibility study was conducted on relocating the ID to address the attrition and hiring problems. In 1990, the Bureau identified a location in Clarksburg, WV, as the most feasible site to relocate the Identification Division.

Approximately 1,200 employees have been identified that do not wish to relocate to the new location in Clarksburg. Although the Bureau has been taking assertive steps to assist these employees in finding other jobs within the Bureau, an abysmal attrition rate, tight budgets, and the continued restructuring and downsizing of the Federal Government has led to problems in finding alternative employment. If further assistance is not provided, these 1,200 employees will be RIF'd by the end of fiscal year 1996.

However, all FBI employees are hired under the excepted service and do not have the ability to compete for jobs in the competitive service. Therefore, these employees cannot automatically apply for other Federal jobs.

This bill would authorize noncompetitive, career, or career conditional appointments in the competitive service for employees of the Criminal Justice Information Services who do not wish to relocate.

H.R. 4884, as amended by the Post Office and Civil Service Committee, requires that each individual must meet the qualification requirements prescribed by Office of Personnel Management [OPM] for the position to which appointed. This authority would expire 2 years after the employee has been separated from employment with the FBI. OPM recommended replacing the September 30, 1999, deadline that was in the original Norton bill with a provision that the special appointment authority will expire 2 years from the date the employee is separated from the FBI. This would ensure that each employee have ample time to find a job in the competitive service.

The only other change that was made in committee is language clarifying that only permanent employees would be eligible for noncompetitive appointments. This change was also recommended by OPM.

I am interested in ensuring that the Bureau has every avenue available to assist its employees in finding other employment, and I urge my colleagues to support this bill.

Again, I want to commend Representative NORTON for her leadership and concern in this area.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4884, which was introduced by the chair of the Subcommittee on Compensation and Employee Benefits, the gentlewoman from the District of Columbia. As a cosponsor of the measure, I commend the gentlewoman for her unwavering support for Federal employees and her tenacity in bringing this measure to the floor.

I also commend the chairman of the Subcommittee on Civil Service, Mr. MCCLOSKEY of Indiana, the chairman of the Committee on Post Office and Civil Service, Mr. CLAY of Missouri, and the ranking member, Mr. MYERS of Indiana, for expediting passage of the legislation through the committee process.

The Committee on Post Office and Civil Service passed H.R. 4884 as amended on August 10. This measure grants competitive service to permanent employees of the Criminal Justice Information Services [CJIS], a division within the Federal Bureau of Investigation [FBI] which is being relocated from Washington to Clarksburg, WV. Presently, all employees of the FBI are employed under the expected service positions, because of the nature of their work.

The FBI plans to move the CJIS to West Virginia by 1999. There are many CJIS employees who cannot, or would opt not to, make the move. They would prefer to stay in the area and try to obtain work in the public or private sector. However, for these employees their years as excepted service employees would not transfer into the competitive service. This would affect them significantly if they were to apply for competitive service—it would not give them status. Many Federal jobs require status as a Federal employee in the competitive service to be considered for the position.

When this move was first contemplated, the gentlewoman from the District of Columbia got assurance from then-Director of the FBI, Mr. William Sessions, that these employees would be considered for jobs within the FBI. When Director Freeh took the helm at the FBI, there was concern that those promises could be rescinded because of changed circumstances, such as the austere budget conditions, low attrition rates resulting in nonavailability of jobs.

There has, additionally, been a downsizing within the FBI, rendering it difficult for all the 1,200 CJIS employees who decided to not relocate to West Virginia to be reemployed at their skill level within the Bureau. Though the Director gave assurance that he would seek to place these employees in vacancies which may occur in the FBI and that he would also provide training for them to increase their job skills to enter other jobs, he also sought legislative measures to assist in further placement of the CJIS employees. H.R. 4848 is a result of these concerns.

The measure before us, Mr. Speaker, provides the CJIS employees presently serving in a permanent position an opportunity to reenter Federal service noncompetitively without losing any of their Federal benefits if the employee reenters Federal service within 2 years after separating from the Criminal Justice Information Service Division position.

The Congressional Budget Office estimates that there would be no costs associated with this bill. During our subcommittee hearings, the Office of Personnel Management [OPM] and the FBI testified in support of the bill. I urge my colleagues to support this measure as well.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCCLOSKEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia [Ms. NORTON], the primary author of this bill.

□ 1300

Ms. NORTON. Mr. Speaker, I sincerely thank the chairman of the subcommittee, the gentleman from Indiana [Mr. MCCLOSKEY] for yielding me the time, and I thank him for much more.

I thank him for the skill and the expeditious treatment with which he has approached this bill, and I thank the ranking member of my own subcommittee, the gentlewoman from Maryland [Mrs. MORELLA], who has been an invaluable Member on this and other matters affecting Federal employees and fairness not only to them but to the Government.

I am grateful to the chair and the ranking member of the full committee as well for facilitating the rapid movement of this bill to the floor.

Mr. Speaker, it is seldom that a bill we pass has an immediate effect upon individuals. More than 1,200 people who simply cannot pick up, pull their roots up and leave their homes throughout this region are affected. Many of these are women heads of household. Almost none of them are highly paid. They are, Mr. Speaker, the mirror image of civil servants in the Federal Government. Through no fault of their own, the FBI, the agency for which they work, is expected from the civil service. At a time when they cannot move their homes, they literally have no place in the Federal Government to go, even though many have had considerable years of service in the Federal Government. By no means do most of these employees live within my district. Ten congressional districts are involved. My district, the District of Columbia, is not where the highest number come from.

This matter proceeds from a good-faith promise made by the former FBI Director, Director William Sessions, that he would find jobs for these employees in the FBI, a promise repeated before a congressional committee, and also a good-faith attempt on the part of his successor, Mr. Louis Freeh, to deliver on that promise.

Our own Federal Government downsizing, however, has confounded even his aggressive placing of these employees in what positions do in fact become vacant. I commend him as well for the skills training he has offered these employees to increase their opportunities for employment. The fact is, Mr. Speaker, that Mr. Freeh himself has suggested to us that he needs the legislative help we are seeking to provide. The bill before us is the response of the Committee on Post Office and Civil Service to his request that in addition to his own efforts a bill be passed to help him fulfill his own promise and that of his predecessor.

Mr. Speaker, what this bill would have the Federal Government do what most decent companies do, anyway. If by no fault of their own a number of employees have to be let go these days, companies pull out all stops and do all that is within their own power to find positions. That is what this bill and the Federal Government would be doing in this case.

I remind Members that this bill does not involve a relocation of some of these employees to the suburbs or from the suburbs to the District of Columbia. Where they would be required to go is not a car ride away or a Metro ride away. For them the move might

VOL 140 PT 16 AG 12 — 18 1994 UMI

just as well be to California as to West Virginia.

I am pleased at the cooperation we have had from the other body as well. This bill will indeed find employment in the Federal Government. At the very least, they deserve an even chance. This bill grants them that even chance.

Mr. Speaker, I thank all who have been involved, especially the subcommittee chair, for facilitating the opportunity for that even chance.

Mr. Speaker, I want to express my sincere thanks to my good friend, Congressman FRANK MCCLOSKEY, chairman of the Subcommittee on Civil Service, for responding favorably and quickly to my request to take action on H.R. 4884, the Criminal Justice Information Services Placement Assistance Act. FBI employees are excepted from the competitive service by law. As a result, their years with the Government count for nothing when they seek consideration for competitive service positions at other agencies. H.R. 4884 would authorize noncompetitive career or career-conditional appointments in the competitive service for employees of the FBI's Criminal Justice Information Services Division [CJIS].

The CJIS Division is being relocated to Clarksburg, WV over the next 4 years. However, over half of its employees in this area either cannot or do not wish to move there. This bill would make it easier for these employees to find other jobs with the Federal Government in this area.

In 1991, I contacted former FBI Director William Sessions and expressed my concern about the fate of the employees who could not relocate. Director Sessions promised me personally that these employees would be afforded other jobs with the FBI in this area at a comparable rate of pay. This promise was not made lightly, but as a matter of elementary fairness to the employees, especially those not highly salaried whose personal and family position made it impossible to move. It was a promise repeated by Director Sessions and Deputy Assistant Director Stanley Klein in testimony before the House Subcommittee on Civil and Constitutional Rights in 1991 and 1992.

Last year, when it was first brought to my attention that Director Sessions was considering reneging on his commitment, thereby placing many employees at risk of losing their jobs, I immediately wrote him seeking assurance that his commitment still stood. Shortly thereafter, however, Director Sessions resigned and left his position without having replied. Once his successor, Director Louis Freeh, was in place, I wrote to him and sought assurance that Director Sessions' commitment would be honored. Director Freeh responded that due to the mandate to downsize and low attrition rates, it might not be possible for him to guarantee job security for Bureau employees, as promised by his predecessor.

Earlier this year, the Director and I corresponded further over this matter. I pointed out to him that I was unconvinced that the Bureau's commitment could not be met by using early-out authority along with buyouts to create openings to meet the employment needs of the CJIS employees. I further indicated to him that the House Report on the Commerce, Justice, State and Judiciary appropriations bill for fiscal year 1994 stated that the "Committee expects the Director to make every effort to fulfill this pledge to employees." He in turn wrote me in February and advised that there were 1,200 CJIS Division employees who do not desire to relocate, and that if they could not be placed in other positions, would be involuntarily separated beginning in fiscal year 1996.

Director Freeh indicated that he would aggressively seek to place these employees in vacancies occurring throughout the FBI, and offer skills enhancement training to increase their marketability. He is to be commended for these efforts. However, the Director also expressed an interest in pursuing further legislative remedies beyond buyouts and asked for my support in that regard. The CJIS Placement Assistance Act is our response.

Mr. Speaker, I believe it would be unconscionable to permit the Bureau to step back from a commitment which was not only made personally to me, but to a Subcommittee of the House. But present circumstances have constrained the Bureau's ability to fulfill the pledge. It cannot do it alone. Assistance from the Congress is needed, and, with the enactment of H.R. 4884, CJIS employees will get the additional help they need to continue their careers competitively in the Federal service.

Earlier this month, Chairman MCCLOSKEY held a hearing on H.R. 4884. Representatives from both the FBI and the Office of Personnel Management appeared and testified in strong support of this measure. Finally, Mr. Speaker, I would like to point out that the Congressional Budget Office has determined that H.R. 4884 is budget neutral. Again, I thank Chairman MCCLOSKEY for his prompt and very fair consideration of the needs of these employees. I urge the House to approve H.R. 4884.

Mr. MCCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 4884, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on H.R. 4884, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

HIGH SPEED RAIL DEVELOPMENT ACT OF 1994

Ms. SCHENK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4867) to authorize appropriations for high-speed rail transportation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Rail Development Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) high-speed rail offers safe and efficient transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premiere high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

(9) Federal assistance is required for the improvement, adoption, and integration of developed technologies for commercial application in high-speed rail service in the United States.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

(a) AMENDMENTS.—(1) Part D of subtitle V of title 49, United States Code, is redesignated as part E, chapter 261 of such title is redesignated as chapter 281, and sections 26101 and 26102 of such title are redesignated as sections 28101 and 28102.

(2) Subtitle V of title 49, United States Code, is amended by inserting after part C the following new part:

"PART D—HIGH-SPEED RAIL

"CHAPTER 261—HIGH-SPEED RAIL ASSISTANCE

"Sec.
"26101. Corridor planning.
"26102. High-speed rail technology improvements.
"26103. Safety regulations.
"26104. Authorization of appropriations.
"26105. Definitions.

"SEC. 26101. CORRIDOR PLANNING.

"(a) CORRIDOR PLANNING ASSISTANCE.—(1) The Secretary may provide under this section financial assistance to a public agency or group of public agencies for corridor planning for up to 50 percent of the publicly funded costs associated with eligible activities.

"(2) No less than 20 percent of the publicly funded costs associated with eligible activities shall come from State and local sources, not including funds from any Federal program.

"(b) ELIGIBLE ACTIVITIES.—(1) A corridor planning activity is eligible for financial assistance under subsection (a) if the Secretary determines it to be necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections preliminary to implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

"(A) environmental assessments;

"(B) feasibility studies emphasizing commercial technology improvements or applications;

"(C) economic analyses, including ridership, revenue, and operating expense forecasting;

"(D) assessing the impact on rail employment of developing high-speed rail corridors;

"(E) assessing community economic impacts;

"(F) coordination with State and metropolitan area transportation planning and corridor planning with other States;

"(G) operational planning;

"(H) route selection analyses and purchase of rights-of-way for proposed high-speed rail service;

"(I) preliminary engineering and design;

"(J) identification of specific improvements to a corridor, including electrification, line straightening and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, coordination with other modes of transportation, parking and other means of passenger access, track, signal, station, and other capital work, and use of intermodal terminals;

"(K) preparation of financing plans and prospectuses; and

"(L) creation of public/private partnerships.

"(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

"(c) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of recipients of financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

"(1) the relationship of the corridor to the Secretary's national high-speed ground transportation policy;

"(2) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 mph or greater;

"(3) the integration of the corridor into metropolitan area and statewide transportation planning;

"(4) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

"(5) the anticipated effect of the high-speed rail service on the congestion of other modes of transportation;

"(6) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act (42 U.S.C. 7401 et seq.);

"(7) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(8) the estimated level of ridership;

"(9) the estimated capital cost of corridor improvements, including the cost of closing, improving, or separating highway-rail grade crossings;

"(10) rail transportation employment impacts;

"(11) community economic impacts;

"(12) the extent to which the projected revenues of the high-speed rail service, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses;

"(13) whether a specific route has been selected, specific improvements identified, and capacity studies completed; and

"(14) whether the corridor has been designated as a high-speed rail corridor by the Secretary.

"SEC. 26102. HIGH-SPEED RAIL TECHNOLOGY IMPROVEMENTS.

"(a) AUTHORITY.—The Secretary may undertake activities for the improvement, adaptation, and integration of developed technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized by subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency of the Federal Government.

"(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized by subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

"SEC. 26103. SAFETY REGULATIONS.

"The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail.

"SEC. 26104. AUTHORIZATION OF APPROPRIATIONS.

"(a) FISCAL YEAR 1995.—There are authorized to be appropriated to the Secretary $29,000,000 for fiscal year 1995, for carrying out sections 26101 and 26102.

"(b) FISCAL YEAR 1996.—(1) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1996, for carrying out section 26101.

"(2) There are authorized to be appropriated to the Secretary $30,000,000 for fiscal year 1996, for carrying out section 26102.

"(c) FISCAL YEAR 1997.—(1) There are authorized to be appropriated to the Secretary $45,000,000 for fiscal year 1997, for carrying out section 26101.

"(2) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1997, for carrying out section 26102.

"(d) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

"SEC. 26105. DEFINITIONS.

"For purposes of this chapter—

"(1) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(2) the term 'high-speed rail' has the meaning given such term under section 511(n) of the Railroad Revitalization and Regulatory Reform Act of 1976;

"(3) the term 'publicly funded costs' means the costs funded after April 29, 1993, by Federal, State, and local governments;

"(4) the term 'Secretary' means the Secretary of Transportation;

"(5) the term 'State' means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States; and

"(6) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

(b) CONFORMING AMENDMENTS.—(1) The table of chapters of subtitle V of title 49, United States Code, is amended by striking the items relating to part D and inserting in lieu thereof the following:

"PART D—HIGH-SPEED RAIL
"261. HIGH-SPEED RAIL ASSISTANCE 26101
"PART E—MISCELLANEOUS
"281. LAW ENFORCEMENT ..... 28101".

(2) The table of sections of chapter 281 of title 49, United States Code, as such chapter is redesignated by subsection (a)(1) of this section, is amended—

(A) by striking "26101" and inserting in lieu thereof "28101"; and

(B) by striking "26102" and inserting in lieu thereof "28102".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California [Ms. SCHENK] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Ms. SCHENK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4867, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. SCHENK. Mr. Speaker, I rise in support of H.R. 4867, the High-Speed Rail Development Act of 1994.

I introduced this bill on August 1 with the most distinguished chairman of the full Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], and the distinguished chairman of the Subcommittee on Transportation and Hazardous Materials, the gentleman from Washington [Mr. SWIFT].

Mr. Speaker, high-speed rail is an idea whose time has arrived. H.R. 4867 represents the first commitment in the history of this great Nation to the development and implementation of a high-speed rail transportation network.

As any schoolchild studying American history can tell us, this country was shaped and built by its rail systems. However, over the decades, we have largely abandoned rail for autos, trucks, and airplanes. Decades have passed and we have begun to realize that our skies are becoming congested and our highways have become rivers of slow-moving red lights. Meanwhile, the booming economies of Europe and Asia were investing in, of all things, rail. No, not the trains of our nostalgia but new, high-tech, high-speed equipment zooming along cleanly, safely, quietly, and efficiently at speeds of over 125 and 150 miles per hour.

In this country, across the spectrum, transportation experts, public officials, and average citizens were beginning to think about and talk about high-speed rail for the United States. In the early

VOL 140 PT 16 AG 12 — 18 1994 UMI

1980's. I was California's Secretary of Business, Transportation, and Housing. At that time I started to learn about the potential of high-speed rail. We were just breaking ground for our then newest and most expensive freeway, the Century Freeway. In 1980 dollars it was to cost $100 million a mile for 17 miles. For those who always stopped the discussion about high-speed rail at the dollar amounts involved, we now had some comparisons.

At the start of the Clinton administration and this 103d Congress, some old and new hands came together to provide the first real steps needed to bring about high-speed rail in this Nation. Long-time supporters such as our distinguished and esteemed full committee chairman, the gentleman from Michigan [Mr. DINGELL], and our distinguished subcommittee chairman, the gentleman from Washington [Mr. SWIFT], joined with newcomers such as me, with the ranking minority member, the gentleman from California [Mr. MOORHEAD], with our subcommittee ranking member, the gentleman from Ohio [Mr. OXLEY], and with our colleague, the gentleman from Michigan [Mr. UPTON], and we began to work on this issue.

The administration, especially Secretary of Transportation Peña, also gave us strong support. In April of last year, the adminstration's original high-speed rail proposal was introduced. That legislation, H.R. 1919, was reported out of the Committee on Energy and Commerce in late July. Meanwhile, we were visited here in Washington and across the country by the tilt train of Sweden and the ice train of Germany, two high-speed rail marvels.

Unfortunately, following our full committee markup, it became very clear that we could not provide the funding levels specified in that bill. There were also other problems.

For the past several months, we on the Committee on Energy and Commerce have worked with the Department of Transportation and the Federal Railroad Administration to resolve the funding and other issues and to forge a consensus bill that reflects the realities of a tight budget. H.R. 4867 is the product of those efforts. This is a very different bill from the one originally reported out.

Our ultimate goal is the construction of a safe, fast, efficient, and environmentally sound high-speed rail transportation system. H.R. 4867 establishes the policy framework and takes the first steps toward achieving that goal. It authorizes total appropriations of $29 million in fiscal year 1995, $70 million in fiscal year 1996, and $85 million in fiscal year 1997 for two primary purposes.

It is important to underscore again that these dollar amounts are vastly different than the original $1.8 billion in H.R. 1919.

□ 1310

Section 26101 of the bill specifics criteria for Federal assistance to States for purposes of corridor planning.

In 1992, the Department of Transportation identified five high priority, high-speed rail corridors, including from my hometown of San Diego to Los Angeles, and San Francisco and Sacramento via the San Joaquin Valley. In addition to the five corridors specified, the existing New York State high-speed corridor is also eligible for Federal assistance.

Under H.R. 4867 the Federal Government can provide up to 50 percent in matching funds to States for a variety of corridor activities, including environmental assessments, economic analysis, feasibility studies, preliminary engineering and the acquisitions of rights of way.

Section 26102 authorizes the Secretary to provide funding for the adaptation and integration of developed technologies for commercial application in this country. This type of commitment to technology development is long overdue. High-speed innovations such as maglev and the tilt train are U.S. technologies that have been commercialized and applied overseas.

It is my hope that this bill will jumpstart the efforts of private industry and help create thousands of jobs in our country. For States and localities such as my own home State of California, high-speed rail can be one of the most important modes of transporting people and goods into the future. So today it is a special, indeed a momentous occasion for me, and I feel privileged to offer H.R. 4687.

Mr. Speaker, I would like to offer my most heartfelt appreciation to both Chairman DINGELL and Chairman SWIFT for moving with me on this issue and for providing me the privilege of offering the bill today. They and their outstanding staffs have been extremely generous. In particular I want to commend Chairman SWIFT for his tireless leadership on these issues. He is an inspiration to us all and his pending retirement is this body's loss. I also want to thank and commend our ranking member, the gentleman from California [Mr. MOORHEAD], and our subcommittee ranking member, the gentleman from Ohio [Mr. OXLEY], for their support, efforts, and cooperation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support approval of this legislation to advance the development of high-speed rail passenger service in the United States. This bill is a modest first step in a long-term process: It is aimed at assisting State and local governments with the costs of pre-construction activities such as planning, environmental assessments, and refinement of developed technologies for use in high-speed rail corridors.

Although I had hoped for broader legislation in this area, H.R. 4867 will help lay the foundation for actual construction of the various infrastructure improvements needed for future high-speed rail passenger service.

I want to commend Chairman DINGELL, Subcommittee Chairman SWIFT, and the subcommittee's ranking member, MIKE OXLEY, for their work on this legislation.

We in California are particularly conscious of the benefits of high-speed rail as part of our overall transportation strategy. It is energy-efficient, environmentally benign, and it helps alleviate traffic congestion and meet our Clean Air Act air quality standards.

We know that the Nation's freight railroads will be key players in the ultimate operation of high-speed rail passenger service, because they own most of the rights-of-way which will have to be used for high-speed corridors. In California, we have so far been successful in obtaining the cooperation of the freight carriers in making rights—of-way available for our conventional passenger and commuter service. As we move on to high-speed rail, it is quite clear that suitable liability arrangements will have to be made to assure access to needed facilities. I believe that this is an area where the Department of Transportation can perform a vital service in its planning processes-both under current law and under this legislation. DOT can help to suggest approaches to addressing the liability problem as part of the planning and other pre-construction preparations provided for in this bill.

Ms. SCHENK. Mr. Speaker, I yield such time as he may consume to our distinguished full committee chairman, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentlewoman from California for yielding me the time.

Mr. Speaker, I commend the chairman of the Subcommittee on Transportation and Hazardous Materials, Mr. SWIFT, for his leadership regarding this legislation. I also want to thank the ranking Republican member of the Committee, Mr. MOORHEAD, and the ranking member of the subcommittee, Mr. OXLEY, for their help and support. Finally, I want to offer special thanks to the author of this legislation, Ms. SCHENK, and to Mr. UPTON.

H.R. 4867 is not the same bill the Committee on Energy and Commerce passed last year. Due to budget constraints, this legislation has been scaled back significantly.

Given available resources, this is the best we can do at this time. H.R. 4867 is a corridor planning and technology development bill which authorizes activities to assist in the implementation of steel-wheel high-speed rail transportation. It focuses on practical and efficient use of limited resources.

High-speed rail transportation is a field of great potential public benefit. It is recognized increasingly as an economically viable and socially acceptable solution to problems facing many intercity corridors. Changes need to be made in our transportation priorities by encouraging interested State and local governments to facilitate the development of needed high-speed rail corridors.

Although H.R. 4867 contains no construction or corridor implementation, it does contain important provisions to provide the framework for future high-speed rail corridors. It allows the Secretary of Transportation to provide financial assistance to States or public agencies for eligible high-speed rail corridor planning activities. It also allows the Secretary to provide financial assistance for developed technology improvements to assist in the implementation of high-speed rail service in the United States.

H.R. 4867 is a modest step forward in the development of steel-wheel high-speed rail activities, but it is at least a step in the right direction.

I would like to thank FRA and DOT for their help and guidance in crafting this legislation.

Mr. Speaker, I urge my colleagues to support H.R. 4867.

Mr. SWIFT. Mr. Speaker, H.R. 4867, the High-Speed Rail Development Act of 1994, has been a long time in the making. It is the second piece of high-speed rail legislation that has been considered by the Committee on Energy and Commerce in this Congress. Last year, the committee passed very ambitious legislation which would have provided substantial funding for high-speed rail corridor implementation and technology development. Unfortunately, due to budget constraints, we were unable to proceed with that piece of legislation. However, the importance of high-speed rail and its potential role in our Nation's transportation system should not be ignored. The fact that rail passenger transportation is cost-effective, energy efficient, and environmentally friendly are just a few of the reasons why Congress should encourage States to include high-speed rail as part of their transportation mix.

H.R. 4867 authorizes preconstruction activities through appropriate Federal financing assistance for corridor planning activities and technology improvements. In providing financial assistance, the bill requires the Secretary of Transportation to consider a broad range of criteria including whether the corridor has been designated as a high-speed rail corridor. The legislation sends an important message that the Federal Government is going to be a partner with the States that desire to include high-speed rail in their transportation program. And that message will be welcomed in many States, including my own State of Washington, which has committed significant State resources for its rail passenger program.

I would like to commend the author of the legislation, Congresswoman LYNN SCHENK, who has been an ardent supporter and tremendous advocate for high-speed rail. Additionally, the leadership of Chairman DINGELL and the efforts of the ranking member on the Subcommittee on Transportation and Hazardous Materials, Congressman MIKE OXLEY, allowed for the expeditious consideration of this legislation. I urge my colleagues to support the High-Speed Rail Development Act of 1994.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, let me just say I rise in opposition to this bill. We have not been able to make our passenger rail system in this country work after 50 years of desperately trying to get it to work and still it does not work. It continually requires a subsidy. The gentleman from Michigan [Mr. DINGELL] and I come to the floor and debate every year on whether or not we ought to privatize the Amtrak system, and so far I have not prevailed in that.

But to throw $184 million at this kind of a concept when we are losing money like crazy just does not make any senses to me. The reality is in America no one wants to ride the train. I will not say no one. Some people do, particularly in the eastern corridor. Here the trains are used, but by and large across the country people do not want to ride the train. Why do we not accept that? In fact, even small percentages do in foreign countries where they consider it a great success.

We cannot make it work now, so we are throwing this money after somebody's idea, after a theoretical concept that we ought to make it work. I just do not think that is correct.

Yes, this is a scaled down version. This is not the $140 million in fiscal 1994 to $355 million in fiscal 1998 that was proposed by the committee last year. This is only $184 million.

Let us look at what we get for the $184 million. We get some planning. We do not get 1 mile of rail. We do not get a single car; we do not get a station. We get some planning for a high-speed rail system in this country that we do not even have a very good concept of whether we need it or want it.

So, Mr. Speaker, I would hope we would defeat this measure, save the $184 million.

Ms. SCHENK. Mr. Speaker, I would like to thank our extraordinary full committee chairman for his remarks.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington [Ms. CANTWELL], with thanks for her hard work on this particular bill in an area that I think our speaker will particularly appreciate.

Ms. CANTWELL. Mr. Speaker, I rise today in support of this bill.

Let me begin by commending Chairman DINGELL and Chairman SWIFT for their tireless efforts to improve and upgrade rail transportation in this country and the gentlewoman from California [Ms. SCHENK] for her hard work over many months in the development of this legislation. This legislation moves us one step closer to implementation of a high-speed rail system.

The development of a nationwide high-speed rail network is a critical component of our work to create an integrated and efficient national transportation system.

Mr. Speaker, I would like to specifically highlight the positive impact that the development of a high-speed rail system should have on jobs and the work force. The report accompanying this bill:

* * * directs the Secretary of Transportation to work closely with other governmental agencies to maximize the use of domestic workers in the implementation of developed high-speed rail technologies. The Committee believes that development of high-speed rail technologies offers increased opportunities for U.S. manufacturers workers.

I believe that the committee is correct. We have talented, skilled workers around this country who are ready and able to be partners with the government and industry in the development and manufacture of high speed transportation. We need not look any further than our domestic workforce to develop, build and maintain high-speed rail.

Today, the House can take an important step toward making a high-speed rail network a reality in this country. I look forward to working with my colleagues in Congress and in the administration to implement this legislation and keep our work force on track with the development of high-speed rail.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 4867, the High-Speed Rail Development Act of 1994 and commend my colleague, Ms. SCHENK of California, for her hard work on this important piece of legislation.

This bill would allow the Federal Government to fund up to 50 percent of the costs of corridor planning and other preconstruction activities, thus allowing States to proceed forward on important high-speed rail planning initiatives. Such planning is crucial if our Nation is to proceed forward into the 21st century. Many of our Nation's transportation corridors are in need of updated technology to ensure economic growth, ease of travel, and a better standard of living.

As a Representative from New York I support high-speed rail initiatives as well as rail technology such as maglev. I believe that both of these projects can and should proceed forward in the hopes of providing New York as

VOL 140 PT 16 AG 12 — 18 1994 UMI

well as the rest of the Nation with a transportation corridor that is second to none.

Accordingly, I urge all of my colleagues, including those from New York to support this important legislation as well as maglev opportunities.

Mr. OXLEY. Mr. Speaker, I rise in strong support of H.R. 4867, a bill to move forward the process of selecting and planning high-speed rail corridors around the United States. This legislation is structured to assist State and local governments in planning and other preconstruction activities at eventual construction of high-speed rail rights-of-way. It provides for a matching program under which the Federal Government will assist the State and local governments in funding planning, feasibility studies, and the refinement of already developed technologies for use in high-speed rail passenger service.

One of these developed technologies that may well prove crucial to high-speed rail in corridors of lower population density is high-speed nonelectric locomotives, such as those powered by turbine. Amtrak has utilized first-generation locomotives of this type on certain routes outside the Northeast corridor, and improved versions hold the promise of allowing true high-speed operation on other routes where construction of a complete overhead electrical catenary system is not cost-effective. Under H.R. 4867, DOT is authorized to assist in the funding of improvement and adaptation of developed technologies for high-speed rail use, and turbine-powered high-speed locomotives should clearly be considered as one of these key technologies.

I want to commend Chairman DINGELL, subcommittee Chairman SWIFT, and our committee's ranking member, Mr. MOORHEAD, for their diligent work in moving this legislation forward. The bill is only a first step toward future rail service, but it is at least a beginning. We know that high-speed rail service must be part of any balanced national transportation policy.

One of the concerns that I raised with regard to the much more elaborate predecessor bill, H.R. 1919, and with respect to this bill as well, is the problem of the tort liability exposure of freight railroads who make their rights-of-way and facilities available for high-speed passenger service. This is a serious obstacle to actually getting high-speed trains up and running. The bill we are considering today is limited to planning and pre-construction activities, and so does not contain any direct solution to the liability problem. But any sound planning process must recognize the liability issue and deal with it.

To that end, I want to stress the importance of the Department of Transportation's focusing on the liability problem even in the planning phase of high-speed rail. Under section 1036(c) of the Intermodel Surface Transportation Efficiency Act—known as ISTEA—DOT is required to complete a commercial feasibility study of high-speed rail by mid-1995. That law already lists availability of rights-of-way as one of the key issues DOT is supposed to address. I want to emphasize that dealing with the liability issue is an essential prerequisite to obtaining the use of any right-of-way, and therefore should be prominently featured in the DOT study, and in DOT's policy when it implements H.R. 4867.

□ 1320

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SCHENK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TRAFICANT). The question is on the motion offered by the gentlewoman from California [Ms. SCHENK] that the House suspend the rules and pass the bill, H.R. 4867, as amended.

The question was taken.

Mr. HEFLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

RAILROAD UNEMPLOYMENT INSURANCE AMENDMENTS ACT OF 1994

Ms. SCHENK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4868) to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Unemployment Insurance Amendments Act of 1994".

SEC. 2. WAITING PERIOD FOR UNEMPLOYMENT BENEFITS.

Section 2(a)(1)(A) of the Railroad Unemployment Insurance Act is amended to read as follows:

"(A) PAYMENT OF UNEMPLOYMENT BENEFITS.—

"(i) GENERALLY.—Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of unemployment in excess of 4 during any registration period within a period of continuing unemployment.

"(ii) WAITING PERIOD FOR FIRST REGISTRATION PERIOD.—Benefits shall be payable to any qualified employee for each day of unemployment in excess of 7 during that employee's first registration period in a period of continuing unemployment if—

"(I) such registration period includes more than 4 days of unemployment; and

"(II) such period of continuing unemployment is the employee's initial period of continuing unemployment in the benefit year.

"(iii) STRIKES.—

"(I) INITIAL 14-DAY WAITING PERIOD.—If the Board finds that a qualified employee has a period of continuing unemployment that includes days of unemployment due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which such employee was last employed, no benefits shall be payable for such employee's first 14 days of unemployment due to such stoppage of work.

"(II) SUBSEQUENT DAYS OF UNEMPLOYMENT.—For subsequent days of unemployment due to the same stoppage of work, benefits shall be payable as provided in clause (i) of this subparagraph.

"(III) SUBSEQUENT PERIODS OF CONTINUING UNEMPLOYMENT.—If such period of continuing unemployment ends by reason of clause (v) but the stoppage of work continues, the waiting period established in clause (ii) shall apply to the employee's first registration period in a new period of continuing unemployment based upon the same stoppage of work.

"(iv) DEFINITION OF PERIOD OF CONTINUING UNEMPLOYMENT.—Except as limited by clause (v), for the purposes of this subparagraph, the term 'period of continuing unemployment' means—

"(I) a single registration period that includes more than 4 days of unemployment;

"(II) a series of consecutive registration periods, each of which includes more than 4 days of unemployment; or

"(III) a series of successive registration periods, each of which includes more than 4 days of unemployment, if each succeeding registration period begins within 15 days after the last day of the immediately preceding registration period.

"(v) SPECIAL RULE REGARDING END OF PERIOD.—For purposes of applying clause (ii), a period of continuing unemployment ends when an employee exhausts rights to unemployment benefits under subsection (c) of this section.

"(vi) LIMIT ON AMOUNT OF BENEFITS.—No benefits shall be payable to an otherwise eligible employee for any day of unemployment in a registration period where the total amount of the remuneration (as defined in section 1(j) of this Act) payable or accruing to him for days within such registration period exceeds the amount of the base year monthly compensation base. For this purpose, an employee's remuneration shall be deemed to include the gross amount of any remuneration that would have become payable to that employee but did not become payable because that employee was not ready or willing to perform suitable work available to that employee on any day within such registration period.".

SEC. 3. WAITING PERIOD FOR SICKNESS BENEFITS.

Section 2(a)(1)(B) of the Railroad Unemployment Insurance Act is amended to read as follows:

"(B) PAYMENT OF SICKNESS BENEFITS.—

"(i) GENERALLY.—Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of sickness after the fourth consecutive day of sickness in a period of continuing sickness but excluding 4 days of sickness in any registration period in such period of continuing sickness.

"(ii) WAITING PERIOD FOR FIRST REGISTRATION PERIOD.—Benefits shall be payable to any qualified employee for each day of sickness in excess of 7 during that employee's first registration period in a period of continuing sickness if such registration period begins with 4 consecutive days of sickness and includes more than 4 days of sickness, except that the waiting period established in this clause shall not apply to the first registration period in any subsequent period of continuing sickness that begins in the same benefit year.

"(iii) DEFINITION OF PERIOD OF CONTINUING SICKNESS.—For the purposes of this subparagraph, a period of continuing sickness means—

"(I) a period of consecutive days of sickness, whether from 1 or more causes; or

"(II) a period of successive days of sickness due to a single cause without interruption of more than 90 consecutive days which are not days of sickness.

"(iv) SPECIAL RULE REGARDING END OF PERIOD.—For purposes of applying clause (ii), a period of continuing sickness ends when an employee exhausts rights to sickness benefits under subsection (c) of this section.".

SEC. 4. MAXIMUM DAILY BENEFIT RATE.

Section 2(a)(3) of the Railroad Unemployment Insurance Act is amended to read as follows:

"(3) The maximum daily benefit rate computed by the Board under section 12(r)(2) shall be the product of the monthly compensation base, as computed under section 1(i)(2) for the base year immediately preceding the beginning of the benefit year, multiplied by 5 percent. If the maximum daily benefit rate so computed is not a multiple of $1.00, it shall be rounded down to the nearest multiple of $1.00.".

SEC. 5. MAXIMUM NUMBER OF DAYS FOR BENEFITS.

(a) IN GENERAL.—Section 2(c) of the Railroad Unemployment Insurance Act is amended to read as follows:

"(c) MAXIMUM NUMBER OF DAYS FOR BENEFITS.—

"(1) NORMAL BENEFITS.—

"(A) GENERALLY.—The maximum number of days of unemployment within a benefit year for which benefits may be paid to an employee shall be 130, and the maximum number of days of sickness within a benefit year for which benefits may be paid to an employee shall be 130.

"(B) LIMITATION.—The total amount of benefits that may be paid to an employee for days of unemployment within a benefit year shall in no case exceed the employee's compensation in the base year; and the total amount of benefits that may be paid to an employee for days of sickness within a benefit year shall in no case exceed the employee's compensation in the base year, except that notwithstanding section 1(i), in determining the employee's compensation in the base year for the purpose of this sentence, any money remuneration paid to the employee for services rendered as an employee shall be taken into account that—

"(i) is not in excess of $775 in any month before 1989; and

"(ii) in any month in a base year after 1988, is not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) bears to $600.

"(2) EXTENDED BENEFITS.—

"(A) GENERALLY.—With respect to an employee who has 10 or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire and (in a case involving exhaustion of rights to normal benefits for days of unemployment) did not voluntarily leave work without good cause, and who had current rights to normal benefits for days of unemployment or days of sickness in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under this paragraph, and extended unemployment benefits or extended sickness benefits (depending on the type of normal benefit rights exhausted) may be paid for not more than 65 days of unemployment or 65 days of sickness within such extended benefit period.

"(B) BEGINNING DATE.—An employee's extended benefit period shall begin on the employee's first day of unemployment or first day of sickness, as the case may be, following the day on which the employee exhausts the employee's then current rights to normal benefits for days of unemployment or days of sickness and shall continue for 7 consecutive 14-day periods, each of which shall constitute a registration period, but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 3 on the basis of compensation earned after the first of such consecutive 14-day periods has begun.

"(C) TERMINATION WHEN EMPLOYEE REACHES AGE OF 65.—Notwithstanding any other provision of this paragraph, an extended benefit period for sickness benefits shall terminate on the day next preceding the date on which the employee attains age 65, except that it may continue for the purpose of paying benefits for days of unemployment.

"(3) ACCELERATED BENEFITS.—

"(A) GENERAL RULE.—With respect to an employee who has 10 or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire, and (in a case involving unemployment benefits) did not voluntarily leave work without good cause, who has 14 or more consecutive days of unemployment, or 14 or more consecutive days of sickness, and who is not a qualified employee with respect to the general benefit year current when such unemployment or sickness commences but is or becomes a qualified employee for the next succeeding general benefit year, such succeeding general benefit year shall, in that employee's case, begin on the first day of the month in which such unemployment or sickness commences.

"(B) EXCEPTION.—In the case of a succeeding benefit year beginning in accordance with subparagraph (A) by reason of sickness, such sentence shall not operate to permit the payment of benefits in the period provided for in such sentence for any day of sickness beginning with the date on which the employee attains age 65, and continuing through the day preceding the first day of the next succeeding general benefit year.

"(C) DETERMINATION OF AGE.—For the purposes of this subsection, the Board may rely on evidence of age available in its records and files at the time determinations of age are made.".

(b) REPEAL OF DEADWOOD PROVISION.—Section 2(h) of the Railroad Unemployment Insurance Act is repealed.

(c) REPEAL OF EXPIRED PROVISION.—Section 17 of the Railroad Unemployment Insurance Act (45 U.S.C. 368), relating to payment of supplemental unemployment benefits, is repealed.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California [Ms. SCHENK] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from California [Ms. SCHENK].

GENERAL LEAVE

Ms. SCHENK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 4868, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. SCHENK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Railroad Unemployment Insurance Amendments Act of 1994 embodies a comprehensive agreement reached between rail management and rail labor.

H.R. 4868 revises railroad unemployment and sickness benefits to bring them more into line with the benefits provided under State unemployment systems. As Members know, the railroad unemployment insurance system is an entirely self-funded system; there are no taxpayer moneys involved.

Railroad unemployment insurance currently has a 2-week waiting period before benefits begin to accrue. By contrast, 39 States have a 1-week waiting period and 11 States have no waiting period for benefits. H.R. 4868 reduces the waiting period from 2 weeks to 7 days.

As a partial offset to the increases in daily benefits and the reduction in the waiting period, the legislation reduces two of the advantages to workers covered by railroad unemployment insurance.

First, it reduces the limit on extended benefits from 130 days to 65 days.

Second, it introduces an earnings test that would disqualify workers whose partial earnings exceed the prior base year monthly qualifying earnings—currently $810—in a 2-week benefits period.

Mr. Speaker, H.R. 4868 is the result of long negotiations between rail labor and management.

It is strongly supported by both groups, and by the majority and minority of our Committee on Energy and Commerce. I urge its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support enactment of H.R. 4868. This bill represents a much-needed updating of the benefit levels under the Federal railroad unemployment insurance system.

The bill represents a consensus approach suggested to the Congress by the management of the Nation's major railroads and by rail labor. It also represents considerable effort by our committee chairman, Mr. DINGELL, our subcommittee chairman, Mr. SWIFT, and our subcommittee's ranking member Mr. OXLEY.

H.R. 4868 builds upon the financially sound railroad unemployment insurance system that has benefited from a number of key improvements enacted by Congress in the 1980's. Although this legislation partially offsets the increases in daily benefits with changes to long-term benefits and other aspects of the RUI system, it will still increase overall costs by about 15 percent. However, because Congress placed the RUI system on "experience-rating" in 1988, any increase in benefits paid out will automatically produce a compensating increase in carrier premiums in the following year. Consequently, the fiscal impact of this bill is minimal, and no changes were necessary to the basic payroll tax system supporting the railroad unemployment insurance system.

Mr. Speaker, I strongly support approval of this bipartisan bill.

Mr. DINGELL. Mr. Speaker, I commend Chairman SWIFT, Mr. MOORHEAD, and Mr. OXLEY for their hard work and support in

VOL
140
PT
16
AG
12
—
18
1994
UMI

crafting this piece of legislation. I also want to thank the Railroad Retirement Board and its staff for technical assistance.

This legislation is a bipartisan bill and a collaborative effort between rail labor and rail management. It makes several improvements to the current railroad unemployment insurance system by revising railroad unemployment and sickness benefits and bringing them more into line with benefits provided by State unemployment systems. The bill also establishes revised benefit and indexing formulas.

H.R. 4868 reduces the waiting period for benefits from 2 weeks to 7 days. Thirty-nine State unemployment systems currently have a 1-week waiting period and 11 have none. This legislation also increases the level of benefits and improves the indexing formula for such benefits. The railroad unemployment insurance system currently provides a maximum benefit rate of $36 per day. H.R. 4868 will increase the benefit rate to $40 per day.

H.R. 4868 creates a more uniform railroad unemployment insurance system. Many features of the current railroad unemployment insurance system emerged from legislation passed in 1988 when the old Railroad Unemployment System was in debt to the Railroad Retirement System. Since 1988, the system's financial health has improved greatly and rail labor and rail management support the changes reflected in H.R. 4868.

I urge my colleagues to support this legislation.

Mr. OXLEY. Thank you, Mr. Speaker. I rise in strong support of H.R. 4868. This is a bipartisan bill to update the Railroad Unemployment Insurance Act—the Federal system of unemployment and sickness benefits that applies to the railroad industry. I want to recognize and commend the efforts of Chairman DINGELL, Subcommittee Chairman SWIFT, and our ranking member, Mr. MOORHEAD, for their efforts in moving this bill forward so expeditiously.

H.R. 4868 is based on draft legislation jointly submitted to our committee by railroad labor and the management of the Nation's major railroads. It represents a consensus approach to increasing daily RUI benefits for those who need them most, and helping to offset some of the costs with modifications to long-term benefits and other features of the RUI system.

The bill has no significant fiscal impact, and requires no modification in the payroll tax system that supports the RUI system. This reflects the decision Congress made in 1988 to place the RUI system on an experience-rating basis, so that each railroad's premiums are based on its actual payout of benefits for the preceding year. Because of this feature, the increase in daily benefits provided for in H.R. 4868 will automatically be offset by increased carrier premiums. This is a sound and responsible approach to keeping the RUI system on a stable financial footing. In fact, I think it is a classic case of a sound private-sector insurance technique being applied to operations of the Federal Government. Since we hear a lot these days about "reinventing government," we might do well to look for other cases where the knowledge and experience of the private sector can be applied to improve Government efficiency.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SCHENK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California [Ms. SCHENK] that the House suspend the rules and pass the bill, H.R. 4868, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 2178, HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS OF 1993

Mr. MINETA. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2178) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997, and for other purposes.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

TITLE I—HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS

SEC. 101. SHORT TITLE.

This title may be cited as the "Hazardous Materials Transportation Authorization Act of 1994".

SEC. 102. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 5127(a) (relating to authorization of appropriations) is amended by striking out "the fiscal year ending September 30, 1993," and inserting "fiscal year 1993, $18,000,000 for fiscal year 1994, $18,540,000 for fiscal year 1995, $19,100,000 for fiscal year 1996, and $19,670,000 for fiscal year 1997".

SEC. 104. EXEMPTIONS FROM REQUIREMENT TO FILE REGISTRATION STATEMENT.

Section 5108(a) (relating to persons required to file) is amended by adding at the end the following new paragraph:

"(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.".

SEC. 105. PLANNING GRANTS FOR INDIAN TRIBES.

(a) AUTHORITY TO MAKE GRANTS.—Section 5116(a)(1) (relating to planning grants) is amended—

(1) by inserting "and Indian tribes" after "States" the first place it appears; and

(2) by striking "in a State and between States" and inserting "on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe".

(b) MAINTENANCE OF EFFORT.—Section 5116(a)(2) (relating to planning grants) is amended—

(1) by inserting "or Indian tribe" after "State" the first and third places it appears;

(2) by striking "the State" the second place it appears;

(3) by inserting "the State or Indian tribe" before "certifies"; and

(4) by inserting "the State" before "agrees".

(c) COORDINATION OF PLANNING.—Section 5116(a) (relating to planning grants in general) is amended by adding at the end the following new paragraph:

"(3) A State or Indian tribe receiving a grant under this subsection shall ensure that planning under the grant is coordinated with emergency planning conducted by adjacent States and Indian tribes.".

SEC. 106. TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION.

Section 5107(d) (relating to coordination of training requirements) is amended—

(1) by inserting "or duplicate" after "conflict with"; and

(2) by striking "hazardous waste operations and" and inserting "hazard communication, and hazardous waste operations, and".

SEC. 107. DISCLOSURE OF FEES LEVIED BY STATES, POLITICAL SUBDIVISIONS, AND INDIAN TRIBES.

Section 5125(g) (relating to fees) is amended—

(1) by inserting "(1)" after "(g) FEES.—"; and

(2) by adding at the end the following:

"(2) A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall, upon the Secretary's request, report to the Secretary on—

"(A) the basis on which the fee is levied upon persons involved in such transportation;

"(B) the purposes for which the revenues from the fee are used;

"(C) the annual total amount of the revenues collected from the fee; and

"(D) such other matters as the Secretary requests.".

SEC. 108. ANNUAL REPORT.

Section 5121(e) (relating to annual report) is amended—

(1) by striking "Annual" in the subsection heading, and

(2) by striking the first sentence and inserting the following: "The Secretary shall, once every 2 years, prepare and submit to the President for transmittal to the Congress a comprehensive report on the transportation of hazardous materials during the preceding 2 calendar years.".

SEC. 109. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) IN GENERAL.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway system technologies to promote hazardous materials transportation safety. The Secretary of Transportation shall ensure that 2 or more operational tests funded under such Act shall promote such safety and advance technology for providing information to persons who provide emergency response to hazardous materials transportation incidents.

(b) GRANTS FOR CERTAIN EMERGENCY RESPONSE INFORMATION TECHNOLOGIES.—

(1) In carrying out one of the operational tests under subsection (a), the Secretary of Transportation may make grants to one or more persons, including a State or local government or department, agency, or instrumentality thereof, to demonstrate the feasibility of establishing and operating computerized telecommunications emergency response information technologies that are used—

(A) to identify the contents of shipments of hazardous materials transported by motor carriers;

(B) to permit retrieval of data on shipments of hazardous materials transported by motor carriers;

(C) to link systems that identify, store, and allow the retrieval of data for emergency response to incidents and accidents involving transportation of hazardous materials by motor carrier; and

(D) to provide information to facilitate responses to accidents and incidents involving hazardous materials shipments by motor carriers either directly or through linkage with other systems.

(2) Any project carried out with a grant under this subsection must involve two or more motor carriers of property. One of the motor carriers selected to participate in the project must be a carrier that transports mostly hazardous materials. The other motor carrier selected must be a regular-route common carrier that specializes in transporting less-than-truckload shipments. The motor carriers selected may be engaged in multimodal movements of hazardous materials with other motor carriers, rail carriers, or water carriers.

(3) To the maximum extent practicable, the Secretary of Transportation shall coordinate a project under this subsection with any existing Federal, State, and local government projects and private projects which are similar to the project under this subsection. The Secretary may require that a project under this subsection be carried out in conjunction with such similar Federal, State, and local government projects and private projects.

SEC. 110. RAIL TANK CAR SAFETY.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations under the following:

(1) The rulemaking proceeding under Docket HM–175A entitled "Crashworthiness Protection Requirements for Tank Cars".

(2) The rulemaking proceeding under Docket HM–201 entitled "Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Car Tanks".

SEC. 111. SAFE PLACEMENT OF TRAIN CARS.

The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act.

SEC. 112. GRADE CROSSING SAFETY.

The Secretary of Transportation shall, within 6 months after the date of enactment of this Act, amend regulations—

(1) under chapter 51 of title 49, United States Code, (relating to transportation of hazardous materials) to prohibit the driver of a motor vehicle transporting hazardous materials in commerce, and

(2) under chapter 315 of such title (relating to motor carrier safety) to prohibit the driver of any commercial motor vehicle,

from driving the motor vehicle onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping.

SEC. 113. DRIVER'S RECORD OF DUTY STATUS.

(a) IN GENERAL.—

(1) The Secretary of Transportation shall prescribe regulations amending part 395 of title 49, Code of Federal Regulations, to improve—

(A) compliance by commercial motor vehicle drivers and motor carriers with hours of service requirements; and

(B) the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance.

(2) Such regulations shall be proposed not later than 12 months after the date of enactment of this Act and shall be issued and become effective not later than 18 months after such date of enactment. In prescribing the regulations, the Secretary of Transportation shall ensure that compliance can be achieved at a cost that is reasonable to drivers and motor carriers.

(b) CONTENTS OF REGULATIONS.—Such regulations shall include the following:

(1) A description of identification items (which include either driver name or vehicle number) that shall be part of a written or electronic document to enable such written or electronic document to be used by a motor carrier or by an enforcement officer as a supporting document to verify the accuracy of a driver's record of duty status.

(2) A provision specifying the number, type, and frequency of supporting documents that must be retained by a motor carrier so as to allow verification of the accuracy of such documents at a reasonable cost, to the driver and the motor carrier, of record acquisition and retention.

(3) A provision specifying the period during which supporting documents shall be retained by the motor carrier. The period shall be at least 6 months from the date of a document's receipt.

(4) A provision to authorize, on a case-by-case basis, motor carrier self-compliance systems that ensure driver compliance with hours of service requirements and allow Federal and State enforcement officers the opportunity to conduct independent audits of such systems to validate compliance with section 395.8(k) of title 49, Code of Federal Regulations (or successor regulations thereto). Such authorization may also be provided by the Secretary to a group of motor carriers that meet specific conditions that may be established by regulation by the Secretary and that are subject to audit by Federal and State enforcement officers.

(5) A provision to allow a waiver, on a case-by-case basis, of certain requirements of section 395.8(k) of title 49, Code of Federal Regulations (or successor regulations thereto), when sufficient supporting documentation is provided directly and at a satisfactory frequency to enforcement personnel by an intelligent vehicle-highway system, as defined by section 6059 of the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note). Such waiver may also be allowed for a group of motor carriers that meet specific conditions that may be established by regulation by the Secretary.

(c) SUPPORTING DOCUMENT DEFINED.—For purposes of this section, a supporting document is any document that is generated or received by a motor carrier or commercial motor vehicle driver in the normal course of business that could be used, as produced or with additional identifying information, to verify the accuracy of a driver's record of duty status.

SEC. 114. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS.

(a) AMENDMENT OF REGULATIONS.—Within 18 months after the date of enactment of this Act, the Secretary of Transportation shall amend section 391.23 of title 49, Code of Federal Regulations (or successor regulations thereto), to—

(1) specify the safety information that must be sought under that section by a motor carrier with respect to a driver;

(2) require that such information be requested from former employers and that former employers furnish the requested information within 30 days after receiving the request; and

(3) ensure that the driver to whom such information applies has a reasonable opportunity to review and comment on the information.

(b) SAFETY INFORMATION.—The safety information required to be specified under subsection (a)(1) shall include information on—

(1) any motor vehicle accidents in which the driver was involved during the preceding 3 years;

(2) any failure of the driver, during the preceding 3 years, to undertake or complete a rehabilitation program under section 31302 of title 49, United States Code (relating to limitation on the number of driver's licenses) after being found to have used, in violation of law or Federal regulation, alcohol or a controlled substance;

(3) any use by the driver, during the preceding 3 years, in violation of law or Federal regulation, of alcohol or a controlled substance subsequent to completing such a rehabilitation program; and

(4) any other matters determined by the Secretary of Transportation to be appropriate and useful for determining the driver's safety performance.

(c) FORMER EMPLOYER.—For purposes of this section, a former employer is any person who employed the driver in the preceding 3 years.

SEC. 115. RETENTION OF SHIPPING PAPERS.

Section 5110 (relating to shipping papers and disclosure) is amended by adding at the end the following new subsection:

"(e) RETENTION OF PAPERS.—After the hazardous material to which a shipping paper provided to a carrier under subsection (a) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) shall retain the paper or electronic image thereof for a period of 1 year to be accessible through their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations.".

SEC. 116. TOLL FREE NUMBER FOR REPORTING.

The Secretary of Transportation shall designate a toll free telephone number for transporters of hazardous materials and other individuals to report to the Secretary possible violations of chapter 51 of title 49, United States Code, or any order or regulation issued under that chapter.

SEC. 117. TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATING TO PACKAGING.—

(1) Sections 5102(3)(C)(ii) and 5102(4)(A)(iii) are each amended by striking "packages" and inserting "packagings".

(2) Sections 5103(b)(1)(A)(iii), 5121(c)(1)(A), 5125(b)(1)(E), and 5126(a) are each amended by striking "a package or" and inserting "a packaging or a".

(3) Section 5108(a)(1)(D) is amended—

(A) by striking "a bulk package" and inserting in lieu thereof "a bulk packaging"; and

(B) by striking "the package" and inserting "the bulk packaging".

(b) OTHER.—Section 5104(a)(1) is amended by striking "or package" each place it appears and inserting ", package, or packaging (or a component of a container, package, or packaging)".

SEC. 118. HOURS OF SERVICE RULEMAKING FOR FARMERS AND RETAIL FARM SUPPLIERS.

Not later than 3 months after the date of enactment of this Act the Secretary of Transportation shall initiate a rulemaking proceeding to

VOL 140 PT 16 AG 12 — 18 1994 UMI

determine whether or not the requirements of section 395.3 of title 49, Code of Federal Regulations, relating to hours of service, may be waived for farmers and retail farm suppliers when such farmers and retail farm suppliers are transporting crops or farm supplies for agricultural purposes within a 50-mile radius of their distribution point or farm.

SEC. 119. TRAINING.

(a) SUPPLEMENTAL PUBLIC SECTOR TRAINING GRANTS.—Section 5116 (relating to planning and training grants, monitoring, and review) is amended by adding at the end the following new subsections:

"(j) SUPPLEMENTAL TRAINING GRANTS.—

"(1) In order to further the purposes of subsection (b), the Secretary shall, subject to the availability of funds, make grants to national nonprofit employee organizations engaged solely in fighting fires for the purpose of training instructors to conduct hazardous materials response training programs for individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

"(2) For the purposes of this subsection the Secretary, after consultation with interested organizations, shall—

"(A) identify regions or locations in which fire departments or other organizations which provide emergency response to hazardous materials transportation accidents and incidents are in need of hazardous materials training; and

"(B) prioritize such needs and develop a means for identifying additional specific training needs.

"(3) Funds granted to an organization under this subsection shall only be used—

"(A) to train instructors to conduct hazardous materials response training programs;

"(B) to purchase training equipment used exclusively to train instructors to conduct such training programs; and

"(C) to disseminate such information and materials as are necessary for the conduct of such training programs.

"(4) The Secretary may only make a grant to an organization under this subsection in a fiscal year if the organization enters into an agreement with the Secretary to train instructors to conduct hazardous materials response training programs in such fiscal year that will use—

"(A) a course or courses developed or identified under subsection (g); or

"(B) other courses which the Secretary determines are consistent with the objectives of this subsection;

for training individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials. Such agreement also shall provide that training courses shall be open to all such individuals on a nondiscriminatory basis.

"(5) The Secretary may impose such additional terms and conditions on grants to be made under this subsection as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this subsection.

"(k) REPORTS.—Not later than September 30, 1997, the Secretary shall submit to Congress a report on the allocation and uses of training grants authorized under subsection (b) for fiscal year 1993 through fiscal year 1996 and grants authorized under subsection (j) and section 5107 for fiscal years 1995 and 1996. Such report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of persons trained under the grant programs, and an evaluation of the efficacy of training programs carried out.".

(b) FUNDING.—Section 5127(b) (relating to appropriations for hazmat employee training) is amended—

(1) by inserting "(1)" after "TRAINING.—", and

(2) by adding at the end the following:

"(2)(A) There shall be available to the Secretary for carrying out section 5116(j), from amounts in the account established pursuant to section 5116(i), $250,000 for each of fiscal years 1995, 1996, 1997, and 1998.

"(B) In addition to amounts made available under subparagraph (A), there is authorized to be appropriated to the Secretary for carrying out section 5116(j) $1,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998.".

(c) HAZMAT EMPLOYEE TRAINING PROGRAM.—

(1) The first sentence of section 5107(e) (relating to hazmat employee training requirements and grants) is amended to read as follows: "The Secretary shall, subject to the availability of funds under section 5127(c)(3), make grants for training instructors to train hazmat employees under this section.".

(2) The second sentence of such section is amended by inserting "hazmat employee" after "nonprofit".

(3) Section 5107 (relating to hazmat employee training requirements and grants) is amended by adding at the end thereof the following new subsection:

"(g) EXISTING EFFORT.—No grant under subsection (e) shall supplant or replace existing employer-provided hazardous materials training efforts or obligations.".

(4) Section 5127(b)(1) (relating to hazmat employee training funding) is amended to read as follows:

"(b) TRAINING OF HAZMAT EMPLOYEE INSTRUCTORS.—(1) There is authorized to be appropriated to the Secretary $3,000,000 for each of fiscal years 1995, 1996, 1997, and 1998 to carry out section 5107(e).".

(d) CONFORMING AMENDMENTS.—

(1) Section 5108(g)(2)(A)(viii) is amended by striking "5107(e),".

(2) Section 5116(i)(1) is amended by striking "and section 5107(e)".

(3) Section 5116(i)(3) is amended by striking "and section 5107(e)".

SEC. 120. TIME FOR SECRETARIAL ACTION.

(a) EXEMPTIONS.—Section 5117 (relating to exemptions and exclusions) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e) respectively, and

(2) by inserting after subsection (b) the following:

"(c) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall issue or renew the exemption for which an application was filed or deny such issuance or renewal within 180 days after the first day of the month following the date of the filing of such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the exemption is delayed, along with an estimate of the additional time necessary before the decision is made.".

(b) DECISIONS ON PREEMPTION.—Section 5125(d) (relating to decisions on preemption) is amended by inserting immediately after the second sentence the following: "The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made.".

SEC. 121. STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the safety considerations of transporting hazardous materials by motor carriers in close proximity to Federal prisons, particularly those housing maximum security prisoners. Such study shall include an evaluation of the ability of such facilities and the designated local planning agencies to safely evacuate such prisoners in the event of an emergency and any special training, equipment, or personnel that would be required by such facility and the designated local emergency planning agencies to carry out such evacuation. Such study shall not apply to or address issues concerning rail transportation of hazardous materials.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section, along with the Secretary's recommendations for any legislative or regulatory changes to enhance the safety regarding the transportation of hazardous materials by motor carriers near Federal prisons.

SEC. 122. USE OF FIBER DRUM PACKAGING.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than the 60th day following the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation) as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations.

(b) ISSUANCE OF STANDARDS.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

(c) COMPLETION OF RULEMAKING PROCEEDING.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

(d) LIMITATIONS.—

(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter 51 of title 49, United States Code.

(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.

SEC. 123. BUY AMERICA.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available under this title may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act"), which are applicable to those funds.

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this title, it is the sense of Congress that entities receiving such assistance should, in expending such assistance, purchase only American-made equipment and products.

(2) In providing financial assistance under this title, the Secretary of Transportation shall

provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this title, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(d) RECIPROCITY.—

(1) Except as provided in paragraph (2), no contract or subcontract may be made with funds authorized under this title to a company organized under the laws of a foreign country unless the Secretary of Transportation finds that such country affords comparable opportunities to companies organized under laws of the United States.

(2)(A) Secretary of Transportation may waive the provisions of paragraph (1) if the products or services required are not reasonably available from companies organized under the laws of the United States. Any such waiver shall be reported to Congress.

(B) Paragraph (1) shall not apply to the extent that to do so would violate the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

TITLE II—TRUCKING INDUSTRY REGULATORY REFORM

SEC. 201. SHORT TITLE.

This title may by cited as the "Trucking Industry Regulatory Reform Act of 1994".

SEC. 202. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 203. PURPOSE.

The purpose of this title is to enhance competition, safety, and efficiency in the motor carrier industry and to enhance efficiency in government.

SEC. 204. TRANSPORTATION POLICY.

Section 10101(a)(2) (relating to transportation policy) is amended—

(1) by redesignating subparagraphs (A) through (I) as subparagraphs (C) through (K), respectively, and

(2) by inserting before subparagraph (C) (as so redesignated) the following: "(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property; (B) promote Federal regulatory efficiency in the motor carrier transportation system and to require fair and expeditious regulatory decisions when regulation is required;".

SEC. 205. EXEMPTIONS.

(a) IN GENERAL.—Section 10505 (relating to authority to exempt rail carrier transportation) is amended—

(1) by inserting ", or a motor carrier providing transportation of property other than household goods, or in non-contiguous domestic trade," after "rail carrier providing transportation" in subsection (a),

(2) by inserting "section 10101 or" before "section 10101a" in subsection (a)(1) and subsection (d),

(3) by inserting ", or a motor carrier providing transportation of property other than household goods, or in non-contiguous domestic trade," after "rail carrier" in subsection (f), and

(4) by striking out "or" in subsection (g), and inserting after "subtitle" the following: ", (3) to relieve a motor carrier of property or other person from the application or enforcement of the provisions of sections 10706, 10761, 10762, 10927, and 11707 of this title, or (4) to exempt a motor carrier of property from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage; insurance; antitrust immunity for joint line rates and routes, classification of commodities (including uniform packaging rules), uniform bills of lading, or standardized mileage guides; or safety fitness.".

(b) DEFINITION.—Section 10102 (relating to definitions) is amended by redesignating paragraphs (18) through (31) as (19) through (32), respectively, and by inserting after paragraph (17) the following:

"(18) 'non-contiguous domestic trade' means motor-water transportation subject to the jurisdiction of the Commission under chapter 105 of this title involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.".

(c) CLERICAL AMENDMENTS.—

(1) The caption of section 10505 is amended by inserting "and motor carrier" after "rail carrier".

(2) The chapter analysis for chapter 105 is amended by inserting "and motor carrier" after "rail carrier" in the item relating to section 10505.

SEC. 206. TARIFF FILING.

(a) AUTHORITY TO ESTABLISH RATES.—Section 10702(b) (relating to authority for carriers to establish rates, classifications, rules, and practices) is amended by inserting ", except a motor contract carrier of property," after "A contract carrier".

(b) PROHIBITION OF TRANSPORTATION WITHOUT TARIFF.—Section 10761(a) (relating to transportation prohibited without tariff) is amended—

(1) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13) or in noncontiguous domestic trade)" after "chapter 105 of this title", and

(2) by striking out "That carrier" in the second sentence and inserting "A carrier subject to this subsection",

(3) by inserting before the period at the end of the first sentence the following: ", except that a motor carrier of property the application of whose rates is determined or governed by a tariff on file with the Commission cannot collect its rates unless the carrier is a participant in those tariffs", and

(4) by inserting before the period at the end of the second sentence the following: ", except that a motor carrier of property the application of whose rates are determined or governed by a tariff on file with the Commission shall issue a power of attorney to the tariff publishing agent of such tariff and, upon its acceptance, the agent shall issue a notice to the participating carrier certifying its continuing participation in such tariff, which certification shall be kept open for public inspection".

(c) GENERAL TARIFF REQUIREMENT.—Section 10762(a) (relating to general tariff requirement) is amended—

(1) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13), or in noncontiguous domestic trade)" after "A motor common carrier" in the second sentence of paragraph (1),

(2) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13) or in noncontiguous domestic trade)" after "common carrier" in the third sentence of paragraph (1),

(3) by striking the last sentence of paragraph (1) and inserting the following: "A motor contract carrier of property is not required to publish or file actual or minimum rates under this subtitle. Except as provided in the Negotiated Rates Act of 1993 and the amendments made by that Act, nothing in the Trucking Industry Regulatory Reform Act of 1994 (and the amendments made by that Act) creates any obligation for a shipper based solely on a rate that was on file with the Commission or elsewhere on the date of enactment of such Act.", and

(4) by adding at the end the following:

"(3) A motor common carrier of property (other than a motor common carrier providing transportation of household goods or in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate agreed to between the shipper and carrier may have been based. When the applicability or reasonableness of the rates and related provisions billed by a motor common carrier is challenged by the person paying the freight charges, the Commission shall determine whether such rates and provisions are reasonable or applicable based on the record before it. In those cases where a motor common carrier (other than a motor common carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Commission determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the original bill in order to have the right to collect such charges.

"(4) If a shipper seeks to contest the charges originally billed, the shipper may request that the Commission determine whether the charges originally billed must be paid. A shipper must contest the original bill within 180 days in order to have the right to contest such charges.

"(5) Any tariff on file with the Commission on the date of enactment of the Trucking Industry Regulatory Reform Act of 1994 not required to be filed with the Commission after the enactment of that Act is null and void beginning on that date.".

(d) PROPOSED RATE CHANGES.—

(1) COMMON CARRIERS.—Section 10762(c)(1) (relating to proposed rate changes) is amended by inserting "(excluding a motor common carrier providing transportation of property other than household goods, under an individually determined rate, classification, rule, or practice defined in section 10102(13), or in a noncontiguous domestic trade)" after "common carrier".

(2) CONTRACT CARRIERS.—Section 10762(c)(2) (relating to proposed rate changes) is amended by inserting "(except a motor contract carrier of property)" after "contract carrier".

(e) EFFECT ON NEGOTIATED RATES ACT.—Section 10762 (relating to general tariff requirements) is amended by adding at the end thereof the following new subsection:

"(j) Nothing in this section shall affect the application of the provisions of the Negotiated Rates Act of 1993 (or the amendments made by that Act) to undercharge claims for transportation provided prior to the date of enactment of the Trucking Industry Regulatory Reform Act of 1994.".

(f) DEFINITION.—Section 10102 (relating to definitions) is amended—

(1) by redesignating paragraphs (13) through (31) as (14) through (32), and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(2) by inserting after paragraph (12) the following:

"(13) 'individually determined rate, classification, rule, or practice' means a rate, classification, rule, or practice established by—

"(A) a single motor common carrier for application to transportation that it can provide over its line; or

"(B) 2 or more interlining carriers without participation in an organization established or continued under an agreement approved under section 10706(b) for application to transportation that the interlining carriers can provide jointly over their lines.".

SEC. 207. MOTOR COMMON CARRIER LICENSING.

(a) IN GENERAL.—Section 10922 (relating to certification of motor and water carriers) is amended—

(1) by redesignating subsections (b) through (l) as (c) through (m), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) Except as provided in this section, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds that the person is able to comply with—

"(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

"(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission under section 31144 of this title, and

"(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

"(2) In making a finding under paragraph (1), the Commission shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the applicant is unable to comply with the requirements of subparagraph (A), (B), or (C) of that paragraph.

"(3) The Commission shall find any applicant for authority to operate as a motor carrier under this section to be unfit if the applicant does not meet the safety and safety fitness requirements under paragraph (1)(A) or (1)(B) of this subsection and shall deny the application.

"(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, the safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.".

(b) PUBLIC CONVENIENCE AND NECESSITY.—Section 10923(c) (relating to public convenience and necessity) as redesignated by subsection (a), is amended—

(1) by striking "carrier of property" in paragraph (1) and inserting "carrier of household goods",

(2) by striking paragraphs (4) and (6) and redesignating paragraphs (5), (7), (8), and (9) as (4), (5), (6), and (7), respectively,

(3) by striking "carrier holding authority under paragraph (4)(D) of this subsection" in paragraph (4) (as redesignated) and inserting "motor carrier providing transportation of shipments weighing 100 pounds or less transported in a motor vehicle in which no one package exceeds 100 pounds",

(4) by striking "of property" in paragraph (5) (as redesignated) and inserting "of household goods",

(5) by striking "of property" in paragraph (6) (as redesignated) and inserting "of household goods", and

(6) by striking "Notwithstanding the provisions of paragraph (4) of this subsection, the provisions" in paragraph (7) (as redesignated) and inserting "The provisions".

(c) CERTIFICATE SPECIFICATIONS.—Section 10922(f)(1) (relating to specifications for certificate), as redesignated by subsection (a) of this section, is amended by inserting "of household goods or passengers" after "motor common carrier".

(d) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(h)(1) (relating to public convenience and necessity), as redesignated by subsection (a) of this section, is amended by inserting "of household goods or passengers" after "motor common carrier".

SEC. 208. MOTOR CONTRACT CARRIER LICENSING.

(a) AUTHORITY TO ISSUE PERMITS.—Section 10923(a) (relating to authority to issue permits) is amended by inserting "of household goods or passengers" after "motor contract carrier".

(b) MOTOR CONTRACT CARRIER PERMITS.—Section 10923 (relating to permits of motor and water contract carriers and household goods freight forwarders) is amended by redesignating subsections (b) through (e) as (c) through (f), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) Except as provided in this section and section 10930 of this title, the Commission shall issue a permit to a person authorizing the person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor contract carrier of property other than household goods if the Commission finds that the person is able to comply with—

"(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

"(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission pursuant to section 31144 of this title, and

"(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

"(2) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property other than household goods the Commission shall consider any evidence demonstrating that the applicant is unable to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness and minimum financial responsibility requirements of subsection (b)(1).

"(3) The Commission shall find any applicant for authority to operate as a motor carrier of property other than household goods under this subsection to be unfit if the applicant does not meet the safety and safety fitness requirements of paragraph (1)(A) or (1)(B) of this subsection and shall deny the application.

"(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1).".

(c) APPLICATION FILING REQUIREMENTS.—Section 10923(c) (relating to application filing requirements), as redesignated by subsection (b) of this section, is amended—

(1) by striking "motor contract carrier of property" in paragraphs (3) and (4) and inserting "motor contract carrier of household goods",

(2) by striking paragraph (5) and redesignating paragraphs (6) and (7) as (5) and (6), respectively, and

(3) by striking "motor contract carriers of property" in paragraph (5) (as redesignated) and inserting "motor contract carriers of household goods".

(d) CONDITIONS OF TRANSPORTATION OR SERVICE.—Section 10923(e) (relating to conditions of transportation or service), as redesignated by subsection (b) of this section, is amended—

(1) by inserting "of passengers or household goods" after "contract carrier" in paragraph (1), and

(2) by striking "each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)" in paragraph (2) and inserting "in the case of a motor contract carrier of passengers, the number of persons,".

SEC. 209. REVOCATION OF MOTOR CARRIER AUTHORITY.

Section 10925(d)(1) (relating to effective period of certificates, permits, and licenses) is amended—

(1) by striking "if a motor carrier or broker" in subparagraph (A) and inserting "if a motor carrier of passengers, motor common carrier of household goods, or broker",

(2) by striking "and" at the end of subparagraph (A),

(3) by redesignating subparagraph (B) as (D) and inserting after subparagraph (A) the following new subparagraphs:

"(B) if a motor contract carrier of property, for failure to comply with safety requirements of the Commission or the safety fitness requirements pursuant to section 10701, 10924(e), 10927 (b) or (d), or 31144, of this title;

"(C) if a motor common carrier of property other than household goods, for failure to comply with safety requirements of the Commission or the safety fitness requirements pursuant to section 10701, 10702, 10924(e), 10927 (b) or (d), or 31144 of this title; and".

SEC. 210. STUDY OF INTERSTATE COMMERCE COMMISSION FUNCTIONS.

(a) INTERSTATE COMMERCE COMMISSION REPORT.—The Interstate Commerce Commission shall prepare and submit to the Secretary of Transportation and to each committee of the Congress having jurisdiction over legislation affecting the Commission a report identifying and analyzing all regulatory responsibilities of the Commission. The Commission shall make recommendations concerning specific statutory and regulatory functions of the Commission that could be eliminated or restructured. The Commission shall submit the report within 60 days after the date of enactment of this Act.

(b) SECRETARY OF TRANSPORTATION STUDY.—The Secretary of Transportation shall study the feasibility and efficiency of merging the Interstate Commerce Commission into the Department of Transportation as an independent agency, combining it with other Federal agencies, retaining the Interstate Commerce Commission in its present form, eliminating the agency and transferring all or some of its functions to the Department of Transportation or other Federal agencies, and other organizational changes that lead to government, transportation, or public interest efficiencies. The study shall consider the cost savings that might be achieved, the efficient allocation of resources, the elimination of unnecessary functions, and responsibility for regulatory functions. The Secretary shall solicit comments from the public with respect to both the Department's and the Commission's findings. The Secretary shall submit the results of such study together with any recommendations to the Congress within 4 months after the date of the submission of the Interstate Commerce Commission report required in subsection (a).

SEC. 211. LIMITATION ON STATE REGULATION OF INTRASTATE TRANSPORTATION OF PASSENGERS BY BUS.

(a) IN GENERAL.—Chapter 109 (relating to licensing) is amended by adding at the end thereof the following new section:

"§10936. Limitation on State regulation of intrastate passengers by bus

"A State or political subdivision of a State may not enforce any law or regulation relating to intrastate fares for the transportation of passengers by bus by an interstate motor carrier of passengers over a route authorized by the Commission.".

(b) CONFORMING AMENDMENTS.—

(1) Section 10521(b)(1) is amended by inserting "10936," after "10935,"

(2) Section 11501(e) is amended—

(A) by striking all but paragraph (5),

(B) by redesignating paragraph (5) as subsection (e), and

(C) by striking "paragraph" and inserting "subsection".

(3) The table of sections for subchapter IV of chapter 109 is amended by adding at the end the following new item:

"10936. Limitation on State regulation of intrastate passengers by bus.".

SEC. 212. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect upon the enactment of this Act, except for sections 207 and 208, which shall take effect on January 1, 1995.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MINETA] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2178, the Hazardous Materials Transportation Authorization Act of 1994.

I want to thank my colleagues who have worked diligently to pass this important piece of legislation. The Chair and ranking minority members of the Subcommittee on Surface Transportation, Congressmen RAHALL and PETRI, who worked diligently with the Senate to craft the compromise legislation which is before us today. I would also like to recognize the ranking member of the full committee, Congressman SHUSTER, for his support of this legislation as well.

Also, I would like to extend my thanks to Congressmen SWIFT and OXLEY, chairman and ranking member of the Subcommittee on Transportation and Hazardous Materials of the Energy and Commerce Committee and Chairman DINGELL and ranking member Congressman MOORHEAD of the full Committee on Energy and Commerce, the committee with which we share jurisdiction over the transportation of hazardous materials.

Last, I would like to thank my Senate colleagues, the Chair and ranking member of the Senate Committee on Commerce, Science, and Transportation, Senators HOLLINGS and DANFORTH, and the Chair and ranking member of the Surface Transportation Subcommittee, Senators EXON and HUTCHINSON, who labored long and hard to not only resolve the issues in the hazardous materials legislation, but also to include, in title II, comprehensive regulatory reform for the interstate motor carrier industry.

Mr. Speaker, H.R. 2178 provides authorization levels for carrying out the Hazardous Materials Transportation Act through 1997. It further provides more funding for training of public and private sector employees; for making Indian tribes eligible for emergency planning grants; for ensuring that the National Intelligent Vehicle-Highway System Program addresses the use of its technologies to promote hazardous materials transportation safety; permits the Secretary of Transportation to waive registration and fee requirements for foreign shippers from countries that do not impose such registration and fee requirements for U.S. shippers; and provides for several studies and rulemakings to enhance public safety.

Title II of H.R. 2178 contains the Trucking Industry Regulatory Reform Act of 1994 which provides for improving surface transportation efficiency and saving taxpayer dollars, while continuing to protect the public interest and preserving transportation safety.

This legislation is part of a major effort by this Congress to reduce economic regulation in the trucking industry, to increase reliance on competition in the marketplace, and to reduce the size and role of the Government bureaucracy.

This is the third step in a process which began with the Negotiated Rates Act late last year, a bill that untangled a regulatory mess that burdened shippers all over America.

The Congress took the second step last Monday with the passage of the Aviation Conference Report when it preempted State regulation of price, routes, and services of motor carries, air carriers and carriers affiliated with direct air carriers through common controlling ownership when transporting property in intrastate commerce.

Today we are eliminating the obligation to file rates for individual carriers operating in interstate commerce; limiting entry requirements to safety matters and insurance; providing the Interstate Commerce Commission [ICC] with exemption authority for trucking matters under its jurisdiction; requiring the Secretary of Transportation to study and report to Congress future organizational options for the ICC with recommendations for further operational and regulatory efficiencies; and preempting intrastate bus rates for interstate carriers.

These three bills, taken together, constitute the largest regulatory reform in the motor carrier industry since the Motor Carrier Act of 1980.

We will have accomplished not just regulatory reduction, but also agency reduction as a result of cutting back the ICC's interstate regulatory functions with regard to motor carriers. This action should allow for the total size of the ICC to be reduced by one-third.

American industry will benefit both from the lower costs of a reduced regulatory burden and from the increased efficiencies of a more marketplace-driven transportation industry.

For the benefit of my colleagues, I have attached a section-by-section of H.R. 2178 to my statement for inclusion in the RECORD.

I now urge my colleagues to join with me in passage of H.R. 2178.

TITLE I—HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATION ACT OF 1994

SECTION BY SECTION ANALYSIS

SECTION 101—SHORT TITLE

Section 101 provides the short title of the Act.

SECTION 102—AMENDMENT OF TITLE 49, UNITED STATES CODE

Section 102 provides that unless otherwise expressly provided, all amendments in this title shall be considered to be made to Title 49, U.S.C.

SECTION 103—AUTHORIZATION OF APPROPRIATION

Section 103 amends Section 5127(a) of Title 51, U.S.C. to make appropriations for fiscal years 1994 through fiscal year 1997. The figures are $18 million for fiscal year 1994, $18.54 million for fiscal year 1995, $19.1 million for fiscal year 1996, and $19.67 million for fiscal year 1997.

SECTION 104—EXEMPTIONS FROM REQUIREMENT TO FILE REGISTRATION STATEMENT

Section 104 amends Section 5108(a) of Title 51, U.S.C. to allow the Secretary to waive registration and fee requirements for foreign shippers who are shipping hazardous materials to the U.S. in international traffic only where the country of such shipper does not impose registration and free requirements on U.S. shippers. Foreign carriers operating in the United States are not covered by the waiver provision.

SECTION 105—PLANNING GRANTS FOR INDIAN TRIBES

Subsections (a) and (b) make amendments to Section 5116(a)(1) and (a)(2) of Title 51, U.S.C. to permit Indian tribes to be eligible for emergency planning conducted by adjacent States and Indian tribes.

SECTION 106—TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION

Section 106 makes technical amendments to Section 5107(d) of Title 51, U.S.C. to clarify the scope of training criteria by mandating that the Department of Transportation ensure that its requirements for employee training in understanding hazards associated with hazardous materials shipments, as well as hazardous waste operations are coordinated with, and do not conflict with or duplicate other training requirements.

SECTION 107—DISCLOSURE OF FEES LEVIED BY STATES, POLITICAL SUBDIVISIONS, AND INDIAN TRIBES

Section 107 amends Section 5125(g) of Title 51, U.S.C. by permitting the Department of Transportation to require State and local jurisdictions and Indian tribes to justify fees imposed in connection with hazardous materials transportation; including the basis on which the fee is levied, the purpose for which revenues from the fee are used, the annual total amount of revenues collected from the fee and other matters as the Secretary requests.

VOL 140 PT 16 AG 12 — 18 1994 UMI

SECTION 108—ANNUAL REPORT

Section 108 amends Section 5121(e) of Title 51, U.S.C. by striking the word "annual" in the subsection heading and amending the section to require the Department of Transportation to submit a comprehensive report regarding hazardous materials transportation once every two years, in lieu of once a year, to the President for transmittal to Congress.

SECTION 109—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS

Section 109 amends the Intelligent Vehicle-Highway System Act in order to assure that the Secretary of Transportation ensures that the National Intelligent Vehicle-Highway System Program addresses the use of its terminologies to promote hazardous materials transportation safety. This section requires that at least two or more operational tests be made to provide information to persons who provide emergency response to hazardous materials transportation incidents.

The factors for making the grants are set forth in subsection (b), but they are designed to demonstrate the feasibility of establishing and operating a computerized telecommunications emergency response information technology. Any project must include at least two motor carriers of property. One should be a motor carrier that transports hazardous materials and the other must be a regular-route common carrier that specializes in transporting less-than-truckload shipments. The motor carriers selected may be engaged in multimodal movements.

The Secretary to the maximum possible should coordinate this project with any existing Federal, State, local government and private projects which are similar and the Secretary may require that it be carried out in conjunction with such projects.

SECTION 110—RAIL TANK CAR SAFETY

Section 110 requires the Department of Transportation to issue final regulations, within one year of the date of enactment of this legislation, on two ongoing DOT rulemaking proceedings: (1) "Crashworthiness Protection Requirements for Tank Cars" (Docket HM-175A); and (2) "Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Car Tanks" (Docket HM-201).

SECTION 111—SAFE PLACEMENT OF TRAIN CARS

Section 111 mandates that the Secretary of Transportation conduct a study of current practices regarding the placement of rail cars on trains, with particular attention to the placement of rail cars, including tank cars, transporting hazardous materials. The study is to focus on whether placement practices (for example, placing heavy cars containing hazardous materials behind lighter weight or empty cars) increase the risk of adverse safety incidents such as derailments, rank ruptures, or hazardous materials spills.

SECTION 112—GRADE CROSSING SAFETY

Section 112 requires the Secretary of Transportation, within six months of the date of enactment of this legislation, to amend regulations issued under chapter 51 and chapter 315 of Title 49, U.S.C. to prohibit the driver of a motor vehicle transporting hazardous materials in commerce from driving the motor vehicle onto a highway-railroad crossing without having sufficient space to drive completely through the crossing without stopping.

SECTION 113—DRIVER'S RECORD OF DUTY STATUS

Subsection 113(a) requires the Secretary of Transportation to issue regulations amending 49 C.F.R. 395, to improve compliance by commercial motor vehicle drivers and motor carriers with ours of service requirements and the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance. The regulations must be proposed not later than 12 months after enactment and shall be final not later than 18 months after enactment.

Subsection 113(b) lists items required to be included in the regulations.

Subsection 113(c) defines, for purposes of this section, what constitutes a supporting document.

SECTION 114—SAFETY PERFORMANCE HISTORY OF NEW DRIVERS

This section requires the Secretary, within 18 months after the date of enactment of this regulation, to amend 49 C.F.R. 391.23 to specify the minimum safety information that a motor carrier must request regarding a driver; require that such information be requested of the driver's former employers (defined as any person who employed the driver during the preceding 3-year period); mandate that these former employers respond to such inquiries within 30 days after receiving the request; and ensure that the driver has reasonable opportunity to review and comment on the information collected.

The safety information required includes: (1) any motor vehicle accidents within the preceding 3-year period involving the driver; (2) any failure of the driver, during the preceding 3-year period, to complete a rehabilitation program prescribed by the Commercial Motor Vehicle Safety Act of 1986, after being found to violate Federal alcohol or controlled substance laws or regulations; (3) any illegal use by the driver of alcohol or a controlled substance subsequent to completing such a rehabilitation program; and (4) any other matters determined by the Secretary to be relevant to a driver's safety performance.

SECTION 115—RETENTION OF SHIPPING PAPERS

Section 115 amends Section 5110 of Title 51, U.S.C. by adding a new paragraph requiring that the person providing the shipping paper for hazmat shipment, and the carrier transporting that shipment, retain such shipping paper at their respective places of business even after the shipment has been delivered. Such a person or carrier, upon request, must make the shipping paper available to a Federal, State or local government at reasonable times and locations.

SECTION 116—TOLL FREE NUMBER FOR REPORTING

Section 1116 is a free standing provision that requires the Secretary to provide a toll free telephone number for transporters of hazardous materials and others to report to the Secretary any possible violations of the Hazardous Materials Transportation Act (HMTC) or any order or regulation issued under the Act.

SECTION 117—TECHNICAL CORRECTIONS

Section 117 makes certain technical corrections to the HMTA. The technical correction deals with the word "packaging."

SECTION 118—HOURS OF SERVICE RULEMAKING FOR FARMERS AND RETAIL FARM SUPPLIERS

Section 118 requires the Secretary to initiate a rulemaking proceeding in order to determine whether the requirements of the hours-of-service provision contained in 49 C.F.R. 395.(3) may be waived for farmers and retail farm suppliers within a 50-mile radius of their distribution point or farm.

SECTION 119—TRAINING

Section 119 amends Section 5116 of Title 51, U.S.C. by creating a new subsection (j) to provide authority to the Secretary of Transportation to make grants directly to national nonprofit employee organizations engaged solely in fighting fires for the purpose of training individuals with statutory responsibility to respond to hazardous materials accidents and incidents, subject to certain conditions included in the legislation on the use of the funds and to any other terms and conditions as the Secretary determines are necessary.

Section 5116 is further amended to create a new subsection (k) which directs the Secretary to submit a report to Congress on the allocation and uses of funds distributed under the training grant programs authorized in subsections (a) and (c) and existing training grant programs. The report is to cover existing grant programs and grants made pursuant to subsections (a) and (c) in fiscal years 1995 and 1996. This report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures of such recipients. The report shall also identify the numbers of employees trained under the grant programs and an evaluation of the effectiveness of the training programs carried out with such funds.

Subsection (b) amends Section 5127(b) of Title 51, U.S.C. relating to applications for hazmat employee training and authorizes the Secretary to fund these training grants in fiscal years 1995, 1996, 1997 and 1998 annually in the amounts of $250,000 from registration fees, and $1 million from general revenues, subject to appropriations.

Subsection (c) amends Section 5127(e) of Title 51, U.S.C. to authorize an expanded training grant program under which the Secretary would make grants to nonprofit hazmat employee organizations for the purpose of training all employees engaged in the loading, unloading, handling, storage and transportation of hazardous materials and emergency response.

Subsection (c) also amends Section 5107 of Title 51, U.S.C. to add a new subsection (g) which requires that no grant under subsection (e) shall supplant or replace existing employer provided hazardous materials training efforts or obligations.

Subsection 5127(b) of Title 51, U.S.C. is further amended to provide an additional authorization for funding the training grants in subsection 5127(e) in fiscal years 1995, 1996, 1997 and 1998 at $3 million annually from general revenues, subject to appropriations.

SECTION 120—TIME FOR SECRETARIAL ACTION

Section 120 amends Section 5117 of Title 51, U.S.C. to require the Secretary to issue, renew, or deny an application for exemption from regulations within 180 days or publish in the Federal Register the reason why the Secretary's decision was delayed.

Subsection (d) is amended by inserting a requirement that the Secretary shall issue a decision on an application within 180 days after the date of publication of the notice of having received such application, or why the decision was delayed in the Federal Register.

SECTION 121—STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS

Section 121 directs the Secretary of Transportation to conduct a study regarding the safety considerations of transporting hazardous wastes in close proximity to Federal prisons, particularly those housing maximum security prisoners. The Committee intends for the study to focus on the transportation of hazardous wastes over roads and highways.

Subsection (a) directs that the study focus on the particular safety concerns raised by any need to evacuate a captive population, particularly maximum security prisoner, in the event of an incident or accident involving the transportation of hazardous wastes. The study would also examine the ability of local emergency planning agencies to meet any potential exigencies.

Subsection (b) requires that the Secretary report the findings, together with any recommendations for legislative or regulatory change, within one year.

SECTION 122—USE OF FIBER DRUM PACKAGING

Section 122(a) directs the Secretary of Transportation, no later than 60 days after enactment, to initiate a rulemaking to determine whether the requirements of section 5103(b) of Title 51, U.S.C. may be met for openhead fibre drum packaging (with respect to the transportation of liquid hazardous materials in such drums) by any other standards other than the performance-oriented packaging standards adopted under docket number HM-181 contained in 49 C.F.R. 178.

Subsection (b) directs that if the Secretary determines that any other standard provides an equal to or greater level of safety than the level provided by the HM-181 standards, then the Secretary shall issue regulations implementing such other standard on or before October 1, 1996.

Section (c) directs that the rulemaking undertaken pursuant to this section be completed no later than October 1, 1995.

Section (d) limits the applicability of this section

SECTION 123—BUY AMERICAN

Section 123 directs compliance with the "Buy American Act," 41 U.S.C. Sections 10a-10c.

TITLE II—THE TRUCKING INDUSTRY REGULATORY REFORM ACT OF 1994

SECTION 201—SHORT TITLE

Section 201 states the short title of the Act.

SECTION 202—AMENDMENT OF TITLE 49, UNITED STATES CODE

Section 202 states that unless provided otherwise, all amendments will be to title 49 of the U.S.C.

SECTION 203—PURPOSE

Section 203 provides that the purpose of the bill is to enhance competition, safety and efficiency in the motor carrier industry and to enhance efficiency in government.

SECTION 204—TRANSPORTATION POLICY

Section 204 provides a new section to the transportation policy.

SECTION 205—EXEMPTIONS

Section 205 amends section 10505 of Title 49 U.S.C. with respect to exemptions. Two general exemptions are provided for this section; namely, motor carriers providing transportation of household goods or in noncontiguous domestic trade. That means these two groups are not subject to the provisions.

It then makes specific exemptions for types of transportation not subject to the Act. It exempts 10706 (rate bureaus), 10761 (transportation without a tariff as amended by this Act), 10762 (tariff filing as amended by the Act), 10927 (Security of motor carriers), and 11707 (Liability of common carriers under receipts and bills of lading). It also exempts a number of provisions from application of this Act.

Subsection (b) defines non-contiguous domestic trade.

SECTION 206—TARIFF FILINGS

Section 206 amends three sections Title 49, U.S.C. They are 10702(b), 10761, and 10762(a). The first provision amends Section 10702(b) of the Act which specifies authority for carriers to establish rates, classifications, rules, and practices. It eliminates motor contract carriers of property from the provision, thus, they are no longer required to file actual or minimum rates.

Section 206(b) amends 10761 as it applies to transportation prohibited without tariff. First, it amends the section to provide that motor common carriers providing transportation of property, other than household goods or those in non-contiguous trade, under an individually determined rate are eliminated from the requirements of this section.

In paragraphs (3) and (4) the law now provides that carriers cannot collect a rate determined by a tariff unless it is a participant in the tariff. This sustains a decision of the Supreme Court which stated that carriers not signing a power of attorney for participation in a rate could not enforce the rate.

Section (c) amends Section 10762(a) relating to general tariff requirements. In new paragraph (1) it excludes from the general requirement common carriers providing traffic under an individually determined rate which is a defined term in subsection (f). It also states that motor contract carriers are no longer required to file their rates. However, the amendments made in the Negotiated Rates Act still apply; i.e. carriers must keep copies of signed agreements.

New paragraph (3) makes certain changes with respect to individually determined rates.

First, it provides that a carriers shall provide to the shipper, upon request, a written or electronic copy of the rate classification, rules, and practices upon which the rate agreed to between the shipper and carrier may have been based. When the applicability of reasonableness of a rate is challenged by the person paying the freight charge, the Commission shall make a decision on whether the rates are reasonable and applicable based on the record before it.

Paragraph (4) is intended to modify the second sentence of paragraph (3) to ensure that all shipper rate challenges are brought within the 180 days statute of limitations which governs rate disputes.

In those cases where a motor common carrier seeks to collect charges in addition to those billed and collected which are contested by the payer, the carrier may request action by the Commission on this issue. The carrier must issue a bill for charges within 180 days if he is going to collect the charges. The same procedure applies to a shipper who seeks to contest charges.

New paragraph (5) provides that the old charges on file at the I.C.C., which are not required to be filed under this Act, are null and void. The key date is the date of enactment of this bill.

Subsection (d)(1) amends Section 10762(c)(1) of Title 49, U.S.C. to exclude motor common carriers from filing changes in their rates, if the rate change is covered by the definition of individually determined rate as set forth in Section 10102(13).

The rates for household goods and transportation of property in a non-contiguous domestic trade must continue to be filed.

Subsection (d)(2) amends Section 10762 (c)(2) of Title 49, U.S.C. relating to proposed rate changes to exclude motor contract carriers providing transportation of property from the requirement to publish, file and keep open for public inspection any notice to establish a new or reduced rate or change in a rule or practice related to such rate.

Subsection (e) amends Section 10762 of Title 49, U.S.C. by adding at the end a new subsection (j). New subsection (j) provides that nothing in this section affects the application of the provisions in the Negotiated Rates Act of 1993 for claims arising from undercharges for transportation provided prior to the date of enactment of this Act.

Subsection (f) amends Section 10102 of Title 49, U.S.C. relating to definitions by redesignating paragraphs (13) through (31) as (14) through (32) and inserting a new paragraph (13) that provides a definition of "individually determined rate, classification, rule, or practice" to mean those established by (A) a single motor carrier for transportation over its line; or (B) a rate, classification, rule of practice for two or more interlining carriers for transportation they jointly provide over their lines.

SECTION 207—MOTOR COMMON CARRIER LICENSING

Subsection 207(a) requires applicants for new or expanded motor common carrier operating authority to transport property other than household goods to make three identified showings. First, that the applicant is able to comply with all statutory, regulatory and ICC imposed safety requirements. Second, that the applicant is able to demonstrate safety fitness under standards developed by the DOT in consultation with the ICC pursuant to Section 31144 of Title 49, U.S.C. Third, that the applicant is able to provide adequate liability insurance or provisions for self-insurance under the financial responsibility provisions of Section 10927 of Title 49, U.S.C.

Subsection (b) frees applicants for authority to operate as a motor common carrier of property (other than a carrier of household goods) from the currently required showing that the proposed service will serve a useful public purpose, responsive to a public demand or need.

New paragraph (b)(1)(A) refers to the regulations of the ICC and safety requirements imposed by the ICC. These include, for example, policy statements and procedures for the submission and evaluation of safety fitness evidence in licensing and finance cases, such as *Rules Governing Applications for Operating Authority*, 5 I.C.C. 2d 94 (1988), *Transfer Rules*, 4 I.C.C. 2d 382 (1988); and *Pur., Merger, and Cont.-Motor Passenger and Water Carriers (Passenger Finance Rules)*, 5 I.C.C. 2d 786 (1989).

New paragraph (b)(1)(B) refers to the safety fitness requirements established by DOT, specifically citing the underlying statutory authorization. This citation emphasizes the ICC's reliance upon the procedure established by DOT for the safety fitness requirements against which applicants are to be evaluated. Section 215 of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2512) directed DOT, in consultation with the ICC to develop a procedure (now at 49 CFR Part 385) "to determine the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under Section 10922 and 10923 of title 49, United States Code." 49 U.S.C. App. 2512.

New paragraph (b)(1)(C) refers to the ICC's minimum financial responsibility requirements pursuant to Section 10927 of Title 49, U.S.C.

New paragraph (b)(2) requires the ICC to consider and make findings on any evidence relating to these enumerated standards for granting operating authority.

New paragraph (b)(3) directs the ICC to deny operating authority to any carrier

VOL 140 PT 16 AG 12 — 18 1994 UMI

which does not meet these enumerated standards.

New paragraph (b)(4) restricts the grounds under which a person may protest an application made for operating authority to the regulations of the ICC, safety fitness or minimum financial responsibility requirements set forth in new paragraph (b)(1).

Subsections (c) and (d) make conforming changes as a result of these amendments.

SECTION 208—MOTOR CONTRACT CARRIER LICENSING

Similar to Section 207, Section 208 codifies the ICC's current practice in granting operating authority, but with respect to motor contract carriers.

Section 208(a) requires, with respect to applicants for motor contract authority to carry property other than household goods, the same three showings required by Section 207(a) for applicants for new or expanded common carrier operating authority to carry property rather than household goods.

New paragraph (b)(1)(A) refers to the regulations of the ICC and safety requirements of the ICC.

New paragraph (b)(1)(B) refers to the safety fitness requirements established by DOT.

New paragraph (b)(1)(C) refers to the ICC's minimum financial responsibility requirements pursuant to Section 10927 of Title 49, U.S.C.

New paragraph (b)(2) requires the ICC to consider and make findings on any evidence relating to these enumerated standards for granting operating authority.

New paragraph (b)(3) directs the ICC to deny operating authority to any carrier which does not meet these enumerated standards.

New paragraph (b)(4) restricts the grounds under which a person may protest an application made for operating authority to the regulations of the ICC, safety fitness or minimum financial responsibility requirements set forth in new paragraph (b)(1).

Subsection (c) makes conforming amendments to the ICC's application filing requirements for permits for motor contract carriers as a result of these amendments.

Subsection (d) makes conforming changes to the conditions the ICC may prescribe for issuing a permit to a motor contract carrier as a result of these amendments.

SECTION 209—REVOCATION OF MOTOR CARRIER AUTHORITY

Section 209 amends Section 10925 of Title 49, U.S.C. to clarify the ICC's authority to suspend a certificate granted under Section 10922 or a permit granted under Section 10923, in light of elimination of the tariff filing requirements for rates set independently by motor common carriers of property (other than carriers of household goods and goods in non-contiguous domestic trade) and for all motor contract carriers of property.

SECTION 210—STUDY OF INTERSTATE COMMERCE COMMISSION FUNCTIONS

Section 210 directs the preparation of a comprehensive review of all of the ICC's functions and a study of possible changes to the status of the ICC.

Subsection (a) directs the ICC to prepare and submit a report to the Secretary of Transportation and the Congress within 60 days from the date of enactment which identifies and analyzes all of its identified statutory and regulatory responsibilities. In this report, the ICC shall make recommendations as to which of its statutory and regulatory responsibilities could be eliminated or restricted.

Subsection (b) directs the Secretary of Transportation to study the feasibility and efficiency of retaining the ICC in its present form, (i) merging the ICC into DOT as an independent agency, (ii) eliminating the ICC and transferring its functions to other Federal agencies, including DOT, or (iii) any other organizational change that may lead to governmental and transportation efficiencies. The Secretary shall report his findings to Congress within four months of the date of submission of the ICC report described in subsection (a).

SECTION 211—LIMITATION ON STATE REGULATION OF INTRASTATE TRANSPORTATION OF PASSENGERS BY BUS

Section 211 adds a new Section 10936 to the Interstate Commerce Act which preempts States from regulating fares of intrastate bus service for interstate carriers. Subsection (b) makes conforming changes to current provisions of law, and strikes current Section 11501(e)(1) through (4) and (6) and redesignates paragraph (5) as subsection (e), which prescribes the current procedure for state action on rate changes and appeal procedures.

SECTION 212—EFFECTIVE DATE

Section 212 provides that all of the provisions of this Act shall take effect on the date of enactment, except the motor carrier licensing provisions contained in Sections 207 and 208. These sections shall take effect on January 1, 1995, to permit carriers and the ICC sufficient time to adjust their operations to accommodate this change.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2178, as amended by the Senate, will provide for a 4-year reauthorization of the hazardous materials transportation program and initiate certain regulatory reforms in interstate trucking.

Regarding hazardous materials, the provisions before us are relatively simple and are similar to those in the authorization bill passed by the House last year. A few additional provisions have been added by the Senate.

Title II will accomplish significant interstate trucking regulatory reform. One of the last remaining vestiges of Federal regulation following passage of the 1989 Motor Carrier Act is the requirement that carriers must file all tariffs with the Interstate Commerce Commission and that shippers must pay only those rates which are on file with the ICC.

This bill will remove all filing requirements and the obligation to pay only the rate on file for individually determined rates—which account for about 90 percent of the more than 1 million annual tariff filings. Household goods, rate bureaus and a few others will continue rate filings.

The repeal of the tariff filing requirement will result in operating cost savings for the ICC and will remove a substantial paperwork burden for motor carriers.

In addition, other regulatory procedures are streamlined and State regulation of fares for intrastate bus passenger travel on interstate routes is prohibited.

While I do not want to diminish the truly significant reforms in this bill, there is one area in which I am disappointed that we did not go further than the provisions in H.R. 2178. Section 210 of the bill mandates studies by the ICC and the Department of Transportation on further regulatory reform and on the long-term future of the Commission. When the House was considering the fiscal year 1995 Transportation appropriations bill earlier this summer, 234 Members of the House voted to eliminate all funding for the ICC.

There has been some debate since then as to the actual significance of that vote, but it seems to me that with 234 Members voting to cut off all funds for the Commission, we could be enacting something more than some open-ended studies which, undoubtedly, will lead to a repeat next year of the appropriations fight we experienced this year.

We do need to provide for an orderly transfer and it could take several years in order to do it right.

This bill could have started that process and I am disappointed that the study provisions were not strengthened to provide for a real reorganization and sunset at a specific time in the future. This is an issue we will have to continue to consider and struggle with in the months ahead. Nevertheless, we should not lose sight of the fact that major regulatory reforms are being made with passage of this bill.

Therefore, Mr. Speaker, I urge the House to approve H.R. 2178 today.

Mr. Speaker, I reserve the balance of my time.

Mr. MINETA. Mr. President, I yield such time as he may consume to a very distinguished friend and colleague, the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce, with whom we have worked very closely on this and other matters.

Mr. DINGELL. Mr. Speaker, I thank the distinguished chairman of the Committee on Public Works and Transportation, Mr. MINETA. H.R. 2178 reauthorizes the Hazardous Materials Transportation Act and builds on the major work our two committees accomplished in the 1990 reauthorization.

I would like to focus my remarks on the effects of this legislation on the ICC. In June, the House voted to eliminate funding for the ICC. While I and others opposed the amendment to the appropriations bill, we have tried to move forward in a responsible and constructive manner to accomplish the will of the House.

Thanks to the work of the Public Works Committee, this bill eliminates certain motor carrier regulations of the ICC. Together with the appropriations bill now in conference, this bill will result in permanent budget and personnel cuts at the ICC.

H.R. 2178 provides a responsible way to examine how to restructure the ICC. It requires the ICC and the Department of Transportation to report to Congress within 6 months of enactment on: all regulatory responsibilities of the ICC; specific statutory and regulatory functions that may be eliminated or restructured; the feasibility and efficiency of merging the ICC into the DOT as an independent agency; combining it with other Federal agencies; retaining the ICC in its present form; or eliminating the agency. These reports will consider the cost savings to be achieved, the efficient allocation of resources, the elimination of unnecessary functions, the public interest, and responsibility for regulatory functions.

In the railroad area, which is within the jurisdiction of the Committee on Energy and Commerce, the ICC performs many necessary public duties, and those duties are increasing. As the recent report by the Government Accounting Office [GAO] clearly indicates, the statutory functions of the ICC relating to rail issues are important to the public interest and to a sound national transportation policy. For example, the ICC has the authority to approve, disapprove, or modify all railroad mergers. Since the House vote to terminate the ICC, major railroad mergers have been announced and more are probable. These mergers could affect every rail carrier, thousands of railroad employees, and shippers and communities in almost every State in the country.

This legislation is the first of a two-step process. I pledge to continue to work closely with Mr. KASICH, Mr. MINETA, and members of our committees to craft further legislation in the near future that will preserve the essential rail regulation functions now carried out by the ICC while determining whether those functions should be carried out by a different agency.

It is no secret that I have been an outspoken critic of the Commission's actions from time to time. But my criticism of its decisions does not take away from my strong belief that we must maintain the ICC's independence and unbiased decisionmaking in an open forum, regardless of whether the functions performed by the ICC remain there or are moved elsewhere. Congress needs to examine the evidence in this matter to best serve the public interest. This legislation is a strong first step in carrying out the will of the House.

□ 1340

Mr. Speaker, I strongly urge my colleagues to support this legislation. I submit for the RECORD correspondence with the gentleman from Ohio [Mr. KASICH] on these matters.

The correspondence referred to is as follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, July 11, 1994.

HON. JOHN R. KASICH,
Member of Congress, Longworth House Office Building, Washington, DC.

DEAR JOHN: I am writing in response to your June 22 letter, written together with the co-sponsors of your amendments to the transportation appropriations bill to: (1) eliminate appropriations for the Interstate Commerce Commission (ICC) for fiscal year 1995, and (2) appropriate $18 million for the Department of Transportation, primarily for severance pay to ICC employees.

Under Rule X of the House of Representatives, the Committee on Energy and Commerce has exclusive jurisdiction of railroads and rail labor and thus has jurisdiction of the ICC's rail functions. The Committee has exercised its legislative and oversight jurisdiction of the ICC's rail activities in numerous instances over the years.

While I have been an extremely vocal critic of the ICC's decisions from time to time, I do not share the view that the agency should be abolished or that its independent authority should be transferred to another entity. As the recent report by the General Accounting Office (GAO) clearly indicates, the statutory functions of the ICC relating to rail issues are important to the public interest, to sound national transportation policy, to railroads (including Amtrak) and their employees, and to shippers, communities, state and local governments, and other varied interests throughout the country. While the Staggers Act, which was considered and adopted by the Committee on Energy and Commerce after lengthy and careful consideration, deregulated many aspects of the rail industry, the law retained many important regulatory and adjudicatory functions of the ICC of rail transactions and activities. Summarily abolishing the agency that has sole authority to perform these essential funtions—as the amendments adopted by the House would do—would be detrimental to numerous public and private interests and would violate public confidence in the manner in which governmental deliberations that affect a broad spectrum of interests are made.

Despite my personal views on the subject, I am certainly mindful of the results of the recent House proceedings. However, I am not clear as to what the votes really mean. During floor debate, proponents of the amendment clearly stated that some, if not all, of the ICC's statutory responsibilities are important and should be retained, notwithstanding the clear effect of the amendments. for example, you stated that, "[t]he only real activity that goes on in the Interstate Commerce Commission anymore essentially has to do with railroads . . . [comprising] about 37 percent of the operations." Later, you added that, "[W]e are going to be able to maintain the essential functions of this operation . . ." Mr. Condit went even further by stating: ". . . we are not going to weaken the regulations or the standards. We are not going to weaken those at all. Most of them have been eliminated, but the ones that have not been eliminated, that have not been eliminated (sic), will be carried out by the Department of Transportation."

These and other statements are at odds with the actual provisions adopted by the House in that they assume a transfer and preservation of some or all of the ICC's statutory responsibilities. As Rep. Oxley, the Ranking Republican of the Subcommittee on Transportation and Hazardous Materials, stated: "If this amendment succeeds, only two results are assured: One, the immediate termination of many ICC employees, and, two, the effective impounding of any remaining ICC funds without DOT being able to use them. That is due to the fact that even if DOT has plenty of money in its account after this amendment, DOT still will not have any legal authority to spend those funds on ICC functions. Only an authorization statute can do that."

As Mr. Oxley concluded, ". . . this amendment produces no real economy—just organizational chaos."

Your letter states that the recent proceedings represent only the first step in a two-step process and that you are willing to be "partners" in fashioning "a reasoned and orderly transfer of the ICC's functions." I appreciate your candor in conceding that the amendments offered and adopted in the appropriations bill will not result in a reasoned and orderly transfer of the ICC's functions. As you know, the amendments would produce highly undesirable and wasteful results.

In view of the House votes and in order to avoid the adverse effects of allowing your amendments to be enacted, I am willing to do what I can to fashion legislation that would produce a reasoned and orderly transfer of the ICC's functions. However, I believe there are several considerations that must be taken into account prior to proceeding.

First, I will not acquiesce or participate in a process that involves legislating in an appropriations bill. If you insist on a strategy that violates the Rules of the House, I trust you will understand my unalterable opposition to any such approach.

Second, I cannot speak in any manner for the Public Works Committee regarding these matters. Any "reasoned and orderly" consideration of these issues under the Rules clearly requires agreement and action by our sister Committee respecting such ICC authorities that are within its jurisdiction.

Third, I do not support using such transfer legislation to effect substantive changes in railroad law or regulation. Any authorizing legislation to be considered should achieve any transfer of authority without diminishing the ability to perform current rail functions. I also believe that the independent nature of the ICC is extremely important and believe any transfer of authority to another entity should allow for continuation of processes that preserve such independence.

I believe that any reasoned and deliberative legislative approach to these issues in our Committee likely will require more time than is available during the remainder of this Congress. While I understand your desire to resolve these matters expeditiously, I cannot in good faith assure you that our Committee or Subcommittee, not to mention the Public Works Committee, the House, the Senate, and its Commerce Committee, will be able to consider and process appropriate legislation given other priorities during an election year. A possible approach to demonstrate my commitment to moving forward might be a written request to the ICC, the Department of Transportation, and the Office of Management and Budget (consistent with provisions of your bill, H.R. 3127) to report to the Committee within a reasonable period of time on how to accomplish any orderly transition. I suspect that continuation of the ICC's appropriation for another fiscal year would be necessary under this scenario, but if we are working together toward a common goal, I hope this will not pose any problem. The alternative is a level

VOL
140
PT
16
AG
12
18
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of chaos that will pose serious problems for all of us.

Sincerely,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
Washington, DC, June 22, 1994.

Hon. JOHN D. DINGELL,
Chairman, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Last week the House voted to pass our bipartisan amendment to the Transportation Appropriations bill eliminating funding for the Interstate Commerce Commission. As you know, this amendment was just the first step in a two-step process to transfer the agency's functions to the Department of Transportation. The second step involves legislation implementing the transfer and authorizing the Secretary of Transportation to spend appropriated dollars for severance and other transition costs. Because the Energy and Commerce Committee has jurisdiction over the ICC, we are writing to express our willingness to be partners with you in fashioning a reasoned and orderly transfer of the ICC's functions.

By its vote last week, the House demonstrated its resolve to terminate one agency of the federal bureaucracy. It is imperative that the will of the House be realized. Although we recognize the complexities of such a transfer, we believe that by working together we can overcome whatever obstacles may arise. As you may know, Mr. Kasich has introduced H.R. 3127, which would complete the process that the House set in motion last week. We hope you will consider this legislation as you seek the best method of achieving the transfer.

If we can be of assistance in any way, please contact us. Our staff members are available at any time. They are the following: for Mr. Kasich, Marie Wheat at 6-7270; for Mr. Hefley, Brian Reardon at 5-4422; for Mr. Condit, Steve Jones at 5-6131; for Mr. DeLay, Glen LeMunyon at 5-5941; for Mr. Cox, Ben Cohen 5-5611; and for Mr. Kennedy, Phillippe Houdard at 5-5111.

Thank you for your cooperation. We look forward to hearing from you in the near future.

Sincerely,

JOHN R. KASICH,
TOM DELAY,
JOEL HEFLEY,
CHRIS COX,
GARY CONDIT,
JOE KENNEDY.

Mr. Speaker, I make the observation that we will be coming forward with changes in the way the ICC is positioned, where it is located, how it will function, but we will seek at the time we do so, first of all, to work together with my good friend, the gentleman from California, and with the ranking minority members both of the subcommittee and the committee, and with Members similarly situated on the Committee on Public Works and Transportation. It is important that we resolve those issues in a way which ends the turmoil and the discord which has existed on these matters, but it is important, as we do so, we come forward with a package which preserves the open, collegial consideration of important questions and preserves the independent way in which those decisions are made.

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, last November, the House passed H.R. 2178, the Hazardous Materials Transportation Act Amendments of 1994. Today, we consider the legislation as amended by the other body which includes the text of S. 1640. It represents the efforts of the Committee on Energy and Commerce, the Committee on Public Works and Transportation and the other body.

Each year, the Department of Transportation estimates that over 500,000 movements of hazardous materials occur each day in the United States. This adds up to over 4 billion tons of hazardous materials moved each year. As such, the transportation of hazardous materials is a matter of great concern because of the serious threat it poses to the public, to property, and to the environment.

The legislation will assist the Department of Transportation in its efforts to regulate the transportation of hazardous materials. H.R. 2178 as amended provides a 3-year authorization and establishes important programs for the training of both hazardous materials employees and the emergency responders that handle the unfortunate aftermath of accidents.

In addition, it allows the Secretary of Transportation to exempt foreign offerors of hazardous materials from the registration requirements under the act. This was in response to concerns expressed by the administration that foreign governments would begin to impose registration requirements on U.S. companies that offer hazardous materials shipments overseas that might be far more expensive and cumbersome than our own. This could significantly hamper U.S. participation in foreign markets. In addition, the beneficiaries of this program—that is, the States, Indian tribes, and local governments—are already exempted from these fees. It would be inequitable to require foreign governments to register when the beneficiaries of the program do not have to. Take note that foreign carriers operating in the U.S. will still have to register.

Next, this legislation establishes time limits for the administration to respond to requests for preemption determinations and exemption applications. Until now, no limits have been in place and there has been concern that these administrative determinations were not being considered in a timely fashion.

Finally, this legislation asks the Department of Transportation to determine if open-head fiber drums can be safely used for domestic transport of liquid hazardous materials.

H.R. 2178 will allow the Department of Transportation to continue its efforts to ensure that the transportation of hazardous materials whether it is by rail or other means occurs safely.

Finally, I am pleased that the legislation reflects agreements reached by the Public Works and Transportation Committee and the other body with regard to the continuing and important regulatory responsibilities of the Interstate Commerce Commission as they pertain to the railroad industry.

Mr. Speaker, this is a good piece of legislation. I urge my colleagues to support H.R. 2178.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 2178. This revised version of the bill represents a House-Senate agreement on reauthorizing the safety activities of the Department of Transportation concerning transportation of hazardous materials. It also represents the product of very diligent work by our chairman, the gentleman from Michigan [Mr. DINGELL], our subcommittee chairman, the gentleman from Washington [Mr. SWIFT], our subcommittee ranking member, the gentleman from Ohio [Mr. OXLEY], and by our colleagues on both sides of the aisle from the Public Works Committee.

Hazardous materials transportation usually attracts attention only when there is an accident of some sort. What most of us fail to realize is that literally hundreds of everyday items vital to consumers and to American businesses could not exist without hazardous materials transportation to get the needed commodities to the manufacturing sites. Consequently, hazardous materials transportation is a vital link in the functioning of our industrial economy.

The reauthorization in this bill makes relatively modest adjustments to the Hazardous Materials Transportation Act, since Congress extensively overhauled that law in 1990. I am also pleased to report that the House-Senate agreement retains virtually all of the key features of the House-passed bill. The legislation addresses a number of issues, including the promptness of DOT rulings on preemption matters, railroad tank car safety, and how to apply international standards to hazardous materials packaging.

The second part of H.R. 2178 is a new addition from the Senate—a package of trucking deregulation provisions based on the Exon-Packwood bill. My colleagues from the Public Works Committee can best describe these provisions. But the bottom line is clear: it permits an immediate 30 per cent reduction in the funds for the Interstate Commerce Commission.

In addition, the bill mandates a study of the future of the ICC. The Department of Transportation is to make

recommendations during Fiscal Year 1995 on the best disposition of the ICC's remaining regulatory functions. Any and all of the following options are available: elimination, transfer to DOT or other Cabinet agency, creation of an autonomous agency within DOT—much as the Federal Energy Regulatory Commission is affiliated with the Department of Energy—retention of functions in an independent agency, or combination with another agency. This will give the authorizing committees and the Congress a blueprint for an orderly process to deal with the ICC's regulatory functions. We will have eliminated almost one-third of its budget immediately in this legislation, and we hope that further economies can be realized in the future. when Congress turns to implementing the DOT recommendations.

Mr. SHUSTER. Mr. Speaker, I rise in strong support of H.R. 2178, the Hazardous Materials Transportation Authorization Act of 1994. I would like to take this opportunity to expand upon certain aspects of title II, the Trucking Industry Regulatory Reform Act of 1994.

The Trucking Industry Regulatory Reform Act completes the year-long series of reforms to the trucking industry undertaken by the Committee on Public Works and Transportation. The first was the Negotiated Rates Act of 1993, which settled the terrible undercharge crisis that faced our Nation's transportation industry. The second was preemption of State regulation of intrastate trucking contained in section 601 of the Federal Aviation Administration Act of 1994, which will save our economy billions in lower intrastate freight charges. And the third of course is the Trucking Industry Regulatory Reform Act of 1994, which we are considering today. Together, these three acts have restructured our Nation's trucking industry to eliminate costly and needless regulation and promote greater efficiency, thus benefitting our Nation as a whole.

The Trucking Industry Regulatory Reform Act modifies or eliminates numerous unnecessary and costly regulatory functions performed by the ICC. Most importantly, this act goes a long way toward eliminating the wasteful and unnecessary filed-rate doctrine at the Interstate Commerce Commission. The filed-rate doctrine—which required that all motor carriers file tariffs containing their rates with the ICC and obligated shippers to pay the rate contained in the filed tariffs—is one of the last vestiges of the past era of interstate trucking regulation. It was the existence of the filed-rate doctrine that led to the undercharge crisis that was resolved by the Negotiated Rates Act.

Section 206 eliminates tariff filings for individually determined rates; that is, all rates that are not set by rate bureaus. This will eliminate the tariff filing requirement for up to 90 percent of the 1.4 million tariffs filed annually. Most importantly, this section eliminates once and for all the filed-rate doctrine for individually determined rates.

The result of these changes is that for individually determined rates, there will no longer be an obligation for carriers to file any tariff containing rates with the ICC or anywhere else and there will no longer be any obligation on the part of a shipper to pay any filed rate. For effected rates, the link between tariff filings and charges is severed. Henceforth, all individually determined rates will be set by free market negotiations between carriers and shippers.

Section 206 also adds new subparagraphs (3) and (4) to section 10762(a) of title 49 to clarify the rights and responsibilities between carriers and shippers regarding billing disputes. First, the shipper is given the right to be provided with a copy of the rates applicable to his shipment upon his request to the carrier. Second, upon request of the shipper, the ICC shall resolve disputes over rate applicability or reasonableness. Third, in the event that a carrier seeks to collect charges beyond those originally billed and collected from the shipper, the carrier may request that the ICC resolve the matter, and in any case, such request for additional charges must be made within 180 days of the receipt of the original bill. Finally, new subparagraph (4) provides that a shipper which contests the charges originally billed must do so within 180 days from receipt of such original bill. Of course, the parties are free to settle any disputes without Federal intervention or having their settlement approved by the ICC.

In sum, new paragraphs (3) and (4) permit shippers and carriers to continue to have the ICC resolve rate disputes that arise from the market negotiations. There is no intention to create any new functions or responsibilities for the ICC, but instead to clarify rate dispute resolution mechanisms in light of the elimination of the filed-rate doctrine for individually determined rates.

Paragraph (3) does not anticipate the possibility of future undercharge claims merely because it contains a dispute settlement mechanism for instances when carriers seek to collect charges in addition to those billed and collected. Any claim for additional charges would not be the result of an undercharge, but rather because a carrier believes the rate it reached with the shipper is different than the rate the shipper believes was agreed to.

There is no possibility that a carrier—or its successor in interest—may seek additional charges from a shipper because the carrier had filed or possessed a tariff containing a particular rate and negotiated a lower rate with a shipper. Nor will an undercharge claim be possible because a carrier kept a rate on file with itself or elsewhere.

Simply stated, the possibility of a negotiated rate undercharge has been eliminated because there is no longer any obligation for a carrier to file a rate with the ICC or anywhere else and no further obligation for a shipper to pay that rate. All individually negotiated rates are to be determined and proven by evidence of market negotiations. Any rates kept or published by carriers are merely evidence of such negotiations.

Furthermore, new paragraphs (3) and (4) set a statute of limitations of 180 days for all rate disputes, thus shortening the timeframe for billing disputes to be raised at all. The purpose of this shortened statute of limitations is to streamline billing disputes and prevent claims by shippers or carriers that the amount billed was incorrect far in the future.

Two additional aspects of new paragraphs (3) and (4) require explanation.

First, the second sentence of new paragraph (3), which permits the ICC to hear challenges to rate applicability or reasonableness upon request of the shipper and new paragraph (4), which states that when the shipper challenges the charges originally billed, he must do so within 180 days of receipt of the original bill, are intended to cover exactly the same circumstances. Challenges to rate reasonableness and applicability are the same as shippers "contest[ing] the charges" and subject to the 180 day statute of limitations contained in paragraph (4). Paragraph (4) is intended to modify the second sentence of paragraph (3) to ensure that all shipper rate challenges are brought within the 180 day period.

Second, the third sentence of paragraph (3) which permits a carrier or its successor, in the event that it brings a claim for charges in addition to those billed and filed, to do so before the ICC, is intended to have the ICC determine undercharge claims at the election of the carrier or the shipper, and is not intended to restrict the election of forum to the carrier only.

Tariff filings remain for motor-water tariffs in noncontiguous domestic trade, household goods carriers, and rates filed by rate bureaus. Rate bureau filings were continued to permit smaller shippers the option of using rate bureaus. If carriers discount rate bureau tariffs, however, such rates will then become individually determined rates. For classifications, mileage guides, or other governing tariffs, a participating carrier must properly participate in the tariff in order to collect its rates. If a carrier does not have a proper power of attorney to participate in the governing tariff, no other rate can be collected.

Sections 207 and 208 eliminate all entry standards for the motor common and contract carriers other than compliance with Department of Transportation and ICC safety and insurance requirements. In particular, the granting of operating authority based on public convenience and necessity is ended. Since entry was eased in 1980, the ICC has rarely, if ever, found a proposed service inconsistent with the public convenience and necessity.

Section 210 directs the preparation of two reports to Congress analyzing alternatives to the current structure of the ICC. First, a comprehensive review of all of the ICC's functions and second, a study of possible changes to the ICC from its current status and integrating its functions into existing agencies.

These two studies are intended to formally examine the need and efficiencies gained from altering the ICC's current status as an independent agency. There has been substantial concern raised about statutorily eliminating the ICC before a comprehensive review of the need to sunset the agency and the formulation of a plan to continue all of its identified statutory functions. Thus, these studies are intended to identify the need for the ICC's functions, the efficacy of altering the ICC's current status as an independent agency, and to present Congress with a comprehensive summary of all issues and alternatives for its future consideration.

One final provision, section 211, merits highlighting. This section preempts State regulation of fares of intrastate bus passenger

VOL 140 PT 16 AG 12 — 18 1994 UMI

service on interstate routes. Currently, a State has 4 months to rule on a fare petition affecting intrastate bus passenger service being performed by an intercity bus operator as part of interstate service. If the State does not act or denies the carrier's petition, the carrier can appeal to the ICC, which must render a decision within 3 months of filing an appeal. Virtually all rate cases appealed to the ICC have been decided in favor of the carrier. While section 11501(e) (1)–(4) and 11501(e)(6) referred to a "rate, rule, or practice" and the preemption language in new section 10936 references "fares," no difference in meaning is intended. The preemption is intended to cover all the technical tariff issues included in a rate filing. At a time when intercity bus operators are struggling to survive due to intense competition from low-cost airfares and the automobile, elimination of this unnecessary procedural hoop to change fares is warranted. It will permit bus operators to respond to market forces immediately in terms of setting their fares and help to ensure the future of intercity bus service in this country.

Because all sections of this act—other than sections 207 and 208—are effective on the date of enactment of this bill, I urge the ICC to act as quickly as possible to establish transition rules for these new procedures.

Mr. DELAY. Mr. Speaker, I can hardly believe it. I have been working for trucking deregulation for 16 years—my entire political career—and lo and behold, over the last 2 weeks, two of the biggest deregulation measures pass this House under suspension of the rules. My, how times have changed.

Over 7 years ago, I introduced trucking deregulation legislation that essentially does exactly what the House has passed over the last 2 weeks. Improved efficiency, increased competition, and reduced paperwork resulting from complete economic reform of the trucking industry will save billions in business logistic costs and those savings will be passed on to the consumer.

Last week, during consideration of H.R. 2739, the Aviation Infrastructure Investment Act Conference Report, Congress basically made swiss cheese out of States' intrastate regulations. Essentially, through that legislation, Congress told State regulators to hang up their regulatory robes since there is nothing more to regulate. This is the best news for the American consumer since the trucking deregulatory efforts of 1980.

Today, the House considers a bill of equal importance, legislation that essentially eliminates all trucking functions from the ICC.

As you may know, this legislation came about because of the historic vote on the House floor several months ago when the House voted to eliminate the ICC and transfer its remaining function to the Department of Transportation. The House overwhelmingly voted to zero-out the ICC. After that historic vote, the Senate was the target for every special interest group in the country interested in saving the Interstate Commerce Commission. It became apparent that elimination of the ICC was not assured. At that point, Senator EXON and PACKWOOD offered legislation that essentially eliminated the trucking functions at the ICC and cut their funding by about one-third.

The text of that legislation is included in the Hazardous Materials Transportation Act amendments under consideration today.

Mr. Speaker, these regulations that we are eliminating today have, in the past, been the life blood of Federal regulators. Times truly have changed since all sides of the issue have come together to create this deregulation legislation.

These subtle trucking deregulation efforts have not gone unnoticed. I commend the efforts of all parties responsible for bringing this legislation to the floor. The American consumer will benefit greatly from the passage of these deregulatory measures since the savings generated from the trucking companies will be passed on to the consumer. Trucking companies save because they will not have to spend their time, effort and money filing useless tariff documents with the ICC.

H.R. 2178 is an excellent compromise since it accomplishes all of the trucking deregulation I have been pushing for 16 years. I applaud the committee's efforts, look forward to working for more transportation deregulation next year, and urge the adoption of the legislation before the House today.

Mr. RAHALL. Mr. Speaker, the legislation pending before the House consists of two titles, the first of which is based on a bill previously passed by this body that would reauthorize the Hazardous Materials Transportation Act. The second title of the pending legislation deals with an issue which has not yet been considered by this body and involves the further reform of interstate motor carrier regulation. This second title is being considered as a means to begin to address the House vote, during consideration of the fiscal year 1995 transportation appropriations bill, to eliminate funding for the Interstate Commerce Commission.

It is important to note that title I of this bill contains all of the elements of the original House-passed version of H.R. 2178 relating to the reauthorization of the Hazardous Materials Transportation Act. In this regard, some modifications to the House language have been made by the Senate in consultation with the House Committees on Public Works and Transportation and Energy and Commerce. In addition, this measure contains a number of other provisions which originated with the Senate. Ultimately, however, the primary purpose of title I of the pending bill is to reauthorize the act through fiscal year 1997.

Among the amendments made to the Hazardous Materials Transportation Act by this legislation are three in particular which I have advanced in my capacity as chairman of the Subcommittee on Surface Transportation.

The first of these provisions modifies the training grant programs of the act. Currently, the act provides for two types of training grants: Under section 117A for training public sector hazmat employees like fire fighters and police through grants to the States, and under section 118 for training private sector hazmat employees, such as truckers.

With respect to the section 117A State grant program, the Surface Transportation Subcommittee received testimony that these grants are of an insufficient amount to provide for adequate training, and, that they are not always used by the States to train the public sector employee group that is in the front line in responding to hazardous material incidents: fire fighters.

For this reason, the bill proposes a new supplemental program through which the Secretary may make grants to qualifying organizations engaged solely in fighting fires for the purpose of training fire fighting personnel to respond to hazardous materials accidents and incidents. The International Association of Fire Fighters would be one such qualifying organization.

Further, the bill would greatly expand the current authorization for the section 118 grants used for training of hazmat employees engaged in the loading, unloading, handling, storage and transportation of hazardous materials and emergency response.

In my view, the existing authorization is simply inadequate to provide proper training for the thousands upon thousands of employees involved with hazardous materials in the motor carrier, railroad, airline and maritime industries.

The second provision seeks to further address the question of whether or not a centralized computer tracking system for all hazardous materials in transportation should be required.

Under such a system, shipper would enter information about hazardous materials into a computerized data center at both the commencement and completion of each shipment. In the event of an incident, this information would be immediately available to police and fire fighters.

The 1990 reauthorization legislation called on the National Academy of Sciences to study the matter. That study did not recommend the immediate establishment of a central reporting system and computerized telecommunications system. It did, however, recommend that the Department of Transportation test prototype automated information systems.

To advance this proposal, H.R. 2178 provides for the establishment of one or more pilot projects involving motor carriers in order to demonstrate the feasibility of establishing and operating computerized telecommunications emergency response information technologies. These projects would be conducted under the auspices of the Intelligent Vehicle-Highway Systems Act of 1991.

In this regard, I would note that the Federal Railroad Administration is currently undertaking a pilot project of this nature involving a railroad in Houston, TX. Consideration should be given to expanding this project through the inclusion of motor carriers under the pilot project program provided for by H.R. 2178.

The third provision advanced by the Surface Transportation Subcommittee would require the Secretary of Transportation to initiate a rulemaking to examine whether fibre drums for the domestic transportation of liquid hazardous materials can comply with statutory safety standard, and provide an equal or greater level of safety, than the regulations promulgated by DOT which are scheduled to take effect on October 1, 1996.

In this regard, I would note that section 105(d)(2) of the Hazardous Materials Transportation Act gives the Secretary of Transportation discretionary authority to issue standards applicable to the domestic transportation of hazardous materials consistent with standards adopted by an international body, with the adoption of such international-based standards for the purposes of domestic commerce not required by law.

The Secretary has promulgated regulations applicable to the domestic transportation of hazardous materials in a proceeding known as HM–181 based on the recommendations of a committee of the United Nations formed to develop requirements applicable to international commerce, with such regulations effective October 1, 1996.

Pursuant to the HM–181 regulations, certain types of packaging, including open-headed fiber drum packaging used for liquid hazardous materials, will no longer be acceptable for domestic commerce in the United States, despite the demonstrated safety of such fiber drum packaging technology.

However, fiber drum packaging for liquid hazardous materials is an exclusive American technology, and due to the lack of experience with it among the international community, may not have been duly considered in the formulation of standards pursuant to HM–181.

In addition, several Nations other than the United States continue to provide for the regulation of hazardous materials transportation within their borders utilizing standards not based on the recommendations of the United Nations Committee.

Because of these concerns, we have included a provision in H.R. 2178 that requires the Transportation Department to reexamine the issue, and if it determines that fiber drums for the domestic transportation of liquid hazardous materials can comply with the statutory standards, and provide an equal or greater level of safety than the HM–181 regulations, the agency could decide to allow the drums to continue to be used for domestic liquid hazardous materials transportation.

Before I leave this issue, I do want to commend our colleague, JOHN SPRATT of South Carolina, for originally bringing it to the attention of the Surface Transportation Subcommittee. I would further note that during the Senate's consideration of this legislation on August 11, 1994, Senator HOLLINGS and Senator EXON engaged in a colloquy on this provision of the bill and I would like to note that the understanding they reached is one which I am in complete agreement with.

As I mentioned earlier, title II of H.R. 2178 concerns the further reform of interstate motor carrier regulation. While this provision originated with the Senate, it represents a position acceptable to the leadership of the House Committee on Public Works and Transportation and was devised in consultation with the administration as well as representatives of the trucking and shipping community.

Mr. Speaker, on June 16 of this year, the House by a vote of 234 to 192 eliminated all funding for the Interstate Commerce Commission in its version of the fiscal year 1995 Transportation Appropriation bill.

In my view, based on statements made on the House floor that day, the primary motivation Members had in seeking to eliminate funding for the Commission was grounded in reducing the budget deficit rather than invoking regulatory changes.

However, even the most casual observer of this issue understands that budgetary savings can only result by eliminating aspects of the Commission's responsibilities.

The fact of the matter is that eliminating funding for the ICC and further transportation regulatory reform are intertwined issues.

In the aftermath of the House vote, it fell to the leadership of the House and Senate authorizing committees to determine how to reconcile the House vote to terminate the ICC under the guise of budget deficit reduction, and the fact that budgetary savings would only result by the elimination of certain Commission functions.

The result of these deliberations, which included the administration, the Appropriations Committees and House sponsors of the amendment to eliminate the ICC's funding, was added by the Senate as title II of H.R. 2178.

The reforms envisioned by this legislation would eliminate the obligation of individual motor carriers to file rates with the ICC, eliminate the requirement of motor carriers engaged in interstate commerce to obtain a certificate of public convenience and necessity from the ICC as it relates to entry while preserving the Commission's authority to require compliance with safety and financial responsibility requirements; provide the Commission with limited authority to provide for other exemptions from motor carrier regulation; and preempt State laws governing interstate motor carriers of passengers as they relate to the regulation of intrastate fares. In addition, title II requires the ICC and the Secretary of Transportation to report to the Congress with recommendations on future organizational options for the Commission and its authorities.

With respect to these reforms, I would like to make it clear that this legislation in no way eliminates the ICC's authority as it relates to motor carrier safety fitness and insurance requirements. Further, the Commission would be prohibited from utilizing the exemption authority provided in the bill to eliminate regulation of these and a number of other areas, including those relating to antitrust immunity for joint line rates and routes, classification of commodities, uniform bills of lading and standardized mileage guides.

Finally, while the bill would preempt State regulation of intrastate fares for the transportation of passengers by bus by an interstate motor carrier of passengers, it clearly provides for a continued State role with respect to proposals to discontinue service. Those of us from the rural areas of this Nation are painfully aware of the dramatic loss of intercity bus service that resulted after the enactment of the bus deregulation bill in 1982. However, in light of the financial difficulties major bus companies such as Greyhound are experiencing, with this legislation it is my hope that by providing for increased flexibility as it relates to fares, existing service to rural areas will be preserved and perhaps enhanced.

Mr. Speaker, the intention of these regulatory reforms is to reduce the ICC's budget by approximately one-third while providing for the public interest to continue to be served in the area of interstate motor carrier regulation.

This is indeed a comprehensive measure before us, concerning two distinct and separate matters, but it is one which deserves the support of the House.

Mr. OXLEY. Thank you, Mr. Speaker. I rise in strong support of H.R. 2178. This legislation to reauthorize the safety activities of the Department of Transportation with respect to hazardous materials transportation has had a strong bipartisan consensus behind it throughout the legislative process. The version we are considering today is the equivalent of a conference report, because it represents a House-Senate agreement on the final configuration of hazardous materials legislation the House approved last fall.

The Hazardous Materials Transportation Act was extensively revised in legislation enacted in 1990. Therefore, this new reauthorization makes relatively minor adjustments to the statute, recognizing that the 1990 law is still being implemented. Most of the improvements are to process—making DOT rulings on questions of State and Federal jurisdiction more responsive and correcting certain technical flaws that have been detected since the 1990 enactment.

I want to again commend Chairman DINGELL, Subcommittee Chairman SWIFT, and our ranking member, Mr. MOORHEAD, and our colleagues on both sides of the aisle from the Public Works Committee, for their work on this legislation. The safe transportation of hazardous materials is an essential ingredient to the successful functioning of our industrial system, particularly the manufacture of many goods that involve chemical ingredients. This legislation keeps DOT on course to maintain and improve the safety of such transportation, whether by rail or motor carrier.

A second part of the House-Senate agreement on this legislation deals with further deregulation of interstate trucking, based on the Senate's Exon-Packwood bill. I support the reduction of Federal regulation wherever feasible, and I leave it to my colleagues on the Public Works Committee to describe the trucking provisions of the bill, which lie within their exclusive jurisdiction.

One provision of the trucking legislation lies within the joint jurisdiction of both the Energy and Commerce Committee and the Public Works and Transportation Committee—a study of the future disposition of the various regulatory functions of the Interstate Commerce Commission.

This study, which will be carried out by the ICC and the Department of Transportation during fiscal year 1995, is aimed at identifying all functions of the ICC that can be eliminated, and also at analyzing the best location for the ICC's remaining functions. The catalyst for this in-depth analysis of the ICC was clearly the initiative of my colleague from Ohio, Mr. KASICH, who helped shake up the status quo approach Congress had adopted in recent years regarding the ICC. Because of his appropriations amendment, we now have substantial new trucking deregulation, plus a mandate for a complete and thorough analysis of the best future institutional format for the ICC.

In studying the ICC, DOT is directed to consider all the options—deleting functions entirely, transferring them directly to a Cabinet agency such as DOT, retaining them in an autonomous agency within DOT, keeping them in a traditional independent agency, combining the ICC's functions with those of another agency, or any combination of these.

VOL 140 PT 16 AG 12 — 18 1994 UMI

This is a sound and constructive approach which will force the Congress to examine the economic regulation of transportation. Once DOT has carried out the study, it will be up to the authorizing committees to act promptly on the DOT recommendations. In my view, this kind of congressional re-examination of Federal regulation is something we do not do often enough, and I think my colleague, Mr. KASICH, deserves considerable credit for getting the process underway.

Mr. CLINGER. Mr. Speaker, I would like to commend my colleagues for all of their hard work on H.R. 2178 which reauthorizes the Hazardous Materials Transportation Act. This legislation is critical in that it will help ensure that the risks inherent in the transportation of hazardous materials are minimized, and that we provide precautions to protect our citizens.

I would especially like to express my deep appreciation to Public Works Chairman MINETA, ranking member SCHUSTER, Chairman RAHALL, and Mr. PETRI, and Energy and Commerce Chairman DINGELL and ranking member MOORHEAD, Chairman SWIFT and Mr. OXLEY, as well as the Public Works staff for incorporating in the final legislation a provision which I authored in the Committee on Public Works and Transportation. This provision requires the Secretary of Transportation to conduct a study to determine the safety considerations of transporting hazardous materials by motor carrier in close proximity to Federal prisons. Within 1 year of enactment, the Department of Transportation would report to Congress on the results of the study along with recommendations for any legislative or regulatory changes that might be needed to enhance safety.

The motivation behind the study is to prevent what could be a potentially very dangerous situation for Federal prison staff, prisoners, and the surrounding communities. We are all aware of the numerous accidents involving trucks carrying hazardous materials. In 1990 and 1991 there were over 7,200 incidents of releases of hazardous materials reported to the Department of Transportation related to highway transportation of these materials. If such a release were to occur in close proximity to a Federal prison, emergency procedures such as an evacuation could pose special problems.

This provision emanated from a problem facing Union County, PA in my own district. Allenwood Prison complex is a large facility which houses 3,000 prisoners, including maximum security prisoners, and has a staff of 700. Adjacent to the Allenwood correctional complex is Highway 15 which is a major truck highway, and there was quite a lot of concern by the community that the highway would be the main route used to transport hazardous waste to a proposed incinerator. There was no information available to indicate what steps would be needed to be taken to ensure safety. If there was a spill or other type of release it would be very difficult to evacuate the 3,000 prisoners or staff in a timely and safe manner—and the safety of citizens in the community would be jeopardized as well. According to the Bureau of Prisons, after Hurricane Andrew it took over 3 days to evacuate a smaller prison in Miami.

For other communities that may be faced with a similar situation, a large Federal prison that is located next to a major highway, the DOT study will serve to identify what steps that should be taken to enhance safety. These should include any special training, equipment, and personnel requirements that may be needed.

Mr. Speaker, it is my sincere hope that this DOT study will provide steps for necessary action that will prevent a catastrophe from occurring before rather than after the fact. Again, I would like to thank the leadership of the two communities for ensuring that this provision was included in the final legislation.

Mr. PETRI. Mr. Speaker, I have no further requests for time and, therefore, I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TRAFICANT). The question is on the motion offered by the gentleman from California [Mr. MINETA] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2178.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2178, and the Senate amendment just concurred in.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from California?

There was no objection.

CONCURRING IN SENATE AMENDMENT TO H.R. 4812, TRANSFER OF OLD U.S. MINT IN SAN FRANCISCO

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4812) to direct the Administrator of General Services to acquire by transfer the Old U.S. Mint in San Francisco, CA, and for other purposes.

The Clerk read as follows:

Senate amendment:
Page 2, after line 8, insert:

SEC. 2. REPAIRS OF OLD U.S. MINT, SAN FRANCISCO.

Nothing in this Act shall be construed to force the General Services Administration to repair the Old U.S. Mint building prior to repairs to other Federal buildings in greater need of repair.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. MINETA], chairman of the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Speaker, I wish to, first of all, thank the very fine friend and distinguished chairman of our Subcommittee on Public Buildings and Grounds, the gentleman from Ohio [Mr. TRAFICANT], for moving this bill expeditiously.

Mr. Speaker, this bill is basically the same bill that the House passed under suspension on August 8.

As I stated at that time, I would also like to commend the gentlewoman from California [Ms. PELOSI], my colleague, for joining me in cosponsoring this very important piece of legislation.

Mr. Speaker, H.R. 4812 would transfer title to the Old U.S. Mint located in San Francisco to the General Services Administration at no cost. It will enable GSA, through the Federal buildings fund, to repair and renovate this historic landmark building.

Mr. Speaker, the Old Mint Building was constructed between 1869 and 1974. It is one of the first stone buildings constructed in San Francisco and now remains as the city's oldest stone structure. It is on the National Register of Historic Places and has been designated a national landmark building. Today it houses the Old Mint Museum where thousands of tourists and schoolchildren visit each year, as well as various administrative operations for the San Francisco Mint.

Last year, Mr. Speaker, the mint was closed because of damage caused by the Loma Prieta earthquake. Now, as it approaches its 120th birthday in November, the Old Mint needs our help.

Mr. Speaker, the legislation before us is a simple transfer of title from Treasury to the General Services Administration to accomplish the goal of rehabilitating the Old Mint to preserve one of your Nation's most endangered landmarks. The Senate amendment, which is not controversial, simply provides that nothing shall be construed to force GSA to repair the Old Mint prior to repairs to other Federal buildings in greater need of repair.

Mr. Speaker, this is an important piece of legislation and worthy of this body's prompt attention. I urge its passage, and I thank the gentleman for yielding the time.

□ 1350

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4812, a bill which directs the Administrator of General Services to transfer, without monetary consideration, the Old U.S. Mint in San Francisco, CA, from the Department of Treasury to the General Services Administration.

The Old U.S. Mint possesses significant historical value. This building was constructed between 1869 and 1874 of granite, which has helped the structure withstand earthquakes and fires throughout the past century.

It ceased operation as a mint in 1937 and was transferred to the Department of Treasury in 1972. The building served as a museum until 1993 when damage from the 1989 Loma Prieta earthquake was discovered.

The structure requires extensive repair and a transfer of the building and property to the General Services Administration offers the best opportunity for these renovations to be achieved.

GSA will submit a detailed prospectus to Congress on the needed repairs. The committee will at that time have an opportunity to review the request and evaluate future possible uses for the Old U.S. Mint.

On August 11 of this year, the other body amended this bill to require that other Federal buildings in greater need of repair take precedence over this renovation project.

I support this no-cost transfer and urge the enactment of this legislation as it has been amended.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from California, Ms. PELOSI, who, along with Chairman MINETA, played a leadership role in this legislation.

Ms. PELOSI. Mr. Speaker, I join my colleague, the gentleman from California [Mr. MINETA] in commending the gentleman from Ohio [Mr. TRAFICANT] for his leadership in bringing this legislation expeditiously to the floor. I want to give my thanks to the gentleman from Ohio [Mr. TRAFICANT], to the gentleman from Wisconsin [Mr. PETRI], the gentleman from Tennessee [Mr. DUNCAN], the ranking member of the committee, and all the members of the subcommittee for their recognition and appreciation of the worth of the "Granite Lady," the Old Mint Building in San Francisco.

Mr. Speaker, in joining the gentleman from California, Mr. MINETA, I want to thank him for being the author of this legislation and for his leadership and his cooperation with Senator BOXER, who has taken the lead on this issue in our community and in the Congress.

I do want to inform our colleagues that my colleague representing San Francisco in the Congress, the gentleman from California [Mr. LANTOS] has been very involved in this issue as well. As many of us know, he has been under the weather these last few days. The message from him is that he is resting well and he is well enough to send his strong support for this legislation. So I wanted the record to show that only because Mr. LANTOS is not well could he not join us today in support of this legislation.

The gentleman from California [Mr. MINETA] has done a remarkable job in shaping this legislation which is creative, innovative, and sensible. As the gentleman from Wisconsin [Mr. PETRI] has noted and as others in the Senate have noted, we have passed this legislation before. The legislation was passed in the Senate, and the conference agreement contains an amendment which would simply assure that the mint would be prioritized by the GAO on the merits of its condition and not as a result of any special legislation. The Senate amendment offers a clarification that is acceptable to us, as it was to Senator BOXER. It is reasonable and acceptable, and I urge my colleagues likewise to accept the amendment and the legislation.

Chairman MINETA in his remarks presented a case for the Old Mint. The gentleman from Wisconsin [Mr. PETRI] referenced that it was damaged in the Loma Prieta earthquake. It did survive the earthquake of 1906.

Our community, Mr. Speaker, has closed ranks to preserve this endangered historic landmark, the Granite Lady, as it is called. We want it to be open to the public. In partnership with these efforts, H.R. 4812 would ensure that it would be repaired by the Federal Government.

The Granite Lady, as has been said, is a national landmark. It cannot be torn down. It is a safety hazard, and we must take action to prevent its becoming a hazard to the community. Once again, our community has closed ranks behind the Granite Lady. This Congress has once before showed its support for the Old Mint Building, and hopefully today we will do so once again.

Mr. Speaker, I again commend the committee for expeditiously bringing the legislation to the floor. I commend the gentleman from Ohio [Mr. TRAFICANT], the gentleman from Tennessee [Mr. DUNCAN], the gentleman from Pennsylvania [Mr. SHUSTER], the gentleman from Wisconsin [Mr. PETRI], and especially the chairman of the committee, the gentleman from California [Mr. MINETA].

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Tennessee [Mr. DUNCAN] for his help in this matter, and I commend also the staff on both sides for this legislation.

For identification purposes, the Senate amendment is a clarifying amendment which addresses the prioritization of GSA projects.

H.R. 4812 was introduced for the primary purpose of transferring the title of this very special building in San Francisco, CA, the Old U.S. Mint, from the Treasury Department to the General Service Administration, at no cost. This legislation will enable GSA, through the Federal Building Fund, to repair and renovate this historic landmark.

Mr. Speaker, this is a good bill, and I urge its approval.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BROWN of California). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4812.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There were no objection.

MAKING CERTAIN TECHNICAL CORRECTIONS IN SUNDRY BILLS RELATING TO INDIAN AFFAIRS

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4709) to make certain technical corrections, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEASING AUTHORITY OF THE INDIAN PUEBLO FEDERAL DEVELOPMENT CORPORATION.

Notwithstanding the provisions of section 17 of the Act of June 18, 1934 (25 U.S.C. 477), the Indian Pueblo Federal Development Corporation, whose charter was issued pursuant to such section by the Secretary of the Interior on January 15, 1993, shall have the authority to lease or sublease trust or restricted Indian lands for up to 50 years.

SEC. 2. GRAND RONDE RESERVATION ACT.

(a) LANDS DESCRIBED.—Section 1 of the Act entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes", approved September 9, 1988 (102 Stat. 1594), is amended—

(1) in subsection (c)—

(A) by striking "9,879.65" and inserting "10,120.68"; and

(B) by striking all after

"6	8	1	SW¼SW¼,W½SE¼SW¼	53.78"

VOL 140 PT 16 AG 12 — 18 1994 UMI

and inserting in lieu thereof the following:

6	8	1	S½E½SE¼SW¼	10.0319	
6	7	8	Tax lot 800	5.5519	
4	7	30	Lots 3, 4, SW¼NE¼, SE¼NW¼, E½SW¼	240	19
			Total	10.120	68.'';

and

(2) by adding at the end the following:

''(d) CLAIMS EXTINGUISHED; LIABILITY.—

''(1) CLAIMS EXTINGUISHED.—All claims to lands within the State of Oregon based upon recognized title to the Grand Ronde Indian Reservation established by the Executive order of June 30, 1857, pursuant to treaties with the Kalapuya, Molalla, and other tribes, or any part thereof by the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor in interest, are hereby extinguished, and any transfers pursuant to the Act of April 28, 1904 (Chap. 1824, 33 Stat. 567) or other statute of the United States, by, from, or on behalf of the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor interest, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including, but not limited to, the Trade and Intercourse Act of 1790 (Act of July 22, 1790; 25 U.S.C. 177, ch. 33, sec. 4; 1 Stat. 137)).

''(2) LIABILITY.—The Tribe shall assume responsibility for lost revenues, if any, to any county because of the transfer of revested Oregon and California Railroad grant lands in section 30, Township 4 South, Range 7 West.''.

(b) CIVIL AND CRIMINAL JURISDICTION.—Section 3 of such Act (102 Stat. 1595) is amended by adding at the end the following: ''Such exercise shall not affect the Tribe's concurrent jurisdiction over such matters.''.

SEC. 3. CONFEDERATED TRIBES OF THE SILETZ INDIANS OF OREGON.

Section 2 of the Act of September 4, 1980 (Public Law 96-340; 94 Stat. 1072) is amended—

(1) by inserting ''(a)'' after ''SEC. 2.''; and

(2) by adding at the end the following:

''(b)(1) The Secretary of the Interior, acting at the request of the Confederated Tribes of the Siletz Indians of Oregon, shall accept (subject to all valid rights-of-way and easements existing on the date of such request) any appropriate warranty deed conveying to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon, contingent upon payment of all accrued and unpaid taxes, the following parcels of land located in Lincoln County, State of Oregon:

''(A) In Township 10 South, Range 8 West, Willamette Meridian—

''(i) a tract of land in the northwest and the northeast quarters of section 7 consisting of 208.50 acres, more or less, conveyed to the Tribe by warranty deed from John J. Jantzi and Erma M. Jantzi on March 30, 1990; and

''(ii) 3 tracts of land in section 7 consisting of 18.07 acres, more or less, conveyed to the Tribe by warranty deed from John J. Jantzi and Erma M. Jantzi on March 30, 1990.

''(B) In Township 10 South, Range 10 West, Willamette Meridian—

''(i) a tract of land in section 4, including a portion of United States Government Lot 31 lying west and south of the Siletz River, consisting of 15.29 acres, more or less, conveyed to the Tribe by warranty deed from Patrick J. Collson and Patricia Ann Collson on February 27, 1991;

''(ii) a tract of land in section 9, located in Tract 60, consisting of 4.00 acres, more or less, conveyed to the Tribe by contract of sale from Gladys M. Faulkner on December 9, 1987;

''(iii) a tract of land in section 9, including portions of the north one-half of United States Government Lot 15, consisting of 7.34 acres, more or less, conveyed to the Tribe by contract of sale from Clayton E. Hursh and Anna L. Hursh on December 9, 1987;

''(iv) a tract of land in section 9, including a portion of the north one-half of Government Lot 16, consisting of 5.62 acres, more or less, conveyed to the Tribe by warranty deed from Steve Jebert and Elizabeth Jebert on December 1, 1987;

''(v) a tract of land in the southwest quarter of the northwest quarter of section 9, consisting of 3.45 acres, more or less, conveyed to the Tribe by warranty deed from Eugenie Nashif on July 11, 1988; and

''(vi) a tract of land in section 10, including United States Government Lot 8 and portions of United States Government Lot 7, consisting of 29.93 acres, more or less, conveyed to the Tribe by warranty deed from Doyle Grooms on August 6, 1992.

''(C) In the northwest quarter of section 2 and the northeast quarter of section 3, Township 7 South, Range 11 West, Willamette Meridian, a tract of land comprising Lots 58, 59, 63, and 64, Lincoln Shore Star Resort, Lincoln City, Oregon.

''(2) The parcels of land described in paragraph (1), together with the following tracts of lands which have been conveyed to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon—

''(A) a tract of land in section 3, Township 10 South, Range 10 West, Willamette Meridian, including portions of United States Government Lots 25, 26, 27, and 28, consisting of 49.35 acres, more or less, conveyed by the Siletz Tribe to the United States in trust for the Tribe on March 15, 1986; and

''(B) a tract of land in section 9, Township 10 South, Range 10 West, Willamette Meridian, including United States Government Lot 33, consisting of 2.27 acres, more or less, conveyed by warranty deed to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon from Harold D. Alldridge and Sylvia C. Alldridge on June 30, 1981;

shall be subject to the limitations and provisions of sections 3, 4, and 5 of this Act and shall be deemed to be a restoration of land pursuant to section 7 of the Siletz Indian Tribe Restoration Act (91 Stat. 1415; 25 U.S.C. 711(e)).

''(3) Notwithstanding any other provision of law, the United States should not incur any liability for conditions on any parcels of land taken into trust under this section.

''(4) As soon as practicable after the transfer of the parcels provided in paragraphs (1) and (2), the Secretary of the Interior shall convey such parcels and publish a description of such lands in the Federal Register.''.

SEC. 4. TRANSFER OF PARCEL BY YSLETA DEL SUR PUEBLO.

(a) RATIFICATION.—The transfer of the land described in subsection (b), together with fixtures thereon, on July 12, 1991, by the Ysleta Del Sur Pueblo is hereby ratified and shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians (including section 2116 of the Revised Statutes (25 U.S.C. 177)) as if Congress had given its consent prior to the transfer.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are more particularly described as follows:

Tract 1–B–1 (1.9251 acres) and Tract 1–B–2–A (0.0748 acres), Block 2 San Elizario, El Paso County, Texas.

SEC. 5. AUTHORIZATION FOR 99-YEAR LEASES.

The second sentence of subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended by inserting ''the Viejas Indian Reservation,'' after ''Soboba Indian Reservation,''.

SEC. 6. WIND RIVER INDIAN IRRIGATION PROJECT.

Funds appropriated for construction of the Wind River Indian Irrigation Project in fiscal year 1990 (Public Law 101–121), fiscal year 1991 (Public Law 101–512), and fiscal year 1992 (Public Law 102–154) shall be made available on a nonreimbursable basis.

SEC. 7. REIMBURSEMENT OF COSTS INCURRED BY GILA RIVER INDIAN COMMUNITY FOR CERTAIN RECLAMATION CONSTRUCTION.

The Secretary of the Interior is authorized to pay $1,842,205 to the Gila River Indian Community as reimbursement for the costs incurred by the Gila River Indian Community for construction allocated to irrigation on the Sacaton Ranch that would have been nonreimbursable if such construction had been performed by the Bureau of Reclamation under section 402 of the Colorado River Basin Project Act (43 U.S.C. 1542).

SEC. 8. RECONVEYANCE OF CERTAIN EXCESS LANDS.

(a) IN GENERAL.—The Congress finds that the Sac and Fox Nation of Oklahoma has determined the lands described in subsection (b) to be excess to their needs and should be returned to the original Indian grantors or their heirs. The Secretary of the Interior is authorized to accept transfer of title from the Sac and Fox Nation of Oklahoma of its interest in the lands described in subsection (b).

(b) PERSONS AND LANDS.—The lands and individuals referred to in subsection (a) are as follows:

(1) To the United States of America in trust for Sadie Davis, now Tyner, or her heirs or devisees, the Surface and Surface Rights only in and to the SE¼SE¼SE¼SE¼ of Section 28, Township 17 North, Range 6 East of the Indian Meridian, Lincoln County, Oklahoma, containing 2.50 acres, more or less.

(2) To the United States of America in trust for Mabel Wakole, or her heirs or devisees, the Surface and Surface Rights only in and to the NE¼NE¼ of Lot 6 of NW¼ of Section 14, Township 11 North, Range 4 East of the Indian Meridian, Pottawatomie County, Oklahoma, containing 2.50 acres, more or less.

SEC. 9. TITLE I OF THE ACT OF JANUARY 12, 1983, PERTAINING TO THE DEVILS LAKE SIOUX TRIBE.

Paragraph (1) of section 108(a) of title I of the Act of January 12, 1983 (96 Stat. 2515) is amended by striking out ''of the date of death of the decedent'' and inserting in lieu thereof ''after the date on which the Secretary's determination of the heirs of the decedent becomes final''.

SEC. 10. NORTHERN CHEYENNE LAND TRANSFER.

(a) IN GENERAL.—Notwithstanding any contrary provision of law, the Secretary of the Interior or his authorized representative

(''Secretary'') is hereby authorized and directed to transfer by deed to Lame Deer High School District No. 6, Rosebud County, Montana (''School District''), all right, title, and interest of the United States and the Northern Cheyenne Tribe (''Tribe'') in and to the lands described below (''Subject Lands''), to be held and used by the School District for the exclusive purpose of constructing and operating thereon a public high school and related facilities. The Subject Lands consist of a tract of approximately 40 acres within the Northern Cheyenne Indian Reservation, more particularly described as follows:

A tract of land located in the W½ SE¼ and the E½ SW¼ of Section 10, Township 3 South, Range 41 East, M.P.M., described as follows: Beginning at the south ¼ corner of said Section 10, thence south 89 degrees 56 minutes west 393.31 feet on and along the south line of said Section 10 to the true point of beginning, thence south 89 degrees 56 minutes west 500.0 feet on and along said Section line, thence north 00 degrees 00 minutes east, 575.0 feet, thence north 54 degrees 9 minutes 22 seconds east 2382.26 feet, thence south 23 degrees 44 minutes 21 seconds east 622.56 feet, thence south 51 degrees 14 minutes 40 seconds west 2177.19 feet to the true point of beginning, containing in all 40.0 acres, more or less.

(b) DEED AND LEASE.—(1) The deed issued under this section shall provide that—

(A) title to all coal and other minerals, including oil, gas, and other natural deposits, within the Subject Lands shall remain in the Secretary in trust for the Tribe, as provided in the Act of July 24, 1968 (82 Stat. 424);

(B) the Subject Lands may be used for the purpose of constructing and operating a public high school and related facilities thereon, and for no other purpose;

(C) title to the Subject Lands, free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe, and the deed shall be of no further force or effect, if, within eight years of the date of the deed, classes have not commenced in a permanent public high school facility established on the Subject Lands, or if such classes commence at the facility within such eight-year period, but the facility subsequently permanently ceases operating as a public high school; and

(D) at any time after the conclusion of the current litigation (including all trial and, if any, appellate proceedings) challenging the November 9, 1993, decision of the Superintendent of Public Instruction for the State of Montana granting the petition to create the School District, and with the prior approval of the Superintendent of Public Instruction (''Superintendent's Approval''), the Tribe shall have the right to replace the deed with a lease covering the Subject Lands issued under the Act of August 9, 1955, as amended (25 U.S.C. 415(a)) having a term of 25 years, with a right to renew for an additional 25 years.

(2) Under the lease referred to in paragraph (1)(D), the Subject Lands shall be leased rent free to the School District for the exclusive purpose of constructing and operating a public high school and related facilities thereon. The lease shall terminate if, within eight years of the date of the deed, classes have not commenced in a permanent public high school facility established on the Subject Lands, or if such classes commence at the facility within such eight-year period, but the facility subsequently permanently ceases operating as a public high school. In the event the Tribe seeks and obtains the Superintendent's Approval, it may tender a lease, signed by the Tribe and approved by the Secretary, which complies with the provisions of this subsection. Upon such tender, the deed shall be of no further force or effect, and, subject to the leasehold interest offered to the School District, title to the Subject Lands, free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe. The Tribe may at any time irrevocably relinquish the right provided to it under this subsection by resolution of the Northern Cheyenne Tribal Council explicitly so providing.

(c) EFFECT OF ACCEPTANCE OF DEED.—Upon the School District's acceptance of a deed delivered under this section, the School District, and any party who may subsequently acquire any right, title, or interest of any kind whatsoever in or to the Subject Lands by or through the School District, shall be subject to, be bound by, and comply with all terms and conditions set forth in subparagraphs (A) through (D) of subsection (b)(1).

SEC. 11. INDIAN AGRICULTURE AMENDMENT.

(a) LEASING OF INDIAN AGRICULTURAL LANDS.—Section 105 of the American Indian Agriculture Resource Management Act (25 U.S.C. 3701 et seq.) is amended—

(1) in subsection (b)—

(A) by striking ''and'' at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(C) by adding at the end the following:

''(5) shall approve leases and permits of tribally owned agricultural lands at rates determined by the tribal governing body.''; and

(2) in subsection (c), by amending paragraph (1) to read as follows: ''(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allottee or Indian tribe in the legal or beneficial use of his, her, or its own land or to enter into an agricultural lease of the surface interest of his, her, or its allotment or land under any other provision of law.''.

(b) TRIBAL IMMUNITY.—The American Indian Agriculture Resource Management Act (25 U.S.C. 3701 et seq.) is amended by adding at the end the following:

''SEC. 306. TRIBAL IMMUNITY.

''Nothing in this Act shall be construed to affect, modify, diminish, or otherwise impair the sovereign immunity from suit enjoyed by Indian tribes.''.

SEC. 12. INDIAN HEALTH AMENDMENT.

Section 4(n) of the Indian Health Care Improvement Act (25 U.S.C. 1603(n)) is amended to read as follows:

''(n) 'Health profession' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, allied health professions, and other health professions.''.

SEC. 13. SAN CARLOS APACHE WATER RIGHTS SETTLEMENT ACT OF 1992.

Section 3711(b)(1) of title XXXVII of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4752) is amended by striking out ''December 31, 1994'' and inserting in lieu thereof ''December 31, 1995''.

SEC. 14. RELATIONSHIP BETWEEN BUY INDIAN ACT AND MENTOR-PROTEGE PROGRAM.

Section 23 of the Act of June 25, 1910 (36 Stat. 861; 25 U.S.C. 47; commonly referred to as the ''Buy Indian Act''), is amended by adding at the end the following: ''Participation in the Mentor-Protege Program established under section 831 of Public Law 101–510 or receipt of assistance pursuant to any developmental assistance agreement authorized under such program does not render Indian labor or Indian industry ineligible to receive any assistance authorized under this proviso. For the purposes of this proviso, (i) no determination of affiliation or control (either direct or indirect) may be found between a protege firm and its mentor firm on the basis that the mentor firm has agreed to furnish (or has furnished) to its protege firm pursuant to a mentor-protege agreement any form of developmental assistance described in subsection (f) of such section, and (ii) the terms 'protege firm' and 'mentor firm' have the meaning given such terms in subsection (c) of such section 831.''.

SEC. 15. ACQUISITION OF LANDS ON WIND RIVER RESERVATION.

(a) AUTHORITY TO HOLD LANDS IN TRUST FOR THE INDIVIDUAL TRIBE.—The Secretary of the Interior is hereby authorized to acquire individually in the name of the United States in trust for the benefit of the Eastern Shoshone Tribe of the Wind River Reservation or the Northern Arapaho Tribe of the Wind River Reservation, as appropriate, lands or other rights when the individual assets of only one of the tribes is used to acquire such lands or other rights.

(b) LANDS REMAIN PART OF JOINT RESERVATION SUBJECT TO EXCLUSIVE TRIBAL CONTROL.—Any lands acquired under subsection (a) within the exterior boundaries of the Wind River Reservation shall remain a part of the Reservation and subject to the joint tribal laws of the Reservation, except that the lands so acquired shall be subject to the exclusive use and control of the tribe for which such lands were acquired.

(c) INCOME.—The income from lands acquired under subsection (a) shall be credited to the Tribe for which such lands were acquired.

(d) SAVINGS PROVISION.—Nothing in this section shall be construed to prevent the joint acquisition of lands for the benefit of the Eastern Shoshone Tribe of the Wind River Reservation and the Northern Arapaho Tribe of the Wind River Reservation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4709 makes technical changes to several different laws.

The bill provides for the leasing authority for the Indian Pueblo Development Corporation; adds 240 acres to the Grand Ronde Reservation in Oregon

VOL 140 PT 16 AG 12 — 18 1994 UMI

pursuant to an agreement with the Interior Department; it adds land to the Siletz Reservation in Oregon; and it provides for a land transfer for the building of a school on the northern Cheyenne Reservation.

Mr. Speaker, this bill was packaged so that we would not have to do 15 little bills. Suffice it to say that this bill, which contains leasing authorities, land transfers and other minor matters, is important to several tribes across the country including the Ysleta del Sur Pueblo of Texas, the Viejas Reservation in California, the Wind River Reservation in Wyoming, the Gila River Indian Community in Arizona, the Sac and Fox Nation of Oklahoma, the San Carlos Apache of Arizona and the Devil's Lake Sioux Tribe of North Dakota. It also makes minor technical changes to the Indian Agriculture Act and the Indian Health Care Improvement Act.

Mr. Speaker, the bill is noncontroversial and is supported by many Members of the House. The bill includes many amendments provided to the committee by the administration.

I urge my colleagues to support this bill.

□ 1400

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I fully support H.R. 4709, and I urge my colleagues to do likewise.

Mr. THOMAS of Wyoming. Mr. Speaker, I fully support and am pleased to cosponsor H.R. 4709, a bill to make certain technical amendments to various Indian statutes. We traditionally do one of two of these bills each Congress, as a catch-all for a series of minor amendments to various laws. I am very supportive of grouping these proposed changes into a single piece of legislation; it saves us both time and money.

The bill includes three provisions of import to the State of Wyoming, and the Shoshone and Arapaho Tribes of the Wind River Reservation. First, section 6 reaffirms that funds appropriated in fiscal year 1990 through 1992 for the rehabilitation of the Wind River Irrigation Project [WRIP] are nonreimbursable. Rehabilitation of the WRIP was very important to the tribes, and nontribal users. The irrigation project has deteriorated to the point that it hindered the ability of some irrigators to fully develop their lands. This resulted both in wasted water in a area that has recently suffered a string of dry summers, as well as underused land in an area with almost 60 percent unemployment.

It was the intent of Congress as expressed in various committee reports and floor statements that the appropriated funds would be nonreinbursable in order to avoid the jeopardy into which the system would be placed if forced to pay back the money. Yet the BIA has indicated that it now feels specific legislation is necessary to accomplish that intent. During consideration of the fiscal year 1991 Interior Appropriations Act, Members of the other body discussed the reimbursability issue. Senator WALLOP, in discussing the matter with Senator BYRD, stated that "the problem is that contrary to our intent, the Bureau of Indian Affairs has determined that the fiscal year 1990 appropriation in the amount of $1,000,000 is reimbursable and must be paid back. * * * My question is this, is it not true that in response to the request for these funds, the BIA prepared a capability statement in which they in no way indicated that the funds would be reimbursable?" Senator Byrd responded, "Yes, the Senator is correct. The BIA * * * did not indicate that the funds would be reimbursable." Section 6 of H.R. 4709 simply establishes once and for all what our clear intent has always been: That the funds be nonreimbursable.

The second Wyoming-specific section is section 15, which concerns the acquisition of lands on the Wind River Reservation. The Eastern Shoshone and Northern Arapaho Tribes share the Wind River Reservation in central Wyoming. The reservation was established by the Treaty of July 3, 1868, between the Eastern Shoshone Tribe and the United States. In 1878, the Northern Arapaho Tribe was also settled on the reservation. Pursuant to decisions of the Supreme Court, the tribes share an undivided interest in jointly held property. Section 15 will accord the Eastern Shoshone and Northern Arapaho Tribes the same right as other tribes to take fee lands acquired within the reservation into trust in the name of the tribe.

Over the years, each tribe with its own financial resources acquired fee lands within the reservation. Differing economic goals and financial resources over the years have resulted in each tribe acquiring separate parcels of land. Separate acquisition has occurred after the nonpurchasing tribe was given an opportunity to participate in joint acquisition of such lands. When the tribes requested the Department of Interior to place these lands into trust in the name of the individual tribe, they were advised that separately purchased lands could only be taken in trust in the name of both tribes. The Department interpreted provisions of the act of July 27, 1939 to mandate that lands on the Wind River Reservation could only be taken into trust jointly in the name of both tribes.

The 1939 act authorized land exchanges and spending $1 million of joint tribal funds in order to reacquire fee lands which were located on the then existing reservation. All lands opened to settlement on the reservation, except those within the reclamation project on the reservation and not actually sold were directed to be restored to their original status prior to their opening for settlement. Congress directed that all these reservation lands should be held in trust jointly in the names of both tribes. The congressional direction for taking the land into trust and restoration to complete and equal status with other reservation lands was directly only to the lands covered by the 1939 act. Congress never considered or took action on the issue of lands acquired with funds from an individual tribe.

This bill clarifies that the 1939 act requirement of joint trust status for Wind River Reservation lands applies only to lands held in trust pursuant to the provisions of the 1939 act. The ability to have these lands placed into trust will provided the tribes with trust protection for their separately acquired lands. The tribes are in agreement that these lands will retain their original reservation status will be subject to joint tribal laws which govern lands within the reservation. Both tribes agree, however, that each individual tribe will retain any income from its separately acquired lands and will control access to such lands.

Finally Mr. Speaker, section 14 of H.R. 4709 would address a concern I have with the Buy Indian Act that was brought to my attention by one of my constituents on behalf of American Eagle Industries [AEI] in Cheyenne. AEI participates in the Department of Defense's Mentor-Protege Program [MPP]. This program was designed to encourage larger military contractors to take smaller, minority-owned businesses under their wing in order to ensure the latter's greater participation in DOD contracts.

In 1993, AEI successfully bid with the BIA under the Buy Indian Act to perform some road construction work on the Campo Indian Reservation in California. After the contract was signed, however, the Phoenix Area Office of the BIA notified in the Sacramento Area Office that AEI participates in the MPP. For this and other reasons, the Sacremento office disqualified AEI from participation in the Buy Indian Act and terminated the contract "for the convenience of the Government." The cancellation of the contract was a source of significant logistical and financial complications for AEI.

If establishing such a relationship under the MPP would make a firm like AEI ineligible for award set-asides under the Buy Indian Act, such firms would be discouraged from taking advantage of the program, thereby undermining its purpose. This is presumably one principal reason why the MPP specifically bars using the mentor-protege relationship as the sole basis for finding that the two firms are affiliates for Small Business Act purposes and thus disqualified from SBA participation.

Even though the Buy Indian Act is directly analogous, there is no similar MPP exemption for that act. This section would remedy that oversight by providing that for Buy Indian Act purposes, a firm's participation in the MPP cannot be used as the sole basis to disqualify it from participating in the Buy Indian Act.

Mr. Speaker, while this issue was brought to my attention by a Wyoming firm, this problem could effect Indian-owned businesses in any State in the country. I hope that H.R. 4709 will preclude that from happening.

Mr. Speaker, I thank Chairman RICHARDSON for his cooperation in moving this bill to the floor today, and look forward to its swift consideration and passage by the other body.

Mr. ALLARD. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4709, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TRIBAL SELF-GOVERNANCE ACT OF 1994

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3508) to provide for tribal self-governance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Self-Governance Act of 1994".

SEC. 2. FINDINGS.

Congress finds that—

(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

(4) the Tribal Self-Governance Demonstration Project was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management; and

(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that—

(A) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities intended to benefit Indians is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

(B) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination.

SEC. 3. DECLARATION OF POLICY.

It is the policy of this Act to permanently establish and implement tribal self-governance—

(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

(2) to permit each Indian tribe to choose the extent of the participation of such tribe in self-governance;

(3) to coexist with the provisions of the Indian Self-Determination Act relating to the provision of Indian services by designated Federal agencies;

(4) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

(5) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities; and

(6) to provide for an orderly transition through a planned and measurable parallel reduction in the Federal bureaucracy.

SEC. 4. TRIBAL SELF-GOVERNANCE.

The Indian Self-Determination and Education Assistance Act is amended by adding at the end the following new title:

"TITLE IV—TRIBAL SELF-GOVERNANCE

"SEC. 401. ESTABLISHMENT.

"The Secretary of the Interior (hereinafter in this title referred to as the 'Secretary') shall establish and carry out a program within the Department of the Interior to be known as Tribal Self-Governance (hereinafter in this title referred to as 'Self-Governance') in accordance with this title.

"SEC. 402. SELECTION OF PARTICIPATING INDIAN TRIBES.

"(a) CONTINUING PARTICIPATION.—Each Indian tribe that is participating in the Tribal Self-Governance Demonstration Project at the Department of the Interior under title III on the date of enactment of this title shall thereafter participate in Self-Governance under this title and cease participation in the Tribal Self-Governance Demonstration Project under title III with respect to the Department of the Interior.

"(b) ADDITIONAL PARTICIPANTS.—(1) In addition to those Indian tribes participating in Self-Governance under subsection (a), the Secretary, acting through the Director of the Office of Self-Governance, may select up to 20 new tribes per year from the applicant pool described in subsection (c) to participate in Self-Governance.

"(2) If each tribe requests, two or more otherwise eligible Indian tribes may be treated as a single Indian tribe for the purpose of participating in Self-Governance as a consortium.

"(c) APPLICANT POOL.—The qualified applicant pool for Self-Governance shall consist of each tribe that—

"(1) successfully completes the planning phase described in subsection (d);

"(2) has requested participation in Self-Governance by resolution or other official action by the tribal governing body; and

"(3) has demonstrated, for the previous three fiscal years, financial stability and financial management capability as evidenced by the tribe having no material audit exceptions in the required annual audit of the self-determination contracts of the tribe.

"(d) PLANNING PHASE.—Each Indian tribe seeking to begin participation in Self-Governance shall complete a planning phase in accordance with this subsection. The tribe shall be eligible for a grant to plan and negotiate participation in Self-Governance. The planning phase shall include—

"(1) legal and budgetary research; and

"(2) internal tribal government planning and organizational preparation.

"SEC. 403. FUNDING AGREEMENTS.

"(a) AUTHORIZATION.—The Secretary shall negotiate and enter into an annual written funding agreement with the governing body of each participating tribal government.

"(b) CONTENTS.—Each funding agreement shall—

"(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior that are otherwise available to Indian tribes or Indians, without regard to the agency or office of the Department of the Interior within which it is performed, including (but not limited to) those administered under the authority of—

"(A) the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

"(B) the Act of November 2, 1921 (25 U.S.C. 13); and

"(C) programs, services, functions, and activities or portions thereof administered by the Secretary of the Interior that are otherwise available to Indian tribes or Indians for which appropriations are made to agencies other than the Department of the Interior;

"(2) subject to the terms of the agreement, authorize the tribe to redesign or consolidate programs, services, functions, and activities, or portions thereof, and to reallocate funds for such programs, services, functions, or activities, or portions thereof;

"(3) prohibit the inclusion of funds provided—

"(A) pursuant to the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

"(B) for elementary and secondary schools under the formula developed pursuant to section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008); and

"(C) the Flathead Agency Irrigation Division or the Flathead Agency Power Division, except that nothing in this section shall affect the contract authority of such divisions under section 102;

"(4) specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to the agreement;

"(5) authorize the tribe and the Secretary to reallocate funds or modify budget allocations within any year, and specify the procedures to be used;

"(6) allow for retrocession of programs or portions of programs pursuant to section 105(e);

"(7) provide that, for the year for which, and to the extent to which, funding is provided to a tribe under this section, the tribe—

"(A) shall not be entitled to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(B) shall be responsible for the administration of programs, services, functions, and activities pursuant to agreements entered into under this section; and

"(8) prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, and other laws.

"(c) ADDITIONAL ACTIVITIES.—Each funding agreement negotiated pursuant to subsections (a) and (b) may, in accordance to such additional terms as the parties deem appropriate, also include other programs, services, functions, and activities, or portions thereof, administered by the Secretary of the Interior which are of special geographic, historical, or cultural significance to the participating Indian tribe requesting a compact.

"(d) PROVISIONS RELATING TO THE SECRETARY.—Funding agreements negotiated between the Secretary and an Indian tribe shall include provisions—

"(1) to monitor the performance of trust functions by the tribe through the annual trust evaluation, and

"(2) for the Secretary to reassume a program, service, function, or activity, or portions thereof, if there is a finding of imminent jeopardy to a physical trust asset.

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(e) CONSTRUCTION PROJECTS.—(1) Regarding construction programs or projects, the Secretary and Indian tribes may negotiate for the inclusion of specific provisions of the Office of Federal Procurement and Policy Act and Federal acquisition regulations in any funding agreement entered into under this Act. Absent a negotiated agreement, such provisions and regulatory requirements shall not apply.

"(2) In all construction projects performed pursuant to this title, the Secretary shall ensure that proper health and safety standards are provided for in the funding agreements.

"(f) SUBMISSION FOR REVIEW.—Not later than 90 days before the proposed effective date of an agreement entered into under this section, the Secretary shall submit a copy of such agreement to—

"(1) each Indian tribe that is served by the Agency that is serving the tribe that is a party to the funding agreement;

"(2) the Committee on Indian Affairs of the Senate; and

"(3) the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

"(g) PAYMENT.—(1) At the request of the governing body of the tribe and under the terms of an agreement entered into under this section, the Secretary shall provide funding to the tribe to carry out the agreement.

"(2) The funding agreements authorized by this title and title III of this Act shall provide for advance payments to the tribes in the form of annual or semi-annual installments at the discretion of the tribes.

"(3) Subject to paragraph (3) of this subsection and paragraphs (1) and (3) of subsection (b), the Secretary shall provide funds to the tribe under an agreement under this title for programs, services, functions, and activities, or portions thereof, in an amount equal to the amount that the tribe would have been eligible to receive under contracts and grants under this Act, including amounts for direct program and contract support costs and, in addition, any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe or its members, without regard to the organization level within the Department where such functions are carried out.

"(4) Funds for trust services to individual Indians shall be available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the tribe.

"(h) CIVIL ACTIONS.—(1) Except as provided in paragraph (2), for the purposes of section 110, the term 'contract' shall include agreements entered into under this title.

"(2) For the period that an agreement entered into under this title is in effect, the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81), and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this title.

"(i) FACILITATION.—(1) Except as otherwise provided by law, the Secretary shall interpret each Federal law and regulation in a manner that will facilitate—

"(A) the inclusion of programs, services, functions, and activities in the agreements entered into under this section; and

"(B) the implementation of agreements entered into under this section.

"(2)(A) A tribe may submit a written request for a waiver to the Secretary identifying the regulation sought to be waived and the basis for the request.

"(B) Not later than 60 days after receipt by the Secretary of a written request by a tribe to waive application of a Federal regulation for an agreement entered into under this section, the Secretary shall either approve or deny the requested waiver in writing to the tribe. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because that regulation is expressly required by Federal law. The Secretary's decision shall be final for the Department.

"(j) FUNDS.—All funds provided under funding agreements entered into pursuant to this Act, and all funds provided under contracts or grants made pursuant to this Act, shall be treated as non-Federal funds for purposes of meeting matching requirements under any other Federal law.

"SEC. 404. BUDGET REQUEST.

"The Secretary shall identify, in the annual budget request of the President to the Congress under section 1105 of title 31, United States Code, any funds proposed to be included in agreements authorized under this title.

"SEC. 405. REPORTS.

"(a) REQUIREMENT.—The Secretary shall submit to Congress a written report on January 1 of each year following the date of enactment of this title regarding the administration of this title.

"(b) CONTENTS.—The report shall—

"(1) identify the relative costs and benefits of Self-Governance;

"(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and their members;

"(3) identify the funds transferred to each Self-Governance tribe and the corresponding reduction in the Federal bureaucracy;

"(4) include the separate views of the tribes; and

"(5) the funding formula for individual tribal shares of Central Office funds, together with the comments of affected Indian tribes, developed under subsection (d).

"(c) REPORT ON NON-BIA PROGRAMS.—

"(1) In order to optimize opportunities for including non-Bureau of Indian Affairs programs for compacts under section 403(b)(1) and special programs under section 403(c) in agreements tribes participating in Self-Governance under this title, the Secretary—

"(A) shall review all programs, services, and functions administered by the Department of the Interior, other than the Bureau of Indian Affairs, without regard to the agency or office concerned, and

"(B) within 90 days after the enactment of this title, provide to the appropriate committees of the Congress a listing of all such programs, services, functions, and activities, or portions thereof, which the Secretary determines are eligible for inclusion in such agreements at the request of a participating Indian tribe.

"(2) The Secretary shall establish programmatic targets, after consultation with tribes participating in Self-Governance under this title, to encourage bureaus of the Department to assure that a significant portion of such programs, services, functions, and activities are actually included in the agreements negotiated under section 403.

"(3) The listing and targets under paragraphs (1) and (2) shall be published in the Federal Register and be made available to any Indian tribe participating in Self-Governance under this title. The list shall be published before January 1, 1995, and annually thereafter by January 1 preceding the fiscal year in which the targets are to be met.

"(4) Thereafter, the Secretary shall annually review and publish in the Federal Register, after consultation with tribes participating in Self-Governance under this title, a revised listing and programmatic targets.

(d) REPORT ON CENTRAL OFFICE FUNDS.—Within 90 days after the date of the enactment of this title, the Secretary shall, in consultation with Indian tribes, develop a funding formula to determine the individual tribal share of funds controlled by the Central Office of the Bureau of Indian Affairs for inclusion in the Self-Governance compacts. The Secretary shall include such formula in the annual report submitted to the Congress under subsection (b), together with the views of the affected Indian tribes.

"SEC. 406. DISCLAIMERS.

"(a) OTHER SERVICES, CONTRACTS, AND FUNDS.—Nothing in this title shall be construed to limit or reduce in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law.

"(b) FEDERAL TRUST RESPONSIBILITIES.—Nothing in this Act shall be construed to diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

"(c) APPLICATION OF OTHER SECTIONS OF ACT.—All provisions of sections 6, 102(c), 104, 105(f), 110, and 111 of this Act shall apply to agreements provided under this title.

"SEC. 407. REGULATIONS.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this title, at the request of a majority of the Indian tribes with agreements under of this title, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out this title.

"(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be representatives of Indian tribes with agreements under this title.

"(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship between the United States and the Indian tribes.

"(d) EFFECT.—The lack of promulgated regulations shall not limit the effect of this title.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this title.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from new Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3508.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I have the honor of bringing a measure before this body, which may well be one of the most important pieces of legislation impacting Indian tribes and Indian people in many years.

The bill before the House today reflects agreements which were reached with the other body. It includes recommendations from the administration and the Indian tribes. The bill is a compromise which I firmly believe respects the recommendations and needs of the Indian nations and the Secretary of the Interior.

Mr. Speaker, tribal self-governance has been a demonstration project since 1988. Under the project, Indian tribes enter into compacts directly with the Secretary of the Interior to carry out Interior Department functions on reservations. The demonstration has been an overwhelming success. This bill makes tribal self-governance permanent.

There has been much confusion and some misinformation circulating lately over what this project is about. Let me set the record straight on this. This project does not mean that Indian tribes will take over the Washington Monument or the Gettysburg Battlefield. This project does not mean that Indians are free to raid the Interior Department budget. This project does not mean that the Secretary can waive tax laws or regulations for Indian tribes. This project does not mean the Secretary is cutting off his trust responsibilities to individual Indians with allotments.

What the bill does mean is that Indian tribes who voluntarily elect to participate in self-governance will sit down with the Secretary of the Interior and negotiate agreements on a government to government basis. If the tribe over-reaches and requests to negotiate for program or functions which have no relevance to Indian affairs, the Secretary can simply say "no."

There is an irrational fear in the Interior Department that tribes will get too much money under this program. Trust me on this, if that happens it will be a first in American history. Such allegations are based on ignorance or a lack of understanding of the Secretary's pervasive discretion which is intended under this bill. However, it is also this bill's intention that the negotiations be just that—bilateral government-to-government negotiations.

A more realistic fear is that there will be downsizing at the Bureau of Indian Affairs. This will happen under this project. Indeed, the goal of this bill is to channel the resources currently being chewed up by lazy Agency bureaucrats, mindless area office paper shufflers, and central office lackeys in the BIA—these funds will be channeled to the Indian tribes who will put these resources to the highest and best use.

Mr. Speaker, some new provisions were added to the bill. The first requires non-BIA agencies in Interior to list the programs that are available to Indian tribes. The second requires the Secretary to ascertain the level of central office funding which each tribe will receive under the program. These provisions were included to guarantee compliance by the Department of Interior which has been reluctant to cooperate with tribes under Indian self-determination and tribal self-governance.

Mr. Speaker, today let the word go forth that a new Bureau of Indian Affairs will result from this bill. It will be leaner and hopefully more efficient. More importantly, today the Indian nations take a giant step forward. Tribes have been building capacity to take control of their own destinies for decades. Let us usher in the era of tribal self-governance with respect for tribal sovereignty, a recognition of Indian self-determination, and a great hope that today we are laying the foundation for a better Federal Indian policy.

I urge my colleagues to support this important measure.

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we fully support H.R. 3508.

Mr. THOMAS of Wyoming. Mr. Speaker, I believe my strong support for tribal self-determination is well-known, so I will keep my statement to a minimum.

I fully support H.R. 3508. It is an important step toward giving the tribes more control, flexibility, and decision-making authority over federal programs and financial resources. I have long been convinced that it is the individual tribal government, and not some bureaucrat in Washington with his or her own agenda, that is in the best position to know the needs of the tribe and how best to meet those needs. It is my hope that in this same vein we will also bring H.R. 4842 to the floor soon.

Mr. ALLARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to state that none of these very positive initiatives would have been possible had we not had a chairman on the Committee on Natural Resources like the gentleman from California [Mr. MILLER], who has not only shown leadership on natural resources issues but has shown leadership on native American issues. Let me acknowledge again his outstanding contributions to this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 3508, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

THE HOUSE SHOULD PASS THE CRIME BILL

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, again, as my colleagues know, this is going to be a very important week for the House of Representatives, because the crime bill is going to be coming up again.

Mr. Speaker, I know that many of my colleagues have had a very difficult weekend, regardless of how they voted. The right vote on the rule which will be coming up is aye. What we want to make sure of is that all our colleagues recognize the importance of this issue to the American people.

Very strong punishment provisions are in this legislation. There are very strong provisions that will add community policing around the country, 100,000 new cops.

Most importantly, there are very important provisions that deal with more prevention funds, to make sure our young people do not take to the streets, that they are active in many positive directions, to ensure that this crime bill is a bill that many of us can support.

Mr. Speaker, I would like to again stress that the prevention funds in this bill are not excessive. They are important prevention funds. Some on the other side have alleged that what we have here is more money spent on prevention funds than in the actual bill that passed the House a month ago. That is not the case.

□ 1410

There are less prevention funds in the conference report. What did increase, and I would not call it a social program, is one that deals with violence against women, programs to combat violence against women that have largely come into focus with the death of Nicole Simpson. So what I think has happened over the weekend is that an enormous amount of attention has come forth on the House of Representatives for that very unfortunate vote that took place. The President has rightly gone to the country and has exhorted us to make sure we correct our differences.

Mr. Speaker, I would like to acknowledge the fact that we have an important crime bill that needs to be

VOL 140 PT 16 AG 12 — 18 1994 UMI

voted on. We cannot possibly go home to our States and our districts without having passed a crime bill. It is critically important that on Thursday, when this vote takes place, that we vote strongly for a bill that is extremely important to the American people.

Mr. Speaker, I would like to once again stress to my colleagues that this crime bill, passing the rule, is probably the utmost priority that this body has in this session of Congress. We have got the health care issue. That is extremely important. But unquestionably, the American people would like us as much as possible, before we go home, to pass a strong crime bill that contains these components of more cops, that contains these components of more prevention funds, that contains this important component of more punishment provisions.

MORE ON THE CRIME BILL

Ms. PELOSI. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore (Mr. TRAFICANT). Is there objection to the request of the gentlewoman from California?

Mr. DOOLITTLE. Mr. Speaker, reserving the right to object, we can get up here and give our 1-minutes on why the crime bill is a terrible bill for the people of this country, why it increases the national debt while doing little to fight crime. We can do these rhetorical flourishes, too.

I thought we were here for the purpose of dealing with suspensions, no discourtesy to the gentlewoman from California, only that she happened to be the unfortunate victim when I got up to object to this. That is my concern, Mr. Speaker.

The SPEAKER pro tempore. The Chair would inform the gentleman that we are proceeding, waiting for suspensions. If he is on his feet in a timely manner the gentleman could be recognized as well.

Without objection, the gentlewoman from California [Ms. PELOSI] is recognized for 1 minute.

There was no objection.

Ms. PELOSI. Mr. Speaker, I rise for two purposes, one is following up on what our colleague from New Mexico was talking about in terms of the crime bill. I particularly wanted to address the issue of midnight basketball.

Mr. Speaker, I acknowledge the gentleman's concern about regular order, and I do not consider myself an unfortunate victim of his reservation in terms of my unanimous-consent request. But I did want to say, because my minute is fast going by, that in our community, midnight basketball is a giant plus.

In the western division, at the Ilihutch Community Center, young people who have some disadvantages in their lives see this as something to say yes. In the Mission District of San Francisco, we have experimented with a successful demonstration of the effectiveness of midnight basketball. So I hope that it will not be trivialized, that Members will not take the matter lightly. It is an important part of saying yes and having the crime bill mean something directly to the lives of these young people in our streets who, as I said before, need something to say yes to.

ANOTHER VIEW ON THE CRIME BILL

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent to address the house for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Ms. PELOSI. Mr. Speaker, reserving the right to object, I am going to remove my reservation as a courtesy to the gentleman and look forward to hearing his 1-minute.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the gentleman from California?

There was no objection.

Mr. DOOLITTLE. Mr. Speaker, just to offer the other point of view on this very interesting subject, we have had phone calls pouring into our office. As far as I can tell there is no organized effort to cause this to happen. Yet they are running 10 to 15 to 1 against the crime bill. People really are clearly understanding that this is just a typical pork barrel type of approach using the politics that have failed to stem the 300-percent increase in the overall crime rate since 1960, during which time we had an 800-percent increase in social welfare spending.

Here is a bill that comes along with programs for midnight basketball, arts and crafts, dance lessons and projects of various kinds, good old-fashion pork.

People are just tired of it. They do not want that. They want a lean, mean crime bill, more prisons, more cops on the streets, habeas corpus reform which is completely missing from the bill, which will expedite the death penalty appeals. That is the type of criminal justice reform the people of my district are seeking.

I would like just to indicate that this bill that was rejected on the rule last week does not meet those criteria. It should have been rejected, and it will be rejected again unless it is changed.

WORLD AIDS CONFERENCE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, last week the world's AIDS conference was held in Japan. As Members may have noticed from the press, at that meeting there was some medium news, not good, and some discouraging news.

I call the attention of my colleagues to that meeting because the statistics that came from the meeting were discouraging in terms of the spread of AIDS through Asia. In India, the number of AIDS cases will be the largest in the world in a very short period of time. The prospects for a cure or for a vaccine are limited. Therefore, it makes prevention an absolute must, not only a must but a moral responsibility.

I also note that in the past few months we saw a meeting of the G–7. It has been on the agenda of some of us in the Congress to get AIDS on the agenda of the G–7 meetings. It seems to me logical that if the largest economic powers, industrialized countries in the world come together to meet about the future of the world, the economy of the world, that they must take into consideration what AIDS is doing to certain economies throughout the world and what it will do.

So I call again, enlist the support of my colleagues to call upon the administration to put AIDS on the agenda of the next G–7 summit.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 5 p.m.

Accordingly (at 2 o'clock and 19 minutes p.m.) the House stood in recess until 5 p.m.

□ 1703

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. COLEMAN) at 5 o'clock and 3 minutes p.m.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2182, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–705) on the resolution (H. Res. 521) waiving points of order against the conference report to accompany the Senate bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 4539, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

Mr. HOYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4539) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. LIGHTFOOT

Mr. LIGHTFOOT. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. LIGHTFOOT moves that the managers on the part of the House, at the conference of the disagreeing votes on the bill, H.R. 4539, be instructed to insist on disagreement to provisions contained in any Senate amendment regarding the imposition of new or increased user fees, collections or taxes which may be established by the Secretary of the Treasury and which are authorized by law, to insist on disagreement to the last proviso set forth in Senate amendment numbered 16, to insist on disagreement to the Senate amendment numbered 26, and to insist on disagreement to the Senate amendment numbered 29.

Mr. LIGHTFOOT (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. LIGHTFOOT] will be recognized for 30 minutes, and the gentleman from Maryland [Mr. HOYER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a motion to instruct conferees on items which have been considered by the subcommittee, the full Committee on Appropriations, and the House. I think the motion is very straightforward. It instructs conferees to reject new user fees proposed by the Treasury Department. Our subcommittee chose to reject the proposed user fees, totaling some $258 million. They include: a $20 fee for tax filers entering into an installment agreement with IRS to pay taxes owed over time; A $12 fee charged to those persons who request photocopies of tax returns from the IRS; an $8 fee imposed to transmitters of electronic returns; and an increase in the merchandise processing fee and the special occupational tax assessed by the Customs Service and the Bureau of Alcohol, Tobacco and Firearms.

Frankly, many of us feel more user fees are not the answer—they are, quite simply, a roundabout way to increase taxes.

The Senate, however, has included language permitting Treasury to retain the proposed user fees if they are increased. While the language doesn't authorize any new fees, it gives the IRS clear incentive to raise and implement fees on taxpayers.

I would ask Members of the House to insist on the House position, rejecting new taxes and user fees. The Senate language encourages the IRS to boost fees for the activities I described a moment ago.

As I stated earlier, in my view user fees are just a back-door tax increase. Any time the Federal Government levies fees for services which are mandated, we are simply increasing taxes.

Let me point out a couple of other problems I have with the proposed fee increases. First of all, in imposing a fee on taxpayers for obtaining copies of their tax returns, I believe it is patently unfair to charge individuals for services mandated by the government—that is, in my view, an unfunded mandate. We are pretty good at that around here. Generally, taxpayers are requesting copies of their back returns because they must revise them or defend themselves in an audit—a government-induced action.

Mr. Speaker, I was also dismayed to learn the IRS has just announced that, effective October 1, 1994, the charge for furnishing copies of tax returns and related documents will increase by 300 percent—from $4.25 to $14. I have a hard time believing the $14 reflects the true cost to the IRS of providing the copy. Interestingly enough, the President had announced in his budget proposal that this fee would be increased to only $12. I would like to know why this figure has now been increased even further.

With respect to another of the proposed fees, the fee charged to those who file electronically, I am a little baffled by the proposal. The IRS is currently working to modernize its information systems, and has indicated there will be great savings down the road and fewer IRS errors as more taxpayers begin to file electronically. This proposed fee flies in the face of the IRS effort to increase electronic filing. Most members of the Ways and Means Committee would agree tax policy should encourage beneficial types of behavior, rather than have the opposite effect. It seems to me this proposed fee would discourage electronic filing, thereby reducing savings in the outyears to the IRS.

Finally, Mr. Speaker, let me say I have signed a pledge, as have many of my colleagues, to oppose any tax increases and I intend to continue doing so.

Mr. Speaker, the House rejected the fees requested by the President. The conferees should stick to their original position and reject these fees. They are opposed by the authorizing committees, and this opposition has been reflected in a letter signed by Mr. GIBBONS and Mr. PICKLE and received by the Treasury, Postal Subcommittee on July 25, 1994.

I believe there is no need to increase taxes to support additional spending. Reject these new taxes and vote aye on the motion to instruct conferees, and stay with the House position.

Mr. Speaker, I reserve the balance of my time.

□ 1710

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments.

Although I am generally opposed to instructing conferees and would prefer that the conferees be free to make those decisions which can best be made and bring about reasonable compromise between the House and the Senate, I understand the gentleman's strong opposition to the imposition of fees, and as all Members know and as he has stated, the Subcommittee on Treasury Postal Service-General Government and the House did not include these fees as a part of its proposal to the House which the House passed. In point of fact, we believe at the fees should not be incorporated in this bill. Therefore, although I oppose generally the concept of instructing conferees, I do not intend to oppose the gentleman's motion at this time.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LIGHTFOOT. Mr. Speaker, I appreciate the comments of the chairman, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLEMAN). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentleman from Iowa [Mr. LIGHTFOOT].

The motion was agreed to.

A motion to reconsider was laid on the table.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. HOYER, VISCLOSKY, DARDEN, OLVER, BEVILL, SABO, OBEY, LIGHTFOOT, WOLF, ISTOOK, and MCDADE.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1994

Mr. HOYER. Mr. Speaker, on behalf of the gentleman from West Virginia [Mr. MOLLOHAN], I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 2947, by the yeas and nays; and H.R. 4867, by the yeas and nays.

CONCURRING IN SENATE AMENDMENTS TO H.R. 2947, COMMEMORATIVE WORKS ACT AMENDMENTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 2947.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2947, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 378, nays 0, not voting 56, as follows:

[Roll No. 397]

YEAS—378

Abercrombie	Ehlers	Kolbe
Ackerman	Emerson	Kopetski
Allard	Engel	Kreidler
Andrews (ME)	English	Kyl
Andrews (NJ)	Eshoo	LaFalce
Andrews (TX)	Evans	Lambert
Applegate	Everett	Lancaster
Archer	Ewing	LaRocco
Armey	Farr	Laughlin
Bacchus (FL)	Fawell	Lazio
Bachus (AL)	Fazio	Leach
Baesler	Fields (LA)	Lehman
Baker (LA)	Fields (TX)	Levin
Ballenger	Filner	Levy
Barca	Flanagan	Lewis (CA)
Barcia	Fish	Lewis (FL)
Barlow	Ford (MI)	Lewis (GA)
Barrett (NE)	Ford (TN)	Lewis (KY)
Barrett (WI)	Fowler	Lightfoot
Bartlett	Frank (MA)	Linder
Barton	Franks (CT)	Lipinski
Bateman	Franks (NJ)	Livingston
Bellenson	Frost	Lloyd
Bentley	Furse	Long
Bereuter	Gallegly	Lowey
Berman	Gekas	Lucas
Bevill	Gephardt	Maloney
Bilbray	Geren	Mann
Bishop	Gibbons	Manton
Bliley	Gilchrest	Manzullo
Blute	Gillmor	Margolies-Mezvinsky
Boehlert	Gilman	Markey
Bonilla	Gingrich	Martinez
Bonior	Glickman	Matsui
Boucher	Goodling	Mazzoli
Brewster	Goss	McCandless
Brooks	Grandy	McCloskey
Browder	Green	McCrery
Brown (CA)	Greenwood	McDermott
Brown (OH)	Gutierrez	McHale
Bryant	Hall (OH)	McHugh
Bunning	Hall (TX)	McInnis
Burton	Hamburg	McKinney
Buyer	Hamilton	McNulty
Byrne	Hancock	Meek
Callahan	Hansen	Meyers
Calvert	Hastert	Mfume
Camp	Hastings	Mica
Canady	Hayes	Miller (CA)
Cantwell	Hefley	Miller (FL)
Cardin	Hefner	Mineta
Carr	Herger	Minge
Castle	Hilliard	Mink
Chapman	Hinchey	Moakley
Clay	Hoagland	Molinari
Clayton	Hobson	Mollohan
Clyburn	Hochbrueckner	Moorhead
Coble	Hoekstra	Morella
Coleman	Holden	Murphy
Collins (IL)	Horn	Murtha
Collins (MI)	Houghton	Myers
Combest	Hoyer	Neal (MA)
Condit	Hughes	Neal (NC)
Conyers	Hutchinson	Nussle
Coppersmith	Hutto	Oberstar
Costello	Hyde	Obey
Cox	Inglis	Olver
Coyne	Inhofe	Ortiz
Crapo	Inslee	Orton
Cunningham	Istook	Owens
Danner	Jacobs	Oxley
Darden	Jefferson	Packard
de la Garza	Johnson (CT)	Pallone
Deal	Johnson (GA)	Parker
DeFazio	Johnson (SD)	Pastor
DeLauro	Johnson, E.B.	Paxon
DeLay	Johnson, Sam	Payne (NJ)
Dellums	Johnston	Payne (VA)
Derrick	Kanjorski	Pelosi
Deutsch	Kaptur	Penny
Diaz-Balart	Kasich	Peterson (FL)
Dickey	Kennedy	Peterson (MN)
Dicks	Kennelly	Petri
Dingell	Kildee	Pickett
Dixon	Kim	Pickle
Dooley	King	Pombo
Doolittle	Kingston	Pomeroy
Dornan	Kleczka	Porter
Duncan	Klein	Portman
Dunn	Klink	Poshard
Durbin	Klug	Price (NC)
Edwards (TX)	Knollenberg	Pryce (OH)
Quillen	Sharp	Thompson
Quinn	Shaw	Thornton
Rahall	Shays	Thurman
Ramstad	Shepherd	Torkildsen
Rangel	Shuster	Torres
Ravenel	Sisisky	Torricelli
Reed	Skaggs	Towns
Regula	Skeen	Traficant
Richardson	Skelton	Tucker
Roberts	Slaughter	Unsoeld
Roemer	Smith (IA)	Upton
Rogers	Smith (MI)	Valentine
Rohrabacher	Smith (NJ)	Velazquez
Ros-Lehtinen	Smith (OR)	Vento
Rose	Snowe	Volkmer
Rostenkowski	Solomon	Vucanovich
Roth	Spence	Walker
Roukema	Spratt	Walsh
Rowland	Stark	Watt
Roybal-Allard	Stearns	Waxman
Royce	Stenholm	Weldon
Sabo	Stokes	Wheat
Sanders	Strickland	Williams
Sangmeister	Studds	Wilson
Sarpalius	Stump	Wolf
Sawyer	Stupak	Wyden
Saxton	Swett	Wynn
Schenk	Synar	Yates
Schiff	Talent	Young (AK)
Schroeder	Tanner	Young (FL)
Schumer	Tauzin	Zeliff
Scott	Taylor (NC)	Zimmer
Sensenbrenner	Tejeda	
Serrano	Thomas (CA)	

NOT VOTING—56

Baker (CA)	Goodlatte	Nadler
Becerra	Gordon	Reynolds
Bilirakis	Grams	Ridge
Blackwell	Harman	Rush
Boehner	Hoke	Santorum
Borski	Huffington	Schaefer
Brown (FL)	Hunter	Slattery
Clement	Lantos	Smith (TX)
Collins (GA)	Machtley	Sundquist
Cooper	McCollum	Swift
Cramer	McCurdy	Taylor (MS)
Crane	McDade	Thomas (WY)
Dreier	McKeon	Visclosky
Edwards (CA)	McMillan	Washington
Flake	Meehan	Waters
Foglietta	Menendez	Whitten
Gallo	Michel	Wise
Gejdenson	Montgomery	Woolsey
Gonzalez	Moran	

□ 1734

Mr. KLINK and Mr. HANCOCK changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. WATERS. Mr. Speaker, I was unavoidably detained on rollcall No. 397, H.R. 2947. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. MORAN. Mr. Speaker, during rollcall vote No. 397 on H.R. 2947 I was unavoidably detained. Had I been present I would have voted "yea."

PERSONAL EXPLANATION

Ms. BROWN of Florida. Mr. Speaker, I was not present for the vote on H.R. 2947, rollcall No. 397. Had I been present, I would have voted "yea."

HIGH-SPEED RAIL DEVELOPMENT ACT OF 1994

The SPEAKER pro tempore (Mr. COLEMAN). The pending business is the question of suspending the rules and passing the bill, H.R. 4867, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California [Ms. SCHENK] that the House suspend the rules and pass the bill, H.R. 4867, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were yeas 281, nays 103, not voting 50, as follows:

[Roll No. 398]

YEAS—281

Abercrombie	Emerson	Kleczka
Ackerman	Engel	Klein
Andrews (ME)	English	Klink
Andrews (NJ)	Eshoo	Klug
Andrews (TX)	Evans	Knollenberg
Applegate	Farr	Kopetski
Bacchus (FL)	Fawell	Kreidler
Bachus (AL)	Fazio	LaFalce
Baesler	Fields (LA)	Lambert
Barca	Filner	LaRocco
Barcia	Flanagan	Lazio
Barlow	Fish	Leach
Barrett (WI)	Ford (MI)	Lehman
Bellenson	Ford (TN)	Levin
Bentley	Fowler	Levy
Berman	Frank (MA)	Lewis (CA)
Bevill	Franks (CT)	Lewis (GA)
Bilbray	Franks (NJ)	Lipinski
Bishop	Furse	Lloyd
Blute	Gallegly	Lowey
Boehlert	Gephardt	Maloney
Bonior	Gibbons	Mann
Boucher	Gilchrest	Manton
Brewster	Gillmor	Manzullo
Brooks	Gilman	Margolies-Mezvinsky
Browder	Glickman	Markey
Brown (CA)	Gonzalez	Martinez
Brown (OH)	Green	Matsui
Byrne	Greenwood	Mazzoli
Calvert	Gutierrez	McCandless
Camp	Hall (OH)	McCloskey
Canady	Hamburg	McDermott
Cantwell	Hamilton	McHale
Cardin	Harman	McHugh
Carr	Hastert	McKinney
Castle	Hastings	McNulty
Clay	Hayes	Meek
Clayton	Hefner	Mfume
Clyburn	Hilliard	Mica
Coleman	Hinchey	Miller (CA)
Collins (IL)	Hoagland	Mineta
Collins (MI)	Hobson	Minge
Condit	Hochbrueckner	Mink
Conyers	Hoekstra	Moakley
Coppersmith	Holden	Molinari
Costello	Horn	Mollohan
Coyne	Houghton	Moorhead
Crapo	Hoyer	Moran
Danner	Hughes	Morella
Darden	Hutto	Murphy
de la Garza	Hyde	Murtha
Deal	Inslee	Neal (MA)
DeFazio	Jefferson	Neal (NC)
DeLauro	Johnson (CT)	Oberstar
Dellums	Johnson (GA)	Obey
Derrick	Johnson (SD)	Olver
Deutsch	Johnson, E.B.	Ortiz
Diaz-Balart	Johnston	Orton
Dicks	Kanjorski	Owens
Dingell	Kaptur	Oxley
Dixon	Kennedy	Packard
Dooley	Kennelly	Pallone
Dunn	Kildee	Parker
Durbin	Kim	Pastor
Ehlers	King	Payne (NJ)
Allard	Gingrich	Paxon
Archer	Goodling	Peterson (MN)
Armey	Goss	Petri
Baker (LA)	Grandy	Porter
Ballenger	Gunderson	Portman
Barrett (NE)	Hall (TX)	Pryce (OH)
Bartlett	Hancock	Quillen
Barton	Hansen	Reed
Bateman	Hefley	Regula
Bereuter	Herger	Roberts
Billey	Hutchinson	Rogers
Bonilla	Inglis	Rohrabacher
Bryant	Inhofe	Roth
Bunning	Istook	Royce
Burton	Jacobs	Sarpalius
Buyer	Johnson, Sam	Schroeder
Callahan	Kasich	Sensenbrenner
Chapman	Kingston	Shuster
Clinger	Kolbe	Skeen
Coble	Kyl	Smith (OR)
Combest	Lancaster	Solomon
Cox	Laughlin	Spence
Cunningham	Lewis (FL)	Stearns
DeLay	Lewis (KY)	Stenholm
Dickey	Lightfoot	Stump
Doolittle	Linder	Talent
Dornan	Livingston	Taylor (NC)
Duncan	Long	Vucanovich
Edwards (TX)	Lucas	Walker
Everett	McCrery	Wilson
Ewing	McInnis	Wolf
Fields (TX)	Meyers	Young (AK)
Frost	Miller (FL)	Young (FL)
Gekas	Myers	
Geren	Nussle	

NOT VOTING—50

Baker (CA)	Gejdenson	Montgomery
Becerra	Goodlatte	Nadler
Bilirakis	Gordon	Reynolds
Blackwell	Grams	Ridge
Boehner	Hoke	Rush
Borski	Huffington	Santorum
Brown (FL)	Hunter	Schaefer
Clement	Lantos	Slattery
Collins (GA)	Machtley	Smith (TX)
Cooper	McCollum	Sundquist
Cramer	McCurdy	Swift
Crane	McDade	Thomas (WY)
Dreier	McKeon	Visclosky
Edwards (CA)	McMillan	Washington
Flake	Meehan	Whitten
Foglietta	Menendez	Wise
Gallo	Michel	

□ 1752

Mr. KNOLLENBERG changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CRANE. Mr. Speaker, I was unavoidably detained and therefore was unable to cast my vote on two of the three recorded votes. I failed to vote on rollcall No. 397 relating to H.R. 2947, legislation relating to the Black Revolutionary War Patriots Foundation, and rollcall No. 398 relating to H.R. 4867, the High Speed Rail Development Act. I had intended to cast my vote on the legislation in question; however, my flight from Chicago to Washington was unavoidably detained due to weather. Fortunately, the outcome of the votes on H.R. 2947 and H.R. 4867 were not decided by a single vote and my vote therefore would not have been determinative.

THE JOURNAL

The SPEAKER pro tempore (Mr. COLEMAN). Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RICHARDSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 237, nays 147, not voting 50, as follows:

[Roll No. 399]

YEAS—237

Abercrombie	Danner	Greenwood
Ackerman	Darden	Gutierrez
Andrews (ME)	de la Garza	Hall (OH)
Andrews (NJ)	Deal	Hall (TX)
Andrews (TX)	DeFazio	Hamburg
Applegate	DeLauro	Hamilton
Bacchus (FL)	Dellums	Harman
Baesler	Derrick	Hastings
Barca	Deutsch	Hayes
Barcia	Dicks	Hefner
Barlow	Dingell	Hilliard
Barrett (WI)	Dixon	Hinchey
Bateman	Dooley	Hoagland
Bellenson	Dornan	Hochbrueckner
Berman	Durbin	Holden
Bevill	Edwards (TX)	Houghton
Bilbray	Engel	Hoyer
Bishop	English	Hughes
Bonior	Eshoo	Hutto
Boucher	Evans	Hyde
Brewster	Everett	Inglis
Brooks	Farr	Inslee
Browder	Fazio	Jefferson
Brown (OH)	Fields (LA)	Johnson (GA)
Bryant	Filner	Johnson (SD)
Byrne	Fingerhut	Johnson, E.B.
Cantwell	Fish	Johnston
Cardin	Ford (MI)	Kanjorski
Chapman	Ford (TN)	Kaptur
Clayton	Frank (MA)	Kasich
Clyburn	Frost	Kennedy
Coleman	Furse	Kennelly
Collins (IL)	Gephardt	Kildee
Collins (MI)	Geren	Kingston
Combest	Gibbons	Kleczka
Condit	Gillmor	Klein
Conyers	Gilman	Klink
Coppersmith	Glickman	Kopetski
Costello	Gonzalez	LaFalce
Coyne	Green	Lambert

VOL 140 PT 16 AG 12 — 18 1994 UMI

Lancaster	Ortiz	Skelton
LaRocco	Orton	Slaughter
Laughlin	Owens	Smith (IA)
Lehman	Pallone	Spratt
Levin	Parker	Stark
Lewis (GA)	Pastor	Stenholm
Lipinski	Payne (NJ)	Stokes
Lloyd	Payne (VA)	Strickland
Long	Pelosi	Studds
Lowey	Penny	Stupak
Maloney	Peterson (FL)	Swett
Mann	Peterson (MN)	Synar
Manton	Pickett	Tanner
Margolies-Mezvinsky	Pickle	Tauzin
Markey	Pombo	Tejeda
Martinez	Pomeroy	Thompson
Matsui	Poshard	Thornton
Mazzoli	Price (NC)	Thurman
McCloskey	Rahall	Torres
McDermott	Rangel	Torricelli
McHale	Reed	Towns
McKinney	Richardson	Traficant
McNulty	Roemer	Tucker
Meek	Rose	Unsoeld
Mfume	Rostenkowski	Valentine
Miller (CA)	Rowland	Velazquez
Mineta	Roybal-Allard	Vento
Minge	Sabo	Volkmer
Mink	Sanders	Waters
Moakley	Sangmeister	Watt
Mollohan	Sarpalius	Waxman
Moran	Sawyer	Wheat
Murtha	Schenk	Williams
Myers	Schumer	Wilson
Neal (MA)	Scott	Woolsey
Neal (NC)	Serrano	Wyden
Oberstar	Sharp	Wynn
Obey	Shepherd	Yates
Olver	Sisisky	
	Skaggs	

NAYS—147

Allard	Gingrich	Packard
Archer	Goodling	Paxon
Armey	Goss	Petri
Bachus (AL)	Grandy	Porter
Baker (CA)	Gunderson	Portman
Baker (LA)	Hancock	Pryce (OH)
Ballenger	Hansen	Quillen
Barrett (NE)	Hastert	Quinn
Bartlett	Hefley	Ramstad
Barton	Herger	Ravenel
Bentley	Hobson	Regula
Bereuter	Hoekstra	Roberts
Bilbray	Horn	Rogers
Blute	Hutchinson	Rohrabacher
Boehlert	Inhofe	Ros-Lehtinen
Bonilla	Istook	Roth
Brown (CA)	Jacobs	Roukema
Bunning	Johnson, Sam	Royce
Burton	Kim	Saxton
Buyer	King	Schiff
Callahan	Klug	Schroeder
Calvert	Knollenberg	Sensenbrenner
Camp	Kolbe	Shaw
Canady	Kreidler	Shays
Castle	Kyl	Shuster
Clay	Lazio	Skeen
Clinger	Leach	Smith (MI)
Coble	Levy	Smith (NJ)
Cox	Lewis (CA)	Smith (OR)
Crane	Lewis (FL)	Snowe
Crapo	Lewis (KY)	Solomon
Cunningham	Lightfoot	Spence
DeLay	Linder	Stearns
Diaz-Balart	Livingston	Stump
Dickey	Lucas	Talent
Doolittle	Manzullo	Taylor (MS)
Duncan	McCandless	Taylor (NC)
Dunn	McCrery	Thomas (CA)
Ehlers	McHugh	Torkildsen
Emerson	McInnis	Upton
Ewing	Meyers	Vucanovich
Fawell	Mica	Walker
Fields (TX)	Miller (FL)	Walsh
Fowler	Molinari	Weldon
Franks (CT)	Moorhead	Wolf
Franks (NJ)	Morella	Young (AK)
Gallegly	Murphy	Young (FL)
Gekas	Nussle	Zeliff
Gilchrest	Oxley	Zimmer

NOT VOTING—50

Becerra	Blackwell	Borski
Billrakis	Boehner	Brown (FL)
Carr	Huffington	Reynolds
Clement	Hunter	Ridge
Collins (GA)	Johnson (CT)	Rush
Cooper	Lantos	Santorum
Cramer	Machtley	Schaefer
Dreier	McCollum	Slattery
Edwards (CA)	McCurdy	Smith (TX)
Flake	McDade	Sundquist
Foglietta	McKeon	Swift
Gallo	McMillan	Thomas (WY)
Gejdenson	Meehan	Visclosky
Goodlatte	Menendez	Washington
Gordon	Michel	Whitten
Grams	Montgomery	Wise
Hoke	Nadler	

□ 1809

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RUSH. Mr. Speaker, due to official business, I was not available for rollcall Nos. 397, 398, and 399.

Had I been present I would have voted "aye" on No. 397, "aye" on No. 398 and "aye" on No. 399.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HOLDEN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, very soon, the House will pass the crime bill, and the liberal national media will proclaim it to be a great victory for President Clinton.

But will it be? Really?

The President has a 79-seat majority in this House—a huge margin.

Yet the crime bill, despite intense pressure and lobbying by the White House, and despite this 79-seat majority—lost by 15 votes.

This should tell the people how bad this bill really is. And this in a year when everybody wants to vote for a crime bill.

Once a bill is defeated in one Congress, it should not come up again until the next Congress is in place.

Yet we will soon vote on this bill again, after some of the most intensive lobbying, arm-twisting pressure, and power politics this Nation has ever seen.

This is what this bill is now about—politics—not crime.

I spent 7½ years as a criminal court judge before coming to Congress.

I tried primarily the felony criminal cases—the most serious cases.

Yet I voted against this bill twice—Why?

Well, let me tell you first, it had nothing to do with gun control.

This is another myth or falsehood perpetrated by our liberal national media.

They would have everyone believe that the only reason anyone would have voted against this bill was because of pressure from the NRA.

This is totally, completely, 100 percent false.

Most people voted against this bill because they want a real crime bill, a tough crime bill, not a Great Society social work bill.

Most people voted against this bill because what started out as a $22 billion bill ended up as a $33 billion monstrosity with everything but the kitchen sink in it.

Most people voted against this bill because of 9 or 10 billion dollars' worth of social programs, including hundreds of millions for dance lessons, arts and crafts, basketball leagues, and graffiti removal.

Now there is certainly nothing wrong with basketball leagues or graffiti removal. But the cities which need them should do them themselves.

As bad of shape financially as most of our States and cities are in, very few are in as bad fiscal shape as is our Federal Government.

Our Federal Government is presently over $4½ trillion in debt and still losing hundreds of millions more each day.

We are already spending billions we do not have, yet our President and his supporters want us to pass a health bill that will be the most expensive bill ever passed in the history of this country.

Most people voted against this so-called crime bill because the conference actually weakened provisions against our most serious drug dealers and against released sex offenders.

Most people voted against this bill because the President's own FBI Director said it would do more harm than good—at least he was against it until the White House got him muzzled.

Most people voted against this bill because most of the money goes to just a few of our Nation's largest cities. This is supposed to be because these are the areas of highest crime and highest unemployment.

But the bill very much shortchanges and is very unfair to our smaller cities and especially to our small towns and rural areas.

And many people voted against this bill because they want our crime dollars spent on the streets, fighting real crime. They know we will do more to fight crime by spending our crime-fighting dollars on local police and deputies, instead of on Federal bureaucrats and social workers.

They know, too, that most people who have really analyzed this bill say it will allow for the hiring of only a small fraction of the 100,000 officers its supporters claim.

People all over this Nation are asking why should we send 33 billion of our hard-earned dollars to Washington, DC, where so much of it is going to be lopped off, first by the Federal Government, then by the State governments, and then by our 15 largest cities.

Everyone who has ever dealt with the crime problem knows that by far the biggest single factor is broken homes.

The overwhelming majority of our serious crimes are committed by young men who come from father-absent households.

Already government is taking half of the average person's income in the form of taxes, counting taxes of all types, Federal, State and local.

Most marriages break up due to disagreements over finances—battles over money.

In 1948, the credit for children on tax returns was $600 each. According to the Heritage Foundation, if that had been indexed for inflation, it would be approximately $8,000 today.

What does this have to do with crime—quite simply, it is this: In 1940's and 1950's the Federal Government was really almost encouraging families through its tax policies.

Today, our government is taking so much from our families that it is helping cause them to break down, and thus our crime problem grows worse.

Now, we are going to take $33 billion more from our people to perpetrate a fraud, a cruel hoax—that it is being done to fight crime.

This crime bill will not even put a small dent in our crime problem. It will be passed solely because of politics in a desperate attempt to try to make people who really are not tough on crime look like they are.

□ 1820

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO CONSIDERATION OF A CERTAIN RESOLUTION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-707) on the resolution (H. Res. 522) waiving a requirement of clause 4(b) of rule XI with respect to consideration of a certain resolution reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

INQUIRY REGARDING PRIVILEGED REPORT ON RESOLUTION WITH RESPECT TO CLAUSE 4(b) OF RULE XI

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. I just wanted to know, Mr. Speaker, if this is a two-thirds rule for purposes of doing the crime rule.

Mr. MOAKLEY. Mr. Speaker, the gentleman is correct.

Mr. WALKER. The idea being, Mr. Speaker, that this gives us the ability, then, if some kind of an arrangement is arrived at, that we would take it up utilizing the two-thirds rule. Is that what the plan is here, Mr. Speaker?

Mr. MOAKLEY. If the gentleman will continue to yield, Mr. Speaker, I cannot hear the gentleman, but the two-thirds rule allows us to take up the rule the same day.

Mr. WALKER. Mr. Speaker, I assume that is predicated on the idea that we would arrive at some kind of arrangement acceptable to both sides, is that correct?

Mr. MOAKLEY. It does not say that, but I am sure it is.

Mr. WALKER. Otherwise, Mr. Speaker, it would be difficult to get two-thirds.

Mr. MOAKLEY. If the gentleman will yield further, this waives the two-thirds requirement.

Mr. WALKER. This waives the two-thirds requirement. So the fact is, what we are trying to do is make certain the House would not have a chance to look at the new bill?

Mr. MOAKLEY. If the gentleman will continue to yield, no, Mr. Speaker. This waives the two-thirds requirement, allowing the majority Members to vote on another rule that will be coming forward addressing the crime bill.

Mr. WALKER. However, Mr. Speaker, it does then, at that point, assure that the House can take up the rule very quickly on a conference report that may get rewritten as a result of some of the negotiations that are going on?

Mr. MOAKLEY. The gentleman is correct.

Mr. WALKER. That makes it, then, more difficult for us to have a chance to look at those new provisions, if in fact we are going to run it out here on a very quick basis, does it not?

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield further, the reality is that we waived the two-thirds in order that if there is any chance we get out of here Friday, this is the only key we can use.

Mr. WALKER. So the idea is that this would be used to try to get the House out of here on Friday to go home, hopefully?

Mr. MOAKLEY. If everything falls in place, not waiving the rule on this would not allow us to take this matter up before Friday.

Mr. WALKER. I thank the gentleman. With all the controversy that has been surrounding the bill, there is some concern on the part of Members that they do want to have a chance to understand what is in this bill.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I was not going to talk on this, but I have some concern. How many pages are in the crime bill, 1,400 pages?

Mr. WALKER. Seven hundred pages, or something.

Mr. BURTON of Indiana. There is at least 700 pages.

Mr. MOAKLEY. If the gentleman will yield further, does the gentleman from Indiana [Mr. BURTON] mean to say that he has not read the bill?

Mr. BURTON of Indiana. If the gentleman will continue to yield, 700 pages, Mr. Speaker? I must admit, I have read the synopsis, but not all 700 hundred pages. That is why I am concerned about running this thing through without Members having a chance to look at the thing before taking it up.

Mr. MOAKLEY. If the gentleman will continue to yield, the rule may not come up until Friday, Mr. Speaker. This is just getting it ready in case all the other pieces of business fall into place. As the gentleman knows, his leadership is at the White House now trying to work out the crime bill.

Mr. WALKER. That is correct, Mr. Speaker, and basically what I am trying to do is figure out how this particular action fits in with the meetings that are taking place. If I understand the gentleman correctly, this is being done in hopes that arrangements can be made that will include a little bit of everybody, that we can move something expeditiously toward the end of the week, and we will move it at a point that everybody will understand what it is we are doing.

Mr. MOAKLEY. If the gentleman will continue to yield, Mr. Speaker, I cannot go that far, that everybody will understand what we are doing. Other than that, I agree with the gentleman.

Mr. WALKER. I thank the gentleman.

AMERICA'S FOREIGN POLICY CREATES MISERY FOR HAITIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I wanted to talk very briefly. While we have been having these very important debates here in this country about crime and health care, and are fully engaged in the U.S. Congress in business for the people of this country, we have a foreign policy that is making life pretty darned miserable in a neighboring country, a place called Haiti.

I have talked many times about this. We read about it almost every day. Today, Mr. Speaker, I had the opportunity to be on the telephone with some of the properly democratically elected members of their congress, their Chamber of Deputies, as it were, and got an update on what is going on down there.

79-059 O—97 Vol. 140 (Pt. 16) 31

VOL 140 PT 16 AG 12 — 18 1994 UMI

It is really sort of pathetic that we are not following up the option to negotiate with our colleagues, who were democratically elected, in the Haitian Chamber of Deputies. There are a great number of them. They have invited us to come down and try and work out a negotiated settlement, instead of this threat of invasion, this talk of invasion, all of these Navy ships and Coast Guard cutters we have steaming around down there at this point, and the sword rattling that is going on.

Mr. Speaker, it is not working very well. It is costing us a lot of money. We have estimates of $1 billion or so, and boy, do we need that $1 billion. I would love to be able to plug that into more law enforcement officers for our Nation's streets, and to deal with some of these crime problems that we have been so engaged in.

Mr. Speaker, be that as it may be, we have a very misguided foreign policy in Haiti. It is very expensive. It is probably ill-conceived. It is not going to get results anybody is going to want, in all likelihood, but it has another factor.

Mr. Speaker, I think it is time we pause every so often here. We live very good lives in the United States of America, most of us. We are very fortunate and much blessed to be in this country.

While we are here, Mr. Speaker, have an embargo which is absolutely strangulating Haiti. It is absolutely devastating the poorest people in that country and the middle class in that country. Supposedly the rich can do for themselves, and some of those who are the target of that embargo are actually not feeling the pinch anywhere near some of these other folks are.

We heard today that we have a U.S. hospital up in Limbe, which is up near Cap Haitien, up in the northwest part of the country. That is completely now overwhelmed. They have no more supplies. They have nothing, no medical attention, which is desperately needed for HIV-positive people, TB people, and so forth.

All of this is on the rise. There are no treatments, there is no prevention. There is overcrowding. There is not even food. We cannot simply say, as we keep hearing from Bill Gray, who is the spokesperson for the administration on this, that "We are addressing the food crisis in Haiti by feeding 1 million people a day."

Mr. Speaker, if we are feeding 1 million people a day, we are not feeding them very nourishing food, I understand. Sometimes it is just sort of one bowl of thin porridge. There are some 7 million people in Haiti, and we wonder what is happening to the other 6 million, if we are feeding 1 million. It is very bad times.

Mr. Speaker, We understand that we have supplies that are rotting on the docks that are needed for food and medicine for places like this hospital in Limbe, or the 6 million or so that need the food so badly, and we discover that it cannot get anywhere because there is no gasoline, no transportation, because of the embargo.

□ 1830

We find infants are dying. We find that young women who had jobs before cannot have any jobs now because there is no manufacturing. They have had to shut everything down because of the embargo. Some have gone back to prostitution. Unfortunately, AIDS is a serious problem in Haiti and of course it is now on the increase as a result of all this.

All of this is happening because of the United States policy. It is our foreign policy that is causing these results. The people down in Jacmel in Haiti, a city more on the southern coast, go to a TB clinic, people who have TB who are being treated, and when they go to this clinic, they are not able to get any medication, any treatment for their TB because there is not any because of the embargo. So they sing and they pray instead and they ask the good Lord to save them because there is no medical attention available to them.

I admire that spirit, I admire that commitment, and I admire their trust in the Lord. But we could easily be providing them help for their TB to help correct the problem, and the medical attention that they need and had been getting up until this embargo came along.

What I am saying is that we have a policy here in the wealthiest nation in the world of absolutely devastating a poor country and making life miserable for so many people. It is hard to go to bed at night and think there are 6 million people who are not getting the kind of help, treatment, food, compassionate relief, and attention that I know every American would want to give. If Americans could see the face of poverty and the face of misery that is being directly caused by our foreign policy in Haiti, I do not think it would stand up for 1 second. There would be a revolution here and people would demand that we change our policy and do the right thing for Haiti instead of trying to victimize the poor and the middle class.

I have not spoken much about the middle class, but they are the people who make things work there. They are the managers, the manufacturers, the people who keep things running and provide employment for the working class. Those people are being devastated because there is no job, no investment, no employment for them, the factories do not work, no energy for the factories and so forth. So we are having a deterioration of the basic structure we need to rebuild that country while we are also starving the very poorest.

This is not a policy that makes any sense at all. Why are we doing this? We want democracy in Haiti, we want to see them grow, we want to see them have some prosperity, we want to see them have jobs, we want to see disease eradicated, we want to see starvation eradicated, and everything we are doing is counter to those directions.

I find it astonishing that our colleagues here who care so much about these things and will speak so eloquently and so much from the heart on these subjects when we are dealing with other countries that we talk about can somehow turn a blind eye toward what we are doing in Haiti, pretending it is not happening. It is happening. It is awful, it is happening, and we are responsible for it. How can we do this?

I challenge our administration, Mr. Speaker, to come up with a better policy, and one would surely be to follow this program of dealing with the duly elected members of the Haitian Parliament who are our counterparts duly elected and find a middle road. It is possible to do it. We should do it.

WHY THE CRIME BILL HAS NOT PASSED

The SPEAKER pro tempore (Mr. HOLDEN). Under a previous order of the House, the gentleman from North Carolina [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would like to talk for 5 minutes, just common sense, about the crime bill that is in front of us and some of the reasons why it was turned down. I hope the public and the Members of this body will think about what is in the bill and why many people voted the way they did.

First of all, this was not a Republican defeat of the crime bill. In the first place, we only have 178 votes in this body. It takes 218 to defeat. There are many people who opposed the crime bill and opposed the rule for the crime bill. First of all, the FBI chief criticized the bill in a recent newspaper statement and his reason was he was concerned that the President's approach toward crime cut the FBI, cut the DEA, cut the INS and cut law enforcement, basic Federal law enforcement agencies that are needed really to be tough on crime. That is the head of our FBI criticizing the bill. There were some 20 committee and subcommittee chairmen, these are all Democrats, who voted against the rule. Many of them voted because they felt that this rule was not proper, that a closed rule would not allow the amendments necessary to improve the bill, and that was a principal reason they opposed the crime bill. Some 58 other Democrats, Members of the House of Representatives, voted against that rule.

Many of them remembered the experience about the Los Angeles earthquake where we were told we needed $8 billion to take care of the people in Los Angeles during their trials in the earthquake. Most Members felt that was appropriate, that if they needed the money to help cure the problems in Los Angeles with the earthquake, they would vote for it. Then as we began to read the bill and later a major television network pointed out that over half of that $8 billion, some $4 billion or more, did not even go near California, it did not even get close to where there was a rumble, in fact. It wound up in Arkansas and West Virginia and places that had nothing to do with the California earthquake. So having been duped once, you can see that a lot of people were nervous about a $33 billion crime bill that so clearly does not address crime with a great portion of the funds.

George Will, a prominent writer and a personality who writes for the Washington Post and others, says:

'This crime bill is a bipartisan boondoggle because of the cachet that currently accrues to any legislation with an 'anticrime' label. But the bill sprays money most promiscuously at Democratic constituencies, the so-called (by themselves) 'caring professions'—social workers, psychologists, and others who do the work of therapeutic government.

He warns that it does not address tough problems on crime. He points out that even the midnight sports leagues—first of all, the leagues have to be made up of a specific population, those from specific areas with a prescribed number with HIV positive. He also points out that many of the other programs involved have nothing to do with crime but that are primarily social programs, many of them shopworn, that have come before this body before and have not been able to pass.

Then in my home State, we have a police organization that polled over 3,000 members of their officers and 86 percent opposed aspects of the crime bill because they called it phony, they said it does not address crime, it addresses other questions and it is bureaucratic and will not aid them in their fight against crime.

So there is a widespread concern in this country about this crime bill. It was not a partisan matter, it was a matter that came across party lines, and that is why the vote lost in this last week's attempt.

Is this a crime bill? Well, when you read it and you ask people, both committee staff and you ask prominent people who have been in this House, the first thing they say, "Well, not exactly."

You ask, does it ban 19 assault weapons as the press says? "Well, not exactly." It actually bans several hundred weapons, most of them sports weapons.

My son has a shotgun that he uses to turkey hunt with. It is a gun that I will have to admit, it is not a threat to turkeys much because we have tried for the last 2 years and we have not been able to hit one. It is, however, an assault weapon under the definition of this bill. It has to meet two criterias to be that. It meets three. First of all, it has six shots, it only has to meet five; second, it has a curved handle just before the stock as most shotguns would have; and third, you can affix a bayonet if you want to. You can affix a bayonet to any gun that the stock does not come all the way out to the end. Maybe he should affix a bayonet and try to bayonet the turkeys because he is not having much luck shooting them. But to think of that weapon is ridiculous. In fact most of what people think of as automatic weapons are already banned under Federal statute. Even Uzis and other types of guns that are changed to become automatic weapons violate the Federal statute.

WHY THE CLINTON-GEPHARDT BILL IS BAD FOR SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, I rise today concerning why the Clinton-Gephardt bill is bad for senior citizens. For the past 19 months since I first entered Congress, I have held over two dozen town hall meetings throughout my congressional district, I have received over 10,000 letters and phone calls, and I have talked to thousands of constituents, mostly senior citizens, because my district in Florida has the largest number of senior citizens of any congressional district in the United States. My area of Sun City, FL; Port Charlotte, FL; Venice, Sarasota, and Brandenton, FL has the largest percentage of seniors in the Nation, and they are upset.

□ 1840

They are concerned and they are scared. They like what they are getting under Medicare now, and they do not think the change is better for them.

Poll after poll has shown that the seniors are very concerned. It was very surprising last week when the AARP came out supporting the Clinton-Gephardt bill. Last year when Mr. Clinton first made his presentation on health care in September here in the House, and that was a point of popularity for the Clinton bill, the AARP in their bulletin had a little coupon to ask their members to send in to see what they said about the Clinton bill last September and October. They published the results in their monthly bulletin in December and 82 percent of the 25,000 people who had sent in response said they did not like Clinton, and that was when the bill was very popular in the country.

What I would like to do now is identify five very specific reasons why Clinton-Gephardt is bad for senior citizens.

First of all, we have global budgets and price controls, and this amounts to explicitly rationing health care. The plan mandates in 1999 to in effect have zero growth in Medicare spending. Even countries that ration their health care cannot get down to zero growth. What it mandates is that in 1999 that the growth in Medicare spending will be no greater than the growth of the gross domestic product, the GDP, which is about 3 percent or so right now. It does not take into account the fact that we are going to have more Medicare people eligible in 1999. No. It is just based on some economic factor that is based on the business cycle rather than on the needs of senior citizens.

Next is rationing of health care. Seniors are the ones most victimized by rationing of health care. In other countries where they have socialized medicine, in Great Britain, for example, they ration health care by, for example, kidney dialysis is limited to senior citizens over age 65.

The Congressional Budget Office, when they evaluated Mr. Clinton's plan, said, "There was reduced access to new high cost medical technologies in the Clinton plan."

This morning's Wall Street Journal had an interesting editorial by Robert Goldberg who talks very specifically about the rationing of drugs under the Clinton-Gephardt bill as a mere formulary identified under the Clinton-Gephardt bill, and they list drugs that are permitted, and if it is not on the list, senior citizens cannot have that drug unless the physician is willing to go through the bureaucracy and make special requests and such.

There are going to be drug caps put into effect by the year 2005, which sets the maximum amount of money that can be spent for drugs. That is rationing of health care for senior citizens.

The third issue is reduced choice. Under the Clinton-Gephardt bill States are given the option, they are given the option to make Medicare people go under the State-run program. If New Jersey decided to develop a State-run program, the State of New Jersey would have the choice to force all Medicare people to get out of Medicare and go into the State of New Jersey's program, no choice about it for senior citizens. That is not the type of choice seniors were expecting in this plan.

Also the plan under Clinton-Gephardt encourages seniors do get into HMO's, and this is going to really affect the lower income seniors.

Increased taxes. There is no free lunch. We would have thought Congress would have learned with the catastrophic back in 1988 and 1989 that you cannot just increase taxes and have senior citizens say OK, that is OK. For

VOL 140 PT 16 AG 12 — 18 1994 UMI

example, in this bill there is the drug coverage, which is a good idea. But what it is is a $500 deductible for seniors, and it is 80 percent coverage after the first $500 they have paid. They are going to pay $111 a year tax on that. Even if you have a great plan or supplement from say General Motors or someone else, you are still going to pay that $111 whether you use it or not. So there is a $111 tax that you are going to pay to get drug coverage.

There is a higher cigarette tax. I do not smoke, so it will not bother me. But if you are a senior and you smoke, be prepared to pay higher taxes.

And there is the employer mandate. In my district, there are a lot of seniors that have part-time jobs and the employers are going to be discouraged from hiring those seniors part time because they will have to provide them with health care.

The fifth reason is draconian Medicare cuts, $480 billion in Medicare cuts. We are at a very scary time in this health care debate, scary, so no one knows what they are going to do.

Let us put this off and have a rational, intelligent debate on how to have health care, and come back in January and make it the focus of the election in 1994.

COMPROMISING ON THE CRIME BILL

The SPEAKER pro tempore (Mr. HOLDEN). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I address the House tonight to talk about the crime bill. I do not know if we have said enough about that in America for the last 2 or 3 days. So I want to throw in my 2 cents.

The great moments we have had during the Clinton administration in the legislature, the times when the Clinton administration has passed items which it considers very high on its agenda, they have done so with bipartisan support. The only deviation from that would be the tax increase, but aside from that, NAFTA, family medical leave, and assault weapons ban were all passed on a bipartisan basis.

I think, Mr. Speaker, what we need to do is realize that the best of the Democrats', the best of the Republicans' ideas should always be combined together with the best of the administration's ideas so that we can have the best type of reform and the best type of legislation possible for the American people.

Last week, despite what the President said, there were 58 Democrats who voted against the rule on the crime bill. As I went home and read about it in the newspaper back in Savannah in the First District of Georgia, as I watched it on national news, I was not sure if I was in the same House Chamber that the President was talking about when he blamed his failure to pass it on the NRA and the Republican Party. I am against gun control. I believe in the second amendment. The President and I disagree on that. But I will say this: NRA never contacted me about the crime bill. I am sure they were contacting Members, but they never contacted me. The party leaders did talk, but where I got most of my direction was not from folks in Washington, and not from Republican Party members, and not from the NRA folks, obviously, not from other special interests, but from the sheriffs and police chiefs in the First Congressional District of Georgia.

As we in our office called them, as we faxed to them somewhat of a summary of the crime bill—it was hard to summarize 700 pages in a brief period of time, particularly when the bill had not been written until the day of the vote, but aside from that, from what we had understood we sent out a fax to our police officers. The majority, the overwhelming majority, and by that I mean 90 percent said vote no on this. There is lot of good in the crime bill, but there is a lot of bad in it too.

I think if we could say come up and admit, if the administration will say we can do a better job, the people of America are right, then what we should do tonight during the course of this debate and over the next couple of days is work on a compromise.

Here is my suggestion for the compromise. The bill is about $33 billion. It was about $9 billion in so-called special spending such as midnight basketball, arts and crafts fairs, and self-esteem programs. I think we ought to cut that. I would like to see it eliminated in its entirety, but I realize in certain areas of the country you may need that. For example, in New York City they probably need self-esteem programs. If I was living in New York I probably would too.

But we should reduce that level as much as possible, and then whatever balance we save, put it into the construction of new prisons. When the bill passed the House the construction level on the prisons was over $13 billion. When it came out of conference it was more in the $9 billion range. What we should do is put the balance into keeping our streets safe by keeping the criminal element off of the street so they do not harm your family members.

The other part is since out of 100,000 new police officers only 20,000 are paid for, what we should do is put the balance into that. I think that compromise makes sense.

But let us just say it does not. Why not then give the money back to the States and let them decide if they are going to put that money to self-esteem programs or a new prison construction or new police officers. I trust the great State of Georgia to make the decisions on that, and I am sure 435 Members of Congress trust their own home States to make decisions on that. I think that would give a great cooperative effort between the State and Federal levels of government, and it would promote I think a better harmony between the two entities as opposed to always handing down to the State government unfunded mandates. That is the first part of the compromise I would suggest.

The second part I would suggest is a separate vote on the assault weapons ban.

□ 1850

That way the President and everybody else who is against the second amendment can jump on gun owners of America and the NRA and all that and they could have a good old second-amendment bashing. But that way it would be a separate issue. We already passed the assault-weapon ban in the House.

The third thing, no retroactive appeals for people who have already been sentenced, which the bill would do. Let us eliminate that.

The fourth and final thing, Mr. Speaker, would be to promote the Byrne grant program more in rural America, which is an antidrug program which is helping rural America tremendously. It is kind of hidden in this bill. It is in there, but let us build upon it.

Mr. Speaker, I appreciate your time. I appreciate the Members of the House listening.

WHITEWATER DEVELOPMENT CORP. AND THE MADISON SAVINGS & LOAN DEBACLE

The SPEAKER pro tempore (Mr. HOLDEN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes as the designee of the minority leader.

Mr. BURTON of Indiana. Mr. Speaker, it appears that the White House, President Clinton, and his supporters continue to try to do damage control involving the Madison Savings & Loan debacle and the Whitewater Development Corp.

Last week I talked about Jean Lewis, who was the investigator with the Resolution Trust Corporation that was investigating Whitewater and the Madison Savings & Loan affair.

She sent two criminal referrals to the Justice Department, to the attorney in Little Rock investigating these allegations. She sent the first criminal referral to the U.S. attorney in Little Rock, I think, in September 1992.

At that time a gentleman named Charles Banks was the U.S. Attorney. Now, shortly after that, when President Clinton was elected, he fired all of

the Republican U.S. attorneys across the country and replaced them with his own people, and he replaced the gentleman in Little Rock with his former law student. Her name is Paula Casey. She was appointed by Bill Clinton. He taught her when she was studying law. She worked for Bill Clinton in his campaign, and her husband was appointed to a State job by Governor Clinton. So obviously she had a bias toward President Clinton. I think she probably, because she was a friend of his and was appointed by him, wanted to protect him from any involvement in the Whitewater mess.

Neverless, Jean Lewis sent to the attorney in Little Rock, the U.S. attorney, a referral stating that over $100,000 in Madison funds were illegally funneled into the Whitewater Development Corp. to pay the company's bill. She identified at least a dozen companies that siphoned Madison funds to Whitewater. The Clintons, Bill and Hillary Clinton, were identified as "potential beneficiaries of the check-kiting scheme," her memo stated, and I went into this before, but tonight I want to go into it a little bit more, because there are some new developments that happened over the weekend.

Her memo stated that James McDougal and his partners in Whitewater, including the Clintons, were intelligent individuals, the majority of them attorneys, who must have concluded McDougal was making the payments for their benefit. She also said, "If you know your mortgages are being paid but you are not putting money into the venture, you also know the, venture is not cash-flowing, would you not question the source of funds being used for your benefit?" She also said, "It was my belief that the losses to Madison from the Whitewater account alone would easily exceed $100,000."

Now, the second referral took place in September of 1993, and Mrs. Lewis' second criminal referral filed in that year charged Madison Savings & Loan had illegally diverted $60,500 to Bill Clinton's 1984 campaign for Governor.

Her referral charged that the campaign was an alleged participant in the illegal conspiracy. Obviously Bill Clinton would have known about that. The referral also contained additional information on the relationship between Madison Savings & Loan and the Whitewater Development Corp., and then in October 1993, Paula Casey, the U.S. attorney who was a law student taught by Bill Clinton, whose husband had been appointed to a State job by Bill Clinton, and who was a personal friend of Bill Clinton, she formally declined to investigate the first criminal investigation that was sent by Miss Lewis to Mrs. Casey.

After Jean Lewis' second criminal referral had been reported to the press, Paula Casey recused herself from the case. The Justice Department officials in Washington then determined an investigation had to be opened, and Mr. Fiske took over the entire investigation in January of 1994.

On November 10, 1993, Jean Lewis was removed from the Whitewater case allegedly because of a personality conflict. She was doing too good a job digging around and finding out things and bringing to the attention of the U.S. attorney violations of the law which could have resulted in several criminal indictments, and so she was removed from the case because of a "personality conflict" with the attorney on the case.

In a letter typed that day, she said she was ordered off the case by "powers that be."

In February 1994, on February 2, after both of her referrals were made public, Jean Lewis was visited by April Breslaw, an RTC attorney from Washington, DC; according to Mrs. Lewis, April Breslaw pressured her to change her conclusions about the criminal referrals in Madison Savings & Loan and Whitewater. Mrs. Lewis said April Breslaw told her people at the top would be happier if they had answers to the questions about Whitewater that would get them off the hook. Miss Lewis said two of the head people April Breslaw was talking about were the RTC Deputy Chief Officer, Jack Ryan, and RTC General Counsel Ellen Kulka. Jean Lewis recorded the meeting. Congressman JIM LEACH heard the tape and said it substantiated her account of the meeting that they were trying to get her off of everybody's back, particularly the White House. Both Kulka and Ryan worked directly under Deputy Treasury Secretary Roger Altman, the RTC's Acting Director and close friend of the President.

That very same day Roger Altman had a secret meeting at the White House with White House Counsel Bernie Nussbaum to discuss the Whitewater-Madison investigation.

Jean Lewis, even though she was taken off the case, refused to change her views or statements and sought protection as a whistleblower under Federal law.

Now we come to this weekend, and it was reported that Jean Lewis has been relieved of her position with the RTC, as well as two of her superiors. They have taken them, and not only taken them off this case, as they did with Miss Lewis, but now they have removed them completely from the RTC.

I quote now from the paper. "'They have been placed on leave, and I have no further comment,' said Gene Jankowski, a spokesman for the agency's Kansas City office. However, an agency official in Kansas City, speaking on condition of anonymity, said the three will be under investigation for 'certain matters pertaining to their job performance.'"

So because she has blown the whistle and sent two criminal referrals to Mrs. Casey down in Arkansas, the U.S. attorney down there, a friend of Clinton's, she is now losing her job.

Now, Miss Lewis wrote nine criminal referrals that are at the heart of the Whitewater affair, including the one that named Bill Clinton's 1994 gubernatorial campaign as a beneficiary. Some $12,000 in Madison Guaranty Savings & Loan Association funds were deposited into Clinton's campaign account at another bank. Those conclusions were being probed by Special Counsel Robert Fiske, replaced last week by former Reagan and Bush administration official Kenneth Starr. Starr is expected to investigate those matters and whether depositor funds were diverted from Madison to the Whitewater Development Corp., owned by S&L owner James McDougal and then Governor Clinton and his wife.

Lee Ausen, who supervises both Iatorio and Lewis, was placed on administrative leave as well. They are trying to get him out of his job. The document said all three were instrumental in forwarding the criminal referrals to the Justice Department in the face of initial opposition within the Resolution Trust Corporation.

The move drew immediate reaction from JIM LEACH here on Capitol Hill, the ranking Republican on the Banking Committee. Mr. LEACH said,

I am sure the RTC wouldn't take this step lightly, but this would appear to be a blatant effort to discredit the work product of a criminal investigative unit that has embarrassed the powers that be,

That is, those at the White House and those who support the White House.

Beyond that, Mr. LEACH said it is a little early to say anything more about it.

However, the article goes on,

Their performance was called into question by critics in recent weeks, particularly during the congressional hearings on Whitewater. During the hearings, RTC attorney April Breslaw complained that Lewis surreptitiously recorded a conversation in which Breslaw told her top agency officials would be happy to conclude that Whitewater had not caused a loss to Madison.

So she was upset because, when she went in there trying to get Miss Lewis off the back of the White House and was asking these tough questions and sending criminal referrals down to the U.S. attorney in Little Rock, Paula Casey, that she tape-recorded that conversation, and Miss Breslaw was very, very upset that her words were not only spoken but were recorded and that she could not back out and say she did not say it when she was trying to get all of this investigation stopped.

□ 1900

This whole case stinks to high heaven. This administration is doing everything they can to stop the investigation into Whitewater and into the

VOL 140 PT 16 AG 12 — 18 1994 UMI

Madison Savings & Loan debacle. Now today they have gotten the three people who had the most to do with the criminal referrals to Paula Casey, the attorney in Arkansas, they are trying to get them fired. They are being removed from their job because they are doing their jobs.

This is—you could expect this in the old Soviet Union when the KGB was in charge over there, but you sure would not expect it in this day and age in the United States of America.

I want to talk a little bit about Paula Casey. She is the U.S. attorney in Little Rock. As I said before, she worked on Bill Clinton's Presidential campaign in 1992, she was also one of his law students. Her husband was appointed to a State job by then-Governor Bill Clinton. Jean Lewis, as I just said, made these two criminal referrals, and they did not do anything about them.

Paula Casey let them sit on her desk and would not do anything, even though it stated that $100,000 from Madison Guaranty Savings & Loan was illegally funneled into the Whitewater Development Corporation. After it sat on her desk all year, Paula Casey, who was appointed by Bill Clinton, refused to investigate it. And then the heat was turned up by the press.

In 1993 the second criminal referral from Jean Lewis was made, and it charged that the money was diverted, $50,000, to Bill Clinton's 1984 gubernatorial campaign for reelection.

After the second referral, things got so hot in Little Rock that she rescued herself from the case. But why did she not rescue herself from the case in the first place? Because that was the time when we could have gotten to the bottom of this thing. She let it sit there, sit there, sit there, so the coverup could continue.

So why did Jean Lewis's first criminal referral sit on Paula Casey's desk for over a year without any action being taken on it? We are talking about $100,000 of taxpayers' money.

Why did Paula Casey refuse to open an investigation into Whitewater and Madison Savings & Loan? Why did not Paula Casey, the U.S. attorney appointed by Bill Clinton, recuse herself from the first referral? She has a very serious conflict of interest. I mean it is so apparent. They would have investigated Bill Clinton's connection to Whitewater, Madison Savings & Loan. She was appointed by Clinton, taught by Clinton, her husband got a job from Bill Clinton, and yet she would not let somebody else investigate it. Why not?

Why did Paula Casey not recuse herself from the second criminal referral only after it had been revealed in the press? It is obvious why: Because it got too hot.

Are Paul Casey's actions on this case being investigated by the Justice Department's ethics office? And if they are not investigating that, then why are they not? Because the Justice Department should be looking into her nonaction for over a year in that first referral.

Now, David Hale, I want to talk about him and Paula Casey's connection here. At the time of the first criminal referral from the RTC was gathering dust on her desk, Paula Casey, the U.S. attorney appointed by Bill Clinton, was negotiating with David Hale. David Hale was the head of the Capital Management Services, Inc., a small-business investment company. He pleaded guilty in Federal court to making fraudulent loans. According to the Wall Street Journal, among his bad loans were $300,000 to a company controlled by Susan McDougal, a Whitewater partner with her husband, and Bill and Hillary Clinton.

Some $110,000 of this loan may have ended up in the Whitewater account.

He told reporters that he was pressured by then-Governor Bill Clinton to make the loan to Mrs. McDougal for the $300,000. Mr. Hale was a former municipal court judge appointed by Bill Clinton. Paula Casey, when she found out all about this, as U.S. attorney down there, should have recused herself from this case immediately. Once she found that out, she should have gotten out and had a special prosecutor start investigating this. There clearly was a conflict of interest in negotiating with a person who had information on the possible wrongdoing of Bill Clinton as Governor of Arkansas, but she chose to let it sit on her desk for a year and not do anything about it.

She was obviously trying to hold the lid on this thing. There was lively correspondence between Randy Coleman, Mr. Hale's attorney, and Paula Casey. Mr. Hale was seeking a negotiated plea bargain, as people who know they are going to go to jail do. That is a normal thing. I am not sure he should let him off, I do not think he should.

Nevertheless, he was trying to negotiate a plea bargain. What he was trying to do was say, "Listen, I will go under cover. I will not tell anybody about this. You don't have to tell anybody. You can wire me, you can put a wire on me and I will go out and talk to all the people involved in the scheme, this $300,000," including, I suppose, the Clintons, "and then if you think the information that I gather in this plea bargain agreement through the wire and the undercover investigation, then maybe you will give me a lighter sentence."

She would not negotiate with the guy. Evidently, she did not want him to go undercover to find out all the information on the Whitewater-Madison case and $300,000 loan.

In one of the letters Mr. Coleman wrote to her, Mr. Hale's attorney, he said, "I cannot help but sense the reluctance of the U.S. attorney's office to enter into plea negotiations in this case. I cannot help but believe that this reluctance is born out of the potential political sensitivity and fallout regarding the information which Mr. Hale could provide to your office, but at the same time, it is information which would be of substantial assistance in investigating the banking and borrowing practices of some individuals in the elite political circles of the State of Arkansas." Now, who do you think he was talking about there?

He was talking about Bill and Hillary Clinton.

"I can certainly understand the reluctance of anyone locally, to engage in these matters, political realities being what they are." In other words, because of all the political pressure down there and because of the political pressure he knew would be on the attorney appointed by Bill Clinton, Paula Casey as the U.S. attorney down there, he knew the political pressure would be so great that they would not try to get to the bottom of it.

And he said, went on to say, "Would it not be appropriate at this point for your office to consider terminating your participation in this investigation and to bring in an independent prosecutorial staff who are not so involved with the history of the personalities and circumstances of the case?" In other words, "let's bring somebody in from outside who will really investigate this thing and prosecute those who need to be prosecuted, who are not tied to all these political leaders down there, including Bill and Hillary Clinton, and who may be involved as direct beneficiaries, according to Mr. Hale, of this $300,000 loan."

Regarding Mr. Hale's offer of information, Mr. Coleman says, "I have offered an informal pro offer of Mr. Hale's information for evaluation of its quality and content, but it received absolutely no interest," from your office, "in the process." I added the words "in your office."

Now, in subsequent letters, Mr. Coleman reiterates Mr. Hale's willingness to provide information for an undercover operation.

In the view of Mr. Coleman, Paula Casey was not seriously interested in Mr. Hale's offer of information. When Mr. Hale was publicly indicted, any chances of an undercover investigation went right out the window because once it was made public, it was too late.

Again, Paula Casey should have recused herself from the case in the beginning, but since she did not, she should have obtained information from Mr. Hale in order to thoroughly investigate this case. Paula Casey recused herself in November, but by then it was too late to wire Mr. Hale, to have an undercover investigation, to find out who was involved in all this chicanery that led to this $300,000 loan, part of which he says went into the Whitewater Corp.

So here are some questions that need to be answered once again: Why did she not, Paula Casey, immediately recuse herself from the case? Why did she show so little interest in the information that Mr. Hale offered? Did Bill Clinton or anyone at the White House or the Justice Department pressure her not to recuse herself from the case? Did Bill Clinton or anyone else at the Justice Department tell her not to pursue the information Mr. Hale offered? And was Paula Casey's lack of interest in pursuing Mr. Hale's information in the best interest of the justice process and the American people?

You know, Mr. Speaker, the more we get into this, the more you can see, and I know the American people do not have the ability to look into this like Members of Congress do and like I have, but the more you get into it, the more it stinks. And the more you get into it, the more you see how they are moving people around trying to keep the lid on the Whitewater-Madison Guaranty Bill Clinton gubernational connection. It is just unbelievable.

And now they have gone so far as to take three people who sent criminal referrals to Paula Casey down in Arkansas and they are firing them. They are laying them off. Mr. Speaker, I will tell you, I hope the media will really dig into this. They have been starting to investigate it. I appreciate the media for doing that.

But there is so much to this that needs to be brought to the attention of the American people, I do not see how the White House can keep the lid on this much longer, I really do not. But they are sure doing their very best, dead-level best to do it.

So, Mr. Speaker, I want to say to my colleagues tonight I hope they will read the article that was in the paper today and start asking questions, and I hope many members of the media will. I will be back in the weeks to come to get into more questions about the Whitewater-Madison Guaranty, Paula Casey, Jean Lewis, Mr. Hale connection.

I would just like to say if Jean Hale is paying any attention to this, Mr. Speaker, she really deserves the accolades of the American people for sticking to her guns. She has been under so much pressure, she has been under so much pressure to back off in this RTC investigation. She has, I think, been physically and mentally hurt by all of the adverse pressure that has been brought to bear upon her. But she has hung in there. She is a tough lady. And if she happens to be paying any attention, at least some Members of Congress, some people in this country, think she is to be congratulated for being such a hardworking, patriotic person who is doing her job as an investigator for the RTC.

□ 1910

Mr. Speaker, with that, I will end my special order, but I want to yield to the gentleman from North Carolina [Mr. TAYLOR] so he can conclude his.

Mr. TAYLOR of North Carolina. Mr. Speaker, I appreciate the appearance of the gentleman from Indiana [Mr. BURTON] here tonight in talking about this injustice. I would like to continue to point out a few things about the crime bill.

Mr. Speaker, we are talking about common sense. We are talking about a need to have tough crime laws, well funded crime laws, but we are not getting them in the billion-dollar crime bill.

A lot of people have asked, first of all, "Is this really a crime bill?"

The response is, "Not exactly."

You ask the question, "Doesn't this take out 19 assault weapons that are a scourge in the cities and causing crime all across the country?"

And the response is, "Not exactly."

The gun control portion of the crime bill goes far beyond 19 assault weapons. In fact, the assault weapons, Mr. Speaker, that most people think about, the automatic weapons of mass destruction, are already illegal under previous Federal law. One cannot make them more illegal. Even changing some of the semiautomatic weapons to full automatic weapons is a violation of Federal law, and here again you cannot make that more illegal. It does, however, affect hundreds of sports weapons and weapons that today most people do not think of as automatic weapons.

I mentioned earlier this evening that my son's shotgun that he hunts turkeys with is classified as an automatic weapon because it meets two criteria, and that is all it needs to meet of the list of criteria for shotguns that will determine that it is an automatic weapon. It holds six shots. It can only hold five. It has a curved stock, and it can fit a bayonet which has three.

As I pointed out, my son has not been bayoneting any turkeys, so he is not much of a threat with this weapon. I suggested he put a bayonet on it and try it, but I heard from the society against the bayoneting of turkeys that was formed this evening and objecting to that. I am saying that somewhat in jest, but, when we think that there are weapons that we think of as ordinary sports weapons that will be classified under this law as automatic weapons, you see that it is not exactly 19 assault weapons that it is going after, but a number of weapons that meet the criterion of assault, as defined, and we find that only a small fraction of the crimes in my State, less than one-hundredth of 1 percent nationwide, it is less than three-tenths of 1 percent of the crimes committed are committed with these large assault weapons, and then we ask the question:

"Did the President ask to increase law enforcement for this body?"

Well, not exactly. He came before the budget presented to the subcommittee on appropriations on which I sit on Commerce, Justice and State, and he asked to cut 847 FBI work force, he asked to cut 200 agents from DEA, and he asked to cut the INS. Now that is not exactly bolstering law enforcement.

But you say, "I read 100,000 police are going to be added to the streets of this country." Well, not exactly. When you look at the funding that was passed by Congress: in fact we passed it today already through the conference report, there is enough funding, about $13,000 per officer, and it is estimated the cost of maintaining that officer is between $45 and $65,000. It is estimated that you would be able to put approximately 20,000 officers on the street, not 100,000, and they are not there for long periods of time. First of all, they have to be recruited, not from reserves or necessarily officers that have applied at police departments already. The have to be a special quota of people based on race, and sex, and other sorts of things. This may meet the criterion of a given city, and it may not, but they will only be there for a few years, and then the Federal Government withdraws the funding. The funding runs out, and it is left up to the local communities then to fund those police, and so, if they cannot fund them today, it is not likely they will be able to fund them tomorrow, so even the 20,000 police disappear.

And then we ask the question, "Does this legislation give stronger sentences and tougher sentences?" You know, there was all the talk about three strikes and you're out, and stronger sentencing, and all that sort of thing, and so you ask that question, and the answer is not exactly. It releases 16,000 convicted drug pushers because it abolishes the mandatory sentences for those drug pushers.

In the racial quota section of it——

Mr. BURTON of Indiana. I would just like to say to my colleague I wish you would restate that because I think the American people really need to know that this bill is going to—it is a crime bill supposedly, and it is going to release 16,000 convicted drug dealers back on the streets, 16,000. That is amazing.

Mr. TAYLOR of North Carolina. By abolishing the mandatory sentence that is now in existence, all of these will have a chance to appeal and will probably be released on time served, and so it is expected that some 16,000 convicted drug pushers will be released, and in the future there will be no mandatory sentences, as there are today, for drug pushers. Now most people do not think of that as strengthening sentencing for crime.

Then, as the bill was originally presented, the racial quota section of it actually abolished capital punishment, if you can believe the National Association of District Attorneys. Their

VOL 140 PT 16 AG 12 — 18 1994 UMI

statement was that the racial justice quota system would abolish capital punishment. Now the conference has removed that, and so it is not part of the bill that came before us the other day, but it was in the original bill presented by the President, and most people would not see that as toughening sentencing by abolishing capital punishment.

And then there is the question of the truth-in-sentencing, and everyone wanted to see a situation where the sentences that were given in the States were required to be carried out. In other words, the provision called for 85 percent of the sentence to be served before the individual was eligible for parole.

The bill, as it is now before us, has been watered down substantially. To receive funding local States only have to make progress toward longer sentences. They are not required to see that the convicted felon serves 85 percent of their sentence, as was originally proposed. They only need to see that they make progress in that direction. Here again that is not what most people would think of in getting truth-in-sentencing and in toughening sentencing.

And then finally does the bill give $10.5 billion for prisons as the conference report claims? Well, not exactly. What it gives is $2.2 billion less than that because it is estimated that the conference report for purposes—that is $2.2 billion in the non-trust spending, and this has been referred to on Capitol Hill as funny money, and so the committee has said that it will never be spent, it can only be used as a figure to balloon that figure up to $10.5 billion. So, you are not getting $10.5 billion as the conference report suggests for prisons. You are getting $2.2 billion less than that.

Today's appropriation committee, the Subcommittee on Commerce, Justice and State, appropriated $15.567 billion for crime prevention and the judiciary. That is passed. It does not require the passage of the crime bill for that to be enacted. It puts back to 1992 levels the number of FBI personnel that were recommended to be removed, and even some removed in the last Congress, and it reinstates INS agents. It also puts back DEA agents. It adds substantial conference spending to stop illegal immigration. There is $284 million for illegal immigration initiatives. There is over $130 million to help the States offset some of the costs for jailing illegal aliens. There is $54.5 million, will allow the hiring of hundreds of additional Border Patrol agents and 100 new support personnel.

□ 1920

There is additional funding for DEA and FBI to 1992 levels. So this Congress is making progress on real crime spending, on real crime control. I think the reason that both Democrats and Republicans killed the rule was because it is being pushed as something that it is not. When the American people ask, did we pass a bill that would be tough on crime, that would provide money for real crime prevention, I think this body wants to say something more than "not exactly."

Mr. BURTON of Indiana. Let me just add a couple of other concerns I had. I was not going to talk about the crime bill, but since my colleague has done such an eloquent job of discussing it, there is a couple of other concerns I had.

Both the House and Senate put provisions in the bill which dealt with sex offenders who would move from one State to another, convicted sex offenders that would rape women or molest children. There was a program that was to be initiated in the legislation which would inform communities through computerization if a person was a convicted section offender, if they applied for jobs in day care centers or in other places where they might have an opportunity to perpetrate those kinds of crimes or atrocities on women or children again

That provision was changed dramatically in the bill to where it really is not going to be able to do the job that we wanted. I think everybody in this country that is conversant with the child molesting that is going on, the rapes that are taking place, and the violent attacks on women, though that this provision was something that was essential and should have been in that bill. They watered it down in conference committee. So when the rule came back, I think many people, myself included, thought that that was something that should have been left in there, and that was one of the reasons why we voted against the rule.

The last thing that concerns many of us is the $9.3 billion, $9,300 million, that they have in there social programs.

Now, midnight basketball might be something that is beneficial in certain communities, and maybe we ought to do something like that. I do not know. But why not vote on that separately, on a straight up and down vote, instead of adding it into this bill as part of a social engineering program?

There is so much money that is being spent, at a time when our deficit is out of control and the national debt continues to rise in a very rapid manner.

So I think that what we should do, there was an article in the paper today talking about bringing these amendments up one at a time and allowing the American people to judge their Congressmen and Congresswomen based on the votes we cast on each one of these provisions. Do we wanted $9.3 billion for these social programs, midnight basketball and everything else? We should be allowed to be accountable for that, instead of having it in a 700-page bill. Do we want provisions in there to make sure every community in the country will know if a convicted child molester or rapist comes in that community and gets a job that might allow him to do it again? There are things that we should be talking about. These are things the American people would like to see us vote on. But we are not getting a chance to. They are bringing it out in a bill that thick that nobody has read. We are going to find out when we go home a lot of things we have not talked about are in that bill. That is doing a disservice to the American people.

We do not need any more omnibus bills, these Christmas-tree bills with everything under the sun in them that we cannot possibly read or understand until 3 or 4 days from the time we get the bill to the time we pass it.

So I agree with my colleague. There are a lot of things wrong with this bill, and I think we should defeat the rule and the bill in its present form. If we make some changes that make it palatable, let us have time to study it before we pass it.

Mr. TAYLOR of North Carolina. I would like to say just briefly, most people did not understand what the vote on the rule meant. The closed rule means that we would not be allowed to make any amendments, as the gentleman has suggested we should be making to this bill. The public would not see any debate, there would be no opportunity for amendment. It would have to be voted on, the entire $33 billion, up or down in one swoop. I think the public wants to see more deliberation by this body. They want to see more individual votes, and have some understanding of each part.

I appreciate the gentleman taking the time to point this out for the public.

Mr. BURTON of Indiana. I agree with you. If there is one thing the American people want, it is accountability. You do not get it in this bill.

CONFERENCE REPORT ON H.R. 4603

Mr. MOLLOHAN submitted the following conference report and statement on the bill (H.R. 4603) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes:

CONFERENCE REPORT (H. Rept. 103-708)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4603) "making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and

making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 5, 7, 9, 11, 12, 13, 14, 17, 36, 37, 43, 44, 47, 48, 49, 63, 66, 68, 71, 74, 76, 85, 86, 87, 89, 90, 91, 94, 96, 98, 99, 106, 109, 116, 117, 121, 124, 132, 133, 134, 135, 136, 137, 138, 142, 143, 151, and 157.

That the House recede from its disagreement to the amendments of the Senate numbered 8, 10, 18, 26, 30, 32, 39, 40, 42, 51, 54, 56, 69, 78, 79, 81, 83, 102, 103, 104, 113, 114, 120, 122, 128, 130, 146, 148, 149, 153, 156, 160, 161, and 162, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$98,100,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$62,000,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: : *Provided, That of the funds made available in fiscal year 1995 under chapter A of subpart 2 of Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended: (a) $2,000,000 shall be available for the District of Columbia Metropolitan Area Drug Enforcement Task Force; (b) not to exceed $500,000 shall be available to make grants or enter contracts to carry out the Denial of Federal Benefits program under the Controlled Substances Act, as amended by the Crime Control Act of 1990 (21 U.S.C. 862); and (c) $500,000 shall be available to carry out the provisions of the Anti Car Theft Act of 1992 (Public Law 102-519), for grants to be used in combating motor vehicle theft, of which $200,000 shall be available pursuant to subtitle B of title I of said Act, and of which $300,000 shall be available pursuant to section 306 of title III of said Act: Provided further, That funds made available in fiscal year 1995 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles*

, and

on page 3 line 10 through and including line 12 of the House engrossed bill, H.R. 4603, strike "; (c) $6,000,000 shall be available for implementation of the Federal Bureau of Investigation's National Instant Background Check System"; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment and delete the matter inserted by said amendment

, and

strike all on page 4, line 10 of the House engrossed bill, H.R. 4603, and all that follows down through and including line 6 on page 5; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$120,185,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment, and delete the matter inserted by said amendment

, and

strike all on page 8, line 5 and all that follows down to and including line 10 of the House engrossed bill, H.R. 4603; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$417,202,000*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment and delete the matter inserted by said amendment

, and

strike all on page 11, line 9 and all that follows done to and including line 14 of the House engrossed bill, H.R. 4603; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$80,655,000: Provided, That notwithstanding any other provision of law, not to exceed $39,640,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvement Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation; and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $41,015,000: Provided further, That any fees received in excess of $39,640,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995*; and the Senate agree to same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agreed to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$829,723,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *In addition, for all reasonable and necessary expenses to implement the Attorney General's Violent Crime Task Force Initiatives in the United States Attorney Offices, $15,000,000, to remain available until expended, including the reasonable and necessary expenses of intergovernmental, interlocal, cooperative and task force agreements, however denominated, and contracts with State and local prosecutive and law enforcement agencies engaged in the investigation and prosecution of crimes of violence and drug trafficking crimes.*

And the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$103,190,000, as authorized by 28 U.S.C. 589a(a), to remain available until expended, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554), of which $62,593,000 shall be derived from the United States Trustee System Fund: Provided, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: Provided further, That, notwithstanding any other provision of law, not to exceed $40,597,000 of offsetting collections derived from fees collected pursuant to section 589a(f) of title 28, United States Code, as amended by section 111 of Public Law 102-140 (105 Stat. 795), shall be retained and used for necessary expenses in this appropriation: Provided further, That the $103,190,000 herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $62,593,000: Provided further, That any of the aforementioned fees collected in excess of $40,597,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$396,847,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$374,943,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,206,871,000*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$757,204,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

VOL 140 PT 16 AG 12 — 18 1994 UMI

In lieu of the sum proposed by said amendment, insert: *$1,102,671,000*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment and delete the matter inserted by said amendment

, and

strike all on page 22, line 12 and all that follows down to and including line 22 of the House engrossed bill, H.R. 4603; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment, insert: *$50,000,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment, insert: *$75,000,000*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$280,000,000*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 110. Paragraph 524(c)(9) of title 28, United States Code, is amended by adding subparagraph (E), as follows:

"(E) Subject to the notification procedures contained in section 605 of Public Law 103–121, and after satisfying the transfer requirement in subparagraph (B) above, any excess unobligated balance remaining in the Fund on September 30, 1994 shall be available to the Attorney General, without fiscal year limitation, for any federal law enforcement, litigative/prosecutive, and correctional activities, or any other authorized purpose of the Department of Justice. Any amounts provided pursuant to this section may be used under authorities available to the organization receiving the funds.".

And the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 112. Section 1404(a)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)(B)) is amended by striking "1994" and inserting "1955".

SEC. 113. Notwithstanding any other provision of law—

(a) No transfers may be made from Department of Justice accounts other than those authorized in this Act, or in previous or subsequent appropriations acts for the Department of Justice, or in part 11 of title 28 of the United States Code, or in section 10601 of title 42 of the United States Code.

(b) No appropriation account within the Department of Justice shall have its allocation of funds controlled by other than an apportionment issued by the Office of Management and Budget or an allotment advice issued by the Department of Justice.

And the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert the following: *SEC. 114.*

And insert the following:

SEC. 115.

(a) IN GENERAL.—Except as provided in subsection (c), an individual described in subsection (b) may be appointed noncompetitively, under a career or career-conditional appointment, to a position in the competitive service if—

(1) the individual meets the qualification requirements prescribed by the Office of Personnel Management for the position to which appointed;

(2) the last previous Federal employment of the individual was as an employee of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(3) the individual is appointed to such position within two years after separating from the Criminal Justice Information Services Division.

(b) INDIVIDUAL DESCRIBED.—An individual described in this subsection is an individual who—

(1) on the date of the enactment of this Act—

(A) is an employee of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(B) is serving in an appointed position (i) to be relocated from Washington, District of Columbia, to Clarksburg, West Virginia, and (ii) that is excepted by law or regulation from the competitive service; and

(2) has not relocated with his or her position in the Criminal Justice Information Services Division to Clarksburg, West Virginia.

(c) APPLICATION.—This section does not apply to an individual serving on the date of the enactment of this Act in an appointed position on a temporary or term basis.

(d) This section may be cited as the "Criminal Justice Information Services Placement Assistance Act".

And the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$9,000,000*; and the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$233,000,000*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum "$166,832,000" insert: *$185,232,000* and in lieu of the sum "$50,432,000" insert: *$68,832,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$94,428,000: Provided, That notwithstanding any other provision of law, not to exceed $39,640,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $54,788,000: Provided further, That any fees received in excess of $39,640,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995: Provided further, That section 605 of Public Law 101–162 (103 Stat. 1031), as amended, is further amended by striking "$25,000" and inserting in lieu thereof "$45,000"*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum "$900,000" named in said amendment, insert: *$74,856,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$265,000,000*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment and in lieu of the sum "$554,000,000" insert: *$525,000,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$1,835,000,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

Restore the matter stricken of said amendment, amended to read as follows: *That notwithstanding 31 U.S.C. 3302 but consistent with other existing law, in addition to fees currently being assessed and collected, additional fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering marine sanctuary and aeronautical charting programs: Provided further, That the sum herein appropriated from the general fund shall be reduced as such additional fees are received during fiscal year 1995, so as to result in a final general fund appropriation estimated at not more than $1,829,000,000: Provided further, That any such additional fees received in excess of $6,000,000 in fiscal year 1995 shall not be available for obligation until October 1, 1995: Provided further,*; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *: Provided further, That hereafter all receipts received from the sale of aeronautical charts that result from an increase in the price of individual charts above the level in effect for such charts on September 30, 1993, shall be deposited in this account as an offsetting collection and shall be available for obligation: Provided further, That grants to States pursuant to sections 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $500,000, and any grant made in fiscal year 1995 to a State which did not receive funding under this program in fiscal year 1994 shall not exceed $800,000: Provided further, That of the total amount appropriated in this paragraph, $16,000,000 shall be available for the integrated program office for convergence of civilian and military polar-orbiting meteorological satellites*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$97,600,000; of which $2,500,000 is for a grant to the City of Kansas City, Missouri, for development of a weather and environmental center; and of which the following amounts shall be available to carry out continuing construction activities: $3,500,000 for a grant for construction of a Multispecies Aquaculture Center in the State of New Jersey; $1,000,000 for a grant to the Mystic Seaport, Mystic, Connecticut, for a maritime education center; $5,200,000 for a grant to the Center for Interdisciplinary Research and Education in Indiana; and $2,000,000 for a grant for the construction of the Massachusetts Biotechnology Research Institute in Boston; and all sums in this paragraph are*; and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $250,000: Provided, That none of the funds made available under this heading may be used to guarantee loans for the purchase of any new or existing fishing vessel.

And the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$136,000,000*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$266,450,000, to remain available until expended; of which $930,000 is for a grant to the Michigan Biotechnology Institute; $1,000,000 is for a grant to the Emerging Technologies Institute in Sacramento, California; $1,700,000 is for a grant to the Massachusetts Biotechnology Research Institute; $1,200,000 is for a grant to the Center for Global Competitiveness in Loretto, Pennsylvania; and $3,400,000 is for a grant to the Textile Clothing Technology Center*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$43,900,000, of which $31,872,000 shall remain available until expended: Provided, That $600,000 is available only for a grant for the NTTC to implement a Minority Apprenticeship Program in Technology Management; $100,000 is available only for a grant for a Minority Economic Opportunity Center in Cleveland, Ohio; and $200,000 is available only for a grant for the U.S.-Africa Trade and Technology Center in Savannah, Georgia*; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$16,407,000*; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$63,000,000, to remain available until expended, of which $6,000,000 is available only for the acquisition of high performance computing capability: Provided, That of the offsetting collections credited to this account, $2,195,000 are permanently canceled: Provided further, That the funds made available under this heading are*

, and

on page 48, line 23 of the House engrossed bill, H.R. 4603, strike "to remain available until expended,"; and the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum "$12,000,000" insert: *$8,000,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$29,000,000*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert *$64,000,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *and for trade adjustment assistance, $408,024,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$24,240,000*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,340,127,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$59,346,000*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$47,500,000*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$8,800,000*; and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$76,100,000*

, and

on page 63, line 4 of the House engrossed bill, H.R. 4603, after "priated." insert the following:

Of the budgetary resources available to the Maritime Administration of the Department of Transportation during fiscal year 1995, $360,000 are permanently canceled. The Secretary of Transportation shall allocate the amount of budgetary resources canceled among the Department's Maritime Administration accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account, for the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

And the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$150,000,000*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

VOL 140 PT 16 AG 12 — 18 1994 UMI

In lieu of the sum proposed by said amendment, insert the following: *$258,175,000 of which $15,000,000 shall be available to implement section 24 of the Small Business Act, as amended, including $500,000 to be made available only to the City of Buffalo, New York: Provided, That section 24(e) of the Small Business Act (15 U.S.C. 651(e)) is amended by striking "fiscal years 1992 through 1994" and inserting in lieu thereof "fiscal years 1995 through 1997"; Provided further, That section 112(c)(2) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended by striking "October 1, 1994" and inserting "October 1, 1997"*; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$77,375,000*; and the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the sum proposed in said amendment, insert: *$3,375,000*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$9,596,000*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$278,305,000 as authorized by 15 U.S.C. 631 note, of which $1,216,000, to be available until expended, shall be for the Microloan Guarantee program, and of which the following shall remain available until September 30, 1996: $15,990,000 for the Small Business Investment Company Debentures Program; $7,398,000 for the Specialized Small Business Investment Company Program; and $20,457,000 for the Small Business Investment Company Participating Securities Program, and of which $31,000,000 shall be used to pre-pay the Federal Financing Bank for debentures guaranteed by the Administration pursuant to section 503 of the Small Business Investment Act: Provided, that such costs, including the cost of modifying such loans, shall be as defined in section 602 of the Congressional Budget Act of 1974. In addition, for expenses not otherwise provided for, of the Small Business Administration, $27,350,000 of which: $750,000 shall be available for a grant to the North Carolina Biotechnology Center for a demonstration project which would integrate small business formation and preparation of a biotechnology workforce; $500,000 shall be available for continuation of a grant to the Van Emmons Population marketing Analysis Center, Towanda, Pennsylvania, for an integrated small business data base to assist Appalachian Region small businesses; $1,000,000 shall be available for continuation of a grant to the City of Prestonsburg, Kentucky, for small business development assistance; $375,000 shall be available for a grant to the State of Nebraska for establishing the Nebraska Micro Enterprise Initiative to include a clearinghouse and training and counseling programs; $3,000,000 shall be available for continuation of a grant to the National Center for Genome Resources in New Mexico to provide consulting assistance, information and related services to small businesses and for related purposes; $1,000,000 shall be available for continuation of a grant for the Genesis Small Business Incubator Facility, Fayetteville, Arkansas; $500,000 shall be available for a grant to an entity in Bozeman, Montana, to establish a small business assistance center to assist small businesses to qualify and participate in the Small Business Innovation Research (SBIR) program; $1,000,000 shall be available for continuation of a grant to Center for Entrepreneurial Opportunity in Greensburg, Pennsylvania, to provide for a small business consulting and assistance center for entrepreneurial opportunities; $1,500,000 for a grant to a consortium in Buffalo, New York, to provide assistance to small businesses for technical improvement of commercial industrial products; $250,000 shall be available for a grant to the Western Massachusetts Enterprise Fund to expand microlending to entrepreneurs and small businesses; $400,000 shall be available for continuation of a grant to the State of Ohio, Department of Development, International Trade Division to assist small businesses to expand export opportunities; $1,000,000 shall be available for continuation of a grant to assist the development of a small business consulting, information and assistance center in hazard, Kentucky; $2,000,000 shall be available for continuation of a grant to the WVHTC Foundation for buildout, equipment, and operations costs for a small business incubator facility and for an outreach grant program to assist small business economic development; $125,000 shall be available for a grant to an organization in Bowling Green, Kentucky, to establish a small business pilot program to convert municipal waste into a marketable product; $2,500,000 shall be available for a grant to the City of Carbondale, Pennsylvania, to establish and operate a small business incubator facility; $500,000 shall be available for continuation of a grant to the New York City Public Library for construction and related costs for the Industry and Business Library; $200,000 shall be available for continuation of a grant to assist the Small Business Institute program of the Small Business Administration to establish and operate a National Data Center Small Business Institute program in Conway, Arkansas; $4,000,000 shall be available for a grant to the Unified Technology Center in Cleveland, Ohio, the assist small businesses in the design of high quality environmentally sound processes; $1,250,000 shall be available for a grant to the City of Whitesburg, Kentucky, to develop and equip a facility to promote the development of small businesses and enhance economic development; $2,500,000 shall be available for a grant to the City of Wheeling, West Virginia, for the Oglebay Small Business Rural Development Center; $1,000,000 shall be available for a grant for a Small Business Development Institute in North Philadelphia, Pennsylvania, for a facility to assist and train minority small businesses; $250,000 shall be available for continuation of a grant to the City of Espanola, New Mexico, for the second phase of the development of the Espanola Plaza project to assist small businesses and enhance economic development; $1,000,000 shall be available for a grant to North Central West Virginia Community Action to establish a small business rural enterprise training interstate and microloan demonstration program; $500,000 shall be available for a grant to the Mississippi Delta Small Business Technology Project, Little Rock, Arkansas for technology education for small business owners and employees; and $250,000 shall be available for a grant to establish a small business incubator facility in West Charlotte, North Carolina*

, and

on page 68, line 5 of the House engrossed bill, H.R. 4603, strike ", as authorized by" and all that follows through "note" on line 6, page 68.

And the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

Delete the matter proposed by said amendment

, and

on page 68, line 6 of the House engrossed bill, H.R. 4603, strike "of which $30,000,000 shall be used" and all that follows down to and including the period on line 12, page 68.

And the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *SEC. 402.*

And the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$1,731,416,000*

; and the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *: Provided, That hereafter all receipts received from a new charge from expedited passport processing shall be deposited in this account as an offsetting collection and shall be available until expended: Provided further, That hereafter all receipts received from an increase in the charge for Immigrant Visas in effect on September 30, 1994, caused by processing an applicant's fingerprints, shall be deposited in this account as an offsetting collection and shall remain available until expended. Of the funds appropriated under this heading: not to exceed $4,000,000 shall be available for grants, contracts, and other activities to conduct research and promote international cooperation and environmental and other scientific issues; not to exceed $600,000 shall be available to carry out the activities of the Commission on Protecting and Reducing Government Secrecy; and not to exceed $300,000 shall be available to carry out activities of the Office of Cambodian Genocide Investigations. None of the funds appropriated under this heading shall be available to carry out the provisions of section 101(b)(2)(E) of Public Law 103–236.*

Of the funds provided under this heading, $28,356,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and $15,000,000 shall be available only for the enhancement of the Diplomatic Telecommuntications Service (DTS), except that such latter amount shall not be available for obligation until the expiration of the 15-day beginning on the date on which the Secretary of State and the Director of the Diplomatic Telecommunications Service Program Office submit the DTS planning report required by section 507; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *not to exceed $117,864,000*; and the Senate agree to the same.

Amendment numbered 125::

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$877,222,000, of which not to exceed $4,000,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization*; and the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment, as follows:

After the word "taken" in said amendment, insert: *, and anticipated,*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$533,304,000, of which not to exceed $288,000,000 is available to pay arrearages accumulated in fiscal year 1994 and not to exceed $23,092,000 is available to pay other outstanding arrearages: Provided, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for the United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers*; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$6,644,000*

, and

on page 82, line 11 of the House engrossed bill, H.R. 4603, strike "$15,000,000" and insert in lieu thereof *$10,000,000*.

And the Senate agreed to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

In subsection (c) of said amendment, after "1994" insert the following: *and shall cease to have effect on October 1, 1997*; and the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 507.(a) DIPLOMATIC TELECOMMUNICATIONS SERVICE FINANCIAL MANAGEMENT.—In fiscal year 1995 and each succeeding fiscal year—

(1) the Secretary of State shall provide funds for the operation of the Diplomatic Telecommunications Service (DTS) in a sufficient amount to sustain the current level of support services being provided by the DTS, and no portion of such amount may be reprogrammed or transferred for any other purpose;

(2) all funds for the operation and enhancement of the DTS shall be directly available for use by the Diplomatic Telecommunications Service Program Office (DTS–PO); and

(3) the DTS–PO financial management officer shall be provided direct access to the Department of State financial management system to independently monitor and control the obligation and expenditure of all funds for the operation and enhancement of the DTS.

(b) DTS POLICY BOARD.—Within 60 days after the date of the enactment of this Act, the Secretary of State and the Director of the DTS–PO shall restructure the DTS Policy Board to provide for representation on the Board, during fiscal year 1995 and each succeeding fiscal year, by—

(1) the Director of the DTS–PO;

(2) the senior information management official from each agency currently serving on the Board;

(3) a senior career information management official from each of the Department of Commerce, the United States Information Agency, and the Defense Intelligence Agency; and

(4) a senior career information management official from each of 2 other Federal agencies served by the DTS, each of whom shall be appointed on a rotating basis by the Secretary of State and the Director of the DTS–PO for a 2-year term.

(c) DTS CONSOLIDATION PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of State and the Director of the DTS–PO shall carry out a program under which total DTS consolidation will be completed before October 1, 1995, at not less than five embassies of medium to large size.

(2) PILOT PROGRAM REQUIREMENTS.—Under the program required in paragraph (1)—

(A) each participating embassy shall be provided with a full range of integrated information services, including message, data, and voice, without additional charge;

(B) a combined transmission facility shall be established and jointly operated, with open access to all unclassified transmission equipment;

(C) an unclassified packet switch communication system shall be installed and shall serve all foreign affairs agencies associated with the embassy;

(D) separate classified transmission systems (including MERCURY) shall be terminated; and

(E) all foreign affairs agency systems requiring international communications capability shall obtain such capability solely through the DTS.

(3) PILOT PROGRAM REPORT.—Not later than January 15, 1996, the Secretary of State and the Director of the DTS–PO shall submit to the Committees on Appropriations of the House and Senate a report describing the actions taken under the program required by this subsection. The report shall include a cost-benefit analysis for each embassy participating in the program.

(d) DTS PLANNING REPORT.—Not later than January 15, 1995, the Secretary of State and the Director of the DTS–PO shall submit to the Committees on Appropriations a DTS planning report. The report shall include—

(1) a detailed plan for carrying out the pilot program required by subsection (c), including an estimate of the funds required for such purpose; and

(2) a comprehensive DTS strategy plan that contains detailed plans and schedules for—

(A) an overall DTS network configuration and security strategy;

(B) transition of the existing dedicated circuits and classified transmission systems to the unclassified packet switch communications system;

(C) provision of a basic level of voice service for all DTS customers;

(D) funding of new initiatives and of replacement of current systems;

(E) combining existing DTS network control centers, relay facilities, and overseas operations; and

(F) reducing the extensive reliance of DTS–PO on the full-time services of contractors.

And the Senate agree to the same.

Amendment numbered 140:

That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following: *of which not less than $9,500,000 is available until expended only for activities related to the implementation of the Chemical Weapons Convention, and*; and the Senate agree to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment, as follows:

In lieu of the sum provides by said amendment, insert: *$42,500,000*; and the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$238,279,000*; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$500,000 is available for the Mike Mansfield Fellowship Program*; and the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$468,796,000*

, and

on page 89, line 26 of the House engrossed bill, H.R. 4603 strike "$239,735,000" and insert in lieu thereof *$229,735,000*.

And the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That funds appropriated under this Act used by the Board of International Broadcasting or the Broadcasting Board of Governors to relocate offices or operations of RFE/RL, Incorporated, from Munich, Germany, to Prague, Czech Republic, shall be made available only from funds provided for the Board for International Broadcasting in this paragraph: Provided further, That none of the funds provided by this Act for the United States Information Agency, except for amounts made available for transfer to the Board for International Broadcasting, shall be available for any excess cost to implement the plan required by Sec. 310 of Public Law 103–236: Provided further, That no funds appropriated under this heading may be expended for the payment of retroactive operating costs, including rent on facilities, in Prague, or for the payment of operating costs prior to the date of signing a lease by RFE/RL, Incorporated: Provided further, That not less than the amount appropriated by this Act for the Office of Inspector General, Board for International Broadcasting shall be available for*

VOL 140 PT 16 AG 12 — 18 1994 UMI

semiannual reviews of RFE/RL, Incorporated and that on-site review is maintained at the current level throughout the duration of the relocation transition; and the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

RADIO FREE ASIA

For expenses necessary to carry out the Radio Free Asia program as authorized by section 309 of the International Broadcasting Act of 1994 (title III of the Foreign Relations Authorization Act of 1994, Public Law 103-236), $10,000,000, to remain available until expended.

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) and the International Broadcasting Act of 1994 (title III of the Foreign Relations Authorization Act of 1994, Public Law 103-236), including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $24,809,000, to remain available until expended.

And the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment, insert: *$4,000,000*; and the Senate agree to the same.

Amendment numbered 155:

That the House recede from its disagreement to the amendment of the Senate numbered 155, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$34,000,000*; and the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *Sec. 609*.

And the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

In lieu of the heading, "Sec. 611. Religious Liberty." in said amendment, insert: *Sec. 610*.

, and

in subsection (b)(1) after "guidelines", insert: *at this time*; and the Senate agreed to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert:

TITLE VIII—DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance to carry out the provisions of subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Acts of 1968, as amended, notwithstanding the provisions of section 511 of said Act, $450,000,000, to remain available until expended, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program.

STATE CRIMINAL RECORDS UPGRADE

For grants, contracts, cooperative agreements, and other assistance authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, Public Law 103-159 (107 Stat. 1536), $100,000,000, to remain available until expended, of which up to $6,000,000 may be used for implementation of the Federal Bureau of Investigation's National Instant Background Check System: Provided, That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

STATE CORRECTIONAL GRANTS

For grants to States to develop, construct, or expand military style boot camp prison programs which include coordinated, intensive aftercare services for inmates following release, $24,500,000, to remain available until expended: Provided, That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

DRUG COURTS

For grants, contracts, cooperative agreements, and other assistance to implement drug court programs which combine intensive probationary supervision and mandatory drug testing and treatment as an alternative punishment for young, non-violent drug offenders, $29,000,000, to remain available until expended: Provided, That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

For grants, contracts, cooperative agreements, and other assistance to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving crimes against women, $26,000,000, to remain available until expended: Provided, That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

OUNCE OF PREVENTION COUNCIL

For grants by the Ounce of Prevention Council, $1,500,000, to remain available until expended.

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

For necessary expenses, as authorized by section 501 of the Immigration Reform and Control Act of 1986, as amended (8 U.S.C. 1365), $130,000,000, to remain available until expended: Provided, That the Attorney General shall promulgate regulations to (a) prescribe requirements for program participation eligibility for States, (b) require verification by States of the eligible incarcerated population data with the Immigration and Naturalization Service, (c) prescribe a formula for distributing assistance to eligible States, and (d) award assistance to eligible State: Provided further, That of the amount appropriated herein, one-third shall be distributed on a preliminary basis no later than 120 days after the beginning of the fiscal year, according to regulations promulgated by the Attorney General: Provided further, That the remaining two-thirds of the amount appropriated herein shall be distributed after final application for program participation to be submitted by the States by September 30, 1995: Provided further, That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

In addition to amounts otherwise made available in this Act, for necessary expenses of the Executive Office for Immigration Review associated with the President's Immigration Initiative, $17,400,000, of which not to exceed $6,000,000 shall remain available until expended.

COMMUNITY POLICING

For grants, contracts, cooperative agreements, and other assistance for the Cops on the Beat Program, $1,300,000,000 to remain available until expended, of which $200,000,000 shall be available to the Bureau of Justice Assistance to make awards to jurisdictions pursuant to the police hiring grant program provided in the supplemental appropriation for Justice Assistance contained in the Supplemental Appropriations Act of 1993 (Public Law 103-50, 107 Stat. 246): Provided, That not to exceed $11,000,000 of the amount appropriated herein shall be available for salaries and expenses for program administration, of which $900,000 shall be transferred to and merged with the management and administration program of the Justice Assistance appropriation.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

In addition to amounts otherwise made available in this Act for "Salaries and Expenses, General Legal Activities", $4,600,000 for necessary expenses of the Civil Division associated with the President's Immigration Initiative, of which not to exceed $1,500,000 shall remain available until expended.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

In addition to amounts otherwise made available in this Act for "Salaries and Expenses, United States Attorneys", $6,800,000 for necessary expenses associated with the President's Immigration Initiative, of which not to exceed $2,000,000 shall remain available until expended.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

In addition to amounts otherwise made available under this heading in this Act for "Salaries and Expenses", $100,600,000 to implement the President's Immigration Initiative, of which not to exceed $32,000,000 shall remain available until expended.

BORDER CONTROL SYSTEM MODERNIZATION

For the development, testing, evaluation and procurement of new automation and communications systems and other new technologies necessary for the administration and enforcement of the laws relating to immigration, naturalization and alien registration, not otherwise provided for, $154,600,000, to remain available until expended.

GENERAL PROVISION

Upon enactment of a bill establishing the Violent Crime Reduction Trust Fund and reducing discretionary spending limits, amounts made available under each heading under this title shall be rescinded, and an amount equal to the amount under each such heading shall be made available from such Trust Fund under the same terms and conditions contained in this title. Obligations and outlays incurred prior to the establishment of such Trust Fund shall, after enactment, be recorded against amounts made available from the Trust Fund under the appropriate heading as if such obligations and outlays had originally been made from such Trust Fund.

This title may be cited as the "Violent Crime Control Appropriations Act, 1995".

And the Senate agree to the same.

ALAN B. MOLLOHAN,
NEAL SMITH,
BOB CARR,
JAMES P. MORAN,
DAVID E. SKAGGS,
DAVID E. PRICE,
DAVID R. OBEY,
HAROLD ROGERS,
JIM KOLBE,
CHARLES H. TAYLOR,
JOSEPH M. MCDADE,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
DALE BUMPERS,
FRANK R. LAUTENBERG,
JIM SASSER,
BOB KERREY,
ROBERT C. BYRD,
PETE V. DOMENICI,
TED STEVENS,
MARK O. HATFIELD,
PHIL GRAMM,
MITCH MCCONNELL,
THAD COCHRAN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 1995, and for other purposes, submit the following joint statement by the House and Senate in explanation of the effect of the action by the managers and recommended in the accompanying conference report.

TITLE I—DEPARTMENT OF JUSTICE AND RELATED AGENCIES

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

The conference agreement provides a total of $315,350,000 from the General Fund of the Treasury for the programs administered by the Office of Justice Programs. The conference agreement also appropriates $2,066,000,000 in Title VIII for new grant programs authorized under the Crime Bill which are to be administered by the Office of Justice Programs. The disposition of each amendment under this heading and a detailed description of the agreement for each program follows—

JUSTICE ASSISTANCE

Amendment No. 1: Appropriates $98,100,000 instead of $96,600,000 as proposed by the Senate and $94,100,000 as proposed by the House for the following programs:

[In thousands of dollars]

	Fiscal year—				
	1994 enacted	1995 request	1995 House	1995 Senate	1995 conference
National Institute of Justice	22,500	22,995	23,000	25,500	27,000
SECURES Pilot Program	.....	.....	(500)	.....	(500)
Defense/law enforcement technology transfer	.....	.....	.....	(3,000)	(4,500)
Bureau of Justice Statistics	20,943	21,373	21,379	21,379	21,379
Emergency Assistance					
Missing Children	6,621	6,621	6,721	6,721	6,721
Safe Return Program	(650)	(650)	(750)	(750)	(750)
Regional Information Sharing System	14,491	.....	14,500	14,500	14,500
White Collar Crime Information Center	(850)	.....	(890)	(850)	1,400
Management and Administration	25,550	28,586	28,500	28,500	27,100
Total	90,105	79,575	94,100	96,600	98,100

Defense/Law Enforcement Technology Transfer.—The conferees support the efforts of the Departments of Justice and Defense to identify defense and other advanced technologies for law enforcement purposes. To this end, the conference agreement provides $5,000,000 to assist the National Institute of Justice (NIJ) in its efforts to adopt technologies for law enforcement purposes. Within this amount, $3,000,000 is provided to establish a law enforcement technology information network in conjunction with the Regional Information Sharing System as discussed in the Senate report, $1,500,000 is provided for a technology commercialization initiative, and $500,000 to test the SECURES program in an operational environment as discussed in the House report.

National White Collar Crime Center.—The conference agreement provides a total of $1,400,000 for the National White Collar Crime Center (NWCCC) for fiscal year 1995. This program, which was funded in previous years under the Regional Information Sharing System, provides assistance to State and local law enforcement and regulatory agencies in addressing multi-jurisdictional white collar crimes. Of the amount provided, $850,000 is for the ongoing operations of the NWCCC, and $550,000 is to allow for the establishment of an expanded research and training capability for the NWCCC in order to enhance the efforts of State and local criminal investigators and prosecutors against white collar crime.

Management and Administration.—The conference agreement provides for a total of $35,910,000 to manage and administer the programs of the Office of Justice Programs (OJP). The conference agreement for the various new grant programs to be administered by the OJP provides authority for the transfer of funds for such expenses. The agreement assumes that the OJP will be allowed to fill an additional 72 positions to administer these new grant programs, above the 365 positions requested for ongoing program administration. Funding for management and administration is derived as follows:

Program	Amount	Positions
Direct appropriation	$27,100,000	285
Transfer from juvenile justice programs	4,800,000	80
Transfer from community policying	900,000,000	20
Transfer from other new grant programs	3,110,000	52

Amendment No. 2: Deletes the Sense of the Senate provision concerning research on the crime of stalking. The conferees agree that the Department should make every effort to assist State and local agencies in their efforts to protect victims of stalking crimes.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE GRANTS

Amendment No. 3: Appropriates $62,000,000 for discretionary law enforcement assistance grants instead of $68,500,000 as proposed by the House and $68,000,000 as proposed by the Senate.

Amendment No. 4: The conference agreement restores language designating $2,000,000 for the D.C. Metropolitan Area Drug Enforcement Task Force and $500,000 for the Denial of Federal Benefits program from the amounts provided for discretionary law enforcement assistance grants as proposed by the House and stricken by the Senate. The agreement also deletes a separate appropriation of $500,000 for the Anti Car Theft Act included in the House bill and stricken by the Senate, and instead designates $500,000 from within discretionary grants for this purpose. The agreement also includes language proposed by the Senate and not in the House bill concerning programs for the prosecution of driving while intoxicated charges. Last, the agreement deletes an appropriation of $6,000,000 for the FBI's National Instant Background Check System included in both the House and Sente bills because these expenses are funded under the Upgrade Criminal History Records appropriation in Title VIII.

Byrne Discretionary Grants.—The conference agreement provides for the full $50,000,000 authorized for the Edward Byrne Memorial Discretionary Grant Program, to include:

(A) $3,000,000 for the National Crime Prevention Council to continue and expand the National Citizens Crime Prevention Campaign (McGruff).

(B) $1,750,000 for a grant to DARE America to continue and expand the Drug Abuse Resistance Education program.

(C) $4,350,000 for a continuation grant to the Boys and Girls Clubs of America.

(D) $1,000,000 for Criminal Information Systems for a continuation grant to the SEARCH Group, Inc.

(E) $2,000,000 for a grant to continue the activities of the District of Columbia Metropolitan Area Drug Enforcement Task Force.

(F) $200,000 for a grant to develop automated speech storage and retrieval software for incident reports as described in the Senate report.

(G) $500,000 for Anti Car Theft Act grants.

The conferees are aware of a number of other projects which will enhance State and

VOL
140
PT
16
AG
12
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18
1994
UMI

local law enforcement. Within the overall amounts provided in the conference agreement for discretionary grants administered by the Bureau of Justice Assistance (BJA), the conferees expect the BJA to examine the following proposals, provide grants if warranted, and report its intentions to the Committees on Appropriations of the House and Senate:

The projects described on pages 15 and 16 of House Report 103–552, and the following additional projects—

A continuation grant for the Organized Crime Narcotics (OCN) program.

A continuation grant for the Financial Investigations (FINVEST) program.

A continuation grant for the National Crime Prevention Council's drug abuse prevention programs in schools and communities.

A continuation grant for the National Association of Town Watch.

A grant to continue and expand the successful technical assistance provided by the Institute for Intergovernmental Research to the Interagency Criminal Alien Program.

A grant to the National Judicial College to provide drug legal education and training to State and local trial judges.

A grant to a statewide court system in a small jurisdiction to develop a cost-effective court delay reduction program through the increased use of magistrates and other judicial personnel.

A grant to an early intervention counseling program in Buffalo, NY, which works with the courts to assist young men and women between the ages of 16 to 21 charged with their first criminal offenses and who are at risk of stigmatization and recidivism.

A grant to study the effects of police officers bill of rights legislation, to be conducted in conjunction with an organization representing rank and file police officers.

BYRNE FORMULA GRANT PROGRAM

Amendment Nos. 5 and 6: The conference agreement for amendment numbers 5 and 6 deletes the entire paragraph appropriating funds for the Byrne Formula Grant program. The House bill provides $804,280,000 for an expanded Byrne Program, while the Senate bill provides $423,000,000 for the traditional Byrne program. The agreement provides $450,000,000 for the traditional Byrne program in title VIII of the bill under amendment number 163.

Amendment No. 7: Deletes the Sense of the Senate provision concerning use of Byrne Discretionary Grants for a grant to the National Victim Center. The conferees agree that the Department of Justice has authority to examine such a grant proposal and encourage the Department to give every consideration to such a proposal.

JUVENILE JUSTICE PROGRAMS

Amendment No. 8: Appropriates $144,000,000 for the Juvenile Justice and Delinquency Prevention (JJDP) Program and designates amounts for specific JJDP programs as proposed by the Senate amendment, instead of $146,500,000 and the designations proposed by the House.

Amendment No. 9: Appropriates $11,250,000 for programs authorized under the Victims of Child Abuse (VOCA) Act and designates amounts for specific VOCA programs as proposed by the House, instead of $9,750,000 and the designations proposed by the Senate.

The following chart compares the conference agreement to the amounts contained in the House and Senate bills for Juvenile Justice Programs for fiscal year 1995:

[In thousands of dollars]

Program/Activity	Fiscal year— 1994 enacted	1995 request	1995 House	1995 Senate	1995 conference
JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT					
Title II: Part A—Management & Admin	4,250	5,000	5,000	5,000	5,000
Part B—Formula Grants	58,310	68,600	68,600	68,600	70,000
Part C—Discretionary Grants	22,440	26,400	26,400	26,400	25,000
Subtotal	85,000	100,000	100,000	100,000	100,000
Part D—Youth Gangs	5,000	12,000	7,500	10,000	10,000
Part E—State Challenge		15,000	15,000	10,000	10,000
Part G—Juvenile Mentoring	4,000		4,000	4,000	4,000
Title V: Delinquency Prevention Grants	13,000	25,000	20,000	20,000	20,000
Total—JJDP programs	107,000	152,000	146,500	144,000	144,000
VICTIMS OF CHILD ABUSE ACT					
Subtitle A—Improve Investigation/Prosecution.					
Regional Advocacy Centers	500	500	500	500	500
Local Advocacy Centers	1,000	1,000	2,000	1,000	2,000
Nat'l Center for Prosecution of Child Abuse	1,500	1,500	1,500	1,500	1,500
Nat'l Network for Child Advocacy Centers	(500)		500		500
Subtitle B—Court Appoint Special Advocates:					
Training/Technical Assistance	1,000	1,000	1,000	1,000	1,000
Expand local programs	3,500	3,500	5,000	5,000	5,000
Subtitle C—Child Abuse Training/Tech Ass't	500	500	750	750	750
Total—Victims of Child Abuse Act	8,000	8,000	11,250	9,750	11,250
Total, Juvenile Justice Programs	115,000	160,000	157,750	153,750	155,250

JJDP Discretionary Grants.—The conference agreement provides $25,000,000 for discretionary grants authorized under Part C of the JJDP Act, to include the following programs as described in both the House and Senate reports:

$600,000 for State Advisory Groups (SAGs);

$100,000 for the SAG Information Center;

$3,500,000 for the National, Coordinated Law Related Education (LRE) programs;

$2,300,000 to the National Council of Juvenile and Family Court Judges;

$1,000,000 to the Teens, Crime and the Community Program;

$500,000 for grants as described on page 20 of Senate Report 103–309, as follows: (a) to support a model multi-disciplinary crisis intervention program for child victims and their families, and (b) to study violence committed by and against juveniles in rural communities in the South.

The conferees are aware of a number of other projects which will enhance State and local law enforcement. Within the overall amounts provided in the conference agreement for Juvenile Justice and Delinquency Prevention discretionary grants, the conferees expect the Department to examine each of the following proposals and to provide grants if warranted, and to submit a report to the Committees on Appropriations on its intentions for each proposal:

The projects described on pages 18 and 19 of House Report 103–552, the projects described on page 20 of Senate Report 103–309, and the following additional projects—

A grant to the Henry Ford Health System to develop a model program of adolescent violence intervention and acute crisis intervention through school-based programs and other community advocacy initiatives.

A grant to the North Omaha Bears project described on page 19 of Senate Report 103–309.

COMMUNITY POLICING

Amendment No. 10: Deletes the appropriation for Community Policing proposed by the House and stricken by the Senate. Funding for this program is contained in title VIII of the bill.

NEW GRANT PROGRAMS

Amendment Nos. 11–14: Deletes the appropriations for State Correctional Grants, Drug Courts, Grants to Combat Violent Crimes Against Women, Community Schools Supervision Grants, and the Ounce of Prevention Council proposed by the Senate. There was no provision for these programs in the House bill. Funding for these programs is addressed in title VIII of the bill.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 15: Appropriates $120,185,000 for General Administration instead of $119,904,000 as proposed by the House and $121,267,000 as proposed by the Senate. The agreement provides for the following: (1) requested adjustments to base; (2) requested reductions for locality pay absorption, FTE reductions, and administrative savings; and (3) the requested increase of $281,000 for the Pardon Attorney. In addition, $17,400,000 is provided for this account in title VIII of the bill for the Executive Office for Immigration Review as part of the President's Immigration Initiative.

Amendment No. 16: The conference agreement deletes the entire paragraph appropriating funds for the Executive Office for Immigration Review associated with the President's Immigration Initiative as proposed in both the House and Senate bills. Funding for this program is addressed in title VIII of the bill.

COMMUNITY POLICING

Amendment No. 17: Deletes language proposed by the Senate which would provide an appropriation for Community Policing. The House included no such provision. Funding for this program is addressed in title VIII of the bill.

WEED AND SEED PROGRAM FUND

Amendment No. 18: Appropriates $13,456,000 for the Weed and Seed Program as proposed by the Senate instead of $13,150,000 as proposed by the House. The conferees agree with the program direction provided in the Senate report concerning continuation of grant awards, expansion of the Weed and Seed strategy, and selection of additional neighborhoods.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

Amendment No. 19: Appropriates $417,202,000 for General Legal Activities, instead of $411,786,000 as proposed by the House and $428,664,000 as proposed by the Senate. In addition, $4,600,000 is provided for this account in title VIII of the bill for the Civil Division as part of the President's Immigration Initiative.

The conference agreement provides for the following: (1) requested adjustments to base; (2) requested reductions for locality pay absorption, FTE reductions (except for $2,206,000 for the Criminal Division), and administrative savings; and (3) program enhancements of $4,710,000, as follows—

Environment and Natural Resources Division	$3,138,000
Office of Legal Counsel	72,000
Immigration-related employer-employee education	1,500,000

Amendment No. 20: The conference agreement deletes the entire paragraph appropriating funds for the Civil Division associated with the President's Immigration Initiative as proposed in both the House and Senate bills. Funding for this program is addressed in title VIII of the bill.

SALARIES AND EXPENSES, ANTITRUST DIVISION

Amendment No. 21: Appropriates $80,655,000, instead of $85,155,000 as proposed by the Senate and $75,655,000 as proposed by the House. Provides for collection of $39,640,000 in offsetting fee collections in fiscal year 1995, instead of $33,460,000 as proposed by the Senate, and $35,460,000 as proposed by the House. Provides for a final (net) appropriation of $41,015,000 instead of $51,695,000 as proposed by the Senate and $40,195,000 as proposed by the House. Provides that any fee collections in excess of $39,640,000, instead of $35,460,000 as proposed by the House and $33,460,000 as proposed by the Senate, be available in fiscal year 1996.

The conference agreement assumes total budget (obligational) authority of $85,155,000 for the Antitrust Division for fiscal year 1995, of which $4,500,000 is derived from prior year unobligated balances. The agreement provides for the following: (1) requested adjustments to base; (2) restoration of requested FTE reductions associated with locality pay absorption; (3) a $227,000 reduction in GSA rent; and (4) a program increase of $16,533,000 and an estimated 100 positions for enhanced enforcement activities.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

Amendment No. 22: Appropriates $829,723,000 for the United States Attorneys instead of $820,177,000 as proposed by the House and $832,723,000 as proposed by the Senate. In addition, $6,800,000 is provided for this account in title VIII of the bill as part of the President's Immigration Initiative.

The conference agreement provides for the following: (1) requested adjustments to base; (2) restores $9,546,000 of the requested $12,546,000 in FTE reductions; and (3) requested reductions for administrative savings and locality pay absorption.

The conferees endorse the need to review the allocation of Assistant U.S. Attorneys as discussed in the Senate report.

Teamsters Union Election.—The conferees support the ongoing efforts of the Department of Justice to rid the International Brotherhood of Teamsters of mob dominance. While the conferees agree that it is in the best interest of the nation to have a mob-free union, it is most beneficial to the union itself. The conferees also agree that the Justice Department should not be bearing the full cost of the supervision of this upcoming election. As such, the conferees agree that $1,500,000 of the amounts available to the U.S. Attorneys for fiscal year 1995 may be allocated for this purpose. However, the conferees further agree that for fiscal years 1996 and 1997 the cost for the supervision of this election shall be shared by the Justice Department, the Department of Labor and the International Brotherhood of Teamsters.

Amendment No. 23: Appropriates $15,000,000 to implement the Attorney General's Violent Crime Task Force Initiative instead of $25,000,000 as proposed by the Senate. The House included no such provision.

The conference agreement also deletes language proposed by the House and stricken by the Senate which would appropriate funds to the U.S. Attorneys to implement the President's Immigration Initiative. Funding for this program is addressed in title VIII.

UNITED STATES TRUSTEE SYSTEM FUND

Amendment No. 24: Appropriates $103,190,000 instead of $100,469,000 as proposed by the House and $104,889,000 as proposed by the Senate. Provides that $62,593,000 of this appropriation shall be derived from the U.S. Trustees System Fund, instead of $61,593,000 as proposed by the House and $64,292,000 as proposed by the Senate. Provides for offsetting fee collections of $40,597,000 as proposed by the Senate, instead of $38,876,000 as proposed by the House. Provides for a final (net) appropriation of $62,593,000 instead of $61,593,000 as proposed by the House and $64,292,000 as proposed by the Senate. Makes any fee collections over $40,597,000 available in fiscal year 1996.

The conference agreement provides total new budget (obligational) authority of $103,190,000 for the U.S. Trustees for fiscal year 1995. The agreement provides for requested adjustments to base, request FTE reductions and locality pay absorption, $1,821,000 to reduce debtor/trustee fraud and mismanagement, and $900,000 to enhance supervision of chapter 11 cases.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

Amendment No. 25: Appropriates $396,847,000 instead of $390,185,000 as proposed by the House and $403,055,000 as proposed by the Senate.

The conference agreement appropriates $396,847,000 for the U.S. Marshals Service for fiscal year 1995, an increase of $32,142,000 above the request. These additional resources are provided primarily to staff new courthouses to be opened, and new judgeship to be filled, in fiscal year 1995. Specifically, the agreement provides for the following: (1) requested adjustments to base, FTE reductions and administrative savings, seized asset management changes and $92,000 for the D.C. Superior Court; (2) $12,000,000 related to new judgeships; (3) $3,648,000 for prisoner and court security; (4) $10,724,000 for staffing and $1,942,000 for non-personnel costs of new courthouses; (5) $2,000,000 for high threat trials; (6) $750,000 for U.S. Marshal pay disparity; and (7) $18,000,000 for the anticipated costs of law enforcement availability pay.

Law Enforcement Availability Pay.—As a result of receiving law enforcement availability pay, Deputy U.S. Marshals will be working an average of one additional hour of overtime per day. This amounts to a 10 percent increase in productivity, which has the same effect as adding on an additional 250 deputies. Because of this increased availability of on-board deputies, the conferees agree to provide $8,000,000 less for staffing new courthouses and high threat trials than the Marshals Service requested.

SUPPORT OF UNITED STATES PRISONERS

Amendment No. 26: Appropriates $298,216,000 as proposed by the Senate instead of $299,465,000 as proposed by the House.

The conferees understand that the $298,216,000 provided under the conference agreement, when added to the $31,046,000 in available prior year funds, will provide sufficient resources to allow the U.S. Marshals to handle current estimated jail days for fiscal year 1995.

ORGANIZED CRIME DRUG ENFORCEMENT

Amendment No. 27: Appropriates $374,943,000 instead of $383,250,000 as proposed by the House and $369,943,000 as proposed by the Senate.

The conference agreement provides the full budget request plus a $5,000,000 program increase for enhanced national drug intelligence activities. The conference agreement appropriates funds for agencies involved in OCDE efforts as follows:

[In thousands of dollars]

Agency	Amount
Drug law enforcement:	
Drug Enforcement Administration	$93,704
Federal Bureau of Investigation	95,571
Immigration & Naturalization Service	10,563
U.S. Marshals Service	1,172
U.S. Customs Service	28,133
Bureau of Alcohol, Tobacco & Firearms	10,300
Internal Revenue Service	37,147
U.S. Coast Guard	868
State & local overtime (reimb)	(5,300)
Subtotal	277,458
Drug Intelligence Activities:	
Drug Enforcement Administration	2,195
National Drug Intelligence Center	5,000
Federal Bureau of Investigation	11,403
Subtotal	18,598
Prosecutions:	
U.S. attorneys	75,287
Criminal division	755
Tax division	1,293
Subtotal	77,335
Administrative support	1,552
Total	374,943

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

Amendment No. 28: Appropriates $2,206,871,000 for the FBI instead of

VOL 140 PT 16 AG 12 — 18 1994 UMI

$2,178,218,000 as proposed by the House and $2,230,511,000 as proposed by the Senate.

The conference agreement provides an increase of $75,804,000 above the request for the FBI in fiscal year 1995, as follows: (1) $44,800,000 to restore special agent staffing back to the 10,475 peak on-board level reached in 1992, along with 301 associated support positions; (2) $7,500,000 to restore 250 field support positions; (3) $11,800,000 to hire 153 additional support personnel to replace special agents being transferred from headquarters to the field; (4) $6,360,000 to restore headquarters support personnel needed to ensure Brady Act compliance; (5) $4,500,000 for digital telephony requirements; and (6) $844,000 to continue the FBI's present policy of reimbursing for the travel expenses to train State and local law enforcement officers.

Background investigations.—Included in the amounts provided for restoration of FBI special agents are positions eliminated in prior years associated with background investigations. The conferees understand that it may be more cost-effective to contract out for some or all of this responsibility, and will entertain a reprogramming of funds for this purpose should the Director determine that it is more cost effective to do so.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 29: Appropriates $757,204,000 for the salaries and expenses of the DEA instead of $742,497,000 as proposed by the House, and $760,801,000 as proposed by the Senate.

The conference agreement provides an increase of $36,862,000 above the request, in order to restore DEA agent positions back to the 3,702 peak on-board level reached in 1992, as well as associated support positions. The conferees agree that these new agent positions are intended for domestic, and not overseas, enforcement activities.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

Amendment No. 30: Provides for the purchase of 813 motor vehicles as proposed by the Senate instead of 346 as proposed by the House.

Amendment No. 31: Appropriates $1,102,671,000 instead of $1,098,602,000 as proposed by the House and $1,164,856,000 as proposed by the Senate.

Amendment No. 32: Adds language, as proposed by the Senate, limiting overtime payments to INS employees to $25,000 for the calendar year beginning January 1, 1995. The House bill limited overtime payments to $25,000, but did not specify a starting date.

Amendment No. 33: The conference agreement for amendment number 33 deletes the entire paragraph appropriating funds for the INS associated with the President's Immigration Initiative in the Crime bill as proposed in both the House and Senate bills. Funding for this program is addressed in title VIII of the bill.

BORDER PATROL

The conference agreement for the Immigration and Naturalization Service provides for a total of almost 1,000 additional Border Patrol agents on the line in fiscal year 1995. The conferees agree that the INS should give first priority to the deployment of additional agents to "hot spot" areas along the border which are experiencing significant increases in apprehensions.

EXAMINATIONS FEE ACCOUNT

The conferees understand the INS will have a lower level of receipts in the Examinations Fee Account than originally anticipated in the 1995 President's Budget. Because of uncertainty of the receipt level in 1995, the conferees recommend approval of funding in the amount of $291,097,000 for the Examinations Fee Account. This spending level is based upon the 1994 reprogrammed level of $277,971,000, and an increase of $13,126,000 to provide for additional land border inspectors and related support associated with implementation of new fees for application processing services provided at land border ports. This level is based on estimated receipts to the Examinations Fee Account in FY 1995 of $292,060,000, of which, $14,683,000 is associated with the proposed fees for services provided at land border ports.

Assumed in the funding level is the conferees' recommendation to permanently transfer $6,569,000 in funding association with overseas enforcement efforts from the Examinations Fee Account to the Salaries and Expenses appropriation. This reverses a shift made to the Examinations Fee Account in FY 1991 and recognizes the growing importance of INS' overseas enforcement operations in deterring illegal entry into the United States. The recommended transfer will more adequately align expenditures from this account with adjudication and naturalization processes and their related support. The conferees expect the INS to utilize the $6,569,000 in fee receipts freed up by this transfer to reduce the backlog in adjudication and naturalization cases.

The conferees understand that the recommended funding level may not provide INS with the full cost of inflationary increases. Therefore, should INS realize higher Examinations Fee receipts in FY 1995 than the current estimate, the conferees expect INS to utilize those funds for base inflationary costs, as necessary, and, to the extent possible, provide additional resources for the processing of naturalization applications. The conferees expect to be provided appropriate notification of changes in spending plans as delineated by the reprogramming requirements in the bill.

CONSTRUCTION

Amendment No. 34: Appropriates $50,000,000 for the INS Construction account, instead of $100,000,000 as proposed by the Senate. The House had no such provision. The conferees recommend $50,000,000 in a new construction account for the border infrastructure requirements of the Immigration and Naturalization Service. The conferees understand that the Border Patrol strategy being developed by the INS recognizes different methods of gaining "prevention through deterrence" depending on location, terrain, and a mix of technology and agents. The conferees further understand that in certain areas such as Arizona, New Mexico, and South Texas, traffic checkpoints are utilized as a front line enforcement strategy as a result of difficult terrain. The conferees expect that the resources recommended for improving border infrastructure for the Border Patrol be prioritized in such a way that these and other front line enforcement efforts are enhanced. Therefore, the first priority for obligations from this account should be for Border Patrol stations, for station-related infrastructure, and for the front line enforcement activities described above. The agreement does not include funds for additional service processing centers as proposed by the Senate.

Traffic Checkpoints.—The conferees also understand that the INS is in the process of reviewing the need to continue traffic checkpoint operations in Southern California (San Clemente/Temecula) due to the enhanced front line activities in San Diego. The conferees agree that infrastructure improvements to these checkpoints should be considered only if results of these reviews indicate a level of effectiveness that enhances front line activities in these areas, and the Committees on Appropriations have been notified pursuant to normal reprogramming procedures. Should the INS determine that these checkpoints are no longer cost-effective, the conferees expect that associated Border Patrol agents be transferred immediately to the border.

IMMIGRATION EMERGENCY FUND

Amendment No. 35: Appropriates $75,000,000 for the Immigration Emergency Fund, instead of $8,500,000 as proposed by the Senate. The House had no such provision. The conferees agree to include this level of funding as a contingency against potential expenses arising from movement of immigrants toward our shores from nations in varied states of political and economic disintegration.

PRESIDENT'S IMMIGRATION INITIATIVE

Including amounts to be provided from the General Fund, the Violent Crime Trust Fund, as well as fee accounts, the conference agreement for this bill provides a total of $2,106,564,000 for the INS for FY 1995, a 29 percent increase above fiscal year 1994 enacted levels. These amounts allow for program enhancements of $475,299,000 to implement the President's Immigration Initiative, as follows:

General Fund/Trust Fund Appropriations:	
700 new/250 redirected Border Patrol Agents ..	$54,500,000
110 additional Land Border Inspectors	5,000,000
Enhanced automation/communications/equipment	154,600,000
Expedited detention/deportation resources	17,500,000
Enhanced asylum processing	24,000,000
Overseas enforcement activities	6,569,000
Enhanced employer sanctions	6,328,000
Naturalization pilot project	500,000
Border infrastructure enhancements	50,000,000
Immigration emergencies	75,000,000
Offsetting fee collections:	
168 new airport inspectors/support/detention	18,944,000
200 new land border inspectors	13,126,000

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

Amendment No. 36: Appropriates $2,356,404,000 as proposed by the House instead of $2,400,104,000 as proposed by the Senate. The conference agreement, when added to prior year carryover of $30,000,000 provides for requested adjustments to base, requested reductions for FTE, locality pay, administrative savings and closure of FPC Tyndall, and the following program enhancements:

Activation of new prison facilities	$107,858,000
Prisoner population increases	18,366,000
Contract confinement	15,591,000

NATIONAL INSTITUTE OF CORRECTIONS

Amendment No. 37: Appropriates $10,344,000 for the National Institute of Corrections as proposed by the House instead of $10,144,000 as proposed by the Senate. The agreement provides for the D.C. Corrections Department Study described in the House report.

BUILDINGS AND FACILITIES

Amendment No. 38: Appropriates $280,494,000, for the buildings and facilities of the Federal Prison System instead of $238,094,000 as proposed by the House and $243,324,000 as proposed by the Senate. The conference agreement provides for requested adjustments to base, FTE reductions and locality pay absorption, and provides for the following program enhancements:

Pollock, LA FCC security upgrade	$80,400,000
Edgefield, SC FCC security upgrade	15,000,000
Western Region FCC site/planning	10,300,000
Beaumont, TX FCC site/planning	7,500,000
Forrest City, AR FCI expansion	6,000,000
Mid-Atlantic FCI expansion	8,370,000
NE Region FCI expansion ..	7,250,000
Mid-Atlantic FCC EIS Design	550,000
Cooperative Agreement Program	20,000,000
Marshals Service Holding Facilities	9,903,000
Oklahoma FDC Lease	8,655,000
Modernization and Repair	3,297,000

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

COMMISSARY FUND

Amendment No. 39: Deletes the words "and thereafter" as proposed in the Senate amendment. The House bill included these words in order to make permanent this provision (Sec. 107) to allow the Prison System to collect interest on unobligated balances in the Commissary Fund. The conference agreement makes this authority available only for fiscal year 1995 pending permanent legislation.

LITIGATION REIMBURSEMENT

Amendment No. 40: Adds language (Sec. 109) proposed by the Senate and not in the House bill authorizing the Department of Justice to be reimbursed by other agencies for expenses associated with litigation of extraordinary size and complexity on behalf of that agency.

ASSETS FORFEITURE FUND

Amendment No. 41: Adds language (Sec. 110), proposed by the Senate and not in the House bill, which provides the Attorney General with authority to allocate surplus amounts in the Assets Forfeiture Fund in fiscal year 1995. The conference agreement makes technical amendments to the Senate language to conform to existing law.

IMMIGRATION PILOT PROJECT

Amendment No. 42: Adds language (Sec. 111) proposed by the Senate and not in the House bill to allow for the creation of a land border inspections pilot project on the California border. Current law allows for such projects on the Northern border only. The conference agreement will enable the INS and Customs Service to test the feasibility of a commuter-type lane at a border crossing in the San Diego area.

SENSE OF THE SENATE

Amendment Nos. 43 and 44: Deletes Sense of the Senate provisions not in the House bill concerning immigration policies and enforcement of child support laws.

VICTIMS OF CRIME

Amendment No. 45: Adds language (Sec. 112) proposed by the Senate and not in the House bill, which extends from fiscal year 1994 to 1995 the formula for distribution of base amounts for crime victim assistance grants.

The conference agreement also adds new language (Sec. 113), not in either the House or Senate bills, which prohibits the transfer of Justice Department funds unless such transfers are authorized in this Act, in part II of 28 U.S.C., or in 42 U.S.C. 10601. This provision also limits authority to allocate Justice Department funds to the Department and the Office of Management and Budget.

MEETING WITH PRESIDENT OF MEXICO

Amendment No. 46: Adds a Sense of the Congress (Sec. 114) proposed by the Senate, and not in the House bill, that the President of the United States and the President-elect of Mexico should meet to discuss immigration issues.

The conference agreement also adds language, not in either the House or Senate bills, which would make employees of the FBI's Criminal Justice Information Services Division who choose not to relocate out of the Washington, D.C., area eligible for competitive service appointments in other agencies. This authority will assist the FBI in finding jobs for these employees thus avoiding costly and demoralizing reductions-in-force (RIFs). The language is supported by the Office of Personnel Management, and the Congressional Budget Office has scored the legislation at no cost to the Federal government. The conferees believe this authority provides the FBI Director with a prudent management tool, and will in fact save money since the Bureau will be able to avoid costly RIF proceedings for some employees.

Amendment No. 47: Deletes language proposed by the Senate to transfer $350,000,000 from Contributions to International Organizations and Contributions for International Peacekeeping Activities to reimburse states for the cost of incarcerating illegal aliens. No such provision was included in the House bill.

Amendment Nos. 48 and 49: Deletes a Sense of the Senate regarding the Case of United States v. Knox, and a Sense of the Senate regarding the escort of aliens being deported.

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

Amendment No. 50: Appropriates $9,000,000 instead of $9,500,000 as proposed by the House and $8,413,000 as proposed by the Senate.

Amendment No. 51: Deletes a provision proposed by the House and stricken by the Senate which would have limited the compensation of the Special Assistant to each of the Civil Rights Commissioners to 150 billable days per year.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

Amendment No. 52: Appropriates $233,000,000 instead of $238,000,000 as proposed by the House and $240,000,000 as proposed by the Senate.

The conferees are concerned about the lack of clarity with respect to the Commission's budget justification materials and expect the Commission to review this matter and consult with the Appropriations Committees and the Office of Management and Budget to insure that budget justifications developed to support the fiscal year 1996 budget request of the Commission strictly comply with OMB Circulars on this matter.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

Amendment No. 53: Appropriates $185,232,000, instead of $166,832,000 as proposed by the House and $198,232,000 as proposed by the Senate. Provides for $116,400,000 in offsetting fee collections as proposed by both the House and Senate. Provides for a final (net) appropriation of $68,832,000, instead of $50,432,000 as proposed by the House and $81,832,000 as proposed by the Senate. Restores language proposed by the House and stricken by the Senate which makes fee collections in excess of $116,400,000 available for obligation in fiscal year 1996.

The conference agreement provides total budget authority of $185,232,000 for the FCC for fiscal year 1995. These amounts provide requested adjustments to base to fully fund the increased staff hired by the Commission in FY 1994 to implement the Cable Act. The agreement also provides for a program enhancement of $15,800,000 to fund an estimated 225 additional personnel already approved by the Office of Management and Budget to handle the Commission's expanding workload, and an increase of $2,600,000 for infrastructure modernization.

Big LEO.—The conferees are concerned over ramifications of further delays in the low earth orbit technology (Big LEO) proceeding currently before the Commission (CC Docket No. 92-166). The conferees endorse the schedule for completion of the rulemaking discussed in the Senate report, and urge the Commission, consistent with its policies and regulations as well as the Communications Act, to take appropriate action on all pending applications and waiver requests at the earliest possible date.

Amendment No. 54: Adds language proposed by the Senate and not in the House bill which restores FCC funding restrictions contained in last year's Appropriations Act. The conference agreement prohibits the use of funds by the FCC to: (1) Change or reexamine changes of current policies governing comparative licensing, distress sales and tax certificate policies intended to expand opportunities for minorities; (2) diminish the number of VHF channels assigned for noncommercial education television stations; and (3) reexamine rules governing cross-ownership of newspapers and broadcast stations.

The conferees agree that the prohibition against FCC to change or reexamine changes of current policies governing minorities is intended to prevent the Commission from backtracking on its policies that provide incentives for minority participation in broadcasting. The conferees further agree that the prohibition does not prohibit the Commission from taking steps to create greater opportunities for minority ownership.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

Amendment No. 55: Appropriates $94,428,000 instead of $95,428,000 as proposed by the House and $98,928,000 as proposed by the Senate. Provides for collection of $39,640,000 in offsetting fee collections, instead of $33,460,000 as proposed by the Senate, and $35,460,000 as proposed by the House. Provides a final (net) appropriation of $54,788,000 instead of $59,968,000 as proposed by the House and $65,468,000 as proposed by the Senate. Restores House language stricken by the Senate allowing fee collections in excess of $39,640,000 to be available in fiscal year 1996. Provides for an increase in Hart-Scott-Rodino premerger filing fees from $25,000 to $45,000 as proposed by the House, instead of $25,000 to $40,000 as proposed by the Senate.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The conference agreement provides total budget (obligational) authority of $98,928,000 for fiscal year 1995 for the Federal Trade Commission when prior year unobligated balances of $4,500,000 are included. The agreement provides the FTC with their full adjustments to base, including GSA rent reductions, and restores proposed FTE and administrative reductions. The agreement provides a program enhancement of $2,105,000 to allow for an additional 25 positions for the Commissions' enforcement activities. The conferees agree that since these additional positions are being funded from increased fee collections and not from the General Fund of the Treasury, associated FTE should be exempt from current FTE ceilings.

Amendment No. 56: Adds language proposed by the Senate and not in the House bill which restores FTC funding restrictions contained in last year's Appropriations Act. The conference agreement restricts the Commission as follows: (1) prohibits the use of FTC funds to engage in rulemakings concerning unfairness in advertising; (2) establishes limits on public participation; (3) prohibits the use of FTC funds to petition the Patent Commissioner for cancellation of a registered trademark; and (4) prohibits FTC from studying or investigating agricultural marketing orders or agricultural cooperatives. The agreement includes an exception to nullify the restrictions upon enactment of an FTC Authorization Act for fiscal year 1995. While the conference report for the Federal Trade Commission Act Amendments of 1994 has passed the House, it has not yet passed the Senate, and the conferees agree that these restrictions are too critical to remove from this bill pending Senate action and enactment of the authorization bill.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

Amendment No. 57: Appropriates $74,856,000 instead of $900,000 as proposed by the House and $57,856,000 as proposed by the Senate. The agreement also deletes language proposed by the Senate, and not in the House bill, which would have raised section 6(b) registration fees from $^{1}/_{50}$th of one percent to $^{1}/_{29}$th of one percent.

The conference agreement, along with $50,000,000 in prior year carryover, provides the SEC with total budget (obligational) authority of $125,856,000, which the conferees understand is $155,144,000 below the amount needed to maintain current services in fiscal year 1995. The agreement is also $178,726,000 below the total budgetary resource level provided the Commission in the Senate bill.

The conferees were obliged to remove the language added by the Senate because of a jurisdictional dispute over allowing the SEC to retain offsetting collections derived from section 6(b) registration fees. The Ways and Means Committee of the House of Representatives has indicated its opposition to this fee language, even though it is similar to language included in Appropriations Acts for the past three years, and is the exact language contained in last year's Act. Under the Constitution, revenue measures must originate in the House, and the House may return to the Senate any bill containing a revenue provision, such as this fee language, that originates in the Senate. The conferees reluctantly agreed to remove the Senate fee language in order to avoid the return of the bill to the Senate, which could have delayed the emergency supplemental requested for the flooding in Florida, Alabama, and Georgia.

By removing the Senate fee language, the SEC will be unable to collect an estimated $238,000,000 in fees in fiscal year 1995. As such, this agreement only provides the SEC with sufficient budgetary resources to operate at current service levels for approximately 5 months. The conferees are confident that an agreement can be worked out by that time to resolve the fee issue so that the SEC can receive the funding it needs to fully protect the investing public. Failure to arrive at a compromise on this fee issue could endanger the securities markets and result in increased fraud and malpractice in the securities and financial markets. The nation needs a strong SEC and the conferees encourage a quick resolution to this problem.

TITLE II—DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

Amendment No. 58: Appropriates $265,000,000 for the core research programs of the National Institute of Standards and Technology (NIST) instead of $279,420,000 as proposed by the House and $260,000,000 as proposed by the Senate.

The amount provided in the conference agreement fully funds the adjusted base program for this account, and provides an additional $39,000,000 for program enhancements. Within this increase, the conferees agree that $5,000,000 is for the international trade and standards program and $7,000,000 is for environmental technologies. The conferees expect NIST and the Department of Commerce to submit a reprogramming notification to the House and Senate Appropriations Committees, under the standard reprogramming procedures contained in section 605 of this Act, indicating the proposed distribution of the remaining program increase by research category.

INDUSTRIAL TECHNOLOGY SERVICES

Amendment No. 59: Appropriates $525,000,000 for NIST external programs, instead of $495,960,000 as proposed by the House and $554,000,000 as proposed by the Senate, and includes language proposed by the Senate which will enable NIST to continue support for manufacturing technology centers that have existed for six years. The House bill contained no similar provision. The conference agreement deletes language proposed by the House and stricken by the Senate which would have delayed the availability of certain amounts provided under this heading.

The conferees support the efforts of NIST to promote the awareness of the Advanced Technology Program (ATP) throughout industry, particularly among small businesses and in geographically dispersed areas. The conferees also support the language included under the manufacturing extension partnership (MEP) program in both the House and Senate reports regarding the needs of rural areas and other areas serviced by geographically dispersed manufacturers.

The conferees note the establishment of the Environmental Technology Initiative under the Environmental Protection Agency (EPA) to promote the development of environmental technologies. The conferees expect NIST to coordinate with EPA and other agencies to maximize the impact of all Federal funding for development and commercialization of environmental technologies and to ensure that there is no program duplication in this area.

The following table reflects the distribution of these funds by program category:

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

[In thousands of dollars]

	1994 appropriation	1995 Request	1995 House	1995 Senate	1995 Conference
Extramural research:					
Advanced Technology Program (ATP)	199,489	451,000	431,000	441,000	431,000
Manufacturing Extension Program (MEP):					
Manufacturing extension centers	27,235	38,065	38,065	85,200	69,000
LINKS		17,000	17,000	17,000	15,600
State extension (STEP)	3,000	6,000	6,000	8,000	6,000
Subtotal, MEP	30,235	61,065	61,065	110,200	90,600
Outreach/Baldrige Award	2,800	6,895	3,895	2,800	3,400
Total	232,524	518,960	495,960	554,000	525,000

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 60: Appropriates $1,835,000,000 for the operations of the National Oceanic and Atmospheric Administration (NOAA) instead of $1,792,978,000 as proposed by the House and $1,850,000,000 as proposed by the Senate.

Amendment No. 61: Restores language proposed by the House and stricken by the Senate which allows for the collection of fees totalling $6,000,000 related to the costs of administering NOAA's marine sanctuary program and the aeronautical charting program, and reducing the final general fund appropriation to $1,829,000,000. The conference agreement does not include language proposed by the House and stricken by the Senate on fees related to living marine resources (fisheries) programs. The House bill allowed for the collection of fees totalling $41,000,000 and resulted in a final appropriation of $1,751,978,000.

Amendment No. 62: Restores language proposed by the House and stricken by the Senate allowing receipts resulting from an increase in the price of aeronautical charts above the level in effect on September 30, 1993, to be credited as an offsetting collection to this account; includes language proposed by the Senate setting a minimum and maximum level for Coastal Zone Management (CZM) grants and adds new language, not in either bill, allowing not to exceed $800,000 for grants to any new State entering the CZM program in fiscal year 1995; and includes language, similar to that included in the Senate amendment, designating that $16,000,000 of the funds provided shall be available for the integrated program office for the convergence of civilian and military polar-orbiting meteorological satellites. The Senate amendment designated $22,000,000 for this purpose; the House bill contained no provision on this matter.

The conference agreement does not include language proposed by the Senate designating $450,000 of the funds provided for the Great Lakes Fishery Commission. The conferees have included this amount in the total amount provided under NOAA for international fisheries commissions, but have agreed that it is not necessary to designate this amount in bill language.

The conferees concur with language included in the House report regarding the structure of NOAA's fiscal year 1995 budget submission, and encourage the Department and NOAA to work with the Committees on Appropriations of the House and the Senate, as well as the appropriate authorizing committees, to develop a budget structure which better meets the requirements of all concerned.

The following table reflects the conference recommendation for the programs and activities funded under this account:

UMI 1994 12 — 18 AG 16 PT 140 VOL

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	House	Senate	Conference
	(Dollars in Thousands)				
NATIONAL OCEAN SERVICE:					
Mapping, Charting, and Geodesy:					
Mapping and Charting	$28,500	$29,005	$30,000	$33,000	$31,000
Automated Nautical Charting System II	1,300	1,300	1,250	1,250	1,250
Subtotal	29,800	30,305	31,250	34,250	32,250
Geodesy	17,900	19,332	18,762	18,762	18,762
SC Cooperative geodetic survey	554	0	0	1,000	1,000
Land Information System	1,200	0	1,000	0	1,000
Subtotal	19,654	19,332	19,762	19,762	20,762
Total, Mapping, Charting, and Geodesy	49,454	49,637	51,012	54,012	53,012
Observation and Assessment:					
Observation and Prediction	11,800	12,787	12,423	13,000	12,423
Circulatory survey program	700	700	700	700	700
California marine observation buoys	140	0	0	0	0
Chesapeake Bay observation buoys	400	0	400	0	400
Ocean services	4,442	4,442	4,442	4,442	4,442
COAP	400	400	375	0	0
Subtotal	17,882	18,329	18,340	18,142	17,965
Estuarine and Coastal Assessment	2,420	2,753	2,753	2,753	2,753
Coastal ecosystem health/ocean assessment	17,369	21,925	21,925	24,528	24,528
Damage assessment	1,200	1,200	1,200	1,200	1,200
Transfer from Damage Assessment Fund	29,796	8,500	8,500	8,500	8,500
S. Carolina Wetland Management Demo	500	0	0	0	0
Oil Pollution Act of 1990	1,395	1,395	1,300	1,395	1,300
Subtotal	52,680	35,773	35,678	38,376	38,281

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	House	Senate	Conference
	(Dollars in Thousands)				
Coastal Ocean Science					
Coastal Ocean program	10,200	11,433	10,000	11,433	11,000
Oil Spill Research	0	0	1,000	0	800
Nat'l Institute Environmental Renewal	800	0	500	0	500
Maui algal bloom crisis	0	0	0	0	0
Subtotal	11,000	11,433	11,500	11,433	12,300
Total, Observation and Assessment	81,562	65,535	65,518	67,951	68,546
Ocean and Coastal Management:					
Coastal Management					
CZM grants	41,500	37,966	42,000	49,000	45,500
Acquisition of estuarine sanctuaries	3,214	3,214	3,500	3,214	3,350
CZM program administration	0	3,671	0	0	0
Charleston,SC, spec.area mgt. plan	1,000	0	0	1,000	1,000
Nonpoint pollution control	4,000	4,000	5,000	5,000	5,000
Subtotal	49,714	48,851	50,500	58,214	54,850
Ocean Management	1,500	0	0	0	0
Marine sanctuary program	9,000	12,000	12,500	13,000	12,000
Hawaii humpback mar. sanct. institute	150	0	0	0	0
Subtotal	10,650	12,000	12,500	13,000	12,000
Total, Ocean and Coastal Management	60,364	60,851	63,000	71,214	66,850
TOTAL, NOS	191,380	176,023	179,530	193,177	188,408

UMI 1994 12-18 AG PT 16 VOL 140

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	House	Senate	Conference
	(Dollars in Thousands)				
NATIONAL MARINE FISHERIES SERVICE:					
Information Collection & Analyses:					
Resource Information	52,872	73,000	73,000	64,473	66,000
Conservation engineering by catch	1,416	716	1,216	716	800
Antarctic research	1,200	1,200	1,200	1,200	1,200
Fishery resource data error reduction	960	960	960	960	960
Oyster disease research	1,500	1,500	0	1,500	0
Marine mammal research	2,314	2,314	2,314	2,314	2,314
Protected species research	3,630	3,630	3,630	4,000	3,630
Chesapeake Bay Studies	1,890	1,890	1,890	1,890	1,890
Right whale research	214	214	214	214	214
Gear entanglement studies	651	651	651	651	651
MARFIN	3,780	3,780	3,780	3,780	3,780
SEAMAP	1,340	1,340	1,340	1,340	1,340
Aquaculture	2,500	2,500	2,500	2,500	2,500
Stuttgart	576	0	0	0	0
Alaskan groundfish surveys	661	661	661	661	661
Bering Sea pollock research	945	945	945	945	945
West Coast groundfish	780	780	780	780	780
New England stock depletion	1,116	1,116	1,116	1,116	1,116
Hawaii stock management plan	500	0	0	500	500
Yukon River chinook salmon	700	700	700	700	700
Winter Run chinook salmon	250	250	250	250	250
Atlantic salmon research	710	710	710	710	710
Gulf of Maine groundfish survey	567	567	567	567	567
Dolphin safe technologies	500	500	500	500	500
Habitat research/evaluation	470	470	470	470	470
Pacific salmon treaty program	5,587	5,587	5,587	5,587	5,587
Fish cooperative inst. enhancement	384	384	0	450	410

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	House	Senate	Conference
	(Dollars in Thousands)				
Hawaiian monk seals	520	520	500	520	520
Stellar sea lion recovery plan	1,440	1,440	1,440	1,440	1,440
Hawaiian sea turtles	240	240	240	240	240
Atlantic bluefin tuna research	300	0	300	0	300
Center for Shark Research	140	0	0	0	0
Halibut/Sablefish IFQ's	1,200	1,200	1,200	1,200	1,200
United States & Canada lobster study	300	0	0	0	0
Subtotal	92,153	109,765	108,661	102,174	102,175
Fishery Industry Information					
Fish statistics	10,500	14,000	14,000	12,000	12,000
Alaska groundfish monitoring	4,500	4,500	4,500	5,400	5,200
PACFIN/catch effort data	2,046	2,046	2,300	2,046	2,300
Rec. fishery harvest monitoring	2,395	2,395	2,400	3,000	2,900
Subtotal	19,441	22,941	23,200	22,446	22,400
Information Analyses & Dissemination	20,112	21,915	22,600	20,890	21,000
Computer hardware and software	1,500	5,500	5,500	5,000	5,000
Subtotal	21,612	27,415	28,100	25,890	26,000
Total, Info., Collection, & Analyses	133,206	160,121	159,961	150,510	150,575
Conservation and Management Operations:					
Fisheries Management Programs	13,500	19,954	19,954	15,000	16,000
Columbia River hatcheries	10,300	10,300	9,500	10,400	10,300
Colombia River smolt	100	0	0	0	0
Columbia River end. species studies	288	288	288	288	288
Regional councils	8,556	8,556	8,556	9,000	8,556
International fisheries commissions	800	400	400	1,250	1,250
Management of George's Bank	480	480	480	480	480

UMI 1994 12-18 AG PT 16 VOL 140

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	House	Senate	Conference
	(Dollars in Thousands)				
Rebuild Nations Fisheries:					
– Beluga whale committee	192	0	192	200	200
– Pacific tuna management	1,800	1,800	0	2,200	2,000
Subtotal	36,016	41,778	39,370	38,818	39,074
Protected Species Management	4,000	6,196	5,600	5,000	5,000
ESA listing & status review	930	930	930	930	930
Tissue bank & stranding network	295	295	295	295	295
Driftnet act implementatn/high seas salmon assessmt	3,278	3,278	2,500	3,000	3,000
Marine Mammal Protection Act	7,750	7,750	9,000	7,750	8,000
Endangered Species Act recovery plan	218	7,322	6,000	8,000	7,000
Fishery observer training	150	0	120	417	300
East Coast observers	700	700	700	700	700
Subtotal	17,321	26,471	25,145	26,092	25,225
Habitat Conservation	6,200	8,679	7,500	7,000	8,000
Enforcement & Surveillance	12,000	16,886	15,500	16,000	15,500
Total, Conservation and Mgmt. Opns	71,537	93,814	87,515	87,910	87,799
State and Industry Assistance Programs:					
Grants to States					
Interjurisdictional fisheries grants	3,156	3,156	3,156	3,156	3,156
Anadromous grants	2,108	2,108	2,108	2,108	2,108
Anadromous fishery project	250	250	250	250	250
Interstate fish commissions	295	295	1,000	4,600	4,000
North Atlantic fishery reinvestment	1,500	3,500	2,800	4,000	2,800
Subtotal	7,309	9,309	9,314	14,114	12,314

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	House	Senate	Conference
	(Dollars in Thousands)				
Fisheries Development Program:					
Fisheries trade promotion activities	1,700	1,700	1,500	1,500	1,500
Product quality and safety	9,000	9,021	9,000	11,010	9,250
Hawaiian fisheries development	750	0	0	750	750
Seafood Inspection	5,500	5,500	4,300	5,500	5,000
Marine biotechnology	1,750	1,750	1,750	2,200	2,000
Subtotal	18,700	17,971	16,550	20,960	18,500
Total, State & Industry Assist. Progs	26,009	27,280	25,864	35,074	30,814
TOTAL, NMFS	230,752	281,215	273,340	273,494	269,188
OCEANIC AND ATMOSPHERIC RESEARCH:					
Climate and Air Quality Research:					
Interannual & Seasonal Climate Research	7,945	8,015	8,015	8,000	8,000
Long–Term Climate & Air Quality Research	26,376	31,544	28,392	26,376	27,300
High Performance Computing	1,000	15,452	6,500	1,000	6,500
Subtotal	27,376	46,996	34,892	27,376	33,800
Climate and Global Change/GLOBE	63,000	84,012	66,000	74,000	78,000
Total, Climate and Air Quality	98,321	139,023	108,907	109,376	119,800
Atmospheric Programs					
Weather Research	30,356	33,874	33,370	30,870	33,670
Wind profiler	4,350	0	4,350	4,000	4,350
Federal/state weather mod. grants	3,000	0	3,300	0	3,100
Southeastern storm research	372	0	400	0	400
Subtotal	38,078	33,874	41,420	34,870	41,520

UMI 1994 AG 12 – 18 PT 16 VOL 140

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	House	Senate	Conference
	(Dollars in Thousands)				
Solar–Terrestrial services and research	5,000	5,627	5,500	5,000	5,500
Total, Atmospheric Program	43,078	39,501	46,920	39,870	47,020
Ocean and Great Lakes Programs:					
Marine Prediction Research	9,200	9,572	9,572	9,572	9,572
GLERL	4,558	4,558	4,558	4,558	4,558
Great lakes nearshore research	200	200	200	200	200
VENTS	2,496	0	0	2,496	2,496
SE US/Caribbean FOCI program	500	0	500	0	450
GLERL/Zebra mussel	911	0	911	0	911
Lake Champlain study	290	0	0	200	150
Pacific Island technical assistance	190	0	190	190	190
Subtotal	18,345	14,330	15,931	17,216	18,527
Sea Grant					
Sea grant college program	43,200	43,238	44,000	55,000	49,000
Sea grant–oyster disease	0	0	1,500	0	1,500
Sea grant–zebra mussel	2,800	0	2,800	0	2,800
National coastal R&D instutute	1,100	0	1,000	1,000	1,000
Subtotal	47,100	43,238	49,300	56,000	54,300
Undersea Research Program					
NOAA Undersea Research Program	18,100	0	16,000	18,000	18,000
Maine marine research center	1,900	1,900	0	1,900	1,500
Subtotal	20,000	1,900	16,000	19,900	19,500
Total, Ocean & Great Lakes Programs	85,445	59,468	81,231	93,116	92,327
TOTAL, OAR	226,844	237,992	237,058	242,362	259,147

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	House	Senate	Conference
	(Dollars in Thousands)				
NATIONAL WEATHER SERVICE:					
Operations and Research:					
Local Warnings and Forecasts	319,868	322,640	322,640	333,900	323,140
MARDI	75,000	120,457	115,946	115,946	115,946
WSFOs – maintain 8 stations	752	752	752	752	752
Data buoy maint. for Hawaii	542	542	542	542	542
Pacific & Alaska Region HQ	366	366	366	866	366
Agricultural & fruit frost program	2,316	2,316	2,316	2,300	2,316
Fire weather services	449	449	449	449	449
Susquehanna River Basin Flood Sys	900	669	1,250	669	1,250
Aviation forecasts	35,596	35,596	35,596	35,596	35,596
Flood Warning System/Colorado River	288	288	288	288	288
Samoa	200	0	100	100	100
Regional climate centers	3,000	0	3,000	3,200	3,200
California data buoys	200	200	200	0	200
Subtotal	439,477	484,275	483,445	494,608	484,145
Central Forecast Guidance	28,555	31,217	30,000	29,169	29,169
Atmospheric and Hydrological Research	2,400	2,629	2,600	2,500	2,500
Total, Operations and Research	470,432	518,121	516,045	526,277	515,814
Systems Acquisition:					
Public Warning and Forecast Systems					
NEXRAD	120,000	79,641	79,641	79,641	83,141
ASOS	18,135	17,534	17,534	17,534	17,534
AWIPS/NOAAPort	43,564	49,550	39,550	35,000	35,000
Computer Facility Upgrades	8,000	13,874	10,000	13,000	10,000
Total, Systems Acquisition	189,699	160,599	146,725	145,175	145,675
TOTAL, NWS	660,131	678,720	662,770	671,452	661,489

UMI 1994 AG 12-18 PT 16 VOL 140

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	House	Senate	Conference
	(Dollars in Thousands)				
NATIONAL ENVIRONMENTAL SATELLITE, DATA, AND INFORMATION SERVICE:					
Satellite Observing Systems:					
Polar spacecraft and launching	139,000	159,078	151,370	147,678	146,675
Polar convergence/joint program office	0	0	0	22,000	16,000
Geostationary spacecraft and launching	123,746	138,047	133,000	134,562	132,610
Ocean remote sensing	0	0	0	10,800	6,000
Environmental observing services	49,443	51,798	51,700	51,161	51,500
Total, Satellite Observing Systems	312,189	348,923	336,070	366,201	352,785
Environmental Data Management Systems :	22,000	24,787	22,881	22,881	24,500
Data and Information Services	15,300	10,300	10,300	9,500	11,300
Total, EDMS	37,300	35,087	33,181	32,381	35,800
TOTAL, NESDIS	349,489	384,010	369,251	398,582	388,585
PROGRAM SUPPORT:					
Administration and Services:					
Executive direction and administration	25,000	26,456	25,500	25,500	25,500
GLOBE	0	7,000	7,000	0	1/
Systems Program Office (SPO)	1,100	2,588	1,800	2,500	1,800
Subtotal	26,100	36,044	34,300	28,000	27,300
Central Administrative Support	38,000	38,194	37,898	37,898	37,898
Retired Pay Commissioned Officers	7,706	7,706	7,706	7,706	7,706
Total, Administration and Services	71,806	81,944	79,904	73,604	72,904
Marine Services	62,037	62,599	62,599	62,599	62,599
Fuel pricing	0	0	0	−500	−500
Total, Marine Services	62,037	62,599	62,599	62,099	62,099

1/ GLOBE funding of $7 million included under the Climate and Global Change Program in the Office of Oceanic and Atmospheric Research.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	House	Senate	Conference
	(Dollars in Thousands)				
Aircraft Services	9,100	9,180	9,180	9,180	9,180
Critical safety & instrumentation	400	400	400	5,500	4,000
Total, Aircraft Services	9,500	9,580	9,580	14,680	13,180
TOTAL, Program Support	143,343	154,123	152,083	150,383	148,183
General Reduction	0	0	0	−450	0
DIRECT OBLIGATIONS	1,801,939	1,912,083	1,874,032	1,929,000	1,915,000
Rental cost reductions	0	−2,054	−2,054	−2,054	−2,054
REIMBURSABLE OBLIGATIONS	368,232	316,235	316,235	316,235	316,235
TOTAL OBLIGATIONS	2,170,171	2,226,264	2,188,213	2,245,235	2,231,235
FINANCING:					
Deobligations	−22,990	−15,000	−15,000	−15,000	−16,000
Reimbursable Obligations:					
Federal funds	−331,427	−280,626	−280,626	−280,626	−280,626
Non−federal funds	−36,805	−35,609	−35,609	−35,609	−35,609
BUDGET AUTHORITY	1,778,949	1,895,029	1,856,978	1,914,000	1,899,000
FINANCING FROM PROPOSED TRANSFERS & NEW FEES:					
Promote and develop American fisheries	−54,800	−55,500	−55,500	−55,500	−55,500
Damage assessment & restoration revolving fund	−29,796	−8,500	−8,500	−8,500	−8,500
B.A. Subtotal	1,694,353	1,831,029	1,792,978	1,850,000	1,835,000
Fisheries fees	0	−82,000	−35,000	0	0
Aeronautical chart fees	0	−3,000	−3,000	0	−3,000
Marine sanctuary fees	0	−3,000	−3,000	0	−3,000
APPROPRIATION, ORF	1,694,353	1,743,029	1,751,978	1,850,000	1,829,000

VOL 140 PT 16 AG 12 — 18 1994 UMI

Activities funded under this conference agreement for the National Oceanic and Atmospheric Administration which were originally addressed in only the House report (H. Rept. 103-552) or the Senate report (S. Rept. 103-309), are provided in accordance with any direction given in that report, unless expressly modified in the following statement.

NATIONAL OCEAN SERVICE

Within the total amount provided for NOAA, the conference agreement includes a total of $286,408,000 for the National Ocean Service (NOS).

Of the amount provided for mapping and charting, the conferees intend that funds be used to support installation and operation of current, wind, tide, salinity and water level measuring devices in the Houston Ship channel and Galveston Bay as described in the House report.

Within the $11,000,000 provided for the Coastal Ocean program, $700,000 is for the continuation of research at the Baruch Institute as described in the Senate report.

NATIONAL MARINE FISHERIES SERVICE

The conference agreement includes $269,188,000 for the National Marine Fisheries Service (NMFS). The amount provided assumes no offsetting fee collections for living marine resources fees as proposed by the House. The conferees continue to encourage NOAA to work with the authorizing committees to examine appropriate fee proposals, particularly fees related to controlled access regimes and special management practices as required by Fishery Management Plans. It is the position of the conferees that if such fees were to be authorized, all revenues collected through new marine resource fees should be used only for enhancement of the fisheries management programs.

The conference agreement includes a total of $2,300,000 for the management of highly migratory species, such as bluefin tuna and swordfish, as proposed in the House report. This amount includes $150,000 for aerial surveys of bluefin tuna.

The conferees concur with the designation of funds provided under resource information for MARMAP and for the Hatfield Marine Science Center as stated in the Senate report. The conference agreement also includes $5,200,000 for Alaskan groundfish monitoring to be distributed according to the direction given in the Senate report.

The conference agreement includes $4,000,000 for interstate fisheries commissions, including $500,000 for the three interstate commissions and $3,500,000 for the implementation for the Atlantic Coastal Fisheries Cooperative Management Act.

The conferees support the use of funds provided for the aquaculture program in accordance with language included in both the House and Senate reports.

The conferees have provided $8,000,000 for habitat conservation. Within that amount, $1,000,000 is provided as a one-time grant to the State of Alaska for the protection and restoration of salmon habitat in the Kenai River watershed area of Alaska. The Kenai River and its tributaries support sport and commercial fisheries valued at $100,000,000 annually, and fish habitat degradation has become an increasing concern. The State of Alaska should use these funds to continue developing programs to restore and protect the Kenai River fish habitat, and to work with the appropriate Federal, State and local organizations in carrying out these programs.

The conferees are aware of public health concerns related to the consumption of raw molluscan shellfish by at-risk consumers, and believe that a comprehensive education program is the appropriate response to the problems of at-risk consumers. The conferees are aware that NMFS has identified $500,000 in Saltonstall-Kennedy funds (made available in previous years) which may be used for these purposes. The conferees support the use of these funds for a multi-year program, that includes industry participation, to educate at-risk consumers and the medical community regarding the public health concerns related to the consumption of raw molluscan shellfish.

Within the base funding for Marine Mammal Protection Act, the conferees intend that NOAA continue to fund existing programs at the fiscal year 1994 levels including $1,500,000 for marine resources observers in the North Pacific and $500,000 for harbor seal research by the State of Alaska. The conferees endorse the House report language requesting NOAA to fund a proposal for a coordinated response to the management of marine mammal populations off the coast of Washington State, and believe such a coordinated response should include the coast of Oregon as well.

The conference agreement includes $2,800,000 for the North Atlantic fishery reinvestment program. The conferees endorse the language included in the Senate report expressing concerns that the Department of Commerce should not bear the sole responsibility for the Federal government's response to socio-economic impacts arising from the crash in the New England groundfish fishery.

Amounts provided for the RECFIN program are provided in accordance with the Senate report.

The conferees note that both the House and Senate reports encourage NOAA to develop marking programs for salmon and other endangered fish stocks as an innovative management strategy. The conferees encourage NOAA to consider funding pilot programs for salmon marking and to submit a reprogramming of funds for such activities if necessary.

OCEANIC AND ATMOSPHERIC RESEARCH

The conference agreement includes $259,147,000 for NOAA's Oceanic and Atmospheric Research.

The conferees have provided a total of $78,000,000 for the Climate and Global Change program, which includes $7,000,000 for the GLOBE program as proposed by the Senate. The House report displayed this amount for GLOBE under a separate line item in the NOAA table. Within the remaining $71,000,0000 for the Climate and Global Change program, $26,800,000 is provided for research on the role of oceans on climate.

The amounts provided in the conference agreement under weather research include funding for the PROFS program as proposed by the House, $300,000 for a one-time grant to the University of North Dakota for an agricultural weather initiative, and $500,000 above the base for the Health of the Atmosphere program. The conferees would be willing to consider a reprogramming of base funds from within OAR to increase the amounts available for the Health of the Atmosphere initiative.

The conferees recommend $1,500,000 for the University of Maine Regional Marine Research Center. No funds are provided for additional centers or planning efforts. The amounts provided for the National Undersea Research Program (NURP) include $3,800,000 for the Hawaii center. The conferees also concur with the House report language regarding funding for the national office.

NATIONAL WEATHER SERVICE

The conference agreement includes $661,489,000 for the National Weather Service (NWS). Within the amount provided for local warnings and forecasts, $500,000 is included for a weather buoy and three monitoring stations in Prince William Sound, Alaska. The conferees concur with language included in the Senate report regarding an increase above base funding for the Stoneville, MS, weather station.

The conferees endorse the intent of NOAA to follow up on concerns expressed by the Congress with respect to the adequacy of coverage in certain areas of the country under the NWS modernization plan, by arranging for an independent review of the NWS implementation plan. The conferees expect NOAA to consider in this independent review the specific coverage concerns highlighted in the House and Senate reports, in floor debate and through other communication from the Congress, and to provide periodic updates to the Committees on Appropriations of the House and the Senate on the status of this review.

The conferees endorse the report language included in the House report regarding NOAA weather radio.

The fiscal year 1995 NWS Implementation Plan for Modernization states that the Jackson, Kentucky Weather Service Office will remain unchanged under weather service modernization and continue to provide services to Eastern Kentucky. The conferees believe the unique climatological and meteorological conditions of Eastern Kentucky made it necessary for the area to receive the highest quality of weather service to protect the life and safety of the residents. Therefore, the conferees expect the NWS to procure and install a NEXRAD system in Jackson, Kentucky, and have provided the necessary funding increases under NEXRAD system acquisition and under the NOAA construction account to carry out this direction.

NATIONAL ENVIRONMENTAL SATELLITE DATA, AND INFORMATION SERVICE

The conference agreement includes $388,585,000 for NOAA's National Environmental Satellite, Data, and Information Service.

The conferees endorse the Senate report language on the converged polar satellite program and have included $16,000,000, designated in the bill, for the integrated program office for a converged polar satellite system.

The conferees have provided $6,000,000 to initiate an ocean satellite remote sensing program, instead of $10,800,000 as proposed by the Senate.

The conferees are supportive of the National Performance Review recommendations directing NOAA to organize the implementation of a National Environmental Data Index. The conferees share an interest in seeing the Federal government coordinate and integrate the environmental data resources found in various Federal agencies in order to ensure maximum benefit from our investment and to avoid duplication of efforts. The conferees urge NOAA to initiate a plan for implementation of the National Environmental Data Index as part of its fiscal year 1996 budget request.

The conferees intend that NOAA continue to maintain fourteen coastal data buoys, as provided in the House report. The conferees expect NOAA to submit a long-term plan for funding these data buoys as part of its fiscal year 1996 request.

PROGRAM SUPPORT

The conference agreement includes $148,183,000 for NOAA program support. Within the amounts provided for, aircraft instrumentation, $3,600,000 if for acquisition of doppler radar capability for the new NOAA hurricane reconnaissance aircraft.

The conference agreement assumes $16,000,000 in deobligations of prior year funds.

COASTAL ZONE MANAGEMENT FUND

Amendment No. 63: Restores language proposed by the House and stricken by the Senate which makes funds provided under this heading available for purposes set forth in 16 U.S.C. 1456a(b)(2). The Senate bill had proposed new language designating $3,671,000 for CZM program administration costs and $4,129,000 for CZM section 306 grants.

CONSTRUCTION

Amendment No. 64: Appropriates $97,600,000 for the NOAA construction account instead of $100,000,000 as proposed by the Senate and $52,000,000 as proposed by the House, and designates in the bill the following amounts: $2,500,000 for a grant to Kansas City, Missouri for the development of a weather and environment information and demonstration center; and continuations of the following ongoing construction projects funded in previous years: $1,000,000 for a grant to Mystic Seaport in Mystic, Connecticut for a maritime education center; $3,500,000 for a Multispecies Aquaculture Center in the State of New Jersey; $2,000,000 for the construction of the Massachusetts Biotechnology Center Research Institute in Boston; and $5,200,000 for the Center for Interdisciplinary Research and Education in Indiana. These designations were not included in either the House or Senate bills.

The conferees intend that funds provided under this account in previous fiscal years for the purpose of establishing a biotechnology innovation center in Boston be made available to the Massachusetts Biotechnology Research Institute (MBRI).

The conference agreement also includes a total of $32,800,000 for fisheries and oceans facilities, of which $11,000,000 is for the construction of the interagency Estuarine Habitats Research Laboratory in Lafayette, Louisiana. This facility is to be staffed, operated and supported by agencies other than the National Oceanic and Atmospheric Administration, such as the Corps of Engineers. Also, $2,600,000 of this amount is included for the completion of a wharf and support facilities at the Marine Science Center in Newport, Oregon. Another $7,500,000 is included within that amount to initiate expansion of the National Marine Fisheries Service Southeastern Laboratory. This new facility will house NOAA, State of South Carolina Marine Resources, and other agency personnel. The remaining funds provided under the fisheries/oceans facilities line are for ocean and fisheries facilities of NOAA, including the consolidation of NOAA facilities in Juneau, Alaska.

Within the amount provided for National Estuarine Research Reserves, $980,000 is for acquisition of real property to expand the ACE basin estuarine reserve in South Carolina.

The conferees concur with language included in the House report on the relocation of the NMFS Tiburon laboratory.

Within the amount provided for Columbia River hatchery facilities, $6,500,000 is included for irrigation screens as recommended in the Senate report.

The conferees agree with the Senate report language regarding the need for $4,000,000 within the funds provided for environmental compliance for cleanup and removal activities on St. George and St. Paul Islands, Alaska.

The conference agreement includes the following amounts for the NOAA construction account:

[In thousands of dollars]

Construction:	
NOAA Facilities Maintenance	$4,000
Sandy Hook lease	1,500
Environmental compliance	6,000
Boulder lab—above standard costs	2,000
NEXRAD WFO construction	20,300
Columbia river facilities	8,200
Silver Spring consolidation	2,300
NOAA research facilities	1,900
Fisheries/oceans facilities	33,200
Other facilities	14,200
Nat'l Estuarine Research Reserve	4,000
Subtotal, Construction	97,600

FISHING VESSEL OBLIGATIONS GUARANTEES

Amendment No. 65: Appropriates $250,000 in subsidy funding for the fishing vessel obligation guarantee program, instead of $459,000 as proposed by the House, and includes new language not in the House bill which restricts availability of these loan guarantees for the purpose of purchasing new vessels. The Senate bill contained no provision on this matter.

The conferees have included language which is intended to ensure that these funds are not used for purposes which contribute to the overcapitalization of the fishing industry. The conferees intend that the funds provided be available for the refinancing of existing debt, renovation and repair of existing vessels and facilities, and construction of new shoreplants for underutilized species, aquaculture and waste reduction.

GENERAL ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

Amendment No. 66: Appropriates $16,900,000 for the Department of Commerce Office of Inspector General as proposed by the House instead of $17,250,000 as proposed by the Senate. The conferees concur with language included in the House report (H. Rept. 103-552) regarding the transfer of funds from other Commerce agencies to support the audit activities of the Office of Inspector General. The conferees agree that the fiscal year 1996 Department of Commerce budget request should reflect a base transfer of these funds to the Office of Inspector General.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

Amendment No. 67: Appropriates $136,000,000 for salaries and expenses of the Bureau of the Census instead of $141,272,000 as proposed by the House and $135,000,000 as proposed by the Senate.

Within the amounts provided, the conferees expect the Census Bureau to begin the proposed efforts to modernize and restructure the standard industrial classification (SIC) code system. The conferees continue to be concerned about the number of statistical briefs on a variety of subjects released by the Census Bureau and expect a thorough review of the need for these reports to be conducted as soon as possible to identify possible savings which could be reprogrammed to cover other high priority programs.

PERIODIC CENSUSES AND PROGRAMS

Amendment No. 68: Appropriates $142,576,000 for the Census Bureau's periodic account, including the decennial census program, as proposed by the House instead of $145,000,000 as proposed by the Senate.

The amount provided in the conference agreement includes the funding recommended in the House report for the Bureau to continue its efforts to prototype high performance computing technologies necessary for the Year 2000 Census. The conferees also support the continuation of the program to develop intercensal poverty estimates.

The conferees expect the Census Bureau to continue examining its unliquidated obligations to identify amounts which could be deobligated and reprogrammed to cover other priority needs related to the Year 2000 Census. The conferees expect the Census Bureau to submit quarterly reports to the House and Senate Committees on Appropriations on the status of obligation of funds as described in the House report. The conferees expect the Census Bureau to submit a reprogramming notification to the House and Senate Committees on Appropriations before obligating any more than the currently anticipated $2,772,000 in recoveries of prior year obligations identified in the budget request.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

Amendment No. 69: Appropriates $46,937,000 for the Commerce Department's economic and statistical programs as proposed by the Senate instead of $48,615,000 as proposed by the House.

The conferees understand that there has been considerable debate over the years as to the objectivity, methodology, and applicability of "Integrated Environmental-Economic Accounting" or "Green GDP". The conferees understand that the Department has completed the development of Phase I of this initiative. the conferees believe that an independent review, by an external organization such as the National Academy of Sciences, should be conducted to analyze the proposed objectivity, methodology, and application of environmental accounting. The conferees expect BEA to use $400,000 under this account to fund this independent study, as suggested by the House report. The conferees expect BEA to suspend development of Phase II of this initiative until the review has been completed and the results have been submitted to the Committees on Appropriations of the House and the Senate, as well as the appropriate authorizing committees.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

Amendment No. 70: Appropriates $266,450,000 for the International Trade Administration, instead of $268,723,000 as proposed by the House and $262,000,000 as proposed by the Senate, and adds language designating funds as follows: $1,000,000 for a grant to the Emerging Technologies Institute (ETI) in Sacramento, California; $930,000 for a grant to the Michigan Biotechnology Institute; $1,700,000 for the Massachusetts Biotechnology Research Institute in Worcester; $1,200,000 for the Center for Global Competitiveness in Loretto and Latrobe, Pennsylvania; and $3,400,000 for the Textile Clothing Technology Corporation. These designations were not included in either the House or Senate bills.

The following table displays the amounts provided for ITA by program component:

79-059 O—97 Vol 140 (Pt. 16) 32

VOL 140 PT 16 AG 12 — 18 1994 UMI

[In thousands of dollars]

	1994 Appropriation	1995 Request	1995 House	1995 Senate	1995 Conference
US&FCS	136,598	152,102	.....	155,102	149,420
Import administration	32,341	32,890	.....	25,902	30,000
International economic policy	19,748	20,509	.....	23,155	21,000
Trade development	59,903	56,289	.....	57,841	66,030
Total	248,590	261,790	268,723	262,000	266,450

The conferees reiterate that the amounts displayed in the above table serve as a base for reprogramming. The conferees agree that any change in the use of funds from the purposes for which provided, including having one ITA component pay for the requirements of another, is subject to submission of a reprogramming notification in accordance with Section 605 of this Act. The conferees also expect to receive notification of reprogramming for any change in the use of carryover funds from the purpose for which originally appropriated.

The conferees have reviewed the Department of Commerce's response to the Senate report language regarding the expansion of export assistance centers/one stop shops, and reorganizing domestic United States and Foreign Commercial Service (US&FCS) along a "hub and spoke" concept. The conferees have concerns about the process which was used to carry out the notification of the Committees on Appropriations of the House and the Senate of the reorganization proposal. The conferees do not consider press releases to be an appropriate manner by which to respond to Appropriations Committee requests for information.

The conferees generally support the proposal put forward by the Department and the US&FCS. However, the conferees are concerned with and do not approve the proposed siting of some of the new US&FCS domestic offices. The conferees expect that the new export assistance center for the Carolinas, with three FTE, be established in Greenville, South Carolina, which is a center for foreign investment and American export firms. The conferees are also concerned that the most recent proposal for export assistance fails to include several states, including the State of Kentucky. The conferees expect US&FCS to locate a district export assistance center in Somerset, Kentucky.

The conferees agree that the US&FCS, as it expands its overseas network, should hire American citizens wherever practicable. The conferees understand that in some cases, hiring foreign nationals for these positions may be more practical or more cost efficient. The conferees expect a hiring ratio of one foreign national employee for every American citizen hired with the enhanced funding provided.

The conferees have been made aware of concerns that the effectiveness of the antidumping statute is being diminished by increasing instances of foreign companies engaging in subterfuges in order to avoid antidumping duties. The purpose of the antidumping statute is to prevent foreign companies from engaging in illegal pricing schemes by charging less in foreign markets than in the home market. The conferees understand that often, foreign companies operating in protected home markets will dump products in the United States in order to capture market share, while collecting profits in their closed home markets. The antidumping statute was enacted to ensure that American producers can sell their products at a fair price. The conferees also understand that in many cases, foreign companies found guilty of dumping will establish related party subsidiaries that import the dumped goods and absorb the duties, thus allowing the goods to still be sold at a dumped price.

The conferees believe that the Import Administration should publish, in its Administrative Reviews of outstanding orders, the amount of the dumping duty that is being absorbed by a related party. Furthermore, the conferees expect the Import Administration to report back to the Committees on Appropriations of the House and the Senate, as well as the appropriate authorizing committees, on what steps have been taken to prevent companies from circumventing dumping orders.

The conferees agree that up to $500,000 of the amounts provided for ITA should be used to establish an export center in Tokyo, as proposed in the Senate report (S. Rept. 103–309).

Within the funds available under this account for the market development cooperator program, the conferees encourage ITA to consider funding programs which assist American high technology firms in developing joint ventures and strategic alliances with overseas partners.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

Amendment No. 71: Appropriates $38,823,000 for the Bureau of Export Administration as proposed by the House instead of $36,161,000 as proposed by the Senate.

The conferees agree that funding for the Bureau of Export Administration is of the highest priority and would consider a transfer of funds under section 205 of this Act to cover any shortfalls in this account.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

Amendment No. 72: Appropriates $43,900,000 for the Minority Business Development Agency instead of $44,000,000 as proposed by the Senate and $42,428,000 as proposed by the House, and includes language, not in either the House or Senate bills, designating funds for the following items: $600,000 for a grant for the NTTC to establish a Minority Apprenticeship Program in Technology Management in cooperation with Historically Black Colleges and Universities; $100,000 for a grant to establish a Minority Economic Opportunity Center in Cleveland, Ohio, to assist minority businesses in the areas of business and financial development and exporting; and $200,000 for a grant to provide funding to the U.S.-African Trade and Technology Center at Savannah State College in Georgia to assist small and minority businesses in expanding trade-facilitating technology transfer.

The conferees support efforts within the Department of Commerce to coordinate the mission of MBDA with the Technology Administration in order to provide expanded opportunities for minority businesses and entrepreneurs.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 73: Appropriates $16,407,000 for the salaries and expenses of the U.S. Travel and Tourism Administration (USTTA) instead of $14,907,000 as proposed by the House and $17,907,000 as proposed by the Senate.

Amendment No. 74: Deletes language proposed by the Senate which would require USTTA to charge additional user fees for its services, products, and information to result in an additional $3,000,000. The House-passed bill continued no similar provision.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

Amendment No. 75: Appropriates $83,000,000 for the salaries and expenses of the Patent and Trademark Office, instead of $88,329,000 as proposed by the House and $75,000,000 as proposed by the Senate, and includes language, not in either bill, designating $6,000,000 of the funds provided for the acquisition of high performance computing capability for the PTO. The conference agreement also includes language, not in either bill, which permanently cancels $2,195,000 of offsetting collections in this account related to government-side GSA rental cost reductions.

The conferees believe that the acquisition of high performance computing capability will ensure that the Patent and Trademark Office is best able to serve its users in the future. The conferees are aware of the development of a metacomputing center in close proximity to the PTO headquarters. This center will be an open site that is easily accessible by the private sector and the Federal government. The conferees believe that the development of such a center will obviate the need for Federal agencies such as the PTO to individually purchase high performance computing equipment at a great cost to the Federal taxpayer and fee paying users of the Patent and Trademark Office.

The conferees expect the Patent and Trademark Office to use $500,000 from within available resources to develop a program to provide technical assistance to help foreign governments enforce intellectual property laws as proposed in the Senate report under the International Trade Administration.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

Amendment No. 76: Appropriates $10,000,000 for the Under Secretary of Commerce for Technology and the Office of Technology Policy as proposed by the House instead of $11,237,000 as proposed by the Senate.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

Amendment No. 77: Restores language stricken by the Senate appropriating $8,000,000 to the National Technical Information Service for the implementation of the American Technology Preeminence Act, instead of $12,000,000 as proposed by the House.

The conferees have been made aware of concerns that some of the programs proposed in the original budget request for this account were potentially duplicative of the responsibilities of the Government Printing Office (GPO). The conferees expect NTIS and the Department of Commerce to develop a proposal, to be coordinated with the Government Printing Office, describing the proposed uses of these funds and the delineation of responsibilities of both NTIS and GPO relative to the American Technology Preeminence Act. The conferees expect the Department to submit this proposal to the Committees on Appropriations of the House and the Senate by November 1, 1994, and expect that none of the funds provided under this heading will be expended until this proposal has been received and reviewed under the Committee's standard reprogramming procedures contained in section 605 of this Act.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 78: Appropriates $20,981,000 for the salaries and expenses of the National Telecommunications and Information Administration (NTIA) as proposed by the Senate instead of $21,056,000 as proposed by the House.

Amendment No. 79: Provides language proposed by the Senate which will allow NTIA to carry over reimbursable payments from other Federal agencies, such as the Department of Defense. The House bill contained no similar provision.

PUBLIC BROADCASTING FACILITIES, PLANNING AND CONSTRUCTION

Amendment No. 80: Appropriates $29,000,000 for the Public Broadcasting Facilities, Planning and Construction program (PBFP) instead of $26,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

Amendment No. 81: Designates $1,500,000 for the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT) as proposed by the Senate instead of $700,000 as proposed by the House.

INFORMATION INFRASTRUCTURE GRANTS

Amendment No. 82: Appropriates $64,000,000 for the Information Infrastructure Grants program instead of $70,000,000 as proposed by the House and $52,000,000 as proposed by the Senate.

The conferees concur with the language included in the House report noting the value of the creation of a national information highway to rural and remote areas, and urge NTIA to give particular consideration to applications which would lead to increased telecommunications access in areas where such service is not readily available.

The conferees support the competitive selection and award of information infrastructure grants. In this regard, the conferees endorse the review and consideration of the various proposals named in the House and Senate reports should applications be submitted. The conferees have been made aware of the following technical change in the description of a proposal listed as item number (5) in the House report, and encourage NTIA to consider an application as follows:

(5) a proposal by the NCexCHange and the Southeastern Regional Alliance in North Carolina to assist non-profit organizations and businesses in using the telecommunications infrastructure.

Amendment No. 83: Provides language proposed by the Senate clarifying that activities of the Advisory Council on National Information Infrastructure may be supported within funds provided for program support activities under this heading. The House bill contained no similar provision.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Amendment No. 84: Restores language proposed by the House and stricken by the Senate designating trade adjustment assistance as a use of the funds provided under this heading and provides $408,024,000 for the economic development assistance programs instead of $338,524,000 as proposed by the House and $412,198,000 as proposed by the Senate. The following table shows a comparison of the recommended conference agreement to the amounts provided by the House and Senate:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

[In thousands of dollars]

	Fiscal year— 1994	1995 request	1995 House	1995 Senate	1995 conference
Public works grants	160,000	130,924	175,000	174,000	195,000
Planning assistance	26,000	26,000	26,598	27,272	26,598
Technical assistance (including University Centers)	10,600	10,600	10,926	10,926	10,926
Defense Economic Conversion	80,000	140,000	80,000	140,000	120,000
Research and evaluation	500	500	500	0	500
Trade adjustment assistance	10,000	0	10,000	10,000	10,000
Economic adjustment grants	35,542	19,000	35,500	50,000	45,000
Total	322,642	327,024	338,524	412,198	408,024

The conferees are interested in EDA's proposed Competitive Communities concept to assist distressed communities in developing the necessary industrial base to compete in the global marketplace. The conferees expect EDA to submit a detailed plan for implementation of a pilot program for competitive communities. In this plan, EDA should address concerns expressed by both the House and Senate appropriations and authorizing committees that the program be structured in such a way that both defense conversion-impacted communities and traditional communities benefit equally from this innovative concept. Further, the plan should be structured so that it benefits rural areas as well as urban centers. The conferees expect the Department and EDA to submit this detailed plan no later than December 1, 1994. Upon review of the proposal by the appropriate committees, the House and Senate Committees on Appropriations would be willing to consider a reprogramming proposal for the Competitive Communities program, to be submitted by January 31, 1995 in accordance with the Committees' standard reprogramming procedures included in Section 605 of this Act. The conferees intend that any funds proposed for reprogramming for this purpose from amounts provided under defense conversion in this Act would be used to fund the competitive communities concept only in defense-impacted communities. Likewise, any reprogramming from other Title IX funds for this purpose should only be directed toward competitive communities programs in traditional, non-defense communities.

Amendment No. 85: Deletes language proposed by the Senate earmarking funds provided under this heading for the trade adjustment assistance program and the Title I Public Works grant program. The House bill continued no similar provision.

The conferees have agreed to provide funding for both of these programs; a table displaying the amounts provided for all EDA assistance programs is included under Amendment No. 84.

The conferees endorse EDA's review and consideration of all viable proposals named in both the House and Senate reports accompanying this bill, should those proposals be submitted. The conferees have also been made aware of the following additional proposals for economic development assistance, and encourage EDA to consider applications for these proposals within applicable procedures and guidelines:

(1) a proposal from the Southern Kentucky Economic Development Corporation for the implementation of a strategic plan for industrial recruitment and economic development within southern and eastern Kentucky;

(2) a proposal from the Wood County Development Authority to develop an industrial park;

(3) a proposal from the State of North Carolina and Pembroke State University for the development of a Regional Center for Economic, Community and Professional Development;

(4) a proposal from the City of Akron, Ohio, for exhibition development at the National Invention Center; and

(5) a proposal from the City of Pittsburgh for a grant for site assembly and infrastructure development for the Federal North Redevelopment Project.

SALARIES AND EXPENSES

Amendment No. 86: Appropriates $32,205,000 for the EDA salaries and expenses as proposed by the House instead of $36,000,000 as proposed by the Senate.

The conferees support the language included in the House report regarding the regional versus headquarters staffing.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

Amendment No. 87: Deletes language proposed by the Senate requiring that not to exceed $6,177,000 of the savings associated with procurement reform be assigned to the National Oceanic and Atmospheric Administration (NOAA). The House bill contained no similar provision.

The conferees agree with the intent of the Senate amendment that the burden of the procurement reform reductions to be taken by the Department not be borne disproportionately by NOAA and that NOAA should not be allocated more than one-half the total reduction required under this provision. The conferees expect the Department to notify

VOL 140 PT 16 AG 12 — 18 1994 UMI

the House and Senate Committees on Appropriations of the distribution of these proposed procurement savings under the reprogramming procedures contained in Section 605 of this Act.

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

Amendment No. 88: Appropriates $24,240,000 instead of $24,157,000 as proposed by the House and $24,323,000 as proposed by the Senate.

CARE OF THE BUILDING AND GROUNDS

Amendment No. 89: Appropriates $3,000,000 as proposed by the House instead of $3,045,000 as proposed by the Senate.

United States Court of Appeals for the Federal Circuit.

SALARIES AND EXPENSES

Amendment No. 90: Appropriates $13,438,000 as proposed by the House instead of $13,362,000 as proposed by the Senate.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

Amendment No. 91: Appropriates $11,685,000 as proposed by the House instead of $11,765,000 proposed by the Senate.

COURT OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

Amendment No. 92: Appropriates $2,340,127,000 instead of $2,323,455,000 as proposed by the House and $2,409,318,000 as proposed by the Senate.

The following table reflects the net increase of $16,672,000 provided by the conference agreement above the House level:

[In thousands of dollars]

Base adjustments:	
Increased Article III judge vacancies	−$9,000
New space for FY 1995	−2,330
Annualization of space for FY 1994	+9,073
Program increases:	
Magistrate Judges/staff	+3,300
Clerks Offices:	
(1) Deputy Clerks/Courts of Appeals	+1,100
(2) Deputy Clerks/District Courts	+3,529
(3) Deputy Clerks/Bankruptcy Courts	−10,986
Probation and pretrial services:	
Workload Requirements	+15,486
Automation:	
Judiciary automation fund	+3,500
Facilities:	
Tenant alterations	+3,000

The conferees are agreed that the Judicial Conference of the United States should establish new United States Magistrate Judge positions on the basis of additional workload requirements and other additional, appropriate criteria. The conferees note that the conference agreement does not fully fund the budget request for additional magistrates. Therefore, the conferees expect that the Judicial Conference should reevaluate the need for new magistrate positions and establish such positions in the districts of greatest need.

FEES OF JURORS AND COMMISSIONERS

Amendment No. 93: Appropriates $59,346,000 instead of $62,692,000 as proposed by the House and $56,000,000 as proposed by the Senate.

COURT SECURITY

Amendment No. 94: Appropriates $97,000,000 as proposed by the House instead of $97,532,000 as proposed by the Senate.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

Amendment No. 95: Appropriates $47,500,000 instead of $46,500,000 as proposed by the House and $47,734,000 as proposed by the Senate.

The conferees are concerned about the lack of information available from the General Services Administration concerning the delivery of new space and facilities projects for the Judiciary. This information is critical to the Committees' funding decisions on the budget requests for the Salaries and Expenses account for Courts of Appeals, District Courts, and Other Judicial Services. The conferees expect that the Administrative Office of the United States Courts will develop its own data base to keep track of approved space and facilities projects in order to provide the Appropriations Committees with timely information on the status of such projects.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

Amendment No. 96: Appropriates $18,828,000 as proposed by the House instead of $19,739,000 as proposed by the Senate.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

Amendment No. 97: Appropriates $8,800,000 instead of $8,468,000 as proposed by the House and $9,200,000 as proposed by the Senate.

GENERAL PROVISIONS—THE JUDICIARY

Section 305

Amendment No. 98: Deletes a provision proposed by the Senate which would have extended the operating authority for the Judiciary Automation Fund for five years. The House bill contained no provision on this matter.

Section 306

Amendment No. 99: Deletes a provision proposed by the Senate which would have permitted the Judiciary's contributions to the Civil Service Retirement Fund to be paid back to the Judiciary when United States bankruptcy and magistrate judges elect to transfer their coverage from the Civil Service Retirement System or the Federal Employee's Retirement System to the retirement program established under the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988. The House bill contained no provision on this matter.

TITLE IV—RELATED AGENCIES

DEPARTMENT OF TRANSPORATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

Amendment No. 100: Appropriates $76,100,000 for the Maritime Administration's Operations and Training account as proposed by the House instead of $78,000,000 as proposed by the Senate, and adds language, not in either bill, which permanently cancels $360,000 of the budgetary resources made available to the Maritime Administration for fiscal year 1995 procurement and procurement-related activities.

READY RESERVE FORCE

(INCLUDING RESCISSION)

Amendment No. 101: Appropriates $150,000,000 for the maintenance and operations of the Ready Reserve Force instead of $179,415,000 as proposed by the House and $138,000,000 as proposed by the Senate.

Amendment No. 102: Rescinds $158,000,000 from the unobligated balances available under the Ready Reserve Force as proposed by the Senate. The House bill included a rescission of $27,000,000 from the funds made available under this heading in Public Law 103–121.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

Amendment No. 103: Appropriates $1,894,000 for the Commission on Immigration Reform as proposed by the Senate instead of $1,494,000 as proposed by the House.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

Amendment No. 104: Appropriates $1,384,000 for the Marine Mammal Commission as proposed by the Senate instead of $1,320,000 as proposed by the House.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 105: Appropriates $258,175,000 and inserts the following new provisions which were not in either the House or the Senate bill: an earmark of $15,000,000 to implement section 24 of the Small Business Act as amended, including $500,000 to be made available only to the City of Buffalo, New York; a provision which would continue to authorize the Natural Resources Development Program at $30,000,000 per year from fiscal year 1995 through fiscal year 1997; and a provision which amends section 112(c) of the Small Business Administration Authorization and Amendment Act of 1988 through fiscal year 1997. This provision concerns the interest rate on certified development company loans. The House had proposed only an appropriation of $258,900,000 for the Salaries and Expenses account, and the Senate had proposed only an appropriation of $233,468,000 for this purpose.

The following table shows the distribution of the funds provided in the conference agreement for the SBA Salaries and Expenses account, including the funds earmarked in Amendment Nos. 107 and 108:

SBA salaries and expenses—fiscal year 1995

[In thousands of dollars]

	agreement
7(j) Program	8,073
SCORE	3,250
SBI	3,000
Women's Business Ownership Act of 1988 demonstration grants	4,000
SBDC	74,000
SBDC central Europe	1,000
SBDC defense economic transition	3,375
Veteran's outreach	445
International trade	481
Advocacy research	1,533
PASS	1,098
Title IV of the Women's Business Ownership Act of 1988	200
White House Conference	2,490
Microloan technical assistance	9,000
Empowerment zones	1,786
Export assistance centers	3,202
BIC/OSCS	1,400
Natural Resources Development Program	15,000
Pittsburgh District Video Production	150
Paperless Procurement Program	500
Subtotal	113,620
Other salaries and expenses	133,742
Total program level salaries & expenses	267,525
Financing offsetting collections	−9,350
Total appropriation	258,175

The conference agreement includes $150,000 for the continuation of a Video Production

Program which was established as a pilot program for Western Region II, Pittsburgh District of the Small Business Administration. The conferees are agreed that these funds are to be used for the program which was established in Johnstown, Pennsylvania for the development of industry-specific video catalogs that showcase small businesses to prime contractors, export partners, and trade missions. The conferees understand that the pilot program engendered strong interest among small businesses who now wish to participate because of the potential they see in this program.

The conference agreement also includes $500,000 to establish a pilot program for small businesses designed to advance their transition to a paperless procurement environment. The conferees understand that the Department of Defense and the Office of Management and Budget are considering instituting an entirely new way to do business with the Federal government—a proposed evolution to an all-electronic system. While the conferees are advised that this initiative has the potential to save substantial amounts, conversion to a paperless environment is not without its costs and many small businesses have neither the funds nor the capability to insure their continued involvement in Federal procurement activities in such a new procurement environment. The conferees, therefore, expect the Small Business Administration to initiate a pilot program with the economic development entity currently involved with SBA in producing marketing videos in southwestern Pennsylvania and the WVHTC Foundation. To the extent practicable, small businesses should share in the costs of planning and implementing such an electronic procurement system and in modifying systems that may otherwise be critically needed to the marketing of their products.

The conference agreement includes $3,202,000 for expansion of the Small Business Administration's participation in the export assistance center/one-stop shops initiative of the Administration called for in the report of the Trade Promotion Coordinating Committee. The conferees are agreed that the Small Business Administration should locate its centers in the same locations/offices as the United States and Foreign Commercial Service of the Department of Commerce and the Export-Import Bank of the United States since these agencies are the other partners in this initiative.

Amendment No. 106: Deletes a provision proposed by the Senate which would have permitted the Small Business Administration to charge a user fee for some of the costs of the Small Business Development Center program. The House bill contained no provision on this matter.

Amendment No. 107: Earmarks $77,375,000 for the Small Business Development Center program instead of $73,300,000 for this purpose as proposed by the House and $72,000,000 as proposed by the Senate.

Amendment No. 108: Earmarks $3,375,000 for defense economic transition technical assistance instead of $5,000,000 for this purpose as proposed by the Senate. The House bill contained no provision on this matter. The conferees expect that not less than $500,000 of this amount shall be available for the South Carolina Small Business Development Center to assist in the reuse of the Charleston Naval Base, displaced employees, and related economic impacts from this realignment.

Amendment No. 109: Restores language proposed by the House and stricken by the Senate which prohibits any of the funds in this Act from being used to impose any new or increased user fee or management assistance fee for the Small Business Development Center program.

BUSINESS LOANS PROGRAM ACCOUNT

Amendment No. 110: appropriates $9,596,000 for the Credit Subsidy Budget Authority cost of Small Business Administration's direct loans program instead of $8,500,000 for this purpose as proposed by the House and $9,221,000 for this purpose as proposed by the Senate.

The following table shows the allocation of subsidy costs and program levels for the various SBA direct loan programs under the conference agreement:

SMALL BUSINESS ADMINISTRATION DIRECT LOAN PROGRAMS

[In thousands of dollars]

	Conference agreement	
	Subsidy appropriation	Credit/Program level financed
Handicapped	1,700	4,928
MESBIC	2,533	7,554
Microloans	5,363	45,642
Total	9,596	58,124

Amendment No. 111: Appropriate $278,305,000 for the Credit Subsidy Budget Authority cost of the Small Business Administration's Business Guaranteed Loans Program instead of $321,067,000 for this purpose as proposed by the House and $277,143,000 as proposed by the Senate. The conference agreement also adds new language which earmarks $1,216,000 for the Microloan Guarantee Program to be available until expended and earmarks the following amounts to remain available until September 30, 1996: $15,990,000 for the SBIC program; $7,398,000 for the SSBIC program; and $20,457,000 for the Participating Securities program. In addition, the conference agreement adds new language earmarking $30,000,000 to prepay the Federal Financing Bank for debentures guaranteed by the Administration pursuant to section 503 of the Small Business Investment Act. The conference agreement also provides that the costs of guaranteed loans including the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974. The conference agreement also includes new language appropriating $27,350,000 and designating amounts for certain grant activities. Finally, the conference agreement makes a technical change in the bill.

The following table shows the allocation of subsidy costs and program levels under the conference agreement for the small business loans guarantee program:

GUARANTEED LOAN PROGRAMS

[In thousands of dollars]

	Conference agreement	
	Subsidy appropriations	Credit/Program level financed
Section 7(a)	195,096	7,146,373
Section 502 companies	664	42,000
Section 504 companies	8,030	1,434,000
SBIC Program	18,389	115,000
SSBIC	4,453	15,000
Participating securities	20,457	227,553
Microloan	1,216	10,000
Section 503 prepayments	30,000	30,000
Total, new business loan guarantees	278,305	9,019,926
Section 7(a) budgeted carryover	[1] 38,450	[1] 1,450,000

GUARANTEED LOAN PROGRAMS—Continued

[In thousands of dollars]

	Conference agreement	
	Subsidy appropriations	Credit/Program level financed
Total	316,755	10,469,926

[1] Represents carryover projected in the President's Budget. The actual carryover is currently estimated to be $27.3 million in subsidy costs and $1 billion in program level

The conference agreement provides a total of $27,350,000 for the following activities:

$750,000 for a grant to the North Carolina Biotechnology Center for a demonstration project that would integrate small business formation and preparation of a biotechnology workforce;

$500,000 for continuation of a grant to the Van Emmons Population Marketing Analysis Center, Towanda, Pennsylvania, for an integrated small business data base to assist Appalachian Region small businesses;

$1,000,000 for continuation of a grant to the City of Prestonsburg, Kentucky, for small business development;

$375,000 for a grant to the State of Nebraska for establishing the Nebraska Micro Enterprise Initiative to include a clearinghouse and training and counseling programs;

$3,000,000 for continuation of a grant to the National Center for Genome Resources in New Mexico to provide consulting assistance, information and related services to small businesses and for related purposes;

$1,000,000 for continuation of a grant for the Genesis Small Business Incubator Facility, Fayetteville, Arkansas;

$500,000 for a grant to an entity in Bozeman, Montana, to establish a small business assistance center to assist small businesses to qualify and participate in the Small Business Innovation Research (SBIR) program;

$1,000,000 for continuation of a grant to the Center for Entrepreneurial Opportunity in Greensburg, Pennsylvania, to provide for a small business consulting and assistance center for entrepreneurial opportunities;

$1,500,000 for a grant to a consortium in Buffalo, New York, to provide assistance to small businesses for technical improvement of commercial industrial products;

$250,000 for a grant to the Western Massachusetts Enterprise Fund to expand microlending to entrepreneurs and small businesses in Central Massachusetts;

$400,000 for continuation of a grant to the State of Ohio, Department of Development, International Trade Division to assist small businesses expand their export opportunities;

$1,000,000 for continuation of a grant to assist the development of a Small Business Consulting, Information and Assistance Center in Hazard, Kentucky;

$2,000,000 for continuation of a grant to the WVHTC Foundation, of which half is for build-out, equipment, and operations costs for a small business incubator facility and half is for an outreach grant program to assist small business economic development;

$125,000 for a grant to an organization in Bowling Green, Kentucky, for a small business pilot program;

$2,500,000 for a grant to the City of Carbondale, Pennsylvania, to establish a small business incubator facility;

$500,000 for continuation of a grant to the New York City Public Library for construction and related costs for the Industry and Business Library;

$200,000 for continuation of a grant to assist the Small Business Institute program of the Small Business Administration to establish and operate a National Data Center

VOL 140 PT 16 AG 12 — 18 1994 UMI

Small Business Institute program in Conway, Arkansas;

$4,000,000 for a grant to the Unified Technology Center in Cleveland, Ohio, to assist small businesses in the design of high-quality, environmentally sound processes;

$1,250,000 for a grant to the City of Whitesburg, Kentucky, to develop and equip a facility to promote the development of small businesses and enhance economic development opportunities;

$2,500,000 for a grant to the City of Wheeling, West Virginia for the Oglebay Small Business Rural Development Center;

$1,000,000 for a grant for a Small Business Development Institute in North Philadelphia, Pennsylvania, for a facility to assist and train minority small businesses;

$250,000 for continuation of a grant to the City of Espanola, New Mexico, for the development of the Espanola Plaza to assist small businesses and enhance economic development;

$1,000,000 for a grant to North Central West Virginia Community Action to establish a small business rural enterprise training institute and micro-loan demonstration program;

$500,000 for a grant to the Mississippi Delta Small Business Technology Project in Little Rock, Arkansas, for technology education for small business owners and employees; and

$250,000 for a grant to establish a small business incubator facility in West Charlotte, North Carolina.

Amendment No. 112: Deletes the language proposed by the Senate which would have earmarked $1,216,000 for the Mirco-loan Guarantee Program and also makes certain technical changes in the remainder of the paragraph under the heading "Business Loans Program Account". The earmark for the Micro-loan Guarantee Program is addressed in Amendment No. 111.

The House bill contained no provision on this matter.

DISASTER LOANS PROGRAM ACCOUNT

Amendment No. 113: Adds the word "further" as proposed by the Senate. This is a technical change.

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

Section 401

Amendment No. 114: Deletes a provision proposed by the Senate which would have established certain prerequisites to funding the Small Business Investment Company Participating Securities program. SBA has satisfied these requirements by publishing final regulations governing this program.

Section 402(4)

Amendment No. 115: Inserts a provision proposed by the Senate which permits the SBA Administrator to propose up to five percent of any appropriation made available to SBA in the current year to be transferred between appropriations, but provides that no appropriation shall be increased by more than 10 percent by any such transfer. In addition, such transfers would be subject to the reprogramming guidelines in section 605 of this Act. The conference agreement also makes a technical change in the section number.

The House bill contained no provision on this matter.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

Amendment No. 116: Appropriates $415,000,000 with certain earmarks of these funds as proposed by the House instead of $400,000,000 with certain earmarks as proposed by the Senate.

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

Amendment No. 117: Restores language proposed by the House and stricken by the Senate which provides that 50 percent of new basic field funds shall be awarded to grantees and contractors funded at the lowest levels per-poor-person so as to fund the largest number of programs possible at an equal per-poor-person amount. The provision also provides that 50 percent of new basic field funds shall be allocated to grantees and contractors in an amount that is proportionate to the number of poor people in such grantee or contractor service area as enumerated in the 1990 Census.

TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

Amendment No. 118: Appropriates $1,731,416,000 instead of $1,700,200,000 as proposed by the House and $1,780,439,000 as proposed by the Senate.

The conference agreement reflects an increase of $14,820,000 above the House allowance for adjustments to base, $14,000,000 in program increases to modernize the Department's information systems, $1,396,000 for operational costs related to reimbursement to the FBI for fingerprint checks on immigrant applicants at 10 overseas posts and $1,000,000 for international research activities.

The conferees are aware that following filing of the report accompanying the Senate version of H.R. 4603, the Department of Treasury informed the Department of State that it did not intend to pay its current bills under the Foreign Affairs Administrative System for Treasury personnel located overseas. The conferees, therefore, expect the Department of State will take no action to allow any increase in the number of Department of Treasury permanently assigned personnel overseas, including the Secret Service, until all interagency payments by the Treasury Department are paid in full. The conferees are further aware that United States ambassadors in several overseas posts have suggested that Treasury personnel, such as IRS employees, be relocated to the United States. The conferees strongly recommend that the Secretary of State support such efforts by Chiefs of Mission to reduce U.S. personnel overseas.

The conferees are agreed that the initiative of the Department of State's Bureau of Consular Affairs to modernize non-immigrant visa processing and automate the consular visa system is a priority and that funding for the new fingerprint requirement under Amendment No. 130 of this conference agreement should not impede the plan to upgrade the visa issuing capabilities of the Department of State at all overseas posts. Therefore, the conferees are agreed that funding for the new fingerprint requirement should be allocated from the increased amounts provided for this purpose under the conference agreement and from increased immigrant visa fee receipts in the 10 countries subject to the new fingerprint check requirement. The conferees are also agreed that none of the funds provided under this conference agreement for the modernization program should be used to fund the costs associated with the new fingerprint requirement.

The conference agreement includes $500,000 for continuation of a grant to the National Law Center for Inter-American Free Trade.

The conferees agree that the Department of State needs to pursue ways of increasing efficiency and conserving scarce financial resources. As one way to achieve such savings, the conferees urge the Department to study the feasibility of extending to other areas the "Vienna model" consolidating in one embassy certain administrative and support functions that can be performed on a more efficient shared basis in support of nearby stations or missions. The Department has established a joint administrative operation in Vienna that serves the various U.S. Missions headquartered at that location. The consolidated administrative support center in Brussels, Belgium is another successful example of allocating support services for United States missions abroad. Therefore, the conferees expect the Department to analyze the best means to replicating these models on a regional basis and submit a proposal to the House and Senate Appropriations Committees by October 1, 1994, providing for a pilot project for such a consolidated administrative operation for other areas during fiscal year 1995.

The conference agreement includes $300,000 for a grant to establish the International Center for the Study of Canadian-American Trade. The Center is to be established pursuant to an agreement between an institution or consortium of institutions of post-secondary education in the State of Michigan and a similar institution or consortium of institutions in Canada. The funds recommended will be supplemented in future years by private sector contributions and by contributions from the participating institution or institutions and will provide funding for research and education projects related to the promotion of trade between the United States and Canada with a special emphasis on trade in the Great lakes Region. Projects and programs will be designed to enhance cooperation between the United States and Canada in implementing the U.S.–Canada Free Trade Agreement and the North American Free Trade Agreement as they relate to the environment, labor markets, and labor standards, in the industrial and agricultural bases of the region.

The conferees are aware of efforts by the Cascadia Transportation/Trade Task Force to improve cross-border passage of people, goods and capital through enhanced public/private technology and border operational efficiencies. The conferees support these efforts and encourage the Department to continue its efforts in cooperation with the Department of Transportation authorities to implement the goals of this bi-national strategic alliance.

Because of the increasingly central role that the access to information is playing in the overall economic and political development of nations, the conferees expect that the Bureau of Economic and Business Affairs should receive, in accordance with the Administration's budget requests, $250,000 for each of fiscal years 1994 and 1995 from the Diplomatic and Consular Programs account to continue to support activities that promote international communications and information development (including support for related international institutional development in communications). Funds for this purpose have been provided for the last six years, but were not explicitly mentioned in either the Foreign Relations Authorizations Act, Fiscal Years 1994 and 1995 (P.L. 103–236) or the Department of State and Related Agencies Appropriations Act, 1994 (P.L. 103–121). The conferees wish to clarify that funds for this purpose may therefore be provided for fiscal years 1994 and 1995.

Amendment No. 119: Inserts language which provides that all receipts received from a new charge from expedited passport processing shall be deposited in this account as an offsetting collection and shall be available until expended. The conference agreement also includes new language not in either the House or Senate bill which provides that all receipts received from an increase in the charge for immigrant visas in effect on September 30, 1994, shall be deposited as an offsetting collection to this account. In addition, the conference agreement includes language which establishes limitations of $4,000,000 for grants, contracts, and other activities to conduct research and promote international cooperation on environmental and other scientific issues; $600,000 to carry out the activities of the Commission on Protecting and Reducing Government Secrecy; and $300,000 for the Office of Cambodian Genocide Investigations. The conference agreement also provides that none of the funds appropriated for the Diplomatic and Consular Programs account shall be available to carry out the provisions of section 101(b)(2)(E) of Public Law 103–236. Finally, the conference agreement includes new language not in either the House or the Senate bill which earmarks $28,356,000 for the Diplomatic Telecommunications Service for operation of existing base services and $15,000,000 for enhancement of the DTS and withholds these latter funds from obligation until the Secretary of State and the Director of the Diplomatic Telecommunications Service Program Office submit a DTS planning report required by section 514 of this Act.

The House had proposed a new fee provision for expedited passport service under certain conditions and would have limited expenditures from such fees to $18,000,000 during fiscal year 1995. In addition, the House had proposed limitations of $3,000,000 for grants, contracts, and other international research activities, $500,000 to carry out the activities of the Commission on Protecting and Reducing Government Secrecy, and $300,000 for recruitment of Hispanic American applicants for the foreign service, and $300,000 to carry out the activities of the Office of Cambodian Genocide Investigations. The House also had proposed the limitation to carry out the provisions of section 101(b)(2)(E) of Public Law 103–236 contained in the conference agreement.

The Senate had proposed the language contained in the conference agreement which provided that all receipts received from a new charge from expedited passport processing should be deposited in the Diplomatic and Consular Programs account as an offsetting collection. In addition, the Senate had proposed that of the total amount appropriated for the Diplomatic and Consular Programs account not less than $5,000,000 would be available only for payments to the Federal Bureau of Investigation pursuant to section 505 of this Act.

Amendment No. 120: Inserts the words, *"Provided"* as proposed by the Senate instead of *"Provided further"* as proposed by the House.

SALARIES AND EXPENSES

Amendment No. 121: Appropriates $385,000,000 as proposed by the House instead of $391,373,000 as proposed by the Senate.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

Amendment No. 122: Appropriates $421,760,000 as proposed by the Senate instead of $396,000,000 as proposed by the House. The conference agreement includes $49,239,000 as requested to construct a new U.S. embassy in Ottawa. The conference agreement also includes up to $117,864,000 for facility maintenance and rehabilitation. The conferees are concerned that not enough resources are being invested in repair and maintenance of existing facilities by the State Department. The Department's backlog of facility maintenance and repair is currently estimated in excess of $413,000,000. The conferees expect the Department to develop a list of priorities along with a funding plan for these projects and submit such a list to the House and Senate Appropriations Committees no later than December 1, 1994.

The conferees have reviewed and approved the Department's plan for proceeding with a new chancery building in Moscow. The conferees expect the Department to avoid further delay on this project and to proceed with implementing its new plan for this project expeditiously. The conferees expect the Department to keep the House and Senate Appropriations Committees fully apprised of the cost of this project.

Amendment No. 123: Inserts a limitation which permits not to exceed $117,864,000 to be available for Maintenance of Buildings and Facility Rehabilitation instead of an earmark of $92,864,000 for this purpose as proposed by the House and $117,864,000 as proposed by the Senate.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

Amendment No. 124: Restores language proposed by the House and stricken by the Senate which permits up to $1,000,000 of the appropriation for Emergencies in the Diplomatic and Consular Service to be transferred to and merged with the Repatriation Loans Program account subject to the same terms and conditions.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

Amendment No. 125: Appropriates $877,222,000, of which not to exceed $4,000,000 is available to pay arrearages, the payment of which shall be directed towards special activities that are mutually agreed upon by the United States and the respective international organization. The House had proposed a total of $913,941,000 of which not to exceed $40,719,000 was available to pay arrearages. The Senate had proposed $873,222,000 with no funds available to pay arrearages.

The amount in the conference agreement includes $1,600,000 for payment of the United States assessment for the Nonproliferation Treaty Extension Conference to be held in fiscal year 1995. The President's budget included this item in the request for the Arms Control and Disarmament Agency. The conferees expect that sufficient funds will become available to pay this assessment through a combination of gains from currency fluctuations and changes from the estimates and actual bills received for the assessments funded in this account.

Amendment No. 126: Inserts a provision which requires that the Appropriations Committees and the Foreign Relations and Foreign Affairs Committees be notified of the steps taken and anticipated to be taken to meet the certification requirements for establishment of the United Nations Inspector General under section 401(b) of Public Law 103–236. The Senate had proposed similar language which required that these Committees be notified only of the steps taken to meet the requirements for certification. The House bill contained no provision on this matter.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

Amendment No. 127: Appropriates $533,304,000 with limitations of $288,000,000 for arrearages accumulated in fiscal year 1994 and $23,092,000 for other outstanding arrearages. In addition, the conference agreement includes a provision which makes funds available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate congressional committees that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

The House bill had proposed the appropriation and limitations on the use of funds contained in the conference agreement. The Senate bill had proposed an appropriation of $500,000,000 with a limitation of $277,788,000 to pay arrearages and the provision contained in the conference agreement concerning the certification requirement that American manufacturers and suppliers are being given equal opportunities to provide equipment, services, and material for United Nations peacekeeping activities.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

SALARIES AND EXPENSES

Amendment No. 128: Appropriates $12,858,000 as proposed by the Senate instead of $13,947,000 as proposed by the House.

CONSTRUCTION

Amendment No. 129: Appropriates $6,644,000 for the Construction account of the International Boundary and Water Commission, United States and Mexico and appropriates $10,000,000 for payment to the Asia Foundation. The House had proposed $6,644,000 for the Construction account, and the Senate had proposed $7,733,000 for this item. Both the House and the Senate bills proposed $15,000,000 for the Asia Foundation. The conference agreement reduces funding for the Asia Foundation in order to fund other priority international programs.

The conference agreement for the Construction item reflects the sum of $1,000,000 for reimbursement to the City of San Diego for treatment of Tijuana sewage, to be derived from the carryover balances totaling $1,661,000. The amount of the carryover and the $1,000,000 reimbursement amount reflects reduced sewage flows currently being treated and projected for fiscal year 1995 at the San Diego Sewage Treatment Plant.

The conference agreement for Construction also includes the budget request of $2,000,000 to continue construction on a project to stabilize the Rio Grande channel between American Dam in El Paso, Texas, and the Caballo Dam, New Mexico. This amount together with $100,000 in carryover funds will provide a total of $2,100,000 for this project in fiscal year 1995.

GENERAL PROVISIONS—DEPARTMENT OF STATE

Section 505

Amendment No. 130: Inserts a general provision as proposed by the Senate, which amends the fiscal year 1994–1995 Foreign Relations Authorization Act to require the Department of State to conduct full fingerprint checks on immigrant visa applicants over 16 years of age in the 10 countries with the

VOL 140 PT 16 AG 12 — 18 1994 UMI

highest volume of immigrant visa issuance. The provision also requires that this program begin not later than March 31, 1995, and that the Department pay the FBI the required fee for each fingerprint card. The House bill contained no provision on this matter.

Section 506

Amendment No. 131: Inserts a general provision which amends the Immigration and Nationality Act to permit aliens to adjust their status in the United States upon payment of certain fees. The provision also establishes requirements for aliens who decide to adjust their status outside of the United States at a United States consulate. The provision also exempts spouses and children of aliens from these new requirements. In addition, the provision requires the Attorney General to deposit the sums collected pursuant to this provision in the Immigration and Naturalization Service's Immigration Examinations Fee account. The provision also requires INS to conduct full fingerprint identification checks through the FBI for all individuals over 16 years of age who are adjusting their immigration status in the U.S. pursuant to this provision. Finally, the provision includes language which sunsets the provision at the end of fiscal year 1997.

The Senate had proposed the provision contained in the conference agreement as a permanent change in law without any sunset provision. The House bill contained no provision on this matter.

The conferees are agreed that not later than December 31, 1996, the Secretary of State and the Attorney General should jointly submit to the House and Senate Appropriations Committees, the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives, and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate, a report detailing for fiscal years 1995 and 1996:

(a) the total number of applicants processed pursuant to this provision, broken down separately according to country, immigrant visa category and terms of entry into the U.S.;

(b) the totals of additional expenditures and staff deployments by the Immigration and Naturalization Service to process such applicants;

(c) the total amount of additional fees collected by the Immigration and Naturalization Service pursuant to the provision;

(d) the number of applicants exempted from supplemental fees under the provision, by category of exemption, and by country;

(e) an estimate of Department of State workload changes abroad resulting from implementation of this provision, by country;

(f) estimated savings to the Department of State by virtue of implementation of this provision, and the disposition of such savings;

(g) an analysis of the impact on immigration fraud, if any, as a result of this provision;

(h) the total amount of fees paid to the FBI for fingerprint checks pursuant to this provision; and

(i) an estimate of INS workload changes, including effects on processing times for naturalization and adjustment applications, resulting from implementation of this provision by district.

Section 507

Amendment No. 132: Deletes a general provision which would have required the Director of the United States Information Agency to submit a report to the Appropriations Committees concerning the Au Pair program.

The conferees note the important role of American au pair agencies in operating exchange programs for foreign au pairs, some of whom might otherwise never have a chance to visit the United States. The au pairs make a valuable contribution in the child care they provide to American families, and they return to their home countries with a better understanding of American values and culture. The conferees are informed that the experience of the overwhelming majority of au pairs and their host families is positive. However, the conferees are concerned about reports that some au pairs have engaged in inappropriate, and in some instances unlawful behavior involving the American children in their care. The conferees are concerned that the procedures for screening and training prospective au pairs may be inadequate. In order to determine whether such procedures are adequate, the conferees request the Director of the United States Information Agency to submit a report to the House and Senate Committees on Appropriations and the House Foreign Affairs Committee and the Senate Foreign Relations Committee, within 60 days of enactment of this Act, containing the following:

(1) The number of persons accepted and the number of persons rejected each year for admission to the United States under a J Visa as part of the au pair program;

(2) The number of American host families that reported being satisfied with their au pair, and the number that reported being unsatisfied, for the most recent year for which such information is available and the reasons therefore;

(3) The guidelines and/or a summary of the procedures used by each au pair agency regarding screening of prospective au pairs for relevant information, such as personal character and employment references, and information about any prior unlawful activity involving children;

(4) The contractual relationship between au pair agencies and individuals located overseas who select and screen prospective au pairs, and the standards and procedures which apply to these individuals;

(5) The guidelines and/or a summary of the procedures used by each au pair agency regarding training of au pairs in child care and in relevant United States laws;

(6) The procedures used by each au pair agency and the United States Information Agency regarding au pairs who violate local, State or Federal laws;

(7) The mechanisms available to the United States Information Agency and each au pair agency to ensure maximum compliance with au pair agency guidelines and procedures;

(8) The procedures used by each au pair agency to deal with au pairs who are determined by their host family to be unsuitable; and

(9) A description of any efforts by the United States Information Agency or each au pair agency to strengthen or otherwise improve the above-mentioned guidelines, standards and procedures.

The House bill contained no provision on this matter.

Section 508

Amendment No. 133: Deletes a provision proposed by the Senate which would have permitted up to $100,000,000 of the funds appropriated in title V for the Department of State, the U.S. Information Agency and other international agencies and in chapter II of title VII to be transferred, at the President's discretion and subject to the notification procedures of the Appropriations Committees to support humanitarian relief for Rwanda.

The House bill contained no provision on this matter.

The conferees note that humanitarian assistance to Rwanda was included in the conference report on the Fiscal Year 1995 Foreign Operations, Export Financing and Related Agencies Appropriations Act.

Section 509

Amendment No. 134: Deletes a provision proposed by the Senate which would have required that not later than March 1, 1995, the Secretary of State submit to appropriate Congressional committees, a report on the technical cooperation activities of the International Atomic Energy Agency with countries on the list of terrorist countries, as determined under section 6(j) of the Export Administration Act of 1979. The House bill contained no provision on this matter.

The conferees expect that the Secretary of State will review this entire matter and submit a report to the appropriate Congressional committees on the technical cooperation program of the International Atomic Energy Agency.

Section 510

Amendment No. 135: Deletes a sense of the Congress provision proposed by the Senate that U.S. assessed contributions for UN peacekeeping operations could consist of contributions of excess defense articles or could be in the form of payments made directly to U.S. companies providing goods and services in support of such peacekeeping activities. The House bill included no provision on this matter.

Section 511

Amendment No. 136: Deletes a general provision proposed by the Senate which would have amended the Taiwan Relations Act to provide for cabinet-level contacts with Taiwan through exchanges of visits between cabinet-level officials of Taiwan and the United States. The House bill contained no provision on this matter.

Section 512

Amendment No. 137: Deletes a provision proposed by the Senate which would have amended the Immigration and Nationality Act to exclude from the United States any individual who is a member of an organization involved in terrorist activity. The House bill contained no provision on this matter.

Section 513

Amendment No. 138: Deletes a provision proposed by the Senate which would have prohibited the issuance of a visa to any alien who illegally confiscated the property of a United States citizen or converted for personal gain such property otherwise illegally confiscated from a United States citizen. The House bill had no provision on this matter.

Section 514

Amendment No. 139: Inserts new language establishing certain requirements for the Department of State's Diplomatic Telecommunications Service including financial management, the DTS Policy Board, a DTS Consolidation Pilot Program and a DTS Planning Report. The Senate had proposed a provision stating certain findings and expressing the sense of the Senate condemning the Government of Cuba for the sinking of the vessel "13th of March". The House bill contained no provision on this matter.

The conferees recognize the difficulties inherent in creating a viable, integrated, improved DTS network from a variety of previously separate networks, circuits, and systems controlled by various Federal agencies. The conferees note the progress that has been made, including savings realized by renegotiation of some circuit leases; establishment of a DTS training program; and installation and upgrade of transmission facilities in some embassies.

The conferees are deeply concerned, however, about the continued slow rate of progress made by the DTS Program Office (DTS–PO) in accomplishing the goals established for the DTS by Public Law 102–40. Very little progress has been made in the last two years toward true consolidation of DTS networks and operations, and some Congressional direction regarding the DTS has been ignored. Specifically, Conference Reports 102–918 and 103–293 directed that an amended DTS Five Year Strategic Plan be submitted to address specific shortfalls. The plan eventually submitted by the DTS Policy Board did not contain significant changes from the previous plan, despite clear Congressional direction to do so. Therefore, the following provisions have been included in the conference agreement to refocus the activities of the DTS Program Office, assure adequate funding, and provide balanced policy oversight, in order to achieve the efficiencies and economies envisioned by Congress based on the integration of the DTS networks and the provision of enhanced capabilities to serve all the foreign affairs agencies.

The stated intent of Congress was for the DTS–PO to have total control over the DTS baseline operating funds transferred from the Department of State (DOS), as well as the additional funds authorized by Congress for DTS enhancement, and these funds were to be used solely for DTS operations and enhancement. However, despite clear Congressional direction to the contrary, all DTS–PO financial transactions continue to be processed through Information Management (IM) and are subject to change by DOS. Further, efforts have been made by the DOS to use DTS funds for salaries of DOS employees and for other DOS facility operating expenses already funded by Congress. Commencing in FY 1995, all funds designated for the operation and enhancement of the DTS are to be passed directly to DTS–PO immediately upon appropriation via a separate allotment and unique DOS function code. Further, the DTS–PO Financial Management Officer is to be provided direct access into the DOS financial management system to enable that office to monitor and control the obligation and expenditure of these funds independently.

The DTS Policy Board now consists only of officials from DTS–PO and the two agencies whose assets comprised the bulk of the previous networks. A secondary DTS Management Council was also created, comprised of officials from the same organizations. Some of the reluctance to take action to bring about significant change in the configuration and management of the DTS could be attributed to parochial oversight by these officials. Within 60 days of enactment of the appropriation, DOS and DTS–PO officials are directed to restructure the DTS Policy Board to provide for permanent representation by: (a) the senior Information Management official from each agency currently serving on the Board; (b) the Director of the DTS–PO; (c) a senior career Information Management official from each of the Department of Commerce, the U.S. Information Agency, and the Defense Intelligence Agency; (d) a senior Information Management Official from each of two other Federal agencies served by the DTS, each of whom shall be appointed on a rotating basis by the Secretary of State and the Director of the DTS–PO for a two-year term.

The conferees are agreed that a pilot program of total DTS consolidation is to be completed at not less than five medium or large Embassies before the end of fiscal year 1995. At each of these Embassies, DTS–PO will provide a full range of integrated information services to include message, data, and voice, without additional charge. A Combined Transmission Facility is to be created and jointly operated, with open access to all unclassified (black) transmission equipment. A black packet switch system will be installed and will serve all foreign affairs agencies associated with the Embassy. Separate classified (red) transmission systems, such as MERCURY, will be terminated, and all other foreign affairs agency systems will achieve international connectivity solely through the DTS. DTS–PO will submit a report to the House and Senate Appropriations Committees not later than January 15, 1996 on the pilot program to include a cost benefit analysis for each Embassy.

Obligation authority for the $15 million in the FY 1995 appropriation for the enhancement of the DTS is withheld, pending approval of: (1) a detailed plan to carry out the pilot program discussed above, including an estimate of funds required for this purpose; and (2) a comprehensive DTS Strategic Plan which contains viable detailed plans and schedules for: (a) an overall DTS network configuration and security strategy; (b) transition of the existing dedicated circuits and red networks to the black packet switch network; (c) the provision of a basic level of voice service for all DTS customers; (d) funding of new initiatives and replacement of current systems; (e) combining existing DTS Network Control Centers, relay facilities, and overseas operations; and (f) reducing DTS–PO's heavy reliance on full-time contractor services.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

Amendment No. 140: Insert language which earmarks not less than $9,500,000 of the appropriation for the Arms Control and Disarmament Agency only for activities related to the implementation of the Chemical Weapons Convention. The Senate amendment would have earmarked no less than $9,500,000 only for payment of United States contributions to the Preparatory Commission for the Organization on the Prohibition of Chemical Weapons. The House bill contained no provision on this matter.

The activities covered by the conference agreement include payment of the United States contributions to the Preparatory Commission for the Organization on the Prohibition of Chemical Weapons, the Organization on the Prohibition of Chemical Weapons, Training, the Office of National Assessments, and other activities as they relate to the Chemical Weapons Convention.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

Amendment No. 141: Appropriations $42,500,000 for the International Trade Commission instead of $43,500,000 as proposed by the Senate and $44,200,000 as proposed by the House. The conferees agree that any program reductions should be taken from the amounts requested for section 332 studies.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

Amendment No. 142: Appropriates $1,247,000 as proposed by the House instead of $1,000,000 as proposed by the Senate.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

Amendment No. 143: Appropriates $476,362,000 as proposed by the House instead of $480,362,000 as proposed by the Senate. The conference agreement does not include any funds to establish a new USIA post in Beirut, Lebanon. In addition, the conferees are agreed that the Agency should absorb within base amounts provided, any requirement for additional positions and resources for new activities in Vietnam.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Amendment No. 144: Appropriates $238,279,000 instead of $237,812,000 as proposed by the House and $242,388,000 as proposed by the Senate.

The following table shows the amounts in the conference agreement for the various programs funded in this account:

Educational and Cultural Exchange Programs
Conference

[In thousands of dollars]

Fulbright & other academic programs	$134,000
International visitors	51,075
Pepper scholarship	1,000
Muskie Scholarship Program	7,000
Humphrey fellowships	7,977
Congress-Bundestag Program	2,500
Inst. representative government	550
NIS & Eastern Europe Training Program	4,000
Arts America Program	1,577
Citizen Exchange Program	10,000
American Studies Program	1,000
Exchange support	14,500
Mike Mansfield fellowship	500
South Pacific exchanges	900
United States-Mexico Conflict Resolution Center	500
Disability exchange clearinghouse	500
Center for Inter-American Free Trade	(1)
Paralympiad	1,500
Financing	(800)
Total	238,279

[1] Funded within Department of State "Diplomatic and Consular Programs."

The conference agreement provides $1,000,000 for the Pepper Scholarship program. Of this amount, the conferees agree that $300,000 is to be allocated as specified in the House Committee Report (H. Rept. 103–552).

The conferees note the role that private institutions are playing in assisting companies in Eastern Europe and the Newly Independent States of the former Soviet Union to meet the challenges associated with operating in more market-oriented economies. In particular, some programs such as those operated by the William Davidson Institute at the University of Michigan School of Business Administration, are based on multi-year partnerships involving faculty and masters-level students, top managers from U.S. industries and their counterparts from industries in transitional economies, and provide tangible benefits to all participants. The conferees commend such programs to the United States Information Agency as instruments of U.S. policy and urge USIA to consider applications for appropriate funding if such applications are merited.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Amendment No. 145: Designates $500,000 for the American Studies Collections program as proposed by the House and stricken by the Senate and deletes the earmarks of $600,000 for the Institute for Representative Government and $500,000 for the Mike Mansfield Fellowship Program as proposed by the Senate. Although the conference agreement does not earmark funds in the bill, the agreement includes $500,000 for the Mike Mansfield Fellowship program and $550,000 for the Institute for Representative Government in Amendment No. 144.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

Amendment No. 146: Appropriates $2,500,000 as proposed by the Senate instead of $2,100,000 as proposed by the House.

The conferees note that the conference agreement provides the remaining amount authorized for appropriation to the Eisenhower Exchange Fellowship Trust Fund as authorized by Public Law 101–454. The conferees also note that the Eisenhower Exchange Fellowships, Incorporated has raised $2,900,000 in private contributions which is more than the required matching amount under the law. The conferees are agreed that Federal financial support for this program is completed since the full authorization has been funded and this action represents the final appropriation.

INTERNATIONAL BROADCASTING OPERATIONS

Amendment No. 147: Appropriates $468,796,000 instead of $476,796,000 as proposed by the House and $475,478,000 as proposed by the Senate. The conference agreement also earmarks $229,735,000 of the total amount in the conference agreement for transfer to the Board for International Broadcasting. Both the House and Senate bills had earmarked $239,735,000 for transfer to the Board for International Broadcasting.

The conference agreement includes a total of $5,000,000 to continue and enhance the Voice of America's China Focus Program and other international broadcasting operations to Asia. The conferees are agreed that these existing United States Government international broadcasting operations are cost effective and should be maintained and increased, pending the submission of the report and plan for Radio Free Asia required by Public Law 103–236 and approval by the appropriate congressional committees.

Amendment No. 148: Inserts a provision proposed by the Senate which provides that funds made available for the expenses of the Board for International Broadcasting (BIB) in the International Broadcasting Operations account shall be made available for the new Broadcasting Board of Governors (BBG) established in the United States International Broadcasting Act of 1994, once the BIB goes out of existence. The House bill contained no provision on this matter.

Amendment No. 149: Deletes a provision proposed by the House and stricken by the Senate which would have prohibited funds provided for the Board for International Broadcasting within the International Broadcasting Operations account from being used to relocate the offices or operations of Radio Free Europe/Radio Liberty from Munich, Germany, to Prague, Czech. Republic.

Amendment No. 150: Inserts provisions which:

(1) Require that funds made available under this Act to relocate the offices or operations of Radio Free Europe/Radio Liberty from Munich to Prague shall be available only from funds provided for the Board for International Broadcasting in the International Broadcasting Operations account;

(2) Prohibit funds provided by this Act for the United States Information Agency, except for amounts made available for transfer to the Board for International Broadcasting, from being available for any excess cost to implement the plan required by section 310 of Public Law 103–236;

(3) Prohibit funds provided in this Act from being used for retroactive operating costs, including rent on facilities, in Prague or for payment of operation costs prior to the signing of a lease by RFE/RL, Incorporated; and

(4) Provide that not less than the amount appropriated by this Act for the Office of Inspector General, Board for International Broadcasting ($416,000) shall be available for semi-annual reviews of RFE/RL, Incorporated and that on-site review is maintained at the current level throughout the duration of the relocation transition.

The Senate amendment included the provision of the conference agreement concerning the relocation of the offices or operations of Radio Free Europe/Radio Liberty and the provision concerning the Office of Inspector General, Board for International Broadcasting.

The House bill contained no provision on this matter.

While the conferees support the decision to move Radio Free Europe/Radio Liberty from Munich to Prague, the conferees are extremely concerned about the preliminary cost estimates for the move and the ongoing operations of the Radios. The conferees are absolutely committed to supporting the phase-down of Radio Free Europe/Radio Liberty as proposed by the President and in limiting the cost of the move to Prague. The conferees agree that the relocation of the Radios and their ongoing operations must be accommodated within the authorized statutory caps for the Board for International Broadcasting for fiscal years 1995 and 1996, as contained in the foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236). In addition, the conferees are agreed that the plan for implementing the move and relocating the Radios, that the Administration is required to submit to Congress, should not permit the Radios to exceed these funding caps or to make any commitments about future operations or employee benefits that create liabilities which would make it difficult to achieve the goal of privatization as expressed by Congress in Public Law 103–236.

The conferees are concerned about the lack of cooperation of the Directors of Radio Free Europe and Radio Liberty during the course of a recent review by the Office of Inspector General of the Board for International Broadcasting about allegations concerning manipulation of news and other programming items. The Chairman of the Board for International Broadcasting requested the Inspector General review these matters in accordance with the Inspector General Act and the Board for International Broadcasting Act. The conferees expect full cooperation of all Radio Free Europe and Radio Liberty employees with the Office of Inspector General, the General Accounting Office and the oversight investigations of the House and Senate Appropriations Committees. Such lack of cooperation in this instance generates less than full confidence in the judgment and ability of such employees who refuse to cooperate with an authorized review. The conferees expect the Office of Inspector General to carry out a thorough on-site review of all Radio Free Europe and Radio Liberty activities throughout the duration of the relocation transition in order to keep the costs of the relocation to the absolute minimum. The conferees expect all Radio Free Europe and Radio Liberty employees to cooperate fully with the Office of Inspector General's on-site review and expect the Office to report any lack of cooperation or any refusal to provide documents and information concerning the transition to the Chairman of the Board for International Broadcasting and the House and Senate Appropriations Committees immediately upon the occurrence of such an incident.

RADIO CONSTRUCTION

Amendment No. 151: Appropriates $85,314,000 as proposed by the House instead of $93,165,000 as proposed by the Senate. The conference agreement includes $5,000,000 to begin construction of a Pacific Island shortwave facility for the Voice of America and Radio Free Asia.

Amendment No. 152: Appropriates $10,000,000 for Radio Free Asia and $24,809,000 for Broadcasting to Cuba instead of $10,000,000 for Radio Free Asia derived by transfer from the U.S. Information Agency's Radio Construction account and $8,625,000 for Radio Broadcasting to Cuba, as proposed by the House and $18,000,000 for Radio Free Asia and $24,809,000 for Broadcasting to Cuba, as proposed by the Senate.

The conference agreement provides $10,000,000 for expenses necessary to carry out the Radio Free Asia program as authorized by section 309 of the International Broadcasting Act of 1994. The conferees are agreed that none of these funds are available for obligation until the detailed plan for Radio Free Asia required under section 309 of Public Law 103–236 is submitted to Congress and a reprogramming request for the use of these funds is submitted to the House and Senate Committees on Appropriations in accordance with section 605 of the fiscal year 1995 Appropriations Act and is approved by the House and Senate Appropriations Committees. The conference agreement in Amendment No. 151 includes $5,000,000 in the U.S. Information Agency's Radio Construction account for beginning the construction of a Pacific Island transmitter facility to serve both the Voice of America and Radio Free Asia.

The conference agreement provides $24,809,000 for Radio and TV Marti under a combined Broadcasting to Cuba account as proposed by the Senate. This agreement provides the amount requested for this activity in the President's budget request within the International Broadcasting Operations account less $4,000,000 in unobligated balances, and provides $1,200,000 to convert TV Marti from VHF to UHF frequencies.

EAST-WEST CENTER

Amendment No. 153: Appropriates $24,500,000 as proposed by the Senate instead of $20,500,000 as proposed by the House.

NORTH/SOUTH CENTER

Amendment No. 154: Appropriates $4,000,000 for the North/South Center instead of $5,000,000 as proposed by the House and stricken by the Senate. It is the intent of the conferees that the Center will continue current levels of support for Latin American data bases at other universities.

NATIONAL ENDOWMENT FOR DEMOCRACY

Amendment No. 155: Appropriates $34,000,000 instead of $33,000,000 as proposed by the House and $35,000,000 as proposed by the Senate.

The conferees note that the Endowment implemented procedures providing for a more competitive process in its grant-making procedures during fiscal year 1994. The conferees endorse the Endowment's initiative and expect it to continue during fiscal year 1995.

TITLE VI—GENERAL PROVISIONS

Section 608

Amendment No. 156: Adds a provision as proposed by the Senate which prohibits funds in the bill from being used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion. The provision would prevent the EEOC, during fiscal year 1995, from implementing guidelines covering religious harassment that were included in proposed guidelines published by the EEOC in October 1993.

The provision in the conference agreement is identical to section 801 of the House bill which was included in Amendment No. 163.

Section 609

Amendment No. 157: Deletes a provision proposed by the Senate which would have prohibited funds in the bill from being used to approve export license applications for satellite launch vehicles of the People's Republic of China or Russia unless certain conditions were satisfied and certifications were made. The House bill contained no provision on this matter.

Section 610

Amendment No. 158: Inserts a new provision as proposed by the Senate which prohibits funds in this or any other Act from being used to deny or refuse entry into the United States of any goods on the United States Munitions List manufactured or produced in the People's Republic of China for which authority had been granted to import such goods into the United States on or before May 26, 1994, and which were on or before that date, in a bonded warehouse or foreign trade zone, in port, or in transit. The conference agreement also makes a technical change in the section number. The House bill contained no provision on this matter.

Section 611

Amendment No. 159: Inserts a provision concerning the Equal Employment Opportunity Commission's proposed guidelines on religions harassment. The provision makes certain findings concerning religious liberty and the proposed guidelines. The provision also requires that for the purposes of issuing final regulations in connection with the proposed guidelines on religious harassment, the Commission shall insure that—

(1) The category of religion shall be withdrawn from the proposed guidelines at this time;

(2) Any new guidelines for the determination of religious harassment shall be drafted so as to make explicitly clear that symbols or expressions of a religious belief consistent with the first amendment and the Religious Freedom Restoration Act of 1993 are not to be restricted and do not constitute proof of harassment;

(3) The Commission shall hold public hearings on such new proposed guidelines; and

(4) The Commission shall receive additional public comment before issuing similar new regulations.

The provision also includes a technical change in the section number.

The language in the Senate amendment is the same as that included in the conference agreement except that the Senate provision required the category of religion to be withdrawn from the proposed guidelines permanently instead of at this time.

The House bill contained no provision on this matter.

TITLE VII—FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Amendment No. 160: Provides a fiscal year 1994 emergency supplemental appropriation for the Economic Development Administration of $50,000,000 in program funds and $5,000,000 for administrative costs, as proposed by the Senate. These funds would be used for grants to assist States and local communities in recovering from the flooding and damage caused by Tropical Storm Alberto and other disasters. The conference agreement also designates the entire amount as an emergency requirement by the Congress and requires the President to transmit an official budget request for a specific dollar amount, including designation of the amount as an emergency requirement. The House bill contained no provision on this matter.

The conferees are agreed that EDA should give special and expedited consideration to an application from the community of Lead, South Dakota for a grant from the funds provided for "other disasters" in this emergency supplemental appropriation to assist that community which has been severely impacted from a landslide that has forced the closure or relocation of businesses and threatens private residences.

The conferees are agreed that EDA should give special and expedited consideration to applications from communities in states which have been impacted by the devastating wild fires of the summer of 1994 for grants from the funds provided for "other disasters" in this emergency supplemental appropriation.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN PROGRAM ACCOUNT

Amendment No. 161: Appropriates $470,000,000 in fiscal year 1994 emergency supplemental funds as proposed by the Senate for the Small Business Administration's Disaster Loans Program account for the Northridge earthquake and flooding and other damage caused by Tropical Storm Alberto in Georgia, Alabama, and Florida, and other disasters (including the wild fires of the Summer of 1994 in the West), and associated administrative expenses. The House had proposed an emergency supplemental appropriation of $400,000,000 only for the Northridge earthquake and other disasters and associated administrative expenses.

Amendment No. 162: Inserts Senate language which provides that the $135,000,000 provided in the bill for administrative expenses of this disaster loan supplemental may be transferred to and merged with the Salaries and Expenses account and that up to $2,500,000 of this sum may be provided to the Small Business Administration's Inspector General for audits and reviews for disaster loans and the disaster loan program. The House bill contained no provision on this matter.

TITLE VIII—VIOLENT CRIME CONTROL

APPROPRIATIONS ACT, 1995

Amendment No. 163: Deletes language proposed by the House and stricken by the Senate concerning EEOC religious harassment guidelines. This issue is addressed in Amendment No. 159.

The conference agreement also adds a new title VIII, the Violent Crime Control Appropriations Act, 1995. This title appropriates a total of $2,345,000,000 for various Justice Department programs which would be authorized in the Violent Crime Control and Law Enforcement Act of 1994 (The Crime Bill). Each of the programs funded was included in either the House or Senate appropriations bill under Title I—Department of Justice. The budget authority and related outlays provided in this bill equal amounts allocated by the Appropriations Committees for the Department of Justice from the Violent Crime Reduction Trust Fund which is contained in the Crime Bill. A general provision has been included which makes the amounts appropriated in this title available from this Crime Trust Fund upon enactment of the Crime Bill. The following chart identifies the amount for each law enforcement program which would be authorized in the Crime Bill for fiscal year 1995, compared to the amount appropriated in this bill.

Program	Crime Bill—	
	Authorization	Appropriation
Community Policing	$1,332,000,000	$1,300,000,000
Upgrade Criminal History Records	100,000,000	100,000,000
Immigration Initiative:		
Controlling the Border	181,000,000	181,000,000
Expedited Deportation	55,000,000	54,000,000
Enhanced Asylum Processing	64,000,000	49,000,000
Byrne Formula Grants	580,000,000	450,000,000
State Criminal Alien Assistance	130,000,000	130,000,000
Violence Against Women	85,000,000	26,000,000
Drug Courts	100,000,000	29,000,000
State Correctional Grants	175,000,000	24,500,000
Ounce of Prevention Council	3,000,000	1,500,000
Total	2,816,000,000	2,345,000,000

OFFICE OF JUSTICE PROGRAMS

BYRNE FORMULA GRANTS

The conference agreement provides $450,000,000 for the Edward Byrne State and Local Law Enforcement Assistance Formula Grant Program for fiscal year 1995, a 26 percent increase in funding over the previous year. The Senate proposed $423,000,000 for this purpose. The House bill included funds for this purpose under the Expanded Byrne program.

BRADY ACT IMPLEMENTATION

The conference agreement provides $100,000,000 for discretionary grants to States to upgrade criminal history records as proposed by the Senate. The House bill included funds for this purpose under the Expanded Byrne program. Included in this amount is $6,000,000 for the cost to implement the FBI's National Instant Background Check System.

BOOT CAMP PRISONS

The conference agreement provides $24,500,000 for discretionary grants to States to construct military style boot camp prisons as an alternative to traditional methods of incarceration. The Senate proposed $175,000,000 for grants to construct State prisons. The House bill included no funds for this purpose. The conferees agree that grants provided to States under this account should be for construction-related expenses only, and not for operating expenses.

DRUG COURTS

The conference agreement provides $29,000,000 for discretionary grants to States to implement drug courts, instead of $100,000,000 as proposed by the Senate. The House bill included no funds for this purpose.

VIOLENCE AGAINST WOMEN GRANTS

The conference agreement provides $26,000,000 for discretionary grants to combat violent crimes against women, instead of $85,000,000 as proposed by the Senate. The House bill included no funds for this purpose.

VOL 140 PT 16 AG 12 — 18 1994 UMI

OFFICE OF PREVENTION COUNCIL

The conference agreement provides $1,500,000 to implement the Office of Prevention Council, instead of $3,000,000 as proposed by the Senate. The House bill included no funds for this purpose.

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

The conference agreement provides $130,000,000 to reimburse States for their costs to incarcerate illegal aliens. The House bill included funds for this purpose under the Expanded Byrne program. The Senate amended the bill to allow for the transfer of $350,000,000 from amounts appropriated for Contributions for International Peacekeeping Activities and Contributions to International Organizations for this purpose, and also amended the bill to allow the use of Community Policing Funds for this purpose.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement provides $17,400,000 for additional immigration judges as part of the President's Immigration Initiative, instead of $24,069,000 as proposed by the House and $24,300,000 as proposed by the Senate.

COMMUNITY POLICING

The conference agreement provides $1,300,000,000 for Community Policing as proposed by the Senate, instead of $1,332,000,000 as proposed by the House.

The conferees agree that it is critical to provide these police hiring grants as expeditiously as possible. To that end, the conference agreement authorizes the use of $200,000,000 of this appropriation to provide grants for community policing applications submitted under the fiscal year 1993 Police Hiring Supplemental.

The conferees are concerned with the limited number of grants awarded to county sheriff departments during competition for the fiscal year 1993 Police Hiring Supplemental grant program. The conferees expect greater consideration be provided these critical law enforcement entities when making awards in fiscal year 1995.

The conference agreement also designates $11,000,000 for salaries and expenses of an anticipated 150 personnel to manage and administer the Community Policing program. Of these personnel, 20 would be assigned to the Office of Justice Programs.

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

The conference agreement provides $17,400,000 for additional immigration judges as part of the President's Immigration Initiative, instead of $24,069,000 as proposed by the House and $24,300,000 as proposed by the Senate.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

The conference agreement provides the INS a total of $100,600,000, instead of $134,315,000 as proposed by the House and $93,300,000 as proposed by the Senate, to implement the President's Immigration Initiative for the following program enhancements: (1) $54,500,000 to fund 700 new and 250 redirected Border Patrol agents, as well as 110 support personnel; (2) $17,500,000 to enhance detention and deportation programs; (3) $28,600,000 for expedited asylum processing.

BORDER CONTROL SYSTEM MODERNIZATION

The conference agreement provides the INS a total of $154,600,000, instead of $116,842,000 as proposed by the House and $170,900,000 as proposed by the Senate, for modernized automation and communications systems and other new technologies to improve control of the border.

GENERAL PROVISION

The conference agreement adds new language, not in either the House or Senate bill, which makes the amounts appropriated in this title available from the Violent Crime Reduction Trust Fund upon enactment of the Crime Bill. If the Crime Bill is not enacted into law, or if it is enacted without a Violent Crime Reduction Trust Fund, then the amounts appropriated in this title will be derived from the General Fund of the Treasury.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1994 recommended by the Committee of Conference, with comparisons to the fiscal year 1994 budget estimates, and the House and Senate bills for 1994 follow:

Budget estimates of new (obligational) authority, fiscal year 1994	$670,000,000
House bill, fiscal year 1994	670,000,000
Senate bill, fiscal year 1994	795,000,000
Conference agreement, fiscal year 1994	795,000,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1994	+125,000,000
House bill, fiscal year 1994	+125,000,000
Senate bill, fiscal year 1994	

The total budget (obligational) authority for the fiscal year 1995 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1994 budget estimates, and the House and Senate bills for 1995 follow:

New budget (obligational) authority, fiscal year 1994	$23,710,631,000
Budget estimates of new (obligational) authority, fiscal year 1995	27,730,230,000
House bill, fiscal year 1995	26,532,230,000
Senate bill, fiscal year 1995	27,206,886,000
Conference agreement, fiscal year 1995	26,838,356,000
Confernce agreement compared with:	
New budget (obligational) authority, fiscal year 1994	+3,127,725,000
Budget estimates of new (obligational) authority, fiscal year 1995	−892,226,000
House bill, fiscal year 1995	+306,126,000
Senate bill, fiscal year 1995	−368,530,000

ALAN B. MOLLOHAN,
NEAL SMITH,
BOB CARR,
JAMES P. MORAN,
DAVID E. SKAGGS,
DAVID E. PRICE,
DAVID R. OBEY,
HAROLD ROGERS,
JIM KOLBE,
CHARLES H. TAYLOR,
JOSEPH M. MCDADE,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
DALE BUMPERS,
FRANK R. LAUTENBERG,
JIM SASSER,
BOB KERREY,
ROBERT C. BYRD,
PETE V. DOMENICI,
TED STEVENS,
MARK O. HATFIELD,
PHIL GRAM,
MITCH MCCONNELL,
THAD COCHRAN,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Mr. GEPHARDT), for today, on account of official business in the district.

Mr. BILIRAKIS (at the request of Mr. MICHEL), for today, on account of illness.

Mr. MCKEON (at the request of Mr. MICHEL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. DUNN), to revise and extend their remarks and include extraneous material:)

Mr. TAYLOR of North Carolina, for 5 minutes, today.

Mr. GOSS, for 5 minutes each day, on August 16, 17, 18, and 19.

Mr. SHAYS, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. EVERETT, for 5 minutes, on August 17.

Mr. MILLER of Florida, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

(The following Member (at the request of Ms. WATERS), to revise and extend his remarks and include extraneous material:)

Mr. KREIDLER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. DUNN) and to include extraneous matter:)

Mr. BAKER of California.
Mr. SANTORUM.
Mr. SOLOMON in two instances.
Mr. PACKARD.
Mr. KOLBE.
Mr. GILMAN.
Mr. LEACH.

(The following Members (at the request of Ms. WATERS) and to include extraneous matter:)

Mr. MANTON.
Mr. TOWNS.
Mr. HOYER.
Mr. TAUZIN.
Mr. LEVIN.
Mr. CARR of Michigan.

Mr. MILLER of California.
Mr. BILBRAY.
Mr. ABERCROMBIE.
Mr. DICKS.
Mr. RICHARDSON.
Mr. SKELTON.
Mr. MAZZOLI.
Mr. LIPINSKI.
Mrs. MALONEY.
Mr. GEJDENSON.
Mr. FAZIO.
Mr. HAMILTON.
Mr. MORAN.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mrs. KENNELLY.
Mr. PICKLE.
Mr. BROWN of California.

SENATE BILL AND JOINT RESOLUTIONS REFERRED

A bill and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 784. An act to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes; to the Committee on Energy and Commerce;

S.J. Res. 185. Joint resolution to designate October 1994 as "National Breast Cancer Awareness Month"; to the Committee on Post Office and Civil Service; and

S.J. Res. 192. Joint resolution to designate October 1994 as "Crime Prevention Month"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following titles:

S. 2099. An act to establish the Northern Great Plains Rural Development Commission, and for other purposes;

S.J. Res. 153. Joint resolution to designate the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week"; and

S.J. Res. 196. Joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On August 15, 1994:

H.J. Res. 131. Joint resolution designating December 7 of each year as "National Pearl Harbor Remembrance Day".

H.J. Res. 175. Joint resolution designating October 1994 as "Italian-American Heritage and Culture Month".

H.R. 1426. An act to provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

H.R. 1933. An act to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, to extend such Commission, and to support the planning and performance of national service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr.

H.R. 4453. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4277. An act to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program.

H.R. 4426. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for such programs for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 2243. An act to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes.

H.R. 4506. An act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 25 minutes p.m.), the House adjourned until Wednesday, August 17, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3695. A letter from the Acting Director, Office of Management and Budget, transmitting notification that the President intends to exempt all military personnel accounts from sequester for fiscal year 1995, pursuant to Public Law 101-508, section 13101(c)(4) (104 Stat. 1388-589); to the Committee on Appropriations.

3696. A letter from the Director, Congressional Budget Office, transmitting CBO's sequestration update report for fiscal year 1995, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-587); to the Committee on Appropriations.

3697. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the Republic of Argentina, pursuant to 12 U.S.C. 635(b)(3)(1); to the Committee on Banking, Finance and Urban Affairs.

3698. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-323, "Comprehensive Plan Amendments Act of 1994", pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3699. A letter from the Secretary of Education, transmitting final regulations—Chapter 1 Program in Local Educational Agencies; Chapter 1 Migrant Education Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3700. A letter from the Chairperson, National Council on Disability, transmitting a copy of a report on the study of the implementation of the least restrictive environment provisions of IDEA in Massachusetts and Illinois, pursuant 29 U.S.C. 781(a)(8); to the Committee on Education and Labor.

3701. A letter from the Inspector General of the Department of Health and Human Services, transmitting a report on Superfund financial activities at the National Institute of Environmental Health Sciences for fiscal year 1992, pursuant to 31 U.S.C. 7501 nt.; to the Committee on Energy and Commerce.

3702. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification that the President has authorized the use of $1 million of funds made available for International Military Education and Training [IMET] to increase programs for the emerging democracies of Central and Eastern Europe and for the former Soviet Union (Presidential Determination No. 94-40), pursuant to 22 U.S.C. 2364(a)(1); to the Committee on Foreign Affairs.

3703. A letter from the Assistant Secretary (Legislative Affairs), Department of State, transmitting a report on the President's Determination (No. 94-42) on drawdown of commodities and services from the inventory and resources of the Department of the Treasury to support sanction enforcement efforts against Serbia and Montenegro, pursuant to 22 U.S.C. 2348a; to the Committee on Foreign Affairs.

3704. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Kenneth Spencer Yalowitz, of Virginia, to be Ambassador to the Republic of Belarus, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3705. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3706. A letter from the Chair, Federal Energy Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1993, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3707. A letter from the Assistant Attorney General, Department of Justice, transmitting a copy of the "Office of Crime Report" during the fiscal years 1990 and 1991, pursuant to 42 U.S.C. 10604(g); to the Committee on the Judiciary.

3708. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled, the "Maritime Regulatory Reform Act of 1994"; to the Committee on Merchant Marine and Fisheries.

3709. A letter from the Department of the Army, transmitting the Department's Rio Grande De Arecibo feasibility report; to the Committee on Public Works and Transportation.

3710. A letter from the Acting Chairman, Nuclear Regulatory Commission, transmitting a report on the nondisclosure of Safeguards Information for the quarter ending June 30, 1994, pursuant to 42 U.S.C. 2167(d);

VOL
140
PT
16
AG
12
—
18
1994
UMI

jointly, to the Committees on Energy and Commerce and Natural Resources.

3711. A letter from the Chief Staff Counsel, United States Court of Appeals, transmitting one opinion of the United States Court of Appeals for the District of Columbia Circuit; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

3712. A letter from the Assistant Secretary (Legislative Affairs), Department of State, transmitting a report covering certain properties with the Panama Canal Treaty and its related agreements, pursuant to 22 U.S.C. 3784(b); jointly, to the Committees on the Foreign Affairs and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 934. A bill to amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant jurisdiction to the courts of the United States in certain cases involving torture or extrajudicial killing occurring in that state; with amendments (Rept. 103–702). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1103. A bill to amend title 17, United States Code, with respect to secondary transmissions of superstations and network stations for private home viewing, and with respect to cable system; with amendments (Rept. 103–703). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4709. A bill to make certain technical corrections, and for other purposes; with an amendment (Rept. 103–704). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 521. Resolution waiving points of order against the conference report to accompany the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. 103–705). Referred to the House Calendar.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 4422. A bill to authorize appropriations for fiscal year 1995 for the Coast Guard, and for other purposes, with an amendment (Rept. 103–706). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 522. Resolution waiving a requirement of clause 4(b) of rule XI with respect to consideration of a certain resolution reported from the Committee on Rules (Rept. 103–707). Referred to the House Calendar.

Mr. MOLLOHAN: Committee on Conference. Conference report on H.R. 4603. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103–708). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. DE LA GARZA. Committee on Agriculture. H.R. 2866. A bill to provide for the sound management and protection of Redwood forest areas in Humboldt County, CA, by adding certain lands and waters and the Six Rivers National Forest and by including a portion of such lands in the national wilderness preservation system, with an amendment; referred to the Committee on Merchant Marine and Fisheries for a period ending not later than August 16, 1994, for consideration of such provisions contained in the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(m), rule X (Rept. 103–667, Pt. 2).

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

Referral of H.R. 2680 to the Committee on Government Operations extended for a period ending not later than August 17, 1994.

Committee on Merchant Marine & Fisheries discharged H.R. 2866, referred to the Committee of the Whole House on the State of the Union and ordered printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COX (for himself and Mr. CALVERT):

H.R. 4966. A bill to authorize the Secretary of Agriculture to enter into a land exchange involving the Cleveland National Forest, California, and to require a boundary adjustment for the national forest to reflect the land exchange, and for other purposes; to the Committee on Natural Resources.

By Ms. COLLINS of Michigan:

H.R. 4967. A bill to designate the Federal building and U.S. courthouse in Detroit, MI, as the "Theodore Levin Federal Building and United States Courthouse"; to the Committee on Public Works and Transportation.

By Mr. MOLLOHAN:

H.R. 4968. A bill to authorize extensions of time limitations in a FERC-issued license; to the Committee on Energy and Commerce.

By Mr. SCHUMER (for himself, Ms. VELAZQUEZ, Mr. SERRANO, Ms. LOWEY, and Mr. OWENS):

H.R. 4969. A bill to amend the Communications Act of 1934 to limit the rates and charges that may be imposed on interstate and foreign communications made through providers of operator services; to the Committee on Energy and Commerce.

By Mr. SOLOMON:

H.R. 4970. A bill to amend vaccine injury compensation portion of the Public Health Service Act to permit a petition for compensation to be submitted within 48 months of the first symptoms of injury; to the Committee on Energy and Commerce.

By Mr. TORRICELLI (for himself, Mr. JACOBS, Mr. DEUTSCH, Mr. MANTON, Mr. GEJDENSON, and Mr. SWETT):

H.R. 4971. A bill to amend the Animal Welfare Act to strengthen the annual reporting requirements of research facilities conducting animal experimentation or testing and to improve the accountability of animal experimentation programs of the Department of Defense; jointly, to the Committee on Agriculture and Armed Services.

By Mr. TRAFICANT:

H.R. 4972. A bill to amend the Public Buildings Act of 1959 to ensure that any lease entered into by a Federal agency for office, meeting, storage, and other space necessary to carry out the functions of the Federal agency shall be subject to the leasing requirements of the Public Buildings Act of 1959; to the Committee on Public Works and Transportation.

By Mr. GUTIERREZ:

H. Con. Res. 283. Concurrent resolution designating August 24, 1994, as "Ukrainian Independence Day"; to the Committee on Foreign Affairs.

By Mr. VENTO:

H. Res. 520. Resolution providing for the concurrence by the House, with an amendment, in the amendment by the Senate to the bill H.R. 1305; rules suspended, considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 778: Mr. COPPERSMITH.
H.R. 1080: Mr. GUNDERSON.
H.R. 1110: Mr. GUNDERSON and Mr. SKEEN.
H.R. 1289: Mr. BARCA of Wisconsin.
H.R. 1500: Mr. ANDREWS of Texas, Mr. BROWN of Ohio, Mrs. CLAYTON, Ms. ESHOO, Mr. FINGERHUT, Mr. ENGEL, Mrs. MINK of Hawaii, Mr. PAYNE of New Jersey, Mr. TORRES, and Mr. FORD of Tennessee.
H.R. 2292: Mr. LEVIN and Mr. GUNDERSON.
H.R. 2355: Ms. LAMBERT.
H.R. 2467: Mr. MCCLOSKEY.
H.R. 2488: Mr. ACKERMAN.
H.R. 2588: Mr. HAMBURG.
H.R. 2956: Mr. COPPERSMITH.
H.R. 3207. Mr. MCDERMOTT, Mr. APPLEGATE, Mr. JOHNSON of South Dakota, Mr. EVANS, Mrs. SCHROEDER, and Mr. EDWARDS of California.
H.R. 3523: Mr. ANDREWS of New Jersey and Mr. GUNDERSON.
H.R. 3712: Mr. APPLEGATE, Mr. PICKLE, Mr. YATES, Mr. MARTINEZ, Mr. ENGEL, Mr. BEILENSON, Mr. MCCLOSKEY, Mr. HEFNER, Mr. TOWNS, Mr. MONTGOMERY, Mr. LEHMAN, Mr. DEFAZIO, Mr. CLYBURN, Mr. HASTINGS, Mrs. MEEK of Florida, Mr. BLACKWELL, Mr. SYNAR, Mr. FROST, Mr. RANGEL, Mr. EVANS, Mr. HILLIARD, Mr. BEVILL, Mr. JOHNSON of South Dakota, Mr. WATT, Mr. LIPINSKI, Mr. BERMAN, Mr. SABO, Mr. CLAY, Mr. ACKERMAN, Mr. EMERSON, Mr. ROMERO-BARCELÓ, Mrs. LOWEY, Mr. KOPETSKI, Mr. KREIDLER, and Mr. FARR.
H.R. 3971: Mr. EMERSON.
H.R. 4026: Mr. WAXMAN.
H.R. 4213: Mr. MEEHAN and Mr. SWETT.
H.R. 4251: Mr. HINCHEY.
H.R. 4321: Mr. KING.
H.R. 4345: Mr. DELLUMS.
H.R. 4369: Mr. CALVERT and Mr. BARTON of Texas.
H.R. 4371: Mr. CAMP.
H.R. 4423: Mr. MURTHA, Mr. KLINK, and Mr. FOGLIETTA.
H.R. 4437: Mr. NADLER.

H.R. 4497: Mr. LEACH, Mr. KOPETSKI, Mr. HANCOCK, Mr. DE LA GARZA, Mr. SCHAEFER, Mr. FIELDS of Louisiana, Mr. HUTTO, Mr. WHEAT, Mr. SUNDQUIST, and Mr. TAYLOR of Mississippi.
H.R. 4566: Mr. KNOLLENBERG.
H.R. 4570: Mr. RIDGE, Mr. SAWYER, Mr. MILLER of California, Mr. HEFNER, and Mr. BEILENSON.
H.R. 4643: Mr. SCOTT.
H.R. 4654: Mr. LEVY.
H.R. 4749: Mr. RICHARDSON.
H.R. 4805: Mr. KLECZKA and Mr. STUMP.
H.R. 4831: Mr. FALEOMAVAEGA and Mr. KIM.
H.R. 4861: Mr. DELAY, Mr. INGLIS of South Carolina, Mr. KYL, Mr. HOBSON, Mr. PORTMAN, Mr. EHLERS, Mr. GILCHREST, Mr. FRANKS of Connecticut, Mr. FRANKS of New Jersey, Mr. HOKE, Mr. RAMSTAD, and Mr. LEVY.
H.R. 4919: Mr. BEREUTER and Mr. SYNAR.
H.J. Res. 365: Mr. HUTCHINSON.
H. Con. Res. 148: Mr. KASICH and Mr. STUMP.
H. Con. Res. 233: Mr. CARR, Mr. PRICE of North Carolina, Mr. DIXON, Ms. WATERS, Mr. TORRES, Mr. BRYANT, Mr. TUCKER, Mr. MATSUI, and Mr. FORD of Tennessee.
H. Res. 86: Mr. HUFFINGTON.
H. Res. 480: Ms. PRYCE of Ohio, Mr. BURTON of Indiana, Mr. MILLER of Florida, Mr. LIVINGSTON, Mr. CALVERT, Mr. GINGRICH, Mr. SMITH of Texas, Mr. GOODLING, and Mr. HASTERT.

VOL
140
PT
16
AG
12
—
18
1994
UMI

SENATE—*Tuesday, August 16, 1994*

(Legislative day of Thursday, August 11, 1994)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable CAROL MOSELEY-BRAUN, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Righteousness exalteth a nation: but sin is a reproach to any people.—Proverbs 14:34.

Eternal God, Lord of Heaven and Earth, Ruler of the nations, help us comprehend the faith of our fathers upon which they founded this great Nation.

In his address to the first joint session of Congress in Washington on November 22, 1800, John Adams said, "I congratulate the people of the United States on the assembling of Congress at the permanent seat of their Government; and I congratulate you, gentlemen, on the prospect of a residence not to be changed * * *. May this Territory be the residence of virtue and happiness!" Adams said, "Our Constitution was designed only for a moral and religious people. It is wholly inadequate for the government of any other."

Patient Lord, history teaches us that great empires like Rome fell, not because they were conquered from without, but because they disintegrated from within. Awaken us to the sheer necessity for a mighty visitation of God which will lead to spiritual and moral renewal, lest our Nation perish as the great empires of the past.

In the name of God and for the renewal of our land. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 16, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CAROL MOSELEY-BRAUN, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. MOSELEY-BRAUN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Ohio is recognized to speak for up to 15 minutes.

JUDGE SENTELLE-KENNETH STARR

Mr. METZENBAUM. Madam President, last Monday I addressed my colleagues to express my strong concern over the replacement of Robert Fiske with Kenneth Starr as the independent counsel in the Whitewater matter.

Today I rise to elaborate upon that matter, to discuss further the whole question of Judge Sentelle and his remaining in the position of continuing to make appointments in connection with the Whitewater investigation or any other independent counsel appointment. I believe that Judge Sentelle does, himself, fail to bring to the process that aura of impartiality that is so imperative if this process is to proceed forward as was originally contemplated by Senators LEVIN and COHEN when they introduced the legislation, and it was passed.

My opposition to the appointment was not because there was anything particularly wrong with Mr. Starr when Judge Sentelle appointed him, but because the whole process just looked horrible.

In fact, when Mr. Fiske was replaced, no one alleged that he did anything wrong. Two letters, one sent by Senator FAIRCLOTH to Attorney General Reno and another sent by 10 conservative Republican Congresspersons to Judge Sentelle, argued that Mr. Fiske had to be replaced in order to prevent an appearance of impropriety. And that is the subject to which I wish to address myself: The appearance of impropriety.

It was the appearance of impropriety that was the problem. So how was this appearance problem resolved? I came to the floor last week to express my concern that the appointment of Mr. Starr by Judge Sentelle created its own appearance problems.

First, look at the man who was chosen to replace Mr. Fiske. Kenneth Starr is not just an ordinary Republican. He is a highly partisan Republican who recently considered running for the Senate and who has taken a highly visible legal stance against the President of the United States. He was appointed to the bench by President Reagan, was Solicitor General for President Bush, contributed heavily to House and Senate Republican candidates and currently is cochairing the campaign of a Republican challenger who has built his campaign on attacking President Clinton. What is the appearance of this?

Never before in the history of the independent counsel has an appointee had an active role in a political campaign at the time of his selection. Never before has an appointee been this politically partisan.

Now let us look at the judge who appointed Starr—Judge Sentelle—serving on the independent counsel panel at the request of Chief Justice Rehnquist, appointed to the Federal bench by President Reagan, sponsored by Senator JESSE HELMS and judicial protector of Oliver North.

As if these appearance problems with Mr. Starr and Judge Sentelle were not enough, recently we have learned even more. It appears that at the time Judge Sentelle was deciding who would be Mr. Fiske's replacement, he was meeting on Capitol Hill with two of the most vociferous critics of the Clinton administration and the Whitewater matter. Now, how does that look? We are talking about the appearance of impropriety, and how can you possibly explain that kind of contradiction, or at least that kind of meeting, in view of the so-called appearance of impropriety?

A judge who is charged with selecting an impartial and independent counsel—one free from political influence—should not appear to be subject to political influence himself. Surely, Judge Sentelle should have known better. He should have been sensitive enough to appearances of partisanship to realize that he had no business meeting with two conservative Republican friends, one of whom was spearheading the effort to replace Mr. Fiske. What are Americans supposed to think of a judge, who is charged with maintaining

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

impartiality, appearing to consort with the leading critics of the opposing political faction?

This meeting, regardless of what was discussed, destroys any remaining hope of an appearance of impartiality. Even if the independent counsel matter was not discussed—and I have no way of knowing whether it was or was not—the mere presence of these men together at that time raises a highly disturbing appearance of impropriety.

How in the world, I ask my colleagues, can this have the appearance of impartiality? How can the American people possibly have faith in the independence of the special counsel responsible for such a highly sensitive political investigation of the President under these circumstances?

That is now impossible. There is no other way to slice it. It is impossible to deny the appearance of—not of impropriety—of impartiality. It is clear that if what my Republican colleagues were concerned about with Mr. Fiske was the appearance of impartiality, then what we have here is an appearance problem from beginning to end. Judge Sentelle's pick of Kenneth Starr has a much worse appearance problem than anything—than anything—alleged about Mr. Fiske.

Perhaps even more important, Madam President, is the threat that this appointment process poses to the independent counsel law. That law was originally enacted in the best bipartisan spirit, a tremendous effort, led in the Senate by Senator LEVIN and Senator COHEN, and the Members of the Congress owe them a debt of gratitude for fashioning that law in such a way so that, indeed, there could be an independent counsel that was truly independent.

The whole thought behind the original act was to protect the independent counsel process from partisan influence and to promote the fairness of investigations. The whole reason judges were accorded the decision as to the selection of an independent counsel is because they are supposed to be immune from political influence and able to maintain public confidence in a fair process. The replacement of Mr. Fiske with Mr. Starr by Judge Sentelle makes a mockery of the independent counsel law.

We must act to protect the statute's purposes. We must start from a clean slate. In order to protect the appearance of impartiality, Kenneth Starr should either resign his appointment or be removed from the post.

In addition—and this, I believe, is probably as important as anything that I have said up until this point—before Judge Sentelle has another chance to taint the appearance of another appointment, he should either step down or be removed from the judicial panel that selects independent counsels, for the same reason.

I understand that Judge Sentelle is involved at this very time in selecting the independent counsel to handle the Mike Espy investigation and would continue to make such appointments in the future.

In light of the appearance of partisanship he has displayed in the Starr appointment, the American people cannot accept his continued involvement as head of the independent counsel panel.

I am sure that there are hundreds of eminent lawyers out there—Democrats and Republicans alike and maybe some Independents as well—who could be trusted as nonpartisan, independent counsel. And I am confident that Chief Justice Rehnquist would be able to find another judge—I do not care whether he or she is a Democrat or a Republican—who could fill Judge Sentelle's position on the panel without creating the appearance of partisanship.

I believe that Justice Rehnquist has some responsibility in this matter, and I would call upon him to reexamine the propriety of Judge Sentelle continuing to head up the panel choosing the independent counsel in this instance, as well as possibly future ones.

The American people can no longer trust in the integrity and fairness of this independent counsel investigation. The law was fashioned correctly, and the operation of the law was supposed to work well. But at this moment, there appears to be nothing independent about it. It reeks of partisanship, and the American people know it. Actions must be taken to restore the public's confidence in this most important matter and in the overall integrity of the independent counsel process.

Madam President, I yield back the remainder of my time.

Mr. GRASSLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

EXTENSION OF MORNING BUSINESS

Mr. GRASSLEY. Madam President, I ask unanimous consent to address the Senate in morning business for 6 minutes, and I ask that the time be extended beyond 9:30 to that extent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF LT. GEN. MICHAEL RYAN

Mr. GRASSLEY. Madam President, I want to speak in support of a pending nomination that I do not know exactly when it is going to come up because nominations of this type come up very quickly and usually at the close of business.

Madam President, I would like to speak in support of the pending nomination of Air Force Lt. Gen. Michael Ryan.

General Ryan is currently the Assistant to the Chairman of the Joint Chiefs of Staff.

He has been nominated to be "dual-hatted" as commander, Allied Air Forces, Southern Europe, NATO, and commander, 16th Air Force, U.S. Air Force, Europe.

I would like to speak on General Ryan's nomination because it has a direct bearing on the pending nomination of Lt. Gen. Buster C. Glosson.

General Glosson got in hot water for allegedly having improper communications with three members of the 1993 major general promotion board and then allegedly lying about it when questioned by investigators.

Well, General Ryan was a member of that selection board.

He and two other senior officers formally complained that General Glosson had communicated with each of them separately regarding the integrity of a fellow officer whose name was before the board for consideration.

Improper communications with a promotion board are "expressly forbidden" by paragraph 11 of Air Force Regulation 36-9. The failure to obey this regulation could be a court-martial offense under the Uniform Code of Military Justice.

The Senate Armed Services Committee has worked very hard in recent years to bring some integrity to the military promotion process and most particularly to insulate promotion boards from improper influence.

The rules that were allegedly violated are a direct result of all the committee's hard work.

Because of the serious nature of complaints lodged against General Glosson, a joint investigation was launched by the Department of Defense inspector general and the Air Force IG.

The DOD IG was in charge and made all decisions regarding the scope and direction of the investigation.

All parties involved were questioned under oath. The evidence was evaluated and a joint report was issued on November 8, 1993.

The joint report was reviewed and approved by the Judge Advocate General and general counsel of the Air Force. The lawyers said: "The findings are supported by the evidence of record."

The principal evidence in the case against General Glosson is the testimony given by General Ryan and two other senior officers.

General Ryan testified that approximately 2 weeks after he had been officially notified and designated as a member of the selection board, General Glosson called him on the telephone.

General Ryan described the telephone conversation like this:

LTG Glosson related to me the following: That [General X] had lied to the Chief of Staff [General McPeak], and that the Chief

VOL 140 PT 16 AG 12 — 18 1994 UMI

of Staff didn't want him promoted. I asked General Glosson, I said, let me see if I got this right. I was taken aback. [General X] lied to the Chief of Staff, and the Chief of Staff does not want [General X] promoted. And he says, That's it. And I said, I understand the message. And that was the end of the conversation. It was a very short conversation.

The IG investigators asked General Ryan if he thought General Glosson knew he was a member of the board when he called: "In your mind, were you convinced that he [General Glosson] knew you were a member of the board?"

General Ryan replied: "Oh yes, I'm sure."

The IG followed up: "No doubt of that."

General Ryan: "No doubt."

After General Glosson's telephone call, General Ryan testified that he felt "disturbed." He said:

> After a point, it started festering in me * * * It really started bugging me * * * I don't think I can get through it * * * I can't sign that piece of paper and swear that I know of no attempt to influence the outcome of the board.

Madam President, officers who are assigned to such boards take a solemn oath to act without prejudice or partiality. And they have a duty to request relief if they think the board's proceedings have been somehow compromised.

After considerable anguish, General Ryan asked to be excused from the board. He related the substance of his telephone conversation with General Glosson to Secretary Widnall, and she subsequently excused him from the board.

General Glosson's testimony presents a somewhat different picture of what happened. General Glosson admitted he had the telephone conversation with General Ryan. General Glosson admitted that he questioned the integrity of General X during the conversation. General Glosson said General X "had lied" to him in the past. And he even admitted saying that "the chief can't trust" General X.

But that is where the similarities ended. General Glosson denied telling General Ryan that he and the chief did not want General X promoted, and he denied knowing that General Ryan was a member of the promotion board.

General McPeak's testimony did not help General Glosson. General McPeak denied that he ever told Glosson that General X was dishonest and should not be promoted.

Madam President, as I said a moment ago, the principal evidence in the case is the testimony of those involved.

What did General Glosson say to General Ryan and the other two officers about the fitness of General X for promotion to higher rank?

Did General Glosson say that Chief of Staff McPeak did not want General X promoted?

Did General Glosson know General Ryan and the others were members of the board when he spoke to them?

These issues are the focus of the testimony.

The testimony of General Ryan and the other two officers is almost identical about what General Glosson supposedly said.

General Glosson, by comparison, gives a very different version of what was said.

Madam President, it comes down to this: His word against theirs. There is no room for a mistake or misunderstanding. There is no way to resolve the conflicting testimony.

What we have here are irreconcilable accounts of what happened. There is just one inescapable conclusion: Somebody is lying.

The inspectors general found that General Ryan's account of his telephone conversation with General Glosson was almost identical in "timing, substance, and intent" with General Glosson's alleged communications with the other two officers.

General Ryan's version of General Glosson's comments was corroborated by the testimony of the other two senior officers, who said Glosson made similar statements to them. There is no evidence that Ryan or the others had a motive to lie.

There is not one shred of evidence to suggest that General Ryan and the others conspired to fabricate the allegations against General Glosson. What benefit could they possibly derive from doing that?

Quite to the contrary, General Ryan and the others came forward at great personal risk and with no certainty about what the final outcome might be.

The inspectors general believe that General Ryan is telling the truth. Everything points in that direction.

For these reasons, Madam President, I support General Ryan's pending nomination.

JUDGE SHERMAN G. FINESILVER STEPS DOWN AS CHIEF JUDGE IN U.S. DISTRICT COURT, COLORADO

Mr. BROWN. Madam President, I want to turn the attention of the U.S. Senate to a distinguished American: Chief Judge Sherman G. Finesilver of the U.S. District Court of Colorado.

On June 1, 1994, Chief Judge Finesilver took senior status. He will be sorely missed and difficult to replace on the active trial bench.

This does not mean a retirement, merely a change of status. Judge Finesilver will continue to handle a substantial case load and lend his expertise as a settlement judge for other judges in complex litigation—a field in which he is nationally known.

Judge Finesilver's contributions are as many as they are valued. In addition to an unusually sharp mind and an impressive command of the law, Judge Finesilver has a judicious demeanor. In the imposing Federal courtroom, litigants are all too often faced with a process that seems to either threaten the social good for legal technicalities or disregard legal principles for more popular decisions. Judge Finesilver is crafting a jurisprudence worthy of praise both for its legal acumen and its social worth.

In his 39 years of service on the bench, Judge Finesilver has made his mark—by humanizing the court, by solving complex legal matters, by facing the difficult cases and by lucidly explaining his decisions.

Judge Finesilver has served in the Federal and State judiciary for 39 years, the past 23 as a Federal judge. His judicial career dates back to 1953, when at age 28, he was appointed a county judge in Denver. He was elected to the district bench in 1962 and again in 1966. At each election he led the ticket among all candidates for any office in Denver. Judge Finesilver was appointed to the Federal bench in 1971 by President Nixon and in the length of active service in May, 1994, he became a senior trial judge on both the Federal and State benches in Colorado and in the Federal Tenth Circuit.

He has served as chief judge of the important U.S. Federal court for the past 12 years and he has been effective and accomplished. He is widely known for his skill as a trial judge, a national leader in effective court management, a master of trial settlement of complex litigation. He is held in high respect throughout the country as an effective chief judge. He is a widely sought after speaker in judicial, legal, and medically-related subjects. Because of his skill as a settlement master and trial judge, he has been appointed by the Chief Justice to serve in that capacity in Florida, Idaho, California, Puerto Rico, and 10 other Federal Districts.

By election of all judges in the tenth circuit, he was elected to serve on the Judicial Conference in the United States—the highest policymaking body in the Federal judiciary; he also was a member of the Judicial Council of the Tenth Circuit, Chair of the Chief Federal District Judges of the Tenth Circuit, Coordinating Council of Federal Native American Trial Judges in the Tenth Circuit.

Judge Finesilver has tried over 7,000 civil cases in Federal court and an additional 3,000 while a State district judge. He handled literally thousands of cases in service as a county judge, where his program established the driving improvement school—a national model the format of which has been used by the National Safety Council and American Association of Retired Persons.

His legal rulings in such diverse fields as discrimination in employment, oil shale, water law, massive disasters including aircraft, securities

law, intellectual property, have been heralded as learned, persuasive, and precedent-setting. Virtually all swine flu cases in the country are built on his opinions which resulted in development of the National Childhood Vaccine Act. His ruling in an harassment in employment case was the first of its kind in the Nation and prompted widespread changes to employment practices in the private and public sectors.

No doubt exists that Judge Finesilver's leadership in serving not only the intellectual demands of justice, but also the efficiency demands of justice mark his tenure as a widely known and respected jurist who has done much to humanize the Federal court system. His expertise at managing complex and difficult cases is renowned. He presided over 125 cases arising out of the swine flu vaccination program. Virtually all later cases built on the precedents he established. Judge Finesilver handled a major airplane crash case involving 28 fatalities and numerous injuries. The case was concluded within an unprecedented 1 year from the date of filing and 24 months from the date of the crash. The multifaceted Silverado litigation was brought to settlement within 12 months of filing. His managerial and judicial activity in a securities fraud case in northern Colorado resulted in investors receiving over 100 percent of their initial investments. This recovery is unparalleled in the United States. He concluded a massive environmental case at the Lowry landfill facility within 1 year.

In addition, his writings on legal, medical, and youth and citizenship-related fields have brought him a national reading audience. An excerpt of one of his speeches was published in Reader's Digest. His early career dealing with the legal rights of the deaf resulted in development of a model interpreter's law, which is a forerunner of laws in all State and Federal courts.

In his early years as a judge, Judge Finesilver was nationally recognized for his activity in dealing with enhancement of the legal rights of the deaf, physically impaired and aging, promoting their insurability and fair driver licensure. He was a driving force for the development of closed captioned television for hearing impaired persons on television broadcasting—a concept he began working on in the 1960's while dealing with the legal rights of the deaf and physically hearing impaired at the University of Denver College of Law.

Judge Finesilver, by Presidential appointment, has served on five national commissions and panels in aging, physically impaired, drunk drivers, traffic safety and recently, on the need for research in antisocial and aggressive behavior in the United States.

Judge Finesilver has been awarded honorary doctorates from Gallaudet College in Washington, DC, for his championship of the rights of the deaf, New York Law School for his pioneering role for the legislation of organ transplants, right of the deaf and physically handicapped, and the enlightened administrative justice. He has also achieved honorary doctorates from the University of Colorado and Metropolitan State College in Denver. He has also received the Norlin Award for outstanding alumni at the University of Colorado.

Colorado's Chief Judge also contributes to our State and our country when he leaves the bench and hangs up his robe. Outside the courtroom, Judge Finesilver has such notable accomplishments as the development of the Federal magistrate judge systems throughout the State of Colorado to make sure the courtroom door is always open, the establishment of a liaison between Federal and State judges and the drafting of a model criminal code for the Czech Republic.

These are just a few of the other noteworthy accomplishments.

Initiated community constituted naturalization programs—one featured former president Gerald Ford; youth were heavily involved in the program. The program was recognized by the Freedoms Foundation of Gettysburg, PA.

Served for over 20 years as chair, American Citizenship Committee of the Colorado Bar Association, which has as its focal point court visitations by school children with attorneys as tour leaders. One program contrasted United States judicial system with that of the U.S.S.R.; this program was honored by the Freedoms Foundation.

Principal author of monograph on community service—a new dynamic in criminal justice; monograph is used in all 94 Federal district courts and probation offices.

By personal involvement, encouraged manufacturer to donate 200 T-shirts to Denver low-income persons: shirts were confiscated from merchants who illegally obtained and distributed them.

One of the principal founders—and first chairman—of Minoru Yasui Community Volunteer Award, a monthly award given to recognize volunteer activities of Colorado residents. The monthly cash award is now $5,000, and the awardee determines the charity to receive this amount. Thus, many Denver charities have been beneficiaries of this unusual award. The M.Y.C.V.A. program served as a model for the J.C. Penney Community Award and television station KUSA's Nine Who Care Award.

Encouraged greater availability of judicial resources in ares of two Native Indian tribes in Durango and Cortez, CO; developed improved cooperation among tribal leaders, U.S. magistrate judges, U.S. attorney's office, Federal public defender's office, and local law enforcement.

Developed endangered species exhibit for display at Stapleton International Airport in Denver. Part of funds necessary for exhibit was obtained through fines assessed against persons convicted of Federal endangered species crimes. Exhibit was one of the first of its kind at an airport, seen by millions of travelers, and widely heralded by those interested in the preservation of endangered wildlife.

A Denver editorial noted his retirement as chief judge in these words:

> One of Finesilver's hallmarks on the bench has been proficient management—an uncanny ability to close cases and keep the docket moving—which he has seen as rapidly increasing in importance of late. Thus, not only did he keep the wheels of justice operating smoothly, he saved taxpayers some large sums of money.

Finesilver's career, however, cannot be adequately summed up in terms of quantity alone. The quality of his jurisprudence has been at least as notable. His emphasis on fairness, knowledge of the law, research skills, analytical acumen and articulation—all components of what is commonly called wisdom when applied to judges—are well known and respected.

It is also important to add dedication to that list of words. The son of a west side family of modest means who attended law school by night, Finesilver's judicial career began in Denver County Court in 1955, when he was only 28. He was elected to the State district bench in 1962 and 1966, and appointed by President Nixon to the Federal district bench in 1971.

Those two State elections were pivotal crossroads in his career. When he won those elections, Finesilver was considered one of Colorado's most electable individuals. That is to say, had Finesilver chosen to pursue politics at that time, the only likely direction for his career would have been upward.

But Finesilver avoided the greater visibility—and probably easier workload—of a political career in favor of his chosen calling. He is a man who believes not only in the need for law, but in the honor and nobility of the legal profession itself.

"My heart still swells with pride," he wrote to President Clinton this week, "at the beginning of each court session when the court crier opens the court with these words—'God save the United States and this Honorable Court'."

Fortunately, Sherman Finesilver will still be hearing that clarion call for some time. Although stepping down as chief judge, he will remain a senior Federal judge, characteristically looking forward to handling a substantial number of cases. Also characteristically, he will devote increased time to such projects as helping research Native American tribal law—one of his personal passions—and in assisting the Czech Republic draft a criminal code.

But Finesilver also hopes to spend more time with his grandchildren, and

VOL 140 PT 16 AG 12 — 18 1994 UMI

"fishing the mountain lakes and streams where over the years [he has] drowned, lost and snagged more than a million worms and prize fishing flies."

The following is a personal note by one of his former law clerks.

One can see him light up while performing the citizenship tasks of his judgeship. I'll never forget the truly special moments during my clerkship when Judge Finesilver performed the swearing-in ceremony for new American citizens, or when we conducted a mock trial to determine who stole the Halloween pumpkin for a local group of first graders. These are the acts of not only a sensitive and remarkable judge, but also a good citizen. Although, I have known Judge Finesilver for only a few of his thirty-eight years on the bench, I stand with the many who have known him much longer in congratulating him on a lifetime of achievement as a judge, a leader, and "citizen" in the word's best sense. Congratulations, and thank you, Judge Finesilver.

On May 31, 1994, Judge Finesilver completed his last day as the chief judge. On that day, when the court crier called out "God save the United States and this Honorable Court," I imagine he really meant it.

DIVERSITY; TOLERANCE

Mr. BOREN. Madam President, a college classmate of mine, Phil Johnson, has just written a very interesting and instructive article on the challenges of diversity and the need for tolerance in our society. It was recently published in the journal Telecommunications, a publication of the Alliance for Telecommunications Industry. I am pleased to share it with my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MULTICULTURALISM: ITS PROMISE AND CHALLENGE TO COMMITTEE T1

(By Phil Johnson)

It is obvious that Diversity, Multiculturalism, or whatever politically correct term is in vogue, is a part of our daily lives—at home, in the work environment, in the greater society. And it is equally obvious that these pluralisms have been embraced, rightly I think, by Committee T1 and have added to the decade of success for Committee T1.

But I also think that a pre-condition, not well understood and not brought to conscious recognition, lie at the basis of this success. This pre-condition is a value, shared across the pluralities, to bring different views to debate and to find, through compromise, a place where, not optimal perhaps, consensus can be reached for a time. The shared belief that this scenario can occur is a testament of faith to the founding fathers of Committee T1 and to the company members and representatives of those members who live this belief day-to-day.

Perhaps seeing "Schindler's List" recently reminded me that Drucker's "Tyranny of the Minority" are silent for only a moment and, because of the pluralism we jointly support, we of Committee T1 always need to be at the ready to respond. These are the people of an ideology, and it is the consequences of an ideology that we must deal with. Those circumstances where we forget our common moorings in our accumulated, common humanity are always ready to present issues for us.

The issue—the opposite of Burke's circumstances—is that when timeless dogmas are allowed to run unconnected in time (or, to the accumulated experience and contending currents of humanity) an ideology encourages murder as easily as encourages claim of nobility. But the experience in the world and ours in T1 say that not all options are equally likely and, in fact, our reason for being is the development of reason as to why certain path(s) are preferable.

Why does any ideology tend to be authoritarian? Perhaps it is that any system of ideas that consciously purifies itself to previous context and claims to contain all value must also wish for complete control. Any scheme for regulating life that systematically asserts that it is internally and systematically complete must logically will to exercise its power completely, or its claims for itself are invalid. This self-righteousness is a function of this inferred self-perceived completeness. And, as I have mentioned earlier in these newsletters, these closed systems seduce us as being attractive because they are simple. I say that they are simple only because they are manipulations and evasions of the contradictory, gray, complex reality of the plurality of Committee T1 (and the larger society). And those who operate such systems are compelling because they are never in doubt.

This, I think, underlies the reason why organizations use process to develop. Use of process, so common and yet so taken for granted within Committee T1 and elsewhere, allows solutions to develop in a plurality where, as Alex Bickal put it, "Where values are provisionally held, are tested and evolve within the legal order—derived from the morality of the process, which is the morality of consent."

This commitment to believing in process does in no way mean that one does not hold dear beliefs in equality, in social justice, in the reward of merit and in freedom itself. One must have convictions, but also must be willing to submit these beliefs to the testing and tumult of the process. What binds us together as free women and men—as Americans—is a shared faith in those processes by which we evolve and test our several beliefs and traditions. Fear the self-inflicted blindness of self-righteousness and find truth in that construct where means and process live.

"Circumstances * * * give in reality to every political principle its distinguishing color and discriminating effect. The circumstances are what render every civil and political scheme beneficial or noxious to mankind."—EDMUND BURKE, "Reflections on the Revolution."

CARL ANDREW WARREN

Mr. MITCHELL. Madam President, on August 4, 1994, Carl Andrew Warren, an employee of the Sergeant at Arms and Doorkeeper of the Senate, passed away.

Mr. Warren served the Federal Government for almost 35 years. In 1958, he was drafted into the Army. After completing his tour of duty, he worked in the Senate Restaurant as a banquet porter. In 1964, Mr. Warren joined the staff of the Sergeant at Arms.

Initially hired as a skilled laborer, Mr. Warren was promoted to the position of assistant night foreman in the Environmental Service Department. Mr. Warren's primary responsibility was the care and maintenance of the Minton tile floors located throughout the Senate wing of the U.S. Capitol. He was a dedicated and loyal employee, who took great pride in his work. Countless visitors to the Capitol have admired the colorful tile floors and the fine maintenance Mr. Warren provided.

I know all Members of the Senate share my appreciation of Carl Andrew Warren's years of service and join me in extending our deepest sympathies to his mother, stepfather, and seven brothers and sisters.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Madam President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through August 13, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $2.6 billion in budget authority and $1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated August 9, 1994, Congress has approved for the President's signature the Aviation Infrastructure Investment Act (H.R. 2739), and the Foreign Assistance Appropriations Act (H.R. 4426). These actions changed the current level of budget authority and outlays.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 15, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through August 13, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated August 8, 1994, Congress has approved for the President's signature the Aviation Infrastructure Investment Act (H.R. 2739), and the Foreign Assistance Appropriations Act (H.R. 4426). These actions changed the current level of budget authority and outlays.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS AUG. 13, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/ under resolution
ON—BUDGET			
Budget authority	1,223.2	1,220.7	−2.6
Outlays	1,218.1	1,217.2	−1.0
Revenues:			
1994	905.3	905.4	0.1
1994–98	5,153.1	5,122.8	−30.3
Maximum deficit amount	312.8	311.7	−1.1
Debt subject to limit	4,731.9	4,558.4	−173.5
OFF—BUDGET			
Social Security Outlays:			
1994	274.8	274.8	.....
1994–98	1,486.5	1,486.5	.....
Social Security Revenues:			
1994	336.3	335.2	−1.1
1994–98	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level presents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

Less than $50 million.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994, AS OF CLOSE OF BUSINESS AUG. 13, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	.....	.....	905,429
Permanents and other spending legislation[1]	721,182	694,713	.....
Appropriation legislation	742,749	758,885	.....
Offsetting receipts	(237,226)	(237,226)	.....
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	(2,286)	(248)	.....
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	.....
Offsetting receipts	(38)	(38)	.....
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	.....
Extending Loan Ineligibility Exemption for Colleges (P.L. 103–235)	5	3	.....
Foreign Relations Authorization Act (P.L. 103–236)	(2)	(2)	.....
Marine Mammal Protection Act Amendments (P.L. 103–238)	.....	4	.....
Airport Improvement Program Temporary Assistance Act (P.L. 103–260)	(65)	.....	.....
Federal Housing Administration Supplemental (P.L. 103–275)	(*)	(2)	.....
Total enacted this session	(2,748)	(645)	.....
PENDING SIGNATURE			
Aviation Infrastructure Investment Act (H.R. 2739)	2,170	.....	.....
Foreign Assistance Appropriations Act (H.R. 4426)	99	99	.....
Total pending signature	2,269	99	0

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994, AS OF CLOSE OF BUSINESS AUG. 13, 1994—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENTITLEMENTS AND MANDATES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted[2]	(5,562)	1,326	.....
Total current level[3,4]	1,220,664	1,217,153	905,429
Total budget resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under budget resolution	2,585	996	.....
Over budget resolution	.....	.....	80

[1] Includes Budget Committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not include $14,265 million in budget authority and $9,091 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $757 million in budget authority and $291 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount as an emergency requirement.

[4] At the request of Budget Committee staff, current level does not include scoring of section 601 of P.L. 102–391.

*Less than $500 thousand.

Notes: Numbers in parentheses are negative. Detail may not add due to rounding.

TRIBUTE TO MARION CRANK

Mr. PRYOR. Mr. President, I rise today to pay special tribute to a great American and outstanding citizen of my home State of Arkansas, Mr. Marion Crank.

Marion has served in so many positions of responsibility that I cannot begin to list them all. He has spent a lifetime unselfishly sacrificing his time and energy for the betterment of his local community and his State. His untiring endeavors as a member of the Arkansas State House of Representatives won him the admiration of his colleagues and gained him the well-deserved position of speaker of the house. He has worked with legislative leaders from across the Nation to find solutions to difficult problems that have been shared by all our States.

Southwest Arkansas, in particular, owes a great deal of gratitude to Marion for his tireless efforts to recruit industry, to make safe drinking water available on a countywide basis, and to establish low-rent housing to those in need of a better place to live and raise their families. These are but a few examples of the projects and undertakings that Marion has cultivated, sustained, and helped to complete.

Marion, with his vision, prudence, and vigor, is an example of an exemplary public servant. As we strive to make a positive difference for the many generations to come, we would do well to learn from the example he has provided in his own career. I am proud to know Marion and even prouder that he is a true friend.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Madam President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congres—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,666,432,889,364.19 as of the close of business Monday, August 15. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,898.87.

SHANNON HASTINGS TO COMPETE IN MISS AMERICA PAGEANT

Mr. SMITH. Madam President, I want to congratulate Miss New Hampshire 1994, Shannon Heather Hastings of Newport, NH, as she prepares to take part in the 1994 Miss America Pageant in Atlantic City, NJ, on September 17. We in the Granite State are proud to have Shannon represent us at this prestigious event.

Shannon, a 21-year-old senior majoring in theater at the University of New Hampshire, won the Kingston State Scholarship Pageant in May to become Miss New Hampshire. She is interested in a career in stage and film and has been active in many volunteer programs across the State.

Working with local police departments, Shannon has volunteered with D.A.R.E. [Drug Abuse Resistance Education], a program which provides law enforcement officials and teachers with an opportunity to work together to prevent drug abuse. In addition, Shannon developed and implemented a drug and alcohol prevention program called "Steppin Out and Up" in many of New Hampshire's schools and made presentations to numerous civic groups. She has also volunteered with the Special Olympics.

In addition to her volunteer efforts, Shannon has pursued her interest in theater. She first performed the role of Annie at the age of 10 in a professional summer stock theater. At Newport high school, she had a major role in the musical "Assassins." She was also a member of the Tri-M Music Honor Society and the All-State Chorus.

Shannon was active in athletics at Newport High School where she broke a 12-year triple jump record and earned varsity letters in track and

VOL
140
PT
16
AG
12
18
1994
UMI

cheerleading. Through all of her civic, community and athletic endeavors, Shannon never let her studies fail. She was a member of the dean's list and graduated in the top 10 in her class.

Shannon is the daughter of Mr. and Mrs. Milton Hastings of Newport. She has a brother Jeffrey, age 24, who attends Plymouth State College. Her father is a production-control manager at Sturm Ruger Company in Newport and her mother has held lead roles in numerous community theater productions. Shannon has certainly followed in those footsteps.

Madam President, we send our best wishes to Shannon as she travels to Atlantic City next month to compete for the title of Miss America. She is an accomplished young woman and will be an outstanding representative of the Granite State. It is an honor to represent Shannon and her family in the U.S. Senate.

CRIME: SETTING THE RECORD STRAIGHT

Mr. DOLE. Madam President, I just want to take a few moments to set the record straight concerning a comment made by the distinguished majority leader, Senator MITCHELL, on last Sunday's "Meet the Press" news show and today by the distinguished Senator from Delaware, Senator BIDEN.

On "Meet the Press," Senator MITCHELL suggested that I had no right to complain about the huge amounts of social spending now contained in the crime bill since Senate Republicans offered prevention amendments to the crime bill last November. It is my understanding that Senator MITCHELL read from amendments offered by Senators DOMENICI, DANFORTH, and myself.

I will not speak of the Danforth and Domenici amendments, but I will say a few words about my amendment. My amendment had two purposes: First, to toughen the penalties for those who engage in gang-related violence, and second, to provide funding for "gang prevention" grants. The amendment passed by a bipartisan vote of 60 to 38.

As I understand it, the section of my amendment dealing with "gang prevention" was originally part of the crime bill reported out of the Judiciary Committee by the chairman of the committee, Senator BIDEN. The "prevention" language was crafted by Senator BIDEN, not by me or any other Senate Republican. In fact, I included the Biden language in my amendment in order to attract Democrat support for the tough antigang penalties.

Yes, there was a good deal of social spending in the crime bill passed by the Senate last November. But the Senate bill did not have the $1.8 billion local partnership act; or the $900 million model cities intensive grant program; or the $650 million youth employment and skills grant program; or most of the other multimillion-dollar social programs that have now become part of the conference report.

The bottom line is that the crime bill left the Senate with a price tag of $22 billion. The conference report now authorizes a staggering $33 billion, a 50-percent increase. Obviously, somewhere along the way, the crime bill was hijacked by the big-dollar social spenders. This is not the fault of Republicans. It is the fault of the liberal Democrats who dominated the conference committee.

WILLIAM D. WALKER RETIRES FROM THE FOREST SERVICE

Mr. BUMPERS. Madam President, I rise today to pay tribute to Bill Walker, an outstanding public servant from my State, who will soon retire from Government service after a distinguished 36-year career with the U.S. Forest Service in the Ouachita National Forest.

While in college, Bill began his career with the Forest Service as a forestry aide in the now-defunct Leaf River Ranger District in Hattiesburg, MS. After graduating from the school of forestry at Mississippi State University, Bill served as a forester in the Mena Ranger District in Arkansas, the Homochitto Ranger District in Mississippi, and TMA in the Neches Ranger District in Texas. In 1964, he was promoted to his first job as a ranger in the Oakmulgee Ranger District in Centerville, AL. He went on to serve as ranger on Boston Mountain in Ozark, AR, before landing in Hot Springs in 1974. One of his many accomplishments in the Ouachita National Forest was getting the timber program back on track after some difficult times in the late 1980's and early 1990's.

In addition to his commitment to public service, Bill is active in many civic organizations including the National Cubic Foot Committee, the Ozark Task Force Interdisciplinary Planning Team, the Lion's Club, the Society of American Foresters, the Arkansas Forestry Association, the Mississippi State University Alumni Association, the American Forestry Association, and the Elks Club. He also served as a member of the Arkansas Board of Registration for Foresters.

Because of his exemplary service, Bill received many honors and awards during his tenure with the agency. In 1992, he received both the Outstanding Forester of the Year for the Arkansas Division of the Society of American Foresters and the National Forest Products Timber Sale Award.

Madam President, it is truly a pleasure to recognize and honor the accomplishments of such a devoted public servant. Those of us who have worked with Bill over the years know he is the consummate professional. His hard work and dedication are legendary and has helped make the Ouachita one of the finest national forests in the system. I hope my colleagues will join me in extending our thanks and appreciation to Bill Walker.

STONINGTON BAPTIST CHURCH—200 YEARS OF MAKING A DIFFERENCE IN PENNSYLVANIA

Mr. WOFFORD. Madam President, I rise today to recognize the Stonington Baptist Church as it celebrates 200 years of service and faith in the Commonwealth of Pennsylvania.

This faith community was established on June 21, 1794 by Rev. John Patton and originally called Shamokin Baptist Church. The inspired theme of the founders' was Matthew 7:24-25:

> Anyone who hears my words and puts them into practice is like the wise man who built his house on rock. When the rainy season set in, the torrents came and the winds blew and buffeted his house. It did not collapse; it had been solidly set on rock.

In 1845 at a meeting held at the church the idea for establishing Bucknell University took shape. Having been president of Bryn Mawr College, I know well the tremendous impact Bucknell has had in Pennsylvania producing leaders in numerous fields.

Soon the Stonington Church will be dedicating a new addition under the able leadership of its pastor, Rev. J. Douglass Hallman, Sr. As it celebrates its bicentennial, I wish all of the congregation the very best and commend the church for its pioneering role in the history of our Commonwealth. Stonington Church has indeed been solidly set on rock and will continue to make a difference through a commitment to faith, service, and values for generations to come.

Madam President, I ask unanimous consent that an article from the Daily Item be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Daily Item]

CHURCH TO CELEBRATE ITS 200TH ANNIVERSARY

STONINGTON.—The Stonington Baptist Church, Hosta Road, will celebrate the 200th anniversary of its founding during a 10 a.m. service on Sunday.

Foster Furman of Northumberland, whose grandparents were church leaders in the late 1800s, will make a presentation of historic information. There will be music, and the Rev. J. Douglas Hallman will be preaching from the founders' theme verses, Matthew 7:24-25.

The church was founded June 21, 1794, by the Rev. John Patton who settled in Shamokin Township from Kent County, Del. He called it the Shamokin Baptist Church.

The first members were Edward Wilkinson, Benjamin and Mary Vastine, Joseph and Ann Richardson and John and Abigail Farnsworth. The congregation was affiliated with the Philadelphia Baptist Association.

In 1796, the first church building was erected along the Shamokin Creek on the site now occupied by the Deibler Station Bible Church, Paxinos RD1. The land was donated by Edward Wilkinson. An offering of $62.02 was sent from the Philadelphia Association to help pay for materials. The nails were furnished by a local blacksmith.

In 1820, the Shamokin Baptist Church, along with several other newly founded Baptist congregations, formed the Northumberland Baptist Association. In 1845, the Northumberland Baptist Association's annual meeting was convened in the Shamokin Baptist Church.

During this meeting, a resolution was passed to "establish a Literary and Theological Institution in the State, soon afterwards located at Lewisburg," presently known as Bucknell University. The association also went on record as opposing slavery.

In 1865, the congregation voted to build a new church on the "Turnpike" now known as Hosta Road in Shamokin Township. It was built and dedicated in 1873 at the cost of $3,000.

In 1959, the name of the church was changed to Stonington Baptist Church, and incorporated under this name in 1982.

In 1983, the congregation dedicated a remodeled and enlarged sanctuary and Sunday School rooms. In September 1994 the congregation plans to dedicate the newest addition, now under construction, which will provide a fellowship hall, classrooms, kitchen, restrooms, nursery, foyer and offices.

Pastors of the church in recent years include the Rev. Russell Fry, the Rev. Forest Gass, the Rev. Warren Moyer, the Rev. Clyde Whary and the Rev. Clifford Bassett.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

HEALTH SECURITY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 2351, the Health Security Act, which the clerk will report.

The assistant legislative clerk read as follows.

> A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell Amendment No. 2560, in the nature of a substitute.

Dodd Amendment No. 2561 (To Amendment No. 2560), to promote early and effective health care services for pregnant women and children.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, we do have an amendment dealing with children that is before the Senate.

I yield myself such time as I might use.

We have, as we understand, if not a time agreement, at least a general understanding that during the course of the debate we will have fair distribution of time. At least it would be my understanding that we would rotate back and forth with the Members who are here.

The ACTING PRESIDENT pro tempore. The Senator's understanding is correct.

Mr. KENNEDY. That would be the way I would urge my colleagues on this side to go through the course of the morning.

Madam President, we are still waiting to have some resolution or some conclusion to the amendment that has been offered by the Senator from Connecticut. I think many of us who are cosponsors and strong supporters of it hope that it would then be followed by measures in other areas where we could begin to develop some common ground, some common understanding, some bipartisan efforts.

We had in our own Committee on Labor and Human Resources about 15 major policy areas discussed in our mark up. On at least 11 of those we were able to develop bipartisan support, and I think even though we have had some differences on the floor as expressed over the period of the last 2 weeks as we have been debating this issue, many of us are still hopeful we will be able to find the common ground which the American people are expecting and which the American people deserve so that we can move forward.

I want to take just a few moments away from the issue of children to review very briefly with the Senate the central themes that we have been examining, Republicans and Democrats alike, over the period of these past 2 weeks and to see by identifying them and by also reviewing how the principal measures which are before the Senate—the Mitchell bill and the Dole bill—actually deal with those issues because they are central to the whole health care reform debate.

Hopefully, after we dispose of the issue of preventive health care for children in our country—something for which there is such a compelling need, and for which the case I think has been very convincingly made—and after we try to make some additional progress in the areas of disability, perhaps mental health, perhaps in some rural health issues, we then will come back and focus on really the overarching policy questions which we are going to have to debate.

It seems to me to be appropriate to begin to look at those issues as we have seen them being discussed over the period of the last 2 weeks, so that we can begin to focus on those measures more effectively and hopefully more thoughtfully and try to move ahead.

So, Madam President, the two overarching goals of health reform are strengthening our health insurance protection for those who have it now, and guaranteeing health security for all Americans. We want Americans who have health coverage now to know that it will be ongoing, that it will be continuing, and it will be strengthened with legislation that hopefully will be reported out of our Senate.

The central part of that effort must be insurance reform. We have talked about that so we can end the insurance companies' abuses and the flaws in the current system that have left too many Americans vulnerable. That is basically understood as cherry picking, the selection of the healthiest individuals and insuring those, and leaving others behind.

This is a goal shared by Republicans and Democrats alike. Virtually every speech which has been made on the floor has said that we should end preexisting exclusions, No. 1; guarantee Americans the right to choose their doctor, No. 2; end the cherry picking that allows the insurance companies to choose to insure only the young and the healthy, No. 3. No. 4, achieve affordability of coverage for all. No. 5, open up the Federal Employees Health Benefits Program so that every American can enjoy access to the same high-quality health plan that Members of the Senate have.

We Members have many plans available to choose from. I have a family policy. I pay $101 a month for that program, which is one of the best in this country. Many of us have felt, and felt strongly, that kind of availability ought to be there for other Americans. If it is good enough for the Members of the Senate and the House, and the 10 million other Americans who are Federal employees, including the President, it should be available to other Americans as well. In the Mitchell proposal we make that kind of program available to all Americans in the community rated pool.

When debate picks up today, we will hear discussions about layers of bureaucracy, and there will be maps and charts. But, access to the Federal Employees Program is one of the important features of the Mitchell proposal. We do not see a lot of charts or maps when any of our Members go and sign up for that program. We do not hear a lot of complaints about it. We do not hear a lot of complaints even in the course of this debate about how inadequate it has been for them personally or members of their family. So we have included that.

Another aspect was the guaranteed portability. So if you lose your job or change your job, you will not lose your coverage.

We must examine these lofty bipartisan goals: they have been repeated and repeated and repeated over the course of this debate. When we look at the two different proposals that are before the Senate, there really is only one that will achieve them. The Mitchell plan truly reforms health insurance to achieve these objectives. The Dole plan does not. In fact, if we read the fine print, the Dole plan is so riddled with loopholes that it should not be called

VOL 140 PT 16 AG 12 — 18 1994 UMI

the American Option Plan, but rather the "American Insurance Company Protection Act."

I would like to review those items that we have outlined, and that have been mentioned by almost every Member who has spoken during the course of the debate so far.

First of all, on preexisting condition exclusions, they are still allowed. This is a matter of such importance and consequence to American families. We speak to it, even as a Member of the Senate who had a son 12 years old with cancer, who lost his leg to cancer and is now well, healthy, happy, and the father of a wonderful young daughter, and has a very important and meaningful career in terms of community service. That young man would not be able to purchase insurance as an individual in my State, and I believe in all States, unless they are part of a group.

There are millions of families like that who have what is called a preexisting condition—cancer, heart disease, diabetes, juvenile diabetes, lupus. You can name those different items. What we want to do is, in our overall health care program, say we are going to eliminate the preexisting conditions restriction.

Mr. REID. Will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I will be glad to.

Mr. REID. It is my understanding that the State of Hawaii would not be one of those States without universal coverage, and the Senator's son and others similarly situated would be automatically entitled to coverage in Hawaii. Is that not true?

Mr. KENNEDY. The Senator is correct. I appreciate the intervention. We have had a good deal of discussion about the whole Hawaiian experience, particularly as it relates not only to preexisting conditions, but also to children, and how well they do with regard to children's issues.

Mr. REID. I ask the Senator if he agrees with this statement: Even though Hawaii is the State that costs more than any other State, with a very high cost of living in Hawaii, does the Senator acknowledge that it has the lowest cost of health care of any place in the United States?

Mr. KENNEDY. The Senator is correct. If you look at the trend, since the implementation of the Hawaiian experience—and as the Senator knows, for example, they have twice the incidence of breast cancer—but much lower death rates from the disease. They have twice the visitation in terms of doctors and hospitalization, and an excellent recovery level.

In the proposal introduced by the Republican leader, treatment of preexisting conditions is not assured; there are still exclusions for all services. It says on page 80 in paragraph 4: The health plan may impose a limitation or exclusion of benefits relating to treatment of a condition based on the fact that the condition preexisted the effective date of the plan.

It provides, furthermore, in paragraph (a): The condition was diagnosed and treated during the 3-month period prior to the plan.

So if they were getting treated 3 months prior to the plan for heart disease or cancer, they are out.

Or, it says, limitation or exclusion extends for a period of not more than 6 months after the date of the enrollment. It means that if you get in the plan, and you need treatment for 6 months, all of your treatment that was related to the plan will not be included or paid for by the plan.

Then it continues. As we know, under the Mitchell bill, all the preexisting condition prohibitions are effectively eliminated. There is an open enrollment period where anyone will be able to enter without having consideration of any preexisting condition. There is an amnesty period where people would be able to come in, and then by the year 2000, the concept of preexisting condition is totally eliminated, as compared to the Dole proposal.

In the Dole proposal, they say the participating State may establish a limit on the number of new enrollees the health plan may accept during that amnesty period.

So not only do we have a situation which excludes individuals with preexisting conditions, but the number of individuals who will be able to enter the various plans are going to be subject to some State judgment, some agency that will be established within the State, that is going to make the judgment as to whether individuals will be permitted or will not be permitted to enroll in a health plan.

You can imagine who is going to have the ear of those various State agencies. Do you think it is going to be the public or the individuals that are going to be affected with preexisting conditions, or do you think that the insurance companies might have some interest in that particular question?

If you then go to page 81, they talk about: The reference to 3 months in paragraph 1(a) is deemed a reference to 6 months. So they have a description about 3 months, and then in a later page they say any reference to 3 months is 6 months, and any reference to 6 months is deemed a reference to 12 months.

So I daresay, Madam President, that those who are most concerned about the preexisting conditions, comparing the two different proposals, have to reach very simple and clear conclusions.

Second, on the issue of the guaranteed choice of doctor, we have seen in the Mitchell proposal that co-ops and employers must provide a choice of plans, including the fee-for-service plan, which is basically the choice of doctors. That is explicit on page 136.

In the Dole bill, you can examine all 600 pages and there is no reference to how individuals are going to be able to have the free selection of doctors. It is not mentioned on page 96 in the section on cooperatives. It is not mentioned in the references to employers on page 107.

Their requirement to offer a choice of plans, or a choice of doctors, is not referenced in the legislation. We hear a great deal about the importance of choice of doctors. The Mitchell bill has it; the Dole bill does not. The Senate wants it, more importantly, the American people want it.

Elimination of preexisting conditions: The Mitchell bill phases out any exclusions for individuals that have preexisting conditions in a very determined, conscientious way. I daresay that under the Dole provisions, in the areas I have referenced, that element is still retained. The American people want to have it eliminated.

We have heard, Mr. President, a good deal about the issue of affordability and the issue of taxes. Under the Mitchell bill, it allows a maximum of 1.5 percent surcharge or marketing fee for plans sold through co-ops. On page 85 of the Dole bill—and this is just beyond belief, Mr. President. I hope I have the attention of the Members and the American people—"Administrative Charges: in general, in accordance with the reform standards, a community-rated health plan"—that is what we are basically talking about, community-rated, social insurance. We talked about that with the Republicans. Senator CHAFEE talked about the importance of community rating. And we have provided it in different ways in the bills before the Senate.

Listen to this under the Dole bill:

Administrative charges: In general, in accordance with the reform standards, a community-rated health plan may add a separately stated administrative charge not to exceed 15 percent of the plan's premium.

And to the plan's premium; $900, it could go for. $900. That is not even a tax. That goes to the insurance companies.

Let me point it out again. In general, in accordance with the reform standards, a community-rated health plan may add a separately stated administrative charge not to exceed 15-percent of the plan's premiums which is based on identifiable differences in marketing and other legitimate administrative costs. And then it goes on, and toward the bottom of the paragraph, "or a broker." A 15-percent additional charge under the comparison between the Dole and Mitchell bills. That would be $900. You talk about taxes?

Mr. DASCHLE. Will the Senator yield for a moment on that question?

Mr. KENNEDY. Yes.

Mr. DASCHLE. Let me ask the Senator if it is not also true that the Dole plan allows a similar 15-percent administrative charge to be added to FEHBP plans. In other words, any non-Federal employee who wanted to participate in the Federal Employees Health Benefits Program would also pay a 15-percent administrative charge; is that not also true?

Mr. KENNEDY. The Senator is exactly correct. That is over on page 117, section 9002, Applications to Small Business Participants.

On the top of that page it says, "A carrier offering a health benefits plan under this chapter may charge a fee to participating small businesses."

Have we not heard much about small businesses out here in the last 2 weeks, about the sensitivity to small businesses? Here, under this plan it says, "a carrier offering a health benefits plan under this chapter may charge a fee to participating small businesses." Right here, for the administrative expenses related to the enrollment of such businesses, and to Federal employees. Fifteen percent of the premiums charged each such business. That is another 15 percent, another $900.

We are talking about billions and billions of dollars here. It is wonderfully sanctimonious for those around here to talk about the Mitchell bill and the various provisions in here about comparing cigarette taxes when we spend over $21 billion a year in the health care system taking care of people that are using tobacco, and they are quoting about all those increases in taxes. Here, this tax isn't even a tax; it's $900 that goes right to the insurance company.

Let me just point out how they define this. So you have those two provisions in this measure. If you go to the issue of portability, as the Senator knows, under the Mitchell bill, access to the Federal Employees Health Benefits Program is for all individuals in what they call the community-rated pool, employees and firms under 500, nonworkers, the self-employed, 78 percent of all of the under-65 population.

So the great number of Americans will have access to the same coverage as we have—and we could talk about how we want to strengthen this and other proposals that came out of different committees. The Mitchell bill makes it available to effectively 80 percent of all Americans under 65.

We have talked on both sides of the aisle, and I have listened about the importance of making available to the American people what is available for us. I pay, with the family coverage, $101 per month. I would think most people would feel that is a very good deal. It is a good deal. We do not hear of many people around here talking about it. It is a good deal, the kind of deal we want to have for the American people.

We heard from the other side, so the Federal Employees Health Benefits Program is a good deal. Let us include it in our program. Look at the difference in the Dole bill on page 115. "Self-employed individuals and small-employer participants in the Federal Employees Health Benefits Program."

First of all, there is no mention of a choice of doctors in here whatsoever. But let us go on. "For the purposes of this chapter, the term 'small business' means any business entity which employs 50 or less employees, including businesses with self-employed individuals." And then it goes over the application to small-business participants on 116.

I would like to have my good friends from Nevada and Washington and Colorado listen to this description. "The Office of Personnel Management shall promulgate regulations to apply the provisions relating to health benefit plans, to the extent practical, to small businesses and individuals covered under the provisions of this chapter."

One would read that—any child would read it—as small businesses and individuals covered under this chapter.

Now, two paragraphs down, it says: "Notwithstanding the provisions of subsection (a)," which I have just read, "the provision shall not apply to individuals covered under this chapter, except the Office of Personnel Management shall establish a method to disseminate information relating to health benefit plans to such individuals through small-business participants and carriers."

In the one place they say it is going to be small businesses and individuals, and in the next paragraph they take it away, as the language does, from any individuals. Individuals can participate, but the only way you are described as an individual is if you are going to qualify for coverage from the small business participants.

Then it says: "The carrier offering the health benefits plan under the chapter may charge a fee to participating small businesses." That is what we talked about before. Basically, in one paragraph they talk about small businesses and individuals, and two paragraphs later they say that notwithstanding that paragraph, the coverage shall not apply to individuals.

So this is why, Mr. President, it is important that we consider exactly what is in this legislation.

Finally, I will just mention the issue of portability. This is enormously important so that families know if they move from one job to another, they are going to continue their coverage. Every worker that enters the job market today will have, unlike 35 or 40 years ago, seven different jobs.

Forty or fifty years ago if your father was a shipfitter or ironworker in the Quincy shipyards in Massachusetts, your father or grandfather had that job for life, and they made good money, so that their wives generally stayed at home. Of course, society and market forces have changed things a lot. Women are in the job market because they want to be, should be, and they need to be.

We found that in the change in our economy everyone who enters the job market is going to have seven different jobs. We are trying to have the portability.

Under the Mitchell proposal, you have a similar kind of a benefit package whether you live in Salem, MA, or Salem, OR.

So you move through the whole process. It may be a different company, but it is the same package.

But it is not within the Dole proposal. It is not within there. There is no requirement that your employer pay for the standard package. But, you are still going to find that individuals are going to be wanting to move. So the idea that you can say, well, it is somehow portable, is false. This program just does not meet the most minimal standards in terms of portability. If you change jobs and your employer does not pay for coverage or offer you a plan, you are out of luck. If you lose your job, you could be out of luck.

These are the essential elements that I think are just worthwhile reviewing very quickly. Under the Dole proposal we are permitting the insurance companies to charge a 15-percent tax. The Mitchell proposal is 1.5 percent. This is a 15-percent tax. The FEHB plan is still closed to most Americans. Under Mitchell it is open to 80 percent of all Americans under 65. Under the Dole proposal it is a fraction of that.

There are loopholes allowing insurance companies to limit portability of coverage. If you do not have a similar kind of a benefit package and access to the same doctors and plans in different companies, then the idea that if you move from one job to the other that you are going to have coverage defies rational explanation.

You have no elimination on the preexisting condition exclusions, as I talked about in the Dole bill. Under the majority leader's proposal, all the preexisting conditions for the initial phase, the initial enrollment, are phased out so that they are eliminated by the year 2000. That is still there in the Dole program. Under the Dole proposal, there is no mention, none in the 600 pages of the Dole bill, about guaranteeing access to your doctor. In every reference to the benefit package under the Mitchell bill it talks about the fee for service, which is the option with unlimited choice of your doctor.

It talks about the loopholes that allow the insurance companies to continue the cherry picking. The idea is the companies themselves will not be required to pick up or insure individuals or individual groups. There is the flexibility that will be available to the insurance companies to continue to select the healthiest individuals out

VOL 140 PT 16 AG 12 — 18 1994 UMI

there without responsibility in terms of coverage of anyone else.

(Mr. CAMPBELL assumed the chair.)

Mr. KENNEDY. Mr. President, I daresay that these are items which we ought to try and find some common ground—hopefully, we will later on in the day—in terms of the issues on children.

But it does seem to me that we ought to be able if we are serious, and the whole debate for the last several years has been about universality and whether we were going to be able to pay for it.

We were talking about preventive health care measures, and that is the issue that we will be addressing later on with regards to children. We have not even gotten into the very extensive programs in terms of prevention that are available in the Mitchell bill.

But we cannot tolerate any measure in this body that is going to continue to permit preexisting conditions and say to the 49 million disabled people in this country that we have passed legislation that has not attended to your needs. It will not be so. We have to say, if we are serious about the choice of a doctor or plan, we have to see it in the bill. We see it in the Mitchell bill, and we continue to ask where, where, where is it in the Dole proposal.

We have to make sure that the insurance companies' 15 percent tax—I read it in the RECORD the exact language that is included in the Dole proposal—that goes not to the Federal Government but goes to the private insurance companies at their will and they would be able to have that. The exclusion——

Mr. HATCH. Mr. President, will the Senator yield?

Mr. KENNEDY. I will wind up in 2 minutes. Then I will be glad to yield.

There is the closing down really effectively of the Federal employees program to people outside the Government and the limitation on the portability. These are essential elements, Mr. President, and I have heard our colleagues talk about them as being desired. I think it is important at this stage of the debate as we are moving toward hopefully a resolution of the children's preventive programs to say that we are going to try and see if we cannot at the successful conclusion of this debate and hopefully the passage of the children's amendment, address those issues.

I am glad to yield for a question, and then I do not intend to hold the floor any more. I see the Senator from Wyoming on the floor.

Mr. HATCH. Mr. President, I ask my colleague a question because he worked very hard on this issue and I know he feels very deeply about it. Is it not true that under the Mitchell plan, other than for the purchasing cooperatives, there is an open-ended marketing fee that can be charged; there are literally no limits on how much they can charge under the Mitchell plan?

Mr. KENNEDY. Will the Senator clarify this?

Mr. HATCH. Let me read it to the Senator. This is on page 51 of the bill:

> Marketing fees. No. 1, plans offered outside purchasing cooperatives, the community-rated standard health plan may impose a market fee surcharge for community-rated individuals enrolling in a plan through agent, broker, or other otherwise sales method or direct enrollment process. Such surcharge shall be in addition to the weighted average of marketing fees for such plans for community-rated individuals enrolled in such a plan for any purchasing cooperative in the community-rating area.

I think the Mitchell plan limits the market fee to about 1½ percentage points in the case of purchasing cooperatives, but for plans outside the cooperative, it is a completely open-ended fee, which is ridiculous.

The Senator is criticizing the Dole plan. At least Senator DOLE limits whatever the market fee can be. Let me tell the Senator that if the market fee is too high, I guarantee you that insurance is not going to be sold or bought.

Mr. KENNEDY. That is the whole point. Under the Mitchell bill, they do not have to pay that because they can remain within the particular program. They do not have to pay that. What the Senator is saying is in order for the plan to be competitive, it can't tax the people and the plan itself it has to pay it. The Senator is making my point for me.

Mr. HATCH. No, I am not.

Mr. KENNEDY. Yes, the Senator is. He is saying under the Dole proposal anyone who goes on into a plan, into the co-op, is at the will of the insurance companies to be charged up to 15 percent extra for an additional fee to be paid to the insurance company. Whereas, we are saying that if you want to pay a tax to the insurance companies or brokers, you can or you can go to the co-ops where people do not have those additional kind of fees. So nobody has to pay the tax because every plan has to offer through the co-op and every individual can buy through the co-op.

Mr. HATCH. If I could ask one other question?

Mr. KENNEDY. I yield briefly.

Mr. HATCH. What the Senator is saying is that there is only going to be one plan that the HIPC, the health insurance purchasing cooperative, can offer, because nobody else is going to be able to compete. If they stay in that plan there will not be any marketing charge. But I have to tell the Senator I think the free market system will compete. They are going to compete well, and they are going to have to compete. This is a false issue at best.

Mr. KENNEDY. I do not know why you give that kind of flexibility to the broker. You have the language here that the 15 percent administrative cost can go to the broker. How is that serving the American people to say you can tack on another 15 percent on top of that premium to go to the broker? What we are trying to do is to squeeze out the inefficiencies and the costs of the health care system at the present time. The Senator is writing that inefficiencies right into it.

Mr. DASCHLE. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. DASCHLE. The Senator is absolutely right.

To clarify this point, is it not true that under the Mitchell plan every person has access to a purchasing cooperative, similar to what we have as Members of Congress through the FEHBP? Is that not accurate?

Mr. HATCH. That is certainly accurate. Of course, it is accurate. So you start with that premise that everybody has the same opportunity for access to the purchasing cooperative that we have. It is only things they are going to choose.

Mr. DASCHLE. The Mitchell bill guarantees that every single individual has access to a purchasing cooperative, which will make available to consumers many plans. One co-op may have 40 different plans. That is where the competition that we all say we want comes from. Is it not the case that, under the Mitchell plan, only if you choose not to participate in a cooperative that you could be subject to the 15 percent or higher tax that the Dole plan virtually guarantees? Is that correct?

Mr. REID. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. I yield for the answer.

Mr. HATCH. Basically, you are saying there is only going to be one way or one plan you can accept because you are not allowing insurance agents their ability to sell insurance. Let me tell you something. Unless they are competitive, they are not going to be able to do it.

But this business of the Mitchell plan saying that we are going to have a purchasing cooperative, we are going to allow them to sell insurance, we are going to allow free choice, we are going to allow a fee-for-service program, all that is rhetoric and words. You are going to force everyone into a purchasing cooperative run by the Government. That is the point I am making here.

Mr. KENNEDY. Mr. President, I will just say that we do have the competition within the co-op. The point you cannot get away from is the limitation under the Mitchell bill.

> In no event may the sum of the membership fee and the marketing fee charged by a purchasing cooperative with respect to a certified standard health plan exceed 1.5 percent * * *.

The Dole bill is 15 percent to a broker. This is 1.5 percent.

And you can cut it whatever way you want—but there's still an additional 15 percent to get the Federal employees program. Under the Mitchell bill, any business or any individual can join the Federal employees program.

I hope we will not be talking a great deal about additional taxes until we come to the explanation. That is $90 under the Mitchell bill versus $900 under the Dole bill. And that is not an insignificant amount.

Mr. HATCH. Could I ask one other question of the distinguished Senator?

Mr. KENNEDY. Sure.

Mr. HATCH. Do people pay the same premium under this program as they would for the Federal employees insurance?

Mr. KENNEDY. Yes.

Mr. HATCH. Actually, they do not for 6 years; am I wrong in that?

Mr. KENNEDY. Are you talking about the age adjustment provision?

Mr. HATCH. No.

Mr. KENNEDY. By the end of the phase-in.

Mr. HATCH. So you are talking about a 6-year phase-in before they can get the benefits of Federal employees program?

Mr. KENNEDY. That is exactly correct in terms of the premium payments, but the benefits are the same from day one.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. KENNEDY. Yes. Whatever time is going to be allocated on the other side. I saw the Senator from Wyoming earlier and I indicated to him I would not take long.

Mr. HATCH. I yield whatever time the distinguished Senator from Wyoming needs.

The PRESIDING OFFICER. Senators are not operating under a time agreement.

Does the Senator from Wyoming seek recognition?

Mr. WALLOP. Yes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, it is a curious thing indeed what is happening here. The first thing that is happening is that rather than defend the Clinton-Mitchell bill, the other side of the aisle is attacking the Dole bill. And the curious thing about that is, the Dole bill cannot be before us under the rules that the Senator from Tennessee and the Senator from Maine have established.

We do not yet have a Congressional Budget Office scoring of the bill. The House wisely has gone home until they do have a CBO score. But the Senate excludes having a score, and therefore there is no way we can talk about this bill.

I would also like to comment on the Senator from Massachussetts' claims. Only in the Senate of the United States is an option allowed to an insurance company called a tax. That is not a tax. It is an option. It is not mandatory. It is an option.

But what is mandatory, make no mistake about it, is that if the Secretary of Health and Human Services does not like the plan of a State, she imposes a 15-percent tax that goes not to the broker but to the Government of the United States. Therein lies the big difference.

But we are still in an irrelevant conversation, because, the way in which the majority leader has structured this debate, the Dole bill cannot come before us, because we have been denied, first, printing and then CBO scoring. So this is an exercise in parliamentary dominance by one person, the majority leader, who has foisted upon the Senate no fewer than 4,300-and-some pages over the last week and who insists that we all ought to know what is in this when he, himself, has not been able to know what was in it, or surely they would have included all that they needed to include in the first version of the bill. But some things have been taken out and some things have been put in and nobody knows what all of those are, and I include the majority leader himself.

So, let us be fair with the thinking in front of the American people.

Over the past week, we have heard the First Lady, the majority leader, the President of the United States, and others reproach the Republicans for not wanting to debate health care reform. Now we are being reproached for wanting to debate the health care reform. Now we are being reproached for not agreeing to the majority leader's request to begin voting on his timetable for amendments. We are called obstructionists. We are told we are undemocratic. We are told we do not care about the American people. We are told that the only thing we care about is politics but that the President's agenda is not political.

Mr. President, anybody watching American politics knows that the President's agenda is no less political than the agenda of everybody else. He is, after all, the leader of his party and he has chosen to make health care reform a political and nonbipartisan effort from the beginning.

Members on the other side of the aisle are being asked to vote out any health care bill to save and conserve the Presidency. The Democratic leadership wants to pass the bill before the November elections, and it does not really matter what the bill says or what it will do to the American people. The Senator from West Virginia, I think, explained it the best when, in an interview, he said, "The American people are going to have health care reform whether they want it or not."

Now all of these accusations are offensive to us in elected office who listen to our constituents and are here to represent their views and seek to do so even if those views do not happen to comport with those of the Senator from Maine or President Clinton.

The debate on health care reform is a philosophical debate. It is a debate which clearly delineates the differences between Republicans and Democrats over the role of Government in our individual lives. Republicans are unwilling to rush this debate, not because we do not want to have health care reform, as the Democrats cry, but because we are unwilling to vote for a health reform proposal that is philosophically opposed by our constituents.

Let me put, if I can, the issue of reform into some sort of perspective.

If I look back on nearly 18 years in the Senate, there are three defining moments in this period.

The first was in 1981, when the Senate approved the Reagan economic revolution, a program which included reductions in Federal income taxes, reductions in domestic spending, and increases in our national defense budget.

The second was the defeat of socialism, graphically illustrated by the fall of the Berlin Wall and the collapse of the former Soviet Union.

The third event is the current debate on national health policy.

All three are linked by a common thread. All are attempts to define and to limit or, in the case of the latter, to expand the role of central government planning in our lives.

Reaganomics was an attempt to let people keep the resources they created through their private initiative, rather than allowing the Federal Government to collect and expend these resources. By limiting tax revenues, it was hoped that we would limit the growth of Government, because taxes and taxes alone are the means by which the Government gains the power over the people of this country. We were frustrated by Democrats in Congress who insisted on expanding Federal spending through deficit financing.

The fall of communism was a repudiation by the people of Eastern Europe and of Russia of the failed ideology of centralized government planning; and the defeat of the philosophy was combined with the fiscal defeat of the centralized government when we faced a socialist regime in Baghdad during the gulf war.

And now we are being asked to approve, with minimal debate—and I say with minimal debate, notwithstanding the promises of the Senator from Maine, the majority leader, who, at the beginning, said no Senator would be curtailed and is now seeking to curtail us. But, most important, we are being given little time to analyze the most massive explosion of Government—maybe in this half century. The Clinton-Mitchell bill will transform one-seventh of our economy, by creating 50

VOL
140
PT
16
AG
12
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18
1994
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new bureaucracies and at least six new open-ended Government spending programs; by creating new subsidized entitlement programs that will cost $1.4 trillion between the years 1995 and 2004—in that decade, $1.4 trillion.

It will increase Federal taxes by $300 billion over the next decade, paid for by 83 percent from middle-class Americans who will find themselves not only paying more taxes but higher premiums for their health insurance. It proposes almost $1 trillion in unrealistic cuts in Medicare and Medicaid.

These true costs do not vanish because we cut them. They go directly onto the backs of the rest of Americans who pay for health care. By cutting Medicare and Medicaid you just do not simply eliminate the fact that a procedure costs a certain amount of money. And if it is not paid for by the Government, then it is going to be paid for by the hospitals and doctors who perform them, and who ultimately transfer those costs onto the backs of the premium payers, insurance companies, and individual Americans seeking health care. It goes to the middle class; it goes to small business.

The health care proposal now in front of us represents a reversal of recent successes against Government centralized planning and control. There are some in Congress who believe that any issue arising in the country must be resolved by creating a new Federal program. There are some in America who, every time confronted with discomfort, say, "Why does the Government not do something?" There are others of us, however, in America, who believe that solutions cannot only flow from Washington; that neither the private sector nor the State government have the ability to solve problems because it is controlled by the Federal Government, and we have witnessed how successful the Federal Government is at the rest of its efforts.

There are, unfortunately, those in Congress who subscribe to a "big nanny" philosophy, and they are the same people who have drafted the health care plan now being debated. "That we Americans have not the ability wisely to choose what is good for our families, what is good for our employees, what is good for our country. We must have this group here in this Senate and in those bureaucracies doing it for us because we are not to be trusted. Only inside the Beltway resides wisdom"—so those people would think.

The health care reform debate is a true turning point in this country. That is why it is important to analyze it fully and accurately. And there is no going back. We step off this ledge into Government controlled health care and there is no turning back.

We have only to look at the amendment that is now before us to accurately predict what is going to happen. Once you get a standard benefit package there is no end to the bidding—no end to the bidding. There is always somebody who is going to want something in that standard benefit package. Ask those in Hawaii who now find their health insurance program too expensive for the State to support. Because year after year, session after session, everybody politically bids up what is contained in that package.

The fundamental issue, therefore, that we must decide, is whether we believe in a bigger Government, or in a wiser and more empowered people; whether we will be ruled by an anonymous bureaucracy which has the power to levy taxes or assign them, which has the power to limit choice—or whether democracy will continue to be our form of Government.

Those who believe the Federal Government is the solution of our health care problems will vigorously embrace the Clinton-Mitchell bill. Those who believe, as do I, that our health care problems can be solved better by relying on the common sense and abilities of the people, are the people who will support the Dole-Packwood health care alternative, or some involvement which solves the basic problems which face Americans—that of access, portability, preexisting condition, and the issue of malpractice and simplicity.

Government slowly, slowly, slowly has been overtaking our lives. In one generation, Government has doubled the amount of money that it takes from Americans and it has increasingly used that money to deprive us of control over our own lives. In the same time it has turned our public spaces over to criminals and our public schools into factories—yes, of ignorance. Government has driven us apart on the basis of race, and even of sex, and in the name of tolerance has made us almost the most intolerant country in the world.

Throughout the world, big government is in the crisis of legitimacy. In South America there is a rush to privatize Social Security and Medicare, to privatize the State corporate structure. The Japanese, recognizing that their industrial policy has bred corruption as well as inefficiency, are deregulating their economy. Europe's welfare States, that spend more than half of their GNP, are collapsing and dragging the mainstream parties down along with them. Look, for example, at Germany and its health care plan which is, in effect, the Godfather of the Clinton plan. And in fact, the First Lady is the one who has said that she would like us to look more like Europe.

According to remarks in a Wall Street Journal article by Wilfried Prewo, Chief Executive of the Hanover Chamber of Commerce in Germany, the German plan provides near universal coverage but at great losses of efficiency. The average premium payroll tax is 13.4 percent, paid for by every working individual. The German alliances, originally devised as nongovernmental health purchasing cooperatives, have degenerated into de facto government agencies with 112,000 employees working for these alliances.

The administrative cost of the cooperatives have risen 53.5 percent from the last decades—more than the measure of the alliances total health costs. As Prewo notes, "These costs reveal that the disease of bureaucracy is the real problem". Hidden taxes are also an integral part of the German plan. A 50-percent employer mandate results in labor costs that make Germany the second most expensive place to employ people in the world. It is also a country that has significantly higher unemployment rates than does the United States.

Financially, the German plan has vacillated between financial distress and collapse, and the Government has intruded with ever tighter regulations, including price controls and access rationing. The German health care costs are rising rapidly and Germany has taken some stopgap measures to control them. But major health care reform will be undertaken in the coming years. They have no choice. Germany is searching for a way out, to have less Government control and to establish some market orientation. Incidentally, many people are now going to the Eastern European States for their dental care because it is cheaper and you can get it right away, without waiting in line.

So, why is it, as other governments in the world move away from socialization and toward market-based programs, our Government is trying desperately to move toward it?

Let us talk for a moment about the issue of choice. For years, health reform has centered on the question of how health care can be provided efficiently and effectively. But there has always been something missing in this debate, which has doomed efforts at cost restraint and access. That is that we have focused so dogmatically on how we can expand access to care while controlling costs, that we forgot the critical element in a free market-based economy—choice. We have not had it.

If the market is to work, individuals must have the ability to choose, to make decisions, to accept responsibility—a key word in a democracy, Mr. President: Responsibility—accept responsibility for their health care.

Some would argue that responsibility and choice are unnecessary, that the Federal Government will assume all responsibility and make our choices for us. That will never work with the American people.

It may be what is imposed upon us, but because it is imposed, does not mean that it works. It is the focus of the Clinton-Mitchell bill. Government

under that bill would assume responsibility for defining the standardized health package that we will have, for telling us how we must purchase it through mandatory HIPC's, or by forcing employers with less than 500 workers to buy at community rates instead of self-insuring, or by making experienced rate plans contribute to a risk adjustment pool supporting alliance.

Incidentally, this is where the President of the United States is absolutely wrong in his statement that we will have choice. You cannot have choice if you are to be fined for exercising it. You cannot have choice if your employer is to face a $10,000 per employee fine for offering either less or more. You cannot have choice by telling us that we must purchase insurance through an individual mandate, for telling businesses that they must provide insurance for us.

The Clinton-Mitchell bill contains at least 23 new mandates on employers, employees, individuals, and States. Public policy over the past 25 years has been driven by the demands called entitlements. We have established by the President of the United States an entitlement commission whose job is to seek ways to find relief for the American taxpayer, economy, and Government from the dictates of entitlements.

Incidentally, these are figments of Government fantasy, not the Constitution. Nowhere in the Constitution does it say that any American is entitled to the earnings of any other American. These are things we have done to ourselves. Yet, in this program, we are establishing a number of new entitlements.

People have been permitted to engage in whatever activity they choose without assuming responsibility for it under the health care system that exists in this country. Indeed, they have come to expect from the State and the Federal Government the performance of functions traditionally reserved for heads of households. The expanding entitlement society is destroying the sense of personal responsibility and of collective responsibility and of community responsibility. After all, if the Government is going to do it, why should I be charitable? If the Government is going to do it, why should I seek any other resolution? And why should I care who exercises the choice to be entitled to the money that I and my fellow citizens earn?

The expanding entitlement society has destroyed this sense of personal and collective responsibility, and there is no more evidence than in the area of health care. Under the Clinton-Mitchell bill, the individual is now entitled to standard benefits provided by the Government through new mandates on the society. The expectation exists that there is a right to health care. The President has stated it; advertisements have stated it. But there is no such right—there may be an obligation, there may be a sense of that obligation—but nowhere in the Constitution does it say that the Government of the United States must provide every American, no matter what that American does, with all he wishes in terms of health care.

Under Clinton-Mitchell, there are attempts to provide coverage to the 23 million uninsured by providing subsidies to benefit 100 million. How does that work, Mr. President? Twenty-three million are uninsured; subsidies for 100 million. Whose pocket is robbed to pay that? I guarantee you that many of those who are going to be subsidized will be having the other hand in their pocket taking it right back out on the other side.

The costs of these subsidies will be borne by those unlikely enough not to receive a subsidy, mainly the upper portions of the middle class. It is time, therefore, to restore the idea of responsibility to the health care debate. Responsibility means making decisions. For instance, each of us decides whether or not to maintain a healthy lifestyle, to exercise, to refrain from smoking, to drink moderately; or the opposite.

As a recent article in the New England Journal of Medicine indicates, such decisions to accept greater responsibility for what the authors call "demand reduction" would reduce annual health care expenditures by almost 20 percent. That means $180 billion.

Mr. President, the Government of the United States cannot have lifestyle police. It cannot. It cannot have somebody watching each of us in the closets and in our rooms to see if we sneak a cigarette or drink an extra martini or do not get enough sleep or eat too few carrots. They cannot do that to us. So by imposing all of this bureaucratic regime on top of us, competition and choice is eliminated—something which is available in the private insurance marketplace.

Another decision which most people cannot now make and which is a problem, and that has been cited by those on the other side as well as on this side, is that most people cannot choose the health insurance plans they are provided by their employer, or by their States. They can choose not to have the one by their employer. In fact, I, indeed, could choose not to have one by my employer and have one by my wife, who is self-employed and provides it for her employees.

But most Americans receive health insurance coverage through their employer, and the employer chooses that plan. But the employee has no choice on the benefits of which the insurer will provide. There is no choice; therefore, there is no responsibility, and little cost for the employee. But there is also no option. If a benefit is covered, use it; if it is not covered, forget it, I am not going to do it because nobody is going to pay for it.

No wonder individuals feel they have a right to health care, an assertion which ultimately turns free-market economics upside down. And the lack of choice is only exacerbated by the Clinton-Mitchell bill which has Government mandating the purchase of plans and defining the benefits included in those plans and not allowing us the options of choice as employers or employees—low-cost plans, high-benefit plans, one is taxed, the other is disallowed.

If the Government takes responsibility for all of these, how are we to expect individuals to exercise it on their own?

What must be understood in this so-called right, this false notion of security, is that it comes with a price: A price in freedom and a price in coverage. In exchange, individuals on a Clinton-Mitchell regime will be given reduced coverage, increased premium costs, and increased taxes—I will examine that now—but more importantly, freedom and liberty will be lost through the imposition of 50 new bureaucratic regimes that will impose so many rules and regulations that bureaucrats, not individuals, will tighten the existing controls that they have over our lives. And who knows where these people derive their power, or who they are when they exercise it?

There are a number of aspects in the Clinton-Mitchell bill which reduce coverage. A new high-cost premium tax I mentioned that CBO says, and let me quote—incidentally, CBO was not kind to the Clinton-Mitchell bill. It basically said that it would achieve some goals and it was revenue neutral, but thereafter, it slammed it in almost every corner it could find. Let me give you the first of those.

The new high-cost premium tax would be difficult to implement. Its contribution to containing health care costs would be limited and it might be considered inequitable and an impediment to expanding coverage.

Some health care reform: Inequitable and an impediment to expanding coverage and difficult to implement.

New Federal and State premium taxes will add 17 to 42 percent to the cost of buying a health plan.

Some cost containment.

Standardized benefit packages would make illegal many cost-effective products now on the marketplace.

Small employers, those with fewer than 25 employees, who currently offer health insurance, would not be willing to offer more than 50 percent of the cost of the insurance because, otherwise, the employees become ineligible for the subsidies. What kind of a crazy thing is the Government going to do when it actually says that it wants employers to do these things—and many of them are, and those are the people

VOL 140 PT 16 AG 12 — 18 1994 UMI

they cite—and then turn right smackdab around and say, "If you give them more than 50 percent, the Government will not subsidize." No rational employer is going to give more than 50 percent.

Another thing. In order to achieve this massive coverage by the Federal Government health care plan, we have the possibility of a State-by-State mandate. The distinguished President occupying the chair is from the State of Colorado. They might well make the Government requirement for coverage. There is no way that it can happen in the State of Wyoming or any other rural State. And those in my State go under a mandate and perhaps those in the State of Colorado do not, or perhaps both of our States and the States of Kansas and Nebraska do not. Our employers are going to be shopping the area to find the cheapest place to employ people. But what does that do to the economy of the United States when the Government by exercising a willy-nilly mandate begins to put inequitable positions on the employers in our several States?

Mr. President, there is this magnificent assumption somehow in the minds of socialists that society is ultimately perfectible and that we are all essentially sheep and we have no human responses to its efforts.

If firms with 25 employees or less are not to be covered, who will be so unwise as to hire the 26th employee? How does that add to jobs in America? If your penalty begins with the 26th employee, the best thing you can do is start another company, if you want more employees. People will respond to the artificial stimuli that are contained in this ridiculous piece of legislation because the Government is interfering, choosing amongst winners and losers, States, individuals, employers and all kinds of things. It chooses, chooses, chooses, and it assumes that none of us are wise enough to have a human reaction to the opportunities that are put in place by those choices.

We constantly hear that the Clinton-Mitchell plan is necessary to help the middle class. But under that plan direct new taxes and hidden taxes, still taxes, if you will, on premiums will both shift and increase the cost of health insurance onto the backs of the middle class.

There are at least 17 new taxes, some have said 18—and I believe that 18th to be the most insidious of them all—in the Clinton-Mitchell bill. They raise $300 billion. The one new tax that is not listed on here is that if the Federal Government does not choose to accept your health plan, it imposes its own and then charges a 15-percent premium on every insurance policy sold within that State. That is not the Congress levying that tax. That is the Secretary of Health and Human Services.

There are many other hidden taxes and State taxes that will add to the premium costs and increase these middle-class taxes. Two-thirds of the new Federal taxes, $200 billion, fall squarely on the shoulders of 83 percent of all Americans through higher costs on health insurance premiums. Two-thirds of it goes right on health insurance premiums that people now pay. The 25 percent high-cost plan costs $70.4 billion.

In other words, if your employer seeks to provide more health insurance than a target premium cost, you get a 25-percent tax on that premium. A 1.75-percent premium tax raises $74.3 billion, and the repeal of cafeteria plans and flexible spending accounts costs $46.8 billion. These are things that Americans now have for which they will be taxed.

Let us talk about them. The high cost premium tax, $70.4 billion. A 25-percent excise tax is applied to community-rated and experience-rated health plans that exceed a certain target cost. This is touted as cost containment, Mr. President. This tax, according to CBO, will do little or nothing to contain health care costs and might impose an impediment to coverage. Some kind of cost containment. Virtually all plans would be subject to the 25-percent tax. This tax is really a sick tax. You can use that in either way. It is a sick tax or a sick tax.

Perhaps someone from the other side of the aisle might in their time explain it differently. But it appears to this Senator that some of the plans which will pay the highest taxes are those that have an inordinately high number of sick and older individuals. These are the plans that by definition have to raise their prices the most to cover the high levels of provider reimbursements.

In other words, you are going to have certain levels. They have a certain inequitable portion of either the aged or the unwell, and they have to raise their premiums to cover that, or cease to provide it altogether. And guess who gets to pay it? The sick and the aged and the unwell. I understand that there is a risk adjustment mechanism to compensate plans that have adverse health selection, but it is my understanding that no such risk adjustment mechanism currently exists.

The American Academy of Actuaries, when analyzing the President's original risk adjustment mechanism, which may be actually less complicated than that of the Senator from Maine, stated:

> Such mechanisms can never be expected to be fully effective. Further, the current state of the art in risk adjustment falls short of meeting the requirements of the act.

So if risk adjustment does not work, Mr. President, then this tax clearly penalizes the elderly and the ill. But that is not all. The tax applies to community-rated plans in 1997 but will apply to large self-insured employers following in 2000. Most small businesses purchase insurance in the community-rated market.

I ask the supporters of the Clinton-Mitchell bill, why should small businesses have to pay the tax now when big businesses will not have to pay for another 3 years? Is this fair to the small business employers of America? Is this not a subsidy to big business by a Democratic administration claiming to be on the side of the little people in America? And since there are no constraints on large employers for 3 years and the premiums for those employers are based on their health expenditures during that period, you have to ask the question, will not this seriously undermine the incentives for these plans to economize before the year 2000, as CBO suggests?

In fact, the incentive does quite the opposite. Insurers have the right to collect 50 percent of the cost from providers as long as the amount does not exceed the provider's disproportionate share. That is a very interesting little complication in life right there. Maybe someone will be able to explain to me and the Senate how an insurer is going to go about collecting these fees. How is it possible, Mr. President, to recover 50 percent of the tax in a timely and efficient manner when the provider's proportionate shares are based upon factors not known until the time beyond the end of the next tax year? How is that going to be?

What we have done is not only provided an unfair tax, a monstrously complicated tax, but somebody is going to be fined for not complying with it when it is impossible yet to achieve compliance.

And then, Mr. President, why should the low-cost provider have to reimburse the plan's sponsor for 50 percent of the tax imposed because of the excess charges of high-cost providers?

So what you have done is you have simply said to everybody, go for the gold. Make it as rich and expensive and as nasty as you can because if you are a low-cost provider you are going to be subsidizing the high-cost providers and nobody is going to be able to figure out how to collect the tax.

How much additional administrative expense do you think will result from this giddy collection exercise? Even CBO stated that this tax will result in litigation expenses. And is it even appropriate for health plans to play tax collector when you are trying somehow or another to make the system more efficient, to bring the costs down? You are adding administrative and legal costs. There is no end to the complication and to the furor that this plan and this tax will impose on our society.

The fee-for-service plans, which allow unlimited choice of providers, are generally more expensive than network-based plans and this tax will make the fee-for-service plans even more expensive and potentially unaffordable all at the same time the President and Senator MITCHELL promise us we are going to have choice. So the fee-for-service plans under which you have choices are going to be driven up because the taxes are higher and potentially unavoidable. It simply denies consumer choice of providers. Overall, this high-cost plan tax will tax cost efficient plans more than inefficient plans. A funny thing in a country that seeks expertise. The worse you are, the less you pay and the better you are, the more you pay.

Mr. President, does the Senate really want to go down that road? Is that really what we are up to?

The sponsors of the tax claim that its purpose is to reduce health costs. But it is hard to see how raising premiums makes health insurance more affordable when talking about the 1.75 percent tax on every health plan to provide for more teaching hospitals. This tax is applied to all gross premiums. So straight across the board, everybody's health care costs in America goes up 1.75 percent. It raises $74.3 billion out of purchasers of health insurance over the decade, and falls directly on the middle class.

The Joint Tax Committee has prepared a distributional chart which shows this tax clearly falls more heavily on the middle class. In 1999, 54 percent of the tax increase will be paid by people with incomes of $50,000 or less and 79% by people with incomes $75,999 or less. The 1¾ percent tax will increase the taxes of individuals with incomes between $20,000 and $30,000 by $1,178; between $30,000 and $40,000, by $1,303; between $40,000 and $50,000, by $1,099; between $50,000 and $70,000, by $1,955, nearly $2,000. Some savings, Mr. President.

This new tax is not in any way related to making health insurance available to the uninsured. In fact, what it serves to do is further increase the premiums of the already insured. It has been linked to new spending for medical education. Yet, while it raises the costs of premiums for everyone by 1.75 percent, it more than doubles current funding for medical education.

Is the purpose of health care reform to tax Americans into doubling their contribution out of their own pockets to medical education, at the time as everybody is saying that we are producing too many doctors? It is bizarre, Mr. President.

It is my understanding that funds currently available under Medicare are transferred into new trust funds: The Academic Health Center Trust Fund and the Graduate Medical Trust Fund, and others.

These transfers total $71.1 billion over the next decade. But according to CBO, the tax raises almost $11 billion more than is claimed to be spent on these programs. So here is a nice, new little tax increase for Americans. Even if they support it going to medical education, it gives $11 billion more to Government; just to Government. It is not directed.

It is nothing more than a convenient revenue raiser that can be increased every time the Government runs out of money to meet its commitments, all while we are calling it "medical education." We will raise it another quarter percent. We are already $11 billion more than spent. What the heck, let us give you another $20 billion.

Mr. President, this is hiding real taxes from American people in a most irresponsible way.

So I find it extremely difficult to understand how the bill is supposed to cut costs when all it is doing is increasing the cost of private insurance. I had thought that the majority leader indicated that the plan was necessary to avoid premium increases. Yet inherent in the majority leader's plan are several provisions which drive premiums up.

Now we have a wonderful provision. Our States are allowed—the words used "are allowed" to raise their premium taxes by 1 percent to pay for new administrative expenses which they are not allowed to avoid.

Where is this Congress coming from that it says that our States are allowed to raise taxes to cover expenses that we impose upon them? What is wrong with the concept that the country was founded on the notion that these States are sovereign, and that we here in Congress derive our power from the States, not the States from the Congress? What a bizarre distortion of American political philosophy.

The Clinton-Mitchell bill allows them to cover the costs of administering, and nobody believes that what they will be allowed to do will be enough. So the States are going to raise premiums another 1 percent. But we will not be blamed for that. Clinton-Mitchell will not be blamed for that. The States will be blamed for paying for things that we are requiring them to do.

First, the Clinton-Mitchell health proposal would be forced on the States. As CBO states in their report, "[it] would place significant responsibilities on States for developing and implementing the new system." Then we tell them to raise taxes to pay for the cost of administering their new duties which we, who derive our power from them, are imposing upon them.

The States, Mr. President, will have 177 new responsibilities under this plan, including determining eligibility for the new subsidies and continuing their Medicare program. Administering the subsidy and the Medicaid programs, establishing the infrastructure for the effective functioning of health care markets, and regulating and monitoring the health insurance industry. According to the CBO report—again this very thin praise which accompanies the Mitchell bill—"it is doubtful that all States would be ready to assume their new responsibility in the time frame envisioned in the proposal."

So what happens, if they are not ready to assume their responsibilities? Guess what? The Secretary of Health and Human Services assumes those duties for them, and imposes a 15-percent tax on all the premiums. That is a 15-percent tax that goes on every health plan premium in the State where the Federal Government takes over. CBO says the States will have difficulty meeting their responsibilities, and yet we blithely go along, and say, "What the heck. They cannot do it. That is 15 percent more for the Federal Government. We will do it for them. We will run their plan and impose a tax on them." Goodbye States rights. Hello Washington.

If Secretary Shalala determines that a State health system does not meet requirements from her view of the insurance coverage, then she takes over the State system. If she takes them over and runs the plan, she increases the premiums by 15 percent to pay for the administrative expenses of the Secretary. The complaint the Senator from Massachusetts was making a little while ago is that the insurance companies might be allowed to impose a fee. That is a big difference. One is an option, and the other is a tax imposed by a nonelected, but appointed, bureaucrat.

Now we have the disallowance of current tax-free health care expenditures made through cafeteria plans and flexible spending accounts; another $47 billion out of the pockets of Americans who buy insurance. A few more billion out of cafeteria plans—plans that allow individual Americans to make the choice of the coverage they wish to have.

Mr. President, I have stated before that it is conceivable that my wife and I at this stage in our lives will not need obstetric care. It is even more conceivable that the care that I might want would be hair transplants and hearing aids. Should I not have the choice to have that instead of the obstetric care which we no longer will have use for? Not according to Clinton-Mitchell. Cafeteria plans are out. It is a sin to provide yourself and your family what you believe to be necessary to their well-being.

Flexible spending accounts, whereby some insured have a high-cost deductible, figuring that they can take care of the first $1,000 or $2,000 of their medical expenses, in exchange for a really good catastrophic plan. Oh, no. That will not be allowed. You are penalized $10,000 an employee if you provide your employees more than the Government says that you are entitled to have.

This is a fine Government that comes along and says to employees, and families, "I don't care if you want it."

VOL 140 PT 16 AG 12 — 18 1994 UMI

(Mr. BYRD assumed the Chair.)

Mr. WALLOP. You may not have it without extraordinary, new penalties. Clinton-Mitchell eliminates those options and again increases the out-of-pocket costs of middle-class Americans, and eliminates their choice and their right.

Now, the risk adjustment. An egregious hidden tax is this adjustment which requires all employers with over 500 employees to participate in a risk adjustment pool with individuals and small employers in each State. The risk adjustment provision forces self-insured employers, who may have lowered their own costs, to pay higher insurance rates to subsidize the higher risk of other employers.

Why, if we have done something well within a corporation of mine, should we be required to subsidize the risk of the employers of another corporation that does nothing to contain their health care costs and the risk of their employees? By shifting these costs, it is no different from a payroll tax increase. Once again, the healthier the plan, the more efficient the plan, the better you are—under the Mitchell-Clinton bill—the more expensive it will be. Those who are good and efficient now had better see to it to get bad and inefficient. It certaily is in your own best interest, because it will be cheaper when it all rolls in.

The bottom line is that the middle class gets socked, and socked heavily, with the distributional impact of the four taxes in the Mitchell-Clinton plan—1.75-percent premium tax, increase in Medicare part B, disallowance of cafeteria and flexible spending accounts, the tobacco tax increase, offset by the 50-percent deduction for self-employed. Joint Tax found that 60 percent of all taxpayers with incomes of $50,000 or less will pay the higher taxes. Some 78 percent of taxpayers with incomes $75,000 or less will also pay the higher taxes. Incomes between $20,000 and $30,000 could pay $3,000 more a year. Between $30,000 and $40,000, you could pay $3,100. Between $40,000 and $50,000, $2,690. Between $50,000 and $75,000, $3,800. Those are big tax increases, Mr. President. And they do not reflect all of the tax increases mentioned above that will come from the States or the 25-percent premium taxes.

The Clinton-Mitchell plan does not stop at increasing premium taxes. It also includes a number of hidden taxes that will further increase the costs of health insurance. Companies with 500 or fewer employees are forced to purchase insurance through a community-rated pool. This means that smaller companies who may now self-insure, or may have efficient plans, will have to pay for insurance that will be significantly higher than they now pay and will not to be allowed to self-insure—that is too much independence from great Uncle Sam—will not to be allowed to do something on their own; will not to be allowed to be accountable and responsible and to work with their employees.

It increases costs on all the insured, everybody in America, by forcing them to cover more benefits for subsidized people than they receive from the subsidies. Guess what, Mr. President? Not only are these people from the healthier and more efficient plans being asked to subsidize other people, but the cost assessed them for that subsidy is more than the subsidies. So it is a cute, hidden little tax that is going on the middle class, and it is no small figure.

Under our current health care system, Medicare accounts for two-thirds of the cost shifting that occurs. Guess what? We are proposing to reduce Medicare again. Nobody does anything about the cost that Medicare incurs. Instead, the cost is just shifted onto the backs of those who are already healthy and employed.

The Clinton-Mitchell bill proposes to cut Medicare by $200 billion over 10 years, with all of the costs, or most of them, falling on the provider. Are the providers to shoulder that entire tax, or does anybody suppose they might portion it out to those to whom they provide? Look at the reality of this. Nobody is going to pick up $200 billion all onto themselves when they have the option of spreading it out. Guess who gets it when they do that? Middle-class America, employees and employers of the small and productive sector of this great country.

So instead of solving the cost shifting problem, as the majority leader is so quick to claim, his bill actually exacerbates the already existing problem.

A recent Wall Street Journal article by Martin Feldstein found that this will result in at least a $13 billion annual tax increase. But the cost-shifting problem does not stop there. Under the Clinton-Mitchell bill, Medicaid is cut $788 billion over 10 years. These two cuts total almost $1 trillion. Medicaid beneficiaries not receiving SSI or Medicare would be integrated into the Federal subsidy program. These recipients are placed in the community-rated pool with small businesses and individuals. Guess who shoulders that expense? By cutting Medicaid, it does not disappear as an obligation for somebody to pay it. That is the great boondoggle that is contained in this Mitchell-Clinton bill.

Incidentally, we have never been able to achieve the cuts claimed. My guess is that we will never see the day when we do. So, either way, it is going to be the Federal Government who is the biggest imposer of health care cost shifting, whether or not we pass this bill.

The Government would pay the subsidies for these beneficiaries, and if the subsidies do not meet the costs, guess what? The insurance companies and, therefore, everybody else they insure, will end up paying the difference. According to Feldstein, this cost shift could end up costing $29 billion a year.

Increased premium costs for younger workers. Perhaps one of the nastiest, most unfair, egregious hidden taxes of them all. As Robert Samuelson starkly stated in the Los Angeles Times on the 10th of August, it is a "multibillion dollar tax on younger workers." It occurs because of community rating, which requires everyone to pay the same rate of insurance regardless of age. Guess why AARP is so willing to support the Clinton-Mitchell bill? According to a recent Washington Post article, young adults under the age of 35 will pay at least $40 billion a year more to subsidize the middle aged, which translates onto the young workers as a 7-percent payroll tax increase—right smack dab out of the people just starting in life, wanting to buy a home or an automobile, or get married. A Neil Howe and Bill Strauss editorial in the Washington Post, called "A Hidden Tax on Young People," is the source of that information.

For example, a 27-year-old male who currently pays an average premium of $788 would find himself paying $1,485 under a pure community rating. That is an 88-percent increase. So I ask my colleagues, yes, we care about the aged and women and children; but do we care nothing about the young workers coming along and their hopes and dreams for houses and other things, along with the fact that they are inherently healthier than we are?

The administration, in its 1995 budget, declared that future generations could face taxes that are upward of 82 percent of income—82 percent of income—if spiraling health care costs and other entitlements are not brought under control. Yet the Clinton-Mitchell bill places the burden of health care reform squarely on the backs of future generations, without doing anything for cost containment. So what they have done is simply looked the other way and promised people something that cannot be provided.

We should not and cannot burden the future of America with today's health care costs. It is the job of this generation to leave to future generations a standard of living that was better than the one that was left to us. And we are dead set on denying people responsibility, choice, and most of all opportunity, by enacting this Clinton-Mitchell bill. We should not be squandering a standard, passing off costs we are too scared to face because they have political ramifications.

The American people are being deceived into believing that this Clinton-Mitchell bill will provide them security at no cost—security at no cost.

There is just a wonderful scam in the papers this morning, Mr. President, about a bunch of people who bought wonderful travel opportunities at below costs, huge numbers of Americans seduced into buying something below costs. They got an extremely expensive lesson, but they did not get travel below costs.

That is what we are about in this process right here. We are about to give Americans an extremely expensive lesson that their Government cannot deliver to them something that costs them nothing, and we will do that by charging 83 percent of them more for their health insurance, every one of them more for their taxes. And for what? To create a $1 trillion-plus Government subsidized program that will transfer the wealth of others to 100 million Americans.

We do not need to be subsidizing 100 million Americans, Mr. President. What kind of a country is it that says that 100 million of us are dependent upon our Government? Surely, we can reduce that figure to those who are truly in need.

Under the Clinton-Mitchell plan, health care costs do not decline but increase, according to CBO, not the Senator from Wyoming. They do not decline, but they increase according to CBO.

Is that where we want to go in the name of health care reform?

The Senator from Maine claims that the cost containment is when health expenditures remain at projected 21 percent of GDP and a few more people are covered. Medicare will have been slashed, taxes increased by $300 billion. Yet health care costs continue to rise.

It was the very need for cost control that started this debate, Mr. President, and the plan in front of us does not even address the issue. The working middle class, which the Democratic leadership is so quick to tout will receive benefits, receive the least.

To end my statement where I began, the debate over health care is a debate on the role of Government in our lives and in America. Care must be taken not to squander liberty and freedom for the elusive promises of Government benefits, and that is what we are being asked to do.

We are being asked to give up things that we now take for granted, for a promise of security that the Government cannot deliver on.

There are certain periods in America's history when pivotal decisions are made regarding the role of Government and society. Those decisions have had direct and dramatic impact on lives of Americans and set the course of the Nation for decades to come.

Many of the problems we face today arise from decisions that were made during those periods. I believe we are at another of those crossroads today. If we embark on the course that President Clinton and Majority Leader MITCHELL set for us, we will vastly increase both the scope of and the power of the Federal Government and the ability to wield influence in each of our individual lives.

Make no mistake, this Government does not seek to serve, but to control. Americans are frightened of it. We will let it control us at our peril.

Mr. President, I conclude my remarks and I ask unanimous consent that certain articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post]

A HIDDEN TAX ON YOUNG PEOPLE

(By Neil Howe and Bill Strauss)

At the core of health insurance reform lies an enormous hidden tax on youth. It's called strict community rating. Politicians don't discuss it, the media don't cover it, but this multisyllabic catch-phrase threatens to move at least $40 billion a year out of the wallets of young adults (under age 35) and into the wallets of the middle-aged (age 45–64).

If strict community rating is enacted, you can ignore the talk about all the special "winners and losers" of health-care reform. The real issue will be generational. The big winners will be Clinton-aged Boomers now entering midlife; the big losers will be the young men and women now entering the labor force.

Community rating is a much-heralded reform that would prohibit insurers from charging different premiums for different individuals. In its "modified" form, it would simply ensure that no one can be charged higher premiums solely due to poor health or pre-existing conditions. This reform appeals to our sense of fairness and entails no systematic income transfer. But in its "stricter" form, it would require insurers to ignore all distinctions among individuals—including age—and charge a single community-wide fee.

The premiums an individual pays out of pocket or the health costs companies take out of a worker's compensation generally reflect this differential. After strict community rating is enacted, however, people of all ages will pay the same premium—probably, around $2,000 per year for a single person. Presto! The 25-year-old pays 100 percent more and becomes a $1,000 yearly loser. The 60-year-old pays 40 percent less and becomes a $1,500 yearly winner. For family heads, the gap will be even wider.

If applied to everyone, strict community rating would mandate a total income transfer of at least $40 billion yearly—flowing away from the 55 million adults under age 35 and enriching the 49 million pre-Medicare adults over age 45. This "reform" would be equivalent to a 7 percent tax on a typical young couple's combined wages. That would make it about as large as their personal FICA tax (through which the young are already subsidizing the health costs of seniors).

Such numbers are by no means hypothetical. Last year New York State instituted strict community rating for all small-group and individual insurers.

* * * * *

Though not all the plans before Congress agree on this measure, the general outlook for young people is bleak. The Clinton, Kennedy, Gibbons, and McDermott plans all prohibit any age-based variation in the premium or taxes payable for all insurance policies covered by their plans. Average price tag: $1,000 per young adult. The Chafee and Michel plans allow a little variation, but would still cost young workers about $700 each. The Moynihan plan would allow an age variation up to a multiplier of two, thereby extracting roughly half as much ($500) per young worker. The Rowland plan and the Dole plan (which allows premiums to vary up to a multiplier of four, close to the actual cost variation) are the only major proposals that would hold the young harmless.

Few national leaders have bothered to bring this massive youth tax to the public's attention. President Clinton has said that premium variations are unjust. If so, why for health insurance alone? Teenage boys pay four times more than their parents for auto insurance because they're four times as reckless on the road—and nobody says that's unjust. Some politicians argue that community rating, like Social Security, won't take anything from the young that they won't get back as they grow older. But this argument assumes that such young-to-old income transfers are forever sustainable (something most twentysomethings already don't believe about Social Security). It ignores the trillion-dollar lifetime windfall that community rating will bestow on Bommers (who incurred no corresponding cost when they were young). And it implies that most 60-year-olds are economically needier than most 25-year-olds (which is patently false).

Hillary Clinton has advanced the brassiest argument for picking the pockets of the young. One of the big problems with the current system, she says, is the health costs that millions of uninsured young people shift onto insured older workers. In reality, this effect is trivial, certainly when compared with the cost shifting by seniors with Medicare discounts. It cannot justify talking about community rating as an appropriate penalty for the irresponsibility of youth.

Given the political invisibility of today's young adults, strict community rating could well pass Congress. If so, brace for three consequences.

First, today's young generation will become even poorer than they are now in relation to the old. Already, according to the Census Bureau, the real median income of households headed by people under age 30 is 15 percent lower than it was when Boomers were their age two decades ago. With strict community rating, their purchasing power could fall by another 7 percent.

Second, the new health law could defeat its own primary goal: universal coverage. Since adults under age 35 are currently the least insured age group in America, this goal will only be achieved if young people start purchasing more insurance. Huge premium hikes will have exactly the opposite effect. (Over the past 15 months, the New York experiment in community rating has caused a 30 percent rise in policy cancellations by young males.) The only practical remedy to this problem would be to combine strict community rating with universal mandated coverage—which would seal young people into the system, force them to buy vastly overpriced insurance, and make them even more cynical about government than they already are.

The final and most spectacular consequence of strict community rating may be political. Right now, few young adults are paying attention to health care reform. But once community rating becomes law and young wallets are emptied, that will surely

VOL
140
PT
16
AG
12
—
18
1994
UMI

change. Come 1998, people born in the '60s and '70s will comprise America's largest generation of voters. Once mobilized, they will start deciding elections. That's when those who taxed the young to enrich the middle-aged could get run out of office by those who find themselves stuck with the bills.

Everyone knows our health-care system needs change. Costs must be controlled. Poor families must gain access to doctors. Insurers must be barred from discriminating against the sick. All this can be done without forcing all young workers to pay far more for health care (and all older workers far less) than what they actually consume.

[From the Los Angeles Times, Aug. 10, 1994]

RUBE GOLDBERG WON'T YOU PLEASE GO HOME; HEALTH REFORM: THE PATCHED TOGETHER BILLS WILL HAVE TERRIBLE SIDE EFFECTS, WITH YOUNGER PEOPLE PAYING THE HIGHEST PRICE

(By Robert J. Samuelson)

Among other things, the Democratic health-care plans contain a large—and unjustified—multibillion-dollar tax on younger workers. You wonder whether most members of Congress know this or even care. The whole health-care debate is now completely out of control. The desperate effort to craft something that can be advertised as "universal coverage" means that Congress literally no longer knows what it's doing. Anything resembling the Democrats' bills, if enacted, would produce tremendous unintended side effects.

Apparently, most Americans grasp this. In a Newsweek poll last week, respondents were asked whether Congress ought to "pass reform this year" or "start over next year." By a 2 to 1 margin, they said start over. They sense that the versions of health reform crafted by House and Senate leaders are hodgepodges of conflicting provisions whose only purpose is to win passage. But what is clear to ordinary Americans is denied in Washington. In the capital, the fiction is that legislators know what they're doing and are debating rational alternatives.

House Majority Leader Richard Gephardt's plan, for instance, would create a Medicare Part C program for the unemployed, workers in small companies and many existing Medicaid recipients. The Congressional Budget Office estimates that the program might enroll 90 million people. But the projection could easily err by millions in either direction. More important, Medicare Part C emphasizes "fee for service" medicine (patients selecting individual doctors), while the rest of the bill emphasizes "managed competition" (reliance on health maintenance organizations and similar plans).

The bill would separate the under-65 population into two groups, mainly based on income and size of employer. Each group would be crudely steered toward a different type of medicine. In practice, this division may not be politically acceptable or economically workable. Gephardt doesn't know; no one does.

Now, consider the tax on young workers. It arises from "community rating." As people age, their health costs and insurance premiums rise. But community rating requires that everyone pay the same rate. This provision is included in the House bill and, in a modified version, in the Senate bill. The effect would be to raise insurance for younger workers (say, those below 45). If employers have to pay higher insurance, they will pay lower salaries. The invisible tax on young workers might total $25 billion annually.

Questions swirl around both Gephardt's plan and Senate majority leader George Mitchell's. It is hard even to describe Mitchell's plan. He says it's voluntary and lacks a "mandate." Wrong. True, it doesn't mandate companies to buy insurance for workers. But it does mandate a standard benefits package for firms—the vast majority—that offer insurance. Because the mandated benefits are above average, this would probably raise health spending. Companies below the new standard would increase benefits; those above would have trouble lowering them.

Next, Mitchell hopes to achieve 95 percent insurance coverage by offering subsidies for low-income workers to buy it. But there's a "fail-safe" mechanism to limit subsidies if the budget costs exceed projected costs. However, if 95 percent coverage doesn't occur by 2000, Congress could require employers to pay 50 percent of their workers' insurance. But this would apply only to firms with more than 25 workers. Got it? No one knows whether this would reach 95 percent coverage.

These plans are confusing because the health debate evaded the basic tension between expanding health services (universal coverage, etc.) and controlling health spending. It's hard to do both at the same time. The plans' complexities—as with the original Clinton plan—aim to disguise this conflict. Republicans haven't been especially constructive in this debate, because they haven't faced up to it either. But they are now correct that a bad bill would be worse than none.

Chaos is now the most important reality about the health-care debate. Dozens of provisions in these bills would have huge unappreciated consequences. John Sheils of Lewin-VHI, a health consulting firm, says premiums for small businesses in the Mitchell bill could be 25 percent higher than for big companies. The budget office puts the gap lower. Who's right? Do most members of Congress understand the gap? Probably not. Still, the pretense is that Congress is making conscious choices.

The pretense is sustained because in Washington politics is sport. All attention fixes on who wins and loses—and the deals that enliven the game. Rhetorical blasts are taken for reality; political reporters know little of how legislation would work and care less. This often leads to bad laws, and in health care, the potential for blunders is huge because Congress is tinkering with one-seventh of the economy and most aspects of medicine.

In May, Robert Reischauer, head of the budget office, warned that trying to find a compromise by combining provisions from different bills might make the health system worse. He compared it to building an auto engine with incompatible parts: "You can't say I want a piston from Ford, a fuel pump from Toyota . . . and expect the engine to run." Well, that's what's happened. The contraption is part car, part tractor and part rollerblades. Most Americans seem to understand this. Will Congress?

[From the Washington Post, Aug. 9, 1994]

A HIDDEN $100 BILLION TAX INCREASE

(By Martin Feldstein)

President Clinton is increasing the pressure on Congress to enact a massive and irreversible entitlement program to subsidize health insurance and redistribute income. The tax cost for this largest-ever welfare expansion would top $100 billion a year at today's prices. That's equivalent to raising personal taxes across the board by nearly 20 percent.

Amazingly, the Senate Democratic leadership has managed to conceal this massive tax increase from the public. The legislative wrangling and public discussion have virtually ignored the cost of financing this spending explosion. Members of the business community have been so eager to avoid employer mandates that they have not considered the tax consequences of the pending legislation. And members of the general public have been so concerned about preserving their ability to choose their own doctors that they have not focused on what these plans would mean for their individual wallets.

CBO ANALYSIS

Although the Democrats have yet to agree among themselves on the details of the final plan, it is likely to be closely related to the Senate Finance Committee bill. (The recent proposal by Senate Majority Leader George Mitchell that President Clinton said he would accept is essentially an expanded version of the committee's plan.) To understand the magnitude of the potential tax hike that would be required to finance such a plan, it's useful to look at the Senate Finance Committee bill and the recent analysis of it by the Congressional Budget Office

Under the Senate Finance Committee plan, the government would pay the full cost of a standard private insurance premium for anyone below the poverty level and would provide a partial premium subsidy that declines with income between the poverty level and twice that income. The insurance premium would vary with family composition but would average about $2,000 per person. A single parent and child would receive a subsidy with income below $20,500, while a couple with three children would receive a subsidy with income up to $37,700.

More than 60 million individuals would be eligible for subsidies in addition to the 60 million already covered by Medicaid and Medicare. The Senate Finance Committee plan would raise insurance coverage by about 21 million individuals, bringing total coverage to 93 percent of the American population.

The budget analysis prepared by the CBO never states its estimate of the total additional cost that taxpayers would have to bear to finance the new insurance subsidies. But the CBO figures do imply that the public would be paying about $63 billion a year (at 1994 prices) by the year 2000 when the plan is fully operational, and estimates that I have made with the help of colleagues at the National Bureau of Economic Research indicate that the CBO figure understates the true cost by about $40 billion a year.

Most of the $63 billion tax burden implied by the CBO numbers is hidden in cost-shifting through insurance companies and providers of health services. Only a relatively small part of the financing plan is an explicit increase in the tax on tobacco products. A second small piece is a 1.75% excise tax on private health insurance premiums. Although this tax of $7 billion a year (at 1994 levels) would be paid by the insurance companies, they would pass it on in the form of higher premiums.

These higher premiums would be a direct tax on individuals who buy their own insurance. Companies would offset the higher premiums on the insurance that they provide to their employees by keeping wages lower than they would otherwise be. The true burden of the premium tax would therefore fall on everyone who is now privately insured.

The largest part of the financing is a hidden tax that is built into the plan to replace the current Medicaid program for the poor by subsidized private insurance. Medicaid provides much more generous benefits than the proposed standard insurance package, since Medicaid covers a broader range of services and has no out-of-pocket copayments. Although the government would pay the insurance companies the same subsidies for former Medicaid beneficiaries as it pays for everyone else, the proposed law would require the insurance companies to provide those who are currently eligible for Medicaid with the much more expensive coverage that they have today.

That complex maneuver would save the government about $29 billion a year on the current Medicaid program and would add that amount to the annual costs of the insurance companies. The insurance firms would in turn shift it to everyone who is privately insured in the same way they would shift the explicit premium tax.

A second very large hidden tax would result from reducing government payments to hospitals and other providers of Medicare services without any reduction in the care that they are expected to give. As a result, the hospitals and other providers would just raise their prices to patients and insurance companies. In the end, it would be the privately insured individuals who bear those costs in the form of higher insurance premiums and lower wages. At 1994 levels, this cost-shifting burden is equivalent to at least a $13 billion annual tax.

In short, buried in the CBO numbers is a projection that the Senate Finance Committee plan would have a $63 billion annual cost (at 1994 price levels) and that all but what the CBO estimates to be $14 billion in cigarette levies would be obtained by hidden taxes in the form of cost-shifting through health care providers and insurance companies.

It's remarkable that the same politicians who have produced this $49 billion in hidden cost-shifting have the audacity to say that the public should support their plan in order to eliminate the much more limited cost-shifting that occurs under the existing system as hospitals pass on the cost of free care. Indeed, to the extent that hospitals are already giving free care, the increase in formal insurance coverage gives that much less to the currently uninsured and confirms that most of the plan's cost is to achieve income redistribution, not expanded health insurance.

The CBO report is careful to note that its estimates are "preliminary" and "unavoidably uncertain," and fully half of the report is devoted to discussing why there is "a substantial chance that the changes required by this proposal—and by other systemic reform proposals—could not be achieved as assumed."

My own analysis confirms that the CBO's caution is justified and that the CBO estimates understate the likely annual cost by at least $40 billion that would eventually have to be financed by higher taxes. A key reason is that there is no way to limit the premium subsidies to those who are currently uninsured. Those who are now buying their own insurance would automatically receive the government subsidy. Those who now receive insurance from their employers could qualify for an insurance subsidy by switching to an employment situation that paid higher cash wages instead of providing health benefits.

That subsidy would be worth a very significant $2,000 for a single mother with a child who earns $15,000; if she earns $10,000, the subsidy would be worth more that $4,000. It wouldn't take long for employers and employees to recognize that some combination of new pay arrangements, explicit outsourcing of some work, and individual job changes would be handsomely rewarded by the government.

There are now more than 30 million individuals who could qualify for a subsidy. The CBO estimate recognizes that the roughly six million of them who now buy their own insurance would receive government subsidies. But when it comes to those who are already insured by their employers, the CBO assumes that only about one-fifth of the income-eligible group would eventually choose to qualify for the subsidy, leaving $27 billion of potential subsidies (at 1994 levels) on the table. It seems totally implausible to me that employees and employers would permanently pass up subsidies of $1,000-plus per person that they could get by relatively easy changes in employment arrangements. When they do choose to qualify, taxpayers would have to pay an additional $27 billion to finance the plan.

The CBO calculation also ignores the effect of the subsidy phase-out between poverty and twice poverty on the incentives to work and to report earnings. The phase-out rule that gives a woman with a child $4,660 of subsidy when she earns $10,250 and then takes away more than 40 cents of subsidy for every extra dollar that she earns is a powerful incentive to work less and to shift work to the underground economy.

The CBO's report acknowledges that "the effective marginal levy on labor compensation could increase by as much as 30 to 45 percentage points for workers in families eligible for low-income subsidies" so that "some low-wage workers would keep as little as 10 cents of every additional dollar earned." But then, quite incredibly, the CBO calculations do not take into account that this would reduce reported earnings, thereby cutting income and payroll tax receipts and raising the health insurance subsidies for which individuals are eligible. Estimates made at the NBER indicate that these reactions would reduce taxes and increase subsidies by a combined total of at least $17 billion a year.

This estimate makes no allowance for the impact of increased demand on health care costs in general. Extending insurance to at least 20 million people who are currently uninsured and giving private insurance to the more than 25 million nonaged Medicaid beneficiaries would inevitably raise the demand for health services and increase health care prices. But even without that, the analysis that I have laid out shows that the Senate Finance Committee bill would cost the American public more than $100 billion a year at today's prices. The Clinton-Mitchell plan for even broader coverage would cost even more.

INCOME REDISTRIBUTION

A cost of $100 billion-plus a year to increase the number of insured by 20 million means a cost to the taxpayers of more than $5,000 for each additional person insured—a cost of $20,000 for a family of four. Since the actual insurance premiums are $2,000 per person, it's clear that most of the tax dollars in these plans are for income redistribution rather than the expansion of insurance coverage.

The most fundamental social program in a generation should not be enacted without full and careful consideration of its costs. Once enacted, the benefits would be an irrevocable entitlement for nearly 100 million people.

The ability of the politicians to hide a $100 billion-plus tax increase is both amazing and frightening. Using mandates on insurance companies or mandates on all businesses as substitutes for direct taxes destroys the budget process and provides a ready way for politicians to deceive the voters. The politics of tax and spend has entered a new era when politicians can spend $100 billion a year and hide the taxes that we pay for those outlays.

If President Clinton and his congressional allies succeed in ramming this legislation through Congress in the weeks ahead, the American people will have lost not just $100 billion a year. We will also have lost our ability to check the excesses of the political process and to unmask the chicanery of the politicians.

It political leaders want to deceive the voters, the only safeguard is a democracy in which long and careful public debate and congressional hearings can expose such deception. Although Congress has held hearings on the now defunct Clinton plan and on the broad issues of health care, there has been no serious consideration of the cost and financing of the plans that have recently emerged. The American public deserves a chance to know what we are being asked to pay and what we will get for our money. We should be suspicious of any politician who says there isn't time for such a careful examination.

[From the Wall Street Journal, Feb. 1, 1994]

GERMANY IS NOT A MODEL

(By Wilfried Prewo)

"We have a lot we can learn from the Germans," President Clinton said recently, trying to sell his health care plan. "The Germans are able to provide a very high-quality health care system at a much lower cost than we are, because they have much more discipline in the way it's organized and financed." In an address to the National Governors Association yesterday, German Chancellor Helmut Kohl said that in the "run-up" to America's health care reform, "there was an intense exchange of opinions between American and German experts.

On the surface, the German system does indeed look good: It insures society comprehensively and gives individuals quality coverage that is permanent and portable from job to job. Germany spends about 10.6% of its gross domestic product on health, as opposed to about 14% spent in the U.S.

But simple comparisons are misleading. Germany and the U.S. differ greatly in aspects not controlled by doctors and hospitals, such as crime-related injuries, malpractice insurance and nursing care for the elderly. It is worth noting, too, that the costs of Germany's plan have risen by a sharp 23%, after inflation, over the past three years. It pays to take a good look at the German system before prescribing it in the U.S.

STRIKING SIMILARITIES

The similarities between the Clinton plan and the German systems are striking. The president wants universal coverage; Germany has nearly achieved that. German law mandates that everyone enroll in the health insurance system, with the important exception of higher income earners making more than $3,300 a month. The opt-out income level is set relatively high so that about 14% of Germans must join. Another 14% voluntarily join or stay in the statutory health system although their income has risen beyond the cutoff. About 10% (high-income employees, self-employed) have private insurance, and fewer than 1% have no insurance.

VOL
140
PT
16
AG
12
—
18
1994
UMI

Regional health alliances, a big Clinton idea, are the cornerstone of the German system. Companies with more than 1,000 employees (5,000 in the Clinton plan) have the option of forming a corporate alliance. These roughly 1,000 regional or other alliances are the monopoly buyers of medical services for the 88% of Germans who belong to the statutory system.

The Clinton team wants a system that guarantees identical benefit standards for all alliances; the American debate over coverage for mammograms and prostate cancer tests already gives a whiff of how controversial the contents of this list will be. In Germany, which already has such unified standards, the contents of the list are so important they can affect elections: coverage of abortions, for example, will play a role in elections this year. The net result, Germany shows, is that the list simply grows over the years.

Germans pay for their plan through what is essentially a payroll tax, just as the president would have Americans do. Employers and employees in Germany each pay half of the tax [rather than the 80%-20% split proposed in the Clinton plan]. The tax rate differs among the alliances, ranging from 8% to 16.8% of payroll (aggregate of employer and employee share), with an average of 13.4%. Yet Germany's program gives us clear evidence of the degree to which this system lends itself to abuse. Once their tax is paid, Germans graze themselves to obesity on medical services. The Clinton plan has the same bias toward excessive individual use of medical services—at the expense of all members of an alliance.

The German system's major fault is that it doesn't put people first, in the sense of building on individual responsibility and control through effective copayments and other incentives to save. It is interesting that corporate alliances, organized by companies that have an interest in holding their own 50% share down, typically have premiums far below the average regional alliance.

The Clinton plan's critics believe that this system also strengthens bureaucracy. The German plan proves them correct. While the alliances were originally devised as nongovernmental health plan purchasing cooperatives, they have degenerated into de facto government agencies. Some 112,000 employees in western Germany alone work for alliances, their administrative costs per member having risen by 53.3%, adjusted for inflation, from 1982 to 1992. This is more than the increase in the alliances' total health costs, revealing that the disease of bureaucracy is the real problem.

The Clinton plan's critics also fear that it will quickly become a single-payer system. In effect, Germany's has already become one, financed by the payroll tax (for the 88% in the statutory system). Patients do not see a doctor's bill. Thus, they have no way of realizing whether the charge for a service has been particularly expensive, or even whether the service has actually been rendered. The doctor sends his bill to his regional association of physicians as the financial clearing house and counterpart of the patient's alliance.

Hidden taxes, a flaw in the Clinton plan, are already part of the German plan. Because the average German carries only 50% of his health care costs directly, he is aware of only his 50%, and increases may not bother him too much. But the 50% the employer carries is reflected in overall labor costs that make Germany the second-most-expensive country in the world to employ people (after Switzerland), and one with higher unemployment than the U.S. Under the planned 80% employer costsharing in the Clinton plan, this labor-depressive effect would even be more pronounced in the U.S.

Cost-sharing and lack of incentives to save form a potent drug driving health costs up. Unobserved, hidden taxes grow. The German payroll tax rose from an average of 6% in 1950 to 8.4% in 1960 and 11.0% in 1980, before reaching its current 13.4%.

Financially, the German plan is also no model. For 20 years, it has vacilated between financial distress and collapse, and the government has intruded with evertighter regulations. Since 1977 alone, there have been nine federal laws trying to curb costs. German measures to control costs foreshadow the results of the Clinton plan: price controls and control of supply.

Last year, physicians, dentists and prescription drugs were each, as a group, subjected to narrow budget caps, and tight regional quotas now limit the number of doctors allowed to practice under the system. The physician associations have to police their members with respect to "excessive," above-average services. More cost-effective—particularly corporate—alliances now have to cross-subsidize high-cost alliances, thus rewarding inefficiency in the name of solidarity. Prudent insured people and prudent doctors are still not rewarded for cost savings in the form of lower premiums or bonuses. Needless to say, all reform attempts have missed their targets.

Although only 10% of Germans are covered by private insurance, it offers some obvious lessons for everyone. First, payroll taxes in the statutory system are 25% higher than private premiums, since private insurers compete vigorously. Their benefits are better, and the administrative cost per insured person is only half. Second, the private alternative forces the statutory system to improve, within limits, since otherwise its voluntary members would opt out for private insurance. This beneficial effect is indirectly evidenced by the larger inefficiencies in countries that force everybody into a statutory system.

Maybe the Clinton team looked at various statutory systems and concluded that Germany's looked best. The one-eyed is king among the blind. But why does the president want to emulate the 90% of the German system that is failing instead of the 10% that is effective?

WRONG ABOUT COSTS

Perhaps the most interesting revelation from the German plan, though, is that it shows how unrealistic Mr. Clinton's is. In the U.S., the maximum premium to an alliance will be about 10% of payroll. This is supposed to pay for health costs that now amount to 14% of GDP, set to rise to 17.3% in the year 2000 under the Clinton plan's reform projections (18.9% otherwise).

If a 13.4% payroll tax in Germany is needed to finance 10.6% of GDP, it is hard to conceive how, in the U.S., a much smaller payroll tax of 10% can finance U.S. health care costs at a much larger share of 14% to 17% of GDP. The missing gap is too large to be filled by the designated subsidies and sin taxes. If you want to copy pages out of the German social policy book, have your checkbook handy.

Mr. WALLOP. I thank the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, before the Senator necessarily leaves the floor, may I tell him how much I have enjoyed his critique. It is a careful and analytic tradition that deserves to have a place in this body, and it has been very ably filled for 18 years now by the Senator from Wyoming.

Could I make just one comment about the point he makes of the 1.75-percent tax on health care premiums for academic health centers and research? This originates in the Finance Committee, as he knows, and knows well—he is a very distinguished member—and it comes about in one of those ironies of progress.

I cannot doubt that the Senator has followed the works of Joseph Schumpeter over the years and his particular notion of creative destruction of capitalism, that as advances are made existing institutions find themselves bypassed and indeed often destroyed.

One of the things we learned, and as we learned this, it took a while for it to sink in on the chairman. I must say that, because the health maintenance organizations are making such progress, because cost containment is becoming a large managerial function in the United States—cost containment and health care, an activity that probably did not exist 20 years ago but now firms traded on the stock exchange do this, and they do it and they perform and they are rewarded in relation to their performance and very conscious of cost.

This has made them reluctant to send patients to hospitals associated with medical schools. Academic health centers is the term we use. There are States in the Nation which we associate with being advanced as regards coverage in health care, and whose universities are world renowned, whose medical schools may close because of this new situation.

The cost containment is good, but it will not last long if those medical schools close and the people who bring about the new technologies and the extraordinary advances in medicine are not trained.

We had—I hope my memory serves correctly—the director of the hospital for the University of California in Los Angeles, Dr. Shultz, who said their occupancy ratio now is about 45 percent. There is a spot market in southern California for bone marrow transplants, and a vast university is half empty.

It is in response to this that we felt that there has to be, there needs to be, and a case can be made for, providing a trust fund with a steady stream of income to our academic health centers so that we shall have coming out of them a steady stream of doctors, nurses, and research scientists that has made this moment the greatest moment of discovery in the history of medicine. It is this moment, and it is taking place in this country and in those institutions.

I want to make that point.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to. I yield the floor.

Mr. WALLOP. I do not quarrel with the goal of the Senator from New York. I do quarrel with Government's role. I made three points earlier. One is that it doubles the money now being spent by the Government, and still $10.8 billion is not accounted for. That is being tossed off into just general revenues, I guess.

Mr. MOYNIHAN. That is where we are going to have that one in Casper.

Mr. WALLOP. In Casper? I am brought on.

But there is another problem. First of all, Government may be better at this—and I will accede that to the Senator—than it is in many things that it contributes money to. But it is a long way from perfect, and the problem is that it says to the great private contributors of this country: "Forget it, boys. Government's role is to do that now. We are out."

I have said more than once that the more secular this country becomes, the more we pray to Government to do that for which we used to pray for our Maker to do or to provide. What happens is that as we have increased welfare programs and everything else, the private community conscience has diminished co-equally. We spend less in taking care of the disadvantaged in our little homes and houses and communities than we did, because it is Government's job.

I just do not think it is wise at this moment in time to tax every American 1.75 percent to take care of teaching hospitals. I do not quarrel with even keeping where we are at the present level, although we seem to be doing that without a premium tax. But it strikes me that the worst thing we are doing is saying, OK, you do not have to worry anymore, Government will. Government picks up all the worries that are there. Therein becomes the kind of losses that I think are inherent in a system—too much and too corrupt.

So it is a difference of opinion as to what Government's role is. It is certainly not a difference of opinion on the goal.

Mr. MOYNIHAN. No.

The PRESIDENT pro tempore. The Senator yields. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, may I again thank the Senator from Wyoming for his balance and courtesy and clarity in these matters.

My purpose was not to dispute that he has a case. I do not know but if we quantified charitable giving, I think we would find it goes up. I think we would find it is more a function of total resources than individual sense of obligation.

ADDITIONAL REMARKS BY SENATOR WALLOP

Mr. WALLOP. I would like to clarify for the RECORD that the figures quoted from the Joint Committee on Taxation distributional charts were misinterpreted. Instead of individual numbers, they are aggregate numbers. I hope to have individual numbers available in the next few days that should clarify the amount.

As I noted, however, with respect to the 1.75-percent premium tax, taxpayers with incomes of $50,000 or under will pay 54 percent of the net tax increase, while taxpayers with incomes of $75,000 or less will pay 79 percent of the increase. Regarding the four taxes mentioned, the Joint Committee's distributional charts show that taxpayers with incomes of $50,000 or less will pay 60 percent of the net tax increase, and taxpayers with incomes of $75,000 or less will pay 78 percent of the new taxes. Hefty sums, in either case.

But leaving that aside, I just want to draw attention to something which is in our report I have here, "The State of America's Health Care System and Health Care Crisis." I am going to make a bet that one crisis you will not read about is the crisis of the financial viability of the teaching hospitals and the medical schools. It has come about right suddenly, unexpectedly, and it is important. And as long as we know about it, I think we will, in the end, make some useful efforts to deal with it.

Mr. President, I yield the floor. I see a number of my colleagues have been waiting. The Senator from Washington has been patiently waiting to address the Senate for some time now.

The PRESIDENT pro tempore. The Senator from Washington, Senator MURRAY.

Mrs. MURRAY. Mr. President, I have listened very carefully and I have waited patiently as we have debated the health care reform bill. I know the majority leader laid down this bill 2 weeks ago, that we have had 6 long days of debate, and I know that the Dodd amendment has been on this floor for 4 days.

I came to the Senate a year and a half ago and I was eager and anxious to get to the heart of the problems that many of the families that I talked to throughout my campaign told me about, and health care was at the top of their list. I am frustrated today that, despite having this bill on the floor for 2 weeks, not one amendment has been voted on on this floor.

I have heard many of my colleagues state that they disagree with parts of the Mitchell bill. That is part of the political process. I have heard their criticisms of cost containment or benefits packages or new programs, and that is their right. But it was my understanding that when someone disagreed with a part of a bill on the floor, that they had the alternative to propose an amendment and it was up to us to look at that, debate that amendment, and agree or disagree—vote amendments up or down and ultimately come to a final bill that we would either pass or not pass, depending on what was in it.

But so far, we have not gotten there. For 4 days, the Dodd amendment that would provide benefits for pregnant women and children has been on this floor. And this delay has not been without cost. In the 4 days that this amendment has been on the floor, 2,544 babies were born to mothers who received late or no prenatal health care. I urge my colleagues to get on with this debate.

Even more troubling to me as I have listened to many of the speeches over the last 6 days is the people who say, "Just say no." I think it is time we remember why we got to this health care debate and why it is a critical topic in this country. There has been an increasing number of hard-working families in this Nation who cannot afford health care in today's world. It is not provided by their employer, they have been opted out because of preexisting conditions, they have changed jobs, they have moved, and they have found themselves in a position where they cannot purchase health care.

They call up an insurance agent and he says to them, "No, sorry; you are out of luck." Under the Mitchell plan, we seek to reduce that risk for families so if a preexisting condition exists, you can still purchase health care. Under the Mitchell plan, there will be subsidies for families who do not have the means to go out and purchase health care. These are important steps in the right direction that this Nation needs to get on with.

We are here in this debate today because of the increasing cost to everyday families out in the real world. As they get their health care insurance bills—and these are people who have insurance today—they see that their deductions have skyrocketed, their copayments have risen, their premiums have gone up, and their benefits have been reduced. And there is no security that that is not going to change when they get their next bill. The Mitchell bill seeks to provide some security and assurance to those people who have health care insurance today, and it is time to take that step.

We are here in this debate because of the increasing cost health care is to our entire system, to families, to businesses, to government. As a former State senator, I know we were unable to provide more teachers for our classrooms and policemen for our streets because an increasing part of our State budget was going to health care costs. None of the plans are perfect but certainly it is time to take a step in the right direction.

What has troubled me the most throughout this debate is the statements I hear that, "Well, only 15 percent of the American people do not have health care, so let's not mess it up for the 85 percent."

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. President, we have a responsibility to assure that those 15 percent of Americans have health care insurance. But we also have a responsibility to those 85 percent who have insurance today, to provide them security. And that is what the Mitchell bill seeks to do.

I hear statements if health care reform, any health care reform passes, we will have long, long waits. We do not now? Ask any parent who sat in an emergency room on a Friday night, like I did recently with a daughter who sprained her ankle in a Friday night soccer game. We sat there for 6 hours. Those are not long waits today, under the current system?

I looked around that health care emergency room as we sat there. I would urge all of my colleagues to go sit in an emergency room and watch what comes in the door. I saw young mothers with young children who were there because their child had a cold. I saw others who were there with general health care problems who should have been seeing a physician in the doctor's office during the day. But I talked to a few of them and they were there in the emergency room because they did not have health care coverage. This bill will eliminate some of those long lines in our emergency rooms, and it will save money at the same time. It may not be perfect, but it is a step in the right direction.

What is most troubling to me are some of the statements that I have heard about how bad government is, "Government has taken over everything; isn't that awful?" Mr. President, I am very afraid for this country if we continue to denigrate government as we have heard over and over again. If the people of this country do not make the decisions for ourselves through a representative democracy, let us ask who will make the decisions? Large corporations? The insurance companies? The wealthy? It is time for us to be a part of that representative democracy and forge a bill together that assures all Americans have access to health care reform. That is the kind of democracy I believe in. That is the kind of government I believe in. And I believe that is what this debate is all about.

And, bureaucracy—what a word. It is intimidating, it is frightening, it is scary. But I submit, one man's bureaucracy is another woman's assurance of quality health care in this country.

I hear the word "bureaucracy" thrown out and I look in this bill to what we are referring to. And perhaps we are talking about the long-term health care provisions in this bill that provide grants to States, matching grants, so that they can put in place long-term health care for our elderly citizens, so that instead of having to go to a nursing home as they get older or become sick, they can stay in their homes and have the kind of care that will provide them the dignity that they deserve.

Mr. President, I believe it is time to remember the American people. I came here to bring change, and change means we listen to the American people. Maybe change is not comfortable for everybody, but it does mean renewed hope for thousands and thousands of American citizens. And we should take some risks and put a program out there to provide hope for thousands of Americans today.

People are tired of waiting because the current system does not work for too many of us. Like many of my colleagues, I have received hundreds and hundreds of letters over the last years about the health care crisis, and I want to share a few of those with you.

I have one from Kent, WA, a young mother who says:

> A year and a half ago, just as most people in our Nation were beginning to look closely at the issues of national health care, our family plunged head first into our own health care crisis and was forced to meet many of those questions head on.
>
> At that time, our daughter, Tara, who was 8 months old, was diagnosed with severe combined immunodeficiency disease, which is a rare genetic disorder.

She describes in her long letter the painful decisions that she had to make. She talks about preexisting condition; the fact that her daughter, 8 months old, will never be able to change policies in this country because she now has a preexisting condition. And she says they will not be able to move or change our jobs because of what has occurred in our lives. She talks about the fact that she had to fight with her health care insurance company to get coverage for her child. If that is not bureaucracy, what is?

She says:

> No parent or patient should be forced to argue these kinds of issues, especially in the middle of a crisis.

But instead of caring for her daughter, she found too often that she was having to fight with her insurance company, and that is a sad note in this country.

There is much in the Mitchell bill that we agree with or disagree with. But, Mr. President, I submit to all of my colleagues, it is time to move on. It is time to get to the amendment process, and it is time to make a difference for thousands and thousands of Americans in this country.

It is time to get on with this long-winded debate, Mr. President, because, frankly, it has become more painful than my last 6-hour wait in the emergency room.

I thank my colleagues.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Ohio [Mr. GLENN].

Mr. GLENN. Mr. President, I rise to comment on the Dodd amendment and also on the Mitchell proposal on health care reform.

I am pleased to have this opportunity to speak in support of the amendment offered by our colleague, Senator DODD, which would increase health care for our Nation's children and, at the same time, help curb unnecessary health spending.

Our distinguished colleague from Washington talked about being in a hospital waiting room. I do not know how many of you may have visited a children's hospital recently. But if you have, you have seen the underweight babies, the preemies, those with birth defects, those who are starting out in their first days of life with one strike against them, those at risk, those for whom enormous expenditures will be incurred and could have been prevented with a little better health care.

Talk to some of the parents who are there with terror in their hearts at seeing some of these problems with their newborn, with whom they looked forward to sharing a new life. They literally have terror in their hearts because they know the problems that lie ahead, and we know that many of those situations could have been prevented.

The amendment we are considering improves upon Senator MITCHELL's health care reform bill by accelerating the date on which insurance companies would be required to include preventive services for pregnant women and children in insurance policies.

This is not something new. This is not some untried, fictional-type proposal. It is used now in 16 different States and the District of Columbia. This is something that I think could well be supported on both sides of the aisle. I note in the list, the State of Kansas has had a provision like this in its own law since 1978; Louisiana, 1992; Wisconsin, 1975.

So this is something that has been tried. It is already mandated in insurance packages in those States, they are provided in plans offered through the Federal Employees Health Benefits Program also.

One of the basic reasons they are provided is very simple: They are cost effective. By providing low-cost prenatal care and well-baby care and immunizations, we can avoid the human suffering and the high cost associated with low-birth-weight babies and children whose illnesses become more severe and ultimately more costly when they are left undiagnosed and untreated.

An important goal of our health care reform debate is to ensure that all Americans have private health insurance which emphasizes primary and preventive care. By providing these services to pregnant women and young children, we can reduce our intolerably high infant mortality rate and ensure a healthy start for all of our children.

Mr. President, we have in this country the finest health care in the world.

We have the finest health research in the world. We have the finest pharmaceutical companies in the world. Yet, our infant mortality rate ranks 22d among nations of the world. There is a great disconnect here. We have the best of everything except it does not get to everybody. It is not distributed, so it is never used in those particular cases. All this amendment does is say that those in the first stage of life will get a shake at the best health care and the best preventive health care that we can offer.

Twenty-second in infant mortality, let me repeat that again. We should be absolutely ashamed of that. We are the greatest, the richest, the strongest economic nation in this world, and yet we are 22d in infant mortality.

Along with the reforms in the Dodd amendment, we need to work to ensure that all Americans are able to purchase private health insurance. I believe Senator MITCHELL's bill would make this possible by making insurance more affordable and providing subsidies to help low-income individuals and employers purchase insurance.

So I urge my colleagues to complete debate on the Dodd amendment. Let us adopt it and move on to other important amendments to Senator MITCHELL's health care reform proposal. I think the time to act is now.

Let me back this up with some other statements. What is the price of delay? The Senator from Washington touched on a couple of these items. I would like to give a couple more.

Just during the time the Senate has been considering the children-first amendment, as it is called, children across this country have continued to suffer. Just in the 4 days the Senate has considered this pending amendment, it is estimated that 2,544 babies were born to mothers who received late or no prenatal health care, and 3,204 babies were born at low birth weight. That means less than 5.5 pounds.

Two hundred twenty-four babies died before they were a month old and 440 babies died before they were a year old. That is just in the last 4 days.

Prevention does pay off. It is estimated that for every $1 spent on prenatal care, it saves $3.38 on the care of low-birth-weight infants. Every time a low-birth-weight delivery is prevented, it saves between $20,000 and $50,000 in costs, and every time a very low-birth-weight delivery is prevented, it saves approximately $150,000 or more on neonatal intensive care costs. Routine preventive checkups can avoid hospitalizations that may cost as much as $600 a day.

So, Mr. President, I urge my colleagues to complete debate on the Dodd amendment. Let us pass it and let us move on to the other important amendments. The time to act truly is now.

Mr. President, I would like to continue by making some general remarks not just on the amendment of Senator DODD but on the proposals by Senator MITCHELL.

I guess we all have our views formed to a large extent by our own personal experiences, our background. We have many examples of this. We have heard time after time on the Senate floor in the last few days from people who get up and say something about their own personal family experience or their own personal experience of having cancer themselves of one kind or another and how they had to deal with it. So I guess we are all a product, at least in part, of our past experience. I can go back to my own days as a younger person in New Concord, OH. I knew a couple there. This was back in the early 1960's, I might add, just before the Medicare came into being.

Of the couple I knew, the husband ran a plumbing shop in New Concord, OH, and worked very hard. His wife took care of the plumbing shop while he was out working. They saved a very modest amount for retirement, retired, and 2 years later one of them came down with cancer. That man and his wife saw all their lifetime savings go in the first 2 years. A lifetime of hard work that went down the tubes.

Well, I put this in the third person, but it is not really a third-person story because that couple was my father and mother. So we take some of these things very personally and they affect our views for the rest of our lifetime, and I have thought ever since that time that we can do so much better in sharing some of these dangers together.

Now, granted, we have Medicare and that protects some of the people in their senior years, but how about people who have not quite reached their senior years yet? How about people that cannot afford insurance? I cannot imagine a more horrible feeling than having a child or a father or a mother and seeing that person in need of medical attention and not being able to get it. Knowing that health care is down the street but not being able to afford it, or seeing a child or a family member suffer and maybe die because of not being able to afford it. I cannot imagine anything much worse than that.

So we see these personal experiences, and do they affect our views on health insurance? Yes, they certainly do. They affect mine because I have believed ever since those days we could do better than we are doing with regard to health insurance.

Why do we need reform? Some say we do not need it or we need as little change as possible; we have the best system in the world; we have the best research in the world; we have NIH; we have the best medical schools in the world; we have the finest drug and pharmaceutical companies; they are doing research; they are providing medicines. We must do no harm to a system that is the finest medical care system in the world.

Then we have to look into it a little bit, and what is going on with the coverage that we have for this finest medical care system in the world. Well, 218 million Americans do have health insurance. That is fine. Some are not adequately covered but they have a policy. They have something. We have 37 million Americans who do not have health insurance. They are the havenots or they are between jobs or they are locked in. They have a preexisting condition and cannot get insured, or they have all the reasons why they do not have insurance.

Well, if we look at that overall ratio, maybe that is not so bad for a country like ours, 218 million Americans have insurance, 37 million Americans do not. But I submit that is not very good compared with our industrial competitors around the world. Do you know how long the Germans have had full coverage health insurance? It is 110 years—into the last century; Japan, since 1920; France, since 1928. These are basically government plans, single payer. I am not proposing that we go to that. Our system did not develop that way. We did not develop that kind of a system in this country. We developed along an insurance route. We developed an independent insurance industry to do some of these things.

So when we say the Germans have had their plan since the last century, Japan since 1920, and France since 1928, so what? We do not have to follow them, that is true, no matter what their basis is. We have developed our own system in this country, and it has been a good system. It has worked pretty well up to now.

Up to now. This is the important point. We are truly at a crisis stage, and that is not something that is manufactured by those who are promoting health reform. The problem is that costs are escalating, and for those 218 million Americans who have policies, they are not going to cover their family adequately into the future.

That is what is really driving this. It is not necessarily the concern that we all have for the 37 million Americans who have no insurance. It is the 218 million Americans who write in and say, "I just looked at my policy, and it does not cover my family anymore. What am I going to do about this?" Costs are going up. The 37 million Americans who do not have health insurance, if they have a problem, they go to the emergency room. That costs something. They cannot pay. The costs of running that emergency room then are put back on the other 218 million in their insurance policies and increased costs.

So the costs are driven up for the 218 million. Where do we stand? Why is this a crisis? Health care costs now as

VOL 140 PT 16 AG 12 — 18 1994 UMI

a proportion of our gross national product are estimated to be just approaching 15 percent. Do you know that by the year 2003 it is estimated to go up to almost 20 percent? That is of our whole gross national product, everything.

What does it do just to Federal expenditures? Right now, it is at 17 percent. It is estimated that by 1999, just in 5 years, it will go up to 24 percent.

Now, that is a 41 percent increase at the Federal level and almost a one-third increase as a percent of our GNP. They say, well, these are just figures, but I will tell you the one area where the figures have been reasonably accurate in the past has been estimates of health insurance costs.

Let me quote from an editorial in yesterday's paper because this points out exactly the point I just made, that costs are going to go up for everybody, not just for the 37 million Americans who do not have health insurance. They are not going to be the only ones who have a problem. I quote from yesterday's editorial:

Meanwhile, the cost of health care continues to soar—and the higher it goes the greater number of people who lose insurance because neither they nor their employers nor the Government can afford it. A seventh of all the money Americans have available to spend today goes into a health care system that leaves a seventh of Americans uncovered. Both numbers are rising. Two years from now, or 4, or 6, they will only be higher and harder to reverse. In the meantime, millions of people who could have been helped will still lack coverage. There will indeed be risks and costs if this Congress acts. It is important to remember that the cost will be enormous if it does nothing as well.

Mr. President, I ask unanimous consent that the entire editorial be printed in the RECORD at the conclusion of my statement.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1).

Mr. GLENN. Mr. President, reform is necessary to make sure that we do not price too many of our people out of business. If we do nothing, then we approach a catastrophe just a few years down the road. I do not think it is an option for us to do nothing. As these costs increase, fewer than 218 million Americans will have insurance; 37 million Americans will still be out there and their numbers will be added to. So doing nothing is not one of the options that we have.

How can we assure affordable health care to all Americans to the year 2000 and beyond into the next century? Well, we have a lot of systems proposed: Single payer; eliminate the insurance industry—basically, let the Government take it over—cover everyone; Government subsidies to 37 million Americans; a combined system covering certain areas; specific programs that would deal with the newborn or the elderly; an expansion of the Medicare system. All of these are things that have been considered in the past.

Mr. President, I would not propose that we dump our insurance-based system. I think we need to improve it. The President was criticized in his plan that he put forward because of some of the mandates and the requirements in that bill.

Let me digress just a moment to give the President some credit. The President seems to be a bit beleaguered lately. If we have health care reform in this country, it will be because we finally have a President who saw this as a requirement, saw the dangers of doing nothing, went at it, stuck with it and pushed and pushed. If his policy, if his program, if his proposal is not to be what is going to be enacted, then he still was for what we could get that was going to improve the system, because he believes in it—and I am convinced he believes in it, and Mrs. Clinton believes in it. She has worked on it. They believe in the future of this country and that the future of this country should have health care for all our citizens included. So the President has stuck with it. I have to give him credit for that. When we have health care reform, when we have health care for all one of these days, it will be in large measure because the President and Mrs. Clinton believed in it and they acted and they stuck to it.

We are proud of saying that every President since Harry Truman on up to the present time, with one or two exceptions, has proposed health care. But what have they done? They proposed it, and as soon as the political flak started, they backed off. I have to give this President a lot of credit for sticking with this.

We need reform. But what and how? We want to cover everyone. We want to have cost control. We want to have portability. We want to have coverage for preexisting conditions, which may come from some of the lack of prenatal care that I mentioned a moment ago. We have to figure out a way to pay for all of this.

What is full coverage? Is it 95 percent? That would certainly be a good step in the right direction because we are going downward now. I think only about 83 percent of people are covered now, and the coverage of our overall population has been going down instead of up.

We cannot have an absolute 100 percent. That is not going to happen. Just people coming across as illegal immigrants is going to ensure that we will never have 100 percent absolute coverage. Social Security, for all the years it has been in, is not 100 percent. So of all of this semantic argument about what full coverage is, what it is not, and whether we consider 95 percent to be full coverage, or 97 or 98, we know one thing—95 percent coverage would be a lot better than we are doing right now. So let us go for it.

We have different bills. They are very complex. They are all over the lot. We have different provisions. We have different coverage, different percentages, and different ways to pay for it. We stand here on the floor arguing about whether one bill is 1,400 pages or not. Another bill is trotted out, and we say it is great progress, this one is only 780 and some pages.

I think the American people are not going to be very much impressed with what size the bill is when it goes from 780 to 1,400 pages. We have bills proposed by a lot of people. We have bills proposed by Senator CHAFEE, Senator DANFORTH, Senator DOLE, Senator PACKWOOD, and Senator MITCHELL. All of these bills have a lot of merit in them, but they take different approaches.

I think the bill that Senator MITCHELL has put forward is an excellent compromise. It accommodates the views and the major concerns that were expressed earlier concerning health care reform. It takes a little different approach.

Some of the earlier proposals put the mandates up front. They were heavy. An 80–20 split on the cost between the employer and the employee. These were mandates, and they were up front as a forcing mechanism to say we are going to do it and do it now. There was a lot of objection to that.

All of the industry comes in. They come to our offices, and say, "Look. We are making a lot of progress. Why upset things right now because we are making a lot of progress? States are putting new plans into effect. We have new affiliations. We have new groups. There is a new awareness out there that the President has helped to spawn, and all this discussion has helped push it along. So why do we want to wreck things now? Let us do no harm to the system the way it is right now."

Let us go at this thing. There are affiliations. These things are actually happening. There is a lot of progress being made out there in the country with regard to health care reform.

What does Senator MITCHELL propose in his bill? He basically says he challenges these people to say, "OK. Let us go ahead. You are making progress. We realize that. It is not as fast as a lot of us would like, but we are making progress in these areas. Let us go ahead and do that kind of a job. Let us do it, and we will give you several years to accomplish this."

There is no mandate in the Mitchell bill. I repeat, there is no mandate in the Mitchell bill unless the industry fails, unless these objectives are not being met, unless the Congress refuses to act at that point and take other action. Only then is there a mandate. Then it is cut back to a 50–50 sharing. But only after industry has failed to improve the system enough, and only after Congress has failed to act. Only then as a third order backup do we say that a mandate will cut in. Then it is only 50–50.

Even then it protects small businesses who cannot afford it, who might be put out of business. If they cannot afford it, it helps them out. It has a subsidy for them to help them out. In this whole process we do not dump the system that has built this health care system for the country. We do not dump the private insurance industry.

I think Senator MITCHELL has bent over backward to try to accommodate those who had legitimate concerns about some of the proposals that were being made. It keeps the private insurance system, and it builds on it. It is not sudden. It provides time for this to occur. It has been a long process. There have been hearings by the Labor and Human Resources Committee and the Finance Committee. The House has had hearings and has given a lot of consideration in this area. Think tanks have been done with innumerable studies in this particular area. It gives something to all of these areas. It picks the best of all of them. It is affordable. It guarantees high-quality care through our private health insurance system.

If it expands coverage, as the CBO says in their independent analysis, then there will be no mandate. If the 95-percent coverage is not achieved, then Congress can act on the advice of the monitoring commission that is set up to monitor what goes on during that period. They can make recommendations, and the Congress can act on those recommendations if we are not at 95 percent at the end of that period. If Congress has not acted, only then does this 50–50 mandate cut in as a last resort.

I think that is a reasonable approach. In fact, we have some people that say that it is too reasonable. They do not like the plan because it has gone too far.

Mr. President, we have heard a lot on the floor here the last few days about some of these new taxes—17 new taxes. I will not go through each one of them. That would take a couple of hours to go through and define each one of them. But on closer analysis, actually of those 17, you could say that 9 of those really are tax cuts. There are revenue increases in some of the others, such as a tax on tobacco products, and so on. But the 17, on close scrutiny, do not turn out to be the case.

Mr. President, we have a lot of doomsaying when something as big as this comes up. They say it is going to wreck the economy. It is always easy to say no. We can always find a reason to be against something. It is easier to tear down than it is to build up. It is easier to swing a wrecking ball at a building than it is to build that building.

We heard many of the same arguments against Social Security in its time, and we heard some of the same arguments against Medicare in its time, also. The health care doomsayers have had a field day with this. They have said it would wreck the economy, kill millions of jobs, and would cause taxes to rise on middle-class Americans.

That is what was said about the largest deficit reduction program in history that we enacted last summer. The doomsayers were out in full force on that one. The doomsayers said the plan would wreck the economy, kill millions of jobs, and cause taxes to rise on middle-class Americans. Yet, here we are one year later, and the economy is the brightest it has been in decades. According to Alan Greenspan, 4.1 million new jobs have been created during this administration. Income taxes have not been raised on the middle class. For the first time in a generation, Government deficits are going down, not up.

So for the doomsayers who are prodding out the old lines and charging that health care will wreck the economy, kill jobs, and raise taxes—well, I think the American people are smarter than we give them credit for. I do not think they are going to be scared to death by the buzz words of fear and obstructionism. They want health care reform, not delay. They want health care reform and not fear mongering and ramblings that have been discredited time and time again. The time to act is now.

So these same arguments were used in the old days against Social Security and Medicare. We got to speaking about Medicare, and I heard somebody in the cloakroom talk about receiving a phone call in their office about someone who was talking about—an elderly gentlemen, apparently, who said that Government programs are just bound to be bad, but "whatever you people in Washington do, do not mess around with my Medicare," as though that was somehow not part of a Government program.

I think this is a historic opportunity. I think it comes not even once every generation. I think it may come once every other generation. Costs are now at 15 percent of GNP, going up to 20 percent of GNP by the year 2003. Federal expenditures now of the total Federal budget are 17 percent on health matters, going up to 24 percent within 5 years by 1999. So one of our options is not to sit back and do nothing.

Mr. President, I deplore the political rancor that has gotten into this debate. If we started at the other end of the medical problem, if I go into an emergency room or you come with me to a hospital and I need treatment for something, you go in and the doctor asks you questions. Has the doctor ever asked anybody in that situation: Are you a Democrat or Republican? Before I treat you, I want to know whether you are a Democrat or a Republican.

If they did that, we would certainly think that was outrageous. That would be the worst thing you could be asked, to have a health problem and people arguing about whether you are a Democrat or Republican. Yet, the Senate is not being constructive in this matter, at our end of this, in providing a health care system. At the user end, it is not a Democrat and Republican issue; it is just a matter of health, and an individual's relationship to that health care system in getting treated.

Yet, we are not being constructive here. We are sometimes opposing just to oppose, no matter what. We find people getting up and saying they will oppose whatever comes up, no matter how good it is, or whatever the provisions are. They will use any means to defeat any proposals that are made, and they make that statement in public. It is quoted in the papers. To me, that is politics at its worst. That is not working together; that is not trying to work together to get health reform. Is health reform Republican? Is health reform Democratic? No, it is not. Whatever views are held, I hope that we can get together and say that we will start amendments, start votes, and we will go ahead with this. A good place to start, to me, is the Dodd amendment.

I hope we can have votes before the day is over today. Mr. President, I think this is so important and I think it is maybe once every other generation that we have something like health care reform come along—like Social Security did in its day and like civil rights did in its day, and so on—that is going to affect the lives of every single American into the indefinite future. We want to do it right. To those who say, "Let us not rush into this thing," I ask, let us not rush after 60 years of consideration? Let us not rush after piles and piles of studies and reports and committee hearings on this matter?

Now is the time to act. I hope we get on with it and vote before this day is over.

I yield the floor.

EXHIBIT 1

STILL TIME FOR HEALTH CARE?

The argument is now being made by a lot of people that Congress has let health reform go too late; that not even the authors know what is in the giant bills, some portions of which would likely be unworkable or do more harm than good; and that the problem, while important, isn't so urgent as to require risky action now when measured action can be taken later. In some respects the system may even be in the process of correcting its own defects. Better to wait and try to get it right, this critique goes.

Clearly, some of those taking this position are doing so for purely political reasons—just as some of the opposite pressure, that for hurrying up and passing a bill in the next two months, is political. But a heavy substantive argument can be made on behalf of delay as well, and most of the complaints have at least some basis, some merit. We continue to think, nevertheless, that there is

VOL
140
PT
16
AG
12
18
1994
UMI

still time, though barely, to repair the problems and produce what would be a valuable bill and that Congress ought to try. The next Congress will be no better disposed to do a serious job, and may well be less disposed. It will probably be more sharply divided along partisan and ideological lines; it will be heading into a presidential election year; and, anyway, all Congresses are dilatory, so that it too will be unlikely to act until it is forced to do so by the prospect of adjournment, by which time this issue will be election fodder.

Meanwhile, the cost of health care continues to soar—and the higher it goes, the greater the number of people who lose insurance because neither they nor their employers nor the government can afford it. A seventh of all the money Americans have available to spend today goes into a health care system that leaves a seventh of Americans uncovered. Both numbers are rising. Two years from now, or four or six, they will only be higher and harder to reverse. In the meantime, millions of people who could have been helped will still lack coverage. There will indeed be risks and costs if this Congress acts. It is important to remember that the cost will be enormous if it does nothing as well.

The question is whether there is in prospect any kind of legislation that would significantly improve the situation without creating ominous new problems for either the economy or the health care delivery system itself. The answer has several parts. First: None of these bills is perfect; far from it. But some of their flaws are being greatly exaggerated. And, importantly: most could be fixed before enactment and in such a way as to justify enactment.

The bill that was put together by Senate Majority Leader George Mitchell, though certainly not itself without problems, does seem to offer the most promising framework for compromise. The measure was drafted in hopes of meeting a lot of the objections that continue to be leveled at it. The original Clinton administration bill was rightly criticized for laying far too heavy a federal hand on the health care system while pretending not to. It turned out to be, in fact, upon inspection, a flow-chart-gone-mad kind of health bill. This conclusion was reached not just by Republicans but by thoughtful members of both parties who felt the government should rely instead on the most modest combination of insurance market reform, government subsidies and government-structured competition to achieve its goals of broader coverage and cost containment. Mr. Mitchell attempted to meet these objections. However, some prospective supporters believe that he did not go far enough. Are the differences negotiable? We believe so. Is there more potential agreement in the conflicting positions than meets the eye? We believe that is true as well.

To take an example, consider the argument in favor of delay made on the op-ed page the other day by the respected columnist Robert J. Samuelson. Mr. Samuelson began by noting that "the Democratic health care plan," meaning the Mitchell bill, "contains a large—and unjustified—multibillion-dollar tax on younger workers" which he doubted most members of Congress even knew about. The "tax," however, turned out to be a staple of insurance market reform that is in not just the Democratic health care plan but practically every plan—including Bob Dole's. The problem it seeks to address is that too many insurers "cherry-pick." They try to sell separate, low-cost policies to the healthy, including the young. The effect is to relegate higher-risk buyers to costlier pools; the people who need insurance the most are left least able to afford it. Market reform seeks to spread the risk and cost instead across a broader pool, in part through so-called community rating: Everyone in a community pays, if not the same for a given policy, at least closer to the same than now.

The debate is about how far to go in this regard. The Mitchell bill would continue to allow some rate variation according to age; the Dole bill would allow more; but both would limit current practice on grounds of equity and in hopes of making insurance more accessible. That's the tax. It is one of the (many) constructive principles on which, beneath the rhetoric, Congress appears to agree—and one of those that leads us to believe that with good-faith negotiation a useful bill could still be passed.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I appreciate the comments of the distinguished Senator from Ohio, and all who have spoken thus far. I personally pay tribute to Mrs. Clinton in the efforts she has put forward in trying to come up with something that would help solve what many think is a health care crisis in our country. One of the problems, of course, is who is going to pay for all this? All of us want to solve this problem. All of us want what is called universal coverage, which is defined in various terms and in various ways.

All of us would like to make sure everybody has coverage. We would all like to stop the cost shifting onto certain segments of our society. But it comes down to who is going to pay for it? Anybody who believes that by having a huge, additional Federal Government program on top of everything else that we have today is going to solve these problems and reduce costs, they just do not know what they are talking about.

Why are we all here? We are here because we want to help people. We want to help people who are not receiving the health care coverages that they need and deserve. We are here because of admirable citizens like Helen Roth of Utah, who came to my office and implored the Congress to make sure that the disabled receive the care to which they are entitled. We are here because of two articulate teens, Ryan Van Dyke of Brigham City, UT, and Jason Brown of West Valley City, UT, both diabetics who are struggling to get the care they need. We are here because of Travis Carlson, born blind and deaf, whose parents have struggled to get him the care he needs. We are here to help these people, not hurt them.

When this debate opened, the distinguished majority leader took to the floor and made a very eloquent statement. He talked about the need for a bill. He said that providing health insurance to all Americans "was a matter of simple justice."

Yet, the Clinton-Mitchell health care reform bill is not simple justice. There is nothing simple about this bill—nothing. It is complex. I want to talk about the justice in this bill. Is it justice to take almost $200 billion out of the Medicare Program, severely jeopardizing its future? Is it justice to cut Medicare on the one hand and then propose to expand it with new programs such as a prescription drug benefit which may help only a very few?

Is it justice to impose 18 new taxes on our people?

As I walked over to the Capitol this afternoon, I thought back to all the conversations I have had with my constituents who are so interested in health care reform.

I have had a chance to meet with people from all walks of life to discuss every conceivable aspect of health care reform.

It has been reported that the so-called special interests are lobbying Capitol Hill on this issue.

The fact is, on health care reform, every person in America is a special interest.

Each and every American is a special interest, and rightfully so—we all have so much at stake.

My own feelings about this legislation have been shaped by the many conversations I have had with the citizens of Utah. And I will say, in all candor, I have learned a lot from them.

I have learned that the people of Utah care about health security for their fellow citizens. When a health crisis strikes a family member or friend, all of us want to know that the best possible care will be given to that individual.

The people of Utah care about quality. They know that our Nation leads the world in technological advancements in medical science. The University of Utah Medical Center in Salt Lake City is one of the preeminent centers in the world for innovations in the treatment of such complex medical conditions as heart disease and cancer, as well as being one of the world leaders in genetic research.

The people of Utah also care about choice. They believe that all Americans should continue to have the freedom to select the medical care that best meets their individual needs. They know all to well that the role of Government has a finite place in the larger scheme of health care delivery.

The people of Utah sent me to the Senate as their representative to make decisions that benefit all the people. And as my colleagues know all too well, there are no easy solutions to the complex issues addressed in reforming health care.

This legislation will ultimately impact the lives of every man, woman, and child in our great country. No one will be spared. The practical implications of this bill are simply staggering--one-seventh of the U.S. economy is going to be restructured. If the Mitchell bill passes, it will be one-fifth of the GDP, by the year 2000 or shortly after. It is nearly $1.2 trillion.

Its impact would likely be felt for generations to come—well into the next millennium.

The bill has been described as the most significant piece of legislation since the establishment of the Social Security Act. Some say that it may be the most important piece of legislation considered in this century.

Indeed, we should not underestimate the magnitude of the task before us. It has been an extraordinary endeavor. In spite of what ultimately happens in the next several weeks, I believe that the American people have benefited from the enormous amount of time and energy Congress has devoted in examining our health care system.

As a member of the Labor and Human Resources Committee, the Finance Committee, and the Judiciary Committee, I have had a unique opportunity to be involved in the development of health care reform legislation. Each of these committees played a major role in developing the various proposals that have not brought us to this moment on the Senate floor.

As my colleagues, particularly those on the Labor and Human Resources and Finance Committees know all too well, this has not been an easy process by any stretch of the imagination.

The Labor and Human Resources Committee held 46 days of full committee hearings over the past year and heard the testimony of countless witnesses. We held hearings on issues ranging from the consolidation of the 19 different Federal core functions of the public health programs, to the issue of creating new categorical grant programs aimed at addressing the needs of medically underserved populations—an issue, I might add, that is of critical importance to Utah.

We focused on the merits of a standard Federal benefits package as well as the categories of provider services covered in a benefits package. We focused on the methodology that would be needed to determine how those services would be included in such a package.

On June 9, 1994, after nearly 3 weeks of marathon markup sessions that began on May 18, the Labor Committee reported the Clinton-Kennedy Health Security Act by a vote of 11 to 6.

I was one of the six Senators who voted against reporting the bill. It was unfortunate that the Democrats on the committee, who comprise a majority, repeatedly rejected amendments to lessen the regulatory and bureaucratic grasp this legislation would have on America's health care system.

Following the action by the Labor Committee, the Finance Committee began its markup of another version of the Clinton bill. There was considerable expectation and hope that a bill with fewer Government controls, fewer Government mandates, and fewer taxes would be adopted.

The Finance Committee held 36 days of hearings and heard from 143 witnesses representing all aspects of health care.

We heard about the imposition of Government mandates on individuals and businesses, about the effects of so-called global budgets on the delivery of health care, about cuts in the Medicare and Medicaid Programs, on insurance reforms and the effects of guaranteed issue and renewability, as well as limits on preexisting condition exclusions.

We heard about quality from the Nation's leading health care quality scholar, Dr. Brent James.

We heard about the establishment of low-income subsidies for individuals and families; about cost-containment including the imposition of taxes on individuals, on companies, on insurance premiums, and on guns, bullets, and tobacco.

On July 2, 1994, the Finance Committee reported its version of the Clinton health care bill by a vote of 12 to 8. And, once again, the same kind of Government-run approach to reform, as proposed by President Clinton, was embodied in the legislation as reported by the Finance Committee. The prospect for meaningful reform was, once again, thwarted.

I believe that true reform should rely less on Government control and more on economic incentives that leave health care decisions in the hands of individuals, and not with someone in Washington, DC.

We should address the problems in the system and fix what is broken. We should not overhaul the entire system in the name of reform. To do so will jeopardize the standard of excellence which is the hallmark of American health care.

The distinguished Senator from Ohio said there are some who are saying "no," they are naysayers; they do not want anything. I do not know of anybody on the floor in the Senate right now who is saying "no." Everybody agrees we need to do something to help the 14 percent who do not currently have health insurance. The question is, how do you do it with more Government, with more governmental programs, with more Government approaches, more mandates, more controls over the States, and less incentives for free market reform? That is what these bills do. Yet none of the bills reported by the House and Senate committees, as liberal as they are, went far enough for the President and the First Lady, I might add. And so, we find ourselves on this day in August not with a bill reported by the Finance or Labor Committees, but with an entirely new piece of legislation which is only days old.

This is a brand new bill, a melding, if you will, or attempt to meld from the Labor and Human Resources Committee and the Finance Committee what they had done.

The latest version of this bill is 1,443 pages long—79 pages longer than President Clinton's original legislation. And yet, we are being forced to make decisions, of historic importance, with as little as 1 week in which to analyze the bill's full implication and costs ramifications.

This is not how the legislative process should work. It is the legislative process at its worst. The manner in which this bill has been hurriedly drafted and presented to the American people, and to the U.S. Congress, has been more out of the need for political expediency by the President, than by a need for reform. In a very real sense, our actions may serve to irreparably damage the viability and integrity of the world's preeminent health care system which the proponents of this bill claim to be reforming.

I would remind my colleagues, it was not by government intervention that the health care system of the United States became the finest in the world. It is the world's finest because the system has evolved in an environment relatively free from excessive government control and social engineering.

I do not subscribe to the proposition that a Federal takeover of health care is what the American people want. I am fearful that the shouts for reform by the President and his lieutenants in the Congress will drown-out reason and prudence in addressing the real problems of our health care system.

The Clinton-Mitchell bill is fundamentally flawed. It will unravel the very fabric of health care as we know it, and by then it will be too late to correct the damage we have done.

Make no mistake about it, the Clinton-Mitchell bill is health care reform. But I can assure you, it is not the kind of reform that the American people need, or want.

This bill contains sweeping and contentious provisions. Many of the key elements were cobbled together at the last minute during hurried committee markup sessions and are barely understood even by their sponsors—let alone the American people.

The distinguished majority leader has stated that his bill is nothing new. He said his bill encompasses many of the same provisions in other bills as reported from the Finance, and Labor and Human Resources Committees. Well, when I see the Mitchell bill, the Gephardt bill, the single-payor bill, and all the others which seem to be coming down the pike daily, I am reminded of that old saying: "It's sad when cousins marry."

The Clinton-Mitchell bill proposes to expand health care coverage to millions more Americans which is a goal I certainly share. But the bill's prescription for health care reform includes

VOL 140 PT 16 AG 12 — 18 1994 UMI

massive doses of new taxes as well as new levels of spending and government intrusion which I believe most Americans will find totally unacceptable.

The bill imposes at least 18 new taxes, including a tax on health insurance premiums. These 18 new taxes will hit health insurance plans, flexible spending accounts, Medicare beneficiaries, and State and local government workers with hundreds of millions of dollars in new taxes.

And who do you suppose is ultimately going to bear the burden of this tax? I will tell you: It is going to be the person who cannot pass the cost increase on to anyone else—health care consumers and employees all over America.

This bill contains what amounts to price controls on health insurance. The bill imposes several taxes on health insurance premiums, including a complicated levy on plans whose premiums grow at rates faster than the government prescribes.

The Clinton-Mitchell bill bans self-insurance for companies with fewer than 500 employees. Self-insurance is a classic success story of how companies control health care expenditures. This is working for an estimated 21 million employees and their dependents at over 400,000 small- and medium-size companies throughout America.

These beneficiaries are very happy with their current insurance arrangements. Yet, under the Mitchell bill, all of those plans will be terminated, and these individuals will be forced to purchase their health care through government sponsored health alliances that will establish a one-size-fits-all benefits plan.

If we have programs like self-insurance that are successfully controlling health care costs, and serving to expand health care coverage to more Americans, then I simply cannot understand the logic in not allowing these programs to continue. And I can assure my colleagues on the other side, that once these plans are terminated, you will certainly be hearing from those individuals.

I received a fax just last week from the Seniors Coalition expressing their concern over this legislation. They are concerned about the Medicare cuts in the Mitchell bill, as am I. The sponsors say these cuts are only in reimbursements to providers and not in benefits. As the fax for this organization clearly points out:

> Reducing reimbursements to doctors and hospitals will lead to a simultaneous degradation in the quality and quantity of care to Medicare patients which will exacerbate the cost-shifting problems already caused by Medicare.

We all know doctors are refusing to take Medicare patients because of their low reimbursement rates and that is going to get worse if this bill passes. And the Medicare recipients will be the ones hurt.

These are just a few examples of the so-called reforms, showing the pay-more-get-less effect of this legislation.

I hope all Americans become familiar with the other provisions contained in this massive piece of legislation, which has been crafted in the name of reform.

As I stand here today on the Senate floor, I can look up to the gallery where I see hundreds of people observing these proceedings. Most of them are visitors from across America.

And, like many Americans during these long, hot days of August, they are spending more time with family and friends, and taking some time off from otherwise hectic daily schedules.

Millions of other Americans are watching these proceedings on television. All of us are united in our concern over the outcome of this historic debate.

But I can assure you that the crescendo of public concern over health care reform has not waned during this traditional time for family vacations. Thousands of letters from citizens in my State and from across the country continue to pour in.

The overwhelming message is for reform, but against a Clinton-like structure as embodied in the legislation before us today. There is also overwhelming support, nearly 64 percent in recent public opinion polls, for Congress to take a careful and deliberate course of action that will not harm our current system.

I have been impressed with both the number and substance of the letters I have received on the issue of health care reform. Some have been very direct and short. Other letters have afforded me with an opportunity to learn first-hand the thoughts and feelings of people who have truly been affected by the strengths, and weaknesses, of our health care system.

One such letter in that category was from Rodney Ririe of Provo, UT. He is a young man with many hopes and ambitions. He is not unlike any one of us in this Chamber. Yet, his life has been filled with the kind of pain only few people can imagine and, indeed, most of us fear.

On June 10, 1994, he wrote to me regarding his views on health care reform. It was a five page letter—typed—and single-spaced. I am not going to read the entire letter. But I am compelled to share an excerpt with my colleagues in the Senate.

I do not ask that you agree or disagree with what he says. I only ask that you listen to what he says.

He writes:

> I am writing with regard to some serious concerns related to health care issues that currently face our Government. Before proceeding, however, let me give you a brief idea of my background, so that perhaps you might better understand where I come from.
>
> Currently, I am a college student attending Brigham Young University, where I have been for the past five years. Part of the reason I have not yet graduated is because of my health. You see, when I was five years old, I suffered a near-fatal heart attack.
>
> Before that time, doctors thought of me as a normal, healthy five-year-old child. Doctors diagnosed me as having a form of "cardiomyopathy" or disease of the heart which affects the development of the muscle walls. Four years later, I had another heart attack, three more at age eleven, and two at age twelve—a total of seven heart attacks in my brief life.

He continues:

> At age 17, I underwent a heart transplant operation. Since that time, I have been mostly healthy until about a year ago. Doctors have recently discovered that I am suffering from a form of coronary artery disease commonly found in transplant recipients, for which they say I will need a second transplant within the next several months.
>
> As you can imagine, paying for these things has been a burden on my parents and family. Fortunately, we have had good insurance in the past, but with my pre-existing condition, premiums have been all but inexpensive, and in an effort to keep the premiums as low as possible, we chase higher deductibles. My father will retire in two years (at age 68) a poor man, devoting nearly all his savings to help pay for my care.
>
> In May of 1995, I will turn 26 years old which will disqualify me as a dependent on my parent's insurance policy. With my current medical expenses costing between $40,000 and $60,000 a year, the onslaught of another transplant, and the fact that no insurance company in the country will pick me up, this places the entire financial burden on me, a part-time college student who works in part-time job making $5.90 an hour.

Finally, at the end of his letter, he states:

> With this background in mind, I write you not seeking sympathy of any kind, but rather to express my heart-felt opinion on the subject of health care. From one who has experienced so much, you might expect this letter to be from one in favor of President Clinton's health care proposal. In fact, there could not possible be a greater opponent of this plan.
>
> It's sad, but in the past when my government has made a decision I disagreed with, I passively did nothing, thinking that the decision would not really inconvenience me, or affect me directly except for having to pay a few more dollars in taxes. But with this issue, I cannot be silent.
>
> I oppose the plan for several reasons—many of them personal—but most of them out of simple common sense. For as long as I can remember, the United States has always been on the cutting edge of the latest advances in medicine. Truly, had I not been born and raised in this country with the problems I have had, I know I would not be sitting here now.
>
> With the plan Mr. Clinton proposes, I feel strongly that with a lack of research funds, the U.S. will quickly fall from its prestigious place in the world of medicine. The plan does not yet acknowledge how to pay for itself, let alone further research in health care.

The PRESIDENT pro tempore. The Chair will interrupt the Senator to say that, unless the time is extended by unanimous consent, there is an order for recessing the Senate after this hour.

Mr. HATCH. Mr. President, I ask unanimous consent through the Chair, then, that we be granted another 10 minutes.

The PRESIDENT pro tempore. Would the Senator speak just a bit louder, please?

Mr. HATCH. I ask for another 10 minutes by unanimous consent.

The PRESIDENT pro tempore. Is there objection?

Mr. DORGAN. Reserving the right to object and I shall not object, I wonder if the Senator from Utah would do me the courtesy, as he extends his time, including in his unanimous consent, that I be recognized to speak when the Senate reconvenes at 2:15?

Mr. HATCH. I apologize, but we do have an objection here because there have been three speakers over there to one over here. I have no personal problem.

Mr. MOYNIHAN. No, no, there have been two. We are alternating as we can.

Let me make the request. We are alternating.

Mr. HATCH. I think the Senator ought to be able to speak at 2:15, then maybe we can go to a Republican after that.

Mr. MOYNIHAN. Sure.

The PRESIDENT pro tempore. Unless the Chair be misunderstood, there is no order for alternating.

Mr. MOYNIHAN. Yes.

Mr. HATCH. We have been following that.

Mr. MOYNIHAN. Mr. President, would it be in order for me to ask unanimous consent that at the conclusion of our recess for the caucuses that Senator DORGAN be recognized?

The PRESIDENT pro tempore. It would be in order.

Mr. COATS. Reserving the right to object, and I am not going to object either, I just want to make note of the fact that yesterday evening, the majority leader——

The PRESIDENT pro tempore. Let the Chair interrupt the Senator. The first request is before the Senate and has not been acted upon; that request being that the time at this point be extended 10 minutes. Is there objection? The Chair hears no objection. The Senator from Utah is recognized for 10 minutes.

Now, the second request, if the Senator from Utah will yield for that purpose.

Mr. HATCH. I do yield for that purpose.

The PRESIDENT pro tempore. The second request is that Mr. DORGAN be recognized upon the reconvening of the Senate, following the recess, at 2:15 p.m. today. Is there objection? The Chair hears no objection, and it is so ordered.

The Senator from Utah is recognized.

Mr. COATS. Will the Senator from Utah yield for 30 seconds?

Mr. HATCH. Sure.

Mr. COATS. Mr. President, I thank the Senator from Utah. I want to make the point that last evening the majority leader said on a number of occasions that Republicans were filibustering the bill, and yet we seem to be proceeding here in the same way we proceeded for the last several days, and that is, we have been alternating between Republicans and Democrats who wish to speak on the bill, who are doing that again today.

The Senator from North Dakota has asked for time, as have several of his colleagues today. The Republicans have granted that. We are all trying to understand this bill which has immense implications for the people of this country. I do not see any semblance of what was described last evening as a Republican filibuster. I thank the Senator from Utah.

Mr. HATCH. Mr. President, I have been reading from a letter of this young man, who has had seven heart attacks and now is facing a second transplant, as to why he opposes the Clinton health care program. You would think that he would not.

Let me continue.

He further states:

> Senator, I cannot emphasize enough how extremely important this issue is to me. It is important for me and for many others, I'm sure, to be able to choose the doctors they want to see and to be assured the same quality health care they've been expecting and received for so long. I honestly fear the passage of this bill; I know it is not the answer, and I hope you do to.

This is a young man who has gone through so much all of his life and, to be honest with you, I was very touched by his letter.

Mr. President, I ask unanimous consent that his full letter be printed at the conclusion of my formal remarks in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. Mr. President, as Rodney clearly and so eloquently states, this issue is just too important for "politics as usual." As Rodney Ririe further states at the end of his letter, "I pray you will remember why I sent you to Washington—to represent me not the President."

For Rodney Ririe, and many others like him, we can act and correct the fundamental problems with the system.

For instance, most of us agree that we need insurance market reform. On this one issue, there is almost unanimous support to provide for guaranteed issue of all health insurance plans regardless of the individual's health status, or other risk factors.

We need to ensure portability so that persons do not lose their insurance if they change jobs or are faced with unemployment. These few steps along would lead to greater health care coverage for millions of more Americans.

Another area of reform concerns medical malpractice and antitrust reform. Both of these issues involve costly regulation of the health care market which, in turn, serves to drive up the costs of health care services for all of us.

Unlike most regulation, though, the regulation in these areas is left largely to the courts where decisionmaking is incremental, often unpredictable, and always expensive. The results are often inconsistent, and not just across jurisdiction.

There is widespread agreement on the need to reform our medical malpractice laws. The estimated 1991 costs of defensive medicine range from $4 to $25 billion according to the National Medical Liability Reform Coalition. More recent estimates place this year's impact at close to $30 billion.

Medical liability premiums contributed an estimated $9.2 billion to the cost of health care in 1991. What is more staggering is that only 43 percent of each dollar spent on liability litigation reaches the patients; the rest is spent on so-called overhead, such as attorneys' fees.

And yet, the medical malpractice provisions in the Clinton-Mitchell bill have rightly been called the Mitchell Trial Lawyer's Full Employment Act. This bill creates, at least 15 new Federal causes of action and 7 new Federal crimes.

In addition, the bill as drafted proposes to undo any reforms that have been achieved in the States while imposing new costs on the litigation system. These so-called "reforms" will, in effect, hurt malpractice victims as well as all patients, by driving up the costs of health care, and escalating liability litigation.

Antitrust works in the same way and has the same problems as the malpractice system. The antitrust laws are intended to ensure that markets are free to function in their most efficient ways. But make no mistake, antitrust is regulation. Too much antitrust enforcement is just as dangerous to health markets as too little.

Antitrust is a complicated area of the law, and violations carry large penalties. Antitrust counsel is expensive, and antitrust litigation costs can be crippling to small entities. Providers, especially small and rural providers, are very concerned about the dangers of antitrust litigation.

As we consider massive restructuring of the health care market, we need to reduce antitrust uncertainty that will, undoubtedly, be exacerbated by reform.

We are all aware of the problems. At the hearings in the Finance Committee earlier this year, Senators MITCHELL, BAUCUS, and ROCKEFELLER pointed out the real concerns of rural providers in their States. Senator CHAFEE expressed to witnesses from the Federal Trade Commission about the frustrations providers feel.

For example, if two rural hospitals decided to discuss the mutual allocation of special services in order to

VOL 140 PT 16 AG 12 — 18 1994 UMI

achieve some economies of scale, they could be liable to an antitrust challenge simply because they had established a possible conduit for sharing price and billing information.

Many other providers face the same kinds of risks if they wish to come together to compete with other groups. Home health care providers, nurses, and nurse anesthetists all equally face the challenges of a changing market in which competition itself will force greater consolidation.

Small groups of rural providers—in fact any small group—simply cannot be expected to hire expensive antitrust attorneys to review and approve every cost-containment option considered. I believe it is in our best interests to see health care providers improve their efficiency by allowing them to eliminate duplicative services.

In my home State of Utah, two hospitals had to spend over $7 million to prove to the Justice Department that their world-renowned work in pediatrics helped patients—and not harmed them. We have seen millions of dollars—including millions of taxpayer dollars—spent on expensive antitrust litigation. These dollars should have gone toward patient care. Whatever the outcome, the process is too costly and we need to do something about it now.

I think what I am trying to say is this: That we could do a reasonable reform of the health insurance system of this country that will solve most of the problems that we have and get the universal access well above 90 percent and possibly as high as 95 percent. I remember about 3 or 4 months ago, maybe 5 months ago, Roger Altman came to me and met with me in my office. The first words out of his mouth were: "Senator, we know our bill is not going to pass." They knew it then.

But he said one thing: "We have to have 'universal coverage.'" And I mentioned to him, universal coverage happens to be a set of relative terms. He acknowledged that. I said the last 5 percent is so expensive to cover that it is almost impossible to have total universal coverage, and he acknowledged that.

And then I said, "If we would reform the insurance system in this country and make insurance portable, noncancelables, except for fraud or failure to pay, so that we take care of preexisting conditions, we would resolve most of the problems our society has and we would please well over 90 percent of the people in our society and make insurance available to them."

I said that would be a big win for the President, we would all support him, we would get it done, it would be a step toward universal coverage that you probably are not going to be otherwise able to make.

And he looked wistfully at me as though "I wish we could do that."

The fact of the matter is, the reason why we have this huge, massive, convoluted piece of legislation that nobody here fully understands and, frankly, is an amalgamation—and a poor one at that—of a variety of plans, is because those who are for that basically want to be able to make the claim that they are taking care of every man, woman and child in America. In fact, they know they are being taken care of now and that we can do a better job of providing care without bankrupting the country or turning all health care over to a one-size-fits-all Federal health care system. Anybody who believes that approach is going to save money really, really does not understand the last 60 years. Anybody who believes that is going to bring health care costs down, is not thinking. And anybody who believes that will make a better health care system than we have today with the partnership between Government and the private sector, I think is loco, to be honest with you.

Another issue that has attracted widespread support is in the area of enhancing our network of community health centers. The Federal costs of community health centers are estimated to be around $100 per patient per year. It seems to me that we should expand the role of these centers to provide needed care to underserved areas of the country.

As we address the issues of rural health care we should be guided by a simple formula developed by Pamela Atkinson, a vice president at Intermountain Health Care in Utah. Ms. Atkinson is an expert on rural health care. She advises me that the problems associated with the delivery of quality health care in rural America must be guided by the four A's.

They are: affordability, accessibility, availability, and awareness.

We need affordable and accessible services in rural and in urban areas. And, we need available services that include providers, facilities, and the equipment to provide services in a culturally sensitive manner.

It is the awareness issue, however, that has not been discussed much. Pamela informed me that there are normally 950 visits scheduled a month in Intermountain Health Care's community health centers. However, between 150 to 200 patients never show up for their scheduled visits. They just do not understand the importance of early diagnosis and treatment.

I do not know if my other colleagues have heard similar statistics, but I was surprised to learn the extent of this problem. This is especially troubling when you recognize that we are talking about scheduled visits, with so many more individuals who never make the effort to visit in the first place, and who, therefore, never receive needed care.

Obviously, we need to improve health services in these areas by increasing awareness in the community and emphasizing health promotion, health prevention, and early detection.

I would also like to comment about the proposed legislation that has been developed by the distinguished Republican leader, Senator DOLE. I strongly support the Republican leaders' bill. It has many important features that go a long way in addressing the needs of those Americans without health insurance.

The bill provides for positive insurance reforms so that people would not have their insurance canceled or their premiums increased because they got sick or lost their job. Individuals would be able to obtain insurance regardless of their medical condition.

The legislation contains many important incentives to control the costs of health care and ensure that all Americans have access to quality and affordable care.

The bill provides for medical savings accounts so that individuals would have greater control over the expenditure of their health care dollars. Third-party insurance would cover catastrophic expenses.

The bill provides for tax fairness so that people who purchase their own insurance would receive the same tax relief as those who obtain insurance through an employer.

Self-insurance by small- and medium-size employers would be permitted to continue. This has become one of the most cost-effective mechanisms employers use to control health care costs. The Dole bill allows that to continue; the Mitchell bill does not.

Overall, Senator DOLE's legislation offers a commonsense solution to the Nation's health care problems. The bill provides health security to the middle class through insurance and market reforms while expanding coverage to low-income and middle-class Americans.

It accomplishes these goals without increased taxes, without expanded bureaucracies, without spending limits imposed by global budgets and price controls, and without employer mandates that ultimately lead to wage and job reductions.

The bill does not contain Government mandates on employers, or individuals, that would require them to purchase insurance whether they want to or not.

There are no mandatory Government health alliances that give Federal and State control over the insurance marketplace.

There are no Federal price controls or global budgets that inevitably will lead to health care rationing, particularly for those most in need.

Mr. President, I look forward to the debate, and I call on all Americans to listen carefully. Your future is at stake.

For the sake of the country, I hope our actions will be guided by the wisdom to do what is right, not what is expedient.

I yield the floor.

EXHIBIT 1

RODNEY E. RIRIE,
Provo, UT, June 10, 1994.

Senator ORRIN G. HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR: I am writing with regard to some serious concerns which I have related to health care issues that currently face our government. Before proceding, however, let me give you a brief idea of my background, so that perhaps you might better understand where I come from.

Currently, I am a college student attending Brigham Young University, where I have been for the past five years. Part of the reason I have not yet graduated is because of my health. You see, when I was five years old, I suffered a near-fatal heart attack. Before that time, doctors thought me to be a normal, healthy five-year-old child. Doctors diagnosed me as having a form of cardiomyopathy, or disease of the heart which affects the development of the muscle walls. Four years later, I had another heart attack, three more at age eleven and two at age twelve—a total of seven heart attacks in my brief life. Shortly thereafter I became a candidate for a new form of technology known as an Automatic Implantable Cardiac Defibrillator (AICD), and had surgery to implant the experimental device, which I carried inside me for more than five years. At age 14, I suffered a stroke which completely paralyzed my left side for several weeks. And, finally at the age of 17, I underwent a heart transplant operation. Since that time, I have been mostly healthy until about a year ago. Doctors have recently discovered that I am suffering from a form of atherosclerosis (coronary artery disease) commonly found in transplant recipients, for which they said I will need a second transplant within the next several months.

As you can imagine, paying for these things has been a burden on my parents and family. Fortunately, we have had good insurance in the past, but with my pre-existing conditions, premiums have been all but inexpensive, and in an effort to keep the premiums as low as possible, we chose higher deductibles. I am blessed to have had a father who practices dentistry in my home state of California, that we have had the means to pay for these expenses. However, bills were not paid without sacrifice. My father will retire in two years (at age 68) a poor man, devoting nearly all of his savings to help pay for my care.

In May of 1995, I will turn 26 years old which will disqualify me as a dependent on my parent's insurance policy. With my current medical expenses costing between $40,000 and $60,000 a year ($10,000/year for medication alone), the onslaught of another transplant, and the fact that no insurance company in the country will pick me up, this places the entire financial burden on me, a part-time college student who works a part-time job making $5.90/hr.

With this background in mind, I write you not seeking sympathy of any kind, but rather to express my heart-felt opinion on the subject of health care. From one who has experienced so much, having seen the inside of literally scores of different hospitals, and observing (and participating in) the system for so long, you might expect this letter to be from one in favor of President Clinton's health care proposal. In fact, there couldn't possibly be a greater opponent of this plan. It's sad, but in the past when my government has made a decision I disagreed with, I passively did nothing, thinking that the decision wouldn't really inconvenience me, or affect me directly except for having to pay a few more dollars in taxes. But with this issue, I cannot be silent. It is also sad that such an issue has become so politically polluted, becoming nothing more than a Washington boxing match between the isles of Congress. Health care—people's lives—are not to be used as pawns for a political battle for power on Capitol Hill.

I oppose the plan for several reasons—many of them personal—but most of them out of simple common sense. For as long as I can remember, the United States has always been on the cutting edge of the latest advances in medicine. Truly, had I not been born and raised in this country with the problems I have had, I know I would not be sitting here now. With the plan Mr. Clinton proposes, I feel strongly that with a lack of research funds, the United States will quickly fall from its prestigious place in the world of medicine. Evidences of this are everywhere. The plan does not yet acknowledge how to pay for itself yet, let alone further research in health care.

The plan boasts "security" by "providing every American with comprehensive health benefits." This obviously means everyone is guaranteed coverage whether one can pay for it or not. I fear there will be many who will take the attitude that "if I'm going to be covered no matter what, then why pay for it at all? After all, it's guaranteed."

Not only will there be a flagrant misuse of the system, but it will bankrupt many small business owners as well. Businesses large and small will find the burden of paying for employees' health care overwhelming, and will opt for layoffs over benefits. From what I understand, the Clinton's conservative estimate on unemployment will be "minimal"—perhaps only 600,000 people will lose their jobs. Recently, my father returned from a meeting with his accountant where the topic was the governmental health care system. The accountant admitted that he didn't have all of the information available, but with the estimates had at that time, he forecast costs in the neighborhood of $400 per month per employee. With my father's small business of only eight employees, that figure translates to a whopping $38,000 per year—enough to seriously damage my father's business, forcing him to not only lay off competent employees, but also raise his dental fees, which many complain are too high now.

And what happens when we do run out of the amount budgeted for the health-care year? Do we begin rationing care by closing hospitals and denying citizens the care we promised them? I read an article recently from a Toronto newspaper (sent to me by a friend) that reported the Canadian government was running low on funds for their health care program, and that to remedy the situation, they were not only rationing care (postponing badly needed treatments), but closing hospitals—denying their citizens the care promised and paid for. A recent article in the March 1994 Reader's Digest confirms this and further informs readers that the Clinton bill "specifies heavy criminal penalties (fines, seizures of property, long prison terms) for 'bribery and graft in connection of health care.'" Surely, if they are anticipating bribes, they must also undoubtedly be anticipating shortages and rationing. Why else would they impose such stiff penalties?

Besides the monetary aspect, there are the new bureaucracies that will undoubtedly be formed. Some conservative estimates place the number at 105 new government entities with a minimum of 50,000 new public employees to further enlarge our already over-sized government. If this is true, then the plan promises to be nothing more than another agency of red-tape, long lines, and bureaucratic mumbo-jumbo. This country needs less government * * * NOT more.

Basic economic principles tell us that nearly every time you take something away from the government and give it to the private sector to operate, free enterprise prevails offering individuals a greater quality of a product or service, better prices, and the choices we Americans demand. If this plan goes through, the opposite will no doubt take effect. The choices will be severely limited (regardless of what they say—the plan basically spells it out). The prices may be controlled (lowered) by the government, but with all of the governmental agencies, alliances, paperwork, and other inefficiencies the government has shown throughout the years, the overall costs can't help but be more than what they are today. And, I believe, and this is the main point I wish to stress in this letter—the one point I feel more concern for over any other—the quality of care will drastically decline.

Under the managed care (or HMO) system proposed by the President's plan, patients' choices will be minimal and the care itself will deteriorate. In a traditional managed care system, doctors are paid a flat rate for each patient they see each month. Therefore, they have no incentive to see the same patient, sick as he may be, more than once a month. Surely this keeps costs down, but who really comes out ahead? Under similar plans in California, doctors hired by HMOs are paid a flat salary, regardless of the number of patients they see, or the number of procedures they perform. With this way of thinking, doctors could easily adopt a careless attitude, reasoning that they can give quality work, or "shoddy" work, and either way, they still get the same pay. Essentially they are worry free when the employer pays all their malpractice and other expenses. I feel strongly that while HMOs do save money in preventative care and other budget-cutting programs, the quality of care is severely compromised, and care is what health care is all about.

To illustrate this point: My roommate recently had two visitors from Great Britain. Being their first time in the United States, they had many questions about government, etc. and were especially interested in the direction the country was heading with the health care issue. We discussed this at length and they explained that in Britain, people have the choice of private or government health care providers. Ironically, one of the visitors had frequently chosen the government form of care to save money, and the other had chosen private. As they spoke, it became very evident that the visitor who had the private providers, was much more satisfied, and had had quality care, while the other spoke of long lines, poor care (her dental work was visibly bad), and a genuine lack of personalized service and caring that we are so accustomed to as Americans. Again and again she told us how fortunate we were to have a private system of health care.

Senator, I cannot emphasize enough how extremely important this issue is to me. I have seen hundreds of doctors in my lifetime. Each time I find one I'm not satisfied with, I have the option of going to another. Obviously, we as Americans want the best possible care available. And if doctors have no incentive to work harder, or to go the extra mile, to "produce the best possible product," the care itself can't help but become compromised.

VOL 140 PT 16 AG 12 — 18 1994 UMI

I have a doctor I see every six or eight months for a procedure known as a biopsy, where small pieces of heart tissue are pulled out through a vein in my neck to be analyzed for possible rejection. The procedure takes only 10-15 minutes, and is fairly uncomfortable. Over the past seven years I have had my new heart, I have watched the doctor's fee for this procedure rise from $550 to over $1400 (aside from the hospital charges). At first, this upset me to think that he does exactly the same thing each time, and in only a seven year period, the fee had more than doubled! But the more I thought about it, the more I had to agree with it. Although it is very difficult to pay these fees and would be next to impossible without insurance, I have to admire him. Those fees are his incentive for continuing to do a quality job with the least amount of physical discomfort, providing the most comfortable atmosphere possible for the patient, and maintaining a good, strong, positive attitude all along. I have had dozens of different doctors perform this procedure on me. While serving a two year mission for the LDS church in Boston, I was seen at Harvard Medical School's Brigham and Women's Hospital, where I never saw the same doctor twice. While attending BYU, I've been to University Hospital in Salt Lake City and had the same procedures performed there. But each time I see someone else, I always go back to my original doctor. Why? Because he cares! He knows my condition, my fears, my history—everything about me, and does everything in his power to make me feel comfortable. So I pay him for that.

It is important for me and for many others, I'm sure, to be able to choose the doctors they want to see and be assured the same quality health care they've been expecting and received for so long.

I truly think that if you were to take a random sample of Americans, they would agree that something has to be done. We can't continue to let these costs soar. I believe they would also tell you that the White House's plan is not the cure to what ails this problem. I certainly don't have any answers nor do I propose any solutions, but I do know this: that President Clinton's plan is not the answer. It simply won't work. It will cost billions and billions of dollars we don't have, and will place the health care of Americans in jeopardy.

Lately the news media has reported that things are slowly coming to a head on Capital Hill and the vote is likely to occur sometime in August or September. I get the impression from these reports that a majority of Congress is leaning in favor of the President's plan hoping that by simply voting on the issue, the problem will go away. Truly something of this magnitude needs to be studied much more carefully. We need more brainstorming, more proposals, and not simply jump at the first plan but before us. As I look back on President Clinton's track record, I must admit it is an impressive one. He has narrowly passed nearly every major bill he has proposed. His strategy seems always to be the same: pull the fence-sitters into his office (behind closed doors) and push push push until he gets the one vote he needs to pass.

Now I realize that nothing I have written is new to you, that you must get thousands of these letters each day, but Senator, I fear for the future. I honestly fear the passage of this bill. I urge you to please consider the needs of this great nation before any personal political agenda you may have regarding this issue. As I mentioned before, this issue is just too important for "politics as usual." I urge you to please vote against the Clinton Health Security Act, and hope that you will urge your colleagues to do the same. And if by chance, the President calls you to his oval office and does whatever he does behind those closed doors, I pray you will remember why I sent you to Washington—to represent me—not the President.

As for me, I honestly don't know what I'm going to do when next May rolls around and I lose my insurance. I have faith that something positive will happen and my needs will be met. But I do know that this plan is not the answer, and I hope you do to.

Respectfully yours,

RODNEY E. RINE.

RECESS UNTIL 2:15 P.M.

The PRESIDENT pro tempore. Under the order, the Senate will now stand in recess until the hour of 2:15 p.m. today, at which time the Senate will resume consideration of the pending matter and the Senator from North Dakota will be recognized.

Thereupon, at 12:40 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BYRD).

The PRESIDENT pro tempore. Under the order previously entered, the Senator from North Dakota [Mr. DORGAN], is recognized.

Mr. DORGAN. Mr. President, thank you very much.

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, I am told by my young son—and I believe him to be accurate because he knows more about dinosaurs than most anyone I know—that the largest living thing ever to have roamed the Earth is a dinosaur called the Brontosaurus. The Brontosaurus was apparently as large or nearly as large as an 18-wheeler truck with a brain no bigger than the size of my fist.

Using dinosaurs as a comparison, the Federal Reserve Board, which is a remaining dinosaur on our Government, today, took action to increase interest rates by one-half of 1 percent once again. I will not describe the brainpower it took to do that because we have a lot of people who have good academic credentials, and I think they are plenty smart, down at the Federal Reserve Board. But it surely is an institutional dinosaur. It is a large central agency accountable to no one in this country.

The Federal Reserve Board met this morning in secret, behind closed doors, and took action to hike interest rates by one-half of 1 percent. The Fed's best friends are the big-money central banks, and they serve that constituency faithfully, I guess.

This is the fifth time in 7 months they have increased interest rates in our country. It is an outrage. Do they live in a different world down at the Federal Reserve Board? Do they breathe different air or lack oxygen when they make decisions? What on Earth would allow them to conclude that what we need to do is increase interest rates at a time when—coming out of a recession—we have gotten toward cruising speed in our economy, but are beginning to slow down because of previous actions of the Fed? Nevertheless, they take more action to put the brakes on the American economy. It is exactly the wrong solution at the wrong time.

There is no credible evidence of inflation. For 4 successive years inflation has decreased, and it continues today. The action by the Fed is wrongheaded, and it will hurt this country.

Inasmuch as we created this institution early this century, I hope that enough of us care about what they are doing to decide to reform the Federal Reserve Board. It is now a strong central bank accountable to no one. It recognizes and pays homage to the big money center banks and to those vested interests in this country that have wealth. They take action to support and to nurture their interests at the very time the action injures the interests of most American families, and Main Street businesses.

Mr. President, I needed to say that because the Fed just in the last hour, raised interest rates which will be a tax on every American family. It is bad public policy. We cannot do much about this at this moment because it is unaccountable. But we ought to do something in the long term to reform this institution so it is more accountable to the American people.

HEALTH CARE REFORM AND THE HEALTH SECURITY ACT

Mr. DORGAN. Mr. President, let me go on to the subject for which I sought time today in the U.S. Senate. The subject of health care, hospitals, and all of the issues that surround the issue is very difficult for me to talk about because of the significant tragedies in our family that are attached to the health care system: sitting night after night and day after day in intensive care waiting rooms, and praying for miracles and the breathtaking and spectacular changes in medicine that will save someone you love, and it does not work and does not happen.

I cannot talk very much about it except to tell you that I fully understand that when someone you love is in trouble and has a health care problem, cost is not an issue. The cost of the operation, the cost of the surgeon, the cost of hospitalization, the cost of the very best technology available anywhere in the country is not an issue. It does not matter. You want someone to save the life of someone you love. That is kind of what health care is today, breathtaking, spectacular advances to do

things we never before thought possible. People whose lungs are not functioning and whose heart is gone get a double lung and heart transplant. The definition of a dead person was once somebody whose heart was not working and lungs were gone. Now we can transplant a new heart and lungs all at once. It is breathtaking.

Those are the spectacular successes we read about and know about. There are just as many spectacular failures. All along the way, enormous amounts of money are spent in various ways to try and advance medical care. Some of it is routine, the ordinary daily health care services people need. Some is on the cutting edge of new technology, trying to save lives that we before could not save.

I grew up in a town that had a doctor—one doctor. There were 350 people in my hometown. He was old Dr. S.W. Hill, a wonderful man, who came there and stayed 55 years. Our neighbor took his kid, Alton Ivy, to the doctor because his tooth ached. We did not have a dentist in my hometown. Doc Hill looked at Alton and got him to open his mouth, and he decided he had to have a tooth pulled, so Doc pulled out Alton's tooth. The problem was Doc Hill pulled the wrong tooth. Alton's dad was pretty upset, and the doctor explained that he did the best he could; he was not a dentist, and he sometimes made mistakes. With Alton, he pulled the wrong tooth.

My opinion about health care in this debate is that there is clearly a national ache of significant proportions. You cannot ignore that. But, we have to be careful not to pull the wrong tooth. I am worried that may be what we are about to do.

I would like to present some information today that I hope my colleagues will consider as we try to respond to this issue and decide what to do with respect to health care reform. There are those around here who say, well, let us essentially do nothing and let the market system take care of this. Let us be happy and do nothing. That is the easiest possible solution, to do nothing. That would not be the right approach. We must do something.

Too many people are without coverage. Too many people are sick for whom health care is not readily available. We must especially do something about costs. We are responding when the issue is skyrocketing costs in health care by talking largely about coverage. And that, I think, is the weakness of our approach. Is coverage important? Absolutely. Health care coverage is essential. I will talk more about that in a minute. But cost is what is driving this problem. As health care costs skyrocket month after month and year after year, it takes health care out of the reach of far too many American families. If we do not do something about the skyrocketing costs we are chasing, we will not succeed in expanding health care coverage because health care will always cost too much.

It is not that coverage is not a problem. It clearly is. We need, it seems to me, to make certain every American has access to health care. I believe health care ought to be a fundamental right. Some particular child today ought not to have a circumstance exist where whether that child gets to a hospital or clinic is a function of how much money that child's mother or father has.

So coverage is an issue. Yes, we ought to address coverage, and we ought to have universal health care coverage. There is no question about that. But the relentless, gripping, nagging problem of escalating, skyrocketing health care costs, if ignored, will mean we will never attain universal coverage in our country. It will mean that families and employers and the governments that finance the Medicare and Medicaid programs will simply not be able to contain the monster that is eating away at our ability to pay for health care, and that is skyrocketing costs.

In short, we are answering the wrong question first. People want something done to bring down the cost of health care. And we are telling them that with a new program, we can increase the coverage of health care now. But can we do that without controlling costs? No, I do not think so. I do not think it is possible.

The appetite for health care in this country is inexhaustible. We all know that. If you have breast cancer and have a 10- or 20-percent chance of a cure with an experimental operation, a bone marrow transplant that will cost $250,000, if it is you, do you want somebody to pay that $150,000 or $250,000? Of course, you do. There is an inexhaustible demand for health care.

If you go to the cafe in my hometown and ask people about health care, I will tell you what you will discover: A discussion and a conversation about cost. They will ask, "Why does it cost $300 to get three stitches put in your index finger?" That is what one North Dakotan asked. "Why did it cost $18,000 for 3 days in a hospital?" The hospital bill including the use of an operating room for 4 hours without the physician fee, was $18,000. Why did it cost that much? "Why did it cost," they will ask, as Judy did, "$10,300 for a 3-day stay in a hospital last month?" Or "Why did it cost," Tricia asked, "for outpatient surgery, with a hospital stay from 8 a.m. to 2 p.m. on the same day, $13,000?"

How did hospital prices increase 413 percent from 1980 to 1991? The average total charge per day for inpatient care in hospitals for a Medicare beneficiary is $1,230. Yet, a third of our hospital beds are empty, and many of those hospitals that are not full are expanding and building. A 1993 study found hospital expenditures per day to be over $1,000 in the United States; $400 in Canada; and less than $250 a day in France, Germany, Japan, and Great Britain. And physician fees are extremely high as well.

In 1989, U.S. physicians, on average, had incomes more than three times their British, French, Swedish, and Japanese counterparts. In 1990, the Canadian Province of British Columbia arranged for some Seattle hospitals to do open heart surgery for some Canadian patients. The surgeons were paid $4,500 for the heart surgery done in Seattle. A surgeon would have gotten $2,500 for exactly the same surgery in Canada. And actually, the fee for a United States consumer in Seattle for that same surgery would have been $6,000, but the Canadians were able to negotiate a better deal. I note that the ratio of physician income to an average person's overall income in the United States is 5 to 1; compared to 3.7 to 1 in Canada; 4.3 to 1 in Germany; and 2.3 to 1 in Great Britain.

I asked if I could get some information on the comparative costs of procedures, operations such as a tonsillectomy, appendectomy, or a hysterectomy, here in the United States and other nations. There is not much information but CRS was able to find this comparison of Canada to the United States. A coronary artery bypass cost $16,000 in Canada and $38,300 in the United States. A cesarean section was $3,700 in Canada and $6,700 in the United States. An appendectomy, uncomplicated, was $2,500 in Canada and $5,700 in the United States.

I have mentioned this before, and I will do it again very quickly. I have talked several times about prescription drug costs. Let me just refer to a couple of charts that I have shown Members of the Senate before. Valium is certainly a drug that is familiar to a lot of the American people. The same drug, by the company, selling the same pill, in the same bottle, costs $4 in Sweden, $4 in Great Britain, and $9 in Canada. For the same dose of the same pill, made by the same company, they charge $49 in the United States. They say to the U.S. consumer: If you need Valium from us, we have a separate way we charge. We are going to charge you 10 times more than we charge other consumers.

Here is another comparison. I have a grid sheet of wholesale price ratios for 20 of the 100 top-selling drugs in the United States. Inderal is $34 in Sweden, $43 in the United Kingdom, $122 in Canada, and $428 in the United States for exactly the same number of pills produced by the same company and sold in these different countries.

There is Xanax, a drug prescribed for anxiety. As you can see on the chart—$10, $15, $20, but for the U.S. consumer, a special deal, they overprice it.

VOL
140
PT
16
AG
12
—
18
1994
UMI

I have many of these charts. When I offer an amendment on this subject I intend to go through them in some detail.

Finally, Premarine, an estrogen replacement, the largest selling drug in this country, as a matter of fact. In Sweden it wholesales for $93, the same bottle, the same pills produced by the same manufacturer; $100 in Great Britain; but they say to the United States consumer you get a special price from us—triple—we triple the price.

Physician fees, hospital costs, prescription drug costs—people are worried about prices. The cost of health care keeps rising. The salaries of hospital administrators—but first, the salaries of prescription drug manufacturers. They say they need these prices for research and development. The CEO of one major drug company makes as much in a year as the combined salary of every Senator serving in the U.S. Senate. He makes as much money by noon in one day as the average American worker makes working all year long.

One insurance company executive is paid $52.8 million. The CEO of one Blue Cross/Blue Shield plan, an empire that was losing money hand over fist, was making $4000,000 a year. Another CEO of a Blue Cross/Blue Shield plan was making $800,000 a year. Another one made $1 million last year. Another Blue Cross/Blue Shield CEO got a $4.6 million retirement package.

Cost is the issue. In every stage of this debate, why does health care cost so much?

The fact is we do not have a system in which price is the competitive regulating mechanism that is normally associated with the market system.

I have studied Adam Smith. Most of us studied Adam Smith. The cloak of the invisible hand established price as a mechanism by which competition existed.

It does not exist in health care. There is an inexhaustible demand for health care services. The fact is we do not have typical price competition. In my home State, we have 640,000 people; and guess what: Six separate locations where you get open heart surgery. Do we need that? Of course, we do not. But the providers compete based on adding additional services, not price. One does open heart surgery, the other provider says, "We have to do that in order to compete." One gets an MRI, and the other says, "We have to get an MRI." One has a CAT scan, and the other says, "We have to have one."

Competition in health care means duplication of services, and, therefore, higher prices. You do not hear a Tom Bodett advertise like Motel 6 to keep the light on 24 hours a day for you. You do not hear, "Come over to the hospital; we have a cheaper room for you." Competition in health care is not based on price. It is a fact. Those who stand on the floor ad nauseam talking about competition, how some sort of managed competition is going to magically drive down prices or costs in health care, are simply wrong. It is not going to happen.

With all of that as background, let me turn to some information I have developed about all of the plans that exist. Let me say at the start this President deserves a lot of credit. We would not be talking about health care if it were not for this President. Health care costs are gobbling up the Federal budget, the family budget, and business budget, which we must do something about. We would not be discussing it had we not elected Bill Clinton. So I give him credit for this. Let me credit also the majority leader for bringing the plan to the floor. The easiest possible thing do is to bring nothing to the floor; let us obstruct, wait and do nothing.

Most important to me is let us do the right thing. The right thing is to do something to put the brakes on skyrocketing costs. None of the plans now discussed—none of them—effectively does that.

Let me explain the problem with this chart. This chart shows health care costs as a percentage of gross domestic product. Our gross domestic product or GDP is the sum total of everything we produce in the country, the income, in effect that we are able to use. If you add it all up and compare it to health care costs, we spend far more on health care than any other country.

In fact, President Clinton during the State of the Union Address said we spent 14 percent of our GDP on health care costs, Canada spends 11, and no other country spends 10. In Germany they had a special session of the German legislature when health care costs went up two-tenths of 1 percent of GDP. I believe it was somewhere around 7.6 or 7.8 percent. They called a special session. It was a calamity for them. We are not at 7, 8 or 9 percent. We are at 14 percent and rising, and rising quickly. We are far, far above any other country in the claim health care costs have on our total resources.

Let me show you a chart that says if there is no health care reform and we just go on like we have been going along, according to the Congressional Budget Office, health care costs will go from 14 percent of gross domestic product to over 20 percent in 10 years. In other words, we are going to increase by a third the claim on our national income for health care. That is if we do nothing.

If we pass the Clinton plan, which I think is no longer before us, but nonetheless, if we pass the Clinton plan as is, what we have is we go from 14 percent up to close to 19 percent, and the Clinton plan, incidentally, has cost containment in it that is tougher than any other plan we have considered. If we pass the Finance Committee plan, which was guided by the mainstream or moderate group, we go from 14 percent of GDP to over 20 percent of the gross domestic product. If we pass the Mitchell plan, health care increases as a percent of our gross domestic product from 14 percent to over 20 percent. The Dole plan is not yet scored by the Congressional Budget Office, but I cannot believe it would have any better numbers than any of the others because it probably will have the least amount of bite in it as far as controlling cost. Essentially, I think it mirrors where we are today in inexhaustible growth of health care costs.

This chart is a summary of all the plans. What you see from this chart is that no matter what plan we pass that currently exists, we are off debating coverage and not biting on cost control. If we do not have the opportunity to and do not have the will to say that we are going to do cost containment and put some cost controls in place that bite, we will not be able to get costs under control. We must do something in order to keep this country's health care costs at somewhere around 14 or 15 percent of gross domestic product. Otherwise, our health care reform efforts we will surely fail.

Now, the answers that come in this debate are fairly predictable. This is politics, fortunately or unfortunately. I do not happen to think politics is bad. John Kennedy said every mother's hope was that her son would grow up to be President as long as they do not get involved in politics. Politics is the process by which we make decisions.

The politics of the Senate increasingly these days is we tend to retreat into familiar terrain, into familiar campgrounds. The campground on that side of the aisle is retreating to positions of saying let us really do nothing, or let us do nothing and pretend we did something, but let us do very little and make it seem like it was a lot. That is very familiar ground for that side of the aisle.

Our side of the aisle tends to try to put our suit right away and say let us immediately help people. There is no more laudable goal than that, because we have a lot of people suffering and a lot of people who need help.

But going to a spending program immediately without addressing rising costs will not solve this problem. Some say to me when I show them these charts, you know what you are missing? We are putting 30 million people more into this health care system. Of course, it would cost more. I say they do not understand. The whole debate about health care is that the 30 million people are now getting health care, at least some semblance of health care, and there is an enormous cost shift. They are already in this system to a large extent. We ought to, it seems to me, be able to construct a system with

cost containment that bites in a real way. That is the toughest thing we have to do around here, because it is going to offend everybody. But if we do not do that, we will not ever, in my judgment, be able to provide adequate coverage because we will not have constrained costs.

When we get up to 20 percent of our GDP committed to health care, we are not going to be able to deal with that in the Federal budget. Families are not going to be able to deal with that in the family budgets.

It is my hope, as we move along here now, in the midnight hours tonight, or whenever we are going to try to wrap this up, that we will understand a couple of things.

One, this President and this majority leader have decided an important element in this health care debate is coverage. And they are absolutely right. Too many people today are sick and are not getting adequate care. No mother in this country should worry that when her children get sick she may not be able to get them to a doctor because she does not have enough money in her wallet. Coverage is important.

But we will not advance the interests of coverage unless we do something in health care reform that bites on cost containment. We cannot have a health care system that eats up from where we are today an additional one-third of its claim on our gross domestic product and finish this job and say we did a good job. If we pass a bill that deals only with coverage and go home, we will have left the most significant challenge in front of us.

As I was coming over today I pulled something out of my files, because when my mother passed away she had left, in a series of files for us children, things that she had kept and collected. I suppose everyone has something like this. My mother had kept a hospital bill from St. Joseph's Hospital in Dickinson, ND. When I was a little tyke just able to walk, I had a burst appendix and nearly died. They said another hour or so I would not have made it. I got to the hospital and had emergency surgery—fairly significant surgery in those days. I was hospitalized for 6 days. I had extensive care. And my mother kept the bill for that extensive hospitalization. It was $71.81.

It was 6 days in the hospital, 6 days of room charges at St. Joseph's Hospital in Dickinson was $39. But then you add to that—that is not all they charged—they wanted to charge for the operating room as well, and this was surgery, I understand, that took many hours because it was very difficult surgery at that time. And they charged $10 for the use of the operating room and $10 for anesthesia and $3 for an x-ray.

When people talk of the good old days, I suppose there were some aspects of the good old days we would like to go back to. And $70 hospital bills might be one. But we cannot reclaim the good old days, nor would we want to with respect to some of the miracles and advances and breakthroughs and the breathtaking changes that have occurred in health care.

Breathtaking changes and miracle cures are important to all of the American people only to the extent that they have access to them. That is why I think my colleagues—my colleague from Minnesota is on his feet about to speak. No one is more aggressive than he is to talk about coverage. He is absolutely right, coverage is essential. But I am just telling him, he and others, that if we do not effectively deal with costs, with cost controls and cost containment that really bites, then we will not succeed.

I might say to folks on the other side of the aisle who come here and talk about competition and so on, the last thing, in my judgment, they would ever embrace would be anything that restrains in any way anyone's ability to charge any amount to any American. I just cannot believe that. Because this is not a market system that works in the traditional market ways.

So I guess I would close pretty much as I began. I full well understand the necessity of health care from a personal standpoint and I hope that no one will believe in the next few days the solution is for us to do nothing. That is not a solution. The solution is for us to do something and to do the right thing. The right thing in my judgment is two steps: Decide together that the market system does not work to control health care costs; and to find an effective way—fair to everyone, fair to providers and fair to consumers—to put us on a course of restraining, in an adequate way, health care costs.

And second and importantly, make sure we finish when we are on a track and give every American family the assurance that they will have health care coverage, coverage they can afford and coverage that represents quality health care.

I hope if and when we can put the brakes on skyrocketing health care costs, the American families will once again give this institution the credibility that I think this institution can have by tackling tough problems in a timely way.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDENT pro tempore. The Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. Mr. President, first of all, let me thank my colleague from North Dakota. One of the things I most appreciate about Senator DORGAN, since I come from Minnesota, a neighbor of North Dakota, is all of the ways in which Senator DORGAN is so rooted in the people that he represents.

The kind of sensitivity toward and feel for regular people he demonstrates is rare. I do not think there is anybody in the U.S. Senate, whether we are talking about the Federal Reserve System and interest rates or the ways in which those kinds of decisions can make or break people's lives, or health care, who does a better job of really representing a lot of people who quite often do not have a voice here. I thank the Senator.

The other thing I would say, and I promised my colleague from Iowa that I would be relatively brief so I do not want to get started on this, but I wanted to say to my colleague from North Dakota that I believe he is absolutely on target. He said I was a fierce advocate for universal coverage—yes. But I think unless we have cost containment—I mean, if 37 percent of our gross domestic product by the year 2030 is spent on health care, it is going to bankrupt us. I think we have to be very serious about cost containment.

The question is how to contain health care costs. I just simply do not buy the argument that the way we contain the costs is by essentially undercutting services for people, or not covering people, or denying people care that they and their loved ones really need.

I have to say to the Senator from North Dakota, one of the things that attracted me to the single payer option from the very beginning—since everybody keeps talk about the Congressional Budget Office—is that there is simply not another proposal that has been presented that does nearly as well by way of CBO scoring. CBO's latest scoring of the single payer bill pointed out that single payer, 1997 to 2003, has the potential to save up to $700 billion as compared to the status quo, projected over that 6-year period. That is not an insignificant amount of money, especially when you are talking about a health care bill that would make sure that everyone was covered with a comprehensive package of benefits, including catastrophic care. So I think he is right on target and I hope we get serious about universal coverage. All of which is a bridge to what I would like to really focus on, Mr. President, for maybe a few minutes.

Mr. President, let me start out by saying that I recognize that I tread on sensitive ground, and I want to make sure my colleagues understand the analysis I am trying to make, and that they know it is not an analysis that attempts to criticize any particular Member of the U.S. Senate or the House.

First of all, I ask unanimous consent that a Washington Post piece dated Monday, August 15 titled "Health and Insurance Contributions to Senators" be printed in the RECORD.

And second, I ask unanimous consent that a New York Times piece titled

VOL 140 PT 16 AG 12 — 18 1994 UMI

"Lawmakers Feel the Heat From Health Care Lobby," which is dated Tuesday, August 16, today, be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WELLSTONE. Mr. President, I am pleased that these two major newspapers have really analyzed this mixture of money and politics in the health care debate. I have to say that much of the struggle over whether or not we will have a fundamental health care reform has to do with our failure to yet enact fundamental campaign finance reform legislation. I want to talk about that campaign finance reform bill in a moment.

Citizen Action came out with a study recently—an analysis of Federal Election Commission data. From January 1993 to May of this year, the health care industry made $26.4 million in political contributions to Representatives and Senators. In March, it was a staggering $4 million, just in that 1 month alone.

Other data, Mr. President: During Presidential and congressional elections, the 1990–92 cycle, the health industry, broadly defined, spent almost $42 million. Common Cause just came out with a study of these contributions, which I mentioned the other day on the Senate floor, Mr. President. This is a study of PAC contributions—just PAC contributions—to the U.S. Senate over a 6-year period, January 1987 to December 1993. During that time, business PAC's contributed $72 million; labor PAC's, $16 million. That is about a 4-to-1 ratio.

I want to just make three more points. First, I think that we have to figure out a way of financing our campaigns so that people can have more faith in our process. By the way, again, I am not talking about the wrongdoing of individual officeholders, I am talking about something different. I just think that when this kind of money is contributed at the same time that we are dealing with an issue that is so important to people's lives, it is difficult for people to have confidence that we are representing the public interest, that we are representing them.

I think part of the reason there is such anger in the country is many people feel ripped off and they think this process is just driven by a big money game. It is not just that. But I do not think it looks right, and I do not think it is right. I said before on the floor of the Senate, and I say it one more time: it is comparable to the referee of a soccer game or football game receiving contributions from the two teams before the game starts. People would say, "We're not sure that referee can make rigorous, objective decisions that would be best for everyone." That is my first point.

My second point, Mr. President, is that I think it does have a bearing on policy. From the New York Times front page today just a few figures: From January 19, 1993, through May 31, 1994, the American Medical Association gave $977,000; the American Dental PAC gave $630,000; the National Association of Life Underwriters, $612,000; American Hospital Association, $551,000; American Nurses Association, $444,000; Independent Insurance Agents of America, $371,000; American Family PAC, $345,000.

We have before us some important decisions we have to make on policy. I would like to talk about the ways in which I fear that this virtual wall of money sometimes stands between the people we represent and Senators and Representatives. For example, how do we contain costs? My colleague from North Dakota just spoke eloquently about the need to contain costs.

Mr. President, do you know what the CBO has said rather clearly? If we want to have cost containment, if we want to make sure that health care costs do not continue to skyrocket, the CBO always focuses in on the importance of insurance company premium caps. That is now off the table. For some reason that is off the table. Does it have anything to do with the power of the insurance industry? Does it have anything to do with their ability to effect the tenure or lack of tenure of Senators and Representatives? I hope not, but I think this is a way in which people have every right to be skeptical as to whether or not the insurance industry perhaps is better represented than the vast majority of people.

Second example. Employer mandates. Every time I am in a debate with my colleagues on the other side of the aisle, they talk about how people now are beginning to question whether any health care reform bill should be passed. That is true; $100 million will be spent on TV and other advertising before this is all over and plenty of people are frightened and scared, and people have a right to raise questions. I would not deny any citizen in this country that right.

But the polls also show overwhelmingly that the vast majority of people, throughout all this attack, still say that they believe each and every person should be covered, because they know that if some people go without coverage, it could be them if they become sick or lose their job, and people are absolutely convinced that employers should contribute their fair share.

But when we talk about anything close to what we in Congress have, with our employer contributing 72 percent, or when we talk about employers contributing 80 percent, making sure that small businesses have a subsidy so they can afford that, that now seems to be off the table. Could that have anything to do with the fact that over the last 6 years $72 million in political contributions has come from business PAC's?

Finally, my last point—and this one bothers me to no end. I was in a debate today, a radio discussion, and I asked the host, a conservative, good person with an interest in federalism—you have to have a twinkle in your eye, you have to enjoy debates and discussions with people. I asked him: "Would you not agree with the proposition that if a State wanted to go forward with a single-payer plan, it would be wrong for Senators and Representatives to try and knock out of the Mitchell bill the option for States to go forward just because the large employers want to be carved out, just because the insurance industry does not want it to happen? Should it not be the case that if the people of Minnesota or Oregon or New York or Iowa themselves vote people into office who represent them and the decisions are made at the State level that they want to go with a single-payer option, should we not let States have that opportunity?"

I thought the States were to be the laboratories of reform. I thought we were a grassroots political culture. I thought we were in favor of decentralizing public policy. And, frankly, I just think there is a lot of fear about this because I think the evidence is irrefutable; that, as a matter of fact, if some States go forward, they will be able to cover everyone, it will be good coverage, comprehensive coverage, more comprehensive than in any plan that is before us right now and they will be able to contain costs. But there is this fierce opposition lining up to enable States to have the flexibility to do this.

Mr. President, could that have anything to do with the huge amounts of money that have been poured into the U.S. Congress from health care special interests? And not just by health care PAC's. There is too much emphasis on political action committees; I also mean individuals within the industry, broadly defined, who make the huge contributions.

I heard one of my colleagues the other day say, "You know, the problem is we have to contain costs and we just don't know when to say no. You have all these special interests that are asking for coverage, and we don't know how to say no to those special interests."

What special interests? People who are uninsured? What special interests? Children? What special interests? My colleague from Iowa is here. People with disabilities who are saying we hope that you will pass a reform bill that will enable us to live at home in as near normal circumstances as possible with dignified home-based care, what special interests are we talking about?

I do not see anything in the Washington Post piece yesterday or in the New York Times piece today or in any of the analyses I have made about the mix and money in politics that tells me any of these people are the special interests. But I see a lot of evidence that there are a lot of people in this industry, a lot of large companies, a lot of hospital supply and equipment companies, a lot of the professionals, the insurance companies and all the rest that have poured an unprecedented—unprecedented—amount of money into the Congress at exactly the time we are debating this piece of legislation. I do not hear my colleagues on any of these talk shows talking about those special interests at all.

My final point, Mr. President—and, by the way, I think it would be a profound shame if those interests were able to hijack this reform effort and if we did not come through with a bill that led to the positive improvement in the lives of people.

I think this health care issue, this debate, and what is happening on the floor of the U.S. Senate speaks in as strong and powerful and direct way than anything for the need to have tough, comprehensive campaign finance reform.

I will say it just one more time. I am not talking about the individual wrongdoing of any office holder. We are all trapped in this system. People run for office and you have to raise—what is it?—over a 6-year period the standard now is $13,000 a week. You have to raise this money to be a viable candidate, so we are told. The campaigns are hugely expensive.

So people try to raise the money, and they raise the money from the people who have the money to give. But it undercuts representative democracy. If the standard is each person counts as one and no more than one—and it should be— we have moved dangerously far away from that.

So I hope that Senators and Representatives will get going on this conference committee. We passed a campaign finance reform bill. It is deadlocked. That deadlock should be broken.

Now, Members of the House say to Senators, you all want us to abolish PAC's. How convenient it is for you to say that, Senators, because about 60 percent of the big money you raise is through individual contributions, large contributions. We raise it from labor and women's groups and environmental groups and other groups as well, but we would like to focus on how you raise the money.

It seems to me there can be a compromise. At the very minimum, the bill we passed called for an agreement upon spending limits. That is a huge first step. Talk about getting rid of soft money, talk about having some debates, having some vouchers for being able to buy advertising, talk about ways in which we can begin to get some of this big money out of politics.

Now, if the House of Representatives, Mr. President, is willing to phase out PAC contributions, then it strikes me that Senators should be willing to begin to limit further some of our large contributions. As I understand it, one of the proposals is that no more than a third of the money Senators raise should be in small contributions. I would not settle on a particular figure. I would want it to be something that worked. But it does seem to me, Mr. President, that we could drop some of our contributions or percentage of what we raise overall in exchange for the House being willing to phase down PAC contributions. This conference committee could finally meet and bring back to the floor of the Senate, and the House a campaign finance reform bill.

I cannot think of a better reason to do it than what is happening in this health care debate right now. All this money pouring in, the same imperative of running for office, the same money chase, which undercuts representative democracy and undermines people's faith in this process.

I have come to know colleagues after 4 years here, and there are a lot of people on both sides of the aisle who are very committed to public service, very committed to doing the right thing, some of whom at this moment do not agree with me on this particular issue. That is beside the point.

The point is we ought to really demand that this conference committee get moving. We ought to demand that there be some kind of campaign finance reform bill passed this year. We ought to demand that we get some of this big money out of politics. We ought to demand that we move toward a system of representative democracy.

Mr. President, at this point I yield the floor.

EXHIBIT 1

HEALTH AND INSURANCE CONTRIBUTIONS TO SENATORS

An analysis released last week by the advocacy group Citizen Action shows that health and insurance companies have contributed $40.1 million to members of the U.S. Senate over the last 15 years. The analysis summarizes campaign contributions received from health and insurance political action committees (PACS) and from individuals giving more than $200 during the same period. The figures are derived from Federal Election Commission reports and include donations from PACs such as those affiliated with health care professionals, hospitals, pharmaceutical firms, clinical laboratories and insurance companies. The individual donors counted identified themselves on FEC reports as being affiliated with either the health or insurance industry. Citizen Action supports a single-payer Canadian style plan for health care reform:

Phil Gramm (R–Tex.)	$1,235,520
Bob Packwood (R–Ore.)	1,027,218
Dave Durenberger (R–Minn.)	1,021,054
Bill Bradley (D–N.J.)	978,761
Orrin G. Hatch (R–Utah)	958,299
Dan Oates (R–Ind.)	913,273
Arlen Specter (R–Pa.)	895,786
Christopher S. Bond (R–Mo.)	733,011
Connie Mack (R–Fla.)	732,383
Richard C. Shelby (D–Ala.)	724,496
John H. Chafee (R–R.I.)	721,098
Frank R. Lautenberg (D–N.J.)	717,192
Robert J. Dole (R–Kan.)	707,794
Alfonse M. D'Amato (R–N.Y.)	693,903
Daniel Patrick Moynihan (D–N.Y.)	670,578
Bob Graham (D–Fla.)	639,243
John D. 'Jay' IV Rockefeller (D–W.Va.)	638,645
Charles E. Grassley (R–Iowa)	638,169
Thomas A. Daschle (D–S.D.)	620,822
Christopher J. Dodd (D–Conn.)	612,154
Kay Bailey Hutchison (R–Tex)	611,009
Tom Harkin (D–Iowa)	607,423
Richard G. Lugar (R–Ind.)	602,772
Jim Sasser (D–Tenn.)	568,671
Dianne Feinstein (D–Calif.)	534,356
Don Nickles (R–Okla.)	530,658
Trent Lott (R–Miss.)	524,303
Max Baucus (D–Mont.)	523,364
John C. Danforth (R–Mo.)	522,599
Strom Thurmond (R–S.C.)	514,512
Mitch McConnell (R–Ky.)	513,436
Joseph I. Lieberman (D–Conn.)	494,730
George J. Mitchell (D–Maine)	491,633
Richard H. Bryan (D–Nev.)	478,227
William V. Roth Jr. (R–Del.)	467,402
Donald W. Riegle Jr. (D–Mich.)	458,167
John Breaux (D–La.)	450,707
Ernest F. Hollings (D–S.C.)	443,763
Kent Conrad (D–N.D.)	440,853
Slade Gorton (R–Wash.)	428,956
John McCain (R–Ariz.)	421,253
Bob Kerrey (D–Neb.)	417,999
Jesse Helms (R–N.C.)	416,530
Howel T. Heflin (D–Ala.)	413,313
Paul Simon (D–Ill.)	403,270
Harry M. Reid (D–Nev.)	398,722
Dennis DeConcini (D–Ariz.)	396,683
Hank Brown (R–Colo.)	369,243
Jeff Bingaman (D–N.M.)	347,695
Byron L. Dorgan (D–N.D.)	343,846
Harris Wofford (D–Pa.)	342,921
Carl M. Levin (D–Mich.)	342,170
Larry Pressler (R–S.D.)	338,687
Wendell H. Ford (D–Ky.)	332,440
J. James Exon (D–Neb.)	326,825
Charles S. Robb (D–Va.)	325,677
Barbara A. Mikulski (D–Md.)	313,912
Edward M. Kennedy (D–Mass)	308,689
John Glenn (D–Ohio)	293,312
Thad Cochran (R–Miss.)	292,217
David Pryor (D–Ark.)	290,914
Alan K. Simpson (R–Wyo.)	287,123
Pete V. Domenici (R–N.M.)	286,579
John F. Kerry (D–Mass.)	282,109
Malcolm Wallop (R–Wyo.)	262,754
James M. Jeffords (R–Vt.)	250,791
Dale Bumpers (D–Ark.)	250,185
J. Bennett Johnston (D–La.)	247,066
Barbara Boxer (D–Calif.)	244,282
Judd Gregg (R–N.H.)	238,749
Daniel K. Inouye (D–Hawaii)	236,300
Mark O. Hatfield (R–Ore.)	231,665
John W. Warner (R–Va.)	223,690
Robert C. Smith (R–N.H.)	205,700
Larry E. Craig (R–Idaho)	198,676
Paul Coverdell (R–Ga.)	197,807
Frank H. Murkowski (R–Alaska)	194,950
William S. Cohen (R–Maine)	193,091
Ted Stevens (R–Alaska)	188,750
Sam Nunn (D–Ga.)	183,037
Paul S. Sarbanes (D–Md.)	177,100
Robert C. Byrd (D–W. Va.)	170,167
Lauch Faircloth (R–N.C.)	165,960
Conrad Burns (R–Mont.)	165,700
David L. Boren (D–Okla.)	162,260
Joseph R. Biden Jr. (D–Del.)	158,393
Claiborne Pell (D–R.I.)	156,430
Howard M. Metzenbaum (D–Ohio)	145,587
Daniel K. Akaka (D–Hawaii)	129,488
Ben Nighthorse Campbell (D–Colo.)	126,919

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Patrick J. Leahy (D-Vt.)	104,000
Carol Moseley-Braun (D-Ill.)	97,442
Dirk Kempthorne (R-Idaho)	92,352
Russell Feingold (D-Wis.)	87,033
Robert F. Bennett (R-Utah)	84,700
Nancy Landon Kassebaum (R-Kan.)	83,448
Patty Murray (D-Wash.)	33,052
Paul D. Wellstone (D-Minn.)	24,875
Herb Kohl (D-Wis.)	23,960
Harlan Mathews (D-Tenn.)	3,000

NOTE.—Period covered for PACS is through the most recent filing, usually June 30, 1994. Includes large donor contributions through March 31, 1994.

LAWMAKERS FEEL THE HEAT FROM HEALTH CARE LOBBY

(By Katharine Q. Seelye)

WASHINGTON, August 15.—The telephone callers to Senator John B. Breaux, a Louisiana Democrat and an influential voice in the debate over health care, are stacked up like planes over National Airport. "Senator Breaux's office. Can you hold?"

The Senator's phones are ablaze from dawn until well past dark, with the answering machine collecting at least 200 more messages overnight. Clogged phone lines are one price that he and some of his fellow legislators pay for staking out an independent position on what many say is the most heavily lobbied issue in the nation's history.

Sentor Breaux and three members of Congress talked recently about their experiences with the health care lobby, painting a picture of special interests overwhelming the decision-making process.

At least 650 groups spent more than $100 million from January 1993 to last March to influence the outcome of health care legislation, according to a recent study by the Center for Public Integrity, a nonprofit Washington group that examines public issues. The spending has only intensified since then.

"There is no issue of public policy in which the sheer strength of those special interests have so overwhelmed the process as in the health care reform debate," the center said.

Most of the money goes to the brigade of lobbyists who buttonhole members of Congress on behalf of their clients; some of the money goes directly into the campaign coffers of senators and representatives whose votes they hope to influence. Most of the clients, including many hospital and doctors' associations, oppose comprehensive changes in the nation's health care system, but others, like the leaders of some labor unions and the American Association of Retired Persons, are pushing for the Democratic leadership's bills.

"This is the biggest-scale lobbying effort that's ever been mounted on any single piece of legislation, both in terms of dollars spent and people engaged," said Ellen Miller, executive director of the Center for Responsive Politics, another Washington-based nonprofit research group. "It is more fully engaged across the country and at a higher profile inside the Beltway than ever before."

The Annenberg School for Communication at the University of Pennsylvania predicts that by October the amount spent by lobbyists on television advertising alone will exceed $60 million—more than the $50 million spent on advertising in the 1992 Presidential campaign.

Citizen Action, a consumer group, has examined the campaign contributions made by lobbyists for health and insurance interests over the years. It reports that for the last 14 years, the political action committees representing those interests contributed more than $150 million to Congressional re-election campaigns to "keep health reform off the national agenda."

Citizen Action says these political action committees are spending more than $2 million a month to modify a health care overhaul or kill it outright. They contributed $26.4 million to campaigns from January 1993 to last May, with the biggest donations going to members of committees that produced health care legislation.

For example, Citizen Action said, members of the House Ways and Means Committee and the Energy and Commerce Committee received, on average, $27,000 more in this session of Congress than in the previous session, while their colleagues who served on no health-related committees received an average increase of $3,000 over the same period.

In the Senate, the report said, members of the Finance Committee, which produced a proposal that George J. Mitchell of Maine, the majority leader, drew on for his bill, received the biggest contributions, averaging $600,000 since 1979. Four members of Congress received more than $1 million from the health and insurance industry since that time. They were Senators Phil Gramm of Texas, Bob Packwood of Oregon and Dave Durenberger of Minnesota, all Republicans, and Representative Richard A. Gephardt of Missouri, the House majority leader.

Given the amount of money and the intense competition, "the Oval Office is reduced to just another trade association," said Charles Lewis, executive director of the Center for Public Integrity.

Senator Breaux said the lobbying "makes it more difficult to find middle ground." He added that pressure from unions, political parties, hospital associations, doctors and the Chamber of Commerce had already pushed some members of Congress to make commitments.

One of the most effective groups has been the National Federation of Independent Business, which represents 607,000 small-business owners. "The N.F.I.B has more people on the floor of the House than the White House has," Mr. Lewis said. "They are spending millions because billions are at stake."

Terry Hill, a spokesman for the federation, says the livelihoods of his members are at stake. "This is one of the biggest issues we have ever worked on, and it's the most irate and incensed I've ever seen the membership," he said.

In the bill introduced by Senator Mitchell, the federation has helped to stave off any requirement that employers pay their workers' insurance, at least for a few years. On the House side, the small-business lobby has helped rouse opposition to the requirement the employers pay 80 percent of the cost of their workers' insurance, as proposed in the bill offered by Mr. Gephardt.

Big business, which at first applauded President Clinton's efforts to change the health system, now generally sees less urgency in change and is pretty much against it.

"With the economy stronger and a temporary slowdown in inflation for health care, many companies believe they don't need a systemwide solution, that they can solve their own problems," Mr. Wiener said.

He added: This has clearly been startling for the Clinton Administration, which larded up its health care proposal with a lot that was very favorable to big business. But the distrust of government triumphed."

This distrust has undermined efforts by unions and other groups that have been lobbying on behalf of health care changes. While union leaders have been pushing for universal coverage and cost controls, Mr. Wiener said, many of their rank-and-file members fear they will suffer if the Government fiddles with the good coverage they enjoy now.

The lobbying has become so fierce, fractious and well-financed, said Mr. Lewis of the Center for Public Integrity, that it can "overwhelm the decision-making process."

JOHN B. BREAUX

A Must-See for Everybody

John B. Breaux says he has been hit on by "everyone from A to Z." This means not just the big, professional interests, but also musical therapists, witch doctors and wart removers, all of whom want their specialties covered.

His office, with its row of colorful football helmets and his case of tennis trophies, is now a must stop on the lobbying circuit. This is partly because Senator Breaux has yet to commit himself to a specific health care plan. It is also because he is one of the mainstream group producing its own set of amendments to the Mitchell bill. Some on Capitol Hill think this bipartisan group may provide the needed heft to get a health care bill through the Senate this session.

"Liberals want to do everything all at once and hope they got it right, and conservatives want to do nothing and take a long time to do it," he said. "I'm trying to take one step at a time and make sure we get it right. When you're in the middle, you get beat up by both sides."

Mr. Breaux, who was elected to the Senate in 1986, is not unfamiliar with the ways of Washington. He came to the House in 1972 as its youngest member—he was then 28—to replace Edwin W. Edwards, on whose staff he had served. (He came from the same small Cajun town as Mr. Edwards, who is now Louisiana's Governor.

At the start of the debate over health care, the Senator said, many of the lobbyists were useful because they provided details on subjects that lawmakers did not have time to delve into on their own. But now things are more intense.

"We've long passed informational lobbying; now we're at break-your-arm lobbying," he said.

Many are callers from orchestrated campaigns who tell him to vote yes or no. "I try to hang up on the ones not from Louisiana," he said. "People will really badger you. People will call up and be really ugly sometimes, and threatening."

"People have been scared," Mr. Breaux continued. "That's a great tactic if you want to get people to be against something. You instill the fear that Congress is going to do something to you rather than for you."

Moreover, President Clinton's initial proposal "was technically do-able, but politically not do-able," the Senator said. "It was too much, too soon, too complicated, too bureaucratic, too Washington-oriented."

Reforming health care may be extremely complex, but Senator Breaux has set what may be an even higher goal for himself. "I'm trying to achieve survival," he laughed. "I'll do well if I survive."

BILL BREWSTER

Lone Pharmacist Far From Lonely

Bill Brewster is the only registered pharmacist in the House. This makes him particularly sensitive to the pitches from the multifaceted pharmaceutical lobby that has been patrolling Capitol Hill.

But Mr. Brewster, a 52-year-old Democrat who represents a sprawling rural district in southern Oklahoma, is also a small-business owner, a cattleman and a hunter. He is a man of many interests, and many interests have been seeking him out.

"We've heard from more groups than I knew there were in America," he said of the health lobbyists, many of whom represent hospitals, doctors and pharmacists.

"There's a lot of different pharmacy groups," he said, "and they're all at each other's throats."

The main issue within the pharmaceutical industry, Mr. Brewster said, is drug pricing. "The pharmaceutical manufacturers are on one side, and they've got every lobbyist hired in town," he said. "The ones they haven't hired are working for the National Association of Retail Druggists and pharmaceutical associations."

As a member of Ways and Means, Mr. Brewster said, he was lobbied most heavily from February until late June when the committee passed its proposed bill. "Obviously they worked the members on the committees prior to the committee votes," he said of the lobbyists. Partly because the Gephardt bill has stalled, he said, "I'm having fewer contacts right now."

Mr. Brewster was identified by Citizen Action, the watchdog group, as the ninth top recipient in the House of money from all health and insurance industry political action committees from January 1993 to May 1994. And the Center for Public Integrity identified him as among those who took the most trips sponsored by the health-care industry. Mr. Brewster took 10; the top member took 11.

"Who contributes to me has nothing to do with it," Mr. Brewster said. "I figure, anyone who contributes feels like I'm doing a decent job and wants to have good government. I try to look at an issue first off, how it affects my district."

The economy in his district is based on small businesses, farms and oil and gas interests. He said he was getting "a tremendous amount of pressure" from small-business owners, who oppose any provision to require employers to pay for workers' health insurance. He said he had received numerous letters saying, "I don't have insurance but I do have a job—please don't mandate insurance coverage that puts my boss out of business and puts me out of a job."

He is unhappy with both the Gephardt bill and a rival plan proposed by Representative Jim Cooper of Tennessee, which has attracted some Republican support, on the grounds that they try to do too much. "If we try to provide a plan that's not intrusive to the 85 percent who have insurance, provide access to preventive care for the 15 percent who don't and went home, the public would be very happy."

PAUL MCHALE

Former Marine Faces New Battles

Paul McHale of Bethlehem, Pa., has approached the health care debate with the order and determination of the most serious student in the class. A 44-year-old former marine who left the Pennsylvania Legislature to return to active duty for the war in the Persian Gulf, his mission is to conquer every detail and do the right thing.

"To do justice in evaluating any of the pending comprehensive health care plans," said Mr. McHale, a first-term Democrat, "it is absolutely essential for a member of Congress to have done an extensive amount of mind-numbing reading prior to the examination of any individual bill.

"Once you know the basic building blocks, once you know the concepts, you can quickly recognize how they're being fitted together. Now when I'm lobbied—by ordinary constituents, businessmen and women and professional lobbyists—when they come in, the dialogue becomes whether or not my position comes close to theirs and whether either of our positions can be found in one of the pending bills."

For the moment, Mr. McHale's cannot. An original backer of the alternative discussed by Representative Jim Cooper, the Tennessee Democrat, Mr. McHale said he was disappointed in the plan's final, conservative shape.

He is also unhappy with the Gephardt plan. He opposes making small-business owners pay for their workers' insurance, and he does not like expanding Medicare, which he says would not control costs.

All of which makes him a legislator in search of a bill to support. "The best way to affect my vote is to provide me with information," he said. While all the usual suspects have inundated Mr. McHale with information—last week alone, he was visited by at least two dozen lobbyists, including representatives of three drug companies, six of the largest businesses in his district, two unions, including the steelworkers, local health care plans, and four hospital associations—he is still in search of more.

This has left him open to attacks from all sides. "Yesterday a very good friend who is a well-respected leader of organized labor said I was too conservative," he said. "And right after that, the National Federation of Independent Business conducted a press conference back in my district where they criticized my position as too liberal."

"In the final analysis, I'm going to pull back in, find a quiet corner, think about what's good for our country and vote on the issue as if it were a secret ballot," he said.

With that, it is time for a House vote. Mr. McHale checks his watch and steps briskly out the door. "It takes me six minutes and 35 seconds to get there," he said. "I've got this route timed out."

JOSÉ E. SERRANO

A Caucus Leader Feels the Pressure

José E. Serrano represents the South Bronx, one of the poorest districts in the nation, its striking poverty and vast expanses of rubble made famous by visits by Presidents Jimmy Carter and Ronald Reagan. A full 60 percent of the district is Hispanic, which helped catapult this 50-year-old, two-term Democrat to the chairmanship of the 19-member Hispanic caucus in Congress.

Thus Mr. Serrano has not only the interests of his district to worry about but also the interests of his caucus. He said they are generally one and the same. But he also has to worry about the interests of New York City, and that can be cause for Angst.

The health care industry in New York provides 300,000 jobs, the city's biggest segment of service-oriented jobs, and it has been one of the fastest-growing sectors of the economy. Mr. Serrano has to worry about those jobs—many hospital workers are Hispanic—as well as ensure that the hospitals will continue to treat poor patients, regardless of their immigration status.

Another big concern is how New York's teaching hospitals, among the nation's most eminent, will fare under any new health care legislation. The bill offered by Representative Richard A. Gephardt of Missouri, the majority leader, proposes a limit on the number of medical residents at such hospitals; Mr. Serrano wants to make sure that whatever the number, Hispanics are fairly represented.

Mr. Serrano said the caucus was worried about preventive care and about whether a national health insurance system would require people to carry identification cards and what uses those cards might be put to. But it has supported the most controversial provision of the Gephardt legislation, the requirement that employers pay 80 percent of the cost of their workers' health insurance.

Mr. Serrano hears most often not from insurance companies or other giants of the health care debate, but from fellow caucus members and strictly local interests, particularly the teaching hospitals.

Mr. Serrano is sympathetic to some of the hospitals' concerns, but he wants them to admit more local residents into their training programs. "Maybe it's time for me to do a little lobbying," he said, clearing his throat, pinching his collar and straightening his tie.

In his office, which features portraits of Robert F. Kennedy and Martin Luther King Jr., Mr. Serrano pointed out that "not all the lobbying is done right here. Anywhere you are, you get lobbied."

He added, "It's people saying, 'Listen, you want this? You want that? You want this? You want that? Fine.'"

He reached for a piece of paper. "This is the White House lobbying," he said. "It has my name on it. They ran off a beautiful computer thing that singles out your district. It gives me information I didn't have, that there are people in my district who are not covered by Medicaid and Medicare and who need universal coverage."

The analysis said that 94,000 people, including 36,000 children, in Mr. Serrano's district had no health coverage. It also said that with universal coverage, the 72,000 middle-class families in his district earning $20,000 to $75,000 annually would save an average of $612 a year on insurance premiums.

The grass-roots groups, he said, "remind you of what it is they do and their value to society and why we have to be careful not to hurt them."

He said insurance companies are the "toughest" lobbyists "because they're very negative in their approach. They say, 'Everything is O.K. Why don't we leave things the way they are?' It's hard to negotiate with someone who believes no change is needed."

The leading health and insurance political action committee contributors, Jan. 1, 1993, through May 31, 1994.

American Medical Association	$977,704
American Dental PAC	630,553
National Association of Life Underwriters	612,301
American Hospital Association	551,266
American Nurses' Association	444,446
Independent Insurance Agents of America	371,260
American Family PAC	345,850

Source.—Citizen Action, a consumer group that supports a Canadian-style health system.

KEEPING TRACK—WHO GETS THE MOST

Recipients of campaign contributions from the health and insurance industries political action committees from Jan. 1, 1993, through May 31, 1994.

Top 10 Senate Recipients

1. Kay Bailey Hutchison (R-Texas)	$611,009
2. Joseph I. Lieberman (D-Conn.)	294,020
3. Connie Mack (R-Fla.)	293,455
4. Daniel Patrick Moynihan (D-N.Y.)	280,485
5. John H. Chafee (R-R.I.)	272,549
6. Orrin G. Hatch (R-Utah)	267,141
7. Dianne Feinstein (D-Calif.)	235,755
8. Bob Kerrey (D-Neb.)	223,299
9. Edward M. Kennedy (D-Mass.)	221,439

VOL
140
PT
16
AG
12
—
18
1994
UMI

10. Kent Conrad (D-N.D.)	216,200
John B. Breaux (D-La.)	5,250
Top 10 House Recipients	
1. Jim Cooper (D-Tenn.)	$540,145
2. Richard A. Gephardt (D-Mo.)	228,476
3. Jon Kyl (R-Ariz.)	201,758
4. Pete Stark (D-Calif.)	190,245
5. Jack Fields (R-Texas)	190,215
6. Michael A. Andrews (D-Texas)	176,925
7. Dan Rostenkowski (D-Ill.)	169,050
8. Newt Gingrich (R-Ga.)	141,611
9. Bill Brewster (D-Okla.)	130,614
10. Robert T. Matsui (D-Calif.)	129,354
Paul McHale (D-Penn.)	8,540
Jose E. Serrano (D-N.Y.)	7,000

Source.—Citizen Action, a consumer group that supports a Canadian-style health system.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Chair. I will not take too much time, I say to the Senators seeking recognition.

Mr. President, I wish to compliment and thank again my friend and colleague from Minnesota for his very eloquent words. He is right on the mark on the issue of trying to get back to representative democracy, and we will not do it until we have adequate campaign finance reform. So I thank the Senator for his contribution in that area.

ACTION BY THE FEDERAL RESERVE

Mr. HARKIN. Mr. President, I wish to depart for just, hopefully, no more than 5 minutes from the debate that has been ongoing about health care to talk about something that happened just about 2 hours ago that in all of the discussion and debate we are having about health care I think may have a more drastic impact than some of the things we are doing right now, with more immediate impact on Americans and their lives.

Less than 2 hours ago, the Federal Reserve Board announced that there would be another hike in interest rates. There will be an increase in the Federal funds rate and the Federal discount rate by a full half point. I believe that is going to be very damaging to our Nation's economy. While that increase may be beneficial to those with substantial direct interest in the bond market, it is going to be harmful to average, ordinary Americans.

There are three things on which I think the Federal Reserve Board is wrong. First, inflation is not a threat at this time.

Second, the economy is not overheating.

Third, increasing interest rates will without a doubt reduce economic activity, particularly in very sensitive sectors like housing and autos. Agriculture where borrowing is necessary will also be harmed.

The Fed seems to think that inflation is likely, but the facts do not bear this out. Inflation is under better control now than it has been for decades. The Producer Price Index has only increased by six-tenths of a percent over the last year. The figure that came out on Thursday for July showed a substantial increase, 0.5 percent. But almost all of that was due to two things: Fuel, partially caused by an oil strike in Nigeria; and food, largely caused by a huge increase in the cost of coffee, which rose by 22 percent. This rise in coffee prices accounted for four-fifths of the increase in food inflation. But poor coffee crops do not mean generally higher inflation. Crude goods actually dropped by 0.9 percent in July.

Another key indicator, the Consumer Price Index, has increased only 2.7 percent over the past year. Wage increases, which could be the greatest threat to serious inflation, if it ever should occur, has risen a paltry 0.4 percent adjusted for productivity.

In other words, inflation is under control. While we are seeing certain specific commodities with significant price increases—I mentioned coffee and oil—real inflation is lower now than it has been in decades.

I think the second point that the Federal Reserve is overlooking is that the economy is slowing down. Cyclical industries are already showing serious softness because of earlier Federal Reserve actions. New housing starts have been moving down since the Federal Reserve started increasing rates in February.

Mr. President, this is the fifth increase in interest rates by the Federal Reserve Board since February. And what has been happening? Housing starts are now 6.8 percent below their March level. Auto sales are soft. The unemployment rate rose to 6.1 percent last month. There are over 8 million people counted as being unemployed, 4.4 million people forced to work at part-time jobs due to unavailability of full employment and large numbers who have left the job market altogether because they have given up.

The argument by some that we must dampen down the economy now to avoid the possibility of future inflation does one thing. It guarantees a sure loss in jobs and growth in order to assure that the smallest possibility of inflation is wiped out.

But the cost to our economy is great. Some say that the bond market is only happy in a recession. Well, it appears to me that the chairman of the Federal Reserve system is happy only when the bond market is happy. I might be a bit too strong, but I think it is correct. What they are looking for is the effective elimination of all true inflation but to achieve that they are almost willing to have the economy in a continuous stall, and that is what we are coming into right now.

So what are the economic and social results of the Federal Reserve policy? Well, if you are in the bond market, it is great. But if you are an average American working hard to try to raise your children, you are worried about losing your job and no growth in income. In fact, you are probably losing ground. Your ability to buy a house has been sharply reduced.

A 30-year conventional mortgage has risen by about 1.5 percent since February. If you have an adjustable-rate mortgage, your monthly payments are going to go up $100 to $150 a month compared to the rate based on February's interest levels. That hurts working families. If you are a farmer with significant loans to cover the cost of buying materials you need to feed your hogs or other livestock, your interest rates will rise and your profits will shrink. That is the real world out there. That is what is happening.

The bottom line is that the Federal Reserve has taken action which is clearly not in the Nation's interest. They have decided on a very narrow agenda, effectively captured by the narrow interests of the bond market rather than balancing the bond market's needs with that of the Nation as a whole.

Plain and simple, Mr. President, the Federal Reserve Board is out of touch with ordinary Americans and what is happening in our economy. This is something that needs to be talked about further.

I will close with this, Mr. President. In a recent article in the Washington Post, the writer, Jim Hoagland, made these points. He said:

> One man's job is another man's basis point in the brave new economic world of the central bankers.
>
> Being unemployed may be bad for you, but cheer up. It cools inflation, and should be good for the markets. That is part of the unspoken and unspeakable philosophy that lies behind the manipulation of interest rates in the world's leading industrial economies in recent months. Because of the central bankers' abiding and unbalanced fear of inflation, declining unemployment rates have become a hair trigger for raising interest rates.

Mr. Hoagland went on to say:

> The bankers and fund managers resemble old generals refighting the last war after the battlefield has changed. They build an imaginary line of high, long-term interest rates instead of adapting monetary policy to a world in which the greater barriers to economic renewal are unemployment and the lack of public investment in productive enterprises.

Mr. Hoagland closed by saying:

> Growth is measured in jobs, as well as in stock and bond prices. Low inflation rates purchased by high unemployment will turn out to have been a very dubious bargain.

Mr. President, I did not mean to interrupt this ongoing debate about health care, but I do believe that the action taken by the Federal Reserve Board earlier this afternoon is going to further stall our economy, further raise interest rates, and create higher unemployment than we would otherwise have out there. It is going to start slowing this economy down even more, and I do not believe the Federal Reserve Board really had the basis for raising those interest rates, once again—five times since February.

Mr. President, I have been supportive of the independence of the Federal Reserve Board. But I think we have to get some people on that Federal Reserve Board that really understand what is happening to ordinary working Americans out there. Their action today is going to hurt people. It is going to cause working families to have a reduction in their income and their standard of living.

It all may be lost in the debate on health care that is going on here right now. But I did not want the afternoon to pass without at least one Senator getting up and challenging the Federal Reserve Board on the actions they took today because I believe the actions they took will truly hurt the working Americans.

Mr. MOYNIHAN. Will the Senator yield for one question?

Mr. HARKIN. Yes.

Mr. MOYNIHAN. Knowing the standards of courtesy and integrity which he embodies, I wondered if he would not want to modify the remark about the Chairman of the Federal Reserve which could be taken as personal. Dr. Greenspan is a person of deep, utmost integrity, of great learning, and a genuine concern for what he thinks is best for the American economy. He would not have any partiality to bondholders any more than to stockholders. The concern about inflation has sort of for half a century been a concern of the successive Chairmen of the Federal Reserve. No one had to deal with it more dramatically than the predecessor in 1982 who had to bring us into a deep recession because we had gotten to the point of double-digit inflation. That was a dramatic act. We would never want to see that repeated. So we would never want to see a situation where it was necessary.

Mr. HARKIN. If the Senator will yield, I said in my remarks that "it seems"—I will check the RECORD. But I said "it seems" to me that the Chairman of the Fed is only happy when the bond market is happy. I said it appears to be.

I do not deny that Mr. Greenspan—I did not use his name. But he is the Fed Chairman. I do not know him personally. But I understand that he is a man of high character, high integrity. I accept the judgment of the Senator from New York.

Mr. MOYNIHAN. He is surely that.

Mr. HARKIN. I accept the Senator's judgment on that.

Obviously, I do not know him personally. I am just looking at the record of what has happened since February. I do not believe that what is happening in our economy warrants five increases in the interest rates from, I think, if I am not mistaken, 3 to 4.75 in the Federal funds rate since February. I think it bodes ill for our economy. I think that perhaps the Federal Reserve Chairman, perhaps others on the Federal Reserve Board, have too narrow of an approach in looking at our economy.

I think we have to understand some other things going on in our economy other than just the possibility of future inflation. I do not believe the Senator from New York means to say that the present situation that we have encountered over the last 18 months at least, perhaps even 2 years, is in any way near what we were facing in the late 1970's.

Mr. MOYNIHAN. No.

Mr. HARKIN. Or eighties. We are not anywhere close to that. I said we do not have serious inflation out there, to speak of, right now. Yet, because there is a possibility that at some future time we might see inflation going up—Federal Reserve action is taken to raise interest rates. I am just making the point that this is not something that just takes place in the financial pages of the Wall Street Journal. It has real effects on working people throughout this country.

So I apologize, and I do so if my words cast any aspersion at all upon the character of or the integrity of the Chairman of the Federal Reserve Board. It is not my intention to do that. I do not mean to do that. I just meant to say that I think his focus has been somewhat too narrowly focused just on the bond market, and it ought to have a broader focus than that. But, no, I did not in any way mean to impugn his integrity or loyalty to his country or anything else. But I think the Fed needs to take a broader view of the economy.

Mr. MOYNIHAN. I thank the Senator.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Thank you, Mr. President.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. D'AMATO. Mr. President, I do not intend to speak for hours in an opening statement on health care. But I do intend to reflect my feelings and those of an overwhelming number of my constituents in New York, at least those who have taken the time to call my office or write to us either here in Washington or in one of the offices that I have throughout the State of New York.

I think, Mr. President, that there probably is no area that is more important than the area of health care as it relates to each of us individually, as it relates to our families, as it relates to the American people. It is an area that no one can doubt needs reform. We need to improve it. But despite its flaws, it is still the best health care system in the world, bar none, the best. I daresay that if the poorest of the poor in this country had a problem, they would get better medical treatment here than Boris Yeltsin gets in Russia. Indeed, if Boris Yeltsin had a severe medical problem, he would probably come to this country, if he could, to get medical treatment.

So let us not take that choice away from Boris Yeltsin. More importantly, let us not take that choice away from the American people.

I have a piece of advice because I have been hearing a lot of people offering advice. I say to the President and to the First Lady, passing bad legislation that the American people do not want is not good politics, and it is not good government. Take it either way. It seems to me that what is taking place—at least that is the feeling that I get—is that some would have us act such that we would not make corrections that we all know need to be made, and not improve the system that we know can and should be improved. But, no, they say you must take the whole thing. Otherwise, we will accuse you of playing politics. Otherwise, we will say that you are holding captive this important piece of legislation.

I say we were not sent here by the people to surrender good judgment on the altar of political expedience, or under threat of being kept in session around the clock. We were sent here to work to bring about a better system if possible, but not to destroy the best system that exists in the world.

Less than 2 weeks ago, we got our first look at Senator MITCHELL's health reform package.

That was a bill of some 1,410 pages, 46 pages longer than even the 1,364-page Clinton bill. That was less than 2 weeks ago. The ramifications in that legislation—and it is voluminous—reach right into everyone's home. And the people have a right to know, how does this legislation affect them, and how does it impact the plan that they have at the present time? The people have a right to real answers.

I daresay that there are many of my colleagues who do not have those answers. I do not have all of the answers. I am still learning.

That was 2 weeks ago when the first bill was placed on our desks. Then when I checked my desk Wednesday, I found that the bill had grown, and this new bill—call it Mitchell 2—was 1,448 pages long, 84 pages longer than the Clinton bill. And, yes, on this Saturday we were presented with the third Mitchell bill, 1,443 pages long, actually 5 pages less than the second one. There is a rumor that there may be Mitchell 4; I do not know. But I do know that we

VOL 140 PT 16 AG 12 — 18 1994 UMI

cannot implement 1, 2, or 3 without doing significant harm to our American health care system and the American taxpayers. I do know that it is a flawed bill, deeply flawed.

Whichever bill you choose, the result is the same: More taxes, more new entitlements, and much more Government intrusion into our health care system.

Mr. President, I do not intend to tie up my colleagues on the floor, but I think these things have to be said. I do not intend to speak for 2 or 3 or 4 hours on this. This is not an attempt to impede, but it is an attempt to educate. I have to tell you that as the days go by, more and more people call, and some call and say: You know, we want there to be changes, but we want you to do it the right way. Do not just rush this through. Take your time. That is what the sentiments of these people are, and it is the gist of the numbers which I am going to share with you in a little while.

This bill contains hundreds of billions of dollars in new taxes—taxes that could have a devastating impact on middle-class America, taxes and costs on existing health plans that go well beyond what people have ever imagined. Let me just cite two of these new taxes. There is a 25-percent tax on health insurance premiums that grow faster than a premium cap. Who establishes this cap? Some board on some vague principles that no one knows about. If you turn to page 1170, section 4511(a)(1), it states:

If a community-rated certified standard health plan is a high-cost plan—

I do not know what this high-cost plan is. It very well could be that the plans most people have would be rated high-cost,

for any coverage period beginning after December 31, 1996, there is hereby imposed a tax equal to 25 percent of the excess premiums of that plan.

Mr. President, this tax could force millions of Americans to pay more taxes on the plans that they have already chosen. That is not me saying this. That is the Congressional Budget Office. They say:

Virtually all plans would be subject to the assessment called for in Senator Mitchell's proposal.

The words have meaning. We are talking about something of some tremendous significance. So someone who has worked and has bargained and who has achieved a plan that in December 1996, may be considered to be one of these so-called high-cost plans, finds him or herself in a situation where their premiums are raised 25 percent. Let me suggest that all the legislation in the world that says the insurance company cannot pass the cost on is not worth anything. Do you mean to tell me that you are going to raise a tax of 25 percent on the excess of that part that you say is too rich? Since when should people be penalized for buying health care insurance, whether or not they have bargained for it, that is excellent and fully comprehensive.

I thought this was the United States of America, where people had the right to invest in those plans that would give to their families the best protection. Now we are going to penalize them. It is absurd to say that insurance companies are not going to pass that extra cost on and, indeed, some insurance companies, in order to beat that, will raise their costs between now and December 1996. This tax will apply regardless of the reason the plan was considered high-cost. But it is most likely to affect desirable plans which seek to provide the highest quality benefits and the broadest choice of providers—or those that cover the sickest individuals.

I cannot understand that. That is under the name of cost containment. That is Government regulation at its worst. If we want to get ourselves into deep trouble, let us adopt this kind of philosophy. We could be debating this principle alone, and its cost and implications, for days, and for anyone to suggest that we adopt this whole thing, take it or leave it, within a period of hours, days or weeks, is simply wrong. That is not why we were sent here. Take it or leave it, or we are going to keep you in like little children. You will not be able to go home. So what, that is our job. Are we supposed to be cowed by that and ignore our rights, and ignore the fact that we were elected to come here to look at these provisions, to examine them? These are important, these are critical, these are life and death issues.

I suggest to you that any plan that is so important to the life and health of the people of this country should never have been designed in a back room with the 600 people in the task force that came together, without the benefit of real, comprehensive hearings, and without the benefit of a full examination of all of the details that are critical to the life of this country and its people. I think it would be a political charade if we pushed something through for the sake of saying we pushed it through. That is politics and government at its worse.

CBO estimates that this tax would cost American taxpayers $70 billion over a 10-year period of time. Just that 25 percent tax. I have to tell you that if you look at CBO estimates, if you look at what they estimated the cost of Medicare would be, you would find out that it has increased about seven times more than their original estimate. It was seven times more. I do not know whether this is going to be $70 billion. It is certainly not going to be less than $70 billion.

Here is another tax. There is a 1 percent tax on health insurance premiums levied by the State to fund "administrative expenses." That only amounts to $50 billion. We take that tax and the other taxes levied in this bill and we come out to a total of over $300 billion in new taxes.

Then again when we have people say, "Oh, well, do not worry; Government can do it better, faster, more efficiently, and more effectively." On what planet? That must be a planet I am not aware of. That is certainly not true in this country, and I know of no other country on the planet where it is.

This bill creates and empowers dozens of new Government bureaucracies.

And there is one in particular that would have devastating consequences for my home State of New York, one which the senior Senator from New York, Senator MOYNIHAN, eloquently addressed—a new Council on Graduate Medical Education. We are going to take a bunch of bureaucrats, and they are going to determine for us how many doctors we should have and what their specialty should be.

I wonder who it is going to consist of. Will Hillary be on that council? Will she tell us how many thoracic surgeons, how many specialists there will be in various specialties? Incredible. We are now going to micromanage the health of America so that the Federal bureaucrats will determine who the specialists in America will be and how many. Fabulous. Fantastic.

They even had a hard number in their original bill. They effectively said that you are going to have to eliminate right off the bat in New York over 3,000 residents, specialists who come in and get the best training, specialists who, by the way, are dispersed throughout this country and through parts of the world.

Let me tell you what this would mean. New York trains 11 percent of all the country's medical students and nearly 16 percent of the medical residents. Imagine. They have already determined—and I do not know where or how this was determined—that they are going to reduce the total number of medical residents across the board by one-fifth, and that results in a loss of 3,000 medical residents in New York City alone.

Well if we are going to talk about Government deciding how many specialists we are going to have—how many cancer specialists, how many heart specialists—do you not think that we should have some thorough and comprehensive debate as to how this is—testimony not from politicians, but from leading educators, from people in the field, as to whether or not that is an idea we should even contemplate? Do you not think that would be deserving of some kind of introspection, some kind of close examination? And I do not mean on the floor of the Senate with no facts, with no basis by which to make our judgments. This procedure is an absolute sham. We should not be proceeding on this bill in this manner.

I have just touched on two items, and they are pretty doggone important to the health of this country.

And there are thousands of items that are as critical if not more critical jammed into this bill that affect the lives of every American. That is why Americans are on the telephone and why they are calling. And I have these numbers I will submit as a representation of the calls that have come into our office from August 8 to August 16 up to 12 o'clock.

New York City, against implementing a health care bill this year—by the way, most of these people have expressed that they want reform, but they say do it right, do not rush it this year, wait until next year, and then go ahead—against, 475; in favor of going ahead and enacting the Mitchell bill, 291. Even in New York City the ratio is clearly 3 to 2 against going forward.

Rochester, NY, 162 against; 12 for—14 to 1 against going forward.

Our Washington, DC, office—and most of these people call from New York City—691 against; 258 for going forward, almost 3 to 1 against going forward.

Albany, NY, 190 against going forward; 25 for going forward, a ratio of 7.5 to 1 against.

Buffalo, 563 against going forward and adopting this bill.

I tell you if we began to examine this bill in the kind of detail that we should in terms of discussing just some of the issues that I have brought up here, you will find these numbers will go off the chart, and I will assure you that this Senator will look to discuss, even in as limited and circumscribed a manner as this body prescribes, that we examine the issues, that we examine them. They are too important just to be shoved through without debate.

Syracuse, 452 against to 35 for, a ratio of 13 to 1 against.

All in all, it is almost 4 to 1 against, 2,534 to 750.

Mr. President, I ask unanimous consent to have printed in the RECORD, the tally of health care calls with reference to the Mitchell bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEALTH CARE CALLS IN MITCHELL BILL: 8/8–8/16, AS OF 12:00 PM

	Against	For	Ratio
New York City	475	291	1.65:1
Rochester	162	12	14:1
Washington, DC	691	258	2.7:1
Albany	190	25	7.5:1
Buffalo	563	129	4.4:1
Syracuse	453	35	13:1
Total	2,534	750	3.5:1

Mr. D'AMATO. Mr. President, as I have said, the loss of these residents to New York will have devastating consequences on New York, but it is also devastating to the Nation when one stops to think that we train almost 16 percent of the medical residents in this Nation.

It would cost us 3,000 residents. I tell you that the cost would be incalculable as it relates to the quality of medical care in the New York urban area. The financial cost alone would be well over $500 million. The quality of care that our people would have would diminish tremendously just in this one area.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. When the Senator speaks of a resident in a hospital, he is talking about a doctor?

Mr. D'AMATO. Correct.

Mr. MOYNIHAN. The doctor.

Mr. D'AMATO. Fully certified doctor who is getting his specialty—his training—and some going on into the specialties. And so we would be taking out—and I thank my colleague for making the point—3,000 fully trained doctors, some of them working in their specialties. We would be removing them from servicing the needs of the urban poor. It has been estimated that to replace them would cost somewhere in excess of $566 million annually in New York alone. You would have the same kinds of consequences in other key centers throughout this Nation.

Again, I would emphasize the absurdity of thinking we are going to turn it over to a Federal bureaucrat or a board to determine how many doctors in the various specialties there will be. Have we not ever learned about the law of supply and demand? While the rest of the free world is looking to come to a market-oriented economy, here we are moving in the other direction, with Big Brother determining the allocation of medical specialists in our Nation. We are not talking about plumbers and carpenters and saying maybe we have to increase the emphasis on them in our trade schools. We are talking about life and death matters. We are talking about people who want to dedicate themselves to the service of others. And some bureaucrat is going to determine this.

Mr. President, the Federal Government, to be parochial, does not have the right to tell New York, or any other city for that matter, how to run its medical schools and teaching hospitals and does not have the ability to do that. I spoke to Dr. DeBakey, the great surgeon, the great pioneer at Baylor College of Medicine in Houston, and he absolutely could not believe it and made reference to what a blow this would be to science and to medical care if we were to attempt to implement this. By the way, this board's decisions would be final. They are the arbiters.

Mr. ROCKEFELLER. Will the Senator from New York yield?

Mr. D'AMATO. No; I will not. I have been waiting for days and days. I am not going to speak for hours. I want to make my point.

Young Americans who grow up wanting to be doctors should not be told by a Government bureaucrat what career they will be placed in. They should not be told we have too many doctors in this specialty or that specialty. If they want to try to make it and they have the ability to make it, then they have the right to try. There is something called the law of supply and demand.

Government bureaucrats should not have the right to tell any American what health plan is best for them, and that if you have one better than the standard benefits package we are going to assess you, we are going to tax you for it, you are going to pay more for it. The American people do not want a Government-run health care system. They want Congress to fix what is broken and to leave alone what is not. And we have an obligation to fix what is broken.

We can easily identify it, and we have. But for some reason, we do not want to just fix that which is broken. We want to go beyond. We can fix what is broken by enacting commonsense reforms that Members of both parties already agree will help solve the biggest problems in our health care system, reforms like portability, so those who move or change jobs can take their coverage with them; insurance protection, so people with preexisting medical conditions will not be denied coverage and those who fall ill will not have their coverage dropped; and tax reforms. My gosh, why should someone who is self-employed lose the ability to deduct his cost if we say that is an essential part of America? Let us do that. Let us give small businesses and individuals the same tax relief for buying health insurance as people with employer coverage. It is common sense.

But, no; some people want to create a political campaign, a political storm, and say we are going to fix it all; you are going to take it all whether you like it or not, whether you have a good health care plan or whether you do not, because we know what is good for you. What the American people do not want, is for us to adopt the Mitchell bill—or any bill—for political reasons. No bill should be adopted for political reasons. No bill should be stopped simply for political reasons. Congress should not pass a bill simply to pass one. That is wrong. And that is what the American people are telling us. They are saying take your time and do it right.

If I have to come down to this floor as we proceed, and go through section after section, not to nitpick but to raise issues that are critical, it is my obligation to do so if I see we are just determined to ram this bill through. That is not a filibuster, and it is not intended as one. But it will be intended to explore and to develop all of the

VOL 140 PT 16 AG 12 — 18 1994 UMI

facts. I suggest this is the wrong forum to do it. These matters should have been gone over in detail.

I know the Labor Committee had their hearings. They did not go over these things in detail. I say to my learned colleague, the chairman of the Finance Committee, some of these provisions have to be new to him and he, too, has to be very concerned about them. We all should be.

This is just the tip of the iceberg. Tomorrow I intend, for a short period of time, to come down to the floor and touch on at least one other critical area. We are talking about the health of the people of this country. People do not want us to abdicate our responsibilities.

I broke my shoulder in three places. I was able to pick the best doctor, and thank God he did not have a bureaucrat who determined whether or not he could or could not go into his specialty. That is the last thing we need. When my dad had an open heart procedure—fortunately, it was an angioplasty—we picked the doctor. He had an insurance plan he subscribed to. He went to the hospital of his choice. Americans should have that right. No one should lose the ability to pick their doctor and the hospital of their choice because we allowed Big Brother Government to say, "Oh, no, that is too good a plan."

I hear about this great Canadian plan. Is that why so many people come over to use the hospitals in Buffalo, because they do not want to wait 6 months, 8 months, a year, a year and a half, for some of the optional services that here in this country our people get when they are sick or in pain? Are we going to have a bureaucrat say, "Wait a minute; we cannot do any more hip replacements"? Is that what we are talking about?

Let me share two letters that have come to me, one dated August 8 from a constituent from Honeoye Falls:

DEAR SENATOR D'AMATO:

The thought of a health bill being pushed through the Congress in the next two weeks sends shivers through my spine. How can you people digest the huge amount of information being stacked before you and make a responsible decision on what is best for the people of America?

I want to know what is being promised in the various bills, what it will cost, who will be covered, how will it work, who will pay for it, how it will affect the health coverage I already have . . .

I want you to know that is the dominant thing so many people call about. They say: I like my health care coverage. I want to continue it.

I urge you to wait until we know all the answers to these questions before considering such sweeping changes to the American health care system—1995 is soon enough!

Sincerely,

ELINOR W. FISK.

I ask unanimous consent a copy of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HONEOYE FALLS, NY, *August 8, 1994.*

Senator ALFONSE D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO: The thoughts of a health bill being pushed through the Congress in the next two weeks sends shivers through my spine. How can you people digest the huge amount of information being stacked before you and make a responsible decision on what is best for the people of America?

I want to know what is being promised in the various bills, what it will cost, who will be covered, how will it work, who will pay for it, how it will affect the health coverage I already have, why the whole system has to be changed.

I urge you to wait until we know all the answers to these questions before considering such sweeping changes to the American health care system—1995 is soon enough!

Sincerely,

ELINOR W. FISK.

Mr. D'AMATO. I have another very short letter from Laurrie Brinckerhoff, 15 Charles Street, New York, NY.

Please! No Health Care Plan should be rushed through the Senate this year. If there is a plan, we need a carefully studied and well thought out plan.

Sincerely,

LAURRIE BRINCKERHOFF.

Mr. President, passing any bill without the public's informed consent is not good government. It is not good health care. It is not responsive to the will of the people. We are pushing this piece of legislation through at this time, and there is that momentum behind it, because of the political ramifications. That is wrong. The American people are telling us take your time. They are telling us do it right. They are telling us they want change. But they want it done the right way.

I think as people listen to the debate and to the areas of concern—not just amendments that are put forth, but the various areas of concern and the ramifications that this legislation contains—they will say resoundingly, "Don't just push it through." That is exactly what is taking place here.

I thank my colleagues and yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise not to speak to the health care debate, but something else that is impacting on the health care debate. One of the problems on the health care debate is that a lot of people engaged in the debate either have not been around or paid attention for the last 2 years that we have been discussing the health care problem, or have not paid any attention to the committees in question that have held probably hundreds of hours of hearings, all told, on the problem, and now stand and wave around a bill as if this, whatever number of pages it is, is something that was dropped from heaven or come up from hell, and that they have never seen before.

The criticisms made of this bill in the generic form could be made about every piece of major legislation that ever passed through the Senate. I remind my colleagues who have had no problems voting on major communications legislation, major legislation relating to anti-trust measures, major legislation relating to a thousand other areas—the Clean Air Act, the Clean Water Act—larger than this. They could have said the same exact thing. That is why we have a committee system. That is why we have the staffs we have. That is why we are supposed to pay attention. That is why we are supposed to understand some of what has been done. But it astounds me how little is understood by people who engage in this debate—and I am speaking of no one in particular—but how little is understood. I will just say one thing to my friend from New York. He is my friend, as we say. He and I truly are good personal friends. He gave the example of his father wanting to be able to choose his own doctor and wanting to be able to choose his own hospital.

I think that is a phenomenally important right, whether we pass health care or not. The vast majority of Americans do not have that chance. If they work for major corporations, the corporations decide, and by the time this decade is over, I predict there will not be any plans that allow that. They will all be HMO's with preferred providers. They are coming along.

Just look at all the people in Washington today, the people who are in the galleries, in this city, and the people listening to this debate. I ask you: How does your employer change yours—if you are lucky enough to have health care plans—how have they changed those plans in the recent past? I happen to have chosen a plan that does not. I am not in an HMO. HMO's are cheaper. You can spend less money if you want to be in an HMO. The point is, a lot of this is changing whether or not we do anything at all, and a lot of the choices the Senator is worried about are going to be eliminated if we do not do something.

I will not take the time to discuss it now, but I have a summary of responses that have come into my office—I am from a very small State, unlike a large State like New York. New York literally has counties bigger than my State and New York City has a population that is probably somewhere around 13, 14 times as large as my entire State.

But roughly 7,000 people have written to me in response to a series of questions I asked them.

Mr. President I might point out, the answers have come to very different conclusions than the 2,200, or thereabouts, phone calls my friend from New York who represents a State with—what?—18, 19, 20 million people in it? I would not call those calls particularly representative.

CRIME BILL

Mr. BIDEN. Mr. President, one of the things that the health care debate is reflecting is the same kind of, in some cases, nonsense that the crime debate is generating. I think that in this town, if you say something often enough, repeat it often enough, people actually begin to believe that it might be true, if you just say it.

What I have learned of late when the House failed by a margin of eight votes to pass the crime bill on a technicality; that is, they did not even allow a vote up and down, as they say, for or against the crime bill. They had a procedural vote to hide the "no" votes so they would not have to say I am against it for politics or I am against it because I am against assault weapons being eliminated, roughly 19 of them. It was a procedural vote, not unlike a cloture vote we have in the Senate.

What I have heard in the last week about what is in this crime bill and the conference report I find truly astounding. I doubt whether there is anybody on the floor of the U.S. Senate—it does not mean I am any better, but I am stating a fact—anybody who has put as much time and effort into fashioning these crime bills over the last 20 years, the last 6 in particular, than me. I have a distinct disadvantage and advantage. The disadvantage is I have done nothing but this issue, it seems, for God knows how long it is. The advantage is I think I know as well as anybody what is in the bill and in great detail.

So for my colleagues who are acting in—and I always assume my colleagues act in good faith, who truly believe some of the stuff that they have heard and said, and this is the purpose of my rising now to sort of set the record straight and lay out the facts. I am not sure it will change anybody's mind, but I just think it is important that when one is against something, they have the right reasons; that is, they know what their reasons are for being against something.

Let us start off with pointing out what the bill is. It sets up a trust fund with no new tax dollars—no new tax dollars; no new tax dollars to fund this. You say, how could that be? We are going to spend $30 billion over 6 years and no new taxes.

The real issue is whether or not we reduce the deficit by $30 billion or spend the money on crime prevention and crime enforcement, law enforcement. That is a legitimate debate. But this red herring out there that this is going to cost $30 billion in new taxes is simply wrong.

Let me tell you how we fund the bill, again. All of you know this because you helped put this together. We voted this 95–4 when we voted it out of the Senate. The way we fund it is, we trade bureaucrats for cops, bureaucrats for prisons, bureaucrats for law enforcement, bureaucrats for drug treatment in prisons, while someone is locked up in prison, bureaucrats to fund the violence against women initiative.

You say, what does that mean? What we did, what this President did and we codified, we said we are going to reduce the Federal work force by over a quarter of a million people over the next 6 years. I might point out, by the way, that under this President there are fewer Federal Government employees today than at any time since John Kennedy was President. It rose under every Republican and every Democrat prior to this. This President has actually reduced the number of people working for the Federal Government.

We are going to reduce it by a quarter of a million people more. We cannot spend this money for crime until we fire or we do not rehire someone or fill a position. So what happens here is this savings, to use the Senate jargon, has been scored. We talk about OMB, the Office of Management and Budget, and we talk about the Congressional Budget Office, which means nothing to the voters at large. What they are is a bunch of bureaucrats sitting there with sharp pencils and computers and deciding whether or not what we say is savings or not savings or actually real dollars. Are they real or are they phony?

All of the organizations have pointed out—Democrat, Republican—everyone acknowledges that this is an actual savings that will occur by reducing the Federal work force, which we have already done in the last 2 years and will continue to do. Unless we reduce the Federal work force, we cannot increase the police force. Unless we reduce the Federal work force, we cannot increase the prison space. Unless we reduce the Federal work force, we cannot increase the number of drug courts, and so on.

So if my Republican friends want to stand up and say—which is totally legitimate—"Look, JOE, this bill you all put together and that I voted for before and I might not vote for now, this bill, instead—I have thought about it—instead of setting up a trust fund to take the savings that come from firing or reducing the Federal work force and put it in a trust fund to hire cops, instead of doing that, what I would like to do is take the savings from firing or reducing these Federal workers and I would like to reduce the Federal deficit even more"—I might add, by the way, this is the only President who has reduced the Federal deficit in the last 2 years. The Federal deficit has actually gone down. That is, the amount of the deficit that was projected, it has gone down. It is less each year under this President than anyone had predicted and less than under the Republican Presidents, and it is going down.

If they say we want it to go down even further, and we do not want 100,000 more cops, I respect that. That is OK, you can say that, then go to the voters and say, "I rather the deficit be down lower and not hire more cops." That is fair. That is honest.

Or if you say, "BIDEN, you have money in here for the operation, maintenance, and construction of over 105,000 new prison cells in the various States—not Federal prison cells—State prison cells. I do not want to spend the money for that, BIDEN. I want to go out there and reduce the Federal deficit over 6 years by $6.5 billion," well, that is fair. Let us debate that and let us let the people in our home States decide whether we should reduce the Federal deficit by another $6.5 billion or let us spend the money to build 105,000 new prison cells and maintain them.

That is a legitimate debate. But it is an illegitimate debate to suggest, and it is factually not true to say, this bill that BIDEN and others cobbled together is going to raise taxes $30 billion beyond what we are now paying. Not true. Not true.

So the first important point about this crime bill—and I see the chairman of the Appropriations Committee is on the floor. This trust fund was something that really was his idea. I was not smart enough to think about it. He is the smartest guy in this outfit. Truly. I am not being solicitous. He is. And he is the best legislator in this outfit. He is the guy who thought of this. I did not think of it. I wish I could take the credit. I did not think of it.

But this is not $30 billion in new taxes. This is $30 billion we are not going to reduce the deficit by and spend it on law enforcement. That is true, but it is not $30 billion in additional taxes.

(Mr. BYRD assumed the chair)

Mr. BIDEN. Now, the second point, in this bill over 6 years, for law enforcement there is $10.7 billion for local law enforcement and community policing. Not Federal cops. We go to the States and say we are going to give you *x* number of dollars if you do two things. No. 1, if you do not cut the number of local police. As the Senator from West Virginia, the President of the Senate, knows, we used to have a thing called LEAA, Law Enforcement Assistant Program, out there.

What we found out the States did, we would send the money, and States, to try to make their budget look better, and counties—and I used to be a county official. I remember when our county tried to do this. If you had 100 county police officers, you would go out and you would fire 25 of them, take the Federal money and hire them back with the Federal money. Then the States and localities would go to their taxpayers and say: You see how responsible we are. We cut your taxes. Those big-spending guys down in Washington. And we still had the same number of police.

We got smart to that down here. So in this bill we said, look, you want 1 new local cop paid for by the Federal

VOL 140 PT 16 AG 12 — 18 1994 UMI

Government, if you now have 100 cops at home, if you reduce it by even 1, you do not get any Federal money. But if you maintain—maintenance of effort—if you maintain the 100 cops you have, we will give you money for more cops.

There are roughly 545,000 State and local police in all of America. This bill will add 100,000 additional local police. So you will have almost 650,000. We will increase by roughly 20 percent, a little less than 20 percent, the total police force in all of America that is not Federal.

The reason we know that is you do not get any money if you reduce your police force, if you do not maintain your effort. We are making a promise to the people back home. We are going to put more cops on the street. This is called truth in legislating.

Now, if you local folks back home do not want the money, do not ask for it.

My Republican friends say, well, there are strings attached to this money. Strings, malarkey. Nobody has to come and ask for this money. But if they ask for the money, I say to the Presiding Officer, they have to do two things. Promise, No. 1, that they are not going to fire their existing police force, and, No. 2, that they take all their police, not just the ones we are adding for them, but all their police and involve them in community policing so they are not just in squad cars, so many more are walking around on the beat, because, guess what?

Those of you from Houston, TX, those of you listening who are from cities like New York City, and all the places where they have done community policing, the violent crime has dropped roughly, in Houston by 19 percent.

This is not rocket science, folks. There are some things we know about crime. We know that if there are two street corners in the same city, one has a cop standing on the corner and one does not have a cop, the chances of a crime being committed where one has a cop is less than the one where there is not a cop. Again, not rocket science. Cops prevent crime as well as arrest perpetrators of crime.

So we are basically, I say to the Presiding Officer, getting a big bang for the buck. For the 100,000 cops we are providing, we are leveraging that to get 640,000 community police out there. Right now, of the 550,000 cops, there are perhaps 100,000 involved in community policing.

So that is a string. That is right. If you want the money, then what you have to do is you have to have your police in community policing.

Now, there is another criticism I hear from our Republican friends, who I might add all voted for this—all voted for this before. I do not know what happened between now and the time this will hurt the President if you vote against it. I do not know what strange thing happened. But they say, "Well, wait a minute. Is it not true after 6 years, BIDEN, the city or the county or the State is going to have to pick up the tab for this police officer?"

That is a condition? What is every other program? Are my Republican friends saying we should federalize the local police force? Does any one of them have an amendment with which they are going to stand up here and say, "I promise from this day forward we in the Federal Government will fund every local cop now and forever." Does that make any sense?

What do we do in every single program? There is a program out there now that started last year. It is $150 million in supplemental money to help local communities buy additional police officers. It is only, roughly, a 50–50 grant. They are falling all over themselves to come and say, "Please, you will pay for half a new cop for us." Wonderful.

It only lasts for 3 years. This lasts for 6 years, and it is $75,000 per cop. How are we hurting the communities by doing this?

When I was a young student in law school, I remember a professor saying, "Well, that's a red herring." I thought, "What is a red herring?" I thought a red herring was a fish or something. Well, these are not red herrings. These are things that do not have anything to do with the merits of the subject. These are smokescreens.

Now, what else is in this legislation? I can see my friend from West Virginia is standing up, so I am going to not go through all I was going to go through because this really should be a health care debate, but there is so much out there being said, I say to the Presiding Officer, that is simply not true I feel I have to say something now so at least I can engage my Republican friends in a little truth in debating as we go down the road.

What are the major arguments used against this bill?

I ask unanimous consent that the totality of all that is in the crime bill conference report broken out in terms of how much is spent for each item be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF CRIME CONFERENCE REPORT

TOTAL TRUST FUND DOLLARS—$30.2 BILLION

Provides $30.2 billion over six years through the Violent Crime Reduction Trust Fund. Savings from the President's reductions in the federal workforce, as calculated by the Congressional Budget Office—and locked in by reductions in the budget caps—will fund $30.2 billion in crime bill initiatives as follows:

LAW ENFORCEMENT—$13.2 BILLION

State and local [1]—$10.7 billion, including:

Community Policing: $8.8 billion to put 100,000 police officers on the streets in community policing programs.

Rural law enforcement: $245 million for rural anti-crime and drug efforts.

Technical automation: $130 million for technical automation grants for law enforcement agencies.

Brady bill: $150 million for Brady bill implementation.

Drug enforcement: $1 billion in Byrne formula grants.

DNA: $40 million for DNA testing research and programs.

Courts, prosecutors, and public defenders: $200 million.

Federal—$2.6 billion, including:

FBI: $250 million.

DEA: $150 million.

INS and Border Patrol: $1 billion.

United States Attorneys: $50 million.

Treasury Department: $578 million.

Justice Department: $300 million.

Federal Courts: $200 million.

PRISONS—$8.3 BILLION

Grants to States: $6.5 billion to states for prisons and incarceration alternatives such as boot camps to ensure that additional prison cells will be available to put—and keep—violent offenders behind bars. 40% of monies to be set aside for states that adopt truth in sentencing laws.[2]

Alien Incarceration: $1.8 billion to states for the costs of incarcerating criminal illegal aliens.

CRIME PREVENTION—$7.4 BILLION, INCLUDING:

Ounce of Prevention: $100 million to create an interagency Ounce of Prevention Council to coordinate new and existing crime prevention programs.

Community Schools: $630 million for after-school, weekend and summer "safe haven" programs to provide children with positive activities and alternatives to the street life of crime and drugs.

F.A.C.E.S.: $270 million to provide in-school assistance to at-risk children, including education, mentoring and other programs.

YES: $550 million for the President's Youth Employment and Skills crime prevention program, to provide jobs to young adults in high crime areas. Conditions program involvement on continued responsible behavior. Authorizes an additional $350 million from non-Trust Fund sources.

Violence Against Women Act: $1.8 billion to fight violence against women.

Includes funds to increase and train police, prosecutors, and judges; to encourage pro-arrest policies; for victim services and advocates; battered women's shelters; rape education and community prevention programs; a national family violence hotline, and increased security in public places.

Provides first-ever civil rights remedy for victims of felonies motivated by gender bias.

Extends "rape shield law" protections to civil cases and to all criminal cases to bar irrelevant inquiries into a victim's sexual history.

Requires all states to honor "stay-away orders" issued by courts in other states.

Requires confidentiality for the addressees of family violence shelters and abused persons.

Local Partnership Act: $1.8 billion for direct funding to localities around the country for anti-crime efforts, such as drug treatment, education, and jobs.

Model Intensive Grants: $895 million for model crime prevention programs targeted at high crime neighborhoods.

Community Economic Partnership: $300 million for lines of credit to community development corporations to stimulate business and employment opportunities for low-income, unemployed and underemployed individuals.

Drug Treatment: $425 million for drug treatment programs for state ($300) and federal ($125) prisoners. Creates a treatment schedule for all drug-addicted federal prisoners. Requires drug testing of federal prisoners on release.

Anti-gang grants: $125 million for programs to give young people positive alternatives to gangs (such as academic, athletic, artistic after-school activities, mentoring programs, scout troops, and sports leagues).

Sports Leagues: $40 million for midnight sports leagues to give at-risk youth nightly alternatives to the streets, and $50 million for the U.S. Olympic Committee to develop supervised sports and recreation programs in high-crime areas.

Boys and Girls Clubs: $30 million to establish clubs in low income housing communities, and $10 million to encourage police officers to live in those communities.

Triad: $6 million for partnerships between senior citizen groups and law enforcement to combat crimes against elderly Americans.

Police Partnerships: $20 million for partnerships between law enforcement and social service agencies to fight crimes against children, and for the creation of youth councils to combat crime.

Visitation centers: $30 million for supervised centers for divorced or separated parents to visit their children in "safe havens" where there is a history or risk of physical or sexual abuse.

DRUG COURTS—$1.3 BILLION

Provides $1.3 billion for drug court programs for at least 600,000 nonviolent offenders with substance abuse problems over the next six years. Participants will be intensively supervised, given drug treatment, and subjected to graduated sanctions—ultimately including prison terms—for failing random drug tests.[3]

FIREARMS

Assault Weapons: Bans the manufacture of 19 named military-style assault weapons, assault weapons with specific combat features, "copy-cat" models, and high-capacity ammunition magazines ("clips") of more than ten rounds.

Kids and Guns: Prohibits the sale or transfer of a gun to a juvenile, and possession of a gun by a juvenile.

Domestic Abusers: Prohibits gun sales to, and possession by, persons subject to family violence restraining orders.

Gun Licensing: Strengthens federal licensing standards for firearms dealers.

GANGS AND YOUTH VIOLENCE

Gang Crimes: Provides new, stiff penalties for violent and drug crimes committed by gangs.

Using kids to sell drugs: Triples penalties for using children to deal drugs near schools and playgrounds.

Recruiting, encouraging kids to commit crimes: Enhances penalties for all crimes using children, and for recruiting, encouraging children to commit a crime.

Drug free zones: Increases penalties for drug dealing in drug free zones—near playgrounds, schoolyards, video arcades, and youth centers.

Public housing: Increases penalties for drug dealing near public housing projects.

Adult prosecution of violent juveniles: Authorizes adult treatment of 13 year olds charged with the most violent of crimes (murder, attempted murder, aggravated assault, armed robbery, rape); authorizes grants to states for bindover programs for violent 16 and 17 year olds.

DEATH PENALTY

Expands the federal death penalty to cover about 60 offenses, including terorism, murder of a law enforcement officer, large-scale drug trafficking, drive-by-shootings, and carjackers who murder.

OTHER PENALTIES

Three Strikes: Mandates life imprisonment for criminals convicted of three violent felonies or drug offenses.

Miscellaneous: Increases or creates new penalties for over 70 criminal offenses, primarily covering violent crimes, drug trafficking and gun crimes, including:

Drive-by shootings; use of semi-automatic weapons; drug use, trafficking in prison; gun, explosives possession by convicts; sex offenses, assaults against children; crimes against the elderly; interstate gun trafficking; aggravated sexual abuse; gun smuggling; arson; hate crimes; and drunk driving.

TERRORISM

Death penalty: Creates new terrorism death penalty, and extends the statute of limitations for terrorism offenses.

Increased penalties: Increases penalties for any felony involving or promoting international terrorism.

Treaty implementation: Creates new offenses implementing treaties regarding crimes against maritime platforms and in international airports.

Informants: Creates new authority for the Attorney General and the State Department to bring witnesses to the United States to testify in terrorist crimes.

CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT—$1 BILLION

Deportation of criminal aliens: Provides a new summary deportation procedure to speed deportation of aliens who have been convicted of crimes.

Increased penalties: Increases penalties for smuggling aliens and for document fraud.

Funding: Provides a total of $1 billion for new border patrol agents, asylum reform, and other immigration enforcement activities.

CRIME VICTIMS

Right of allocution: Allows victims of violent and sex crimes to speak at the sentencing of their assailants.

Mandatory restitution: Requires sex offenders and child molesters to pay restitution to their victims.

Protection of Victims fund: Prohibits diversion of victims' funds to other federal programs.

FRAUD

Telemarketing fraud: Enhances penalties for telemarketing frauds targeted at senior citizens and multiple victims.

Computer fraud: Revises and expands computer crime offenses.

Insurance fraud: Creates a new federal offense of major fraud by insurance companies against their policyholders.

Credit card fraud: Revises and expands credit card fraud offenses.

FOOTNOTES

[1] Police Corps: Also authorizes $400 million from the general Treasury for college scholarships for students who agree to serve as police offers, and for scholarships for in-service officers.

[2] An additional $2.2 billion is authorized for prison and boot camps grants from the general Treasury (non-trust fund sources).

[3] The combination of prevention and drug court monies brings the total trust fund dollars for prevention and rehabilitation to $8.7 billion.

Footnotes at end of article.

Mr. BIDEN. Let me just point out some of the recent criticisms that I have heard on television or on this floor from my Republican friends. One is that the crime conference report funds social welfare programs that have nothing to do with fighting crime. You have all heard that one, right. You heard that on the TV, read the paper lately. The crime prevention programs in the crime conference report are all, I might add, supported by law enforcement organizations. I ask unanimous consent that all the law enforcement organizations that have endorsed this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT FOR THE CRIME BILL

POLICE GROUPS

Fraternal Order of Police [FOP].

National Association of Police Organizations [NAPO].

International Brotherhood of Police Officers [IBPO].

National Sheriffs' Association [NSA].

International Association of Chiefs of Police [IACP].

National Organization of Black Law Enforcement Executives [NOBLE].

National Trooper's Coalition.

Major Cities Chiefs.

International Union of Police Associations [IUPA].

Police Foundation.

Police Executive Research Forum [PERF].

Federal Law Enforcement Officers Association [FLEOA].

PROSECUTOR GROUPS

National District Attorneys Association.

National Association of Attorneys General.

WHAT POLICE ARE SAYING

"* * * the FOP strongly believes that the crime bill will benefit the citizens of this nation and provide a strong safety mechanism for our officers doing the tough job on the streets * * * The Fraternal Order of Police believes that this Crime Bill has a balance of enforcement, prosecution/courts, prisons, and prevention, which will make a real difference in the incidence of crime over the next five years."—Fraternal Order of Police.

"* * * NAPO strongly supports the crime bill conference report * * * As law enforcement officers, it is our job to fight crime and now we are finally being given the help we so desperately need. We cannot win the war on crime unless we are given the additional resources contained in the conference report."—National Association of Police Organizations.

"The IBPO's strongly supports and endorses the Crime Bill Conference Report * * * The IBPO has long advocated comprehensive efforts to address violent crime where it occurs: at the state and local level. This crime bill represents historic achievements to accomplish this goal * * * The crime bill is an appropriate balance of police, punishment and prevention * * * critical to a long term cure * * * The Crime Bill Conference Report is the most comprehensive legislation Congress has ever proposed to combat violent crime * * * We urge you to take action now."—International Brotherhood of Police Officers.

"We need to do everything possible to stop the rising crime, especially in rural America where sheriffs have the vast majority of the responsibility. We support swift passage of the Conference Report * * * and hope that Congress will see to it that law enforcement

VOL 140 PT 16 AG 12 — 18 1994 UMI

and our entire criminal justice system gets the help it so desperately needs."—National Sheriffs' Association.

"We strongly support the bills' provisions and desire to have it passed as expeditiously as possible."—International Association of Chiefs of Police.

"* * * we are convinced that the comprehensive legislation * * * Is a monumental milestone in assistance to local jurisdictions in reducing crime * * * we at NOBLE are fully supporting the passage of the crime bill. * * *"—National Organization of Black Law Enforcement Executives.

"* * * we believe that the compromise crime bill legislation just sent forward by the conference committee is necessary and we urge all members of the House and Senate to support it and the President to sign it."—National Troopers Coalition.

"We urge you to pass the crime bill * * * the legislation contains initiatives of great help to federal, state, and local police in their quest for safer streets."—Major Cities Chiefs.

"* * * the passage of this bill would be a landmark in balancing broad social interests while addressing the real day to day needs of street level law enforcement officers * * * with its immediate passage, the officers on the street will move forward knowing they now have the support they have needed for so long."—International Union of Police Associations.

"The failure of this bill to pass would represent a terrible blow to citizens who are besieged by crime and violence."—Police Foundation.

"PERF believes that this Crime bill is a balanced and reasonable response to the crime PERF members face in cities across the country. We urge every member of Congress to support police by voting for passage of the crime bill as outlined in the conference report."—Police Executive Research Forum.

"It [the Crime Bill Conference Report] is the most comprehensive piece of anti-crime legislation in the history of this country * * * FLECA urges you and your colleagues for the quick passage of this very important piece of legislation. It is important to note that laws alone don't make people safe, law enforcement officers with adequate resources do!"—Federal Law Enforcement Officers Association.

PROSECUTOR GROUPS

"The National District Attorneys Association wholeheartedly supports the efforts of you [letter addressed to Senator Biden], and your colleagues, in structuring a Crime Bill that promises to make significant inroads in our national fight against crime * * * we believe that the final effort provides a balance of programs that hold the potential for making a vast difference for our nation in reducing the crime rate. We would urge that the Crime Bill be enacted."—National District Attorneys Association.

"* * * we are pleased to add our endorsement of your efforts and pledge the support of the Association in implementing the provisions of this bill."—National Association of Attorneys General.

Mr. BIDEN. I might add, every law enforcement and prosecutorial organization I am aware of, Mr. President, supports this legislation.

But let us talk about many of these programs they are calling prevention programs and pork.

The violence against women bill, $1.8 billion, for the first time making a concerted effort to deal with domestic violence and violence against women by strangers in this Nation. It is outrageous what is happening to American women, outrageous in terms of being the victims of violence. With bipartisan support, that Violence Against Women Act, although I wrote the bill, is supported by not only Senator BOXER on this side as a major cosponsor but also by Senators HATCH and DOLE on that side; the legislation was voted for by almost everybody in this Chamber, Democrat and Republican.

You know that Virginia Slims commercial, "You've come a long way, baby." That is the good news, "You've come a long way, baby." The bad news is, we have come a long way. More women now walk out of their offices at midnight, working for major law firms, newspapers, and corporations. They get raped in parking lots, and they get mugged at bus stops.

One of the things we found out—again not rocket science—is if you put intense lighting, just lights, shed light on places like that, crime drops. So we put millions of dollars in here for States to be able to put lighting in high crime areas where women are victimized. Big deal. It is a prevention program. I challenge my Republican friends to stand up and introduce an amendment to take it out.

Another one, community schools: $900 million; $125 million, antigang grants, a Hatch amendment and a Dole amendment; $425 million for drug treatment in prisons endorsed by William Bennett, former drug czar, now keeper of the principles of all Americans. The list goes on.

By the way, midnight basketball, my friends like to talk about midnight basketball. Do you know where we got the idea? It was one of those "thousand points of light" that President Bush shone upon all of us. It was a Bush idea. And it shone with such brightness that it was hard to resist. Guess what else? It is not midnight basketball to just go play basketball.

How many of you in the Chamber have helped the communities to try to raise money for Boys Clubs, Girls Clubs, the YMCA to try to take kids off the streets? Why do we close down schools at 5 o'clock in the afternoon? Why do we need to build new gymnasiums? Tell me. Why? The reason why is we close down the schools.

So communities have had some pretty good ideas. They found that when they keep the schools open, bring in social workers and keep the school open until midnight, and take kids off the street. Guess what? You do not have to build a new building. Guess what? Crime rates drop among juveniles. Big deal. Is not that a touchy feeling social program?

I hear my colleagues talking about the return of the Johnsonian era. What are they talking about? Which Johnson? This century or last? What are they talking about?

By the way, guess what, Mr. President? These kids, in order to get into many midnight basketball programs, have to be in school. They have to have their grades up. Guess what? They do it. Guess what? In cities with midnight basketball, those kids are in the gyms instead of out on the streets doing drugs and committing crimes. So $40 million for midnight basketball was a good, solid Republican idea. Now it is a bad idea.

By the way, there are people in this room, people listening to this, who want to know how we hang them. We have a whole list of "hang him high." We have $21 billion of "hang him high" stuff in here; $21 billion dollars for cops, law enforcement, and prisons.

Let us talk about a few other facts versus fiction. This is a good one. By the way, I was handed a little card that was like a monopoly card where you play monopoly. It says "Get out of jail free," and they have a fat little guy in tails who looks like he is fleeing the jail. I have to give my Republican friends credit. They are very good. I have been here only 22 years. I marvel at how much better they are than we are. One of them handed me a little yellow card. I wish I had it in my wallet. I gave it to the conductor on the train on the way down. It is a little yellow card with a guy getting out of jail free.

It has release—what is it, 10,000?—10,000 drug felons. That is what this crime bill will do. Oh, man. When I heard that, I thought how could I be for that? I wrote it. How can I be for that? I am letting out 10,000 of those people. Then you look at what is in the bill. I went back and read it. Maybe I missed something here.

Let us talk about what it is. Let us talk about who sponsored it. HENRY HYDE, that liberal Republican from the House side, and Mr. MCCOLLUM of Florida, that other liberal Republican from the House side, along with Democrats as well, came up with a thing called a safety valve. Over here in the Senate, Senators THURMOND and SIMPSON also came up with a safety valve with Senators KENNEDY, LEAHY, and SIMON.

That is what we are referring to hear about this 10,000 people who get out of jail. The safety valve passed in the House says that, if you have been sentenced to jail on a flat sentence, a minimum mandatory sentence, or a drug offense, that you have an opportunity to petition to determine whether or not you could have that flat sentence looked at, reduced, even though it was a flat sentence. I was not for it. Some of my Republican friends were for it, not all; the lead Republicans, on the conference in the House; some of my Republican friends and some Democrats. Let us talk about what it does.

No one gets out of jail under this narrow so-called safety valve which applies only to nonviolent drug offenders; it permits them to ask to be sentenced under the sentencing guidelines, not be set free. Most offenders will not have to be resentenced because the new sentence they receive under the sentencing guidelines would be longer than the sentence for which they were sent. The Bureau of Prisons estimates that if this were law, 100 to a maximum of 400 nonviolent drug offenders would be eligible for release under this provision. That is the truth of the matter and what this bill says.

But, yet, when I heard on television my friend saying—I will not mention his name—"I cannot be for this bill. There are going to be released 10,000 violent drug offenders," I thought, Oh, my God. Maybe AL D'AMATO was right. We slip things into these bills that we do not know. It is simply not true.

Another one that is sort of the currency now—a few more of these, and then I will sit down. I will be doing a lot more of this over the next week or so. It will not be as informative as the Presiding Officer's speeches on the history of the Senate. But it will have the same intent—to educate.

The crime bill, we are told by my Republican friends, does not allow communities to be notified when a sex offender is released from prison. I heard that, too. I turned to Cynthia Hogan, chief of staff, and a very bright lawyer, and I said, "Cynthia, did we have this in my bill? Did that not happen to get in the bill? What happened here?" They said it just factually, that it was not in there. She said, "No. It is in the bill. It is in the conference report."

Let me tell you what is in the conference report. It requires the State to create registries of sex offenders; requires law enforcement to keep track of those offenders' whereabouts after the release from prison; and the provision explicitly permits law enforcement to give notice to the community to serve law enforcement purposes and to give the police immunity from releasing that information.

When my friends found out it was not in the bill—maybe those criticizing were not sure it was, in fairness to them—and we pointed out it was in the bill, they said, "Oh, we want it changed." I said, "What change do you want?" They said, "We want to make it mandatory"—we make it mandatory that there be a registry, that the police be informed; when the sex offender, after having served time, moves from one community to another, the scarlet letter follows them, and the next community is informed; we make all that mandatory. I said, "What do you want mandatory?" They want it mandatory that the police notify the community. I said, "They can do that now." They said, "No, we want it explicit, something in law saying they must." I said, "What do you want to do, take out television ads, hand out fliers?" What is the indicia you are going to put in there to demonstrate that they did not? I said, "Do you have language? I will take it." And they still go around saying that sexual predators, having served their time, are not required to be part of a registry, and now and forever, every community where they move will be notified.

By the way, it sounds pretty draconian from a civil libertarians viewpoint, Mr. President, and the reason is that the only place where the evidence seems to indicate that we are totally incapable of rehabilitating is in the area of sex offenders, repeat sex offenders. So the fact that they have served a prison sentence, I am told—and I do not consider myself an expert here—I think I know a fair amount about the criminal justice system, but I do not pretend to have all the information on this point. But I am told by the experts that these people are the toughest to rehabilitate. So it makes sense to notify communities that sexual offenders, having served their time, are in the community.

My Republican friends keep running around saying—by the way, a tragic thing happened in our neighboring State of New Jersey. A young girl was murdered, allegedly by a released sex offender who moved into the community across the street, a neighbor, and the family or the neighborhood never knew that a sex offender was living in that house. It created an uproar, as it should. But we already took care of it in this bill that the Republicans are preventing us from being able to pass. They keep saying, "It is not in there." It is.

Another fact—and we will go through three more and I will yield the floor and come back another time. The two other things we most often hear is the crime conference report will fund only 22,000 police officers, not 100,000 new cops. That is the refrain I hear. Where they come up with 22,000, I do not know. Let me tell you what the facts are. The crime bill does provide for 100,000 new cops. It provides $8.8 billion in a trust fund for that. It provides $7.5 billion—$75,000 per cop over a 6-year period totaling 100,000 cops; the $1.3 billion that is remaining is for implementing and administering community policing, which is new to most communities and costs money. They need help doing it.

The program requires that the State match this commitment in Federal dollars over a 6-year period. But under the fiscal year 1994 budget, $150 million in police supplemental money, having exactly the same matching requirements for cities and States, and your cities and your States, I say to the Presiding Officer—Delaware, California, Florida, Texas—fell all over themselves to try to participate in this $150 million program, which the distinguished chairman of the Appropriations Committee funded for the fiscal year 1994 budget. And we are funding $8.8 billion over the next 6 years. What is different? Mayors and local officials today strongly support this program because they know it is real help for putting cops on the street.

The last point I will mention for the time being is that we are beginning to hear a slow rumble that I am counting on—and I say this seriously—when the debate takes place, that the debate will be led by the President pro tempore on this point, which is that we are hearing now, as if it is a new notion, that a point of order will lie to the conference report when it comes over here, as if we did something in the conference that generated a "point of order."

Well, as people on this floor know, the violent crime reduction trust fund is, and always has been, subject to a budget point of order objection, because it is within the jurisdiction of the Budget Committee, but did not go through the Budget Committee before being offered on the floor of the U.S. Senate.

Let me be crystal clear. When the trust fund was offered as an amendment on the floor of the Senate last November, sponsored by Senators BYRD, MITCHELL, HATCH, GRAMM, DOLE, DOMENICI, BIDEN, and others, this same point of order was in order then, as it is now. And the reason it was in order then, as it is now, is that this trust fund notion did not go through the Budget Committee. Indeed, since that time, my Republican friends—at that time, my Republican friends ardently insisted time and time again, as we moved toward conference, and they even passed a resolution instructing the chairman of the Judiciary Committee, yours truly, to insist in the conference that we keep the trust fund. Is that not strange? They said: BIDEN, we do not want you jimmying around over there, doing what those House guys do. The House guys did not have a trust fund. They did not have this in a trust fund. This was not real money. We insisted on it.

So the Senate and my Republican colleagues insisted that I go to conference and keep the trust fund. I was all for keeping the trust fund. Like I said, it was not my idea. I wish I could have claimed credit for having thought of it. This is the best thing we have done on crime, in my view. So I kept it in the conference. The House yielded to the Senate. Now I am being told by my Republican friends that they are going to insist on a point of order. Translated for the listeners, that means 60 votes are required before we can move forward.

Well, that is good politics, but it is not totally consistent with what Barry Goldwater used to say when he served here: "In your heart, you know I am

79-059 O—97 Vol. 140 (Pt. 16) 34

VOL 140 PT 16 AG 12 — 18 1994 UMI

right." Remember that phrase? In their hearts, they know they are wrong. In their hearts they know. They asked me to keep the trust fund in, and in their hearts they know the trust fund is a good idea, and in their political soul, they are going to ask for a point of order requiring me to get 60 votes. Funny thing, we do not have 60 Democrats. So it is going to be hard.

But let us be honest. Why are we hearing about the point of order now? This is pure partisan politics, pure game playing by those who would rather see and score political points than give the American people help in fighting crime.

Mr. President, I thank my colleagues, who are here to discuss health care, for their indulgence. But there is no other time in the midst of this public debate that is going on to set the record straight. I stand ready to debate any one of my colleagues, not because I am any smarter, better, or any less or more informed, but because I know what I said here to be correct. I stand ready to debate them on any of the points raised here, and I challenge them to suggest to me why what I said here is not true. It is possible that I could have made a mistake, but I have spent 6 years on this.

The criticisms being made to the bill by my Republican friends are simply not real. The real criticisms of the bill that are occasionally made are that this bans assault weapons, military style assault weapons, less than 20 in number. There are Senators like my friends from Idaho, two Senators from Idaho, who feel very strongly that it is unconstitutional to do that.

I respect their point of view. I respect that. I disagree with it.

I teach the second amendment in law school in the course I teach. I believe the second amendment is real. You cannot ban all weapons. We are not trying to do all that. If you acknowledge that you can ban any weapon, then you already acknowledge it is not absolute.

For example, I wonder how many people think someone with enough money can buy an F-15 loaded with ordnance, or someone should be able to buy a theater nuclear weapon, or someone should be able to buy a hydrogen bomb? Obviously, it is crazy. People should not be able to buy those things. The second amendment says they have a right to bear arms. They are arms.

If you say you cannot ban those, why is it so outrageous to say something that has no utility other than to kill a person should be able to be banned? But there are some who believe it is unconstitutional. I respect them for that.

So, that is a legitimate argument against this bill. But you should have the courage to stand up and tell the American people: I am against this bill because I do not want to ban assault weapons, even though I know it means 100,000 cops down the drain, 105,000 prison cells down the drain, 600,000 people now walking the street won't go into intense supervision. I think all that should go down the drain; 30,000 violent offenders in the States last year who were convicted but never served a day behind bars because there are no prison cells. They should continue to walk the street because the principle on the second amendment is important to me.

I respect you for that if that is your view. Say it. Do not say this releases 10,000 drug offenders. Do not say this is $30 billion in new taxes. Do not say that this is pork. Do not say that there are not 100,000 cops.

By the way, I have less respect for—but I have been around long enough to have a serious appreciation for—a party that says, hey, look, our way back is to make sure we decimate this fellow in the White House. I understand that. I am a big boy. I have been around awhile. I am getting to be an old guy. I am 51 now. I have been here since I was 29. It took a while to learn. I learned. It is called hardball politics. A lot of people play hardball politics, Democrats and Republicans. I do not suggest they do not have a right to play hardball politics.

How many times have you heard the Republicans say and Democratic friends echo if the President loses the crime bill health care is in trouble? If the President loses the crime bill, he is in deep trouble.

That is stating the obvious. He is. If you want this crime bill to go down, because it is going to bring the President down, thereby enhancing the chances a Republican President will be elected, thereby from your standpoint the country will be in better hands and, therefore, what you are doing is for the good of the country, that is OK. I understand that argument. But make it straight up. Make it. Make it. Do not do what the Republican national chairman did so it was reported in the press—contact Republicans in the House and say that if you vote for this, you are going to be in real trouble—I am paraphrasing—you are not a loyal party person.

Now they say that was not done. Why was there a requirement on the part of the House leadership to hold up a letter coming from the Republican national chairman saying, "By the way, you can vote for this bill if you want"? Is that not an unusual thing? Who was it? I would yield to the Presiding Officer except he cannot respond. He would know. Which one of Shakespeare's characters said "He doth protest too much?" I think the national committee chairman doth protest too much when he has to write a letter shown on the floor of the House saying: "It is OK. You can vote for this Democratic crime bill and we will not do anything to you."

He doth protest too much. I am not even sure I got the quote right. But I got the principle right. I got the facts right. And I got my Republican colleagues right in the political crosshairs. I understand that.

Say it. Sing it. Be proud of your party discipline. But do not tell me you are letting out 10,000 drug felons to maraud the community. Do not tell me we are raising $30 billion in new taxes.

This bill went down in the House last time because of the RNC and the NRA. Forty-eight Democrats voted against the bill because of guns. I respect their view. I think they are dead wrong. I respect their view.

Anyway, I think it is time for a little bit of truth in legislating. We want to debate the facts of this legislation. I stand ready to do that. Hopefully, I will be up for the task. I know my blood is up for that task. I know I have never been as frustrated, I must say with anything in my whole life. This is a bill that every police agency that I am aware of, Republican and Democratic alike, is for this bill. It is the toughest crime bill we ever drafted. It has serious, serious efforts in there to deal with violent offenders, and it has a serious and rational effort to deal with prevention programs that work.

A FEW EXAMPLES OF CRIME PREVENTION PROGRAMS AT WORK

Boys and Girls Clubs:

A 1992 evaluation by Columbia University and the American Health Foundation found that public housing projects with clubs experienced 13 percent fewer juvenile crimes; 22 percent less drug activity, and 25 percent less crack presence than projects without clubs.

Communities in Schools, Houston, TX—this program aims to keep at-risk kids in school—as opposed to out on the streets committing crimes. Professionals set up shop in the schools and provide one-on-one counseling, mentoring, tutoring, job training and crisis intervention.

An independent evaluation reported that approximately 90 percent of the kids served by the program are still in school at the end of the school year. In contrast, one-third of students entering high school statewide fail to graduate.

Police athletic teams [PAT], Birmingham, AL—the Birmingham Police Department sponsors softball, basketball, baseball and golf teams for kids from disadvantaged neighborhoods. The catch: The kids must study for at least an hour every night (the program supplies tutors) and must maintain a C average in order to play.

The Police Department reports that juvenile crime has dropped 30 percent in neighborhoods served by the program.

Southwest Key Day Treatment Program, Austin, TX—southwest Key caseworkers provide round-the-clock tracking of kids who have had a brush with the law, and who are out on probation or parole. The program counsels the kids and their parents, and also requires the kids to attend daily work-related, social skills and recreation sessions.

The Texas Youth Commission reports that the kids who complete the program have a 65 percent lower re-arrest rate than kids released from institutions directly into standard parole services.

Project First Class Male, Fort Lauderdale, FL—in this program, counselors meet with at-risk young boys at school and in their homes with an eye toward promoting sexual abstinence and reducing teen pregnancies.

An independent evaluation reports an 85 percent success rate in preventing new pregnancies.

The Phoenix House, New York, NY—Phoenix House provides live-in high schools for juvenile drug abusers. In addition to traditional curricula, the program helps kids kick their habits and develop self-esteem, discipline, and personal responsibility.

Phoenix House reports that 85 percent of its graduates remain drug and crime free for the 3 to 5 years that the program charts their progress.

The Juvenile Diversion Program, Pueblo, CO—this program for nonviolent first time offenders requires kids to sign a behavioral contract and become involved with a nonprofit agency; the kids are also tutored, counseled, and required to pay restitution to their victims.

The program reports that 83 percent of its graduates are not re-arrested in the 2 years the program follows them.

"STARS"—Success Through Academic and Recreational Support, Fort Myers, FL—STARS, which has received accolades from Republican Senator CONNIE MACK, provides at-risk kids with positive, adult-guided tutorial and recreational programs.

The Fort Myers chief of police reports that, in the last 3 years, the program has led to a 27 percent reduction in juvenile arrests and a dramatic reduction in repeat-offender arrests.

Specialized Treatment Services, Mercer, PA—this program targets delinquent kids with mental health problems for intensive counseling and academic services.

The program reports that more than 80 percent of the kids who complete the program do not get into serious trouble during the 5 years that they are tracked upon release.

Mr. President, I used to have a schoolteacher and a grandmother who used to use the following phrase when she looked at me. I remember back when I was a kid in the fifties Boys Town was a big deal. You know, "He ain't heavy, Father. He's my brother."

Coming from a large Catholic family that was a big deal thought. It was one of the things my grandfather Finnigan talked about, so on and so forth. I am proud of that. That is not belittling. I was very proud.

I never forget, in addition, one of the other phrases that Father Flannigan has. "There is no such thing as a bad boy." I am not so sure he is right about that. But I am prepared to accept that.

One of the things my grandmother said seems to be proven true by all the studies we have done and all the hearings we had. She used the phrase that is used probably in 50 different ways by 50 different cultures and a million different people. She always used to say: "Joey, an idle mind is the Devil's workshop." An idle mind is the Devil's workshop. Sounds kind of corny, does it not, Mr. President?

Like I said this is not rocket science. These are kids who are about to enter the drug stream and the crime stream, and one of the few things that stands between them and entering those drug and crime streams is an opportunity to be diverted—not converted—diverted from the idle mind that lets them sit in the projects up against the school brick walls on those hot summer days and decide whether or not to take that crack vial and try it or go into a basketball gymnasium or go into a system where they have people from the community, Big Brothers and Big Sisters, who are tutoring kids. That makes a difference.

Nothing in here is new under the Sun. And $3.7 billion dollars of the prevention programs my Republican friends now call pork they supported on this floor, and many of them are Republican initiatives, like Senator DOLE's initiative.

I am going to read Senator DOLE's quote from his legislation. He is the one talking about all this pork. It is one sentence, if I can find it quickly here. It is a $100 million juvenile drug trafficking and gang prevention program which I had in the bill, which he amended and wanted to make his legislation, which we did. Let me tell you what it says. It says:

This is Senator DOLE-sponsored legislation that was originally the bill that he amended. He said, $100 million to

* * * develop and provide parenting classes for parents of at-risk youth.

Not a bad idea; pretty good idea.

* * * to develop and provide training in methods of nonviolent dispute resolution to junior high school and high school age children.

* * * to establish sports mentoring and coaching programs in which athletes serve as role models to juveniles. To teach that athletics provides a positive alternative to drug and gang involvement

That is ROBERT DOLE, the man who stands here and belittles midnight basketball, and what does he call it? Tap dancing in prison. Where that came from, I do not know.

If for midnight basketball you were required to be in school, where you are required to maintain a C average, where you are required to be in a study hall, et cetera, if that is some flaky program, what is this thing? What is this thing that he voted for, put his name on, that all those folks over there voted for?

It went from here to there—they are wonderful alchemists, I would say to my friend from West Virginia. It went from a substantive program—as it made its way up that aisle, it got halfway down that corridor on the way over to the House of Representatives and it got midway and fell into a conference and it became pork. How did that happen?

I think it got politically barbecued as it made its way out this door. So I will not use the phrase, "what is one man's pork is another man's politics"—paraphrasing, "What is one man's meat is another man's poison." But it seems to me that there is a little alchemy 20th-century style going on here.

It is politics. So far it is very successful politics. So far obstructionist politics works better than constructionist politics. But it is politics. Just so the American people know what it is, that is all I care. If they conclude that team is right, that is what they want to do—well, that is what democracy is about. I will be back here next year. I am here for at least another 2 years, God willing and the creek not rising and my health maintained. I will come back at it again. But it is outrageous to suggest that this bill should go down for some of the reasons that are suggested by my Republican friends.

I thank my friend from West Virginia for his indulgence, allowing me to enter in the middle of this health care debate. But it seems to me, the same kind of shenanigans are going on on the health care debate that are going on on this crime debate, and, as I said, a little truth in legislating and debating might be useful.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from West Virginia.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. ROCKEFELLER. Mr. President, I want to compliment the Senator from Delaware on his remarks and say I agree wholeheartedly with not only what he said but with the thrust of what he said.

It is very obvious now that Senators who want to pass a health reform bill are going to have to spend many long days and nights in their effort to do so. This is not happy news for our families—our own families. I shudder to think of some of the conversations—I know the one that took place in my own house last night—many of us with

VOL
140
PT
16
AG
12
—
18
1994
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spouses and children have had about canceling plans. Many who are not so fortunate financially have had to lay down nonrefundable tickets to places and they cannot get their money back. They want to go camping or visit relatives.

Nevertheless, we are here to do the work that the people want us to do. So we shall stay until this health care reform bill is passed, 24 hours a day if that is the right amount of time. And I am delighted, personally, that we are doing it. I think it is the kind of leadership and toughness which is correct.

But then we also have to remember why so many of us are unwilling to give in to the faction that is arguing for delay, or for postponement, for doing nothing, for ignoring the problems, for accepting things exactly the way they work and accepting them for the way they do not work.

Mr. President, I have a stopwatch here, and I arrived on the Senate floor about 90 minutes ago and have been waiting to speak since that time. I have made a simple calculation that during that time, the 90 minutes I have been waiting to speak, that 4,698 Americans have lost their health insurance and that 1,368 American children have lost their health insurance.

Yes, the voices for delay and obstructionism are right when they say that in that same time, other Americans, other children got back their health insurance. That is true. It proves the point about one distinctive feature of America's so-called health care system and that is that it is the ultimate revolving door. Yes, we are a country where health insurance can be returned. But for the most part we all know when we talk about 39 million Americans being uninsured, we are really talking about 60 to 64 million Americans who, for some significant part of a year, do not have health insurance.

Yes, we are a country of researchers, doctors, nurses, hospitals, vast medical complexes, drugs, medical discovery and breakthroughs. And that we all celebrate.

But we are also a country that leaves basic health security for its people, for its children, to something called "pure chance." If you work in Germany or France or Japan, you can count on basic health security in the same way that you can count on the Sun coming up. It does not fail. If you work in the United States of America, you cannot count on health insurance, whether you have it or whether you do not—unless you are lucky enough, that is, to live in Hawaii.

In America, playing by the rules, working full time, paying your taxes, does not mean that you can stop worrying even for one second about whether you can take a child to the doctor for a checkup or get some tests when a serious ache or pain sets in—unless, that is, you are lucky enough to live in Hawaii where they are approaching universal health insurance coverage.

If you have health insurance in the United States of America but have to change jobs, that is when you better start worrying. You better make sure you do not have something called a preexisting condition on your records, because in America that means that any insurance company can slam the door in your face—and they do. I said last night—I see the Senator from Connecticut here—that it is absolutely beyond my wildest imagination that in this country called America, a young woman who is married and becomes pregnant but who does not have health insurance—becomes pregnant and then goes to try to get health insurance, cannot get health insurance because she has something called a preexisting condition; to wit, she has become pregnant. Only in America. That is why so many of us feel we have absolutely no choice but to go on and on and to persist and to persist.

Here we are trying to advance a bill—it happens to be the majority leader's bill—that does exactly what the vast majority of Americans have said over and over and over again that they want from this Senate and from this Congress and from this town. They want their health insurance to be there when they need it. They want their health insurance to be there when their children need it. They want their health insurance to live up to its word, to its printed word, and not hide dirty secrets like lifetime limits, exclusions for past illnesses, in a sea of fine print. And how many times have we seen that in our various States?

Americans want the revolving insurance door to stop. They want to focus on raising their kids, saving up for college, doing a good job at work instead of worrying that one false move, one accident at school or at the school playground—one lump will pull the rug out from underneath them.

I repeat, since arriving here this afternoon in the Chamber, more than 4,698 Americans have lost their health insurance and more than 1,368 children have lost their health insurance. That is in the 90 minutes that I have been waiting to speak. The revolving door turned them out. A few of them may get back in, but the revolving door has now turned them out, so even if they get back in, they could go out again, and they know it.

Now to turn to the very specific question before us. I also want to say something about the amendment from the good Senator from Connecticut, Senator CHRISTOPHER DODD. Talk about an idea that is as clear as day. This amendment calls on insurance plans to remember children when figuring out what it will cover and what it will not cover.

As my distinguished senior colleague knows, I was proud to Chair the Bipartisan National Commission on Children just a few years ago, and it gave me the opportunity to travel across this country, across our State of West Virginia and meet with thousands and thousands of parents and children in all different kinds of situations, in the worst housing development slums in Chicago, to barrios in San Antonio, to all kinds of places.

Those of us who served on the Commission were incredibly diverse—diverse in our background, diverse in ideas, diverse in our philosophies, diverse in our professional backgrounds. There were, in fact, three members of the Bush administration, acting officials of the Bush administration, on that Commission.

But after 3 years of studying life of families and children in America, we reached the same unanimous conclusion. Fortunately, no one tried to keep us from concluding our work through filibusters. Our conclusion was that America has to turn what we say about children into deeds in terms of what we do about children and families.

The amendment before us, the Dodd amendment, tries to do precisely that. One of the essential ways to help families is to make sure that their insurance covers the most basic kind of health care for their children. It is a simple proposition. If you have private health insurance, it should cover what counts the most. If you are a family with children, the amendment says that your insurer has to cover the basics—prenatal care for pregnant women, essential care for babies, immunizations, and the like.

If we care about children and families, as we all say we do, we must come together on health care reform. How can we pretend that basic care for children should be left to chance—that is what we do today—left to economic chance, left to circumstantial chance? Even the insurance companies are not fighting CHRISTOPHER DODD's amendment.

Five million women in America have private insurance policies this day that do not cover maternity care—5 million. That might just be a reason that so many pregnant women do not get the prenatal care that they should be getting. Not the only reason, but certainly a very big one.

One out of every 10 under the age of 10 in America, I am embarrassed to say, is uninsured. Talk about costs. These are children whose earaches can turn into lifelong disabilities, probably will turn into lifelong disabilities, who develop diseases that can be prevented with medicines and vaccines, all things which are readily available to us as an advanced industrial society, and who head for school, therefore, without the benefit of all of these things are already behind. We talk about Head Start, these children are starting way behind.

We have to do something about this, Mr. President. We have to weigh and measure and contrast the Mitchell plan, or any other plan, with the costs and the consequences of doing nothing. The numbers of uninsured children can be absolutely numbing, if you try to see them in your eye. I think of certain ones in West Virginia, Minnesota, and other places that I have been, but when you think in terms of the numbers of millions of children, it just becomes numbing, and then you know that in no other industrial society are any children uninsured, except in our own.

So let me share one story of a West Virginia family, that I visited recently, with the Presiding Officer and my colleagues who might be listening, the Bosworth family in Wheeling, WV.

The Bosworths are good people who are struggling. They have two daughters, Stephanie, who is 23 years old and who has cerebral palsy, and Nicole, who is 15. Steve, the father, was a salesman but became unemployed and is working odd jobs whenever he can find them. His wife, JoAnn, works part time at their church. No insurance involved in either case.

The family, in fact, tried to buy insurance, but because Stephanie has cerebral palsy, the cheapest plan that they could find to buy was $400 a month; hence, $5,000 a year, way out of reach for the Bosworth family, just out of the question. They could not afford it and, therefore, could not get it.

Medicaid covers Stephanie's health care, but the rest of the family is uninsured. Steve and JoAnn—the father and mother—and Nicole simply cannot get the health care that they need because they have no health insurance. Remember, they are both working as best they can. Nicole, the younger child who is 15, recently had a seizure and the family has no idea what the cause was. Without insurance, this young teenager has the seizure and does without medical analysis.

Our system is unfair, Mr. President, for Nicole Bosworth. Our system is unfair for the Bosworth family. The father is working and the mother is working as best they can, but they cannot scrape together enough money to buy health insurance.

They are fortunate that the child with cerebral palsy has Medicaid, but they are unfortunate in every other aspect of their life, as far as health care is concerned.

Under the Mitchell bill, over 7 million children will get insurance. Under the Dodd amendment, coverage for preventive services, children and pregnant women would begin in July of next year, less than a year from today. In West Virginia, the Mitchell bill would give 74 percent of children who are uninsured today coverage by 1997 and coverage for the rest would be phased in over the next few years.

Forty-eight thousand children will get private health insurance coverage—not Medicaid—but private health insurance coverage through this bill. At the end of our debate, I want to be able to go back to Wheeling, WV, and I want to tell the Bosworth family that they can sleep this night, or maybe tomorrow night knowing that their Nicole will have something called reliable, affordable health insurance coverage. I think that is a dream that ought to come true, and it just so happens that that is a dream that we can make come true if we adopt the Dodd amendment.

Mr. President, I thank the Presiding Officer, and I yield the floor.

Mr. MCCONNELL. Mr. President, having been here a couple of hours and having listened to debate on other subjects than health care, I am here principally to talk about health care reform but I did want to make one observation before beginning.

I listened with considerable interest to my friend, the junior Senator from Minnesota, earlier this afternoon railing about the contributions from political action committees and asserting that somehow that was slowing the process of health care reform. I am not here to make a campaign finance speech, but I want to make a couple of observations.

No. 1, political action committees—of which Republicans are no fan, I might add. And, as a matter of fact, I was the first Senator to suggest that we get rid of PAC's altogether, a proposal which was subsequently adopted as the Senate position in the campaign finance bill last summer. But it is interesting to note that the PAC's, which my friend from Minnesota believes are slowing down the process, in the last cycle in Senate races gave 57 percent of their money to Democrats and only 43 percent to Republicans, and in the House 67 percent to Democrats and only 33 percent to Republicans. In the House of Representatives, the political action committees gave 67 percent of their money to Democrats, only 33 percent to Republicans.

My own view is that the PAC's are not buying influence on this issue. I think this is an issue much too important to the American people to be sort of kissed off in terms of political contributions. If anything buys votes in the health care debate, it is promising big taxpayer-funded solutions to these problems. There are those on the floor of the Senate who would seek to buy those votes with tax dollars by promising this group or that group or this group that the Treasury is going to pick up the tab for your problems. If anybody could rightly be accused of trying to buy votes on health care reform with dollars, it would seem to me it would be those who use, not their money, not the money of the political action committees, but the money out of the Treasury, out of the Treasury I repeat, to promise benefits to one group after another.

Of course, those are largely the same people who would like to dip into the Treasury to pay for political campaigns as well—the ultimate perk, the ultimate entitlement. There are those who seriously believe that we ought to start a new taxpayer entitlement program for each of us as we sit here on a multitrillion dollar debt.

That is a subject for another day, and I raise it only by way of observation after listening to my friend, the junior Senator from Minnesota, whose position I believe is that we should have a single-payer system. That is the ultimate, total, final Government takeover of health care, the ultimate buying of influence, if you will.

With regard to the subject before us today, I want to start by reiterating a point the Republican leader made very effectively in his opening statement just the other day. It bears remembering as we move down the road toward some kind of health care reform.

America has the best health care system in the world. America today has the best health care system in the world. Right now, every other nation on Earth looks to the United States as the quality leader in health care, the leader in surgical innovation, the leader in pharmaceutical breakthroughs, the leader in medical technology, the leader in health care education, the leader in hospital design, and the leader in health care management.

Now, Mr. President, the second point I wish to make is equally important. The reason why America has the best health care in the world is not because of some mammoth legislation enacted by Congress. It is not because of any regulation implemented by the U.S. Department of Health and Human Services, and it is not because of some health care task force put together by the White House. It is because the free market system and the forces of competition gave an incentive to hundreds of thousands of individuals and companies to improve the quality and availability of health care services for every single American.

The Government did not make our health care system the best in the world. People did, people who are highly trained, totally dedicated, and thoroughly experienced—and free to make a fair and honest wage from the work they do so well.

Yet, we have before us today a massive, 1,400-page social experiment based on the dubious premise that the Government can do a better job of managing our health care system than the hundreds of thousands of dedicated experts who do it every day, 52 weeks a year.

Somehow, the Government that purchases $200 toilet seats and $60 nails is going to bring cost efficiency to hospitals and doctors' offices.

Somehow, the Government that leaves millions of postal letters languishing in warehouses in the District

VOL
140
PT
16
AG
12
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18
1994
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of Columbia is going to make millions of delicate decisions about who gets what kind of health care services and when they get them.

Somehow, this same Government that absorbs more and more of our paychecks every year is going to give us a bargain, a bargain on our health care.

The President and his allies in Congress would have us believe that if we just turn our health care system over to the Government, we will get a Neiman-Marcus product, with Tiffany's accessories and Nordstrom's service, all at K-Mart prices. What is not to like about that? But when you test this dubious premise against the daily practical experience of most taxpayers, it just does not hold any water.

Because of that, the American people have become deeply fearful of what Congress may be about to do to the best health care system in the world, deeply fearful about what we may do to the best health care system in the world. By an overwhelming margin, Americans are telling us that Congress should not pass a radical, top-to-bottom restructuring of our health care system. According to a USA Today-CNN survey conducted just a few days ago, voters favor a gradual, multiyear approach to health care reform instead of the radical Democratic leadership bills, by a margin of 68 to 28 percent.

I heard the Senator from New York, Senator D'AMATO, talking about the phone calls he had gotten in his office, various offices in New York over the last few days. Just looking at the mail count in my office just since last Saturday—looking at only the mail now, not the telephone calls; I have received 68 pro Clinton-type reform letters; 1,011 against. And again looking at letters since the last week of July, 250 letters in favor of the Clinton approach; 4,251, against.

Now, looking back at the USA Today poll, which assesses the mood across the country, nearly 60 percent of our constituents believe that the middle class, as usual, will be hurt the most by the steep tax increases and the social engineering contained in both the House and the Senate Democratic bills. And even more than the important issue of universal coverage, voters are concerned that Congress will pass a bill that gives the Government too much control over their health care.

Are the voters just misinformed, as the White House spin doctors claim? Folks out there, I guess, are not smart enough to know what is going on. That seems to be the White House position. Perhaps they are simply unable to comprehend the great public policy issues which the administration has so thoughtfully resolved for them. Just a communications problem, the White House says. People do not understand what is going on. And apparently they have been preaching to members of their party to rise above those nasty people. The way to be a profile in courage is to go against your constituents.

It is an interesting argument, Mr. President. The American people, I do not think, see it that way. They do not think they are misinformed. They do not think they do not know what is going on. They would like for us to respond to their desires on this issue. In fact, the American people are a lot smarter than the Democratic leadership gives them credit for. I think they have figured out the Clinton bill and its Democratic offspring.

They figured out that it was putting the Government in charge of their personal health care. They figured out that the Democratic leadership bills would set spending caps through global budgets that would eventually result in health care rationing. They figured out that these bills would herd them into Government purchasing monopolies, and force one-size-fits-all policies on everybody, whether they like it or not.

Our elderly constituents have figured out that these bills would cut deeply into Medicare spending. They have figured out that a Government-run health care system would be more expensive, more bureaucratic, and less responsive to each individual's medical needs than the system we have today. And the American people clearly do not want any part of it. I mean virtually every phone call coming to my office here and into the six offices in Kentucky are about this. They do not want it. Nobody can orchestrate this kind of telephone contact. I have never experienced it before in my 10 years in the Senate.

Could it be that the majority leadership is right, and millions of Americans are all wrong? Let us take a look at the bill before us to attempt to answer that question.

First of all, this bill would radically change our entire health care system from top to bottom, radically change it. It would change the way Americans obtain insurance, what kind of benefits they would be allowed, and how much they would have to pay in premiums, not to mention new taxes and how much the Government would be involved in deciding all of that.

The bill before us contains 8 new entitlements, 17 new taxes, 50 newly minted bureaucracies, 177 new State mandates, and nearly 1,000 new Federal powers and responsibilities. The Great Society is over. Welcome to the "Great Bureaucracy."

If this bill becomes law, the competitive free market character of our health care system would be radically transformed into a top down, highly centralized regime. It is clear that the proponents of this legislation want to go far beyond our shared goals of making health care more accessible and affordable for all Americans, and increasing the number of individuals who have adequate health care insurance.

We could accomplish both of these important goals without 17 new taxes or a single new bureaucracy. But the goal of the bill before us is not increased coverage but increased control; I repeat, not increased coverage, but increased control, Government control. The manifestation of this control agenda is the mandated, standardized benefits package that would be designed by Federal bureaucrats and forced on every single American citizen.

For the average person who already has insurance, this mandated approach is a sure way to increase the cost of health care. Many Americans will see their premiums rise dramatically to compensate for the added benefits they must purchase in a compulsory one-size-fits-all package. For many middle-income families, the cost of health insurance will balloon even more under the Mitchell bill's community rating provision. The bill stipulates that premium rates may vary only by family size and by age. Lifestyle habits cannot be taken into account. Geographic location cannot be considered, and no incentives are offered to use services in a responsible, cost-efficient manner.

Can you imagine what would happen to automobile insurance rates if insurers could not take driving records into account? That is essentially what this bill does. It charges the mild-mannered Sunday driver the same rate as the drag racer with three drunken driving convictions.

Moreover, the bill requires all cost differences to be phased out by the year 2002. As a result, younger, lower-income families will be hit the hardest as their premiums skyrocket to subsidize coverage for older and frequently wealthier Americans.

The other side of this legislation's control agenda is the burden it puts on small businesses, as well as their employees. Under the Clinton-Mitchell bill, every employer must provide a choice among three Government-designed plans. Keep in mind that the bill does not require choices among benefits packages, but rather choices of how to pay for the plan. This three-option requirement will add considerably to the administrative costs that businesses will face in offering insurance.

Many businesses today are using an insurance funding mechanism called self-insurance to keep their costs down. The Mitchell plan bans self-insurance for companies with less than 500 employees. Some predict that 400,000 businesses will be impacted by this provision alone.

For example, I recently heard from an independent broker in Fort Mitchell, KY, among whose client is a self-insured steel mill with just under 500 employees. He told me that the administrative cost of this plan, the Clinton plan, is less than 4 percent of the plant's total cost. But by prohibiting this company from self-insuring and

forcing it to offer three different plans, this legislation will add hundreds of thousands of dollars to the annual cost of providing health care for its employees. Basically, this company and thousands like it will have only two choices: cut wages or cut work force. That is the painful decision that employers all across America will be faced with because of this bill.

In general, however, Americans have relatively few decisions to make under the Mitchell bill because the Federal Government will make most of the decisions for them, at least as they pertain to their personal health care.

The most powerful and intrusive monolith envisioned by this legislation is the National Health Benefits Board. This board would have the authority to unilaterally decide what medical services Americans should receive.

Just looking at the section on the Board in the bill, as you can see, this is not exactly a small bill:

A, the Board shall be authorized to establish a criteria for determinations of medical necessity or appropriateness; B, procedures for determinations of medical necessity or appropriateness; and C, regulations or guidelines to be used in determining whether an item or service, under categories of items and services described in another section, is medically necessary and appropriate.

Suffice it to say, Mr. President, this is a very powerful Board. This National Health Benefits Board is going to have enormous authority.

Federal bureaucrats ensconced in their marble-lined office suites will be making the most personal, life-or-death decisions for each and every American family, stamping out cookie-cutter health plans as if they were just another mass-produced widget. Not only will this board have unprecedented powers over every single American citizen, it will also be completely unaccountable to those who are impacted by its decisions.

The members of this health care junta will be unelected and by the terms of this bill, they will also be exempt from the Federal Advisory Committee Act. The Federal Advisory Committee Act establishes some basic management and oversight criteria for commissions to keep them from becoming a law unto themselves. Coincidentally, it is the same law that Hillary Clinton's health care task force may have run afoul of, and that issue is now the subject of intense litigation.

Under the Federal Advisory Committee Act, each and every Federal Commission must be rechartered every 2 years. They have to be rechartered every 2 years. I understand, however, that this bill takes the liberty of exempting the National Health Benefits Board and its companion, the National Health Care Cost and Coverage Commission, from such troublesome obligations. Under this bill, these faceless agencies are established as permanent—I repeat, permanent—fixtures on the bureaucratic landscape. So what we have is an all-powerful Federal agency, created through a process that may have violated the Federal Advisory Committee Act, and which is, itself, exempted from the very same accountability and safeguards. You can say one thing about this bill: it sure is consistent.

It is important to note here that this National Health Benefits Board, which is totally unaccountable to the American people, will be easily accessible to special interest lobbyists who want special treatment for their clients.

But there are a few things this Jabba-the-Hut board will not be able to do. For example, it will not be able to authorize medical savings accounts, which are a flexible and innovative way for Americans to finance their medical needs. That is because medical savings accounts are not an option under this legislation. That is really, too bad, because experience shows that people who have medical savings accounts tend to become more cost conscious about the services for which they are paying.

This bill also does not allow self-employed Americans, like most of our Nation's farmers, to deduct all of their health costs from taxable income. The bill does raise the deduction to 50 percent, but that hardly amounts to equitable treatment for those in this country who are self-employed. I had supposed that equitable treatment was one of the goals of real health care reform.

Mr. President, one should not conclude, however, that this bill does nothing but take away and restrict and limit and reduce. It does all of those things in spades, but it also vastly increases opportunities for one very special group of Americans: lawyers.

Lawyers are going to love this bill, Mr. President. While many Americans will be heading toward the unemployment line as a result of this bill, such as the employees of the steel mill in Kentucky I talked about earlier, the lawyers of our country will be heading to the courts in droves and laughing all the way to the bank. Medical schools will be heavily regulated under this bill, with a Commission on Medical Education breathing down their necks, while law schools will not be able to turn out lawyers fast enough to meet the demand for litigation.

Let me pause on that point. This legislation's ham-fisted regulation of medical schools throughout the country stands by itself as a monument to congressional hubris. What we are saying through this particular provision is that the Government knows better than all the health care educators and administrators in America. We up here in the Government know better about this than you educators and administrators. We are going to fix it for you. We are saying to all those aspiring to be health care professionals: Forget your dreams, forget your desires: the Government can tell you what to do from now on. We are going to be in charge of your life if you are going to be a health care provider. We will decide for you.

This provision does not belong in a bill that is being considered in what is usually thought of as a free country. I can only imagine what the response would be if we had a provision in this bill that contemplated regulating the numbers and specialties of lawyers. Imagine that, Mr. President. Imagine what the reaction would be if we had provisions in this bill regulating the numbers and the specialties of lawyers. There would be great breast-beating and stirring speeches, not to mention intense lobbying by the American Trial Lawyers Association, all arguing the point that such a heartless provision would deny people the one thing they need most: legal services. Legal services. What if some national commission discovered there was a shortage of corporate tax lawyers in the Rockies? Imagine that—a national commission decided there was a shortage of corporate tax lawyers in the Rockies. Would we then use the heavy hand of the Government to force some of those Gucci loafers out there into the Rockies?

As it stands, this bill is very good to lawyers. It will employ lots of them and compensate them quite well. A little advice to you parents who may be watching: if this bill becomes law, send your kids to law school, not medical school. Leaving aside possible legal claims for fraud, medical malpractice, and privacy violations under this bill—now listen to this—this legislation will create no less than 16 new varieties of lawsuits, Mr. President. Just what our country needs, some new causes of action to pursue in the courts of America. We will have a shortage of lawyers. We will need to produce new lawyers, and we will have new causes of action and go out and clog up the courts of America. If you think that is what America needs, by golly, you will love this bill. It may ruin your health care, but this may put an extra BMW in the garage of every enterprising lawyer in America—maybe two BMW's in the garage of every enterprising lawyer in America. Well, at least somebody will benefit from this thing.

Of course, we are already paying an enormous litigation tax on most goods and services we buy, including health care.

Let me say that there was an article today in the New York Times on this question of increased lawsuits under this bill, entitled "U.S. Judges Warn of Health Lawsuits," written by Robert Pear.

There is great concern among the judges who have to wrestle with all of

VOL 140 PT 16 AG 12 — 18 1994 UMI

this increased litigation and the impact of this legislation.

I ask unanimous consent that today's New York Times article entitled "U.S. Judges Warn of Health Lawsuits" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 15, 1994]

THE COURTS: U.S. JUDGES WARN OF HEALTH LAWSUITS

(By Robert Pear)

WASHINGTON.—The top policy-making body for the Federal courts has expressed concern that health care bills pending in Congress would generate a flood of litigation by people trying to enforce new rights to medical benefits and insurance payments.

The judges said they were worried that many of those disputes would end up in Federal courts.

The organization, the Judicial Conference of the United States, took no position for or against the legislation, which is intended to control health costs and widen access to health insurance. "Policy decisions concerning health care reform are properly within the province of the other branches of Government," it said.

But the judges noted that Federal courts were already inundated with drug cases, which have caused delays for civil cases in many regions. The anti-crime bill now pending in Congress would give Federal courts jurisdiction over many additional offenses, including gang violence.

The Judicial Conference laid out four principles that it said would guarantee that disputes over health benefits were resolved quickly and efficiently, without clogging Federal courts. In general, it said, these disputes should be handled through administrative proceedings and then, if necessary, in state courts.

President Clinton's health care plan and the bills offered by the Democratic leadership are, in many ways, inconsistent with the judges' recommendations. For example, the bills would give consumers more immediate access to Federal courts than the judges consider appropriate. But these provisions have drawn little attention for lawmakers.

MORE LAWSUITS?

In several decisions over the last decade, the Supreme Court has severely restricted the rights of consumers to recover damages when their claims were improperly denied or delayed by insurers.

Senator Howard M. Metzenbaum, Democrat of Ohio, said, "It's ridiculous to suggest that the legal floodgates will be opened merely by giving people the right to sue if they have been wrongfully denied badly needed coverage."

Gwen Gampel, president of Congressional Consultants, a health care consulting company, said the experience of Medicare suggested that the Federal courts would not be flooded with new lawsuits.

But Barbara J. Rothstein, the chief judge of the Federal District Court in Seattle and the chairwoman of the Judicial Conference subcommittee on health care, said any bill guaranteeing a right to health care or health insurance would increase litigation.

"It could have a drastic impact on the courts," she said in an interview today. "That's what we're concerned about."

Judge Rothstein, who was appointed in 1980 by President Jimmy Carter, said that if the courts were overwhelmed with new cases, people with urgent medical needs would be unable to have their claims resolved promptly.

ADVICE FROM JUDGES

In its statement of principles, the Judicial Conference said:

"The full exhaustion of administrative remedies for benefit denial claims should be a requirement for any health care legislation. Claimants should not be permitted to bypass administrative remedies and to proceed directly into a court.

"Following the exhaustion of administrative remedies, and consistent with the general principles of federalism, state courts should be designated as the primary forum for the review of benefit denial claims.

"Traditional discrimination claims and actions should be handled differently from benefit denial claims based on issues such as medical necessity.

"To insure the effectiveness of the enforcement provisions of any health care legislation, it is critical that sufficient resources be provided to the responsible administrative and judicial entities."

The same principles were endorsed this month by the Conference of Chief Justices, representing the top judges of the nation's state courts. The group said many state courts were already "struggling with inadequate resources to meet the demands of ever-increasing caseloads."

The bills proposed by President Clinton, by the Senate majority leader, George J. Mitchell, and by the House majority leader, Richard A. Gephardt, would allow consumers to go into Federal courts to challenge the denial of health benefits. Consumers could pursue their claims in mediation proceedings or in administrative hearings at complaint review offices, but they would not have to use such alternatives.

The bills would also permit consumers to sue health plans, state governments and the Federal Government for failure to carry out duties established by the legislation.

The bills generally say courts should take such cases "without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law."

Victims of discrimination could file Federal or state lawsuits to get compensatory damages, punitive damages, punitive damages and injunctions. Plaintiffs could also seek "reasonable attorney's fees" at the prevailing rates.

Under the Mitchell and Gephardt bills, thousands of community health centers, public hospitals, family planning clinics and doctors in inner-city neighborhoods would be designated "essential community providers," and health insurance plans would generally have to sign contracts with them. An essential-community provider "aggrieved by the failure of a health plan" to obey this requirement could file a lawsuit in Federal or state court to compel compliance and to recover damages.

DIARY—HEALTH CARE DEVELOPMENTS

Yesterday: After a day of long Republican speeches and Democratic rebukes, Senator George J. Mitchell, the majority leader, threatened to keep the Senate in session 24 hours a day starting tonight if Republicans do not allow the first votes on amendments to his health care bill.

Congress: Senator Bob Packwood of Oregon, who is orchestrating the Republican opposition on the Senate floor, contended that Mr. Mitchell had promised that senators "would not be rushed." Republicans denied that they were filibustering, although many of them spoke for hours. Mr. Mitchell said that if by this evening, no vote had taken place on an amendment to bolster private coverage for pregnant women and children, "then the Senate will remain in continuous session thereafter, through the evening; through the night."

White House: A doctors' group has rejected a proposed settlement in a lawsuit over whether the Clinton Administration's 1993 Federal health care task force must make its records public. Charles McDowell Jr., president of the doctors' group, the Association of American Physicians and Surgeons, said in a brief Monday that its board of directors voted 13 to 4 reject a settlement. He asked a Federal judge to delay further action on the case.

Mr. MCCONNELL. We already pay an enormous price for the litigation under today's laws without adding these 16 new causes of action that are going to be made available under this legislation before us, if it passes. Just taking a look at the situation today, we have a chart up here called "The Price of a Suit." We are not talking about a suit of clothes, but the price of a lawsuit. Experts have calculated that hidden litigation tax for insurance, lawyers, and trials built into the price of consumer goods today.

Mr. President, we are not talking about what is going to happen under this bill. Under this bill, we are going to get 16 new causes of action. This is going to be a two-BMW bill for every lawyer in America.

For an 8-foot aluminum ladder, the average retail price today is $119.33.

Now the true cost of that ladder is only $94.47. The litigation tax is $23.86.

Picking out a couple of products here that are more related to the health care debate which we are having here in the Senate, let us take a look at a heart pacemaker. The average retail price is $18,000, but the true cost $15,000. Mr. President, that is a $3,000 litigation tax on every heart pacemaker, and that is today. That is before we get into the 16 new causes of action created under the Clinton-Mitchell bill.

A motorized wheelchair, average retail cost $1,000, true cost $830, $170 litigation tax on a motorized wheelchair.

Tonsillectomy—let us pick out two more health care items here—doctor's fee, average retail price $578, true cost $387, a litigation tax of $191. So of the doctor's fee on a tonsillectomy of $578, $191 goes to the lawyers, the litigation tax.

Let us look at a 2-day maternity stay: $3,367, for 2 days in the hospital, but, Mr. President, the real cost is only $2,867. A $500 lawyer's tax, litigation tax of $500 on a 2-day maternity stay.

Mr. President, that illustrates the nature of the problem today. Certainly, what we need in this country are a few more causes of action. Certainly, what we need in this country to be more productive is a little more litigation. If you think America has a problem because it has too few lawyers, you are going to love the Clinton-Mitchell bill, a boondoggle for lawyers if one ever existed.

Looking at the Clinton-Mitchell bill, section 1602 of the bill—now we cannot be sure that the current version of the bill lists this provision as section 1602 because there have been several different versions floating around here the last few days. It could be that the reason for all these different versions is to show America how efficient health care is going to be after it has been redesigned by Congress and run by the Government.

Anyway, this provision, if it is still called section 1602, adds a number of new protected categories to the traditional discrimination classifications of race, sex, national origin, religion, age and disability. Those are the traditional categories, but we have some new ones here.

The result is that a person could bring a lawsuit against his or her employer, or against a health plan or provider, or even against a State, alleging discrimination on any of the following additional bases.

We just outlined the litigation tax today on a number of different products, many of them health-care related. But under the Clinton-Mitchell bill, there will be new causes of action possible in the following categories: a plaintiff could allege discrimination based on language, based on income; based on sexual orientation; based on health status; or alleging discrimination based on anticipated need for health services.

Counting these up, that is five new causes of action right there alone, Mr. President, five new causes of action.

The lawyers are out there licking their chops right now just thinking about the potential. As I said, it is not going to be one, but it is going to be two BMW's per garage for every plaintiff's lawyer in America. And, of course, the Clinton-Mitchell bill gives access to any court, any court Federal or State, for anyone to bring a lawsuit alleging discrimination.

Now, there is no doubt that every employment decision in America will be affected by this provision. In that regard, section 1602 is really a civil rights provision, and we should not be using health care reform to change well-established civil rights laws.

Although this bill radically changes discrimination laws in a way that will generate a lawyer's feeding frenzy, there is one large area of the law where the Mitchell bill quite literally turns the clock back, and that is medical malpractice.

In the last several years, there has been enormous progress among the States in ensuring fair compensation to victims of medical malpractice, while at the same time curbing the excesses of malpractice litigation, which we all end up paying for.

This bill guts those important reforms. It turns back the clock on malpractice reform by preempting State law and effectively repealing the work of over 20 States to get health care costs under control.

This is unacceptable, Mr. President. It is antireform, and it must be reversed.

I have heard for many years opponents of any kind of tort reform at the Federal level say that it ought to be left to the States, suggesting that the States should be free to pursue this area if they chose on a State-by-State basis, but this takes that away, Mr. President. It takes away that innovation and says you cannot legislate in this area any longer.

Instead of doing this, Mr. President, we need to build upon what the States are doing, not turn back the clock on their progress. For example, we should abolish the collateral source rule to stop wasteful double recovery. We need controls on sky-high punitive damages. We need to modify joint and several liabilities so that those who are responsible for the harm pay their fair share.

Mr. President, I am sure that every Senator wants injured patients to be fully and fairly compensated for the harm they suffer. That is not in debate. We all want a system to deter negligence, and we all want the few incompetent health care providers that exist to be held accountable. But the bill before us merely perpetuates and even spreads the worst in the current malpractice system. Clearly, we can do better than that.

That brings me to my final point about how we ought to go about health care reform. My view is we should be focusing how to fix our current problems and how to reduce costs, not how to expand Government control and bureaucratic interference.

As I said at the outset, our system is the best in the world because of its reliance on private sector competition and market driven innovation. The Clinton-Mitchell bill, on the other hand, will move American health care in the exact opposite direction. It will create a system where bureaucrats, politicians, and lawyers have more authority over health care than doctors, nurses, and researchers—let alone the patients. As government control expands under the Clinton-Mitchell bill, the incentive—as well as the power—to cut costs, improve care, find new medicines, and treat patients in a personal manner will decrease by inverse proportion.

We just need to look across our northern border, or over the Atlantic to our European neighbors, to see the effects of Government-run health care. These results are not something I believe our country wants to emulate. Citizens are often taxed at 50 percent or more of their income. Structural unemployment persists at 10 and 12 percent. There are waiting lines for medical services, and there is rationing of the use of medical technology that can detect diseases and save lives.

We have all heard these numbers and facts, but let me put a human face on the results we can expect from a Government-run health care system on living, breathing people:

A young woman from Scottsville, KY, the daughter of a friend of mine, was spending a semester abroad studying in London England, this past winter. Unfortunately, she awoke in the middle of the night with excruciating abdominal pains. She went to the hospital, was given medication, and at the time was very impressed that everything was free. However, her condition deteriorated; so she went to a local health clinic 2 days later. She was examined by a doctor whom she described as overworked and preoccupied with other problems. This doctor gave her more medication, but still her condition deteriorated.

Waking in the middle of the night with a fever, chest pain and labored breathing, she decided to use the house call service which the National Health Service requires of all its doctors. Despite the house call, she became more and more ill, and decided the next morning to return to the second doctor she had seen. By this time, her very worried father had contacted my office to ask whether we could be of any assistance.

My office contacted the United States Embassy and obtained a list of several private doctors for the family to call. The young woman quickly made an appointment with one of these physicians, who soon diagnosed the cause of her illness and treated her properly.

Let me read an excerpt from a letter which this young woman sent me afterward—because I think she speaks very well to the issues we must resolve in this debate. That is what she had to say:

Senator MCCONNELL, I always thought it might be a good idea to have free medical coverage for all citizens. And in an ideal world, it could be. But the reality is that socialized medicine is not successful. It leads to crowded clinics and hospitals, with overworked and underpaid physicians and staff who cannot spend enough time with any one patient. Yes, I eventually did find a good doctor, but I had to pay much more for him than I would have in the U.S.. My experience has led me to the conclusion that socialized medicine, if adopted by [our country], will result in a society of doctors who do not have the time, money, or interest to spend enough time with their patients.

I also heard recently from the president of a hospital in London, England, who shared his perspective on our struggle over health care reform. We would do well to listen to this voice of sober experience. He writes:

VOL 140 PT 16 AG 12 — 18 1994 UMI

If a plan passes that has a global budget, or contains price controls, a National Health Service-style health care system will eventually evolve in the United States. I, for one, would not like any member of my family being told that they cannot get a service, or will have to be put on a waiting list stretching more than a year because of lack of resources. The market . . . has shown time and time again that it is far better at determining prices and directing capital to where it is needed. The government's record is abysmal in this regard.

Those are just two glimpses of how government-run health care has fared in other countries. Unfortunately, examples of the disastrous consequences of government-run health care can be found right here in America, too.

As most of us are painfully aware, the Federal Government operates its own medical care system for our Nation's veterans, through the Veterans Administration. I say painfully aware, because many of us in this body devote a lot of time and energy on behalf of veterans in our states who simply cannot get the care they need without long waits and pointless bureaucratic hassles.

I remember a few years ago, to give an example, my office was contacted by a Vietnam veteran who had lost his leg in combat. He desperately wanted a replacement leg, so that he could work and enjoy a whole life again—but the VA made him go through one bureaucratic hoop after another. At one point during his ordeal, he heard from some other veterans that my office had a good track record in helping people like him get results from the VA. So he called my office and we went to work.

After a lot of calls and letters back and forth, we eventually got the VA to give this man a replacement leg. In the process, we discovered that one factor in the VA's refusal to help this gentleman was plain-and-simple retribution: The VA saw this patient as a troublemaker, someone who rocked the boat—and for that reason they decided to jerk him around on medical treatment that he needed.

Is that the kind of health care system we want for all Americans? Where faceless bureaucrats can get even with patients who raise too much of a fuss about the health care they are getting—or not getting? And as much as I was pleased to help this veteran and all the other veterans who call me, do we really want to create a health care system where you need to have a U.S. Senator get involved before you can get the medical care you need?

Imagine that. Every American, in this new world brought to us by the National Health Benefits Board, has to call his Senator to get his or her Senator to intervene with the Government to get the care that is needed.

Let me give you another example of what I'm talking about. I recently heard from another veteran in Madisonville, KY, who had contacted the VA office in Louisville to request a medical examination for back pains that he was experiencing due to an injury he had suffered on duty. The VA told him that he could not simply make the request over the phone; he had to put it in writing.

So the gentleman wrote a letter, and one month later, he still had not received a response. So he called again and the VA told him to wait for 30 more days. A month and a half later, he still had not heard. Of course, his back was causing him intense pain throughout this entire ordeal. So as a last resort, he contacted my office and now we are working to help this man schedule an appointment for an examination.

He is just trying to get an appointment for an examination and he is in intense, excruciating pain—brought to you by Government medicine.

Is that where health care in America is headed? When you want an appointment, will you be able to just call your doctor—or will you need to wait for months on end and then, in desperation, call in your U.S. Senator.

The kind of shoddy treatment I have been describing is happening in this country today to our veterans—men and women who are courageously serving our Nation. Yet they wait over 2 months to hear about a request for an appointment.

This is the kind of garbage that is going on today—in America—in a Government-run health care system. Long waits. Faceless bureaucracy. Retribution against patients who dare to complain. So I would say, Mr. President, if we really want to pass meaningful health care legislation this year, we ought to try to reform the VA health care system. That would be a good place to start, rather than spread it to the rest of the country.

I can hear the proponents of this legislation protesting that I am comparing apples and oranges; that the VA is really a single-payer system, whereas their bill makes everybody pay through the nose.

The problem with this legislation is not just who pays and how much they have to pay, but who regulates. This bill gives unprecedented, plenary powers of regulation to the Federal Government. Unprecedented.

If it becomes law, the Government will effectively control every single important facet of our health care system. Directly or indirectly, it will regulate the financing of health care decisions about benefits, costs of policies and reimbursement rates for all medical services.

Under this legislation, the Federal Government will even decide whether a physician may enter a particular speciality and which geographic areas should be entitled to certain kinds of health care providers. So make no mistake, this may not be a single-payer bill, but it is without question a single-regulator bill—a single-regulator bill—and the end result is likely to be just as disastrous.

We can reform our health care system without giving the Government monopolistic control over one-seventh of the economy and over a very important and extremely personal part of each of our lives.

We can reform health care and actually make it better instead of less responsive, more expensive and more bureaucratic. We could, for example, make some simple changes in the way health insurance is marketed—to improve access and guarantee that coverage is portable and renewable. We could restrict the practice of exclusion from preexisting conditions and limit the ability of insurers to drop policy holders like a hot potato after they incur some costly illness or accident.

We could reduce health care costs enormously in four easy steps: enact meaningful medical malpractice reform; create private sector purchasing alliances that are truly voluntary; simplify administrative procedures; and allow the market to eliminate services that consumers, rather than bureaucrats, do not want.

We can help family farmers and others who are self-employed by letting them deduct 100 percent, not 50, but 100 percent of their health insurance costs. All of the measures I have described, as we all know at this point, are in the Dole-Packwood bill. They almost certainly are supported by the vast majority of Americans.

Yet, we are debating today a bill that is largely despised—despised—if not feared by most of those we represent. They hate it. We know that because they are calling our offices and we see the polls. So we ought to stop listening to the special interests, stop listening to the White House political shop, stop listening to the party bosses, and start listening to the calls we are getting from home, listen to the voters, listen to the families in our States.

They are telling us by an overwhelming majority that they do not want this bill. They do not want a Government takeover of their health care system, whether it be single payer or single regulator or whatever. They want control of the health care decisions that affect them, and they do not want to give that control away to a faceless, passionless bureaucracy in Washington.

So we better listen to our constituents' views on health care now or we will certainly hear from them loud and clear in November.

Let us pass a bill that brings real reform to health care without letting Big Brother in the door.

So where does that leave the bill before us? We will need to diagnose it first to answer that question.

First of all, we observe that the bill is plainly overweight. One could even say obese. In fact, the bill suffers from legis-sclerosis, a condition which is caused by unhealthy levels of bureaucholesterol. It also shows symptoms of "Clintonitis," such as swollen entitlements and acute taxation.

The bill has inflamed constituents, and according to samples that have been taken very recently, it appears to have a dangerously low vote-count.

Evidently, the attending Senate Democratic physician has attempted to treat the patient with heavy doses of "mandatol" with its predictable side effects of impaired autonomy and severe economic contractions.

The other drug which is being administered liberally is "spenditol," which as we all know, merely aggravates the patient's fiscal deficit disorder.

So what course of treatment should we prescribe for this ailing piece of legislation? First, we should note that its intended beneficiaries, the American public, have hung a large sign on the bill which reads: "Do not resuscitate."

That being the case, the first thing we should do with this bill is put it on a strict diet. We need to reduce the intake of bureau-cholesterol, cut out all the administrative fat, and help it shed some of its socialized cellulite. If that does not work, we may need to consider major surgery: a "mandatectomy," for example. Otherwise, this flabby bill is going to keel over under its own weight.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate vote on or in relation to Senator DODD's amendment No. 2561 at 6:30 p.m. this evening with the time prior to that vote equally divided in the usual form, and that no amendments be in order to Senator DODD's amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the time will be equally under the control of the Senator from New York and the Senator from Oregon.

Mr. PACKWOOD. That gives us about 7 minutes apiece roughly.

Mr. MOYNIHAN. It means the Senator had better hurry.

Mr. PACKWOOD. I yield 3 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas [Mrs. KASSEBAUM] is recognized.

Mrs. KASSEBAUM. Mr. President, I rise to discuss for a few moments the amendment put forward by the Senator from Connecticut [Mr. DODD].

It is hard to argue against this amendment because who here does not want to offer what health services we can to pregnant women and to children? No one has been more committed to this issue than the Senator from Connecticut.

But, as my colleagues know, women's and children's benefits are included in the standard benefits package. Under the Mitchell bill, all insurers would be required to offer such benefits beginning in 1997. The Dodd amendment would speed up required coverage for prenatal and well-baby care. Given the poor health status of many of our Nation's children and the high infant mortality rates in many areas of the country, it is difficult at first glance to oppose the amendment.

However, this amendment, I would suggest, goes to the core of the question of who should design and arbitrate benefits package issues? Should it be Congress? We have found it impossible to do that in any reasonble or measured way. The Senator from Minnesota [Mr. DURENBERGER] made an eloquent statement last evening regarding the endless controversies we invite when Congress attempts to define the specific benefits to be offered. Not only can Members of Congress never say "no" to any particular benefit, but we also quickly find ourselves in a situation where new technologies and procedures can render our decisions obsolete.

I am concerned that the Dodd amendment will be just a preview of the future congressional tinkering with and expansion of the benefits package. I have serious reservations about this precedent, Mr. President. Where does it end? Should we move up earlier mammograms to the front of the line? Should we move up prostate cancer screening to the front of the line? There are serious health concerns in preventive medicine that we should consider. Do they not deserve priority as well?

I support a standard benefits package. But that is not what this debate is about. This debate is just the beginning of a process Congress is ill-suited to handle.

Like many others, I have advocated that an independent, nonpolitical commission should be responsible for designing a benefits package which makes sense and which we can afford.

On the surface, the Dodd amendment has enormous appeal. We cannot, however, risk having that appeal blind us to the precedent it sets and the serious questions that remain regarding how a benefits package should be shaped.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MOYNIHAN. I yield 1 minute to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, I was particularly interested in the comments by my good friend from Kansas, since Kansas was the second State to have legislation that was similar to that which we are considering this evening and was a real leader in terms of children's issues.

Mr. President, I have just two thoughts. This is an important moment for the children of America. Under the leadership of the Senator from Connecticut and others, we start this great debate on national health putting children first, those that are the most vulnerable who have been left out and left behind. That is point No. 1.

Second, Mr. President, this is a good moment for the American people, for at last we are beginning the serious process of the serious debate on national health insurance. It is appropriate that children are first, and it is appropriate that we begin this debate with meaningful votes on the direction that we are going to take on health care for all Americans.

I yield.

Mr. PACKWOOD. I yield 2 minutes to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I agree with my colleague from Kansas and my colleague from Massachusetts, if that is possible. I think we are debating what is best for women and children in this country.

I regret that I made this argument last night at an hour which probably was not available to a lot of people. But I think the argument is fairly basic. Is the best care, both prenatal care and well-baby care, that which is determined by the doctor and the health plan in conjunction with the doctor, the obstetrician or the pediatrician? Or is it going to be determined by the Secretary of HHS? I do not have a problem with the first part of this amendment because it is basically what has been debated and argued here in the last 3 or 4 days. And that is that we ought to cover clinical preventive services, including prenatal care, well-baby care, immunizations for pregnant women and children. We all agree on that. The problem for me is when you direct the Secretary of HHS by July of next year to have come up with a schedule of the routine services that are going to be required in every single health plan in America for every single child and every single mom in America.

They talk about the Academy of Pediatrics. I tell you, the Academy of Pediatrics will tell you it depends on the family history of the child, on whether there is a history of disease, it depends upon some of the cultural background, and it depends on a whole lot of factors as to what is the best care in a particular case. There is no way that the Secretary of HHS is going to be able to promulgate by regulation what service is the most appropriate in a given case for every kid. You cannot have one standard for every pregnancy and every child in America.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MOYNIHAN. On our time, I would like to state that New York is

VOL 140 PT 16 AG 12 — 18 1994 UMI

one of the States which already has the provisions of the Dodd amendment, and they should be available to all Americans in every State.

I yield 1 minute to the undaunted champion from Pennsylvania [Senator WOFFORD].

Mr. WOFFORD. Mr. President, Senator DODD worked with women and children in the Dominican Republic in the Peace Corps, and it is very fitting that he has carried that work forward to the American people and American children and American women sooner rather than later. That is the lesson of this amendment. Let us not be proud of dragging this process out into the next century. Let us be proud of how we find the ways and means to give health security and preventive health care to children sooner rather than later.

This amendment was not so complicated. We were able to get to work on it. It is a page and a half. Implemented not later than July 1, 1995. Harry Truman, who started this fight, would be proud of us. Remember his words:

> Where there are differences remaining as to the details of the program, we should not permit these differences to stand in the way of our going forward. They should be thrashed out with honesty and tolerance, as is our democratic fashion. We should enact the best possible program and then all of us should get behind it and make it work.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. PACKWOOD. I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I want to congratulate the Senator from Minnesota. I share his sentiments. What are we trying to do here? The goal is to cover all of these services in the uniform benefit package that we are going to come up with. I do not think we want to be so specific that what is put into regulation then has to be changed in the following year.

I suppose the proponent of the amendment would say that this is just for during the interim period. This will come out by July of 1995. But we all know that once we start down that track, once the Secretary of HHS comes out with this very detailed schedule—and everybody is familiar with this, and I presume it has been read before—she shall establish a schedule of periodicity that reflects—and so forth and so on. This is just the path I do not think we want to go in. To me, it is reminiscent of Medicare. In Medicare we have every possible contingency covered by regulation, and it is chaotic. I have had a hand in all of that. I think I mentioned in the remarks I made the other evening that you find the bizarre situation of Senator CHAFEE and Congressman PETE STARK, both in part of the conference on Medicare at 2 a.m. in the morning deciding in some remote part of this Capitol who will get paid for reading an EKG. I am totally—and I might speak for Representative STARK in the same manner—incompetent to do that. We were beyond our realm on that. That is not in our job description.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHAFEE. Mr. President, I just want to say that these are decisions that should be made by doctors, and the plan, and by individuals, and not by the Secretary of HHS.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. How much time do we have left?

The PRESIDING OFFICER. There are 21 seconds remaining.

Mr. MOYNIHAN. I yield 42 seconds to the gallant and learned Senator from Connecticut [Mr. DODD].

Mr. DODD. If you keep talking like that, I would ask you to come to Connecticut and say those words.

Let me just say how pleased I am, Mr. President, that at long last we are finally going to have a vote on this proposal.

Let me repeat for the benefit of my colleagues what the amendment does. It is very simple. It merely says that all private insurance policies—private insurance policies—must include coverage for preventive care for pregnant women, children, and infants as of next July, to expedite and accelerate that coverage. It creates no new Government bureaucracy. It builds on our current system of private insurance to make certain that we start giving our children a good start right away.

Why is this so important? Why is it important to start providing these benefits earlier? I think the facts and statistics, Mr. President, speak for themselves. Every time that a low-birthweight delivery is prevented, it saves between $20,000 and $50,000. Every time a very low-birthweight delivery is prevented, it saves approximately $150,000. Not much more needs to be said.

Clearly, if we can accelerate the coverage of these children by a year and a half or 2 years, we will eliminate significant future costs. We mandate well child care already in 22 States. The Senator from New York pointed out that his State has had this type of program for some time. The first State was Wisconsin and the second, Kansas. These programs were started under Republican Governors, I might add, that insisted that we reach out to children as quickly as possible.

There is a legitimate debate about individual proposals to deal with the benefit package, but I think there ought to be some consensus here about children and pregnant women, that it is in our collective interest to see that we do everything to prevent—not treat but prevent—these problems from occurring.

If we can prevent these health problems from occurring, more promptly and earlier, we all win and all gain. Therefore, Mr. President, I think this amendment is critically important. Of course, I think all of us agree that we must figure out a way to reach the 12 million uninsured children.

I want to stress that this amendment does not create any new Government organization. It is all done under private carriers. HMO programs in this country require this, and have insisted upon it, to their credit.

I believe that Republicans and Democrats, on the very first issue addressed in this body on national health care reform, on the issue of pregnant women and children, ought to be able to come together. We may divide in the days ahead on the issue of mandates, and alliances, and cooperatives and whatever. But on children and pregnant women, let us say to the American people tonight that as far as those citizens are concerned, we unite and stand together to see to it that they will at least get the basic kinds of health care coverage that they deserve and need to make this a stronger and healthier and better Nation.

Mrs. HUTCHISON. Mr. President, I rise to oppose the Dodd amendment. This amendment would have the effect of changing insurance laws throughout America, starting immediately, preempting State laws and requiring every person to take this coverage regardless of whether or not they will have children in their families. It is a mandate on people to take a standard benefits package whether they need it or not. This takes away the freedom of choice, and the cost requirements are a tax which will have to be borne by each individual and his or her employer. This is what is wrong with a standard benefits package mandated by the U.S. Congress, and why I do not support it in the Mitchell bill.

Mr. THURMOND. Mr. President, before beginning my statement on this bill, I wish to acknowledge the efforts by the President and Mrs. Clinton to focus the Nation's attention on the need for health care reform. While they have worked very hard to reach this point, I cannot support the far-reaching plan which we are now considering. Hopefully, during debate on this issue, we can agree on reforms which will improve our health care system without burdening our society and economy.

We all agree that our health care system needs repairing. Our primary goal should be fixing the current system without losing the advantages of choice and quality coverage we presently enjoy. We must not forget that the American health care system is the envy of the world. Foreign leaders and dignitaries come here for treatment because their own systems simply do not provide the same quality and advanced care.

Last year the United States spent approximately $900 billion on health care. This is 14 percent of our gross national product. Obviously, any reform in health care will have a large impact on our economy. However, it is our responsibility to assure Americans that any reform will benefit the finest quality health care system in the world.

Mr. President, I believe the best starting point for health care reform is prevention. If Americans have ample information and incentives concerning preventive health care, many of the health care problems can be avoided. Proper diet, reasonable exercise, self-discipline, and an optimistic attitude toward life promote health. It stands to reason that such sensible measures are cheaper and cause less suffering than curative medicine.

Prevention programs are especially needed in the maternal and child health fields. The lack of prenatal care causes thousands of easily avoidable birth defects each year. For example, many women who smoke do not realize that smoking during pregnancy may contribute to low-weight births. Also, many Americans do not know that the use of alcohol or drugs during pregnancy may result in a child with fetal alcohol syndrome or addiction. Simply providing obstetrical and gynecological services can prevent these and other infant health problems.

We can save an immeasurable amount of suffering if we simply promote and practice preventive health care, starting with prenatal health and continuing throughout the life of a child.

Prevention programs are also needed in the areas of substance abuse and mental health. As you know, the cost to our Nation caused by substance abuse and mental illness are tremendous. In 1990, Americans spent $314 billion on health and social problems created by drugs, alcohol, and mental disorders—$100 billion more than the cost of AIDS and cancer combined. We pay not only in medical care costs, but also in a rising crime rate; an overburdened social welfare system; productivity losses; premature deaths; and emotional suffering that cannot be measured.

The importance of helping those who suffer from addictive and mental disorders is evident. Studies have shown that treatment programs can reduce the enormous social and economic costs of these disorders. For example, half of the patients receiving treatment for schizophrenia, either completely recover or can function with minimal support; thereby cutting rehospitalization rates, preventing homelessness, and improving employment outcomes for those patients.

Mr. President, for every dollar spent on treating someone with substance abuse problems, $11.54 is saved in social costs. For example, the estimated 10 million alcoholics in this country spend two times more on health care than those without alcohol problems.

Costs associated with substance abuse are not limited to health care. Addictive and mental disorders have added to our society's greatest problems: crime, joblessness, and welfare. Therefore, we can not ignore the beneficial effects of prevention and treatment.

Mr. President, there are issues on which I believe we can agree. For example, we should not allow the cancellation of health care coverage because of illness, or allow coverage to be denied because of a pre-existing condition. Further, I believe we all agree that coverage should be portable. If individuals lose their jobs or decide to change jobs, they should not fear a reduction in their health care coverage, nor that they may lose it entirely.

I am pleased that there is some common ground in these areas. Unfortunately, this legislation reaches far beyond these common issues. It creates one of the greatest social spending programs in history. It also creates one of the greatest intrusions into the rights of the States and the rights of individuals.

No one wants to be denied health care when it is needed. However, there are distinct and subtle differences between what is called universal coverage and universal access.

Universal coverage essentially means that the Government will run our health care system. Everyone may have coverage, but at what price? Some of the looming prices include less quality, less access to needed services, less freedom, more government, and more taxes.

Universal access means that a person cannot be denied coverage because of a preexisting condition or on the basis of employment or wealth. It is founded on personal responsibility which means it is not a free ride.

Many Americans are disgusted with the free ride welfare system in place today. Is it because people do not want to help their fellow Americans? I doubt it. We prove time and time again that we are the most generous Nation on Earth. Americans traditionally come to the aid of those in need. Everyone recognizes that some help is needed every now and again. However, people are willing to give someone a hand-up but not a hand-out. That is why people are upset with welfare—it is a handout. It is a self-perpetuating cycle of dependency. The American people are tired of hearing that their hard earned income goes to some wasteful and inefficient program.

Yes, there are problems with our current health system, but they will only be made worse if this plan is enacted in its current form.

I have a number of specific concerns surrounding the Clinton-Mitchell bill. My first concern is the issue of the guaranteed basis benefits package.

The Clinton-Mitchell bill would entitle all Americans to a package of guaranteed national health benefits. This guaranteed benefits package includes mental health services, substance-abuse treatment, and some dental and clinical preventive services. The mandatory package includes not only major medical services, but also incorporates routine eye and ear examinations and even elective abortion services.

The Clinton-Mitchell bill would require every health plan to provide this standardized package of health care benefits. This requirement will take away the consumer's ability to choose benefits. Moreover, as the Government aggressively promotes managed care, the ability of doctors to treat patients according to their independent professional judgment will be severely circumscribed. These limitations will make it difficult for Americans to take advantage of new or specialized medical services.

The National Health Board will set national guidelines for determining which treatments can be provided or upgraded, which treatments are medically necessary, and even how often approved treatments or tests can be conducted. New benefits, including new treatments, medical procedures, or devices used in the treatment, prevention, or cure of disease will have to be approved by the National Health Board, or Congress, before they can be covered in a basic benefit package.

New benefits will be approved slowly and with great difficulty. I am concerned that there will be extended bureaucratic delays and major political debates surrounding any attempt to alter benefits. For medical specialty groups, or groups afflicted with particular medical conditions, the National Health Board and, inevitably, Congress will become the central focus of intense lobbying over the addition or subtraction of medical benefits, further politicizing the health care system.

I believe we can avoid these problems by allowing consumers their own choice of doctor and health care plan. We can do this by ensuring portable, universal access to health care, regardless of pre-existing conditions and without mandating specific benefits.

Another area of concern is the treatment of the system for graduate medical education. I agree that we have a shortage of primary care physicians and providers in America. Many people are concerned that there are too many physicians, that our distribution of specialists is poor, and that there is no government control on training programs. However, we have the best health care system in the world. I believe that is due in part to the fact that we allow our students and medical professional to choose their fields of endeavor and to pursue their careers without interference.

Unfortunately, this legislation will directly interfere with the career

VOL 140 PT 16 AG 12 — 18 1994 UMI

choices our students will make. This legislation directs that National Council on Graduate Medical Education to decide how to cap the physician supply by not allowing students to enter a nonprimary health care training program. This commission will define the goals for specialty mix, the number of residency training positions, and where residency programs will exist.

This legislation dictates that the national council shall ensure that 55 percent of the students in primary care programs will pass. I am concerned that this will lessen the quality of the education received by these students.

I believe we are approaching the shortage of primary care providers from the wrong angle. We should be encouraging our students to pursue careers in primary care. We should not limit the number of positions available in specialized areas.

Mr. President, a third area of concern is the expansion of prescription drug coverage, and the potential for price caps and shortages in this area. There is no question that all Americans need access to affordable prescription drugs. Unfortunately, too many Americans are supporting this plan because they believe it will expand their drug coverage.

They must think this through. At what cost will drug coverage be "expanded"? Some of the costs will surely be: Reduced research, reduced choice of medications—many of our senior citizens prefer to use certain products—premium caps, shortages in drug supply, and taxes.

Mandated Government prices controls or price review boards would penalize pharmaceutical research, and eventually drive companies out of the industry. Recent studies of the pharmaceutical industry indicate that the free market, along with strong safeguards to ensure quality help, contains price increases.

As you know, in 1993, the pharmaceutical industry spent an estimated $12.6 billion on research and development. The Office of Technology Assessment estimates that in 1990 the average cost of research and development for each new drug marketed in the United States was $359 million.

The best hope for treatment and possible cures for many of the health problems we face today is in the area of pharmaceutical and biotechnology advances. If we try to establish price discipline, we will see a decrease in pharmaceutical research and development, and fewer pharmaceutical and biotechnology breakthroughs.

I am also concerned that the Workers' Compensation Program has been included in this legislation. The proponents of this legislation will argue that it is only establishing a system of data collection and a commission to study whether workers' compensation should be incorporated into health care reform. This is true for the Senate version of this legislation. Unfortunately, it is fully incorporated in the House version. My concern is that the Senate version will be dropped before the conference even begins.

Let me address my reasons for this concern.

As you know, workers' compensation was created over 80 years ago and is the result of a common compact between business and labor. If a worker is injured on the job, the financial burden of an industrial accident is shifted away from the injured worker and charged to the employer. All of an injured worker's medical expenses are covered, and the work-related disability payments are made until the worker returns to the job. In addition, workers' compensation insurers attempt to manage treatment and rehabilitation in order to minimize an injured worker's loss of earning capacity and/or physical function. In return, the injured worker agrees not to sue his or her employer to receive compensation for the injury.

The House's inclusion of workers' compensation in this legislation will jeopardize the current freedom and flexibility of States to experiment with new ideas and approaches to improve the system. A number of States have had recent successes controlling the growth of workers' compensation costs. In the last few years, Massachusetts, Florida, Oregon, New Mexico, and Washington have all undergone efforts to reform workers' compensation. Dozens of workers' compensation legislative proposals are also pending in various State legislatures. Each State has taken a different approach in its reform, and we should not impede this progress.

Mr. President, the goal of workers' compensation is simple: Get an injured worker back to work and normalcy as soon as possible. Much of the success in achieving that goal is due to the fact that insurers and employers who foot the bill for medical care should continue to have significant decision-making authority. The House version will prevent the employer and the State workers' compensation agency from questioning whether appropriate medical treatment is being received. Employers and insurers are concerned about separating the responsibility for medical management from the financial responsibility for cash benefits, and losing control over the medical portion of the workers' compensation premium which amounts to approximately $24 billion a year.

Inclusion of workers' compensation would also eliminate the benefit of experience rating. Experience rating encourages employers to directly influence their premiums by implementing workplace safety programs to reduce the number of accidents among their employees. The integration of workers' compensation would seriously and adversely affect employer safety incentives by moving workers' compensation from an experience-rated to a community-rated system, and the public would bear the cost of an employer's unsafe workplace.

I believe the workers' compensation system is unique in its mission and its approach. I also believe that including it in this reform package would be a mistake. Workers' compensation has always been a successfully State-managed system, and I believe it should remain with the States.

Another concern I have with this bill is the inclusion of the antidiscrimination provisions. Under current law, employers, schools, and places of public accommodation are not allowed to discriminate on the basis of race, sex, age, national origin, religion, or disability. The Clinton/Mitchell bill would add five new categories that have never been considered as protected groups under our civil rights laws. They include: Language, income, sexual orientation, health status or anticipated need for health services.

This language is simply not needed to ensure that there is no discrimination. Section 1002 clearly establishes that all health plans shall "accept all eligible individuals for coverage." There is no room for discrimination in this section.

I believe our employers, health plans, States, and other entities will be exposed to unlimited damages and lawsuits that will further raise the cost of health care and further overwhelm our judicial system.

This is an unprecedented expansion of law. We do not know how broad these new categories are. We also do not know what effect this new expansion will have on our employment policies. Therefore, we must question why these new categories have been included.

Mr. President, as the ranking member of the Senate Judiciary Subcommittee on Antitrust, Monopolies and Business Rights, I have two additional concerns that relate to the antitrust laws.

First, I oppose the attempt in this legislation to repeal the McCarran-Ferguson Act for the provision of health benefits by insurers. This repeal would be bad for both competition and consumers and would interfere with State control over the regulation of insurance.

The repeal applies to "health benefits," which might appear quite narrow, but in fact encompasses many lines of insurance. The term is far broader than mere health insurance, and could cover workers' compensation, homeowners, auto, medical malpractice, and general liability insurance.

Any repeal of McCarran-Ferguson will inevitably lead to a decrease in

competition rather than the increase proponents claim. The insurance industry is now highly competitive with thousands of firms competing for business. Without the ability to engage in certain joint activities, especially sharing of information, many of the smaller companies may go out of business and competition will be diminished.

If McCarran-Ferguson is repealed, I believe it would only be a matter of time before Federal regulation crept in. Federal regulation is generally cumbersome, slow, and unresponsive to local and individual needs, while the State regulation encouraged by McCarran-Ferguson is better suited to the needs and interests of the consumer and the industry. The net effect of McCarran-Ferguson repeal in this legislation is that consumer welfare will not be enhanced. The uncertainties associated with such a change will likely decrease competition as regulation increases, to the detriment of the consumer and the marketplace.

My other antitrust concern is that this legislation makes no attempt to address the many uncertainties of the antitrust laws, which are worsened by health care consolidation under this legislation. Last November, Senator HATCH and I introduced the Health Care Antitrust Improvements Act to establish a framework for adjusting the antitrust laws to health care reform. We have recently modified our proposals to address concerns which had been raised, but continue to pursue the key goal of clarifying how the antitrust laws apply in the health care industry. The purpose is to save money and improve quality in health care, not for the benefit of providers, but for the ultimate benefit of patients and those who pay the bills.

Saving money through lower antitrust costs is achieved by greater antitrust certainty so that fewer questionable cases are brought, by giving more responsibility to the Federal antitrust agencies to determine what conduct is desirable and what is not, and by focusing antitrust enforcement on the areas that truly need it rather than on areas that generally do not.

Quality is improved by removing unnecessary and artificial antitrust barriers that prevent medical providers from organizing themselves to achieve the combinations which can deliver the highest quality of care. The antitrust laws currently chill much desirable conduct by medical providers. This has a negative effect on quality but can be avoided by greater certainty about the applicability of the antitrust laws in the health care field.

In order to permit desirable activities and organization by health care providers, the Hatch-Thurmond provisions direct the Justice Department to develop safe harbors for specific categories of conduct which need not be subject to the antitrust laws. Because of the difficulty in determining where to draw the lines in changing markets, the Attorney General is authorized to review applications and issue antitrust waiver covering individual situations. In addition, our provisions permit health care joint ventures to be disclosed to the Attorney General in exchange for single damages, following the pattern of the production joint venture bill that passed the Congress and was signed into law last year. These provisions establish a framework for adjusting the antitrust laws to changing health care markets, to achieve the ultimate goal of more efficient, higher quality medical services at reasonable prices for the benefit of all Americans.

Finally, Mr. President, perhaps the most pressing issue is that of the mandates included in this bill. This legislation will require each State to submit a health care reform plan to the National Health Board detailing how the State will comply with the Federal rules and regulations established by the Board. The States will have to demonstrate to the Board how they will certify health plans, administer subsidies for individuals and small employers, collect data on health plan performance, and meet Federal quality and management requirements.

There are at least 50 new mandated bureaucracies created under this legislation. I believe the American people can do without more bureaucracy.

Also contained in this legislation are 17 new federally mandated taxes. When you tax someone it means less money in that person's pocket. It means that person has less freedom to do what they wish with their hard-earned income. It often means that person must also try to get by with less money to pay for food on the table, diapers for the baby, the utility bills, or any other necessary expenses.

Mr. President, this legislation sets the goal of coverage at 95 percent. If that goal is not reached, an employer mandate is triggered that requires the employer to pay 50 percent of the costs of an employee's health plan.

The employer mandate imposes additional labor costs on our economy, and when businesses are faced with an increase in labor costs they first look to the employee to make up the difference. This will take the form of lower wages, fewer benefits, and job loss.

What small business is going to want to hire another employee when they are facing a 50-percent tax on health care? That is what it is. It is a tax business. You can call it shared responsibility or employer contribution, but the simple fact is that the Federal Government is directing the private sector to spend its money in a particular way. That is a tax.

Webster's Dictionary includes among its definition of the word tax "to impose a burden on; put a strain on". The employer mandate places an enormous burden on the individuals and businesses of this great Nation.

According to a preliminary study done by the Heritage Foundation, businesses in South Carolina may suffer an additional $806 million a year in additional taxes. That is $806 million that will not go toward creating new jobs or to support existing jobs.

The people of my State do not want a federally imposed employer mandate. The American people do not want an employer mandate. They know it is not good for business and, in the long run, it is not good for the economy.

Many of the proponents will advocate that this trigger will only happen if the reformed free market fails. These advocates say they are going to give business a chance. That is like tying my hands behind my back and asking me to box 15 rounds with Mohammed Ali.

The result is obvious. The system is designed to fail; and the trigger will be pulled. Even in the highly touted Hawaiian system—with employer mandates—coverage has only reached 94 percent.

This trigger is on a gun placed at the head of American business entrepreneurs and Americans themselves.

Mr. President, the Charleston Post and Courier, a local newspaper in South Carolina, recently reported the results of a poll taken by Mason Dixon Political/Media Research, Inc. When asked, "what issue will be most important to you when deciding how to vote in the congressional race?" only 7 percent responded "health care." Twenty-six percent responded that taxes and government spending were most important to them, followed by crime and drugs with 24 percent, education with 14 percent, and employment with 8 percent. Health care was fifth on the list, barely out-polling deficit reduction.

The results of this poll are telling. The American people want health care reform done for the right reasons, not for political gains. Also, based on thousands of handwritten constituent letters and phone calls, I know the people of South Carolina do not want this legislation. The people of my home State do not want bureaucrats in Washington, DC, making decisions on the best way to treat patients in Allendale, Walterboro, Pomaria, Taylors, and the other towns and communities in South Carolina.

It is our responsibility to the American public to ensure that health care reform will be truly beneficial and not harmful to the finest quality health care system in the world. I urge my colleagues to oppose this legislation and work for real health care reform that works and not for another government entitlement program.

Mr. DODD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

VOL 140 PT 16 AG 12 — 18 1994 UMI

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

The floor leader controls 1 minute 5 seconds.

Mr. MOYNIHAN. Mr. President, we yield back the remainder of our time.

The PRESIDING OFFICER. The Republican floor manager has 21 seconds.

Mr. PACKWOOD. I yield back the remainder of my time.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, there will be no further roll call votes this evening after this vote.

I have discussed the matter with the managers and the distinguished Republican leader and following this vote, I ask unanimous consent that Senator FEINGOLD be recognized to complete his statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Following Senator FEINGOLD's statement, which he had begun prior to this debate and vote and for which I again thank him for his courtesy in permitting an interruption, there will be 2 hours for debate, which will be equally divided and under the control of Senators MOYNIHAN and PACKWOOD, and after those 2 hours the Senate will remain in session for as long as Senators wish to speak but without any specific division of the time. The managers will take care of that. I put that in the form of a unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. BROWN. Mr. President, reserving the right to object, my understanding was I was to have the floor for an opening statement following the Senator from Wisconsin.

Mr. MITCHELL. I made this suggestion as the request of Senator PACKWOOD.

Mr. PACKWOOD. I think we will work this out. We are going back and forth under controlled time, and I will recognize the Senator from Colorado.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, we will be happy to have the Senator from Colorado as the first speaker following the Senator from Wisconsin.

The PRESIDING OFFICER. There is a unanimous-consent request propounded.

Without objection, it is so ordered.

Mr. MITCHELL. Then, Mr. President, on tomorrow Senator PACKWOOD has indicated to me that he or one of his Republican colleagues will have an amendment to offer, which will be the subject of debate and we hope vote tomorrow, although we are not attempting to reach an agreement on time. Senator PACKWOOD has indicated that he hopes to be able to let us see a copy of that amendment this evening so that we have a chance to review it and be prepared.

With respect to the pending amendment, we provided a copy of that amendment several hours before it was taken up.

I thank colleagues for their cooperation, and I now yield the floor.

VOTE ON AMENDMENT NO. 2561

The PRESIDING OFFICER. Pursuant to the unanimous-consent agreement heretofore entered, all time having been yielded back, the question is on agreeing to the amendment of the Senator from Connecticut. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Georgia [Mr. NUNN] and the Senator from Tennessee [Mr. SASSER] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—55

Akaka	Feinstein	Mikulski
Baucus	Ford	Mitchell
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boren	Harkin	Murray
Boxer	Heflin	Pell
Bradley	Hollings	Pryor
Breaux	Inouye	Reid
Bryan	Jeffords	Riegle
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Campbell	Kerry	Roth
Conrad	Kohl	Sarbanes
Daschle	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dodd	Levin	Wellstone
Dorgan	Lieberman	Wofford
Exon	Mathews	
Feingold	Metzenbaum	

NAYS—42

Bennett	Durenberger	Mack
Bond	Faircloth	McCain
Brown	Gorton	McConnell
Burns	Gramm	Murkowski
Chafee	Grassley	Nickles
Coats	Gregg	Packwood
Cochran	Hatch	Pressler
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
Danforth	Kerrey	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner

NOT VOTING—3

Hatfield	Nunn	Sasser

So the amendment (No. 2561) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(At the request of Mr. DOLE, the following statement was ordered to be printed at this point in the RECORD:)

• Mr. HATFIELD. Mr. President, today I was necessarily absent for the vote on the Dodd amendment No. 2561. Had I cast my vote, I would have done so in opposition to Senator DODD's amendment because I do not believe the Secretary of Health and Human Services should be designating specific benefits to be provided in health insurance plans. I have always had a strong commitment to preventive efforts, including maternal and child health, and I would hope that any health care reform package we enact will favor these services without the imposition of Federal mandates.•

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, before turning to the distinguished Senator from Wisconsin, who so courteously allowed us to interrupt him for this rollcall, may I make the point——

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. The Senator from New York claims the floor.

Mr. MOYNIHAN. May I simply make the point, sir, that we have been on this bill for almost 2 weeks and we have not lost an amendment yet. Thank you.

The PRESIDING OFFICER. With that observation noted, under the previous order the Senator from Wisconsin, Senator FEINGOLD, is recognized.

Mr. FEINGOLD. Thank you, Mr. President. I thank you for all your extremely hard work on this piece of legislation.

Mr. President, I had the opportunity on Sunday morning to see some of the talk shows about the Federal Government and national issues, and I happened to watch the McLaughlin Group.

One of the panelists on the McLaughlin Group said something about what was wrong with the Democrats' approach to health care. His conclusion was that we had made two big mistakes. One mistake, he said, was proposing the idea of a health security card for all Americans and waving the card around. He thought that was a terrible mistake strategically.

The other terrible mistake he said was for the President to have held up a pen and say that he would veto legislation that did not provide universal coverage. I was somewhat amused by these remarks because these two symbols—the card and the pen—have been among my favorite aspects of the health care debate. These were symbols of hope, that all Americans at the end of the 103d Congress would have health care guaranteed for them.

So I waited a while before I spoke on the floor. Many Senators have already spoken on health care. Many more will later on. But I wanted to get an initial impression of whether my original view of the importance of this legislation held up after listening to all the speeches.

I still think the reason for this legislation holds up, and that is the central proposition that every American should be guaranteed health care. The problems with the legislation, the controversy, is not about that principle. There is a tremendous amount of debate about employer mandates and whether we should have a premium tax or the mix of generalists versus specialists, and other very important issues. But it still seems to me that a reasonable centerpiece of the health care debate is whether or not we are going to provide a guarantee of health care for all Americans.

So, Mr. President, I wonder why that issue has seemed to have dropped from view, relatively speaking. To me it is still the most important issue, and that if we do anything with the Mitchell bill, we should strengthen the provisions for universal coverage.

I have felt this way for a while and, naturally, we all campaigned in 1992 on the notion that we would provide health care for all Americans. I think everybody, on both sides of the aisle, probably said something along those lines.

But we did not stop there. We went beyond that into the legislative period, and the words from the famous campaign of the Senator from Pennsylvania have been repeated in many different ways, but they still hold true:

If criminals have a right to a lawyer, sick people ought to have a right to a doctor.

Those words are, to me, still the basis of a hope and an expectation that we have presented to the American people over the last few years, but in particular in this year. I give credit—tremendous credit—to the President and the First Lady for repeatedly making that known.

The President said in his famous speech on September 22, 1993:

So I say to you, let us write that new chapter in the American story. Let us guarantee every American comprehensive health benefits that can never be taken away.

I was grateful to have both the President and the First Lady travel to my State of Wisconsin. They did not just visit the big cities. They came to some of our middle-size communities, like Wausau and Janesville, and they repeated over and over again that proposition: That if nothing else, the end of this process will be that every American will have one of these cards to guarantee them health care coverage.

I remember sitting next to my friend, the junior Senator from West Virginia, during the President's State of the Union. Senator ROCKEFELLER and I were chatting now and then during the President's speech, and Senator ROCKEFELLER let me know that he was wondering if the President was going to hold up that pen. He hoped he would, and so did I. We thought it was a critical moment to see whether the President of the United States would say, "If you don't give me universal coverage, I will veto this bill."

So those two symbols gave a lot of people hope—maybe a lot of expectation, but they gave a lot of hope. And to me it is not a case of overpromising. To me this card and this pen are some of the best examples of leadership and strength that the people of this country have come to look for in their President and in their Congress.

The President said in his speech, "I have no special brief for any specific approach, even in our own bill, except this. If you send me legislation that does not guarantee every American private health insurance that can never be taken away, you will force me to take this pen, veto the legislation, and we will come right back here and start all over again."

So, Mr. President, I think the card and the pen are very powerful symbols. One expresses the promise of guaranteed health care for every American that could never be taken away. The other gives meaning and force to that promise. And I can tell you, having been all over Wisconsin holding town meetings and listening sessions, the card and the pen meant a lot to the people of the State of Wisconsin, and they expect us to act on it.

We have not seen much of those symbols lately. For many, the comfort and the reward of the status quo have been a little too tempting. The very interests that have fattened themselves on the inequities and inefficiencies of the current system have understandably fought to keep those defects and weaknesses in place.

To date, I am sorry to say, those interests have been successful in obscuring the debate, and many who have aligned themselves with these interests have done a tremendous job, a masterful job of misstating our health care problems. The other side has a tremendous skill. The other side knows how to keep it simple. They weigh a bill. They say it is Big Government. They bring out a chart that looks complex but is actually less complicated than the current system. They are darned good at that.

We need to get good at it, too. We need to talk about the simple message that this card and this pen are about a commitment that this side has to every American that the other side does not.

I remember well last year during the deficit reduction debate there was another symbol. In fact, some Boy Scouts handed me this symbol. It was a false symbol but it had been mass produced. It said, "No middle-class tax increase." Some of the folks on the other side had everybody in this country including Boy Scouts in Ripon, WI, believing that everybody's income taxes were going to go up under the President's deficit reduction bill.

It was not true. And the statistics show that only 1 percent of the people in this country had their income tax rates increase. But the symbolism worked. That little card misrepresented the deficit reduction bill and it took us months to undo, the consequence of people being misinformed of what the bill really did.

Mr. President, we need to return to talking about guaranteeing every American this health security card.

I am struck by the sort of having-your-cake-and-eat-it-too attitude that I heard out in the Chamber during the last 10 days. Just about everybody in this body says they are for universal coverage, but they say it is a question of how and when you get there, and whether or not somebody is willing to vote for the tough law that is necessary to make that kind of health care coverage possible.

Now, of course, there are some people who take the view that universal coverage is a bad concept. Some say it is an example of socialism—it is socialism to talk about letting every American have health care cards. Others pay lip service to the concept of universal coverage but say what we really need is universal access. But universal access is different than universal coverage. Universal access means if you have the dough, if you have the money to pay for it, you get coverage. It does not guarantee coverage.

Perhaps this problem of terminology was best shown yesterday when I had the chance to hear the junior Senator from Texas indicate that she believes that universal coverage is a noble goal and one that she said she shared. My question for you, Mr. President, and my colleagues is, how did we get from a guarantee of health care coverage and a right of health care coverage to the idea that it is simply a noble goal, like eliminating poverty or eliminating all environmental pollution.

For me, universal coverage has long been the core issue of health care. That does not mean there are not other terribly important issues. One is cost containment, the fact that this system, a combination of private and public health care, is going to go over $1 trillion this year for the first time; another is, the issue of comprehensive benefits including mental health benefits and it is extremely central to this debate; the issue of home and community-based long-term care for the elderly and people with disabilities is the issue I have spent the most time on and talked to most every Member of the Senate about.

All of these are important and all of these should be addressed, but all of these are part of a larger reform which has its first principle in this, universal coverage. Sometimes I fear that there is not much talk about universal coverage or guaranteeing health care and that all these other issues are raised so

VOL
140
PT
16
AG
12
—
18
1994
UMI

that that issue does not have to be discussed. It is too central. It is too obvious. It is too simple that this country has come too far to still be one of the few industrialized countries in the world that does not guarantee health care.

For me, this goes back all the way to 1972. I was 19 years old at the time. I bought and read a book by the senior Senator from Massachusetts. It was called, "In Critical Condition." It was one of the first and most important articulations on the notion that health care should be a right for all Americans. And I admit I was young at the time. I also believed in 1970 that when we started Earth Day, we would not have much of a problem with environmental pollution some 20 years later, but we still do. But that was youthful optimism, and I really believed that when Senator KENNEDY's book came out it would not be long before we could say that health care is a right of all Americans.

I am embarrassed that this country has not achieved that goal. I am embarrassed that the most powerful and rich country in the world still cannot say that each and every person in this country has a right to coverage. I am very proud of my country, but I am embarrassed by that.

This has been an article of faith for me and has been throughout the years until 1988 when I held hearings in Wisconsin on long-term care. And it was all supposed to be about home and community-based care. But it was interesting; some people came to the hearing, some representing labor, some representing health care groups, and they said, "State Senator Feingold, would it be OK if we talked a little bit about health care in general?" They taught me something I did not know. I did not know that 500,000 people in Wisconsin were uncovered. I knew that some were, but I was astonished to know that over 10 percent of the people in the State of Wisconsin did not have that coverage. Growing up in Janeseville, WI, I believed and I assumed that all kids had health care coverage, whether they were rich or poor. And what really got me was learning at these hearings in 1988 that the only other industrialized country in the world that did not have that commitment to universal coverage was South Africa. Why the United States and South Africa? Why our country?

How can it be that we have the best health care system in the world, as the other side is so fond of saying, if 37 million Americans are not covered?

So that is why this card and this pen are so important. They are the key to showing all Americans that we are committed to each and every one of them. As the President said on November 20, 1993, under this legislation every citizen and legal resident will receive a health security card that guarantees the comprehensive benefit package.

So the question before us, that I think ranks above all other questions, is, do all Americans have a right to one of these cards? And will the President use the pen to enforce it? I certainly hope so.

But I have been a little disappointed lately. I made note of it at the time to read a headline in the Washington Post: "Clinton Backs 95 Percent for Health Care." To me, 95 percent is not 100 percent. That is a disappointment. The problem with the analysis of the 95 percent figure is that it involves a confusion, a confusion between the practical problem of making sure that everybody uses their right to coverage, and the legal notion that everyone should have a right to health care. In other words, you can have universal coverage for all Americans, but only 95 percent of the people may actually make use of that protection.

I am not saying that this is a constitutional right. Perhaps you could make that argument. The Founding Fathers talked about life, liberty, and the pursuit of happiness. That is not what we are talking about here. What we are talking about here is whether we are going to provide a statutory right, a public law that creates a statutory right, for every American to have health care. That is not in the Constitution, but the act of the Congress and the President.

Part of the problem with the sort of have-your-cake-and-eat-it-too added to universal coverage is that, if you believe that universal coverage for all Americans is impossible, you get statements like, "It is a noble goal." And many Senators come out and say it just cannot be done, that there is no such thing as universal coverage. That is not the case. It is based on a misunderstanding. I hope that misunderstanding is accidental.

The junior Senator from Texas said yesterday on the floor of the Senate that Canada did not have a guaranteed right to universal coverage. I have before me the provisions of the Canadian law.

Mr. President, at this point let me say that I could not be more delighted with the outcome on the amendment just preceding. I congratulate the Senator from Connecticut.

Mr. MOYNIHAN. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate is not in order. Senators are encouraged to carry their conversations off the floor.

The Senator from Wisconsin, Mr. FEINGOLD, retains the floor.

Mr. FEINGOLD. Mr. President, I again thank the Chair and would like to say again that amendment was an important moment in this health care debate. It took us a long time to get to it. The other side did try seriously to defeat it, but they were not able to because the force behind this effort to provide health care to all Americans, including children, will prevail. In that spirit I would like to take a moment to cite a statement of the senior Senator from Massachusetts, from 1972, from his book, "In Critical Condition."

Senator KENNEDY said:

> I believe good health care should be a right for all Americans. Health is so basic to a man's ability to bring to fruition his opportunities as an American, that each of us should guarantee the best possible health care to every American at a cost he can afford. Health care is not a luxury or an optional service we can do without.

Senator KENNEDY said:

> Every child who is retarded or whose arms or legs remain twisted because his parents could not get care, every family that faces financial disaster because of the cost of illness or is broken by unnecessary suffering or death, is kept from fulfilling the right to life, liberty, and the pursuit of happiness that we cherish in America.

Those words are 22 years old. But today, a few minutes ago, the U.S. Senate began the long march to making sure that dream can become a reality for all Americans.

Mr. President, let me reiterate that when you say health care is a right for all Americans, or that we guarantee health care for all Americans, you are not necessarily saying it is a constitutional right. It may be. You could argue that. But what we are about here in this effort, in this Congress, is to try to create a law, a national law, a Federal law, a statutory right for all Americans to basic health care benefits.

But again, there are those who want to have their cake and eat it too on this issue. They want to say universal coverage is a noble goal but that it cannot be done; there is no such thing as universal coverage in any country or in any place. But that is based on a misunderstanding of what the notion of guaranteeing universal coverage is all about. I hope it is an accidental misunderstanding. Too often during this debate I fear it has become a convenient misunderstanding; an effort to confuse the American people and make them think that it is literally impossible to guarantee every American the right to health care. That is not the case.

The junior Senator from Texas said yesterday, "Look at Canada. They do not have universal health care in Canada."

That is incorrect. In Canada universal coverage is not a goal. It is not a hope. It is a right.

All residents of a province must be entitled to insured health services.

That is what I mean by a statutory right. As a matter of law in Canada, every Canadian has a right to health care. I know of no exceptions.

The Senator from Idaho yesterday tried to point out that in Hawaii not everyone is covered, even though they, apparently, have an excellent system based on an employer mandate. It is the case that a certain small percentage of the people of Hawaii are not covered. But that is because they have not chosen to make health care a right for all Hawaiians. There are statutory exceptions—apparently for State employees and for certain part-time employees. So they have not made that commitment, although they have made a tremendous effort in the absence of it.

Others have said universal health care coverage is impossible. They say look at the Social Security system. We have had it for many, many years but not everyone is part of Social Security. Mr. President, that is because we have chosen to exempt as a matter of law, as a matter of statute, certain people from the Social Security system. We have never said in this country that Social Security is a right of every senior citizen or every individual.

The PRESIDENT pro tempore. Will the Senator suspend? The Senate will be in order.

The Senator will proceed.

Mr. FEINGOLD. I thank the Chair.

In all candor, Mr. President, colleagues, I have to say that even under Senator MITCHELL's bill, the statement by some that we can never get to 100 percent and therefore we will go to 95 percent does not really add up. If that is the case, why is there a provision in the Mitchell bill saying that if we have reached 95 percent by the year 2000, that a congressional commission will be formed in order to make recommendations so we can go that final mile, so we can get the next 5 percent, the 100 percent coverage? I think a lot of this confusion again comes from not understanding the distinction between the practical problem of actually delivering health care to all Americans and the existence of a statutory right. The difference is between coverage and usage. Everyone can and should be covered by law. But that does not mean that everyone will use health care services. That is a practical problem. Maybe we can compare it to the right to vote. All qualified electors in this country have the right to vote.

Mr. President, we all know painfully that not everyone exercises that right to vote. We have one of the worst records in the world in terms of the exercise of that right. But that does not make it any less the right. Every person 18 years old who is qualified and is not disqualified for reasons of having committed a felony has a right to vote. That is the difference between a right and the effective problems of trying to get everybody out to vote. So too is there a difference between coverage and actual usage.

I believed, and I am not ashamed to say anywhere, that I think in the United States, health care should be available on demand for a person who seeks it. No one should be able to be turned away. Yes, Mr. President, I say it is a guarantee that should be given to all Americans, and I use that word in a positive sense.

I will go further. It is an entitlement. I will stand here on the floor of the U.S. Senate and say health care should be an entitlement. Well, you are not supposed to use that word these days. It is a bad word, and I agree we need entitlement reform in a lot of areas. There are programs that need to be looked at. But I am not afraid to stand here on the floor of the Senate and say when it comes to the notion that every American should be guaranteed basic health care coverage, that is an entitlement that stems from being an American, and the fact that we have not made it an entitlement for every American is a shame on this country, not something to be proud of.

So, Mr. President, you cannot force someone to go and get a checkup. We are not going to put a gun to their head and say, "If you don't get a checkup, you're in violation of the law."

But if someone wants a checkup, if any American in this country feels they need a physical, they should have a right to do it, they should be entitled to it as a result of their being Americans citizens. So the key distinction here is between coverage, 100 percent coverage, and a 100-percent right to coverage.

Let us try to break it down briefly. It is very hard to examine all the provisions of the bills that have been introduced from the beginning, from the President's bill all the way through. And, yes, some of them are 1,500 pages and some are 700 pages.

But on this issue of whether health care is established as a right, that is basically a yes or no answer for each of the plans. Let me run through them.

Under the President's plan, the answer is yes, health care is a right.

Under Senator WELLSTONE's excellent plan for a single-payer system, health care is guaranteed and is a right.

Under the Labor Committee bill, health care is guaranteed for all Americans; it is universal coverage.

Under the Finance bill, that is not the case.

Under Senator GRAMM's bill, the Senator from Texas, the answer is no, it does not provide for universal coverage.

Under the bill of the Senator from Oklahoma, Senator NICKLES' bill, the answer is no, it does not include universal coverage.

One of the members of the Republican caucus, Senator CHAFEE, has a bill, frankly, which does provide universal coverage.

The bill from the House, from the other body, by one of the Representatives from Tennessee is a no. That bill, the so-called Cooper bill, does not provide universal coverage.

The Mitchell bill is not entirely clear. There are two scenarios under the Mitchell bill where universal coverage could occur, where that right would be guaranteed. One is if all the States did not achieve 95 percent coverage by the year 2000, then the mechanisms would kick in that would, in effect, require universal coverage. The other scenario is if we do not achieve 100 percent coverage by the year 2000, then a commission is supposed to make recommendations to Congress that would provide for the type of legislation and rules that would get us to complete coverage.

I think this aspect of the Mitchell bill needs to be strengthened, but at least there are provisions in that bill that could move us in that direction if it worked out right.

Finally, let me say the bill proposed by the majority leader in the other body does provide universal coverage.

So I say to my colleagues and anybody who is watching, this is not all that complicated, this piece of the issue, this central issue. Some of the bills make the commitment to every American and some do not, and to me there is no more important issue than whether that is provided.

To me, giving health care coverage to all Americans is the touchstone of this entire issue, regardless of how we implement it.

Mr. President, we supporters of universal coverage run into a little bit of a problem if we start talking about trying to get close to 100 percent coverage, if we start playing the numbers game. One problem that the President and the majority leader both identified very clearly is that if you do not cover all Americans, there is cost shifting involved. Somehow the system works in a way that the costs get shifted and those who are not covered or choose not to be covered actually cause those who are covered to pay more.

Insurance reforms, such as banning restrictions based on preexisting conditions and guaranteed portability, extend coverage to the sick and other high users of the health care system. What happens, Mr. President, is the newly insured sick drive up the premiums for the currently insured and this, in turn, causes higher premiums because some healthy individuals who are currently part of the health care plan of the insurance company drop coverage. They decide to go without that coverage because it is getting too expensive.

This shrinks the insurance pool. Because the sick and the high users of health care remain in the pool, the average costs for the pool increases and it drives up the premiums again. Higher premiums again cause more healthy individuals and firms to drop coverage, and it keeps going. The costs of the system go up rather than down if you do not have complete coverage.

There is also a problem with saying that we are going to try, as the Mitchell bill suggests, to get to 95 percent.

VOL
140
PT
16
AG
12
—
18
1994
UMI

That is sort of the new goal that was identified. The problem for me is that in Wisconsin, a pretty good-sized State—not one of the biggest, but I think 16th or 17th in the country, about 5 million people—if we only get to 95 percent, 250,000 people will not be covered, a quarter million people in the State of Wisconsin alone will not have health care coverage.

Finally, what troubles me about this numbers game, saying we will never get higher than 95, let us go for it and try for 96, 97, or 92, is that it leads us down the slippery slope that the Republican leader wants us to go down. Obviously, he knows what he is doing. He gets up on the floor and says during his opening statement, which I had a chance to witness here in the Chamber, "What is all the argument about?" He thinks his bill will get to 92 percent, we will get to 95, so what is all the hullabaloo about 2 or 3 percent?

Two or 3 percent does not sound like very much. But 2 or 3 percent is a lot. Fifty-eight million Americans were uninsured for some part of last year. But what is the difference between 92 and 95 percent? Three percent of the Republican leader's State of Kansas is 75,000 people. Three percent of Wisconsin is 150,000 people. Three percent of the United States of America is 7.5 million people. That is not a little number, that is the combined population of Kansas and Wisconsin. Ninety-five percent is not universal.

The difference between 95 percent and 100 percent is 5 percent. Five percent of Kansas is 125,000 people. As I have said, 5 percent of Wisconsin is about a quarter million people, about 250,000. Five percent of the United States of America's population is 12.5 million people, five times the size of Kansas, 2½ times the size of Wisconsin, and it equals the combined populations of 13 States and the District of Columbia: DC, Wyoming, Vermont, Oklahoma, Mississippi, New Mexico, Delaware, Nevada, Alaska, Montana, Rhode Island, Idaho, Nebraska, and Utah. That is what the Republican leader says is only a little 2- or 3-percent difference; "What is all the arguing about?"

Well, that is very significant. We cannot allow the moral force that we have on this issue that Americans have a right to coverage to be trivialized by the use of percentages.

We have to confront it head on. We have to confront the fact that we are talking here about 12 to 15 to 16 million Americans, depending on which bill you are talking about.

To put it in more human terms, I have to ask, who are these people? Who are these 12.5 million people who will not have health care coverage? And what am I supposed to tell them after we get this done? What am I supposed to tell them? Am I supposed to say, "I am sorry; you don't get one of these cards. Better luck next time, 50 years from now, when we do health care again."

Am I supposed to tell them that the homeless people will have the coverage—they will under any one of these plans—but that the working poor will not? Am I to tell them that somebody who is on welfare gets this card but they do not? Am I to tell them that all the Members of the Senate will have the coverage but they will not?

My good colleagues from Minnesota and Illinois, Senators WELLSTONE and SIMON, the other day put on a little performance where they picked out 5 Ping-Pong balls out of a group of 100 and said, "I wonder which 5 Senators will not get health care coverage if 5 percent of the American people are not going to get health care coverage."

We know very well that no Member of this body and no Member of the House will have that consequence. So the question really becomes who are these 12.5 million Americans that are not in on the deal, that are not going to get one of these cards?

Recently, in the Washington Post, there was an article making light of the fact that the Members of the Senate come out here and give human examples of this health care issue almost as if to say when are they going to stop telling about their mom or dad. But that is the only way it can be done, by putting it in human terms. So, forgive me, but I think it is appropriate to talk about the fact that I believe these 12.5 million Americans are, by and large, lower and lower middle-income people, a lot of them women, who work for small businesses, who make, let us say, $15,000, $20,000 a year. My analysis is that this is the largest share of the people who will not get health care under this bill—not the very poor; they are covered; they are covered now, but the working poor.

I encountered two examples of this back in Wisconsin in recent months. I was sitting on the airplane going back to Wisconsin on our own Wisconsin airline, Midwest Express, and I started talking to a young woman who told me that she was on her way to law school. She had been divorced. She has two children. She told me during the course of our conversation that she had had cancer, but, fortunately, she has had a clean bill of health for 5 or 6 years.

So I asked her, "Do you think you will be getting health care coverage?"

Answer: "No." In part, because of the preexisting condition issue. But even if we eliminate barring coverage for existing conditions she still may not be covered. That is because she did not have the economic wherewithal to buy insurance. She has some child support. But she is trying to go to school. She is trying to get that law degree. And what this does, because she makes too much for a subsidy but not enough to pay for the health care, is leave her out in the cold. This person who has had some rough breaks along the way already is trying to make something of herself, and in this country we cannot deliver her this health care.

One other example. I was in a beautiful place in the State of Wisconsin earlier this year, Buffalo County, WI, on the Mississippi River. It has had the great experience of having bald eagles restored there that were once gone. I went there to hold a town meeting. It was going fine, and near the end of the town meeting, one lady got up and said that her job was to be an elderly benefit specialist which is a program in Wisconsin where people help older people try to figure out their tax forms and health care benefits. It is an excellent program and I had the good fortune to help create it in the State of Wisconsin.

She was telling me about the program. But all of a sudden she sort of broke down in tears. She told me that she was probably going to have to leave that job where she tried to help other people understand the health care system and she was going to have to become a receptionist at another place of work because she did not have health care. Here is a person serving the health care system who is going to have to leave that system and will not be covered under many scenarios under this plan.

What are we to say to these people? "You are not part of the American dream." Are we supposed to say, "Sorry about that." Are we supposed to say, "Sorry about the lack of coverage for you and your children, too." I do not look forward to the prospect of doing that.

It leads me to yet another problem, sort of the flip side of the issue. I have heard the Republican leader and others all across the country say, hey, this is only an issue for 15 percent of the people of the country or 38 million Americans. Why not just take care of that group. Why not just give them health insurance.

That sounds pretty good. It is really simple, just like holding up a bill and weighing it. Really simple. But the problem is it is so simple that it oversimplifies the issue so as to make it not accurate. The health care crisis is not about some fixed group of people. That 15 percent or that 38 million is just a snapshot. It is the number of people at any one time that are uncovered, and it is constantly changing. It would be like trying to remove a flaw from a movie by correcting only one frame. That particular frame might look better, but the rest of the movie will still be flawed.

As I have said before, during any particular year, we can expect that 58 million Americans will be without any health insurance for part of that year. And the coverage appears to be slipping.

The First Lady, in continuing her hard and courageous fight for this legislation, announced today that since we started working on this bill, 500,000 more Americans have had their coverage dropped. And those businesses that continue to provide coverage for their employees are subsidizing more and more of their competitors.

Beyond that, the health care crisis is also about controlling costs. And here again it is well established that the only way you can control costs is through universal coverage. As I have said, another tempting diversion is the refrain that we should, of course, strive for universal coverage as a goal but that 95 percent or 92 percent or 90 percent is acceptable. Again, it sounds reasonable on its face. Let us do what we can for the President may be the notion. After all, 95 percent or 92 percent or even 90 percent coverage is better than what we have now.

But this goes to the heart of the issue, both in the general perception of our health care problem and the underlying philosophy of reform.

First, there can be no effective cost containment without universal coverage. So the failure to guarantee health care coverage that can never be taken away means that costs will go up. And as costs go up, certainly coverage will go down. But, Mr. President—and this is really the central point—even if costs could be contained without universal coverage, the failure to guarantee health care coverage that can never be taken away means that health care coverage can be taken away. As long as there is any gap in coverage, everyone, every American, is at risk.

Let me move to the last part of my opening statement by just presenting a couple of analogies to illustrate this. A couple of them are a little more lighthearted. The first one is appropriate for Wisconsin. It has to do with mosquitoes.

In Wisconsin, in August, there is nothing more compelling than the notion of mosquitoes. Some have even suggested that, given the size of mosquitoes in Wisconsin at this time of year, instead of the robin, the mosquito should be our State bird. The analogy is to good mosquito netting. Guaranteed coverage is like good mosquito netting. Anything less than 100 percent is not much good. It does not matter if the hole is an 8 percent hole or 10 percent hole. Unless the mosquito net gives you 100 percent coverage, it is not very pleasant camping in Wisconsin at night!

Let me try a different analogy for our coastal States. It is like a lifeboat in the middle of the ocean. If there is a hole in the bottom, it does not much matter if it is a 7-inch hole or 10-inch hole. Unless you completely plug up the hole to get 100 percent coverage, you are going to get pretty wet.

The final analogy is that health care coverage is kind of like a chain, Mr. President. It does not matter much if 10 percent of the links are weak or only 5 percent are weak. Unless 100 percent of the links are strong, the chain will break.

Mr. President, in this case, it is a human chain of Americans who should all be linked together in one respect, that each and every one of them knows, as a right of their birth as an American citizen, that they have that coverage.

Mr. President, let me come to the final part of my statement by pointing out the simple fact that there are two major bills being discussed out here now: The bill of the Republican leader and the bill of the majority leader.

There is no comparison between the two with regard to the issue of universal coverage. The bill of the Republican leader leaves such a gaping hole that there is no chance of achieving universal coverage.

According to the Lewin-VHI analysis of the Dole proposal, three out of the four uninsured Americans would be left without coverage in the year 2000. That same analysis of the Dole bill found that 6 million children will still be uninsured at the end of the decade. Under the Dole-Packwood bill, Congress is not even required to consider recommendations for achieving the goal of universal coverage, as does the bill of the majority leader.

As I have said before, I think the universal coverage provisions of the majority leader's bill need to be improved, but at least there is a serious effort there to create mechanisms that can lead to universal coverage. In this respect, there simply is no comparison between the Mitchell bill and the Dole bill. The Mitchell bill has its goal of achieving universal coverage for all Americans.

To conclude, let me just say I again want to return to these two symbols, a card that every American should have and the pen that the President should be ready to use if this bill does not provide universal coverage.

I saw a cartoon in one of our major newspapers in Wisconsin of a couple of days ago. It is lighthearted, but sort of lets us know how far away we have come from this simple symbol of a universal health care card. What it shows is President Clinton on the ground holding a crime bill, and he is pretty battered. He has been treated pretty harshly by a couple of elephants. There is even a donkey behind him with sunglasses. One of the elephants says to the other, "What did you find?" After he looked through the President's wallet, the other elephant says, "No cash, just one of those cards supposed to guarantee health care coverage."

I am concerned that is all that is going to become of this card, that it will end up being a subject of humor for political cartoons.

It is sobering for me to think that 22 years ago I read the book by the senior Senator from Massachusetts. But I think he was right then, and I think he is right now. This country has to provide universal coverage to all Americans.

He said in his conclusion:

> We have a choice of conscience to make in America. It is a choice of whether we will assure each other and all Americans good health care at a cost they can afford. The pages of this book are filled with the tragic stories of the people who have been hurt because we do not make this assurance. We can put an end to such stories, and I believe we should. I urge Americans to search their hearts to choose and to make their choice known. To take so major a step the government needs your support.

Mr. President, I say today, some 22 years later, we need the support of this body. We need the support of the U.S. Senate to finally guarantee to all Americans health care that can never be taken away.

Mr. President, there ought to be a law. Mr. President, there ought to be a law that guarantees every American—every American—a right to health care coverage before the end of the 103d Congress.

Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, I want to thank my colleague from Colorado for permitting me to proceed next. I do not have a lengthy speech, but I do have a few comments I would like to make. I know he has been waiting for some time. I am grateful for his courtesy, as I am of the earlier courtesy of the Senator from Wisconsin for permitting his remarks to be interrupted.

Mr. President, during the course of this debate so far, my bill has been the subject of many misrepresentations, distortions, and some outright untruths.

There have been so many that I have not been able to respond to all of them. But I want now to respond to statements made today which were categorically untrue for which I believe a response is necessary.

It is clear that the tactic of the opponents of this legislation, at least many of them, is to confuse and frighten the American people, and they are attempting to do so by making statements about my bill that are untrue.

This is a document distributed today by several Republican colleagues criticizing the legislation under the headline "Clinton-Mitchell denies consumer choice." It then states, "You can keep your own plan unless your plan is less generous; you can keep your own plan unless your plan is more generous." And the text that follows is intended to clearly convey to the American people that there can be no plan other than the standard benefits plan contained in my legislation. That is untrue. I repeat. That is untrue.

VOL
140
PT
16
AG
12
—
18
1994
UMI

Mr. President, my bill, like many of the bills introduced by Republican Senators as well as Democratic Senators, provides for a standard health benefits package, the purpose of which is to provide uniform coverage and to make it easier for consumers to choose between competing health plans based upon price and quality, as opposed to different types of options.

The bill requires employers to make three types of delivery plans available to each consumer so that, although the benefits package would be the same. There would be a traditional fee-for-service plan, a health maintenance organization type plan, and other plans commonly referred to as "preferred providers." And the individual would choose among the three plans. But—and this is an important but—under my bill, individuals can purchase supplemental benefit coverage above the basic benefits plan if they choose. If they want to have additional benefits or different types, or different types of cost-sharing protection, they are free to do so. So the suggestion that no one could purchase better coverage than the basic benefits plan is incorrect.

Second, my bill also includes an alternative standard health benefits package which would cost less because, although the coverage would be the same, the deductibles and copayments to be paid by the consumer would be higher.

So an individual, therefore, could choose an alternative benefits package with lesser coverage in the sense that the deductibles and copayments would be higher. So the suggestion that a person could not buy anything less than the benefits package is also untrue.

I want to repeat that so there can be no misunderstanding. Every person would be offered three types of delivery plans of the standard benefits package. But any person could choose either to supplement that with additional benefits coverage if he or she wishes to do so, or an alternative standard package which would cost less because the deductible to be paid by the individual or the copayment to be paid by the individual would be higher than in the standard benefits package.

On this question of choice, that it denies consumer choice, the fact is that the legislation would increase choice, and it would increase it in the following way: Right now, most Americans receive their health insurance through employment. A person gets a job, the employer makes health insurance available in some form or another, and the employee is, therefore, covered. But for the overwhelming majority of Americans, the only choice of plan is to accept or reject a plan which the employer negotiates with the insurance company. So the employer meets with the insurance company, agrees on a plan, then makes it available to employees, and the employee must then choose to participate in that plan or not. One plan.

Under this legislation, employers would be required to make available to employees three different plans. Although the benefits package would be the same, the method of delivery would be different and, therefore, the price and cost would be different. And so the employee could choose, for example, a traditional fee-for-service plan, in which the employee retains the right to choose any doctor he or she wishes to visit, or the employee could choose an HMO-type plan in which the employee agrees to be treated by the organization and the physicians who are in the employ of the organization. The individual then gets the choice, and each individual will be able to make it based upon price and what he or she sees as important to them.

I repeat and emphasize that if that individual does not think that the coverage provided in the standard of benefits package is broad enough, he or she can go out and buy supplemental benefits. And if he thinks that is a good plan, but he cannot afford to pay that premium and is willing to take a chance of having to pay a higher deductible, he can choose the alternative standard benefits package and, accordingly, pay less but be subject to higher deductibles and copayments if the person becomes ill.

So, Mr. President, I hope very much that we can have a good debate on this bill. But I hope it will also be accurate.

Finally, I will conclude with one further point, and that is this: Over and over and over again, the statement has been made that this bill provides for a "Government-run" health insurance system. That has been said dozens, if not hundreds, of times. A "Government-run health insurance system." I make two points on that. First, the bill does not so provide. It does not provide for a Government-run health insurance system. It provides for a voluntary system in which Americans would purchase private health insurance. Indeed, in that respect, my bill does the opposite of what has been suggested, because right now, there are 25 million Americans who receive coverage under Medicaid, which is a Government program. And, under my bill, that portion of Medicaid would be abolished, and those individuals would be encouraged and assisted in the purchase of private health insurance. So they would receive health insurance coverage in the private market on the same basis that other Americans are now receiving. So it actually reduces one of the largest Government programs and has those people enter into the private insurance market. And so I hope that people will look beyond the rhetoric.

I know the mood in our country today is that a popular way to attack anything is to say it is "Government-run" and to suggest somehow that it is therefore inefficient. Of course, our colleagues who make these statements all support the Veterans Administration health care system. It is the largest health care delivery system in the country, and it is a Government-run system. Not only do they support it, they go around to veterans parades and veterans facilities and veterans meetings, and they tell the veterans how they are going to protect their health care system, and they run television ads when they are up for reelection saying how they are going to protect the Veterans' Administration health care system. They do not go around to their States and say, "I am against Government-run systems, and the Veterans Administration system is a Government-run system, so we ought to abolish it." They say just the opposite.

The same is true of Medicare. Medicare is a Government-run system. Not one of our colleagues who stood here and said, "I am against Government-run health programs" goes back home and says to the elderly citizens, "I am against Government-run health insurance systems, so I favor abolishing Medicare." They say just the opposite. They go to the senior citizens homes and coffees and stand up and say to our elderly citizens, "I am going to protect your Medicare system," and they run television ads promising to protect the Medicare system, a Government-run health insurance system.

Of course, the largest Government-run program in the country is Social Security. It is a Government-run program, and it includes health insurance with Medicare, Part A. Not one of our colleagues goes back to their States and goes around to senior citizens centers and says to those people there, "I am against Government-run programs, so I am going to vote to abolish Social Security." They say and do just the opposite there as well. They go and they say to the senior citizens, "I am going to protect Social Security," and they run television ads telling people how they are going to protect Social Security.

So while they stand here and say they are against "Government-run programs," when they go back home to their constituents, they spend a lot of time and effort and money telling their constituents how they are going to protect those very Government health insurance programs. I hope people will keep that in mind as they listen to this debate.

I want to say that Senator MOYNIHAN happens to be sitting here, and we had a ceremony at the White House yesterday in which the President signed into law the legislation to make Social Security an independent agency. Senator MOYNIHAN is the author of that bill and the person who has done more in our Nation to protect and enhance and improve Social Security than any other. This legislation is the latest in a series of achievements in that regard. I think, better than any of us, Senator MOYNIHAN understands the importance of Social Security to our Nation.

I conclude by saying that the arguments made today against this legislation are almost word for word the arguments made against Social Security, and almost word for word the arguments made against Medicare—almost word for word.

Mr. President, those items did not prevail then, and I hope they will not prevail now. I thank Senator BROWN again for his courtesy. I think I went on longer than I had anticipated. I apologize, and I thank him for his courtesy.

Mr. BROWN addressed the Chair.

Mr. PACKWOOD. Mr. President, out of curiosity, how much time is on our side?

The PRESIDENT pro tempore. The Senator from Oregon has 60 minutes under his control.

Mr. PACKWOOD. I yield such time as the Senator from Colorado wishes.

The PRESIDING OFFICER. The Senator from Colorado [Mr. BROWN] is recognized for such a time as he may consume, within the 1 hour that is under the control of Mr. PACKWOOD.

TRIBUTE TO ABNER MIKVA

Mr. BROWN. Mr. President, I rise to pay tribute to a recent appointee of the administration. Last week, Abner Mikva was sworn in as counsel to the President. He takes the place of Mr. Cutler, who had held that job temporarily.

Mr. President, I want to comment on this because I know Abner Mikva, and while we do not share the same political party and while we do not share the same political philosophy, I know him to be a person of exceptional integrity, of great intelligence, and of great character.

He was a Phi Beta Kappa, Order of the Coif, distinguished scholar, cum laude graduate of the University of Chicago Law School, Phi Beta Kappa graduate of the University of Wisconsin. He has had an exceptional career of public service, including 10 years in the Illinois State Legislature, five terms in the U.S. House of Representatives, and serving until recently as the chief judge on the D.C. Circuit Court of Appeals, where he had served from 1979 forward.

Mr. President, I pay tribute to him because he is an individual who not only has achieved great things in his lifetime, but he is an individual who clearly indicates by his conduct and his demeanor and manner that he places truth and integrity above all other considerations in public discourse.

He is exactly the right person at the right time for the White House. I do believe this, that some of the problems that are surfacing about Whitewater, or at least the way it has been looked at and investigated, would not have occurred if Abner Mikva had been there. I think he will make a difference.

Ultimately, he will do great service for the President of the United States, and I believe he will do great service for the country as well.

It is this kind of exceptional integrity and commitment that this Nation so urgently needs, and it is a great privilege for me to commend the President for this appointment that I think will serve us all well.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. BROWN. Mr. President, the discussion on the health care bill has involved a large number of terms, and it must be confusing to people. But I want to cover just a couple of them at the outset, because I think they go to the very heart of the matter.

We have heard discussed repeatedly that we need to have universal health care coverage, and the suggestion is that without universal health care coverage, people will go without health care. Everyone listening should know that is not accurate. Health care coverage is dramatically and significantly different than health care. How so? You may not have health care coverage in the form of an insurance policy, but you do qualify for health care treatment at a low-income health care clinic. Those clinics are spread across the Nation.

When people do not have an insurance policy, it does not mean they suffer from a lack of health care. It means they do not have that mechanism for paying for it. You may not have an insurance policy, but you can go to an emergency room in a hospital and receive the treatment. If you are unable to pay for it, ultimately that debt will simply be written off. Again, you do not have an insurance policy but you can receive health care treatment.

Someone asked me why in the world are we debating and talking about health insurance when what we ought to be concerned about is health care.

Mr. President, I do not know if there is an easy answer to that. Some of the folks who brought this bill to the floor are interested in Government control of health care because they feel it will improve it. That by forcing people to have health insurance, the vision of Government control is accommodated, the need to control health care met. The focus on insurance is merely a device, not to provide health care, but to control this portion of our economy. That is what this is all about, a sincere and honest belief that this country would have better health care if indeed we had more Government control.

I thought tonight it might be worthwhile to spend a few minutes and simply take a look at what our experience has been in that area. The view is widely held that more Government control, dominance, and regulation of health care and its cost can improve the situation. It is clear that many of the legislators who favor the bill before us sincerely and deeply believe this.

Mr. President, we should not have amnesia. We ought to be willing to at least look at the facts and face them honestly and see whether or not that thesis holds water.

One of the major moves after the World War occurred in 1946 in the area of health care. It was the Hill-Burton bill. The Hill-Burton bill was designed to provide grants for construction and modernizing health care facilities. Many of the grants ran from one-third to two-thirds of the entire cost of the project. The thesis was if you have Federal Government assistance, then you would be able to provide additional health care through those facilities. It was a very large program, and between 1946 and 1974, $4 billion was spent in it.

Now, did it solve the problems of health care? Well, read what the Democratic-controlled committee said about it in 1974. This is the House Interstate and Foreign Commerce Committee. The Democrat-controlled committee found that after $4 billion of public funds had been spent on Hill-Burton, about 60,000 unnecessary hospital beds had been built, costing as much as $20,000 a year in overhead.

Mr. President, this is what happened with Government intervention that was meant to solve the problem. The Government came up with money to hand out to solve the problem and what they did is by their own evaluation was build 60,000 unnecessary hospital beds costing in overhead alone, not the costs of the bed, in overhead alone, up to $20,000 a year. The overall cost was over $1 billion a year in extra overhead costs.

Members of this body will remember, because many of them were members of the State legislature in 1974 and thereafter, when the Federal Government passed new laws to correct that problem. But did we do away with all the Federal grants that had caused the oversupply? No. What Congress passed was a new act, a national health planning bill "to prevent unnecessary development, establish priorities for development of needed facilities, and monitor the use of Federal dollars."

Appreciate what happened. You have a Federal program to solve a problem which instead it makes it worse, and the answer is another Federal program with more Federal control. You cause a problem with Federal control, and then to solve the problem you created with Federal control, you go with more Federal control.

Why should I mention this? It is because this is a pattern. What we have done on a regular basis for the last 50

VOL 140 PT 16 AG 12 — 18 1994 UMI

years is interfere arbitrarily in the controlling of health care, cause a problem, and use that problem as an excuse for additional Federal interference instead of going back and solving the problem to begin with.

It is as if this Chamber and some of its Members had amnesia, that they forgot that it was the Federal action that caused the problem.

Many will remember the health planning program because it involved the certificate of need process. It involved spending millions and millions of dollars on new regulations, on new controls. But incredibly the big cost did not come at the Federal level. It came tragically and incredibly on the State and local level to try and comply with the Federal bureaucratic requirements.

Mr. President, just an example, because I think it speaks for itself, in 1975 the health care planning legislation authorized $125 million for construction and modernization grants to help build facilities. However, the health care planning legislation in 1975 also authorized $119 million for planning processes—red tape, bureaucrats, paperwork, offices.

What did we really get for the $119 million of paper shufflers? How many people were cured of their illness because of the new bureaucracy, the new offices and the new paperwork? Mr. President, none were. Almost as much money as was authorized for the grants for construction and modernization, was authorized for the bureaucracy. Federal action, Federal control, developing a problem, using it as an excuse for more Federal control.

In 1965 Medicare was enacted. It was designed to provide health care coverage for our senior citizens. Our distinguished majority leader referred to the program earlier and characterized some of those who have criticized his plan.

Mr. President, I will not deal with that other than to say that the distinguished majority leader has not been with me in my State. He did not accurately characterize what I say to my constituents. I would hope that we would not be involved in personal attacks.

It seems to me, the question here ought to be to deal with the facts and the issues, not question the character of others. The question before the body is the legislation and I think that is the appropriate approach.

One should not forget what happened in 1965. When the Medicare Program came up and was passed, legislators rightly asked how much is it going to cost, not just that year but the next year and the years out. The figures are there. Medicare part A—not part B, just part A—alone was estimated to cost $9 billion a year by 1990. Some will remember it actually cost $66.9 billion in 1990, more than seven times greater than what had been estimated; seven times greater.

We also ought to look at what happened along the way. As the costs in the Medicare Program began to go out of control, skyrocket out of control, Congress tried to act. In 1983, as the CPI and the medical CPI diverged and the medical CPI grew much faster than the regular CPI, Congress began to realize that there was a problem.

Let me just for a moment mention those CPI figures because they tell an interesting story. For those who honestly believe that Federal regulation is the answer to control costs, please look at the facts. Before Hill-Burton, going back as far as we have separate figures for the overall CPI and the medical CPI portion, we see this.

From the period of 1939 through 1946, before Hill-Burton, the average annual increase in year-to-year figures from the Department of Labor was 4.2 percent for the overall CPI. But the medical portion of this, before the Hill-Burton law was enacted, for the same years averaged 2.5 percent. The medical portion was 1.7 percent under what the actual CPI was. That is fairly logical, when you think about it. Medical care was dragging dramatically. Industry, where you have rapid advances in technology, tends to have a lower increase in the cost. But that is 40 percent less, comparing 4.2 percent annual average increasing cost generally to 2.5 percent in medical cost for those 8 years.

What happened when we went to more Government regulation and more Government control under Hill-Burton? For those of you who honestly believe that regulation is the answer, please look at it.

From 1947 through 1965, the average CPI increase was 2.6 percent. But this time, the medical CPI, instead of being below the average overall CPI, was not less, it was more. It was 3.8 percent, 1.2 percent higher, or 46 percent more. The facts are this: Before you had the added Government regulation, the medical CPI averaged 40 percent less than the regular CPI. After you added the Hill-Burton programs and the regulations, it was 46 percent higher.

What happened when you passed Medicare and Medicaid? Did it hold down the costs? Because that is what they talked about. Take a look at it.

In 1965, the medical CPI was 2.4 percent. In 1966, it almost doubles to 4.4 percent. In 1967, up to 7.2 percent. In the years since we adopted Medicare and Medicaid, the average CPI has been 5.6 percent. The medical CPI was 7.6 percent. That is 2 percent a year higher on the average.

For those who honestly believe that regulation from the Federal level is the answer to controlling costs, please look at the facts. They indicate exactly the opposite. They indicate clearly and unequivocally that the greater regulation that is involved in this enormous bill is not going to hold down prices. It is going to increase them. And I am going to go into exactly why it will increase them in just a moment. But it should not be lost on Americans, as we consider even more regulation, that the medical CPI has been 36 percent higher than the full CPI since we passed Medicare and Medicaid.

By the time we got to 1983, it became clear that the Medicare costs were simply out of control, that we had to do something.

Federal failure; problem. What is the answer? Congress decided what was needed in 1983 was more Government regulation, and they enacted the Medicare Diagnostic Related Groups, the DRG's, designed to control the payment to hospitals by prospectively setting rates based on similar diagnoses. So DRG's were held out as the new regulatory tool to control costs.

For those who are watching, they can see the chart. This is the increase in Medicare outlays, and here is where DRG's came in. It was meant to stop the increase. That is how it was billed—more Government regulations to stop the increase.

What happened? In 1984, the consumer price index was up 4.3 percent, but the medical CPI was up 6.2 percent. The medical CPI was up almost 50 percent more than the regular CPI.

In 1985, the regular CPI was 3.6 percent and the medical CPI, 6.3 percent, almost double after you passed the 1983 DRG Act.

In 1986, the regular CPI was 1.9 percent. The medical CPI was 7.5 percent, more than three times as much.

Mr. President, please, please, our Members should take a look at the results of more Federal regulation and the impact on this process. To believe, as I know many Members do, that if we simply have more regulations, more controls, more statutes, that we are going to reduce costs is simply fantasy.

Let me share something with the Members, because I think many of us come from various walks of life and have not had a chance to deal with operating a medical office or a hospital. But, Mr. President, let me share one thing with you that I think is typical in every Member's hospitals at home.

Twenty years ago, the Greeley Hospital in my hometown, or the Northern Colorado Medical Center, as it is now called, had more beds than it has now. With more beds, they had five full-time people in medical records. Mr. President, after reducing the number of beds in the hospital, they now have 50 people in medical records. They have gone from 5 to 50.

Why have they gone from 5 to 50? Because the flood of new Federal regulations and the variety of ways in which they have responded to get paid and expand their income. If you want to reduce costs, you do not reduce it by increasing the number of people in medical records from 5 to 50.

Let me just share with the Members one quick thing. If you are trying to comply with the regulations we already impose on people, just for Medicare and Medicaid, not for Blue Cross/Blue Shield, not for the private insurers because those are additional to it—just for Medicare and Medicaid, one of the items you are going to want to have is a Medicare Topical Law Reports. They are put out by the Commercial Clearinghouse. These are simply the laws and regulations and practice guidelines. There is no fluff in here. These are simply what we impose on people. For those of you who have used these volumes you know they are on extremely thin paper and very small print. This is simply the regulations and the laws and the practices put forth. I put them here because I hope Members will take a look at them. On very thin paper with very small print, there are almost 15,000 pages of laws and regulations and practices. Why do the health care costs go up? Why does Greeley Hospital go from 5 to 50 in their medical records division? Why is it almost impossible to monitor this in a proper way? It is because we have buried the health care profession in paperwork and red tape.

The thesis that the way to deal with costs is through another giant bill and more regulations and more Federal control is just plain goofy. Before Members impose this on the American people, please take a look at what we have done to the American people already. Please take a look at what the system has to respond to. The reason costs go up is because of what the Federal Government has imposed on them in the mistaken belief that if we just add some more Government regulations we will solve the problem.

There are 5 volumes here on thin paper with small print; 15,000 pages. As I count it they average about 915 words per page, probably a little more. That is kind of a low average. If you read regulations and statutes at 300 words per minute—Mr. President, I know you are an attorney. I know there are many attorneys here. I do not know of an attorney who would dream of reading a statute or regulation at 300 words per minute; a novel, perhaps. But let us say you could and you did, and you read at 300 words per minute for these laws and these regulations, and you read 8 hours a day without a coffee break, and you read 5 days a week with no holidays, and you read week after week after week with no vacations. It would take you 5 months to simply go through this once—not memorize it, not know it, not work with it—simply to skim through it.

Can anyone honestly believe that what we need is more regulation to control cost? What has happened is we have added to the cost.

Congress did not stop after their failure in 1983, and after their answer of more regulations. In 1986 Congress came back to it again and they noted the huge continuing increase of medical costs higher than the CPI. In 1986 Congress responded once again—a Federal failure, a problem—responded with more Federal controls. In an attempt to control physician charges under Medicare, Congress passed a reconciliation bill which establishes maximum allowable actual charge limits, MAAC's. I am sure all Members are intimately familiar with that.

How can we even talk about more of this stuff? We cannot even remember the names or the acronyms that we use. MAAC's, here it is on the chart. In 1986, did it stop the increase in prices? Of course not. Prices continued on up. In 1987 the CPI went up 3.6 percent, but medical costs went up 5.6 percent, 2 percent higher. More regulation meant more cost, not more control. So, in 1989, after experiencing the failure of 1946 and the failure of 1967 and the failure of 1983 and the failure of 1986, in 1989 we came back and Congress, in response to the Federal failure and the problem, responded by adding more Federal control. Congress instituted the Resource Based Relative Value Scale. For those who like acronyms, it is the RBRVS. And the Medicare Volume Performance Standard, MVPS. This was to cover payments to physicians.

(Mr. ROCKEFELLER assumed the chair.)

Mr. BROWN. The RBRVS is a fancy fee schedule. It takes into account time, skill, overhead differences. MVPS was an attempt to control costs by discouraging volume increases for services Medicare was paying less for under the RBRVS's. Did this solve the problem? The effort in 1989 resulted in this: In 1990 the CPI was 5.4 percent and medical CPI was 9 percent. That is right—it was almost double. Far from reducing the cost of medical care it increased it. Why did it increase it? It increased it because it added more regulations, more controls, more paperwork, more bookkeepers.

In 1991 the regular CPI was 4.2 percent and the medical CPI was 8.7 percent. In 1992 the regular CPI was 3 percent, medical CPI 7.4 percent, well over double, almost 2.5 times as high.

To contend that the answer to our problems is yet more Federal control and regulation simply is to ignore the cold, hard facts in front of us. When the President came to office he promised four things. He promised the American people health care reform, welfare reform, deficit reduction, and the downsizing of our Government.

It appears he may scuttle all three to achieve health care reform. To pretend that this is a downsizing of the Government is silly. It is a dramatic increase. Distinguished speakers on this floor have talked about how this is not socialized medicine. But no one has said that it is not intimate Government control of the very details of the way almost every aspect of health care is administered and provided. To suggest this fits with downsizing of Government is simply not true.

Mr. President, here are the facts. The Clinton-Mitchell bill provides 55 new bureaucracies. Does anybody really think that is downsizing? It involves 177 new State mandates. It involves 815 new powers for the Secretary of Health and Human Services. It involves 83 new duties for the Secretary of Labor. It involves 6 new responsibilities for the Office of Personnel Management. It involves 49 new responsibilities for employers to comply with.

Let me repeat that. Employers who are trying to be competitive in a world market now have a list of 49 new responsibilities that they have to comply with. There are fines and penalties and potential prison sentences if they do not get the paperwork right.

Does anybody honestly believe that will make America more competitive in the world marketplace? Does anybody understand what it takes to comply with this?

To suggest this is the way to reduce cost is a joke. Here is what CBO says. These are not Republicans. The CBO folks are appointed by the leadership of both the House and the Senate and that leadership as everyone in this Chamber knows are both Democratic. Here is what CBO says:

> For the proposed system to function effectively new data would have to be collected, new procedures and administrative mechanisms developed, and new institutions and new administrative capacities created.

They conclude by saying:

> There is a significant chance that the substantial changes required by this proposal and other strategic reform proposals could not be achieved as assumed.

That is what CBO says. That is not what Republicans say. That is what CBO says. Under the Clinton-Mitchell bill, the Federal Government would regulate virtually every aspect of health care. Let me repeat that.

Under this bill, the Federal Government would regulate almost every aspect of health care, from what kind of insurance package people are allowed to buy, to where they get it, to how many specialists can be trained in a given year.

It restricts the choices of health care benefit packages. Earlier, the distinguished majority leader talked about what he felt were inaccurate descriptions of his package. Mr. President, there is no doubt that it does restrict the choices of health care benefit packages.

Under the Clinton-Mitchell bill, small employers are required to join a purchasing cooperative, and employers with fewer than 500 employees are prohibited from self-insuring.

Under Clinton-Mitchell, medical students may not be able to choose their

VOL
140
PT
16
AG
12
—
18
1994
UMI

future. The Government will decide how many of any specialty are trained in any year.

Under Clinton-Mitchell, health plans may have to accept certain providers, even though they are not the best or most efficient provider of a service.

Under Clinton-Mitchell, many people will have to give the Government details about their most intimate personal lives to qualify or continue to qualify for subsidies. Are the American people ready for that? This is a country that balks at having an ID card.

Mr. President, one of the things that concerns me most is a discussion we have had with regard to insurance coverage. I have already talked about the commitment we have to health care and the way insurance coverage is used as a mechanism to expand Federal control. But one of the concerns I have is the language we use.

I have served 10 years in the House and 4 in the Senate. Every year I have been here, I have fought and urged and cosponsored measures that would extend to small businesses the same breaks that the giant corporations get. Under the Democratic Congress, large corporations can deduct 100 percent of their health care insurance costs. There are some limits with regard to policies, but big corporations can deduct it all. But under the Democratic Congress, small businesses that are unincorporated can only deduct 25 percent.

That is not fair. When I say "Democratic Congress," I say it because that has been the controlling mechanism, but one should not believe that Democrats in this country do not want that change, and many Democratic Members of the Senate want that change, as well as Republicans.

But each year that I have cosponsored that bill, it has gone to the Finance Committee in the Senate or the Ways and Means Committee in the House, and they have turned it down. The majority of people without insurance in this country today work for small businesses or have a member of their family work for small businesses. The number one thing we could do more than anything else to expand insurance coverage, if that is the goal, is to give small businesses the same deductibility as giant corporations get. It is not only fair but it is good policy. It is not overwhelmingly expensive, but it makes a big, big difference in insurance coverage.

How is it, how can it be that the Clinton-Mitchell bill does not give that equal deductibility to small businesses? If that is really the goal—if that is really the goal—to expand insurance coverage, why is it this bill does not have 100 percent deductibility for small businesses that big companies have? Once again, small entrepreneurs, individual entrepreneurs are being discriminated against. Ironically, giving them the same deductibility would do more to expand insurance coverage than all the mandates we can talk about here.

The Congressional Budget Office notes as follows:

> Senator Mitchell's proposal would discourage certain low-income people from working more hours or, in some cases, from working at all because subsidies would be phased out as family income increases.

Here is one of the problems with the bill. If you work for a living, in many jobs, particularly if they are with a corporation, you get health care insurance. Some of the plans are good and some are not so good, but generally they have health care insurance. But if you do not work for a large business, chances are you might not have health care insurance unless you buy it yourself.

You might have health care and you might have Government assistance for health care, but you do not have health care insurance. One of the reasons to go to work, one of the reasons to get out of bed in the morning, one of the reasons to roll up your sleeves is because you are better off and your family is better off if you go to work.

This takes one of the advantages of going to work and staying off welfare and shoots it right in the head. The clear message of this bill is if you are lower middle income, the Government has come up with a new way to discourage you from getting a job and getting out of poverty. That does not make sense.

We have talked about the desperate need to change the welfare system, and this is the biggest welfare program that has ever been talked about, in this bill. What it says is if you work for a living, you are going to get treated the same way as if you do not work for a living, even though you are able bodied, even though you are able to work. Mr. President, if you are able to work, I think you ought to live better than if you do not work. To destroy one of the incentives for people being productive and creative is foolish policy. The CBO, I think, has it right when they criticize it this way.

The CBO analysis goes on, and I quote again:

> CBO estimates the effects of this proposal are unavoidably uncertain.

It is a giant bill. I can understand that. It is a difficult process. We can all understand that. But look back at what happened with Medicare part A. It was supposed to be $9 billion by 1990, and it ends up being more than seven times that high.

In 1987, Congress created a disproportionate share program to assist hospitals serving the disadvantaged. CBO estimated that in the third year after enactment, the program would cost less than $1 billion. In reality, it actually cost $10 billion. That is a 1,000 percent mistake. Let me repeat that. The program 3 years out was literally 10 times what the CBO estimate was. And we start off with a CBO estimate in which they say that their estimates of the effect of the proposal are unavoidably uncertain. Is that good management? Is that good government?

The costs that are identified in this bill for businesses in the State of Colorado in the year 2002 are over $1 billion. Let me repeat that. In Colorado, in the year 2002, Colorado businesses will be hit for over $1 billion just to cover their portion of the cost of this bill. $1,015,439,000. Colorado is a small State, Mr. President, certainly in population, not in area.

The cost of this bill is gigantic and it is uncertain. The impact of more regulations, I believe, is going to be to increase costs, not to reduce them or control them. The history of Government action makes it very clear that this is not going to slow down costs. And why do costs go up as we regulate and regulate and regulate? We have already looked at the CCH reports, the Commerce Clearing House reports.

The CPT–94 is for reporting service codes for services and procedures performed for fees. It is 859 pages. In other words, if you are going to bill somebody, you cannot say I saw Mr. Jones and I treated her. You have to look up the codes, 859 pages of it.

The Medicare part B answer book, 1,600 pages of regulations. If the bill passes, this goes up, not down. The ICD–9–CM—does that sound like Martian talk?—two volumes of it, approximately 1,143 pages. These are simply classifications of diseases—a code book of classifications of diseases. Does anyone wonder why costs are skyrocketing? We cannot even get all of these things on a desk.

The HHCPCS-Cannons, Procedures and Codes, 226 pages. Does anybody think this is an efficient way to run a railroad? Medicare Physicians ID Number Manual—this is simply to identify them, and it is only for a few States—172 pages. Physicians' Desk Reference, this is a drug compendiums. These are not the Library of Congress. These are simple things that physicians and health care providers have to deal with every day if they are going to provide health care and bill Medicare. What we have done is take the greatest medical minds in the world and see if we could bury them in paperwork. Drug Evaluation Subscriptions, three volumes, 1,720 pages.

Mr. President, if regulation was the answer, if more laws were the answer, if Federal control were the answer, surely our health care would be free by now. How many more of these books and volumes do we have to impose on people before we figure out that they are part of the problem.

What we ought to be doing is not repeating the mistake we have made in 1946, in 1965, in 1983, in 1986, and in 1989.

We should not be recognizing the problem and deciding to deal with it by more Federal control.

What we ought to do is sit down for a moment and go back and get real solutions. What are they? I sponsored five major health care resolutions, legislation that was offered here, but I want to go through quickly a couple of the proposals that I think are important.

It would be inappropriate for me not to mention at this moment that last year, on April 27, 1993, after continuous delays by the majority in bringing up health care, Senator SPECTER brought forth his amendment to S. 171. Senator SPECTER was ready and able and willing to debate health care right then and there. He had asked continuously and repeatedly, and repeatedly the leadership of this body had turned him down.

Finally, he came to the floor and, in spite of their wishes, offered his amendment to reform health care, and I joined him, not because I agreed with everything in his bill but I agree with much of it. This body decided more than a year ago that they would not consider it. All this gnashing of teeth because we have not finished a bill that we just simply received the final copy of last Friday seems strange when you understand that more than a year ago the leadership of this deliberative body refused to let Senator SPECTER even bring the subject up.

Senate 1865 by Senator MCCAIN and S. 493 by Senator COHEN are bills to enable health care facilities' cooperation to better serve their markets, either allowing them to join or to form joint ventures to share equipment or by forming community health authorities. In other words, Mr. President, the proposal which is picked up in a number of other bills is to modify our antitrust laws and to see if we cannot get people to share facilities and equipment. It increases the usage and reduces the cost. That is a good idea and that will reduce cost. We ought to do it.

Senator GRAMM has talked about insurance reforms to address the problems of portability, and that is a good idea. I think that can make the system more efficient.

Senator CHAFEE has introduced a bill that I joined him to have ob/gyns be designated as primary care givers. I believe that should be passed.

We have already talked about how we ought to change our tax laws to allow full deductibility for small businesses. That should be passed.

There is a proposal in a number of these bills to provide for a medical savings account. What it does is simply allow people to have some discretion about how their health care money is spent, and that should be passed. I believe it would help reduce cost.

We ought to allow small businesses to pool together to get health care insurance buying power, just like large corporations do, and that can help reduce cost.

We ought to have meaningful tort reform, and every Member here knows it. That would help reduce frivolous lawsuits, speed up the time for payment when there is medical malpractice, and eliminate some of the waste and abuse in the system. And yet this bill, instead of making progress on medical malpractice, would take it the other way. It would gut a number of proposals that Colorado has made which are more advanced than the Federal level.

Colorado has made real progress in this area. In 1988, Colorado enacted a package of medical malpractice reforms that assured that the resources are available if the provider injures a patient but puts appropriate limits on how such claims are brought. Physician malpractice premiums have fallen by 53 percent since Colorado enacted its reform.

Mr. President, let me repeat that. Since Colorado enacted those reforms, the physician malpractice insurance has dropped 53 percent. This bill would have the effect of repealing some of Colorado's reforms. That is not progress. That is not reducing cost. It is increasing it.

Mr. President, I am convinced that we ought to provide incentives in the way we administer Medicare and Medicaid for providers to reduce cost. We ought to be smart enough to provide real incentives so if someone really does reduce the cost of a health care procedure, they share in that cost savings. Incentives will do much more than regulation to get us back on the right track.

We ought to reduce unnecessary paperwork requirements. Senator BOND has introduced a bill that will do just that, to simplify it. And I am glad to see some other proposals have picked out a portion of that.

Mr. President, this body voted on and all but one Senator in this body voted for legislation on the blood pathogen regulations. For those Members who remember that vote and remember how they voted, I urge them to review those regulations. Does someone going to medical school for 4 years or 7 years know enough to wipe off the table his patients change on?

Well, I hope so. Yet we passed these regulations that mandate and check on it and require more paperwork. Those blood pathogen regulations were some of the nuttiest, wasteful, abusive procedures that we have passed. If you talk about unnecessary paperwork and ridiculous expenses, they epitomize it. There was only one vote in this Chamber against those silly regulations. But if we were serious about controlling costs and expanding real medical care to people, those are the kinds of things we ought to look at.

But we should not look at another flood of regulations and statutes and controls and guidance. We ought to look at real reform. We ought to look at real medical malpractice changes. We ought to look at real incentives to reduce the cost. We ought to fight for ways to make this system more efficient, not less efficient.

I am in favor of medical reform, but it is not this bill. It is a bill that has a dramatically different purpose. It is one that recognizes the answer to problems created by Federal regulation is not more Federal regulation. I do not know how anyone living in the latter half of this century could look around at what has happened in the world and come to the conclusion that central Government planning and regulation is the answer to economic problems.

The simple fact is in every country on the face of the Earth that has tried it, it has been a failure. What is needed are incentives for individuals to be productive and creative. This bill does the opposite. In short, I believe we ought to put our faith in the hands and the minds and the creative spirit of individuals and expand their freedom and opportunity and choices, and that we ought to turn our back on the efforts to regulate the minute details of how our medical system works.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, by previous agreement, I yield the remainder of our time, indeed, the time equally divided this evening, to the distinguished Senator from Florida, a former Governor, deeply involved in these matters.

May I say, Mr. President, that the Senator from New Jersey [Mr. LAUTENBERG] may come to the floor and may wish to speak. But after the 2 hours has expired, the floor is open for those who wish to speak.

Mr. MURKOWSKI. Mr. President, I am just going to make an inquiry.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. If I may ask the Chair, what is the remaining time?

Mr. MOYNIHAN. I believe 47 minutes. Well, I will ask the Chair.

The PRESIDING OFFICER. The Senator from New York controls 45 minutes.

Mr. MOYNIHAN. Forty-five.

The PRESIDING OFFICER. And the Senator from Oregon controls 8½ minutes.

Mr. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, in the past few days we have had a chorus of pronouncements that national health care reform was moving from the intensive care ward to the morgue, that Congress is hopelessly gridlocked, that

VOL
140
PT
16
AG
12
—
18
1994
UMI

partisan bickering has escalated into warfare, that the American people have given up in disgust in our collective inability to accomplish anything significant, and that we have fundamentally abandoned any expectation that we can act in their interest.

Mr. President, I disagree. The distinguished majority leader has, in my opinion, skillfully moved the debate forward by introducing a solid and constructive proposal that moves the Nation forward toward the goal of universal coverage. And many reasonable people, on both sides of the aisle, are now recommitting themselves to work toward a nonpartisan prescription for the widely acknowledged ills of America's health care system—excessive cost, inadequate personal, and family health security, and gaps in services provided, particularly those which maintain health.

Some examples: Senator JOHN CHAFEE, a long-time leader in the area of health care reform, and now a leader of the Senate's mainstream coalition, has said:

It is essential that any health care reform measure pass by a very, very strong majority in this body * * * I seek a program that is going to pass here 80 to 20 or 70 to 30, a healthy, strong, bipartisan support for that measure on the floor of the Senate.

Senator BOREN agrees when he says.

* * * the only way we're ever going to get the deficit under control and sustain a long-range approach is to have a bipartisan plan, one that will have the support of a vast majority of the American people in both our political parties. And the only way * * * that we're going to have health care reform carried through in an efficient and effective way is to reach a bipartisan consensus so that the plan can be sustained for many years* * *

And to quote one additional of our colleagues, Senator COHEN has stated:

The decisions we make in the coming weeks are going to have a profound consequence for every single American. They are going to control the future direction of one-seventh of our Nation's economy. And we shouldn't even begin to contemplate enacting sweeping reforms unless they're broad-based and bipartisan.

Mr. President, I believe there is a clear formula for this bipartisan prescription, the basis for which is already in the majority leader's bill. We should build upon the genius of the Federal system. We should equip States and localities with the appropriate tools so that they, working with their citizens, can tailor health care reform to their unique circumstance. The role of the national Government should be to establish goals and to monitor the attainment of those goals.

The case for a decentralized health care system is compelling. Some of the points which make that case compelling include diversity as the key underpinning of the American health care system. Health care is particularly suitable to the establishment of national goals with decentralized implementation, and sensitivity to local cultural, geographic and institutional variations. States, and communities within States, have different health care needs based on societal factors such as the quantity and nature of health care providers.

For example, Nebraska, North Dakota, and South Dakota have twice the number of hospital beds as Alaska, New Hampshire, and Hawaii. Varying demographics, especially among the most health intensive populations—for example, Florida, Pennsylvania, Iowa, Rhode Island, and the State of the Presiding Officer of West Virginia—have 50 percent more elderly than do Alaska, Utah, Colorado, and Georgia.

Current levels of insurance coverage is another area of extreme difference. In Nevada, Oklahoma, Louisiana, Texas, and Florida, approximately one-quarter of the population under 65 is uninsured. Whereas, in Hawaii, Connecticut, and Minnesota, less than one-tenth of the population under 65 is without insurance.

Mr. President, clearly State circumstances require different solutions and different timeframes. For example, what would work in a rural area would not work in a highly urbanized area. The means of achieving universal coverage and access are undoubtedly different in Florida than they are in Wyoming.

Another point which I think makes the argument for a federalized system compelling is that the Federal Government is frankly ill-equipped to build or operate a unitary health care system.

The experience of nations with a long history of universal access health care systems—just to mention two, Germany and Canada—have shown that implementation requires decentralization. Our Nation is significantly more populated, geographically larger, and infinitely more diverse than either Germany or Canada. A successful plan would have to accommodate the broad diversity of the United States through decentralization.

Yale professors Theodore Marmor and Jerry Mashaw make this point in a July 7, 1994 Los Angeles Times editorial:

Given the diversity of States, their varied experience with health care and intense local preferences, why enact a single brand of national health care reform, especially if it's the poorly-considered compromise that we seem to be headed towards? By moving compromise in the direction of preserving goals rather than defining means, we can allow States the further thought and experimentation that are needed for effective implementation.

Mr. President, States have also demonstrated their creativity and ability to implement complex health care initiatives, often in the face of stiff resistance from the same Federal agencies that would be placed in charge of a proposed unitary system.

In health care reform, States have significant experience and success. The summer 1993 issue of Health Affairs chronicles health care reform successes at the State level in Hawaii, Maryland, Minnesota, Oregon, Washington, and Florida. Significantly, each of these States have adopted reforms that differ in terms of scope, anticipated outcome, and processes. These variations reflect the diverse needs, ideology, and stage of health care evolution in each of those States.

So should national reform. Only then will we have real accountability, and responsiveness to the needs of consumers, businesses, and providers. Only then will we have health care reform that actually is able to deliver sustained accessibility to high-quality, affordable health care for all Americans.

Hawaii offers the best example of a State's creativity and ability to accomplish the goals of positive health care reform. In 1974, Hawaii passed a comprehensive health care reform proposal that included virtual universal access, financing through a shared responsibility between employer and employee, and a serious commitment to the prevention of illness.

As we celebrate the 20th anniversary of this State's initiative, we should take note of the following: Hawaii has the highest percentage of its citizens covered by insurance—over 96 percent. In Hawaii, the cost of insurance coverage for small businesses is 30 percent below the average for small businesses in the United States. Hawaii's infant mortality rate is 6.7 deaths per 1,000 live births. This compares to 9.2 deaths per 1,000 live births for the Nation as a whole. I believe the President would agree that those are compelling statistics of a success which started at the State level, started with citizens in a particular State responding to that State's circumstances to meet the goals and aspirations of its citizens.

Hawaii was fortunate in being able to develop and implement its health care reforms with the cooperation of a Federal administration also committed to health care reform—that of President Richard Nixon. Hawaii's reform system was also implemented prior to the enactment of significant restraints on the State's ability to innovate, such as the Employee Retirement and Income Security Act [ERISA].

Other States have not been so fortunate. My own State of Florida has experienced the frustrations of many States that have attempted to innovate, to be a center for reform, to be that laboratory of experimentation which is at the heart of the Federal system.

In the mid-1980's while I was Governor, Florida was unsuccessful in its attempt to receive a waiver from the Federal Government for a Medicaid buy-in program. The purpose of that program was to allow the working poor who were otherwise without insurance to be able to share with the State and the Federal Government in accessing the Medicaid Program. The waiver that would have been necessary to make that possible was denied by the Reagan administration.

The current Governor of Florida, and our former colleague, Lawton Chiles, is making a similar effort, called Florida Health Security, to provide health care coverage again to the working poor. Florida Health Security would provide subsidies to uninsured working Floridians to purchase private health insurance. Participants would contribute a portion of their premium based on their incomes. Employers could voluntarily contribute a portion of their employees' premiums. The program would be paid for using Federal and State savings in Florida's Medicaid Program, realized primarily by enrolling Medicaid recipients in managed care plans. Florida Health Security would provide 1.1 million uninsured Floridians with health insurance coverage, and through this single initiative, this one initiative, raise the percentage of Floridians with coverage from the current 82 percent to 92 percent.

However, just as was the case a decade ago, Governor Chiles is now faced with foot-dragging and ho-humming from the Health Care Financing Administration, the agency that must grant the waiver. Why? Why has there been this reticence to allow States to innovate? A New York Times article dated June 12, 1994, may provide an answer. According to the article, Mr. Bruce Vladeck, administrator of the Health Care Financing Administration, warned in a June 1993 memorandum:

The waiver authority could become a way of relaxing statutory or regulatory provisions considered onerous by the States.

He added that waivers "will be used to slow down nationwide reform."

Mr. President, after over 6 months of review, Florida's waiver application is still pending in the Health Care Financing Administration bureaucracy.

Mr. President, I applaud the majority leader for his able leadership in moving the Senate toward consensus on health care reform. I believe his proposal provides the basis for a decentralized health care reform system. His bill allows for compliance with the national intermediate goal of 95 percent coverage by the year 2000 on a State-by-State basis. The majority leader's proposal rejects the concept that there must be a single national standard by which compliance is judged.

Specifically, Senator MITCHELL proposes that by January 1, 2000, 95 percent of the population in each State must have health care insurance coverage. In those States that fail to meet that goal, businesses would be required by the year 2002 to pay half of the cost of insurance for their employees and their families. Businesses with fewer than 25 workers would be exempt from that requirement.

I applaud the architecture of the majority leader's proposal. This State-by-State evaluation will fundamentally shift incentives and challenges. The plan will motivate States to develop their own reforms exactly to avoid the Federal prescription, while at the same time providing health care insurance coverage to their citizens.

Again, if I could, Mr. President, I believe there is a case study of this in Florida. Ask any provider, insurance, or business association in the State, and they will tell you that it was the threat of Federal action which was the impetus that brought all of the parties to the table to develop Florida's health care reform plan. Fifty individual State triggers, rather than a single national trigger, will cause States to accelerate their activities in order to achieve a 95 percent objective and avoid falling into a Federal mandate. States will also clearly understand that they cannot adopt policies which tolerate, much less contribute to, additional health care costs, without jeopardizing their ability to achieve the prescribed 95 percent level of coverage by the year 2000.

Senator MITCHELL's call for a State-by-State approach acknowledges variations among the States and recognizes that innovation must be tailored to the circumstances of individual States and communities.

Mr. President, this State-by-State evaluation gives States substantial control over their own destinies. Only through a decentralized evaluation of performance will States feel compelled to take aggressive action to reach the 95 percent coverage by the year 2000.

While Senator MITCHELL's bill lays the groundwork for a decentralized system, some modifications are necessary to reach his proposal's maximum potential. Such modifications could be grouped around the following principles: We should avoid Federal action which increases health care costs and then shifts those costs to the States. For example, S. 2357, the majority leader's proposal, would create three subsidized programs. One would be for mothers and children. A second would be for individuals who were formerly served through Medicaid, and a third would be a general subsidy program. These three would be in lieu of a single streamlined subsidy program. States would be required to administer the subsidy programs without Federal assistance for administrative costs. The Congressional Budget Office estimates that States will be required to spend an additional $50 billion to administer these three programs over the next 10 years. We should also avoid policies that restrict the abilities of States to chart their own course.

For example, S. 2357 would calculate State maintenance of effort payments using an annual growth factor based on the rate of increase in national health care spending.

Using a national calculation rather than a State-by-State calculation penalizes those States that have already taken steps or will be encouraged to take steps to reduce health care costs and rewards those States that have not acted to control costs.

Also, States should not be held accountable for cost factors that are beyond their control, including federally prescribed increases in benefits and increases in the quantity of health care services due largely to the population's aging.

We should also avoid measures which have the unintended effect of punishing States which are implementing or proposing initiatives to expand coverage, to move toward that goal of universal coverage.

Under S. 2357, currently eligible Medicaid beneficiaries would not have their benefits reduced under the new subsidy program. While this is a laudable goal, I believe this provision penalizes States which have chosen to provide optional services beyond those required of Medicaid.

Such States would then be locked into those benefits while States that provide only the minimal Medicaid services would not.

In addition, States would be required under the majority leader's bill to provide benefits over and above the standard benefits package to individuals currently enrolled in the Medicaid program. These so-called wrap-around benefits would be matched by the Federal Government at the State's Medicaid match rate.

This requirement will add to State administrative costs, but more importantly, it raises a fundamental equity question by subdividing the low-income population into two groups, one group those who had previously been under the Medicaid program, the other group those who had not been under the Medicaid program, and provides a differential level of benefits at State administration and significant State cost to the former Medicaid eligible population.

We should, also, Mr. President, provide broad waiver authority from Federal statutes and regulations to facilitate State innovation.

This is not a new concept. In 1992, our colleagues, Senator LEAHY and Senator PRYOR, introduced legislation that would provide incentives to States to achieve comprehensive, State-based health care reform. I was pleased to be a cosponsor of that legislation.

This proposal should serve as a basis for an expanded waiver authority in S. 2357 so that States who want to take control of their destiny different from the Federal plan would be permitted to do so.

Mr. President, we should also eliminate requirements for which national uniformity is not essential.

Federal preemptions of State laws and Federal standards should meet the

VOL 140 PT 16 AG 12 — 18 1994 UMI

following fundamental test: Does the desired goal require national uniformity in process or procedure, or can the desired goal be accomplished without Federal mandate and prescription?

Two examples within S. 2357, in my judgment, fail to satisfactorily answer this question. They are the essential community providers provision. This is a provision which will require a certain group of providers to be covered under all plans. I see no reason why States should not have the flexibility to determine whether there are within that State essential community providers and, if so, who they are. There is also a preemption of State licensure laws for medical professionals. States have traditionally exercised authority in this area. I see no reason why that authority should be shifted.

Mr. President, States should also be given a broader range of options should they fall short of the 95-percent coverage goal by the year 2000.

Under S. 2357, a State that fails to meet the 95-percent goal would be subject to new Federal standards adopted by Congress after considering recommendations from the newly created National Health Care Commission.

Should Congress fail to enact such provisions, the State would be required to adopt an employer mandate with employers paying half the cost of coverage for employees and their families. Employers with fewer than 25 employees would be exempt.

I believe a State which fails to achieve the 95 percent goal should have an opportunity to present a corrected plan to the Health Care Commission. The plan would be subject to Commission approval and would detail how the State would reach the 95 percent goal by the year 2002.

Under this construction, the employer mandate would be triggered if, and only if, the State plan is rejected by the Commission or if approved by the Commission the State fails to accomplish the goal of 95-percent coverage in its implementation.

States that take this second chance option would have the opportunity to learn from those States that had been successful in meeting the 95-percent goal. The Health Care Commission could also use these success stories of those States that had met the 95-percent goal to evaluate and assist deficient States in achieving the goal of 95-percent coverage.

Mr. President, health care reform is too important to the fundamental objectives of individual Americans and our Nation as a whole to languish or to be lost. I believe that we are close to a course of action which offers considerable promise of accomplishing our collective goals.

However, our goals will only be realized if we allow for maximum decentralization in their implementation. It only will be realized if we avoid impeding the imagination and the commitment of millions of Americans to health care reform in their communities and in their States.

These are good citizens who, with a spirit of community and common sense, will find not one but a thousand roads which will merge at the common national destination of an affordable health care system that will provide quality health care services for all Americans.

Thank, you Mr. President.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

(Mr. GRAHAM assumed the chair.)

Mr. MURKOWSKI. Mr. President, let me note for the RECORD, as this debate continues, everybody on both sides of the aisle is truly supportive of health care reform. So really the issue is, how to achieve that in the best interests of the American public.

I am sure that many who have followed this debate are somewhat concerned with the mechanics of the health care proposals because indeed they are quite complex, but there are a few things that the American public understands.

They understand availability of health care. They want availability of health care, and they want that availability at the minimum cost with the most coverage. Availability also is synonymous, of course, with portable. They want the assurance of being able to have their health care insurance follow them from job to job.

But the American people are also concerned about aspects of the Mitchell bill, which is before us. And one aspect that certainly has caught the attention of a lot of people is the suggestion that approximately 100 million people will be subsidized by the Mitchell plan. That is out of a population in 1990 in the United States of 248 million people. Approximately 100 million will be eligible for some type of subsidy.

That does not ring very well with the American people because they are also concerned about the expanded bureaucracy. They do not want to see any more agencies. They do not want to see some 34 new Federal boards and commissions. They are concerned about just what 117 new mandates really mean, and the States are concerned because some of these mandates are directives to the States that are unfunded.

What the public really wants in a health care plan, in addition to cost control and availability, is the assurance that there is some accountability. You know how Government responds with accountability. Government runs off and hires more compliance officers in each agency as opposed to holding the head of that agency accountable for the actions of that agency.

And the public is concerned, of course, about the Government going into the health care business. The point has been made sometime in this body that if you like the Post Office system in Washington, DC, you will love the Government once it takes over health care.

What can we learn from observation of our neighbors in Canada? We can learn some interesting things, Mr. President. One that strikes me is that approximately 21 percent of the budget in our neighboring nation of Canada is interest on their debt. What is that attributed to, Mr. President? That is attributed to escalating health care costs associated with the Canadian system.

They are also concerned with the realization that in Canada today, in Saskatchewan, many hospitals are being closed. Many Canadians come from Vancouver to Seattle, come from Toronto and other areas to Buffalo, NY, for health care simply because of availability and quality.

So as we embark upon this effort, Mr. President, let us keep in mind what the American public wants. They want availability. They want cost controls.

And the task before us is a monumental one in trying to achieve that. We are achieving that in the sense of working in a bipartisan manner for health care reform. But it is how we go about this task. And we must continually remind ourselves that good intentions are not enough, because good intentions will not make up for bad policies.

In our desire to improve access to what is already the highest-quality health care system in the world, we cannot afford to turn that system over to an army of bureaucrats and well-meaning idealists. We have to look very carefully at the reform proposals before us before we leap into a full-scale change.

What we want to do is obviously maintain the quality that we have and make the improvements when they are needed. But we do not want to throw out the baby with the bath water, so to speak.

The health care reform debate has evolved dramatically over the last 9 or 10 months. It is kind of interesting to reflect on the public approval of the President's reform proposal, because the fact is that public opinion for approval of the President's program has fallen steadily, as the implications of a major overhaul become more and more clear. As a consequence of this extended debate and the efforts of my colleagues to try to bring out the particulars, the public is beginning to understand and is becoming more concerned with availability and escalated costs and Government bureaucracy. And it has affected the President's reform proposal and its acceptance.

A majority of Americans now want incremental, targeted reforms or no reforms at all until we better understand the sweeping social changes that we are proposing.

The fact is that none of us can fully understand the implications of this legislation without this extended debate. The Clinton-Mitchell bill is predicted now to cost up to $1.1 trillion over the first 8 years in new entitlement spending, becoming the third largest entitlement program in our budget.

How do we fund that, Mr. President? Well, if the past is any indication, we fund it by deficit financing. What is deficit financing? It is simply everything else you need to add to the deficit and you pay interest on it as part of the budget process. You could not do it with your own checkbook, Mr. President. But we can do it here in Government.

Have we not learned from the Medicaid and Medicare spending explosions of recent years that we cannot accurately predict the true burden of this massive new entitlement and what effect it is going to have on our future generations? We are mortgaging the future of our children and grandchildren, Mr. President.

The bipartisan Commission on Entitlement and Tax Reform, cochaired by my colleagues, Senator KERREY and Senator DANFORTH, reports that, by the year 2012, existing entitlements and interest on the debt will consume all of our Federal tax revenues.

Think about that for a minute. By the year 2012, existing entitlements—we are not talking about entitlements for health care—existing entitlements and interest on the debt will consume all of our Federal tax revenues.

Mr. President, you and I both know at that stage, we are broke.

A major new Government-run health care program will, in all likelihood, bring us to the point of national bankruptcy even sooner than the year 2012 if we do not address up front just how we are going to pay for it.

As Robert Samuelson of the Washington Post recently stated, the "something for nothing" deception being played out on the American people regarding new health care entitlements is an "exercise in national make-believe." Well, he is right on target, Mr. President.

The proposal before us would create at least 34 new or expanded federally run boards and commissions—and they cost money—to determine what benefits each American would be allowed, with the burden of implementing as many as 117—you have heard it before—new mandates passed on to individuals States. The bipartisan National Governors Association warns that:

> Under this bill, States will take on significant new responsibilities to administer, monitor and enforce compliance of a new restructured health care system * * * set entirely by the Federal Government. It is expected that States will have to administer * * * but have little flexibility to set their own standards.

This is tragic, because States are the laboratories for change and innovation in health care reform. It is critical that reform proposals recognize State autonomy and the need to be flexible.

My State of Alaska, for instance, is carefully considering comprehensive health reform legislation, and already has in place high-risk insurance pools to make insurance accessible to those who would otherwise be uninsurable under the current system. Alaska law currently prohibits denying coverage because of pre-existing conditions and we have established a Small Employer Reinsurance Association and several small business reinsurance pools. There is broad recognition, in my State, that some of the central principles being put forth in the Clinton-Mitchell plan, such as encouraging managed care models of health delivery, do not work in areas where there is limited or no access to even the most basic health care services. Alaska is not the only State with unique circumstances. Every State has unique qualities that can make Federal dictates counter-productive.

But the plan before us does more than establish new bureaucracies and State mandates.

While almost everybody agrees that one of the factors forcing health care costs up is the cost of litigation, it is my understanding that the Clinton-Mitchell bill actually provides funding for lawyers to help people sue their own States if, in fact, federally mandated health plans are not implemented properly. No wonder the American people are nervous.

The premise behind the bill is misguided. It proposes to meet the need of insuring the 37 million people in this country who do not currently have health insurance by providing a Federal subsidy to more than 100 million people. I cannot understand the logic behind creating an entitlement program that will cover more people than are now covered by Medicare, Social Security, and Medicaid combined in order to resolve the uninsurance problem for 37 million people, many of whom will find insurance on their own without Government assistance.

In creating this new system, the Clinton-Mitchell bill actually raises the cost of insurance to middle-income families. The bill raises the price of all insurance policies in this country by $145 billion through a new taxes on, of all things, health insurance. Even the Congressional Budget Office [CBO] finds one of these taxes—the 25-percent tax on so-called high cost plans—so poorly designed that it will effect virtually all plans, and increase premiums so much that it will discourage participation in the health insurance market.

That is a diplomatic way of saying that the taxes in the Mitchell plan will force more people to become uninsured. What is even worse is that the health insurance plans that will pay the biggest tax are plans that insure a large number of sick and old people, and efficient managed care plans. What is the logic of such an ill-conceived tax?

And while the middle class pays more taxes, others get a free ride. In fact, starting in the year 2002, if the employer mandate is triggered, it appears that the cost of health insurance for individuals will become free. It may surprise my colleagues to know that, but according to section 10135 of the bill, which deals with health insurance premium payments, it states: "In no case shall the failure to pay amounts owed under this Act result in an individual's or family's loss of coverage." In fact, the bill assumes that many enrollees will stop making payments and sets up a system known as the Collection Shortfall Add-On which will raise premiums for all participants in the plan to cover the cost of those who fail to make payments.

Mr. President, it is obvious to this Senator that many will simply not pay their health insurance premiums once they realize that their coverage cannot be canceled and they are assured that they will be covered for any health related expenses.

I believe there is a better alternative to the legislation before us. An alternative which would make great strides in providing access to care for the uninsured, without sacrificing individual choice, State flexibility or radically restructuring one-seventh of the American economy. I heard my thoughtful colleague, Chairman MOYNIHAN, comment on the floor last week that it would certainly be a shame if Congress did not at least act on those reforms which we know have a broad consensus of agreement—reforms such as making insurance portable, removing restrictions on preexisting conditions, voluntary insurance pooling for small business, and subsidies to help the most needy purchase private insurance. I agree. I think we may have lost sight of the areas where most of us agree, where we can tackle problems of rising costs and inadequate access today rather than spinning fragile webs of government run health care that don't go into effect for years down the line.

Mr. President, I want to comment on a critical area of our health care system that also tends to get lost in the shuffle in the debate over national health care reform—that area is our Federal medical programs. Today the Federal Government is not just a payer of health care bills, as in Medicare and Medicaid, but is also a direct provider of health care through programs in the Departments of Veterans' Affairs, and Defense, the Indian Health Service, and the Public Health Service. In Alaska, 34 percent of total health care spending is for Federal health programs. As the ranking Republican on the Senate Committee on Veterans' Affairs, I notice that these programs, and the lessons we can learn from them, have

VOL 140 PT 16 AG 12 — 18 1994 UMI

largely been overlooked in the debate over reforming the private health care system.

As most of you know, the Department of Veterans Affairs [VA] health care system is the largest single health care system in the United States. The VA health care system consists of 171 hospitals, 353 outpatient clinics, 128 nursing homes, and 37 domiciliaries. The annual budget for VA health care is currently $17.6 billion, which provides care for approximately 2.2 million veterans and employs over 209,000 health care workers. In addition to basic health care services, the VA provides specialty services like spinal cord injury, blind rehabilitation, post traumatic stress disorder and other mental health services, comprehensive homeless programs, and long-term care and geriatric programs. These are all excellent programs—their equals cannot be found in the private health care system.

Because of our commitment to our veterans, taxpayers have made a huge investment in VA health care, an investment that we do not want to waste. But proposed health reforms may well provide those who now use the VA with alternative choices of care—GAO predicted that if universal coverage was passed, up to 50 percent of current VA users would go elsewhere for care. The effect is that the VA will have to compete with other providers or die on the vine—to consolidate and better manage care or lose patients.

Unfortunately, the VA is not now in a position to compete—nor are they used to competition. The VA does not know basic cost and other information needed to establish premiums, sell services, or operate in other basic business ways. It will take 3 years before the VA has a system installed nationwide to determine even basic information on what it costs VA to provide specific medical procedures. The VA remains too facility oriented, as oppose to health care delivery oriented. It is burdened with underutilized inpatient hospitals, and lacks the outpatient capacity and the community presence to adequately meet the comprehensive needs of veterans and their families.

Until we know what final product Congress will produce, be it the Clinton-Mitchell plan, the Dole-Packwood plan, the Gephardt plan, or a little bit of everything, it is difficult for us to say what is needed for the VA. In the Veterans' Committee markup of VA health reform, I offered an amendment that would have delayed implementation of VA reforms until we knew what national health reforms looked like. While I did not succeed in passing this amendment, I believe its purpose still holds true—we are moving into uncharted waters.

The Mitchell health plan does not clear up any of these unknowns—in fact, it creates new ones. Under the Mitchell plan, in order for veterans to receive a comprehensive benefits package, they would be required to enroll in a VA health plan. Core group veterans—such as the service-connected disabled and the poor—would receive free care. For veterans and their family members who have outside coverage, the VA would retain Medicare reimbursements and private third-party reimbursements. These reimbursements, in addition to regular health care appropriations, would supposedly pay for the comprehensive benefits for all core group veterans.

The problem is that there is no way to know if the increased reimbursements will offset the increased costs. There are currently 2.2 million users of the VA health care system. But as many as 7.5 million veterans would qualify for free care under the Mitchell plan. Most of these veterans do not currently use the VA system, but might if benefits were free. Third-party reimbursements and regular health care appropriations together may not be sufficient to cover the increase in enrollment and the extension of new, free benefits to those who are currently not eligible to receive them.

I am also concerned that, the Mitchell bill, on the one hand seems to create a new entitlement program for veterans health care, while, on the other hand, it also makes expenditures subject to the ordinary appropriations process. The effect is that the Mitchell plan could result in a reduction of care to veterans. If appropriated dollars were not sufficient to pay for each veteran's care, then all benefits would be reduced to make up the shortfall. In essence, a veteran signing up for a VA health plan that promises a certain level of benefits would not be assured that those benefits will remain available. Furthermore, veterans who now receive comprehensive benefits from the VA might see their level of care reduced. Again, we are speculating because we have no idea how many new users a VA health plan would attract into the system. But a thorough reading of the Mitchell plan would suggest that the so-called reformed VA health system could be detrimental to the VA by not even protecting the level of care certain veterans enjoy today. I understand that the majority leader and Senator ROCKEFELLER are considering an amendment to fix this problem and I look forward to seeing their solutions.

That said, there are simple ways that we can help VA run its programs to better serve veterans and not break the bank. Earlier this year, the Senate passed a bill to let the VA participate as a provider in States that are undergoing health reform. The point of this legislation is to free up VA facilities from VA Central Office control, to let them innovate, to contract freely for health care and other services, to give directors of the medical centers more freedom from personnel regulations. In short, the pilot bill was designed to make VA more businesslike, more managed-care oriented, and therefore more competitive by placing considerable authority in the field. The Dole-Packwood proposal includes many elements of this proposal and would expand it's scope to include any VA facility which wishes to participate in the plan, and allow the VA to collect from Medicare for non-core group veterans.

These reforms hold promise. Minnesota now allow any department or agency of the Federal Government to organize an Integrated Service Network to compete with other health plans in the state. The Minneapolis VA Medical Center currently leases excess space to a private HMO for an outpatient clinic. Montana is also studying ways to integrate Federal health programs like VA, IHS, DOD, and Public Health. And there are other examples of states that are moving on their own. We want VA to be able to adapt to these changes.

Mr. President, America's health-care system is the best in the world. It is the product of collective genius, scientific advancement, and modern technology, flourishing in America's private sector. There is no doubt that Government has aided and even fueled some of this progress, particularly in technology and science, but never before has government, especially the Federal Government, advocated to so directly manage the system, as the Clinton-Mitchell proposal would do, if it were to become law.

As many others have stated and written, this is a historic time for the Senate and for the country. I disagree, however, with the pundits and some of my colleagues who say that it is time to abandon America's privately managed health care system.

So we have many questions to answer with regard to the Mitchell bill, and just that one aspect of VA health care and how that is going to fit in as well. I could comment at great length as well on how the Indian Health Care Service is going to fit in to the proposed national health care plan because these, indeed, are going to provide groups that previously had utilized these systems exclusively with the opportunity to go out and have the choice of other alternative types of care.

In conclusion, let me say what we want to do is what is right for the American people. But the voters are going to be our judge. I fear the judgment will be harsh, should we take the wrong course at this time, a course that, once taken, cannot be reversed.

So I remind my colleagues the concerns of the American people, indeed, are health care reform but not at any price. Health care reform that addresses costs. Health care reform that addresses availability and portability.

Not an expanded bureaucracy, not a subsidy for 100 million American people. Not a program that establishes another 34 new Federal agencies. Not a program that establishes 117 mandates. And not a program that mandates to States certain policies that are unfunded.

The public is concerned about health care. The public is concerned about the bureaucracy. Let us address a pattern of uniformity here that addresses the concerns of the American people.

We should enact a bill that fixes what is wrong—and fixes only what is wrong. Let us not get in the way of what is right. Moderation and prudence are what the people expect of us, and no less. If we—with all good intentions—move America's wonderful, unique health care system down the road to a rationed, poor quality, one-size-fits-all system, what good have we done? Have we then fixed what is wrong or have we wronged a great system? Our voters will be our judge, and again, I fear that judgment will be harsh should we take the wrong course; a course that, once taken, cannot be reversed.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, we made progress today. I think we can all be pleased at the passage earlier this evening of the Dodd amendment. It sends the right message as we begin debate about health care reform. It says to the country, it says to all of those who are watching, it says in particular to children that, indeed, they are a priority.

There is some symbolism in the passage of an amendment dealing with children as our first amendment, a statement that as we consider building a better health care system, we consider children. We are told they are 33 percent of our population but 100 percent of our future.

Just last weekend my oldest daughter had her birthday. She is now 23. I cannot think of a better present than to say to her and to say to all of those who are beginning their young adult lives: We can promise you a better future, a more secure future, a future with an appreciation for the importance of preventive care.

So as we begin this debate I hope it is an indication, not only of the symbolism that I believe it represents, but clearly a constructive beginning in a debate that ultimately will lead us to meaningful health reform.

Earlier today many assembled not far from here to remind all of us that as we now debate this issue, since the beginning of the debate, since the day the majority leader laid the bill down, 500,000 additional Americans lost their health insurance; 100,000 children were included in that 500,000 Americans. People from all over—people from Florida, people from South Dakota, people who are wealthy, people who are not, people who are sick, people who are healthy—but 500,000, half a million people have lost their health insurance since this debate began. About 48 a minute now lose their health insurance.

During the time the Senate has been considering the children-first amendment, the amendment offered by the distinguished Senator from Connecticut, children, too, have continued to suffer.

In those 4 days, 2,544 babies were born to mothers who received late or no prenatal health care; 3,204 babies were born at low birth weight, which was less than 5 pounds; 224 babies died before they were 1 month old, just in the last 4 days; and 440 babies died before they were 1 year old just in the last 4 days.

So, Mr. President, this is a problem that ought to be very clear to all of us. The ramifications of failure are stark. These profound statistics speak with an exclamation point that we must deal with this issue effectively.

About 9 million children in the United States went without health insurance 2 years ago. It is about 15 percent of all the Nation's children. About 80 percent of uninsured children have at least one employed parent, and over the last 5 years, between 1987 and 1992, the number of children with employer-based coverage decreased by almost 5 percent. Children now under 21 comprise almost 30 percent of the population, but 36 percent of the Nation's uninsured. And that affects utilization.

Children without insurance are less likely than those who are insured to use the health services or to have any usual source of medical care. In 1992, the vaccination levels for children between the ages of 19 and 35 months of age were 83 percent for measles containing vaccines and diphtheria, tetanus and pertussis, DPT, shots and 72 percent for polio.

Three-fourths of the children in this country between the ages of 19 and 35 months were able to achieve some meaningful vaccination levels, but one-fourth did not. In 1990, an estimated 3 million children under the age of 6 had unacceptably high levels of lead in their blood. And as of June 30 of last year, over 4,700 children in the United States had been diagnosed with AIDS. AIDS is now the fastest growing cause of death for adolescents.

Deaths of children due to homicide have tripled since 1960, now becoming the fourth leading cause of death among children ages 1 to 9, the third leading cause for children ages 10 to 14, and the second leading cause of death for adolescents ages 15 to 19.

Every dollar spent on measles, mumps, rubella vaccine saves $17.80 in direct health care costs according to the Department of Health and Human Services. It costs about $20 for a doctor's office visit to treat a child with strep throat, but thousands to hospitalize a child whose untreated strep throat develops rheumatic fever. Between 1989 and 1991, a measles epidemic struck over 55,000 Americans, more than 11,000 were hospitalized, costing lives and millions of wasted dollars.

An estimated 3 million children under the age of 6 had blood levels so high that CDC considered it dangerous.

So, it is very clear, the cost of preventive care has an astounding effect on the population, both in cost as well as healthwise. It returns tremendous investments to vulnerable children as well as their families.

Improving health of infants and children early and comprehensive prenatal care alone saves $3 for every $1 invested according to a study by Health and Human Services. Children who receive regular health screening, such as those provided through Early and Periodic Screening, Diagnosis and Treatment Program, have health costs 7 to 10 percent lower than other kids.

Cases of measles, polio and other diseases have decreased by over 99 percent since the introduction of vaccines.

The estimated benefit/cost ratio of vaccines—that is, dollars saved for every dollar spent—is over 21 to 1 for measles, mumps, rubella, and 30 to 1 for diphtheria-tetanus-pertussis. It is over 6 to 1 for polio vaccine.

So given these facts, it is very difficult for me, or anybody else, I am sure, to understand our country's acceptance of such large numbers of uninsured children and families today.

Yet, each year nearly one-half of all pregnant women go without health insurance at all. Nearly all of these are women in working families. About 5 million women have private insurance policies that do not cover maternity care, and so, therefore, pregnant women without health insurance are likely to have inadequate prenatal care, inappropriate arrangements for delivery and less than adequate care for their newborn babies.

Fifty-one percent of teen mothers and 24 percent of all mothers in the United States last year received inadequate prenatal care. There cannot be a better argument for the Dodd amendment. I am surprised, given all these statistics and given the ramifications of what the Dodd amendment could really do, that it was not 100 to 0 tonight.

Infant mortality in the United States has declined to 8.9 per thousand live births. The United States, however, still has a higher rate of infant mortality than 22 other industrialized countries, a rate more than double that of Japan. Over 90,000 babies were born to mothers who did not see a health care provider during pregnancy—90,000 just last year alone. These babies are three times more likely to be born with low birth weight than those whose mothers received a timely prenatal care.

79-059 O—97 Vol. 140 (Pt. 16):35

VOL 140 PT 16 AG 12 — 18 1994 UMI

Unfortunately, Mr. President, close to 40,000 infants die each year because their mother had no prenatal care and because there were complexities and difficulties that they did not anticipate because they had no place to go, because they had no insurance and no options. That is what we are talking about tonight: An opportunity for pregnant mothers, for families to say never again, to say at long last we are going to do what we said we were going to do for a long period of time. We are going to cover them right from the start. We are going to do what other industrialized countries have done now for so long. We are going to try to improve that infant mortality rate, we are going to do better than being number 22 and we are going to start doing it this year.

Mr. President, that is really what the Mitchell bill begins to do. It proposes that all children be covered with full coverage by the year 1997. Almost immediately it begins to cover 6 million children. It covers additional millions of families with children who would be given discounted premiums for the first time, premiums recognizing that prenatal care in that basic benefits package is so important to us and to all of those who are struggling today.

There are 2 million people who today are kept from obtaining health insurance because they have preexisting conditions, and the Mitchell bill says we are going to put an end to that. Upon passage of this legislation, that will no longer be allowed.

So all told, Mr. President, we add those who have no coverage, we add those who have some coverage but cannot afford the pregnancy care that ought to be in every plan, along with those who have preexisting conditions, and we now total more than 9 million children who ultimately, if this legislation passes, will be covered.

The coverage is designed for children with preventive services that include the immunization that I just discussed, with special services that recognize special needs, such as rehabilitation services for those who need them, an essential nutrition through the WIC program, recognizing first and foremost that with good health will come good nutrition, with good nutrition comes an opportunity to send the right message to young families today, that preventive care is dependent upon good nutrition, good meals, and healthy children.

Mr. President, the Dole bill leaves out more than 6.2 million children. If that bill were to pass, there would be no insurance for more than 6 million of the 9 million uninsured today. Lewin-VHI, the analytical firm in Virginia, upon whom we have turned on many occasions for good evidence or good analysis of what plans will do under different circumstances, has reported to us that the Dole bill, at most, covers 2.8 million of the current 9 million children who are uninsured. But by 1997, as I said, the Mitchell bill covers them all. Children under 19, pregnant women living in families with incomes below 185 percent of poverty will receive full premium subsidies. In other words, they will be given the full opportunity to acquire meaningful health care right from the beginning, phased in, as I said, through the year 1997.

Under Dole, however, the insurance companies will dictate which coverage children will have. Insurance companies would be in the driver's seat. They decide which benefits to cover and which to exclude. Therefore, many children will still be prevented from getting the well-child visits, the prescriptive medicines, or the preventive services that are so critical if, indeed, we turn around the statistics that I outlined just a moment ago.

Many children, though their parents' work, will continue to be excluded from coverage since parents will be covered by employee-only policies that do not cover dependents. But under the Mitchell bill, children are guaranteed solid coverage regardless of circumstances, regardless of for what employer their parents may work. Health plans cannot be terminated, limited, or restricted. They cannot charge more based upon a child's health status. Insurance companies cannot charge more for a medical condition. They cannot charge more for claims experience or a medical history. They cannot charge more if a child has a disability. Insurance companies have to treat all of our children the same. Nor can they limit, restrict, or terminate coverage, or charge more because a child has used a lot of health care services in the past for whatever reason.

The bill closes loopholes that leave children uncovered today. It spells out coverage for children even if they are adopted, even if they live with grandparents, even if they have stepparents or other guardians. In all circumstances, Mr. President, children are covered. The priority that we laid out in the Dodd amendment is extended, enhanced, and completely covers the children that are left out in the cold today. It guarantees that no matter what, we will have an insurance policy that at long last covers them all, regardless of circumstance, regardless of age, regardless of health.

The Dole bill provides no help for children in need of long-term care. It offers no new long-term program that provides for opportunities for children to live outside of institutions today. So without that opportunity to live in alternative care settings, many children under the Dole bill will be restricted to the institutions that they try to avoid now because they will have no other option.

But the Mitchell bill creates a new long-term care program that provides individualized care for disabled children, provides for a Federal-State, home/community-based, long-term care program with emphasis on individual needs.

So here again, Mr. President, as we have talked about the many differences between the Dole bill and the Mitchell bill, there is a recognition of the stark difference. We have talked on many days now about why it may be that the Mitchell bill is twice as long as the Dole bill. Simply put, it does twice as much—for children, for seniors, for working families, for small businesses, for insurance reform and creating the opportunities to do the real kinds of things that we all say we want: Containing costs, providing good universal coverage, making sure that we have meaningful insurance reform, and doing the kinds of things that we have all spoken about the need for for many months now. That is what the Mitchell bill does.

So as I said at the beginning, Mr. President, we have made a good start today. We passed an important amendment. We recognize that there are 100,000 children today who had insurance when this debate began. How many more children will lose their coverage during the course of this debate? Will it be another 100,000, 200,000, a couple million? That all depends upon us.

When all is said and done, when we have an opportunity to say at long last to those who wait for action, to those who truly believe that we can solve this problem, let us answer affirmatively, let us say that what we did today is more than just symbolic; that, indeed, it is indicative of the kind of strong belief we must demonstrate that we can solve this problem for children, for families, for all Americans.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, what is the state of debate in the Senate at this moment?

The PRESIDING OFFICER. The 2-hour time period which had been allocated has expired. Any Senator is able to be recognized and to speak on the legislation.

Mr. GORTON. Mr. President, I ask unanimous consent to speak for roughly 10 minutes on a different subject, on the crime bill.

The PRESIDING OFFICER. The Senator has that right.

CRIME BILL CONFERENCE REPORT

Mr. GORTON. Mr. President, earlier today, the distinguished chairman of the Committee on Judiciary of the Senate spoke on the so-called crime bill which still is pending in the House of Representatives. The chairman stated that he could not understand why Republicans claimed that community notification of sexual offenders was dropped from the conference report. The chairman claimed that the conference report does, indeed, include community notification.

So that I can be entirely accurate, I wish to quote briefly from the statement made by the distinguished chairman of the Judiciary Committee. He stated that the conference report, and I quote:

> Requires the States to create registries of sex offenders; requires law enforcement to keep track of those offenders' whereabouts after the release from prison; and the provision explicitly permits law enforcement to give notice to the community to serve law enforcement purposes and to give the police immunity from releasing that information.

The chairman of the Judiciary Committee's attempt to correct the RECORD on the contents of the crime conference report, Mr. President, itself needs correction. As a sponsor of the community notification language legislation in the Senate that was attached by this body by unanimous consent, I totally and completely disagree with his statement. Instead of providing for notification to communities when convicted sexual predators are released from prison and into individual communities, the conference report provides for a section expressly establishing privacy protections for those very sexual predators.

And I want to state precisely what appears in the crime bill. Under the title "Privacy of Data," it says:

> The information collected under a State registration program shall be treated as private data on individuals and may be disclosed only to law enforcement agencies for law enforcement purposes or to Government agencies conducting confidential background checks with fingerprints. A law enforcement agency may release relevant information concerning a sex offender required to register under this section when such release of information is necessary to carry out law enforcement purposes or to notify the victims of the offender.

Mr. President, if this were not so serious, that would be gallows humor. The only member of the public ever entitled to notification of the presence of the sexual predator is a victim of that offender, and that victim very frequently, Mr. President, is in fact dead. The general public has no such right under this legislation, and in fact, under these privacy provisions, the general public may not validly be given that information even presumably by the authorities of those States such as my own which already have such provisions in their law.

My amendment, adopted unanimously by this Senate in November of last year, entitled the "Sexually Violent Predators Act," the acceptance of which was instructed upon the House Members of the conference by a rollcall vote of 407 to 13, but which was dropped by the conference committee, is based on a successful registration and community notification law in the State of Washington that has provided protection to countless potential victims of these monsters.

The community notification element, letting a community, a neighborhood know when these predatory men are released into their neighborhoods, is crucial to the success of preventing repeat offenses. Had such a provision been in effect in the State of New Jersey, the recent notorious and terribly regrettable Megan Kanka murder almost certainly would not have taken place. Her parents did not know that three sexual predators were living across the street from them, one of whom eventually brutally murdered that 7-year-old victim.

It is true that the conference committee report provided for registration and tracking of sexual offenders in a certain fashion. It failed to include language, however, expressly providing for the notification of the community without which the registration and tracking is almost useless. In fact, as I have already indicated, for all practical purposes, it forbade any such community notification except of previous victims, either already traumatized or perhaps dead.

The term "law enforcement purposes," which is included in the conference committee report, is not defined. Perhaps the chairman of the committee suggests that this includes the ability to notify the community of the presence of a released sexual offender. That certainly is not clear to this Senator, and certainly it should not ordinarily be included in a section, the title of which is "Privacy of Data." It would take enormously good faith for a law enforcement agency to believe that "law enforcement purposes" clearly permits community notification other than notification of a previous victim.

There is a phrase, a section on immunity, for law enforcement agencies for good-faith conduct in the conference report. But that immunity is going to be meaningless if the law enforcement agency goes beyond the explicit language of the act itself.

This was not the only thing that the conference committee did to strip the provision of any effective meaning for communities and for potential victims. It also weakened other sections of my amendment. Rather than requiring these repeat sexual offenders who, the chairman of the Judiciary Committee and I agree, often have the least possibility of rehabilitation, the least percentage record of rehabilitation of any of our major criminals, to register indefinitely and to verify their addresses every 3 months, the conference report limits the registration to an arbitrary 10-year period and only requires registration once a year. Again, Washington State and the other States that have adopted such provisions find that those provisions and the tightness of those provisions are absolutely essential for success in monitoring these very, very dangerous criminals.

I believe, Mr. President, that we must be absolutely clear if we are going to provide law enforcement agencies with the authority and the direction to share this information, and if we are going to provide citizens with the protection that they need and deserve. And I believe that the rights of those peace-loving, law-abiding citizens and their children are greater than the privacy rights of convicted sexual predators.

We have to include expressed community notification provisions like those in the Senate amendment which was adopted on my suggestion here last November.

Let me tell you what people in the State of Washington think about these various provisions. Catherine Dodd, of Families and Friends of Violent Crime Victims, writes to me:

> The highest obligation of our government is to protect its citizens. We ask that you do everything in your power to retain Senator GORTON's community notification provision for sexually violent predators. The Nation as a whole needs this provision.

Bob Ross of Citizens Against Violent Crime, writes:

> We believe firmly the lives of our children will be saved if you support this measure. We ask that you please retain this provision regarding sexually violent predators.

And Kelly Rudiger of The Crime Victims Bureau writes:

> A crucial component of the Federal crime package is the community notification provision for released sexual predators. Our organization is in support of this measure and requests that you retain this provision in the pending crime package.

All of that advice was ignored. Once again, the purpose of the amendment in the first place was to encourage the establishment of a national registration and tracking system so that interstate movement of these sexual predators could be followed, and then to see to it that communities and neighborhoods knew it when their new neighbors were released, convicted sexual predators.

My amendment did so by withholding a small amount of law enforcement money from the States that did not establish such a system. The conference report, on the other hand, gives the Attorney General complete discretion over whether a State can be denied these funds. They have far less incentive, therefore, to comply than they did under the original amendment.

Finally, the conference committee report does not make it clear whether or not States can take more significant and more drastic measures to notify communities. They need that authority very, very specifically.

Mr. President, notification of communities and the broad use of the knowledge about the presence of sexual predators was a vitally important part

VOL 140 PT 16 AG 12 — 18 1994 UMI

of the Senate version of the crime bill. For reasons which are still obscure, in spite of instructions from the House of Representatives, it has been dropped from the present bill. It is one of the great shortcomings and great defects of the crime bill pending before the House of Representatives today.

The attempt by the chairman of the Judiciary Committee to justify what was done and to say that community notification remains in the bill, is simply incorrect. It is not there. To make this bill even remotely or minimally acceptable to many persons concerned with what happens to their children, concerns with the repeat sexual predator, it must be restored in its complete and in its original form.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Thank you, Mr. President.

I wanted to deal with the subject of health care. But since our distinguished colleague from the State of Washington talked a bit about the crime bill and his concern for a section of the bill that has to be strengthened, referring to notification of communities, that someone who has had a history of sexual attacks on young children has to be made public so that the people in the neighborhood can be aware, is a very important addition.

I was called today by the President of the United States—twice, as a matter of fact—and he announced that he was fully supportive of the so-called Megan Kanka law. He directed his call to me because I am from New Jersey where we have had two horrible incidents in very recent weeks where very, very young children were attacked by a depraved sexual predator who not only raped these children but killed them.

So our communities are on high alert, very nervous, and parents are concerned about what is happening. The President of the United States told me that he is determined to see that the crime bill includes a very strict notification process so people in the communities can be alerted to the danger that may exist for their children. So I was pleased to hear that discussion. I am fully supportive. Senator GORTON and I were the lead sponsors in this, and we intend to push it until it becomes a matter of law.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. LAUTENBERG. Mr. President, I want to talk for a bit on the health care debate that has finally started. I am pleased to see that it has begun in seriousness. The moment has been a long time in coming.

Responding to the real needs of our people, the President and Mrs. Clinton proposed that we add security, universality, and cost containment to the high quality that already characterizes our health care system for those who are covered. I must confess that my own personal experiences influence the way I look at this issue. One experience is defined by what I have now. As we all know, we in the Congress are covered by health insurance largely paid for by our employers and partially by ourselves, a good health insurance, paid for principally by the people we work for, the American people. That experience makes me think that we ought to give the American people what they now give to us: Quality health care any time it is needed at an affordable price.

The second experience, Mr. President, is defined by what I used to have. Back in 1943, after I had enlisted in the Army, before I ever heard of something called health care, my father was stricken with cancer. He was 42 years old. My parents worked hard. They did not have health insurance. It was fairly uncommon at the time. As my father's illness progressed, the bills mounted. After he died, when my mother was left with what to her were enormous hospital and doctor bills, she was not able to mourn free of her obligation, free of conscience; she was forced to worry about these bills at a time when she needed to try to adjust to her life as a 36-year-old widow—I was 18—she was forced to work two jobs to pay our debts. It took her almost 2 years, month by month by month, to finally put those bills behind her. I remember it vividly, Mr. President.

A third experience is defined by what I hear from the people of New Jersey. I have listened to families in their middle age trying to help their kids get a start in life, while at the same time still often having to bear the responsibility for their parents' medical bills, or even long-term nursing home care. They cannot make it, no matter how hard they work. I have listened to the small business people, who cannot afford to buy insurance for their own families, much less their employees.

I come from a business background, and I know how pained those business people are when they find out they cannot get insurance because of skyrocketing costs or preexisting conditions or a recent illness that sends premiums through the roof.

I have listened to seniors on fixed budgets, people who are watching every penny they spend, who are afraid they may need long-term care that they cannot afford, or who already cannot afford the medicines they need. They deserve better than that. I have listened to families who have no health insurance and heard them tell me that they cannot afford to take their kids to a doctor. They have few options. They can go down to an emergency room when the illness is acute, and wait in line while everybody has their needs cared for.

Unfortunately, it is true there are 8 million American children who are not covered by some kind of a health care plan. They do not get regular checkups. They need immunization. They cannot help themselves not be exposed to sickness or disease, because they are unable to get the traditional care that most of us are accustomed to in our own families.

No family should be forced to choose between putting food on the table and taking care of their children's health, or choosing between helping with a college education or health care, or jeopardizing their own retirement to take care of parents stricken with Alzheimer's disease. But that happens in New Jersey and in our country every day of the week.

Mr. President, that is what this debate is all about. It is listening and responding to the real needs of our people and being sensitive enough and committed enough to meet those needs by undertaking fundamental reform—reform that builds on the strength of our existing system and addresses its weaknesses.

And so, Mr. President, it has been said by many here that this truly is a historic debate. But it is not a debate about a radical notion. Over the past 60 years, comprehensive health care reform has been proposed three times and defeated three times. President Roosevelt first proposed it as part of the original Social Security Act, and then President Truman proposed it and, more recently, President Nixon proposed it, and that was some years ago. Each time it was offered, those who favored the status quo prevailed, and the Congress failed to act. And now our time has come.

I agree with the majority leader when he says that we ought to stay in session as long as it takes to enact a bill. I disagree with those whose goal it is to talk as long as it takes to kill this bill, to talk it to death, or threaten to bury us with a hundred amendments. Mr. President, that tells the American people a story. "We have 100 amendments," kind of cute with a twinkle in their eye. What is that saying? It is saying: We are going to derail this health train no matter what it takes to do it. That is the message. It does not say: We will put out 100 amendments because we want to improve the bill. It does not say: These 100 amendments are going to make sure everybody has care and the children are cared for, and we will give pregnant mothers prenatal care. It says: You bring up this health bill, and I am going to make sure it goes down.

I disagree with those people; I disagree with those who choose to deride or scorn attempts to solve this problem, who trivialize the needs and concerns of the American people. They deserve an honest debate and a real decision, a vote on amendments, and a vote yes or no on the bill itself.

Mr. President, the health care debate has centered around two major issues: Security and cost. While almost 85 percent of Americans have some type of health care coverage, an enormous percentage of us are only one pink slip or one preexisting condition away from losing that coverage. People should not lose their health insurance because they change jobs or because they become unemployed. They should not lose their health insurance because they get sick, and they should not have to pay more for insurance for these reasons.

There are 37 million Americans—over 800,000 in my State of New Jersey—who do not have health insurance coverage. Mr. President, it is important to understand something about the uninsured. They are just the homeless and the unemployed, the other people who drift around the edges of our society; they are our neighbors, they are our friends, and they are us.

Approximately, 84 percent of the uninsured work full or part time. These are people who play by the rules, work hard for a living, pay their taxes and are forced to wait to be treated in emergency rooms or go without care altogether. They have not failed to be responsible; the system has failed to respond to them. That is not what America is about.

Mr. President, perhaps the most unfair thing about our current health care system is this: both the very poor and the rich have health insurance. The rich typically get access to health insurance through their employment or their own wealth; the poor get access to health insurance through Medicaid. It is the rest—in my State, people with incomes up to $60,000 per year—that make up the bulk of the uninsured. We have created a system which provides health security to the rich and the poor, but not for middle class, not for ordinary working Americans.

If we are to continue to reduce the Federal deficit in a meaningful way, we must control health care costs. And the only way to do that is through real and comprehensive health care reform.

And it is not just the Federal budget that is affected—it is the family budget as well. Last year, the average American family spent approximately $5,000 for health care. This is three times the amount they paid in 1980. If we do nothing, our families will spend approximately $10,000 annually in the year 2000 for health care coverage.

Now, Mr. President, it is obvious to me that we have three choices.

First, we can do nothing—just leave things as they are.

Second, we can adopt a bill that Senator DOLE has proposed, which makes some needed reforms in the system but still leaves 20 to 25 million Americans uninsured. Third, we can move toward universal coverage by adopting legislation that not only reforms the insurance system, but contains costs and provides affordable access to care for the uninsured, the self-employed, and small businesses.

Doing nothing is unacceptable. It also cost too much.

National health care spending has grown by over 10 percent per year for the last 10 years. In 1994, we are projected to spend almost $1 trillion dollars on health care—approximately 14 percent of our Gross Domestic Product [GDP]. As bad as that is, it gets worse in the future. If we do not act now, then by the year 2003 we will be spending twice that much $2 trillion per year on health care, 20 percent of our GDP. In 1980, health programs consumed 16 percent of the Federal budget. Left alone, by 1998 they will be 35 percent of Federal expenditures.

One of the problems we have in the present system is called "cost shifting." That simply refers to the fact that you and I pay the costs that hospitals and doctors shift to patients with insurance in order to cover the cost of their unreimbursed care. So if you are working, and you and your employer are paying for health insurance, you are not only paying for your own health care, you are also paying for those without health insurance. The only way to prevent that—the only way to keep your premiums affordable and fair, is to cover everyone.

And when we cover everyone—which the Dole plan does not do—people will get the care they need sooner, before illnesses become more acute, more difficult to treat, and more expensive to cure. Those 20 to 25 million Americans the Dole plan leaves out will increase the costs that you and I pay as health care costs continue to climb.

The third alternative is to move toward universal coverage, which is what the President proposed and what Senator MITCHELL is aiming for.

Senator MITCHELL's plan is simpler and less bureaucratic than that which was originally proposed by the President. It builds on our private system of health care delivery and insurance. It preserves patient choice and provides a cushion for small businesses and less affluent Americans seeking to insure themselves and their employees. It would stop the kind of cost shifting we now experience, and put an end to the insured picking up the tab for the uninsured. It seeks to cover at least 95 percent of all Americans by the year 2000; the Congressional Budget Office has confirmed that the bill should reach that target.

This bill will move toward universal coverage more slowly than the President's original, because it depends more on reform of the insurance system and competition in insurance rates rather than taxes and bureaucracy. But it does promise to extend quality health care to our people at affordable prices, whether they work for a large corporation, a small company, or are self-employed.

If these reforms do not achieve the goal of health insurance for 95 percent of the citizens in each State by the year 2000, the Congress will be required to find additional ways to expand coverage or employers will be asked to share in the responsibility of providing health care insurance. Small business will be exempt.

Mr. President, while I support the general approach of Senator MITCHELL's bill, I do want to highlight at least two areas where further review is needed.

First, the bill contains a new tax which would be imposed on higher cost health care plans. While I understand that this measure is included in this bill to help contain costs, I feel it is a punitive charge which is unnecessary and unfair to workers who have chosen jobs with generous health benefits in lieu, perhaps, of higher wages. It is also unfair to high cost States, where premiums and health care costs tend to be higher. If we have to raise new revenues—estimated to be $35 billion over 5 years—I think there are better ways to do it.

For example, I would like to increase the cigarette tax. A recent study revealed that smoking related illness costs Federal and State governments $21 billion a year. The tobacco industry should help pay for those costs rather than the taxpayer. The same can be said of an ammunition tax. Gun related injuries impose a heavy cost on our health cares system and fill our emergency rooms. All of us pay those costs. It would be more appropriate for those who profit from firearms and ammunition to share in paying for the costs they impose on society than for average Americans to pay a tax on their health care plans.

My second major concern relates to the failure to include a regional cost adjustment in the formulas in this bill so that the assistance provided to individuals and small businesses is indexed to the cost-of-living in a State. Recent figures in the New York Times listed New Jersey, along with only two other States—Hawaii and Alaska—as having a cost of living which is 20 percent or more above the national average. The relative cost of living should be taken account of in providing assistance under Federal programs for citizens of each State.

I have joined with Senator LIEBERMAN in calling for indexing of certain Federal programs to take account of the cost of living in each State. Senator MOYNIHAN, the chairman of the Senate Finance Committee,

VOL
140
PT
16
AG
12
—
18
1994
UMI

is working on a proposal to introduce a cost-of-living adjustment into health care reform. I strongly support his efforts. New Jersey has suffered from a low return on our Federal tax dollar because of the relative affluence of our citizens. Adjusting Federal formulas to take into account the cost of living in a State makes sense and would help address this inequity.

Mr. President, while we debate health care policy, we have to remember that more than "policy" is involved here. People are involved. People who need health care. We all want to make sure that our families have health care, our mothers and fathers, children, and grandchildren—because everyone gets sick.

We have made enormous progress since 1943 when my father died. Now 85 percent of our population has health insurance. Our seniors have Medicare, the poor have Medicaid and many of us have private health insurance. But we have left a segment of society behind without health security. They are in the same situation my mother was in over 50 years ago. For the most part, they work, pay taxes, raise their families, and play by the rules. But they lack health care coverage through no fault of their own. They deserve better than what our current system provides.

Mr. President, I hope that at the end of this debate, Congress will approve a bill that moves us toward universal coverage and that President Clinton will sign it. It will be a great day for America. I look forward to working with my colleagues to accomplish this goal.

I yield the floor.

MORNING BUSINESS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE U.N. OFFICE OF INTERNAL OVERSIGHT SERVICES: A CRITICAL EVALUATION

Mr. PRESSLER. Mr. President, over the last several weeks, I have raised many concerns regarding the management problems at the United Nations. On July 29, 1994, the U.N. General Assembly adopted a resolution to create a reform office charged with the cleanup of U.N. management and budgetary malfeasance. Repeatedly, I have waged my concerns about this office [OIOS]. I do not believe that the OIOS will possess the independence necessary to offer true reform at the United Nations.

Recently, former U.N. Ambassador Jeane Kirkpatrick wrote an editorial in the Washington Post critical of this OIOS. I agree wholeheartedly with her assessment of the office as well as an assessment offered by the editorial board of the Washington Times newspaper. Additionally, the U.N. Association documented the events leading up to the U.N. adoption of the resolution mandating the creation of the OIOS in its weekly report. I ask unanimous consent to place these articles in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 28, 1994]

AT THE U.N., DISPENSING WITH REFORM

(By Jeane Kirkpatrick)

How, you may wonder, could an organization acquire 850 minibuses that it did not need, buy a water purification system that never worked, purchase dozens of extremely expensive computers that never were used and hire highly paid, top-level bureaucrats for nonexistent jobs?

These and dozens of similar things can happen because efficiency is not a central value at the United Nations. Reform is not popular in this culture that features high salaries and lifestyles like those of the rich and the famous.

Waste, fraud, double-dipping, overstaffing and mismanagement have dogged the United Nations from its founding. By now these practices are habits in an organizational culture that protects mismanagement in the name of multiculturalism and sees efforts at reform as hostile to the organization.

The last two Americans who made a serious effort at reform (Richard Thornburgh and Melissa Wells) were forced out of the U.N. system, their recommendations ignored, their efforts unappreciated. The report of former U.S. attorney general Thornburgh on mismanagement was shredded on the instructions of the secretary general, but a few copies survived and circulate today in Washington and New York. And of course, the abuses Thornburgh described persist.

Over the years, various parts of the U.S. government have tried various tactics to deal with the waste, fraud, mismanagement and sexism endemic in the U.N. system. In the '80s the "Kassebaum-Amendment" (by Sen. Nancy Kassebaum, R-Kan.) successfully used the threat to withhold 20 percent of U.S. regular contributions to gain some reform in the United Nations' budget-making process. It was a step, but only a step.

President Clinton made a personal appeal to the General Assembly for appointment of an independent inspector general with broad investigative powers. Clinton's long-delayed presidential decision directive on peacekeeping noted its concern that the United Nations "has not yet rectified" management deficiencies, and promised the administration would work for "dramatic" improvements in management of the U.N. system, beginning with the "immediate establishment of a permanent, fully independent office of Inspector General with oversight responsibility that includes peacekeeping."

The Clinton administration's top U.N. delegate, Ambassador Madeleine Albright, warned the U.N.'s Fifth Committee that "poor management can be the Achilles' heel of the United Nations," saying, "I cannot justify to the taxpayers of my country some of the personnel arrangements, the sweetheart pension deals, the lack of accountability, the waste of resources, the duplication of effort and the lack of attention to the bottom line that we often see around here." Of course, she was right. Such practices cannot be justified to taxpayers whose hard-earned dollars are being wasted.

Albright, too, called for establishment of an independent inspector general's office. But no serious move was made toward establishing the post until a bipartisan coalition in the U.S. Congress passed the "Pressler Amendment" (so called for its author, Sen. Larry Pressler, R-N.D.), which put teeth in the request. Failure to establish "an independent and objective office of Inspector General" by the end of July would result in the United States withholding 10 percent of its total (non-peace-keeping) contributions ($420 million) for fiscal 1994, and 20 percent in fiscal 1995.

The Pressler Amendment got the attention of the General Assembly, which negotiated a resolution it hopes will satisfy Congress. But the resolution calls for an inspector general who would not be independent. Instead the "compromise" provides for an inspector general appointed by the secretary general on the basis of geographical rotation and expertise, who will report to the Secretariat and can be fired by the secretary general with the approval of a majority of the General Assembly. It also does not give the inspector general an independent budget, or jurisdiction over all U.N. agencies or broad investigatory powers.

U.S. negotiators, it is reported, tried but failed to win greater independence for the proposed inspector general and lacked the time to achieve more.

One might have thought the General Assembly would feel the pressures of time more acutely than the U.S. team. But this team cannot bear the thought of withholding $420 million from its U.N. contributions and is acutely uncomfortable with threats of punitive action. So the Clinton team at the United Nations is doing what the Clinton administration so often does in its foreign policy: It is making major concessions to reach an agreement that does not really achieve the administration's goals, then presenting that agreement as a victory and further undermining U.S. credibility in the process.

Apparently the Clinton team would rather offend Congress than U.N. colleagues. The General Assembly's "acceptance" of the terms of the Pressler Amendment is rather like the Serbs' "acceptance" of the last peace plan for Bosnia. It offers the form but not the substance of compliance—and hopes that Congress did not really mean it.

[From the Washington Times, August 2, 1994]

HALF A NEW BROOM FOR THE UNITED NATIONS

Last year, when the United States pulled out most of our troops from Somalia, the idea was that U.N. troops would take over the task of peace keeping. That's generally the scenario these days, whether the talk be of Rwanda or Haiti. It's solution that has the appeal of promising Western powers like the United States or France a way out of a quagmire they do not particularly want to get stuck in. However, what happened in Mogadishu suggests the limitations of this approach. No sooner had the Americans turned over the operation than it was discovered that Egyptian troops guarding a U.N. depot were allowing Somalis to walk in and remove whatever objects they liked.

The instance is not an isolated one, of course. Last year, former Attorney General Richard Thornburgh produced a report on the staggering waste, fraud and corruption going on at the United Nations, based on his

stint there as undersecretary general for administration and management. Now, Mr. Thornburgh did not set out to produce this document as an enemy of the organization, but rather as someone who would like to see the United Nations saved from itself. He suggested that an important step would be to institute an office of inspector general to monitor the United Nation's many far-flung operations and vast, sprawling bureaucracy—according to the best estimates available, some 50,000 people, though no one knows for sure.

At the time, Mr. Thornburgh's recommendations did not evoke much of a response. In fact, he never received an official reply from U.N. Secretary General Boutros Boutros-Ghali. Nor was the report distributed in the organization. Most of the copies there were reportedly shredded. "This is not an institution that takes kindly to criticism," he told The Washington Times' editorial page. No, indeed.

An amendment offered by Sen. Larry Pressler, Republican of South Dakota, in July to the Foreign Operations Appropriations bill seems to have had more of an impact. Mr. Pressler proposed to withhold 10 percent of the U.S. contribution for 1994 and 20 percent for 1995 unless President Clinton by Sept. 30—the end of the fiscal year—can show that the United Nations has established an office of inspector general. Accountability for American taxpayers' money, and a lot of it, too, is what the Pressler Amendment is all about.

This Saturday, the U.N. General Assembly voted to give Mr. Pressler some of what he wanted. It agreed to establish an office of Internal Oversight Services, the head of which would serve one five-year term and hold the rank of undersecretary general.

While this is certainly a step on the right direction, it is a step that does not go far enough. A real question remains on how independent this office will be. This is not so much because, according to the resolution adopted, the inspector general can be removed by the secretary general backed by a vote in the General Assembly. Such a move, if politically motivated, would meet with an outcry from major donor nations. No, the problem is that the office will not be independently funded, but be part of the budget drawn up by the secretary general. That gives him considerable power over its operations.

It's too early for the White House to declare victory in the debate over the U.N. inspector general. If Mr. Clinton believes the United Nations to be as important as he says he does, he'll have to send his negotiators back to the bargaining table.

[From U.N. Association, Washington Weekly Report, July 22, 1994]

SENATE ADOPTS AMENDMENT RESTATING U.S. POSITION

(By Jeffrey Laurenti)

Reacting to reports to an impending breakthrough in the negotiations in New York, the Senate on 14 July adopted an amendment to the foreign assistance appropriations bill, H.R. 4426, that restates US requirements for the creation of an independent Office of Inspector General (OIG). Sen. Larry Pressler (R-SD), who led the successful effort to mandate the withholding of some US assessed contributions to the UN regular budget and peacekeeping operations unless the inspector general's office were created, told the Senate that the new post "would not be independent. This is an unequivocal violation of the language in the Foreign Relations Authorization Act (Public Law 103-236, Section 401)," he said. Pressler called on the Senate to adopt the amendment restating the US position to show that "the United States will not stand idly by while the United Nations slaps us in the face."

In a related development on the same day, Pressler and two Republican colleagues, Sen. Robert Dole (R-KS), the minority leader, and Sen. Jesse Helms (R-NC), senior minority member of the Foreign Relations Committee, dispatched a letter to US Permanent Representative Madeleine Albright insisting on a "stringent" interpretation of the criteria in the foreign relations authorization act, which they said "the terms of the draft resolution do not currently meet." According to the signers, "The terms establishing the office must demonstrate unequivocally the independence of the OIG and define clearly its specific oversight activities." They concluded, "The stakes are high, the opportunity fleeting. Without significant and immediate action to improve the efficiency of UN operations, congressional willingness to fund UN activities will diminish further."

SEEN AS CLINTON ADMINISTRATION SUCCESS

In New York, the creation of the inspector general post in the face of deep suspicion of Washington's motives was credited by many UN delegates as a significant success for the Clinton Administration. During the Negotiations, UN delegates frequently expressed exasperation over perceived divergences in positions within the United States Mission to the United Nations, and they complained of uncertainty about whether they were getting the views of the US Government or the Clinton Administration's critics on Capitol Hill. The resolution's drafters took much of its language from US law and US position papers in order to ease the certification the President is required to make to Congress.

LABOR RESEARCH CENTER CELEBRATES 10TH ANNIVERSARY

Mr. PELL. Mr. President, I would like to pay tribute today to one of the great educational and research facilities in the State of Rhode Island, the Labor Research Center at the University of Rhode Island.

This year marks the 10th anniversary of the founding of the Labor Research Center. The center is dedicated to teaching, research, and service programs on labor, the labor market, and labor relations.

In these last 10 years the Labor Research Center has flourished and is now considered one of the Nation's premier centers for the study of labor/management relations. Since its creation in 1984, the center has had 624 students enrolled for graduate courses who had previously studied at undergraduate institutions in 7 foreign countries, 14 States and Puerto Rico. The student body has included recent college graduates, government employees, managers in private enterprise, and many involved with labor unions.

The distinguished faculty, including Dr. Diane Disney, who has taken a leave of absence to serve as Deputy Assistant Secretary of Defense, research issues ranging from the working class during the Gilded Age to work/family conflict in the present day. Especially important to the creation and success of the Labor Research Center is center director and professor of industrial relations Ted Schmidt. Mr. Schmidt worked for 12 years for the creation of the Labor Research Center and continues to lead the center and provide undying support for the faculty.

In this age of budget cuts and funding reductions it is good to hear about an educational and research program that has thrived. So on this the 10th anniversary of the Labor Research Center, I commend the students and faculty on their success and thank them for the service they are doing for labor and business.

NAMING OF VETERANS' ADMINISTRATION BUILDING AFTER THE HONORABLE CLAUDE HARRIS

Mr. HEFLIN. Mr. President, I rise today in support of the bill offered by my Alabama colleague, Senator RICHARD SHELBY. This bill, which designates building No. 137 at the Tuscaloosa Veterans Center be named after the Honorable Claude Harris, Jr., deserves the full support of the Senate.

Claude Harris, Jr., was born in Bessemer, AL, attended the University of Alabama, and became assistant district attorney for Tuscaloosa at the tender age of 25. He later served as a circuit judge and was presiding judge of Alabama's sixth circuit for 1980-83. He was a practicing attorney from 1985 through 1987, when he began his first term in Congress. He is currently serving as the U.S. Attorney for the Northern District of Alabama. I would also like to add that he is a colonel in the Alabama Army National Guard, of which he has been an active member since 1967.

Congressman Claude Harris of Alabama's Seventh District retired in January, 1993, after serving in the House of Representatives for 6 years. During his three terms he accomplished much for his district and the Nation's veterans. I can safely say that Alabama's veterans know Congressman Harris to be a true friend. As an outspoken member of the House Veterans' Affairs Committee and third ranking Democrat on its Hospitals and Health Care Subcommittee, the work he did was instrumental in preserving the funding for, and enhancing the quality of veterans health care facilities.

Because of these years of service, I feel that the naming of this soon to be completed building at the Tuscaloosa Veterans Center is a fitting tribute to a great man and a great friend. I hope all my colleagues will join me in this small expression of gratitude and support this bill.

VOL
140
PT
16
AG
12
18
1994
UMI

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:37 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4907. An act to reform the concept of baseline budgeting.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1406. An act to amend the Plant Variety Protection Act to make such act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 2099. An act to establish the Northern Great Plains Rural Development Commission, and for other purposes.

S.J. Res. 153. Joint resolution to designate the week beginning on November 21, 1993, and ending on November 27, 1993, and the week beginning on November 20, 1994, and ending on November 26, 1994, as "National Family Caregivers Week."

S.J. Res. 196. Joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore (Mr. BYRD).

At 6:17 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2178) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997.

The message also announced that the House agree to the amendments of the Senate to the bill (H.R. 2815) to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4539) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President and certain independent agencies, for the fiscal year ending September 30, 1995, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two House thereon; and appoints Mr. HOYER, Mr. VISCLOSKY, Mr. DARDEN, Mr. OLVER, Mr. BEVILL, Mr. SABO, Mr. OBEY, Mr. LIGHTFOOT, Mr. WOLF, Mr. ISTOOK, and Mr. MCDADE as the managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4812) to direct the Administrator of General Services to acquire by transfer the old U.S. Mint in San Francisco, CA, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3216. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to require executive agencies to verify for correctness transportation charges prior to payment, and for other purposes; to the Committee on Governmental Affairs.

EC-3217. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the 1994 Federal Financial Management Status Report and Five-Year Plan; to the Committee on Governmental Affairs.

EC-3218. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-323 adopted by the Council on June 21, 1994; to the Committee on Governmental Affairs.

EC-3219. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of an evaluation of the pilot program of off-campus work authorization for foreign students; to the Committee on the Judiciary.

EC-3220. A communication from the Director of Communications and Legislative Affairs, Employment Opportunity Commission, transmitting, pursuant to law, the report of the Office of Program Operations for fiscal year 1993; to the Committee on Labor and Human Resources.

EC-3221. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report for fiscal year 1993; to the Committee on Labor and Human Resources.

EC-3222. A communication from the Comptroller General, transmitting, pursuant to law, the report of proposed and enacted rescissions through June 1, 1994; referred jointly, pursuant to law, to the Committee on Appropriations and to the Committee on the Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 2392. A bill to amend section 18 of the United States Housing Act of 1937, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI (for himself and Mr. MCCAIN):

S. 2393. A bill to eliminate a maximum daily diversion restriction with respect to the pumping of certain water from Lake Powell, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 2394. A bill to establish a National Physical Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports; to the Committee on Labor and Human Resources.

By Mr. RIEGLE:

S. 2395. A bill to designate the United States Federal Building and Courthouse in Detroit, Michigan, as the "Theodore Levin Federal Building and Courthouse", and for other purposes; to the Committee on Environment and Public Works.

By Mr. LOTT:

S. 2396. A bill entitled the "Affordable Health Care Now Act"; read the first time.

By Mr. SHELBY (for himself and Mr. HEFLIN):

S. 2397. A bill to designate Building Number 137 of the Tuscaloosa Veterans' Medical Center in Tuscaloosa, Alabama, as the "Claude Harris, Jr. Building"; to the Committee on Veterans Affairs.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 2398. A bill to establish the Midewin National Tallgrass Prairie in the State of Illinois and for other purposes; to the Committee on Armed Services.

By Mr. EXON:

S. 2399. A bill to promote railroad safety and enhance interstate commerce; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX:

S. 2392. A bill to amend section 18 of the United States Housing Act of 1937, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

PUBLIC HOUSING LEGISLATION

• Mr. BREAUX. Mr. President, today I am introducing a bill in the Senate that will promote the restoration and availability of affordable housing in this country in a cost-effective way. At the same time, it will protect the right of low-income tenants to affordable housing. A companion provision is included in the recently passed Housing and Community Development Act of 1994, section 124, H.R. 3838, in the House of Representatives.

The objective of this bill is to build flexibility into any day-to-day applications of the so-called one-for-one-law. The essence of the rule is that for every demolished or otherwise disposed of public housing unit a new unit must be built. In practice, in an era of prolonged scarcity in Federal funding and changing urban housing demographics, this law forces the Housing and Urban Affairs Administration [HUD], to pour large sums of money into renovating run-down public housing projects when it would be less costly in many cases to tear them down and start over. That is the case at some public housing projects in New Orleans, LA.

As described in a July 25, 1994, New York Times article by Adam Nossiter, "Rule Pumps Dollars Into Decayed Housing," the impact of the rule at a housing project in New Orleans, LA, is repeated in housing projects around the country. The article relates particularly severe problems in Newark, Cleveland, and Washington, DC. Mr. President, I ask that the full text of this article, and that the entire bill be printed in the RECORD.

According to the Times, a renovation of one New Orleans project will cost $14 million more than costs of tearing it down. But you guessed it, Mr. President, work is already underway on plans to renovate that housing project at a cost of $90 to $100 million.

Under present law, HUD is handicapped if it finds that it is more cost-effective to tear-down public housing than renovate it in its entirety. Mr. President, a law that at one time may have been necessary to preserve public housing stock, makes less sense in circumstances such as those surrounding the Desire Public Housing Project in New Orleans. Three thousand people live in a project designed for 6,000 or more; and, as reported by the New York Times, the housing vacancy rate in New Orleans, at 16.6 percent, is the highest in the country.

Mr. President, there are other reasons why HUD should hesitate to pour large sums of Federal dollars into rebuilding some housing projects. Many projects were originally built as segregated colored housing. As described by the Times, "The Desire Housing Project in New Orleans is located 2 miles east of the French Quarter, and is cut off from the city by two sets of railroad tracks, the New Orleans Industrial Canal and acres of warehouses and factories. The irony of Desire is that its location is not a desirable area for any residential community. Moreover, there were 86 murders in the complex from 1989 to 1993, more than in any of the city's other housing projects in the same period, even though some of the others are larger."

Mr. President, the chairman of the Subcommittee on Housing in the House of Representatives, Representative COLLIN C. PETERSON, visited the Desire Project this year, and I commend his legislative efforts to make the one-for-one-law effective in today's circumstances. That legislation, which I am introducing in the Senate today, is a workable solution to a very serious problem.

This bill presents carefully developed procedures that will permit a public housing agency to apply to the Secretary of HUD for approval to demolish or dispose of all or parts of a federally assisted public housing project. At the same time, its provisions will protect an adequate supply of public and affordable housing for low-income Americans. Mr. President, it also protects the right of displaced tenants to assisted relocation to decent, safe, sanitary, and affordable housing. Moreover, any public housing agency's plan to demolish or otherwise dispose of public housing must be developed in consultation with tenants and tenant councils.

Mr. President, we need this important legislation, and I urge my colleagues to join me in sponsoring this bill.

I ask unanimous consent that the accompanying article and the full text of my bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended to read as follows:

"SEC. 18. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

"(a) CONDITION OF HOUSING.—The Secretary may approve an application by a public housing agency for permission to demolish or dispose of a public housing project or a portion of a public housing project only if the Secretary has determined that—

"(1) in the case of—

"(A) an application proposing demolition of a public housing project or a portion of a public housing project, the project or portion of the project is obsolete as to physical condition, location, or other factors, and it is more cost effective to replace the project or portion of the project than to rehabilitate the project or portion of the project; or

"(B) an application proposing the demolition of only a portion of a project, the demolition will help to assure the remaining useful life of the remaining portion of the project;

"(2) in the case of an application proposing disposition of real property of a public housing agency by sale or other transfer—

"(A)(i) the property's retention is not in the best interests of the tenants or the public housing agency because—

"(I) developmental changes in the area surrounding the project adversely affect the health or safety of the tenants or the feasible operation of the project by the public housing agency;

"(II) disposition will allow the acquisition, development, or rehabilitation of other properties which will be more efficiently or effectively operated as low-income housing and which will preserve the total amount of low-income housing stock available in the community or housing sufficient to address the needs of the community as described in the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; or

"(III) because of other factors which the Secretary determines are consistent with the best interests of the tenants and public housing agency and which are not inconsistent with other provisions of this Act; and

"(ii) for property other than dwelling units, the property is excess to the needs of a project or the disposition is incidental to, or does not interfere with, continued operation of a project; and

"(B) the net proceeds of the disposition will be used for—

"(i) the payment of development costs for the replacement housing and for the retirement of outstanding obligations issued to finance original development or modernization of the project, which, in the case of scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition; and

"(ii) to the extent that any proceeds remain after the application of proceeds in accordance with clause (i), the provision of housing assistance for low-income families through such measures as modernization of low-income housing, or the acquisition, development, or rehabilitation of other properties to operate as low-income housing; or

"(3) in the case of an application proposing demolition or disposition of any portion of a public housing project, assisted at any time under section 5(j)(2)—

"(A) such assistance has not been provided for the portion of the project to be demolished or disposed of during the 10-year period ending upon submission of the application; or

"(B) the property's retention is not in the best interest of the tenants or the public housing agency because of changes in the area surrounding the project or other circumstances of the project, as determined by the Secretary.

"(b) TENANT INVOLVEMENT AND REPLACEMENT HOUSING.—The Secretary may approve an application or furnish assistance under this section or under any other provision of this Act with respect to the demolition or disposition of public housing only if the following requirements are met:

"(1) TENANT CONSULTATION AND EMPLOYMENT.—The application submitted by the public housing agency—

"(A) has been developed in consultation with tenants and tenant councils, if any, who will be affected by the demolition or disposition;

"(B) includes a plan to employ public housing tenants in construction or rehabilitation, to the extent practicable, pursuant to section 3 of the Housing and Urban Development Act of 1968; and

"(C) contains a certification by appropriate local government officials that the proposed activity is consistent with the applicable comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(2) RELOCATION ASSISTANCE.—All tenants to be relocated as a result of the demolition or disposition will be provided assistance by the public housing agency and are relocated

VOL 140 PT 16 AG 12 — 18 1994 UMI

to other decent, safe, sanitary, and affordable housing, which is, to the maximum extent practicable, housing of their choice, including housing assisted under section 8.

"(3) REPLACEMENT HOUSING.—The public housing agency has developed a plan that provides for additional decent, safe, sanitary, and affordable dwelling units for each public housing dwelling unit to be demolished or disposed of under such application or provides additional dwelling units sufficient to address the needs and demographic characteristics of the number of applicants on the waiting list of the agency equal to the number of units to be demolished or disposed of or the needs of the community, as described in the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act, which plan—

"(A) provides for the provision of such additional dwelling units through—

"(i) the acquisition or development of additional public housing dwelling units, which may be units in housing owned (or leased for a period to be determined by the Secretary) by a partnership of a public housing agency and other entity in which the agency has a controlling interest;

"(ii) the use of 15-year project-based assistance under section 8;

"(iii) in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 8 having a term of not less than 5 years;

"(iv) units acquired or otherwise provided for homeownership (including cooperative and condominium interests) by public housing residents under section 5(h), subtitle B or C of title IV of the Cranston-Gonzalez National Affordable Housing Act, or other programs for homeownership that have program requirements substantially equivalent to the requirements established under section 605 of the Housing and Community Development Act of 1987;

"(v) affordable housing homeownership units assisted under title II of the Cranston-Gonzalez National Affordable Housing Act and sold to public housing residents;

"(vi) rental units that are—

"(I) assisted under title II of the Cranston-Gonzalez National Affordable Housing Act (notwithstanding section 212(d)(2) of such Act); or

"(II) assisted under a State or local rental assistance program that provides for rental assistance over a term of not less than 15 years that is comparable in terms of eligibility and contribution to rent to assistance under section 8, except that this subclause shall only apply in cases provided under subparagraph (C);

"(vii) housing assisted by a tax credit under section 42 of the Internal Revenue Code of 1986;

"(viii) housing acquired from the Resolution Trust Corporation or the Federal Deposit Insurance Corporation;

"(ix) housing acquired under section 203 of the Housing and Community Development Amendments of 1978;

"(x) other methods of providing housing units approved by the Secretary; or

"(xi) any combination of such methods;

"(B) in the case of an application proposing demolition or disposition of 200 or more units, shall provide that—

"(i) not less than 50 percent of such additional dwelling units shall be provided through the acquisition or development of additional dwelling units or through project-based assistance; and

"(ii) not more than 50 percent of such additional dwelling units shall be provided through tenant-based assistance under section 8 having a term of not less than 5 years;

"(C) if it provides for the use of tenant-based assistance provided under section 8 or otherwise, may be approved—

"(i) only after a finding by the Secretary that replacement with project-based assistance is not feasible, and the supply of private rental housing actually available to those who would receive such assistance under the plan is sufficient for the total number of families in the community assisted with tenant-based assistance after implementation of the plan and that such supply is likely to remain available for the full term of the assistance; and

"(ii) only if such finding is based on objective information, which shall include rates of participation by owners in the section 8 program, size, conditions and rent levels of available rental housing as compared to section 8 standards, the supply of vacant existing housing meeting the section 8 housing quality standards with rents at or below the fair market rental, the number of eligible families waiting for public housing or housing assistance under section 8, and the extent of discrimination against the types of individuals or families to be served by the assistance;

"(D) may provide that all or part of such additional dwelling units may be located outside the jurisdiction of the public housing agency (in this subparagraph referred to as the 'original agency') if—

"(i) the location is in the same housing market area as the original agency, as determined by the Secretary; and

"(ii) the plan contains an agreement between the original agency and the public housing agency in the alternate location or other public or private entity that will be responsible for providing the additional units in the alternate location that such alternate agency or entity will, with respect to the dwelling units involved—

"(I) provide the dwelling units in accordance with subparagraph (A);

"(II) complete the plan on schedule in accordance with subparagraph (F);

"(III) meet the requirements of subparagraph (G) and the maximum rent provisions of subparagraph (H);

"(IV) not impose a local residency preference on any resident of the jurisdiction of the original agency for purposes of admission to any such units; and

"(V) allow that preference for admission to any such additional units may be provided to residents of the severely distressed public housing dwelling units replaced under this subparagraph pursuant to section 24;

"(E) includes a schedule for completing the plan during a period consistent with the size of the proposed demolition or disposition and replacement plan, which—

"(i) shall not exceed 6 years, except that the Secretary may extend the schedule to not more than 10 years if the Secretary determines that good cause exists to extend the implementation of the replacement plan under this subsection; and

"(ii) the demolition or disposition under the plan can occur in phases necessary to provide for relocation of tenants under paragraph (2);

"(F) includes a method of ensuring that the same number of individuals and families will be provided housing;

"(G) provides for the payment of the relocation expenses of each tenant to be displaced and ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act;

"(H) prevents the taking of any action to demolish or dispose of any unit until the tenant of the unit is relocated to decent, safe, sanitary, and affordable housing; and

"(I) permits the Secretary to intervene and take any actions necessary to complete the plan if the public housing agency fails, without good cause, to carry out its obligations under the plan.

"(c) LIMITATION ON DEMOLITION AND EXEMPTION.—

"(1) MAXIMUM PERCENTAGE.—Notwithstanding any other provision of this section, during any 5-year period a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing agency, without providing an additional dwelling unit for each such public housing dwelling unit to be demolished, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents.

"(2) SITE AND NEIGHBORHOOD STANDARDS EXEMPTION.—Notwithstanding any other provision of law, a replacement plan under subsection (b)(3) may provide for demolition of public housing units and replacement of such units on site or in the same neighborhood if the number of replacement units provided in the same neighborhood is fewer than the number of units demolished and the balance of replacement units are provided elsewhere in the jurisdiction or pursuant to subsection (b)(3)(D).

"(d) TREATMENT OF REPLACEMENT UNITS.—With respect to any dwelling units developed, acquired, or leased by a public housing agency pursuant to a replacement plan under subsection (b)(3)—

"(1) assistance may be provided under section 9 for such units; and

"(2) such units shall be available for occupancy, operated and managed in the manner required for public housing, and shall be subject to the other requirements applicable to public housing dwelling units.

"(e) APPROVAL OF APPLICATIONS.—

"(1) IN GENERAL.—The Secretary shall notify a public housing agency submitting an application under this section for demolition or disposition and replacement of a public housing project or portion of a project of the approval or disapproval of the application not later than 60 days after receiving the application. If the Secretary does not notify the public housing agency as required under this paragraph or paragraph (2), the application shall be considered to have been approved.

"(2) DISAPPROVAL AND RESUBMISSION.—If the Secretary disapproves an application, the Secretary shall specify in the notice of disapproval the reasons for the disapproval and the agency may resubmit the application as amended or modified.

"(3) ANNUAL REPORT.—The Secretary shall annually submit a report to the Congress describing for the year the applications under this section approved and disapproved, the number, general condition, and location of units demolished or disposed of, and the number, general condition, location, and method of provision of units of replacement housing provided pursuant to this section.

"(f) ACTION BEFORE APPROVAL OF APPLICATION.—

"(1) PROHIBITED ACTION.—A public housing agency shall not take any action to demolish or dispose of a public housing project or a portion of a public housing project without obtaining the approval of the Secretary and

satisfying the conditions specified in subsections (a) and (b).

"(2) ALLOWABLE RELOCATION.—A public housing agency may relocate tenants of public housing into other dwelling units before the approval of an application under this section for demolition or disposition, or prior to implementing a plan for modernization under section 14 or 24, if units to be demolished or disposed of are not decent, safe, and sanitary, or if the units to be rehabilitated cannot be maintained cost-effectively in a decent, safe, and sanitary condition.

"(g) ASSISTANCE FOR REPLACEMENT HOUSING.—The Secretary may provide assistance under this subsection for—

"(1) providing replacement public housing units pursuant to subsection (b)(3)(A) for units demolished or disposed of pursuant to this section; and

"(2) providing assistance under section 8 for replacement housing pursuant to subsection (b)(3)(A) for units demolished or disposed of pursuant to this section.

"(h) INAPPLICABILITY TO PUBLIC HOUSING HOMEOWNERSHIP PROGRAM.—The provisions of this section shall not apply to the disposition of a public housing project in accordance with an approved homeownership program under title III.

"(i) EXCEPTION TO REPLACEMENT RULE.—

"(1) REQUIREMENTS FOR WAIVER.—The Secretary shall waive the applicability of the provisions of subsection (b)(3) with respect to any application under this section by a public housing agency for the demolition or disposition of public housing dwelling units if—

"(A) the Secretary determines, based on information provided by the public housing agency in the application and the request under paragraph (2), that—

"(i) the requirements under subsection (b)(3) are preventing or interfering with the development or acquisition of new public housing dwelling units by the agency;

"(ii) the long-term goal of the agency in requesting the waiver under this subsection is to increase the number of habitable public housing dwelling units of the agency;

"(iii) maintaining and operating the dwelling units to be demolished or disposed of is not cost-effective; and

"(iv) sufficient financial assistance is not, and will not be, available to the public housing agency to rehabilitate or replace all or some of the units;

"(B) the Secretary determines that replacing the dwelling units to be demolished or disposed of under the application is unnecessary because other affordable housing is available in the area in which the units are located, and in making such determination the Secretary considers the assessment submitted by the public housing agency under paragraph (2)(C); and

"(C) the public housing agency requests a waiver under this subsection in accordance with the requirements of paragraph (2).

"(2) REQUEST FOR WAIVER.—To be eligible for a waiver under this subsection, a public housing agency shall submit to the Secretary a request for a waiver under this subsection that includes—

"(A) a comprehensive plan for demolition, disposition, and replacement that describes additional dwelling units to be made available by the public housing agency;

"(B) an identification of the dwelling units for which the waiver is requested; and

"(C) an assessment of the need of replacing such dwelling units including the unit size, age, general condition, and length of time such units have been vacant, the condition of the neighborhood in which the dwelling units are located, and the availability of dwelling units affordable to low-income families within the jurisdiction in which the dwelling units are located, during the implementation of the replacement plan.

"(3) SUBMISSION TO SECRETARY.—A request for a waiver under this subsection may be submitted at any time. The request shall be submitted to the Secretary by certified mail or any other equivalent means that provides notification to the public housing agency making the request of the date of receipt by the Secretary.

"(4) NOTICE OF DISPOSITION OF REQUEST.—Except as provided in paragraph (5), the Secretary shall notify a public housing agency requesting a waiver under this section of the approval or disapproval of the request not later than 45 days after receiving the request. If the Secretary does not notify the public housing agency as required under this paragraph or paragraph (5), the request for a waiver shall be considered to have been approved.

"(5) REQUEST FOR ADDITIONAL INFORMATION.—If the Secretary determines that more information is needed to make the determinations under paragraph (1) than has been provided by the public housing agency, the Secretary shall notify the agency in writing not later 30 days after receiving the request for the waiver that additional information is necessary. Such notice shall describe specifically the additional information required for the determinations and establish a deadline for the submission of the information by the agency, which shall be determined based on the difficulty of obtaining the information requested. If the agency submits such additional information requested before the deadline established in the notice under this paragraph, the Secretary shall notify the agency requesting the waiver that the request is approved or disapproved not later than 30 days after the submission of such additional information.

"(6) STATEMENT OF REASONS FOR DENYING OR APPROVING REQUEST.—The Secretary shall include, in each notice under paragraph (4) or (5) of the denial or approval of a request for a waiver under this subsection, the specific reasons for denying or approving the request. The denial of any request for a waiver for public housing dwelling units shall not prejudice the consideration of any other subsequent request for such a waiver for any of such dwelling units.".

RULE PUMPS DOLLARS INTO DECAYED HOUSING

(By Adam Nossiter)

NEW ORLEANS, July 25.—Roofless buildings yawning to the sky, gaping windows without glass, inside walls stripped to rough planks, outside walls pitted with holes: It isn't the emptiness of the Desire public housing development that is disconcerting, but the presence of any residents at all. About 3,000 people live in a project that was designed for more than twice that number.

In March, the Inspector General for the Department of Housing and Urban Development, Susan Gaffney, told Congress that renovating the isolated 97-acre reservation for the poor would cost $14 million more than tearing it down and starting over. Yet work is under way on a renovation plan that is expected to cost $90 million to $100 million. The housing agency has already approved the first $12 million.

The project, which is on the street immortalized by Tennessee Williams in his play "A Streetcar Named Desire," is a case study of what critics say is an irrationality of the Federal housing policy, one that has also affected cities like Newark, Cleveland and Washington. The root of the problem, the critics say, is a Federal housing agency policy that funnels large sums of money into decrepit apartments but provides little for new construction, and a law requiring that for every demolished apartment, a new unit be built, to keep the supply from dwindling.

This "one-for-one" law, as it is known, seems particularly irrational in New Orleans, which has the highest housing vacancy rate in the country, 16.6 percent, the Census Bureau says.

On Friday, the House overwhelmingly approved a bill that would revise the policy and ease the law. It would allow the demolition of the most decrepit public housing while freeing money designated for renovation to build new apartments. A housing bill is also before the Senate but it does not discuss the "one-for-one" law.

A leader in the drive for the House legislation was Representative Collin C. Peterson, Democrat of Minnesota, who toured Desire this year, and cited the project as an example of waste produced by the current policy. Mr. Peterson is the chairman of a House subcommittee on housing.

In the grim universe of decaying housing projects, Desire is "probably one of the worst in the country," a district inspector general for the housing agency, D. Michael Beard, said in a recent interview. Mr. Beard was in charge of an agency audit of the New Orleans Housing Authority completed last month.

The sprawling complex of two-story barracks-like buildings, built from 1953 to 1956, sits atop a landfill that was once a swamp. The ground is sinking beneath it, so that in many places porches have fallen away.

EXODUS BEGAN A DECADE AGO

Since the early 1980's, when Desire was almost full, residents have been moving out steadily as the project deteriorated and violence grew. The project is about 58 percent vacant. Of the 810 households there, 745 are headed by single women.

The project, two miles east of the French Quarter, is cut off from the rest of the city by two sets of railroad tracks, the New Orleans Industrial Canal and acres of warehouses and factories.

The complex was deliberately built of wooden frames, susceptible to the area's high humidity, as opposed to concrete and masonry, because the Federal Public Housing Administration, as it was known then, said it wanted to save money. It was built "as a colored project," according to the housing agency report completed last month, and only blacks still live there.

VIOLENCE AMID WRECKAGE

Today, some of the apartments look as if they have been pillaged by marauding armies. Remains of plaster walls lie heaped on rotting wood floors. Vandals have taken everything, down to the window frames and copper piping.

There were 86 murders in the complex from 1989 to 1993, more than in any of the city's other housing projects in the same period, even though some of the others are larger.

But even before the first tenants moved to Desire, a public housing tenants' association report called it a "waste of public money" and "unsafe for human habitation." Those words have echoed through the years and were heard yet again as the New Orleans Housing Authority considered the renovation.

In addition to the public housing laws, the pride of local housing officials and some of the tenants were behind the renovation.

VOL
140
PT
16
AG
12
—
18
1994
UMI

"The neighborhood should exist," said Sheila Danzey, manager of the New Orleans Housing Authority. "It's like preservationists saying these 1832 houses should exist."

Ms. Danzey also questioned the credentials of the independent consulting concern that advised against rebuilding Desire, even though it is the same one hired by her agency in 1990. The concern, EA Technical Services Inc. of Atlanta, said renovating the project was neither "viable nor feasible."

The decision by the New Orleans housing authority to push the renovation plan was essential for getting it approved by Federal officials. Yet the Federal audit of the New Orleans agency called its operations "inefficient, ineffective and uneconomical."

Joseph Shuldiner, the Assistant Secretary for public and Indian housing, said of the renovation plan, "There are legitimate questions here, but in our judgment they didn't outweigh the official policy of going along with the local request."

$12 MILLION COMMITMENT

In the first phase of the renovation, about $12 million has been awarded to the Rex K. Johnson Company, a Lampasas, Tex., concern that specialized in public housing work, to rebuild about 180 apartments. They have been redesigned as town houses, with each apartment having its own access to the street.

The overall plan calls for spending $71,000 to $78,000 for each apartment, which exceeds the housing agency's own spending limit for a new apartment by as much as 37 percent. The amount being spent to renovate each apartment could buy comfortable three-bedroom dwellings in many parts of New Orleans.

Under the renovation plan, a third of Desire's 1,800 apartments would be demolished and the rest would be gutted and rebuilt. The tenants would remain during the renovation. To conform to the one-for-one rule, for each Desire apartment demolished the housing authority will subsidize the rents for the same number of apartments.

LAW BEHIND THE REBUILDING

In 1987, the tide had long since turned against construction of big public housing projects when Congress mandated that every housing unit torn down had to be replaced with a new one. In practice, the rule forced local authorities to leave deteriorating housing projects standing.

In addition to limiting money for new constructions, the housing rules bar new developments in areas that already have large poor and minority populations. Neighborhood opposition to new public housing is often intense.

For the current fiscal year, Congress appropriated $559 million for new housing against $3.2 billion for renovation. It also appropriated $7 billion for rental vouchers to be used for private housing. But there are limits on the number of vouchers that can be used to replace housing that has been demolished.

The national landscape is littered with decaying, empty housing projects. Newark has long wanted to demolish 21 high-rise apartments. The one-for-one rule made this difficult, so the city's housing authority received $17 million in Federal housing operation subsidies for closed and sealed buildings from 1985 to 1992, enabling the authority to accumulate reserves of $31 million and "become financially sound," in Inspector General Gaffney's words.

The Cuyahoga Housing Authority in Cleveland has received $47.3 million in operating subsidies for vacant units since 1987, and the Washington authority $5.5 million in 1992.

These accounts of subsidies for empty apartments, recited in March before Mr. Peterson's subcommittee, led to the legislation passed on Friday. It would allow all local housing officials to sue up to half their renovation money for new housing. It would also allow them to ask the Federal housing agency to waive the rule requiring one new housing unit for each one demolished if it interfered with the development of new public housing.

An amendment to the bill would also allow New Orleans housing officials to use money designated for the renovation of the Desire in other ways, including renovating some of the city's many vacant dwellings for housing the Desire tenants.

The new Mayor of New Orleans, Marc Morial, who inherited the Desire renovation plan, says he supports the amendment that would give the city more discretion with its Federal housing money. He suggested that some of the $100 million may be better spent repairing the city's many abandoned houses, some of them with distinctive Creole architectural features still intact. But he said he wanted the first phase of the Desire renovation to be completed.

At Desire, there is suspicion of politicians, anger about the conditions and, in some residents, no interest at all in moving somewhere else. Charlene Slack, for one is glad to see the construction crews. "I'm happy about it," she said. "But I wish they would hurry up."

Bonnie Rodgers, vice chairman of the tenant council, said: "Don't send us somewhere else. Let us change where we live."

But others don't see much hope in change. Penny Jones stood by the rotting wood of her kitchen floor, near the bathroom where the sink was coming off the wall, and by the stairwell that looked like an elongated piece of Swiss cheese.

"I think they should tear it all down," she said. The summer heat, had aggravated the stink of the sewage beneath her building, she said. Indeed; the Atlanta consulting firm found that the "subsidence of the soil has caused continuous problems with the sewer and water systems."

There were a "million" mice in the apartment. "They need to just tear it all down and start from scratch," Ms. Jones said. "They can fix it up. I don't care. I'm going to move."●

By Mr. DECONCINI (for himself and Mr. MCCAIN):

S. 2393. A bill to eliminate a maximum daily diversion restriction with respect to the pumping of certain water from Lake Powell, and for other purposes; to the Committee on Energy and Natural Resources.

LAKE POWELL DIVERSION RESTRICTION ACT OF 1994

● Mr. DECONCINI. Mr. President, I am today introducing a bill that removes a maximum daily water diversion restriction imposed upon the city of Page, AZ, by the Reclamation Development Act of 1974. Although the bill removes the daily pumping limitation, it retains the limit on the city of Page's annual consumption amount.

I am very pleased that the bill is being cosponsored by my colleague from Arizona, Senator MCCAIN.

The city of Page receives its water solely from the Colorado River that is impounded within Lake Powell. Lake Powell is impounded behind the Glen Canyon Dam which was constructed by the Bureau of Reclamation.

The 1974 Reclamation Development Act severed the Federal Government's ownership and management of an area within the Colorado River project in Coconino County, AZ, creating a self-governing city. That city, Page, AZ, required water to survive in the desert environment. The 1974 legislation ensures that Page's water need is met by providing for an annual supply of water with a daily pumping limitation.

For a number of years after this legislation was authorized, the Bureau of Reclamation had varying degrees of responsibility and liability for operation and maintenance of the municipal water system. As the Bureau's authority was phased out, the city became responsible for all costs for the operation, maintenance, and replacement of the municipal water system beyond Glen Canyon Dam and the powerplant.

The city is concerned that they may need to exceed the daily pumping limitation during peak use periods in the summer months. As the city's population grows and national park tourism increases, this daily pumping limit will place an unrealistic burden on Page, especially during the summer season.

I urge my colleagues to give this bill serious consideration. I have been advised that the removal of this daily pumping limitation will not affect any other water users. I ask unanimous consent that the text of the bill and a letter from the Bureau of Reclamation be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF 24-HOUR RESTRICTION.

The second sentence of section 104(c) of the Reclamation Development Act of 1974 (Public Law 93-493; 88 Stat. 1488) is amended by striking "or three million gallons of water in any twenty-four hour period.".

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Salt Lake City, UT, August 12, 1994.

Hon. DENNIS DECONCINI,
U.S. Senate,
Washington DC.

DEAR SENATOR DECONCINI: Officials in Washington, D.C. reviewed the proposal with Mayor Scaramazzo of the City of Page (Page), Arizona, to eliminate the daily pumping limitation of 3,000,000 gallons per day from Lake Powell for the City of Page, Arizona imposed by subsection 104(c) of the Reclamation Development Act of October 27, 1974, (P.L. 93-493). Mayor Scaramazzo was informed that since the maximum annual depletion of 2,740 acre-feet reserved to Page will not change under the proposal, the concept does not appear to adversely affect any other user of the Colorado River, and Arizona's use of 50,000 acre-feet of annual depletion under the Upper Colorado River Basin Compact is unaffected. We have no objection to this concept.

We have reviewed the draft Bill language and it appears to match the proposed concept. However, our review should not be construed to reflect the Administration's position on the final Bill when sent to Congress.

Sincerely,

RICK L. GOLD
(For Charles A. Calhoun, Regional Director).●

● Mr. MCCAIN. Mr. President, I am in full support of the measure being introduced by my colleague from Arizona. The problem affecting the city of Page is a simple one, as is the measure we have introduced to correct it. The bill would remove the daily pumping limitation without affecting the city's overall allocation.

As my colleague noted, the city's sole source of water is a Colorado River allocation through Lake Powell. The city's enabling legislation limits the daily pumping rate from Lake Powell to 3 million gallons per day.

It is my understanding that the limitation was applied because of limitations on the Bureau of Reclamation's ability to pump at the time of enactment. However, that rationale no longer applies because the city is now responsible for both the pumping equipment and the cost of pumping water from the lake to the city.

The amendment would merely remove the daily pumping limit from the enabling legislation without affecting the city's overall allocation of Colorado River water. This is a very important point.

The Colorado River is the life blood to many communities along its path. Although it is clear that the bill will not affect other Colorado River users, we must ensure that the appropriate users are contacted and consulted. Especially, the Navajo Nation which has a significant interest in Colorado River water. Since the river is such an important resource, decisions affecting its management, even minor ones, should be discussed in an open process. I am confident that this bill is something all parties will support.

I hope my colleagues will give this measure serious consideration and that we can enact it quickly. While it is a minor change, it is one that is very important to the city of Page and its residents who depend on this vital source of water.●

By Mr. CAMPBELL:

S. 2394. A bill to establish a National Physical Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports; to the Committee on Labor and Human Resources.

NATIONAL PHYSICAL FITNESS AND SPORTS FOUNDATION ACT

● Mr. CAMPBELL. Mr. President, I am introducing legislation to establish a National Physical Fitness and Sports Foundation bill. This proposal is designed to support the President's Council on Physical Fitness.

The President's Council on Physical Fitness currently operates on a shoestring budget of $1.4 million. The establishment of a non-profit foundation would permit the Council to have an independent source of funding to expand its scope and activities. This proposal will not conflict with existing efforts to provide funding for the U.S. Olympic Committee as moneys that would flow through the corporation to the Council would not be public funds.

Once established, the National Physical Fitness and Sports Foundation would be a charitable, non-profit organization designed to encourage and promote the solicitation of private funds for the President's Council on Physical Fitness. After the deduction of administrative expenses, the foundation would annually transfer the balance of the contributions to the U.S. Public Health Service Gift Fund.

The foundation would have the following specific powers:

It could accept, receive, solicit, administer, and use any gift, devise or bequest, absolutely or in trust.

It could acquire by purchase or exchange any real or personal property or interest; and

It could enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions.

A nine-member board of directors would govern the foundation. Three board members must have experience directly related to physical fitness, sports or the relationship between health status and physical exercise. The remaining six board members would be leaders in the private sector with a strong interest in physical fitness. Ex officio members of the board would include the Assistant Secretary of Health, the Executive Director of the President's Council on Physical Fitness, the Director of the National Center for Chronic Disease Prevention and Health Promotion, the Director of the National Heart, Lung and Blood Institute, and the Director of the Centers for Disease Control.

Board members would serve for 6 years. Three board members would be appointed by the Secretary of Health and Human Services; two by the majority leader of the Senate; one by the minority leader of the Senate; two by the Speaker of the House; and one by the minority leader of the House of Representatives. The chairman would be elected by the board members to a 2-year term. No individual could serve more than two consecutive terms as a director.

Board members would serve without pay, but would be reimbursed for traveling and subsistence expenses. The board would be empowered to appoint officers and employees, once the foundation had sufficient funding to pay for their services; and adopt a constitution and bylaws. Officers and employees of the foundation could not receive pay in excess of the annual rate of basic pay in effect for Executive Level V in the Federal service.

I think that this bill will help further an important national goal—encouraging and fostering physical fitness and well-being—and I urge my colleagues to support it.

Mr. President, I also ask unanimous consent that a complete copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2394

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Physical Fitness and Sports Foundation Establishment Act".

SEC. 2. ESTABLISHMENT AND PURPOSE OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Physical Fitness and Sports Foundation (hereinafter in this Act referred to as the "Foundation"). The Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Foundation are—(1) in conjunction with the President's Council on Physical Fitness and Sports, to develop a list and description of programs, events and other activities which would further the goals outlined in Executive Order 12345 and with respect to which combined private and governmental efforts would be beneficial.

(2) to encourage and promote the participation by private organizations in the activities referred to in subsection (b)(1) and to encourage and promote private of money and other property to support those activities.

(c) DISPOSITION OF MONEY AND PROPERTY.—At least annually the Foundation shall transfer, after the deduction of the administrative expenses of the Foundation, the balance of any contributions received for the activities referred to in subsection (b), to the United States Public Health Service Gift Fund pursuant to section 2701 of the Public Health Service Act (42 U.S.C.-300aaa) for expenditure pursuant to the provisions of that section and consistent with the purposes for which the funds were donated.

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereinafter referred to in this Act as the "Board"), which shall consist of nine Directors each of whom shall be a United States citizen; and

(1) Three of whom must be knowledgeable or experienced in one or more fields directly connected with physical fitness, sports or the relationship between health status and physical exercise;

(2) Six of whom must be leaders in the private sector with a strong interest in physical fitness, sports or the relationship between health status and physical exercise. The membership of the Board, to the extent practicable, shall represent diverse professional

VOL 140 PT 16 AG 12 — 18 1994 UMI

specialities relating to the achievement of physical fitness through regular participation in programs of exercise, sports and similar activities. The Assistant Secretary for Health, the Executive Director of the President's Council on Physical Fitness and Sports, the Director for the National Center for Chronic Disease Prevention and Health Promotion, the Director of the National Heart, Lung, and Blood Institute and the Director for the Centers for Disease Control and Prevention shall be ex officio, nonvoting members of the Board. Appointment to the Board or its staff shall not constitute employment by, or the holding of an office of, the United States for the Purpose of any Federal employment or other law.

(b) APPOINTMENT AND TERMS.—Within 90 days from the date of enactment of this Act, the Directors of the Board will be appointed. The Directors shall serve for a term of six years; three of whom will be appointed by the Secretary (hereinafter referred to in this Act as the "Secretary"); two by the Majority Leader of the Senate; one by the Minority Leader of the Senate; two by the Speaker of the House of Representatives; one by the Minority Leader of the House of Representatives. A vacancy on the Board shall be filled within sixty days of said vacancy in the manner in which the original appointment was made, and shall be for the balance of the term of the individual who was replaced. No individual may serve more than two consecutive terms as a Director.

(c) CHAIRMAN.—The Chairman shall be elected by the Board from its members for a two-year term and will not be limited in terms or service.

(d) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and the vacancy filled in accordance with subsection 3(b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation, subject to the same limitations on reimbursement that are impose upon employees of Federal agencies.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provision of this Act. In establishing bylaws under this subsection, the Board shall provide for policies with regard to financial conflicts of interest and ethical standards for the acceptance, solicitation and disposition of donations and grants to the Foundation; and

(C) undertaking such other acts as may be necessary to carry out the provisions of this Act.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for Executive Level V in the Federal service.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who (I) shall serve, at the direction of the Board, as its chief operating officer, and (II) shall be knowledgeable and experienced in matters relating to physical fitness and sports.

(C) No Public Health Service employee nor the spouse or dependent relative of such an employee may serve as an officer or member of the Board of Directors or as an employee of the Foundation.

(D) Any individual who is an officer, employee, or member of the Board of the Foundation may not (in accordance with the policies developed under subsection 3(g)(1)(B)) personally or substantially participate in the consideration or determination by the Foundation of any matter that would directly or predictably affect any financial interest of the individual or a relative (as such term is defined in section 109 (16) of the Ethics in Government Act of 1978) of the individual, of any business organization or other entity, or of which the individual is an officer or employee, or is negotiating for employment, or in which the individual has any other financial interest.

SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several State, territories, and possessions of the United States;

(3) shall have its principal offices in or near the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation. The serving of notice to, or service of process upon, the agent required under paragraph 4(a)(4), or sailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its purposes under section 2, and subject to the specific provisions thereof, The Foundation shall have the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) except as otherwise provided herein, to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom.

(4) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except for gross negligence;

(5) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(6) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

(d) DEFINITIONS.—For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

SEC. 5. VOLUNTEER STATUS.

The Foundation may accept, without regard to the civil service classification laws, rules, or regulations, the services of volunteers in the performance of the functions authorized herein, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

SEC. 6. AUDIT, REPORTING REQUIREMENTS AND PETITION TO ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the act entitled "An Act for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (Public Law 88–504, 36 U.S.C. 1101–1103, the Foundation shall be treated as a private corporation under Federal law. The Inspector General of the Department of Health and Human Services and the Comptroller General of the United States shall have access to the financial and other records of the Foundation, upon reasonable notice.

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Secretary of the Department of Health and Human Services and to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation:

(1) engages in, or threatens to engage in, any act, practice or policy that is inconsistent with its purposes set forth in section 2(b); or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threaten to do so; the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized such sums as are necessary to carry out the purposes of this Act. Provided that, such sums are only available to the Foundation for organizational costs.●

By Mr. RIEGLE:

S. 2395. A bill to designate the United States Federal Building and Courthouse in Detroit, Michigan, as the "Theodore Levin Federal Building and Courthouse," and for other purposes; to the Committee on Environment and Public Works.

THE THEODORE LEVIN FEDERAL BUILDING AND COURTHOUSE ACT OF 1994

● Mr. RIEGLE. Mr. President, I introduce legislation which officially designates the U.S. Federal Building and Courthouse in Detroit, Michigan, as the "Theodore Levin Federal Building and Courthouse."

Theodore Levin was a man of high morals and exemplary dedication. Born in Chicago in February 1897, he received a bachelor of law degree from the University of Detroit in 1920 and was admitted to the bar.

In the years that followed, Theodore Levin worked to preserve the integrity of the law through his numerous public appointments. In 1933, he was selected to serve as special assistant attorney general of Michigan to conduct grand jury proceedings relating to the closing of Michigan banks. During the Second World War, he was a member of the State Selective Service Appeals Board. And, in July 1946, President Harry Truman nominated Theodore Levin to the U.S. District Court for the Eastern District of Michigan.

Theodore Levin served the bench with fortitude, distinction, and honor. He was recognized and respected for the effort he made to ensure unbiased sentencing practices. Adamantly opposed to the disparity he saw in sentences given for similar crimes, he developed sentencing councils in the Eastern District of Michigan and encouraged groups of judges to join. These councils contributed greatly to achieving equity in sentencing.

Throughout his life, Theodore Levin was committed to the good and welfare of the community. He offered leadership to the people of Detroit in his service at the Detroit Community Fund, the Council of Social Agencies, the Big Brother Conference, the United Health and Welfare Fund of Michigan, and the Detroit Round Table of Catholics, Jews, and Protestants. He served as a member of the board and as president for the United Jewish Charities of Detroit, was chairman of the executive committee and president of the Jewish Welfare Federation of Detroit. Further, he was an active member of the board of trustees of the Jewish Publication Society of America, and served on the board of the National Council of Jewish Federations.

Theodore Levin's service was honored in 1961 with a doctor of laws degree from Wayne State University, and, in 1970, he was awarded a doctorate of humane letters by Hebrew Union College.

In 1925, he married Rhoda Katzin and together they had three sons a daughter. Theodore Levin was a noble man who, until his death in 1970, devoted his life to his family and to his work.

Mr. President, I am pleased to introduce this bill today honoring this remarkable man and his life. I urge my colleagues to join me in paying tribute to Theodore Levin by moving promptly to enact this bill, officially naming Detroit's Federal building and courthouse after him.●

By Mr. SHELBY (for himself and Mr. HEFLIN):

S. 2397. A bill to designate Building No. 137 of the Tuscaloosa Veterans' Medical Center in Tuscaloosa, AL, as the "Claude Harris, Jr. Building"; to the Committee on Veterans' Affairs.

THE CLAUDE HARRIS, JR. BUILDING ACT OF 1994

● Mr. SHELBY. Mr. President, I introduce legislation that designates building No. 137 which will soon be completed at the Tuscaloosa Veterans' Medical Center in Tuscaloosa, AL as the Claude Harris, Jr. Building. I am jointed by the senior Senator from Alabama.

My good friend and colleague Claude Harris, who is currently the U.S. attorney for the Northern District of Alabama, represented the people of the Seventh District of Alabama for three terms in the House of Representatives. While in the House, Representative Harris served with eminent distinction on the Committee on Veterans' Affairs and became an expert on issues that affect both veterans and the Armed Forces.

Mr. President, I had the pleasure to serve the people of the Seventh Congressional District for four terms before being elected to the Senate. I was also a member of the Committee on Veterans' Affairs and can truly appreciate all that Claude Harris accomplished for veterans in Alabama and across America. Claude, who has risen to the rank of colonel in the Alabama National Guard, is a true friend of all veterans and richly deserves this honor.●

By Mr. EXON:

S. 2399. A bill to promote railroad safety and enhance interstate commerce; to the Committee on Commerce, Science, and Transportation.

RAILROAD GRADE CROSSING SAFETY ACT OF 1994

● Mr. EXON. Mr. President, I am pleased to introduce the Railroad Grade Crossing Safety and Research Act of 1994.

Most deaths and injuries which occur in the rail industry are as a result of trespassers and motorist violation of railroad grade crossing laws. About 600 people a year die as a result of railroad crossing accidents and about 600 people a year die as a result of trespassing on railroad property.

An automobile and a train collide once about every 90 minutes in the United States. In 1992 approximately 2,500 people were either killed or seriously injured as a result of railroad grade crossing accidents.

This is one area of death and injury which is preventable. The bill I introduce today is meant to complement the rail safety legislation I introduced at the administration's request earlier this year. I intend to recommend that the Senate Commerce Committee approve this legislation, the Rail Safety Act and rail crossing legislation introduced by Senator DANFORTH earlier this year as a single comprehensive rail safety initiative.

The legislation I introduce today is in response to surface transportation hearings I chaired earlier this year. Those hearings indicated that although significant progress has been made in reducing the number of rail-related deaths, there is still room for improvement, especially when it comes to grade crossing safety.

States and local governments must be encouraged to enforce their laws against grade crossing violations and must be encouraged to finally close crossings. The split jurisdiction between the Federal Highway Administration, the Federal Rail Administration, States, local governments, and railroads has led to a gridlock of responsibility. This legislation, particularly when combined with the two bills I mentioned earlier and the administration's grade crossing safety initiative currently before the Senate Public Works Committee will shatter that gridlock.

It is time to make the places where rails meet roads safer for rail workers, drivers, pedestrians, and industry. The legislation I introduce today has that goal in mind.

Mr. President, these are the highlights of the Railroad Grade Crossing Safety and Research Act. This important legislation: First, establishes an Institute for Railroad and Grade Crossing Safety to research, study, and test improvements in railroad and grade crossing safety devices. There is no clear procedure to test the effectiveness of new crossing devices. The Institute will research, develop, fund, and test measures for reducing the number of fatalities and injuries in rail operations and focus on railroad grade crossing improvements, trespassing prevention and enforcement;

Second, requires the Secretary to coordinate a trespassing and vandalism prevention strategy with Federal, State and local governments as well as the private sector;

Third, establishes a maximum $5,000 civil penalty for vandalizing a railroad grade crossing device, a maximum $2,500 penalty for trespassing on railroad right-of-way, and encourages the railroads to warn the public of potential liability to deter illegal and dangerous acts;

Fourth, provides for the establishment of a toll-free 800 number for the public to report crossing malfunctions;

Fifth, prohibits local whistle bans unless certain grade crossing improvements or actions have been taken;

Sixth, requires the Secretary of Transportation to initiate a rulemaking on rail car visibility;

Seventh, makes grade crossing safety, trespass prevention, and vandalism prevention Department of Transportation research priorities; and

Eighth, establishes a statewide crossing freeze combined with a trade-in program where States are required to trade in up to three old crossings for every new crossing built after the effective date of the regulations required by this legislation.

I encourage my colleagues to review this legislation and welcome their support.

Mr. President, I ask unanimous consent that the text of the Railroad Grade Crossing Safety and Research Act be printed in the RECORD.

VOL
140
PT
16
AG
12
—
18
1994
UMI

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Grade Crossing Safety and Research Act of 1994".

SEC. 2. INSTITUTE FOR RAILROAD AND GRADE CROSSING SAFETY.

The Secretary of Transportation (hereinafter Secretary), in conjunction with a university or college having expertise in highway driver and railroad safety, shall establish within one year of enactment of this Act, an Institute for Railroad and Grade Crossing Safety (hereinafter Institute). The Institute shall research, develop, fund, or test measures for reducing the number of fatalities and injuries in rail operations. The Institute shall focus on improvements in railroad grade crossing safety, railroad trespass prevention, prevention of railroad vandalism, and the improved enforcement of laws in such areas. There is hereby authorized to be appropriated an additional $1,000,000 for each of the fiscal years 1996 through 2000 for the Institute, which will make periodic reports to the Secretary of Transportation and the Congress.

SEC. 3. RAILROAD GRADE CROSSING, TRESPASSING AND VANDALISM PREVENTION STRATEGY.

(a) Not later than one year after the date of enactment of this Act, and in consultation with affected parties, the Secretary shall evaluate and review current local, State, and Federal codes regarding trespass on railroad property and vandalism affecting railroad safety and develop model prevention and enforcement codes and enforcement strategies for the consideration of State and local legislatures and governmental entities.

(b) Within one year of enactment of this Act, the Secretary shall develop and maintain a comprehensive outreach program to improve communications among Federal railroad safety inspectors, Federal Rail Administration-certified State inspectors, railroad police, and State and local law enforcement, for the purpose of addressing trespass and vandalism dangers on railroad property, and strengthening relevant law enforcement strategies. This program shall increase public and police awareness of the legality of, dangers inherent in, and the extent of, trespassing on railroad right-of-way, to develop strategies to improve the prevention of trespass and vandalism, and to improve the enforcement of laws relating to railroad trespsss, vandalism, and grade crossing safety.

(c) For purposes of this Act, a trespasser is defined as a person who is on that part of railroad property used in railroad operations and whose presence is prohibited, forbidden or unlawful.

SEC. 4. CIVIL PENALTY FOR VANDALISM.

Not later than six months after the date of enactment of this Act, the Secretary shall amend the Secretary's regulations under section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) to make subject to a civil penalty of up to $5,000 under such Act any person who defaces, disables, damages, vandalizes or commits any act that adversely affects the function of any railroad grade crossing related signal system, sign, gate, device, sensor, or equipment.

SEC. 5. CIVIL PENALTY FOR TRESPASS ON RAILROAD PROPERTY.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall amend the Secretary's regulations under section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) to make subject to a civil penalty of up to $2,500 under such an Act any person who trespasses on a railroad owned or railroad leased right-of-way, road, or bridge.

SEC. 6. WARNING OF CIVIL LIABILITY.

The Secretary shall permit and encourage railroads to warn the public about potential Federal civil liability for violations of Federal regulations related to vandalism of railroad crossing related devices, signs, and equipment and trespass on railroad property.

SEC. 7. WHISTLE BAN PROHIBITION.

Upon the date of enactment, no State or political subdivision thereof shall impose a whistle ban with respect to any railroad grade crossing or series of railroad grade crossings unless one of the following actions has been taken:

(a) The affected crossing is closed during the pendency of the ban;

(b) Crossing gates and median barriers have been installed and are operational at the affected crossing;

(c) Four quadrant gates have been installed and are in operation at the affected crossing;

(d) An automated horn system crossing device has been installed; or

(e) The Federal Rail Administrator has granted specific, time-limited permission for such ban.

SEC. 8. RAIL CAR VISIBILITY.

(a) The Secretary shall conduct a review of the Department of Transportation's rules with respect to rail car visibility. As part of this review, the Secretary shall collect relevant data from operational experience of railroads having enhanced visibility measures in service.

(b) Not later than June 30, 1996, the Secretary shall initiate a rulemaking proceeding to issue regulations requiring substantially enhanced visibility standards for newly manufactured and remanufactured rail cars. In such rulemaking proceedings the Secretary shall consider at a minimum—

(1) visibility from the perspective of automobile drivers;

(2) whether certain rail car paint colors should be prohibited or required;

(3) the use of reflective materials;

(4) the visibility of lettering on rail cars;

(5) the effect of any enhanced visibility measures on the health and safety of train crew members; and

(6) the ratio of cost to benefit of any new regulations.

(c) In issuing regulations under paragraph (b), the Secretary may exclude from any specific visibility requirement any category of trains or rail operations if the Secretary determines that such an exclusion is in the public interest and is consistent with rail safety including railroad grade crossing safety.

(d) As used in this subsection, the term "railcar visibility" means the enhancement of driver, pedestrian, and railroad worker ability to observe trains consistent with public safety with particular consideration of enhancing safety at railroad grade crossings.

SEC. 9. STATEWIDE RAILROAD GRADE CROSSING FREEZE.

Not later than two years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to issue regulations which:

(a) impose a freeze on the total number of railroad grade crossings in each State of the United States of America;

(b) after the effective date of the regulation require any new railroad grade crossing opening to receive the specific approval of the Federal Rail Administrator;

(c) require that unless otherwise in the public interest, or necessary to facilitate interstate commerce, three existing railroad grade crossings be closed in the requesting State for each new railroad grade crossing opened after the effective date of this regulation.

(d) permit the Federal Rail Administrator to waive the application of this regulation once a State has achieved significant and sufficient reductions in the total number railroad grade crossings or has an optimal number of railroad grade crossings for the entire State.

SEC. 10. RESEARCH PRIORITIES.

The Secretary of Transportation shall incorporate the enhancement of railroad grade crossing safety, the prevention of trespassing on railroad property, and the prevention of vandalism to railroad grade crossing safety devices, signs, and equipment into the research, technology development, and testing priorities of the Department of Transportation. In carrying out activities authorized by this Act, the Secretary shall consult with such other governmental agencies concerning the availability and affordability of appropriate technologies, especially defense related technologies for application to railroad crossing safety, trespass and vandalism prevention and other rail safety initiatives.

SEC. 11. EMERGENCY NOTIFICATION OF GRADE CROSSING PROBLEMS.

TOLL FREE TELEPHONE NUMBER.—The Secretary of Transportation shall designate not later than one year after the date of enactment of this Act, and thereafter maintain an emergency notification system utilizing a toll free "800" telephone number that can be used by the public to convey to railroads, either directly or through public safety personnel, information about malfunctions or other safety problems at railroad-highway grade crossings.●

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. DECONCINI, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 359, a bill to require the Secretary of Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 1329

At the request of Mr. D'AMATO, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

S. 1677

At the request of Mr. HATFIELD, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 1677, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

S. 2068

At the request of Mr. PRESSLER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 2068, a bill to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes.

S. 2183

At the request of Mrs. HUTCHISON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2272

At the request of Mr. DECONCINI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2272, a bill to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes.

S. 2273

At the request of Mr. HOLLINGS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2273, a bill to reduce Government spending by $100,000,000,000 each fiscal year until a balanced Federal budget is achieved.

S. 2283

At the request of Mr. SHELBY, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2283, a bill to amend title XVIII of the Social Security Act to provide for coverage of prostate cancer screening and certain drug treatment services under part B of the Medicare Program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such screening and services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer.

S. 2347

At the request of Mr. SASSER, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2347, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution.

S. 2380

At the request of Mr. METZENBAUM, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2380, a bill to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that the fans will be able to enjoy the remainder of the baseball season, the playoffs, and the World Series.

SENATE JOINT RESOLUTION 178

At the request of Mr. DOMENICI, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to proclaim the week of October 16 through October 22, 1994 as "National Character Counts Week."

SENATE JOINT RESOLUTION 209

At the request of Mr. COCHRAN, the names of the Senator from Maine [Mr. MITCHELL] and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 209, a joint resolution designating November 21, 1994, as "National Military Families Recognition Day."

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

AMENDMENT NO. 2404

At the request of Mr. EXON the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Amendment No. 2404 intended to be proposed to S. 1822, a bill to foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

AMENDMENT NO. 2561

At the request of Mr. DODD the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of Amendment No. 2561 proposed to S. 2351, an original bill to achieve universal health insurance coverage, and for other purposes.

ADDITIONAL STATEMENTS

BUILDING FOR PEACE

● Mr. MACK. Mr. President, the Middle East peace process has progressed at a truly unbelievable pace over the course of the past year. We were all moved when Israeli Prime Minister Yitzhak Rabin and PLO Chairman Yasser Arafat came to the White House last September 13 to sign the historic Declaration of Principles.

Since then, agreements have been signed between Israel and the PLO on April 29 to coordinate their economic relationships and on May 4 to facilitate Israeli withdrawal from Jericho and Gaza. The agreements with the PLO set the stage for King Hussein to come to Washington to sign an agreement ending Jordan's state of belligerency with Israel.

Talks are underway to determine if Israel will be able to reach an agreement with Syria. Hopefully, these talks will eventually lead to another historic signing in Washington.

Mr. President, these diplomatic accomplishments are great and will, hopefully, set the stage for real peace in the region. But diplomatic agreements can only provide the outlines of peace. The real test will come in the daily lives of the people who live there. Israeli citizens and Palestinians and Jordanians must see that the peace will benefit their daily lives for this process to have any hope of ultimate success.

To a large degree, this will be measured in improvements in the well-being of the lives of these people. The first step in this will be to improve the economic conditions and create stability and prosperity in the territories.

Two steps have been undertaken to accomplish these goals.

First, those nations with a stake in this peace process, led by the United States, have pledged funds to the Palestinian Authority to help them build infrastructure projects—roads, telecommunications, housing, waste removal systems and water projects.

Second, efforts are underway to assist the Palestinians to build their private sector. We must focus upon the private sector so that the Palestinians do not come to rely in the long-term upon international contributions. They must be able to develop their own business ventures capable of providing meaningful employment for their people.

Only when the underlying socio-economic discontent is addressed at the grassroots level, can the peace process flourish. Without the basic dignity that jobs provide, people could easily continue to fall prey to the wishes of extremists.

A new organization called Builders for Peace was established last November in order to promote these economic objectives. This nonprofit organization was set up to foster relationships between the United States and Palestinian commercial communities.

Builders for Peace is an important contribution to help develop the economy of the region and assist in the overall peace process.

Builders for Peace is a unique organization. It has two copresidents, former Congressman Mel Levine and Dr. James Zogby, the president of the Arab-American Institute. These two former adversaries are now working together to promote American investments in the Palestinian territories.

The organization has boards of directors and advisers comprised of leaders of the American-Arab and Jewish communities. Again, many of these people have been adversaries for years and now they are also working together.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Builders for Peace has helped to stimulate a number of projects that will soon be underway. These projects will serve as tangible evidence of the support for the peace process by the American private sector.

Mr. President, Builders for Peace is an organization that deserves our support, just as it has the support of this administration, the Israel Government, and the PLO leadership.

Its potential to assist the peace process is enormous and I hope that the Congress will lend its support to these endeavors.●

AFFORDABLE HEALTH CARE NOW ACT—S. 1533

● Mr. LOTT. Mr. President, I would like to take this opportunity to introduce a refined version of the Affordable Health Care Now Act. I ask to include an analysis of the changes made in S. 1533.

The material follows:

CHANGES IN S. 1533

Language providing clarification and additional standards governing purchasing groups.

Eliminate pre-existing condition exclusion if employee elects coverage when first eligible.

Update insurance reform language, moving away from rating band approach to community rating and using basically the consensus standards developed by the insurance industry, large and small. Include language allowing discounts for wellness programs, etc.

Require small employers of 50 or fewer employees who self-insure to have re-insurance (stop-loss) policies. Allow small self-insuring employers to be included in state-established risk adjustment programs.

Require insurance companies currently serving the individual market to serve all individuals.

Include "patient protection" standards for managed-care plans.

Increase funding for rural care programs.

Eliminate the Federal retirement age increase section of the bill.

Standards for long-term care.

Allow Medicare recipients a greater choice of health plans.

Establish marketing standards setting forth information insurance companies must make available regarding their plans.

Adjustments in anti-trust reform language.

Eliminate the following tax breaks for long-term care: Tax-free exchanges of life insurance for LTC policies. Use of IRA and 401(k) funds for LTC insurance. Permit exclusion for accelerated death benefits.

Limit SSI and Medicaid for resident aliens.

Repeal duplicative vaccine program.

Limit SSI for drug abusers.

Extend current law setting Medicare Part B premiums to cover about 25% of average benefits (sunsets in 1999).

Extend current law requirements for Medicare secondary payers (sunsets of 1996).

Establish a program of assistance for low-income individuals, to be operated through the states. Priority will be given to children from families below 185% of poverty, pregnant women below 150% of poverty, and other individuals below 150% of poverty, in that order. Federal assistance would amount to approximately $90 billion over 10 years and would be financed by the offsets in the bill plus a 25% reduction in disproportionate share payments.

AFFORDABLE HEALTH CARE NOW ACT

IMPROVED ACCESS TO AFFORDABLE HEALTH CARE COVERAGE

I. All employers must offer, but are not required to pay for, insurance to their employees.

II. Small group insurance reform:

A. Insurers must offer small employers standard and catastrophic plans with an actuarial value range as determined by the National Association of Insurance Commissioners. They may also offer a Medisave Plan.

B. Small ground is defined as employers with between 2-50 employees.

C. Risk pools would be established to spread insurer risks.

III. Employee Insurance Security:

A. Employees cannot be excluded from insurance coverage because of preexisting conditions.

B. Employees are assured of continued insurance coverage when changing jobs.

IV. Promoting More Affordable Insurance Coverage:

A. Increase tax deductions for the self-employed to 100% and provide deductions for employees who purchase their own insurance.

B. Exempt all group health plans from state benefit mandates.

C. Prohibit state restrictions on managed care.

D. Establish standards and incentives for multi-employer insurance purchasing groups.

E. Eliminate current IRS regulatory barriers which prevent employer groups from being able to offer tax-exempt health insurance.

V. Family Medical Savings Accounts (Medisave).

VI. Reforming Medicaid:

A. Permit states to utilize private insurance for Medicaid beneficiaries.

B. Permit uninsured people to buy-in to the Medicaid program, with graduated subsidies up to 200% of poverty.

VII. Expansion of Community Health Center Program.

VIII. Expanded Rural Health Care Services.

IX. Long-term Care.

HEALTH CARE COST CONTAINMENT

I. Malpractice Reform.

II. Administrative Reform:

A. Streamlined Paperwork.

B. Electronic Billing.

C. Merge Medicare Parts A and B.

III. Anti-trust Reforms.

IV. Anti-fraud provisions.

V. State Medicaid flexibility.

THE AFFORDABLE HEALTH CARE NOW ACT, S. 1533, REAL REFORM, THE COMMONSENSE WAY

IMPROVES ACCESS TO AFFORDABLE HEALTH CARE COVERAGE

Insurance Security:

Employees are assured access to affordable health insurance through their employer.

Employees cannot be excluded from insurance coverage because of pre-existing conditions.

Employees are assured of continued insurance coverage when changing jobs.

Bridges the gap for low-income workers and early retirees by allowing States to establish group insurance plans available for purchase, with subsidies for the low income.

Promoting More Affordable Insurance:

Encourages and makes it possible for employers to obtain affordable health coverage through group purchasing arrangements.

Requires insurers who sell in the small group market to offer health plans, including a Standard Plan, Catastrophic plan, and a Medisave plan, to all companies who employ 2 to 50 employees. These plans must meet a minimum coverage level as determined by the National Association of Insurance Commissioners.

Limits the insurance premium rate variations charged to small businesses and will limit the annual increases in insurance premium rates.

Encourages group purchasing arrangements by easing paperwork and other regulatory burdens and by eliminating the current IRS regulatory barriers which prevent employer groups (the American Farm Bureau, for example) from being able to offer health insurance.

Tax Fairness:

Increases the tax deduction for self-employed individuals to 100 percent from 25 percent.

Provides 100 percent tax deductibility of the cost of health insurance premiums for all individuals who purchase their own insurance.

Medical Savings Accounts (Medisave):

Allows tax-free deposits to Medisave Accounts to reimburse medical expenses and pay for a long-term catastrophic, Medigap and Medicare premiums.

Reforming Medicaid:

Permits states to use private insurance for Medicaid beneficiaries.

Permits families with incomes up to 200 percent of poverty to buy-in to the Medicaid program.

Expands the Community Health Center Program as the disadvantaged Americans will have access to vital preventive and primary care.

Expands Rural Health Care Services:

Improves emergency medical services in rural America.

Establishes Rural Emergency Access Care Hospitals.

Expands Long Term Care Options.

Provides the same tax benefit for long term care insurance as for other insurance plans.

Allows Americans, the option of using IRA's, 401(k) plans, and life insurance—tax free—to purchase long term care insurance.

Allows states to offer seniors asset protection plans.

PUTS THE BRAKES OF SKYROCKETING COSTS

Reforms the Malpractice and Product Liability System to limit frivolous lawsuits, adequately compensate victims, and reduce defensive medicine costs.

Requires Administrative Reforms to establish a single, standard claim form and encourage the development electronic billing.

Increases enforcement of current laws and closes loop-holes to prevent medical fraud and abuse.

Creates personal Medical Savings Accounts, integrated into the insurance system, that allow you and your doctor to determine the most appropriate course of treatment.

Allows States to establish managed care plans for Medicaid beneficiaries.

Reforms antitrust laws to allow sharing of facilities and equipment by providers, thus reducing overhead.●

MEASURE READ THE FIRST TIME—S. 2396

Mr. LAUTENBERG. Mr. President, I understand that S. 2396, the Affordable Health Care Now Act, introduced earlier today by Senator LOTT, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. Mr. President, I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2396), entitled the "Affordable Health Care Now Act."

Mr. LAUTENBERG. Mr. President, I ask now for its second reading; and, on behalf of the Republican leader, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

ORDERS FOR TOMORROW

Mr. LAUTENBERG. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Wednesday, August 17; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator BENNETT recognized to speak for up to 10 minutes and Senator CAMPBELL for up to 5 minutes; and that at 10 a.m., the Senate resume consideration of S. 2351, the Health Security Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M

Mr. LAUTENBERG. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 10:12 p.m., recessed until Wednesday, August 17, 1994, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 16, 1994:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JORGE M. PEREZ, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1998, VICE NINA BROCK, TERM EXPIRED.

STATE JUSTICE INSTITUTE

JOSEPH FRANCIS BACA, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995, VICE JAMES DUKE CAMERON, TERM EXPIRED.

ROBERT NELSON BALDWIN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1998, VICE CARL F. BIANCHI, TERM EXPIRED.

JENNIFER CHANDLER HAUGE, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1998, VICE SANDRA A. O'CONNOR, TERM EXPIRED.

FLORENCE K. MURRAY, OF RHODE ISLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995, VICE MALCOLM M. LUCAS, TERM EXPIRED.

THE JUDICIARY

ELAINE F. BUCKLO, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE JOHN A. NORDBERG, RETIRED.

DAVID H. COAR, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE ILANA DIAMOND ROVNER, ELEVATED.

ROBERT W. GETTLEMAN, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE JOHN F. GRADY, RETIRED.

PAUL E. RILEY, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3383:

To be colonel

THOMAS J. ANDERSON, 430-80-0692
AUGUST A. BAILEY, 439-72-8870
RONALD A. BAKER, 213-42-1210
KENNETH PENTTILA, 516-52-0067
EDWARD ZGLENSKI, 166-36-4838

CHAPLAIN CORPS

To be colonel

STEPHEN R. BARTELT, 387-48-9775
JUNIOR J. BRELAND, 460-74-8234
RICHARD N. MAUGHAN, 433-86-7262

MEDICAL CORPS

To be colonel

RICKY D. WILKERSON, 482-66-2923

MEDICAL SERVICE CORPS

To be colonel

THOMAS C. HEINEMAN, 500-48-2574
ROY D. MCKINNEY, 231-60-3480

To be lieutenant colonel

ROBERT B. MORGAN, 411-68-0675

To be lieutenant colonel

DOUGLAS B. BOCK, 310-60-7368
RITA M. BROADWAY, 510-60-0473
FREDERICK G. BROMM, 362-46-6354
PHILLIP R. BURCH, 308-48-8233
MICHAEL W. COLBERT, 029-36-7768
JOHN D. CULP, 335-40-0036
CRAIG DEUTSCHENDORF, 365-54-4041
MICHAEL R. EYRE, 072-44-9396
CLARENCE C. FREELS, 412-86-9643
THOMAS E. GORSKI, 361-36-2614
MICHAEL C. GRAY, 418-60-7932
ELLIS E. JOHNSON, 414-80-0518
GARY W. JONES, 426-98-3492
WILLIAM C. JONES, 451-96-9665
WILLIAM KIRKLAND, 227-94-4541
JAMES E. LOUIS, 435-80-1781
CHARLES F. LUCE, 208-36-4670
RICHARD L. NORMAN, 447-42-9596
PHILLIP G. PICCINI, 120-40-3007
ALFRED E. POOLE, 420-64-7262
JAMES W. RAFFERTY, 123-44-9483
DALE P. SAYSET, 328-44-0063
MATTHEW STALLINGS, 487-56-5614
RICHARD M. TABOR, 327-40-7175
JOHNNY R. TREVINO, 451-64-6804
JAMES W. UTLEY, 414-60-8884

VETERINARY CORPS

To be lieutenant colonel

MARK D. MARKS, 317-58-7793

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3383:

To be colonel

MICHAEL FOSS, 531-44-7113
TERRENCE J. NELSON, 495-52-0246
PAUL M. SHINTAKU, 586-03-3344
ROBERT R. SIMMONS, 109-36-2950
CLIFFORD W. WHALL, 132-36-5512
GLENN K. YOUNG, 576-58-6689

ARMY NURSE CORPS

To be colonel

SARAH L. GILES, 417-66-3972
CHRISTINE A. WYND, 292-52-9363

To be lieutenant colonel

TERRY K. CORSON, 517-54-0746
REBECCA A. COULTER, 585-58-7648
SHANNON L. GOMES, 547-76-2819
DENNIS R. KAI, 549-02-7699
BRADFORD M. KARD, 555-58-4280
JERRY L. LAND, JR., 306-58-7289
GREGORY W. LEONG, 576-52-0581
JAMES B. MALLORY, 252-02-5058
JOHN C. MCCORMICK, 425-82-2674
SHARON MIYASHIRO, 576-54-6266
STANLEY SHURMANTINE, 494-54-4011
JAMES B. TAYLOR, JR., 422-64-1060
JOSE USON, JR., 575-78-0677

VOL 140 PT 16 AG 12 — 18 1994 UMI

EXTENSIONS OF REMARKS

PASS THE CRIME BILL: KEEP THE ASSAULT WEAPONS BAN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mrs. MALONEY. Mr. Speaker, earlier today, I was privileged to stand side by side in New York City with the Attorney General of the United States, Janet Reno, the Governor of New York, Mario Cuomo, the police commissioner of New York City, William Bratton, the U.S. attorney for the southern district, Mary Jo White, and our colleague CHUCK SCHUMER, to urge the House to pass the omnibus anticrime bill with the ban on assault weapons.

I want to congratulate Attorney General Reno for her strong fight to pass the crime bill. She came to a town meeting I hosted in Manhattan way back on Valentine's Day to promote the anticrime legislation. As I said back then, what better Valentine's present could she give to New York than safer streets for ourselves and our children?

Clearly, in New York and across the country, guns and crime are out of control. Most New Yorkers have feared for their lives at one time or another.

A few years ago, three armed thugs broke into my home, physically attacked my daughter, my husband, and me, and put a cold knife to my back. We escaped that attack with our lives. Others have not been so lucky.

We remember all too well the horrible massacre on the Long Island Rail Road. It was carried out by a crazed man with an assault weapon that the crime bill would ban.

Crime is so bad that one of New York's daily newspapers publishes a daily count of how many of our citizens were shot and killed the day before. This year, 621 have been gunned down. Five people were killed just yesterday. One was a 13-month old infant while he slept in his mother's arms.

But last week, the House turned a deaf ear to those victims and their families by rejecting the Federal crime bill on a procedural vote. The crime bill contained an assault weapons ban and more than $850 million in Federal aid to New York City to fight and prevent crime. After 12 years of declining Federal aid to the cities under previous administrations, this crime bill is undoubtedly the best piece of Federal legislation for my city in more than a decade. And I want to congratulate Mayor Giuliani for putting partisan politics aside and recognizing that in our Nation's cities, fighting crime is simply job No. 1.

Thanks in part to the mayor's input, the crime bill would provide millions of dollars to upgrade police equipment and computer systems that will allow more cops to get out from behind desks and into our streets, and will cover overtime costs.

The crime bill will provide millions for new prison construction. This will ensure that the bill's "truth in sentencing" provision can be enforced so prison will not be a revolving door. The bill will root out crime with prevention programs, including keeping schools open after hours and on weekends, and providing job training and job creation in high crime areas.

To fight domestic violence, the bill will fund the Violence Against Women Act.

Mr. Speaker, some people say that the crime bill needs to be changed so that it will pass. Some have suggested stripping the assault weapons ban out of it. But I think this bill does not need to change. It is Congress that needs to change. It is time to send a message to criminals and the NRA and pass the crime bill as it is.

It would be a crime to vote against it.

LENA HICKMAN, OLDEST LADY LONGHORN AT 100

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. PICKLE. Mr. Speaker, last week Mrs. Lena Hickman passed away at 100 years of age. She was preceded in death a few years ago by Judge John E. Hickman, who served as a Texas Supreme Court Justice.

Judge and Mrs. Hickman have made an indelible mark on Austin's history. For over 80 years, this lovable couple has influenced the life of citizens directly and individually. He was chief justice of the Texas Supreme Court, and Lena Hickman graduated from the University of Texas where she excelled at sports and later became an outstanding teacher.

Enclosed is an article from the Austin-American Statesman.

OLDEST LADY LONGHORN, HICKMAN, DIES AT 100

(By Rebecca Thatcher)

Lena Hickman, the widow of Texas Supreme Court Justice John Hickman and a University of Texas basketball and tennis player in the 1910s, died Sunday after a short illness. She was 100.

Hickman—who had been heralded as the oldest living Lady Longhorn—was a friendly, outgoing woman who stayed active until her last days, said a friend, Nancy Young.

More than 300 people, including UT Women's Athletics Director Jody Conradt, celebrated her 100th birthday at a party in March at the UT School of Law.

"She loved young people. That's why, I think, she stayed so young." Young said. "She gave totally and unselfishly of herself."

Hickman was the official greeter at University United Methodist Church for many years, said another friend, Joan Holtzman.

Holtzman said she met Hickman while looking for a church after moving to Austin in 1949. Holtzman said she thought many members of the church joined because of Hickman's greetings, as she did.

"She was just a wonderful person," Holtzman said. "People of all ages just admired and respected and loved her."

Young said she remembered how Hickman, who moved to the Westminster Manor retirement center about 15 years ago, had a retirement party for her Oldsmobile at the center.

The party was on Groundhog Day, and the guests were asked to bring pictures of their former cars or, in some cases, their old horses and buggies, Young said.

"She loved to have a good time, and she loved for people to have a good time," Young said.

Hickman was born in Waxahachie in 1894. She grew up in Dallas and attended UT, where she lettered in tennis and basketball.

After graduating in 1915, she taught school in Dallas until she married John Hickman, then a Breckenridge lawyer, in 1923.

They moved to Austin when he was appointed to the Supreme Court in 1935. He retired in 1961 and died a year later.

The couple had no children.

Services will be at 1 p.m. Tuesday at University United Methodist Church, with the Rev. J. Charles Merrill officiating. Hickman will be buried in the State Cemetery.

Memorial contributions may be made to the Lena and John E. Hickman Scholarship Fund, UT School of Law, Austin, 78712, or University United Methodist Church, 2409 Guadalupe St., Austin, 78705.

VILLAGE OF RED HOOK, NY, CELEBRATES 100TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. SOLOMON. Mr. Speaker, the village of Red Hook will celebrate its 100th year of incorporation on August 20.

A promotional pamphlet written in 1894 described the area as "a land of plenty this, where health and good living reign," and where "the air is light, clear, and invigorating."

Mr. Speaker, that still describes Red Hook, one of the most delightful, picturesque, and historically rich communities in mine or any other district in the country.

Nestled along the Hudson River in the northeast corner of Dutchess County, Red Hook is a village filled with quaint houses and historic churches. It's a virtual museum of American architecture.

And though we may have come a long way from the days when a week at the Red Hook Hotel cost as little as $6, Red Hook has retained its small-town look and the small-town virtues which have made America great. Despite its small-town character and despite its quiet country charm, Red Hook still has access to every conceivable convenience.

On July 17, 1894, an election was held to determine whether Red Hook was to be incorporated as a village. Of the 195 votes cast, 138 voted for incorporation, 56 against, with 1 blank. On August 21, the same voters returned to the polls to elect a president, two trustees, a treasurer, and a collector. Two days later, the village board met for the first time and elected a clerk.

The first village president was Dr. Harris L. Cookingham. The title of president was changed to mayor in 1928.

Mr. Speaker, I ask all members to join me in wishing the village of Red Hook and all its residents all the best as it begins its second century.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HONORING GARY E. STRONG

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. BAKER of California. Mr. Speaker, public service is a unique calling, one deserving of the highest standards of professional competence and dedication. These attributes are found to an unusual degree in California's State Librarian, Gary E. Strong.

Gary Strong has served the people of my home State since 1980 as State Librarian. As he moves on to serve the people of New York as director of the Queens Borough Public Library, his remarkable career in the Golden State has included many highlights that merit acknowledgment. A few of these achievements include:

Initiation of the California State literacy campaign, now functioning in 84 libraries statewide;

Passage of the Library Construction and Renovation Bond Act and the California Library Services Act;

Creation of the California Research Bureau;

Establishment of 81 California Library Campaign programs;

Service as a consultant to the Library of Congress.

He has been committed to innovative, long-range programs designed to make libraries more user-friendly for all of California's citizens. First appointed by Governor Jerry Brown and reappointed by Governor Pete Wilson, his service has transcended partisan allegiance and has been devoted to helping ordinary Americans discover the life of the mind and the renewal of the spirit in the printed word.

Recognized by his peers for his stellar accomplishments, he is a distinguished alumnus of the University of Michigan School of Library Science and has been a leader in the American Library Association for years.

Mr. Speaker, on behalf of the people of California, it is my great pleasure and privilege to recognize Gary Strong in the CONGRESSIONAL RECORD. A public servant of the first order, his service will be as missed in California as it will be valued in New York.

TRIBUTE TO DON AND MONA RUSSELL ON THEIR 50TH WEDDING ANNIVERSARY

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. DICKS. Mr. Speaker, I rise today in honor of a very happy occasion. On August 1, Don and Mona Russell of Tacoma, WA celebrated their 50th wedding anniversary. Don and Mona have made their home in Tacoma since 1971 when Don retired from the U.S. Army at Fort Lewis, where he was the executive officer of the 3d Armored Cavalry Regiment.

Don Russell had a distinguished Army career of more than 30 years. He served his country in Europe during World War II and at posts in the United States and Korea. He served two tours in the 3d Armored Cavalry Regiment while the unit was in Germany in the 1960's and led the planning and operations for the smooth and efficient redeployment of the regiment to Fort Lewis during Operation Reforger in 1969. For his service in the regiment and at Fort Lewis, Don was awarded the Legion of Merit upon his retirement. After leaving active duty, Don attended Pacific Lutheran University where he earned a master's degree, and he subsequently became a teacher and counselor at schools in the Tacoma area. He was a valued faculty member until his second retirement not many years ago.

Mona Russell also served the United States in uniform. Following completion of studies for a bachelor's degree at the University of Illinois at Champaign, she joined the Women's Army Corps. It was during wartime service in Italy that she met Don Russell, who brought a wounded comrade to the hospital at which she was on duty. After a wartime courtship, they were married in Italy on August 1, 1944, 50 years ago.

The end of the war and brought a short stint in civilian life, and then Don re-entered the Army. Mona turned to the task of raising their young sons, Barry and Brian, while the Army moved the family to posts in the United States and Germany. Like many Army wives of the day, she carried more than her share of the family burden while Don was on duty in Korea. Following Don's Army retirement, Mona re-entered the workforce, fulfilling various duties in the transportation office at Fort Lewis.

Mr. Speaker, Don and Mona Russell have been outstanding members of the Tacoma community for more than 20 years. It take great pleasure in bringing to the attention of my colleagues in the House their story of citizenship, service to our Nation and our community, and their strong family commitment.

OBSERVANCE OF THIRD ANNIVERSARY OF UKRAINIAN INDEPENDENCE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. LEVIN. Mr. Speaker, on August 24, 1991, the Parliament of Ukraine ended 300 years of autocratic rule by proclaiming the independence of Ukraine and establishing itself as a separate nation. The enormity of this endeavor, and subsequent ratification of the proclamation by 90 percent of Ukraine's population, cannot be understated. Over 50 million Ukrainians finally knew the freedom Americans have long enjoyed.

This August 21, I will join my Ukrainian neighbors in Warren, MI, for an observance of the third anniversary of this historic event. The Ukrainian Cultural Center will be the site of a festive celebration of liberty in Ukraine, and I will be honored to be a part of that celebration.

I urge the entire U.S. Congress to take a moment to recognize the independence of Ukraine. It is a rare opportunity to honor a country that has overcome Communist domination and established itself as a full partner in the world's free-market economy.

Mr. Speaker, it is truly remarkable that a society burdened by communism for the last nine decades has not lost one iota of its cultural pride and heritage. And those Ukrainians who have chosen to make their home in the United States have embraced and promoted their ancestral culture, while contributing to America's ethnic diversity.

Mr. Speaker, I am pleased to have the opportunity to recognize both the anniversary of Ukraine's independence and honor the activities of Ukrainian-Americans.

SALUTE TO HONOLULU FIREFIGHTERS

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. ABERCROMBIE. Mr. Speaker, I rise today to recognize the important contribution the Honolulu Fire Department has made to promote safety in our community. National studies show that young children along with the elderly constitute the group at highest risk to fatalities caused by fires. The Honolulu Fire Department has developed a unique program to reach children and educate them about fire safety.

Recognizing the role that schools play in reaching young people, the Honolulu Fire Department Fire Fighter Safety Guide [FFSG] promotes fire safety through a planned, pictorial program originating at the elementary grade school level. The FFSG Program, originated and implemented in 1985, reaches approximately 150,000 students each year. The FFSG is designed to foster education, awareness, and pride in a fire safe environment. The primary focus is to encourage all parents, students, and teachers to draw up a fire escape plan for their homes and learn about fire prevention and response.

Prior to Fire Prevention Week in October of each year, FFSG's are distributed by firefighters to all private and public Hawaii elementary schools. Teacher distribute and explain the FFSG's to students. Students then design an escape route from their homes and indicate assembly points outside of their homes for accountability of family members.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Parents assist children in drawing escape plans and sign them before submittal to teachers, who add their signatures of approval.

Each school administrative coordinator notifies the nearest fire station when all the guides are complete, compiled, and ready for pickup. Included with the completed guides is the name of one finalist per class per grade selected by the teacher to be represented for a special student grand prize drawing. Selection of the finalist is based on completeness of the escape plan, correct answers, and coloring ability.

Firefighters review the 150,000 FFSG's with a special interest toward the student's fire escape plan, affix a signature of approval, and attach an FFSG Award poster. The poster is bordered by 18 free incentive coupons by various sponsors. Free airline tickets, admission to museums and restaurants, and redeemable coupons are provided to every student that completes the FFSG.

The Honolulu Fire Department's Fire Fighter's Safety Guide has proven to be the most effective fire safety project for the State of Hawaii. Cases of children being responsible for saving their families and neighbors from fire, due to fire safety awareness, have been documented in Hawaii. In addition, the awareness of children and their families has reduced fire hazards and prevented fires entirely.

Again, I commend the Honolulu Fire Department for their efforts to promote safety and save lives in this ninth year of the FFSG Program. From myself and all the citizens of Hawaii I want to recognize and salute the Honolulu Fire Department's achievements.

A TRIBUTE TO DANFORD B. CRANE

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. BILBRAY. Mr. Speaker, I rise today to pay homage to a man revered by myself, the Mormon Church, and the Las Vegas community. Danford B. Crane moved to Las Vegas at the age of 28 and as one of the founding pioneers of Las Vegas, he became involved in missionary work for the church. Upon his arrival in Las Vegas, Mr. Crane apprenticed at a barbershop in the old Apache Hotel and later opened three of his own barbershops on East Charleston Boulevard, Second Street, and Fifth Street. Mr. Crane's true passion was for the Mormon Church and after becoming bishop of the first ward, he later went on to be appointed as a counselor in the Las Vegas stake presidency to supervise the work of several local wards. Later, Mr. Crane became a patriarch in the Las Vegas stake which permitted him to bestow special blessings on members of the church. He and his wife, Lila, who passed away in 1991, visited St. George, UT, weekly for 7 years to work at the Mormon Temple. Mr. Crane's charity and service work also includes several years of work for the Boy Scouts Club in Las Vegas. Danford Crane's attributes of loyalty and service to the community will be sorely missed and I appreciate this opportunity to honor him in the RECORD.

COMMEMORATING THE THIRD ANNIVERSARY OF THE INDEPENDENCE OF UKRAINE

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. CARR. Mr. Speaker, next Wednesday marks the third anniversary of the declaration of Ukrainian independence. This is an occasion for great celebration in this large and ancient European nation, which had been denied self-rule for nearly 300 years.

The newly independent Ukraine encompasses an area and population larger than Poland, Hungary, and the former Czechoslovakia combined. The people of Ukraine have their own distinct and rich language and culture, which they have proudly preserved through the many years of Russian, Polish, Hapsburg, and Soviet rule. Ukrainian Americans have also kept that language and culture very much alive in this country, a constant reminder to each of us of the value of treasuring our own heritage.

As the fourth year of Ukrainian independence begins, we must renew our Nation's commitment to helping this young country strengthen its democratic institutions and its free market economy. The transition from Soviet Republic to independent democracy is not an easy one. As a nation fervently committed to freedom and democracy, we must continue to help Ukraine grow and flourish.

I ask you to join me today in celebrating the third anniversary of Ukrainian independence, as Ukrainian Americans all across our own great country celebrate the unique culture which they have treasured and preserved, and which once again has a place to call home.

HUMAN RIGHTS IN UKRAINE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. HOYER. Mr. Speaker, Ukraine, one of the most important countries in Europe today, is in the midst of a profound transition from a colony of a multinational empire to a full-fledged state. One relatively bright spot, despite considerable political and economic difficulties, has been in the critical area of respect for human rights.

By all standards, human rights are much more widely respected now than they were during Soviet rule, and citizens generally are free to speak, act and believe as they see fit. The Government's positive attitudes and policies toward its minorities have kept Ukraine from facing the kinds of interethnic conflicts that plague so many other countries in the region. Despite this real progress, however, there are several issues that cast a cloud over Ukraine's generally positive record.

Ukraine's newly elected President Leonid Kuchma has issued an anticrime edict, similar to that of Russia's President Yeltsin, which violates international human rights standards and basic notion of due process and fairness. Under the edict, which is in effect until January 1, suspects who have not been charged with a crime may be held in custody for up to 30 days. This is especially troubling in the context of a criminal justice system that already has serious problems. A recent review of criminal procedures by the General Procuracy of Ukraine, for example, pointed to numerous procedural violations, including that of 250 detained individuals whose cases have not come to trial for at least 18 months.

Mr. Speaker, I am deeply concerned about the recent appointment of Volodymyr Radchenko as Interior Minister. Mr. Radchenko, a lieutenant-general in Ukraine's Security Services, served in the KGB; in the 1970's, he interrogated several notable political prisoners, including some members of the Ukrainian Helsinki monitoring group. While reputed to be tough on crime, an obviously critical issue in Ukraine and virtually all post-Soviet countries today, Radchenko's appointment in a country where the rule of law is not yet deeply rooted cannot help but raise flags of concern for the direction that Ukraine is set on.

Mr. Speaker, on August 24, Ukrainians worldwide will celebrate the third anniversary of their declaration of independence. Against great odds, and confounding its detractors, Ukraine is not only surviving as a state but, with new leadership, increasingly confronting its many challenges. It is my hope that as Ukraine works to overcome the legacy of the past, its leadership will remember both the importance of human rights in crushing the Soviet empire and in building a genuinely democratic and prosperous state.

TRIBUTE TO DAN RAMIEREZ

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. PACKARD. Mr. Speaker, I rise today to pay tribute to a truly outstanding athlete, Mr. Dan Ramierez of Oceanside, CA. Mr. Ramierez recently competed at the U.S. Olympic Festival in St. Louis. He won a gold medal in the 105.5 pounds freestyle wrestling event.

Mr. Ramierez has competed in numerous national competitions. His career is distinguished with such accolades as finishing second at the University National Competition in 1994, finishing third at the University National Competition in 1993, finishing sixth in the U.S. Open in Las Vegas, NV, finishing third in the 1993 Olympic Festival, and finishing seventh in the California State Championships. Further, he is a two time Master Champion and a university PAC–10 qualifier.

Mr. Dan Ramierez will complete his undergraduate university education at California State University Fullerton this May. He will graduate with a B.S. degree in business. I commend Dan for his achievements thus far and wish him the best in his future endeavors.

Mr. Speaker, I hope you and my colleagues will join me in recognizing the accomplishments of Dan Ramierez. It is my sincere belief that Mr. Ramierez will further distinguish himself in the sport of wrestling. I join friends and family who salute him.

1994 ENVIRONMENTAL EDUCATION AWARDS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. MILLER of California. Mr. Speaker, a broad public appreciation of the importance of sound environmental policies has grown up in America over the past quarter century. Despite the rhetoric and partisan efforts of late to stigmatize environmental policy—by calling it antiproperty, antijobs, and bad for the economy—most Americans rightly reject this narrow point of view. In fact, as the recent survey by Roper for Times-Mirror indicates, a clear majority of Americans continues to place a high priority on enactment and enforcement of sound environmental policies, and also believes—correctly—that a strong economy and a well-managed environment can proceed mutually.

Americans believe in the importance of environmental policy because they have seen, first hand, the effects of ignoring air pollution, of destroying forests and wetlands, of allowing hazardous and toxic materials to run into our rivers and streams. They want the magnificence of our natural resources to be protected for the enjoyment and the use of future generations. They want a responsible and managed use of our resources, and they strongly support recycling and environmentally friendly products.

We must also assure that those future generations understand and appreciate the critical importance of sound environmental policies. And that was why, in 1990, I introduced the National Environmental Education Act, which was passed by Congress and signed into law by President Bush. A national policy and goal for environmental education was set, and the national environmental education and training foundation was created to join the efforts of the private and public sectors.

The National Environmental Education and Training Foundation supports proactive environmental education projects to leverage existing resources and bring focus to the diffuse environmental education world. With grant money the Foundation receives from the Environmental Protection Agency's Office of Environmental Education, challenge grants are made to encourage the private sector to participate in environmental education. The environmental education and training activities funded by the Foundation are intended to be innovative and to increase the current levels of environmental knowledge.

The Foundation has funded more than $2,000,000 in environmental education programs since its inception. In their 1994 spring grant cycle a total of $960,826 in matching grants were awarded. Today, I would like to give recognition to the organizations awarded grants and submit their names into the CONGRESSIONAL RECORD.

I know that all Members wish to join me in commending the National Environmental Education and Training Foundation for its efforts.

Matching grant (dollars)	
	Colorado Environmental Education Master Plan, Colorado Alliance for Environmental Education, Denver, CO
78,000	Project CROAK!, Metropolitan School District of Perry Township, Indianapolis, IN
75,426	Neighborhood Environmental Leadership Institute, Citizens Committee for New York City, New York, NY
75,000	Earth Service Corps: Environmental Education and Action, YMCA Earth Service Corps, Seattle, WA
75,000	Urban Environmental Education and Training Program, Clean Air Council, Philadelphia, PA
60,000	Satellite Delivery of Environmental Education for Professionals, National Technological University, Fort Collins, CO
60,000	Rural Education on Non-point Pollution, Utah State University, Logan, UT
60,000	Business Environment Learning and Leadership (BELL), Management Institute for Environment and Business, Washington, D.C.
50,000	Solar Energy Research & Demo Project, Rising Sun Energy Center, Santa Cruz, CA
48,000	Environmental Career Orientation, Foundation for Youth, Columbus, IN
40,000	High School for Environmental Studies, Council on the Environment of New York City, New York, NY
40,000	Waste Reduction Demonstration Project, Harlem Environmental Impact Project, New York, NY
40,000	Wonders of Wetlands (WOW!) Training Program, Environmental Concern Inc., St. Michael's, MD
38,000	Project CEE (Culture, Environment, & Education), Prescott College, Prescott, AZ
30,000	The Urban Education Project, Denver Audubon Society, Denver, CO
25,000	Windows on the Wild, World Wildlife Fund, Washington, D.C.
25,000	Octobus-2 Outreach Program, Friends of Cabrillo Aquarium, San Pedro, CA
24,000	Multi-Cultural & Urban Environmental Education, North American Association for Environmental Education, Washington, D.C.
20,000	Toxic Fingerprints, Alliance for Acid Rain Monitoring (ALLARM), Dickinson, PA
15,000	Green Gardens, Alliance for Community Education, Bowie, MD
10,000	To The River, Anacostia Watershed Society, College Park, MD
10,000	National Envirothon, NC Association of Soil and water Conservation Districts, Raleigh, NC

WHAT MAKES AMERICA GREAT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. SKELTON. Mr. Speaker, often, we wonder about the greatness of our country and what makes America what it is. An intern in my office, John Carr, composed an essay entitled, "What Makes America Great." He was assisted by two other interns, Sean Fahey and Julie Gibson. I am convinced these young people will, in their day and time, add their full measure to our country. I commend this essay to the Members of this body:

WHAT MAKES AMERICA GREAT?

How did it happen? Why is it that the United States—from more than 130 nations—has come to possess the greatest society in the history of human civilization? A society which has not only endured, but continues to progress through decades of unparalleled world transformation. Quite simply, we earned it.

The people of America possess a unique spirit . . . a gleam in the eye which is not found anywhere else in the world. It is a Show-Me-Attitude. Show-me what needs to be done and move aside. It is this reason why we, as Americans, have constructed the greatest civilization in the history of the world. President John F. Kennedy was correct when he stated, "after the dust of centuries has passed over our cities, we, too, will be remembered not for our victories or defeats in battle or in politics, but for our contribution to the human spirit."

Personally, I believe our contribution to the human spirit has been, and will continue to be manifested through our unique American character. This character has been forged by centuries of hardwork and dedication. This effort has not been, nor will it be in the future, easy.

A few people in America today assume that a productive and enjoyable life should be easy. I can assure you that such is not the case. The hardy pioneers who settled my home state of Missouri, did not emerge from the wilderness to find the fields cleared and planted—the cabins built and stocked. What they did find was a wild land of promise and excitement. Years of intense labor . . . produced for their children and grandchildren fields which were cleared and planted—cabins which were built and stocked. But from our greatest sacrifices come our greatest accomplishments.

Examine the early history of our country. The summer of 1776—The Founding Fathers, gathered in Philadelphia, expressed the ideals and spirit of the most enlightened human beings of their time. With an understanding of the tremendous importance of the experiment which was about to begin, the founders of this nation established a government based on the rule of law—not men—which guaranteed for the first time basic, fundamental human rights.

The spirit which charted the course of Democratic government for the world also challenged American men and women to great achievements in all endeavors—health, science, government, and space . . . reflected in names such as Walter Reed and Clara Barton, the Wright Brothers, Amelia Earhart, Andrew Jackson and Harry Truman, John Glenn and Neil Armstrong.

Americans are free to pursue and enjoy the essence of the human spirit—OPPORTUNITY. Immigrants—by the millions—from

VOL 140 PT 16 AG 12 — 18 1994 UMI

the far reaches of every continent—flocked to this land of opportunity in search of the "American Dream." . . . the hope that dedication and achievement would be rewarded with the simple betterment of life. They, and we, succeeded.

Our contributions to the human spirit have been immeasurable. For more than 218 years, America has served not only as an example, but an inspiration to the rest of the world. Why? Because our individual liberties, thwarted only by the guidance of our conscience, have sparked periods of achievement and innovation never before imagined. From the settlement at Jamestown—to the lab of Thomas Edison—to the beachhead on the shores of Normandy—to the launch pad at Cape Canaveral—Americans have protected, maintained, and advanced.

With the European discovery of the New World, to the exploration of the western frontier, to the 49'er goldrush, this land was explored and settled by individuals dedicated to the betterment of their nation, community, family, and themselves. Never has a country been settled by such a diverse mix of individuals and families united by the quest for a better life.

The proof of our tenacity is in the pudding. Take, for instance, the troops at Valley Forge. Camped during the winter of 1777, hundreds of Continental soldiers voluntarily endured extreme hardship—below-zero temperatures, lack of shoes and blankets, outbreaks of pneumonia, shortages of food—their one goal the establishment of a fair and equitable government for their families and their neighbors.

The Homestead Act. Passed in 1862 during the heart of the War Between the States, this Act provided the anxious pioneers an opportunity—to west with your family, settle a piece of land, and you could keep it. Thousands of Americans took advantage of this opportunity, wrought with extreme hardship, to provide their families with a better life. The classic story of Laura Ingalls—a childhood favorite—provides a moving recollection of one such journey.

Indeed, the Westward Movement was what made our nation unique. The conquering of the western frontier was a different kind of struggle, a movement without parallel in world history. Nowhere else has an area of equal size been settled in so short a time entirely as a result of quiet courage and initiative of small groups.

America is about taking risks, taking bold steps. At times, these risks have led to failure. We, as a nation, have many faults, many shortfalls. But the only thing worse than failing is not to have tried. Teddy Roosevelt said it best: "Far better is it to dare great things . . . than to take rank with those poor spirits who neither enjoy much nor suffer much, because they live in the gray twilight that knows not victory nor defeat."

EVERETT HUTCHINSON—SERVED THREE PRESIDENTS

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. PICKLE. Mr. Speaker, the dedicated life of Everett Hutchinson, the first Deputy Secretary of Transportation, has enriched in the lives of every citizen of our country.

During his years of service as Commissioner of the Interstate Commerce Commission and later as Chairman of the ICC, followed by his appointment as Deputy Secretary of the Department of Transportation and finally as a prominent attorney of Washington, DC, Everett Hutchinson has been one of Washington's leading attorneys, as well as been a generous public servant and civic leader.

My friendship with this good man goes back to my University of Texas days when I was fortunate to be associated with Everett Hutchinson, as well as his energetic and dynamic wife, Elizabeth Stafford Hutchinson. Together these two individual have been prominent citizens of the Washington community for over 40 years.

An evening with Everett Hutchinson is an experience of history, literature and high humor. There just hasn't been a better man born than Hutch, as we affectionately called him, and it is a good feeling to know that this graduate of the University of Texas would be recognized by Presidents Eisenhower, Kennedy, and Johnson. Hutch was old reliable, a steadfast individual, and Elizabeth Hutchinson has been the Pearl Mesta of our town.

Mr. Speaker, I am attaching the program from the services of this good man held on Sunday, April 10, 1994 at St. Alban's Episcopal Church, Washington, DC.

EVERETT HUTCHINSON

Everett Hutchinson, 79, a partner since 1968 in the Texas law firm of Fulbright & Jaworski L.L.P., who served three Presidents in various capacities, died of a heart attack April 6, 1994, at his home in Bethesda, MD. A native of Hempstead, Waller County, Texas, who received his B.B.A. and J.D. degrees at the University of Texas, Hutchinson was appointed by President Lyndon Johnson as the first Deputy Secretary of Transportation when the Department was created in 1967. He was president of the National Association of Motor Bus Owners at the time of the appointment. Prior to his assignment with the motor bus industry, Hutchinson served as Commissioner of the Interstate Commerce Commission for 10 years, first appointed by President Eisenhower in 1955, and became Chairman of the ICC in 1961, under President Kennedy.

In April, 1961, President Kennedy appointed Hutchinson a member of the Administrative Conference of the United States. In 1962, he was appointed to the President's Special Committee to study passenger transportation in the Boston-Washington corridor and later served on the High Speed Ground Transportation Advisory Committee. In October, 1961, he headed the U.S. Delegation to the International Conference on River Navigation in Paris, France.

Hutchinson served in the United States Navy during World War II, including active service in the South Pacific, and held the rank of Captain, U.S. Naval Reserve (Ret.), as a Judge Advocate. He was a member of the 1941 and 1943 sessions of the Texas Legislature and, in July, 1949, was appointed Assistant Attorney General of Texas. Hutchinson was president of the Texas Breakfast Club in 1970 and was 1964–65 president of the Texas State Society of Washington.

While at the University of Texas he was a member of Friars, a group which annually honors the eight outstanding members of the senior class. As a member of Sigma Phi Epsilon Fraternity, "Hutch" was inducted into its Hall of Fame in 1981.

Survivors include his wife of 49 years, Elizabeth Stafford Hutchinson; a son, Stafford, of Dallas, Texas; a daughter, Ann Hutchinson Slattery of Corpus Christi, Texas; a granddaughter, Chantal Slattery of Corpus Christi, Texas; and a sister, Mrs. Lois H. Cullen of Houston, Texas.

CLINTON'S MILITARY: HOLLOW, AND POOR

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. SOLOMON. Mr. Speaker, I submit for the record a June 12 New York Times article which describes how poverty is invading the ranks of our Nation's military. Listen to these disturbing facts: Three-quarters of our enlisted people earn less than $30,000 a year, and the gap between military and civilian pay is increasing. Last year, use of food stamps at military commissaries increased by $3 million, more than a 10-percent increase over 1992. In certain regions and within certain subgroups, the picture is far worse. For instance, 45 percent of Army enlisted and 46 percent of Marine Corps enlisted earn less than $20,000 a year. And in Liberty County, GA, near Fort Stewart, 30 percent of the households receiving food stamps are military.

These facts have the military leadership very worried, Mr. Speaker, and with good reason. A force that faces such increasing economic problems is bound to be afflicted by declining morale and too rapid a turnover rate. This situation is a direct threat to readiness, Mr. Speaker.

And what has been the Clinton administration's response to this? A proposed military pay freeze. Yes, the Clinton administration tried to freeze military pay this year and proposed only a 1.6-percent increase for next year. Fortunately, Congress had the foresight and sense of fairness to rebut the administration and approve a 2.2-percent increase, which itself is inadequate.

Mr. Speaker, it is high time we stop the slide toward a 1970's, Jimmy Carter-style force. Recent defense budgets are simply inadequate to maintain the force size and structure we need to continue our global leadership role. They are simply inadequate to maintain our equipment in safe and battle-ready condition. They are simply inadequate to keep our forces honed, trained, and ready. And they are simply inadequate to retain the highest quality personnel we can find. As this article points out, even honor, patriotism, adventure, and specialized training cannot overcome the necessity of feeding one's family.

We are going hollow, Mr. Speaker, and that is why I intend to vote "no" on this week's DOD authorization conference report.

NATIONAL CONFERENCE ON RESEARCH SYNTHESIS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. BROWN of California. Mr. Speaker, through my years in Congress, I have become convinced that many of our Nation's serious problems are social and behavioral in nature. The problems that most concern the public, and take most of our tax dollars, often have no technical solutions but rather human solutions which must be developed through working with the ability and attitudes of the people involved. Consequently, greater knowledge of behavioral and social sciences is a true necessity.

More work in these disciplines can give us important insights into the solutions for many of the social problems that have eroded American society. Progress in these sciences could make a great difference to those in Washington responsible for the public policies and programs that seek to create more opportunity and improve the human condition in America.

We cannot escape the fact that social and behavioral research is funded almost exclusively by the Federal Government. At the same time, this research is often costly because gathering data from large numbers of people is expensive. It goes without saying that we have to do everything possible to get the greatest return possible from funds invested in these areas.

Within the social and behavioral sciences, the developing field of research synthesis has particular potential. Through its focus on reworking original data already gathered and developed by multiple previous research efforts, research synthesis can often deliver more powerful and useful conclusions. By re-evaluating previously developed data in different ways—even from studies that appear to differ in their result—research synthesis can often bring clarity, strengthen findings, and provide new insights.

Policies affecting problems like job training, education, and criminal rehabilitation can benefit greatly from fresh perspectives on existing data. Research synthesis has also proven especially useful in health care where data gathered in the past can yield new insights with tremendous leverage on cost. For example, the effectiveness of aspirin in preventing certain heart conditions and the finding that modest behavioral steps in preparing a patient for surgery can significantly reduce the length of hospital stay where both discerned from already existing data that had been gathered and kept for different reasons.

A National Conference on Research Synthesis was held in Washington last June sponsored by the Russell Sage Foundation and organized by the American Psychological Society. This conference brought together more than 130 senior Federal officials concerned with improving public policy to learn about recent developments in research synthesis. I was especially pleased that the Office of Technology Assessment and the General Accounting Office participated. They should both be encouraged to explore the potential of this area of social science in view of the importance of their role in advising the Congress.

The conference featured the use of synthesis techniques to evaluate research in education, juvenile delinquency, health, and job training with presentations by Frederick Mostellar of Harvard University; Eric Wanner, president of the Russell Sage Foundation; Harris Cooper of the University of Missouri; David S. Cordray and Mark Lipsey of Vanderbilt University; Elizabeth Devine of the University of Wisconsin-Milwaukee; Larry Hedges of the University of Chicago; Richard Light of Harvard University; and Thomas Louis of the University of Minnesota. Eleanor Chelimsky, Assistant Comptroller General of the General Accounting Office, Iain Chalmers, director of the U.K. Cochrane Centre, and M.R.C. Greenwood, Associate Director of the Office of Science and Technology Policy, gave keynote presentations.

The conference was an outgrowth of a decade-long effort to further the field of research synthesis by the Russell Sage Foundation, which since the late 1940's has been dedicated to strengthening social science research as a means of improving social policies. The American Psychological Society, the American Sociological Association, the American Statistical Association, the American Evaluation Association, and the Society for Research in Child Development cosponsored the event.

The field of research synthesis offers new ways to increase our ability to solve some of the hardest, most challenging issues confronting the Nation today. I commend the Russell Sage Foundation and the cosponsoring organizations for their leadership in confronting the issues.

CONFERENCE REPORT ON H.R. 3481, THE INTERSTATE BANKING BILL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. MAZZOLI. Mr. Speaker, even though I voted for final passage of H.R. 3841, the interstate banking bill, I continue to have reservations about the statute of limitations language included in the conference report. I expressed those same reservations as a Judiciary Committee conferee on the bill.

The House bill did not change State statutes of limitations affecting actions which can be brought against bank directors, officers, and advisors whose actions or inactions contributed to the collapse of the institution involved.

However, the Senate's version of the interstate banking bill retroactively extended State statutes of limitations allowing actions to be brought by the Federal Deposit Insurance Corporation [FDIC] and the Resolution Trust Corporation [RTC] as receivers of failed institutions, against those who brought about the collapse. The Senate language would have permitted claims involving simple negligence to be revived.

During the conference, the House Conferees offered to the Senate Conferees a counterproposal which extended State statutes of limitations for 5 years on expired claims against bank insiders. The standard in the House offering was intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. Bank regulators could not reopen cases barred by State statutes of limitations involving simple negligence or even gross negligence on the part of bank officials.

The Conference Committee voted to accept the House proposal. However, I voted against this language because I feel it could hamper—as stated in letters to the Conferees by bank regulators—the RTC and the FDIC from prosecuting claims against directors, advisors, and officers of failed banking institutions and recovering, on behalf of the taxpayers of the Nation, money advanced to reimburse depositors and investors of failed institutions.

Mr. Speaker, I realize that some of these bank officials were innocent bystanders and not responsible for the skullduggery and the fraud which allowed financial institutions to be treated as the personal piggybanks of the insiders, to be looted and left empty awaiting bailout by the taxpayer. Nevertheless, I could not tie the hands of the Federal regulators—which is what the language now in H.R. 3841 does according to them—so I opposed the House position.

Mr. Speaker, I believe Congress should assist the RTC and FDIC in prosecuting those responsible for bank failures, as the Government can recover money advanced by the taxpayers of America to close these institutions. To do this, the Senate's position on State statutes of limitations should have prevailed.

HONORING NORMANDY'S HEROES

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. RICHARDSON. Mr. Speaker, this year's 50th anniversary of the Normandy invasion has once again reminded us about the countless number of heroes who have served our country in war. The hundreds of veterans who traveled to France for the D-day anniversary were warmly greeted by grateful French citizens who were well aware their very existence was due to the American servicemen's heroics.

One such hero, Louis Scheinbaum, was accompanied by his wife Rhoda and son David. David, the owner of a Santa Fe, NM, photography gallery, chronicled his father's historic return using his photographic and literary skills.

The Santa Fe New Mexican presented an excellent summary of the Scheinbaums trip to France. I urge my colleagues to read writer Denise Kusel's outstanding summary as it presents us all with a new appreciation for America, sacrifice and patriotism.

[From the Santa Fe New Mexican, July 4, 1994]

IN THE PRESENCE OF HEROES

(By Denise Kusel)

War was a mystery that permeated his childhood. For Santa Fe photographer and gallery owner David Scheinbaum, the mystery was defused when he accompanied his father back to a tiny French village in Normandy for the 50th anniversary of D-Day.

Once there, the people he met—those who had survived the war and children who have only known peace—touched him deeply. It also gave him a new understanding of his father.

"I knew my father was a medic and that he was awarded the Bronze Star for his courage," Scheinbaum said. "But what I didn't know was that my father was a hero."

VOL
140
PT
16
AG
12
—
18
1994
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Scheinbaum eventually spent nine days in France, some of them with a family in La Haye du Puits, a small town south of Cherbourg liberated by his father's 79th Infantry Division. Once there, he became a witness to a chunk of history that continued to unfold as a tour bus filled with WWII veterans rolled into the town.

"Everyone on the bus was welcomed by this town," Scheinbaum said. "The scene was incredibly powerful. Right here, you realize that these guys had come back to a town and they were being welcomed by people who knew that if it were not for these men, there wouldn't be a town. The town's people credit these men with their very existence."

During his visit to France, Scheinbaum kept a journal and watched the events through the lens of his camera. The words he wrote and the photographs he made as a witness to history tell a powerful story.

From his journal:

"When you hear them talk about the battles and hear them describe scenes of death and fighting and then look at these men, it doesn't correlate. They are not the John Waynes or rednecks we imagine the soldiers might be. They are these old grampas. . . . What besides the wrong of war—the Nazis, etc.—could make them able to kill? . . . But I'm really in the presence of heroes and I'm sure proud my father is one of them."

In stark black and white, Scheinbaum's photographs are eloquent in their simplicity. A child playing in the crater left by a bomb, now an inviting grassy knoll. Two old men, their arms linked for support, placing flowers at a monument to the 79th Infantry Division. A lone veteran on the Normandy beach.

From the get-go, David Scheinbaum will tell you war is not his thing. He protested during the Vietnam Era, and at 43, he doesn't remember World War II; no memories, that is, except the stories his father told him at bedtime.

When he decided to accompany his father to Normandy for the D-Day anniversary celebrations in early June, it was a trip he wasn't looking forward to.

"Those nine days will be the longest year I ever spent," he quipped to his wife, Janet Russek, as she dropped him off at the Albuquerque airport for the first leg of his trip.

Three days later, in the very town his father, Lou Scheinbaum, 75, helped liberate 50 years before, David Scheinbaum, the owner of a Santa Fe photography gallery, witnessed another chunk of history. This one touched him directly and left him a changed man.

"There was always this mystery about the war when I was growing up in Brooklyn. It was very much part of our lives," Scheinbaum said. "There were objects in the house we never touched. A Nazi flag. A German beer stein. Don't touch that, was the rule. That's from the war.

"I never understood it, the war. It was this thing my father did. The places and people he remembered were things he spoke about fondly, with pride and humor.

"We never talked about the dreams he would have, the times when he'd wake up screaming in the middle of the night. If I close my eyes, I can still hear this howl thing he would do in his sleep. My father never told us the horror stories.

"As a child, it added to some kind of confusion in my mind. My own involvement with war (in Vietnam) was as a protester. The images of war I was exposed to were nothing like the stories I heard from my father."

Scheinbaum squeezed his eyes shut. "I had my father's war pictures, his snapshots," he said. "As I grew older, I had less understanding of how my father had this sense of pride. I knew my father was a medic and that he was awarded the Bronze Star for his courage. But what I didn't know was that my father was a hero."

For Scheinbaum, that reality changed when the bus pulled into La Haye du Puits, a small town south of Cherbourg. On it were Scheinbaum, his mother and father and other World War II veterans. Lining the streets, the townspeople stood, waiving American flags, and cheering.

"I was in awe. I was moved. Everyone on the bus was crying. I don't cry, but I was crying, too. Just minutes before, I was on this bus filled with senior citizens. It could have been an Elderhostel tour. Suddenly, I was on a bus filled with heroes.

"Everyone on this bus was welcomed by this town. Just being there, it made me one of the group. I was one of them. I could hardly focus the camera. I was just totally blown away.

"I knew this welcome wasn't for me. I was just there with my parents, but this was for Americans. For all Americans. The scene was incredibly powerful. The church bells started ringing. Everyone on the bus was overwhelmed. I began looking at everyone a little differently. They weren't old; they were soldiers returning to a town they had liberated. Right here, you realize that these guys had come back to a town and they were being welcomed by people who knew that if it were not for these men, there wouldn't be a town. The town's people credit these men with their very existence."

Scheinbaum paused, wiped his glasses and smiled shyly. His eyes brightened as he again was caught up in the excitement of that moment, and he ran his fingers through his long, black hair.

"My father has Parkinson's. This past year, he hasn't had a whole lot of facial expression, but in this picture (on the cover of this section) there is more facial expression than I've seen in a year. And sitting on the bus, I just wasn't used to such an open show of emotion.

"We were being treated with such honor and respect. You knew this was love. It wasn't out of a sense of duty. It came right from inside. For me, when I looked at my father, it was like a light going on. That's when I suddenly understood what this war thing was all about for him.

"One of the things that stayed with me long after I returned home was that these people in La Haye du Puits were celebrating 50 years of peace. There's a strong feeling that they want their children to know what happened so that it will never happen again. A lot of the children were involved in every single part of the ceremonies. I had the feeling that the monuments and parades were for their children as much as for the returning soldiers.

"There were these children who have grown up with this image of American heroes. And the way they looked at the returning soldiers, it was as if they were finally meeting the people their parents and grandparents had told them about. They were wide-eyed as they approached these men. They had autograph books. And here I was the son of one of these men and I had no idea about what the importance of what my father did during the war."

Two days later, at official D-Day ceremonies at Omaha Beach, Scheinbaum trained his photographer's eye on the cliffs and beaches.

"When I saw these beaches, it was unbelievable they were so narrow," he said. "The cliffs almost came right down to the sea. It was like White Sands meets the Sangre de Cristos and the war's on top.

"That afternoon, there were these great ceremonies, pompous and elegant, but the biggest ceremony came after when I would watch these men walking alone on the beach, maybe replaying that battle 50 years ago in their heads. Only they know what they had to deal with there. And they would stand on this beach at Pointe du Hoc (a cliff head that juts out between Utah and Omaha Beach) beneath these 100-foot cliffs where so many of their comrades had lost their lives and reach down a pick up a stone or a little sand and put it in their pockets and walk away in silence."

Scheinbaum's photographs tell this story. In stark black and white, they are eloquent in their uncensored simplicity. A child playing in the crater left by a bomb, now an inviting grassy knoll. Two men, their arms linked for support, placing flowers at the base of a monument to the 79th Infantry Division—the famed Cross of Lorraine Division, disbanded after World War I, the so-called war to end all wars, but reactivated for the invasion of Normandy.

In another photograph, two cemeteries—one German, dark with its Germanic iron crosses, the other American with row upon row of white crosses and an occasional Star of David, but both graveyards dressed with freshly cut flowers.

And finally, a photograph of a labyrinth of barbed wire awesome in its silence and rust and left behind by the Germans some 50 years before at the very top of a cliff above Omaha Beach.

"I knew I wanted to bring my father back for D-Day," Scheinbaum said. "I knew he was ill. I know soon he won't be able to travel much. He's never been back (to France). My mother had never been to Europe. I'd been saving up for about a year to take them.

"In La Haye du Puits, we would be staying with a French family, and to tell to you the truth, I was not looking forward to these three days with a strange family. As it turned out, it was one of the best things that's ever happened to me. Suddenly, I had a new family and I'm a different person because of it.

"It absolutely changed my life. All this stuff just clicked and came into place. I never had strangers treat me like that and love me like that," he said, touching his heart.

Scheinbaum, an associate professor of art with a specialization in photography, typically spends years on a photographic project. The event changed the way he works, helping infuse him with a new sense of immediacy. "I shot 16 roles of 36-exposure film," he said. "When I got home, I developed all 16 roles in one day. This has brought back a certain passion for photography I haven't had in a long time.

"It'll take me awhile to process my feelings, but I feel that when it's all sorted out, it gets down to one thing—people. The men who returned and those who honored them, giving thanks for a generation that's known peace."

A TRIBUTE TO GARY STRONG

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Mr. Gary E. Strong, State librarian of California for the past 14 years. Gary recently accepted the position as the director of the Queens Borough Public Library in New York City.

Appointed as State librarian by Gov. Edmund G. Brown, Gary has been instrumental in establishing popular literacy programs throughout the State of California. Under Gary's direction, the California State Library created the California Literacy Campaign and the Families for Literacy Program. Further, Gary Strong was instrumental in working to make the California Library Literacy Services Act law.

Under Gary Strong's leadership, the library has developed the California Research Bureau which is located in the California State Library. The bureau conducts public policy analysis and serves as a valuable instrument for the California Legislature, the Governor and his Cabinet, and other elected State officials. Gary is also responsible for expanding the library's historical collections and its state-of-the-art computer platform that links access to the library from all over the State.

Gary Strong's work as the librarian of the State of California has not gone unnoticed. He was recognized this year at the Government Technology Conference, where he was awarded the Governor's Award for Exceptional Achievement. In 1984, Gary was named Distinguished Alumnus of the University of Michigan School of Library Science and in 1992, received the Exceptional Achievement Award—1992, from the Association of Specialized and Cooperative Library Agencies. His hard work and dedication serves as a model for California's next State librarian. Gary has also been consulted frequently by the Library of Congress on national library issues, and has provided valuable input to the U.S. Congress on Library of Congress matters.

Mr. Speaker, I ask my fellow members to join me in recognizing the important contributions that Gary Strong has made to the California State Library.

SALUTE TO WALT DISNEY'S SUPPORT FOR MINORITY BUSINESS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. TOWNS. Mr. Speaker, we are all aware that the spark which ignites our economy is small business. Historically, minority firms have not been recipients of the lucrative contracts available with large companies. Walt Disney has been a pioneer in developing a program designed to increase opportunities for minority owned businesses, and to maximize the volume of goods and services purchased from those businesses. I want to advise my colleagues of the commendable strides accomplished by the Walt Disney Co. in the area of promoting and utilizing services and products generated by minority firms.

The driving force behind Disney's minority program is Disney Chairman Michael Eisner. His fervent support of the program has been infectious, and each division within the company competes with other divisions to determine which one has generated the best results based upon achievement goals. To put this point in perspective, in 1983 the Disney Co. did less than $1 million in business with minority-owned firms in this country. In 1994 that amount will grow to $100 million. The results generated by the Disney Co. warrant recognition. Disney's success should serve as a model and catalyst for other companies that could benefit from doing business with minority-owned companies.

Recently, a trade publication, The Minority Times & Small Business News highlighted Disney's support of minority- and women-owned businesses. Although the article focused on Disney's success, the underlying message was, a lot more needs to be done by the corporate community. African-Americans comprise 12 percent of our Nation's population, however, minority businesses represent only 9 percent of total business, 4 percent of gross receipts, and 1 to 2 percent of total corporate purchases. The National Minority Supplier Development Council [NMSDC] has more than 15,000 certified minority businesses which currently handle major contracts for corporations. The Disney Co. has worked closely with NMSDC to maintain its minority business profile.

I am happy to advise my House colleagues that the company that has entertained hundreds of millions of movie fans and theme park attendees, is engaged in socially responsible and mutually beneficial business contracts with minority firms. I hope other companies will follow Disney's lead and contribute to an enhanced national and minority buisness economy.

A FEW GOOD MEN WHO HAPPEN TO BE LAWYERS

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. LEACH. Mr. Speaker, one of the most interesting precedential aspects of the new independent counsel designation is that the three judge panel that selected Judge Kenneth Starr ruled that, to avoid the appearance of partiality, it could not appoint Robert Fiske as independent counsel because he had originally been selected as special counsel for the same probe by the executive branch. As someone who has closely followed the Whitewater investigation, I would like to emphasize that the criteria of individual independence established by the judicial panel was a surprise to me. In my floor statement on passage of the independent counsel statute I indicated my high regard for Mr. Fiske and my assumption that most in the legislative branch presumed his reappointment. Nonetheless, the panel's decision appears rooted in a desire to underscore that the judicial branch is itself independent. As the panel noted, its decision was not intended to reflect on the personal integrity of Mr. Fiske or his philosophical or political leanings.

What is missed in the hullabaloo of some in my party who doubted Robert Fiske and some in the Democratic Party who doubt his replacement, Kenneth Starr, is that the facts of the case, or cases, will speak for themselves and that the facts are being marshalled by a group of exceptional attorneys assembled by Mr. Fiske and a larger number of FBI agents provided by the Department of Justice. The top man has the responsibilities of organizing the probe and for leading prosecutorial efforts if appropriate. But I would be extremely doubtful, at least with regard to the Arkansas aspect of this investigation, that Mr. Starr will reach any substantial conclusions Mr. Fiske wouldn't have.

It is key to understand that the issue isn't whether one counsel has a political background more liberal, moderate or conservative than the other. Nor whether one was well acquainted with the former White House counsel and the other with the chief judge of the ad hoc panel that named him. The issue is how qualified and how honorable the individuals chosen for the tasks assigned them are.

In this regard, the reputations of Robert Fiske and Kenneth Starr are each impeccable. Mr. Fiske is a former U.S. attorney with extensive prosecutorial experience; Mr. Starr, who like Archibald Cox was a former Solicitor General of the party out of power, has greater judicial experience. Each has an impressive background; each is of unimpeachable character.

In his tenure in office, Mr. Fiske met his constitutional obligations well and faithfully. Mr. Starr can be expected to as well. Just as Mr. Fiske refused to be swayed by critics in the Republican Party on his judgment about the suicide of Vincent Foster, Mr. Starr is unlikely to be deterred from a straightforward assessment of the evidence by the comments of Democratic partisans or presidential lawyers.

Good men and women can be expected to do a good job and to do so in such a way that accountability is provided for wrongdoing and reputations are protected for those who have not violated the law. The probe should continue without further second guessing of the motives of the individuals who have been given such heavy responsibility for such a sensitive investigation.

In this regard, it is impressive how loyal the staff Mr. Fiske put together has been to him; but it would be tragic if, as is hinted, many feel obligated to resign due to the judicial panel's decision. This would be unfortunate because not only is continuity of effort at issue, but so is confidence in the independence and integrity of the probe. It is believed that much of the underlying investigatory effort related to the failure of Madison Guaranty has been completed and that decisions on how to proceed will soon be at hand. Hopefully the majority of the investigative team will remain to see the process completed.

Finally, a note about the new White House counsel, Abner Mikva. While on a political spectrum Mr. Starr might be described as a conservative, Mr. Fiske a moderate, and Judge Mikva a liberal, each share extraordinary personal qualities that have garnered the respect of all who have worked with them. Of these, the only one I have come to know on a personal basis as a colleague is Abner Mikva. He is an individual who will bring to the White House intellect, integrity and, not inconsequentially, experience. Mr. Cutler, at personal sacrifice, helped stabilize the White

VOL
140
PT
16
AG
12
—
18
1994
UMI

House with his mature judgment and steadfast calm. Judge Mikva, who comes from the same D.C. Court of Appeals that Mr. Starr served on, can likewise be expected to bring it new strength.

The Whitewater circumstance has unique thickets. Therefore, it is important that the American people have confidence they are served by people of integrity.

It may be the fashion to make jokes about the legal profession, but these four attorneys—Robert Fiske, Kenneth Starr, Lloyd Cutler, and Abner Mikva—bring great credit to their profession. They ennoble public service.

TRIBUTE TO SPORTS ILLUSTRATED

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to Sports Illustrated, our Nation's only sports newsweekly, on its 40th anniversary. For the past 40 years, men and women of all ages have turned to Sports Illustrated every week for their sports information. Today more than 24 million men and women are readers of this magazine. I commend Sports Illustrated today for the effort they have put forth to give this country a weekly magazine filled with entertainment and information surrounding sports.

Sports Illustrated has been the recipient of a number of prestigious writing awards including the National Magazine Award for Feature Writing in 1992; National Magazine Award for General Excellence in 1989 and 1990. Sports Illustrated was the first magazine in the one-million-plus category to win the award twice. In addition, Sports Illustrated was the winner of the Magazine-Week Publishing Excellence Award in the News category in 1990 and 1991; winner of the 1990 Excellence in Sports Journalism Award for Print, sponsored by the Northeastern University and the Center for the Study of Sports in Society; and named the "best men's magazine" in the Washington Journalism Review "Best In The Business" readers poll for 1991.

Forty years ago, Sports Illustrated photographer mark Kauffman introduce the new readers to a scene during a night game at County Stadium in Milwaukee between the Braves and the New York Giants. Included in this scene were Braves third baseman Eddie Mathews, Giants catcher Wes Westrum, and umpire Augie Donatelli. The lead story, written by Paul O'Neil, was about the "mile of the century" where England's Roger Bannister and Australia's John Landy became the first two men in history to break the 4-minute mile mark in the same race. Sports Illustrated continues to bring its readers award winning photography and high quality sports writing.

Although Sports Illustrated had its shaky beginnings, its circulation rate base today of 3,150,000 reflects the following they have accumulated in the past and continue to keep today.

The importance of the Olympic games as a significant sporting event not only in the eyes of advertisers but in the American public was reflected by the coverage of Sports Illustrated. The magazine was a sponsor of the 1980 Winter Games in Lake Placid as well as the Winter Games in Sarajevo and Olympic Games in Los Angeles in 1984. In addition, Sports Illustrated joined The Olympic Program [TOP] in 1988 as a worldwide sponsor of the Winter Games in Calgary and Olympic Games in Seoul. In 1992, Sports Illustrated for Kids became a sponsor of the Winter Games in Albertville and the Olympic Games in Barcelona. Recently, Sports Illustrated renewed its affiliations with TOP and signed on as sponsors for the 1994 Winter Games held in Lillehammer and the 1996 Centennial Olympics to be held in Atlanta.

In addition to its award winning photography and sports journalism, Sports Illustrated has touched on some very important social issues facing our Nation and our world. The magazine over the years has done stories such as the series in 1968 entitled "The Revolt of the Black Athlete" as well as stories exposing the dangers of steroid use, drug abuse, and eating disorders faced by our young athletes. Articles such as these are examples of how Sports Illustrated has enabled their readers to become aware of the social impact of sports and those who are involved in them.

As Sports Illustrated moves into the future, it employs the latest in high-tech production equipment not only to provide readers with dynamic graphic presentations, but also to afford its audience more late-breaking news coverage. Special commemorative issues honoring championship teams in all sports—college and professional—have also been introduced to its readers including one for the New York Rangers after they won the Stanley Cup this year.

Sports Illustrated for Kids is celebrating its 5th anniversary this year as well. This is a magazine geared toward children 8 years old and up. The "Reading Team" is the largest literacy program of its kind in the country in which 250,000 copies of the magazine are donated to 10,000 fourth, fifth, and sixth grade classrooms nationwide during the school year.

Other innovations have allowed Sports Illustrated to expand well beyond the pages of their magazine. Sports Illustrated Television is responsible for television programming for Sports Illustrated Kids and Sports Illustrated as well as for Time Warner, Inc.'s impending full service network. This year, ABC's Wide World of Sports has aired Sports Illustrated news and feature reports produced by Sports Illustrated Television. Sports Illustrated hopes to be an essential source of information to their viewers just as they have been to their readers in the past 40 years.

Mr. Speaker, Sports Illustrated symbolizes the importance of sports in the lives of so many Americans. I know my colleagues join me in congratulating Sports Illustrated today for 40 years of successful journalism and for continued prosperity into the future.

SENATE—*Wednesday, August 17, 1994*

(Legislative day of Thursday, August 11, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Prayer will be led in by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer.

Let us pray:

In a moment of silence, let us remember in prayer the family of David Farley, 27-year-old Capitol Police officer who took his life last weekend. We pray for his family, his wife, Kimberly, their 4-year-old daughter, Megan Elizabeth, as well as his parents, Gene and Diana Farley.

Let us also remember a member of the Senate staff whose father-in-law recently took his life.

"If my people, which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land."—II Chronicles 7:14.

Almighty God, Ruler of history and the nations, the words of President Franklin Delano Roosevelt are relevant to our present situation. In a radio address to the Nation, he said, "No greater thing could come to our land today than a revival of the spirit of religion—a revival that would sweep through the homes of the Nation and stir the hearts of men and women of all faiths to a reassertion of their belief in God and their dedication to His will for themselves and for their world. I doubt if there is any problem—social, political, or economic—that would not melt away before the fire of such a spiritual awakening."—Brotherhood Day, February 23, 1936.

God of truth, justice, and love, every problem the world faces—economic, social, educational, crime, moral, and ethical—derives from a secular, materialistic, godless rejection of spirituality. In the words of G.K. Chesterton, "If we do not believe in God, the danger is not that we will believe in nothing, but that we will believe anything."

Lord, help us in our unbelief. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 o'clock a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE SCHEDULE

Mr. MITCHELL. Mr. President, Members of Senate, as the distinguished presiding officer has just noted, there will now be a period for morning business in which Senators may address the Senate on any subject for up to 5 minutes each. That period for morning business will conclude at 10 a.m., at which time the Senate will resume consideration of the health care reform legislation.

I am pleased that the Senate was able finally to begin voting on amendments last evening, pleased at the adoption of the Dodd amendment. We will now proceed to receive an amendment to be offered by Republican colleagues today. We have not yet had an opportunity to see or review that amendment. I hope we get the chance to do so shortly. And then we will debate that amendment during the day.

Without knowing what the amendment will be, it is not possible to estimate when we will be able to proceed to vote on it, but Senators should be prepared for debate and the possibility of voting during the day, depending on the nature of the amendment and the length of debate.

Mr. President, I note the presence of the distinguished Senator from Utah on the floor who is, I believe, here to be recognized in morning business, and I yield the floor.

The PRESIDENT pro tempore. The Senator from Utah [Mr. BENNETT] is recognized for not to exceed 5 minutes.

Mr. BENNETT. Mr. President, I ask unanimous consent I be able to proceed for up 10 minutes if my statement requires that much time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

GOLD

Mr. BENNETT. Mr. President, in this morning's Washington Post the lead story on the front page had to do with the action of the Federal Reserve Board, raising the interest rate yet again. This is a deserving spot for such news because it is very important to our economy.

During the debate on health care, we had a great deal of conversation about the entitlement commission and the fear that sometime in the next century the Federal Government will run out of money. This is tied to the size of the deficit. In my view, this morning's news and concerns about the deficit are tied together. Because as the interest rate goes up, the cost of financing the national debt goes up. When interest rates are low, we save a tremendous amount at the Federal level in terms of debt service payments. For every 1 percent on $4.5 trillion—if I get my decimal right—that is $45 billion in annual savings. So if the cost of servicing the debt can be brought down by holding interest rates down, it has implications for everything we are talking about here with respect to the budget deficit and health care costs and everything else.

In that context then, I would like to call the Senate's attention to an exchange I had in the Banking Committee with the distinguished Chairman of the Federal Reserve Board, Mr. Alan Greenspan. Some portions of that exchange were outlined in an editorial piece that appeared in the Wall Street Journal last week by Jude Wanniski.

I ask unanimous consent that article be printed in the RECORD at the conclusion of my statement.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENNETT. The subject I discussed with Chairman Greenspan was the question of tying the dollar to gold, that is the price of the dollar to the price of gold. Chairman Greenspan said, in response to my questioning, that the price of gold was, in his view, a very valuable indicator of forthcoming inflation. When the price of gold starts to rise, that is an indication that there is inflation on the horizon. When the price of gold remains stable, that is an indication that inflationary pressures are under control.

Why is this? This is a question I tried to explore with the Chairman. In the format of the committee we did not have an opportunity to get into it as deeply as I would have liked.

It seems to me the reason is that gold is the closest thing we have in this world to a universal currency. If I were

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

VOL
140
PT
16
AG
12
—
18
1994
UMI

to leave the United States and go to some far-flung place and try to buy a suit with dollars, they might refuse my dollars, saying "That currency is not good in this society." I might reply, "All right, I will bring you something of intrinsic value, then. I will bring you food." In the terms of the Commodity Exchange, "I will bring you a pork belly." And it may well be they would say, in that part of the world, "We don't eat pork. We are not interested in your pork belly." But almost everywhere in the world, if I say, "I will give you this small bar of gold," they would say, "We will sell you a suit for a bar of gold."

All the way back to biblical times and the mythical King Midas, gold has caught the imagination of the human race as the one commodity that seems to have intrinsic value, regardless of what else changes. Let us stop and think about, then, the implications of tying the dollar to gold. It would mean, if we were on some kind of a system where the price of gold did not change in dollars, that you could predict the economic future with far greater certainty than you can today.

For example, if we were still in a circumstance where a dollar would buy one thirty-fifth of an ounce of gold—as we were through the vast majority of our historic years—that would mean that if you lent me $1,000 for a period of 10 years, you would know that at the end of the 10 years when you got your $1,000 back, every one of those dollars would still buy one thirty-fifth of an ounce of gold.

No matter what had happened to the prices of any other commodities, you knew you would get your $1,000 back in terms of gold without any erosion of the purchasing power of that $1,000.

What would this mean to interest rates? This would mean that you could depend upon getting your purchasing power back; therefore, the interest rate would not have to be so high as to compensate you, Mr. President, for the loss of purchasing power that would occur during that 10-year period.

If you assume that the $1,000 you lend me is only going to be worth $500 in purchasing power at the end of 10 years, you understand that the interest I pay you must not only compensate you for the use of the money, but that the interest I pay you must also allow you to recoup the $500 loss of purchasing power.

So instead of a 2- or 3-percent interest rate on the $1,000, you have to have a 6- or 7-percent interest rate so that you recover both principal and interest at the end of 10 years.

I have been in business. I understand the value of being able to project into the future the value of dollars. If we had a circumstance that gave us constant dollars, it would have a tremendous impact on the ability of businesses to plan for the future, as well as governments.

There are lots of arguments that I have heard from people saying we must return to a gold standard and, frankly, almost all of them strike me as being mystical and occasionally nonsensical. But the idea that I was exploring with Chairman Greenspan is neither of those if, indeed, it has merit. If, indeed, we could get to the point where there was no erosion in the purchasing power of the dollar and finance the Federal debt with that understanding, we could save up to $200 billion a year.

Mr. President, stop and think of all of the efforts we go through on this floor to try to cut the budget up to $200 billion a year. If, in fact, we could cut the debt service costs up to $200 billion a year, it would be more significant than all of the debates we have had on all of the other budgetary issues that we discuss here.

So I think it is appropriate on a day when the Federal Reserve is raising the interest rates and thereby raising the deficit because of the cost of financing our debt, that we, once again, spend some time thinking about the possibility of getting some kind of standard, some kind of stability in the unit of account, the money with which we pay our bills. I know of no historic standard that has the stability over centuries that gold has had.

So I hope, Mr. President, that as a result of this brief statement, economists around the country, people in the Federal Reserve System, people on the staff of the various committees that deal with these issues in the Congress will, once again, begin to explore the possibility that we could return to a historic stance with respect to our currency and tie it to some kind of stable commodity that will say borrowers can know with a certainty that when they are paid back, their dollars, at least in terms of this commodity, will still have the same purchasing power at the end of the transaction that it had at the first.

Chairman Greenspan said to me in the exchange we had in the Banking Committee, that a nation who had the most stable currency in the world would be the nation that had the lowest interest rates in the world, and that statement intrigues me tremendously.

That is my only purpose here this morning, Mr. President. Not to offer any specific solutions but simply to raise the issue in what I hope is a sober and thoughtful way so that we, as a people, can begin to address this question and find that commodity that will give us that kind of stability.

As I say, historically, the only commodity that has approached that kind of an impact on economies has been gold. And I think as we search for that kind of stability, gold is the place where we should begin. I thank the Chair.

EXHIBIT 1

HELP GREENSPAN, COMMIT TO GOLD

(By Jude Wanniski)

In hearings before Congress in July, Federal Reserve Chairman Alan Greenspan reaffirmed that he valued gold as an indicator of inflation expectations. He also readily agreed with the reasoning of Sen. Robert Bennett (R., Utah) that if the dollar was again fixed to gold, the U.S. probably would have the lowest interest rates in the world.

The Fed chairman's words were important. the lowest interest rates in the world would mean that America would boast rates lower than Japan—currently on the order of 3%. If the U.S. could refinance its $4.5 trillion national debt at 3%, as it matures, the annual savings in debt service would amount to perhaps $120 billion a year. This is a painless way to eliminate more than half the federal budget deficit.

Why does this important information get so little attention? It is because Mr. Greenspan's views on gold are held in disdain by the great majority of this fellow economists. Over the past 30 years, Mr. Greenspan has consistently made the case for a monetary role for gold—especially as a means of economizing on government finance of its debt. In the last two years, he has repeatedly dismissed the importance of money-supply statistics as reliable signals of future inflation. Yet he as often insisted that it is the gold price that has always been best at anticipating inflation.

Look at our own era. It was only after President Nixon on Aug. 15, 1971 severed the dollar's link to gold that inflation raced out of control, interest rates soared and the federal budget deficit and the national debt spiraled. The price of gold, at $380 an ounce, is almost 11 times higher than its official price of $35 in 1971. The general price level is roughly 10 times what it was back then. The national debt of $4.5 trillion is 11 times higher. The cost of debt service, at $210 billion, is 12 times the $17 billion of 1971.

The reason gold has this special utility as a standard of value is that for at least 3,000 years, until 1971, it has served as civilization's primary money. Throughout history, gold has been the benchmark used in almost every marketplace of the world, against which the people measured the official money of governments.

The truth is that, in a certain sense, we never went off the gold standard. The people of the world did not stop using gold as this benchmark simply because the U.S. led all the world's currencies away from gold in 1971. Since 1971, governments whose currencies have performed worst against the gold benchmark have been those most punished by their creditors—for the most part their own citizens. The price of gold in Japanese yen has risen only threefold, the best performance of any government in the world in that time. Hence the low interest rates enjoyed by the Japanese government.

Since 1987, when Mr. Greenspan was named chairman of the Fed, the fluctuations in the gold price (between $320 and $420) have been in a much narrower range than they were under his predecessor, Paul Volcker (between $240 and $850). This is no coincidence. Mr. Greenspan has kept an eye on gold from the day he arrived, as a reality check on his performance.

Indeed, the creditors of the U.S. rewarded the Greenspan Fed with steadily declining interest rates, especially insofar as he seemed able to keep the gold price in the range of $350—10 times the Bretton Woods target. It has only been since last September, when gold began another climb from that level, that the bond markets have turned cold.

Mr. Greenspan undoubtedly had hoped the tightening the Fed began on Feb. 4 would chase gold into retreat. This would assure the owners of the nation's $4.5 trillion national debt that the value of their holdings would not suffer the 10% devaluation implied by the higher gold price. That's a $450 billion loss—big money indeed. Again and again, Mr. Greenspan has raised the overnight interest rate—the only rate over which the Fed has direct control. Still, gold has not dropped much below $380.

Academic economists hostile to gold dominate the entire Federal Reserve system. The chairman has only one of 12 votes on the Federal Open Market Committee. Absent a political consensus, it is therefore very difficult for Mr. Greenspan to simply aim his mighty monetary weapon at gold without legislation to back him up. If the Fed could fix the gold price at $350, it would simply do so by adding or subtracting dollars from the banking system, adding when it falls below that level, subtracting when it rises above it.

Gold would quickly sink to $350 and interest rates on government debt would resume their fall toward the 3% range. The value of all financial assets, stocks as well as bonds, would quickly rise, anticipating robust, noninflationary growth ahead.

Yet, to keep the academics happy, the Fed must target overnight interest rates, hoping the higher rates will cause bank reserves to fall to a certain level, in a way that eventually causes the gold price to fall and bond prices to rise. This is the equivalent of trying to kill a mouse by shooting a dog, so it will fall on a cat, which eventually will fall on the mouse. Maybe.

Politicians like Jack Kemp have lately recommended targeting gold, rather than simply hiking rates again. It's time to legislate instructions to the Fed to commit to gold. Academic economists argue that this is "price fixing," and that only the market should establish the price of gold. They fail to appreciate that it is the value of its debt that the government is fixing, not the value of gold.

In World War II, after 150 years of keeping the dollar defined as a specific weight of gold, the U.S. financed the largest deficits in its history, bigger than any since, with 2% bonds. When it is as good as gold, the dollar will once again be as good as it can get.

Mr. CAMPBELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized for not to exceed 5 minutes.

NATIONAL PHYSICAL FITNESS AND SPORTS FOUNDATION ACT

Mr. CAMPBELL. Mr. President, yesterday, I introduced S. 2394 to establish a National Physical and Sports Foundation. This proposal is designed to support the President's Council on Physical Fitness.

The President's Council on Physical Fitness currently operates on a shoestring budget of $1.4 million. The establishment of a nonprofit foundation would permit the Council to have an independent source of funding to expand its scope and activities. This proposal will not conflict with existing efforts to provide funding for the U.S. Olympic Committee as moneys that would flow through the corporation to the Council would not be public funds.

Once established, the National Physical Fitness and Sports Foundation would be a charitable, nonprofit organization designed to "encourage and promote" the solicitation of private funds for the President's Council on Physical Fitness. After the deduction of administrative expenses, the foundation would annually transfer the balance of the contributions to the U.S. Public Health Service Gift Fund.

The foundation would have the following specific powers:

It could accept, receive, solicit, administer and use any gift, devise or bequest, absolutely or in trust.

It could acquire by purchase or exchange any real or personal property or interest;

It could enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions.

A nine-member Board of Directors would govern the foundation. Three Board members must have experience directly related to physical fitness, sports, or the relationship between health status and physical exercise. The remaining six Board members would be leaders in the private sector with a strong interest in physical fitness. Ex officio members of the Board would include the Assistant Secretary of Health, the Executive Director of the President's Council on Physical Fitness the Director of the National Center for Chronic Disease Prevention and Health Promotion, the Director of the National Heart, Lung and Blood Institute, and the Director of the Centers for Disease Control.

Board members would serve for 6 years. Three Board members would be appointed by the Secretary of Health and Human Services; two by the majority leader of the Senate; one by the minority leader of the Senate; two by the Speaker of the House; and one by the minority leader of the House of Representatives. The Chairman would be elected by the Board members to a 2-year term. No individual could serve more than two consecutive terms as a Director.

Board members would serve without pay, but would be reimbursed for traveling and subsistence expenses. The Board would be empowered to appoint officers and employees, once the foundation had sufficient funding to pay for their services; and adopt a constitution and bylaws. Officers and employees of the foundation could not receive pay in excess of the annual rate of basic pay in effect for executive level V in the Federal service.

I think that this bill will help further an important national goal—encouraging and fostering physical fitness and well-being—and I urge my colleagues to support it.

Mr. President, yesterday when I introduced this bill, I did not have a copy of Griffin Joyner and Tom McMillen, who serve as co-chairs of the President's Council and support this legislation. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was orderd to be printed in the RECORD, as follows:

THE PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS,
Washington, DC, August 12, 1994.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR CAMPBELL: Thank you for the opportunity to share our excitement about the important work of the President's Council on Physical Fitness and Sports (PCPFS).

The leadership of the PCPFS would appreciate your support of proposed legislation to form a national foundation that would assist with the programmatic activities of our Council. Its formation would require no federal dollars. The PCPFS feels that Congressional backing of this important legislation is essential.

As all of us are currently discussing issues that involve protecting and improving the health of every American, the PCPFS continues to play a key role in this important dialogue. We are the only federal office that is solely devoted to programs involving physical activity, fitness and sports. The support of every member of Congress will send a powerful message indicating an understanding of how significant the role fitness and sports play in the daily lives of our youth, seniors, minorities and disabled. This is a bipartisan message about lifestyle and personal responsibility. Clearly with a budget of $1.4 million, the Council needs assistance in touching and motivating our country's most valuable asset: its citizens.

The foundation, established in collaboration with the Department of Health and Human Services (DHHS), would be a nonprofit, private corporation. It would encourage the participation by, and support of, private organizations in the activities of the Council.

Congressional support would add to the prestige of our mission and the significance of our goals. As you may know, Congress has also provided legislative authorization for the Secretary of DHHS to create two foundations—one in support of the National Institutes of Health and the other in support of the Centers for Disease Control and Prevention.

We would appreciate your help with this important piece of business.

FLORENCE GRIFFITH JOYNER.
TOM MCMILLEN.

Mr. CAMPBELL. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDENT pro tempore. The minority leader is recognized.

CRIME

Mr. DOLE. Mr. President, I was encouraged by last night's White House meeting involving Republican whip NEWT GINGRICH and a delegation of House Republicans. Perhaps this is a signal that President Clinton now finally understands that last Thursday's

VOL 140 PT 16 AG 12 — 18 1994 UMI

vote was not a procedural trick or a politically inspired attempt to hurt his Presidency, but rather a vote to improve the crime bill to make it stronger, tougher, better.

This is not rocket science. If the President is serious about passing a tough, no-nonsense crimefighting plan for America, here are some of the improvements he should support:

First, increase prison funding to the House level of $13.5 billion; tighten the language so that prison funds will definitely be used to build new prison cells, rather than half-way houses and other prison alternatives; and require truth-in-sentencing for first-time violent offenders.

Second, cut at least half of the spending on social programs, including the Local Partnership Act, the Model Cities Intensive Grant Program, and the so-called Yes Grant Program. When the crime bill left the Senate last November, it had a price tag of $22 billion. But, now, 9 months later, the conference report authorizes a staggering $33 billion, a 50-percent increase. Obviously, somewhere along the way, the crime bill was hijacked by the big-dollar social spenders.

Third, plug the so-called safety valve provision, which could result in the early release of 10,000 convicted drug offenders—a get-out-of-jail-free card brought to you by the U.S. Congress.

Fourth, no cuts for the FBI or the Drug Enforcement Agency. No crime bill should cut staffing at our Nation's top law enforcement agencies.

Fifth, restore some of the tough provisions adopted last April by the House, including Congresswoman MOLINARI's proposal on similar-offense evidence in sexual assault cases, and the Megan Kanka law, requiring State law enforcement agencies to notify the public when violent sexual predators are living in their communities.

Sixth, restore some of the tough provisions adopted by the Senate, including mandatory minimums for those who use a gun in the commission of a crime; mandatory restitution for crime victims; and Senator SIMPSON's provision requiring the swift deportation of criminal aliens.

And finally, Mr. President, give the States and localities more flexibility over how to use the funding for more cops. I have heard from many police chiefs, including Chief Fred Thomas of Washington, DC, who have indicated that what is needed most is not more police officers but better technology. We should provide that flexibility.

The ball is now in President Clinton's court. He can adopt a one-party strategy, trying to muscle his way up to 218 votes. Or he can continue to do what he started last night.

The President is wise to reach out to Republicans, but political lipservice will not do it alone. The President must publicly support real, meaningful, tough-on-crime improvements to the conference report, so that we can pass a bipartisan bill not with 218 votes but with 435 votes, if necessary, in the House and all the votes in the Senate.

If, however, the President wants to tinker around the edges, making small adjustments here and there to win over 8 or 9 or 10 votes, then he will be making a big mistake. In the end, that may be a successful strategy for the House, but you can bet it will not be a winner here in the Senate.

I think many in the Senate are going to wonder how it ballooned from $22 to $33 billion and what happened to a lot of the tough enforcement provisions that had broad bipartisan support. Keep in mind, this bill passed the Senate by a vote of 95 to 4 or 94 to 5. We had a lot of tough provisions in it, and suddenly they have all disappeared, or many disappeared. I think the American people will support a good crime bill. But keep in mind, also, that this only applies to Federal crimes. Many people see crime bill, they immediately believe it is going to have a big impact on their States and localities. I do not believe that is the case.

HEALTH CARE REFORM

Mr. DOLE. Mr. President, I would just add one thing in response to the majority leader's statement on health care. We are going to do all the business we can on health care. We are going to try to explain it to the American people, try to explain all the plans that are out there—the Gephardt plan, the Clinton plan, the Mitchell plan, the Dole plan, the mainstream plan, the Nunn-Domenici plan.

There are a lot of plans and some have similarities. Many of us think we ought to take all the common parts of these plans, put them together and pass that bill. Many of us are wondering, and certainly the Presiding Officer may have wondered, too, how are we going to—if we are going to spend $1.5 trillion over the next 10 years, what effect is it going to have on other appropriations, and how are we going to be able to find that money, and what will happen in the process.

So I would say to the majority leader, we are prepared to move ahead. We are not going to be rushed, but we are prepared to move ahead. This is the most important issue that will be around this year or maybe for many years, and we certainly welcome the debate.

CRIME BILL CONFERENCE REPORT

Mr. HATCH. Mr. President, today I wish to thank the minority leader for his comments about crime and also about health care as well. He is right on in those comments.

Today, Republicans renew their call for a bipartisan crime bill. Simply employing a bare knuckles strategy to turn a few votes in the House will not produce a tough bill, nor will it win passage of this bill. If President Clinton wants to pass a true crime bill, then Republicans will deliver the necessary votes, provided our suggested improvements are incorporated. And they have just been outlined by the distinguished Republican leader.

Ramming the crime bill through the House with a coalition of social liberals and big spenders will surely threaten the bill's passage in this body. The Senate will not accept the crime bill in its pork-feeding frenzy. Comprehensive changes must be made.

The Republican leadership has produced a list of changes for the President's consideration. I must concede that every change I would prefer is not on this list. There are literally dozens of Senate tough-on-crime provisions that were dropped or substantially weakened by the conference committee. However, we want to undertake a serious effort to reach a bipartisan compromise on the crime bill, and this list of changes is our bottom line.

Should the administration refuse to work in a bipartisan manner but still manage through arm twisting and obfuscation to squeeze the crime bill conference report through the House, we then will take up our concerns on the floor of the Senate. We will then offer a budget point of order because of the wasteful spending in the bill, and I believe that we will prevail with bipartisan support. Then we will offer a tough compromise package, a balanced proposal which adequately funds prison construction and restores the Senate's tough-on-crime provisions.

I hope we do not have to reach that point. I hope we can work together.

Incidentally, some of our colleagues on the other side, including our chairman of the Judiciary Committee, have suggested that our criticism of this wasteful spending in this bill is relatively recent. This is certainly not the case. I took the floor on May 19 of this year to criticize the wasteful spending in the House-passed crime bill. That was only a few weeks after the House passed the measure.

So I ask unanimous consent that a copy of my remarks on May 19 be printed in the RECORD immediately following my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. In those remarks, I criticized virtually every one of these big spending, pork barrel, boondoggling aspects which have been adopted in that conference report, plucked right out of the pork barrel filled House crime bill.

We simply have to face the fact that the fight against crime does not permit the hiding of billions of dollars in pork barrel spending boondoggles under the guise that they are trying to do something about crime.

Mr. President, this is an important issue. I would like to see a bipartisan issue. I would like to see us march together and do what we should do. Frankly, the Senate-passed crime bill passed 94 to 4, and that included the antigun provisions, which shows that that is not the sole, or even the most significant reason, why the fight over the crime bill right now. The significant reasons involve the pork barrel, boondoggle spending of the social liberals in both bodies who literally want to continue their spending practices and bring the rejected financial stimulus package back into law hidden in the crime bill, as though they are doing something against crime.

So, Mr. President, I appreciate the distinguished Republican leader's comments today, and I back him 100 percent, and the leader over in the House, NEWT GINGRICH. I appreciate his meetings at the White House yesterday and his offer to the President to have Republicans help resolve these problems. If we do not have a bipartisan bill, I do not think we are going to accomplish very much against crime in the ensuing number of months and years.

I thank the Chair. I yield back whatever time I have.

EXHIBIT 1

Mr. HATCH. Mr. President, what drives the emotion of the distinguished Senator from Florida and his counterpart on the Democrat side of the floor is that people out there are tired of the average sentence time served in the States being 40 percent. And they are specifically tired of it when it comes to violent criminals. When a murderer gets a sentence of 15 years on the average, and serves less than 7, the average murderer in this country, it does not take many brains to realize that there has to be something done to keep these people off the street.

When the average rapist gets sentenced to 8 years in prison and serves less than 2, a rapist—our daughters are at risk—it is not hard to understand why some of us would like to see those sentences, at least 85 percent, carried out. That is what the truth in sentencing is. Whether it should be triggered by the regional prison concept or some other concept, it is almost irrelevant to me. But we want to get the violent criminals, and lock them up and throw away the key for at least 85 percent of that time that they are sentenced. If they use a gun, then they ought to get it doubled.

That is the way to stop the unwise, the unlawful, and the dirty, rotten use of guns in this society, not some ridiculous, idiotic, 5-day waiting period that has caused almost everybody to go out and buy their guns now—the typical liberal solution to things. "Let us have a 5-day waiting period. That is going to solve all of our problems." All that has done is increased gun sales like 300 percent across this country because people could not wait to go out and get their guns now that they are going to have to wait 5 days.

These liberal solutions have never worked. Of course, now they have Brady II. Brady I was supposed to do everything for us. It has not done a doggone thing. In fact, it is going to undermine law enforcement in this country.

Now they want an assault weapon ban. They are going to ban 19 weapons. But they have defined them in such a way that over 100 will be banned, but they are going to exclude, exempt, 650 that have basically the same firing mechanism as these so-called 19—to take away the rights of American citizens, as defined in the second amendment to keep and bear arms, which is certainly more than a militia right as defined by some today. That is the national guard right. That is not what the Founding Fathers meant. That is not what they meant when they wrote that amendment. The militia was every American citizen who felt inclined to support our country.

So we can moan and groan about truth in sentencing all we want. But that is what the American people want. They want the violent criminals put away.

I happen to agree with the distinguished Senator from North Dakota that we should not be spending all of our expensive jail time for those who are not violent people. I happen to agree with the Senator from Delaware that boot camps may be a solution for people like that. We should not make prison a very nice time for people. Unfortunately, our do-gooders on the liberal side of the equation want to make sure that everybody is treated beautifully in prison. Frankly, I think it is time to get tough on these people.

I have another part of this I would like to spend a few minutes on.

Mr. President, the two Houses of Congress are soon going to go to a conference on the crime bill. I regret to report that the crime bill passed by the other body contains several billion dollars in ill-defined social programs—I might say ill-defined 1960's Great-Society-style social spending programs in the guise of anticrime legislation.

As such, these wasteful social spending boondoggles will rob the people of Utah and every other State of scarce resources which would be aimed at fighting crime, building prisons, hiring local, State, and Federal law enforcement officials and officers, and similar law enforcement measures.

Take, for example, the Local Partnership Act contained in the House bill. This program will give local governments $2 billion for fiscal years 1995 and 1996 to use for four purposes: education to prevent crime, substance abuse treatment to prevent crime, coordination of Federal crime prevention programs and, job programs to prevent crime. There are no other standards in the House bill. That is it—those four broad-based standards. We just have these four general purposes.

In plain English, this is just Federal money for local government social programs with the crime label put on them for cosmetic purposes. By slapping the phrase "to prevent crime" on these purpose clauses, this provides the cover to hijack $2 billion of precious crime fighting resources for anything at all that localities will label "education to prevent crime," or for drug treatment, or for more Government jobs programs.

The $2 billion would be much better spent in really fighting crime by spending it on prisons, law enforcement officers, and equipment.

Let me take another example of wasteful social spending in the House bill, the Model Intensive Grant Program. This program allows the Attorney General virtually total discretion to spend $1.5 billion over 5 years in grants for up to 15 chronic high-intensive crime areas to develop comprehensive crime prevention programs. This money apparently can be spent on anything that can arguably be said to attribute to reducing chronic violent crime.

The House bill says this includes but is not limited to youth programs, "deterioration or lack of public facilities, inadequate public services such as public transportation," substance abuse treatment facilities, employment services offices, and police services, equipment, or facilities.

I believe in spending wisely on crime prevention, although most of that funding should not come from the crime bill, where we should focus very heavily on enforcement.

But this open-ended Model Intensive Grant Program allows spending on just about anything that can be remotely described as crime prevention, however tenuously, including public transportation. We are supposed to be sending the President an anticrime bill. Let the Department of Transportation offer some of its existing funds for transportation services for preventive crime. Let us not take it out of our crime bill.

Mr. President, you can bet that conferees from the other side of the aisle will propose inadequate funding for new prisons in the crime bill. We will undoubtedly need to spend more on prisons. We need to spend more on prisons for two interrelated reasons. We can talk about ensuring that children do not go astray, and we should be concerned about that. But we have many vicious criminals right now who are not serving enough of their sentences. And speaking of crime prevention, one of the best things we can do to prevent crime right now is to take violent criminals off the streets for long periods of time so that they cannot commit anymore crimes.

Another social spending program in the House bill is $525 million for a Youth Employment and Skills Crime Prevention Program which funnels cash to State and local governments for job training and make-work programs.

This is a duplication of the programs I have just mentioned, except this one is run by the Department of Labor. Despite the fact that there are already over 150 Federal job training programs at a cost of over $20 billion a year, the Attorney General announced this week that the administration supports this program and has asked that Congress increase the program to $1 billion.

Frankly, the best crime prevention program is one that ensures swift apprehension and certain and lengthy incarceration for violent criminals. The more than $4 billion in these three boondoggle programs in the bill the other body sent belong in prison construction and other measures.

These social spending programs are neither tough nor smart on the fight against crime. We can and must spend our moneys more wisely, and in the process we have to move to truth in sentencing.

I want to point out a little bit about just how these programs work. This lists seven Federal departments who sponsor 266 programs which serve delinquent and at-risk youth—266. These are already existing programs. This is Federal departments on this side and the number of programs each department has.

The Department of Education has 31 programs already in existence without the crime bill. The Department of Health and Human Services has 92 programs already in existence. We are doing a lot in this area without the crime bill. The Department of Housing and Urban Development has 3 programs; Department of Interior, 9 programs;

79-059 O—97 Vol. 140 (Pt. 16) 36

VOL
140
PT
16
1994
AG
12
—
18
UMI

Department of Justice, 117 programs; Department of Labor has 8; Department of Transportation, 6, for a total of 266 Federal programs for at-risk youth.

Yet, we would add $4 billion more. In other words, every time you try to do something about crime, those on the liberal side of the equation load the bill up with more social spending programs that are not working anyway, rather than do the things that have to be done against violent crime in our society.

So I repeat this. The GAO recently reported to Senator DODD, who heads our Family and Children Subcommittee on the Labor Committee, that there are 7 Federal departments fostering 266 prevention programs which currently serve delinquent or at-risk youth. Like I say, of these 266 programs, 31 are run by the Department of Education, 92 by HHS, and 117 by the Justice Department.

GAO found that there already exists a massive Federal effort on behalf of troubled youth," which spends over $3 billion a year. GAO went on to report that:

Taken together, the scope and number of multiagency programs show that the Government is responsive to the needs of these young people * * *. It is apparent from the Federal activities and response that the needs of delinquent youth are being taken quite seriously.

That is in the GAO report, Federal Agency Juvenile Delinquency Development Statements, August 1992.

Despite the findings of the GAO, the House crime bill throws even more money at State and local government under the prevention label, while failing to acknowledge our ongoing efforts. Listening to the House bill supporters, one would assume the Federal Government has done nothing in the area of crime prevention.

They load up the House bill with almost $10 billion of prevention. I believe there are some legitimate areas where we can do something about prevention, but I have to tell you right now that we are doing plenty without loading up this crime bill with more than we need. We need the prisons; we need the police; we need to get tough on crime; we need the mandatory minimum sentences; we need the beefing up of Quantico, of our DEA, of our FBI, of our Justice Department prosecutors, rather than cutting back on them. We need tough antirural crime initiatives, antigang initiatives, violence-against-women initiatives, the scams on the senior citizens, against telemarketing fraud. All of that in this bill would make a difference against crime in our society.

Mr. President, I have to say that we have a lot of problems in going to conference on this crime bill, not the least of which is the gun ban and, of course, not the least of which is this racial justice act, which would virtually outlaw all implementations of all death penalties in our society today, and would cost the American taxpayers billions, if not trillions of unnecessary dollars, as the whole capital punishment system would come to a screeching halt and be embroiled in all kinds of litigation, all kinds of statistical analysis, all kinds of social welfare work, to the point that people will throw their hands up in the air and say we really cannot get tough on criminals, especially those who commit willful, violent, heinous murders against the public.

Mr. President, I wanted to make a couple of these points during this debate today, because I have to go back to the truth-in-sentencing provisions. If we do not get tough on the violent criminals, we are not going to make headway in this society. All of the prevention programs in the world are not going to help us.

With that, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDENT pro tempore. The time for morning business will shortly expire.

Mr. KENNEDY. I ask that this Senator be able to proceed for 5 minutes as if in morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CRIME BILL CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I was here on the floor prepared to move ahead, as were Senator MOYNIHAN and others, on the issue of health care. Then I heard our good friend, the minority leader, talk about the crime bill conference report. Listening to him, I did not recognize the bill he was describing.

Just yesterday, my Governor, a Republican, indicated that he was prepared to ensure matching funds for all the communities of Massachusetts to make sure that we would achieve the goal of adding 100,000 more police officers nationwide. He identified many different points of the crime bill that were worthwhile and valuable, and seemed eager for those measures to be supported here in the Senate. In frankness, he did not express a specific view on passage of the overall bill. He said he had not studied the issue well enough to be able to make a judgment in terms of its overall features, but he indicated that crime was an area of great priority and he wanted us to move forward, and the people of Massachusetts certainly do as well.

Second, the people of my State want action on the banning of assault weapons that have no purpose whatsoever for hunting, and only for killing individuals.

It is interesting that, with the exception of the 10 members of the Black Caucus, who have a longstanding history of voting against the death penalty, most of the members who voted against the rule also supported eliminating the assault weapon ban when that separate vote occurred in the House. That is basically what was going on over in the House of Representatives.

We listened to these protestations that have been made here earlier today, but these issues of public policy were resolved during earlier debates. We heard on the floor of the U.S. Senate when we were debating the funding of various prison cells—the issue was, are we going to have truth in sentencing? As the author of the Sentencing Reform Act, I believe in truth in sentencing.

But are we going to require truth in sentencing for the States before they will get the funding?

The Senator from Delaware spoke very eloquently about this issue. If we make it a very strict standard, many States will be unable to compete for the money. Many of those on the other side of the aisle wanted it stronger and stronger, even though most correctional and law enforcement officials say that will not work. So the conference report had a more balanced position.

I did not hear any complaints from our Republican conferees when we added additional money for border control and other law enforcement programs involving illegal aliens. I did not hear any of the conferees on that side of the aisle complain about adding more than $1 billion in the conference report to try to assist States that are incarcerating illegal aliens. I did not hear those complaints as a member of that conference committee. I did not hear complaints when we increased funding for police officers.

Mr. President, the Senate minority leader also spoke about 10,000 individuals who are going to be released from jails. His numbers are wrong and he has misstated the safety valve provision, but I would point out that this proposal was supported by Congressmen HENRY HYDE and BILL MCCOLLUM, leading Republicans. They know that the proposal will affect only a small number of nonviolent, low level drug offenders. And we need those prison cells for the violent rapists and murderers and those that are committing other crimes of violence. This was supported by Republicans on the conference. Now we hear other Republicans say they do not want that now.

I would say finally, Mr. President, we should listen to the majority leader who read into the RECORD some of the various proposals which have been advocated by our Republican friends under the concept of prevention. Many of their programs were included in the conference report. It is amazing that Republicans were willing to add them to the proposal here in the U.S. Senate, and now these measures are being railed against here on the floor by other Republicans.

I am hopeful we will get a good crime bill. I remember very well that we spent close to 2 days on the floor before the Senate adopted the Brady bill, and there was great uncertainty on that side of the aisle whether they were going to continue a filibuster or not filibuster. I think the President is going the extra mile to get a good bill. I know the leadership is trying to get a good measure. I thought that the explanations by the Senator from Delaware responded fully to these questions and I commend those remarks to my colleagues.

TRIBUTE TO MAJ. GEN. JOHN G. SMITH, JR.

Mr. DECONCINI. Mr. President, I rise today to enter into the CONGRESSIONAL RECORD a eulogy for an Arizona citizen, outstanding soldier, and American patriot.

Maj. Gen. John G. Smith, Jr., served his country, his State, and his God with unswerving devotion and dedication. As the adjutant general for the State of Arizona, his record was one of excellence and commitment to the public welfare. His untimely death is a loss for Arizona and the Phoenix community.

I ask unanimous consent that a eulogy given at General Smith's funeral by Gen. Curtis A. Jennings be included in the RECORD at this point.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

GEN. JOHN GRADY SMITH, JR.—EULOGY PRESENTED BY CURTIS A. JENNINGS AT HIS FUNERAL ON JULY 11, 1994

We are here today to honor the memory of our colleague and friend LTG John Grady Smith, Jr. It is impossible to render a proper eulogy to Gen. Smith in a few words and capture the full and rich tapestry of his life and a complete catalogue of his accomplishments. He was an extraordinary individual who had a lasting impact upon the Arizona National Guard, the community and State and his friends and acquaintances. His passing leaves a void in the lives of all those who knew him. On behalf of the officers and enlisted persons of the Army and Air National Guard, both active and retired, Gen. Smith's friends and acquaintances, I convey deepest sympathy and profound condolences to Mrs. Jane Smith, their three children and their families.

John Smith was born on November 19, 1919, in Statesboro, Georgia, where he grew to manhood. He attended Georgia Southern College in Statesboro where he met, in 1940, his future wife Norma Jane Simpson, affectionately known to all of us as "Jane."

His military career began in April of 1938 when he enlisted in the Georgia National Guard. In November 1940, his Guard unit was called into Federal Service due to the winds of war which were sweeping over Europe and the concern that the United States would soon be involved. He was in a coast artillery unit and received training at and was assigned to Camp Fisher, Fort Stewart and Fort Bragg before being commissioned as a 2nd Lieutenant Infantry in August 1942 through the Officer Candidate Program at the Infantry School, Ft. Benning, Georgia. He was assigned to the 104th Infantry Division nicknamed the "Timberwolf" Division which had been activated and was in training as a combat division at Camp Adair near Corvallis, Washington.

After a period of courting as only a southern gentleman can court, he won the hand of Jane, and they were married on April 4, 1943. Jane says he kept asking her by letter, telephone and in person so she finally said "yes." Clearly they must have both meant the vows they exchanged since they celebrated their 51st wedding anniversary last April. He enjoyed telling the story that after he and Jane were married and were traveling across the country as a very young couple, they would stop at a motel or hotel and he would tell the clerk to register him as John Smith. The clerk would look at Jane and say, "and I suppose you are Jane Smith," and she would answer, "that's right," much to the hotel clerk's amusement. Jane is an outstanding ideal of an officer's lady. She followed her soldier from camp to camp until his unit was deployed overseas, and then waited to join him when he returned.

In the fall of 1943 the 104th Infantry Division moved from Camp Adair, Oregon, with its wet and rainy climate, to the dry desert of Camp Hyder, Arizona. The division's encampment was known as Camp Horn, and the location was described as in the Arizona Desert on the Southern Pacific Railroad somewhere between Phoenix and Yuma, Arizona. Then Lt. Smith and his lady Jane found a rooming house in Phoenix where they rented quarters from a couple who became lifelong friends, Guy and Esther Gaston. Here they spent weekends when Lt. Smith was not in the field on maneuvers. Having bought their first car, Jane learned to drive on the dusty unpaved streets and roads of west Phoenix, Gila Bend and Hyder. This was their first experience in Arizona, and they must have liked it since they returned after the war.

From Arizona, the Division went to Camp Carson, Colorado, and then to Camp Kilmer, New Jersey, for overseas deployment. In late summer 1944, the Division landed in Cherbourg, France and was transported soon thereafter to the Belgium/Holland area where it was committed to combat attached to the First British Corps of the First Canadian Army. Its mission was to assist in clearing the approaches to the Port of Antwerp. Jane, of course, stayed in the United States, where she bore their first daughter, Norma. John did not see his daughter until he returned from Europe in the summer of 1945 after V.E. Day.

The 104th Infantry Division had an outstanding combat record in Europe, serving continuously in combat for 195 consecutive days. It served under British and Canadian command, as well as under the First and Ninth United States Armies. It inflicted over 18,000 casualties and captured 2,000 towns and communities, including the great cities of Cologne, Eshweiler and Halle. It took 52,000 prisoners in the great sweep across Germany to the Elbe and Mulde Rivers where it met the Russian forces on April 26, 1945. It also liberated two Nazi concentration camps where, in addition to the stark reality of combat, Gen. Smith saw and experienced some of the worst examples of man's inhumanity to his fellow man.

During these campaigns, Gen. Smith was awarded the Combat Infantry Badge, the Bronze Star with Oak Leaf Cluster, and the French Croix de Guerre with Palms. MG Terry de la Mesa Allen, Commanding General of the 104th Infantry Division specifically commended him and other officers for the fine performance in the European Theatre of operations. As most combat veterans, he spoke little of his wartime experiences.

In June 1945, after V.E. Day, the Division moved to Camp Lucky Strike near Dieppe and La Havre, France, and then sailed to New York for redeployment to the Pacific Theatre of operations. After leave, the men of the Division reassembled at Camp San Luis Obispo, California, on August 1, 1945, for combat refresher training and deployment in the Pacific. Through the use of its nuclear power, the U.S. compelled the surrender of Japan on August 15, 1945, and the Division, no longer needed in the Pacific, was thereafter deactivated.

Gen. Smith was separated from active duty as a Major in November 1945, and he, Jane and Norma journeyed from Camp San Luis Obispo, California, to Statesboro, Georgia. After seeing family and friends, he went "job looking," as he put it, and found that Georgia was not a good place to find a job. He contacted his friend Guy Gaston in Phoenix, Arizona, and through contacts with the American Legion, he became a contact officer for the Veterans Administration and settled his family permanently in Phoenix where his second daughter Sharon and son Guy were born.

He was in the organized reserve following his separation from active duty until May of 1949 when he joined the Arizona Army National Guard. He remained employed with the Veterans Administration until 1952, when he became Executive Officer of the National Guard serving under Adjutants General Frank Frazier and later J. Clyde Wilson. I first met Gen. Smith on one of his trips to Washington with Gen. Wilson in 1957 when they came to see Senator Carl Hayden from whom I was working at the time.

In June of 1960, Gen. Smith became the U.S. Property and Fiscal Officer for Arizona, and served in that position for the next 15 years, with Adjutants General J. Clyde Wilson, Joe Ahee, Jackson Bogle and Charles Fernald.

In July 1975 he was appointed Adjutant General of Arizona by Governor Raul Castro and promoted to Major General. He was reappointed twice by Governor Bruce Babbitt and retired in November 1983, at which time he was given his third star and promoted to Lieutenant General.

He was an enthusiastic and cheerful individual with a "can do" attitude. During his tenure as the U.S. Property and Fiscal Officer, it operated smoothly and efficiently, providing the troops with all logistical needs. As Adjutant General, he presided over a major expansion of the Arizona Army National Guard that almost doubled its troop strength and placed new units in a number of Arizona's rural communities. A number of new armories and facilities were started during his tenure. He also supported major expansion and new missions for the Air National Guard. While Adjutant General, he convinced the Pentagon to put the Arizona National Guard in command of the Navajo Army Depot near Flagstaff and to operate the munitions storage facility with Guard troops. This was the first time an active Army installation came under control of a state National Guard.

General Smith had outstanding characteristics of leadership. Unlike so many of his contemporaries who chose Patton as their model, Gen. Smith chose to emulate General Omar Bradley. He was a soldier's General—a diplomat, courteous and compassionate in even the most difficult situations. He was honest and sincere. He never played a part; he was always himself. He made ordinary people feel good and that they were important. He always had time for anyone who wanted to talk to him. As Adjutant General, he established an "open door" policy that was followed throughout the command. He got along well with private soldiers, generals, senators and cabinet members.

When he was Adjutant General and I served as his Troop Commander, I would go to see him on some difficult policy or personnel matter, and when we were through, he would always thank me for coming to see him. This always surprised me. Jane tells me that it was his habit to thank her and the children for the smallest thing, like passing him a glass of water. This character of southern gentleness—one might say almost chivalrous

VOL 140 PT 16 AG 12 — 18 1994 UMI

conduct—made him stand out as if he were from an earlier and more noble time. This manner earned him the loyalty and respect of his peers and subordinates alike. He was well respected and highly regarded by his fellow Adjutants General and the officers with whom he worked in the National Guard Bureau. Every Arizona Governor with whom he worked had the highest regard for him, including Governors Pyle, McFarland, Williams, Fannin, Goddard, Castro Bolin, Babbitt and Mofford. The Arizona Congressional Delegation always looked to him for advice on military issues and reserve and national guard matters. Even with his abilities, he could not have succeeded without the help of others. In this regard, I know he would have wanted special mention made of three ladies who took care of him as his assistants and secretaries during his service in the Guard and of whom he thought so highly. These ladies are: Helen Glenn, Marilyn Pomerenke and Anna Kroger. Another friend of long standing whose acquaintance with General Smith goes back to their days with the 104th Division in Germany is now retired Sgt. "Pinky" Martinez. Mention should also be made of individuals who have gone before him and on whom be counted during those busy years. Special mention should be made of General Bob Pettycrew, Sam Krevitsky, Norman Erb and Dr. Mark Westervelt.

During his years as Adjutant General when a crisis would arise, General Smith would assemble a small staff to advise him, which he would call his "crisis staff." Although others might be involved, depending upon the issues, always there was Gen. Jay Brashear, this eulogist and Bob Pettycrew, in whom Gen. Smith had such confidence and on whom he always relied.

Even though he had a busy career, he always had time for his family. He was a loving husband and father. His children recall his playing ball and other athletic events with them. They recall picnics and his love of a backyard barbecue and cookout. Although they mention that sometimes the meat was cooked a little too well, he would tell them that was the southern way. He took his family on trips and taught them the history and heritage of our state and nation. He was a firm believer in the biblical commandment to honor thy father and mother. We have all heard him speak of his family in Georgia, especially his mother whom he worshipped. He was faithful in his pilgrimage to Georgia every year or so to see her until her passing a few years ago.

General Smith also found time for civic activities. He was Chairman of the Arizona State Fair Commission, a member of the Phoenix Urban League, Federal Executives Association, Arizona Emergency Services Association, and Military Affairs Committee of the Phoenix Chamber of Commerce. He was also a lifetime member of the Timberwolf Association, the Association of the United States Army, American Legion and National Guard Associations of Arizona and the United States. He enjoyed life. When I last saw him just before he went into the hospital, he told me "I have had a good life. I have enjoyed all of it."

General Smith did have a fine and successful personal and military career. In addition to his combat decorations previously mentioned, he was awarded the Distinguished Service Medal, the Legion of Merit, Army Commendation Medal, the Arizona Distinguished Service Medal, and many other medals and decorations. He was inducted into the Infantry Hall of Fame at the Infantry School at Fort Benning, Georgia.

General John G. Smith passed away on July 6, 1994. In describing him and his career, I think of the words duty, honor, loyalty and integrity. He will be sorely missed. Although he has answered that final bugle call, he will not be forgotten. As the poet Angelo Patri said:

"In one sense there is no death. The life of a soul on earth last beyond his departure. * * * He lives on in your life and in the lives of all others that knew him."

And so it will be with General John Smith. This kind and gentle man left the world a better place than he found it. He touched all of our lives and we are all richer for having known him.—Curtis A. Jennings, Brigadier General (ret.) Arizona Army National Guard.

THE 100TH ANNIVERSARY OF ROGERS DEPARTMENT STORE

Mr. HEFLIN. Mr. President, September 4, 1894, marked the beginning of a legacy for Maj. Benjamin Armstead Rogers, for the small town of Florence, AL, and indeed for the entire northwestern region of the State. On that date, nearly 100 years ago, Major Rogers and his two sons, Thomas McLemore and Benjamin Armstead, Jr., opened the Surprise Store at the corner of Court and Mobile Streets in Florence. As recorded in the Florence Gazette, the opening was accompanied by Ben Rogers, Jr., leaving for New York to buy stock.

The Rogers family had arrived in Florence confident of the town's and area's future, and they wanted to play a part in its development. The family's ideas and vision about retail merchandising varied significantly from those of the average tradesmen of the day. They marked each and every item with its exact price and their policy of "One price-plain figures" led to their success. The store that still stands at the corner of Court and Mobile Street today is a living testament to the Rogers' success over the last century.

Five generations of the Rogers family have now worked at this location. A large part of the vitality of downtown Florence today is a direct result of the Rogers' commitment to maintaining the life of the central business district. Like most major department stores in recent decades, they have had opportunities to relocate to modern, state-of-the-art suburban shopping malls, but have chosen to remain as one of the anchors of downtown business. There are now Rogers stores in Decatur and Muscle Shoals, AL, as well.

Rogers family members have also taken a leading role in community service and have played pivotal roles in the progress and development of north Alabama. They have served as members of the chamber of commerce, the Rotary Club, United Way, Boy Scouts of America, the YMCA, and the Alabama State Legislature. Corinne Rogers Zaccagnini, a great-great granddaughter of the founders, presently works for Senator DECONCINI on the Security and Cooperation in Europe Commission.

I salute the Rogers family and congratulate them on the 100th anniversary of Rogers Department Store. It has become a legendary institution in this part of Alabama, and is poised for an even brighter future.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Mr. President, as of the close of business on Tuesday, August 16, the Federal debt stood at $4,667,394,077,182.19, meaning that on a per capita basis, every man, woman, and child in America owes $17,902.56 as his or her share of that debt.

IN MEMORIAM—MANFRED WOERNER

Mr. BIDEN. Mr. President, I rise today in praise of Manfred Woerner, Secretary General of the North Atlantic Treaty Organization and a true friend of the United States, who died on August 13 at the age of 59.

Manfred Woerner was the first German to hold the highest civilian post of NATO. Born in Stuttgart, he won a seat in the German Parliament in 1965 and rapidly established himself as a security expert. In 1982, Chancellor Helmut Kohl named Mr. Woerner Defense Minister at a time of great debate in Germany about the proposed stationing of American medium-range nuclear missiles in that country to counter a massive Soviet missile buildup.

Mr. President, this issue was a grave one, which caused mass demonstrations in Germany and threatened to split the Atlantic alliance. It was largely because of Manfred Woerner's determined efforts that the American initiative succeeded. The Atlantic alliance survived its most serious crisis, and less than a decade later the West had won the cold war over the Soviet Union.

In 1988, Manfred Woerner succeeded Lord Carrington as NATO Secretary General and in doing so became a symbol of democratic Germany's ultimate acceptance as a leader of the alliance. In his new position he once again proved his far-sightedness, advocating the strengthening of NATO's conventional forces and, more recently, calling for a firm response to Serbian aggression in the former Yugoslavia.

Manfred Woerner was a distinguished German politician, a leading European statesman, a fine gentleman, and a loyal, steadfast friend of the United States of America. He will be sorely missed by this country, which is deeply in his debt.

WOMEN IN COMMUNICATIONS

Mrs. HUTCHISON. Mr. President, I rise today to celebrate the 85th anniversary of Women in Communications, Inc.

In 1909, it was founded as Theta Sigma Phi by seven female journalism students at the University of Washington in Seattle. Women journalists had few opportunities at that time, but by the 1920's a Theta Sig, Dorothy Thompson, became the first overseas bureau chief for an American newspaper, and women have been creating new opportunities ever since.

The organization has grown rapidly since then, and has been renamed Women in Communications, but its mission has been consistent; to advance women in all fields of communications, to protect first amendment rights and responsibilities of communicators, to recognize distinguished professional achievements, and to promote high professional standards throughout the communications industry. Its members have included women in many fields, from Barbara Walters, to Eudora Welty to Helen Thomas.

Mr. President, as Women in Communications celebrate its anniversary, its members have dedicated themselves to extending their work to future generations by speaking and mentoring to high schools, colleges, and business groups. I congratulate them on their milestone, and invite my colleagues to observe October as National Communications Mentoring month.

STATEMENTS OF AUGUSTO RODRIQUEZ AND MICHELLE EDWARDS, BOARD OF YOUNG POLICE COMMISSIONERS, NEW HAVEN, CT

Mr. DODD. Mr. President, yesterday, I had the extreme pleasure of meeting with Augusto and Michelle, who are in town attending the National Youth Violence Conference. They had compelling stories to tell about how violence has affected their young lives. Their experiences put a face on the terror facing so many young people in our Nation—a terror that just a generation ago would have been impossible to imagine in our country.

But their stories are also laced with hope for what can be done to end the carnage. And, this is why I felt it was so important to include their statements in the RECORD. Both Augusto and Michelle are officers of the Board in New Haven. This unique program brings young people and their schools together with the New Haven police department to try and do something to stop the violence.

The program has worked wonders for the young people, police and citizens of that city and is exactly the type of program that could be expanded if we would just pass the crime bill. These kids understand the simple truth that we will never stop crime in this Nation until we give our kids some positive alternatives to the streets. So, I encourage any of my colleagues who think that prevention programs should not be a part of tough crimefighting legislation to read the words of Michelle and Augusto. Their stories illustrate the wisdom of this approach better than any of the rhetoric we hear in this town. Mr. President, I ask unanimous consent that the enclosed statements of Augusto Rodriquez and Michelle Edwards from New Haven, CT be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

SPEECH TO NATIONAL YOUTH VIOLENCE CONFERENCE

(By Augusto Rodriguez)

Good morning! My name is Augusto Rodriguez. I am the proud President of the Board of Young Adult Police Commissioners. On behalf of the city of New Haven and the thousands of youth who reside in my city I wish to compliment you for providing us with a chance to face reality. I feel that this National Conference provides us with a necessary opportunity to voice our opinion on the fatal issue of youth and violence, which is taking away my friends and family.

I have an investment in New Haven as a resident and a senior at Career High School. I come from a single parent family who survives on a fixed income. My role has been that of a surrogate father to a good mother and family. The demands have added to my responsibilities while making me stronger.

Career High School has a valuable asset, its principal Mr. Williams. He demonstrates a keen interest in the student body as well as being approachable, friendly and very helpful. The student population is about 400. The most violent act during my junior year was when one female struck another in the face over what she said. Career High does not represent anywhere near the amount of violence that occurs in our city.

In the 1980 census, New Haven was ranked the 7th poorest city in the nation among cities with more than 100,000 people. Twenty-eight percent of New Haven's children under the age 18 live below the nation's poverty level. However, African Americans and Hispanics account for 41% of those living in poverty. While the 1990 Census indicates that New Haven ranks 39th now, we still continue to suffer the blight of being in dire need of economic growth.

In just the last year I have seen what this adds up to.

On my way to the store I saw a car drive by my brother and his 21 year old friend. I was half a block away when 2 windows rolled down. Six or seven shots where fired. The friend was hit in the left abdominal region and the right thoracic area. The friend hid behind a tree. He looked around and was shot again. This time he collapsed. My brother and I ran to him. When I got there, I heard the friend say, "It burns! It burns! Forget it I'm gone." He then started gasping for air. Police showed up and dispersed the large crowd. The paramedics ripped open his clothes and placed him on a stretcher. He died in the ambulance.

I was at a club with a group of friends. When I saw a female about 27 pull out a switch blade. She slashed my friend from the ear to the top of her lip. Her whole epidermis was hanging out. She said, "My face is shrinking. It burns." She was so beautiful at 21. But no longer.

I was visiting Fair Haven Middle School and saw three 8th graders beating up a 7th grader outside. One of the 8th graders had a bottle in his hand and struck the 7th grader in the head. He fell to the ground, and all 3 began kicking him. The school security guard grabbed two of them. the 7th grader ended up with 7 stitches.

During my sophomore year Chief Pastore visited my high school. My peers and I listened to the Chief's message about empowerment of youth. Before the Chief's departure he stated, "If you have any questions or concerns please feel free to call me."

At a drug raid next door, a narc pushed my younger brother and was disrespectful to him. I was really angry. This was not the message the Chief gave. I made an appointment to see him. My brother, the Chief, the narc and the youth coordinator were there. We all had a chance to talk and make our point. At the end of a good meeting my brother and the narc apologized and shook hands. They gave their word they would be more respectful. The Chief suggested I speak with the youth coordinator Detective Morrissey. We talked about the Board of Youth Adult Police Commissioners. He gave me information. I called him back. I said I was interested in joining. I now know that the Board was not just a front, but a real beginning. That was over a year ago.

Our Board is looking forward to interviewing the 60 community police recruits who will be coming on the next year. The Crime Bill, which I hope passes soon will help us with more police and drug/alcohol prevention and treatment. Over 80 community policy officers have been interviewed already by other commissioners. Now it's our turn. I am convinced this helps us bridge the gap between policy and youth. Lasting friendships have been made with commissioners and police.

My first committee assignment on the Board was planning the Holiday Jam. The Board met with our Chief to bring youth together for fun and a fund-raiser. We decided on the Thanksgiving weekend dance. I and other commissioners visited Hospice and meet with the President. The decision was made. Youth our age are dying right now from AIDS. Hospice allows them to die with dignity. Over 300 students from all over New Haven showed up paying $3 each. Three stores donated prizes to the dance contest. No cursing, no problems and a lot of respect. The only complaint afterwards was that people wanted to come but didn't know about it. We raised $800 and are planning the next dance.

The Board is composed of a President, Vice President, Secretary, Treasurer and 18 members. We are fully chartered and legitimate body of elected and appointed young people, representing the full cross section of the population in New Haven. Our Board meetings are run by Robert's Rules of Order.

Special committees are set up when needed. Six commissioners are elected from their respective high-schools. Sixteen others must submit a resume and be recommended by a commissioner. The Board then votes. All are sworn in by the Mayor.

We are serious about the quality of life. We know time has been wasted. Excuses are not the answer. You've have been leaving us out of this war far too long, that's why we're losing it. Only together can be win. Please don't ignore the facts.

Nick Pastore is more than a Chief of Police. He is our friend. He listens and works with us when it counts. Together we are improving life in New Haven for everyone. We are ready to spread the solution and are available.

Thank you for allowing our group to be heard today. It is commonly assumed that

VOL
140
PT
16
AG
12
—
18
1994
UMI

adults fail to listen to our age group. Your presence here has proven that assumption to be incorrect. We are a prime example that police and youth can work together and make a difference.

I would now like to introduce our Vice President, Michelle Edwards.

AUGUSTO RODRIQUEZ,
President.

SPEECH TO NATIONAL YOUTH VIOLENCE CONFERENCE

(By Michelle Edwards)

Good morning! My name is Michelle Edwards and I am the Vice President of the Board of Young Adult Police Commissioners, and on behalf of the Board I want to thank you for inviting us to this very prestigious conference. Which we all know is addressing the urgent issue of youth and violence. The commissioners appreciate the respect you have shown the youth of this nation by hosting this important conference.

I am a resident of New Haven, CT. My father is a retired Msgt. of the United States Air Force. My mother works at American Linen. I am a 16-year-old junior at Wilbur Cross High School. There I am a member of the National Honor Society and captain of the volleyball team. I also have a part-time job at a local Shell gas station.

A positive aspect of Cross High School is it's diversity—with 17% Caucasian, 40% Latino, 40% African American, and 3% Asian American and other nationalities. Cross also has a number of dedicated teachers who provide students with a worthwhile education. However, in the 2 years of attending Cross, I have witnessed or have had direct knowledge of violent acts by students which has ultimately disrupted and destroyed social and educational opportunities. On one occasion, we had 4 students attack one of our assistant principals and rob him of a mere $18. Another time a 17-year-old young man who had a gun in his possession accidently shot himself during gym class. I remember sitting in my social development class and hearing chaotic screams and yells of "Oh my God," "He has a gun!" Within an hour, we had 4 television crews, 2 radio stations plus local newspapers ready to cover the incident. Unfortunately, during the National Honor Society Induction, a news crew could not be found. Two days before the final closure of school, 3 female students viciously attacked another female student with a mule bone, which they confiscated from a biology class, sending the victim to the emergency room. This incident was provoked because one of the 3 female students didn't like the other student's cousin. These random acts of violence have become so frequent that I and my classmates have become conditioned to expect them and accept them as normal behavior. Good teachers close and lock their doors in fear and continue on with their daily lesson plans. For the adults who are here today, I want you to think back on your high school days. Did you ever fear the gun or knife in your school? We do. If our roles were reversed and I were your parent I wouldn't let you go through this. Too many innocent people are being hurt. We need real action and genuine help now!

I was recommended and elected by the students of Cross to represent our school on the Board of Young Adult Police Commissioners. At first I was quite critical of the Board. I thought that the Board was a front for teenagers to just hang out. Now that I am a member of the Board and aware of it's accomplishments, I realize that I was mistaken. I understand that my fellow peers want to have a say in the decision making process. Being a Young Adult Police Commissioner makes this possible.

An example of this is the Board's Standing Committee on Residential Drug Treatment for Adolescents, which was formed in November of 1991. It's main purpose is to try to educate, prevent and treat drug abuse among the youth in New Haven. This committee conducted research and discovered that there were only 110 beds available in the entire state of CT. However, only 20 beds were available for non-insured (keep in mind that this is the ENTIRE state!). Our Standing Committee also discovered that the cost of placing someone in jail for a year, approximately $42,000 was far more expensive than putting someone through Residential Drug Treatment which is approximately $24,000. That's when the committee took action to get more treatment beds for adolescents. Two thousand students signed a petition to encourage more beds and we presented it to the General Assembly's Appropriations Committee. We also spoke in front of the Appropriations Committee asking for their help. Then we learned after seeing the Annual Budget that no more beds would be added. Instead that 10 beds would be taken away from the youth population creating more victims. We then decided to call Mr. Dyson, the co-chairperson for the Appropriations Committee, to ask for his personal help. We were successful in saving the 10 beds. Our question is how long does the line of victims have to get before funding for more treatment beds are available?

Since the Board's founding we have supported and continued to encourage Residential Drug Treatment. Glenn Johnson, a student at Amhurst, and also the first chairman of the Residential Drug Treatment Committee and the president of our Alumnae Association, along with 3 other commissioners, met with four recovering drug addicts in November of 1991. They discussed the reasons for needing treatment; it had to do with life or death. Recently former Vice President Melissa Annunziata and I attended a graduation of recovered addicts in Newtown CT (which is about an hour from New Haven). What we saw were 9 recovered addicts who went through with Residential Drug Treatment, received their diplomas and in turn changed their lifestyle. The Board feels that Residential Drug Treatment is the best transition from a negative environment into a positive atmosphere.

Recently, we have hired two consultants from Massachusetts to assist us with needs assessment, strategy planning, documentation and fundraising. We wrote a proposal to CSAP (Center for Substance Abuse Prevention) in September of 1993. We received 16 resumes from as far as California. We then narrowed our selection down to New England consultants only. We interviewed 3 consultants at the New Haven Police Department and hired Dan Jaffe and Hal Phillips. Since then we have organized two all day Sunday meetings. During these meetings we discussed ways to improve the Board's standing with the community, national linkages, fundraising, and community and police relations. Our main purpose of working with these consultants is to find strategies to achieve these goals.

President Augusto Rodriquez, Secretary Maya Castellon, Treasurer Chris Greene and I will be available until Wednesday to discuss real youth inclusion and empowerment within our system of government. Please feel free to come to me or any of the other officers. Once again, I want to thank those who worked so hard to put this conference together for this rare opportunity to be listened to intimately from a distance. I hope our words turn into action soon. We want to help that happen. Thank you.

MICHELLE EDWARDS,
Vice President.

CRIME

Mr. DOLE. Mr. President, one of the most extravagantly oversold provisions in the crime bill is the proposal that allegedly would put 100,000 new cops on the street. While few dispute the merits of adding to the ranks of our State and local police forces, it is also important to level with the American people.

The Heritage Foundation has concluded that the crime bill provides full funding for only 20,000 new police officers, not the 100,000 claimed by President Clinton.

This 20,000 figure is consistent with the analysis of Princeton University Prof. John Diiulio, who recently had this to say about the crime bill:

The bill calls for 100,000 new cops. But when you read the relevant titles of the bill, what you discover is that that really means about 20,000 fully-funded positions * * * and if you are stouthearted enough to look at this bill in light of the relevant academic literature, you know that it takes 10 police officers to put the equivalent of one police officer on the streets around the clock * * * so that 20,000 funded positions becomes 2,000 around-the-clock cops. And 2,000 around-the-clock cops gets distributed over at least 200 jurisdictions for an average actual street enforcement strength increase of about 10 cops per city.

But, Mr. President, let us put Professor Diiulio's comments aside for a moment and assume that 100,000 new cops will, in fact, be hired as a result of the crime bill.

The Heritage Foundation estimates that creating 100,000 new police positions through the crime bill will saddle the States with a $28 billion unfunded liability over the next 6 years. Twenty-eight billion dollars is the difference between the total cost of hiring 100,000 cops for 6 years—$37 billion—and the amount of funding actually provided in the crime bill, nearly $9 billion.

Heritage estimates that the crime bill could result in 875 new cops for my own State of Kansas. While the crime bill would provide $77 million for this purpose, Kansas would still be stuck with a $250 million tab.

So, Mr. President, let us not oversell the crime bill. Let us not sell the American people a crime bill of goods.

Again, I support trying to put more cops on the street. More police generally means more security. But the crime bill will not put 100,000 new police officers on the street, as the President claims. It fully funds only a fraction of this amount—about one-fifth; 20,000 new cops. And even if we assume that 100,000 police positions will be created, it is the States and localities who will pay the lion's share of the cost.

Mr. President, I ask unanimous consent that the Heritage Foundation study be reprinted in the RECORD immediately after my remarks.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

THE CRIME BILL'S FAULTY MATH MEANS A $28 BILLION UNFUNDED LIABILITY TO THE STATES

(By Scott A. Hodge)

President Clinton is making a last-ditch effort to revive the $33 billion crime bill that Congress rejected last week on a procedural vote. Among the arguments Clinton is using to sway lawmakers is the claim that if Congress passes this measure, the bills' $8.8 billion Community Policing grant program will add 100,000 new cops to local police forces over the next six years.

Clinton is wrong. The numbers just don't add up. The crime bill provides full funding for only 20,000 permanent new cops. Meanwhile, it saddles state governments with a $28 billion unfunded liability over the next six years if the bill is to result in 100,000 new officers. States such as California and New York will have to raise some $3 billion each to meet the Administration's promise.

The reason this happens is that the Community Policing grant program is intended only to provide "seed" money to local governments to hire new police officers, not to fully fund these positions. So the bill assumes that once these new officers have been hired with Washington's help, state and local governments will find the billions of new dollars needed to keep them on permanently. The bill provides just one-fifth of the funds needed over six years to hire and keep 100,000 new cops on the street in high-crime areas.[1] Thus, if cities do not cut back on the other services or raise taxes, the funds provided in the bill can keep at most just 20,000 permanent cops on the street over the six-year life of the bill. Even more problematic for state and local officials, if they use federal funding to hire the new police officers and then cannot raise the funding needed to keep them, officials will have to start laying off cops after the first year of the bill.

Another way to look at this financial sleight-of-hand is to calculate how much funding the bill provides per police officer per year. On average, the bill authorizes $1.475 billion per year for 100,000 new officers. This amounts to just $14,750 per cop per year—roughly the poverty level for a family of four. Police officers cannot, of course, be hired for minimum wage salaries, and so state and local governments would have to absorb the remaining cost of hiring and keeping each of these new cops.

To give taxpayers a better understanding of the total cost of the crime bill, Heritage Foundation analysts have calculated the amount of new resources states will have to raise over six years if they choose to apply for the federal Community Policing grants. As is seen in the following table, these calculations show that state governments will have to raise a total of over $28 billion of their own funds to meet Clinton's promise.

Eight states (California, New York, Texas, Florida, Illinois, New Jersey, Pennsylvania, and Ohio) will have to absorb more than $1 billion each in new costs over the next six years to fully fund their share of the 100,000 new cops. At the bottom end of the scale, the fourteen states likely to receive the minimum amount of federal aid for new police officers—and, of course, the fewest number of new cops at 500 per state—will still find themselves liable for over $143 million each in added expenditures to meet the bill's lofty goal.

Large states, such as California and New York, will be particularly hard hit. Although California is estimated to receive 10,827 new cops, it will have to absorb some $3.1 billion in new costs to keep them on the street. Similarly, New York is estimated to receive 10,407 new cops but will be burdened by some $3 billion in new costs. Neither of these states is in the fiscal condition to bear this expense. Texas could hire nearly 6,400 new officers but would face an unfunded liability of over $1.8 billion by doing so.

In reality, the unfunded liability for some large states will be even higher than these estimates suggest. This analysis assumes that the Community Policing grants will be distributed proportionately according to a state's share of the national police force (see technical notes in the appendix). But the crime bill allows 75 percent of the Community Policing funds to be distributed at the discretion of the Attorney General. This means that the Administration may play politics with these funds and reward loyal mayors and local politicians in politically important states—or House members the White House needs to win passage of the bill.[2] But, ironically, this will raise the taxpayer liability in these states even higher.

The dirty little secret of the crime bill is that it will not put 100,000 new police officers on America's streets unless the states raise taxes or cut other spending to finance a massive $28 billion unfunded liability. Once most states realize the magnitude of these new costs it is likely that far fewer permanent cops will actually be hired. However the computation is made, the result is the same: Bill Clinton's crime bill actually funds only a fraction of the promised 100,000 new cops.

THE CRIME BILL'S UNFUNDED LIABILITY TO THE STATES

State	Estimated new cops added per state by crime bill	Crime bill's contribution for new cops over 6 years	Liability to State taxpayers for new cops over 6 years
California	10,827	$958,224,360	$3,102,048,353
New York	10,407	920,993,894	2,981,522,608
Texas	6,386	565,124,889	1,829,472,098
Florida	5,630	498,252,127	1,612,985,699
Illinois	5,488	485,723,575	1,572,427,165
New Jersey	4,327	382,895,805	1,239,544,047
Pennsylvania	4,129	365,378,435	1,182,835,273
Ohio	3,683	325,952,244	1,055,201,331
Michigan	3,106	274,917,767	889,968,026
Massachusetts	2,707	239,592,416	775,629,687
Georgia	2,605	230,502,758	746,203,844
North Carolina	2,484	219,847,031	711,708,184
Maryland	2,190	193,805,079	627,402,882
Virginia	2,148	190,075,574	615,329,401
Missouri	1,885	166,859,004	540,170,675
Wisconsin	1,808	159,981,217	517,905,294
Indiana	1,743	154,217,437	499,246,278
Tennessee	1,732	153,281,024	496,214,842
Louisiana	1,651	146,128,771	473,060,936
Alabama	1,443	127,674,988	413,320,725
Washington	1,399	123,767,888	400,672,317
Arizona	1,380	122,137,239	395,393,435
Connecticut	1,324	117,132,276	379,190,929
South Carolina	1,273	112,660,100	364,713,205
Minnesota	1,266	112,062,733	362,779,357
Colorado	1,225	108,446,244	351,071,739
Oklahoma	1,157	102,391,853	331,471,932
Kentucky	1,046	92,543,378	299,588,580
Oregon	898	79,498,185	257,358,530
Kansas	875	77,415,474	250,616,196
District of Columbia	830	73,459,939	237,810,989
Iowa	818	72,394,366	234,361,423
Mississippi	762	67,453,984	218,367,981
Arkansas	696	61,561,043	199,290,835
New Mexico	595	52,648,980	170,435,920
Nevada	565	50,001,194	161,868,271
Nebraska	514	45,496,727	147,286,015
Utah	500	44,250,000	143,250,000
Hawaii	500	44,250,000	143,250,000
Rhode Island	500	44,250,000	143,250,000
West Virginia	500	44,250,000	143,250,000
New Hampshire	500	44,250,000	143,250,000
Maine	500	44,250,000	143,250,000
Idaho	500	44,250,000	143,250,000
Montana	500	44,250,000	143,250,000

Footnotes at end of article.

VOL 140 PT 16 AG 12 — 18 1994 UMI

THE CRIME BILL'S UNFUNDED LIABILITY TO THE STATES—Continued

State	Estimated new cops added per state by crime bill	Crime bill's contribution for new cops over 6 years	Liability to State taxpayers for new cops over 6 years
Delaware	500	44,250,000	143,250,000
Alaska	500	44,250,000	143,250,000
South Dakota	500	44,250,000	143,250,000
Wyoming	500	44,250,000	143,250,000
North Dakota	500	44,250,000	143,250,000
Vermont	500	44,250,000	143,250,000
Total	100,000	8,850,000,000	28,650,000,000

TECHNICAL NOTES

These calculations have been made using a conservative estimate of the average cost of hiring and keeping a police officer on the beat in small and large cities. In small cities, such as Elkhart, Indiana, the total cost of putting a permanent cop on the beat is $50,000 to $55,000 per year. In large cities, such as San Francisco, this cost rises to $70,000 to $75,000. The average used in this analysis is $62,500. This figure includes salary and fringe benefits, training, and some administrative costs. It does not include equipment costs such as police cars and radios. In most cities, a new police cruiser is needed for every three or four officers hired.

This analysis assumes that the Community Policing funds and, thus, the 100,000 new cops, will be distributed proportionately among the states according to the current state-by-state distribution of roughly 534,000 police officers nationwide. The source for these data is the "Sourcebook of Criminal Justice Statistics—1992," published by the Justice Department's Bureau of Justice Statistics.

The crime bill requires that no state receive less than 0.5 percent of the Community Policing funds. Thus fourteen small states, whose share of the nation's police force is less than 0.5 percent, were automatically allotted this minimum share of funds for new officers. The remaining funds and new cops were then distributed proportionately among the other states.

The federal contribution per state for new cops is based upon the $14,750 per cop per year the bill authorizes. The state liability is then based upon the residual amount of $47,750 ($62,500–$14,750).

[1] For more information on these calculations, see Scott A. Hodge, "The Crime Bill: Few Cops, Many Social Workers," Heritage Foundation Issue Bulletin No. 201, August 2, 1994.

[2] Last year, Congress passed an emergency supplemental bill which included $150 million in aid to hire 2,000 new police officers. Nearly 45 percent of these funds went to four key states: California, Florida, Illinois, and Texas.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. There being no further morning business, morning business is closed.

HEALTH SECURITY ACT

The PRESIDENT pro tempore. The Senate will resume consideration of the bill, S. 2351, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2351), to achieve universal health insurance.

The Senate resumed consideration of the bill.

Pending:

Mitchell Amendment No. 2560, in the nature of a substitute.

Mr. KENNEDY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, yesterday we enacted a guarantee that every insured child in America would receive comprehensive preventive benefits as a matter of right. Today we will be considering whether every child in America and every adult also should have at least the same reliable comprehensive benefits that every Member of Congress receives. The Mitchell bill is a triple guarantee.

First of all, in the Mitchell bill, you will not be cheated out of what you have today by insurance company fine print or loopholes in your policy that do not protect you when serious illness strikes. The examples of how that fine print has excluded the insurance companies from covering, whether it has been infants in their first days of life, or whether it is other individual families members that are in great need, has been illustrated time in and time out during the course of this debate. And the Mitchell bill addresses that particular feature of existing abuse that is taking place in too many insurance policy issues today.

Second, as long as you buy a standard insurance policy, you will never have less than the comprehensive benefits provided to every Member of Congress, and the President, too.

That has been the stated policy of the Mitchell proposal. There is a very similar concept in terms of even the Dole benefit package to make it actuarially similar to what we have in Federal employees health insurance. That is I think a standard which the American people would certainly be willing to accept. For 10 million Federal employees, including obviously the Members of the Senate and the House, it is a good program. I with a family pay $101 a month. It is an excellent program to provide for my family with two children. I daresay that most Americans having heard that would pretty much sign on for that program even today. It is certainly the objective of those of us who support health insurance reform to make that kind of a possibility for other Americans.

Third, the Government would never require you to buy less comprehensive coverage than you have today. You can always buy greater coverage if you want it. The basic concept is that a standard, not a Cadillac standard, or even a Gramm standard, but a minimum standard. In this case it is about the bottom quarter of the Fortune 500 in terms of the benefit package which would be the kind of minimal standard which can be added to, which can also be enhanced by individuals if they so desire because of certain kinds of needs; but a standard that would be available to Americans without the fine print of insurance policies that exist today.

I would like to review for the Members what the Mitchell bill does, and to contrast it to the alternatives. First of all, it establishes the comprehensive lists of benefits that must be covered. That is done on pages 95 to 104. In measures that were reported out of our human resource committee, we identified very, very precisely the benefits. The Federal employees programs are more general in terms of the types of benefits that ought to be provided. The leader reached I think a worthwhile adjustment in terms of those two ways of approaching this. It is illustrated on pages 95 to 104.

Second, it requires that these must be equal in total value to the Blue Cross-Blue Shield policy that covers most Members of Congress today. That is written into law at page 93.

It allows the vast majority of Americans to buy their coverage from the Federal Employees Health Benefits Program, the same program that provides coverage to every Member of Congress. That is at page 158. We will in terms of the two various pools be blending those, phased in over a limited period of time. But effectively that benefit package of benefit programs will be available to Americans and be consolidated in the next several years.

It also allows you to buy additional coverage if the standard benefits alone do not meet your needs. That is on page 88. It provides coverage for cost-effective preventive services without copays and deductibles. That is on page 123. We reviewed those in some detail over the period of the past days when we were considering the Dodd amendment.

I see the Senator from Delaware who supported that amendment on the floor at the present time. Basically, we were trying to ensure the kinds of preventive health care benefits which result in an enhanced health condition for individuals—particularly in the instance

of the Dodd amendment for children—which would enhance health conditions for all Americans. And the results have been illustrated several times by the excellent presentations that have been made by the two Senators from Hawaii, where they have very extensive preventive health care programs.

It is designed to better meet the special needs of women, children, and the disabled in many current insurance programs and insurance policies. This is addressed on various pages. The coverage as it relates to preexisting conditions is illustrated on pages 61 through 64. The Mitchell bill prohibits such abuses as the preexisting condition limits, lifetime limits, denial of coverage, rate hikes if you get sick, and exclusion of essential services.

The lifetime limits are addressed on page 124, and the other part is on pages 60 and 61 and the pages following. I daresay you could ask how many of the Members of this body would know what the lifetime limits are, or whether there are lifetime limits in their own Federal employees insurance. We had a meeting earlier in the morning talking about this with our colleagues here. And there are some tragic incidents where some of our colleagues talked about insurance policies that were available to their constituents, and then they would find out that they had some serious health needs and suddenly the insurance company would say, well, look, you have the lifetime limit and you have exceeded it. We found that particularly in examples used involving children—the kind of hardship was placed upon that family.

It guarantees you the right to choose a plan that provides free choice of doctor and hospital. This is included in both if you go through the cooperatives, page 151, or through employer programs at page 137. This is an essential part of the Mitchell proposal. Under the Dole provision, there is no reference to the choice of a doctor or a hospital.

So here is the contrast of the Mitchell bill to the status quo.

Today, any insurance company can, first of all, deny you coverage.

Secondly, they can impose a preexisting condition exclusion. They can say if you have a preexisting condition, we can exclude you for that coverage.

They can limit your lifetime benefits so that your protection runs out when you need it the most.

They can cancel your coverage when you get sick. We have had several examples in very recent weeks of employees with good companies that had their health care canceled for all of their employees because of the incidence of illness among just a few of their employees effectively canceled out within a 2- or 3-month period.

There is also the exclusion of any service from coverage, even a service that might turn out to be most important to you if someone in your family becomes seriously ill.

No American is guaranteed choice.

I think these following points are worthwhile to keep in mind. If your employer does not offer a plan you like, you can be out of luck. Eighty-four percent of employers offer only one plan. Of the employers that make available health insurance to their employees, they provide one plan, and you are effectively out of luck if you want an alternative choice. You can take it or leave it.

Second, if your employer does not offer a plan that allows you to keep your family doctor, you are also out of luck.

You say, look, I want to be able to keep my family doctor. The real life, real world today says: This is your plan. If your family doctor is not covered by that particular kind of plan, you are out of luck.

The Dole plan is better than the status quo alternative, but I do not believe it is good enough. The insurance companies can still impose preexisting condition limitations, and they can sell you a policy that does not cover the service you may need the most, because policies are not required to provide comprehensive coverage. You do not have the guarantee of choice.

We are likely to see an amendment offered sometime, perhaps today, or sometime in this debate, that will claim to protect the benefits the American people have today by effectively scrapping the requirement that every insurance policy must offer basic comprehensive benefits.

What it will do is effectively gut the protections that the Mitchell bill provides. It will allow every insurance company the abuse that exists today to continue with the preexisting condition limitations or the right of the company to terminate or not renew the policy.

There may very well be lifetime limits, inadequate protection for children and the disabled. One of the favorite provisions for many insurance companies, particularly those covering young families, is the exclusion of a child's coverage for the first 10 days of life. That is where about 93 percent of all medical complications arise.

I think of the scores of young couples that looked over the insurance policy and saw they got prenatal care, and then had these difficulties in the first few days of life, found out there was no coverage. That has been one of the continuing tragedies in too many instances.

Mr. President, any kind of an amendment that effectively would undermine the guarantee of at least a minimum package of benefits would undermine the amendment that we passed yesterday to protect children, because the guarantee of preventive services will turn out to be no guarantee at all.

The widely respected Actuarial Research Corp. estimated that because of adverse selection, if these benefits are available but not standard, it could cost a family an extra $450 a year. If they are included in what everybody buys, they would cost only $2 per month per child.

The supporters of this amendment will say that they are trying to preserve choice. But that is the same old argument that has been used to protect the profiteers of the status quo since the beginning of time. The opponents of change have always hid behind choice. Child labor laws deny children the choice to work 12 hours a day in mines and factories.

We will hear: Why should we have this standard benefit package available? Why do we know better than the people back home in local communities? Well, that debate was there at the time of the child labor laws.

In my own State of Massachusetts, in Lawrence and Lowell, you could go into the various plants and factories—and they still have museums up there containing little poems of children 10, 11, 12 years old, who used to work 10 or 12 hours a day, 6 days a week, and they would describe looking out the window at the parks, and so forth. Their life experiences had passed them by. They would generally last 8 to 10 years in those plants and no longer, for a variety of different kinds of tragic reasons. So when we hear, "We want to preserve choice," we can say that issue was addressed years ago. We had the child labor laws. They said, "Why should you in Congress pass child labor laws?"

Why do not we permit those who are in charge of the children have the choice of working more extensive time? Why deny us that kind of choice?

We have the same argument with the Fair Labor Standards Act which denies men and women the choice to work at less than the minimum wage. Why do not we permit men and women the choice of working less than the minimum wage?

There is basically a social compact which has been accepted by Republicans and Democrats alike that men and women who want to work 40 hours a week, 52 weeks a year ought to not be put in a position of poverty in this society. They ought to be able to have sufficient income to provide for their families, put a roof over their head, food on the table, afford a mortgage for their home, and live in some peace and in dignity. That was the concept.

We could say, well, let us eliminate any minimum wage laws. Let us just let the market go. Why do we know more than what is happening out in these local towns? We can find people who will work for less than the minimum wage.

We say, well, on the issues we have a sense of a common good about what our society is about. We care about

VOL 140 PT 16 AG 12 — 18 1994 UMI

men and women who want to work, will work and will work for low wages, but they ought to be part of the American experience that they are going to live in some kind of peace and dignity.

We address the issues of choice on the Social Security Act, which denied people the choice to forgo pensions. Why not say, well, we had that debate. We are going to say under Social Security we are going to make that an option for people. We will give them the choice of having no Social Security, no pensions when they retire. Why not give them the choice of that so that they do not have to conform?

We have accepted the concept that we have a respect for those who have really been the architects of this great wonderful blessed land who really toiled in the fields and worked in the factories, fought the wars, built the country. They are part of our society. They are our parents. We are their children. And as a society, the only way that we could get it was the development of a Social Security system that was part of the social compact.

We have accepted in recent years what we call the lemon laws and deny the people the choice to buy cars that broke down all the time. Why not let anyone go out and buy whatever car they want, let it break down, touch the fender and it collapses, drive out of the parking lot and the engine is no good? Why not permit everybody the free choice to be able to do that? Why expect that there ought to be at least some requirement that would represent what the seller and the purchaser understand to be the value of it? We could say why have that kind of law, why have that kind of legislation, why have that kind of requirement? Let us just let the buyer beware when they go back out to those parking lots.

We had it for a period of time in the medical device legislation. We just said let women beware. Let women beware. We had 2,700 women who died from a perforated uterus. Let women beware, until we finally had some at least protection in terms of medical devices that were going to be implanted to show they were going to be safer and efficacious. We said there is at least some requirement and some responsibility.

So now the opponents of change want to give the American people the choice of substandard insurance coverage. They want to give the families the choice of denying their children preventive health care. They want to give mothers the choice of going without preventive prenatal care. They want to give people the choice to buy policies that will turn out not to cover the very people that it will need the most if they become sick. This kind of choice is really no choice at all. It is effectively an excuse to defraud the American people of the health security they deserve, and I believe it will be rejected.

Several days ago, one of the opponents of the Mitchell bill called it a health scare bill, and that is exactly what the proponents of this amendment are trying to do. They are trying to scare the American people into rejecting change. It did not work with Medicare a generation ago, and it will not work with the Mitchell bill now.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Delaware [Mr. ROTH].

Mr. ROTH. Mr. President, for the first time in its history, the U.S. Senate has before it legislation to reform the Nation's entire health care system. Without a doubt, this is a historical debate. We must not lose sight that what we are debating will have tremendous repercussions on health care as we know it today.

The bill before us is immensely complex, in part, because it deals with an immensely complex issue. Even at this stage of the legislative process, it is not clear what direction the debate will take, and the final implications of whatever shape the legislation takes on are, therefore, unpredictable. In any event, let me make very clear that I strongly oppose the Clinton/Mitchell bill in its present form. Even the way this legislation was put together concerns me. And I am not alone.

In a recent column, Robert J. Samuelson quoted CBO chief Robert Reischauer, who warned that trying to find a compromise health care bill by combining provisions from different bills might make the health system worse. "You can't say I want a piston from Ford, a fuel pump from Toyota, and expect the engine to run." That is precisely what has happened with this bill.

There is a great deal that concerns me in this proposal. And I intend to look for answers, because what is contained in this legislation will not only dramatically affect the American people, but almost $1 trillion in medical services and about 15 percent of our economy.

At the top of my list of concerns is how this bill will affect the people of Delaware. In our State we have a population of about 660,000 people living in 3 counties. Right now, we have important and good health care services, delivered through partnerships and community involvement. Certainly, there are steps that we can take to improve access and affordability to these services, but they are delivering quality care—state-of-the-art care—to men, women, and children who depend on them.

Frankly, I am concerned with the effect this legislation will have on the balance of care now being provided—and, I am concerned with the effect the tax increases contained in the proposal will have on the economy and jobs in Delaware. This bill—one way or another—will have a dramatic impact on the system that currently exists. It will have a dramatic impact on employees, employers, as well as family security.

For example, in Delaware, the New Castle Chamber of Commerce, in cooperation with the University of Delaware's Bureau of Economic Research, conducted a study that shows:

> Mandated health care could lead to the loss of 27,800 jobs in New Castle County, due to layoffs and workers displaced by employers going out of business.

A second study, recently issued by the Family Research Council, states that families with children in Delaware bear the brunt of job losses due to employer mandated health care proposals. I would like to read from that study:

> Employer-mandated health care refers to the Federal government's requirement on employers to purchase 80 percent of their employees health insurance. * * * The impact of job losses in families is particularly acute when children are involved. The maximum number of impacted children would be in excess of the number of jobless parents with dependent children * * * Under the Clinton plan, 1,500 of the estimated 2,600 jobs lost in Delaware would be shouldered by families with dependent children * * *. Under the Senate Labor Committee plan, * * *, 3,200 of the estimated 5,600 jobs lost—would be shouldered by families with dependent children.

A third study, conducted by two Ohio University economists for the American Legislative Exchange Council [ALEC] projects that "Delaware would lose 3,200 jobs under the Clinton health care plan."

And a fourth study, conducted by CONSAD Research Corp., a firm that performs economic studies, estimates that "2,593 Delaware workers would lose their jobs, and another 72,977 would face reduced wages, hours or benefits" under the Clinton mandate.

These are real Delawareans with families that depend not only on a strong economy, but on competent health care providers. And as we consider legislation that will literally rearrange their environment we must see them in the most personal way and honestly determine how these 1,400-plus pages will alter how they live and do business. We must understand how this legislation will impact their health care providers. It is interesting to note that Delaware serves as a microcosm of America. In our State we have about every kind of health care practitioner, about every kind of hospital with their own unique services, characteristics, and needs. Rural hospitals, urban hospitals, religious, philanthropic, research hospitals, educational hospitals, veterans and childrens hospitals—we have them all. And it is revealing to assess this Mitchell-Clinton plan according to how it will affect these providers.

Let me give a few specific examples:

In our State, we have the Medical Center of Delaware, our largest facility which has a special relationship with Jefferson Medical School in Philadelphia. I want to know how the medical education requirements of this proposal that will limit the total number of physicians in the United States will effect our medical center's ability to attract and retain new physicians-in-training.

We have Riverside Hospital, an osteopathic hospital serving northern Delawareans. I want to know the effect the bill has on osteopathic facilities.

We have St. Francis Hospital, which has a strong bond with the Catholic Church. The facility has a religious mission not to perform abortions. Again, this matter has not been clarified in the legislation before us.

We have Kent General Hospital in Dover and the military hospital on Dover Air Force Base—both of which serve Kent County. How will this legislation affect access to health care offered in both of these facilities for military personnel—active and retired?

We have a children's hospital heavily funded by an endowment from the Alfred I. du Pont Institute. In addition to the care it delivers to hundreds of children in the hospital, it has taken on a partnership with the State to expand access to care for Delaware's children. This is a creative partnership between public and private institutions. How will incentives for private groups to continue to donate and contribute toward providing needed health care be affected by both the tax and health policies contained in this legislation?

We have a veterans' hospital caring for thousands of veterans who have valiantly served our country. How will this legislation affect the continuity of care provided in that facility?

We have Beebe Hospital near our Delaware beaches which has an emergency room which must be able to serve both the year-round residents as well as the thousands who visit to our beautiful coastline each summer. Beebe serves a community where there has been an immense growth of individuals over the age of 65. Medicare reimbursements to the hospital have been, and continue to be, critical. How will the Medicare costs reductions included in this legislation affect Beebe's need to meet the needs of our seniors?

We have Milford Memorial and Nanticoke Hospitals serving rural populations in very innovative ways. It does not appear that this legislation will facilitate their abilities to create partnerships to share medical equipment and high-cost technology. Will this legislation continue to perpetuate the virtual medical arms race that is needlessly increasing the cost of health care delivery?

And, finally, we have the State hospital, which serves Delaware's chronically ill. What will be the State's future requirements to meet the needs of those now being cared for? Will there be an unafforable disruption in services?

In addition to these hospitals, we have many other organizations and people actively involved in the delivery of health care—three federally qualified community health centers, hundreds of physicians, nurses, chiropractors, psychologists, several medical research facilities, nursing homes, home health care agencies, hospice care givers, and many, many others. The list is very long—only exceeded by the numbers of men, women, and children who depend on the health care services they provide.

I am pleased to say that I have heard from Delawareans from top of the State to bottom; I have heard from these organizations. I have heard from many of our families. And I have benefitted from hearing their concerns. Their primary question is quite simple: How will all the new changes included in the Clinton-Mitchell plan affect me? Beyond this, they want to know how much will it cost. How many new Government employees it will require to run it. They want to know if it will limit their ability to choose the physicians they feel comfortable with. They are concerned about the future growth of such a program. Will it grow into an enormous and possibly unfundable entitlement with a life of its own? They want specifics concerning how Congress intends to pay for it with the deficit already so large. Others have asked if it is necessary to change the entire U.S. health care system—a system that currently covers 85 percent of all Americans—to reach the last 15 percent. They want to know if those remaining 15 percent could be covered in other ways.

These are all legitimate questions that must be answered as we move forward with this critical debate. And it is critical. We do need to make some important changes to our health care delivery system. The costs of providing health care are high. There are vulnerable Americans who are not receiving the coverage and medical care they need. Something must be done to control costs, to make health care coverage more affordable, to provide needed coverage to those now uninsured. I agree with this. As I have said many times, there are several very important steps that we should take to reform our Nation's health care system. Specifically, there are five points that we need to keep in mind as we move forward with health care reform.

First, that while there are major improvements that need to be made in our health care system, these improvements must be made without putting at risk the many good features that are working in our current system. As all doctors know, as we treat those conditions ailing the current system, we must first do no harm. Our health care system may have some shortcomings, but it is not broken. Consequently, it needs to be fixed or improved, not eliminated and substituted.

Second, acknowledging that improvements can, and should be made, we must focus on making those improvements. The areas that must be improved concern insurance coverage, removing the barriers that now exist. Reform should eliminate preexisting condition exclusions, and it should guarantee portability. Reform should empower small businesses in the marketplace and make coverage more affordable. These are all important steps, and I would like to address them individually:

Elimination of preexisting conditions: if a person has an illness or once was sick, they should still be able to get health care coverage;

Portability: Americans must not be locked into jobs, unable to change employment, because they may not be insured elsewhere;

Small business empowerment: small groups have very little leverage in the marketplace; any reform must provide them easier access;

Affordability: through the combined effect of cost containment measures—malpractice reform, cutting fraud and abuse, and administrative simplification—and an appropriately financed subsidy, real reform must assist low-wage workers in the purchase of health care insurance.

The third point we must keep in mind is that competition and choice have been fundamental influences in making our health care delivery system the world's flagship. Reform must build on market principles. Injecting more Government, creating more mandates, and hiring more bureaucrats is no way to make the system more efficient and effective.

Does this mean that Government has no place in this debate? Absolutely not. In fact, I have introduced a proposal that would put the strength and size of Government to work to benefit the small business man and woman. The Federal Government has the largest pool of privately insured individuals in the current system. Nine million Federal employees, retirees, and their dependents participate in the Federal Employees Health Benefits Program [FEHBP]. My proposal would put this pool to work by opening it up to others.

Small businesses and groups could buy into the Federal program, receiving the same rates that Federal employees receive. I understand that Senator MITCHELL's bill does contain a provision to use my idea to open up FEHBP, but as written, his utilization of my plan raises some concerns that I will address a little later.

Another measure that Government can and should make at this time is to give Americans the incentive to establish medical savings accounts, or MSA's. I have proposed legislation to establish medical savings accounts, and it has found broad support. Similar

VOL 140 PT 16 AG 12 — 18 1994 UMI

legislation was even voted out of the House Ways and Means Committee.

A medical savings account is a savings account that is designed to pay for medical expenses. Under my legislation, individuals or families can convert the money that they and their employers spend on their health insurance policy into a less expensive catastrophic insurance policy, and put the balance into a medical savings account. For example, if a family has an average insurance plan costing $4,500 annually, they could convert those funds as follows: Part of the money would be used to buy a catastrophic policy for $2,000 to cover big expenses from, for example, cancer treatment or a heart attack. The balance of $2,500 would be put in a medical savings account. As long as the family spends less than $2,500 for routine health costs that year, all of their health expenses would be paid with pre-tax dollars from the MSA. In case of a medical emergency, the high deductible health insurance policy would begin paying the health costs once they exceed $3,000.

After a few years of low health expenses, excess MSA funds would be available in the account to pay for unexpectedly high health costs, for long-term health insurance or to make COBRA payments to extend coverage in case of unemployment. In fact, workers can use the money to pay for braces or eye care for their children, which often are not covered in a normal health care policy.

What makes my amendment work is the fact that Americans will know that whatever they do not spend on health care expenses, they can keep for themselves. Beyond offering patients choice, MSA's will help control health care costs.

The reason why is simple: it will encourage consumers of medical care to shop wisely, reject unnecessary treatment and conserve scarce medical resources because it is the consumer, not a third party such as an insurance company or the Government, who will be paying the bills.

In testimony before the Finance Committee, one company testified that in only 8 months after initiating an MSA program the average employee had savings of $602, and total savings for the company was $468,000. They stated that employees have been able to save because they are shopping around for medical care. In fact, one employee negotiated close to $4,000 off her hospital stay before she entered.

Already, six States have passed legislation enacting tax-favored medical savings accounts. They are Arizona, Colorado, Idaho, Mississippi, Missouri, and Michigan. Jersey City has implemented them as an alternative for their city employees, and the State of Ohio is contemplating a test program next year for State employees. Clearly medical savings accounts offer Americans a choice about their health care that should be fundamental in a country built on free market principles. It is the Federal Government that must now move ahead with this new idea.

Opening up FEHBP and creating incentives for Americans to participate in medical savings accounts—this is what Government can, and should, do. This is positive; it is achievable. It builds upon the proven strengths of the current program without creating mandates, without increasing taxes, and without creating large, overbearing government bureaucracies.

The fifth and final point we must remember is that America can ill afford new and higher taxes, new mandates, and new bureaucracies. The bureaucratic age is over. Small, lean, and efficient organizations—they are the future. It is no surprise that the engine of economic growth in America is small business. These businesses and the trends they set must be nurtured. Creating more Government won't do that; opening the benefits of a government program already in place to include them will.

Our answers to the the problems that do exist in our current health care deliver system must be innovative. But again, they must build on those principles within the system that are working. We must remember that in an entirely voluntary system, Americans still have reached a rate of almost 85 percent insured population.

Almost 20 million of the reported 38 million uninsured individuals are working, or are in a family where someone is working for a business which has 1 to 100 employees. What Government must do is make health care coverage more affordable for these small businesses.

One of the primary contentions of those supporting comprehensive national health care reform is that if we do nothing, our health care system will self-destruct. This is not true; it is a scare tactic. The truth is that in the past year, growth in health care costs have been at a 20-year low. Delivery of care is changing and efficiencies are emerging indicating that this is not a temporary trend.

The secret to successful health care reform is to build upon these trends and the principles that have made the American health care delivery system the foremost system in the world.

Mr. President, I would like to conclude by reading into the RECORD a letter of endorsement I received from the National Federation of Independent Business that supports my plan to open up the Federal Employee Health Benefit Plan. It reads:

On behalf of the over 600,000 members of the National Federation of Independent Business (NFIB), I am pleased to support your efforts to allow small business owners to purchase health insurance through the Federal Employees Health Benefits Program (FEHBP).

Since 1986, the cost of health insurance has been the number one concern of small business. Small firms often pay at least 30 percent more than large businesses for health insurance for their employees.

Your proposal to allow small businesses to voluntarily buy into an insurance pool with approximately 10 million people that offers a variety of plans is a terrific opportunity for many small businesses. It gives small businesses access to affordable health insurance.

Small business owners voluntarily buying insurance through the large FEHBP would have more purchasing power and lower administrative costs, leading to lower premiums. Pre-existing condition exclusions, sudden cancellation and rate hikes would no longer be problems—the risk would be spread over millions of people. In a recent survey of NFIB members, 70 percent believe small business owners should be permitted to buy health insurance through the federal program.

NFIB cannot support attempts to mandate small business participation in FEHBP. Additionally, businesses choosing to buy into the FEHBP should be able to purchase the same benefits at the same cost as federal employees and retirees, there should not be separate, higher rates for small business.

Thank you for leading the fight to help small business owners obtain affordable health insurance. We look forward to working with you. Sincerely, John J. Motley III, Vice President, Federal Governmental Affairs.

Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, for a couple weeks now, the newspaper articles reporting on the debate in the Congress about health care reform have been permeated with the politics of Capitol Hill. There is always going to be some politics on Capitol Hill on almost any issue.

I would imagine that the people out there at the grassroots really do not care about the politics of this issue. By politics, I mean Republican and Democratic sides of the issue.

I firmly believe that the people do not care whether a Democratic bill passes or a Republican bill passes or a bipartisan bill passes. I think what the American people are concerned about is that if we are going to pass legislation—and I say if because there seems to be a growing tendency on the part of people to be a little more skeptical about what we do and whether we should do anything. But I think the American people feel that if we are going to pass something, that the measure of whether or not it is good is not whether it is Republican or Democratic or bipartisan, but whether it is, in fact, a good piece of legislation. I think that is what they want us to struggle to accomplish, passing a good piece of legislation.

On the other hand, I think there is a political situation in Washington in which the strategy for this bill is that the other side of the aisle, the Democrats, along with the White House, must pass a bill that the President will sign and that we will stay in session long enough during this summer break to do that, or we will stay here long enough until the other side can blame the Republicans for not passing such a bill.

That sort of strategy does not produce good legislation. It is not going to enhance the credibility of our institution, and it is not a very good position to be in and one that I hope we can get out of but probably cannot. So this sort of strategy could bring us to a position where we pass a more partisan bill rather than a good bill.

I hope that if we pass a bill that is as massive as this 1,400-plus page bill, that everybody in the country who thinks about their health care and their health insurance, on that day that it is passed, would write down in their diary—and tell the truth in your diary—of how you yourself view the health care system in the United States in 1994. Write it down. Write it down for yourself, write it down for your children and grandchildren. Describe your view of the American health care system and everything that is associated with it, including insurance, your doctor, your hospital, because you may look back in your diary and compare what you wrote in 1994 to what you have in 2000 or 2010 and find that in the future, you do not have anything of the quality or the quantity and the satisfaction that you had in 1994.

I think we owe it to ourselves to write that down because when you talk about passing a piece of legislation this size, do not forget it deals, to some extent, with veterans care paid for by the Government, Medicare, and Medicaid. All of these costs of Government, plus the cost of the private sector, add up to $900 billion plus in costs. One dollar out of every $7 of our gross national product is spent on health care in America, and a bill this size—and a lot of other bills that have been introduced, as well, some of them even Republican—is going to redirect every one of those dollars, to some extent.

That is Congress passing one piece of legislation, attempting to do it for a segment of the American economy that equals the entire economy of the country of Italy. Think of the U.S. Senate since March or April 1789 being in session 205 years. I do not think the Congress of the United States has ever before in the history of our country passed one piece of legislation having such sweeping impact upon the economy, both the private sector and the public sector.

We have tried in health care areas to do a lot less, and we have come up short of accomplishing what we wanted to accomplish. Remember in 1988, we passed catastrophic health care reform, just a small segment of some of the things that we are trying to accomplish in this legislation. I voted for it. It passed, I think, 87 to 11. I voted for it feeling I was doing not only what was right, but I voted for it doing what I felt my constituents wanted me to do.

It was not long when we went home and all of us ran into a buzz saw of discontent about that legislation, and we were back here within 1 year repealing that by almost the overwhelming margins by which we passed it in the first place.

So in another area of health care reform legislation, we passed a lot less in the 205-year history of our country and were not successful at it. I think the public is skeptical of Congress' ability to pass such a massive piece of legislation and do good in the process and do good for everybody. I think that skepticism has permeated the thought that has been filtering up to us from the grassroots from our townhall meetings, from our telephone conversations and, most particularly, from our mail.

Whether or not Congress can pass such a sweeping piece of legislation, guaranteed for everybody, and move forward, redirecting $1 out of every $7 spent in America and they have questions about it, I believe those questions lead to skepticism, and that skepticism at the grassroots has been affecting the debate on Capitol Hill over the last several months.

That is why I feel that if we do pass a piece of sweeping legislation like this, that perhaps you ought to write in your diary your thoughts about health care today.

It is my view that you will look back and say you wish you had those days with you again, that sort of environment for the quality and quantity of health care in America, albeit not perfect, not equitable, not entirely fair, as some people might view it.

Massive pieces of legislation like this, 1,400-plus pages are being promoted by people who have great faith that Government always does good. People who have opposition to this sweeping enactment, plus, I think, a majority of the people at the grassroots, are skeptical, question that faith in Government and probably have a greater faith in the marketplace. And I will just use one example that has been thrown out here of one approach in this bill of an employer mandate or a trigger that could bring an employer mandate that is working so well.

It is thrown out to us that Hawaii for 20 years has had an employer mandate, and that sets a good example for us as a nation as a whole to have one. My State of Iowa does not have an employer mandate, and by the Current Population Survey of 1993, Hawaii has 80.1 percent of its population with private health insurance. Iowa, without an employer mandate, has 80.3 percent; 80.1 for Hawaii, 80.3 for the State of Iowa. So you can get high participation in health insurance without an employer mandate, because we do not have one in my State. I think that is probably why the Iowa poll, which is a Des Moines register poll, shows high opposition to an employer mandate. I believe that is why our Governor Branstad of my State and his health task force have come out against an employer mandate. But an employer mandate is an example of having great faith in Government as opposed to having great faith in the marketplace.

Well, as has been said so many times, Mr. President, this big bill that I have held up, 1,400-page bill, is the third 1,400-page bill, or I should say the third draft of a bill that has appeared since its original introduction 2 weeks ago, I believe. It is difficult for staff and members to keep up with these changes. Senators are often heard to say that complicated legislation should not be done on the Senate floor, that that is the job of committees.

Now, of course, we have a completely now wrinkle in the process here. Legislation is being made in some never-never land between the committees and the Senate floor, and I suppose it is proper; the majority leader wants to develop majority support for his bill both inside the Senate and outside, and I suppose that is why it is necessary for some of these changes to be made.

But there is a question that is very pertinent to the debate, whether it is on the first draft, the second draft, or third draft. Why is it, when we are about to act on reform of our health care system, which has so much potential for good, that so many Americans are fearful of what we might do? And they are uncertain and they are fearful, Mr. President. Recent polls show it.

The Wall Street Journal/NBC poll released August 2 found that 52 percent of the respondents disapprove of health care reform, only 40 percent approve. To the question of whether or not Congress should pass a bill this year or debate now but act next year, 61 percent in that poll said we should act next year. And a more recent Newsweek poll found fully 65 percent want us to come back to this matter next year.

On last Wednesday afternoon, CNN reported that 54 percent of their respondents had said they thought they would be worse off if Congress passed a bill, and 32 percent—only 32 percent—said that they would be better off. Other Senators have cited other polls with similar results on this floor.

It is not only the polls that are showing this uncertainty. I have heard it loud and clear in over 25 listening posts, or town meetings as some of my colleagues call them, that I have had in towns, large and small, all over my State. In many of the meetings I have had, not devoted just to health care reform but to any issue that might come up, this issue is always raised, and it is always raised with the same kinds of

VOL 140 PT 16 AG 12 — 18 1994 UMI

concerns. I do not believe that this uncertainty and fear is just the result of propaganda campaigns of interest groups devoted to preserving the status quo. Certainly, such efforts are underway and have been made for some time on both sides of the issue. We know that. Certainly such campaigns can confuse and mislead. Maybe they are meant to confuse and mislead. But there are a number of reasons why our fellow citizens are justified in their concerns about this legislation. Our fellow citizens are asking whether we can possibly know what is in this big bill and, more broadly, whether we really know what we are doing with such a comprehensive proposal.

The Presiding Officer knows Chancellor Bismarck's quip about legislation-making and sausage-making being similar. That remark was made over 100 years ago, but it is pertinent today maybe even with this legislation.

As our fellow citizens focus upon this legislative sausage factory at work on health care reform, they have every right to wonder what in the world is going on in the Senate. And some of us wonder why the public holds people who are in politics in low esteem.

But citizens are also concerned about the fundamental changes that would result in our health care system were the Clinton-Mitchell bill or the Gephardt bill in the House enacted.

Maybe the way to begin is to remind those who are listening what it is that Americans value in their health care. I am referring to the choice of personal physician. I am referring to the physician's traditional patient-centered ethic. I am referring to ready access to the most advanced diagnostic methods and to quick and easy access to the most competent specialist. I am referring to easy and convenient access to high quality care in general, and I am referring to the flexible private health insurance tailored to individual and family needs.

Now, remember, surveys of the American people have always found that, whatever their concerns with the way the system as a whole works generally, large majorities say that they are satisfied with their doctor. Large majorities say that they are satisfied with their hospitals. And, yes, most are even satisfied with their insurance companies. Our citizens are concerned because they understand that very fundamental changes are being proposed that could profoundly affect these things that they value so highly. They understand that the Clinton-Mitchell bill is going to lead to too much Government involvement in health care as well as higher taxes, lost jobs, and rationing. They realize that there is a very big question as to whether these changes can really work in the real world. And the people are completely justified in their concern, Mr. President.

When I read the review of the Congressional Budget Office of the Clinton administration's health reform plan last year, I was struck by the skepticism that the writers exhibited in the face of the nationalization of health care system that plan called for. I want to say I have spoken about the skepticism from the grassroots, but now I am referring to the skepticism of Government analysts, people inside the beltway.

The CBO asks:

. . . whether it would be possible to implement the Clinton purpose fully in the timeframe envisioned, and whether there might be unintended consequences that could affect the system's viability.

This is CBO-speak for: "Is it really possible to implement such a scheme, and could it possibly ruin the health care system?"

They went on to say, and these are their words:

Policymakers and analysts can only speculate about such questions because of the magnitude of the institutional changes being proposed.

Continuing to quote:

Thus, the potential for unforeseen consequences, both favorable and unfavorable, would be significant.

If I can put that into CBO speech, it would say this: "All we can do is guess what might happen if we implement this plan."

More recently, the CBO and the Joint Committee on Taxation finished reviewing the health reform proposal of the Committee on Finance, not the one that is before us. I do not want to mislead you; I am speaking of the committee's proposal.

I was struck in reading this analysis by the same note of skepticism that the earlier authors displayed about the Clinton plan last year.

The authors seem to appear as doubtful that the reform plan as envisioned, even by our Senate Finance Committee, could actually be carried out. What they said was that in CBO's judgment, however, there exists a signifficant change that the substantial changes required by this proposal and by other systematic reform proposals could not be achieved as assumed.

If I can put those words into CBO speech, it would say this: We have no real world example of this managed competition system, and it will not work.

So now we have Senator MITCHELL's bill before us, this 1,400-page bill, the third printing of it. Mr. President, it is another risky proposal to comprehensively transform the American health care system, redirecting $1 out of every $7 in America, to some extent, greater or less. Great effort has been made to claim that this bill has no relationship whatsoever to President Clinton's original bill that I quoted CBO's analysis of. But the Mitchell bill seems to have more than a passing resemblance to what President Clinton offered. The health insurance purchasing cooperatives are back. They are not in this bill mandatory. But let me predict on this very day that they will end up being mandatory.

A national board, which the President created, with very major and sweeping powers is in the Mitchell bill. The mandates are there, even though they would only be invoked if certain target levels of coverage were not achieved. The standard benefit package proposed by the President is in the bill. The budgets and the premium caps are there, or something darned close to them. The complicated subsidy schemes for individuals and families are there. When you talk about subsidies for business, and lower-income people to buy health insurance, remember when it comes to the Government they want you to accept a mandate because there is a subsidy connected with it. Remember that mandates are forever, but subsidies tend to be temporary.

Subsidies are supposedly going to soften the blow of the mandates. But after a period of time, the mandates continue. The subsidies are fleeting.

The Mitchell bill is at least as complicated as earlier bills. It is even longer than President Clinton's bill, 1,410 pages compared to 364 pages. I forgot, because now the bill is up to 1,443 pages.

There are at least 30 major health-care related topics on which the bill proposes major changes. I want to list them to give our listeners some idea of the scope of this legislation.

Major change No. 1, employer mandates with triggers;

Major change No. 2, new subsidies for 100 million people;

Major change No. 3, a number of new taxes or tax increases, 18 at last count;

Major change No. 4, many new Government bureaucracies, 49 last count. That is my count. Yesterday I saw another count that it was up almost to 60;

Major change No. 5, a new Medicare prescription drug benefit;

Major change No. 6, abortion coverage;

Major change No. 7, administrative simplification requirements;

Major change No. 8, antitrust and medical malpractice law changes, including repeal of McCarran-Ferguson as it relates to health insurance;

Major change No. 9, changes in the employee benefits law;

Major change No. 10, new rules for health insurance plans;

Major change No. 11, proposals for rural and urban underserved populations;

Major change No. 12, proposals for Medicare reform;

Major change No. 13, integration of the Medicaid program into the private sector health care system;

Major change No. 14, major changes in the way that our medical teaching institutions do their work;

Major change No. 15, new proposals for medical research;

Major change No. 16, long-term care provisions;

Major change No. 17, antifraud and abuse provisions;

Major change No. 18, expansion of many existing public health programs, and the creation of some new ones;

Major change No. 19, changes in the workers compensation programs;

Major change No. 20, some changes in health insurance as related to automobile coverage;

And major change No. 21, for the Federal Employees Health Benefits program.

Each of these topics—and there are more, but I do not want to continue the list. All of these topics has any number of major topics. So we are in fact, Mr. President, contemplating literally hundreds of major changes that will affect our health care system.

In any normal legislative session, passage of a bill with provisions similar to those of Senator MITCHELL's bill on any one of these topics would be a major legislative achievement.

Do we all know what major items might be buried among these hundreds of subchapters? For example, how many of my colleagues are aware of the fact that the national benefits board created in this bill is specifically exempt from the Federal Advisory Committee Act? You want to remember that what that means is that the board is going to make decisions about what benefits Americans are going to receive through the standard benefits package. And this is the same Federal Advisory Committee Act the First Lady's health care task force refused to comply with, and the White House is now being sued in Federal court over because the meetings and records were not open to the public. This means that some of the most basic decisions of health care can be made in secret proceedings, with no notice of meetings and no access to information.

This might be Star Chamber health care, Mr. President, but it is not surprising coming from those who believe in Government-run health care, because they do not want that to be scrutinized by the public.

There is a question of access to the courts raised by the legislation. I do not know whether this has been discussed yet on the floor, but access to the courts ought to be very important to anybody. When you are passing this sweeping piece of legislation, it ought to be more of a concern. Colleagues who vote for this bill will have to tell their constituents that if those constituents believe that they have had a constitutional right violated, they are going to have to come all the way to Washington to vindicate that right—not there in the local district court of their particular State, but right here in Washington, DC.

I think that provision has some implications that ought to be elaborated on, because if a person believes that some part of this bill is unconstitutional, the first thing he or she will have to do would be to come here to Washington, DC, to appear before the U.S. district court here, and even if that person demonstrates that he or she will suffer immediate or irreparable harm as a result of some part of this act, and even if that person shows that there is a substantial likelihood that the act or one of its provisions is unconstitutional, this bill renders the court powerless to grant temporary relief.

When it comes to health care, Mr. President, I am sure that we can all think of examples where an individual might suffer irreparable harm. Maybe it is some needed treatment that this bill curtails; some may be denied choice of a particular physician. Whatever the case is we are talking about, we are in fact talking about people's health and their lives, and any delay could prove critical. But this bill prevents the court from granting immediate temporary relief by limiting its power to grant "any temporary order or preliminary injunction restraining the enforcement or execution of this act or any provision of this act."

So one whose health may be impaired will have to wait until a panel of three judges can convene, wait until they finally decide the merits of the case—wait, Mr. President, for who knows how long.

Yes, as unbelievable as that might sound, the Clinton-Mitchell bill engages in court-stripping and forum-shopping of the rankest kind. It even deprives the court of authority to issue injunctions against operations of the act that might be unconstitutional. So now we will have health care that can never be taken away, not even by a court that might think some parts of this bill violate the Constitution. Whether you are a liberal Democrat or liberal Republican, there are a lot of my colleagues who have spoken eloquently against similar attempts to strip court jurisdiction and to eliminate form shopping. I hope that those people will be consistent and read through this legislation and speak just as loudly against those provisions, whether they are in this bill or some other piece of legislation.

There is even more, Mr. President. How many know that squirreled away among these hundreds of provisions is what can only be described as a naked power grab by the American Trial Lawyers Association and its high-priced lobbyists? Although it is titled "medical malpractice reform," it would be more accurate to label this as medical malpractice "deform." Written of, and by, and for the trial attorneys, it would arguably preempt the laws of 21 States which placed some limit on non-economic and economic damages and replace it with no limit on damages. I say arguably because the provision has changed in Clinton-Mitchell three.

Apparently, the trial lawyers' greed went too far and was too obvious, and they hope no one would be able to read this bill, the third version, and notice what they were up to. Make no mistake about it—because you should be concerned about the intent of this provision—it is a stealth preemption of State law, and those States with malpractice reform laws will be the ones which suffer.

While this bill may be a windfall for trial lawyers, it would be a disaster for the health care system and the American people. It would stifle medical innovation, reduce the accessibility of health care, particularly in rural areas, and keep more money out of the hands of injured patients. Those States like California, which have enacted progressive liability reform that has succeeded in reducing health care costs, would see their efforts go up in smoke under this bill. But even that is not enough. These lawyers have succeeded in putting into this bill new civil actions with unlimited punitive damages, which creates the potential for explosive litigation—again, to the benefit of the trial lawyers and to the detriment of cost containment within the health care system.

It just goes to show that those who scream the loudest about special interest groups are the ones who have the most to hide.

I want to make my position clear on this issue. While there is some genuine, meaningful medical malpractice reform language in the health care bill, it will have failed to address one of the primary causes of escalating health care costs, and for that reason alone, it should be opposed.

There is another provision in this 1,443 pages about which I am concerned, and that is the proposed modifications of McCarran-Ferguson. And as far as health insurance reform and workman's comp and hospitalization as it relates to car insurance, there is a preemption—I should not say a preemption—there is a repeal of those provisions of McCarran-Ferguson. This act recognizes that certain cooperative actions were essential to the nature of the insurance business and provided for State regulation of such actions. The enormous growth of State insurance laws and regulations show that the States have been performing that function, as intended by Congress 49 years ago, very well.

There are few industries as competitive as the insurance business: over 3,400 companies selling insurance with no company having more than 9.2 percent of the market. In my State of Iowa, the insurance industry is a thriving component of the State's economy

VOL 140 PT 16 AG 12 — 18 1994 UMI

with many, many small firms competing for business. The net effect of repeal of this part of McCarran-Ferguson would be to drive the small- and medium-sized insurers of Iowa and other States out of business, leaving insurance concentrated in the hands of a few giant companies. Without industry-wide data collection and rate advisory services, smaller companies will not survive. This would be a severe blow to my State, and I am opposed to that provision.

Mr. President, there are some good provisions in this 1,410 page health care proposal, no doubt about it. But that is not really the point. Do we really have even the foggiest idea of how any of this would actually work in the real world were we to pass it? And I think, just like CBO said several months ago, we ought to stop kidding ourselves. We have absolutely no idea at all, because again I think we need to emphasize again that, in the 205-year history of the Senate, there has never been legislation that would redirect $1 of every $7 in the American economy.

Remember again what the Congressional Budget Office found in their analysis of Senator MITCHELL's bill. These are their words: "There is a significant" chance that the "substantial changes required by this proposal . . . could not be achieved as assumed."

As many Senators have pointed out, we really have not had sufficient time to study and analyze Senator MITCHELL's bill. But a quick review suggests that it has any number of provisions that are going to create serious problems for many Americans.

A quick review also suggests that it is very likely that the original bill proposed by President Clinton would have those same problems and that this bill is very much like that bill.

The bill includes a delayed employer mandate which we have to assume will go into effect and will have a negative effect on small business and the employees of small business.

It includes a complicated tax on the rate of increase of health care premiums. This tax on the rate of increase in health plan premiums is really the Clinton global budget and premium cap concept, however, in disguise.

It is a global budget concept because aggregate national per capita health care expenditures in 1994 would become the total amount of spending from which national health care spending could increase in the future.

Then the Congressional Budget Office at that time would determine the acceptable rate of increase for the years until 1997. Thereafter, control of health spending would be on semiautomatic pilot. When finally implemented, it would be allowed to increase only at CPI plus 2 percent, restricted by what the Congress said in this bill the country can spend on its health care.

These cost containment features of the bill are almost surely going to drive right out of the market plans that allow you to go to any doctor you want and pay, through your health insurance, for the care you and your doctor decide you need.

I heard the author last night take some exception to our reading of his legislation that way. I heard every word he said. I still stand by this statement.

Even if health plan sponsors are required by the Mitchell bill to offer such fee-for-service plans, such plans may cease to exist, or people will not be able to afford them. People are going to be driven by economic pressure into low-cost managed care plans, or insurers will no longer be able to offer fee-for-service plans. The remaining managed care plans are going to be under great pressure to vigorously economize in the delivery of health care services, and that is the beginning of rationing.

The health insurance purchasing cooperatives called for in this bill have been described as voluntary, but they are not really going to end up that way. They probably will end up in reality as mandatory. All employers with under 500 employees must enroll their employees in this cooperative and may offer a choice of 3 private plans. But why would an employer attempt to negotiate with other plans if the employees can take the employer contribution and join any plan in the local cooperative?

If I understand the bill correctly, no insurer may charge a premium different than that negotiated for that insurer's plan through any purchasing cooperative. So why would an insurer even bother to offer a plan outside of the purchasing cooperatives?

Mr. President, Iowa is a rural State, and I want to digress just a moment to view this legislation from the perspective of my State and any rural State of America. From this standpoint, I believe that Senator MITCHELL has worked hard to include in this bill many provisions designed to help rural areas. We on this side of the aisle may have some problems with this or that rural-specific provision, but those differences can probably be worked out between us. In fact, many of the rural-specific provisions that have found their way into Senator MITCHELL's bill were developed earlier by both Democratic and Republican Senators, including myself, and were included in the Finance Committee bill and the Labor Committee bill.

Many of these same or similar provisions, by the way, are in the Dole-Packwood bill.

Unfortunately, I have to say to my colleagues that the question for those of us who represent rural areas has to be whether the major elements of Senator MITCHELL's bill are good for rural States, even though some of those specifically directed to certain specific problems in rural America are very good. Are those good provisions offset by some bad aspects of this major bill? I think the answer to that is yes, that they will. I think Senator MITCHELL's bill, as a whole, will not be good for rural areas.

I wish I could say otherwise as an answer to that question. I want to tell you why I cannot give a confident yes to this question.

The bill continues to discriminate against the self-employed. It fails to provide 100 percent deductibility of health insurance premiums for the self-employed.

A greater percentage of people in rural areas are self-employed than in urban areas—around 13 percent compared to 7½ percent of urban workers.

In farm areas and all over main street, small town, America, there are ordinary self-employed people who buy individual insurance and pay for it out of pocket after tax dollars. Now there is that 25 percent deductibility today, but even that ran out at the end of last year. We have let it run out before so that cannot even be counted on.

So these people's ability to afford their health insurance would be considerably enhanced with 100 percent deductibility. For instance, the American Farm Bureau Federation has estimated that for a typical family of four at the 15-percent tax level a full tax deduction could generate over $1,200 in savings per year.

Now, as a matter of fairness, large businesses get to deduct what they pay for employee health insurance. The employees of large businesses get a health insurance benefit tax free. Why should not our rural citizens and small business people get the same tax treatment?

In addition, the bill does not include medical saving accounts, and the distinguished Senator from Delaware spoke well about that issue before so I will not go into that. But medical savings accounts would help very much, maybe even more so in rural America than in urban America.

The bill outlaws self-funding of insurance for any business with fewer than 500 employees. Many small businesses found in rural towns now self-fund and are doing a good job offering insurance to their employees and cost containment. This ban on self-funding for employee groups of that size is going to disrupt health care coverage of all of them. Why should we not retain the self-funding option for rural areas as one more way of getting people covered?

I just cannot understand when we have such a high percentage of people in America and particularly employers self-insured that we want to hurt that approach. It seems to me what we ought to do is build on what private initiative has already accomplished in America and not do harm to it.

If the mandates laid out in the bill do get triggered in and are eventually required of small businesses, I think it could be devastating for more fragile lower wage economies of rural areas.

The cost of private health insurance in rural areas is almost certainly going to rise as a consequence of this bill. If I understand how some of the features of this program are going to work, it looks as though they will conspire together to seriously disadvantage rural residents.

Fee-for-service plans are still more common in rural areas. And they probably will be for some time to come. Medicare payments tend to be a bigger factor of health care life in rural areas than in cities. Under this legislation, the Government is going to continue cheating on what it owes for Medicare services even more than it does now. Thus, providers are going to cost-shift to the fee-for-service plans more common in rural areas. The premiums of those plans are going to go up. As the premiums go up, the total amount of money taken by the 1.75-percent tax and shipped away to the east coast increases. As the premiums go up, they run right into the 25-percent excise tax called for by Senator MITCHELL's bill.

Furthermore, this 25-percent tax is really a global budget and premium cap provision. This is going to unfairly freeze providers in low-cost States at low levels of reimbursement. It seems to me that the same thing is going to happen to some of these States, including my own State of Iowa, that happened when the Medicare Cost Containment System was put in place. Unfairly low reimbursement levels were put in place and held in place by Federal law and Federal agencies. Only this time it would be not just the Medicare Program that is affected, but the entire private health care system in some of these States.

This provision is probably going to kill any hope of private investment in health care systems in rural areas. It is well understood here in the Senate that a substantial investment in rural health infrastructure and in rural health workers is needed. In fact, most of the bills recognize this by including provisions designed to do exactly that, including Senator MITCHELL's bill and Senator DOLE's bill.

The problem is that private health plans are not going to want to incur the additional cost of investment in health care if they face a tax on their premiums when they try to achieve a return on those investments. This is going to be true generally, not just in rural areas.

But the problem is going to be more acute in rural areas. Those areas do not have the population density that could make it easier for health plans to get back a return on the investments they make. They will almost surely face higher costs if they wish to invest their own resources in rural areas. Those costs will have to be reflected in their premiums.

Why should a private insurer take the risk of investing in an underserved rural area if they are going to face a 25-percent excise tax on the premiums they have to charge to cover the higher cost involved in investing in such areas?

So I hope that we can do something about making that very clear.

I would like to call the attention of my colleagues to two letters, one from the American Farm Bureau and the other one from 115 other organizations. Those organizations have concluded just the Mitchell bill is not going to be good for rural areas. They include some of our most important national farm organizations.

Mr. President, I ask unanimous consent to have these letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AUGUST 12, 1994.

Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of more than 100 farm and rural organizations we would like to voice our concern with the Health Care Reform Proposal offered by Senator Mitchell, as presently written.

We have spoken forcefully in favor of 100 percent tax deduction for the self employed and against an employer mandate * * * and against mandatory alliance.

We cannot support any plan that:

1. Does not achieve a 100 percent deduction.

2. Lays out the foundation for an Employer Mandate.

3. Sets up "required" participation in purchasing alliances, a "de-facto" Mandatory Alliance.

But there are other rural concerns that require bi-partisan attention.

Paperwork. It sets up administrative and reporting requirements that will be highly burdensome for small employers.

Cost of insurance may rise. Farmers traditionally buy plans with high deductibles. The Mitchell Plan limits this option. Community rating pools are broadly defined so that—in many instances—rural citizens will subsidize the health costs of their urban and suburban cousins, places where medical costs are not only higher, but so is utilization. In addition, age banding is unnecessarily restrictive. States have the option of setting up a community rate for the entire state.

It limits choice. It would allow states or the D.O.L. to determine, based on unstated definitions, that there is insufficient competition in certain rural areas so they are not required to even offer more than one plan to their employees. That one plan must always be the HIPC, and the HIPC must always include the FEHBP. This amounts to a potential back-door single-payor system for rural states.

Cost-shifting. It cuts into projected Medicare expenditures, which will hurt many rural hospitals, and because it shifts billions in Medicaid costs to private insurers, cost-shifting will take place. Net result: a massive, unintended cost-shift that will fuel insurance costs of fee-for-service plans—the primary insurance vehicle for rural communities.

Taxes. The new tax on plans with fast growing health premiums will hit fee-for-service plans hardest, especially those in rural areas, for reasons already noted in previous paragraph.

Association Plans. About 1 in 3 farmers and very-small rural small businesses have their health insurance through "association plans", which pool businesses or individuals in a form of voluntary cooperative. These plans are more likely to have begun to negotiate PPO and cost-savings with providers. However, these plans are essentially made ineffective by making them a part of a community rated pool, and not part of an experienced rated pool, despite the fact that many of these plans have more than 500, and some more than 5,000 individuals enrolled. Solutions: allow large association plans to be experienced rated, but require an annual open enrollment for members. The long-range impact of weaker private sector pooling arrangements is to eventually force very small businesses, and the self-employed into the state or federal-directed HIPCs—which may be the insurance of last resort for the poor.

Subsidies. Subsidies do not clearly distinguish the realities of farm income, in which it is true that farmers have relatively high "gross income" but "low net income". Careful consideration should be made for agricultural producers, especially young farmers, because "gross incomes" may not be the best determination.

Health Board. It gives enormous power to several new agencies, especially the National Health Board, but it does not include provisions that would guarantee rural representation on those boards. Health care is not necessarily better, or worse in rural America, but it is different. The composition of any agency with important health powers should include stronger rural representation.

Medical Savings Account. It does not include Medical Savings Accounts. Farmers would benefit from MSAs, and have been pioneers in the use of the MSA concept by blending high deductible plans with personally-funded tax deferral savings vehicles. MSAs are a proven "concept", the Mitchell Plan does not acknowledge their value in any way at all.

There are many positive enhancements to the recruiting of health professionals to rural areas and grants for demonstration projects, but on balance is not a plan we can embrace.

Sincerely,

American Agri-Women; American Dry Pea and Lentil Association; American Sod Producers Association; Communicating for Agriculture; Farm Health Care Coalition; Farmers Health Alliance; International Apple Institute; National Association of Wheat Growers; National Barley Growers Association; National Cattlemen's Association; National Contract Poultry Growers Association; National Cotton Council; National Cotton Council of America; National Council of Agricultural Employers.

National Council of Farmers Cooperatives; National Christmas Tree Association; National Christmas Tree Nursery; National Grange; National Milk Producers Federation; National Pork Producers Council; United Agribusiness League; United Egg Producers; United Fresh Fruit & Vegetable Association; Women Involved in Farm Economics; Agricultural Council of Arkansas; Agricultural Producers; Alabama Contract Poultry Growers Association; AZ Cotton Growers Association.

Arkansas Association of Wheat Growers; Arkansas Contract Poultry Growers Association; California Association of Wheat Growers; CA Cotton Ginners Association; CA Cotton Growers Association; California Farm

VOL 140 PT 16 AG 12 — 18 1994 UMI

Bureau Federation; California Grape & Tree Fruit League; Colorado Association of Wheat Growers; Florida Contract Poultry Growers Association; Florida Fruit & Vegetable Association; Florida Nurserymen & Growers Association; Georgia Contract Poultry Growers Association; Idaho Grain Producers Association; Idaho Onion Growers Association.

Illinois Cattlemen's Association; Kansas Association of Wheat Growers; Kentucky Contract Poultry Growers Association; Kentucky Small Grain Growers Association; LA Cotton Association; LA Cotton Producers Association; Louisiana Contract Poultry Growers Association; LA Ginners Association; LA Independent Cotton Warehouse Association; Delmarva Contract Poultry Growers Association; Minnesota Association of Wheat Growers; Mississippi Contract Poultry Growers Association; Mississippi Delta Council; Montana Grain Growers Association.

Nebraska Wheat Growers Association; New England Apple Council; New Mexico Wheat Growers Association; North Carolina Apple Growers Association; North Carolina Small Grain Growers; North Carolina Sweet Potato Commission; North Dakota Grain Growers Association; North Dakota Stockmen; Ohio Contract Poultry Growers Association; Oklahoma Contract Poultry Growers Association; Oklahoma Wheat Growers Association.

Plains Cotton Growers Association; South Carolina Contract Poultry Growers Association; South Dakota Wheat Incorporated; Southern Cotton Growers Association; Southeastern Cotton Ginners Association; Tennessee Contract Poultry Growers Association; Texas Cattle Feeders Association; Avian Cooperative of Texas; Texas Citrus & Vegetable Association; Texas Wheat Producers Association; South Texas Cotton & Grain Association; Rolling Plains Cotton Growers; Virginia Agricultural Growers Association; Virginia Contract Poultry Growers Association.

Virginia Small Grain Growers Association; Washington Association of Wheat Growers; Washington Cattlemen's Association; Washington Growers Clearinghouse Association; Washington Growers League; Washington State Horticultural Association; Washington Women for the Survival of Agriculture; Western Growers Association; Western Pistachio Association; Wisconsin Christmas Tree Producers Association; Wyoming Wheat Growers Association; Curtice Burns Foods/Pro-Fac Cooperative; Dovex Fruit Company; Eastgate Farms, Inc.

El Vista Orchards, Inc.; Florida Citrus Mutual; Forrence Orchards, Inc.; Grainger Farms, Inc.; Grower-Shipper Vegetable Association of Central California; Hood River Grower-Shipper Association; Johnny Appleseed of Washington/CRO Fruit Company; Knouse Fruitlands, Inc.; Lyman Orchards Country; Newman Ranch Company; Nyssa-Nampa Beet Growers Association; Princeton Nurseries; Rocky Mountain Apple Products Company; Torrey Farms, Inc.

Valley Growers Cooperative; Ventura County Agricultural Association; Wasco County Fruit & Produce League; Yakima Valley Growers-Shippers Association.

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, August 11, 1994.

Hon. HOWELL HEFLIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HEFLIN: The Senate is poised to begin voting on the most important social question of this Congress and probably of the last 30 years. You have the responsibility to represent the views and best interests of America and your state's portion of the 4.2 million members of the Farm Bureau. Your constituents expect and deserve a health care reform law that remedies what is wrong and protects what is right with our present system.

Farm Bureau has closely followed and has attended numerous meetings on the subject of health care reform, from the early efforts by the White House to those of many members of the House and Senate, as well as with various organizations and coalitions. We have intentionally not joined any formal coalitions nor have we aligned ourselves with any of the many proposals that have surfaced. We have instead pointed out what, in our view, would be valuable or detrimental to the needed improvement of our system.

Farm Bureau members have made this a priority issue and are obviously users of the present health care system. As users, we have benefitted from the unbelievable advances in medicine and also have suffered through the unrelenting double-digit medical cost inflation of the last 20 years.

The farmer delegates to the American Farm Bureau Federation's annual meeting approved two full pages of policy regarding health care. The essence of Farm Bureau policy is expressed as follows.

We favor:

1. Reform of the current health care system;
2. Financial assistance to those unable to afford it;
3. One hundred (100) percent tax deductibility of health insurance costs paid by the self-employed;
4. Medical savings accounts;
5. Sensible insurance reform dealing with portability, prior existing conditions and modified community rating;
6. Malpractice tort reform;
7. Targeted rural benefits, such as incentives for medical professionals to locate and stay in rural areas, fair reimbursements on Medicare and Medicaid, and greater use of technology for modern "telemedicine."

We oppose:

1. Employer mandates, including triggers to impose them at some future date unless the Congress must vote for the imposition;
2. Government-imposed price controls on the various components of the health care delivery system;
3. Massive new taxes; and
4. Repeal of the McCarran-Ferguson Act.

We are not opposed to any of the proposals in their entirety and do not criticize any proposal completely. However, some of the proposals have more points with which we agree than others. Thus, we will support or oppose bills, amendments and substitutes accordingly.

The reform of health care in America is not a sporting event that has one side winning or losing. We will all win or we will all lose based on the outcome of this debate. We don't believe either the next congressional election or the next presidential election can be predicted based on this issue. Therefore, a purely political vote will benefit neither you nor America.

We urge you to consider AFBF's policy as you vote on this important question and support constructive change.

Sincerely,

DEAN R. KLECKNER,
President,
American Farm Bureau Federation.

[From Farm Bureau News, Aug. 15, 1994]

CONGRESS BEGINS DEBATE ON HEALTH CARE REFORM

Debate on legislation to reform the nation's health care system began last week in the Senate. It had been scheduled to start in the House this week, but House leaders have now postponed it for at least another week.

At the center of the debate are plans crafted by Sen. George Mitchell (D-Maine) and Rep. Richard Gephardt (D-Mo.) that contain controversial provisions requiring employers to pay part of the cost for their employees' insurance.

In the House, a bipartisan alternative that does not include employer mandates has been put forward by Reps. Roy Rowland (D-Ga.), Michael Bilirakis (R-Fla.), Jim Cooper (D-Tenn.) and Fred Grandy (R-Iowa).

Because of different rules in each body, the Senate is expected to consider dozens of amendments while the House plans to consider only a handful of major proposals. The first battle in the House will be a decision on the rule that governs debate. Farm Bureau is urging House members to adopt a rule that will give alternative plans a fair opportunity to be considered.

American Farm Bureau Federation President Dean Kleckner, in a letter to all members of Congress, noted that Farm Bureau does not oppose any of the proposals in their entirety but "some of the proposals have more points we agree with than others."

"The reform of health care in America is not a sporting event that has one side winning or losing," Kleckner told lawmakers. "We will all win or we will all lose based on the outcome of this debate. A purely political vote will benefit neither you nor America."

The Gephardt and Mitchell proposals as they are currently written fail to meet Farm Bureau policy, according to Hyde Murray, an American Farm Bureau Federation governmental relations director. The Rowland bipartisan measure comes closer to meeting Farm Bureau's objectives, he added.

Farm Bureau supports health care reform that provides financial assistance to those unable to afford it; 100 percent tax deductibility of health insurance costs paid by the self-employed; medical savings accounts; sensible insurance reform dealing with portability, prior existing conditions and modified community rating; malpractice tort reform; and targeted rural benefits including greater use of technology for "telemedicine."

Farm Bureau opposes employer mandates, government-imposed price controls, massive new taxes and repeal of the McCarran-Ferguson Act, which provides an antitrust exemption for the insurance industry. A provision to repeal the act is included in the Gephardt bill.

Mr. GRASSLEY. Mr. President, I believe that many Americans are concerned about losing some of those features of the American health care system that they value so highly which I listed at the beginning of my statement.

If the Clinton-style global budgets and premium caps go into effect, these things we now value so highly could be threatened. Health plans will have to strenuously economize in order to remain profitable. Economizing means that the quality of care could decline, access to care could be reduced and rationing could result.

Doctors are at risk of becoming employees of big insurance companies. In the new managed care plans, there could certainly be at work a financial incentive to underserve. Those who

serve as the gatekeepers through which people will have to pass to get health care will be under instructions to make people wait, to delay or deny access to specialists, to delay or deny access to sophisticated diagnostic procedures.

I do not fear for the young and healthy, the kind of people found disproportionately in health maintenance organizations. I fear for those with costly and life-threatening or handicapping illness. I do not want to see a state of affairs come about in which such people find that their care is delayed, or their access to advanced diagnosis is put off, or their access to the best specialists is restricted.

We all agree on the need for cost containment, Mr. President. I think all of us have presumed that cost containment is one of the major goals of reform.

But there is an obvious tension between vigorous cost containment and these things we value so highly in our health insurance and health care arrangements. This tension cannot be sidestepped just by claiming that we are going to eliminate unnecessary care and drive out waste, fraud, and abuse, as worthy as those goals are and as necessary as it is that they be accomplished.

Remember, in my opening comments, I said to write down in your diary the day this 1,400-page bill passes the Congress and is signed by the Senate what you think of your health care system. Because I do not think you will ever see it this great in the future.

I want to quote Rudolph Penner. We all know him, unless you are a recent Member of this body. I think everybody knows him anyway; a scholar today, but former director of the Congressional Budget Office and a respected economist. He gave an assessment of price controls in health care for the Alliance for Management Competition. He cited a comment from the Congressional Budget Office that puts this tension pretty well, the tension that I cited between cost containment and the reduction of the quality of care and access to diagnostic treatment and to specialists; in other words, where we do not have rationing today, where we might have rationing in the future. This is what Rudolph Penner quotes from CBO.

> In the process of changing the present health care system to achieve greater control over costs, some of the desirable features of the current health care system would be adversely affected. In particular * * * less spending on research and development, longer waiting times for access to new technology, and limitations on our existing choices of providers, health insurance coverage, and treatment alternatives.

Now, again, this person I quote is a person who understands Government. He understands the shortcomings of Government. If he has questions about these massive changes in our health care system, then is it any wonder people at grassroots America are skeptical of our deliberations and what we might do to that health care system with the passage of this legislation?

If there is one thing of which I am very confident, it is that the American people—that broad stratum of well-insured Americans who are pleased with their doctor, their hospitals, and their insurance companies—are very much not of a mind to give up these things that they value so highly.

With the power of Government behind you, it is possible to dream up practically anything in the mind's eye. It is possible to put those ideas down on paper. It is even possible to write legislation based on those ideas. Whether they will come even close, though, to working out there in the real world, that is a completely different matter. The plans offered by President Clinton, by the congressional committees which have reported bills, and by Senator MITCHELL, would launch our people on a wildly experimental venture.

As much as they want to see changes in our health care system, I am confident the American people do not want to be laboratory rats for some grand Government-dominated national social experiment. When people answer polls about wanting some changes made in the system I think it is summed up best by people in my State—and I will bet there are people like them in every State —who would say, in a very common sense approach, to their Senators or their Congressmen, something like this: "Well, we know that you have a problem out there in Washington. You want to do something about the health care system. You want to do something about cost containment. You want to do something about the people who do not have insurance."

In making that statement they are really asking a question: "If you have to deal with those things, can't you find a way of doing it where you do not screw up our health care that we have today?"

Many of our fellow citizens are, thus, trying to tell us they want improvements in the way our health care system works but they do not want to revolutionize that system. They want to see the uninsured are insured. They are moved, I think, by the plight of the uninsured. There was not one of us who listened to Mrs. Clinton last night, or listened to the people she had on the podium there with her, who had special problems, who would not be moved by that. But the people at the grassroots believe that these problems can be solved without vastly increasing the role of Government in the workings of the health care system. They believe these problems can be solved without throwing the entire system into turmoil. They want a reform that is done right. They do not want a contraption hurriedly stuck together with baling wire and chewing gum so we can throw something out to the voters this year to satisfy the electoral needs of politicians and that the bureaucrats in the Department of Health and Human Services will have to finish for us, fill in the blanks with regulations next year and for every year thereafter.

The American people are telling us they want to put this entire health care reform project off. That is what a majority of people are now saying in those polls. A year ago they did not say that. A year ago they did not know any more than we did what we were talking about in a 1,400 page bill. We know that they have now had a chance to look at it. I still do not think it has to be put off. I think we can pass some incremental legislation this year and build on it. We can have some useful reform this year, a good bill: Not a Democrat bill, not a Republican bill, not a bipartisan bill—but just a good bill. I am of the view we should not proceed with what might be called a big bang approach to health care reform. We should pass those limited reforms that will do some good. Then see what happens. Then we should return to the task next year and the year after, making adjustments that seem appropriate in light of what incremental reforms have been accomplished.

In other words, not to make the mistake we did in 1988, as sincere as that was. We had the ability to do this up right, pass one big bill redirecting $1 out of every $7 spent in America—the most massive impact on the economy of any piece of legislation ever passed in our history. If we could do that and people had confidence we could do it, that is one thing. But the people are skeptical about it now. That should cause us to be skeptical. But more so the track record of 1988 ought to signify to us we should make changes where there is very wide agreement among us on those things that can pass almost unanimously and then in the future—in the very near future—do more; in that very near future do some more. But do it slowly so we do not make mistakes.

I yield the floor.

The PRESIDENT pro tempore. The Senator from New Hampshire [Mr. SMITH].

Mr. SMITH. Mr. President, this has been and will continue to be a long, extended debate on an issue that is very, very important to the American people. As we look at where we are and why we are here, we started, of course, with health care being an issue in the last Presidential campaign. To the credit of the President and the First Lady, they made it an issue, and because of that we now have this debate at center stage.

Like most of my colleagues, I go out and get involved in the process, trying to understand the issue as much as possible. It is a very complex issue and

VOL
140
PT
16
AG
12
—
18
1994
UMI

takes a lot of work to do it. My office has received thousands of phone calls and letters—more phone calls and letters, I think, on the issue of health care reform, both sides, than on anything since I have been in the Congress. I hosted a statewide health care conference earlier this year, in April, that featured leading policy experts from every facet of the health care delivery system. There were doctors, there were providers, nurses, patients—everyone who in some way had an impact or was impacted by any change or legislation in the health care industry was there. It was a fascinating seminar, to say the least, to listen to the concerns and the recommendations that were made by these people.

In addition to that I have 10 counties in my State. I held a town meeting in each of those counties. We do not call them town meetings in New Hampshire. There is only one town meeting in New Hampshire and that is the one held by the town. But I called them citizen forums. In these forums we were there to hear directly from constituents regarding the issue of health care reform. They spoke out. There were hundreds of them there in all of those town meetings, more than attended any of my citizen forums on any other issue.

In addition, as I said, I have met privately with numerous doctors, nurses, administrators of hospitals, insurance executives, private citizens and patients, as we have all done. This is not something that has been unique to me. All of us here in the Senate have tried to do this because of the complexity of the issue. In short, I guess the fairest thing to say is I have heard New Hampshire speak to me, and with me, on this issue. Overwhelmingly what they are saying is they do not want the Government any more involved in health care than it is already involved now. In other words, less Government involvement. I think there is a concern, unfortunately, that comes through as we listen to these constituents and providers and all of those who are in any way affected by this pending legislation—there is a concern that the Government is going to do something to me on this issue. I think that is coming through loud and clear, and it is a very valid concern. Rather than helping us, they are going to do something to me that may cost me my good quality health care.

The national polls—which have changed dramatically from overwhelming support for what President Clinton had proposed to the opposite, now—show America shares those same feelings as the people in New Hampshire.

(Mr. KERREY assumed the chair.)

Mr. SMITH. Mr. President, I do not think there is a great difference between the States—no matter what State you represent—on this issue.

I believe, based on what I have heard from the people I have talked with, that most Americans would oppose not only the underlying finance bill, which is technically on the floor, but also the Clinton-Mitchell-Gephardt or Clinton-Mitchell bill as we have here.

Fifty-three percent, according to the polls, worries Congress will pass a plan that gives the Federal Government too much control. And that is a very valid concern. They are suspicious because Government has proven again and again that it is not efficient, it is not compassionate, it is not thrifty; therefore, should not be trying to provide health care needs of people—least of all health care.

If a mistake is made by a Government official in perhaps the administration of the IRS or some other program, or the Post Office is late delivering the mail, it is a problem, maybe, but it is a minor problem compared to some slipup in the treatment of your health.

I think of the thousands of times—we all have done it—I tried to do an estimate, but it is in the thousands of people that have contacted my office in the past 10 years in the Congress to seek help with the Government bureaucracy. Sometimes we help them, and sometimes we cannot. It is as simple as that. It is a complex maze that citizens have to go through.

I think of those huge numbers of cases—veterans, Social Security, immigration—all of the things that we deal with. I think, OK, it is a hassle, it is a problem, it is a mess. We try to straighten it out. We go here, we go there and help them get straightened out to get them out of the country, back into the country, get their Social Security check, whatever. And they are important to them, but they are not as important as their health.

I cannot imagine having the caseload of our offices increased because somebody was having problems with the Federal Government's involvement in health care and seeking our office's help, or any help, to try to help them when they have been denied access or some other problem which may crop up.

They are worried. People are concerned. They are worried that they are going to lose their choice in their health care providers, they are worried that the quality of their health care will go down, they are very worried that their personal freedom will be diminished, and they are worried that they will be denied access to health care under certain circumstances, and that their costs will go up. These are very, very legitimate concerns: Costs, access, personal freedom, quality. These are concerns, and they are legitimate concerns of every single American.

I would also point out that this type of legislation we are discussing today is something that is going to impact every single American in one way or another. Very few people go through life from cradle to grave without having to meet a doctor along the way. It may happen, but not too often, if it happens at all. So somebody is going to be affected at some point in the chain. We need to understand that people are very concerned about that.

So that is why this is a controversial issue; it is a tough debate. People with good intentions on both sides have brought it to the forefront. The debate has been, I think, fair and pretty spirited at times, but I think it is necessary.

Let me talk a little bit about the process and what brought us here, and then get into the substance of the issue.

Because it affects every man, woman, and child in America in one way or another, I am a bit concerned about how we have gotten here in the process. I mentioned the fact it was brought up in the campaign. Then we had the White House Task Force on Health Care Reform, which essentially met in secret, as you all know, and for the most part precluded many who would like to have been involved, from being involved.

As a matter of fact it is now, probably, a violation of law and will be before the courts for a while to see how that will be resolved as to whether or not any laws were violated. Then after that, the so-called Clinton bill gets knocked around for almost a year, taking a downward spiral in the polls because of the debate that ensued. Then we have a meeting. Some decision is made by some in the Government—not on our side of the aisle from what I have been able to understand—that this bill, the Clinton bill, cannot make it, is not what the American people want. It is obvious. So there is a secret meeting or some type of meeting at the White House between the President and the majority leaders in the House and Senate, and then the decision is made to present two bills to the Congress: One the so-called Gephardt bill and one the so-called Mitchell bill.

I will just say, and I know there has been a lot of debate on this and I am not going to go into it to any degree, but this is a big bill. There are a lot of big bills that come through here, as Senator MITCHELL said the other day, and he is right. Do we get a chance to read them all? No. This is a bill with a huge impact on the American people. I might tell you, I started going through this thing. This is not a Tom Clancy novel we are talking about here, and it certainly is not John Grisham either.

This is tough reading. You need to have the television off and the music off and the kids in bed when you start reading this baby because this is really complex stuff. It takes a lot of time and it takes a lot of focus. It is 1,400 pages.

I just feel that when we talk about immediately moving to the bill, talking about threatening all-night sessions if we do not get amendments offered, if we do not do this, do not do that.

To the President's credit, his bill was debated for a year or longer out there. We knew pretty much what was coming down. Then suddenly the doors close, the President's bill is declared dead and out comes this one, out comes this thing. We now are told if we do not get to this thing and get it voted on shortly, we are going to stay in session all night until we do it. Then there was some blinking, and we wound up with some amendments being offered.

I do not have a problem with amendments being offered, but I want to make sure this thing is debated fully and every Member of the Senate has a chance to read it. What disturbs me even more, I would like to have the opportunity after I read it, after this debate, and before the vote, to go back to New Hampshire and talk with my constituents about it, because they have no idea what is in it.

They had some idea what was in the Clinton bill. That was done in a correct way. That was debated. This is not the Clinton bill. Not exactly. There are a lot of Clinton provisions in it. We do not know exactly what this bill is, nor do we know what the impact of it is.

I think the people all over the country—not just New Hampshire—ought to know what is in it. The only way that is going to happen is if we have the opportunity to go back and speak with them, after having read it and learned what is in it.

So we are now going to move to this bill, which we have done, with the threat of all-night sessions. So here we are. It is clear the push for health reform now has acquired a life of its own. It is no longer just a simple piece of legislation. It is breathing on its own.

Robert Samuelson pointed out in a Washington Post column last week that the Democrats are much more interested in putting together a bill that can pass for political reasons than doing what is right for our country. I do not know that I would totally subscribe to that, but I do think that the point is that what is politically expedient is not always necessarily what is right for the country.

So, again, I hope that reason will prevail; that perhaps those of us who have had to cancel plans might have the opportunity to get back home, talk with our constituents about this, come back here, take a few more weeks to allow this thing to be debated fully and make an intelligent decision. I am not optimistic that is going to happen, but I hope that it happens. We have to wait and see how that plays out.

Let us take a look at what some of the concerns are on this legislation. We know that this bill contains employer mandates. We know that the majority of businesses in this country, especially the small businesses, are opposed to that; that it is a problem. Whether you are talking about Clinton or Gephardt or Mitchell, they all have the employer mandates in one form or another.

The bill introduces a Government-chosen standardized benefits package. That is another provision. The Mitchell bill allows a commission to set the package with certain guidelines, so Americans will never know, really, until after the law is passed what is in there. This is another situation where we have not dealt forthrightly with the issue up front. We have just created a commission, and this commission now is going to establish some guidelines. So we are not going to know what is covered and is not covered until after the bill becomes law. That is not a good way to legislate.

The Mitchell bill does pave the way for direct Federal control of health care. There is no question about that. Any reasonable look at this is obvious. The Federal Government, under Mitchell, establishes an exclusive alliance for certain workers in areas where States do not create their own alliances and rules governing this system would be drawn up in Washington.

Washington. Why is it always Washington? The Mitchell bill introduces price or spending controls. It gives vague powers to a new national health care coverage and cost commission, which is going to recommend ways to hold down costs and require Congress to vote on its recommendations in an expedited up-and-down process. And then the bill claims a fail-safe provision to prevent any increase in the deficit. But if the bill's sequester mechanisms actually were invoked, according to CBO it could make previously eligible people ineligible for subsidies and would reduce the extent of health coverage.

Some problems. The bill is going to discourage self-insurance. No question about it. And the bill will create a huge new bureaucracy and place unfunded mandates on the States.

When we are courted, and we all are, on our votes, whether or not it is by the majority leadership—for the most part it would be the majority leadership courting votes, and not too many of us are getting courted on our side, although some are—there are claims being made that this is not the Clinton bill; this is something different. But do not be fooled by that because it is essentially the same. Supporters of the Clinton plan are trying desperately to gain votes for bills which in isolation and by careful reformulation have problems obtaining access to health services and need community health centers and other safety net programs. So there is a problem.

Now, this standard benefits package is a real problem. By adopting a comprehensive standardized benefits package approach rather than trying to assure that all Americans can obtain at least a basic catastrophic plan, this bill has chosen to ignore the fact that millions of Americans, millions of Americans, most notably the younger and the healthier ones, may not want and possibly cannot even afford such a "standardized" generous package. And those who need service not included in the standardized benefit package would have to buy the service out of their own pockets or buy supplemental coverage without any tax relief. Americans should be wary of a Congress or a commission to establish a comprehensive benefit system for all Americans especially in an era where medical technology is improving and making rapid advances. Senator DURENBERGER gave a very good statement on that point earlier in the debate.

There is a heavy burden on States under the Mitchell bill. For instance, the Mitchell bill requires States to oversee and enforce the complicated rules governing health plans under the new system. It would also require them to operate a risk adjustment system designed to transfer billions from health plans primarily serving healthier families to an unusually higher proportion of sicker Americans. So States would also have to assemble vast amounts of insurance and health data, would be responsible for creating a network of health purchasing cooperatives.

Here again we have essentially an unfunded mandate. Nobody really knows, nobody really knows how the Gephardt bill, the Mitchell bill or, for that matter, the Clinton bill, or the conference bill, how it is actually going to work. Some say pass Mitchell, pass Gephardt, whatever, get it to conference, and we will take care of it.

Well, you saw what happened with the crime bill. We passed that out of here, and that went to conference and look what happened. It is now the subject of national debate. Many Members of Congress are getting dinner invitations to the White House now to be pressured to change their votes. This thing fell to pieces because what passed the Senate was not what turned out in conference. A tough crime bill became a weak crime bill, and now they are trying to put it together.

What happens in conference, frankly, is a far cry from what the Founding Fathers thought about democracy. What happens in conference, my colleagues, is secret meetings, closed doors. We do not call them smoke-filled rooms anymore because not too many smoke cigarettes in the Senate. But they go into the conference and they close the door and nobody knows who put in these provisions. You cannot find out. You ask every conferee and nobody knows the answer. It just appears.

VOL 140 PT 16 AG 12 — 18 1994 UMI

With all these changes, we are not going to know what is going to come out of conference. So if you are going to vote for Mitchell to get it into conference, good luck. That is the bottom line.

The more the American people found out what the Clinton bill did to their health care, the less they liked it. So my sense is that with the best of intentions, a bill moves into conference and then it is changed dramatically from what passed on the floor, and I would say dramatically changed for the worst.

So the very fact that this debate has inertia of its own that runs counter to the feeling of the vast majority of Americans —I did not talk to every American I did not talk to a majority of Americans, but I talked to a large number of citizens from New Hampshire, and I have talked to some from around the country who have called, and they say that anything resembling the Clinton bill, anything resembling it—and regardless of your feelings on the majority leader's bill, it certainly resembles the Clinton bill —they say would be disastrous for the country.

Well, maybe they are wrong and maybe they are right. But they are the American people, and they are talking to us. They are talking with us. They are asking us to listen to them. It ought to at least give us a chance to pause, to step back and say, "Hold on. Wait a minute. Maybe we are going too fast. Let us not be concerned about moving too quickly."

Remember, 85 percent of the American people are covered by insurance, 15 percent are not. I saw Mrs. Clinton last night. As Senator GRASSLEY talked about, those people need help, and we can help them. There is not a person in the Senate who does not want to help them, or in the country for that matter, as far as I know, who would not like to help those people. But why do we have to throw out the entire system to make unhappy 85 percent of the American people to help the 15? Would it not be better to reform gradually and help the 15 percent? Does that not make better sense? That is what the American people are asking us to do. That is all they are asking us to do—to go slowly, help the 15 and leave the 85 percent alone that are covered. That is what they are asking us to do.

Now, given that fact, let me specifically discuss several things about the Clinton-Mitchell bill that I find particularly onerous and things that I cannot support and frankly I believe the majority of the American people do not support.

No. 1 is the bureaucracy. And again this publication has been put together by Senator COATS and Senator GREGG. It is entitled "Primer to the Clinton-Mitchell Bill, New Bureaucracies, New Mandates and New Federal Powers." It is something that has been shown here on the floor, and I am not going to read from it other than to simply say that just looking at the table of contents would give you some indication of what kind of a bureaucracy we are talking about here. We do not even have to read the book.

But I have heard it said on the floor that this is not a Government bureaucracy. Here is the table of contents. There are 50 new bureaucracies within the bill, there are 33 responsibilities for the national health benefits board, there are 25 responsibilities for the national health care cost and coverage commission, there are 177 State responsibilities, 815 powers and duties of the Secretary of Health and Human Services, 83 powers and duties of the Secretary of Labor, and 6 powers and duties of the Office of Personnel Management.

That is just the table of contents. You can read all about it. There will be more discussion on that at the appropriate time. But with 175 new mandates on States, this bill creates these 50 new bureaucracies. These bureaucracies range from the very trivial—I grant that some are very trivial and relatively meaningless and harmless—and go to the very powerful. They run the whole gamut. Let me pick one.

The National Health Care Cost and Coverage Commission; section 10002 of the Clinton-Mitchell bill establishes that the commission shall be composed of seven members appointed by the President and confirmed by the Senate.

That sounds relatively innocuous; another commission, seven people. Big deal. OK. Let us quote from the bill. The general duties of the commission are to—

* * * monitor and respond to, one, trends in health care coverage; and, two, changes in per capita premiums and other indicators of health care inflation.

Then, the commission will also have the responsibility to determine whether or not mandates will be necessary to meet the coverage goals of the Mitchell bill. Then the recommendations of the commission would have to be considered by Congress under fast-track rules, which means there will be no opportunity for amendment on the floor of the Senate, and there will be limited debate. It is the fast track.

So my question is—I do not think anybody here can answer it—will seven people be able to do this all by themselves? What kind of people are they? Who are they? What is their stake in this? How much is this going to cost? Where will the commission be housed? Where are we going to put them? How many staffers does this commission need? How much research? How many dollars for research? What kind of research? How many computers? What do we need? Are we willing to invest such a huge amount of power to a bureaucratic entity not accountable to the taxpayers? We are going to create this commission. Who are they going to be accountable to? The President appoints them, we confirm them, and there they sit, a bureaucracy growing.

That is one bureaucracy out of the ones that I have cited. That is only one. I only picked one just as an example.

Are we willing to invest the power to the other 49, including a National Health Care Cost and Coverage Commission, a National Advisory Board on Health Care Work Force Development, a National Quality Council, and a Health Information Advisory Committee, and on and on?

In short, and, in fact, the Clinton-Mitchell bill will turn over the sensitive health care decisions of millions of Americans to bureaucrats, pure and simple. There is no other explanation for it. There is nothing else that you can say to deny it. It turns over the health care decisions of millions of Americans to bureaucrats. If those are efficient bureaucrats, if they do a good job, maybe it will not hurt you. Are you sure? Is there anybody out there who would want to take a chance when you watch some of the problems that we have seen in the Post Office, the IRS, the other agencies, and the EPA where there are problems which are constantly harassing towns and communities all over this country? Do you want those bureaucrats in between you and your doctor? Do you? If you like Uncle Sam, you will surely love Dr. Sam.

In the process, there is the bad news. Americans will lose choice. They are going to lose quality, they are going to lose access. They are going to lose their personal freedom, and they are going to see their costs go up. Not everybody; there will be some on the receiving end whose costs will not go up because they do not have any costs because they are receiving some type of entitlement from the bill.

But those who are working and carrying the load, it is going to happen. Those costs are going to go up: Clinton-Mitchell creates 17 new taxes. That is all I can find. There may be more. There is a 25-percent tax on plans to exceed the Government-set spending limit; 1.75 spending tax on all of the health plans. It is another tax. And there is a 45-cents-a-pack increase on the cigarette tax.

Then we have the Clinton-Mitchell community rating, which would raise rates on young Americans, which is, in effect, a hidden tax that forces the young to subsidize coverage for older Americans. It forces them to do it. They do not do it voluntarily here.

I have heard it said on the floor that this bill is a voluntary bill. Come on. There is nothing voluntary about this. It forces the young to subsidize the coverage for older Americans. Community rating is going to force insurance companies to charge all of their customers, everybody, the same rate, regardless of their age. This means that older Americans will pay less for their coverage at the expense of younger Americans who lose care by comparison. It is not light. It is a bad plan. It does not work. It will not work.

How are you going to enforce it? Are you going to fine some 25-year-old young guy who says, "I am going to buy a Porsche. I am going to have fun. I am not going to get insurance. I am going off and do my thing." What are you going to do, chase him down with another Porsche, and, say, "You are going to pay some dollars in fines because you do not have health insurance"? Will you do that because he does not want to buy a plan that subsidizes somebody else who is 85 years old? Is that American? How are you going to do that? Are you going to have a bunch of bureaucrats chasing these people down?

I cannot imagine what this America is going to be like under this thing. Neither can the American people, and that is why they are opposed to it.

In addition, the issue of entitlements. Clinton-Mitchell creates, through new entitlement programs, subsidies covering those with incomes up to 300 percent of poverty, or $44,000-plus for a family of four. So, if you are a family of four making $44,000 roughly, you get a subsidy. That sounds great. Boy, that will pull in the votes, will it not? Because there are a lot of people out there in that category. So, if I can get something from the Government and I am making up to $44,000, I can vote for the plan. That is basically the rationale.

The American people are smarter than that. They can see through that.

There is prescription drug coverage for older Americans. It sounds great. Every drug is paid for. Who is going to pay for that? Who do you think is going to pay for that? Is it growing on trees? That is what we seem to think around here. We can pluck if off the trees like an apple. It is just Government money. Just send it down there, and everybody gets a free prescription. It does not cost anybody anything. Just ask them.

That will cost the taxpayers, for long-term care, prescription drugs, and subsidies, about $172 billion. That is with a "b." Add that onto your national debt, which is about $4.5 trillion now. Just keep adding it on.

The Senator who is occupying the chair right now is working on an entitlement commission for entitlement reform. I have thousands of postcards about him. I am depending on him, I might say, to do the job and to make a recommendation.

Here we are again with three new entitlements in this bill alone. At least 100 million people out of 260 million are going to receive some form of subsidy from the Government in this health care bill, the Mitchell bill, 40 percent. We are talking about entitlement reform because it is driving our country to economic ruin. And we are going to create this thing? Forty percent of Americans are going to have to deal directly with the Government when it is paying their health care. I hope they like it. I hope they like it. I hope they like their doctor. I hope they like wherever they are sent for that care. I hope they like the paperwork. I hope there is no objection to any of that, especially when you are sick, because you get what they give you. That is it. You cannot complain.

At a time when we recognize again that entitlements—and we have to recognize it, we know it, and every Member knows—are sucking the country dry; 50-plus percent of the budget of America is entitlements, and 16 percent is interest on the national debt. There is not much left for anything else.

What are we going to do about it?—adding three or four more entitlements, and adding billions of dollars, tens of billions, perhaps hundreds of billions of dollars more in Government spending in entitlements because it is all free. It is free. Just pick it off the trees, and send it down to somebody down there who will have their hands out eagerly waiting for some benefit.

We hear a lot of talk about special interests around here. The only people that do not have a special interest around here are the taxpayers. There is no taxpayer that gets a chance to testify before committees around here. It is always some other special interest. It would be nice to just pull a taxpayer off the street, and say, "Hey, Mr. Brown, would you like to testify today since you pay all of these bills?" That would be nice. That would be refreshing. But I have not seen it happen.

The obligations of these entitlements are going to be borne by our children. That is who is going to pay for this, if they can. I doubt that they can. Who do you think is going to pay for all of this debt that we keep piling and piling on? Who is going to pay for it? It is so sad and so irresponsible and so un-American to pass our debt on to our children.

As a father, I like to think that maybe, if I have anything left, when I die, if Uncle Sam has not gotten it all, I would like to say I would like to leave something of my assets to my children, not my debts. Not my debts, I would just as soon pay the mortgage off and leave my kids the house. They will fight over it, but I would rather leave it to them debt free.

That is not what we are doing here in the United States of America. We have run the debt now to $4.7 trillion, and it is rising. Every time we pass another entitlement, we raise it a little more. The entitlements and the interest are squeezing everything else down to this very thin little sliver of pie—about 30 percent it is now—and it is getting squeezed further and further every day. What is in that sliver of 30 percent? That is, you add the interest and entitlements and get approximately 70 percent. What is left in the 30 percent? What is it? Environment, education, national defense. And it is not getting any better. It is getting smaller and smaller.

How far do you want to squeeze? Do you want to bring it down to 1 percent? Do you want to increase interest to 90 percent? Where do you stop? If we do not stop, we are going to bring this country to its knees economically, and then nobody will get any health care—nobody—because there will not be any money left for anybody for health care, for national defense, for environment, for education, or anything. We will be broke, and our creditors will be in here picking up the pieces.

If that is what we want, that is what we are doing. We are creating a massive entitlement program, a massive new Government involvement in our lives. We are creating it here on the floor of the Senate if we vote for this bill. It will come back to haunt us for years and decades to come, I guarantee you.

I am willing to let my word stand on the record right now and say that this will come back to haunt us. It will haunt us in less quality. It will haunt us in larger expenses. It will haunt us with more debt. It will haunt us with rationing, and on and on and on. It will. A lot of people in here know it.

Samuelson, today, in the Washington Post had another very interesting article. But before going to that, I would like to read from a letter sent to me by a constituent regarding entitlements. I will not read the entire letter, but it is a sample of the hundreds of letters and phone calls I get. And I think the American people ought to be heard. I will not name the writers, but I think in concept they should be heard:

DEAR SENATOR SMITH:

I am writing to you to express my great fear that Congress will pass a health reform law that will harm our children. What I see at play in Washington is a desperate need by a group of elected officials to pass a law that, good or bad, they can claim shows they are so hard at work. The proposals that are on the table ignore the fiduciary responsibility we have as adults to the next generation. We will break our children's backs with new obligations. We cannot even meet our current obligations without borrowing from the rest of the world. The Clinton plan, the Mitchell plan, and the Gephardt plan are bonanzas to our industry.

He is a hospital CEO.

I suppose I could be crucified by my colleagues for writing you this, but the reason we have given so much support to health reform is partly because it will flood our coffers with new money. The health cost controls the Government has tried do not work.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The market forces that business and managed care are generating are working, however. For a real change in costs under Government's direction, health care must be nationalized, and we are not ready for that. I implore you to do everything you can to slow this process down.

And on and on. That is the point, and that is what we are hearing. What does Robert Samuelson say today? He is somewhat critical of the press in the sense that the press seems to have missed the point as to what is exactly happening. He points out:

In July, the bipartisan Committee for a Responsible Federal Budget issued a report warning that all health plans could involve huge spending increases. "Common sense tells us," the report said, "that everyone cannot consume more health care and pay less."

"Common sense tells us that everyone cannot consume more health care and pay less."

The committee includes two former heads of the House Budget Committee (both Democrats), five former heads of the Office of Management and Budget (three Republicans and two Democrats) and the ex-head of the Federal Reserve. The report wasn't covered by The Washington Post, the New York Times, the Wall Street Journal or any major TV network news programs.

It was not even covered.

To go on a little more, Samuelson says:

Unfortunately, the Times' coverage the following week ignored health costs. In midweek, the CBO issued a report on Senate Majority Leader MITCHELL's health plan. Previously, the CBO had estimated that health spending could increase to one-fifth of the Nation's income (gross domestic product) by 2004, up from a seventh today. The Mitchell plan, the CBO said, would increase it slightly more. The Times didn't report that.

Then he goes back to the CBO report:

The CBO found that much of Mitchell's plan is probably unworkable. States couldn't easily determine who would be eligible for insurance subsidies. A tax on insurance would be "difficult to implement." It would not "be feasible to implement" Mitchell's so-called "mandate" without causing severe "disruptions, complications, and inequities."

That is quoted out of the CBO report. Samuelson makes the point that he thinks that is "news" since this is the most significant piece of legislation to come before the Senate in 25 years, according to some. So he thought it should be covered.

"The New York Times ignored it," according to Samuelson, "and The Washington Post brushed it off with a couple of paragraphs . . .." And, "To their credit, the Wall Street Journal and Washington Times ran major stories; likewise, NBC 'Nightly News' reported these findings." But, the major media treat this as a coherent plan without practical problems. So be it.

So there is a paradox here. Samuelson says:

Many reporters seem infatuated with "reform" even when, by personal experience, they ought to know better. Journalists are supposed to be seasoned skeptics, and most Washington reporters are familiar with Government's defects. We have covered agencies captured by "special interests." We know of many worthy but unkept promises. We know that Congress evades difficult choices and, as a result, tends to march off in five directions at once.

I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DID THE PRESS FLUNK HEALTH CARE?

As Congress debates health care, the press ought to be asking itself whether it has blown this story just as it blew the savings and loan scandal. The answer is yes, I think—though in different ways and for different reasons. We have not ignored this story, as we initially ignored the S&L crisis. But our vast reportage has not made health care any more understandable. We have not clarified in our own minds or the minds of our readers what the debate is ultimately about or shown sufficient skepticism about whether "reform" can work as intended.

In some ways, our problem is that health care is too many stories. It's about personal care, the economy, technology (high-tech medicine), ethics (who deserves expensive care?), styles of medicine ("fee for service" vs. "managed care")—and of course, politics and interest groups. We have written thousands of column inches on all these subjects and in the process have overwhelmed our readers and obscured some of the larger issues.

The most important of these is health spending. With good reason, this is what the "health crisis" was once about. Ever-higher spending is squeezing other government programs and, through employer-paid insurance, take-home pay. For example, Medicare and Medicaid now represent 17 percent of federal spending, up from 5 percent in 1970. President Clinton harped on high health costs in the 1992 campaign, and his initial plan did—on paper at least—deal with them. But the spending issue vanished as the Clintons focused on "universal coverage."

The press went along; the major media stopped listening to concerns about spending. In July, the bipartisan Committee for a Responsible Federal Budget issued a report warning that all health plans could involve huge spending increases. "Common sense tells us," the report said, "that everyone cannot consume more health care and pay less." The committee includes two former heads of the House Budget Committee (both Democrats), five former heads of the Office of Management and Budget (three Republicans and two Democrats) and the ex-head of the Federal Reserve. The report wasn't covered by The Washington Post, the New York Times, the Wall Street Journal or any major TV network news programs.

Sometimes editors and reporters don't even seem to read their own papers. On Sunday, Aug. 7, Robert Pear of the New York Times wrote a front-page piece saying that "the goal of cost control has been eclipsed by the furor over universal coverage." A solid story. Unfortunately, the Times' coverage the following week ignored health costs. At midweek, the CBO issued a report on Senate Majority Leader George Mitchell's health plan. Previously, the CBO had estimated that health spending could increase to one-fifth of the nation's income (gross domestic product) by 2004, up from a seventh today. The Mitchell plan, the CBO said, would increase it slightly more. The Times didn't report that.

Now obviously, I have a point of view. I think health spending matters and doubt that these "reforms," if enacted, would work as promised. But it is not necessary to share my views to think that these are legitimate issues that haven't been adequately aired in daily coverage. If a major "reform" is adopted and doesn't operate as advertised, people will ask: Where was the press?

Good question. There have been warnings. Return to that CBO report. The CBO found that much of Mitchell's plan is probably unworkable. States couldn't easily determine who would be eligible for insurance subsidies. A tax on insurance would be "difficult to implement." It would not "be feasible to implement" Mitchell's so-called "mandate" without causing severe "disruptions, complications and inequities."

This strikes me as "news." The New York Times ignored it, and The Washington Post brushed it off with a couple of paragraphs in a small story. To their credit, the Wall Street Journal and the Washington Times ran major stories; likewise, NBC "Nightly News" reported these findings. But in general, the major media tend to treat each of these health proposals as a coherent plan without practical problems. This makes the story a neat combat between "reformers" (implicitly good) and opponents (implicitly bad).

There is a paradox here. Many reporters seem infatuated with "reform" even when, by personal experience, they ought to know better. Journalists are supposed to be seasoned skeptics, and most Washington reporters are familiar with government's defects. We have covered agencies captured by "special interests." We know of many worthy but unkept promises. We know that Congress evades difficult (a k a, unpopular) choices and, as a result, tends to march off in five directions at once. Yet the skepticism that this ought to breed withers in the face of an appealing "reform."

What also has been missed is the basic political nature of this debate. Once government decrees what insurance must cover (by creating a standard insurance "benefits package"), it has effectively nationalized insurance. The obvious way of doing this would be a single-payer system that taxes people and provides government insurance. But that looks too much like a government takeover. The use of "mandates" and regulation disguises this and seems to have fooled many reporters. Hundreds of billions of dollars of spending would still come under federal control.

By now it's clear that the public is deeply puzzled by the whole debate. The responsibility for this falls mainly on our political leaders, President Clinton and his critics have not been candid. They won't acknowledge that the goals that most Americans share—better insurance coverage, personal freedom in medical choices and cost control—are, to some extent, in conflict with each other. In this sense, there can be no ideal reform; somehow, incompatible goals will have to be balanced.

But the conflicts will not vanish just because Democrats and Republicans refuse to discuss them. The press's job is to bring candor and clarity to issues where political leaders haven't shown much of either. We don't make society's choices, but we can illuminate what those choices are. On health care, we haven't.

Mr. SMITH. In conclusion, Samuelson says:

What also has been missed is the basic political nature of this debate. Once Government decrees what insurance must cover (by creating a standard insurance "benefits package"), it has effectively nationalized insurance.

That is absolutely right. You can say it is not a Government-run system if you want to, but, in effect, you have nationalized the whole insurance situation when Government decrees what insurance must cover by creating a standard benefits package.

The obvious way of doing this would be a single-payer system that taxes people and provides government insurance. But that looks too much like a government takeover.

So we use the words "mandate" and "regulation," and this seems to disguise, basically, the issue of Federal control or takeover.

So it is clear that the public is deeply puzzled by the whole debate.

The responsibility for this falls mainly on your political leaders. "President Clinton and his critics have not been candid," Samuelson said. "They won't acknowledge that the goals that most Americans share—better insurance coverage, personal freedom in medical choices and cost control—are, to some extent, in conflict with each other. In this sense, there can be no ideal reform; somehow incompatible goals will have to be balanced."

Mr. Samuelson has gone right to the heart of the whole issue. He hit it right on the head, 100 percent accurate.

I urge my colleagues to take a look at that article.

Let us look at the benefits under Clinton-Mitchell. The Clinton-Mitchell bill will create a one-size-fits-all standardized benefits package and make most existing plans totally illegal. The plan that you have will be illegal in most cases. If you have a plan out there now, you like it, you have good coverage, forget it. Hopefully, it will be as satisfactory as the Government plan because you are going to lose it. So if you like what you have, you may want to let your Senators know how you feel before the vote because this bill is going to radically, radically diminish consumer choice.

We include in this so-called standard benefit package abortion coverage. I am not going to get into the abortion debate today. But a lot of the American people do not want abortion in the health care bill. It is stretching it a bit to call abortion health care.

In June 1994 a Gallup poll found 59 percent of Americans are against including abortion in the Federal health care benefits package. Again, this goes to the heart of choice—freedom. Is that not what America is all about? Is that not what for 200 years people have died for?

Think about this. A Catholic church cannot provide a health care plan for its parishes or its employees if it so chooses without having abortion in the package.

That is exactly what is going to happen under this bill. That just is not right, pure and simple. It is wrong.

You can bet that we will be down here in the future—we have already done it once—voting under fast-track rules to add more services. We just did it yesterday with the Dodd amendment, and tomorrow it will be the chiropractors or someone else. There is always going to be someone trying to get in here saying, "I have been left out. I want to get in here."

So what we are doing is the same thing we did with Social Security, Medicare, Medicaid, and all of it. It is just like taking a balloon and blowing it up. It is going to get bigger and bigger and bigger until it bursts.

It all sounds good. Get the kids covered. Get pregnant women covered. Get all these people covered, get everybody covered, because we cannot resist it. Congress could not resist yesterday. The Senate passed the Dodd amendment. So already we have found the first amendment mandating insurance companies cover specific services for pregnant women and children passes, whatever it was, 58 to 42, something like that.

There will be more. They are going to be coming. Believe me. That is just the beginning, and the Senate will find it very difficult, as it did yesterday, to vote against them, because these are services for the people who need them. Of course, there are people who need. But is this best way to help those people by breaking the United States of America with a huge entitlement that has no end, that according to Samuelson, and many others, is going to go from one-seventh to one-fifth of the economy? Is that what we want?

How can you vote against kids? I heard that yesterday. How can you vote against pregnant women? I heard that yesterday. How can you vote against immunizations?

How can you bankrupt the future of our country for all the children in all the future, who are going to have to pay for all of this? How can you do that?

I did not hear that stated by the supporters of that yesterday. We will be back here again and again and again and again, not just in this debate. We will be here for a while. Lord knows how long everybody has given up vacations? Anyway what difference does it make? We will be here as long as it takes until there is some blink and we decide to wrap it up and go home and come back. After that, after this thing passes, that is just the beginning. Wait until we try to implement this little guy. This is going to be really something. When we start implementing this thing and we find out what we have to do and how much it is going to cost, then we are going to be back here. We are going to be back here quite a few times, believe me.

Let me tell you what is going to happen. Either premiums are going to go up or care is going to be rationed because we cannot promise the American people more care for less money. You cannot do it. You cannot bring everybody into the system, into the package, into the care, and do it for less money. It is impossible. Common sense will tell you that.

If you do it, you are going to decrease quality, or you are going to ration it. Sure, you can put a cap on it. You can cap costs, and you can bring the quality down. You can cause rationing. And that is exactly what is going to happen. The American people better understand what this Senate and what this Congress is going to do to you and to your health care today and your children tomorrow if this thing passes.

They are going to be forced to obtain benefits that they do not need in the standard plan, and they are going to be forced to take benefits that they do not want.

Let us go to employer mandates. Millions of middle-class Americans, the very people that the President ran to help, millions of them are going to find their salaries cut, their benefits cut, and if they are not, most without a doubt in many cases will have their jobs lost. That is what is going to happen to middle-class America, because who do you think is going to pay for this? The poor do not pay for this. They are on the receiving end. They are not paying. The rich—do you think the rich are going to pay for it? Come on. Middle-class America is going to pay for it. That is who is going to pay for it. That is where all the dollars are. Only 1 percent of the people in America are rich. Look, the poor get the money. So who else is left? It is the middle class. That is who is going to pay for it. Do not be fooled by the debate how it is going to help the middle class. Come on.

As to employer mandates, in my State alone in New Hampshire, according to estimates it is liable to cost anywhere between 4,800 and 4,900 jobs. That is a lot of jobs in a State with a million people that has been hit hard in the past years. Over 100,000 New Hampshire workers face reduced wages or benefits if they did not lose the jobs. That is basically a decision the employer is going to have to make. Do I reduce the benefits, reduce the wages, or cut some jobs and leave the wages and benefits for the survivors as is.

I have two letters I would like to read that would make that point. I think they make it better than I do.

DEAR SENATOR SMITH: I am writing at this time regarding the ongoing battle over health care reform. As a small business owner, I was appalled by the recent remarks made by Hillary Clinton with regard to free loading small businesses. While it is understood that neither Mrs. Clinton nor the President has ever had to run a business, it seems hypocritical of them to ignore the very real concerns of small business owners who have risked everything to build a business. Employer mandates will cripple many

VOL 140 PT 16 AG 12 — 18 1994 UMI

small businesses by adding a constantly escalating non-voluntary expense to operations. In addition, much time and expense will be lost to paperwork, regulatory compliance and administration. I fear the present administration has little regard for those of us who have already carried an excessive share of the tax burden.

Another letter:

DEAR SENATOR SMITH: Normally, I am not one who gets involved in the political process. However, since you will soon be voting on several different bills involving the reform of the health care industry, I feel it is necessary for my Representatives and Senators to know my opinion about the likely impact on small business if some of these bills passed. I am classified as small business. At present I employ eight people in various roles from administrative to technical design work. I am proud of the fact that I have been in business since 1988, and I have always tried to keep layoffs to a minimum even when it was not in the best interest of the company. For 5 of the 6 years I have been in the business, I provided company paid life insurance and made health insurance available to my employees with the company paying 50 percent of the premiums. I am currently in the process of adding disability insurance in a benefits package. You see health insurance and welfare of my employees is not something I consider lightly. However, I am concerned about the ramifications of instituting mandatory health insurance. Small companies with under 25 employees should not be forced to implement an insurance package for their employees. The end result will be increased company expenses by way of premiums and taxes which will yield an increase in layoffs, business failures, and decreased wages which in turn result in overall lower standard of living for all.

New Hampshire under these mandates of this bill will lose approximately a half a billion dollars in personal income, almost $1,500 for a family of four. The State of New Hampshire would lose over $60 million in much needed tax revenue. Clinton-Mitchell would ban self-insurance for companies with under 500 employees, and this will mean that 18 million middle-class Americans will suddenly find themselves without insurance and end arrangements that save some firms thousands of dollars in premiums.

Is that really what it intended? Of course it did not. It is not the intent of the majority leader to have people without insurance. The intention is to have them covered by insurance. But what is going to happen is suddenly 18 million middle-class Americans—I emphasis middle-class Americans—will suddenly find themselves without insurance.

There are 32,254 businesses, as best that I can count, in my State. Of these, 32,186, or 99 percent, have under 500 workers. Several of these are currently self-insured, with great success, I might add, that would no longer be able to do so.

Again, a brief comment from a letter I received from a constituent:

Our company provides insurance for its employees through a self-insurance plan. We are concerned that self-funding may no longer be an option for small businesses like ours if a 100-employee cap, or any cap, is imposed. By eliminating self-funding and increasing cost of health care, it is possible that many jobs will be lost. The same is likely if employee caps are imposed, which would also raise costs and jeopardize employee coverage.

He basically goes on to say small employers should not be penalized.

Mr. President, there are alternatives to this. We should not stand here on the floor and be totally critical of the majority leader's bill. He wrote the bill and brought it up in good faith, and we have to criticize it, if we are going to, in a responsible manner and have some alternatives.

I think those of us on our side of the aisle and many on the other side of the aisle are united in their support for actions that would help millions of Americans right now, today. You can do it without throwing out the best health care system in the world. You can do it by prohibiting insurance companies from dropping individuals due to sickness. You can do it by dealing with preexisting conditions.

If someone in my home area, the Lakes region of New Hampshire, in Wolfeboro, for example, has a daughter with cancer, that person should be able to get insurance at a reasonable rate. That insurance should not be canceled if that person moves to another job because his or her daughter or their daughter has cancer. We can stop that and that is what we should do. You do not have to throw out the entire health care system in America to do that.

Portability. If a person in Nashua, NH, wants to switch their job and move someplace else, they take their policy with them, just like you take your auto policy or your life insurance policy. You can extend help to the working poor through vouchers, which both bills provide for.

And perhaps, most importantly, and missing from the Mitchell bill—and this is something I feel passionately about; it is so important, and it is totally ignored by the Mitchell bill—and that is the establishment of a medical IRA, an IRA account; or, another way to say it, a medical savings account. It is one of the best ideas that has been brought forth in any of the debate, and it is totally ignored in the Mitchell bill—not a word.

The medical savings account would do more to help contain medical costs in our country than anything in the Clinton-Mitchell bill, anything at all, and would do so by relying on the market rather than Government bureaucracy.

People with medical savings accounts could purchase high deductible coverage to guard against catastrophic costs and they would pay for those out-of-pocket costs in the account that they set up. Most health care expenses would, therefore, be paid by the individual who set up the account, rather than a third party.

Let us get into that a little bit further. I believe that the main reason our current system fails to rein in runaway health spending is that it removes the consumer from the decisionmaking process.

When the tab for health care is picked up by somebody else, not you, a third party, either employers or the Government, for the great majority of Americans, the consumer has no incentive, none whatsoever, to keep his or her own health costs in check.

For most Americans, there is no financial reward for staying healthy. What is the reward? What is the reward for staying healthy? What is the reward for seeking preventive care? What is the reward for shopping around for the best available price? None. And under the Clinton-Mitchell bill, absolutely none.

To put this in perspective, let us compare health insurance just for the sake of debate—and we will probably hear some of my adversaries in the media say, "Now, Smith says auto insurance and health insurance are the same thing." Lest there be some temptation to do that, I will say up front, they are not, and I recognize that health insurance is more important to our well-being than auto insurance.

But I use the comparison for this reason. If I drive recklessly, get several speeding tickets, and cause an accident, my irresponsible behavior will be greeted with a higher premium. That is what is going to happen, and rightfully so. It is to my financial advantage to drive carefully, drive safely, avoid speeding, wear my seatbelt, whatever.

But if somebody else were paying for my auto insurance, I might not have the same incentive. What is my incentive? My insurance is not going to go up. If somebody else pays, I could care less if it goes up. I am not paying for it.

It is the same thing in health care. With another party bearing the responsibility for any costs, individuals have no incentive to keep themselves from incurring expensive health care bills. That is what medical savings accounts are all about. And they are totally ignored in this bill. Responsibility. Is that not what America is all about, responsibility?

Think back to the Founding Fathers and what they did when they founded this great country, and the numbers of people who were wounded and died in 200 years of war. Responsibility. Why cannot we take on some responsibility for our own well-being if we have the capability to do it?

And for those who say, "Yeah, but there are those who do not," I am willing to help those 15 percent. I am talking about the 85 percent right now.

It places the responsibility for health care costs where it should be—on you,

on the consumer. With a medical savings account, the consumer, not a third party, will have to make decisions that will have a direct financial impact on themselves.

If you want to drive a Porsche, you want to go out every night and drink, you want to spend your money, go ahead. If you want to buy a health premium, you want to buy an insurance policy, set yourself up a medical IRA and say, "I'm going to assume responsibility for me. I'm responsible for me. Not the Government, not my neighbor, me. I'm responsible."

Exercise some responsibility. Set up the medical IRA account. And then lead a healthy lifestyle, and you will save money, big time. If you lead a healthy lifestyle and you seek routine preventive care, you will be rewarded with accruing balances in your medical IRA.

Now, sure, something can happen. That is why you have an insurance policy. That is why you buy the policy, to protect yourself from injury or accident. However, you will accrue balances in that IRA if you take preventive care and you will have enough in there to pay for your insurance and still have money left over. Let it accrue, and this will defray future medical costs and even allow you to buy a catastrophic policy at some point when you are ready. You are holding down your personal health costs; individuals will help our country hold down our overall health costs. We will all do it as individuals.

Not a word, not a mention of medical savings accounts in this plan. This is too American. I guess it makes too much sense. It is common sense. God forbid, we could do anything that makes sense around here in Washington inside the beltway.

And, in addition, and in conclusion on medical IRA's, medical savings accounts will also unleash the market forces onto the health care delivery system; unleash, and that is exactly what we need to do, unleash the market forces on the health care system. Today's system encourages providers to bill for as many services as possible. With millions of individual consumers shopping around for quality care at low prices, providers are going to have to find ways to cut overhead costs and provide care in an efficient manner. That is the market.

And these adjustments in the marketplace could be made today as we speak, and they would help millions of Americans to obtain less expensive health care insurance.

In closing, we have heard many stories, many horror stories, about those who are not covered, about our current system and how tragic it is that 37 million Americans lack health insurance. And there are some horrible cases. There is not a person in the Senate or in the Congress that does not want to help those people, including this Senator. And we can.

There is a right way and a wrong way to do that. It is wrong that people are suffering because they cannot get coverage. But who are these 37 million people? They are people, sometimes, who are between jobs. They lost their job, they move to another job, their insurance gets canceled so they need portable insurance. We do that. They are people who have a preexisting condition, either themselves or someone in their family has perhaps a terminal illness, something that involves a lot of medical costs, they lose their job and the next provider says, "I am sorry, that is a preexisting condition. It would cost us too much and we are not going to insure you." That is going to need to be changed. And we do that in our bill. That is a large group of that 37 million.

We can take care of these cases through providing insurance market reforms and providing assistance to the working poor. But for some reason—I do not know what the reason is; I am not going to make any allegations about political reasons—but for some reason we are concentrating on disrupting the entire health care system which 85 percent of the American people are happy about for the sake of 15 percent. Why not just help the 15 percent when you can do it without disrupting the other 85 percent? It is going to be a grave mistake if we do this. We are going to regret the decision made in 1994 on the floor of the U.S. Senate, because we have the finest health care delivery system in the world. We know it because people come from all over the world to receive it. Doctors come from all over the world to learn medicine, to practice medicine. Everybody knows it. If you are sick, if you have a problem, where do you want to go? Guatemala? Mexico? Russia? Canada? Or the United States of America?

Let us take advantage of the quality and the innovation and the creativity of the best physicians and health care providers in the world. Let us take advantage of it. Let us not throw it out.

So now we stand, as I speak, at a fork in the road—and it is a fork in the road. We can go to the left, as the Senate considers a massive restructuring of one-seventh of the economy, which will probably make it one-fifth Government involved. We can take that path toward a health care system controlled by an inefficient, uncompassionate, expensive government bureaucracy. We can take that path. That is one choice we have. Or we can go this way, to the right, which will lead us to a more efficient marketplace that can meet the needs of all Americans. The left fork gives us bureaucracy, more taxes, job-killing mandates, rationed care, diminished quality. The right fork will help those who are truly needy while preserving the world's best health care for everyone. Access, low cost, personal freedom, quality, choice. That is what we get when we go to the right. Bureaucracy, mandates, less personal freedom, more controls, less quality, less choice—to the left.

What is the decision?

Let me read just a couple of lines from two more letters.

DEAR SENATOR SMITH, I am writing to you to advise in my opinion that health care as presently espoused by Washington will not work. We all would cherish an umbrella of universal care, but at a reasonable cost and especially at a cost which is no greater than we presently pay. This means no additional taxes. Unfortunately, the record suggests programs managed by the Government are many times barely effective or efficient.

Then he cites a couple of examples and goes on to say:

The warmth and general concern for our well-being are not well known as priority attributes in our Federal employees, IRS, FBI, et cetera. To have a government manage anything as important as health care is ludicrous. And to be bullied into this legislation is akin to lemmings heading with a blind eye for the cliff.

The first step, it seems to me, would be to analyze the problem of health care. The major problem is not the quality of health care. We have the best in the world. The problem is associated costs which are and have been out of control.

The last letter:

SENATOR SMITH, I am writing about my concern on the current health care proposal now in Congress. Improvements in health care are needed and desirable but I feel many of the plans include restrictions and mandates that are contrary to a good health care system and a free enterprise system that has made our country so successful and great.

I take the time to read these letters because these are the American people who are going to be impacted and affected by the decision that we make, sitting here inside the beltway, without talking with them, without having the opportunity to go out and speak with them. We are here making this decision that impacts them. They ought to be heard on the floor of the Senate. That is why I am taking the time.

Restrictions that would prevent you from choosing your choice of doctors is a horrible thought. Before I go to a doctor I check his dossier and I talk to people that know him. Let's face it, all doctors are not equal. Some are better than others. Not all ailments or illnesses fit into a standard mold. A doctor has to have a keen analytical or diagnostic ability to accurately identify, in a timely way, what is ailing a patient and what medication or treatment is best for that patient. It is not uncommon to change doctors when his or her prognosis does not render relief, or to get a second opinion before a serious medical or surgery procedure. Some doctors are more skilled than others and you want the doctor with the best track record and the one you can get along with.

These people are concerned. They are concerned. Let me put it even stronger—they are scared. They fear.

I am going to close with a quote from a gentleman who came to one of my 10

VOL
140
PT
16
AG
12
—
18
1994
UMI

county meetings. We talked about health care, and he said to me, "Senator, I have known you more than 20 years. But let me tell you what bothers me. I am afraid of my Government. I am afraid of my Government. I don't want to be afraid of my Government. I want the Government to be afraid of me."

I yield the floor.

The PRESIDING OFFICER (Mrs. BOXER). The majority leader.

Mr. MITCHELL. Madam President, I want to address two subjects that were raised by the distinguished Senator from New Hampshire and several of our Republican colleagues with respect to the pending health care legislation. One involves the question of choice in health care. The other involves the role of Government in health care and the reaction of our colleagues to that.

The statement of the Senator from New Hampshire was filled with references to less Government involvement, no Government control, and fear of Government by Americans. That has, of course, become the dominant theme of the statements made by our Republican colleagues seeking to capitalize on a public sentiment of disillusionment with Government and even hostility to Government.

I would like to make two points with respect to that argument as it relates to this debate. First, it does not describe my bill. The statements are not correct as they relate to the bill which is pending before us. My bill does not provide for a Government-run health insurance system. It provides for a voluntary system of private health insurance. Indeed, in a significant respect, my bill is the opposite of what our colleagues are trying to portray it as. A large Government program is Medicaid, a Government program which provides health insurance to those Americans whose incomes are below the poverty line. Under my bill, that program would be virtually abolished and 25 million Americans who are now in one of the largest Government programs would be out of that Government program and would purchase their health insurance on the private market as do most other Americans.

It is simply inaccurate to characterize legislation which would virtually abolish one of the largest Government programs in existence and encourage and assist the people now in that program to purchase private health insurance, it is simply inaccurate to describe that as a Government-run program. It is not.

I recognize that our colleagues are having some success in this false portrayal. It is a pattern we have seen before. But success does not mean accuracy. We went through it just a year ago when we debated the President's economic plan, when the very same Senators now saying that this bill is a Government-run health insurance system said to the American people that the President's economic plan would raise everyone's taxes and was a tax on small businesses. They said it over and over again, it was reported by the press and, as a result, the American people believed it. Polls showed overwhelming majorities of Americans believed that their income tax rates would go up as a result of the President's tax plan, even though those statements were untrue and the beliefs were unfounded. It was an aggressive effort at misinformation which regrettably did succeed and, therefore, creates incentives for a similar campaign of misinformation now.

But I want to state clearly, so there can be no misunderstanding, the characterization is incorrect. My bill creates a voluntary system building on the current system of voluntary private insurance. It virtually abolishes one of the largest Government programs and takes 25 million Americans now in such a program and has them enter the private insurance market. So that is my first point. It is not a Government-run health insurance system.

But now my second point deals with the attitude of our colleagues toward Government insurance and Government health care and the vast gap between their rhetoric about it and what they do about it when it affects them and their families.

First, they say they are against Government health insurance and Government health care. Well, the largest Government health care system in the country, indeed the largest health care delivery system in the country, is the Veterans' Administration health care system. If they truly believed what they are saying here about Government health care systems, they would abolish the Veterans' Administration system. But, of course, they do not say that and they will not say that.

In fact, with respect to that Government health care system, their actions directly contradict their words. The very same Senators, our Republican colleagues who stand here and say, "We are against Government health care systems," when they go back to their home States, they go seek out the veterans and they run television ads promising the veterans that they will protect the veterans health care system, even though it is a Government-run health care system and it is the largest health care delivery system in the country. Their actions contradict their words.

The same is true with respect to Medicare. Medicare is a Government-run health insurance system, and nearly 40 million Americans, most of them elderly, participate in that system. And the Republican Senators who stand here and say they are against Government-run health insurance all support the Medicare system. They go back home and they seek out elderly citizens. They go visit senior citizens' centers and fall all over themselves in promising to their senior citizens that they will protect Medicare, and they run television ads seeking reelection, promising their senior citizens that they will protect Medicare, even though it is a Government-run insurance system. Their actions contradict their words.

The same is true with respect to Social Security, the largest of all Government programs, a Government-run system which includes health care by virtue of incorporating Medicare part A. Our Republican colleagues go back home and also seek out senior citizens and also run television ads promising to protect Social Security, which is a Government-run program.

So I hope the American people will not be fooled by the rhetoric they are hearing here today. And I hope the American people will also think about the irony of these Republican Senators getting up here day after day after day and denouncing Government health insurance and Government health care as bad for their constituents, even as they benefit from it themselves as individuals and their families. Every Member of this Senate participates in the Government-run health insurance system that is available to all Federal employees, and the Government pays 72 percent of the cost of that health insurance for these Republican Senators who are standing here telling their constituents that it is bad for the constituents even as they participate in it for themselves and their families.

You, American taxpayers, are paying through the Government 72 percent of the cost of health insurance in a Government-organized health insurance system for the very Republican Senators who are now telling you that you should not want Government-run health insurance. And you are entitled to ask yourselves: If it is so bad for you, why is it so good for them and their families?

Has one of them stood up and said, "My constituents, Government health insurance is bad for you, and to prove how much I believe that statement, I'm going to voluntarily drop out of the Government insurance system, and I'm going to put my family in the same place where your family is"? Have you heard one say that yet? No, and you are not likely to.

I urge you to listen to the debate, and as these Republican Senators stand up and tell you, Mr. and Mrs. America, that Government health insurance is bad for you, ask yourself, "If it is so bad for me, how come it is so good for them and their families? And if they really believe it is bad for me, if that is what their conscience and conviction tells them, why do they not drop out of it for them and their families and put themselves in the same position I am, an average American who doesn't have access to that?"

That is just the insurance. Now let us talk about direct care. If one of these Republican Senators does not feel well, if he gets a headache, or stomach ache, he walks a few feet down the Capitol and he goes to the Office of the Capitol Physician, a Government employee. He is greeted by a clerk who is a Government employee, checked by a nurse who is a Government employee and then goes in to see the doctor who is a Government employee.

If Government health care is so bad, why do these Republican Senators insist on having it for themselves? And then if they get sick, if the doctor says, "You've got to go to the hospital," they go to the Bethesda Naval Hospital or the Walter Reed Army Hospital—Government hospitals.

Well, my gosh, ask yourself, Mr. and Mrs. America, if these Government facilities are so bad, why do these Republican Senators want to go there themselves? And it is not just Senators. President Reagan and President Bush were, in their capacities as President, the most powerful men in the world. They were independently wealthy, and they could have gone anywhere in the world when they got sick. And where did they go? Why, they went to these Government hospitals. And who can forget the photographs taken of them waving out the window to the public and the press in those Government hospitals. Why are you telling us that it is good enough for Presidents but it is not good enough for ordinary Americans?

Mr. and Mrs. America, leave aside politics. Leave aside health care. When a fellow walks up to you and says, "I've got something, and its good for me and my family, but you really don't want it for your family," you ask yourself: Who is he thinking about? You or him?

This debate has not been about health care reform. This debate has been about slogans. When the first Republican Senator stands up and says I believe so much in my conviction that Government health insurance is bad that I am going to withdraw myself and my family from the Government-organized health insurance system and I believe so much that Government health care is so bad that I am going to promise if I get sick never to talk to a Government doctor and, if I have to go to the hospital, never to go to a Government facility, when that happens, pay attention to what they say thereafter.

But until that happens, you can take what is being said as slogans, separated from the reality of daily lives. If they want it for their kids, if they insist on having it for their kids, if they will keep it for their kids, then why is it so bad for your kids?

I want to repeat what I said at the outset. My bill is not a Government health insurance system. It is not a Government health care system. It is the opposite. It is a private system, voluntary, in which people are encouraged to purchase private health insurance. And I have mentioned this debate about individuals and health insurance here only to make the point of the inconsistency of the arguments being made by our colleagues.

To summarize, they are all for the Veterans Administration, which is a Government health care system. They are all for Medicare, which is Government health insurance. They are all for Social Security, which is the largest Government program. Therefore, their statements here against Government participation simply do not ring true because they will not stand up and say they oppose those programs, they want to abolish them. And then their actions in placing themselves and their families in a Government-organized health insurance system and getting direct Government health care for themselves, even as they say to their constituents, "That is not good for you," I say be aware, on guard, listen carefully.

Now, just the other day one of our colleagues came out here and said, well, the insurance program we are under is not a Government program because although it is organized by the Federal Government and 72 percent of the cost is paid by the Federal Government, it is really a mechanism where private insurance plans can be made available to Federal employees.

Mr. President, the denial negates the original claim, because that is essentially what my plan would do. It would create a mechanism whereby employers would offer to their employees a minimum of three different types of private insurance plans, and employees would choose among them. There would be no requirement on the employer to pay for any part of the cost unless we did not reach 95 percent coverage by the year 2000, as I believe we will.

And so it is ironic that the explanation about the Government insurance plan effectively negates the original allegation about my plan being Government insurance in the first place. So our colleagues cannot have it both ways. If my plan is not Government health insurance, then their original argument falls. On the other hand, if the Government-organized, Federal employees program is Government health insurance, they are all participating in it, willingly, taking it for them and their families while they tell their constituents it is bad for them.

Madam President, I will have more to say on that subject. I now want to mention just briefly the subject of choice. The Senator from New Hampshire said if our plan is adopted, "Americans will lose their choice."

That statement is untrue, categorically untrue. There are two types of choice in health care. The first is in choice of health care plans. How much choice does the individual American have in selecting a health insurance plan? Right now, almost none. Most Americans are insured through employment. The employer negotiates a plan with the insurance company and presents it to the employee, and the only choice the employee has is to accept or reject that plan, to either participate in it or not to participate in it.

Under my plan, the individual employee will be offered a minimum of three different plans. They will have the same standard benefits package, but they will deliver care in three different ways: either in the form of traditional fee-for-service, or a health maintenance organization, or in some other form. So in the first dimension of choice, that of health plans, my bill will dramatically expand choice for almost all Americans. For the first time, individual Americans will be able to choose from more than one health plan.

Second, the element of choice in physician or other providers. It is simply not true that choice will be denied under my plan. Since everyone will be offered at least three types of plans, one of which must be traditional fee-for-service, every American will have the opportunity to continue to have the fullest freedom of choice with respect to physicians. No one will be denied that opportunity.

Interestingly enough, the current trend in the country is in the other direction. As costs of health care rise, employers are increasingly turning to managed plans, HMO-type plans in which the individual's choice is limited. So if we do not adopt health care reform, more and more Americans will be denied choice in provider. So you have a reduction of choice in the one area where it now exists and continuing lack of choice with respect to health plans.

So I think it is important that Americans understand that my bill will do the opposite of what our colleagues have alleged. It will greatly increase choice in health plans and it will preserve fully choice of providers. Anyone will still be able to see any doctor they want, choose anyone they want to see in nurses or any other form of provider.

I hope that we all understand that.

Finally, the statement was made, "Don't throw out the entire system," thereby creating the implication, since the remarks were on my bill, that my bill does throw out the entire system. Madam President, it does not. It builds on the current system. It says that most Americans now receive their insurance through employment, and we should continue that. We should encourage those who do not have insurance to get it. And what we ought to do is to try to increase the number of Americans who have health insurance

VOL 140 PT 16 AG 12 — 18 1994 UMI

through a voluntary system of guaranteed private health insurance.

Now, what my bill does do is to provide health security for the 85 percent of Americans who now have health insurance but do not have health security.

Right now many of them face the incredible situation where their health insurance could be canceled if they become sick. Think about that. A person buys health insurance to protect himself in case he becomes sick, and then when he becomes sick the policy is cancelled. My bill will prevent that from occurring. It will prohibit that from occurring.

Second, right now, a person can be denied health insurance on the basis of a preexisting condition, something that affects millions of Americans. My bill will prohibit denying on the basis of preexisting condition. By contrast, the Republican bill would permit that to continue on an ongoing basis. My bill will phase out the preexisting condition exclusion completely by a time certain in sharp contrast to the Republican bill which permits the denial for preexisting condition to continue.

My bill will make it possible for a person to change jobs without the fear of losing his or her insurance. That is a real problem today. My bill will make it possible for people who are between jobs, temporarily unemployed, to continue with insurance. The insurance will be private, it will be guaranteed, it will be renewable, and it will not be able to be canceled. I think that is what Americans want who have health insurance. Yes. They are happy to have health insurance. But many of them are concerned about their lack of security, the fact that they do not know for sure whether it is going to be canceled tomorrow, whether the premiums are going to be doubled, or whether it will cover what they want when they become sick.

So, Madam President, I emphasize that my plan will increase choice. It will prohibit current insurance practices which leave Americans who have insurance insecure, and it will encourage those who do not have insurance to get it. It will abolish one of the largest Government programs that have those people enter the private insurance market. It is a voluntary system. And I ask Americans to keep that mind as they listen to the debate.

Madam President, I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Madam President, I would like to comment briefly on the majority leader's remarks, at least a few of them.

I think that it is the duty of the leader, as the majority leader or as the minority leader, to represent a party position or a political perspective. I admire both Senator MITCHELL and Senator DOLE for their able and professional way of carrying out those duties.

But I also think that the American people are alert enough and wise enough to know that the leadership of the U.S. Senate on either side of the aisle cannot easily categorize, as the majority leader has today, the Republicans all in one position and the Democrats all in another position. That is just an inaccurate portrayal of this issue, and the things that divide us on this issue.

I happen to be participating with what we call the mainstream coalition. These are at least nine Democrats who are not happy with the Mitchell bill. These are at least 9 or 10 Republicans who are not happy with the Dole-Packwood bill. But nevertheless, they are trying to seek to join together in a bipartisan effort to create a piece of legislation to lead us to wise, effective, economical health reform.

So I just want to clarify the record on that point, that my leader, Senator DOLE, as much as Senator MITCHELL's contingent of Democrats, are not easily divided as has been portrayed this afternoon.

Second, I would like to indicate just for clarification that somehow we have a coverage that is a Government operation, our own medical coverage. I would like to clarify that record to say that Blue Cross-Blue Shield is one of the many contractors with the Federal Government. I gain my health care from Blue Cross-Blue Shield where the Federal Government has a contract with the plan, and like many private industries, pays a portion of our health care premiums. Portraying that somehow the Members of the Congress, in particular Republican Members, are getting this great benefit out of the Government operation, as we have heard today, is just not accurate. So I want to clarify the record on that point.

I might also say we have thresholds, or we have deductibles. We have copayments. And yes we may go to see the Capitol physician but we pay a premium. I pay a fee for that kind of service. So this is not some broad-based freebie as that is being portrayed here today.

Madam President, the Senate has embarked on a very historic debate, and health care is probably one of the most important social issues that I think we will probably debate this entire century. During the last several months, we have heard a lot about the need for health security, that health care is a right that can never be taken away. I subscribe to that. And we have all heard the tragic stories of those who have fallen between the cracks in our health care system and have faced huge financial losses when faced with a health crisis. We have heard about the uninsured, and the cost shifting that occurs as between those of us who are insured to those who are uninsured who seek their health care services in hospital emergency rooms.

There is no doubt that our current health care system is not meeting the needs of a large segment of our country. We all share a commitment to achieve the finest health care delivery system possible in the United States to be extended to all in the United States. That is the purpose of this debate.

I would like to take the perspective as an appropriator. Let me use the old jingle that is often used, that authorizations—and that is what both the Mitchell bill and the Dole-Packwood bills represent, authorizations—are but a hunting license for an appropriation. We on the appropriations committees have found that there has been much action to authorize many programs in this century by the U.S. Congress, and then somehow it ends up in our lap to try to find the money for it. It is awfully easy to make promises. It is awfully easy to paint great broad brushes of new credits or new entitlements or new subsidies or new coverage. But someone at some point has to provide the money.

Let me say also that having been involved in Government for a few years, I am not willing to put my entire expectation and hope and trust on some kind of prospective savings. We have been through many of these experiences in the past. Under President Franklin Roosevelt, we had the Browley Commission; under President Truman we had the Hoover Commission I; and, under President Eisenhower, Hoover Commission II, studying the reorganization of the executive branch of Government and projecting the savings that could be achieved out of those reorganization proposals.

The first year out we found there were some savings that could be directly attributed to those reorganization efforts. But as time went on in the outyears, those savings disappeared pretty quickly.

So to undertake a program that is so heavily dependent upon prospective savings, of changes, and so forth, I am a little bit dubious. I am not saying we have not achieved some, of course, but to say that we are going to fund a portion of this health care program under the Mitchell bill out of those savings I think is a little risky business. And I know what will happen. If those proposed or prospective savings do not occur, it will be back on the Appropriations Committee to come up with the money to fund the commitments that have been made.

So I would like to focus a few comments on two key areas: The cost analysis of health care reform; and second, the nonmonetary issue as the legacy we are leaving for our children and our grandchildren. "Legacy" might be translated, also, into the word "indebtedness." We began this debate more

than 4 years ago when it became apparent that health care costs were rising at a rapid rate and would endanger the financial stability of our country. We are now at a point where national health care expenditures make up more than 14 percent of our gross national product and near $1 trillion.

By the year 2000, national health expenditures, at this continuing rate, are expected to reach more than $1.6 trillion; and by 2004, they will exceed $2 trillion. According to the estimates released on Tuesday of this week by the Congressional Budget Office—the legislative arm of the Congress—the legislation proposed by the majority leader, Senator MITCHELL, will exceed these estimates. I can only draw a conclusion that this does not represent cost containment.

Yes, we need health care reform, but we cannot forget the impact new Federal spending and new entitlement programs will have on our children and our grandchildren, who will be faced with paying the bills associated with these increases of today.

We have a bipartisan commission on entitlements and tax reform that recently released findings which showed that even if increases in health care costs were held to the growth of the economy by 1999, due to the aging and changing demographics of the aging population, Federal outlays for Medicare and Medicaid will still double as a percentage of the economy by the year 2030. In fact, they will increase from 3.3 percent of the economy today to 11 percent of the economy. Mark you, these findings and projections do not include the effect of the new health care entitlements envisioned by the Mitchell bill.

Let me stop here a moment and say, as I indicated in the very beginning, no leader in this body can speak for all the Members on his respective side. You have heard a lot of talk about Republicans saying "no new taxes." Well, this is one Republican who will vote for new taxes if it is to fund the high priority that I place on health care reform. I am not talking about depending it on the cigarette tax or the sin taxes; I am talking a basic tax increase, because I want to remind ourselves today that when we went through the throes of getting catastrophic illness and everybody wanted catastrophic illness, led by the AARP, when the people of this country found it was going to cost them $3 to $4 more a month in premiums, there was almost a stampede into the well of this Chamber to see who could be down there with the first bill to repeal the act passed by the previous Congress, in order to respond to the American public's outcry that they were not willing to pay a $3 to $4 increase for coverage of catastrophic health care. I am one Republican—and I am sure there are others—who will say that we put such a high priority upon covering all Americans with decent health care access that we are willing to stand and vote the tax to support it and to guarantee it and not make promises that cannot be guaranteed by saying prospective changes or prospective reforms are going to provide us with the money.

Let me also say that under the Mitchell bill, many are going to find themselves paying more for their health care. By the year 2002, all Oregonians will be paying the same rate for premiums regardless of age. According to a recent editorial in the Washington Post written by Neil Howe and Bill Strauss, this so-called pure community rate will increase costs for young people by 100 percent. Essentially, this means that we will be taking at least $40 billion yearly out of the pockets of young adults—those under the age of 35—and putting it into the pockets of adults over the age of 45. It is a cost shift.

While there is no doubt that reform needs to be made in the insurance industry—for example, to make insurance portable so you can take it with you when you change jobs and available to you regardless of your health status. In fact, I was recently chatting with a gentleman in my office who is now among the ranks of the uninsured. He changed jobs and became self-employed. Due to the change, he lost his employer-provided health insurance, and in the meantime he learned that he had diabetes and now cannot find health insurance because nobody will insure him with this preexisting condition. These are the kinds of problems we must address in our current insurance system. Yet, we must do so in a way that does not bankrupt our children and grandchildren. This is the challenge that makes this debate so difficult, because there is no easy answer. Again, what is the legacy we want to leave to the future generations?

As many of my colleagues know, the State of Oregon has taken substantial steps to enact health care reform which controls health care costs and achieves universal coverage. The Mitchell bill could negate the innovative Oregon health plan. Although Oregon's Medicaid waiver appears to be grandfathered, none of the other reforms Oregon enacted into law receive such protection against Federal preemption or Federal prescription.

For example, Oregon has developed a standard benefits package under the Oregon health plan. This unique benefits package explicitly recognizes that we cannot afford to provide every service to every person.

Madam President, there is not a plan out here that has taken the tough position to say we cannot provide every service to every person. What we are trying to do in Oregon is to provide everybody with standard primary health care. We are not going to separate every Siamese twin born in Oregon. We are not going to guarantee, in a sense, that everybody has a right to any medical procedure—over 9,000 of them under Medicare alone. We have prioritized them. People say, oh, that is rationing health care. Well, we are rationing health care, yes, but we are doing that today based on economics, which is certainly discriminatory, far more than saying to a person who is 80 years old, if you have a life expectancy added to your life by 1 year, are we going to engage in a very costly medical procedure as against covering 100 women with prenatal care? No, we cannot afford to do it. That gets down to where the real rubber hits the road in terms of having to make the tough decisions that somehow we are going to offer everyone any medical procedure or access to any medical procedure. That is the implication, because we have not addressed those thousands of medical procedures, and we have the attitude that any one of them—it is very clear—would be open to anybody.

Oregon focuses on the position of preventive health care services and provides an access to primary health care before serious health problems develop. It looks at the effectiveness of treatment and draws lines to exclude payments of services that are noneffective or add to the individual's quality of life.

I think we have to face this reality in the national picture as well. It was difficult for Oregon. It was complicated. But they gathered the best brains and representation of the people, theologians, philosophers, doctors, lawyers, humanists, people from all walks of life, people from all incomes, and they sat down and worked out this dialog.

Under the Mitchell bill, will Oregon be permitted to continue to offer this unique benefit package to all Oregonians? Oregon has also taken steps in the private insurance market which have completely changed the nature of health care in the State, and has contributed to a significant lowering of health care costs in Oregon compared to the national average. Oregonians are familiar with managed care, where they join a network of providers through whom they can access health care services.

These networks include primary care physicians, hospitals, specialists, and other health care providers. In fact, more than 60 percent of the 1.1 million Oregonians who have coverage through Blue Cross/Blue Shield of Oregon are enrolled in managed health care plans. And in addition to that, Kaiser Permanente has more than 400,000 subscribers in Oregon out of a total population of 2.9 million.

However, there is a provision in the Mitchell bill that threatens the ability to health plans, such as those that are

VOL 140 PT 16 AG 12 — 18 1994 UMI

covering the majority of Oregonians, to manage health care costs by limiting ineffective treatment and care. Under the claims dispute mechanism which would be established if the Mitchell bill is passed in its current form, health plans will have no incentive to manage cost because every decision, every claim—and there are millions every year in this country—could be reviewed through an administrative process, or in Federal or State court where damage awards available would be "any appropriate relief"—underscored—"any appropriate relief" possible, a true lawyer's paradise. This could be called in a sense a lawyer's economic development act.

Let us be clear about this. The disputes we are talking about here are contractual disputes over service coverage in health plans. These are not malpractice claims, not malpractice claims. They are not disputes that arise over negligent medical care. The implications of this provision for our ability to control costs through managed care are erroneous and they become also more enormous. It will completely undermine cost containment efforts.

I have long advocated that we give States more flexibility to develop a database to assist us in formulating a Federal role in health care reform. Certainly, I agree that there need to be certain Federal standards that assist us in achieving the goal of universal coverage. However, I do not believe the Federal Government should be dictating a regulatory and prescriptive process to the States and that each State then must follow to reach these Federal standards.

This approach penalizes States such as Oregon that are progressive. Many States have been working on these issues for many years, and I believe it is wrong for the Federal Government to come in and undo the reforms that we have already established and are experiencing.

For example, the Mitchell bill includes a provision that will preempt all State laws in the area of medical liability reform that are different from the new Federal laws established if the Mitchell bill is passed. In Oregon, that would mean that our medical liability law which includes a cap on noneconomic damages and has contributed to a significant lowering of costs would be preempted because the Mitchell bill does not include a similar provision of a cap. The Federal Government should not be paternalistic in this realm. Some States, like mine, are years ahead in their reform efforts.

So you ask, what about the States that are not as progressive as Oregon? How do we get them to do the right thing?

I believe we must set minimum Federal standards and then provide those States with guidance—not mandates—about how to reach those standards. We should provide incentives and credits for innovation, not more regulation. In all areas, our Federal system penalizes States that are more progressive and reduces them to the standards of the lowest common denominator. Our citizens expect better, they deserve better, and Oregonians certainly demand it.

Madam President, I want to make it clear that I am committed to reforming our health care system. The concerns I have raised must be addressed before we pass comprehensive health care reform. This is not a stalling tactic. This is asking for the data and information. Let me digress for just a moment. I happen to have been Governor when Kerr-Mills was first established as a precursor to the Medicare Program. Under Kerr-Mills, the Federal Government indicated the States should develop a database upon which to designate, to define, and to analyze the health care needs of the elderly citizens. Oregon, I am proud to say, was the first State out there to start the process of developing this database to know what the Federal role legitimately and rightfully should be. There were those who wanted to rush through a Medicare bill which came to be known as the King-Anderson bill superseding the progress that was established under Kerr-Mills, and they pronounced as the ultimate statement of costs in 25 years it would not cost more than $10 billion under King-Anderson.

Madam President, in 25 years it was $65 billion, and it is going sky high. It is going to eat up our whole budget if we do not do something about cost containment.

My point is simply this, that we can prove at the State level and if we had the time to develop the base I am sure we would have a finer and a better, more efficient Medicare system than what we are now experiencing. Concerns I want raised must be addressed. We cannot legislate in the dark, afraid to face the reality that we may not be able to afford unlimited health care for everyone in this country. However, we must assure that everyone has access to preventive and primary health care.

As a Member of the Appropriations Committee, I have directly experienced the struggle we face to allocate funds for our complex array of domestic programs. This discretionary funding funds the operation of those all three branches of the Government. It pays for the roads and the bridges of our transportation infrastructure, the loans that go to provide public housing, student loan assistance and small business startup, our national parks, and many more purposes which have nearly universal support. These funds have been drastically diminishing over the years as the entitlement programs have grown. The programs authorized under health care reform will put further pressure on the Appropriations Committee to make funding decisions.

And do not forget that the budget caps we are now under require us to cut discretionary spending next year by $5 billion. And as entitlement programs continue to grow, less and less will be available to discretionary programs. We are literally facing choices between running the Government and paying for our biggest entitlement programs—Social Security, Medicare, and now a new health care bill.

I return to the premise with which I began—what kind of a legacy are we leaving for future generations? Because I have this in common and have this with many of my colleagues and I share their concern. I made a commitment to work with this bipartisan mainstream coalition, which includes Democrats and Republicans, to try to improve upon the reforms in the Mitchell bill.

We are not rejecting either bill. We are just saying we cannot accept either bill in its current form.

I want to repeat again that I am one Senator who is willing to pay the bill to improve our health care system. But let us face the responsibility for paying for it now rather than later. We have an obligation to future generations to approach this issue of cost up front. We have all seen the illusory nature of projected savings over the years. This time we cannot afford to saddle future generations with mistaken cost estimates and glossed-over realities of the fiscal tradeoffs.

We must be conscious of the costs of such a system and make a commitment to control these costs. If we are up here getting ready to adopt a new health care plan and engaging in all sorts of rhetoric, political and otherwise, I think we have to understand that we have an obligation to tell the American public precisely how it is going to be funded. To only dodge that issue to me represents more a fraudulent approach than an honest approach.

We must make a commitment also in this or any other bill we adopt to funding medical research. We must assure that we make sufficient provisions to address the needs of our rural and underserved areas.

It is very interesting to note that rural America was left out of the original proposals that were called upon to be adopted in the Congress. It was only after pressures from within the Congress that rural America was seen as having a very special problem of rural health care because of the gravitation of medical resources to the urban centers.

We must enact meaningful malpractice reform. We must pass a bill that is less prescriptive and regulatory on State Government. And finally, we must encourage innovative and creative approaches to health care that are occurring in our States and private

health care markets now. We are not going to write a bill in concrete. We cannot do so because of those changes that are occurring now, even before legislation is adopted. Meaningful reform is possible if we keep these goals in mind.

I look forward to working with my colleagues to fashion a bipartisan solution that addresses these goals.

We cannot afford to pass a health care bill that has 51 votes from one side of the aisle or 50 plus 1.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I would like to speak today about an amendment I intend to offer, or a couple of amendments, to the health care reform bill.

I will not go on at great length. I know that others wish to speak.

The PRESIDING OFFICER. The Chair would note that the Senator from North Dakota stood on his feet and his voice was heard and he was recognized. He was on his feet first and that is the reason the Chair recognized him.

(Mr. WELLSTONE assumed the chair.)

Mr. DORGAN. Mr. President, I would observe that I have been here since 12 o'clock, with the exception of about 10 minutes when I left the floor, and I believe I watched for about an hour and a half or an hour and 45 minutes on the other side and about 15 minutes on our side.

But, nonetheless, I will be very brief.

I want to talk about an amendment that I intend to offer with my colleagues—in fact, two amendments.

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, before I do that, let me say again, just on another subject, the Federal Reserve Board action of yesterday is very disappointing. Today, we have all read the newspapers about that.

I was thinking about maybe suggesting we cut off the air conditioning down at the Federal Reserve Board. Somebody suggested if I did that legislatively, somebody would get up and suggest that we cut off the air conditioning in the Capitol Building.

But clearly we need to push some different air into the Fed to see if we cannot get some better decisions on interest rates.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. DORGAN. Mr. President, let me discuss briefly the amendment that I and a couple of my colleagues will offer to this piece of legislation.

I discussed yesterday the number of health care proposals that are before the Senate. I discussed the fact that there is great merit and need in discussing universal coverage. Universal coverage is essential. No American should wonder whether they have the ability to take their child to a doctor when their child is sick. It should not be a function of how much money you have in your pocket when you decide to get health care for a sick child. So it is clear we need better access to health care.

We need universal coverage. That is not something that I question. It is a goal we must move to, and as quickly as possible.

It is also clear to me, as I mentioned yesterday, that we must do something about the cost of health care. If we do not put the brakes on skyrocketing costs, we will be chasing the target of coverage forever and we will simply not be able to obtain it.

Yesterday on the floor I used a chart which shows what is happening to the cost of health care and I would like to show the chart again. The United States spends much more on health care than any other country in the world. We spend more than 14 percent of our gross domestic product on health care; Canada is at 11 percent; and no other country is even at 10 percent.

The fact is U.S. health care costs are growing and growing exponentially. And every single plan that is before us—the Dole plan, the Mitchell plan, the Clinton plan, the mainstream plan, the Finance Committee plan—every single plan, at the end of it, in the year 2004, will see the cost of health care as a claim on the gross domestic product of this country increase by nearly one-third.

Instead of keeping health care at 14 percent or 14.5 percent, which is much more than any other country in the world spends on health care, at the end of every plan, by the year 2004, according to the Congressional Budget Office, we will be at 19 or 20 percent of gross domestic product.

That is not success. We will not achieve universal coverage unless we find some method by which we put the breaks on skyrocketing costs. We, I think, need a thoughtful debate about how to do that. I think there would be great differences. Some would suggest cost controls, cost containment mechanisms that are real; others would suggest a market that might incentives cost containment. The fact is, if we do not dig in with cost containment devices that work, whether it be in the private or the public sector, we will not obtain universal coverage under any condition.

Again, let me say, every plan that I am aware of, including the Republican plan, will, at the end of the plan, mean that we will spend a third more than we now spend on health care as a percent of our gross domestic product. That cannot and will not be viewed as a success by the American people.

On one part of this issue, I am going to offer an amendment that I want to discuss today. It is an amendment on the issue of the cost of prescription drugs. It would be hard to find a better heeled industry than will fight this amendment, I am sure.

The pharmaceutical industry is a very, very large industry with an enormous amount of resources. They do a lot of good things. They produce wonder drugs, manufacture life-saving drugs, invest a lot of money in research and development. And I salute them for that.

On the other hand, they produce products that are a necessity, not a luxury. People need, as a matter of course in their daily living, to take the medicines and prescription drugs that are prescribed by their doctor.

The way they price prescription drugs in this country in my judgment defies all good sense. And I have used these charts before. I am going to use a couple of them again, just to describe why this amendment is necessary.

The biggest selling drug in America is Premarin, used for estrogen replacement. Here is the price for Premarin by the same manufacturer, for the same pill, put in the same bottle. I have held up on the floor before the bottle of pills for which it is $93 in Sweden, $100 in England, $113 in Canada, and nearly $300 to the U.S. consumer. Why? Why would we be charged more than triple the price for the drug Premarin when compared to Sweden or England?

Xanax, for anxiety, $10 in Sweden, $56 in the United States.

Zantac, a drug that is used for ulcers; a wonder drug, as a matter of fact, saves the need for a costly operation. But why do we pay $133 for the same size bottle, for the same pills, produced by the same manufacturer, when it costs $64 in Sweden and $84 in England?

When I offer the amendment, I will show chart after chart after chart that shows exactly the same thing—two different sets of pricing data. A price for people who live in Italy, Germany, France, England, Sweden, and Canada, and then a separate price, a higher price, for the United States consumer. Why? By what justification should we believe the U.S. consumer should be charged double, triple, 5 times or even 10 times the same price than other consumers around the world pay?

I intend, with my colleagues Senator PRYOR, Senator SASSER, and Senator FEINGOLD, to offer two amendments, one which would have the Secretary of Health and Human Services do a survey, to collect information, and require the pharmaceutical companies to furnish the information, on the wholesale prices at which they market their drug in various countries. And from that, construct an index that is released periodically to the American people so

79-059 O—97 Vol. 140 (Pt. 16) 37

VOL
140
PT
16
AG
12
—
18
1994
UMI

that we know what price we are paying for the same drug that is being consumed at a lower price by other people in other countries.

That is number one. It simply requires the drug companies to provide the information and requires the Health and Human Services Secretary to get it, to compare it, and to produce an index so that we have public information and allow the public to put the pressure on the pharmaceutical manufacturers for fair pricing.

The second amendment would be exactly the same step leading to the acquisition of these prices and the comparison of these prices, and then a determination based on the results. If they find that a drug is sold in this country for 25 percent more than the average price at which it is marketed in other countries, more than 25 percent above the average price at which it is marketed in the rest of the world, then it would result in a show cause hearing at HHS. If the drug companies could not show cause that was justifiable, then the Federal Government would only pay, under the Medicaid contract, the average price of which that drug is marketed in all the rest of the world.

Those two amendments, I assume, will provoke a substantial amount of debate. There is certainly room for disagreement about drug pricing. But I do think that we ought to have a discussion about that component piece of the cost of health care.

I would like to make one final comment, and then yield the floor.

There is, I know, great rancor, anger, cynicism by some about this health care debate, about Congress generally, about the Government, about Washington. All of us see it and hear it. We feel it every day from the phone calls we get and contacts when we are back home. Times have changed, and part of it is understandable and very real. Part of it bothers me some—I listened carefully this morning to some of the discussion—the notion by some in this Chamber that somehow Government is awful. Government is untrustworthy, Government cannot do anything. The fact is, Government is a system by which we put together the schools and educate our kids, we construct our roads and a police force to keep us in safety, and a force of firefighters to fight fires. Government is all of those things. Government was, when it constructed REA, and rural telephone system, the instrument by which we electrified rural America and brought telephone service to rural America. We have done a lot of remarkable and good things through our Government, together—things that work. Things that work well.

I respect the fact that there is great disagreement about how to respond to the health care issue. I do hope that, as we move down this road, we will, in a thoughtful way, disagree without being disagreeable. Even though there are substantial differences in public policy between us, all of us now serve in government. I hope we all aspire to make government effective. Whatever we do, let us make it effective. Let us do it right.

It may be, some think, we should do less of it. That is perfectly legitimate. But we ought not make it our fulltime occupation to denigrate everything done. I am telling my colleagues, there are plenty of people doing that these days. I hope those of us who work here, Republicans and Democrats, and who care about public policy will tone down some the description of what we are. I was told recently by a person that we are all liars and all a bunch of frauds in Congress.

I said, "You know, I do not think that". I work with the Senator from Arizona, Senator MCCAIN. I work with Senator DOLE. I work with Senator COATS. I do not know of one person in this Chamber I work with that I think that of.

Every person here, in my judgment, is here because they care a great deal about public policy. They might have widely divergent views about what that policy may be, but they come early in the morning and work late at night because they care about public policy and honestly want to address it in the right way. I hope, as we move forward in this health care debate and as we talk about crime and other things, we can always keep in mind that all of us are trying in our own way to do the right thing.

I have indicated yesterday that I desperately believe when we turn out the lights for a recess—if we have a recess here—and we have done something about health care, if we do not do something about the cost of health care, then we will have failed. Costs are skyrocketing. I frankly do not think any plan presented at this point will get costs under control. I have indicated that. I have some notions about how we should try to do it.

But no one in this Chamber, in my judgment, has the divine wisdom to come here with a piece of paper and say, "Here is the answer. Here is the right answer. Here is the only answer. Here is the answer that works for America." It is just not possible that one person has that kind of wisdom.

What we ought to expect from this Chamber is a debate in which we get the best of what everyone has to offer instead of the worst of what each has to offer. If we can get the best of the ideas from the Republicans and the Democrats and the conservatives and the liberals and the mainstreamers and the upstreamers and whoever else is out there streaming these days, maybe we can construct something that the American people will respect and say: Yes, they did a pretty good job. They understood the problem. They searched for the best possible solution. We respect them for that.

I hope that will represent the tone of the debate.

Mr. MCCAIN. Will the Senator yield for a comment?

Mr. DORGAN. I will be happy to yield.

Mr. MCCAIN. First, I express my apologies for my impatience to the Senator. I was unaware he was on the floor since noon. When I came to the floor he was not there, and I expressed some impatience. I hope he understands I have waited a number of days to give my opening statement.

Second, regarding his statements concerning the level of rhetoric. There should be a statement that each of us, even though we may take different approaches to this very critical issue, we should be partisan but not personal in our remarks and in our debate. I think it is a fortunate admonition, since most of us had anticipated being home at this time with our families, and from the looks of things, things are going to get perhaps more tense around here rather than more relaxed. I hope all of us can take the words of the Senator from North Dakota to heart. I thank the Senator from North Dakota.

Mr. DORGAN. Mr. President, I appreciate those remarks. Senator COATS is on the floor, and he and I have talked about the fact that this is not a family-friendly place. When people say that Government cannot be trusted and we are all lazy—the people like Senator COATS and Senator MCCAIN, like so many others who work late at night and come in early in the morning and spend half their weekends back in the home State make enormous sacrifices. I think all of us with young children would prefer to be able, during an August break, at least in some small measure be able to spend some time with them. But this is not a very family-friendly place. I hope we can change that, too, at some point in the future.

I will be happy to yield the floor. I appreciate the patience of the two Senators.

The PRESIDING OFFICER. The Senator from Indiana [Mr. COATS].

PRIVILEGE OF THE FLOOR—S. 2351

Mr. COATS. Mr. President, on behalf of Senator WELLSTONE, I ask unanimous consent Alexandra Clyde, E. Richard BROWN, Ellen Weissman, and Mark Anderson be accorded the privilege of the Senate floor for the duration of consideration of health care reform legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I only intend to take a few moments. Then I trust my colleague from Arizona could be recognized, who has waited very patiently for a number of days in order to make his comments and statement regarding the health care bill that is before us. I want to take a brief amount

of time to respond to the comments just recently made by the majority leader.

The majority leader has on several occasions now, the latest of which was just moments ago, come to the floor in defense of the bill that he has introduced, which is obviously his right. And we would expect him to do that. What I am responding to, however, is that the rhetoric of the majority leader does not seem to square with the reality of the legislation. I am one of those Senators who took the pledge, the pledge to read the entire bill. I wish I could say I have completed the reading and understand every line and every word of this 1,448-page document. I am well into it. I think I understand a great deal of it. But much of it is technical and references other sections of the United States Code and other sections of the bill.

So I am still plowing through it. But as I listened to the majority leader make his rhetorical statements, I began to scratch my head and think, are the statements relative to the same bill that I am reading? I know we have had three bills submitted by the majority leader. We label them Mitchell 1, Mitchell 2, Mitchell 3. I have been focusing my efforts now on the bill that is before us, Mitchell 3.

But as I hear comments made by the majority leader and then try to square it with what I have just read, there seems to me somewhat of a disconnect. For instance, on the subject of consumer choice, yesterday and repeated again today, Senator MITCHELL came to the floor and attacked Republicans claiming that Republican Senators had misrepresented the facts about an individual's choice of plans under his bill. But in reading the bill, it is clear, at least to this Senator, that employers are severely penalized for offering health plans that are more generous or less generous than the standard benefit package that will be determined by the National Health Board and that employers of under 500 employees are prohibited from self-insuring. Those are limitations on choices.

So while the majority leader says, and I quote from a floor statement made on August 2, 1994, "The bill would expand the choices Americans have for their health care," the bill that I have read, Mitchell 3, says this on page 145, section 1309: Employers are subject to a civil penalty of $10,000 per employee if they offer a health plan that is more generous than the standard benefit package.

Let me quote from that directly. I want to make sure I am not mischaracterizing, or attempting to misrepresent, what the majority leader has said. The majority leader said this would expand choices for Americans in health care. But on page 145, section 1309 it says:

In the case of a person that violates a requirement of this subtitle, "the Secretary of Labor may impose a civil money penalty in an amount not to exceed $10,000 for each violation with respect to each individual."

The requirements under this subtitle are that a standard benefit package, determined by the National Health Board, be offered. And, if anything less or more than that is offered—if it is more, it has to comply with the supplemental plan— there is a $10,000 fine that may be imposed by the Secretary of Labor.

That does not sound like an expansion of choices to me. On page 1,170 in section 7112, the bill imposes a 25-percent excise tax on high-cost, high-growth health plans. That 25-percent tax is assessed on the difference between the premium and the reference or target premium.

On page 137, section 1301 of the Mitchell bill, despite what the majority leader said about expanding choices for Americans, it says "Employers with fewer than 500 employees are prohibited from self-insuring, cost-sharing benefits." Their provision alone would deny choice to the 400,000 firms in America that insure 16 million Americans today under self-insurance plans. This is when the employer sits down with the employees and says, "We're going to write our own plan. We will form our own group. We will determine what benefits best fit this company, and we will self-insure."

Those firms under 500 employees will now be prohibited from doing that. They will be prohibited from offering plans they now offer that cover 16 million Americans. That is not expanding choices.

It seems to me, Mr. President, that consumer choices are severely limited under the Mitchell bill because employers are strongly penalized for offering anything other than the one-size-fits-all-Washington-designed standards benefits package.

Senator MITCHELL has claimed that his bill would not raise taxes, nor tax small business. On August 15, 1994, on this floor, just a couple of days ago, he said, and I quote:

> Over and over again, our colleagues said of that plan that it would raise everyone's taxes and be a tax on small business. Neither of these statements are correct.

That is the majority leader's statement. But the words of the majority leader do not conform with the words of his own bill. This bill contains numerous new taxes and tax increases. Let me just name three.

In section 7111, page 1,158, the bill imposes a 1.75-percent tax on all health insurance premiums for insured and self-insured plans. So whatever your plan now is, as an American, you are going to have a 1.75-percent tax on that plan.

Section 7112, page 1170, imposes a 25-percent excise tax premium cap on high-cost, high-growth health plans. Section 7132, page 1205 imposes a 15.3-percent tax increase on income of certain service-related subchapter S corporations, shareholders and partners.

Mr. President, these are three of the 17 taxes included in the Mitchell bill. I will not take the time, in deference to my colleague from Arizona, to go through the others, but I have a list of all the taxes imposed under the Mitchell bill.

Senator MITCHELL, when he spoke about the impact on business, was correct when he spoke about the plight of small business owners. In a floor statement on August 9, he said, and I quote:

> These are typical small business people trying to create their own stake in society, building their own enterprise and doing what the rhetoric of entrepreneurship is all about. And yet their efforts are being devastated by something entirely beyond their control.

I agree with those words. But what is entirely beyond their control is where I disagree. What is entirely beyond their control are the 49 new responsibilities that they are being burdened with. I have a list of employer responsibilities under the Mitchell bill. I will not take the time to read them, but I ask unanimous consent to print them in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

EMPLOYER/PLAN SPONSOR RESPONSIBILITIES UNDER THE MITCHELL BILL

RESPONSIBILITIES AS AN EMPLOYER

Sec. 1301: Offer at least 3 certified standard health plans.

Sec. 1301: Forward the name and address of each employee to the certified standard health plan in which the employee is enrolling.

Sec. 1101: Maintain records and provide states with data to audit certified standard health plans.

Sec. 1301: Provide payroll withholding of employee premiums upon request.

Sec. 1301: Provide employees with information on all certified standard health plans in the community rating area.

Sec. 1301: Provide employees residing in other community rating areas, information on all certified standard health plans in these other community rating areas.

Sec. 1111: Provide 180 day notice to participants of plan non-renewal.

Sec. 1111: Comply with regulations concerning transfer of plan sponsorship from one employer to another due to acquisitions.

Not available: Modify plan documents and SPDs to reflect legislative requirements.

Sec. 1466: Maintain certified Wellness Programs to be eligible for premium discounts.

Sec. 4522: Comply with Nondiscrimination regulations.

Sec. 1302: Maintain data on standard health plan premiums and employer contributions.

Sec. 10113: If trigger mechanism goes into effect, employers must contribute 50% of premiums for all employees.

Sec. 7202: Loss of Section 125 FICA exclusion.

RESPONSIBILITIES AS A STANDARD HEALTH PLAN SPONSOR

Sec. 1001: File application for plan certification in each State.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Sec. 1201: Comply with Standard Benefits Package.
Sec. 1111: Comply with regulations concerning guaranteed issue, availability, and renewability.
Sec. 1113: 6 Tiers of premium rates required.
Sec. 1002: Open enrollment required.
Sec. 1111: Allow disenrollment for cause.
Sec. 6006: Provide enrollees with individual subsidy applications.
Sec. 6006: Forward subsidy applications to states.
Sec. 5001: Supply data to the National Quality Council at both a state and national level for:
Sec. 5002: Quality of health care service and procedure measurement;
Sec. 5002: Determination of access to care;
Sec. 5002: Determination of appropriatenes of care;
Sec. 5002: Determination of population health status;
Sec. 5002: Health promotion/disease control initiatives;
Sec. 5004: National surveys of plans and consumers;
Sec. 5005: Consumer report cards;
Sec. 5007: Additional information requests for health care researchers; and
Sec. 9000: Workers' Compensation data must also be supplied.
Sec. 5009: Supply data to the State and National Centers of Consumer Information and Advocacy on plan performance and consumer report cards.
Sec. 5111: Comply with the standards of the National Health Information Network for electronic transmission of the following health information:
Sec. 5112: Standard unique health identifiers for each enrolled individual, employer, health plan, and health care provider;
Sec. 5121: Eligibility data;
Sec. 5121: Enrollment data;
Sec. 5113: Enrollee and provider signatures;
Sec. 5114: Claim forms;
Sec. 5114: EOBs;
Sec. 5121: Premium Payments;
Sec. 5121: First Report of Injury;
Sec. 5121: Claims Status; and
Sec. 5121: Referral certification and authorization.
Sec. 5301: Comply with Attorney General data requests for fraud and abuse enforcement.
Sec. 1124: Issue Health Security Cards to all enrollees.
Sec. 1101: Participate in state guaranty funds.
Sec. 1101: Comply with grievance procedures.
Sec. 1117: Participate in National Reinsurance Program for multi-state employers.
Sec. 1118: Comply with solvency requirements.
Sec. 1122: Comply with performance standards.
Sec. 1122: Communicate quality outcomes to enrollees and providers.
Sec. 1125: Provide enrollee communciations in a variety of languages.
Sec. 1126: Provide information on patients rights.
Sec. 1128: Coordinate additional payments to providers for individuals with cost sharing subsidies.
Sec. 1128: Verify provider credentials and licensing.
Sec. 1128: Demonstrate that sufficient providers are available both in and out of network.
Sec. 1129: Demonstrate that sufficient specialized treatment expertise is available.
Sec. 1129: Disclose utilization review protocols to enrollees and providers.
Sec. 1129: Disclose provider incentives to enrollees to make them aware of potential quality of care issues.
Sec. 1141: For supplemental plans, maintain a loss ratio of at least 90 percent.
Sec. 1305: Complying with requirements in single payor states.
Sec. 2106: Conduct quality case review of sample records.
Sec. 2106: Reporting instances of abuse, neglect, and exploitation.
Sec. 2106: Reporting of enrollee/provider complaints.
Sec. 3093: Special reporting requirements for employers of health care workers.
Sec. 7111: Pay 1.75 percent Premium Tax.
Sec. 7112: Conduct test for 25 percent assessment on high plans.

Mr. COATS. Mr. President, 49 new responsibilities, mandates on business under the Mitchell bill. Yes, small business people are being burdened by health care, but they are being burdened by the mandates that are being placed on them on the so-called proposal to undo that burden. Those are the new responsibilities that are beyond their control.

I will skip naming some of those, but there are 49 of them. Senator MITCHELL said in regard to bureaucracy, and he has said it over and over and over again, this bill, he says, the Mitchell bill, is not a Government-run program. I heard him say that just a few moments ago.

Believe it or not, we have counted the word "shall." The word "shall" means it is not discretionary, you do it. If a piece of legislation enacted into law and codified into law says "shall," you have to do it. If you do not do it, there are penalties, and this bill is full of the penalties.

We have counted the number of "shalls" in this legislation—2,681 times it does not say this is what we recommend insurers do, this is what we recommend businesses do. It says this is what "shall" happen; this is what "shall" take place. The States "shall" comply with these requirements. Small business "shall" comply. The National Benefits Board "shall" do these items.

So when we say this is not a Government-run program, it does not square with the bill.

I have compiled a primer to the Clinton-Mitchell health care bill's new bureaucracies, new mandates, and new Federal powers. This list identifies by section number the mandates, the requirements, the new agencies, the bureaucracy that is outlined in this 1,448-page bill. This is 81 pages of print so small that my eyes can no longer read it, but this lists the 55 new bureaucracies that are created, a mixture of Federal and State government bureaucracies that are required under the Mitchell bill—55.

This lists the 815 new duties that are given to the Secretary of Health and Human Services; probably a new office for every one of those and who knows how many employees and how much money to fund that; 815 duties and powers, new to the Secretary of Health and Human Services; 83 new duties and powers to the Secretary of Labor.

I could detail what some of those are—overseeing State plans, requiring certain submissions by medical providers, and on and on it goes. If that is not a Government-run program, I do not know what is.

Mr. President, I hope every Member will have a chance to leaf through this. This is not political rhetoric. This is language taken directly from the bill and referenced to section numbers. Every word in these lists is taken directly from the bill and referenced to the section number. So Members do not have to see this as just Republican rhetoric, Republicans trying to scuttle the Mitchell health care proposal. This is factual, it is there for everybody to see, it is there for everybody to reference for themselves.

The worst thing I have ever done and the best thing I have ever done, relative to the legislation that is before us, is to take the pledge to read this bill, because the rhetoric sounds wonderful and there is plenty of rhetoric to go around on both sides. Oftentimes, that just is lost in the discussion, and pretty soon it all starts to sound alike and everybody is saying the same thing.

The reality is this legislation. The reality is this legislation, and I just challenge every Member of the U.S. Senate to read this bill. If you read this bill, you will see it as the single greatest expansion of Government in the history of this Nation. You will see it as Government control run amok.

The goals of the majority leader are honorable goals. They are goals shared by Republicans. The reforms that are outlined in terms of health security, of keeping your plan, of not losing it when you change jobs, not being denied coverage when you are sick, of the small business reforms and the insurance reforms, they are all incorporated in ideas and plans submitted by Republicans. We all agree on that.

Senator Bentsen, not a Republican but then Senator Bentsen, a Democrat, leader of the Finance Committee, submitted legislation 2 years ago. Had we enacted that, the rhetoric would have been solved. The problems that the rhetoric discloses would have been solved. Would it have solved every problem in the health care field? No. But it would have taken us a long way towards health care reform. Millions and millions of Americans today would have health security they now do not have because we are presented with this or nothing.

The President has drawn the line in the sand and said, "You enact this and nothing less or I will not accept it." And so those of us who have worked together to provide meaningful reform and health care for millions of Americans have nowhere to go. This is the bill before us. So if it is this or nothing, then we are determined to show the American people and our colleagues what this is. And this has been detailed now and outlined in section-by-section form for Members to check for themselves. I just think that the rhetoric needs to match the reality of that with which we are faced.

With that, Mr. President, I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, first I would like to note the presence of my friend from California, Senator BOXER. I would say to the Senator, I intend to speak for about 25 minutes, if that is agreeable to her, so that she could adjust her schedule accordingly. And I appreciate her many courtesies which have been extended to me for many years. I wish to assure her that if I am ever in the majority I will try to extend the same courtesies to her that she has to me. And I am very appreciative not only of her courtesies but her friendship. She and I came to the House of Representatives together longer ago than she would care for me to recollect. So I thank the Senator from California.

Mr. President, one of the most oft-used adages I know is that those who ignore the lessons of history are doomed to repeat them. History teaches us many things about the prospects for this legislation, and in my view none of them are favorable. For the sake of our Nation, I believe we should avoid the errors of the past.

Among history's most important lessons—and I would cite five of them—as far as health care legislation is concerned are, first, a major piece of legislation that fundamentally alters our basic institutions requires strong bipartisan endorsement, not a narrow 51-percent majority; second, any major health care bill must be understood and endorsed by the public before it is passed if it is to have any chance for successful implementation; third, Government-run approaches to providing health care are overly bureaucratic and do not result in quality services or consumer satisfaction; fourth, health care access problem is fundamentally a cost problem, and any bill that does not strongly address the cost of health care through market forces in my view will be doomed to fail; and fifth, the cost of entitlements are always underestimated when first proposed, and it is politically impossible to remove them once they are enacted.

I would like to discuss each of these lessons to ensure that we do not ignore them in the course of this debate.

First, health care reform requires strong bipartisan support. Mr. President, this is not an issue that should be decided on a party-line vote with 51 votes in favor and 49 against. This is an issue that will affect every American in a very personal manner. It will fundamentally alter an industry that comprises one-seventh of our economy, and history shows us that from major civil rights legislation to the creation of new Government social programs, if we are to truly succeed in changing the status quo, it must be done in a manner that is supported by the broadest cross section of Americans.

It is clear that this bill is not bipartisan. The objective is to pass it, even by a single vote. The Clinton-Mitchell bill does not have a strong bipartisan support because it does not have the support of the American public.

To try to force through a bill that the public does not understand, in my view, will result in disaster and will further undermine the credibility of the Congress in the eyes of the American people.

A second lesson of history is that the public must understand and support the health reform bill that ultimately becomes law. History assures us that a bill that is not understood by the public will not be successfully implemented.

I would like to remind my colleagues of the last time we passed a major health care bill that the public did not understand that was when the Congress enacted the Medicare Catastrophic Coverage Act of 1988. Once senior citizens learned that they were being forced to pay substantially more for benefits that did not meet their top priorities and were not worth it for many, they stormed our offices with angry letters and calls, and I am proud to have been the sponsor of the bill that repealed this legislation.

I think it would be useful to review the political history of that doomed legislation. In 1987, the Medicare Catastrophic Coverage Act was introduced to provide seniors with protection against the spiraling costs of illness requiring long-term or frequent hospitalization.

On July 22, 1987, the Senate passed the measure by an overwhelming 86-to-11 vote, the House measure bearing the same title was passed 302 to 127. As the bill moved through the legislative process, what happened? Benefit after benefit was added. The scope and cost of the legislation changed dramatically from the original legislation. Good intentions were once again paving a road to a destination the public did not understand, want or support. But that did not matter to the Congress. We did not seek the consultation and endorsement of the American people who would have to live with our reforms. We were going to give them what we decided was best, and we did, with the aid and abetment and efforts of the AARP. The conference report on the catastrophic bill passed the Senate 86 to 11 and the House by 328 to 72. I voted against the conference report even though I was a prime cosponsor of the original bill. I did so because I listened to the seniors of Arizona.

I was looking back in the RECORD of the congressional debate at the time of passage of the conference report on June 8, 1988. I said at that time—now, nearly 6 years ago, over 6 years ago:

In a speech in my State earlier this week at a typical middle-class mobile home park I came to find that none of the 80 to 100 seniors present supported the conference report. First, they protested the fact that the cost of the supplemental premium had risen by 50 percent over that of the supplemental premium under S. 1127.

That is the original legislation.

Second, they were extremely upset about the fact that participation in the benefit was mandatory, regardless of whether or not they already had private coverage. Third, 80 percent of them cited a desire to seek coverage of long-term care and they were willing to pay an additional $500 to $600 a year for such coverage. And last, only 5 percent of them supported the prescription drug coverage provided in the bill.

That is what I learned back in 1988. That is why I voted against the catastrophic bill, and that is why inside the beltway, by overwhelming numbers, this bill was passed. And what happened? What happened, Mr. President, 1 year later, after the seniors realized what the bill did not do, a veritable revolt ensued. Still Congress balked. Notwithstanding the public outcry, amendments offered to delay implementation of the catastrophic bill on April 1, June 7, and July 27, 1989, were defeated. Each vote, however, received broader support as public reaction swelled. By October of that year, public outrage had reached a fever pitch. On October 4, I introduced a bill to repeal the onerous portions of the bill. The measure was passed on October 6 after 11 hours of debate and after the defeat of 8 substitute amendments by a vote of 99 to nothing.

Why was the repeal passed, Mr. President? Because the American people demanded it. Democracy may take time but inevitably it works. So we have a very clear example of how a major change in our health care system started and how it ended.

That is history, Mr. President. We should all learn from it. I will tell you what I am hearing from the seniors and younger people and middle-aged people in Arizona, and that is they do not understand this bill. They do not understand it. They do not know what it is about. They want it explained to them before they sign on to it. And by a 2-to-1 margin they are saying we prefer a gradual approach. We prefer a gradual approach because we do not want to be saddled with Government intervention in our health care systems that we do not understand.

Now, maybe, Mr. President, in the long run the American people and the

VOL 140 PT 16 AG 12 — 18 1994 UMI

people of my State may accept something along these lines. I doubt it. I do not think so. But right now they clearly do not understand it. How can you possibly ask the average American, who is working, 8, 10, 12, 16 hours a day, 5, 6, 7 days a week to understand the ramifications of this bill?

Now, Mr. President, they did not understand catastrophic. It was done inside the beltway, with AARP. They do not understand this. And I do not know if this is going to pass or not.

I do not think anybody in this body knows whether this legislation is going to pass. If it does, I can predict one thing. It will have the same result as the catastrophic bill did, only it is not going to be the seniors who will be lying on the hood of the car of the chairman of the House Ways and Means Committee. It will be not be seniors who knock the chairman of the House Ways and Means Committee over the head with a sign in protest. It will be all the American people.

So I strongly suggest that we learn the lesson of history concerning catastrophic.

While we do not know how much more senior citizens will have to pay for these new benefits, preliminary estimates suggest that over 50 percent of beneficiaries will still have to pay for their prescription drugs out-of-pocket because they will never exceed the cost-sharing requirements. They, and the many other seniors who currently have prescription benefits from other sources than Medicare, will still pay higher part B premiums for the new benefit. This is just one of the thousands of new provisions in the Clinton-Mitchell bill that we do not fully understand.

I would note that the catastrophic bill had even more public debate in open forums than the current bill. Yet, it failed.

During debate on catastrophic, CBO estimates of the cost were woefully inaccurate. The costs of a new skilled nursing benefit was increased by 642 percent in just one year from the original CBO estimate. Standard benefits packages and making people pay for benefits that they may not want like the catastrophic bill is a recipe for disaster. All of these concerns are applicable to the Clinton-Mitchell bill.

Mr. President, the American public must know what is in the Clinton-Mitchell bill. We cannot afford another fiasco like the Medicare Catastrophic Act.

The third lesson of history is that Government-run approaches to providing health care do not work well. They are overly bureaucratic and do not result in quality services or consumer satisfaction. Supporters of the Clinton-Mitchell bill are fond of asking Republicans whether we would want to repeal Medicare, which is a Government-run program. Well, of course we would not want to repeal Medicare. However, if we were to pass Medicare over again, we certainly would have designed it very differently. Every day, I receive letters and calls from seniors about problems they have with the Medicare bureaucracy and the arbitrary rules that it imposes.

Perhaps as important, the original estimates of the combined costs of Medicare and Medicaid for the 1990 was $18 billion. The reality was that the actual costs had been 10 times that. There has not been an entitlement program in history that has not vastly exceeded the estimated costs at the time of passage. Sometimes, as in the case of Medicare and Medicaid, by a factor of 10. I have had the opportunity to deal with other Government-run health care systems.

Other Government-run health care systems are even worse. As a member of the Armed Services and Indian Affairs Committees, I am constantly informed about the horror stories associated with the veterans health care system and the Indian Health Service and their bureaucracies. The Clinton-Mitchell bill would make their bureaucracies pale in comparison. It includes 50 new bureaucracies, 17 new taxes and penalties, 177 underfunded State responsibilities, 818 powers and duties of the Department of Health and Human Services, 83 powers and duties of the Department of Labor, and hundreds of new Federal regulations.

I am not sure we can fit all of these on the T-shirt that we made up in response to the Clinton health care bill. We may have to make sure they are all extra, extra large.

Fourth, history tells us that any bill that does not strongly address the cost of health care through market forces will be doomed to fail. Our access problem is basically a result of rising health care costs. Costs are simply not affordable for many Americans. There is nothing in the Clinton-Mitchell bill that significantly addresses the problem of rising health care cost, and, in fact, it actually makes the situation worse.

For example, the way in which community rating is achieved in the Clinton-Mitchell bill, which substantially limits premium differentials based on age, will dramatically increase the cost of coverage for younger individuals. This enormous cost shift to those who can least afford it will induce many young people to drop their coverage.

Also, the Clinton-Mitchell bill will do very little to address our malpractice crisis, which is an important cause of rising health care costs. Our malpractice system is seriously dysfunctional. Only 43 cents of every dollar spent in the system goes to injured patients. The majority goes to administrative expenses and legal fees. The cost of malpractice insurance has grown dramatically, increasing by 15 percent each year from 1982 to 1989. It may increase by 19 percent this year. These costs, which exceed $6 billion annually, are passed on to patients. They are creating major access problems in certain areas, particularly underserved rural areas.

Thus, it is clear that we need serious malpractice reform in this country. Unfortunately, the Clinton-Mitchell bill does not include any significant malpractice reform, and may actually move the country backward at least a decade. Incredibly, it could negate positive State laws that have significantly addressed our malpractice crisis.

The first version of the Clinton-Mitchell bill contemplated a total preemption of State malpractice law. Such complete preemption of the malpractice laws of every State would be incredible.

It basically says that Congress knows better than all the State legislatures in the country.

It is unclear from its language whether the current version of the Clinton-Mitchell bill totally or partially preempts State malpractice law. The language implicitly suggests that it totally preempts the field, and nothing in the bill states explicitly that it does not preempt State law.

Whether or not it preempts State law, the malpractice and medical liability reforms that are proposed are extremely weak. They only apply to cases against a health care provider or professional, but not to claim concerning a medical product. The most significant reforms limit lawyer contingency fees to about what lawyers are now charging, and permit periodic payments of awards.

While these particular provisions are also in the Dole bill, the difference is that they are the strongest provisions in the Mitchell bill. The Dole and Gramm bills contain other vitally needed reform.

Mr. President, everyone knows the status quo. Some unfortunate individual becomes injured, files a lawsuit and seeks compensation in court, wins, and before he or she is able to use the money to pay medical bills or put his or her life back together, the lawyers get paid. The fact is that while the injured party is still suffering and trying to make better his or her lot in life, the lawyers get paid first and foremost. They often receive large contingency fees for settling a case with a minimum amount of effort.

The most egregious example I know of was the agent orange case where millions of dollars were awarded in the case of victims of those who suffered from agent orange in the Vietnam war. The lawyers got paid first. Many of the victims of agent orange died before they ever received a penny in compensation for the damage that was done to their health as a result of agent orange. You tell me, Mr. President, why the lawyers should have been paid first while American veterans were suffering.

And what does the Clinton-Mitchell bill seek to do: Codify the status quo. Are our priorities that misguided? The status quo is not in anyone's interest, except for the trial lawyers. It is the injured, not the lawyers, who we should help and protect. The medical malpractice sections of this bill are wrong and must be corrected.

The Clinton-Mitchell bill requires each State to set up alternative dispute resolution mechanisms and requires exhaustion of these mechanisms before a court action may be brought. While alternative dispute resolution, such as mediation and arbitration, is generally a good idea if engaged in voluntarily, the mandatory way in which it would be imposed in this bill would be highly inflexible and bureaucratic.

While the President is fond of lashing out at the so-called special interests, such as the NFIB which represents the many small businesses that create jobs in our country, it is interesting that he has not spoken out against the enormously powerful trial lawyer lobby or its well-funded political action committee.

In fact, President Clinton is only concerned about those special interests that are not supporting his plan or contributing to his political interests. Groups such as the Trial Lawyers Association that support him are interestingly exempt from the pejorative classification as special interests. Coincidentally, the largest contributor to the Democratic coffers is also the largest beneficiary of their ineffectual malpractice provisions.

Compare the Mitchell bill's weak or negative malpractice reforms with the powerful reforms in the Republican alternatives, which include limits on noneconomic and punitive damages, statutes of limitations for brining claims, improvements in standards for bringing claims, and consumer protections. Our reforms are based on precisely the innovative State laws that the Mitchell bill could nullify. These reforms are working, and should be allowed to continue to work and to be expanded throughout the country.

In addition, the Clinton-Mitchell bill is replete with new and unjustified burdens on both the private and public sectors, including new taxes, mandates, regulations, and legislative pork or other waste.

The Senator from Indiana has described many of those in detail. So I will not.

One of the most important innovations with respect to cost containment that is in the Dole bill and many of the other bills is the medical savings account. Medical savings accounts are a market-oriented approach which would substantially increase the cost consciousness of consumers while allowing them to stay in control of their health care decisions rather than having some government bureaucrat make the decisions for them.

Unfortunately, the Mitchell bill does not authorize medical savings accounts. Overall, the bill does nothing to contain costs and therefore, in my view, will fail in the long run in its goal to enhance access.

Fifth, Mr. President, history teaches us that the cost of entitlements are always underestimated when first proposed. When Congress passed Medicare in 1965, it predicted that Medicare costs in 1990 would be under $10 billion. In fact, they were over $100 billion. The estimate was wrong by a factor of 10. I cannot think of an entitlement program that we have passed that has not cost substantially more than originally projected. Once they are in law, they develop powerful constituencies that ensure they are never, ever, cut back.

It is particularly ironic that we are considering a bill with $1 trillion of new entitlements just as the entitlements commission is submitting its recommendations to do precisely the opposite. I can understand specifically targeted subsidies for low-income individuals to obtain coverage, but a new entitlement for medical schools is incomprehensible. What is the American public going to think when they learn we are trying to increase their taxes to pay for this nonsense? I commend the Senator from Nebraska for his leadership on the entitlements commission and his warnings about the new entitlements in the Clinton-Mitchell bill.

Again, let us learn from history. The exercise we are going through today is frighteningly similar to the catastrophic bill, with one very important exception: The reach, scope, and impact of the Mitchell health care bill dwarfs the Catastrophic Coverage Act.

While I am on the subject, I wanted to again mention the entitlement in this bill which is for graduate medical education accounts—a new entitlement for graduate medical education. For that account, the Mitchell bill authorizes expenditures as follows: For the academic year 1997, $3.2 million; in 1998, $3.6 million; in 1999, $5.8 million; in 2000, $6.1 million; in 2001, $6.5 million. In this section of the bill, we are authorizing a staggering $23 million for graduate medical education and physician training. It appears as if our goal here is to make every medical school in America a public school. It also helps explain why there is so much academic support for this legislation.

Our medical schools are the finest in the world and 62 percent of all medical students already receive financial aid from guaranteed student loan programs. Yet, here we are appropriating money for medical research, and we are creating a multibillion-dollar entitlement program to supplement our medical schools.

Just like with catastrophic, we started this effort with good intentions to address real and fixable problems with our health care system.

Just like with catastrophic, and in the classic fashion of Congress, we are seizing an opportunity to address difficult and complex problems with the same old and ineffective answers, more taxes and more bureaucracy.

Just like catastrophic, we are ignoring the will of the American people. Polls show that Americans want us to tread lightly, go slowly, and do this right. But the answer they receive is best summed up in the words of one of our colleagues that the American people were going to get health care reform whether they liked it or not.

Just like catastrophic, politicians are lauding the plan with great fanfare and moving speeches which are long on rhetoric and short on reality.

Just like catastrophic, those who question whether the American people would support the new programs it would create seem to be voices crying in the congressional wilderness.

But I am afraid that, unlike catastrophic, staying the present course is not something we can undo. Drastically changing the way one-seventh of our national economy operates is an enormous undertaking. The changes Congress would effect with this bill—17 new taxes, vast entitlements, 50 new bureaucracies, a job destroying employer mandate, and extensive new State mandates—are enormous changes that, once started, will be very difficult, if not impossible, to undo.

History demonstrates that the Clinton-Mitchell bill would be a major mistake for this country. Before we make this mistake, we should take the time to fully understand the bill, educate the public about what is in it, and when it is rejected, like the original Clinton health care reform bill, pass a sensible bill that has the support of the Nation. We can still pass a good bill this year that enhances access by containing costs. There is much that we all agree on. However, we must not pass legislation that places our excellent health care system in the hands of the Government.

As we debate the Mitchell health care reform bill, I implore my colleagues to remember history and not doom ourselves to repeat it. The American people deserve better.

I appreciate the patience of my friend from California.

I yield the floor.

Mrs. BOXER. Mr. President, before my friend from Arizona leaves, I want to thank him for his kind remarks. The Senator from Arizona and I sometimes disagree, and sometimes we agree. But in either case, we never are disagreeable with one another. I think that says a lot, because these are difficult times and these are rough issues. I appreciate his friendship and his decency to me at all times.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. President, the reason I decided to speak this afternoon—and it was not in my plan—is I was carefully listening to the debate and listening to the words of the Senator from New Hampshire, my Republican friend from New Hampshire, for whom I also have a great deal of respect. He used a word in his speech, and he said it really from the heart, and I believe he feels it. What he said is, "I am afraid of my Government." He said, "I think people are beginning to fear their Government." He said, "I want the Government to fear me." In other words, he wants the Government to fear the individual. He does not want the individual to fear the Government.

Mr. President, I find that a very disturbing statement. America is not about fearing one another. It is not about us being afraid of our Government or our Government being afraid of us. We are the greatest country in the world, and the reason that we are the greatest country in the world is because we come together to solve our problems. We come together as a community, as a nation, to set aside our partisan differences and to find answers to the problems that plague us.

So I was very disturbed to hear all this talk about fear and, unfortunately, Mr. President, a lot of fear is being injected into this debate, somehow setting up the Mitchell bill as something to be afraid of.

I think it is important to, once in a while, take out the preamble to the Constitution. I do it a lot because I think it sets out the reasons why we have a Government, and they are the most beautiful words. I am going to read them. Why do we have a Constitution? Why do we have a Government? Here is the answer:

> We the people of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity * * *

That is why we have a Government. That is why we have this U.S. Senate and the House of Representatives over on the other side, where I was proud to serve for 10 years. And together we work—men and women of goodwill—and we compromise, and we debate and argue, and we do the best we can for those reasons: "to form a more perfect Union, establish Justice, insure domestic Tranquility," and all of the other things I just read.

When we say that we fear our Government, I think that kind of talk undermines what we are. We are a Government of, by, and for the people. What is domestic tranquility? I have already said that it is one of the main reasons that we have a Government. Domestic tranquillity, to me, means peace at home, peace in our own homes, peace in our cities where we live, in our counties, our rural areas, peace in our Nation, and peace in our States. Domestic tranquillity.

How does the health care reform debate coincide with the reasons that we are here for domestic tranquillity? Mr. President, you have long worked to bring about health care reform for this country, and I think you and I, and many Members on both sides of the aisle, understand that it is very difficult to have domestic tranquillity when we have the kind of crime that we have in our country today. That is why it is so important to pass that crime bill. You and I know it is hard to have domestic tranquillity when you cannot get a job for your family and provide for them and you cannot afford a decent education for your kids.

And, yes, Mr. President, it is hard to find domestic tranquility when you are so afraid that you are going to go broke if someone gets sick because your insurance for health is canceled. Or when you go to the doctor and find out you have "a preexisting condition," say, high blood pressure, and then the insurance company says, "Sorry, we cannot take you until you pay an inordinate premium," which you cannot afford. It is very hard to find domestic tranquility under those circumstances.

How about when an insurance company disappears out of your life when you need it most? Can you find domestic tranquility when you counted on health insurance and suddenly the company walks out on you because you get sick? That is what happens to a lot of our people. I have met them. I have seen them. I bet every one of us knows such a case.

It is hard to have domestic tranquility when you suddenly find out that in the small print of your health insurance policy it says that there is a lifetime limit. So if someone gets sick in your family and it is a catastrophe and it bleeds every dollar, you are told by your insurance company, "Sorry, you are out; you have reached a lifetime limit."

I have seen people who have had that problem. They did everything right. They paid their premiums. They are hardworking. All they did was get sick, and the sickness was a devastating one, and they reached the lifetime cap.

I have seen it where little children who get a serious illness reach the lifetime cap at age 6, 7, or 8.

It is hard to have domestic tranquility when you may be forced to divorce your spouse so that one of you gets to keep some assets and then the other one appeals to the Government for help. You cannot have domestic tranquility under that circumstance.

So I say that if we are about anything here, it has to be about the Constitution. How can we avoid a situation that leads to our families being worried, if they have insurance, worried that they lose insurance; if they have a job that gets insurance, worried if they change their job they will not get insurance; worried if they get sick they will be kicked out.

I say it is our constitutional obligation to fix this problem. And, yes, we have been debating for 50 hours—50 hours—one amendment, a good amendment. We are ready to amend this bill. We are ready to make it better. Senator MITCHELL himself voted for the Dodd amendment. He is willing to amend his bill. He is willing to make it better.

(Mr. REID assumed the chair.)

Mrs. BOXER. Mr. President, I remember when I was over in the House, a young man came to see me. I have told this story a couple times. His name was Andy Azevedo, 16 years old, a strapping young man. I was so proud that the majority leader actually told the story when the majority leader introduced his bill. At that time —it was many years ago—I did not know that much about the insurance crisis. This young man came to see me, and he said: "You know, Congresswoman"—I was a Congresswoman at that time from the San Francisco Bay area. He said:

> Congresswoman, I am worried. I have had cancer, but I am OK now. I know when I am off my parents' policy when I graduate from college I will not be able to get insurance because they will say I have a preexisting condition. Can you help me with this? Can you do something about it?

That is when I got involved in this issue.

Later, Andy had an occurrence of the cancer. His insurance policy would not cover certain treatments that he needed. I went to bake sales in Petaluma, CA, to help his family raise money for him.

This is a proud family. This is a farm family. This is a hardworking family. They did not have domestic tranquility for a long time, and then they lost Andy. I promised his mother that we would, in fact, pass health insurance reform.

It is hard to be tranquil when you watch the talking day after day. And why am I doing it? Why am I participating in it? It is because I feel it is important to answer some of the words on the other side that deal with fear, because I know people are watching this debate. I want to have a chance to tell people, if we do nothing, you should be afraid. If we do nothing, you should be afraid. If we do something, you should have heart because we know what the problems are. Everyone knows what the problems are. It is not the sole province of a Democrat to know what the problems are. The Republicans know. They know what it is like to worry about a child. They understand.

The question is, when do we write this bill? You know in the Senate we amend every bill that comes before us.

I have yet to see a bill, very few—maybe on very small issues—I have yet to see a major bill that was not amended and made better or sometimes made worse. And then we decide if we think it was made better or made worse and do we feel it is worth voting for. That is what legislating around here is about.

You know, I was also interested the other day when the Senator from Missouri, a very respected Senator, took to the floor and said that he was upset about the Mitchell bill because it provided a new benefit to Medicare recipients. It provided actually two new benefits, and he did not think we could afford to do it. One of them was prescription drugs, the other inhome care. And he felt even though he knew these were important benefits, we simply could not take that on. It was too difficult.

I remember when my kids were young I read them a little book about the Little Engine That Could. Everyone said, "It can't be done, it can't be done, it can't be done." But the Little Engine That Could said, "It can be done, it can be done, it can be done."

Yes, it is hard. It is hard for a little engine to go up a steep hill. It is hard for this Congress to solve the health care reform battle. But we are in it, and I think we can figure out a way to do it in a cost-effective manner. And if there are those who feel we should not have a prescription drug benefit to our elderly, let them vote against it. Let them make the amendment. But let us not hear them say we cannot work with the Mitchell bill. We can amend the Mitchell bill.

I like the prescription drug benefit. I like the fact that we will have inhome care for our seniors. Yes, they will pay for some of it. But let us help them. I do not want to see grandmas and grandpas have to go to a nursing home when it is actually more humane and more cost effective to keep them in their homes. And the Mitchell bill starts us on that road. That is sensible.

You know, it is hard to see our people feeling tranquil—and we talked about domestic tranquility—when they see Senators on this floor, who belong to the Federal Employee Health Benefit Plan, stand up here and say it is good for us but we do not think you ought to have it. And I think the majority leader pointed that out in a brilliant fashion. We have it. It is a good plan. What is it? It is organized by the Federal Government. It is private insurance. We can choose the plan we want. We get options and choices galore. Our employer pays 72 percent of it. We pay the rest. And we have peace of mind.

I want to see that for my constituents. I want to see that for all Americans—a chance to get access to that plan. In the Mitchell bill, you get access to that plan if you want it. It does not force you to, but it makes it available.

So I have to say that I welcome reasonable debate, and I see some of my colleagues are here so I will finish up in the next few minutes, probably another 5 or 6 minutes. I welcome reasonable debate and we all do. I want to start debating amendments. We debated a good amendment last night. As I said, the majority leader voted for that amendment; so did the Senator from New York, Senator MOYNIHAN; so did the Senator from Massachusetts, Senator KENNEDY. They did not say we are not going to vote for this amendment because it did not come out that way in our committee. The Senator from South Dakota, another leader in this battle, supported the Dodd amendment. We are open to change. We are open to amendment. We are open to making this bill better.

Mr. President, could we have order?

The PRESIDING OFFICER. The Senator from California is right. The Senate is not in order. Senators will refrain from speaking in the Chamber unless addressing the Chair.

The Senator from California will continue.

Mrs. BOXER. So we need to solve the problems of our Nation. Read the preamble of this Constitution. It is real clear on what we are supposed to do. In short, the message is tranquility. Very important. And part of that is making sure our people are not scared—scared that they many lose their health insurance; and, by the way, Mr. President, scared that they will not be gunned down in the street by an assault weapon.

And we have our Republican friends over on the House side, except for 11 of them, voting against the rule to bring up the crime bill, saying that there was pork in it. One-hundred thousand police on the streets, is that pork? I say it is a necessity. Billions of dollars for prisons? I say it is a necessity.

The violence against women act, which is included in that bill, is an absolute necessity. Every 6 minutes a woman is raped in our country. Every 15 seconds a woman is beaten: 1,400 a year are killed by a boyfriend or a spouse, and they are stalked. The crime bill is a comprehensive solution, Mr. President, to a national disgrace.

So they talk and talk over there, but they do not get to the guts of it. The guts of it is, they are afraid of the National Rifle Association. That is the guts of it. And they want to bring down our President. That is the truth of it. I hope the American people are waking up, waking up to the truth, the reality of what is going on here.

In closing, Mr. President, let me say this. The majority leader has set out a framework. It is not a perfect framework. I have some amendments I am going to offer. I am looking forward to making the bill better.

But I have to tell you, from the largest State in the Union, when you look at numbers like this: 6 million uninsured Californians. Nearly one in four Californians under the age of 65 is uninsured. Of the uninsured, over 5 million are from families in which at least one spouse works. So we are talking about working people who do not have insurance. We are talking about 1.3 million uninsured children in California.

So I will tell you, I will stay here night and day, I will stay here around the clock for those children and those women and those men and those hard-working families. I will work. I will support some of the amendments that come forward. I will work against others.

But, it is time. It is time to vote on the crime bill. It is time to fix a broken health care system.

Let us stop injecting fear into this debate. We should not fear our Government and our Government should not fear us, because we are a Government of, by, and for the people.

It is our job to get on with it, and provide the domestic tranquility for each and every American.

Thank you, Mr. President.

I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, the Senate's effort to reform the American system of health care has important consequences for all Americans. It will determine the availability and the extent of health care for each of us. It will determine in part how long our parents will live and how healthy our children will be.

As we debate this issue, let us remember what brought us here in the first place. We are not debating this issue by chance. There is a reason why we all speak of this effort as health care "reform." In dozens of living rooms and conference halls, in emergency rooms of hospitals, and on the street corners, the message that I hear from the people of New Jersey is that we need reform. Our current system is not working as it should. Those who have health coverage are paying too much for it and those without health coverage deserve it.

Mrs. BOXER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator from New Jersey may proceed.

Mr. BRADLEY. Mr. President, what people want the most is some control of escalating health care costs. What people fear the most is losing their health care if they change jobs or get laid off or lose a job because of a corporate bankruptcy. What perplexes them, as well, when they are confronted with all of these escalating costs of health care, is the power of the insurance industry.

Want coverage for your heart problem? The insurance company says no,

VOL 140 PT 16 AG 12 — 18 1994 UMI

because it is a preexisting condition. In other words, the insurance company will insure you for everything but the heart condition that is most likely to generate the health costs for your family.

In confronting skyrocketing health care costs, small business is left to the mercy of insurance companies. Small businesses have no leverage to negotiate with insurance companies. Too often, they are presented with a take-it-or-leave-it choice that only offers exorbitant costs for health care coverage.

Each of us can enumerate countless occasions in our States when we have had interactions with small business people who simply said they cannot afford to cover the workers in their particular small business. They cannot afford to cover because they were told by the insurance company that it is $6,000 or $7,000 a person and they have no leverage to negotiate with the insurance company.

If you get open heart surgery, the tab is $49,000; a caesarean section birth, $7,500. Remarkably, women of higher income have more cesarean section births. I do not think that is related to a differential in the size of the birth canal. It is related to the ability to afford to pay.

And a visit to an orthopedist, $300 for the first visit, $175 for each visit after that.

Most people have become accustomed to good health care, even with these costs, but health care simply costs too much; more than it should cost.

When President Clinton proposed health care reform last year, none of us thought he was imagining the problem. There was a consensus that we should act; that we should do something. The political noise of the last 12 months aside, health care reform is as needed today as it was then. The families who need it are still in New Jersey and all of our States. The families that do not have the health coverage need it as much today as they did a year ago. All of us who are paying health costs are paying too much today just as we were paying too much a year ago.

Real problems—and these are real problems—deserve and demand real reform. But just as we cannot forget what brought us here, neither can we forget how our political economy optimally functions. To allocate resources and services through the market ensures the greatest efficiency. It gives the consumer the highest quality, the greatest selection, the lowest price.

To ask the Government to replace the market generates bureaucracy and reduces individual freedom, as the state makes decisions that previously were made by the individual. At the same time, it is the responsibility of the State to ensure that the market's destructive effect does not wreck the lives of human beings. The so-called creative destruction, as Schumpeter referred to the phenomenon of inefficient firms being put out of business by efficient ones, cannot be translated to the individual level when it comes to health care, workers who lose their jobs, or move to another job. Workers who lose their jobs, or move to another job, or for whatever reason have lost their health insurance, should in fact not lose their health care.

These individuals need some help, some assurance that their health and lives will not be endangered by unfettered market forces. It is the job of Government to protect the public health and welfare in the short and long term of its citizens. How to do this in the area of health care is the essence of what this debate is all about.

Our fundamental goal should be to enable a competitive health care marketplace to keep people healthy but take care of them when it does not. By and large, America's health care system is an excellent system, but it does have a few glaring faults. We should not block or undermine those elements that work in our current system. We should fix those areas that do not work and, in so doing, improve the overall system.

Recent trends suggest the health care markets are becoming more competitive and efficient. We can spur that process by ensuring that insurance companies compete on price and quality, not on their ability to omit high-risk patients. Managed competition is beginning to bring better health care at lower prices to many Americans.

The bill that is before us at this moment, offered by Senator MITCHELL, is really the result of many conversations with many individuals and builds on the work that was done in the Finance Committee, addresses some of the persistent problems. For example, it eliminates preexisting conditions from insurance coverage considerations. It assures portability so that the loss of a job or the pursuit of a better job will not mean the loss of health care benefits. It allows small businesses to bargain for insurance as purchasing units, giving employers and employees needed leverage to drive their health care costs down.

These are good steps but they do not attain the level of reform that is needed. Two specific problems are foremost in defining the health care crisis. I stated them earlier. Too many people do not have health care coverage, too many people cannot afford to get health care coverage, and costs are accelerating.

The greater the number of people who are not covered, the more the rest of us pay. It is a fairly simple elemental principle of insurance. When an uninsured person shows up at an emergency room, he is not turned away. He receives care and the rest of us pay his bill in the form of an increase of our premiums. It is as simple as that.

The only real answer to the crisis of 37 million uninsured Americans is universal health care coverage. It is the only answer for the nearly 1 million uninsured individuals in the State of New Jersey. There is human misery of enormous proportions in our country because people cannot get health care coverage. In all the talk about CBO, HMO's, fee for service, triggered mandates, premium caps and so on and so forth, we must not forget our simple moral obligation. Expanding coverage and making health care affordable are the only ways to address the crying need of our fellow citizens for basic health care coverage.

The bonus here is that by assuring coverage, we will also reduce costs by eliminating the shifting of costs from the uninsured who show up at the emergency room, to all those of us who are lucky enough to have health care plans but have to pay for the uninsured through our higher premiums.

I also believe the only proper way to achieve universal coverage is through a system of shared responsibility. I have said this from the beginning of this debate. That means everyone contributes: Employers and employees. No one is solely responsible for our health care crisis and no one should be solely responsible for solving it.

The bill before us has a provision that does embody that shared responsibility. Nor is the promise of the shared responsibility and universal coverage an empty promise in this bill. The bill provides subsidies that will make coverage a reality for millions of Americans who today do not have any. It recognizes that without these subsidies, millions of American families simply cannot afford the coverage and do not have the coverage; 37 million Americans, and more each year.

Still, there will be difficulties with the overall cost of health care coverage if we do not properly contain these spiraling costs. The rest of our good work could be in jeopardy. Without cost containment, the promise of universal coverage is a hollow promise. Without cost containment, our workers will continue to see their take-home pay stagnate. But the issue of cost containment is the elephant in the room that everyone knows is there but no one wants to acknowledge.

You can stand up on this floor and promise this new benefit and that new entitlement and this new program and pledge to cut this tax, and that tax, and pledge to cut this spending program, and that spending program, but no one wants to address the reality that stares us in the face, which is the need for cost containment. It is an issue that is simply not going to go away.

In that context, the proposal before us offered by Senator MITCHELL addresses the issue of cost containment, and he deserves credit for attempting to do so. I have a number of concerns with the bill that is before us related to bureaucracy, related to the unintended consequences of well-intended provisions, related to the method of cost containment put forward in the proposal, and the number of people upon whom it could place a financial burden.

I hope it is possible over the next several days and weeks to work with Senator MITCHELL and others to craft an alternative that is more equitable and more efficient in containing costs. I have spent a lot of hours meeting with the so-called mainstream group in which I participated from the beginning. I agree with some of the things that the group has discussed. I disagree with other things the group has discussed.

I have worked with Senator MITCHELL in putting forward his bill. I agree with some of the things he has suggested and disagree with other things that he suggested, as I have enumerated. The fact is, we have come up to the issue of national health insurance any number of times in the last 50 years and every time that we have gotten close to doing it—meaning a White House that is interested, whether it is a Republican or a Democrat, and a Congress that seems to be amenable to considering some of the tough choices embodied in providing national health insurance—something has happened and we always have backed away. We have always backed away in my opinion because the people who say "my way or no way" have always won.

At some point in this process, the dialog that is necessary for successful legislation has broken down. Maybe it is partisanship in some cases. Maybe it is the strength of a particular interest group in other cases. Maybe it is personality conflicts in some cases.

For whatever the reason, whether it was 1977 with modest hospital cost containment, whether it was 1972 with catastrophic health insurance for all Americans, or whether it was any other time when the issue has reached the point where it actually was within our grasp, one of several things has occurred.

It is my hope that there will be no non-negotiable demands and that we will recognize the legislative process for what it is, which is a chance to address the basic questions. If you rigidify and confront, you have neither the fluidity nor the flexibility to get to the answer that is at the core of the problem, which in this case is cost and coverage.

So, Mr. President, our challenge is complex, but our purpose is clear and simple: It is my hope that the Senate will rise to this challenge and fulfill this purpose, and that when our work is done, we will have produced legislation that works for New Jersey and for the Nation. I yield the floor.

Mr. MOYNIHAN addressed the Chair.

Mr. KERREY. I wonder if the Senator will yield. I wonder if the Senator from New Jersey will answer a couple of questions.

The PRESIDING OFFICER. If the Senator from Nebraska will withhold, the Senator yielded the floor and the manager of the bill sought recognition.

Mr. MOYNIHAN. If my good friend will withhold a moment, I would like to propose a unanimous-consent agreement, and then we will resume this matter. Is that agreeable to the Senators?

The PRESIDING OFFICER. The Senator from New York, the manager, has the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that upon the completion of the exchange of questions between the Senator from Nebraska and the Senator from New Jersey and a 10-minute statement by the Senator from Colorado on an unrelated matter, that we proceed to the Nickles-Moynihan amendment; that Mr. NICKLES, in the first instance, be recognized to offer that amendment striking section 1309 of the Mitchell substitute; that there be 3 hours for debate on that amendment, equally divided between Senator PACKWOOD and myself; that no amendments to the language proposed to be stricken be in order; that at the conclusion or yielding back of time, the Senate vote on Senator NICKLES' amendment with the expectation that that will be the last legislative business of the day with respect to the bill before us.

The PRESIDING OFFICER. The Senator from New York has propounded a unanimous-consent request. Is there objection? Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I just wanted to ask the distinguished Senator from New Jersey, who has just given a thoughtful presentation on health care and I think a very powerful argument for using the forces of the market to control costs.

The market in the last 3 years has done an unprecedented job; in fact, there has been an unprecedented shift in the marketplace to managed care and that management of care has produced reduction of costs. I have sat here and listened to people come to the floor, particularly I say with all due respect to my friends on the other side of the aisle, with whom I think I agree on this issue, that we should move away from Government regulation and Government controls, but I hear some statements being made on the other side of the aisle that I think are, in fact, in conflict with other principles that they are espousing.

I ask the distinguished Senator from New Jersey, if we move to the marketplace, does it necessarily mean—using market forces—that an individual is going to have a complete and unrestricted choice of doctor or any other sort of thing that they want?

Is it not true that for those on the other side of the aisle, with whom I agree I believe on this issue that we ought to allow the market to work and move to managed care and use the management of care, that we need to disclose that part which means that we do accept in a voluntary fashion, presumably, some limitation, some restriction of our choice of doctors? Is that essentially what goes on if we use the marketplace? Are we not to a certain extent accepting that there is going to be some limitation on choice?

Mr. BRADLEY. Mr. President, I say to the distinguished Senator from Nebraska, it depends on the ultimate form of this legislation. If we were to lock people in to managed care with no point-of-service option, then they would have a restriction on choice. If we have a point-of-service option, it means that they can join a large group based upon the doctors that are in the group. They will often make the choice as to which group they would like to be a part of because their family physician is in the group, or good heart doctors are in the group, or whatever. That group could be as large as the Mayo Clinic; it could be as small as a major urban area. If they join, they join because of the doctors that they see in that group; therefore, they have chosen to join the group because of the doctors.

If you have point of service, you have the option. God forbid something strikes and you get a disease that none of the doctors in the group you feel are adequate to treat you, and you want to go see somebody else someplace else in the United States. You have that option, under a point-of-service plan. You will pay a little bit more, but you will have that option.

But the basic thought involved, as the Senator has suggested, that managed competition forces the consumer to make choices is correct.

Mr. KERREY. Just to be clear on this so my colleagues understand what I am talking about, I am a service-connected disabled veteran. I was injured in the war in Vietnam in March 1969 and lost the lower part of a limb. As a consequence of that disability, I am considered to be eligible for care from a Veterans' Administration hospital.

The Government does not make my prosthetic devices. I am allowed to choose and go wherever I want. They authorize it. I have to wait in line sometimes. I hear people talking about that. It is true. I cannot just go and get whatever I want. I have to get it authorized, I have to get it approved, but I choose wherever I want to go.

If I was in an HMO without that point-of-service option, which is a market alternative—to be clear to my

VOL 140 PT 16 AG 12 — 18 1994 UMI

friends on the other side of the aisle, understand, I intend to come here and challenge you every single time if you come here and say that I want the market to take care of it. If you are not prepared to engage in a discussion of what that market does, that market taking care of it means as people move to managed care, somebody, not in the Government, but somebody in the private sector is going to say no to them, is that not true?

Is it not true what happens? It is not a Government bureaucrat? I heard my friends on the other side of the aisle come down and blister the Mitchell proposal—and I am not a supporter of the Mitchell proposal. I have identified a number of areas where I think it does vest too much power in the Federal Government to make decisions—but do not come to this floor and expect to be unchallenged with a statement that says that the market gives you unrestricted choice. It does not.

I have an increasing number of citizens in Omaha, NE, for example, that are finding themselves choosing HMO's or PPO's. They are finding themselves all of a sudden not with a Government bureaucrat saying no to them, they are finding a private sector bureaucrat saying no to them.

I just want to make it clear that the point I am trying to make with the distinguished Senator from New Jersey—with whom I agree; I agree we ought to use the market to control—but is not inherent in that that somebody is going to be managing the care and making some decisions independent of what I might think I want?

Mr. BRADLEY. If the so-called managed care providers in my State are any example—and New Jersey is not as well developed as a State like Minnesota, for example, or Oregon—there is a phase this goes through. First there is a managed cost. That is a dangerous phase because you are telling people you cannot continue to spend the way you have spent on health care. Then you move through that to managed care, where the group has as its purpose maintaining and enhancing the wellness of its members. And that is the hope of the market, as a mechanism to improve the health of the American people.

Now, you should not be under any illusion, and the Senator's example of the Veterans Administration is one example—the other example is the continued existence of Medicare. No one is proposing eliminating Medicare. That is a very big Government program.

Mr. KERREY. It is $160 billion a year.

Mr. BRADLEY. It is a very big purchaser out there. So we are going to end up with a mixed system where you have a managed competition, but you also have Government as a very big purchaser of health care, either in the Veterans Administration or through Medicare, and as a result because it is such a large purchaser, it will have an influence on all of health care in the country.

So I would say to the Senator that we will end up with a mix of private managed competition as well as Government involvement.

Mr. KERREY. Mr. President, I say to my friend from New Jersey that I find myself almost equally irritated sometimes with Democrats who are willing to vote for things that provide new benefits without any money attached—I voted last night against the Dodd proposal because I saw it doing that—and Republicans who come to the floor and suggest somehow that the market is going to increase choice. It does not necessarily follow that that is the case. If we believe that costs are the number one problem, that cost containment needs to occur, you cannot contain costs without affecting either somebody's income or somebody's desire for unrestricted opportunity in the health care marketplace.

I think it is very important in this debate that we come to the American people and try to tell them not only the truth about what works and what does not work, but it seems to me the truth about where Government's role ought to be in all this.

Mr. BRADLEY. I thank the Senator for his question, and I agree with him. As I tried to say in my statement, cost containment is the elephant in the room that nobody wants to acknowledge. It is there. And I think before this debate has concluded, we are going to have some very interesting discussion about cost containment because we will not be able to avoid it. Right now we are avoiding it.

We will not be able to avoid it because it is my prediction that there will not be enough votes in this Chamber to pass a bill if it is avoided, because the old days of simply adding more and more benefits without worrying about costs are, frankly, over. I do not think you are going to find 51 votes saying let us move ahead with a lot of new benefits but not pay for them. I think that there will then be several options, several opinions as to how best to control those costs, and that will be a debate for another day. But right now I have to yield the floor to the distinguished Republican manager, my colleague from Oregon.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 10 minutes.

Mr. BROWN. I thank the chair.

U.S. VISIT BY GENERAL XU

Mr. BROWN. Mr. President, let me express my appreciation for being allowed to interject into this debate. I wanted to make comments with regard to the visit of General Xu to Washington, DC. And I rise because I think this is a matter that freedom-loving people around the world have a right to be concerned about.

General Xu arrived in Washington yesterday. He is attending meetings at the Pentagon, our Pentagon, both today and tomorrow. After leaving Washington, he will travel as a guest of our Defense Department to tour our Naval and Air Force facilities. General Xu will then visit the U.S. Naval Academy in Annapolis and will conclude his trip with a stop in Hawaii, meeting with the U.S. Commander-in-Chief of the Pacific.

Mr. President, according to the Defense Department press release, on August 15 General Xu will be met upon his arrival at the Pentagon by our Secretary of Defense Perry, who will host an honor cordon.

An honor cordon is literally a red carpet arrival ceremony in General Xu's honor.

Who is this general that we honor? General Xu fought with the Chinese and the North Koreans in their invasion of South Korea. He has held the No. 2 position in the Communist Chinese army since 1987. And even though he is No. 2 in the army, he is considered by many Chinese experts to be the most powerful officer in the Chinese People's Liberation Army. He literally has day-to-day responsibility for the PLA operations, and has primary responsibility for the People's Liberation Army plans with regard to Taiwan and Hong Kong. He was the primary drafter of the Chinese defense law.

Mr. President, we are trained from the time we are children to be gracious as hosts, to welcome visitors to our home and our country. But this individual, General Xu, is one of those who bears primary responsibility for ordering the Tiananmen Square massacre of peaceful Chinese prodemocracy demonstrators.

Mr. President, to welcome into this country the Butcher of Beijing, to literally roll out the red carpet at the Pentagon for someone who masterminded the slaughter of innocent children in Tiananmen Square when they spoke out for democracy, is an outrage. It is a mark of shame upon everyone associated with this kind of ceremony.

I have enormous respect for our Secretary of Defense, and I cannot believe that he would be comfortable with this decision if he were familiar with General Xu's background and past. It is an almost unparalleled flip-flop of policy. The President of the United States said this in "Putting People First."

> We will condition favorable trade terms with repressive regimes—such as China's Communist regime—on respect for human rights, political liberalization, and responsible international conduct.

How do you square this red-carpet welcome of the Butcher of Beijing with that statement? Mr. President, you cannot do it. This Nation is entitled to have our leaders act respectfully toward foreign leaders. I have no question about that. But to roll out the red carpet for the Butcher of Beijing, when we have just gotten through refusing to allow the democratically elected President of Taiwan even to stay overnight in this country, is incredible.

Over 20 major U.S. newspapers have editorialized in favor of allowing President Lee, the President of Taiwan, to visit, including the New York Times, the Washington Post, the Los Angeles Times, the Wall Street Journal, the Rocky Mountain News, and the Baltimore Sun. To welcome to this country with a red carpet the Butcher of Beijing and to refuse to allow the democratically elected President of Taiwan to stay overnight is the kind of foreign policy I do not understand, and I do not think the American people understand. It is duplicitous and it adds shame where there should be honor.

Mr. President, more important than anything else, we need to be true to ourselves in the conduct of foreign policy. The Butcher of Beijing does not deserve the red-carpet treatment, and our friend in Taiwan, who stands side by side with us, does not deserve to be prohibited from visiting.

I yield the floor.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the time is now allocated equally between the two managers of the bill, with the Senator from Oklahoma to offer an amendment.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2563

(Purpose: To provide for general enforcement of employer requirements)

Mr. NICKLES. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. CRAIG, Mr. COATS, Mr. GREGG, Mr. D'AMATO, Mr. GRASSLEY, Mr. DASCHLE, and Mr. STEVENS, proposes an amendment numbered 2563:

The amendment is as follows:

> On page 145, strike lines 1 through 5.

Mr. MOYNIHAN. Mr. President, might I ask to address the Senator. That is to be an amendment for himself and for the Senator from New York.

The PRESIDING OFFICER. The record will reflect that the amendment is offered on behalf of the Senator from Oklahoma and the Senator from New York, Senators NICKLES and MOYNIHAN.

Mr. NICKLES. Mr. President, I thank my friend and colleague from New York for cosponsoring this amendment and also for his cooperation on it.

I ask unanimous consent that Senators PACKWOOD, GREGG, COATS, D'AMATO, GRASSLEY, and DASCHLE be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, on August 3, President Clinton had a press conference and had an opening statement encouraging enactment of health care. And in his opening statement he stated:

> You can keep your own plan, or pick a better one.

Mr. President, that statement was not correct if you read the Mitchell-Clinton bill. That statement has bothered me a lot because I think it is awfully important when we talk about health care that we be factual. I know a lot of people maybe have said that one side or other distorts the facts. I would like to talk about that.

I had a press conference yesterday where I was critical of this statement because I think the statement is flatly incorrect. It is not true, because, frankly, under the bill we have before us, there are a lot of health care plans and a lot of proposals—actually the majority of the proposals—that are in the country today that would be illegal under the Clinton-Mitchell proposal. They would not be allowed. I will mention several of these.

One, if you have a plan that is less generous—in other words, if you do not offer the standard benefits package, something significantly less than the standard benefits package, you cannot keep it. I refer to the bill.

I would like to keep my comments very factual. I would just refer my colleagues to page 137 of the bill. It says an employer shall make the plan available which provides the standard benefits. It does not say less than the standard benefits.

Keep in mind that under the Mitchell-Clinton plan, you can offer a standard benefits package, and an individual can also buy an alternative standard benefits package with the high deductible. But it is still the Government-defined standard benefits package. You cannot come up with a different plan, one that is less expensive than this package.

I make mention of that because I think it is important. I know some people said that statement is not correct. It is correct.

I also said you cannot offer a plan that is more generous. If you have a plan that is more generous, it still has to be a governmental plan. It has to be a standard benefits plan or it has to be a Government-approved supplemental plan.

So, again, you lose a lot of flexibility. Right now you could offer a multitude of different plans. You really cannot do that under the Mitchell-Clinton plan.

Also, the President said you can keep your own plan. That is not the case if you have a cafeteria plan because in the bill, if you look at page 1224, section 7202, cafeteria plans which offer health benefits will be hit with a heavy tax. Four million Americans currently have cafeteria plans. They like them. They are happy with them.

Under the bill that we have before us, you lose your flexible spending account. We have a lot of Americans who do not have the exact number, but now have flexible spending accounts that include health care. On pages 1218 through 1221, section 7201, the Clinton-Mitchell bill states that if an employer provides health benefits under a flexible spending account, those benefits would be taxable to the employer at the highest corporate rate and to the employee at their own individual rate.

If you happen to be self-insured and you have less than 500 employees, you cannot keep your plan. Your plan is illegal. I feel kind of strongly about this because I used to manage a company. We had a self-insured plan. I designed the plan.

I remember asking Mrs. Clinton a long time ago when she had her first meeting with a Republican group. I said, "Can we keep our plan?" The answer was no. She said "No." It is still no under this bill.

Just to recite the section, on page 137, section 1301 of the Clinton-Mitchell bill, if your company has less than 500 employees, you cannot self-insure. So I mention that.

I will just add the final one.

If you have benefits that are different from the Government-mandated benefits, you cannot have it. Your plan will not be allowed. That is under the provision that I am dealing with. This bill is very clear. It says the employer shall have the standard benefits package. Under the standard benefits package, you can have an alternative, if you are an individual, that costs maybe a little less because it has a higher deductible. It still has the same benefits. You have to have the Government benefits.

It also says you can have a supplemental plan to provide additional benefits. But, again, that has to be a Government-approved plan. That very much limits your ability to offer additional benefits, maybe with a different deductible.

There are limitations, too. If you have a supplemental plan that deals with cost sharing, you cannot self-insure for that cost sharing. Let me give you an example.

This is something that should drive unions crazy, it is something that should drive anybody crazy that has a plan that offers a little extra benefits. If they want to sell self-insurance for those extra benefits, they cannot do it. They have to purchase insurance to provide for those extra benefits.

So, again, the President's proposal, the Clinton-Mitchell proposal, eliminates a lot of optional plans and optional benefits. It eliminates plans that

VOL 140 PT 16 AG 12 — 18 1994 UMI

have benefits different than the Government-imposed, mandated benefit plans. And it eliminates cafeteria plans and, as I mentioned before, the flexible spending accounts.

The self-insured plans. There are over 400,000 employers that carry self-insured plans, covering 16 million people. They lose their plan. They are not going to be able to have a self-insured plan. They will have to buy a Government-designed benefits package. They have no option, no choice. That is their choice. They have to buy what Government deems appropriate. Whatever they had, they cannot keep. I disagree with that.

I heard the majority leader, Senator MITCHELL. I looked at his comments from the floor yesterday. He talked about his plan was voluntary and so on. This is not really the case. If the company that I manage self-insures, I do not have a choice. If I am going to have insurance, I have to have the Government plan. I have to buy the so-called community-rated plan. I do not have a choice. I do not get to continue self-insuring. That is not voluntary.

I thought, what if I did not participate. What would happen? What is Government going to do to me or my company, or when is the Government going to tell me I cannot do this?

There is a little section in the bill which says

> In the case of a person that violates a requirement of this subtitle, the Secretary of Labor may impose a civil money penalty in the amount not to exceed $10,000 for each violation with respect to each individual.

So if you are an employer—and my company has about 65 people—well, if we did not comply, if we wanted to stay with our self-insured plan, our penalty is $650,000. Mr. President, that is more money than we made last year. That is more money than we made the last several years, probably. Unfortunately, we turned into a good, nonprofit organization, not by design.

An employer that has 100 employees, that is a $1 million penalty. That is a big penalty.

In other words, the heavy hand of Government is coming in and says you have to offer this standard benefits plan designed by Government. You have no choice whatsoever.

The reason a lot of people have different plans is because they want economy. They think they can do a better job.

I look at the cost under the Clinton-Mitchell health care bill. The cost for a two-parent family, according to CBO, is $5,883, almost $6,000. Those are 1994 figures. I will tell you that cost exceeds what a lot of us are paying in the private sector. A lot of people in the private sector pay a lot less than this. Yet they would have no option under this bill. They are going to have to have this Government-imposed standard, mandated benefit package as designed by this bill.

This bill turns enormous power over to the benefits commission to design the deductibles, the copayment and so on. But the package estimated by CBO is going to cost about $6,000.

I again do not want to use personal examples. But in our company, we provide insurance for about $2,400. I just met with the president of a major university in my State. They provide benefits for their employees. I think he said they have 1,100 employees. It is a private university. He said they were providing health care benefits for the teachers, professors, staff, and so on. I think for an average of about $2,800. Wait a minute. We are all ready to mandate something like $6,000. You are going to have to provide that. He said, "What if I don't?" I said, "Well, there is a little section in here called 'enforcement' where the Secretary of Labor can fine you up to $10,000 per person if you do not offer the standard benefits package."

If you do not do what Government says you should do, then you will be subjected to those kinds of fines and penalties. Mr. President, there are a couple of other things that people would be shocked to find are in this bill. There is a prohibition on offering an alternative package. This gets confusing. But under the bill, it says you have the standard benefits package, and we will make this available, and everybody is going to have to have it. Everybody is going to have the same benefit. But for individuals, we are going to allow them to have an alternative benefit package, as defined in the section. It has a higher deductible, and it presumably will be cheaper. That is availability to individuals, but it is not available to companies. If you read on page 138, it says no employer may offer an alternative standard benefit package established under subtitle (c).

That is a high deductible plan. So an individual can have a high deductible plan and presumably save on some premiums. But a company—if anybody is working for a company, they are out of luck. They do not get to have the high deductible plan. They have to have the more expensive plan. The employer cannot offer a higher deductible plan. If they did, they are subject to a $10,000 fine—per employee.

I mentioned that in my company we self-insured. We happened to have a high deductible plan. We self-insure for that portion. Those plans are illegal under the section that says you cannot have a self-insured plan, because on page 138 they prohibit an employer from even offering an alternative benefit. So you lose freedom, and you lose your choice and, frankly, you do not get to keep your own plan.

Again, I think it is important that we go back and think of statements that are made on the floor. People say these plans are voluntary. They are not voluntary, not if there is a $10,000 fine if you do not comply and certainly if you do not get to keep your own plan, if you have a cafeteria plan or if you have a plan with different benefits than those mandated under this proposal.

Mr. GREGG. Will the Senator yield for a question?

Mr. NICKLES. Yes.

Mr. GREGG. Am I to understand what you are saying here is that there are approximately 200 million Americans today plus who have an insurance plan or participate in an insurance plan; that to the extent that their insurance plans do not conform with the standard benefits package and they pursue the use of that claim, they would be fined, or the businesses they work for would be fined $10,000 for each one of those 200 million Americans, adding up to $20 billion in potential fines?

Mr. NICKLES. The potential would be there. I tell my colleague that it says the Secretary "may," not shall. But it gives the Secretary the discretion if anybody does not provide for the standard benefits package or—I will saying standard benefits package, when you consider there is a standard, alternative and supplementals. If you do not provide what the Government says you can, or if you can provide more or less, you would be liable to a $10,000 per-employee fine.

Mr. GREGG. If the Senator will yield further. To take this to specifics, under the standard plan package that originally came from the President, and as it was originally introduced here, the President's plan, there was only one mammogram allowed for people who are under age 50. I think that was the rule. If, for example, your company had enrolled in—let us say that was the standard plan that was settled on—but it probably would not be because it was such a ridiculous proposal—but say that was settled on by some Federal bureaucracy that designed what the standard plan would be. If your employer decided that one mammogram under age 50 is not appropriate, that there really should be two or three, or the opportunity to have two or three, you or your employer offering a greater benefit in this area would be subject to, potentially, a $10,000 fine per employee because they had not met this precise, one-size-fits-all plan proposal?

Mr. NICKLES. The Senator is correct. The only way that you can provide that extra benefit is if you purchased a supplemental benefit through a carrier. But I will mention that you cannot provide a supplemental that duplicates coverage that is in the standard benefit plan. So it is a heavily regulated supplemental benefit option. One can buy some additional benefits on top of the standard benefit, but again it is a Government-approved benefit package that is very constrictive.

I will go a little further. Most people do not understand the supplemental

plan, and I have spent a little time trying to figure it out myself. If you want to buy additional benefits, you can, but it has to meet the Federal regulation and also the State's, and then likewise, if you want to say, wait a minute, in our plan we want to have greater cost share, so I will help pay some of the deductible, because most of the supplemental is on an 80–20 basis, and I worked it out with my employees over the years and we do 90–10; so I want to have a lower deductible, and it was agreed to in collective bargaining or something. According to the cost-share agreement, you cannot self-insure on the supplemental cost share. Crazy. Under this bill, you cannot self-insure for the cost-sharing supplemental. I just cannot believe some of the provisions that are in this bill. You are prohibited by law. If you did self-insure, you would be subject to a $10,000 fine.

Mr. President, I want to be clear that I am not eliminating all of the abuses that are in this bill: I am trying to eliminate—and will with the concurrence of the Senate—the $10,000 penalty for noncompliance. We are going to take away some of the heavy Government hammer that is in this bill. When I say in this bill—a lot of people were not aware of this provision. I was not aware of it until not too long ago. This provision, or part of this provision, was included in the Labor Committee bill, but not in the Finance Committee bill. I understand in the Finance Committee bill when they originally had a mandate to keep on standard benefits, they were going to say that if you do not have a standard benefit, you ought to be subjected to a 50 percent premium penalty. But that was dropped in the Finance Committee. It was in the markup, but it was dropped. That is a very punitive penalty, but that is a lot more reasonable than a $10,000 penalty. That is a penalty of $1,500, or something, for most people; $1,500 is still too heavy, in my opinion, but it is a lot more reasonable than $10,000.

Again if you look at a small employer with 100 employees, maybe they are self-insuring and want to continue doing so. Maybe they are self-insuring and doing it for $3,000 an employee, and the employees are happy with it, and the employers are happy with it; it is working well. They may say: Oh, no, I am not going to go with this Government-designed standard benefits plan. We have a good package of benefits. We worked it out, and it is successful, and we are keeping costs down. The Government is saying you cannot keep that package, and if you do, we are going to sock it to you with the $10,000 fine.

Mr. President, I plan at a later time to offer an amendment that is going to allow employers and employees to keep the plans they have that they like. That is the so-called grandfather amendment. I am working on that, and I want that to pass. One of the reasons we decided to go with this amendment first was to educate some people, because a lot of people were not aware it was in here. A lot of people did not realize that, wait a minute, the Government has so much power that if you did not comply, you could be subject to a $10,000 per-employee penalty. That is a very heavy penalty.

I am delighted that it looks as if—since Senator MOYNIHAN cosponsored this amendment, and others—it will be deleted from the package. My concern is that we have a lot of amendments, a lot of provisions in this bill, and the people do not know about them. When they find out about them, I am thinking that a lot of people will be quite upset.

Mr. KENNEDY. Will the Senator yield?

Mr. NICKLES. I think I have the floor.

Mr. KENNEDY. I was wondering if the Senator would yield on my time for a question.

Mr. NICKLES. I will be happy to.

Mr. KENNEDY. Just following the issue of the amendment and also the presentation the Senator has made, I know about the standard benefits package. I know that S. 1743, the Nickles bill, outlines the standard benefit package. You have a standard benefit package in your own bill. The only way that you receive any tax credit for any of the employers is to receive a tax credit to purchase insurance, but only if they get the standard benefit package.

I am just trying to understand why you are arguing—I appreciate the fact of the elimination of the $10,000 penalty, which I am going to support, because I believe there are other provisions in the legislation that will provide sufficient remedy. I think what is actually going to happen is that they will be offering the standard benefit package. But you appear to be arguing against the standard benefit package here on the floor of the Senate, and the bill that you introduced requires it and indicates that the only way you are going to get favorable tax treatment is if you use it.

Mr. NICKLES. The Senator asked me a question.

Mr. KENNEDY. I just asked how the Senator can possibly rationalize that position with his presentation here.

Mr. NICKLES. I appreciate the Senator's question.

Mr. President, I will be happy to answer my colleague, and I also want to finish and conclude my statement.

Mr. KENNEDY. On whose time, if we can just agree?

Mr. NICKLES. This will be on my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. The Senator alluded to the plan I cosponsored on consumer choice of health plans. We say give everyone a tax credit who qualify for the tax credit. You have to offer something. We do not give tax credits for people doing nothing. So you had to have some kind of health expense, basically defined by IRS, to qualify for a tax credit, just like you qualify for a tax deduction right now. You have to have a certain health care benefit operation to get the tax deduction. You also have to do certain things to get the tax credit.

The Senator's question is not relevant. What my bill did not do is say everyone in America had to replace their insurance with Government-defined insurance.

Mr. President, this is a big issue because the whole title of my bill was consumer choice. The whole purpose of my bill is to give consumers lots of choices with different options, different benefits. Under the bill I sponsored with 25 of my colleagues, we have a multitude of options.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. NICKLES. I will not yield. I want to finish.

Mr. KENNEDY. Will the Senator yield just on this point?

Mr. NICKLES. I will not yield.

My bill made a multitude of options. We called it consumer choice for a purpose because we wanted everyone in America to have the maximum number of choices.

Unfortunately, some alluded to the Clinton-Mitchell package and say it has choices. Let me tell you the choices you have under the Clinton-Mitchell package. You have Government plan A, Government plan B, and Government plan C, and they are all the same, one fee-for-service, one HMO, and one preferred provider. But they are all the same. They all have exactly the same benefit. You could not offer a different benefit if you wanted to because the Government defines that benefit package. The benefit advisory group defines the package, and you could not offer something different.

There are thousands of companies, hundreds of thousands, millions of Americans who have health care a lot less expensive than what is mandated under the Clinton-Mitchell bill.

I am trying to preserve peoples' rights to be able to buy less expensive insurance or more expensive insurance.

They cannot do it under this package. And under the package we have before them, if they do not do it, they are subject to a $10,000-per-person penalty. Big Government is here. Big Government is saying no. "This is voluntary. If you do not participate, here is a $10,000 fine."

I just happen to disagree with that. That fine happens to be more than double the cost of insurance for most people.

VOL
140
PT
16
AG
12
—
18
1994
UMI

So the heavy hand of Government is here. I know it passed the Labor Committee, and maybe that is not surprising. But it should not become law.

(The PRESIDENT pro tempore assumed the chair.)

Mr. NICKLES. Mr. President, the reason I offered this amendment is it is saying two things. I want to educate people because, as I stated before, people do not know what is in the Clinton-Mitchell package. They do not know what kind of freedoms they are going to lose. They do not realize that under this bill, if they have a cafeteria plan those plans are taxed heavily. They do not realize if they have a flexible spending account those plans are taxed heavily. They do not realize if they have a self-insured plan that covers 16 million people, those plans are illegal. I said cafeteria plan. The cafeteria plan covers 4 million people. The self-insured plan covers 16 million people. And those plans under the Clinton-Mitchell package—there are lots of people in West Virginia and Oklahoma who are happy with the plans and like the plans.

Mr. President, they are a whole lot less expensive.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. NICKLES. No, I will not yield. I want to continue.

They are a whole lot less expensive. They do not cost $5,800. As a matter of fact, $5,800 is a lot of money in West Virginia and a lot of money in Oklahoma.

I am interested. The company we have or I have been involved with provides insurance for $2,400. If we follow this prescription for disaster, those plans are going to cost $6,000. Maybe we will be subsidized, or maybe some of our employees will be subsidized. I do not want to be subsidized. We are doing a decent job providing health care for our family and our company. Why in the world should the Federal Government get involved?

I make a comment that a lot of people do not realize this. This is a massive mandate. I have heard people say the Clinton-Mitchell bill does not have a mandate. It does. It mandates you have a very expensive package. If you cannot afford that package, guess what some employers are going to do? Employers in West Virginia and Oklahoma are going to say, "I cannot afford it. I am going to drop it. It is not mandatory now, so I am going to drop it. Employees, you are on your own."

Some of those employees will qualify for subsidies. I heard the majority leader say we are going to eliminate the Medicare plan and replace it with the private plan. What he is also not telling you is under his bill 57 million new people will be eligible for subsidies; 57 million people will be eligible for subsidies in a few years that are not eligible today, more than double the number of Medicaid people who receive subsidies, but they will be receiving Federal subsidies. You are having a massive Federal subsidy program because people cannot afford this.

So employers will be dropping the plan. Employees will be getting subsidies to buy health care. And then guess what, Mr. President? And this is very interesting. Then an employer can come back and say, "I want a subsidy so I can start this over." And they can start again, and the employer can get 5 years of subsidy with the Federal Government paying about half of their health care costs.

This is almost an encouragement plan for people to drop their health care, put people out on subsidies to get their health care on their own, and then the Federal Government will come in and subsidize that employer for them to pick it back up.

I think that is a disaster. We should not be making those mistakes.

What does this amendment do? It does not eliminate the standard benefit package. I wish we would, and we will probably try to do that later. I am going to try to allow all the missing plans to stay in existence. If the people and employees are mutually satisfied, they ought to be able to keep the plan. We should not have the heavy hand of the Federal Government saying your plan is good enough and we are going to replace it with a Government-knows-best plan; we are going to replace it with a plan that costs $6,000 per family.

We should not do that. This is a serious mistake and serious infringement on freedom. And that is exactly what happened in this bill. Then they have the heavy hand of the Federal Government coming in and saying, "There is a $10,000 penalty if you do not comply. So we are going to make you comply whether you want to or not."

Then I read in the RECORD where Senator MITCHELL stated this is voluntary. How is it voluntary? "It provides for a voluntary system in which Americans would purchase private insurance." That statement was made yesterday. How could it be voluntary if you had a $10,000 penalty if you did not comply?

I just cannot believe that we would go down this route. So I am delighted that we will delete this one section. We are deleting section 1309. That is one paragraph on page 145 of a bill that is 1,443 pages long.

Mr. President, I think this is vitally important. I thought it was vitally important for a long time. This section that we are deleting, this section 1309, page 145, I will read again:

In the case of a person that violates a requirement of this subtitle, the Secretary of Labor may impose a civil money penalty, in an amount not to exceed $10,000, for each violation with respect to each individual.

So if you have 100 employees, that is equal to a $1 million penalty that the Secretary of Labor could impose.

Mr. President, we need to strike this section. I am delighted that the Senator from New York and the Senator from Oregon are cosponsoring this amendment. I look forward to improving the bill, at least by taking this very serious mistake out of the bill.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, I thank the Senator from Oklahoma for taking this initiative.

I point out that we join him in it in a bipartisan manner. We considered the matter at some length most of this morning.

Mr. President, we came to this judgment, which was that in the legislation that Senator MITCHELL has put forward it is clearly in the interest of employers to provide the standard benefits package. It makes them a more attractive employer and more attractive to employees they would hope to have, but most important, elementary and indispensable, providing the standard benefit package is the condition of receiving the subsidies that the bill provides for low-wage employees. With that package you get the subsidies. Without it you do not. We have incentives. This is an incentive-driven bill. We think that it is in the best interest of firms and their employees to have health care.

The Senator from Massachusetts speaks with great emphasis on the importance of preventive care, and, indeed, if there is anything salient in our medical situation today, it is the degree to which behavioral patterns lead to illness as against the random disasters of typhoid fever or cholera of the past.

Professors of medicine teach behavior, inculcate behavior that makes for health. And already we begin to see some of this effect being shown up in the slackening of the health care cost increases. But, most importantly and essentially, the subsidies are the incentive to which we are absolutely convinced employers will respond.

I regret to hear my friend from Oklahoma has established a nonprofit activity. That was not the plan, and it need not be the case once this legislation is enacted. I look forward to a thriving, healthy, and profitable work force in Oklahoma.

And so, Mr. President, there is no great need to expand on this position. The Secretary of Labor does not need this particular sanction, and when a sanction is not needed it is best excised.

We are not in the business of running around and policing the health care plans of the Nation's employers. We set the standards, we provide incentives, and we expect to see a response. And we will know that response and we will keep track of the coverage, but not in

a mode that is threatening or indeed punitive. We are not trying to hurt anybody here. We are trying to help our country and help its employers and its workers.

So I think this is a nice bipartisan note on which to conclude today's behavior.

I see we will alternate, but would the Senator from Oklahoma mind if my friend——

Mr. PACKWOOD. I believe I am controlling the time.

Mr. MOYNIHAN. Would the Senator from Oregon mind if the Senator from South Dakota speaks now?

Mr. PACKWOOD. I am happy to have him speak now.

The PRESIDENT pro tempore. Who yields time?

Mr. NICKLES. Will the Senator from South Dakota yield?

Mr. DASCHLE. Yes.

The PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent that Senators DURENBERGER, SHELBY, MACK, GORTON, ROTH, and LOTT be added as cosponsors of this amendment.

The PRESIDENT pro tempore. There being no objection, it is so ordered.

Who yields time?

Mr. MOYNIHAN. Mr. President, I yield to the Senator from South Dakota such time as he may require.

The PRESIDENT pro tempore. The Senator from South Dakota [Mr. DASCHLE] is recognized for such time as he may require under the control of Mr. MOYNIHAN.

Mr. DASCHLE. Mr. President, I will be brief. I thank the distinguished chairman of the Finance Committee, the manager of bill, for yielding me some time.

Let me make several points as quickly as I can.

First of all, let us make sure what this amendment does and what it does not do. What this amendment does is to strike the reference to $10,000.

I have indicated that I intend to support the amendment because, as the chairman stated so well, there are other ways with which to ensure that we can achieve the compliance we want. There are carrots and there are sticks. Let us try the carrot approach. Let us do as much as we can to ensure that throughout this bill, whatever it is we do, we encourage using the incentives that are in the bill. We are certainly willing to try that approach in the manner of this bipartisanship cooperation, and I think that ought to be stated up front.

But the Senator from Oklahoma makes a second point in defense of his amendment that I frankly do not support. I think that most members on this side of the aisle, in fact, I would guess many Senators on both sides of the aisle, would have difficulty supporting. Namely, the deletion of some need for standardized benefits.

It is very clear in the bill offered earlier by my friend, the Senator from Oklahoma, that on three pages—pages 33, 34, and 35—there are direct references to standardized benefits and a recognition of the need for compliance with those standardized benefits.

Senator CHAFEE, with all of his cosponsors, had a bill that specifically delineated a number of standardized benefits. The Finance Committee, the Labor Committee, all of the bills, for the most part, even Senator DOLE's, have references to standardized benefits. At least for the past several months, every one of us has been working under an understanding that standardized benefits are a good thing.

In fact, I will go back and find what the record states with regard to the Medigap proposal we passed several years ago. As the author of that amendment, I clearly recall there was a widespread recognition that Medigap policies—that is, policies in addition to what we get through Medicare—were standardized. I recall there was virtual unanimity that standardization of Medigap policies was a good thing. There was strong bipartisan support. I think unanimous support, in the Finance Committee. But I will go back and check the record on that.

Now, why is standardization of benefits important? It is important because if we do not have it, this bill might as well be called the Fine Print Protection Act. That would be exactly what we would be doing. We would allow the insurance companies to do what in many cases they are doing right now. Not all of them, but many of them are putting in the fine print contingencies that can scare people to death. That fine print keeps people from getting the benefits they oftentimes thought they had.

I do not know about most of the Members of this Chamber, but I know I am not as familiar with my plan as I wish I were. I frankly cannot tell you this afternoon whether I have a lifetime limit in my plan or not. But they are in a lot of plans. People are caught by complete surprise once they bump up to that limit, because they did not know the fine print, buried somewhere in the plan itself, had a limit on what the insurance company would pay.

Exclusion of important services, including durable medical equipment, rehabilitation services, mental health treatment, and preexisting conditions clauses are all there. Exclusions of preexisting condition clauses are in many plans. That is something else we are trying to eliminate. There is widespread recognition of the importance of eliminating preexisting condition exclusions.

Service limits, such as a limit on days in the hospital or no more than a certain number of physician visits per year—these are also in a lot of plans.

Hidden gaps in coverage are also there. For example, no coverage for congenital conditions and no coverage for illness in the first 10 days of life are major exclusions. In fact, a high percentage of the plans covering pregnancy have a provision that limits coverage in the first days of life after a baby is born.

Exclusions of certain providers can also occur, like coverage for psychiatrists or other mental health practitioners.

Mr. President, the point is that one of the reasons we are here in the first place is that people are just caught unaware too often. So many times, when we need the benefits the most, they are not there. We are surprised. We find out only too late that the plan we were counting on, the plan we paid thousands and thousands of dollars for, is not there when we need it the most.

And so, let it be understood that what is in the fine print is really what we are talking about here. There is no discussion, no debate about eliminating the $10,000 fine. I suspect that a majority of Members on both sides of the aisle will probably agree that, as the chairman said, there are other ways to ensure we get as much compliance as we can.

But I can give—and I will do this for the RECORD—a number of examples. Allen Fuller lives right here in Washington, DC. He allowed his name to be used in discussing his own situation. His family lost their insurance when his wife started her own business. Eventually they bought private insurance for the family. Two weeks later Allen thought he had pulled his back out. When he went to the doctor, tests showed he had cancer of the lungs and spine.

Allen started chemotherapy immediately and found that his insurance policy only covered accidents in the first month but did not cover illnesses. The insurance company said his cancer was a preexisting condition and refused to cover his bills. Allen Fuller was left out, in spite of the fact that he had paid thousands and thousands of dollars for a policy he thought was going to be there when he needed it the most.

Barbara Elsas-Patrick, another person here in Washington, DC, has health insurance through her professional association. She is a teacher. She paid $500 a month coverage for herself and her daughter. The policy had waivers for preexisting conditions. She was not aware of that. It was buried in the fine print. Barbara is reluctant to go to the doctor now because every time she has another condition, according to this particular policy, it is not covered the next time she goes to the doctor.

This is really what we are trying to avoid here. The point is very clear. Do we want to protect the fine print in plans in the future? If we do not, then let us recognize, as Senator NICKLES

VOL 140 PT 16 AG 12 — 18 1994 UMI

recognized, as Senator CHAFEE recognized, as Senator MITCHELL has recognized, that there ought to be some recognition of a need for standard benefits and elimination of the fine print in this bill.

I yield the floor.

Mr. LOTT. Mr. President, under this bill, any business that tries to provide health insurance for its employees, but not the high-priced, Government-mandated insurance plan, could be fined $10,000 per employee.

Now, we have heard many speeches in support of the Clinton-Mitchell bill, saying how the bill would help all Americans, and help businesses.

If you read the bill though, the situation is quite different. The Clinton-Mitchell bill makes the Secretary of Labor a bounty hunter, searching for firms who are doing the right thing, but not the Government-mandated thing.

We are not talking here about mean old businesses that do not care about their employees. We're talking about small, sometimes struggling firms, which under the Clinton-Mitchell bill could be destroyed by fines or have to lay off workers.

That is why I rise today in support of the Nickles amendment. This amendment says the Government should not penalize businesses for doing the right thing. The amendment nullifies this $10,000 per employee bounty.

Again, the Secretary of Labor under Clinton-Mitchell will be able to destroy businesses at will without the Nickles amendment. Let us say you have a small business. You are struggling to make payroll, and pay for, say, a catastrophic insurance for your employees, so they would not be left holding the bag of unlimited health care costs.

Under Clinton-Mitchell, the Government comes along and says, hey, that is not enough insurance you are giving your employees. They need drug counseling services. They need abortion services. They need psychiatric coverage. The Government's telling you that your business has to buy a Cadillac insurance plan, when you only can afford a Pinto health plan.

If you cannot afford it, and even if your employees do not want all of these benefits, the Government under Clinton-Mitchell will make it very expensive for you.

In fact, the Secretary of Labor could assess your business at $10,000 per employee fine, if you do not go out and buy the Government's standard benefits package. Now think about this: If you do not buy the expensive, Government-mandated plan, then you are fined heavily, and your corner store, or computer startup, or farm, goes belly-up. If you do buy the plan, you probably would have to lay off workers. Again, if your employees like the insurance plan you provide them, then that is too bad. You have to go out of business, or you have to lay some of these happy employees off.

Under the Clinton-Mitchell bill, you would have to make a choice between the Government, and your employees, probably middle-income employees who need work.

The Nickles amendment says you will not have to make that choice.

But the Nickles amendment is about choice. If employees for a small company like their insurance plan, but it is not the plan the Government has mandated, they should be able to keep that plan.

Most Americans are happy with their health insurance—85 percent to be exact. Everyone agrees that whatever reform we try to achieve in this Chamber, choice in health plans should be maintained. This is what the American people want.

Several times in his Presidency, President Clinton has promised the American people that the insurance they have, that they are happy with, will not be taken away.

We see in Clinton-Mitchell, though, that choice is taken away.

The President has been telling Americans that the Government would not take away the insurance plans Americans are pleased with.

The Clinton-Mitchell bill does not maintain consumer or business choice—at least not the type of choice Americans are used to. The Clinton-Mitchell bill says yes, you can have choice—if you have the money. If you are able to pay $10,000 per employee, if you are able to cough up a 25-percent surcharge, if you are able to swallow the cost of a nondeductible health plan—yeah, you can have choice. Some choice.

Americans in general, and middle-income Americans and businesses who employ middle-income people specifically, can not ante up the money the Clinton-Mitchell bill would squeeze out of people. Under the Clinton-Mitchell bill, the Government will take away choice, and will force Americans to pay for a government plan—or pay through the nose.

That is why I rise today to support the amendment by my friend from Oklahoma, Senator NICKLES. His amendment does what the President says he wants done—maintenance of consumer choice. The amendment takes the Secretary of Labor out of the bounty hunter business.

This is an amendment for all Americans, especially middle-income Americans. The Clinton-Mitchell bill, with its 17 new taxes, 55 new bureaucracies, and its almost $1.4 trillion cost is not middle-income friendly. The Clinton-Mitchell bill penalizes those who work hard and play by the rules.

The Nickles now Moynihan amendment is a little bit of sanity and fairness. This amendment does not nullify those few good aspects of the Clinton-Mitchell bill: aspects like allowing Americans with preexisting conditions to get and keep insurance, and allowing portability of insurance.

The Nickles amendment does nullify this anti-middle-income and anti-business part of the Clinton-Mitchell bill. The way to better access to our health system is not to destroy families or businesses. The Nickles amendment, with that maxim in mind, seeks to maintain choice.

Several Senators addressed the Chair.

Mr. NICKLES. Will the Senator from Oregon yield me 4 minutes?

Mr. PACKWOOD. I have a number of other speakers who want to speak and I would like to speak.

Mr. NICKLES. Four minutes?

Mr. PACKWOOD. All right.

Mr. NICKLES. I thank my friend and colleague from Oregon.

Mr. PACKWOOD. Could I ask the indulgence of my good friend from New York? Would he mind if I spoke after the Senator?

The PRESIDENT pro tempore. The Senator from Oklahoma is recognized for 4 minutes.

Mr. NICKLES. Mr. President, I wanted to respond because both Senator KENNEDY and Senator DASCHLE alluded to the plan I was the principal sponsor of, the consumer choice plan, and said that we have a standard benefit.

What we had in our bill was strictly voluntary, that said if you want to qualify for tax credits you had to have at least catastrophic, which is basically hospitalization, which makes sense. We were telling everybody we want individuals to have their opportunity to choose whatever they want so they would have a tax credit. But to qualify for the tax credit they had to have at least hospitalization. But they choose the benefits. They could have anything above that they want. They could choose from any of a multitude. There was an unlimited number of choices under our proposal for individuals to choose. That was the whole idea, consumers could choose and the tax credit would go directly to them. It would not be just tied to their employer.

This is in stark contrast to the Clinton-Mitchell proposal that says it is illegal for somebody to buy a benefit that is outside the standard benefit package; you cannot offer less, you cannot offer more. You can offer a supplemental but only if it is Government approved. You have to have every benefit that they determine, and some of the benefits are not very popular; to some of the benefits there are a lot of objections. To some of the benefits some have moral objections. They are going to mandate everybody buy those. We did not do those. We said individuals should be able to choose the benefits, have maximum number of choices on the benefits in stark contrast to the Clinton-Mitchell proposal.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield myself such time as I may need.

I was going to use this chart until the Democrats agreed to this amendment. "Warning to employers: Providing health insurance to employees may be hazardous to your financial health." The reason I was going to use that is I do not think this provision, as it was originally in the bill, Senator MITCHELL's bill, was put in by accident. And now that it has been accidentally discovered, it is being taken out in a great spirit of comity. As a matter of fact, I think the finding that—it takes almost a Houdini, as we go through this bill.

But I think perhaps the more analogous story is one that relates to Winston Churchill.

He was at a dinner party one night and an admiral was there, an admiral of significance in the British fleet. The admiral, admiring the flatware, pocketed a rather expensive gold spoon, which bothered the hostess no end because she had seen it but she was not quite sure how to approach the admiral and suggest that he give back the spoon. So she went to Winston Churchill, explained her situation, and asked what she should do.

He thought for a moment. He went over to the table and he took another gold spoon off the table, a larger one. With the handle sticking out of his pocket he walked over to the admiral and said, "Oh, Admiral, I think we have both been discovered. We will have to give the spoons back."

What has happened here is, we have caught the Democrats with the gold spoon in their pocket. Now they have to give it back. We have heard them say, "Oh, well, there are other ways to enforce this. We do not need this." Why was it ever in the bill to begin with if they do not need it?

Did they know it was there? You bet they knew it was there because when this bill, Mitchell 1—when Mitchell 1 was drafted there was not only this $10,000 penalty but, in addition to the $10,000 penalty, a 35 percent tax. And it was levied upon your health insurance premiums. If you have six employees, you are a little laundromat paying $2,500 apiece for health insurance, $15,000, 35 percent tax, roughly a third, roughly $5,000 you were going to pay in addition $10,000 times six employees. That is $65,000 for a little laundromat owner. Now you can say you do not have to offer the standard benefit package, but $65,000 is a whale of an incentive not to offer anything else.

What happens when we get to Mitchell 2? The 35 percent has been dropped out, so they knew it was there. The $10,000 was not dropped out. Now the poor little laundromat owner is only going to have to pay $60,000, instead of $65,000; the $5,000 incentive removed, he can go ahead and offer what he wants—and pay the $60,000. Did they know it was there? You bet. They knew it was there.

Why was it there? It was there so the argument can be made, you do not have to offer the standard benefit plan. You can offer anything you want. You can have any plan you want under this bill. There is no employer mandate until the year 2005 or 2002 or whatever it is, and up until that time the employer can offer anything he wants. But if he wants to offer anything other than the standard benefit package it is going to cost him $10,000 an employee.

Let me give another example. The little laundromat owner with six employees is paying $2,500 a year for health insurance for his six employees. The standard benefit package, husband and wife with a couple of kids, is $5,500-$6,000. So now comes along this bill and the little laundromat employer cannot afford $5,000 or $6,000 for the standard benefit package. And if he offers any insurance and does not offer the standard benefit package, he gets fined $10,000 per employee.

What does the little laundromat owner do? I will tell you what he does. He drops his health insurance. He cannot afford $6,000 per employee and he certainly cannot afford $10,000 per employee penalty, so he drops it. Now they have no coverage.

This $10,000 was designed deliberately to be, not an incentive—coercion, Mr. President; $10,000 an employee is not an incentive, it is coercion. And because the Democrats have been caught with the gold spoon in their pocket, they are now allegedly giving it up and saying we never needed it anyway.

As we go through this bill, Houdini like, looking for other gold spoons, my hunch is they will agree with many other amendments we bring up because they knew they could not defend this. They knew they could not defeat it. So they co-opt it.

I am delighted to have them on board. I would be interested, if they have an explanation, as to why the $10,000 was ever in there to begin with. They knew it was there. Why they took out the 35 percent penalty, having gone through this bill themselves, but never took out the $10,000.

There is only one answer. We are going to force you to voluntarily provide the $6,000 standard benefit package or nothing. For too many employees the answer will be nothing. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. I yield to the Senator from Massachusetts such time as he may require.

The PRESIDENT pro tempore. The Senator from Massachusetts, [Mr. KENNEDY], is recognized for such time as he may require.

Mr. KENNEDY. Mr. President, we have been involved in this debate and discussion on the bill for some 2 weeks, now. And we had a good debate and discussion on the children's amendment over a period of several days. Then the Senate went on record to advance the protections for children.

I think that was an important improvement over the Mitchell bill. And I think we understood that after we had the consideration of an amendment on this side, we were going to go to the other side in order to consider an amendment. So many of us who have a desire to get into the substance of these measures—and there are strong policy differences on many of these measures—we were hopeful that we would be able to reach some kind of accommodation.

I think all of us are still hopeful we will, even with those individuals who have expressed reservation about the Mitchell proposal. I think most of us were somewhat hopeful that we would have a proposal or an amendment here that really was going to be at least somewhat defining in terms of the direction of this debate.

When I first saw the amendment of the Senator from Oklahoma earlier in the day, I was somewhat interested in the fact that he was going to make an amendment to strike the $10,000 penalty that employers might be required to pay if they did not provide the standard benefit package. We reviewed that measure and reviewed the other provisions of the legislation. Those of us who are for universality of health care are not into just trying to find areas where we are going to penalize employers. We are interested in universality and cost containment and trying to develop some consumer protections.

As far as that $10,000 requirement, I felt that if you are going to have—and we can come back to this in a moment—a standard benefit package and you are going to have to have some kind of remedy. I did not think, quite frankly, that $10,000 was an unreasonable penalty. I was persuaded in the spirit of bipartisanship that we ought to try and find some common ground. So I indicated, at least as far as this Senator is concerned—and, of course, all of the Members have views and their views are entitled to an equal amount of credit—that this was something that I could support.

I was listening earlier to the debate on what we are really talking about here—on whether we are going to have a standard benefit package or whether we are not going to have a standard benefit package; whether the Mitchell bill is going to require it, or not require it, and then the reasons for it. Then there were charts pulled out to talk about what the costs were for the standard benefit package.

VOL 140 PT 16 AG 12 — 18 1994 UMI

It is interesting that what those figures basically reflect is the actuarial value of the benefit package that Members of the House and Senate have in this institution. Obviously, we know the values change in different parts of the country, so we know using those charts might alarm people in different parts of the country. They were intended to illustrate what the costs were in an actuarial way for programs that we have in the Congress of the United States, that we have as Senators, and to emphasize that we are trying to make those same kinds of benefits available to the American people.

Ten million Americans have them, including Members of the House and of the Senate of the United States and the President of the United States. In the Mitchell bill, we give the same opportunity to working families and other families across this country so they will have these benefits, too. I pay $101 a month for a program as a Member of the U.S. Senate. I bet most Americans who are watching this program with very comprehensive protections—I doubt there are many other programs that are any better, and I think most Americans would say, "I'd like to have what you have, Senator," or what any other Member here has.

That is in the Mitchell bill. Just store that away as we are talking about all of these other factors and that program is evaluated because it costs differently for Federal employees in different parts of the country to reflect local costs. We have what is considered to be at least a standard package. It can vary a bit in terms of the copayments and deductibles, but the essential elements are there.

Now we have a debate on the question of the role; why are we requiring a standard package and raising the serious question of whether any bill at all ought to have a standard package.

I was somewhat interested in the remarks of my friend from Oregon who was the principal sponsor of President Nixon's program, which had a standard package. As one of the principal cosponsors of that program, I do not remember him saying at that time, as it was being debated and discussed, "Oh, no, we don't want a standard package." That was an essential part of the Nixon program. But time moves on, and we have to consider that.

Then I was interested to hear my friend from Oklahoma, Senator NICKLES, say, "We don't want a standard benefit package. How are we going to deal with the problems that many of the businesses are going to have to deal with?"

So we looked through the Nickles legislation, cosponsored by 25 Republicans, and we found out that it outlines a standard benefit package on page 33. I referenced this in some earlier comments. The Nickles legislation talks about providing for all necessary acute medical care described in subsection B; it talks about physician services; it talks about patient cost sharing, deductibles and copayments. He has a standard benefit package effectively described in words. And his legislation said that you had better conform with his standard benefit package or else you will not get the favorable tax treatment. The message better go out to all Americans that unless you have the Nickles proposal and his standard benefit package, your taxes are going to go up. The message better warn every American that the only way to keep their taxes down is to adhere to the Nickles standard benefit package.

It is so interesting how some people use these hot-button items like taxes, the Mitchell program on taxes. I think most of us believe that, with $68 billion a year in health care costs that are directly related to smoking, there ought to be some increase in taxes relating to cigarettes.

Well, here it is, right here in the Nickles proposal. Unless you provide the Nickles standard benefit package outlined in the Nickles bill with 25 Republican cosponsors, you do not get the tax consideration. And yet, they say, isn't it terrible under Mitchell when they say you have to provide the standard package, make sure you make it available to consumers, because if you do not conform with the law, there will be a penalty. And now under the Nickles proposal, if you do not do exactly what Senator Nickles wants you to do, you are not eligible for the favorable tax considerations and it will continue to go up.

Now we look over to what happens in the Chafee proposal.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. When I finish. I will be a few minutes and then I will be glad to yield.

On S. 70, on the Chafee proposal, each plan must offer one or more of the following: Standard benefits package or a catastrophic package. That is on page 89, and that is section 1301.

I am going to be interested in how Senator CHAFEE is going to do it, because if you do not conform with the Chafee proposal, you pay $100 a day in penalties. Is that not interesting, $100 a day in penalties under the Chafee proposal? That could certainly add up.

Many of us have been willing, as a matter of conformity, to say, "All right, we will eliminate the $10,000." But yet under the Chafee proposal, it provides under the standard package a catastrophic package. It has covered items: Medical surgical services, medical equipment, prescription drugs, preventive services, rehabilitation services, substance abuse services, hospitals services, emergency transportation, and it goes on and on.

If you do not conform with his proposal, you are penalized.

And under Breaux-Durenberger, you must offer the uniform set of effective benefits, and that is effectively a standard benefit package. I am not surprised, Mr. President.

One of the thoughtful members of our community on health policy, Alain Enthoven, has followed these issues closely, and there may be those of us who differ with some aspects of it, but we have enormous respect for Mr. Enthoven. He served in the Defense Department in the early 1960's. I can remember his very considerable public service in the Defense Department.

He has taken on this issue and written extensively about how to reach universal health care. I have had the opportunity to listen to him and to read his comments.

He has been very much involved, I think, in helping to shape the thinking of many Members. Here is Alain Enthoven:

> There are powerful reasons for as much standardization as possible.
>
> This is the free marketeer.
>
> The first is to facilitate value for money comparisons and to focus comparisons on price and quality. The second is to combat market segmentation, the division of the market into groups of subscribers who make choices based on what each plan covers, such as mental health, efficient care rather than price.
>
> The third is to reassure people that it is financially safe to switch plans for a lower price, with the knowledge that lower-price plans do not realize savings by creating hidden gaps in coverage.

Hidden gaps in coverage. Hidden gaps in coverage. That is the point that the Senator from South Dakota has made. That is the point which other Members have made, the hidden gaps in coverage.

What are those hidden gaps? Those are the gaps which exclude from the prenatal services any complications for children for the first 10 days after birth. Mr. President, 93 percent of infants' health needs come when? Interesting. The first 10 days after birth. Those are the kinds of life limits, those are the other kinds of exclusions, the hidden lines, the fine print, all of the things that we have talked about which our Republican friends have talked about, which we have talked about over here, all of which I thought about as we listened to those eloquent statements for the past few days—talking about eliminating preexisting conditions, eliminating the kinds of unfairness in the various standards under insurance reform, that all of us were attempting to try to address, that Alain Enthoven, who is one of the key thinkers in terms of the whole market force approach on health care, has identified as one of the very great dangers.

Mr. DASCHLE. Will the Senator yield for just a minute?

Mr. KENNEDY. I will be glad to yield and then I was asked to yield over here. I will yield here, just make a very brief final concluding comment, and then either yield the floor or respond.

Mr. DASCHLE. I would only ask the Senator from Massachusetts whether Mr. Enthoven also mentioned that part of the cost shifting occurs through lifetime limits? The Senator mentioned the lifetime limit problem. What happens when people bump up against lifetime limits? They have catastrophic illnesses with costs that their insurance plans do not cover. Who pays for this? Is it the taxpayer? Is it the insurance company? Is it the individual? Is it the small business? Is it another family? Somebody is going to pay for those costs.

So ending cost shifting is an added benefit in having coverage delineated in all health insurance policies, is it not? Unless you eliminate these fine print provisions, unless you eliminate things like lifetime limits, do you not continue to prolong the cost shifting that goes on in the system today?

Mr. KENNEDY. The Senator is absolutely correct. When you begin to have these exceptions, and these loopholes written into it, and then you run into these other kinds of costs associated with these illnesses and sicknesses, someone ends up paying for it. And it will be those that have played the game by the rules and received the standard benefit package.

I see others waiting, and the time is moving along, so let me just be brief in a final comment or two.

The logic that we have heard from our friends on the other side of the aisle is basically the same logic that was heard in the Senate years and years ago when the Senate was considering the child labor laws. Why should we here in the Senate take action to protect children? Why should we? It is an argument today you find difficult for even the best of Members to try and be able to make. No one would absolutely buy it.

You read the history. Do we know something here on the floor of the Senate that people do not know back in local communities? The same argument. The same argument was made in the debate on the lemon laws. Why should we be establishing some standards? If the purchaser of an automobile drives it out of the lot and it falls apart, why should we care anymore? Why should we make sure that the representations that are made to that consumer be accurate in terms of the sale of a particular commodity? Is that so unusual? The same arguments are being made over here. They say, look, I bet we could get people to work below the minimum wage. Why do we say that we want $4.25 an hour to be a minimum wage? The reason that we do is we say we are a caring society and we believe that men and women who want to work 40 hours a week, 52 weeks in the year ought to be able to have sufficient revenue to live in some dignity and some peace with a roof over their house and food on their table and be able to afford a mortgage.

We do not say, why do we establish that floor? Republicans and Democrats alike have moved the minimum wage up. We are not saying we can find people that will work for a buck an hour and if they want to go for a buck an hour why not let them work for a buck an hour. Why should we in the Congress interfere with that? And if they want to exploit children, why not let them do it? Why should we in the Congress do it? And if someone wants to sell a lousy car, why not let them do it? Why should we in the Senate provide protection?

It is the exact same argument, Mr. President. What we are establishing is the standard benefit package. And it is interesting, when we were discussing and debating this issue in our Labor and Human Resources Committee, the principal difference between Republican and Democrat was not essentially what was going to be in it but whether we were going to outline it in detail or describe what was going to be in it and give greater flexibility to the national health boards so that there could be adjustments and squeezing of those elements in case of the economic exigencies that might occur.

But we did not have any debate, any real discussion about the nature of the preventive services or hospitalization. There may be some difference in terms of some of the aspects of mental health. But we did have agreement conceptually about what should be in that standard package.

To hear in the Chamber of the Senate this afternoon, when we are just entering this program, that those who have been either principal sponsors or cosponsors of legislation, piece after piece of legislation going back historically even to the 1970's, who have supported a standard benefit package, come out and say, well, we really do not need it, we are not going to provide those protections, Mr. President, we know the reasons for that in terms of providing the protection so that the consumers can have real choice, so that they are able to compare, so that they will be able to compare quality, so that they will be able to do the evaluation on the basis of medical report cards, so they can talk to other consumers and find out whether they are getting good quality, so that there is no fine print in there, so that they will know what the real costs are, so they will know the various elements of that program. It can be a standard package. You can have different deductibles. You can have different co-pays. You can have different features, but you and I know the competition will not be on the basis of the standard opinion. It will on the delivery of services, the efficiency of the services and the quality of the services. And that is what the consumer ought to have the ability to buy.

I will be glad to yield briefly, and then I see two or three of my colleagues on the floor, to try to respond.

Mr. PACKWOOD. Mr. President, is the Senator done?

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, how much time would the Senator from New Hampshire like?

Mr. GREGG. Ten minutes.

Mr. PACKWOOD. I yield 10 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 10 minutes.

Mr. GREGG. I thank you very much, Mr. President.

We have just heard a speech by the senior Senator from Massachusetts which has been one which really has not been material to the issue at hand, which is not too surprising because when you consider what has happened here it is that a point within the bill has been discovered, of which there are, I suspect, hundreds like this, that has a devastating impact on the American people and on the way they relate to their Government, a $10,000 fine that could be assessed against up to 200 million Americans if they refuse to follow the dictates of a small cadre of bureaucrats directed by people here in Washington. People would be outraged, and they are outraged when they learn of this.

So when it is discovered and brought to light, it is immediately abandoned because the folks who put this language in here recognize that it is not defensible in the public eye. That is, of course, what the debate over the last few days has been about, trying to analyze what is in this massive document, which will have a dramatic impact on the day-to-day lives of Americans, about which we have not been told. Regrettably, there is a lot of it in here.

The Senator from Oregon used the nice story, the very fine story, about the golden spoons being discovered now. I would look at it more as something my children are involved in recently that I have noticed. They bring these pictures home. I think they are called Magic Eye pictures. You hold them up, and they are a maze of different designs. As you move that design closer to you or back from you, you suddenly see the pictures within the design. I understand this is a best selling book, called Magic Eye.

That is what this it. That is what it takes to use this document. You have to use a Magic Eye approach. As you move it closer to you under section 1,300, what you see is a great, big, huge truck coming at you which is going to run you over if you happen to be an

VOL
140
PT
16
AG
12
—
18
1994
UMI

employer in this country who wants to maintain a plan that is not consistent with the plan that you were told to comply with by some bureaucrat here in Washington.

Let me point out some other things that this fine applied to that has not been mentioned. We have been talking about the standard benefits package. This is just one of the items that this hit before it was discovered.

Think of some the other things this fine did. There is a section 1331, and a $10,000 fine will apply, if you as a commuter go to another job in another community-rated area and do not take the community-rated plan in that area. So what does that mean in real terms? It means that you are going to get stuck with $10,000?

What it means is, if Mary Smith and John Smith lived in Nashua, NH, and John Smith worked in Boston and Mary Smith worked outside of Boston, in Nashua, which would be reasonable—and I suspect it would be reasonable in many parts of this country—they would be in two different community-rated areas. If John Smith wanted to be on Mary Smith's policy in Nashua, because it was a cheaper policy or because they were more comfortable with that provider group in Nashua, he would be subject to a $10,000 fine. He does not have that option. He has to take the plan in Boston.

That is one point where the $10,000 fine kicks in. It does not happen to be mentioned. It just sort of appears.

Another point where the $10,000 fine appears to kick in, under section 1308, under this section, there is some language put in for the purposes of litigation relative to losing benefits. The way this works, the section establishes two different standards of proof and requires that courts without the requirement of any additional showing to promptly order the retiree's benefits to be reinstated. The practical effect of this is that the Secretary of Labor could fine a judge, who did not comply with this section, $10,000.

There is another point that this $10,000 fine affects if you are running a cooperative, and there are a whole series of obligations which you need to undertake, and you do not undertake. There are sections 1322, 1323, and 1324. They involve things like membership agreements, agreements with plans, allowable fees. Under this section, the cooperative could be subject to a $10,000 fine for every member that it had in it—remember, a cooperative could have hundreds of thousands of people in it—if it did not meet one of these technical requirements on an issue of membership agreements.

The list really goes on and on in this area. For example, one of the ironies is the way this $10,000 fine was designed. It is a compliance obligation which is enforced by the Secretary of Labor against regulations created by the Health and Human Services Secretary. The practical effect of that is that the Secretary of Labor could theoretically fine the Health and Human Services Secretary for not going forward in a manner that the Secretary of Labor thought was reasonable. I do not think that would happen. But that is the way this is drafted.

The point I am making here is that within the language of this bill there are many complex, unintended consequences generated by this language. There is one little paragraph that is in here that the pond into which this stone has been dropped of a $10,000 fine causes ripples to occur throughout the society generally, and they are unanticipated. Yet, they are in this bill.

So when we go through this bill section by section, and ask let us take a harder look at this section, let us take a harder look at that section. I think it is a reasonable request. It is not reasonable for other people to say, "Well, you are just delaying the process." In fact, we are not delaying the process. What we are trying to do is point out to the American people some of the very serious flaws in this piece of legislation.

I think it is nice that when we point these out on occasion and raise them as an amendment, the drafters on the other side recognize immediately that the golden spoon has been found in their pocket, that the picture has come into focus on the Magic Eye, and that people have figured out what they are up to.

What they are up to in this $10,000 fine is essentially to create an act of intimidation and coercion against employers in this country, the purpose of which is to make it unalterably clear that if you do not comply with the bureaucratically demanded health care structure, you would basically be put out of business or be threatened with such a fine of such an extended nature that your business and the viability of your business would be seriously threatened.

So that is the issue, the issue of the fact that you have a situation where Government has reached the point where in order to assert this plan, it feels it must intimidate, it feels it must coerce by threatening this level of fine. It is a philosophy that runs through this entire bill, Mr. President, a philosophy of we know best here in Washington. If you do not agree with us, that is because you are not just smart enough to understand it, or compassionate enough to sense it. And therefore, please American people, stand back, and let us design your lives for you, and specifically let us design this health care plan. If you do not stand back, we are going to run over you with that truck that just appeared as a result of analyzing the bill that looks like a Magic Eye.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I know the Senator from New York wants to yield to the Senator from Delaware. I wonder if 2 minutes might be given to Senator NICKLES to respond.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask unanimous consent that Senators BURNS, EXON, MURKOWSKI, and SMITH be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, the Senator from Massachusetts has alluded to the bill that I am the principal cosponsor of as the consumer choice bill, and said it has a standard benefits package. That is not correct. What we did in this bill, just to clarify, is we replaced the tax exemption that people now have for their health care plans with tax credits. But we said if people want to get tax credits for health care, they have to have at least a catastrophic health insurance plan that covered primarily hospital and physician patients. We did not define everything else but they had to have this.

The individuals could have a maximum choice. It would be the individuals that would choose. That is kind of a new concept. They would not have to take what the employer offered. They could choose anything they wanted. But, they have to have it to have the tax credit. They to have to have the health care. We had a nice tax credit, a 25-percent tax credit, so the Federal Government would help everybody.

Frankly, the Federal Government uses the Tax Code right now to subsidize your health care by saying you do not have to pay taxes on it if you are an employer that subsidizes. A lot of people do not have a job. So they do not get any benefit from the tax credit. That is not fair.

We said the tax benefits really should not be dependent on whether or not somebody has a job with a generous employer. They should be universal to everyone, just like we give tax benefits to people who buy a home. We do not define the size of the home, but we allow them to deduct the interest expense. But it has to be on the home.

Likewise, we said only a tax credit. We are willing to help everybody buy health care. We will give everybody a tax credit. But they have to buy health care with it, and in health care we said hospital and physician services.

They had an unlimited number of options. That is unlike the proposal that we have before us, the Mitchell proposal. That is unlike the proposal we had before us that says it is illegal for you to offer different benefits.

The Government mandates a very expensive package. You have to have

this. If you do not have the benefit in your package, you are out of luck, or you are subjected to fines and penalties and excessive taxes.

That is not what we had. We said we will give everybody a tax credit, and we will not define your package. You can choose your package. That is consumer choice.

I think that is significant reform.

I thank my colleague.

Mr. MOYNIHAN. Mr. President, I yield 30 minutes to the distinguished chairman from Delaware, who wishes to address the Senate on another matter, but one of equal urgency.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Delaware is recognized.

THE CRIME BILL CONFERENCE REPORT

Mr. BIDEN. Mr. President, I realize that I have been on the floor in the midst of this health care debate speaking about the crime issue more than once, and with the indulgence with my colleagues—at least on this side—I will continue to do that for a few more days.

Mr. President, my friend from New Hampshire said that in relation to the health care bill, it is important to go section by section to look at the bill and see what it means and debate the meaning of the bill. I wish my Republican friends would go section by section on the crime bill, because if they were going section by section in the crime bill, they would understand that what they are saying—unintentionally, I am sure—is inaccurate.

The distinguished Republican leader spoke on the floor this morning, and I assume a copy of the speech I have before me was the one that was delivered or placed in the RECORD. If, in fact, I am incorrect in that assumption, I apologize, but I am told by staff, and by the Republican staff, I believe, through the Democratic staff, that this is what the Republican leader delivered this morning. I think that today I am going to be speaking to what the Republican leader said. Tomorrow I would like to speak about what the hired actor for the NRA on television is saying, which is even more inaccurate.

Let me take Senator DOLE's statement as written here and respond to pieces of the statement, or all of it, if I may.

Mr. President, on page 2 of the statement—and I do not know where that will appear in the RECORD—the Senator says:

> I hope we have signaled and that President Clinton now finally understands that last Thursday's vote was not a procedural trick or a politically inspired attempt to hurt his Presidency, but rather a vote to improve the crime bill.

Mr. President, if that is true—and I am sure the Republican leader believes that—I ask my friends why 65 Republicans in the House voted for the House-passed crime bill that had approximately a half billion more dollars in spending for programs they now call pork and social programs than the conference report that I negotiated and sent back to the House and they voted against?

Said another way: How could we go from 65 Republicans voting for a bill that had more than a half billion dollars more in exactly the programs they now say are the reason for voting against the bill. Sixty-five of them voted for that. Only 11 voted for the bill that I negotiated with the chairman of the Judiciary Committee in the House, which had more than a half billion dollars less of what they say they do not want.

The Republicans over there are saying that this is not about guns or about assault weapons. I do not want somebody back home to think I want you to manufacture all these Uzis and street sweepers. It is not that. It is that there is this awful social spending in there. Well, I cut the social spending they voted for by half a billion dollars, and then they decided they were still against the legislation.

So I respectfully suggest that the Republican leader on the Senate side should ask the 54 Republicans who voted for more pork, as they characterize it, and now are saying they voted against the conference report because it has too much pork, what happened if it was not politically inspired? Maybe there is another reason. Maybe they did not know how to read the first bill. Maybe they did not know. Maybe they did not understand the House bill they voted for the first time. That is possible—regrettable but possible. But just maybe I am right when I say it was politically inspired. Just maybe.

The Republican leader says that they want a no-nonsense crime-fighting plan for America.

I am quoting from his statement:

> And here are some of the improvements he should support * * *.

Meaning the President, I assume.

> Number one, increased prison funding to the House level of $13.5 billion and tighten the language so the prison funds will definitely be used to build prison cells rather than halfway houses, or other prison alternatives, and require truth in sentencing for first-time violent offenders.

Again, maybe I have an incredible disadvantage. I have been responsible for managing this legislation for 6 years. But one of the advantages is that I have the requirement of having to know the bill inside and out. I do not know the health care bill inside out, or any other bill. So I can understand how Senators may not know every provision, and if a staff person tells them something is in it, they may think it is in it or not in it.

To set the record straight, the bill that the distinguished Republican leader and almost all of his Republican colleagues voted for that we passed in the Senate—the Senate crime bill—which Senator HATCH stood up on the floor and referred to, if I am not mistaken, as the Biden-Hatch crime bill, which I was delighted to hear. For one, I was delighted to have it be called the Biden-Hatch crime bill. I think the Republican leader voted for that bill.

That bill that we passed out of here that went to conference had $6.5 billion in it. That bill did not have $13.2 billion, nor did anyone ever suggest, to the best of my knowledge, nor did any Republican ever suggest, that there was a need for more money for prisons than $6.5 billion. As a matter of fact, the distinguished Senator from Texas [Senator GRAMM], if I am not mistaken, negotiated the number with me.

All of a sudden, this thing that they all voted for is now flawed because it has something in it they never asked for, never wanted, never spoke to. So we went to conference, and what did we do? We added $2 billion more; to be precise, we added $1.8 billion more than any Republican ever asked for on the floor of the Senate.

So now the total is $8.3 billion for prison construction, $6.5 billion of which will provide 105,000 new hard prison cells, paid for, given to the States to build and maintain. I find it fascinating that one of the things that would prove we have a real tough crime bill is that we need $13.5 billion. Were they weak in November?

Did these Republicans all of a sudden see God and say, "Oh, my God, this is not tough enough; we were mistaken," as we say, in my church, "mea culpa, mea culpa, mea maxima culpa?" Is that what happened to them? Or did the little political bird fly into their window and say, "Hey, the Democrats are going to pass a bill"?

I will let you all be the judge of which it is.

Now, the Senator also says that he wants tougher language, truth in sentencing. Let me remind everybody what truth in sentencing was.

Right now, there is no parole in the Federal system. If you get nailed in the Federal court, you go to jail. Why do you go to jail? Because Senator KENNEDY, myself, and others, including Republicans passed a law a decade ago saying no parole federally.

We want the States to do that, too. They should. But guess what the States do? The States only keep their violent criminals in prison about 42 percent of the time to which they are sentenced. In the State of X or Y, when you get sentenced to 10 years in jail in a State prison, you serve on average 4.2 years. In the Federal system you serve a minimum of 8½ years.

So the Republicans said, "We want a tough bill—truth in sentencing." I made it a commitment on this floor, and I never break a commitment. I said

VOL
140
PT
16
AG
12
18
1994
UMI

it is a crazy idea to force the States to do this, because they will never spend the money because they will have to double the number of prison cells they have out of their own pocket before they get to seek Federal money. If that is what you want, I promise I will do it. Then, not that they did not trust me, to reinforce it, we had an instruction, as we say on the floor of the Senate. We had a vote. My Republican colleagues instructed me as the leader of the conference on the Senate side to insist on that language staying in.

So guess what? We went to conference. We got to this issue. We raised the spending by almost $2 billion, and I insisted and asked for a vote on truth in sentencing.

That is what the Senator from Kansas says he wants. He says he wants more truth in sentencing. OK, great. I insisted on it.

Guess what happened, Mr. President? The Republicans in the conference voted against it. I offered it, and Senators HATCH, THURMOND, GRASSLEY, and SIMPSON voted against it. On the House side, the House Republicans voted against it. They did not even get to vote, quite frankly. We rejected it. I supported it; the Republicans knocked it down.

Now, out of the blue, I am told go back to conference and put in truth in sentencing because that will make a tough crime bill.

If we do go back to conference, pray the Lord that they instruct the Republicans, the conservative Republicans to be for it now. They were against it, not me, not the Democrats. They voted it down. With good reason, by the way. Republican Governors throughout the country says this is crazy. So apparently they listened to the Republican Governors instead of the Republican national chairman.

So we have this straight now. One of the first conditions is for a tougher crime bill, want more money spent, and want truth in sentencing.

I put in another $2 billion beyond what we had. We got more money than anybody voted for here, and the Republicans rejected truth in sentencing.

What is the second point to make this a stronger crime bill according to Republican leadership? Well, cut at least half of the spending on social programs. And they cite some, they call, social programs. They, first of all, start off with the Model Intensive Grant Program. The Model Intensive Grant Program is the same program as the Drug Emergency Areas Act that Senators D'AMATO and GORTON, and other Republicans, have cosponsored in the past.

I wish they would make up their mind. It is not the same exact thing, not called the same thing. I think what makes them angry, and I am surmising here, is that the Model Intensive Grant Program is the name given to the program by Mr. SCHUMER, a Democrat, and we do not have the name Drug Emergency Areas Act, which we have had in every crime bill I have introduced. There are some marginal differences, but we are talking roughly the same money and for the same purposes.

What happened here? What happened between the time it left here that it was a good idea and the Republicans asked me to put this in the bill? I supported it. By the way, I still do, and now it has to be out.

We also have midnight basketball. Gosh, we are going back to midnight basketball. I hope everybody saw CNN last night. They went out to a place in suburban Washington, DC, in Maryland, and guess what? It works. Let me quote. I am quoting. This was stated in 1991.

> The last thing midnight basketball is about is basketball. It is about providing opportunity for young adults to escape drugs and the streets and get on with their lives. It is not coincidental that the crime rate is down 60 percent since the program began.

You might ask yourself who said that, who made this outrageous claim that where they had this midnight basketball program the crime rate dropped among youth by 60 percent? I never made that claim when I put it in this the legislation. I just said it will get better. Who made this claim, which I think is probably accurate? Let me tell you who made the claim. His name was George Herbert Walker Bush. It was his 124th point of light. Remember those points of light. Well, every once in a while even he was right. He was right a lot of times. So I took his point of light and I put it in the bill.

[Disturbance in the visitors' galleries.]

Mr. MOYNIHAN. Mr. President, may we have order in the gallery.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator is correct. The Sergeant at Arms will see that there is order in the gallery.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I put this point of light in the bill, the Republican point of light.

Now, I understand it sheds darkness and doom. It is a terrible thing, $40 million to have basketball leagues where kids not only play basketball, and they must stay in school, and some programs even require they keep a C average, and they must be off the street. There are other programs to keep the high schools open, so you use the gymnasiums—a Republican idea, not a Democratic idea.

Senator DOLE goes on to say, and I quote: "But now 9 months later, the conference report authorizes a staggering $33 billion, a 50 percent increase," over the Senate bill, "a 50 percent increase" that is over the Senate bill, he means. "Obviously, somewhere along the way the crime bill was hijacked by the big dollar social spenders."

Boy, they love this language. Let me tell you what the big dollar social spenders did. We went in, and we added $1.8 billion for prisons. Remember now. His first point he wants more money for prisons. So we added $1.8 billion more for prisons. What did we do next? We added another billion dollars for the Byrne grants. Remember what the Republicans did when the President said he was going to cut the Byrne grants? They came to the floor. They said it was outrageous, that the best thing that happened at home was the Byrne grants. They are great, by the way.

What did we do? We put in these big social spending Byrne grants. Do you know where the Byrne grants are? They are where the Federal drug enforcement agents work with local law enforcement agents and nail drug dealers. That is a big spending social program.

Now, we are up to $2.8 billion, we added.

What else did we do? We added to the Treasury Department for enforcement, $380 million for new T-men. Folks, men and women, with guns, who go out and get bad guys, counterfeiters, bad guys, $380 million. We added $1 billion for the INS to go and nab illegal aliens. It is a big social program, is it not? Tell that to the illegal aliens. They think it is a great social program.

In total for Federal law enforcement we added $815 million.

Then we added another $100 million for drug courts.

Do you know how the drug courts work?

And my friend from New York—and I am not being solicitous—knows more about this issue than any person that I know. I might add, by the way, when we all stood and watched New York and other cities burn, figuratively speaking, he said nearly 10 years ago, "The crack epidemic is coming. We better do something about it." And nobody did anything about it. They did not listen to him.

So what happened? It used to be for every four men that used drugs, there was only one woman. Along came crack and, to use that Virginia Slims ad, "Women have come a long way, baby," because crack now has made it about 1 to 1. It is about 1.4 to 1.

Guess what. Now we have more homeless children. Now we have more AIDS. Now we have more prostitution. Because these women cannot afford this, what do they do? They go to a pimp. He gives them crack, they do his dealing, they get drugs. AIDS spreads.

No one listened to the Senator from New York.

We added money in here for drug courts. Now drug courts do not deal with the crack dealers. It deals with another aspect of the problem. There are 600,000 young people, adults, who last year were drug addicted offenders,

convicted for a nonviolent offense, who never saw a day of prison, a day of counseling, a day of anything. There were a total of 1.4 million arrested and convicted; 800,000 got something, probation, or random drug tests or something, 600,000 because there are no counselors, there are no probation officers, there is no prison space, got nothing.

So we put in money for drug courts. Big social program.

Do you know how that works, Mr. President? The way it works is that if you get arrested and convicted in a drug court—you are a first-time, nonviolent offender, you are a young person, you are an adult, but your in your twenties. What happens is, you must either demonstrate that you are in school, in a job, be subject to random testing, and employment counseling. If you do not do any one of those things—you either drop out of school, you lose your job, or you flunk the test—you go to jail. Now, I have never heard that of a social program.

But so we are talking about billions of dollars added.

Let me tell my friend that more than $7 out of every $10 in this bill are for cops, prisons and Federal and State law enforcement.

So I think someone should tell him that did not get hijacked by big dollar social spenders. It got hijacked by the FBI, as it should. It got hijacked by the DEA, the Drug Enforcement Agency. It got hijacked by drug courts. It got hijacked by police SWAT teams in cities and counties and rural areas, working with State people. It got hijacked by $1.8 billion for more prisons.

I guess you did not know that, but that is where the hijacking came in.

Now, the third point that is necessary, I am told, for us to have a tougher crime fighting bill is:

> Third, plug the so-called safety valve provision which could result in the early release of 10,000 convicted drug offenders. A get-out-of-jail-free card, brought to you by the United States Congress.

Let me tell you what that is.

First of all, the so-called safety valve was insisted upon by the Republicans in the conference. I did not have it in the bill. When it passed the Senate, it was not in the bill. But, Mr. HYDE and Mr. MCCOLLUM, both fine men—and substantively they are right on the issue, by the way—insisted that this be in the bill.

Now let me tell you what it does.

No one gets out of jail under this narrowly drawn safety valve, which applies only to nonviolent drug offenders and permits them to ask that their sentence be reconsidered under the guidelines.

As the Senator from New York knows, the guidelines are now tougher than the minimum sentences in most of the cases.

And do you know what the Bureau of Prisons says about who will qualify for this, this get-out-of-jail-free card as my Republican friends call it? As my Republican friends tell me 10,000 convicted drug people?

Do you know what they say, the Bureau of Prisons? Minimum, 100; maximum, 400 people will be eligible for release.

Do you hear what I just said? Minimum, 100; maximum, 400. Ten-thousand? Kind of interesting.

And, by the way, those who get out will all be nonviolent, no crime involving a minor—and this is all listed in the bill, but in the interest of time I am not going to take the time now to go through it—no use of a weapon, no threat of force, no threat of deadly force or any force. On average, they will have served 4 to 5 years already. And all they get to do is ask to "reconsider my sentence" under this mandatory requirement that was built in. And the Bureau of Prisons says, first batch out of the box, the only people that qualify now, 100 to 400 people.

Now, I am told then the fourth thing that makes this bill tough—I am reading now from the leader's statement, the minority leader.

> Fourth, no cuts for the FBI or drug enforcement agency.
>
> I am quoting now.
>
> No crime bill should cut staffing at our Nation's top law enforcement agencies.

Guess what? We agree with him. That is why it is in the bill.

Now, I am a strong supporter of the FBI and the DEA. I want to increase it. But let me give credit where credit is due. Senator DOMENICI insisted that this be in the Senate bill, and I insisted that it be in the conference report.

So, the crime conference report specifically provides money to the FBI and the DEA for additional agents; $250 million for the FBI will buy approximately 500 additional agents and $150 million for the DEA will buy approximately 300 agents.

In addition, the conference report, in section 320915, specifically states that we should exempt Federal law enforcement personnel from the Federal work force reduction fund that supports the crime reduction trust fund.

So the way we are funding this bill is cutting bureaucrats. We explicitly say in the law we are asking them to pass, "When you cut, do not cut the FBI or the DEA." And then we add $400 million to hire 800 new agents. So I am sure the Republican leader will be happy to know that we have also met point four that he insists upon.

Now, No. 5. "Restore some of the tough provisions adopted last April by the House, including" —and then they go on to say, "Megan Kanka's law."

Now, there was a God awful thing that happened in the neighbor State of New Jersey, my neighboring State and the neighboring State of the distinguished chairman from New York.

This young woman, because sexual offenders—I will call them predators—who had already served their time were released into the community and were in a house across the street, living across the street from young Megan. Everybody thought they were regular old people who moved in the neighborhood.

One of them, allegedly—the trial has not been held yet—allegedly brutally murdered young Megan. There was an uproar. The distinguished Governor from New Jersey is insisting that there be a registry—as she should.

Well, let me remind everybody. This is something—I guess people just have not had time to read this bill.

In the conference report, the thing that the House would not let get voted on because all but 11 Republicans and 48 progun Democrats and 10 members of the Black Caucus, adding up to enough to defeat the bill—there is a provision we put in the bill, tougher than either the House or Senate passed. It says anybody who is convicted of a sex offense against anybody any age—not just a child—must, when they are released from prison, appear on a State registry. The States are required to set up statewide registries. If they do not, they lose Byrne grant money. It costs them millions of dollars. That is the incentive, the only one we have available to us, federally. And we say, "Set up a registry."

Then, when John Doe is released, the sex offender—he does not have to be a violent predator, just flat out having been convicted of any sex crime, he goes on a registry. Then what happens? As we wrote the law that is in the bill the Republicans killed, they are required to then notify the local police agency. And they are required wherever they move to wear the scarlet A. And every time they move, they are required to notify the registry. And, we made sure that when the police tell the community—as they are allowed to do—they would not be subject to prosecution. This is something incredibly unusual. We gave immunity to the police department.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MOYNIHAN. I have 4 additional minutes.

Mr. BIDEN. Could I ask for 1 additional minute?

Mr. MOYNIHAN. You may have 4.

Mr. BIDEN. I thank my colleague. Anyway, it is in the bill. It is in the bill.

No. 6, the leader says restore some of the tough provisions, minimum mandatory for those gun laws. He should read title XVIII. There is already minimum mandatory. Do you realize if you commit a crime that is under the Federal jurisdiction, and you have a gun, whatever crime you committed if it has 10 years, you automatically get 5 more? Minimum mandatory, no probation, no parole, no discussion.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Now he also says we have to have mandatory restitution for crime victims. It is in the crime bill that the Republicans voted down. There is a provision allowing, for the first time, victims to show up at the sentencing procedure to say, "Judge, by the way, when you are sentencing that guy I want to remind you what he did to me"—giving some empowerment back to the victims. There is mandatory restitution, where the person who committed the crime committed the crime of violence against a woman or against a child.

And then he says, "And we have to restore Senator SIMPSON's provision requiring swift deportation of criminal aliens."

We do.

The conference report includes the summary deportation provision from the Senate bill—with slightly modified language. This provision would speed deportation by eliminating the requirement that a hearing be held and by eliminating layers of appeals.

The conference report also includes $160 million for the Immigration and Naturalization Service to hold deportation hearings in prisons—so criminal illegal aliens will be ready to be deported as soon as they have finished their sentences.

Last, he says we need flexibility and quotes Chief Fred Thomas of Washington, DC, saying there is not enough flexibility for the cop money coming into the cities. I called the chief. It surprised me. Let me quote the chief. He said, "I support the bill a thousand percent. Senator DOLE must have misunderstood me."

So I hope I have set the record straight for my friends and made it very clear that now that they know that all they wanted is in the bill, they can be for it. They can be for it. Let us find out. Let us find out whether this is politics or whether it is not.

Let me tell you, had they not delayed for 6 years, had we passed the registry law, which is in that bill, maybe, just maybe, young Megan would be alive today. Had the registry existed—she got killed the day after the House finished the conference. In fairness, she would not be alive because we could not get it done in time. But let me tell my colleagues something. If we delay, there are going to be more Megans, there are going to be more people in that situation because the bill now has those provisions.

I sincerely thank my friend. I know I keep intruding into this debate, but I want to tell him something, it is frustrating. If it is this frustrating on the crime bill, getting the facts out, I cannot fathom the difficulty my friend from New York as chairman of the Finance Committee is going through.

Mr. MOYNIHAN. Keep intruding.

Mr. BIDEN. I yield the floor and thank my colleagues.

The PRESIDING OFFICER. Who yields time? The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. PACKWOOD. Mr. President, much has been said that the Mitchell bill does, in essence, not upset anybody's present plans, is not compulsory, or nobody has to change very much. It overlooks, however, three groups that between them have someplace between 35 million and 40 million people covered with insurance, almost all of whom are satisfied with their current plans.

First, employers with 500 or fewer employees who self-insure. I will explain the difference on that.

You can cover your employees in, really, one of two ways: You can go out, buy insurance from Metropolitan Life or Continental Casualty or Blue Cross or Kaiser. They provide the benefits. You pay an insurance company to carry them.

Or you can do what is known as self-insure. You think to yourself, I am a stable enough employer. Rather than paying premiums to an insurance company, I, the employer, will pay the benefits myself. I will run that risk. Sometimes on occasion the employer will say, I cannot afford a catastrophic loss, and maybe they will insure for a loss over $15,000 or $20,000 or $25,000 or even $100,000 and say we will pay under that amount. They do not worry about negotiating with the insurance company. They manage their own plan. They can have their own wellness policies. They do not have to live with others' dictates. You have about 20 million employees who get their insurance from businesses with under 500 employees who self-insure.

Under the Mitchell bill, they will not be allowed to self-insure. That is out. They will have to buy through what is known as the community-rated pool. I am not going to get into a discussion of that tonight. But in essence it says, "all small employers will have to be thrown in. Five hundred, it is not small—500 or less, it has that pool. It has an interesting—I do not know if it is an intended or unintended effect, certainly on California. But my guess would be on other States also. Because this rule of 500 or less also applies to cities and counties and fire districts and school districts. California has Los Angeles and San Francisco and Oakland and San Diego and San Jose. California in many respects is like many States of the Union. They have scores and scores and scores of towns that have 5,000, 10,000, 15,000 people in them and they do not have 500 employees working for that town or that fire district or that school district. Yet they may be self-insured or they may buy insurance. They are out. They are going to have to come into this community pool.

I think most local governments are unaware of that in this provision, because most States do have some kind of a program that allows all of the municipal employees in the State from all kinds, big governments and small governments, to insure through one plan.

So there are 20 million people who are going to have to change.

Second, you have, and we refer very frequently with acronyms around here, MEWA, M-E-W-A, multiple employer welfare arrangements.

These are basically health plans that are offered by businesses, similar kinds of businesses. In my State, for example, the Timber Operators Council has a multiple employer welfare arrangement. We have about 26,000 enrolled people in it from all kinds of different companies—big companies, small companies. These are prohibited. They are out under the Mitchell bill. It does not matter what size they are, they are out. This has nothing to do now with the standard of 500. They have to go into the community pool, and buy their insurance.

And then you have association plans—Association of Building Contractors, Coca-Cola Bottlers. Here you have a community of interest, maybe franchise employees, but they are all in the same franchise as opposed to a MEWA where you have all kinds of different businesses. They have some business relation. But here you will have—Chamber of Commerce can have one, if they want. They are out. There are in some places between 10 and 20 million people in the multiple employer welfare associations and the trade associations that are now covered that will lose their form of insurance and have to go into the community pool.

I do not think most of them know this yet. So when the argument is made there is not going to be much change under the Mitchell bill, there is significant change for roughly 35 to 40 million people—employers with 500 or less, multiple employer welfare associations, trade associations—that are simply written out of existence and thrown into a common pot pool.

Mr. President, I yield to the Senator from Texas—how much time would he like?

Mr. GRAMM. I would like 10 minutes.

Mr. PACKWOOD. I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, let me thank my colleague from Oregon for yielding. I want to thank him for what he has done to let America understand the health care bill currently before us. I am a firm believer in the old Biblical admonition: You shall know the truth and the truth will make you free.

I am convinced that the more the American people know about this bill, the more they are going to be against it. I think we are going to see the same phenomenon we saw with the original Clinton health care bill. With the original Clinton bill, the President's rhetoric was so reassuring and so wonderful that it took time for the American people to discover that there was no relationship between his rhetoric and the provisions of his bill. What we are finding here, as we look at the health care bill pending before us now, is that the rhetoric continues to sound good, but the actual bill language continues to be bad.

Mr. President, I would like to focus on what the Nickles amendment is about. We know now the amendment is supported by the other side. They are not willing to defend the provision in the Mitchell bill that the Nickles amendment will strike, and for good reason: It is indefensible. But the amendment is important, nonetheless, because it focuses our attention on one of the two major issues in this debate.

One issue, as we all know, is the incredible cost contained in the Mitchell health care bill, a bill that when fully implemented will cost the American people $194 billion a year. Except for Ross Perot, nobody knows what $1 billion is. I know eyes glaze over when people at home hear me say that this bill, by Senator MITCHELL's own numbers, costs $194 billion a year when fully implemented. Their eyes glaze over when they hear that it provides taxpayer subsidies to 110 million people, when they hear that it sets up 45 new Government agencies, when they hear that it has over 170 mandates on people and local government and State government, when that hear that it imposes 18 new taxes to fund all of this new spending, and then it imposes costs directly on the consumer.

But since nobody knows what $194 billion is, let me give you a number that people will understand. For every family of four in America, that is over $3,200 a year that they are going to pay in taxes and indirect costs imposed on them to fund the Mitchell bill.

So the relevant question for people back home is not whether it be wonderful to give all these new benefits to 110 million people? Certainly it would be wonderful to provide these benefits. But the question that working Americans have to ask back home is, is providing these benefits worth $3,200 a year to me and to my family? And will the benefits be worth $3,200 a year to me?

Mr. President, I believe that when the people who do the work and pay the taxes and pull the wagon in America—not the people who have organized groups here clamoring for the passage of this bill—but the people who are calling up our offices opposing this bill, the people who are writing in overwhelming numbers against this legislation, when these people come to understand that—when fully implemented—the Mitchell bill is going to cost their family roughly $3,200 a year, they will conclude that this bill will not be a good buy for them. They will still pay for their health insurance, and the new mandated benefit will be between $5,000 and $6,000. I am talking about new costs for all the new government created in this legislation. Most Americans I know, especially those in Texas, already think we have too much Government.

The second issue is freedom. The second issue is whether this bill allows people to make choices? The President used to argue that his old bill preserved consumer choice. But the American people came to understand that under the original Clinton bill that was not so. If you did not work for the Federal Government—people in the Government were going to be treated differently than everybody else—or if you did not work for a company with 5,000 or more employees, which for a 1 percent tax could ransom you out of the system, your health insurance was going to be canceled and you were going to have to buy health care through a Government-run cooperative.

And the final kicker that finally awakened America was the $10,000 fine. I am sure my colleagues remember the $10,000 fine in the original Clinton bill imposed on anybody who tried to sell you private health insurance in competition with the Government.

The President went on and on about how free choice existed in his bill. But because the President was so convinced people would buy, given the choice, a private alternative, he put a $10,000 fine in his bill to prevent people from going outside the Government program to buy private health insurance. Once people came to realize that, despite the fact that many of our colleagues for a long time denied that that provision was in the bill, the Clinton plan was deader than Elvis.

The Nickles amendment has pointed out a new $10,000 fine, and this $10,000 fine is in the Mitchell-Clinton bill. It is a $10,000 fine imposed if you and your employer decide against the health insurance policy that the Government says you ought to have.

Let me explain basically how this works, and if this is what free choice for you and your family is about where you are from, then probably you do not have a problem with the Mitchell bill. But if the American town in which you live—not Washington—does not define free choice this way, maybe you have a problem with the Mitchell bill.

Under the Mitchell bill, the Government will tell you what has to be in your insurance. If you are a 64-year-old widower, the Government is going to tell you what coverage you will have to carry in your insurance policy. You will have to pay for pregnancy services and for newborn services. Even if you do not smoke and you do not drink, you are going to have to pay 12 percent more for alcohol and drug rehabilitation coverage. The Government is going to make you buy all of this insurance whether you want it or not.

Second, if you and your employer are buying other benefits, the Government is going to tax those benefits. It is going to impose a 35-percent tax on the benefit that you got in your health plan that the Government says you do not need. Then over time it is going to impose an income tax on you by treating your health benefit as income.

For example, if you were in the 31-percent tax bracket, and you already had an insurance policy you liked better than the Government's plan without alcohol and drug rehabilitation coverage because you do not drink and you certainly do not use drugs, you will have to pay 12 percent more for that coverage anyway. But if your plan covers services you do want, like orthodontist care for your children, the company that provides that benefit to you is going to have to pay a 35-percent tax on it, and if you are in the 31-percent tax bracket, you are going to have to ultimately declare it as income. You are going to have to pay a tax. So the Government is going to impose a 66-percent tax on that benefit.

Now, tell me if in your hometown this is freedom of choice. The Government tells you what you have to have. Whether you want it or you do not want it, you have got to buy it. The Nickles amendment takes out the $10,000 fine for not buying it, but you are still required to buy it. If adopted, the Nickles amendment simply removes the $10,000 fine, but it is still illegal not to do it.

Third, if you want health benefits the Government says you should not have, you can pay as much as a 66-percent tax on those benefits.

I was thinking, Mr. President, what do I own that I would be willing to pay a 66-percent tax to keep. Well, I do not want to get in trouble by saying I own my children and I own my wife, but I do own my dog, and I would pay a 66-percent tax to keep my dog. But there is nothing else I own—and I am a U.S. Senator—on which I would choose or could afford to pay a 66-percent tax to keep. I would not keep my house if there were a 66-percent tax imposed on

VOL
140
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16
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it. I would not keep my truck if there were a 66-percent tax imposed on it.

Now, you could say that I am free to keep my benefit if I am willing to pay that tax. But am I really free? Is the average working American really free when you say you can keep it but you have got to pay a 66-percent tax on it?

I do not think so.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMM. That is why this bill needs to be defeated.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the manager on this side, Senator PACKWOOD, has authorized me to speak up to 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for up to 10 minutes.

Mr. SPECTER. Mr. President, I have sought recognition to support the amendment offered by the Senator from Oklahoma because I think it is excessive and punitive in calling for a $10,000 penalty for each violation with respect to each individual, and that the appropriate remedy here comes from the incentives in the bill on the subsidies and not from this kind of a punitive measure.

Having been involved for a long period of time as a district attorney, this kind of a punitive measure is very excessive compared to what we do when we talk about willful, deliberate criminal violations.

Perhaps of even greater importance, Mr. President, than an analysis of the punitive measure here, is the limitation on choice, a limitation on what the free market does by way of having individuals and employers and insurance carriers fashion policies which meet the needs of specific people far beyond what can be contemplated by Government on an elaborate statute or by a national health board.

The benefits which are outlined in the Mitchell bill on the benefits package do not include what some people might want to have if they are given freedom of choice.

We are struggling through as this debate is proceeding to analyze and figure out exactly what the consequences of this bill would be. As I understand the bill there are limitations on the benefits package offered by the Mitchell bill on dental care, on vision care. There is no provision for chiropractic services, podiatry, and there is no provision here for long-term care.

Now, some of these might be obtainable in a supplemental package, but why not allow people—employees and their employers—to structure a plan which people might want under what is called a cafeteria approach, which simply means that people can pick and choose from a longer list of options?

If someone is not of childbearing age, why have the limitations which would be for people who are of childbearing age?

This goes back to the amendment which was considered last night, the Dodd amendment, which was another example of bureaucratic limitations where the Government is going to tell people what they are going to buy, instead of allowing people to make their own choice for what their particular needs might be. The Dodd amendment provided that there could not be any policy sold which did not cover maternal care and child care. Now, that is fine for people who are of childbearing age, who need maternal care and who need child care. But if someone is out of that category, is beyond the age of giving birth or does not have that requirement, why should the Government mandate that no insurance policy can be sold unless it covers those kinds of services?

Now, on its face, you would think that it really does not mean what I have just described, but as we analyzed this bill, as best we can figure it out, that is precisely what it does.

Now, what is the rationale? What is the reason for that?

The reason would be to require people who were in their seventies to have an insurance policy which provides for maternal and child care, so as to lower the cost for other people who may want those services. But in a democratic free society we really ought to let people choose what it is they want.

The Congressional Budget Office—getting back to the Mitchell plan—has estimated that the costs of the Mitchell plan are considerably higher. For example, on a two-parent family, the Mitchell plan would cost $5,883 contrasted with $5,565. This increased cost, which does not include any of the premium taxes in the Mitchell bill, is primarily for the cost on a group of services which many people may not want.

The Mitchell plan also has total costs which are estimated, as best we can determine, at 30 percent higher than what the average American is currently paying, what employers are currently offering. So that an employer may be offering a lesser plan and be making up the difference to the employee in real wages.

Under the Mitchell plan, if you offer any health care at all, it has to conform to the rigid proposal of the Mitchell plan. So that an employer might decide that he is going to offer nothing at all rather than pay 30 percent more. So instead of getting more health care, we are actually receiving less health care if that choice is made. The mandate, that is, the requirement that the employer have coverage, does not become effective until a later date if 95-percent coverage is not achieved in a given State.

Mr. President, as I worked through the amendments and as I worked through the Mitchell plan, there is an amazing degree of complexity as opposed to the tradition in our society where an employer, in consultation with his employees, decides to offer a certain line of benefits. The employer then deals with an insurance company which can offer a wider variety of benefits than those which are enumerated in the Mitchell plan.

Then you have the discretion in a national health board to make certain changes with the benefits under the Mitchell bill.

We have all had experience in trying to deal with the bureaucracy. When individual needs, or an individual's desires, change, it would be nearly impossible to have to deal with a national health board. These are some of the inevitable consequences which arise when you have elaborate statutory requirements which establish rigid patterns instead of letting the market take care of itself, instead of letting people make their own individual choices.

So why not have people with the option to choose a basic benefits package of long-term care instead of prenatal care, if somebody is in the 65 to 70 age category instead of being bound by what this statute provides?

Similarly, with the Dodd amendment from last night where as a matter of statute there cannot be any cost-sharing requirements, it may well be that the Secretary of Health and Human Services might want to have some level of copayment. So that, if someone is very, very wealthy, they ought to have to contribute for services. Every time we turn around and take a look at the fine print, we discover that there are limitations on what people will be able to do by way of their own individual choice.

The Nickles amendment, which focuses only on the penalty which is excessive, comes back, analyzes the underlying provisions where there is a basic benefits package, which may not suit a given individual or a given employer. And under the present system, that kind of choice might be allowable.

As we speak, Mr. President, there are other plans which are in the process of being formulated, proposals by the so-called "mainstream group" where I have attended their meetings—some 19 Senators were present yesterday and today—trying to find something which is less bureaucratic than the Mitchell proposal, less bureaucratic than the 140 new agency boards and commissions created by the legislation advanced by Senator MITCHELL even more than the legislation proposed by President Clinton last October 27.

There are other proposals which are under consideration. The so-called Nunn-Domenici legislation which would be a much less onerous bureaucratic scheme. These proposals are designed to try to allow the maximum of choice so that people can buy the kinds

of programs they want without having some rigid standard imposed by the bureaucracy, and by the Federal Government.

So I support the Nickles amendment. I hope as we work through the complexities of the underlying legislation that we can improve upon it and give more people more choices with less rigidity and less bureaucracy.

Mr. President, I ask unanimous consent that Senator THURMOND be listed as cosponsor to the Nickles amendment, and that I also be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. All time is allotted on our side. Will Senator SPECTER yield 5 minutes on his side?

Mr. DECONCINI. Will the Senator yield 7 minutes?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MOYNIHAN. Mr. President, may I ask that the Senator from Pennsylvania [Mr. WOFFORD] be added as cosponsor?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I thank my colleagues. I did not think the time had all been allotted on our side.

I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 2401 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. NICKLES. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. NICKLES. Mr. President, I have a couple comments about the underlying amendment. It strikes the section that imposes civil penalties up to $10,000 for violations of this section. And that section would include offering a plan other than the standard benefit plan as defined by the Government.

It also has a couple of other sections that I want to let my colleagues know about, because I think I will try and do an amendment on this as well. Individuals that work for employers are prohibited from being offered a so-called alternative package. That is a package that has a high-cost deductible. Individuals can buy it, but employers cannot provide it for their employees. That is absurd. Yet, it is in this bill. It needs to be eliminated. I thought about doing that amendment first, but we decided to go with the fines. We need to remove that provision, which is on page 138.

I noticed with interest that my colleagues say it is the fine print. It is fine print, but it is one of the reasons that we have said we need to spend a little time on this bill. This bill was introduced—or at least brought to the Senate floor Friday at 5 o'clock. I believe only a couple of copies were available. The copies were produced en masse, I guess, and available on Saturday. The majority leader wanted to vote on Saturday and Monday, and that did not happen. So he was insisting on a vote on Tuesday. Some of us were saying we were not so interested in voting, not because we wanted to filibuster or hold the bill up, we wanted to find out what was in the bill.

This is a provision I found that troubled me, mainly because I was an employer. I had a self-insure plan, and I find out that if that plan is illegal, then if I tried to do some cost sharing on that self-insure plan, I would be subjected to a $10,000 fine per employee. We have about 65 or 70 employees. That is about $650,000 because I was not complying with this so-called section.

I am delighted that we are going to be successful in cleaning up this one amendment, but we still have not removed the provision that would prohibit an employer from offering an alternative package, one that has a higher deductible. We need to fix that. We still have not fixed the fact that we are going to tell everybody in America, no matter how happy they are with their plans, frankly, they have to be replaced with a Government-designed plan, the so-called standard benefit package.

I also want to respond to my colleagues who said some of these plans have standard benefit packages and some do not. The plan that I am a principal sponsor of is not a standard benefit package. It says, wait a minute, let us reform the Tax Code and give everybody a tax credit. That makes sense. If you are going to get the tax credit, you have to provide health benefits. We replaced the current income exclusion that excludes—if you are a generous employer and have health care, you do not have to pay a tax. That benefits people working for generous employers. But it does not do anything for anybody who does not subsidize the employees' health benefits, or anybody who does not have a job. The Tax Code, if it is going to help subsidize insurance, should be able to subsidize it for every American, whether they have a job or not. They need health care.

So that was the purpose of our bill. Well, to qualify for the tax credit, you have to provide health care, and we said, basically, just any catastrophic plan that would cover basic hospitalization and physician services.

Mr. President, as I mentioned, it is important to read the fine print because you might find something you do not like, like this enormous fine that was imposed if you did not comply with the dictates in the standard benefit package. Hopefully, we will take that out. I noticed in looking through the bill—and this will be subject to an amendment that I or one of my colleagues will offer. Maybe it will be a bipartisan amendment, and we can be successful in deleting this. I hope my friend from Massachusetts, who is on the floor, will join me in this amendment. That is section 10135 on page 1432. It says "no loss of coverage."

In no case shall the failure to pay amounts owed under this act result in an individual or family's loss of coverage.

In other words, individuals do not have to pay their premiums and they do not lose their coverage. That is an interesting concept. I think a lot of people will find out that is in the law. If you do not pay, you do not lose your coverage. I think that may be very attractive. It may encourage a lot of people not to pay.

Who does pay? This bill calls for——

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. NICKLES. Mr. President, let me finish my point and then I will be happy to yield.

On page 1430, it says, "The shortfall will be paid half by the family," and on page 1422 "the other half by employers."

I think that is a ridiculous provision. It needs to be taken out. We have an amendment to take it out. I hope it can be done in a bipartisan fashion.

This bill requires a lot of reading. I have been reading quite a bit. I have not read it all yet. I am still working on it. There is a lot of fine print and a lot of provisions in this bill that really do not make sense, that really do not work very well.

Again, it is a conglomeration between the Labor Committee package and the Finance Committee package. We do not even have a report on the legislation. Most significant legislation that is reported out of committees has a committee report. The committee tells the Congress and tells the American people what it is comprised of. What does it mean? What does it mean in layman's language? We do not have that for this bill.

So the American people really have not had an explanation. When I had a press conference yesterday and I said under the Clinton-Mitchell package as presently drafted you are subjected to a $10,000 fine if you do not have your plan conform to the Government's standard mandated package, that is fact. We are going to eliminate the $10,000 fine but still have not eliminated that standard, mandated package.

So the cost of that package, which I alluded to earlier, is $5,888 per family. That is enormously expensive. A lot of plans in Tennessee, a lot of plans in Oklahoma, a lot of plans all across the country are not that expensive.

VOL 140 PT 16 AG 12 — 18 1994 UMI

When I hear my colleagues say this bill does not have a mandate in it, an employer mandate, until the year 2000-something, I disagree because this is telling every employer that has a health care plan they have to have a very expensive health plan, one more expensive than many of them have today. And many employers are used to providing health care for employees. They want to continue to provide health care for employees. All of sudden now they are mandated the plan, the Government-defined package, which is enormously expensive, and they do not have lesser expensive options. They do not even have the option that individuals have as far as buying the alternative standard plan, one that has a bigger deductible. Individuals have that option under this bill, but employers do not.

I think that is a serious mistake. Who pays? Someone might say you are doing that trying to protect employers. No, because, frankly, if we do not make it more affordable for a lot of employers, a lot of employees are going to lose their jobs. A lot of employees will see a reduction in their take home pay because the Federal Government is mandating the plan that costs $6,000 per family and that business does not generate enough economic reward for that to happen or economic return for that to happen.

So the net result is either the individual loses the job, they have fewer employees, or have a reduction in pay. They do not get an increase or maybe even have a pay reduction to pay for this high Government mandate, this expensive plan.

I think that is a serious mistake. So we have eliminated it. If we are successful with the amendment—I expect we will be—we will eliminate the $10,000-per-employee fine, or at least we will eliminate it when it goes through the Senate. I am always concerned what will happen when this bill goes to conference and what will come back. But we eliminate the penalty.

But if we still mandate to employers, if you are going to provide health care, you have to provide the Government-designed plan, that is a mandate on all employers and in many cases it will dramatically increase their costs.

I know a lot of employers who have health care for families that costs $2,400 or $3,000, and if you mandate they provide insurance that costs $6,000, you have just increased it. That is the same thing as a tax of $3,000 per family, or per employer. It is a tax on jobs. It will cost jobs, and that is a mistake.

We have not remedied that with this amendment. We will eliminate the penalty, but we have not eliminated the mandate.

What happens if we do not eliminate the mandate is a lot of employers will find that it is in their interest to drop the plan. There is nothing to keep them from dropping the plan, so they will drop the plan.

What happens then? Well, unfortunately, when they drop the plan, a lot of those employees will go on subsidies, and the number of people who are subsidized under this bill rises by 57 million. I hope people are aware of that. Under this bill we will have 57 million more people on subsidies.

What about those employers who drop the plan? They can come back later, and the employer can qualify for subsidies and Uncle Sam will start paying almost 50 percent of the employer's cost share of those premiums. So there is a great incentive for employers to drop plans, employees to go on subsidy, and then the employer to come back and be subsidized later.

I think that is a serious mistake, and I hope we will not follow that.

I am delighted and hopeful that our colleagues will adopt this amendment. At least eliminate this very punitive, unfair fine that is in this proposal of $10,000 per employee if you do not conform to this plan.

Mr. President, I yield to the Senator from Kansas 3 minutes.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, let me say that given the broad support for the Nickles amendment, obviously bipartisanship is still alive and well in the Senate.

I think this is a very important amendment because they have been saying this plan is voluntary and what it boils down to is, if you do not volunteer for the one-size-fits-all standard benefits package, you can be fined $10,000 per employee.

Let us get this straight. The bill as presently written tells employers who are already providing coverage to their employees—coverage employees bargained for and may be completely satisfied with—that maybe they are in the wrong and they should be punished. You must provide coverage that carries the National Health Board seal of approval. It is not enough that you are satisfied.

I think the point that he is making with this amendment, I might say to the Senator from Oklahoma, is not that the fine is too high—it would be too high if it were 10 cents—it is just another example, it is just one small fix in this 1,400-some-page bill, that I do not think we will have time to fix. Every time we stumble across or someone reads about it and someone calls about it, oh, yes, that is right. We ought to fix this. And I just do not know how you do that in a few days.

I also want to include in the RECORD—it may already have been included in the RECORD—that in the crime bill we use the word "criminal" 437 times and 30 times in health care. We use the word "limit" 211 times in the health care and 33 times in the crime bill. We use the word "penalty" 112 times in health care and 53 times in the crime bill. We use the word "require" 755 times in the health care bill and only 207 times in the crime bill.

There are a lot of numbers in there. I thought maybe we were on the crime bill. This is the health care bill, right?

I want to put in the RECORD these figures put together by the National Taxpayers Union, because they use all these restrictive words. The crime bill uses 1,361 restrictive words and the Clinton-Mitchell health care bill uses 1,488 restrictive words.

Maybe the crime bill is not tough enough. I have to believe the health care bill is tough enough. If you violate or do not do this or do not do that, we have a penalty for you.

I think we ought to put those in the RECORD because I think a lot of taxpayers might like to know what they might expect, if by some strange event this bill should pass.

Mr. President, I ask unanimous consent to print this information from the National Taxpayers Union in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL TAXPAYERS UNION FOUNDATION—NEWS

RESTRICTIVE LANGUAGE: THE CLINTON-MITCHELL HEALTH CARE BILL VS. THE CRIME BILL—AUGUST 15, 1994

An analysis by the National Taxpayers Union Foundation has uncovered a possible reason for last week's failure of the crime bill and the grave difficulties for the Clinton-Mitchell-Gephardt health reform bills: the health bill is too focused on criminalizing medicine, while the crime bill is too focused on providing care and services to criminals. Word counts on the different bills reveal that in many ways the Clinton-Mitchell health bill introduced 10 days ago uses much more restrictive language than the crime bill.

Highlights on the textual analysis include:

The "Crime" bill uses 1,361 restrictive words, while the Clinton-Mitchell Health Care Bill uses 1,488.

While the "Crime" bill uses the word "limit" 33 times, the Clinton—Mitchell health care bill uses it 211 times.

The "Crime" bill uses the term "penalty" 53 times, but the Clinton-Mitchell health care bill uses it 112 times.

While the "Crime" bill uses the term "require" 207 times, the Clinton-Mitchell health care bill uses it 755 times.

The term "restrict" was found 3 times in the "Crime" bill and 34 times in Clinton-Mitchell.

"Sanction" was found eight times in the "Crime" bill and 22 times in Clinton-Mitchell.

The word "violate" occurs 63 times in the "Crime" bill and 113 in Clinton-Mitchell.

WORD COUNTS: CLINTON-MITCHELL HEALTH CARE BILL VERSUS CRIME BILL

	Clinton-Mitchell Health Care Bill	"Crime" Bill
Ban	0	1

WORD COUNTS: CLINTON-MITCHELL HEALTH CARE BILL VERSUS CRIME BILL—Continued

	Clinton-Mitchell Health Care Bill	"Crime" Bill
Criminal	30	437
Enforce	104	221
Fine	13	46
Limit	211	33
Obligation	44	9
Penalty	112	53
Prison	14	219
Prohibit	36	61
Require	755	207
Restrict	34	3
Sanction	22	8
Violate	113	63
Total	1,488	1,361

NTUF uncovered last week that besides substantial use of this language of control, the Clinton-Mitchell health care bill also imposes seven new federal racial, ethnic, and geographic quotas on those going into medicine, and the specialties; creates 109 new crimes and penalties (compared with 89 in the original Clinton bill); and implements price controls.

JOHN E. BERTHOUD,
Vice President for Research.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President; I yield 5 minutes to the distinguished Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, let me just make sure everyone understands what it is this amendment does.

First of all, it deletes the reference to $10,000. That is all it does. We have all cosponsored this particular amendment because we believe that there are other ways in which to achieve compliance, in the hope that we can begin working together on many of the issues. We will continue to find ways with which to try to work on many of these things together.

Mr. President, I want to go back to, again, the concerns expressed by many of our colleagues on the other side with regard to Federal requirements. Let me read again from the bill offered by the distinguished Senator from Oklahoma. I have great admiration for him, but it is as clear as clear can be. They eliminate the entire exclusion for employer-provided health insurance in this bill, page 31, probably the single biggest tax increase of any bill offered on health this year. If we are going to eliminate the entire deductibility for employers for health insurance, I cannot think of a bigger tax increase than that.

Second, I am reading now from the bill, subtitle B, federally qualified health insurance plan.

A federally qualified health insurance plan is a health insurance plan offered, issued or renewed on or after January 1, 1997, which is certified by the applicable regulatory authority as meeting the minimum requirements of sections 112 and 113.

Mr. President, if that is not what we are talking about here, benefits delineated, benefits required to be observed and adhered to, I do not know what is.

Let us go to the bill offered by our distinguished colleague from Rhode Island, Senator CHAFEE. I am reading the following from page 217. They were talking earlier about the concerns about taxes and the fines imposed for failure to comply. Here is what Senator CHAFEE would propose. I am reading from the bill:

There is hereby imposed a tax on the failure of any person or plan to comply with the requirements of section 1004 or 1201. The tax is $100 a day for lack of compliance.

Here it says the amount of the tax imposed shall be $100 per day, per employee.

Mr. President that is a $35,000 tax per year for failure to comply. So I think we better understand.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. Yes.

Mr. KENNEDY. That means, if they had 10 employees, if they eliminate that for 10 employees, just that 1 employer, under this provision, it would be some $36,000.

Mr. DASCHLE. That is what it says on page 217 and 218.

Mr. KENNEDY. They describe that as a tax.

Mr. DASCHLE. And they call it a tax. The point is, in fact, we do not disagree, necessarily, with the need for some compliance. The bottom line is, we all recognize that we have all written bills that state the importance of having some minimal expectation of what these plans will do. Why do we do that? We do that very simply because we have been told over and over again, "If you fix one thing, take out the fine print. Take out the big surprises."

Let us make sure we do not pass a fine print guarantee here in the legislation we are passing. That is really what we are trying to do here.

There are too many cases where people have been adversely affected by the surprises that they are encountered with every time they need their insurance. We want to take the surprises out. We want to make sure there is competition, not on how we can confuse the public but how we can take benefits side by side and compare them adequately, just as we did with Medigap, just as we have done on other occasions, other consumer protections.

We recognize the need for forthright information, for truth and honesty in marketing. And that really is what this standard benefits plan will do.

Again, let me emphasize that is not the issue in this amendment. This amendment is simply one which deals with the $10,000 fine. We will deal with it. We will find other ways with which to ensure compliance. But let us make sure we all understand the importance of having minimal expectations for whatever plan we pass for health reform this year.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, my friend, the Republican manager, was generous in yielding time to the Senator from Ohio for discussions on another matter.

Their time having effectively expired, I would like to yield the balance of our time to the Senator from Oregon.

Mr. COATS. I do not know how much time we have, but I wonder if the Republican manager of the bill would yield me 1 minute.

Mr. PACKWOOD. The chairman has been very generous in yielding the rest of his time. I just want to find out how much it is.

The PRESIDING OFFICER. Four and a half minutes.

Mr. PACKWOOD. I want to yield some time to respond for the Senator from Oklahoma. I yield 3 minutes to the Senator from Oklahoma and the remainder of the time to the Senator from Indiana.

Mr. NICKLES. Mr. President, I would like to respond to my friend and colleague from South Dakota.

He alluded again to our consumer choice plan. I appreciate the attention it has received today and I hope it receives a lot more.

He said, "Well, he eliminated the tax exclusion. That is a large tax increase." What he fails to mention is we replaced it with a tax credit, a tax credit that was more generous than the tax exclusion. The tax exclusion on health care applies to people who work for employers. And if your employer subsidizes your health care, you do not have to pay taxes on what they pay. It is a nice benefit, if you have a generous employer. But it does not do anything for somebody that does not have a job and it does not do anything for somebody that works for an employer that does not pay or subsidize your health care.

So we say, let us replace that exclusion that has only been to a certain portion and make it a tax credit and make it universal, so I would like to correct my friend and colleague.

Then we say, to qualify, you have to offer tax benefits, but we do not define the benefits. We let people choose whatever they want.

Unfortunately, under the Clinton-Mitchell plan, you have to offer a Government-defined, mandated standard benefits package and if you offer something else, you are subject to a $10,000 fine. We are going to get rid of that $10,000 fine. But we still have the Government mandating that you have to provide a very expensive, extensive health benefit of about $6,000 per family, which, unfortunately, a lot of families cannot afford.

I thank my friend and colleague from New York for yielding the time.

Mr. President, I ask unanimous consent that Senator COVERDELL and Senator THURMOND be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The Senator from Indiana.

Mr. COATS. Mr. President, I find it somewhat ironic that, just a couple of days after the majority leader and others of our colleagues criticized the Republicans for trying to take some time to find out what is in the bill, now we are told that we ought to find out what the surprises are in the Mitchell bill and eliminate those surprises. I think that is what we were trying to do. We were trying to work through this 1,443 page bill.

We have learned that graduate medical education is a potential serious problem. We have learned now that there is a $10,000 fine that no one even knew about.

It is hard for me to understand how our colleagues, on the one hand, can say you have had plenty of time to understand all of this, and now they are standing up, saying, "Well, we did not know about this, either, so we will join with you in taking it out." I just do not think you can have it both ways.

The bottom line is, this is a massive bill, full of surprises. The more we read it, the more surprises we find.

And so, our request for some time to understand what is in this bill before we impose it on the American people, I think, is a legitimate request. I am glad we are now working through the process. I just wonder how many more surprises we are going to find.

But I am pleased that our colleagues are joining us in exposing the problems in the Mitchell bill and beginning, piece by piece, to eliminate those surprises so that we understand what it is we are voting on when we finally have this vote.

If there is any time remaining, I am happy to yield it back.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I yield back the remainder of the time I have.

The PRESIDING OFFICER. All time is yielded back.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 2563

The PRESIDING OFFICER. The vote now occurs on amendment No. 2563, offered by the Senator from Oklahoma [Mr. NICKLES].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—100

Akaka	Boren	Bumpers
Baucus	Boxer	Burns
Bennett	Bradley	Byrd
Biden	Breaux	Campbell
Bingaman	Brown	Chafee
Bond	Bryan	Coats
Cochran	Heflin	Murkowski
Cohen	Helms	Murray
Conrad	Hollings	Nickles
Coverdell	Hutchison	Nunn
Craig	Inouye	Packwood
D'Amato	Jeffords	Pell
Danforth	Johnston	Pressler
Daschle	Kassebaum	Pryor
DeConcini	Kempthorne	Reid
Dodd	Kennedy	Riegle
Dole	Kerrey	Robb
Domenici	Kerry	Rockefeller
Dorgan	Kohl	Roth
Durenberger	Lautenberg	Sarbanes
Exon	Leahy	Sasser
Faircloth	Levin	Shelby
Feingold	Lieberman	Simon
Feinstein	Lott	Simpson
Ford	Lugar	Smith
Glenn	Mack	Specter
Gorton	Mathews	Stevens
Graham	McCain	Thurmond
Gramm	McConnell	Wallop
Grassley	Metzenbaum	Warner
Gregg	Mikulski	Wellstone
Harkin	Mitchell	Wofford
Hatch	Moseley-Braun	
Hatfield	Moynihan	

So the amendment (No. 2563) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I would just like to observe that on this, the second vote on the Mitchell amendment, we have had a bipartisan vote of 100–0. A bipartisan measure has been adopted. It is a good sign.

I yield the floor.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FEINGOLD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of calendar Nos. 568 and 574; that the bills be read three times, passed, and the motion to reconsider be laid upon the table en bloc; further, that any statements relating to these calendar items appear at the appropriate place in the RECORD; and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

WARREN B. RUDMAN U.S. COURTHOUSE

A bill (S. 2073) to designate the U.S. courthouse that is scheduled to be constructed in Concord, NH, as the "Warren B. Rudman United States Courthouse," and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time and passed as follows:

S. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF WARREN B. RUDMAN UNITED STATES COURTHOUSE.

The United States courthouse that (as of the date of enactment of this Act) is scheduled to be constructed in Concord, New Hampshire, shall be known and designated as the "Warren B. Rudman United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, regulation, document, record, map, or other paper of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Warren B. Rudman United States Courthouse".

THOMAS F. EAGLETON U.S. COURTHOUSE

A bill (H.R. 4790) to designate the U.S. courthouse under construction in St. Louis, MO, as the "Thomas F. Eagleton United States Courthouse," was considered, ordered to a third reading, read the third time and passed.

Mr. FORD. I thank the Chair, I thank my colleague and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH SECURITY ACT

The Senated continued with the consideration of the bill.

AMENDMENT NO. 2564

(Purpose: To improve the access of individuals in rural areas to quality health care)

Mr. DASCHLE. I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. HARKIN, Mr. ROCKEFELLER, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 2564.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 112, line 6, insert "including residents of rural areas" before the period.

On page 215, line 10, strike "(c)" and insert "(d)".

On page 215, between lines 9 and 10, insert the following new subsection:

(c) TRANSFER OF DUTIES.—Effective January 1, 1996, the functions, powers, duties, and authority that were carried out in accordance with Federal law by the Office of Rural Health Policy in the Department of Health and Human Services are transferred to the Office of the Assistant Secretary for Rural Health in the Department of Health and Human Services.

On page 612, line 24, insert before the period the following: ", at least one of whom resides in a rural area".

On page 613, line 9, insert before the period the following: ", at least one of whom resides in a rural area".

On page 647, strike lines 25 and 26, and insert the following:

"For purposes of carrying out section 3341, there are authorized to be appropriated $15,000,000 for each of the fiscal years 1997 through 2001.".

On page 664, line 10, strike "or health professional shortage areas" and insert "area, health professional shortage area, or other rural underserved area (as designated by the Governor)".

On page 651, between lines 9 and 10, add the following new paragraph:

(3) SUBPART F.—For the purpose of providing funds under subpart F, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000.

On page 652, line 18, strike "and".

On page 652, between lines 18 and 19, insert the following new paragraph:

"(7) rural health clinics, except that for-profit rural health clinics shall only be eligible for direct loans and grants under subpart C; and".

On page 652, line 19, strike "(7)" and insert "(8)".

On page 653, after line 23, add the following new subsection:

(f) PURPOSES AND CONDITIONS.—Grants shall be made under this part for the purposes and subject to all of the conditions under which eligible entities otherwise receive funding to provide health services to medically underserved populations under the Public Health Service Act. The Secretary shall prescribe comparable purposes and conditions for eligible entities not receiving funding under the Public Health Service Act, including conditions with respect to the availability of services in the area served (as provided for in section 330(e)(3)(A) of such Act), and conformance of fee and payment schedules with prevailing rates (as provided for in section 330(e)(3)(F) of such Act). With respect to federally qualified health centers, such comparable purposes and conditions shall include conditions concerning sliding fee scales under section 1128B(b)(3)(D) of the Social Security Act and waivers of deductibles under section 1833(d) of such Act.

On page 672, line 1, strike the subsection heading and insert "FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS".

On page 673, line 3, insert "and rural health clinics" after "Act)".

On page 675, between lines 16 and 17, add the following new subpart:

Subpart F—Rural-Based Managed Care Grants

SEC. 3467. RURAL-BASED MANAGED CARE GRANTS.

(a) IN GENERAL.—The Secretary shall award grants for the development and operation of rural-based managed care networks that integrate the medicare population of the area served.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an applicant organization shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary may require;

(2) be based or provide services in rural or rural underserved areas; and

(3) be currently operating or in the process of establishing a provider network serving the nonmedicare population.

(c) USE OF FUNDS.—Funds provided under a grant under this section may be used—

(1) for the development and implementation of rural-based managed care networks;

(2) for data and information systems, including telecommunications;

(3) for meeting solvency requirements for a risk-bearing entity under the medicare program under title XVIII of the Social Security Act;

(4) for the recruitment of health care providers; or

(5) for enabling services, including transportation and translation.

(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to—

(1) applicants that will use amounts received under the grant to develop and operate rural-based managed care networks that would serve at least one rural underserved area; and

(2) applicants that involve local residents and providers in the planning and development of the rural-based managed network.

(e) DEFINITIONS.—As used in this section

(1) RURAL AREA.—The term "rural area" means a rural area as described in section 1886(d)(2)(D) of the Social Security Act.

(2) UNDERSERVED RURAL AREA.—The term "underserved rural area" means a health professional shortage area under section 332 of the Public Health Service Act (42 U.S.C. 254e) or an area designated as underserved by the Governor of a State taking into account—

(A) financial and geographic access to health plans by residents of such area; and

(B) the availability, adequacy, and quality of qualified providers and health care facilities in such area.

(f) STUDY.—The Secretary shall study different risk-bearing approaches for rural managed care and payment methodologies that differ from or modify the medicare average area per capita cost payment methodology.

Beginning on page 675, strike line 24 and all that follows through line 4 on page 676, and insert the following: "priated $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act.".

On page 676, line 10, strike "NURSES" and insert "ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS".

On page 676, line 20, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 676, lines 21 and 22, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 677, between lines 13 and 14, add the following new parts:

PART 4—ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS

SEC. 3491. ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission, shall clarify existing and future policy guidelines, with respect to safe harbors, by providing additional illustrative examples with respect to the conduct of activities relating to the provision of health care services in rural areas.

(b) DISSEMINATION OF INFORMATION.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission and the Assistant Secretary for Rural Health, shall develop methods for the dissemination of the guidelines established under subsection (a) to rural health care providers.

PART 5—EMERGENCY MEDICAL SYSTEMS

SEC. 3495. GRANTS TO STATES REGARDING AIRCRAFT FOR TRANSPORTING RURAL VICTIMS OF MEDICAL EMERGENCIES.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1252. GRANTS FOR SYSTEMS TO TRANSPORT RURAL VICTIMS OF MEDICAL EMERGENCIES.

"(a) IN GENERAL.—The Secretary shall make grants to States to assist such States in the creation or enhancement of air medical transport systems that provide victims of medical emergencies in rural areas with access to treatments for the injuries or other conditions resulting from such emergencies.

"(b) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application in such form, made in such manner, and containing such agreements, assurances, and information, including a State plan as required in paragraph (2), as the Secretary determines to be necessary to carry out this section.

"(2) STATE PLAN.—An application submitted under paragraph (1) shall contain a State plan that shall—

"(A) describe the intended uses of the grant proceeds and the geographic areas to be served;

"(B) demonstrate that the geographic areas to be served, as described under subparagraph (A), are rural in nature;

"(C) demonstrate that there is a lack of facilities available and equipped to deliver advanced levels of medical care in the geographic areas to be served;

"(D) demonstrate that in utilizing the grant proceeds for the establishment or enhancement of air medical services the State would be making a cost-effective improvement to existing ground-based or air emergency medical service systems;

"(E) demonstrate that the State will not utilize the grant proceeds to duplicate the capabilities of existing air medical systems that are effectively meeting the emergency medical needs of the populations they serve;

"(F) demonstrate that in utilizing the grant proceeds the State is likely to achieve a reduction in the morbidity and mortality rates of the areas to be served, as determined by the Secretary;

"(G) demonstrate that the State, in utilizing the grant proceeds, will—

"(i) maintain the expenditures of the State for air and ground medical transport systems at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received; and

"(ii) ensure that recipients of direct financial assistance from the State under such grant will maintain expenditures of such recipients for such systems at a level at least equal to the level of such expenditures maintained by such recipients for the fiscal year

VOL 140 PT 16 AG 12 — 18 1994 UMI

preceding the fiscal year for which the financial assistance is received;

"(H) demonstrate that persons experienced in the field of air medical service delivery were consulted in the preparation of the State plan; and

"(I) contain such other information as the Secretary may determine appropriate.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—In determining whether to award a grant to a State under this section, the Secretary shall—

"(1) consider the rural nature of the areas to be served with the grant proceeds and the services to be provided with such proceeds, as identified in the State plan submitted under subsection (b); and

"(2) give preference to States with State plans that demonstrate an effective integration of the proposed air medical transport systems into a comprehensive network or plan for regional or statewide emergency medical service delivery.

"(d) STATE ADMINISTRATION AND USE OF GRANT.—

"(1) IN GENERAL.—The Secretary may not make a grant to a State under subsection (a) unless the State agrees that such grant will be administered by the State agency with principal responsibility for carrying out programs regarding the provision of medical services to victims of medical emergencies or trauma.

"(2) PERMITTED USES.—A State may use amounts received under a grant awarded under this section to award subgrants to public and private entities operating within the State.

"(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make a grant to a State under subsection (a) unless that State agrees that, in developing and carrying out the State plan under subsection (b)(2), the State will provide public notice with respect to the plan (including any revisions thereto) and facilitate comments from interested persons.

"(e) NUMBER OF GRANTS.—The Secretary shall award grants under this section to not less than 7 States.

"(f) REPORTS.—

"(1) REQUIREMENT.—A State that receives a grant under this section shall annually (during each year in which the grant proceeds are used) prepare and submit to the Secretary a report that shall contain—

"(A) a description of the manner in which the grant proceeds were utilized;

"(B) a description of the effectiveness of the air medical transport programs assisted with grant proceeds; and

"(C) such other information as the Secretary may require.

"(2) TERMINATION OF FUNDINGS.—In reviewing reports submitted under paragraph (1), if the Secretary determines that a State is not using amounts provided under a grant awarded under this section in accordance with the State plan submitted by the State under subsection (b), the Secretary may terminate the payment of amounts under such grant to the State until such time as the Secretary determines that the State comes into compliance with such plan.

"(g) DEFINITION.—As used in this section, the term 'rural areas' means geographic areas that are located outside of standard metropolitan statistical areas, as identified by the Secretary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $15,000,000 for fiscal year 1995, and such sums as may be necessary for each for fiscal years 1996 and 1997.".

Beginning on page 718, strike line 23 and all that follows through line 5 on page 719, and insert the following new paragraph:

"(8) with respect to the National Health Service Corps program referred to in section 3471, $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act;".

On page 720, line 22, strike "; and" and insert a semicolon.

On page 720, between lines 22 and 23, insert the following new paragraph:

"(14) with respect to the development of rural telemedicine under section 3341, $15,000,000 for each of the fiscal years 1997 through 2001; and".

On page 720, line 23, strike "(14)" and insert "(15)".

On page 725, strike lines 7 through 11, and insert the following:

"(6) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

" '(1) IN GENERAL.—The Secretary shall use amounts made available under section 3471 of the Health Security Act to carry out this section in each of the fiscal years 1996 through 2000.' ".

On page 777, line 18, strike "and medical assistance facilities".

On page 780, line 3, insert "In the case of payment under this subsection to medical assistance facilities, the lesser-of-cost-or charges provisions under subsection (j) are not applicable." after "services.".

Beginning on page 808, strike line 16 and all that follows through page 809, line 4, and insert the following:

(2) by inserting "described in paragraph (2) and services furnished by a physician assistant, nurse practitioner, or a clinical nurse specialist described in such paragraph that would by physicians' services if furnished by a physician" after "physicians' services",

(3) by inserting "physician assistant, nurse practitioner, or a clinical nurse specialist" after "physician",

(4) by striking "10 percent" and inserting "the applicable percent", and

(5) by adding at the end the following new paragraph:

"(2)(A) The applicable percent referred to in paragraph (1) is—

"(i) in the case of physicians' services that are primary care services, a percent determined by the Secretary that may not be less than 10 percent and may not exceed 20 percent,

"(ii) in the case of services furnished by a physician assistant, nurse practitioner, or a clinical nurse specialist described in such paragraph that would be physicians' services that are primary care services if a physician furnished the services, a percent to be determined by the Secretary that is equal to the percent determined in clause (i) and determined so that the total amount of such payments under this clause and clause (i) is equal to the amount that would have been paid under clause (i) if the applicable percent for such clause was equal to 20 percent, and

"(iii) in the case of physicians' services other than primary care services furnished in a health professional shortage area located in a rural area (as defined in section 1886(d)(2)(D)), 10 percent.

On page 873, line 20, insert "urban and rural" after "representative of the".

On page 874, line 1, insert ", at least one of whom resides in a rural area" before the first period.

On page 874, line 4, insert ", at least one of whom resides in a rural area" before the first period.

On page 1390, line 22, insert "and that at least one member of the Commission is a resident of a rural area" before the period at the end.

Mr. DASCHLE. I have a lengthier statement that I wish to make, but I will yield to the Senator from Iowa because I understand his time constraints and would yield at this time whatever time he may consume.

Mr. HARKIN. Mr. President, I first want to compliment my friend and my colleague from South Dakota for introducing this amendment. I am pleased to be a cosponsor of it.

I wish to thank again Senator DASCHLE for all of his hard work not only on the whole issue of health care reform in America but for his paying especially close attention to the needs in rural America to be addressed specifically in any health care reform that we pass.

Rural America is not like urban America, and too often we lose sight of the fact that what may work in New York City or Boston or other places like that will not necessarily work in a rural State like South Dakota or Iowa or many of our rural States. And so the amendment offered by the Senator from South Dakota builds on the provisions in the Mitchell bill that will expand coverage for Americans in our rural towns and communities.

Mr. President, perhaps nowhere else is the health care crisis more acute than in rural America. Rural Americans are more often poor, more often uninsured, and more often without access to health care.

Now, the Mitchell bill provides funding to build up the health care infrastructure in rural areas. It provides grant money and loans to help local communities develop health care networks and plans. There are many provisions in the underlying Mitchell bill and in the Daschle amendment that speak to the different needs in rural America. There are many provisions in the Daschle amendment that strengthen those underlying provisions.

I wish to focus my remarks particularly on one of those provisions included in the Daschle amendment, and that is that part which provides funding for a grant program that will expand access to health services in rural areas through the use of telemedicine.

Over a year ago, I introduced similar legislation and have worked with Senator CONRAD from North Dakota to develop what is now in the underlying Mitchell proposal. The amendment now under consideration will ensure that this grant program is funded.

The grant program in the Mitchell bill would encourage the development of telemedicine networks which can play a critical role in ensuring that people in rural areas have access to high quality health care. Telemedicine puts technology to work to improve the delivery of health care. It uses technology to link patients and their doctors in rural or remote hospitals with highly trained medical specialists in state-of-the-art medical technology located hundreds or even thousands of miles away. These linkages will allow more patients to receive care in their community and will ease the burden on specialists in underserved areas. By increasing the education and training opportunities for providers in these areas, these links will also help underserved communities recruit and retain physicians.

Telemedicine will help ensure that people who live in small towns and rural communities have the same access to quality health care as people living in Beverly Hills or in Palm Beach. As I said, Mr. President, by having these telemedicine networks, it will certainly help provide for the training, the education, and I think, the recruitment and retaining of physicians and other health specialists in rural areas.

Too often, doctors who might otherwise want to serve in a rural area feel they do not have access to the latest technology and the latest diagnostic services. They are sort of out there on a limb in many cases when people need emergency medical care and they may not have that kind of ready access to the special care that they would otherwise be able to get in an urban area.

Well, telemedicine can provide to that primary care physician or a physician's assistant or a nurse practitioner, a nurse midwife, other health care professionals can provide for them that kind of backup they need.

Rural hospitals and other facilities can benefit from the cost savings and the access to specialists that telemedicine provides.

For example, a family doctor in Muscatine, IA, could immediately consult with a specialist at the University of Iowa for an instant diagnosis in a life or death situation. A specialist at Mercy Hospital in Des Moines could provide emergency advice and even help oversee a difficult surgery taking place in a small hospital in Centerville, IA, and a radiologist at Methodist Hospital in Des Moines could help examine x rays just taken in the small town of Jefferson, IA.

My home State of Iowa, Mr. President, has developed a world-class fiber-optic system that holds great potential in the area of telemedicine. These fiber-optic cables greatly enhance the potential of telemedicine because they carry not only more information than traditional copper wires but they also provide more clarity—clearer pictures, higher resolution—than copper wires.

The Iowa Legislature just this year, Mr. President, voted to extend our fiber-optic system to all of the hospitals in Iowa. That should be done I think by next year sometime. With that kind of system, here is what telemedicine will provide, for example.

Let us say that there was a car accident in a remote, rural area of Iowa. They had access to a small clinic or a small rural hospital but with no special care there. X rays could be taken, and those x rays could be sent over fiber-optics to be read immediately by a radiologist, say, in Des Moines or Omaha, maybe even at the Mayo Clinic in Rochester for northern Iowans and a decision could be made whether or not that person needed to be moved to a more intensive care unit or whether that person could remain in the smaller rural hospital, thus saving great amounts of money.

There are all kinds of possibilities for rural doctors to use telemedicine to ensure that they get the latest information and the latest diagnostic techniques to a rural clinic in a small town.

Telemedicine will allow patients to stay close to home for support. For most people, one of the most traumatic times is when they are sick or injured, and we should be helping them stay with their family and friends.

I am not saying there will be times when people will not have to go far away from home for treatment, nor am I saying that telemedicine will replace local doctors or the need for specialists. But whenever possible, telemedicine will facilitate local care and provide needed relief for overworked small town doctors, nurses, and other health care providers.

I have looked over very carefully Senator MITCHELL's bill because on the Labor and Health Committee I was very much involved with other Senators in putting in very strong provisions for rural health care, and those provisions basically have been adopted in the Mitchell bill—not all of them, most of them. Those positions are strengthened now by the Daschle amendment.

Senator MITCHELL's bill will expand access to care for rural Americans, access to the Federal Employees Health Benefits plan, or another purchasing cooperative will help keep the cost of coverage down for rural residents. Many people in the rural areas are either self-employed or work in small businesses, and currently pay much more than big businesses for the same benefits. And they face much higher administrative costs.

The insurance reform provisions in the Mitchell bill are critical for rural residents, particularly for our farmers. Farming is now the most dangerous occupation in America with annual death rates at 52 per 100,000 workers, almost five times the national average. Under the Mitchell bill, farmers will have access to a community rated plan. This means that farmers in a given area will be charged the same premium for health insurance regardless of their occupational risk. In addition, health plans will not be able to deny coverage because of preexisting conditions.

Under the current system, the self-employed can only deduct 25 percent of the cost of health insurance while, of course, corporations can deduct the full cost of coverage. The Mitchell bill would raise the deduction for the self-employed to 50 percent. I support this increase. Senator WOFFORD, who I see is on the floor, and I intend to offer an amendment that will raise this to 100 percent.

I again want to compliment the Senator from Pennsylvania for his leadership. He understands that our farmers and our self-employed ought to have the same kind of tax deduction as a large business would have in providing for their own health insurance. I congratulate Senator WOFFORD for taking a leadership position in this area.

Allowing the self-employed to deduct the full 100 percent of the costs of the premium is critical in rural areas where the only health plan available is often a more expensive fee-for-service plan. It is time that we put the self-employed and corporations on equal footing. Again, that is not addressed in this amendment but will be addressed in the amendment to be offered by Senator WOFFORD.

To address the critical need for health care providers in rural areas the Mitchell bill focuses on training more primary care doctors, and also provides incentives for health providers to locate in rural areas.

The Mitchell bill would increase funding for the National Health Service Corps, which places about 55 percent of their providers in rural areas. The amendment offered by Senator DASCHLE would expand support for this program. Forty National Health Service Corps members are currently providing care in 20 sites in Iowa. And yet there is still a shortage of providers in many of our Iowa communities. We have 18 counties in Iowa that do not have a doctor that will deliver babies, and an additional 14 counties have only one doctor who will deliver babies. Right now with the National Health Service Corps we have 47 bases in Iowa right now. These are communities who are eligible, and who have applied, and are on the waiting list to get a National Health Service Corps provider.

The need to expand funding for the National Health Service Corps is very clear. Last year there were 4,000 applications, and yet we were able to fund only 406 of those applications. The funding provided by the Daschle amendment will allow us to return the National Health Service Corps to its strength prior to 1980 when the program was gutted.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Again, I point out that there are provisions in the so-called Dole bill that would provide authorization for expanded funding for National Health Service Corps.

Mr. President, with the budget caps and the ceilings that we have on right now, that authorization is worthless. It is meaningless. It sounds nice. But it does not do anything. So the Dole bill really does not address the need to fund the National Health Service Corps. The Daschle amendment does. It provides a stream of funding for the National Health Service Corps.

So some get up and say perhaps this is the same as in the Dole bill. It is quite a bit different, Mr. President. This provides the funding. The Dole bill only provides the promise.

In order to recruit doctors and nurses to rural areas, the Mitchell bill also provides tax credits for primary care providers serving in underserved areas.

I am also pleased that the amendment offered by Senator DASCHLE would expand support for rural health clinics. Rural health clinics are located in health professional shortage areas, and are often the only source of care in a community.

I have visited a number of these in Iowa, including the Redfield Clinic in Redfield, IA. Most of the patients in this clinic are seen by Ed Friedman, a physician's assistant, who also sees patients in five area nursing homes. Physicians visit the clinic once a week, and are always available by phone.

Over one-half of the patients seen in this clinic are Medicaid or Medicare patients. Of course, with telemedicine, Ed Friedman, a physician's assistant, will have ready access at all times to specialists in Iowa, and perhaps even in other States to back him up.

This rural health clinic in Redfield is an essential element of the health care system in rural Iowa. I am pleased that the amendment offered by Senator DASCHLE will provide assistance for clinics such as this one.

Mr. President, I am pleased to support the amendment offered by Senator DASCHLE.

I urge its adoption by my colleagues.

Again, I will close my remarks by complimenting the Senator from South Dakota by focusing our attention on rural health care.

I believe the bill that we reported out of the labor and health committee addressed these issues. Now for whatever reason they were not as tightly formed in the Mitchell bill. But this amendment addresses that, brings them up to speed, and brings these back up to the level we had in the labor and health bill, but for the provision of the 100 percent deductibility, and for which, as I said earlier, an amendment will be offered to correct that by Senator WOFFORD from Pennsylvania.

Mr. President, as we continue the debate on the health care reform bill, and we continue all the talking about this amendment, and that amendment about employer mandates and other things that we are going to be talking about, let us not lose sight of the fact that people who live in rural America, as I said, are more often poor and more often underserved than anywhere else in this country.

If any group of Americans need health care reform, it is the people who live in our small towns in rural America. They are not getting access because they do not have the providers. They do not have the providers because the system is skewed against providers being able to serve in underserved areas.

The Mitchell bill addresses all of that. It does it in a very forthright manner. The Daschle amendment enhances that and strengthens that, especially, as I point out one more time, in funding for the National Health Service Corps. That is most critical to make sure that our people in rural areas have the kind of access and quality of care that they not only need, but they deserve.

Mr. President, I thank the Senator from South Dakota for yielding this time.

I yield the floor.

STATEMENT UNDER SECTION 27 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, on behalf of the Committee on the Budget, under section 27 of the concurrent resolution on the budget, House Concurrent Resolution 218, I hereby submit revised budget authority and outlay allocations to the Senate Committee on Finance and revised aggregates in connection with the Daschle amendment to the Mitchell substitute amendment (number 2560) to S. 2351, the Health Security Act.

Section 27 of the budget resolution states, in relevant part:

SEC. 27. DEFICIT-NEUTRAL RESERVE FUND IN THE SENATE.

(a) * * *

(2) BUDGET AUTHORITY AND OUTLAY ALLOCATIONS AND REVENUE AGGREGATES.—In the Senate, budget authority and outlays may be allocated to a committee (or committees) and the revenue aggregates may be reduced (as provided under subsection (c)) for direct-spending or receipts legislation in furtherance of any of the purposes described in subsection (b)(2) within that committee's jurisdiction, if, to the extent that this concurrent resolution on the budget does not include the costs of that legislation, the enactment of that legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

* * * * *

(b) * * *

(2) PURPOSES UNDER SUBSECTION (a)(2).—Budget authority and outlay allocations may be revised or the revenue floor reduced under subsection (a)(2) for—

* * * * *

(B) to make continuing improvements in ongoing health care programs, to provide for comprehensive health care reform, to control health care costs, or to accomplish other health care reforms;

* * * * *

(c) REVISED ALLOCATIONS AND AGGREGATES.—

(1) UPON REPORTING.—Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on that legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate may submit to the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised aggregates to carry out this section.

(2) ADJUSTMENTS FOR AMENDMENTS.—If the chairman of the Committee on the Budget submits an adjustment under this section for legislation in furtherance of the purpose described in subsection (b)(2)(B), upon the offering of an amendment to that legislation that would necessitate such a submission, the chairman shall submit to the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised aggregates, if the enactment of that legislation (as proposed to be amended) will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(d) EFFECT OF REVISED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates submitted under subsection (c) shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this concurrent resolution on the budget.

On August 9, 1994, I submitted an adjustment under this section for S. 2351, the Health Security Act. Within the meaning of section 27(c)(2) of the budget resolution, the Health Security Act constitutes "legislation in furtherance of the purpose described in subsection (b)(2)(B)."

The Daschle amendment to the Health Security Act also meets the other requirement of section 27(c)(2) of the budget resolution that

the enactment of that legislation (as proposed to be amended) will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

As the Daschle amendment to the Health Security Act complies with the conditions set forth in the budget resolution, under the authority of section 27(c)(2) of the budget resolution, I hereby submit to the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) and revised aggregates to carry out this subsection.

Note that, as this reserve fund submission accommodates an amendment, it covers the time that the amendment is either pending or adopted (if the amendment is adopted). If the Senate rejects the amendment, this reserve fund submission shall lapse, and the allocations and aggregates shall revert to the levels they would have in the absence of this reserve fund submission.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

RESERVE FUND FILING PURSUANT TO SECTION 27 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FY 1995—DASCHLE RURAL AMENDMENTS

[Adjustments to aggregates and allocations, dollars in billions]

Aggregate totals	1995	1996	1997	1998	1999
Budget authority	$0.000	$0.125	$0.165	$0.180	$0.205
Outlays	0.000	0.060	0.130	0.168	0.190
Revenues	0.000	0.060	0.130	0.168	0.190

	1995	1995–99
Finance Committee allocations:		
Budget authority	$0.000	$0.675
Outlays	0.000	0.548
Revenue allocations	0.000	0.548

AMENDMENT NO. 3: DASCHLE RURAL AMENDMENTS (NO.)

[In billions of dollars]

	1995	1996	1997	1998	1999	15-year
MANDATORY CHANGES						
Budget authority	$0.000	0.125	0.165	0.180	0.205	0.675
Outlays	0.000	0.060	0.130	0.168	0.190	0.548
Revenues	0.000	0.000	0.000	0.000	0.000	0.000
Deficit	0.000	0.060	0.130	0.168	0.190	0.548
SOCIAL SECURITY						
Revenues	0.000	0.000	0.000	0.000	0.000	0.000
Outlays	0.000	0.000	0.000	0.000	0.000	0.000
Deficit	0.000	0.000	0.000	0.000	0.000	0.000
RESERVE FUND ADJUSTMENT						
Finance:						
Budget authority	0.000	0.125	0.165	0.180	0.205	0.675
Outlays	0.000	0.060	0.130	0.168	0.190	0.548
Revenues	0.000	0.060	0.130	0.168	0.190	0.548

AMENDMENT NO. 3: DASCHLE RURAL AMENDMENTS (NO.)

[In billions of dollars]

	2000	2001	2002	2003	2004	6–10 year
MANDATORY CHANGES						
Budget authority	0.249	0.015	0.000	0.000	0.000	0.264
Outlays	0.223	0.132	0.034	0.002	0.000	0.391
Revenues	0.000	0.000	0.000	0.000	0.000	0.000
Deficit	0.223	0.132	0.034	0.002	0.000	0.391
SOCIAL SECURITY						
Revenues	0.000	0.000	0.000	0.000	0.000	0.000
Outlays	0.000	0.000	0.000	0.000	0.000	0.000

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the bill before this body that was introduced by the majority leader I believe provides a sound strategy for addressing many of the health care problems that face rural Nevada and rural America. Senator MITCHELL's bill will guarantee a comprehensive set of standard benefits for all Americans. It will expand coverage—extremely important for rural America where there is a disproportionate number of underinsured people, and Medicare and Medicaid populations—and will channel resources to rural areas.

The Mitchell bill also increases access to care by designating rural health clinics as essential community providers and in providing funding for enabling services like transportation, education, and outreach.

The bill also provides funding for community health programs, increases funding for the National Health Service Corps, and encourages cooperative relationships among urban and rural providers.

Mr. President, the amendments that are being offered today will build on the strong foundation laid by the majority leader's legislation. This amendment that is authored and sponsored by the Senator from North Dakota, and the junior Senator from West Virginia, the senior Senator from Montana, and the Senator from Nevada and, of course, Senator HARKIN who just spoke so eloquently about a provision of the rural amendment that is certainly the wave of the future—that is, telemedicine, so that people in rural America can have access to the finest care available.

These amendments are necessary because the health care crisis facing this Nation is felt every day by the millions of people across this country who live in rural areas, where there are few, if any, primary care physicians. The lack of access to qualified primary care providers in rural areas is a critical symptom that our current system is badly broken.

Unfortunately, Mr. President, for the rural population in the State of Nevada, health profession shortages are a daily fact of life. Nevada is much different than many of the other States in the Union. Even though it is the seventh largest State, including Alaska and Hawaii, in area, it is a small State in population. I think we are 36th or 37th in population. But unlike many of the other counties—I hear my colleagues here in the Senate talk about going back to their States and visiting dozens of counties on a weekend. Well, you cannot do that in Nevada. Nevada is about 80 million acres, consisting of only 17 counties. We have many counties larger than States. Thirteen of these seventeen counties are identified as health profession shortage areas. Eleven of our seventeen counties are classified as frontier. What does that

VOL 140 PT 16 AG 12 — 18 1994 UMI

mean? It means there are six persons or fewer per square mile, and more than 45 miles between medical service sites.

The loneliest road in the United States has been designated to be in Nevada. Four of tne seventeen counties are classified as rural. So we have, Mr. President, 11 counties that are classified as frontier and 4 counties that are classified as rural. So we have 15 of the 17 counties that are sparsely populated, and most of them are very large. The only two counties in the State of Nevada that have large cities in them are the counties of Clark and Washoe. Clark County is where Las Vegas is located. Washoe County is where Reno is located. The rest of our counties are—except for Storey—large in area and sparsely populated.

In the State of Nevada, distances between major rural towns average 100 miles, with distances of 180 to 200 miles in more isolated areas. There are some people within the sound of my voice who have driven from Las Vegas to Reno or vice versa, and that is a long, lonely drive. But as long and as lonely as that is, it is still not the loneliest road in Nevada. We have a number of roads that are longer and more isolated than that area.

As an example, Pershing County, encompassing greater than 6,000 square miles, has only one physician and no physician assistants to service this population of almost 5,000 people. Recruitment efforts have been complicated by intense competition for the limited number of primary care graduates. Esmeralda and Storey Counties have no resident physicians. Other health professionals are also scarce. Rural acute care hospitals have experienced nursing vacancy rates of 17 percent.

I have given this illustration about rural health, Mr. President, and especially focused on Nevada, to indicate that we do have problems in Nevada and in our country with rural health. But no one should think that rural America is only the western part of the United States. There are many rural communities in a State like Massachusetts. There are rural communities in almost every State of the Union. So this legislation is not select legislation for the people of the State of Nevada or the State of Idaho, the State of West Virginia, the State of Montana, or the State of Iowa.

Mr. President, because of the unique characteristic of rural areas and the geographical and resource limitations faced by rural providers, I believe it is imperative that rural providers, consumers, and patient advocacy groups are represented on all of our national advisory committees. One of the amendments in this package, submitted as the rural amendment, deals with that.

Rural health care needs are much different than those of urban areas. A recent study done by the National Rural Electric Cooperative shows that although both urban and rural residents average 7 restricted-activity days resulting from illness, rural residents miss more days from major activity than those in urban areas. Rural workers experience more health problems at work.

As the Senator from Iowa stated, agriculture is a very dangerous occupation. But, also, in Nevada we know how dangerous mining is. It is not as dangerous as it used to be because there is limited underground mining in Nevada. In the State of South Dakota, though, there is a very deep underground mine, and that is very dangerous. Agriculture and mining are America's most dangerous occupations and, of course, they are done in rural areas. Rural residents are also more likely to lack health care coverage than their urban counterparts. These differences should be understood and taken into account when developing policy recommendations and implementing quality standards.

Part of this package that was written by the Senator from Nevada deals with this. That is, when we develop health plan and policy recommendations and implement quality standards, there should be some input from rural America. That is what my part of the amendment deals with.

This amendment would require at least two rural representatives, one representing rural physicians and health care providers, and one representing rural consumers and members of patient advocacy groups on the Advisory Committee on Medical Technology and the National Quality Council. The Advisory Committee on Medical Technology is made up of experts in medical technology assessment, health statistics, and economics, as well as representatives from the durable medical equipment industry, pharmaceutical industry, and the biotechnology industry. The advisory committee must also have representation from consumers, members of patient advocacy groups, and health professionals, two of which must be from rural areas. This committee will assist in preparing a study of the impact of medical technology and treating disease.

Certainly rural America should be involved in this. The use of medical technology in treating disease and injury is especially important to rural areas. As an example, defibrillators are rarely used in urban areas. Why? Because they can get them to an acute care facility, emergency room, so quickly. But in rural America, our emergency medical technologists must know how to use defibrillators. Why? Because it takes them a long time to get the patient to an emergency room. So this is just one example of why we need input from rural America.

Rural input on the advisory committee would ensure appropriate consideration of the accessibility, impact, and use of medical technology in rural areas. The National Quality Council, consisting of 15 members, 2 of which must be from a rural area, will oversee a national program of quality management and improvement designed to enhance access and quality of care. The council is made up of individuals representing consumers, insurers, States, and health care providers. Many of the quality components in Senator MITCHELL's health care proposal are private, nonprofit-based programs.

Again, I repeat, the programs generally speaking, in Senator MITCHELL's legislation, do not create Government bureaus, agencies, but rather they are, generally speaking, private, nonprofit, State-based programs, a design that will streamline quality measures, and because of its local nature, will benefit from rural input on quality issues facing rural America.

This rural package of amendments will also place at least one rural representative on the seven-member National Health Care and Coverage Commission.

Rural America must be actively involved in the delivery of health care services assessing the role of medical technology and ensuring health care and recommendations regarding coverage and health care costs. The perspective of rural America is necessary to guarantee quality and affordable care to rural residents.

Let me say one more time the Mitchell bill does work to get rid of Government agencies and activities. I do not want to get into a debate at this time over comparing Mitchell's rural proposals and the Dole rural proposals. If anyone cares to enter into that debate, I will be happy to participate in that because clearly the Mitchell bill favors rural America as compared to the Dole bill.

In addition to that, while we are talking about boards and commissions, if you compare, as I would be happy to do it at some subsequent time, if someone cares to do so, if you want to compare the commissions and boards established in the Mitchell proposal, you will find that he has done a great deal to eliminate bureaucratic redtape.

But this is not the time to debate that. Perhaps one of the most important amendments in this package that I would comment on in addition to that that I talked about rural representation on boards and commissions is the one which provides full funding for the National Health Service Corps.

As I stated, there are two Nevada counties with no resident physicians and one county with only one physician for its residents spanning 6,000 miles. Recruitment efforts have been extremely difficult. Currently Nevada has 11 National Health Service Corps participants providing health care services to rural residents. They are essential. They are very important. They are imperative.

Fully funding the National Health Service Corps will greatly increase the availability of primary care health care providers to the underserved areas in my State and across this country.

In closing, let me say that rural health care delivery in America is important. There are 7.7 million rural Americans who now lack basic health insurance. Fourteen percent of rural residents are without health insurance at some point during the year. Almost 27 percent of the rural uninsured are children. Thirty-two percent of the non-elderly rural uninsured have family incomes below the poverty level.

We can make a case as to why we must reform our health care delivery system simply for rural Americans. If we came to this body and said we want to reform health care only for rural Americans, I think it would and should pass overwhelmingly. But we are coming with a package that not only takes care of rural Americans but urban Americans as well, and the amendment that we have submitted, Mr. President, will improve greatly the Mitchell bill as it relates to rural America.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to speak on the pending amendment and the subject of rural health care which relates to the entire issue of the Mitchell bill.

Mr. President, on the subject of the pending amendment I have not had a chance to study it all in great detail, but large portions of it are provisions that have been worked on by the Rural Health Caucus over a long period of time and are in fact very necessary to make sure that rural areas are treated fairly, in any massive reorganization of health care reform that we could pass yet this year.

However, I think we ought to consider why we have to give some special consideration to rural America in almost any bill that we pass. I do not care whether it is a Republican bill or a Democrat bill or a bipartisan bill, any massive reorganization of health care in America that is proposed by the most comprehensive bill, including President Clinton's own bill, ought to raise a red flag for people in rural America.

The reason is, very simply, without change of the health care delivery system in America, there are problems of the quantity and quality of the delivery of health care in rural America. There is already a problem. OK, maybe you would think, well, if you are passing a comprehensive bill, you are going to solve these problems.

There is too much in a comprehensive approach of health care reform that fits into the "one size fits all" pattern of things that we attempt to do in Washington, DC, I think, not only by some of the things we have done in past Congresses that have had a negative impact on the delivery of health care in rural America, and one of those is putting restrictions on Medicare reimbursement—that has had a very negative impact on rural America—but also if you look at national schemes in other countries, you find in these countries, as you have seen in some of the slight things we have done in rural America on Medicare and the impact on rural America, that rural areas of these countries come up short.

And so, I think a long time ago, when we first started talking about comprehensive reforms, even in 1992, as we were working, some of us Republicans were meeting every other Thursday morning for breakfast to work on what eventually became the CHAFEE bill and what we were hoping to get President Bush interested in doing, we felt that we had to have some special considerations for rural America.

Mr. REID. Will the Senator from Iowa yield for a question?

Mr. GRASSLEY. Mr. President, I would be glad to yield for a question.

Mr. REID. Mr. President, I say to my friend from Iowa, I have listened to the few minutes he has spoken. I think it is important that, on this issue alone we do not talk about the underlying bill, but on the issue of rural health care. It is something that those us of who represent States that have rural populations should recognize. During the last 10 years we have had 330 hospitals in rural America that have gone out of business.

Is the Senator aware of those figures like that that are prevailing?

Mr. GRASSLEY. Mr. President, I believe that the Senator from Nevada is making a case with statistics that I am prepared to agree with and make as well.

As I was saying, it is it is a situation in rural areas of any country that have adopted national plans. I can show you a newspaper article I have here that, within the last 10 months, there was a major reorganization of health care in Saskatchewan because of the limit on funds that were available, that they just closed 52 hospitals in one move, one decision by the Health Minister of Saskatchewan.

Mr. REID. Will the Senator yield for one further question?

Mr. GRASSLEY. Yes.

Mr. REID. I believe, as the Senator's statement indicated, one of the reasons we had 330 rural hospitals closing between 1980 and 1990 is how we have handled Medicare. The fact of the matter is that hospitals have not been reimbursed properly. They have gotten less for doing the same procedure in a rural hospital. They are given less money than if it were done in an urban hospital, and it should be just reversed.

So I really very much appreciate the Senator's statement. I think, if the Senator looks closely at our amendments, that consists of this one amendment, he will find significant information in the amendment that came from the work that he and some of the others have done on the rural health care caucus.

So, through the Chair, to the Senator from Iowa, I express my appreciation for the statement and the work that he has done in the years gone by in rural health, and I look forward to working with him on this issue. I think the importance of this issue to a lot of us is evident in the fact that this is one of the first amendments we brought up to make sure that rural health is taken care of if, in fact, we do major legislation dealing with health care.

(Mr. CAMPBELL assumed the chair.)

Mr. GRASSLEY. I do not disagree with anything the Senator from Nevada has stated. I think, for the most part, as we have read the outline—we have not studied the language of the amendment yet—that most of what is in there we would agree with.

I was hoping to set the stage for the fact that when you have massive reorganization of health care, as is evidenced by this 1,400-page bill that we have before us, you do, in fact, have to commit yourself to taking very special care for rural America or, with that massive reorganization of health care, we are going to come up further short than rural America already is when it comes to the delivery of health care in rural America, both from a quantity and quality standpoint.

I referred to the situation in Canada where, because of lack of money and reorganization, they found it necessary to close 52 rural hospitals. It is a situation you get into when you have a potential for limiting the amount of money that is going to be spent on health care in America.

Even though there is not in this bill before us, as there was in President Clinton's bill, proposals for global budgeting and premium caps, there are some things in the bill, like the 25 percent assessment on high cost plans, which are going to eventually work like premium caps and which are eventually going to lead us to a point where there is going to be limits on what can be spent and plans are going to have to live within those limits.

And those plans are going to lead to some rationing. And the impact of that rationing is going to be much more seriously impacted in rural America than in urban America. I think that is what we want to take into consideration.

I have a letter that I want to refer to about the impact of some of these bills and the bill before us on rural America.

And, the letter says:

On behalf of more than 100 farm and rural organizations we would like to voice our concern with the Health Care Reform Proposal

VOL 140 PT 16 AG 12 — 18 1994 UMI

offered by Senator Mitchell, as presently written.

We have spoken forcefully in favor of 100 percent tax deduction for the self employed and against an employer mandate * * * and against mandatory alliance.

We cannot support any plan that: 1. Does not achieve a 100 percent deduction. 2. Lays out the foundation for an Employer Mandate. 3. Sets up "required" participation in purchasing alliances, a "de-factor" Mandatory Alliance.

But there are other rural concerns that required bi-partisan attention.

Paperwork. It sets up administrative and reporting requirements that will be highly burdensome for small employers.

Cost of insurance may rise. Farmers traditionally buy plans with high deductibles. The Mitchell Plan limits this option. Community rating pools are broadly defined so that—in many instances—rural citizens will subsidize the health costs of their urban and suburban cousins, places where medical costs are not only higher, but so is utilization. In addition, age banding is unnecessarily restrictive. States have the option of setting up a community rate for the entire state.

It limits choice. It would allow states or the D.O.L. to determine, base on unstated definitions, that there is insufficient competition in certain rural areas so they are not required to even offer more than one plan to their employees. That one plan must always be the HIPC, and the HIPC must always include the FEHBP. This amounts to a potential back-door single-payor system for rural areas.

Cost-shifting. It cuts into projected Medicare expenditures, which will hurt many rural hospitals, and because it shifts billions in Medicaid costs to private insurers, cost-shifting will take place. Net result: a massive, unintended cost-shift that will fuel insurance costs of fee-for-service plans—the primary insurance vehicle for rural communities.

Taxes. The new tax on plans with fast growing health premiums will hit fee-for-service plans hardest, especially those in rural areas, for reasons already noted in previous paragraph.

Association Plans. About 1 in 3 farmers and very-small rural small businesses have their health insurance through "association plans", which pool businesses or individuals in a form of voluntary cooperative. These plans are more likely to have begun to negotiate PPO and cost-savings with providers. However, these plans are essentially made ineffective by making them a part of a community rated pool, and not part of an experienced rated pool, despite the fact that many of these plans have more than 500, and some more than 5,000, individuals enrolled. Solutions: allow large association plans to be experienced rated, but require an annual open enrollment for members. The long-range impact of weaker private sector pooling arrangements is to eventually force very small businesses, and the self-employed into the state or federal-directed HIPCs—which may be the insurance of last resort for the poor.

Subsidies. Subsidies do not clearly distinguish the realities of farm income, in which it is true that farmers have relatively high "gross income" but "low net income". Careful consideration should be made for agricultural producers, especially young farmers, because "gross incomes" may not be the best determination.

Health Board. It gives enormous power to several new agencies, especially the National Health Board, but it does not include provisions that would guarantee rural representation on those boards. Health care is not necessarily better, or worse in rural America, but it is different. The composition of any agency with important health powers should include stronger rural representation.

Medical Savings Account. It does not include Medical Savings Accounts. Farmers would benefit from MSAs, and have been pioneers in the use of the MSA concept by blending high deductible plans with personally-funded tax deferral savings vehicles. MSAs are a proven "concept", the Mitchell Plan does not acknowledge their value in any way at all.

There are many positive enhancements to the recruiting of health professionals to rural areas and grants for demonstration projects, but on balance is not a plan we can embrace.

Mr. President, I am not going to read the 150-some organizations from rural America who have signed this letter. I ask unanimous consent to have the letter printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 12, 1994.

Hon. CHARLES GRASSLEY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of more than 100 farm and rural organizations we would like to voice our concern with the Health Care Reform Proposal offered by Senator Mitchell, as presently written.

We have spoken forcefully in favor of 100 percent tax deduction for the self employed and against an employer mandate * * * and against mandatory alliance.

We cannot support any plan that: 1. Does not achieve a 100 percent deduction. 2. Lays out the foundation for an Employer Mandate. 3. Sets up "required" participation in purchasing alliances, a "de-facto" Mandatory Alliance.

But there are other rural concerns that require bi-partisan attention.

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Cost-shifting. It cuts into projected Medicare expenditures, which will hurt many rural hospitals, and because it shifts billions in Medical costs to private insurers, cost-shifting will take place. Net result: a massive, unintended cost-shift that will fuel insurance costs of fee-for-service plans—the primary insurance vehicle for rural communities.

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There are many positive enhancements to the recruiting of health professionals to rural areas and grants for demonstration projects, but on balance is not a plan we can embrace.

Sincerely,

American Agri-Women; American Dry Pea and Lentil Association; American Sod Producers Association; Communicating for Agriculture; farm Health Care Coalition; Farmers Health Alliance; International Apple Institute; National Association of Wheat Growers; National Barley Growers Association; National Cattlemen's Association; National Contract Poultry Growers Association; National Cotton Council; National Cotton Council of America; and the National Council of Agricultural Employers.

National Council of Farmer Cooperatives; National Christmas Tree Association; National Christmas Tree Nursery; National Grange; National Milk Producers Federation; National Pork Producers Council; United Agribusiness League; United Egg Producers; United Fresh Fruit & Vegetable Association; Women Involved in Farm Economics; Agricultural Council of Arkansas; Agricultural Producers; Alabama Contract Poultry Growers Association; AZ Cotton Growers Association; and the Arkansas Association of Wheat Growers.

Arkansas Contract Poultry Growers Association; California Association of Wheat Growers; CA Cotton Ginners Association; CA Cotton Growers Association; California Farm Bureau Federation; California Grape & Tree Fruit League; Colorado Association of Wheat Growers; Florida Contract Poultry Growers Association; Florida Fruit & Vegetable Association; Florida Nurserymen & Growers Association; Georgia Contract Poultry Growers Association; Idaho Grain Producers Association; and the Idaho Onion Growers Association.

Illinois Cattlemen's Association; Kansas Association of Wheat Growers; Kentucky Contract Poultry Growers Association; Kentucky Small Grain Growers Association; LA Cotton Association; LA Cotton Producers Association; Louisiana Contract Poultry Growers Association; LA Ginners Association; LA Independent Cotton Warehouse Association; Delmarva Contract Poultry Growers Association; Minnesota Association of Wheat Growers; Mississippi Contract Poultry Growers Association; and the Mississippi Delta Council.

Montana Grain Growers Association; Nebraska Wheat Growers Association; New England Apple Council; New Mexico Wheat Growers Association; North Carolina Apple Growers Association; North Carolina Small Grain Growers; North Carolina SweetPotato Commission; North Dakota Grain Growers Association; North Dakota Stockmen; Ohio Contract Poultry Growers Association; Oklahoma Contract Poultry Growers Association; and the Oklahoma Wheat Growers Association.

Plains Cotton Growers Association; South Carolina Contract Poultry Growers Association; South Dakota Wheat Incorporated; Southern Cotton Growers Association; Southeastern Cotton Ginners Association; Tennessee Contract Poultry Growers Association; Texas Cattle Feeders Association; Avian Cooperative of Texas; Texas Citrus & Vegetable Association; Texas Wheat Producers Association; South Texas Cotton & Grain Association; and the Rolling Plains Cotton Growers.

Virginia Agricultural Growers Association; Virginia Contract Poultry Growers Association; Virginia Small Grain Growers Association; Washington Association of Wheat Growers; Washington Cattlemen's Association; Washington Growers Clearinghouse Association; Washington Growers League; Washington State Horticultural Association; Washington Women for the Survival of Agriculture; Western Growers Association; and the Western Pistachio Association.

Wisconsin Christmas Tree Producers Association; Wyoming Wheat Growers Association; Curtice Burns Foods/Pro-Fac Cooperative; Dovex Fruit Company; Eastgate Farms, Inc.; El Vista Orchards, Inc.; Florida Citrus Mutual; Forrence Orchards, Inc.; Grainger Farms, Inc.; Grower-Shipper Vegetable Association of Central California; Hood River Grower-Shipper Association; and the Johnny Appleseed of Washington/CRO Fruit Company.

Knouse Fruitlands, Inc.; Lyman Orchards Country; Newman Ranch Company; Nyssa-Nampa Beet Growers Association; Princeton Nurseries; Rocky Mountain Apple Products Company; Torrey Farms, Inc.; Valley Growers Cooperative; Ventura County Agricultural Association; Wasco County Fruit & Produce League; and the Yakima Valley Growers-Shippers Association.

Mr. GRASSLEY. The letter was initiated by the Farm Bureau but signed by 150 organizations.

I will yield the floor in just a minute. But the purpose of reading from that letter is, under a massive 1,400-page bill like this, making these changes, I am asking our colleagues to be cognizant that we already have problems in rural America under the status quo. If we make the massive changes like those in this 1,400-page bill we are going to have terrible consequences for the delivery of health care in rural America. The Daschle amendment legitimately is taking care of a lot of those problems. But the point I want to make is, and it is not the intention of Senator MITCHELL or any of the people working closely with him, but it is just a fact of life—when you have a massive rewrite of legislation like this, some of the good you want to accomplish for the Nation as a whole has negative consequences in rural America. I do not think that the things that are in the Daschle amendment and other amendments that will be offered for rural America are going to make up the difference.

We want to be prepared, to make sure that we take care of those. I hope we have, in the process, corrected some of those things that are in the original Mitchell bill, the underlying piece of legislation, so those negative impacts will not exist for rural America.

Tomorrow on this side of the aisle we look forward to considerable discussion. Many of my colleagues want to speak on the impact of this legislation on rural America. I do not think too many of my colleagues will disagree with what Senator DASCHLE is trying to accomplish in his amendment. But we want to go through some provisions in the underlying legislation to point out where we feel that it has a very negative impact upon the delivery of health care in rural America.

One of those would be what Senator HARKIN has already mentioned. Self-employed people, farmers, et cetera, are not going to have equity under this legislation. We have to have 100 percent tax deductibility for the self-employed.

The impact of Medicare cuts is further going to increase the number of rural hospitals going out business, above the 330 that Senator REID just recently referred to. There are other things in this underlying legislation that is negative to rural America.

So I yield the floor and look forward to the debate tomorrow.

Mr. BINGAMAN. Mr. President, I rise in support of the amendment pending before the Senate. I worked with my distinguished colleagues from the Senate Finance Committee, Senators DASCHLE, ROCKEFELLER, BAUCUS, and my distinguished colleague on the Labor and Human Resources Committee, Senator HARKIN on this package, and I am pleased that we are discussing health care in rural America tonight.

This package of amendments is straightforward, aimed at helping to develop a health care infrastructure and improve the health care delivery system in our five States—New Mexico, South Dakota, West Virginia, Montana, and Iowa—and throughout rural America. I urge my colleagues to support this package.

Mr. President, there are many features of the majority leader's bill that would significantly improve the standard of health care for rural Americans. We have moved closer to really taking seriously the health needs of farmers, ranchers, small business owners, their families, and their employees. This is an important accomplishment.

I. RURAL FEATURES OF HEALTH REFORM BILL

The majority leaders's bill will, contrary to some assertions, make it easier for all small businesses to buy health insurance, whether those businesses are located in the inner city of Chicago or the rural towns of Mora County, NM.

A. INSURANCE REFORM RULES

This is because the proposal limits the ability of insurance companies to discriminate against Americans with preexisting conditions. Many small businesses in rural areas would be protected from escalating costs and arbitrary charges.

B. WORK FORCE: MORE RURAL PROVIDERS

The bill will increase the number of primary health care providers, which will significantly ease burdens on doctors, nurse practitioners and other health care providers in States like New Mexico. By increasing the number of health care providers nationally, the bill will make health care for rural Americans more accessible and more affordable.

Last week, Senator BAUCUS told us that urban America has 2½ times as many doctors per 100,000 people as rural areas. By offering tax credits to doctors and other providers who practice in rural areas, we can ensure both continuing excellence in specialty care and improved access to primary care.

C. TELEMEDICINE

The bill before us today also provides grants for telemedicine, or high-technology networks between rural health care providers and specialists. Many believe these cutting-edge programs are among the most efficient and promising developments in rural medicine.

D. COMMUNITY HEALTH ADVISERS

I am particularly pleased that the majority leader's bill contains a provision I authored in the Labor and Human Resources Committee health reform bill. This provision authorizes a new community health adviser program as part of the Public Health Service's priority National Initiatives on Health Promotion and Disease Prevention.

Through this initiative, the Public Health Service will assist States, local governments, and nonprofit organizations in establishing and maintaining vital community health adviser programs.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The advisers are specially trained local community residents who deliver preventive health information to their communities, in homes and larger groups. They help encourage access to critical primary and preventive care; in particular, this program would be aimed at helping to achieve the Healthy People 2000 goals. These programs can play an important role in reducing overall health care costs.

Community health advisers and the provision in Senator MITCHELL's bill are widely supported by public and women's health organizations, including the American Public Health Association; Children's Defense Fund; the National Breast Cancer Coalition; the New Mexico Public Health Association; the National Women's Health Network; and dozens of other national organizations.

E. ASSISTANT SECRETARY FOR RURAL HEALTH

Finally, this bill takes a step toward acknowledging the health care needs of rural Americans by creating a permanent position of Assistant Secretary for Rural Health within the Department of Health and Human Services.

II. TWO AMENDMENTS

Mr. President, the majority leader's bill is a beginning to improved rural health. But there are also some real opportunities to strengthen this legislation and make it even more responsive to the needs of rural Americans. I would like to briefly describe two of the provisions contained in the amendment pending before the Senate.

B. RURAL RESIDENTS ON BOARDS

First, we believe it is critical that rural residents be included on any board or commission authorized under this bill. Rural residents, rather than rural experts or rural representatives must be specifically included in all board membership lists to ensure that rural people assume a fair and proper role in all issues of governance.

C. RURAL FRONTIER AREAS

Second, we need to make sure that in the very definition of "rural," we do not exclude the people who most depend on us. A provision of title IV (section 4111(d)(2)(B)(i)) gives States the authority to designate medical assistance facilities in frontier areas.

Under the current criteria of this section, States can only designate these special facilities if the entire county has fewer than six residents per square mile. This disadvantages Western States.

Many of our counties are larger than some States in the east. In addition, they encompass both urban and very remote areas. As the bill stands, these counties would be disqualified even though many of their residents live in areas far more remote than eastern rural counties.

We propose that an equivalent unit of local government or subcounty unit designated by the Governor or chief officer of the State be an acceptable criterion for designating the medical assistance facilities.

Only by making this change can we actually conform to the true intent of the provision: To improve medical services in rural America.

Mr. President, these are all vital provisions. They are essential to building the health care infrastructure and networks that are desperately needed in rural America. I urge my colleagues to support this package of amendments and to continue to work with us to improve the quality of life for all of our rural constituents.

HEALTH CARE REFORM

Mr. HATCH. Mr. President, both yesterday and today, our colleague from North Dakota, Senator DORGAN, spoke in this Chamber about spiraling medical costs in the hospital and drug sectors. He pointed to specific drugs and compared the prices of those drugs in other countries with their prices here.

He did not mention that all of those drugs have cheaper, generic counterparts. Nor did he mention that Congress specifically passed legislation—legislation that I sponsored—to accelerate the entry of generic drugs to the market as a cost-saving alternative to branded drugs.

I think it would be useful for my colleagues to look at some relevant facts, starting with the latest figures from the Bureau of Labor Statistics [BLS].

According to the BLS, drug prices, at the producer level, rose 2.8 percent during the 12-month period that ended in July 1994. That increase can hardly be characterized as skyrocketing. If NASA's rockets rose at that rate, we would have never reached the Moon.

In fact, this 2.8-percent increase is a new low, the lowest in 20 years. That is a trend this Congress should encourage, not discourage.

Drug prices have fallen steadily since 1989, when the rate of increase was 9.5 percent. I simply do not think this could be characterized as relentless inflation. On the contrary, I think it shows that drug inflation is under control.

And this is a very important point. Because it is the result not of anything the Government has done, but because the market is working.

In a June 1994 report, "How Health Care Reform Affects Pharmaceutical Research and Development," the Congressional Budget Office stated:

> The market is changing. On the supply side, sales of generic drugs are increasing. On the demand side, buyers exercise more market power to reduce the profits of the pharmaceutical companies. * * * in view of the increasing competition within the pharmaceutical market, drug prices could easily decrease regardless of the Administration's proposal.

This competition—which some of my colleagues seem to ignore—is also controlling the introductory prices of new drugs. The Boston Consulting Group looked at the prices of new drugs approved and launched during 1991 and 1992 and found they were, on average, 14 percent lower than the market leader in their category.

I recently saw a cartoon in the Wall Street Journal. It showed a receptionist telling a visitor: "Can you come back tomorrow? Mr. Ferguson is in deep denial today."

I think some of my colleagues must be in deep denial, Mr. President.

Marketplace reform is for real.

The figures show it.

The experts confirm it.

Instead of denying this competition, as I have said, I think we ought to encourage it.

Nor can we deny the fact that there are people, especially among the elderly, who are forced to make desperate choices between medicine and other necessities.

There are the people we need to help, the elderly poor, not millionaires and billionaires who would be eligible for the new Medicare drug benefit in the Mitchell bill.

No matter how much Congress tries to regulate drug prices, there will be some patients who cannot afford them. And the more we talk about artificially controlling prices, the more we hurt drug research. Seven out of 10 drugs lose money for the manufacturer.

What we should be doing is targeting efforts on those who need assistance. Then, we can help those who need help the most, and we can do it without hurting drug research and without discouraging the market forces which are working.

The PRESIDING OFFICER. The Senator from West Virginia [Mr. ROCKEFELLER] is recognized.

Mr. ROCKEFELLER. Mr. President, I want to echo the concerns of Senator REID, the Senator from Nevada, about what the Senator from Iowa said. I have always thought of the Senator from Iowa as being sort of a quintessential westerner in the farm sense, and I have told him so. So that is not unnecessary flattery. He is very independent. It is my understanding that Senators from Iowa do not usually get reelected to second terms but this Senator has, Senator GRASSLEY. I think it is because he has an independent streak. I think when he feels about something deeply, as he does about rural health care and rural matters, it comes through. I think it comes through partly because if you shake his hand it is usually pretty rough, because he owns a farm. His son runs it for him but he is there to help on weekends if it is needed.

So this Senator, the junior Senator from West Virginia—very junior Senator from West Virginia—wanted to add his praise of the remarks the Senator from Iowa has made.

Mr. DASCHLE. Will the Senator yield?

Mr. ROCKEFELLER. Of course.

Mr. DASCHLE. I appreciate very much the comments made by the distinguished Senator from Iowa. I have had the good fortune to work with him on both Agriculture and Finance. He and I had the opportunity to work with the distinguished Senator from West Virginia on rural health issues during the ongoing consideration of health in general over the last several months.

As is always the case, he is an extraordinary student of the issues relating to rural health and is a tremendous partner. I associate myself with the remarks made by the distinguished Senator from West Virginia. He is absolutely correct, he has been someone that I hope we can continue to work with on many of these issues mutually.

I thank the Senator for yielding.

Mr. ROCKEFELLER. I thank my friend from South Dakota.

Mr. President, I rise with a great deal of passion, interest, and fervor and good feeling because we are discussing something which I think is at the core of what we need to do, and that is to try to be helpful to rural America—which the distinguished Presiding Officer also represents—in any way we can in terms of health care. My colleague Senator DASCHLE, Senator BAUCUS, Senator REID, and Senator HARKIN and I have offered a number of amendments that I think are very important.

It is late in the evening. Not many people are here, but that does not make any difference because our work here is significant.

From this Senator's point of view, Mr. President, Senator MITCHELL's bill already offers substantial hope for rural America. It contains important provisions to make very sure that the promise of health care is more than just an empty promise. That is very much on the minds of people who live in rural parts of this country.

Nationally, 25 percent of all Americans live in a rural area. In West Virginia, that figure is 64 percent. We are 77 percent forest, so the fact we are 64 percent rural should not be surprising. In addition, all or part of 43 of our 55 counties in West Virginia are designated as "medically underserved"—a seriously bad designation.

I should say, Mr. President, that my senior colleague, Senator BYRD, is not a fan of charts and neither is his junior colleague. In the nearly 10 years that this Senator has been in the Senate, I have never used a chart or a graphic entity on the floor of the Senate because I do not have a good feeling about them. But on this matter of rural health care in America, I feel strongly enough that I have broken my habit this one time, hopefully.

One can see very easily, if I simply describe that all of the yellow that one sees on this map are areas that have enough doctors and all of the red, which is obviously the great majority of the map, are areas that do not have enough doctors. I will explain more of what I mean by enough doctors. These are basically underserved areas.

Senator MITCHELL comes from Maine. There is just a very small, little area here. Look at California. People think of California always as being—I do—as being urban with sort of rural intervals. Of course, that is not true and this proves it. Ninety percent of California is underserved.

Look at Arizona, almost entirely, 95 percent underserved; New Mexico, 98 percent underserved. My own State is right here. You can see there are just very few areas which are yellow which means that they are adequately served medically. Look down to Florida. I would have thought Florida would be substantially served for many reasons—its climate, its population, its way of life. But entirely to the contrary. It is hurting medically in terms of health care professionals and opportunities to get health care.

Indeed, if you look at North Dakota, South Dakota, more toward the west than toward the east, but then look at Louisiana, it is really quite distressing; Mississippi; Hawaii, even with its universal health care plan, has substantial service problems. So they must be doing a remarkable job to overcome that.

This map leads me to want to know more. I find this a distressing map. All the red—is not enough health care. It is the great majority of our country and it also describes, I think, that a lot of our country is rural. It certainly describes that my State of West Virginia is not alone.

More than half a million Americans live in a county, Mr. President, that does not have a single doctor, and 34 million Americans live in areas with a thoroughly insufficient supply of physicians, or other health care providers. That all adds up to a situation that makes it extremely difficult for the rural areas, which the Presiding Officer, myself, the Senator from South Dakota, and others represent, to get health care in any form, much less when they need it and where they need it.

Less access to primary and preventive care means more costly and serious illness that have to be treated later. I will give you an example in my own case.

My wife and I and our four children have a farm right on the West Virginia border in the Allegheny Mountains in a beautiful county called Pocahontas County.

And in the northern part of the county, we had, I can remember, a number of years ago when our children were still young a Dr. and Dr. Jones, a couple. They were two wonderful young physicians who graduated from West Virginia University and decided to come and live in that extremely rural area. The county where we live is one of the largest counties east of the Mississippi, Mr. President, and has only 6,000 people, which, of course, my family and I love because of the solitude and the beauty of the West Virginia hills.

But Dr. and Dr. Jones, husband and wife, came there with the full idealism, the full expectation of being able to make it. They both were family physicians. They both happened to love railroads, and we have some old logging railroads that still exist from earlier days. I suspect they do in the Presiding Officer's State also.

They made the best of it for about 3 or 4 years, but then they just could not hang on, could not get the payments, could not meet their own bills, and they were forced to leave. So there we are with a building and with a doctor who visits from time to time and, basically, without health care in an enormous county, which in itself is a vast area of wilderness.

Most of us realize that an insurance card is, in fact, meaningless unless there are doctors and hospitals and nurses and physician assistants who are actually available in an area to provide health care services. They have to be there or be close by. People understand that.

In many parts of West Virginia, access to health care is simply wishful thinking. The problems of rural health residents in buying insurance are similar to the problems of small business owners, because so many of them are self-employed or employees of very small firms or, in many cases, not employed at all.

Rural Americans generally have to pay insurance premiums that are higher than nonrural Americans because they are buying small-group or individual policies which are generally 35 to 40 percent more expensive than what larger companies can pay for the same product.

It is not fair. It is part of what is wrong with our health insurance system. But it is a fact in rural America.

Rural families are subject to the most abusive kinds of insurance underwriting practices because they are purchasers of small-group insurance policies.

What I mean by that basically is that they are more or less helpless as they face the insurance company. Many rural residents are not familiar with terms like "lifetime limits," "preexisting condition." I would think that many rural residents, as many urban residents, would not know that if you are a young woman, get married and get pregnant and you do not have health insurance, you cannot buy health insurance. By the act of becoming pregnant, being pregnant, that itself constitutes a preexisting condition, and therefore you cannot get health insurance.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Most people do not know that. Rural people are more likely to be subject to that kind of underwriting practice. They wind up having their policies canceled the minute that they or a family member has a serious medical condition. Most of them do not know that that is going to happen because they would tend to trust the insurance policy, because in America, if something is institutional, you tend to trust it.

Well, sometimes that trust is not well placed. So a family member has a serious medical condition. No more health insurance. Or they might get to keep the health insurance but their premiums would rise very sharply in order for them to keep health insurance. Just because they are farmers. Just because they are loggers. Just because they are coal miners. Just because they are older, or just because they have something called a preexisting condition. And thus it is in rural America.

Rural residents will gain significant health benefits under Majority Leader MITCHELL's bill because they are so disadvantaged under the current system. Very stringent insurance reforms; the availability of purchasing cooperatives—something which is understood by farming families—the targeted subsidies to purchase private health insurance, all of these are ways that the majority leader's bill will substantially benefit rural Americans. I am very happy about that, and I am very excited about that. That is important and significant news.

Before describing the exact provisions that I have worked on and authored in this amendment, I would like to just take a moment to emphasize that while an insurance card alone does not guarantee the actual delivery of health services, it is one of the single, most important things that we can do to try to encourage doctors and other health providers to move to a rural and underserved area, because if a physician or other provider understands that people have insurance, they are going to understand that they are going to be reimbursed, that life financially is going to be different.

The proportion of people without insurance is higher in rural areas than in urban areas. Without a stable source of reimbursement that can only come with an insurance card, many doctors and nurse practitioners and physicians' assistants and others cannot sustain a viable practice in a rural area. My example of Dr. Jones and Dr. Jones that I talked about a moment ago applies here. If the vast majority of their patients are uninsured, a health practice is simply not sustainable—a fact of life, and a very painful one in rural America.

Mr. President, the amendment we are offering, and that the distinguished Senator from South Dakota, TOM DASCHLE, is leading, offers several important provisions to make health care a reality for millions of Americans across this country. So I want to take a moment to describe a couple of these provisions.

Especially important to me is the provision to provide improved funding for the National Health Services Corps. This is something about which I care deeply. VISTA, which is similar to the National Health Service Corps, changed my whole life. I did in social work what physicians and other providers will be doing in the National Health Service Corps. I know that if you get a young American in their mid twenties studying medicine, or in my case trying to learn more about their country and having the rudiments of social work in my head, when those folks get to the rural places or to the urban places, inner-city areas, they are going to be challenged. They will see things that they have never seen before. They are going to understand the importance of their presence to the people in that area.

When I went to West Virginia as a VISTA volunteer, I had no intention of staying in West Virginia as a VISTA volunteer because all of my training had been in Japan and China and Asian affairs. I had worked in the Peace Corps and State Department and had lived in Japan for a number of years. VISTA just turned my life upside down because it put me in contact with real people in rural areas where there were real needs and where I thought I could make a real difference.

If you are young and in your mid twenties or mid thirties and your life is before you, this is exciting. It is extremely exciting. So under this amendment, we will move towards restoring pre-1980 award levels in the National Health Service Corps. At that time 3,000 to 7,000 scholarship awards were made on an annual basis. So imagine that, physicians, in return for payment of part of their medical school years, spreading out, 3,000 to 7,000, all across America in rural and inner-city areas.

A very good friend of mine did that in eastern Kentucky, and it changed his life. It just totally changed his life. Eastern Kentucky is like southern West Virginia. He went there, practiced medicine there, fell in love with the place, with the opportunity, could not leave and has had a remarkable career—a fellow named Harvey Sloan.

The amendment Senator DASCHLE and I have proposed would provide sufficient funding to place at least one doctor, nurse practitioner, or physician assistant in every single county in America that is currently designated a shortage area. In every one of those red areas, in every county in California, in every county in North Dakota, South Dakota, Montana, Wyoming, in every one of them, there would at least be one health care provider. That seems to me very reasonable, a very exciting prospect. And it can be done and is done under the amendment that Senator DASCHLE, myself, and others are offering.

Now, last year, Mr. President, there were 2,492 primary care shortage areas.

That is a big chunk of this country. A health professional shortage area is an area that does not have at least 1 primary care provider for every 3,500 residents. That is what is reflected on this map; there is not 1 physician or nurse practitioner or physician's assistant or other health provider for every 3,500 residents. That is pretty slim coverage.

If we want to do the ideal—which, of course, I would—but we cannot because of the finances, the ideal percentage is 1 doctor for every 2,000 people. That is what it ought to be. That is what this country ought to have. We do not. It is a mystery that we do not. We continue not to. But, nevertheless, that is the fact.

The National Health Service Corps Program has been extremely successful in providing essential services in remote areas, which are very familiar to the Presiding Officer, and rural areas, and, again let me repeat, in inner cities.

I am a member of the board of the Children's Health Fund. It was started actually in New York City by a wonderful pediatrician, a physician by the name of Dr. Irwin Redliner. The Children's Health Fund's purpose is to put pediatricians in areas of the country where they are not.

So in New York City, which is surrounded within 10 blocks by doctors of every variety, there is an enormous shortage of physicians, a shortage in New York City, not to speak of upstate New York.

The National Health Service Corps would place health care providers in rural areas and in the inner-city areas. It is so popular as a concept, and well thought of, in fact, that Senator DOLE and Senator PACKWOOD in their summary also list a provision to fully fund the National Health Service Corps Program. That is what we intend to do. That is what they said they intend to do.

A total, Mr. President, of 43.5 million people in America live in medically underserved areas. Last year, the National Health Service Corps had only 1,200 providers in the field providing care to only about 1.2 million of those 43.5 million people who need their help. So you can see the disparity between availability and need.

The corps received over 4,000 applications last year, Mr. President, to fill awards for 406 slots. So do not tell me that medical students are not ready to do that, that idealism is dead in America.

This demonstrates the tremendous interest by medical students, by nursing students, by physician's assistants to have their training paid for in return for making a commitment to practice in an underserved area, urban or rural, after completing their training. I cannot think of a better deal for those young students, and for America.

For many students, especially minority students, and low-income students, this is the only way that they can afford to go to medical school or to go to nursing school—a major factor to bear in mind.

I constantly get calls from West Virginia clinics and hospitals who are desperate to find a physician or other health care provider. In 1986, Mr. President, 26 corps doctors were placed in West Virginia. That was 8 years ago. In 1987, 28 came to West Virginia. In 1988, 5 came to West Virginia. Since then, between one and three physicians or other providers have been placed in West Virginia on an annual basis. I am appalled. I am appalled at our willingness to so ignore underserved areas of America. Needless to say, the need for these folks has not declined.

Funding in our amendment will give all underserved areas, rural and urban, a tremendous boost. In fact, I want to note that of the 43.5 million people that live in designated medically underserved areas, 50 percent are urban residents. The funding for the corps in this amendment will help millions of people from Appalachia, Montana, Colorado, South Dakota, Massachusetts, Chicago, and Los Angeles.

Mr. President, a lifeline in many, many rural counties in West Virginia and rural areas across the country are something called local health centers, rural health centers. Some of them are designated federally qualified health centers. Some are rural health clinics. Some are just primary care clinics. While the names and the designations may vary, their missions are all exactly the same, and their importance is all exactly equal.

I have probably visited all, certainly most, of our clinics in West Virginia. I am, always not just impressed but in many ways overcome by their dedication, by their commitment—the doctors, the nurses, the administrators, the physician's assistants who staff these clinics. They are not big hospitals. They are small places. One place I am thinking of in a small county in West Virginia is in a grocery store that closed down in a shopping center. But it is comfortable. People are familiar with it. There it is. I am so proud of what they do. I cannot say that strongly enough. They are performing miracles every day with very meager resources and without notice from the rest of the world.

The majority leader's proposal establishes several special accounts to help rural providers improve, expand, and reorganize themselves, to deliver services efficiently and to deliver them effectively.

One account provides funding for network development and expansion into shortage areas, including recruitment and training, upgrading equipment purchasing, and as Senator HARKIN mentioned, telemedicine systems.

A second account provides grants and loans for capital needs. And a third account provides funding for supplemental or enabling services, such as transportation services, home visiting, case management, and outreach.

Our amendment would expand the list of providers eligible to apply for funding from these accounts to include rural health clinics. That is my point.

Under the majority leader's proposal, federally qualified health centers, or FQHC's, are automatically eligible for funding opportunities. But rural health clinics with the same mission, same miracles, the same people, and the same need, are not eligible, except if they are part of something called a consortium.

Mr. President, I support the notion of various rural providers banding, together to promote integration and coordination of services. But I do not think the participation of rural health clinics should be restricted.

Under this amendment, rural health clinics would be able to qualify and compete for funds in each of the separate accounts, without being a part of a larger consortium. For profit, rural health clinics would be eligible to apply only for capital funding for loans. Nonprofit rural health clinics could compete for funding under all three separate accounts.

In my own State of West Virginia, the majority of clinics and centers are already designated federally qualified health centers. West Virginia has about 38 of them, and about 14 rural health clinics. My point is that the rural health clinics do the same work, serve the same people, and have the same needs, and provide the same miracles as the federally qualified health centers.

Of those 14 rural health clinics, a few are in the process of qualifying as a federally qualified health center. But a few are not. And they cannot. The reasons they are not designated federally qualified health clinics has nothing to do with the quality of the service they provide or the qualifications of the people providing those services. A few clinics cannot qualify because they do not meet the very specific criteria required of a Federal qualified health clinic. I am not quarreling with the criteria, but I do want to make sure that all essential rural providers in West Virginia have equal access to all of the available funding sources in Senator MITCHELL's bill.

For example, the Belington Community Medical Services Association, in Belington, WV, a very small community, often flooded, cannot qualify for FQHC status because one full-time physician is not a permanent staff member. That is part of the FQHC criteria. The Belington clinic is run by a physician assistant named Tom Harward, and physician coverage is provided on a rotating basis. That is the best they can do, Mr. President. And they do it well. But they do not have a permanent physician on staff and, therefore, the Belington clinic cannot nor will they ever receive FQHC status. I think you understand that is not fair.

I do not think that fact alone should disqualify the Belington clinic, along with other rural health clinics across this country who are in a similar situation, who cannot meet the criteria for reasons which they cannot overcome, from applying for all available funding to help clinics in underserved areas.

Tom Harward, who runs the Belington clinic, was honored several years ago by his professional association as the Outstanding Physician Assistant of the Year. At that time, Tom described his typical week. This is what his week is.

He sees 20 to 30 patients a day and makes house calls 2 days a week. That still happens in places like West Virginia, and I expect South Dakota and Colorado. I, frankly, do not know when he would find the time to even fill out an application for new rural health funding. But if he can find the time, I want to make sure that he is not automatically disqualified because his clinic is something called a rural health clinic as opposed to a federally qualified health clinic.

Another example is the Children's Health Care Clinic in Pineville, WV, in the southern part of the State. They cannot qualify for federally qualified status because they only serve children. They only serve children. Yes. Therefore, they do not qualify. One of the criteria for federally qualified status is that they must provide a full range of services to people of all ages, not just pediatric services.

Again, we are not talking about a quality problem but rather a criteria issue. Children's Health Care Clinic in Pineville, WV, should also be able to compete for any and all funds made available under the majority leader's bill. I intend to fight to make sure that it happens.

A final provision would clarify that the current set-aside for nurse practitioners for National Health Service Corps funding includes physician assistants—the same Tom Harward I have just been talking about. I think it was a drafting oversight. I think it was nothing more than that. The current National Health Service Corps program already includes a 10 percent set-aside for nurse practitioners, nurse midwives, and physician assistants. The majority leader's bill increases the set-aside to 20 percent, and my provision

VOL 140 PT 16 AG 12 — 18 1994 UMI

merely clarifies that physician assistants are included in the corps set-aside, as they are under current law.

So, Mr. President, Senator MITCHELL's bill would go a long way to assure financial and physical access to health services for rural residents that are on my mind very much, as I speak. I see faces and I see families, as I speak. Our amendment—mine, Senator DASCHLE's, and others'—builds on some very important improvements that the majority leader already proposed. Taken altogether, I believe rural residents will gain real health security from health care reform. There will still be challenges. There will still be bumps in the road. There always are in places like West Virginia. But I believe that, on the whole, I can tell the majority of my constituents that the legislation we are considering will make a real difference in their lives. I have no other reason for being here. That is what I am hired on to do by my people of West Virginia—to try to make a difference in their lives. I believe this bill and this amendment will do that. For rural doctors and rural hospitals, this bill, frankly, is a long-awaited relief package that will provide them with additional resources and stable financing.

Mr. President, I look forward to the adoption of this amendment by my colleagues.

I thank my patient colleague from South Dakota and the distinguished Presiding Officer, and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from West Virginia for an extraordinarily complete explanation of our amendment.

I think it is appropriate that as we begin this debate we have a better understanding of why it is necessary to introduce this amendment, and how it addresses the critical shortage of rural health providers that the Senator from West Virginia so ably depicted on his chart.

I commend him. He has been an extraordinary partner in this whole effort and, as a cosponsor, has been a real leader over the years in rural health care reform. It has been my privilege to work side by side with him for virtually as long as I have been here, and I cannot think of a greater privilege I have had in the Senate.

I commend him for his statement and appreciate very much his contribution to this effort.

Mr. President, I ask unanimous consent that Senators WOFFORD and LEAHY be added to the list of cosponsors, which includes Senators BAUCUS, HARKIN, ROCKEFELLER, and REID.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, the Senator from West Virginia, as I indicated, has described our amendment very well. He, too, publicly commended our majority leader for including in his bill a substantial set of rural health provisions.

Senator MITCHELL has listened to the concerns that many of us have expressed about how rural areas would be affected by changes being proposed in our health care system. The bill he introduced, as the Senator from West Virginia has indicated, truly reflects his commitment to ensuring that rural health reform does not pass by rural communities.

The amendments that we are proposing tonight build upon the solid base that the majority leader's bill establishes for rural America.

From the very beginning of this debate, many of us have insisted that we would not vote for a bill that did not include substantial recognition of the need for improvements to rural health care access. I do not think anyone who has cosponsored this amendment is prepared to back off that determination. We are not going to abandon that principle now.

Thankfully, efforts to enhance access to rural health care have always had strong bipartisan support, as the statement from the Senator from Iowa indicated this evening.

Earlier this year I cochaired a bipartisan working group that recommended a series of rural provisions that should be included in health reform. I am very pleased that many of the suggestions we recommended were included in the Senate Finance Committee bill and now in the legislation Senator MITCHELL has presented to us.

Our efforts have been for a good cause. Indeed, both Republican and Democratic health reform bills frankly have included similar strong rural provisions. It gives me hope that the majority of Senators on both sides of the aisle share our insistence that health reform benefit rural and urban areas alike.

We have come together on this issue in the past, and I am hopeful that we can be united again on this debate. Let the same bipartisan spirit of cooperation prevail as we consider this set of amendments.

We all want to make health care reform a guaranteed winner for rural people.

The amendments that we are proposing tonight would encourage doctors, nurse practitioners, and physician assistants to practice in rural underserved areas, to ensure that financial and other assistance is available to help rural facilities adjust to the changing health care environment, and to assist rural providers in forming their own health care networks.

Among the provisions we are proposing, including some the Senator from West Virginia described so ably tonight, is a proposal to increase funding for the National Health Service Corps, one of the most important, respected workforce programs in the country today.

This program was nearly eliminated in the 1980's despite the fact that many rural communities are completely dependent upon corps doctors as their only source of physician care. While the program has been slowly built back up over the last couple of years, rural America badly needs more of these providers.

Another amendment we are proposing would provide Medicare bonus payments to nurse practitioners and physician assistants who practice in rural areas. This incentive money will help rural America attract and retain these important practitioners.

Another series of provisions included in this amendment would ensure that clinics in rural areas are eligible for loans and grants that can help them upgrade their services, form networks with other providers, and help better serve rural areas.

Finally, to help rural communities determine how to develop their own health care plans, we have established 10 demonstrations projects for the development of rural-based managed care.

Simply put, rural America's most significant problem is that we do not have enough providers. We see that in rural Colorado. We see it in rural Idaho. We see it in rural South Dakota. We have attempted to address that problem through a number of different provisions in our amendment.

Why do we need these provisions, some may ask. Does not universal coverage solve the problems facing rural America? It is true that if we move closer to universal coverage we could enhance access to care in rural America.

The problem we have is that guaranteed health insurance in rural America is defined differently than it is in urban America. In my home State of South Dakota, 145,000 residents had no health insurance at some point in 1993.

We must ensure rural residents have the same opportunities as urban dwellers to buy the range of insurance plans that will be required under the Mitchell bill.

Because we know that, compared to their urban counterparts, rural residents are less likely to be insured and tend to be older, sicker, and poorer with higher rates of uneconomic and chronic ailments and disability. This will remain so in spite of the fact that rural Americans may have improved coverage under the Mitchell bill.

Universal coverage is the most important building block to ensuring health security in rural America. But providing health coverage is not and cannot be the whole solution for what ails rural America today.

In far too many rural areas a health insurance card does little good because there are simply no providers to care for patients. Increasing the supply of primary care practitioners and attracting them to rural communities is by far the biggest challenge facing us today.

This is a serious issue in South Dakota and in many States throughout the Midwest and West. South Dakota currently ranks 47th in the country in terms of physician-to-population ratio with 1 primary care doctor for about every 1,500 people. In fact, 16 counties in my State have no hospital at all. Equally important is increasing the number of nonphysician providers practicing in these rural areas and enhancing their ability to practice independently.

More recently, we have seen a new problem. The increased competition for primary care physicians and nonphysician providers from urban-managed care plans is complicating life in rural America today. Rural areas are seeing a drain of primary care physicians from rural to urban areas, where employment packages offered by HMO's provide a shorter, more predictable work schedule and a much higher guaranteed income.

In other words we exacerbate the problem of a shortage of practitioners by encouraging doctors to leave underserved areas to go to those areas where there is no shortage.

We try to address that problem, Mr. President, with a number of the provisions to encourage providers, both doctors and other health care practitioners, to move to rural areas, and stay there, once they are there.

Coordinating care in rural areas is another major challenge. While urban residents can join a number of health care plans and have available to them a network of primary care doctors, specialists, nursing homes, and home health care providers, we have very limited access to integrated networks that can help patients manage their care.

These arrangements rarely exist in our part of the country. Managed care plans have been hesitant to enter rural health care markets and few rural providers have formed no networks at all.

So we need to do everything we can to encourage providers to cooperate and form integrated service delivery networks.

We should not wait for an urban-based HMO to set up shop in rural America. We can form our own community health plans and networks. All the providers need are the proper incentives.

In sum, this package of amendments makes the statement that rural America should no longer be asked to settle for less health care than their urban counterparts. What better message can we send as we debate health reform?

I certainly hope that, as we debate this amendment over the next day, Mr. President, we appreciate fully the unique set of circumstances that we have in rural America today; that we understand, we also have a unique responsibility to be sensitive to those circumstances. We simply cannot allow health reform to pass rural America by.

This amendment is a concerted effort on the part of a number of Senators from different States, all with the same appreciation of the need to respond more effectively to rural health care needs, recognizing very well how much the majority leader has already done in his bill to address many of the concerns we have expressed to him.

So I am hopeful, Mr. President, that before the end of the day tomorrow, perhaps, we can have a good debate and a good discussion about these needs and about ways to respond more effectively to these needs. This is our best effort to do so in a concerted and very sincere way.

I also ask unanimous consent, Mr. President, that the junior Senator from Colorado, Senator BEN NIGHTHORSE CAMPBELL, be added as a cosponsor to this amendment.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, the distinguished Senator from Idaho has shown remarkable patience tonight. So while I have a much longer statement and full explanation of what our amendment would do, I would like to elaborate more tomorrow on each of the provisions. We got a good start tonight from the Senator from West Virginia, so there is no need to further delay this evening.

I am aware that a number of housekeeping chores are required, and I will do that and then yield the floor to the distinguished Senator from Idaho.

MORNING BUSINESS

SENATOR CAROL MOSELEY-BRAUN REMEMBERS CECIL PARTEE

Ms. MOSELEY-BRAUN. Mr. President, many of the actions I have taken in my life have been heralded as firsts. But, people like Cecil Partee were firsts before I was even born and made my way possible. Mr. Partee was an example to me—an example of how to be an excellent legislator, an example of how to use the political system to make people's lives better, and an example of how to reach goals and hold on to dreams.

Cecil Partee believed in the Dream of America, and he proved, time and time again, that excellence and merit and hard work could overcome the odds and barriers he faced as an American of African descent. He was always a gentleman, and personified the dignity and class that are borne of struggle and achievement.

When I first ran for the general assembly, Cecil Partee was one of the first to become a friend and resource. Sometimes I would go down to his office just to sit and talk with him, and learn from his intelligence, his patience, and his experience. He was a mentor to me, and to countless others who saw public service as a noble calling.

Mr. Partee was born in Arkansas in 1921. He attended Tennessee State University for his undergraduate degree and then chose to pursue a career in law. The University of Arkansas would not accept him, however. They did not admit African-Americans at the time. The university agreed to pay his way to a northern law school. He chose Northwestern University Law School in Evanston. We can be thankful he came to Illinois and even more thankful that he stayed.

He passed the Illinois bar in 1947, but was not allowed to attend the congratulatory dinner with the other new lawyers, because the hotel where the dinner was held did not allow African-Americans. A year later Mr. Partee started his public career as an assistant state's attorney. In 1956, he was first elected to the Illinois House of Representatives.

Mr. Partee went on to serve for 10 years in the Illinois House of Representatives and for 10 years in the Illinois Senate. He was the first African-American to be president of the Senate, a post he held from 1971–73 and 1975–77.

He had a reputation as an astute and able legislator who fought to make the lives of ordinary citizens better. He worked to eradicate discrimination in the public and private sectors. He wanted to make sure that people could get good jobs and decent homes, whatever their race or nationality. He worked to ensure that consumers were treated fairly under the law. Most importantly, he worked to bring people together, and to eliminate barriers to real communication. He was a warrior in the battle to make the American dream a reality for all.

In 1989, Mr. Partee was named state's attorney. He took over the position from Mayor Daley, and served in that capacity for a year. He also served as city treasurer in Chicago for three terms.

The people of Illinois owe a great debt to Cecil Partee. He spent many of his years serving us, leading us, and making our lives better. His legacy is inspiring and tangible.

Partee's wife and their two children and two grandchildren have much to be proud of and much to miss. He was a good man, a pioneer, and a great politician. I will miss him. We will all miss him.

VOL 140 PT 16 AG 12 — 18 1994 UMI

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Order No. 1121, Ricardo Martinez, to be Administrator of the National Highway Traffic Safety Administration; Calendar Order No. 1122, Dharmendra K. Sharma, to be Administrator of Research and Special Programs Administration, Department of Transportation; Calendar Order No. 1124, Harold J. Creel, Jr., to be a Federal Maritime Commissioner; Calendar Order No. 1125, Delmond J.H. Won, to be a Federal Maritime Commissioner; Calendar Order No. 1127, Alexander Williams, Jr., to be a U.S. district judge; Calendar Order No. 1128, Charles Redding Pitt, to be a U.S. attorney; Calendar Order No. 1129, Larry Reed Mattox, to be a U.S. Marshal; Calendar Order No. 1130, Walter Baker Edmisten, to be a U.S. Marshal; Calendar Order No. 1131, Thomas Joseph Maroney, to be a U.S. attorney; and all nominations placed on the Secretary's desk in the Coast Guard.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's actions; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF TRANSPORTATION

Ricardo Martinez, of Louisiana, to be Administrator of the National Highway Traffic Safety Administration.

Dharmendra K. Sharma, of California, to be Administrator of the Research and Special Programs Administration, Department of Transportation.

FEDERAL MARITIME COMMISSION

Harold Jennings Creel, Jr., of Virginia, to be a Federal Maritime Commissioner for the term expiring June 30, 1999.

Delmond J. H. Won, of Hawaii, to be a Federal Maritime Commissioner for the term expiring June 30, 1997.

THE JUDICIARY

Alexander Williams, Jr., of Maryland, to be United States District Judge for the District of Maryland.

DEPARTMENT OF JUSTICE

Charles Redding Pitt, of Alabama, to be United States Attorney for the Middle District of Alabama for the term of four years.

Larry Reed Mattox, of Virginia, to be United States Marshal for the Western District of Virginia for the term of four years.

Walter Baker Edmisten, of North Carolina, to be United States Marshal for the Western District of North Carolina for the term of four years.

Thomas Joseph Maroney, of New York, to be United States Attorney for the Northern District of New York for the term of four years.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE COAST GUARD

Coast Guard nominations beginning Roger K. Wiebusch, and ending Robert W. Montfort, which nominations were received by the Senate and appeared in the Congressional Record of May 17, 1994.

Coast Guard nomination of Kay L. Hickman, which was received by the Senate and appeared in the Congressional Record of May 17, 1994.

Coast Guard nominations beginning Mark L. Everett, and ending Euill W. Long, III, which nominations were received by the Senate and appeared in the Congressional Record of July 27, 1994.

STATEMENT ON THE NOMINATION OF RICARDO MARTINEZ

Mr. HOLLINGS. Mr. President, I urge my colleagues to support the nomination of Ricardo Martinez to be Administrator of the National Highway Traffic Safety Administration [NHTSA]. His nomination was unanimously approved by the Committee on Commerce, Science, and Transportation at its executive session on August 11, 1994.

NHTSA was established to reduce the number of deaths, injuries, and economic losses resulting from traffic accidents on the Nation's highways. Armed with that mission, the agency plays a vital role in reducing health care costs, by promoting safety of cars and light trucks.

If confirmed as Administrator, Dr. Martinez will bring a fresh perspective to the agency with his extensive medical background in trauma services and injury control and prevention. The nominee is currently serving as a consultant to Secretary of Transportation Peña on health issues. Prior to this, he most recently served as associate professor of surgery and emergency medicine at Emory University school of medicine. From 1985 to 1993, Dr. Martinez served in various positions at Stanford University, including associate director of trauma service at the university's hospital, and clinical assistant professor in the Department of surgery at the school of medicine. In addition, Dr. Martinez has written extensively on medical issues, and his works have been published in numerous medical journals, magazines, and books.

At his confirmation hearing on April 21, 1994, Dr. Martinez stressed his commitment to injury prevention, and the need to reinvigorate NHTSA to prepare it for the challenges of the next century. He also acknowledged NHTSA's role with respect to consumer education, as well as the important mandate the agency has to set CAFE [Corporate Average Fuel Economy] standards, and to analyze and disseminate data concerning fuel economy issues.

This nominee deserves our support, and I urge my colleagues to join me in approving Dr. Ricardo Martinez to be NHTSA Administrator.

STATEMENT ON THE NOMINATION OF DHARMENDRA K. SHARMA

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering the nomination of Dharmendra K. Sharma to be Administrator of the Research and Special Programs Administration [RSPA] of the U.S. Department of Transportation [DOT]. At its executive session on August 11, 1994, the Committee on Commerce, Science, and Transportation unanimously ordered this nomination reported favorably.

The position of Administrator of RSPA is a critical one. RSPA is responsible for hazardous materials transportation and pipeline safety, transportation emergency preparedness, safety training, multimodal transportation research and development activities, and the collection and dissemination of air carrier economic data. Two of the more significant offices within RSPA are the Office of Hazardous Materials Safety, which develops and issues regulations for the safe transportation of hazardous materials by all modes, and the Office of Pipeline Safety, which establishes and provides for compliance with standards that assure public safety and environmental protection in the transportation of gas and hazardous liquids by pipeline.

The nominee brings to this position a broad range of technical, research, analytical, and management abilities. He has demonstrated expertise in the fields of energy, science, and technology. For over 10 years Dr. Sharma has served as a Manager with the Electric Power Research Institute [EPRI], and prior to that he worked for the General Electric Co.

This nominee has demonstrated his understanding of the critical issues facing RSPA. He understands the need for greater vigilance over RSPA's pipeline safety program and the need for some form of comprehensive "one-call" legislation so that the number of pipeline accidents may be reduced. In addition, Dr. Sharma's background and expertise will allow him to assist Secretary Peña in the area of transportation technology development, a cornerstone of this Administration's plan for the future.

Mr. President, I am confident that Dharmendra K. Sharma's professional background and experience have prepared him well for the tremendous challenges confronting DOT and our Nation's system of transportation. I welcome this opportunity to recommend Dharmendra K. Sharma's confirmation as RSPA Administrator, and I urge my colleagues to join me in approving this nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous, the Senate will now return to legislative session.

REPORT ON THE CONTINUATION OF THE EMERGENCY RELATIVE TO THE NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA [UNITA]—MESSAGE FROM THE PRESIDENT—PM 139

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the National Union for the Total Independence of Angola ["UNITA"] is to continue in effect beyond September 26, 1994, to the Federal Register for publication.

The circumstances that led to the declaration on September 26, 1993, of a national emergency have not been resolved. The actions and policies of UNITA pose a continuing unusual and extraordinary threat to the foreign policy of the United States. United Nations Security Council Resolution 864 (1993) continues to oblige all Member States to maintain sanctions. Discontinuation of the sanctions would have a prejudicial effect on the Angolan peace process. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure to UNITA to reduce its ability to pursue its aggressive policies of territorial acquisition.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 17, 1994.*

REPORT ON BELARUS AND UZBEKISTAN RELATIVE TO THE GENERALIZED SYSTEM OF PREFERENCES—MESSAGE FROM THE PRESIDENT—PM 140

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

I am writing to inform you of my intent to add Belarus and Uzbekistan to the list of beneficiary developing countries under the Generalized System of Preferences [GSP]. The GSP program offers duty-free access to the U.S. market and is authorized by the Trade Act of 1974.

I have carefully considered the criteria identified in sections 501 and 502 of the Trade Act of 1974. In light of these criteria, and particularly the level of development and initiation of economic reforms in Belarus and Uzbekistan, I have determined that it is appropriate to extend GSP benefits to these two countries.

This notice is submitted in accordance with section 502(a)(1) of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 17, 1994.*

MESSAGES FROM THE HOUSE

At 3:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3508. An act to provide for tribal self-governance, and for other purposes.

H.R. 4709. An act to make certain technical corrections, and for other purposes.

H.R. 4867. An act to authorize appropriations for high-speed rail transportation, and for other purposes.

H.R. 4868. An act to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that Act, and for other purposes.

H.R. 4884. An act to authorize noncompetitive, career or career-conditional appointments for employees of the Criminal Justice Information Services of the Federal Bureau of Investigation who do not relocate to Clarksburg, West Virginia.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1305) to make boundary adjustments and other miscellaneous changes to authorities and programs of the National Park Service, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2947) to extend for an additional 2 years the authorization of the Black Revolutionary War Patriots Foundation to establish a memorial.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two houses thereon; and appoints Mr. STOKES, Mr. MOLLOHAN, Mr. CHAPMAN, Ms. KAPTUR, Mr. TORRES, Mr. THORNTON, Mr. OBEY, Mr. LEWIS of California, Mr. DELAY, Mr. GALLO, and Mr. MCDADE as the managers of the conference on the part of the House.

At 7:14 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 285. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of S. 2182.

ENROLLED BILLS SIGNED

At 8:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2815. An act to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

H.R. 4812. An act to direct the Administrator of General Services to acquire by transfer the Old U.S. Mint in San Francisco, California, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second time by unanimous consent and referred indicated:

H.R. 4907. An act to reform the concept of baseline budgeting; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

H.R. 4709. An act to make certain technical corrections, and for other purposes; to the Committee on Indian Affairs.

H.R. 4868. An act to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that Act, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 4884. An act to authorize noncompetitive, career or career-conditional appointments for employees of the Criminal Justice Information Services of the Federal Bureau of Investigation who do not relocate to Clarksburg, West Virginia; to the Committee on Governmental Affairs.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on August 17, 1994, she had presented to the President of the United States, the following enrolled bill and joint resolutions:

VOL
140
PT
16
AG
12
—
18
1994
UMI

S. 2099. An act to establish the Northern Great Plains Rural Development Commission, and for other purposes.

S.J. Res. 153. Joint resolution to designate the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week."

S.J. Res. 196. Joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3223. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of the Joint Military Net Assessment for calendar year 1994; to the Committee on Armed Services.

EC–3224. A communication from the Acting Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the nondisclosure of Safeguards Information for the period April 1, 1994 through June 30, 1994; to the Committee on Environment and Public Works.

EC–3225. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report of the Federal Housing Administration for fiscal year 1993; to the Committee on Governmental Affairs.

EC–3226. A communication from the Assistant Attorney General (Office of Legislative Affairs), transmitting, pursuant to law, the report of the Office for Victims of Crime for fiscal year 1992; to the Committee on the Judiciary.

EC–3227. A communication from the Secretary of Education, transmitting, pursuant to law, the report of final regulations—Strengthening Institutions Program; to the Committee on Labor and Human Resources.

EC–3228. A communication from the Secretary of Education, transmitting, pursuant to law, the report of final regulations—State Independent Living Services Program and Centers for Independent Living Program; to the Committee on Labor and Human Resources.

EC–3229. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the sequestration update report for fiscal year 1995; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–617. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"JOINT RESOLUTION 40

"Whereas, The United States Passenger Services Act allows only United States-flagged ships to sail between United States ports, while foreign-flagged vessels are permitted to sail between California ports only as part of a longer journey; and

"Whereas, Historically, United States-flagged cruise lines were prohibited from offering gambling on board their vessels, while foreign-flagged vessels have always had gambling on board their vessels; and

"Whereas, The United States-flagged cruise industry has had difficulty in competing with foreign-flagged cruise lines; and

"Whereas, In order to level the playing field, in 1992 Congress amended the federal Johnson Act to allow United States cruise ships to offer gambling; and

"Whereas, Congress left the right to regulate or prohibit gambling on voyages or segments of voyages that are intrastate to the individual states, and

"Whereas, California's efforts to prohibit gambling cruises to nowhere have had the effect of prohibiting gambling on cruise ships traveling between California's ports, even as part of a longer journey; and

"Whereas, Cruise ships are declining to visit California ports, citing a ban on cruise ship gambling; now, therefore, be it

"Resolved, by the Assembly and the Senate of the State of California jointly, That tourism is an important and vital industry to California, and that passengers disembarking from cruise ships in California ports add significantly to our economic base; and be it further

"Resolved, That California memorializes Congress to amend the Johnson Act to remove California's authority to regulate gambling on cruise ships traveling to foreign ports or on segments of voyages going to another state or country; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–618. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"JOINT RESOLUTION 52

"Whereas, Providing the American people with safe and wholesome drinking water has long been an important national objective; and

"Whereas, State and local water suppliers have attained this national objective by developing water systems that provide some of the safest drinking water in the world; and

"Whereas, The water suppliers of this country have worked with state and federal officials to ensure this safe water at a reasonable cost; and

"Whereas, Water treatment techniques applied in this country have eradicated waterborne organisms that have historically resulted in widespread disease and death; and

"Whereas, Federal legislation and legislation enacted by many states aims to ensure that the quality of drinking water remains at a level that will protect the public health and safety from the threats posed by contaminants, both naturally occurring and those introduced by human activity, with particular legislative emphasis on significantly reducing public exposure to substances that may cause cancer of birth defects; and

"Whereas, The federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) is the foundation for this nation's drinking water protection, including an aggressive federal regulatory program administered in most states by the United States Environmental Protection Agency (EPA) and, in states that have qualified for "primacy," by state regulatory agencies; and

"Whereas, The technical ability to detect and monitor the presence of substances in drinking water has, in some cases, outstripped scientific understanding of the impact of those substances on public health and safety; and

"Whereas, On at least one occasion, in commenting on proposed federal regulations regarding radon in drinking water, the EPA's own Science Advisory Board criticized the regulatory principles that the EPA has relied on in promulgating regulatory requirements, questioning whether those requirements will significantly improve the public health; and

"Whereas, Increasing regulatory requirements and concomitant costs threaten to make water a very expensive commodity, with the potential to place a significant financial burden on many Californians; and

"Whereas, The use of financial resources to promulgate and enforce water quality regulations, some of which may be of minimal protective value, occurs at a time when the people of this country, particularly those in California are having difficulty providing funding for many government programs and for needed improvements in our public infrastructure; and

"Whereas, National and state water organizations, associations of public health officials, the National Governors Association, and the National Association of State Legislatures, have proposed amendments to the federal Safe Drinking Water Act that will both maintain a program to protect the public health and minimize some of the negative regulatory impacts on the water systems and the water consumers of this country: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly That the Legislature of the State of California respectfully memorializes the President and Congress of the United States, when the federal Safe Drinking Water Act is reauthorized, to adopt amendments to that act that will preserve the federal requirements that ensure the protection of the public health and safety but will reduce the regulatory burden on drinking water providers and, in turn, reduce the financial burden on the citizens of this nation; and

"Resolved, That the Legislature respectfully memorializes the President and Congress to adopt amendments to the federal Safe Drinking Water Act recommended by various state and national water organizations, associations of public health officials, and the National Governors Association, that do all of the following:

"(a) Revise present law that requires the EPA to establish water quality standards for 83 specified contaminants and requires the EPA to establish standards every three years thereafter for 25 additional contaminants, to, instead, require standards to be established in addition to the original list of 83 contaminants only when it is determined that a substance present in drinking water poses a potential public health risk.

"(b) Require the EPA to revise the list of regulated substances or the standards applicable to those substances if new scientific findings indicate that a regulated substance does not pose a threat to the public health or safety or does not require as stringent a standard.

"(c) Revise monitoring requirements so that the frequency of routine testing and reporting is reduced to a minimum when a public water system demonstrates that a substance is not, and has not historically been, present in its water supply.

"(d) Replace existing public notification requirements that may cause undue public concern with more flexible rules that allow for adjusting the content of a public notice to the degree of health risk present.

"(e) Recognize that, while some substances that pose a health hazard, such as radon, may be present in water, remediation efforts should be more heavily focused on the medium that poses the greatest risk of exposure, such as indoor air in the case of radon exposure, where those remedial efforts are more likely to provide the greatest public health benefits; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the Environmental Protection Agency."

POM–619. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"JOINT RESOLUTION 51

"Whereas, The Metropolitan Water District of Southern California, Upper San Gabriel Valley Municipal Water District, Three Valleys Municipal Water District, San Gabriel Valley Municipal Water District, and the Main San Gabriel Basin Watermaster jointly studied conjunctive use as a means to control the migration of groundwater contamination in the Main San Gabriel Groundwater Basin; and

"Whereas, The Federal Environmental Protection Agency published the Baldwin Park Operable Unit Feasibility Study Report and Proposed Plan; and

"Whereas, The feasibility study includes an analysis of four project design alternatives to remedy contaminated groundwater in the Main San Gabriel Groundwater Basin, with two of the four project design alternatives incorporating the elements of conjunctive use; and

"Whereas, The Federal Environmental Protection Agency selected an alternative in the Proposed Plan that did not incorporate conjunctive use as the plan's preferred remedy; and

"Whereas, The Region IX Administrator of the Environmental Protection Agency is scheduled to sign the Record of Decision (ROD) for the Baldwin Park Operable Unit Cleanup Project in late March or early April; and

"Whereas, Following the signing of the ROD, negotiations to compel the responsible parties to design and construct the selected remedy will begin; and

"Whereas, The Board of Directors of the Metropolitan Water District of Southern California has committed financial support for a Baldwin Park Operable Unit Cleanup Project that incorporates conjunctive use; and

"Whereas, Public Law 102–575 authorizes 25 percent cost sharing from the Bureau of Reclamation for a Baldwin Park Operable Unit Cleanup Project that incorporated conjunctive use; and

"Whereas, The combined funding provided by the Metropolitan Water District of Southern California and the federal Bureau of Reclamation could potentially provide cost savings for the responsible parties; and

"Whereas, The Metropolitan Water District of Southern California and the Main San Gabriel Basin Watermaster, the court-appointed entity having the responsibility for managing the Main San Gabriel Groundwater Basin, are working to develop the Conjunctive Use and Basin Cleanup Agreement to govern the operation and management of conjunctive use in the Main San Gabriel Groundwater Basin; and

"Whereas, The incorporation of conjunctive use into the remedial design would accomplish the objectives of controlling the migration of groundwater contaminants and maximizing contaminant removal; and

"Whereas, The California Legislature concludes that the incorporation of conjunctive use into the remedial design would provide broad benefits to the Main San Gabriel Groundwater Basin and the affected region that are superior to those that would be realized by the alternative selected by the federal Environmental Protection Agency in the Proposed Plan; and

"Whereas, The California Legislature believes that the incorporation of conjunctive use into the remedial design would be the preferred means by which to remove significant contamination and to augment the region's water supply: Now therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Administrator of the Environmental Protection Agency to incorporate conjunctive use into the remedial design for the purpose of remedying groundwater contamination in the Main San Gabriel Groundwater Basin; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the Environmental Protection Agency."

POM–620. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"JOINT RESOLUTION 1

"Whereas, The closing of Norton Air Force Base in March of 1994 will result in the loss of more than 4,000 jobs in the San Bernardino area; and

"Whereas, The site of Norton Air Force Base is ideally suited for the location of a foreign trade zone center and the existing base airport and surrounding facilities could be easily adapted to accommodate a foreign trade zone; and

"Whereas, Foreign trade zones are designated sites licensed by the Foreign Trade Zones Board under the United States Department of Commerce that permit domestic transactions involving foreign products to take place as if those transactions were conducted outside United States Customs territory, thus offsetting trade advantages available to foreign producers who export in competition with United States producers; and

"Whereas, Foreign trade zones facilitate and expedite international trade, assist in state and local economic development efforts, and create new employment opportunities; and

"Whereas, A foreign trade zone center at Norton Air Force Base, in addition to the Lockheed Corporation facility and a proposed Department of Defense Finance Accounting Center, would serve as anchor tenants employing nearly 10,000 people: Now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States and the Foreign Trade Zone Board under the United States Department of Commerce to designate the airport located at Norton Air Force Base in San Bernardino County as a foreign trade zone center; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of Commerce, the Chairman of the Foreign Trade Zone Board, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM–621. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION 69

"Whereas, the lingering recession has hit California families hard through the loss of jobs and deflation of the housing market; and

"Whereas, many Californians have had sizable amounts of money invested in their homes; and

"Whereas, many Californians have suffered from deep depreciation in the value of their homes and are being forced, by circumstances, to sell their homes for a loss; and

"Whereas, the Internal Revenue Code treats nonreinvested profits from the sale of a home as capital gain; and

"Whereas, the same tax code makes no comparable allowance for those who realize a capital loss on the sale of a home: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to provide tax relief to homeowners caught in the largest housing market depression in many years by providing for the recognition of a capital loss on the sale of a principal residence; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–622. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION 70

"Whereas, the federal income tax burden during the past four decades has increased by more than 300 percent as a share of family income; and

"Whereas, measuring average after-tax per capita income, families with children are the lowest income group in America, with average after-tax income below that of elderly households, single persons, and couples without children; and

"Whereas wage stagnation and an ever-increasing tax burden has forced a growing number of families to rely on two wage earners to make ends meet; and

"Whereas, in 1948, a family of four at the median family income level paid just 2 percent of its income to the federal government in taxes; and

VOL 140 PT 16 AG 12 — 18 1994 UMI

"Whereas, in 1989, that same family paid nearly 24 percent of its income to the federal government in taxes; and

"Whereas, the personal exemption for children was intended to help offset the costs of raising a child; and

"Whereas, in 1948, the personal exemption was six hundred dollars ($600), or roughly 20 percent of the median income for two-parent families, and for a family of four shielded 80 percent of personal income from taxation; and

"Whereas, to have the same value to families today as it did in 1948, the personal exemption would have to be raised from two thousand three hundred fifty dollars ($2,350) to eight thousand dollars ($8,000) and continue to be indexed to inflation; and

"Whereas, the effect of this ever-shrinking exemption penalizes the most vulnerable members of our society, our children; and

"Whereas, our children are the most likely members of our society to live in poverty, in part because their parents are not able to keep enough of their wages after taxes to properly feed, clothe, and shelter their children; and

"Whereas, in 1948, as much as 80 percent of personal income was exempt from federal income taxation, and this relatively low level of taxation helped to fuel the growth of the strongest economy in the world; and

"Whereas, our economy would be strengthened by returning substantial tax dollars to our citizens; and

"Whereas, American families are struggling to make ends meet; and

"Whereas, the fact that an increasing number of our children grow up in single-parent households makes it all the more imperative that we relieve the tax burden on their parents: Now therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to reduce the tax burden on children and families by restoring the inflation-eroded value of the personal exemption by increasing that exemption from two thousand three hundred fifty dollars ($2,350) to eight thousand dollars ($8,000), and continuing to index the exemption to inflation; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM–623. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

POM–624. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION 75

"Whereas, the President of the United States and the President of Mexico signed an agreement on August 14, 1993, entitled 'Agreement Between the United States of American and United Mexican States in Cooperation for the Protection and Improvement of the Environment in the Border Area'; and

"Whereas, the Board of Supervisors of Imperial County and the Mexican State of Baja California Norte, on December 14, 1993, entered into a memorandum of understanding concerning environmental matters; and

"Whereas, the recent approval of the North American Free Trade Agreement (NAFTA) strengthens the economic and environmental ties between Mexico and the United States; and

"Whereas, the New River, which originates in Mexico and flows northward across the international boundary into California's Imperial County, is the most contaminated river in the United States, and is aesthetically repulsive to the residents of, and visitors to, Imperial County; and

"Whereas, the Governor, on October 6, 1993, documented the health and public safety dangers associated with the unregulated discharges into the New River in a state of emergency proclamation; and

"Whereas, due to the international nature of this problem, it is the obligation if the United States, on behalf of the residents of the State of California and Imperial County, to implement adequate measures to correct the contamination of the New River caused by discharges within the Republic of Mexico; and

"Whereas, the contamination of the New River is caused by uncontrolled discharges of raw and inadequately treated sewage, highly toxic industrial, chemical solid and geothermal waste and seepage from major garbage dumps slaughter houses, and industrial refuse within or near the City of Mexicali into the New River; and

"Whereas, the contaminated waters of the New River flow into the Salton Sea, which discharges are incompatible with the ecological, recreational, and other beneficial uses associated with the Salton Sea; and

"Whereas, Federal, state, and local public officials have documented the clear and present danger that the contaminated New River presents to residents of, and visitors to, Imperial County; and

"Whereas, immediate action to clean up the New River is essential for the health and safety of the public: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to implement measures in cooperation with the Republic of Mexico and state and local public officials, to correct the contamination of the New River caused by discharges within the Republic of Mexico; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, each Senator and Representative from California in the Congress of the United States, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Governor of California."

POM–625. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"ASSEMBLY JOINT RESOLUTION 77

"Whereas, the prison system in California is seriously overcrowded and is currently operating at 180 percent capacity; and

"Whereas, approximately 16,000 or 15 percent of all prison inmates who are imprisoned in California are undocumented aliens who have been convicted of felony offenses under state law; and

"Whereas, the cost of imprisonment in California is twenty-two thousand dollars ($22,000) per prison inmate per year, which totals approximately three hundred fifty million dollars ($350,000,000) per year to imprison undocumented alien criminal offenders; and

"Whereas, the federal government is responsible for immigration policy and should bear the cost of imprisonment for undocumented alien criminal offenders; and

"Whereas, the Congress of the United States is considering the construction of 10 new regional federal prisons as part of the Omnibus Crime Bill: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to immediately enact legislation to construct new federal prisons and to transfer undocumented alien criminal offenders who are presently imprisoned in state prisons to the new federal facilities as a first priority in order to relieve California and other states from the financial burden of imprisoning dangerous convicted criminals who have entered the country illegally; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Attorney General of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM–626. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"ASSEMBLY JOINT RESOLUTION 84

"Whereas, the Armenians, among us, have contributed to the progress and betterment of life through agriculture, commerce, teaching, the professions, churches, and community and worldwide organizations; and

"Whereas, the United States of America has repeatedly gone on record in support of human rights around the world; and

"Whereas, it is well documented that approximately 1,500,000 Armenians were massacred in Turkey during the years 1915 to 1918, although this genocide has been consistently denied by the Turkish government; and

"Whereas, by their own resolute Christian faith and will to survive and live again, and the generosity of many in the United States of America resulting in relief operations, a fraction of the survivors were rescued and subsequently immigrated to this country; and

"Whereas, the Armenians in some other countries must continue to endure daily acts of oppression, such as denial of their basic human rights, confiscation of their churches and schools, and punishment for speaking their native language openly; and

"Whereas, April 24, 1915, is the date historians have marked as the beginning of the massacre and consequently this day should be a day of reflection by all Armenians and other Americans; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to designate April 24 as 'National Day of Remembrance' and requests the President of the United States to issue a proclamation calling upon the people of the United States to observe that day as a day of remembrance for all the victims of genocide, especially those of Armenian ancestry who succumbed to the genocide perpetrated in 1915, and in whose memory this date is commemorated by all Armenians and their friends throughout the world; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to

the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–627. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"ASSEMBLY JOINT RESOLUTION 78

"Whereas, Congress has proposed to create the 'Public Safety Partnership and Community Policing Act of 1993,' establishing a program of grants and assistance to the states for a period of six years for the hiring and rehiring of additional career law enforcement officers; and

"Whereas, the purpose of this program is to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and to otherwise enhance public safety; and

"Whereas, the ability of state and local law enforcement agencies to qualify for these grants is dependent on their ability to provide matching funds; and

"Whereas, these nonfederal matching funds must provide 25 percent of costs of the program, project, or activity provided under a grant; and

"Whereas, for a grant for a period exceeding one year for hiring or rehiring career law enforcement officers, the federal share shall decrease from year to year for up to five years when state or local grant recipients shall be required to fully fund the program, project, or activity provided under a grant; and

"Whereas, the State of California has been experiencing a severe, persistent, and continuing recession that has resulted in four successive years of contraction of the state and local budgets; and

"Whereas, as a result of the recession, most California law enforcement agencies have seen a reduction in their budgets; and

"Whereas, declining revenues will make it impossible for many California law enforcement agencies to meet the matching funds requirement contained within the proposed 'Public Safety Partnership and Community Policing Act of 1993' without impacting existing programs; and

"Whereas, those California communities suffering the most severe budget shortfalls are experiencing the greatest impact of crime and would benefit most from access to the federal grant program; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to include in the 'Public Safety Partnership and Community Policing Act of 1993' an exemption for California law enforcement agencies from meeting the matching funds requirement; and be it further

"Resolved, That if no exemption for California law enforcement agencies is forthcoming, the President and the Congress should give the Attorney General broad authority to waive the matching funds requirement; and be it further

"Resolved, That local officials should also be permitted to use the funds in the most flexible manner so that they may be applied to the most pressing local needs, which include using the funds to keep existing police officers on the streets longer, for improved communications technology, and for necessary equipment; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–628. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"JOINT RESOLUTION 46

"Whereas, An estimated 18,000 illegal aliens who are convicted felons are being housed and fed in California's state prisons, five times more than any other state, have cost California taxpayers more than one billion dollars in the last five years, and will cost a projected $375 million during the 1994–1995 fiscal year; and

"Whereas, California's prisons are overcrowded at 180 percent of capacity; and

"Whereas, California's current inmate population is over 120,000 inmates as of March 1994, which is nearly double the system's design capacity; and

"Whereas, The state prison population is projected to grow to at least 141,000 by 1997–1998; and

"Whereas, California is suffering from a severe fiscal crisis; and

"Whereas, The United States Congress is making trade agreements with other countries: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to negotiate with countries to whom the United States gives foreign aid or with whom the United States enters into trade agreements, for an agreement to require that nationals convicted of felonies in the United States, when they have entered the United States illegally, serve their prison sentences in their country of origin and that the term of each sentence to be served in a country of origin shall be comparable to the sentence imposed in the state within the United States wherein the crime occurred; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–629. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"JOINT RESOLUTION 81

"Whereas, United States Senator Dianne Feinstein (D–California) has introduced a bill (S. 1522) which would direct the United States Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than three offense levels for hate crimes; and

"Whereas, United States Congressman Charles E. Schumer (D–New York) has introduced a bill (H.R. 1152) which would direct the United States Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than three offense levels for hate crimes; and

"Whereas, Those two bills combine to make up the 'Hate Crimes Sentencing Enhancement Act of 1994'; and

"Whereas, The Sacramento area has witnessed and is still recovering from a series of racially motivated violent incidents, including the firebombings of the local National Association for the Advancement of Colored People headquarters, the Japanese-American Citizens League headquarters, the office of the Department of Fair Employment and Housing, the home of City Councilman Jimmie Yee, and the B'Nai Israel Synagogue; and

"Whereas, California is a multiracial, multicultural state which expects to have a majority of communities of color by the year 2010; and

"Whereas, The Legislature has demonstrated repeated dedication to the abolition of hate crimes by passing major pieces of hate crimes legislation that have come before them: Now, therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to swiftly pass and sign into law the "Hate Crimes Sentencing Enhancement Act of 1994"; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–630. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"JOINT RESOLUTION 60

"Whereas, Persons who lawfully reside in the United States, whether they be American citizens, immigrants, or persons working or studying in the United States on a visa, have traditionally been assured their spouses and children could also lawfully reside in the United States; and

"Whereas, Family unity has always been a cornerstone of American immigration policy; and

"Whereas, The spouses and children of persons who have become permanent residents, through the amnesty provisions of the Federal Immigration Reform and Control Act of 1986 (IRCA) do not enjoy the same derivative rights; and

"Whereas, The result is that the spouses and children of many of the nearly 1.5 million persons in California who have become permanent residents of the United States are subject to deportation as undocumented persons even though their spouses or parents may lawfully reside and work in the United States; and

"Whereas, The federal Immigration and Naturalization Service has deported or has begun procedures to deport the spouses and children of persons who have in good faith secured amnesty under the laws of the United States; and

"Whereas, It is a waste of taxpayer funds to commence deportation proceedings, resulting in costly litigation, when virtually all of the children and spouses of persons granted amnesty under IRCA will eventually become lawful permanent residents through petitions filed by their spouses or parents within a few years; and

"Whereas, The two separate amnesty provisions of IRCA were available to applicants for the period of May 5, 1987, to November 30, 1988, inclusive, and thus, the persons and families affected are necessarily limited in number; and

"Whereas, It would not be in the sense of fairplay and justice to destroy families; and

"Whereas, It is nonsensical for American society to grant amnesty to parents and

VOL 140 PT 16 AG 12 — 18 1994 UMI

leave their children subject to deportation: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to do all of the following:

(1) Review the actions of the Immigration and Naturalization Service with respect to deportation procedures for the children and spouses of permanent residents who were under the amnesty provisions of IRCA and (2) amend Section 301 of the Immigration Act of 1990 to ensure that the spouses and children of permanent residents who are legalized under the amnesty provisions of IRCA are afforded family unity protection; and be it further

"Resolved, That the President is strongly urged to issue an executive order that will direct the Immigration and Naturalization Service to cease any deportation actions that it may be taking against the spouses and children of permanent residents until the effective date of the amendments to Section 301 of the Immigration Act of 1990 described above; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-631. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION 80

"Whereas, it is estimated that one of every nine women in the United States will develop breast cancer, with more than 36,000 women in their 40s dying each year from this disease; and

"Whereas, there were 175,000 new cases of breast cancer diagnosed and 44,500 breast cancer deaths reported in 1991; and

"Whereas, the five-year relative survival rate in women whose breast cancer is detected early when the disease is localized is over 90 percent, while the five-year relative survival rate drops to 18 percent when the disease is not detected early; and

"Whereas, breast cancer is a critical health concern for women, not only because it threatens life itself, but also because of its impact on the self-image and quality of life of women; and

"Whereas, women are more likely than men to have no health insurance because they are concentrated in small businesses and low-wage, part-time, or temporary work and their health needs and the illnesses that are more prevalent in women, such as breast cancer, have historically been ignored in clinical research: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the state of California memorializes the President and the Congress of the United States to include the provision for mammograms and other women's health care needs as an integral part of any nationwide health care benefit reform package; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM-632. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION 44

"Whereas, today, over 37 million Americans and over 6 million Californians lack health insurance, constituting a public crisis that adversely impacts the quality of our health as well as our economy; and

"Whereas, title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) has brought relief to approximately one million Americans every year who face the loss of group health insurance through termination of employment, the death of a spouse, or other qualifying event; and

"Whereas, the Consolidated Omnibus Budget Reconciliation Act of 1985 requires employers to offer, at the employee's expense, the continuation of group health insurance at group rates, to enrollees and their eligible dependents whose group coverage would otherwise end due to termination of employment, death of a spouse, or other qualifying event; and

"Whereas, the terminated employee, the spouse of a deceased employee, or other dependent, may continue coverage for 18 to 36 months after a change in work or family status; and

"Whereas, the rate for coverage is not to exceed 102 percent of the applicable premium charged for that employee's coverage for the applicable period preceding that employee's termination of employment; and

"Whereas, a gap exists in this continuation coverage, to wit, terminated employees or dependents of employees cannot continue their COBRA coverage beyond 36 months; and

"Whereas, Americans between the ages of 50 and 64 who lose group health insurance often have difficulty replacing it with affordable insurance and are disproportionately affected by this gap in COBRA coverage; Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Congress and President of the United States are respectfully memorialized to extend the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) to enable individuals 50 years of age or older to continue participating in their employer provided group health plan after a qualifying event until the qualified beneficiary or beneficiary's spouse has attained the age to qualify for Medicare, or a beneficiary's dependent minor has reached the legal age of adulthood; and be it further

"Resolved, Consistent with existing law, continuation coverage shall provide for health care benefits at a rate not to exceed 102 percent of the premium charged for that employee's coverage for the applicable period preceding that employee's termination of employment or change in work status without medical qualification or exclusions for preexisting medical conditions; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Majority Leader of the United States Senate, and to the United States Secretary of Health and Human Services."

POM-633. A resolution adopted by Board of County Commissioners, Okaloosa County, Florida relative to Federal mandates; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following report of committees were submitted on August 16, 1994:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment:

H.R. 734: A bill to amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes." (Rept. No. 103-338).

The following report of committees were submitted on August 17, 1994:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2329. A bill to settle certain Indian land claims within the State of Connecticut, and for other purposes (Rept. No. 103-339).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH:

S. 2400. A bill to establish the Northern Yukon-Arctic International Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DECONCINI:

S. 2401. A bill to establish the National Commission on Major League Baseball, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 2400. A bill to establish the Northern Yukon-Arctic International Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

NORTHERN YUKON-ARCTIC INTERNATIONAL WILDLIFE REFUGE ACT

• Mr. ROTH. Mr. President, I address our needs as well as our opportunities for international cooperation to protect our world's circumpolar region.

During my years in the Congress I have expressed my sincere ideology concerning mankind's responsibility to the environment. Simply stated, it is that man is bound to serve nature through an environmental ethic. Mankind has the responsibility to pass on a life-giving, life-sustaining environment to future generations. Our natural and cultural heritage rank high among our most priceless and irreplaceable possessions. To lose any of these possessions would be a loss to all of mankind.

It is often exhibited that all ecosystems—from Alaska to Africa, South America to Saudi Arabia—are inextricably connected. Not only can destruction in one small area bruise the conscience of man, but it can affect the fragile ecological balance of a tiny world appear more vulnerable with each passing day. Perhaps this environmental transcendentalism is nowhere more apparent than in the circumpolar region which serves as a sink for global pollution. It gathers the wastes and fallout from all that surrounds it, and we all know the tragic consequences befalling the fragile ecosystem and biosphere. The wind, water, fish, fowl, caribou, and other animals and plants know no political boundaries. Whether the pollution that threatens their pristine and fragile environment comes from the Soviet Union, Brazil, Eastern Europe, or the United States is of little consequence—especially when the contamination begins to affect the native peoples who depend on the ecosystem.

Likewise, the contamination of this precious international resource poses a threat to the Arctic region as scientific laboratory for comparisons of the Earth's health. As someone recently put it: "if the Arctic systems fail, the health and the understanding of the health of the entire planet fails." It is for those and other reasons that I commend proposals that encourage international cooperation to protect the precious Arctic area. The Finnish and Pisces initiatives and the Beringia Cooperative Agreement are very important steps in this process. Likewise, I'm proud to announce my own piece of legislation, that I am introducing today.

Mr. President, today I am introducing legislation to establish a Northern Yukon-Arctic International Wildlife Refuge. Its purpose is to bring these two great nations together in historic cooperation to permanently protect the last complete Arctic ecosystem in North America, North America's serrengethi, to fulfill our responsibility as stewards of our land, its resources and the life that depends on it.

This effort will protect all shared wild bird resources native to North America that are in an unconfined state and that are protected under the Migratory Bird Treaty Act. Likewise, it protects wetlands, marine mammals—including seals, walruses, whales, and polar bears; and it maintains our commitment to the principles of caribou management as prescribed under the Porcupine Management Agreement. And it provides for continued protection of marine and anadromous fish species that inhabit the coastal waters of the Beaufort Sea. Finally, it reaffirms the commitments we made to the residents of these lands, to continue to provide them with the opportunity for subsistence uses for the resources of these lands.

Each of these objectives is worthy, and this bill is an important step toward caring for our stewardship in the entire Arctic National Wildlife Refuge as it is currently administered under the National Wildlife Refuge Administration Act. However, most important is that this bill demonstrates the willing spirit and many opportunities nations can take advantage of toward the objective of protecting our environment. It is a first step—an important first step. But it is my hope that it serves as an example of what nations can do with shared objectives, a spirit of cooperation, and little bit of effort.

It is also my hope that we can build on this effort to actively pursue arctic agreements that lead to an arctic refuge protection plan. Such a plan should include international protection for shared lands and waters, cultural and historical sites, and management of fish, birds and wildlife, as well as international cooperative efforts to control the sources of pollutants that affect this fragile environment. The legislation that I am introducing today should be one of the building blocks for this effort.•

By Mr. DECONCINI:

S. 2401. A bill to establish the National Commission on Major League Baseball, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL COMMISSION ON MAJOR LEAGUE BASEBALL ACT OF 1994

Mr. DECONCINI. Mr. President, I know that we all are very much consumed on the health care. The debate has been going on for some time.

There is something that is really, really important that people are missing in this country, and that is baseball. I want to talk about it for a moment.

Today I am introducing legislation that would establish a five-member, National Commission on Major League Baseball. The purpose of this Commission is very simple. This panel will do for baseball, and the baseball fans of America, what baseball has been unable to do for itself—that is keep the focus on the game and not on the lawyers, and more importantly make the game accountable to the millions of Americans who call themselves baseball fans.

This Commission will have oversight and regulatory control over major league baseball. In particular, the Commission will have the ability to investigate many areas of major league baseball, including expansion, ticket prices, stadium financing, television revenues, and marketing and merchandising. Most importantly, however, is the Commission's power to conduct binding arbitration in the event of a labor impasse. Given that we are currently in the eighth work stoppage in the past 22 seasons, it is unfortunate, but obvious, that baseball cannot put its own house in order. The need for this authority has never been more clear than it is today.

Once again, the players and the owners have betrayed the American public and put their own self-interests above those of the fans. To the average fan, salary caps and labor negotiations do not matter. The average fan feels no sympathy for either the multimillion-dollar players or the multimillion-dollar owners. All the average fan wants to do is enjoy baseball. This Commission is intended to give them that opportunity.

While developing this Commission, I envisioned a panel which could act as an impartial commissioner of the national pastime. Unfortunately, baseball does not have a commissioner at this time despite the repeated promises to appoint one. With all due respect to Mr. Selig—I know him, he is a fine man, and a very good businessman—this game needs a strong, impartial leader who can be guided not solely by the interests of the players or the owners, but by the best interests of the game. Accordingly, this must involve the views of the fans.

Under the legislation, the President will select three individuals from the millions who proudly call themselves baseball fans to serve on the Commission. This Commission may not resolve the myriad of problems which plague the game, but it will give the fans a much needed voice in the debate. Additionally, the Commission will have a member chosen from among the players and a member chosen from among the owners. The panel will have the power to hold hearings and to obtain all relevant documents and other evidence in order to make their review as comprehensive as possible. If the parties will not unilaterally disclose their positions then this legislation will compel them to do so. The distrust and secrecy between the players and the owners has made reaching a compromise all the more difficult. If we are to address these issues and the concerns of the respective parties, it can only be done through complete disclosure. This Commission has the power to make certain that reality and not rhetoric is the basis for any discussion of these issues.

Many people might wonder why, or if, Government should involve itself in this matter. But the Government is already involved and has, in effect, created a baseball monopoly. Baseball is special and receives special treatment through the antitrust immunity.

This exemption allows baseball to operate as one large entity which operates free of the threat of competition, despite the fact that competition is the hallmark of American free enterprise. In other instances where we create a monopoly, such as utilities, no one questions the Government's authority to regulate the industry. In essence we grant the monopoly, but we do so with the understanding that this rare exception has conditions, one of which is the Government's right to regulate.

And the players are just as much at fault. They could settle this but, no, they have three or four agents that

VOL 140 PT 16 AG 12 — 18 1994 UMI

hold out and really do not care about the fans.

Many will argue that we should simply repeal the exemption. Frankly, that day may be coming, but at this point I think the larger issue is whether or not the game can police itself—I have not seen much recently to suggest that it can. Proponents of the exemption cite the unique place of baseball in American society. This raises the obvious question of how many times will the game which claims to be uniquely American walk away from the American public? My legislation is a compromise between the two positions which lets the exemption remain for the time being, but subjects the monopoly to regulation. Furthermore, my bill requires the Commission to study the need for the anti-trust exemption and the effects of its possible repeal and report to Congress on their findings within 3 years. This study will allow Congress to better understand the consequences of continuing or repealing the anti-trust exemption. That decision, when and if it is made, should be an informed one, and the Commission will help in that regard.

Critics will argue that this Commission is ill conceived, that it places complex issues in the hands of those who lack the knowledge or understanding to resolve them. To those critics, I suggest that what this situation desperately needs is a little perspective and a good dose of reality. Who better to provide it than the very people who fill the coffers of the players and owners by going to the games, by purchasing the merchandise, by supporting the advertisers who pay the enormous television contracts? One thing is clear, the current system has failed and it is time for new ideas.

It is true that baseball is a uniquely American game. But with that special place in American culture comes a responsibility to the American public. The select few who constitute the ownership and players of major league baseball must preserve the game for the enjoyment of all fans. When the games stopped last week, fans were enjoying perhaps the finest season in many years. Matt Williams, Ken Griffey, Jr., and Frank Thomas were all chasing Roger Maris's home run record. Houston Astro Jeff Bagwell might have become the first triple crown winner since 1967. On the field the game was living up to its proud tradition. But now this fine season has been taken away and replaced with sound bites of lawyers from both sides who always find a new way to say, "we've made no progress." The baseball fans of America are the most loyal and dedicated in all of sports, they deserve better. They deserve a chance to watch the game they love—this Commission will give them that chance.

Mr. President, I compliment the Senator from Ohio here, who has tried to bring public attention to this in a different way, by lifting the exemption. I have not been a supporter of that because I am not convinced that it is going to solve the problem. I have given it a lot of thought, and I came to the conclusion that we need to regulate this monopoly, not just open it up by taking the exemption away. Critics will argue that the commission is ill-conceived and places complex issues in the hands of those who lack the knowledge or understanding to resolve them. To those critics, I suggest that what the situation desperately needs is a little perspective and a good dose of reality.

Who better to provide it than the very people who fill the coffers of the players and the owners by going to the game, by purchasing the merchandise, by supporting the advertisers who pay the enormous television contracts?

You know who that is: the baseball fans.

One thing is clear, the current system has failed, it is broken, it is not working.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "National Commission on Major League Baseball Act of 1994".

SEC. 2. ESTABLISHMENT.

There is hereby established the National Commission on Major League Baseball (hereafter in this Act referred to as the "Commission").

SEC. 3. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of five members, all of whom shall be appointed by the President. The President shall appoint—

(1) one member after consultation with the Major League Baseball Players Association;

(2) one member after consultation with the owners of Major League Baseball; and

(3) three members (after consultations with baseball fan organizations and the informal solicitation of recommendations from the general public), one of whom the President shall designate as Chairman of the Commission.

(b) TERM.—Members of the Commission shall be appointed for a six year term. No individual may serve as a member for more than one term.

(c) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but the Commission may provide for the taking of testimony and the reception of evidence at meetings at which there are present not less than three members of the Commission.

(d) APPOINTMENT DATE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the Chairman and shall be held within 90 days after the date of enactment of this Act.

(f) PUBLIC MEETINGS.—All Commission meetings shall be open to the public.

(g) VACANCY.—If any member of the Commission is unable to serve a full term or becomes unqualified to serve in such position, a new member shall be appointed to serve the remainder of such term of office, within 45 days of the vacancy, in the same manner in which the original appointment was made.

SEC. 4. DUTIES OF THE COMMISSION.

The duties of the Commission are to oversee and regulate any aspect of Major League Baseball, where, in the opinion of the Commission, it is in the best interests of baseball to intervene, including but not limited to the—

(1) conduct of binding arbitration in the event of a labor impasse;

(2) setting of ticket prices;

(3) expansion and relocation of franchises;

(4) financing of any stadium;

(5) regulation of television revenues;

(6) regulation of marketing and merchandising revenues; and

(7) revenue sharing disputes among the owners of Major League Baseball.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a panel of at least three members of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) OBTAINING DATA.—The Commission may secure directly from any Federal department, agency, or court information and assistance necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such agency or department shall furnish such information or assistance to the Commission. In addition, the Commission may request any relevant information from any appropriate parties with an interest in Major League Baseball.

(c) SUBPOENA POWER.—

(1) ISSUANCE.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within a judicial district at any designated place of hearing within the judicial district.

(2) ENFORCEMENT.—If a person issued a subpoena under paragraph (1) refuses to obey the subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which the person is found or resides or transacts business may (upon application by the Commission) order the person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(3) MANNER OF SERVICE.—A subpoena of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) PLACE OF SERVICE.—All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(d) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities and services of such agency available to the Commission to assist the Commission in carrying out its duties under this Act.

(e) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriations Acts.

(f) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

SEC. 6. COMPENSATION OF THE COMMISSION.

(a) PAY.—Each member of the Commission shall be a full-time Federal employee and shall be paid at an annual rate of basic pay payable for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 7. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The Chairman of the Commission may appoint and terminate no more than ten staff personnel to enable the Commission to perform its duties.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 8. REPORT TO CONGRESS.

No later than three years after the date of the enactment of this Act, the Commission shall submit a report to the Congress on the need for continuing the antitrust exemption for Major League Baseball and the possible effects resulting from the elimination of such exemption.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this Act.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date of enactment.

Mr. METZENBAUM. Mr. President, I rise to applaud Senator DECONCINI for proposing legislation to deal with the horrible problems that result from the Major League Baseball's exemption from our Nation's competition laws. As a consequence, today, baseball is not operating. Baseball games are not being played in the major lesion. Because baseball functions as an unregulated cartel, fans throughout the country have suffered as the season came to a crushing halt.

Senator HATCH and I have introduced a bill that will limit baseball's exemption from the competition laws. We hope for speedy passage of that bill, and we hope that it will convince the players to end their strike and management to sit down and negotiate, without imposing any one-sided conditions on the players.

I prefer this free market solution, as opposed to regulation.

However, I applaud my colleague for his effort to remedy the inequities in baseball, and I agree with him that we should not stand for an unregulated cartel.

I hope to work with my friend from Arizona to combine our legislative efforts in the hopes of letting the season continue for the benefit of all fans.

There is no secret about it that the situation that presently exists, where the owners are in a position to impose, on their own, conditions on the baseball players, has brought baseball to this condition in this country. That is not what the fans want, not what the country wants, and I do not think it is good for baseball or for the country. I think perhaps Senators DECONCINI, HATCH, and I, and others, who have a strong interest in the subject will be able to move forward and bring our some legislative resolution of the issue. Hopefully, the parties themselves will be able to resolve the issue and get baseball back on the field rather than in the U.S. Senate.

ADDITIONAL COSPONSORS

S. 1887

At the request of Mr. BAUCUS, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from California [Mrs. FEINSTEIN], the Senator from Connecticut [Mr. DODD], and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 1887, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 2255

At the request of Mr. GORTON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2255, a bill to amend the Budget Enforcement Act of 1990 to establish a new budget point of order against any amendment, bill, or conference report that directs increased revenues from additional taxation of Social Security or Railroad Retirement benefits to a fund other than the Social Security trust fund or the Social Security Equivalent Benefit Account.

S. 2257

At the request of Mr. DURENBERGER, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2257, a bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes.

At the request of Mr. BAUCUS, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2257, supra.

S. 2286

At the request of Mr. LUGAR, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2286, a bill to amend title 23, United States Code, to provide for the use of certain highway funds for improvements to railway-highway crossings.

S. 2330

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

SENATE JOINT RESOLUTION 214

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 214, a joint resolution designating August 9, 1994, as "Smokey Bear's 50th Anniversary."

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE CONCURRENT RESOLUTION 73

At the request of Mrs. FEINSTEIN, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Concurrent Resolution 73, a concurrent resolution expressing the sense of the Congress with respect to the announcement of the Japanese Food Agency that it does not intend to fulfill its commitment to purchase 75,000 metric tons of United States rice.

AMENDMENTS SUBMITTED

THE HEALTH SECURITY ACT OF 1994

NICKLES (AND OTHERS) AMENDMENT NO. 2563

Mr. NICKLES (for himself, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. CRAIG, Mr. COATS, Mr. GREGG, Mr. D'AMATO, Mr. GRASSLEY, Mr. DASCHLE, Mr. STEVENS, Mr. DURENBERGER, Mr. SHELBY, Mr. MACK, Mr. GORTON, Mr. ROTH, Mr. LOTT, Mr. BURNS, Mr. EXON, Mr. MURKOWSKI, Mr. SMITH, Mr. THURMOND, Mr. SPECTER, Mr. WOFFORD, and Mr. COVERDELL) proposed an amendment to amendment No. 2560 proposed by Mr.

VOL 140 PT 16 AG 12 — 18 1994 UMI

MITCHELL to the bill (S. 2351) to achieve universal health insurance coverage, and for other purposes; as follows:

On page 145, strike lines 1 through 5.

DASCHLE (AND OTHERS) AMENDMENT NO. 2564

Mr. DASCHLE (for himself, Mr. HARKIN, Mr. ROCKEFELLER, Mr. BAUCUS, Mr. REID, Mr. LEAHY, Mr. WOFFORD, and Mr. CAMPBELL) proposed an amendment to amendment No. 2560 proposed by Mr. MITCHELL to the bill S. 2351, supra; as follows:

On page 112, line 6, insert "including residents of rural areas" before the period.

On page 215, line 10, strike "(c)" and insert "(d)".

On page 215, between lines 9 and 10, insert the following new subsection:

(c) TRANSFER OF DUTIES.—Effective January 1, 1996, the functions, powers, duties, and authority that were carried out in accordance with Federal law by the Office of Rural Health Policy in the Department of Health and Human Services are transferred to the Office of the Assistant Secretary for Rural Health in the Department of Health and Human Services.

On page 612, line 24, insert before the period the following: ", at least one of whom resides in a rural area".

On page 613, line 9, insert before the period the following: ", at least one of whom resides in a rural area".

On page 647, strike lines 25 and 26, and insert the following:

"For purposes of carrying out section 3341, there are authorized to be appropriated $15,000,000 for each of the fiscal years 1997 through 2001.".

On page 664, line 10, strike "or health professional shortage areas" and insert "area, health professional shortage area, or other rural underserved area (as designated by the Governor)".

On page 651, between lines 9 and 10, add the following new paragraph:

(3) SUBPART F.—For the purpose of providing funds under subpart F, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000.

On page 652, line 18, strike "and".

On page 652, between lines 18 and 19, insert the following new paragraph:

"(7) rural health clinics, except that for-profit rural health clinics shall only be eligible for direct loans and grants under subpart C; and".

On page 652, line 19, strike "(7)" and insert "(8)".

On page 653, after line 23, add the following new subsection:

(f) PURPOSES AND CONDITIONS.—Grants shall be made under this part for the purposes and subject to all of the conditions under which eligible entities otherwise receive funding to provide health services to medically underserved populations under the Public Health Service Act. The Secretary shall prescribe comparable purposes and conditions for eligible entities not receiving funding under the Public Health Service Act, including conditions with respect to the availability of services in the area served (as provided for in section 330(e)(3)(A) of such Act), and conformance of fee and payment schedules with prevailing rates (as provided for in section 330(e)(3)(F) of such Act). With respect to federally qualified health centers, such comparable purposes and conditions shall include conditions concerning sliding fee scales under section 1128B(b)(3)(D) of the Social Security Act and waivers of deductibles under section 1833(d) of such Act.

On page 672, line 1, strike the subsection heading and insert "FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS".

On page 673, line 3, insert "and rural health clinics" after "Act)".

On page 675, between lines 16 and 17, add the following new subpart:

Subpart F—Rural-Based Managed Care Grants

SEC. 3467. RURAL-BASED MANAGED CARE GRANTS.

(a) IN GENERAL.—The Secretary shall award grants for the development and operation of rural-based managed care networks that integrate the medicare population of the area served.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an applicant organization shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary may require;

(2) be based or provide services in rural or rural underserved areas; and

(3) be currently operating or in the process of establishing a provider network serving the nonmedicare population .

(c) USE OF FUNDS.—Funds provided under a grant under this section may be used—

(1) for the development and implementation of rural-based managed care networks;

(2) for data and information systems, including telecommunications;

(3) for meeting solvency requirements for a risk-bearing entity under the medicare program under title XVIII of the Social Security Act;

(4) for the recruitment of health care providers; or

(5) for enabling services, including transportation and translation.

(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to—

(1) applicants that will use amounts received under the grant to develop and operate rural-based managed care networks that would serve at least one rural underserved area; and

(2) applicants that involve local residents and providers in the planning and development of the rural-based managed network.

(e) DEFINITIONS.—As used in this section

(1) RURAL AREA.—The term "rural area" means a rural area as described in section 1886(d)(2)(D) of the Social Security Act.

(2) UNDERSERVED RURAL AREA.—The term "underserved rural area" means a health professional shortage area under section 332 of the Public Health Service Act (42 U.S.C. 254e) or an area designated as underserved by the Governor of a State taking into account—

(A) financial and geographic access to health plans by residents of such area; and

(B) the availability, adequacy, and quality of qualified providers and health care facilities in such area.

(f) STUDY.—The Secretary shall study different risk-bearing approaches for rural managed care and payment methodologies that differ from or modify the medicare average area per capita cost payment methodology.

Beginning on page 675, strike line 24 and all that follows through line 4 on page 676, and insert the following: "priated $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act.".

On page 676, line 10, strike "NURSES" and insert "ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS".

On page 676, line 20, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 676, lines 21 and 22, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 677, between lines 13 and 14, add the following new parts:

PART 4—ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS

SEC. 3491. ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission, shall clarify existing and future policy guidelines, with respect to safe harbors, by providing additional illustrative examples with respect to the conduct of activities relating to the provision of health care services in rural areas.

(b) DISSEMINATION OF INFORMATION.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission and the Assistant Secretary for Rural Health, shall develop methods for the dissemination of the guidelines established under subsection (a) to rural health care providers.

PART 5—EMERGENCY MEDICAL SYSTEMS

SEC. 3495. GRANTS TO STATES REGARDING AIRCRAFT FOR TRANSPORTING RURAL VICTIMS OF MEDICAL EMERGENCIES.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d–51 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1252. GRANTS FOR SYSTEMS TO TRANSPORT RURAL VICTIMS OF MEDICAL EMERGENCIES.

"(a) IN GENERAL.—The Secretary shall make grants to States to assist such States in the creation or enhancement of air medical transport systems that provide victims of medical emergencies in rural areas with access to treatments for the injuries or other conditions resulting from such emergencies.

"(b) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application in such form, made in such manner, and containing such agreements, assurances, and information, including a State plan as required in paragraph (2), as the Secretary determines to be necessary to carry out this section.

"(2) STATE PLAN.—An application submitted under paragraph (1) shall contain a State plan that shall—

"(A) describe the intended uses of the grant proceeds and the geographic areas to be served;

"(B) demonstrate that the geographic areas to be served, as described under subparagraph (A), are rural in nature;

"(C) demonstrate that there is a lack of facilities available and equipped to deliver advanced levels of medical care in the geographic areas to be served;

"(D) demonstrate that in utilizing the grant proceeds for the establishment or enhancement of air medical services the State would be making a cost-effective improvement to existing ground-based or air emergency medical service systems;

"(E) demonstrate that the State will not utilize the grant proceeds to duplicate the capabilities of existing air medical systems that are effectively meeting the emergency medical needs of the populations they serve;

"(F) demonstrate that in utilizing the grant proceeds the State is likely to achieve a reduction in the morbidity and mortality rates of the areas to be served, as determined by the Secretary;

"(G) demonstrate that the State, in utilizing the grant proceeds, will—

"(i) maintain the expenditures of the State for air and ground medical transport systems at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received; and

"(ii) ensure that recipients of direct financial assistance from the State under such grant will maintain expenditures of such recipients for such systems at a level at least equal to the level of such expenditures maintained by such recipients for the fiscal year preceding the fiscal year for which the financial assistance is received;

"(H) demonstrate that persons experienced in the field of air medical service delivery were consulted in the preparation of the State plan; and

"(I) contain such other information as the Secretary may determine appropriate.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—In determining whether to award a grant to a State under this section, the Secretary shall—

"(1) consider the rural nature of the areas to be served with the grant proceeds and the services to be provided with such proceeds, as identified in the State plan submitted under subsection (b); and

"(2) give preference to States with State plans that demonstrate an effective integration of the proposed air medical transport systems into a comprehensive network or plan for regional or statewide emergency medical service delivery.

"(d) STATE ADMINISTRATION AND USE OF GRANT.—

"(1) IN GENERAL.—The Secretary may not make a grant to a State under subsection (a) unless the State agrees that such grant will be administered by the State agency with principal responsibility for carrying out programs regarding the provision of medical services to victims of medical emergencies or trauma.

"(2) PERMITTED USES.—A State may use amounts received under a grant awarded under this section to award subgrants to public and private entities operating within the State.

"(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make a grant to a State under subsection (a) unless that State agrees that, in developing and carrying out the State plan under subsection (b)(2), the State will provide public notice with respect to the plan (including any revisions thereto) and facilitate comments from interested persons.

"(e) NUMBER OF GRANTS.—The Secretary shall award grants under this section to not less than 7 States.

"(f) REPORTS.—

"(1) REQUIREMENT.—A State that receives a grant under this section shall annually (during each year in which the grant proceeds are used) prepare and submit to the Secretary a report that shall contain—

"(A) a description of the manner in which the grant proceeds were utilized;

"(B) a description of the effectiveness of the air medical transport programs assisted with grant proceeds; and

"(C) such other information as the Secretary may require.

"(2) TERMINATION OF FUNDINGS.—In reviewing reports submitted under paragraph (1), if the Secretary determines that a State is not using amounts provided under a grant awarded under this section in accordance with the State plan submitted by the State under subsection (b), the Secretary may terminate the payment of amounts under such grant to the State until such time as the Secretary determines that the State comes into compliance with such plan.

"(g) DEFINITION.—As used in this section, the term 'rural areas' means geographic areas that are located outside of standard metropolitan statistical areas, as identified by the Secretary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $15,000,000 for fiscal year 1995, and such sums as may be necessary for each for fiscal years 1996 and 1997.".

Beginning on page 718, strike line 23 and all that follows through line 5 on page 719, and insert the following new paragraph:

"(8) with respect to the National Health Service Corps program referred to in section 3471, $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act;".

On page 720, line 22, strike "; and" and insert a semicolon.

On page 720, between lines 22 and 23, insert the following new paragraph:

"(14) with respect to the development of rural telemedicine under section 3341, $15,000,000 for each of the fiscal years 1997 through 2001; and".

On page 720, line 23, strike "(14)" and insert "(15)".

On page 725, strike lines 7 through 11, and insert the following:

"(6) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

" '(1) IN GENERAL.—The Secretary shall use amounts made available under section 3471 of the Health Security Act to carry out this section in each of the fiscal years 1996 through 2000.' ".

On page 777, line 18, strike "and medical assistance facilities".

On page 780, line 3, insert "In the case of payment under this subsection to medical assistance facilities, the lesser-of-cost-or charges provisions under subsection (j) are not applicable." after "services.".

Beginning on page 808, strike line 16 and all that follows through page 809, line 4, and insert the following:

(2) by inserting "described in paragraph (2) and services furnished by a physician assistant, nurse practitioner, or a clinical nurse specialist described in such paragraph that would by physicians' services if furnished by a physician" after "physicians' services",

(3) by inserting "physician assistant, nurse practitioner, or a clinical nurse specialist" after "physician",

(4) by striking "10 percent" and inserting "the applicable percent", and

(5) by adding at the end the following new paragraph:

"(2)(A) The applicable percent referred to in paragraph (1) is—

"(i) in the case of physicians' services that are primary care services, a percent determined by the Secretary that may not be less than 10 percent and may not exceed 20 percent,

"(ii) in the case of services furnished by a physician assistant, nurse practitioner, or a clinical nurse specialist described in such paragraph that would be physicians' services that are primary care services if a physician furnished the services, a percent to be determined by the Secretary that is equal to the percent determined in clause (i) and determined so that the total amount of such payments under this clause and clause (i) is equal to the amount that would have been paid under clause (i) if the applicable percent for such clause was equal to 20 percent, and

"(iii) in the case of physicians' services other than primary care services furnished in a health professional shortage area located in a rural area (as defined in section 1886(d)(2)(D)), 10 percent.

On page 873, line 20, insert "urban and rural" after "representative of the".

On page 874, line 1, insert ", at least one of whom resides in a rural area" before the first period.

On page 874, line 4, insert ", at least one of whom resides in a rural area" before the first period.

On page 1390, line 22, insert "and that at least one member of the Commission is a resident of a rural area" before the period at the end.

GRASSLEY AMENDMENTS NOS. 2565–2567

(Ordered to lie on the table.)

Mr. GRASSLEY submitted three amendments intended to be proposed by him to amendment No. 2560 proposed by Mr. MITCHELL to the bill S. 2351, supra; as follows:

AMENDMENT NO. 2565

On page 263, between lines 15 and 16, insert the following new section:

SEC. . LIMITATION ON FULL-TIME EQUIVALENT POSITIONS.

Nothing in this Act, or an amendment made by this Act, shall be construed as permitting the total number of full-time equivalent positions in all agencies to exceed the limitations contained in section 5 of the Federal Workforce Restructuring Act of 1994.

AMENDMENT NO. 2566

On page 817, strike lines 14 through 24, and insert the following:

(a) COVERAGE IN OUTPATIENT SETTINGS; DIRECT PAYMENTS TO NURSE PRACTITIONERS.—

(1) IN GENERAL.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2))(K)) is amended—

(A) in clause (i)—

(i) by striking "or" at the end of subclause (II); and

(ii) by inserting "or (IV) in an outpatient setting as defined by the Secretary" following "shortage area,"; and

(B) in clause (ii)—

(i) by striking "in a skilled" and inserting "in (I) a skilled"; and

(ii) by inserting ", or (II) in an outpatient setting (as defined by the Secretary)," after "(as defined in section 1919(a))".

(2) DIRECT PAYMENTS TO NURSE PRACTITIONERS IN OUTPATIENT SETTINGS.—(A) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended by

VOL 140 PT 16 AG 12 — 18 1994 UMI

inserting "or for services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services in outpatient settings)," after "rural area),".

(B) Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking "clauses (i), (ii), or (iv)" and inserting "clauses (i), (ii)(I), or (iv)".

On page 820, line 4, strike "(a)(2)" and insert "(a)(1)(B)".

AMENDMENT NO. 2567

On page 1226, beginning with line 4, strike all through page 1227, line 13.

On page 1227, line 14, strike "(B)" and insert "(A)"

On page 1227, line 19, strike "(C)" and insert "(B)".

Mr. GRASSLEY. Mr. President, I want to speak and have it placed in the proper place in the RECORD—so it does not interfere with the debate on rural health care—a discussion of three amendments that I am going to offer later on in this bill's debate, and I want to send those amendments to the desk for file.

I am going to offer these amendments at such time as the managers of the bill see fit. In the meantime I want to have them on record so people will know what I am thinking about doing. I do not want to play any games with anybody. There is no reason to keep these amendments secret.

One of the amendments deals with one of the subject matters that is going to be involved with the Daschle amendment anyway.

The first amendment would ensure that the effects of the Mitchell bill would not supersede the provisions of another law that was passed earlier this year, Public Law 103–226. That law established ceilings for the numbers of Federal workers over the next 6 years.

Based on an amendment that Senator PHIL GRAMM and I offered, the ceilings are set forth in the Federal Workforce Restructuring Act of 1994. Section 5 of the act is entitled "Reduction of Federal Full-Time Equivalent Positions." The ceilings are set for fiscal year 1994 through fiscal year 1999.

The purpose of the amendment originally offered by Senator GRAMM and myself was to put teeth in the administration's program to reinvent Government. I am a strong believer in the reinventing Government program. I support the efforts of the Vice President and have indicated that many times here on the floor.

The Congress is also on record strongly supporting the program, because the Senate voted 82 to 14 in support of the Gramm-Grassley amendment.

The amendment that I intend to offer to the Mitchell bill would preserve what Congress did earlier this year. It would say that the Mitchell bill would have to be consistent with section 5 of Public Law 103–226. In other words, the Mitchell bill could not add to the overall full-time equivalents, or what we call FTE's, established in law.

This amendment is relevant, I believe. The short answer of why is that is there is a great fear on our side of the aisle that the Mitchell bill would lead to new, flourishing bureaucracies, even though the author denies this. So my amendment is a way to keep the author of the legislation consistent with what this Senate previously had done, not to increase the number of employees. If there are not going to be bureaucracies, there will not be bureaucracies. I want to make it clear that my intention is not to call into question the author's assertion. Rather, my intention is to ensure that the statutory ceilings are protected.

As our side has analyzed the Mitchell bill, it would create 50 new Federal bureaucracies. They would include, among others, a National Health Benefit Board and a National Health Care Cost and Coverage Commission. It would also give hundreds of new powers to the Secretary of HHS as well as the Secretary of Labor.

The point is that, if you have new bureaucracies, then new bureaucrats would have to do this new work. Presumably, they could be shifted from elsewhere within the Federal work force. Such a zero-sum shift would be acceptable from the standpoint of protection of the limits of employment under current law as long as the overall totals established in the law are not breached.

However, when I say acceptable, I want to make it clear I am talking about from the standpoint of protecting current law. I am not accepting the motion that all these bureaucracies are either wise or needed.

The second amendment that I am filling is also a portion of the amendment that is before this body. It deals with the direct Medicare reimbursement to nurse practitioners providing services in outpatient settings. I first introduced this legislation in November 1991. I was successful in adding this legislation to the Senate version of H.R. 11 in 1992, which was eventually vetoed by President Bush.

I offered this amendment again in the Senate Finance Committee's version of OBRA fiscal year 1993. And I was successful in adding this legislation to the Finance Committee's health reform bill. Senator MITCHELL has included this legislation in his bill. But it appears that some drafting errors make it necessary to refine it. I think that is what Senator DASCHLE is trying to accomplish, because it would not in original bill permit direct reimbursement of these providers. The amendment I file separately would also deal with that issue.

Finally, Mr. President, my third amendment that I want to present to the Senate for consideration over the next few days would do two things: It would strike what is a de facto employer mandate on the self-employed as well as the resulting tax penalty for noncompliance. This is in section 7203 of the Mitchell bill.

Mr. President, I want to make sure my colleagues are made aware of my intentions to offer these amendments to the Mitchell bill, and I would urge their cooperation and support.

As I indicated, Mr. President, I want these amendments placed or filed or sent to the desk merely for printing in the RECORD and for everybody's consideration over the next few days.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research Conservation, Forestry, and General Legislation and the House Agriculture Subcommittee on Environment, Credit and Rural Development will hold a joint field hearing concerning the future of the Conservation Reserve Program. The hearing will be held on Thursday, September 1, 1994, at 9:30 a.m. in Aberdeen, SD, at the Ramkota Inn. Senator TOM DASCHLE will preside.

For further information, please contact Tom Buis at 224–2321.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. AKAKA. Mr. President, I would like to announce that an oversight hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production.

The hearing will take place on Thursday, September 22, 1994, beginning at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the question of immigration in the Commonwealth of the Northern Mariana Islands.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Building, Washington, DC 20510.

For further information regarding the hearing, please contact Dionne Thompson of the subcommittee staff at (202) 224–5925.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 17, 1994, at 2 p.m., in room 226, Senate Dirksen Office Building, to hold a hearing on the nominations of William Bryson to be U.S. circuit judge for the Federal circuit, Salvador Casellas to be U.S. district judge for the District of Puerto Rico, Daniel Dominguez to be U.S. district judge for the District of Puerto Rico, and Sarah Vance to be U.S. district judge for the Eastern District of Louisiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, I rise today to announce to my Senate colleagues, as has been my custom each week during this session of the 103d Congress, that during the last week, 18 people were killed by gunshot in New York City, bringing the 1994 total to 621.•

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. KEMPTHORNE].

Mr. KEMPTHORNE. Thank you very much, Mr. President.

May I also acknowledge and thank for his courtesy the Senator from South Dakota, who is always a gentleman in all floor debate I have ever seen. I appreciate that.

I often read comments from Idahoans here on the Senate floor, because they reflect down-to-earth common sense. This is such a case. I am going to share with you three quotes from Idahoans relating to this current health care debate:

I do not believe that we have a crisis in the health care system. We have a good system, it just needs to be amended, says Missy Hunsucker of Boise.

Dr. Andrew McRoberts of Pocatello says:

What I fear now is they're going to rush something through with very little thought or planning and when it's done they're going to say, 'Oh, my God, what did we do'

And Jim Guthrie, a small business owner in McCammon says,

When you look at what the government is doing with some of the other things they've got their hand in, it's scary. I think something needs to be done, but I don't think this is it.

These are comments from hard-working, thoughtful and practical Idahoans. Real people, not policy wonks or "inside-the-beltway" analysts. These are the thoughts of the people whose lives will be impacted by the decisions we make in Congress. I hope we keep their comments in mind when we examine the whole question of health care reform.

The mail, faxes, and phone calls that come into my State offices and to my Washington office are almost unanimous in opposition to government-run health care and the Clinton-Mitchell bill. These are not part of any organized campaign, they are honest comments from concerned Americans.

There is no dispute that our country's health care system is the best in the world. Americans enjoy the best physicians, the best hospitals, and the best research facilities. There are changes that need to be made, but not a complete overhaul in our health care delivery system.

Is the Clinton-Mitchell plan, all 14-hundred-plus pages, the way to go? I do not think so. Veteran Senators tell me this is one of the most complex pieces of legislation they have ever seen. And what compounds the problem is the fact that we are now working on the third version of the bill—a bill that has not had the benefit of a complete committee markup and review, and a bill that frankly, not many people totally understand. The non-partisan Congressional Budget Office says this bill will cost more than $1.1 trillion over 8 years. In 1998 alone, it would cost nearly $104 billion, making it the third largest program in the budget.

My personal preference is to have Congress do what Idahoans tell me they would do: Implement local innovations and ideas, reform elements of the system, and let the private sector work.

When I first looked at the Clinton-Mitchell bill, one of the first phrases I saw was, "A participating State shall." A version of that phrase is repeated at least 85 times in the bill. What does that mean? Does it mean a State can opt out of the program? Far from it.

Under the Clinton-Mitchell bill, States would have to choose one of three options: Comply with the bill entirely, including the mountains of new rules and regulations; become a single-payer socialized medicine State; or let the Federal Government totally control health care in the State. None of these are attractive options.

State governments should not be forced to comply with the overly restrictive nature of this bill when they are doing a lot on their own, right now—and without Federal intervention.

The State of Idaho is not immune to the problems in health care. While Idahoans pay less for care than others, costs are going up and there are not enough doctors. That is making health care more difficult to get than in the past. Mr. President, 84 percent of Idahoans have health care coverage, but there are still more than 100,000 without coverage. Of those with coverage, 15 percent still do not have access to a primary care physician. That is because in a State with a large land mass and a small population, doctors tend to live in population centers, not in small, remote towns.

The Clinton-Mitchell bill makes provisions for rural communities. But that does not go far enough to meet the needs of a lot of towns in Idaho.

There are communities like Warren or Atlanta, ID—I could name dozens—that have no doctors or health care facilities. They are truly western frontier towns. They may be 25 miles or 100 miles from the nearest doctor, often isolated in the mountains and accessible by, at best, a gravel road. In the winter, they are lucky if that road is even plowed. They do not fit within the definitions of the Clinton-Mitchell health care bill for rural communities. We need to acknowledge these towns and their conditions and make allowances for them.

How important is a hospital to small town Idaho? It is often the difference between life and death, and is critical if there is an accident or sudden illness. Larry Lee, chief financial officer at Harms Memorial Hospital in American Falls is scared of the Clinton-Mitchell plan. He says isolated hospitals without cost efficiencies found in more urban areas are at risk. He says his greatest fear is that, "this small hospital will cease to exist—everything will be centered around the large hospitals with no consideration given to distance. Everything will be based on cost." In Emmett, a farming community northwest of Boise, the emergency room at Walter Knox Hospital treated 4,292 patients last year. That is roughly equal to the population of the town, and about one-third of the total number of people living in the entire county. The community can ill afford to lose its immediate care. There are other advantages of a hometown hospital beyond the medical needs of the community. An economic impact report presented to the local officials found that the hospital attracted three physicians to the valley, employs 92 people, and contributes more than $2 million annually to the economy. The report also stressed the importance of indirect revenues from related medical and service industries. So you can see that if small towns like Emmett, ID, lose their hospitals, they lose much more than health care—their economic health is also jeopardized. I do not want any part of a plan that causes rural hospitals and doctors to close their doors and abandon small towns. I doubt very much whether my colleagues do either.

Will the farmer in Idaho benefit from the Clinton-Mitchell plan? I mentioned that Idaho does not have enough health care providers. While the Clinton-Mitchell bill contains funding for outreach into rural underserved areas, it also creates disincentives to practice there. One example of such a disincentive may be the 25-percent tax for non-competitive areas. The tax on so-called

VOL 140 PT 16 AG 12 — 18 1994 UMI

high cost plans is to be paid, partially, by physicians.

Rural doctors already face low reimbursement rates—the additional burden may force some into more urban areas where there is a larger patient base and reimbursements are higher.

The 25-percent premium tax on high-cost plans is such a disincentive. My staff has prepared an analysis. This is how it works.

Your insurance policy will be taxed if your WAP is greater than the WARP. That is, if your Weighted Average Premium is greater than the Weighted Average Reference Premium. This is from the Clinton-Mitchell bill. The WARP is figured out this way: You take the total of all U.S. health care payments and subtract from that the Medicare beneficiaries, Supplemental Security Income recipients, worker's compensation, automobile or other liability insurance. To that amount you add the projected expenditures for underinsured and uninsured people and increase that amount by the estimated percentage reflecting the proportion of premiums required for administration and State premium taxes. Decrease that amount by a percentage that reflects the estimated average percentage to total amount payable for items and services covered under the standard benefits package that will be payments in the form of cost sharing under a certified standard benefit plan with a high-cost option. Then, divide that amount by your community rating area difference—which is actually the percentage of difference in health care expenditures, in rates of uninsurance and underinsurance and in the proportion of expenditures for services provided by academic health centers.

Sound simple? Not at all.

It will require an army of Washington bureaucrats to figure all this out, and this is just one small section of the Mitchell bill. The bill is a jobs bill for bureaucrats.

There are other complexities of this provision. The fact that you will not know when you buy insurance if your policy is going to be taxed. The fact that your doctor might very well be getting a bill for half of the tax at the end of the year. We all know who ends up paying this tax. Individuals and small businesses.

Is it so important that we enact this type of legislation and cause such disruption in the lives of many Americans? Isn't there a better way to improve health care? I think there is, and it is being done by the States and private sector already.

The Idaho legislature adopted health care reforms the last two sessions.

These are State, not Federal solutions.

Idaho has enacted legislation which guarantees access to health insurance, regardless of preexisting conditions or current health status.

At the same time, the legislature created true portability of insurance by allowing the insured to transfer coverage from one plan to another without a loss of coverage.

Administrative simplification was next on the list. Idaho now requires insurance companies to use a uniform claim form to reduce administrative costs and simplify the insurance process for the patient, the doctor, and the insurance companies.

Finally, the lawmakers took a step toward increasing the affordability of insurance by establishing Medical Savings Accounts. Contributions to these accounts are tax deductible from State income tax and may be used tax-free for medical expenses.

Idaho State Senator Dean Cameron says lawmakers recognized the need to do something, and he added, "We've accomplished everything they (the Federal Government) are trying to accomplish."

The private sector has also acted on its own. Moscow, Idaho, and Pullman, WA, are towns only 8 miles apart. They face a rural health care delivery problem, and they are doing something about it. Pullman Memorial Hospital and Gritman Medical Center have formed an alliance to keep costs down, improve care, and keep doctors and services available to the Palouse region.

The physician hospital organization, called a PHO, is voluntary—not mandated. Gritman's administrator, Robert Colvin, says, "We think we're doing this ahead of the curve, before it's do or die." This arrangement should be able to reduce costs and improve service by reducing the amount of duplicated services. Again, this is something these two communities, their hospitals, and doctors decided to do. The Federal Government did not tell them to do it.

I might add with no small amount of pride that I was an orderly at Gritman Medical Center when I was a student at the University of Idaho.

Because of the actions taken by the Idaho legislature, and innovations by private-sector health care providers, health care insurance and coverage in the State will be more affordable and accessible to many people. This was done without increasing taxes or more bureaucracy. The U.S. Congress could learn a lot from the Idaho State legislature.

Instead, the Senate is now debating a piece of legislation which will increase our taxes and dramatically increase the health care bureaucracy. Early reports indicate the Clinton-Mitchell bill will impose 17 new taxes and create 25 new bureaucratic regimes.

Over 90 percent of all employers in Idaho are small businesses. They employ almost two-thirds of the State's workers. People who currently receive their insurance through their employer, a small business, would be forced to change their current health plan. The business would be required to purchase a plan through the proposed Health Insurance Purchasing Cooperative, and the plan would have to provide the standard benefits package. Even if the worker preferred the old plan, he or she could easily be stuck paying for a plan that contains unneeded items or does not provide benefits that fit the worker.

Employees would suffer, and so would employers. Businesses would be negatively impacted by the Clinton-Mitchell plan. We are all aware of the serious impact the so called employer mandates will have on small business. Under this bill, there is little doubt that the mandate would likely be enacted. Willard Wood was in the restaurant business in Idaho for 58 years before retiring. He's managed both large and small restaurants, and he says employer mandates could be lethal to mom-and-pop businesses. "If health care reform goes through and the employer has to pay for all the employees, it will mean the loss of thousands of small businesses. I am talking about where the owners are working long hours just to make a living." After 58 years in business, I think Mr. Wood could be considered an expert in the field.

Chris Nye, who manages a business in Pocatello, says if employer mandates are forced onto his business, he will have to change his hiring practices because he won't be able to hire part-time help.

With examples like that, I can foresee where this bill will only serve to increase welfare rolls and lengthen unemployment lines because this health care bill will put people out of work.

Even before the mandates kick in, this bill is bad for a number of businesses—the small companies that have chosen to self-insure. They have taken the time and often the investment to carefully study their insurance needs and options and have decided that self-insuring provides them with the most efficient and most cost-effective way of providing coverage for their employees. Under the Clinton-Mitchell proposal, this would no longer be an option. The businesses would either have to buy insurance through those purchasing cooperatives I mentioned earlier or not provide insurance for their workers. I doubt we want to create a situation where a company is discouraged from providing coverage for its employees.

So how do we help small businesses across this country? What areas of reform are important to address right now?

There are insurance market reforms, providing portability, so a person can take insurance with them even between jobs.

Such reforms would also do away with limitations on insurance caused by preexisting conditions.

Antitrust reform is needed to allow hospitals and doctors to communicate and cooperate to provide the best care for a community.

St. Alphonsus Regional Medical Center and St. Luke's Regional Medical Center in Boise are only about 3 miles apart. Boiseans are truly fortunate to have two such fine facilities in their community. There have been times when people in Boise have wondered why each hospital provides the same specialized treatment or service. Would it not make sense to combine efforts? Normally, yes. But current antitrust laws make cooperation difficult. However, the hospitals have decided to push the edge of those laws and have combined their diabetes treatment centers. In doing so, the hospitals decided that several factors are more important than possibly risking violation of antitrust.

Both hospitals have diabetes centers. Both centers lose money or barely break even. So instead of passing the losses on to their patients in the cost of other services, the hospitals have combined efforts to improve delivery and cut costs. In the end, the community wins with a better quality of service in a facility that does not run the risk of closing down because it is losing money. It is a small step with two small programs, but could lead to more. Administrators at both hospitals say it could mark the beginning of more cooperative efforts. But they are nervous that the cooperation could run afoul of antitrust provisions. Enactment of antitrust reforms could remove the hurdles and provide incentive for the two hospitals to work together, not against each other, for the good of the community. Antitrust reform is not included in the Clinton-Mitchell bill.

One hundred-percent deductibility of health care premiums would give farmers, ranchers, and small business owners the same kind of advantages large corporations get. If you want to help rural and frontier areas, this would go a long way.

Congress should enact medical malpractice insurance reform. Bob Seeheusen, executive director of the Idaho Medical Association, says the current Clinton-Mitchell bill would preempt State laws on medical malpractice. In Idaho's case, he says this would undo what the State has already accomplished, and would likely push malpractice premiums up in price. It is unfortunate that even hospital equipment manufacturers need to buy malpractice insurance. Hospital administrators tell me that is what increases the cost of equipment, and the cost of care. If a hospital or doctor has to pay more for equipment, the cost is passed to the patient.

We need to enact anti-fraud and abuse control provisions; and administrative simplification. Nurses spend too much time filling out forms, taking away from the time they would like to spend with the patients.

I introduced a health care reform bill earlier this year that contained these reforms. I do not claim total authorship of the measure—I was able to take these items that are common to a variety of health care bills that had been introduced, and put them in one bill. I believed then, and I believe now, that there are reforms that most of us agree on and put in one bill and enact immediately and begin the reform of health care in America. Those should be put in a bill and enacted now so we can get started on the real reform Americans want.

Finally, it seems appropriate to remind everyone of the old adage, "Haste makes waste." It may seem trite, but it fits. With issues as detailed and complex as health care, it is vital that we not proceed too rapidly. We should not pass any piece of health-related legislation until we are sure we fully understand the consequences of our actions. Otherwise, we may find that we create more problems than we solve.

Larry Lee at Harms Memorial Hospital in American Falls has an interesting suggestion. He believes that before Congress jumps into something that is unproven, we should authorize pilot programs and test these theories. He says the health care reform proposals should go through the same kind of scrutiny, testing, retesting, and sampling that drugs undergo by the Food and Drug Administration.

There are many aspects of health care reform that I have not talked about today. They will be discussed by my colleagues on both sides of the aisle. But I look forward to that exchange. Only through extensive and thorough debate of the issues will we be able to unravel all the questions facing us, and only then will we hope to be able to pass legislation that Americans say they want and need.

The Clinton-Mitchell bill is not the right prescription for Idaho. Health care is too important an issue to pursue in this manner.

We would be wise to follow the advice of Missy Hunsacker, Dr. Andrew McRoberts, and Jim Guthrie when they say Congress should not move toward a hasty, big-government solution to our Nation's health care.

Mr. President, that completes my remarks. I thank you for your courtesy and the courtesy of all who have remained here this evening. I yield the floor.

ORDERS FOR TOMORROW

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Thursday, August 18; that when the Senate reconvenes on that day, the Journal of proceedings be deemed to have been approved to date, the call of the calendar be waived, and no motions or resolutions over under the rule; that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes, with Senator HATCH recognized to speak for up to 10 minutes; and that at 10 o'clock, the Senate resume consideration of S. 2351, the Health Security Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate now stands adjourned until 9:30 a.m., Thursday, August 18.

Thereupon, the Senate, at 9:29 p.m., adjourned until Thursday, August 18, 1994, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 17, 1994:

DEPARTMENT OF TRANSPORTATION

RICARDO MARTINEZ, OF LOUISIANA, TO BE ADMINISTRATOR OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.

DHARMENDRA K. SHARMA, OF CALIFORNIA, TO BE ADMINISTRATOR OF THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION.

FEDERAL MARITIME COMMISSION

HAROLD JENNINGS CREEL, JR., OF VIRGINIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1999.

DELMOND J.H. WON, OF HAWAII, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1997.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ALEXANDER WILLIAMS, JR., OF MARYLAND, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND

DEPARTMENT OF JUSTICE

CHARLES REDDING PITT, OF ALABAMA, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF ALABAMA FOR THE TERM OF 4 YEARS.

LARRY REED MATTOX, OF VIRGINIA, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF VIRGINIA FOR THE TERM OF 4 YEARS.

WALTER BAKER EDMISTEN, OF NORTH CAROLINA, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF 4 YEARS.

THOMAS JOSEPH MARONEY, OF NEW YORK, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF 4 YEARS.

COAST GUARD

COAST GUARD NOMINATIONS BEGINNING ROGER K. WIEBUSCH, AND ENDING ROBERT W. MONTFORT. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF MAY 17, 1994, FOR COMPLETE LIST.)

COAST GUARD NOMINATION OF KAY L. HICKMAN.

COAST GUARD NOMINATIONS BEGINNING MARK L. EVERETT, AND ENDING EUILL W. LONG III. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF JULY 27, 1994, FOR COMPLETE LIST.)

VOL
140
PT
16
AG
12
18
1994
UMI

HOUSE OF REPRESENTATIVES—*Wednesday, August 17, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Open our eyes, O God, so that our sight will be raised and our vision increased; open our minds so we will fathom the complexities of daily life; open our hearts so we will be touched by wisdom and courage; open our hands so we will do the works of justice and mercy. Breath into us such a faith, O God, that our spirits will be knit together in Your spirit and we will so gain that peace that passes all human understanding. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Ms. DELAURO. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Ms. DELAURO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Illinois [Mr. DURBIN] will please come forward and lead the House in the Pledge of Allegiance.

Mr. DURBIN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

VETS SERVICE-CONNECTED DISABILITIES ENTITLEMENTS

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. COOPER. Mr. Speaker, we have to get Federal spending under control and balance the Federal budget. Sometimes that means we must make across-the-board cuts in Federal spending; nearly every Government program must be examined in order for us to put our economic house in order.

But as we make these cuts, one program needs special protection, the health benefits we provide for veterans who have service-connected disabilities.

Health benefits for these brave veterans are essential. When we recruited the soldiers, we promised them good health care for life, and that is a promise we cannot break. That is why in our bipartisan health bill we put in $4 billion, exactly the amount the Veterans' Affairs requested to help our veterans.

Our men and women of the armed services risked their lives for this Nation. We made a pledge to take care of them. This is a pact that we must keep. I urge my colleagues to consider and respect the interests of these veterans as we attempt to reform health care and put our own economic house in order.

THE CLINTONS' PERSONAL ATTACKS ARE BELOW THE BELT

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I am personally offended by the First Couple's remarks on the crime bill over the past few days.

First, on Thursday night, the President suggested that I and my colleagues who voted against the rule did so to put our own political interests ahead of the Nation's security. Then on Sunday, he implied that we voted against the will of God. Finally, on Monday, the First Lady said that we "don't seem to care that our children don't feel safe in school."

Mr. Speaker, this is outrageous. Every Member of this body—regardless of party—regardless of their vote on the rule—cares deeply about the personal safety of their constituents.

It is out of line and just plain wrong for the First Couple to suggest otherwise.

This is not a debate about motives, it is a debate about policy. Let us talk about using some of that pork money to put more cops on the street. Let us talk about strengthening the sexual predator provisions. Let us talk about getting rid of the provisions which would release thousands of drug dealers from prison.

Mr. Speaker, we need to lift this debate to an honest level. We owe it to the American public. But we cannot unless the President and First Lady stop hitting below the belt.

CRIME BILL SILENCES THE DEAFENING DRUMBEAT OF CRIME

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, last week we had the opportunity to act on the most sweeping anticrime measure ever to come before the Congress. We had the opportunity to begin to silence the deafening drumbeat of crime: Violence in our homes, drugs in our schools, gunfire in our streets.

The Congress failed when it listened to the NRA rather than the country. Congress failed to give the American people the "three strikes and you're out" provision that puts violent repeat offenders behind bars for good.

Congress let down our families when it failed to put 100,000 more cops on the beat and increase safety in our neighborhoods.

Congress failed law enforcement when it failed to ban dangerous assault weapons, the weapon of choice of gang leaders, drug dealers, and cop killers, and it let down our children when the opposition used its procedural position to block investing in smart prevention programs that help them to steer clear of crime and drugs.

Our families and our communities need our help, and last week our institutions failed them.

Congress this week must take a different course; vote "yes" on the rule and "yes" on the crime bill.

NO CHOICE SHOULD HAVE NO CHANCE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the Clinton no-choice health care plan would be the no-chance health care plan if the White House and Congress just listened to the American people.

The problem is the Democrats are not listening, they are preaching—telling America that big government, Big Brother knows what is best.

Well, America is not buying the plan, which is why its public approval rating continues to sink southward.

With this lack of support, it is no wonder that the President wants to give America a lack of choice in choosing his plan.

In the marketplace of medical care, President Clinton wants to establish a monopoly.

Imagine going to the grocery store, the car lot, or airport, and just finding one brand, one make of car, or just one airline.

That is what you will find when you go to the hospital, the doctor, or the pharmacy if President Clinton gets his way.

Americans, remember, if you choose the Clinton health plan it may be the last choice in health care you will ever make.

PREVENTING FRAUD IN THE EARNED INCOME CREDIT

(Mr. LEHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN. Madam Speaker, I rise to draw the attention of the House to H.R. 4225, a bill that I introduced to eliminate fraud in the earned income credit for low-income working Americans.

The earned income credit [EIC] was established to increase the amount of income which low-income workers keep after taxes. However, there is ample evidence that EIC is being abused when filers provide incomplete or erroneous information to receive the credit.

While studies have shown that the earned income credit is an effective means of boosting low-income earners who work, they have also shown that nearly 1 in 3 of the 12.6 million families who received the EIC in 1990 were not eligible for it. As the EIC's cost nearly doubles to $25 billion in 1998, we must be sure that only eligible workers are receiving this tax break.

Specifically, this legislation requires the IRS to verify the taxpayer and dependent identification number before they can receive the credit—no number, no credit. A recent cost estimate by the IRS and OMB determined that this commonsense fraud-detection contained in the bill would save an average of 7.8 billion dollars. We cannot stand idly by while a flawed program continues to sap public funds.

Madam Speaker, I urge my colleagues to cosponsor and support this timely legislation.

TRIBUTE TO A GREAT LEADER: CECIL PARTEE

Mr. DURBIN. Madam Speaker, Illinois and the Nation lost a great leader yesterday, Cecil Partee, the Illinois Senate's first black president, died in Chicago.

As the first African-American in Illinois' history to preside over a chamber of the State legislature, he was truly a pioneer. Cecil Partee's life story traces the progress we have made in race relations in America. Cecil Partee was born in Arkansas in 1921, the son of a teacher. He was a brilliant student in high school and college. When he graduated from college, he applied for admission to the University of Arkansas Law School. He passed the admission test, but that law school was all white, so the State of Arkansas told Cecil Partee that they would pay his tuition for any law school he could be admitted to outside of the State of Arkansas. It turned out that he was admitted to Northwestern University Law School in Chicago. Arkansas' loss was Illinois' gain.

□ 1010

Cecil Partee graduated from Northwestern Law School and was admitted to the bar in Illinois. He served five times in the Illinois House, and then served in the Illinois Senate, and was president of the State Senate for two terms. During that time Cecil Partee sponsored fair employment legislation, open housing consumer rights legislation. He was the first black in Illinois running for attorney general in 1976.

Cecil Partee was my friend and my boss. I count myself fortunate to have learned the craft of politics at his side, and, equally important, to have learned that there is real happiness to be found in fighting the good political fight.

Cecil Partee is survived by his wife, Paris, granddaughters, and family. We join today in celebrating his life and mourning his loss.

STUFFING THE CRIME BILL WITH PORK

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Madam Speaker, like Santa Claus stuffing a stocking on Christmas eve, President Clinton and the Democrat leadership stuffed the crime bill with pork.

The result: a crime bill with over $9 billion in social welfare spending. For example, $270 million for social workers, guidance counselors, administrators, et cetera, to design social programs; $630 million for arts, crafts, and music activities; $5 million for youth anticrime councils to, and I am not kidding, sit around and talk about crime.

Some estimates are that for every police officer this bill funds, it also funds two new social workers. That is not crime fighting. That is more Washington, DC, politics as usual.

Our message to the President and the congressional leadership is simple. Let us stop dilly-dallying, cut the pork, put real teeth in this bill by really cracking down on criminal thugs, and let us pass a crime bill that protects American families instead of creating jobs for Government bureaucrats.

ROUND-THE-CLOCK NEGOTIATIONS AND BAKED BEANS CAN RESOLVE THE BASEBALL STRIKE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, baseball is treated like a game, but baseball is a business, and in business there are strikes. In baseball there is a strike, and it is job action just like any other strike, pure and simple, and there is only one key method to really resolving this strike, and that is face to face, round-the-clock, continuous negotiations with an objective third-party mediator. I recommend that.

I further recommend that the mediator put them in a small room, shut the doors and the windows, turn off the air conditioner, and give them a big meal of baked beans, fried cheese—think about it—hard boiled eggs, chocolate kisses, and in about 8 hours they will be pleading and shouting, "Play ball."

It is time for them to sit down, Madam Speaker, and I think that recommendation should be heard by all the interested people in America that follow baseball.

YOUNG AND HEALTHY NEED HEALTH CARE REFORM, TOO

(Ms. SHEPHERD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SHEPHERD. Madam Speaker, $1 million. That is what one young family in my district owes for the care of their daughter. Ken and his wife were young and healthy and figured they had no need for health insurance. One of their two children was born with a problem with her heart and one of her hands. The cost of caring for this child has put this young family $1 million in debt.

Fortunately, the State of Utah is helping them pay this bill. What that means of course is that we are all paying the bill. The freedom to not purchase insurance is a free ride at the taxpayers expense that our Nation can no longer afford.

GUESS WHOSE BILL?

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

79-059 O—97 Vol. 140 (Pt. 16) 39

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. SCHUMER. Madam Speaker, we are now getting to the 11th hour on the crime bill, and there is lots of talk of compromise and other things in the air, and that is good as long as the President's four immutable principles stay strong, but one thing we have talked about is the prevention programs, and all of a sudden many from the other side, many from the other party, have done an about-face. We know that there were more prevention programs in the bill that passed the House in April which 65 Republicans voted for than there are today, and let me give my colleagues some of the programs that have come in for criticism and play a little game show: Guess Whose Bill?

Olympic youth centers, 125 million for, quote, sporting and recreational equipment, meals, first aid, nutrition guidance; July 1994 Republican Senate crime proposal.

Child centered activities, 400 million for supervised sports programs, work force preparation, horror of horrors, tutoring and mentoring programs which may involve social workers; July 1994, Republican Senate crime proposal.

Juvenile drug trafficking, boys and girls clubs, all in the Republican Senate proposal that now so many on this side seek to oppose.

HONORING ALFREDO CRISTIANI, EL SALVADOR'S FORMER PRESIDENT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Madam Speaker, I rise to honor El Salvador's former President, Alfredo Cristiani.

As an active participant in the democratic efforts of many Latin American nations, I had the unique opportunity to meet and forge a great friendship with one important political figure, Mr. Alfredo Cristiani.

As we witnessed, El Salvador's 12-year civil war left the country in shambles. However, it was the strong leadership and guidance coupled with the courage demonstrated by Mr. Cristiani that rescued the country. The political, economic, and social progress that has taken place in El Salvador over the last 5 years is tremendous. Mr. Cristiani instituted land reform, electoral reform, and fostered free-market enterprise. But, it was the remarkable reconciliation between military and political rivals through the Mexico Peace Accords that brought harmony to El Salvador. Even in the midst of threats on his life, Mr. Cristiani helped to bring peace to a war-torn country.

Mr. Cristiani ended his term of office on June 1, 1994, with a peaceful transition of power. Although he will be missed, he will not be forgotten. His achievements are a part of history. Please do not let this man's endeavors to restore democracy to El Salvador go unnoticed. Join me and Representative LEE HAMILTON in cosponsoring legislation commemorating Alfredo Cristiani and honoring his role in rebuilding El Salvador.

PLAY BALL

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS. Major league ball players, big league owners, play ball.

MEXICO RAID

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Madam Speaker, last year when this House voted on NAFTA, we were told trade would bring democracy in Mexico's one-party State. So, we are all watching very closely the Presidential elections that are to occur in Mexico this Sunday, August 21. Quite frankly, the news leading up to the election does not bode well for a fair and peaceful outcome. The Catholic News Service reported recently:

Mexican Jesuits say a raid by heavily armed men on a recent house run by the order near the Pacific resort of Acapulco may have been in retaliation for the order's efforts to train poll watchers for the upcoming August 21 elections. On July 15, "six heavily armed men" broke into the Jesuits' De Colores retreat house in the town of Guerrero state, at around 8 a.m., cutting electrical lines and ransacking the premises. The assailants have been reported to be Guerrero State and Judicial Police agents.

Madam Speaker, free trade cannot benefit ordinary people without free elections. How this Congress could approve free trade without guarantees of free elections is beyond me.

□ 1020

WILLIAM H. NATCHER BRIDGE

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Kentucky. Madam Speaker, currently under construction in my home State is a four-lane bridge spanning the Ohio River from Daviess County into Rockport, IN. At home, we think of this span as the "William H. Natcher Bridge." But here in Washington we have never formally honored Congressman Natcher in this way.

So today I am proud to introduce legislation naming this project in honor of my predecessor, Congressman Bill Natcher. Joining me on this legislation is the entire Kentucky delegation.

This, of course, is a fitting tribute to a man who for over 40 years gave his heart and soul to the people of the Second District through his service in this Chamber. It will be a visible reminder of one of our district's best friends.

But in a larger sense, Madam Speaker, William Natcher's greatest monument is not made out of concrete. It is in the thousands of lives he touched and his example of integrity and character. These things stand as his memorial in every community in the Second District, big and small.

I urge all of my colleagues to join with me in this tribute.

AMERICANS TERRORIZED BY CRIME LOOK TOWARD HOUSE VOTE ON CRIME BILL

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Madam Speaker, the stability of the institution of Government in this country has always been taken for granted. While other nations have seen their hopes of government changed and confidence lost, this country has continued generation to generation. But now indeed in hundreds of American cities the relevance of this system of government is in question.

Children sleep on the floor to be safe from gunfire, citizens dare not venture out into the streets, businesses close and leave cities without vital services. Americans are held hostage in a reign of terror on her own streets.

This House will soon vote on whether or not this Government, whether or not this system still provides security for ordinary Americans in their homes and in their places of business.

Some have called this a fight between the two political parties or simply a question of a special interest against a larger public interest: Indeed it is more than that. The question is, can this Government, can this country still provide basic security for our people?

CLINTON'S BARNEY BILL

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Madam Speaker, I yield to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Madam Speaker, the President never bothered to bring a crime bill to Congress when this issue was still being debated.

Yet once crime became America's primary concern, suddenly, like an archeologist, President Clinton went digging to find something he could call his own.

And just like archeologists, the White House unearthed a dinosaur of a crime bill.

It was a huge, lumbering monstrosity weighted down with unneeded spending but with a crime-fighting brain about the size of a walnut.

Not only did the Clinton administration unearth a dinosaur of a crime bill, but the dinosaur they got was Barney.

It was not even a ferocious dinosaur of a crime bill. No, it was a big warm, fuzzy, purple one—as soft on crime as the logic that billions of dollars for arts and crafts, self-esteem, dance, and midnight basketball programs deter murders, rapists, and robbers.

Americans want a crime bill that will make criminals extinct, not taxpayers. The Clinton administration should bury this bill where they found it and start over.

INTRODUCTION OF THE WELFARE TO SELF-SUFFICIENCY ACT OF 1994

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Madam Speaker, today I rise to inform my colleagues that I am introducing legislation that will give Americans a hand up instead of a hand out. The Welfare to Self-Sufficiency Act of 1994 will end the quagmire that faces those now on welfare. No longer will men and women be trapped by a welfare system that does not reward work, promote the family, or instill personal responsibility. The legislation I have introduced will fortify these three fundamental values. It will move people from dependence to independence, from a welfare check to a paycheck, and from a sense of hopelessness to one of opportunity.

Madam Speaker, this legislation will give people the opportunity to enter into individual contracts with the State not a one-size-fits-all plan. It encourages AFDC families to work by allowing them to keep more of their earned income and encourages saving by raising resource limits. States will have the option to implement wage supplementation programs in which the value of the AFDC grant and food stamp benefits is added to the minimum wage of the worker.

This legislation will strengthen child support enforcement by referring collection of certain delinquent child support evaders to the IRS. Additional savings will occur by reforming and controlling the rate of growth in Federal payments for the administration of AFDC, the food stamp program, and Medicaid. Finally, illegal aliens will not be eligible for welfare benefits, except for emergency medical care.

Madam Speaker, I agree with the President it is time to "end welfare as we know it." It is time to break this cycle and pass welfare reform legislation that will give every American an opportunity to become self-sufficient.

SPECIAL INTERESTS THREATEN RIPOFF OF INVENTORS UNDER GATT PROVISIONS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Madam Speaker, seeing that we are discussing crime, I thought it would be appropriate for me to come to the floor and discuss the coming GATT Treaty and the ripoff of American inventors that the current GATT implementing legislation represents.

Little do the American people know and little do the Members of this House know that buried deep in the GATT implementation legislation is language not required by GATT but put in by special interests that will dramatically reduce the amount of time that our inventors are protected. If this passes, hundreds of millions of dollars that now go from Japanese corporations to pay royalties to American inventors will stay in the pockets of those big multinational Japanese corporations. It is one of the biggest ripoffs in American history.

I am a free-trader. I supported NAFTA. But I ask my colleagues, please look at the provisions of the GATT implementing legislation and let us not allow this ripoff of American inventors to take place.

FIXING THE CRIME BILL IN CONFERENCE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Madam Speaker, questions have been asked, why are so many Members of the House opposed to the crime bill, which has sometimes been called the President's crime bill? It is not the President's crime bill; it is the conference committee's crime bill, and there are good reasons to be opposed to it on both sides of the aisle.

The important point is that there are opportunities to fix what is wrong, and that is the process that is going on now.

The bill we voted on last week had inadequate funding for building prisons, it had inadequate funding for having more policemen to put them on the beat, and it had weakened the sexual predator provision. It had various pork barrel projects, the most celebrated of which was the $10 million that was stuck in there surreptitiously for some kind of a project in Chairman BROOK's district, at Lamar University.

We estimated that the bill would have released as many as 10,000 convicted drug felons and put them back on the streets. It did not include the victims restitution provisions of the Senate-passed bill. It did not include the strengthened death penalty procedures to end the endless appeals process. It did not include tough penalties for violent gang offenses, mostly juvenile offenses. It has $9 billion in it for social programs. There was much that was wrong in the bill, and it can be fixed.

APPOINTMENT OF CONFEREES ON H.R. 4624, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1995

Mr. STOKES. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Ms. DELAURO). Is there objection to the request of the gentleman from Ohio? The Chair hears none and, without objection, appoints the following conferees: Messrs. STOKES, MOLLOHAN, and CHAPMAN, Ms. KAPTUR, and Messrs. TORRES, THORNTON, OBEY, LEWIS of California, DELAY, GALLO, and MCDADE.

There was no objection.

EMERGENCY SPENDING CONTROL ACT OF 1994

Mr. MOAKLEY. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 513 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 513

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4906) to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour divided and controlled by the chairman and ranking minority member of the Committee on Rules. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent,

VOL 140 PT 16 AG 12 — 18 1994 UMI

and shall not be subject to amendment. All points of order against the amendments printed in the report are waived. If more than one of the amendments printed in the report is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been finally adopted. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1030

The SPEAKER pro tempore (Ms. DELAURO). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 513 provides for the consideration of H.R. 4906, the Emergency Spending Control Act of 1994. The resolution waives all points of order against consideration of the bill and allows up to 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Rules.

After general debate the bill will be considered as read, and no amendments will be in order except the four amendments in the nature of substitutes printed in House Report 103–690. The amendments will be considered in the following order under a king-of-the-hill procedure: First, the amendment by Representative SAM JOHNSON or a designee; second, the amendment by Representative CASTLE or a designee; third, the amendment by Representative STENHOLM, Representative KASICH, or Representative PENNY or a designee; and fourth, the amendment by Representative SPRATT or a designee. Should more than one amendment be adopted, only the last amendment adopted would be reported to the House.

Each amendment is debatable for 30 minutes, equally divided and controlled by the proponent and an opponent. The amendments are not subject to further amendment, and all points of order against the amendments are waived.

Finally, the resolution provides for one motion to recommit, with or without instructions.

Madam Speaker, the Emergency Spending Control Act of 1994 is designed to improve the budget process and control emergency spending.

This Government is now operating under a 5-year budget plan passed last year by this Congress with the President's leadership. As a result of that plan, the deficit is plummeting even faster than expected.

As a result of that plan, jobs are being created faster than before. Unemployment is lower than before. Consumer confidence is higher than before. Interest rates are still low. Inflation is extremely low. According to the Republican Chairman of the Federal Reserve, Mr. Greenspan, "the outlook for the U.S. economy is as bright as it has been in decades."

Madam Speaker, one of the features of the 5-year economic plan was a freeze through 1998 on discretionary spending. Discretionary spending funds most of the Government itself and most Government programs.

When Congress first imposed caps on discretionary spending in 1990, we realized that from time to time sudden, nonrecurring, catastrophic events take place which increase demands for Government services. These events are typically natural disasters like floods, hurricanes, earthquakes, droughts, and so forth. Such emergencies cannot usually be predicted with any certainty. Consequently they cannot be easily or accurately estimated and budgeted for in advance.

If the budget process were so rigid as to require cuts in other programs before Government could meet the needs of Americans left homeless by floods, hurricanes, or earthquakes, it would in effect force Congress to shift the suffering caused by the emergency in question from one group to another. Congress could debate for days or weeks about what programs to cut while thousands of Americans suffered from homelessness, disease, and lost income brought about by the emergency.

So, the Budget Enforcement Act allows Congress and the President to provide emergency assistance to those in need without fighting a bruising political battle over what programs to cut and whom to inflict suffering on instead. Basically, if the Congress and the President can agree that an emergency exists for which additional spending is required quickly, then that spending will not count against the spending limits.

Unfortunately, at times additional items, which were arguably not emergency items, have found their way into emergency bills. It is this problem H.R. 4906 is designed to cure.

The bill would amend the Budget Act to provide that, during consideration of any bill containing emergency spending, any Member could offer an amendment to strike out any provision which is not designated as an emergency.

And, Madam Speaker, H.R. 4906 would make it easier for the American people to determine who supported these additional, nonemergency items in the emergency bills by facilitating recorded votes on amendments to strike them out. Under the bill, a recorded vote would be ordered on amendments striking out nonemergency riders if demanded by a Member and supported by only nine other Members. That is a total of only 10 Members to get a vote, instead of the current 25 in the Committee of the Whole or 44 in the House.

Finally, the bill ensures that any nonemergency provisions in enacted emergency legislation will in fact count against the applicable allocations of spending under the Budget Act. Madam Speaker, I urge all Members to support the bill.

I also urge Members to support the rule. It makes in order all the amendments which Members asked the Rules Committee to make in order. The rule provides for a king-of-the-hill procedure so all the substitutes can be considered and debated thoroughly. It does not restrict the motion to recommit in any way. It is a fair rule that will expedite this important legislation, and it deserves our support.

Madam Speaker, I reserve the balance of my time.

Mr. GOSS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank the distinguished chairman, the gentleman from Massachusetts [Mr. MOAKLEY] for yielding me this time.

Madam Speaker, because deficit growing emergency spending is a real problem that needs to be addressed and because all Members who sought to offer amendments have been allowed to offer them on the floor, I am not going to call for a vote in opposition to the rule that we have before us. But that is not to say it is a good rule or that it has not got some problems with it.

I think it is sort of appropriate we are here today on the leading edge of a weather event which has caused serious problems to our south down in the area which I represent and other areas of Florida and Georgia and the Carolinas, and once again, we have gone a long distance of time without providing for these acts of God or these unforeseen disasters that come upon us.

Weather-related disasters are predictable in the sense we know they are going to happen. It is just we do not know the date. It seems to me we ought to be a little bit smarter about getting ready for the fact we know we are going to have these kinds of problems. That is one of the things that the Government can do, is to try and buy relief for people in need, for our citizens in need in this country, and we need to find a way to do it better.

I would point out as we start this that we had assurances, if not promises, from the Democrat leadership. I believe it was a little over a year ago when we were debating the Mississippi flood problem, that we would come to grips with this problem. Well, we have not come to grips with the problem, and today we have a very modest Band-Aid patch which really does not do anything different than what we are really doing now, and the real purpose of why we are here today is to vent on the A to Z issue rather than accomplish a really solid proposal that will lay some funds aside for these predictable problems that we are going to have helping out Americans in need as a result of natural disasters and other emergency spending needs that this body and the other body and the President and the communities deem truly worthy of relief from the Federal Government.

□ 1040

Going back to the rule, first the rule waives all points of order against the bill. That is a red flag for most Members now, especially after we have discussed the crime bill at such length and seen the kinds of minefields that can be in there when we protect things and we are not sure what we are protecting, sometimes there are some nasty little surprises. And I think we have gone through that process.

One more time, we have got a rule that waives all points of order against the bill.

While we at least took the sensible step of waiving all points of order against the amendments as well, and the reason I say that is so that they are treated fairly, if we are going to protect one part of the process, then we may as well protect it all. I think that is justifiable as long as we know what is there. In this case we generally do know what is there. So it is not quite as upsetting as not knowing what is there.

I must comment once again that this is a dangerous trend, however, and one we on the minority side would like to get away from. We think Members should know what is in the bill and what is being protected and what is not.

The Committee on Rules now seems to be in the business of providing blanket waivers as sort of a normal way that we do stuff. I do not think that is a good idea. We are going to continue to resist that. I will admit there are times when there are items that need protection. I am not saying that we should not use judgment and wisdom. I am just saying, providing blanket protection all the time for everything that might be hidden in one of these reports is not a good way to do business.

It has actually reached the point where we are not even told what provisions in this bill might need protection. I think we do know in this bill more than we do in others. I am not as concerned about this bill because this bill does not do a whole lot. But I do not like that uncertainty and I do not think Members want that uncertainty. I find it, frankly, a little bit ironic that as we are about to consider a bill that seeks to use points of order to control future spending, and that is what this does, we are demonstrating why such a measure is impotent because we are violating the very thing we are seeking to outlaw.

In addition, this rule calls for a king-of-the-hill procedure. We have had much debate on that. It is a complex machination that in this case, as in every case, stacks the deck against the adoption of any of the amendments offered. What generally happens is this, we go back to where we started, and we tilt the deck so where we started is the choice that will normally come up. This is because even if an overwhelming majority of Members vote in favor of a substitute, it would only take a bare 218 votes to restore the language in the base bill which will be considered as the final amendment. So we go through a long process of maybe debating for half an hour on each side, or whatever the time allowance is, worthy amendments. And we do two or three, and we have votes on each one. Then the last amendment we always put back in as shall we go back to square one?

What that does is it allows everybody to say, gee, I voted for one of those great amendments but at the end, I also voted for the bill because that was the best I could get. So it is sort of a charade. We are giving cover to Members to say they voted for something that they thought their people wanted back in their district. But when it came really to the end, the last vote they had to vote for is the one that the majority party wanted in the first place, the party position, and that is the one they vote for to be members of the party and adhere to the discipline in their party position.

So we end up not with a merit but we end up with sort of a partisan approach to the debate. We have advocated in the minority for an alternate approach to this. Instead of it being the going back to square one when we go through the amendment process, that instead of that, that we allow the amendment which gets the most votes to win. I think any American would say that makes sense.

The proposition that the most people vote for is the one that should come up as the winner. That is not the case when you are king of the hill, unfortunately. It could happen that way, but it usually does not.

In committee, we have offered a motion to allow the amendment that garnered the most votes to carry the day. We do that on the Committee on Rules. And we think that is a more democratic way to go and a more common sense way to go but, unfortunately, it gets rejected. And I would point out it gets rejected in the Committee on Rules. And one of the reasons, there are usually party line votes. I would point out the majority has nine positions in the Committee on Rules and the minority has four. So it takes a mighty effort to overcome a 9 to 4 tilt.

Finally, as we shall see during the general debate, this Emergency Spending Control Act of 1994, as it is called, does not provide for greater control over emergency spending than is currently provided for under the standing rules of the House. What we are doing today does not provide for greater control over emergency spending than is currently provided for under the standing rules of the House. In other words, we already can do in this House what it is we are trying to legislate today. So we are going to have this wonderful, long debate about are we worried about emergency spending while those folks in Carolina are having so much trouble, those folks down in northern Florida are picking stuff up off their streets and wondering where their house rests, and those folks in Georgia are digging out from another flood. There is going to be the appearance that we are really serious about laying funds out to help these people in situations like that.

The truth of the matter is, under the rules of the House what this little bit of legislation does today could actually come to pass. So it is not going to add a whole lot to their relief. I am afraid that this just is another empty part to that A-to-Z buyoff we have talked about so much. Members will recall that A to Z was the program where we could have some time set aside to have real opportunities to debate spending cuts here. Members would have the opportunity to offer individual cuts they felt worthwhile in order to achieve an even further plummeting of the deficit and a closer balancing of the budget here. And we were going to go through that process and let those proposals stand on their merit.

The majority leadership has felt that would be a poor idea and they have looked for other ways to deal with the problem, and this is one of the solutions that they have come up with.

I use the term "solution" lightly because this does not accomplish, as I say, anything we cannot already do. But we will have a fun debate about it.

Frankly, I think we would do better if we were debating A to Z or other substantive matters because the American public is asking us to come to some kind of a reasonable conclusion on the crime matter and the health reform matter and all of those issues which are absorbing us. And here we are, on a Wednesday, during time that many had thought we would be in our recess, talking about something that is really not going to accomplish anything. One wonders why.

The distinguished chairman has mentioned that economic times are relatively good, relative to where they have been. I agree they are relatively good. It is a precarious situation, and I hope they stay relatively good. The outlook is that they will become relatively not quite so good. I think we

VOL 140 PT 16 AG 12 — 18 1994 UMI

had an indication of that as interest rates climbed up half a point yesterday. I think that anybody who studies the numbers realizes that a plummeting deficit is a very temporary downturn in what appears to be a very serious uprise in the deficit that is scheduled in the years after 1996, a significant rise in the deficit. So we do have to come to grips with this deficit question.

I mentioned at the beginning of my remarks that we had a promise from the Democratic leadership that we would have a task force that would deal with this subject of emergency relief spending. I understand there is such a task force. I do not believe that it has delivered any kind of a product so far. Surely, had it delivered a product, we would be having a request for time for Members of that task force to speak today. I have no such requests for time. I may get them. But I do not have any yet. I think that we have one or two speakers who want to address the subject, but not a report.

The final thing that really concerns me very much about this, when we have these disasters, it appears that it is too much of a temptation to let a must-pass relief bill go through without adding a whole bunch of what we will call "Christmas tree items." There has been outrageous abuse on that, as we have seen in the past. That is a process that we just seem not to have been able to bring under control. And even though this legislation talks a little bit about that, I do not think it does as firm a job as we need to do.

I guess it is like having a leaky roof and wanting to sell your house and then you paint the wall to cover up the leak stains before any new customers come in. It is not any good to keep painting the wall. You have to fix the hole in the roof, and this legislation is not going to fix the hole in the roof.

The final part of it is that, yes, we are going to continue to have a need for emergency spending. And sadly enough we are going to have emergencies, and we will have victims of emergencies in our country and it is going to be appropriate for us at the Federal level to help out. We are going to have to find a way to shift resources to do that. But we just cannot keep adding up immense amounts of debt on the burden and say that every time we have an emergency, a storm or a fire or something of that event, a flood, that we just simply have to step back and say, well, we will just have to add it to the deficit.

□ 1050

Frankly, Madam Speaker, that is what we do now too much. Madam Speaker, I have outlined some of the problems with the rule and the bill. I hope we have generated a little interest among our colleagues and we will get some more requests for time.

Madam Speaker, for the RECORD I include this chart depicting open versus restrictive rules:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	91	25	27	66	73

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Aug. 12, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2 1993	MC	H.R. 1: Family and medical leave	30 (D–5, R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 25, 1993	MC	H.R. 920: Unemployment compensation	7 (D–2, R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 3 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4, R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8, R–29)	1 (not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2, R–12)	4 (1–D not submitted) (D–2, R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 20, 1993	MC	H.R. 670: Family planning amendments	29 (D–8, R–12)	9 (D–4, R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1; 1993).
H. Res. 149 Apr. 1 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 10, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 10, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 11 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 4, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3, R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 8, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4, R–3)	2 (D–1; R–1)	A: 244–176. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department, H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1, R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8, R–6)	2 (D–2, R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8, R–7)	2 (D–2, R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 3, 1993	MO	H.R. 2401: National Defense authority	149 (D–109, R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 8, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 11, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1, R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 11, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7, R–7, I–1)	10 (D–7, R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 21 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 21, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0, R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 26, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1, R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6, R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8, R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9, R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7, R–14)	6 (D–3, R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 315, Nov. 19, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15, R–19)	3 (D–3, R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8, R–5, I–1)	5 (D–3, R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811.: Independent Counsel Act	27 (D–8, R–19)	10 (D–4, R–6)	PQ: 249–174 A. 242–174 (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345. Federal Workforce Restructuring	3 (D–2, R–1)	2 (D–2, R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5, R–9)	5 (D–3, R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–99, R–82)	68 (D–47, R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth, Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5, R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994)
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108. Black Lung Benefits Act	4 (D–1, R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115, R–58)		A: 363–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80, R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10, R–6)	5 (D–5, R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3, R–5)	PQ: 233–191 A. 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10, R–33)	12 (D–8, R–4)	A. 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A: Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A. Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2, R–1)	3 (D–2, R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994)
H. Res. 491, July 27, 1994	O	H.R. 2448: Racon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5, R–5)	6 (D–4, R–2)	PQ: 215–169 A. 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A. 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357, Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	
H. Res. 514, Aug. 9, 1994	MO	H.R. 4822: Cong. Accountability	33 (D–16, R–17)	16 (D–10, R–6)	A. 255–178 (Aug. 11, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 516, Aug. 10, 1994	MO	H.R. 3433: Presidio Management	12 (D–2, R–10)	N/A	

Note.—Code: C-Closed; MC-Modified closed, MO-Modified open; O-Open; D-Democrat, R-Republican; PQ: Previous question; A-Adopted, F-Failed.

Madam Speaker, I yield such time as he may consume to the distinguished gentleman from Glens Falls, NY [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, it seems we have a lot of time to consume in Washington this week when we were supposed to be back in our districts speaking with our constituents about issues like health care. We have before us now what we call another one of those king-of-the-hill rules. It gives us what I call a double Spratt on the windshield of life, with all due respect to my good friend. Not only is the Spratt bill the base text for amendment purposes, it is also positioned as the last of four substitutes to be considered here today.

Under the king-of-the-hill process devised by the Democrats, the last substitute adopted is the one reported back to the House as finally adopted, even though an earlier substitute may have been adopted by a larger vote.

Madam Speaker, let us just picture the University of Notre Dame playing Slippery Rock Teachers College. They go through three-quarters of the football game and Notre Dame is leading 60 to nothing. It gets into the last 10 seconds of the fourth quarter, and lo and behold, because a wind storm comes up and there is a punt, Notre Dame gets the punt and they down the ball on their own 2-yard line. There is one last play to go, and Notre Dame starts the play but the center centers the ball over the heads of the backfield.

It goes out of the end zone, Madam Speaker. That is a two-pointer—a safety—for Slippery Rock Teachers College. The game ends, and lo and behold, the score is 60 to 2, but Notre Dame loses. That is what king-of-the-hill is all about.

Mr. MOAKLEY. Madam Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to my friend, the gentleman from Massachusetts.

Mr. MOAKLEY. Madam Speaker, the gentleman from New York may know something about football, but that is a terrible analogy in this case.

Mr. SOLOMON. I do not think it is a terrible analogy at all. What it means is, the last team to score wins. That is what happens under king-of-the-hill.

Mr. MOAKLEY. If the gentleman would yield further, that Slippery Rock-Notre Dame thing, Madam Speaker, that is like a substitute against the base bill. If the substitute wins, so be it. Now that substitute has to go against another substitute, so it is not the same game. There are different votes on every one of those measures, so the king-of-the-hill does not pit every bill against the base text, it is usually the substitute prior to it. The gentleman knows that. Therefore, I wish the gentleman would cancel that Slippery Rock game.

Mr. SOLOMON. Madam Speaker, maybe it was Boston College.

Mr. SPRATT. Madam Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from South Carolina.

Mr. SPRATT. Madam Speaker, just last week Slippery Rock won. Just last week this very process produced a victory for the particular bill that the gentleman voted for, notwithstanding this process.

Mr. SOLOMON. Once in a while we underdogs do win.

Mr. WALKER. Madam Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania, the deputy chief whip.

Mr. WALKER. Madam Speaker, what struck me about the explanation we just got is, what has happened, the gentleman described a game between Slippery Rock and Notre Dame. Then what they do is, they have a process by which Boston College, that is not even in the game, would win. They all of a sudden come back with somebody that was not even considered a part of the game and they win.

Mr. SOLOMON. The gentleman is absolutely right.

Mr. WALKER. It is absolutely ludicrous, the gentleman is right.

Mr. MOAKLEY. If the gentleman will yield further, Madam Speaker, as one of the sports writers on that side of the aisle said, I have heard some pretty good analogies, but I have not heard them today yet.

Madam Speaker, everybody knows that the king-of-the-hill is not the same vote over again. It is not A against Z, it is A against B and B against C and so forth, so they are votes against different substitutes. It may very well be that the last substitute that wins would be the product that we would go with.

For example, Madam Speaker, the most favored nation issue with China,

VOL 140 PT 16 AG 12 — 18 1994 UMI

one bill that the gentleman is very interested in, the most favored position was given to the gentlewoman from California [Ms. PELOSI].

However, Hamilton won, so this is the same situation we have here. It might be a little favored position, but that does not really make all the difference in the world. If one has a good amendment or a good substitute, a good amendment in the House, vote that way, and you will vote that Notre Dame thing all the way through the football schedule, instead of just playing Slippery Rock.

Mr. WALKER. If the gentleman will continue to yield, that is a good explanation. Now I understand what it is. What it is, Madam Speaker, it is Notre Dame playing Slippery Rock gets to start with a 20-point advantage, and then if Slippery Rock happens to score 18 points in the game, they still lose because Notre Dame started off with a 20-point advantage under the rules. Suspiciously, that is the favored position they are getting.

Mr. MOAKLEY. If the gentleman will yield one more time, Knute Rockne may be spinning in his grave with the explanation the gentlemen are making here today.

Mr. SOLOMON. Madam Speaker, I do not want the gentleman to feel bad, but does he know who told me that story back in 1951? It was somebody named Harry Agannis. Does the gentleman remember him, the Golden Greek, All-American? He played for the Camp Lejeune football team, and I recall him giving me this analogy of Notre Dame and Slippery Rock, only it was Boston College, or Boston University, that he played for.

Mr. MOAKLEY. If the gentleman will yield further, Boston College. The gentleman is not going to tell me that Harry Agannis was talking about king-of-the-hill back in 1951, is he?

Mr. SOLOMON. Madam Speaker, he was a pretty forward-looking guy.

Madam Speaker, let us get back to seriousness here, for just a minute. As I started off saying, not only was the Spratt bill the base text for amendment purposes, it was also positioned as the last of four substitutes to be considered.

Madam Speaker, here we have the bill itself, and then we ordinarily, under the normal rules of the House, would have the opportunity to debate the bill and then offer amendments to it, or offer substitutes to it. But should we happen to win, should we happen to pass one of those substitutes, then we would take the Spratt bill, put it way over here to the right, and then it becomes a final substitute. It might pass by much fewer votes than the other substitutes did, but it is the one that becomes the law. That is what is wrong about king-of-the-hill.

Madam Speaker, we Republicans often propose what I would call a true king-of-the-hill process. My friend, the gentleman from Florida [Mr. GOSS] alluded to it a few minutes ago. The strongest substitute should be the winner, just as the true king-of-the-hill game was played when we were kids, the substitute which gets the most votes should be the winner.

Madam Speaker, can the Members imagine the ridicule we would have gotten as kids if we had proposed that the rules of the game be changed to award the honors to the last kid up on the hill, instead of the one who can overpower all the others? Here we go, back to Notre Dame-Slippery Rock, again. Yet around here, nobody blinks any more when the Committee on Rules brings these rules to the floor that allow for a weaker amendment to be the winner. We are so used to this undemocratic game of Democrat dock-stacking that we merely go on our way thinking that this is just fine and dandy. It is not just fine and dandy, Madam speaker.

I think in today's game of king-of-the-hill that there should be no dispute over the winner, since all three of the other substitutes are far superior, in my opinion, to the Spratt bill and to the Spratt substitute, which is going to come up for votes later.

Madam Speaker, the first superior substitute to be considered will be offered by the gentleman from Texas [Mr. SAM JOHNSON]. He proposes that emergency spending bills which exceed their allocations be financed by reducing the spending caps for the next fiscal year by the amount in excess. That makes a lot of sense.

The second superior amendment to be considered will be offered by the gentleman from Delaware [Mr. CASTLE], the former Governor, someone who has had a lot of experience in budgets. His amendment would establish a reserve fund from which emergency spending bills must be financed. Again, this is planning for emergencies that will be coming up in the future.

Madam Speaker, let us budget for these matters and pay for them, rather than just assume that they must be budget-busters. That seems to be the norm around here, bust the budget. That is why we have a $4.5 trillion debt.

Finally, Madam Speaker, the third superior amendment to be considered will be offered by that dynamic trio of the gentleman from Ohio [Mr. KASICH] the gentleman from Texas [Mr. STENHOLM], and the gentleman from Minnesota [Mr. PENNY]. They are truly people who try to bring some fiscal responsibility to this body. Their substitute amendment would establish a point of order, now get this, establish a point of order against any bill or any joint resolution designated as an emergency spending measure if it contains any nonemergency items.

Madam Speaker, we all know how a certain Member in the other body always likes to stick all kinds of things into emergency bills that have nothing to do with emergencies whatsoever. Madam Speaker, we need a tough enforcement mechanism to ensure that extraneous pork is not piggybacked onto urgently needed disaster assistance supplemental appropriation bills.

The Spratt bill and substitute, on the other hand, simply says that we will operate under existing procedures when it comes to nonemergency items that are stuck into emergency bills.

□ 1100

The Spratt proposal allows for a motion to strike any such provision and prohibits any nonemergency items that exceed a committee's budget allocation. Well, good morning, Madam Speaker.

Madam Speaker, those are the rules that we have now. So all we would be doing is just reaffirming the rules of the House that we have now. But we would still have this terrible, terrible fiscal mess that we are in today.

Under the House rules, appropriation bills are already considered in the Committee of the Whole under an open amendment process. Under the Budget Act, a point of order can already be made against measures that exceed a committee's 602(a) or 602(b) allocations. Those are the rules of the House today. The only thing different in the Spratt bill is a provision that allows—listen to this carefully—9 Members instead of 25 to demand a record vote on striking nonemergency items. But as my colleagues are aware, we can easily get 25 Members to call for a vote on anything now by making a point of order that a quorum is not present.

Madam Speaker, we all know the Spratt bill is one of several that was promised to a group of what I call deficit chicken hawks, not deficit hawks. They are called deficit chicken hawks in return for their not signing a discharge petition on real spending cuts, the so-called A to Z plan. We are going to paper the walls of this House with piddly budget process amendments, but they are not going anywhere in the other body, and we all know it.

I ask the gentleman from Pennsylvania [Mr. WALKER], how many legislative days are left between now and the time we adjourn on October 6? Would the gentleman say about 18?

Mr. WALKER. Twenty.

Mr. SOLOMON. Eighteen or twenty. That tells us where this bill is going. There is no window of opportunity for this bill to be considered in the other body and everybody knows it. Do not be fooled.

I will again point out that we could have been better off considering this and the other measures as part of a comprehensive congressional reform bill, and we know which one that is, H.R. 3801. H.R. 3801 already has various budget process reforms in it, but we will never get a chance to vote on them and certainly will never get a chance to enact them into law. Instead, we are wasting the time of this House and the Committee on Rules with little dribs and drabs of what I call budgetary birdseed that would not even fill a bird feeder.

Madam Speaker, when will we get our priorities straight around here and take up the kind of bold, meaningful and sweeping congressional reform that the people overwhelmingly support and that all Members went back home and told constituents they would vote for?

Madam Speaker, this vote today is on an Emergency Spending Control Act that does nothing to control spending. It is another one of those feel-good votes that will leave Members wondering in the morning what it was they really accomplished.

I would urge my colleagues to support one or more of the alternatives being offered here today if we really want to make this exercise meaningful. I am not going to ask for a recorded vote, but I am going to go on record as opposing this rule. This king-of-the-hill process creates a Notre Dame-Slippery Rock situation which lets the losers win.

Mr. MOAKLEY. Madam Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Madam Speaker, I thank the distinguished chairman, the gentleman from Massachusetts, for yielding me the time.

Madam Speaker, let me respond to what my good friend has just laid out as the scenario for consideration of the bills before us. There is a single legislative measure before us, but in effect we have four bills before us. The origin of this is a bill called Common Cents. It is not A to Z, it is H.R. 4414 which contains a number of budget process reforms. The basic reform here proposed was we take emergencies one at a time, that an emergency spending bill, according to H.R. 4434, would only contain emergency spending related to one single emergency.

When I took up this matter several weeks ago to try to break down parts of this and bring budget reform measures to the floor, I looked into this particular provision and what we found was that over the last 5 years, from 1991 through 1994, both years inclusive, we had funded 150 emergencies if we include Desert Storm. If this particular provision in H.R. 4434, the Common Cents bill, had been in effect, we would have been required to enact 150 separate laws to provide for emergency funding whereas only 15 had to be enacted to provide for these 150 emergencies. There were nine supplemental appropriation acts, five regular appropriation acts, and one continuing resolution. With those pieces of legislation, we covered all 150 emergencies.

Madam Speaker, I prepared a bill which said basically that Stenholm-Kasich says today. Namely, that emergency bills can only include emergency spending. If they include nonemergency spending, they cannot exceed the discretionary spending cap. But basically the object was to keep emergency spending bills limited to emergencies, although they could include multiple emergencies. I was prepared to file that bill and I had shared it with my colleagues, the gentleman from Texas [Mr. STENHOLM], the gentleman from Minnesota [Mr. PENNY], and the gentleman from Ohio [Mr. KASICH] when the Committee on Appropriations convinced me that there at least is a argument, a strong argument to be made for the existing procedure because there is a need for flexibility. They gave me two very current, contemporary examples.

For example, Rwandan aid. The foreign appropriations bill that is moving through Congress right now includes Rwandan aid, $350 million. It was a useful vehicle for loading that emergency spending item on and it is completely germane to the subject of the bill.

The second example. Aid for Georgia flood relief.

The Labor-HHS Appropriations bill was amended in the other body to include aid for Georgia flood relief, and I am sure the Georgians are glad that that vehicle was available because we are near the end of the fiscal year and I am sure FEMA has probably drawn down substantially on its available obligatable balances. So that vehicle was used, which is a nonemergency spending bill, to include emergency spending which is desperately needed in Georgia. The Committee on Appropriations said this sort of flexibility on occasion more often than not is a very, very desirable convenience to have. We tie our hands, we make our process very inflexible when we need it most responding to emergencies and disasters if we strictly and religiously limit emergency spending bills or nonemergency bills so that the two cannot be mixed.

Consequently, I filed H.R. 4906 to allow that position to be argued on the floor. What we have today is an array of all the logical positions on the spectrum concerning emergency spending. First of all, that is that particular position: It is basically current law, but it provides and underscores and emphasizes that nonemergency items should not be included if they are truly extraneous, if they are simply being piggybacked, and it does so by allowing an expedited, easy procedure for a motion to strike when nonemergency items are included in emergency spending bills that come to the floor.

Second, the Committee on Rules has made in order the Johnson amendment. The gentleman from Texas [Mr. SAM JOHNSON] would have us when we appropriate emergency spending in 1 year, in the next fiscal year look back, take anything in excess of the caps for that year and take it out of that year's discretionary spending. He has a look-back provision.

The Castle amendment has a look-forward. The Castle amendment, which is a third alternative, has a look-forward provision. It says, let us determine the average over a certain period of time, 5 fiscal years, which we have spent upon emergency and disaster projects. Let us average that out and let us reserve that amount as a likely contingency every year. He would have us put away into a reserve account and appropriate out of that reserve account when and if emergencies occur.

Stenholm-Penny-Kasich is still another alternative. It provides that emergency spending bills shall be related exclusively to emergencies. But unlike the original version which they were supporting here under the Common Cents bill, they agree that there could be multiple emergencies include in a single bill.

Madam Speaker, we have before us today 4 clear choices. The reason I filed H.R. 4906 was to complete the spectrum, to allow the Committee on Appropriations to come here and make the argument they made to me that this flexibility is needed and anyone who has ever faced a disaster and found FEMA with no money in its pocket, no expendable balances on its books, knows that we need flexibility in the face of an emergency. That argument will be made in the well of the House today because H.R. 4906 is the base bill, but other arguments will be made.

The procedure that we have laid out is completely logical, completely fair for the consideration of each one of these. With 4 alternatives before us, I do not know a better procedure that the king-of-the-hill procedures for taking each one of them in its own term.

Madam Speaker, I think what we have here is a fair procedure and one that allows for full consideration of the whole spectrum of ideas of how we should budget for emergency spending.

Mr. GOSS. Madam Speaker, I yield such time as he may consume to the distinguished gentleman from greater San Dimas, CA [Mr. DREIER], a member of the Committee on Rules.

□ 1110

Mr. DREIER. Madam Speaker, I thank my friend from Sanibel for yielding the time.

Madam Speaker, I was listening to this fascinating play by play of the slippery rock in the Notre Dame game in which Boston College got involved, and I was struck with the fact that we have once again been discussing this issue of king-of-the-hill on a rule. I ask a very simple question, rhetorically on this convoluted king-of-hill process which has been standard operating procedure around here, and that is, Why is

VOL
140
PT
16
AG
12
—
18
1994
UMI

it that one bill has to have a favored position?

As the distinguished chairman of the Committee on Rules said last week as we debated the MFN issue on China, clearly the Pelosi position did have a favored position. But the correct measure, the Hamilton measure, which pursued human rights through more trade and exposure to Western values prevailed.

But it prevailed obviously because it was the right thing, overcoming the fact that it was in a less than fair favorable and equal position to the Pelosi proposal. So that is the reason we have said consistently on our side that as we look at the king-of-the-hill structure what we should have is a provision which simply says that the measure which receives the highest number of votes is the one that carries, rather than the last standing measure, and unfortunately the present situation creates a position where the last standing measure could have received many fewer votes than the measures that had been carried before. So I think it is the only fair way for us to proceed, and that is why I think we should stand firmly on that issue.

As we look at this legislation itself, I am going to urge a "no" vote on the previous question. The reason I say that, Madam Speaker, is that as we look at this measure, it is a very integral part of congressional reform. H.R. 3801, in fact, includes provisions which deal with this, and it seems to me that we have continued along the line with our divide and conquer strategy which has emanated from the majority leadership. So I am going to urge a "no" vote on the previous question, and I hope very much we can make in order H.R. 3801, which is the congressional reform package that was promised last year and several times this year, and then proceed with the kind of changes in the budget structure which the American people want and we can include in the whole issue of congressional reform, which continues to be a top priority.

Again I thank my friend for yielding the time.

Mr. GOSS. Madam Speaker, I yield myself such time as I may consume. I would like to simply quote from a distinguished Member of this body who is unable to be with us in this debate, but was here for the early part of it, but had to go to other duties. His observation to me was this:

> This appears to be the rule to give the appearance of modifying our rules so that we can live under the rules we can live under now if only we would enforce the rules that we adopted as rules at the beginning of this Congress.

I think that is actually what we are doing. I do not think anybody in America understands that, and I doubt many Members of this body understand that. But I actually feel no matter how far one travels from home, under the king-of-the-hill process it is stacked so you always return home, whether it is a short distance or a long distance. Today we have three amounts, so it is a fairly long distance. But the prediction is we will try to get home, because that is the favored position.

Madam Speaker, I yield back the balance of our time.

Mr. MOAKLEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I urge all Members to support this rule so the House can consider this meritorious legislation.

Members from both sides of the aisle have expressed frustration about nonemergency items finding their way into emergency bills. When that happens, Members can often face a rather grim choice: They can vote against the whole measure, including the funding for the real emergency, or they can vote for the emergency and for whatever nonemergency items go with it.

This bill will guarantee Members another option, an opportunity to offer amendments to strike out individual nonemergency items in the bill and make it easier to get recorded votes on those amendments. That will be an improvement over the status quo, and I urge Members to support it.

This rule is also a good one. It makes in order every substitute the Rules Committee was asked to make in order. It provides a king-of-the-hill so every substitute offered can be debated fully and voted upon. Had the Rules Committee not provided king-of-the-hill, the first substitute adopted would have been the last considered, and maybe some of the amendments would not even been offered and discussed.

I urge all Members to support the rule and the bill.

Madam Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Ms. DELAURO). Pursuant to House Resolution 513 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4906.

□ 1115

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4906) to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation, with Mr. MURTHA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 30 minutes, and the gentleman from Florida [Mr. GOSS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am delighted to bring to the Committee H.R. 4906, the Emergency Spending Control Act of 1994. This legislation is designed to improve the budget process by providing Members a solution to a problem associated with the consideration of emergency spending bills.

This Government is now operating under a 5-year budget plan passed last year by this Congress with the President's leadership. As a result of that plan, the deficit is plummeting even faster than expected. The economy is strong. Jobs are being created. According to the Republican chairman of the Federal Reserve, Mr. Greenspan, the outlook for the U.S. economy is as bright as it has been in decades.

One of the features of the 5-year economic plan was a freeze through 1998 on discretionary spending. Discretionary spending funds most of the government itself and most government programs.

When Congress first imposed rigid annual caps on discretionary spending in 1990, we realized that from time to time sudden, nonrecurring, catastrophic events take place which increase demands for government services.

These events are typically natural disasters like floods, hurricanes, and earthquakes. Such emergencies cannot usually be predicted with any certainty. Consequently they cannot be easily or accurately estimated and budgeted for in advance.

If the budget process were so rigid as to require cuts in other programs before Government could meet the needs of Americans left homeless by floods, hurricanes or earthquakes, it would in effect force Congress to shift the suffering caused by the emergency in question from one group to another. Congress could debate for days or weeks about what programs to cut while thousands of Americans tried to nurse their wounds, rebuild their lives, and recover their lost income brought about by the emergency.

So, the Budget Enforcement Act allows Congress and the President to provide emergency assistance to those in need without bruising political battles over what programs to cut and whom to inflict suffering on instead. Under the act, if the Congress and the President can agree that an emergency exists for which additional spending is required quickly, then that spending will not count against the spending limits.

Unfortunately, some additional items, which were arguably not emergency items, have at times found their way into emergency bills. It is this problem H.R. 4906 is designed to cure.

The bill would amend the Budget Act to provide that, during consideration of any bill containing emergency spending, any Member could offer an amendment to strike out any provision which is not designated as an emergency.

And H.R. 4906 would make it easier for the American people to determine who supported these additional, nonemergency items in the emergency bills by facilitating recorded votes on the amendments to strike them out. Under the bill, a recorded vote would be ordered on amendments striking out nonemergency riders if demanded by a Member and supported by only nine other Members. That's a total of only 10 Members to get a record vote, instead of the usual 25 Members in the Committee of the Whole or 44 in the House.

Finally, the bill ensures that any nonemergency provisions in enacted emergency legislation will in fact count against the applicable allocations of spending the Budget Act.

Mr. Chairman, H.R. 4906 is a carefully crafted solution to the problem of nonemergency provisions appearing in emergency-spending legislation. I commend my colleague from South Carolina, Mr. SPRATT, for his ingenuity, diligence, and hard work in bringing this legislation before this body. It deserves our support. I urge all Members to vote for the bill.

Mr. Chairman, I reserve the balance of my time.

□ 1120

Mr. GOSS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the distinguished gentleman from Massachusetts [Mr. MOAKLEY] again referred to the 5-year plan. I am always worried about these 5-year plans. I am mindful in the Soviet Union they used to call these 5-year gosplan, the economic future plan, and I used to have to deny that they were any kin to me. They spell it differently.

Fortunately, this plan is no comparison to what they were doing in the Soviet Union. But what we are doing does need a little modification. That is what we are about here today, trying to get a handle on the emergency spending and to account for it properly and truthfully, and make sure that emergency spending is truly emergency spending. Frankly, what we have today is a new part to buy off the A-to-Z program, which we seem to be unable to get forward in its purest form on the floor. Many of us think we should do that. I think that would be something worthwhile doing if we are not going to spend time on more substantive matters, such as crime and health.

Like the so-called Budget Control Act we passed several weeks ago, this bill has no substance. So I do not think we need to waste too much time on it.

It does have two main provisions. The first allows Members to offer as a motion to strike nonemergency items in an emergency spending bill and, second, provides a point of order against any nonemergency items if they violate current 602(b) allocations. Good idea. We could already do it. But it is a good idea.

While it may come as a surprise to those Members who are largely unfamiliar with the open-rule process, the standing rules of the House already provide for both these measures. My friend from Massachusetts, the distinguished chairman of the Committee on Rules, confirmed this fact to me as we were marking up this legislation on last Tuesday.

Under an open rule, any Member can come to the floor and offer a motion to strike nonemergency funds in an emergency bill. In addition, under an open rule, one that does not contain a blanket waiver, that is an important point, one that is not protected by the Rules Committee, there is already a point of order against nonemergency provisions that violate the spending caps. So why waste time debating this measure? We have already accomplished what we set out to do if we just obey our own rules.

I for one am hopeful that the House will adopt one of the substitute amendments to be offered, and that is the possible area of progress today. Each of these would bring us closer to establishing some fiscal responsibility in the emergency spending process, which is what we should be doing rather than giving the appearance of changing our rules. Although each one of these amendments comes from a slightly different point of view, thus each one would be an improvement over the base bill, they go about the legislation in a different way.

To wit: The Johnson amendment would require that all emergency funds be subject to budget limits, and it includes a lookback measure which provides that if an emergency appropriation goes over the budget allocation for that year, then the discretionary spending limits for the next fiscal year shall be reduced by that amount.

Now, that is not exactly a brand-new idea. Most American families who operate on a budget understand if the roof falls in this year and they have to spend the money that they were going to use for a vacation to fix the roof, there is not going to be money to spend for the vacation. We do not want the roof to fall in, but occasionally that does happen. And when that does happen, as we just saw did happen in northern Florida and Carolina and Georgia, where this little storm is coming up the coast now, we have people in need. We set out to bail them out, and that means that there may not be money for vacations. That is sort of a moot point anyway because we seem to have cancelled vacations this summer.

But I think the analogy is clear for most Americans. If you spend it some place else on an emergency basis, you do not have it left to spend on what you thought you were going to spend it for.

The second amendment today is the Castle amendment, which would similarly require emergency spending to be subject to budget limits. It would require Congress to set aside adequate funds within current discretionary caps to pay for natural disasters and other emergencies. Again, not a brand-new idea, called a rainy day provision or a rainy day fund in most family budgeting exercises. A good idea to plan ahead.

Finally, the Penny-Kasich-Stenholm amendment would end the practice of loading up emergency bills with pork, such as bridges or train stations or some of the other things we have seen in the last year, by imposing the commonsense requirement that the emergency spending bills contain only emergency spending. Not exactly a new idea. Why not have emergency spending in emergency spending bills, and only emergency spending?

I think we all remember the acrimonious fight over the midwest flood bill last year, which was sparked when the House leadership told the Members we could not vote on an amendment to simply pay for the funds we were providing. That just did not work. We got in quite a fuss about it.

It took quite some time, and there was some question as to whether the relief would be provided on a timely basis. It was delivered on a timely basis, but only after a great strain here, which was not necessary.

I am sure the Los Angeles earthquake bill, which was loaded up with nonessential items in the other body, is still fresh in many Members' minds. We have an opportunity here to address some or all of the problems we encountered with these bills, but only if we reject, reject the base Spratt bill and adopt one of the substitutes. Now, we have to reject the base Spratt bill in every instance, at the beginning in general debate and that when we get through with the king-of-the-hill process, we come back to the Spratt bill to vote on, and we have to reject it at that time as well.

I think it is unfortunate that we are considering these measures before the National Disaster Task Force has reported its findings. It has been over a year since that task force has been working, and frankly we should have had a report back by now.

I urge my colleagues to support the substitute amendments that will improve this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. FROST. Mr. Chairman, I yield 6 minutes to the gentleman from South Carolina [Mr. SPRATT].

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise to explain and urge support for the base bill, H.R. 4906, which is called the Emergency Spending Control Act. In a nutshell, this bill would make it more difficult to fold nonemergency spending into emergency spending bills. At present, when emergency spending bills come before the House, nonemergency spending items are often included. Some of these, I will have to admit, would not stand scrutiny in the normal process but they got folded into these bills and enacted because these bills are must-pass emergency bills.

This bill, H.R. 4906, would not make it impossible to include nonemergency items with emergency projects because there are occasions, as I explained, when that flexibility is needed. But it would make it more difficult to piggyback unwarranted, extraneous items into emergency spending bills. Let me cover in some detail the provisions of this base bill.

First of all, H.R. 4906 provides that when the House takes up an emergency spending bill that includes a nonemergency spending item, any Member may move to strike the nonemergency item and demand a recorded vote. If nine others support the request, a rollcall is ordered. That is a way of underscoring, I believe, that these should be exceptional procedures, inclusion of nonemergency items in emergency spending bills. In essence, the bill reduces the number needed to demand a vote from 25 to 10, but it is here to emphasize the principle.

Second, the bill requires that all nonemergency spending proposals, when included with emergency spending bills, have to fall below the discretionary spending cap provided under both 602(a) and 602(b) of the Budget Enforcement Act of 1990. This only reaffirms current law and practice, but I think it is worth emphasizing because in a "Dear Colleague", put out by the Penny-Kasich-Stenholm supporters, it indicates that when nonemergency spending is included in an emergency spending bill, it somehow becomes transmuted and becomes exempt from the discretionary spending caps. Indeed, their letter says this spending is also exempt from the discretionary spending caps which, when proposed in 1990, were a key instrument of deficit reduction. This exemption adds to the many temptations of these matters. That is an erroneous statement. All nonemergency spending included in an emergency spending bill is subject to the spending caps by law. But this bill, to make it clear to everybody, including Penny, Kasich, and Stenholm, makes the principle explicit.

Third, this bill would for the first time create a point of order when nonemergency items exceed the 602 (a) or (b) outlay allocations. Under current rules, a point of order can be made only when 602 (a) or (b) budget authority is exceeded.

□ 1130

Now I think, taken all together, these are reasonably rigorous conditions, but more flexible than procedures laid out in any of the alternatives, and I think, for example, flexibility is in order when we are dealing with disasters and emergencies.

The Castle substitute would mandate a budget reserve account, which would have to be taken out of the discretionary spending, carved out below the line, below the cap which is already a tight cap. It would have to be taken out of that $540-plus billion allocation, reducing it, according to Castle's best estimates, by over $5 billion, because that is the average we have spent on emergencies over the last 5 years. This $5 billion will be stored away in a budget reserve account, and then we would appropriate out of it when the case or requirement arose. If it was not needed, if we did not draw down the full account in any fiscal year, then it would revert to Treasury for deficit reduction at the end of the year. There would be no carryover of the unexpended balance, so next year we would have to whack another 5 billion, plus or minus, out of the discretionary spending allocation. But, on the other hand, if the reserve account were inadequate, the Castle amendment would repeal the dispensation for emergency spending that we now have in the Budget Enforcement Act of 1990, which allows it to be made over and above the discretionary spending allocation. At least this is my reading of it, and Castle leaves us to then figure out what happens if we have a deep recession or war and we need emergency spending. Then we either have to take it out of discretionary spending, which is already strained, pressed tight, or we have to somehow or another invent a statutory mechanism for exceeding the limit.

The Johnson substitute contains another provision which I think could create havoc in the House. This substitute would allow emergency spending in a given year, but it would force a reduction in the discretionary account for the next year in an amount equal to any emergency spending over the cap in the prior year, but because of the way it is drafted the Johnson substitute would force sequestration in the amount equal to the amount of emergency spending. In other words, if Congress appropriated $5 billion in emergency spending, the Johnson substitute would require a $5 billion reduction in the spending cap for the following year.

Johnson would require, first of all, the $5 billion reduction in the spending cap for the following fiscal year, but, as drafted, it would also force a $5 billion sequestration in the year the emergency money is spent. So, that means that the $5 billion in emergency spending could really require a $10 billion cut in discretionary spending. This happens because the Johnson substitute repeals section 251(b)(2)(D) of Gramm-Rudman which exempts emergency spending from sequestration. This may be an unintended consequence, but, as I read the substitute, it is a consequence nonetheless.

Finally, Mr. Chairman, Stenholm-Penny-Kasich is the least onerous of the three substitutes, but it, too, could have regrettable results because it would prevent us from ever, ever taking up emergency spending as part of a nonemergency spending bill. Does this matter? It matters. Just last week, when we put Rwandan aid in the foreign operation bill, a germane bill, a moving vehicle, and, in light of the dire humanitarian need, the best way to ensure timely approval, it mattered in the other body when we were able to add Georgia disaster relief.

So, this flexibility is needed, and that is why I think the base bill is a better choice or the best choice of the three, and I urge support for it.

Mr. GOSS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Iowa [Mr. NUSSLE] a member of the committee.

Mr. NUSSLE. Mr. Chairman, I thank the gentleman from Florida [Mr. GOSS] for yielding this time to me.

Really what we have today with regard to emergencies is five issues. We want to prevent, we want to plan, we want to provide, we want to pay, and we want to eliminate pork, and that is the reason that the special task force was appointed by the leadership last year to deal with emergencies because we were not preventing disasters from happening when we knew we could mitigate problems. We were not planning ahead as a country recognizing that, hey, folks, earthquakes happen, hurricanes happen. We were not providing assistance to victims quickly enough. Everyone from an affected area can tell us that. We were not paying for our disasters, and we know now about all the pork barrell that was hidden in the bill.

The task force was established by the leadership, and the Republicans, I will tell my colleagues, are ready to come forward with a report. Their report will include the provisions that we discuss here today. But the House needs to explain today to the people of this country our position on whether or not we should plan, and whether or not we should pay, and whether or not we should have pork.

I say to my colleagues, "I understand that the gentleman says that there will be panic in the House, but imagine yourselves sitting around the kitchen table dealing with a flood, maybe the flood up to the rim of that kitchen table, panicking, trying to figure out how to now pay your bills, how to deal with this disaster. We do not have a disaster pending right now, the likes of which we saw last year, although there are people in peril around our country. They want to know we are not going to panic, but we are going to plan, provide and pay."

Mr. Chairman, we need to explain to victims that have been shaken to death, or have been blown away, or flooded up to their hip boots, why we have no coordinated plan for prevention, why this country is in shock that disasters even happen. We do not plan ahead. We need to explain to victims why they are held hostage to politics, to CNN and to pork barrell spending, and of course politicians with wrinkled brows like to walk around fields that have been flooded and promise victims help when they know full well that their colleagues are going to have pork. We have to explain to them why in the world, why in the world that a fingerprint agency, or that a Union Station, or some kind of special project for some election-worried politician is more important than flood assistance, why that with no hearings, and no committee meetings, and no public disclose, how these bills just kind of slip through. People want to know that. They want to know how those decisions are made.

Under this rule, which has been called king of the hill, it has really stacked the deck. We cannot explain to that person who sits around their kitchen table and worries, but for that family that does sit around the kitchen table, and wants to be responsible and accountable, we need to plan, and we need to eliminate the pork. These bills here today do that. We should do more than just tell them, "Well, we may just vote on these bills." That is not good enough.

Mr. GOSS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman from Florida [Mr. GOSS], my colleague, for yielding this time to me, and I want to briefly revisit the discussion that took place under the rule because, although the substance of this particular bill is important, I think far more important is the underlying understanding of the public and its growing awareness of the concept of the so-called king-of-the-hill. It is important because we are going to face other very extreme and important measures in the near future; the health bill is the first one that comes to mind. I have been intimately involved in building health care, so I am very concerned about the kind of rule that it will come to the floor under.

In Sunday's New York Times, August 14 edition, there was an editorial about king-of-the-hill, and of course we know that it is a misnomer, it is not king-of-the-hill. It is whichever measure was voted on last that passes wins.

The Democratic leadership has complained mightily about what has happened to the discharge petition process. I can say that the reason the discharge petition process is now in its current state of a number of bills at the desk getting signatures to be discharged is because the Democratic leadership would not respond to the will of the House. I say, "You keep that lid on the kettle as it tries to boil over, and what you get is the result of the discharge petitions at the desk. I can tell you the king-of-the-hill is next."

□ 1140

The arguments that I heard in terms of support for the king-of-the-hill, if you were the average American listening to this debate, are absolutely absurd. It clearly is an enormous advantage for the Democrats, with the control they have in the House and on the Rules Committee, to place a bill which may not be the best bill in an advantaged position under the rule, and providing that whichever one passes last wins—not that it got the most support, but the one that was voted on last passes.

That was exactly the point of the New York Times editorial, although it refers generally to the health care debate. But the last paragraph of that article is a general statement about the king-of-the-hill process, and it says: "Before the House can begin to create an acceptable bill"—any bill, including this one—"Members need the freedom to amend the bills that their leaders will put before them. If the leadership insists on imposing king-of-the-hill procedures, the outcome will be anything but lordly."

Let me tell you, you act as though you are in a conundrum and there is no other way to deal with this issue. There is clearly another way to deal with this issue, which is another problem that the leadership of this House has not fairly or fundamentally addressed, and that is what we call in the world I used to be in, the academic world, plagiarism. If you want to find out which bill should be the underlying bill, take the bill that was introduced first dealing with the concept.

Interestingly enough, the Democrats have argued that this underlying bill, with the king-of-the-hill structure from the Rules Committee, is H.R. 4906. This bill was crafted in the Rules Committee.

The gentleman mentioned another bill, H.R. 4434, which is called the commonsense bill. Well, guess what? H.R. 3266, A-to-Z, came first, and this is what happened: What happens a lot of times around here is that if somebody has a good idea and they introduce it as a bill—for example, the A-to-Z bill, introduced as H.R. 3266—the first bill that goes in gets H.R. 1, and the second bill gets H.R. 2, so at least in this congressional session, H.R. 3266 was introduced before any of the other bills that were discussed.

What happens is that the Democrat leadership sees a good idea coming along and they are afraid that it may gain momentum, so they introduce their own bill in an attempt to circumvent, cut off, deny that earlier original idea.

I think we need some kind of an understanding that the House needs to honor intellectual property rights, just as we are doing in these international treaties, General Agreements on Tariffs and Trade, and others, so that if somebody gets an idea first, you ought not play games in the Rules Committee and come up with a weakened version, a modified version, and give it a preferential position in the discussion, as they have done.

If you are looking for a way out of the conundrum you have built for yourself in terms of how to deal with these issues, why not show a little respect for intellectual honesty and say the first bill introduced is the underlying bill? All other bills coming later, those that try to modify, would be considered later. If you want to hang onto king-of-the-hill, at least be intellectually honest about it and get the numbers of the bills that were introduced first as the underlying bills.

Mr. FROST. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I have the dubious distinction of cochairing a task force on emergencies with the gentleman from Missouri [Mr. EMERSON]. He and I will be able to tell the Members, after months of deliberation, that this is an extraordinary subject and although many of my colleagues and those listening will view this topic as dry as dust—in fact, it deals in very real terms with human tragedies and disasters that come to the United States that must be dealt with—I am afraid that some of the suggestions that are being made today are being made in a vacuum. Some of the amendments that will be offered on the floor today do not take into consideration our past experience. I think we as legislators have a responsibility, when we deliberate serious topics like this, to consider our past experience before embarking on what appears to be a very simple answer.

When it comes to dealing with disasters in the United States, I can tell the Members that it is a very complicated situation. Let me give a couple of examples. One of my colleagues—I believe it is the gentleman from Delaware [Mr. CASTLE]—has suggested that we should set aside some type of an emergency reserve account, a rainy day fund. To most people who try to put a little savings in the bank to take

VOL 140 PT 16 AG 12 — 18 1994 UMI

care of unforeseen circumstances, it is a perfectly reasonable thing to do, and I frankly think it is a reasonable thing to do. But how much money should we put into this account? If we use past experiences as a guide, if we use an average, we might say that we spent about an average of $3 to $5 billion a year on disasters in the United States. But I would say, from the testimony before our task force, that the potential for future liabilities resulting from disasters is way beyond that.

In fact, we have had testimony before us to suggest that a major earthquake in San Francisco could result in a liability of some $60 billion, and $88 billion in Los Angeles. If Hurricane Andrew had struck Miami, we would be dealing with a price tag of about $50 billion. We have been very lucky in this country. We have had disasters, and people have suffered, but the potential for losses is even greater.

The potential for disasters cannot be overlooked when we talk about these so-called rainy day funds and get very honest and serious about how far they will go.

There is another suggestion from my colleague, the gentleman from Texas [Mr. SAM JOHNSON] that we should be reducing the spending in next year's budget cycle by whatever we spent for disasters in the previous year. On its face, it sounds like a perfectly reasonable suggestion, but there are two very serious problems here.

In the first instance, if we accept his approach, we would have to cut out in next year's spending about $12 billion if we are going to take out what was spent this year on disasters. Half of that money will come from the Department of Defense. I wonder if the gentleman from Texas knows that. About $6 billion under the gentleman's bill would have to be cut from next year's defense appropriation in order to conform with his amendment.

Let me also suggest to the gentleman that the problem goes far beyond that. We have a situation here where creating this reserve account and trying to guess what is going to occur in the future is a very difficult thing to do. The gentleman from Texas may recall when he considers the implications of his amendment that we went through Desert Storm and Desert Shield several years ago. The Bush administration declared it an emergency. We then appropriated over $42 billion for Desert Storm and Desert Shield. Eventually, we were paid back by our allies, but the gentleman from Texas with his amendment would have required us in the next fiscal year to cut that much out of spending even though we knew we were going to get the money paid back to us. So on the surface what the gentleman says sounds very reasonable, but our human experience and our experience here in the Congress suggests that it is a little more complicated.

I urge my colleagues—who, when told that there is a bill on budget reform, say, "I'm for it; what is it?"—to stop and take a look at it. I think frankly the gentleman from Texas has a good idea, but in practical application it has some very serious flaws and problems with it. Perhaps we can work on improving it. But until then, I hope that my colleagues will read this very carefully and understand that we are dealing not with a very simple issue here but a very complicated one.

Mr. GOSS. Mr. Chairman, I yield 5 minutes to the very distinguished gentleman from Ohio [Mr. KASICH], our chief budgeteer.

Mr. KASICH. Mr. Chairman, I appreciate the gentleman's yielding time.

Mr. Chairman, I would first of all tell the Members that this bill that we have today, the Penny-Kasich-Stenholm bill, is our third effort to try to bring some significant budget reforms to the House of Representatives.

I do appreciate what the gentleman from Illinois had to say about the difficulty of trying to plan for emergencies and providing a separate fund, and I think it probably is a difficult process. That is why I believe that we ought to keep these emergency bills clean, as a starter, and that is essentially what we are trying to do today in the proposal that the gentleman from Texas [Mr. STENHOLM], the gentleman from Minnesota [Mr. PENNY], and I are offering.

□ 1150

Let me just show you that in the last emergency bill that passed this House, as that bill left the House of Representatives to provide money for the earthquake in Los Angeles plus a number of other earthquakes, and, by the way, I would tell you our bill is slightly modified, because we do provide that more than one emergency can be in an emergency bill. What we want to say though is the only money that should be in an emergency bill is money for the emergency. Any nonemergency money should not be attached to an emergency bill.

Why? For a number of different reasons, one of which is you get these nonemergency items on this fast moving emergency bill, you do not have the scrutiny you ought to have, and then we wake up on Monday morning and in the paper are stories like I am about to tell you.

The emergency bill that provided money for the earthquake in California, after it came back from the Senate, it added $1.4 million to fight potato fungus. It added $2.3 million for FDA pay raises. It had $10 million for a new Amtrak station in New York. It had $40 million for the space shuttle. It had $20 million for a fingerprint lab. It had $500,000 for U.S. Trade Rep travel. It also contained some other items like $5.2 million for the Bureau of Public Debt.

What we are saying is these programs, whether they are good or bad, ought to be done in the normal appropriation process. They should not be included on the fast track with emergencies.

I think the public clearly wants this. I hope that the House clearly wants that the only thing we are going to say is when we have an emergency, we will provide money for that emergency, and we will attach no other riders to that bill. That is what we are asking for.

Now, people can say, for example, in the Spratt amendment, which we have to defeat under this king-of-the-hill rule, well, you can come to the House floor and you can try to eliminate these programs if you do not like them. But let me explain to you, to the Members of this House, the difficulty that we have.

As you can see, the potato fungus and the FDA and the Amtrak and the Space Shuttle and the fingerprint lab and the U.S. Trade Representative were all added in the Senate. So what happens is these get added in the Senate. We end up in a conference committee, the bill comes back to the House of Representatives, and the only way for us to fight any of these additions is to kill the conference report, which would mean that we would have to come to the House floor and we would have to vote against aid to earthquake victims in California in order to strip out the potato fungus funding, if we felt it was not necessary.

That is a choice that no one wants to be in. I can tell you that even the efforts made by my courageous colleague, the gentleman from Iowa [Mr. NUSSLE], and my colleagues, the gentleman from Texas [Mr. STENHOLM] and the gentleman from Minnesota [Mr. PENNY], in an effort to try to pay for the last earthquake, many of our colleagues were upset because it appeared as though we were trying to slow down aid to the earthquake victims, which clearly no one in this House was interested in doing. But there was no way to fight this, coming back from a conference committee, other than to defeat earthquake aid. That is not a choice anybody wanted to make.

How do we avoid this? How do we avoid loading these bills up with items clearly not related to the emergency?

The way in which we do it is we say we are going to have a clean emergency. If there is an earthquake in California, let us meet day and night and get the money provided. Let us not load it up with a bunch of other things. If we need these other provisions, let us put it in a separate supplemental bill, put it on the regular track, and then approve it separately.

I think this is a very big step in restoring public confidence in the credibility of the spending patterns of this body and the U.S. Senate.

So what I would argue is that you all need to come to the House floor, if you

are concerned about riders, which I know your constituents are, you should vote for the Kasich-Penny-Stenholm amendment. You should defeat the Spratt amendment, which is nothing other than current law. If you want to go against the status quo, if you want to suggest that emergencies only ought to contain emergency funding, that we ought not put potato fungus or FDA pay raises in an emergency bill, vote for Penny-Kasich-Stenholm. Reject Spratt. And that way we can make a significant difference in public credibility when it comes to our spending patterns in this body.

Mr. MOAKLEY. Mr. Chairman, I yield 8 minutes to the gentleman from Wisconsin [Mr. OBEY], the chairman of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I have very seldom in the history of the House seen a more misleading presentation than I just witnessed in this well, and I will explain in a moment why it is misleading. But first I want to put in context what it is we are being asked to do today in this seance.

Let me start by saying that I think everybody in this House recognizes that there has been a terrible deficit problem facing this country. We never had a deficit larger than $74 billion until Congress passed the Reagan budget proposals in 1982, which took us to deficits of almost $300 billion. We have been trying to get out from under ever since.

But I think it is safe to say that anyone who analyzes the budget understands that the root of the fiscal problems facing the United States cannot be found in the appropriation portion of the budget. Because whether you look at appropriated funds in real dollar terms, or as a share of the budget, or as a portion of the economy, you will see that they have declined—in contrast to entitlements, which is the problem in creating the deficits that we deal with today.

A decade ago discretionary spending, which is what we appropriate, equalled 11 percent of gross domestic product. It will be 8 percent this year. It will be 6.5 percent by the end of the decade.

Under the 5-year budget agreement we are living under, we are under a 5-year freeze in nominal dollars. That means that we will be, in real dollar terms, shrinking what we spend in the appropriations process by 10 percent over the next 5 years. That is going to require some draconian reductions.

The House this year in the appropriation bills which we passed cut 395 programs below last year's level. And I am not talking about cutting the rate of increase; I am talking about cutting actual spending below the amount that was spent last year. Three hundred and ninety-five programs. Thirty-six Federal programs were eliminated altogether. Those bills were $10.8 billion below the 1993 budget, $5 billion below the President, and $3.9 billion below this year's budget resolution.

Now I want to get to the specific amendments at hand. We are told that to deal with this problem we ought to pass the Johnson amendment, for instance. The Johnson amendment claims that what it does is that if we have to appropriate $10 billion in emergency supplementals, it claims that we will then in the following fiscal year have to cut a similar amount out of the next fiscal year's appropriated amounts.

That, however, is not what the Johnson amendment does. Because the Johnson amendment has a drafting error, as everybody knows. That drafting error means it requires you to double cut. It requires you to take a $11 billion cut this year, and another $11 billion cut next year if that amendment passes. So it requires you to cut $2 out of the budget for every dollar that you spend in an emergency supplemental. That may make sense to somebody on this floor; it does not make sense to me.

Second, the Castle amendment has a grain of sense to it. I, frankly, of the three amendments, would prefer a version of the Castle amendment to any of the three before us today.

But the Castle amendment is also flawed. The Castle amendment says we ought to have a rainy day fund. I agree with that. We do have one this year of about $800 million. I think it ought to be larger. If I have anything to say about it next year, it is going to be larger.

But the problem with the Castle amendment is that it says OK, we are going to have a rainy day fund, and if we have emergencies, we are going to fund them out of that fund. But there is no limit to the amount that has to be put into that fund.

In other words, if you have a nuclear war, you can still not make an exception. You still have to reduce funding to accommodate for the emergency spending. So what starts out as a reasonable idea becomes ludicrous on its face, because you make no exceptions. You put no limits above which we will recognize it is a genuine emergency, which has to be funded as such.

The Stenholm amendment is merely inconvenient, because the Stenholm amendment is meant to do something which is good. The Stenholm amendment is meant to avoid some of the riders that we sometimes see attached around here. But because of the way it is drafted, it goes way too far.

What it says, for instance, is we cannot put an emergency item in a regular appropriation bill, even if there are no other riders.

□ 1200

We just got done doing that, because we felt that the fastest way to deal with the Rwanda disaster problem was to put it in the foreign assistance bill which was moving through here at that time.

What harm was there in that? We simply solved the problem in the most expeditious manner possible.

Now I want to get to the comments of the gentleman from Ohio [Mr. KASICH].

The gentleman from Ohio [Mr. KASICH] has pointed to a number of additional items that were added in emergency bills and would lead Members to believe that that meant that the deficit went up because of that. The fact is that what he did not tell Members is that every single one of them was offset by a rescission.

If Members take a look at what CBO says, this will spell out that between 1991 and 1994, including the time period mentioned by the gentleman, that we provided $700 million more in deficit reducing offsets than were provided by add-ons of a nonemergency nature. So even if we argue with an individual item, and I certainly do, do not be deceived by the prior speech. Do not believe that we have not offset those funds; we have. We have, in fact, cut the deficit by an extra $700 million below the amount that we would have been required in order to offset fully all of the items cited by the gentleman.

I do not mind it when anybody tries to make a point in legislative debate. I do mind when in the process they do not let facts get in the way of their making a point. Facts ought to govern, not ideology and not political claims.

The fact is that in the supplemental that the gentleman was talking about last year, in the 1994 supplemental, we offset every single dollar that he had on that chart and then some. And I think that good faith requires that that be made quite clear on this House floor.

In summary what I would simply say is that I think the Castle amendment offers us the possibility of eventually working out a rational compromise, because I do believe in the principle of having a rainy day fund. The question ought to become, what is a reasonable size and at what point do we recognize we have a legitimate emergency on our hands?

I do not believe it is rational for this House to say that even in time of a nuclear war, we are going to require offsets. How far do Members think we would have gotten in World War II, if we had had to operate under those budget items? I do not think we would have won the war that way, my colleagues. So it seems to me that if we want to pursue these ideas, fine, but pursue them in a constructive, rational, and disciplined way.

What is going on here today is these are three free votes. Members get a chance to vote three times in a "let's pretend" manner, to pretend they are cutting the deficit. We all know these

VOL
140
PT
16
AG
12
—
18
1994
UMI

bills are not going anywhere. I agree with the gentleman on that side of the aisle who said this is a colossal waste of time. I think it is an outrageous waste of the House time. I really believe we ought to get down to the serious business of designing that a rainy day fund really ought to look like.

Mr. GOSS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, first of all, no one ever argued that these were not paid for in some way. They should not be included on the fast track with an emergency bill and not undergoing the general scrutiny like the rest of the appropriation bills.

No. 2, I resent the fact that the Senate adds potato fungus and I have to kill the whole earthquake in order to strip it out.

No. 3, CBO came out and they studied supplemental appropriations in 1980's, the way in which we paid for them.

Do Members know what CBO said? Over half of the rescinded funds were unlikely to have been spent if they had remained available and were scheduled to lapse in the near future. In other words, these rescissions are a sham. They are a sham. This money would not have been spent, and now they are trying to claim they are paying for it. The simple fact of the matter is that if we had not loaded it up, we would have had lower deficits in this country.

The bottom line is, do not attach, do not attach these programs to emergencies. Do not let the Congress of the United States attach riders to bills like earthquake assistance. That is really the bottom line.

Mr. MOAKLEY. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I point out the $1.4 million item the gentleman is talking about was not added by the Senate. It was in the President's budget. It was not an add on. I do not mind if the gentleman wants to make the fact, but I wish it had something to do with the truth.

Mr. MOAKLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, while it is in fact true that the potato fungus, I am not against fighting potato fungus, was added, was in the President's budget, it was added in the Senate when the emergency bill went.

Mr. OBEY. Mr. Chairman, at the request of the President. It was in the budget.

Mr. KASICH. Mr. Chairman, if the gentleman will continue to yield, I said that this was put in in the Senate. That is exactly right. The gentleman is not correct. That is what I said.

Mr. OBEY. Mr. Chairman, the gentleman is wrong.

Mr. STENHOLM. Mr. Chairman, I am pleased to come to the floor to debate proposals to reform the process by which we consider emergency spending. There clearly is widespread concern about the current process of enacting emergency appropriations bills. Today, the House will have an opportunity to consider several proposals to improve this process.

The Budget Enforcement Act of 1990 established a "safety valve" to allow Congress and the President to meet unexpected needs. When we passed the Budget Enforcement Act in 1990, few of us anticipated that we would utilize the emergency provision 16 times to spend $90 billion within 4 years. Excluding the funds for Desert Storm that were ultimately offset by foreign contributions, we have added over $30 billion to the national debt through emergency spending legislation. In addition, as the Washington Post noted in an editorial earlier this week, "emergency bills have been vehicles to which (appropriators) have often been able to add other projects that might have failed to withstand scrutiny on their own."

We will have the opportunity to vote on two thoughtful proposals that would end the practice of adding emergency spending bills to the deficit. I personally support both of these amendments because I do not believe that we should add more than $6 billion to the deficit each year for unexpected emergency spending. It seems to me that if we are going to pass several bills spending billions of dollars in disaster relief each year, we should set up a procedure to provide funding for disaster assistance through the regular budget process instead of relying on an unrestricted, ad hoc process.

Representative SAM JOHNSON will offer an amendment based on legislation he and I have introduced which will effectively require Congress and the President to offset increased spending for emergency spending through spending cuts in the next year. This will give Congress and the President time to come up with offsetting spending cuts through the regular process instead of being forced to find offsets in the relatively short window in which emergency spending bills are considered.

Representative MIKE CASTLE will offer an amendment replacing the current process of exempting emergency spending from spending restraints with a reserve fund for the regular funding of disaster assistance. This proposal will force Congress to plan for emergencies when we put together the budget resolution each year instead of pretending that the need for disaster assistance can't be anticipated and included in the regular budget.

Since emergency spending is exempt from budget constraints, there is a temptation to spend money in emergency appropriations bills with less review than normally occurs. Requiring that Congress pay for emergency spending bills instead of adding the costs to the deficit will force us to be more responsible in appropriating disaster relief. We will be less likely to pass emergency appropriations for items that may not truly deserve the emergency designation and will subject expenditures for emergency relief to greater scrutiny.

Both of these bills will be criticized for not providing Congress with the flexibility to deal with large, unexpected emergencies that cannot be funded within regular budget constraints. The criticism ignores the fact that if a crisis occurs, requiring that we spend beyond the discretionary spending caps, we could enact legislation increasing the caps. Disaster relief should be provided outside budget rules and added to the deficit only as a last resort, instead of as an automatic matter of course.

If we take our votes on the Johnson and Castle amendments and the House is not willing to take the step of requiring that we pay for emergency spending bills, we should at least stop these bills from becoming a vehicle for unrelated items to piggyback on. At the Rules Committee last week, there was widespread agreement that there is a problem with unrelated extraneous items being slipped into emergency appropriations bills. None of us like to read on Monday morning about pork-barrel items that were included in emergency appropriations bills after they were signed into law. Public cynicism about Government is increased by reports of stories of questionable spending items that sailed through Congress as part of an emergency spending bill. We need to deal with this problem for the sake of the institution.

The base bill reaffirms the ability which Members of the House currently have to strike nonemergency items from the bill. However, the base bill suffers from four fundamental flaws.

First, the provisions of the bill can be waived by the Rules Committee. Current House rules allow a motion to strike items from appropriations bills, but supplemental appropriations bills often are considered under rules that strictly limit amendments. For example, the rule for consideration of the supplemental appropriations bill for Midwest flood relief did not allow any amendments. The base bill would still allow the Rules Committee to report a rule preventing members from offering amendments to strike nonemergency items from emergency appropriations bills.

Second, the base bill creates the presumption that nonemergency items should be included in emergency appropriations bills. Since emergency appropriations bills usually are considered

rapidly, members rarely have the time to review the merits of individual nonemergency items. The result will be to allow spending to continue to flow to nonemergency items through emergency appropriations bills with little or no review.

Third, the base bill does not apply to extraneous legislative, nonspending items that are slipped into emergency appropriations bills. Although this abuse is not as common, there have been several substantive policy changes made through emergency supplemental appropriations bills.

Finally, and perhaps most importantly, the base bill lets the other body off the hook because it does not apply to conference reports. The base bill does not address the issue of extraneous items added to emergency bills in the other body at all. Since the only opportunity the House has to vote on these items is as part of a conference report, the base bill before us today would have no effect on extraneous spending items added to emergency spending bills by members of the other body.

In contrast, the Kasich-Stenholm-Penny substitute would significantly clean up emergency appropriations bills. Our amendment would prohibit extraneous items from being included in emergency appropriations bills and conference reports. We would prevent the other body from embarrassing us by adding extraneous items to emergency spending conference reports.

Mr. Chairman, if we are serious about cleaning up the emergency spending process, we must pass the Kasich-Stenholm-Penny amendment and defeat the Spratt substitute.

□ 1210

Mr. GOSS. Mr. Chairman, I am happy to yield 3 minutes to the distinguished gentleman from Delaware [Mr. CASTLE].

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. HEFNER) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message from the President of the United States.

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

EMERGENCY SPENDING CONTROL ACT OF 1994

The Committee resumed its sitting.

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding time to me, and I appreciate the opportunity to address this issue. I also appreciate the opportunity to have the President deliver a message at the point I speak.

Mr. Chairman, some people say this is a waste of time, and perhaps in terms of legislative accomplishments it will be, but my view is we are focusing today on a problem which has plagued the Congress of the United States probably since its founding, but certainly since the last 10 or 12 years, since these appropriation bill pieces of legislation have come before us, and we have spent money without much discipline and, frankly, not being within the budget caps that have been set by the various Congresses.

Mr. Chairman, if nothing else, we are starting a debate which hopefully will culminate in some form of legislation which will help address this particular problem. I have an amendment, and I will be speaking to the amendment and answering some of the questions which have been asked about that amendment later today.

Mr. Chairman, I would just like to state that there are basically, as I see it, two approaches to reform emergency spending which are going to come before the House today, the Spratt bill and the Penny-Kasich-Stenholm amendments, which, by the way, I think are basically improvements, and seek to prevent nonemergency projects from being added to emergency spending bills.

Mr. Chairman, the Castle amendment and the Johnson amendment seek to address a larger problem of not only making sure that we limit what we appropriate, but paying for disaster assistance within our budget limits. As the gentleman from Wisconsin [Mr. OBEY] has already said today, that will be basically crating rainy day funds. I think the House should tackle the real problem of emergency spending and adopt the Johnson or Castle amendments.

The Penny-Kasich-Stenholm amendment is clearly superior to the Spratt bill because it would allow a point of order against nonemergency spending in emergency spending bills. The Spratt bill would only allow a motion to strike which could be blocked by the Committee on Rules.

However, the only real way to improve the emergency spending process is to require Congress to pay for disaster assistance within our budget limits. Only the Johnson and Castle amendments would achieve this critical reform.

Mr. Chairman, the amendment which I have proposed, the Castle amendment, would insert some much needed planning into the emergency spending process by setting up a budget reserve account to hold funds for natural disasters. These funds would be included in the annual spending limits. This is the only responsible way to pay for emergencies.

Mr. Chairman, I would just point out in response to what the gentleman from Wisconsin [Mr. OBEY] stated, and I will be talking about this more at a later time, if indeed we had an emergency of a nuclear holocaust or something else, a wartime emergency that was an indication for more than this, and we could not do it without other cuts within the budget, we could certainly go back and waive all requirements and appropriate at that point in a different sense.

Mr. Chairman, the bottom line is that the ordinary domestic emergencies that we anticipate from year to year to happen in the United States of America should be done within the budget caps, should be appropriated each year, should be under a disciplined process, should be addressed in terms of what those expenditures are going to be, and it will help with our budget-balancing process. I think for that reason this is a good debate, and one which will ultimately be fruitful.

Mr. MOAKLEY. Mr. Chairman, I reserve the balance of my time.

Mr. GOSS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I come to the floor here today because I know there are a lot of sincere people here on the floor who want to change the rules to tighten up the spending on emergency spending. It certainly needs to be tightened up, but as I sat here this morning and listened to the debate, I began to think about what happens on the floor almost each and every day.

That is, the Committee on Rules, when they send legislation to the floor, decides to waive all points of order, decides to waive certain rules, and so, as I listened to the serious debate and the well-intentions of all of the Members who are involved in it, I scratch my head and wonder, why are we doing this? If the Committee on Rules is going to continue to waive points of order, waive certain rules on each day, then none of this makes any difference whatsoever.

Mr. Chairman, I say to the Members, as important as this debate is, as important as the amendments are, the amendments of the gentleman from Texas [Mr. SAM JOHNSON], the gentleman from Delaware [Mr. CASTLE], the gentleman from Texas [Mr. STENHOLM], and the gentleman from Ohio [Mr. KASICH], they are good, but until we do something about reforming the Committee on Rules where we will actually abide by the rules of the House, all of this is nothing more than a waste of time.

Mr. GOSS. Mr. Chairman, I would like to advise the chairman and the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished chairman

VOL 140 PT 16 AG 12 — 18 1994 UMI

of the Committee on Rules, that we have no further requests for time, and after a few remarks, I am going to yield back the balance of my time, on the understanding that the gentleman from Massachusetts only has 2½ minutes remaining, and one speaker.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had a lot of things said in this debate. I think what this really boils down to is that the U.S. Congress, the House of Representatives, has not yet come up with a way to find real funds for emergencies, and, as well, not to spend those funds once we do find them on nonemergencies.

That is the task we have set out to do. We do not have a place to go to get emergency funds now. We generally load them up on the deficit, or create some kind of a might-work pay system, revenue system.

Mr. Chairman, that is not satisfactory. We have set aside a task for ourselves, at the pledge of the leadership, of the majority, to deal with this issue. We just do not have a satisfactory result yet.

Then regarding loading up stuff, Mr. Chairman, the nonemergencies on the emergency vehicles that go through, we have not solved that problem, either. What is sad about that is, today we have victims, we have new victims. While I am standing here, there are victims in South Carolina, there are victims in Georgia, there are victims in Florida, and perhaps elsewhere, as this storm Beryl goes through and we still have not solved this problem.

I will make a prediction, Mr. Chairman, that we will not have solved it before the next storm, catastrophe, natural disaster, happens. That does not take a lot of courage to make that prediction. It does take some sadness. We just are not getting on with this job.

Mr. Chairman, the distinguished chairman of the Committee on Appropriations said "We can always add something to an appropriation bill." That, really, frankly, makes about as much sense as having your house on fire and waiting for a passing firetruck to go by and say "I have a fire here. Would you come in and put it out," rather than providing for a fire department that can respond to a fire when your house is on fire.

□ 1220

I do not think just because we might happen to have appropriation bills waiting in the wings is a good way to say, "Boy, we've solved the problems of emergency spending." Equally I think it is true that sometimes we can do harm to an appropriations bill by adding something to it. Some would argue that we add a sweetener or some would argue that we add something sour to it. The Rwanda issue was relatively easy compared to some. I can think of some appropriations for foreign ops appropriation that would be a lot harder.

Mr. Chairman, I do not think that is a good way to do it. I think we are trying to identify emergency spending for what it is, provide a fund for it, and provide that that is not abused for nonemergency spending. That is a real simple proposition and we really have not solved that issue today.

I suspect the answer to that lies in the joint reform proposals embodied in H.R. 3801 which we are not hearing, which we should be hearing, which have been split, divided and scattered as far as I can see, and I think that is a shame and all those people who have worked so hard on reform of Congress basically are very disappointed about that. I do feel that we do have a possibility of rescuing something from this debate today if we can pass one of the substitute amendments. But if we end up with the base Spratt bill, we have really done nothing except go around like a big circus and use this time, where we could get right back to square one to do just what we can do as the rules permit us to do now if we have the courage to use the rules properly.

Mr. Chairman, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Chairman, I yield the balance of my time for closing general debate to the gentleman from Alabama [Mr. BEVILL], the chairman of the Subcommittee on Energy and Water Development of the Committee on Appropriations.

Mr. BEVILL. Mr. Chairman, I would like to point out that we are trying, it seems to me for the sake of offering amendments, to make something complicated out of something that is very simple. The procedure is set up, it works, and as the old saying goes, if it works, why should we be trying to fix it?

If there is any nonemergency money in an emergency bill, we have got the right, any Member on either side of the aisle, any Member of this House, has the right to stand up and ask that it be stricken. That is all we have got to do. Get a vote on it. How can be beat that?

On the minority side, Members also have the right to make the motion to instruct the conferees, so they are protected in every way right now.

Why do we want to adopt these amendments that are going to change the allocations for this year and that are also going to affect the next year?

What these amendments are going to do is knock out projects in my bill. For example, they would knock out many of the flood control projects in this country and these projects are actually an investment and time has proven that the benefits of the projects are six times what the cost of the investment is. We are not even talking about the lives it saves. We are talking about property damage. History has proven that. I am just using that as an example.

You want to make it complicated. You want to change the allocation for this year, and it does not make any sense. I say that we do not need to fix something that is working, we have got all the remedies we need. Just with my bill, you can see the impact that it would have.

Mr. Chairman, I know that is not what the intentions are, but for many projects throughout the country that are necessary, that are already underfunded, this is going to be a means of cutting them even more. We have got a 5-year plan on the books that is working, and it is actually reducing the deficit. Alan Greenspan, the Chairman of the Federal Reserve Board, says that our economy is in the best condition it has been in in decades, and I am quoting exactly what he said.

So why are we trying to do this, because all we are really going to do is knock out some projects that are very important to this Nation and important to the people. I urge everyone to support the base bill, H.R. 4906, and oppose these amendments and support the gentleman from South Carolina [Mr. SPRATT].

The CHAIRMAN pro tempore (Mr. RAHALL). All time for general debate has expired.

Pursuant to the rule, the bill is considered as read for amendment under the 5-minute rule.

The text of H.R. 4906 is as follows:

H.R. 4906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Spending Control Act of 1994".

SEC. 2. PURPOSE.

The purpose of this Act is to restrict the inclusion of nonemergency spending proposals in emergency spending bills.

SEC. 3. TREATMENT OF EMERGENCY SPENDING.

(a) MOTION TO STRIKE.—Title VI of the Congressional Budget Act of 1974 is amended by redesignating section 607 as section 608 and by adding after section 606 the following new section:

"SEC. 607. TREATMENT OF EMERGENCY SPENDING.

"Whenever the House of Representatives considers a bill or joint resolution containing an emergency designation for purposes of section 251(b)(2)(D)(i) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, any Member of the House may move to strike any appropriation in that bill or joint resolution or any provision providing direct spending in that bill or joint resolution that is not so designated as an emergency, and a recorded vote shall be considered as ordered if demanded by any Member and supported by 9 other Members of the House.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Improvement Control Act of 1974 is amended by striking the item relating to section 607 and by inserting after the item relating to section 606 the following new items:

"Sec. 607. Treatment of emergency spending.
"Sec. 608. Effective date.".

(c) LIMITATION ON NON-EMERGENCY SPENDING IN EMERGENCY LEGISLATION.—If any bill or joint resolution contains an emergency designation for purposes of section 251(b)(2)(D)(i) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 and it also contains an appropriation or any provision providing direct spending for any matter, event, or occurrence that is not so designated as an emergency, then that non-emergency appropriation or other provision providing direct spending must fall within the most recently applicable allocations under sections 602 (a) and (b) of the Congressional Budget Act of 1974.

The CHAIRMAN pro tempore. No amendment shall be in order except the amendments printed in House Report 103–690 which may be offered only by the Member designated in the report, shall be considered as read, and shall not be subject to amendment.

Debate on each amendment will be equally divided and controlled by the proponent and an opponent of the amendment.

If more than one of the amendments printed in the report is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House.

It is now in order to consider amendment No. 1 printed in House Report 103–690.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SAM JOHNSON OF TEXAS

Mr. SAM JOHNSON of Texas. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the Nature of a Substitute offered by Mr. SAM JOHNSON of Texas: Strike all after the enacting clause and insert the following:

SECTION 1. TREATMENT OF EMERGENCIES.

(a) REPEAL OF EMERGENCY RULE.—Section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) SPECIAL LOOK-BACK TREATMENT FOR EMERGENCY APPROPRIATIONS.—Section 251(a)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "(A)" before "If" and by adding at the end the following new subparagraph:

"(B) If—

"(i) an appropriation that the President designates as emergency requirements and the Congress so designates in statute is enacted for the fiscal year in progress and that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category); and

"(ii) that bill is approved upon final passage by each House of Congress by at least three-fifths of those voting; then the discretionary spending limits for the next fiscal year shall be reduced by the amount or amounts of that breach.".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. SAM JOHNSON] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. SAM JOHNSON].

MODIFICATION TO AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SAM JOHNSON OF TEXAS

Mr. SAM JOHNSON of Texas. Mr. Chairman, pursuant to an agreement with the gentleman from South Carolina [Mr. DERRICK] and the gentleman from South Carolina [Mr. SPRATT], I ask unanimous consent that my amendment in the nature of a substitute number 1 made in order under the rule be modified to state that which is at the desk now and be considered in lieu of the amendment printed in the RECORD.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SAM JOHNSON of Texas, as modified: Strike all after the enacting clause and insert the following:

SECTION 1. TREATMENT OF EMERGENCIES.

(a) ELIMINATION OF CAP ADJUSTMENT FOR EMERGENCY APPROPRIATIONS.—Section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) SPECIAL LOOK-BACK TREATMENT FOR EMERGENCY APPROPRIATIONS.—Section 251(a)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "(A)" before "If" and by adding at the end the following new subparagraph:

"(B) If an appropriation that the President designates as emergency requirements and the Congress so designates in statute is enacted for the fiscal year in progress and that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category), the discretionary spending limits for the next fiscal year shall be reduced by the amount or amounts of that breach.".

Mr. SAM JOHNSON of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. OBEY. Mr. Chairman, reserving the right to object, would the gentleman explain it?

Mr. SAM JOHNSON of Texas. Mr. Chairman, if the gentleman will yield, certainly.

Mr. Chairman, in filing the amendment, the wrong copy was inadvertently given to the Committee on Rules and the modification would simply delete subsection ii. It is the provision that requires a three-fifths vote.

Mr. OBEY. That is the only change? The gentleman is eliminating the three-fifths voting?

Mr. SAM JOHNSON of Texas. That is correct.

Mr. OBEY. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas that his amendment be modified?

There was no objection.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. SAM JOHNSON of Texas. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I have to leave the floor to go to a meeting, but I just wanted to state my very, very strong support for the gentleman's amendment, and I urge every Member to vote for it.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I thank the gentleman from New York [Mr. SOLOMON].

Mr. Chairman, I rise today to ask Members to cast a tough vote. A vote that will put accountability, respectability, and responsibility back into Congress. For too long we have routinely voted to add billions of dollars to the $4.5 trillion public debt. We must stop the upward debt spiral.

That is why I am asking Members to vote to put emergency spending on budget. For some Members this will be a tough vote. Although tough, it is necessary because this vote is directly tied to the future of this country.

Members should realize that this is the only chance to vote for real reform because we all know that after November the momentum to drastically change how we address emergency supplementals will disappear.

While I agree with Mr. KASICH and Mr. SPRATT that Congress should have the authority to strike nonemergency spending from emergency bills, I believe they only solve half the problem.

Mr. KASICH has stated that approximately $150 million of nonemergency spending was in the California earthquake bill and under his bill this would have been struck. I applaud and support this effort. But what about the $10 billion that is left?

It is great to go home and tell our constituents that we saved them $150 million this year or that we eliminated the pork, but we must also tell them that we are still going to add $10 billion onto the national debt.

My colleague, the gentleman from Delaware [Mr. CASTLE] also has an amendment to reform emergency funding. The Castle plan, if I understand it, states that if there is an emergency and it exceeds the trust fund the money would then be added to the debt. So we still have not paid for it.

The Johnson amendment solves these problems while reaching the very worthwhile goal sought by my colleagues.

My bill amends section 251(c)(2) of OBRA 1993 to allow the lookback provision to be applied to emergency

VOL 140 PT 16 AG 12 — 18 1994 UMI

supplementals. This provision states that any breach in the discretionary caps during the current fiscal year would be paid for by reducing the caps in the next fiscal year. Simple enough. If we pass a $2 billion emergency this year, we reduce the discretionary caps in the next fiscal year by the amount of the breach.

What else will this accomplish?

Having listened to past debates I know that Members want to pay for emergencies but not at the expense of disrupting and jeopardizing programs that have been appropriated in the current fiscal year. This bill would allow projects to continue in that year with no disruption.

Members also argue that past attempts to pay for emergencies was hastily put together and the impacts were not known. This amendment gives Members the time, while they are drafting next year's budget, to thoroughly discuss, propose, and draft rescissions that will pay for the emergency.

It also ends the argument by some that debating how emergency supplementals will be paid for delays aid from reaching those devastated in the disaster. Congress, under this amendment can now quickly pass the bill and send money and aid to those in need.

And by requiring Members to find cuts in next year's budget is quite a deterrent from adding nonemergency items or pork to the bill, and the most important point for voting for the Johnson amendment is that it keeps money from being added to the debt. I know that all Members would agree that we must stop any increases to our debt.

Mr. Chairman, we all recognize the necessity of providing funds to those whose lives have been affected by a natural disaster but is it fair for Congress to then endanger the future of these same people and their children by increasing their share of the debt? I think the answer is no.

I believe if the Congress and the President declare an emergency, it is our responsibility to pay for these bills. It is not the responsibility of future generations. Help Congress help itself, vote for the Johnson substitute.

□ 1230

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. RAHALL). Does the gentleman from South Carolina [Mr. SPRATT] rise in opposition to the amendment?

Mr. SPRATT. I rise in opposition, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from South Carolina [Mr. SPRATT] is recognized for 15 minutes in opposition to the amendment.

Mr. SPRATT. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. OBEY], chairman of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding me the time.

I would ask the gentleman from Texas this question: In the unanimous consent request he just made, he removed the first two lines of (ii) but left remaining the requirement that discretionary spending limits for the next fiscal year shall be reduced by the amount or amounts of that breach. The gentleman left the language in, did he not?

Mr. SAM JOHNSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Texas.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I am not sure where the gentleman is looking.

Mr. OBEY. The item just knocked out, if the gentleman will take a look at the report of the bill.

Mr. SAM JOHNSON of Texas. I am looking at it.

Mr. OBEY. The gentleman struck the last two sentences on the first page, as I understand it?

Mr. SAM JOHNSON of Texas. The gentleman is correct.

Mr. OBEY. And retained the first two sentences on page 2?

Mr. SAM JOHNSON of Texas. The gentleman is correct.

Mr. OBEY. I thank the gentleman. That is what I was afraid of.

The problem with it, Mr. Chairman, is that that means that the amendment does not do what the gentleman just described. The gentleman indicates that the intent of this amendment is to take whatever is spent on an emergency in a current fiscal year, that happens to be $11 billion this year, and to then deduct it from the next fiscal year's appropriations in the same amount, $11 billion. However, because on page 1 in section (a) the gentleman also repeals the emergency rule under which emergency funding is provided, the effect of the gentleman's amendment is to take $11 billion out of the budget for this fiscal year, and to take it out again for the next fiscal year. So in other words, the gentleman has a double hit. I do not know if the gentleman intends it or not, but we cannot legislate on the basis of intent around here. We have to legislate on the basis of what is called for in black and white.

In fact, the gentleman is requiring us to cut out $2, one dollar in the current fiscal year and another dollar in the next fiscal year for every dollar that is requested to be expended because of an emergency from something like a natural disaster. I submit there is absolutely no rational reason to do that. I submit that in addition to the budget effect which this amendment would have, it would have a disastrous economic effect on the country because if we have an earthquake or a major flood which is going to depress the economy of the country and to cost jobs and cost economic growth, what we are going to do is in fact double the hit on the economy by the amendment offered by the gentleman.

I think the gentleman tried to correct one defect in his language when he removed that language that he asked to be removed, but he did not correct the problem. I cannot believe that this House is going to in effect say that if the country is unlucky enough to experience a major economic disaster in the form of a flood or an earthquake that the Congress has a compulsion to double the negative economic effect by passing the Johnson amendment.

So I would urge Members to vote against it and to look for a more rational way to deal with national emergencies.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from the great State of Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I am pleased to rise in support of the amendment being offered by my friend and colleague, Representative SAM JOHNSON.

As we all know, the Budget Enforcement Act of 1990 established a safety valve to allow Congress and the President to meet unexpected needs. By declaring something an emergency Congress and the President can provide for spending to be placed automatically outside of the budgetary caps. In real terms, this means adding debt directly to our enormous shortfall which already exists.

When we passed the Budget Enforcement Act in 1990, few of us anticipated that we would utilize the emergency provision 16 times to spend $90 billion within 4 years. Excluding the funds for Desert Storm that were ultimately offset by foreign contributions, we have added over $30 billion to the national debt through emergency spending legislation. In addition, as the Washington Post noted in an editorial earlier this week, "emergency bills have been vehicles to which (appropriators) have often been able to add other projects that might have failed to withstand scrutiny on their own."

The amendment which Representative JOHNSON offers is the most direct way I know to state clearly and indisputably that our deficit can no longer withstand that sort of attack. The Johnson procedures would allow Members to carefully discuss a sensible plan to pay for our natural emergencies, placing the spending in the context of the entire next fiscal year's budget. There is a legitimate criticism about a hasty process of paying for emergencies. This amendment avoids that pitfall.

I do not believe that we should add more than $6 billion to the deficit each year for unexpected emergency spending. It seems to me that if we are going to pass several bills spending billions of dollars in disaster relief each year, we should set up a procedure to provide funding for disaster assistance through the regular budget process instead of relying on an unrestricted, ad hoc process.

The bill which Representative SAM JOHNSON and I have introduced would effectively require Congress and the President to offset increased spending for emergency spending through spending cuts in the next year. This will give Congress and the President time to come up with offsetting spending cuts through the regular process instead of being forced to find offsets in the relatively short window in which emergency spending bills are considered.

I commend my colleague from bringing this amendment to the floor and I encourage support of the amendment.

I did not read into the legislation that we were taking two for one. I am of the assumption that the unanimous-consent request that my colleague made in which he stated his intention in fact will do that which it did, and if not I would anticipate we would have an additional unanimous-consent request to make certain that it does that. If that is too complicated, then I do not understand the rationale.

But clearly, my support of this amendment goes back to some of the votes that we have taken in the past of suggesting that when we do have disasters that we should pay for them, that the deficit should not go up as a result of declared emergencies, unless the Congress on a specific vote makes such determination as we talked about before in regard to various ideas on how this should proceed.

I do not believe that we should add more than $6 billion to the deficit each year for unexpected emergency spending. It seems to me that if we are going to pass several bills, spending billions of dollars on disaster relief each year, we should set up a procedure to provide funding for disaster assistance through the regular budget process instead of relying on unrestricted ad hoc processes.

The bill which the gentleman from Texas [Mr. SAM JOHNSON] and I have introduced would effectively require Congress to offset increased spending for emergency spending through spending cuts in the next year. I do not understand why that is not very clear. I do not understand why under a unanimous-consent request if there is some language that needs to be clarified so we are debating the intent of the amendment that it could not be done.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to my friend, the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I think this is an incredible way to legislate. We have already seen the author of the amendment ask to make one change in the amendment because it is imperfect. Now it is being suggested we should consider another. It seems to me it is mighty dangerous to be passing a moving target. I would kind of like to know when I come to the floor what it is we are going to be voting on.

It seems to me if no more thought has gone into this amendment than the though that has produced two mistakes in the base amendment, we ought not to pass it, and move on to something that is more rational.

Mr. STENHOLM. Mr. Chairman, the response of my colleague is a commonsense response. Again, I am here speaking on behalf of an amendment that I believe does that which we are all saying that it does.

□ 1240

If it does not, then the gentleman has every reason to oppose the amendment, to vote it down, this amendment should not pass because of the legitimate opinions of the gentleman from Wisconsin that he is expressing.

I have read the same language. I understand the intent. I do not read it as you read it. I could be wrong.

Mr. OBEY. Could I read the language that does what I claim it does?

Mr. STENHOLM. Certainly.

Mr. OBEY. "Section 1, repeal of emergency rule, section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed." That means that you have got to have sequestration in the current year, if you have any emergency.

Then if you take a look at the language in the last two sentences of the bill, which says, "The discretionary spending limit for the next fiscal year shall be reduced by the amount or amounts of that breach," that says that you have to also make the same reduction in the next fiscal year. It seems to me it is written in plain English, and it is very clear.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I would like to say at the outset I have the highest regard for my colleague, the gentleman from Texas [Mr. SAM JOHNSON]. Although I disagree with his amendment, he is a very valuable Member of the House.

I am afraid this amendment today should be defeated for the reasons that have been stated and others that I will enumerate at this moment.

First, put this in context: As chairman of the Disaster Task Force, you cannot view any of these amendments in the context of previous disasters. We have on average spent about $3 billion a year on disasters: the flood in my part of the country, a hurricane in Florida, an earthquake in California.

But on the Disaster Task Force, we have been told that the so-called big one could occur at any moment in California, and certainly a Hurricane Andrew, had it gone a few miles north and hit Miami, would have cost $50 billion in 1 year, so whatever we are about to do should be put in the context of a reality that the cost of disasters could go up dramatically in any given year. There is no flexibility in Mr. Johnson's amendment.

Let me tell you four reasons why we should vote against the Johnson amendment: The gentleman from Texas [Mr. SAM JOHNSON] quite wisely says we should pay for our disasters, but as has been stated on the floor, he wants to pay for them twice, once in the year when the disaster occurs by cutting spending, then in the following year pay for it again. Well, that frankly is unnecessary and could be counterproductive.

Second, the gentleman from Texas fails to take into account that the good Lord does not pay any attention to our fiscal year deadlines. If a disaster occurs in the United States in August or September and our fiscal year ends on September 30, we somehow have to come up with the disaster funds in the remaining 2 months of that fiscal year to pay for it. That is unrealistic. We found that in last year's Midwest flood.

So the gentleman, by sticking to the strict definition spending cuts only in the year disaster occurs, really looks beyond the fact that the disaster may be so late in the fiscal year that we cannot cut enough spending to pay for it.

The third point I raised in my earlier comments, the gentleman fails to take into account that in fiscal year 1991 President Bush declared an emergency to pay for Desert Storm and Desert Shield. President Bush was right when he said we are going to take care of the men and women in our Armed Forces serving in the Persian Gulf, and we are going to pay for it on an emergency basis; we are not going to scrimp and cut when it comes to the safety of our kids. He was right. Forty-two billion dollars was spent on the Desert Storm emergency.

Under the amendment offered by the gentleman from Texas [Mr. SAM JOHNSON] we then would have had to cut the next year's appropriation bills by $42 billion to pay for it, except for one fact he left out in his thinking. Our allies came back and paid that $42 billion. Under the amendment offered by the gentleman from Texas [Mr. SAM JOHNSON] we would have still had to cut the next year's spending, and that cut would have taken place despite the contribution of our allies.

Finally, if you take the amount of disaster in 1 year and then spread that amount in cuts and spending the next year, almost half of those cuts come from the Department of Defense. I say to the gentleman from Texas [Mr. SAM JOHNSON], you are going to hear from

VOL 140 PT 16 AG 12 — 18 1994 UMI

the gentleman from Pennsylvania [Mr. MURTHA] in a few moments the disastrous consequences on America's military strength if you make that sort of a cut in this day and age, and I would also add it would call for cuts, for example, next year of $1.6 billion in veterans' hospitals and another $314 million in agriculture programs.

I urge my colleagues, look at the Johnson amendment, consider the flaws in it, defeat it.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I am from California. I support this legislation very strongly, and I do so because my constituents are terribly concerned about the future of this country economically, as am I.

Our national debt, not the deficit, but the debt, which is what really counts, is $4.5 trillion. That is $18,000 for every man, woman, and child in the United States. It is $72,000 for your average family of four. This is a problem.

The gentleman from Texas [Mr. SAM JOHNSON] is advocating a policy which will impose more fiscal restraint than we have. All we hear about, "That is a lot of talk." The fact of the matter is we have been vastly increasing our spending over whatever the increase in revenues is. That continues to go on today. It has gone on for years.

Mr. Chairman, I would like to strongly support the Johnson amendment, and let me just say disasters are somewhat foreseeable. We now know that we are going to have every year "X" amount of dollars we can count on. For that reason, I say put it on budget, build it onto the budget, and bring down the spending.

I urge support of the Johnson amendment.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I would just like to put this in perspective to what this really does.

I chair the Military Construction Subcommittee, which has been in decline for the past several years. We have not been able to do the things that we want to do for quality of life, which has been one of the strong things that I have tried to do in my years as chairman of the Military Construction.

This year we were unable to do what we needed to do in family housing for our troops. We had some $54 million that we could not even touch in family housing that was direly needed for our troops.

Now, let me tell you what would happen if the Johnson substitute had been in effect this year: The 1995 discretionary cap would have to be reduced by $12 billion. Now, that means the military construction 602 allocation for 1995 would have been reduced by some $208 million, and a lot of people that deal in billions might not say that is a lot of money, but let me tell you this type of reduction that we would have had to have taken would have resulted in cuts in the Guard and Reserve projects of some $50 million, and these are very important and strategic family housing projects that I mentioned.

We would have had a further cut of some $70 million in family housing and child care centers, which goes to the very heart of quality of life for our people in the military. We would have had to cut $20 million, and that is just a few of the things we would have to cut.

There are some 70 Members of this body on both sides of the aisle who came to me during this last budget series and asked for projects in my military construction budget. I am assuming that they were very vital projects. They would have had to have been drastically cut at a time when we are building down in the military, and I serve on the Defense Subcommittee, and I feel sure the gentleman from Pennsylvania [Mr. MURTHA] will speak in depth about this.

This is no time, in my view, for us to be considering what I consider to be an irresponsible amendment.

I urge strongly that you vote against this amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I rise today in strong support of the amendment offered by our colleague, SAM JOHNSON, to the Emergency Spending Control Act.

What a novel idea, to actually require Congress to pay for any emergency supplemental bill we pass.

This amendment is a good idea for a couple of reasons. First, it will make Congress be more selective when drafting emergency spending bills. I suspect Congress would be less likely to include completely unrelated, nonemergency pork spending in emergency bills when next year's appropriations would be lower by that amount.

Also, it is simply good public policy to begin paying for the bills we pass. With the budget deficit over $200 billion and national debt over $4½ trillion, we simply cannot afford to continue putting off our bills onto our children and grandchildren.

It is time we realize that the fiscal crisis is the biggest emergency facing this country.

Unless we get our financial house in order, we literally won't be able to afford the next hurricane, the next flood, or the next earthquake.

The Johnson amendment is the best way to ensure that Congress will pay for these emergencies now, and will be able to continue paying for them in the future. I urge all of my colleagues to support this important amendment.

□ 1250

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CARR].

Mr. CARR of Michigan. Mr. Chairman, I rise in strong opposition to the gentleman's amendment. I am sure this was not the gentleman's intention, but I am afraid his amendment is mean spirited. It has the ironic effect of punishing the American people for their humanity and generous nature. The willingness of Americans and by extension, the Congress, to provide for others in their time of need is one of the most admirable traits of this Nation. But, providing emergency relief to citizens whose lives in many instances have been devasted by natural disasters should not mean, Mr. Chairman, that in the process we gut important road, transit, and aviation improvement programs that are also important to the American people in their everyday lives.

Mr. Chairman, in the supplemental enacted earlier this year in response to the earthquake in southern California, the Congress provided swift and decisive relief to repair the crushed interstate highways, collapsed bridges, and other devastated arterials caused by the earthquake. Under the terms of the amendment offered by, the gentleman from Texas [Mr. SAM JOHNSON], the Transportation Subcommittee would be required to produce savings in ongoing programs in the fiscal year 1995 transportation appropriations bill to offset the approximately $325 million cost of providing that much needed emergency transportation relief. In other words, we would have to rob Peter to pay Paul. And I might add that the savings would have to be made in both budget authority and outlays.

Mr. Chairman, the negative impact of the Johnson amendment is very real. Let my give just one example of what we would have to do to achieve savings of this magnitude. If the reduction were applied entirely to the Federal program that finances the construction of our Nation's highways, we would have to reduce the program by nearly $2 billion below the $17.2 billion provided in the 1995 transportation appropriations bill.

Mr. Chairman, in order to stay within our restrictive budget allocation, the 1995 transportation appropriations bill already funds the primary Federal highway construction program at less than last year's level. Let me repeat that: We have already cut spending on the Nation's premier transportation funding program below the 1994 level and we have been criticized by some Members of Congress and the administration for doing so. And that is without the Johnson amendment. With the Johnson amendment, we would have to slash Federal aid for highways by nearly 14 percent below the current level. Every State with critical needs for highway construction and repairs would have to pay a severe price under the gentleman's amendment.

I am sure some are thinking, "All they would have to do is stop earmarking funds for highway demonstration projects and everything would be fine." But, Mr. Chairman, a careful examination of the facts proves this statement to be false. Even if the 1995 transportation appropriations bill as passed by the House contained not $1 for specially earmarked highway projects, the Johnson amendment would force deep cuts in other transportation programs. Once again, if the remaining outlay savings needed were taken from the formula highway program, Federal spending on roads and highways would still have to be reduced by more than $1.5 billion. The other alternatives are even less attractive. It is unlikely that we could achieve savings of this magnitude in other programs within affecting important safety functions in the Federal Aviation Administration or the Coast Guard.

I am sure the gentleman's amendment is well intended, but I think you can see the disastrous effects it would have on transportation funding in this country. I strongly urge defeat of the amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of legislation to reform and control emergency spending. I also strongly support the Johnson and Castle amendments.

I believe that this measure is a critical component in the range of budget process reforms which the House has considered this month. Every year, we go through an elaborate procedure to pass a budget resolution setting discretionary spending limits, allocating those limits among the 13 appropriations subcommittees, and living within these limits.

We then go out and bust the budget almost every year, through the process of supplemental emergency spending bills. There is widespread support for passage of these emergency spending bills. After all, who could oppose humanitarian assistance for Americans whose lives have been devastated by unforeseen natural disasters like earthquakes, hurricanes, and floods.

The problem is while each such disaster is unforeseen, the fact that disasters occur each year is not only foreseeable, it is almost a certainty. Therefore, prudent budgeting would take the likelihood of natural disasters into account and provide a mechanism to pay for them—within our budget.

I believe the Castle and Johnson amendments both accomplish this, and I will support both of them. In fact, I believe we should combine the two into one bill. The Castle amendment would eliminate the waiver of emergency spending from the discretionary spending caps. In order to accommodate this change, the Castle amendment also establishes an emergency budget reserve funds. It would be expected that each year we would appropriate funds into this reserve account, in order to meet emergency spending. The concept of a contingency or emergency reserve fund is a basic budgeting concept that virtually every State and local government in this country uses.

However, a legitimate issue is raised under the Castle amendment. What happens if actual emergencies exceed the amounts funded into the reserve fund? Under Castle, we could either offset this excess with rescissions of other spending, or could vote to raise the caps.

The Johnson amendment would resolve this issue by allowing a third option of paying for this excess spending by reducing the discretionary spending cap in the subsequent year. This mechanism provides a safety valve to fund emergency spending levels that exceed the spending cap in the current year. That is why I believe that the Castle and Johnson provisions would work so well combined as one amendment.

Finally, I would like to address the Kasich-Stenholm-Penny amendment. This amendment, as well as the Spratt bill, focuses the issue more narrowly than the Castle or Johnson amendments—dealing only with the scope of individual items within each spending bill.

I believe that both the Castle and the Johnson amendments deal with the problem of emergency spending in a more comprehensive manner than either Kasich or Spratt. However, if the issue is simply limiting the consideration of emergency spending bills to true emergencies, I believe that the Kasich-Stenholm-Penny amendment is preferable to the Spratt bill.

Finally, in any event, I believe all four of these proposals are preferable to doing nothing. Therefore, I urge my colleagues do pass this legislation, to take at least some action on the problem of emergency spending.

Mr. SPRATT. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, let me talk about the practical impact of what the gentleman from Texas [Mr. SAM JOHNSON] is trying to do.

I remember when Secretary Weinberger used to come before the Committee on Appropriations and tell us about supply-side economics. He said despite increased spending in defense and decreasing taxes, we would decrease the deficit. I said to him that it would not work.

Mr. Chairman, during that period of time, during that 12 years of Reagan and Bush, we increased the deficit by $3 trillion, from $900 billion to almost $4 trillion. So these easy quick fixes don't always work and can have really negative consequences.

Mr. Chairman, we have done our share when it comes to cutting discretionary spending, particularly defense discretionary spending. Defense money used to be 27 percent of the budget in fiscal year 1984, and it is now down to 19 percent of the budget 10 years later. Further cuts in discretionary spending will not solve the deficit problem, but will greatly exacerbate the problem for defense because defense will take one-half of the total discretionary cut.

For instance, if you were to reduce the defense budget by $5.7 billion, which is half of the 1994 emergency disaster appropriation, there would be a 2.4-percent across-the-board reduction for defense assuming you applied it uniformly. This would eliminate the entire pay raise for the troops.

Now, why did I pick the pay raise? Because the Pentagon did not allow for that in their budget because they said that was not something that needed to be done. Well, I disagree with that. I think a pay raise is absolutely imperative for the welfare and morale of our troops and we included it in our recent bill.

Our troops right now are deployed more often than they have been in years. They are worn out, frustrated. I just visited Guantanamo, and a number of them are going to get out because they spend too much time away from home.

So the first thing that would go is the pay raise for the troops.

Next, the readiness enhancement voted by the House would be totally eliminated.

What I did in the budget that we sent over to the other body was decrease some of the long-term programs and increase the amount of readiness. For instance, there is a $12 billion backlog in defense for real property maintenance. There is a $2 billion backlog for depot maintenance. Both of these are absolutely essential to the readiness and quality of life of our troops.

Under this Johnson amendment we would also have to cut the medical care for 205,000 personnel if the reduction was applied across the board.

Now, why do I mention the medical program? I will tell you why. For 7 years I personally have taken an interest in trying to improve the medical quality of life, the medical care for the military. In the military, one of the first things they cut when they start to cut the budget is the medical personnel available to active-duty dependents. That is a mistake because it reduces the quality of life.

Recently I went to Camp Lejeune, where they were waiting 5 hours to see a doctor. That is a practical impact of what we are doing in making these kinds of cuts.

VOL 140 PT 16 AG 12 — 18 1994 UMI

So there is no way that I can support this kind of a cut, because it has such a dramatic impact on our national security.

Now, I could not agree more that they should come to the Congress to ask for supplemental money for operations such as Rwanda. But I doubt very much that this Congress would turn down the President on money for Rwanda. I certainly know we would not turn down money for hurricane Hugo, the flood disaster that happened down there. I know he would not turn down the money, Congress would not turn down the money for Los Angeles where the earthquake occurred. Nor should he.

The promise of the Johnson amendment is that the emergency money has to come out of the overall spending. That would be disastrous to defense, and I strongly urge the Members to defeat the Johnson amendment.

□ 1300

Mr. SPRATT. Mr. Chairman, do I have 1 minute remaining?

The CHAIRMAN. The gentleman from South Carolina has 1 minute remaining.

Mr. SAM JOHNSON of Texas. Mr. Chairman, do I have the right to close?

The CHAIRMAN. The gentleman from South Carolina [Mr. SPRATT] has the right to close debate.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as my colleagues know, I would hope that we could cut spending in other areas as much as we have already cut defense.

The CHAIRMAN. Will the gentleman from Texas [Mr. SAM JOHNSON] suspend?

The Chair is in error. The gentleman from Texas [Mr. SAM JOHNSON] has the right to close debate, and the Chair would now recognize the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. I was not going to look that gift horse in the mouth. I thought I was the next up.

Mr. Chairman, I yield myself the balance of my time.

Let me just basically summarize the problem, the flaw, in this bill and the reason we urge its defeat.

First of all, Mr. Chairman, this bill repeals those provisions of the Budget Enforcement Act of 1990, which exempted emergency spending from the discretionary spending cap. Second, the amendment offered by the gentleman from Texas [Mr. SAM JOHNSON] would create something he calls a look back requiring that in the later fiscal year all emergency spending above the discretionary spending cap in the prior fiscal year be offset by an equal reduction in discretionary spending in that second fiscal year. A look back.

However, Mr. Chairman, because emergency spending would no longer be exempt, due to this bill, from the emergency spending cap, emergency spending in excess of the cap in the first fiscal year would trigger sequestration, so we would have a cut in that year by virtue of sequestration.

Second, in the following fiscal year the Johnson look back provisions would mandate, dictate, that this same breach, this same excess, be cut again, reduced again, from discretionary spending, so what we have here, unintentionally, I am sure, but nevertheless it is the plain consequence of this bill, flawed in the drafting, is a double cut, a double dip, which certainly we do not wish to decree by passing this amendment.

So, I urge defeat of this amendment and the creation of a serious mistake.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as I was saying, I believe that we have already taken too much money out of the defense budget, and it is terrible to me that we even talk about thinking about it. However it is important that we consider paying for our finances as we go along. We have to realize there are two emergencies facing this country, those that are caused by circumstances out of control and one the body has created itself, and that is the $4.5 trillion national debt. We do not have the power to stop unforeseen emergencies, and so we can only offer help to those in need. But we in Congress have the power to reduce our national debt, and so far we have ignored the task. Members have said the deficit is going down, but that is short term. We need to focus our sights on the long term, and by the President's own predictions the deficit and debt will rise in the outyears.

Mr. Chairman, over the past 4 years, $90 billion has been added to the debt through emergency supplementals. The President's proposed spending, $320 billion for new programs and figures, show that by 1998 $1.5 trillion will be added to the debt. This is not how a responsible Congress acts. We have got to reduce our expenditures, and change our spending habits, and show the American people that we are accountable for our actions and care about the future of this country. That is why Members ought to vote yes on this amendment and start us down the road toward fiscal responsibility.

In answer to some of the questions today, today's rules already preclude any point of order on spending over 602(b) limits, so, when we waive all points of order, which Rules does on every supplemental report, and conference report, then there is not any way for spending to be addressed except by the Johnson amendment.

Vote for the Johnson amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. FRANKS of Connecticut. Mr. Chairman, during this Congress we have approved two emergency spending bills, one in 1993 for the Midwest flooding and one earlier this year for the earthquake in Los Angeles. Even though these natural disasters did not take place in Connecticut, my constituents were willing to have the Federal Government provide needed relief to the victims. We can assume that Connecticut residents would receive disaster relief should a serious disaster ever occur in my State.

Unfortunately, Congress took advantage of this goodwill and added wasteful spending to the emergency spending bills. Fungus research and a program to pay for grooming expenses of Los Angeles youth would not have been approved if these programs had to stand on their own merits. That is why they were included in the emergency spending bills. Even more disgraceful, the rules of the House did not allow this waste to be deleted from the bill.

In addition, the two emergency spending bills approved during this Congress were never paid for. Congress chose to add the amount spent in these bills to the Federal deficit.

Today, I will support amendments to the emergency spending control Act to end the abuse of emergency spending bills. The amendments offered by Congressman SAM JOHNSON of Texas, Congressman CASTLE, and Congressmen KASICH, STENHOLM, and PENNY would all effectively address the abuses that have plagued previous emergency spending bills. Under these amendments, emergency spending would no longer be added to the deficit and nonemergency items would no longer be inserted in emergency bills. The Castle amendment would provide for unexpected emergencies by setting aside emergency funds in the annual budget process. The Kasich-Stenholm-Penny amendment would outright prohibit nonemergency spending in emergency spending bills.

If these three amendments fail, I will vote for the Spratt amendment, which allows any Member of the House to try to eliminate the wasteful nonemergency spending in an emergency spending bill. This amendment is not as strong as the other three amendments being offered. I feel that the nonemergency spending should not be in the bills in the first place. But the Spratt amendment is better than the current situation.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as modified, offered by the gentleman from Texas [Mr. SAM JOHNSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SAM JOHNSON of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 160, noes 258, not voting 21, as follows:

[Roll No. 400]

AYES—160

Allard	Ballenger	Billirakis
Andrews (NJ)	Barca	Blute
Armey	Barrett (NE)	Boehlert
Bachus (AL)	Bartlett	Boehner
Baker (CA)	Barton	Bonilla
Baker (LA)	Bereuter	Bunning

Burton	Hoekstra	Penny
Buyer	Hoke	Peterson (MN)
Calvert	Horn	Petri
Camp	Houghton	Pombo
Canady	Huffington	Portman
Castle	Hutchinson	Pryce (OH)
Clinger	Hyde	Quillen
Coble	Inglis	Quinn
Collins (GA)	Inhofe	Ramstad
Combest	Istook	Ravenel
Condit	Jacobs	Ridge
Cox	Johnson (CT)	Roberts
Crane	Johnson, Sam	Rohrabacher
Crapo	Kasich	Ros-Lehtinen
Cunningham	Kim	Roth
DeLay	King	Roukema
Dickey	Kingston	Royce
Doolittle	Klug	Santorum
Dornan	Knollenberg	Saxton
Dreier	Kyl	Schaefer
Duncan	Lazio	Schiff
Dunn	Leach	Schroeder
Ehlers	Levy	Schumer
Emerson	Lewis (FL)	Sensenbrenner
Ewing	Lewis (KY)	Shaw
Fawell	Linder	Shays
Fields (TX)	Lucas	Shuster
Fowler	Machtley	Smith (MI)
Franks (CT)	Maloney	Smith (NJ)
Franks (NJ)	Manzullo	Smith (OR)
Gallegly	McCandless	Smith (TX)
Gekas	McCollum	Solomon
Gilchrest	McCrery	Stearns
Gillmor	McHugh	Stenholm
Gingrich	McInnis	Stump
Goodlatte	McKeon	Swett
Goodling	Meyers	Talent
Goss	Mica	Tauzin
Grandy	Miller (FL)	Taylor (NC)
Greenwood	Minge	Thomas (CA)
Gunderson	Molinari	Upton
Hall (TX)	Moorhead	Walker
Hancock	Nussle	Weldon
Hansen	Orton	Young (FL)
Hastert	Oxley	Zeliff
Hayes	Pallone	Zimmer
Hefley	Parker	
Herger	Paxon	

NOES—258

Abercrombie	Coyne	Gonzalez
Ackerman	Cramer	Gordon
Andrews (ME)	Danner	Green
Applegate	Darden	Gutierrez
Bacchus (FL)	de la Garza	Hall (OH)
Baesler	de Lugo (VI)	Hamburg
Barcia	Deal	Hamilton
Barlow	DeFazio	Harman
Barrett (WI)	DeLauro	Hastings
Bateman	Dellums	Hefner
Bellenson	Derrick	Hilliard
Bentley	Deutsch	Hinchey
Berman	Diaz-Balart	Hoagland
Bevill	Dingell	Hobson
Bilbray	Dixon	Hochbrueckner
Bishop	Dooley	Holden
Blackwell	Durbin	Hoyer
Bliley	Edwards (CA)	Hughes
Bonior	Edwards (TX)	Hutto
Borski	Engel	Inslee
Boucher	English	Jefferson
Brewster	Eshoo	Johnson (GA)
Brooks	Evans	Johnson (SD)
Browder	Everett	Johnson, E. B.
Brown (CA)	Faleomavaega (AS)	Johnston
Brown (FL)	Farr	Kanjorski
Brown (OH)	Fazio	Kaptur
Bryant	Fields (LA)	Kennedy
Byrne	Filner	Kennelly
Callahan	Fingerhut	Kildee
Cantwell	Fish	Kleczka
Cardin	Foglietta	Klein
Carr	Ford (MI)	Klink
Chapman	Ford (TN)	Kolbe
Clay	Frank (MA)	Kopetski
Clayton	Frost	Kreidler
Clement	Furse	Lambert
Clyburn	Gallo	Lancaster
Coleman	Gejdenson	LaRocco
Collins (IL)	Gephardt	Laughlin
Collins (MI)	Geren	Lehman
Conyers	Gibbons	Levin
Cooper	Gilman	Lewis (CA)
Coppersmith	Glickman	Lewis (GA)
Costello		Lightfoot

Lipinski	Payne (NJ)	Stark
Livingston	Payne (VA)	Stokes
Lloyd	Pelosi	Strickland
Long	Peterson (FL)	Studds
Lowey	Pickett	Stupak
Mann	Pickle	Swift
Manton	Pomeroy	Synar
Margolies-Mezvinsky	Porter	Tanner
Markey	Poshard	Taylor (MS)
Martinez	Price (NC)	Tejeda
Matsui	Rahall	Thompson
Mazzoli	Rangel	Thornton
McCloskey	Reed	Thurman
McDermott	Regula	Torkildsen
McHale	Richardson	Torres
McKinney	Roemer	Torricelli
McNulty	Rogers	Towns
Meehan	Romero-Barcelo (PR)	Traficant
Meek	Rose	Tucker
Menendez	Rostenkowski	Underwood (GU)
Miller (CA)	Rowland	Unsoeld
Mineta	Roybal-Allard	Valentine
Mink	Rush	Velazquez
Moakley	Sabo	Vento
Mollohan	Sanders	Visclosky
Montgomery	Sangmeister	Volkmer
Morella	Sarpalius	Vucanovich
Murphy	Sawyer	Walsh
Murtha	Schenk	Waters
Myers	Scott	Watt
Nadler	Serrano	Waxman
Neal (MA)	Sharp	Wheat
Neal (NC)	Shepherd	Whitten
Norton (DC)	Sisisky	Williams
Oberstar	Skaggs	Wilson
Obey	Skeen	Wise
Olver	Skelton	Wolf
Ortiz	Slaughter	Woolsey
Owens	Smith (IA)	Wyden
Packard	Snowe	Wynn
Pastor	Spratt	Yates
		Young (AK)

NOT VOTING—21

Andrews (TX)	LaFalce	Moran
Archer	Lantos	Reynolds
Becerra	McCurdy	Slattery
Dicks	McDade	Spence
Flake	McMillan	Sundquist
Grams	Mfume	Thomas (WY)
Hunter	Michel	Washington

□ 1324

The Clerk announced the following pair:

On this vote:

Mr. Grams for, with Mr. Becerra against.

Mr. VALENTINE and Mr. EVERETT changed their vote from "aye" to "no."

Mr. KLUG and Mr. TAYLOR of North Carolina changed their vote from "no" to "aye."

So the amendment in the nature of a substitute, as modified, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. RAHALL). It is now in order to consider amendment No. 2 printed in House Report 103–690.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CASTLE

Mr. CASTLE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. CASTLE: Strike all after the enacting clause and insert the following:

SECTION 1. ESTABLISHMENT OF BUDGET RESERVE ACCOUNT.

(a) ESTABLISHMENT.—A budget reserve account (hereinafter in this section referred to as the "account") shall be established for the purpose of setting aside adequate funding for natural disasters and national security emergencies.

(b) PRIOR APPROPRIATION REQUIRED.—The account shall consist of such sums as may be provided in advance in appropriation Acts for a particular fiscal year.

(c) RESTRICTION ON USE OF FUNDS.—(1) Notwithstanding any other provision of law, the amounts in the account shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(2) Funds in the account that are not obligated during the fiscal year for which they are appropriated may only be used for deficit reduction purposes.

SEC. 2. CONGRESSIONAL BUDGET PROCESS CHANGES.

(a) CONTENTS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) total new budget authority and total budget outlays for emergency funding requirements for natural disasters and national security emergencies to be included in a budget reserve account;".

(b) SECTION 602 ALLOCATIONS.—(1) Section 602 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

"(f) COMMITTEE SPENDING ALLOCATIONS AND SUBALLOCATIONS FOR BUDGET RESERVE ACCOUNT.—

"(1) ALLOCATIONS.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution) of total new budget authority and outlays to the Committee on Appropriations of each House for emergency funding requirements for natural disasters and national security emergencies to be included in a budget reserve account.

"(2) SUBALLOCATIONS.—As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under paragraph (1) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.".

(2) Section 602(c) of the Congressional Budget Act of 1974 is amended by inserting "or subsection (f)(1)" after "subsection (a)" and by inserting "or subsection (f)(2)" after "subsection (b)".

SEC. 3. REPEAL OF ADJUSTMENT FOR EMERGENCY APPROPRIATIONS.

Section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

SEC. 4. REPORTING.

Not later than November 30, 1996, and at annual intervals thereafter, the Director of the Office of Management and Budget shall submit a report to each House of Congress listing the amounts of money expended from the budget reserve account established under section 1 for the fiscal year ending during that calendar year for each natural disaster and national security emergency.

VOL 140 PT 16 AG 12 — 18 1994 UMI

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by it shall apply to fiscal year 1996 and subsequent fiscal years.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Delaware [Mr. CASTLE] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, last July floods in the Midwest drove thousands of people from their homes and wreaked millions of dollars worth of damage to property in many States. This disaster caused a controversial debate in the House.

The debate was not over whether our Government should provide aid to the victims of the flood. Virtually every Member of this body agreed that we had to respond immediately to that disaster. The debate was over whether we should try to pay for the cost of flood assistance or just add another $5 billion to the deficit.

As my colleague will recall, the House initially defeated the rule for the emergency appropriations bill because a majority of the Members of the House believed that we should offset the cost of the aid with cuts in other programs. There were accusations that Members did not care about the suffering of the flood victims because they wanted to do the responsible thing and pay for the aid within our budget limits.

The frustration of Members on both sides was understandable, but the real fault lies with the flood emergency spending process. The current process does not allow us to plan for the natural disasters which are almost sure to occur.

When a flood, earthquake, or hurricane does occur, we simply add the cost to the deficit and justify it by saying that we have to get the relief to the victims as soon as possible.

□ 1330

Mr. Chairman, the simple solution is that we must plan for emergencies. If we held some funds in reserve, we could respond to disasters promptly within our budget limits.

My amendment would require Congress to annually set aside funds in a budget reserve account to pay for emergencies. The funds in the reserve account would be within the annual discretionary spending limits. Many of us who have a background in State government know this as a rainy day fund.

The annual budget resolution would set a total amount to be set aside in the account. Congress and the administration could consult on what funds were needed in previous years and determine a realistic amount for the fund.

The average cost of domestic emergency spending bills since 1989 has been $5.2 billion. If that amount were set aside in fiscal year 1996, we would have a significant amount of money to deal with most emergencies within our annual spending limits. My amendment would give Congress the incentive to set an adequate amount of money aside, because it would eliminate Congress' authority to appropriate emergency funds in excess of the annual spending caps.

Mr. Chairman, what happens if a disaster exhausts the reserve account? There is always the chance that a disaster or a series of disasters could require more emergency funds than are available in the reserve account.

If such a serious situation occurred, there are a couple of steps Congress could take. First, we could make cuts in other programs to free up funds for additional disaster relief within the spending caps. This is often what we try to do under the current budget rules.

Mr. Chairman, the second remedy we could follow if a disaster exhausted the reserve account is that if a natural disaster was so severe or there was a national security emergency, like Operation Desert Storm, there would surely be agreement in Congress to pass legislation waiving the budget reserve account law to respond to a special situation.

However, the reserve account would allow us to respond to the vast majority of emergencies within our spending limits. We do not even attempt to do this under the current process.

In addition, Mr. Chairman, the funds in the reserve account could only be used for specific natural disasters and national security emergencies designated by acts of Congress. This will prevent funds for nonemergency projects from being paid for with funds from the reserve account. In addition, because emergency funds would be within the annual budget limits, Congress would be more careful in spending these funds.

Mr. Chairman, it should be stressed that the funds would be held in the reserve account until an emergency occurred, and then the Committee on Appropriations would allocate the funds to the appropriate Federal agencies to respond to the disaster. No executive agency would be given any additional discretionary funds.

Mr. Chairman, my amendment will also improve the monitoring of how emergency funds were spent. The Office of Management and Budget [OMB], would be required to report annually to Congress on how the funds from the account are allocated for each emergency.

If we are fortunate enough to escape some marginal disasters in a particular year, and there are funds left in the reserve account, they would be returned to the Treasury to reduce the deficit. I know Members will argue that the discretionary spending caps are already very tight, and we cannot afford to return $5 billion to $6 billion to the Treasury. I would argue that the deficit is still in excess of $200 billion and that any savings should go to reduce the deficit.

Mr. Chairman, the purpose of reforming the emergency spending process should be to save money that is not needed to respond to disasters. My amendment will accomplish that.

There is no perfect solution to the problem of emergency spending, Mr. Chairman. There is always the potential for a disaster or a war which would require special spending. However, we can make real progress if we set aside money for the most likely disasters. The budget reserve account would bring emergency spending within the annual budget process and enable us to plan for them in a fiscally responsible manner. Mr. Chairman, I urge my colleagues to support the Castle amendment to H.R. 4906.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from South Carolina [Mr. SPRATT] is recognized for 15 minutes.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Delaware [Mr. CASTLE], and if I have time at the end of my remarks, I would like to ask a question of him.

Mr. Chairman, we cannot create a rainy day fund by looking in a rearview mirror and saying that over 10 or 20 years we have needed an average of $3 billion to $5 billion, because the gentleman from Delaware, in his amendment, not only creates this fund, but ties our hands as to what we will do to deal with disasters of much greater magnitude.

We can speculate forever what might occur if there would be a hurricane that hits Miami, an earthquake, or some type of natural disaster, in California or in Hawaii, and we know that the cost of these could go far beyond $3 billion or $5 billion. The gentleman's approach, is really silent to that possibility.

That could raise a serious problems for us. What will we do when we have expended all the money in his reserve account? The gentleman, in his "Dear Colleague" letter, merely speculates that Congress will rise to the occasion, but the gentleman, with his amendment, ties our hands.

If the gentleman wants to go beyond it, we are talking not just about natural disasters, but about items of national security. When we went in

Desert Storm and Desert Shield, we needed quickly, under President Bush, $42 billion to protect the men and women in uniform. We did not have time to come and debate some sort of budget reform experiment. We had to move quickly, to protect the men and women in our armed services.

Mr. Chairman, I am sure the gentleman supported President Bush's decision to fund our military effort at the time, and I did, too. We did not want to shortchange them. Had we been living under the gentleman's approach, Mr. Chairman, restricted to a rainy day fund of $3 to $5 billion, we would have spent all that in a moment, and still had a responsibility to find some $35 billion to $40 billion very quickly. Mr. Chairman, the gentleman does not suggest how we would do that.

I would tell the Members that I think the gentleman from Delaware is on the right track. Our disaster task force would like to work with him and others to come up with this fund, but we have to create the flexibility to respond to real human needs, such as protecting our men and women in uniform. We cannot entangle our national security in a budget reform experiment.

I urge my colleagues to vote against the Castle amendment, to work with the gentleman from Delaware [Mr. CASTLE] and everyone on our task force to find an approach that is sensible, flexible, and really serves the needs of this country.

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to respond to what my good friend, the gentleman from Illinois [Mr. DURBIN] said. He makes a valid point. I appreciate the work he does on the disasters task force, if that is the correct name. I think we have to address this issue. I appreciate this debate in general because I think it is so important.

The gentleman does raise the issue of emergency spending. There is no way we can state, obviously, exactly what the emergencies are going to be. The States cannot do it, the local municipalities cannot do it, none of us can do it at this time.

I believe that the proposal which I have put before this Congress today comes as close to that as we possibly can; that is, a look back to determine what it has been over the last 5 years, averaging it out and trying to work it into next year's budget, for example.

The gentleman does raise a valid point. There could be situations which are going to go above whatever that emergency appropriation is going to be in any particular year. If so, there are a couple of things we can do.

One is, if it is within reason, if it is an extra half of a billion dollars or $100 million, or whatever reason may be, we could go back into the budget under the caps and try to fit it in, with reductions of other expenditures, depending on the circumstances, the year or whatever it may be.

Second, we could pass special legislation overriding the budget reserve account. In other words, it sets a higher standard, if you will, for this than we have presently, in which we simply appropriate emergency expenditures and automatically raise the caps by doing that. So I believe it does set a higher standard to do it in this way. I think we will find in most years, Mr. Chairman, we will not have that problem.

One other thing I would address. I think by putting this money in the budget itself that we do, indeed, address the issue that I do not think we have focused on very much here, and that is how we regulate the amount of money which is spent and how much money we should be spending, and doing more to help with flood insurance, earthquake insurance, and some of the other areas that would have private offsets to some of these disasters. I hope your committee would look at that as well.

□ 1340

I would hope your committee would look at that as well. I appreciate your comments, but I do think it is addressed.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, I agree with the gentleman completely in his conclusion. But would we not face a practical problem if we had a national emergency, a security emergency, some problem in Korea or a Desert Storm situation where Congress would be forced to come in here and engage in a debate over whether we ought to cut the Veterans Administration, whether we ought to cut the FBI, where is the money coming from? Is it not more sensible to respond more quickly to a national security need and a national disaster?

I am afraid the gentleman's amendment will tie our hands and have Congress engaged in a debate when the American people want us to act quickly to protect men and women in uniform and to respond to an emergency.

Mr. CASTLE. Mr. Chairman, I agree with the gentleman. It is just a question of what the language actually does, because he is absolutely correct. I want us to be able to respond quickly as well. As I indicated, if it is a small amount of money, we could go back into the budget caps. If it is a large sum of money, a war in the Middle East, for example, which clearly does not fit into this rainy-day fund/budget reserve, if you will, we could in that situation pass special legislation overriding the budget reserve account legislation and we would actually add it to the budget in that particular way. But it would happen automatically. We would have to pass the legislation to do it.

Mr. Chairman, I believe it makes us focus more crisply on what we are doing. I think it is the best way we can handle it. It is not perfect. I am not sitting here saying that we have perfection. I have not been able to find that yet. If I had, we probably would all be in agreement and we would not have to worry about this. But I think it is the best thing we can do. It makes us focus on the emergencies we know we can handle and bring them within the budget.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, we have a specific example of why this is not a good amendment. Before 1990, we had a reserve fund for the small business disaster loan fund. In those years when there were less than a normal number of disasters, the reserve was built up, and the reserve was there then when we had more than a normal number of disasters. It was abolished in 1990 out at Andrews Air Force Base at that big deal out there.

Since that time, they have been trying to ask for an average of the amount that would be needed in the fund. They take the last 5 years, or I believe in this case it was 10 years, they dropped the high year and the low year and request an average. If the disasters for that year are less than the average, they are all funded. If they are above average in total, they are not going to be funded, if we have got an emergency. It is the ones that are above average, it is in those years we need the money faster, not slower.

Mr. Chairman, this does not solve anything. We have already tried it now in the last 4 years with the SBA disaster loan fund and it just does not work. This ought to be turned down.

Mr. CASTLE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I am rising in support of the Castle amendment. I want to speak first of all to the question about speed and being able to get to these things quickly. If we think about the events that went on last summer when we did not have this kind of a fund and we were trying to deal with the problems that we had in Iowa, we spent several weeks trying to come up with some sort of a rule, first of all, that would even allow us to get to the floor on the question of disaster relief. So I think that speed becomes something of

VOL 140 PT 16 AG 12 — 18 1994 UMI

a bogey in this when what we are to do is to get to something quickly. I do not think that that is really the issue.

Mr. Chairman, I think what we ought to talk about is what is the purpose or what is the purpose of the gentleman from Delaware in creating this bill in the first place? That is essentially fiscal responsibility, so that we instead of having to go the Federal budget without funding that has already been appropriated in advance, we are doing it on a happenstance, after-the-fact basis. It is just not good business. It is not the way that business prepares for itself. It is not the way that we ought to be preparing for ourselves in the United States Government.

It is common sense to plan ahead. It is common sense to create a contingency fund. Most importantly what will not happen is we will not have the kind of abuse, the kind of exploitation of the emergency supplemental that we have seen repeatedly over time after time after time where we used that as an excuse to generate some extra spending for particular districts.

I think that that is particularly why the Citizens Against Government Waste has written to endorse this bill. We say, "Why are they endorsing it?"

Because the base bill, according to them, is "meaningless, it lacks even the cosmetic changes to solve the problem of uncontrolled pork-barrel spending on emergency appropriations. It deserves strong bipartisan support."

It goes on, "Not only is its planning fiscally prudent but it also removes the incentive for Congress to use the events of human suffering and tragedy to add pork to congressional portfolios."

Finally, with respect to the concern that the gentleman from Illinois [Mr. DURBIN] has about Desert Storm funding, it would be part of the same debate, it would all take place at the same time, so that it could be dispatched at that time.

Mr. SPRATT. Mr. Chairman, I yield 2½ minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I rise in opposition to the Castle amendment. I do not want to cast aspersions on it, but it is actually worse than the Johnson amendment, because we are talking about specific numbers. We are not talking about a formula. This would directly affect the allocation for military construction as it would for defense spending.

Mr. Chairman, I am chairman of the Subcommittee on Military Construction and serve on the Defense Subcommittee. The gentleman from Pennsylvania [Mr. MURTHA] spoke very eloquently about what the Johnson amendment would do to defense.

We saw military construction last year, they asked for $1.6 billion that was asked to be cut from military construction. We talk about quality of life and we talk about things that we can do. But under this amendment, we would have to take drastic cuts in military construction. We had some 70 Members of this body, both Democrats and Republicans, that requested what I assumed to be legitimate projects in the military construction budget. The gentleman from Delaware [Mr. CASTLE] requested a project in his district. But under this amendment, we would not have been able to do these projects for Members. I am assuming that they were legitimate, needed projects.

Mr. Chairman, I think that this is very ill-advised and I would urge Members to take a very close look at it and how it affects especially what I am focusing on, our military establishment, our quality of life for our men and women who served in the Gulf, who serve us in these peacekeeping efforts, look very closely, because military spending is discretionary spending, and we are going to have to take the hit on half of whatever it is that goes into these amendments.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to commend the gentleman for his statement. We serve together on the Subcommittee on Defense of the Committee on Appropriations. This would have a dramatic impact at this point, especially when we have reduced defense spending by over $100 billion in the last 10 years. I commend the gentleman for his statement. He is absolutely correct.

Mr. HEFNER. Mr. Chairman, I would like to remind Members that would have a tendency to vote for this amendment, there are some 70 Members on both sides of the aisle that requested projects. Some 70 of them got projects. I assume they were legitimate. But we cannot have it both ways, fellows. We cannot have it both ways.

Mr. Chairman, I would urge people to take a very close look and vote against this amendment.

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman has made some very astute comments, and I think they deserve discussion and I think it is part of the discussion we have to have in general to come up with a solution to this

First, we are talking about on average now, without dictating obviously what the budget committees might do in the future, around $5 billion total that would have to go into a rainy day fund or budget reserve account that we are dealing with here. This would come out of funds that already exist.

In a budget of $1.5 trillion, we are dealing with about $500 billion or so that may relate to some of the discretionary spending. Clearly not all of this is military spending, although some of it is military spending. Each year we have a number of appropriations. Just last week we were debating the crime bill on which we are dealing with some $33 billion, for example, over a 6-year period, I believe, that would be spent to try to reduce crime.

We make decisions on a regular basis. Once we have made the decision to include this amount of money in our budget appropriations each year, I do not think we will have any trouble fitting it in, and I do not think for a minute it is all going to come out of the military. I for one am not wanting to reduce that any more than we have to as it is. And it has been reduced dramatically in recent years.

Curiously enough, if this proposal has been before us 4 or 5 years ago when we started to reduce the military budget, we could have resolved the problem by putting it in at that time based on some of those reductions. I think that has probably gone far enough at this point.

Mr. Chairman, I do believe we can go through that budget and find other areas where reductions could be made, where expenditures could be saved, in which we could fit in a budget reserve account, and then we would not have the problem of adding to the deficit each year and to the debt of the United States of America.

Mr. Chairman, that is all I am driving at, for this amendment and some of the other things I have talked about here, simply trying to make the budget process of this Congress work in such a way that we are attacking the problem with the deficit and we are attacking the problem of the debt of the United States of America.

□ 1350

I believe this is one step we are going to have to take.

So far I have not heard a better solution or suggestion. If there is one, then by God I am going to back that one as well.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, could the Chair advise how much time is remaining on each side?

The CHAIRMAN pro tempore (Mr. RAHALL). The gentleman from Delaware [Mr. CASTLE] has 2½ minutes remaining and the gentleman from South Carolina [Mr. SPRATT] has 7½ minutes remaining.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to this amendment. There are a lot of concerns expressed here, but my concern is the speculative nature of this amendment. If Members like to gamble, then I think they would love the uncertainties associated with this amendment. First we have to guess at what number will turn up, what number to put in this jackpot, if you will, and guess what natural disasters and national security emergencies are going to occur during the next year. Then everybody after that loses, just like in most gambling.

Money for this emergency jackpot, if you will, is taken from the 602(a) allocations, and that is reducing the total amount now available under previously negotiated, tight caps, tightly negotiated by the gentleman from Minnesota [Mr. SABO] and the Committee on the Budget. That takes money away from defense, make no mistake about it, and it takes it away from all discretionary spending.

For example, let us assume that this emergency jackpot amounts to $11,900,000,000 already spent for declared disasters this year. Just taking one category of funding, crime fighting, Mr. Chairman, the crime fighting fund category would lose a total of at least $347 million. That is significant. We are going through a process right now, the gentleman from Kentucky [Mr. ROGERS] and our fine subcommittee and this whole Chamber of trying to apply resources to this national emergency.

This reduction, under the Castle amendment, would undo the law enforcement enhancements appropriated in fiscal year 1995. The FBI, for example, is provided an increase over fiscal 1994 levels to restore agent strength back to the 1992 levels. This amendment would cut an estimated $60 million from the FBI and prevent the hiring of approximately 400 badly needed agents.

The Drug Enforcement Administration is provided an increase over fiscal 1994 levels to restore agent strength back to 1992 levels, and this amendment would cut an estimated $20 million from DEA and prevent the hiring of an anticipated 300 badly needed agents.

With regard to Border Patrol agents that we worked so hard to enhance, in order to beef up the southern border of the United States to keep out illegal aliens, this amendment would cut $40 million and drastically reduce the thousand agents that we are adding in this bill.

That is not all, Mr. Chairman. Under this proposal, any additional emergency money needed in excess of the jackpot fund, a fund we are going to guess at how much we are going to need, would have to be offset, another uncertainty, another gamble, further reducing crime fighting monies.

Finally, if there happens to be any jackpot money left over, it cannot be applied to crime fighting. It goes back to the treasury, Mr. Chairman.

Ladies and gentlemen, I consider this to be budgetary extremism, not intended to be—but still budgetary extremism. It is a kind of budgetary one-upsmanship, and we cannot just be stampeded into voting for budget proposals which are essentially gambles. The only real unknown here is how much are we all going to be losers, how much are we going to reduce crime fighting, national defense, and make no mistake about it, to significantly reduce all discretionary spending.

I hope this amendment is defeated.

Mr. CASTLE. Mr. Chairman, I believe I have 2½ minutes remaining and I have no other requests for time. I would like to reserve the right to close; I think I have that right.

The CHAIRMAN. The gentleman is correct, he has the right to close debate and reserves the balance of his time.

Mr. SPRATT. Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. OBEY], chairman of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I urge Members to vote against this amendment, because while it claims to be a rainy day amendment, it provides no exception if you have a flood or a hurricane or a truly draconian disaster.

It is a good idea to have a rainy day fund. I do not have any objection to that. I am willing to work with Members in trying to strengthen that idea. But to say that there will be no exceptions, to say that regardless of the disaster incurred by this country, regardless of whether we are hit by a nuclear attack, regardless of whether or not we wind up having a war in Korea, or a Desert Storm, to say that regardless of any national security consideration we will not have an exception to this rule is, in my view, muddleheaded.

I would also suggest when the gentleman says do not worry, if it is a real emergency Congress can always pass more legislation to fix it up, I would suggest that demonstrates the fallacy of this amendment. We cannot put this country at risk. We cannot put ourselves in a position where we will have to count on being able to get through a Senate filibuster, for instance, and say well, do not worry about that, we will take care of it at the time. We ought to see ahead, we ought to recognize that there are some emergencies which are unknowable. We cannot expect that God himself must ask for a budget waiver. We have to be reasonable.

Members can be reasonable by rejecting this amendment, sitting down and working with the committee to try to work out what is truly a rainy day fund. But to suggest that somehow we ought to put an average number in this account does not take into account the fact that one year we have an $11 billion problem and the next year we have a zero billion dollar problem. It makes no sense. This country does not live on averages.

I urge Members to vote against the amendment.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, let me talk about what the Castle amendment would do to defense. The gentleman from Delaware [Mr. CASTLE] mentioned the fact he did not want to cut defense. I know he and I feel exactly the same way about that. However the reality is that his amendment would have a dramatic adverse impact on the national security of this country.

All of us would like to see a fund set aside for emergencies. But if we take an across-the-board cut for such a fund, it would amount to perhaps $5 to $6 billion out of defense. What are the things that would be cut? The first thing would be pay. Why do I pick out pay? The Pentagon this year did not send a pay raise down to us. The Congress had to insist on it and rightly so. It is something that the troops deserved. They are deployed away from home more often. They are away from their families, and it is something that certainly they deserve. The raise we included was not adequate, but at least it was a little bit to help out.

The second thing to be cut by this proposal would be medical care for the families and for the people in the service. I have taken a personal interest in trying to increase the quality of medical care for the people in the military.

The other thing that would be depleted, reduced, is the readiness of our American Forces. We right now have a backlog of real property maintenance, a backlog of $12 billion. We have a backlog of $2 billion in depot maintenance. These are the accounts for maintaining war-fighting facilities and equipment used by our military. They are the heart of readiness for the military. If we take another $5 to $6 billion across the board from the military, those are the programs that would have to be reduced in order to get the money to make the expenditures for day-to-day operations to keep the military going.

An extremely high percentage of our military budget is for personnel costs. So they have fewer places to get funds for reductions. Our readiness would be affected by this amendment. With this amendment the way it works we can say we are going to look someplace other than defense, but 50 percent of the discretionary money in the budget is for the military. So there is no place else to look.

We have to be realistic and practical about this. If we are going to offer an amendment like this, it is going to affect the military. We cannot afford any cuts in the military. We cannot afford any cuts in the military because it will affect readiness dramatically.

I urge Members to vote against this amendment.

□ 1400

Mr. CASTLE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I am just going to speak as plainly as I can to what we have heard today.

VOL 140 PT 16 AG 12 — 18 1994 UMI

First of all, there are some very knowledgeable and erstwhile Members of this Congress who have taken the floor to oppose this amendment, something I do not particularly like, but something which I appreciate.

They have articulated their message, I think, extraordinarily well. Their argument basically is it would be very difficult to do this even though it might be a good idea simply because we would have to make reductions in areas that we do not want to make reductions in.

I think the problem is a little bit broader than this. The people at home are saying, "What is wrong with the Federal Government? Why cannot the Federal Government actually get its expenditures to the level that they are balancing the budget, that they are dealing with the problems which they have?"

In my view, there are many mechanisms by which we can do this. One which I serve on is the entitlement commission. It is meeting, and while that is not the money we are necessarily talking about here, if we reduce those entitlements, we may eventually free up other money to go into discretionary accounts.

Secondly is dealing with all discretionary accounts, not just the military budget, which is a substantial part of it, but all other accounts which are there. There is a substantial amount of money there. I am sure we can go in and do something about that, perhaps dealing with some of the areas of cost of living, some of the other things which are done in that particular circumstance.

Most States recognize their problems. They, too, had problems balancing their budgets. Most States have adopted rainy-day funds so they are able to take care of these problems.

I think when we talk about putting the country at risk, are we putting the country any less at risk every time we have some sort of emergency just adding onto the deficit for that year and ultimately adding onto our debt so our children and their children are going to be paying higher and higher debt, and as of yesterday, a higher interest perhaps on that debt?

That is huge problem in the United States of America today, one the average family or the average municipal government simply cannot carry.

We have to address this problem, and we have to address the amount of spending that comes into these emergency appropriations.

I believe this legislation addresses that. We are saying set aside a sum of money, be very careful about your spending on emergencies, if you have a small amount you have to go back in for, you can go back in and make adjustments and do something about that and, indeed, if you have a substantial problem, then we could pass legislation which would go beyond the budget restraints which are there. So we could address the problems of emergencies in the United States of America.

This is not calculus. It is relatively simplistic, a relatively simplistic solution, one which is extraordinarily workable.

Mr. Chairman for that reason, I would ask each and every one of us to think about what we campaigned on back home, think about how we are trying to balance the budget, be conservative in our spending, vote for this amendment.

Mr. DERRICK. Mr. Chairman, the fundamental problem with the Castle amendment is that it requires us to foresee and budget for the unforeseeable. If we could foresee emergencies, we could budget for them. If we knew a hurricane was going to strike Delaware and other States on the east coast next month an cause several billion dollars in damage, then we could indeed set aside the money to help the victims. But we do not know that. It may be a decade before we have such an event. It may be next week. Whenever it happens, we have no idea what it will cost. Under these circumstances it is difficult to budget accurately—the reason the emergency exception was included in the first place.

In the meantime, the money which the Castle amendment would require be set aside for catastrophes could address the ongoing needs of our citizens for education, national defense, environmental cleanup, and so forth. We have countless very real needs in this country which we can identify. We have roads that need repair. We have hungry children who need food. We have diseases afoot that cry out for more research dollars. We have many more children who need head Start than we have places for. There is no shortage of needs for scarce Federal resources.

We can take money away from these real, identifiable needs and set it aside on speculation that we will have a disaster somewhere worthy of Federal help. If we want to neglect the needs we know we have in an attempt to advance-fund needs we may never have, we can do that. But I do not think it makes sense.

In addition, Mr. Chairman, setting aside annually a pot of money to fund emergencies may actually lead to even more requests for Federal disaster money. We all understand that pots of money are very enticing. People want to get their hands on it. Since the amendment says the funds in the reserve account may be used only for emergencies, all one has to do to get into the pot of money is declare an emergency.

We all know what emergencies are as we use the term today. There are things like natural disasters, which strike without warning on a nonrecurring basis. But with a pot of money around, we will undoubtedly start to have emergencies. Will we be able to resist political pressures to enlarge the scope of what we call emergencies and spend the money? In other words, Mr. Chairman, is it not likely that by budgeting for emergencies we will ultimately have as many emergencies as we budget for until the money is gone, every year? It seems to me that is what we risk by making emergencies a line item in the budget, as the amendment proposes. At least now they are unusual occurrences and treated as such.

Mr. Chairman, I urge Members to oppose the Castle amendment. In the long run it could end up costing more money. It would definitely shortchange the needs we know we have to fund needs we do not know we have. That is not the best way to serve the citizens of this country. The base bill addresses the problem of nonemergency items in emergency bills. Support the base bill.

Mr. QUINN. Mr. Chairman, I rise today in strong support of the amendment offered by my friend and colleague, the former Governor of the State of Delaware, Mr. CASTLE.

I am a cosponsor of Representative CASTLE'S amendment, H.R. 4189, because I believe it is a sound approach to improve the way this body deals with national disasters.

For too long, several Members of this body have attached unnecessary, nonemergency spending to emergency funding bills, which provide crucial assistance to thousands of Americans in need every year.

Congress can not protect Americans from natural disasters such as earthquake and floods. However, the Castle Amendment will supply the tools necessary to aid those affected by such devastating events.

The Castle amendment will require the Federal Government to prepare for emergencies the same way that State and local governments do.

Congress would set aside funds in a budget reserve account every year so that it would be prepared for inevitable emergencies. This account would be on-budget and part of the annual appropriations process.

If these funds were not used during a particular year, they would be returned to the U.S. Treasury.

Simply put, the Castle amendment will force us to plan ahead.

I urge my colleagues to vote to restore accountability to budgeting for natural disasters. Vote for the Castle amendment.

The CHAIRMAN pro tempore (Mr. RAHALL). The question is on the amendment in the nature of a substitute offered by the gentleman from Delaware [Mr. CASTLE].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CASTLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 235, not voting 20, as follows:

[Roll No. 401]

AYES—184

Allard	Bentley	Castle
Andrews (NJ)	Bilirakis	Clinger
Andrews (TX)	Billey	Coble
Archer	Blute	Collins (GA)
Armey	Boehlert	Combest
Bachus (AL)	Boehner	Condit
Baker (CA)	Bonilla	Cooper
Baker (LA)	Bunning	Coppersmith
Ballenger	Burton	Cox
Barca	Buyer	Crane
Barrett (NE)	Callahan	Crapo
Bartlett	Calvert	Cunningham
Barton	Camp	Deal
Bateman	Canady	DeLay

Deutsch	Johnson, Sam	Portman
Diaz-Balart	Kasich	Poshard
Dickey	Kim	Pryce (OH)
Doolittle	King	Quinn
Dornan	Kingston	Ramstad
Dreier	Klug	Ravenel
Duncan	Knollenberg	Ridge
Dunn	Kolbe	Roberts
Ehlers	Kreidler	Rohrabacher
English	Kyl	Ros-Lehtinen
Ewing	Lambert	Roth
Fawell	Lazio	Roukema
Fields (TX)	Leach	Royce
Fingerhut	Levy	Santorum
Fish	Lewis (CA)	Saxton
Franks (CT)	Lewis (FL)	Schaefer
Franks (NJ)	Lewis (KY)	Schiff
Gallegly	Linder	Schumer
Gekas	Lucas	Sensenbrenner
Gilchrest	Machtley	Shaw
Gillmor	Manzullo	Shays
Gilman	McCandless	Shepherd
Gingrich	McCollum	Shuster
Goodlatte	McCrery	Smith (MI)
Goodling	McHugh	Smith (NJ)
Goss	McInnis	Smith (OR)
Grandy	McKeon	Smith (TX)
Greenwood	Meehan	Snowe
Gunderson	Meyers	Solomon
Hall (TX)	Mica	Stearns
Hancock	Miller (FL)	Stenholm
Hansen	Minge	Stump
Hastert	Molinari	Swett
Hefley	Moorhead	Talent
Herger	Morella	Tauzin
Hoagland	Myers	Taylor (MS)
Hoekstra	Nussle	Taylor (NC)
Hoke	Orton	Thomas (CA)
Horn	Oxley	Torkildsen
Houghton	Packard	Upton
Huffington	Pallone	Valentine
Hutchinson	Parker	Walker
Hyde	Paxon	Weldon
Inglis	Penny	Wolf
Inhofe	Peterson (MN)	Zelliff
Inslee	Petri	Zimmer
Istook	Pombo	
Johnson (CT)	Porter	

NOES—235

Abercrombie	DeFazio	Hilliard
Ackerman	DeLauro	Hinchey
Andrews (ME)	Dellums	Hobson
Applegate	Dicks	Hochbrueckner
Bacchus (FL)	Dingell	Holden
Baesler	Dixon	Hoyer
Barcia	Dooley	Hughes
Barlow	Durbin	Hutto
Barrett (WI)	Edwards (CA)	Jacobs
Bellenson	Edwards (TX)	Jefferson
Bereuter	Emerson	Johnson (GA)
Berman	Engel	Johnson (SD)
Bevill	Eshoo	Johnson, E. B.
Bilbray	Evans	Johnston
Bishop	Everett	Kanjorski
Blackwell	Faleomavaega (AS)	Kennedy
Bonior	Farr	Kennelly
Borski	Fazio	Kildee
Boucher	Fields (LA)	Kleczka
Brewster	Filner	Klein
Brooks	Foglietta	Klink
Browder	Ford (MI)	Kopetski
Brown (CA)	Ford (TN)	LaFalce
Brown (FL)	Fowler	Lancaster
Brown (OH)	Frank (MA)	LaRocco
Bryant	Frost	Laughlin
Byrne	Furse	Lehman
Cantwell	Gallo	Levin
Cardin	Gejdenson	Lewis (GA)
Carr	Gephardt	Lightfoot
Clay	Geren	Lipinski
Clayton	Gibbons	Livingston
Clement	Glickman	Lloyd
Clyburn	Gonzalez	Long
Coleman	Gordon	Lowey
Collins (IL)	Green	Maloney
Collins (MI)	Gutierrez	Mann
Conyers	Hall (OH)	Manton
Costello	Hamburg	Margolies-Mezvinsky
Coyne	Hamilton	Markey
Cramer	Harman	Martinez
Danner	Hastings	Matsui
Darden	Hayes	Mazzoli
de la Garza	Hefner	McCloskey
de Lugo (VI)	McDermott	Rahall
Dellums	McHale	Rangel
Dicks	McKinney	Reed
Dingell	McNulty	Regula
Dixon	Meek	Richardson
Dooley	Menendez	Roemer
Durbin	Mfume	Rogers
Edwards (CA)	Miller (CA)	Rose
Edwards (TX)	Mineta	Rostenkowski
Emerson	Mink	Rowland
Engel	Moakley	Roybal-Allard
Eshoo	Mollohan	Rush
Evans	Montgomery	Sabo
Everett	Murphy	Sanders
Faleomavaega (AS)	Murtha	Sangmeister
Farr	Nadler	Sarpalius
Fazio	Neal (MA)	Sawyer
Fields (LA)	Neal (NC)	Schenk
Filner	Norton (DC)	Schroeder
Foglietta	Oberstar	Scott
Ford (MI)	Obey	Serrano
Ford (TN)	Olver	Sharp
Fowler	Ortiz	Sisisky
Frank (MA)	Owens	Skaggs
Frost	Pastor	Skeen
Furse	Payne (NJ)	Skelton
Gallo	Payne (VA)	Slaughter
Gejdenson	Pelosi	Smith (IA)
Gephardt	Peterson (FL)	Spratt
Geren	Pickett	Stark
Gibbons	Pickle	Stokes
Glickman	Pomeroy	Strickland
Gonzalez	Price (NC)	Studds
Gordon	Quillen	Stupak
Green		Swift
Gutierrez		Synar
Hall (OH)		Tanner
Hamburg		Tejeda
Hamilton		Thompson
Harman		Thornton
Hastings		Thurman
Hayes		Torres
Hefner		Torricelli
Hilliard		Towns
Hinchey		Traficant
Hobson		Tucker
Hochbrueckner		Underwood (GU)
Holden		Unsoeld
Hoyer		Velazquez
Hughes		Vento
Hutto		Visclosky
Jacobs		Volkmer
Jefferson		Vucanovich
Johnson (GA)		Walsh
Johnson (SD)		Waters
Johnson, E. B.		Watt
Johnston		Waxman
Kanjorski		Wheat
Kennedy		Whitten
Kennelly		Williams
Kildee		Wilson
Kleczka		Wise
Klein		Woolsey
Klink		Wyden
Kopetski		Wynn
LaFalce		Yates
Lancaster		Young (AK)
LaRocco		Young (FL)
Laughlin		
Lehman		
Levin		
Lewis (GA)		
Lightfoot		
Lipinski		
Livingston		
Lloyd		
Long		
Lowey		
Maloney		
Mann		
Manton		
Margolies-Mezvinsky		
Markey		
Martinez		
Matsui		
Mazzoli		
McCloskey		

NOT VOTING—20

Becerra	Lantos	Romero-Barcelo (PR)
Chapman	McCurdy	Slattery
Derrick	McDade	Spence
Flake	McMillan	Sundquist
Grams	Michel	Thomas (WY)
Hunter	Moran	Washington
Kaptur	Reynolds	

□ 1423

The Clerk announced the following pairs:

On this vote:

Mr. Grams for, with Mr. Derrick against.
Mr. Spence for, with Mr. Becerra against.

Mr. YATES and Mr. MFUME changed their vote from "aye" to "no."

Messrs. LEWIS of Kentucky, PALLONE, DEUTSCH, and GILMAN changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. THOMAS of Wyoming. Mr. Chairman, earlier today I was en route to Washington from Wyoming, where we held our primary elections yesterday, and missed several rollcall votes. Had I been present, I would have voted "aye" on rollcall No. 400, the Johnson amendment, and I would have voted "aye" on rollcall No. 401, the Castle amendment.

The CHAIRMAN pro tempore (Mrs. LOWEY). It is now in order to consider amendment No. 3 reprinted in House Report 103–690.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KASICH

Mr. KASICH. Madam Chairman, pursuant to the rule, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. KASICH: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Spending Control Act of 1994".

SEC. 2. TREATMENT OF EMERGENCY SPENDING.

(a) EMERGENCY APPROPRIATIONS.—Section 251(b)(2)(D)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not adjust any discretionary spending limit under this clause for any statute that designates appropriations as emergency requirements if that statute contains an appropriation for any other matter, event, or occurrence, but that statute may contain rescissions of budget authority.".

(b) EMERGENCY LEGISLATION.—Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not designate any such amounts of new budget authority, outlays, or receipts as emergency requirements in the report required under subsection (d) if that statute contains any other provisions that are not so designated, but that statute may contain provisions that reduce direct spending.".

(c) NEW POINT OF ORDER.—Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(d) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 313 the following new item:

"Sec. 408. Point of order regarding emergencies.".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. KASICH] will be recognized for 15 minutes, and a Member opposed to the amendment will be recognized for 15 minutes.

Does the gentleman from Wisconsin [Mr. OBEY] rise in opposition?

Mr. OBEY. Yes, Madam Chairman, I do.

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. OBEY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. STENHOLM], a coauthor of the amendment.

Mr. STENHOLM. Madam Chairman, the Kasich-Stenholm-Penny substitute before us now would significantly clean up emergency appropriations bills by prohibiting extraneous items from

VOL 140 PT 16 AG 12 — 18 1994 UMI

being included in emergency appropriations bills and conference reports.

This amendment is not as far reaching as the previous two substitutes that have been considered today. While I am disappointed that the proposals by the gentleman from Texas [Mr. SAM JOHNSON] and the gentleman from Delaware [Mr. CASTLE] to require that we pay for emergency spending through the regular budget process did not receive majority support today, I hope that the support that they received will underscore to the members of the Durbin-Emerson task force on emergencies the desire within this body to establish a process for funding emergency relief within normal budget rules.

Under the Kasich-Penny-Stenholm amendment, a point of order would be established against the consideration of any emergency appropriations bill or conference report that included extraneous items. As a backup enforcement, our amendment would prevent the Office of Management and Budget from adjusting the caps to reflect the spending in an emergency appropriations bill if the bill included extraneous items. This backup enforcement provision could not be waived.

By prohibiting extraneous items from being included in emergency spending conference reports, this amendment will prevent the other body from embarrassing us by slipping pork barrel spending into emergency appropriations bills. Anyone who is familiar with the appropriations understands where most of the embarrassing items have been slipped into emergency appropriations bills. The funds for the FBI fingerprint facility in West Virginia, $10 million for a new Amtrak station in New York, $1 million for employee-management at the Office of the Senate Legal Council—all of these questionable items were added to the California earthquake relief bill in the Senate. The Spratt substitute does not address the issue of extraneous items added to emergency bills in the other body at all. Since the only opportunity the House had to vote on these items was as part of a conference report, the provisions of the Spratt substitute would have had no effect on these and other extraneous spending items.

There are some who argue that we should not be concerned about the extraneous items included in emergency appropriations bills because they have been offset by spending cuts. Some of us, however, would have preferred that the $14 billion in offsets that have been included in emergency appropriations bills since 1990 be used to offset the $30 billion in emergency spending that we have added to the national debt over that period instead of being spent on extraneous items. In addition, the fact that these items are offset does not change the fundamental fact that we do not have the time to review the merits of unrelated items while emergency spending bills are rapidly making their way through Congress.

Some of the opponents of this amendment have criticized us for preventing Congress from including emergency funding in regular appropriations bills, as we did when included emergency spending for Rwandan aid in the foreign operations appropriation bill. Our amendment would not have prevented Congress from providing emergency assistance to Rwanda if that was the will of the majority. We simply would have required that the decision about whether or not Rwandan aid should have been declared emergency spending be subject to greater scrutiny by considering it on its own merits instead of including it in a larger general appropriations bills. In fact, that is what this amendment is about—providing greater scrutiny of emergency spending.

Madam Chairman, I urge Members to take another step in improving the image of Congress by voting for the real reforms of the emergency spending process in the Kasich-Penny-Stenholm substitute and voting against the Spratt substitute.

□ 1430

Mr. OBEY. Madam Chairman, I yield myself 5 minutes.

Madam Chairman, I would like to ask the sponsor of this amendment a question, if I could get the attention of the gentleman from Ohio [Mr. KASICH] and the gentleman from Texas [Mr. STENHOLM].

I would simply like to ask this question: Since I have become chairman of the Committee on Appropriations, can you name one single extraneous item that has been added to an emergency bill?

Mr. KASICH. Madam Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. KASICH. Madam Chairman, I think the answer to that is that most of the extraneous items that have been added were in the Senate.

Mr. OBEY. Madam Chairman, reclaiming my time, has any item been added by the Senate or House to an emergency bill since I have been chairman? Any item that was not requested by the administration?

Mr. KASICH. The answer is yes.

Mr. OBEY. I suggest to the gentleman the answer is no. There is not a single amendment that was added to an emergency bill by either body that was not requested by the administration.

I would ask a second question: Was any harm done to the——

Mr. KASICH. If the gentleman is asking me a question, is the gentleman saying that because the President made a request and we added it in there, that somehow that does not count?

Mr. OBEY. I am simply asking, because the gentleman has focused his firepower on the past tendency of the other body to add items, what I am simply asking is can you name an item which was added as a matter of pork by a Senator rather than being an item which was requested by the administration, such as the flood relief for Alabama, the flood relief for Georgia, the flood relief for Florida?

Mr. KASICH. Let me say to the gentleman, I do not remember exactly the date when the gentleman took over the chairmanship, but I am prepared to demonstrate a number of items added to the Los Angeles earthquake bill.

Mr. OBEY. As the gentleman well knows, I was not chairman of the committee when the Los Angeles earthquake occurred.

I will reclaim my time, because I am trying to get a straight answer, and I am not getting a hard front answer. So I will move on.

Let me simply make two points: Since I have become chairman of this committee, to the best of my knowledge there has not been a single extraneous item added by either the House or the Senate to an emergency vehicle that was not requested by the administration.

I would make a second point. I would like to know what harm has been done to the Republic because our committee chose to respond to the Rwandan emergency in the fastest possible way, by putting it into the regular foreign aid appropriation bill, rather than taking the time on going through the House and the Senate with a separate bill, to which I would point out any number of items could have been added by the Senate?

I would ask what harm was done when in the middle of winter, when people were freezing, our committee decided last year to add the emergency appropriations for the low-income heating assistance program to the regular Labor-HEW appropriations bill, rather than doing a separate appropriation?

I would suggest none.

I would also ask what harm was done to the Republic when we were told that SBA was running out of funds and so to try to avoid a shutdown of those programs in States like California, Georgia, and Florida, we simply chose in the regular State-Justice appropriations bill to add that emergency item to the regular bill?

Again, I would submit no harm whatsoever.

I would make this point: The gentleman from Ohio [Mr. KASICH] and the gentleman from Texas [Mr. STENHOLM] would like to see these baubles which are usually added to emergency bills eliminated. So would I. As chairman of the Committee on Appropriations, no one is more enraged and no one is more embarrassed when a Member of the other body decides to try to use one of our vehicles to add a twinkie for his own district. I do not appreciate that, and I am going to do my darnedest to keep them off.

But I would suggest that there is an added complication provided by this amendment which we ought not incur. I think it is perfectly legitimate for the sponsors of this amendment to say, "Look, if we are going to have an emergency, fine, let us deal with the emergency. Let us not use that as an excuse to add candy for somebody else."

But I would suggest that there is nothing wrong with, if we have the opportunity, having one of these emergency amendments attached to a regular appropriation bill.

The problem with this amendment is that in addition to going after the legitimate target, which these gentleman to after, they also preclude us from using the fastest possible route to meet an emergency when one arises by saying in effect that if we happen to add Rwandan aid to the foreign assistance bill, then every other item in that bill is subject to an independent action by the House.

Now, I do not see any reason to require that that be done. In that case, you would have the tail wagging the dog, and I do not think you would accomplish the purpose that the gentleman talk about.

So I would simply suggest if you want to keep extraneous items off, be my guest. I am happy to cooperate in devising such a procedure. I have only been chairman of this committee for a few months.

But I would point out that to say that we cannot meet an immediate human disaster, such as we have in Rwanda, by moving along the fastest possible track, as we did by attaching it to the foreign assistance bill, is I think a major mistake.

To suggest that we should have had to run through a separate appropriation bill in order to deal with the fact that SBA was running out of money and we needed to keep them in business to deal with the problems in Georgia, in Florida, and in California, is I think ill-advised, and I would urge you not to do it.

Mr. KASICH. Madam Chairman, I yield myself 4 minutes.

Let me say, first of all, the emergencies that we are referring to are emergencies that occurred before the present chairman took over. But let me also say that I have no doubt in my mind of what will happen when we get emergencies. In fact, if we have an emergency for aid for Rwanda, or for people who are having difficulty, we can pass an emergency bill or something like that in 24 hours. To argue that we do not have time to do that is false.

When the LA earthquake relief bill came, it was introduced as an emergency bill to do four things: One was to provide $7.8 billion for LA earthquake relief; $1.2 billion for DOD, which many Members objected to in this House; $436 million for Midwest flood relief, and $315 million for a 1989 earthquake. But the simple fact is these were the four emergency requests as introduced.

I am about to show you the list of items, the nonemergency items that were added to this bill.

All of these items right here were added to this bill. The $1.4 million to fight potato fungus; the $23 million for FDA pay raises; the $14.4 million for the National Park Service; the $12.4 million for the Bureau of Indian Affairs; $550,000 for the U.S. Trade Rep Travel Office; $13.1 million to copy White House electronic messages; $300,000 for the Council on Environmental Quality personnel; $698 million for pension and disability benefits; $103 million for readiness benefits; $56 million for NASA; $20 million for the fingerprint lab in West Virginia; $40 million for the space rehap module; $61 million for job training; $10 million for a study measuring employment; $1 million for the office; and $10 million for an Amtrak station in New York.

□ 1440

This was all added. Now, do I object to all of these items? The answer is no. I do not object to them. But they do not need to be put on the fast track in an emergency bill.

What I am asking the House to do today is to approve these items in an emergency bill and leave all these off. These ought to be done in the normal course of doing things when it comes to appropriations.

When we go home to our districts, our constituents say to us, "Why do they have to attach all of these riders to these bills?" The simple fact of the matter is, we do not have to, and we can strike a very strong blow for saying if we have an emergency that affects people in this country, let us not hold that bill up by squabbling about the nonemergency items that have been added.

Furthermore, if the items get added in the U.S. Senate, where a number of them were added, we get faced in the House with voting on a conference report. We have to reject the conference report to send money to people who are in trouble and be forced to accept all these items, many of which we may not agree with. That does not make sense.

The simple fact of the matter is that these emergency bills should not be loaded up. If we have an emergency, we should work day and night until we produce the money to help fix the emergency.

But to argue that we ought to add it up with all this, that is not what the people want.

Our efforts here in the Congress now are designed, the efforts of the gentleman from Minnesota [Mr. PENNY] and the gentleman from Texas [Mr. STENHOLM] and I are designed to restore a little credibility to the issue of spending in this House. And the first big blow that we can land to restore that credibility is to chop this list off and do it with a regular process, not having it carried by a vehicle that involves true difficulties and true problems that affect people that need to be considered on a very aggressive time schedule.

The bottom line is, if we do not want the riders, if we do not want the extra things considered, if we want it to be done in a thoughtful, normal route, we have got to vote for Penny-Kasich-Stenholm.

Once Members do that, once they vote for Penny-Kasich-Stenholm, we will then have to come to the floor and defeat Spratt which essentially says that we can come to the floor and do what we currently do.

The bottom line is, folks, come to the floor on a bipartisan basis, strike a blow for an elimination of riders to bill. Do what our constituents want. The bottom line is, keep it clean. Take care of people that have trouble and do not load up the bills with these kind of lists.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to simply make two points or to make one point and ask one question.

As I indicated earlier, that chart refers to something that happened last year. I was not chairman last year. I want that clear.

Second, I have no objection to the gentleman going after that list. I do not think that list ought to be on that chart.

My question is this: Why in going after that list, why in going after the illegitimate add-ons that the gentleman sees in the process, why does he also insist in preventing us from meeting a lifesaving obligation, if we are faced with one, by adopting the fastest possible route and adding an amendment to the regular appropriation bill? What does adding a supplemental emergency to a regular appropriation bill have to do with that list?

Why does the gentleman have to mix the two? I would be happy to join him if he did not do the latter.

Mr. KASICH. Mr. Chairman, I yield myself 45 seconds.

The answer to that is simple. If we have a crisis in Rwanda, I am the first person on the floor working with anybody on the other side of aisle to take care of that crisis. We do not need to take care of that crisis by sticking it in an appropriations bill. There are too many problems. That is how we get that big, long list.

What I am saying is, let us hold everything. If we have a crisis in Rwanda or if we have a crisis with anything in

79-059 O—97 Vol. 140 (Pt. 16) 40

VOL
140
PT
16
AG
12
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18
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this country, hold the horses, stop the House and pass the emergency bill. That is the quickest way to do it. Then the gentleman from Minnesota [Mr. PENNY] and I have to come to the House floor and we are trying to take the extraneous items out and we get into debate. Are we trying to slow down earthquake aid? The simple fact of the matter is, we are not.

The bottom line is, the chairman has not bought a bill yet but there is a bill coming that is going to of that attached to it. What I will say to the gentleman is in order to prevent it, if the gentleman agrees we should not have these extraneous items, then let us just consider emergencies clean. The message here is, keep it clean. Do not load it up with riders.

Mr. OBEY. Mr. Chairman, I yield myself 30 seconds.

We have had two emergency supplementals. We have had the SBA emergency supplemental last week. We had the Rwandan supplemental. The gentleman may think that dealing with Rwanda in an independent bill would have been faster. I would suggest to the gentleman the way the Senate operates, we could have been slowed down for weeks. There were lives at stake. We moved on the vehicle that we knew could get through here the fastest. That happened to be the regular bill. That may not always be the case. But it certainly was in that instance.

We did not have to take the time to go through eight committees to get approval before the Members dealt with the problem.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, there are fundamental imperatives at stake on this issue today. Among them the need to be respectful of the people who pay the bills, the taxpayers. In this instance we are talking about borrowing money.

Obviously, at some point this money has to be repaid. But in the meantime, if we are to ask American taxpayers to shoulder a debt burden, to finance the very real needs of those faced with a natural disaster or some other emergency, we ought not disrespect the American taxpayers by then larding these bills up with unrelated items.

The earthquake measure referred to earlier started out at about $8 billion. By the time we were done it was $11.2 billion. We disrespect the American taxpayers by not restraining ourselves better in times of a real emergency.

I have no quarrel with the current chairman of the Committee on Appropriations. He has throughout his career objected to this kind of pork barrel spending. I trust that under his leadership we will not see this kind of activity on emergency spending measures. But a decent chairman though he is, he will not be the chairman forever. And consequently, we need to talk about the underlying policy on these emergency spending measures.

Furthermore, larding up these bills disrespects the majority of the membership in this institution. Those handful who serve on a conference committee or serve on the powerful Committee on Appropriations are in an advantageous position because they are the ones that take the pork home.

The list just recited by the gentleman from Ohio can be identified district by district and in most cases my colleagues will find it reflects projects that benefit Members who served on the conference committee. That behavior disrespects the entire membership here, by taking advantage of an emergency bill and our vote for that emergency situation in order to pork up the bill for their own home districts. It is not right. It is disrespectful.

And finally, we disrespect the victims of these natural disasters, because we demonstrate to them that even in the time of their greatest need,we cannot resist the temptation to lard up these bills with projects important to our home State that have nothing to do with the disaster and have nothing to do with an emergency situation.

We need to convey to the American public a far more serious process here in Congress, if we want Americans to once again respect the U.S. Congress. One small step in that direction is to clean up the process by which we handle real emergencies.

Let us keep it clean. Let us keep it simple. Let us do right by the membership. Let us do right by the taxpayers. Let us do right by those victims of these natural disasters. Vote for the Kasich-Penny-Stenholm substitute.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, could I engage the gentleman from Ohio in a colloquy.

The list that the gentleman just displayed there on his chart of nonemergency items. There is a statement in the gentleman's "Dear Colleague" from him and the gentleman from Texas [Mr. STENHOLM] and the gentleman from Minnesota [Mr. PENNY] to the effect that this spending also is exempt from the discretionary spending caps imposed in 1990 as a key instrument of deficit reduction. This exemption adds to the many temptations of these measures.

□ 1450

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, that statement was inaccurate.

Mr. SPRATT. It is incorrect. I simply wanted it made clear that everything that was added has to come in under the 602 (a) and (b) allocated. It cannot come in as emergency spending and transmuted somehow.

Mr. KASICH. If the gentleman will continue to yield, that is correct. The point we would make, of course, is when we go to rescissions and expirations to try to pay for it, we question, as CBO did, whether the money is really there to be saved in order to pay for these programs. We sent about a dozen "Dear Colleagues," and I have to tell the gentleman that one got out and it is not accurate.

Mr. SPRATT. I appreciate the gentleman's clarification.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would also like to reiterate the message we are trying to convey today. That is to keep it clean.

I would suggest to the distinguished chairman of the Committee on Appropriations that in fact, under his watch, it may be true that we have not had an emergency spending bill that has been larded up with pork, but contrary to the historical trend in the House of Representatives, the distinguished chairman may not be chairman for life. We have to make sure that when we have the opportunity to clean up the process, we take that opportunity.

Last year, Mr. Chairman, I took the floor with many Members of flooded districts, and we suggested it was time to clean up the process then. We were told by many distinguished colleagues that now was not the time. This is last year. They said "Wait until next year. Wait until we are dry. Wait until we do not have a disaster. Then we can clean up the process."

Mr. Chairman, I would suggest to the Members today, what is wrong? Why can we not do it today? What are we worried about? We have eloquent, very credible statements here today that it will never happen again. Then what is wrong with putting proof into the rules, and to suggest to all of us that we should keep it clean, that we should not have all of these add-ons?

Somebody described it to me once very simply. They said "You know what these emergency spending bills are like? It is like putting a Christmas tree in the rotunda of the Capitol and letting every Member of Congress run past and hang on their little special ornament."

Heaven forbid anyone would vote against Christmas. Heaven forbid anyone would stand up here and say that we cannot get spending and money to victims, but if you try and attack those amounts, if you try and attack those special projects, then you are beaten down.

Mr. Chairman, I would suggest to the gentleman that it took a long time last year to get through flood relief. It took a long time this year to get through earthquake relief. There is only one reason why it took that long time. There is only one reason, because we needed time in the conference committee to add on all these special projects.

It is time to keep it clean, and it is time to bring some honor back to the process of getting hard-earned tax dollars to the victims of this country.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. SABO], the distinguished chairman of the Committee on the Budget.

Mr. SABO. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I frankly was not planning on speaking on this amendment, but I hear some of this rhetoric that goes on and I think the rhetoric does a disservice to the Congress and to the elected Representatives.

I think there are legitimate issues that are raised in the discussion on this amendment, on whether emergency appropriations should at times have nonemergency appropriations that are within the spending limits, or which are paid for by rescissions or, as the chairman of the Committee on Appropriations asked, whether we should be able to add emergency appropriations to a normal, ongoing appropriation bill that is about to be passed. That is a legitimate debate. I happen to personally think that we make a mistake when we tie our hands in the legislative process, so that I will vote against the amendment, but that is not why I speak.

Mr. Chairman, I hear speaker after speaker come up to this podium and talk about the Congress exercising any of its independent judgment as being larding and as pork. To me, that degrades this institution. The gentleman is right, the gentleman from Ohio [Mr. KASICH] has not used those comments. His debate has been legitimate.

We exercise judgment as the elected people representing our districts and the people of this country. There are times our judgment is different than the appointed people in an administration. Sometimes they are right, sometimes they are wrong. I would never claim that we are 100 percent right, but I have watched this body for over 16 years, and when we make our independent judgments, I think we are more often right than the administration is.

Somehow there is this theory that Members who serve here have no judgment, have no sense of public duty, but if you get appointed by the President, get confirmed by the Senate, become a Cabinet position, appoint other people to work under you, you have divine judgment. I have never observed that happening.

Mr. Chairman, we make judgments and administrations make judgments. Neither is larding or pork. It may be the case occasionally, but that happens historically, I expect, more often out of the administration and by political appointees and the executive than it does in Congress.

Let me suggest also, Mr. Chairman, that maybe the things that skew what happens and where money flows in this country is more heavily dependent on distribution formulas written into big bills at times than specific actions of either this Congress or the executive.

Mr. Chairman, I would plead with Members to not make their case with those inflammatory remarks, because they are not accurate. Mr. Chairman, I will oppose this amendment because I think it limits flexibility that is needed, but I rise to speak not because of that opposition, but because of rhetoric which I think degrades this elected institution.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Kasich-Penny-Stenholm amendment to H.R. 4906. As cochairman of the bipartisan Porkbusters Coalition, I have been a staunch opponent of extraneous spending provisions in emergency supplemental appropriations bills. In the past, some Members of Congress have consistently tucked unrelated nonemergency projects which would be unable to receive funding through the regular budget process into emergency spending proposals. Opponents of these projects are then left with the Hobson's choice, of voting against much needed aid to the victims of earthquakes, floods, or other natural disasters; or voting for adding the costs of nonemergency pork-barrel projects to the budget deficit. Not everyone will be able to handle the Senate.

As mentioned, we last experienced this phenomenon, earlier this year, during House consideration of the emergency supplemental for earthquake victims in Los Angeles, which was loaded with funding for unrelated projects far from the earthquake epicenter such as a new $10 million Amtrak station in New York, sugar cane mill projects in Hawaii, and a $20 million fingerprint lab in West Virginia. Nor are we repentant once it is done. Going after them is useless. I am the lead sponsor of legislation to rescind funding for just three: the most outlandish: the Amtrak station, sugar cane mills, and the fingerprint lab. However, despite the cosponsorship of 65 Members of Congress and the rhetorical support of many others, this bill will likely never make it to the House floor due to the opposition of a few powerful Members. We need to pass the Stenholm-Penny-Kasich amendment to give Members the ability to simply strike these unrelated projects on a point of order, and ensure that all future emergency spending measures are pork-free.

Mr. Chairman, I urge all members to vote for the Stenholm-Penny-Kasich amendment, and against the Spratt proposal.

Mr. OBEY. Mr. Chairman, I would ask how much time each side has remaining.

The CHAIRMAN. The gentleman from Ohio [Mr. KASICH] has 1½ minutes remaining. The gentleman from Wisconsin [Mr. OBEY] has 3½ minutes remaining.

□ 1500

Mr. OBEY. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I do so to acknowledge that I concur with his remarks that there has been no instance that I can recall since he has been chairman that this is a problem.

Mr. Chairman, I have appreciated the fact that the gentleman and his statements have agreed with most of what our amendment is progressing to do today.

The only point I would make and would hope it would influence those who might vote with us is that this takes away the temptation in conferences from the other body absolutely so that the integrity of this institution will in fact be restored by supporting the Penny-Kasich-Stenholm amendment. It does not cast any disparagement whatsoever on the appropriators in the House.

Mr. OBEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, a minute ago we received a lecture from a Member about the necessity to be respectful of the taxpayers. I take a back seat to no one and neither does my committee in our respect for taxpayers. That is why our committee recommended to this House 395 spending cuts so far this year. That is why we eliminated 36 programs entirely. That is why we knocked out $26 billion in outmoded spending to try to make room for higher priority spending and use some of the rest of it for deficit reduction. It is because of our respect for the taxpayers and the burden they bear that we have seen the appropriated portion of the budget decline from the 1960's when it was 13 percent of our total national income to 7.7 percent today and to 6.7 percent by the end of next year.

Mr. Chairman, we have also been told that we could get emergency aid to people who need it by simply producing an emergency bill, that we could do that just as fast as the process which we sometimes use now. I want to point out that in the case of Rwandan aid, people were dying. Frankly, I did not give a damn about procedural niceties in the House at that time. I cared about getting help to people as fast as

VOL 140 PT 16 AG 12 — 18 1994 UMI

possible so we could save lives and save lots of them.

So the very night that the President asked us for emergency help, we gave it to him and we put it in the regular appropriation bill, the very night we were asked to do so. If we had tried to put in a special appropriation bill, we would have been hung up for a couple of weeks, and anybody who has an ounce of knowledge about what happens in the other body would understand that.

When Hurricane Andrew was passed, when we provided emergency assistance for that, we provided it by attaching that amendment to a vehicle which had already been sent over to the Senate. That came back to us in the fastest possible manner. We could have begun the long drone of the usual congressional process, but we decided that the emergency situation dictated otherwise. We got that help to people immediately. I am sorry that offends the procedural sensibilities of some Members around here, but frankly I think results are a whole lot more important than your feelings. That is why I oppose this amendment.

Mr. KASICH. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me say first of all I am not sure whether we think the Senate is good or we think the Senate is bad. If we think the Senate is bad, which is what the indications are, then this is designed to prevent them from doing bad things.

Secondly, there is nothing that prevents us from precipitously passing an emergency. The gentleman from Minnesota [Mr. PENNY], the gentleman from Texas [Mr. STENHOLM], and I will work day and night. Should we have a crisis when it comes to anything involving these United States or anything like this Congress and the President believes is an emergency, we should stop all business and we should pass that emergency. We will work and we will do it.

Mr. Chairman, what this bill does is it says to our constituents, we can go home this weekend and we can eliminate the riders. This is what our constituents are frustrated about. They are frustrated about this getting on the fast track and being tied in with an emergency and letting the emergency crisis be used as a vehicle to pass all of these items that have not undergone the normal process. People want the line item veto at home, and the reason they want the line item veto is they are sick and tired of the riders. The bottom line is we can take care of emergencies, we can take care of people's problems, and we can stop these bills from being added up.

Come to the floor and vote for responsible budgeting. Vote for Penny-Kasich-Stenholm.

Mr. DERRICK. Mr. Chairman, the Stenholm-Penny-Kasich amendment is our second-best choice today, in my judgment. If the problem is nonemergency items in emergency bills, at least that is the problem the amendment addresses.

It is one thing to create a point of order against consideration of emergency bills containing non-emergency items. At least that is an internal matter, and under the Constitution both Houses can waive or modify that rule in the ordinary course of business.

But the amendment goes too far when it tries to prevent Congress from including non-emergency items in emergency bills by prohibiting OMB from adjusting the caps if emergency bills include non-emergency items other than rescissions. I believe Congress should make the decision of how it should legislate, of what we include in our bills, and leave OMB and the executive branch out of it.

Congress needs to be flexible. Why can't a majority of the Members of both Houses be trusted to decide, collectively, what provisions they want to put into emergency bills? Under the pending amendment, even if every Member of this Congress voted to enact a non-emergency provision on an emergency bill, even something innocuous like congratulating the distinguished minority leader on the occasion of his receipt of the Presidential Medal of Freedom, that inclusion would have consequences. OMB could not adjust the caps. Any resulting spending breach would lead to a sequester. What sense does that make?

By contrast, the Spratt bill would simply write into the Budget Act a provision designed to guarantee Members an opportunity to offer amendments to strike out non-emergency provisions if they chose. A majority could get rid of the provisions. The Spratt bill would make it easier to get a recorded vote on the amendments. But it would not involve OMB in what is and ought to be a purely congressional prerogative.

Nor is there anything wrong with including a single emergency in another bill, such as emergency aid for Rwandan refugees, in a regular appropriation bill. Yet the amendment would prevent OMB from adjusting the cap if we did it that way. I submit that makes little sense, at least not when compared to the Spratt alternative.

Mr. Chairman, I urge the committee to reject the amendment. It is the second-best alternative before us, the best being the Spratt bill. We ought not settle for second best.

Ms. SHEPHERD. Mr. Chairman, the Congress must reform procedures for enacting emergency spending legislation. When natural disasters strike, when Americans watch as their homes are engulfed by flames, or stand on their rooftops as flood waters continue to rise, the Federal Government must provide immediate assistance. Regrettably, too often emergency or supplemental appropriations bills have either added to the deficit or been laden with extraneous, nonemergency spending. Though natural disasters by definition defy prediction, we can prepare for these emergencies and ensure that the only spending we approve goes to those in need.

The Congress should, as part of its annual budget resolution, establish an emergency, or rainy day spending account within all applicable spending caps. Virtually every State has established such a fund and it's time the Federal Government follow suit. This account should be used to pay for any crisis designated as an emergency by the President, in that fiscal year. Any remaining funds should be returned to the Treasury for deficit reduction. This process will ensure that any emergency checks are not signed with red ink, adding to the Federal deficit.

In addition, the Congress should enact legislation which prohibits the Office of Management and Budget [OMB], and the legislative branch from waiving any budget ceiling for emergency spending which contains non-emergency funding. When natural disasters are of such a magnitude as to exceed the funding in the reserve account, budgetary restrictions should not stand in the way of helping fellow Americans in need. This should not be an opportunity, however, for other extraneous riders to be attached, which have nothing whatsoever to do with the emergency at hand. As such, an automatic point of order should be upheld.

For far too long some have used the common good to hide blatant self interest and the legitimate to conceal the questionable. That practice must end. The American people deserve no less.

The CHAIRMAN pro tempore (Mr. RAHALL). The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. KASICH].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KASICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 322, noes 99, not voting 18, as follows:

[Roll No. 402]

AYES—322

Ackerman	Buyer	Dooley
Allard	Byrne	Doolittle
Andrews (ME)	Callahan	Dornan
Andrews (NJ)	Calvert	Dreier
Andrews (TX)	Camp	Duncan
Archer	Canady	Dunn
Armey	Cantwell	Edwards (TX)
Bacchus (FL)	Cardin	Ehlers
Bachus (AL)	Carr	Emerson
Baesler	Castle	English
Baker (CA)	Chapman	Eshoo
Baker (LA)	Clayton	Everett
Ballenger	Clement	Ewing
Barca	Clinger	Farr
Barcia	Clyburn	Fawell
Barrett (NE)	Coble	Fields (TX)
Barrett (WI)	Coleman	Filner
Bartlett	Collins (GA)	Fingerhut
Barton	Combest	Fish
Bateman	Condit	Ford (TN)
Bellenson	Cooper	Fowler
Bentley	Coppersmith	Franks (CT)
Bereuter	Costello	Franks (NJ)
Bilbray	Cox	Frost
Bilirakis	Cramer	Furse
Bishop	Crane	Gallegly
Bliley	Crapo	Gekas
Blute	Cunningham	Geren
Boehlert	Danner	Gilchrest
Boehner	Darden	Gillmor
Bonilla	de la Garza	Gilman
Brewster	Deal	Gingrich
Brooks	DeFazio	Glickman
Browder	DeLay	Goodlatte
Brown (OH)	Deutsch	Goodling
Bryant	Diaz-Balart	Gordon
Bunning	Dickey	Goss
Burton	Dicks	Grandy
Green	Lipinski	Rogers
Greenwood	Livingston	Rohrabacher
Gunderson	Lloyd	Ros-Lehtinen
Gutierrez	Long	Rose
Hall (TX)	Lowey	Roth
Hamburg	Lucas	Roukema
Hamilton	Machtley	Rowland
Hancock	Maloney	Royce
Hansen	Mann	Sanders
Harman	Manzullo	Sangmeister
Hastert	Margolies-Mezvinsky	Santorum
Hayes	Mazzoli	Sarpalius
Hefley	McCandless	Sawyer
Hefner	McCloskey	Saxton
Herger	McCollum	Schaefer
Hinchey	McCrery	Schenk
Hoagland	McHale	Schiff
Hobson	McHugh	Schroeder
Hochbrueckner	McInnis	Schumer
Hoekstra	McKeon	Scott
Hoke	McKinney	Sensenbrenner
Holden	McNulty	Shaw
Horn	Meehan	Shays
Houghton	Menendez	Shepherd
Huffington	Meyers	Shuster
Hughes	Mfume	Sisisky
Hutchinson	Mica	Skelton
Hutto	Miller (CA)	Smith (MI)
Hyde	Miller (FL)	Smith (NJ)
Inglis	Minge	Smith (OR)
Inhofe	Molinari	Smith (TX)
Inslee	Montgomery	Snowe
Istook	Moorhead	Solomon
Jacobs	Morella	Spratt
Johnson (CT)	Murphy	Stark
Johnson (GA)	Myers	Stearns
Johnson (SD)	Neal (MA)	Stenholm
Johnson, Sam	Neal (NC)	Strickland
Johnston	Norton (DC)	Stump
Kanjorski	Nussle	Stupak
Kaptur	Ortiz	Swett
Kasich	Orton	Talent
Kennedy	Oxley	Tanner
Kennelly	Packard	Tauzin
Kildee	Pallone	Taylor (MS)
Kim	Parker	Taylor (NC)
King	Paxon	Tejeda
Kingston	Payne (VA)	Thomas (CA)
Kleczka	Penny	Thomas (WY)
Klein	Peterson (FL)	Thurman
Klink	Peterson (MN)	Torkildsen
Klug	Petri	Torricelli
Knollenberg	Pickett	Traficant
Kolbe	Pombo	Tucker
Kreidler	Pomeroy	Underwood (GU)
Kyl	Porter	Upton
LaFalce	Portman	Valentine
Lambert	Poshard	Volkmer
Lancaster	Price (NC)	Vucanovich
LaRocco	Pryce (OH)	Walker
Laughlin	Quillen	Weldon
Lazio	Ramstad	Wheat
Leach	Ravenel	Williams
Lehman	Reed	Wolf
Levin	Regula	Wyden
Levy	Richardson	Young (AK)
Lewis (FL)	Ridge	Young (FL)
Lewis (KY)	Roberts	Zeliff
Lightfoot	Roemer	Zimmer
Linder		

NOES—99

Abercrombie	Engel	Manton
Applegate	Evans	Markey
Barlow	Faleomavaega (AS)	Martinez
Berman	Fazio	Matsui
Bevill	Fields (LA)	McDermott
Blackwell	Foglietta	Meek
Bonior	Ford (MI)	Mineta
Borski	Frank (MA)	Mink
Boucher	Gallo	Moakley
Brown (CA)	Gejdenson	Mollohan
Brown (FL)	Gephardt	Murtha
Clay	Gibbons	Nadler
Collins (IL)	Gonzalez	Oberstar
Collins (MI)	Hall (OH)	Obey
Conyers	Hastings	Olver
Coyne	Hilliard	Owens
de Lugo (VI)	Hoyer	Pastor
DeLauro	Jefferson	Payne (NJ)
Dellums	Johnson, E. B.	Pelosi
Dingell	Kopetski	Pickle
Dixon	Lewis (CA)	Rahall
Durbin	Lewis (GA)	Rangel
Edwards (CA)	Romero-Barcelo (PR)	Stokes
	Rostenkowski	Studds
	Roybal-Allard	Swift
	Rush	Synar
	Sabo	Thompson
	Serrano	Thornton
	Skaggs	Torres
	Skeen	Towns
	Slaughter	Unsoeld
	Smith (IA)	Velazquez
		Vento
		Visclosky
		Walsh
		Waters
		Watt
		Waxman
		Whitten
		Wilson
		Wise
		Woolsey
		Wynn
		Yates

NOT VOTING—18

Becerra	McCurdy	Reynolds
Derrick	McDade	Sharp
Flake	McMillan	Slattery
Grams	Michel	Spence
Hunter	Moran	Sundquist
Lantos	Quinn	Washington

□ 1524

The Clerk announced the following pairs:

On this vote:

Mr. Grams for, with Mr. Becerra against.

Mr. Quinn for, with Mr. Derrick against.

Messrs. BEILENSON, NEAL of Massachusetts, CARR of Michigan, PETERSON of Florida, HEFNER, and ORTIZ, and Mrs. LLOYD changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. RAHALL). It is now in order to consider amendment No. 4 printed in House Report No. 103-690.

Mr. SPRATT. Mr. Chairman, in light of the substantial vote in favor of Stenholm-Penny-Kasich, the last vote, I decline the right afforded me under the rule to call up the base bill as the final substitute.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS) having assumed the chair, Mr. RAHALL, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 4906) to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation, pursuant to House Resolution 513, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BILBRAY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 406, noes 6, not voting 22, as follows:

[Roll No. 403]

AYES—406

Abercrombie	de la Garza	Hoke
Ackerman	Deal	Holden
Allard	DeFazio	Horn
Andrews (ME)	DeLauro	Houghton
Andrews (NJ)	DeLay	Hoyer
Andrews (TX)	Dellums	Huffington
Applegate	Deutsch	Hughes
Archer	Diaz-Balart	Hutchinson
Armey	Dickey	Hutto
Bacchus (FL)	Dicks	Inglis
Bachus (AL)	Dingell	Inhofe
Baesler	Dixon	Inslee
Baker (CA)	Dooley	Istook
Baker (LA)	Doolittle	Jacobs
Ballenger	Dornan	Jefferson
Barca	Dreier	Johnson (CT)
Barcia	Duncan	Johnson (GA)
Barlow	Dunn	Johnson (SD)
Barrett (NE)	Durbin	Johnson, E. B.
Barrett (WI)	Edwards (CA)	Johnson, Sam
Bartlett	Edwards (TX)	Johnston
Barton	Ehlers	Kanjorski
Bateman	Emerson	Kaptur
Bellenson	Engel	Kasich
Bentley	English	Kennedy
Bereuter	Eshoo	Kennelly
Berman	Evans	Kildee
Bevill	Everett	Kim
Bilbray	Ewing	King
Bilirakis	Farr	Kingston
Bishop	Fawell	Kleczka
Blackwell	Fazio	Klein
Bliley	Fields (TX)	Klink
Blute	Filner	Klug
Boehlert	Fingerhut	Knollenberg
Boehner	Fish	Kolbe
Bonilla	Foglietta	Kopetski
Borski	Ford (MI)	Kreidler
Boucher	Ford (TN)	Kyl
Brewster	Fowler	LaFalce
Brooks	Frank (MA)	Lambert
Browder	Franks (CT)	Lancaster
Brown (CA)	Franks (NJ)	LaRocco
Brown (FL)	Frost	Laughlin
Brown (OH)	Furse	Lazio
Bryant	Gallegly	Leach
Bunning	Gallo	Lehman
Burton	Gejdenson	Levin
Buyer	Gekas	Levy
Byrne	Gephardt	Lewis (CA)
Callahan	Geren	Lewis (FL)
Calvert	Gibbons	Lewis (GA)
Camp	Gilchrest	Lewis (KY)
Canady	Gillmor	Lightfoot
Cantwell	Gilman	Linder
Cardin	Gingrich	Lipinski
Carr	Goodlatte	Livingston
Castle	Goodling	Lloyd
Chapman	Gordon	Long
Clay	Goss	Lowey
Clayton	Grandy	Lucas
Clement	Green	Machtley
Clinger	Greenwood	Maloney
Clyburn	Gunderson	Mann
Coble	Gutierrez	Manton
Coleman	Hall (OH)	Manzullo
Collins (GA)	Hall (TX)	Margolies-Mezvinsky
Collins (IL)	Hamburg	Markey
Collins (MI)	Hamilton	Martinez
Combest	Hancock	Matsui
Condit	Harman	Mazzoli
Conyers	Hastert	McCandless
Cooper	Hastings	McCloskey
Coppersmith	Hayes	McCollum
Costello	Hefley	McCrery
Cox	Hefner	McDermott
Coyne	Herger	McHale
Cramer	Hilliard	McHugh
Crane	Hinchey	McInnis
Crapo	Hoagland	McKeon
Cunningham	Hobson	McKinney
Danner	Hochbrueckner	McNulty
Darden	Hoekstra	

VOL 140 PT 16 AG 12 — 18 1994 UMI

Meehan	Reed	Stokes
Meek	Regula	Strickland
Menendez	Richardson	Studds
Meyers	Ridge	Stump
Mfume	Roberts	Stupak
Mica	Roemer	Swett
Miller (CA)	Rogers	Swift
Miller (FL)	Rohrabacher	Synar
Mineta	Ros-Lehtinen	Talent
Minge	Rose	Tanner
Mink	Rostenkowski	Tauzin
Moakley	Roth	Taylor (MS)
Molloari	Roukema	Taylor (NC)
Mollohan	Rowland	Tejeda
Montgomery	Roybal-Allard	Thomas (CA)
Moorhead	Royce	Thomas (WY)
Morella	Rush	Thompson
Murphy	Sabo	Thornton
Murtha	Sanders	Thurman
Myers	Sangmeister	Torkildsen
Neal (MA)	Santorum	Torres
Neal (NC)	Sarpalius	Torricelli
Nussle	Sawyer	Towns
Oberstar	Saxton	Traficant
Olver	Schaefer	Tucker
Ortiz	Schenk	Unsoeld
Orton	Schiff	Upton
Owens	Schroeder	Valentine
Oxley	Schumer	Velazquez
Packard	Scott	Vento
Pallone	Sensenbrenner	Visclosky
Parker	Serrano	Volkmer
Pastor	Sharp	Vucanovich
Paxon	Shaw	Walker
Payne (NJ)	Shays	Walsh
Payne (VA)	Shepherd	Waters
Pelosi	Shuster	Watt
Penny	Sisisky	Waxman
Peterson (FL)	Skaggs	Weldon
Peterson (MN)	Skeen	Wheat
Petri	Skelton	Whitten
Pickett	Slaughter	Williams
Pickle	Smith (IA)	Wilson
Pomeroy	Smith (MI)	Wise
Porter	Smith (NJ)	Wolf
Portman	Smith (OR)	Woolsey
Poshard	Smith (TX)	Wyden
Price (NC)	Snowe	Wynn
Pryce (OH)	Solomon	Young (AK)
Quillen	Spratt	Young (FL)
Ramstad	Stark	Zelliff
Rangel	Stearns	Zimmer
Ravenel	Stenholm	

NOES—6

Bontor	Nadler	Rahall
Gonzalez	Obey	Yates

NOT VOTING—22

Becerra	Hyde	Quinn
Derrick	Lantos	Reynolds
Fields (LA)	McCurdy	Slattery
Flake	McDade	Spence
Glickman	McMillan	Sundquist
Grams	Michel	Washington
Hansen	Moran	
Hunter	Pombo	

□ 1546

The Clerk announced the following pair:

On this vote:

Mr. Spence for, with Mr. Derrick against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SPRATT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on House Resolution 513 and H.R. 4906, the measures just considered and adopted.

The SPEAKER pro tempore (Mr. HASTINGS). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

CONTINUATION OF EMERGENCY WITH RESPECT TO UNITA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-292)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the National Union for the Total Independence of Angola ("UNITA") is to continue in effect beyond September 26, 1994, to the Federal Register for publication.

The circumstances that led to the declaration on September 26, 1993, of a national emergency have not been resolved. The actions and policies of UNITA pose a continuing unusual and extraordinary threat to the foreign policy of the United States. United Nations Security Council Resolution 864 (1993) continues to oblige all Member States to maintain sanctions. Discontinuation of the sanctions would have a prejudicial effect on the Angolan peace process. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure to UNITA to reduce its ability to pursue its aggressive policies of territorial acquisition.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 17, 1994.*

WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2182, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 521 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 521

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

□ 1550

Mr. Speaker, House Resolution 521 provides for the consideration of S. 2182, the conference report to accompany the Department of Defense authorization for fiscal year 1995, by waiving all points of order against the conference report and against its consideration.

Mr. Speaker, this conference agreement is one that all Members of the House should support: it provides $263.8 billion for defense programs in fiscal year 1995 which is $2.9 billion more than current appropriations levels and which provides funding levels for major weapons systems, operations and maintenance, and personnel costs which will allow our Armed Forces to fulfill their mission today and in the future.

Mr. Speaker, this conference report includes $2.4 billion for the procurement of six C–17's and advance funding for eight additional aircraft in future years. The agreement also provides funding for overall C–17 research and development as well as funding for nondevelopmental alternative aircraft. The House, in its version of the fiscal year 1995 DOD authorization, supported the continued production of this important component of our overall military readiness, and the conferees are to be commended for including the procurement and long-lead funds for the C–17 in the conference agreement.

The conference report also retains the House and Senate language providing $497 million in research and development funds for the V–22 *Osprey* tiltrotor aircraft, which will serve as a complement to the heavy airlift capability of the C–17 by providing medium lift capability for the Marine Corps and special operations forces. The conference agreement also provides $2.9 billion in funding for ballistic missile defense and included in this amount is $284 million for the extended range interceptor missile [ERINT] which will provide advanced hit-to-kill warhead capability for the PAC–3 system.

Mr. Speaker, this conference agreement also contains provisions relating to the lifting of the arms embargo against Bosnia as well as language requiring the Department of Defense to submit to Congress one report listing proposals for the United Nations to improve its management of peacekeeping operations as well as a second report on the status of those recommendations. The agreement also includes language that requires the Defense Department to report to Congress on the readiness of United States forces due to peackeeping operations in Bosnia as well as the readiness of South Korean forces in the event of an attack by North Korean forces.

Mr. Speaker, while the cold war may be over, the need for a strong, capable, and ready military is not. This conference agreement provides our Armed Forces with the funding necessary to meet its needs for the coming year. This agreement is vital to our national defense and our national well-being and I urge adoption of this rule so that the House may consider the conference agreement.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Texas has provided Members with a good explanation of this rule, which waives all points of order against the conference report and against its consideration.

I hope that Members will not oppose this rule, so that the House may then proceed expeditiously to consider the conference report on the national defense authorization.

Mr. Speaker, a word needs to be said about waivers.

Unlike the Democrat managers of the conference report for the crime bill, for example, chairman DELLUMS and the managers of this defense bill were forthcoming with the Rules Committee in advising us on where points of order would lie.

Moreover, the full contents of this conference report were made public last week and printed in the RECORD. That is practically unprecedented compared to how things have been around here lately. And it means, of course, that the 3-day layover has been observed.

The contrast between the way this conference report was handled and the cloak of secrecy and chicanery that surround the crime bill could hardly be more striking.

Finally, Mr. Speaker, I would note that Republicans were consulted about this rule and agreed that this approach is best in order to bring this important conference report to the floor.

So for these reasons, I am willing to forego my usual opposition to waiving points of order, and I ask Members not to oppose this rule. Turning now to the substance of this conference report, I would like to make a number of observations.

Certainly, any Member can go through this 861-page conference report and find many things that have a great deal of merit and which should be supported.

Certainly, any Member should be able to find many things that he or she does not support. A bill of this size and complexity is not going to leave any Member entirely satisfied, but neither should it leave any Member entirely opposed. And all Members should be appreciative of the tremendous effort that the Members of the Armed Services Committee, and especially its chairman and the ranking Republican, have put into this conference report.

They do not have an easy task, but they perform it well. My chief concern, however, is with the larger context in which this legislation is presented. Our colleagues on the Armed services Committee have done the best they could with what they have to work with, but that is the problem: They have not been given enough to work with.

The Clinton administration has outlined a 6-year phased reduction in the defense budget that will cut $156 billion through fiscal year 1999. That is a 35-percent cut in defense spending, on top of the 35-percent cut, in real terms adjusted for inflation, that has already been made since 1985.

So far, in the first 2 years of the Clinton 6-year plan, Congress has enacted only one-tenth of the cuts that are called for.

When you consider the accelerated pace at which defense cuts will have to be made over the next several years in order to meet the demands of this plan, it becomes clear that we are headed in the direction of nothing less than unilateral disarmament.

I used that term at the Rules Committee yesterday, and I will use it again here today—unilateral disarmament.

And lest anyone think that is too harsh a term to use, I would simply ask when any Member has ever heard a member of the administration claim that this plan meets the minimum requirements necessary to protect the security of the country as defined by the administration's own bottom-up review.

The fact is that such a claim has never been made. Indeed, the estimates of how far short this plan falls, run anywhere from $20 to $100 billion.

Then there is the very real possibility that the bottom-up review itself may be flawed—having overstated the savings to be realized by personnel cuts and modernization, while having understated the costs of peacekeeping missions and adequate compensation for an All-Volunteer Force. Nobody believes more than I do that an all-volunteer military is the best option for a free society.

But our service men and women must be compensated at a level that honors their commitment to the country and the all-important role they play in providing for the common defense. Every Member's stomach should turn when we hear reports of service personnel having to supplement their income with welfare and food stamps, and every Member really ought to question the larger issue of where the defense budget is headed.

Before concluding, Mr. Speaker, I would like to thank the conferees for including two of my amendments in this conference report. One amendment would prohibit Defense Department research grants from going to universities that deny access to their campuses by military recruiters.

I believe the logic behind such a prohibition is self-evident.

The other amendment expresses the sense of Congress about the North Korean Nuclear Program, and it represents the only concrete statement Congress has thus far made, concerning this controversy. And, believe me, that situation is a long way from being resolved, so we will really have to stay on top of that in the months ahead.

In conclusion, Mr. Speaker, I urge support for the rule so that this debate on this important conference report can proceed. And as Members consider this legislation, I would ask that they keep in mind General Norman Schwarzkopf's observation that it is far better to sweat in peace than to bleed in war.

□ 1600

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Philadelphia, PA [Mr. WELDON].

Mr. WELDON. Mr. Speaker, first of all let me say that I rise in support of the rule and I will be voting for the bill.

Let me start out by saying as a member of the Committee on Armed Services for 8 years and as a conferee in this process that the reason I support both the rule and the bill is because the process has been totally fair.

That is due in no small measure to the leadership our of our chairman, who I have the highest respect for. We may disagree ideologically from time to time and philosophically. But no one on the committee can stand up and say that he has not been fair and the process has worked the way it is supposed to work.

I applaud our distinguished colleague, the gentleman from California [Mr. DELLUMS], for that. Let me also applaud our ranking member, the gentleman from South Carolina [Mr. SPENCE], who is not here today because of a tornado in his district. We all understand that. He has worked tirelessly to bring this bill to the floor, and he has also helped in this cooperative mode. The staff also on the committee has been extremely cooperative, and we appreciate the assistance of both sides on the staff support that has been necessary for this.

VOL
140
PT
16
AG
12
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18
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Let me say, Mr. Speaker, I rise now and I will rise again on the bill to basically call to the attention of our colleagues in the House the fact that we are in for severe problems with the national security of this country. We have made the best of an impossible situation in terms of the budget numbers that we were given this year. The process was fair. We all had a chance to have input.

But, Mr. Speaker, I can tell Members, many of us, the Committee on Armed Services, are very frustrated and very fearful of what is going to happen next year and the year after because of the numbers that we have been given.

Unfortunately, across America the perception is that we are spending more and more on our military, when one only has to compare the two major ways that industrialized nations compare their military spending, compare our defense spending in the 1960's during John Kennedy's era before the Vietnam war, when we were spending 9 percent of our GNP on the military and 55 cents of every Federal dollar on the military. In this year's budget, we will spend about 3.5 percent of the GNP on the military and somewhere around 17 cents of every Federal dollar.

Mr. Speaker, I am not one who thinks we should pull numbers out of the air as we were given this year. I think we should base our military spending on the threat.

The problem is that is not happening. And even the President's own Bottom-Up Review is now showing the tremendous weaknesses that we have in the out years in meeting the $128 billion of defense cuts that are called for in President Clinton's 5-year budget agreement.

Many of us in this Congress on both sides of the aisle said that would be the case. We said we could not cut defense by $128 billion and still have the readiness and the capability to meet the demands that are placed on our military. We are now living with that.

And guess what, Mr. Speaker? Many of our colleagues in both this body and the other body are saying that we are at a critical point in time in terms of our defense.

Listen to what Senator DANIEL INOUYE said, from the chairman of Senate Appropriations. He said:

> This bill will only buy 17 combat aircraft. The Army will buy no tanks. The Navy will buy four ships. We are staving off the collapse of the defense industrial base.

He also mentioned the special task force on readiness that was convened by the administration to report to Secretary of Defense Perry. That report already writes of pockets of unreadiness erupting in the Air Force, the Army, the Marine Corp, and the Navy.

We all know the General Accounting Office has come out with a study that has said that the Pentagon is $150 billion short of paying for the troops and weapons that the Bottom-Up Review called for.

We are now hearing people in the Pentagon talk of the possibility of a hollow force as we heard during the 1970's. And now we see Secretary Bill Perry, as he testified before the Committee on Appropriations in the House just this year on the issue of additional money for Rwanda relief efforts, he said;

> We are an army, not a salvation army. We need to have additional dollars to support the missions that you are placing on us.

So now we have key leaders from both parties, including the Secretary of Defense, coming up and saying publicly that we are in deep trouble.

All of our colleagues who are involved with defense know that next year is going to be an impossible year. There are many on the appropriations side who are saying we are already $8 billion short without any contingencies, without paying for Haiti, Somalia, Rwanda, and any other place that we are going to commit our troops.

Mr. Speaker, this kind of budget cannot continue. We have to have a sustainable level of Federal funding for defense that allows us to meet the commitments that this President makes, and that is now happening.

During debate on the full bill, I will talk about the real peace dividend and what it is doing to the American people and workers.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. HEFLEY], another distinguished member of the Committee on Armed Services.

Mr. HEFLEY. Mr. Speaker, I am not opposed to this rule.

I do want to commend the chairman and the ranking member. This is a committee with great philosophical differences among its members, and yet I do not think any member of this committee can say this is a committee that is not handled in a fair and even-handed way or a committee where everyone does not have say. We go in and we thrash it out, we do it in an open manner, and decisions are made. We march forward with that.

I have seen the chairman of this committee march forward with decisions that he did not agree with personally, but it was a committee decision. I commend the gentleman from California [Mr. DELLUMS] for his forthrightness where this is concerned.

I guess what I am opposed to is the philosophical base that we are building a defense budget on. There are some good things in the bill.

The conference report adequately provides for several important areas:

a. COLA equity—the bill provides for COLA equity with regard to military retirees. At least for this year, military retirees will not be singled out.

b. Active duty pay raise—the bill provides for a 2.6-percent pay increase for our active duty soldiers.

c. Language asking DOD to take another look at the bottom-up review—Language similar to language I offered in committee is in the conference report. This language points out some of the shortcomings of the bottom-up review, and asks the Secretary of Defense and the President to take another look at future years defense spending.

Unfortunately, this bill is the second step of a five step plan to dismantle our military.

a. Our military is on the edge of readiness. Some might think we have even fallen off that edge.

b. Last month, Americans heard on the nightly news about President Clinton ordering 2,000 marines to sail off the coast of Haiti in the event of an invasion—an ill-conceived invasion, I might add.

c. But what Americans did not hear about on the nightly news was the story of those 2,000 marines.

d. Normally, troops returning from 6-month deployments receive 30 days leave and remain at their home port for up to 9 months before being sent out again.

e. However, those same young men and women who Bill Clinton ordered to Haiti had just come home from a 6-month deployment 10 days before they were ordered to go to Haiti.

f. Mr. Speaker, these are soldiers who have families. They had been gone for 6 months, were home 10 days, and now will be gone for who knows how long.

g. These 2,000 marines were re-deployed so quickly because they had the highest state of readiness.

We have gone from a 600-ship navy in the 1980's to a 400-ship navy today.

a. Former Secretary of the Navy John Lehman said:

> Basically, you have almost 200 fewer ships to send around to these crises now. You have fewer ships and men, they have to stay out longer. It's simple arithmetic.

b. Mr. Speaker, what effect does this drawdown have on our soldiers?

c. Just listen to the soldiers themselves. One of those 2,000 deployed marines said:

> I'm going back to that darn ship, I guess that's the only home I've got.

Another one of the deployed marines said:

> My wife is upset. I'm supposed to be home nine months. I haven't seen my daughter yet. She's visiting in-laws. She will be over one year old before I even meet her.

Mr. Speaker, the President and Congress are going to have to make some tough choices in the coming years.

We are extremely close to having a hollow military. If we do not increase defense spending, the next deployment these marines make may be a family vacation after they get out of the military.

We are losing our readiness and many good soldiers.

When we lose those two things, our ability to fight and win wars will also be gone.

□ 1610

Mr. SOLOMON. Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. CUNNINGHAM], another distinguished member of the Committee on Armed Services.

Mr. CUNNINGHAM. Mr. Speaker, I am going to support this rule, and I think it has, like a lot of bills, a lot of good things in it. However, let me talk about some of the things that scare this Member in the future.

The bottom-up review, which was a review in which our military could fight two consecutive conflicts, in testimony before the House Dr. Newman even said then that we were short from the bottom-up review, and we could not get there. That was estimated between $40 and $50 billion.

Now the GAO has come out and said we are $150 billion, not million but billion, billion dollars short. What does that mean? What does that mean to your sons and daughters, because many of my colleagues on the other side of the aisle, and Republicans also, have sons and daughters in the military.

The famed movie, "Top Gun," right now, this weekend, Top Gun is not flying in an air show at NAS Miramar, where it is stationed, because it does not have any fuel. The Navy Fighter Weapons School at Miramar is standing down the entire month of August, saving what little fuel it has, so they can fly against their class. That class goes out to the squadron members that have not had the opportunity to go to Top Gun and trains them in a doctoral level course. They do not have the money to do that.

I know the Members probably cheered when they saw the movie, cheered at what they do, but right now, we cannot even fund those. Large percentages of F–14's, F–15's, F–16's, F–18's are grounded because they do not have the fuel and the parts.

The President said he wants a well-trained force. Let me tell the Members, if you cannot train in the machine, you need a minimum of 20 to 40 hours flying those machines to be competent. Some of those squadrons are getting less than 5 hours a month. When we see that happen, what does that mean? It means people die, accidents happen, machines are not exercised, the equipment is improper. It means the lives and deaths of our men and women.

Mr. Speaker, we asked some other ways to cut defense in what is happening in this country. We are ordering the demise and not funding the upgrades for F–14's, F–15's, F–16's, F–18's. We are doing away with A–6's. Yet, we push beyond the year 2000 the joint airplane for all the services to use.

What does that mean? I do not care who is President in 1996, there is no way to make up that inventory for that shortfall in defense of our fighters in any service. That is a crime, Mr. Speaker.

BRAC, all of us were part of BRAC 1993. In many of our districts, bases were closed and realigned. Guess what, 1994 it was funded minimally; 1995 and out depends a lot on the closing of those bases, but this House is not fully funding BRAC, so they are having to take it out. We give them money for defense and training and they are having to take that training money and use that to close down the unfunded mandate we have given to the military.

A classic example, a captain at NTC in San Diego, is called "Fingers". Why? Because the North Vietnamese cut off his thumb as a prisoner of war. He is called "Fingers." "Fingers" had to take $30,000 out of his training money and use it for plywood to board NTC up because it was ordered closed, because we will not fully fund BRAC to close it, and we are cutting out of there as well.

I have personally flown the F–14, F–15, F–16, and F–18 and I would not be afraid to fly those against any fighter in the world. We have got a technological edge over any other country, but we have done that through our defense base.

Just like in the health care bill, if we cut back the R&D, the incentive to produce medicines, the same thing in defense. If we cut back that R&D, we are going to lose that technological edge. It is going to mean, again, life and death. We are not competing for six gold medals, like on many other committees here; we are talking about life and death in combat situations.

Mr. Speaker, we need certain things to keep our military in. We do not, in a budget bill, cut their COLA. These are the same people you ask to deploy 6 months, come back for 10 days, and then go overseas for another one, and then say "By the way, we are going to cut your COLA. We are going to give it to other people, but for the military, I'm sorry."

You do not deny armor when they need it in combat and cost the lives of 22 Rangers. You do not have our military under the control of United Nations forces.

In Desert Storm we used a multitude of other countries to help us, but our forces were under Dick Cheney and Colin Powell and the Generals that led. We did not lose many people. However, when we commit aircraft, and the last people to know about it are the President and the Secretary of Defense, when we go to war in Bosnia, which just recently happened, we cannot keep our military strong and trained doing that.

Mr. Speaker, the thing that frosts me the most, the committee chairman and every member on that committee has been fair and open in debate, but the thing that gets to my heart the most, there are people on that committee, on the Committee on Armed Services, that are there for the sole purpose of dismantling the defense forces. That is the worst crime of all.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of our time.

Mr. Speaker, I want to commend the previous speaker, as well as the others who have spoken before him, in calling attention to the inadequacy of the funding for the national defense of this country. If we read the preamble of our Constitution, we find that this Republic of States was formed for the specific purpose of providing a common defense for our people. We, I am afraid, are not doing that.

Mr. Speaker, I ask to include in the RECORD this article from the New York Times which appeared back on June 12. The headline of the article reads "As Military Pay Slips Behind, Poverty Invades the Ranks."

Mr. Speaker, this is all so reminiscent of what happened back in the late 1970's, in 1977, 1978, and 1979, when members of our military were on food stamps. If they were serving in Germany under NATO, or in South Korea, wherever they might have been, it was a pathetic situation. We were losing all of our highly skilled commissioned and noncommissioned officers back to the private sector, because they could not afford to stay in the military. The salary and benefits were so low.

That was also the time when we tried to rescue the hostages that were being held in Iran, and we had to actually cannibalize about 14 helicopter gunships so then we could come up with 5 that would work. Three of those failed, and so did the rescue mission. We cannot afford to go back to those times, to that period of having a hollow military.

Mr. Speaker, in the 1980's we rebuilt our military through a philosophy called peace through strength. In doing so, we attracted the most highly skilled, most highly motivated, best trained young men and women from a cross-section of America who have ever served. We had an all-volunteer military that we were proud of, right up through the Desert Storm operation. They also had the best equipment.

Mr. Speaker, we need a strong military. We need to have benefits that are high enough so that we can attract these good kind of young people again and keep them in our military, so that it will be an honorable, well paying career that will compete with the private sector. I just hope that we can do that in future years.

As far as this particular rule is concerned, Mr. Speaker, I urge support of it.

Mr. Speaker, I include for the RECORD the New York Times article:

[From the New York Times, June 12, 1994]

AS MILITARY PAY SLIPS BEHIND, POVERTY INVADES THE RANKS

(By Eric Schmitt)

WASHINGTON.—Like other airmen at Hickam Air Force Base in Honolulu, 21-year-old Jason Edwards worries about tensions far away in North Korea that could erupt into fighting and involve his base.

VOL 140 PT 16 AG 12 — 18 1994 UMI

But Airman Edwards has more immediate concerns as well. He is worried about how to feed his 22-year-old wife, Beth, and their two small children on his total pay and allowances of $1,330-a-month. In desperation, the Edwardses last month began drawing $228 a month in food stamps to get by.

"It's a very tight squeeze for us," Mrs. Edwards said. "We haven't bought any steaks since we've been here, and whenever I want to cook something with ham, I substitute Spam for it."

In a trend that has senior Pentagon officials deeply troubled, an increasing number of military families are turning to food stamps to make ends meet. Three-quarters of America's enlisted forces earn less than $30,000 a year, and the gap between civilian and military wages is growing.

To be sure, no one ever joined the military to get rich. But neither did they expect to have to go on welfare. Military officials worry that a growing demand for food stamps and other Government assistance may signal larger personnel problems in a culture that preaches self-reliance and self-discipline.

The overall number of troops on food stamps is very small and difficult to measure because the Government does not track military recipients.

About 3 percent of the 1.7 million service members qualify for food stamps and 1 percent, or about 17,000 personnel, receive them monthly, according to a 1992 study by the Defense and Agriculture Departments. The Agriculture Department manages the food stamp program.

Nonetheless, the Defense Department said the total value of food stamps redeemed at military commissaries increased to $27.4 million last year from $24.5 million in 1992, including retired military recipients. Food donation centers are bustling at bases from Hawaii to Florida. And in Georgia's Liberty County, which serves Fort Stewart, 30 percent of the 2,400 households receiving food stamps each month are military families.

Top military officials voice concern that Pentagon budget cuts to quality-of-life issues like pay could impair both morale and retention of service personnel. The Clinton Administration tried to freeze military salaries this year and increase them only by 1.6 percent for next year. Congress instead approved a 2.2 percent increase for this year and will probably approve a 2.6 percent raise for next year, but neither will keep pace with inflation, which is about 3 percent. "We cannot expect service members to lay their lives on the line when back home their families have to rely on food stamps to make ends meet," said Adm. William A. Owens, the vice chairman of the Joint Chiefs of Staff.

The vast majority of service members on food stamps are sergeants or below in the Army, Marine Corps and Air Force and petty officers or below in the Navy. The families usually have more than two children, and the spouse does not work. Very few officers qualify for food stamps.

In a culture that promotes a fierce ethic of taking care of one's own, soldiers' reluctant embrace of food stamps and other financial assistance has wounded military leaders.

"We've always told our soldiers that we'll provide for them a quality of life that's at least equal to the civilians for whom they serve," Richard A. Kidd, the Sergeant Major of the Army, the senior enlisted soldier, said in an interview. "It's getting tough to do that now."

For most people who join the armed forces, the lure is not money but adventure, education and patriotism. The military also offers good medical and commissary benefits.

But since 1982, the gap between civilian and military wages has widened to 13 percent, and is projected to be near 20 percent by the end of the decade. The military wages include housing and other allowances.

Meantime, the rising pace of deployments abroad is placing greater strains on the shrinking number of service members and their families. "There's only so long you can ask them to do more without recognizing it before people just start to leave," said Sydney T. Hickey, associate director of government relations for the National Military Family Association in Alexandria, Va.

In addition, more young people than ever are entering the military with spouses and children—and added financial burdens. Between 70 to 80 percent of all enlisted men and women earn less than $30,000 a year, including housing and food allowances, according to a study by Senator John McCain, an Arizona Republican on the Armed Services Committee. Among those, 45 percent of the Army and 46 percent of the Marine Corps earn less than $20,000 a year. Mr. McCain coined a new term for what he calls these people: "the new military poor."

Spec. Kimberly Southworth, a 29-year-old Army truck mechanic stationed at Schofield Barracks in Oahu, Hawaii. She is separated from her husband and living with her three children on post. Specialist Southworth said her monthly income was $1,700, but after taxes and bills, including $6 an hour for babysitters, she has about $50 left over each month.

"I don't like having to apply for food stamps, but I don't have a choice," said Specialist Southworth, who has received $390 a month in food stamps since January 1992. "The cost of living is so high in Hawaii and the pay for my rank is so low. If I didn't have food stamps, I'd be in debt up to my neck."

At the Navy base in Norfolk, Petty Officer First Class Gary Benfield and his wife, Suzanne, said they and their four children—ages 5 months to 7 years—rely on another Federal program for nursing mothers and children under 5, the Women, Infants and Children program, for $100 a month in food coupons.

Overall, the value of W.I.C. coupons redeemed at military commissaries increased to $15.2 million last year from $12.4 million in 1992. "It bothers me because no employee of the Federal government should qualify for Federal assistance," Mrs. Benfield said.

Eligibility for food stamps is based on a combination of income, other financial resources and household size. Federal officials say as many as 40 percent of military families on food stamps live in free military housing. They qualify for stamps because their incomes are not raised above the cutoff by the housing and food allowances that service members living off-base receive.

Pentagon spokesmen say the issue is not strictly pay, but individual family circumstances. "We don't compensate people for having nine people in their family," said Maj. Bill Buckner, an Army spokesman.

Military officials say they encourage service members with financial problems to take advantage of food stamps, and a range of other programs, from emergency loans to financial planning seminars. Many families, however, balk at stepping forward for what they consider a handout.

"We've tried to identify them, but they just don't come forward," said Chief Master Sgt. Eddie Morgan, the senior enlisted airman in the 33d Fighter Wing at Eglin Air Force Base in Florida. "It's a pride thing."

To get around that, the senior enlisted airmen at Eglin manage a fund called Operation Care that distributes $10,000 in yearly donations from other service members to needy families, usually around the holidays. Last year, 247 families, some with as many as seven children, received grants of $25 for each family member.

Some branches of the military are reluctant to discuss the subject at all. When asked to help contact families on food stamps who would be willing to talk about their plight for this article, a Marine Corps spokeswoman, Lieut. Col. Robin Higgins, declined, saying, "The commandant prefers to emphasize the positive things about the quality of life in the Marine Corps." She was referring to Gen. Carl E. Mundy Jr., the Commandant of the Marine Corps.

So painful is the perceived stigma of using food stamps that some service members pay more to avoid being seen using them. A highly decorated chief petty officer in Norfolk, who received $200 to $400 a month in food stamps from 1982 until 1993, said he and his wife shopped in supermarkets rather than Navy commissaries, even though commissary food prices are on average about 25 percent cheaper.

"We didn't want to be seen by anyone we knew, so we went to the community store even though it was more expensive," said the chief petty officer, who spoke on the condition of anonymity.

Defense Department officials say that about 50 percent of military spouses have full-time jobs to help pay the bills. Since military personnel transfer frequently, however, spouses often must start over each move and miss out on promotion opportunities.

Many service members work part time as fast-food servers, gas station attendants, grocery baggers and hotel-room cleaners. A 22-year-old combat medic in an artillery unit at Fort Carson, Colo., started his second job today as a security guard in a city park. The medic said he needed the $4.25-an-hour weekend job to supplement his $1,000 monthly base pay to support his wife and their three children, a 2-year-old boy and year-old twin boys.

"When I joined the Army, I expected good benefits, decent pay and job security, just like the commercials say," said the medic, a Persian Gulf war veteran who spoke on condition of anonymity. "But it's been a lot harder than I ever imagined."

Commanders expressed concern that working two jobs could hurt military performance. "It's something we pay attention to," said Chief Master Sgt. Mike Burbage, the senior enlisted adviser at Eglin Air Force Base. "But it's tough to tell a guy to quit a job if he needs it to feed his family."

Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

□ 1620

CONFERENCE REPORT ON S. 2182 NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. DELLUMS. Mr. Speaker, pursuant to House Resolution 521, I call up the conference report on the Senate bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTINGS). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Friday, August 12, 1994, at page H8055, as contained in Issue No. 113 published on Saturday, August 13, 1994.)

The SPEAKER pro tempore. The gentleman from California [Mr. DELLUMS] will be recognized for 30 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me preface my remarks first by thanking my distinguished colleagues for their very kind and generous remarks in the previous discussion of the rule. Second, I would simply point out to my colleagues that the remarks of a number of my colleagues who spoke in the well, that it simply points out that at the end of the day there are different points of view and different perspectives, we arrive at different analyses, and we attempt to embrace different policies. That is what this process is all about, an honest and open exchange of ideas strongly felt in the marketplace. That is what this is all about.

We find ourselves, Mr. Speaker, in a different world. As I have said on more than one occasion, to the point of redundancy, the cold war is over, the Berlin Wall is down. We now find ourselves in the context of a post-cold-war era. It is very difficult for some of us to march into the future boldly, so many of us march cautiously. Some of us give up old ideas reluctantly. But I would suggest that this period in which we find ourselves is pregnant with enormous potential and enormous possibilities. It seems to me that we can paint bold strokes across the canvas of time and move boldly into a new world. We can also fritter away this moment, tinker at the margins of change because we are tempered by our caution, by our fear, and by our predilections to old ideas.

Mr. Speaker, I would challenge my colleagues to grasp new thoughts, new ideas, and move to new paradigms. The previous discussion simply points out that we come to this moment and view the world with different eyes. My hope is that we can all take off the old glasses of the cold war and put on the new spectacles of the post-cold war and march boldly into the future. With those remarks, Mr. Speaker, let me proceed to the conference report.

The conference report that we consider today would authorize approximately $263.8 billion in budget authority for fiscal year 1995, a defense top line equivalent to the President's original request.

Mr. Speaker, I would be remiss if I did not indicate that we received outstanding cooperation in our efforts with our colleagues in the other body, ably lead by the chair and the ranking member of the Committee on Armed Services of that body, and from the leadership of our own committee, including all of the membership, specifically my colleague and friend, the gentleman from South Carolina [Mr. SPENCE] who cannot be with us at this time because of devastation that has been visited upon his constituency; and the subcommittee chairs and ranking members across the total spectrum of the committee's jurisdiction. As usual, the House was well-served by our excellent committee staff who deserve our thanks for their tireless effort over these weeks.

I might digress and say, Mr. Speaker, that I do not make that statement to simply cast out words. There are often disparaging remarks made about staff people who serve this country. I would suggest that this institution could not work if it were not for the able, dedicated, brilliant, hardworking staff people. I happen to be fortunate enough to chair a committee where the level of staff capability is extraordinary, and every single day I see them working diligently, sometimes around the clock, to make sure that we meet our time deadlines and deal with our responsibilities. Words are not adequate enough to thank the staff for their very tireless effort. Sometimes the phrase "thank you" seems to be a trite phrase, but on behalf of myself and my colleagues, I would like to thank the staff for their extraordinary effort.

Finally, let me note that our outside conferees also played a constructive role and I appreciate their cooperation in this large and complex effort.

Mr. Speaker, the conference report continues the necessary reconfiguration of national security spending priorities in the post-cold-war era, a period of transition during which perceptions of our national defense needs were altered as a result of both significant continuing changes in world affairs and further analysis of the Department of Defense, the Congress of the United States and others regarding requirements for this period and the time beyond.

In this gentleman's humble opinion, Mr. Speaker, more could be done to reorient ourselves to this new reality more quickly. For example, more emphasis on preparation for peace operations, broader conversion efforts, the elimination of some redundant systems, and excessive force structure. But because periods of change create special challenges, it is understandable that most of my colleagues and the conference have chosen to proceed cautiously.

Mr. Speaker, we provide sufficient operations and maintenance funding, but our caution against change may leave us with too large a force structure and an acquisition program to guard against degradation of readiness. While some point to humanitarian and peacekeeping operations as financial draws on readiness, we can, Mr. Speaker, effectively reimburse the services for these operations. The same cannot be said for permanent expenses on unneeded equipment or force structure that misallocates resources that could more effectively maintain readiness.

In this regard, the conference rejected the effort to preserve explicitly the capability to produce additional B–2's and maintained the current cost and numerical caps on the B–2 program. The Secretary will study the bomber force capabilities and report back to the Congress in 6 months as to whether or not a shortfall exists for the near, mid, or long term and how it might be remedied, if indeed a shortfall exists.

During that process, Mr. Speaker, the Secretary may explore the range of options that are before him.

I believe, Mr. Speaker, is this gentleman's humble opinion that any reasonable course of action will not require a future purchase of B–2's, the actions that would represent the kind of excessive acquisition program that threatens our readiness. But in the future we will learn from the administration whether they share this gentleman's view or not.

Mr. Speaker, we must not let excess caution impede worldwide efforts to reduce forces and arms and the instability and danger that they create. Given our extraordinary superpower status, we are the last superpower standing. Mr. Speaker, we must exercise by example as well as words, the leadership necessary to create new strategies for conflict resolution, establish new arms reduction agreements as well as to secure our counter and nonproliferation goals.

We have made some important steps in this direction, such as the prohibition on backfitting the D–5 missile on our earlier Trident submarines and requiring that any antiballistic missile work be compliant with the ABM Treaty.

The report seeks to ensure that our men and women in uniform are able to

VOL 140 PT 16 AG 12 — 18 1994 UMI

serve in an environment that is free from sexual harassment and discrimination and makes clear that the Congress expects the services to end the discrimination, to end the harassment against our service personnel.

We have also sought to provide a dignified quality of life for our personnel and their families by providing a pay increase that reflects a full cost-of-living adjustment as well as other important measures.

The conference report ensures that we have significant assistance programs for communities that face economic dislocation as a result of the decisions to close bases, shut down weapons manufacturing lines, or scale back our nuclear weapons program.

Mr. Speaker, in the international affairs arena, the conferees confronted three contentious issues:

We sought to bring pressure on the Bosnian Serbs to agree to a peace agreement in Bosnia and Herzegovina that would guarantee a viable Bosnian Government capable of exercising its rights in the community of nations.

□ 1630

The report would achieve this goal by the process of moving promptly towards a multilateral lift of the arms embargo on the Government of Bosnia and Herzegovina, if the Bosnian Serbs do not accept the Contact Group agreement by October 15.

With regard to NATO burdensharing, the conferees agreed to maintain the current limits on overseas troop deployments and establish a 2-year goal for NATO burdensharing requirements at 37.5 percent.

However on peacekeeping, the third and significant contentious issue before the conference, the conference could not bridge the gap, Mr. Speaker, between authorizing $300 million from DOD accounts for peacekeeping assessments and prohibiting such expenditures. These two positions were miles apart. The House could not proceed to the Senate, the Senate could not proceed toward the direction of the House. So we agreed to drop both of these provisions and live to fight this battle another day.

Our committee leadership agrees that developing a comprehensive peacekeeping program that can someday become law is vital to our national interests, and we have begun discussions as to how to proceed. It would be this gentleman's hope, and my statement to the Members, Mr. Speaker, that in the next Congress we will address the issue of peacekeeping and all of its ramifications in the hope that we not only can stimulate our own thinking but stimulate the thinking of our colleagues and the administration so that we can come to terms with the issue of peacekeeping. We have not adequately laid out the appropriate intellectual and political base for us to move forward in peacekeeping. This gentleman's opinion is that peacekeeping is a reality, it is an integral part of our national security apparatus as we march boldly toward the 21st century. But all of my colleagues do not agree, and when there is not a consensus, then we have to be part of the educative process, and then move our colleagues toward some consensus.

We could not do that in the context of this conference. It would be this gentleman's hope when we return to this point next year that we will have some kind of consensus in this post-cold war era.

Mr. Speaker, the House Committee on Armed Services will continue to work with the administration and our colleagues in both Chambers to achieve these and other lofty and outstanding goals. In the meantime, I believe that the report that is before the body deserves the support of Members on both sides of the aisle in that it provides sufficient reserves to meet our defense needs and properly moves to realignment of our Nation's forces to meet current needs.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from South Carolina [Mr. SPENCE], our ranking minority member of the Committee on Armed Services, has asked me to manage the bill in his absence this afternoon. As everyone has heard, a series of devastating tornadoes swept through South Carolina yesterday, and as we debate this conference committee report he is on his way back to South Carolina to meet with the officials to take care of the many problems caused by that storm.

Mr. Speaker, I would like to take this opportunity to commend the gentleman from California [Mr. DELLUMS], chairman of the full committee as well as the chairman of the Subcommittee on Research and Technology, for all of the fairness that they have shown this side of the aisle. While we disagreed many times, we have always had ample time to express that disagreement, and we want the Members on this side of the aisle to know we appreciate that consideration very much.

Mr. Speaker, before commenting on the conference report, I want to commend the chairwoman of the Subcommittee on Research and Technology, the gentlewoman from Colorado [Mrs. SCHROEDER], on the bipartisan manner in which she has conducted the work of the subcommittee during the 103d Congress.

Mr. Speaker, there is no question that through the bipartisan efforts of the members of our committee that the conference report we bring to the floor is a better bill than requested by the administration. However, this bill fails to address the monumental shortfalls in the funding needed to support the administration's own national military strategy. The administration is long on strategy and short—incredibly short—on resources to support that strategy.

Let me cite a few examples of where this administration falls far short of adequately supporting its strategy and our military men and women so necessary to support our Nation's military strategy:

The General Accounting Office recently confirmed what many of us have been saying ever since the administration announced its two major regional contingency strategy—that the Clinton military strategy is underfunded by as much as $150 billion.

Pay is not the principle reason our soldiers, sailors, and airmen decide to serve their Nation. However, they don't expect to have to resort to food stamps to be able to adequately feed their families. While it is incredulous to believe, we continue to hear more and more about this phenomenon. The Clinton administration's Department of Defense budget for the next fiscal year and for the remainder of the 5-year program only compounds the problem of inadequate pay. This year it requested only a 1.6-percent pay raise. The President talks a good game about supporting our military men and women, but it took our committee and the Congress' support to ratify a 2.6-percent pay raise for the next fiscal year. It is hypocritical in the extreme for the Commander in Chief to, on the one hand, demand more of his military personnel and their families while at the same time providing less in resources to do their missions and to expect some of those famiiies to have to use food stamps to feed their own families.

There are continuing signs of the hollow force structure of the 1970's being revisited as the defense budget continues to suffer the Clinton cuts. The administration's rhetoric again fails to match reality. While claiming increased readiness funding, the reality is that funding that we have provided for training and readiness is being diverted by the administration for other purposes. Further, our military people are being run ragged trying to meet the increased operational tempo required to meet ever-increasing administration deployment requirements. The recent case of a Marine Corps amphibious ready group having to redeploy after only 12 days of shore time after returning from 6-month deployment off Somalia is a prime example. The ill-fated F–15 Army helicopter friendly fire incident in northern Iraq is a case where ever-increasing demands on our people could have contributed to this tragic accident. The Undersecretary of the Air Force recently stated that as many as four times as many Air Force members are deployed overseas today as were deployed in 1989. The Air Force reports that some crews are on their fourth rotation to the Persian Gulf.

Finally, while the defense budget is being slashed, what is authorized and appropriated for the Department of Defense continues to be diverted by the administration for other purposes. So, while the American people are being told they are paying $263 billion for national security for next year, the reality is that billions upon billions of dollars are being used by the administration to fund non-DOD programs. A recent study by the Congressional Research Service estimates that nondefense spending by DOD has quadrupled from $3.5 billion in fiscal year 1990 to a projected $13 billion in fiscal year 1994. DOD funding of foreign assistance programs, traditionally funded within the State Department's budget, has gone from almost zero in fiscal year 1990 to over $550 million in this bill. The Department of Defense has become the administration's piggy bank to fund programs in the other departments. In this bill alone there is over $25 million for the Department of Justice; $50 million for the Small Business Administration; $43 million for the Farmer's Home Administration; $71 million for civilian youth programs; an estimated $300 million for Department of Commerce, Energy, Transportation, National Science Foundation, and NASA technology programs; and $13 million for summer and special Olympics.

Mr. Speaker, the Clinton defense strategy is not real. It is rhetoric. The budget cannot begin to fund the claimed strategy. The budget does not take care of our military men and women. The budget falls short of providing sufficient resources and people to meet deployment requirements. And the administration continues to try and fool the American people by claiming continued support for DOD budgets while it uses that very same budget for non-defense-related expenditures.

For these reasons, I cannot support this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. SPENCE. Mr. Speaker, before discussing this conference report, I first want to thank Chairman DELLUMS for his cooperation and his fairness during these past months of deliberation over this legislation. Regardless of any substantive problems I may have with elements of this conference report, as a whole, it is a stronger piece of legislation as a result of being forged in a bipartisan manner.

Mr. Speaker, if I limit my attention to just the specifics of this conference report, I believe we have clearly made a number of important improvements to the President's request. For example:

We have ratified a year-long effort to provide a full 2.6-percent military pay raise instead of the 1.6-percent raise proposed by the President. As I have stated on many occasions, I remain confounded by the mismatch between the President's rhetoric concerning his commitment to our people in the military and his proposals to deny these same personnel the pay increases they deserve.

We have readjusted the schedule on which military retirees receive their cost-of-living allowances in fiscal year 1995 to make it consistent with other Federal civilian retirees. Although I am concerned with using discretionary funds to adjust an entitlement program, this was an issue of fundamental fairness that had overwhelming support in both bodies. I hope we can work with the administration to find a smarter way of addressing the retiree COLA issue in fiscal year 1996 and beyond.

We have approved an emergency fiscal year 1994 supplemental appropriation for ongoing United States operations in Rwanda that fully funds DOD's costs through the end of this fiscal year. We will have to address DOD's fiscal year 1995 costs in Rwanda once we have a better picture of the operation's overall duration and cost.

We have added approximately $300 million into a number of underfunded readiness accounts. As has become evident over the past year, the services are having to operate well beyond their budgetary means and Congress is having to repeatedly come up with ways to "make whole" the increasingly stressed operations and maintenance accounts.

We have tried to enhance the administration's dramatically underfunded modernization program. Despite General Shalikashvilli's testimony that "modernization is the key to future readiness," in essence the administration's long-range modernization strategy is to do little more than delay important and costly decisions until such time that a future administration will be confronted with the need to breathe new life into the remnants of our defense industrial base in order to modernize the military services. The administration's "not on my watch" approach to investing in modernization is cause for great concern, and this bill's modest enhancements represent at least a small step in the right direction.

Finally, we have unequivocally rejected the administration's misguided plan to use the defense budget to pay for the U.S. share of U.N. peacekeeping operations. First, these costs have always been borne by the State Department and there is no logical reason why this practice ought to change. Second, the services are already spending hundreds of millions of precious O&M dollars each year to support global peacekeeping and humanitarian operations. Requiring DOD to also start paying the U.N. assessed fee is unacceptable in a budgetary sense and from a policy perspective, and could actually encourage the United Nations to continue expanding its global peacekeeping agenda if they believe the U.S. defense budget is their piggy bank. As a result of our decisive action on this front, I urge the President to reconsider this controversial cornerstone of his new blueprint for peacekeeping operations—PDD–25.

Unfortunately, Mr. Speaker, when you move beyond specifics and consider this conference report in the broader context of President Clinton's plan to cut the defense budget by more than $150 billion, this bill represents another downpayment on the administration's fundamentally flawed budgetary and strategic blueprint for our national security and our military forces in the turbulent years ahead.

It is increasingly apparent that the forces recommended by the Bottom-Up Review will not be capable of executing the two-war strategy, and if they could, even a fully funded Clinton defense budget plan would prove inadequate to support this force structure. The fact that the GAO recently reported that the Clinton defense budget is underfunded by as much as $150 billion only reinforces these troubling conclusions. The defense budget is headed toward post-World War II record lows as a percent of GDP and of Federal outlays; the services are being asked to do more with less and are therefore overextended; and as a consequence we are beginning to see problems across a wide-range of readiness indicators. We may not have a hollow force today, but the Clinton defense plan is heading us inextricably down this slippery slope that many of us remember from the late 1970's.

The solution to these growing problems is as obvious as it is apparently unattainable in the current political environment—that is to reverse the Clinton defense cuts.

I hope the day is not far off when enough of my colleagues on the other side of the aisle will join with a strong majority of Republicans in supporting a halt to the 10-year real decline in defense spending we have witnessed since the mid-1980's and insist on more robust funding for the Department of Defense in the outyears. The inevitable costs of waiting to reverse our current course far outweigh the investments we could and should be making today.

History has taught us time and time again that gambling with a penny-wise and pound-foolish approach to defense never pays long-term dividends but, instead, all but guarantees extraction of a painfully high human and monetary cost.

Mr. DELLUMS. Mr. Speaker, it is my pleasure to yield 3 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER], chairperson of the Subcommittee on Research and Technology.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding the time. I must say our chairman, I think, is one of the most patient and tolerant Members around as we have tried to craft a new bill for new times, and that has been very hard and very painful. But I think everybody on the committee has tried very hard to figure out how we make a smarter bill, because we know we cannot keep making larger bills. How do we really plan for the contingencies of the future and not let future generations down?

One of the things we have been doing in research and technology is trying very hard to figure out how we reconfigure the industrial base out there, because unlike any other time where we have downsized, there has been no civilian industrial balance equal to downsize into, so we have been trying to do all of the transferring of initiatives and every other thing we can think of.

This bill builds on some of the innovative things that were done last year and worked so well last year. We added loan guarantees this year so that small- and medium-sized companies could fast forward, and hopefully retain more jobs in that area that is so critical.

We did some other very exciting things this year. I honestly think we are going to do more for fighting crime in this bill than the whole crime bill that is being debated at the same time, because what we did last year was ask the Department of Justice and the Department of Defense to get together and find out what we had in the Department of Defense that could help the average law enforcement officer. We found almost everything in the Department of Defense would help the average law enforcement officer. In fact, the average law enforcement officer looked like Wyatt Earp, only he had a car instead of a horse. They really

VOL 140 PT 16 AG 12 — 18 1994 UMI

never had thought of the concepts that we talk about so much in the armed services about how to achieve force enhancement measures.

When only 9 percent of the crimes committed in America ever have any arrest made, it is very clear, while we won the cold war, we are losing the war on crime, because if 91 percent of the crimes do not have any arrests made, the idea gets around that crime pays. So we started looking at everything possible that would be transferable to the police.

Last April a memorandum of understanding was signed between the Department of Justice and the Department of Defense. This bill funds that memorandum of understanding. I think it is going to make a terrific difference, and it is going to create tremendous jobs because there are so many different entities out there that would like to buy into this.

We also have some very exciting concepts on telemedicine. The Department of Defense is way ahead of the civilian sector in telemedicine, mainly because they do not have to deal with some of the rules we have in the private sector. But once again, they are creating the way that we are going to be delivering medicine in the 21st century, and we are still looking at it like it is the late 19th.

So I think all of these things are very exciting, and we are looking forward to continuing to be smarter since we cannot just keep getting larger.

Mr. STUMP. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. HUNTER], the ranking member of the Subcommittee on Military Installations and Facilities.

Mr. HUNTER. Mr. Speaker, I want to thank the ranking member, the gentleman from South Carolina [Mr. SPENCE]. I know he has had to leave for a disaster in his area, and the chairman, the gentleman from California [Mr. DELLUMS], for what I think was a conference that process-wise was extremely fair, offered a platform for every Member that wanted to make his voice heard. The chairman has talked about many, many systems that were worked on, issues that were addressed and resolutions that came of those issues. I think we had a good working conference.

However, Mr. Speaker, I would be remiss if I did not say that the issue and the problem from my perspective with our national security apparatus is not the process but it is rather the top line. That is how much money are we going to allocate to national security, to national defense. We are slashing national defense $129 billion below the $50 billion cut that then-President Bush, then-Secretary of Defense Dick Cheney, and then-Chairman of the Joint Chiefs Colin Powell made several years ago.

□ 1640

And that $129 billion cut, make no mistake about it, no matter how well we massage the process, no matter how well we shift, cost shift, shift funds, streamline programs hurts national security, and to some degree it impacts on the quality of life for the men and women in the armed services, and to a large degree it impacts on readiness.

Let me just tell you, from the Military Construction Subcommittee chaired by the gentleman from Oklahoma [Mr. MCCURDY], upon which I am the ranking member, we are spending a ton of money on nonmission-related programs. Most of those programs have to do with the environment, with environmental compliance. We are spending billions on environmental compliance, much less on military housing, much less on mission-oriented programs.

We have a military today which reminds me of the military that I saw when I came into Congress in 1980. At that time in San Diego we had thousands of young military families that were on food stamps. This year 27 million dollars' worth of food stamps are being consumed by the uniformed services, because our folks do not make enough money. We had a lot of people getting out of the military then, about a thousand petty officers a month. I have not seen the last figures, but I know it is getting more and more difficult to retain high-level leadership in the armed services.

We had a large number of fighter aircraft, over 50 percent at that time, that were not fully mission-capable. We now have about 50 percent of the fighter aircraft that we had 7 or 8 years ago, and we are moving downward in readiness. Our depot-level maintenance this year was about 62 percent of the requirement. We met about 62 percent of the requirement of depot-level maintenance. We have a lot of systems, some of which came back from Desert Storm and still have not been repaired, still have not been refurbished.

Every time we ask our military leaders to comment on this, none of them, of course, being respectful of the civilian government and the Clinton administration, none of them say, "We are making a horrible mistake this year." What they all say is if we go 1 inch lower, if we do not have a budget next year that is robust, we are going to be in trouble.

My colleagues, I feel we are in trouble now. I feel that we face, while the Soviet Union has dissipated, we face a world which in the words of Jim Woolsey, CIA Director, is full of poisonous snakes, the pending problems in Korea with the development of nuclear systems, continuing problems in the Middle East, continuing problems in Bosnia, the emergence of China as the superpower that will replace the Soviet Union, and all of those issues mandate a continued strong national defense.

We have not met that mandate this year.

Mr. DELLUMS. Mr. Speaker, I yield 4 minutes to my distinguished colleague, the gentleman from Florida [Mr. HUTTO], chairman of the subcommittee on readiness.

Mr. HUTTO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this conference agreement. I want to also commend our chairman for his leadership and his fairness in the committee and in the conference, and likewise the ranking minority member, our colleague, the gentleman from South Carolina [Mr. SPENCE].

Mr. Speaker, I have been one of those who has been saying that I think that we are drawing down our defense too much too quickly.

As the leader of the free world, we have to maintain a strong defense, although there have been a lot of changes, and thankfully we can move to a lower level. But still we have to be vigilant and to maintain a strong defense.

But we have to live within reality, and that is the proposal that comes from the administration and the budget resolution that is passed by this Congress, but working within that framework, I think we have done a good job to provide for the armed services of the United States.

In the Readiness Subcommittee, which I chair, we have the largest segment of defense spending. This year we are providing $91.5 billion for the forthcoming fiscal 1995 for the operations and maintenance and the readiness of our forces.

One of the things that our subcommittee has been in the forefront of from many years ago when the late Dan Daniel was chairman of this subcommittee, and that is to improve the financial management of the armed services, and I believe that we have a strong commitment from the Secretary of Defense, Bill Perry, and the Comptroller of the Department of Defense, John Hamre, in improving that. They are committed to that and are working hard, and I believe it is going to improve significantly.

One of the things in this area that we dealt with has been the concerns of the Defense Business Operations Fund, or DBOF. This measure lifts the termination date of that, prohibits the accumulation of excess cash, requires DOD to notify Congress of transfers of money in and out of DBOF, and terminates the practice of advanced billing beginning October 1 of 1995.

DBOF consolidates the separate stock in industrial funds in the various service and defense commissary agencies to create one consolidated revolving fund controlled by the Defense Secretary. The services then make purchases from DBOF using their annual appropriation. DBOF also uses the capital budgeting principle under which depreciated costs of machinery are billed to the service that uses that machinery. The former system did not bill these costs to the services, so we have seen improvement. We are demanding improvement here.

We also have authorization for $141 million for the Inspector General that is meant to strengthen the I.G. criminal investigation, procurement, fraud, and auditing capabilities.

This House time and time again has voted to ask our allies for a greater share of the burden. We have adhered to that and authorized $400 million less than requested for overseas activities and trying to make sure that we move toward 37.5 percent that the chairman mentioned earlier.

Mr. Speaker, I am pleased that we have identified in our subcommittee nonreadiness areas where we can provide a pay raise for our troops and also to close the gap in funding on COLA's for our military retirees to provide equity for our military retirees.

All in all, I think that we have a good bill. I ask our colleagues to support this conference report.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, first, I would like to commend the outstanding work of the ranking member of the Armed Services Committee FLOYD SPENCE and Chairman RON DELLUMS in concluding a successful conference with the Senate. I would also like to thank their respective senior aides, Mr. Andy Ellis and Ms. Marilyn Elrod, for their expertise, counsel, and hard work throughout the process.

Mr. Speaker, I applaud the hard work of the conference committee in making some difficult choices within severe budget constraints. Chairman DELLUMS and his staff deserve tremendous credit for providing an open and fair process for Members on both sides of the aisle in an effort to craft the best possible piece of legislation.

While I will vote against this conference report, I do so not because of any displeasure with the work of the Armed Services Committee but because of the lack of budget resources the administration has dedicated to our national defense. I join with Congressman STUMP in believing that our defense budget is inadequate given President Clinton's stated goal of being able to fight and win two near-simultaneous major regional wars.

As I have said in this Chamber before, the dissolution of the Soviet Union, while reducing world tension, has not ushered in an era of tranquility. Instead, the demise of the cold war has ushered in a period of ethnic antagonism, civil strife, and regional conflicts that have contributed to wide-scale killing, starvation, and migration problems. As a result, the United States is challenged to develop a force structure that meets the full spectrum of near-term and future threats to the United States.

The Bottom-Up Review developed by the Clinton administration outlines a strategy that hedges against future threats to U.S. national security interests. It is a stopgap strategy with an insufficient budget. Unfortunately, the current administration is more concerned with cutting our defense capability—not building it up or ensuring that our forces are adequate to meet whatever challenges may surface.

It is ironic that at a time when the demands on our armed services continue to increase in areas like Haiti, Rwanda, Somalia, and no-fly zones over Iraq and Bosnia that we are debating further cuts to our national defense. As a member of the Armed Services Committee, I urge my colleagues to seriously consider the national security implications of this overcutting and vote "no" on this conference report.

Mr. DELLUMS. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, there is not enough money to go around for the Federal Government to perform its basic functions. There is not enough money for it adequately to provide for the national defense, one of the most fundamental responsibilities of any government.

The General Accounting Office recently reported that the Bottom-Up Review, the administration's basic document on defense strategy, policy, and structure, is underfunded by $150 billion over the next 5 years. The Department of Defense Comptroller says its only $40 billion. Only $40 billion?

Are we going to fund the Clinton force structure or not? If so, we need more Defense funds. If not, we need to change our national military strategy.

Mr. Speaker, this House, this Congress, this administration, this Nation, have got to come to grips with what is happening to this Nation's defense posture. I have made this point many times and I shall continue to do so.

Although the Congress and the administration have again refused to confront the fundamental defense issues this year, the conferees on the defense bill have done a good job within the funding limitations they were given. I am particularly pleased with the outcome with respect to military forces and personnel matters.

The conference agreement includes a number of important provisions—both for the effectiveness of the total force and for the welfare of the individual soldier, sailor, airman, and marine.

First and foremost is the pay raise for the troops. Although the budget proposed an ill-advised cap on military and civilian pay, both the House and Senate approved a 2.6-percent pay raise—the maximum authorized under current law.

The conference approved a House provision authorizing a cost-of-living allowance for servicemembers stationed in high cost areas of the United States, similar to the cost-of-living allowance overseas. This new CONUS COLA, as it's called, will be targeted toward enlisted personnel with dependents and will provide an important assist to young families who cannot afford the high cost of living in cities like Boston, New York, and San Francisco.

Concerned about the inequity between military and civilian retiree COLA's, the conferees approved moving the 1995 COLA payment date from October back to April, thereby conforming it to the Federal civilian COLA timing. This COLA equity provision is subject to similar action in the Defense appropriations conference deliberations.

The conferees agreed to a House provision that would provide the same protection to members of the military who report sexual harassment and unlawful discrimination that is given to military whistleblowers and also strengthened a Senate provision establishing a procedures for the review and implementation of the recommendations of the DOD Task Force on Discrimination and Sexual Harassment.

The conferees took a number of actions to enhance the viability of the Total Force:

The conference agreement increases the President's Selected Reserve call-up authority from 90 to 270 days. During Operation Desert Shield, DOD was reluctant to activate the Army National Guard round-out brigades because of the necessary train-up time. With this longer initial call-up period, the conferees have paved the way for increased reliance on the reserve and guard in the future as the size of the active forces continues to decline.

Members of the House should applaud conference approval of the Reserve Officer Personnel Management Act [ROPMA], which has already passed the House several times. This landmark legislation will standardize reserve officer career management and bring the reserve system more in sync with the active duty officer management system.

Reflecting the growing importance of the reserve component, the conferees also approved legislation which requires the Secretaries of the Army and Air Force to prescribe a charter for the National Guard Bureau. The provision also specifies the rank of the chief and vice chief of the bureau.

In today's tough budget environment, the conference agreement is a positive step toward watching out for our most important asset—our men and women in uniform.

VOL 140 PT 16 AG 12 — 18 1994 UMI

□ 1650

Mr. DELLUMS. Mr. Speaker, for the purposes of entering into a colloquy, I yield an additional minute to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to engage the chairman of the Armed Services Oversight and Investigations Subcommittee, Mr. SISISKY, in a colloquy related to one section of the conference report. Section 818 provides for the payment of restructuring costs under defense contracts. It requires a certification by an official at the level of Assistance Secretary or higher. My question is whether such a certification is required if the Government review and audit substantiates that savings in each fiscal year exceeds the restructuring costs in each fiscal year and the Government is never out of pocket?

Mr. SISISKY. Mr. Speaker, will the gentleman yield to me?

Mr. SKELTON. I yield to the gentleman from Virginia.

Mr. SISISKY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the conference report states that the certification must be signed by a senior level official when you are dealing with "projections of future cost savings." In the instance you describe, you are not dealing with projections of cost savings delayed to years after the Government pays the restructuring costs, you are dealing with savings to the Government realized from the inception of the restructuring project. In such a case, the Government would never be out of pocket and there would be no requirement for a certification by an official of Assistant Secretary-level or higher.

Mr. SKELTON. As I understand it, the purpose of section 818 is to protect the taxpayer in instances where the Defense Department is looking at savings down the road that are estimated or projected based on a large number of assumptions.

Mr. SISISKY. That is correct. We built in the requirement for a certification by a high-level official in order to assure that these projections got high-level attention. If we are not dealing with projections of future costs savings exceeding current restructuring reimbursements, but rather with a savings to the Government in each fiscal year that are captured in the contractor's restructuring agreement with the Defense Department, then there is no need for the extra bureaucratic step of high-level certification since there is no threat that the savings might not materialize.

Mr. SKELTON. Mr. Speaker, I thank the chairman of the subcommittee for that clarification.

Mr. STUMP. Mr. Speaker, I yield 1 minute to the gentleman from the State of Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to address the House today to pay personal tribute to the chairman of the Committee on Armed Services, the gentleman from California, Mr. DELLUMS, and also the 210 Members of the House of Representatives who sent Chairman DELLUMS a letter about our bomber force.

One of the things that I have been concerned with is the condition of our bomber force. And, as usual, Chairman DELLUMS responded openly. This is not a subject that he necessarily agrees with this gentleman from Washington about, but he listened to my case and he came up with a provision which, frankly, I think is very good for our country.

That provision will allow us to look at all the alternatives, including improvements in the weapon systems on all of our bombers, and I believe that the compromise that was worked out between Chairman DELLUMS and the chairman of the committee in the other body is one that will serve our country very, very well.

So again I want to thank the chairman for his professionalism, for the way he treats everybody in this House.

I told him the other day that without the other chairmen in the past, once they made up their minds, that was the end of the case. RON DELLUMS always listens, and I appreciate that.

Mr. Speaker, I rise in support of this conference report for the fiscal year 1995 Defense authorization.

One of the most important issues before this Congress is how to achieve the greatest return from restrained resources available for the defense of this country. In a new era, where conflicts emerge frequently with little or no notice, these difficult choices will determine whether we can, in fact, continue to provide for and maintain the best Armed Forces in the world.

I would like to commend the chairman, and the full membership of the Armed Services Committee for their outstanding efforts on this defense bill. I am particularly pleased that the conference report includes provisions to maintain readiness and provide fair compensation for the men and women in our armed services.

This authorization bill supports our defense posture of maintaining a sufficient military capability to address the two near-simultaneous regional conflicts. Inherent in this policy is the ability to project power unilaterally, at a moment's notice, anywhere in the world. This task becomes increasingly more difficult in a climate of reduced funding and as we reduce our forward deployed forces. In many cases, the only way we will be able to project power quickly and effectively is to capitalize on the military's most capable and responsible system, our long-range conventional bomber force.

Unfortunately the Bottom-Up Review did not adequately address the bomber force structure, other than to recommend a minimal number of 184 aircraft. And the Air Force budget request for this year goes even further to erode the conventional bomber force by supporting only 107 aircraft.

This conference bill addresses this very important problem by establishing an Enhanced Bomber Capability Fund. This provision reflects the Congress concern that the current bomber force structure is in fact inadequate.

The conference directs the Secretary of Defense to conduct a study on the military's bomber force structure requirements, and is directed to report back to the Congress on these requirements. If the Secretary determines that the current bomber force structure cannot meet these requirements, the Secretary is then directed to recommend alternative strategies to improve bomber force capabilities. I am convinced that any objective analysis will lead the Secretary to recommend an enhanced bomber force that builds on the synergistic advantages of long range, survivability, and smart precision weapons. I believe the B–2 smart bomber now in production is the right bomber for these difficult times. Those 210 members of this House wrote Chairman DELLUMS asking him to provide $650 million to preserve the bomber industrial base. As usual Chairman DELLUMS gave us a fair hearing and a fair outcome. Let the bomber study begin.

I am also pleased that the conference agreement provides for an aggressive program to provide more capable conventional weapons systems for whatever mix of bomber forces we ultimately decide upon, and authorizes up to $100 million to preserve core bomber industrial base production capabilities.

Again, I commend Chairman DELLUMS for his support of this program, and I urge Members to support the passage of this very important conference report:

ENHANCED BOMBER CAPABILITY FUND
(SEC. 133)

The Senate bill contained a provision (sec. 141) that would provide $150.0 million for a bomber industrial base fund and exempt those funds from the existing B–2 bomber cost cap.

The House amendment, contained a provision (sec. 132) that would provide that any expenditures by the Department of Defense to preserve the B–2 bomber industrial facilities would be charged against the B–2 bomber cost cap.

The House recedes with an amendment.

The conferees agree to recommend $125.0 million for an enhanced bomber capability fund. The conferees further agree to require the Secretary of Defense to conduct new analyses of both bomber requirements in the near term and long term, and, should the Secretary conclude that the planned bomber program does not meet those requirements, examine alternative strategies to enhance bomber capabilities to meet those requirements and report his results to the congressional defense committees no later than April 15, 1995. Requirements would be defined, and bomber capabilities measured, for three time periods: 1998, 2006, and 2014.

In the event the Secretary determines that additional bomber capabilities are required, he shall examine alternative strategies for acquiring them, including, but not limited to:

(1) acceleration of planned upgrades to existing bombers and additional munitions and support for them;

(2) initiation of a program to develop a new, lower-cost "next generation" bomber oriented toward conventional warfare; and

(3) a resumption of low-rate production of additional B–2 bombers, or variants thereof, oriented toward conventional warfare.

As part of these analyses, the Secretary shall determine those core capabilities, which would take extended periods of time or substantial expense to regenerate and which are in imminent danger of being lost, that are needed to maintain the ability to design, develop, and produce bombers in the near term or long term.

While the analyses are ongoing, the Secretary may obligate up to $100.0 million both to conduct these analyses and to preserve those parts of the core capabilities described above. The conferees believe that the Secretary should report to Congress where and why such funds are to be spent before obligating them. The conferees understand that, because these assessment of the bomber industrial base will proceed over time, the Secretary may determine at various times throughout the study periods the need to fund appropriate core capabilities of the base.

Following completion of these analyses and an interim report on bomber issues from the Commission on Roles and Missions, but not later than July 1, 1995, the Secretary shall report the results, and his recommendations thereon, to the congressional defense committees. Thereafter, he may obligate all remaining unobligated balances to implement his recommendations, including funds for further preservation of core capabilities, if he so recommends.

Should the Secretary conclude from his analyses that a new "next-generation" bomber is required, he may obligate up to $25.0 million for requirements formulation and conceptual studies for a conventional-conflict-oriented, lower-cost next-generation bomber.

The conferees agree that none of the enhanced bomber capability funds may be used for advance procurement of new B–2 bomber aircraft, including long-lead items, and that subsection (c) and (d) of section 131 of the National Defense Authorization Act for Fiscal Year 1994, which established cost and numerical caps on the B–2 programs, are unaffected by any provision in this act.

Mr. DELLUMS. Mr. Speaker, I yield 3 minutes to my distinguished friend, the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. I thank the distinguished chairman of the Committee on Armed Services, the gentleman from California [Mr. DELLUMS], for yielding, and particularly I would like to thank him for his cooperation throughout the conference on many issues, many pertinent to weapons programs that are very high priority for me.

But, of course, nothing was as challenging and probably as stressful, in all candor, for either of us as to the dialog. It was really positive. Sometimes it was hard-hitting dialog as to our concerns about the ongoing carnage in Bosnia. I think Members of the House know that the House was on record with a strong vote, with a 66-vote majority, for what, in essence, was a unilateral lift. The Senate at the time, in their wisdom, did not do such but came out, I believe it was 52 to 48 for a multilateral lift that was only in the form of a resolution at the time.

Obviously, that posed a challenge vis-a-vis the House position and the position of the other body. Before going into that a little more, I want to pay special thanks to the ranking member on the Committee on Foreign Affairs, the gentleman from New York [BEN GILMAN], and also other leaders, as to the unilateral lift effort, the gentleman from Michigan [Mr. BONIOR], and the gentleman from Maryland [Mr. HOYER].

I think with the chairman's cooperation and understanding and, I think, particularly some creative innovations put on the other side by SAM NUNN, I think in all reality and modesty it is safe to say that I think the Congress has achieved a major breakthrough as far as ultimately eliminating the horrible policy and the horrendous anachronism of imposing arms embargo on a sovereign state which is under massive international siege.

In essence, it is more complicated than this, but President Clinton has pledged for the first time to actively go to the United Nations to argue for a multilateral lift. If that does not work out by November 15, not as a matter of suggested policy or sentiment, if you will, but by binding legislation, there would be agreed to by the President nearly all U.S. active participation particularly, or military and other administrative efforts in the region, enforcing the arms embargo, would be eliminated permanently. That is the real message to the world, to the French, the British, and others, that we are not interested in going on with this policy.

I would say nothing in our legislation precludes the President from taking much more immediate action and asserting leadership, assuming the horrible, almost certain reality that the ongoing siege against Sarajevo and Bosnia goes on.

Just from today's wire service:

Bosnian Serbs, under pressure to accept the international peace plan, have tested to resolve of the United Nations in the past month, raiding U.N. weapons depots, cutting off the main commercial route into Sarajevo and shutting down the humanitarian airlift into the city for weeks, by shooting at U.N. Cargo planes.

Even the Pope, John Paul II, has made frequent appeals for an end to the war in Bosnia. He has often condemned ultranationalism in the former Yugoslavia and has urged the international community to do all in its power to disarm the aggressor.

□ 1700

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise in support of the conference report on the defense authorization bill.

This agreement provides the authorization for programs critical to our country's defense, including CVN–76; the new attack submarine, the Navy's F/A–18 and E–2 aircraft; the Air Force's F–22 Fighter; the Army's Apache and Comanche helicopters; and the Marines' V–22 tiltrotor and maritime prepositioning ship enhancement programs.

In addition, it provides a much-deserved 2.6 percent COLA for our military personnel, strengthens guidelines on sexual harassment, and equalizes COLA treatment for military retirees.

Though the conference report contains these positive elements, I must register my continuing deep concern about the downward spiral in defense spending. This is the 10th year in a row that real spending on defense will decline.

Meanwhile, the President's future years defense program—which in my view is inadequate—requires far more spending than his current budget plans allow. According to the GAO, this underfunding may reach $150 billion over the next 5 years.

This trend cannot continue. Reduced spending jeopardizes our country's security and puts the fine men and women of our military at greater risk.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Speaker, I am pleased to have been a member of this committee for the past 6 years. I have been honored to serve with great leaders like our current chairman and ranking Republicans. As I leave here, Mr. Speaker, I consider this committee one of the finer of the committees in the House.

Mr. Speaker, I am pleased to support this committee bill this year. I believe it is a fair bill. It was one that recognized the need to reduce our defense budget, but the tough years are ahead, and I would implore my colleagues who serve on this committee and who serve in this House to recognize that we have, in fact, preserved peace by having a strong military.

In fact, we probably only made about a 20-percent cut in what will be a need for a $150 billion reduction. As my colleagues know, this is the 10th consecutive year where we have had a downward spending pattern. We must make sure that we do not repeat the errors of the past and create a hollow force. It takes 9 to 12 years to create a good sergeant or petty officer. It takes 6 years to complete a submarine.

We must make sure we are preparing for the future. While we must be stewards for peace, we must also protect the democracy and the freedoms which we have.

This is an easy year relative to what we will face in the future. It is my hope that, as we move forward making difficult choices, that we do not sacrifice industrial bases for expediency in funding, that we do not sacrifice our people in uniform for lack of training dollars, that we do not sacrifice the research and technology for the willpower to

VOL 140 PT 16 AG 12 — 18 1994 UMI

make sure that our men and women in uniform in the future will have the highest technology. This is not a peaceful world. As we look at Korea, Iraq and the rest of the hot spots of the world, Mr. Speaker, let us never forget our duty here as members of the Committee on Armed Services in Congress is to preserve peace, but to protect our men and women in uniform.

Mr. STUMP. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN], the ranking member of the Subcommittee on Oversight and Investigations.

Mr. HANSEN. Mr. Speaker, as a member of both the Armed Services and Intelligence Committees, and as a conferee to the bill now before us, I want to inform our colleagues that I am worried about the direction that we are headed.

In good conscience, I could not sign the conference report—even though there are some positive provisions in the bill.

My main objection is that we are continuing the 10th straight year of real defense cuts. And, there is no end to the hemmoraging.

The administration's 5-year defense plan, which is already, in my mind, inadequate to defend against a two-region conflict scenario, is underfunded to the tune of $150 billion dollars. Don't take my word for it—the GAO has said as much just last week.

No amount of finessing the figures and adjustments for inflation is going to make-up that kind of a shortfall. Serious action needs to be taken by the administration—in conjunction with the Congress, in coming up with a plan to address the shotfall in next year's budget, and future budgets—before it is too late.

Our military readiness has already slipped to alarming levels in many areas—we are quickly returning to the days of the hollow force of the 1970's. We are once again seeing many of our personnel having to rely on food stamps to get by. We are seeing a large drop in the number and quality of recruits into the service, and a large exodus of our most qualified and experienced personnel.

We are seeing troops being asked to deploy for longer periods of time, taking them away longer from their families and working them nearly to the breaking point.

Our service leaders are having to cut back on training and flight hours—because of a lack of funds. They are having to cut many weapons modernization programs.

Critical depot maintenance and facilities repairs are going unfunded and the backlog increases every day.

Projected savings from base closures have not materialized—and is actually costing the Government money.

Ballistic missile defense is the victim of cut after indiscriminate cut, and is not receiving the appropriate amount of attention and support needed to counter the increasing threats of missile proliferation and terrorism—leaving our troops and populations vulnerable to such attacks.

Finally, the defense budget is being treated more and more like a giant cash cow—to be milked to fund programs and operations of other Federal agencies. this is another disturbing trend that must be stopped.

The bottom line is that we are cutting too much, too fast, and many of the cuts are turning out to be indiscriminate.

We seem to have forgotten the lessons of the past, rushing quickly to disarm ourselves and setting ourselves up to be unprepared for conflicts which are certain to arise in the future.

Sure, we all recognize that the end of the cold war allows for defense reductions—no one is arguing that—but I am here today to sound the warning to my colleagues that we have gone way too far.

Mr. Speaker, I have the utmost respect for my colleagues on the Armed Services Committee, and the chairman who is a hard-working and dedicated member.

I only hope that we can start now, to put together a strategy and plan to turnaround the trend for next year, and to recognize that we need to take action in order to prevent the coming train wreck in defense.

Mr. STUMP. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman from Arizona [Mr. STUMP] for yielding this time to me, and I want to compliment the chairman, as always, for being undoubtedly the most fair chairman in all of Congress, possibly ever, the staff for the great work they have done, but I think I would be mistaken not to mention my deep concern about the inclusion of language that the other body insisted upon that would allow the U.S. Marine Corps to buy three foreign-built ships in this budget when there are American ships in the ready reserve fleet already available for that purpose and also the change to the sealift account that would allow ships that were intended to be built in this country to be built overseas and merely converted in this country. This chairman in particular has done a stellar job of working to pass the national shipbuilding initiative to maintain this Nation's industrial base for shipbuilding, and it is particularly disturbing to see the good work of this committee and this committee staff taking one step forward being undone by the work of the other body taking three steps backward.

Mr. STUMP. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, there is a clear and present danger, a combined failed foreign policy, looking at 22 dead Rangers and 77 wounded in Somalia, left there to die without armor. There is a clear and present danger, defense cuts that are going to leave much of our military defenseless in the future. There is a clear and present danger, the Soviet Union building and increasing the number of nuclear submarines, typhoon class, and also increasing the number of their subs that cut our Atlantic communications cables.

I say to my colleagues, "Ask yourselves why there is a clear and present danger. You invade Bosnia, you're going to be looking at Russian troops. There is a danger."

Mr. Speaker, defense is being but too much, and, like the crime bill, socialized spending is not the answer.

□ 1710

Mr. STUMP. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the distinguished gentleman from Arizona for yielding me the time.

Mr. Speaker, as we consider the DOD authorization conference report, I would like to stress the importance of the language it contains on Bosnia and Herzegovina.

In some respects, I am very disappointed with the language on lifting the arms embargo on that country. It falls short of the amendment to the original bill, which the House easily passed in June. However, last week's vote in the Senate on this issue indicates that that Chamber is moving toward a stronger position than before.

I also believe it is unfortunate that, in the face of genocidal aggression, we are willing only to go as far as stating the right of a country to self-defense. Selected but substantial airstrikes against Serb militant positions in Bosnia and Herzegovina would be a more effective option, and I for one support that option in addition to lifting the arms embargo.

We need only look back at what has transpired in the two months since the House voted for the unilateral lifting of the arms embargo. The Bosnians unconditionally accepted and the Serbs effectively reject a plan offered on a take-it-or-leave it basis. Then, the Serb militants clearly violate the exclusion zone around Sarajevo. They brazenly closed corridors to the city and attack relief flights and U.N. convoys. They renew shelling of Gorazde, a safe haven allegedly protected by an exclusion zone. They renew ethnic cleansing in the North, in areas the settlement plan allows them to keep. These acts in the context of more than 2 years of aggression, justify doing something more.

That said, I commend the conferees—both House and Senate Democrat and Republican—for agreeing to useful language that moves us forward. The language calls for specific action to be taken by certain times. First, we will seek a multilateral lifting of the arms embargo; that is preferred by everyone. But, if it does not happen, we should not be bound to support an embargo that is considered by many to be completely illegal in the first place, especially if the Serb Militants continue to refuse to accept a settlement. It gives meat to the comments of Secretary of State Christopher, who noted that we cannot let this go on indefinitely," while innocent people are slaughtered because they cannot defend themselves.

Let me also acknowledge the efforts of the administration for working with the Congress on this issue, and seeking to accommodate the concerns of us who want to see greater action taken in regard to Bosnia-Herzegovina. While I believe some risks are worth taking, I recognize that these risks have to be considered carefully and that we have to work with our friends and allies in Europe and around the world, many of whom hold positions and opinions different from our own.

Mr. Speaker, I would like to say that I hope this report sends an important message—that we have not abandoned our principles and that we must therefore do something more than sit back and watch genocide occur. This language on Bosnia-Herzegovina, at minimum, expresses the view that something more has to be done than what we see now. The clock is ticking.

Mr. STUMP. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DORNAN], an able member of the committee.

Mr. DORNAN. I thank the distinguished gentleman from Arizona for yielding.

Mr. Speaker, this is "compliment" afternoon for our distinguished chairman, and it is richly deserved. In my 18-year span here, 2 years sitting on the sidelines because of reapportionment, I have served on many committees where there have been great bipartisan relations. It has been the byword of committees like the Committee on Science, Space, and Technology, most of the time with the Committee on Foreign Affairs, and certainly upstairs in the closeted Permanent Select Committee on Intelligence.

But this committee is a tough one to maintain cordial relations. We come at defense from so many different positions, particularly the liberal philosophy and the conservative philosophy. Our chairman has been someone who has kept a steady hand on the tiller and let all sides be heard. I do join in all of those compliments for him today.

I did not expect to be here today. I think most of us did not expect to be here until about 2 weeks ago. I had hoped to be in southern France. It would not have been vacationing, it would have been attending the memorial ceremonies for Operation Dragoon, which had for months been called Operation Anvil. It is where United States forces landed in southern France to begin, with all of our hard fighting forces in the 80-day Battle of Normandy, an end to the reign of terror of Nazi Germany across the face of Europe. And Audie Murphy, a young lieutenant, Medal of Honor winner of the Third Division fame, was taking his exploits from North Africa, Sicily and Italy, up to the coast of southern France. He went with the 45th Thunderbird Division on one side and with the 36th Division, which had more continuous combat time than any division in the United States, on the other side.

They were today, 50 years ago, securing the beach and letting the French forces land. The French had used paratroopers, just as we had at D-day a few weeks before. This is not to forget our men in the South Pacific, where our paratroopers were wrapping up the last Japanese resistance on Noumea Island. In the Marianas, as well as on Guam and Tinian, bloody fighting came to an end.

What wonderful forces we had then. We had a nation with a population of only 130 million-plus people. Here we are today with literally twice that population, 260 million people. Again that dreaded six-letter word is creeping back into those councils at the Pentagon about our military forces. That word is "hollow."

It is only beginning, but the signs are there that we are getting back to those dreaded times after World War I, after World War II, after the Korean war, and after the Vietnam war, when we started ax-cutting our military in order to funnel more money over into domestic programs of an uncertain destiny. And here we go again.

In Mr. DELLUMS' second term, his sophomore year, second year thereof, 1974, we crafted a budget, cutting back drastically for fiscal year 1975, as a result of a defeat inflicted upon ourselves in the Halls of this building, never having lost on the battlefield and totally dominating the seas over the coast of North and South Vietnam. Air supremacy, there wasn't a SAM missile left to be fired at the end of that conflict. But here we were, gutting our military. Yet in the 1975 fiscal year period, we purchased 273 new combat aircraft for our military forces.

Yet what are we doing this year? We are purchasing only one model type, 24 of the superb C and D models of the F-18 Hornet and 24 fighter or attack aircrafts. That is it.

Here are some other indications of the problems we have developed for ourselves. There is good defense staff work here by Andy Ellis. President Clinton campaigned all of 1992 on a promise of $60 billion in defense cuts, no more. Once in office, as a typical liberal Democrat, doubled it to $120 million. Then he began to bleed off readiness money into various causes.

This is a recent study that Andy Ellis found by use of the Congressional Research Service. We have quadrupled non-defense spending from fiscal year 1990, which was George Bush's first defense budget that he guided through with our committee's help here and in the Senate in 1989. It has gone from $3.5 billion in fiscal year 1990 to a projected $13 billion in fiscal year 1994.

Mr. Speaker, I include for the RECORD the entire report on non-defense DOD spending.

NON-DEFENSE DOD SPENDING: FURTHER COMPOUNDING THE CLINTON CUTS

As the defense budget decreases, the amount of non-defense activities and programs funded out of the defense budget continues to dramatically increase. This practice, historically limited to unrequested Congressional add-ons to the defense budget, has been embraced by the Clinton Administration as a means of furthering domestic and foreign policy goals at the expense of military readiness.

A recent study by the Congressional Research Service (CRS) estimates that non-defense spending by DOD has quadrupled FY 90 from $3.5 billion in FY 90 to a projected $13 billion in FY 94.

For example:

The Administration has requested $300 million in the FY 95 defense budget to pay for the U.S. share of U.N. peacekeeping costs. Heretofore, such costs have always been paid for out of the State Department's budget.

The costs of environmental cleanup have grown from $1.6 billion in FY 90 to almost $6 billion in FY 95.

Foreign assistance programs has grown from virtually nothing in FY 90 to over $500 million in FY 95.

Depending on how it's counted, defense conversion and reinvestment programs have accounted for somewhere between $2.5 to $3.4 billion in every Clinton defense budget to date.

DEFENSE JOBS: THE HUMAN COST BEHIND THE CLINTON CUTS

The FY 95 defense budget cuts more than 180,000 active duty, reserve and civilian personnel.

Put in perspective, DOD will cut, on average, 15,000 active duty, reserve and civilian personnel every month in FY 95. This is an increase over the average monthly cut in FY 94 of 12,000 personnel.

The FY 95 defense budget proposes to cut 86,000 active-duty personnel, following on the heels of a 464,000 cut in active duty personnel over the last four years.

By FY 99, DOD will have nearly 1.2 million fewer active, reserve and civilian personnel on the rolls than it did in the mid-1980s.

The Clinton Administration Bureau of Labor Statistics (BLS) estimated last year that defense-related private sector jobs declined by 600,000 as a result of the 1987–92 Bush defense cuts. Under the Clinton-planned defense cuts, BLS estimated the loss of an additional 1.2 million defense-related private sector jobs by 1997.

Put in perspective, this translates to an average loss of private sector defense jobs over a ten-year period of 10,000 per month under President Bush, and 20,000 per month under President Clinton.

The aerospace industry has not employed so few workers since Jimmy Carter was President.

VOL 140 PT 16 AG 12 — 18 1994 UMI

PERSONNEL READINESS AND MORALE: THE MOST IMPORTANT ELEMENT

According to Army Chief of Staff General Gordon Sullivan, "The quality of the Army will surely decline unless something is done about the way soldiers are compensated. Our compensation is considerably eroded. This loss of benefits, coupled with other aspects of downsizing, sends a negative message to our soldiers and their families. Long term readiness will suffer if we allow it to continue."

Last year, the President proposed to deny the military a 2.2% pay raise as required by law. At that time, the gap between military pay and comparable private sector pay was already at 12%. Congress rejected the pay cut proposal and fully funded the pay raise.

This year, the President proposed another military pay cut—requesting a 1.6% COLA instead of the 2.6% COLA endorsed by Congress last year and required by current law.

H.R. 4301, as reported out of the Armed Services Committee, categorically rejected the President's proposal and once again fully funded a military pay raise.

According to the Chairman of the Joint Chiefs of Staff, General John Shalikashvili, "Our structure is getting smaller and smaller with each year, but our commitments remain global in scope, and the range of activities we engage in are expanding."

From 1989 through 1993, the number of U.S. military personnel operationally deployed (excluding commitments to Desert Storm, Korea and Europe)—grew from 26,000 to approximately 154,000—nearly a 600 percent increase. At the same time, military end strength dropped 20 percent (from 2.1 million to 1.7 million).

Increased operational commitments result in lengthier and more frequent deployments of personnel.

MODERNIZATION: PASSING THE BUCK

According to the Chairman of the Joint Chiefs of Staff, General John Shalikashvili, "modernization is the key to future readiness."

Unfortunately, the Clinton Administration proposes to spend $93 billion less than the Bush Administration on modernization (i.e., research, development and procurement) over the next five years. The Clinton modernization cut follows on the heels of a 67 percent real reduction in procurement spending and a 20% real reduction in R&D spending since the mid-1980's.

The Administration's "strategy" actually delays modernization until the next century, increases the costs, and passes the responsibility for building a political consensus and securing the funding on to some future Administration.

This "strategy" does little to maintain a viable defense industrial base and even less for the near-term modernization of our forces.

The FY 95 procurement request is $12 billion below FY 93 spending levels—a reduction of 22% in just two years.

The FY 95 Research and Development represents a 9% reduction from FY 93 spending levels and request is $2.4 billion less than last year's FY 94 request.

Moreover, an increasingly large portion of the R&D budget is being spent on non-defense initiatives such as conversion, medical and environmental research.

While DOD procured 20 ships, 511 aircraft, 448 tanks and 175 strategic missiles in FY 90, DOD will procure only 6 ships, 127 aircraft, 0 tanks and 18 strategic missiles in FY 95.

Mr. DORNAN. Mr. Speaker, here are further dissenting views.

It is with great regret that I offer the following views on our work in conference with the Senate on the fiscal year 1995 Defense authorization bill. While there were some very positive steps taken by both the House and Senate Armed Services Committees toward maintaining and even improving U.S. military combat readiness, I fear we in Congress have again lost a golden opportunity to influence the short-sighted policies of this present administration with regards to the U.S. Armed Forces.

The military policies and budget set forth by this administration simply do not make sense. During a time of drastically declining defense resources, when we should be requiring the highest standards of performance and capability from those few retained on active duty, this President has decided to turn the military into a social laboratory. From lifting the ban against homosexuals to opening up combat positions to women to opposing efforts to discharge those who are AIDS/HIV positive and therefore nonworldwide assignable, the President has sought to use our Armed Forces as a domestic political tool rather than even addressing whether or not such policy decisions would improve combat readiness.

In addition to these narrow-minded political decisions, there is a dangerous hypocrisy resulting from a mismatch between the President's vague but growing foreign policy initiatives and continuing cuts to already reduced defense forces. Without clearly defining U.S. national interests or specific military objectives, the President has decided to offer U.S. military forces as the on call 911 forces of the United Nations and the rest of the world. Meanwhile, as the tempo for operations for our military continues to increase, including time away from home and family, the resources devoted to rewarding, training, and equipping these personnel continue to diminish at alarming rates.

This administration supposedly cannot find enough funding within the Federal budget to provide our military with a modest 2.6-percent pay raise; it cannot provide enough dollars for Army tank battalion commanders to exercise units above the platoon level; it cannot buy additional B–2 bombers to replace aging B–52 aircraft. However, in spite of these defense budgetary constraints, the President can find more than enough funding from the Department of Defense for humanitarian assistance, foreign aid, and defense conversion projects. How do these programs directly improve U.S. combat readiness? How do these programs help our forces cope with the ever increasing tempo of operations as a result of increased foreign commitments? If the President wants to use our military forces as instruments of his foreign policy, then he must give them the funding necessary to perform their mission including adequate pay, adequate training, and new and improved weapons systems. If the administration continues to gut the defense budget, then it must not continue to offer the U.S. military as the 911 force of the United Nations and the world.

What then, should our role be here in Congress to correct such shortcomings on the part of the executive branch?

First, we as members of the armed services committees should demand that the administration utilize some type of solid criteria before using military force and endangering lives. Any time we send troops abroad, whether it be for peacekeeping, humanitarian assistance, or direct combat, we must anticipate that the result could eventually be armed conflict. While we do not want to prohibit the President from acting as Commander in Chief, we do want to ensure that U.S. troops are not sent into areas where there are no vital interests or specific military objectives, that is Somalia and Haiti. I suggest the following 10 criteria, which I expanded on from a November 28, 1994, speech by then-Secretary of Defense Casper Weinberger, be used as the criteria for use of military force:

CAP WEINBERGER'S/BOB DORNAN'S 10 COMMANDANTS ON COMMITTING U.S. COMBAT FORCES

1. Thou shall not commit U.S. combat forces unless the situation is vital to U.S. or allied national interests.
2. Thou shall not commit U.S. combat forces unless all other options already have been used or considered.
3. Thou shall not commit U.S. combat forces unless there is a clear commitment, including allocated resources, to achieving victory.
4. Thou shall not commit U.S. combat forces unless there are clearly defined political and military objectives.
5. Thou shall not commit U.S. combat forces unless our commitment of these forces will change if our objective change.
6. Thou shall not commit U.S. combat forces unless the American people and Congress support the action.
7. Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty.
8. Thou shall not commit U.S. combat forces unless properly equipped, trained and maintained by the Congress.
9. Thou shall not commit U.S. combat forces unless there is substantial and reliable intelligence information including human intelligence.
10. Thou shall not commit U.S. combat forces unless the Commander-in-Chief and Congress can explain to the loved ones of any American soldier, sailor, Marine, pilot or aircrewman killed or wounded, why their family member or friend was sent in harm's way.

Next, we must address the growing threat of proliferation of ballistic missiles and nuclear, biological, and chemical [NBC] weapons/warheads. No other weapon can so directly threaten the United States, our allies, and forward deployed forces, as can these devastating weapons of mass destruction. Fortunately, the only direct defense against such weapons is now without our grasp, ballistic missile defense [DMD]. However, both this administration and this Congress have failed to provide funding for even near-term/low-cost BMD systems such as sea-based missile defense. We should immediately provide additional dollars for the handful of promising technologies that could deter, and if necessary defeat, the growing threat of ballistic missile attack from North Korea, Iraq, and elsewhere. Upper-tier sea-based systems on board Navy Aegis ships, Army theater high altitude area defense [THAAD], and Air Force boost phase intercept systems, are all near-team/low-cost technologies that should be developed and deployed now, not later when it may be too late.

in addition, we should immediately seek to repeal the outdated Anti-ballistic Missile [ABM] Treaty—a treaty with an evil empire that no longer exist—which threatens, as an obsolete political document, to limit the capability of even these modest BMD systems.

Finally, we as members of the Armed Services Committees must be more selective in approving which programs will receive scare defense funds. We should evaluate every defense dollar and policy decision in terms of combat readiness. If a program or proposal does nothing to enhance our military's ability to deploy, fight, win, and survive on the field of battle, we should consider opposing the program. In a tight budgetary period and a rapidly evolving world political environment, we cannot afford nondefense issues or programs to interfere with the much more pressing demands of troop morale, combat training, and weapons modernization. These should be our proper roles as members of the House and Senate Armed Services Committees.

Perhaps George Washington, our first President and first great military leader, said it best: "To be prepared for war is one of the most effectual means of preserving peace."

We in Congress should heed his advice and make sure that every precious defense dollar is used to train, equip, maintain, and prepare our brave soldiers, sailors, airmen, and marines for war.

Mr. DELLUMS. Mr. Speaker, I yield myself 1 minute for the purpose of entering into a colloquy with the distinguished gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. If the gentleman will yield. I would like to join in the praise for the distinguished gentleman from California [Mr. DELLUMS] for the work he has done as chairman of the Armed Services Committee.

Mr. Speaker, the Navy recently approved Milestone III for the submarine acoustic device countermeasure Mark IV program. The Navy originally intended to include funds for the program in their fiscal year 1995 request but because the Milestone III approval came too late the item was absent from the President's budget request. The approval was made in time, however, for the Armed Services Committee to include full funding, $12 million, in the House-passed authorization bill.

Funds were provided last year and I believe the Navy will request continuing funds next year. Fiscal year 1995 funding was problematic only because of the timing of the operational evaluation. It is my hope that the necessary funding may be provided in the fiscal year 1995 Appropriation Act and I seek clarification that, if we are successful, there will be no objection from the authorizing committee.

Mr. DELLUMS. I thank my colleague from Massachusetts and would like to reiterate the Armed Services Committee support for the ADC Mark IV program. I agree with the gentleman's account of the legislative history and I would add that if the defense appropriations conference report provides funds for the ADC Mark IV program, the Armed Services Committee does not object. I will also add that if the funds are appropriated, the item should not be treated as an unauthorized appropriation.

Mr. STUMP. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WELDON], a member of the committee.

□ 1720

Mr. WELDON. Mr. Speaker, I thank my distinguished colleague, the gentleman from Arizona [Mr. STUMP], for yielding time to me and for his leadership in managing this bill for our side and, once again, to our distinguished chairman for his leadership in a very fair process that has allowed us to reach this point. I will be voting for the bill today, but with grave reservations.

I spoke earlier during the rule and talked about my concerns in terms of where we are going with our defense number. Because I feel our defense should be based on the threat that is out there, not some arbitrary number handed to us. In fact, that is what we were given. We were given an impossible task this year to try to meet the needs that we have around the world with a set number that was given to us by the administration. That, in fact, will cut $128 billion over 5 years.

Mr. Speaker, a year and half ago we heard a lot of rhetoric in this room and inside the beltway about a word that I have not heard used for the last year. Remember the words "peace dividend"? Remember how the President talked about how we were going to have such a peace dividend that could be used for so many other purposes?

That peace dividend has now come to light in terms of what it is doing to American people. I want to talk about that. Because as we cut defense spending, even though we are committing our troops to more and more places, whether it is Rwanda or Somalia or Haiti or Bosnia or wherever we are going to send them, we are committing our troops at a time when we have less and less resources and also at a time when we are spending more on environmental remediation and more on defense conversion, of much of which I support. But in the end, Mr. Speaker, we have to cut the troops. And we have to cut people. That is happening.

This defense bill on the floor today will cut on a monthly basis 15,000 men and women per month next year from our military. These are men and women who voluntarily signed up to serve our country, and we are saying, "so long, we will see you later," 15,000 a month. But, Mr. Speaker, let us look beyond that. What is the economic impact? And we projected this 1½ years ago.

The Office of Technology Assessment and the Congressional Budget Office say if we make the cuts Clinton has called for it is going to have a devastating impact on the economy. Mr. Speaker, some would call that the peace dividend.

Let us look at those Americans who can now say that they are benefiting from the peace dividend. McDonnell Douglas, 67,000 Americans out of work, laid off in the last 2 years, Financial Times, August 11, 1994. Raytheon Corp., 4,400 workers in March of this year, over the next 2 years an additional cut will be made, Wall Street Journal, March 10, 1994. Boeing Corp., 28,000 people going out the door, 17,000 additional laid of in 1993, Aerospace Daily, January 20, 1994, 2,200 more in my home State of Pennsylvania the next 2 years.

Westinghouse Electric Corp., 6,000 workers in 1994, Washington Post, January 12, 1994. Martin Marietta Corp., 11,500 workers laid off since mid-1993, Washington Post, October 1, 1993. Texas Instruments, 11,300 workers from its peak of 24,500, Aerospace Daily, August 25, 1993.

General Electric Co., 750, 3,900, and 1,600 workers respectively; another round in 1994 will eliminate 4,000 more jobs, Aerospace Daily, August 23, 1994.

Pratt & Whitney Aircraft, they plan to reduce their work force by 38,800 employees and an additional 3,000 coming up next year, Aerospace Daily, June 14, 1994.

Hughes Aircraft and General Motors Corp., a subsidiary of GM, 34,000 employees, an additional cut this year of 3,200, Wall Street Journal, June 21, 1994. In California alone, the estimate is 200,000 workers, Wall Street Journal, June 21, 1994.

Mr. Speaker, this is our peace dividend. None of us have said that we could not cut defense to some extent. We have all said that. But we cannot make these wholesale Draconian cuts that hurt real people. Where are we going to put these people? Are we going to put them in retraining programs selling fast food hamburgers? Are we going to put them into retraining programs developing some new technology we do not have?

Mr. Speaker, this President is leading us down a bad path. Mr. Speaker, my career is as a teacher. I am not a lawyer. I spent my years teaching in the public schools of Pennsylvania, running a chapter 1 program outside of Philadelphia. There is nothing I would rather do than spend all of my money on helping with our domestic problems. But, Mr. Speaker, if we look at the lessons of history, we can never eliminate the Ayatollah Khomeinis, the Mussolinis, the Hitlers the Stalins and all of those other people who have risen to power to threaten our security.

Mr. Speaker, this President does not understand that. He is giving us an internationalist foreign policy with an isolationist defense budget. Cut our

VOL 140 PT 16 AG 12 — 18 1994 UMI

budget by dramatic means, end our resources, cut our readiness, cut our operating accounts but commit our young men and women to Haiti, to Bosnia, to Somalia, to wherever they are needed for U.N. operations.

The two things just do not go hand in hand.

Mr. Speaker, this has got to be the last year of this madness. We as a body have to stand up and say no. We have to stand up and say, let us base our security needs on the threats that are there. When our intelligence resources tell us that there is 70 hot spots around the world, 30 of which could involve this country, we have to able to respond. We are not doing that at this time.

Mr. STUMP. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DELLUMS] in return for the fairness that he has shown us.

The SPEAKER pro tempore (Mr. HASTINGS). The gentleman from California [Mr. DELLUMS] has 4 minutes remaining.

Mr. DELLUMS. Mr. Speaker, I yield myself 1 minute.

Mr. BROWDER. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Alabama.

Mr. BROWDER. Mr. Speaker, I rise to engage the chairman in a colloquy, and I will abbreviate my remarks.

Mr. Speaker, in the conference I understand that the conferees recommended a total of $520 million for the chemical-biological defense program with specific programs to improve our chemical and biological defense.

Is that the gentleman's understanding?

Mr. DELLUMS. Mr. Speaker, yes, the gentleman is correct in his understanding.

Mr. BROWDER. Mr. Speaker, if the gentleman will continue to yield, in our conference we have a pilot program called the reutilization initiative for depot-level activities. Is it the gentleman's understanding that this program will achieve, still achieve the goals of the House language?

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for his question. I would say that the conference committee has included the gentleman's concerns. They have been met to the best of this gentleman's knowledge.

Mr. BROWDER. Mr. Speaker, I thank the gentleman for his leadership and consideration.

Mr. Speaker, in the conference on the fiscal year 1995 Defense authorization bill, I understand that the conferees recommended a total of $520 million for the chemical-biological defense program; fully funded the budget request for the joint biological defense program by providing $52.9 million for research, development, test, and evaluation and $20.4 million in procurement; and recommended an increase of $16.6 million in Army chemical-biological defense research and development. I further understand that in accordance with the priorities submitted by the Army and considered by the conferees, the increased funds would be used to complete the upgrade of the Fox NBC reconnaissance vehicle, accelerate the advanced development of chemical warfare agent standoff detection systems, and increase exploratory development in biological and chemical agent detection technology. I also want to commend the conference for its support of a robust chemical-biological warfare defense program for our Armed Forces.

Mr. Speaker, in the House passed bill, there was a provision titled "Reutilization Initiative for Depot-level Activities." This provision directed the Secretary of Defense to carry out a pilot program to encourage commercial firms to enter into partnerships with depot-level activities for the purpose of demonstrating commercial uses that are related to the principal mission of the depots. Some of the major purposes for this program are to preserve employment and many of the unique skills currently in the depots, and provide for reemployment and retraining for employees who become unemployed as the result of downsizing.

It is my understanding that the conference committee agreement on this provision will still achieve the goals that the House intended.

Mr. DELLUMS. Mr. Speaker, the gentleman from Alabama [Mr. BROWDER] is correct in his understanding of the conference action. The conferees also provided additional funds under the counterproliferation technology program for field demonstration of promising and existing technologies for biological agent detectors and alarms, improved chemical-biological decontamination equipment and improved individual chemical-biological protective equipment. The allocation of funds for this latter effort will be determined by the Department of Defense as a part of the overall counterproliferation program.

Mr. Speaker, the conference committee has included language addressing the reutilization initiative for depot-level activities. As many members of the committee know, I, too, have been greatly concerned with finding ways to maintain many of the specialized skills and capabilities of our depot work force during this time of downsizing. The agreement contained in the conference report on this provision expands the original provision to all depot-level activities. I have also been assured by the Department of Defense that they fully support this provision and will take steps quickly to put this program in place.

Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Speaker, I rise in strong support of S. 2182, the 1995 Defense Authorization Act. I congratulate Chairman DELLUMS on bringing a bill out of conference that takes great strides toward establishing a blueprint for defense after the cold war. His leadership helped make the negotiations a success, and I was honored to be part of the conference committee.

The collapse of the former Soviet Union and the need to reinvigorate our economy presents an opportunity to reduce defense spending without damage to our Nation's security. As we set new priorities to reflect the fact that the United States is the only remaining superpower, we must keep in mind that maintaining readiness remains crucial.

The choices will be painful, and we will have to terminate obsolete weapons programs staunchly defended by parochial interests. We have started this process by killing exotic strategic defense systems and designating the bulk of missile defense funds for theater-level programs.

This is a step in the right direction, but as the defense budget continues to shrink, we must be prepared to make more difficult decisions about allocating scarce resources in a way that protects both our economic and national security interests.

Mr. Speaker, I urge my colleagues to support the conference report.

Mr. DELLUMS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I rise in support of this conference report.

Mr. Speaker, I rise in support of the National Defense Authorization Act conference report. This report is the result of long hours of work by my colleagues and our staff. Our task in finalizing this legislation has been difficult in these times of diminishing financial resources and growing diversity in situations around the world that require the attention of our Armed Forces. We have compromised, cut, and toiled to come within the budget limits demanded by the citizens of this Nation. At the same time, we have sought to give deserved compensation to our All-Volunteer Force and provide them with the best equipment possible.

In addition, this report continues to support our work in the North Atlantic Treaty Organization, the most successful alliance in history. And that provides us with important opportunities to sustain friendships with our cold war allies and build new alliances with former Soviet bloc countries through NATO's partnership for peace.

This legislation also takes positive steps in addressing servicemembers' needs, such as the program to assist our veterans suffering Persian Gulf syndrome and a provision to protect our servicemembers who report sexual harassment and discrimination. Finally, we have shown our men and women in uniform their service is worthy of the same 2.6-percent pay raise scheduled for Federal civilian employees in January 1995.

Mr. Speaker, I am proud to have worked with the conferees of the House and the Senate to write this legislation. We have succeeded, once again, in providing the United States with the finest Armed Services in the world.

Mr. DELLUMS. Mr. Speaker, I yield 90 seconds to my distinguished colleague, the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the conference report on the DOD authorization bill for fiscal year 1995.

This bill provides the minimum funding for our national security. However, I would prefer a higher level of funding for defense. I still believe that we have cut too much too fast when the world is still a very dangerous place. I still believe we need 12 army divisions, 22 fighter wings, and 12 operational carriers. We approved the requested end-strengths for all components except for the Naval Reserve and Coast Guard Reserve which we increased slightly. However, the end-strengths of both the active and the reserve components keep going down and any further reductions in future years will impact on our capability to meet our national security requirements. I think we have already made the necessary adjustments for the post-cold war world and a further analysis is needed for the future structure of our military.

Let me talk about some of the good things in this bill. The Reserve Officers Personnel Management Act, also known as ROPMA, is included. This is major revision of how we manage or National Guard and Reserve officers. The House has passed this act three different times and finally the senate has agreed to our bill.

Also included is a charter for the National Guard Bureau which defines the organization and responsibilities of this joint bureau for the management of the National Guard. We included language that freezes the number and the grades of the general and flag officers that manage the reserve components. We modified the mobilization authorization of the President to call up the Guard and the Reserves for a period of up to 270 days.

This should be ample time for National Guard brigades to be mobilized and deployed and not have a repeat of the situation in Desert Storm where these brigades were never used.

In the personnel area we approved a 2.6-percent pay raise, a Conus COLA, a 50 percent increase in the ROTC stipend, and we adjusted the military retiree COLA to take affect at the same time as Federal civilian retirees. We corrected a provision that recouped transition benefits from some of the Guard and Reserve members. We also corrected the law so that enlisted Reserve component members would compute their retired pay the same way as the officers.

Included in this bill is $510 million in direct procurement of equipment for the National Guard and Reserves. We also included in other accounts an additional $200 million in equipment.

We included extensive legislation to identify and treat veterans of Desert Storm who have been afflicted with Desert Storm illnesses. I totally support this effort. However, I do have a concern that some of the funding of this effort is wrapped up with the DOD-VA cooperative research funding. I don't want the ongoing program of joint medical research to be adversely affected by combining the programs.

I am also concerned about the provisions that transfer M-1 tanks to the Marines. This was done without the analysis and advise of the Joint Chiefs of Staff. It impacts on the Roles and Missions Commission which will be reporting back to the Congress in December. It prematurely decides that there are excess tanks in the Army and that all the National Guard requirements are a lower priority than both components of the Marine Corps. All of this was done without the JCS validating the Marine requirements. I am concerned that the Marines will now want Bradley vehicles, the refueling trucks, the ammo carriers, and the multiple launch rocket systems that normally go along with the Army M-1 tanks in combat. This tank transfer should be the end of this issue. I will oppose any further transfers of combat equipment.

All in all, this is a good compromise bill and I urge my colleagues to support it and vote for final passage.

□ 1730

Mr. Speaker, I want to thank the gentlewoman from Tennessee [Mrs. LLOYD], who is the chairman of the subcommittee. This is the last time she will be handling a conference of that subcommittee, and we commend her for the wonderful job she has done.

Mr. STUMP. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me once again express my appreciation to the chairman of the committee, the gentleman from California [Mr. DELLUMS], and also the gentlewoman from Colorado [Mrs. SCHROEDER], the chairman of the Subcommittee on Research and Technology of the Committee on Armed Services. I appreciate all the fairness they have shown me.

Mr. Speaker, a lot has been said about the inadequate funding in this bill today. I have to concur in that. I think one of the trends that disturbs me most was mentioned by the gentleman from California [Mr. DORNAN], and that is spending by the Department of Defense for nondefense purposes, which has grown to an astronomical $13 billion in 1994. I simply think we should not do this.

This defense budget is not real, the Clinton strategy is not real, it is mostly rhetoric, and we simply cannot provide sufficient resources and people to meet the deployment requirements.

Mr. DELLUMS. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, first, let me, at the conclusion of this debate on the conference report, thank all my colleagues and the staff on both sides of the aisle.

Mr. Speaker, let me finally, on behalf of myself and members of the committee, thank several of my colleagues who will not be returning to this place. This is a point of departure for a number of my colleagues: the gentlewoman from Tennessee [Mrs. LLOYD], the gentleman from Florida [Mr. HUTTO], the gentleman from Oklahoma [Mr. MCCURDY], the gentleman from Maine [Mr. ANDREWS], the gentleman from Rhode Island [Mr. MACHTLEY], the gentleman from Oklahoma [Mr. INHOFE], the gentleman from South Carolina [Mr. RAVENEL], and the gentleman from Arizona [Mr. KYL].

Some of them may be in the other body, Mr. Speaker; some of them may become Governors. Others will seek other vistas and other lives, and move in very different directions.

On behalf of myself and members of the committee, I would like to thank all those colleagues who came this way, who assumed the awesome responsibility and the extraordinary honor of serving their fellow human beings in the life and death issues that we grapple with here on a daily basis. I would say goodby to them and thank them very much for their services.

Mr. ABERCROMBIE. Mr. Speaker, I am pleased to support the final passage of the National Defense Authorization Act for fiscal year 1995. I believe that this measure moves toward a sensible and flexible defense structure which is necessary as we continue to battle the budget deficit and address a changing world order.

I commend the House Armed Services Committee under assiduous and adept leadership of Chairman DELLUMS for taking the bold step toward ushering in a new era with the end of the cold war. Indeed there are no experts in post-cold-war theory. We must continue to evolve with the changing world situations. Our opportunity to transition toward a defense structure which will provide for the changing roles and missions of the armed services is here and to ignore it would be to live in the past. I also laud the chairman for being a fair leader in hearing the concerns of all members of the committee and for working toward bipartisan cooperation in drafting this measure.

While I feel that we have produced a suitable bill for that we were provided, I do have some concerns. I am delighted to see that this measure provides for a 2.6-percent pay increase for military personnel; however, I am still troubled by the fact that there are many service members living in substandard quarters and subsisting on welfare and food stamps, especially at the junior enlisted level. The men and women of the our Nation's armed services deserve to have, at the very least, a decent home and enough money to feed their families. Our priorities need to be shifted from funding redundancy in weapon systems to taking better care of our personnel and their families.

During the past year, my staff was able to tour many of the military facilities in the State of Hawaii. They were appalled to find that the condition of many of the military housing projects would not meet code and were in violation of EPA standards. The base officials indicated that the funding for operations and maintenance did not allow them to make repairs or respond to environmental concerns as required. We have made tremendous investments in these facilities without providing the

VOL 140 PT 16 AG 12 — 18 1994 UMI

funding to maintain them. Our personnel need to become a priority. For this reason, I am very pleased to see that the committees have approved funding for military family housing in Hawaii in excess of the DOD request.

As we draw down our forces, I am also troubled by the substantial cut in the number of Reserve and Guard personnel. I believe that we may be cutting this resource too far, too fast. The Reserve and Guard forces provide us with a cost effective response to future contingencies.

Finally, from a global perspective, consolidating our military bases overseas also merits closer scrutiny. I am especially troubled by the situation in Okinawa, Japan. Okinawa, a prefecture of Japan, makes up less than 1 percent of the total land mass of Japan, but hosts more than 75 percent of all United States military bases in Japan. The people of Okinawa have spoken through my constituents in Hawaii to inform me of their predicament. Although they do not oppose U.S. forces being there, they are in dire need of land to develop their economy. For over 50 years, the people of Okinawa have been tolerant hosts.

I believe that the report requested of the Secretary of Defense in this bill will shed some light on the circumstances in Okinawa. Through this report, the DOD should see that certain key land areas remain underutilized, and that training missions such as the live-firing range which currently utilizes live ammunition to shoot over a densely populated village are hazardous to the health and well-being of the people in the neighboring community and should be relocated. If it would not be allowed in our neighborhoods, we should not be exploiting the goodwill of other countries. While I understand that action of this type requires negotiation with the Government of Japan, I do not see that as a obstruction. Military leaders in the area have assured me that some of the concerns of the Okinawan community can be alleviated without jeopardizing troop readiness or strategic objectives.

I also extend my gratitude to the staff of the House Armed Services Committee for their professionalism in assisting Members with the sundry provisions and initiatives that have come before them in the process of drafting this measure. I look forward to working with my colleagues as we continue down the road of redefining our military force structure and its changing role in the post-cold-war era.

Mr. PORTER. Mr. Speaker, I rise today in support of the conference report on S. 2182, the fiscal year 1995 Defense authorization bill. This legislation contains an important provision to limit spending on the Nation's two existing *Seawolf* submarines. Representative TIM PENNY of Minnesota and I authored similar legislation which passed the House as part of the first en bloc amendment offered to the House version of the legislation before us.

This legislation is vitally important given the recent developments in the *Seawolf* program. When TIM PENNY and I drafted and passed our cost cap, the estimated cost of these vessels was $4.673 billion, an amount over $330 million above what these vessels were originally expected to cost. Shortly after passage of our legislation, however, Navy Secretary Dalton revealed in a letter to Senator JOHN MCCAIN that the cost had gone up an additional $120 million, to $4.799 billion. This latest cost overrun—just one of the many problems which have practically defined the *Seawolf* program—will result in further gouging cuts in the budgets of important defense programs both inside and outside the Navy which find themselves today in tight budget straits. In an era of deep and increasing defense cuts, we cannot afford runaway programs like the *Seawolf*.

Mr. Speaker, it is my sincere hope that the legislation contained in the conference report will send a clear message to the Navy and the contractors involved in the *Seawolf* program that they need to improve their performance. If not, they will most certainly face additional interventions from Congress in the future.

I thank Chairman DELLUMS and Ranking Member SPENCE for their support of the Porter-Penny legislation and thank Representative PENNY for his leadership as well.

Mr. LAZIO. Mr. Speaker, I rise today to support the conference report on S. 2182, the fiscal year 1995 Defense authorization bill.

This conference agreement authorizes $264 billion for programs and weapons systems essential to our Nation's defense. In addition, it authorizes 2.6-percent military personnel pay increase, and directs the Department of Defense to establish programs for veterans suffering from the Persian Gulf syndrome.

However, it is disappointing that the conferees did not include a Senate-passed provision authorizing an additional $150 million to maintain the B–2 production line through fiscal year 1995.

The dismantling of the B–2 industrial base would leave the United States without strategic bomber production capability for the first time in 70 years. If for some unforeseen reason the United States would need to restart its bomber production, it would require billions of dollars to rebuild.

An ongoing study, requested by Congress, to determine the future role of land-based bombers should be completed early next year by the Commission on Roles and Missions. By preserving the production line for 1 additional year, Congress would be able to make a better informed decision regarding the B–2 industrial base.

Should the study find that it is in our Nation's interests to maintain the B–2 production, it is my hope that Congress will revisit this issue next year.

While I support passage of the fiscal year 1995 Defense authorization conference report, I do not support the exclusion of the $150 million proposed by the Senate Armed Services Committee.

Mr. GLICKMAN. Mr. Speaker, one of the provisions of the conference agreement authorizes $100 million for the reactivation of the Air Force's SR–71 surveillance aircraft. The conferees from the Intelligence Committee opposed this provision which represents, in my judgment, an unwise use of resources which will not address reconnaissance deficiencies, but may lengthen the time needed to develop the systems which can.

Nearly 5 years ago, a decision was made by the Congress and the Department of Defense to terminate the SR–71 program. This decision was based on the realization that, while the aircraft was capable of providing coverage of a wide geographical area in good weather, the information collected could not be transmitted quickly to those who needed it. Commitments were made to develop successor systems which are to combine all-weather broad area coverage with the ability to both stay over a target for an extended period of time and relay images to the ground immediately. Regrettably, an adequate level of support for the successor systems was not provided when needed, ironically as a result of actions taken by some who now argue strongly that the SR–71 needs to be brought back to bridge the gap those actions created. Delays in fielding those systems have resulted but are now being addressed. The fact remains, however, that the limitations which led to the retirement of the SR–71 remain, which perhaps explains why the aircraft was not reactivated for the gulf war, and why officials at the Department of Defense do not support its reactivation now.

The $100 million authorized by the conference report is a victory for nostalgia but will not provide a reconnaissance platform capable of responding to either current or anticipated intelligence needs. As pressure is applied to meet the high maintenance costs associated with the SR–71 and upgrade its sensors, more and more funds will be diverted from the development and procurement of the satellites and unmanned aerial vehicles which represent the future of airborne reconnaissance. In a time of severe budgetary constraints, it does not make sense to spend money on programs which have so clearly outlived their usefulness.

Ms. SNOWE. Mr. Speaker, while I remain concerned about the future of our Armed Forces, I rise in support of the fiscal year 1995 defense authorization conference report.

The strategy drawn from the Pentagon's 1993 Bottom-Up Review envisioned a much smaller military than the one that existed at the end of the cold war. However, many of us in this body, on both sides of the aisle, have serious concerns that the force structure outlined in the Bottom-Up Review is not sufficient to deal with two simultaneous major regional conflicts. Moreover, there is increasing evidence that the Bottom-Up Review force structure is underfunded. If so, then this seriously threatens the readiness and capability of our Armed Forces.

Yet, there is one thing that we can all agree on—that our military, regardless of its size, should be the best trained and equipped one that this country can field. The finest fighting force in the world requires nothing less, and the security of our Nation depends on it.

I support this conference report because it includes two key programs that are essential not just to national security but to the State of Maine as well.

Two of our military's premier weapons systems are made in Maine—the Aegis destroyer by Bath Iron Works in Bath, and the Mk–19 grenade machine gun by Saco Defense in Saco, ME. These two systems represent the best in Maine quality and craftsmanship, and they are vital to ensuring that our forces retain their technological superiority.

This conference report authorizes the procurement and construction of three new Arleigh Burke-class Aegis destroyers. The Navy plans to build more than 50 of these versatile warships which will be the backbone of our Navy's surface combatant fleet well into the next century.

The decline of the Soviet threat has created a dangerous and widespread misperception of an equally declining global threat. But the post-cold-war world is turning out to be one of great instability with numerous potential threats to our national interests. The men and women of our Navy will be asked to go in harms way to face those threats, and they deserve to be on the most modern and capable ship that we can build.

Bath Iron Works [BIW], with approximately 8,700 workers, is the largest private employer in the State of Maine and it is only one of two shipyards in the country capable of building these extremely sophisticated warships. These Aegis destroyers are not only important to our national security, they are crucial to BIW's economic security.

The construction of these destroyers is also vital to the health of our Nation's surface shipbuilding industrial base. As we struggle to help our private shipyards become competitive again in the world commercial shipbuilding market, the continued production of these Aegis destroyers ensures that we will preserve our critical shipbuilding skills.

In short, there is not only a national security need for these Aegis destroyers, there is a long-term economic need as well.

The same can be said for the Mk–19 grenade machine gun. The Mk–19 machine gun system has demonstrated its unsurpassed capability in Operation Desert Storm and during the U.S. deployment to Somalia. There is no other weapons system like it in the world. The Mk–19's unmatched versatility permits it to be mounted on a wide variety of Army vehicles, thus significantly enhancing a unit's combat capability.

Saco Defense makes the Mk–19, and it has about 400 employees. Saco Defense is also a world leader in its field.

This conference report recognizes the contribution the Mk–19 makes to modernization and readiness of our ground forces and it acknowledges the importance of preserving our small arms industrial base.

Earlier this year, an independent assessment panel of the Army Science Board completed a report entitled "Preservation of Critical Elements of the Small Arms Industrial Base." That report compared the U.S. Army's small arms inventory to the requirements expressed in the Army acquisition objectives and noted some serious shortages in four types of small arms.

One of these was the Mk–19 machine gun. The Army Science Board's report noted that the end State shortage of Mk–19's will be approximately 13,000 after completion of the planned procurements. This serious shortfall strongly suggested that the administration's fiscal year 1995 request for Mk–19's be reevaluated and revised. I am pleased that Congress has validated the importance of the Mk–19, and has revised the administration's request accordingly. our soldiers want and need the Mk–19, because they know that it could mean the difference between defeat and victory on some future battlefield. And Maine's workers need the jobs that these Mk–19's represent.

It is our responsibility as Members of Congress to ensure that when our military forces are deployed overseas that they are adequately trained and equipped. It is imperative that we ensure that these forces are as combat-capable as possible. I urge all of my colleagues to support this conference report.

Ms. MOLINARI. Mr. Speaker, I want to express my sincere disappointment that the conferees of this legislation did not keep the McCloskey-Gilman language to unilaterally lift the arms embargo on Bosnia and Herzegovina.

My colleagues, when this bill was sent to conference last June, the House had overwhelmingly supported requiring the President to end this embargo unilaterally by a vote of 244–178. Since that time, it has become evident that the Bosnian-Serbs are far from stopping their campaign of ethnic cleansing and human rights abuses. Need I remind my colleagues that these same Bosnian-Serb militants continue to kill and terrorize innocent citizens in Sarajevo on a daily basis. Meanwhile, any hopes for a peaceful settlement by the contact group have also been summarily rejected by these militant thugs.

Mr. Speaker, I sincerely hope that the conferees of the Defense appropriations bill—which contains a provision to unilaterally terminate the embargo by November 15 regardless of any action taken by the U.N. Security Council, the Clinton administration, or the Serbs—will follow the clear will of Congress on this issue.

Mr. MINETA. Mr. Speaker, I want to call attention to title XXXIV of the conference agreement on the National Defense Authorization Act for 1995. That title, by repealing the Civil Defense Act of 1950 and placing its authorities in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, transfers jurisdiction over the Federal Emergency Management Agency civil defense program from the House Committee on Armed Services to the House Committee on Public Works and Transportation.

That transfer, initiated by the House Armed Services Committee, means that effective for fiscal year 1995 the Public Works and Transportation Committee will have both legislative jurisdiction and oversight authority over the civil defense program for purposes of rule X, clause 1 of the Standing Rules of the House of Representatives. Thus, all bills dealing with this issue will be referred to our committee exclusively.

Mr. Speaker, I want to commend Chairman DELLUMS for taking the initiative on this matter and for acknowledging our Committee's new role in the future (see Committee Rept. 103–499, pp. 382–383). The conference agreement confirms this and programmatically, given our Committee's current jurisdiction over FEMA's activities, such a transfer makes sense.

Lastly, we will be working with the Armed Services Committee, the Office of Management and Budget, the National Security Council, and the Committee on the Budget to ensure that OMB transfers the non-defense—i.e., civil defense—portions of the FEMA budget out of the 050 budget function and into the appropriate budget account. Again, I thank the distinguished Chair of the Armed Services Committee, Congressman DELLUMS, and the conferees for their favorable resolution of this issue.

Mr. MCCURDY. Mr. Speaker, I have decided, with some reservations, to vote for this defense bill. It contains much that is important to the readiness and fighting ability of our Armed Forces. Our troops need these funds, and it is crucial that we move forward with this legislation.

But I am also here to issue a warning. We must take the actions necessary to preserve a strong defense. We must not cut too far, too fast.

As we all know, the Bottom Up Review simply does not have enough money to support its forces. Estimates place this shortfall at a minimum of $20 billion over 4 years.

Meanwhile, we continue the practice of front-loading, filling our defense plans with weapons systems without providing sufficient money to procure them when they mature.

And we continue to use the operations and maintenance budget as a cash-cow for everything from budget shortfalls to disaster relief. These extraneous activities are already undermining the readiness and combat ability of our forces.

We cannot cut more from our defense budget if we want to preserve a high-quality military. In fact, I predict that we will soon begin expanding the administration's defense budget requests in Congress rather than reducing them.

Make no mistake: we are reaching the end of the rope on military readiness, quality, and modernization. As a moderate Democrat committed to a strong defense, I have to be clear in my commitment that I will not support future defense bills that continue the present trend of defense cuts.

Ms. FURSE. Mr. Speaker, it is a great privilege to serve with Chairman DELLUMS on the House Armed Services Committee and I commend his visionary leadership as we move into the next century.

This conference report continues the reconfiguration of national security spending priorities called for in the post-cold-war era. There is, however, much more we can do to orient ourselves toward this changed reality. I remain concerned that we have not made the necessary adjustments in force structure and acquisition programs to enable us to respond to today's priorities. I look forward to addressing these issues in the coming years.

I was successful in my effort to require Nuclear Weapons Council approval of DOE study, development, production, and retirement of nuclear warheads and an annual report of those activities to Congress. This will end DOE's authority to unilaterally initiate this R&D and will put more sunshine on these activities.

I am very supportive of the enhancements made to the independent Roles and Missions Commission that was established last year. In their work through the coming year, I am hopeful they will make a comprehensive new analysis that we can use in our policymaking for today's realities, rather than relying on those developed for yesteryear.

One of my priorities this year has been to make sure we get the airlift we need at a price we can afford. The sense of Congress language in this bill regarding the importance of

VOL 140 PT 16 AG 12 — 18 1994 UMI

maintaining our aggregate airlift capacity should be made mandatory next year since our current plan to rely on a C–17-only procurement strategy will cause an airlift deficit for several years as we retire our core airlifter, the C–141.

I have been a strong supporter of efforts toward a comprehensive test ban and was pleased to see the House's language included in this bill urging the Conference on Disarmament to make all possible progress toward a CTB.

International peacekeeping is one key way to share the costs of defense and makes a great deal of sense if the United States does not want to play the role of top cop. If we engage in more international cooperation, we should be able to lower our defense costs. I am disappointed that House conferees refused to include any of the Senate's $300 million funding for peacekeeping.

Representatives FRANK, SHAYS, and UPTON and I sponsored an amendment in the House requiring increased burdensharing by our European allies that would have saved $5 to $10 billion over 5 years. The vote in the House was 268–144, yet this bill only states the goal that NATO allies pay 37.5 percent of nonpersonnel costs of U.S. presence there by the end of fiscal year 1996. According to DOD's calculations, they pay 36 percent now although their actual cash contributions are only 4 to 6 percent. The U.S. taxpayers are not being well-served by this massive subsidy to nations whose economies are, in many cases, healthier than our own.

The commercial derivative aircraft pilot program included in the bill is important in order to pursue the policy of acquiring nondevelopmental airlift aircraft that is so vital to maintaining adequate airlift. Keeping the cap on the B–2 program at 20 planes as this bill does makes sense, as does putting aside money to study future bomber needs.

Two other prudent steps taken include prohibiting the backfit of Trident II missiles into submarines currently carrying Trident I missiles and a reduction in funding from the administration request for ballistic missile defense.

The language I offered authorizing funding for a battlefield surgical tissue replacement technology was included; this holds tremendous promise for civilian medical applications as well, in cases of trauma wounds.

I am very excited about the potential for sharing with the Department of Justice the nonlethal technologies that have been developed by the Department of Defense. Support for that cooperation is contained in this bill. Law enforcement officials in my district found it very helpful to learn about those technologies at an event I sponsored there earlier this year where representatives of the Departments of Defense and Justice demonstrated some of these items.

There is substantial funding for advanced lithography in the bill even though it was reduced from the House-passed level. This successful cooperation with our private semiconductor industry has helped us regain our competitiveness in the world marketplace.

Our highly capable National Guard was given authority to serve medically underserved areas and a communication and electronics training facility at Camp Rilea in my district was funded.

I was pleased to see my request included for the Marine Environmental Research and Training Station. It will provide educational and training opportunities in environmental, marine industrial, and maritime studies to help foster regional economic prosperity and environmental integrity.

Funding at near the request level was included for environmental restoration and waste management activities at DOE defense sites. We have a responsibility to clear up after the excesses of the nuclear age.

I was particularly pleased that my amendments were included reauthorizing the Hanford Health Information Network and prohibiting disclosure of information gathered by the network.

I requested language that is in this bill funding market diversification feasibility studies, requiring notice for employees related to adverse budget actions, directing the Secretary to encourage greater participation in the technology reinvestment project by labor organizations, and requiring the Secretary to ensure that job creation resulting from TRP awards accrue to the U.S. economy. I also assisted in gaining loan guarantee assistance for small- and medium-sized defense firms to engage in dual use technologies.

I cosponsored legislation that was included in the bill assuring equity between military and civilian retirees as to when they receive their cost-of-living-adjustments. This restores deserved fairness.

The deadline was extended for a health maintenance organization-type program to be considered under the CHAMPUS reform initiative and several actions were taken to improve DOD's medical treatment of Persian Gulf war veterans.

Funding was added for the Defense Women's Health Program that we established last year. I cosponsored legislation that supports this bill's authorization on a reimbursable basis construction of the Women in Military Service for America Memorial. Programs on discrimination and sexual harassment are enhanced by this bill. As was demonstrated in this year's hearing with victims of sexual harassment, it is imperative that we strengthen those programs; we are losing too many outstanding members of our military forces.

Finally, we did two helpful things for families of Korea/cold war missing. A single point of contact within the Defense POW/MIA Office was established and policies for Vietnam era POW/MIA's regarding information disclosure were extended to Korea/cold war missing.

Mr. DELLUMS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HASTINGS). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HANSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 280, nays 137, not voting 17, as follows:

[Roll No. 404]

YEAS—280

Abercrombie	Gejdenson	McKeon
Ackerman	Gephardt	McKinney
Andrews (ME)	Geren	McMillan
Andrews (NJ)	Gibbons	Meehan
Andrews (TX)	Gilchrest	Meek
Applegate	Gillmor	Menendez
Bacchus (FL)	Gilman	Mfume
Baesler	Glickman	Mica
Barcia	Gonzalez	Miller (CA)
Barlow	Gordon	Mineta
Barrett (NE)	Green	Mink
Bateman	Greenwood	Moakley
Bellenson	Gutierrez	Mollohan
Bereuter	Hall (OH)	Montgomery
Berman	Hamburg	Moorhead
Bevill	Hamilton	Morella
Bilbray	Harman	Murphy
Bilshop	Hastert	Murtha
Blackwell	Hastings	Myers
Bliley	Hayes	Neal (MA)
Blute	Hefner	Neal (NC)
Bonior	Hilliard	Oberstar
Borski	Hinchey	Obey
Boucher	Hoagland	Olver
Brewster	Hobson	Ortiz
Brooks	Hochbrueckner	Orton
Browder	Hoke	Owens
Brown (CA)	Holden	Oxley
Brown (FL)	Horn	Pallone
Brown (OH)	Houghton	Parker
Bryant	Hoyer	Pastor
Byrne	Hughes	Payne (NJ)
Calvert	Hutto	Payne (VA)
Canady	Hyde	Pelosi
Cantwell	Inhofe	Peterson (FL)
Cardin	Inslee	Peterson (MN)
Carr	Istook	Pickle
Castle	Jacobs	Pomeroy
Chapman	Jefferson	Porter
Clay	Johnson (CT)	Poshard
Clayton	Johnson (GA)	Price (NC)
Clement	Johnson (SD)	Quillen
Clyburn	Johnson, E. B.	Rahall
Coleman	Kanjorski	Rangel
Collins (GA)	Kaptur	Ravenel
Collins (MI)	Kennedy	Reed
Cooper	Kennelly	Regula
Coppersmith	Kildee	Richardson
Costello	Kim	Ridge
Coyne	Kleczka	Roemer
Cramer	Klein	Rose
Cunningham	Klink	Rostenkowski
Danner	Kopetski	Rowland
Darden	Kreidler	Roybal-Allard
de la Garza	LaFalce	Rush
Deal	Lambert	Sabo
DeLauro	Lancaster	Sangmeister
Dellums	LaRocco	Santorum
Deutsch	Laughlin	Sarpalius
Dicks	Lazio	Sawyer
Dingell	Lehman	Schenk
Dixon	Levin	Schumer
Dooley	Lewis (CA)	Scott
Durbin	Lewis (GA)	Serrano
Edwards (TX)	Lewis (KY)	Sharp
Engel	Lipinski	Shepherd
English	Livingston	Shuster
Eshoo	Lloyd	Sisisky
Evans	Long	Skaggs
Everett	Lowey	Skeen
Farr	Lucas	Skelton
Fazio	Machtley	Slaughter
Fields (LA)	Mann	Smith (IA)
Filner	Manton	Smith (MI)
Fingerhut	Manzullo	Smith (NJ)
Fish	Markey	Smith (OR)
Foglietta	Martinez	Snowe
Ford (MI)	Matsui	Spratt
Ford (TN)	Mazzoli	Stenholm
Fowler	McCloskey	Stokes
Frost	McCurdy	Strickland
Furse	McDermott	Studds
Gallegly	McHale	Stupak

Swett	Torres	Waters
Swift	Torricelli	Watt
Synar	Towns	Weldon
Tanner	Traficant	Wheat
Tauzin	Tucker	Williams
Taylor (MS)	Unsoeld	Wilson
Tejeda	Upton	Wise
Thomas (CA)	Valentine	Wynn
Thompson	Velazquez	Yates
Thornton	Visclosky	
Thurman	Volkmer	

NAYS—137

Allard	Franks (NJ)	Nussle
Archer	Gekas	Packard
Armey	Gingrich	Paxon
Bachus (AL)	Goodlatte	Penny
Baker (CA)	Goodling	Petri
Baker (LA)	Goss	Pickett
Ballenger	Grandy	Pombo
Barca	Gunderson	Portman
Barrett (WI)	Hall (TX)	Pryce (OH)
Bartlett	Hancock	Ramstad
Barton	Hansen	Roberts
Bentley	Hefley	Rogers
Billrakis	Herger	Rohrabacher
Boehlert	Hoekstra	Ros-Lehtinen
Boehner	Huffington	Roth
Bonilla	Hunter	Roukema
Bunning	Hutchinson	Royce
Burton	Inglis	Sanders
Buyer	Johnson, Sam	Saxton
Callahan	Johnston	Schaefer
Camp	Kasich	Schiff
Clinger	King	Schroeder
Coble	Kingston	Sensenbrenner
Collins (IL)	Klug	Shaw
Combest	Knollenberg	Shays
Condit	Kolbe	Smith (TX)
Conyers	Kyl	Solomon
Crane	Leach	Stark
Crapo	Levy	Stearns
DeFazio	Lewis (FL)	Stump
DeLay	Lightfoot	Talent
Diaz-Balart	Linder	Taylor (NC)
Dickey	Maloney	Thomas (WY)
Doolittle	Margolies-Mezvinsky	Torkildsen
Dornan	McCandless	Vento
Dreier	McCollum	Vucanovich
Duncan	McCrery	Walker
Dunn	McHugh	Walsh
Edwards (CA)	McInnis	Waxman
Ehlers	McNulty	Wolf
Emerson	Meyers	Woolsey
Ewing	Miller (FL)	Wyden
Fawell	Minge	Young (AK)
Fields (TX)	Molinari	Young (FL)
Frank (MA)	Nadler	Zeliff
Franks (CT)		Zimmer

NOT VOTING—17

Becerra	Lantos	Slattery
Cox	McDade	Spence
Derrick	Michel	Sundquist
Flake	Moran	Washington
Gallo	Quinn	Whitten
Grams	Reynolds	

□ 1754

The Clerk announced the following pair:

On this vote:

Mr. Quinn for, with Mr. Grams against.

Mrs. ROUKEMA and Mr. GUNDERSON changed their vote from "yea" to "nay."

Mr. BARCIA of Michigan changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN ENROLLMENT OF S. 2182, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. DELLUMS. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 285) directing the Secretary of the Senate to make technical corrections in the enrollment of S. 2182, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. HASTINGS). Is there objection to the request of the gentleman from California?

Mr. STUMP. Mr. Speaker, reserving the right to object, I shall not object and I yield to the gentleman from California [Mr. DELLUMS], chairman of the committee, for an explanation of the concurrent resolution.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding.

By way of explanation, section 3136, as passed by the House would have prevented the Department of Energy from spending more than 50 percent of its program direction funds for Environmental Restoration and Waste Management until DOE had submitted to Congress the three reports comprising DOE's environmental baseline. Since these reports are due to Congress by March 31, 1995, if DOE delivered the reports on time, this fence on DOE's program direction funds would have had no actual effect.

The Senate bill contained no similar provision, Mr. Speaker.

In conference, the Senate and House agreed to reduce the fence on DOE's program funds from 50 to 20 percent. However, while the Statement of Managers, language reflects this intent, the language of section 3136 itself prohibits DOE from spending more than 20 percent of its program direction funds until it has submitted the reports. What it should say, and what the correcting enrollment does say, is that DOE shall not expend more than 80 percent of its program direction funds until submitting the reports.

Mr. STUMP. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 285

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 3136, strike out "20 percent" and insert in lieu thereof "80 percent".

(2) Amend the title so as to read: "An Act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.".

The concurrent resolution was agreed to. A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill. S. 2182, and the conference report thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–709) on the resolution (H. Res. 523) waiving points of order against the conference report to accompany the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. BENTLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 154, not voting 52, as follows:

VOL 140 PT 16 AG 12 — 18 1994 UMI

[Roll No. 405]

AYES—228

Abercrombie	Gonzalez	Oliver
Ackerman	Gordon	Ortiz
Andrews (ME)	Greenwood	Orton
Bacchus (FL)	Gutierrez	Owens
Baesler	Hall (TX)	Pallone
Barca	Hamburg	Parker
Barcia	Hamilton	Pastor
Barlow	Harman	Payne (NJ)
Barrett (WI)	Hastings	Payne (VA)
Bateman	Hilliard	Pelosi
Bellenson	Hinchey	Penny
Berman	Hoagland	Peterson (FL)
Bevill	Hochbrueckner	Peterson (MN)
Bilbray	Holden	Pickett
Bishop	Houghton	Pickle
Bontor	Hoyer	Pombo
Borski	Hughes	Pomeroy
Boucher	Hutto	Poshard
Brewster	Inglis	Price (NC)
Brooks	Inslee	Rahall
Browder	Jefferson	Rangel
Brown (FL)	Johnson (GA)	Reed
Brown (OH)	Johnson, E. B.	Richardson
Bryant	Johnston	Roemer
Byrne	Kanjorski	Rose
Cantwell	Kaptur	Rostenkowski
Cardin	Kasich	Rowland
Carr	Kennedy	Roybal-Allard
Castle	Kennelly	Rush
Chapman	Kildee	Sabo
Clement	Kingston	Sanders
Clyburn	Klein	Sarpalius
Collins (GA)	Klink	Sawyer
Collins (IL)	Kopetski	Schenk
Collins (MI)	LaFalce	Schumer
Combest	Lambert	Scott
Condit	Lancaster	Serrano
Conyers	LaRocco	Sharp
Cooper	Laughlin	Shepherd
Coppersmith	Lehman	Skelton
Costello	Levin	Slaughter
Cramer	Lewis (GA)	Smith (IA)
Cunningham	Lipinski	Smith (NJ)
Danner	Lloyd	Spratt
Darden	Long	Stark
de la Garza	Lowey	Stenholm
Deal	Maloney	Stokes
DeLauro	Mann	Strickland
Dellums	Manton	Studds
Deutsch	Margolies-Mezvinsky	Stupak
Dicks	Markey	Swett
Dingell	Martinez	Swift
Dixon	Matsui	Synar
Dooley	Mazzoli	Tanner
Durbin	McCloskey	Tauzin
Edwards (TX)	McDermott	Tejeda
Engel	McHale	Thompson
English	McInnis	Thornton
Eshoo	McKinney	Thurman
Evans	McNulty	Torres
Everett	Meehan	Torricelli
Farr	Meek	Traficant
Fazio	Menendez	Tucker
Fields (LA)	Miller (CA)	Unsoeld
Filner	Mineta	Velazquez
Fingerhut	Minge	Vento
Foglietta	Mink	Volkmer
Ford (TN)	Moakley	Waters
Frank (MA)	Mollohan	Watt
Frost	Montgomery	Wheat
Furse	Myers	Wilson
Gephardt	Nadler	Wise
Geren	Neal (MA)	Woolsey
Gibbons	Neal (NC)	Wyden
Gillmor	Oberstar	Wynn
Gilman	Obey	
Glickman		

NOES—154

Allard	Billey	Clinger
Archer	Blute	Coble
Armey	Boehlert	Cox
Bachus (AL)	Boehner	Crane
Baker (CA)	Bonilla	Crapo
Baker (LA)	Bunning	DeFazio
Ballenger	Burton	DeLay
Barrett (NE)	Buyer	Diaz-Balart
Bartlett	Callahan	Dickey
Barton	Calvert	Doolittle
Bentley	Camp	Dornan
Bereuter	Clay	Dreier
Billrakis	Clayton	Duncan
Dunn	Kreidler	Rohrabacher
Ehlers	Kyl	Ros-Lehtinen
Emerson	Lazio	Roth
Ewing	Leach	Roukema
Fawell	Levy	Royce
Fields (TX)	Lewis (CA)	Santorum
Fowler	Lewis (FL)	Saxton
Franks (CT)	Lewis (KY)	Schiff
Franks (NJ)	Lightfoot	Schroeder
Gallegly	Linder	Sensenbrenner
Gekas	Lucas	Shaw
Gilchrest	Machtley	Shays
Gingrich	Manzullo	Shuster
Goodlatte	McCandless	Skeen
Goodling	McCollum	Smith (MI)
Goss	McCrery	Smith (TX)
Grandy	McHugh	Snowe
Gunderson	McKeon	Solomon
Hancock	McMillan	Stearns
Hansen	Meyers	Stump
Hastert	Mfume	Talent
Hefley	Mica	Taylor (MS)
Herger	Miller (FL)	Taylor (NC)
Hobson	Molinari	Thomas (CA)
Hoekstra	Morella	Thomas (WY)
Hoke	Nussle	Torkildsen
Horn	Oxley	Towns
Hunter	Packard	Upton
Hyde	Paxon	Vucanovich
Inhofe	Porter	Walker
Istook	Portman	Walsh
Jacobs	Pryce (OH)	Weldon
Johnson (CT)	Quillen	Wolf
Johnson, Sam	Ramstad	Young (AK)
Kim	Ravenel	Young (FL)
King	Regula	Zeliff
Klug	Ridge	Zimmer
Knollenberg	Roberts	
Kolbe	Rogers	

NOT VOTING—52

Andrews (NJ)	Hall (OH)	Reynolds
Andrews (TX)	Hayes	Sangmeister
Applegate	Hefner	Schaefer
Becerra	Huffington	Sisisky
Blackwell	Hutchinson	Skaggs
Brown (CA)	Johnson (SD)	Slattery
Canady	Kleczka	Smith (OR)
Coleman	Lantos	Spence
Coyne	Livingston	Sundquist
Derrick	McCurdy	Valentine
Edwards (CA)	McDade	Visclosky
Fish	Michel	Washington
Flake	Moorhead	Waxman
Ford (MI)	Moran	Whitten
Gallo	Murphy	Williams
Gejdenson	Murtha	Yates
Grams	Petri	
Green	Quinn	

□ 1822

Mr. GILCHREST and Mr. KIM changed their vote from "aye" to "no."

So the Journal was approved.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 140

Mr. ZIMMER. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 140.

The SPEAKER pro tempore (Mr. FARR of California). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SENTELLE PANEL FAILED TO MEET ITS OWN STANDARD TO ACT IMPARTIALLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, yesterday I sent a letter to Chief Justice Rehnquist asking that a new panel be appointed to determine whether the Sentelle panel, first, met its own "perceptions standard" by removing Special Counsel Robert B. Fiske, Jr., and appointing Kenneth W. Starr and, second, whether the judicial function of the panel has been tainted by political influence.

Mr. Speaker, when the three judge panel of the U.S. Court of Appeals replaced Fiske with Kenneth W. Starr it stated that it was not their "intent to impugn the integrity of the Attorney General's appointee, but rather to reflect the intent of the act that, the actor be protected against perceptions of conflict. (T)he court therefore deems it in the best interest of the appearance of independence contemplated by the act that a person not affiliated with the incumbent administration be appointed."

Notwithstanding their own stated purpose for removing Mr. Fiske, the Sentelle panel has failed to meet its own standard and to act impartially.

In fact, they appointed an opponent of the incumbent administration.

At a minimum, the objective of instilling public confidence in the process by avoiding any appearance of partiality has not been achieved. At worst, it could be concluded that partisan politics played a significant role in the panel's decision.

Mr. Speaker, the Independent Counsel Act was enacted over 15 years ago in the wake of Watergate, following revelations of abuses and illegal activity by Nixon administration officials. The stated purpose of Congress was to establish a statutory scheme by which a special prosecutor outside the Department of Justice could be appointed to investigate and, if necessary, prosecute violations of criminal law by high-ranking executive branch officials. What was sought was a person free from divided loyalties and of actual and perceived conflicts of interest.

A second point and just as important, Mr. Speaker, is that the law established a process by which a rather unique legal entity—a three judge panel—would be set up with the sole function of selecting the independent counsel. It is arguable that the process is as important, if not more so, than the individual who is selected to serve as independent counsel.

For, it is that panel which is entrusted with, First, ensuring that public confidence is maintained; second, insulating the decision from political influence; third, making an unbiased judgment as to who can best carry out the mandate of the law fairly; and finally with fourth, acting with judiciousness.

The appointment of the three-judge panel was a further safeguard to make sure that, First, the public officials who are investigated are treated equally and fairly under the law and second, that the investigations of public officials be done by an individual whose judgment would inspire public confidence.

It almost goes without saying that even though the Sentelle panel is a rather unique creature of law, it is subject to the rules of judicial conduct governing officials of the court.

For example, statutory mandates and ethical guidelines require judges to recuse themselves from participation in cases where they may have special relationships with the parties or issues in a given case—or where there is a real or even apparent conflict of interest. It is not so much an act of questioning the integrity of the judge, as it is a matter of enhancing the public's confidence in the integrity of the decision.

Indeed, Mr. Speaker, it was for this purpose that the Sentelle panel stated that it was removing Mr. Fiske and installing Mr. Starr. Yet, we know that very serious questions have been raised about contacts that occurred between Judge Sentelle and Senator FAIRCLOTH, a leading critic of the administration and of Mr. Fiske, at a pivotal time during the panel's determination of who should serve as independent counsel.

Mr. Speaker, Bruce Fein, a conservative constitutional scholar who is no friend of President Clinton's, concluded in yesterday's Washington Times that "appearances are critical, especially in proceedings bristling with partisan ramifications. The Faircloth lunch, even if only trivialities were discussed, should have prompted Judge Sentelle's recusal." (Washington Times, August 16, 1994)

Mr. Speaker, in light of Mr. Starr's well-known political positions as well as the panel's means of selecting him, any conclusions that Mr. Starr may come up with will be questioned and the panel's stated intent to build confidence in the investigation will be undermined.

Both the process and the newly independent counsel are engulfed in a cloud of suspicion and cannot meet the level of public trust that are critical to such an important legal mandate as investigating the President of the United States.

□ 1830

HEALTH CARE REFORM: GOOD FOR SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. KREIDLER] is recognized for 5 minutes.

Mr. KREIDLER. Mr. Speaker, older Americans spend more today on health care, out of their own pockets, than they did before Medicare was enacted.

That's an astonishing fact. It shows what the relentless growth in medical costs has done, over three decades, to seniors' pocketbooks.

And it shows why senior citizens are so vitally concerned with the health care debate we will have on this floor. We must slow the inflation in health care costs for all Americans. And we must make sure every American has affordable coverage, guaranteed, with choice and quality. Senior citizens, who have worked all their lives, paid their taxes, and played by the rules, deserve no less than the rest of us.

The Guaranteed Health Insurance Act, which our Democratic leader DICK GEPHARDT has proposed, helps fill some of the biggest gaps in Medicare for our senior citizens:

It adds coverage for prescription drugs. This is one of the most devastating gaps in senior citizens' coverage today. Doctors can't treat patients effectively if they can't afford the drugs the doctor prescribes. And too many seniors on fixed incomes must choose between daily medicine or daily means.

It covers annual screening mammography for women over 65, to detect breast cancer so it can be treated early. Right now, Medicare only covers this procedure every 2 years.

It covers colorectal screening to detect colon cancer.

It improves mental health coverage.

It eliminates the limit on lifetime hospitalization.

It will put a cap on how much seniors have to spend each year from their own pockets, a feature of many private insurance plans which Medicare has not had. Seniors will know what's the most they might have to pay, and they can plan accordingly.

It expands managed-care plans under Medicare, offering additional benefits to seniors with no additional cost.

Finally, the Gephardt bill addresses the biggest worry for millions of families—long-term care. The bill includes a program of grants to States for home-and community-based long-term care services. It also sets standards for private long-term care insurance, so people can invest in this coverage with confidence and security.

These are all important and long overdue improvements. They will bring Medicare up to the standard of the best private insurance plans. That's what older Americans need and deserve.

But we also have to deal with the cost of Medicare. Senior citizens know, better than anyone else, that there's no free lunch. Medicare is the fastest-growing program in the Federal budget. Health care inflation is eating up the family budget and the Federal budget. Unless we find a way to control this inflation, we will never make a dent in the Federal deficit, no matter how many programs we cut.

That's why every health care bill on the table includes provisions to hold down future Medicare spending. The Gephardt bill reduces the rate of growth from 11 to 8 percent a year.

What does that mean? Some people will tell you that it means seniors won't get the health care they need. That's baloney.

Some people will tell you it's impossible to control health care costs—they just have to keep rising out of control, year after year. That's baloney too. If we can put the defense of our Nation, and the education of our children, on a budget, then we can put the health care system on a budget too.

Finally, we hear some people talk about Government-run health care—the worst thing in the world, they tell us. Medicare is not perfect, but it provides health security for people who worked hard, raised their families, and paid their dues.

I don't know anyone who would prefer to go back to the days before Medicare, not even those who voted against it 30 years ago. But I guess all those who complain about Government-run health care are really saying they want to get rid of Medicare.

All Americans will benefit from the Gephardt bill. But seniors will be real winners. The bill adds much-needed Medicare benefits. It controls costs, so seniors don't have to keep paying more and more out of their own pockets. And it provides security and peace of mind—not only that they will have medical care, but so will their children and their children's children.

I'm proud to be on their side as this historic debate begins and I urge my colleagues to support the Gephardt bill.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, at this time I would like to yield to the distinguished gentleman from California [Mr. COX].

WHITEWATER INDEPENDENT COUNSEL

Mr. COX. Mr. Speaker, I thank the gentleman for yielding.

I rise in response to remarks made by my Democratic colleague from Maryland, who took to the floor to complain about the appointment of an independent counsel to investigate Whitewater matters. I wonder, with issues of health care and crime weighing so heavily on the Chamber at the moment, why it is that a Member would take time out to focus on Whitewater, to complain about the fact that it is being investigated by an independent

VOL
140
PT
16
AG
12
18
1994
UMI

counsel appointed by, not the Congress directly, but by judges, a panel of judges convened at the request of Attorney General Janet Reno under a law supported by the Clinton administration and recently passed by the Democratic Congress.

I voted against the independent counsel law. I think the independent counsel law puts Congress and judges in the position of directing prosecutions, where we should not be. That is a violation of our notion of separation of powers. But the independent counsel law was urged upon us by the Clinton administration, by Janet Reno, and by the Democrats that control the Congress.

A three-judge panel was convened at the request of Janet Reno. Instead of leaving Mr. Fiske in his position, which would have been the result if Janet Reno had not requested that a three-judge panel be convened, they chose to appoint someone who did not have Mr. Fiske's conflict of interests.

□ 1840

We know not only that Mr. Fiske was appointed by the Justice Department and that he had announced in recent weeks that his investigation was leading into the Justice Department and the Justice Department's own involvement in Whitewater, but also that Mr. Fiske contributed to Democratic candidates for Congress; that Mr. Fiske had a 20-year relationship with Bernie Nussbaum, the White House counsel who, himself, had to resign as part of the Whitewater matters; that Mr. Fiske's clients had, in fact, borrowed money from Bill Clinton's State agency in Arkansas; and they had, in fact, sold land to the Whitewater Development Corp.

Nobody seemed to complain about these rather obvious conflicts of interest at the time. But now that there is a truly independent counsel appointed by three judges, not by Janet Reno, we are told that this is a terrible thing.

Who is this man Ken Starr? He was the Solicitor General of the United States. He was a judge of the U.S. Court of Appeals, approved unanimously by the U.S. Senate. In fact, he was selected just very recently by Democrats and Republicans on the Senate Ethics Committee to handle the very politically sensitive matter of going through the Packwood diaries. He was on Janet Reno's short list to be the special counsel, the position to which she named Mr. Fiske.

Why is it that we are hearing complaints that now, he is somehow a partisan figure? Perhaps it is because there is concern that a truly independent counsel will get to the bottom of Whitewater. Perhaps there is some concern that the coverup in the House Whitewater hearings was not total and complete and that more of this might come out.

I would hope that that is not the case, but it seems to me that it makes Congress look bad—and Congress already looks bad in its handling of Whitewater—to have Members of the body take to the floor and complain about the independent counsel who is just now beginning his work when, after all, he was appointed at the behest of the Attorney General who convened this three-judge panel.

Frankly, I have no idea whether Judge Starr will be a tiger or a pussycat. I do know that there is no member of the American bar with better legal credentials, and no member of the bar with a better reputation for fairmindedness and unimpeachable integrity—so much so that the Democratic and Republican members of the Senate Ethics Committee unanimously named him to the extraordinarily sensitive task of reviewing the Packwood diaries. I could go on at length about his credentials—a clerkship for the Chief Justice, partnerships in two national law firms, the youngest judge ever appointed to the D.C. Circuit, the Nation's second highest court. And I could go on about his character—his work for his church and for charities, his devotion to his family, the fact that after 15 years in Washington, and a longer time than that at the pinnacle of his profession, he is known as a man with no enemies, and—until now—virtually no critics.

But all that changed overnight when the court appointed Judge Starr to be the Whitewater independent counsel. Now we're told that Ken Starr is too partisan to serve because he is a prominent Republican lawyer who has contributed to political campaigns. Sounds a lot like Leon Jaworski—or Bob Fiske, who is, as the Clinton administration has reminded us ad nauseam, a very prominent Republican. And Mr. Fiske has given money to several political campaigns as well—including Democratic campaigns for, among others, the Republican Senate seat in New Hampshire. And, like Judge Starr, Mr. Fiske served in a key post in the Justice Department, during the Carter administration. Bob Fiske has yet another similarity with Judge Starr: they both were on the short list for special counsel that Bill Clinton's attorney general, Janet Reno, put together in January. Judge Starr was nonpartisan enough for Janet Reno then; he is also nonpartisan enough for the Bill Clinton now. On Tuesday morning Lloyd Cutler said categorically that, and I quote, "We have no reason to doubt the fair-mindedness of Ken Starr." The administration has said, and again I'm quoting, "The President does not think that Starr should step aside." And Mr. Fiske himself has publicly stated, "I can absolutely guarantee you nothing is endangered by the switch." Let me repeat that: Bob Fiske said that he could "absolutely guarantee you nothing is endangered" by Judge Starr's appointment. What do my Democratic colleagues know that Bob Fiske, Janet Reno, Lloyd Cutler, and the Clinton White House don't know? Why are they being more royalist than the King?

Then there is the court that appointed Judge Starr. Mr. Speaker, I'm no fan of the way the Ethics in Government Act provides for appointing independent counsels, and I voted against the law in part on that basis.

I think it is anomalous and in tension with the delicate balance created by our constitutional separation of powers. But the Clinton administration and the Democrats in Congress loved that law, and there was nothing about it they loved more than the way it allowed judges to pick the prosecutor. I could quote to you for hours from Democratic floor statements and committee reports calling that provision the linchpin of the bill; it was statements like that which led the court to find that continuing the Attorney General's appointee in office as independent counsel was contrary to the fundamental purpose of the law. But as soon as they reached that decision—as soon as an independent court actually had the temerity to appoint a truly, visibly independent prosecutor, the majority changed its mind.

The cataract of vilification and uninformed abuse that has fallen on those judges, and on Judge Starr, is truly astounding. I will not try to answer every one of the laughable criticisms that have been made. I will only point out that the court that appointed Judge Starr was composed of both Democratic and Republican appointees, and that these judges unanimously agreed that Mr. Fiske needed to go, and that Judge Starr should replace him.

The panel including Judge Butzner, appointed by President Kennedy to the district court and by President Johnson to the court of appeals, who has also served with distinction on the Judicial Ethics Commission. And Judge Butzner is no potted plant: he dissented from his colleagues' ruling on the Walsh report.

The panel includes Judge Sneed, who taught at Texas, Cornell, Stanford, and Duke before being named to the Federal bench, where he has enjoyed an enviable reputation for scholarship and integrity. As for the chief judge of the panel, Judge Sentelle, who has been singled out for particularly offensive abuse, he has served as a Federal prosecutor, a State and Federal district court judge, and—like Judge Starr—a unanimously confirmed judge of the D.C. Circuit, the second highest court in the land. I have a copy of the letter that the American Bar Association sent the Senate, unanimously attesting to Judge Sentelle's outstanding credentials for the bench. It is signed by Robert Fiske, who also joined in the ABA's endorsement of Ken Starr for the D.C. Circuit Court of Appeals.

The American people know why the Democratic Party has launched an indiscriminate smear campaign against four distinguished judges of both parties. They are aware that this is nothing but well-poisoning—an effort to discredit, in advance, whatever evidence of misconduct the independent counsel may unearth. It speaks volumes about my colleagues' confidence in their President that they feel this effort is needed.

Mr. Speaker, I was asked on "Crossfire" the other night how I would feel if the shoe were on the other foot, and Jimmy Carter's Solicitor General had been appointed to serve as an independent counsel during the Reagan administration. I think it is a revealing parallel. There were Carter administration lawyers, as there are Bush administration lawyers, whose roles in Government involved an engagement in policy and politics that would make their appointment as independent counsels inappropriate. The Solicitor General is not one of them. The post has frequently been held by judges, or by people who went on to be judges. And it is known throughout the legal profession as a position of unique responsibility, untainted by partisanship. The Solicitor General during the Carter administration, the late Judge Wade McCree, was, like Ken Starr, a widely respected Federal judge who resigned from the bench to serve in that post. Like Judge Starr, he was known for his fairmindedness. And I can attest, as one who served in the Reagan White House, that neither I nor anyone I knew in the administration would have said or believed that such an appointment was inappropriate, or anything other than a faithful execution of the mandate of independence required by the law. I certainly do not believe that we would have unleashed against him, or the judges who appointed him, the shameful campaign of ill-informed abuse and invective that has been directed at Judge Kenneth Starr.

[From the Washington Post, Aug. 10, 1994]

STARR, FISKE MEET AS DEMOCRATS CONTINUE TO PROTEST APPOINTMENT

(By Ruth Marcus)

Kenneth W. Starr, the new independent counsel investigating Whitewater, met in Little Rock, Ark., yesterday with his predecessor, Robert B. Fiske Jr., as the Democratic outcry over the appointment of a partisan Republican continued.

As evidence that Starr's partisan ties make him a bad choice to investigate Whitewater, one Democratic activist yesterday cited Starr's $1,000 contribution to a candidate for Texas lieutenant governor, Tex Lezar. Lezar has run "Whitewater update" radio spots criticizing the Clinton administration.

In one spot, Lezar says Deputy Treasury Secretary Roger C. Altman should resign, saying he "is caught in the middle of an apparent coverup by the Clinton administration." Lezar and Starr are longtime friends who worked together in the Reagan administration Justice Department before Starr was appointed to the federal appeals court here. Starr made his contribution to Lezar's campaign Feb. 14, before Lezar began the Whitewater attacks, and Lezar said yesterday he did not believe Starr was aware of the ads. James Carville, one of President Clinton's closest political advisers, yesterday called on Starr to withdraw from the investigation. "I think he should never have been appointed," Carville said.

Referring to federal appeals court Judge David B. Sentelle, who headed the panel that selected Starr, Carville said, "What is a political protégé of [Sen.] Jesse Helms [R-N.C.] doing appointing a potential senatorial candidate to a position like that? * * * Partisan politics is driving this whole thing." Starr had considered running for the Republican Senate nomination in Virginia. One of the authors of the new independent counsel law yesterday called on Starr to withdraw or make a full disclosure of his political activities to the court panel that appointed him Friday to investigate Clinton and Whitewater.

Sen. Carl M. Levin (D-Mich.) said the panel should explain "why it is that they've concluded that all of these political activities on his [Starr's] part do not create the very type of appearance problem which caused them" to decide not to reappoint Fiske.

Fiske had been named special counsel by Attorney General Janet Reno when the earlier independent counsel law expired. After the law was revived, Reno asked the court to reappoint Fiske under the law, but the court declined, citing the need for the "appearance of independence" in an independent counsel.

Another Democrat, Sen. Patrick J. Leahy (Vt.), said Starr should pledge not to enter electoral politics or to accept a political appointment after serving as independent counsel. "Here's a man who is talking about running for the U.S. Senate, who has always been named as a potential [Supreme Court] appointee if there's a Republican administration, and I think that if he's going to take this he ought to make it very clear that in doing so he's forgoing political ambitions."

Levin and the chief House sponsor of the independent counsel legislation, Rep. Barney Frank (D-Mass.), said they believed letters to the special panel that appoints independent counsels should be public record.

A group of Republican House members and a conservative group headed by one of Clinton's chief political opponents wrote the court to urge that Fiske not be reappointed. But there is no indication of the letters in the court file on the case, which contains only the four-page ruling naming Starr. Under the independent counsel law, no information about a case is released unless ordered by the special court in charge of appointing the counsels. The appeals court clerk, Ron Garvin, said Monday he was unaware of any letters. Through a spokeswoman, Sentelle declined to make public any letters sent to the court. "The general rule should be that if they're read they should be made part of the public record," Levin said of the letters.

"This is a public matter," Frank said. "This isn't some private deal between these wackos and the judges * * *. This is a pending case. I don't think you should be able to write secret letters to judges about pending matters." Frank said he did not believe Starr should step aside from the case.

I thank the gentleman for yielding to me.

Mr. GOSS. Mr. Speaker, I was going to speak about Haiti. I thought that it was very important that that timely response in response to the distinguished gentleman from Maryland be made.

The situation in Haiti is still terrible. We are now having a situation of rebellion going on in Guantanamo, disorders. We have the military police officers; 20 of them have been hurt in a melee down there. We have economic refugees asking to be taken back to Haiti. We have got asylees in Haiti trying to get out of harm's way. They cannot because of the sanctions that we have put on in that country.

We have taken a bad situation, and we have made it worse for true political asylees. We have made it worse for all Haitians, and we have certainly made it worse for the refugee problems which is now basically concentrated in a very miserable situation in Guantanamo.

I wish I could stand here and say we did not predict this, but we did predict this. This is a very bad policy. And we have got now the next potential coming up of this invasion which today's Washington Post said, "U.S. officials acknowledge that an invasion would be staged almost exclusively by U.S. troops."

That is absurd. There is no consensus for such an invasion. Even the United Nations is now trying to negotiate and sending an envoy to Haiti to negotiate a peaceful solution to the problem. This is the same United Nations that authorized anything we need to do to solve the problem in Haiti at our behest, at the United States behest so we could justify an invasion. Things are coming apart fast. We need a new policy in Haiti.

MIDDLE-INCOME AMERICA: PAYING MORE FOR LESS UNDER CLINTON-GEPHARDT HEALTH BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. EVERETT] is recognized for 5 minutes.

Mr. EVERETT. Mr. Speaker, President Clinton is now trying to dupe the American people into believing that the real group to benefit from the Clinton-Gephardt health plan are middle-income Americans. Sounds familiar—doesn't it—I believe candidate Clinton made a similar pledge about taxes.

In truth, the Clinton-Gephardt bill is a bad deal. Middle-income Americans will pay more for less. Let me repeat that: middle-income Americans would pay more money for less coverage under Clinton-Gephardt.

Mr. Speaker, if a businessowner wants to be successful and make a profit, he will offer his customer more goods or services at a lower price than his competitors.

But, unlike the real world, the President thinks he can fool the American people into paying more for less care. Apparently, Mr. Clinton missed the class on basic economics when he was at Oxford.

But, isn't this the same President who promised middle-income Americans a tax cut and then gave America the greatest tax increase in history? That's called a bait and switch. Let's take a closer look.

Under a Clinton-Gephardt system, middle-income Americans would be forced to buy a Government-sanctioned health care plan, regardless of whether they like their current policy or not.

These families would also be required to purchase benefits, many of them quite expensive such as drug and alcohol rehabilitation or abortion benefits, that they may not need or want.

Under global budgets and spending caps, there will be a tremendous amount of cost-shifting away from Medicare and Medicaid-eligible patients to those who have private insurance—hospitals and other providers will have little choice. The current Medicare reimbursement rate is on the average about 59 percent of what private insurers pay for the same procedures or treatment. In view of the funding limits and cuts in Medicare

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140
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16
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spelled out in the bill, the disparity in reimbursement rates will only widen. The bottom line is that middle-income Americans will pay the toll through higher premiums, higher taxes, and less care.

Mr. Speaker, this entire discussion could really be boiled down to one simple question, "Who pays?"

Who pays for creating Medicare part C which will expand the total number of Medicare-eligible individuals to roughly half the entire population?

Who pays for the approximately $170 billion a year in low-income subsidies provided for in this bill?

Who pays the 2 percent on health insurance premiums?

Who pays for the Clinton-Gephardt bill in lost or depressed wages, or with their jobs?

Who pays? The answer is simple—who pays now for the waste and fraud in our welfare system?

Who always pays? The middle-income American.

According to a study by the American Legislative Council, the average middle-income American worker who earns between $14,000 and $30,000, will lose anywhere from $660 to $2,300 per year in lost wages, under a Clinton-Gephardt-type employer mandate.

Why is that? Well, it's something that I don't think many policy wonks in the administration have had much experience with—it's called meeting a payroll. I have had to meet a payroll for more than 30 years now as a small business owner. Should a Clinton-Gephardt mandate be enacted, small business owners would be forced to pay 80 percent of the cost of a Fortune-500 equivalent benefits package whether they can really afford to or not. That leaves the small business owner with very few options at the end of the day. Either reduce the hours employees work, reduce their wages or eliminate their jobs altogether.

To highlight this point, an August 8th study by CONSAD Research indicates that in my State of Alabama, employer mandates in the Clinton-Gephardt plan will result in 18,824 people losing their jobs. What about the impact on the local economy? Mr. Speaker, I don't know about your State, but Alabama simply cannot absorb job losses of this magnitude.

In closing, let me say to my colleagues and to the American people watching tonight, Congress cannot seriously ask middle-income Americans to pick up the tab on more time. The alleged advantages of the Clinton-Gephardt plan for middle-income Americans ring hollow just like the ever-elusive middle-income Americans tax cut promised by the Clinton administration and the promise to "end welfare as we know it." Judging from the calls and letters I have received in my office, middle-income Americans are tired of being Washington's "fall guy."

The White House and the Democrat leadership have put on their best "trust us" faces regarding the benefits of the Clinton-Gephardt bill. This brings to mind a bit of wisdom from Abraham Lincoln about fooling all of the people all the time. But, the American people won't be fooled. The Clinton-Gephardt plan is based on paying more for less.

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EXCHANGE OF SPECIAL ORDER TIME

Ms. MCKINNEY. Mr. Speaker, I ask unanimous consent to exchange my time with that of the gentlewoman from Florida [Mrs. MEEK].

The SPEAKER pro tempore (Mr. FARR of California). Is there objection to the request of the gentlewoman from Georgia?

There was no objection.

THE TASK FORCE ON THE RADICAL RIGHT

The SPEAKER pro tempore (Mr. HASTINGS). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, there was formed by the majority party a task force called the Task Force on the Radical Right. They met for the first time last Thursday. They selected a chairwoman, the distinguished gentlewoman from New York, LOUISE SLAUGHTER, who is on the floor at this very moment. It was formed by the gentleman from California, VIC FAZIO, who has been my friend of almost 20 years, but he wears two hats.

The gentleman from California is the director or chairman of the Democratic Congressional Campaign Committee, whose principal job is to raise money to defend incumbents. He is responsible also to try and win all open seats and to try to defeat every Republican in the House. He also wears the hat of co-director, with the gentleman from Maryland, STENY HOYER, of the Democratic Caucus, which is the caucus of all the Democrats in the House. He is a very important man. So he forms this task force on the radical right immediately on the heels of a rather offensive speech given at the National Press Club in which he talked about fire-breathing Christians.

Then the gentleman from California [Mr. FAZIO], my friend, says he was not really talking about Christians, just the radical right. However, at this task force meeting on government ground, funded by taxpayers, taxpayers paying for the lighting, the air conditioning, said room, HC-7 downstairs, they had their meeting and they used up the time and taxpayers money of eight Capitol Hill police. Maybe that was to convey the impression that maybe some Operation Rescue unit was going to try and infiltrate the Capitol and make noise outside the hearing room.

Mr. Speaker, when they came out, one of the nine Members of Congress who showed up for this task force meeting said the following:

We think that religion should not be involved in politics. We are trying to figure out how we can dissuade churches from getting involved in partisan politics. Issues that ought not to have something to do with religion are being targeted by religious coalitions for partisan purposes.

Mr. Speaker, that was said by a gentleman seeking his third term, the gentleman from Virginia, JIM MORAN, of across the river. I drive through his district every night to get to the district of the gentlewoman from Virginia, LESLIE BYRNE, where I live when the House is in session.

Mr. Speaker, there was a Mormon at that meeting, a good friend of mine. We had three fellow Catholics, albeit they are Catholics who are in disagreement with the Magisterium of the church. They must certainly be in disagreement with Mother Teresa, on pro-life issues, and with Cardinal Connor, Cardinal Law, Cardinal Hickey, and all other Cardinals in the Nation, on special rights for homosexuals. But they are nevertheless proud to put "Catholic" after their biographies in the book.

Then there was a good Baptist from North Carolina, along with three Esipcopalians representing some pretty big churches.

Just last week, it just so happens that I passed by a poster shop in Alexandria, in Old Town. I saw in the window this poster that I remember from my youth, painted by Norman Rockwell, to inspire all of his fellow Americans during the Second World War, so that we had a clear focus on what we were fighting for. We were fighting the warlords of Tojo, the fascism of Benito Mussolini, and even Nazi jackboots of Adolf Hitler. We were fighting for freedom of worship, freedom of speech, freedom from want, and freedom from fear.

Mr. Speaker, I remember collecting as a 10- or 11-year-old each one of the covers of the Saturday Evening Post as these paintings came out. Here it is, the most important one of all, freedom of worship. I am sorry it is curling, but this cost me a couple of C-notes, because it is an original, printed during the war, on canvas-type paper. Look at that beautiful picture.

Let me help my colleagues, there. I know the gentlewoman from Georgia, CYNTHIA MCKINNEY, is on the floor now. She was at that task force on the radical right. There it is, the Norman Rockwell, one of the originals: "Save freedom of worship, each according to the dictates of his own conscience." Then there is a little pitch at the bottom about buying War Bonds. I wish I had this mounted on an easel.

Mr. Speaker, when I showed it to the gentleman from California, VIC FAZIO, this afternoon, being a good-natured fellow, VIC said, "There I am in the back row." No, it does not look like VIC at all. One woman in the front has her rosary through her fingers. It reminds me a lot of the nuns and the people I have seen on the front row of some of the Operation Rescue units in front of those mass-killing abortuaries.

Mr. Speaker, here is my problem. They all had this meeting. Not 70 hours later, Bill Clinton, at taxpayer expense, in either a limousine or Marine helicopter, comes down from Camp David, deep in Maryland, where there are plenty of nice churches. He goes to one of the most beautiful churches in this town. The title is a mouthful, but it is fun to say, because it covers the Christian waterfront: The Full Gospel African Methodist Episcopalian Zionist Church. It is a big, beautiful church, and it has a choir as good as any in the entire United States, and there is Clinton in front of that choir, Mr. Speaker, saying that God wants us to vote for this soft on crime, hug-a-thug bill.

Mr. Speaker, I ask you to take a deposition down at the White House from the First Family and ask why they used that beautiful church Sunday.

Mr. Speaker pro tem, since you were at that infamous meeting, I add this article to my remarks:

[From the Washington Times, Aug. 12, 1994]

HOUSE 'RADICAL RIGHT' SUMMIT HAS CONSERVATIVES CRYING FOUL

(By Cheryl Wetzstein and Laurie Kellman)

The "Radical Right Task Force," a closed-door summit of House Democrats, yesterday evoked calls of religious bigotry and misuse of public funds from Republicans and conservative groups barred from the meeting at the Capitol.

"This is a pathetic action of the Democratic leadership of Congress to continue their assault on people of faith and people who want to change Congress," said Rep. Bill Paxon of New York, chairman of the National Republican Congressional Committee.

"Why are they meeting on the taxpayer's dime to develop strategies against people of faith being involved in the political process?" asked Marshall Wittmann, director of legislative affairs for the Christian coalition. "I'm sure there's plenty of rooms at the DNC [Democratic National Committee]."

The meeting was arranged by Rep. Vic Fazio of California, vice chairman of the House Democratic Caucus.

"Given Fazio's well-publicized anti-Christian sentiment, these meetings smack of religious bigotry," said Andrea Sheldon, director of government affairs for the Traditional Values Coalition.

But Rep. James P. Moran, Virginia Democrat, who attended the 40-minute meeting, said it was "to discuss the issues that the radical right has focused on and how it will affect the legislative agenda for the rest of the year."

"We think that religion should not be involved in politics," said Mr. Moran, who is running for a third term. "We're trying to figure out how we can dissuade other churches from getting involved in partisan politics.

"Issues that ought not have something to do with religion are being targeted by these religious coalitions for partisan purposes," he said, adding that the "radical right" is partly responsible for yesterday's scuttling of President Clinton's anti-crime bill.

"They have a responsibility to define who is the 'radical right,'" Mr. Paxon said, adding that the task force's agenda and goals should be likewise clarified.

On Tuesday, Mr. Fazio sent a memo inviting "Democratic colleagues" to the meeting, which was to include "a general update and discussion on recent Radical Right activity."

The meeting was held in a House conference room in the Capitol and was attended by Democratic Reps. Louise M. Slaughter of New York, Mike Synar of Oklahoma, Richard J. Durbin of Illinois, Dick Swett of New Hampshire, Cynthia McKinney of Georgia, David Price of North Carolina and Sam Farr of California, among others.

Democratic House staffers guarded the door to the "members only" meeting, and, by special request, Capitol Hill police patrolled the halls and checked identification badges.

Members of the Traditional Values Coalition and the Christian Coalition waited outside the meeting door.

A spokesman for Mr. Farr, who won a special election for the seat vacated by White House Chief of Staff Leon Panetta, said "the main thrust of the meeting" was "non-profit groups vs. advocacy groups" and "When do [non-profits] cross the line and become advocacy groups?"

Nonprofits receive tax exemptions under the law, whereas advocacy groups do not.

According to House ethics rules, use of "official resources" for campaign purposes is prohibited and use of meeting rooms is restricted to "congressionally related purposes."

In recent months, many Democratic leaders—including Mr. Clinton, Surgeon General Joycelyn Elders, outgoing DNC Chairman David Wilhelm and Mr. Fazio—have denounced broadcasters and groups of the "radical right."

And, Mr. Speaker, to clarify Mr. Clinton's hypocrisy, I include the Washington Times editorial:

[From the Washington Times, August 16, 1994]

GOD AND THE CRIME BILL

So God wants the crime bill passed, does He? President Clinton didn't say where he had gotten the Word, but in an appearance at the Full Gospel A.M.E. Zion Church in Temple Hills Sunday he demanded that Congress "do the will of God" and pass the crime bill. Not a version stripped of the more controversial and wasteful provisions that led to its defeat last week, mind you. No, God, like Mr. Clinton, apparently wants the whole thing.

One can just imagine the outrage that would have resulted if, say, Ralph Reed of the Christian Coalition had headed for the pulpit to announce that his legislative agenda had the Almighty's imprimatur. Obviously, there's a certain amount of hypocrisy involved here. But this holier-than-thou approach to politics, so typical of the First Family, is also another unpleasant reminder that the Clintons simply do not believe there is room for reasonable people to disagree with them. Anyone who does is profane—meaning set apart from God.

For the more secular-minded out there, Mr. Clinton claims that critics have set themselves apart from police. "Now the Republicans say, well, there's too much money for prevention in this bill," he said in his weekly radio address. "They call it pork. Well, all I know is, all the police officers in this country know we need to give kids something to say 'yes' to."

Well, what do God and the police think of the bill's $10 million handout for a new National Criminal Justice Center in the district of Democrat Jack Brooks? It's an important question because the handout won't end there. As a press release from Lamar University, recipient of the $10 million, put it, "In 1986, Brooks and then-Senator Lloyd Bentsen had written into the Superfund Bill language that authorized $5 million to create the Gulf Coast Hazardous Substance Research Center. Since that time, the research center has received more than $16 million in federal funding."

Then there is the $20 million "Hope in Youth" program mentioned in this space previously. Actually the word "youth" appears exactly twice in the entire section, including the title. "Hope in Left-wing Activists" is more accurate, since it would fund "advisory organizations" to provide, among other things, a "multi-issue forum for public policy discussion." This is walking-around money for liberal activists to lobby for still more money.

And what about the $125 million for Juvenile Drug Trafficking and Gang Prevention Grants? The grants are supposed to "reduce juvenile involvement in organized crime." But aside from a few references to sports activities and "artistic enrichment," it's not clear how the $125 million is supposed to do that.

To Washington Post reporter Kenneth Cooper, complaints about pork-barrel spending in the crime bill are just cover for the real objections of the Republicans and 58 Democrats who voted against the crime bill last week. Their real problem is the crime bill's gun-control provisions, he "reported."

No doubt it's true that many lawmakers doubt that taking guns from law-abiding citizens will do anything to reduce crime. But complaints about pork are not new. Wisconsin Republican James Sensenbrenner Jr. wrote an April 6 column in the Commentary pages of this newspaper noting that the "House crime bill has several defects, but perhaps the worst defect is the $8 billion going to social-welfare programs. . . . I say they are a waste of money." Apparently a lot of Republicans agreed because more than 100 voted against the bill that month even though it included no assault-weapons ban.

The respective Senate and House crime bills cost $22 billion and $28 billion. Conferees "compromised" and settled on a total of $33.2 billion. So if anything there was even more pork than before.

If Mr. Clinton wants to turn his moral minority into a majority, he ought to strip out the pork and the gun control measures and give lawmakers a chance to vote on a measure that could really do something about crime. Editors here can't claim a higher authority for such a bill, but one suspects voters would say, "Amen."

URGING MEMBERS' SUPPORT FOR THE OMNIBUS VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. ESHOO] is recognized for 5 minutes.

Ms. ESHOO. Mr. Speaker, I rise this evening to urge my colleagues in the House of Representatives to support

VOL 140 PT 16 AG 12 — 18 1994 UMI

the Omnibus Violent Crime Control and Law Enforcement Act of 1994, Americans know today that this is called the crime bill, and insist that this bill retain the major provisions of penalties and prevention, and, Mr. Speaker, it must include a ban on assault weapons.

Mr. Speaker, as Members of this House, we know the cost of crime in our districts. We see the cost in broken homes, we see the cost in broken bodies, we see the cost of the emotional and physical trauma of the people that we are privileged to represent.

In my district, Mr. Speaker, there is a community by the name of East Palo Alto, in California. In 1992 this small community beat out the District of Columbia as being the murder capital of our Nation, per capita.

Today people are still frightened to leave their homes. There are many other parts of my district that are very well known for their wealth, but this is still part of the 14th Congressional District of California.

Mr. Speaker, just last night this small community of 24,000 people endured an armed robbery, a grocery store shooting, and a shooting in a local tenant complex. We must take every step possible to stop this random, senseless violence which plagues our neighborhoods and our communities, and we can do this by passing the crime bill, which will ban 19 specific assault weapons. These weapons, which include the Streetsweeper, which, by the way, was invented for use in South Africa for crowd control, at, thank God, another time in our history, are designed to kill people, not wildlife, not targets, but people, human beings, and now small children riding their bikes to and from school.

Mr. Speaker, what has this country come to? Does the NRA have no shame? They don't want prevention money in a bill to prevent crime, and they fight and pay for Members here to vote their way to continue to have these assault weapons on our street. I do not think they are on the side of America, and I do not think that is American. That is not something I ever want to stand next to.

Mr. Speaker, I am proud to have supported the rule last week, and I want to make sure that Members stand next to this abiding principle. If there was a time during this second year of the 103rd Congress that I believe the American people felt that their voices had been heard, that a special interest had been passed over, it was when we voted on the assault weapon ban. I think we need to climb that mountain again this week, and I think we need to stand tall and prove to the American people that our own political careers are not what we are here for, but the oath of office that we took when we stood on the floor of this House in this Chamber, that it was for them that we have come here. They deserve better.

Mr. Speaker, we had a press conference yesterday, and they were all women, women Senators and women House Members. We heard the stories of constituents who have lost their spouses as a result of these assault weapons being sold like candy on our streets, available to anyone that wants to use them for whatever insane purpose they may have in mind.

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I wish that the NRA was there. I wish that they could have stepped up to a microphone and given an answer to these citizens as to why they would lobby the way they do.

So, America, do not be fooled. This is not about pork. It is about another kind of pork. Prevention is not pork.

If you talk about community centers and what we can do for our children of this Nation, I know what I gave to my children, and you know what? It worked. That may be pork in Beverly Hills, but it is not pork in my community of East Palo Alto. Whether they are black or brown or yellow or white, regardless of what their background is, our children deserve a vote that is going to offer them the kind of prevention that law enforcement from around the Nation have come together and have come to the Capitol this week and said, "This is what we need."

Make no mistake about it, this word pork has had some contagiousness to it. But examine it, America, and listen to really what this is all about. It is about the money that is made on assault weapons. We want to ban them. That must be part of the crime bill. I urge my colleagues to put aside partisanship and what they think is best for their political careers. Do what we were supposed to do in coming here and taking our oath of office. Stand next to every American. Do the right thing and pass a bill that is going to do well by every citizen in America.

TRIBUTE TO OFFICER DENNIS N. GLIVAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. FINGERHUT] is recognized for 5 minutes.

Mr. FINGERHUT. Mr. Speaker, I rise today and invite the Members of the House of Representatives and all people across our country to join with me and the people of the 19th District of Ohio in honoring and paying tribute to the memory of Police Sergeant Dennis N. Glivar of Garfield Heights, OH who was killed in the line of duty August 14, 1994. Mr. Speaker, I also rise today to pay tribute to a civilian who was killed in this awful incident, John Bryant.

In the House of Representatives we are in the midst of a debate about how best to stop crime. While each Member of this body may have a different solution, all of us unite behind the brave men and women who put their lives on the line every day to protect their fellow citizens. Our police forces are the first line of defense against criminals who commit heinous acts of violence.

This past Sunday, Sergeant Glivar was fatally shot during a six-hour standoff with a gunman who was holed up in his apartment after shooting and killing John Bryant. Glivar and his fellow police officer, Lt. Thomas Kaiser, approached the home of the gunman in the hopes of peacefully disarming him. They knocked and ordered the gunman to open the door. The gunman fired several shots, killing Sergeant Glivar and injuring two other officers—Sergeant Thomas Kaiser and Patrolman John Mackey.

Sergeant Glivar, who was 44, joined the Garfield Heights Police Department in September 1972. He was promoted to sergeant in 1990 and was a supervisor for basic patrol. He was a lifelong member of the community, graduating from Garfield Heights High School in 1972. He attended Cuyahoga Community College and John Carroll University. He also served in the Coast Guard and Coast Guard Reserves.

Sergeant Glivar married his wife Debbie in 1983. They had celebrated their 11th anniversary the day before Sergeant Glivar was killed. Glivar always went home for lunch; he was devoted to his wife and family. He is also survived by his mother Helen Glivar, and his sister, Cheryl Janoviak.

Sergeant Glivar loved playing the drums and once played in a band with his late father. He was an avid scuba diver, an amateur meteorologist and had earned a black belt in karate.

Mr. Speaker, this tragic incident began with the shooting of a civilian, John Bryant, who was murdered in cold blood by the same killer who murdered Sergeant Glivar. Mr. Bryant was a 28-year-old man with his life in front of him. He and his girlfriend were walking home from the supermarket when the gunman emerged from a nearby apartment building. The gunman stopped about 10 feet from the couple, uttered a racial slur, and then shot Mr. Bryant in the chest. We cannot find words to express our grief and sorrow at this senseless death.

It is particularly shocking that John Bryant was singled out by this madman because of his race. Mr. Speaker, we know we cannot banish hatred from the hearts of angry men, but surely incidents like this should cause us to redouble our efforts to fight racism of all kinds.

Mr. Speaker, the deaths of Sergeant Dennis Glivar and Mr. John Bryant remind us of our duty to both police officers and civilians in our community. Sergeant Glivar was willing to give everything, including his life, in the line of duty to protect his community. His family, all of Garfield Heights and our community have suffered an enormous loss.

Mr. Bryant's girlfriend, his family and friends, along with Garfield Heights and the entire community have likewise suffered because of Mr. Bryant's death. We mourn with both sets of families and friends.

We can only hope that these senseless acts of violence will teach us all that we must do everything in our power to prevent the killing that we have witnessed in the last few days. We pray with the families of these victims that they will find peace everlasting and that we will work for peace in our own communities on earth.

COMMON SENSE AND THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of North Carolina. Mr. Speaker, I am here again tonight to talk about the crime bill and the area of common sense.

Some months ago we did a special order on the area of deception, pointing out what many times this body passes is nowhere close to what the advertisement and the press headlines are about that particular piece of legislation. I recalled, for instance, the $8 billion that was supposed to be spent for earthquake relief for Los Angeles and all the hype that was given for the earthquake relief for Los Angeles. All of us felt a great deal of concern about the victims of the earthquake, and that $8 billion was passed. Then we found that almost $4 billion of it turned out to not even be close to Los Angeles, nor even close to a rumble of an earthquake. It went to Arkansas and West Virginia and various other places. I think one television network did, 3 weeks later, a special on that pointing out how much pork had been rushed in under the guise of being earthquake relief for Los Angeles.

We are finding it here again in the crime bill, or the so-called crime bill. Most of us in this country are seriously concerned about crime. The gentleman who just spoke before me gave evidence of a tragic situation where a police officer had been killed and a citizen before that police officer had been killed and I think all of us sympathize with the family of both of those victims, and we sympathize with victims all over the country. But we need to point toward what counts.

If you read a recent article in the National Review, they did a several-page study on the way we are releasing violent criminals. In fact, they pointed out nationally almost one-third of all violent crimes are committed by criminals on parole or pretrial release. They pointed out the shortness of time one gets for murder, the shortness they get for violent crimes such as assault or automobile theft or breaking and entering. They point out that we are 8 times more likely today to be put on parole for a violent crime than we were 30 years ago in this country for crimes committed.

So those are the areas I would like to see us focus on, rather than focus on a $33 billion bill that has such questionable crime prevention measures as a $10 million gift to the chairman of the Judicial Committee's alma mater. It is hard for me to find the crime-fighting aggression there, but it must be. But if you look at the weaknesses of the bill, and that is all I have time to point out at the moment, none of the prison funding in the bill must be spent for prison construction or operation. There is over $8 billion of prison construction money in the bill. $1.8 billion of it is money to alleviate the cost associated with incarcerating illegal aliens, so it is not directly construction for new prisons. But even if you take that remaining, a little over $6 billion, none of that has to be spent for funding prison construction or operation.

Then we look at the truth in sentencing law. The conferees' bill conditions as much as 40 percent of the so-called prison funding on States' implementation in the truth in sentencing and this is what we are talking about in trying to get sentences carried out rather than parole or pretrial release. But they merely have to make progress toward that goal of truth in sentencing, that is, completing sentences. They do not have to really serve the time that they are given.

I think most people in this country want those sentences served, or at least the great portion of them served, and this bill does not do it.

□ 1910

Then, last, we talk about the funding for the 100,000 police officers that has been touted so much. In the first place, that money has already been appropriated this year. It is coming back from conference. It appropriates $13,000 per officer, one shot, $13,000.

Most law enforcement agencies say that it will take close to $70,000 to put policemen on the street. So this $13,000 will go toward that $70,000, and from then on the local police have to pick up the cost.

The past chairman of the National Sheriffs Association, a Democrat, has said, and he is in a metropolitan county, he does not intend for his office to use that process because first of all it provides no equipment. Second, it is too bureaucratic, and third, it provides $13,000 and then leaves them in the county in a lurch for the policemen they may need, and if they had the funds they would already be putting the policemen on the streets, and $13,000 is such a small impact it will hardly pay for the bureaucratic trouble of the national grant. This is from the National Sheriffs Association, the past chairman, a Democrat.

So Members can see why many of us, Mr. Speaker, are skeptical about this so-called crime bill.

THE CRIME BILL

The SPEAKER pro tempore (Mr. FARR of California). Under a previous order of the House, the gentleman from Georgia [Mr. BISHOP] is recognized for 5 minutes.

Mr. BISHOP. Mr. Speaker, on Wednesday, August 10, more than 600 law officers from two States came to my hometown to pay their last respects to a Columbus, GA police officer who was gunned down in the line of duty.

Early that Sunday morning, officer Ed Osborne, a 31-year-old, 4-year veteran of the force, made what originally appeared to be a routine pickup of two youngsters violating the local curfew. As officer Osborne took the young men home, a gunshot shattered through the back of his head and took his life. A 15-year-old stands accused of murder and officer Osborne leaves behind a widow, two children, his parents and other family members. Officer Osborne is the 23d member of the Columbus police force to be killed in the line of duty.

In his eulogy, the Reverend Creede Hinshaw of the St. Mark United Methodist Church said:

> A hero is a person who wears a uniform and drives a patrol car through the streets * * * who after the city has gone to sleep and after the parents care no longer, is there to take two juveniles home after curfew.

I would add to that:

> A hero is a legislator who sets aside political wrangling to provide the necessary protection for police officers who risk their lives each day and night and for the people that legislator serves.

As Members of the House continue to send smoke signals with this bill, we are wasting precious time posturing and playing politics with a crime measure of life-saving importance to each and every individual and neighborhood in this Nation. This is not a measure to be used as a platform on which we should campaign or attempt to weaken the President. This is not a bill we can afford to withhold from the people for even just one more day. As we waste this precious time posturing and politicking, we risk losing more officers like officer Osborne. And we risk losing to our crime-plagued streets more 15 year olds like the one in the back of his patrol car by not banning the sale of handguns to minors who will take somebody's life and at the same time subject his own to a life of imprisonment.

Are the lives of the people we are sent here to represent not sacred enough to set aside the status quo of political posturing and politicking for this life-saving package that will also restore safety and sanity to the streets of America?

VOL 140 PT 16 AG 12 — 18 1994 UMI

This is the first bill of its kind, Mr. Speaker, to evenly distribute funds for punishment, more police officers, and prevention programs. It is the first anticrime bill to come this close to becoming law in 6 years. A balanced approach that evenly provides protection and prevention approaches already tested on the streets will, I am confident, help us reclaim our streets and win the war on crime and is worthy of our approval.

Nevertheless, some Members, particularly from the other side of the aisle, have attacked this bill—claiming its preventive measures are nothing but pork.

For instance, the minority leader, Mr. MICHEL of Illinois, just last week called this measure, and I quote "an unholy trinity of pork, posturing, and partisanship."

During their rounds on this weekend's network talkshows, we heard Republicans blast as pork the prevention programs such as midnight basketball, and gang prevention grants, which I thought—based on what I was hearing—were nothing but partisan proposals put forth by Democrats.

But what is odd, Mr. Speaker, is that the Republicans, in their malicious attempt to divide this House and sink this proposal, favored these programs less than 1 month ago.

Let's look at the facts. Title 10, subtitle E of the Republican anticrime proposal offered just last month called for $128 million for, and I quote "sporting and recreational equipment * * * meals * * * an initial basic physical examination * * * first aid * * * and nutrition guidance." The same subtitle calls for even more money for, and I quote "supervised sports programs."

And there's more. The same section of the Republican's anticrime proposal calls for, and I quote "sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement."

First, I want to applaud my colleagues on the other side of the aisle for including these preventive programs. These initiatives show that Democrats and Republicans are in fact on a more common ground than the public seems to have been hoodwinked into believing in terms of finding solutions to the problems that confront America's youth. However, this language runs contrary to this "trilogy of pork" pontification we heard preached by Republicans throughout the past week. Sporting and recreational equipment? Supervised sports programs? Sports mentoring and coaching programs to teach that athletics provide a positive alternative to drug and gang involvement? The creation of boys and girls clubs in public housing? Sounds like midnight basketball to me! In fact, I don't know whether to be angry or elated. These are the type of programs we democrats have been defending for the last week when in fact they are bipartisan proposals.

Now is the time for Republicans to come out from under the Rocks where they have been hiding—while their leadership has allowed but a few of their leaders to speak their untruths—and accept and endorse the programs they have in fact supported and now run from.

Republicans not only will accept preventive measures like midnight basketball, Mr. Speaker, in fact they have proposed them. However, rank and file Republicans can only support them when their leaders unshackle them from silence and allow them to speak for and embrace what they know is right. To remain muzzled so as to gain political ground and attempt to cripple our President at the expense of our communities, constituents and law enforcement officers is wrong. Republicans, take off your muzzles. Come out and publicly support these preventive measures you have proposed.

Crime is not a partisan issue. Safe communities free from crime and drugs are nonpartisan, and I call on Democrats and Republicans alike to pass this crime bill and restore sanity and security to our streets in the name of Officer Osborne and even the life of the 150-year-old whose life is now lost to life imprisonment.

THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. BARRETT] is recognized for 5 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, I will vote in support of the crime bill because it is the right thing to do, and I urge my colleagues to respond to the pressure and support this bill.

I am not talking about the pressure exerted by the President. I am not talking about the pressure exerted by lobbyists or special interests, and I do not mean the political pressure whether passage of this bill will be good for one's reelection. Anyone who makes a decision on this bill based on those pressures does not deserve to be back here next year.

I am talking about the pressure we should all feel because there are kids dying in violent ways in the streets of my hometown in Milwaukee and on streets throughout our country. Members of Congress should feel the pressure because the people of our country sent us here because they have faith in our ability to get something done. They did not send us here to use every procedural trick in the book to stop progress on the one issue they have said is most important: to safely walk the streets at night and to feel safe in their homes.

We all know that this bill or any other bill is no panacea. Congress will never be able to fashion a bill that completely obliterates crime, but a comprehensive approach to crime fighting is our only shot at making a difference, and this bill attacks crime from many important angles.

□ 1920

First, the bill would put an additional 100,000 police officers on the streets of America. For my home State of Wisconsin, that translates into another 2,000 cops walking the streets. It is plain and simple, more police on the beats means safer neighborhoods. We all know that.

Second, the bill increases penalties for violent crimes and puts repeat violent offenders behind bars for life. The "three strikes and you are out" provision counts State crimes as the first two strikes, thereby expanding the number of criminals the law covers.

The crime bill toughens penalties for gang activities and drug crimes.

Third, the bill bans the sale and manufacture of military assault weapons. I have heard the claim that the second amendment rights are being violated, but there is no doubt in my mind that following enactment of this law all the citizens of the United States will remain free to exercise their right to bear arms. The second amendment does not give anyone the right to have a big fighter jet parked in their driveway or a nuclear sub in the backyard pool.

I come from Wisconsin where hunting is very important. In fact, it is an integral part of the history, culture, and economy of my State. I have heard claims these weapons are needed for sport. I have studied this bill carefully. I believe it will not prevent hunters and sportsmen from engaging in legitimate hunting pursuits.

With over 650 weapons specifically exempted by name in this legislation, I am confident there remains ample opportunity for hunting and sport.

I have also heard the claims this provision will do nothing to reduce crime. While these weapons make up less than one-half of 1 percent of the firearms in this country, they account for 8 percent of the firearms that can be traced to crimes.. The weapons prohibited under this measure are military weapons. They are not designed as toys. They are not designed for sport. They are designed with only one purpose in mind: killing people.

I talked to a constituent in my office recently who is opposed to the ban on assault weapons. He said the number of crimes committed with assault weapons is statistically insignificant. I told him to look in the eyes of a woman whose husband had been killed by an assault weapon, a police officer near our home, and tell her that her husband was statistically insignificant. He could not do so.

Fourth and finally, this bill also funds important crime prevention programs. We have heard a lot in this Chamber about the basketball program. I will tell you that I think the basketball program is a good program. When I look at basketball and what it can do for young people or any other sport, for that matter, I think it can provide positive outlooks.

I recently held a youth summit with the youth in my district and asked them, as the experts on what we could do for them, what they recommended. What they told me is they need positive outlets for their energy. They need positive things to do where they can work with other teens, and if you look at a team sport like basketball or baseball or football or any other team sport, I look at that sport and it teaches teamwork. It teaches hustle. It teaches determination. It teaches effort. It teaches a young person the value of winning, and it teaches a young person that they can get up after losing and go on.

In my mind those are all-American values that I think we should be pushing as hard as we can so that the young people in this country learn how to work with other young people. For me that is very important.

The United States has a higher incarceration rate than any advanced nation in the world. That tells me that the answer to our crime problem goes beyond just tougher penalties. It tells me there is something fundamentally wrong with the way many of our children are growing up.

Again, we have to provide ways to prevent them from committing crimes in the first place, and by having programs like the basketball program we can do so.

Many of these prevention programs are designed to provide positive alternatives for our youth. Included in these programs are education, job training, drug treatment, mentoring, and recreation initiatives. These activities do not coddle criminals at all. Rather, they seek to prevent children from growing up and becoming criminals.

We owe it to the American people to pass a crime bill. What higher responsibility do we have here than to work together to improve the safety of American families?

I respect the right of Members of Congress to disagree with some of the provisions of this bill. I don't agree with everything in it either. But Members of Congress must not abdicate their responsibility to work together to put new Federal laws on the books that put criminals out of business.

Let's stop playing politics with the crime bill. Let's show the American people we can work together to get something done for them.

THE CRIME BILL: PREVENTION PROGRAMS ARE NECESSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, as we debate the crime bill, it is critical not to lose sight of the purpose—to act upon the causes as well as the effects of crime.

This crime bill is not a perfect bill and there are things in this bill that I do not support—such as the 50 additional death penalty offenses, the three strikes and you're out; and the omission of the Racial Justice Act. But in spite of these limitations this bill has value for the American people and their communities; it includes law enforcement, jail construction, stricter sentencing, and prevention resources.

Some of my colleagues would have you believe that the only way to fight crime is to build more jails and more jails. We do need more jails and at the rate we are preventing crime—we will need many more jails, more jails than the Federal budget can support.

It is all well and good to spend the taxpayer dollars upon construction programs for additional prison space nationwide to house those already convicted of a crime. However, some on the other side of the aisle would have you think that all prevention programs are pork, frivolous and unnecessary, but why should prisons be the only beneficiaries of the Federal funding appropriated through this legislation?

I do not believe that tack to be in the best interest of the Nation. The cost-benefit analysis reflects that the smart and prudent legislator should support prevention programs because they give the most bang for your buck. It costs the State of North Carolina over $24,000 a year to incarcerate a prisoner while it costs the Federal Government over $20,000 dollars per year to incarcerate a prisoner—that $20,000 is more effectively spent, I feel, in efforts to keep our youth from becoming criminals in the first place through educational programs, training programs, after school programs, boot camps, and recreational programs, including basketball leagues during the day as well as the evening.

Given the rate of construction jails—that seven billion dollars designed for prevention only goes so far—it will only pay to incarcerate 350,000 people—a finite number—the funds, if spent on prevention programs, have the potential to reach millions more of Americans—as well as to make them productive members of society, free, contributing to their Nation—not in jail, supported by society. Thus, I believe it is in our Nation's best interest to reach out and help as many young people as we can, and that is through prevention programs.

Ms. FURSE. Mr. Speaker, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentlewoman from Oregon.

Ms. FURSE. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, yesterday I looked into the eyes of two people whose loved ones were gunned down by a madman with an assault weapon. Mr. Speaker, we need a strong crime bill.

I would like to ask people: Do not listen to the talk-show hosts. What do they know about law enforcement? What do they know about crime prevention? Do what I do, talk to the experts, the police chiefs, the sheriffs of the First District of Oregon. They support this crime bill. Listen to those who dedicate their lives to protecting our communities.

I ask my colleagues, let us not posture on this bill. Let us legislate. That is what we are paid to do.

□ 1930

HEALTH CARE REFORM: REMARKABLE EROSION OF SUPPORT AMONG MIDDLE-INCOME AMERICANS

The SPEAKER pro tempore (Mr. FARR of California). Under a previous order of the House, the gentleman from California [Mr. COX] is recognized for 5 minutes.

Mr. COX. Mr. Speaker, there has been a remarkable erosion of support among middle Americans, that is to say Americans of middle-income, for the Clinton health care bill and for the Clinton health care bill in its legislative form in the other body, where it is the Clinton-Mitchell bill, and in the House, where it is the Clinton-Gephardt bill. The same phenomenon occurred last year during consideration of the Clinton tax bill. During the 1992 campaign as a candidate he talked about middle-class tax cut, but in fact we know how quickly that evaporated once we got down to brass tacks. Instead this Congress pushed through the biggest tax increase in American history, one that directly impacted the middle class, for example, seniors receiving Social Security making $14,000 got a 70-percent effective rate increase on their Social Security benefits. That is how much their income taxes went up on Social Security benefits.

That record-breaking tax increase passed by the Congress will pale in comparison to the Clinton-Gephardt bill that we are likely to take on here in the House, although it is difficult for us to talk about it as Members of Congress because while we have looked at the press releases and press statements about the bill, we are still waiting, we are still waiting for a bill even though we are just days away from adjournment. And the Congress hopes to act on

VOL 140 PT 16 AG 12 — 18 1994 UMI

health care before we adjourn. But we do not have a bill. The Congressional Budget Office has not been able to give us an estimate of how much precisely in the way of new taxes the bill contains and precisely how much in the way of new spending the bill contains. We simply have not read it. This is more than a trivial point. Health care comprises one-seventh of our Nation's economy. It is also on a more personal level a matter of life and death for every American. One would think that a new health care plan prescribed by the Federal Government for the whole country would therefore be the most carefully studied document since the Constitution. But instead when, as, and if this Congress and House get around to seeing and voting on a bill, we are going to find that Members have not had a chance to read it, that in fact when we vote Members will know more about O.J. Simpson's blood type than they will about the content of our own health care legislation. But we operate necessarily in an environment of uncertainty. We do not have a bill, but we must debate what it is we anticipate because after all the vote will be upon us and that will be it and we will have an election. We must adjourn at some point, and that point is arriving rather quickly.

Why are people skeptical of what they have been seeing? The Heritage Foundation did an analysis of the Clinton-Gephardt bill as it was released. What they found is that the new taxes, and there are many of them in the Clinton-Gephardt bill, would amount to $42.6 billion in the first full effective year of the plan in 1999, on top of the current costs on the system. People who are saying these new taxes are only going to displace existing health care costs or somehow limit the growth of health care costs must face this fact: $42.6 billion in new taxes will be imposed by the Clinton-Gephardt health care bill on top of our current estimates for how much the existing system is going to cost.

Now, the average additional tax burden per individual as a result of the Clinton-Gephardt bill, according to the Heritage Foundation is $430 per individual on average. The Clinton-Gephardt bill unquestionably is going to offer Americans less choice. It does not quite do justice to the fact to say less, almost none compared to what presently an insured American has available.

Congress and the Federal Government are going to prescribe a standard health care plan. And that is going to be the norm for the country, like it or not. If your existing plan is different than the standard plan, if you continue to get those benefits, you will pay a tax, not only will you pay a tax but your employer will pay a tax. The new taxes imposed by the Clinton-Gephardt bill are going to be split 80 percent by the employer and 20 percent by the individual. So 20 percent of these new taxes will come directly out of the paycheck of the American worker. There will be far more bureaucracy in this plan because for a substantial part it is going to rely upon something called Medicare Part C. Medicare Part C is, in effect, a Government-run insurance plan that will extend, together with the existing Medicare program to over half the entire population or to about half the entire population, according to our best estimates. Half of the American people at that point will be getting their health care from a Government plan, as compared to the current system.

The more Americans learn, it seems the more likely they are to realize that instead of providing Americans with greater health security the Clinton/Gephardt plan, Clinton/Mitchell plan over in the other body, and whatever congressional cousins are aboard or are just now being written in so many different staff offices, will create greater uncertainty, especially for middle-income Americans. Middle-income Americans will pay more in both taxes and health care premiums for less in both taxes and health care premiums for less in both quantity, availability of health care and the quality of that care. Why will they be paying more in premiums? We discussed why they pay more in taxes under the Clinton/Gephardt bill, why pay more in premiums, because of the community rating system. That is where factors like age cannot be taken into account. Senior citizens incur about 4 times on average in the way of health care costs as younger working Americans. If you are under 45 years old, you will have a steep increase in your health care premiums under a community rating system. So for all Americans under 45 years old, the Clinton/Gephardt plan, the Clinton/Gephardt health care plan, is going to represent a big increase in premiums on top of the payroll tax increase. It is not surprising then that the strategy of the Democrat leadership is to, in the words of Senator ROCKEFELLER, pass health care regardless of the views of the American people. I would hope we would not handle it that way. I do hope instead of a legislative version of blindman's bluff we will get at least 30 days to read any health care bill that will come forth for a vote.

DO NOT CHANGE THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 5 minutes.

Mrs. MALONEY. Mr. Speaker, yesterday, I was privileged to stand side by side in New York City with the Attorney General of the United States, Janet Reno, the Governor of New York, Mario Cuomo, the police commissioner of New York City, William Bratton, the U.S. attorney for the southern district of New York, Mary Jo White and my colleague CHUCK SCHUMER, to urge the House to pass the omnibus anti-crime bill with the ban on assault weapons.

I want to congratulate President Clinton and Attorney General Reno for their strong fight to pass the crime bill.

Clearly, in New York and across the country, guns and crime are out of control.

Most New Yorkers have feared for their lives at one time or another.

A few years ago, three armed thugs broke into my home, physically attacked my daughter, my husband, and me.

We escaped that attack with our lives.

Others have not been so lucky.

Many of us remember all too well the horrible attack on religious leaders driving across the Brooklyn Bridge.

This attack was carried out by a crazed man with an assault weapon; a weapon that the crime bill would ban.

Crime is so bad that one of New York's daily newspapers publishes a daily count of how many of our citizens were shot and killed the day before; 621 have been gunned down this year; 5 people were killed on Monday. One was a 13-month-old infant shot to death while he slept in his mother's arms.

But last week, the House turned a deaf ear to those victims and their families by rejecting the Federal crime bill on a procedural vote.

The crime bill contained more than $30 billion in Federal aid to localities to fight and prevent crime.

After 12 years of declining Federal aid to the cities under previous administrations, this crime bill is undoubtedly one of the best pieces of Federal legislation for my city in more than a decade.

And I want to congratulate Mayor Giuliani, who was here in Washington today to fight for this bill, for recognizing that there is no Republican or Democratic way to fight crime.

Thanks in part to the mayor's input, the crime bill would provide millions of dollars to upgrade police equipment and computer systems and pay for overtime costs. This will allow more cops to get out from behind desks.

The crime bill will provide millions for new prison construction. This will ensure that the bill's truth-in-sentencing provisions can be enforced so prison will not be a revolving door.

The bill will root out crime with prevention programs, including keeping schools open after hours and on weekends, and providing job training and job creation in high-crime areas.

To fight domestic violence, the bill will fund the Violence Against Women Act. Right now, if you assault a stranger, you go to jail. If you assault your spouse, you get therapy. The Violence Against Women Act brings an end to this backward system. It provides new Federal penalties for interstate spousal abuse and stalking.

And it includes provisions to train the police in how to deal with domestic violence.

Out of 178,000 radio calls to the police relating to domestic violence, less than 7 percent result in arrests.

Clearly, we need to train our police better then we have been doing. This crime bill will accomplish that goal.

The bill will fund model intensive grants that enable high-crime areas to implement comprehensive and intensive anticrime efforts.

The bill requires mandatory drug treatment for prisoners; almost every expert agrees that drug rehab drastically reduces the number of repeat offenders.

The bill requires drug courts for nonviolent drug offenders, freeing up court space for trying violent crimes.

The bill creates local partnership grants that will provide Federal support for the unique, successful programs developed by each community to combat crime within its jurisdiction.

This is not pork, it is prevention. And those who refuse to distinguish between the two are engaging in the most cynical kind of politicking.

Mr. Speaker, some people say that the crime bill needs to be changed so that it will pass.

Some have suggested stripping the assault weapons ban out of it. I say no, a thousand times no. It is a travesty that a narrow special interest, far out of step with the will of most Americans, is able to block this provision. If this Congress is unable to take assault weapons off the streets, then we should fly the white flag of surrender over the Capitol dome instead of the Stars and Stripes.

I think this bill does not need to change. It is Congress that needs to change.

It would be a crime to vote against it.

□ 1940

PASS THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from Georgia [Ms. MCKINNEY] is recognized for 5 minutes.

Ms. MCKINNEY. Mr. Speaker, the crime bill has been kidnaped. The toughest, most balanced plan this Congress can pass has been hijacked and held hostage by the special interest terrorists. I want to take this opportunity to salute the brave Republicans who stood up to an enormous amount of pressure from the NRA and from within their own ranks. They put partisanship aside and did what was right for this country.

I am sure that those who voted against the rule had their reasons. The American people should make the distinction between those who voted against the rule out of moral objection to the death penalty and those who voted against the rule out of fear or partisan politics.

The forces that have kidnaped the crime bill threatened individual Members where it hurts the most, in their bid for reelection. There were threats to cut funding and run real Republicans against any that voted for the rule. The American people need to know that the crime bill is being held hostage by the propaganda of partisan politics.

The kidnapers' ransom note says that they want to cut the prevention money that goes to programs like midnight basketball, gang prevention grants, and other programs that get at the root causes of crime in our young people. The kidnapers believe that the only way to solve crime in America is after the fact. In other words, a crime has to be committed and that person be caught before anything can be done. The ransom note should read, "We don't want children to have a book or basketball in their hands. They should have an Uzi or an AK–47 instead."

By delaying this crime bill the special interests have done more than put our children at risk. They have kidnaped the Violence Against Women Act, the child pornography provisions, rural drug enforcement grants, the death penalty provisions, 100,000 new police officers, and the prevention programs. As many as 100,000 new police officers will be the first line to prevent crime. Police Chief Dan Norris of the Monticello Police Department wrote to me about the need for additional police officers to help turn the tide of the drug war in Jasper County. What am I to say to Police Chief Norris and my constituents that live in the crossfire? Sorry, your policemen have been kidnaped?

There has been a lot of talk about this crime bill being a social spending bill. Let us look at the facts and let the American people decide: 72 percent of the money in the crime bill will go to police and prisons. Another 13 percent goes to programs like the violence against women and drug courts. The prevention programs add up to less than 15 percent of the entire bill. So, contrary to the Republican line, this bill is not laden with pork. This bill is carefully crafted with an ounce of prevention and pound of punishment.

Now I would like to thank the Members of the freshman class of the 103d Congress for joining me here tonight in support of the crime bill. I would like to thank the freshmen who participated in this series of crime bill special orders: The gentleman from Georgia [Mr. BISHOP], the gentleman from Wisconsin [Mr. BARRETT], the gentleman from Ohio [Mr. FINGERHUT], the gentlewoman from North Carolina [Mrs. CLAYTON], the gentlewoman from California [Ms. ESHOO], the gentlewoman from New York [Mrs. MALONEY], and the gentlewoman from Oregon [Ms. FURSE]. I would also like to take a moment to congratulate the gentleman from Texas [Mr. BROOKS], the gentleman from New York [Mr. SCHUMER], Chairman BIDEN and all of the Republicans who worked in good faith to pass this crime bill. This hour has been dedicated to the young people and their parents, to the policemen and to all Americans who live every day and night in fear and who merely want to feel safe once again.

Mr. Speaker, America deserves this crime bill. We encourage our colleagues to hear us, to hear the pleas of average, ordinary Americans and pass this crime bill.

THE HEALTH CARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. RAMSTAD] is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, even though the official debate on health care has not begun in the House, it is extremely important to provide the American people with as much information about this legislation as possible.

American families and businesses will experience a dramatic change in the way they receive and pay for health care if the Clinton/Gephardt bill is adopted.

Despite claims by the Clintons that their proposal—reincarnated in the Clinton-Gephardt package—is designed to help middle-income people, a commonsense analysis of the plan shows that is simply not true.

In fact, instead of improving the health insurance and financial health of middle-income families, the Clinton-Gephardt bill provides expensive and inefficient coverage for a relatively small number of people, charging hard-working, middle-income Americans for the massive program.

As economist Martin Feldstein noted in a recent Wall Street Journal column:

If President Clinton really wanted to help middle-income people, he would focus on the health insurance issue that he knows is its primary concern: the ability to maintain existing coverage after a job change or the loss of an employed spouse.

Instead, the Clintons and the Democrats in Congress have devised a system that forces the employers of middle-income Americans to provide costly insurance policies designed by Congress or Federal bureaucrats.

Imposing this implicit payroll tax on employers and employees will hit small businesses—which shouldered the bulk of the Clinton tax hike last year—especially hard.

It does not matter whether employer mandates are employed now or triggered at some point in the future—they are wrong.

Even with employers paying 80 percent of premium costs, employees will be left to pay substantial premiums out of their own pockets because the plan mandates such a benefit-rich health care policy.

VOL
140
PT
16
AG
12
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18
1994
UMI

For the typical married couple, the required out-of-pocket premium would be $872 a year. The administration itself has acknowledged that more than 40 percent of Americans could face higher out-of-pocket premiums under the Clinton plan than they do today.

The high-priced benefit package that the Clinton-Gephardt will would force all Americans to buy would also reduce wages as employers would be forced to find a way to cover cost of the more expensive plan.

But as study after study has shown, the impact on middle-income workers will not end with lower wages. A recent JEC compilation of studies shows that an employer mandate—like the one the Clintons are trying to sell the American people—will kill jobs outright.

While the studies vary widely in their methodologies and assumptions, they all point to massive job loss. According to the survey, those at greatest risk of losing their jobs are low- and middle-income workers.

The cost of the proposal—seen in both lower wages and higher out-of-pockets costs—will hit young Americans just entering the work force and those beginning families particularly hard.

Mr. Speaker, instead of adopting a jobs-destroying, government-controlled health care plan, we should enact meaningful reform which includes malpractice reform, a reduction in administrative costs through streamlining and eliminating unnecessary duplication, and relief from many of the burdensome State mandates.

To expand access, we need to equalize the tax advantages of buying insurance, provide tax credits for low- and middle-income taxpayers, and vouchers for the very poor to purchase insurance.

In addition, everyone should be allowed to save, tax-free, for future medical expenses. Through a medical savings account, individuals and families could save for minor medical costs such as annual checkups and minor illnesses and purchase a catastrophic insurance policy for major expenses.

Mr. Speaker, as we begin the debate on this critical subject, we must keep in mind our overriding goals.

Instead of adopting policies that rob hardworking middle-income Americans through higher taxes and premiums, we need to act responsibly to give all Americans security and work to expand coverage to those who do not have it, without jeopardizing the quality of care now available.

□ 1950

HEALTH CARE REFORM AND THE MIDDLE CLASS

The SPEAKER, pro tempore (Mr. FARR of California). Under a previous order of the House, the gentlewoman from Ohio [Ms. PRYCE] is recognized for 5 minutes.

Ms. PRYCE of Ohio. Mr. Speaker, when the American people voiced support for the President's call for health care reform, I joined then but, they didn't mean they wanted to pay more to receive less. But, that is just what will happen under the Clinton-Gephardt plan to "reform" our Nation's health care system. In fact, this attempt to expand coverage to the 15 percent of Americans who are uninsured, will leave the vast majority of Americans who already have insurance coverage far worse off. These Americans, largely referred to as the middle class, will pay more for less care, less choice, and less quality under the Clinton-Gephardt proposal.

By requiring employers to pay for up to 80 percent of their employees' health insurance premiums, the Clinton-Gephardt bill posses an enormous economic threat to the middle class. Let's be honest. Employees don't get a free ride when employers are forced to pay for benefits they can't afford. As employers struggle to pay for yet another costly government mandate, they will reduce wages for middle-class workers and raise prices for middle-income consumers.

While the middle-income Americans and hardworking employers pay more, low-wage firms and low-income employees will be subsidized under the Clinton-Gephardt plan. Low-income workers might be better off, but the middle class will pay for it in the form of lower wages and increased taxes. Is this the reward for working hard and playing by the rules? We want to restore the American dream, not tear down what's good and right and honest.

Not only will the middle class pay more for their own coverage and the coverage of others, they will get less. The Clinton-Gephardt bill will restrict choice for middle income Americans, requiring every person regardless of age, sex, and income, to purchase a one-size-fits-all, government-defined benefits package. That means the Government will force even those Americans who are happy with their insurance coverage to pay for benefits they may not want or need. Don't we have enough bureaucracy? Our Government is already to big and spends too much. Why are we even considering allowing it to expand?

Perhaps most troubling is that the middle class, and all Americans for that matter, will be forced to accept a reduced quality of care under the Clinton-Gephardt bill. You see, their bill would place a limit on the amount that Americans can spend on health care, including medical and pharmaceutical research and development. Simply stated, there will be less money available to provide more medical care to more people. In order to pay for the increased demand, the middle class will be forced to spend more and receive less.

Canada's attempt to impose spending limits has had tragic results. There are countless stories, but I have in my hand a letter from one of my constituents who recently visited Niagara Falls, Canada. Mr. Anders was unfortunate enough to have had a small stroke during his stay there. He went to the local emergency room but, he received no treatment or care in this Canadian emergency room where he was left alone in seizures totally unattended for over 4 hours. You see, the hospital had more patients than beds and was extremely understaffed. Upon finding out that he was an American, a doctor advised Mr. Anders that he could be transferred to the United States where "they have good health care." In my view, and the view of Mr. Anders, the United States doesn't have a crisis in health care, Canada does.

Mr. Anders says this in his letter:

I think every liberal that wants a single payer system should spend a night with a stroke in a single payer system.

Mr. Speaker, clearly the President and the democratic leadership are out of touch with middle-class Americans. These folks don't want to pay more to receive less choice, less quality, and less care. They want health care security so that they can keep the care they already have.

Fortunately, there are alternatives to the Clinton/Gephardt bill. These proposals, including Republican and bipartisan bills, address the real needs of Americans, making health care and health insurance more affordable and ensuring that coverage can never be taken away due to illness or a change in jobs. Consumers will continue to have choice and quality without new taxes, without increased bureaucracy, or without rationed care.

THE BUDGET SHOULD BE BALANCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, the budget should be balanced, the treasury should be refilled, public debt should be reduced, the arrogance of officialdom should be tempered and controlled, and the assistance to foreign lands should be curtailed, lest Rome become bankrupt.

These words were written by Cicero in Rome in 63 B.C. Yet today they still are instructive to the United States Government. And I would like to tell you that I am an intellectual erudite who reads these kinds of things in his spare time, rather than Michael Crighton and Tom Clancy, but I do not want to say that.

This letter was sent to me by a man named Thomas McCaw, of Corpus Christi, TX. And why a gentleman from Texas would be writing a Representative from Georgia who he cannot vote for and really in most cases letters like this get thrown away, at first puzzled me.

Then when I think about it, I think about the public debt and the country.

You know, we are elected from one district, but we are not elected to represent that district only. We are elected, all 435 of us, to represent the United States of America. And the public debt is everyone's business. There are 435 of us who must have a plan, individually or collectively, or in a unified approach, to balance this debt and do something about it.

Now, Mr. McCaw in his letter said the Roman Empire took four centuries after Cicero's prediction to become bankrupt. With modern communications, the USA will require less than four decades. You can stop this by matching outgo with income, paying off the debt, eliminating your excess expenditures, and eliminating all foreign expenditures.

Well, of course, one of the things we debate about is how we spend money and what is excessive and what is not. I think if you go back to his first point, matching the outgo with the income, one of the things that I have learned as we debate the budget and the debt is that in 1980, the total revenues were about $500 billion. Today I believe they are about one million. During that time, unfortunately, we have outspent the revenues every year, including this one, and this one we are going into. Certainly during that period of time, there were Republicans in control of the White House, but the Democrats were in control of Congress. The Republicans and the Democrats had joint control of the Senate.

So anybody who says it is a Ronald Reagan legacy or it is a Bill Clinton phenomenon is fooling his or herself. This is an American problem. It has been going on in a bipartisan fashion now ever since I believe 1969, when we had the last balanced budget under President Richard Nixon.

We need to deal with this thing. We are dealing right now with crime, it is front and center stage, health care is center stage. But as we make these decisions, we have to say, OK, the crime bill is good or bad, but we also always need to ask who is going to pay for it and how.

Health care, a lot of proposals are on the table right now. Some of them call for massive new taxes, some of them call for cuts in Medicare. But they all call for new spending.

As we look at $4.4 trillion and realize that each year we have a deficit we are adding to that debt, we need to do the responsible thing and make sure that the centerpiece of every bill that we look at, every piece of legislation, is how is it going to affect the deficit and how is it going to affect the debt.

So as we have these important debates going right now, Mr. Speaker, I thought it was important for us to be mindful of our debt, and the people like Mr. McCaw from Corpus Christi, TX, and the fact that I have 589,000 people in the district that I represent is important, but what I guess is more important is the 260 million across America that will be paying that debt, either by being forced to or by default or voluntarily. But we as Members of Congress need to take the lead.

THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, I would like to talk about the crime bill during my 5 minutes. I would like to express some real concern that in the process of debating this bill, a lot of misinformation has been discussed that has really I think distorted the issue. Candidly, I have tremendous concern that in the end what we have been doing is bashing up on the cities.

□ 2000

I believe we need a crime bill. I believe we need to have a strong law enforcement component. I believe we need more prisons. I also believe that we need a preventative part to this legislation.

I represent a district that includes some of the wealthiest in the country, and yet it has one of the poorest cities in the country, Bridgeport, CT. A few years ago it attempted to go bankrupt. It simply was running out of resources. And it is coming back from the brink, and we are real proud of what Bridgeport is doing.

But it is really a tale of two cities, a Fairfield or a Greenwich and a Bridgeport. In my suburban communities, it would be hard for many constituents to imagine what it is like to raise a kid in an urban area like Bridgeport. During the Memorial Day parade, I had the incredible pleasure of marching in the parade at Fairfield, and there were so many people on both sides of the street.

It was about 2 miles in length. It was just filled with people. And we were at the beginning of the parade. By the time the parade ended and when I had reached the destination, I got to review the rest of the parade. It went on for about 2 or 3 hours.

The parade consisted of one group of children after another: Indian guides, Boy Scouts, Girl Scouts, soccer teams, little league teams, football teams, just a plethora of organizations for young people.

That would not happen in my city of Bridgeport. There would not be this kind of community involvement. There would not be these kind of activities for my young kids.

In a town like Fairfield, the young children have to decide what not to do. Their problem is getting overloaded. In a city like Bridgeport, when a kid is out after 2:30 at school, there is simply nothing for him to do or her to do. There are no activities at all. If you go to a public housing project, you might see an improved situation because we are improving this public housing. But inside you will see a mother trying to make a home. But on the door will be padlocks and chains. The kids are arrested at night.

I just make the point to you that I believe with all my heart and soul that we need to build more prisons and we need more police. And I argue for that and I want it part of the bill. But I just do not see how we can leave out the preventative side of this legislation. We simply have got to deal with the young people in these urban areas.

So there have been tremendous complaints about what is on the preventative side. I take strong exception to those who talk about it as being pork. The general public has accepted this is more of a pork bill than a crime bill.

In judgment it is a crime bill with some strong preventative measures. I just plead for this country to have some sense that we have got to deal with our young children in our urban areas.

I weep for our kids in our urban areas. And if this debate is about pork and it forgets about the kids in these areas, one of the things that just amazes me, it is true, the bill grew by the time it went for the Senate, from the Senate to the House to the conference. I mean, it was 27.8 in the House. And by the time it came back from the conference, it was 33. But I submit that the 33 was not in the prevention side. It is not on the side that it has been accused of having all these programs that people, some people, particularly in suburban areas, do not want kids in urban areas evidently to have.

I just make the point to you, those numbers did not go up. What went up in the bill from the House to the conference was 5.5 in law enforcement to 13.9. What made the bill more expensive was more law enforcement and not preventative.

I just conclude by saying that I just hope in the next day or two we get to focus back on how we can deal with crime both from an enforcement and a preventative side and what can we do to help our cities. The mayors came down and they presented their case. They are in there. They are working day and night on these issues. Congress cannot turn a deaf ear to it.

EXTENSION OF GSP BENEFITS TO BELARUS AND UZBEKISTAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-293)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without

VOL 140 PT 16 AG 12 — 18 1994 UMI

objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I am writing to inform you of my intent to add Belarus and Uzbekistan to the list of beneficiary developing countries under the Generalized System of Preferences (GSP). The GSP program offers duty-free access to the U.S. market and is authorized by the Trade Act of 1974.

I have carefully considered the criteria identified in sections 501 and 502 of the Trade Act of 1974. In light of these criteria, and particularly the level of development and initiation of economic reforms in Belarus and Uzbekistan, I have determined that it is appropriate to extend GSP benefits to these two countries.

This notice is submitted in accordance with section 502(a)(1) of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 17, 1994.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FARR of California). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Oregon [Mr. WYDEN] is recognized for 60 minutes as the designee of the majority leader.

HEALTH CARE

Mr. WYDEN. Mr. Speaker, I intend this evening to focus my remarks on health care. But before I go to those comments, I just would like to come back to the extraordinarily gracious and important statement that we have just heard from the gentleman from Connecticut [Mr. SHAYS].

CRIME BILL

It seems to me that in this time of really over-heated rhetoric and extreme partisanship, what the gentleman is really trying to do is heal and bring together Members of both political parties so we can get a good crime bill passed.

I think what he has done is exceptionally important, because I am of the view that you only get to write a perfect crime bill in your dreams. The fact of the matter is, we will never have a crime bill in this institution that is not opposed from one quarter or another. That is always going to be the case.

So what we are going to have to do is look to the best in the law enforcement area and put a special focus on more police. My community has one of the country's most innovative community policing programs. This legislation lets us build on that.

We ought to focus, as the gentleman has, on additional prison space, because that is an important deterrent. And we also have to focus on preventive kinds of services.

We know, for example, and the gentleman represents an urban area, as I do, that crime feeds on poverty and despair. And so when you have an opportunity for good preventive programs, for example, that train young people, for employment in the private sector, it seems to me, as the gentleman from Connecticut has just indicated, what the Congress ought to do is move and move quickly to pass that legislation and make those resources available to the American people.

We know that the Federal Government does not have all the answers to the crime problem. But what we know is that the Federal Government can be a better partner to local communities.

I yield to the gentleman from Connecticut [Mr. SHAYS] for a few additional moments of discussion on this matter, because what he has done, in my view, is especially important at this time, as Congress looks to possibly adjourning for the summer recess, but doing it in a way that ensures that before Congress goes home, a strong crime bill, built on tough deterrence, so that those who perpetrate violence on our streets are dealt with, but also a bill that focuses, as the gentleman has correctly said, on preventive programs, such as job training that can get our young people in the private sector.

I yield to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding and also to have a bit of a dialog.

I just do not think we can emphasize enough that there is almost $14 billion for what we would call straight law enforcement, cops on the beat. Policemen went up in the House bill to the conference $5.4 billion.

The overall bill went up 5.6. It is true there was a reduction of about $3.5 billion from prisons, but we still left over $10 billion for the construction of prisons.

My problem in our State is not the building of prisons right now. It is how do we pay to operate them once they are built? We have so many. But we do need to make sure that people who are sent to prison stay there, and we need to help local governments as well as State governments.

I believe strongly, as I know the gentleman does, that law enforcement is essential.

□ 2010

There are some of us who would like to see the sexual predator bill put back in, which passed the House, and the issue of rape penalties, which also passed both the House and Senate.

We would like to see some reduction in this bill, because as the gentleman points out, this is not a perfect bill. We had our day. The rule failed, and there has to be some adjustment. The question is, where do these adjustments go?

I just do not want the whipping boy to be the programs that are preventative, that are absolutely essential to helping young children have meaningful activities. I cannot emphasize enough that our children in our suburban communities have the opportunities they have to lead constructive lives, plus in many cases they have two-parent families, and in our urban areas we see a big difference.

I think both you and I could agree that to some measure the welfare state has failed us. I certainly think 12-year-olds having babies and 14-year-olds who are selling drugs and 15-year-olds killing each other and 18-year-olds that cannot read their diplomas is in part the legacy of the welfare state, but that is not something we can solve in this bill.

We have a short-term need to address activities, meaningful, whether they are employment, recreational, tutorial. After-school programs in Bridgeport do not exist unless we have some help from either the State or Federal Government. If we have that kind of help, the gentleman will see many of these young kids who find themselves choosing to be part of a gang for fellowship and protection choosing to reject it.

Mr. Speaker, my sense is the gentleman's point is well taken. We will not find the perfect bill. In our dreams we will, and we could write it, and probably our bills would differ, but I would just like to see the rhetoric of bashing the municipalities, bashing programs that we know are working—and in some cases, we are not creating these new programs. They exist. We are taking programs that work.

Midnight basketball has taken a great hit. It starts at 9 o'clock. You cannot participate in these programs unless you are willing to hear a lecture from the police chief or a police officer or a social worker or someone who wants to talk about job opportunities, getting these young kids to dream. I would like to think that someone would choose to be in their community with activities, instead of be in jail because there are activities there.

I really thank the gentleman for yielding, and also for being so extraordinarily generous, which is kind of the way in this House, sometimes. I just want the gentleman to know I have tremendous admiration for him and his kindness in having this dialog.

Mr. WYDEN. I thank my friend. Let me just pick up for a moment on a couple of the points the gentleman has made, and continue this a bit.

First, Mr. Speaker, I think the gentleman is absolutely right about the importance of the sexual predator provision that is being discussed. I think many of us are especially concerned about this. We see these kinds of problems across our country. They are not isolated and rare aberrations. I as a Democrat am very hopeful that it will be possible to get that addressed in the bill.

Mr. Speaker, I would also like to talk for a moment on the point the gentleman has made about the importance of these after-school programs for young people who are at risk and are getting involved in gangs.

What we know, and there is substantial evidence on this, is that a lot of the young people that are getting in trouble, that are getting caught up in the gangs and involved with drugs and violence and sexual promiscuousness and all of the problems that we see our young people facing, they go home to an environment where there is no parent there. Very often these are single-parent households. You have a parent, for example, struggling very often at two jobs until 7, 8, 9 o'clock at night.

Mr. Speaker, at home in my hometown, in Portland, OR, the schools get out at 2:30, 3:00, somewhere in that vicinity. You do not have to be a rocket scientist to figure out that if the youngsters have nothing to do between 3 p.m. and 8 or 9 o'clock in the evening when the parents get off work, that that is an invitation to trouble, an invitation to the kinds of gang activities and drugs and violence that the gentleman is talking about.

Mr. Speaker, I am very pleased that he has hammered at the idea of after-school programs. To tell you the truth, I would like to see this country go far further in terms of after-school programs.

We have in my district a situation where in a number of schools, the students that are doing well, that have been lucky enough to come from good families and good upbringing, they actually stay after school and help the youngsters that have not been so fortunate, help the youngsters with anti-drug counseling and things of that nature. I am told by school administrators that in our district, if they could have a faculty member even part-time to go even further in the after-school programs that the gentleman is talking about, that that would save us a whole lot of money down the road in terms of welfare, public assistance, juvenile justice, these kinds of problems.

I am happy to yield further to the gentleman from Connecticut.

Mr. SHAYS. You have hit it. In the city of Bridgeport we have a school called Longfellow School. The principal, with the community and some of the parents and some of the adult organizations, set up a Saturday school program. They were curious.

They said: "We are going to have some academics and we are going to have some more recreational kinds of activities. They might learn karate, they might do dancing, but they will learn how to look for a job. They will learn skills about why it is important to show up on time and so on, things that some might just take intuitively in your own family environment, you pick it up."

They were amazed with how many young people signed up. There were so many, there were hundreds of young kids who signed up for this program on a Saturday, to come to school. They were in school Monday through Friday, and yet they wanted to come to school on Saturday and do academic programs, but they also did other things, like chess. I have to tell you, one of the great joys was to see this chess team play one of the suburban schools and win. It was really precious to see that.

It is also touching to see a very well-dressed, well-trained suburban football team, and then see one of the urban schools come and play them. They do not have the uniforms, they do not even have a bus. They come in sometimes in cars, or in a few vans, and I saw a few of these kids after they had lost pretty badly to the suburban team have to hitchhike back to their school district.

Mr. Speaker, I just have to tell you, I felt so darned guilty with the fact that we have allowed this debate to deteriorate to the point where we are forgetting what we are talking about. It is like someone, all they have to do is say "pork, pork, pork"; they do not have to document—they do not have to talk about it. They can give people the feeling that this bill became expensive because of pork.

If they are talking abut why it became expensive, the reason it did was all the enforcement side. I am repeating myself, but the preventative side stayed at about $6 billion.

Mr. Speaker, I just thank my colleague for giving me this opportunity to have more than 5 minutes, because I needed that, and I just think that those of us who represent urban areas have got to be more willing to speak out about this. It is almost like because you don't like to spend a lot of money, and I vote to cut a lot of programs, we have got to be willing to step up here and say "enough is enough."

We have got to pay attention to what is happening to our urban areas. We have got to realize that you need strong enforcement, you need prisons for people who break the law, and you need preventative activities to get these kids to be productive members of society.

If I could just indulge a little more on the gentleman's time, I would like to say that ultimately I think the solution of the cities is not all that complex. We need to rebuild them, not bail them out. We need to bring businesses back into our urban areas so businesses can pay taxes and create jobs. That is what we have to do, but we cannot do that overnight.

In the meantime, let us start with some of these programs, which are not new, which are working, which are out there. There just need to be more of them.

Mr. WYDEN. The gentleman is absolutely right. There is no question that effective anticrime programs in the inner city are a prerequisite to growing businesses. It is not very likely that folks are going to locate or folks are going to be willing to put risk capital on the line for expansion if they fear that their employees are going to get clubbed over the head when they try to come in for work in the morning.

To me, what the gentleman has done that is so helpful is, first, indicate the desire to help bring the House together and heal some of the divisions that we have seen over the last few days, and second, and equally important, simply set the record straight.

□ 2020

I was watching one of the CNN shows yesterday, one of our colleagues was debating, and the debating partner said, the majority of money in the crime bill goes for pork and prevention. It was repeated and it was repeated. So I assume millions of viewers got the sense at the end of the show that this was the case and the vast majority of money was spent for prevention.

As the gentleman knows, more than 70 percent of the money in this bill goes for the deterrence side of the law enforcement effort—police and prisons and assistance to local communities.

Mr. Speaker, I hope that folks that are listening and watching the effort to bring Democrats and Republicans together will also pick up on that figure, because I think it is so important. The majority of the dollars in this bill is not even open to question in terms of it being for law enforcement. That is where the money goes.

Mr. Speaker, I am happy to yield to the gentleman for any comments.

Mr. SHAYS. I would just like to thank the gentleman for using some of his time to discuss health care to discuss what truly is an extraordinarily important issue, and to say that who knows what is going to happen in the next few days, but I hope in the end our country wins.

Mr. WYDEN. I think the country can win if the Members just pick up on the spirit and the concerns of the gentleman from Connecticut.

I came tonight to talk about health care. I will spend a few minutes on that. But I think the country is better off because we have heard a little bit more from the gentleman from Connecticut who is so anxious to bring this House together and help us get a good crime bill. I thank him for participating.

Mr. Speaker, let me turn just for a few moments to the health issue. I am fortunate also to have the gentleman from Hawaii [Mr. ABERCROMBIE] here, who comes from a State where they

VOL 140 PT 16 AG 12 — 18 1994 UMI

have universal coverage, where we have seen that it is possible to cover all citizens.

I am going to begin with just a few comments on the matter of senior citizens and how senior citizens fare in the health reform debate.

I think that all of us know, and I have a special interest in this area, going back to the days when I was co-director of the Oregon Gray Panthers at home, we know that Medicare, which was enacted in 1965, was just half a loaf. It did not cover prescription drugs and long-term care and eyeglasses and hearing aids and many needs of the senior citizens. In fact, health costs have gone up so dramatically that now many senior citizens pay more out-of-pocket for their health care than they did when Medicare began in 1965. This is especially the case because prescriptions, a substantial number of seniors, millions, pay more than $1,000 out of pocket each year for their pharmaceuticals, and millions more need long-term care; cannot even get decent care in their own homes.

I think it is especially important in this health reform effort that any bill, and particularly the bipartisan bills which in my view are so critical to getting this job done right, adequately address the concerns of the Nation's senior citizens.

The majority leader, the gentleman from Missouri [Mr. GEPHARDT], has taken an approach which I think has a strong consensus behind it. What the majority leader is saying in his approach to dealing with the concerns of the elderly is that there are savings to be found in the Medicare Program. There are areas where we can make the program more efficient without harming existing Medicare services. What the majority leader, the gentleman from Missouri [Mr. GEPHARDT], seeks to do is to take those dollars saved by making Medicare more efficient and, in effect, reinvesting them in new benefits and new services for seniors, such as long-term care and prescription drugs. I happen to think that that makes a great deal of sense, and I have heard the majority leader, to his credit, indicate that he is very open to hearing suggestions from Members of Congress of both political parties on how that might possibly be improved upon.

There is another approach that is being discussed. It is the one that was drafted and developed by our colleague, the gentleman from Georgia [Mr. ROWLAND]. I have served with the gentleman from Georgia [Mr. ROWLAND] on the Health Committee for a number of years and a more decent and caring individual in my view simply cannot be found than the gentleman from Georgia [Mr. ROWLAND]. But I think we have to do better for our senior citizens than the approach that is being offered in the Rowland bill. What the gentleman from Georgia [Mr. ROWLAND] and a number of our colleagues on the other side of the aisle propose doing in their bill is, in effect, taking a substantial portion of the Medicare trust fund, more than $60 billion, and simply spending it on matters unrelated to the elderly.

So here we are in a situation where we have a very rapidly growing, aging population, the demographics are relentless, we will have many more seniors in our country; yet the approach offered by our colleague, the gentleman from Georgia [Mr. ROWLAND] simply takes $60 billion out of the Medicare trust fund and spends it on unrelated matters. Instead of taking the approach that our colleague, the gentleman from Missouri [Mr. GEPHARDT] has taken, who wants to find Medicare savings and reinvest them in long-term care and prescriptions, the approach offered by the gentleman from Georgia [Mr. ROWLAND] takes the $60 billion out of the Medicare trust fund and at the same time offers not one dime for prescription drug coverage and not one dime for long-term care. As far as I can tell, the only reason one would go and take money out of the Medicare trust fund and not use it for prescriptions and long-term care is you basically subscribe to the theory that Willie Sutton gave for robbing banks. As you will recall, Willie Sutton said, "That's where we're going to look, because that's where the money is."

I can see why someone might offer that kind of theory, but I think we can do better on a bipartisan basis for our country's senior citizens, I think we can do better by our elders who so often are getting clobbered by these rising prescription drug bills, by long-term care costs, and the key to doing better is to build on the efforts of the majority leader who is saying, "Let's find savings in the Medicare Program, there are efficiencies to be found," and in order to help our Nation's seniors when we find those efficiencies, we will take those dollars and plow them back into the Medicare Program to provide some relief to vulnerable seniors faced with crushing long-term care and prescription drug bills.

Mr. Speaker, what I would like to do and wrap up, if I might, is describe a situation where we have one of the Nation's senior citizens who currently receives coverage through the Medicare Program describes how she would fare under the approach taken by the majority leader, the gentleman from Missouri [Mr. GEPHARDT] and describes how I think it would be possible for us in the kind of spirit that the gentleman from Connecticut [Mr. SHAYS] has brought to the House this evening, work together to kind of build a coalition in both political parties to make sure that in health reform, our Nation's senior citizens get a fair shake.

Under the proposal offered by the majority leader, the gentleman from Missouri [Mr. GEPHARDT] the Nation's senior citizens would continue to get coverage through the Medicare Program.

So right away we have a plank that I think both political parties can support, there is no need to frighten the Nation's elderly, no need to tear up the sidewalks and cause confusion, but to start, as the majority leader does, by in effect building on the Medicare Program.

□ 2030

The second part of his effort is to make sure that our senior citizens continue to have a choice of plan with unrestricted choice of physicians or a managed care program. This too is exceptionally important. This too is something that I think Members of Congress of both political parties can support, because I think if there is one thing the American people agree on it is that senior citizens and others in our country must have access to a widespread range of providers. And plank No. 2 that Mr. GEPHARDT pursues in his legislation is also an effort in my view to try to bring together a consensus to make sure that seniors are well cared for.

The third area is the matter of prescription drugs. Under this legislation the majority leader tries to balance the need for concern about cost with making sure that our seniors start getting some relief from the skyrocketing prescription bills. His proposal would add approximately $8.50 per month to a senior citizen's premium so that there is going to be an additional cost. But never again would a senior citizen have to pay more than a thousand dollars a year on prescription drugs.

I would like to emphasize how important I believe this benefit is, because I remember from my days with the Gray Panthers constantly seeing instances where senior citizens could not afford their pharmaceuticals and seeing very detrimental health effects as a result. Many have heard the phrase that seniors are choosing between food and prescriptions. I found in my years working with senior citizens is what was more likely to happen is not that senior citizens would have to give up all of their meals to cover prescriptions, but what would happen is they could not afford to take all of their pills and their prescriptions in a timely way. So if a physician told them to take three pills, for example, for 2 weeks, maybe they would take three pills for the first 3 days of the prescription, but faced with the prospect of not being able to afford their pharmaceutical bills, after 3 days they would then have to cut back to two pills, and then eventually to one pill. Because pharmaceuticals can be so cost effective in terms of a treatment arrangement, when senior citizens are in that kind of situation, not able to take their prescriptions in a timely kind of way, what is very likely to happen is that their health problems will get worse. Some may eventually need hospitalization, and it is simply not cost effective to ignore the need for some prescription drug relief for our Nation's senior citizens.

So I am very hopeful in the days ahead on a bipartisan basis the Congress will build on the third plank of the majority leader's program for senior citizens, and that is to ensure that is a fiscally responsible way a prescription drug program is started for our elderly.

The majority leader in his plan goes on. There is coverage for annual mammographies. There is mental health benefits. There is not a total limit on the amount senior citizens would have to pay beginning in the year 2003. All of these, in addition to the slowdown in the part B premium are I think very welcomed and measures that Members on both sides of the aisle can support and support enthusiastically.

But I think it is also important to focus on the last part of the proposal for seniors offered by the gentleman from Missouri [Mr. GEPHARDT] and that is the creation of a new home and community-based long-term care program for seniors. I emphasize this again as much out of personal experience as anything else.

During my years of codirector of the Oregon Gray Panthers I had a chance to work with seniors for many years in developing what I think has come to be regarded as really one of the Nation's finest long-term care programs At home in Oregon we have a program known as Project Independence. It is a program designed to keep our seniors at home. As a result of this program we are saving money, we are saving money while at the same time having one of the lowest rates of nursing home stays in the country. We have in effect revolutionized geriatric care, revolutionized health care for seniors, in effect turned the system on its head by putting such a strong emphasis on cost-effective home health care.

What this legislation does, the legislation offered by the majority leader is in effect build on the model developed in Oregon, the Oregon Project Independence Program. The majority leader did not start from scratch. The majority leader did not make this up out of whole cloth. He in effect looked to the models across this country like we see at home in Oregon through Project Independence, and that is what he modeled his home health care program around.

So I am of the view that if the Congress and Members on both sides of the aisle look to a new home and community-based program built around what we have done in Oregon, and now a number of other States have come up with other very sensible kinds of models, we will have a chance to do the best in health care for our seniors, which is to do more of what they want, which is to stay at home and be in the community and do it at a price tag that is less than what we face today when seniors are unnecessarily institutionalized in nursing homes.

So let me wrap up by saying it seems to me we are in effect presented with two kinds of alternatives. One is the approach that we have from Dr. ROWLAND which in effect takes $60 billion over the next 5 years and takes it out of the Medicare trust fund. At a time when we are going to have many more seniors, at a time when the demographics are so clear, it takes $60 billion out of the Medicare trust fund and instead of spending it on prescriptions and long-term care it spends it on matters unrelated to the concerns of the elderly that we are discussing tonight.

On the other hand, we have the approach that the majority leader has zeroed in on which is in effect to find cost-effective savings in the Medicare Program, find savings in the Medicare program that can be routed out without in any ways cutting existing Medicare services. The majority leader has said let us take those savings and reinvest them in the home and community-based services for the elderly and prescription drugs.

I am very hopeful that in a bipartisan way, as the gentleman from Connecticut [Mr. SHAYS], has done for us tonight on the crime bill, I am very hopeful that I and the gentleman from Hawaii [Mr. ABERCROMBIE], and other Members of Congress can work together in a cooperative kind of fashion, in a bipartisan fashion, so that we can make sure that our seniors have a dignified retirement, so they are not wiped out by the crushing costs of long-term care and prescriptions, and we do this in a bipartisan way as the country wants, and we do it in this session of Congress.

□ 2040

Mr. Speaker, I yield to the gentleman from Hawaii [Mr. ABERCROMBIE], who has been such a strong advocate of health care reform, because I know he believes it in his heart, but also because he has seen it work day in and day out in his home State. I am happy to yield to my friend.

Mr. ABERCROMBIE. I thank the gentleman for yielding.

I am very appreciative, and I am appreciative even more so because your last statement is, in fact, what I would like to dwell on for the remainder of the time in this special order hour.

Not everyone has had the opportunity to actually see a health plan in action. The description that the gentleman from Oregon [Mr. WYDEN] has given, Mr. Speaker; I think deserves a bit more attention in terms of the reason for it.

He has very ably given what the plan would be in terms of the kind of coverage, but I think we deserve to have, and the people of the country deserve to have, a bit more of an explanation, a bit more perspective, if you will, minus the heated rhetoric that has been expended on the health care bill. I would like to do that at the present time.

I think that the tone, if you will, that was established in the colloquy that, in effect, existed between the gentleman from Connecticut [Mr. SHAYS] and the gentleman from Oregon [Mr. WYDEN] with respect to the crime bill offers us a bit of a model to address this question of long-term care and the overall health costs.

I want to draw on some material that has been presented by the director of our executive office on aging in the Governor's office in the State of Hawaii, Dr. Jeanette Tacamora, an old friend, an expert in the area of aging, gerontology, and geriatrics, who testified here before the Subcommittee on Housing and Urban Development last year.

What do we mean, in fact, by long-term care? What is it that we are trying to do? I hope some of our colleagues who may be observing and listening in and those Americans who are observing and listening in to what we are saying this evening will give us the opportunity to go into that in a little more depth.

Mr. Speaker, one of the things that I have learned in my political life is that it is the obvious that needs to be repeated most often, because it is the obvious we tend to take for granted and forget first.

The obvious in this instance is that we all know what long-term care means, that we all, after very substantive understanding as to what is involved in long-term care, that we have a response to the phrase "long-term care" that is, in fact, meaningful for us and allows us to have a presentation for the average American that is comprehensible, that is understandable, something that we are able to deal with in a manner that does not need further explication.

I would submit to you, Mr. Speaker, that is not the case. Think about it. Long-term care refers to the full range of rehabilitative, medical, and supportive social services needed by an individual who is dependent upon others for assistance with one or more basic activities of daily living, bathing, dressing, eating, ambulating, toileting. These are in fact, Mr. Speaker, what we are talking about. This is not an abstraction. We are talking about human beings. We are talking about human beings who now have a life expectancy beyond that which was ever thought to be achievable by any other society.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. Speaker, we are, in fact, in an era unimaginable even 50 years ago. As the United States of America approaches the new century, as we approach the turn of this century and enter into a new era, we literally will be having before us a situation in which millions, not hundreds, not thousands, millions of people will be living 10 and 20 and 30 years longer than we ever expected, and many, if not most, will be dealing with the financial condition and circumstance which was fixed 10 and 20 and 30 years ago which did not anticipate in any respect the kinds of costs that will be associated with this new life expectancy.

Mr. Speaker, I was the chairman of the Human Services Committee in the Hawaii State senate and privileged to serve in that capacity for a number of years. I can recall when we made the first attempts to put together long-term-care insurance, in fact, I put out the first bill offering businesses in Hawaii the opportunity to have a tax deduction if they would put forward, as part of the benefit package in our health care plan, a plan which has existed since 1974, more than 20 years now, if they would put into that health plan a long-term-care insurance benefit. Mr. Speaker, you will be interested to know, and Members and the public will be interested to know, that I was defeated in that effort in great measure because, among other things, our own tax department thought that they might lose revenue. They did not want to give the businesses, and we are talking in the mid-1980's now, here we are less than 10 years later, at a crossroads, financial crossroads and social crossroads in our Nation's history, and in fact, the world's history; they thought they were going to lose revenue. My argument then, based more on instinct, and I hope educated projection, as I hope in turn as a responsible chairman of my committee, I said at that time to them, "We are going to have to expend funds beyond that which is now imaginable. If you think you are going to lose revenue now because we would be encouraging businesses to provide an insurance benefit and long-term care," I said, "just think what is going to happen 10 years from now."

Mr. WYDEN. Mr. Speaker, the gentleman is making a very useful and important statement.

Mr. Speaker, I ask unanimous consent that the gentleman from Hawaii [Mr. ABERCROMBIE] may control the balance of my time this evening.

The SPEAKER pro tempore (Mr. FARR). Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ABERCROMBIE. Mr. Speaker, I would be delighted to do that.

Mr. Speaker, I believe I was at a point where I was indicating that as chair of the human services committee in the Hawaii State Legislature I was observing some dozens of people who were reaching an age in which we were, in fact, Mr. Speaker, having to come up with a new category. It was not just the elderly or senior citizens any longer, the euphemisms that were popular in the vernacular of the time. We developed a designation for people as aging elderly.

Mr. Speaker, I want to indicate for those who may not fully comprehend what is involved in that, when you have what we called the Medicaid spenddown, what that meant was that a lifetime's worth of work, generally in partnership with one's spouse, could be wiped out because of the necessity of meeting the criteria established for being poverty-stricken and eligible for Medicaid. In other words, your principal assets had to be expanded, had to be transferred, disapproved. Often that was, for most people, their home.

And there was an additional element, Mr. Speaker. This was gender-related. Women outlived men, and so women found themselves in a situation of having all of the assets expended of the couple, and then finding themselves poverty-stricken, and this category of aging elderly came in not only to existence but into an expanded realm beyond which we had no comprehension previously.

So now we find people, many female, widowed, made poor, their assets stripped from them, now living under circumstances of dependency, medically speaking, in terms of rehabilitation, in terms of support of social services, in the tens of thousands, in fact into the millions.

□ 2050

Mr. Speaker, long-term care may be provided either in an institutional setting or home- or community-based care, as the gentleman from Oregon [Mr. WYDEN] indicated. Long-term care is provided most often by paraprofessionals, such as homemakers, personal care and home health aides, and families.

We now find ourselves in a situation again which I anticipated in the middle eighties, and here we are less than 10 years later having to deal with it, where family leave does not just mean taking care of a child, it may mean taking care of a parent as well. Yet we find situations in which the newspapers are now regaling us with commentary on how people are not just holding down two jobs but three jobs just in order to make ends meet.

How is it possible for people to hold two or three jobs and at the same time take care of their parents let alone take care of their children? This is what is happening in the country. This is why it is needed. This is why the rhetoric has to start meeting reality.

People say, "Who is paying for it?" We are paying for it now. Why should those people who have worked all their lives, sacrificed their lives, particularly those who have come through the Depression—as the President said, played by the rules and worked hard—why should they be stripped of every asset at this point? Why are we as a national legislature not capable of dealing with this in a straightforward way?

Is it your mother, Mr. Speaker, my mother, your father, my father, one of these statistics? They are not statistics to me. No one in this Nation should be a statistic.

We pride ourselves in looking out for the individual. The only way we can do that is on a communal basis. We have to look out for each other. We have a choice of whether we are all in this together or whether we are all on our own.

According to the 1990 census—I will give this, I hope, a human context—31 million Americans, 12.6 percent of the total population were 65 years or older. That is in 1990, 31 million Americans. Think of it in terms of individual human beings and their needs, comprising the fastest growing segment of the American population as well as the segment most likely to require long-term care.

One of the discouraging parts about some of the health plans, all of them put forward in good faith, I am certain, but nonetheless there are still health plans coming forward or amendments coming forward which differentiate whether or not the plans will be more expensive or less expensive, depending on one's age, depending on what the likelihood of disease or incapacity is.

In other words, just at the time when you are most vulnerable financially and physically, we say at just precisely that time we are going to make it more difficult for you to have health care insurance.

What has happened?

One of the reasons I went to Hawaii, Mr. Speaker, was the sense of family. One of the reasons I am proud to represent Hawaii, one of the reasons that I have such deep feeling about Hawaii, is that we have always had a tremendous sense of family, extended family.

We have what we call ohana, and that means family, that is Hawaiian for family. It is an expansive word, we take in everybody. They took me in.

There are no children in Hawaii going to go without a parent, their hanai.

If you have a hanai mother or a hanai father, they take children because they love children. It is the Polynesian way. They love the kapuna.

Mr. Speaker, I was at our dinner for the kapuna in the valley in which I live, on Malama. We have an organization, Malamao Manoa. Malama is where I live. We honored our kapuna. Our kapuna are our elderly, the people we look to for guidance, the people whom we respect. There were 40-plus

people whom we honored. And the criteria is that you are at least 65 years of age and have lived in the valley for 50 years.

We are doing an oral and written history of the valley by going to our kapuna, going to our elders, to those who have come before us and who are sharing the rich heritage and legacy of life in Hawaii with those of us who are here now so we can pass it onto those who are coming; the sense of balance, the sense of continuance that we have.

The person living the longest, 86 years, speaking to us and speaking about being in the valley for 86 years. Another person, 95 years. My mother, now 86 years of age. They have much to share, and yet we want to differentiate on the basis of age in a way that disadvantages our seniors? How is that possible? How is it possible for us to have that attitude?

No, I want to talk about long-term care and about seniors and about our plans in the human context.

Mr. Speaker, that segment which is growing most and most quickly in our country, most likely to require long-term care, individuals 65 and older, are expected to number more than 67.5 million people, more than 22 percent of the population, by the middle of the next century.

Mr. Speaker, you and I may be—maybe you, but I will not be—here by the middle of the next century. There is no statistical possibility of that, I am sure.

But, Mr. Speaker, are we not required as members of a national legislature, is it not incumbent upon us to provide for those who are coming by the middle of the next century?

No one, no one has a deeper feeling about the privilege of serving here in the House of Representatives, the people's House, than I do.

I am sure we all share that. And I feel every moment that I am on this floor that it is my duty as well as my privilege to be able to legislate in a way that reflects the high honor that has been given to us by the people of this Nation, the opportunity to legislate on behalf of the common good, on behalf of the people of this Nation and in fact the world.

That is what our duty is. That is what we need to do in terms of long-term care in the health bill. We do not need to have the rhetoric of division, we do not need to have the rhetoric of confrontation. What we need is more collaboration, what we need is more cooperation on behalf of those who sent us here, on behalf of all the kapuna, on behalf of all the grandmothers and grandfathers, all of those who are our parents, all of those who have come before us and worked so hard and put their faith and trust in us.

By the year 2010, analysts project that the number of elderly Americans in need of long-term care will have grown from 6.2 million to at least 9 million. I can go on with these statistics.

I want us to see it in human terms. In the time remaining to me, Mr. Speaker, then I want to discuss a bit further what it is we are going to try to do to try to meet this necessity. I want to emphasize that word, this is a necessity, it is a national necessity. It is not something that NEIL ABERCROMBIE thinks would just be desirable in a manner that is electorally something which can be beneficial to me electorally or to any Member here on the floor. It is a matter of trying to be straightforward and honest about what it is we have to do. It is not going to be easy.

It does in fact have to be paid for, and I think we can do that. We can do that in one of two ways. We can do it where everyone, as I said, is left on their own to try to struggle with it as best they can, or we can do it as a Nation, all pull together. We are going to expand the Medicare benefit. We are going to have a prescription drug benefit that would be added to the Medicare program. You have to have it. My mom has to have it right now. We are struggling to find a formula right now to deal with some of the physical circumstances that my mom has to deal with, at 86.

Everybody has got a story. It is only a statistic until it hits you. Then, oh, yes, we as individuals, then we feel it; but we have got to feel for each other. The prescription part of it is one of the things that has to be addressed.

□ 2100

There is not anyone listening to me who does not have, or had at one time, their mom, or their dad, or their grandma or grandpa saying to them, "I don't want to be a burden to you, I don't want to be a burden." Is that what this country has come to? We will have our own mothers and fathers concentrating their emotional and psychological time as they approach the end of their life on not trying to be a burden? Think about it.

Mr. Speaker, that is not the best that is in America. That is not the best that we are as Americans. That is not the best that we can offer as national legislators. Far from it.

An unlimited prescription drug coverage with the cap that has been mentioned by the majority leader, that is what we need as a minimum start. We need to cover long-term care, home and community based, home and community based. We want to keep people in their homes as long as we can, and we want to have such services they need that I have described being provided out in the community.

We can do this by giving people a maximum amount of choice in the process. That is just exactly what our proposal is all about.

Those who have suggestions to make it better, I cannot imagine that we would not be open to it. I know the majority leader well, as my colleagues do, Mr. Speaker, and we both know that he is open to any suggestion with respect to expanding our capacity to provide these services.

I do not really want to get into, although I am quite prepared to talk about, the inadequacy I see in some of the other bills that have been offered: no prescription drug benefits for seniors, the utilization, as the gentleman from Oregon [Mr. WYDEN] indicated of presumed Medicare savings to pay other bills, no long-term-care plans, no out-of-pocket caps for seniors, no protection for continuing to limit cost increases. All of these things have come up, and all of these things can be criticized. I rather concentrate though on what we can do and what we should do in this area.

In Hawaii the population over 65 is expected to grow dramatically in the coming decades. We expect it to go to more than one quarter of our population, possibly as much as 30 percent. Mr. Speaker, this is a sobering statistic when you put it in human terms.

One of the things we are criticized, Mr. Speaker, in Hawaii for is that we are so healthy. In fact, in another special order I will be doing in the near future on small business and health care I will point out some people even refer to our climate as being the principal factor in longevity. The fact of the matter is on a per capita basis we probably have more people living longer and living healthier lives than virtually any place in the Nation, but there is a cost to that where long-term care in Hawaii is concerned. Those who are older than 80 years of age will triple by the turn of the century, triple. The cost, of course, has to be dealt with accordingly. Escalating costs and increasing utilization are a potent and ominous combination for Hawaii and its people and for the United States and its people.

The Federal Government, Mr. Speaker, as I draw to a close this discussion of the need for long-term care and its role in our health program, has been hesitant to this point to deal with this phenomenon, this unprecedented social phenomenon. Long-term costs, if left to drift on their own, Mr. Speaker, will increase expenditures dramatically, and the average family will be unable to cope with the situation. If there is anything, Mr. Speaker, that cries out for a national plan, if there is anything that demands of us that we address something on a nationwide basis, it is long-term care, and the only way we can do that, the only effective, efficient way we can do this in human terms, in social terms and economic terms is to see to it that long-term care is part of a national health plan, something that we can all be proud of

VOL 140 PT 16 AG 12 — 18 1994 UMI

as legislators, something that we can facilitate as national legislators because it is, in fact, our duty and out time to see that that is accomplished.

I appreciate this privilege of being able to address our colleagues this evening.

UNDERSTANDING THE REALITY OF HEALTH CARE LEGISLATION

The SPEAKER pro tempore (Mr. FARR of California). Under the Speaker's policy of February 11, 1994, and June 10, 1994, the gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 60 minutes as the designee of the minority leader.

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is a pleasure to be here this evening a little late, but it is important to talk about aspects of the health care bills that are before the Congress because people need to know.

I am endlessly fascinated that, as I work in my district, people will say to me, "You know, I don't like what I hear," and, as they talk about it, you can see that they are, A, afraid; B, concerned, and that their fear and concern are for the quality of their health care first and their jobs second.

So, their concerns are real. They are not light. They are not little. They are very deep. And they are very significant, and what interests me is that through what they say to me it is clear they get it, they really understand, that there is something about the macro bills, the big Clinton lookalikes, that does endanger their health care and their jobs. They do not understand quite why, and that is why I am here. I want people to understand the reality of these bills, the impact they will have on our lives to the extent that we currently understand it, and through that I want them to have the confidence that not just they have the intuition of fear but that their concerns are legitimate in this area or perhaps not legitimate in that area.

So, we are here tonight to kind of lay out some of the problems with the Gephardt health care bill. These were problems with the Clinton proposal. They are for the most part problems in the Mitchell proposal. But they are problems that follow from Government mandating health care on employers of all sizes and all levels of profitability.

Now, before we get into the issue of employer mandates, what is being mandated on whom, and what will be the consequences, I want to indicate the level of my concern by illustrating the fact that some of the consequences of the bills before us are going to create profound unfairness, and in 5 years, and 8 years, and 10 years our constituents are going to look at us and say, "You did this? On purpose?" Let me give you one example:

In the Gephardt bill companies under 100 cannot self-insure. Companies over 100 can self-insure. That sounds innocent enough. What it means to you and me and the guy working next to you is this:

If you work for a company under 100, and I work for a company over 100, and we get paid exactly the same wage, and we get exactly the same benefit package, after health care reform I will get paid less because I work for a company who has fewer than 100 employees and, therefore, pays a community-rated premium for its health care package which is high. My friend who works for an employer who has over 100 employees, earning the same wage, getting the same benefit package, still will get higher wages because his premium will be experience rated and, therefore, lower.

□ 2110

So reform will mean to those two people different wages and an unfair impact, an unfair premium cost, just because we did it from Washington.

I think we have to be real careful that what we do from Washington does not make it worse for people in America, does not give you less health care, does not make you pay more for it, does not erode your wage base. It is those unintended consequences, or those consequences that are less easy to see, that are part of what we want to talk about here tonight.

But in order to understand why bills clearly introduced by well-intended people, clearly introduced by people who do care about individual working Americans, could have these effects, we really want to start from the beginning.

I and my colleagues are going to start out by talking a little bit about what is being mandated in these bills, and who they are being mandated on, and what are going to be the consequences.

First of all, what is being mandated. It is not simple.

First, it is a national benefit package. With every committee that the national benefit package goes through, it grows. We are now up to a national benefit package in most of the Clinton-type bills that is more generous than all but 100 companies in America.

Now, that is nice, but there ain't no free lunch. And if you are being mandated to provide that level of benefit package, it is going to have consequences.

The premium of that kind of benefit package is high. Remember, every year Congress is going to enlarge it. But that national benefit package is not the only thing that we are mandating. There are other aspects to this benefit package that are part of the sneak attack that I was talking about.

My colleague from Louisiana was talking earlier about some of the provisions of the Gephardt bill that have the effect of expanding this national benefit package, not for everyone. Not necessarily for your competitor, but possible for you.

JIM, if you would talk a little bit about the maintenance of efforts provision in the bill.

Mr. MCCRERY. I thank the gentlewoman for yielding. In fact, what is not generally known is that there is really a double mandate in the Gephardt-Clinton bill, and that is an employer currently provides insurance for his employees, under the Gephardt-Clinton bill that employer must, for a period of several years, maintain the level of benefits for his employees. Even if that level of benefits is greater than the standard level of benefits set in the bill, which is fairly generous, as you pointed out, that employer, nevertheless, cannot get a policy of insurance for his employees at that level of the standard benefit package. He must continue to provide a more generous package to his employees.

That is regardless of his profitability, regardless of his cash flow, regardless of his income as an employer. That is just not the real world.

As you know, particularly with small businesses, they live on a year-to-year basis, if not a month-to-month basis. And a package of benefits that they purchase for their employees this year may cost too much the next year. And in order to stay in business, because their profit margin is very, very slim, they must cut back on some of the benefits. That may be in paid vacation time, it may be in health care benefits. They may have to reduce the level of benefits in order to stay in business, in order to continue to employ as many people as they now employ.

That is the real world, and those are the types of decisions that employers, particularly small business employers, have to make every year.

So for the Federal Government to tell a small business person, who is really trying to do his best for his employees, who is really trying to attract and keep quality employees, for the Federal Government to tell that employer, I do not care what you have done in the past, how good a citizen you have been, how good an employer you have been, we are going to make you, regardless of your profitability, regardless of how your business fares in the next 5 years, we are going to make you continue to spend exactly what you have been spending on that fringe benefit.

That makes no sense in this society, no sense in a free society, no sense in a free-market economy, and I just think it is important for people to know that not only is there a mandate in this bill for a standard set of benefits, there is a double mandate. And that is, Mr. Employer, if you now provide a more generous package of benefits to your employees, you are going to have to keep providing that more generous package of benefits.

Mrs. JOHNSON of Connecticut. To give an example of that, because it really hit home with me in talking with a small employer in my district who provides some dental and some vision. Now, he does not provide any substance abuse or any mental health, but he does provide some dental and some vision.

Under reform, he will have to continue the dental and vision, but add also in the substance abuse and mental health and all the other things in the national benefit package. And there is one more thing he will have to add.

Now, to show you how difficult this is, as a member of the Committee on Ways and Means, I sat through two series of markups, I read all the material. We were all there, and it was not until the end of the second markup that we happened to ask the right question to find out that in addition to the national benefit plan and any maintenance of effort benefits you are providing, you will also be obliged to provide all State-mandated benefits.

So the cost of this is going to be extraordinary for our businesses. Most businesses now self-insure in order to go around and get out from under the State mandates. In Connecticut we have an organization that is providing packages to small businesses, which has just come out with some new and exciting and lower cost packages. And I said to them, how much could you cut your premiums if you did not have to comply with State mandates? The answer was 25 percent.

So we are going to now mandate a national benefit package. Then we are going to mandate maintenance of effort. In addition we are going to require all State mandates now to be met. So the total cost of this benefit package is going to be larger than most employers understand, and almost all employers will have to pay more for health care, and most will pay a lot more.

We have also been joined tonight by my colleague from Florida [Mr. STEARNS] and my colleague from Michigan [Mr. KNOLLENBERG]. CLIFF, I would like to yield to you.

Mr. STEARNS. Mr. Speaker, I thank the gentlewoman for yielding, and I commend the gentlewoman from Connecticut for what she is doing tonight. We did this some time ago when we talked about the Clinton plan. This might be like Yogi Berra said, deja vu all over again, because the Clinton-Gephardt plan certainly resembles the original Clinton plan.

As you will remember, when I talked about the mandates last time, I talked about some of the outside accounting firms, the outside different interest groups that scored this, not just CBO or OMB. And I asked them, what impact would the Gephardt-Clinton bill have on the amount of people that would be employed? And they looked at it, and I would like to share with you some of the statistics from that.

Consad, a research organization that is reputable, estimates that between 850,000 and 1.3 million jobs will be lost with the Clinton-Gephardt bill. Laura Tyson, the chairman of the President's Council of Economic Advisors, estimates that 600,000 will be lost.

Citizens for a Sound Economy tells us according to a McGraw-Hill study commissioned by the CSE Foundation, such mandates could increase unemployment by as much as 900,000 when fully implemented.

The NIFB, which we all respect, looked at this and projected the State of Florida, my State, would lose almost 67,000 jobs due to the employer mandate. I have state-by-state how many jobs will be lost.

So we hear a lot of talk about the importance of health care and how it could affect our families, but we must realize that if this mandate as projected by the Gephardt-Clinton plan is instituted, we are going to have a huge amount of job loss across this country, and we should take that into consideration.

In fact, I think most of us agree that the Clinton-Gephardt plan is even more draconian for small businesses than the original Clinton plan. So that is hard for many of us up here to understand, how we could have a bill that is more draconian than the Clinton plan, when the majority of people out in the United States say they are against what they perceive as the Clinton plan.

Mrs. JOHNSON of Connecticut. I think that is a very important point. The burden in the Gephardt-Clinton bill is heavier than the Clinton bill on small business. One reason it is heavier is because in the Gephardt bill, they create what is called Medicare Part C.

□ 2120

They are going to put 55 percent of Americans into a government-run health care program. We all know that those government-run programs, Medicare and Medicaid, under-reimburse. They pay less than the cost of care and right now they are the biggest source of cost shifting, that is of putting costs on the private sector from the public sector.

When they put 55 percent of all Americans into government-run programs, they are going to increase that cost shift $16 billion. Which means that all of these businesses we are talking about, they are going to have this very large mandate put in their shoulders, are going to have also the cost of the under-reimbursement for Medicare Part C shifted onto them, that $16 billion. They are going to have the new costs of the stealth repeal of State malpractice reform laws shifted onto them.

In other words, in this bill, surprisingly enough, they actually repeal State malpractice reforms. And when those get repealed, costs will go up, both of defense of medicine and of malpractice premiums. And so that cost is going to be shifted into the premium base.

And lastly, there is a 2-percent tax on all premiums that will again raise the cost of the very employers. That is why the jobs will hemorrhage out of the system.

I yield to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. I thank the gentlewoman for conducting this special order, with her background and expertise in that subject area. It has been invaluable to a whole lot of us in the conference.

I just want to relate to what you just said. My State of Michigan just passed a malpractice reform bill, and you are saying to me that even though that did lower to the satisfaction of most people, of course, obviously certainly the physicians and the medical community, as well as doing, I think, justice for the entire State, what you are saying to me, by virtue of the Gephardt-Clinton bill, there is a repeal mechanism that is calculated or incorporated into this process so that even though they do have a program in effect that that will be repealed or downsized or removed?

Mrs. JOHNSON of Connecticut. Absolutely. In all the years, and people do not realize that actually Congress has been studying this subject for years, not all of Congress, but some significant groups in the Congress and outside groups, there has not been a single health reform proposal from any credible group of Members or outside experts that has not recommended good, solid, extensive, comprehensive malpractice reform at the national level. The President's proposal was very weak in that area. The Republican proposal, to its credit, was very strong. The bipartisan bill is very strong in that area.

But to everyone's sort of shock and amazement, not only is the Gephardt bill not strong, but it actually repeals progressive malpractice reform proposals that have been adopted at the state level. And yes, Michigan would have to abide.

Mr. KNOLLENBERG. I thank the gentlewoman for making that clarification. I know the gentleman from Louisiana had another point.

Mr. MCCRERY. I just wanted to follow up on the gentlewoman's point of creating a system in which maybe half the population would be in a Government, direct government-controlled system like Medicare. You and I are not the only ones who fear that.

I want to quote to the gentlewoman from a letter written by two democratic Governors, two Governors who are Democrats, and two Governors who are Republicans. Governor Howard

VOL 140 PT 16 AG 12 — 18 1994 UMI

Dean and Governor Romer, Democrats, and Tommy Thompson and Carroll Campbell, Republicans, wrote Congressman GEPHARDT on August 1 expressing concern about the Medicare Part C program which would put all these additional millions of Americans into a government program.

They said,

We believe that America's health care system must remain responsive to market conditions and should operate only with selective regulation by both the Federal and state governments. Medicare, a government run, price-controlled system, does not meet that goal. Moreover, expanding the use of Medicare reimbursement rates to major additional portions of the health care system would have disruptive, if not disastrous, effects on the health care delivery system. The Medicare program is also highly bureaucratic and unresponsive to local needs and has been ineffective at controlling overall costs.

That is a quote from two Democratic Governors and two Republican Governors who clearly agree with you that to force maybe half the population of the United States into a Medicare-like program is not the answer to solve our problems in health care.

Mrs. JOHNSON of Connecticut. I hope that one of these evenings we will take a special order and just talk about the implications of Medicare Part C. But for this special order on the impact of mandates, an employer mandate on both the job-creating capability of our economy and the quality of health care for our citizens, as well as the cost, it is important to recognize that just that portion of the Gephardt bill will have the effect of shifting billions of dollars of additional costs onto small businesses. That is why the job impact is going to be so steep.

It is the combination of the mandate, of the maintenance of effort that it puts even more benefits in there, of the State mandates that now come into play, of the cost shifting, which is billions, of the 2-percent extra in premium, 2-percent extra in all premiums, and the malpractice reform implications. What you end up mandating is, indeed, a very big package of costs.

Mr. KNOLLENBERG. I just wanted to, in terms of letting to the States, and Michigan is just one of the 50, but in my first town hall hearing on health care, and I have had 9, I had some 450 business people. It was billed as a business owners, small business-type forum. Over 450 people showed up. That was some months ago. At that time they told me the very same thing that you have been repeating and the gentlemen from Louisiana and Florida, that mandates are really a tax. It is going to do one of several things.

Any employer, small business employer facing a mandate in effect is facing a tax. That works, as I think you pointed out, several ways. It works as, for example, it either means that they have to increase prices to their customers. They have to cut profits. They have to reduce wages or benefits or reduce employees. And then, finally, if all that does not work, they have one option: get out of the business.

Mrs. JOHNSON of Connecticut. That is right.

Mr. KNOLLENBERG. Those folks made it very clear to me that those were the options. And the last one might be one that they would have to consider. Small businesses that are threatened with those kinds of concerns do have to look at their bottom line. Many of the retail operations work on a very slim margin, and that favorite shop or store or restaurant might just go out of business because of mandates of this type that does not help any of us. It does not help any of our people on our States. And it certainly does not help the economy.

We seem to have a little bit of a building economy in Michigan these days, despite whatever might be taking place countrywide. What we should not want to do there, and I know across the country, is establish a mandate that is a tax that will do or create those kinds of problems for the small business people.

I just wanted to cite a couple of things. There was a survey done by Governor Engler in Michigan, who has done, I think, a number of remarkable things. But the survey that they conducted was with a number of businesses, small businesses around the State.

I just wanted to indicate some quotes that came out of the surveys that came back. Incidentally, it was heavily responded to, much more so than average. And these were mailed out to some 1,800 businesses.

Here is one quote from the Michigan Grocers Association:

The net effect would be fewer employees, both part and full time. Overtime would end up being cost effective or more cost effective than having people work 40 hours only and end up, therefore, with more employees. There will be less jobs, both part time and full time, in our company with these mandates in effect.

And then they also say in another case:

If all the government red tape restrictions and controls continue to be put on small business, which employ most of the people in Michigan, we cannot pay for it due to the competitiveness of our business.

Pricing, you can just raise the price a little bit, that may distort your sales. It may create some other problems. So it is not as easy as they say.

□ 2130

They are going on to say that "We cannot run our business like government runs theirs because we cannot run a deficit," so you look for those areas that you have to cut, one of which would be wages, or employees.

Mr. Speaker, this is something that came out of a survey, and I think it serves to point out exactly what the gentlewoman has been pointing out.

Mrs. JOHNSON of Connecticut. I want to stay with this issue, so I'm not cutting you off, but I want to stay with this issue of the impact for a few minutes. It is complicated. People know it is a problem. They do not understand why, really, they are so afraid of it, but they know they are afraid of it.

As you go around your district, now Connecticut has been through probably as tough a recession as any State in the post-World War II era in the last 5 years. We have had a truly hard time, because we not only had the recession that the Nation went through, we had the banking crisis, we had defense downsizing, all at the same time.

We have been through very hard times. There are a lot of employers who have said to me "I would not have made it, but I went from a first-dollar-coverage plan to a catastrophic plan." They said "It was really hard to do that, but I saved those jobs, and in 2 years, I'm going to go back up, I'm going to have that full complement of people, and I'm going to be back up to a good, solid health plan for my folks."

One of the things people are not realizing is that if we mandate a rigid plan and an 80-percent employer cost, a recession comes, your orders drop off, and then you cannot reduce your costs by going to a lower cost plan. You can only reduce your costs by laying people off. Finally, you can only reduce your costs by going out of business.

Making a mistake by mandating too big a plan on businesses that cannot bear it will not only cost jobs, which, of course, is true, but more importantly, it will stop the development of the very kinds of small businesses that make that next generation of employers. Connecticut is an excellent example.

Defense is going down. Our big manufacturers are going to be smaller and smaller because they are primarily defense related. Our big insurers are never going to be as big in numbers of employees in the years ahead as they are today, and they are not as big now as they were last year. Banks are not going to be as big employers in the future as they have been in the past.

If we are going to build the companies of the future, you have to let the little guy with 5 employees become some guy of 10 employees, become some guy of 25 employees, and you make it harder and harder and harder when you put a heavy burden on them, and then they cannot make it when orders get down.

Mr. STEARNS. Just to follow along on that point, when you talk about mandating to employers that "You have to pay for it," you touched on the mandate that the employer has to pay for a mandated plan.

This particular plan, as you point out, is rigid and is expensive to the employer. They cannot have the flexibility that they need, particularly depending upon the kind of health service they want to provide across the gamut, so they are forced to pay for this plan, which is really not tailored, maybe, for their small business or for their large business.

When we talk about mandates, we are not just talking about the employer mandate to pay it, but we are talking about the mandate of this rigid package. I think we should touch a little bit on this plan, because this is sort of the main part of it which causes this increased cost.

Mr. Speaker, the NFIB, the National Federation of Independent Businesses, says that "The mandated benefits package is estimated to increase dramatically under the Gephardt-Clinton plan" than it did under the Clinton plan, and it is going to work out to the detriment of businesses. They have put together a comparison sheet. It says "The annual cost is going to go from $2,000 to $4,000 average for a person," for a firm. This is not for the employee, but for a firm.

So when we are talking about Connecticut having a hard time because of the cutback in defense and the other things up there, what is going to happen when you say to the employer, "Regardless, you are going to have to take this rigid plan, you are going to have to pay for it, and the employee is going to pay 20 percent and you are going to pay 80 percent," and they are going to look at this plan. You and I both know that Congress might again come back and mandate a bigger type of plan, a more rigid plan. We have seen Congress do that again and again.

What happens to this employer who has a sound business and he has a good bottom line? That is just going to deteriorate, and what is going to happen is going to be high unemployment, which is going back to the original statistics that I quoted.

Mr. McCRERY. Will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Louisiana.

Mr. McCRERY. I thank the gentlewoman for yielding.

NFIB did a survey of their membership back in 1990 and found out that of their members whose owners took more than $70,000 out of their business, so in other words, if the owner made $70,000 on his business, 90 percent of those provided health insurance to their employees. The ones who did not provide insurance to their employees were business owners who took out less than $10,000 a year for their own income.

So that means that an employer mandate is not going to hurt the small businesses who are successful, because they, most of them already provide health insurance, so they are already providing that cost, meeting it. But it is the small—it is particularly the new small businesses, the ones that are just getting started.

You have a man and his wife who put their life savings into a business and they are struggling to make it work in that first year, the first 2 years. They are not taking much out of it for income, because they cannot. Now here we come and we are going to say "It does not matter that you don't make any money off of your business, we are going to impose another cost of doing business on you." And as you pointed out, it could be as much as $2,000 per employee, or if that employee has a spouse, it could be $4,000, or if that employee has a spouse and a child, it could be $5,700, according to the estimates of the Clinton-Gephardt plan.

Mr. Speaker, it is important to know what kind of businesses are going to be most hurt by this mandate. When you look at it closely, you will find that it is the smallest businesses, the businesses that are struggling, the businesses whose owners do not take very much money out of the business. They are not making very much money, but they are struggling to keep afloat, they are struggling to keep those 2, 3, 4, 5, 10 jobs in their community.

What we are about to do if we pass the Clinton-Gephardt bill is to tell those people "Keep struggling. In fact, we are going to make your struggle even harder, because we are going to impose a cost of doing business on you that you cannot get around. You must pay, regardless of if you make a profit, regardless of what your income is, regardless of your cash flow. You have got to pay this."

What that is going to do is exactly what the gentlewoman from Connecticut suggested. It is going to drive out of business a lot of those small employers, or it is going to cause them to lay off one employee to be able to absorb those additional costs of doing business, or maybe two employees. So then what happens to those folks? They do not have—not only do they not have insurance, they do not have a job. That is no answer. So I appreciate the gentlewoman bringing that up and encourage her to continue.

Mrs. JOHNSON of Connecticut. That certainly is no answer, and it is certainly no answer to controlling costs. Remember, what really is creating our problems is rising costs. When you mandate a plan on the employer and you mandate the employer to pay 80 percent and the employee to pay 20 percent, you create a rigid system that denies us as innovative Americans the opportunity to do, for instance, what Knox Semiconductor did.

Knox Semiconductor of Rockport, ME, has an insurance plan called Health Wealth, which is marketed by Progress Sharing Co., an insurance broker in Saco, ME. Under the plan Knox raised employees' deductibility and copayments, lowering their premium costs. Then it put the money saved into a mutual fund account for each employee. Employees who make matching contributions can use the money in their accounts to pay for their deductibles and copayments. If they don't, they pay taxes on the money and keep it. Knox has had just one rate increase in the past 4 years.

Remember, at the beginning of this I talked about the 100 mark and how in the Gephardt bill, after a lot of fighting in the committee, we at least got the right to self-insure down to 100. This is a 32-employee company, and they are self-insuring through their own pool like this. It is saving them money, benefiting their employees.

I have to give just one more example, because all of these creative, inventive solutions to health care that employees cover costs, but help them do it in a way that reduces the overall costs in the society and rewards people for thinking health, for thinking wellness, will be literally wiped out by Washington, and sometimes our arrogance is simply astounding.

□ 2140

Forbes offered its employees in 1991 a great deal: If during the year an employee filed major medical and dental claims totaling less than $500, Forbes would pay that person double the difference between the $500 and the claims that they filed.

Suppose an employee and his family had $900 in medical expenses. If the employee filed them, the most the insurer would reimburse him would be $900 minus his deductible and copayments, the portion of the bill the employee is responsible for beyond the deductible. He would be out a few hundred dollars and since his claims were over $500, Forbes would pay him nothing.

However, if he filed no claims for those expenses, $500 minus zero for no claims comes to $500 double, that is $1,000. This would put the employee $100 ahead. So he would be ahead if he filed no claims, which means no administrative costs for the company, he pays the whole $900, he gets a bonus of $1,000 and he is up $100, and the whole system has not had to pay the costs of all of the reimbursements that go with insuring, and he has meanwhile shopped around looking to see who will charge me what for what health care service which now the people are beginning to do. They are finding that charges vary in health care just like they vary for sofas and couches and automobiles and everything else.

One of the aspects of the employer mandate and one of its impacts is that it will destroy any plan that is not the national health benefit package plus the maintenance of effort on the State mandates, that is, the wisdom of Government, and is not set up with an 80/

VOL 140 PT 16 AG 12 — 18 1994 UMI

20 split dictated by Government. And really when you think how innovation, how being people-centered, how important one's own personal responsibility is to real health and wellness, we are actually about to adopt, if we adopt a solution like the Gephardt bill or the Clinton bill or the majority leader's bill in the Senate, if we adopt those kinds of plans, we will wipe out the very innovative, creative responses that are controlling costs, reducing the burden on society but providing quality health care. I just wanted to get those two examples on the record because if there is one thing that makes America unique and different, it is her remarkably resilient and creative people.

Mr. ABERCROMBIE: Will the gentlewoman kindly yield for a moment or two?

Mrs. JOHNSON of Connecticut. I would be happy to yield.

Mr. ABERCROMBIE. I thank the gentlewoman very much.

I have listened with some degree of interest to your concerns about particularly where small business is concerned and in employer mandates, and I recognize not only the sincerity of the presentation but the real and vital concern that I think is felt across the Nation. I just simply wanted to share with you just for a moment or two that the employer mandate which we put in really quite frankly at the heart of the bill we passed in Hawaii 20 years ago has not had that effect. In fact, we have increased the number of our small businesses, and the principal concern for staying in business today in Hawaii has less to do with health care than with other circumstances like workers' compensation, et cetera, that might be the basis of a discussion at some other time, some other piece of legislation or even special order.

But I just wanted to indicate that while your concerns, in fact I would say anxieties I think is a fair word, about launching a national program in this respect is, of course, quite pertinent, I can assure you that the health care mandate for employers in small business is not cited by small business people who have dealt with them for a number of years as the principal threat, if you will, to their financial bottom line.

Mrs. JOHNSON of Connecticut. I was very interested in the gentleman's special order before ours and was on the floor and did listen.

Mr. ABERCROMBIE. Yes, I saw you.

Mrs. JOHNSON of Connecticut. I have studied the situation in Hawaii, because Connecticut is a State with 91 percent coverage. According to the Employee Benefit Research Institute, which is I think the most unbiased source of these figures, they put Connecticut at 91 percent coverage. They put Hawaii at 93 percent coverage. Indeed most of the figures showed that Hawaii is not at 100 percent coverage. They are somewhere between 93 percent and 95 percent coverage. Furthermore, Hawaiians have the choice, primarily 80 percent of them have the choice of only two insurers, Kaiser Permanente, an HMO, or Blue Cross-Blue Shield. Most of us who have dealt with Blue Cross-Blue Shield and some of the other big plans find that they are often inadequate. One of the things that keeps them honest on the mainland is that there is a lot of smaller companies and there are a lot of creative employers like I just quoted who frankly provide far better plans.

Then the other thing that is real interesting about Hawaii, two other things I should just mention about Hawaii, is that between 1980 and 1990, total health care costs in Hawaii rose 191 percent. The national average in the mainland was 163 percent. So the Hawaii system has not succeeded in controlling costs.

Lastly, I would comment that 4 in 10 employers had to reduce the number of employees when the mandate first went into effect; 1 in 10 employers hired part-time workers instead of full-time workers because part-time workers were not covered; 55 percent restricted their wage increases; 33 percent reduced other benefits; and 6 in 10 raised prices. But 1 in 5 of the firms knew other firms that had gone out of business because of the mandates. That is the unseen consequence.

So while I respect Hawaii's decision in this regard, I would also point out that Hawaii has a rather different population than the rest of the Nation. I do not think that you can say because Hawaii has an employer mandate that that makes an employer mandate good. It has not provided much more coverage for Hawaii than Connecticut has. It has not provided the diversity of insurers that the mainland has. It certainly does not allow the diversity that the system over here allows in self-insured and, therefore, it has not been the State in which things like medical savings accounts and other approaches have developed.

Mr. ABERCROMBIE. Will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I will be happy to yield since I threw all those things at you that are rather negative to your State.

Mr. ABERCROMBIE. If you would allow me just a moment or two to respond.

One of the reasons I came down, I have heard this, and I must say, you are the mistress of the information that has been given to you and present it very effectively.

One of the reasons I did want to come down because of the small business discussion is that virtually nothing of what you have been told is accurate as far as Hawaii is concerned, and it is important to us for those of us who do live there to at least get the information on the record.

Mrs. JOHNSON of Connecticut. I think it is accurate that you have primarily Kaiser Permanente and Blue Cross-Blue Shield. Is that not accurate?

Mr. ABERCROMBIE. No. If you would just give me a moment or two. By the way, I am very familiar with the Small Business Hawaii executive director because we went to school together and we have been having a discussion about business and business regulation for the better part of three decades. So I know fully what the approach is.

Just very quickly, the original law was never intended to provide full coverage. It was based on employees who worked full time by definition of the law, which was 20 plus or more hours per week. That was to start it. We never did amend the bill for all intents and purposes except for a couple of benefits because virtually right away, with the mandate in operation even when there was a period of time when there was a dispute over whether we were going to have a waiver, the ERISA waiver, coverage was virtually universal. There are several plans that are put forward and choices to be made in addition to Kaiser and HMSA.

What happened almost immediately was many of the other businesses left because they were taking premiums out, and I think you are familiar with the phrase "cherry-picking." They would go in in those areas where they could maximize their profit and minimize their payout, and they left. Kaiser and Hawaii Medical Services Association, which is in fact the Blue Cross and Blue Shield, do in fact have the major part of the business because of the choice of the people. I think if you surveyed the people in the State, they are very well satisfied with it, although other competition has come up. For example, to try and achieve 100 percent coverage in our Health Quest program, there are five different plans including Kaiser and the Hawaii Medical Services Association, and three others that have come into the competition and succeeded and they are part of our plan toward achieving it.

I just want to conclude by citing to you the latest opportunity for small businesspeople to express themselves, and this was August 1 of this year, 1994, in the Honolulu Star Bulletin. The focus is on imperiled entrepreneurs, "Risky Small Business," is the title.

In the entire article, which focuses on three small businesses, as well as an overall portrait of the 29,000 businesses we have in Hawaii, 98 percent of them with less than 100 employees, and the overwhelming majority, less than 50 employees, only once does the question of health care costs come up. And the citation there is that over the past 12 years, the coverage went up approximately $5 a year.

□ 2150

So there are genuine concerns. Let me rephrase that and I will conclude. The gentlewoman has been very generous to give me the time she has. I did not mean to imply at all that your concern was not genuine on the question of employer mandates. Obviously that has to be not only discussed but a conclusion has to be reached.

What I meant to say was that I believe that with respect to the dangers for small business and the difficulties for small business in Hawaii, there is much more of a problem with respect to Workers' Compensation, with respect to location and costs of actually being able to have a lease, et cetera, in Hawaii, factors which do in fact make it different and unique from some other areas, although I think Workers' Compensation is a difficulty shared by virtually all small businesses today. But you will find that being cited virtually 100 percent of the time with respect to the difficulties and health care coverage being cited occasionally or only when people are reminded of it.

So what I would ask is as we continue the conversation I hope over the next few days and weeks that we give some consideration to what the positive effects of health care and employer mandates might be in the sense of achieving cooperation in a national health care bill that we can all if not be happy with, feel that it is at least minimally fair one to another.

Mrs. JOHNSON of Connecticut. I would certainly say that I think there is a good, solid bipartisan health care reform bill that we ought to have on the President's desk this year that would do a lot of things that would be very important to all Americans that would eliminate the discrimination that currently exists against people with preexisting conditions, that would prevent companies from cherry-picking, as the gentleman alluded to that they used to do in Hawaii, and would prevent them from doing that nationwide. So there are lots of good things that we can do.

I also respect and am interested in Hawaii's decision to adopt an employer mandate, and I am glad it is working for them. I do not want Washington to force Connecticut to adopt an employer mandate when we are within two percentage points of Hawaii without one, and when we need small businesses to grow and take advantage of our manufacturing work force and of our plant capacity to produce new products, and when I know perfectly well that the majority of the uninsured in my State are in the big cities where there not only are lots of people without health insurance, but there is not a good health insurance infrastructure. And I know if we create an expanded community health center network so those people can get to providers, and we turn Medicaid from a fee-for-service compensation program into an insuring program so people can have the doctor of their choice and establish relationships that they have chosen, I believe that Connecticut can get to 95 percent every bit as fast as every other State, including Hawaii. So I just do not want Washington to mandate on my State Hawaii's solution, which seems to be working nicely for them in many ways.

Mr. ABERCROMBIE. I appreciate the gentlewoman giving me the time.

Mrs. JOHNSON of Connecticut. It is nice to have you with us, and I thank you.

I would say you ought to go through and compare what the benefits plan is in Gephardt plus the maintenance of effort, plus the State mandates and see how that works out, how many of your employers would actually experience an increase in costs, because I believe it is correct to say that the national benefit plan is considerable richer than Hawaii's plan. We have to check that out.

Mr. ABERCROMBIE. We can discuss that at another time, and I thank the gentlewoman again for the opportunity.

Mrs. JOHNSON of Connecticut. I thank the gentleman from Hawaii.

Mr. McCRERY. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Louisiana.

Mr. McCRERY. Mr. Speaker, I appreciate the gentleman coming to the floor and sharing with us his experience in Hawaii. I too had the opportunity to hear his remarks on the floor in the previous special order, and I know that he is sincere in seeking answers to some of the problems that plague our health care system.

With respect though to the data that the gentlewoman from Connecticut cited, with respect to Hawaii the gentleman should know that the figure of 93 percent coverage comes from the GAO, which is a fairly well-respected government watchdog, and the data that she cited with respect to the impact of the Hawaii plan on businesses, 4 in 10 employers had to reduce the number of employees and so on, that data came from a 1993 Kaiser family foundation study. So these are not things she just pulled out of the air.

Mr. ABERCROMBIE. May I just respond very briefly. You are right about that.

Unfortunately, as with everything else, it requires perspective and context. After hurricane Aniki came through you will find that both the failure of businesses and people being laid off, which was cited there, had virtually everything to do with the hurricane. I will not take your time tonight, but I can assure you that the latest statistics show that our health care costs are going down and our hiring is going back up as our economy recovers.

Mr. McCRERY. I do not mean to criticize Hawaii. I think if Hawaii wants to do that, that is fine, and it has achieved 93 percent coverage. But there is another element to this that we have not talked about tonight, and I think we need to hit it because it is not just job loss that is the result of employer mandate. It is not just an increase to the cost of doing business. It is not just laying off employees or converting from full-time employees to part-time employees to try to avoid the full cost of the mandate. I think more important than all of that is the fact that when the government, the central government, the Federal Government chooses to impose a mandate on all employers in this country to provide health insurance, they are taking the first, the most important, the biggest step toward government control of our health care system. That should not be overlooked in this debate on employer mandates, because only through a mandate, short of a single-payer system where the government controls everything and pays all of the bills, short of that, an employer mandate is necessary for the government to control our health care system.

Think about it. Once the government says, "Mr. Employer, you must give your employees health insurance," then the government says, "Mr. Employer, you must give your employees this health insurance, these benefits," that the government prescribes, and then the government says, "We are also going to impose global budgets on health care spending on a State by State basis." If your State exceeds that global budget, guess what? "We are going to impose price controls and tell you what you must pay for that set of benefits." Then you have government control of health care.

I do not think anybody, well, there are a few in this country who want the government to control health care, but I would submit that the vast majority of Americans, the vast majority of the people in my district for sure do want the government to control their health care system.

So be careful, those of you who promote employer mandates, be careful because that is the first step to government control of our health care system.

Mrs. JOHNSON of Connecticut. I do think that it is absolutely true, and those of us who have been on the committee that have marked up this bill two times now, both the Subcommittee of Ways and Means and in the full committee, we saw how deeply interlocked mandates and price controls are. And once government adopts a price control policy, with it they do things like this: In the Gephardt bill there is a provision in law that says the Secretary of Health and Human Services shall have the power to decide whether a drug is being used appropriately, and if she

VOL 140 PT 16 AG 12 — 18 1994 UMI

does not think that drug is being used appropriately she can deny reimbursement for that drug.

When you look at the future where drugs are going to be more expensive, and there are going to be fewer operations and more use of pharmaceuticals, you can see why the government in this bill is taking control over what drugs you will be able to have reimbursed under your health care plan.

It is the details that reveal the depth of the power shift from people to government that lies behind a bill whose fundamental structure is employer mandates and price controls.

Mr. STEARNS. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to my colleague, the gentleman from Florida.

Mr. STEARNS. Mr. Speaker, I just wanted to add a few comments to the debate from the gentleman from Hawaii. I think perhaps we should take a special order and point out the fallacies in the health care program that exists in Hawaii, because there have been many articles written upon it talking about how it has increased the tax base and how a lot of the research for health care comes from the mainland and the type of economy over there versus the economy that might be in Connecticut.

□ 2200

There are so many comparisons we could do to show that what the gentleman was talking about does not apply here and, in fact, that the Clinton-Gephardt bill is vastly different than that, and so I think at another time we might want to explore that.

But I wanted to make one final argument concerning this employer mandate. And I have heard this by the administration saying, "What is the big deal? You have minimum wage. We have increased the minimum wage, and it did not amount to a flick on the economy." It does.

This is a little different. If I am an employer or employee, the minimum wage applies to a very small segment within that corporation.

Mrs. JOHNSON of Connecticut. Just a few employees.

Mr. STEARNS. Just a few people. Now you are not mandating just that small group of employees. You are mandating all employees, all employers, all across the United States, and the impact is dramatic in comparing it to just raising the minimum wage and making the same comparison is the fallacy, and in the end the employer lots of times cannot control his health care if Government is going to mandate increased standard benefit packages. With all the bureaucracy that comes in with this bill, it is going to affect the employer. He will not be able to control the costs like he could with a small, narrowly segmented group of individuals who are on minimum wage.

I just wanted to bring up the fallacy about comparing this to minimum wage.

Mrs. JOHNSON of Connecticut. Not only are you imposing a cost for each employee, but each employee's spouse and each employee's children. At least, in the Clinton plan, President Clinton was going to have the employer have the spouse pay something and send it back to the employer who paid the family coverage, but this is so typical of Washington. Honestly, you have to have a sense of humor. It is not very funny if you have to pay the bill.

In the Gephardt plan the employer of the spouse is going to pay a premium, but it is not going to go back to the employer who provides the family coverage. It is going to go to the Government to pay the subsidies for small business and low-income workers. So remember, we talked about how small business is going to have to carry the cost of this big benefit plan and of the maintenance of effort benefits and of the State mandated benefits. They are also going to have to carry the costs of the subsidies necessary to subsidize the premiums of low-income workers and small businesses. So you are not going to be paying just for your employees' mandated benefits; you are also going to be paying for other employees' mandated benefits, and that is why the costs are going to go up far higher than they are now.

And then you get into what Europe has gotten into where they said in 1993, when President Clinton got them all together to look how we can make the economies grow, the European Community leaders said, "We must lower taxes on labor to enhance Europe's industrial competitiveness." By that, they meant lower the fringe-benefit costs on labor, not the wages, and in truth, since in the last decade, Europe has created, the last 20 years, Europe has created no new net jobs, no new net jobs. We have created lots of new jobs, because we create them in the small business sector.

Mr. STEARNS. I wanted to interject one thing. Is it not true in some of the European countries the employer health benefits are half of what the labor wage is? In other words, they are increasing so dramatically the labor wage itself is just about twice, but the whole health care is just increasing so dramatically in these countries that it is taking a bigger and bigger share of the employer benefits to the employee.

Mrs. JOHNSON of Connecticut. I thought we had 10 minutes left, but I am told we only have 2 minutes left.

So I yield to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. I will take one quick minute, then you can close. I just wanted to say that one of the things I do not think we had talked about this evening is the fact these mandates do something else beside affecting existing businesses.

Think of the businesses, and I ran a business for years before I came to Congress. I had a small business. I had to borrow money to meet payroll sometimes. That is how it goes. That is how you do it. How about all the businesses that have not started because they cannot or will not be able to fund the requirement of the mandate to buy health coverage for those people in their employment? I would suggest to you that people are not blocks of wood. They behave normally. They understand what the liabilities are of going into business. Believe me, it is tough. I have seen people sweat and strain.

I think the gentleman from Louisiana pointed out that some have less than $10,000 to show for it. That is not a livelihood, I can assure you.

These mandates, this is the hidden factor. I think it does impact greatly the startup of new businesses where all the net new jobs have come from.

I thank the gentlewoman from Connecticut.

Mr. STEARNS. I commend the gentlewoman again for the special order.

Mr. MCCRERY. I appreciate the gentlewoman inviting me to join her this evening, and I think we have done a good job in exposing the employer mandate as nothing but a new payroll tax.

Mrs. JOHNSON of Connecticut. That is important. I do want to just close with this comment that 90 percent of people who take home $70,000 out of their business do provide health insurance for their employees. One-third of those who take home only $10,000 provide health insurance. They want to do it. Those who do not, for the most part, cannot afford to do it, and mandating it on them will not make them able to afford to do it. But it will force them to reduce the number of jobs or go out of business.

So this has big implications both for people's jobs, the strength and vitality of our economy, as well as the quality of health care in America.

I thank the Members for joining me tonight.

A SENSE OF PURPOSE OF OUR COUNTRY

The SPEAKER pro tempore (Mr. FARR). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Indiana [Mr. BUYER] is recognized for 60 minutes.

Mr. BUYER. Mr. Speaker, I come to the House floor tonight because I have pondered and given analysis to a sense of purpose of our country.

Our Nation was dedicated to basic principles of God's will. Our Founders called these rights to be self-evident and forged a great country from the wilderness.

Two hundred and eighteen years later the ambiance of America is defined by the soul of her people. While many are filled with goodness, there is a lack of godliness, reverence, and direction among the American people.

When pillars of Christianity in a society are weakened, so are the fruits and blessings which flow from such a nation. The liberals mock George Bush for the "vision thing," and they also mocked Dan Quayle for preaching family values. You see, they were both right, the liberal goal is to replace Christian principles of our Republic with humanistic principles in that the human being can do whatever they want so long as they feel good and it does not hurt others.

We must, as a country, ameliorate our society neither by sanitizing her nor by living in her past, but by restructuring our Government and shoring up her originating foundations. These efforts will give direction and reignite the power of the American dream.

It will happen from those of us who are principled and exercise the courage of conviction with passion. You see, we will succeed, because there are so few of us who compete with their whole heart.

The reason I have made that comment is because I would like to discuss crime tonight. You see, all of this passion that a lot of people like to speak about on the crime issue really is about emotion into the issue.

Having been a former prosecutor, a Federal prosecutor, for 3 years out of the United States attorney's office, crime is an issue I know something about. You see, what we should be talking about here is the United States Code. That is what this is, Federal jurisdiction.

You see, there were four great landmarks in the history of the Federal criminal legislation. The first criminal law was enacted by the Crimes Act of 1790. The act defined back in 1790, among others, such offenses as treason; it also had forgery, bribery, and many of these punishments have not even been changed to today.

Then there was a revision in 1866; another revision in 1897; and the most recent revision was accomplished in 1948.

I think what we must remember is in the preface of title 18 a quote by Roy Fitzgerald of June 30, 1926. He said, "The scrutiny of this code is invited, constructive criticism is solicited. It is the ambition of the Committee of the Revision of the Laws of the House of Representatives," at that time, "was to perfect the code by correcting errors, eliminating an obsolete matter, restating the law with logical completeness, with precision, brevity, and uniformity of expression."

You see, the crime issue: We should be talking about the law. A successful judicial system needs a proper balance between restitution, retribution, deterrence, rehabilitation, and prevention.

What has occurred with the crime bill that came out after conference report is that it is completely out of balance.

□ 2210

The crime bill that was defeated here on a procedural vote for the rule, the message sent was to send that bill back to conference to correct it, because this body voiced the will of the American people to say that the bill that was submitted for us was an obscene injustice of public responsibility.

You see, the responsibility that we have as Members is to come forth with political morality. Political morality is whatever bill that you bring forth, whether it is on welfare reform, on crime, whether it is on the space station, whether it is on many different appropriations, we need to begin paying for what we do. When we have approaching a $5 trillion national debt, which is moving forward at a clip of $870 million a day, that is what this deficit is costing us, money that could go to infrastructure of this country, to improvements in education, advanced technologies.

No, we have to pay it on the Nation's debt and our budget deficit. That is what this is causing to us. We cannot ignore it. We cannot stick our head in the sand and say we can continue on.

We must exercise political morality.

For many, many years, you see, there was not a cry among America for a balanced budget amendment, there was not a cry for a line-item veto. Only recently has there been the lack of responsibility.

That act of public responsibility is also involved in the crime bill because when there is not enough funding to go around, we must exercise public responsibility to spend dollars wisely, prudently, effectively, focused so that they are effective programs; not to just on the crime issue, to spend money as if it is a starburst without realizing what impact those funds are being made, if any.

The message I received from the State of Indiana has been very clear, it is to stop the revolving door on violent crime and to, yes, place more police on the streets. You see, the people in Indiana are very pragmatic. They exercise good common sense. They say we realize that 7 percent of the violent criminals in our society are committing between two-thirds to 70 percent of the violent crimes, yet only serving 37 percent of their terms.

So what they are asking for is a tough crime bill with true truth-in-sentencing provisions. Now I understand that the President likes to get out there and say there are truth-in-sentencing provisions in the bill; but, you know, they are tremendously watered down and weakened. The President knows that. But he knows that the American people want to stop the revolving door on crime. So he throws out the terminology at the same time while he knows that States can access prison funding without even having to access—excuse me—having to activate truth-in-sentencing provisions.

You know, since the House defeated the rule, the President did try to seize, Mr. Speaker, the initiative with numerous attacks upon the GOP. And the NRA. Of course, he has forgotten about 58 Democrats who also opposed him on that rule.

I, on Friday, after hearing the majority leader state that he would place the crime bill back on the docket, I immediately wrote a letter to the Speaker of the House, saying, "Let's move forward in a bipartisan fashion." I was one of 38 of the Republicans who voted for the crime bill that came out of the House. I very much would like to vote on a crime bill. But the crime bill that came out of the conference report is not a report of a bill for which I can support. I asked them to meet in a bipartisan fashion to send this bill back to the conference, so that, yes, the will of the American people can be served.

My fears are that rather than negotiate with individuals such as myself, who has not been contacted by the White House, is that they would rather try to find eight individuals, take them to the back rooms and negotiate back there, either by using the Mutt-and-Jeff routines offering enticements and deals or outright punishment, threats, verbal coercion.

I am hopeful that my colleagues will exercise courage of conviction that I spoke in my opening because I see the trust deficit that is real between the American people and this Congress is there because they see a Member of Congress being nonresponsive to the will of the American people.

I also have mentioned what it felt like to be back at home at Monticello, IN, sitting on the couch with my son, to then see President Clinton on TV on the nightly news asking the American people from the pulpit of a church to pray for Members of Congress who voted against his crime bill.

I must say, Mr. President, that that was a tremendous statement to make from someone that, yes advocates the present statements of Christian bigotry that is occurring out there, not only you yourself, but also members of your Cabinet, talking about the unreligious Christian right.

Let me move to the President's comments that have been conclusively stated that the bill contains the "three-strikes-you're-out," 100,000 cops on the beat, prison funding and, as I said earlier, truth-in-sentencing provisions. You see, those are things which appeal to the American people. Clinton has not given the details about the plan in any of his statements. He has only repeated that what defeated the bill was a, I quote, "procedural trick." He has not explained how the bill was so drastically weakened in the conference. And I wonder why.

VOL 140 PT 16 AG 12 — 18 1994 UMI

If the bill was so wonderful, why does he not let the American people in on the big spending secret?

You see, many of us are upset. We are upset because the crime bill got away from its original intent. Many of you are upset because, yes, we want to build more prisons; but what happened to that House version of the bill was that there was a decrease in funding of prisons by 50 percent.

Now, someone on the other side of the aisle would say, "No, STEVE, it is not 50 percent. There is $10.5 billion in the funding of prisons." But, you know, folks, it is less $1.8 billion for the housing of illegal aliens and $2.2 billion of that is non-trust-fund spending, which is a nonappropriated fund. You may as well call it funny money.

Attached to the prison funding were the truth-in-sentencing provisions. Yes, that is a Federal enticement to say to the States, "Let's stop the revolving door." But as I said earlier, now they cannot access the funds without having to enact truth-in-sentencing provisions.

One of the funding mechanisms of this bill I would like to discuss is that there is no true, accurate funding mechanism of the crime bill. The crime bill is to be funded with a trust account.

You see, there is no requirement that Federal spending actually meet all the crime bill funding commitments. You see, what that does is set the stage for possible nonbudgeted supplemental appropriations.

Next I would like to discuss retroactive applicability of the waivers of minimum mandatory sentences for first-time drug felons. Yes, you have heard many talk on the House floor about the possibility of that impact, of the release of up to 10,000 drug felons.

Now, it is difficult to say what the exact number is going to be. But what we do know is the impact of that measure. The impact of the measure is very real.

According to the preliminary estimates developed by the Federal Bureau of Prisons, somewhere between 5,000 and 10,000 Federal prisoners could meet the eligibility requirements, as stated in the bill, section 201. A sentence reduction hearing would likely be required to reduce a prisoner's sentence each costing the judiciary about $2,500 per case. If 5,000 or 10,000 hearings were conducted, the cost to the judiciary could be between $10.5 million and $25 million, which would likely be incurred in the first 2 or 3 years of the enactment of the provision.

□ 2220

So, you know when the President gets out, and he talks about this being a tough crime bill, I do not think the people have in mind the releasing of so many Federal prisoners back into the circulation of society, and you know it is not just the individual that decided to experiment with marijuana for the first time. This also could be the moles, those individuals who are running drugs, and in Indiana that impact is real because they are running drugs up from the South, whether it is from the gulf, or from Miami, up I–75, and cut across I–69, or up I–65 to Chicago or to Detroit, and it is real, and to think we would take those drug felons and place them back on to the street is not my idea of a tough crime bill. When the American people say they want a tough crime bill, I believe they have in their image, in their mind, something of the Terminator, but what we have is something that looks more like Mr. Whipple squeezin' the Charmin.

Part of the bill which has also upset many is the social side. They call it the prevention. Yes, it is heavy in the prevention side, and we do need a balance with prevention. But what we do not need is the out of balance. You see, earlier when I had mentioned that we need a system that balances between prevention, restitution, retribution, rehabilitation, and deterrence, the American people have stood up and said, "Enough is enough. For 25-plus years we have had tremendous focus on the rehabilitative side, poured money into the prevention side, and what has the spending of $5 trillion of social programs since 1965 done for this society? It has escalated violent crimes by almost 500 percent."

It is almost like what happened to individual and personal responsibility. Yes, some of the prevention side of the spending is good. I think that the statements by many about the midnight basketball and a lot of those provisions are silly, and the American people view them as being silly. I think what upsets a lot of us here is the placing of $1.8 billion of the Local Partnership Act of the failed stimulus package in a crime bill. It has no place in this crime bill.

You see, earlier when I opened up, when I talked about title 18 and the law, it is because we should be talking about a focus in on the deterrence, the retribution, the law, and then seek the balance on the preventive side. Now I think the message of the American people has been very clear, and their clear message is:

What happened to deterrence?
What happened to retribution?
What happened to victims' rights?

We have had enough about the civil rights of criminals. Let us stop coddling the criminal with hug-a-thug type programs. Enough is enough.

You see, I stand here and view this through the dimension of a Federal prosecutor, and I say, "Will this crime bill, if I were still in the U.S. attorney's office, would this bill help? Would it help me? Would it help members of the community to have the streets, and the schools, and the parks, and the communities safer?" I could not look at an individual back in Indiana in the face and in their eyes and state with the passion and my conviction and say it will.

Let me mention about the funding of 100,000 police because I know many like to talk about the 100,000 police. I know what many have already talked about, that it really does not fund the 100,000 police on the street that the President and many others claim.

I think the American people would like to see more police. I know that there are communities that are strapped in the high tax, high crime areas that have high unemployment. I know that they are reaching out.

Sure, we would love to have better efficiencies of their local government. I do not want the Federal Government to be a bailout for the inefficiencies of the local communities. But on this issue of the 100,000 cops on the beat you almost have to say, "What's the catch?"

You see, I view this provision as an entrapment of police funds. The simple examination of title one of section 1003 of the conference report on page 20779 of the CONGRESSIONAL RECORD shows there is now a way that this bill could possibly fund police for our streets. You see, the bill provides $8.8 billion to be doled out at the discretion of the Attorney General for both new police—now think of that, at the discretion of the Attorney General. You see, there are some of us that believe that not only these cops on the beat, but other preventative programs should be handed out in block grants, not to be spent at the discretion of the Attorney General, or at HUD, or at other Federal governmental agencies.

You see, my fear is that politics will permeate on the issue. Just go to Massachusetts, for example, and go ask two Republican Congressmen in Massachusetts by the name of PETER BLUTE and PETER TORKILDSEN. Ask them what happened to the Federal grants for more police in the State of Massachusetts. You see, the money went to other Congressional districts who are Democrat Congressmen in Massachusetts, and no money went to the two Republican districts in the State of Massachusetts.

Now, I have not analyzed where the funds have gone in other States, but that bothers me a whole lot because what that tells me is that politics are permeating the issue of where moneys will be doled out.

So you say, "STEVE, just allow the discretion of this $8 billion-plus to be held in the hands of the capricious hands of the President's Cabinet." I think not. We have had enough of federalism, federalism, the Federal Government, moving into the States and local communities as if this body has all the answers. I disagree.

You know, I noticed earlier one of my colleagues commented that the

leader of the sheriffs' association here in the United States is a Democrat sheriff from a county in South Carolina who said he is not going to access this. He is not going to access it because the application process will be too bureaucratic and that he cannot, their county cannot, afford the expense.

You see, I was on the phone today also with a president of a county council in Marshall County, IN, by the name of John Zentz. He is president of the county council, and he said, "STEVE, we cannot afford this program." You see, they understand at the local community that it is an entrapment. In order for them to access these funds they must put up 25 percent of the costs of that new police officer, and then they are going to have to pay for, they, the counties, will have to pay for, the benefit package, health care and health care insurance, any kind of life insurance, their retirement programs. They will pick up the expense. So, they fund 25 percent. They are going to have to pay for the equipment if they are going to have to go out and buy new squad cars. The local communities are going to have to pick that up. The Federal Government will kick in the 75 percent. But the kicker is at the end of the 5 years the local communities have to pay it all.

Now at the end of 5 years what magically happens? Vesting. Vest. You see, that police officer has vested.

□ 2230

He becomes a permanent employee. It is a hidden tax increase to the local communities, who cannot afford it, and they know it. That is why I received a call from the president of the county council, to say Steve, I do not agree with that carrot-and-stick approach.

What I am hopeful for is that this body will move forward in a bipartisan fashion to address the crime issue. I think if they listen to the will of the American people, and I am very careful not to judge America by what happens in my district. Sometimes we get caught in that. I have to remember about the concerns of my colleagues that come from big cities. I recognize that this body at times, the Nation's agenda gets driven by the concerns of the big urban centers.

I am keenly aware of that, because I come from the rural areas. The rural areas are individuals who are very pragmatic, who are steeped in traditions and have great reverence. They have known what it is like to do more with less. They are not the ones with their hands out, looking for a handout, when they have poorly run their own local governments. So that is why earlier I said the Federal Government should not be the bailout. I recognize that as we discuss the issue of crime, we must remain responsible, exercise public responsibility, and public political morality.

What I hear from my district has been very clear on the issue thus far. The Fifth District of Indiana, the calls into my district are 16 to 1 against the President's crime bill. When I did a survey of my district, I asked a few questions, and this is how they responded.

Over 5,300 responses, from July 1 to July 31 of this year, to the question do you feel that crime control legislation should include truth-in-sentencing guidelines which require criminals to serve at least 80 percent of their sentences? 4,858, 92 percent, said yes, we want truth-in-sentencing provisions. So you see, when I want to stand up here on the House floor for truth-in-sentencing provisions to stop the revolving door, it is not stating just what I want. It is the will of the people that I represent in the Fifth Congressional District of Indiana.

On the issue of do you support the notion that gun control is crime control? 4,416, 84 percent of the 5,300 responses said no, they do not buy into that notion.

Now, there has been a lot of talk that it is the NRA that is stopping the crime bill. The NRA has played a part, but that is not the sole cause. You see, the crime bill got far away from its original intent. I voted against Brady. I voted against the assault weapons ban. I am a strong supporter of the second amendment.

But, you know, I recognize that what we must go after is the criminal intent. You see, if I hold a knife in my right hand, and I hold a weapon, a gun which they seek to ban in my left hand, can you tell me which is the assault weapon and which is the defensive weapon? No.

You see, what defines them is the criminal's intent. If I choose the knife in my right hand to either maim, disfigure, wound, or kill, and I come at you, and you choose the weapon that they seek to ban, the knife is the assault weapon based only on my intent, and the defensive weapon is the gun.

So the real assault weapon is the thug, is the criminal. That is what defines the assault weapon.

So I get a little upset when I hear the "assault weapons ban." Does that mean we are going to ban anything that is used? Are we going to ban feet? Are we going to ban hands? Are we going to ban an ink pen, if somebody uses an ink pen and stabs it into someone's heart? All of those are assault weapons. Tire irons, screwdrivers, ice picks. There are many things that could be classified as an assault weapon.

So I do not give in to the renaming. You see, there is that notion of gun control is crime control, and I do not question the sincerity of the Members of this body that believe that, because they believe it with all their sincerity. President Clinton believes that with all his sincerity.

But that which really gets me is to have in this crime bill gun control. And at the same time this conference stripped out the Senate provisions to get tough on criminals who use a weapon, a gun, in the commission of a crime.

On the floor of the Senate, PHIL GRAMM offered an amendment requiring 10 years in prison without parole for possessing a firearm during the commission of a violent crime or drug felony, 20 years imprisonment without parole for discharging a firearm during the commission of a violent crime or drug felony, life imprisonment without parole for murder, and the death penalty in aggravated cases.

You see, this was stripped in conference. Now, think of that disconnect. They want to take guns away from law-abiding citizens, but, at the same time, let us not punish criminals who use a gun or discharge it or kill someone in the commission of a crime. Let us not increase that.

Now, you see, the President is not saying that. He is not out there saying that, because if the American people knew that, they would be tremendously upset.

So that is why I am here tonight. I am here tonight to get the American people to understand there are many of us in this body who are upset that the crime bill was weakened.

Now, I understand what happens here. That in order to get a crime bill through this House, it is an incredible juggling act. It is a juggling act because you have Members who do not believe in the death penalty. You have Members who only want to do the social side or the preventive side. You have got those who really believe in the coddling of the criminal. You have got those who say well, that is really not a mugger, that is just a socially disadvantaged person who is reaching out for help. So he is not really a mugger. Allow him to complete his transaction so he can get back to a midnight basketball game.

Come on. The American people have seen through this crime bill. They do in fact want a tough crime bill. And being one of the 38 Republicans who voted for the crime bill, I want a tough crime bill. But I cannot support a crime bill that does not move back to conference and move in a bipartisan fashion. I cannot do it, and go back to Indiana and look at Hoosiers in the face and say "good deed."

Mr. Speaker, I include for the RECORD the following newspaper article.

[From the New York Times News Service, Aug. 17, 1994]

A VOTE AGAINST CRIME BILL IS A LESSON IN NEW POLITICS

(By R.W. Apple, Jr.)

WASHINGTON.—Rep. Lee L. Hamilton carries the look and the sound of small-town America with him. He uses the phrase "visit

VOL
140
PT
16
AG
12
—
18
1994
UMI

with" to mean "talk to," he still wears his hair cut short and he has the same soft Hoosier manner that once made Herb Shriner a popular humorist.

But Hamilton, an Indiana Democrat, has spent 30 years on the Potomac, and he is now a major player on Capitol Hill as chairman of the House Foreign Affairs Committee. He is invited to the bigtime parties in Georgetown and at the White House (he was there for dinner recently with the Emperor and Empress of Japan). He regularly gets approval ratings in the 70s and 80s from most liberal groups and ratings in the 30s from most conservative organizations.

Hamilton is admired for his intellect. President Clinton, it is said, considered him last year for secretary of state and has thought of him, along with Walter F. Mondale, as a candidate to succeed Warren Christopher in that position. In short, he is someone the Democratic establishment considers one of its own.

So perhaps the most surprising element of last week's surprising defeat of the crime bill on a procedural motion was Lee Hamilton's "no" vote. It is understandable only in terms of the two worlds he inhabits and which one exerts the stronger influence in today's politics.

"It doesn't give me any joy to cast a vote against President Clinton or any other president, for that matter," he said Tuesday. "Would I like to see him get a victory when he obviously needs one? Yes. Do I make that my first or my second priority? No.

The basic nature of American politics has changed. I don't get elected because of what Bill Clinton thinks or what the House leadership thinks. The electorate makes up its own mind. That inevitably means that presidents have a lot less clout with Congress than they used to have. All presidents, I mean.

It's also true, of course, that when a president is riding high his influence goes up, and when a president is in the dumps, the way Clinton is, his influence declines."

Hamilton lives in Nashville, Brown County, Indiana (population 873) and represents most of southeastern Indiana, an 18-county region whose biggest town is Jeffersonville, across the Ohio River from Louisville, Ky.

People there tend to be conservative Democrats; many trace their roots back to the "Butternut" Democrats from the South who settled in the area. And they are much more suspicious of government spending and gun control and social engineering than people in Washington or, for that matter, Indianapolis.

"They elect Lee Hamilton," an old friend said, "because they know that deep down, there's a wide streak of Scottish conservatism in there."

Hamilton certainly sounded conservative as he discussed his vote in an interview Tuesday morning. He said he liked some things in the bill, such as the provisions for more police officers and more prisons, but he argued that Congress "can do better" and that if it did not, no bill was preferable to one he considered deeply flawed.

How? Well, the congressman said, he found the financing of the new programs "very shaky," in fact "largely phony," because they would be paid for by savings within the federal bureaucracy that would never be made.

There was "a lot of stuff that doesn't belong in a crime bill," he added, like $300 million for economic development, and "another job training program, when we already have about 20 and the vice president has been running around saying we need to consolidate them."

But he spoke with special emphasis about the ban on assault weapons, which he voted against when it first passed the House, although he had voted in favor of the Brady law, which requires a five-day waiting period before handguns can be purchased.

Such laws are far more popular in cities, he conceded, than in the small towns and rural communities he represents; "in Indianapolis a gun is a threat, but in DuBois or Spencer County it's a security device."

"This is an exceedingly divisive issue," Hamilton said, "but no one has shown me any evidence that a ban would cut the crime rate."

He pictured his vote as a matter of principle, but at the White House, it was seen as a cave-in to political pressure. Asked why Hamilton had voted as he did, a senior adviser to Clinton answered.

"Guns. That's all it is."

In fact, Hamilton appears to be under no great pressure from anyone. Despite widespread talk of stripping him of his chairmanship as a disciplinary measure, something that would have been almost automatic 20 or 30 years ago, he said he had received no threats from House colleagues and no calls from the White House since the vote. (Beforehand, he was called by Vice President Al Gore, whom he told that he had already publicly pledged to vote "no.")

His hold on his district appears solid. He took 69 percent of the vote in 1992 and 70 in 1994, and his opponent this year, State Senator Jean Leising, is given little chance.

There has been no burst of editorial comment on his vote, and John Gilkey, managing editor of The Evening News in Jeffersonville, said that even the assault-gun ban "is not really an overwhelming concern to people here," The main complaints have come from local police chiefs. Dean Marble, the chief in Clerk County, said he was "really disappointed" because additional officers were "desperately needed in the country" and money was not available.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MORAN (at the request of Mr. GEPHARDT) for today, on account of illness in the family.

Mr. BECERRA (at the request of Mr. GEPHARDT) for today, on account of official business in the district.

Mr. DERRICK (at the request of Mr. GEPHARDT) from 2 p.m. today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ZIMMER) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN, for 5 minutes, today.
Mr. DOOLITTLE, for 5 minutes, today.
Mr. SHAYS, for 5 minutes, today.
Mr. TAYLOR of North Carolina, for 5 minutes, today.
Mr. DUNCAN, for 5 minutes, on August 18.
Mr. WOLF, for 5 minutes, today.
Mr. BURTON of Indiana, for 5 minutes, today.
Mr. COX, for 5 minutes, today.
Mr. HEFLEY, for 5 minutes, today.
Mr. RAMSTAD, for 5 minutes, today.
Ms. PRYCE of Ohio, for 5 minutes, today.
Mr. MANZULLO, for 5 minutes, today.
Mr. KINGSTON, for 5 minutes, today.
Mr. EHLERS, for 5 minutes, on August 18, 19, 20, 21, and 22.

(The following Members (at the request of Mr. BARLOW) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.
Mr. KREIDLER, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Ms. MCKINNEY, for 5 minutes, today.
Mrs. MALONEY, for 5 minutes, today.
Ms. ESHOO, for 5 minutes, today.
Mr. FINGERHUT, for 5 minutes, today.
Mr. BISHOP, for 5 minutes, today.
Mr. BARRETT of Wisconsin, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Mrs. MEEK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ZIMMER) and to include extraneous matter:)

Mr. SAM JOHNSON of Texas.
Mr. LEWIS of Florida.
Mr. PACKARD.
Mr. SOLOMON.
Mr. DELAY.
Mrs. MORELLA.
Mr. SANTORUM.
Mr. CRANE.
Mr. ZELIFF.

(The following Members (at the request of Mr. BARLOW) and to include extraneous matter:)

Mr. NADLER.
Mr. BRYANT.
Mr. OBERSTAR.
Mr. MILLER of California.
Mr. REED.
Mr. MARKEY.
Mr. GORDON.
Mr. HAMILTON in two instances.
Mr. RUSH in two instances.
Mr. UNDERWOOD in two instances.

(The following Members (at the request of Mr. BUYER) and to include extraneous matter:)

Mrs. SCHROEDER.
Mr. KREIDLER.
Ms. BROWN of Florida.
Mr. BUYER.

ENROLLED BILLS SIGNED

Mr. ROSE from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2815. An act to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

H.R. 4812. An act to direct the Administrator of General Services to acquire by transfer the Old U.S. Mint in San Francisco, California, and for other purposes.

ADJOURNMENT

Mr. BUYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 40 minutes p.m.) the House adjourned until tomorrow, Thursday, August 18, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3713. A letter from the Secretary, Department of Defense, transmitting the 1994 Joint Military Net Assessment, pursuant to 10 U.S.C. 113(j)(1); to the Committee on Armed Services.

3714. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement with the Republic of Korea (Transmittal No. DTC–27–94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3715. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement with Finland (Transmittal No. DTC–26–94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3716. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed approval of manufacturing license agreement with Japan (Transmittal No. DTC–28–94), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3717. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Robert Edward Service, of California, to be Ambassador to the Republic of Paraguay, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3718. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 94–32: RFE/RL Relocation, pursuant to Public Law 103–236, section 308(k)(2)(B) (108 Sta. 439); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BEILENSON: Committee on Rules. House Resolution 523. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103–709). Referred to the House Calendar.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

Referral of H.R. 2680 to the Committee on Government Operations extended for a period ending not later than August 18, 1994.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. DUNN:

H.R. 4973. A bill to amend title 18, United States Code, to make it unlawful for any person to knowingly possess stolen firearms or stolen ammunition; to the Committee on the Judiciary.

By Mr. EVANS (for himself, Mr. CLAY, Mr. JEFFERSON, Mr. BARLOW, Mr. LIPINSKI, Mr. LEACH, Mr. GUTIERREZ, Mr. COSTELLO, Mr. OBERSTAR, Mr. WHEAT, Mr. BAKER of Louisiana, Mr. SANGMEISTER, Mr. MONTGOMERY, Mrs. LLOYD, and Mr. FORD of Tennessee):

H.R. 4974. A bill to amend the Mississippi River Corridor Study Commission Act of 1989 to extend the term of the Commission established by such act; to the Committee on Natural Resources.

By Mr. DREIER (for himself and Mr. KOLBE):

H.R. 4975. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to exclude changes in tariffs from the paygo scorecard and to amend the Congressional Budget and Impoundment Control Act of 1974 to exempt changes in tariffs from certain points of order; jointly, to the Committees on Government Operations and Rules.

By Mr. HANSEN (for himself, Mr. SKEEN, Mr. BILBRAY, and Mr. PASTOR):

H.R. 4976. A bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner; to the Committee on Natural Resources.

By Mr. KREIDLER (for himself, Mr. MURPHY, Mr. FRANK of Massachusetts, Mr. BARLOW, Mr. MARTINEZ, Mr. OBERSTAR, Mr. JACOBS, Mrs. UNSOELD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TORRES, Mr. VENTO, Mr. WYDEN, Mr. SYNAR, and Mr. JOHNSTON of Florida):

H.R. 4977. A bill to change the appeals process in the workers compensation provisions of title 5, United States Code; to the Committee on Education and Labor.

By Mr. KREIDLER (for himself, Mr. MURPHY, Mr. FRANK of Massachusetts, Mr. BARLOW, Mr. MARTINEZ, Mr. OBERSTAR, Mr. JACOBS, Mrs. UNSOELD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TORRES, Mr. VENTO, Mr. WYDEN, Mr. SYNAR, and Mr. JOHNSTON of Florida):

H.R. 4978. A bill to require the administrative agency responsible for adjudicating claims under the workers compensation provisions of title 5, United States Code, to follow certain procedures in seeking medical opinions; to the Committee on Education and Labor.

By Mr. KREIDLER (for himself, Mr. MURPHY, Mr. FRANK of Massachusetts, Mr. BARLOW, Mr. MARTINEZ, Mr. OBERSTAR, Mr. JACOBS, Mrs. UNSOELD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TORRES, Mr. VENTO, Mr. WYDEN, Mr. SYNAR, and Mr. JOHNSTON of Florida):

H.R. 4979. A bill to require the administrative agency responsible for adjudicating claims under the workers compensation provisions of title 5, United States Code, to select board-certified physicians to provide second opinions; to the Committee on Education and Labor.

By Mr. LEWIS of Kentucky (for himself, Mr. BUNNING, Mr. ROGERS, Mr. MAZZOLI, Mr. BAESLER, and Mr. BARLOW):

H.R. 4980. A bill to designate the bridge on U.S. Route 231 which crosses the Ohio River between Maceo, KY, and Rockport, IN, as the "William H. Natcher Bridge"; to the Committee on Public Works and Transportation.

By Mrs. SCHROEDER (for herself, Mr. MARKEY, and Ms. MARGOLIES-MEZVINSKY):

H.R. 4981. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discriminaton based on race, color, religion, sex, national origin, age, or disability; and for other purposes; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. TORKILDSEN:

H.R. 4982. A bill to improve the enforcement of child support obligations in both intrastate and interstate cases by requiring the imposition and execution of liens against the property of persons who owe overdue support; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 4983. A bill to amend title IV of the Social Security Act by reforming the Aid to Families with Dependent Children Program, and for other purposes; jointly, to the Committees on Ways and Means, Education and Labor, Energy and Commerce, and Agriculture.

By Mr. DREIER (for himself, Mr. GINGRICH, Mr. ARMEY, Mr. ARCHER, Mr. CRANE, Mr. KOLBE, Mr. ROBERTS, Mr. SAXTON, Mr. EWING, Ms. DUNN, and Mr. KNOLLENBERG):

H. Con. Res. 284. Concurrent resolution expressing the sense of the Congress with respect to funding for the Uruguay round of GATT negotiations; to the Committee on Ways and Means.

By Mr. DELLUMS:

H. Con. Res. 285. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of S. 2182; considered and agreed to.

By Mr. BALLENGER (for himself and Mr. HAMILTON):

H. Con. Res. 286. Concurrent resolution recognizing the contribution of President Alfredo Christiani of El Salvador to achieve peace and national reconciliation in El Salvador; to the Committee on Foreign Affairs.

By Ms. DUNN (for herself, Mr. DEAL, Mr. HYDE, Mr. SMITH of New Jersey, Mr. KYL, Mrs. FOWLER, Ms. MOLINARI, Mr. ZIMMER, Mr. CUNNINGHAM, Mrs. ROUKEMA, Mr. SAXTON, Mr. FRANKS of

VOL 140 PT 16 AG 12 — 18 1994 UMI

New Jersey, Mr. MANZULLO, and Mr. CRAPO):

H. Res. 324. Resolution providing for the consideration of the bill (H.R. 3990) to provide protection from sexual predators; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

460. By the SPEAKER: Memorial of the General Assembly of the State of California, relative to Norton Air Force Base; to the Committee on Armed Services.

461. Also, memorial of the General Assembly of the State of California, relative to women's health care; to the Committee on Energy and Commerce.

462. Also, memorial of the General Assembly of the State of California, relative to the Federal Safe Drinking Water Act; to the Committee on Energy and Commerce.

463. Also, memorial of the General Assembly of the State of California, relative to human rights violations and political oppression in Vietnam; to the Committee on Foreign Affairs.

464. Also, memorial of the General Assembly of the State of California, relative to law enforcement; to the Committee on the Judiciary.

465. Also, memorial of the General Assembly of the State of California, relative to the imprisonment of undocumented alien criminals in Federal prisons; to the Committee on the Judiciary.

466. Also, memorial of the General Assembly of the State of California, relative to deportation of the spouses and children of permanent U.S. residents; to the Committee on the Judiciary.

467. Also, memorial of the General Assembly of the State of California, relative to hate crimes; to the Committee on the Judiciary.

468. Also, memorial of the General Assembly of the State of California, relative to illegal aliens; to the Committee on the Judiciary.

469. Also, memorial of the General Assembly of the State of California, relative to gaming on cruise ships; to the Committee on Merchant Marine and Fisheries.

470. Also, memorial of the General Assembly of the State of California, relative to the New River; to the Committee on Public Works and Transportation.

471. Also, memorial of the General Assembly of the State of California, relative to recognition of capital loss on the sale of a principal residence; to the Committee on Ways and Means.

472. Also, memorial of the General Assembly of the State of California, relative to the Federal income tax personal exemption; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 127: Mr. BEREUTER, Mr. COPPERSMITH, Mr. FROST, Mr. COYNE, Mr. MILLER of California, Mrs. VUCANOVICH, and Mr. DE LUGO.
H.R. 1110: Mr. DELAY.
H.R. 1164: Mr. KENNEDY.
H.R. 1190: Mr. DORNAN.
H.R. 2420: Mr. SOLOMON.
H.R. 2586: Mr. SYNAR.
H.R. 2910: Mr. BEREUTER, Mr. CANADY, and Mr. HANSEN.
H.R. 3251: Mr. CRANE, Mr. SENSENBRENNER, and Mr. BARCA of Wisconsin.
H.R. 3270: Mr. ANDREWS of Texas.
H.R. 3722: Mr. UNDERWOOD.
H.R. 3782: Mr. KLUG, Mr. DEUTSCH, Mr. ZIMMER, and Mr. WYNN.
H.R. 3897: Mr. FINGERHUT.
H.R. 4116: Mr. JOHNSON of South Dakota.
H.R. 4210: Ms. MARGOLIES-MEZVINSKY, Mr. HOLDEN, Mr. HUFFINGTON, Mr. RIDGE, and Mr. MANTON.
H.R. 4260: Mr. GUNDERSON.
H.R. 4375: Mr. EVANS.
H.R. 4411: Mr. VISCLOSKY.
H.R. 4449: Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Mr. BOEHLERT, Mr. DELLUMS, Mr. EVANS, Mr. ENGEL, Mr. FOGLIETTA, Mr. HILLIARD, Mr. HOCHBRUECKNER, Mr. HUGHES, Mr. OWENS, Mr. SERRANO, and Ms. VELAZQUEZ.
H.R. 4541: Mr. HAMILTON, Mr. BURTON of Indiana, Mr. ACKERMAN, Mr. HASTINGS, Mr. EDWARDS of California, Mr. ENGEL, Mr. BERMAN, Mr. GEJDENSON, Mr. LANTOS, Mr. BACCHUS of Florida, Mrs. MEEK of Florida, Mr. PENNY, Mr. BARRETT of Wisconsin, Mr. DELLUMS, Mr. WYNN, Mr. OBERSTAR, Mr. WASHINGTON, Mr. HUGHES, Mr. MCCLOSKEY, Ms. BROWN of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RANGEL, Mr. DE LUGO, Mr. HOUGHTON, Mr. HILLIARD, Mr. REYNOLDS, Mrs. CLAYTON, Mr. CONYERS, Mr. JEFFERSON, Mr. HALL of Ohio, Mr. WALSH, Mr. KLEIN, Mr. RUSH, Mr. LEACH, Ms. FURSE, Mr. MFUME, Mr. BONIOR, Mr. DURBIN, Mr. WATT, and Mr. SYNAR.
H.R. 4548: Mr. ABERCROMBIE.
H.R. 4643: Mr. SMITH of Oregon.
H.R. 4699: Mr. MINGE and Ms. DELAURO.
H.R. 4780: Mr. ORTON, Mr. MORAN, Mr. PRICE of North Carolina, Mr. KLINK, Mr. PARKER, Mr. DINGELL, Mrs. KENNELLY, and Mr. MILLER of California.
H.R. 4792: Mr. GUNDERSON.
H.R. 4802: Mr. SANDERS, Mr. SCHUMER, Mr. GENE GREEN of Texas, Mr. CALVERT, Mr. POMEROY, and Ms. KAPTUR.
H.R. 4810: Ms. VELAZQUEZ and Mr. FILNER.
H.R. 4851: Mr. PARKER, MR. APPLEGATE, Mr. CLAY, Mr. MCNULTY, Mrs. COLLINS of Illinois, Mr. ACKERMAN, Ms. FURSE, and Mr. REYNOLDS.
H.R. 4860: Mr. VISCLOSKY
H.R. 4902: Ms. PRYCE of Ohio.
H.R. 4944: Mr. DORNAN and Mr. RICHARDSON.
H.J. Res. 338: Mr. MCDERMOTT, Mr. ROEMER, and Mr. VISCLOSKY.
H.J. Res. 362: Mr. MEEHAN, Mr. JOHNSON of South Dakota, and Mr. THOMPSON.
H.J. Res. 382: Mr. BISHOP and Mr. MURTHA.
H.J. Res. 397: Mr. EMERSON, Mr. THOMPSON, Mr. PASTOR, Mr. FROST, Mr. TOWNS, Mr. MCNULTY, Mr. FOGLIETTA, Mr. COPPERSMITH, Mr. REYNOLDS, Mr. REED, Mr. QUINN, Mrs. MEYERS, of Kansas, Mr. MCKEON, Mr. MANN Mr. LAROCCO, Mr. PETE GEREN of Texas, Ms. WOOLSEY, Mr. SCHIFF, and Ms. WATERS.
H. Con. Res. 148: Mr. GILMAN.
H. Con. Res. 251: Mr. LANTOS, Mrs. MEYERS of Kansas Mr. ROHRABACHER, Mr. MCCLOSKEY Mr. SMITH of New Jersey, Mr. OBERSTAR, Mr. TRAFICANT, Mr. HALL of Texas, Mr. SERRANO, Mr. MILLER of California, Mr. LIPINSKI, Mr. PORTER, Mr. MORAN, and Mr. MCNULTY.
H. Con. Res. 255: Mr. SHAYS and Mr. DUNCAN.
H. Res. 430: Mr. GINGRICH, Mr. MENENDEZ, and Mr. MANTON.
H. Res. 472: Mr. WELDON and Mr. BALLENGER.
H. Res. 485: Mr. LEWIS of Florida, Mr. TALENT, Mr. GRAMS, Mr. COOPER, and Mr. FRANKS, of New Jersey.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 140: Mr. ZIMMER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

118. By the SPEAKER: Petition of the attorney general of the State of Arizona, relative to State health care fraud control units; to the Committee on Energy and Commerce.

119. Also, petition of the attorney general of the State of Texas, relative to State health care fraud control units; to the Committee on Energy and Commerce.

120. Also, petition of the attorney general of the State of Michigan, relative to State health care fraud control units; to the Committee on Energy and Commerce.

121. Also, petition of the attorney general of the State of New Mexico, relative to State health care fraud control units; to the Committee on Energy and Commerce.

122. Also, petition of the Department of Public Safety of the State of Utah, relative to State health and care fraud control units; to the Committee on Energy and Commerce.

123. Also, petition of the attorney general of the State of Minnesota, relative to State health care fraud control units; to the Committee on Energy and Commerce.

124. Also, petition of the attorney general of the State of North Carolina, relative to State health care fraud control units; to the Committee on Energy and Commerce.

EXTENSIONS OF REMARKS

HOW TO START REFORMING THE OWCP

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. KREIDLER. Mr. Speaker, in Colorado, there is an injured Federal employee who is contemplating suicide because he sees his insurance policy as his only apparent means of providing for his family.

In California, a Vietnam war hero came close to bankruptcy twice, lost a chance at buying a home, relinquished his military reserve pay, and lost thousands of dollars in wages—thanks to a dog bite while delivering the mail.

In New Jersey, a Federal employee went 3 years without pay or compensation, liquidated all his financial assets and "sold anything I could" to get money, and was then fired, over a herniated disk.

In Washington, a trusted naval shipyard employee is threatened, lied to, humiliated, interrogated, called names, spied on, and fired, because he injured his back on the job.

In Georgia, the undercover agent who cracked the biggest bribery case in IRS history saw 11 doctors who declared him totally and permanently disabled, linking his problems to the stress of undercover work. And still the Government insisted he see more doctors. "This [harassment]" he said, "is killing me."

In Michigan, a Federal employee requires ongoing physical therapy to have a relatively pain-free life following an on-the-job injury. Denial of therapy leads to severe pain, but her therapy is constantly hindered by the Government's failure to approve continued treatment.

This is the dark side of the Federal Employees' Compensation Act, a side filled with tremendous amounts of pain and suffering, with inexcusable chaos, with an overwhelming and under prepared bureaucracy, a tangle of procedures, overly protective managers, and a clientele all too frequently living on the very edge of harrowing personal tragedy.

It is also a side the Department of Labor would prefer you to ignore.

The Department of Labor, which administers the Federal Employees' Compensation Act, instead wants you to focus on the generosity of a program which pays out nearly $1.7 billion a year in compensation, death and medical expenses. The Department is proud of the role it plays in helping 260,000 Federal workers with job-related injuries or occupational diseases, and that 88 percent of all workers' compensation cases are approved either initially or on appeal.

But all across our country, congressional caseworkers know there is an entirely different story of how the Department administers the program through its Office of Workers' Compensation Programs.

Through my office, I've been communicating with caseworkers who say, with unmistakable clarity, that the OWCP has serious structural and procedural problems that need to be reformed. They say the OWCP is structured and administered to receive a high volume of relatively routine cases expeditiously. The OWCP, they say, is competent at this task, and the vast majority of its work force handles this function with a high level of professionalism.

But once a case evolves beyond the routine, the OWCP's procedures and administration disintegrate to the point where many caseworkers, and many medical specialists, believe the rights and the needs of injured Federal employees are routinely placed in jeopardy.

I've prepared three bills to begin addressing this situation. These bills are only a beginning; a comprehensive package is required, but should be preceded by oversight hearings into the entire scope of OWCP operations—hearings which we haven't seen for years. These bills get at a variety of problems, including:

First, appeals and judicial review: The bill makes statutory changes in the operation of the Federal Employees' Compensation Act, generally by borrowing from the Social Security program a series of statutory and regulatory policies designed in part to accomplish the following:

Shorten the time it takes to pay compensation.—One of the major flaws in the current administration of OWCP is the time it takes to begin payment of compensation. For far too many claimants, the wait is from 6 to 12 months for approval, with an additional 3 months to receive retroactive compensation. Some cases I know of are approaching 4 years in length for a decision on the initial claim—incredible, but not unusual. Because of these delays, many injured workers have their cars repossessed, their homes foreclosed upon, and their credit reputation ruined. Several provisions of my bill shorten this period.

Expedite appeals.—The Employees' Compensation Appeals Board has jurisdiction over any appeal filed by a person adversely affected by a final OWCP decision. However, according to a 1992 memorandum from the House Education and Labor Committee, the Employees' Compensation Appeals Board "seems to lack both the will and authority to impose its decision on OWCP." Further, the committee memo said, "the perception of unfairness in the FECA program is exacerbated by the fact that appeals are conducted by the same organization [OWCP] that initially reviewed and denied a claim." My bill eliminates the Appeals Board and replaces it with hearings before Administrative Law Judges.

Judicial review.—Federal employees are the only employees in the United States who are not entitled to access the courts to contest an adverse denial of workers' compensation claims. My bill gives the fundamental right of judicial review to Federal employees. The right to access the court will provide finality and clarity in the OWCP claims process. And it would serve as a check on arbitrary decisions by the Employees' Compensation Review Board.

Physician fees.—The OWCP pays high fees to the Government physicians who evaluate the claims for the agency. In many cases, these fees are four to five times as high as the fee paid to the attending physician. My bill requires that the fees paid to Government physicians shall not exceed the fees paid for the claimant's physician. It also requires the Government to make payments to claimants' physicians within 60 days; currently, many physicians wait over a year to be paid.

Second, hand picked doctors: The General Accounting Office, in a February 1994 report, noted that when the OWCP assigns a physician to conduct an initial examination of an injured Federal employee, it is legally required to use an impartial selection process. This, however, is not the case for a second-opinion examination. Instead, the GAO found that while there is no conclusive evidence of bias, three out of five OWCP districts "used either a manual card file, their own automated database systems, or other sources to select second-opinion physicians." These practices give rise to the belief that in some cases the OWCP handpicks physicians in the hope of achieving predetermined outcomes to the detriment of the claimant.

The second-opinion physician plays a crucial role in the OWCP process. Following a review of the second-opinion physician's report, a claims examiner may find that the second-opinion physician and the claimant's physician agree and, in these cases, continue with the adjudication process. If, on the other hand, the views of the second-opinion physician and the claimant's physician disagree, OWCP is required to appoint yet another physician to resolve the medical issues.

My second bill, therefore, requires the OWCP to use a strictly impartial system for the selection of all second-opinion physicians, to eliminate any allegation that a second-opinion physician had been handpicked by the OWCP. Indeed, the GAO wrote in February that unless the OWCP moves to an unbiased selection process there will be "continued perceptions of bias by claimants whose benefits are terminated."

Third, medical certification: When an OWCP examiner has questions about medical evidence following case file reviews, the examiner can request additional information from a claimant's physician or by scheduling the claimant for exams by second-opinion physicians. Second-opinion exams may also be conducted first, when surgery is recommended for certain medical conditions, and second, to determine the extent to which an injured worker has lost the partial or complete use of a body part.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Remarkably, considering the important role played by the second-opinion physician, the OWCP does not require second-opinion physicians to be certified by a board of medical specialties. My third bill requires this certification.

Again, these bills represent only a start—but a much needed start—at reforming the Office of Workers Compensation Programs.

I introduce these bills today with an outstanding group of original cosponsors, and I very much appreciate the support of Representatives AUSTIN MURPHY, BARNEY FRANK, TOM BARLOW, MATTHEW MARTINEZ, JAMES OBERSTAR, ANDY JACOBS, JOLENE UNSOELD, EDDIE BERNICE JOHNSON, ESTEBAN EDWARD TORRES, BRUCE VENTO, RON WYDEN, MIKE SYNAR, and HARRY JOHNSTON.

TRIBUTE TO VINCENT BRUNHARD, SR.

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. LEWIS of Florida. Mr. Speaker, today it is my pleasure to honor a distinguished citizen from my district. Mr. Vincent Brunhard, Sr., of Lake Worth, FL, has made many outstanding contributions to all of Palm Beach County, particularly in the Polish-American community.

His entire life, Mr. Brunhard has actively contributed to American society and the entrepreneurial spirit by establishing and operating many successful businesses.

As an active member of the Polish Cultural Society of the Palm Beaches, he served as one of the first presidents of the society. His commitment extended to serving as an officer for the next 10 years. In addition, he has been an active member of the Knights of Columbus, and many other civic organizations, contributing to the quality of life for all Palm Beach County residents.

One of his most notable achievements is the organization of the first gala event, "A Night in Old Warsaw," which is recognized as a special event throughout Palm Beach County.

Mr. Brunhard will be honored this November 13, 1994, for his lifetime of accomplishments. The Polish Legion of American Veterans honors Mr. Brunhard with a national honorary membership.

Mr. Speaker, I am proud today to recognize Vincent Brunhard, on behalf of Post 202 of the Polish Legion of American Veterans, U.S.A. He is truly an exemplary citizen, and I am proud to represent him in the House of Representatives.

TRIBUTE TO NELLO BIANCO

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to an old friend and supporter, Mr. Nello Bianco, who is retiring in November as the longest-serving Bay Area Rapid Transit [BART] director on the current board.

Nello has been a fixture, a voice for mass transit and for creative management and planning since he was first appointed to the board by the Contra Costa Board of Supervisors in 1969. He has won election after election since.

Nello has resided in the bay area for over 50 years, where he has made contributions as a businessman, community leader, and as an exemplary citizen. Nello has been associated with the Richmond Boys Club, the National Safety Council, the Salvation Army Advisory Board, and the American Public Transit Authority.

Nello also served on the Richmond City Council, as well as on numerous citywide commissions. His contributions to the bay area have been substantive and lasting, but none more so than his 25 years of public service on the BART Board of Directors.

Nello has served in a variety of capacities for BART. He has served as the president and vice president of the BART Board of Directors five times during his quarter century on the board. During his tenure on the board, Director Bianco has been the chair and vice chair, and served on every BART committee.

He has been instrumental in implementing many changes to the BART system, particularly the extension projects that will bring service to eastern Contra Costa County and portions of Alameda County. He headed the committees that negotiated San Mateo County's unique $200 million buy-in to BART, which initiated construction of the long awaited BART extensions in east bay cities—Martinez, Pittsburg, and Antioch—and the San Francisco International Airport.

Nello was also instrumental in bringing the Morrison-Knudsen BART car construction plant to Pittsburg. Once the company won a contract to build new BART cars, Bianco encouraged the company to manufacture the cars in an old steel plant in Pittsburg. This will create hundreds of jobs in the Pittsburg community, as well as a needed economic boost.

Director Bianco's long reign as BART director comes to an end in November with the expiration of his term. His dedication and commitment to the people of the bay area will be missed by all. The contributions he has made have affected nearly every resident of the area, as well as many others. His efforts and hard work will be missed, but his many accomplishments will be enjoyed by bay area residents for years to come.

Nello Bianco and I have been engaged in local politics in the east bay for many years together, sometimes in opposition, but generally working together in mutual support of candidates and initiatives to improve the lives of the residents of the bay area. I treasure Nello's friendship and I salute his decades of service to BART and to California.

HEALTH CARE REFORM

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. PACKARD. Mr. Speaker, like those old-time snake oil salesmen, President Clinton and the liberal leadership hawk the Clinton-Gephardt bill as a health care system cure all. But just like snake oil, their remedy for reform is a sham.

They claim that the Clinton-Gephardt bill is a cost-containment measure. But if you look at the ingredients, you find the same old prescription the liberals in Congress always dole out: More government bureaucracy mixed in with higher taxes.

If the American public is forced to swallow this brew, the side effects could be deadly: health care rationing and reduced quality. This is hardly, what the American people want from health care reform.

The proposal calls for a national health cost commission to monitor the growth of health care expenditures. A group of unelected bureaucrats would decide what care they feel is appropriate for Americans. Mr. Speaker, I always thought that was the doctor's job.

The cost of global budgets and price controls would fall squarely on middle-class patients. Meeting the Clinton-Gephardt global budget goals would require a 24 percent reduction in available health care resources by the year 2000—effectively rationing one quarter of our health care system.

This will reduce quality and access to care. Doctors and hospitals would no longer provide the best, most advanced, most sophisticated care. Instead, patients can look forward to long lines and delays, if they can get health care at all.

Mr. Speaker, what the American people need is not more feel-good tonic, but real medicine. They need health care reform that will work. I urge my colleagues to read the Dole plan and the Michel plan. They contain real cost-containment measures which will not threaten the quantity and quality of our health care resources.

SALUTE TO GEOFFREY B. AVILA

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Geoffrey B. Avila of Troop 6 in Bristol, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Geoffrey located homes in Bristol, RI, that had no number designation for 911 rescue purposes.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Geoffrey B. Avila. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 64 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Geoffrey B. Avila will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

INTRODUCTION OF CIVIL RIGHTS PROCEDURES PROTECTION ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mrs. SCHROEDER. Mr. Speaker, last week, the House voted 427–4 to extend to congressional employees coverage under Federal labor and civil rights laws, correcting a long-standing deficiency in these laws. Today, together with Representatives EDWARD MARKEY and MARJORIE MARGOLIES-MEZVINSKY, I am introducing legislation to address another serious problem that deprives many Americans of the legal protections Congress intended them to have when these laws were passed.

Our legislation, the Civil Rights Procedures Protection Act, would prevent the practice of requiring employees to agree to submit any claims of job discrimination that may arise to binding arbitration. The willingness to sign such an agreement is often made a condition of hiring, continued employment, or promotion. The practice of mandatory arbitration, which is already in widespread use in the securities industry, is growing in popularity among many individual corporations especially in the construction, insurance, banking, and information technology industries.

The Wall Street Journal profiled the handling of a sexual harassment case by the securities industry on June 9. The article described the case of Helen Walters, a secretary subjected to obscene name-calling, physical threats, and unwanted gifts of condoms from her boss—actions most reasonable people would agree constitute a hostile work environment. Her case was ultimately dismissed; not by a court or the Equal Employment Opportunity Commission, but by a three-member arbitration panel hired and paid for by the securities industry. A recent GAO report on the subject found that arbitrators employed by the securities industry are typically white males, averaging 60 years of age, with little or no specific training in employment law. In Ms. Walters' case, she did not realize that the agreement she signed when she became a registered securities agent contained the mandatory arbitration clause, nor did she know that barring fraud the arbitration panel's decision could not be overturned in court.

The Civil Rights Procedures Protection Act would amend seven Federal statutes to specify that the powers and procedures provided under those acts could not be overridden by any contract, Federal statute of general applicability or other mechanism. Our legislation specifically permits employees to voluntarily elect to resolve an employment claim under arbitration after the claim has arisen.

The Federal statues amended by our bill are: title VII of the Civil Rights Act of 1964, section 505 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, section 1977 of the Revised States, which encompass the damages provided under the Civil Rights Act of 1991, the Equal Pay Act, the Family and Medical Leave Act, and the Federal Arbitration Act. The amendment to the FAA extends the protections of the bill to claims of unlawful employment discrimination that arise under State or local law as well as to any other Federal statute under which similar charges of job discrimination may be brought.

Congress passed each of these laws with the intention of extending its protections to all Americans. No one wants to believe at the time of hiring that he or she may one day be in a position to bring an employment discrimination claim against an employer. Mandatory arbitration represents a disturbing trend in employment law, one that forces many workers to choose between a job or promotion and their civil rights. This is a choice no one should be forced to make. I hope my colleagues will join us in cosponsoring the Civil Rights Procedures Protection Act.

INTRODUCTION OF THE CIVIL RIGHTS PROCEDURES PROTECTION ACT OF 1994

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. MARKEY. Mr. Speaker, today I am introducing, along with Congresswomen SCHROEDER and MARGOLIES-MEZVINSKY, legislation that responds to a growing threat to American employees' civil rights. Specifically, our bill would prevent employers from forcing their employees to give up their right to pursue employment discrimination and sexual harassment claims in courts of law. This bill responds to the burgeoning practice, engaged in most prominently by the securities industry, but also increasingly relied on by employers in information technology and other fields, of compelling employees to sign contracts that require all employee-employer disputes to be resolved through binding arbitration. This practice has resulted in an important—and, by all accounts, growing—segment of corporate America simply opting out of the anti-discrimination laws on the books.

Signing away one's right to pursue a discrimination claim in court may be a condition of employment or advancement, or may be required in order to gain certain employee benefits such as stock options. In the securities industry, securities firms require that certain employees, as a condition of their employment, register with one or more stock exchanges, thus becoming registered representatives. As part of that process, they must submit a so-called U–4 application, which is a standard contract used by each of the securities exchanges. The U–4 agreement requires, somewhat elliptically, that all disputes or controversies with the employee's firm be arbitrated if the rules of the exchange with which the employee is registered requires them to be arbitrated. The exchanges, in turn, have rules that require registered representatives and member firms to arbitrate all controversies that arise between them.

Thus, in order for brokers to have a license to do business as employees of brokerage houses, they must sign or resign. The employee has no choice in the matter, and indeed, even if he or she were to have offers of employment from more than one firm, shopping around to find one that does not require arbitration would be to no avail: it is an industry-wide practice, with no opportunity for individual modification.

This practice, however, flies in the face of the spirit of the antidiscrimination laws passed by Congress and on the books of States and municipalities across the country. When Congress passed the various civil rights and fair employment practices laws, it established access to the courts as the means of enforcing the fundamental rights those laws sought to safeguard. The judiciary is the objective arbiter of these rights; without access to the courts, the employee has no clear means of establishing them. The employer, in turn, has less incentive to follow the letter of the law. The existence of an unassailably neutral forum in which to vindicate these basic rights is therefore critical to their vitality. For private employers to forcibly interpose instead a substitute forum—with a distinct set of procedures, no access to a jury, no right to appeal, and no requirement that the arbitrators even follow the letter of the law in rendering their decision—constitutes a constructive denial of the right to a nondiscriminatory workplace.

No industry has practiced such constructive denial of rights as consistently as the securities industry. Not only is the practice pervasive, but the impartial and independent judicial forum envisioned by Congress is exchanged for a captive one where neutrality and independence are in serious doubt. Securities industry arbitration is run by the industry selfregulatory organizations [SRO's], with industry members represented on each arbitration panel, and with arbitrators with little or no expertise in the area of employment law sitting in exclusive judgment. As the GAO discovered in its recent report to my subcommittee, the vast majority of arbitrators at the major SRO's are white males, above the age of 60. At best, such a setting has the appearance of unfairness; at worst, it is a tainted forum in which

VOL 140 PT 16 AG 12 — 18 1994 UMI

an employee can never be guaranteed a truly objective hearing.

Procedurally, securities arbitration is a far cry from adjudication, with substantial limitations on discovery and no obligation on the part of the arbitrators to even explain the reasons for the final outcome. The secretive nature of the proceedings, combined with arbitrators' ability to follow whim rather than precedent, and not have to justify their decision either in writing or to an appellate tribunal, result in a system poorly adapted to the vindication of fundamental civil rights. Moreover, the broad public policy purpose behind individual enforcement of the civil rights laws is undermined. In addition to their remedial function, the antidiscrimination laws serve an important deterrent function. This purpose requires both a public forum and one that can bind employers through precedent, the fore of law, and moral suasion. Forcible industry-sponsored arbitration provides none of those.

At its best, arbitration is an efficient and low-cost alternative to the courtroom. If conducted fairly, both parties to the arbitration proceeding can benefit. But even at its best, arbitration is not suited to disputes over fundamental rights unless both parties, once a claim has arisen, decide that it is an appropriate means of resolving the dispute. The bill we are introducing today would invalidate all predispute agreements to arbitrate claims raised under Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; section 1977 of the Revised Statutes of the United States; the Equal Pay Act of 1963; and the Family and Medical Leave Act of 1993. It would also amend the Federal Arbitration Act by rendering it inapplicable with respect to a Federal, State, or local claim of unlawful discrimination based on race, color, religion, national origin, age, or disability. Together, these changes will ensure that all employees can enjoy the fundamental protections offered by the civil rights laws.

TRIBUTE TO UNITED MINORITY MEDIA ASSOCIATES

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. RUSH. Mr. Speaker, I rise today to honor the achievements of the United Minority Media Association as it celebrates its 20th anniversary.

The UMMA has been a leader in calling for increased minority participation and ownership in the telecommunications, print, broadcast, advertising, and public relations industries. For over 20 years, through many and varied programs such as professional skill enhancement and recruitment opportunities, UMMA has worked tirelessly to bring about changes that benefit black Americans.

Mr. Speaker, I am proud to salute and honor the kind of commitment and dedication shown by the UMMA.

SURGICAL PROCEDURES PATENTS

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. BRYANT. Mr. Speaker, putting aside for a moment all of the problems which exist in our Nation's health care delivery system—and they are legion—most of us would agree that the United States leads the world in the development and practice of state-of-the-art medicine.

Unfortunately, the U.S. Patent and Trademark Office may be erecting a barrier to providing the most up-to-date surgical procedures.

The American Society of Cataract and Refractive Surgery has brought a serious matter to the attention of Congress: the approval of patents for purely surgical procedures. For most of our history, medical procedures, independent of a medical device, were not considered patentable. In 1952, new and useful processes were added to the list of subject matter that could be patented, a move that was intended to codify existing policy, not change it. At the time, surgical procedures were not considered patentable.

In more recent years, however, the Patent and Trademark Office has issued process patents for purely surgical procedures and the holders of those patents have actively sought to enforce them. One example is a 1992 patent issued to a doctor for a particularly shaped incision for eye surgery. No patentable devices, instruments, or drugs were claimed. I have been told that this doctor is now suing and threatening to sue other surgeons for using the same or similar incisions.

Such patents pose a serious problem, both in terms of health care costs and medical treatment. License fees and infringement litigation would increase the cost of providing health care. In addition, the threat of litigation places a pressure on doctors to refrain from using surgical techniques or delay using surgical techniques, for non-medical reasons. Many foreign countries do not permit surgical procedures to be patented.

The American Society of Cataract and Refractive Surgery has presented to Congress its view that medicine has long had an alternative incentive system to promote surgical innovation and sharing of information: the recognition and prestige that flows from publishing in medical journals and presenting papers at medical conferences. The Society has pointed out that the extraordinary progress in surgical procedures during the past century has been accomplished with virtually no encouragement from the patent laws and that injecting patent law into this field is unnecessary and harmful.

Mr. Speaker, I would like to encourage my colleagues on the House Judiciary Committee to look into this matter. There is little to be gained and a great deal to be lost from a policy that discourages physicians from practicing state-of-the-art medicine.

AMENDMENT TO ANTI-HEAD TAX ACT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. OBERSTAR. Mr. Speaker, the recently passed conference report on the Federal Aviation Administration Authorization Act included (section 112) an amendment to the Federal Anti-Head Tax (49 U.S.C. section 40116 (d)(2)(A)) to make it unlawful for States or their political subdivisions to levy or collect new taxes, fees, or charges imposed exclusively upon any airport business, if the tax, fee or charge is not used wholly for airport or aeronautical purposes. I would like to clarify that this provision was not intended to limit the grandfather authority of airports under 49 USC section 47107(b). That section permits qualifying airport operators to spend airport revenues for certain off-airport purposes. The recently passed amendment to the Federal Anti-Head Tax Act was not intended to prohibit airports from spending new taxes, fees or charges in accordance with the grandfather provisions of 49 USC section 47107(b).

RECOGNITION OF THE SERVICE OF E. GENE KEIFFER

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today to recognize and commend the accomplishments of an exceptional individual who has worked for the strengthening of our national security and aerospace industry for 44 years.

On August 25, 1994, Mr. Gene Keiffer will retire as chairman of the board of E-Systems. E-Systems is headquartered in Dallas, TX and is vital to the national intelligence community in protecting our country.

He joined E-Systems as an antenna and microwave design engineer and was subsequently promoted to the vice president, general manager of the Garland Division located in the Third Congressional District. His managerial skills were further recognized in 1989 when he was elected to the position of chairman and chief executive officer. The selfless character and innovative skills that he has brought to the management of highly classified programs have made our country a safer and more democratic nation.

His service is exemplified in his support and participation in the Institute for Electrical and Electronic Engineers, American Defense Preparedness, the Association of the U.S. Army and the Space Advisory Board at Texas A&M University.

Keiffer is a graduate of Southern Methodist University with a degree in Electric Engineering where he went on to receive his Master's degree in the same discipline. In 1989 he was the recipient of the SMU Distinguished Alumni Award.

Fortunately, he and his wife Carole, who has been very supportive during his quality

years of service to our country and industry, will continue to reside in the third district. I thank him for his dedication and commend him on a lifetime of invaluable service to America.

COLLEGE FACILITY TO BE NAMED FOR COMMUNITY PILLAR HY ROSENBLUM

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. SOLOMON. Mr. Speaker, I think it would be appropriate for this body to add its voice to the chorus of tribute being prepared in honor of Hy Rosenblum of Rensselaer County in upstate New York.

Hy Rosenblum was born in East Schodack in 1911. This one-time product of a one-room schoolhouse graduated from the St. Lawrence University School of Law in Brooklyn and began his legal practice in 1937.

For over 50 years, Mr. Rosenblum became increasingly involved in community life. He was attorney for many years for the towns of East Greenbush and Schodack and the village of Castleton. In 1943, he created the Consideration Award, which he presents to local high school students judged by faculty members to have shown the highest regard for the personal and property rights of others.

In 1946, he incorporated the Hudson Valley Broadcasting Corp., the forerunner of WROW radio and WROW–TV. For many years he served on the company's board of directors.

In 1953, Gov. Thomas Dewey appointed Mr. Rosenblum to the original board of trustees for Hudson Valley Community College, a board he served for many years as secretary.

Mr. Rosenblum has also chaired the Rensselaer County Park Committee, during which time he played a major role in developing what became the Grafton Lakes State Park.

In addition, Mr. Rosenblum worked hard to secure additional state troopers for improved highway safety, to prevent the closing of the Fort Orange Paper Co. in 1973, saving hundreds of jobs, and the drive to close the Dunn Memorial Bridge during rush hour. He also served on the town of Schodack's advisory committee to develop a master plan for the Castleton Island State Park. And finally, he is a former assistant attorney general for the State of New York.

Mr. Rosenblum is a member of the Rensselaer County and New York State Bar Associations, the Kiwanis Club and Schodack Businessmen's Association, and a former member of the civic affairs committee of greater Albany Chamber of Commerce and the board of directors of the Daughters of Sarah Nursing Home.

In honor of his vital contributions to Hudson Valley Community Center, a former local monastery will be named the Hy Rosenblum Administration Center. The dedication will take place on Friday, September 9, 1994, and I hope to be there to pay my respects.

Meanwhile, Mr. Speaker, I ask this House to join me so that we may forward our respects as a body to a great American and good friend, Hy Rosenblum, who has worked tirelessly to improve the lives of his neighbors.

BEWARE OF U.S. TROOPS ON THE GOLAN HEIGHTS

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. DeLAY. Mr. Speaker, despite repeated assurances by administration officials that any discussion of deployment of United States soldiers to the Golan Heights is premature, there is reason to believe that in the event of a peace agreement between Israel and Syria, American troops will be dispatched to the Middle East. In fact; when Secretary of State Warren Christopher was asked whether United States troops on the Golan might be part of any Israeli-Syrian agreement, his response was, absolutely. This would be the first major stationing of U.S. forces there since the catastrophic 1983 Beirut deployment.

The possibility of such a deployment raises serious concerns about the safety of United States troops, the sustainability of such a mission, and the longterm security of Israel. I would like to submit for the CONGRESSIONAL RECORD an article that appeared in the Houston Chronicle on August 5 by Yoram Ettinger entitled, "Doubt a U.S. Presence on Golan is Sustainable." I encourage my colleagues and administration officials to read it, as it makes a number of very important points about the risks of such a plan.

[From the Houston, Chronicle, Aug. 5, 1994]

DOUBT A U.S. PRESENCE ON GOLAN IS SUSTAINABLE

(By Yoram Ettinger)

Former U.S. Defense Secretary Les Aspin suggested at a June meeting in Tel Aviv that a current proposal to deploy U.S. troops on the Golan Heights—following total evacuation by Israel—will have to be in the magnitude of a brigade in order to be significant. Under current Pentagon guidelines, he noted, such an initiative would constitute a strain on the U.S. military, since it would require preparing a division—one-tenth of all American forces. Aspin indicated that if the scope of the deployment would be limited to the monitoring presence in Sinai, "then it would be trivial."

In addition, Rep. Lee Hamilton, D-Ind., chairman of the House Committee on foreign Affairs, has recently indicated that a survey is already under way to determine the specific locations of a U.S. peacekeeping force on the Golan.

Such a force would, supposedly, constitute an essential reassuring component. It would ostensibly be essential in light of:

(a) Syrian leader Hafex Assad's military potential and his record of brutality and unpredictability.

(B) The short-lived tenure of hundreds of Mideast inter-Muslim political agreements.

(C) The violently abrupt nature of their abrogation.

(D) Israel's risk-taking by giving away the Golan.

However, in order to bolster a potentially vulnerable accord, a U.S. presence on the Golan is required to be a durable, long-term and political/military sustainable undertaking. Moreover, it is required to be compatible with U.S. interests, lest it be summarily withdrawn, thus upsetting a fragile arrangement and undermining the prospects for real peace. Is the deployment of U.S. peacekeepers (monitoring or combat, unilateral or multinational) consistent with such requirements?

A Washington power broker agreed with me last week that the question of a complete withdrawal from the Golan should be decided by Israel voters. He stated, however, that the fate of U.S. peacekeepers and their implications for U.S. national security should be debated by the American public and the appropriate congressional committees, independent of Israel's stance. I believe that public debate should go forward with the following in mind.

Unlike U.S. observers in Sinai (22,000 square miles of empty desert), U.S. personnel on the Golan (450 square miles) would be situated about 25 miles from two of the most notorious training/operational centers of international terrorism and narco-terrorism: Damascus and the Damascus-controlled Beqa Valley ("Medellin Drug Cartel East"). Unlike ordinary U.N. forces, U.S. servicemen on the Golan would serve as a lightning rod for these terrorists.

U.S. observers in Sinai are located on the Red Sea across from Saudi Arabia, a relatively predictable ally of the United States. On the other hand, a Golan contingency—stationed in a neighborhood the size of a small U.S. congressional district—would border Lebanon, a microcosm of Mideast volatility, violence, fragmentation and Islamic and Arab nationalist, anti-U.S. sentiments.

Moreover, the Sinai presence is situated between Israel and Egypt, which is ruled by a pro-U.S., relatively moderate Arab regime. However, a Golan contingency would separate Israel from Syria, a traditional ally of Iran, North Korea, Cuba and Somalia's Col. Mohammed Aideed. Damascus has also demonstrated its capability to defy the United States, as evidenced by the devastation of the Marine headquarters in Beirut, the bombing of Pan Am Flight 103, etc.

Furthermore, the safe location of the Sinai monitors and their distance from Israeli and Egyptian military forces, puts them out of the line of fire should a clash occur. On the other hand, the Golan forces would be geographically sandwiched between Israel and its mightiest Arab neighbor, Syria, a few miles away from its armory, infantry and artillery.

Moreover, terrorist proxies of hostile, radical regimes (Syria, Iran, Iraq, Libya, etc.) could target U.S. servicemen. They could also preserve the element of deniability, while intimidating Washington, constraining its ability to respond to provocations elsewhere (e.g. the Persian Gulf area) and extorting political concessions.

In the absence of an effective U.S. combat force (which is precluded—even theoretically—by the diminished overall size of the U.S. military), one may predict a possible withdrawal of the peacekeepers in the face of hostage-taking and casualties. Such a withdrawal would be perceived as another retreat following Beirut, Somalia and Haiti. It would further erode the U.S. posture of deterrence, shrinking its public support for future well-thought-out and globally essential overseas military involvement.

While on the Golan, U.S. presence would constrain Israel by forcing her to coordinate preemptive and reactive operations with the United States, thus inadvertently shielding terrorists operating outside the Golan. It

VOL
140
PT
16
AG
12
—
18
1994
UMI

would also deny the United States the benefits from Israel's "unauthorized actions" (e.g., the 1981 bombing of Iraqi's nuclear reactor).

In fact, requiring Israel to seek prior approval in countering belligerence would strain U.S. relations with Israel. At the same time, appearing to have enabled Israel to act freely would damage U.S.-Arab ties. However, as demonstrated by the precedent of the 1982-83 U.S. episode in Lebanon, and as is evidenced by Mideast complexities, one can expect the undermining of the relationship between the United States and both sides, which is essential to the achievement of a genuine peace.

In addition, a U.S. presence at a stormy junction bordering Israel, Lebanon, Syria, Jordan and numerous terrorist groups, could draw the United States unwillingly into regional and costly inter-Arab and inter-Israel disputes, expanding the scope of these conflicts, otherwise confined to local significance (e.g., Somalia). It would certainly deepen the involvement of Russia (which has resumed strategic cooperation with Syria), France (which still views Lebanon as a French auxiliary) and other powers, further exacerbating global and regional tensions at the expense of U.S. concerns.

Keeping in mind the American public reaction to the U.S. military involvement in Lebanon and Somalia, and recognizing the likely pitfalls of a U.S. force on the Golan, such an undertaking would probably be neither durable, nor long term, nor politically/militarily sustainable. Thus, a political arrangement, predicated upon such a tenuous component would ultimately imperil regional stability, threaten U.S. interests and jeopardize the quest for a solid, long-term peace in the Middle East.

TRIBUTE TO HOWARD H. PENUEL

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. GORDON. Mr. Speaker, I rise to thank a devoted resident of my hometown of Murfreesboro and a great friend, Mr. Howard H. Penuel, for his 16 years of outstanding service as Rutherford County trustee and to congratulate him for serving longer than any other trustee in the history of Rutherford County.

A lifelong Middle Tennessean who was born in Wilson County, Mr. Penuel moved in 1941 to Murfreesboro, where he began his public service by driving a school bus and then serving the community as a salesman at Haynes Hardware Company.

Seeking self-employment, Mr. Penuel later formed a partnership and opened a business that he would later own, Seventy-Nine Auto Body Repair. After selling this business, Mr. Penuel opened Penuel's Surplus Sales, a furniture and general merchandise store in Rutherford County.

Mr. Penuel was an active force in State and county Democratic campaigns for several years, working tirelessly and selflessly for causes and candidates he believed in. This experience paid off for Mr. Penuel himself when he ran for—and won—his first political office in 1978: Rutherford County trustee.

His service made quite an impression not only on natives of Rutherford County but on all Tennesseans, who elected him "Trustee of the year" after he served just one term. The County Officials Association of Tennessee, for which he served as president, also named him Outstanding Trustee of the Year.

Mr. Penuel displayed both foresight and vision as a trustee. Because he developed the county's first idle money investment program, the only debt Rutherford County owes is a debt of gratitude to Mr. Penuel. His initiative held the property tax rate low by earning the county millions of dollars in interest.

Rutherford County is indeed losing a valuable leader who has shown all of us what it means to serve and undoubtedly will continue to do so. Rutherford County's loss, however, is a big gain for Mr. Penuel's seven grandchildren and two great-grandchildren, who will be the new beneficiaries of his energy and attention. The golf course beckons him as well.

Please join me and all other Middle Tennesseans in wishing him well in his retirement.

EDUCATION IN THE 103D CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, August 17, 1994, into the CONGRESSIONAL RECORD:

EDUCATION IN THE 103D CONGRESS

This is an exciting time in education. Major reform efforts are underway at all levels of government. The 103d Congress has approved several initiatives with broad support from educators, parents' groups, and members of Congress from both parties. The federal government has always played an important role in postsecondary education, but these efforts focus on elementary and secondary education. Congress has made two things clear: its commitment to education reform, and its belief that state and local governments must continue to take primary responsibility for education.

NEW INITIATIVES

Congress has passed bills aimed at improving educational opportunities for students in preschool to high school:

Head Start: This program, which provides educational and social services to disadvantaged preschool children, has been widely acclaimed. However, there have been concerns about the quality of some Head Start programs, and Congress enacted a law aimed at improving their effectiveness. The law sets aside a portion of Head Start funding for quality improvements, and requires evaluations before Head Start providers can expand services. Head Start programs will now identify highly skilled teachers to supervise and advise less experienced ones. The law also requires the creation of more stringent quality standards for Head Start programs, and evaluations of each provider at least once every three years. Providers are now required to make greater efforts to involve parents in the development of their children's program. Moreover, the law seeks to expand services for children under three, and calls for a study on the need for full-day and full-year Head Start instruction.

Goals 2000: Considered the centerpiece of President Clinton's education reform efforts, Goals 2000 establishes a framework for federal support of stats' comprehensive reform efforts. Participation in the program is strictly voluntary. The law codifies the National Education Goals, first drafted by President Bush and the nation's governors. It continues the National Education Goals Panel, which will monitor the nation's progress toward meeting the eight goals by the year 2000. In addition, a new board is charged with identifying the skills that students will need to pursue certain occupations so that they can better plan their course of study. A separate panel will develop recommended curriculum content, pupil performance, and opportunity-to-learn standards, which states can use as guideposts for their own reform efforts.

States wishing to participate in Goals 2000 must develop plans for systemic reform, and are not required to adopt the national standards. Most of the funding for reform must be passed along to local school districts. Goals 2000 fosters flexibility by allowing states and local schools to apply for waivers of federal regulations and by permitting the use of reform funds for public school choice.

Elementary and Secondary Education Act (ESEA): The House and Senate have passed different bills to reauthorize the ESEA, the law through which elementary and secondary schools receive most federal aid. Originally enacted almost 30 years ago, the ESEA primarily provides assistance for four purposes; to help meet the special needs of disadvantaged students; to improve instruction in certain subject areas, such as math, science, and drug abuse prevention; to support teacher training and development; and to provide aid for a variety of other resources, such as library books and computers.

By far the largest portion of ESEA funds are devoted to programs for disadvantaged students. Most congressional debate has focused on the degree to which funding should be concentrated on those schools with the highest proportion of poor students, and on allowing these funds to be used for schoolwide programs. Both the House and the Senate have sought to expand on the flexibility initiated in Goals 2000 by allowing schools to seek further exemptions from federal regulations. Greater emphasis is also placed on providing more extensive professional development for teachers.

School-to-Work Transition: Targeted at the 50% of students who do not go to college, this law provides aid to develop programs to prepare students for the workplace. Students will be able to integrate school-based and work-based learning in a course of study providing them with a high school diploma as well as additional certification in an occupational area. The program will be operated by local partnerships including employers, educators, and labor.

ASSESSMENT

I have never been pessimistic about the education system in the United States. There is always plenty of room for improvement, but I believe that we do a reasonably good job of educating our young people and preparing them for work. There isn't any doubt that we have to lift the performance of youngsters coming out of schools so that they have the skills required in today's world. No one of us should be satisfied with an educational system that is average or even just above average. The test is really whether we have the knowledge or skills to prosper in the arena of increased global competition.

The last thing we need is federal control of schools. But we do need to give expression to

legitimate national concerns about revitalizing and supporting local efforts to improve schools. Developing ideas about what constitutes high-quality education does not entail a national curriculum or standardization curriculum or standardization. Standards represent goals, and imaginative teachers will find a wide variety of ways to reach them. All of us want to see every student have a qualify education and achieve proficiency in basic skills. We want every student to be economically productive and a good citizen. And we would like every school to have a healthy climate for learning. All of us want to give more dignity and status to our teachers. And we want each school to be free to shape creatively its own program.

I believe that states and localities are primarily responsible for providing the services that will help us achieve our educational goals, but I also believe that the federal government has an important role to play. All levels of government need to contribute to making America a nation of learners. The new education initiatives continue the ongoing national conversation about what our children will need to know in the 21st century.

COMMENDING CAPT. JUAN TUDELA SALAS

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. UNDERWOOD. Mr. Speaker, I would like to commend Capt. Juan Tudela Salas of the U.S. Coast Guard, a native son of Guam and a distinguished graduate of the U.S. Coast Guard Academy, for the exemplary manner in which he has discharged his duties as commander of the Marianas section and as the marine safety officer of the U.S. Coast Guard on Guam.

Since assuming this post 2 years ago, Captain Salas efficiently dealt with an unusual heap of natural and manmade disasters which have struck Guam and its neighboring islands. Five typhoons, including typhoon Omar, which passed directly over Guam with winds in excess of 150 miles an hour, battered the island within the span of 3 months in 1992. The careful precautions that Captain Salas took assuming command of instructing his personnel and their families in typhoon preparations helped hold to a minimum the damage to Coast Guard personnel and facilities during this exhausting period. Under his command the Coast Guard was able to respond promptly and efficiently to the typhoon related emergencies in Guam's Apra Harbor. These included the grounding of 2 U.S. Navy vessels, the sinking of 13 fishing boats, oilspills caused by damage to these various vessels and damage to various navigational aids. Additionally, Captain Salas was able to alleviate the strains of water and power outages experienced by Coast Guard personnel and their dependents after Typhoon Omar by making arrangements for the use of shower and laundry facilities and obtaining portable generators from California and Hawaii.

The Coast Guard headed by Captain Salas responded once again on August 8, 1993, when a substantial portion of the island was damaged by an earthquake measuring 8.1 on the Richter scale. Water and electricity was again cut off and the same prompt and immediate response of the Captain and his team directly helped in the island's swift recovery. He and his personnel were duly recognized with the award of special certificates for volunteer service by the First Lady's Committee for Special Projects in 1993 and 1994 for the assistance they gave their Sister Village of Merizo in the aftermath of typhoons and the earthquake.

Captain Salas has also proven himself a formidable commander beyond the scope of these natural disasters. The Marianas section, under his command, has responded to more than 300 search and Rescue missions during the past 2 years. Seventeen persons who had abandoned their ship at sea were rescued on one of these missions leading to the winning of the Controller of the Year Award for the entire Coast Guard in April 1993 by the Operations Center staff under Captain Salas. In the same respect a Reserve Coast Guard unit proposed to be disbanded just a few months before the captain assumed command was revitalized by this leadership to such an extent that it was nominated for the ROA Congressional Unit of the Year Award. The active command was also nominated for the Total Force Award and a Certificate of Appreciation was awarded to Captain Salas in May 1994 from the National Committee for Employer Support of the Guard and Reserve.

Advances in the field of environmental protection and maritime safety were also implemented through the Captain's efforts. Efforts initiated by him in the Coast Guard's enforcement of maritime and other Federal laws have led to the detection of numerous violations of the Lacy Act and the collection of substantial fines through the U.S. attorney's office for illegal fishing activities by foreign vessels within the U.S. Exclusive Economic Zone. Marine life, a valuable natural resource to the people of Guam was afforded significant protection as a result of this. Oilspill contingency plans for Guam, the Northern Marianas, and Palau, under the Captain's direction, have also improved. He has chaired and establishment of an oilspill response organization in Guam that had acquired 1.5 million dollars' worth of oilspill response equipment for Palau and Rota, formerly isolated and neglected locations. On top of these, he has assisted the Guam and the Northern Marianas legislatures in the preparation and enactment of oilspill responder immunity laws. He also has implemented with the governments of Guam and the Northern Marianas memoranda of understanding that delineate responsibility in the case of major oilspill, the first and third of such signed in the entire United States.

I commend Captain Salas for these accomplishments and the service he has given to the U.S. Coast Guard, the people of Guam and the Marianas. We all look forward to all the good things that will surely materialize during the next 2 years under his leadership.

THE 200TH ANNIVERSARY OF THE TOWN OF BROOKFIELD, NH

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. ZELIFF. Mr. Speaker, this weekend is a special time for the town of Brookfield, NH, as residents there are celebrating the town's 200th anniversary.

The people of Brookfield can be proud of the strong heritage they have created over the past 200 years. Their town has been a positive example to others of a cohesive working community. And, these traits have made the town a landmark and a welcome home to people of all ages.

Without the benefits of carriages or wagons, families such as the Lyfords, Wiggins, Chamberlains, and Robinsons made their way to what was then wilderness and now the establishment of Brookfield. These pioneers of New Hampshire carved their permanence from Governor's Road to the mighty slopes of Tumbledown Dick; a mountain named for Oliver Cromwell's ill-fated son.

This town relishes its ancestry and honors its history. In fact, the proud citizens of Brookfield still hold their annual town meetings and other community functions in the town hall that was built in the 1820's. Moreover, the National Register of Public Buildings retains Brookfield's town hall in its listing of historic places. Indeed, the residents of Brookfield find their future firmly rooted in the past.

Mr. Speaker, the good people of Brookfield have reason to take pride in their heritage and I join with them in paying tribute to the spirit, hard work, and vision of the towns ancestors. I'm confident that when Brookfield celebrates another 100 years, our grandchildren and great-grandchildren will look upon this time with optimism and prosperity.

SOUTHWESTERN PENNSYLVANIA GIRL SCOUTS

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. SANTORUM. Mr. Speaker, I rise to recognize an outstanding organization in our country today—the Girl Scouts of America.

Since 1912, when Juliette Gordon Lowe founded the Girl Scouts, they have actively developed self-esteem, values, and leadership skills in America's young women. As the preeminent organization for school-aged girls, the Girl Scouts bring together young women from all walks of life and introduce them to new and dynamic experiences. for a Girl Scout, receiving the Gold Award, their highest achievement, is no easy task. Along the way, girls are required to complete difficult tasks to prove their abilities in leadership, citizenship, and outdoor skills.

Girl Scouts practice and offer the skills they learn by volunteering in local schools and organizations, and by enriching the community in which they live. Currently, the Girl Scouts of

VOL
140
PT
16
AG
12
18
1994
UMI

southwestern Pennsylvania have achieved a membership of 21,063 girls and 6,155 adults. Additionally, their membership has risen consistently since 1986. On September 8, the Girl Scouts of southwestern Pennsylvania will celebrate the grand opening of their new headquarters in Pittsburgh. I rise today to acknowledge this upcoming event.

Mr. Speaker, I ask you, and my colleagues in Congress, to salute the valiant job the Girl Scouts have done in promoting the maturation of America's young women. In its 72 years, the Girl Scouts have consistently promoted leadership skills, and a commitment to public service in America's young women.

It is my sincere belief that the Girl Scouts will continue their service to our communities and further distinguish their members. I join all those in southwestern Pennsylvania and across the Nation in saluting the Girl Scouts of America.

CELEBRATING THE WORK OF SCULPTOR GREGG WYATT

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. NADLER. Mr. Speaker, last year, a constituent of mine, Greg Wyatt, sculptor-in-residence at the Cathedral Church of St. John the Divine, New York City, was honored to exhibit his bronze sculptures in the Senate Russell Building rotunda. Three dimensional works by studio apprentices under Mr. Wyatt's tutelage were also displayed at that time. Mr. Wyatt previously exhibited his works in the Cannon House Office Building where I maintain my Washington office.

CBS–TV has informed Greg Wyatt that on Sunday, August 21, 1994, on "Sunday Morning," WCBS–TV will rebroadcast the interview by Charles Kuralt, filmed in the cathedral crypt studio in Manhattan. The program will show Mr. Wyatt's famous work at New York's Cathedral of St. John the Divine, the 40-foot-high "Peace Fountain," and feature his apprenticeship for art students. I am proud to have this accomplished artist living and working in my district.

At this time, Mr. Wyatt's bronze sculpture entitled "Eternal Spring" is featured at the Kennedy Galleries in New York City. Additionally, he informs me that a retrospective exhibit of his bronze sculptures was selected by the Newington-Cropsey Foundation trustees to join the permanent Jasper Cropsey painting collection at the foundation's new Gallery of Art at Hastings-On-Hudson. As you may know, Jasper Cropsey was the American master of the 19th century Hudson River School of Painting.

As the representative of New York's vital arts community, it is my privilege to commend the outstanding work of an inspirational artist. I believe that every Member of this House will recognize, after viewing Mr. Wyatt's work, that the arts matter, and merit continued support by Congress.

YOUNG BETHESDA ENTREPRENEURS EXPERIENCE ADVERTISING WORLD

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mrs. MORELLA. Mr. Speaker, starting a small business has been the first step on the path to success for tens of thousands of Americans, but seldom is that first step taken when the entrepreneur is only 10 years old. However, two of my constituents, that age, have decided this summer to take a leap forward into the world of small business and, specifically, into the world of advertising.

Rachel Marx and Elizabeth Whitman of Bethesda, MD, have chosen to start an advertising business as their summer venture, and this has earned them not only profits in the bank and publicity in the Washington Post, but also a letter of encouragement from Hal Shoup, vice president of the American Association of Advertising Agencies [AAAA]. In his letter to the young entrepreneurs, Mr. Shoup applauds their creativity and invites them to apply, when they are a little older, for the AAAA's LEAP program. This initiative, the Loaned Executive Assignment Program, provides for young advertising executives to spend a year in Washington learning about public service and Government operations.

These two young advertising executives and budding small business women will no doubt consider this future invitation seriously, but for now, they are experiencing an exciting summer. Excerpts from their story in the Washington Post follow:

TWO GIRLS PURSUE AD VENTURE, AND THE PERFECT JOB

[By Caroline E. Mayer]

Rachel Marx and Elizabeth Whitman are just 10 years old, but when it comes to making money, they don't kid around. They've tried the traditional lemonade stand. "But there's no money in that," said Marx. The two Montgomery County six-graders are after bigger bucks. So three months ago, the pint-size entrepreneurs launched a grown-up advertising business, called Kidz' Koupouns. The venture got started when Marx was sick with chicken pox. One afternoon, when Whitman visited the convalescing Marx, the friends decided they needed more spending money. Marx came up with the advertising idea. They would buy a page of advertising from a weekly community paper, then divide the page into smaller advertisements and sell space to local retailers who wanted to offer discounts. With a childhood enthusiasm that didn't take "no" for an answer, the two began calling businesses frequented by kids.

The product of their first endeavor was published in Washington Parent newspaper. The cost was small said Katherine Newell Smith, vice president of communications for Sutton Place Gourmet. What's more, Smith added, the money went to "a good cause—developing entrepreneurial spirit." "The girls were as efficient as any person I've ever dealt with," said Deborah Benke, Washington Parent's editor. "The copy arrived on time, in an envelope with a check and with camera-ready art. It was great—no hassle. I have many writers and advertisers that I have to call more than once." Sutton Place owner, Debora Shalom, was impressed with Marx and Whitman. "It's amazing to me what they accomplished," she said. "they were able to do something a lot of adults can't pull off."

CONGRATULATING CAPT. EULOGIO C. BERMUDES ON HIS APPOINTMENT TO THE U.S. NAVAL SHIP REPAIR FACILITY, GUAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. UNDERWOOD. Mr. Speaker, I would like to commend and congratulate Capt. Eulogio Bermudes of the U.S. Navy on his command appointment to the U.S. Naval ship repair facility on Guam.

The distinguished captain is the son of the late Juan L.G. Bermudes and Maria Concepcion. He is married to the former Carmen Meno Paulino and is the father of five children: Florina, Tanya, Vincent, Eloy, and Renee. He graduated from George Washington High School as valedictorian of his class in 1965 and subsequently attended the University of Guam. Receiving his appointment from the late Governor Manuel F.L. Guerrero, he had the prestigious honor in 1970 of being the first Chamorro to graduate from the U.S. Naval Academy in Annapolis where he was awarded a degree in mechanical engineering. He also holds a master of science degree in mechanical engineering from the U.S. naval postgraduate school.

Captain Bermudes built upon his educational training through a wide range of assignments. Prior to his present assignment on Guam, Captain Bermudes served at the Pearl Harbor Naval Ship Yard, the Mare Island Naval Ship Yard, the U.S. Naval Ship Repair Facility at Subic Bay in the Philippines, the U.S.S. *Samuel Gompers*, the CINCPACFLT at Pearl Harbor in Hawaii, the Naval Reactor's Representative's Office at Pearl Harbor, the U.S.S. *Henry W. Tucker*, and the U.S.S. *Benecia*. Upon his recent appointment, Captain Bermudes became the first Chamorro to take command of the U.S. Naval Ship Repair Facility on Guam, the only U.S. facility in the Western Pacific to provide vital repair, maintenance, overhaul, and shore support to naval ships, to the Government of Guam, and to other agencies.

Through his distinguished military service and outstanding achievements, Captain Bermudes has brought recognition upon himself, the island, and its people. On behalf of the people of Guam, I congratulate and welcome home an exceptional native son.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily

Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, August 18, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 29

10:00 a.m.
Environment and Public Works
Clean Air and Nuclear Regulation Subcommittee
To hold hearings to examine the potential health effects resulting from radium nasopharyngeal irradiation treatment.
SD–406

SEPTEMBER 13

2:00 p.m.
Veterans' Affairs
To hold hearings on the nomination of Kenneth W. Kizer, of California, to be Under Secretary for Health of the Department of Veterans Affairs.
SR–418

SEPTEMBER 14

2:00 p.m.
Veterans' Affairs
To hold hearings on pending legislation.
SR–418

SEPTEMBER 21

2:00 p.m.
Veterans' Affairs
Business meeting, to consider the nomination of Kenneth W. Kizer, of California, to be Under Secretary for Health of the Department of Veterans Affairs.
SR–418

VOL
140
PT
16
AG
12
—
18
1994
UMI

SENATE—*Thursday, August 18, 1994*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer to the great God of the Universe, Creator of man in His own image, will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Come unto me, all ye that labour and are heavy laden, and I will give you rest.—Matthew 11:28.

Thank You, God, for this beautiful promise and invitation from our Lord.

Almighty God, Thou knowest better than we the weariness, the frustration, the pressure and tension under which Your servants labor. Thou knowest their minds and hearts, their families, their canceled plans, circumstances which are difficult to bear.

In a way that only God can do it, grant to Your faithful servants a special dispensation of love, grace, mercy, and peace. Encourage them, strengthen them, grant them the "peace that passeth understanding." Demonstrate the reality of Your presence in this place.

In Jesus' name who is Love incarnate. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the order entered yesterday, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 o'clock a.m., with Senators permitted to speak therein for not to exceed 5 minutes.

Also under the previous order, the Senator from Utah [Mr. HATCH] is to be recognized for up to 10 minutes.

The Senator from Utah [Mr. HATCH].

Mr. HATCH. I thank the Chair.

CRIME BILL CONFERENCE REPORT

Mr. HATCH. Mr. President, the more people learn about this crime bill, the more opposition to it grows. Now it seems the President's own prosecutors have serious troubles with parts of this crime bill. The President's frontline Federal prosecutors have announced that they are "very much opposed" to the crime bill's mandatory minimum reform provision. The National Association of Assistant U.S. Attorneys, which represents nearly 4,000 Federal prosecutors, has written a letter to me opposing the crime bill's mandatory minimum reform.

As I have stated on a number of occasions, this provision of the crime bill will decrease penalties for many drug dealers, conspirators, and drug traffickers. It will also result in the early release of as many as 16,000 Federal drug dealers, and it will clog our courts with frivolous litigation. Our Nation's Federal prosecutors know that such a provision is not tough and it surely is not smart.

Republicans support the passage of a crime bill which is both tough and smart. And I might add, a number of Democrats do as well. Unfortunately, the crime bill conference report is neither. It is larded with pork barrel spending. It provides too little money for prisons. It drops several tough-on-crime provisions which were part of the Senate bill. It permits the early release of as many as 16,000 Federal prisoners. It fails to prevent the administration's planned implementation of a racial quota which will eliminate the Federal death penalty, and it increases the deficit by at least $13 billion.

Notwithstanding our repeated calls for bipartisanship, some Members on the other side of the aisle have questioned our motives and the sincerity of our objections. Frankly, I was particularly troubled by some recent remarks on the floor of this body which called into question our distinguished Republican leader's candor in his call for bipartisanship.

Yesterday, Senator DOLE took the floor and discussed some areas for possible compromise. Rather than responding in a constructive manner, his proposed changes were assailed by the other side of the aisle.

For example, he suggested that the administration should agree to drop the get-out-of-jail-free mandatory minimum provision that the prosecutors have just said should be changed. Republicans have expressed strong opposition to this provision because it is simply too broad and it will permit the early release of as many as 10,000 to 16,000 Federal prisoners—criminals.

Yesterday, one of our colleagues from the other side of the aisle claimed that only 400 offenders would be released as a result of this provision. Yet, the figure he cited was the Clinton administration's Bureau of Prisons estimate. The fact is the neutral Administrative Office of the U.S. Courts has concluded that as many as 10,000 Federal prisoners will be eligible for early release. Furthermore, respected Princeton University professor, John DiLuilio, a self-professed card-carrying Democrat, has estimated that as many as 16,000 prisoners will qualify for early release under this provision.

I ask unanimous consent that relative documents supporting my position be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUDICIAL IMPACT STATEMENT—VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

(Prepared by the Judicial Impact Office, Administrative Office of the U.S. Courts)

APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES (TITLE II, SECTIONS 201 AND 203)

Section 201 would permit Federal judges to impose sentences below mandatory minimum levels under specific conditions. More encompassing than the version in the Senate crime bill, this provision would apply to the drug offender who: (1) does not have more than 1 "criminal history point" under the United States Sentencing Commission Guidelines Manual; (2) did not use or threaten violence or possess a dangerous weapon during the offense; (3) was not an organizer, leader, manager, or supervisor of others in the offense; and (4) discloses all information known about the offense. This provision would not apply if the offense caused death or serious injury to another person.

Based on data from the United States Sentencing Commission's February 22, 1994 report on the Senate crime bill, this provision could affect about 150 to 900 defendants annually. This should not have a significant impact on the Judiciary's resource needs. It could however, impose costs on the Federal probation system earlier than planned since prisoners could be released from prison and placed under supervised release earlier than they would otherwise.

Section 203 would allow the retroactive application of proposed Section 201 to an individual already sentenced and serving prison time, provided that the individual has demonstrated good behavior while in prison. According to preliminary estimates developed by the Federal Bureau of Prisons, somewhere between 5,000 and 10,000 Federal prisoners could meet the eligibility requirements of Section 201. A sentence reduction hearing would likely be required to reduce a prisoner's sentence, each costing the Judiciary about $2,500. If 5,000 to 10,000 hearings were conducted, the cost to the Judiciary could be between $12.5 million to $25 million, which would likely be incurred within the first two to three years after enactment of the provision.

This provision may create other adverse resource consequences for the Judiciary. First, it is possible that some court time could be unproductively spent hearing frivolous motions for reduced sentences. Second, similar to what could occur under proposed

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Section 201, this provision could result in an influx of prisoners released early from prison and placed under supervised release, which could impose substantial costs on the Federal probation system earlier than anticipated.

EXCERPT FROM SENATE AMENDMENT TO CRIME BILL

SEC. 2404. FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 0 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense;

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspirator involved possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.

"(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other provision of law, any defendant who has been sentenced pursuant to section 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act or any crime of violence for which imposition of a mandatory minimum term of imprisonment is required, he or she shall be sentenced to an additional 5 years imprisonment.

[From the Wall Street Journal, Aug. 11, 1994]

THIS BILL IS A CRIME

(By Jay Apperson)

The so-called anti-crime bill crafted by House-Senate conferees appears headed for a crucial vote in the House this week, possibly as early as today. The bill is a bad bill and should be defeated. While I do not speak for the Justice Department, I do speak as a veteran front-line prosecutor. Based on my experience, the crime bill does little to strengthen law enforcement and wastes hundreds of millions of dollars on soft-headed gimmicks that don't work.

More important, the bill is the drug dealer's best friend. It guts one of the most effective law enforcement tools to induce cooperation against high-level drug traffickers—"mandatory minimums"—and, incredibly, authorizes the wholesale release from prison of potentially thousands of convicted drug traffickers, putting them back on the street.

The legislation is the result of intense and sustained lobbying by the criminal defense bar and other critics of tough mandatory-minimum drug sentences enacted in the 1980s. These critics have painted a picture of federal prosecutors who round up helpless drug addicts and throw then in jail for 10 years with no change for parole. The reality is far different. Mandatory minimums apply (with a single exception) to drug dealers, not users. Simple possession by a user is only a misdemeanor which carries a sentence of no more than one year.

What the critics don't tell you is that mandatory minimums for those assisting in drug distribution are part of a comprehensive scheme which allows the government to move to reduce a defendant's sentence below the minimum term if he provides "substantial assistance" in the prosecution of others. In other words, if low-level dealers, drug couriers or "mules," arrested on federal drug offenses, cooperate with prosecutors, identify their sources and higher-ups, testify against them at trial, and help put them out of business, then those low-level defendants can have their own sentence reduced. It is a common-sense "carrot and stick" approach which represents perhaps the single most effective law enforcement tool in convicting high-level drug suppliers and traffickers.

Congress should think long and hard before returning us to the old days when narcolords could successfully insulate themselves by having others handle the drugs. Before mandatory minimums, underlings served very little jail time for their scutwork. Often paid for their prison time by their bosses, the low-level guys didn't finger increasingly violent higher-ups. Their short sentences were simply the cost of doing business.

However, faced with the certainty of a 10-year mandatory sentence with no parole, it's amazing how defendants' loyalty or fear is suddenly put into perspective. They very quickly realize they will be giving up a huge chunk of their lives for someone else. And they usually decide to cooperate with prosecutors.

Federal prosecutors have utilized mandatory minimums to successfully convict increasingly sophisticated high-level traffickers and racketeers—people who would otherwise still be in business. Responsible defense attorneys have zealously represented their clients by getting them to cooperate with the United States to earn reduced time. It is a system that works—both for society, which is rid of some high-level dealers, and for low-level defendants, who earn a reduced sentence.

Yet you'd never understand how this system works from reading press accounts, which have been shaped by critics of mandatory minimums. A good example is a Feb. 20 Washington Post article, which portrayed a young black man named Derrick Curry, who had been convicted on federal drug trafficking charges. The Post reporter lamented the "incomprehensibly severe" 20-year sentence for this "small-time dealer." The story noted, almost in passing, that Curry steadfastly refused to cooperate by "ratting on his friends." For those who think that's noble, remember Jesse Jackson's admonition to young blacks: "It's like seeing your apartment building in flames and not telling anybody about it because * * * the guys who set the fire are black. They think they're being disloyal to the race if they tell it. No: They will burn the race up unless they tell it."

Unfortunately, the crime bill removes the incentive to "tell it" by gutting mandatory minimums for a large number of low level defendants. These "low-level" defendants—a term defined by politicians not prosecutors—would be eligible to escape the mandatory minimum sentences without ever providing meaningful cooperation to prosecutors. The escape provision applies regardless of the amount of drugs involved. A person who distributes hundreds of kilograms of cocaine or heroin can qualify. It applies even to people who have engaged in repeated and ongoing trafficking, not just small fry who get caught for a single lapse in judgment.

The bill actually allows the escape hatch to apply retroactively, allowing release of those already convicted and sentenced. What's more, these convicted criminals may qualify for release even if they continue to protect higher-up drug traffickers. Convicted

VOL 140 PT 16 AG 12 — 18 1994 UMI

criminals may be released simply by having admitted they did it even after they have been convicted by a jury. They can also be released by telling the government what happened years after their arrest and conviction, when that information is useless. There is no requirement that they testify against anyone.

Passage of this legislation will reward the dangerously false nobility of the Derrick Currys of the world. And the punks whom they have protected will be waiting to put them back in the drug business when they get out.

If Congress is serious about fighting crime, it will defeat this bill. If President Clinton is serious, he will veto it. It's a bad bill.

EXCERPT FROM HOUSE AMENDMENT TO CRIME BILL

TITLE II—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 201. LIMITATION ON APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES.

(a) IN GENERAL.—Section 3553 of title 18, United States Code, is amended by adding at the end the following:

"(f) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN CASES.—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act or section 1010 or 1013 of the Controlled Substances Import and Export Act, the court shall impose a sentence pursuant to guidelines established by the United States Sentencing Commission, without regard to any statutory minimum sentence, if the court finds at sentencing that—

"(1) the defendant does not have more than 1 criminal history point under the United States Sentencing Commission Guidelines Manual;

"(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

"(3) the offense did not result in death or serious bodily injury to any person;

"(4) the defendant was not an organizer, leader, manager, or supervisor of others (as determined under the United States Sentencing Commission Guidelines Manual) in the offense; and

"(5) no later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide shall not preclude or require a determination by the court that the defendant has complied with this requirement.".

(b) SENTENCING COMMISSION AUTHORITY.—

"(1) IN GENERAL.—The United States Sentencing Commission (hereinafter in this section referred to as the "Commission") may—

(A) make such amendments as the Commission deems necessary to harmonize the sentencing guidelines and policy statements with this section and the amendment made by this section; and

(B) promulgate policy statements to assist in the application of this section and that amendment.

(2) PROCEDURES.—If the Commission determines it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a), the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

(c) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall apply to all sentences imposed on or after the 10th day beginning after the date of the enactment of this Act.

SEC. 202. DIRECTION TO SENTENCING COMMISSION.

The United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines with respect to cases where statutory minimum sentences would apply but for section 3553(f) of title 18, United States Code, to carry out the purposes of such section, so that the lowest sentence in the guideline range is not less than 2 years in those cases where a 5-year minimum would otherwise apply.

SEC. 203. SPECIAL RULE.

For the purpose of section 3582(c)(2) of title 18, United States Code, with respect to a prisoner the court determines has demonstrated good behavior while in prison, the changes in sentencing made as a result of this Act shall be deemed to be changes in the sentencing ranges by the Sentencing Commission pursuant to section 994(o) of title 28, United States Code.

EXCERPT FROM CONFERENCE REPORT ON CRIME BILL

TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 80001. LIMITATIONS ON APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES.

(a) IN GENERAL.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection.

"(f) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN CASES.—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act (21 U.S.C. 841, 844, 846) or section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 961, 963), the court shall impose a sentence pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28 without regard to any statutory minimum sentence, if the court finds at sentencing that—

"(1) the defendant does not have more than 1 criminal history point, as determined under the sentencing guidelines;

"(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

"(3) the offense did not result in death or serious bodily injury to any person;

"(4) the defendant was not an organizer, leader, manager, or supervisor of others in the offense, as determined under the sentencing guidelines; and

"(5) not later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement, and a defendant sentenced before this subsection takes effect shall be deemed to have satisfied the requirement of this paragraph if such defendant—

"(A) received an adjustment under the sentencing guidelines for acceptance of responsibility;

"(B) received a sentence below the applicable guideline range for having provided substantial assistance in the investigation or prosecution of another person who has committed an offense; or

"(C) provides to the Government, after moving for resentencing and before determination of that motion, all information that the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.

(b) SENTENCING COMMISSION AUTHORITY.—

(1) IN GENERAL.—(A) The United States Sentencing Commission (referred to in this subsection as the "Commission"), under section 994(a)(1) and (p) of title 28—

(i) Shall promulgate guidelines, or amendments to guidelines, to carry out the purposes of this section and the amendment made by this section; and

(ii) may promulgate policy statements, or amendments to policy statements, to assist in the application of this section and that amendment.

(B) In the case of a defendant for whom the statutorily required minimum sentence is 5 years, such guidelines and amendments to guidelines issued under subparagraph (A) shall call for a guideline range in which the lowest term of imprisonment is at least 24 months.

(2) PROCEDURES.—If the Commission determines that it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a), the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

(c) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall apply to all sentences imposed on or after the 10th day beginning after the date of enactment of this Act.

SEC. 80002. SPECIAL RULE.

(a) OFFENSES SUBJECT TO SENTENCING GUIDELINES.—For the purpose of section 3582(c)(2) of title 18, United States Code, with respect to a prisoner who, as determined by the court, has demonstrated good behavior while in prison, the changes in sentencing made as a result of this title shall be deemed to be changes in the sentencing ranges by the United States Sentencing Commission pursuant to section 994(o) of title 28, United States Code.

(b) OFFENSES NOT SUBJECT TO SENTENCING GUIDELINES.—Notwithstanding any other provision of law, a defendant serving a term of imprisonment who—

(1) was convicted of an offense that occurred prior to November 1, 1987, or was sentenced as if the offense had occurred before such date;

(2) meets the criteria set forth in section 3553(f) of title 18, United States Code; and

(3) has demonstrated good behavior while in prison; shall be eligible for release consideration under the provisions of chapter 311 of title 18, United States Code (as such provisions remain applicable to an individual who committed an offense prior to November 1, 1987). Such a release determination shall be made pursuant to the guidelines and policy statements issued by the United States Sentencing Commission.

Mr. HATCH. I thank the Chair.

Perhaps recent developments will open the administration's eyes to the fact that our concerns about that provision are legitimate. Over the last several days the administration has been focused on turning a handful of votes. Consumed with this bare-knuckle strategy, they ignored their own prosecutors who attempted to broker some modest changes to the crime bill. Having been overlooked, President Clinton's prosecutors have been forced to publicly announce their opposition to this provision. That is no small thing. These are Democrat and Republican prosecutors.

The National Association of Assistant United States Attorneys, in a letter dated yesterday, has taken the position that they are "very much opposed" to the crime bill's mandatory minimum reform proposal. They note that the crime bill would permit as many as 20,000 petitions for early release. This sort of litigation will clog our courts and "dilute" Federal prosecutors' ability to do their jobs and would eliminate the leverage they need in order to nail certain types of drug traffickers.

Mr. President, I appreciate the courage of the administration's frontline prosecutors to publicly oppose the President on this issue, and I have no doubt that there are those up here and those down there who will threaten them from here on in and will try to hurt the careers of some of these people. So it took guts to do what they did, and we ought to be listening to them.

One can only wonder whether this step would have been necessary had the administration worked with the Republicans in a bipartisan manner.

Nevertheless, these men and women who represent the United States in all criminal prosecutions felt that they had to take this stand in the face of significant pressure from supporters of the crime bill. It is a testament to their fidelity to justice that they came forward. To continue to suggest, in the face of this sort of growing opposition, that our concerns about mandatory minimum reform in the crime bill are illegitimate, is ludicrous.

I have been an advocate for responsible mandatory minimum reform. I authored the Senate-passed provision. Indeed, the President's prosecutors support responsible reform. Nevertheless, this administration and the Congress owe it to our Nation's Federal prosecutors to listen to them and consider their suggested changes. After all, it is our prosecutors who will bear the burden of this so-called reform.

Mr. President, I ask unanimous consent that a copy of their letter to me dated August 17, and their policy brief, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF ASSISTANT UNITED STATES ATTORNEYS,
Alexandria, VA, August 17, 1994.

Hon. ORRIN HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: The National Association of Assistant United States Attorneys has as its members front-line litigators. Our members represent the United States in all civil and criminal matters. We are our nation's lawyers. Most of our members are prosecutors who work very closely with federal and local law enforcement agencies.

In 1987, Congress enacted the Federal Sentencing Guidelines, which, in part, had stiff but appropriate sentencing provisions, incorporating mandatory minimum sentences for certain drug traffickers. Those mandatory minimums have given our prosecutors the ability to get drug dealers to cooperate by forcing them to work with us in giving up their source(s) of supply or face years of incarceration. When their cooperation is deemed to be "substantial" by a committee of Assistant United States Attorneys (or, in some cases, the United States Attorney), their sentences may be reduced by a federal Judge. In fiscal 1993, almost one-fifth of convicted defendants benefited by having their sentences reduced because they cooperated with law enforcement authorities. The results of that cooperation led to the arrest and conviction of numerous drug suppliers and their sources.

The present Crime Bill contains a provision which not only severely negates the benefits of "mandatory minimums" for a certain class of offenders, but also would permit the filing of 10,000 to 20,000 frivolous law suits which would cause prosecutors to spend their time in needless litigation instead of investigating and prosecuting criminals. The present provision would dilute prosecutors' ability to determine if a drug dealer has "substantially" cooperated. In effect, our leverage to get to the suppliers would be eliminated for certain types of drug traffickers. We cannot stand idly by and allow this very effective tool to be taken from us and the citizens we are sworn to protect.

The bill's present language is intended to address low level drug traffickers who are so minimally involved that they cannot have their sentences reduced because they truly cannot provide information or cooperation which would be deemed to be "substantial". In some instances under mandatory minimums (and the Department of Justice's requirement that prosecutors had to charge the most serious provable crime), some injustices occurred. We believe that should be corrected. However, Attorney General Reno fixed this problem some time ago by no longer requiring Assistant United States Attorneys to charge the most serious readily provable offense if that would result in a miscarriage of justice. In addition, our Association proposed minor revisions to the present bill which would codify the intent to appropriately treat first time low level traffickers. We are not opposed to these goals and objectives. We are, however, very much opposed to the way the present bill achieves them.

We believe that prosecutors are in the best position to determine if an individual has cooperated substantially or truly has nothing to offer and therefore meets the other criteria to receive a reduced sentence in accordance with this bill's present language. We have proposed, therefore, that in order to qualify for "safety valve" relief, the current language be amended as follows:

"(f)(5) is hereby amended by striking the current language and inserting:

"(f)(5) the government certifies that the defendant has timely and truthfully provided to the government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan."

We urge the Committee to make the change we have proposed.

Sincerely,

LAWRENCE J. LEISER, AUSA,
President, NAAUSA.

NATIONAL ASSOCIATION OF ASSISTANT UNITED STATES ATTORNEYS—POLICY BRIEF

MANDATORY MINIMUMS

The National Association of Assistant United States Attorneys represents frontline federal prosecutors, including criminal narcotics prosectors and designated Organized Crime Drug Enforcement Task Force prosecutors, charged with enforcing the federal narcotics laws. We are encouraged that "The Mandatory Minimum Sentencing Reform Act of 1994", H.R. 3979, as amended, and adopted by the Committee on the Judiciary's Crime Subcommittee, recognizes the importance of limiting relief from provisions of existing mandatory minimum sentences to those defendants who have made every effort to provide assistance to the government.

The proposed amendment to Section 3553 of Title 18, United States Code, to create a relief mechanism from application of mandatory minimum sentences in certain cases, includes the criteria as set forth in paragraph (5) that the defendant has provided to the government all information the defendant has concerning the offense or other criminal conduct related to the offense.

While we are encouraged by the obvious recognition that any relaxation from mandatory minimum application should be limited to those who provide information to the government, we suggest that the existing language is problematic in its application. The first difficulty arises as to who is in a position to determine whether a defendant has provided the government all information. Only the government is able to make that determination, by comparing the information provided with other evidence of the case. The current language would conceivably allow the defendant to self-servingly state "that's all I know," without the government being in a position to test that assertion by debriefings, polygraph results, etc. In order to assist in this process, the defendant should be required to provide any evidence he can, in addition to information.

Similarly, we are concerned that this relief mechanism not be available to a defendant who has provided information which is not truthful, or to a defendant who in providing certain truthful information, nevertheless, also lies about other aspects or details so as to mislead investigators or obstruct the investigation.

It also should be required that the information be timely. Under the current language, a defendant who goes to trial and is convicted, would presumably be able to stand up at sentencing, tell the government what it has already proved, and avoid the mandatory minimums under this escape provision.

Accordingly, we seek amended language which would require that the defendant must

VOL 140 PT 16 AG 12 — 18 1994 UMI

provide timely information, truthful information, other evidence, and that the determination as to whether a defendant has provided all this be by certification by the government. Otherwise the sentencing court will be inundated by litigation calling upon it to make determinations it is not equipped to make.

This is the natural complement to the existing "Substantial Assistance" reduction mechanism currently embodied under Section 3553(e) of Title 18, United States Code. This provision has been responsibly applied by federal prosecutors throughout the country.

It reflects the recognition that the government is in the best position to make such a determination, and provides the incentive to the low-level defendant to work with the government in working up the ladder to identify and target higher-up drug traffickers. The current amendment properly recognizes that there are simply those who are not able to provide "substantial assistance" but who nevertheless have done everything they can to assist.

Simply put, society has a right to ask that a defendant provide all that he knows. If what he knows constitutes "substantial assistance" he will have already earned relief. (18 U.S.C. 3553(e)) If it does not, and he meets the other requirements of the currently proposed legislation, then justice dictates that he receive a lesser sentence.

The amended language which we have suggested (attached) will assure that defendants continue to have an incentive to cooperate with the United States by providing all truthful information in a timely manner, while allowing those who, through no fault of their own, are simply not in a position to provide "substantial assistance," an opportunity to receive a sentence below current mandatory minimums.

(f)(5) is hereby amended by striking:

"(5) no later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide shall not preclude or require a determination by the court that the defendant has complied with this requirement."

and inserting:

"(5) the government certifies that the defendant has timely and truthfully provided to the government all information, and evidence that defendant has concerning the offenses or offenses that were part of the same course of conduct or of a common scheme or plan."

Mr. HATCH. As my colleagues know, I have also opposed wasteful social spending in the bill. Specifically, I have opposed the Local Partnership Act, the YES Program, and the Model Intensive Grants Programs, to just name a few. These three programs alone account for nearly $3.6 billion of pork-barrel programs in the crime bill, and they should be dropped.

Ironically, I have not heard many defenders of the crime bill defending these pork feeding frenzies. Instead, my colleagues on the other side of the aisle have suggested that Republicans once supported similar programs in the past.

The crime bill's Model Intensive Grants Program is an $895 million pork program for 15 cities handpicked by the administration. Republicans oppose it. My friend from Delaware has suggested that this program is similar to a measure Senator D'AMATO and Senator GORTON supported. The measure he cites is a bill to provide emergency aid of up to $50 million to cities which the President declares to be major drug emergency areas. This was a 1991 bill. This was a bill Senator BIDEN introduced. Senators GORTON and D'AMATO were only 2 of the bill's 16 cosponsors. To suggest that limited Republican support for this 1991 disaster areas bill somehow excuses the big-city ripoff of the model intensive grants is not just a stretch, it's an extraordinary leap. Such as argument illustrates the extreme lengths to which some will go to defend this crime bill.

Senator BIDEN has suggested that since midnight basketball may have been one of President Bush's so-called points of light, we have to make a $50 million Federal program out of it. The fact of the matter is, the point-of-light concept was intended to encourage private sector involvement in crime prevention and education efforts. Indeed, midnight basketball programs are largely funded by the private sector. Supporters of midnight basketball say its a success and it has done so without huge Government handouts.

Another reason Republicans oppose the crime bill is its soft truth-in-sentencing provision. It has been suggested that the Republican conferees voted against tough truth-in-sentencing. True, the Senate Republican conferees did vote against the Biden prison amendment which incorporated a truth-in-sentencing amendment. But that was only after the Democrat conferees had rejected a tougher Republican prison proposal which contained truth-in-sentencing.

We did not oppose the Biden prison amendment because of its truth-in-sentencing provision—and my colleague from Delaware should know that. We opposed it because the amount it proposed for prison construction was inadequate. Furthermore, the amendment contained a reverter provision which required that the truth-in-sentencing grants be diverted into other programs if the money was not spent quickly.

Mr. President, I ask unanimous consent that a copy of the Hatch prisons amendment, which all Senate Republican conferees supported, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TITLE I—VIOLENT REPEAT OFFENDER INCARCERATION

SEC. 101. PRISON GRANTS.

(a) IN GENERAL.—The Attorney General may provide formula grants to eligible States and to eligible States organized as regional compacts to build, expand, and operate space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony and to build, expand, and operate temporary or permanent correctional facilities and jails, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony.

(b) FEDERAL FUNDS.—

(1) FORMULA FOR DISTRIBUTION OF FUNDS.—Of the total amount of funds appropriated under this section for each fiscal year—

(A) $500,000 or 0.40 percent, whichever is greater, shall be allocated to each of the participating States; and

(B) of the total funds remaining after the allocation under subparagraph (A), there shall be allocated to each participating State an amount that bears the same ratio to the amount of remaining funds as the population of the State bears to the population of all of the participating States.

(2) DISTRIBUTION OF FUNDS.—

(A) GENERAL FUND.—50 percent of the total amount of funds appropriated under this section for each fiscal year shall be allocated to each State (including a State that is participating in a regional compact) that meets the eligibility requirements of paragraph (3) according to the formula stated in paragraph (1).

(B) INCENTIVE FUND.—50 percent of the total amount of funds appropriated shall be allocated under an incentive fund to each State (including a State that is participating in a regional compact) that meets the eligibility requirements of paragraph (4) according to the formula stated in paragraph (1).

(3) ELIGIBILITY FOR GENERAL FUND.—In order to be eligible for a grant from the general fund under paragraph (2)(A), a State or States organized as regional compacts shall submit an application and give the Attorney General assurances that each State applying—

(A) will make a good faith effort to become eligible for a grant under paragraph (5); and

(B)(i)(I) since 1993 has increased the percentage of convicted violent offenders sentenced to prison;

(II) since 1993 has increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison; and

(III) since 1993 has increased the percentage of sentence to be actually served in prison by violent offenders sentenced to prison; or

(ii) in the case of a State that on the date of enactment of this Act practices indeterminant sentencing, experiences average times served for the offenses of murder, rape, robbery, and assault in the State that exceed by at least 10 percent the national average of times served for such offenses in all of the States.

(4) ELIGIBILITY FOR INCENTIVE FUND.—

(A) IN GENERAL.—In order to be eligible for a grant from the incentive fund under paragraph (2)(B), a State or States organized as regional compacts shall submit an application and demonstrate that each State applying—

(i) has in effect, or has enacted legislation that will result in the State's having in effect within 3 years after the date of enactment of such legislation, laws and regulations that include—

(I) truth-in-sentencing laws requiring that, except as provided in subparagraph (B), a person convicted of a serious violent felony serve not less than 85 percent of the sentence imposed or 85 percent of the court-ordered maximum sentence for States that practice indeterminate sentencing;

(II) pretrial detention similar to and at least as restrictive as that provided in the Federal system under section 3142 of title 18, United States Code;

(III) laws requiring that the sentencing or releasing authorities notify and allow the defendant's victims or the family of victims the opportunity to be heard regarding the issue of sentencing and any post-conviction release; and

(IV) laws requiring that, except as provided in subparagraph (B), a person who is convicted of a serious violent felony shall be sentenced to life imprisonment if—

(aa) the person has been convicted (and those convictions have become final) on 2 or more prior occasions in a court of the United States or of a State of a serious violent felony, or of 1 or more serious violent felonies and 1 or more serious drug offenses; and

(bb) each serious violent felony or serious drug offense used as a basis for sentencing under this subparagraph, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense; or

(ii) in the case of a State that on the date of enactment of this Act practices indeterminant sentencing, experiences average times served for the offenses of murder, rape, robbery, and assault in the State that exceed by at least 10 percent the national average of times served for such offenses in all of the States and the State meets the requirements of clause (i) (II) and (III).

(v) laws prohibiting the consideration of an inmate's residency status in determining release dates.

(B) RELEASE OF OLDER PRISONERS.—A law described in subparagraph (A) (i) or (iii) may provide that the Governor of the State may allow for the release of a prisoner over the age of 70 after a public hearing in which representatives of the public and the prisoner's victims have an opportunity to be heard regarding a proposed release.

(5) EXPEDITION OF OUTLAYS.—All funds appropriated for the purposes of this section shall be distributed by the Attorney General within 180 days after the appropriation is made. The Attorney General may not require States to expend distributed funds as a condition of eligibility.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $1,250,000,000 for fiscal year 1995, $2,500,000,000 for fiscal year 1996, $3,750,000,000 for fiscal year 1997, and $5,500,000,000 for fiscal year 1998.

(2) PRIORITY.—No funds for other purposes authorized by this Act to be appropriated for purposes other than the purposes of this section for fiscal years 1995, 1996, 1997, 1998, or 1999 shall be appropriated unless the programs under this section are fully funded in those years.

(3) LIMITATIONS ON FUNDS.—

(A) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(B) PROHIBITED USES.—Funds made available under this section shall not be used for treatment, education, or recreation costs associated with convicted violent offenders.

(C) ADMINISTRATIVE COSTS.—Not more than 1 percent of the funds available under this section may be used for administrative costs.

(D) MATCHING FUNDS.—The Federal share of a grant received under this section may not exceed 75 percent of the costs of a proposal as described in an application approved under this section.

(E) CARRYOVER OF APPROPRIATIONS.—Any funds appropriated but not expended as provided by this section during any fiscal year shall be carried over and shall be made available until expended.

(d) DEFINITIONS.—

(1) IN GENERAL.—In this section—

"arson", subject to paragraph (2), means an offense that has as its elements maliciously damaged or destroying any building, inhabited structure, vehicle, vessel, or real property by means of fire or an explosive.

"assault with intent to commit rape" means an offense that has as its elements engaging in physical conduct by which a person intentionally places another person in fear of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code).

"extortion" means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person.

"firearms use" means an offense that has as its elements those described in section 924(c) or 929(a) of title 18, United States Code, if the firearm was brandished, discharged, or otherwise used as a weapon and the crime of violence or drug trafficking crime during and in relation to which the firearm was used was subject to prosecution in a court of the United States or a court of a State, or both.

"indeterminate sentencing" means a system by which the court has discretion on imposing the actual length of the sentence, up to the statutory maximum and an administrative agency, generally the parole board, controls release between court-ordered minimum and maximum sentence.

"kidnapping" means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force.

"serious violent felony" means—

(i) a Federal or State offense, by any designation and wherever it may be committed, consisting of murder (as described in section 1111 of title 18, United States Code); manslaughter other than involuntary manslaughter (as described in section 1112 of that title); assault with intent to commit murder (as described in section 113(a) of that title); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242 of that title); abusive sexual contact (as described in sections 2244(a)(1) and 2244(a)(2) of that title); kidnapping; aircraft piracy (as described in section 902(i)(2) or 902(n)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)(2) or (n)(2)); robbery (as described in section 2111, 2113, or 2118 of title 18, United States Code), subject to paragraph (2); carjacking (as described in section 2119 of that title); extortion; arson, subject to paragraph (3); firearms use; or attempt, conspiracy, or solicitation to commit any of the offenses described in this subparagraph; and

(ii) any other offense punishable by a maximum term of imprisonment of 10 years or more that has as an element the use, attempted use, or threatened use of physical force against the person of another or that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense.

"serious drug offense" means—

(A) an offense subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act; and

(B) an offense under State law that, had the offense been prosecuted in a court of the United States, would have been subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act.

"State" means a State, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(2) OFFENSES NOT COUNTED IN CERTAIN CIRCUMSTANCES.—

(A) ROBBERY AND OTHER SERIOUS VIOLENT OFFENSES.—A case of robbery or an attempt, conspiracy, or solicitation to commit robbery, or an offense described in clause (ii) of the definition of "serious violent penalty" in paragraph (1) shall not be counted for the purposes of this section if the defendant establishes by clear and convincing evidence that—

(i) no firearm or other dangerous weapon was involved in the offense and no threat of use of a firearm or other dangerous weapon was involved in the offense; and

(ii) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person.

(B) ARSON.—A case of arson shall not be counted for the purposes of this section if the defendant establishes by clear and convincing evidence that—

(i) the offense posed no threat to human life; and

(ii) the defendant reasonably believed that the offense posed no threat to human life.

Mr. HATCH. Mr. President, many Republicans have raised concerns about the crime bill's rejection of the community notification provision of the child predator language. It has been suggested by supporters of the crime bill that the community notification provision is in the crime bill. That simply is not the case.

The Senate-passed crime bill allowed local law enforcement agencies to release to the public the identity of convicted sex offenders living in our neighborhoods. It also granted law enforcement limited immunity when they chose to notify a community. The crime bill conference report, on the other hand, protects the privacy of registered sex offenders and child molesters. Information collected under the conference report "shall be treated as private data." The information may be released only for law enforcement purposes and to "notify the victims of the offender." That is found on page 283 of the conference report. Could somebody please tell me how this permits community notification? Who is kidding who.

I ask unanimous consent that the relevant Senate-passed language and the conference report language be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VOL
140
PT
16
AG
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18
1994
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EXCERPT FROM SENATE AMENDMENT TO CRIME BILL

(c) COMMUNITY NOTIFICATION.—The designated State law enforcement agency may release relevant information that is necessary to protect the public concerning a specific sexually violent predator required to register under this section.

(d) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies, and State officials shall be immune from liability for any good faith conduct under this section.

EXCERPT FROM CONFERENCE REPORT ON CRIME BILL

(5) PRIVACY OF DATA.—The information collected under a State registration program shall be treated as private data on individuals and may be disclosed only to law enforcement agencies for law enforcement purposes or to government agencies conducting confidential background checks with fingerprints. A law enforcement agency may release relevant information concerning a sex offender required to register under this section when such release of information is necessary to carry out law enforcement purposes or to notify the victims of the offender.

Mr. HATCH. Mr. President, another concern of ours has been the crime bill's failure to include the Simpson criminal alien deportation provisions which passed the Senate. Here again, Democrats have suggested that the crime bill contains these provisions. Once again, that is not accurate. The crime bill does contain some enhanced penalties for failure to depart, of for reentry, by criminal aliens. Yet, several major criminal alien deportation reforms were dropped including a judicial deportation provision, an expanded definition of aggravated felony, and restrictions on certain deportation defenses where certain crimes have been committed.

I ask unanimous consent that the relevant conference report language and a copy of the Simpson language be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIMPSON CRIMINAL ALIEN AMENDMENT REJECTED IN CONFERENCE

TITLE I—DEPORTATION OF ALIENS CONVICTED OF CRIMES

SEC. 5001. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or budgetary offense for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 33 months;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations) for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense that—

"(i) relates to the owning, controlling, managing, or supervising of a prostitution business; or

"(ii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(L) an offense relating to perjury or subornation of perjury if the offense involved causing or threatening to cause physical injury to a person or damage to property;

"(M) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(N) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(O) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(P) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud) which constitutes trafficking in the documents described in such section;

"(Q) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 15 years or more; and

"(R) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. 5002. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(f) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216 or 216A) at the time that proceedings under this section commenced.

"(3) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in his discretion.

"(4) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

"(5) Pending a determination of deportability under this section, the Attorney General shall not release the alien. An order of deportation entered pursuant to this section shall be executed by the Attorney General in accordance with section 243. Proceedings before the Attorney General under this section shall be in accordance with such regulations as the Attorney General shall prescribe and shall include requirements that provide that—

"(A) the alien is given reasonable notice of the charges;

"(B) the alien has an opportunity to have assistance of counsel at no expense to the government and in a manner that does not unduly delay the proceedings;

"(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

"(D) the determination of deportability is supported by reasonable, substantial, and probative evidence; and

"(E) the final order of deportation is not adjudicated by the same person who issued such order.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting the following:

"(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—

"(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by redesignating subsection (f), as added by subsection (a) of this section, as subsection (c);

(7) by inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be deportable from the United States."; and

(8) by amending the section heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 5003. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the Service, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order. If the conviction is reversed on direct appeal, the order entered pursuant to this section shall be void.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter the privilege of being represented at no expense to the Government set forth in section 292 of the Immigration and Nationality Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 5004. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final. For purposes of this section, the term 'sentence' does not include a sentence the execution of which was suspended in its entirety.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 5005. ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or 4 of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding after subsection (b) the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

SEC. 5006. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C.

VOL 140 PT 16 AG 12 — 18 1994 UMI

1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media, in the discretion of the special inquiry officer, or, where waived or agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.—No amendment made by this Act and nothing in section 242(1) of the Immigration and Nationality Act (8 U.S.C. 1252(1)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 5007. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for fiscal year 1994 and $6,000,000 for each of fiscal years 1995, 1996, 1997, and 1998.

SENATE-PASSED CRIMINAL ALIEN DEPORTATION

TITLE I—DEPORTATION OF ALIENS CONVICTED OF CRIMES

SEC. 5001. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or budgetary offense for which a sentence of 5 years' imprisonment or more may be imposed;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in—

"(i) section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations); or

"(ii) section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses),

for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(L) an offense that—

"(i) relates to the owning, controlling, managing or supervising of a prostitution business;

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or

"(iii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(M) an offense relating to perjury or subornation of perjury for which a sentence of 5 years' imprisonment or more may be imposed;

"(N) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(O) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(P) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(Q) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage;

"(R) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and

"(S) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. 5002. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(c) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.

"(3) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in his discretion.

"(4) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting the following:

"(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—

"(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States."; and

(7) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 5003. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 5004. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 5005. ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or (4) of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding after subsection (b) the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

SEC. 5006. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.— No amendment made by this Act and nothing in section 242(1) of the Immigration and Nationality Act (8 U.S.C. 1252(1)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 5007. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Commissioner of Immigration and Naturalization, with the cooperation of the Director of the Federal Bureau of Investigation and the heads of other agencies, shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and $2,000,000 for each of fiscal years 1995, 1996, 1997, and 1998.

TITLE LI—GENERAL PROVISIONS

SEC. 5101. CREDITING OF "GOOD TIME".

Section 3624 of title 18, United States Code, is amended—

(1) by striking "he" each place it appears and inserting "the prisoner";

(2) by striking "his" each place it appears and inserting "the prisoner's";

(3) in subsection (d) by striking "him" and inserting "the prisoner"; and

VOL 140 PT 16 AG 12 — 18 1994 UMI

CONFERENCE REPORT

TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT

SEC. 130001. ENHANCEMENT OF PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or (4) of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

SEC. 130002. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $3,400,000 for fiscal year 1996;
(2) $3,600,000 for fiscal year 1997;
(3) $3,700,000 for fiscal year 1998;
(4) $3,800,000 for fiscal year 1999; and
(5) $3,900,000 for fiscal year 2000.

* * * * *

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by inserting at the beginning the following new paragraph:

"(1) The Attorney General shall determine whether a ground for exclusion exists with respect to a nonimmigrant described in section 101(a)(15)(S). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting deportation proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(S) for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 101(a)(15)(S).".

(2) NUMERICAL LIMITATIONS; PERIOD OF ADMISSION; ETC.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(i) in any fiscal year may not exceed 100. The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(ii) in any fiscal year may not exceed 25.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—

"(A) shall report not less often than quarterly to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require;

"(B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission;

"(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status; and

"(D) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.

"(5) The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning—

"(A) the number of such nonimmigrants admitted;

"(B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens;

"(C) the number of terrorist acts prevented or frustrated resulting from cooperation of such aliens;

"(D) the number of such nonimmigrants whose admission or cooperation has not resulted in successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and

"(E) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) PROHIBITION OF CHANGE OF STATUS.—Section 248(1) of the Immigration and Naturalization Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(l)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(i) has supplied information described in subclause (I) of such section; and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the prosecution of an individual described in subclause (III) of that section,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) If, in the sole discretion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(ii) has supplied information described in subclause (I) of such section, and

"(B) the provision of such information has substantially contributed to—

"(i) the prevention or frustration of an act of terrorism against a United States person or United States property, or

"(ii) the success of an authorized criminal investigation of, or the prosecution of, an individual involved in such an act of terrorism, and

"(C) the nonimmigrant has received a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(3) Upon the approval of adjustment of status under paragraphs (1) or (2), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current.".

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended by striking "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) EXTENSION OF PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(l))" after "five years".

SEC. 130004. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(b) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) The Attorney General may, in the case of an alien described in paragraph (2), determine the deportability of such alien under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony) and issue an order of deportation pursuant to the procedures set forth in this subsection or section 242(b).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time at which proceedings under this section commenced; and

"(B) is not eligible for any relief from deportation under this Act.

"(3) The Attorney General may not execute any order described in paragraph (1) until 30 calendar days have passed from the date that such order was issued, unless

waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

"(4) Proceedings before the Attorney General under this subsection shall be in accordance with such regulations as the Attorney General shall prescribe. The Attorney General shall provide that—

"(A) the alien is given reasonable notice of the charges and of the opportunity described in subparagraph (C);

"(B) the alien shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings, as the alien shall choose;

"(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

"(D) the determination of deportability is supported by clear, convincing, and unequivocal evidence and a record is maintained for judicial review; and

"(E) the final order of deportation is not entered by the same person who issues the charges.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d)(1) A petition for review or for habeas corpus on behalf of an alien against whom a final order of deportation has been issued pursuant to section 242A(b) may challenge only—

"(A) whether the alien is in fact the alien described in the order;

"(B) whether the alien is in fact an alien described in section 242A(b)(2);

"(C) whether the alien has been convicted of an aggravated felony and such conviction has become final; and

"(D) whether the alien was afforded the procedures required by section 242A(b)(5).

"(2) No court shall have jurisdiction to review any issue other than an issue described in paragraph (1).".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES";

(2) in subsection (a), as designated prior to enactment of this Act, by striking "(a) IN GENERAL.—" and inserting the following:

"(a) DEPORTATION OF CRIMINAL ALIENS.—

"(1) IN GENERAL.—";

(3) in subsection (b), as designated prior to enactment of this Act, by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—";

(4) by striking subsection (c);

(5) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)"; and

(B) by striking "(2)" and inserting "(B)"; and

(6) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 130005. EXPEDITIOUS DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) IN GENERAL.—The Attorney General may provide for the expeditious adjudication of asylum claims and the expeditious deportation of asylum applicants whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status.

(b) EMPLOYMENT AUTHORIZATION.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(e) An applicant for asylum is not entitled to employment authorization except as may be provided by regulation in the discretion of the Attorney General.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $64,000,000 for fiscal year 1995;
(2) $90,000,000 for fiscal year 1996;
(3) $93,000,000 for fiscal year 1997; and
(4) $91,000,000 for fiscal year 1998.

SEC. 130006. IMPROVING BORDER CONTROLS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Immigration and Naturalization Service to increase the resources for the Border Patrol, the Inspections Program, and the Deportation Branch to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents or who remain in the country after their nonimmigrant visas expire—

(1) $228,000,000 for fiscal year 1995, of which $181,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $47,000,000 is authorized from the General Fund of the Treasury;

(2) $185,000,000 for fiscal year 1996, of which $137,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

(3) $204,000,000 for fiscal year 1997, of which $156,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

(4) $58,000,000 for fiscal year 1998, of which $10,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

Of the sums authorized in this section, all necessary funds shall, subject to the availability of appropriations, be allocated to increase the number of agent positions (and necessary support personnel positions) in the Border Patrol by not less than 1,000 full-time equivalent positions in each of fiscal years 1995, 1996, 1997, and 1998 beyond the number funded as of October 1, 1994.

(b) REPORT.—By September 30, 1996 and September 30, 1998, the Attorney General shall report to the Congress on the programs described in this section. The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

SEC. 130007. EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) and 242(i) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(b) DETENTION AND REMOVAL OF CRIMINAL ALIENS.—Subject to the availability of appropriations, the Attorney General may—

(1) construct or contract for the construction of 2 Immigration and Naturalization Service Processing Centers to detain criminal aliens; and

(2) provide for the detention and removal of such aliens.

(c) REPORT.—By September 30, 1996, and September 30, 1998 the Attorney General shall report to the Congress on the programs referred to in subsections (a) and (b). The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $55,000,000 for fiscal year 1995;
(2) $54,000,000 for fiscal year 1996;
(3) $49,000,000 for fiscal year 1997; and
(4) $2,000,000 for fiscal year 1998.

SEC. 130008. AUTHORITY TO ACCEPT CERTAIN ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, the Attorney General, in the discretion of the Attorney General, may accept, hold, administer, and utilize gifts of property and services (which may not include cash assistance) from State and local governments for the purpose of assisting the Immigration and Naturalization Service in the transportation of deportable aliens who are arrested for misdemeanor or felony crimes under State or Federal law and who are either unlawfully within the United States or willing to submit to voluntary departure under safeguards. Any property acquired pursuant to this section shall be acquired in the name of the United States.

(b) LIMITATION.—The Attorney General shall terminate or rescind the exercise of the authority under subsection (a) if the Attorney General determines that the exercise of such authority has resulted in discrimination by law enforcement officials on the basis of race, color, or national origin.

SEC. 130009. PASSPORT AND VISA OFFENSES PENALTIES IMPROVEMENT.

(a) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended—

(1) in section 1541 by striking "not more than $500 or imprisoned not more than one year" and inserting "under this title, imprisoned not more than 10 years";

(2) in each of sections 1542, 1543, and 1544 by striking "not more than $2,000 or imprisoned not more than five years" and inserting "under this title, imprisoned not more than 10 years";

(3) in section 1545 by striking "not more than $2,000 or imprisoned not more than three years" and inserting "under this title, imprisoned not more than 10 years";

(4) in section 1546(a) by striking "five years" and inserting "10 years";

(5) in section 1546(b) by striking "in accordance with this title, or imprisoned not more than two years" and inserting "under this title, imprisoned not more than 5 years"; and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(6) by adding at the end the following new section:

"§ 1547. Alternative imprisonment maximum for certain offenses

"Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

"(1) if committed to facilitate a drug trafficking crime (as defined in 929(a)) is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331) is 20 years.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 75 of title 18, United States Code, is amended by adding at the end the following new item:

"1547. Alternative imprisonment maximum for certain offenses.".

SEC. 130010. ASYLUM.

(a) FINDINGS.—The Senate finds that—

(1) in the last decade applications for asylum have greatly exceeded the original 5,000 annual limit provided in the Refugee Act of 1980, with more than 150,000 asylum applications filed in fiscal year 1993, and the backlog of cases growing to 340,000;

(2) this flood of asylum claims has swamped the system, creating delays in the processing of applications of up to several years;

(3) the delay in processing asylum claims due to the overwhelming numbers has contributed to numerous problems, including—

(A) an abuse of the asylum laws by fraudulent applicants whose primary interest is obtaining work authority in the United States while their claim languishes in the backlogged asylum processing system;

(B) the growth of alien smuggling operations, often involving organized crime;

(C) a drain on limited resources resulting from the high cost of processing frivolous asylum claims through our multilayered system; and

(D) an erosion of public support for asylum, which is a treaty obligation.

(4) asylum, a safe haven protection for aliens abroad who cannot return home, has been perverted by some aliens who use asylum claims to circumvent our immigration and refugee laws and procedures; and

(5) a comprehensive revision of our asylum law and procedures is required to address these problems.

(b) POLICY.—It is the sense of the Senate that—

(1) asylum is a process intended to protect aliens in the United States who cannot safely return home;

(2) persons outside their country of nationality who have a well-founded fear of persecution if they return should apply for refugee status at one of our refugee processing offices abroad; and

(3) the immigration, refugee and asylum laws of the United States should be reformed to provide—

(A) a procedure for the expeditious exclusion of any asylum applicant who arrives at a port-of-entry with fraudulent documents, or no documents, and makes a noncredible claim of asylum; and

(B) the immigration, refugee and asylum laws of the United States should be reformed to provide for a streamlined affirmative asylum processing system for asylum applicants who make their application after they have entered the United States.

Mr. HATCH. Mr. President, another issue: mandatory restitution for victims of violent crime. The conference committee rejected the Senate-passed Nickles provision which requires mandatory restitution to victims of violent crime. Here again, it has been suggested that we are wrong. It has been suggested that there is a comprehensive mandatory restitution provision in the bill. Yet, the crime bill only mandates restitution in Federal sex offenses and certain crimes against children. Why did the conferees stop there? Why did they reject the Nickles amendment? Other victims of violent crime are left out in the cold.

I ask unanimous consent that the Senate-passed Nickles amendment and the relevant conference report language be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE AMENDMENT—VICTIMS RIGHTS RESTITUTION

SEC. 902. MANDATORY RESTITUTION AND OTHER PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

(B) by adding at the end the following new paragraph:

"(4) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(5) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(6) by striking subsections (d), (e), (f), (g), and (h); and

(7) by adding at the end the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. 903. SENSE OF THE CONGRESS CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Congress that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing * * *

* * * * *

SEC. 3213. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—(1) Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lumpsum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

VOL 140 PT 16 AG 12 — 18 1994 UMI

"§ 2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) The table of sections for chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"2259. Mandatory restitution.".

SEC. 3214. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There is authorized to be appropriated for fiscal year 1994, $1,500,000 for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia).

* * * * *

SEC. 3704. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 3705. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) In this subsection—

"(A) 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

"(B) 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

CONFERENCE REPORT—VICTIMS RIGHTS

TITLE XXIII—VICTIMS OF CRIME

Subtitle A—Victims of Crime

SEC. 230101. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

(a) MODIFICATION OF PROPOSED AMENDMENTS.—The proposed amendments to the Federal Rules of Criminal Procedure which are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the following amendments:

(b) IN GENERAL.—Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (c)(3)(C);

(2) striking the period at the end of subdivision (c)(3)(D) and inserting "; and";

(3) inserting after subdivision (c)(3)(D) the following:

"(E) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement or present any information in relation to the sentence.";

(4) in subdivision (c)(3)(D), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (c)(4), striking "and (D)" and inserting "(D), and (E)";

(6) in the last sentence of subdivision (c)(4), inserting "the victim," before "or the attorney for the Government."; and

(7) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense has been committed for which a sentence is to be imposed, but the right of allocution under subdivision (c)(3)(E) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall become effective on December 1, 1994.

SEC. 230102. SENSE OF THE SENATE CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Senate that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing and at any parole hearing if the offender has been convicted of a crime of violence or sexual abuse;

(2) such a victim should have an opportunity equivalent to the opportunity accorded to the offender to address the sentencing court or parole board and to present information in relation to the sentence imposed or to the early release of the offender; and

(3) if the victim is not able to or chooses not to testify at a sentencing hearing or parole hearing, the victim's parents, legal guardian, or family members should have the right to address the court or board.

Subtitle B—Crime Victims' Fund

SEC. 230201. ALLOCATION OF FUNDS FOR COSTS AND GRANTS.

(a) GENERALLY.—Section 1402(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)) is amended by—

(1) striking paragraph (2) and inserting the following:

"(2) the next $10,000,000 deposited in the Fund shall be available for grants under section 1404A.";

(2) striking paragraph (3) and inserting the following:

"(3) Of the remaining amount deposited in the Fund in a particular fiscal year—

"(A) 48.5 percent shall be available for grants under section 1403;

"(B) 48.5 percent shall be available for grants under section 1404(a); and

"(C) 3 percent shall be available for grants under section 1404(c).";

(3) striking paragraph (4) and inserting the following:

"(4) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000.."; and

(4) striking paragraph (5).

(b) CONFORMING CROSS REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(d)(2)(D)" and inserting "(d)(2)".

SEC. 230202. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay,—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 230203. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The final sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) Not more than 5 percent of a grant made under this section may be used for the administration of the State crime victim compensation program receiving the grant.".

SEC. 230204. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 230205. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

(a) CREATION OF EXCEPTION.—Section 1404(b)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(2)) is amended by striking "An eligible" and inserting "Except as provided in paragraph (3), an eligible".

(b) REQUIREMENTS OF EXCEPTION.—Section 1404(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)) is amended by adding at the end the following new subsection:

"(3) Not more than 5 percent of sums received under subsection (a) may be used for the administration of the State crime victim assistance program receiving such sums.".

SEC. 230206. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 230207. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended by striking "and on December 31 every two years thereafter", and inserting "and on June 30 every two years thereafter".

SEC. 230208. AMENDMENT OF THE VICTIMS OF CRIME ACT.

Section 1404(a)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)(B)) is amended to read as follows:

"(B) $200,000 thereafter.".

* * * * *

SEC. 40113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—

(1) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this sentencing hearing shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment

VOL 140 PT 16 AG 12 — 18 1994 UMI

of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—

(1) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution may also be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, as well as other costs incurred; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source

until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2259. Mandatory restitution.".

SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There are authorized to be appropriated for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia)—

(1) $500,000 for fiscal year 1996;

(2) $500,000 for fiscal year 1997; and

(3) $500,000 for fiscal year 1998.

CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN

SEC. 40121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 32101(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

* * * * * *

Subtitle E—Violence Against Women Act Improvements

SEC. 40501. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 40502. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "; and" at the end of subparagraph (C) and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 40503. PAYMENT OF COST OF TESTING FOR SEXUALLY TRANSMITTED DISEASES.

(a) FOR VICTIMS IN SEX OFFENSE CASES.—Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section.".

(b) PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.—Not later than 6 months after the date of enactment of this Act, the United States Sentencing Commission shall conduct a study and prepare and submit to the committees on the Judiciary of the Senate and the House of Representatives a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

SEC. 40504. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 40505. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A Federal agency shall immediately suspend all Federal benefits provided by the agency to the defendant, and shall terminate the defendant's eligibility for Federal benefits administered by that agency, upon receipt of a certified copy of a written judicial finding that the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section.

"(2) Any written finding of delinquency described in paragraph (1) shall be made by a court, after a hearing, upon motion of the victim named in the order to receive the restitution or upon motion of the United States.

"(3) A defendant found to be delinquent may subsequently seek a written finding from the court that the defendant has rectified the delinquency or that the defendant

VOL
140
PT
16
AG
12
—
18
1994
UMI

has made and will make good faith efforts to rectify the delinquency. The defendant's eligibility for Federal benefits shall be reinstated upon receipt by the agency of a certified copy of such a finding.

"(4) In this subsection, "Federal benefit" means a grant, contract, loan, professional license, or commercial license provided by an agency of the United States.".

SEC. 40506. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General, in consultation with the Secretary of Education, shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a) and data collected under the Student Right-To-Know and Campus Security Act (20 U.S.C. 1001 note; Public Law 101-542) and amendments made by that Act, the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

Mr. HATCH. Mr. President, these are just some examples of the way in which supporters of the crime bill are trying to confuse the public about what is and what is not in this crime bill. In the coming days, congressional Democrats and the administration will need to reconcile whether they want a crime bill or an issue. Republicans want a crime bill but it has to be a tough bill. We are not willing to support a bill which diverts billions of dollars of crimefighting resources to special interest spending programs, which expands the rights of criminals, and which drops so many urgently needed crimefighting measures.

Continued obfuscation and denial by the administration in the face of growing opposition to this legislation will not produce a tough crime bill for the American people. Accordingly, I renew my call for a bipartisan effort. If President Clinton wants to pass a crime bill, Republicans will deliver the necessary votes provided our concerns—and they are legitimate concerns—are addressed.

I thank the Chair.

MEASURE PLACED ON THE CALENDAR—S. 2380

The PRESIDENT pro tempore. There are several bills on the calendar, bills and joint resolutions, which are addressed the first time.

The Senate, having adjourned last evening, this day is a new legislative day. Therefore, the bills are eligible to be called up.

The clerk will read the first bill.

The assistant legislative clerk read as follows:

A bill (S. 2380) to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that fans will be able to enjoy the remainder of the baseball season and the playoffs of the world season.

Mr. STEVENS. Mr. President, in order that these bills may go to the calendar, under the rule, I wish to be recorded as objecting to each one of them in behalf of my side of the aisle.

The PRESIDENT pro tempore. Objection to the proceedings having been heard, the bill will go over and will be printed on the general orders calendar. It will be eligible for a motion to proceed on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 2381

The PRESIDENT pro tempore. The clerk will report the next bill.

The assistant legislative clerk read as follows:.

A bill (S. 2381) to require the Secretary of Health and Human Services to provide health care fraud and abuse guidance, and for other purposes.

Mr. STEVENS. Mr. President, similar objection, please.

The PRESIDENT pro tempore. Objection having been heard, the bill will go over on the general orders calendar, and will be subject to a callup on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 2396

The PRESIDENT pro tempore. The clerk will report the next bill.

The assistant legislative clerk read as follows:

A bill (S. 2396) entitled "The Affordable Health Care Now Act."

Mr. STEVENS. Similar objection, please, Mr. President.

The PRESIDENT pro tempore. The Senator from Alaska objects.

Objection having been heard, the bill will go over on the general orders calendar subject to a callup by a motion on the next legislative day.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I desire to be recognized to make a statement after morning business has expired.

The PRESIDENT pro tempore. The chair thanks the Senator.

TRIBUTE TO ROBERT F. MORAN

Mr. HEFLIN. Mr. President, today, I want to congratulate Mr. Robert F. Moran on the occasion of his retirement after 52 years of service to the Federal Government. In a career of military and civilian service spanning over five decades, Robert has earned a tremendous amount of respect and a reputation as a committed and effective health care administrator.

Integrity and humility have been hallmarks of his career. He began naval service as a hospital corpsman on combat duty during World War II, rising through the ranks to lieutenant commander in the Medical Service Corps.

Continuing to increase his knowledge and expertise in health care management and medicine, Robert joined the staff of the Office of the Attending Physician as its Administrator in 1966. During 28 years of service at the U.S. Capitol, Robert oversaw the medical aspects of the planning, preparation, and execution of Presidential swearing-in ceremonies, State of the Union Addresses, joint and special sessions of Congress, and all aspects of health care delivery for the highest officials of the U.S. Government.

Throughout his career, Robert Moran has always advocated the concepts of professional growth and development, networking, and continuing education. A humble and dedicated man, he has constructed a career of service and accomplishments using the values and principles he brought with him to work each day. His commitment to patients and dedication to duty and service are unsurpassed.

I ask my colleagues to join me in recognizing Robert Moran for his exemplary leadership, selfless dedication, and outstanding service to the U.S. Government and many patients, staff, and tourists at the Capitol.

TRIBUTE TO ALBERT ELVIS WILLIAMS

Mr. HEFLIN. Mr. President, Albert Elvis "Al" Williams, the manager of Listerhill Employees Credit Union in Sheffield, AL, for 22 years, died on August 2. He had served as chairman of the Credit Union National Association as well as holding other national offices.

Al was the first vice president of the World Council of Credit Unions; chairman of the Credit Union National Association's Election and Governance Task Force; vice chairman of its bylaws committee; and a member of the governmental affairs committee.

He was the former chairman of the Alabama Credit Union League; a board member of the Alabama Credit Union Administration; chairman of the Alabama Credit Union Legislative Action Council; and president of the State Credit Union Forum. Al was named Outstanding Alumnus of the Year by the University of North Alabama in 1988.

Al Williams contributed a great deal to his community and State over the course of his career, and he will be sorely missed. I extend my sincerest condolences to his wife, Charlotte Young Williams, and her entire family in the wake of their painful loss.

MIKE BOX SELECTED TO HEAD NATIONAL CONFERENCE OF STATE LEGISLATURES

Mr. HEFLIN. Mr. President, a nominating committee recently tapped Mobile County, AL, legislator Mike Box for the vice presidency and later presidency of the National Conference of State Legislatures. In 1996, Mike will become the first Alabama lawmaker ever named president of the national conference. He is already the first Alabamian ever elected to the conference's prestigious executive committee.

Mike's selection by the nominating committee places him at the heart of the national conference's efforts to improve the country's State legislatures through the exchange of ideas and technological advances.

The National Conference of State Legislatures was formed to share ideas, prevent duplication of efforts, and provide a united front to the Federal Government. It also allows States to develop expertise needed to deal with modern government problems. In this era of shrinking fiscal resources at the national, State, and local levels, the goals supported and fostered by the conference are more important than ever before. I am proud that Alabamian Mike Box has been entrusted with the leadership of this outstanding organization. I commend him and wish him much continued success.

UKRAINIAN INDEPENDENCE

Mr. LEVIN. Mr. President, on August 24, 1991, the Parliament of Ukraine declared Ukraine's independence. This long-awaited triumph was the culmination of the struggle waged by generations of Ukrainians who never lost faith in the ultimate victory of a free and independent Ukraine.

This coming Sunday there will be an observation of the third anniversary of Ukrainian independence celebrated at the Ukrainian Cultural Center in Warren, MI.

Mr. President, the program this Sunday will commemorate the emergence of Ukraine as a free member of the international community of independent nations, to be followed by a cultural program that celebrates the rich traditions of a culture, language, and people who were not crushed by 70 years of Communist oppression.

Ukraine faces many daunting challenges and has encountered many difficulties since the collapse of the Soviet Union. Yet its people and spirit continue to inspire freedom-loving people everywhere.

I join the people of Michigan in commending the people of Ukraine for never losing faith, for shouldering the burdens that come with restructuring a society, and for emerging in victory to bear witness to this third anniversary of the proclamation of Ukrainian independence.

THE REPLACEMENT OF ROBERT FISKE WITH KENNETH STARR AS SPECIAL COUNSEL

Mr. LEAHY. Mr. President, the recent firing of Robert Fiske and his apparent replacement by Kenneth Starr continuous to trouble me. The most recent revelation in this regard is Mr. Starr's reported plan to stay active with his prestigious law firm, to maintain active relationships with his other clients, to retain his seat on his firm's management committee and continue to draw his reported seven-figure salary.

The fact that Mr. Starr is approaching this as a part-time pursuit is among the most troubling aspects of this matter that has dragged on far too long for such little cause—other than the political hay being thatched by the President's political opponents. I think the American people have long since lost interest in events that occurred in Arkansas two decades ago. The only thing that is continuing the investigation is the investigation, itself. The firing of Robert Fiske serves only to delay its conclusion even further.

Now we learn that Mr. Starr, who was anxious to accept this appointment, is proceeding with his vacation plans, has not decided what staff he can retain, has not assembled new staff, has not gotten up to speed, is still reviewing matters, and plans to pursue a leisurely pace being a part-time investigator and full-time partner in a demanding, sophisticated and well-connected law practice. What is going on here?

Some time ago I noted my concern that the firing of Robert Fiske and appointment of Kenneth Starr had done nothing to improve appearances. Some have been concerned from the outset that Mr. Starr might be motivated by personal or political gain. I refuse to subscribe to that view, but did call upon Mr. Starr to provide public reassurances by renouncing any interest in seeking or accepting public office in the future. His having served as a special counsel investigating the President of the United States should not be something that supplements a political résumé and is later used as a basis for obtaining appointed office or even elective office. In other words his personal fortunes in the future ought not be tied in any way to the outcome of the investigation. Otherwise the investigation will not be seen as impartial and its results will not be accepted.

Mr. Starr has ignored suggestions to renounce future political aspirations. Now we find that we do not have to wait until the future to become concerned. We must also be concerned about the present. How is Mr. Starr going to juggle his responsibilities, his personal career interests and the financial interests he shares with his partners? Where is he going to devote his time and attention once he returns to work?

At this point I ask that the August 15 article from the Legal Times entitled "Starr Plans To Stay Active at Kirkland & Ellis" be reprinted in the RECORD.

I also ask that the editorial from today's New York Times entitled "Mr. Starr's Duty To Resign" be reprinted, as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MR. STARR'S DUTY TO RESIGN

When a special Washington court replaced Robert Fiske with Kenneth Starr as Whitewater independent counsel two weeks ago, the judges specifically cited the need for the appearance, as well as the reality, of impartial justice. But it is now clear that the chairman of that panel, Judge David Sentelle, violated the court's own standard for purity of appearances by meeting with a Senator eager to have the court dump Mr. Fiske as counsel. For that reason, the appointment of Mr. Starr is fatally tainted.

This situation was brought about by Judge Sentelle's flamboyantly bad judgment in meeting with Senator Lauch Faircloth and another Clinton opponent, Senator Jesse Helms. At the time, Judge Sentelle and his two colleagues on the court were considering the appointment of a new prosecutor. Mr. Starr is in no way to blame for this untoward meeting, but he has to recognize that a cloud of political favoritism now hangs over his appointment and will undermine public confidence in it. As a matter of public service and personal honor, he should resign the appointment.

The independent counsel law, recently renewed, is designed to make sure that Federal investigations involving high government officials—in this case President and Mrs. Clinton—are evenhanded and appear so. Yet last month, while the court was studying whether to keep Mr. Fiske or make its own choice, Judge Sentelle lunched with Senator Faircloth, leader of a group pressing the Justice Department to remove Mr. Fiske.

Joining them in the Senate dining room was Senator Helms, Judge Sentelle's political patron and one of the Clintons' most outspoken foes in Congress. They all deny discussing the pending appointment. But the public must not be asked to take such matters on faith, any more than it should have to take on faith that all the suspicious circumstances of Whitewater were innocuous coincidence. A crisis of political confidence cannot be cured by an inquiry that has the look of political collusion.

In regard to public confidence, there is another troubling circumstance. It now emerges that Mr. Starr was working on a legal brief for a conservative women's organization opposing President Clinton in the Paula Jones sexual harassment lawsuit against him. Mr. Starr's legal view, that the President enjoyed no constitutional immunity from the suit for alleged actions when the Governor of Arkansas, had been well known. But by undertaking the friend-of-the-court brief Mr. Starr passed from public

VOL 140 PT 16 AG 12 — 18 1994 UMI

commentator to litigating opponent of the President, a clear conflict with his independent counsel assignment. Though his firm has ended its participation in the Jones case, Mr. Starr's original decision to take it on further blemishes the appearance of impartiality his present assignment requires.

Replacing Mr. Fiske was a reasonable step. His own appearance of impartiality was beclouded by the fact that he had been recruited by Attorney General Janet Reno. Indeed, the court placed such a high value on appearance that it said its only reason for replacing him was the need to provide "an apparent as well as an actual independence on the part of the counsel."

By that standard, the Starr appointment cannot stand, nor should Judge Sentelle participate in the naming of a new counsel. He can step aside and leave the matter to his colleagues. Failing that, the Chief Justice ought to name a new chairman for the panel to replace Judge Sentelle.

At the time of the Starr appointment two weeks ago, this page applauded the court's decision and retains respect for Mr. Starr's service as Solicitor General. But his appointment now looks terrible under the law and the ethical precepts the judges say they recognize. The appearance of impartial justices is not some finicky rule of etiquette but the essence of justice itself. Moreover, President Clinton and others in the Administration deserve a prosecutor who cannot be accused either of favoring them or of being tied too closely to their opponents. Mr. Starr, rightly proud of an honorable career, stands in the way of justice as long as he clings to this unfortunate assignment.

STARR PLANS TO STAY ACTIVE AT KIRKLAND & ELLIS

(By Robert Schmidt)

When Robert Fiske Jr. was tapped in January as Whitewater independent counsel, he immediately severed all ties with his law firm, New York's Davis Polk & Wardwell.

He stopped working for clients, drew out his share of the firm's profits, and ceased participating in firm activities, says firm chairman and managing partner Henry King.

"We never even discussed the issue," says King. "We just though it was appropriate for Bob to take a leave."

Fiske's replacement, Kenneth Starr, and his law firm, Chicago-based Kirkland & Ellis, are playing it quite differently.

Starr not only is maintaining his partnership and his reputed seven-figure salary, but also is planning to keep active client relationships and will even retain his seat on the management committee of the 450-lawyer firm.

"Under the independent-counsel statute, Ken is free to remain a partner of Kirkland & Ellis, and Kirkland & Ellis is free to compensate Ken like any other partner," says Edward Warren, a partner in the firm's D.C. office who is helping Starr manage the transition to independent counsel, a job Starr officially began last week.

THE SAME, BUT DIFFERENT

Starr's arrangement is perfectly legal, and he enjoys freedoms Fiske did not—since Fiske was appointed by Attorney General Janet Reno and considered an executive-branch employee, while Starr, selected under the independent-counsel statute, is not. Further, Starr is following the lead of most previous independent counsel.

Still, some earlier independent counsel were tripped up by perceived conflicts stemming from their private practices.

And Starr's decision to maintain an active law practice is now drawing fire from government-watchdog groups. They argue that the unique circumstances of the Whitewater probe and Starr's background demand a higher standard of conduct.

These advocates say that Starr, whose firm represents numerous corporate clients before the federal government, should avoid even the appearance of conflict—and that means cutting his ties to the firm.

"I don't care what is in the canon of ethics or what the law is, that's not relevant," says Charles Lewis, executive director of the Center for Public Integrity, a non-profit watchdog group.

"To clearly avoid an appearance problem—he only arguably holds the future of the Clinton administration in the palm of his hand—he would at the very least sever his ties and not receive any remuneration from his law firm," Lewis says.

Warren does acknowledge that the firm is still looking into some of the issues surrounding Starr's appointment.

But he says that firm leader met on Aug. 8, and voiced their strong support for Starr's taking on the Whitewater case and his remaining an active partner.

"Kirkland & Ellis certainly wants Ken to remain as active as possible in representing clients," says Warren. "The only question is the time constraints imposed by his new job."

Ironically Starr's decision to keep working at Kirkland & Ellis leaves him vulnerable to criticism similar to that leveled against Fiske.

Last month, conservative activist Floyd Brown and 10 Republican Congress members wrote letters to D.C. Circuit Judge David Sentelle, who heads the three-judge panel that appointed Starr, urging that Fiske not be given the post.

Among other issues, the lawmakers complained that Fiske could not be impartial because his firm represented the International Paper Co., which sold land to the Whitewater development.

Starr's own impartiality has already been questioned in light of his strong Republican background—and his earlier comments that President Bill Clinton should not be able to claim presidential immunity in the sexual-harassment suit brought against the president by Paula Corbin Jones, a former Arkansas state employee.

Starr, a former solicitor general and D.C. Circuit judge, joined Kirkland & Ellis in February 1993. He has litigated on behalf of General Motors, financier Victor Posner, and Anglo Irish Beef Processors International.

Kirland & Ellis longtime clients include General Motors' Abbott Laboratories, the largest producer of baby formula in the United States; the Hughes Aircraft Co.; and the JMB Realty Corp.

None of the critics know of any actual conflicts involving current Kirkland & Ellis clients and the Whitewater probe. They say that since disclosure of clients is not required, however, it's impossible at this point to know what potential conflicts lurk.

Specific conflicts aside, critics contend that Starr's firm or its clients could receive special treatment from the government because of their association with the man running such a politically sensitive and potentially explosive probe.

"Who's to say Starr's name won't be invoked by some junior partner," asks Lewis of the Center for Public Integrity. "No one [in the government] wants to tick off Starr and his firm."

Adds Pamela Gilbert, director of Congress Watch, a non-profit founded by consumer crusader Ralph Nader: "Independent counsel should not be drawing a salary nor should they work at their firm. . . . There should be, at minimum, a temporary severing of ties."

SPECIAL STATUS

Starr is required to fill out a standard financial disclosure statement, says Gary Davis, general counsel at the Office of Government Ethics. But Davis is unsure if Starr's clients will be listed on the form.

If Starr's clients are listed, their names won't become public until he files the form, which he doesn't have to do until May 1995.

Under the independent-counsel law, Starr is not a full-time government employee, so the usual ethical and disclosure requirements for government workers don't all apply. (Such requirements did apply to Fiske, since he was appointed under regulatory authority during a period in which the independent-counsel law had lapsed).

It's that part-time status that allows Starr to remain at his firm. Warren, the Kirkland & Ellis D.C. partner helping Starr, says that the firm "informally consulted with a few [former independent counsel] to be sure of our own ground on this."

Former Independent Counsel Lawrence Walsh, who investigated the Iran-Contra matter, says that he supports Starr's arrangement.

Although Walsh, now of counsel at Oklahoma City's Crowe & Dunlevy, put aside his private practice while independent counsel, he says that the job "contemplates part-time work," by providing per-diem compensation.

"The concept of an independent counsel is a person who is a practicing lawyer who is asked to take on a case for the government," says Walsh, noting that some of his senior staffers, including Dan Webb, a partner at Chicago's Winston & Strawn, worked part time.

The notion of allowing independent counsel to keep their outside work is in part meant to entice the best lawyers to take the job, says Katy Harriger, associate professor of politics at Wake Forest University and author of Independent Justice, a study of the history and legal underpinnings of independent counsel.

On the other hand, potential conflicts loom, and an independent counsel's outside work could take time away from the investigation, thus costing taxpayers more money than necessary, Harriger offers.

"It's always been sort of an unresolved issue," says Harriger, who notes that one former independent counsel, Alexia Morrison, provoked controversy with her outside work.

Lewis and some other activists are also troubled that Starr's law firm, Kirkland & Ellis, does not have to disclose publicly its clientele. It is unclear whether Starr will have to disclose his own client list.

Starr would not comment for this article, and Warren declines to discuss Starr's or the firm's clientele.

Morrison, a partner in D.C.'s Swidler & Berlin, was appointed independent counsel in 1986 to investigate charges that Theodore Olson, when he was assistant attorney general for the Justice Department's Office of Legal Counsel, lied to Congress.

During her investigation, Morrison also represented Carl "Spitz" Channell, a fund-raiser for the Nicaraguan Contras who at the time was being probed by Walsh and who eventually pleaded guilty to criminal tax charges.

Despite an outcry from Congress, the Justice Department, and other D.C. lawyers, Morrison remained in her post and kept her client. She did not return calls last week.

That wasn't the first time an independent counsel's private practice caused the counsel some problems.

Morrison had taken over the job as independent counsel from James McKay, who was forced to remove himself because of a conflict. McKay, then a partner at D.C.'s Covington & Burling and now senior counsel, stepped down because one of his partners, Charles Ruff, had done work for the House Judiciary Committee conducting the investigation that prompted the inquiry on Olson.

Harriger notes that independent counsel are checked for conflicts by the secretive three-judge panel that selects them. But after that, the counsel must be trusted to recuse themselves if any conflicts arise.

"If the judges do their job, they can uncover most of the conflicts," says Harriger. "Most of the [independent counsel] did continue to do some work for their firms. I also think they made a conscious effort to remove themselves from any conflicts of interest."

Starr, through a spokesman, declines to say anything about his disclosures to the three-judge panel. The head of the panel, Sentelle, was out of town and did not return phone calls.

It is precisely the lack of public discussion of Starr's law practice that most disturbs his critics.

Says Ellen Miller, director of the Center for Responsive Politics: "I think there could be some serious problems here. The bottom line is that the public is in the dark about this."

Meanwhile, Rep. John Bryant (D-Texas), who heads the House Judiciary subcommittee with jurisdiction over the independent-counsel law, got in his own jab at Starr.

Bryant on Friday introduced a bill requiring the three-judge panel to appoint independent counsel "without any real or apparent personal, financial, or political conflict of interest."

ONE LANDMINE'S LEGACY

Mr. LEAHY. Mr. President, I have spoken about the problem of landmines many times. There are 100 million unexploded landmines in over 60 countries. Each month these weapons, which are often no larger than a can of shoe polish, kill or maim another 1,200 people. In some countries as many as a quarter to a third of the casualties are children, who lose their legs, their arms, parts of their face, or their eyesight. And they are the lucky ones, who are not killed outright, or who do not die from loss of blood.

Landmines do not distinguish between civilians and combatants. They will blow the legs off whoever steps on them, and usually it is a civilian. But we should not forget that thousands and thousands of American soldiers have also been killed and maimed by landmines. At least 7,300 American troops were killed by mines and booby traps in Vietnam, and many thousands more were injured.

One of those injured was Lt. Robert "Mike" Ransom, Jr., of Bronxville, NY, whose family spent their summers in Dorset, VT and whose mother now lives in Williston, VT. On April 22, 1968, Robert was injured by shrapnel from an exploding landmine. He described the accident this way:

* * * one of my men jumped right into a mine. Both his feet were blown off, both legs were torn to shreds; his entire groin area was completely blown away. It was the most horrible sight I've ever seen. Fortunately, he never knew what hit him. I tried to revive him but it was hopeless.

Robert Ransom died a few weeks later. We remember him today as one of the tens of thousands of brave Americans who gave their lives in that tragic war. His mother, Louise Ransom, has spent the last 2½ decades fighting to improve the lives of Vietnam veterans. I have been proud to work with her and her late husband—two of Vermont's most respected citizens.

Mr. President, this is the legacy of landmines. As we try today to stop the carnage landmines cause day after day, we remember Robert Ransom.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about the weather but nobody does anything about it. Many Senators talk a good game when they are back home about bringing Federal deficits and the Federal debt under control, but look how so many of them vote on bloated spending bills that roll through the Senate.

As of Wednesday, August 17, at the close of business, the Federal debt stood—down to the penny—at exactly $4,668,682,813,919.54. This debt, do not forget, was run up by the Congress of the United States. The Founding Fathers decreed that the big-spending bureaucrats in the executive branch of the U.S. Government should never be able to spend a dime unless and until it had been authorized and appropriated by the U.S. Congress. The U.S. Constitution is quite specific about that, as every school boy is supposed to know.

And do not be misled by declarations by politicians that the Federal debt was run up by some previous President or another, depending on party affiliation. Sometimes they falsely claim that Ronald Reagan ran it up; sometimes they play hit-and-run with George Bush. These buck-passing declarations are false because the Congress of the United States is the culprit. The Senate and the House of Representatives are the big-spenders.

Most people cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was in progress. A billion minutes ago, the crucifixion of Jesus Christ had occurred not long before.

That sort of puts it in perspective, does it not, that Congress has run up a Federal debt totaling 4,668 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stands today at 4 trillion, 668 billion, 682 million, 813 thousand, 919 dollars and 54 cents.

CRIME

Mr. DOLE. Mr. President, during the past 2 days, the distinguished chairman of the Judiciary Committee, Senator BIDEN, has made a number of regrettable comments on this floor that have mischaracterized not only my views, but the views of other Republican Senators. I would like to take a few moments now to set the record straight.

On Tuesday, and again yesterday, Senator BIDEN claimed that the crime bill incorporates the Megan Kanka Law, named after the 7-year-old girl who was raped and strangled to death near her home in Hamilton Township, NJ. The Megan Kanka Law would require State law enforcement agencies to notify the public when a violent sexual predator is living in their neighborhoods. Contrary to Senator BIDEN's assertions, this public-notification provision, modeled after a successful Washington State law, was stripped out of the conference report. It is not part of the crime bill, as Senator BIDEN claims.

The distinguished Senator from Delaware suggested that Senators HATCH, THURMOND, and SIMPSON supported the crime bill's retroactive repeal of mandatory minimum sentences for convicted drug dealers. They did not, and they do not now.

This misguided proposal could result in the early release of 10,000 Federal prisoners, a get-out-of-jail-free card brought to you by the U.S. Congress.

Yesterday, my good friend from Delaware cited a Bureau of Prisons study indicating that only 400 persons would be affected by the retroactive repeal of the mandatory minimums. Of course, Senator BIDEN ignores the study conducted by the Administrative Office of the U.S. Courts, which estimates that as many as 10,000 convicted drug offenders would be eligible for early release. Princeton University professor, John DiIulio, a self-described registered democrat, estimates an even higher number—16,000. And, just yesterday, the National Association of Assistant U.S. Attorneys, which represents nearly 4,000 Federal Career Prosecutors, publicly registered its own opposition to the mandatory minimum reform provision, estimating that it could result in 20,000 petitions for early release.

The distinguished Senator from Delaware suggested that Senators HATCH, THURMOND, SIMPSON, and GRASSLEY voted against truth-in-sentencing during the conference deliberations. In reality, what they voted against was a

VOL
140
PT
16
AG
12
—
18
1994
UMI

watered-down version of a prison and truth-in-sentencing amendment offered by Senator BIDEN. What Senator BIDEN failed to mention is that he and the other Democrat conferees voted against a tougher Republican amendment that would have strengthened the truth-in-sentencing language and provided more funding for prisons.

Senator BIDEN claimed that the crime bill contains mandatory restitution for crime victims. Yes, the Conference report mandates restitution in Federal sex offense cases. Yet, the Nickles proposal mandating restitution to the victims of all violent crimes was dropped in conference. Senator BIDEN should know better.

Senator BIDEN suggested that the crime bill restores Senator SIMPSON's provision requiring swift deportation of criminal aliens. Wrong again. The crime bill does contain some enhanced penalties for criminal aliens who fail to depart, or reenter, our country. But it does not contain Senator SIMPSON's important proposals establishing judicial deportation authority, restricting the defenses to deportation for some criminal aliens, and expediting the deportation process. Nor does it contain the Alien Terrorist Removal Act, which would hasten the departure of vicious terrorists from American soil.

So, Mr. President, it is important for the American people to hear both sides of the story, particularly when one side resorts to exaggerations and factual inaccuracies. I appreciate this opportunity to set the record straight.

STATEMENT ON THE NOMINATION OF HAROLD J. CREEL, JR., TO BE FEDERAL MARITIME COMMISSIONER

Mr. HOLLINGS. Mr. President, I am pleased that the Senate has approved Harold J. Creel to be a Member of the Federal Maritime Commission [FMC]. I have known Hal for nearly 5 years, and I assure my colleagues that he will bring significant experience and enthusiasm to this important position.

Hal has an impressive background. The FMC will be gaining the services of an individual with exceptional understanding of this nation's maritime industry. Hal, a South Carolina native, is currently serving as senior counsel to the Merchant Marine Subcommittee of the Senate Committee on Commerce, Science, and Transportation. Prior to his service on the committee, he served for 6 years as attorney/adviser for the National Oceanic and Atmospheric Administration [NOAA] of the Department of Commerce, 1983–89. From 1982 to 1983, Hal was an associate attorney with Courtenay, Forstall, Grace, and Hebert in New Orleans.

Mr. Creel received a bachelor's degree in political science from Wofford College in Spartanburg, SC, in 1979 and a law degree from the University of South Carolina Law School, (J.D. 1982).

I believe that the President has made a very wise choice in nominating Hal Creel for this position. Hal is capable, intelligent, easy to work with, and a person of integrity. He knows the Hill, maritime issues, and the regulatory process well. Hal has rendered invaluable service to me and the Commerce Committee, and I know he will do the same for the FMC. He is well-qualified and well-suited for his new position and he will do an outstanding job.

The FMC's gain is our loss. However, I take comfort in the fact that I, and the rest of my colleagues, will continue our relationship with Hal, although in a different capacity.

I thank my colleagues for their support for Hal Creel's nomination.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. There being no further morning business, morning business is closed.

HEALTH SECURITY ACT

The PRESIDENT pro tempore. The Senator from Alaska will be recognized following the reading of the bill, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2351) to achieve universal health coverage, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell amendment No. 2560, in the nature of a substitute.

Daschle amendment No. 2564 (to amendment No. 2560), to improve the access of individuals in rural areas to quality health care.

The PRESIDENT pro tempore. The pending business is S. 2351. The pending question is on amendment No. 2564, which amendment is open to amendment in the second degree. Of course, the underlying bill is open to amendment in two degrees.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, is there a time agreement on this amendment?

The PRESIDENT pro tempore. There is not.

Mr. STEVENS. Thank you.

Mr. President, I have taken some time to review the Mitchell proposal for health care reform, and have concluded that it comes up short when weighed against the need of my Alaska constituents.

Alaskans tell me to take care of the people who have fallen through the cracks, and for the rest, to find ways to hold down price increases for them.

I do not, however, want to speak about only what I am opposed to. I intend to discuss what I am in favor of in terms of health care reform, also.

Significant progress could be made on health care with reform measures on which most of us already agree. We actually agree more than we disagree. Many of us want to act now on the best proposals to cover the uninsured. Funding for those proposals, I believe, is the major problem.

Bills have been introduced which promise expanded benefits and greater Federal taxpayer support. But there is no way I feel those promises can become a reality without destroying the taxpayers who support the system now.

One of my greatest concerns is for the small business community. In our State, small business is the major part of our economy. I think that is true throughout our Nation. Small businesses are really where the jobs are. In 1990, there were 12,843 businesses in Alaska. 12,433 of those were small businesses; 88 percent of those small businesses in Alaska had fewer than 20 employees.

I believe it is unfair to expect these small business men and women who are struggling to survive now to bear the increased taxes and costs of this bill. There are few opportunities for today's young Alaskans to carve out a homestead from the wilderness. There are fewer and fewer areas of employment in our declining economy which those young Alaskans can hope to enter.

In our State, the average age is 28.9, Mr. President. If these young people stay in our State, they take marginal and seasonal jobs and cannot pay ever-increasing taxes to support expanded benefits for the population as a whole and for those who are unemployed.

Alaska is a primarily resource-driven State. This administration's policies, unfortunately, primarily in the Interior Department and the Forest Service, have limited our State's responses to unemployment for our own citizens. In most areas, Alaska will have great difficulty in maintaining current services, such as schools, child protection, and environmental protection, as our resource income declines. We continue to see fishing, timber, tourism, and oil as the backbone of our economy—some mining—but there are consistent, difficult problems in covering those employed in those areas with health insurance.

I have talked to a great number of individuals, Alaskans and non-Alaskans, about the problems, and I find most people want for themselves and their employees the best of what our health system can bring now. They want to take care of themselves and their families, obviously.

So that Alaskans and all Americans can achieve that goal, I believe that any health care bill we pass must include the elements that we have already agreed to, basically: Every American should be able to obtain health insurance even if he or she has a preexisting medical condition. If a person changes jobs, that person should be able to transfer his or her medical

insurance with them to the next job and should not lose insurance if they do not get a job immediately. Illness or loss of a job should not be a reason for canceling insurance. Every American should be able to choose his or her doctor or hospital, to the greatest extent possible. People, even in remote villages of my State, like Holikachuk or Shishmaref, should have access to both a doctor and a hospital, even if there are no doctors or hospitals in those villages.

Mr. President, I will show to the Senate now an overlay of my State on the Nation. It shows the locations of the villages and highways in Alaska. You will note that the highways are predominantly in the south central area and connect to Canada. There are no highways or roads anywhere in the rest of the State that connect the villages. As I have mentioned, in the villages out on the west coast, residents can only commute by air into the medical centers of our State. I am concerned that the Mitchell bill does not adequately address the needs of Alaskans—the small business men and women and their employees. These include Natives and rural residents. They have to fly hundreds and even thousands of miles across that enormous State of ours to get the medical attention.

Mr. President, my colleagues have heard me speak in the past about how Alaska is unique, and I think it is, and that different solutions are necessary for our problems, and that our problems probably are not shared anywhere else in the United States. I tried to discuss this with Mrs. Clinton when she came to visit the Republicans on the issue of health care, and I indicated to her that if her bill would address health care access in Alaska, real health care access, I would support her bill. Her answer made it clear to me that she did not understand what I meant. I am sorry that is the case. But she responded to me that to deal with our transportation problems in Alaska—as I say, they are critical to real health care access in my State—we should raise the premiums.

Alaska, unlike many other rural areas in the country, is a high-cost area. This is largely because of transportation, as I earlier mentioned, to these very remote areas in our State. We must transport every commodity by air to these rural areas. Even bricks and mortar and hay for horses are transported to those areas by air. And they are transported to the remote sites for the construction of housing units for the Native people in those areas. It is all done by air. We must use aircraft to deliver the bulk U.S. mail, mail that is trucked to the communities of even the rural States in the south 48.

To serve our Indian Aleut and Eskimo villages, we must import doctors and nurses from residential centers like Anchorage and Fairbanks, again by air. And they must take all of their equipment and their belongings with them. And when their temporary duties are over, we transport them back, because they are unable to have the facilities in each of these villages to deal with the people who live there and, of course, they must go back to their families who are either in the medical centers of Alaska, or somewhere on the west coast.

We have no medical or dental schools in Alaska. We do not have academic health centers, and we have difficulty in attracting and retaining specialists. For that reason, Alaska cannot support health care reform approaches which prevent the training of additional specialists in areas that we need very critically—trauma surgeons, for instance, or specialists who will work with developmental disabilities. We are especially interested in expansion of training opportunities for nurse practitioners and physician assistants. We need them very much in our rural communities. Their importance to rural health care has been proven over and over again.

Labor and supply costs are high in our State. It is not surprising that we are unable to attract providers of any kind to stay in these communities of 50 to 100, or even 500, particularly, if those communities do not have housing, running water, flush toilets, and the normal amenities of life in America.

Hard as it may be to believe, more than 200 of our rural communities lack water and sewer facilities—adequate ones, that is.

We have now developed an approach that generally works for Alaska and which the General Accounting Office, in 1993, acclaimed as "a creative approach for Alaska." The distinguished occupant of the chair has helped me frame that approach over the years, and I am proud of it. It is the Community Health Aide Program. We call that the CHAP Program. CHAP employs residents of Native villages. Some of them may have only a seventh- or eighth-grade education.

After a few weeks of training, the community health aides serve, in most instances, as the sole medical provider in their community, and those funds available to them are provided through the subcommittee that the distinguished occupant of the chair has chaired in the past and still chairs and the Appropriations Committee which he chairs.

These community health aides, through the Indian Health Service, are provided a detailed manual. They are given a telephone connection to nurses or nurse practitioners or doctors or physician assistants who are in the nearest hub, the nearest center, and that is good if the weather does not knock the power out, that gives them both the telephone access and ability to operate their clinics.

They cope with all the tragedy that these rural communities experience—injuries and death due to alcohol abuse, chronic diseases such as tuberculosis and diabetes; high rates of lung and cervical cancer; self-inflicted ailments due to tobacco, or misuse of alcohol or inhalants; and drownings and hyperthermia and fetal alcohol syndrome and disease. Burns are a constant problem because many of these communities do not have adequate fire protection. A community health aide in one of those villages deals with that full spectrum of the health care delivery.

While the Mitchell bill includes many of the same rural provisions which the Dole bill has, it does not include those provisions that are critical to Alaska.

Those seek to address the critical issue of transportation—and real access to health care—in a place such as our State.

Many primarily rural States will have the problem that they are low-cost States and expansion of new or even existing technology will be limited by this bill. That is also a serious problem for Alaska, even though we are a high-cost State. Many areas of Alaska are now just getting basic technology. Some have just gotten access to an x-ray machine. Some of our health facilities are housed in old tuberculosis sanitariums built in the fifties.

The Mitchell bill, I feel, will stop the progress of medical technology in my State and force us into yesterday's medicine. It is unlikely that any rural village will ever see a CAT scan machine or MRI machine, equipment we take for granted now in urban areas like Washington, DC, or even Anchorage, AK. I question under the Mitchell bill whether Alaska will ever receive the technology it will need and I believe those rural citizens deserve.

I recall many years ago when the senior Senator from Massachusetts asked us to consider legislation on the subject of CAT scanners. My concern then was whether Alaska would get a CAT scan, or if they would be rationed on the basis of population. That was the suggestion early in that debate.

When I survived a plane crash in 1978, it was a CAT scan that told physicians then that I did not need brain surgery, an operation I surely would have had if the CAT scan had been rationed by population.

We cannot have technology rationed on the basis of population. Rationing of care continues to be my recurrent nightmare after my own experience. Our population between 570,000 and 580,000 approaches one individual per square mile. Our land area is 586,412 square miles, 365 million acres. I show

VOL 140 PT 16 AG 12 — 18 1994 UMI

that to the Senate, that vast area, how it spreads from coast to coast and from north to south as far as the 48 States' circumference is concerned.

The implication of this legislation before us is that resources would be distributed on a population basis. We must examine how we approach the distribution of resources that provide medical technology and innovation, and that is particularly true in the area of telemedicine. We must examine how we treat States and communities with academic health centers and those who have none and ask, for those who have none how we can get the technology to them. The wrong approach to health care reform will be the difference between access to new standard therapy and diagnostic procedures and the lack of access for rural and less populated areas for a long time to come.

I ask the Senate if we really have a commitment to medical research and infrastructure development in this bill. The Indian Health Service proposals in the Mitchell bill I believe are not what the Indian community had hoped for. They are not what was recommended by the Committee on Indian Affairs.

My concern with the initial proposals concerning the Indian programs offered by the administration was that those programs could not be supported by the resources that have been available in the past under the Interior appropriations bill. In particular, I was advised that the Federal Indian Health Insurance Fund to which third party insurance dollars and appropriated funds would be contributed was not adequate to implement the policies we want to provide for Native Americans, but that still remains in the majority leader's bill.

It is my belief that we cannot raise expectations beyond what we can afford to fulfill, and all too often those expectations are raised in rural, less populated areas and left unfunded because Federal health dollars flow disproportionately to the heavily populated areas.

I believe we must keep in place the system which works and which has been a safety net for American Indians and Alaska Natives on reservations and in villages in my State and keep it in place until we have a proven new system that also works.

I have compassion for the Indians in urban areas. In the past, they have not received medical resources because of our historic distribution system based upon reservations. But we cannot expand our resources into new missions and new places if we cannot keep the commitments we have already made. We have already promised to provide basic medical service, including the construction and renovation of critical medical facilities in North American Indian communities, and in Native American communities.

Alaskans have consistently supported two areas of what we call supplemental benefits which we have been unable to provide as quickly as we would like. One of those areas is patient travel, which I mentioned before. The other is sanitation.

In Alaska, travel to a medical facility may cost more than the care that one goes to the medical facility to get. For many Alaska communities, the Indian Health Service in Alaska used to pay emergency travel expenses to a health facility, often to an Indian Health Service facility. But the IHS only provides one-way fares. If a village wanted to see its family member come back to the community after discharge from the hospital, residents had to raise funds to return the patient home. We still have that problem. It is made more acute when there is an emergency transfer of a patient from the village to the hub community where a regional hospital exists. Doctors in that hospital decide whether a more sophisticated medical approach is needed. Travel then becomes necessary from that regional hospital to the flagship of the Indian Health Service in Anchorage, the Alaska Native Medical Center.

Patient travel expenses come from contract care funds in the Indian Health Service. Using those funds for travel takes money away from patient care, and that is not an answer to access. Diminishing the amount of patient care funds in order to provide patient access is not an answer for health care in rural Alaska.

Alaska's problem with sanitation is an issue that a number of my colleagues here in the Senate are aware of and have worked on with me through work on the appropriations subcommittees or the full committee or through service on the Indian Affairs Committee or the relevant authorizing committees in dealing with sanitation problems.

The Indian Health Service has told us that providing clean water and sanitation facilities is the most significant and necessary public health expenditure in Alaska. Health care access requires a health clinic have clean water and sanitation facilities. To expect those clinics to function without these basics makes health care reform meaningless in rural Alaskan communities.

So I ask the Senate to refuse to eliminate the Federal systems which are the safety net in my State until we know whether these reform proposals for health care work.

Throughout this debate on health care, we have heard a lot of laudatory comments about the Federal Employees Health Benefits Program and deservedly so. I think I have served on the committee having jurisdiction over the Federal Employees Health Benefits Program longer than any other Member of the Senate. The FEHB Program is part of an American health care system that works. It provides affordable quality health care to over 9 million Federal employees, retirees, and their dependents.

The FEHB Program, this Federal employee program for health care, is the largest medical plan in the United States.

It is not perfect. OPM works continually with carriers and participants to improve this system and the benefits offered through its customer satisfaction service, annual call letters, and its oversight. But the program has had more than its share of successes and deserves to be recognized as a basic success in health care insurance.

The FEHB Program has been successful in holding down costs—over the last 12 years, the program's average premium cost per person rose approximately 3.5 percent less than private sector premiums for large businesses. The system holds down growth in costs by forcing insurers to compete for customers by providing the best service at the lowest premiums.

The program provides flexibility through its annual open season, which allows individuals and families to change their policy to adjust to changing circumstances. And, the FEHB Program gives its participants the ability to choose the health care plan which is offered that is best for them.

Every enrollee has a choice among many health plans with varying levels of benefits and premiums. It has benefits that I believe we all would agree should be included in health care reform.

For example, FEHB includes the ability with copayment or deductibles, to choose one's own physician; it basically insures everyone, regardless of preexisting condition; and there is no cancellation of FEHB insurance for catastrophic illness.

Rural areas, particularly like Alaska, need the flexibility of health plans which provide options to meet individual and family needs.

Unfortunately, instead of serving as a model for reform, the FEHB plan would be drastically changed by the Mitchell plan.

The Mitchell bill essentially attempts to turn the program into an almost monolithic single-payer plan, to the detriment of Federal employees, retirees, and dependents.

Ultimately, it challenges the very viability of the plan itself. Rather than treating the plan, as I believe it should be, as a large employer plan, and preserving it as a model to judge the effectiveness of new plans for employees, retirees, and dependents, the debate has now turned to how to open up FEHB. I do believe that people throughout the United States have told us they want a medical reform bill that gives every American a right to get a plan as good as FEHB. But I do not think I have heard from anyone that we ought to destroy FEHB in order to try to accomplish that.

Instead of a straightforward repeal of the program, as was proposed in President Clinton's health care reform bill, the Mitchell bill would repeal the FEHB Program by overwhelming it.

The Mitchell bill would open up the FEHB Program to welfare recipients, employers with fewer than 500 employees, the self-employed, and the unemployed. To maintain contact with those people, Mr. President, who are not Federal employees, throughout this country would require a bureaucracy almost as large as the Federal Government itself.

The reason that the Federal Employees Health Benefits Program works is the Federal Government is a very large employer. The Mitchell bill will not treat the Federal Government as a large employer anymore. It seeks to treat the Federal Employees Health Benefits Program as a series of very small employers throughout the United States.

Initially under the Mitchell plan, Federal employees and non-Federal participants would be in separate risk pools, which is intended, apparently, to protect Federal employees from sharp increases in premiums. But the pools will soon be merged, creating a massive new system.

I want to read what the Mitchell bill specifically states so there is no disagreement about it. The Mitchell bill would eliminate this model plan in 10 years. It says specifically:

> The Office of Personnel Management shall implement rules to blend after January 1, 2005, the premiums for FEHB plans offered through purchasing cooperatives to Federal employees and community-rated individuals in each community-rated area.

What that means is, after 2005, the FEHB plan that is offered through these purchasing cooperatives and the FEHB plan offered by the Federal Government as employer will merge.

The Mitchell bill eliminates the model FEHB plan in 10 years.

The merging of the risk pools will expose Federal employees to sharp increases in premiums. This problem is made even more difficult by the fact that there is no estimate of the number, age, or medical condition of people who may opt to join the plan. That, of course, will depend in large part on the premiums for the non-Federal entrants, which will not be set until January 1997, although they are free to enter the pools immediately.

However, we can make some estimates of the number of entrants by using Medicaid figures.

The Medicaid population alone this year is approximately 34.6 million people. But not all Medicaid recipients would turn to the FEHB Program. Four million Medicaid recipients who are over the age of 65 also participate in Medicare and use Medicaid only as a supplement.

Another 5.5 million Medicaid recipients are blind or disabled, 3.7 million of them receive SSI benefits and would be excluded from the FEHB Program by the Mitchell bill. That is probably because the risk that would be added to the pool by that high-cost group would dramatically drive up health care costs and premiums for both the employee and the employer.

Let me explain that that is a vital concern to us also, because when you look at the children with fetal alcohol syndrome in the villages, we are talking about some of the people who would be excluded from the benefits of this plan. That leaves almost 27 million people who could potentially join the FEHB Program from Medicaid alone. And that number does not include individuals who are uninsured, self-employed, or whose employers choose to participate in this system.

The potential for increase in the number of people in the FEHB Program is four to five times the size of FEHB now and, as I said, that is the largest system in the United States today.

In addition to the problems of the sheer size of the system the Mitchell plan would create, the plan has the potential to wreak havoc with the premiums of Federal employees.

As I said, the FEHB Program is currently experience-rated, with premium rates based on the entire group. It is not a community-rated system.

Under the Mitchell plan, the move to community rating will have a devastating impact on Federal employees in high cost areas, such as Alaska. And it will have an increasingly devastating impact on the Federal taxpayer who pays 72 percent of the cost of that plan.

The premiums of most FEHB fee-for-service plans, such as the Blue Cross & Blue Shield plan, which covers 40 percent of all FEHB participants, are not currently affected by local costs.

But beginning in 2005, Federal employees and retirees will pay the same community-rated premiums as non-Federal employees.

That means that Federal employees working in Alaska will pay higher premiums than Federal employees with the exact same health care plan living in low-cost areas in the south 48. The costs to the taxpayers, as their employer, will similarly go up. As I said, 72 percent of those increased costs will be paid by the taxpayers.

Look at the average cost of the various health care services around the country. They demonstrate the impact that community rating will have on the Federal employees health benefits system, particularly the employees.

According to the Health Insurance Association of America Source Book on Insurance Data, the average cost of a semiprivate hospital room in the country costs $297 in 1990, with cost varying from $215 in South Carolina to $407 in Alaska and $456 in Connecticut. Now that is 1990.

In 1990, the average cost for an inpatient surgical procedure was $980, but it rose as high as $1,348 in Alaska and $1,400 in Maryland.

Under the Mitchell plan, the disparity among Federal employees' premiums increase when risk is added to the pool through the inclusion of millions of potentially high cost, non-Federal participants and the costs to the taxpayers for the FEHB plan will similarly go up dramatically.

I do not know why we cannot recognize that the Federal Government is a major employer and, as such, the taxpayers who support that system should have the advantages that any other major employer should have.

At the same time, premium costs will vary substantially from State to State and the pool then becomes subject to community rating.

Now, another problem in the Mitchell bill arises from the use of the phantom or "Big Six" formula. And I think this is one of the most difficult things for some people to really dig into.

By law, OPM must now use a formula based on what is known as the Big Six plans' premiums to set the Government's contribution—the taxpayer's contribution—for employee health insurance.

The Government contribution to each enrollee's premium is an amount equal to 60 percent of the average of the high option premiums for the Big Six Plans.

The Big Six average is currently calculated using the premiums for the six plans.

The first five plans of the Big Six in FEHB are: the Blue Cross/Blue Shield high option, two employee organization plans—Government Employees Health Association [GEHA] and mail handlers—and two HMO's with the highest number of enrollees—the Kaiser Health Plan of Northern California and the Kaiser Health Plan of Southern California.

The sixth part of the Big Six formula is a fictitious premium based on Aetna's 1989 premium updated by the annual change in the premiums of the five remaining Big Six plans.

Aetna withdrew from FEHB as an underwriter in 1989. Since Aetna's withdrawal, this mathematical formula replaced Aetna in the 1990 through 1998 calculations.

The Big Six formula was recently reauthorized through 1998, primarily to get the plans through health care reform with the assumption that this would be reevaluated.

But the Big Six formula would continue to be used to set premiums for Federal enrollees under the Mitchell bill.

It would continue the Big Six fictitious formula to establish the hypothetical premiums which are used to

VOL 140 PT 16 AG 12 — 18 1994 UMI

calculate the Federal Government's employer contribution to FEHB plans.

I am told there is real concern among the carriers that the Big Six formula may not be workable under the Mitchell plan, particularly with a standardized benefit plan.

Remember, there are a series of options now under FEHB; there is no standardized plan. And the merging of risk pools—there are a series of pools to be created by the Mitchell bill, some of them Federal employees, some of those who enter by being employees who select the plan, some unemployed, and others who can come into this FEHB Program now. And the blending of those premiums will take place in 2005.

At that time there is no escaping the conclusion the cost to the taxpayers will go up, the cost to the Federal employees will go up, and there will be no real benefit to the others in the process. They belong primarily in the pools of their own communities. They would benefit more in the long run by being in those communities.

The FEHB Program in this bill will be unworkable, as with many other provisions in the Mitchell bill, the provisions mandate change now, but will determine the details later.

As the saying goes: "The devil is in the details." These are issues that cannot wait.

We ought to know the details now. We ought to know how our premiums are going to be figured for the FEHB entrants who come in from the public at large into this large pool who are not employees of the Federal taxpayer.

The Mitchell bill will place more and more individuals in the FEHB plans.

My major concern is that carriers will drop out of the old FEHB plan, rather than be forced to accept potentially high-cost, community rated applicants in the new Mitchell pools.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. STEVENS. I will yield when I finish my statement.

FEHB under the Mitchell bill, will be an uncertain program which will be destabilized when the separate pools are merged in 2005. Carriers will have no incentive to participate in an uncertain plan which has no future. At most, FEHB has a maximum 10-year shelf life under the Mitchell bill.

I understand that some concern has been expressed in the past that the modest and incremental expansion of the FEHB Program to employees of certain small businesses included in the Dole bill might destabilize the FEHB plan premiums.

Think of that, the Dole bill, which has a modest access to the FEHB plan for the employees of some small businesses, has been criticized already. The enormous, enormous expansion in the Mitchell bill has really not been examined at all.

The Dole FEHB Program provisions, to me, are far preferable to the sweeping and dramatic changes in the Mitchell plan, which I believe would ultimately lead to the collapse of the FEHB Program. It certainly leads to the demise of it and a future for FEHB that is uncertain when these pools are merged in 1995.

Another issue that concerns me deeply is whether cost containment and managed care will ever be viable in our State of Alaska because of Alaska's geographic uniqueness.

In addition to the access and cost containment problems I have mentioned, I want to discuss some of the other concerns that I have with the Mitchell bill.

Specifically, the Government would set price controls which will unfairly burden Alaskans. Under the plan, health insurance premiums growing faster than the reference premium would be taxed at 25 percent.

The Congressional Budget Office has stated that "few, if any, areas would meet that test more than the first year or two, because the reference premiums would be constrained to grow far more slowly than the expected growth of health insurance premiums." This is from page 12 of the CBO's preliminary analysis of Senator MITCHELL's health proposal.

This means that some Alaskans and other Americans will be taxed at 25 percent on some portion of their health care package, because their premiums will exceed the premium that the Mitchell bill determines is reasonable for the country as a whole.

Senator MITCHELL's health plan also includes an employer mandate that will drive jobs out of Alaska and other States that fall below 95 percent coverage. This is on page 14 of the CBO report. Employers would be required to pick up half the cost of employee health insurance plans. These are the small employers.

The Congressional Budget Office reported that the cost of this mandate would drive businesses out of States which have the mandate into States that do not have the mandate.

The mandate is triggered by the failure to achieve 95 percent coverage and by definition we will never exceed 95 percent because of the geographic area that we have to cover in the State.

Alaska, with approximately 13,000 businesses, many low-income families, and high uninsured rates, is one of the States which will likely fall below the 95-percent coverage target. Alaska businesses will emigrate to States without the mandate.

With unemployment rates higher than 20 percent in some remote villages, Alaska cannot afford to lose any small businesses and the jobs they provide.

Although estimates are not yet available for the Mitchell bill, the National Federation for Independent Business estimates that 6,532 jobs would be lost in Alaska in the Clinton health plan were adopted. Another 38,297 workers would have reduced wages and/or benefits.

Under the Dole plan individuals would not lose their jobs, income, or benefits, because the Dole plan does not impose a mandate on businesses or individuals.

The Mitchell plan also discriminates against self-employed individuals by allowing only a 50-percent deduction for health insurance premiums. In 1992, there were approximately 27,000 self-employed workers in Alaska.

The fishing industry, our largest employer, includes thousands of self-employed fishermen who would lose out under the Mitchell bill.

Alaskans and all Americans will be hit hard by the 17 new taxes or tax increases included in the Mitchell plan.

Every middle-income family will have to pay $500 in new taxes. Based on three taxes alone: the 1.75 percent tax on all health insurance premiums; the 25 percent excise tax on excess premiums; and the State 1 percent tax on premiums to cover State administrative costs.

This does not even include the other tax increases such as tobacco, hollow point bullets, and Medicare that are included in the bill. In contrast, the Dole bill includes no new taxes or tax increases.

Over the past few days and weeks the Senate has spent a great deal of time discussing the merits and shortcomings of both the Mitchell and Dole plans.

I have made a careful analysis of the provisions contained in both bills and based on the health care needs of Alaskans, I have concluded that the Dole plan goes further in meeting those needs in Alaska than does the Mitchell bill.

Let me, in closing, comment specifically on the pending health care amendments. I am disappointed that the Members from the other side of the aisle, members of the Senate Rural Health Caucus, did not work with those of us on this side of the aisle in the caucus on a bipartisan package for these amendments. We have had a rural health care caucus on a bipartisan basis. I appreciate the fact that the Democratic group saw fit to adopt a provision from the Dole plan that they added to their package. The States of Alaska, Montana, and Wyoming I think ought to be described as frontier rather than rural; although rural can be in any area in the country and our needs sometimes coincide with the Midwest and rural States. But sometimes they are vastly different.

We have not yet suggested convening a frontier caucus. I do not know whether there is a phone booth big enough for us. But I suggest the Western States group in which both parties are represented and the health care caucus in which both parties are represented could have done a better job to present a bipartisan approach to rural health care amendments.

In particular, Alaska's issues differ from those of nearly every other rural State because of the high-cost environment. The rural caucus is dealing with a low-cost environment. We in Alaska are dealing with problems and costs associated with geography and the related transportation issues.

As I said before, we are a young population. The average age is 28.9. The typical rural health economy that exists relies heavily on Medicare. As a result, those of us from Alaska have supported Medicare provisions for rural areas which did not as directly benefit our State of Alaska because we recognized there is diversity in the rural areas and we look to this core group of the Senate Rural Health Caucus to support Alaska when it has specific provisions when they are probably not relevant to other rural States.

As I say, many of these provisions in this package—and I generally tend to support the package—we recognize they are needed for the States that are represented by the Senators who have presented these provisions.

Let me point out that the Dole bill recognized that Medicaid provisions for Alaska were 25 percent higher. The Dole bill had specific provisions allowing Alaskans to require insurers marketing in Alaska to include emergency and nonemergency, medically necessary transportation to health care and needed diagnostic procedures in any policy marketed in the State. That would be up to the State if it wished to do so.

We also included in the Dole bill rural infrastructure and development formulas which recognize Alaska's higher costs and extreme distribution problems and that the land base is a factor because of transportation.

I do hope, as we review this rural health care package, that there will be consideration given, as the final bills are put together, to the unique needs of our State. Our people have unique needs that need to be met, and I hope to see they are met.

If the Senator from Massachusetts has a question for me, I will be pleased to respond.

Mr. KENNEDY. Mr. President, I thank the Senator from Alaska. As I was listening to the Senator from Alaska, I gather then since we, as Members of Congress, have the Federal employees health insurance program, that under the Senator's position you are not prepared to include the American people in the same kind of program that we have and, as the majority leader has suggested, will be effectively open immediately to all Americans, and then with the blending of the programs, all Americans will have the same plan available to them as we have. Am I right?

I have difficulty understanding why. If we do nothing at all, we are still going to have ours as Members of Congress and the Senate. There has not been a Member of this body who has been willing to give up all of their Federal employee health benefits. That is the fact of it.

I am just wondering why the Senator from Alaska is reluctant to include all Americans into the same kind of plan, to have what we have.

Mr. STEVENS. Mr. President, if the Senator will allow me to answer, apparently the Senator from Massachusetts did not hear me.

Mr. KENNEDY. I heard you.

Mr. STEVENS. I said I have no problem at all creating a plan similar to FEHB for all Americans. You are saying "the same kind of plan." The trouble with the Mitchell bill is it puts them in the same plan.

Mr. KENNEDY. That is exactly——

Mr. STEVENS. I still have the floor, and I will answer the Senator. The difference is that the model, which is a good model and which could be used for a plan for all Americans, is to be blended in with a plan that is uncertain, that has no possibility of any kind of rating, and which is going to impose risk; that we feel the carriers will leave the old plan, the FEHB plan because of the uncertainty of all of these new entrants into it.

I encourage the Senator to look at the FEHB plan as a model—and I urged that. As a matter of fact, the Heritage Foundation, to its great credit, first proposed to create a plan for all America based upon FEHBP. That system is a viable system. It is possible. But we have ratings, we have experience in the FEHB plan. We ought to use it as a yardstick to measure any plan.

Incidentally, the Congress does not have a separate plan. I keep hearing that all over. The Federal employees have a plan, and we opted to become part of it. No Member is forced to join it. It is all voluntary. And some of us do obtain our insurance through one of the health plans. I use the Treasury one. I do not know what anyone else uses, but I chose to use the Treasury one.

There are a series of options, as the Senator from Massachusetts knows, and those options are unique. Under the Mitchell proposal, there will be one option. There will be the basic plan for the United States and the FEHB Program. That is no way to compare—and we do not want to transition the FEHB plan, which has a series of options, into a single monolithic, single-payer plan. That is where we go in 2005. That is what the instructions say. Blend them all in 2005.

Mr. KENNEDY. Give exactly to the American people what we have.

Mr. STEVENS. No, no, it will not.

Mr. KENNEDY. That is what that says.

Mr. STEVENS. It is exactly what the Mitchell plan will give the American people. There is a difference.

Mr. KENNEDY. That is exactly what it said, Senator. You said it very eloquently, did you not——

The PRESIDENT pro tempore. The Senator from Alaska has the floor.

Mr. STEVENS. I will be glad to yield for a question.

The PRESIDENT pro tempore. The Senators will address other Senators in the third person, not in the second person.

Mr. KENNEDY. Did you not say after the transition period, in 7 years, that effectively the Members of the U.S. Congress and Senate, who are members of the Federal employees plan which include 10 million of our fellow citizens, that they would be effectively in the same plan that would be offered under the Mitchell plan?

Mr. STEVENS. Mr. President, I say again, at 2005, there will be one single, monolithic plan under the FEHB label. It will not be the FEHB plan. It will be a community-rated system, not an experience-rated system. It will be a plan with one basic medical plan and penalties if you do not take that plan, as compared to our plan now which has a series of options offered by a series of carriers, many of whom I think will leave us as soon as they discover that in 2005 the Mitchell bill will merge everyone who is not under a large employer plan into the single, monolithic plan under FEHB.

There will be community ratings, there will be different premiums, there will be different premiums for an employee that works for the Forest Service in Alaska as compared to one in South Carolina. There will even be a different payment for employees of our offices, some who work here in Washington and some who work in Alaska. There will be a different payment for the Federal Government in Fairbanks as compared to Anchorage as compared to Washington.

The impact of the Mitchell changes on the FEHB plan will be to create a single, monolithic, single-payer plan using a single benefit package, a national standard benefit package which we do not want.

We want the options under the Federal Employees Health Benefits Program. I would like to see the Nation have a chance to have options under a plan similar to the one we have. That will take some doing. It will take some time to do that. It will take some infrastructure to support bringing all the small businesses in.

Can OPM, with its current employees, support a plan that would cover, instead of 9 to 10 million, 50 to 60 million people, people who have no employment connection with the U.S. Government? They are not employees.

79-059 O—97 Vol. 140 (Pt. 16) 43

VOL 140 PT 16 AG 12 — 18 1994 UMI

they are not all going to the office everyday, they are not people who have an administrative contact.

We will have to have an enormous cost to support that program. It is wrong to do that. It is better to have the people who do not have insurance be able to get insurance as people do under the major plans, who work for major employers out there in the areas in which they work, instead of having us change our experienced national system into a community-rated system where every Federal employee must take the plan that exists in his or her community and the Federal employees will pay into that plan and the employer, the Federal Government, the taxpayers will support different premium costs all over the country. This is wrong.

I do not know when the leaders are going to wake up. As I said, to me this means the Federal Employee Health Benefits Program has a 10-year shelf life. That is, in 10 years, the plan, as we know it, will go. It will no longer be experience rated. It will no longer have a series of options. It will no longer have an employee option to go in and out of plans without impunity, just entirely voluntary. You can come and go.

Under this system, when you come into it, you will take the national benefit plan, the one that is outlined in the Mitchell bill, by 2005. Federal employees will have that. It is not that the American public will have what we have now, we will have what they have then, if it works, and God hope it works. We know this one works.

I do not want to forecast the demise of FEHB now. I do not want to forecast the demise of the Indian Health Service now. I think the Federal systems that are working should be preserved until this experiment is proven. This is an experiment. This is an experiment with one-seventh of the economy of the United States. And it is wrong for us to tell the American people, as so many people have, "We're going to give you what we have." Wrong. We are going to change what we have in the hopes that they might have something better than what they have.

I say they will have a better system if we use the FEHB as a model, if we create a system under the Mitchell bill that will create a plan like the FEHB and try to offer some options.

But the bill itself does not do that. I say to the Senator from Massachusetts. The bill does not do that. It does not envision that those people who come into the FEHB pools will have available a series of options similar to what we have under FEHB. They will have the standard benefit option, and if they do not have that, they are going to be taxed more. If they have more, they will be taxed more—by definition, they cannot get less.

But that means our Federal employees, when they go into that, will have to pay more to get what they have today. Today, we have the best plan in the country, if not the world. I think it should be a model for America. We have offered time and time again, and the Heritage Foundation did, in fact, set forth a plan of transition to just that, without increased taxes, without mandates. It can be done. It was contained in Senator NICKLES' bill, which I cosponsored.

Mr. President, I have talked a long time. I will be glad to answer any questions if the Senator has any. And I do not want to walk away without answering questions.

Mr. KENNEDY. I would like to, if I could. I know my colleagues are here and want to talk about it.

Then, I am correct that the Senator's position is that he wants to maintain the Federal employees program, of which he is a member, of which I am a member, all 100 Members of the Senate, and the House and 10 million Americans, he wants to maintain that as a separate program?

The effect of the Mitchell bill will be that in 10 years every Member of the Congress, every Member of the Senate as well as individuals across this country, if they so choose, would also be able to participate in the same program.

Now, as I understand it, the Senator's position is that he wants to maintain what we have, and he finds that the idea of having the Federal employees program, which has been expanded, supported by the chairman of the committee, Senator GLENN, in the Senate, the chairman of the committee in the House of Representatives, Mr. CLAY, and has even been accepted by Senator ROTH in a more limited way, who talked about that for several years, he wants to make sure that our program, the Federal employees program, will be maintained as a separate program and is not willing to put us in the same pool as the rest of Americans.

Mr. STEVENS addressed the Chair.

Mr. KENNEDY. Is that not the effect of the Senator's position?

Mr. STEVENS. If I still have the floor—I think I do still have the floor.

The PRESIDENT pro tempore. The Senator from Alaska has the floor.

Mr. STEVENS. I say to my friend—and he is my great friend, and I have great admiration for what he is trying to do—I just wish he would listen again. Let me find the section that deals with this.

Let me tell the Senate and the Senator from Massachusetts, Mr. President, that he still does not hear me. I know what we have, and I think it is a good plan and I hope we can create another plan that will give every American access to the same kind of plan. The Mitchell bill does not present the same options for Americans that we have under FEHB. It says the "standard benefit plan." Beyond that, let me tell you, it also says—and it is what has moved my friends who are the leaders of the Federal employees. I am reading from section 1342.

> The Office of Personnel Management shall develop FEHBP supplemental health benefit plans. The Office of Personnel Management shall meet and confer with representatives of Federal employees and annuitants regarding the supplemental services plans and the cost-sharing plans to be offered—including premium contributions, if any, to be made by the Federal Government with respect to such plans for Federal employees and annuitants—through a process to be established by the National Partnership Council.
>
> The Federal Government shall offer FEHBP supplemental health benefit plans developed in accordance with subsection (a) and cost-sharing plans as provided in section 1141 to Federal employees, annuitants, and any other community-rated individual.

What is that saying, Mr. President? It says after 2005, you merge everybody into these plans. You tell the public that they have the same plan as everybody else, but you negotiate with the leaders of the employees and you give them supplemental benefits that are not under this bill to be made available to the public. The most duplicitous section is right there, section 1342. It says, contrary to what the Senator from Massachusetts says, the public will not be getting what the Federal employees will get.

The Federal employees, after they are downgraded by the Mitchell plan, will then be given supplemental benefits. You talk to the labor leaders. They will tell you it is the supplemental benefits section that tells them, "Don't worry, boys; we are going to see to it that your employees still get what they have got now"—supplemental benefits above what the average American has under the health benefit plan paid for by small employers.

I say we could use the FEHB plan as a model. Heritage showed us the direction in how that could be done. I have some slight disagreement with some of the suggestions they made, but they made basically a good suggestion. Take FEHBP as a model, keep it intact, make sure you make it work and compare it to these other plans as they develop. Do they offer the public the same kind of options, the same freedom that Federal employees have, including Members of Congress?

And the cost to the taxpayer the Senator from Massachusetts forgets entirely. As the cost to the employees goes up, the cost to the taxpayer maintaining the existing coverage for medical insurance for employees will likewise go up. The Federal Government pays 72 percent of those costs. So by definition, when they go to community-rated policies under carriers in these communities all over the country, there will be a difference between what we now get with the bid system.

Under the "big six" formula, whoever comes into the plan gets reimbursed based upon the formula of what the big six provided to Federal employees. They take 60 percent of those premiums, and that is the average that no carrier under the FEHB program will exceed.

There is nothing like that in the Mitchell bill for the public. The public is not told that. They have said, "Look, we will bring the public into these separate pools and then in 2005 we are going to merge them."

"Oh, but don't worry, employees, because when we do merge them, section 1342 has special rules for FEHBP supplemental plans. We are going to devise a supplemental plan for all Federal employees."

Now, I ask you, Mr. President, is that not misleading the American people? All I am asking is that we maintain the FEHB Program, make it viable, maintain it—it is the lowest possible cost to the taxpayers, who are really our employers—and extend that concept out to the public, as suggested by Heritage, as suggested by Mitchell, in effect, but Mitchell does not do it that way. It leads to the demise of FEHB in 10 years. The model will be gone. Oh, but the model will then be supplemented under plans to be negotiated to keep the support of the labor leaders as far as this bill is concerned.

I think it is wrong, Mr. President.

I have taken a lot of time of the Senate.

I yield the floor, Mr. President.

The PRESIDENT pro tempore. The Senator from New Jersey.

RETURN OF LISA AND SAMI ABEQUA

Mr. LAUTENBERG. Mr. President, I regret that I am the one who is interrupting this debate because I think there is still a lot of ground to cover, and I hope that at a later moment perhaps we can determine what the facts are and get on with the discussion that has been taking place here.

Mr. President, for the last several days, the Senate has been absorbed in a painstaking debate over health care reform. But while we do that, we dare not forget our other duties to the American people, to our constituents. I wish to discuss one of those duties now, a special need to help a constituent requiring a solution to an overwhelming problem.

As my colleagues may recall, some weeks ago, a Jordanian man named Mohammad Abequa strangled his estranged wife at her home in New Jersey. And after murdering their mother, he abducted their two children, Lisa, a girl 6 years of age, and Sami, a boy 3 years old, and took them to his sister's home in Jordan.

Now, he was charged with murder by an American court, and the Jordanian authorities in a cooperative effort located him, charged him with murder and with kidnapping and arrested him. He has confessed to the crimes and is now in jail in Jordan, but his arrest left the children, Lisa and Sami, in legal limbo because the murderer's family seized custody of the American-born children.

Last month, during consideration of the foreign operations bill, the Senate supported an amendment that I offered calling for the children's safe return to the United States. Since then, along with other members of the New Jersey delegation, I have worked through the State Department and the Jordanian Government, including King Hussein, to accomplish a very simple goal, and that is the release of Lisa and Sami and their return to the legal custody of their maternal aunt in Paterson, NJ. She was awarded guardianship by a State court in New Jersey.

Today, Mr. President, I am delighted to announce that Lisa and Sami Abequa are on their way back home.

In an earlier era, the children's saga could have turned into an international bureaucratic nightmare. It might have taken months or even years before the children were able to return to America. But thanks to an unprecedented international effort, Lisa and Sami are coming home today. They are in the air right now on their way from Frankfurt, Germany, accompanied by their tenacious aunt, courageous aunt, Nesime Dokur of Paterson, NJ, who traveled to Jordan on August 1 and stayed there until yesterday to take custody of her niece and nephew.

Our negotiations for the release of Lisa and Sami are symbolic of the new spirit of warmth and cooperation that now characterizes our relationship with King Hussein and the Jordanian Government. Lisa and Sami's homecoming would not have been possible without the support and intervention of President Clinton who took the time, despite a pressing agenda of getting a Washington declaration signed, the agenda with health care, and crime legislation, to effect the release of these two children.

It would not have been possible without the personal involvement and the commitment of King Hussein, who met with us more than once last month when he was in the United States to hear our concerns about the welfare of these two children. He worked with us to expedite the process of bringing the children home.

In addition to President Clinton and King Hussein, I must thank Secretary of State Warren Christopher and our Ambassador Wesley Egan in Amman for their tireless efforts to facilitate our negotiations with the Jordanian Government.

I want to say a special thanks for the work of a member of my staff, Sharon Waxman, whom I sent over there to accompany Ms. Dokur and to give her advice and counsel, and to be in touch with our office. She went for what she thought was a 4-day stay. She was there 17 days. She helped work through the legal and diplomatic issues involved, and I am grateful to her.

I also must say how grateful I am to the occupant of the chair, the President pro tempore of the Senate, Senator BYRD, because he helped make that trip possible, thereby helping to expedite today's homecoming.

Finally, I want to thank other members of the New Jersey delegation who worked with me to make sure that these children would be brought home to the family and the country they know and they love.

My colleague, Senator BRADLEY, with whom I work on so many issues, was with me when we met King Hussein and offered our cooperation with him if he, in turn, could assure us that he would lend the power of his office to the release of those children; Congressman KLEIN, and Congressman TORRICELLI, and all contributed to this process.

Mr. President, Lisa and Sami's return to America will be at best bittersweet. These two young children, just 3 and 6 years of age, will never again see their mother. They do not know at this point that their mother was murdered, that they will not see a father with whom there was a very troubled relationship. Nevertheless, children's affinity for a parent, sometimes even if they are harmed by a parent, is something that they regard as a precious legacy. These children will never see the loving mother or the father that they knew. They do not know that. They are in a state of some confusion. They have been taken away from their homes. They have been away for a month in a country where the language is strange, and the family was estranged. They never saw these relatives before they were spirited away in the dark of night by their criminal father.

So this return we hope will be the beginning of a period of love and affection, repair and consolation for these children. They are going to have to make enormous adjustments to the traumatic change in their lives.

We are going to help them in whatever way we can. Thanks to our cooperative efforts, all of us, Mr. President, Lisa and Sami will have a chance to rebuild their lives at home in New Jersey under the custody of their loving and dedicated aunt and their maternal grandmother.

Mr. President, this effort to bring these children home I think reminds all of us about what it is that we are here for in Washington, about the human element that sometimes gets lost in the maze of legislative language and debates. It reminds us that our job is to listen to the American people, to hear their problems, and hear them when they cry out for help, and to try to help them. The rewards for each one

VOL
140
PT
16
AG
12
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18
1994
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of us—and there is not anyone here who has been in the U.S. Senate or the Government for any length of time who has not taken great satisfaction out of seeing the result of some special effort that you supply.

So, when we focus on one individual plight or intervene to help one family as we did here, we can feel just a mite better about the job that we have.

Sometimes we do it by learning from a single tragedy, like the recent murder, also in New Jersey, of a 7-year-old named Megan Kanka, who was first sexually attacked by a frequent sexual pervert, and then he killed her. We have to try to in some way make that young life, 7 years of age, a lasting memorial to what happens when you do not pay attention to signs that you see, or have laws that can protect children, as we know exist in the crime bill that is under contemplation.

Sometimes we do our job by listening more to the general concerns of the American people and passing comprehensive legislation like health care reform to improve conditions for all Americans now and in the future.

Mr. President, some days, as the occupant of the chair knows perhaps better than most, many days are very discouraging, hard work, little progress to show. But every now and then, whether it is the prospect of a health care bill, or a crime bill, or helping Lisa and Sami to come home, or create a law in the honor and the memory of Megan Kanka, that says we have to press forward, that is our mission. And we all occasionally, Mr. President, have to take the pledge that we will continue on to try to serve our people.

I thank you. I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that following the completion of Senator BRADLEY'S remarks—which he has just stated will be no longer than 15 minutes and probably a little shorter, the Senate vote on the pending Daschle amendment.

The PRESIDING OFFICER (Mr. MATHEWS). Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. I ask unanimous consent that it now be in order to request the yeas and nays on that vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the vote.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that following Senator BRADLEY'S remarks, Senator HUTCHISON be recognized for 5 minutes, and following Senator HUTCHISON'S remarks, Senator DASCHLE be recognized 5 minutes, and then the Senate vote on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, Senators should be aware that a vote will occur in approximately 20 to 25 minutes on the pending amendment. I thank my colleagues and I thank the Senator from New Jersey.

Mr. BRADLEY addressed the Chair.

The PRESIDENT pro tempore. The Senator from New Jersey [Mr. BRADLEY] is recognized.

Mr. BRADLEY. Mr. President, let me say first of all that I would like to salute my colleague, Senator LAUTENBERG for his efforts in the Abequa case. I was pleased and proud to join him in the efforts. But he made the difference, and I think his conduct is in the best tradition of public service, helping another human being in the time of stress. I think FRANK LAUTENBERG has had many fine moments in the U.S. Senate. But today when he—and hopefully I will be joining him—meets these children coming off of the plane in Newark, NJ, from Jordan, this will be one of his finest moments. I think he deserves the gratitude not only of the families, but the salutations and praise of his colleagues. I am giving that to him today.

I hope, also, that if the crime bill is reopened, Megan's law will be tightened. Now the bill has a Megan's law in it, but if it is reopened, I hope that it will be tightened. Again, that will be because both he and I have talked to the President and urged that it happen if the bill is reopened.

Mr. President, last spring I gave a speech on violence in which I called for a national rebellion against violence with a goal to reduce violent crime by 75 percent in 10 years. I tried to point out that the blaze of violence is fed by many fires, and I tried to point out seven truths about violence in America.

Truth 1: There is no miracle cure, and the answer lies closer to home than to Washington, DC.

Truth 2: Violence will not be stopped by soft words. Every person who uses violence must pay the price in lost freedom, and doing time, especially for the young, must be a memory that one does not ever want to repeat.

Truth 3: We will never counter violence unless we restrict handguns used in 80 percent of America's gun murders. What is common sense to people in virtually every other country of the world becomes a constitutional crisis for us.

Truth 4: There is no substitute for a job. If we can move those on the bottom of the economic ladder up just a few rungs, our efforts against violence will have acquired a powerful ally.

Truth 5: Violence is a phenomenon caused by twisted values and a loss of self-esteem and self control. The formation of values and self-discipline begins in childhood, and teaching them is the job of parents. Unless we instill them in all our children, we will have only ourselves to blame.

Truth 6: We need to make it as unfashionable to sell violence in America as it is to smoke cigarettes. We do not need censorship; we need enhanced citizenship, particularly in the boardrooms.

Truth 7: Drugs and violence go together like gunpowder and a match. To ignore an addiction as a national problem is to sentence more Americans to death.

Mr. President, like so many other issues of public life and in the debate about violence, people do not listen to each other. They are frozen in a dichotomy between conservative or liberal, Republican or Democrat, tough or coddling. Those who believe the answer is gun control do not listen to those who want the death penalty. Those who believe severe punishment is the answer cannot see the necessity of limiting guns. Often, neither gun control advocates nor tough sentencers see the connection between societal violence and poverty, family disintegration and exploitive media violence. Instead of confronting reality, more and more people look for magic bullets to stop violence in its tracks.

Mr. President, the truth is much harder. The crime bill, under the leadership of Senator JOE BIDEN, tried to face the truth and to deal with the reality. With only 13 percent of the crime-fighting resources available to the Federal Government, the answer to violence is truly closer to home than it is to Washington, DC. But a sound Federal effort can make a difference.

The crime bill is such an effort. It combines punishment—100,000 more police on the streets, the police corps, three strikes and you are out, boot camps and more prisons, tougher death penalty—with preventive measures, including everything from an assault weapons ban to community schools.

The House of Representatives voted down the rule last week. I hope the House will vote again and reverse its decision. Mr. President, there were two groups, roughly, opposed to this crime bill. Members of the Black Caucus and Republicans from New Jersey and other northeastern States should have known better, because they know the situation in America's cities. Many of the others who voted the bill down represent small towns far from high-crime areas, towns where kids walk to school, join debate clubs, sing in the high school glee club, play in the band, compete in sports such as football and basketball. And it is these Congressmen I would like to address my remarks today to.

Some say these Congressmen voted "no" because of pressure from the NRA. I would like to think that was not so. I would like to think they voted "no" because they just do not know. Maybe they really do not know what

people of good will are up against in America's cities. Maybe if they did know, they would change their vote.

So, Mr. President, today I would like to share a letter that I received just a short time ago from Patricia Roberts, describing a visit that she made with a Catholic nun, Sister Piper. The letter says:

DEAR SENATOR BRADLEY: Every so often I accompany Sister Piper, a part-time prison chaplain, to an evening meeting with young inmates at the Bordentown Juvenile Medium Security Facility. Recently, we took your speech on violence, reviewed its highlights, and asked the young people what they thought of it and what suggestions they might have. None of our group of three young people knew what a Senator was, and when we told them that it was someone in Washington, DC, might have their interests at heart, they were amazed. We told them we would send their ideas on to you, Senator Bradley, and you might respond to them.

They agreed that violence destroys trust and love, as you said in your speech, and all three spoke about how being in prison killed their self-respect. Each spoke about his mother and how sorry they were for her sorrow at their deeds. The only reference to a father was from one young man who said he learned bad things from his father who was in jail.

One young man said that he was not brought up to land in jail but, "The streets took control of me * * * I was upset and pushed to the limit."

Another suggested that if someone had said to him, "Do you really want to do this," if he had a guardian angel or two or three, someone he could trust, it might make a difference."

All of the young men spoke about school. One said, "Einstein and Benjamin Franklin mean nothing to me." They asked for more practical studies—how to cope in the world, on the streets, skills so they could get a job. Jobs that pay money are crucial to them.

One, a 19-year-old father of seven, said his kids come before money. He also literally did not know that it is customary to have one person as the mother of all your children. Sister Piper, by no means a conservative, believes we need to teach basic moral procedures that most of us take for granted.

In an earlier meeting, one young man said he wished there were more parks in cities where there would be someone to talk to. He told us his father beat him from as early on as he could remember and he took to the streets to escape.

Most of the young men seem very bright—not educated but certainly not stupid. All acknowledged that going back to where they came from—Camden, Newark, Jersey City—is going to be hard if they want to go straight. They acknowledged that they need help, someone to talk to and learn from. Sister Piper tells them that unless they try hard to change she is likely to see their names on the obituary pages.

One fellow believes that 9 out of 10 of his problems started in school because what he was learning had no relevance and said: "We want to learn about other good people in good communities and how good communities get along. Maybe we could study communities in Colorado or Montana." It was as though he, from Camden, could not imagine a "good community existing" in New Jersey.

There you have it, Mr. President: A father who beats his son; sons who do not know that it is customary to have one person as the mother of all their children; kids who want someone to trust, someone who would have said "no" to them, someone to talk to in a park, some idea of how good people in good communities get along.

Mr. President, if crime is to be controlled, not only must criminals be arrested, prosecuted, jailed and disarmed, but civil society must be armed to protect itself. This is a matter not only of putting more police on the streets, but also of giving the institutions of civil society the resources they need to prevent crime, by confronting a criminal counterculture in which violent crime is believed to be the only effective means to wealth, status, and self-respect. It is self-defeating to lock up one criminal in prison while allowing two more to grow to maturity on the streets.

In those neighborhoods in which the fabric of civil society is most unraveled, research has found that the most effective organizations holding the fort against the culture of the streets are neighborhood-based youth organizations. These organizations are diverse in character—theater groups, tumbling teams, basketball teams, boys and girls clubs, churches that open their basements—but they all share some common characteristics. They are multipurpose organizations.

They are aggressive in seeking out kids to work with. They do not just wait for them to come to the door. They act as shields against the streets. They are decidedly local in their orientation and leadership. They view kids not as problems but as resources to be developed. Kids are not treated as if something is wrong with them but as if something is right with them that needs to be exposed and encouraged. They provide stable and consistent relationships with adults. They develop flexible programs that often fly in the face of bureaucratic conventions, making use of nontraditional settings, nontraditional hours and nontraditional personnel.

Finally, Mr. President, they require deeply committed local leaders who have themselves been through the trials that confront the children that they work with.

Mr. President, in this crime bill one thing we tried to do in the preventive section was strengthen the institutions of civil society. We tried to develop community schools, schools that are open to the neighborhood, to allow kids to come in after school, to be mentored, to provide stimulative educational experiences for these kids, and maybe some chance to interact with an adult over a longer period of time.

Mr. President, midnight basketball has also taken a hit here in the course of the last few days. On one level midnight basketball is important because the people who are playing the game in the gym are not on the street. But it is not just about basketball. A friend of mine, a former pro, a Celtic named Jo Jo White, runs a program in Rochester, NY, and the points in his program are scored not only how many balls go in the basket but on what a student's grades are and what community projects he has been involved with.

Finally, basketball itself, I would have to say, is not without inherent merit in terms of promoting unselfishness, discipline, teamwork, and goal setting.

In closing, Mr. President, I say to those who voted "no" in the House on the crime bill, think of your community without the Little League or the Boy Scouts or the high school football team. Think of your high school without the glee club or the band or the debate team. Think of your parks filled with danger and drugs. Think of your children going to school through a war zone where violence takes another life every day. Ask yourself what you would do if you could not afford to move. Ask how understandable it would be to you to have the crime bill voted down.

What we tried to do in the crime bill was give communities some more resources to fight against the counter culture of violence. What we tried to do is give those three kids in the Bordentown Juvenile Center some hope when they return to Camden or Newark or Jersey City, or countless other cities, that there will be someone to talk to, someone to say, "Do you really want to do that?"—someone to trust, someone maybe in the clergy, maybe a community leader, maybe a politician and, maybe a basketball coach, who will turn one life in the right direction.

Mr. President, that is what we tried to do in the crime bill. I think we succeeded much more than anyone has focused on, and I hope that those Congressmen from the small towns who voted "no" might understand what is at stake and this time vote "yes."

I yield the floor.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I want to rise today to thank the Senator.

The PRESIDING OFFICER. The Chair needs to relate to the Senator from Montana that under the previous order the Senator from Texas was to be recognized for up to 5 minutes and then the Senator from South Dakota and then open debate.

Mr. BURNS. I ask unanimous consent that I might be allowed 5 minutes to make my statement.

Mr. BAUCUS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. BAUCUS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator objects.

Mr. BAUCUS. Mr. President, I understand that my colleague, the Senator from Montana, would like to speak on this amendment. I, too, would like to speak on this amendment. I think it is a very important amendment. I understand there is a vote scheduled fairly soon.

I am wondering if we could ask for an additional 10 minutes before the vote occurs so that my colleague and I can address this amendment.

Mr. MOYNIHAN. I am sorry. I did not know anything about this.

The PRESIDING OFFICER. The Senator from Montana asks for an additional 10 minutes.

Is there objection?

Without objection, it is so ordered.

Mr. BURNS. Mr. President, I thank my colleague from Montana. As we move into this area, I just want to state, with these provisions in rural health, and, of course, our State of Montana, which is entirely rural—in fact, it is considered one of the frontier States. We are not using wagons in the historical sense, but when it comes to delivering health care services, we might as well be.

I displayed these maps the other night on the floor, but they are certainly worth showing again. Montana has nine counties with no physicians at all. These two counties down in the southeast, Carter and Powder River Counties, are as big as Massachusetts. Sure, they only have 3,600 people who live there, but they have to go a long way for their basic health care. In fact, if you consider the 39 counties in Montana without ob/gyn services—and this will give you an idea what that looks like—I would say I would have to worry about women's health care issues in the middle of Garfield County, which is over here. This red, by the way, in the central part of the State represents an area about the size of Indiana. So we have an access problem. It is not because of high-cost health care, Mr. President. It is because providers are not there. It would not matter how cheap health care was, these folks still would not have access.

And we have to remember when we start talking about the Canadian system or the American system, the two differences are that in Canada you have universal coverage but you do not have universal access, and in this country we have universal access but we do not have universal coverage. It is just the other way around.

Basically, we have a mix of the two in the State of Montana. So they have to travel many, many miles just for their basic health care needs.

Have no doubt, I am all for some of these provisions that expand health care to rural areas. My colleagues here in the Senate, and the folks at home, know well the work I have done to promote telemedicine in the State of Montana. And I appreciate Mr. HARKIN's hard work in this area. He knows the challenges of getting health care delivered to rural areas. And as encouraging as grant money for these projects may be, what is really needed is for the Government to get out of the way, let the private sector move forward, and eliminate the barriers that now exist. Namely, Medicare reimbursement. Telemedicine is ready to explode all across the country. The No. 1 barrier holding it back is not money—though that always helps—it is not doctor resistance, it is not lack of technology, it is the lack of reimbursement by HCFA that is slowing down progress.

But, Mr. President, these amendments expanding access to rural areas would not benefit these underserved areas one bit if the rest of the Clinton-Mitchell bill is left intact. Let me explain.

In rural areas there is a predominance of small businesses and self-employed individuals. Montana is an agricultural State. The eastern part of my State is nearly all agriculture—farming, ranching, and the support that goes along with it. These folks will be so burdened by other provisions, that health care will be the least of their problems.

The mandate, though not triggered for a few years, will no doubt have a profound effect on rural America, and most of Montana. Even if the business was exempt, having fewer than 25 employees, the mandate would fall on the employees. Requiring employees then to pay 100 percent is a hardship. This is an individual mandate on folks whose income doesn't have a lot of wiggle room.

On top of that, the self-employed are not allowed to deduct 100 percent of their health insurance costs. Big business can. We do not have a whole lot of big business in Montana. In fact, of 22,223 businesses in Montana, 21,752 of those are considered small business—that is 98 percent, Mr. President.

The provision we struck last night would have had such an impact on those businesses who already provide comprehensive health care to their employees, I am not sure these small businesses could have survived. And I think that is just one justification for going through this bill with a fine tooth comb—although painstakingly slow, it is necessary, because Americans want to know. As my colleague from Oklahoma, Senator NICKLES, reported last night, this provision would easily have turned for-profit companies into not-for-profit companies.

The taxes on health plans, again, would cut into the operating expenses of small business. Adding a 1.75 percent tax on all health insurance premiums, most of which goes to fund Academic Health Centers—which we don't even have in Montana—simply adds to the cost of health care. This does nothing to make insurance more affordable. If anyone is under the impression that the Clinton-Mitchell plan would not grow Government, why do we need all these new taxes? History clearly shows more taxes grows Government.

Here you are, encouraging and mandating—some now, some later—employers to provide health care insurance. And then you tax them for doing so. I'm not saying the hardships will be felt only in rural areas. They will be felt all across the board. But in rural areas, there is not much room to maneuver. The options are limited. And if we tack on burden after burden, pretty soon, our ability to provide food and fiber for Americans is seriously impeded.

And if we cut Medicare and Medicaid by hundreds of billions, funding that makes up the majority of the payments received by rural hospitals, those facilities will close. We have already experienced hospitals closing and whittling down services in Montana. The Medicare payments don't cover costs as it is. Cut those more and we'll have nowhere to deliver the services. Telemedicine won't even be an issue if there is no facility on the rural end.

Mr. President, my point is this. We can do all sorts of things to expand access to these rural areas—and I think we should—but if we fail to keep these same areas in mind when crafting the rest of the package, then these provisions are useless. Rural America is already on the edge, let's not push them over.

I look forward to working with both sides of the aisle on making sure health care is affordable and accessible in every sector of our fine country. And I am going to fight to make sure that this operation does not include a massive rural-ectomy.

Mr. President, I yield to my colleague from Montana to make a statement on this issue, because I do not think there are two people in this body that better understand the challenge that rural health faces in order to serve the people of the State of Montana.

I appreciate his work in this area. And I yield the floor.

The PRESIDING OFFICER. Under the earlier previous order, the Senator from Texas has reserved 5 minutes.

The Senator is recognized.

Mrs. HUTCHISON. Mr. President, I will be happy to yield to the other Senator from Montana to continue this process, and then take up after he has finished.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Senator from Texas.

It is fine with me if the Senator from Texas wishes to proceed.

Mrs. HUTCHISON. I just felt that, since Senator BURNS had started talking about Montana, that you would like to continue talking about the unique problems there, and then I will talk about the unique problems in Texas.

Mr. BAUCUS. I thank the Senator.

Mr. President, I rise in very strong support of the amendment offered by the Senator from South Dakota [Mr. DASCHLE], because it will improve the quality of health care in rural areas and give rural communities more access to the health care system.

One in four Americans today lives in a rural area. Rural areas are going through a health care crisis in many ways even worse than the crisis everyone else faces. Rural areas suffer high rates of uninsurance and underinsurance. Rural counties have chronic and severe shortages of doctors, pharmacists, nurses, and other health professionals.

Rural Americans get very little preventive care. And rural hospitals are closing. One in 10 shut down in the last decade.

In Montana, the statistics are truly alarming. Over 20 percent of Montanans have no health insurance. That is one in every five. Three quarters of our State is a health professional shortage area. Almost half of our 56 counties have no doctor who can deliver a baby. And eight Montana counties have no doctor at all.

As we consider national health reform, rural counties must get the help they need to provide high-quality health care to their pebple.

The Mitchell bill already contains strong rural health provisions. This amendment has several rural health provisions which will strengthen the bill even further. I intend to speak this morning on just three.

NATIONAL HEALTH SERVICE CORPS

First, this amendment provides more money to the National Health Service Corps. Under this program, physicians and other health professionals agree to work in underserved areas in return for a scholarship or loan repayment.

This program is the only way to get access to hundreds of rural counties. Most young doctors leave medical school hundreds of thousands of dollars in debt. Since salaries in rural areas are so much lower than in urban areas, they simply cannot afford to practice in rural counties.

The National Health Service Corps now provides Montana with nine physicians and four physician assistants. Several Montana communities would have no primary care at all if not for this program.

Take the example of our hospital in Culbertson. Culbertson is a little town, population 796, about 25 miles west of the North Dakota border. Thanks to the loan repayment program, Culbertson has a physician and a physician assistant. Without them, the hospital would close. That would make it impossible for all of Roosevelt County to get emergency room services and basic primary care.

The National Health Service Corps is already making a difference in the lives of thousands of Montanans. With Senator DASCHLE's amendment, the corps can recruit about 40 more doctors to Montana counties that now have shortages. This means the men, women, and children in these counties will be healthier. And because they will get preventive care, Montana will save health care dollars down the line.

TELEMEDICINE

The Daschle amendment would also help end the isolation of rural health care providers, and improve the quality of the care they provide by funding a Rural Telemedicine Grant Program.

Telemedicine allows providers to use modern communications technology to consult with highly trained specialists in distant areas. It lets doctors transfer x rays or lab slides for analysis in top-quality laboratories. And it allows communities to develop innovative health education programs.

This amendment provides for telemedicine critical for rural areas.

This amendment also makes technical changes to the medical assistance facility program, a new hospital program contained in the underlying bill.

The medical assistance facility program is a critical reform for rural areas. It allows small hospitals to operate under more flexible rules. For example, it lets nurse practitioners and physician assistants admit patients even when a doctor is not present. It also gives them higher reimbursement from Medicare.

MAF's provide more than just inpatient care. They make it easier to provide other health services which the community otherwise would never have. An MAF is a base for 1-day-a-week dental service. It offers weekly physical therapy sessions, mobile mamography units, counseling services.

At least six rural towns in the State of Montana would have no hospital services—none—if it were not for this innovative program. Jordan, Ekalaka, Circle, Terry and all the farms and ranches nearby would have no medical service were it not for this very specialized program which makes or breaks rural health care in those parts of the country.

Mr. President, for all these reasons I strongly support the amendment and urge its adoption.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise to speak for the amendment. Texas is made up of 254 counties, 196 of those counties are considered rural.

Let me tell you about the Dairy Queen test—On weekends I travel through Texas and walking in and out of coffee shops and Dairy Queens I listen to people in rural Texas. What I hear is that they do not want the bureaucrats in Washington ruining their health care. They ask me, as their Senator, to bring that message back to Washington: They know we have problems for rural health care in our system—but they are concerned about the solution being talked about here. They are concerned that the system has a cold and the solution prescribed is chemotherapy.

The problems of health care delivery in rural America are real. The underlying health care bill encompasses many of the reforms that are necessary to improve the delivery system in rural America. However, there are a number of negative impacts on rural America that are evident throughout the bill. I support and agree with the Senator from South Dakota about his desire to improve the status quo in rural America. Many rural States are heavily dependent on the Federal Government for assistance in maintaining and enhancing rural health care resources. We must continue to be helpful—but we should also be focusing on ways of providing incentives as the Dole bill does and the development of infrastructure into rural America to yield to the States the flexibility to create viable programs.

Every county in rural America is different. Just as I do not believe that the Federal Government should be dictating to every individual what benefits to buy, I do not believe that we, as legislators, have the right to dictate what every county, city, town in rural America needs, wants, and should have. I grew up in LaMarque, a town of 15,000 outside of Galveston. I know our needs are a whole lot different from the needs of Sonora clear across the State. The point is that rural health care needs differ, rural Americans face unique health care situations and we should enable rural communities and States to play a strong role in designing and implementing solutions.

I heard both of my friends from Iowa talking about amendments that can improve this bill and I would like to support their efforts to make health care more accessible to rural Americans.

What are rural Americans concerned with? Rural Americans especially are concerned about the cost of insurance and mandates on employers. They would like to see health care coverage become more affordable and accessible; 100-percent tax deductibility should be available to individuals and the self-employed. This is achieved in the Dole bill, but not in the Mitchell plan. The American Farm Bureau Federation has estimated that for a typical family of four at a 15-percent tax level—$36,900—a full tax deduction could generate over $1,200 in saving per year.

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That is an incentive for people to be able to go into the health care system. The self-employed deserve the same tax incentives that large corporations have. Medical savings accounts are another tool that rural Americans could benefit greatly from. Americans, rural, or otherwise, could save money for their health care needs without being penalized by the Tax Code. That option is not allowed in the underlying Mitchell bill. I am going to cosponsor an amendment to put it there. Small businesses in rural Texas oppose mandates. Farmers, ranchers, and small businesses across this country are already burdened with federal mandates. One more mandate is just another tax. I believe we can improve the rural health care delivery system without forcing many of these farmers and ranchers to cut employment or go out of business. Employer mandates will hit rural areas hard and have a devastating impact on fragile rural economies.

TAXES

Taxes will hit rural Americans hard. The Dole proposal provides solutions to many of these concerns without imposing new taxes or mandates. It will provide incentives for primary care practitioners to go to rural areas, it will raise the tax deductibility for the self-insured, it will allow small businesses, farmers, and ranchers to pool together to buy more affordable health care coverage. These reforms are steps in the right direction.

Mr. President, I want to conclude by expressing my support for what the Senator from South Dakota has proposed but also with my concerns that this one improvement, is one small step. We must go much further to address the needs of rural America as we address health care reform.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, under the unanimous-consent agreement, I have 5 minutes. I will yield that back to accommodate some Senators who must leave Washington.

I have a couple of unanimous-consent requests to make. First, I ask unanimous consent to make some technical changes. They have been approved by the managers.

I send the modification to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 2564), as modified, is as follows:

On page 12, line 6, insert "including residents of rural areas" before the period.

On page 215, line 10, strike "(c)" and insert "(d)".

On page 215, between lines 9 and 10, insert the following new subsection:

(c) TRANSFER OF DUTIES.—Effective January 1, 1996, the functions, powers, duties, and authority that were carried out in accordance with Federal law by the Office of Rural Health Policy in the Department of Health and Human Services are transferred to the Office of the Assistant Secretary for Rural Health in the Department of Health and Human Services.

On page 612, line 24, insert before the period the following: ", at least one of whom resides in a rural area".

On page 613, line 9, insert before the period the following: ", at least one of whom resides in a rural area".

On page 647, strike lines 25 and 26, and insert the following:

"For purposes of carrying out section 3341, there are authorized to be appropriated $15,000,000 for each of the fiscal years 1997 through 2001.".

On page 644, line 10, strike "or health professional shortage areas" and insert "area, health professional shortage area, or other rural underserved area (as designated by the Governor)".

On page 651, between lines 9 and 10, add the following new paragraph:

(3) SUBPART F.—For the purpose of providing funds under subpart F, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000.

On page 652, line 18, strike "and".

On page 652, between lines 18 and 19, insert the following new paragraph:

"(7) rural health clinics, except that for-profit rural health clinics shall only be eligible for direct loans and grants under subpart C; and".

On page 652, line 19, strike "(7)" and insert "(8)".

On page 653, after line 23, add the following new subsection:

(f) PURPOSES AND CONDITIONS.—Grants shall be made under this part for the purposes and subject to all of the conditions under which eligible entities otherwise receive funding to provide health services to medically underserved populations under the Public Health Service Act. The Secretary shall prescribe comparable purposes and conditions for eligible entities not receiving funding under the Public Health Service Act, including conditions with respect to the availability of services in the area served (as provided for in section 330(e)(3)(A) of such Act), and conformance of fee and payment schedules with prevailing rates (as provided for in section 330(e)(3)(F) of such Act). With respect to rural health clinics, such comparable purposes and conditions shall include conditions concerning sliding fee scales under section 1128B(b)(3)(D) of the Social Security Act and waivers of deductibles under section 1833(d) of such Act.

On page 672, line 1, strike the subsection heading and insert "FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS".

On page 675, between lines 16 and 17, add the following new subpart:

Subpart F—Rural-Based Managed Care Grants

SEC. 3467. RURAL-BASED MANAGED CARE GRANTS.

(a) IN GENERAL.—The Secretary shall award grants for the development and operation of rural-based managed care networks.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an applicant organization shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary may require;

(2) be based or provide services in rural or rural underserved areas; and

(3) be currently operating or in the process of establishing a provider network serving the nonmedicare population .

(c) USE OF FUNDS.—Funds provided under a grant under this section may be used—

(1) for the development and implementation of rural-based managed care networks;

(2) for data and information systems, including telecommunications;

(3) for meeting solvency requirements for a risk-bearing entity under the medicare program under title XVIII of the Social Security Act;

(4) for the recruitment of health care providers; or

(5) for enabling services, including transportation and translation.

(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to—

(1) applicants that will use amounts received under the grant to develop and operate rural-based managed care networks that would serve at least one underserved rural area; and

(2) applicants that involve local residents and providers in the planning and development of the rural-based managed care network.

(e) DEFINITIONS.—As used in this section

(1) RURAL AREA.—The term "rural area" means a rural area as described in section 1886(d)(2)(D) of the Social Security Act.

(2) UNDERSERVED RURAL AREA.—The term "underserved rural area" means a health professional shortage area under section 332 of the Public Health Service Act (42 U.S.C. 254e) or an area designated as underserved by the Governor of a State taking into account—

(A) financial and geographic access to health plans by residents of such area; and

(B) the availability, adequacy, and quality of qualified providers and health care facilities in such area.

(f) STUDY.—The Secretary shall study different risk-bearing approaches for rural managed care and payment methodologies that differ from or modify the medicare average area per capita cost payment methodology.

Beginning on page 675, strike line 24 and all that follows through line 4 on page 676, and insert the following: "priated $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act.".

On page 676, line 10, strike "NURSES" and insert "ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS".

On page 676, line 20, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 676, lines 21 and 22, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 677, between lines 13 and 14, add the following new parts:

PART 4—ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS

SEC. 3491. ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission, shall clarify existing and future policy guidelines, with respect to safe harbors, by providing additional illustrative examples with respect to the conduct of activities relating to the provision of health care services in rural areas.

(b) DISSEMINATION OF INFORMATION.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission and the Assistant Secretary for Rural Health, shall develop methods for the dissemination of the guidelines established under subsection (a) to rural health care providers.

PART 5—EMERGENCY MEDICAL SYSTEMS

SEC. 3495. GRANTS TO STATES REGARDING AIRCRAFT FOR TRANSPORTING RURAL VICTIMS OF MEDICAL EMERGENCIES.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d–51 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1252. GRANTS FOR SYSTEMS TO TRANSPORT RURAL VICTIMS OF MEDICAL EMERGENCIES.

"(a) IN GENERAL.—The Secretary shall make grants to States to assist such States in the creation or enhancement of air medical transport systems that provide victims of medical emergencies in rural areas with access to treatments for the injuries or other conditions resulting from such emergencies.

"(b) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application in such form, made in such manner, and containing such agreements, assurances, and information, including a State plan as required in paragraph (2), as the Secretary determines to be necessary to carry out this section.

"(2) STATE PLAN.—An application submitted under paragraph (1) shall contain a State plan that shall—

"(A) describe the intended uses of the grant proceeds and the geographic areas to be served;

"(B) demonstrate that the geographic areas to be served are rural in nature;

"(C) demonstrate that there is a lack of facilities available and equipped to deliver advanced levels of medical care in the geographic areas to be served;

"(D) demonstrate that in utilizing the grant proceeds for the establishment or enhancement of air medical services the State would be making a cost-effective improvement to existing ground-based or air emergency medical service systems;

"(E) demonstrate that the State will not utilize the grant proceeds to duplicate the capabilities of existing air medical systems that are effectively meeting the emergency medical needs of the populations they serve;

"(F) demonstrate that in utilizing the grant proceeds the State is likely to achieve a reduction in the morbidity and mortality rates of the areas to be served, as determined by the Secretary;

"(G) demonstrate that the State, in utilizing the grant proceeds, will—

"(i) maintain the expenditures of the State for air and ground medical transport systems at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received; and

"(ii) ensure that recipients of direct financial assistance from the State under such grant will maintain expenditures of such recipients for such systems at a level at least equal to the level of such expenditures maintained by such recipients for the fiscal year preceding the fiscal year for which the financial assistance is received;

"(H) demonstrate that persons experienced in the field of air medical service delivery were consulted in the preparation of the State plan; and

"(I) contain such other information as the Secretary may determine appropriate.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—In determining whether to award a grant to a State under this section, the Secretary shall—

"(1) consider the rural nature of the areas to be served with the grant proceeds and the services to be provided with such proceeds, as identified in the State plan submitted under subsection (b); and

"(2) give preference to States with State plans that demonstrate an effective integration of the proposed air medical transport systems into a comprehensive network or plan for regional or statewide emergency medical service delivery.

"(d) STATE ADMINISTRATION AND USE OF GRANT.—

"(1) IN GENERAL.—The Secretary may not make a grant to a State under subsection (a) unless the State agrees that such grant will be administered by the State agency with principal responsibility for carrying out programs regarding the provision of medical services to victims of medical emergencies or trauma.

"(2) PERMITTED USES.—A State may use amounts received under a grant awarded under this section to award subgrants to public and private entities operating within the State.

"(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make a grant to a State under subsection (a) unless that State agrees that, in developing and carrying out the State plan under subsection (b)(2), the State will provide public notice with respect to the plan (including any revisions thereto) and facilitate comments from interested persons.

"(e) NUMBER OF GRANTS.—The Secretary shall award grants under this section to not less than 7 States.

"(f) REPORTS.—

"(1) REQUIREMENT.—A State that receives a grant under this section shall annually (during each year in which the grant proceeds are used) prepare and submit to the Secretary a report that shall contain—

"(A) a description of the manner in which the grant proceeds were utilized;

"(B) a description of the effectiveness of the air medical transport programs assisted with grant proceeds; and

"(C) such other information as the Secretary may require.

"(2) TERMINATION OF FUNDINGS.—In reviewing reports submitted under paragraph (1), if the Secretary determines that a State is not using amounts provided under a grant awarded under this section in accordance with the State plan submitted by the State under subsection (b), the Secretary may terminate the payment of amounts under such grant to the State until such time as the Secretary determines that the State comes into compliance with such plan.

"(g) DEFINITION.—As used in this section, the term 'rural areas' means geographic areas that are located outside of standard metropolitan statistical areas, as identified by the Secretary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $15,000,000 for fiscal year 1995, and such sums as may be necessary for each for fiscal years 1996 and 1997.".

Beginning on page 718, strike line 23 and all that follows through line 5 on page 719, and insert the following new paragraph:

"(8) with respect to the National Health Service Corps program referred to in section 3471, $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act;".

On page 720, line 22, strike "; and" and insert a semicolon.

On page 720, between lines 22 and 23, insert the following new paragraph:

"(14) with respect to the development of rural telemedicine under section 3341, $15,000,000 for each of the fiscal years 1997 through 2001; and".

On page 720, line 23, strike "(14)" and insert "(15)".

On page 725, strike lines 7 through 11, and insert the following:

"(6) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

"'(1) IN GENERAL.—The Secretary shall use amounts made available under section 3471 of the Health Security Act to carry out this section in each of the fiscal years 1996 through 2000.'".

On page 777, line 18, strike "and medical assistance facilities".

On page 780, line 3, insert "In the case of payment under this subsection to medical assistance facilities, the lesser-of-cost-or charges provisions under subsection (j) are not applicable." after "services.".

Beginning on page 808, strike line 16 and all that follows through page 809, line 4, and insert the following:

(2) by inserting "described in paragraph (2) and services furnished by a physician assistant or nurse practitioner described in such paragraph that would by physicians' services if furnished by a physician" after "physicians' services".

(3) by inserting "physician assistant or nurse practitioner," after "physician".

(4) by striking "10 percent" and inserting "the applicable percent", and

(5) by adding at the end the following new paragraph:

"(2)(A) The applicable percent referred to in paragraph (1) is—

"(i) in the case of primary care services furnished by a physician, a percent determined by the Secretary that may not be less than 10 percent and may not exceed 20 percent,

"(ii) in the case of primary care services furnished by a physician assistant or nurse practitioner, as described in section 1861(a)(2)(k), a percent to be determined by the Secretary that is equal to the percent determined in clause (i) and determined so that the total amount of such payments under this clause and clause (i) is equal to the amount that would have been paid under clause (i) if the applicable percent for such clause was equal to 20 percent, and

"(iii) in the case of physicians' services other than primary care services furnished by physicians in a health professional shortage area located in a rural area (as defined in section 1886(d)(2)(D)), 10 percent.

On page 873, line 20, insert "urban and rural" after "representative of the".

On page 874, line 1, insert ", at least one of whom resides in a rural area" before the first period.

On page 874, line 4, insert ", at least one of whom resides in a rural area" before the first period.

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On page 1390, line 22, insert "and that at least one member of the Commission is a resident of a rural area" before the period at the end.

Mr. DASCHLE. I also ask unanimous consent Senator PAUL WELLSTONE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, as I explained briefly last night, the amendments we are proposing would help rural communities attract and retain doctors, nurse practitioners, and physicians assistants; clarify types of collaborative efforts and joint ventures that are permissible in rural areas; ensure that financial and other assistance is available to help rural facilities adjust to the changing health care environment, and assist rural providers in forming their own health care networks.

I would like to take a bit more time today to explain what each provision in our amendment does.

NATIONAL HEALTH SERVICE CORPS

The centerpiece of this rural health package is increased funding of the National Health Service Corps—one of the most important, respected work force programs in the country.

Why does the NHSC funding need to be increased? Most do not know that the National Health Service Corps Program was nearly eliminated in the 1980's, despite the fact many rural communities are completely dependent upon corps doctors as their only source of physician care.

While the program has been slowly built back up over the last few years, rural America still badly needs more of these doctors.

In my home State of South Dakota there are only 14 National Health Service Corps [NHSC] physicians. However, South Dakota needs 43 physicians in order to eliminate its rural underserved areas. We know that if the corps had better funding, many more physicians would be willing to serve in rural and other underserved areas.

For example, over 4,000 scholarship applications were submitted to the NHSC Program last year, but only 406 awards were made.

The Office of Rural Health in South Dakota tells me that if the NHSC funding was increased, our State would be better able to recruit these critical primary care providers.

This amendment would simply restore funding for the National Health Service Corps [NHSC] to its pre-1980 levels so that those willing to work in rural underserved areas are not denied the opportunities they seek.

ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS

This amendment would clarify existing and subsequent antitrust "safe harbors" specifically for rural providers.

A "safe harbor" is merely a statement by the Department of Justice and Federal Trade Commission that if you meet the criteria established in the safe harbor, you don't need to worry about antitrust prosecution by the DOJ, FTC, and private parties.

For example, the DOJ and FTC safe harbor guidelines make it clear that these agencies will not challenge a merger between two hospitals if one of the hospitals has less than 100 beds and has an average caseload of 40 patients. This is an example of safe harbor. All our amendment would do is help rural providers to know how these safe harbors would apply to them.

I know from speaking with rural providers that this type of clarification is badly needed. Rural doctors and hospitals tell me they are hesitant to collaborate, to share equipment, to form joint ventures or to create networks because they fear antitrust prosecution by the Government.

Even though the DOJ and FTC rarely bring antitrust suits against rural providers, the perceived threat of prosecution is inhibiting collaborative ventures and networking among rural providers.

These are exactly the kind of activities we want to be encouraging in rural areas—yet providers are reluctant because they don't have the type of legal counsel that can clarify for them the complicated antitrust guidelines. This provision would provide rural providers with clear, easily understood information about antitrust safe harbors.

I also know that many rural providers are not even aware that these antitrust safe harbor guidelines exist. That is why this provision would have the DOJ, FTC, and the Department of Health and Human Services work together to develop a plan to disseminate this information.

I would like to say one word about what this amendment does not do. The provision would not establish any additional safe harbors for rural providers nor would it give rural providers broad antitrust immunity. I believe as do others that the antitrust safe harbors established by the DOJ and FTC are simply not well understood. They need to be explained more clearly to rural providers.

MEDICARE BONUS PAYMENTS FOR NPPS

This provision would make nonphysician practitioners [NPP's] such as nurse practitioners and physicians assistants practicing in rural underserved areas eligible for the same Medicare bonus payments we already provide to doctors.

As many of you may know, this provision is based on a recommendation from the respected Physician Payment Review Commission [PPRC], which advises Congress on Medicare part B and other issues.

Why does the PPRC think we need bonus payments for NPP's? The answer is simple—we need to do whatever we can to attract primary care providers to rural underserved areas. That's why we already provide bonus payments for doctors providing services in rural areas.

It is also important to remember that many of the same disincentives to relocating to rural underserved areas that exist for physicians exist for NP's and PA's. These include lack of professional peers, lack of health care facilities, and insufficient population base to sustain a practice. Providing stronger economic incentives to locate in rural areas is the one way to overcome these other disincentives.

So, it makes sense to extend the bonus payments to other primary care providers like nurse practitioners and physicians assistants.

Making bonus payments available to them will increase access to primary care services.

Moreover, advanced practice nurses receive only 75 percent to 85 percent of what physicians receive for the same service. These lower payments make it more difficult for NP's to set up independent practices. Extending the Medicare bonus payments to NP's would help to offset this lower payment rate and make it more feasible for them to open up practices in rural underserved areas.

Finally, I want to point out that this provision is budget neutral relative to the Mitchell bill.

The increase in bonus payments for physicians included in the Mitchell bill would be only slightly reduced, and the savings achieved would finance the NPP bonus payment. The NPP's and the physicians would receive the same percentage bonus payments. Our best estimates indicate that both physicians and NPP's would receive 17-percent bonus payments.

RURAL MANAGED CARE DEMONSTRATIONS

We all know that few managed care plans have entered rural areas.

To encourage the creation of these plans in rural areas, this provision would establish a grant program for the development and operation of rural-based managed care networks.

These grant funds could be used for the development of a rural-based managed care networks, for data and information systems including telecommunications, for meeting solvency requirements under Medicare, for the recruitment of health care providers and for enabling services such as transportation and translation services.

The grant program would be authorized at $10 million annually for 1996 through 2000.

Special priority would be given to those plans that would serve rural underserved areas and those that involve rural residents and providers in the planning and development of the managed care network.

RURAL HEALTH CLINIC FUNDING

As Senator ROCKEFELLER clearly explained last night, the Mitchell bill establishes three grant and loan programs to improve access to health care in urban and rural underserved areas.

The first program provides grants for the development of health care networks, sites and services.

The second program provides grants for and loans capital costs such as modernization, renovation, and construction.

The third program provides grants for supplemental and enabling services such as transportation and translation services.

Under the Mitchell bill, rural health clinics could only receive developmental, enabling, and supplemental services funds as part of a consortium of community based providers.

I believe that RHC's, as important providers to the underserved in rural areas, must be given the same opportunities Senator MITCHELL's bill gives other providers to enhance their ability to serve the rural communities that depend on them.

This amendment would allow nonprofit and public rural health clinics to be eligible for the development, capital, supplemental and enabling funds provided under Senator MITCHELL's bill.

I understand the concern that some have raised regarding Federal grants to for-profit rural health clinics. That is why under this provision, for-profit RHCs would only be eligible to receive loans for capital costs.

I cannot overemphasize the importance of rural health clinics in ensuring access to care in rural communities. These clinics serve a disproportionate number of patients that have traditionally lacked access to health care.

A 1994 survey of RHC's revealed that nearly 28 percent of the patients in RHC's are on Medicaid, and 14 percent are uninsured. While 63 percent of the U.S. population has private insurance, only 28 percent of the patients cared for in an average RHC have private insurance.

I would like to tell you about a rural health clinic that I visited in Wall, SD. Wall is a community of about 850 people. The clinic is run by Dave Custis who is a physician's assistant.

Dave has been working in the clinic for the past 10 years. He is a PA practicing alone in the rural health clinic. The physician affiliated with his clinic is in Rapid City, and the physician comes to the clinic only half a day a week.

The clinic was one of the first rural health clinics in the country, opening in the late 1970's. Prior to the clinic opening, no one provider consistently worked in the community.

Physicians had practiced in Wall, but because of hospital closures and other factors, the town was not able to consistently keep a rural health care provider until the clinic opened.

The clinic estimates that between 20 and 30 percent of the population it serves is uninsured. Without Dave and his clinic, these people probably would not receive any health care services, and certainly not preventive care.

Seeking the providers in this and other rural health clinics in my State work tirelessly, often under adverse conditions, has convinced me we need to help these facilities in enhancing their ability to provide care.

In closing, let me emphasize that these amendments build on the strong base Senator MITCHELL's bill provides and they would simply enhance and supplement the rural provisions contained in his bill to ensure that health reform benefits rural and urban areas alike.

I ask unanimous consent the USA Today article that featured Dave's clinic be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, Feb. 18, 1994]

IN SOUTH DAKOTA, PROBLEM IS PLAIN—TOO FEW DOCTORS—STATE TYPIFIES THE PROBLEMS OF MEDICAL CARE IN RURAL AREAS

(By Richard Wolf)

Nestled between the Badlands and the Black Hills deep in cattle country, health-care reform is a four-letter word: Dave.

Forget managed competition, employer mandates and a menu of health plans. The ranchers and farmers out here—30 miles from the nearest doctor and hospital—are dependent on physician assistant Dave Custis for their care.

"I do all my own X-rays, I draw all the blood, I give all the shots," Custis says, while juggling his Wall Clinic caseload of colicky infants, frail Medicare patients and occasional emergencies. "We're out here on the front line of medicine, and we don't have the technology to go with it."

The slice of rural America Hillary Rodham Clinton visits today in Lennox, S.D., needs health-care help far more basic than the complex prescriptions now under review in Washington, to solve problems far more life-threatening:

Manpower. Doctors are hard to find and keep, making physician assistants, nurse-practitioners and county nurses a godsend for people in small towns. The nation has one doctor for every 400 people; in South Dakota, it's one for 600.

Distances. When emergencies or illnesses are too much for those front-line medics to handle, it's not unusual for expectant mothers, accident victims or heart-attack patients to travel an hour or two to the nearest hospital.

In the 1940s, South Dakota had doctors in 165 places. Today they're at just 69 locations.

Money. Rising insurance premiums and medical bills take a toll on a population dominated by the elderly, the self-employed and small businesses. Clinics and hospitals struggle to balance books, with lower federal reimbursements.

All those hardships come together in places like Wall, home of Wall Drug Store. Billboards all along Interstate 90 tout the store's 5-cent coffee and buffalo burgers.

Custis sees 6,000 patients annually and sends some an hour away to Rapid City. The clinic, which lost its lone doctor in 1991, turned a $985 profit last year—far short of the mark needed to get Custis some help.

"If we didn't have 'Doc,' we would be lost," says Betty Dunker, 43, who visits Custis for anything from a bad cold to treatment for multiple sclerosis. "He'll make house calls."

That's the kind of care required in rural America:

It's home to one-quarter of the U.S. population, but more than one-half of all Americans living in areas officially designated as short on doctors.

More than 14 percent of rural residents go without insurance for at least a year; 18 percent of farm families lack insurance.

The South Dakota story is like others. About 100,000 residents, one-seventh of the population, go "bare"—without insurance. Two-thirds of the state has a shortage of primary care.

"Health care is tentative. You can't count on it," says Sen. Tom Daschle, D-S.D., as he pilots a plane to Wall to meet with ranchers.

At the Wall Clinic, mammograms are a road show from Rapid City, a dentist stops by once a week, and orthodontia is offered every six weeks.

Thirty miles east in Philip, two doctors staff a clinic, 20-bed hospital and 30-bed nursing home for the area's 3,500 people. They're the only doctors between Pierre and Rapid City, a distance of about 150 miles—and their stories illustrate the manpower problem.

George Mangulis, 71, is a Latvian-born doctor with a medical degree from Germany who has hunkered down in western South Dakota for four decades. Over the years, U.S.-educated doctors recruited to help him have come and gone.

"We are like a transit station," Mangulis says. "We are struggling about how to make the ends meet."

Coenraad Klopper, 46 is a South African doctor recruited in 1991 from Saskatchewan after battles over residency and certification. Unlike his predecessors, he has remained, but, as Mangulis reduces his hours, Klopper is overworked.

"We do anything which comes along," he says. "Out here, you're it. You don't have any off time. You can't go anywhere, you can't do anything."

To these and other rural Americans, health-care reform holds both promise and peril.

Among the promises are incentives aimed at boosting the number of medical school graduates who enter primary care, placing them in rural areas and expanding the roles of non-physician providers.

Among the perils are additional cuts in Medicare, which could further reduce already restrictive rural reimbursement rates, and a system of mandatory consumer purchasing groups that could prove difficult to implement in sparsely populated states.

Those new alliances—plus mandates that employers must provide insurance, and price caps on insurance premiums—are supposed to create President Clinton's vision of "managed competition."

But in Wall, where there's just one physician assistant and few insurance plans, there's no competition to manage.

Says Daschle, a defender of the Clinton plan: "There is a realization that you can't run South Dakota's health care program like New York or Florida would run theirs."

Mr. DURENBERGER. Mr. President, there is no single issue that unites the concern of rural Americans more than

VOL 140 PT 16 AG 12 — 18 1994 UMI

access to quality health care. It is one of the crucial components of rural quality of life, which keeps and attracts people to small towns. A major obstacle is the financial squeeze faced by many rural hospitals and physicians because the reimbursements from Medicaid and Medicare are often much less than the cost of the specific medical procedures. These inequities are what I have been working to resolve during my years in the Senate.

Approximately 27 percent of the Nation's population lives in rural America. However, the rural population is disproportionately poor, experiences significantly higher rates of chronic illness and disability, and is aging at a faster rate than the Nation as a whole. In rural areas, the elderly accounted for 13.8 percent of the population, but 22.5 percent of all physicians visits.

The Medicare payment has had a negative effect on many rural hospitals. A CBO report concluded that payments to rural hospitals have been much lower, relative to their costs, than payment to urban hospitals. And there is a constant threat of closure of rural hospitals, clinics, and other rural health care providers. Since 1986, 14 rural hospitals have closed in Minnesota and another 8 are identified as high financial risk institutions.

The goal of this amendment is laudable. I believe my colleagues look at this as a means to improve access to quality health care in rural America. But it falls far short of addressing the inequities in current law and perpetuated in the Mitchell bill.

RURAL PHYSICIANS

If we want to help rural physicians, we should not burden them with more Medicare cuts and then on top of it mandate that they accept the Medicare rate as payment in full. The Mitchell bill gives physicians two choices: Either accept Medicare payment in full or do not treat Medicare patients at all. It eliminates their ability to help meet their costs by billing those patients who can afford to pay more. Current law, allows physician to balance bill up to 110 percent of the Medicare allowable charge.

The Physician Payment Review Commission [PPRC] reported to Congress that Medicare is now paying physicians only 59 percent of what private insurers pay. And health reform takes another chunk out of Medicare payment rates. What impact will this have on beneficiary access to physicians—especially in rural areas? To date, we have seen a number of physicians already refuse to accept new Medicaid patients because payment rates markedly fell.

RURAL HOSPITALS

If we want to help rural hospitals we should eliminate the need to shift costs to make up for Medicare's underpayment. In rural areas and the poorer areas of our cities, this is a recipe for disaster because they lack a large base of private payers to make up the loss.

My colleagues from States with rural areas will want to take a look at this chart. For United Hospital, which serves a largely middle-class population in St. Paul, we see that 42 percent of the patients are on Medicare or Medicaid. The loss that the hospital suffers on those patients can be passed on to the larger population of patients, nearly 58 percent, who pay themselves or have private insurance.

Fairview Ridges Hospital in Burnsville, which serves a suburban, upper-middle-class population, has a much easier time absorbing Medicare's underpayment since it only accounts for 14.4 percent of patients and private insurance account for nearly 80 percent.

But look at what Medicare cuts do to a rural county hospital in northern Minnesota. The Tri-County Hospital in Wadena has 70 percent of their patients paid for through Medicare and Medicaid. How is this hospital going to make it? They have a mere 27 percent of their patients in private plans and another 3 percent who self pay. Where can Tri-County shift its losses from the Government-run program? Twenty-two percent of the population is below the poverty level.

This rural hospital is not going to make it unless Congress does something about the Medicare Program. Universal coverage will do nothing for them. Reforming the Medicare Program, on the other hand, will give them the chance they need to survive and continue to serve that area.

RURAL MANAGED CARE

Mr. President, this amendment seems to recognize that need on the surface. It provides grants to develop managed care networks in rural areas if they incorporate the Medicare population. But if we want to help rural managed care develop—first, we must address the payment problems. This amendment tells the Secretary to study the payment problems—without even requiring a timetable to report back. It's the long-term instability of payment that is a problem for rural areas.

What good will grants do if we fail to address the way we pay private health plans for accepting Medicare beneficiaries? Even if we help networks develop, why will they want to seek to enroll Medicare beneficiaries? The payment is now tied to the historical cost of fee-for-service care county by county.

Rural areas are plagued by access problems. Yesterday, my colleague from Nevada, Mr. REID told us that some counties in his State do not even have a physician or have only one. Obviously, we can expect some low historical patterns of utilization in these counties. For example, Medicare will pay plans serving residents of White Pine County, NV, $251.10 per month. Yet the national average per capita cost is $378.13 per month. And, the payment rates vary more than 300 percent nationally. This does not leave much question regarding why plans may not be attracted to serve Medicare beneficiaries in this area of Nevada. Providing grant money alone to set up in the area wouldn't do it either. More importantly, paying plans based on the fee-for-service cost of a rural area with little access to quality care will not support the formation of managed care networks.

Today's Medicare managed care plans flock to high-cost areas where they are doing very well—because we pay them based solely on fee-for-service cost—not based on their cost in a more efficient system.

The only way to help rural America is to support rural America. To pay the cost of care—not to discount it and expect rural providers to make it up elsewhere. Inherent cost-shifting will not attract efficient care delivery. The answer is to give every American the opportunity to purchase a private health plan. In the underlying amendment, the Mitchell bill does it for the Medicaid population. But why is Congress choosing to deny seniors and the disabled the very same opportunities as the rest of America? The problems of rural America will be better addressed when all individuals are insured through the private system.

We can do so much more. Both this bill and this amendment fail to send a strong message to rural America. It fails to say "Washington cares about your problems and wants to help ensure access to quality health care."

Only a commitment to reforming all parts of the health care system, the publicly paid and the private, can we give rural America a fair opportunity.

Mr. DORGAN. Mr. President, I rise in strong support of the Daschle amendment on rural health care. America's rural communities have unique health care needs that we must address if we ever hope to achieve truly national health care reforms. The rural health amendments offered by my good friend and colleague TOM DASCHLE will significantly improve health care in rural America.

First, we must make sure our rural communities have the medical professionals necessary to provide high-quality care: 85 percent of North Dakota's counties do not have enough health care providers to provide adequate care for the county's residents; 13 North Dakota counties had no physician residing in them in 1992; and 2 counties had neither a hospital or a clinic.

By increasing funding for the National Health Service Corps [NHSC], this amendment will encourage individuals to join health care professions and work in areas with shortages of health care providers. This amendment will provide scholarships and student-loan repayment programs for more

than 14,000 physicians, nurses, and physicians assistants over the next 10 years.

North Dakota's small communities are spread far apart. People rightfully worry how they are going to get health care in an emergency. So, second, this amendment will establish grant programs to allow States to develop rural emergency medical systems. I have cosponsored similar legislation in the Senate and I am encouraged that States will have these grants available to create or enhance air medical transport systems that effectively will bring rural residents closer to critical life-saving treatment.

Third, this amendment will provide grants for telemedicine programs to bring sophisticated medicine to small-town health care providers. A physician in Bismarck, or even across the country, literally could read the x ray or analyze the heartbeat of a patient at a clinic 100 miles away. These grants will bring telemedicine hookups to more North Dakota communities.

Fourth, health care reform must expand the role of nonphysician practitioners and I am glad this amendment will help tear down the barriers that advanced practice nurses and physician assistants face when they try to set up practice in rural areas. In some North Dakota communities, these medical professionals provide the only health care available, and we ought to help them.

North Dakota has one of the few successful rural health maintenance organizations [HMO] in the Nation, the Heart of America Health Plan. This health care plan has been extremely successful in delivering high-quality care to the residents of Rugby, ND, in a very cost-effective manner. A fifth provision of this amendment will fund development of more rural managed-care organizations like Heart of America.

Sixth, antitrust provisions in this amendment will encourage partnerships between urban and rural providers to expand medical services available to rural communities. Many collaborative ventures and mergers already have expanded access to health care services in North Dakota. This provision will help clear the way for other projects that expand access in rural communities.

Health care reform must address the needs of rural America. This amendment will go a long way to ensure that rural Americans receive the High-quality health care we all expect. Mr. President, I urge my colleagues to support the amendment.

Mr. CAMPBELL. Mr. President, it is with great pleasure that I cosponsor the rural health amendments offered by Senator DASCHLE. The majority leader's bill includes a substantial set of rural health provisions, and he should be commended for trying to ensure that rural communities are included in health care reform. The Daschle amendments build on the base set in the Mitchell bill to expand much-needed health care services in rural communities.

Rural health care issues are especially important to me and my State. More than 17 percent of Colorado residents live in rural communities. Rural residents, whether they have health insurance coverage or not, are at a particular disadvantage when it comes to receiving health care. The problem for rural residents is primarily one of access.

These amendments would increase access by offering incentives for health care providers to locate in rural areas or expand current services. Managed care programs would be offered developmental and operational grants to encourage rural-based managed care networks. The bonus payments now available to doctors would be extended to advanced practice nurses and physicians assistants, vital providers of health care in rural areas.

The National Health Service Corps scholarship and loan repayment programs would be expanded to encourage more medical students to become primary care physicians. This program carries an obligation to provide 1 year of medical services for each year of educational assistance. Although the National Health Service Corps is an important source of primary health care professionals in underserved areas, this program has been drastically cut back in recent years. The proposed amendments would increase funding for this valuable program and boost the number of much-needed health professionals serving rural areas.

More providers and more clinics mean greater access to care. By providing greater access to health care services to rural residents, we can encourage preventive health care. The resident who has to drive 50 miles to see a doctor most likely will not do so until he or she is very sick.

If a doctor is only 10 to 20 miles away, a mother is more likely to take her child in for a measles shot, a diabetic is more likely to get treatment before going into a diabetic coma. Preventive care saves money by treating a condition before it exists or before it advances to a more serious stage that is more costly to treat.

And so, Mr. President, it is with great pride that I add my support to the Daschle rural health amendments. Rural areas need different things from health care reform than urban and suburban areas. Health care reform presents an opportunity to improve health care in rural areas. These provisions seek to supply greater access to care in underserved rural communities. Americans deserve to have the same access to health care as their Representatives in Congress do, regardless of where they live.

Mr. SIMPSON. Mr. President, rural health care is experiencing a renaissance of interest in Congress. In fact, even frontier health care—a term several of us coined for what we have in Wyoming and other similarly situated States—is even gaining the attention of policymakers. I want to join Senator STEVENS for acknowledging earlier today that the States of Alaska, Montana, and Wyoming have unique needs. Our States have much in common regarding the delivery of health care to our constituent populations. I want Senator STEVENS to know that I will most gladly join his Frontier Health Caucus.

The last few years have witnessed an alarming number of hospital closures in rural areas, the loss of physicians to more sophisticated and profitable urban settings, and a shrinking pool of allied health and community service professionals in virtually every field. At the same time, the population of rural America is growing older and more frail—requiring more and higher levels of service.

Clearly, we in Congress have reason to be seriously concerned about issues of access to health and supportive services in rural and frontier regions. Our challenge is to craft a public policy response that is appropriate to all rural regions, including—and particularly from my perspective—frontier Wyoming.

I am pleased to see the inclusion of many provisions pertaining to rural health care in this bill. As Senator GRASSLEY noted last evening, many of these provisions were recommended previously by the bipartisan rural health care task force. This is one area of health care that has always been bipartisan, and it is important for all of us to work together in furthering our main objective—bringing the highest quality health care to rural and frontier America.

However, I did notice that "frontier" is not mentioned anywhere in Senator MITCHELL'S 1,400 page document. All of us from rural and frontier areas—including both Senators from Alaska—worked very hard in the Republican health care task force to get our message across that rural and frontier States have unique needs. Finally they heard us. Everyone on the task force finally understood that rural health care must be addressed within the context of the health care debate—and, I was very pleased to see that "frontier" health care was given a distinct status and definition in both the Chafee and Dole bills.

Rural America, as we have heard today is quite diverse and complex. Although close in population, Vermont and Wyoming are vastly different in terms of heritage, resources, economic base, and geography. In fact the entire State of Vermont could fit into two of Wyoming's southwestern counties.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Iowa, with its urban centers and small towns sprinkled every 10 or 20 miles in between is considered by Washington, DC regulators to be the very epitome of a rural state. Wyoming clearly does not fit that model. No indeed. Not in the land of high altitude and low multitude—where our major towns are far apart and the people are scarce in between. Yet my colleagues here in Washington seem to believe that if a program or a rule or regulation will work in Iowa, then it will work anywhere rural, including Wyoming. We have been hearing a lot about rural health care today so I wanted to come to the floor and talk about what kind of health care we have in Wyoming.

In Wyoming, we are talking about nearly 98,000 square miles with an average population density of less than five people per square mile. Twenty percent of the population is in either Cheyenne or Casper which each have about 50,000 people. The remainder of the State has a density of less than four persons per square mile.

Wyoming has 26 acute care hospitals or one hospital for every 3,600 square miles—or one hospital for every 18,000 people. The population per hospital is why so many of them are on the ropes financially. The area covered is why they are medically essential.

We need basic providers in Wyoming. With only 26 hospitals, no federally qualified community health centers, and only 5 rural health clinics, we are in desperate need of just basic providers. For example, at the present time, the Basin-Greybull area in northwest Wyoming has been reeling over the past year from the effects of a hospital closing between those two towns. The county hospital district in this area has established a rural clinic located at the closed hospital and has just applied for rural health clinic designation for the clinic. This designation would allow the clinic to receive cost-based reimbursement for each of the Medicare-Medicaid patients seen there.

This rural clinic designation is much easier to obtain than the federally qualified health center designation. Still we only have five rural clinics, but hopefully more of them coming in the future. This type of clinic would go a long way for us in treating people in the basin area and in most areas of Wyoming, especially for emergency services, which are always so desperately needed in rural areas.

What primarily concerns me about the rural provisions contained in the finance bill and the Mitchell bill is that they do not contain enough flexibility for frontier States. My colleagues here in Congress seem to have this know best approach to rural health which has limited flexibility. This lack of flexibility saps the vitality, creativity, and resourcefulness from the very programs that have been developed to help rural areas, and may drain funds from other areas that local policymakers have identified as more pressing priorities. In a State like Wyoming, with so few resources at its own disposal and so many urgent needs, this lack of flexibility can be devastating. When we look at these bills, we are looking for greater flexibility in obtaining needed Federal grants and loans. For example in the Mitchell bill, under Subtitle E, Health Services for Medically Underserved Populations, there are much needed grants available for the planning and development of networks of providers and plans. These grants can be used for the expansion, development, and ongoing operation of health delivery sites. Direct loans and grants are also available for capital costs including the modernization, conversion, and expansion of facilities. There is a list of entities that are eligible to receive these grants and loans—and lo and behold, most of the eligible entities are located in urban underserved areas. By limiting eligibility, this section has the perverse effect of excluding the very communities that are most in need of capital and infrastructure funds. We need a flexible definition of eligible entities included in this section, if this bill is going to accomplish assisting all underserved areas—not just urban underserved areas.

Finally, I want to briefly discuss telemedicine and the promise it holds for rural and frontier areas. I was particularly heartened to see that demonstration projects for telemedicine are included under the Mitchell bill as they are under the Dole bill. Physicians and nonphysicians in Wyoming could benefit greatly from the use of telemedicine. They could be connected through interactive video for consultations with hospital and medical school staff from across the country. A solo practitioner would not feel as isolated while practicing in a rural area if he or she knew he or she could consult with other physicians on a particular case. In addition, physicians in rural areas would not have to travel to educational seminars and conferences if they could receive continuing education training through computer video. I believe telemedicine is the future for rural areas and that we should do everything we can to promote its use. Rural areas need start-up moneys and capital for planning telemedicine systems and for the purchase of computer hardware, software, and interactive video equipment. The moneys included in both the Mitchell and Dole bills would go toward these types of worthwhile projects.

I wholeheartedly support all of our bipartisan efforts in Congress to implement rural health care policies that are responsive to the very special needs and circumstances of all of the rural, including frontier States, which we represent.

Mr. WELLSTONE. Mr. President, I am delighted to support the amendment of my colleague from South Dakota.

Nearly half the population of Minnesota and nearly half the people in the Nation live outside our major metropolitan areas. Often when we discuss health care reform we focus on urban communities because that is where the high-technology subspecialty care is found. But health care in rural American is an essential link in our health care system. We need a strong rural health care system to have a health care system that works for all Americans.

When we discuss universal care we must remember that access to a health care provider is a necessary component of that universality. In a growing number of rural areas there is shrinking choice of provider and it is increasingly difficult to find a doctor or other health care provider in many rural areas. People in rural Minnesota tell me they really want to keep their doctor in town.

The revival of the National Health Service Corps that this amendment calls for is an important emergency measure while we rebuild the primary care system in rural America.

We must also support the work of health care providers in our rural communities who are working to organize a revitalization of rural health care. There are many rural physicians and health care professionals in Minnesota who are leading the way.

These are real people who have committed their lives to this effort. I think of Dr. Ray Christensen, who lives and practices in the town of Moose Lake, MN. Dr. Christensen is a life long rural resident and a leader in rural health care in Minnesota. And I think of Terry Hill, executive director of the Northern Lakes Health Care Consortium in Duluth, MN. They are both working on recruitment of primary care physicians to rural communities and have had some important successes.

Two important examples of success achieved by the rural health community are Grand Marais, MN, where a few years ago the hospital was in danger of closing and with a lot of work has been turned around. It is now a growing concern. And Silver Bay, MN, where a rural clinic was near closing and has been kept open. Both of these victories for rural health have been enabled by the ongoing support from their local communities and health care providers in the region.

We must also support the work of those medical schools that have taken on the challenge of training rural physicians. Dr. Ron Franks, dean of the Medical School at the University of Minnesota, Duluth has done tremendous work in this area. At UMD they understand the importance of recruiting medical students from rural communities. During their medical education they get these students into rural clinics to see what rural practice is like. And they help the students develop contacts in the rural health community to support them in their rural practices.

This amendment also gives needed support for nurse practitioners and physician assistants with more adequate reimbursement, by allowing some of them to receive Medicare bonus payments at the same rate as physicians providing primary care in underserved areas.

Another issue that is addressed by this amendment is the important concern of rural residents that they do not want the rural health care system taken over by urban based insurance companies. In Minnesota, there is growing concern that urban based insurance companies are not sensitive to the real needs of the rural population. We have to make sure these rural voices are heard.

In this amendment, steps are taken in this direction by increasing the rural representation on boards created in the Mitchell legislation. We must listen to rural physicians, nurses, physician assistants and nurse practitioners, and rural consumers. They are in the trenches every day making our rural health care system work and they have a lot to teach us.

This amendment does not solve all the health care problems facing rural America but it makes a start. I hope we will all pledge that as we continue our efforts to reform the health care system we will set the same standards for rural health care that we do for ourselves here in the Senate—all rural Americans should be covered with a decent benefits package, all should be ensured accessibility of care not just insurance, people should be guaranteed that needed care is affordable and they should have a choice of health care provider.

I urge my colleagues to support the Daschle amendment.

Mr. MOYNIHAN. Mr. President, I believe the time has come to vote.

VOTE ON AMENDMENT NO. 2564, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the question is on amendment No. 2564, as modified, by the Senator from South Dakota [Mr. DASCHLE].

Mr. MOYNIHAN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Maryland [Ms. MIKULSKI] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—94

Akaka	Feinstein	McConnell
Baucus	Ford	Metzenbaum
Bennett	Glenn	Mitchell
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Murray
Boxer	Harkin	Nickles
Bradley	Hatch	Nunn
Breaux	Hatfield	Packwood
Brown	Heflin	Pell
Bryan	Helms	Pressler
Bumpers	Hollings	Pryor
Burns	Hutchison	Reid
Byrd	Inouye	Riegle
Campbell	Jeffords	Robb
Chafee	Johnston	Rockefeller
Coats	Kassebaum	Sarbanes
Cochran	Kempthorne	Sasser
Conrad	Kennedy	Shelby
Coverdell	Kerrey	Simon
Craig	Kerry	Simpson
D'Amato	Kohl	Smith
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Dorgan	Lugar	Wellstone
Exon	Mack	Wofford
Faircloth	Mathews	
Feingold	McCain	

NAYS—4

Danforth	Gregg
Durenberger	Roth

NOT VOTING—2

Cohen	Mikulski

So the amendment (No. 2564), as modified, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. As I understand now, the Republicans will offer an amendment.

Mr. MOYNIHAN. Yes.

Mr. DOLE. Mr. President, I just wanted to clarify, it is my understanding under our sort of loose arrangement here the Democrats offered the rural amendment. Some of us may still want to speak on that amendment, because we tried to accommodate a couple of colleagues who had to catch a plane, so there may be some speeches after the fact. I think Senators MACK and COATS are prepared to offer their amendment. I wonder, if they wanted to lay their amendment down, if I might be permitted to speak for 5 minutes on the amendment we just passed.

AMENDMENT NO. 2568

(Purpose: To assure that decisions critical to the health and well-being of all Americans be made with public knowledge and not in secret)

Mr. MACK addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Chair recognizes the Senator from Florida.

Mr. MACK. I have an amendment to send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. MACK] for himself and Mr. COATS, proposes an amendment numbered 2568.

Mr. MACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, strike line 13 and all that follows through line 16.

On page 263, insert between lines 15 and 16 the following new section:

SEC. 1604. APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT AND THE PROVISIONS OF TITLE 5, UNITED STATES CODE.

(a) FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to any entity that—

(A) is established by or pursuant to this Act or is established or required to be established by an entity created under this Act; and

(B) is an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of the Federal Advisory Committee Act shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such specified provision (or all provisions) of the Federal Advisory Committee Act shall not apply to such entity.

(b) TITLE 5, UNITED STATES CODE.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of title 5, United States Code, shall apply to any board or other similar entity that—

(A) is established by or pursuant to this Act; and

(B) is not an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of title 5, United States Code, shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such provision (or all provisions) of title 5, United States Code, shall not apply to such entity.

On page 605, strike line 3 and all that follows through line 13.

On page 1409, strike line 1 and all that follows through line 3.

Mr. MACK. Mr. President, I know that there will be quite a discussion on this amendment which really has to do with the issue of secrecy and the number of commissions. The Mitchell proposal, in fact, exempted certain of the commissions from public scrutiny. This amendment goes to the heart of that issue, and will strike that exemption.

I yield the floor.

Mr. MOYNIHAN. Mr. President, may I just say briefly to my friend from Florida that I am sure he will find a good deal of support on this side of the aisle for his amendment, and look forward to the debate.

Mr. DOLE. Mr. President, we have just adopted, I guess by an overwhelming vote, an amendment dealing with rural health care. Some of us did not have an opportunity to speak because

VOL 140 PT 16 AG 12 — 18 1994 UMI

we were accommodating a couple of our colleagues who had to catch a 12 o'clock plane.

Mr. President, I commend my colleague, Senator DASCHLE from South Dakota, for bringing the issue before the Senate because health care for rural Americans is a very important issue.

Mr. President, on January 21, 1993, I was in this Chamber and I laid out the initiatives that I hoped Congress would accomplish in the 103d Congress. On that day I said I was going to introduce a comprehensive health care reform proposal because of my strong belief that responsible health care reform was going to have to be drafted on a bipartisan basis with the support of at least 80 or 90 percent of the Senate. I have not given up on that effort either. However, I did say January 21 that there was one area I was concerned about that I would be working on that we could not afford to delay, and that was health care reform for rural America.

So I on that day, Mr. President, I introduced the rural health care bill to improve access to health care in rural America, and that bill received broad bipartisan support.

The point I would make is that I am happy to see that we have the groundswell for support for rural health care. Rural Americans make up about 20 percent of the population. Contrary to what some may believe, rural Americans are as much of a diverse group of Americans as any living in other parts of the country. That is why, when proposing health care reforms, rural Americans are no more likely to adopt a one-size-fits-all model than are Americans living in any other part of the country.

Many of these provisions we have now put in the Mitchell bill, if adopted, are in the so-called Dole-Packwood bill which was sponsored by 38 Republicans along with myself and Senator PACKWOOD.

Again, I say it is not a partisan bill. It is called The American Option. We still have to attract colleagues on the other side of the aisle to this bill. Many of these provisions are quite technical, but I think they follow along. In fact, probably the amendment that we just passed would supplement some of the things we have done in our bill.

So, while we do have our fair share of disagreements in this Chamber on the issue of health care reform, I am happy to see the groundswell of support to make rural health care better and more accessible.

Rural Americans make up about 20 percent of the population. And, contrary to what some may believe, rural Americans are as diverse a group as Americans living in any other part of the country. That's why when proposing health care reforms, rural Americans are no more likely to adapt to a one-size-fits-all model than are Americans living in any other part of the country.

Mr. President, Senator PACKWOOD and I, along with 38 of our colleagues have incorporated many of these provisions in the American option plan that we introduced on August 9. In that bill, we give special consideration to rural Americans.

Mr. President, as rural Americans know all too well, access to health care providers can be just as much of a challenge in rural America as is cost. That is why in our bill we have special provisions to improve access to health care in rural America.

Many of these provisions are quite technical, but let me just summarize what they would accomplish.

More primary care: The way Medicare reimburses medical education would be changed so that young physicians can be trained in places like community health centers, or other out-patient settings, where more primary care providers are likely to be trained.

Improved reimbursement for nurse practitioners and other nonphysician providers to encourage more of these providers to practice in rural areas.

Better access to rural hospital by extending payments for Medicare dependent hospitals through 1998. The Dole-Packwood proposal recognizes that these payments may make the difference between keeping a hospital's doors open or not.

Establishment of telecommunication grants in rural areas, so that providers practicing in these areas have better information and the ability to communicate with providers in distant areas.

Mr. President, take for example a case involving a doctor in Hays, KS. He was stumped by a young boy experiencing paralysis of the right side. Unlike stroke victims, the paralysis was sporadic and difficult to diagnose. During one such episode, the doctor and patient used a new telemedicine link-up site. Two hours later, a specialist 266 miles away in Kansas City diagnosed the condition and prescribed the proper medication. The boy is now back on his feet again, all without leaving his hometown.

No doubt about it, two-way interactive video, through telemedicine provisions in this amendment, as well as in the Dole-Packwood bill, improves health care and can save lives.

Mr. President, I support this amendment because of provisions such as this. The Dole-Packwood bill would also help rural Americans through many of its insurance market reforms.

For example, rural Americans are more likely to be self-employed or work for a small business that does not provide health insurance. In fact, over 90 percent of the businesses in my home State of Kansas have fewer than 10 employees.

Under current law, individuals who purchase their own insurance are not able to deduct the cost of that insurance. The Dole-Packwood bill would phase in full deductibility of health insurance so that those who are self-employed or who buy their own insurance are treated the same as those employed by large businesses.

I would note that the bill introduced by the majority leader would only allow for a 50-percent deductibility of insurance premiums by the self-employed. For those buying their own insurance, the difference between 50-percent deductibility and 100-percent deductibility may greatly influence the decision to purchase insurance or not.

Mr. President, I ask unanimous consent that a list of provisions in the Dole-Packwood bill that specifically target rural areas be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROVISIONS IN DOLE-PACKWOOD PROPOSAL SPECIFICALLY TARGETED TO RURAL AREAS

1. Extend Essential Access Community Hospital program and Rural Primary Care Hospital program (E.A.C.H./R.P.C.H.) to all states. Currently only seven seven states have these grants available to them. The purpose is to enable these smaller hospitals to continue in their mission to provide primary care services to the residents of rural areas.

2. Better access to rural hospitals by extending payments for Medicare dependent hospitals through 1998. The Dole-Packwood proposal recognizes that these payments may make the difference between a hospital keeping its doors open or not.

3. Expand the Medical Assistance Program to all states. Currently, this program is limited only to the state of Montana—a state which has had a lot of success assisting small rural communities to establish medical facilities.

4. Non-refundable tax credits for health care personnel who establish practices in medically underserved communities.

5. Improved reimbursement for nurse practitioners and other non-physician providers to encourage more of these providers to practice in rural areas.

6. Federal funds available for the development of health care networks in underserved rural communities. Grants and low interest loans would assist with resources needed to develop rural health care facilities.

7. States may designate medically underserved areas which will then receive special considerations, including service from health plans in adjoining geographic areas, increased compensation for health services, and federal assistance for development of health care services.

8. Establishment of telecommunication grants in rural areas, so that providers practicing in these areas have better information and the ability to communicate with providers in distant areas.

9. Provides resources for medical transportation for rural and frontier areas.

10. Upgrades the federal office of rural health to increase the attention to rural health care needs in the federal establishment.

11. More primary care: the way Medicare reimburses medical education would be changed so that residents can learn in places like community health centers, or other outpatient settings, where more primary care providers are likely to be trained.

12. Increased federal support for primary care services for groups most likely to be uninsured or high risk: childhood immunization, maternal and child health, breast and cervical cancer prevention, HIV early detection, tuberculosis prevention, and health care for the homeless.

13. Increase support for public health service programs, including community health centers, migrant health centers, and federally qualified health centers.

14. Prospective payment assessment commission (PROPAC) will conduct studies and make recommendations on ways to improve access to health care for vulnerable populations in rural areas.

Mr. DOLE. I thank my colleague from Florida, Senator MACK, for letting me intervene during his debate.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes Senator GREGG.

Mr. GREGG. Thank you, Mr. President.

Mr. President, I wanted to address the Senate generally on the issue of health care reform. We heard a tremendous amount of discussion about the issue of health care reform over the last few days. I think it has been extremely informative and worthwhile as we have tried to digest and understand this incredibly complex document called the Clinton-Mitchell bill.

The implications of that bill for not only health care delivery in this country, but actually for the country itself as it moves into the next century, are overwhelming and very pervasive.

I want to talk a little bit about the philosophy of the health care reform effort as represented by the Clinton-Mitchell bill, and by the attempts put forward by Senator DOLE, and Congressman ROWLAND, and then talk a little bit about the specifics of what this bill does in the area of impacting States' rights and State's obligations because it is overwhelming in its effect on States and how they are going to function as we go into this next decade, should it be passed.

We started out here as a Congress and as a people with the leadership of the President and the First Lady, which I certainly commend, in the area of saying to the American public that the health care system of this country needs some repair.

There was set out a series of goals, and amongst those goals I think there was general agreement; an agreement that we should extend coverage, an agreement that we should increase quality, and an agreement that we should control costs. I think we also understood that in trying to reach those goals, they were inherently in conflict to some degree.

It is difficult, for example, to control costs while expanding coverage and to control costs while increasing quality. But still, these were very substantive, very appropriate goals for our Nation to pursue, and for this Congress to try to address as we look at the health care delivery system.

The President and his people sat down, the First Lady leading the exercise, and it was sort of an exercise. And 500 or so people met in secret for an extended period of time. They came forward with this large opus called "The Clinton health care bill." It was a bill which put forward a certain philosophy, not only of how health care should be delivered in this country, but actually how Government should function in this country.

When you look at this health care debate, you have to recognize that it goes beyond the issue of health because when you are dealing with 14 percent of the American economy, you are talking about impacting not only everybody's life as they pursue it, as to whether or not it is a healthy lifestyle or a non-health lifestyle or how they are cared for; but we are talking about a large percentage of Americans' financial well-being, and the manner in which the economy of the country reacts to that financial well-being, especially the relationship of the Government to the financial well-being of individuals, and the size of the Government specifically as it relates to the individuals, as it relates to the Nation as a whole and its percentage of absorption of the gross national product.

So we had in this whole debate from the beginning, not only a desire to reach these goals of coverage, quality, and cost control, but we had an underlying philosophical debate in trying to reach these goals which involved the question of how we govern ourselves as a society.

There is no question in my mind but that in the President's proposal, which has basically borne these additional proposals which we see today in the area of the Clinton-Mitchell plan or in the Gephardt proposal, but in these proposals we see a philosophy of government which subscribes to one set of values. Whereas, in proposals set forth by Senator DOLE, we see here, having been presented in this House with 39 sponsors, Senator NICKLES or Senator GRAMM, we have a different philosophy, and a different approach.

I think it is important to analyze or talk at least a little bit about these philosophies before we make a decision on this bill, because which philosophy we decide to ascribe to is going to clearly impact not only the delivery of health care and the quality of health care in America for the foreseeable future and for generations to come, but it is going to dominate the quality of lifestyle in the area of the relationship of individuals to Government, in the area of tax policy, in the area of the size of Government, and in the area of employment and who employs who, for decades to come.

Obviously, the philosophy put forth by the administration, by President Clinton and by Mrs. Clinton, is one that basically arises from the belief that Government knows best and that Government can be a dominant force in our life and should be the dominant force in our lives in determining public policy and how public policy is pursued.

That has been a philosophy that has been, obviously, not only strong but, to a significant degree, successful in our country for an extended period of time. I remember sitting on the floor of the House one time and expressing some frustration about a very important piece of legislation coming through, and the size of the legislation, and the effect it was going to have on the capacity of us to remain a productive society, because it was going to take so much in the way of Government activity to take over the private sector by such a large degree. At the time, a very thoughtful and knowledgeable Member of Congress, who had served many more years than I, came up to me, and he knew of my frustration, and he said to me, JUDD, just remember this: All government moves to the left." There is certainly no question about that, all government does move to the left. It is the question of how fast and how far it goes to the left.

In this case, what the Clinton administration has proposed and what the Mitchell bill carries forward is a giant leap forward to the left, a giant expansion in our Government activity as it intrudes into the private sector, as it intrudes into individual lifestyles and into, specifically, the health care delivery of the American people. And this is not something that is unique to this time. This is a continuum of events that has occurred. If you look at it in a historical perspective, in my opinion, it is a logical continuum of events, and it really represents one of the key strains between different philosophies and within different cultures, especially democratic cultures, throughout this century and the prior century.

If you trace it back, I suppose you would go back to the French Revolution and our own Revolution being the two defining events which set the course of action where you had basically the philosophy of the politics of the state versus the politics of the individual.

You had Marxism being the ultimate expression of the politics of the state, which arose in the 19th century, and in the 20th century was totally discredited. But as the concept of the politics of the state evolved from decade to decade—or devolved, as the case was, certainly in the area of Marxist philosophy—you ended up in the late 20th century coming to something in democracies which is basically the politics of dependency. Essentially, the

VOL 140 PT 16 AG 12 — 18 1994 UMI

politics of dependency says that you structure a government around a philosophy that says you can get elected to a position if you create enough people that are dependent on the Government so that they are inclined to vote for you because their dependence is tied to getting their support through the government, either direct or indirect.

That got sort of coupled with a politics of Populism, as we went through this century—Populism being defined in a lot of different manners, but essentially it says you can get a free lunch. That is essentially what Populist politics is about. It says that somebody else will pay for a benefit, do not worry about it; we will promise you the benefit. Somebody else will pay for it, and that is usually someone who represents an easy target, either an ethnic or financial group, that is, either a rich person or an ethnic group. We are going to take from them, and we justly have a right to take from them, because they have abused the system, and we are going to transfer it to you, the individual, who will be the recipient of the Populist politics.

Populist politics has always had a strong stream in American political thought throughout our time. When you couple Populist politics with dependency politics, you have a very effective force for political success and political elections—Huey Long being probably one of the best examples of that in our history, and one of the most egregious examples, also. That is not to say that all of it is Huey Long-type politics, but clearly that is the ultimate caricature of where those politics go.

On the other side of the coin, you have the politics of the individual as expressed, obviously, by John Locke, but carried forth through our own Constitution through our Founding Fathers who believe very strongly that it was the individual who carried the force within the society, and there was a responsibility that individual took on and pursued, and the government had a role, but the role was prescribed to very defined areas. And the more freedom and rights we gave the individual, the more success the individual would be and, as a result, the more successful and the more prosperous society would become. That could also be carried to its extreme. But in the essence of this debate are those two core philosophical approaches: the politics of dependency versus the politics of the individual, and the politics of the State versus the politics of the entrepreneur.

Granted, that may be too philosophical a tag to put on this whole debate, in many of its images that have occurred around here, but it is not too philosophical a tag to put on the outcome of this debate, because when you are dealing with 14 percent of the American economy, when you are dealing with everyone's lifestyle, you are obviously undertaking an act which is going to have catastrophic effect on the future course of this country.

So there is a great deal more at risk here, or at issue here—"risk" may be the wrong term—than simply health care reform. At issue here is whether that continuum that came out of the politics of the State and politics of dependency, which is too large to have been discredited throughout this century, is going to be the course America follows.

So whether we are going to say we do not need to take that course—to put it in its most obvious example, the question is whether or not we as a Nation wish to pursue a course which takes us down the path that a country like Sweden has taken, or many other European nations have taken, where essentially the Government becomes such an overbearing and major part of the entire lifestyle of everybody's existence that you have a cradle-to-grave society, where Government tells you how to do things, when to do things, where to do things and, in effect, ends up becoming a force of such dominance that it undermines the four characteristics of individuality, aggressiveness, entrepreneurship, and productivity, most importantly, that are the essence of producing prosperity.

That is I think the key issue in this because what we are talking about is the prosperity of America, whether or not the culture that has produced a greater opportunity for prosperity and economic well-being and individual freedoms than any other culture that has ever been seen on this Earth, certainly any multiethnic culture seen on this Earth—I presume some narrow ethnic cultures, very small, that maybe have been competitive with us in economics and prosperity and maybe even in individual rights, but no multiethnic culture has ever accomplished what America has accomplished. And we have accomplished it because we have put great reliance on and confidence in entrepreneurship and the individual and the capacity of people other than the Government in Washington to resolve problems, whether it is in education or whether it is in just day-to-day life activities.

Yet today we confront, I honestly believe, a philosophical choice of such significant proportions or maybe I should say a political choice of such significant proportions that the outcome philosophically will be to dramatically adjust our course as a nation down the road of being a government that is a dependency-politics-driven government. And I recognize that that is good politics if you want to get reelected and if you want to maintain power, as has been shown for years by the House of Representatives. The best thing to do is vote programs, vote benefits, vote for something for someone, and then create an atmosphere where that individual or that group or that philosophically identified organization finds itself dependent on you, the elected official, for some percentage of either their financial well-being or their political placement.

That has always worked throughout time, and it works very well today, and you find yourself admiring those who within our institutions are so successful at promoting that as a way of maintaining power. And that is what it is about when you get right down to it—maintaining power.

But as you look at these documents you have to say to yourself, where do we draw the line? At what point do we as a nation say we just cannot take that extra step because that step puts us on a slippery slope that moves us so quickly into a society dominated from the center without the freedom of the individual initiative, without the capacity of the entrepreneur to be successful, that we will undermine the inherent engines of prosperity that make us work as a society. You can only succeed in this concept of the politics of dependency and the politics of the State as long as you have producers who can carry the burden.

Mark Twain wrote a nice little short story on this topic where he talked about it in very simple terms. But essentially the success or capacity to survive in the politics of dependency requires that you still have a productive sector that you can raid every so often in order to fund the free lunch and the guarantee of something-for-nothing government. Yet at some point you cross a line as nations like Sweden have found that they have and New Zealand, and you find their productivity has dropped so far and your sectors that your individuals who were aggressive initiators and inventors are no longer that and no are longer productive, and the quality of life and standard of living for everyone starts to drop. It is a bell curve basically of what happens in this area.

But this administration understands that. I suspect if Huey Long had gone to Wellesley he would have produced this document. It is an excellent piece of populist politics, and it is a true exercise in dependency politics. Therefore, I think and I feel very strongly that it must be defeated.

The complexity of it, which has been talked about at some length, is only one example of its natural elitism. You know there is an attitude—it is almost an utopian attitude of elitism that says essentially anyone who drafts something like this is saying: "Hey, listen; I know a lot more than you know." The 500 people who gathered in this room of intellectuals and academics and congressional staff, if there were any of any significance—there was not a provider person. "We actually know better than you do how to run your lifestyle."

The essential theme of this bill and the original Clinton bill was: "Listen. We can fix the health care system because we are smart, smarter than you, and if you do not understand that we will. We regret it. It means you are probably not bright enough to understand it."

That is the theory behind this. Or "You are just not compassionate enough to understand it. So, therefore, just stand back and let us manage your life for you and everything will be fine."

It is utopian elitism that runs through all of this that creates these types of documents with these huge imaginations of structure in their attempt to address problems that are humorous. Sometimes they are so complex, and yet when passed they have immediate and personal impacts on people, and affects their life and how their life is going to proceed.

The original goals of health care do not require this sort of action to be accomplished. They do not require the results of the folks sitting in the room and thinking up all the answers to all the problems in order to address them.

The original goals of health care were to improve quality, to control costs, and to expand coverage. And it does not take this opus to do that. In fact, I would argue and shall argue as I proceed in this discussion that this proposal has substantially reduced the quality of health care in this country and well-expanded coverage—I will give it not dramatically—but a well-expanded coverage and every expansion is helpful. It certainly will not control cost and will aggravate the Federal deficit dramatically.

So, if we wish to address these goals, I think we can do a much better job than this, and we can do it without the officiousness and huge bureaucracy and top-down approach that is designed in this bill.

Let us talk about a few specifics, a few of the areas that this bill, this 1,400-plus page bill creates problems in. Right off the top there are 10 major problems with this bill.

First, it creates 17 new taxes, some fairly substantial new taxes, and these are taxes that are going to have to fall basically on the middle class. You are talking about raising $300 billion of new taxes in this bill over the 1995 to the year 2004 period. That is a huge amount of revenue to come out of the American sector, and it means that funds that might have been used for education, funds that might have been used for infrastructure, funds that might have been used just to create a new job here or there, will be going into this bill.

And what will they be going for? They will be going for a subsidy program which involves subsidizing one out of every two Americans. Under this bill, one out of every two Americans end up getting subsidized. That is a staggering figure. Somewhere between 115 million and 120 million people are going to end up being subsidized. That is good politics of dependency. I have to argue that is the ultimate.

One out every two Americans coming to depend on the Government for a benefit inevitably puts in power a lot of people for a long time who are going to guarantee that benefit. It also means you have inherently undermined the capacity of the rest of society to be productive when you get to that level of subsidy, with $1.5 trillion in new entitlements over the period of time, just a huge expansion in spending and entitlement action activity.

Here we have this President appointing an entitlement commission and asking that entitlements be brought under control. We have here speech after speech on the floor of this Senate about bringing entitlements under control so we can balance the budget and start to do something about the huge debt passing on to the children and the next generation making their capacity for survival dramatically reduced because we are giving them so much debt they have to bear.

We are going to take this piece of legislation here and create, I lost count because nobody ever seems to be able to figure it out, it seems like five major new entitlements costing well over $1 trillion, and we are not going to raise $350 billion in taxes to pay for them, but we are not going to pay for them all. So we are going to aggravate the deficit, in my opinion, dramatically under this bill.

That is unconscionable. We have put a mandate in place in this bill on the employer and the individuals mandates across the board, not just on the idea that what they must pay in insurance premiums, which is a payroll tax, which is in this bill, and you know it is called the trigger. There is this argument there is a trigger. The payroll tax is really never going to occur or may not occur. It may occur in some States and may not occur in other States. The trigger event is 95 percent coverage, which is an interesting number. I am not sure how it was picked, but I suspect it was picked because even Hawaii, which has had allegedly universal coverage for years does not have 95 percent coverage.

It has somewhere in the vicinity of 93 or 94 percent coverage. So every State is going to get triggered in, and there will be a mandate. It is just that it is structured politically very intelligently. Nobody in this Presidency is going to be in office when the trigger hits, so nobody is going to have to pay the political price for it. And, obviously, a lot of people who are involved in this bill will not be around, so they will not have to pay the political price for it. But it is there and it is going to occur.

It is a mandate of significant proportions on small and medium-sized business men and women running a business that is trying to be fairly productive or just barely making it or maybe not even making it. This type of a new payroll tax is going to just have a horrendous impact on them.

Take New Hampshire, my State, for example, which has its largest employment in the sector of hospitality activity, which is hotels, restaurants, and tourism activity. They are our largest employers.

Most of these folks offer their people insurance, but they have a large percentage of people, usually, who are part-time people. They are spouses of somebody who has a full-time job and they do this to supplement their income, or they are college students supplementing their income, or somebody in transition in lifestyle supplementing their income, or maybe they are just ski bums. They come up and work for a few months and take a few months off, and that is the lifestyle they pursue.

But, in that industry, for example, a mandate is devastating.

I recall very vividly somebody who runs a small motel up in Conway, NH, testifying before one of the many health care forums which I have held, and I have held a tremendous number throughout the State. He said, simply, "Listen, I have pushed the numbers. I have taken a pencil to the paper on this. For me to be able to pay for the mandate in this bill"—it was the Clinton bill at that time, but the mandate in this bill is only 30 percent less than that—"I am going to have to sell another thousand rooms a year. I can't sell another thousand rooms a year." He said, "If I could sell another thousand rooms a year, I would sell another thousand rooms a year."

Like President Clinton telling a pizza seller, "Well, just raise your prices to cover this." He cannot do it.

And his reaction was, "I am going to have to lay people off. I am not going to be able to maintain the number of people."

A little later, I want to get into how this actual mandate works if one State should, by chance, end up out from underneath it. It is an overwhelming implication for the States in their activities as to how they would ever comply with it.

Another major problem with the bill is price controls. How many times have we, as a society, and has this world proven in a democratic society that price controls do not work; that price controls inherently constrict an economy in a way that undermines not only the goal, which is to contain costs, but also, more significantly, undermines initiative and incentive and creativity.

Take the drug industry, for example. The drug industry has been one of the popular whipping boys for this administration as it has gone down the road

VOL 140 PT 16 AG 12 — 18 1994 UMI

in pursuing health care. And, of course, populism demands an enemy list, and drug companies have been excellent to put on that list. That list has been sort of a rotating list. It was once doctors and then Congressmen with their health plans, and then it is drugs. But they make a good target, let us face it. They make a lot of money.

But if you take the biotechnology industry, which does not make a lot of money—it costs $300 million to bring a new drug on the market and it takes 10 years to bring that drug on the market. What is the effect of price controls on a industry like that? Well, the effect of price controls on an industry like that is they are not going to get anybody to invest $300 million and wait 10 years for them to bring a new drug on the market.

It does not work that way. If you are an investor or group of investors and you have that type of money to invest and you get to the end of the line after it has been out for 10 years, looking to see if this experimental drug is going to work, and you find that drug is going to be subject, when it does work, which a long shot, is going to be subject to a price controlled event of some nature—granted, the Mitchell bill is not as restrictive as the Clinton bill on this, but the concept is still there. And you can see it, the gleam is still in the back of somebody's mind, that somebody is going to figure out how to take this Clinton price language and upgrade it to some sort of control.

But the practical effect is the investment, instead of going into research on a drug or new drugs that might cure some sort of neurological disease, is going to go into developing some software or developing a new widget or gadget in some other sector of the economy.

And we saw this almost instantaneously. After the Clinton bill was initially introduced, there was a dramatic drop in investment in initial offerings for biotech companies. There has been some abatement of that now, because there is less fear of it, but still the philosophy of price control has that impact on the marketplace. It retards research and it does not in the end ever control costs in any significant way.

Then the bill imposes new taxes that will raise the cost of coverage for families for health care. There is a 1.75 premium tax in this bill, plus, because of all the obligations they put on the States, which they do not pay the States to execute so the States are going to have to probably go out and raise revenue to pay for the administration cost, which they are required to do under this Federal bill. And under the Federal bill, in our graciousness, the Clinton-Mitchell bill has said, well, the States can go out and tax premiums. So they are going to get hit, on top of this 1.75 percent, with probably an additional State tax to pay for the costs which are generated by this bureaucracy which the States are going to have to put in place in order to comply with the Federal bill.

And, of course, the bill does have massive bureaucracies. And I am going to talk at length about that and especially as it affects States. And the bill really takes health choices away from us as American people and puts them in the hands of the bureaucracy.

Those are just some of the problems with this which basically underlie this huge piece of legislation that has been brought forward here by Senator MITCHELL and which is basically the Clinton-Mitchell bill.

It is a massive document. We have not had the time, even though we have been at it now for a few days, to really analyze the whole thing. We keep finding these little problems within it, fairly significant problems, and we bring them forward, but I do not think we have seen all the problems that exist in this bill. And so, I do think we need to go forward and continue to air the issues which this bill raises.

What I want to talk about in specifics relative to this bill today is its impact on the States, because I used to serve as the executive of a State. I looked at this bill and I was stunned at the burden which this bill is going to put on State governments.

There are 177 new responsibilities in this piece of legislation that States are going to have to comply with—177. Now, I have to tell you, as a former Governor and as a State administrator, one or two Federal responsibilities can ruin your day, can make your life miserable.

Take, for example, some of the Federal responsibilities that are put on States through the EPA.

I recall in New Hampshire, it took us 16 years—16 years—to build a 17-mile section of road in New Hampshire. We had four lanes going in and four lanes going out and it narrowed down to two lanes. For 16 years, we had to deal with Federal regulations coming out of the EPA to try to get those two lanes up to four lanes. That was the only major east-west highway in the State. And during that time, approximately 20 people died in that two-lane piece of road. That was the most dangerous piece of road certainly in the State and probably in New England.

But we could not get the Federal Government to change its regulations, to modify its regulations, to allow us to go forward in a timely manner and to build a road. Even though all the major groups had signed off on it in the State, even though Federal Highway signed off on it, and Fish and Wildlife had signed off on it, the Corps of Engineers had signed off on it, we still could not get it built.

That was just one group of responsibilities that were put on us by the Federal Government. Now we are going to have 177 new responsibilities put on the State governments, none of which, by the way, are paid for under this bill. So the Federal Government is telling the State government to pursue all these new actions, but it is not saying to the State governments we are going to help you pay for these costs.

I want to run through some of these because they are significant. Even though they are only a small section within the bill, they are very significant responsibilities. And somebody has thought these up, that is what amazes you. Somebody in some room somewhere in this building, one of these buildings, thought up all these little ideas—well, not little ideas—these grandiose ideas and said, "Let us stick that in the legislation." It is like dropping a very huge rock in a small pond, because the waves this is going to create out in the States are going to be overwhelming. The unintended consequences cannot even be conceived. Obviously they are unintended, but the unintended consequences will be massive and the effects will be dramatic.

In many cases the effects will be to significantly diminish the quality of life and the health care of various people throughout our country. I will give specific examples of why I think so, why specifically in New Hampshire it is going to significantly diminish the quality of health care. But first let me go into some of these 177 new responsibilities, because they are really overwhelming in their impact on the States. You have to feel sorry for the State legislatures and Governors and bureaucracies within the States that are going to get stuck with these.

They start right off with one that sort of sums it all up in some ways. "Satisfy all its responsibilities." This is section 1412, "Satisfy all its [the State's] responsibilities under the Act," including the development of a health care system that can obtain Health and Human Services approval, or face a variety of sanctions including having the Health and Human Services Secretary assume the State's responsibility under the act and having a 15-percent premium tax imposed on its citizens.

In simple language what that says is, if you do not do it our way, States, we are going to come in and we are going to tax your people into oblivion. This is true Federal bureaucratic elitism.

Yesterday we had an amendment to knock out the $10,000 fine, which was the penalty fine against any employer who decided they wanted to offer more of a benefit than the standard care benefit, or less of a benefit. It applied to every employee. So that was an example, another example of this type of attitude.

But this one says, essentially, every citizen in the State will be subject to a 15-percent premium tax if the State government does not meet the arbitrary, capricious, officious attitudes or

views of the Health and Human Services Department here in Washington, developing these health delivery services. I find that insulting. I thought we are a federal system. We are obviously not a federal system—not as far as President Clinton is concerned, or the Mitchell-Clinton bill is concerned. We are a system where you put a gun to the head of the folks out there in the States and say either you do it my way or we are going to come in and tax you into oblivion.

Mr. COATS. Will the Senator yield at that point for a question?

Mr. GREGG. I will certainly yield to the Senator.

Mr. COATS. I would just note the Senator from New Hampshire is a former Governor. Of course we have heard the rhetoric here all week: No, this is not the Federal Government takeover of the health care system. Much of it is going to be administered by the States.

I think the point the Senator from New Hampshire is making is that a great deal of the responsibility of the State is being dictated by the Federal Government.

I wonder, as a former Governor of New Hampshire, if the Senator could give us his perspective on just what a State like New Hampshire would be faced with in terms of putting together the kind of agencies and governmental functions in order to carry out some of the responsibilities that are now going to be laid on the States through the Mitchell bill?

Mr. GREGG. I thank the Senator from Indiana for his question. I think it is a good point. Essentially, the States have no flexibility in this bill. The States are told how to structure their health care system and then they are told how they are going to administer the system. And then the Federal Government does not even have the courtesy of paying for it after they tell them they have to do all these things.

The practical implications for a State like New Hampshire, which is a small State, are, we would literally probably have to add more bureaucracy and more new State employees to administer this plan than we presently have in our largest department, which would be Health and Human Services or our Highway Department. We would probably have to create literally a brand new government simply to administer this plan.

I said sort of off-the-cuff, and half seriously, we would have to pick a new place to have a State capital in order to handle the number of people we would have to add to administer what is requested of us in this proposal.

Let me go through some of these additional things. You can understand that fairly quickly—well, not fairly quickly, because it takes a long time to go through 177, and I plan to go through maybe them all or at least a high percentage of them. But I think it is important to go down them because we cannot take this bill up until we understand what we are doing to our States. So let us talk about it.

The first was, if you do not do it our way we fine you 15 percent. Unbelievable; everybody in the State gets fined 15 percent. They are not comfortable just going out and fining the Governor. As Governor I used to get sued all the time. No, they are going to fine everybody in the State 15 percent.

Second:

Require that each health plan (whether insured or self-insured) or long-term care policy issued, sold, offered for sale, or operated in the State be certified by the appropriate certifying authority as a certified standard health plan, a certified supplemental health benefits plan, or a certified long-term care policy.

That means the insurance—I presume in most States it is going to be the insurance commission who is given the obligation of checking every plan offered in the State to see it meets, not a State definition of what is a standard plan, supplemental health plan or long-term care plan, but a Federal definition. And, for anyone who has ever tried to figure out what a Federal definition is of anything, it is a very difficult process because of the complexity of the situation. I suspect these will be moving targets which will be very hard for any insurance commissioner to confirm. So it is going to be a huge regulatory burden.

Third, "Establish rules for the event a capacity limitation applies to a plan."

That is section 1111. I do not know what it is. I do not know what the rules would be, but obviously they have to put some rules in place.

Fourth:

Establish procedures and methods to assure equal opportunity of enrollment for all families, regardless of when during the open enrollment period, or the method by which, the enrollment has been sought, in accordance with rules established by the HHS Secretary.

Again, what we are saying to the States is you shall set up a bureaucracy to basically monitor everyone in the State on the issue of open enrollment, on the issue of equal opportunity. But you shall do it under a set of standards set up by the Health and Human Services Secretary.

The burden there is, just statistically, probably beyond the capacity of most States to do.

Fifth:

Implement procedure by which individuals enrolled in a standard health plan may disenroll from such plans for good cause (as defined [guess who] by the Health and Human Services Secretary) at any time during a year and enroll in another standard health plan, in a manner that ensures continuity of coverage for standard benefits package or the alternate standard benefits package for such individual during the year.

Again, what you are saying to the States is that basically they have to be the mother, here, of all these different individual plans and all the different enrollment activities within these plans. Not within the context of what they deem to be appropriate, what the State regulatory authority deems to be appropriate, but within the context of what is given to them from on high, from the mount, the Health and Human Services Secretary.

Again, I am not sure how you would set up a computer system to handle that one, but you would have to probably have every State in this country purchase a supercomputer, not just a regular computer system. I suspect just to administer that one section, you would require some sort of supercomputer capabilities, because I do not think your standard computer systems that most States have in place can handle it.

Sixth:

In accordance with HHS standards—

Once again Health and Human Services standards.

ensure the broad availability and processing of enrollment forms, including direct enrollment through the mail, and other such processes as the HHS Secretary may designate.

I think the important point to note here is that everything—everything—the State has to do, comes from a directive from the Health and Human Services or the Labor Department in each one of these. There is no flexibility. The States are not given any flexibility. What we are setting up here is a massive bureaucracy of disproportionate impact in a small State like New Hampshire where you will, basically, have the Government from Washington telling the government of the States exactly what they will do and, basically, telling every individual through the States exactly how they shall act as it comes to their health care structure. It is Orwellian in the extreme, to say the least.

Seventh:

With respect to a child-State supervised care, consider the child as a family of one and enroll the child with State agency who has been awarded temporary or permanent custody of the child in a high-cost sharing plan, unless the State agency has established a special health service delivery system designated to customize and more efficiently provide health services to children in a State-supervised care, in which case the State agency will enroll the child in the plan appropriate to ensure access to such a special health service delivery system.

That sounds fairly benign, but what it means is, that for every child who is in the State of New Hampshire's DCYS system, we are going to have to get a Federal waiver for each child and the process of getting a waiver is not simple. You are talking about a huge number of people having to fill out a tremendous number of forms and then do it again and again and again for each child who we want to move into a system that is something other than what is the high-cost plan which the State presently has.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Believe me, in New Hampshire, we do an excellent job of taking care of our children. We are rated No. 1 in the country for caring for disadvantaged children. We are No. 1 in the country in the area of immunization. We are No. 1 in the country for mental health care, both for children and for adults. We have a very strong commitment in this area, and we have unique services which I suspect would not fall into this category that is being set out as a high-cost plan.

Therefore, we are going to find ourselves having to waiver each one of these children in order to have them take advantage of a service which we have been delivering and which has been doing good things for that child for years.

Eighth:

Establish fair marketing practice laws standards, including to prevent selective marketing, to govern the marketing of standard health plans through use of direct marketing agency, or other arrangements to distribute health plan information.

That is the Federal Government is telling the States that they are going to have to become the marketers of the health care plan. So States not only are going to have to manage the health care plans, they are going to have to market the health care plans. That means a whole new agency.

The State of New Hampshire will now have, I guess, a State of New Hampshire agency for the purposes of advertising health care plans and will have to go out and buy TV time, radio time, and newspapers, and put out press releases and do all that sort of stuff. Not something that really a public entity is all that good at usually, especially on a complex issue like health care.

Ninth:

Impose no limit on the ability of any plan to contract with a provider of health services located outside the geographic boundaries of a community rating area or the State.

If you are going to go to this concept of community rating and you are going to go to this concept of managed care, you basically have punched a huge hole in cost control when you start saying, "But there shall be no limits on who a provider can contract with." You are essentially saying a New Hampshire community-rated HMO will have to contract with, let us say, somebody on Cape Cod who has a service in alcohol treatment or something like that. It is a huge hole in the cost containment elements of health care if you are going to go to managed care promotion programs.

I do notice there are other people who want to speak. So let me move along to some of the other issues I think are significant in this bill.

I appreciate the President's attention.

The PRESIDING OFFICER. The Chair inquires, did the Senator indicate there were 177 points?

Mr. GREGG. That is correct. There are 177 of these obligations that the States undertake. I was on No. 9. So I am going to give you a break and move ahead a little bit to some of the more egregious ones and their impact on the States.

No. 19—but believe me, the ones in between are pretty egregious.

Nineteenth:

Have a program of reinsurance and risk adjustment that governs how a purchasing cooperative that requires direct payment of premiums shall" forward to the standard health plan the amounts collected on behalf of the enrollees in such plan.

It is just staggering to imagine how you are going to do that.

Twentieth:

Develop rules under which each purchasing cooperative in a community rating area shall provide the State with information on its membership and marketing fees.

Again, this gets the State into the business of being the public relations agency on health care within the State.

Twenty-second:

Use the actuarial data to make a determination that each plan's marketing fees are based on a legitimate variation in marketing and distribution costs across alternative distribution sources.

Again, very complex to do that.

Twenty-third:

Have a program of reinsurance and risk adjustment that governs how the purchasing cooperative selected by the employer shall be responsible for forwarding premium payments to the appropriate plan or cooperative for each community-rated employee.

They are talking about setting up a system in New Hampshire under that little section there that will affect 1.1 million people. How you do that without creating a massive new bureaucracy is beyond me. You have to add literally hundreds of employees to the State payrolls to track that one item right there. That does not account for all these other items we have put in here that are just beyond comprehension in the level of new management burden put on the States.

Twenty-eighth: "Manage premium and cost-sharing discounts and reductions."

Thirty-eighth:

Consult with the HHS Secretary in its establishment of standards for guaranty funds to be established by States for community-rated health plans.

So the State becomes the insurer and has to set up the insurance accounts to make sure that these community-rated plans, if they do go under, are properly indemnified. And to do that, we have to go to Health and Human Services for direction.

Thirty-fourth:

In order to obtain start-up grants, provide assurances, satisfactory to the HHS Secretary, that amounts of State funds (at least equal to the amount made available) will be expended for start-up purposes.

That is pure blackmail, that is what that section is. That is blackmail. First, they are going to dump all these new programs on the States, and then they say to the States, "We're not even going to give you the start-up funds; we are not even going to give you the start-up funds unless you put forward a certain amount of money."

It is hard to believe that the people who drafted this amendment have ever gone back to their States—that section right there. If they have, they would be tarred and feathered if they ever admitted to having put that amendment together.

Forty-third:

Enter into agreements with the Secretary of Labor in order to enforce responsibilities of employers and large employer purchasing groups and requirements for employer-sponsored health care plans.

This is an interesting one. Now we have the Secretary of Labor, that we have to negotiate with on the issue of enforcement, and before we can do anything on enforcement, it looks like we are going to have to follow the directives of the Secretary of Labor for the same sort of precision and officiousness that we are seeing here in the area of Health and Human Services.

Seventieth:

Designate public access sites within each community rating area through which residents of such areas can obtain consumer information concerning health plans and purchasing cooperatives offered in such areas, in a manner that ensures access to such information by the health care consumers.

That means, once again, that the State is in the PR business, and I presume it also means that the State is essentially going to have to set up kiosks which they are going to have to man, where they are going to talk about health care. It does not say how we are going to pay for that. It just says States have to do it; they will probably have to have a kiosk in every mall in the State. Every mall will have its own New Hampshire health insurance State government information center. How much is that going to cost? How confusing is that going to be to the public?

Seventy-second:

Provide such public access materials to employers located within the State.

That is the effect of what I was mentioning.

Moving on to 86, which I find to be one of the most egregious in the entire group. There are so many egregious ones it is hard to differentiate standards of level of aggravation they are going to create to States.

But this one certainly is one of the worst. This is classic special interest politics.

Eighty-sixth:

Before initiating the process of implementing its home and community-based care program—

Before it can do that, the State must:

Commence negotiations with labor unions representing the employees of affected hospitals or facilities, to address the impact of the implementation of the program upon the work force, and methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. GREGG. Well, I am glad to see that this bill has not been affected by special interests. States must under this language negotiate with the labor unions before they can set up the home- and community-based programs. They are told what they have to negotiate, what the outcome of the negotiations have to be, for all intents and purposes.

Talk about special interest politics. When did State governments get into the business of labor negotiations dealing with health care centers? What expertise, to begin with, and what right does the State government have to go in and be the negotiator of this issue? Clearly none.

But they are demanded. It is a demand in here. Why? Because some labor union said it is important, probably for support of this bill. I do not know. But clearly it was put in there to take care of the special interests known as the health care labor unions.

Seventy-eighth:

Enact or adopt long-term care standards that conform with the Federal standards to be promulgated by the Health and Human Services Secretary, at the risk of having the HHS Secretary assume responsibility over long-term care policies in the State.

Now we were back at this other page where the State—that is, that other authority where the State—remember this one—must satisfy all responsibilities under the act and if it does not satisfy all responsibilities as approved by HHS, the State gets hit with a 15-percent premium on every consumer in the State. Every consumer gets hit with a 15-percent premium if we do not do it exactly the way HHS wants us to do it.

Now we have a section that says not only that, but we are not happy with hitting you with a 15-percent premium. State governments. We are going to take over your system on long-term health care if you do not do it exactly as the Secretary of HHS promulgates.

By the way, HHS has promulgated nothing in this area. And I presume when you look at the length of this act and number of initiatives—I think there are 800 initiatives that the Secretary of Health and Human Services is required to pursue under this act; there are 50 new bureaucracies also, but at the time they got around to promulgate this, the States would obviously have had to go forward, and then the States would find that they were not in compliance and the Secretary of Health and Human Services would come in and take over their plan.

That is clearly an aggressive use of the Federal power to dominate the States, and it delivers a blow to the States from which they would not be able to recover.

The theme of this bill is either you do it our way or we put a gun to your head and we shoot you. And our way is this huge bureaucratic entity called the Mitchell-Clinton bill, which creates all this in cost for the States.

Ninety-third:

Not later than January 1, 2001, achieve the integration of the mental illness and substance abuse services of the State and its political subdivisions with the mental illness and substance abuse services offered by the health plans pursuant to title I of this act.

I do not know how that works, but I do know that when you start talking mental health and start talking about, in New Hampshire at least, having the Federal Government come in and tell us how to do mental health, we get very upset. Why? Because we deliver the best mental health care in the country. We have spent a lot of resources and effort on our mental health delivery in New Hampshire, and we are very proud of it. It has been rated the best, not by us—obviously, we would rate it the best—but by such diverse groups as Ralph Nader and his organization. We are very sensitive when we start seeing the Federal Government coming in and telling us how to manage our mental health system. But this bill tells us exactly how to manage it, every part of it.

Ninety-seventh:

Report annually to the Health and Human Services Secretary on the incidence and prevalence of mental illness and substance abuse disorders in prison population, changes in such incidence and prevalence in prison population, and the potential causative factors with respect to such changes, including an estimate of the extent to which the denial of treatment—

Now catch that one.

to which the denial of treatment, or the provision of inadequate treatment, to the individuals with mental illness and substance abuse disorders is contributing to criminal activity of such individuals.

I get the feeling here that we are setting up for something, some special agenda. We are not treating those prisoners nicely enough. We do not have enough TV's, not enough basketball courts. We are very concerned about that. And we are setting up here for a nice little lawsuit brought by some organization which is interested in pursuing prisoners' rights. States are going to have to comply with this language or they lose, or they get hit with a 15-percent surtax on all their individuals because this is a part of the bill and if you do not comply with this language, if the States did not supply this information on denial of treatment, then they get sued, then they get hit with a 15-percent premium, and the HHS Secretary has the right to come in and take over the plan.

Ninety-eighth:

Receive grant assistance for the State's development and operation of comprehensive managed mental health and substance abuse programs that are integrated with the health delivery systems established under this act, provided such programs promote the development of integrated delivery systems for the management of the mental health and substance abuse services provided under the comprehensive benefits package, give priority to providing services to low-income adults with serious mental illness or substance abuse disorders and children with serious emotional disturbance or substance abuse disorders and provide for the phase-in of such services for all eligible persons within 5 years, ensure that individuals participating in the program have access to all medically necessary mental and substance abuse services—

Remember, "medically necessary" is now a term defined not by the doctor but by a bureaucracy here in Washington. A group of seven people will be defining what is medically necessary and appropriate under this bill, not your doctor.

promote the linkage of mental health and substance abuse services through primary and preventive health services, and meet such other requirements—

Such other requirements. My goodness, how many other requirements can they think of?

as the Secretary may impose; and provided the State has a detailed plan that is approved by the Secretary.

Now, of course, if you do not do that, they come in and they take over your mental health system. They are not content with taking over your health care system generally. They are not content with taking over your long-term care system generally. They want to take over your mental health system, too, because they know best. They know best. The people who wrote this bill, who sit down here in Washington, know best for you how your health care system should be delivered in your State and how you, as an individual, should interface with your doctor and your hospital. It is the ultimate in utopian elitism and arrogance.

One hundred third:

Establish a limited service hospital program that includes a rural primary care hospital program and/or medical assistance facility program.

I think most States have already done that. And they have worked hard at it. I do not think we need the Federal Government to come in and tell us we should do it again. If we do not do it, I guess they come in and they take over our rural delivery systems.

It will make the States make the maintenance of efforts payments. Maintenance of efforts payments are a tax on States, and a fairly significant tax. In many instances under this bill it is going to be rather large. Essentially, it says that the States shall pay the Federal Government for the right to participate in this new health care consortium which basically tells the States exactly what to do, when to do it. It does not reimburse the States. But we do have maintenance of efforts payments in here to make sure the States send tribute to Washington.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Then there is a requirement to make available through a consumer information advocacy center to all individuals a summary of the State health plan reports in the consumer report cards. That is an interesting authority required of the States. Remember, if we do not comply with that, we will end up once again with the HHS Secretary having the right to come in and take over the system, and assess a 15 percent premium tax on all consumers in the State.

What this essentially says is that there is going to be an advocacy group set up, another new Federal advocacy agency I presume with all of new advocates in it. And those advocates are under this. What they produce as their report card the State are going to have to distribute throughout the States. Maybe it will work. Advocacy is always good. But you know what you are saying here is that essentially we basically have nationalized the system. So in order to replace what is usually a market force event which would have businesses going out and talking to the employer, or yourself, or your labor union going out and talking to different insurance companies, trying to offer a plan, who has the best plan, and who offers what, we will have to have a group of advocates do it now because essentially we set up a structure which has eliminated the market face and the forces of exercise of the delivery of health care.

The list goes on and on. I skipped over an awful lot to get to No. 116. But I want to talk about a few more of them in specifics also because some of the ones I just laid out I think are reasonably egregious. In fact, they are dramatically egregious. But in addition, there are some that are even in my opinion more significant.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. GREGG. While I am searching through my papers, I yield to the Senator from West Virginia for the purposes of a question.

Mr. ROCKEFELLER. I am just interested in terms of the time, my own schedule, and perhaps others. The Senator has taken about hour and a half. I wonder how long the Senator plans to continue to talk for the purpose of convenience of Senators, including the Senator from West Virginia?

Mr. GREGG. I would expect that I will be speaking on this subject for an additional half an hour, I inform the Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Senator.

Mr. GREGG. Mr. President, we have gone through some of the highlights of some of the 177 additional requirements put on the States remembering that the basic schematic goal of this whole exercise is to have the Federal Government take over the health care system of America, and specifically to put the States in the position of being a functionary of the Federal HHS Secretary, making them essentially the carriers of the water of the bad news of the bureaucracy to the people in their States, with very little flexibility. It is not going to work obviously. Common sense tells you it is not going to work. But I recognize that common sense does not necessarily hold the day.

So let us talk in specifics, beyond the items that I mentioned about some of the more major events that this bill puts on the States, and how they will impact the States. Probably the most significant one, from the standpoint of how people's lives are affected is this whole issue of subsidies, the integration of subsidies, and how the States integrate subsidies, because how States take care of their medically needy people today, Medicaid people and people who are not on Medicaid but are low-income individuals, is obviously important.

In New Hampshire I think we have done a fairly good job. There is more we can do, and we are trying to do. In fact, in the last legislative session, many initiatives were passed. But under this bill, I think people need to understand the complexity of the new premium subsidy program and how it impacts the States.

Under this bill, there is a full subsidy for low-income individuals from 100 percent of poverty phased out as they get up to 200 percent poverty. There is a full subsidy for children under 19, and pregnant women 3 months after their pregnancy up to 185 percent of poverty. It phases out to 300 percent poverty. There is a subsidy for unemployed people up to wages of 75 percent of poverty for a period of 6 months.

What does that do to States? Remember that the States already have Medicaid. So they must continue to comply with the Medicaid Programs, and administer their Medicaid Programs under this bill. But under the Mitchell-Clinton plan, the States must offer wraparound coverage; that is, to continue to offer Medicaid services that are not offered in the Medicaid recipients standard plan. In other words, the Medicaid recipient falls under the standard plan. But, to the extent that Medicaid services exceed the quality that you would get from the standard plan, the States must offer a wraparound so that the Medicaid recipient will actually receive a higher benefit package—this is the welfare recipient—than the average American would receive under the standard plan. The States have to pay for this.

This would be extremely complex to undertake. The plans would have to have an incentive to limit coverage. They would have no incentive to limit coverage, and you would end up with an increased Medicaid wraparound. The coverage and the costs would shift directly to the State. It would be a dramatic cost shifting event.

Further, States set Medicaid income eligibility thresholds within the Federal parameters. But the Clinton-Mitchell subsidy thresholds do not correspondence to the State threshold. This will make for an administrative nightmare.

Also, the subsidy programs would be a tremendous undertaking because you would have problems confirming involuntary determinations as to unemployment subsidies, and determining pregnancy. You have to go in now and you have to determine when someone is pregnant, and when they are not pregnant. Can you imagine the personal information we are going to have to take from someone on that issue? Then you have the issue of when someone is working and when someone is not working. You have to verity State residency claims and income claims.

The complexity is huge. I am not saying it cannot be done. I suspect those complex things can be done. But what they are going to require is a dramatic increase in costs.

CBO has questioned this implementation of this system. In fact, they have estimated it would cost the States $50 billion over 10 years just to institute the subsidy. Where do they get that $50 billion? And $50 billion I know in Washington does not sound like much money for some reason.

I was stunned when I went to one of my first committee markups. They knocked all the zeros off, and all they were talking about was 50. I said, "What is 50?" They said, "That is $50 billion." Well, $50 billion would run the State of New Hampshire, actually run the entire State government, for 50 years-plus. So $50 billion is a lot of money when you are talking about passing the health care costs on to the States. All is not going to fall to New Hampshire. I hope not. But a significant number of dollars are going to fall on New Hampshire and all the other States, $50 billion among our States. And $50 billion per State over 10 years, that is $100 million if you were to spread it evenly. Obviously, you cannot spread it per capita. But that is a huge sum put on our State governments.

You also have a new program called the outreach enrollment system. Under this provision, States would have to establish a system under which individuals would be presumptively eligible for a subsidy and enroll in the plan at the point of service by the provider.

So what you have is when somebody walks into the doctor's office, they are presumed to be a subsidized individual. I can understand why the Clinton-Mitchell plan takes that view, because they are subsidizing to 115 to 120 million people—1 out of every 2 people. If you do not happen to be a subsidized person and you are walking down the street, you could probably be safe to say the person walking beside you is subsidized and be accurate. The point

is that there is a presumption of eligibility when the person walks into the provider's office, and the enrollment and subsidies are valid for 60 days.

In other words, people can declare themselves eligible for subsidies at the doctor office and have a plan pay for. Then the actual eligibility is determined later. If mistakes are made, who bears the cost? Well, the taxpayers bear the cost. This type of enrollment works in increasing coverage only if significant followup occurs to determine actual eligibility and to permanently enroll the individuals in the plan. States are thus required to undertake significant outreach efforts of this type, including the provision of an enrollment package to each provider in the State.

However, given the significant burdens, even standard enrollment and reconciliation would impose the followup outreach efforts and would be likely to fall by the wayside. This could lead to a significant drain on the Treasury. It is a payment taxpayers would have to make. Over 30 States now have provider enrollment already through contracting through private vendors. New Hampshire is one of them. If you do not, you are going to have to set up a system, and it will be extremely expensive. The Clinton plan authorized a 1-percent tax on States. I mentioned that earlier. States can assess this tax on premiums in order to pay for the cost. Well, I would hate as a Governor—and I suspect most legislators in the State legislature would not want to —to raise the premium tax in order to comply with a Federal rule which they had an absolute inability to monitor, to adjust, to effect. But that is what is being asked here.

The Health and Human Services Secretary essentially says you shall do this one—there are 177 mandates—and then you are going to have to add probably half again as many new State employees to administer as you presently have, and they say: "We will be nice and let you assess a tax on the premiums that your people pay." That is not something that I think most States want to do. But it is, again, a gun-to-the-head type of legislative action undertaken by the elite few here in Washington.

There is also the 1.75-percent tax, which is assessed against all people's premiums in this country, which is in the bill, and which is already in place if this bill passes. Remember, that is assessed against everybody, so State governments pay it, too, on their employees. That is a big dollar item, a 1.75-percent premium tax on State employees. That is a big number, and where does that come from? Well, in New Hampshire, it will come from the taxpayers to fund that tax on their State employees, and then they will also have to pay that tax on themselves, so they get to pay it twice. Are they not lucky as citizens of our country living in the States?

I have tried to go through this and analyze this bill as it is in a New Hampshire-specific way. I will read through some of the effects of this as it impacts New Hampshire. New Hampshire will have to develop a brand new untested health care system and get HHS approval or face the prospect, as I have mentioned before, of having New Hampshire citizens subject to a 15 percent premium tax. That is for starters. New Hampshire will have to submit—and all States will actually—a complex application to HHS by January 1997, and have it approved and updated every year.

Even if we could do it, I would not want to do it that fast. It is just very hard to take a system like the New Hampshire system, which is working extremely well, and throw it out the window and replace it with this new we-know-best Federal system, and do it in the timeframe that this bill has suggested.

I have mentioned a couple times that the New Hampshire system is doing very well. I want to read some statistics to support that, because if this goal is to improve health care—and I think that should be one of our goals—we ought to acknowledge that there are some places in this country where health care is fairly good, and in those places we are trying to solve the problems we have, but we think we are doing a good job. New Hampshire, for example, in national rankings, was rated No. 3, I guess, in the health of its people. It was rated the third most healthy State in the country. There are a lot of different statistics that went into that. We are rated the second best State in the country in the area of infant mortality. We have one of the lowest rates in the country. We are rated the lowest State in the country in the cost people have to pay for their health care, even though we have the best health care and the healthiest people in the country. We are No. 1 in the country in childhood vaccination. We are right in the top of the country in annual health care payments—we are in the bottom, but the top as far as cost goes. We have one of the lowest costs in the annual health care payments made by families and by individuals, so that we are a very inexpensive place to purchase health care. Yet, we deliver extremely good health care. As I mentioned, we are rated first in the country in mental health care.

We have accomplished this through a lot of work. It has been creating a very integrated system. Yes, we have uninsured people in New Hampshire, about 10 percent. We have tried to address that, most recently in legislation passed this year by the New Hampshire House. We do have a lot of services that are supplied to the State for free by many of our service providers. But we have a system that is working very, very well, for the vast majority of the people who live in the State. They get first class health care, and get it promptly and at a fair price. Before we throw that system out for this huge new bureaucratically-driven health care, I think we ought to expect that we are going to get something better. And we are definitely not.

To continue, under this proposal, if New Hampshire fails to meet the conditions of compliance, HHS can reduce the amount of payments for academic health centers and health research entities. And even if New Hampshire wants to continue to deliver the type of health care we are delivering—and it would probably be significantly different from what is planned under this bill—if we were continue to give the people the best health care in the country at the lowest cost in the country, with the best vaccination rates, mental health care, the best care for children in disadvantaged situations, we would be fined. Then we would start to see that in order to force compliance with this brand new huge bureaucracy, which would create mediocrity, in my opinion, we would start losing some of our payments to critical institutions, such as all academic health centers—and we do have one excellent one in New Hampshire—the acute care portion of the Medicaid program in New Hampshire would retain responsibility for continuing the Medicaid program, which includes the highest cost parts and the long-term care, plus determining eligibility and administering three new subsidy programs, huge cost to the State. New Hampshire would be responsible for implementing at least three new multibillion-dollar subsidy programs for the temporary unemployed, the low-income, pregnant woman and child, and hard to reach low-income groups like the homeless, and again no reimbursement for those costs, and CBO has acknowledged that it would be difficult for States to pursue that.

New Hampshire can expect that this would affect almost 370,000 individual residents in these subsidies programs. New Hampshire must pay the amount of the premium assistance subsidy directly to the health plan in which the individual is enrolled.

New Hampshire must receive review applications once a year and revision of whenever estimates of income change and changes to complement status of family members.

New Hampshire must then revise the amount of premium to reflect the changes. All this is required of the States to do.

New Hampshire must conduct year-end reconciliation to each family income for the year based on each recipient's time with the State.

New Hampshire does not have a State income tax. How are we going to do this one? Reconcile everybody's income

VOL 140 PT 16 AG 12 — 18 1994 UMI

or at least 370,000 citizens' income in the State? What an outrage.

New Hampshire is required to verify the information by cross-checking with the Federal tax returns. I presume we can do that if we ever get a computer big enough. New Hampshire has to determine who underpaid, who overpaid, and how to make adjustments.

New Hampshire would be financially responsible for premium assistance based on eligibility determination error to the extent New Hampshire's error rate exceeds a maximum permissible error rate set by the omnipresent Secretary of HHS.

New Hampshire has to determine which families in the area have adjusted income below 200 percent of the applicable poverty level. New Hampshire would have to assure broad availability and processing of enrollment forms and provide direct enrollment through the mail while remaining in compliance with any other rules established by HHS, the omnipresent Health and Human Services Secretary.

New Hampshire would have to set up an outreach program and require certain health center providers to fill out application forms for new patients declaring they are financially eligible for subsidy.

Enrollee disenrollment from each standard plan must be reviewed to determine whether there is a pattern disenrollment that does not reflect the distribution of such plans reenrolling membership.

New Hampshire will need to establish a new 1 percent premium tax to pay.

New Hampshire is required to set up new insurance regulations. New Hampshire would be required to enforce complex new insurance laws, certify and accredit and enforce health plan standards, charter HIPC's and monitor the transfer of billions of dollars in insurance premiums paid by employers and individuals.

I think that is an important point: the idea that the State governments are essentially going to be conduits for all the cash and payments that are flowing through this system. Most States are not capable of managing those types of cash transactions and certainly not for overseeing them, taking the marketplace entirely out of the exercise. It is now all government, no marketplace.

New Hampshire would need to establish fair marketing practicing laws and standards, prevention of selective market and governance of State health plans through the use of direct marketing, agency and other arrangements to distribute health plan information.

We will probably have to buy a television station and go public 24 hours a day on this issue. Maybe we can get a new license they auction off down there. New standard, data, and other documentation in addition.

New Hampshire would need to comply with the HHS omnipresent standards to be published relating to management of finances, maintenance of records, audit procedures, and financial recording requirements.

New Hampshire would be required to establish a new risk adjustment organization, and using the methodologies developed by the omnipresent Health and Human Services Secretary, apply the per capita adjustment amount to community-rated and experience-rated and the multi-State plans and the health plans offered within each community rating area.

We are smart in New Hampshire, but I do not think smart enough to do that one.

New Hampshire would have to comply with the new community rating requirements.

New Hampshire would have to collect data on patient care, health spending, the functioning and efficiency of health plans, and the omnipresent Health and Human Services Secretary will determine what those reports and audits by New Hampshire were required.

Remember, under this bill your private medical information becomes a very public event. Under this bill researchers have the right to query you on your health care situation even without notice. They can come to your house and say "I want to know how your health care is doing. I want to know what happened here."

You have to theoretically respond to them. I expect in New Hampshire you will run into folks who will not take kindly to that and throw you out the door. As a practical matter under this law you are supposed to respond.

New Hampshire would have to develop and publish annually—in a format designated by the National Quality Council, an agency of the omnipresent Health and Human Services Secretary—the performance of each plan offered in New Hampshire with respect to a set of national standards.

New Hampshire would have a new State health care delivery system. Ours is not good enough. The fact its plans are ranked to be the best in the country with the lowest cost in the country does not matter. Out the door. Get a new one here, something designed in Washington by a group of folks who know best what the people of New Hampshire should have.

A new cap on entitlement replaces the disproportionate share hospital payments. While disproportionate share payments are reduced according to level of insured, New Hampshire has a new national $2.5 billion program which bypasses State government and goes straight to the hospitals serving vulnerable populations.

So you change the playing field fundamentally.

New Hampshire is required to identify all hospitals in which the low-income utilization rate exceeds 25 percent and provide a list to the Secretary. The State must also report the total of inpatient hospital days for hospitals in New Hampshire for the year in accordance with reporting procedures established by the omnipresent Secretary of HHS so the Secretary can calculate low-income days and each hospital receives an allotment directly from the Secretary on a quarterly basis.

New Hampshire must designate medical assistance facilities, rural primary facilities, hospitals that serve the population and essential community providers.

New Hampshire must have planning and have startup funds. New Hampshire must match the planning and startup funds. I talked about that earlier, the fact we get hit with a penalty if we do not match startup funds. New Hampshire would be required to oversee the HIPC's. New Hampshire will have to charter and certify the HIPC's and establish the voting rights of members to select its board of directors.

Maybe New Hampshire does not need a HIPC. We do have the best health care in the country and do it without a HIPC. We probably do not need a HIPC. Under this we have to establish one.

New Hampshire will have to determine the regional boundaries, and community rating areas must contain at least 250,000 individuals and not divide metropolitan areas. That is going to be an interesting statistical event in a State of 1,150,000 people.

New Hampshire would need to coordinate operations in a community rating area when a HIPC has operations in neighboring States, including the adoption of rules, contracting health with plans, enforcement activities and establishment of fee schedules for health providers. So we will end up obviously because we, like most States, have a number of sister States in a very complex operating structure with our sister State of Vermont, or sister State of Maine, or our sister State of Massachusetts.

I am not sure what happens to the people who live along the Canadian border who go over to Sherbrook for an operation. It will be an interesting exercise to say they are treated but the complexity for doing it is extraordinary. They would lose choice under the Clinton-Mitchell plan also, the standard benefit package, and the alternate benefit package will contain the same benefits. Only the costs sharing will vary.

For example, in New Hampshire, Christian Scientists complained forcing them to buy assistance will be a double blow. They will not use the benefits they pay for and will not get the benefits they will use.

New Hampshire opthalomologists have spoken to me about the Clinton plan, the Government funded centers for cataracts. They will not be able to compete, and a patient will lose the choice of eye doctors.

New Hampshire residents, really I suspect, as they look in depth at this plan are going to find that its massive expansion of obligations on the State create huge new bureaucracies which will fundamentally undermine the quality of care our State has. I do not today, which is excellent.

I do not think I have to rely on my own hypothesis on this. CBO, which has done analysis of this bill, which probably did one of the most devastating statements in this area, it said in addressing State responsibilities it said like several other proposals this one would place significant responsibilities on the States. I am quoting CBO on the States for developing and commending the new system, and it is doubtful that all States would be ready to assume that new responsibility in the timeframe envisioned. In addition, it says many of the States would simply be unable to comply with this language. States would bear the responsibilities for the requirement of the end of the year reconciliation processing which the income of subsidized families was checked to ensure that the families receiving the appropriate premium subsidy, reconciliation would be a major undertaking. Even if Federal income tax information could be used, many of the families receiving the subsidies would not be tax filers. Tracking people who move from one State or another during the year would also be difficult and would require extensive cooperation among the States. Probably be impossible. That is my parenthesis.

And it goes on and on.

It just basically points out that—another language: "It is doubtful that all States could develop the capabilities to perform these functions in the near future," talking there about monitoring the health insurance industries.

The language of the CBO report is just replete with statement after statement of the affects of this plan and its inappropriateness on the impact on the States.

In addition, the National Governors Conference, taking a long look at the Mitchell–Clinton plan, concluded also that large sections of it are going to have extensive negative impacts on the States. In one area, the plan concerns the following four categories.

One, that it does not integrate Medicaid into the new low-income programs.

Two, the adjustment factors to increase the States' main efforts of the contribution over time is higher for most States than the expected Medicaid growth.

What that means is the Federal Government is essentially extorting from the State money that it would not have gotten under the traditional payment process. There is no Federal funds to administer low-income programs, as I pointed out before, which cost almost $50 billion to the States, which is a huge sum.

And most standards, results, and regulations set by the Federal Government are nearly impossible—in the National Governors Association—nearly impossible to administer the plan.

Well, I have gone on for quite awhile here, but I think it was important. I could have gone on for a lot more time. I think it was important to go through in some depth how this plan basically takes control of State governments' function in the area of health care and how it puts onto the States this huge new structure of bureaucracy.

What is the bottom line? Many people sort of tune out and say, "Well, that's just the State government. So what?"

The bottom line is it affects the people who live in those States. The people who live in those States and have to pay new taxes and are put under the auspices of having basically to deal with Washington for their health care rather than their State government, are confronted with this huge new bureaucracy which will be confusing and hard to deal with.

In States like New Hampshire, which have such a strong tradition of delivering quality health care, it essentially undermines everything we have worked so hard to accomplish.

Now, yes, we all recognize that there needs to be reforms, that we need to address things like portability and preexisting conditions, and small-market reform, antitrust reform, and malpractice reform, and make sure that the low-income working person has fast and first insurance.

But, this is not the way to do that. We do not need to have a basic national Federal takeover in the name of dependency politics of our health care system in order to accomplish those goals.

And, in fact, this language—I think I have made the case—will significantly diminish the quality of care that is delivered, at least in the State of New Hampshire, because it will create huge bureaucracies and drain off huge amounts of resources to comply with ideas and initiatives which come there from Washington which may either, one, have no bearing on the quality of care in New Hampshire; or, two, which may actually undermine our present quality of care in New Hampshire.

The arrogance of this bill to come forward and say that we know best here in Washington how you in New Hampshire should run your health care system is what I find most frustrating about it. Because there are places in this country—and there are a lot of them—that are working hard to address health care and improve health care. They do not need to have the Health and Human Services Secretary essentially take over the government of the State in order to address that issue.

Rather, what they need is targeted reform, which will improve those functions of the health care system, which should be addressed from the national level. Those targeted reform ideas have been proposed. They have been proposed by Senator PACKWOOD and they have been proposed on the House side by Congressman BILIRAKIS and Congressman ROWLAND, Dr. ROWLAND. They are out there.

The only reason we are going forward with this bill is because of the point I made at the beginning of this discussion. It is this philosophical drive to move to dependency politics, the politics of the State, where you bring everybody under the control of—not under the control, but at least under the obligation; or not everybody, but a large percentage of the population becomes committed to or dependent on the Federal Government. And the Federal Government or the central Government becomes the center of power for the domination of the style and activities and delivery of the service.

That is a mistake. We do not need to step off onto this road with a giant leap. Regrettably, all government is moving to the left. But we do not need to assist it by taking this giant handspring in that direction through the passage of this bill.

I yield back my time.

I thank the Chair for her courtesy and I thank the Senator from West Virginia for his patience.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Senator from New Hampshire and others.

I wish to speak, Madam President, on health care reform. But it just seemed to me that, almost without exception, those who have come to speak on the other side about health care reform have, in almost identical words, disparaged the Mitchell plan.

What I keep looking for is something that they say they are for, and I just never hear it.

If we are discussing health care plans, we ought to be looking at the Mitchell plan and at the Dole plan. So that is a little bit of what I propose to do today. If the majority leader comes in, he may want to do a unanimous-consent request and I will yield to that.

Madam President, in the very simplest of terms, our debate on health care reform has come down to defining objectives. I have been working on health care—as has the Senator from Oregon, who is on the floor, and the Senator from Iowa, who is also on the floor, and others—for a long time. It has been a major concern, taking up a lot of my time for many years. I have looked at and I have studied more proposals, more plans, more analyses,

VOL 140 PT 16 AG 12 — 18 1994 UMI

more bills than I can count or that I wish to think about counting. And today I support Senator MITCHELL's bill.

But I also see, happily, some areas of agreement with those on the other side of the aisle. It might be nice to mention that. I understand it might be hard to tell from watching all of this, but it is true; I think there are areas of agreement.

For example, Democrats are as committed as Republicans to ensuring that every American will be able to keep the health care plans that they now have if they want to. Both parties are in agreement on that.

If you have Blue Cross and if you like Blue Cross, you should be able to keep Blue Cross. If you have health coverage with Aetna and you are satisfied with that health coverage with Aetna, you should keep Aetna, by all means.

The Mitchell bill lets Americans do just that, stick with the insurer that they have if they like that insurer. So we do agree on some key health care issues.

But behind this agreement there are some important differences, and it is important to talk about both plans and some of these differences. Let me try to explain why the Mitchell bill stands out to this Senator as the proper course for reform and why the Dole plan worries me.

In simplest terms, the Mitchell bill is intent on providing health care security for the American people. That is what we have said from the beginning. But the Dole plan tips the balance in favor of insurance companies. This difference is, obviously, very critical and I believe it is what makes the Dole bill dangerous and the Mitchell bill a far safer course for all of us.

With the Mitchell bill, we can see the progress that this Nation will make toward ensuring health insurance. Ensuring the insurance is always worth the premiums that people pay, always affordable and always secure; always there when you need it.

With the Dole bill, every American will still be at risk of paying premiums month after month, year after year—but finding their claims rejected just at the time that they need to use the coverage. The Mitchell plan offers reforms that will mean something to American families, real substance for real people in my home State of West Virginia, in the Presiding Officer's home State of Illinois. As we think of real families, working families, people we know, we want them to have health insurance that they can count on. The Mitchell bill does that for them and it will mean a great deal to them. It eliminates loopholes.

I refer to this chart. The Mitchell bill eliminates loopholes, limits on coverage, fine print, and deceptive practices. Too often fine print is used to deny people care when they need it most, or to let insurance companies cut and run from people just when medical bills get too high.

That bit of common sense in the Mitchell bill is long past due. Is that not exactly why people purchase insurance? So they have this kind of protection? That is what they pay their money for, to help them in the event their medical expenses get too costly. That is what insurance is for.

Today, insurance for senior citizens has a large hole in it. A visit to the doctor to find out that you need medicine is covered, but the medicine that the doctor may say that you need is not. That is a very large hole. The Mitchell plan plugs that hole by covering prescription drugs.

For senior citizens, the Mitchell plan has prescription drugs and long-term coverage.

Consumers will never have to fear losing their coverage under any circumstances. No more being dropped arbitrarily or canceled. The Mitchell bill stops those practices, and it provides help with premiums if you are between jobs.

We are told that in the course of a lifetime, young people will have 5, 7, 8, even 10 different jobs. There are a lot of people "between jobs" in my State, and I want them to have insurance between jobs while they are looking for other jobs.

So, the Mitchell bill is about getting and helping people keep good, reliable health insurance.

The Dole bill, however, is another story.

I refer to this second chart. Those insurance company loopholes and fine print that today can be used to deny or cancel insurance, stay in place in the Dole bill. Promises made in the Dole bill are meaningless because they apply to coverage that people cannot afford to buy or keep. Insurance does not mean anything unless you can keep it. Insurance companies' costs are completely uncontrolled in the Dole bill, and insurance bureaucrats can continue to dictate to doctors what care they give.

The story I love to tell in West Virginia is of a two-physician practice. In the two-physician practice in one of our cities there are 18 people working, 9 of those people practice medicine, 9 of those people do paperwork. Four of the nine people who do paperwork spend all day on the telephone to the insurance companies asking permission to do what the doctor in that office knows perfectly must be done, but they have to get permission from the insurance company to do that. That is outrageous. That is anachronistic, but that is our current system and that system is preserved under the Dole bill.

For those fortunate enough to get and keep coverage, there is not much to gain. The Dole bill offers no protection against sudden premium hikes. Even the most fortunate will be constantly at the mercy of insurance companies' radical rate hikes.

Under the Dole plan, Medicare gets cut. Yes, it does under the Mitchell plan as well, but under the Mitchell plan there is prescription drug and long-term care covreage in return for those cuts. Under the Dole plan, no prescription drug or long-term care coverage is offered. So that is a very substantial difference: The Dole plan cuts Medicare and offers no long-term care, no prescription drugs; the Mitchell bill cuts Medicare but provides prescription drug and long-term care coverage. Major, major differences. The Dole bill not exactly the reform people want and need.

People who lose jobs, people changing jobs are simply out of luck with the Dole plan. Perhaps it boils down to a different understanding of what the word "insurance" means. I have with me Webster's Dictionary. I want to read what the word "insurance" means in the Webster's Standard Dictionary: "To guarantee protection and safety."

To guarantee protection and safety. To guarantee protection and safety. I repeat that because I fear that if we keep going the way that we are, or if we choose the Republican route, insurance will no longer mean a guarantee of protection and safety. Instead the word "insurance" will, more and more often, be linked with the words "abuse," "fraud," "loopholes."

Democrats want to restore the value of having health insurance.

Today, too many policies are downright dangerous—in fact, even hazardous to people's health care. Filled with loopholes and fine print that can leave you financially and physically ruined when the medicine or the care that you need is denied because your coverage is incomplete.

Remember those employees in the doctor's office spending their days on the phone to insurance offices trying to get permission for treatment? Well, they do not always get the answer yes. And when the answer from the insurance company is no, the American people are the losers.

Americans should not need a magnifying glass to understand what they are buying in a health insurance policy. We do not have to be auto mechanics to go out and buy a car and know that it will not blow up when we step on the gas pedal. We do not need to be chemists to buy pajamas for our kids and know that they are fire retardant. We should not have to be lawyers or insurance experts to be sure our health care coverage is worth the premiums we will pay.

Democrats want Americans to choose among a wide variety of good insurance plans. The Mitchell bill guarantees a choice of plans, and it also guarantees that the plans are sound.

Let me read to you some clauses from a couple of health insurance plans. These are real health insurance policies—not from fly-by-night companies or tiny companies run out of the trunk of a car, but mainstream companies with well-known services that have limits and exclusions.

(The PRESIDENT pro tempore assumed the chair.)

Mr. ROCKEFELLER. Here is one example. I urge those listening to try to keep up with this as best they can. This is on page 6 under "Sickness," and it says:

Sickness means illness or disease of any insured which first manifests itself 30 days after the effective date of this policy and while this policy is in force. All sickness due to the same or related cause or causes which continues or recurs shall be considered one and the same sickness or "any one sickness" unless periods of confinement to a hospital or service, treatment or expenses incurred resulting from such Sickness are separated by an interval of at least 90 consecutive days—

At the beginning in the same paragraph, we had 30 consecutive days.

between the end of one such period and the beginning of a subsequent such period.

And then it says:

Any loss which results from hernia, disease or disorders of the reproductive organs, hemorrhoids, varicose veins, tonsils and/or adenoids, or otis media shall be covered only if such loss occurs after this policy has been in force for a period of 6 months —

This is 30 days, 90 days and now 6 months, all within two sentences of one paragraph.

from the Effective Date of This Policy provided these Sicknesses are not excluded by rider and endorsement and these Sicknesses are not preexisting conditions.

Mr. President, this is absurd. The people of West Virginia are highly intelligent. But when you get something like this, it is impossible to understand what it means. This is what would be allowed to continue under the Dole plan and would not be allowed to continue under the Mitchell plan.

Just one more. On page 10—and there is a lot more reading here—there is something called "Exclusions, Exceptions and Limitations." And then it says: "Coverage is not provided under this policy for loss due to"

And then a list of things which goes on for 15 different exclusions. Number 6 excludes "childbirth or pregnancy." Childbirth or pregnancy cannot be covered.

It is just incredible to me that in America, if a woman gets married, then gets pregnant, does not have health insurance, and she and her husband go out and try to buy health insurance so they can have good prenatal care, they cannot buy it because they have—here it is—pregnancy is a preexisting condition. I do not think they would necessarily know that with this insurance policy unless they read it very, very carefully.

There is another exclusion here, number 5, which amazes me:

Participation in aviation except as a fare-paying passenger traveling on a regularly scheduled airline flight.

I can draw no conclusion from that except it means if you are in one of those cost-saving or frequent-flier plans, it may be that if you get sick, you are not covered. I do not know what that means, though I am trying my best to make sense of it.

I will read exclusion number 14:

The correction of a congenital anomaly or abnormality after an insured is age 19.

Congenital anomaly means that you had something all your life. It is congenital. Your insurance coverage is clearly, on this last issue, wiped out.

This should be very distressing to us all. This is a major company's insurance policy, and it is something that most people, would put faith in and surely accept. But indeed there is the work of the devil in the details. This is just outrageous.

I will just use one more example from another health insurance policy written by a major company. And on page 11, under "Limitations and Exclusions," it reads:

This certificate does not cover any charges for any services, treatment, or supplies: furnished as a result of, or in any way related to a Pre-Existing condition.

Mr. President, that is what the Mitchell bill eliminates and what the Dole bill allows to continue. And once again, here in another health care policy it excludes "for pregnancy or childbirth, except for Complications of Pregnancy."

Well, that means no prenatal care. And since it says "childbirth" is not covered, I assume it means no well-baby checkups.

Insurance policies are major forces in people's lives. And within this handful of insurance policies are some extraordinary exclusions and limitations which are stopped in the Mitchell bill yet which will continue in the Dole bill.

Some have argued for years against requiring seat belts in cars. They called seat belts expensive and unnecessary. Some still argue against helmets for motorcycle riders because they want the freedom to take risks with their physical safety, not necessarily understanding that their physical safety could coincide with the physical safety of another person.

The truth is that the costs for victims of accidents without seatbelts or without helmets are not borne by the individual who takes the risk—too often we all pay the cost for those reckless decisions. That is wrong

Those who argue today that we should allow dangerous and hazardous insurance policies to be sold using the rhetoric of freedom and choice are simply protecting insurance companies' power and profit. Nothing more.

We do not want any bureaucrat—no Government bureaucrat and certainly no insurance company bureaucrat—to decide what illnesses or accidents qualify for care.

If you buy insurance, and you go to your doctor and your doctor tells you that you have cancer or that you are suffering from depression or you have some other ailment, your doctor should not have to call any insurance company to ask for permission to treat you. It will not happen under the Mitchell bill and it will continue under the Dole bill.

Increasingly, that is the system that we have in this country. Insurance company bureaucrats blocking coverage for whole categories of services. I am not talking about legitimate arguments against questionable or experimental treatments. I am talking about the wholesale exclusion of whole categories of necessary care: Preventive care, prenatal care, pregnancy-related services, preexisting conditions, prescription drugs—all legitimate and necessary services, all denied today by health insurance companies.

Republicans want to protect insurance companies' prerogatives, speeding us on a path to insurance company dictatorship.

This is not just a fear for the future—it is a reality that many Americans are now living with.

I have visited with them in West Virginia. Whenever possible, I visit families that have some kind of health care problem so I can better understand their concerns and better represent them.

Let me just share a letter from a constituent who has been frustrated and exhausted by insurance company rules and insurance company control. In a letter written just 3 weeks ago, Clarence Wickline, of Peterstown, WV, wrote:

I have Blue Cross and Blue Shield insurance. They take it out of my check every week.

My daughter was scheduled for surgery last week. She had all of her blood work and everything done and was going to check in the hospital the next day. The insurance company called the surgeon and refused to pay for it. So she couldn't have surgery.

Clarence Wickline concludes with:

I really don't think it's fair. Thanks for listening.

That a straightforward letter from a straightforward West Virginian who pays his insurance premiums and gets left out in the cold the one time his family needs their insurance.

Now, there has been plenty of technical talk about reform over the past year—mandates, triggers, alliances, cost shifting, redlining. It is hard to keep track of all of it, there is so much of it. And for the American people watching us and following the debate, it must be pretty confusing.

I am trying to put reform in simple terms. In real-life terms that tell people how the different health care reform plans will affect them, because we

VOL 140 PT 16 AG 12 — 18 1994 UMI

have two different plans—the Dole plan and the Mitchell plan.

If you are a middle-class, hard-working American consumer, the Mitchell plan looks out for you and delivers a real measure of reform that you will see. You can keep your plan or choose a new option, but no matter what, your insurance will always be worth the premiums that you pay for it.

If you are an insurance company, the Dole plan looks out for you. Business as usual. Loopholes for preexisting condition exclusions, limits on portability, higher premiums, no guarantee of choice—as full of holes as swiss cheese. In short, allowing this kind of insurance represents a reckless disregard, in this Senator's judgment, for public safety.

With those objectives, it is pretty clear that the Mitchell plan, in this Senator's judgment, is a moderate, thoughtful, and sensible approach that seeks to be effective but not intrusive. It makes sure insurance will be, for you and your kids, "a guarantee of protection and safety." And you and your doctor will always know that your insurance will provide the care that you need. Insurance company bureaucrats will not be able to cut you off.

That is meaningful reform. That is real reform for real people who I represent. It is not enough to say, as Republicans do, that we want you to keep your insurance. Getting to keep something labeled insurance that is gutted and loophole-ridden and weakened is not worth much. But that is what the Republican plan will do.

For all of those people whose letters that I read earlier, and the millions of others whose letters and phone calls we get, we must pass reform that makes health insurance a dependable, sure thing, not a gamble left to the whim of insurance companies.

I thank the Presiding Officer. I yield the floor.

Mr. MITCHELL. Mr. President, I hope in a few moments to be able to announce or propound a unanimous-consent agreement with respect to further proceedings on the pending amendment.

I know the Senator from Indiana was going to seek recognition. I merely request that we are ready to proceed, if he would permit us to go ahead and propound the agreement.

Mr. COATS. Mr. President, I would be happy to accommodate the majority leader's request in that regard.

Mr. COATS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, Senator MACK and I have an amendment at the desk which I think would most appropriately be entitled "Let the sunshine in."

In 1972, the Congress enacted an important act which has greatly contributed to openness and accountability in the executive branch. It is called the Federal Advisory Committee Act.

That act requires that any Presidential or executive task force, which includes private citizens, conduct its meetings in public. Let me restate that. The Federal Advisory Committee Act requires that any Presidential or executive task force, which includes private citizens, conduct its meetings in public.

The requirements of the Federal Advisory Committee Act, I think, are reasonable—Congress has determined that—and are there to ensure that the public, not included in those meetings, have access to Government activities which will directly affect their lives.

The Congress now has for over 20 some years upheld that particular statute. I think it is important. What it means is that all meetings will be open to the public. This is a Government of, by, and for the people. We can only assure that right, if the people are given access to what this Government is saying and doing.

The act requires that there be advanced notice of meetings. The act requires that the public be informed of the agenda of the meetings.

That means in this case that decisions made relative to medical care for 250 million-some Americans, whether it be the benefits that they will be entitled to, whether it will be medical services that are deemed appropriate and necessary, whether it be the cost of certain procedures, that those decisions, some affecting the most personal of all matters that affect our daily lives, be decided in a forum whereby the public is aware of the agenda up for discussion, where it has an opportunity to comment, where it has an opportunity to respond, testify, and to file statements; that those meetings be open to the general public. Records would have to be kept as mandated under FACA. The minutes, working papers, drafts, subsidies, et cetera, would be made available to the public.

I note that the majority leader is seeking recognition. I would be happy to suspend at this particular point.

The PRESIDENT pro tempore. Without objection, the Senator will retain his right to the floor.

The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague.

ORDER OF PROCEDURE

Mr. President, I have discussed with the distinguished manager of the bill, Senator MOYNIHAN, and the minority manager, Senator PACKWOOD, and others how best to proceed.

The pending amendment is amendment No. 2568 offered by Senator MACK. The amendment is not disputed. We are prepared to accept the amendment without further debate and by voice vote.

I inquire of my colleague from Oregon whether that would be agreeable for our colleagues, or whether they wish a vote on it, and further amendments?

Mr. PACKWOOD. No. We would like to vote on it. When I talked to the majority leader earlier he was saying 6 o'clock or so. I ran it by our side. We would like to vote at 6:45, if we could.

Mr. MITCHELL. Accordingly, then, Mr. President, I ask unanimous consent that the Senate vote on the Mack amendment at 6:45 p.m. today; that the time between now and then be equally divided, and under the control of Senators MOYNIHAN and PACKWOOD, or their designees; that no second-degree amendments to the amendment be in order, or amendment language may be stricken by the amendment; further, that following the vote on the Mack amendment I be recognized to offer the next amendment.

Mr. COATS. Reserving the right to object, just for a matter of clarification, I do not know if Senator MACK asked for the yeas and nays on the vote. My understanding is that there will be a recorded vote at 6:45 p.m.

Mr. PACKWOOD. We will ask for the yeas and nays. There will be a recorded vote.

I might say to the majority leader, the amendment is perfectly acceptable. It is one that I think will have good support, and is not a surprise amendment.

Mr. MITCHELL. Mr. President, I want to make clear that this vote at 6:45 will not be the last vote. We will continue.

Mr. PACKWOOD. As the majority leader indicated, he is hoping we will accept his amendment. I indicated there might be some people who would want to talk it, and would want to vote on it tonight.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hearing no objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleague. I thank the Senator from Indiana.

The PRESIDENT pro tempore. As the Chair understands the request, the time beginning now is equally divided, which includes the time which will now be used by the Senator from Indiana.

Mr. MITCHELL. That is correct.

Mr. PACKWOOD. It does not include the time used today, but equally divided from 2:30 on.

I yield further time as the Senator may require.

The PRESIDENT pro tempore. Is it the Chair's understanding that the time that will be used by Mr. COATS will be charged against the time under the control of Mr. PACKWOOD?

Mr. PACKWOOD. No. The time that he has used to date is not charged, and it starts running right now.

The PRESIDENT pro tempore. The Chair thanks the Senator.

The Senator from Indiana [Mr. COATS] is recognized.

Mr. COATS. Mr. President, I thank both the majority leader and the managers of this bill.

Mr. President, to pick up where I was, we were discussing the Federal Advisory Committee Act.

I noted that it was an important act that was enacted by the Congress in 1972. The purpose was solely to give the right of the American people the opportunity to know what was being debated by members of the executive branch that affected their interests. They would have the right to know what the agenda of the meeting was, and they would have the right to receive minutes of the record. They would have the right to insist that such meetings be held in public.

It is important, particularly in the context of the legislation that we are talking about now because, while most Federal meetings obviously have an effect on some Americans, when and if the legislation here regarding health care is passed, particularly if the Mitchell bill is passed, the decisions will be made that are among the most, if not the most sensitive, and the most intimate, regarding not just a few but all Americans. It is important that our Government continue to allow each of us who are affected by these decisions the opportunity to comment and respond.

We have heard, time and time again, that the bill before us is not a Government-run bill. As I have pointed out on this floor, there are 55 new Government agencies created by the bill that is before us—55. I have detailed and outlined those by section. There are 815 new duties that flow to the Secretary of Health and Human Services and 83 that flow to the Secretary of Labor. But I am especially troubled by the fact that in the creation of two of these agencies—perhaps the two most powerful agencies—perhaps the two new agencies that have the most influence over the personal lives of more than 250 million Americans, those agencies being the National Health Benefits Board and the National Health Care Cost and Coverage Commission. Those two agencies will be exempt from the provisions of the Federal Advisory Committee Act. That means that the decisions of those agencies will not be available to the public for scrutiny until those decisions have already been made. It will be a fait accompli. What is deemed medically necessary and appropriate, what prices, what price controls, what cost controls may be placed on the development of new technology, new innovations, and the diagnosis and treatment of disease, those decisions will not be available to the public under the provisions of the Mitchell bill.

I think that is wrong.

So the purpose of the amendment Senator MACK and I are offering is to strike those two sections—actually, we are striking three sections, and I will explain the third in a moment—because that opens up the decisionmaking process to the public.

Let me describe what the National Health Benefits Board does. Under the Mitchell bill, the National Health Benefits Board is given the authority to decide what benefits will be contained in the standard benefits package that every American will be required to purchase. Everyone offering a health care plan in America will be required to incorporate the decisions of the National Health Benefits Board as to what those benefits shall be. There will be no opportunity for discretion.

Fortunately, yesterday we removed a provision which would have fined any provider of health care $10,000—or any individual who purchased health care would have been fined $10,000—if that provider or that individual had a health care policy that deviated in terms of benefits provided, deviated one iota from the decision of the National Health Benefits Board as to what the package should be. It is a one-size-fits-all mentality. If you are an 18-year-old single individual, just out of school, on your first job, earning perhaps a lower wage than you would like, but the going rate for a new hire, you are going to be mandated to have coverage for a package designed by the National Health Benefits Board. That package is the same package that will be available to a married couple with two children, and it is the same package that will be mandated to individuals whose children are grown, who might be in their retirement years. Every American will have to have exactly the same package, regardless of your health care needs.

Obviously, we know that the insurance industry today and the health care coverage today is designed with a whole cafeteria of benefits that you can select and choose based on your own particular health needs or the health needs of your family. Obviously, there are those who do not choose certain lifestyle behaviors, who would like to have the opportunity to purchase health care at perhaps a discount by not engaging in those behaviors. So there are policies today that are available to those who do not smoke. We know that that lowers their health risk, the risk of lung cancer, and so they are able to reduce their premiums somewhat.

Obviously, an individual or a couple, where the female of that marriage is past childbearing age, does not need to have a policy covering childbirth and does not need to have a policy providing maternity benefits, and, therefore, they can purchase policies that exclude that particular type of coverage. It is that selection, that wide array of benefits and opportunities for different benefit packages, that is an important competitive component of our health care system today. Yet, the Mitchell bill would require that we all obtain exactly the same benefit package.

Those decisions are going to be made by the National Health Benefits Board, and the public ought to have input as to what those decisions are. Yet, there is a specific exclusion for that board's actions, based in the Mitchell bill. On page 129, section 1216 is "Applicability of Federal Advisory Committee Act." It says on line 15: "The Federal Advisory Committee Act shall not apply to the Board"—the board being the National Health Benefits Board. The Federal Advisory Committee Act is specifically exempted, and all its provisions, from actions by the board. We do not think that is right, and that is why we attempt to strike it.

The National Health Care Cost and Coverage Commission is the Government-appointed rationing agent which is authorized to monitor all health care expenditures in the United States and propose premium caps and other mechanisms to control prices and limit health care spending. This Government bureaucracy will be making hundreds of health care decisions which affect the health care of every American. Decisions which are currently made by patients and their families and their doctors will be made by bureaucrats in Washington.

That particular board is also exempted from the provisions of the sunshine law, the law that I have been referring to. The Federal Advisory Committee Act does not allow these practices to take place. I might note that it is in section 10001, page 1390.

Mr. President, one of the reasons why we insisted on some time to understand this bill—and just now we are able to delve into the minutia of the bill and expose provisions which we do not think are in the best interest of Americans—is because it is so complicated. When we are talking about section 10001, we are talking about a lot of words between the first section and that section. That section also specifically exempts a new Government agency, the National Health Care Cost and Coverage Commission, from the FACA. That language reads on page 1409, specifically: "FACA Not Applicable. The Federal Advisory Committee Act shall not apply to the Commission."

There is another somewhat more obscure agency, called the Agency for Health Care Policy and Research, created in this bill. That panel is also exempted from portions of the sunshine law. It is somewhat different, but we strike that also, because it says that that particular agency is covered by this provision. It says:

Panels convened for the purpose of carrying out paragraphs (1) and (2)—

Which refers to the actions of the Health Care Policy and Research Agency.

shall not be considered advisory committees within the meaning of section 3(2) of the

VOL 140 PT 16 AG 12 — 18 1994 UMI

Federal Advisory Committee Act, and prior to publication by the Administrator, clinical practice guide, performance measures, and review criteria as described in section 912(a) are not subject to the requirements of section 552 of Title 5, United States Code.

They are exempted from the provisions of the act. So the amendment before us is designed solely for the purpose of giving the public access to decisions made by Federal boards created under the Mitchell bill which will affect every living American.

I am pleased to join my colleague, Senator MACK, in offering this amendment. We think it is important. We have reason to believe that Senator MITCHELL and his proponents have had an opportunity now to review the bill and apparently will agree with us that this amendment is necessary to correct provisions that are incorporated now in the Mitchell bill.

Senator GLENN, the distinguished chairman of the Senate Committee on Governmental Affairs stated:

I do know that openness in Government spawns confidence. Secretiveness in Government begets suspicion, and that is what I think we have a surplus of in Washington right now.

Mr. President, openness does spawn confidence. Secretiveness does beget suspicion. And we do have a surplus of suspicion in Washington right now. It is almost paralyzing our efforts.

We keep hearing several of our colleagues talk about the numerous public hearings held in the Labor Committee and Finance Committee on health care reform. But yet we are presented with a bill that is not the Labor Committee bill nor the Finance Committee bill, but a new bill written behind a closed door, written in secret—true, incorporating provisions of the Labor Committee bill and the Finance Committee bill—but with many new provisions.

So when it is presented to us, first in volume 1, then in the corrected volume 2, and then in the corrected volume 3, I think it is perfectly appropriate to ask for time to study this mammoth volume and understand the provisions, as we have done in the last 2 or 3 days.

We are now beginning to shed light on the Mitchell bill and as light is shed on the Mitchell bill, we find provisions that not even the majority can support or defend, and they are coming to the floor saying either, "Yes, that is there inadvertently," or "We now recognize it should not be there, and we will join with you, almost unanimously join with you, in removing that section."

We have removed the $10,000 fine for an employer offering an additional benefit to an employee. Perhaps an employer says, "I do not agree with the National Health Benefits Board. I would like to offer two mammograms per year to my female employees over 50 years of age." That would have been subject until yesterday to a $10,000 fine for offering an additional benefit. Perhaps there is something unique about the business of that particular employer and they want to provide a benefit that the board has overlooked or excluded for whatever reason. That employer would have been subject to a $10,000 fine. Fortunately, we have been able to eliminate that.

This now goes to the heart of the secret matter, the meetings in secret. This whole row started, of course, back last year with the meetings with the First Lady and Mr. Magaziner. There is now a Federal lawsuit on the matter. That was attempted to be settled. But I think there is interest in receiving the documents that were part of all that discussion. That is now in Federal court. I will not delve much into that.

But what we are after here is openness. If we are going to define the benefits, if we are going to define the costs, if we are going to define the procedures, if we are going to make the decisions that go to the personal, intimate details of individuals' lives or loved ones' lives, it ought to be done in the open.

Mr. President, I will close by quoting from Justice Brandeis, who said, "Sunshine is the best disinfectant." We are now in the process of letting the sun shine on the Mitchell bill, and we are finding that it is a great disinfectant. There is a lot of infection in here that needs to be disinfected.

Mr. President, let the sun shine in.

With that, I yield the floor.

The PRESIDENT pro tempore. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I enjoyed my colleague's statement.

The PRESIDENT pro tempore. Who yields time?

Mr. PRYOR. Mr. President, I think I am managing for the moment. So, I yield myself as much time as I need. I just have a question.

The PRESIDENT pro tempore. The Senator is recognized for as much time as he needs.

Mr. PRYOR. Mr. President, I enjoyed the statement of the Senator from Indiana. He is talking about letting the sun shine in, letting all Government decisions be made out in the public in the sunshine, in meetings, et cetera; meetings with the First Lady.

I wonder if the Senator from Indiana would state his position on how much sunshine there should be present when two U.S. Senators meet with a Federal judge. Should that meeting be in the sunshine? Should that meeting be in public, I ask the Senator from Indiana?

Mr. COATS. Mr. President, if that is a question propounded to the Senator from Indiana, I will be happy to respond to the Senator.

First of all, it is a question that we are not deciding here today. Obviously, it would be nice to shift the focus from what the amendment says and what we are attempting to do with the Mitchell bill. On that, however, a vote has been ordered so Members of Congress all have the opportunity to comment on that.

Mr. President, I have no idea what two Members of Congress discussed with a member of the Federal judiciary over lunch. I was not at that meeting. I was not invited to that meeting.

If the question is, does a U.S. Senator have the right to have lunch with a member of the judiciary to discuss the baseball strike, to discuss family—perhaps they are from the same State and they are personal friends: How is the family doing; how is your wife; how are the kids since we have seen them last—I think they should have every opportunity and right to do that.

I have no idea what was discussed in the meeting that the Senator from Arkansas is raising. And so whether or not his question is even applicable to the situation which we are discussing now, I have no idea.

Mr. PRYOR. Mr. President, I do not have any reference, when I asked the question through the Presiding Officer, I have no specific reference to a particular meeting between a Federal judge and two U.S. Senators.

What I would like to assure the Senator from Indiana is that I strongly support the amendment giving this additional sunshine into these particular boards and these meetings. I support that position. I am going to vote for it.

But I just wondered how far the Senator from Indiana wanted to carry this, and how much sunshine the Senator from Indiana wanted to actually penetrate some of these decisions and some of these so-called meetings that affect people's lives.

Mr. COATS. Mr. President, if I could respond to the Senator from Arkansas, clearly when Congress has established an agency or a function of Government that comes within a law that Congress has passed, and that agency is making decisions relative to things which affect Americans, I think we want to uphold the law and not exempt that agency from discussion and debate that affects their lives.

But it is impossible for this Senator to say, well, every meeting between a U.S. Senator and some other representative of Government—for instance, we have a new special prosecutor in the Whitewater case, Kenneth Starr. We go to church together. Now, sometimes after church, we happen to run into each other leaving church.

Is the Senator from Arkansas saying that if I say hello to Mr. Starr on the way out of church, that should be a public meeting, or if he says "How is the family?"—our two sons play Little League baseball together, so we have gotten to know each other on an informal, personal basis—is that meeting supposed to be subject to the open sunshine law?

What if Mr. Starr said, "How about breakfast in the morning?" We both live out in the same area. "How about getting together for bacon and eggs at McDonald's, or a cup of coffee?" Am I supposed to give notice that we are meeting, that the public is invited, and that minutes should be taken of our discussion?

I am not sure what the Senator is referring to.

Mr. PRYOR. Mr. President, I am not sure this argument is really going anywhere, and I will conclude and yield to my friend from Pennsylvania.

But I do think serious questions arise when Members of this body meet with a U.S. Federal District Judge or a member of the court of appeals, or what have you, relative to a matter which might or might not be pending at the moment.

If I might ask the Senator from Indiana one final question along this line; that if the Senator might support maybe an amendment or maybe a clarification of his amendment to include such meetings between U.S. Senators and a Federal judge?

Mr. COATS. Well, Mr. President, I think a good question has been propounded to the Senator from Indiana. I think if the Senator from Arkansas has a concern about meetings between Senators and other Federal officials, that Senator should offer an amendment addressing that concern.

Right now we are dealing with an amendment to the Mitchell health care bill which specifically goes to two agencies, three agencies, actually, that are created in the bill. It is a written provision in this bill that states that those agencies will be exempt from the law.

I think Congress wants to uphold that law in regard to the meetings with Federal agencies that involve the public, particularly when they meet to decide questions that are so personal and go directly to their health. That is the issue before us.

If the Senator from Arkansas wants to address a separate issue relative to whom Senators can meet, when they can meet, under what conditions they can meet, I think that is a subject for lengthy debate. We are going to have to understand what it is exactly the Senator is propounding. Does it include lunch in the Senate dining room? Does it include a casual greeting at church? Does it include a conversation in the dugout at the little league field? Does it include riding on the same plane where you happen to sit next to each other in the seats in the plane?

I am not sure what the Senator is getting at. I do not have any idea why two Senators in the U.S. Senate, what the purpose of meeting with the Federal judge was in the Senate dining room, what they discussed. And so, I guess I am at a loss to respond to the Senator from Arkansas, because I do not know what it is he is asking us to do.

Mr. PRYOR. Mr. President, I would just like to conclude by saying that we will probably never know what was discussed, because it was not in the sunshine, it was not in a public forum, the particular meeting that the Senator brings up.

But with that in mind, Mr. President, I just want to reassure the Senator from Indiana that I support his amendment. I think it is a good amendment. I think there will be a lot of votes for that amendment. I assume it will prevail.

Mr. President, I yield as much time to the Senator from Pennsylvania as the Senator from Pennsylvania so desires.

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. WOFFORD], is recognized for as much time as he may consume under the control of the Senator from New York [Mr. MOYNIHAN], or his designee.

Mr. WOFFORD. Mr. President, I, too, am happy to support the amendment of the Senator from Indiana and the Senator from Florida. I think the amendments so far presented and adopted in this body have thrown light on the problem—the preventive care for children and pregnant women amendment; the amendment ending the fine proposed, instead allowing my preference of letting State insurance regulations prevail as the main method for compliance; major steps forward in building on the rural health delivery provisions in the Mitchell bill. These were all good steps.

And I am happy to see that we will have a sunshine provision applying to the agencies in the bill.

It seems to me, Mr. President, that indeed our duty right here in this body is to throw light—I hope it is sunshine—on the problem and on the issues. Because the people certainly have been enduring a fog of confusion that, outside this body, if not within it, has spread over this vital problem of guaranteeing for all Americans the kind of health insurance options in the private health insurance system that we Members of Congress enjoy and benefit from and have arranged for ourselves.

That duty of ours to throw light is made heavier because on this issue, which is so vital to one-seventh of our economy, a study of the whole lobbying and advertising effort by the Annenberg School of Communications at the University of Pennsylvania, has concluded that more money has been spent on the onslaught related to this bill and the President's bill than in the whole Presidential campaign of 1992 for Bush and Clinton combined.

So, indeed, we have a duty to throw light and to cut through the fog of confusion.

And we will need to throw that light on the issues that the Senator from Indiana also moved into about why we need a standard benefits package, not to create one size fits all. It is not to limit people from going beyond what the minimum standard benefits package is. People can do that. No one is proposing taking that away in any form. But it is necessary, among other reasons, to give consumers the kind of protection from lemon policies and dishonest insurance companies, the kind of proper protection that Members of Congress have.

We need basic standard benefits and consumer safety in lots of fields in our life. You can get any size or flavor of baby food, but not baby food that has glass in it. Cars; we can choose any make of car, but it must include safety belts. Kid's pajamas, any size or color. They cannot be a pajama that is going to burst into flames.

And, as to health insurance, we need to see that fee-for-service, HMO, or preferred provider choices are available. But that we do not have the fine print and loopholes that can cut you off just when you need it, which is as bad a crisis to any individual or family as any of the examples I just gave.

So, let us cut through the fog of confusion. Part of the need for sunshine, I believed, when I came to this body 3 years ago, was on what the benefits are that the Congress had arranged for itself. I found, through a friendly letter from the attending physician, that we had free health care through the attending physician, while working families certainly have no such free medical care.

Well, we fixed that. We got rid of the free health care Members used to get from the very fine office of the attending physician that we have. Now we pay an annual fee for that extra service, along with our contribution to the health insurance plan of our choice.

But, apparently, some of our colleagues still do not understand what working families go through; that, in this very period of talk, it is estimated that some 700,000 Americans have lost their health insurance in less than a week and a half, but no Member of Congress has lost his or her health insurance during that period.

Up in Pennsylvania, I have been pressing a very simple proposition, that our duty in this great debate is to see that we extend to all Americans the kind of affordable coverage and choice of private health insurance plan that Members of Congress have arranged for themselves.

Mr. President, I find that that proposition does more to cut through the fog of confusion than all of the complexity that is being used as an excuse for doing nothing. It reminds me of a proposition I put forth in 1991 that the people of Pennsylvania responded to. If under our Constitution you have a right to a lawyer when you are charged with a crime, it is even more important to have a right to see a doctor if you are sick. People exploded with recognition of this self-evident truth. And I

79-059 O—97 Vol. 140 (Pt. 16) 44

VOL 140 PT 16 AG 12 — 18 1994 UMI

am finding today up and down Pennsylvania there is that same kind of igniting of people's reason, leading them to say yes. Leading them to say "Yes, that's right," when I say that it is self-evident that the kind of choice of private health insurance that Members of Congress have should be the model for the kind of choice the American people deserve to have.

Mr. REID. Will the Senator from Pennsylvania yield for a question?

Mr. WOFFORD. I will happily yield to the Senator from Nevada.

Mr. REID. The Senator from Pennsylvania has raised an interesting point.

I ask the Senator if he believes that one reason our health care package has hit such a hard note with the American public is because under our plan, our employer, the taxpayers of the country, pay 72 percent of our premiums? Is that true?

Mr. WOFFORD. That is true. That is the average. That is the average portion, depending on which plan you choose. It is not a one-size-fits-all plan. You may choose a fee-for-service plan that might be a little higher, an HMO plan that might be less, and the proportion of the Federal Government's contribution varies according to that. But the average contribution is 72 percent. For the standard option Blue Cross & Blue Shield, the most popular choice, it is a 75-percent contribution from our employer.

Mr. REID. That is what this Senator has. Would the Senator agree that one reason the American public likes our plan is because it prohibits preexisting condition exclusions?

Mr. WOFFORD. It does.

Mr. REID. Would the Senator agree that is a reason the American public likes our plan?

Mr. WOFFORD. It does.

Mr. REID. Probably——

Mr. WOFFORD. May I read from the plan? This is what I would like the American people to hear because I think they would like it: Coverage without medical examination or restrictions because of age, current health or preexisting medical conditions.

Mr. REID. In fact, would the Senator agree that millions of Americans are envious of our health care plan? Would the Senator agree with that?

Mr. WOFFORD. As they learn about it, as we put some sunshine on the kind of system that we have arranged for ourselves.

Mr. REID. Would the Senator also acknowledge that one reason our plan is so important to us—and I would assume the American public would like it also—is because, as the Senator has so well stated, there is a choice of plans?

Mr. WOFFORD. There is a choice of a whole menu of plans. Do you recall how many you had to choose from?

Mr. REID. So many I could hardly keep track of all of them.

Mr. WOFFORD. My wife tells me it was 25 or 30 different plans, Blue Cross & Blue Shield, Aetna, a whole variety of HMO's.

Mr. REID. Is the Senator also aware that one of the things in Senator MITCHELL's bill that is patterned after what we have, and that is that when people are provided the choice, if this legislation passes, like the Federal plan, there would be comparative information on price and coverage?

Mr. WOFFORD. That is what we all need in order to choose well. And we are given it. In fact, I think the Federal employees plan could do a little better job, but as we begin to think through how to make our system better, and once we have a standard benefits package in this country, I think any agency that is helping to provide choices—whether they are new, voluntary purchasing cooperatives or the Federal Employees Health Benefit Plan open to people—will give more consumer information, therefore more real choice to people, to know how to choose well.

(Mrs. MURRAY assumed the chair.)

Mr. REID. Would the Senator also acknowledge one reason our plan—and I ask the Senator if he would agree—works so well is because it is a community-rated system? That is, no one is discriminated against because they are of childbearing age or they are senior citizens. There is no discrimination as to age or gender. Is that true in the plan that we have?

Mr. WOFFORD. Yes.

Mr. REID. I also ask the Senator—in our plan, it is my understanding that the overhead costs are extremely low. In fact, our plan, which has, including all the rest of the employees, about 9 million employees——

Mr. WOFFORD. And their families; including their families.

Mr. REID. And their families. It is my understanding that plan is administered by fewer than 200 people; is that true?

Mr. WOFFORD. I think the last I heard it was something like 170 employees.

Mr. REID. Yes. So would the Senator agree that for these and many other reasons, the American public is beginning to focus on what we have and what they do not have?

Mr. WOFFORD. As they should be, it seems to me, Senator.

Mr. REID. I would just close by rhetorically stating to the Senator, there has been no Senator in the U.S. Senate who has raised this issue earlier or more loudly than the Senator from Pennsylvania. The Senator from Nevada applauds the outstanding work the Senator has done in trying to bring this out into the open and put some sunshine on it.

Mr. WOFFORD. I appreciate the kind words. In addition to being loud and early, I hope the proposition is clear. And this is the way I would put the question to our colleagues who are saying there should be no such system made available to the American people; that it should not be guaranteed, the kind of guaranteed health insurance we have for the American people, with the employer contributing about three-quarters.

I say to my colleagues on the other side of the aisle, support the plan you live under or live under the plan that you seem to support.

Mr. LEVIN. Will the Senator yield for an additional question?

Mr. WOFFORD. I will yield to the Senator from Michigan.

Mr. LEVIN. Among the many points which have just been made in the conversation between the Senator from Pennsylvania and the Senator from Nevada, there was a reference to a number of private insurance companies. I think that is an important point. I want to make sure we are correct, that the Government plan that was made reference to, the so-called Government plan that we have, is a private insurance plan. We have a whole menu of private insurance that we are offered through a Government plan. But it is not Government-run insurance. Is that correct?

Mr. WOFFORD. The Senator has made a crucial point for people to understand.

Mr. LEVIN. We hear over and over again, Government-run insurance, Government-run health insurance. That is the attack on the Mitchell bill, despite the fact that the Democratic leader has over and over again gotten up and said this is not Government-run insurance. This is private insurance which, hopefully, will be made available to every American the way private insurance is made available to Members of Congress, our families, and all Federal employees.

So I wanted to be sure that point is clear, that the so-called Government insurance that is made available to us is not Government-run insurance. It is made available to us by the Government—mostly at taxpayers' expense—but it is private insurance. All those companies with all those plans that are offered to us on that menu are private insurance.

Mr. WOFFORD. One reason our premiums are reasonable is that, with that big purchasing power of a pool of 9 million people, Madam President, with that big purchasing power, those insurance companies are competing for our business and we have the choice, an opportunity within 31 days from the date of your appointment, to enroll in the health benefits plan with group-rated premiums and benefits, a choice of plans and options so you can get the kind and amount of protection best suited to your personal and family and health needs and finances; guaranteed protection that cannot be canceled by the plan.

Mr. LEVIN. One final question I could perhaps ask and that is the reference in the first paragraph, "An opportunity within 31 days from the date of your appointment to enroll in a health benefits plan." That is a private insurance health benefits plan; is that correct?

Mr. WOFFORD. Yes. The most popular one chosen, as chosen by the Senator from Nevada, is the standard option Blue Cross & Blue Shield plan.

Mr. LEVIN. I thank the Senator.

Mr. WOFFORD. That is what Congress gets. Yet our Republican colleagues are getting hoarse talking about the dangers socialized medicine and a Government bureaucrat telling them what doctor to go to. They do not have Government-run health care that tells them what doctor to go to. They have this range of private health insurance options. Not only the year they enroll, but they have it every year. They can vote with their feet. They can choose and they can make these plans compete for our business, which is one reason, I think, we like this.

Some may have heard that I, myself, as a sign of how serious I am about winning this battle that Harry Truman started for private health insurance, a little while ago sent my first check back to the Treasury of the United States for $306.41, the Government's, my employer's, the taxpayers' contribution to my health insurance. I sent it back and said I am going to continue doing so until we win this battle and the American people have that kind of choice of private health insurance.

I have not seen any volunteers. I challenged my colleagues who will not even discuss, will not consider a rule, even in the year 2001, by which employers are asked to contribute—the way most people with private health insurance in this country today get it. They get it with the help of their employer. I challenge them to practice what they preach. If they do not believe that the American people should have that kind of choice of private health insurance plan, then give it back. Give it back to their employer, the American taxpayer. I will renew that challenge from time to time. So far there are no takers.

I went a little beyond that the other day, and I am serious about this, too. If in this battle—is this the battle of Gettysburg? I come from the State that saw the Civil War battle surge right into our State. I do not know whether this is the battle of Gettysburg. I do not know how far we are in the war. I thought we were further along than we seem to be at this moment and this hour, in that long battle Harry Truman started.

But if we should get blocked this year and this Congress by the naysayers, if we get blocked, I will offer an amendment to disqualify every Member of Congress from participating in the Federal employees benefits plan until we take action so that the American people have that kind of protection and guarantee.

Let me tell you, if we are going to end up having more study, then let us study it while we are on the same playing field as the American people. When they go to sleep at night, they are afraid if there is great restructuring—we had two great corporations announced thousands of new jobs that are being lost in Pennsylvania just this very week. All of those families now have had the fear come to them as a reality that they are one pink slip away from losing their health insurance.

If we are going to study more, if we get blocked in taking action, let us study with that kind of fear over ourselves and that kind of heat below us. Let us be on a level field with the American people. That is why the Mitchell bill, I think, among the many other ways, is reasonable, moderate, good, has responded to the concerns that people have had, has disposed of some of the problems that many of us had, for example, took the mandatory alliances off the field—that horse was taken off the field, even though it continues to be flogged.

What we have is voluntary purchasing groups that give the American people the kind of purchasing power that we, Members of Congress, enjoy. And we have opened up the Federal employees benefits plan to small business and individuals so they can actually buy into the Federal plan if they want to have that as one of their choices.

That is why I say we have it within reach to get private health insurance for the American people, private health insurance the way Congress has arranged for itself.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I wonder if the Senator will yield for a question?

Mr. WOFFORD. I yield to the Senator from Arkansas.

Mr. PRYOR. Madam President, I would like to compliment the distinguished Senator from Pennsylvania on his statement. I hope I have not interrupted him at a bad time. But I first ask the Senator from Pennsylvania if he had the opportunity to hear a speech yesterday by the distinguished majority leader. In my opinion, it was the best political analysis of where we are at this moment on this particular issue. I wonder if the Senator had the opportunity to hear his very fine statement.

Mr. WOFFORD. I did, and I agree with the Senator from Arkansas. As one who has lived, breathed, eaten, stayed up at night on this issue for now 3 years in this body, I think it was the most important, perhaps, single speech in this debate, and I urge every one of my colleagues who missed it to read the majority leader's talk yesterday.

Mr. PRYOR. Madam President, if I might have a few more moments of the Senator's time, I think it is worthy to quote a paragraph or two from Senator MITCHELL's speech of yesterday, if I may have the liberty to do that. And I do quote from Senator MITCHELL's speech as follows:

> So I hope the American people will not be fooled by the rhetoric they are hearing here today. And I hope the American people will also think about the irony of these Republican Senators getting up here day after day after day and denouncing Government health insurance and Government health care as bad for their constituents, even as they benefit from it themselves . . . participates in the Government-run health insurance system that is available to all Federal employees, and the Government pays 72 percent of the cost of that health insurance for these Republican Senators who are standing here and telling their constituents that it is bad for their constituents, even as they participate in it for themselves and for their families.

I am wondering, because the Senator from Pennsylvania had great experience in this whole issue of health care from the time of many years ago—especially highlighted in his campaign, his brilliant campaign, I might say, when he was elected to the Senate—I am wondering if the Senator from Pennsylvania has heard of any of our colleagues on the Republican side, or even the Democratic side of the aisle, canceling their particular Federal Employees Health Benefits Program?

Mr. WOFFORD. Not yet, but let the heat go higher.

Mr. PRYOR. I want to say I think what the Senator from Pennsylvania has done has been very unique in, basically, saying that until we pass something, the Senator from Pennsylvania is not going to participate in it. I admire the Senator from Pennsylvania very much in doing that.

I think yesterday Senator MITCHELL, in his statement, also talked about Walter Reed Hospital, and the Bethesda Naval Hospital. I quote again from Senator MITCHELL's speech:

> If Government health care is so bad, why do these Republican Senators insist on having it for themselves? And then if they get sick, if the doctor says, "You've got to go to the hospital," they go to Bethesda Naval Hospital or the Walter Reed Army Hospital—Government hospitals.
>
> Well, my gosh, ask yourself, Mr. and Mrs. America—

So spake the majority leader yesterday—

> If these Government facilities are so bad, why do these Republican Senators want to go there themselves?

Madam President, I think Senator MITCHELL's speech was a timely speech. It was certainly one, I think, that was timely to the extent it sort of set the record very clear on what we are doing here at this moment on the health care issue. I did not want to take all the

VOL 140 PT 16 AG 12 — 18 1994 UMI

time of the distinguished Senator from Pennsylvania. I, at this time, relinquish the floor back to him.

Mrs. BOXER. Will the Senator yield to me for a question?

Mr. WOFFORD. I yield to the Senator from California.

Mrs. BOXER. I just want to thank the Senator for raising this issue. It makes a lot of people uncomfortable around here because they have something for themselves and their families, but they are standing here and basically saying they do not think the American people should have what they have.

It reminds me, when I was growing up—that was a long time ago, I say to my friend—we used to have an expression, a shuck and a jive, and that meant you are kidding somebody. It was like somebody would come over to you, I say to my friend from Pennsylvania, and say, "I live in a beautiful home. It's a large home. It has six bedrooms. It has a swimming pool. It's fully air conditioned. It's fabulous."

And the person says, "Gee, I'd just love to have a place like that."

And the person looks at you and says, "Oh, but there's so much maintenance. It's really rough. If I were you, I'd just stay where you are. You don't really need to live like me because, you know, it may look good on the outside, but on closer inspection it's not so good."

That is a shuck and a jive, because the American dream is to have a home and to have health care and to have a reasonable job, a good education for our kids. When someone tells you, "It's good for me but not for you," you have to start worrying about it.

I think yesterday when the majority leader made that statement which was quoted by my friend from Arkansas, it hit to the nub of it. It hit to the nub of it.

So I ask my friend this question, and I do not like to use the word "hypocrisy" because it is not a nice word, so I will not. But I would say to my friend, does he believe that when a Member of the U.S. Senate stands up here and says that that Senator does not believe the American people deserve to have health care that can never be taken away, health care that is basically a benefits package that is reasonable, one in which the responsibility is shared by the employer, and the irony of it is, these Republican Senators see nothing wrong with the taxpayers paying for their insurance because our boss—our boss—the people of America—they are the taxpayers—and they pay that share, they see nothing wrong with it? I do not know whether they have given it up. I do not think so. Outside of the Senator from Pennsylvania, I have not heard of anyone else.

Does the Senator think that is—not to use the word hypocritical—shall we say, a little suspect? Would the Senator say that a person's motives might be a little suspect or a little bit—I do not want to characterize it in a way that will hurt my friend because that is not the point here—a little disingenuous, perhaps a little disingenuous, when he has good health care for himself and his family, he sees nothing wrong with taking it, his employer pays for it, and yet he does not want to have that for the people in his State? Does the Senator see something a little disingenuous with that?

Mr. STEVENS. Madam President, will the Senator yield?

Mrs. BOXER. I ask that question to my friend from Pennsylvania, who has raised this issue.

Mr. WOFFORD. May I respond first, if the Senator from Alaska will wait for a moment.

I agree with the Senator's characterization. I also appreciate how she told me that she was uncomfortable, she told us how she was uncomfortable having this guaranteed health insurance even more so since her spouse also has health insurance.

Madam President, that is one of the facts of life at this very moment that all of us should ponder. Those spouses of employees in Pennsylvania who just lost their jobs this week, they are going into the job centers that I used to run, the unemployment offices, they are going into those offices and I know what will happen if I visit them in those offices. I have been doing it the last 6, 7 years.

I ask people in the front row of the unemployment office waiting to apply for unemployment compensation, "Do you have health insurance?" And usually 7 or 8 out of 10 say "No." And they are scared. The other two or three have spouses working somewhere else where their employer contributes to their health insurance. And that is the roll of the dice—7 or 8 out of 10 when they lose their job lose their health insurance.

I think, as we move forward in this debate, we should remember that every day as we talk, more Americans fall into that gap, into that hole.

I see my frequent TV debating partner, Senator GRAMM, is on the floor, and I know he now or soon in these days will tell us more about the horrors of Government-run medicine. But he looks well to me. He is fine on the stump, in our debates, without any noticeable ill effects of his Government-provided plan with Blue Cross/Blue Shield through the Federal Employees Health Benefits Plan.

Mr. STEVENS. Will the Senator yield?

Mr. WOFFORD. The Senator from Alaska.

Mr. STEVENS. Madam President, I hear the Senator say quite often that Members of Congress have something different from other people. I am sure he is aware of the massive plans that are out there for employees living in Pennsylvania, for instance, of United States Steel, the major industries. Their plans are much better than that for the Federal employees. As a matter of fact, they are much better than that for Members of Congress.

I wonder if the Senator knows that Members of Congress pay an additional premium for their health insurance. Right down here at the Capitol Physician's Office, we pay an additional premium of almost $1,000, I think it is between $600 and $1,000—it depends on how it is established each year—in addition to the premiums we pay for Federal Employees Health Benefits. We pay more than any other Federal employee. Does the Senator know that? We pay more than any other Federal employee for health insurance coverage. Does the Senator know that?

Mr. WOFFORD. Does the Senator from Alaska recall that before this Senator came into this body, the Senators and Members of Congress got that service from the attending physician free? I put a motion before this body to see that we paid the fair market price of that extra service, and action was taken on that after I had about 30 cosponsors of my amendment.

So I do, indeed, recall that, one, Congress for decades had that additional free health care; and, second, that now Congress pays that extra fee. But I am talking about now——

Mr. STEVENS. Madam President, I wonder if the Senator will yield again. Even before the Senator's initiative, the health insurance coverage that we had as Government employees paid a portion of the cost at the Capitol Physician's Office, at Walter Reed, and at Bethesda. Those were not free. They were paid for as employees of the Federal Government.

The Senator is correct that we now pay an additional amount for the special emergency services down here. But if the Senator goes down and has a blood test, if he goes down and has an x ray, those are repaid by the health insurance and have been for many years.

I keep hearing the Senator say that somehow or other, Members of Congress are different from other people in this country. We have a plan that is quite similar to the larger employers' plans. It is less beneficial than the employees of United States Steel, the big union companies of the automobile industry; the massive plans of this country are not as beneficial to the employees of the Federal Government as this plan is, and Members of Congress are treated no differently from any other employee in the Federal Government.

Why does the Senator from Pennsylvania mix that with Members of Congress? Why does the Senator not put up the benefits of all Federal employees?

Mr. WOFFORD. If the Senator will yield——

Mr. KENNEDY. Regular order.

Mr. STEVENS. Postal employees go beyond that, far beyond that.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. WOFFORD. The Senator is, in my humble opinion, taking my points both too personally and falsely. I am in no way saying that the Federal Employees Benefits Health Plan is a bad plan. I am in no way saying it is the best plan. The State employees plan in Pennsylvania, of which I once was part, is somewhat better than the Federal employees plan.

That is not my point at all. I am very pleased that there are 9 million Americans, Federal employees and their families, who have these benefits, who have a guaranteed private health insurance choice that cannot be taken away, with their employer contributing approximately three-fourths.

The point is, let us do it for the American people. And my point to the Senator is, if he supports this kind of plan, then make it available to the American people. And if the Senator opposes making this available to the American people, making this a model of what the American people can have, then live under the system he supports, which is not making it available to the American people. Do not ask our taxpayers, our employer, to pay for our health insurance unless we establish this principle for the American people.

Mr. STEVENS. Madam President, I hope that the Senator was listening to me this morning. I tried to point out in conversation with the Senator from Massachusetts that the system we have is a model system. There is no question about that. I am sure the public knows that this is a model system. It is a plan that ought to be followed for other people in the country. We ought to find a way to extend it.

I invite the Senator's attention to the Heritage Foundation proposal of 2 years ago. It would have done just that. I do not see any Member on the other side of the aisle endorsing the Heritage Foundation plan. Instead, they are trying to tell the American people to come join this plan that we have for Federal employees. But Senators do not take the time to tell the American people that by 2005, you will destroy that plan. You have enlarged it out to the point where it is no longer a plan. But you have offered the Federal employees supplemental benefits beyond this plan after 2005.

There is a promise in the Mitchell bill to negotiate supplemental benefits. Why do you not tell the American people that as soon as they join this plan, you are going to give Federal employees supplemental benefits beyond the plan? That is what the Mitchell bill says. It is duplicitous for us to try to present to the American people the health benefits of Congress, what Congress gets. Congress does not get any benefits. We get benefits as Federal employees. There is no congressional plan. There is no congressional plan.

Mr. WOFFORD addressed the Chair.

Mr. STEVENS. I belong to the Treasury Department plan.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. WOFFORD. Madam President, me thinks the Senator protests too much.

Mr. STEVENS. Not if he answers the questions, I will not.

Mr. WOFFORD. I—and more importantly, the majority leader, in his bill—am not saying this is the cure-all that every American will be part of. We do open it to a lot of Americans as a choice. But the main choice that is new, in my opinion, is the voluntary purchasing cooperative, not the mandatory alliance but the purchasing groups that on smaller scales in communities will be one of the choices people will have through which they can get private health insurance at reasonable rates the way we have arranged for ourselves.

Mrs. BOXER. Will the Senator yield? Madam President, will the Senator yield to me?

The PRESIDING OFFICER. Will the Senator from Pennsylvania yield?

Mr. WOFFORD. I yield to the Senator from California.

Mrs. BOXER. I thank the Senator for yielding to me. I want to really thank the Senator. We have hit a sore spot today—I think that is good—because what it really comes down to is a very simple point.

People get up here on the floor, and they talk about sunshine and opening up the commissions. I am with you on that. I am for sunshine. But what I am really for in addition to the sunshine, what is to the main point, is that the American people have a chance to have what every single Member of Congress has—health care that can never be taken away; a nice package, so nice, that not one Republican who opposes giving that to the people of America has ever given it up, according to the Senator from Pennsylvania and according to the Senator from Arkansas.

My question to the Senator is this, and my last question to the Senator, so that this debate will be understood. That question to the Senator is this: Is it not so that under the Mitchell plan we are amending and debating, the Federal Employees Health Benefits Program will be opened up on a voluntary basis to all Americans who at this time have no access to such a good plan? Am I correct on that?

Mr. WOFFORD. The Senator is correct.

Madam President, I know that Senator MACK from the Sunshine State of Florida has been wanting to talk about his amendment for some time, or Senator GRAMM, whoever it may be. But I appreciate Senator MACK a little earlier saying he is agreeable to my going forward on this.

I just want to say a last word about sunshine; for the moment, just a last word. When I think of sunshine, I think of something that is warm, and constructive, that is trying to make things grow. It is not just harsh light. It is the warmth that you get from the sun. I realize there is a certain heat, a sore point that the Senator from California said we were touching that produced the heat from the Senator from Alaska.

But what I recommend, I beg of ourselves, is that we recall the first great Republican, Abraham Lincoln, who asked us and who did everything in his power to show how you tap the better angels of our nature.

As we talk about sunshine, let us somehow recognize that the spirit of destruction of saying no, the negative case is, of course, the easy case. The hard thing to do is to build and to come together, and reach beyond party lines. We have a historic chance to do that in these next days. Let us raise our sights to that standard.

Mr. PACKWOOD. Madam President, I listened to the debates on amendments and how the amendments changed the bill all the time, and that when we offer amendments there are mistakes. I am reminded of little kids with a dead body where the kids kept changing the clothes, but the body was still dead. The Clinton-Mitchell bill is that body. It is dead. We can change the clothes on it all we want. It is still dead.

I yield 10 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I thank our colleague from Oregon.

I want to remind my colleagues, especially those on the Democratic side of the aisle, that we do not have health insurance that is always there. After the votes are counted in November and many of your colleagues are back in their State working for a living, they could lose their Government health insurance. They do not automatically get to take it with them.

Let me also say I am going to take my Democratic colleagues seriously on this issue when they offer an amendment stripping away these insurance benefits. When they offer an amendment taking these benefits away from Government employees, including Members of Congress, I am going to view this tactic as something other than a PR stunt that was discovered after spending $2 million on focus groups. The pollsters posed the question, when the American people disagree with us on the total substance of the President's health care proposal, what can we say that they would agree with? That is where this element of the debate came from.

I am not going to spend my 10 minutes trying to convince the American

VOL
140
PT
16
AG
12
—
18
1994
UMI

people that everything they just heard about choice is not true. The American people already know it is not true. One of the wonderful things about the health care debate is that the President and our dear Democratic colleagues have grossly underestimated the ability of the American people to understand.

Let me just say in simple English in about a minute why everything that I have heard about these great choices and about this so-called freedom of choice is simply not true.

The Mitchell bill by law tells you what your health insurance has to cover. If you are a widow in Arkansas, 64 years of age, you are going to have to pay for prenatal care and for immunization benefits for children who you do not have. If you do not drink, and if you are a teetotaler and you had never touched drugs, nonetheless you are going to have to pay for alcohol and drug rehabilitation services that will drive up your premium by 12 percent, and you are going to have to do that because the Government is going to make you have it.

But on the other hand, if you now have a particular benefit that you like, say a pharmaceutical benefit, or perhaps coverage for orthodontist services in your policy that you and your employees picked because you wanted it for your families, there could be as much as a 66-percent tax placed by the Mitchell bill on that benefit.

The Mitchell bill's proponents will say, "Well, you can keep it. You just have to pay the 66-percent tax." Well, other than my family and my dog, I do not have an asset that is valuable enough to me that I could afford to pay a 66-percent tax to keep. On either my family or my dog, I would pay that tax to keep them. But I would not do it for my truck. And most Americans would not be able to afford it.

If that is freedom of choice, you have it under their plan. There is only one problem that our colleagues on the left hand side of the aisle have, and that is that the American people have broken this code. Where are we in this debate? Basically where we are is that the Mitchell bill is deader than Elvis. If we had a vote on the Mitchell bill today, it probably would not get 35 votes.

The House is getting ready to adjourn on Saturday, and they are not coming back until after Labor Day. The question is what should we do?

I want to make a proposal. First of all, I want to let my colleagues know something that I assume most of them already know. But I would suggest they go back to their office and check on it.

First, we all get a lot of mail. Senator KENNEDY and I go back and forth as to who gets the most mail in the Senate from one month to another. Maybe all the right-thinking people write me and the wrong-thinking people write him. I do not know what kind of message he is getting. But we get a lot of mail. Yesterday, I got over 3,500 letters, and that is a new record for me.

Yesterday, 1,005 people called my office in calls that were completed, and they said to me, "Kill the Mitchell-Clinton bill." Most of them said it in a more emphatic way, the way we talk in Texas. But I am not going to say that here. And 133 said pass the Mitchell bill.

I also got calls about this so-called crime bill that will let 10,000 drug felons out of jail early. Seven-hundred and sixty-two people said do not pass that bill, and 68 people said pass it.

The House is getting ready to go home, and here is what the chairman of the Health Subcommittee of the Ways and Means Committee in the House said about that. He said, "I have said repeatedly the one thing leadership does not have to give away is time," said Representative PETE STARK of California, chairman of the Ways and Means Subcommittee on Health. "Members go home for 2 weeks. It gives people a lot of time to complain," he said.

Obviously, there are a lot of people around here who are scared to death that, if they go back home to the source of political power in America, if they listen to the people who do the work, pay the taxes, and pull the wagon in the country, that this health bill is dead.

I submit that come Saturday when the House leaves, it is only a matter of a day or two until we too are going to go back home.

When we go back home, all these people who are calling your offices are going to be able to tell you how they feel. I believe that it is time to go back and listen to the voice of America. We have a so-called mainstream group of Democrats and Republicans who have been working on a health care reform plan. I do not know the details of their plan. But I know two things about it that tell me that when they are talking about mainstream, they are talking about mainstream Washington. They are not talking about mainstream America.

Their first idea is to have the Government tell us what kind of insurance we have to have and what it has to include. Their second idea is to impose a 25-percent tax on those who dare to buy insurance that is beyond what the Government says they ought to have.

I submit that this so-called mainstream group is out of touch with mainstream America. We can fix that by having Congress admit that the Mitchell-Clinton bill is dead. We can do it by stopping carrying around this corpse, changing its clothes, putting more powder on its face, and, instead, admit that the American people have rejected this bill.

Let us go back home, listen to the people, come back in September and see if we can sit down and write a bill that has broad, bipartisan support.

Mr. DASCHLE. Will the Senator yield for a question?

Mr. GRAMM. I have only 10 minutes, and I have listened for hours as my colleagues have gone on.

Let me tell you why I believe the Mitchell bill is dead. Listen to these numbers and see if this does not stun you—even for Washington, DC.

The purpose of the Clinton health care plan was to do something about the fact that 14.1 percent of the GNP of the United States is spent on health care. The President, the First Lady, everybody at the White House, and most Democratic Members of Congress have said: My goodness, this has to be stopped, it is killing the country, bankrupting the Nation.

So CBO looks at the Mitchell-Clinton bill and what does CBO say? They say, sure enough, you have done something. Within 10 years, under your bill; we will not be spending 14.1 percent of GNP on health care; we will be spending 21 percent of GNP on health care. Is that a solution? Is that solving the problem?

Listen to this as an example of Government work. There is a great problem in that 37.3 million people last year, on at least one day, did not have private health insurance. About 75 percent of those people changed jobs. So if we made insurance portable, we would solve a big problem. How does the Clinton-Mitchell bill fix this problem? To try to help 37.3 million people get insurance, the Clinton-Mitchell bill provides subsidies to 100.3 million people to try to help the 37.3 million people who do not have insurance. Their bill provides subsidies to over 100 million people. But guess what? The subsidies are so poorly targeted, that they still leave 13.3 million people uninsured. So you begin with a problem of 37 million people without insurance. You subsidize 100 million people, and yet you do not solve the problem of 13.3 million. Does this bill deserve to be saved? Should we not put this bill out of its misery and let it die a quiet death, in dignity and privacy?

Mr. PRYOR. Will the Senator yield? I would like to yield the distinguished Senator 3 additional minutes so that he might have the opportunity to answer some questions from our side.

Mr. GRAMM. If I may have the 3½ minutes, I would be happy to yield.

Mr. PRYOR. I will yield if you will answer some questions.

Mr. GRAMM. I will certainly yield for a question.

Mr. PRYOR. I yield 3 minutes more to the Senator.

Mr. DASCHLE. I thank the Senator. The Senator said it is imperative that this body support the will of the people. A poll came out this morning that indicated 77 percent of the American people support an assault weapons ban.

I would ask the Senator from Texas whether he supports an assault weapons ban using the criteria he laid out, the criteria by which he maintained we should determine our support for legislation.

Mr. GRAMM. I am looking for the same poll. Let me say that when you ask the American people if they would rather have the anticrime alternative I offered, which was 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony, 20 years for discharging it, life imprisonment for killing somebody, and the death penalty in aggravated cases, by a substantial margin the American people prefer that option over gun control.

Mr. DASCHLE. The Senator did not answer the question. The question was: Do you support what 77 percent of the people said in this morning's poll that they support? Is the Senator prepared to vote according to the will of the people?

Mr. GRAMM. If I can reclaim my time, I control the floor.

Mr. DASCHLE. It is my time.

Mr. GRAMM. If I might reclaim my time, my response is that I offered an alternative that is more strongly supported by the American people, that is a better, more effective alternative. I do not believe gun control works.

If you do not give the American people criminal control, out of frustration they say, "Let us blame guns." But if you are willing to grab violent criminals by the throat and not let them go, to get a better grip, something I am eager and willing to do, then the American people respond very strongly to it.

I would have to say, Madam President, that the American people get very frustrated when they are told they have a tough crime bill, and it turns out that it has $8 billion of unadulterated pork in it, and it has a provision that overturns mandatory minimum sentencing, so that possibly 10,000 drug felons, who are in prison today for drug trafficking, will end up being let out of prison by this bill.

So my response is that there is a better alternative that is more strongly supported by the American people. I say to my colleague, also, that if he will look at the poll this morning in the newspaper U.S.A. Today—and I hope they will note I mentioned their name—they will see the American people do not support this bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PRYOR. I yield Senator LEVIN 5 minutes.

Mr. LEVIN. Madam President, I think we have hit a sensitive nerve this afternoon on this Federal employees insurance. I noticed that sensitive nerve ending both by the response of the Senator from Alaska and the nonresponse from the Senator from Texas.

It is not just us, it is 9 million Federal employees and their families who have this insurance. If it is good enough for us, why is it not good enough for the rest of the people of America? Is it the best plan in America? No, there are some better. Yes, there are some companies that offer even better plans than this. That is not the issue.

We voted this for ourselves and 9 million Federal employees. The American people are entitled to an answer. If we voted it in for ourselves and the 9 million Federal employees and their families, why will we not provide them the same protection? That is the question they are asking.

There can be a lot of give and take as to what is good and what is bad. But one thing is real clear, and that is this green booklet. This is available to every American. Ask your Member of Congress for a copy. Call up the office of your Member of Congress and say, "I would like to take a look at that plan that you folks have provided for Federal employees and yourselves." It is a green book, called Supplement 890–1. In that book, on page 4, it says that we are guaranteed "protection that can't be canceled by the plan." Listen to this one.

Mr. DASCHLE. If the Senator will yield. You mentioned a point raised by the Senator from Texas about what happens when a Senator retires or is defeated in an election. I believe the Senator misspoke.

The fact of the matter is that if you serve in the body for 5 years and are eligible for Federal retirement benefits, you are entitled to maintain your FEHBP coverage. That coverage can never be taken away. Does that not make it similar to what the majority leader is proposing in his bill?

Mr. LEVIN. It is not only true for current Federal employees; it also provides it for former Members of Congress, which is the point of my friend. This is obviously now a very sensitive question with the opponents of health care. They are not about to answer this question. Why, if we provide it to 9 million Federal employees, including ourselves, should we not take the steps within our power to make it available to the people who pay our salary, the taxpayers of this country, the ones who pay three-quarters of our premium?

There is another provision in here, too. This is page 4. This green book is available to everybody. Go into your Member of Congress' office. Give him a call. Ask him to read the booklet. Page 4:

> Coverage without restrictions because of age, current health or preexisting medical condition. No Federal employee can be denied health care because of a preexisting medical condition.

It is right here in the book. If we hire someone on our staff back in our home State or here in Washington, that person could have diabetes, could have a heart condition, could have skin cancer. That person is entitled to health coverage.

Some of us are trying to provide that kind of assurance to every American. Hey, we provide it to ourselves and 9 million Federal employees and their families. Why is it not good enough for every American family? The answer is it is. They are paying our salaries. They are paying three-quarters of our health care. They ought to have the same opportunity as every Federal employee has.

Mrs. BOXER. Madam President, will the Senator yield for a question?

Mr. LEVIN. I am happy to yield for a question.

Mrs. BOXER. I thank the Senator.

I want to just underscore the point that was made by the Senator from South Dakota. The distinguished Senator from Texas, who has been a real critic of the Mitchell bill, said it was as dead as Elvis, although you never know with Elvis. Elvis does pop up now and then. To make that kind of remark about a bill that we are amending on the floor, and then to make a misstatement that if the voters knock us out of here we do not have insurance, let me say to make sure that——

The PRESIDING OFFICER. The time yielded to the Senator from Michigan has expired.

Mrs. BOXER. Madam President, I ask unanimous consent that the Senator be given an additional 2 minutes.

Mr. PACKWOOD. On whose time?

The PRESIDING OFFICER. Does the Senator from Arkansas yield?

Mr. PRYOR. If the Senator from Oregon will allow this, we yield 2 additional minutes from this time.

Mr. PACKWOOD. That is fine.

Mrs. BOXER. I thank the Senator from Oregon for his generosity.

I say to the Senator from Michigan we had a Senator on the other side who has been a leading critic of the Mitchell bill. He declared it dead and he said on the floor of this Senate that if the voters kick us out we lose our health insurance.

The Senator from Texas, who made that statement, has been around a long time in Congress. As a matter of fact, I remember when he used to be a Democrat, and I served over on the House side.

He has his health insurance. If the voters were to knock him out or knock me out—they have that chance—the truth is we would have health insurance that could not be taken away because we have been here in excess of 5 years.

So I say to my friend from Michigan, just by way of underscoring his point, if it is good enough for us, should it not be good enough for Mr. and Mrs. America.

Mr. LEVIN. I thank my friend from California.

Mr. KENNEDY. Madam President, will the Senator yield for one final question?

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. LEVIN. Could I quickly respond to that question, first?

The PRESIDING OFFICER. The Senator has 50 seconds.

Mr. LEVIN. I have 50 seconds to respond.

The quick answer to that question is all Americans should have the same opportunity that we do for health care. That is what some of us are trying to achieve. It is not right that we have access to health care which is not available to all Americans, that we can obtain health insurance despite any preexisting condition, but other Americans do not have that opportunity.

I would be happy to yield to my friend from Massachusetts.

Mr. KENNEDY. Just a final question, and I ask the Senator from South Dakota the same question.

Does he know of any job in America where after you have worked for that period of time, up to 5 years, and then you retire that you are guaranteed health insurance for the rest of your life effectively? Do you not think that ought to be of interest to some Americans as well?

The PRESIDING OFFICER. The time has expired.

Mr. KENNEDY. Could I have a minute to let him respond?

Mr. PRYOR. I yield one additional minute to the Senator.

Mr. DASCHLE. Madam President, the answer to the question from the Senator from Massachusetts is "no." In fact, it is often just the reverse. I know so many occasions where people lose their health benefits when they are laid off or retire from their factory or their office job. They are no longer insured. They have limited access to care. They have no confidence that their insurance will be continued. It does not matter whether they are sick, whether they are healthy, whether they are rich or poor. They may lose their coverage.

It is really ironic, Madam President, that this body on so many occasions exempts itself from laws that we insist the rest of America comply with, but on health care it is just the reverse. We are prepared to accept benefits that we are not willing to share with the rest of the country. That ironic twist is something we do not talk enough about.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Oregon.

Mr. PACKWOOD. Madam President, I yield such time as the Senator from Florida requires.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Madam President, I can understand why the discussion is not on the issue of my amendment. Frankly, I would suggest that this is probably somewhat embarrassing to those who have endorsed the Clinton-Mitchell proposal. There might be those who feel that the discussion of meetings in secrecy somehow might be a silly idea. But I believe there is something very significant about a health care proposal which we claim is basically Government dominated, and Government controlled. We think the point that a couple of the major commissions that have been established under this bill will be able to carry out their work in secrecy is wrong.

There may be those who want to say they did not know this was in the bill. Or they might say I certainly would not have supported that concept if I knew it was in there.

But the reality is these boards, and two I am going to specifically talk about are exempt from having their meetings held in public. One of the demands we place on Government because of the freedoms we enjoy is the right to participate in actions taken by the Government which affect our daily lives. Our constituents can write us. They can call our offices, they can meet with us. They can attend hearings. They can read proceedings of the Senate in the CONGRESSIONAL RECORD. They are watching us in this historic Chamber today.

But when it comes to health care, these freedoms are slowly being eroded by the Clinton-Mitchell legislation. This bill expressly grants secrecy to boards and commissions which will be making life or death decisions affecting ourselves and our families.

The amendment we offer today restores some of the freedoms which have been taken away from the American people in the Clinton-Mitchell bill.

Our amendment requires that all boards and commissions established under this bill must operate in the sunshine. It is not surprising, however, that secrecy has made its way into this bill. It began in secrecy at the White House with minutes and notes of meetings pried out only through court action.

This bill has also been crafted in secrecy. Secrecy in Government is not the American way. Secrecy in Government has led to all sorts of abuses and denial of freedom in other lands. We must keep our system of Government open and accountable to the citizens of our country for public inspection and scrutiny.

It is simply wrong that this legislation has in it so many elements of secrecy.

The Clinton-Mitchell bill states that the Federal Advisory Committee Act shall not apply to the national health benefits board, the national health care cost and coverage commission, and the agency for health care policy and research. In addition, panels created by the agency for health care policy and research are exempted from the Government in the Sunshine Act.

Let me try to put this into some perspective. This chart shows the requirements under the Federal Advisory Committee Act. It says that these meetings should be meetings in public, published notice of meetings in the Federal Register, let public know of the agenda for those meetings. The act requires boards to permit persons to obtain transcripts, appear and testify or file statements, make a record, minutes, working papers, drafts, et cetera, available, keep detailed minutes, permit citizens to purchase manuscripts and transcripts, keep adequate financial records. The act also requires there should be a 2-year time period for the boards and commissions.

That is the requirement for most Federal agency meetings. But for one reason or another, these two boards, the national health benefits board and the national health care cost and coverage commission, are exempted from those requirements.

I want people to think about that for a moment because these two boards have a potentially significant impact on the lives of our friends, families and loved ones.

The national health benefits board will meet at least four times per year. It define benefits. It will develop cost sharing schedules, address parity of mental illness and substance abuse service, decide what is medically appropriate and necessary, promulgate regulations or guidelines to clarify items and services covered, and submit to Congress an implementing bill with fast-track authority.

Keep in mind that it is going to go on behind closed doors in secrecy, with no way for the public to have input on probably what is the most significant piece of this legislation, the determination of the benefits that will be in policies.

Let me once again put this on a personal basis.

Several years ago, my wife Priscilla told me she had discovered a lump in her breast. It was cancer. But, fortunately for her, it was discovered early. She is alive today, frankly, because of that early discovery.

This benefit board is going to make the determination as to whether women are going to receive mammograms at the age of 50 and above, or whether it will be 40 and above.

Mr. President, I have been active on this issue with respect to breast cancer. I have attended meetings where there were discussions as to whether the scientific data really does question whether it should be 50 or whether it should be 40. And there is one tremendous debate that is going on.

But the thought occurs to me that allowing this board, behind closed doors and without input, is, in fact, a tragedy. It is an outrage.

Now, my friends on the other side of the aisle do not want to focus on this, and I can understand why. But this is a significant issue. The key term is "medically appropriate and necessary." How that board comes to a conclusion on almost every single medical procedure available to us in this country will affect each one of us personally, our moms and dads, our brothers and sisters, our grandchildren. And it is going to be done behind closed doors?

Let me make another point. This same board, under "medically appropriate and necessary," will promulgate regulations and/or guidelines to clarify items and services covered.

A couple of days ago, I talked about a British citizen that had gone to a generalist and was referred to a specialist in England, and received a letter from the governing board indicating to him that it would be 2 years before he would be able to get an appointment with that specialist. My point is, in that same country, under these kinds of terms and with a similar board, they have decided—at least it used to be—they have decided if you are 55 years of age or older, kidney dialysis is not available to you.

I do not think those kinds of decisions should be made by a seven-member board behind closed doors. I think it is fundamentally wrong. I think people want to have confidence in their Government, confidence in their health care system. They want to have the ability to have input. It is that straightforward and that simple.

Now, let me address this other commission, the National Health Care Cost and Coverage Commission. I know some people might say, "Well, gee, I do not know, that is really one that is too important to focus on. After all, is the National Health Benefits Board not the key concern?"

It is the key concern. There is no question about that.

But I think it is important, as well. Because there are several things that this coverage commission is empowered to do. "Determine if our Nation and each State has achieved 95 percent coverage." And then, "Develop legislation to achieve 95 percent coverage."

That legislation comes to us under fast track, and we lose our ability to effect that legislation. I do not think that a board of this kind, dealing with that kind of significant legislation, should do it behind closed doors.

Mr. President, I suggest that when this does come to a vote, I imagine that most of my colleagues will agree with me. And I am happy that they will, because a health care plan, whatever kind of health care plan makes it through the Senate, the House, and eventually becomes law, should not have as one of its basic tenets, secrecy. The people of America demand that they have a right to express their concerns. They want to be able to say more specifically what kind of health care coverage and what kind of medical procedures may be available to them.

I was driven to offer this amendment because of personal reasons.

I go back to the point I made a minute ago. I think it is important that the people of our country have confidence, not only in the process, but in the people who make these kinds of delicate decisions. And I suspect that every Member of the Senate and most people who are hearing this debate have found themselves in positions where they have had to make some very difficult and tough decisions about the kind of health care for their loved ones to receive.

Those decisions are being taken away from them. Those decisions are going to be made by these kinds of boards. These boards are going to determine what is "medically appropriate and necessary."

No longer will that precious relationship that exists between the doctor and patient be the same if legislation like this is passed. Boards, acting behind closed doors, in the darkness of night, will decide what benefits you and your family will receive.

Again, it is much more than just benefits. What we are talking about is specific medical procedures. They are going to decide what drug, for example, might be available. They are going to decide what kind of operating procedure might be available. And, under this legislation, you and I, as average Americans, will not have one opportunity to input the outcome of that decision.

That is wrong and I think the American people reject it out of hand.

I yield the floor.

The PRESIDING OFFICER (Mr. FEINGOLD). Who yields time?

Mr. PRYOR. Mr. President, I yield such time as the Senator from South Dakota may desire.

Mr. DASCHLE. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I had the opportunity to clarify the statement made by the Senator from Texas a couple of minutes ago with regard to what happens when a Member of the Senate exits the Senate. The answer is that a Senator is entitled to the same benefits beyond the time he or she may serve in the Senate, for 18 months, and then he or she may convert their group policy to an individual policy, through the same insurance company. This is an important point.

Can we be consistent? Can we say, if it is good enough for us, it ought to be good enough for them? The question is not whether we have a government program or a private program. We can argue about the merits of either, and no one has done that more eloquently, as the Senator from Arkansas has stated, than Senator MITCHELL. The majority leader has said over and over again, we can call this a horse if we want to, and we can continue to refer to it as a horse, but it is a desk, regardless of how many times we say it is a horse. We can call the health system under Senator MITCHELL's bill a government program, but the bottom line is what we are trying to do for the American people is what we have already done for ourselves. We are simply trying to extend the Federal employees health benefits plan, a plan that 9 million Americans use as employees of the Federal Government, to all Americans. Is that a government plan or is it a private plan?

We have made reference several times today to a speech made by the majority leader. I had the good fortune to hear another speech Monday evening, August 15, given by one of the real students of health care in the Senate, our colleague from Minnesota, Senator DURENBERGER. I doubt that he would mind if I read what he said that night:

> If we cannot understand the difference between the Federal Employee Health Benefit Plan and a Government-run program like Medicare and Medicaid, I, for one, am going to spend a lot of time here educating my colleagues, and I do not want to have anyone call it a filibuster. The Federal Employee Health Benefit Plan or plans, if you will, are a series of health plans which all of us have the opportunity to buy. But they are all private plans everybody in this community can buy, if they have an employer who provides it to them, or they can buy it in the open market. There are Blue Cross-Blue Shield plans in that, and I think there is a Kaiser plan in this community. But they are private plans.
>
> What they do is ensure all of us access to the doctors, hospitals and so forth that we need in this area, Washington, DC, northern Virginia, Maryland, and so forth. But it is basically a private plan.

That is what our colleague from Minnesota said about what we have as Members of the Senate. It has been described on so many occasions as a government plan, but as he, the majority leader and so many others have so ably stated again this afternoon, what we want to do is simply provide the American people with the opportunity to have what we have; to give them the same access we have; to give them the confidence we have that when you lose your job or when you retire, you have the ability to cover yourself and your family. We have the confidence in knowing that if we get sick, we are still going to have the same coverage we have right now.

I do not know that we can do any better than that. We have the luxury of knowing that we have a standardized plan that precludes preexisting condition exclusions or limitations, that precludes the fine print, that precludes a lot of the surprises that one finds in so many of the plans most Americans have today. We have an ability to go about our work, to do the best job we can as U.S. Senators, knowing we are well covered. There are no surprises in

VOL 140 PT 16 AG 12 — 18 1994 UMI

our policies. When we most rely upon the FEHB, we know it is there for us.

I hope we can recognize that there is a substantial degree of misinformation in this debate. It is crucial that we recognize the importance of portability, the elimination of preexisting condition exclusions and fine print, and the extension of benefits regardless of one's employment status—that is all we are saying we want. We can categorize that as a government plan if we want to, but that does not change the facts. The fact is, very simply, that Members of Congress have a good system. If it is good enough for us, it ought to be good enough for all Americans.

I do not know how many speeches I have heard on the floor over the last many years about why it is we ought to exempt ourselves from this or that law. Some of us are now arguing just the reverse. We have something many Americans do not have, and the question is, should we extend what we have to them? I believe that really is the essence of this debate.

Mr. WELLSTONE. Will the Senator yield?

Mr. DASCHLE. I will be happy to yield to the Senator from Minnesota.

Mr. WELLSTONE. I will ask the Senator a question. I followed the debate from my office. This point came up some yesterday. I know we are going to come back to this in the debate.

In the Federal employees benefit package there are a variety of different, if you will, benefit packages but in each and every one of them, you have a list of what is covered. In other words, you have a standard basic benefit package, and there are a number of them that you choose from.

But would the Senator agree with me that the differences have to do with copays or deductibles, but it is not a situation where people can say, "Listen, I am not a woman expecting a child." We went through this with the amendment of the Senator from Connecticut, Senator DODD. Or, "I am not a spouse or woman expecting a child or I do not struggle with mental illness or I do not know anybody who does; I do not come from an underserved community, I am not interested in public health."—and therefore you can say, "I want nothing to do with that."

Is it not true that in each one of these plans you have a standard package, the idea being we are all in this together? Is that not a part of what makes this insurance work?

Mr. DASCHLE. The Senator is absolutely right. He was a participant in the debate yesterday when we discussed that issue. What we do not want to do is protect the fine print. What we do not want to do is allow practices utilized by some insurance companies, in which they surprise policyholders at the moment when they are most vulnerable. We do not have to worry about that as Federal employees. One ought not to have to worry about that under any circumstances in this country. But people do worry. There are so many tricks, there are so many gimmicks, there are so many ways insurance companies are able to get around their responsibilities even if someone has paid tens of thousands of dollars over the years to ensure protection for themselves and their families. They may not know their policy has a lifetime limit. They may not know their policy has a preexisting condition clause. They may not know their policy has many different categories of exceptions that sometimes get buried in the fine print on page 77 of their insurance plan.

That is really what we are trying to address here. We are trying to standardize plans to keep the surprises out of insurance. We have that security. All Americans ought to have that same confidence. I appreciate the point the Senator from Minnesota made.

Mr. WELLSTONE. If the Senator will yield? Let me just ask a couple of other questions because this will go to an amendment I will introduce on the floor soon.

Is it not true—we have had this debate about universal coverage—each Senator or Representative is covered and in a sense it is universal coverage? We do not have 90 or 95 percent; all of us are covered?

Mr. DASCHLE. All of us are covered, all our families are covered, everyone who serves in the U.S. Senate is completely covered.

Mr. WELLSTONE. Then, finally, is it not also true that there are no preexisting condition?

Mr. DASCHLE. The Senator is correct. There are no "preexisting condition exclusions or restrictions allowed." In fact, these kinds of exclusions are specifically prohibited under FEHBP.

Every insurance plan that contracts with the FEHBP has to meet certain conditions. It has to be willing to accept certain criteria if it is sold through FEHBP. That is exactly what we are trying do here. We are trying to require insurers to say, "We are not going to have preexisting condition exclusions, we are not going to have lifetime limits, we are not going to write into a plan the kind of fine print that is so often found in non-FEHBP private plans. FEHB plans are willing to accept this criteria. Why? Because FEHBP has access to 9 million well-paid American people and their families. That is why these plans are willing to agree to go into that pool. That is why the plans are willing to leave out preexisting condition restrictions and the fine print they put in other policies.

Mr. WELLSTONE. Because everybody is in this together.

Mr. DASCHLE. Everybody is in this together. The universal coverage we get gives us the ability not only to have the confidence that we are not going to be surprised by what is in our policy, but it gives us the power to purchase. It gives us the ability to choose among plans that compete along with all the other plans for 9 million Americans. Through this system we get the cheapest, most accessible health care you can find in America today.

Mr. WELLSTONE. I see my colleague on the floor. If I may make just the final point, if the Senator will let me ask a question and make a comment. The other thing that makes this work is that our employer contributes what, about 72 percent? Is that correct?

Mr. DASCHLE. Our employer contributes 72 percent today, we contribute 28 percent. Which is approximately the average in the country today. Employers in large corporations generally provide that kind of contribution to their workers' coverage. The Senator from Alaska was a little sensitive about that earlier, when he was trying to make the point we do not have anything unique. To a certain extent he is right, but there are truly unique aspects about what we have.

The luxury of knowing that we cannot be dropped from our policy, the luxury of knowing that we have a significant purchasing power that gives us a good price for our policy. So we have some benefits that a lot of people do not have today.

Mr. WELLSTONE. To conclude, let me ask the Senator's reaction to this. The point we are trying to make, which seems to be maybe the standard, almost 100 percent of the people in the country—is, "Look, when you do your work representing us, we would like for you in your reform bill to make sure what is available to you and your loved ones"—and they do not say that in the spirit of angry people—"is a available to us." That is really the goal.

Would the Senator think it would be a good idea, since this is the yardstick by which we measure our work, for an amendment to be offered? I am going to work out an amendment that essentially captures the spirit of that—what it is that you have and what you consider to be a plan that is good for you and your loved ones. This is what we want in the reform effort, this is what we want the final bill to live up to, to move toward, to capture.

Mr. DASCHLE. I commend the Senator for his interest in this issue. I think that sends the right message. We want for you what we have for ourselves. We want to be sure that you have the same opportunities, the same confidence, the same stability that this provides all of our families and ourselves. As we go about our daily business, as we try to do the best job we can here in the U.S. Senate, we do not have to worry. We are protected. Why? Because we, over the years, decided it is in our best interest to have this kind of insurance. We have had the luxury to do that. A lot of Americans do not have that luxury or that power.

Mr. WELLSTONE. I thank the Senator. I think what I will do, I am going to, the first chance I get, offer an amendment where we can have a vote and have everybody on record to this proposition that really, in this final reform bill and what we are working for, what we are working for is to make sure the people we represent have health care like we have: High-quality health care available to themselves and their loved ones. I will make sure we have a vote on the amendment and everybody can be on record, and then we can measure the different proposals in what we finally do by that standard.

Mr. DASCHLE. I hope the Senator from Minnesota will share that with all of us.

Mr. WELLSTONE. I will share that.

Mr. DODD. Will the Senator yield?

Mr. DASCHLE. I will be happy to yield to the Senator.

Mr. DODD. I would like to address two questions to my distinguished colleague. The first picks up on the comment of Senator WELLSTONE. Yesterday, during some of the debate regarding the amendment that we adopted dealing with the accelerated benefits for pregnant women and children in the area of prevention, I heard one of my colleagues express the notion that we are all sort of islands unto ourselves and that there is a need to have so-called cafeteria plans where individuals, based on their family circumstances, their age and the like would tailor their health care plans according to their own specific needs. There is, I think, a genuine appeal to that approach.

But I ask my colleague, whether there is not also a sense of community in this country that also should inform this debate. I see my colleague from Iowa on the floor, and his description of the barn-raising effort is a good example. It was a great notion of community there. It was not possible for one family to put up the barn. We have all heard those stories over the years.

In the educational system, I suppose in an ideal world, maybe each person or family would educate their own child, but we appreciate the value of the community coming together to provide education.

There are certain issues that transcend the individual's needs, and it struck me that in a number of these areas, that is where the sense of community comes into play: A younger generation pays for the Social Security of a retired population. There are some younger people who argue, "Why should I be paying for some retiree?" And yet because there is this notion of community, we have accepted the idea that one generation contributes to the retiring generation's financial security, and it makes sense for all of us.

I just wanted to emphasize that particular point. My colleague from Minnesota has raised it and I think it has value, the notion of community. It does not apply in every situation, but I think in a number of areas it clearly does. I just ask him for his particular comments on that.

Additionally, I think it is important to expand on an issue raised by my colleagues from Michigan, Minnesota, and South Dakota—the idea of a Government plan. No one here that I know of is advocating a Government plan. Now some have argued for a single payer system, and I have great respect for those who do.

But what is before us and what we are discussing is really an expansion of the private insurance industry. I am from Connecticut. No State has a greater interest in this issue. In my State of Connecticut, I have 55,000 constituents that work directly in the private insurance industry. Despite some of the comments that are made around in this Chamber from time to time, we think it is a good industry and has contributed significantly to the health and well-being of this country.

One of the reasons why I am supportive of the general notions put forward by the distinguished majority leader, is because it takes the industry in my State, the private insurance industry, and it builds upon that industry. It does not try to set up a competing operation within the Federal Government or State governments, but it takes the private insurance industry, principally located in my home State of Connecticut, and says we are going to utilize that system and see to it that we can try to reach the other 40 million Americans, who have no insurance. Is that not, in fact, what we are doing?

Mr. DASCHLE. The Senator from Connecticut is absolutely right on both points. Let me talk about the first one for just a minute, because I think he makes a point we do not talk about often enough on the floor: The sense of community. That really has been one of the most pervasive values that I think this country was based upon, all the way through the history, the development of this country. When my State was being discovered by the early pioneers, it was really the pioneers coming together as neighbors, as people in a very desolate part of the country helping each other so that they could survive first and flourish second.

The interesting thing is that sense of community comes up the most when it is a time of peril or personal difficulty, as the Senator from Connecticut has indicated. It is at a time when a barn burns, or it is at a time of a flood, or a time when a community has been ravaged by a disaster of some kind. That is when we really see the value of that community spirit that built this country in the first place.

What greater peril is there than for a family to experience a life crisis in health—a cancer, a serious illness of any kind, a death? That is the time when we really rely upon the community to help each other, to try to get through that difficult time financially and emotionally and in every other way. That is really the essence of insurance. That is really what we are trying to do here.

Frankly, whether it is Government or private, that ought not matter. Let us get out of the semantics for a minute and just recognize that insurance is insurance regardless of what source that insurance may come from.

As the Senator said—and that leads to a second point—we can call this desk a horse, as the majority leader has said, and if it is repeated often enough, somebody soon enough will call this a horse, but the fact is it is a desk.

Someone can continue to insist what we are trying to do is provide Government insurance, but as Senator DURENBERGER said on Monday night, as the majority leader said often, as we continue to insist here, let us get the facts straight. Let us get rid of the misinformation. Let us quit the miscategorization here. Let us get down to the real essence of what it is we are trying to do. We are simply trying to provide the same coverage, the same insurance in that same community spirit to all the American people that we have felt to be so important for ourselves.

Mr. DODD. I thank my colleague for yielding. I see our friend and colleague from Oregon here, Senator PACKWOOD. He was my best and strongest supporter, I point out to my colleagues, on family and medical leave. I recall a day here during that debate when he was eloquent in describing the evolution of the concept of family and medical leave when people worked on farms. And if something happened to a child, there was always someone there. There was a sense of community on those farms.

The world has changed, our Nation has changed and, unfortunately, when a child gets sick or a family member, there is not always someone there to be with them. Arguably, not everybody has a family in this country. Some people are single, some people are retired and family and medical leave is of marginal significance to them.

But when we passed that legislation by almost 70 votes in the Senate—Democrats and Republicans coming together for the final version of that bill—no one made the argument that because it only benefited a certain percentage of the population, that it was not worth doing, because we understood, I believe, the sense of community and the sense that from time to time we need to pull together, and even though someone else may be paying some small amount for that benefit, it is in everyone's interest to make that benefit available.

I thank my colleague for yielding.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. DASCHLE. The Senator from Connecticut makes a very good point.

There are others waiting to speak, and I will conclude with this.

We talk about preexisting conditions and the fine print, Mr. President. I have something here that was offered to us by a representative of the insurance industry recently as an example of the fine print that is so often found in insurance policies today. References in these policies are made frequently to "sickness." Here is what a standard policy includes as its definition of sickness. This is not an FEHBP policy, because we do not have this type of fine print. But you can find this type of language in other plans that are available across the country. And I quote from the insurance policy:

Sickness means illness or disease of any insured which first manifests itself 30 days after the effective date of this policy and while this policy is in force. All sickness due to the same or related cause or causes which continues or recurs shall be considered one and the same sickness or any one sickness unless periods of confinement to a hospital or service treatment or expense incurred resulting from such sickness are separated by an interval of at least 90 consecutive days between the end of one such period and the beginning of a subsequent such period. Any loss which results from hernia, disease, or disorder of the reproductive organs, hemorrhoids, varicose veins, tonsils, or adenoids shall be covered only if such loss occurs after this policy has been in force for a period of 6 months from the effective date of this policy, provided these sicknesses are not excluded by rider or endorsement and these sicknesses are not preexisting conditions.

This is what the American people are up against, Mr. President. It takes not one lawyer but a bank of lawyers to interpret this. If I had this policy today, I would not have the slightest idea whether or not I was covered for my medical condition. That is the surprise method used by some insurance companies to avoid responsibility, to avoid having to own up to the expectations of their policyholders when that moment comes and they need care the most.

So I am hopeful that we can end the surprises; that we can ensure that this piece of legislation does not become the "Fine Print Prevention Act." We want to be sure that we can, of all the things we do, take out the fine print, put in the confidence, and do what is right not only for ourselves but the rest of the country.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I yield 15 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 15 minutes.

Mr. CRAIG. I thank my colleague from Oregon for yielding.

I have been enthralled by the discussion that has gone on on the other side over the last few minutes in their use of the word "community," and the discussion of my colleague from Connecticut of the barn raising.

I come from a rural State. I come from a State that is just 100 and a few years old. The reason we had barn raisings in our State was because there was not a government. The reason we developed a sense of community is because there was not a government. Governments do not create communities. They destroy communities. They destroy voluntarism. They destroy individuals coming together to provide for themselves and their community. We all know that.

The reason there was a barn raising and the community gathered was because there was no FHA loan. There was no Federal program. No, the Government did not pay for the barn. The individual paid for the barn. He called up his neighbors and he said, "Would you come and help me raise the barn?" That is community action. That is in the absence of government.

My colleague also mentioned he had 55,000 insurance employees in his State. My guess is that after the Clinton-Mitchell bill passes, within 10 years, he will probably have 150,000 insurance employees in his State.

One of the reasons that more than likely will occur is because of the phenomenal complication, the phenomenal intricacy that is involved in little terms like "community ratings" and "geographic areas that result in 250,000 or more," that establish certain levels of costs and the kinds of necessary threadings and the loopholes or absence thereof that the insurance industries of this country will have to begin to comply with and the paperwork that will be required.

Now, is that going to happen? Well, let me suggest that in any other, not federally run but federally controlled, federally monitored, federally designed health care system around the world, that is all true. I have to believe that in the Clinton-Mitchell approach that, too, will be the case—not tomorrow, or 2 or 3 years from now, but progressively over time as a National Health Benefits Board begins its approach put upon it by the pressure of the politics of America to say add this benefit and add this benefit and add more. There will be no Government program, or should I say Federal employees insurance program, after that.

I thought that was a fascinating debate this afternoon. It will be the standardized approach that will be designed by this board. So let me at this moment then talk about the Mack-Coats amendment that is very important if we are going to march down the very dangerous path that this huge bill that none of us have really yet had the opportunity to detail may send us.

If I as a Senator am going to be subject to the National Health Benefits Board, then I wish to know publicly what they are doing. I do not agree with Senator MITCHELL that they ought to meet in private. I do not agree that their decisions ought to be secret. And the reason I do not agree with that is because it will affect me. But it will also affect every other American citizen.

In 1974, I was a freshman State senator in Idaho, and one of the first pieces of legislation that I ever voted on was a bill called the Idaho Sunshine Act. That was a bill that came out of the State of Florida. We all know about it. It was the beginning of a period in time starting in the mid-1970's when we moved toward openness in government like never before, when we believed as legislators, whether it was at the State or the Federal level, that, doggone it, we were making decisions that were important enough that the public ought to be allowed to participate. And, thank goodness, we had a free press that said: You are darned right; it ought to be open. And we are going to continue to push you, public legislators, until you open government. And we opened it. We opened it aggressively through the 1970's and into the early 1980's, and we all are better off for it.

Now, we are talking about probably the largest piece of legislation that in my 14 years of service to the State of Idaho I have ever had the responsibility of analyzing and voting for or against, the largest entitlement program in the history of the world, potentially the largest economic program ever in the history of this country. And yet, embodied within it, are boards and commissions that are to meet in secrecy.

Why in the heck would anybody on that side of the aisle or this side of the aisle ever bring a bill to the floor of the Senate that had that kind of provision in it?

The reason is simple. They did not know what was in it. They had not read what was in it. It had not been written in a committee. There were no committee hearings. It was a cobbled up piece of legislative trivia that now is falling apart. The reason I use those terms is because it is time we became very, very serious about what we do here. And that seriousness says that if we are going to redirect through a Government program one-seventh of the U.S. economy, we deserve to have open, public hearings, open committee hearings and subcommittee hearings, and bring about all the details and all of the tests that we normally afford any given piece of legislation.

Why? Why, in the last minutes of this Congress before we go out on recess, were we asked to vote now on a 1,400-page piece of legislation?

Well, there are a lot of reasons, I suspect. None of them are pressure from the American people. The American people are not saying we have to have this now. They are saying go carefully and go cautiously, because what you will do to us will be greater than anything you have done to us or for us since the Social Security Act of the 1930's. And so you must go carefully and you must go cautiously.

As you go, why in the heck are you suggesting that any of those deliberations, any of those decisions that will provide or examine or determine or lay out, and therefore proscribe, all of the benefits that would be in a package, why should they be done secretly?

Now we have a quasi-governmental body known as the Federal Reserve. They are allowed to operate in secrecy even though, after they have made their decision and implemented it, they can then announce it. Here is the reason: Because it is possible, if it were done in an open public forum, that an individual could move rapidly to profit by it. The Congress of the United States said that ought not be allowed. We ought not allow an individual to personally profit by an act of the Federal Reserve Board because they were in the right place at the right time, tied to the right institution, and could move rapidly to cause that to happen.

But the Senate knows that a National Health Benefits Board is an entirely different creature. Because what they do, and their determinations, and as they send them to the U.S. Congress, they are going to tell the American people for what they will be covered, how their health care will respond as it relates to their needs. So it is time that we work the process, but a great deal more diligently than we have been allowed to on this most important piece of legislation.

It is time that the meetings be public. It is time that we do everything that the Federal Advisory Committee asked us to do. And, by the way, we all know that the Federal Advisory Committee Act is a creature of this Senate, of this Congress. When we say to the executive branch of Government, here is how you will operate, here is how, or here is the forum in which you will make these decisions, and you know the litany as I know the litany—public meetings, published notice of meetings in the Federal Register except for reasons of national security, making meeting agendas public, permit interested persons to attend, to testify, to file written statements, make records, meetings of minutes, graphs, and other documents available to the public, keep detailed minutes or transcripts, and allow the public to buy them, make records of funds received and disclose them to the public.

This is a simple summary of what that law requires. Why would possibly the most important piece of legislation in a quarter century be exempt from that process? Why would the boards and the commissions that are embodied and, therefore, created by this piece of legislation allowed to do that or to do differently than that?

I will tell you why I think it is so. Because this was a badly thought up and quickly cobbled together piece of legislation, and therein lies the great tragedy. That is why we now day by day, hour by hour have to go through it section by section. And, yes, we are reading the fine print. We are finding out that there is a lot in it that we do not like. We are bringing those amendments to the floor, and our colleagues on the other side are agreeing with us. Neither they nor us want to be embarrassed by a final product that might leave this Senate.

So I hope we would stay here and continue the process, and that the public is allowed to listen, as they are—this is an open forum and what we say and do here is public, and it is observed by the public—and that we would work our way through this page by page, section by section until such time as it is either determined that this vehicle cannot pass, nor can it stand on its own, or we have simply been able to correct it.

I am one who believes you cannot correct that much. I am also one who believes in health care reform in a substantially different approach than is embodied in this legislation. But everything that I believe in that relates to health care reform is open, is public, allows the citizens who will most be affected by the law to watch the determination of how that law will be administered and the effects it might have based on the policies that are created by it.

So I hope that the Senate will support the Mack-Coats amendment. I thank my colleagues for bringing that issue to the floor as we work. I hope we will continue to try to make a very bad piece of legislation a slightly better piece of legislation.

I yield.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. I yield such time as he may consume to the Senator from Connecticut.

Mr. DODD. Thank you, Mr. President. I will not take much time here. I intend to digress from the subject matter of health care briefly to talk about the pending crime legislation.

But before I do, I want to respond to my colleague from Idaho. Sometimes, in debate we engage in a little hyperbole. I know I have. But I do not want to let stand the notion that Government has destroyed voluntarism in this country. Quite the contrary. I served as a Peace Corps volunteer for 2½ years representing my country. That program was created by Government.

There are thousands of others who serve as VISTA volunteers all across this Nation—another program set up by Government. The National Service Program, which in a bipartisan fashion we passed in this Congress, will ask thousands of young Americans to make a contribution to their communities. The United Ways across this country receive substantial support and backing from State, local, and the National Government. Teach America asks young Americans who finish college to go out and work in some of our toughest schools in this Nation. The Points of Light Program, which George Bush championed, encouraged and expanded voluntarism and has been strongly backed by Congress over the years.

And the list goes on—Big Brothers, Big Sisters, police athletic leagues, and Boys Clubs—all rely on volunteers. In fact, I would argue that today there is a greater sense of voluntarism in America than maybe at any other point in our history.

So the notion that Government destroys voluntarism or a sense of community I just cannot let stand without challenging——

Mr. CRAIG. Will the Senator yield?

Mr. DODD. I will be glad to yield briefly.

Mr. CRAIG. I believe when the Senator served on the Peace Corps as a volunteer he was provided with the cost of living, to some extent. I do not dispute the fact that there are some Government programs that provide certain things that allow people to do something they otherwise would not. I doubt that the Senator could have personally volunteered on his own time without his own money to serve in the Peace Corps. I am not disputing that. What I am suggesting to the Senator is that while there are a good number of Government-sponsored programs that are called volunteer programs, the true definition of a volunteer is when you do something for someone else and you are not paid for doing it. That is the true sense of voluntarism.

Mr. DODD. Mr. President, if I can reclaim my time. Let me reclaim the time.

Mr. CRAIG. I do not dispute that.

The PRESIDING OFFICER. The Senator will withhold.

The Senator from Connecticut has the floor.

Mr. DODD. I say to my friend that at $100 a month I considered my service in the Peace Corps to be volunteering, as do most of the people who have been through that program and similar programs.

I just do not want to let stand here the notion somehow that is destructive. Over the years, many good people have served or volunteered and contributed to our country and our communities. The notion that Government programs destroy voluntarism just does not stand up in the light of day when you consider the thousands of people who have served and who continue to serve as a result of programs sponsored by the Government.

Mr. LOTT. Mr. President, parliamentary inquiry.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. DODD. I would like to proceed, if I could, Mr. President.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. Mr. President, we are talking here about health care. Obviously, that is a critically important issue, critical to every working family in the country; in fact, to every American citizen regardless of age or geography. And it is vitally important that we continue this debate, in my view, and hopefully complete it with a product that we can all be proud of and return to our respective States and districts at the end of this process having done something that has defied 7 American Presidents and 30 Congresses over the past 60 years.

However, Mr. President, that is not the only issue which presently occupies the minds and attention of the American public.

THE CRIME BILL

Mr. DODD. Mr. President, it is very clear that one issue is a source of even greater concern to most of our citizens than even health care, and that issue is crime.

In many of our communities our children are being slaughtered before our very eyes. People in communities that used to be secure from even the prospect of any violence are no longer immune. We all know that, whether you live in rural America, suburban America, or urban areas, crime is a complex, disturbing, frightening issue that defies any immediate solution. And we are all striving to find some answers so that we can begin to turn the tide.

But the answer to these problems is not simply more police officers, more jails, and more prosecutors.

I do not know of anybody who believes that. Obviously, we need more police officers, jails, and prosecutors because of the wave of crime that is affecting our Nation. But anyone who believes that merely providing more resources, more manpower in those areas, is going to ultimately solve the problem, must be living on another planet. We are going to have to address the underlying causes that turn some of these young people to a life of crime, that causes them to engage in violent behavior.

A lot has been said about the crime bill in a last few days, and a lot has been made of the so-called pork in the crime bill. I want to take a minute and talk about one of those areas that has been so designated as pork, or unnecessary, or unrelated to the issue of dealing with crime in our country.

There was a proposal that was authored here in this body in a bipartisan way by the Senator from New Mexico [Mr. DOMENICI], the Senator from Missouri, [Mr. DANFORTH], the Senator from New Jersey, [Mr. BRADLEY], myself, and others—an ounce-of-prevention program to take resources and make them available to community-based organizations that are trying to find alternatives for the youth of this Nation.

Many of these organizations, such as the Boys Clubs, Girls Clubs, Big Brothers, Big Sisters, Police Athletic Leagues, and church groups, are out there every single day in the trenches trying to make a difference in the lives of young people. They do not have all the answers. But they offer these young people activities to be involved in, and role models, and the hope that there is a better way of life than the life of crime. With additional support for these programs, we can make a significant difference in their lives.

If you believe these young people are inherently evil, I suppose the idea of Senator DOMENICI, Senator DANFORTH, Senator BRADLEY, and Senator DODD does not make any sense. But if you believe that these young people are not born evil, are not born cruel, are not born determined to engage in a life of crime and thievery and the like, then you ought to at least listen to the people out there every day who are trying to make a difference in these people's lives.

I will cite one example if I can, Mr. President. I have visited and spoken in every single public high school in my State in the last 10 years, sometimes on several occasions. I have tried to attend as many after-school programs in my State as possible. I spent a few hours recently in Stowe Village in Hartford, CT. It is arguably one of the toughest neighborhoods in my State. It is a classic example of what has gone bad in housing in urban areas, where there are older brick buildings with not a blade of grass, graffiti everywhere, and not much to offer anyone.

There are thousands of people who live in that development, and many of them are children. In fact, it is estimated that some 2,000 to 4,000 young people live in these housing complexes. Mr. President, there is an after school program at Stowe Village. It can serve only 125 kids. There are no athletic facilities, no playgrounds with organized sports activities. What they can look forward to after school and on summers nights are gangs, corridors that are crime-infested, and drug problems running rampant. The 125 people who work with those young people every day are struggling to try to offer them a better, different path.

Senator DOMENICI, principally, along with Senator DANFORTH, Senator BRADLEY, myself, and others, came up with the idea of trying to take some of these crime dollars to support these community-based organizations. The dollars would go directly to them. Not through your State, not through your local mayor's office, but directly back to the community-based organization. They could apply to one place, not to seven Federal agencies. One-stop shopping. So the dollars would go directly back to these community-based organizations and give them a chance to expand the enrollment for these young people in after-school, night, and summer programs. That is now called pork in this bill.

This idea did not come just from a bunch of Senators and staffers sitting around here. It came from our police officers, our streets, from the people out there who do not give speeches, who do not issue press releases, but who run these programs every day. They see the value of it. They have seen examples, day after day, of turning a young life around.

I think it is deplorable and shameful that as we consider this crime bill today we have people in ads on television and people standing up and saying that is not what a crime bill ought to be about.

I accept and strongly support, Mr. President, additional police officers, prosecutors, and jails. But do not tell me that trying to turn a kid away from having to face that police officer, or to stand before that judge, or having to get in a cell in a jail, is not a better piece of investment than the alternate path. But investment in our youth is now called pork. That is one of the reasons the rule was defeated in the House, because programs like the Domenici-Danforth-Bradley-Dodd proposal have been indicted.

I think we did a good job here on incorporating that provision in the crime bill. I would hope that as the President searches for votes to try to get the rule passed, he would not placate those elements who are ripping the heart out of some of these good programs that would make a difference in our cities and towns across America.

Mr. President, I hope that those who felt so strongly here in the Senate when we fought for those provisions will stand up and defend these so-called pork programs in the crime bill. That will, I think, make a difference.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. PACKWOOD. Mr. President, I yield 10 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY], is recognized.

Mr. GRASSLEY. Mr. President, I rise in support of the amendment that is pending. But we are not hearing anything from the other side of the aisle about the pending amendment because I think it is very difficult for people on

the other side of the aisle, or even anybody on this side of the aisle, to defend secrecy in Government. So you are hearing debates on everything else other than the Mack amendment from the other side of the aisle.

But since they have raised some issues unrelated to the pending amendment, I would like to take just a little bit of my time to respond to some of those points that have been made, because we have spent a lot of time this afternoon on other subjects of health care. That has been the point of departure expressed on the other side of the aisle, because in talking about other issues, they can avoid the issue of whether or not we ought to have secrecy in Government, which this legislation provides for.

It is kind of like a graduate seminar on how to reshuffle one-seventh of the gross national product. The other side of the aisle—those who have great faith that Government always does well, always does good—do not really want us to focus on the fact that a 1,400-page bill would do that.

So instead they want to talk about the health care that Members of Congress have. They do not even want to talk about it factually, as they should. I think that is demonstrated by the points that my good friend from Alaska, Senator STEVENS, made a couple hours ago.

They are making a point about having health care like we in Congress have. But what the American people are sending from the grassroots is a very clear message, that they are very scared of what Congress is going to do to their, our people's, our constituents' health care plans, when Congress acts.

There is a message coming up from the grassroots, that if you in Washington have a problem like people who are uninsured, then take care of that problem. But do not screw up our health care plans.

The 1,400 page bill before us will screw up a lot of the good health care plans that Americans have already.

I would like to refer to the cafeteria plan of the employees of the Pella Corp., Pella, IA, a Dutch community that every spring has a famous festival of the tulips. This Pella Corp. manufactures outstanding Pella windows, windows for homes, windows generally, an outstanding product, a very good company, I believe a very profitable company, with a very good plan of health care for their employees, a cafeteria plan that can be tailored to the needs of each individual employee.

This 1,400 page bill that we have before us will do away with cafeteria plans in America, so that those employees at Pella who are so satisfied with their programs will have to go into some plan that cannot be tailored to individual family needs.

What does this bill do with the plans for the self-insured? Remember this, that there are 22 million employees in America covered by self-insured plans and for all of those who are working at a place with less than 500 employees, the legislation before us does away with the health coverage of those people.

Twenty-two million Americans if this was over 1,000 employees would be deprived of this option. And so you talk about the health care, on the other side of the aisle, that we have in the Congress of the United States because you want to avoid what this 1,400 page bill does to the health care plans of a lot of American workers.

What these American workers are sending in their message to Congress is that they just want to be left alone. That is a plea that we ought to hear as we try to take care of the problems of those who are not insured. We ought to be able to do it in a way that we do not foul up other people's health plans.

Now, to the issue before us, the issue of secrecy, the people who back this bill want this National Health Board to be able to meet in secrecy. They have great faith in Government. So, consequently, they have greater faith if that Government can act in secret.

The New York Times had this to say about the First Lady's task force when it was meeting in secret. The New York Times reported: "It is easier to find out who is in charge of military intelligence for the Joint Chiefs of Staff than to find out who is designing cost controls for President's Clinton's health care plan."

This spirit of secrecy has permeated the deliberations of the executive branch, their plan presented to Congress last fall, and it has found its way into a supposedly whole new approach in the Clinton-Mitchell bill.

To exempt, then, the deliberations of these boards from the FACA now in spite of the plain meaning of this statute, the proponents of this legislation do not want to conduct the business of these policymaking boards in the sunshine. The position of the authors of this legislation is very disappointing, particularly because they represent the party of a President who rode into Washington on a horse called "Change." Some of the arguments that are put forward in support of secrecy by the national board or even by the lawyers who are trying to defend the secrecy of the First Lady's task force stretch credulity.

You might be able to argue, on the one hand, as the Justice Department did, that Mrs. Clinton's position as First Lady was a very unique status and might exempt her from the Federal Advisory Committee Act, the act that the national board is exempted from here. But it seems quite a different thing to say that actual determination of the national board ought to be exempted.

Obviously, complying with the Federal Advisory Committee Act is not as efficient or as pleasant for the executive branch as meeting in secret and cooking up a health care plan or making policy decisions on whatever we pass in the basement of some Government bureaucracy, kind of a shadow Government-type approach to policymaking.

Our Government, does not always make efficiency the highest value.

The court chided the administration for seeking "the judicial rewriting of an inconvenient statute." Judge Lamberth regretted, as I do, that one of the first actions taken by a new President is in direct violation of a statute enacted by Congress.

But the decision was not a complete victory on behalf of open government. Because in addition to the task force itself, 300 to 400 experts have formed working groups to devise a health care plan. Their identity, according to the New York Times, is treated as a White House secret, and they have been told not to discuss their work. In fact, few have been identified and their status in the Government is murky at best.

The court held that the Federal Advisory Committee Act is unconstitutional as applied to these cluster groups. It found that requiring openings at the meetings of these groups would violate the President's power under article II, section 3 to make legislative recommendations to Congress.

But it is within these cluster groups that the detailed work of devising a national health care system is being done. These cluster group meetings are closed to the public. The specific issues being addressed by particular cluster groups are not even fully known to the public. These cluster groups compose the health care task force, and as such should be subject to the same laws as the task force itself. It is simply fiction to suggest that the cluster groups are somehow distinct from the task force itself.

The President stated before the court decision that opening task force deliberations:

> Would be like opening the White House at every staff meeting we have. We can't do that.

Unfortunately, this statement misses the point of the statute. Opening task force working group meetings to the public is not at all like opening White House staff meetings. The President has every right to keep private the meetings of his staff at which policy is developed. His staff also can certainly meet privately with individuals. But the formal cluster groups include many individuals from the private sector whose identities have not been publicly announced. Who are these people? What interests do they represent? What interests are gaining access to the making of very important public policy unbeknownst to the public?

Reports indicate that many of the outside advisors are academics. The assumption, I suppose, is that they are

VOL 140 PT 16 AG 12 — 18 1994 UMI

neutral experts without interests to advance and protect, or without ideological axes to grind. Unfortunately, that is not the way the world works. The fact that they might be academics certainly does not provide sufficient assurances that they are without real-world commitments. If the President is not going to have his own advisers develop health care policy, then the public has every right to know who is developing it.

Could I have 5 additional minutes, please? If you do not have it, I can understand.

Mr. PACKWOOD. I do not have it. I have six more people coming, and I have less than an hour and a half.

Mr. GRASSLEY. I ask my colleagues to adopt the Mack amendment because we ought to be doing everything in the sunshine. If we do, the mold will not grow there.

Mr. PACKWOOD. I like that for the closing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I yield 10 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Oregon for yielding me some time and for the outstanding job he is doing as one of the managers of the bill, along with, of course, the distinguished chairman of the Finance Committee.

Mr. President, earlier I tried to make a point of order to inquire about what we were debating. We have talked baseball, crime, health care, just about everything has been discussed on the other side of the aisle but the issue and the amendment before us.

The issue is secrecy. I just wanted to remind the Members what the amendment that is actually pending here, because it would be very difficult to figure it out if you were actually listening to the debate as we go back and forth.

But I think it is very appropriate that it has been offered by the Senator from Florida—the Sunshine State. This is a sunshine amendment. Let us let the Sun shine in. Let us find out exactly what these boards and commissions are going to be doing if, in fact, they are created, which I certainly hope they will not be.

I think we have found with this amendment another bullet in the Lethal Weapon 3, which is what we have called the latest rendition of the Clinton-Mitchell bill. The bullet here is secrecy. And it is not just an accident.

We heard yesterday on the $10,000 penalty, "Oh, gee, surprise. We really did not know that was in there."

We all knew it was there, though, the truth be known.

And now, we have another surprise, another bullet.

Secrecy? Oh, you mean this bill? This monstrous bill allows for boards and commissions that will determine the future health of the American people to be determined in secret? How could that be?

Well, let us talk about that. And that is what this amendment is all about.

On the other side of the aisle, you cannot say that "This is once again something we did not know was in there, so we will accept your amendment. We embrace it. We love it to death. No, we did not want secrecy."

It is in here repeatedly and it is a very fundamental point that is involved. This amendment would require that all boards, commissions, and advisory committees established under the Clinton-Mitchell bill operate in sunshine. The Clinton bill exempts the National Health Benefits Board in section 1216 of the bill. It also exempts the National Health Care Cost and Coverage Commission in section 10005, and the Agency for Health Care Policy and Research in section 3202(c) from Federal Advisory Committee Act and the Government and Sunshine Act.

Under these acts, it says that a Federal board, panel, and committee must meet in public. Let the public know the agenda, permit interested persons to attend and testify, make records of what happened, keep detailed minutes; basically just to keep it open and let everybody see what is going on within their government. These are Federal employees.

So that is what the amendment would do. It would strike out the secrecy in this bill and say they must all be public hearings.

Now, I think the reason why we are in trouble here is because this whole process began in secret. We had the task force put together by the First Lady, Hillary Clinton, and Ira Magaziner a year and a half or so ago. They met in secret. Then we found that those recommendations were sent to Congress. And eventually the bill that is before us, the Clinton-Mitchell bill, was compiled in secret. The Finance Committee had a meeting in the public. They had debate, they had votes on into the night, and something came out, an outline came out. And then there was a bill developed behind that.

But this one was something that has been merged together, again in some meetings back here in the back corridors. So, again, secrecy was involved.

Now we are saying, let us air it out, let us find out what is in the bill. But the bill, as a matter of fact, has in it the requirement that these boards and commissions could or would also meet in secrecy. I do not think the American people want that with their health care.

Next month, the Clinton administration must go to trial. The First Lady, Hillary Rodham Clinton, and her health care aide, Ira Magaziner will have to testify about the so-called health care task force that created the original Clinton health plan.

Three groups, including the Association of American Physicians and Surgeons Inc., sued the Clinton task force in February 1993, saying that the task force violated the Federal Advisory Committee Act. This act says that if a task force is not made up totally of Federal employees, then the panel must meet in public.

Mr. President, the secret Clinton health care task force worked in secret. The inner workings of this task force were kept away from the American people. You would think that an issue which affects all Americans would be discussed openly, and decisions made by a health care task force would have public input.

The First Lady and Mr. Magaziner, though, refused to open their meetings to the public—they refused to tell the American people what they were doing. Mr. Magaziner testified under oath in March 1993 that only Federal employees were on the secret task force—so the Federal Advisory Committee Act didn't apply to them.

Now the Clinton administration has changed its tune. Mr. Lloyd Cutler, the White House counsel, says today that the White House will release all documents related to the task force—in 3 weeks. How convenient. Let's wait until we're done here on Capitol Hill, then spill the beans. Thank you, Mr. Cutler.

When lawyers for the groups who brought suit found about 357 people on the task force who were not Federal employees, the First Lady and Mr. Magaziner say now the task force had nothing to do with President Clinton or his health plan. The way Mr. Magaziner put it, all those 500 to 1,000 people were in the Old Executive Building chatting about health care over tea and cookies on Government expense.

Why on January 25 of this year, during his State of the Union Address, did the President thank the task force and his wife for work on health care? Why did Mr. Magaziner, in a letter to the court, say that the task force's goal was to "prepare comprehensive health care reform legislation." Let's be honest here—the Clinton-Magaziner secret task force was charged by the President to create a plan for the gargantuan Government takeover of health care, the remnants of which—the Clinton-Mitchell bill—we are considering today.

If the administration loses next month, the White House will have to repay the almost $20 million spent on the task force, mostly made up of special interest representatives.

The reason why we have the Federal Advisory Committee Act and the Government in the Sunshine Act is to stop things like what happened with the secret health care task force. The Clinton-Magaziner task force was mostly made up of people who had an interest in heavily-regulated, Government-directed health care. Representatives from two managed care proponents—the Kaiser Family Foundation and the Robert Wood Johnson Foundation were on the panel. Legislation dealing with one-seventh of the economy and all Americans should not be made in the dark by special interests.

It's comical that the excuse the First Lady and Mr. Magaziner used for the task force's secrecy was that they didn't want "special interests" to pressure the task force participants. There was no pressure, alright—the special interests were the task force representatives.

So we have an administration that came to town and said there would be no more business as usual. They were right—they now do their business in the dark, away from the American people. We have an administration that said it wanted to get rid of special interest influence. We see, though, that the Clintons have turned the White House into a Romper Room for special interests.

The Clinton-Mitchell bill continues to hold up this veil of secrecy. The bill exempts several bureaucracies it created from the Federal Advisory Committee Act, including the National Health Board, which sets the standards benefits package; the National Health Care Cost and Coverage Commission; and the Agency for Health Care Policy and Research. Clinton-Mitchell also exempts certain panels it creates from the Government in the Sunshine Act.

The Mack-Coats amendment, which should be passed, makes all of these bodies open to the public. These bodies would have to meet in public, publish notices of meetings in the Federal Register, allow interested people to attend the meetings, and keep minutes of proceedings.

The Mack-Coats amendment makes sense to me. The boards that would tell Americans what health benefits are "medically appropriate," the commissions that would put heavy mandates on businesses, the panels that would determine the direction of a Clinton-Mitchell health care system—shouldn't all of these bodies be open to the American people?

This amendment would stop callous social engineers like Mr. Magaziner, who care nothing for ordinary Americans. The arrogance of power can only be curtailed by letting the American people participate in debates. How many Magaziners would, without this amendment, try to foist harmful policies on this country through Clinton-Mitchell's boards, commissions and panels? I urge my colleagues to support Mack-Coats—vote to stop Mr. Magaziner from meeting again. Vote for the American people's right to know.

THE CRIME BILL

Mr. LOTT. Mr. President, since I have some time remaining, I would like to join the fun and talk about some other issues; not baseball at this time, but I have been wanting to comment a little bit on the crime legislation we hear so much about.

Never have I seen more—I do not know how to describe it because I do not want to impugn anybody's integrity, but—misstatements about what is in the crime bill. It has continued to be reported in the press, first of all, that it is paid for: Do not worry about it; we are going to pay for it by savings, cutting back the size of the Federal Government.

But remember, this bill went from $5 billion when it was originally proposed to $22 billion when it passed the Senate last year to $26 billion when it passed the House to $33 billion. I am sure that probably at least $13 billion of this bill will be added to the deficit. It is not paid for.

Second, you continue to hear assertions that this is going to put 100,000 new law enforcement people on the streets. Nobody in the Senate believes that. It will not even put 20,000 there.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LOTT. I know we have limited time, so at this point I will yield the floor.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I will yield 10 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, let me say I join my colleagues, Senator MACK and Senator COATS, in strongly endorsing and cosponsoring their amendment that probably goes to the essence of this ludicrous excuse of a health care program for this Nation. I use those words, and they are strong words, because it is a ludicrous excuse. And the reason we find ourselves in such an untenable position is because of the manner in which this document was produced.

Most of it comes from the great task force. Most of this was done in private. Most of this was done in a manner such that, as we now read this bill, we find glaring, glaring deficiencies—deficiencies that, if there had been public hearings, would never have existed.

I understand at some point in time the majority leader is going to move to rectify this monster. Some time ago, we had "taxasaurus." I said kill the "taxasaurus." That goes for this. We should kill it. We should kill it because it is a danger to the health and welfare and well-being of America and America's families. That is this monster, the Clinton-Mitchell proposal.

Let me say, this is really, for all intents and purposes, the Clinton bill. As a result of the manner in which this bill came to life, we find ourselves in this terrible predicament where even its strongest supporters must admit that it is replete with errors, with substantial deficiencies. And then we hear "We will correct it."

Let me cite just one of them. Behind closed doors, a group of people got together and came up with this wonderful idea: We want insurance for all—not a bad idea—and they went so far as to say that because we want to guarantee universal coverage and coverage for all, if a person were not to pay his premiums or her premiums, that family would not lose coverage. Can you imagine that? I think it is page 1432—I want to read this incredible provision. In other words, you enroll in a program and you pay for a month, 2 months. And if you read this literally, just by your enrolling and paying a premium for 1 month, in the second month when your premium comes due, if you do not pay, guess what—you cannot be canceled.

What a terrific plan. Everyone in America should run and sign up for this plan. This is the plan that will not cost you a penny. It will not cost you a penny. All right, it will cost you the first month's premium. You sign up for this great plan; you pay 1 month, and then forget it. You do not have to pay. You do not have to pay because you cannot be canceled. What a terrific plan. How could the geniuses who put this forth have come to this point? Was it in error? Was it a mistake? Did they somehow make a mistake? The language is, "In no case shall the failure to pay amounts owed under this Act result in an individual's or family's loss of coverage."

I am wondering if the Senator from Oregon had an opportunity to take a look at that. I ask, does it mean what I think it means? In no case? Listen to this: "In no case shall the failure to pay amounts owed under this act result in an individual's or family's loss of coverage."

It does not say if the person forgets the premium for 60 days or 30 days, or if there is a terrible accident and they are inconvenienced somehow. It says "in no case." Is that an accident? Was that thoughtful legislation? Who is going to pay?

What happens if you have a million people in this one plan and one person says they are not going to pay because it says "in no case." And then 10 others find out. And then 100 find out. And then 10,000 find out and do not pay. And then people begin to wonder what is going on? And the cost goes up and up and up for the rest remaining in the pool.

If the cost goes up for the rest remaining in the pool, what takes place?

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. DASCHLE. Will the Senator yield on that point?

Mr. D'AMATO. For a question?

Mr. DASCHLE. Well, for a question or clarification. A question.

Mr. D'AMATO. I would like to make my point. When I finish I will be happy to yield. I do not intend to speak long, but I want to make the point. The point is that this thing was put together behind closed doors. That is why you have error after error. Penalties: $10,000 penalty if a person gives a benefit that is too high. How did that get in there? And then the whole Senate votes to change it.

I will tell you how. It got in because you had people who may have been well meaning, but they have their own intentions, their own program; they are going to put this through come hell or high water. So here we are. Now someone will offer an amendment and they will drop that provision. But this was the great legislation. How did it come to pass?

If you had open hearings, open meetings, do you not think that people who provide coverage, insurance companies—of course, all insurance companies are bad now, according to the proponents of this legislation; they would have you think insurance companies are some evil monster—do you not think maybe they would come and contribute something to the debate?

And they might say, "Look, if you do this, why, you will discourage people from paying; you will have large numbers of people who will not pay; you will have premium costs shooting up for the balance of people who pay. You create a lack of incentive for people to be responsible. You tell them, 'Don't pay because you can't lose your coverage.'"

That is ridiculous. And here we have—in this very same grotesque monster of a bill that would cripple health care in this country if enacted into law—we have this board that is going to operate outside of current law. It is a board that will make some of the most important and crucial decisions as it deals with the health care needs of our country.

This board is going to determine the actuarial value of the standard and alternative benefits packages. If the health task force could put together a bill that is so deficient and secret, imagine giving this board, under the color of law, the ability to go ahead and make these kinds of determinations. They are going to determine for us the kind of medical programs that can and should be undertaken and utilized. They will be determining for us the future of medicine—the future of medicine—in terms of defining the kind of care considered medically necessary and appropriate.

My colleagues have spoken before me and have enumerated the incredible powers that this board will have. I suggest, No. 1, that today if we look at a board that operates almost entirely in the light of day in determining coverage under the Medicare program, we find incredible problems. When new devices and medical procedures are going to come into being, even that board has open, public hearings where people can present their case, where people on both sides can be heard, with certain exceptions, and that is only when there is written notice and reason posted.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO. It is inconceivable we would allow this provision to stand and, therefore, I strongly support the Mack-Coats amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, just to ask a question of the chairman and, I think, to explain an arrangement we hope we have worked out. After we vote on the Coats-Mack amendment at a quarter of seven, the majority leader has an amendment—and we have worked out a pretty good system of comity of going back and forth —we would have an amendment then for tomorrow morning. I assume that is when we would go.

Then, as I understand, we will go on an amendment from Senator MOYNIHAN relating to the number of residents, interns, whatnot.

Mr. MOYNIHAN. Mr. President, that is our understanding. It is informal, but we have had no difficulty at any time and are not going to. I believe the distinguished Republican manager is going to join me in the amendment I will offer.

Mr. PACKWOOD. Absolutely.

Mr. MOYNIHAN. Mr. President, I have the great pleasure to yield the remainder of our time, which I believe to be about 25 minutes?

The PRESIDING OFFICER. The Senator has about 27 minutes.

Mr. MOYNIHAN. Twenty-seven minutes. I yield the full 27 minutes, if he should so wish, to our revered President pro tempore, the Senator from West Virginia.

The Senator has been thinking about this matter for some length. He, of course, is the master of legislative procedure and detail in this body, and he is going to give us the benefit of his judgment as to where we stand in terms of deliberating this particular issue and, I think, the Senate calendar.

We do have to acknowledge that the calendar is implacable in its forward movement, and there is other work yet to be done before we can close out the appropriations bills, which have to be enacted, and that whole range of things.

In this setting, I think we very much need the mature judgment and the deep, deep learning of the former majority leader, the President pro tempore.

I know that we have felt that there is still good time in which to enact a good bill. We have seen a great deal of comity as we go back and forth on amendments, and we have seen near unanimity on last evening, and we shall see it again this evening as we debate the measure laid down earlier today by the Senator from Florida [Mr. MACK]. I hope we might find the same degree of accommodation to the majority leader's amendment when that vote comes later in the evening.

The point, Mr. President, is that we are here, and this is the first week of the typically normal recess. The calendar is running, and we need the counsel of the great wisdom—I took the liberty of saying—and the profound learning of the President pro tempore.

Mr. President, I yield the remainder of our time to the President pro tempore.

The PRESIDING OFFICER. The Senator from West Virginia has 24 minutes.

Mr. BYRD. Mr. President, I certainly am grateful to the very distinguished manager of the bill, the senior Senator from New York [Mr. MOYNIHAN], of whom I shall say—not in the past tense—as Shakespeare said it:

> He [is] a scholar, and a ripe, and good one, exceeding wise, fair-spoken, and persuading.

I thank Senator MOYNIHAN for yielding me this time. I hope I will not have to take all the time he has yielded me.

Mr. President, this debate, in many respects, has been for me one of the most discouraging of my political career.

Like many other Americans who are watching and listening to this debate, I feel a sense of confusion and apprehension after listening to the claims and counterclaims that have been conjured up by the lobbying groups on all sides of the issue and by the charges which have been hurled from both sides of the aisle on this floor.

Compounding my sense of frustration is my belief that the health care issue is one of the most fundamental problems facing our Nation.

I know that our present health care system is inefficient and costly and that these costs are not equally distributed. I know that in the Federal budget, health care costs are one of the primary causes of our continuing deficits.

I also know that our present system of health care amounts to a cost equal to 14 percent of our gross domestic product and that the experts claim that, by the year 2004, if we do not change our course, those same costs will rise to 20 percent of our gross domestic product.

The last, best hope of real deficit reduction lies in getting these spiraling costs under control. Spending in every other category of the budget known as discretionary, which is simply everything which is not automatic spending mandated by law, has been cut to dangerously low levels. We cannot look to this area of the budget for much more in the way of further cuts.

Therefore, other than raising taxes dramatically in coming years, we must look to reductions in entitlement spending and to health costs, in particular, if we are to achieve further meaningful deficit reduction.

I am concerned when I note the CBO projections of the total deficit reduction in the bill that has been introduced by the distinguished majority leader, Mr. MITCHELL.

By the year 2004, the projection by CBO estimates that only $13.8 billion in total deficit reduction will have occurred.

It is essential that we not enact a plan that squanders our last real remaining chance for significant deficit reduction. We have an opportunity to address rising entitlement costs in this health care bill, and we must not let that important goal be forgotten as we consider and write massive health care reform.

I believe the word "reform" is the operative word in this debate. What constitutes reform is central to much of the discussion we have heard.

There is vast agreement, it seems to me, on the goals of fairness, universal coverage, cost containment, minimization of cost shifting, and maintaining a quality standard for health care. Those, to me, are the central pillars of reform. The disagreements arise when we venture into areas which are more indirectly related—rather than directly related—to health care reform, and I believe that the costs rise as we go beyond trying to address much more than those generally agreed-upon central goals.

There is much in the Mitchell bill that I can support. I compliment the majority leader for his extraordinary contribution to the cause of health care reform. He has devoted many days and months and years to this effort. He is one of the Senate's most knowledgeable and dedicated experts in this area, and he has moved the debate forward by the introduction of the pending measure.

Mr. President, I have stated my concerns to the distinguished majority leader, and he has said to me that he will respond to my concerns. He knows, and I know, that this bill is going to be changed, and I am going to look at his responses to my concerns with great interest. It will be then that I will be better able to judge as to just where I will stand on this legislation at the end of the day.

Beyond the sheer budgetary folly of not trying to get our health care costs under control, the basic human tragedies that unfold daily as a result of no coverage or less-than-adequate coverage compel us to act.

But what has been obscured in the debate, it seems to me, and what President Clinton emphasized so well in his early statements on health care, is that reform of the health care system means a more economically secure nation better able to compete in the global marketplace.

In the President's 1995 budget document, of particular note is the statement on page 179 under the heading "Why We Must Act Now."

> The costs of doing nothing are enormous. Without reform health care costs will consume an additional $56 billion of our national output in the year 2000—money that could more than double Federal spending on transportation or education and training. Put another way, these savings could also boost productivity and wage growth by increasing the resources available to lift capital invested per worker by roughly half. If current trends continue, real wages will be further eroded by almost $600 per worker by the end of the decade. If we do not curb increasing health costs, we will not be able to continue bringing down the deficit or make the investments in jobs and infrastructure that we need to keep the U.S. economy healthy.

I believe that the President's statement remains correct today. It is in the overall national interest to enact health care reform. However, this bill, as it is written, goes beyond what I believe should be the scope of health care reform. The Clinton bill would reduce health costs in the year 2004 by $150 billion. By contrast, the pending measure would increase health costs in the year 2004 by at least $25 billion and by over $250 billion for the period 1995–2004.

Under the guise of reform, we cannot, we must not, try to address every issue that can be lumped under the loose category of health care. We simply cannot do it. We cannot micromanage every aspect of the social and economic fabric which touches health care in some way.

We must not use health care reform as a vehicle to increase every health-related spending program in the budget. Because, if we go down the road, we will squander most of the economic benefits of enacting health care reform. We must not enact a piece of legislation that eats away at our national productivity potential because we are frustrated over years of too tight budgets and now want to address every health care problem in our land. We just cannot do it. We have to restrain ourselves. That is not to say that there are not health care programs that deserve increased funding in health reform legislation. It is to say, however, that we should only strive to accommodate any justifiable increases in programs that are directly related to the health of our citizens without adding to overall health care spending. That should be doable—President Clinton's bill, as I said, would cut overall health care spending in 2004 by $150 billion.

Our national heart may be large—our national heart is large—but our national pocketbook, sadly, is quite small. I know. In our Appropriations Committee, we fund, as best we can, most of these programs. And I think we have done rather well in meeting the needs.

But the spending in this bill goes beyond reform.

I do not believe that that is what most Americans thought was meant by reform of the health care system. Reform of health care was explained by Mr. Clinton, and it received public support as a cost-saving measure. This was the only way to reduce our budget deficit, we were told. That was one of the primary things that most appealed to me; one of the things. But we seem to be moving away from that goal. We may be breaking faith with the people if our version of reform becomes a cover for more back door spending.

To be specific, we do not have to increase spending for WIC. I support funding for WIC, and I think we have responded fairly generously within our means in the Appropriations Committee from year to year. But we do not have to increase spending for WIC to have sound, effective reform. We do not have to increase funding for the NIH to have sound, effective reform. We do not have to set up a quota for the various medical disciplines in which a medical student may be trained to have sound, effective reform. We do not have to enact $15.4 billion worth of new public health programs to have sound, effective reform. As laudable as it may be, we do not have to add money for the Indian Health Service to have sound, effective reform.

We who claim that we are committed to reform, perhaps unwittingly, are cloaking these spending programs in the guise of reform at our own peril. We risk our credibility, because I do not believe that additional spending is what most people have in mind when they think about health care reform. The American people think we are talking about fairness, cost containment, basic coverage for all, simplicity, and reducing deficits when we advocate health care reform.

This bill, in my view, would be vastly improved if it adhered more closely to the American people's understanding and their expectations of reform. I fear if this bill were to pass in its present form—again, I say Senator MITCHELL has indicated that he will respond to my concerns, and he expects changes in this bill. We all expect changes in it. I am going to look at his responses carefully, together with the future actions of the Senate, and make my final judgment as to my own vote at that time.

But I fear that if this bill were to pass in its present form, this Senate will have destroyed any possible chance for significant deficit reduction, and will have seriously damaged our overall economic future.

On the other hand, we have a significant opportunity to reduce budget deficits, and address the serious need for

VOL
140
PT
16
AG
12
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18
1994
UMI

health care reform, if we will but streamline this vast piece of legislation. Change is always painful. Massive legislative proposals such as this one always, in my experience around here, always attract too much baggage. And the longer we are on the floor, the more excess baggage it attracts. We have seen some of this just in the last day or so: good programs, but we are spending more money. We are not reducing the deficit. They say "Well, it is within the cushion in the bill." That may be true. But I understood from the President's appeal to the American people and to the Congress for health care reform that it was the one way in which we could get control over these burgeoning deficits. I fear that, as we keep going down the road that we are on with this measure as it is presently written, we are not going to cut the deficit. We are going to add to it. Massive legislative proposals, as I say, always have a way of attracting too much baggage. But this effort, Mr. President, and my colleagues, is too critical for the usual program load-up and interest group wish lists.

This President has the economy growing, and he ought to say so more and more. And he has the deficit headed downward. Let us not tie his hands. If we can get entitlement programs under control, this Nation might be able to continue in these positive directions.

Much of this debate has totally obscured those basic economic considerations. I have elected to sit in the chair often this week. I have sat in the chair 3 or 4 hours a day. Why? I wanted to listen to the debate. I will not read it tomorrow morning in the CONGRESSIONAL RECORD. Instead, I will be signing mail or will be meeting with constituents, or I will be doing this or that, which is very important. But if I sit in that presiding chair up there, I will hear and learn from what is being said.

I do not sit on the Committee on Finance over which the distinguished Senator from New York presides with a degree of dignity and skill that is so rare as a day in June. I do not sit on that committee. I do not sit on Mr. KENNEDY's committee. Both committees have jurisdiction over this bill.

I have to make some decisions here based in part on what my colleagues say. Some of the speeches have been very illuminating, interesting, and informative for me. There have been some, however, that I must confess I had a hard time staying awake in the chair.

I compliment Senators on both sides of the aisle for their enlightened speeches. But there has been a great deal of needless rhetoric—and there has to be some rhetoric, of course. That is all right when one is trying to sway a great audience. But I want some answers, some substantive answers. Nobody has to sell me on the need for health care reform.

But much of the debate has totally obscured those basic economic considerations. I hope that in the coming days we can refocus our attention on those critically important concerns, tone down the rhetoric just a little bit, and try to remember why we began the discussion of health care reform in the first place.

I thought it was the way that we could get control over the entitlement and mandatory programs, which will increase over the next six years by $824 billion. Our little, puny discretionary funds—which include defense spending—are going to be increased over that period by only $6 billion.

So, that is where I thought we were going. Yet, as the days have passed, I have become more and more concerned that we really are not going in that direction, but we are going in the opposite direction.

This Senator, for one, is tired of Harry and Louise, tired of scare tactics, tired of claims that this legislation could represent the undoing of the Republic, or that it is the greatest boon to representative democracy since the writing of the Constitution. It is, of course, the fear and the slick TV ads, and some of the scare tactics emanating from the floor, and from outside the Capitol, that are mostly the products of attempts to win elections and promote political agendas.

Of course, we all like to win elections. But I think we ought to focus our attention on this, one of the most critical problems that we will ever face, on this legislation, on this debate, and keep our eyes on that ball.

Although there have been some thoughtful statements made on this floor, unfortunately, those thoughtful statements have been largely drowned out by the more highly partisan debate that we have been subjected to. Frankly, I do not have any partisan interest in this bill, one way or the other. The American people expect us to act and to act wisely. I am interested in legislation that will promote real healthcare reform, and that, once and for all, will really help to get control over our massive budget deficits.

I am sure that the American people are very sick of it all. I am also sure that all of the noise has succeeded in thoroughly frightening and totally confusing the citizens who will either be the beneficiaries of, or the victims of, what we will do here. I can only hope that we will somehow come to our senses, take a reality check, try to put our political agendas aside, pare down this bill, salvage the essential reform elements in it, and enact sound, effective health care reform. I want to do something about this problem. I see it as a bedrock issue for the good of our economy and for the welfare of our people today and far into the future.

However, I cannot be a party to any legislation, no matter how well-intentioned, that goes far afield from what is needed for solid health care reform. Neither will I be a party to the political circus, the partisan jockeying and interest group tug-of-war which have been too much in evidence on this issue.

It is my hope that in the coming days, the American people—whom we have confused, frightened and manipulated—will urge us to stop the hype and deal with this issue as they would if they served here—forthrightly, honestly, and with an eye toward the worthy goals on which most of us agree.

In closing, Mr. President, I congratulate the Senators who are on the Finance Committee and on the Labor and Public Welfare Committee for the yeoman's work that they have done. Many hearings have been held by both of those committees. There are many Senators in this body who are experts in this field. I salute them. I am sorry to say I am not one who is an expert.

I hope that what I have said will be accepted in the spirit in which I have offered it. I have not offered it as anything other than constructive criticism by which I hope we will benefit. I realize that I can be wrong, and often am wrong, but I view this in my heart as being so serious and as being our only opportunity—maybe—I do not quite agree that it is the only opportunity forever. I think that this is an idea whose time came some time ago. But it is also an idea that is going to take the best of our talents, our patients, and our expertise, if we are going to really develop a product of which the American people can be proud and of which we in the days to come can be justly proud.

Mr. President, I yield the floor.

(Ms. MIKULSKI assumed the chair.)

Mr. PACKWOOD. Madam President, I thank the Senator from West Virginia. That speech, which was only 20 to 25 minutes, has put in better perspective the problem this Senate faces than it could ever be put. We have seen graphs upon graphs upon graphs upon graphs, attempting to illustrate the same thing, but they have not illustrated it as well as you have said it.

What the Senator is saying is simply this: We have some programs in this country that are on automatic pilot. If you look back only 30 years, and took only four programs—Social Security, other Government retirement, civilian retirement, military retirement, Medicare and Medicaid, and then interest, which we have to pay, those four programs, plus interest, 30 years ago were 23 percent of our budget. They are today 56 percent of our budget. And if we do not make any change in the laws, in 10 years they are going to be 69 percent of our budget. They will squeeze out education, highways, water and air pollution, Forest Service, Park Service, Amtrak, and everything else that we do. What the Senator from West Virginia is saying is that in this bill we are now considering, we vastly expand those programs and add new programs to them. So that the figure is not going to be 69 percent, it will be 75 or 76 percent. I have never heard it better put by anybody on this floor than you have put it. We are indebted to you, and I thank you.

Mr. BYRD. I thank the distinguished Senator.

Mr. PACKWOOD. I yield 10 minutes to my senior colleague from Oregon.

Mr. HATFIELD. Madam President, I want to also commend the Senator from West Virginia for a very excellent and thought-provoking speech. I would also like to say, concerning the Senator's speech, that the remarks I plan to make, I can share with my colleagues—and I am sure the Senator from West Virginia could also assure my colleagues—that we did not engage in any kind of collaboration on these remarks that we intend to share together this afternoon.

Mr. HATFIELD. Madam President, yesterday I came to the floor to explain my position on comprehensive health care reform. As I said, I believe the Mitchell bill is fatally flawed. I also believe that the Dole-Packwood bill leaves too many problems unsolved, and I am realistic enough to know that it cannot pass in what has become a politically charged atmosphere.

For these reasons, I have joined in the search for a middle ground as a participant in the bipartisan mainstream coalition. This group meets almost hourly to work through the difficult and contentious issues that constitute health care reform, including the cost of providing subsidies to those who are unable to afford health care coverage. But as our meetings continue, and the days pass by, it is becoming increasingly clear to this Senator that the window may well have closed on the opportunity for comprehensive bipartisan reform of our health care reform this year.

I want to emphasize my identification of comprehensive health care reform. Incremental legislation may be another issue.

Some may believe that such a result is a lost opportunity. But I believe—and from the calls and letters coming into my office, I can say that the vast majority of Oregonians believe—that it offers a chance to catch our breath, check our bearings, and chart a course for the future.

Am I advocating that Congress do nothing this year? I most assuredly am not.

There are, as we know, a number of concepts for how to reform our health care system on which we can likely find agreement. These provisions include:

Some form of State flexibility and minimal Federal preemption; assistance to rural and underserved areas; small business pools for the purchase of insurance; assurance that Americans with preexisting conditions cannot be denied coverage and that their insurance is portable if they lose their job; and a commitment to the goal of universal coverage.

I believe that the bipartisan congressional leadership should sit down with the President and write a bill that includes these areas of agreement, and then we should pass it into law.

Not everyone will be pleased that the bill will not include every component of an ideal health care reform bill, but millions of Americans in need will be happy when health care insurance is made more affordable and more accessible to them.

Madam President, I truly believe that the procedure I have just outlined is the only road that will lead to a result that is beneficial for our country at this juncture.

Let us look at what results are possible if we continue on our current path. And that means continuing the process of debating and amending—and believe me, it is going to be a long, long process. Mandates. Taxes. Entitlements. Medical malpractice. There will be amendments and debates on all of these issues—and on many more. And this road leads to one of two destinations.

The first is that the Senate and the House eventually pass a bill by the slimmest of partisan majorities. And when the House-Senate conference committee puts the two bills together and comes up with another bill, which again passes by the barest of majorities, amidst a chorus of loud voices and pointed fingers.

Such a bill will be one that nobody in this Chamber—and more important—nobody across the country—truly understands. Nobody will be able to say with any confidence that it will work, or what its consequences will truly be. It will be a bill that clearly will not have the confidence of the American people.

Senator MITCHELL spoke on Wednesday about the disillusionment that the American people have with Government. I guarantee you that this disillusionment will only increase if Congress narrowly passed a bill after a bitter partisan debate.

The second destination of the road we are on at the present will be that somewhere along the way, the bill is defeated, that nothing is done, that no one is helped.

Neither of these destinations, Madam President, is good for my State of Oregon, and neither destination is good for America.

So, perhaps we better listen to what the American people are saying. They have followed this debate, listened to it carefully, and, as I have had communicated to me, the overwhelming majority have concluded that they need more time—and Congress needs more time—to think about this issue, to examine the side effects of legislation, and to come up with a solution that does not create as many problems as it solves.

And, Madam President, there is another reason why I feel we need to revisit the issue of comprehensive reform. And that is because somewhere along the way, we have lost sight of the fact that reducing the deficit must be a goal of health care reform legislation, and that was clearly stated by the President of the United States in the Budget Act that we passed earlier on.

I would recommend to my colleagues an article in the July 25, 1994 Newsweek, by Peter Peterson. Many of us know Mr. Peterson as a former Secretary of Commerce and a member of the President's Commission on Entitlement Reform.

A brief quote from this article, he states:

> Federal health care spending now amounts to roughly $800 billion in direct outlays, much distributed without regard to need, plus an additional $75 billion in tax subsidies for employer health plans. If we do not change course, health spending 10 years from now will consume more than a third of the federal budget, compared to 20 percent today. . . . Further ahead, the outlook is even worse. By 2040, again baby boomers could push the total cost of Medicare past 20 percent of taxable payroll, up from 5 percent today.
>
> In the face of these alarming trends, you might think Congress would be obsessed by controlling health spending . . . Instead, members are busily spelling out new entitlements that will likely exacerbate the cost spiral. To help more Americans gain coverage, most of the bills offer tens of billions of dollars in new subsidies. Thousands of lobbyists are working overtime to make sure that additional goodies, from prescription drugs to long-term care, are included. The major House bill calls its new open-ended entitlement Medicare Part C. The benefit package in the major Senate Bill might as well be called Medicaid for the Middle Class.
>
> Whatever legislation Congress passes will be officially stamped 'deficit-neutral'—meaning, one presumes, that lawmakers now think that they will have done their job if only they do not make an already unsustainable situation more unsustainable. But even here there is a problem.
>
> The history of health entitlements is one of wildly over optimistic projections that always understate the cost of new benefits, while overstating the savings from reforms.

Madam President, no one can doubt that Mr. Peterson is absolutely right in that statement.

In 1965, it was projected that Medicare Hospital Insurance would cost the Government $9 billion in 1990. Well, we missed by about $58 billion, because the actual cost was $67 billion.

In 1987, we projected that Medicaid special hospital subsidies would cost $100 million. By 1992, the actual cost was over 100 times that much—it was $11 billion.

VOL 140 PT 16 AG 12 — 18 1994 UMI

When the Medicare catastrophic legislation was passed in 1988, the cost of the new drug benefit was projected at $5.7 billion over 5 years. Just 1 year after passage, the Government reestimated the cost at $11.8 billion over 5 years—triggering repeal of the legislation.

I could go on and on, Madam President. But my point is clear. The $965 billion in entitlements that Senator MITCHELL's bill would create will cost much, much, more than current estimates.

The true impact of these entitlements is something that must be carefully and thoroughly analyzed. And I do not think that can occur in the current atmosphere.

Madam President, President Clinton and Congress have made great progress on an issue that has challenged us for many years. I commend the President and Mrs. Clinton for moving the Nation forward in its effort to reform our health care delivery system. I also have great respect for the work of JOHN CHAFEE and the mainstream coalition, in which I will continue to work. The Nation owes them their gratitude as they search to build the bridge between the Democrats and Republicans.

We all have learned a great deal about the strengths and weaknesses of America's health care system. And we all have much more to learn. Let us accept the progress we have made, let us help millions of Americans, and let us go home with our heads held high.

And bear in mind as the scripture often said there are those who are called to sow and those who are called to reap. Maybe we see this, as a futile exercise, but I see it as a very rich and fruitful possibility of sowing seed for a future harvest.

Madam President, we are building the foundations for a medical reform act but this is not the moment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Oregon.

Madam President, I compliment the Senator from West Virginia and the Senator from Oregon, who have spoken for the last 30 minutes or more about the wisdom which they have brought to bear on the pending legislation in suggesting that the legislation has not moved in the direction which was originally intended, and their statements are true.

The original thrust of the legislation had as its purpose coverage and cost containment, coverage for the millions of Americans not now covered, coverage for preexisting conditions, and for change of jobs, but also cost containment. And 50 percent of the job has not been done.

I have been meeting with the task force chaired by Senator CHAFEE going back to 1991 in a little room down the hall every Thursday where a group of Republicans would meet in an effort to craft legislation. That group has now been expanded until today there were some 20 Senators present from 9:30 to noon this morning, with Senators coming and going because of the complications of other schedules, in an effort to find a bipartisan solution to the pending problem.

Our group was joined by Senator NUNN and Senator DOMENICI, who have approached the issue from a slightly different angle with their previous work on trying to hold down entitlements which have risen so tremendously in cost.

Also present in the group were Senator KERREY of Nebraska, and Senator DANFORTH, who have worked on a bipartisan commission to hold down entitlements so we do the best we can within our limited resources without bankrupting the country.

We continue to work on that problem, Madam President. I have had doubts all along as to whether we could succeed, but I think we should make a maximum effort.

I think the business of a filibuster was really beyond the pale on this bill. No filibuster has been attempted. But, similarly, we cannot be rushed to judgment. It is important to have health care reform, but it is equally important, perhaps more important, to do it right.

And when Senator BYRD from West Virginia comes and speaks—for those who do not know, Senator BYRD is chairman of the Senate Appropriations Committee. He has been in the U.S. Senate now finishing his 36th year. For those who do not know, Senator HATFIELD is the ranking Republican on Appropriations. He was for 6 years the chairman of the committee and has been in the U.S. Senate for 28 years.

During all of my 14 years in the Senate, I have been on the Appropriations Committee working with Senator HATFIELD as chairman, and now with Senator BYRD as chairman, and I can say from firsthand experience—having managed most recently the Appropriations Subcommittee report on Labor, Health and Human Services, and Education with $70 billion in discretionary spending—how hard it is to make ends meet. When you talk about a budget of $1.5 trillion, it is a great deal of money, but when you try to meet all the needs of the Federal Government, it does not really stretch far enough.

When Senator BYRD and Senator HATFIELD say that this bill has enormous problems in terms of creating new entitlements, and Senator HATFIELD outlines what has happened when estimates have gone off by 10 times what you figure in 1965 will be the costs in 1990, we have to pause and we have to take note as to what the implications are.

We had an opportunity, back in July 1992, to craft important legislation which would have taken a significant step toward additional coverage, with an amendment to provide full deductibility to the self-employed and an amendment for insurance market reform. Those amendments might have removed a third to one-half of the 37 million to 40 million Americans now not covered. Those amendments were defeated because people in this body said, "Let's not do it piecemeal, because if we do part of it, it will destroy the incentives to do the rest of it." I think that was a mistake and said so on the floor back on July 29, 1992, when that amendment, which I offered, was tabled.

When Senator HATFIELD talks about some piecemeal legislation, Madam President, I think he is on target: not that we will not be committed to comprehensive health care. I share Senator HATFIELD's compliments to President Clinton, who has brought this issue to center stage. I compliment the members of the Finance Committee, under the chairmanship of Senator MOYNIHAN, and Labor and Human Resource, under the chairmanship of Senator KENNEDY, who have brought these bills to the floor, and what Senator MITCHELL has tried to do.

I am not sure at this point that we will be unable to produce a good bill. I am sure, however, that we ought not to be rushed to judgment and there ought not to be any political timetable.

Madam President, I had originally sought recognition to comment about the pending amendment, but wanted to speak about Senator BYRD's comments and Senator HATFIELD's comments because I think they are so important and will have a real sobering effect on this body in having us focus on what we are doing. A reality check. Maybe a sobriety check.

There is an important amendment pending, Madam President, offered by Senator MACK, which would strike lines of secrecy in the pending legislation. I compliment Senator MACK for going through this lengthy bill to find the three provisions which provide an exemption for the National Health Benefits Board, for the National Health Care Cost and Coverage Commission, and for the Agency for Health Care Policy and Research exemptions from the Federal Advisory Committee Act which would allow those boards, commissions, agencies to operate in secret.

Madam President, the requirements of the Federal Advisory Committee Act specify that there must be public meetings, that there must be notice, that there must be an opportunity for the public to comment, and their findings must be made public.

It is indispensable in a free society—especially when you have this kind of a

bill which creates 140 new agencies, boards, and commissions and gives new jobs to 40 existing bureaus—that we at least know what they are doing.

Madam President, I will not display the chart again, in the interest of brevity. We have seen it perhaps enough on the Senate floor.

But sunshine is indispensable in a democracy. This is especially evident, Madam President, when we take a look at what is pending in court today, as reported in today's press, on a lawsuit which has been brought against the Clinton administration for violating the provisions of Federal law which require public disclosure and open meetings.

The Court of Appeals for the District of Columbia ruled last year that the working groups which were put together by President Clinton's administration would be subject to the 1972 Federal Advisory Committee Act if any of the members were non-Government employees.

A very unique thing happened, Madam President.

Finally, after 18 months, the Clinton administration yesterday agreed to release the records from the task force because they were compelled to do so by the litigation. There has been an effort made to settle the litigation because, as Lloyd Cutler, the President's legal counsel, says, they want to focus on health care as opposed to the distractions.

But the opposing groups have refused the settlement. As they characterize it and as reported in the Washington Post, the plaintiffs, the board rejected the settlement partly because it would have allowed Ira Magaziner, President Clinton's health care adviser, to avoid publicly answering a pending contempt of court accusation, where there is a contention that Mr. Magaziner did not tell the truth when he filed an affidavit saying that all members of the working groups were either Government employees or consultants.

So here you have the White House, the administration, working to structure health care reform legislation. They do not comply with the law. They are working with groups who, by all indications—and we are not absolutely sure yet, because the litigation has not been concluded—groups that represent special interests. They violate the provisions of law which requires that they be open. When they are challenged, a ranking Presidential assistant takes an affidavit that they are all Government employees or consultants, which would remove them from the obligation for the public disclosure.

A long, drawn out lawsuit follows, which is taken to the appellate court and says they have to be made public. Now the issue arises where the White House, the administration, finally is willing to make them public, but the plaintiffs who brought the lawsuit refuse to accept that on the ground that there was a lie in an affidavit filed trying to thwart the lawsuit.

Now this, Madam President, is simply unacceptable in a democracy. Where you have public activity, governmental activity, the public is entitled to know. And when it is challenged, to have an affidavit taken, which on its face appears to be untrue, is totally unacceptable.

That is why, Madam President, when these three boards are challenged by the pending Mack amendment, we ought to put the imprimatur of the Senate on it very squarely in saying that these secrecy provisions have to be stricken from the act.

Beyond these expressed provisions, Madam President, I think that it is another indication of the kind of care that has to be undertaken in examining this 1,400-plus page bill to be sure that we know what is in it.

You would have thought, after the experience of this very bitter and painful litigation, that legislation would not be offered to make these kinds of boards a secret.

So I hope we will adopt this amendment—all of the indications are that the amendment will be adopted—and we will pursue the examination of the pending legislation, trying to understand all of its ramifications and, hopefully, we will yet be able to craft legislation which will meet what Senator BYRD and Senator HATFIELD have talked about, an overwhelming majority. That figure has been put generally at 70 Senators, so we will have the confidence of the American people in what we are to do.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, I yield myself such time as I may take.

The PRESIDING OFFICER. The Senator has 17 minutes.

Mr. ROTH. Madam President, I yield myself 5 minutes.

I rise in support of the pending amendment and I ask that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I want to thank Senator MACK and Senator COATS for offering this amendment today and applaud them for their efforts to ensure that the special commissions created by the Mitchell bill are accountable to the American people.

The Mitchell bill is trying to prescribe a new medication for the health care of all Americans, but we know there is one tried and true treatment for the expansion of bureaucracy and government—openness and accountability.

After all, if we left it to this administration, we would have a bunch of F-O-B's and F-O-H's lock themselves in a closed room, and impose their will on the American people.

That is what they tried to do in concocting their health care plan, and luckily a Federal judge is forcing accountability.

The health care task force, Ira Magaziner would have us believe, was all government officials, and that it cost only $100,000.

But the task force was filled with hundreds of people who had direct economic interests in the outcome of health care reform, and the tab to the American people for this exercise was somewhere between $4 and $20 million.

Now, Mr. Magaziner and Mrs. Clinton may find themselves before the Federal judge to tell the whole truth.

So, we want to avoid any repeat of the health care task force debacle. The American people have learned from the experience of Mrs. Clinton's task force: Her scheme was a plan for social engineering that would herd all Americans into a Government-controlled health care system—not an attractive option to the vast majority of Americans.

And that's why it is important that any new boards, councils, or agencies—and there are plenty of them in the Mitchell bill—be accountable to the American people.

One of the intents of Congress when it passed the Federal Advisory Committee Act back in the early 1970's was to ensure that committees established by Congress or the President are truly advisory in nature.

But, the National Health Benefits Board and the National Health Care Cost and Coverage Commission—two powerful committees established by the Mitchell bill—are exempt from FACA. These committees are empowered with determining what health services Americans can and cannot receive, with deciding what forms cost controls should take, and with ordering mandates to be imposed on employers. And, under the Mitchell bill, they will be able to operate behind closed doors and will be totally unaccountable to the public—because the Mitchell bill would exempt them from the sunshine laws.

If the heavy hand of Government regulation is going to fall hard on health care, then the regulators must operate within the bounds of the law. Compliance with the Federal Advisory Committee Act will ensure just that. And, anything less represents the arrogance of power.

The American people have learned that such discussions must be held in public, that the groups who devise reform plans must be accessible by, and accountable to, the American people.

Whether or not one agrees with the premise that we need a national health benefits board, or a national health care cost and coverage commission, we should all be able to agree that these committees must be accountable to the

VOL 140 PT 16 AG 12 — 18 1994 UMI

public, to the very people whose health benefits and lives will be impacted by their decisions.

Mr. ROTH. Madam President, as the ranking Republican at the Senate Committee on Governmental Affairs which has jurisdiction over the Federal Advisory Committee Act, I would like to take this opportunity to explain why I believe this amendment is a good one to support, and critical for the public.

In 1972, the Federal Advisory Committee Act [FACA] was enacted in order to assure that Federal Commissions meet under the scrutiny of the public eye. FACA was enacted in order to build in assurances to the public that all federally appointed Commissions are accountable to the public.

There are several commissions in the pending legislation which are exempted from the requirements of public access and scrutiny assured by FACA. The two most prominent commissions to which I am referring are the National Health Benefits Board, and the National Health Care Cost Coverage Commission. The Benefits Board will be the sole entity responsible for crafting the final product—the final and only standard benefit package that all health insurance plans in this Nation will offer. The Cost and Coverage Commission will report on whether the employer mandate should be triggered or not.

The reports to be issued by both of these Commissions could have immense—I repeat—immense repercussions on the health care of every American in the Nation, and every employer in the country. In fact, if this bill is enacted in its current form, then, I believe, that these two commissions will be the most important and powerful commissions in the United States—yet—the legislation as drafted would exempt them from current law requirements imposed on virtually all Federal advisory committees—the Federal Advisory Committee Act.

As one of the coauthors of FACA in the Senate in the 92d Congress, I said then that, "There is a role for advisory committees to play in our Government. Advisory committees provide an opportunity for citizens to participate and become involved in our Government."

I think it is worth taking a moment to recall the situation that Congress faced in 1971. First, we did not know how many advisory committees there were—or how much they cost—and we could not find out the answer to either of these questions. There were educated guesses that ranged from 1,800 to over 3,000 commissions. No agency had the responsibility to keep track of the creation, operation, or termination of the advisory committees.

Second, there were no guarantees of public access to the deliberations of these advisory committees. Some met in closed sessions. And, there was no requirement that public notice be given of advisory committee meetings that were open to the public. Accordingly, many were concerned that special interests could exercise undue influence on Government decisions without scrutiny. So, we addressed these concerns in FACA.

One of the most important aspects of FACA is its sunshine requirement which sheds light on the activities of commissions. The importance of this requirement was exemplified during a hearing at the Committee on Governmental Affairs on December 3, 1987. At that time, the Governmental Affairs Committee heard testimony from Adm. James D. Watkins, U.S. Navy, ret., who was chairman of the first Presidential Commission on the Human Immunodeficiency Virus Epidemic. Ultimately, the Commission issued a report which received wide bipartisan acclaim for its findings. However, Admiral Watkins was invited to testify because there had been questions regarding the Commission's compliance with FACA prior to the completion of the report. The hearing brought attention to the need for commissions to comply with FACA. Without compliance, the integrity of the first report on AIDS would have been questioned by the public, and undermined the educational efforts made at that time.

Just to point out, that FACA is not an impediment for the functioning of a health care commission, I quote from Admiral Watkins' testimony at the hearing:

> I believe very strongly in the government in the sunshine. I feel that almost all advisory committees or commission meetings should be conducted in public. * * * I think nothing so far that I have seen in the Federal Advisory Committee Act has deterred us or slowed us down from getting this Commission underway, so I do not feel that it has been a major bar.

Clearly, we do not want to set the Commissions in the Clinton-Mitchell bills back to the situation we faced before the 1972 law. The Benefits Board, the Cost and Coverage Commission, and the other Commissions in the bill should be subject to FACA requirements for commissions. Again, Mr. President, I lend my full support for the pending amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. ROTH. I yield such time to the Senator from Florida as he needs.

The PRESIDING OFFICER. The Senator has approximately 9 minutes.

Mr. MACK. Madam President, I only rise, really, for a couple of matters. I ask unanimous consent that the following Senators be added to the amendment as original cosponsors: Senator PACKWOOD, Senator COVERDELL, Senator CRAIG, Senator D'AMATO, Senator NICKLES, Senator MCCONNELL, Senator LOTT, Senator HELMS, Senator HUTCHISON, Senator GREGG, Senator KEMPTHORNE, and Senator ROTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MACK. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MACK. Madam President, at this time I yield the remainder of my time.

Mr. DOLE. Mr. President, there are many reasons why President Clinton's health care plan failed to win the support of the American people. And one of those reasons was the result of how the Clinton plan was created.

As we know, the Clinton plan was not written in the light of day. Rather, it was written in the dark. It was pieced together in the back room of the White House by Mrs. Clinton, Ira Magaziner, and 500 anonymous so-called experts.

The secrecy surrounding the writing of the Clinton plan was not only poor policy, it may well have been illegal. The process may have been a violation of the Federal Advisory Committee Act, and the Clinton administration is now involved in a lawsuit that was filed to find out exactly who, and what, was involved in crafting the bill.

I do not know how the lawsuit will turn out, but I do know that any legislation as important and far-reaching as health care reform legislation cannot succeed if it does not have the trust of the American public.

And plain and simple, the American people did not trust the Clinton plan. They did not trust the secrecy in which it was written. They did not trust the principle that "government knows best." And they did not trust the endless maze of new government boards and bureaucracies that would have been created.

Unfortunately, Senator MITCHELL's legislation is also riddled with provisions creating more bureaucracy, more government control, and more boards and commissions.

And as Republicans carefully read the bill to fully understand the authority and power of these commissions, we discovered that at least 3 of the 55 bureaucracies it creates—the National Health Benefits Board, the National Health Care Cost and Coverage Commission, and the Agency for Health Care Policy and Research, were all exempted from the Government in the Sunshine Act.

Under this act, Federal boards, panels, and committees must, among other things: meet in public, publish notice of their meetings, publish the agenda for their meetings, permit the public to attend and testify at the meetings, and keep detailed minutes of the meetings, and make them available to the public.

Let me take a moment to describe the responsibilities of the commissions and boards that the Mitchell bill would allow to meet in secret.

The Cost and Coverage Commission is charged with determining if America and the 50 States have achieved 95 percent health insurance coverage. If the Commission determined that 95 percent coverage has not been achieved, it has the authority to draft legislation to achieve 100 percent coverage.

That legislation might include price controls, it might include mandates, it might include taxes, or it could include anything else. We have no way of knowing. And we will have no way of knowing, because under Senator MITCHELL's bill, all decisions can be made in secret—without one word of input from the American public.

And then there's the health benefits board. No doubt about it, this will be a very, very, powerful board. It will have the authority to draft legislation and regulations regarding what benefits are to be included in a standard benefits package.

Included in that authority, is the power to determine what benefits are and are not "medically appropriate and necessary."

I guess I'm a bit confused. I thought doctors and nurses went to professional schools to be able to determine what was medically appropriate and necessary.

But now if the President appoints you to the Health Benefits Board, you can skip to the head of the class. You have been instantly awarded the qualifications to determine what is medically appropriate and necessary.

Let me cut through the Bureaucratese and say that what all this means is that this board can—as a similar board in Great Britain already has—determine that if you're 55 years of age or older, you are no longer eligible to receive kidney dialysis through the Government program. You can use your own money if you have it. But if you do not, you will not receive the lifesaving treatment.

Needless to say, Mr. President, these boards and commission will be making decisions that will affect the financial health of America, and the physical health of our citizens.

There is no reason why these boards should be granted the power to meet in secrecy. Indeed, there is every reason why they must meet in public. It is simply unjustifiable to exclude 260 million Americans from taking part in a decisionmaking process that will have so massive an effect on their lives. And the Mack-Coats amendment will ensure that these boards comply with all provisions of the Federal Advisory Committee Act.

I congratulate Senator MACK and Senator COATS for the leadership on this issue.

And I conclude by saying that this amendment—like the Nickles amendment which was unanimously passed yesterday—are precisely the reason why we need to take our time to thoroughly examine the bill.

The fact is that there are many, many, many more troubling provisions in this 1,400-page bill. Some on the other side of the aisle have sought to justify quick consideration of the Mitchell bill, by holding up bills of similar length that prior Congresses have passed in short time periods.

I believe, however, our duty to the American people requires that we do just as Republicans have been doing: That we take out time. That we read every page of the bill. And that we do all we can to ensure that other wacky provisions do not slip through—which is just what will happen if we are denied the opportunity to carefully study this massive bill.

The PRESIDING OFFICER. All time is yielded back on the amendment.

The question occurs on agreeing to amendment No. 2568 offered by the Senator from Florida [Mr. MACK]. The yeas and nays have been ordered.

Mr. ROTH. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to establish if a quorum is present.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 2568 offered by the Senator from Florida [Mr. MACK]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—100

Akaka	Exon	Lugar
Baucus	Faircloth	Mack
Bennett	Feingold	Mathews
Biden	Feinstein	McCain
Bingaman	Ford	McConnell
Bond	Glenn	Metzenbaum
Boren	Gorton	Mikulski
Boxer	Graham	Mitchell
Bradley	Gramm	Moseley-Braun
Breax	Grassley	Moynihan
Brown	Gregg	Murkowski
Bryan	Harkin	Murray
Bumpers	Hatch	Nickles
Burns	Hatfield	Nunn
Byrd	Heflin	Packwood
Campbell	Helms	Pell
Chafee	Hollings	Pressler
Coats	Hutchison	Pryor
Cochran	Inouye	Reid
Cohen	Jeffords	Riegle
Conrad	Johnston	Robb
Coverdell	Kassebaum	Rockefeller
Craig	Kempthorne	Roth
D'Amato	Kennedy	Sarbanes
Danforth	Kerrey	Sasser
Daschle	Kerry	Shelby
DeConcini	Kohl	Simon
Dodd	Lautenberg	Simpson
Dole	Leahy	Smith
Domenici	Levin	Specter
Dorgan	Lieberman	Stevens
Durenberger	Lott	Thurmond
		Wallop
		Warner
		Wellstone
		Wofford

So the amendment (No. 2568) was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Madam President, may I take yet another opportunity to note that we are progressing. We have just had a unanimous vote in the body. Once again, we in a spirit of comity, cogency, and unity prevailed. It ought not to be missed. It should be celebrated, emulated, and continued.

As the majority leader will be addressing us briefly, I respectfully suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, pursuant to the previous order, I shortly intend to seek recognition to offer an amendment. I have discussed it with the managers. The amendment has been provided to our colleagues, I believe, last evening or earlier today.

I am advised that the amendment will not require a recorded vote, that it will be accepted. Therefore, there will be no further rollcall votes this evening. We will take up and pass this amendment by voice vote, unless someone now requests a recorded vote. Then, we will proceed to the amendment that I believe will be offered by Senator PACKWOOD or one of his colleagues.

Mr. PACKWOOD. I believe, Mr. President, what the chairman and I worked out earlier is that we were planning to go after the Senator from Maine, and probably start that in the morning. Senator MOYNIHAN has an amendment on residents and interns and numbers. Then we come back to the Republican side again. I did not think we were planning to go tonight. We were hoping when we were finished with the amendment of the Senator from Maine that we would be finished.

Mr. MITCHELL. That is agreeable with me. I was under the impression that the amendment was going to be offered by Senator PACKWOOD as the next Republican amendment.

Mr. PACKWOOD. I think we will have it ready tonight, but we will offer it in the morning.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. I now suggest the absence of a quorum.

VOL
140
PT
16
AG
12
—
18
1994
UMI

Mr. COCHRAN. Mr. President, will the Senator withhold the request for a unanimous-consent request to put something in the RECORD?

Mr. MITCHELL. Certainly.

THE SENIOR SENATOR FROM ALASKA, TED STEVENS

Mr. COCHRAN. Mr. President, the Anchorage Daily News has published a series of articles on our good friend from Alaska, the senior Senator.

The first article was entitled "Senior Senator, Big Voice for Alaska." It has a fine, flattering photograph of TED STEVENS on the front page.

I hope that Senators will have an opportunity to read the entire series. The articles talk about the life and career of our good friend, the senior Senator from Alaska, TED STEVENS. There are seven in all, beginning on Sunday, August 7, and continuing through August 13.

They confirm for all of us what we all have known, and that is that TED STEVENS is a very effective, influential Member of the U.S. Senate and makes sure that the interests of Alaska are always taken into account whenever legislation is pending here.

All of us who know TED STEVENS respect him. Most of us who know him, including this Senator, have a great feeling of affection for him and consider him a valuable friend.

I personally congratulate him on the flattering content of these articles and invite the attention of all Senators to the series.

These articles add to our knowledge of his early years and confirm that our respect and affection for him are well placed.

Senator STEVENS is one of the most influential Members of this body, and he has been for many years. His tireless and effective efforts to insure that the interests of Alaska are taken into account by the Congress are well known by all of us in the Senate, and these articles remind us of some of the most important legislative battles he has won for his State over the years.

I urge all Senators to read this series on our good friend and colleague, knowing that when you do you will understand more fully why he is so deeply appreciated by the citizens of his State.

Mr. President, I ask unanimous consent that all of the articles in the series entitled "Senior Senator" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Anchorage Daily News, Aug. 7, 1994]

BIG VOICE FOR ALASKA

(By David Whitney)

(The milestone in Sen. Ted Stevens' career this season is his 25th year in the U.S. Senate, but his impact on Alaska extends much further. From his earliest days of public service, he's demonstrated a remarkably single-minded vision: Get more for Alaska. Though sometimes criticized for pork barrel politics, for a famous temper and for his atypical stands on traditional party issues, he has more often been celebrated as an effective champion for his vision of the state. Repeatedly, he emerges an overwhelming victor at election time. By nearly any yardstick, Ted Stevens belongs in the front rank of Alaska statesmen. From his little-known private history through his role shaping state history, this is the story of Alaska's senior senator.)

WASHINGTON.—When Ted Stevens rose earlier this year to oppose a balanced-budget amendment on the floor of the U.S. Senate, he was also standing against the main political currents of his party and his state.

The Alaska Legislature has supported such an amendment. So have Rep. Don Young and Sen. Frank Murkowski, Stevens' partners in the state's all-Republican congressional delegation. So did virtually all other Republicans in Washington.

But not Stevens. Stevens was doing the same thing he has done for more than two decades in Washington: ignoring party pressure and political currents to fight anything that might threaten the flow of federal dollars to Alaska.

It's a drive that dates back to the 1950's, when the battle for Alaska statehood was being fought and Stevens was a junior bureaucrat in the U.S. Interior Department. There, he helped write the federal law that let Alaska become a state, and he helped overcome President Dwight D. Eisenhower's fears that Alaska was too large in size and too small in population to sustain itself as a state.

Nearly 40 years later, Stevens' 70th birthday is behind him and his body is aging, but the fight hasn't left him.

"We have worked and worked and worked to get out from under the yoke of Uncle Sam and we cannot do it," Stevens said during the debate on the balanced-budget amendment. "We are economically dependent on the federal government."

Only three other Republicans joined Democrats in Congress to kill the amendment.

"How will I ever get a waiver of the balanced budget amendment to try and get special money to meet special problems in Alaska?" Stevens asked plaintively.

In the Senate, seniority is power and only seven senators have served longer than Stevens. During 25 years in Washington, his clout has shaped legislation on a series of defining Alaska issues, from North Slope oil to Native land claims to preservation-vs.-development battles.

That clout has also brought home everything from defense installations and logging subsidies to tax favors for Native corporations—billions of dollars in federal largesse.

This has made him a favorite target of congressional watchdogs, such as Citizens Against Government Waste. The group regularly criticizes him in its annual "pig book" for slipping Alaska projects into the federal budget.

"He certainly stands high in the pantheon of pork," said the group's spokesman, Sean Paige.

Stevens bristles at these criticisms.

"If I leave in what the president has requested, it's not controversial," Stevens said. "But if I take that money out and put another item, of higher priority for Alaskans, in, then it's very controversial. Everyone says Stevens is increasing the deficit. It's not true."

THE STATE BUILDER

When Stevens joined the Senate in 1968, the State of Alaska was only a decade old. Over the next few years, his hand was in a stack of major bills that determined the final shape of the 49th member of the union:

The 1971 Alaska Native Claims Settlement Act, which created profit-making Native corporations and seeded them with 44 million acres and nearly $1 billion in cash. Stevens fought for a provision requiring about half the money to come from state funds.

The 1973 Trans-Alaska Pipeline Authorization Act, which permitted the development of Prudhoe Bay, the state's cash cow for nearly two decades. Stevens worked on a key amendment to bar court review of environmental questions about the project, but it took the tie-breaking vote of Vice President Spiro Agnew to get the measure out of the Senate. Stevens also voted for an amendment restricting oil exports. The amendment was considered crucial to win passage of the act, but it since has come to be viewed in Alaska as an unfair abridgement of the state's rights.

The 1976 Magnuson Fishery Conservation and Management Act, which gave the state a majority voice in managing the $1 billion annual fishery in federal waters off the Alaska coast. Stevens was a leading architect of the bill and lobbied a reluctant President Ford to sign it.

The 1980 Alaska National Interest Lands Conservation Act, which set aside more than 104 million acres of federal lands as national parks and refuges. Though Stevens voted against the final measure, he tried to negotiate the smallest possible set-aside and he obtained an annual $40 million federal subsidy for logging in the Tongass National Forest.

"Ted Stevens has been instrumental in shaping the state with his seat in the Senate," said Claus-M. Naske, a history professor at the University of Alaska Fairbanks and author of several books on Alaska.

In many of the battles to pass major acts affecting Alaska, Stevens had to fight the state's business establishment, ordinarily a Republican lawmaker's best friend.

When he helped work out a compromise on the Native claims bill with Sen. Mike Gravel—it was one of the few times they worked together—the Alaska business community screamed.

Many business leaders didn't think Natives should get any land or property. Stevens argued that any legislation that would take lands away from the federal government and give them to Alaskans was good for the state.

But what was most galling back home was that Stevens endorsed a compromise giving Native corporations nearly $1 billion, half of which was to come out of state royalties from Prudhoe Bay.

The Anchorage Times, then the state's leading newspaper, said Alaskans should not have to pay a dime for the settlement and that any money for Natives should come out of federal coffers.

Stevens didn't blink.

He believed the cash settlement was vital if the Native corporations were to succeed. Besides, he said, the money would stimulate the state's economy.

"Given the circumstances at the time, Stevens behaved admirably and maybe even heroically," said Don Mitchell, an Anchorage lawyer who has represented the Alaska Federation of Natives.

Later, as construction of the trans-Alaska pipeline geared up in the early 1970s, Stevens was hung in effigy in downtown Fairbanks for suggesting that pipeline contractors refurbish Army property at Fort Wainwright to house their offices and equipment rather than build new facilities in town.

But Stevens prevailed. And, when the pipeline construction crews left, the Army took over the modernized facilities and they became a major draw for the 6th Infantry Division (Light), which Stevens had helped steer to the state.

A LEGISLATIVE TACTICIAN

Stevens' long tenure in the Senate has earned him considerable clout.

He is the leading Republican on defense spending and, when Republicans were in charge of the Senate from 1980 to 1986, Stevens helped engineer President Reagan's huge military buildup, which added billions of dollars to the national debt.

"I've certainly always thought of Stevens as quite strong and solid on defense matters," said Baker Spring, senior defense analyst for the conservative Heritage Foundation.

But Stevens also has been a potent force on other national issues, some of which put him at odds with more conservative members of his party.

He is a strong supporter of federal funding for the Corporation for Public Broadcasting, despite Republican complaints that its news programming has a liberal slant.

Stevens is a leading advocate of women's rights, including the right to abortion. He also was an early supporter of increased federal research into the AIDS virus.

Stevens' position on these issues has contributed to an impression that he is a social liberal. But, overall, his record is that of a Republican moderate.

For example, he voted against a bill to let teen-agers get abortions without notifying their parents. And last year Stevens voted against allowing people with the AIDS virus to immigrate to the United States.

On foreign policy, his views are in line with those of Texas Republican Phil Gramm, one of the Senate's most conservative members.

In action on the Senate floor, Stevens uses parliamentary procedures and rules to his advantage. He is not the Senate's most gifted orator, but he is an effective advocate because few have his institutional memory or detailed grasp of the issues.

Stevens works his way most effectively by tagging add-ons to major bills. The bills are usually so long and complex that Stevens' special Alaska provisions are difficult to spot and harder still to decipher.

One example is a huge financial break he arranged for Alaska Native corporations in the mid-1980s. Despite the vast sums of money conferred by the 1971 Native Claims Settlement Act, some of the corporations were on the brink of bankruptcy 15 years later. In 1986, when Congress was working on a sweeping tax-reform bill, Stevens came to their aid again.

Since 1984, federal tax law had allowed unprofitable corporations to "sell" their net operating losses (or NOLs) to corporations that were making money. The money-losing corporation would get a cash infusion to erase some of its red ink, while the profitable corporation would get a reduction in its tax bill. But now Congress was about to end the transactions.

When Stevens learned that the depressed steel industry was trying to get an exemption from the cut-off, he quietly attached a provision to the tax-reform bill giving the same break to Alaska Native corporations.

He argued that the Natives had suffered huge losses because congressional actions had delayed the conveyance of all 44 million acres promised by the 1971 settlement act.

The steel industry didn't get its exemption, but the Natives did.

Stevens estimated at the time that the Native exemption would cost federal taxpayers maybe $50 million. But the volume of transactions quickly swamped all projections, and Congress shut down the exemption two years later.

Then-House Ways and Means Committee Chairman Dan Rostenkowski, D-Ill., said in April 1988 that the huge volume of transactions was fueled by profitable corporations approaching Natives with "schemes" to create paper losses that the money-making firms could then buy.

"If Congress does not move to restrict this unintended tax avoidance, it may cost $200 million or more in additional lost revenue that very profitable companies would otherwise pay in federal taxes," Rostenkowski said.

Even Rostenkowski apparently underestimated the money at stake.

Steve Colt, an economist at the Institute of Social and Economic Research at the University of Alaska in Anchorage, said the Natives had sold more than $3 billion in operating losses by the time the exemption was terminated in 1988. He estimated the tax loss to the federal government exceeded $1 billion.

The final cost could turn out to be lower because the Internal Revenue Service is intensely auditing the sales. Stevens has met with Treasury Department officials to promote the best resolutions he can for the Natives.

Stevens said he considered the provision social legislation that helped restore the economic vitality of several Native corporations while pumping hundreds of millions of federal dollars into the state.

"It deserved to be in Alaska," he said.

According to Wally Powers, vice president of finance for Nome-based Bering Strait Native Corp., which sold $35 million of its losses still under IRS audit, the transactions could be a lifesaver.

"We were officially in bankruptcy when the NOLs went through," Powers said. "They give us a second chance to achieve the promise of the Native Claims Settlement Act."

A FIERY TEMPER

Stevens has a reputation as one of the Senate's most incendiary members, and he's proud of it.

He believes his angry outbursts are one of his most effective tools.

"I don't lose my temper," he quips. "I always know where it is."

Shortly after Stevens was appointed to the Senate in 1966, the Nixon White House got a taste of that temper.

The Labor Department wanted to fill a position in Alaska with a Californian. Stevens thought an Alaskan should get the job, but had recently refused to support the White House on one of its issues—he doesn't remember just which one.

A Nixon bureaucrat named Fred Webber called Stevens' office and asked why the administration should bend over backward for Stevens if he wouldn't help the president.

Stevens still remembers the showdown with Webber. So does Ron Birch, who was Stevens' top aide at the time and witnessed the blowup.

Stevens summoned Webber to his office and politely inquired about pending legislation important to the Labor Department. Webber courteously ticked off a list of bills.

"You go back and tell your boss that I am putting a hold on every one of those bills," Birch recalls Stevens telling Webber. Because much of the Senate's routine business depends on unanimous consent, even a rookie like Stevens then was, can keep legislation off the floor. It is an especially potent tool toward the end of a congressional session when a last-minute "hold" can effectively spike a bill.

"Yeah, I got a little exercised," Stevens remembers. "I got up, opened my door, grabbed him by the seat of his pants and his collar and threw him out on the god....d floor."

According to Birch, Stevens was willing to risk offending the White House to make clear that he could not be bought.

"He said that the first time you sell your vote, you're a whore," Birch said. "And once you're marked as a whore, you are marked forever."

Stevens instructed Birch that he would take no more calls from the White House, even from Nixon, until there was an apology for trying to pressure a vote out of him. It was delivered by a delegation from the White House the next day, Birch said.

Neither Webber nor people in the White House delegation could be located for comment.

"I've heard many stories about Ted Stevens' temper," said Bill Van Ness, a former congressional lawyer and now the senior partner in a Washington, D.C., law firm that lobbies on Alaska issues.

"But I've always believed that he is in control, that he always knows what he is doing," Van Ness said. "And I think it has had an intimidating effect. There aren't many in the Congress who will take him on, head to head."

Stevens' prickly independence may have worked well for Alaska, bringing billions of dollars in federal spending, but it has not necessarily served him well personally.

In 1984, Stevens narrowly lost a race against Kansas Sen. Bob Dole for Republican majority leader. The majority leader sets the agenda for the entire Senate and usually serves as one of his party's leading policymakers.

Stevens believed he had enough votes to win the job. He had worked his way up to the position by serving as the chairman of the Republican Senatorial Campaign Committee, which raises money to elect Republicans to the chamber, and later as Republican whip—the party's second-ranking leadership post.

The defeat cost Stevens his job as whip. Among the perks were a suite of offices in the Capitol and a chauffeured car.

Press accounts at the time attributed Stevens' loss to the desire among other senators for the committee chairmanships that would be opened up by Dole's elevation.

But press reports also cited Stevens' fabled temper. He said in a recent interview that he believes he was hurt by the fact that he had angered so many of his colleagues over the years.

"I think I didn't get the votes I should have from some people because I had offended them in some connection or other, but it was something I had to do to get bills passed for Alaska," Stevens said.

Despite his long public career, Stevens' private life has been marked by family hardship, tragedy and regrets.

Stevens, born in Indianapolis, was the third of four children in his family. His parents divorced in 1929 just as the Great Depression was beginning. He lived with his grandparents until he was a teen-ager, helping support a blind father and a mentally retarded cousin by hawking newspapers on the

VOL 140 PT 16 AG 12 — 18 1994 UMI

street and later by working at a soda fountain.

Stevens flew Army cargo planes in China during World War II. After the war, he earned a law degree at Harvard University, then worked for law firms in Washington, D.C., and Fairbanks. But he abandoned the lure of big money to enter public service and then politics.

Roger Ernst, who worked with Stevens at the Interior Department during the Eisenhower administration, recalled Stevens working even on Sundays. It was a habit he kept up when he entered the Senate.

He came to regret those long hours away from his family.

On Dec. 4, 1978, a Learjet carrying the Stevenses and several others hit gusty crosswinds and crashed while attempting to land at Anchorage. The senator was one of two survivors. His wife was not.

In the months of grieving that followed, Stevens seemed to blame Alaska's other senator, Democrat Mike Gravel, for Ann's death. At the time of the crash, the Stevenses were en route to a fund-raiser for a lands act lobbying group. Stevens said at a congressional hearing that the trip was necessary only because Gravel had blocked a compromise on the Senate floor that would have let the lands act pass two months earlier.

It took months for Stevens to work through Ann's death. He read a book by Arthur Freese called "Help for Your Grief." Though the book is now out of print, Stevens sends a photocopy of it to friends when they have a death in the family, inscribed with remarks about how it got him through Ann's death.

Two years later, Stevens married Catherine Bittner Chandler. In 1981, when he was 57, Catherine gave birth to his sixth child, Lily, upon whom he dotes. He reserves time to go to movies with Lily now that she is a young teen-ager, and he drives her and her friends to weekend soccer games. A corner of Stevens' office is filled with Lily's artwork. When Lily was younger, Stevens would hold hot-dog and ice-cream parties for her in a Senate dining room.

By 1980, his nemesis, Gravel, had been defeated and the major pieces of law affecting Alaska had been enacted. Stevens began what amounted to a second life. It was comfortable until financial problems beset his new family.

An untimely investment in a crab boat in 1979, named the Lady Ann after his first wife, saddled him with more debt than his Senate salary could absorb, and Catherine's investment in an Arizona cattle ranch drew an Internal Revenue Service tax claim in the mid-1980s.

The Stevenses settled their debts by selling their Maryland home in December 1986 and moving into a rented house in the District of Columbia.

Stevens' financial situation didn't completely turn around for another three years.

C.W. Snedden, the longtime publisher of the Fairbanks Daily News-Miner who had helped give Stevens his political start three decades earlier, died in August 1989. Snedden bequeathed Stevens an expensive motor yacht. Stevens immediately sold it to pay off his bills and buy the house he and Catherine were renting.

Stevens' failure to accumulate much wealth due to his public service has at times left him sounding somewhat bitter.

In 1988, a year before the bequest from Snedden and when his financial situation seemed bleak, Stevens was beginning to think about his 1990 re-election campaign.

He said in an interview that he could have made millions of dollars as a lawyer and that voters needed to understand the personal sacrifice he had made for a life of public service. He said he viewed the 1990 election as a turning point in his life and for the state.

Stevens' remarks drew letters to the editor attacking him for arrogance, but they didn't dent him at the polls. In the 1990 Republican primary, his conservative rival, Bob Bird, ridiculed Stevens as "his highness"—and got just 30 percent of the vote.

At 70, Stevens' hair is graying and, despite a passion for exercise and healthy foods, he has had serious medical problems—including prostate cancer two years ago and back problems requiring surgery in February. But Stevens has already said he will run again in 1996.

Anything can happen in an election, but at least for now Stevens is looked upon even by many Democrats as the workhorse who can get things done for Alaska.

In May 1993, a group of Alaska Democrats fanned out over Washington. They were trying to figure out if they had any sway with the Clinton administration, coming as they did from a state with a Republican-turned-independent governor and an all-Republican congressional delegation.

Just months before, Stevens had predicted that Clinton's policies would bring economic ruin to Alaska. Now the Democrats courted him as if he were the only person who could hold their own president at bay.

"I remember being asked once what one thing we could do that would be best for the state," said Anchorage lawyer Tony Smith, who ran against Sen. Frank Murkowski in 1992. "I said that the best thing we could do would be to take $20 million out of the state's permanent fund to find a fountain of youth to keep Stevens alive and in office."

Smith—who is now running for Republican Don Young's seat in Congress—says he still stands by that statement.

[From the Anchorage Daily News, Aug. 8, 1994]

STEVENS' LIFE WASN'T EASY GROWING UP IN THE DEPRESSION WITH A DIVIDED FAMILY

(By David Whitney)

WASHINGTON.—A wooden surfboard stands amid the plaques and letters of appreciation in Ted Stevens' office in the marble-walled Hart Senate Office Building.

Polished to a gleam and parked in the corner nearest Stevens' desk, the board is a memento of a rare mellow period in the life of a politician not known for mellowness.

Stevens paid $40 for it when he was a teenager in Manhattan Beach, Calif. He lived there with an aunt and uncle who took him in when he was 15.

"In 1940, I bought a surfboard and a gold 1931 Pontiac convertible," he said. "The surfboard cost almost as much as my car."

With the board in the back of his car, Stevens and high school friend Russell Green would head for San Onofre to ride the waves.

"We were beach bums," Stevens said.

Theodore Fulton Stevens was born Nov. 18, 1923, in a small cottage behind his grandparents' home in Indianapolis. His grandfather built the little house after Stevens' father, George, married Gertrude Chancellor.

The couple divorced when Stevens, the third of George and Gertrude's four children, was 6, and the 1929 stock market crash was plunging the nation into the Great Depression.

At the time of their divorce, Stevens' parents lived in Chicago. The Depression cost Stevens' father his job, and the children went back to Indianapolis to live with their grandparents.

They were soon followed by Stevens' father, an accountant who developed severe eye problems and went blind for several years.

Stevens' mother landed in California and, as she could afford it, she moved Stevens' siblings out to be with her. Stevens said he stayed behind to help care for his blind father and a mentally retarded cousin who also lived with his grandparents.

Stevens helped raise money for the household as a newsboy on the streets of Indianapolis.

"I remember selling lots of newspapers on the day of the Lindbergh kidnapping," Stevens said. Charles Lindbergh Jr., the son of the famous aviator, was kidnapped on March 1, 1932. Stevens was 8 years old.

In 1934, Stevens' grandfather, the only one in the house with a job, tumbled down a flight of stairs and punctured a lung. He contracted pneumonia and died.

Stevens stayed in the house until 1938, when his grandmother could no longer afford the bills. Stevens, then 15, moved with his retarded cousin, Patricia Acker, to Manhattan Beach to live with her mother, Gladys Swindells.

Before and after classes at Redondo Union High School, he still had to work. But there also was time for his growing friendship with Russell Green, son of the president of Signal Gas and Oil Co.

For three years, Green and Stevens partied, surfed and studied together. They're still close friends.

Green recalled cutting classes with Stevens to hear Glenn Miller's orchestra, Miller was making a movie at the time and also doing nightly radio broadcasts from a nearby town.

He said they approached Miller and told him they had cut class to see him. "Miller said, 'Just tell your teacher you were up seeing Glenn Miller and they will let you out,'" Green said.

"Ted has a lot of fun in him and a great sense of humor," Green said. "But he was serious enough to get absolutely top grades."

Except when the now-famous Stevens temper surfaced in an English class, Green remembered.

"One of our classmates was an A student but he was always talking," Green said. "So the teacher gave the student a B. Ted got into an argument with the teacher, saying that the grade should be for the work he's done and not his deportment. The teacher got so mad at Stevens that she knocked his grade down to a B, too."

OFF TO WAR

After graduating from high school in 1942, Stevens attended classes at Oregon State University for a semester and then, with World War II raging, tried to enlist in the Navy Air Corps.

He flunked the vision exam.

"I had strained my eyes considerably in an engineering course I was in," Stevens said. Facing the prospect of being drafted, he moved to Los Angeles and took eye exercises six days a week.

There, Stevens met a former military officer and member of the Selective Service board who helped arrange another test for flight training.

This time, Stevens passed. The Army sent him off to study at Montana State University. He said he scored at the top of an aptitude test and immediately was transferred to preflight training in Santa Ana, Calif.

"We went right down to join a group that already had started in preflight," he said. "We got our wings in the early part of 1944. The other group at Montana State got its wings just in time to be discharged. They never went overseas."

From Santa Ana, Stevens went to Bergstrom Field in Texas, where he trained to fly P-38s. Because of an incident during graduation, Stevens never got the chance to fly the fighters in combat.

"Someone in the class booed the godd--n colonel who gave the speech to our graduating class," said Stevens, who recalls that the colonel was supposedly the son of an Army big shot. "Suddenly we were copilots in a troop carrier squad."

Stevens was dispatched to China to fly for the 14th Army Air Corps Transport Section, which supported the Flying Tigers.

Leroy Parramore, who flew with Stevens in China, said they piloted C-46 and C-47 cargo planes, often without escort, throughout the China theater to resupply mostly Chinese units fighting the Japanese.

"We transported everything from bombs to Chinese troops to gasoline," said Parramore, a retired Internal Revenue Service agent in Texas.

Parramore said their worst enemy was the weather.

"I remember one occasion when we were flying and we were running out of gas," Parramore said. "Ted was in one C-46 and I was in another. We hit a strong headwind and we started looking for an alternate landing field. I landed first. And when Ted finally landed, he had run out of gas on the approach."

"If I had anyone I would have trusted my life to, it would have been Ted," Parramore said.

When Stevens left the Army Air Corps in March 1946, he had collected a Distinguished Flying Cross for flying behind enemy lines, an Air Medal and a Yun Hai Medal, awarded by the Chinese Nationalist Government.

After the war, Stevens returned to California, where he received a bachelor's degree in political science at UCLA in 1947.

By then, Stevens had decided to go to law school. He applied at Stanford University and the University of Michigan.

But, when he told Green's father he planned to go to Stanford, he said he was told to "look East."

Stevens did, graduating from Harvard in 1950. He was able to finance part of the cost with money from the GI Bill because of his military service. But, he said, he also had to sell his blood, work several jobs—including one as a Boston bartender—and borrow money from an uncle.

Alaska Supreme Court Justice Jay Rabinowitz praised Stevens' scholarship at Harvard. Rabinowitz said the Alaska Supreme Court issued an opinion recently that cited an article on admiralty law Stevens wrote for the Harvard Law Review 45 years earlier.

After graduation, Stevens headed off to a Washington, D.C., job that put him on the road to Alaska.

[From the Anchorage Daily News, Aug. 9, 1994]

THE ROAD NORTH—NEEDING WORK, STEVENS BORROWS $600, ANSWERS CALL TO ALASKA

(By David Whitney)

WASHINGTON.—For Ted Stevens, the long, unexpected road to Alaska began in the Washington, D.C., law office of Mike "Northcut" Ely.

Ely had been an assistant secretary in the Interior Department during the Hoover administration. Twenty years later, he had a high-profile law firm specializing in natural-resources issues. He recruited Stevens out of Harvard Law School in 1950.

"He was a vigorous chap, highly effective," Ely, now 90, said in a telephone interview from Redlands, Calif., where he still maintains a office. "He was very personable, with a good sense of humor."

Stevens was assigned to handle the legal affairs of Emil Usibelli, an Ely client in Alaska who was trying to sell Healy coal to the military.

Stevens was interested in natural-resources law, but he wanted to pursue that interest in government, not private practice.

So he volunteered for the 1952 presidential campaign of Dwight D. Eisenhower, the World War II hero who would become the first Republican to occupy the White House since the defeat of Herbert Hoover in 1932. Stevens hoped an Eisenhower victory would mean a federal job for him.

Stevens said in an interview that campaign volunteers would meet at a Washington, D.C., hotel to write position papers. Stevens was assigned Western water law and the problems of Western lands.

Eisenhower's election in November 1952 looked like perfect timing for Stevens.

"I had done several papers for them. I had met several people by the time Eisenhower won. They said, "We want you to come over to Interior.'"

Eight months earlier, Stevens had married the former Ann Mary Cherrington, the adopted daughter of the chancellor of the University of Denver. A graduate of Reed College in Portland, Ore., Ann was a Democrat who worked for the State Department in the Truman administration.

Stevens told Ely he was quitting to look for work in the Eisenhower administration.

But the job didn't come through, and suddenly Stevens was out of work, with a new wife and no place to go. About this time, Stevens got a call from Charles Clasby inviting him to join his law firm in Fairbanks. Stevens knew Clasby because Clasby was the Alaska lawyer for Emil Usibelli, the coal miner Stevens had represented in Washington.

ALASKA CALLS

"Ann and I were both from the West," Stevens said. "We liked Clasby and Usibelli. We had done some things together when they were down here. And Clasby was in a hard spot. He had told me he had lost one of his people."

Ely said he was sad to see Stevens go. But he recalls Stevens offering another reason for leaving Washington.

"He said he'd like to settle in the West and get into politics," Ely said. "I told him he should stay in law."

Stevens recalls saying no such thing. According to Stevens, the job in Fairbanks came along at a time when he needed work and he had no idea that he would eventually get into politics.

The Stevenses packed their bags and began the long drive north in the dead of winter, traveling on $600 borrowed from Clasby. They hit Fairbanks in February 1953.

Stevens said he kids Gov. Wally Hickel about the loan from Clasby.

"He likes to say that he came to Alaska with 37 cents in his pocket," Stevens said of Hickel. "I came $600 in debt."

Stevens quickly cultivated the city's Republican establishment. One of his new friends was C.W. "Bill" Snedden, who had recently bought the Fairbanks Daily News-Miner. Helen Snedden, Bill's widow, said her husband and Stevens were "like father and son."

"The only problem Ted had was that he had a temper," Helen Snedden said. "My husband helped and guided him along the way. He kind of steadied him, like you would do with your children. My husband taught him the art of diplomacy."

Helen Snedden became especially close to Ann.

"I don't think you could have found a better person," she said. "She was very smart, very caring. She fit in very easily. The children came along, year after year. It was hard. It was a struggle. But she made a home and she didn't complain."

Stevens lasted six months with Clasby. By September, Fairbanks U.S. Attorney Bob McNealy, a Democrat, had resigned and, Stevens said, U.S. District Judge Harry Pratt asked him if he wanted the job.

"I said, 'Sure, I'd like to do that.'" Stevens said. "Clasby said 'It's not going to pay you as much money, but, if you want to do it, that's your business.' He was very p----d that I decided to go."

Stevens was confirmed for the position by the Senate on March 30, 1954.

"He was a very active D.A.," said Mike Stepovich, a Fairbanks lawyer at the time who a few years later would become territorial governor. "He was a prosecutor all the way through."

Olga Steiger, a former court clerk in Fairbanks, said Stevens' explosive temper often was fixed on Warren A. Taylor, a criminal defense lawyer.

"They didn't get along," she said. "Ted would get red in the face, blow up and stalk out of the courtroom."

GUN TOTIN' D.A.

Jay Rabinowitz, now an Alaska Supreme Court Justice, arrived in Fairbanks not long after Stevens left. He recalls tales of Stevens packing pistols and accompanying U.S. marshals on raids.

In one particular vice raid, Rabinowitz recalled, "U.S. marshals went in with Tommy-guns and Ted led the charge, smoking a stogie and with six guns on his hips."

"It makes me sound like Elliott Ness," Stevens said. He remembers only one such incident. It was in Big Delta, about 75 miles southwest of Fairbanks.

"We decided we'd take a combined force down there because of information we'd received about a lot of different violations of federal and territorial law. There was a prostitution ring, and drugs and violations of liquor laws.

"They wanted to make sure everything was done right, that the evidence would be admissible, the arrests would be legal, so they asked me if I wanted to go along. I said, yeah.

"So one of them suggested I ought to take a gun," he said. "So he checked me out a gun. It was a holster with a gun. It wasn't two guns. I never had two guns. I never walked around town with it.

"But someone did see it," he said. "Someone saw us coming back in or going out of the federal building that day and said, 'Jesus Christ, there's the damn district attorney carrying a gun.'"

The report spread "up and down Fourth Avenue in every bar."

"And, to this day, kids come in and tell me their dads have told them about me and they think a lot about me when they see stories about Elliott Ness and that it must have been the same," he said.

Stevens' most famous trial came at the end of his career as federal prosecutor. The

VOL 140 PT 16 AG 12 — 18 1994 UMI

case managed to link tax evasion to the cause of Alaska statehood—and Stevens lost.

Jack Marler, a former Internal Revenue Service agent, had been accused of failing to file tax returns and there were concerns that other Fairbanks residents were beginning to follow his example.

In Marler's first trial, which Stevens did not handle, the jury deadlocked and a mistrial was declared.

Marler hired Edgar Paul Boyko, a flamboyant young lawyer from Anchorage, to defend him in the second trial.

Stevens and a local judge decided to clean up the mess, Boyko recalls. "They decided that Marler would be a good start.

"Ted, who was young and full of piss and vinegar, decided to take over the retrial," he said. "He assembled an entourage to help him.

"I built a defense around the theory that there should be no taxation without representation," Boyko said.

"I gave a rabble-rousing closing argument to the jury," he said. "I said this man wanted to raise the issue that we had no representation in Congress. I said this case was the jury's chance to move Alaska toward statehood."

Newspapers around the country carried stories on the trial.

In his closing argument to the jury, Boyko called the panel "twelve Alaskans with a rendezvous with destiny."

He appealed to the jury to "strike a blow for Alaskan freedom."

"The shock of acquittal will be felt all the way to Washington," he told the jury.

"Ted had done a hell of a job in the case," Boyko recalled. "The jury's announcement of not guilty dropped like a bomb."

After the acquittal on April 3, 1956, Stevens issued a statement.

"I don't believe the jury's verdict is an expression of resistance to taxes or law enforcement or the start of a Boston Tea Party," he said. "I do believe, however, that the decision will be a blow to the hopes for Alaska statehood."

But it wasn't. The long battle for statehood had only two more years to run. Within two months of the Marler trial, Stevens was on his way back to Washington to help fight it.

[From the Anchorage Daily News, Aug. 10, 1994]

SEEKING STATEHOOD—STEVENS BENT RULES TO BRING ALASKA INTO THE UNION

(By David Whitney)

WASHINGTON.—When a brash young federal prosecutor named Ted Stevens arrived in Washington in June 1956 to take a job as assistant to Interior Secretary Douglas McKay, the prospects for Alaska statehood seemed no brighter than they had for at least a decade.

The battle had been going on since 1943 and had at least once seemed about to pay off. That was in 1950, when the U.S. House passed a bill to bring Alaska into the United States. President Harry Truman, a Democrat, supported the bill but it died in the Senate.

Two years later, Republicans captured Congress and the White House. The Republican Party opposed statehood, partly out of fears that Alaska would elect Democrats to Congress.

The Republican president, Dwight D. Eisenhower, saw Alaska as too large and sparsely populated to be economically self-sufficient as a state. Eisenhower also worried that statehood would hamstring the military's strategy for defending Alaska against an invasion by the Soviet Union.

The U.S. plan was to fight a delaying action in Alaska, gradually abandoning the hinterlands of the territory, if necessary, to an invading Soviet army. Eisenhower thought that strategy would be harder to pull off if Alaska became a state, because more people and politicians would have to be dealt with as abandonment proceeded.

The only idea that had much support in Washington was to divide Alaska, carving out its most populated areas for statehood and keeping the rest as a federal territory. That idea had little support in Alaska, particularly among rural Natives, who complained that they would be disenfranchised.

Within a couple of weeks after Stevens' arrival, however, the statehood movement got a considerable boost. McKay resigned to run for the U.S. Senate in Oregon and his replacement was Fred Seaton, a statehood advocate. McKay was not personally opposed to statehood but had never pushed for it, either, according to Claus M. Naske, a history professor at the University of Alaska Fairbanks.

Seaton was a close friend of Fairbanks Daily News-Miner publisher C.W. Snedden, one of the territory's leading negotiators in that phase of the statehood battle.

"The day after Seaton took office, he asked Snedden if he knew any Alaskan that could come to Washington to work on statehood," Naske said.

"Snedden told him that person was already working for him as his assistant," Naske said. "That person was Ted Stevens."

As a young federal staffer, Stevens was no power broker. But he quickly became an aggressive soldier in the statehood movement, earning the nickname of "Mr. Statehood" at the Interior Department.

"Ted probably spent more time with Secretary Seaton than any of us," said Roger Ernst, who was Seaton's assistant secretary for public land management.

"He did all the work on statehood," Ernst said. "He wrote 90 percent of all the speeches. Statehood was his main project."

FOCUS ON STATEHOOD

Stevens discussed his work on statehood in an interview with a researcher at the Eisenhower library in October 1977. He made clear that he was willing to bend the rules and manipulate the press to keep Alaska statehood on the administration's agenda.

"We set Ike up quite often at press conferences by planting questions about Alaska statehood," Stevens said in the interview. "We never let a press conference go by without getting someone to try to ask him about statehood."

Eisenhower's problem, Stevens said, was the he "took the position that land up there was very sparsely populated and very much an open invitation to invasion."

"I think he honestly believed that we had special vulnerability and also special significance as far as military strategy was concerned," Stevens said.

The Soviet threat to Alaska drew the top echelons of the Pentagon into the statehood debate.

Jack Stempler, who was then a top lawyer at the Defense Department, said Eisenhower relied heavily on the views of Gen. Nathan Twining, the chairman of the Joint Chiefs of Staff who had served in Alaska.

"Eisenhower wanted to make sure that there was adequate military for Alaska to protect itself," said Stempler, who is now retired. "And also, he wanted to assure himself that it would be economically viable. Without a military payroll, he had questions about whether it could be economically viable."

Two years earlier, in March 1954, Eisenhower had drawn a line on a map where he thought the state should end, with the areas north and west of the Porcupine, Yukon and Kuskokwim river remaining in federal hands.

"He said, 'Everything up there has got to be federal because the state can't protect it,'" Stevens said. "'There's a chance we're going to have terrorism; we've got a potential invasion up there. We've got to have federal powers up there.'"

With Seaton actively pressing for statehood, a compromise was fashioned to bring the entire territory into the union but with special federal protections for the sparsely populated northern and western regions that so worried Eisenhower.

Stempler said that he, Stevens and Twining then set about to define where the final version of the line should be drawn. Much of that work occurred in a room at Walter Reed Army Hospital, where Seaton was being treated for back problems.

"I remember sitting in Seaton's hospital room on Sunday mornings with Twining and Stevens talking about this," said Stempler. "Maps were taped to the walls. We discussed what wilderness areas would be hard for a young state to handle. The line was negotiated and after that, statehood moved forward."

The line became known as the PYK Line. From the northeast corner of the territory, it followed the Porcupine, Yukon and Kuskokwim rivers to the Bering Sea, then went south and east to clip off the lower half of the Alaska Peninsula and the Aleutian Islands.

The PYK line became the basis for Section 10 of the statehood act, which Stevens wrote. The land north and west of the line was included in the new state, but Section 10 gave the president emergency powers to take direct federal control of those areas, which include Prudhoe Bay and the Arctic National Wildlife Refuge.

Section 10 was a key to statehood.

"It's still in the law but it's never been exercised," Stevens said. "Now that the problem with Russia is gone, it's surplusage. But it is a special law that only applies to Alaska."

With the PYK Line settled, Stevens worked with Snedden, Anchorage Times publisher Bob Atwood and the Alaska Statehood Committee to lobby for statehood.

BENDING THE RULES

By 1956, Alaskans had held a convention in Fairbanks to adopt a constitution for the state they hoped to become. And they had elected three Democrats to go to Washington as unofficial delegates to Congress. Ernest Gruening and William Egan were Alaska's U.S. "senators," and Ralph Rivers was its U.S. "representative."

Stevens hired Atwood's daughter, Marilyn Atwood, to help him at the Interior Department. Together they drew up cards on members of Congress.

"I had made a study on each member of the Senate and this goes on now into '57, '58—whether they were Rotarians or Kiwanians or Catholics or Baptists and veterans or loggers, the whole thing," Stevens said in the 1977 interview.

"And we'd assigned these Alaskans to go talk to individual members of the Senate and split them down on the basis of people that had something in common with them," he said.

"We were violating the law . . . we were lobbying from the executive branch, and there's been a statute against that for a long time," Stevens said. "We more or less, I would say, masterminded the House and Senate attack from the executive branch."

The lobbying campaign also targeted newspapers.

"We planted editorials in weeklies and dailies and newspapers in the district of people we thought were opposed to us or states where they were opposed to us so that suddenly they were thinking twice about opposing us," Stevens said.

The long campaign for statehood paid off in 1958, when Congress passed a bill admitting Alaska to the Union. Eisenhower signed the act on July 7, 1958.

The act authorized the new state to select 103.5 million acres of "vacant and unappropriated public domain" to develop an economy.

Three years later, in the last days of the Eisenhower administration, when Stevens was the Interior Department's top lawyer, he wrote the public land order creating what is now the Arctic National Wildlife Refuge. The signing of that order was Seaton's last official act.

ANWR was created in an effort to end a much more sweeping land order that had withdrawn the whole of Alaska's Arctic during World War II, Stevens said.

"It was a great goal of people, particularly at Interior, who were quite interested in a gas field (near Barrow) at the time," Stevens said.

The withdrawal was supported by the state, according to Phil Holdsworth, Alaska's first commissioner of natural resources.

What Alaska got out of the deal was the lifting of the federal ban on state land selections in a large middle section of the North Slope bordered by the 9 million-acre arctic refuge to the east and the Naval Petroleum Reserve to the west.

That midsection contained a then-obscure landmark called Prudhoe Bay. Ten years later, it would become the site of the biggest oil strike in North American history and the foundation of Alaska's economy.

Now, as Prudhoe Bay reserves decline, the oil industry insists that the best hope for keeping up oil production in Alaska is the coastal plain of the refuge that Stevens helped create.

The 1980 Alaska Lands Act requires a vote of Congress to open it to oil drilling and, so far, environmental opposition has prevented that from happening. But Stevens maintains the creation of the refuge was—at the time, at least—a small price to pay for opening Prudhoe Bay and much of the rest of the North Slope to oil exploration. The land order he wrote more than 30 years ago contained no legal barriers to drilling, he insists.

"The order specifically allowed oil and gas exploration in the arctic range subject to stipulations to protect fish and wildlife," Stevens said. "I think it was a very good deal."

[From the Anchorage Daily News, Aug. 11, 1994]

PENCHANT FOR POLITICS—RULE CHANGE ENABLED HICKEL TO APPOINT STEVENS TO SENATE

(By David Whitney)

WASHINGTON.—Ted Stevens says he had no clue he would become Alaska's next U.S. senator when E.L. "Bob" Bartlett died in 1968.

In fact, Stevens may have been the politician least likely to replace the popular Democratic incumbent.

After completing a four-year stint with the Eisenhower administration, where he rose to be top lawyer at the Interior Department, Stevens had packed up his wife, Ann, and their five small children and headed for Anchorage in 1961.

He opened a law practice representing, among other clients, oil companies seeking to drill on state leases. He also did legal work for the state's two largest newspapers—The Anchorage Times and the Anchorage Daily News.

And, less than a year after leaving Washington, Stevens got into politics.

In 1962, he ran against U.S. Sen. Ernest Gruening and lost to the Democrat by a 3-2 margin.

He ran for the state House in 1964, won, and won again in 1966, the same year Wally Hickel was elected to his first term as governor. Stevens served as House majority leader in 1967 and 1968.

Stevens ran again for Gruening's seat in 1968, just months before Bartlett's death, but this time he didn't even make it into the general election. He lost the primary to Anchorage banker Elmer Rasmuson. On the Democratic side of the ballot, Mike Gravel beat Gruening, then did the same thing to Rasmuson in the general election.

What seemed pretty well-established by the time Bartlett died in December 1966 was that the cigar-smoking Stevens didn't have much of a statewide following.

In his book on Bartlett, University of Alaska history professor Claus M. Naske said Bartlett had been having heart trouble long before he was hospitalized in Cleveland in November 1968. Until his heart surgery, however, it appears that Bartlett's declining health was little-known in Alaska.

Nonetheless, Republican leaders in the state legislature were aware that both of the state's U.S. senators—Bartlett and Gruening—were getting along in years and they wanted to make sure Hickel could pick a fellow Republican as successor.

At the time, state law required the governor to appoint someone of the incumbent's party. Republican lawmakers, who for the first time since statehood held a majority in both houses of the legislature and also had a Republican governor, set out to change the law in early 1967.

The sponsor of the legislation was Senate Majority Leader John Butrovich. He said in a recent interview that he had no idea that the change in the appointments law would be used so soon.

He said he was aware that Bartlett had health problems but he never suspected how serious they were.

"When he passed away, it sure was a surprise to me," Butrovich said.

The legislation quickly moved to the House, where Stevens was in charge of the agenda. But Stevens says he doesn't remember much about it and certainly didn't expect to be its first beneficiary. The new rule took effect in mid-1967.

"I had no inkling that I would be appointed should there be a vacancy," Stevens said. "I had no reason to believe we would have a vacancy. I considered Bartlett's health to be robust."

Anchorage lawyer Joe Josephson, who worked in Bartlett's Senate offices between 1957 and 1960, said he can understand how Alaskans could have been ignorant about Bartlett's health.

"My general impression was that he had a lot of ailments but it never affected his performance," Josephson said. "It's fair to say that I doubt he sent out bulletins on his condition. He would not have been very forthcoming about health problems."

Indeed, an Associated Press report of Bartlett's death at the time made no mention of persistent health problems.

Had the law not been changed, the most likely prospect to fill Bartlett's seat would have been Edgar Paul Boyko, a Democrat whom Hickel had appointed attorney general.

Boyko still thinks about the Republicans' maneuvering.

"I don't think it was aimed at me personally," Boyko said recently. "It was aimed at heading the Democrats off at the pass. But Stevens had no reason to think that he would have been Hicken's first choice, either."

HICKEL'S QUANDARY

Bartlett's death on Dec. 11, 1968, set off an immediate scramble for a replacement. Among the strongest contenders were Elmer Rasmuson and Hickel's longtime friend Carl Brady. Stevens' name, though mentioned, was not prominent on anyone's list—except Hickel's.

Hickel was in Washington at the Shoreham Hotel on Dec. 11, awaiting President-elect Richard Nixon's announcement of a slate of Cabinet nominations—including Hickel's for Secretary of the Interior.

"I was handed a note that Bartlett had died," Hickel recalls. "I went over to (Nixon) and he mentioned that he knew Ted.

"Nixon said 'Wally, what are you going to do?'" Hickel said, "I told him the people I had in mind. There was Rasmuson, Brady and Stevens.

"The president looked at me and said, 'Wally, do you have the courage to appoint Ted?'" Hickel said.

"And I said, 'I want to do what is right,'" Hickel said. "Carl Brady was a close friend of mine. I had known Rasmuson for many, many years. But Ted Stevens was a survivor, in my opinion."

Once the tenacious Stevens was in office, Hickel was convinced, no candidate would be able to unseat him.

Stevens insists he was unaware any of this was going on.

He said he and Ann were in Mazatlan, on the first real vacation they had taken since they were married in 1952.

"We got a collect telegram," he said. "It said 'Call Hickel.'"

Stevens said he telephoned Juneau and learned of Bartlett's death. "Hickel told me that he wanted me to come back and talk to him about taking Bartlett's place."

On the way back from Mexico, Stevens stopped in Seattle for a meeting with Hickel about the Senate seat, setting off speculation that he might be a candidate for the job. But news reports at the time said Stevens was more likely to go to Washington to work with Hickel at the Interior Department than to join the U.S. Senate.

Stevens put that speculation to rest when he flew into Anchorage the next day. Stevens said the only way he would return to Washington would be as U.S. senator.

Stevens' oldest child, Susan Covich, remembers her father and mother gathering the children in their Anchorage home about this time to discuss the possibility of moving to the capital. Covich was 15.

"It was definitely a family discussion as to whether we would go," she said.

Covich, now a computer tutor at a North Kenai elementary school, said the discussion came as a surprise to her because, after her father's primary defeat in August, "there was some talk of him stepping out of politics for a while."

Stevens seemed like a long shot for the Senate job. Interior Republicans were supporting Butrovich for the appointment. And,

VOL 140 PT 16 AG 12 — 18 1994 UMI

when Robert A. Davenny, chairman of the state Republican Party, called a meeting of the state central committee to recommend names for the seat, Stevens at first didn't make the list.

The central committee ultimately sent Hickel a more expansive list of 10 people for the seat. Stevens' name had been added, along with two members of the ultra-conservative John Birch Society.

Within a couple of days, Hickel had narrowed his choice to Brady and Stevens. His problem, he said, was that sometime before he had promised Brady to appoint him to any vacancy.

Hickel summoned both men to his Anchorage home Dec. 23 to talk about the seat. By the time they arrived, Brady had already concluded that Hickel really wanted Stevens and that he should bow out.

"My wife and I decided that, why would we want to be back in Washington if the governor didn't want me there?" Brady said. "I agreed to withdraw if Hickel would appoint Stevens."

"There's no question Hickel did the right thing," said Brady, who went on to make a fortune as operator of Era Aviation. "Ted is more popular with Democrats and Republicans. He is well-loved by everybody. I am more conservative."

Stevens said he was stunned by Brady's decision.

"I was really very humbled," Stevens said. "I told Carl that he had a commitment from Hickel, that he could have held Hickel to it, and I think Hickel would have stayed with it."

Sitting in Hickel's home Dec. 23, just minutes after the governor announced Stevens' appointment, Stevens pulled a dollar bill from his wallet.

Stevens signed his name to one end and handed it to Brady to sign the other. Stevens tore the bill in two, giving Brady the half with Stevens' signature.

"I said, 'If you ever need help, and you really want my help from in or out of the Senate, send that to me.'" Stevens said. "I've never received the other half."

But, in 1978, when Hickel was running in the gubernatorial primary against Republican incumbent Jay Hammond, Brady came close to cashing in his half of the dollar bill.

"I wanted him to support Hickel in the primary," Brady said. "Ted refused. He said he couldn't oppose a Republican incumbent."

By Senate tradition, members don't take sides in contested state primary elections.

"I said that I'd never called in my half of the tab," Brady said. "'What if I did that?' And he said 'My friend, I'd have to resign from the Senate.'"

Stevens doesn't remember the incident but, whether he was serious or not about leaving the Senate, that was that. Brady dropped the matter. Stevens didn't support anybody in the primary, and Hickel lost.

[From the Anchorage Daily News, Aug. 12, 1994]

BITTER BATTLE—NO LOVE LOST BETWEEN STEVENS, GRAVEL

(By David Whitney)

WASHINGTON.—One of the biggest influences on the Senate career of Ted Stevens was Mike Gravel, and not a moment of their 12-year relationship was pleasant.

Years after Gravel, a maverick Democratic senator, was unseated by Republican newcomer Frank Murkowski in 1980, Stevens still seems haunted by the man.

They fought over just about every Alaska issue that came up before Congress.

They disagreed over extending the U.S. territorial limit 200 miles out to sea—the catalyst for the Magnuson Fishery Conservation and Management Act of 1976, which gave Alaskans a dominant voice in the management of commercial fishing in federal waters off the Alaska coast.

They fought over the 1971 Alaska Native Claims Settlement Act. They feuded over the 1973 Trans-Alaska Pipeline Authorization Act. And—most famously and bitterly—they fought over the Alaska National Interest Lands Conservation Act of 1980.

Gravel thinks the animosity resulted from the 1968 election, which he won by defeating incumbent Ernest Gruening in the Democratic primary and then beating Anchorage banker Elmer Rasmuson in the November general election.

Stevens had lost to Rasmuson in the Republican primary. Gravel, who now lives in California, thinks Stevens blamed him for attracting Democrats who, Stevens felt, would otherwise have crossed over and helped him beat Rasmuson in the primary.

Stevens saw Gravel as a grandstander and himself as the pragmatic workhorse willing to cut the best deals he could for the state—even when the best deal was not popular in Alaska.

Year by year, the feud worsened.

It reached its pinnacle in the congressional battle over ANILCA, finally enacted in August 1980.

President Jimmy Carter had made the lands act his top environmental priority. The final bill placed 104.3 million acres of the state under federal protection, more than doubling the size of the nation's park and refuge system and nearly tripling the amount of land set aside as wilderness in the country.

Gravel wanted to prevent any bill from passing, while Stevens believed stonewalling would only make things worse.

COMPROMISE BATTLE

In October 1978, with the Carter administration threatening to use presidential authority to lock up Alaska lands from state selection until a lands act was law, such a deal seemed at hand. It involved turning about 96 million acres of federal lands in the state into national parks, refuges and preserves.

With environmentalists arguing for protection of even more lands, Stevens warned that the compromise was about as good a deal as the state was likely to get. Under pressure from state interests, Gravel indicated he would not block its passage.

But in the closing hours of the 1978 session, Gravel suddenly made new demands. Among other things, he wanted better access to oil drilling and mining sites and a ban on any future taking of Alaska lands. Gravel's 11th-hour appeal killed the compromise.

"You've got yourself in a big battle now, buddy," Stevens screamed at Gravel on the Senate floor. Stevens said the collapse would delay the transfer of 100 million acres of federal lands still owed to the state and Natives under the 1958 Alaska Statehood Act and the 1971 Alaska Native Claims Settlement Act.

"You carry that burden," Stevens told Gravel.

Stevens wasn't alone in blasting Gravel.

Sen. John Durkin, a New Hampshire Democrat who was one of the Senate's leading environmentalists, attacked Gravel for killing the compromise.

"The people of Alaska should know that this compromise foundered on two words," Durkin said. "Those two words are Mike Gravel."

Later, when reporters asked him about Gravel's action, Stevens said that "my mistake was in trusting him."

Gravel responded by accusing Stevens of "being prepared to sell out too much." He returned to Alaska bent on convincing voters that Stevens should not be returned to office in the 1978 elections.

According to news accounts at the time, Gravel pumped $24,000 of his own campaign money into the coffers of Stevens' 1978 Democratic challenger, Anchorage electrical contractor Don Hobbs. The money supported advertisements telling Alaskans that a vote for Ted Stevens was a vote for compromise. A vote for Hobbs was a vote to fight.

The ads barely dented Stevens, who was easily re-elected.

CRASH KILLS WIFE

But Gravel's action in killing the compromise meant a continued congressional battle over the lands act. And that meant more money was needed for the lobbying activities of Citizens for the Management of Alaska Lands, the state's leading organization battling environmentalists over the bill.

The group scheduled a fund-raiser for Dec. 4, 1978, in Anchorage.

Stevens was in Juneau that day for the second inauguration of Gov. Jay Hammond. To make the fund-raiser after the inauguration, Stevens, his wife, Ann, and five others boarded a private Learjet for the trip to Anchorage.

The plane hit gusty crosswinds and flipped on approach to Anchorage International Airport. Stevens and Tony Motley, the head of the citizen group, were the only survivors of the crash.

Ann's death devastated Stevens.

Testifying before a House panel on the lands act two months later, at the beginning of the 1979 legislative debate, the grieving senator made statements widely interpreted as accusing Gravel of killing his wife.

Stevens said the flight wouldn't have been necessary if Gravel had kept his word and supported the compromise.

"As I am sure you realize," Stevens somberly told the House Interior Committee, "the solution of the issue means more to me than it did before."

"I don't want to get personal about it, but I think, if that bill had passed, I might have a wife sitting at home when I get home tonight, too," Stevens said.

Those remarks appear in newspaper accounts but not in the printed transcript of the House hearing. They were most likely excised by Stevens' aides, although no one interviewed for this story could recall who might have done so. Aides to senators often rewrite parts of hearing transcripts to make their bosses look better.

Stevens now says his remarks were misinterpreted.

"People said I accused him of killing Ann," Stevens said. "I was just stating a fact. We would not have gone on that plane if it were not the fact that we had to raise money. But I don't think he killed her."

Gravel said he interpreted Stevens' remarks as accusing him of Ann's death. He also said he now doesn't think Stevens meant it to come out that way.

"I think when things didn't go well, he focused his anger on me," Gravel said. "It was a ridiculous accusation. It was a product of the trauma of the accident. It had to be the trauma. He is not an unstable person."

By this time, Alaskans were wondering if the intensifying hostilities between Stevens and Gravel would undermine their interests.

Hammond and several other government officials convened a "unity meeting" in 1979

to urge the two senators to present a common front.

The open hostilities subsided. But Gravel, facing re-election in 1980, continued to fight any lands act while Stevens worked with Senate and House leaders to craft the best deal he could.

The final deal that cleared Congress, as Stevens predicted, locked up more land than the 1978 compromise.

The 1978 deal would have protected 96 million acres, putting 50 million acres of that into wilderness off-limits to any form of development. The final bill protected 104.3 million acres, of which nearly 58 million acres was wilderness.

According to Steve Silver, who worked on the lands act for Stevens, the difference between the two versions was more than just the additional 8 million acres of land.

The 1978 compromise, said Silver, "had smaller parks and refuges, more carve-outs for mining and larger preserves where hunting was allowed," he said.

But Gravel said he also objected to the final version of the lands act because it contained an automatic $40 million annual appropriation for logging in the Tongass National Forest. He opposed the subsidy on principle and predicted, correctly as it turned out, that the provision would make subsidized logging in the forest a continuing controversy.

Gravel's objections made no difference, however. The lands act was approved Nov. 12 in a lame-duck congressional session just eight days after Murkowski defeated Gravel's bid for re-election.

Gravel said he has no regrets about trying to stop the bill in the hope that a less restrictive version would be approved in 1981, when Ronald Reagan would be president and the Senate would be controlled by Republicans.

"Had we delayed, I thought we could bring about a more balanced bill," Gravel said.

Stevens also voted no on the bill. Even though he had helped work it into its final form, he thought it was still too restrictive.

Even today, Stevens winces at the mention of Gravel's name. He began a series of interviews for this profile saying that he didn't want to talk about Gravel. Although he reluctantly answered a few questions, he did so in terse responses and never spoke kindly of his old foe.

But incidents recounted by friends and former aides of Stevens indicate his feelings have slowly softened.

Tim McKeever, Stevens' top aide in 1980, said he was at Stevens' home that November watching election returns showing Murkowski defeating Gravel.

"I remember Stevens saying, 'I wonder how his kids must feel,'" McKeever said. "My impression is that Stevens felt genuine concern about what Gravel's family must be feeling."

The second incident was in 1985, at a surprise birthday party for Ron Birch, a former Stevens aide who now is a Washington, D.C., lawyer and lobbyist.

Birch said Gravel was at the party when Stevens arrived.

"Stevens came up to me and said that it is time to stop this," Birch said. "And then he went over and shook Mike's hand."

Stevens remembers that event but said it didn't clear the air.

"It was a gesture on my part that has never been repeated by Gravel," Stevens said.

Gravel is sorry now he didn't reciprocate.

"It's always been a personal regret to me" Gravel said. "It's unfortunate because he is a very good person. We just got off on the wrong foot."

[From the Anchorage Dailey News, Aug. 13, 1994]

STEVENS' PRIORITIES CHANGE AFTER MARRIAGE, BIRTH OF DAUGHTER

(By David Whitney)

WASHINGTON.—The death of his first wife, in 1978, began a difficult transition to a new life for Sen. Ted Stevens.

As he grieved, he came to regret all the years he had worked around the clock, leaving Ann at home to take care of their five children.

"I was busy trying to earn a living, working hard no matter where it was and what we did," Stevens said, "And the time when I came to the Senate—my God, what a period.

"We were constantly on the move, plus it was hard to campaign. One year I was away from home 50 weekends * * * going to Alaska, going to make speeches, raising money," he said, "I spent a lot of time away from my family."

In December 1980, Stevens married Catherine Bittner Chandler, the lawyer daughter of a prominent Alaska family. Catherine's roots, like Ann's, were solidly Democratic and liberal. Lily, his sixth child, was born the following summer.

Lily's birth reinvigorated Stevens, who was then 57.

"It was wonderful," Stevens said. "Not many people have the privilege of being a father at that age."

"I've talked to a lot of fathers who have children later in life, who have had two families," Catherine said. "I think Ted is no different than almost any that I have talked to.

"The first time, you really have to be busy going to the office, and you don't really think about it when you're young and making your career," she said. "When they have a child later, it's, 'What's this precious little thing?' It's really exciting for them. It's not that it wasn't exciting in the beginning. It's just that they were dedicated to making a living."

Stevens' children from his first marriage are adults now, most with their own families.

Susan Covich, his oldest daughter, is 40. She's married, has children of her own and is a computer tutor for students at North Star Elementary School in North Kenai. Elizabeth Stevens, 39, works with the U.S. Fish and Wildlife Services in Colorado. Walter Stevens is a multimedia management specialist in Arizona. Ted Stevens, Jr., 37, just completed law school in California, and is awaiting results of the July bar examination. Ben Stevens, 35, is a fishing vessel captain living in Anchorage.

Susan and Ben said in interviews they remember their father being gone a lot when they were children. Many weekends, a baby sitter would move into their house while Stevens and his wife were off in Alaska. But they said they don't have any regrets.

"I remember Dad working hard during the week and playing hard on the weekends," said Covich.

She said her father was especially busy in 1971, her senior year in high school. Stevens was working long hours on the Alaska Native Claims Settlement Act and on trans-Alaska pipeline legislation.

"We didn't get much of a chance to see him," Covich said. But still, she said, her father made time for important family events, including her high school graduation.

Ben was 9 when his parents moved the family to Washington. He said he never felt neglected during his father's frequent absences.

"He was dedicated to his job," Ben said. "As we grow older, we realize this."

He said his father has "mellowed" since Lily's birth, and dotes on his youngest child.

"He is not as strict as he used to be," Ben said. "He ran a regimented family when we were younger."

"It is fortunate that he gets a chance to do what he thinks he should have done (with us)."

Stevens' new family in 1981 came just as he reached the pinnacle of his power in the Senate.

COSTLY DEFEAT

In 1975, Stevens was elected chairman of the Republican Senatorial Campaign Committee, which raised money to elect Republicans to the chamber. Republicans were worried that voters would savage the party in the 1976 elections because of the Watergate scandal and the resignation of President Richard Nixon in August 1974.

But, when all the votes were tabulated, Senate Republicans had held their ground with 38 seats. Two months later, Stevens was unanimously elected Republican whip, or assistant leader—the party's second-highest post in the Senate.

In 1980, Republicans riding on the coattails of Ronald Reagan won control of the Senate for the first time since 1954, and Stevens was elevated from minority whip to majority whip. The job gave him considerable influence over the Senate's agenda, a large office suite in the Capitol and a chauffeured car.

In 1984, Stevens ran for majority leader, the top job in the Senate. He lost to Sen. Bob Dole, R-Kan., by three votes.

Dole was seen as more likely to run the Senate independently from the Reagan White House, according to newspaper reports at the time.

But Stevens thinks power politics was partly to blame for his defeat. He said some Republicans on whom he had counted instead voted for Dole because the Kansan's election meant new committee positions for them.

Stevens was devastated by the loss. He had had to give up the job of whip to run, and the Dole victory ended his 10-year climb up the leadership ladder.

But the defeat improved the personal side of Stevens' life. For the eight years he was whip, he had arrived early to open the Senate and stayed late to close it.

"Now I can take Lily (then 3) to school in the morning and maybe even pick her up at night sometimes," Stevens said after the vote. "It's not all bad."

The aftermath of that defeat has led to some of the best years in Stevens' public life, he said in a recent interview.

In 1985, Dole appointed Stevens chairman of a Senate group created to observe arms-control negotiations in Geneva. With most of the pressing Alaska issues already resolved, the appointment gave Stevens the chance to travel frequently with Catherine and Lily.

"We flew Alaska salmon over to Geneva and had parties for the Russians," he said. "First they came alone, then they came with their wives. Before we were through they were walking around the lake with us and we were talking to them on Sunday afternoon. Those were good days."

FINANCIAL PROBLEMS

But the private side of Stevens' life was anything but comfortable. He was in deep money trouble.

In 1979, three years after helping shepherd the Magnuson Fishery Conservation and Management Act through Congress, Stevens and nine partners invested in the industry

VOL
140
PT
16
AG
12
—
18
1994
UMI

the act was intended to stimulate. They built a $2 million crab boat and christened it the "Lady Ann," in honor of Stevens' first wife.

Stevens said at the time that his work on the Magnuson Act was no ethical bar to investing in the fishery, adding that "I'd like to be accused of being the only senator that owns a fleet of fishing boats."

The investors included Catherine's brother, William Bittner, and Ron Birch, a former Stevens aide who had formed a law partnership with Bittner.

Birch said in a recent interview that each investor put up $20,000 to secure a bank note. Cash calls came later for equipment and supplies, he said.

By the time Lady Ann hit the water, the crab industry was on the rocks, and investors in the vessel were facing payments on a debt with interest rates soaring to 21 percent, Birch said.

Stevens' partners were lawyers and businessmen making more money than he did as a senator. They could handle the strain, but Stevens said he had trouble making his payments.

But the bigger burden, Stevens said, was Catherine's investment in an Arizona cattle ranch.

Neither would go into much detail but Catherine said her investment in the 39,000-acre ranch ran into problems with the Internal Revenue Service.

"We had a big tax bill," Catherine said. "We had been hassling with them over depreciation schedules and various things like that. The problem is that if you owe back taxes, with the interest, it was enough money. I don't even remember how much money it was."

In December 1986 the couple sold their suburban Maryland house to pay off debts and rented a home in Washington, D.C.

"Those were bad days," Stevens said. "Those were the tough times."

Frustrated by his own financial predicament and facing another re-election campaign in 1990, Stevens seemed discouraged.

In an interview in 1988, he complained about how much he had given up for a public-service career. He said he considered the 1990 election "pivotal" for him and the state.

"Politics is a very fickle thing," he said. "I see this election as determining whether the state wants someone with great seniority.

"I just want people to understand the commitment I'm making if I stay on," he said. "This is a period I could go out and make $1 million a year without any question."

Then, in March 1989, it seemed Stevens might not be a candidate for re-election.

President George Bush's nomination of John Tower to be secretary of Defense was rejected by the Senate, and the White House went searching for a less-controversial candidate who would be easy to confirm. Stevens' name was among those floated for the job.

Sean O'Keefe, then Stevens' top military aide, said he thinks Stevens was seriously considered.

According to O'Keefe; who later became Navy secretary under Bush, the White House called the morning of March 10—the day the nomination was to be announced—wondering where Stevens could be reached, if needed.

Less than an hour before the announcement, Stevens was in his office anxiously contemplating his options.

Alaskans had repeatedly elected him to be their senator, Stevens told a reporter that morning. That was not something that could be easily dismissed.

"I have a real feeling about the presidency," Stevens later said. "If the president asks you to do something, if it's within your power, I think you should do it. I never faced that problem."

In the end, he never had to. The Defense Department job went to former Wyoming Rep. Dick Cheney, who had served in the U.S. House with Bush.

Stevens' reaction was to dismiss the episode as a flash in the pan. He said he doesn't think Bush ever seriously considered him because he had backed Bob Dole—not Bush—in the 1988 Republican primary.

"Bush personally asked me for my support. I told him that Dole has been very generous to me and that I intend to support Dole," Stevens said. "Presidents don't forget things like that."

Bush wouldn't comment on how seriously he considered Stevens for the job. The ex-president is writing a book and "he's keeping his powder dry on this one," figures aide Jim McGrath. "I don't think he wants to scoop himself."

FINDING THE BALANCE

Today, at 70, Stevens seems more at peace. He travels to the state about 10 times a year, staying when time allows at his Girdwood chalet—his official residence. Though he still maintains a rigorous schedule in Washington, he takes time to drive Lily and her schoolmates to soccer games.

But he's as political as ever. He's already said he plans to run for re-election in 1996. And, on the Senate floor, he is as tenacious as ever, doing everything he can to keep federal money flowing north.

Thanks to the dying gift of one of his first friends in Alaska, his own money problems seem to be behind him.

That friend was former Fairbanks Daily News-Miner publisher C.W. Snedden, who died in 1989.

Snedden willed Stevens one of his most cherished possessions—a 55-foot motor yacht called the Lorichuck. Unable to afford the vessel's moorage fees in Seattle and in need of cash himself, Stevens put the vessel up for sale at an asking price of $650,000.

It is not clear how much the vessel actually fetched. But a Seattle boat broker said about the time the yacht was sold that he knew of a pending $420,000 offer. Stevens said he and Catherine used the proceeds to pay off bills and buy the house they had been renting.

Stevens described Snedden's bequest as "one of those great testimonials to friendship."

"He had personal knowledge of my personal finances over the years," Stevens said in a 1989 interview. "It was a gesture to help me stay in the Senate."

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RURAL HEALTH

Mr. MOYNIHAN. Mr. President, New York State is best known for its large metropolitan areas; however, there are nearly 3.1 million rural residents in the State. The rural population in New York is larger than the population of 21 States. In many rural areas of New York, the existing health care delivery system is inadequate, inappropriate, or generally unavailable.

Rural communities of New York State and the Nation are experiencing serious challenges in attracting and retaining health care providers and health care services. Hospitals and primary care facilities continue to close. Communities are concerned about the availability of emergency medical services [EMS]. Physicians are retiring and some are leaving the rural areas which only adds to the health professional shortage problem.

In recognizing the needs of rural areas, the Federal Government has supported initiatives to assist States and local communities in meeting their health care needs. New York State is one of seven States that receive grants under the Essential Access Community Hospital [EACH] and the Rural Primary Care Hospital [RPCH] program. These grants help develop rural health networks by linking at least one full service hospital [EACH] and one or more limited service hospitals [RPCH's]. However, even before the Federal program was initiated in 1989, New York State supported the development of rural health networks.

Currently, New York's rural health network initiative supports four rural health network demonstration sites—Upper Hudson (Adirondack Rural Health Network), Chenango Health Network, Northern New York Rural Health Care Alliance, Southern Tier Healthcare System—and has been working with a number of other rural provider groups to develop additional integrated networks of health care providers. Specifically, the State of New York is helping networks to coordinate and integrate services in three major service categories: (a) hospital services; (b) primary care services; and (c) emergency medical services. These services must be integrated both within each category and among the categories.

The rural health amendments offered by Senator DASCHLE and other members of the rural coalition will certainly assist rural areas in New York. Providers in underserved rural Counties such as Jefferson, Essex, Yates, and Cortland would be eligible to apply for the following: Funding for the development of health care plans and networks; bonus payments under Medicare for primary care physicians and nonphysician practitioners practicing in rural areas; tax incentives for health care providers who locate in rural areas; more generous expensing for medical equipment used to provide primary care services in rural areas; additional funding for the National Health Service Corp.

All rural areas, some 44 counties in New York State, would benefit from the following provision: Grants for the development of rural telemedicine; rural emergency medical services [EMS] program grants; higher payments for small rural Medicare dependent hospitals; Medicare rural health transition grants for rural hospitals to modify the extent and type of services they provide; the rural based managed care program to increase the number of rural managed care plans.

Indeed, this is a significant step toward expanding our capacity to delivery health care services in rural communities.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2569 TO AMENDMENT NO. 2560

(Purpose: To clarify the grounds for the nonrenewal or termination of a health plan in the event of the nonpayment of premiums)

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Mr. MITCHELL] *proposes an amendment numbered 2569 to amendment No. 2560.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1432, strike lines 21 through 24, and insert the following:

SEC. 10135. PROVISIONS REGARDING NONPAYMENT OF PREMIUMS.

(a) IN GENERAL.—A health plan may terminate coverage if amounts owed to the plan for a month with respect to an individual or an individual's family members have not been fully paid for a time period established under State law, or in the absence of such a law, a period of not less than 60 days, and the heath plan has made reasonable attempts to collect such amounts.

(b) NOTICE.—Notwithstanding any other provision of this Act, a health plan may terminate coverage for nonpayment of premiums under subsection (a) only after providing notice of amounts overdue (in a form and manner and at such times as prescribed by the appropriate certifying authority).

Mr. MITCHELL. Mr. President, under the legislation which I introduced, a sponsor of a standard health plan has the authority to terminate an insurance policy for nonpayment of premiums. That is an authority which currently exists and is administered under State law with respect to insurance policies.

Under the legislation, if 95 percent of coverage is obtained by the year 2000, then no employer requirement with respect to participation in the cost of insurance would be required, and the status as I have just described it would be permanent thereafter.

So under the amendment, for at least a period of 7 years, and then depending upon what occurred thereafter, possibly permanently a company would retain existing legal rights to terminate a policy for nonpayment of premiums.

However, under the legislation, in the event that 95 percent of coverage is not achieved by the year 2000, and in the further event that Congress does not act thereafter to remedy that situation, then beginning in the year 2002 an employer requirement is created under which employers having 25 or more employees would be required to participate in the cost of health insurance for employees on a 50–50 cost-sharing basis. Employees of firms with fewer than 25 employees would be exempt from that requirement.

In order to prevent a situation under those circumstances in which an employee of a covered firm paid his or her premium but the employer failed to make the contribution required by law, the legislation is intended to prohibit termination of a policy in that circumstance; that is to say, in the event the employee paid his share of the premium and thought he was covered, but the employer failed to make his required payment, under which circumstance the concern was that the employee's policy would be canceled even though the employee had paid his share and might not even be aware of the employer's lack of contribution.

The language of the proposal which was intended to achieve this narrow result has been interpreted by some in a way which creates an ambiguity and which some have suggested prohibits in all circumstances, at all times, under the legislation, a circumstance in which a policy could never be canceled for nonpayment of premium.

That is clearly not the intent of the legislation, and this amendment is intended to resolve any ambiguity in that regard.

The amendment provides that a health plan may terminate coverage if the premiums are not paid for a time period as established under State law, and if there is no State law, then a period of 60 days.

Now, I emphasize again, this applies only in the period after the year 2002 if the employer requirement is triggered and that employer does not meet the responsibility of the law even though the employee may have paid his premium or, of course, in the event the employee did not pay his premium.

Almost all and perhaps all States have grace periods prior to the cancellation of policies. They generally are in the range of 30 days. They vary somewhat depending upon the type of policy and the State.

So what this says is in that situation, if a premium is not paid either by the individual employee or by the employer, the termination of the policy could occur subject to State law with respect to the grace period.

In the event that the nonpayment of premium by either the individual employee or the employer occurred and the State did not have a law containing a grace period, the grace period would be 60 days.

So, Mr. President, this is an effort to clarify a possible ambiguity in the manner in which the underlying legislation is interpreted and to make clear again, first, that for the period between 1995 and 2002, and perhaps on a permanent basis, depending upon whether the employer requirement is triggered, insurance companies and other health plan providers retain their right to terminate policies for nonpayment of premiums consistent with applicable State law.

Mrs. FEINSTEIN. Mr. President, will the Senator yield for a question?

Mr. MITCHELL. Yes, certainly.

Mrs. FEINSTEIN. If I may, as the majority leader knows, this was a section that troubled me very greatly. I think it is title X, section 10135. It is my understanding of what the majority leader is saying that this section, first of all, does not come in until after the year 2000; and second, it applies only if the mandate is triggered and the employer does not pay his share. Am I correct in this?

Mr. MITCHELL. If the employer does not pay his share or if the employee does not pay his share.

Mrs. FEINSTEIN. My next question is what would happen after the 60 days expired?

Mr. MITCHELL. In the event that the premium remained unpaid and the plan had made a reasonable attempt to collect and had notified the employee, the policy would be terminated.

Mrs. FEINSTEIN. The policy would terminate?

Mr. MITCHELL. Yes.

Mrs. FEINSTEIN. So there would be no need for someone to sue to gain payment; the policy would terminate?

Mr. MITCHELL. That is right. The insurer, the insuring party has the power and authority to terminate the policy as under current law.

Mrs. FEINSTEIN. I thank the majority leader very much. I think that is a substantial improvement, and I am very pleased to see it.

So I thank the majority leader.

Mr. MITCHELL. Mr. President, that completes my explanation of the amendment.

I was earlier advised and announced that no recorded vote would be necessary.

I will be pleased now to yield the floor and permit my colleague from Oregon to make such remarks as he may wish.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. PACKWOOD. Mr. President, there will be no vote on this amendment, and we will be prepared to accept it.

I think a few Members have some things they would like to say, and it is understandable. I appreciate the majority leader's reasonableness on this.

All you have to do is stand here on the floor next to the majority leader, 5 feet away, and listen to the demands on his time: Please vote by 5 o'clock; I want to be home by 5 p.m.; Do not vote before 6 because I will not be back. And 100 voices, majority and minority Members, a cacophony of people talking to him. It is understandable that you cannot know everything that is in your own bill. You cannot go through 1,400 pages and find every possible permutation.

When he says the bill was intended not to cancel employees if the employer did not pay the premiums, I realize that in the hearts and minds of the drafters, that is what they hoped.

It is simply, I think, not unlike the $10,000 penalty we had yesterday. It slipped into the bill somehow unnoticed.

This slipped into the bill somehow unnoticed. And my hunch is there are other things in the bill unnoticed that will be unearthed before we are finished.

I am delighted the majority leader caught the error and was willing at least to remedy this slight mistake in the bill.

But I say again, I can perfectly understand how it is impossible to know everything in a bill even when it is your own bill.

Mr. MITCHELL. Mr. President, I thank my colleague for his kind remarks.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I am sure the Senator has had the same experience. In 1986, he managed the Tax Reform Act, which was even longer than the bill that is now before us and which had a lot of arcane provisions that were hard to understand, some deliberately so and some not.

So I thank the Senator.

Mr. PACKWOOD. I had the advantage that I discovered, in taxation, most people concede they do not know and do not bother you. In health, everyone knows what it is about.

Therefore, the majority leader has to put up with a lot more than I had to put up with.

Mr. MITCHELL. Mr. President, we are prepared to proceed to act on the amendment by voice vote at this point.

Mr. D'AMATO. Mr. President, will the majority leader yield for an observation?

Mr. MITCHELL. Yes.

Mr. D'AMATO. Mr. President, first of all, let me say personally that there is no one I respect more than the majority leader, both as a leader and for the way he conducts himself personally. There is no fairer or finer advocate than the majority leader.

I say that because I do not want my remarks to be misinterpreted, because they may be, and they are, somewhat critical of the process we have engaged in. But we do not pick the process. Events, time, and other circumstances have thrust it upon us.

I could not help but pick up on the leader's remarks about 1986 and the tax bill. Probably in my mind the greatest single mistake that I made—and I have made lots of them in terms of legislation I have voted for or against—was my vote for that 1986 tax bill. I remember coming down on the floor with Senator DODD, my colleague, who I see over here. We fought like the dickens to keep the IRA's from being knocked out. We actually had the votes. And then, because of subtle pressure, et cetera, we lost it.

We should have kept those IRA's. We fought in a bipartisan way. Now, years later, I have seen some of the Senators who worked assiduously to defeat us on that became the sponsors and champions of IRA's, working to reclaim them, to bring them back. I remember that.

I remember provision after provision being worked against. I remember it was fashionable to get the real estate buys. It was, "Let's get 'em." And, by the way, we did it in a retroactively manner. We talk about the disaster that we crated with the banks. We helped bring some of that about because people who had contracts all of the sudden found the tax rules had changed retroactively. It did not matter that they had invested their life's savings. It was, after all, these real estate guys.

I have no problem with saying that prospectively, in the future, we will not longer allow people to get these shelters. Some of those shelters were nonproductive.

Now, why do I say that? Because there were provisions after provisions that I worked to change, and we did not change them. And there were some redeeming features in that bill. If you want to knock out tax relief for wealthy people that is not productive, fine. Do it prospectively, but do not reach back. That was wrong. But we did it because we needed the revenue,

And I have to tell you something, we are doing things here in this bill because we are trying to meet goals and revenue targets. We do not come close to understanding the import of what we are doing in this bill.

And in 1986, I am telling you again, I went down in that well, and I went along with the crowd. I was wrong. And I vowed that when I feel strongly on a subject from now on, I am not going to keep quiet and I am not just going to go with the flow.

And, again, there were redeeming aspects to the bill. I remember tax credits for working people. That is the way that I rationalized it in my mind. I think that was a good part of the 1986 bill. That really was good for working poor people.

To my amazement, the leader voted against that tax bill. And I say to him, it is to his credit. I always said to myself, "Yeah, Senator MITCHELL voted the other way, and I applaud him. He stood up and he voted that way. I wish I had."

Mr. MITCHELL. If the Senator would yield, I thank the Senator for giving me credit, but I think I better make clear that I voted for it.

Mr. D'AMATO. I always thought you voted the other way. I always gave you credit for that.

Mr. MITCHELL. I appreciate the fact that for the past 8 years I have gotten credit for something which I did not do.

Mr. D'AMATO. In my mind, you did. I was always amazed.

Mr. MITCHELL. I thought one thing we better do around here now is correct the RECORD as soon as we can.

Mr. D'AMATO. I was upset with myself for not having gone down there and voted that way. I will not tell you why. I try to do it in my diary. I hope the diary does not lie.

But, it is one of the two incidents that I have cited in terms of lack of courage. It was my lack of courage at that time.

Why do I bring this up? Because, it bears upon the leader's amendment to clarify what was done on page 1432, section 10135, lines 21 through 24. And I understand his clarification.

But I must say, when it comes to an issue, that is as important to the health and welfare of every American and every family as health reform, we should not be thrust in a position, any of us, where we are reading through this voluminous document in this manner.

I do not lay blame upon anyone in this Chamber for our finding ourselves in this circumstance. But I do think we do ourselves and the people great harm if we attempt to proceed and enact legislation in this manner.

And I think the reasons come down to, we find that it is important politically. I think we do damage to the political process—the governmental process—if we insist on pursuing this course.

I believe the whole health care issue has been moved forward in a manner which has already resulted in some substantial improvements, which has already focused attention on some important issues.

I give the President credit for that. I give Mrs. Clinton credit for that. We have seen greater cost containment in certain areas. In the private sector, we have seen hospitals, drug manufacturers, and others undertake certain actions that probably never would have been taken were it not for the seriousness of purpose that has arisen around addressing this important national issue.

But I implore my friends and colleagues in this body, Democrats and Republicans, to take a step back now and let us see if we cannot continue the process of narrowing our differences, and attempting to come up with a bill that will do the job and not one which is driven by time or by elections; one in which we come together and do the business of the people the right way.

That is the nature of the calls which I am getting from my constituents—not lobbyists, but New Yorkers. And by an overwhelming margin, about 3.1 to 1, the calls that come in are saying, "Yes, we know there is a need for health care. Please don't rush to judgment."

I think this is a rush to judgment.

I yield the floor.

And I thank my distinguished friend and colleague for setting me straight on his 1986 vote.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, we are prepared to proceed to have the amendment adopted.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment offered by the majority leader.

The amendment (No. 2569) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

POSITION ON VOTE 290

Mr. COHEN. Mr. President, I regret that earlier today a medical appointment prevented me from voting on an amendment offered by Senator DASCHLE which sought to expand access to health care in rural areas. Representing a rural State like Maine, I am well aware of the special problems that rural areas face. In fact, the first comprehensive health care bill I introduced in 1990 included a number of provisions to address the health care needs of rural areas. My efforts with respect to health care have routinely included particular focus on the need to expand quality health care services in Maine and other rural States. Accordingly, had I been able to vote, I would have joined my other colleagues in unanimously supporting the Daschle amendment.

FEDERAL EMPLOYEES HEALTH BENEFIT PLAN

Ms. MIKULSKI. Mr. President, I rise today to speak to the importance of opening up the Federal Employees Health Benefit Plan to all Americans and to explain what this decision will mean to Federal employees. I would also like to respond to comments made by the senior Senator from Alaska who said two things that concern me:

First, that Federal employees get less in the standard benefit package; and

Second, that they get a supplemental benefit package not available to others.

Opening up FEHBP is a wise decision. It allows Americans to have access to the very same choice of health insurance plans that we have, that the President has, that Federal employees have.

FEHBP enrolls over 9 million employees and their families. It is a structure that exists everywhere in the country. You can go to Frederick, MD and there are FEHBP enrollees or you can go to Fairbanks, AK and there will be FEHBP enrollees. It is a system which is in place and it works for its enrollees. I am an FEHBP enrollee. I am a Blue Cross/Blue Shield standard option single only. I like my coverage and I think that it is only right that Americans have access to the same health insurance plans.

But while are are opening up FEHBP, I have worked hard to make sure that we are not taking anything away from the Federal employees. When concerns were raised during the Labor Committee markup, I worked with the Federal employee unions to meet those concerns. They said that the bill treated them differently from other Americans and from what I could see they were right.

Why was that?

First, coverage might be lost for some Federal employees.

Second, unlike workers in the private sector, Federal employees could not get a supplemental benefit package to close the gap between what they get in the standard package. Because the Office of Personnel Management is not required to offer supplemental plans to Federal employees, they could end up with less than they have now.

So, I worked with Senator KENNEDY in the Labor Committee markup to resolve these issues. I offered an amendment that was accepted that achieved the following goals:

First, the Federal employees health benefit program must offer a supplemental benefit package;

Second, it allows Federal employee organizations to meet and confer with O.P.M. for these policies and agree upon a contribution toward the premiums; and

Third, it allows any American covered by a health plan offered by FEHBP to buy the FEHBP supplemental plan.

This provision leveled the playing field. Federal employees would have access to supplemental benefit packages that many private sector employees now have access to and would continue to have access to through negotiations with their employers.

We needed to correct this situation and this amendment allowed that. This is the provision that Senator MITCHELL agreed to include in his bill and this is the understanding of the Federal employee unions.

It doesn't mean that the Federal Government will necessarily pay for the supplemental benefits package for Federal employees. Nor does it mean that there will be a Federal contribution to non-Federal FEHBP enrollees who want to purchase a supplemental package.

It simply means that Federal employees, like workers in private industry, can negotiate with their employers to receive a contribution toward a supplemental benefit. Federal employees are just being treated fairly—just like many other Americans.

I hope this clarifies the record. I believe that we should have a health care system for all Americans—that is accessible, affordable, rewards people who play by the rules, and lets people choose their own providers. That is what this provision does. That is why opening up FEHBP is a good idea.

THE BASEBALL STRIKE

Mr. METZENBAUM. Mr. President, there are a lot of games being played here on the floor of the U.S. Senate, but there are not many games being played on the baseball fields in America. There just "ain't no baseball being played in the major leagues these days."

The strike in major league baseball is now I week old. There is no sign that millions of baseball fans are likely to see their favorite teams play any time in the near future.

As a matter of fact, the rest of the season, the playoffs, and the World Series are all in serious jeopardy.

We must bring this strike to a speedy resolution. Last week, Senator HATCH and I introduced legislation to do just that. As you would expect, the owners told the media that the Metzenbaum-Hatch bill would not do any good. But the players said nothing. So I called Don Fehr, head of the players association, and asked him what he thought. Last night I received Fehr's response. The way I read this letter it represents a strong indication that this strike could be brought to an early conclusion, and the season could get underway very shortly after we act.

Here is what he said:

Had S. 2380, the Metzenbaum-Hatch bill, become law prior to the strike, it would have been a major step forward. Indeed, it might well have had a beneficial effect on the negotiations because the owners would have understood that they could not unilaterally impose the salary cap free from antitrust scrutiny. Moreover, the players would have options to consider other than going on strike.

Although one cannot know for certain, it is my best judgment that had S. 2380 been law, it is much less likely that players now would be on strike.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The same letter, I believe, was sent to Senator HATCH.

The players believe that the Metzenbaum-Hatch bill provides the key elements to end this strike. What the bill lacks is a way to protect the more than 600 major league players who could have their pay cut arbitrarily because they do not have contracts for next season while the players challenge the owners in court. The players have a good point which, I am frank to say, we did not consider when crafting this legislation. I do not see any reason why we could not amend our bill to protect players from these arbitrary salary reductions while their labor dispute is worked out in court. According to the players, if Congress passes the Metzenbaum-Hatch bill with this slight modification they are likely to go back to work. Fehr promised that:

If * * * these critical and fundamental problems can be addressed, we would seriously consider asking the players to return to the field while negotiations continue.

This is clearly good news. The head of the players association is telling us that if we pass a bill that applies the antitrust laws when any unilateral conditions are imposed, and protects against automatic salary reductions during an antitrust lawsuit, he might recommend that the players take the field and complete the season.

Our task is obvious. At the appropriate point in time, the Senate should set aside the health care bill just for a few hours—because certainly the national health care bill has far more importance and priority than this matter—but for a few hours to move a bill that would put an end to the baseball strike. I will continue working with Senator HATCH and any other Senator interested in fine-tuning our bill so that we can move quickly.

Frankly, this is the best hope the fans have to preserve the remainder of the baseball season, the playoffs, and the World Series for America's baseball fans.

Mr. President, I ask unanimous consent that the letter from Mr. Fehr be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAJOR LEAGUE
BASEBALL PLAYERS ASSOCIATION,
New York, NY, August 17, 1994.

Hon. HOWARD METZENBAUM,
U.S. Senate, Washington, DC.

DEAR SENATOR METZENBAUM: It was with great interest that I reviewed the bill, S. 2380, the "Baseball Fans Protection Act of 1994", which was recently introduced by you and Senator Hatch in an effort to bring baseball back to the field, and save this season for the fans. More than anyone, the players regret that the owners left them no choice but to strike, and to interrupt a season as great as this one, disappointing fans everywhere, and, unfortunately, affecting individuals employed at or around major league stadiums during the season. The players understand and appreciate very much the ongoing efforts by you and Senator Hatch to bring this matter to resolution as soon as possible.

You have asked that I give you the views of the Major League Baseball Players Association with respect to S. 2380. Moreover, you have asked what legislation would cause the players to consider ending the strike without reaching a new collective bargaining agreement with the owners.

As you know, there has been a strike or lockout in major league baseball every time the MLBPA has negotiated with the owners over the last 22 years. The strike which began last Friday, 12 August, is the eighth consecutive work stoppage in that period. S. 2380 is significant, because it directly addresses the relationship between the owners' antitrust exemption and their collective bargaining relationship with the players. Without question, the unique exemption from the antitrust laws enjoyed by baseball's owners has been, and in the current dispute continues to be, a major contributing factor to this sorry history. The owners are a legal cartel; it is no surprise that they act like one.

Simply put, the owners' position in this year's talks, as it is in every bargaining round, is to insist that the players accept substantial restraints on the free market for employment of players, designed to limit players' freedom to seek employment and to artificially depress the free market value of players. And the owners so insist because they are secure in the knowledge that, due to their exemption from the antitrust laws, no terms or conditions of employment that they can force upon the players, or unilaterally impose following an impasse in bargaining, may be challenged under the antitrust laws, no matter how unreasonably anticompetitive those terms and conditions may be.

It is this freedom from the antitrust laws—the antitrust laws are in place everywhere else except in highly regulated industries—which gives the owners the incentive to continue to act as they have. They have monopoly power; why should anyone expect them not to use it? In other industries, and in particular in the other professional team sports, this is not the case. Rather, as those owners know, and indeed, as the NFL owners recently learned, sooner or later their actions are subject to antitrust review. Baseball's owners have no such worries.

In the ordinary circumstance under our labor laws, should bargaining fail, management can lock out or, assuming a valid impasse in bargaining, unilaterally impose terms and conditions of employment consistent with its bargaining position. Should that occur, the employees can strike and/or, if the terms would otherwise violate the antitrust laws, seek court review. In the current situation, the owners have made it clear that they intend to impose their salary cap in the off-season. Needless to say, the players can neither strike in November nor challenge the cap under the antitrust laws. Hence, as in past years, the players' only option was to strike.

Had S. 2380 become law prior to the strike, it would have been a major step forward. Indeed, it might well have had a beneficial effect on the negotiations because the owners would have understood that they could not unilaterally impose the salary cap free from antitrust scrutiny. Moreover, the players would have options to consider other than going on strike. Although one cannot know for certain, it is my best judgment that had S. 2380 been law, it is much less likely that players now would be on strike. If the owners had been required to consider the antitrust laws when they formulated their proposal to the union, and if the players had known that they had protection under the antitrust laws, the result might well have been different.

We are, however, not at that point. S. 2380 is not law; the owners are committed to the salary cap, and clearly intend to impose it after the season; and a strike has begun. Even were S. 2380 to be now enacted, it would be very difficult to ask players to end the strike without an agreement. That would permit the owners to impose the salary cap in the off-season, with the players' only remedy being a suit of indefinite duration filed after the cap was imposed, leaving the players stuck with the cap during the pendency of the litigation (unless they determined to go on strike next season). In the interim, all of the new player contracts would be negotiated under the owners' unilaterally imposed rules. (There are more than 600 major league players who do not have contracts for next season.) One cannot expect the players to put themselves in that position. Moreover, S. 2380 would apply only to this current dispute, leaving the players—and the fans—in the same boat next time.

If, however, these critical and fundamental problems can be addressed, we would seriously consider asking the players to return to the field while negotiations continue. Absent the assurance that new contracts will be signed under the provisions of the prior agreement, rather than under any unilaterally imposed terms and conditions, the players will not give up, even temporarily, the only recourse that the Congress has provided for them. And the players are fully prepared to stay on strike as long as is necessary to secure an appropriate new agreement.

Finally, I note that several fan and consumer groups (such as Sports Fans United and the Consumer Federation of America, among others) have today once again indicated their view that the Congress should act to eliminate the owners' antitrust exemption, and that in their view, the exemption is a major contributing cause to the current strike. It is worth remembering that, so far as I am aware, no fan, consumer or public interest group takes a different view.

Needless to say, I would be pleased to answer any further questions you may have, and to work with you and Senator Hatch on the precise details of any such legislation.

Sincerely,

DONALD M. FEHR.

Mr. METZENBAUM. Mr. President, I say to my colleague and friend from New York, I am very grateful for him permitting me to have a few minutes for the interruption of a more important debate on the health care bill.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The majority leader suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 2:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 4906. An Act to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation.

The message also announced that the House insists upon its amendments to the bill (S. 1485), a bill to extend certain satellite carrier compulsory licenses, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. BROOKS, Mr. HUGHES, Mr. SYNAR, Mr. BOUCHER, Mr. FRANK of Massachusetts, Mr. MOORHEAD, Mr. COBLE, and Mr. FISH as the managers of the conference on the part of the House.

At 3:52 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4603), making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The message also announced, that the Speaker makes the following modification in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1587) entitled "An Act to revise and streamline the acquisition laws of the Federal Government, and for other purposes":

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 4024(g), 6003 (a)(4) and (b)(4), and 8005(c)(6) of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. SWIFT, and Mr. MOORHEAD.

ENROLLED BILLS SIGNED

At 8:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2947. An act to extend for an additional two years the authorization of the Black Revolutionary War Patriots Foundation to establish a memorial; and

H.R. 4790. An act to designate the United States courthouse under construction in St. Louis, Missouri, as the "Thomas F. Eagleton United States Courthouse."

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 4906. An act to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 2380. A bill to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that the fans will be able to enjoy the remainder of the baseball season, the playoffs, and the World Series.

S. 2381. A bill to require the Secretary of Health and Human Services to provide health care fraud and abuse guidance, and for other purposes.

S. 2396. A bill entitled the "Affordable Health Care Now Act."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3230. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, notice relative to military personnel accounts for fiscal year 1995; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1975, to the Committee on Appropriations, to the Committee on Budget, and to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

H.R. 4228. A bill to extend Federal recognition to the United Auburn Indian Community of the Auburn Rancheria of California (Rept. No. 103-340).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

H. Con. Res. 215. A concurrent resolution honoring James Norman Hall and recognizing his outstanding contributions to the United States and the South Pacific.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 1329. A bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Judith A. Miller, of Ohio, to be General Counsel of the Department of Defense;

Walter Becker Slocombe, of the District of Columbia, to be Under Secretary of Defense for Policy;

Sandra Kaplan Stuart, of North Carolina, to be an Assistant Secretary of Defense;

Jan Lodal, of Virginia, to be Deputy Under Secretary of Defense for Policy;

Joseph Nye, of Massachusetts, to be an Assistant Secretary of Defense; and

Philip Edward Coyle, III, of the District of Columbia, to be Director of Operational Test and Evaluation, Department of Defense.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Neil H. Offen, of the District of Columbia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring October 6, 1998;

Ralph Earle, II, of the District of Columbia, to be Deputy Director of the United States Arms Control and Disarmament Agency;

Richard Holbrooke, of New York, to be an Assistant Secretary of State;

Richard L. Greene, of Maryland, to be Chief Financial Officer, Department of State;

Phyllis E. Oakley, of Louisiana, to be an Assistant Secretary of State; and

Brady Anderson, of Arkansas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Nominee: Brady Anderson.

Post: Ambassador to Tanzania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, $200, June 1992, Bill Clinton.

2. Spouse, none.

3. Children and spouses: Helen L. Anderson, none (both children are unmarried); Elizabeth H. Anderson, None.

4. Parents: Joe L. Anderson, deceased—1978; Maurine T. Anderson, none.

5. Grandparents: Stonewall Anderson, deceased—1950; Nora B. Anderson, deceased—1982; Harvey Thorn, deceased—1963; Sadie Thorn, deceased—1976.

6. Brothers and spouses: I have no brothers.

7. Sisters and spouses: Jon Anderson Purifoy, $500, Oct. 1991–Apr. 1992, Bill Clinton; Philip B. Purifoy, none.

Robert L. Gallucci, of Virginia, a Career Member of the Senior Executive Service, to be Ambassador at Large.

VOL
140
PT
16
AG
12
18
1994
UMI

Nominee: Robert L. Gallucci.
Post: Ambassador at Large.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:
1. Self, none.
2. Spouse, Jennifer Sims, none.
3. Children and spouses: Jessica, 13 and Nicholas, 11 (Gallucci), none.
4. Parents: Mae Gallucci, none.
5. Brothers and spouses: Betty and Vincent Gallucci, $50.00 to Democratic Party; $50.00 to Senator McDermott.

Eileenn A. Malloy, of Connecticut, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kyrgyz Republic.

Nominee: Eileen A. Malloy.
Post: Bishkek, Kyrgyzstan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:
1. Self, none.
2. Spouse, Jim McLachlan, none.
3. Children and spouses: Mary Kathryn Paegle, and Christina McLachlan, none.
4. Parents: John and Helen Malloy, $100 a year each, National Republican Party.
5. Grandparents: Joseph E Malloy, deceased—died 1940's; Kathryn Langan, deceased—died 1984.
6. Brothers and spouses: Not available.
7. Sisters and spouses: Kathryn Malloy O'Dell, none; Bo O'Dell, none.

I also have four step-sisters with whom I have no contact.

Curtis Warren Kamman, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bolivia.

Nominee: Curtis Warren Kamman.
Post: Ambassador to Bolivia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:
1. Self, none.
2. Spouse, Mary C. Kamman, none.
3. Children and spouses: Edward Kamman and Esta Salmon, none; John Kamman and Nichole Becker, none; W. Stephen Kamman, $55, Aug. 1, 1990, NC, Democratic Party.
4. Parents: Mildred Kamman, none; Glenn Kamman, $25, Jan. 4, 1990 GOP Victory Fund; Glenn Kamman, $35, Jan. 14, 1991, Republican National Committee.
5. Grandparents: Horace Kamman, deceased, none; Warren Merry, deceased, none, Bertha Kamman, none; Ella Merry, deceased, none.
6. Brothers and spouses: Jonathan Kamman and Beverly Medlyn, none; Robert Kamman, none.
7. Sisters and spouses: No sisters.

E. Michael Southwick, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uganda.

Nominee: Southwick, E. Michael.
Post: Nairobi.
Nominated: Not yet nominated: Advised of possible nomination January 1994.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:
1. Self: E. Michael Southwick, none.
2. Spouse: Susan Southwick, none.
3. Children and spouses: Edward M. Southwick, Andrew D. Southwick, Katherine G. Southwick, none married, none.
4. Parents: Gertrude R. Southwick, none.
5. Grandparents: None living.
6. Brothers and spouses: John O. Southwick (Dixie), Monte R. Southwick (Audrey), William Ray Southwick (Linda), Fred Dean Southwick (Jayne), none.
7. Sisters and spouses: Mrs. Kimber Johnson (Diane), and Mr. Kimber Johnson, none.

Dorothy Myers Sampas, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Nominee: Dorothy M. Sampas.
Post: American Embassy Nouakchott, Mauritania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:
1. Self: Dorothy M. Sampas, none.
2. Spouse: James G. Sampas, $50, Apr. 13, 1992, Tsongas Committee; $100, June 1, 1993, Tsongas Committee.
3. Parents: Mrs. Lawrence Myers, none; Mr. Lawrence Myers, deceased.
4. Grandparents: Mr. and Mrs. Otto F. Henkel, deceased; Mr. and Mrs. George Myers, deceased.
5. Brothers and spouses: No brothers.
6. Sisters and spouses: Mr. and Mrs. James Rast, none.
7. Children and spouses: Lawrence Sampas, $50, spring 1992, Tsongas Committee; $50, summer 1992, Clinton Campaign; $450, December 1992, Presidential Inaugural Committee (2 tickets); $24, Jan. 24, 1993, Montgomery County Democratic Action Committee; $40, Sept. 6, 1993, Maryland Democratic Party; $35, Oct. 3, 1993, Maryland Democratic Party; $50, Oct. 3, 1993, Democratic National Committee Federal Account; $49, Nov. 7, 1993, Montgomery County (Maryland), Democratic Central Committee; $50, Dec. 4, 1993, Democratic National Committee Federal Account; $100, Apr. 28, 1993, Montgomery County (Maryland) Democratic Central Committee (2 tickets, spring ball).

Carl Burton Stokes, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

Nominee: Carl B. Stokes.
Post: Seychelles.
Nominated: Dec. 17, 1993.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses: Cordell and Laura Stokes, none; Cordi Stokes McBee, (divorced), none; Carl B. Stokes, Jr., none.
4. Parents: Charles and Louise Stokes, deceased.
5. Grandparents: Fannie and Dock Stone, deceased.
6. Brothers and spouses: Congress Louis Stokes,—See Attached

LOUIS STOKES FOR CONGRESS COMMITTEE CONTRIBUTIONS TO FEDERAL CAMPAIGNS, 1990 THRU 1993

Yates for Congress Committee, Sidney R. Yates, U.S. House, 9th District–IL, $500.00, 2/9/90.

Committee to elect Harold E. Ford, U.S. House, 9th District–TN, $1,000.00, 2/9/90; $1,000.00, 3/13/93.

Bonior for Congress Committee, David E. Bonior, U.S. House, 12th District–MI; $500.00, 6/25/90.

Eleanor Holmes Norton for Congress Committee, U.S. House, Delegate–D.C., $500.00, 7/10/90.

Committee to Re-Elect Floyd E. Flake, U.S. House, 6th District–NY, $1,000.00, 8/10/90, $1,000.00, 4/18/91.

Harvey Gantt for U.S. Senate, (NC), $1,000.00, 11/5/90.

Committee to Re-Elect Charles Hays, U.S. House, 1st District–IL, $1,000.00, 2/25/92.

Gus Savage for Congress Committee, U.S. House, 2nd District–IL, $300.00, 2/28/92.

Eva Clayton for Congress Committee, U.S. House, 1st District–NC, $500.00, 5/28/92.

Oakar for Congress Committee, Mary Rose Oakar, U.S. House, 10th District–OH, $1,000.00, 5/19/92.

Friends of David Strand, U.S. House, 6th District–CA, $500.00, 5/29/92.

Carol Moseley-Braun for U.S. Senate, IL, $1,000.00, 8/1/92.

Richard Ray for Congress Committee, U.S. House, 3rd District–GA, $300.00, 12/11/92.

Friends of Bennie Thompson, U.S. House, 2nd District–MS, $500.00, 4/7/93.

7. Sisters and Spouses: No sisters.

James W. Swihart, Jr., of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lithuania.

Nominee: James W. Swihart, Jr.
Post: Vilnius, Lithuania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:
1. James W. Swihart, Jr., none.
2. Spouse, Ellen C. Swihart, none.
3. Children and spouses: Jennifer A. Swihart, none; Christopher J. Swihart, none.
4. Parents: James W. Swihart, Sr., deceased; Mary Ruth Inge Swihart, deceased.
5. Grandparents: Homer D. Swihart and Hazel S. Swihart, deceased; John Inge and Ruth Inge, deceased.
6. Sisters and spouses: Susanna Swihart Armstrong and Peter Armstrong, deceased, none; Melinda Cox Swihart, none; Mignon Swihart Gregg and Jerry, Gregg, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was printed in full in the CONGRESSIONAL RECORD of July 17, 1994, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the secretary's desk were printed in the RECORD of July 27, 1994 at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RIEGLE (for himself, Mr. FEINGOLD, Mr. SIMON, Mrs. BOXER, Ms. MOSELEY-BRAUN, and Mr. BREAUX):

S. 2402. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DANFORTH (for himself, Mr. BOND, Mr. DOLE, and Mrs. KASSEBAUM):

S. 2403. A bill to grant the consent of the Congress to the Kansas and Missouri Metropolitan Culture District Compact; to the Committee on the Judiciary.

By Mr. LOTT:

S. 2404. A bill for the relief of John T. Monk; to the Committee on Veterans Affairs.

By Mr. FEINGOLD:

S. 2405. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. HUTCHISON (for herself and Mr. HATCH):

S. 2406. A bill to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes; considered and passed.

By Mr. HEFLIN (for himself, Mr. BIDEN, Mr. HATCH, Mr. GRASSLEY, and Mr. SPECTER):

S. 2407. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE (for himself, Mr. FEINGOLD, Mr. SIMON, Mrs. BOXER, and Ms. MOSELEY-BRAUN):

S. 2402. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE HOMEOWNERS INSURANCE DISCLOSURE ACT

• Mr. RIEGLE. Mr. President, today I rise to introduce the Homeowners Insurance Disclosure Act of 1994, a bill aimed at making homeowners insurance available, affordable, and accessible to all Americans. This bill will help us determine which insurance companies refuse to provide coverage merely due to location, charge more for insurance coverage, or offer restricted coverage without justification.

Many urban areas have insurance problems because of insurance discrimination based on the racial and socioeconomic characteristics of a geographic area. This phenomenon is known as redlining. As the chairman of the Committee on Banking, Housing, and Urban Affairs, I have come to understand the inextricable link between financial services, like insurance, and housing. As one Federal judge has written: "lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable."

That is why we have included provisions in virtually every bill the committee has passed during my chairmanship to ensure that credit is available to all communities. The committee included provisions in the Financial Institutions Reform, Recovery, and Enforcement Act, and amended the Home Mortgage Disclosure Act to require regulators to notify the Justice Department about instances of lending discrimination. And we have also held hearings to make sure that fair lending laws are being enforced aggressively and effectively. Since lenders require their borrowers to secure property insurance, addressing homeowners insurance discrimination is a logical progression of the committee's efforts to guarantee not only an adequate flow of capital into distressed communities, but also access to financial services.

The bill that I am introducing today is patterned after the highly successful Home Mortgage Disclosure Act and would require the disclosure by insurance companies of the type, cost, and location of policies by census tract in 100 urban areas and by 5-digit zip code in 25 rural areas across the Nation. The bill would also require the disclosure of loss data, which is critical in determining whether differences in premium costs are due to actual losses or racial and ethnic stereotypes. The bill does not preempt States from imposing more stringent requirements and would exempt companies from Federal reporting standards if those that are prescribed by the State are equivalent or higher. Finally, the bill merely requires insurance companies to provide data similar to what they are already giving to the National Association of Insurance Commissioners, but which is not currently available to the Federal Government.

Although the Fair Housing Act of 1968 banned redlining, this problem has been ongoing for the last 26 years. The issue first gained attention after a series of urban riots in the late 1960's, inducing the Federal Government to create the National Advisory Panel on Insurance. The Panel's reported noted that:

Insurance is essential to revitalize our cities. It is a cornerstone of credit. Without insurance, banks and other financial institutions cannot make loans. New housing cannot be constructed and existing housing cannot be repaired.

New businesses cannot be opened and existing businesses cannot expand, or even survive. Without insurance, buildings are left to deteriorate; services, goods, and jobs diminish. Efforts to rebuild our nation's inner cities cannot move forward. Communities without insurance are communities without hope.

The Panel concluded that there was a serious lack of property insurance in these inner cities, and that this shortage had been exacerbated by the recent riots. It recommended the creation of State-run Fair Access to Insurance Requirements [FAIR] programs for residents of high risk neighborhoods who are unable to purchase insurance in the voluntary market, and a Federal program to protect against loss due to riots. Numerous States responded and developed FAIR plans.

Unfortunately, problems persisted. In 1974, the Federal Insurance Administration noted that the FAIR plans were being used to "relegate significant numbers of risks to second-class coverage, treatment, and cost on the basis of arbitrary underwriting judgments that ultimately benefited neither the consumer nor the insurer." Similarly, in 1978, HUD issued a report which concluded that redlining was widely practiced by insurers, that it had an "undeniable racial component," and that the practice "was not based on any sound underwriting standards but rather on highly subjective criteria that would appear to result from unfounded generalizations or preconceptions about urban property risks."

Federal efforts to address redlining languished during the Reagan-Bush era, but the issue reemerged in 1992 when the Los Angeles riots revealed potential problems with the availability and affordability of insurance. This committee heard testimony about the tremendous shortage of property insurance in the Los Angeles area, including the California Department of Insurance's finding that 61 percent of the businesses damaged in the riots after the Rodney King verdict were uninsured because coverage was too expensive or not available. An additional 4 percent said the agent that they contacted would not quote rates in their area.

VOL 140 PT 16 AG 12 — 18 1994 UMI

But the problem is not confined to California alone. At a hearing before the Committee on May 11, 1994, we heard testimony about how one insurer drew a line around the entire city of St. Louis and labeled it "ineligible property." In addition, we learned that testers from the National Fair Housing Alliance experienced discrimination while seeking homeowners insurance 47 percent of the time in Louisville, 60 percent of the time in Atlanta and Milwaukee, and an incredible 95 percent of the time in Chicago.

In Milwaukee, a district sales manager of a large insurance company was taped giving the following advice to several subordinates:

Very honestly, I think you write too many blacks. * * * You gotta sell good, solid, premium paying white people * * *. They own their homes, the white works * * *. Very honestly, black people will buy anything that looks good right now * * * but when it comes to pay for it next time * * * you're not going to get your money out of them * * *. The only way you're going to correct your persistency is to get away from blacks.

Other States have their fair share of problems. In Georgia, insurance regulators are investigating charges of insurance discrimination. Texas recently fined Allstate $850,000 for discriminatory practices, and the Ohio Insurance Department fined Farmers Insurance for determining rates by ZIP Codes instead of by municipality, which led to underpricing insurance in the suburbs. In the Washington metropolitan area, some current and former employees, as well as a local chapter of the NAACP, recently alleged that GEICO, a local insurance company, systematically screens out blacks. In one instance, a supervisor of one of these employees said that the owner of a large house and several luxury cars in southeast Washington, "must be a drug dealer."

Numerous studies have documented this widespread discrimination against low-income minorities. One study performed by the Missouri Department of Insurance indicated that policy holders in certain minority low-income ZIP Codes in St. Louis and Kansas City paid significantly more than policy holders in white low-income ZIP Codes, and that substantially more of the policies sold in the minority low-income ZIP Codes were limited policies compared to those sold in low-income white ZIP Codes. At the same time, insurers paid more in claims in the white low-income neighborhoods than in minority low-income neighborhoods. In other words, residents of minority low-income ZIP Codes paid more for their insurance, but received less comprehensive coverage and were paid fewer claims than residents in white low-income ZIP Codes.

A study released in February 1993 by ACORN, analyzing by ZIP Code St. Louis, Kansas City, Milwaukee, Chicago, and Minneapolis-St. Paul, found that homeowners in inner city neighborhoods were underinsured as compared to those in wealthier areas, and housing units in minority areas were less likely to be insured than those in predominantly white areas of comparable income levels. Moreover, the study showed that insurance agents are five times less likely to offer inner city homeowners a chance to buy insurance than they are residents of high-income areas.

The Texas Office of the Public Insurance Counsel also released its own report on redlining in automobile insurance. It found that Houston drivers in predominantly minority ZIP Codes paid higher premiums for liability insurance, not including theft and vandalism, relative to drivers with the same driving records in predominantly white ZIP Codes. The office also discovered underwriting guidelines that excluded applicants on the basis of marital status and place of birth, as well as those that mandated minimum coverage amounts of $70,000, even though median house value in the State is $42,500.

And finally, the General Accounting Office recently issued a report noting that most currently available data are not useful in determining whether availability, affordability, and accessibility problems in fact exist. The report concluded that:

Data that are collected for homeowners insurance will be more useful in examining availability and affordability once the data are collected on a ZIP-Code level (beginning in 1994) and analyzed in conjunction with Census Bureau data. However, data on accessibility are not collected. Reducing the size of the reporting unit to census tracts would, in most cases, increase the value of data by enabling more homogeneous units to be analyzed.

The report stated further that "to review affordability-related issues, premium and coverage amounts as well as loss data would be needed." Accessibility determinations would require data "on marketing activities and agents' locations." And availability could be determined with information on "the number of properties insured, by company and by type of policy." The Homeowners Insurance Disclosure Act would provide exactly the type of information that the GAO requests.

This persistant form of discrimination demands immediate congressional action. There are those who have realized this need already, and I commend Representatives COLLINS and KENNEDY and Senators FEINGOLD and BRYAN for their leadership on this very important subject. I urge my colleagues to support this bill so that we can make affordable homeowners insurance a reality for all Americans.

I ask that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeowners Insurance Disclosure Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Establishment of general requirements to submit information.
Sec. 4. Reporting of noncommercial insurance information.
Sec. 5. Study of commercial insurance for residential properties and small businesses.
Sec. 6. Reporting of rural insurance information.
Sec. 7. Waiver of reporting requirements.
Sec. 8. Reporting by private mortgage insurers.
Sec. 9. Use of data contractor and statistical agents.
Sec. 10. Submission of information to secretary and maintenance of information.
Sec. 11. Compilation of aggregate information.
Sec. 12. Availability and access system.
Sec. 13. Designations.
Sec. 14. Improved methods and reporting on basis of other areas.
Sec. 15. Annual reporting period.
Sec. 16. Disclosures by insurers to applicants and policyholders.
Sec. 17. Enforcement.
Sec. 18. Reports.
Sec. 19. Task force on agency appointments.
Sec. 20. Studies.
Sec. 21. Exemption and relation to State laws.
Sec. 22. Regulations.
Sec. 23. Definitions.
Sec. 24. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are disparities in insurance coverage provided by some insurers between areas of different incomes and racial composition; and

(2) such disparities in affordability and availability of insurance severely limit the ability of qualified consumers to obtain credit for home and business purchases.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a nationwide database for determining the availability, affordability, and adequacy of insurance coverage for consumers;

(2) to facilitate the enforcement of Federal and State laws that prohibit illegally discriminatory insurance practices; and

(3) to determine whether the extent and characteristics of insurance availability, affordability, and coverage require public officials to take any actions—

(A) to remedy redlining or other illegally or unfairly discriminatory insurance practices; or

(B) to promote insurance availability and affordability in areas underserved by insurers.

(c) CONSTRUCTION.—Nothing in this Act is intended to, nor shall it be construed to, encourage unsound underwriting practices.

SEC. 3. ESTABLISHMENT OF GENERAL REQUIREMENTS TO SUBMIT INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to compile and submit information to the Secretary for each annual reporting period, in accordance with this Act.

(b) CONSULTATION.—In establishing the requirements for the submission of information under this Act, the Secretary shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents), representatives of property and casualty insurers, and community, consumer, and civil rights organizations, as appropriate.

SEC. 4. REPORTING OF NONCOMMERCIAL INSURANCE INFORMATION.

(a) IN GENERAL.—The requirements established pursuant to section 3 to carry out this section shall—

(1) be designed to ensure that information is submitted and compiled under this section as may be necessary to permit analysis and comparison of—

(A) the availability and affordability of insurance coverage and the quality or type of insurance coverage, by MSA and the applicable region, race, and gender of policyholders; and

(B) the location of the principal place of business of insurance agents and the race of such agents, and the location of the principal place of business of insurance agents terminated and the race of such agents, by MSA and applicable region; and

(2) specify the data elements required to be reported under this section and require uniformity in the definitions of the data elements.

(b) DESIGNATED INSURERS.—

(1) AGGREGATE INFORMATION.—The regulations issued under section 3 shall require that each designated insurer for a designated line of insurance under section 13(c)(1) compile and submit to the Secretary, for each annual reporting period—

(A) the total number of policies issued in such line, total exposures covered by such policies, and total amount of premiums for such policies, by designated line and by designated MSA and applicable region in which the insured risk is located;

(B) the total number of cancellations and nonrenewals (expressed in terms of policies or exposures, as determined by the Secretary), by designated line and by designated MSA and applicable region in which the insured risk is located;

(C) the total number and racial characteristics of—

(i) licensed agents of such insurer selling insurance in the designated line, by designated MSA and applicable region in which the agent's principal place of business is located; and

(ii) such agents who were terminated by the insurer, by designated MSA and applicable region in which the agent's principal place of business was located; and

(D) for such designated line of insurance, information that will enable the Secretary to assess the aggregate loss experience for the insurer, by designated MSA and applicable region in which the insured risk is located.

(2) SPECIFICATION OF INFORMATION FOR ITEMIZED DISCLOSURE.—

(A) IN GENERAL.—The regulations issued under section 3 regarding annual reporting requirements for designated insurers for a designated line of insurance under section 13(c)(1) shall, with respect to policies issued under the designated line or exposure units covered by such policies, as determined by the Secretary—

(i) specify the data elements that shall be submitted;

(ii) provide for the submission of information on an individual insurer basis;

(iii) provide for the submission of the information with the least burden on insurers, particularly small insurers, and insurance agents;

(iv) take into account existing statistical reporting systems in the insurance industry;

(v) require reporting by MSA and applicable region in which the insured risk is located;

(vi) provide for the submission of information that identifies the designated line and subline or coverage type;

(vii) provide for the submission of information that distinguishes policies written in a residual market from policies written in the voluntary market;

(viii) specify—

(I) whether information shall be submitted on the basis of policy or exposure unit; and

(II) whether information, when submitted, shall be aggregated by like policyholders with like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported;

(ix) provide for the submission of information regarding the number of cancellations and nonrenewals of policies under the designated line by MSA and applicable region in which the insured risk is located, by race and gender of the policyholder (if known to the insurer), and by whether the policy was issued in a voluntary or residual market; and

(x) provide for the submission of information on the racial characteristics and gender of policyholders at the level of detail comparable to that required by the Home Mortgage Disclosure Act of 1975 (and the regulations issued thereunder).

(B) RULES REGARDING OBTAINING RACIAL INFORMATION.—With respect to the information specified in subparagraph (A)(x), applicants for, and policyholders of, insurance may be asked their racial characteristics only in writing. Any such written question shall clearly indicate that a response to the question is voluntary on the part of the applicant or policyholder, but encouraged, and that the information is being requested by the Federal Government to monitor the availability and affordability of insurance. If an applicant for, or policyholder of, insurance declines to provide such information, the agent or insurer for such insurance may provide such information.

(3) RULE FOR REPORTING BY DESIGNATED INSURERS.—A designated insurer for a designated line shall submit—

(A) information required under subparagraphs (A), (B), and (D) of paragraph (1) and information required pursuant to paragraph (2), for risks insured under such line that are located within each designated MSA, any part of which is located in a State for which the insurer is designated; and

(B) information required under paragraph (1)(C) for agents within such designated MSA's.

(c) NONDESIGNATED INSURERS.—The regulations issued under section 3 shall require each insurer that issues an insurance policy in a designated line of insurance under section 13(c)(1) that covers an insured risk located in a designated MSA and which is not a designated insurer for the line in any State in which any part of such MSA is located, to compile and submit to the Secretary, for each annual reporting period—

(1) the total number of policies issued in such line;

(2) the total exposures covered by such policies; and

(3) the total amount of premiums for such policies;

by designated MSA and applicable region in which the insured risk is located.

SEC. 5. STUDY OF COMMERCIAL INSURANCE FOR RESIDENTIAL PROPERTIES AND SMALL BUSINESSES.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

(b) SUBMISSION OF INFORMATION.—To acquire information for the study under this section, the Secretary shall, by regulation, establish requirements for insurers providing commercial insurance for residential properties and small businesses to compile and submit to the Secretary on an annual basis information regarding such insurance, as follows:

(1) MSA'S.—The Secretary shall carry out the study only with respect to the 25 MSA's having the largest populations, as determined by the Secretary and specified in the regulations under this section.

(2) INSURERS.—For each of the MSA's specified pursuant to paragraph (1), the Secretary shall designate the insurers required to submit the information. The Secretary shall designate a sufficient number of insurers to provide a representative sample of the insurers providing such insurance in each such MSA.

(3) LINES OF INSURANCE.—The Secretary shall require the submission of information regarding such lines, sublines, or coverage types of commercial insurance as the Secretary determines are necessary or important with respect to establishing, operating, or maintaining residential properties and each type of small business selected under paragraph (4), and shall require submission of such information by such lines, sublines, or coverage types.

(4) SMALL BUSINESSES.—For purposes of paragraph (3), the Secretary shall determine the types of businesses that are typical of small businesses and shall select a representative sample of such types.

(5) DATA ELEMENTS.—The Secretary shall identify the data elements required to be submitted.

(6) SUBMISSION BY LOCATION.—The Secretary shall require the information to be submitted by designated MSA and applicable region in which the insured risk is located.

(7) SUBMISSION BY INSURER.—The Secretary shall require the submission of information on an individual insurer basis and shall specify whether information, when submitted, shall be aggregated by like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported.

(8) SUNSET.—The Secretary shall require the submission of information under this section only for each of the first 5 annual reporting periods beginning more than 3 years after the date of enactment of this Act.

(c) CONSIDERATIONS.—In establishing the requirements for submission of information under this section, the Secretary shall—

(1) take into consideration the administrative, paperwork, and other burdens on insurers and insurance agents involved in complying with the requirements of this section;

(2) minimize the burdens imposed by such requirements with respect to such insurers and agents; and

VOL 140 PT 16 AG 12 — 18 1994 UMI

(3) take into consideration existing statistical reporting systems in the insurance industry.

(d) REPORT.—Not later than 6 months after the expiration of the fifth of the 5 annual reporting periods referred to in subsection (b)(8), the Secretary shall submit a report to the Congress describing the information submitted under the study conducted under this section and any findings of the Secretary from the study regarding disparities in the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

SEC. 6. REPORTING OF RURAL INSURANCE INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to annually compile and submit to the Secretary information concerning the availability, affordability, and quality or type of insurance in designated rural areas in the lines designated under section 13(c)(1).

(b) CONTENT.—The regulations under this section shall provide that—

(1) the information to be compiled and submitted under this section by designated insurers and insurers that are not designated insurers shall be of such types, data elements, and specificity that is as identical as possible to the types, data elements, and specificity of information required under this Act of designated and nondesignated insurers, respectively, for designated MSA's and shall be subject to the provisions of section 4(b)(2)(B); and

(2) the information compiled and submitted under this section shall be compiled and submitted on the basis of each 5-digit zip code in which the insured risks are located, rather than on the basis of designated MSA and applicable region (as otherwise required in this Act).

(c) DESIGNATION OF RURAL AREAS.—For purposes of this section, the term "designated rural area" means the following:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this section apply, any of the 25 rural areas designated by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, a rural area for which a designation made by the Secretary under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate 25 rural areas as designated rural areas for each such 5-year period and shall designate such rural areas based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of rural areas for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 18(b) relating to such period.

(D) The designations of rural areas for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of a rural area shall remain in effect until a succeeding designation of rural areas under paragraph (2) takes effect.

SEC. 7. WAIVER OF REPORTING REQUIREMENTS.

(a) WAIVER FOR STATES COLLECTING EQUIVALENT INFORMATION.—

(1) AUTHORITY.—Subject to the requirements under this section, the Secretary shall provide, by regulation, for the waiver of the applicability of the provisions of sections 4, 5, and 6 for each insurer transacting business within a State referred to in paragraph (2), but only with respect to information required to be submitted under such sections that relates to agents or insured risks located in the State.

(2) REQUIREMENTS.—The Secretary may make a waiver pursuant to paragraph (1) only with respect to a State that the Secretary determines has in effect a law or other requirement that—

(A) requires insurers to submit to the State information that is the same as or equivalent to the information that is required to be submitted to the Secretary pursuant to sections 4, 5, and 6;

(B) provides for adequate enforcement of such law or other requirements;

(C) provides for the same annual reporting period used by the Secretary under this Act and for submission of the information to the Secretary in a timely fashion, as determined by the Secretary; and

(D) provides that, to the extent statistical agents are permitted to submit information to the State on behalf of insurers, such agents are subject to the same or equivalent requirements as provided under section 9(b).

(3) DURATION.—A waiver pursuant to paragraph (1) may remain in effect only during the period for which the State law or other requirement under paragraph (2) remains in effect.

(b) MULTIPLE-STATE MSA'S.—In the case of any designated MSA that contains area within—

(1) any State for which a waiver has been made pursuant to subsection (a); and

(2) any State for which such a waiver has not been made;

the provisions of this Act requiring submission of information to the Secretary regarding such MSA shall be considered to apply only to the portion of such MSA that is located within the State for which such a waiver has not been made.

(c) AUTHORITY FOR SECRETARY TO OBTAIN INFORMATION DIRECTLY FROM INSURERS.—If the State for which a waiver has been made pursuant to subsection (a) does not submit to the Secretary the information required under subsection (a)(2)(A) or submits information that is not complete, the Secretary shall require the insurers transacting business within the State to submit such information directly to the Secretary.

SEC. 8. REPORTING BY PRIVATE MORTGAGE INSURERS.

(a) HMDA REPORTING.—On an annual basis, the Federal Financial Institutions Examination Council (hereafter in this section referred to as the "Council") shall determine the extent to which each insurer providing private mortgage insurance is making available to the public and submitting to the appropriate agency information regarding such insurance that is equivalent to the information regarding mortgages required to be reported under the Home Mortgage Disclosure Act of 1975.

(b) REPORTING UNDER THIS ACT.—

(1) CERTIFICATION OF NONCOMPLIANCE.—If, for any annual period referred to in subsection (a), the Council determines that any insurer providing private mortgage insurance is not making available to the public or submitting the information referred to in subsection (a) or that the information made available or submitted is not equivalent information as described in subsection (a), then the Council shall notify the insurer of such noncompliance. If, after the expiration of a reasonable period of time, the insurer has not remedied such noncompliance to the satisfaction of the Council, then the Council shall immediately certify such noncompliance to the Secretary.

(2) REQUIREMENT.—Upon the receipt of a certification under paragraph (1), the Secretary shall, by regulation, require such insurer to submit to the Secretary information regarding such insurance that complies with the provisions of section 4 that are applicable to such insurance. Such regulations shall be issued not later than 6 months after receipt of such certification and shall apply to the first succeeding annual reporting period beginning not less than 6 months after issuance of such regulations and to each annual reporting period thereafter.

SEC. 9. USE OF DATA CONTRACTOR AND STATISTICAL AGENTS.

(a) DATA COLLECTION CONTRACTOR.—The Secretary may contract with a data collection contractor to collect the information required to be maintained and submitted under sections 4, 5, 6, 7, and 8(b), if the contractor agrees to collect the information pursuant to the terms and conditions of such sections and this Act and the regulations issued thereunder. Information submitted to such contractor shall be available to the public to the same extent as if the information were submitted directly to the Secretary.

(b) USE OF STATISTICAL AGENTS.—

(1) IN GENERAL.—The Secretary shall provide, by regulation, that insurers may submit any information required under sections 4, 5, 6, and 8(b) through statistical agents acting on behalf of more than one insurer.

(2) PROTECTIONS.—The regulations issued under this subsection shall permit submission of information through a statistical agent only if the Secretary determines that—

(A) the statistical agent has adequate procedures to protect the integrity of the information submitted;

(B) the statistical agent has a statistical plan and format for submitting the information that meets the requirements of this Act;

(C) the statistical agent has procedures in place that ensure that information reported under the statistical plan in connection with reporting under this Act and submitted to the Secretary is not subject to any adjustment by the statistical agent or an insurer for reasons other than technical accuracy and conformance to the statistical plan;

(D) the information of an insurer is not subject to review by any other insurer before being made available to the public; and

(E) acceptance of the information through the statistical agent will not adversely affect the accuracy of the information reported.

(3) DISCONTINUANCE OF ACCEPTANCE OF INFORMATION.—The Secretary may discontinue accepting information reported through a statistical agent pursuant to this subsection if the Secretary determines that the requirements for such reporting are no longer met or that continued acceptance of such information is contrary to the goal of ensuring the accuracy of the information reported.

(4) GAO AUDITS.—The Comptroller General of the United States shall, at the request of the Secretary, audit information collection and submission performed under this subsection by data collection contractors or statistical agents to ensure that the integrity of the information collected and submitted is protected. In determining whether to request an audit of a statistical agent, the Secretary shall consider the sufficiency (for purposes of this Act) of audits of the statistical agent conducted in connection with State insurance regulation.

(5) LIABILITY.—Notwithstanding any use of a statistical agent as authorized under this subsection, an insurer using such an agent shall be responsible for compliance with the requirements under this Act.

SEC. 10. SUBMISSION OF INFORMATION TO SECRETARY AND MAINTENANCE OF INFORMATION.

(a) PERIOD OF MAINTENANCE.—The Secretary shall maintain any information submitted to the Secretary for such period as the Secretary considers appropriate and feasible to carry out the purposes of this Act and to allow for historical analysis and comparison of the information.

(b) SUBMISSION.—The Secretary shall issue regulations prescribing a standard schedule (taking into consideration the provisions of section 12(a)), format, and method for submitting information under this Act to the Secretary. The format and method of submitting the information shall facilitate and encourage the submission in a form readable by a computer. Any insurer submitting information to the Secretary may submit in writing to the Secretary any additional information or explanations that the insurer considers relevant to the decision by the insurer to sell insurance.

SEC. 11. COMPILATION OF AGGREGATE INFORMATION.

(a) INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile, for each designated MSA, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information submitted under sections 4, 5, 7, and 8(b) and loss ratios (if the submission of loss information is required), aggregated by applicable region for all insurers submitting such information; and

(B) such information and loss ratios (if the submission of loss information is required), aggregated by applicable region for each such insurer; and

(2) produce tables based on information submitted under sections 4, 5, 7, and 8(b) for each designated MSA, by insurer and for all insurers, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods; and

(B) loss ratios based on the information obtained pursuant to sections 4, 5, 7, and 8(b) (if the submission of loss information is required), aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods.

(b) AGENT INFORMATION.—For each annual reporting period and for each designated MSA, the Secretary shall compile, by designated line, the information submitted under section 4(b)(1)(C)—

(1) by designated insurer by applicable region;

(2) by designated insurer aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics; and

(3) for all designated insurers that have submitted such information for the designated MSA, aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics.

(c) RURAL INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile for each applicable 5-digit zip code, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information regarding insurance in rural areas submitted under sections 6 and 7 and loss ratios, for all insurers for which such information is submitted; and

(B) such information and loss ratios, for each such insurer; and

(2) produce tables for each 5-digit zip code based on information regarding insurance in rural areas submitted under sections 6 and 7, by insurer and for all such insurers for which information is submitted under such sections, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available); and

(B) loss ratios, based on the information obtained pursuant to sections 6 and 7, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available).

SEC. 12. AVAILABILITY AND ACCESS SYSTEM.

(a) AVAILABILITY TO PUBLIC.—

(1) IN GENERAL.—The Secretary shall maintain and make available to the public, in accordance with the requirements of this section, any information submitted to the Secretary under this Act and any information compiled by the Secretary under this Act.

(2) TIMING.—The Secretary shall make such information publicly available on a timetable determined by the Secretary, but not later than 9 months after the conclusion of the annual reporting period to which the information relates, except that such information shall not be made available to the public until it is available in its entirety unless not all the information required to be reported is available by such date.

(b) PUBLIC ACCESS SYSTEM.—

(1) IMPLEMENTATION.—The Secretary shall implement a system to facilitate access to any information required to be made available to the public under this Act.

(2) BASES OF AVAILABILITY.—The system shall provide access in accordance with the following:

(A) ACCESS TO ITEMIZED INFORMATION.—To information submitted under sections 4, 5, 6, 7, and 8(b) on the basis of the insurer submitting the information, on the basis of designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code), and on any other basis the Secretary considers feasible and appropriate.

(B) ACCESS TO AGGREGATE INFORMATION.—To aggregate information compiled under section 11, on the basis of—

(i) the insurer submitting the information;

(ii) designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code); and

(iii) any other basis the Secretary considers feasible and appropriate.

(3) METHOD.—The access system shall include a telephone number that can be used by the public to request such information and the address at which a written request for such information may be submitted.

(4) FORM.—The Secretary shall, by regulation, establish the forms in which such information may be furnished by the Secretary. Such forms shall include written statements, forms readable by widely used personal computers, and, if feasible, on-line access for personal computers. The Secretary shall provide the information available under this section in any such form requested by the person requesting the information, except that the Secretary shall charge a fee for providing such information, which may not exceed the amount, determined by the Secretary, that is equal to the cost of reproducing the information.

(c) PROTECTIONS REGARDING LOSS INFORMATION.—

(1) PROHIBITION OF DISCLOSURE OF LOSS INFORMATION.—Notwithstanding any other provision of this Act, the Secretary may not make available to the public or otherwise disclose any information submitted under this Act regarding the amount or number of claims paid by any insurer, the amount of losses of any insurer, or the loss experience for any insurer, except—

(A) in the form of a loss ratio (expressing the relationship of claims paid to premiums) made available or disclosed in compliance with the provisions of paragraph (2); or

(B) as provided in paragraph (3).

(2) PROTECTION OF IDENTITY OF INSURER.—In making available to the public or otherwise disclosing a loss ratio for an insurer—

(A) the Secretary may not identify the insurer to which the loss ratio relates; and

(B) the Secretary may disclose the loss ratio only in a manner that does not allow any party to determine the identity of the specific insurer to which the loss ratio relates, except parties having access to information under paragraph (3).

(3) CONFIDENTIALITY OF INFORMATION DISCLOSED TO GOVERNMENTAL AGENCIES.—The Secretary may make information referred to in paragraph (1) and the identity of the specific insurer to which such information relates available to any Federal entity and any State agency responsible for regulating insurance in a State and may otherwise disclose such information to any such entity or agency, but only to the extent such entity or agency agrees not to make any such information available or disclose such information to any other person.

SEC. 13. DESIGNATIONS.

(a) DESIGNATION OF MSA'S.—For purposes of this Act, the term "designated MSA" means the following MSA's:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this Act apply (pursuant to section 24), any of the 100 MSA's selected as follows:

(A) The Secretary shall select the 50 MSA's having the largest populations, as determined by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance.

(B) The Secretary shall select 50 additional MSA's, on a basis that provides for—

VOL 140 PT 16 AG 12 — 18 1994 UMI

(i) geographic diversity among the designated MSA's under this paragraph;

(ii) diversity in size of the populations among such MSA's; and

(iii) the inclusion of MSA's with a high concentration of racial minorities.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, an MSA for which a designation under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate not less than 100 MSA's as designated MSA's for each such 5-year period and shall designate such MSA's based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of MSA's for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 20(b) relating to such period.

(D) The designations of MSA's for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of an MSA shall remain in effect until a succeeding designation of MSA's under paragraph (2) takes effect.

(b) DESIGNATION OF INSURERS.—The Secretary shall designate, for each designated line and each State, insurers doing business in the lines as designated insurers in the State for purposes of this Act, subject to the following requirements:

(1) HIGHEST AGGREGATE PREMIUM VOLUME.—

(A) GENERAL RULE.—For each State, the Secretary shall designate, for each designated line, each of the insurers and insurer groups included in the class established under this paragraph for the State.

(B) DETERMINATION.—In each State, the Secretary shall rank the insurers and insurer groups in each designated line from the insurer or group having the largest aggregate premium volume in the State for such line to the insurer or group having the smallest such aggregate premium volume and shall include in the class for the State only—

(i) the insurer or group of the highest rank;

(ii) each insurer or group of successively lower rank if the inclusion of such insurer or group in the class does not result in the sum of such aggregate premium volumes for insurers and groups in the class exceeding 80 percent of the total aggregate premium volume in the State for the line; and

(iii) the first such successively lower ranked insurer or insurer group whose inclusion in the class results in such sum exceeding 80 percent of the total aggregate premium volume in the State for the line.

(2) MINIMUM AGGREGATE PREMIUM VOLUME.—For each State, the Secretary shall designate, for each designated line, each insurer and insurer group not designated pursuant to paragraph (1) whose premium volume in the State for the designated line exceeds 1 percent of the total aggregate premium volume in the State for the line.

(3) FAIR PLANS AND JOINT UNDERWRITING ASSOCIATIONS.—For each State, the Secretary shall designate, for each designated line—

(A) each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements; and

(B) each joint underwriting association;

that provides insurance under such line.

(4) DURATION.—The Secretary shall designate insurers under this subsection once every 5 years. Each insurer designated shall be a designated insurer for each of the first 5 successive annual reporting periods commencing after such designation.

(c) DESIGNATION OF LINES OF INSURANCE.—

(1) IN GENERAL.—The Secretary shall, by regulation, designate homeowners, dwelling fire, and allied lines of insurance as designated lines for purposes of this Act, and shall distinguish the coverage types in such lines by the perils covered and by market or replacement value. For purposes of this Act, homeowners insurance shall not include any renters coverage or coverage for the personal property of a condominium owner.

(2) REPORT.—At any time the Secretary determines that any line of insurance not described in paragraph (1) should be a designated line because disparities in coverage provided under such line exist among geographic areas having different income levels or racial composition, the Secretary shall submit a report recommending designating such line of insurance as a designated line for purposes of this Act to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives.

(3) DURATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall make the designations under this subsection once every 5 years, by regulation, and each line and subline or coverage type designated under such regulations shall be designated for each of the first 5 successive annual reporting periods occurring after issuance of the regulations.

(B) ALTERATION.—During any 5-year period referred to in subparagraph (A) in which designations are in effect, the Secretary may amend or revise the designated lines, sublines, and coverage types only by regulation and only in accordance with the requirements of this subsection. Such regulations amending or revising designations shall apply only to annual reporting periods beginning after the expiration of the 6-month period beginning on the date of issuance of the regulations.

(d) TIMING OF DESIGNATIONS.—The Secretary shall make the designations required by subsections (b)(4) and (c)(3)(A) and notify interested parties during the 6-month period ending 6 months before the commencement of the first annual reporting period to which such designations apply.

(e) OBTAINING INFORMATION.—The Secretary may require insurers to submit to the Secretary such information as the Secretary considers necessary to make designations specifically required under this Act. The Secretary may not require insurers to submit any information under this subsection that relates to any line of insurance not specifically authorized to be designated pursuant to this Act or that is to be used solely for the purpose of a report under subsection (c)(2).

SEC. 14. IMPROVED METHODS AND REPORTING ON BASIS OF OTHER AREAS.

(a) DEVELOPMENT OF IMPROVED METHODS.—The Secretary shall develop, or assist in the improvement of, methods of matching addresses and applicable regions to facilitate compliance by insurers, in as economical a manner as possible, with the requirements of this Act. The Secretary shall allow insurers, or statistical agents acting on behalf of insurers, to match addresses and applicable regions through the use of 9-digit zip codes if the Secretary determines that such use will substantially reduce the cost and burden to insurers of such matching without significant adverse impact on the reliability of the matching.

(b) CONVERTIBILITY.—

(1) AUTHORITY.—The Secretary may, by regulation, provide for insurers to comply with the requirements under sections 4, 5, and 8(b) by reporting the information required under such sections on the basis of geographical location other than MSA and applicable region, but only if the Secretary determines that information reported on such other basis is convertible to the basis of MSA and applicable region and such conversion does not affect the accuracy of the information.

(2) LIMITATION.—With respect to any information submitted on the basis of geographical location other than designated MSA and applicable region pursuant to paragraph (1), the Secretary may disclose the information only on the basis of designated MSA and applicable region.

SEC. 15. ANNUAL REPORTING PERIOD.

(a) IN GENERAL.—For purposes of this Act, the annual reporting periods shall be the 12-month periods commencing in each calendar year on the same day, which shall be selected under subsection (b) by the Secretary.

(b) SELECTION.—Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Secretary shall, by regulation, select a day of the year upon which all annual reporting periods shall commence. In determining such day, the Secretary shall consider the reporting periods used for purposes of State and other insurance statistical reporting systems, in order to minimize the burdens on insurers.

SEC. 16. DISCLOSURES BY INSURERS TO APPLICANTS AND POLICYHOLDERS.

(a) IN GENERAL.—The Secretary shall, by regulation, require the following disclosures:

(1) APPLICANTS.—Each insurer that, through the insurer, or an agent or broker, declines a written application or written request to issue an insurance policy under a designated line shall provide to the applicant at the time of such declination, through such insurer, agent, or broker, one of the following:

(A) A written explanation of the specific reasons for the declination.

(B) Written notice that—

(i) the applicant may submit to the insurer, agent, or broker, within 90 days of such notice, a written request for a written explanation of the reasons for the declination; and

(ii) pursuant to such a request, an explanation shall be provided to the applicant within 21 days after receipt of such request.

(2) PROVISION OF EXPLANATION.—If an insurer, agent, or broker making a declination receives a written request referred to in paragraph (1)(B) within such 90-day period, the insurer, agent, or broker shall provide a written explanation referred to in such subparagraph within such 21-day period.

(3) POLICYHOLDERS.—Each insurer that cancels or refuses to renew an insurance policy under a designated line shall provide to the policyholder, in writing and within an appropriate period of time as determined by the Secretary, the reasons for canceling or refusing to renew the policy.

(b) MODEL ACTS.—In issuing regulations under subsection (a), the Secretary shall consider relevant portions of model acts developed by the National Association of Insurance Commissioners.

(c) PREEMPTION.—Subsection (a) shall not be construed to annul, alter, or effect, or exempt any insurer, agent, or broker subject to the provisions of subsection (a) from complying with any laws or requirements of any State with respect to notifying insurance applicants or policyholders of the reasons for declination or cancellation of, or refusal to renew insurance, except to the extent that such laws or requirements are inconsistent with subsection (a) (or the regulations issued thereunder) and then only to the extent of such inconsistency. The Secretary is authorized to determine whether such inconsistencies exist and to resolve issues regarding such inconsistencies. The Secretary may not provide that any State law or requirement is inconsistent with subsection (a) if it imposes requirements equivalent to the requirements under such subsection or requirements that are more stringent or comprehensive, in the determination of the Secretary.

(d) IMMUNITY.—In issuing regulations under subsection (a), the Secretary shall specifically consider the necessity of providing insurers, agents, and brokers with immunity solely for the act of conveying or communicating the reasons for a declination or cancellation of, or refusal to renew insurance on behalf of a principal making such decision. The Secretary may provide for immunity under the regulations issued under subsection (a) if the Secretary determines that such a provision is necessary and in the public interest, except that the Secretary may not provide immunity for any conduct that is negligent, reckless, or willful.

(e) ENFORCEMENT.—The Secretary may authorize the States to enforce the requirements under regulations issued under subsection (a).

SEC. 17. ENFORCEMENT.

(a) CIVIL PENALTIES.—Any insurer who is determined by the Secretary, after providing opportunity for a hearing on the record, to have violated any requirement pursuant to this Act shall be subject to a civil penalty of not to exceed $5,000 for each day during which such violation continues.

(b) INJUNCTION.—The Secretary may bring an action in an appropriate United States district court for appropriate declaratory and injunctive relief against any insurer who violates the requirements referred to in subsection (a).

(c) INSURER LIABILITY.—An insurer shall be responsible under subsections (a) and (b) for any violation of a statistical agent acting on behalf of the insurer.

SEC. 18. REPORTS.

(a) ANNUAL REPORT.—The Secretary shall annually report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives on the implementation of this Act and shall make recommendations to such committees on such additional legislation as the Secretary deems appropriate to carry out this Act. The Secretary shall include in each annual report a description of any complaints or problems resulting from the implementation of this Act, of which the Secretary has knowledge, made by (or on behalf of) insurance policyholders that concern the disclosure of information regarding policyholders and any recommendations for addressing such problems.

(b) GAO REPORTS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit a report under this subsection to the Secretary and the Congress for each 5-year period referred to in sections 6(c)(2) and 13(a)(2), which contains information to be used by the Secretary in implementing this Act during such period.

(2) TIMING.—The report under this subsection for each such 5-year period shall be submitted not later than 18 months before the commencement of the period to which the report relates.

(3) CONTENTS.—A report under this subsection shall include the following information:

(A) An analysis of the adequacy of the implementation of this Act and any recommendations of the Comptroller General for improving the implementation.

(B) The costs to the Federal Government, insurers, and consumers of implementing and complying with this Act.

(C) Any beneficial or harmful effects resulting from the requirements of this Act.

(D) An analysis of whether, considering the purposes of this Act, insurers are required by this Act (or by implementing regulations) to submit appropriate information.

(E) An analysis of whether sufficient evidence exists of patterns of disparities in the availability, affordability, and quality or type of insurance coverage to warrant continued applicability of the requirements of this Act.

(F) An analysis of whether the group of designated MSA's in effect at the time of the report are appropriate for purposes of this Act.

(G) Specific recommendations, for use by the Secretary in designating MSA's for the 5-year period for which the report is made, with regard to—

(i) the characteristics of MSA's that should be included in the group of designated MSA's;

(ii) the number of MSA's that should be included in the group;

(iii) the number of MSA's having each particular characteristic that should be included in the group; and

(iv) the characteristics of MSA's, and number of MSA's having each such characteristic, that should be removed from the group of designated MSA's in effect at the time of the report.

(H) With respect only to the first report required under this subsection, recommendations of whether the study conducted under section 5 should be continued beyond the date in section 5(b)(8) and, if so, whether the requirements regarding the submission of information under the study should be expanded or changed with respect to insurers, MSA's, lines, sublines or coverage types of insurance, and types of small businesses, or whether the study should be allowed to terminate under law.

(I) An analysis of whether the group of designated rural areas in effect at the time of the report are appropriate for purposes of this Act.

(J) Specific recommendations, for use by the Secretary in designating rural areas for purposes of section 6 for the 5-year period for which the report is made, with regard to—

(i) the characteristics of rural areas that should be included in the group of designated rural areas under such section;

(ii) the number of rural areas having each particular characteristic that should be included in the group; and

(iii) the characteristics of rural areas, and number of rural areas having each such characteristic, that should be removed from the group of designated rural areas in effect at the time of the report.

(K) Any other information or recommendations relating to the requirements or implementation of this Act that the Comptroller General considers appropriate.

(4) CONSULTATION.—In preparing each report under this subsection, the Comptroller General shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents) and property and casualty insurers, and community, consumer, and civil rights organizations.

SEC. 19. TASK FORCE ON AGENCY APPOINTMENTS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force on insurance agency appointments (hereafter in this section referred to as the "Task Force"). The Task Force shall—

(1) consist of representatives of appropriate Federal agencies, property and casualty insurance agents, including specifically minority insurance agents, property and casualty insurers, State insurance regulators, and community, consumer, and civil rights organizations;

(2) have a significant representation from minority insurance agents; and

(3) be chaired by the Secretary or the Secretary's designee.

(b) FUNCTION.—The Task Force shall—

(1) review the problems inner-city and minority agents may have in receiving appointments to represent property and casualty insurers and consider the effects such problems have on the availability, affordability, and quality or type of insurance, especially in underserved areas;

(2) review the practices of insurers in terminating agents and consider the effects such practices have on the availability, affordability, and quality or type of insurance, especially in underserved areas; and

(3) recommend solutions to improve the ability of inner-city and minority insurance agents to market property and casualty insurance products, including steps property and casualty insurers should take to increase their appointments of such agents.

(c) REPORT AND TERMINATION.—The Task Force shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives its findings under paragraphs (1) and (2) of subsection (b) and its recommendations under paragraph (3) of subsection (b) not later than 2 years after the date of enactment of this Act. The Task Force shall terminate on the date on which the report is submitted to the committees.

SEC. 20. STUDIES.

(a) STUDY OF INSURANCE PRESCREENING.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility and utility of requiring insurers to report information with respect to the characteristics of applicants for insurance and reasons for rejection of applicants. The study shall examine the extent to which—

(A) oral applications or representations are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(B) written applications are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

VOL 140 PT 16 AG 12 — 18 1994 UMI

(C) written applications are submitted after the insurer or agent has already made a determination to provide insurance to a prospective insured or has determined that the prospective insured is eligible for insurance; and

(D) prospective insured persons are discouraged from submitting applications for insurance based, in whole or in part, on—

(i) the location of the risk to be insured;

(ii) the racial characteristics of the prospective insured;

(iii) the racial composition of the neighborhood in which the risk to be insured is located; and

(iv) in the case of residential property insurance, the age and value of the risk to be insured.

(2) REPORT.—The Secretary shall report the results of the study under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 2 years after the date of enactment of this Act. The report shall include recommendations of the Secretary—

(A) with respect to requiring insurers to report on the disposition of oral and written applications for insurance; and

(B) for any legislation that the Secretary considers appropriate regarding the issues described in the report.

(b) STUDY OF INSURER ACTIONS TO MEET INSURANCE NEEDS OF CERTAIN NEIGHBORHOODS.—The Secretary shall conduct a study of various practices, actions, and methods undertaken by insurers to meet the property and casualty insurance needs of residents of low- and moderate-income neighborhoods, minority neighborhoods, and small businesses located in such neighborhoods. The Secretary shall report the results of the study, including any recommendations, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 2 years after the date of enactment of this Act.

(c) STUDY OF DISPARATE CLAIMS TREATMENT.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine whether, and the extent to which, insurers engage in disparate treatment in handling claims of policyholders under designated lines of insurance based on the race, gender, and income level of the policyholder, and on the racial characteristics and income levels of the area in which the insured risk is located. In conducting the study, the Secretary shall specifically consider whether residents of low-income neighborhoods or areas and minority neighborhoods or areas are more likely than residents of other areas to have their claims contested or their insurance coverage canceled.

(2) REPORT.—The Secretary shall submit a report on the results of the study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 2 years after the date of enactment of this Act.

(d) STUDY OF RATING TERRITORIES.—The Secretary shall conduct a study to determine whether the practice in the insurance industry of basing insurance premium amounts on the territory in which the insured risk is located has a disparate impact on the availability, affordability, or quality of insurance by race, gender, or type of neighborhood. The Secretary shall submit a report on the results of the study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 12 months after the date of enactment of this Act.

(e) STUDY OF INSURER REINVESTMENT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of requiring insurers to reinvest in communities and neighborhoods from which they collect premiums for insurance and whether, and the extent to which, community reinvestment requirements for insurers should be established that are comparable to the community reinvestment requirements applicable to depository institutions. The Secretary shall consult with representatives of insurers and consumer, community, and civil rights organizations regarding the results of the study and any recommendations to be made based on the results of the study.

(2) REPORT.—The Secretary shall report the results of the study, including any such recommendations, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 6 months after the conclusion of the first annual reporting period to which the reporting requirements under this Act apply (pursuant to section 26).

SEC. 21. EXEMPTION AND RELATION TO STATE LAWS.

(a) EXEMPTION FOR UNITED STATES PROGRAMS.—Reporting shall not be required under this Act with respect to insurance provided by any program underwritten or administered by the United States.

(b) RELATION TO STATE LAWS.—This Act does not annul, alter, or affect, or exempt the obligation of any insurer subject to this Act to comply with the laws of any State or subdivision thereof with respect to public disclosure, submission of information, and recordkeeping.

SEC. 22. REGULATIONS.

(a) IN GENERAL.—The Secretary shall issue any regulations required under this Act and any other regulations that may be necessary to carry out this Act. The regulations shall be issued through rulemaking in accordance with the procedures under section 553 of title 5, United States Code, for substantive rules. Except as otherwise provided in this Act, such final regulations shall be issued not later than the expiration of the 18-month period beginning on the date of enactment of this Act.

(b) BURDENS.—In prescribing such regulations, the Secretary shall take into consideration the administrative, paperwork, and other burdens on insurance agents, including independent insurance agents, involved in complying with the requirements of this Act and shall minimize the burdens imposed by such requirements with respect to such agents.

SEC. 23. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) AGENT.—The term "agent" means, with respect to an insurer, an agent licensed by a State who sells property and casualty insurance. The term includes agents who are employees of the insurer, agents who are independent contractors working exclusively for the insurer, and agents who are independent contractors appointed to represent the insurer on a nonexclusive basis.

(2) APPLICABLE REGION.—The term "applicable region" means, with respect to a designated MSA—

(A) for any county located within the MSA that has a population of more than 30,000, the applicable census tract within the county; or

(B) for any county located within the MSA that has a population of 30,000 or less, the applicable county.

(3) COMMERCIAL INSURANCE.—The term "commercial insurance" means any line of property and casualty insurance, except homeowner's, dwelling fire, allied lines, and other personal lines of insurance.

(4) DESIGNATED INSURER.—The term "designated insurer" means, with respect to a designated line, an insurer designated for a State by the Secretary under section 13(b) as a designated insurer for such line or any insurer that is part of an insurer group selected under such section.

(5) DESIGNATED LINE.—The term "designated line" means a line of insurance designated by the Secretary under section 13(c).

(6) EXPOSURES.—The term "exposures" means, with respect to an insurance policy, an expression of an exposure unit covered under the policy compared to the duration of the policy (pursuant to standards established by the Secretary for uniform reporting of exposures).

(7) EXPOSURE UNITS.—The term "exposure units" means a dwelling covered under an insurance policy for homeowners, dwelling fire, or allied lines coverage.

(8) INSURANCE.—The term "insurance" means property and casualty insurance. Such term includes primary insurance, surplus lines insurance, and any other arrangement for the shifting and distributing of risks that is determined to be insurance under the law of any State in which the insurer or insurer group engages in an insurance business.

(9) INSURER.—Except with respect to section 8, the term "insurer" means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is authorized to transact the business of property or casualty insurance in any State or that is engaged in a property or casualty insurance business. The term includes any certified foreign direct insurer, but does not include an individual or entity which represents an insurer as agent solely for the purpose of selling or which represents a consumer as a broker solely for the purpose of buying insurance.

(10) ISSUED.—The term "issued" means, with respect to an insurance policy, newly issued or renewed.

(11) JOINT UNDERWRITING ASSOCIATION.—The term "joint underwriting association" means an unincorporated association of insurers established to provide a particular form of insurance to the public.

(12) MORTGAGE INSURANCE.—The term "mortgage insurance" means insurance against the nonpayment of, or default on, a mortgage or loan for residential or commercial property.

(13) MSA.—The term "MSA" means a Metropolitan Statistical Area or a Primary Metropolitan Statistical Area.

(14) PRIVATE MORTGAGE INSURANCE.—The term "private mortgage insurance" means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(15) PROPERTY AND CASUALTY INSURANCE.—The term "property and casualty insurance" means insurance against loss of or damage to property, insurance against loss of income or extra expense incurred because of loss of, or damage to, property, and insurance against third party liability claims caused by negligence or imposed by statute or contract. Such term does not include workers' compensation, professional liability, or title insurance.

(16) RESIDUAL MARKET.—The term "residual market" means an assigned risk plan, joint underwriting association, or any similar mechanism designed to make insurance available to those unable to obtain it in the voluntary market. The term includes each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements.

(17) RURAL AREA.—The term "rural area" means any area that—

(A) has a population of 10,000 or more;

(B) has a continuous boundary; and

(C) contains only areas that are rural areas, as such term is defined in section 520 of the Housing Act of 1949 (except that clause (3)(B) of such section 520 shall not apply for purposes of this Act).

(18) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(19) STATE.—The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 24. EFFECTIVE DATE.

The requirements of this Act relating to reporting of information by insurers shall take effect with respect to the first annual reporting period that begins not less than 2 years after the date of enactment of this Act.●

● Mr. FEINGOLD. Mr. President, I am pleased to join with the Senator from Michigan [Mr. RIEGLE], the chairman of the Senate Banking, Housing, and Urban Affairs Committee, in introducing legislation focused on the problem of insurance redlining. Although I will only have had the opportunity to work with Senator RIEGLE for 2 years, it has indeed been an honor, and a privilege to serve with him. His leadership on the Banking Committee, as exemplified in his introduction of this critical piece of legislation, will be sorely missed.

On March 10, 1994, I introduced similar legislation, S. 1917. On May 11, 1994, Senator RIEGLE chaired a hearing on the problem of redlining. Although I do not serve on that committee, Senator RIEGLE graciously invited me to join him at that hearing and to participate in the committee's questioning of the witnesses. Subsequently, my staff worked closely with Senator RIEGLE's staff in preparing the measure being introduced today.

Mr. President, there are few issues of greater importance to millions of Americans. "Communities without insurance are communities without hope." That was the conclusion over 25 years ago by the National Advisory Panel on Insurance. This panel was charged with examining the riot-stricken areas of our Nation in 1968, and they determined that the key to revitalizing our inner cities and bringing economic opportunity to all Americans rested on the ability of these communities to obtain affordable, quality insurance. With proper insurance, you can buy your own home, you can start a small business, and you can purchase an automobile so you can expand your employment opportunities.

Unfortunately, in 1994, too many of our low-income and minority communities have been denied access to the necessary insurance that is required to obtain that home loan or small business loan. The underwriting industry is supposed to be based on economic principles such as loss claims and associated risk. But as decades of research, studies and reports have shown, these economic principles have frequently been replaced by much more reprehensible factors such as the race or income status of the insurance applicant.

This legislation would, among other things, give Federal agencies and affected individuals the ability to effectively detect and address the problem of insurance redlining and enforce the Fair Housing Act. It would accomplish this by requiring insurance companies to disclose and report the number and types of policies made along census tract lines along with the race and income of the applicants and whether the applicants were accepted or rejected. Such information would be invaluable to Federal prosecutors and individuals seeking redress from discriminatory redlining practices. And of course, insurance companies that are in compliance with the law would have nothing to fear from any such disclosures.

I am pleased that the Clinton administration has expressed its support for legislation to address this problem and has urged Congress to act quickly on this important matter. The House of Representatives has recently passed similar legislation by an overwhelming margin. Hearings also already have been held in the Senate Commerce Committee, chaired by my friend from Nevada, Senator BRYAN. As a result of the strong interest in this issue by the Members of the Senate, I am confident we can move forward on this issue in the very near future.

In conclusion, I would like to again thank Senator RIEGLE for his work in this area. I look forward to working with him and others in making sure that we do all that we can to end the practice of insurance discrimination.●

By Mr. FEINGOLD:

S. 2405. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

THE CIVIL RIGHTS PROCEDURES PROTECTION ACT OF 1994

● Mr. FEINGOLD. Mr. President, I introduce a bill that is related to S. 2012, the Protection From Coercive Employment Agreements Act of 1994, which I introduced on April 13, 1994. This bill mirrors a House bill just introduced by Representatives PATRICIA SCHROEDER, EDWARD MARKEY, and MARJORIE MARGOLIES-MEZVINSKY as companion legislation to S. 2012.

This bill, however, approaches a rapidly growing problem in a slightly different, but equally effective manner. The problem is the practice of requiring employees to submit claims of discrimination or harassment to arbitration as a term or condition of employment or advancement, and prohibiting the employee from resolving their claim in a court of law.

While S. 2012, would proscribe employers from implementing such requirements, this bill amends seven specific civil rights statutes to make clear that the powers and procedures provided under those laws are the exclusive ones that apply when a claim arises. The legislation would invalidate existing agreements between employers and employees that require the employment discrimination claims to be submitted to mandatory arbitration.

The statutes this bill would amend are title VII of the Civil Rights Act of 1964, section 505 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, section 1977 of the revised statutes, the Equal Pay Act, the Family and Medical Leave Act, and the Federal Arbitration Act [FAA]. The amendment to the FAA extends the protections of the bill to claims of unlawful discrimination that arise under State or local law and other Federal laws that prohibit job discrimination.

Mr. President, I want to reiterate that this legislation, as in the case of S. 2012, is in no way intended to bar the use of voluntary arbitration, conciliation, mediation, or other informal quasi-judicial methods of dispute resolution. In fact, I strongly support the use of voluntary dispute resolution methods as a way of reducing the caseloads of civil and criminal courts where appropriate.

This bill closes a widening loophole in the enforcement of civil rights laws in our Nation. An entire industry—Wall Street—and a growing number of companies and firms in many other industries have been able to circumvent formal legal challenges to their unlawful employment practices in court, a right intended to be protected by the statutes this bill amends. Employers can tell current and prospective employees, "If you want to work for us, you'll have to check your rights at the door."

Mr. President, this practice must be stopped now. It is simply unfair to require an employee to waive in advance his or her statutory right to seek remedy in a court of law in exchange for employment or a promotion. This bill will restore integrity in the relations between employees and employers.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Procedures Protection Act of 1994".

SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"EXCLUSIVITY OF POWERS AND PROCEDURES

"SEC. 719. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 3. AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

"EXCLUSIVITY OF POWERS AND PROCEDURES

"SEC. 16. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to resolve such right or such claim through arbitration or another procedure.".

SEC. 4. AMENDMENT TO THE REHABILITATION ACT OF 1973.

Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 795) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on right under section 501, such procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 5. AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.

Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 6. AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES OF THE UNITED STATES.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a right to make and enforce a contract of employment under this section, such procedures shall be the exclusive procedures applicable to a claim based on such right unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 7. AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any Federal statute of general applicability that would modify any of the powers or procedures expressly applicable to a claim based on violation of this subsection, such powers and procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 8. AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) is amended by adding at the end the following new section:

"SEC. 406. EXCLUSIVITY OF REMEDIES.

"Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on a right provided under this Act or under an amendment made by this Act, such procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 9. AMENDMENT TO TITLE 9 OF THE UNITED STATES CODE.

Section 14 of title 9, United States Code, is amended—

(1) by inserting "(a)" before "This"; and

(2) by adding at the end the following new subsection:

"(b) This chapter shall not apply with respect to a claim of unlawful discrimination in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.".

SEC. 10. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply with respect to claims arising on and after the date of the enactment of this Act.●

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. DECONCINI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 359, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 1917

At the request of Mr. FEINGOLD, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1917, a bill to provide for public access to information regarding the availability of insurance, and for other purposes.

S. 2071

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2178

At the request of Mr. DASCHLE, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf war.

S. 2247

At the request of Mr. GORTON, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 2247, a bill to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons, and for other purposes.

S. 2305

At the request of Mr. AKAKA, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2305, a bill to provide that members of the Board of Veterans' Appeals be referred to as veterans law judges, to provide for the pay of such members, and for other purposes.

S. 2330

At the request of Mr. ROCKEFELLER, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

S. 2347

At the request of Mr. SASSER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2347, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution.

AMENDMENT NO. 2564

At the request of Mr. DASCHLE the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of amendment No. 2564 proposed to S. 2351, an original bill to achieve universal health insurance coverage, and for other purposes.

AMENDMENTS SUBMITTED

THE HEALTH SECURITY ACT

MACK (AND OTHERS) AMENDMENT NO. 2568

Mr. MACK (for himself, Mr. COATS, Mr. PACKWOOD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. NICKLES, Mr. MCCONNELL, Mr. LOTT, Mr. HELMS, Mrs. HUTCHISON, Mr. GREGG, Mr. KEMPTHORNE, and Mr. ROTH) proposed an amendment to amendment No. 2560 proposed by Mr. MITCHELL to the bill (S. 2351) to achieve universal health insurance coverage, and for other purposes; as follows:

On page 129, strike line 13 and all that follows through line 16.

On page 263, insert between lines 15 and 16 the following new section:

SEC. 1604. APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT AND THE PROVISIONS OF TITLE 5, UNITED STATES CODE.

(a) FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to any entity that—

(A) is established by or pursuant to this Act or is established or required to be established by an entity created under this Act; and

(B) is an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of the Federal Advisory Committee Act shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such specified provision (or all provisions) of the Federal Advisory Committee Act shall not apply to such entity.

(b) TITLE 5, UNITED STATES CODE.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of title 5, United States Code, shall apply to any board or other similar entity that—

(A) is established by or pursuant to this Act; and

(B) is not an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of title 5, United States Code, shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such provision (or all provisions) of title 5, United States Code, shall not apply to such entity.

On page 605, strike line 3 and all that follows through line 13.

On page 1409, strike line 1 and all that follows through line 3.

MITCHELL AMENDMENT NO. 2569

Mr. MITCHELL proposed an amendment to amendment No. 2560 proposed by him to the bill S. 2351, supra; as follows:

On page 1432, strike lines 21 through 24, and insert the following:

SEC. 10135. PROVISIONS REGARDING NONPAYMENT OF PREMIUMS.

(a) IN GENERAL.—A health plan may terminate coverage if amounts owed to the plan for a month with respect to an individual or an individual's family members have not been fully paid for a time period established under State law, or in the absence of such a law, a period of not less than 60 days, and the health plan has made reasonable attempts to collect such amounts.

(b) NOTICE.—Notwithstanding any other provision of this Act, a health plan may terminate coverage for nonpayment of premiums under subsection (a) only after providing notice of amounts overdue (in a form and manner and at such times as prescribed by the appropriate certifying authority).

HIGH-SPEED GROUND TRANSPORTATION DEVELOPMENT ACT OF 1994

EXON AMENDMENT NO. 2570

Mr. FORD (for Mr. EXON) proposed an amendment to the bill (S. 839) to establish a program to facilitate development of high-speed rail transportation in the United States, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Ground Transportation Development Act of 1994".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) high-speed rail offers safe and transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

(9) Federal assistance is required for the improvement, adaptation, and integration of technologies for commercial application in high-speed rail service in the United States.

(b) PURPOSE.—The purpose of this Act is to encourage far-sighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity travel corridors.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Part C of subtitle IV of title 49, United States Code (relating to passenger transportation), is amended by adding at the end the following new chapter:

"*CHAPTER 251—HIGH-SPEED RAIL ASSISTANCE*

"§ 25101. Corridor planning

"(a) AUTHORITY.—The Secretary may provide financial assistance to an applicant, based upon the criteria set forth in subsection (d) of this section, to fund corridor planning under subsection (b)(1) of this section.

(b) ELIGIBLE ACTIVITIES.—

"(1) A corridor planning activity is eligible for financial assistance under subsection (c) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institution plan for implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

"(A) environmental assessments;

"(B) feasibility studies emphasizing commercial technology improvements or applications;

"(C) Economic analyses, including ridership, revenue and operating expense forecasting;

"(D) assessing the impact on rail employment of developing high-speed rail corridors;

"(E) assessing community economic impacts;

"(F) interface with State and metropolitan area transportation planning and corridor planning with other States;

"(G) operational planning;

"(H) route selection analyses;

"(I) preliminary engineering and design;

"(J) identification of specific improvements to a corridor, including electrification, line straightening, grade crossing closings, and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, interface with other modes of transportation, parking and other means of passenger access, track, signal, station and other capital works, and use of intermodal terminals;

"(K) preparation of financing plans and prospectuses; and

"(L) creation of public/private partnerships.

"(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

"(c) CORRIDOR PLANNING ASSISTANCE.—

"(1) The Secretary may provide under this subsection financial assistance to an applicant for corridor planning for up to 50 per centum of the publicly financed costs associated with eligible activities.

"(2) No less than 20 per centum of publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources cannot include funds from any Federal program.

"(d) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of applicants for financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

"(A) the relationship or inclusion of the corridor in the Secretary's national high-speed ground transportation policy;

"(B) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 miles per hour or greater.

"(C) the integration of the corridor into metropolitan area and Statewide transportation planning;

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(D) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

"(E) the anticipated effect of the corridor on the congestion of other modes of transportation;

"(F) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act;

"(G) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(H) the estimated level of ridership;

"(I) the estimated capital cost of corridor improvements, including the cost of closing, improving, or separating highway-rail grade crossing;

"(J) rail transportation employment impacts;

"(K) community economic impacts;

"(L) the extent to which the projected revenues of the high-speed rail service to be planned, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses; and

"(M) whether a route has been selected, specific improvements identified, and capacity studies completed.

"25102. High-speed rail technology improvements

"(a) AUTHORITY.—The Secretary is authorized to undertake activities for the improvement, adaptation, and integration of technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized in subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency or the Federal Government.

"(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized in subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

"25103. Definitions.

"For purposes of this chapter—

"(1) the term 'applicant' means a public agency, or a group of such public agencies, seeking financial assistance under this title;

"(2) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(3) the term 'high-speed rail' means rail passenger transportation expected to reach and maintain speeds of 125 miles per hour or greater;

"(4) the term 'publicly funded costs' means the costs funded after April 29, 1993, by Federal, State, and local governments;

"(4) the term 'State" means any of the several States, the District of Columbia, Puerto Rico, the Northern Marian Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States;

"(5) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

"§25104. Safety regulations

"The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.".

SEC. 4. COLUMBUS AND GREENVILLE RAILWAY.

(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, doing business as the Columbus & Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively).

(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR FISCAL YEAR 1995.—There is authorized to be appropriated to the Secretary of Transportation $29,000,000 for financial assistance authorized under sections 25101 and 25102 of title 49 United States Code.

(b) AUTHORIZATION FOR FISCAL YEAR 1996.—There is authorized to be appropriated to the Secretary—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(c) AUTHORIZATION FOR FISCAL YEAR 1997.—There is authorized to be appropriated to the Secretary of Transportation—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(d) ADMINISTRATIVE EXPENSES OF SECRETARY.—Of the amounts authorized to be appropriated under subsections (a), (b) and (c), the Secretary of Transportation may reserve the funds necessary for payment of the administrative expenses incurred by the Secretary in carrying out the Secretary's responsibilities under chapter 251 of title 49 United States Code.

(e) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

AUTHORITY FOR COMMITTEES TO MEET

ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, August 18, 1994, at 9:30 a.m. in open session, to receive testimony on the military implications of the chemical weapons convention [CWC].

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, August 18, 1994, at 10 a.m. to hold a business meeting to vote on pending items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Thursday, August 18, 1994 at 10 a.m. for a markup on the following item: S. 1697, the Federal Disaster Preparedness and Response Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, August 18, 1994, at 9:30 a.m., in room 226, Senate Dirksen office building on the nomination of Lois Jane Schiffer, of the District of Columbia, to be assistant Attorney General.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, August 18, 1994, at 10 a.m., in room 628, Senate Dirksen office building on the nominations of Nancy Gist to be Director of the Bureau of Justice Assistance, Laurie Robinson to be assistant attorney general for the Office of Justice programs, Jan Chaiken to be Director of the Bureau of Justice Statistics and Jeremy Travis to be Director of the National Institute of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

S. 784, DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT

Mr. HARKIN. Mr. President, I am very pleased that the Senate on Saturday unanimously passed S. 784, the Dietary Supplement Health and Education Act. This was an important moment for American consumers and for preventive health care. And it has been a long-time coming. My colleague from Utah, Senator HATCH, and I have been working for months to bring about this bipartisan compromise which promotes consumer protection and education and freedom of choice.

The Hatch-Harkin compromise adopted by the Senate is the result of many weeks of discussions and alterations. It guarantees the American people access to supplements to their diets that promote improved health and well-being. It also takes steps to assure that consumers will receive truth and nonmisleading information about these products without excessive, biased regulation by the Federal Government.

Mr. President, there is an overwhelming irony in a government that subsidizes to the tune of a billion dollars a year the advertising and promotion of tobacco, which kills over 450,000 Americans a year, while running roughshod on the promotion of products that aim to promote health and save lives.

Taxpayers are being asked to subsidize activities that are designed to hook our kids on a habit that we know robs health. At the same time the FDA wants to deny people access to information they can use to take charge of their own health. Something is out of whack here. And the Hatch-Harkin substitute changes that.

Our substitute includes four major modifications to the bill adopted by the Labor Committee in May.

First, health claims will be subject to the pre-approval process and standard established by the Nutrition Labeling and Education Act while a Commission studies what and provides us recommendations on the best way to handle these claims. This is a significant change from the original S. 784 and shows a great willingness to compromise.

Second, it assures that consumers can receive truthful, nonmisleading articles, books or other publications at health food stores and elsewhere in connection with the sale of dietary supplements. This information has to be presented in a manner that ensures that consumers receive a balanced view of the scientific evidence about the health effects of dietary supplements. I believe this will make for more informed consumers and better consumer decision by reducing the great confusion that exist today due to the almost daily reports—often conflicting and confusing—we take in from newspapers and others on the latest new study on the health effects of vitamins, minerals, and other dietary supplements.

Third, the compromise assures that prescription drugs cannot escape appropriate review and oversight by being classified as dietary supplements. This concern was raised by a number of Senators and the legislation before us addresses it in a sensible manner.

Fourth, our compromise assures that so-called structure-function claims can be made while assuring that these claims are not health or disease claims.

Mr. President, this compromise is a critical first step toward final enactment of S. 784. The bill now goes to the House for its consideration. Our staffs have been meeting for months with leaders in the House. They have made significant progress in a number of important areas. I believe that with the unanimous passage of the Hatch-Harkin compromise here in the Senate, and with these ongoing discussions, we can see a good bill signed into law this year. I will continue to do all I can to make sure that happens, and happens as quickly as possible.

As you know, I have been a long-time advocate of preventive health care. And this proposal is an important part of that. We don't have a health care system in this Nation. We have a sick care system. We spend billions patching and mending. But we flunk when it comes to helping people stay healthy in the first place. If all we do is change how we pay the bills, we're just rearranging the deck chairs on the Titanic. We're going down. The only way we'll really get costs under control is to emphasize prevention and giving people the wherewithal to stay healthy.

This bill is an important step in that direction.

ORDER FOR CONSIDERATION OF COMMERCE-STATE-JUSTICE APPROPRIATIONS CONFERENCE REPORT

Mr. FORD. Mr. President, I ask unanimous consent that at 9:30 a.m. Friday, August 19, the Chair lay before the Senate a conference report accompanying H.R. 4603, the Commerce-State-Justice appropriations bill, and that the Senate then proceed to its immediate consideration; that there be a time limit of 1 hour for debate, with the time equally divided and controlled in the usual form; that upon the use or yielding back of the time without intervening action the Senate proceed to vote on the adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I now ask that it be in order to request the yeas and nays on adoption of the conference report.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. I thank the Chair.

JUDICIAL AMENDMENTS ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2407, the Judicial Amendments Act of 1994 introduced earlier today by Senators HEFLIN, BIDEN, HATCH, GRASSLEY, and SPECTER; that the bill be read three times, passed, motion to reconsider be laid upon the table, and that any statements relating to this legislation be placed in the record at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I am pleased to introduce with several of my colleagues on the Judiciary Committee a bill that will extend several authorities relative to the operation of the U.S. judiciary. I know that I and my colleagues would have liked to have done more, but the Senate schedule precludes a more comprehensive courts bill this year. I would expect that if I continue as chairman of the Courts Subcommittee in the next Congress, I will, in cooperation with all members of my subcommittee, hold hearings early next year to consider legislation on behalf of the administrative office of the U.S. courts as well as the U.S. Court of Federal Claims.

Section 1 of this legislation designates the name of the bill as the Judicial Amendments Act of 1994.

Section 2 extends the authorization of the Judiciary Automation Fund by 3 years to September 30, 1997 and clarifies the purposes for which the fund can be used, authorizing other agencies within the Federal judiciary to contribute to and use the fund if they deem it appropriate.

Congress established the fund, which is administered by the administrative office of the U.S. courts, in 1989 to create a multiyear source of funding to allow the judiciary to develop and implement a long-term plan to automate the Federal courts.

The General Accounting Office in a report to Congress on June 30, 1994 advises that the fund obligations for fiscal years 1990–93 were approximately $351 million for automation services, equipment, and support for the Federal courts.

The GAO report states that the fund has financed the expansion of automation to 190 of 197 courts by March of this year. This has been, however, not without problems—the systems are cumbersome to use and maintain. The GAO report notes that the Federal judiciary has begun to establish life cycle management standards to ensure quality systems design and implementation and to develop greater user involvement in systems development.

The GAO report recommends that Congress should reauthorize the fund for less than 5 years, and this legislation would follow that recommendation by reauthorizing the fund for 3 additional years to September 30, 1997.

Section 2 also incorporates three other recommendations of the GAO report. It will require the judiciary to report annually to Congress on the progress in developing a strategic business plan for the courts, implementing a long-range automation plan based on the strategic business plan, and require effective administrative office oversight of court automation efforts. It is my belief that if Congress follows the recommendation of the GAO report that these actions will, as the report states, "result in more effective use of the judiciary's automation resources."

Section 3 of this legislation is a simple reauthorization of 3 years to December 31, 1997 of 10 pilot programs of

VOL 140 PT 16 AG 12 — 18 1994 UMI

mandatory court-annexed arbitration which are currently operating in selected Federal district courts as well as 10 additional pilot programs of voluntary court-annexed arbitration.

The Judicial Conference has recommended that Congress adopt legislation to continue authorization for court-annexed arbitration in the 20 districts which are operating such programs, and the conference has gone only so far as to recommend authorization for the remaining Federal district courts of voluntary court-annexed arbitration. Thus the conference has not recommended the expansion of mandatory court-annexed arbitration for the remainder of the Federal district courts. This section of the legislation follows the recommendation of the Judicial Conference.

It is my understanding from discussions with Department of Justice officials that the administration expects to present a comprehensive civil justice reform plan to congress early next year and that in this plan the issue of alternative dispute resolution will be addressed. Additionally, later this year I expect to introduce legislation that would address this issue as regards voluntary A.D.R.

Section 4 of this bill extend the Rand Corp's study of civil litigation for 1 additional year. More than 3½ years have passed since the Civil Justice Reform Act [CJRA], the Biden bill, was signed into law. Each of the 94 U.S. district courts has implemented expense and delay reduction plans in accordance with the dictates of the CJRA. The Judicial Conference is required to submit a final report evaluating certain case management principles included in the expense and delay reduction plans in December 1995 28 U.S.C. §471 notes.

The Rand Corp. was designated by the Judicial Conference to conduct the study by examining 5,000 cases selected from 20 courts. Ten of these courts—pilot courts—were required to implement their expense and delay reduction plans on an expedited basis and include the six principles of case management outlines in 28 U.S.C. §473(A). The remaining 10 courts—comparison courts—implemented expense and delay reduction plans but were not required to adopt the six principles. The study will determine whether the six principles contribute to reducing expense and delay in Federal courts.

In May, the Judicial Conference Committee on Court Administration and Case Management sent a letter to Chairman BIDEN outlining Rand's concerns about completion of the study. As a result of unforeseen problems in implementing plans, some of the courts in the study did not implement an expense and delay reduction plan as quickly as expected. Rand estimates that 20 percent of the cases chosen as part of the study will not be closed by the statutory deadline for completion of the study.

While Rand can estimate the results of the remaining cases, concrete results from the open cases are integral to the study and should not be the subject of speculation. Both the Judicial Conference and Rand maintain that the remaining 20 percent of the cases will represent the most complex segment of the caseload—those cases requiring significant amounts of judicial involvement, discovery and court time. One of the primary purposes behind the CJRA was to develop methods to expedite consideration of complex cases. Rand asserts that an additional year for the study would leave less than 8 percent of the cases unresolved.

Again, the provisions of this legislation are designed to address the immediate concerns and needs of the Federal judiciary. I urge my colleagues to support its immediate passage.

Mr. SPECTER. Mr. President, I am pleased to join in introducing this legislation to reauthorize certain important programs for the Federal judiciary that must be reauthorized this year or they will expire. All of the provisions of this bill are vital to the judicial branch and not controversial.

The legislation would reauthorize for 3 years the Judiciary Automation Fund, through which the Federal courts purchase automation equipment and services to improve their efficiency. The bill makes some changes to the Automation Fund in response to a recent study by the General Accounting Office, which was critical of certain aspects of the fund's operation. These changes will improve the management of the Automation Fund, and I thank Senator HEFLIN and Senator GRASSLEY for making them in order to improve the operation of the fund.

The bill will also extend the Rand Corp.'s study of Federal civil litigation that was authorized in the Civil Justice reform Act of 1990 for an additional year. In order to ensure that this study is most useful to Congress and the courts, it must include a review of the most complex cases that can take the longest time to resolve. Permitting a 1-year extension will allow the Rand Corp. to prepare a broader report that will be of greater use to Congress in evaluating the Federal civil justice system.

Finally, and of most interest to me, the bill would reauthorize for 3 years the 20 court-annexed arbitration programs in the Federal courts. Currently, 10 Federal judicial districts are authorized to employ voluntary, nonbinding arbitration programs and another 10 are authorized to employ mandatory, binding arbitration for small civil cases.

The eastern district of Pennsylvania, under the leadership of Judge Raymond Broderick, pioneered the use of mandatory court-annexed arbitration. Today, all segments of the bar of the eastern district of Pennsylvania, plaintiffs' lawyers and defense counsel, strongly support the program. The judges of the court also strongly favor the program, which enables the court to resolve small cases expeditiously and with minimal cost to the litigants. I have heard from many judges of the eastern district and the court of appeals for the third circuit supporting this reauthorization.

While there has been debate over whether to expand mandatory, court-annexed arbitration programs throughout the Federal judiciary, there is no reason to prevent those courts that have been employing it successfully at their own option to continue to do so.

I am grateful to both Senator HEFLIN and Senator GRASSLEY, the chairman and ranking Republican of the Subcommittee on Courts and Administrative Practice, for moving so expeditiously on this bill, which will benefit not simply the judges, lawyers, and litigants of the eastern district of Pennsylvania, but this Nation as a whole. Because the programs reauthorized by this bill will expire this year, it is imperative that Congress act promptly. By introducing and passing the bill on the same day, the Senate is doing its part to ensure the uninterrupted continuation of these programs. I hope that the House will act responsibly and adopt this bill promptly so that this legislation may be signed into law before the programs expire.

I thank the presiding officer and yield the floor.

Mr. GRASSLEY. Mr. President, I am pleased to join Senator HEFLIN in cosponsoring the Judicial Amendments Act of 1994. This bill is designed to address three elements important to the operation of our Federal court system.

First, the bill reauthorizes for 3 years the existing court-annexed arbitration programs. Currently, 10 district courts have mandatory, nonbinding arbitration for cases involving less than $150,000. And another 10 districts have voluntary, nonbinding programs. The authority for these programs would otherwise expire this December without our legislation.

Court-annexed arbitration is designed to let individuals and small businesses obtain speedier and less costly relief from the Federal courts. The Federal Judicial Center studied court-annexed arbitration and concluded that alternative dispute resolution works. I strongly agree. But because limited time remains in this Congress, this bill will only extend the existing programs, despite the overwhelming evidence that all judicial districts should be allowed to create these programs.

The second feature of the bill is to extend the Rand Corp.'s study of civil litigation for another year. In the Civil Justice Reform Act of 1990, the Rand Corp. was tasked with studying various kinds of civil cases in the Federal judicial system. A large number of cases have been examined. However, the process did not start as early as might have been ideal. As a result, the kinds of cases that have not been fully studied are the largest, most complex cases that take the longest time to proceed to resolution. For the Rand study to be most useful to the subject to civil justice reform, it must examine the largest and most complex cases, because these cases have a disproportionate impact on the quality of civil justice provided by the Federal courts and on resources expended. By extending the study for another year, the Rand study will be more useful when the 104th Congress considers civil justice reform.

The third element of this bill is a reauthorization of the Judiciary Automation Fund. The Federal courts must use this fund for their purchase of automation equipment and services. Automation services are used by Federal courts for case, financial, and personnel management.

The Automation Fund is worthy and should be reauthorized. We have followed a recent General Accounting Office report which recommends a 3-year reauthorization rather than 5 years. During these 3 years, the judiciary will be able to assess the quality of its ongoing automation efforts and demonstrate progress in responding to the criticisms of the GAO report.

The bill conditions reauthorization of the fund on the judiciary's development of an overall strategic business plan to identify the missions, goals, and objectives of judicial automation. The judiciary is required to develop a long-term automation plan based on the strategic business plan and estimated user needs. Moreover, the judiciary needs to establish effective oversight by the Administrative Office to ensure the effectiveness of existing system and control over development of future systems. At the moment, there are multiple systems of automation in various courts, some of which are incompatible with each other. There are a few additional conditions for the Administrative Office, such as auditing and financial systems, contained in the bill that derive as well from the GAO report.

Mr. President, because of the immediate need to reauthorize these functions in light of the short time remaining for the 103d Congress, the bill is limited to these areas. Nonetheless, the importance of civil justice reform remains as important as ever. Although I am pleased to see this effort undertaken to keep existing reforms continue, and I appreciate chairman HEFLIN'S efforts, this bill is not enough. I will work in the 104th Congress to ensure that civil justice reform is a top priority of the Judiciary Committee. By then, the administration will have issued its recommendations in this area, and the Rand study will be completed.

So the bill (S. 2407) was passed, as follows:

S. 2407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Amendments Act of 1994".

SEC. 2. AMENDMENTS TO THE JUDICIARY AUTOMATION FUND.

Section 612 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence by inserting after "equipment for" the following: "program activities included in the courts of appeals, district courts, and other judicial services account of"; and

(B) in the third sentence by striking out all after "personal services" and inserting in lieu thereof ", support personnel in the courts and in the Administrative Office of the United States Courts, and other costs, for the effective management, coordination, operation, and use of automatic data processing equipment purchased by the Fund. In addition, all agencies of the judiciary may make deposits into the Fund to meet their automatic data processing needs in accordance with subsections (b) and (c)(2).";

(2) in subsection (b)(1) by striking out "judicial branch" and inserting in lieu thereof "activities funded under subsection (a) and shall include an annual estimate of any fees that may be collected under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133)";

(3) in subsection (b)(2) by striking out "judicial branch of the United States" and inserting in lieu thereof "activities funded under subsection (a)";

(4) in subsection (c)(1)(A), by inserting after "surplus property" the following: ", all fees collected after the date of the enactment of the Judicial Amendments Act of 1994 by the judiciary under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133)";

(5) in subsection (e)(1)—

(A) by striking out "(A)"; and

(B) by striking out "$75,000,000" and inserting in lieu thereof "amounts estimated to be collected under subsection (c) for that fiscal year";

(6) in subsection (h) by amending the subsection to read as follows:

"(h) ANNUAL REPORT.—

"(1) IN GENERAL.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of automatic data processing equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

"(2) ADDITIONAL CONTENTS OF REPORT.—The annual report submitted under this subsection shall include—

"(A) the specific actions taken and the progress made to improve the plan developed under subsection (b) and the long range automation plan and strategic business plan developed under subsection (k); and

"(B) a comparison of planned Fund expenditures and accomplishments with actual Fund expenditures and accomplishments, and the reasons for any delays in scheduled systems development, or budget overruns.

"(3) REPORT IN YEAR OF TERMINATION OF AUTHORITY.—The annual report submitted under this subsection for any year in which the authority for this section is to terminate under subsection (m), shall be submitted no later than 9 months before the date of such termination.";

(7) in subsection (i) by striking out all after "Judicial Conference of the United States," and inserting in lieu thereof "may transfer amounts up to $1,000,000 from the Fund into the account to which the funds were originally appropriated. Any amounts transferred from the Fund in excess of $1,000,000 in any fiscal year may only be transferred by following reprogramming procedures in compliance with section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2227).";

(8) in subsection (j) in the second sentence by inserting "in statute" after "not specified";

(9) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) LONG RANGE MANAGEMENT AND BUSINESS PLANS.—The Director of the Administrative Office of the United States Court shall—

"(1) develop an overall strategic business plan which would identify the judiciary's missions, goals, and objectives;

"(2) develop a long range automation plan based on the strategic business plan and user needs assessments;

"(3) establish effective Administrative Office oversight of court automation efforts to ensure the effective operation of existing systems and control over developments of future systems;

"(4) expedite efforts to complete the development and implementation of life cycle management standards;

"(5) utilize the standards in developing the next generation of case management and financial systems; and

"(6) assess the current utilization and future user requirements of the data communications network."; and

(10) in subsection (m) (as redesignated under paragraph (9) of this section—

(A) in the first sentence by striking out "1994", and inserting in lieu thereof, "1997"; and

(B) in the second sentence by striking out "'Judicial Services Account'" and inserting in lieu thereof "fund established under section 1931 of this title".

SEC. 3. COURT ARBITRATION AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 905 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note) is amended—

(1) in the first sentence by striking out "for the fiscal year ending September 30, 1989, and for each of the succeeding 7 fiscal years," and inserting in lieu thereof "for each of the fiscal years 1994 through 1997"; and

(2) in the third sentence by striking out all beginning with ", except that" through "this Act".

(b) REMOVAL OF REPEALER.—Section 906 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note), and the item relating to such section in the table of contents contained in section 3 of such Act, are repealed.

SEC. 4. EXTENSION OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PILOT PROGRAMS.

Section 105 of the Civil Justice Reform Act of 1990 (28 U.S.C. 471 note; 104 Stat. 5097) is amended—

VOL
140
PT
16
AG
12
—
18
1994
UMI

(1) in subsection (a)(1) by striking out "4-year period" and inserting in lieu thereof "5-year period";

(2) in subsection (b)(3)—

(A) in the first sentence by striking out "3 years" and inserting in lieu thereof "4 years"; and

(B) in the second sentence by striking out "3-year period" and inserting in lieu thereof "4-year period"; and

(3) in subsection (c)(1) by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 1996,".

LOCAL SERVICE AREA OF PRIMARY TRANSMITTER

Mr. SIMPSON. Mr. President, I send a bill to the desk on behalf of Senators HUTCHISON and HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A bill (S. 2406) to amend title 17, United States Code, relating to the definition of local service area of a primary transmitter, and for other purposes.

There being no objection, the bill (S. 2406) was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 2406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.

(a) IN GENERAL.—Section 111(f) of title 17, United States Code, is amended in the paragraph relating to the definition of "local service area of a primary transmitter"—

(1) by striking out "comprises the area" and inserting in lieu thereof "comprises either the area"; and

(2) by inserting after "April 15, 1976," the following: "or such station's television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any subsequent modifications to such television market made pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations,".

(b) EFFECTIVE DATE.—The amendment made under subsection (a), relating to the definition of the local service area of a primary transmitter, shall take effect on July 1, 1994.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar number 561, S. 2060, the Small Business Administration Reauthorization.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Small Business, with an amendment to strike out all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—AUTHORIZATIONS
Sec. 101. Authorizations.
TITLE II—FINANCIAL ASSISTANCE PROGRAMS
Sec. 201. Microloan financing pilot.
Sec. 202. Eligibility of Native American tribal governments to be microloan intermediaries.
Sec. 203. Microloan program extension.
Sec. 204. Microloan program funding and State limitations.
Sec. 205. Distribution of intermediaries.
Sec. 206. Microloan intermediary loan limitation.
Sec. 207. Microloan technical assistance to nonborrowers.
Sec. 208. Microloan demonstration program grants.
Sec. 209. Eligibility to participate as a microloan intermediary and a technical assistance provider.
Sec. 210. Loans to exporters.
Sec. 211. Working capital international trade loans.
Sec. 212. Guarantees on international trade loans.
Sec. 213. Accredited lenders program.
Sec. 214. Interest rate on certified development company loans.
Sec. 215. Certifications of eligibility for SBIC and SSBIC financing.
Sec. 216. Participating securities for smaller SBICs.
TITLE III—SIZE STANDARDS AND BOND GUARANTEES
Sec. 301. Size standard criteria.
Sec. 302. Sunset on preferred surety bond guarantee program.
Sec. 303. Manufacturing contracts through manufacturing application and education centers.
TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE
Subtitle A—General Provisions
Sec. 401. Sunset on cosponsored training.
Sec. 402. Small business development center program level.
Sec. 403. Federal contracts with small business development centers.
Sec. 404. Small business development center program examination and certification.
Sec. 405. Service Corps of Retired Executives (SCORE) program.
Sec. 406. Information concerning franchising.
Subtitle B—Development of Woman-Owned Businesses
Sec. 411. Extension of authority for demonstration projects.
Sec. 412. Establishment of Office of Women's Business Ownership.
Sec. 413. National Commission on Women in Business.
TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES
Sec. 501. Short title.
Sec. 502. Prepayment of development company debentures.
TITLE VI—MISCELLANEOUS AMENDMENTS
Sec. 601. Consolidation of funding accounts.
Sec. 602. Imposition of fees.
Sec. 603. Job creation and community benefit.
Sec. 604. Microloan program amendments.
Sec. 605. Technical clarification.
Sec. 606. Secondary market study due date.
Sec. 607. Study and data base: Guaranteed Business Loan Program and Development Company Program.
Sec. 608. SBIR vendors.
Sec. 609. Program extension.
Sec. 610. Prohibition on the use of funds for individuals not lawfully within the United States.
Sec. 611. Office of advocacy employees.
Sec. 612. Prohibition on the provision of assistance.
Sec. 613. Certification of compliance with child support obligations.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (k) (as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992) through (p) and inserting the following:

"(l) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by this Act, the Administration is authorized to make $110,000,000 in direct and immediate participation loans, and $45,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $13,315,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $9,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,300,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,000,000,000 in loans as provided in section 7(a)(21); and

"(D) $15,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $33,000,000 in purchases of preferred securities;

"(B) $275,000,000 in guarantees of debentures, of which $65,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $500,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,800,000,000, of which not more than $450,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter into cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,500,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,000,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), $25,000,000, to remain available until expended.

"(m) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(n) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by this Act, the Administration is authorized to make $175,000,000 in direct and immediate participation loans, and $65,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $15,320,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $10,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,800,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $39,000,000 in purchases of preferred securities;

"(B) $300,000,000 in guarantees of debentures, of which $70,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $750,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $500,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,750,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,250,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(p) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by this Act, the Administration is authorized to make $250,000,000 in direct and immediate participation loans and $98,000,000 in technical assistance grants as provided in section 7(m), to remain available until expended.

"(2) For the programs authorized by this Act, the Administration is authorized to make $19,020,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $12,000,000,000 in general business loans as provided in section 7(a);

"(B) $3,500,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $3,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $45,000,000 in purchases of preferred securities;

"(B) $375,000,000 in guarantees of debentures, of which $75,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $1,125,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,200,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,000,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,500,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(q) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.".

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

SEC. 201. MICROLOAN FINANCING PILOT.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following new paragraph:

"(12) DEFERRED PARTICIPATION LOAN PILOT.—In lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), during fiscal years 1995 through 1997, the Administration may, on a pilot program basis, participate on a deferred basis of not less than 90 percent and not more than 100 percent on loans made to intermediaries by a for-profit or nonprofit entity or by alliances of such entities, subject to the following conditions:

"(A) NUMBER OF LOANS.—In carrying out this paragraph, the Administration shall not participate in providing financing on a deferred basis to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

"(B) TERM OF LOANS.—The term of each loan shall be 10 years. During the first year of the loan, the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall be required to pay interest only. During the sixth through tenth years of the loan, the intermediary shall be required to make interest payments and fully amortize the principal.

"(C) INTEREST RATE.—The interest rate on each loan shall be the rate specified by paragraph (3)(F) for direct loans. Subject to the availability of appropriations, the Administration may make payments to lenders on behalf of intermediaries in order to achieve such interest rate.".

SEC. 202. ELIGIBILITY OF NATIVE AMERICAN TRIBAL GOVERNMENTS TO BE MICROLOAN INTERMEDIARIES.

Section 7(m)(11)(A) of the Small Business Act (15 U.S.C. 636(m)(11)(A)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the comma at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(v) an agency of or nonprofit entity established by a Native American Tribal Government,".

SEC. 203. MICROLOAN PROGRAM EXTENSION.

Section 609(j) of Public Law 102–140 (105 Stat. 831) is amended by striking "5 years after the date of enactment of this Act", and inserting "on October 1, 1998".

SEC. 204. MICROLOAN PROGRAM FUNDING AND STATE LIMITATIONS.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (5)(A)—

(A) by striking "25 grants" and inserting "50 grants"; and

(B) by striking "$125,000" and inserting "$150,000"; and

(2) by striking paragraph (7) and inserting the following:

"(7) PROGRAM FUNDING FOR MICROLOANS.—

"(A) NUMBER OF PARTICIPANTS.—In carrying out paragraph (1)(B)(i), the Administration may fund, on a competitive basis, not more than—

"(i) 150 microloan programs in fiscal year 1995; and

"(ii) 200 microloan programs in each succeeding fiscal year.

"(B) STATE LIMITATIONS.—A State shall not receive more than $10,000,000 in loan funds during any year of program participation.".

SEC. 205. DISTRIBUTION OF INTERMEDIARIES.

Section 7(m)(8) of the Small Business Act (15 U.S.C. 636(m)(8)) is amended to read as follows:

"(8) DISTRIBUTION OF INTERMEDIARIES.—In approving microloan program applicants under this subsection, the Administration shall select such intermediaries as will further microloan availability for small businesses in all industries located throughout each State, especially small businesses located in economically distressed urban and rural areas.".

SEC. 206. MICROLOAN INTERMEDIARY LOAN LIMITATION.

Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking "$1,250,000" and inserting "$2,000,000".

SEC. 207. MICROLOAN TECHNICAL ASSISTANCE TO NONBORROWERS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended by adding at the end the following new subparagraph:

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(E) ASSISTANCE TO CERTAIN SMALL BUSINESS CONCERNS.—Each intermediary may expend an amount not to exceed 20 percent of the grant funds authorized under paragraph (1)(B)(II) to provide marketing, management, and technical assistance to small business concerns that are not borrowers under this subsection.".

SEC. 208. MICROLOAN DEMONSTRATION PROGRAM GRANTS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended—

(1) in subparagraph (B), by inserting "except for a grant made to an intermediary that provides not less than 50 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe," after "under subparagraph (A),"; and

(2) in subparagraph (C), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—In addition to grants made under subparagraph (A), each intermediary shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection if—

"(I) the intermediary provides not less than 25 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe; or

"(II) the intermediary has a portfolio of loans made under this subsection that averages not more than $7,500 during the period of the intermediary's participation in the program."

SEC. 209. ELIGIBILITY TO PARTICIPATE AS A MICROLOAN INTERMEDIARY AND A TECHNICAL ASSISTANCE PROVIDER.

Section 7(m)(2) of the Small Business Act (15 U.S.C. 636(m)(2)) is amended—

(1) by striking "(2) ELIGIBILITY FOR PARTICIPATION.—An" and inserting the following:

"(2) ELIGIBILITY FOR PARTICIPATION.—

"(A) IN GENERAL.—An";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting accordingly; and

(3) by adding at the end the following new subparagraph:

"(B) PARTICIPATION AS INTERMEDIARY AND TECHNICAL ASSISTANCE PROVIDER.—A single entity may simultaneously receive 1 grant as an intermediary pursuant to paragraph (1)(B)(ii) and 1 grant as a nonintermediary technical assistance provider pursuant to paragraph (1)(B)(iii) if the Administration determines that—

"(i) the purposes of the grants are not duplicative;

"(ii) the grants will enable the entity to provide technical assistance to different geographic areas, or to support both guaranteed and direct loans in the same geographic area; and

"(iii) the entity meets all of the requirements of the programs authorized pursuant to clauses (i) and (iii) of paragraph (1)(B).".

SEC. 210. LOANS TO EXPORTERS.

Section 7(a)(14)(A) of the Small Business Act (15 U.S.C. 636(a)(14)(A)) is amended to read as follows:

"(14)(A) The Administration may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable.".

SEC. 211. WORKING CAPITAL INTERNATIONAL TRADE LOANS.

Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended to read as follows:

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,250,000, of which not more than $750,000 may be used for working capital, supplies, or financings under section 7(a)(14) for export purposes; and".

SEC. 212. GUARANTEES ON INTERNATIONAL TRADE LOANS.

Section 7(a)(2)(B)(iv) of the Small Business Act (15 U.S.C. 636(a)(2)(B)(iv)) is amended to read as follows:

"(iv) not less than 85 percent nor more than 90 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (14) or (16).".

SEC. 213. ACCREDITED LENDERS PROGRAM.

(a) ESTABLISHMENT.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 507. ACCREDITED LENDERS PROGRAM.

"(a) ESTABLISHMENT.—The Administration is authorized to establish an Accredited Lenders Program for qualified State and local development companies that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—The Administration may designate a qualified State or local development company as an accredited lender if such company—

"(1) has been an active participant in the Development Company Program authorized by sections 502, 503, and 504 for not less than the preceding 12 months;

"(2) has well-trained, qualified personnel who are knowledgeable in the Administration's lending policies and procedures for such Development Company Program;

"(3) has the ability to process, close, and service financing for plant and equipment under such Development Company Program;

"(4) has a reasonable and acceptable loss rate on the company's debentures;

"(5) has a history of submitting to the Administration complete and accurate debenture guaranty application packages; and

"(6) has demonstrated the ability to serve small business credit needs for financing plant and equipment through the Development Company Program authorized by sections 502, 503, and 504.

"(c) EXPEDITED PROCESSING OF LOAN APPLICATIONS.—The Administration shall develop an expedited procedure for processing a loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

"(d) SUSPENSION OR REVOCATION OF DESIGNATION.—

"(1) IN GENERAL.—The designation of a qualified State or local development company as an accredited lender may be suspended or revoked if the Administration determines that—

"(A) the development company has not continued to meet the criteria for eligibility under subsection (b); or

"(B) the development company has failed to adhere to the Administration's rules and regulations or is violating any other applicable provision of law.

"(2) EFFECT.—A suspension or revocation under paragraph (1) shall not affect any outstanding debenture guarantee.

"(e) DEFINITION.—For purposes of this section, the term 'qualified State or local development company' has the same meaning as in section 503(e).".

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Administration shall promulgate final regulations to carry out this section.

(c) REPORT.—Not later than 1 year after the effective date of regulations promulgated under subsection (b), the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Such report shall include data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, the average processing time on their guarantee applications, and such other information as the Administration deems appropriate.

SEC. 214. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

Section 112(c) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended—

(1) in paragraph (1), by striking "(1) IN GENERAL.—Section 503" and inserting "Section 503"; and

(2) by striking paragraph (2).

SEC. 215. CERTIFICATIONS OF ELIGIBILITY FOR SBIC AND SSBIC FINANCING.

Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end the following new subsection:

"(h) CERTIFICATIONS OF ELIGIBILITY.—

"(1) CERTIFICATION BY SMALL BUSINESS CONCERN.—Prior to receiving financial assistance from a company licensed pursuant to subsection (c) or (d) of section 301, a small business concern shall certify in writing that it meets the eligibility requirements of the Small Business Investment Company Program or the Specialized Small Business Investment Company Program, as applicable.

"(2) CERTIFICATION BY COMPANY.—Prior to providing financial assistance to a small business concern under this Act, a company licensed pursuant to subsection (c) or (d) of section 301 shall certify in writing that it has reviewed the application for assistance of the small business concern and that all documentation and other information supports the eligibility of the applicant.

"(3) RETENTION OF CERTIFICATIONS.—Certificates made pursuant to paragraphs (1) and (2) shall be retained by the company licensed pursuant to subsection (c) or (d) of section 301 for the duration of the financial assistance.".

SEC. 216. PARTICIPATING SECURITIES FOR SMALLER SBICS.

Section 303(g) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)) is amended by adding at the end the following new paragraph:

"(13) PARTICIPATING SECURITIES FOR SMALLER SMALL BUSINESS INVESTMENT COMPANIES.—

"(A) IN GENERAL.—Subject to the provisions of subparagraph (B), of the amount of the annual program level of participating securities approved in appropriations Acts, 50 percent shall be reserved for funding small business investment companies with private capital of less than $20,000,000.

"(B) EXCEPTION.—During the last quarter of each fiscal year, if the Administrator determines that there is a lack of qualified applicants with private capital of less than $20,000,000, the Administrator may utilize all or any part of the program level for securities reserved under subparagraph (A) for qualified applicants with private capital of $20,000,000 or more.".

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

SEC. 301. SIZE STANDARD CRITERIA.

Section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is amended to read as follows:

"(2) SIZE STANDARD CRITERIA.—

"(A) IN GENERAL.—In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act.

"(B) ADDITIONAL CRITERIA.—The standards described in paragraph (1) may utilize number of employees, dollar volume of business, net worth, net income, or a combination thereof.

"(C) REQUIREMENTS.—Unless specifically authorized by statute, no Federal department or agency may prescribe a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(i) is proposed after an opportunity for public notice and comment;

"(ii) provides for determining—

"(I) the size of a manufacturing concern as measured by the manufacturing concern's average employment based upon employment during each of the manufacturing concern's pay periods for the preceding 12 months;

"(II) the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than 3 years; and

"(III) the size of other business concerns on the basis of data over a period of not less than 3 years; and

"(iii) is approved by the Administrator.".

SEC. 302. SUNSET ON PREFERRED SURETY BOND GUARANTEE PROGRAM.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking "September 30, 1994" and inserting "September 30, 1995".

SEC. 303. MANUFACTURING CONTRACTS THROUGH MANUFACTURING APPLICATION AND EDUCATION CENTERS.

(a) IN GENERAL.—The Small Business Administration shall promote the award of Federal manufacturing contracts to small business concerns that participate in manufacturing application and education centers by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently foreign-sourced.

(b) QUALIFICATIONS.—In order to qualify as a manufacturing application and education center under this section, an entity shall have the capacity to assist small business concerns in a shared-use production environment and to offer the following services:

(1) Technology demonstration.

(2) Technology education.

(3) Technology application support.

(4) Technology advancement support.

(c) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements of section 15(o)(1)(B) of the Small Business Act shall not apply with respect to any manufacturing contract carried out by a small business concern in conjunction with a manufacturing application and education center under this section.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final regulations to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority of the Small Business Administration under this section shall terminate on September 30, 1997.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

SEC. 401. SUNSET ON COSPONSORED TRAINING.

(a) IN GENERAL.—

(1) REPEAL.—The amendments made by section 5(a) of Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) are hereby repealed.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on September 30, 1997.

(b) CONFORMING AMENDMENT.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended in the second sentence by striking "and the amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are" and inserting "is".

SEC. 402. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.

Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended to read as follows:

"(4) SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.—

"(A) IN GENERAL.—The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions.

"(B) RESTRICTION.—The matching amount described in subparagraph (A) shall not include any indirect costs or in-kind contributions derived from any Federal program.

"(C) NATIONAL PROGRAM.—

"(i) IN GENERAL.—No recipient of funds under this section shall receive a grant that exceeds—

"(I) for fiscal year 1995, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $100,000; or

"(bb) $200,000; and

"(II) except as provided in clause (ii), in each succeeding fiscal year, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $200,000; or

"(bb) $300,000.

"(ii) EXCEPTION.—The provisions of clause (i)(I) shall apply in any fiscal year after fiscal year 1995 in which, based on funds appropriated, a small business development center would, under the provisions of clause (i)(II), receive less than the small business development center received in fiscal year 1995.

"(iii) AMOUNT.—The amount of the national program shall be—

"(I) $70,000,000 through September 30, 1995;

"(II) $77,500,000 from October 1, 1995 through September 30, 1996; and

"(III) $85,000,000 beginning October 1, 1996.

The amount for which a small business development center is eligible under this paragraph shall be based upon the amount of the national program in effect as of the date for commencement of performance of the small business development center's grant.".

SEC. 403. FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a)(5) of the Small Business Act (15 U.S.C. 648(a)(5)) is amended to read as follows:

"(5) FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.—

"(A) IN GENERAL.—A small business development center may enter into a contract with a Federal department or agency to provide specific assistance to small business concerns, if the contract is approved in advance by the Associate Administrator of the small business development center program.

"(B) APPROVAL CRITERIA.—Each approval of a contract under subparagraph (A) shall be based upon a determination that the contract will provide assistance to small business concerns and that performance of the contract will not hinder the small business development center in carrying out the terms of the grant received by the small business development center from the Administration.

"(C) EXEMPTION FROM MATCHING REQUIREMENT.—A contract under this paragraph shall not be subject to the matching funds or eligibility requirements of paragraph (4).

"(D) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, a contract for assistance under this paragraph may not be applied to any Federal department or agency's small business, woman-owned business, or socially and economically disadvantaged business contracting goal under section 15(g).".

SEC. 404. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM EXAMINATION AND CERTIFICATION.

Section 21(k) of the Small Business Act (15 U.S.C. 648(k)) is amended to read as follows:

"(k) PROGRAM EXAMINATION AND CERTIFICATION.—

"(1) EXAMINATION.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement a biannual programmatic and financial examination of each small business development center established pursuant to this section.

"(2) CERTIFICATION.—The Administration may provide financial support, by contract or otherwise, to the association authorized by subsection (a)(3)(A) for the purpose of developing a small business development center certification program.

"(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and certification program conducted pursuant to paragraphs (1) and (2).".

SEC. 405. SERVICE CORPS OF RETIRED EXECUTIVES (SCORE) PROGRAM.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended by adding at the end the following new subparagraph:

"(H) In carrying out subparagraph (B), the Administration shall encourage the Service Corps of Retired Executives (SCORE) established pursuant to such subparagraph, to the maximum extent practicable, to consult and work in conjunction with the Corporation for National and Community Service and the Points of Light Foundation established under the National and Community Service Act of 1990.".

SEC. 406. INFORMATION CONCERNING FRANCHISING.

Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended by inserting "including information on the benefits and risks of franchising," after "small-business enterprises,".

VOL 140 PT 16 AG 12 — 18 1994 UMI

Subtitle B—Development of Woman-Owned Businesses

SEC. 411. EXTENSION OF AUTHORITY FOR DEMONSTRATION PROJECTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 28 (as added by section 2 of the Women's Business Development Act of 1991) as section 29; and

(2) in section 29(g), as redesignated, by striking "1995" and inserting "1997".

SEC. 412. ESTABLISHMENT OF OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act (15 U.S.C. 656), as redesignated by section 411, is amended by adding at the end the following new subsection:

"(h) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is hereby established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises, as such term is defined in section 408 of the Women's Business Ownership Act of 1988. The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.".

SEC. 413. NATIONAL COMMISSION ON WOMEN IN BUSINESS.

(a) ESTABLISHMENT.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 401. ESTABLISHMENT.

"There is hereby established a Commission to be known as the 'National Commission on Women in Business' (hereafter in this title referred to as the 'Commission').".

(b) DUTIES OF THE COMMISSION.—Section 402 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 402. DUTIES OF THE COMMISSION.

"The Commission shall—

"(1) review, promote, coordinate, and monitor plans and programs, developed in the public and private sectors, which affect the ability of woman-owned businesses to obtain capital and credit;

"(2) promote and assist in the development of the Intermediate Census on Women's Business Ownership and other surveys of woman-owned businesses;

"(3) provide assistance to and outreach for the involvement of women business owners in White House Conference on Small Business;

"(4) study and assess—

"(A) the obstacles faced by women seeking to establish businesses and women seeking senior management positions in large and small businesses and in the professions; and

"(B) the contributions to the Nation's economy by businesses owned or managed by women; and

"(5) design a comprehensive plan for a joint public-private sector effort to facilitate the development and growth of woman-owned businesses.

"(b) REPORT.—Not later than January 31, 1996, the Commission shall submit a report to the President and the Committees on Small Business of the Senate and the House of Representatives describing the plan developed pursuant to subsection (a)(5).".

(c) MEMBERSHIP.—Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 403. MEMBERSHIP OF THE COMMISSION.

"(a) IN GENERAL.—The Commission shall be composed of 14 members, of whom—

"(1) 7 members shall be the individuals described in subsection (b); and

"(2) 7 members shall be appointed in accordance with subsection (c).

"(b) PUBLIC SECTOR MEMBERS.—For purposes of subsection (a)(1), the individuals described in this section are—

"(1) the Administrator of the Small Business Administration;

"(2) the Assistant Administrator of the Office of Women's Business Ownership of the Small Business Administration;

"(3) the Secretary of the Treasury, or the Secretary's designee;

"(4) the Secretary of Labor, or the Secretary's designee;

"(5) the Secretary of Commerce, or the Secretary's designee;

"(6) the Administrator of the General Services Administration, or the Administrator's designee; and

"(7) 1 member of the Board of Governors of the Federal Reserve System, or the designee of a member.

"(c) PRIVATE SECTOR MEMBERS.—

"(1) CHAIRPERSON.—Not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the President shall appoint an individual to serve as the chairperson of the Commission (hereafter in this title referred to as the 'Chairperson') who shall be a prominent business-woman who is qualified to head the Commission by virtue of her education, training, and experience.

"(2) OTHER MEMBERS.—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the Administrator of the Small Business Administration shall appoint 6 members of the Commission, of whom—

"(A) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is a member of the same political party as the President;

"(B) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is not a member of the same political party as the President; and

"(C) 4 shall be representatives of national women's business organizations.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) RESTRICTION.—The members of the Commission appointed pursuant to subsection (c) shall not be officers or employees of the Federal Government.

"(2) VICE CHAIRPERSON.—The member of the Commission appointed pursuant to subsection (b)(2) shall serve as vice chairperson of the Commission.

"(3) TERMS.—The term of service of the members of the Commission appointed pursuant to subsection (c) shall be 1 year. No member of the Commission may serve for more than 2 consecutive terms.

"(4) DESIGNEES.—Each designee appointed pursuant to subsection (b) shall—

"(A) be a policy-making official whose duties are consistent with the duties of the Commission; and

"(B) report directly to the head of the agency on the activities of the Commission.

"(5) COMPENSATION AND TRAVEL EXPENSES.—

"(A) PUBLIC SECTOR MEMBERS.—The members of the Commission described in subsection (b) shall serve on the Commission without additional compensation.

"(B) PRIVATE SECTOR MEMBERS.—The members of the Commission appointed pursuant to subsection (c) shall serve without pay for membership, except that such members shall be entitled to reimbursement for domestic travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner as persons serving on advisory boards pursuant to section 8(b) of the Small Business Act.

"(6) VACANCIES.—A vacancy on the Commission shall, not later than 30 days after the date on which the vacancy occurs, be filled in the same manner in which the original appointment was made.

"(7) MEETINGS.—The Commission shall meet at the call of the Chairperson not less than 4 times each year.

"(8) QUORUMS.—

"(A) RECEIPT OF TESTIMONY.—Four members of the Commission shall constitute a quorum for the receipt of testimony and other evidence.

"(B) APPROVAL OF RECOMMENDATIONS.—A majority of the members of the Commission shall constitute a quorum for the approval of recommendations or reports issued pursuant to sections 402 and 406.".

(d) EXECUTIVE DIRECTOR AND STAFF.—Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 404. EXECUTIVE DIRECTOR AND STAFF.

"(a) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director who shall be appointed by the Chairperson and the Assistant Administrator of the Small Business Administration Office of Women's Business Ownership. Upon the recommendation by the Executive Director, the Chairperson may appoint and fix the pay of 4 additional employees at a rate of pay not to exceed the maximum rate of pay payable for a position at GS–15 of the General Schedule.

"(b) ADMINISTRATIVE PROVISIONS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and except as provided in subsection (a), may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the Executive Director so appointed may not receive pay in excess of the annual rate of basic pay payable for a position at ES–1 of the Senior Executive Pay Schedule under section 5832 of title 5, United States Code.

"(c) DETAIL OF ADDITIONAL PERSONNEL.—Upon request to the Chairperson, the head of any Federal department or agency may detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title without regard to section 3341 of title 5, United States Code.".

(e) POWERS OF THE COMMISSION.—Section 405 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission"; and

(2) by adding at the end the following new subsection:

"(f) COOPERATION WITH PRIVATE ENTITIES.—

"(1) IN GENERAL.—Subject to the requirements of paragraph (2), the Commission may carry out its duties under section 402 through cooperation with private nonprofit and for-profit entities.

"(2) RESTRICTION.—If the Commission cooperates with private entities pursuant to paragraph (1), the Commission shall ensure that—

"(A) the Commission receives appropriate recognition and publicity;

"(B) the cooperation does not constitute or imply an endorsement by the Commission of the products and services of the cosponsor; and

"(C) the Commission avoids unnecessary promotion of the products and services of the cosponsor and minimizes utilization of any 1 cosponsor in a marketing area.".

(f) REPORTS.—Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission";

(2) by striking "December 31, 1989" and inserting "not later than 1 year after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994"; and

(3) by striking "based upon its reviews conducted under section 402".

(g) AUTHORIZATION.—Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $500,000 in fiscal year 1995;

"(2) $500,000 in fiscal year 1996; and

"(3) $100,000 in fiscal year 1997."; and

(2) by striking subsection (c).

(h) TRANSITION REIMBURSEMENT.—In order to facilitate the transition from the National Women's Business Council, established by title IV of the Women's Business Ownership Act of 1988, to the National Commission on Women in Business established by this section, the National Commission on Women in Business may, during the 30-day period beginning on the date on which the Chairperson of the National Commission on Women in Business is appointed pursuant to section 413 of this Act, reimburse the costs and salaries, where appropriate, of the Chairperson, Executive Director, and staff of the National Women's Business Council for transition activities.

(i) SUNSET.—The authority of the National Commission on Women in Business established under title IV of the Women's Business Ownership Act of 1988, as amended by this section, shall terminate on November 30, 1996.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

SEC. 501. SHORT TITLE.

This title may be cited as the "Small Business Prepayment Penalty Relief Act of 1994".

SEC. 502. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 506. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

"(a) IN GENERAL.—

"(1) PREPAYMENT AUTHORIZED.—Subject to the requirements set forth in subsection (b), an issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Administration under section 503 may, at the election of the borrower whose loan secures such debenture and with the approval of the Administration, prepay such debenture in accordance with the provisions of this section.

"(2) PROCEDURE.—

"(A) IN GENERAL.—In making a prepayment under paragraph (1)—

"(i) the borrower shall pay to the Federal Financing Bank an amount that is equal to the sum of the unpaid principal balance due on the debenture as of the date of the prepayment (plus accrued interest at the coupon rate on the debenture) and the amount of the repurchase premium described in subparagraph (B); and

"(ii) the Administration shall pay to the Federal Financing Bank the difference between the repurchase premium paid by the borrower under this subsection and the repurchase premium that the Federal Financing Bank would otherwise have received.

"(B) REPURCHASE PREMIUM.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), the repurchase premium is the amount equal to the product of—

"(I) the unpaid principal balance due on the debenture on the date of prepayment; and

"(II) the applicable percentage rate, as determined in accordance clause (ii).

"(ii) APPLICABLE PERCENTAGE RATE.—For purposes of clause (i)(II), the applicable percentage rate means—

"(I) with respect to a 10-year term loan, 9.5 percent;

"(II) with respect to a 15-year term loan, 9.5 percent;

"(III) with respect to a 20-year term loan, 10.5 percent; and

"(IV) with respect to a 25-year term loan, 11.5 percent.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that—

"(1) the debenture is outstanding and neither the loan that secures the debenture nor the debenture is in default on the date on which the prepayment is made;

"(2) State, local, or personal funds, or the proceeds of a refinancing in accordance with subsection (d) of this section under the programs authorized by sections 504 and 505, are used to prepay the debenture; and

"(3) the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

"(c) NO PREPAYMENT FEES OR PENALTIES.—No fees or penalties other than those specified in this section may be imposed on the issuer, the borrower, the Administration, or any fund or account administered by the Administration as the result of a prepayment under this section.

"(d) REFINANCING LIMITATIONS.—

"(1) IN GENERAL.—The refinancing of a debenture under sections 504 and 505, in accordance with subsection (b)(2) of this section—

"(A) shall not exceed the amount necessary to prepay existing debentures, including all costs associated with the refinancing and any applicable prepayment penalty or repurchase premium; and

"(B) shall be subject to the provisions of sections 504 and 505 and the rules and regulations promulgated thereunder, including rules and regulations governing payment of authorized expenses, commissions, fees, and discounts to brokers and dealers in trust certificates issued pursuant to section 505.

"(2) JOB CREATION.—An applicant for refinancing under section 504 of a loan made pursuant to section 503 shall not be required to demonstrate that a requisite number of jobs will be created with the proceeds of a refinancing.

"(3) LOAN PROCESSING FEE.—To cover the cost of loan packaging, processing, and other administrative functions, a development company that provides refinancing under subsection (b)(2) may impose a loan processing fee, not to exceed 0.5 percent of the principal amount of the loan.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'issuer' means the qualified State or local development company that issued a debenture pursuant to section 503, which has been purchased by the Federal Financing Bank; and

"(2) the term 'borrower' means a small business concern whose loan secures a debenture issued pursuant to section 503.".

(b) REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Administration shall promulgate such regulations as may be necessary to carry out this section, including regulations establishing a deadline for receipt of applications for prepayment and refinancing under title V of the Small Business Investment Act of 1958.

(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE VI—MISCELLANEOUS AMENDMENTS

SEC. 601. CONSOLIDATION OF FUNDING ACCOUNTS.

(a) IN GENERAL.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended by striking "(c)(1) There" and all that follows through paragraph (4) and inserting the following:

"(c) LOAN LIQUIDATION FUND.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—There is hereby established in the United States Treasury a fund to be known as the Loan Liquidation Fund (hereafter in this subsection referred to as the 'Fund').

"(B) AMOUNTS CONTAINED IN FUND.—All amounts received by the Administration prior to October 1, 1991, from the repayment of loans and debentures, payments of interest, and other receipts arising out of transactions entered into by the Administration pursuant to section 5(e), 5(g), 7(a), 7(b), 7(c)(2), 7(e), 7(h), 7(l), 7(m), or 8(a) of this Act, or title III, IV, or V of the Small Business Investment Act of 1958, shall be paid into the Fund. Balances existing in the revolving funds on or after the effective date of this paragraph shall be transferred to the Fund on such date.

"(C) OPERATING EXPENSES.—The Fund shall have available, without fiscal year limitation, such funds as may be necessary to finance the operational needs of the Fund.

"(2) ANNUAL STATUS REPORT.—As soon as practicable after the end of each fiscal year, the Administration shall submit to the Committees on Small Business and Appropriations of the Senate and the House of Representatives a complete report on the status of the Fund.".

(b) INTEREST PAYMENTS TO TREASURY.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (3); and

(2) in paragraph (3)(B), as redesignated, by striking clause (ii) and inserting the following:

"(ii) Upon the expiration of each fiscal year, the Administration shall pay into the miscellaneous receipts of the United States Treasury the actual interest the Administration has collected during the preceding fiscal year on all financings made under the authority of this Act.".

SEC. 602. IMPOSITION OF FEES.

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(12) impose, retain, and use only those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date, except that the Administrator may, subject to approval in appropriations Acts, impose, retain, and utilize, additional fees—

"(A) not to exceed $300 for each loan servicing action requested after disbursement of the loan, including any substitution of collateral, loan assumption, release or substitution of a guarantor, reamortization, or similar action; and

"(B) to recover the direct, incremental cost involved in the production and dissemination of compilations of information produced by the Administration under the authority of the Small Business Act and the Small Business Investment Act of 1958; and

"(13) collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations, except that amounts collected under this paragraph shall be utilized solely to facilitate the administration of the program that generated the excess amounts."

SEC. 603. JOB CREATION AND COMMUNITY BENEFIT.

Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) JOB CREATION AND COMMUNITY BENEFIT.—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

"(i) have the greatest potential for—

"(I) creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

"(II) preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

"(ii) have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.".

SEC. 604. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m)(9)(B) of the Small Business Act (15 U.S.C. 636(m)(9)(B)) is amended—

(1) by inserting "and loan guarantees" after "for loans"; and

(2) by inserting after "experienced microlending organizations" the following: "and national and regional nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing.".

SEC. 605. TECHNICAL CLARIFICATION.

(a) DEFENSE CONVERSION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(b) ADDITIONAL TECHNICAL CLARIFICATION.—Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended by striking "section 202" and inserting "this title".

SEC. 606. SECONDARY MARKET STUDY DUE DATE.

Section 6 of the Small Business Credit Enhancement Act of 1993 (15 U.S.C. 634 note) is amended by striking "16 months after the date of enactment" and inserting "November 1, 1994".

SEC. 607. STUDY AND DATA BASE: GUARANTEED BUSINESS LOAN PROGRAM AND DEVELOPMENT COMPANY PROGRAM.

(a) STUDY AUTHORIZED.—The Administration shall conduct a study of—

(1) the Guaranteed Business Loan program under section 7(a) of the Small Business Act; and

(2) the Development Company program under sections 502, 503, and 504 of the Small Business Investment Act of 1958.

(b) EVALUATION.—After conducting the study under subsection (a), the Administration shall evaluate the performance of the programs described in paragraphs (1) and (2) of subsection (a) on an annual and aggregated basis during the most recent 4-year period for which data are available. Such evaluation shall focus on the following factors:

(1) The number, dollar amount, and average size of the loans or financings under each program.

(2) The number, dollar amount, and average size of the loans or financings made to woman-owned and minority-owned businesses under each program.

(3) The geographic distribution of the loans or financings under each program.

(4) The jobs created or maintained attributable to the loans or financings under each program.

(5) The number, dollar amount, and average size of the loans or financings on which borrowers defaulted under each program.

(6) The amounts recovered by the Administration after default, foreclosure, or otherwise under each program.

(7) The number of companies which are no longer in business despite receiving the loans or financings under each program.

(8) The taxes paid by businesses which received the loans or financings under each program.

(9) Such other information as the Administration determines to be appropriate for a complete evaluation of each program.

(c) CONTRACTING WITH INDEPENDENT ENTITIES.—In carrying out subsections (a) and (b), the Administration may contract with an independent entity or entities—

(1) to conduct the study pursuant to subsection (a); and

(2) to develop a database of information to enable the Administration to maintain and access, on an ongoing basis, current information relating to the factors set forth in subsection (b).

(d) DATE.—The study authorized by subsection (a) shall be completed not later than September 30, 1995.

SEC. 608. SBIR VENDORS.

Section 9(q)(2) of the Small Business Act (15 U.S.C. 638(q)(2)) is amended to read as follows:

"(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed 3 years. Such selection shall be competitive and shall utilize merit-based criteria.".

SEC. 609. PROGRAM EXTENSION.

Section 602(e) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended by striking "September 30, 1994", and inserting "September 30, 1995".

SEC. 610. PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(i) PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.—None of the funds made available pursuant to this Act may be used to provide any direct benefit or assistance to any individual in the United States if the Administrator or the official to which the funds are made available receives notification that the individual is not lawfully within the United States.".

SEC. 611. OFFICE OF ADVOCACY EMPLOYEES.

Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended—

(1) in the matter preceding paragraph (1) by striking "after consultation with and subject to the approval of the Administrator,"; and

(2) in paragraph (1), by striking "ten" and inserting "14".

SEC. 612. PROHIBITION ON THE PROVISION OF ASSISTANCE.

Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following new subsection:

"(e) PROHIBITION ON THE PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, the Administration is prohibited from providing any financial or other assistance to any business concern or other person engaged in the production or distribution of any product or service that is determined to be obscene.".

SEC. 613. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.

Section 4 of the Small Business Act (15 U.S.C. 633), as amended by section 612, is amended by adding at the end the following new subsection:

"(f) CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.—

"(1) IN GENERAL.—Each applicant for financial assistance under this Act, including an applicant for a direct loan or a loan guarantee, shall certify that the applicant is not in violation of the terms of any—

"(A) administrative order;

"(B) court order; or

"(C) repayment agreement entered into between the applicant and the custodial parent or State agency providing child support enforcement services,

that requires the applicant to pay child support, as such term is defined in section 462(b) of the Social Security Act.

"(2) ENFORCEMENT.—Not later than 6 months after the date of enactment of this subsection, the Administration shall issue such regulations as may be necessary to enforce compliance with the requirements of this subsection.".

Mr. FORD. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, and the bill, as amended, be deemed read the third time, passed, and the motion to reconsider to laid upon the table; that the title amendment be agreed to, and the motion to reconsider be laid on the table; further that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

So the bill (S. 2060), as amended, was deemed read the third, and passed, as follows:

S. 2060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—AUTHORIZATIONS
Sec. 101. Authorizations.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS
Sec. 201. Microloan financing pilot.
Sec. 202. Eligibility of Native American tribal governments to be microloan intermediaries.
Sec. 203. Microloan program extension.
Sec. 204. Microloan program funding and State limitations.
Sec. 205. Distribution of intermediaries.
Sec. 206. Microloan intermediary loan limitation.
Sec. 207. Microloan technical assistance to nonborrowers.
Sec. 208. Microloan demonstration program grants.
Sec. 209. Eligibility to participate as a microloan intermediary and a technical assistance provider.
Sec. 210. Loans to exporters.
Sec. 211. Working capital international trade loans.
Sec. 212. Guarantees on international trade loans.
Sec. 213. Accredited lenders program.
Sec. 214. Interest rate on certified development company loans.
Sec. 215. Certifications of eligibility for SBIC and SSBIC financing.
Sec. 216. Participating securities for smaller SBICs.
TITLE III—SIZE STANDARDS AND BOND GUARANTEES
Sec. 301. Size standard criteria.
Sec. 302. Sunset on preferred surety bond guarantee program.
Sec. 303. Manufacturing contracts through manufacturing application and education centers.
TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE
Subtitle A—General Provisions
Sec. 401. Sunset on cosponsored training.
Sec. 402. Small business development center program level.
Sec. 403. Federal contracts with small business development centers.
Sec. 404. Small business development center program examination and certification.
Sec. 405. Service Corps of Retired Executives (SCORE) program.
Sec. 406. Information concerning franchising.
Subtitle B—Development of Woman-Owned Businesses
Sec. 411. Extension of authority for demonstration projects.
Sec. 412. Establishment of Office of Women's Business Ownership.
Sec. 413. National Commission on Women in Business.
TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES
Sec. 501. Short title.
Sec. 502. Prepayment of development company debentures.
TITLE VI—MISCELLANEOUS AMENDMENTS
Sec. 601. Consolidation of funding accounts.
Sec. 602. Imposition of fees.
Sec. 603. Job creation and community benefit.
Sec. 604. Microloan program amendments.
Sec. 605. Technical clarification.
Sec. 606. Secondary market study due date.
Sec. 607. Study and data base: Guaranteed Business Loan Program and Development Company Program.
Sec. 608. SBIR vendors.
Sec. 609. Program extension.
Sec. 610. Prohibition on the use of funds for individuals not lawfully within the United States.
Sec. 611. Office of advocacy employees.
Sec. 612. Prohibition on the provision of assistance.
Sec. 613. Certification of compliance with child support obligations.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (k) (as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992) through (p) and inserting the following:

"(l) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by this Act, the Administration is authorized to make $110,000,000 in direct and immediate participation loans, and $45,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $13,315,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $9,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,300,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,000,000,000 in loans as provided in section 7(a)(21); and

"(D) $15,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $33,000,000 in purchases of preferred securities;

"(B) $275,000,000 in guarantees of debentures, of which $65,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $500,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,800,000,000, of which not more than $450,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter into cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,500,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,000,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), $25,000,000, to remain available until expended.

"(m) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(n) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by this Act, the Administration is authorized to make $175,000,000 in direct and immediate participation loans, and $65,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $15,320,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $10,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,800,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $39,000,000 in purchases of preferred securities;

"(B) $300,000,000 in guarantees of debentures, of which $70,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $750,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $500,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,750,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,250,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(p) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by this Act, the Administration is authorized to make $250,000,000 in direct and immediate participation loans and $98,000,000 in technical assistance grants as provided in section 7(m), to remain available until expended.

"(2) For the programs authorized by this Act, the Administration is authorized to make $19,020,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $12,000,000,000 in general business loans as provided in section 7(a);

"(B) $3,500,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $3,500,000,000 in loans as provided in section 7(a)(21); and

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $45,000,000 in purchases of preferred securities;

"(B) $375,000,000 in guarantees of debentures, of which $75,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $1,125,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,200,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,000,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,500,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(q) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.".

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

SEC. 201. MICROLOAN FINANCING PILOT.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following new paragraph:

"(12) DEFERRED PARTICIPATION LOAN PILOT.—In lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), during fiscal years 1995 through 1997, the Administration may, on a pilot program basis, participate on a deferred basis of not less than 50 percent and not more than 100 percent on loans made to intermediaries by a for-profit or nonprofit entity or by alliances of such entities, subject to the following conditions:

"(A) NUMBER OF LOANS.—In carrying out this paragraph, the Administration shall not participate in providing financing on a deferred basis to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

"(B) TERM OF LOANS.—The term of each loan shall be 10 years. During the first year of the loan, the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall be required to pay interest only. During the sixth through tenth years of the loan, the intermediary shall be required to make interest payments and fully amortize the principal.

"(C) INTEREST RATE.—The interest rate on each loan shall be the rate specified by paragraph (3)(F) for direct loans. Subject to the availability of appropriations, the Administration may make payments to lenders on behalf of intermediaries in order to achieve such interest rate.".

SEC. 202. ELIGIBILITY OF NATIVE AMERICAN TRIBAL GOVERNMENTS TO BE MICROLOAN INTERMEDIARIES.

Section 7(m)(11)(A) of the Small Business Act (15 U.S.C. 636(m)(11)(A)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the comma at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(v) an agency of or nonprofit entity established by a Native American Tribal Government,".

SEC. 203. MICROLOAN PROGRAM EXTENSION.

Section 609(j) of Public Law 102-140 (105 Stat. 831) is amended by striking "5 years after the date of enactment of this Act", and inserting "on October 1, 1998".

SEC. 204. MICROLOAN PROGRAM FUNDING AND STATE LIMITATIONS.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (5)(A)—

(A) by striking "25 grants" and inserting "50 grants"; and

(B) by striking "$125,000" and inserting "$150,000"; and

(2) by striking paragraph (7) and inserting the following:

"(7) PROGRAM FUNDING FOR MICROLOANS.—

"(A) NUMBER OF PARTICIPANTS.—In carrying out paragraph (1)(B)(i), the Administration may fund, on a competitive basis, not more than—

"(i) 150 microloan programs in fiscal year 1995; and

"(ii) 200 microloan programs in each succeeding fiscal year.

"(B) STATE LIMITATIONS.—A State shall not receive more than $10,000,000 in loan funds during any year of program participation.".

SEC. 205. DISTRIBUTION OF INTERMEDIARIES.

Section 7(m)(8) of the Small Business Act (15 U.S.C. 636(m)(8)) is amended to read as follows:

"(8) DISTRIBUTION OF INTERMEDIARIES.—In approving microloan program applicants under this subsection, the Administration shall select such intermediaries as will further microloan availability for small businesses in all industries located throughout each State, especially small businesses located in economically distressed urban and rural areas.".

SEC. 206. MICROLOAN INTERMEDIARY LOAN LIMITATION.

Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking "$1,250,000" and inserting "$2,000,000".

SEC. 207. MICROLOAN TECHNICAL ASSISTANCE TO NONBORROWERS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended by adding at the end the following new subparagraph:

"(E) ASSISTANCE TO CERTAIN SMALL BUSINESS CONCERNS.—Each intermediary may expend an amount not to exceed 20 percent of the grant funds authorized under paragraph (1)(B)(ii) to provide marketing, management, and technical assistance to small business concerns that are not borrowers under this subsection.".

SEC. 208. MICROLOAN DEMONSTRATION PROGRAM GRANTS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended—

(1) in subparagraph (B), by inserting "except for a grant made to an intermediary that provides not less than 50 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe," after "under subparagraph (A),"; and

(2) in subparagraph (C), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—In addition to grants made under subparagraph (A), each intermediary shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection if—

"(I) the intermediary provides not less than 25 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe; or

"(II) the intermediary has a portfolio of loans made under this subsection that averages not more than $7,500 during the period of the intermediary's participation in the program.".

SEC. 209. ELIGIBILITY TO PARTICIPATE AS A MICROLOAN INTERMEDIARY AND A TECHNICAL ASSISTANCE PROVIDER.

Section 7(m)(2) of the Small Business Act (15 U.S.C. 636(m)(2)) is amended—

(1) by striking "(2) ELIGIBILITY FOR PARTICIPATION.—An" and inserting the following:

"(2) ELIGIBILITY FOR PARTICIPATION.—

"(A) IN GENERAL.—An";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting accordingly; and

(3) by adding at the end the following new subparagraph:

"(B) PARTICIPATION AS INTERMEDIARY AND TECHNICAL ASSISTANCE PROVIDER.—A single entity may simultaneously receive 1 grant as an intermediary pursuant to paragraph (1)(B)(ii) and 1 grant as a nonintermediary technical assistance provider pursuant to paragraph (1)(B)(iii) if the Administration determines that—

"(i) the purposes of the grants are not duplicative;

"(ii) the grants will enable the entity to provide technical assistance to different geographic areas, or to support both guaranteed and direct loans in the same geographic area; and

"(iii) the entity meets all of the requirements of the programs authorized pursuant to clauses (ii) and (iii) of paragraph (1)(B).".

SEC. 210. LOANS TO EXPORTERS.

Section 7(a)(14)(A) of the Small Business Act (15 U.S.C. 636(a)(14)(A)) is amended to read as follows:

"(14)(A) The Administration may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable.".

SEC. 211. WORKING CAPITAL INTERNATIONAL TRADE LOANS.

Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended to read as follows:

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,250,000, of which not more than $750,000 may be used for working capital, supplies, or financings under section 7(a)(14) for export purposes; and".

SEC. 212. GUARANTEES ON INTERNATIONAL TRADE LOANS.

Section 7(a)(2)(B)(iv) of the Small Business Act (15 U.S.C. 636(a)(2)(B)(iv)) is amended to read as follows:

"(iv) not less than 85 percent nor more than 90 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (14) or (16).".

SEC. 213. ACCREDITED LENDERS PROGRAM.

(a) ESTABLISHMENT.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 507. ACCREDITED LENDERS PROGRAM.

"(a) ESTABLISHMENT.—The Administration is authorized to establish an Accredited Lenders Program for qualified State and local development companies that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—The Administration may designate a qualified State or local development company as an accredited lender if such company—

"(1) has been an active participant in the Development Company Program authorized by sections 502, 503, and 504 for not less than the preceding 12 months;

"(2) has well-trained, qualified personnel who are knowledgeable in the Administration's lending policies and procedures for such Development Company Program;

"(3) has the ability to process, close, and service financing for plant and equipment under such Development Company Program;

"(4) has a reasonable and acceptable loss rate on the company's debentures;

"(5) has a history of submitting to the Administration complete and accurate debenture guaranty application packages; and

"(6) has demonstrated the ability to serve small business credit needs for financing plant and equipment through the Development Company Program authorized by sections 502, 503, and 504.

"(c) EXPEDITED PROCESSING OF LOAN APPLICATIONS.—The Administration shall develop an expedited procedure for processing a loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

"(d) SUSPENSION OR REVOCATION OF DESIGNATION.—

"(1) IN GENERAL.—The designation of a qualified State or local development company as an accredited lender may be suspended or revoked if the Administration determines that—

"(A) the development company has not continued to meet the criteria for eligibility under subsection (b); or

"(B) the development company has failed to adhere to the Administration's rules and regulations or is violating any other applicable provision of law.

"(2) EFFECT.—A suspension or revocation under paragraph (1) shall not affect any outstanding debenture guarantee.

"(e) DEFINITION.—For purposes of this section, the term 'qualified State or local development company' has the same meaning as in section 503(e).".

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Administration shall promulgate final regulations to carry out this section.

(c) REPORT.—Not later than 1 year after the effective date of regulations promulgated under subsection (b), the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Such report shall include data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, the average processing time on their guarantee applications, and such other information as the Administration deems appropriate.

SEC. 214. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

Section 112(c) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended—

(1) in paragraph (1), by striking "(1) IN GENERAL.—Section 503" and inserting "Section 503"; and

(2) by striking paragraph (2).

SEC. 215. CERTIFICATIONS OF ELIGIBILITY FOR SBIC AND SSBIC FINANCING.

Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end the following new subsection:

"(h) CERTIFICATIONS OF ELIGIBILITY.—

"(1) CERTIFICATION BY SMALL BUSINESS CONCERN.—Prior to receiving financial assistance from a company licensed pursuant to subsection (c) or (d) of section 301, a small business concern shall certify in writing that it meets the eligibility requirements of the Small Business Investment Company Program or the Specialized Small Business Investment Company Program, as applicable.

"(2) CERTIFICATION BY COMPANY.—Prior to providing financial assistance to a small business concern under this Act, a company licensed pursuant to subsection (c) or (d) of section 301 shall certify in writing that it has reviewed the application for assistance of the small business concern and that all documentation and other information supports the eligibility of the applicant.

"(3) RETENTION OF CERTIFICATIONS.—Certificates made pursuant to paragraphs (1) and (2) shall be retained by the company licensed pursuant to subsection (c) or (d) of section 301 for the duration of the financial assistance.".

SEC. 216. PARTICIPATING SECURITIES FOR SMALLER SBICS.

Section 303(g) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)) is amended by adding at the end the following new paragraph:

"(13) PARTICIPATING SECURITIES FOR SMALLER SMALL BUSINESS INVESTMENT COMPANIES.—

"(A) IN GENERAL.—Subject to the provisions of subparagraph (B), of the amount of the annual program level of participating securities approved in appropriations Acts, 50 percent shall be reserved for funding small business investment companies with private capital of less than $20,000,000.

"(B) EXCEPTION.—During the last quarter of each fiscal year, if the Administrator determines that there is a lack of qualified applicants with private capital of less than $20,000,000, the Administrator may utilize all or any part of the program level for securities reserved under subparagraph (A) for qualified applicants with private capital of $20,000,000 or more.".

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

SEC. 301. SIZE STANDARD CRITERIA.

Section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is amended to read as follows:

"(2) SIZE STANDARD CRITERIA.—

"(A) IN GENERAL.—In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act.

"(B) ADDITIONAL CRITERIA.—The standards described in paragraph (1) may utilize number of employees, dollar volume of business, net worth, net income, or a combination thereof.

"(C) REQUIREMENTS.—Unless specifically authorized by statute, no Federal department or agency may prescribe a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(i) is proposed after an opportunity for public notice and comment;

"(ii) provides for determining—

"(I) the size of a manufacturing concern as measured by the manufacturing concern's average employment based upon employment during each of the manufacturing concern's pay periods for the preceding 12 months;

"(II) the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than 3 years; and

"(III) the size of other business concerns on the basis of data over a period of not less than 3 years; and

"(iii) is approved by the Administrator.".

SEC. 302. SUNSET ON PREFERRED SURETY BOND GUARANTEE PROGRAM.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking "September 30, 1994" and inserting "September 30, 1995".

SEC. 303. MANUFACTURING CONTRACTS THROUGH MANUFACTURING APPLICATION AND EDUCATION CENTERS.

(a) IN GENERAL.—The Small Business Administration shall promote the award of Federal manufacturing contracts to small business concerns that participate in manufacturing application and education centers by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently foreign-sourced.

(b) QUALIFICATIONS.—In order to qualify as a manufacturing application and education center under this section, an entity shall have the capacity to assist small business concerns in a shared-use production environment and to offer the following services:

(1) Technology demonstration.

(2) Technology education.

(3) Technology application support.

(4) Technology advancement support.

(c) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements of section 15(o)(1)(B) of the Small Business Act shall not apply with respect to any manufacturing contract carried out by a small business concern in conjunction with a manufacturing application and education center under this section.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final regulations to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority of the Small Business Administration under this section shall terminate on September 30, 1997.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

SEC. 401. SUNSET ON COSPONSORED TRAINING.

(a) IN GENERAL.—

(1) REPEAL.—The amendments made by section 5(a) of Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) are hereby repealed.

VOL 140 PT 16 AG 12 — 18 1994 UMI

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on September 30, 1997.

(b) CONFORMING AMENDMENT.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended in the second sentence by striking "and the amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are" and inserting "is".

SEC. 402. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.

Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended to read as follows:

"(4) SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.—

"(A) IN GENERAL.—The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions.

"(B) RESTRICTION.—The matching amount described in subparagraph (A) shall not include any indirect costs or in-kind contributions derived from any Federal program.

"(C) NATIONAL PROGRAM.—

"(i) IN GENERAL.—No recipient of funds under this section shall receive a grant that exceeds—

"(I) for fiscal year 1995, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $100,000; or

"(bb) $200,000; and

"(II) except as provided in clause (ii), in each succeeding fiscal year, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $200,000; or

"(bb) $300,000.

"(ii) EXCEPTION.—The provisions of clause (i)(I) shall apply in any fiscal year after fiscal year 1995 in which, based on funds appropriated, a small business development center would, under the provisions of clause (i)(II), receive less than the small business development center received in fiscal year 1995.

"(iii) AMOUNT.—The amount of the national program shall be—

"(I) $70,000,000 through September 30, 1995;

"(II) $77,500,000 from October 1, 1995 through September 30, 1996; and

"(III) $85,000,000 beginning October 1, 1996.

The amount for which a small business development center is eligible under this paragraph shall be based upon the amount of the national program in effect as of the date for commencement of performance of the small business development center's grant.".

SEC. 403. FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a)(5) of the Small Business Act (15 U.S.C. 648(a)(5)) is amended to read as follows:

"(5) FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.—

"(A) IN GENERAL.—A small business development center may enter into a contract with a Federal department or agency to provide specific assistance to small business concerns, if the contract is approved in advance by the Associate Administrator of the small business development center program.

"(B) APPROVAL CRITERIA.—Each approval of a contract under subparagraph (A) shall be based upon a determination that the contract will provide assistance to small business concerns and that performance of the contract will not hinder the small business development center in carrying out the terms of the grant received by the small business development center from the Administration.

"(C) EXEMPTION FROM MATCHING REQUIREMENT.—A contract under this paragraph shall not be subject to the matching funds or eligibility requirements of paragraph (4).

"(D) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, a contract for assistance under this paragraph may not be applied to any Federal department or agency's small business, woman-owned business, or socially and economically disadvantaged business contracting goal under section 15(g).".

SEC. 404. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM EXAMINATION AND CERTIFICATION.

Section 21(k) of the Small Business Act (15 U.S.C. 648(k)) is amended to read as follows:

"(k) PROGRAM EXAMINATION AND CERTIFICATION.—

"(1) EXAMINATION.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement a biannual programmatic and financial examination of each small business development center established pursuant to this section.

"(2) CERTIFICATION.—The Administration may provide financial support, by contract or otherwise, to the association authorized by subsection (a)(3)(A) for the purpose of developing a small business development center certification program.

"(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and certification program conducted pursuant to paragraphs (1) and (2).".

SEC. 405. SERVICE CORPS OF RETIRED EXECUTIVES (SCORE) PROGRAM.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended by adding at the end the following new subparagraph:

"(H) In carrying out subparagraph (B), the Administration shall encourage the Service Corps of Retired Executives (SCORE) established pursuant to such subparagraph, to the maximum extent practicable, to consult and work in conjunction with the Corporation for National and Community Service and the Points of Light Foundation established under the National and Community Service Act of 1990.".

SEC. 406. INFORMATION CONCERNING FRANCHISING.

Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended by inserting "including information on the benefits and risks of franchising," after "small-business enterprises,".

Subtitle B—Development of Woman-Owned Businesses

SEC. 411. EXTENSION OF AUTHORITY FOR DEMONSTRATION PROJECTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 28 (as added by section 2 of the Women's Business Development Act of 1991) as section 29; and

(2) in section 29(g), as redesignated, by striking "1995" and inserting "1997".

SEC. 412. ESTABLISHMENT OF OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act (15 U.S.C. 656), as redesignated by section 411, is amended by adding at the end the following new subsection:

"(h) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is hereby established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises, as such term is defined in section 408 of the Women's Business Ownership Act of 1988. The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.".

SEC. 413. NATIONAL COMMISSION ON WOMEN IN BUSINESS.

(a) ESTABLISHMENT.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 401. ESTABLISHMENT.

"There is hereby established a Commission to be known as the 'National Commission on Women in Business' (hereafter in this title referred to as the 'Commission').".

(b) DUTIES OF THE COMMISSION.—Section 402 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 402. DUTIES OF THE COMMISSION.

"The Commission shall—

"(1) review, promote, coordinate, and monitor plans and programs, developed in the public and private sectors, which affect the ability of woman-owned businesses to obtain capital and credit;

"(2) promote and assist in the development of the Intermediate Census on Women's Business Ownership and other surveys of woman-owned businesses;

"(3) provide assistance to and outreach for the involvement of women business owners in White House Conference on Small Business;

"(4) study and assess—

"(A) the obstacles faced by women seeking to establish businesses and women seeking senior management positions in large and small businesses and in the professions; and

"(B) the contributions to the Nation's economy by businesses owned or managed by women; and

"(5) design a comprehensive plan for a joint public-private sector effort to facilitate the development and growth of woman-owned businesses.

"(b) REPORT.—Not later than January 31, 1996, the Commission shall submit a report to the President and the Committees on Small Business of the Senate and the House of Representatives describing the plan developed pursuant to subsection (a)(5).".

(c) MEMBERSHIP.—Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 403. MEMBERSHIP OF THE COMMISSION.

"(a) IN GENERAL.—The Commission shall be composed of 14 members, of whom—

"(1) 7 members shall be the individuals described in subsection (b); and

"(2) 7 members shall be appointed in accordance with subsection (c).

"(b) PUBLIC SECTOR MEMBERS.—For purposes of subsection (a)(1), the individuals described in this section are—

"(1) the Administrator of the Small Business Administration;

"(2) the Assistant Administrator of the Office of Women's Business Ownership of the Small Business Administration;

"(3) the Secretary of the Treasury, or the Secretary's designee;

"(4) the Secretary of Labor, or the Secretary's designee;

"(5) the Secretary of Commerce, or the Secretary's designee;

"(6) the Administrator of the General Services Administration, or the Administrator's designee; and

"(7) 1 member of the Board of Governors of the Federal Reserve System, or the designee of a member.

"(c) PRIVATE SECTOR MEMBERS.—

"(1) CHAIRPERSON.—Not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the President shall appoint an individual to serve as the chairperson of the Commission (hereafter in this title referred to as the 'Chairperson') who shall be a prominent businesswoman who is qualified to head the Commission by virtue of her education, training, and experience.

"(2) OTHER MEMBERS.—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the Administrator of the Small Business Administration shall appoint 6 members of the Commission, of whom—

"(A) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is a member of the same political party as the President;

"(B) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is not a member of the same political party as the President; and

"(C) 4 shall be representatives of national women's business organizations.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) RESTRICTION.—The members of the Commission appointed pursuant to subsection (c) shall not be officers or employees of the Federal Government.

"(2) VICE CHAIRPERSON.—The member of the Commission appointed pursuant to subsection (b)(2) shall serve as vice chairperson of the Commission.

"(3) TERMS.—The term of service of the members of the Commission appointed pursuant to subsection (c) shall be 1 year. No member of the Commission may serve for more than 2 consecutive terms.

"(4) DESIGNEES.—Each designee appointed pursuant to subsection (b) shall—

"(A) be a policy-making official whose duties are consistent with the duties of the Commission; and

"(B) report directly to the head of the agency on the activities of the Commission.

"(5) COMPENSATION AND TRAVEL EXPENSES.—

"(A) PUBLIC SECTOR MEMBERS.—The members of the Commission described in subsection (b) shall serve on the Commission without additional compensation.

"(B) PRIVATE SECTOR MEMBERS.—The members of the Commission appointed pursuant to subsection (c) shall serve without pay for membership, except that such members shall be entitled to reimbursement for domestic travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner as persons serving on advisory boards pursuant to section 8(b) of the Small Business Act.

"(6) VACANCIES.—A vacancy on the Commission shall, not later than 30 days after the date on which the vacancy occurs, be filled in the same manner in which the original appointment was made.

"(7) MEETINGS.—The Commission shall meet at the call of the Chairperson not less than 4 times each year.

"(8) QUORUMS.—

"(A) RECEIPT OF TESTIMONY.—Four members of the Commission shall constitute a quorum for the receipt of testimony and other evidence.

"(B) APPROVAL OF RECOMMENDATIONS.—A majority of the members of the Commission shall constitute a quorum for the approval of recommendations or reports issued pursuant to sections 402 and 406.".

(d) EXECUTIVE DIRECTOR AND STAFF.—Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 404. EXECUTIVE DIRECTOR AND STAFF.

"(a) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director who shall be appointed by the Chairperson and the Assistant Administrator of the Small Business Administration Office of Women's Business Ownership. Upon the recommendation by the Executive Director, the Chairperson may appoint and fix the pay of 4 additional employees at a rate of pay not to exceed the maximum rate of pay payable for a position at GS–15 of the General Schedule.

"(b) ADMINISTRATIVE PROVISIONS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and except as provided in subsection (a), may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the Executive Director so appointed may not receive pay in excess of the annual rate of basic pay payable for a position at ES–1 of the Senior Executive Pay Schedule under section 5832 of title 5, United States Code.

"(c) DETAIL OF ADDITIONAL PERSONNEL.—Upon request to the Chairperson, the head of any Federal department or agency may detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title without regard to section 3341 of title 5, United States Code.".

(e) POWERS OF THE COMMISSION.—Section 405 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission"; and

(2) by adding at the end the following new subsection:

"(f) COOPERATION WITH PRIVATE ENTITIES.—

"(1) IN GENERAL.—Subject to the requirements of paragraph (2), the Commission may carry out its duties under section 402 through cooperation with private nonprofit and for-profit entities.

"(2) RESTRICTION.—If the Commission cooperates with private entities pursuant to paragraph (1), the Commission shall ensure that—

"(A) the Commission receives appropriate recognition and publicity;

"(B) the cooperation does not constitute or imply an endorsement by the Commission of the products and services of the cosponsor; and

"(C) the Commission avoids unnecessary promotion of the products and services of the cosponsor and minimizes utilization of any 1 cosponsor in a marketing area.".

(f) REPORTS.—Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission";

(2) by striking "December 31, 1989" and inserting "not later than 1 year after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994"; and

(3) by striking "based upon its reviews conducted under section 402".

(g) AUTHORIZATION.—Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $500,000 in fiscal year 1995;

"(2) $500,000 is fiscal year 1996; and

"(3) $100,000 in fiscal year 1997."; and

(2) by striking subsection (c).

(h) TRANSITION REIMBURSEMENT.—In order to facilitate the transition from the National Women's Business Council, established by title IV of the Women's Business Ownership Act of 1988, to the National Commission on Women in Business established by this section, the National Commission on Women in Business may, during the 30-day period beginning on the date on which the Chairperson of the National Commission on Women in Business is appointed pursuant to section 413 of this Act, reimburse the costs and salaries, where appropriate, of the Chairperson, Executive Director, and staff of the National Women's Business Council for transition activities.

(i) SUNSET.—The authority of the National Commission on Women in Business established under title IV of the Women's Business Ownership Act of 1988, as amended by this section, shall terminate on November 30, 1996.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

SEC. 501. SHORT TITLE.

This title may be cited as the "Small Business Prepayment Penalty Relief Act of 1994".

SEC. 502. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 506. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

"(a) IN GENERAL.—

"(1) PREPAYMENT AUTHORIZED.—Subject to the requirements set forth in subsection (b), an issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Administration under section 503 may, at the election of the borrower whose loan secures such debenture and with the approval of the Administration, prepay such debenture in accordance with the provisions of this section.

"(2) PROCEDURE.—

"(A) IN GENERAL.—In making a prepayment under paragraph (1)—

"(i) the borrower shall pay to the Federal Financing Bank an amount that is equal to the sum of the unpaid principal balance due on the debenture as of the date of the prepayment (plus accrued interest at the coupon rate on the debenture) and the amount of the repurchase premium described in subparagraph (B); and

"(ii) the Administration shall pay to the Federal Financing Bank the difference between the repurchase premium paid by the borrower under this subsection and the repurchase premium that the Federal Financing Bank would otherwise have received.

"(B) REPURCHASE PREMIUM.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), the repurchase premium is the amount equal to the product of—

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(I) the unpaid principal balance due on the debenture on the date of prepayment; and

"(II) the applicable percentage rate, as determined in accordance with clause (ii).

"(ii) APPLICABLE PERCENTAGE RATE.—For purposes of clause (i)(II), the applicable percentage rate means—

"(I) with respect to a 10-year term loan, 9.5 percent;

"(II) with respect to a 15-year term loan, 9.5 percent;

"(III) with respect to a 20-year term loan, 10.5 percent; and

"(IV) with respect to a 25-year term loan, 11.5 percent.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that—

"(1) the debenture is outstanding and neither the loan that secures the debenture nor the debenture is in default on the date on which the prepayment is made;

"(2) State, local, or personal funds, or the proceeds of a refinancing in accordance with subsection (d) of this section under the programs authorized by sections 504 and 505, are used to prepay the debenture; and

"(3) the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

"(c) NO PREPAYMENT FEES OR PENALTIES.—No fees or penalties other than those specified in this section may be imposed on the issuer, the borrower, the Administration, or any fund or account administered by the Administration as the result of a prepayment under this section.

"(d) REFINANCING LIMITATIONS.—

"(1) IN GENERAL.—The refinancing of a debenture under sections 504 and 505, in accordance with subsection (b)(2) of this section—

"(A) shall not exceed the amount necessary to prepay existing debentures, including all costs associated with the refinancing and any applicable prepayment penalty or repurchase premium; and

"(B) shall be subject to the provisions of sections 504 and 505 and the rules and regulations promulgated thereunder, including rules and regulations governing payment of authorized expenses, commissions, fees, and discounts to brokers and dealers in trust certificates issued pursuant to section 505.

"(2) JOB CREATION.—An applicant for refinancing under section 504 of a loan made pursuant to section 503 shall not be required to demonstrate that a requisite number of jobs will be created with the proceeds of a refinancing.

"(3) LOAN PROCESSING FEE.—To cover the cost of loan packaging, processing, and other administrative functions, a development company that provides refinancing under subsection (b)(2) may impose a loan processing fee, not to exceed 0.5 percent of the principal amount of the loan.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'issuer' means the qualified State or local development company that issued a debenture pursuant to section 503, which has been purchased by the Federal Financing Bank; and

"(2) the term 'borrower' means a small business concern whose loan secures a debenture issued pursuant to section 503.".

(b) REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Administration shall promulgate such regulations as may be necessary to carry out this section, including regulations establishing a deadline for receipt of applications for prepayment and refinancing under title V of the Small Business Investment Act of 1958.

(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE VI—MISCELLANEOUS AMENDMENTS

SEC. 601. CONSOLIDATION OF FUNDING ACCOUNTS.

(a) IN GENERAL.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended by striking "(c)(1) There" and all that follows through paragraph (4) and inserting the following:

"(c) LOAN LIQUIDATION FUND.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—There is hereby established in the United States Treasury a fund to be known as the Loan Liquidation Fund (hereafter in this subsection referred to as the 'Fund').

"(B) AMOUNTS CONTAINED IN FUND.—All amounts received by the Administration prior to October 1, 1991, from the repayment of loans and debentures, payments of interest, and other receipts arising out of transactions entered into by the Administration pursuant to section 5(e), 5(g), 7(a), 7(b), 7(c)(2), 7(e), 7(h), 7(i), 7(m), or 8(a) of this Act, or title III, IV, or V of the Small Business Investment Act of 1958, shall be paid into the Fund. Balances existing in the revolving funds on or after the effective date of this paragraph shall be transferred to the Fund on such date.

"(C) OPERATING EXPENSES.—The Fund shall have available, without fiscal year limitation, such funds as may be necessary to finance the operational needs of the Fund.

"(2) ANNUAL STATUS REPORT.—As soon as practicable after the end of each fiscal year, the Administration shall submit to the Committees on Small Business and Appropriations of the Senate and the House of Representatives a complete report on the status of the Fund.".

(b) INTEREST PAYMENTS TO TREASURY.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (3); and

(2) in paragraph (3)(B), as redesignated, by striking clause (ii) and inserting the following:

"(ii) Upon the expiration of each fiscal year, the Administration shall pay into the miscellaneous receipts of the United States Treasury the actual interest the Administration has collected during the preceding fiscal year on all financings made under the authority of this Act.".

SEC. 602. IMPOSITION OF FEES.

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(12) impose, retain, and use only those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date, except that the Administrator may, subject to approval in appropriations Acts, impose, retain, and utilize, additional fees—

"(A) not to exceed $300 for each loan servicing action requested after disbursement of the loan, including any substitution of collateral, loan assumption, release or substitution of a guarantor, reamortization, or similar action; and

"(B) to recover the direct, incremental cost involved in the production and dissemination of compilations of information produced by the Administration under the authority of the Small Business Act and the Small Business Investment Act of 1958; and

"(13) collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations, except that amounts collected under this paragraph shall be utilized solely to facilitate the administration of the program that generated the excess amounts.".

SEC. 603. JOB CREATION AND COMMUNITY BENEFIT.

Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) JOB CREATION AND COMMUNITY BENEFIT.—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

"(i) have the greatest potential for—

"(I) creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

"(II) preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

"(ii) have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.".

SEC. 604. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m)(9)(B) of the Small Business Act (15 U.S.C. 636(m)(9)(B)) is amended—

(1) by inserting "and loan guarantees" after "for loans"; and

(2) by inserting after "experienced microlending organizations" the following: "and national and regional nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing.".

SEC. 605. TECHNICAL CLARIFICATION.

(a) DEFENSE CONVERSION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(b) ADDITIONAL TECHNICAL CLARIFICATION.—Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended by striking "section 202" and inserting "this title".

SEC. 606. SECONDARY MARKET STUDY DUE DATE.

Section 6 of the Small Business Credit Enhancement Act of 1993 (15 U.S.C. 634 note) is amended by striking "16 months after the date of enactment" and inserting "November 1, 1994".

SEC. 607. STUDY AND DATA BASE: GUARANTEED BUSINESS LOAN PROGRAM AND DEVELOPMENT COMPANY PROGRAM.

(a) STUDY AUTHORIZED.—The Administration shall conduct a study of—

(1) the Guaranteed Business Loan program under section 7(a) of the Small Business Act; and

(2) the Development Company program under sections 502, 503, and 504 of the Small Business Investment Act of 1958.

(b) EVALUATION.—After conducting the study under subsection (a), the Administration shall evaluate the performance of the programs described in paragraphs (1) and (2) of subsection (a) on an annual and aggregated basis during the most recent 4-year period for which data are available. Such evaluation shall focus on the following factors:

(1) The number, dollar amount, and average size of the loans or financings under each program.

(2) The number, dollar amount, and average size of the loans or financings made to woman-owned and minority-owned businesses under each program.

(3) The geographic distribution of the loans or financings under each program.

(4) The jobs created or maintained attributable to the loans or financings under each program.

(5) The number, dollar amount, and average size of the loans or financings on which borrowers defaulted under each program.

(6) The amounts recovered by the Administration after default, foreclosure, or otherwise under each program.

(7) The number of companies which are no longer in business despite receiving the loans or financings under each program.

(8) The taxes paid by businesses which received the loans or financings under each program.

(9) Such other information as the Administration determines to be appropriate for a complete evaluation of each program.

(c) CONTRACTING WITH INDEPENDENT ENTITIES.—In carrying out subsections (a) and (b), the Administration may contract with an independent entity or entities—

(1) to conduct the study pursuant to subsection (a); and

(2) to develop a database of information to enable the Administration to maintain and access, on an ongoing basis, current information relating to the factors set forth in subsection (b).

(d) DATE.—The study authorized by subsection (a) shall be completed not later than September 30, 1995.

SEC. 608. SBIR VENDORS.

Section 9(q)(2) of the Small Business Act (15 U.S.C. 638(q)(2)) is amended to read as follows:

"(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed 3 years. Such selection shall be competitive and shall utilize merit-based criteria.".

SEC. 609. PROGRAM EXTENSION.

Section 602(e) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended by striking "September 30, 1994", and inserting "September 30, 1995".

SEC. 610. PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(i) PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.—None of the funds made available pursuant to this Act may be used to provide any direct benefit or assistance to any individual in the United States if the Administrator or the official to which the funds are made available receives notification that the individual is not lawfully within the United States.".

SEC. 611. OFFICE OF ADVOCACY EMPLOYEES.

Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended—

(1) in the matter preceding paragraph (1) by striking "after consultation with and subject to the approval of the Administrator,"; and

(2) in paragraph (1), by striking "ten" and inserting "14".

SEC. 612. PROHIBITION ON THE PROVISION OF ASSISTANCE.

Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following new subsection:

"(e) PROHIBITION ON THE PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, the Administration is prohibited from providing any financial or other assistance to any business concern or other person engaged in the production or distribution of any product or service that is determined to be obscene.".

SEC. 613. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.

Section 4 of the Small Business Act (15 U.S.C. 633), as amended by section 612, is amended by adding at the end the following new subsection:

"(f) CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.—

"(1) IN GENERAL.—Each applicant for financial assistance under this Act, including an applicant for a direct loan or a loan guarantee, shall certify that the applicant is not in violation of the terms of any—

"(A) administrative order;

"(B) court order; or

"(C) repayment agreement entered into between the applicant and the custodial parent or State agency providing child support enforcement services,

that requires the applicant to pay child support, as such term is defined in section 462(b) of the Social Security Act.

"(2) ENFORCEMENT.—Not later than 6 months after the date of enactment of this subsection, the Administration shall issue such regulations as may be necessary to enforce compliance the requirements of this subsection.".

The title was amended so as to read: "A bill to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.".

Mr. PRESSLER. Mr. President, I rise today as ranking member of the Senate Small Business Committee and as a cosponsor of S. 2060, the "Small Business Administration Reauthorization and Amendment Act of 1994." This legislation marks the culmination of the most thorough review of the Small Business Administration [SBA] in 4 years.

I am very pleased with the substance of S. 2060 for many reasons. This bill addresses the needs of the SBA and America's small business men and women in a comprehensive and fair manner. Not only does this act provide authorization levels for the SBA's programs for fiscal years 1995 through 1997, it also improves numerous programs in a variety of ways.

The road leading to this bill's consideration on the floor today is the result of cooperative efforts of many individuals, including my colleagues on the Small Business Committee, our counterparts on the House Small Business Committee, the Small Business Administration, and the millions of small business owners across the Nation. I especially would like to thank the chairman of the committee, Senator BUMPERS, for his good efforts on this legislation and for taking the leadership necessary to bring S. 2060 to the Senate floor. This being my first experience with a major SBA reauthorization bill since becoming ranking member of the committee last year, I truly have enjoyed the opportunity to work with Chairman BUMPERS.

Mr. President, S. 2060 is largely the result of many oversight hearings held during this second session of the 103d Congress. The committee met on February 22, 1994, to discuss the SBA's proposed budget for fiscal year 1995. In this hearing, SBA Administrator Erskine Bowles unveiled his plans to revamp many of the programs within the SBA. Of particular concern to me was the lack of far-reaching internal reorganization of the SBA nationwide. At this hearing, I stated my disappointment to Administrator Bowles for having abandoned attempts truly to reorganize the agency [due to] parochial interests. The SBA, although it serves a very worthwhile function in the Nation's small business community, has been fraught with waste, fraud, and abuse. I commend Administrator Bowles for pursuing the noble cause of streamlining the SBA. However, it was, and still is, my hope that the Administrator will take even bolder action to prevent future scandals.

Subsequent oversight hearings explored the effectiveness of other programs and possible modifications to them. On March 2, 1994, the committee held a hearing on the SBA's increasingly popular 7(a) business loan guaranty program and the Disaster Assistance Loan Program. This hearing was followed by a March 17 hearing covering the Microloan Demonstration Program and the business development programs, which include Small Business Development Centers [SBDC's], the Service Corps of Retired Executives [SCORE], and Small Business Institutes [SBI's]. Since that time, the committee also has conducted hearings to analyze the effectiveness of the section 503/504 development companies on May 17, and the minority small business/capitol ownership development [MSB/COD], or section 8(a) program on July 27.

S. 2060, in its reported form, owes a great deal to the findings of those hearings. The testimony provided by the administration, trade associations, and entrepreneurs played a significant role in this legislative process. Without their input, the bill before us would be incomplete. Mr. President, I would now like to outline some of the key provisions of S. 2060.

TITLE I—AUTHORIZATIONS

Title I of this bill establishes the SBA's authorization levels for fiscal years 1995, 1996, and 1997. I believe the authorization levels reflect a realistic expectation of what these programs will be able to receive in appropriations. These figures will allow these important programs to continue to serve small businesses and, in some

VOL 140 PT 16 AG 12 — 18 1994 UMI

cases, even expand those services. With these funding levels as a guidepost, programs vital to stimulating small business growth like the 7(a) and 504 loan programs can continue to provide much needed credit. The title also authorizes Microloans, Small Business Investment Company [SBIC] debentures, specialized SBIC preferred stock and debentures, and SBIC participating securities. In addition, the title provides "such sums as may be necessary" for SBA business and homeowner disaster loans. These are direct loans made to individuals and businesses in communities which have been affected by natural disasters. I believe the bill does an excellent job of responding to the requests of the small business community and proposals offered by the administration while taking into account this Nation's current fiscal constraints.

As the centerpiece of SBA's assistance programs, the section 7(a) business loan guaranty program is of particular importance. Under this program, the agency acts as a partial guarantor of loans made by commercial lenders to small businesses across the country. Recent years have seen an explosion in demand for these loans. While there are a variety of reasons for this increased demand, the most significant has been the "credit crunch" faced by small entrepreneurs. In recent years—at least partially driven by the savings and loan crisis—lenders have become more reluctant to lend to small firms because of increased regulatory pressures. As a result, the 7(a) loan guaranty program has seen unprecedented activity.

A similar strain has been seen in SBA's 504 development company loan program in recent years. Under this program, the SBA guarantees 10- and 20-year debentures issued by Certified Development Companies [CDC's]. The proceeds of these debentures are used to fund loans with similar terms to small companies for plant acquisition, construction, conversion, expansion, or equipment. Mr. President, this is truly an amazing program. Virtually nowhere else does the Federal Government get this kind of bang for its buck. The program's subsidy rate is roughly one-half of 1 percent. This means that for every half cent we appropriate, one dollar is loaned to small business. This astounding leveraging capability, together with the stringent job creation requirements connected with the program, make the 504 program one of the most cost-effective economic development tools available to any state or local economy.

The increased program levels authorized by this bill reflect the committee's belief that Congress should demonstrate a strong commitment to providing adequate financing assistance to America's job creating engine—small business. Quite simply, both programs provide the kind of long-term financing not available in private markets. In addition, each does so at an extremely modest cost as compared to the job creation they provide.

Title I of the bill also authorizes the SBIC debenture program at the administration's requested levels, although the committee authorized levels for the SBIC participating security program are less than requested by the administration. This reflects the committee's view that the SBA's venture capital program, although it has a troubled history, has an important role to play in financing small business development. However, given the as yet untested nature of the SBIC participating securities program, the committee felt the most prudent course was not to expand the program too quickly. Quite frankly, the authorized levels also reflect a realistic view of what the programs can expect in terms of appropriations. In other words, the committee did not wish to send an unwarranted signal regarding future actual funding levels for these programs. I am hopeful that in the not too distant future, the new participating securities program will take a leading role in SBA's venture capital financing program.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

Title II of the bill makes changes to the financial assistance programs of the SBA. These programs include the Microloan Demonstration Program, export assistance and international trade loans, the CDC Accredited Lenders Program, and the SBIC, and specialized SBIC programs.

The legislation makes a number of changes to the SBA's Microloan Demonstration Program. In this area, the administration proposed that the microloan program be converted from direct to guaranteed loans. I am pleased with the way this legislation handles the administration's request. The program currently makes direct loans to non-profit and private lenders called "intermediaries." The intermediaries, in turn, make very small loans to disadvantaged businesses. In my view, the SBA failed to provide a compelling need to suddenly route loans to intermediaries through private lenders on a guaranteed basis. I believe that given the Microloan Program's demonstration status, such a dramatic shift should not be introduced at this time. Section 201 of this bill, consequently, allows the SBA to establish a pilot program to provide guaranteed—rather than direct—loans for up to twenty intermediaries. This is an excellent compromise.

Among the other changes made to the Microloan Program was an amendment I offered during markup. This amendment resulted directly from a field hearing I chaired last September on the Pine Ridge Indian reservation in South Dakota. During that hearing, witnesses testified as to the extreme scarcity of credit for businesses owned by American Indians. Many of the witnesses also discussed how technical assistance, in some cases including the teaching of basic business skills, was a vital part of effective small business assistance. Several witnesses also provided examples that demonstrated how small business developed through microlending effectively creates jobs and economic opportunities for often economically depressed American Indian reservations because micro-business development is a concept well suited to the American Indian culture.

This amendment creates incentives for intermediaries to make loans and provide technical assistance to small businesses owned by American Indians. Under current law, each loan made by the SBA to an intermediary is accompanied by a 25-percent grant to be used to provide technical assistance to those microenterprises borrowing from the intermediary. This grant is subject to a 25 percent non-Federal matching requirement. Additional technical assistance grant money equal to 5 percent of an intermediary's total outstanding balance of loans is available to those intermediaries maintaining a loan portfolio average of not more than $7,500. Thus, these intermediaries can receive a maximum of 30 percent in technical assistance grants. This additional grant is not subject to the matching requirement.

My amendment, which passed the committee on a unanimous vote, provides the extra 5 percent technical assistance grant to any intermediary making 25 percent of its loans to businesses owned by members of federally recognized American Indian tribes. Such intermediaries, in effect, would be treated just as those maintaining an average loan portfolio of not more than $7,500. However, in no case would an intermediary be able to receive more than 30 percent in technical assistance grants. In addition, my amendment provides additional incentives for intermediaries making 50 percent or more of their loans to businesses owned by members of federally recognized American Indian tribes. These intermediaries will receive the full 30 percent maximum in technical assistance grants. However, none of the grant would be subject to a matching requirement.

My amendment fits well with section 202 of the bill in making the Microloan Program more accessible to American Indian entrepreneurs. The Small Business Act in its current form does not allow governmental or quasi-governmental agencies to act as intermediaries. Unfortunately, adequate resources to provide the services that an intermediary must provide are scarce on most Indian reservations and to most tribal members. Often, the tribal government must take responsibility for providing such services. Section 202, therefore, allows tribal entities to act as intermediaries. I fully support this change.

I also want to touch on Section 213 of this bill. This section establishes an Accredited Lenders Program for certain 504 development companies. As a part of the Accredited Lenders Program, the SBA is directed to develop a procedure for the expedited processing of loan applications or servicing actions submitted by qualified development companies.

In some instances, statewide development companies fall under the jurisdiction of more than one SBA district office. In the past, some statewide development companies have found loans it makes in one part of the State are treated differently than those made in another. This has not had so much to do with differences in the borrower or terms of the loans as with different consideration given by different SBA district office personnel. This being the case, the committee's report clearly states the committee's intent that any such development company qualifying for the Accredited Lenders Program shall be provided the same procedure for the expedited processing of its loan applications or servicing actions, regardless of which district office has responsibility for the particular transaction. This is not meant as a criticism of anyone within SBA. It simply is necessary to insure uniform treatment of development companies qualifying for the program.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

Section 301 of the bill clarifies requirements under the Small Business Act that allow Federal departments or agencies other than the SBA to issue size standards with the approval of the SBA Administrator. This section broadens the criteria available for setting such size standards, but does nothing to change the requirements that the standard be set by a rulemaking, including a proposal and an opportunity for public comment, and that the standard be approved by the Administrator.

I believe it may be necessary for the Committee to revisit this issue in the future as it seems not all Federal agencies understand the requirements relating to the setting of size standards contained in the Small Business Act. Specifically, I am referring to a recent rulemaking in which the Federal Communications Commission [FCC] set a size standard to define a "small cable system." It appears the FCC failed to secure the statutorily required approval by the SBA Administrator in this case. As a result, on July 21, Chairman BUMPERS and I, together with 14 of our Senate colleagues, wrote a letter to SBA chief counsel for advocacy Jere Glover requesting that he file an amicus brief in a lawsuit brought by the small cable industry against the FCC over the issue.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

I am pleased with the opportunities that will be created for SBDCs in title IV of the bill. Section 402 of this title raises the minimum level, also known as a "floor," that an SBDC may receive in Federal funds from $200,000 to $300,000, and raises the base level of funding from $100,000 plus the state's pro rata share to $200,000 plus the pro rata share. This increase is absolutely vital to the so-called "big rectangular" Western states, like South Dakota, that have a large geographic area to cover, but too small a population from which to draw a large enough pro rata share to support disproportionately large travel and programming expenses.

The title also authorizes the SCORE and SBI Programs for the next 3 fiscal years. These important programs provide grass roots counseling to small businesses for an extremely nominal Federal expenditure. The SCORE program teams experienced small business men and women and their wealth of experience with fledgling entrepreneurs who sometimes have little more than an idea and a great deal of enthusiasm.

I remain somewhat concerned with the manner in which SCORE funds are apportioned among the local chapters and have been studying this issue for some time. I am not convinced reliable standards exist to guide the national SCORE office in its decisionmaking process in this regard. While I considered amending this legislation in an effort to ensure equitable distribution of SCORE funding, after discussions with Chairman BUMPERS we have agreed to ask the General Accounting Office to study the program before any modifications are made. I will consider further legislative options once the results of that study are released.

SBI's throughout our Nation provide a valuable service and help our small businesses create jobs. This program, in conjunction with State colleges and universities, provides teams of business students and faculty members to work one-on-one with existing businesses. Although the administration did not request funding for the SBI Program, I am extremely pleased the committee acted to reauthorize it. The SBI program provides invaluable assistance to small businesses—especially those with little or no access to an SBDC—in a very cost effective manner. It also provides the students involved with invaluable hands on experience in the workings of an actual business.

I would be concerned if the committee or the administration were to seek an increase in SBA's financial assistance programs at the expense of technical assistance programs such as SCORE or SBI. If this were to happen, new businessowners could find themselves with capital, but with little or no additional assistance. If businesses should fail as a result and, in the process, default on their loans, neither our communities nor the Federal treasury would come out ahead.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Title V of the committee's bill tackles a very difficult problem that has been with us for several years. This title is designed to provide relief for borrowers stuck with onerous prepayment penalties under the former section 503 Development Company program. Like the 504 program, 503 loans were used to provide long-term, fixed-rate financing to small companies for plant acquisition, construction, conversion or expansion, equipment and job creation. However, presently some 3,500 borrowers under the old 503 program are locked into SBA-backed loans with interest rates reflecting the Government's cost of money 10 or more years ago. Thus, rates on these loans can run 12 to 15 percent and higher. Unfortunately, these borrowers are unable to refinance these loans because of extremely high prepayment penalties of which many borrowers say they were either unaware of or mislead about at the time they took out the loan.

Another unfortunate reality is that the Federal Government is simply not in a position to absorb the cost—by some estimates well over $100 million—of totally relieving these borrowers of their obligations. However, this year for the first time, we were able to secure $30 million in appropriated funds to address the problem. It then became the committee's challenge to determine how to spread this relief as equitably as possible. I believe the bill accomplishes this goal. Borrowers wishing to refinance will be required to pay a reduced penalty. However, the legislation at least makes refinancing possible for many who simply find it impossible under current law.

TITLE VI—MISCELLANEOUS AMENDMENTS

Title VI of the committee bill makes a number of improvements and corrections in a wide variety of SBA programs. In addition, the title allows for certain fees to be collected and requires that studies be conducted.

Throughout the reauthorization process, one proposal that caused me great concern was the administration's request that it be allowed to collect a $15 per hour fee for SBDC counseling services. SBDC's provide valuable counseling service to established and fledgling entrepreneurs. In some areas of the country, the fee may not have been unreasonable. However, in many rural States such a requirement could easily close the door of opportunity for a potential or new entrepreneur with limited resources. In addition, I feel that such a fee would unnecessarily encumber SBDC staff already faced with limited time and money. I am extremely pleased that S. 2060 does not authorize SBA to charge or collect such fees.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The last topic I will discuss involves another amendment I offered during markup of S. 2060. This amendment, also adopted on a unanimous committee vote, prohibits the SBA from providing assistance to businesses engaged in the production and/or distribution of obscene products or services. The amendment was offered in response to the SBA's recent repeal of its "opinion molder rule" promulgated in 1953. Under that rule, the administration, with few exceptions, could not provide assistance to small businesses engaged in the "creation, origination, expression, dissemination, propagation or distribution of ideas, values, thought, opinions, or similar intellectual property, regardless of medium, form, or content." With the repeal of the rule, businesses such as newspapers, movie theaters, radio stations, and bookstores now are eligible for administration assistance.

However, members of the committee shared my concern that a blanket repeal of the rule also would allow businesses involved in the production and distribution of obscene products and services to seek SBA support and that the agency would have no means by which to deny such loans or other assistance. My amendment makes it clear the SBA is not authorized to provide any assistance to those engaged in obscene businesses—and thus not entitled to first amendment protection—as defined by the U.S. Supreme Court. The amendment is intended to cover the narrow range of adult theme businesses, including adult book stores, adult theaters, adult film and video producers, and adult film and video distributors. It is not meant to apply to businesses such as convenience stores that may carry adult materials that do not fall within the Supreme Court's definition of obscenity.

Mr. President, I once again offer my full support for this legislation. I truly believe the program levels authorized will adequately provide the SBA with the ability to continue to provide its invaluable services. The SBA is vital to the small businesses of this country. Without the support of 7(a) loans, SBIC's, Microloans, 502/504 development companies, and the many business development programs, the viability of this Nation's small businesses certainly would be placed in jeopardy. For many budding entrepreneurs, the assistance the SBA can provide is just the catalyst they need to flourish. As you know, Mr. President, America's No. 1 job creators are this Nation's small businesses. In a time when so much Congressional action stymies the growth of small businesses, I firmly believe that S. 2060 is an excellent vehicle by which Congress can improve the economic environment for Main Street businesses.

Mr. BUMPERS. Mr. President, S. 2060 is the first SBA reauthorization to be considered by Congress since President Clinton took office. It is a dramatic departure from the hold-the-line, do-as-little-as-necessary policy of the previous two administrations. President Clinton's fiscal year 1995 budget and legislation contain significant increases in SBA loan programs aimed at economic development and meeting the credit needs of small firms in a changing economy. This bill is major economic legislation which is badly needed and which can and will help further the Nation's recovery.

The committee-reported bill responds to the President's requests to the greatest extent possible in a time of fiscal constraints and sends a strong economic message. The small business sector has been and will remain the major source of new jobs in the American economy. Paradoxically, small businesses face more difficulty than ever in obtaining the capital required for business startups, expansion, and operating capital.

In business loans, loan guarantees and bond guarantees, S. 2060 as reported by the Small Business Committee authorizes $16.033 billion in financial assistance to small businesses in 1995, $18.599 billion in fiscal year 1996, and $23.048 billion in 1997. The role of the Small Business Administration under the energetic leadership of Administrator Erskine Bowles is more vital than ever before in sustaining and expanding the economic recovery now underway.

I introduced S. 2060 on May 3, 1994. The bill authorizes SBA programs for 3 years, makes changes in a number of existing programs, and extends certain expiring provisions of law. At a markup on August 10, 1994, the committee considered and adopted a chairman's substitute amendment and several other amendments detailed below.

Prior to the markup, the committee held budget or oversight hearings on February 22, March 2, and March 17. Additionally, on May 17, a full committee hearing examined problems with prepayment penalties under the former section 503 Development Company Program and oversight of the section 504 program which succeeded the 503 program. The committee heard testimony on S. 737, a bill introduced by Senator HATFIELD which eases prepayment penalties imposed on borrowers of high interest bearing loans under the section 503 program. The committee has included a substitute for S. 737 as title V of the committee amendment.

TITLE I—AUTHORIZATIONS

Section 101 of the committee amendment authorizes SBA loan programs and certain business development programs. Included are sec. 7(a) loan guarantees, section 502 and 504 development company loans, microloans, Small Business Investment Company [SBIC] debentures, specialized SBIC preferred stock and debentures, and SBIC participating securities. Also included is a "such sums as may be necessary" authorization for SBA business and homeowner disaster loans. These are direct loans made to individuals and businesses in communities which have been affected by natural disasters.

Funding for SBA programs with the exception of disaster loans are detailed in the following chart. The committee considered the administration's funding requests and the levels set in a House-reported bill, H.R. 4801, which has not yet passed the House. It is possible that final House levels represented in the chart could be changed by floor action.

I ask unanimous consent to print the chart in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SBA REAUTHORIZATION FUNDING LEVELS

	Appropriated and reprogrammed fiscal year 1994	Proposed fiscal year 1995			Proposed fiscal year 1996			Proposed fiscal year 1997		
		Senate	House	Admin	Senate	House	Admin	Senate	House	Admin
7(A) Guarantees[1]	[2]$8,788.4 billion.	$9 billion	$7.815 billion	$11.5 billion	$10 billion	$10.93 billion	$13.5 billion	$12 billion	$14.2 billion	$15.5 billion
Defense conversion 7(A)(21)) (not funded)		$2.0 billion	$1.5 billion	$0	$2.5 billion	$0	$0	$3.5 billion	$0	$0
Microloans direct	$86.6 million	$110 million	$130 million	[3]$110 million	$175 million	$195 million	[3]$175 million	$250 million	$270 million	[3]$250 million
Microloan-TA	$9 million	$45 million	$0	$15.1 million	$65 million	$0	$0	$98 million	$0	$0
Micro guarantee pilot (new)		$15 million	$20 million	[3]$15 million	$20 million	$20 million	[3]$20 million	$20 million	$20 million	[3]$20 million
504/502 Development Cos.	$1.54 billion	$2.3 billion	$2.2 billion	$2.3 billion	$2.8 billion	$2.5 billion	$3.8 billion	$3.5 billion	$3 billion	$5.7 billion
SBIC debentures	$100 million	$230 million	$260 million	$210 million	$250 million	$350 million	$250 million	$310 million	$500 million	$310 million
SBIC participating	$207.8 million	$500 million	$500 million	$550 million	$750 million	$750 million	$1.1 billion	$1.125 billion	$1.125 billion	$1.7 billion
Mesbic stock (SSBIC)	$15 million	$33 million	$33 million	$23 million	$39 million	$39 million	$24 million	$45 million	$45 million	$25 million
Mesbic guaranty (SSBIC)	$17.9 million	$55 million	$25 million	$65 million	$70 million	$55 million	$70 million	$75 million	$55 million	$75 million
Surety bond	$1.7515 billion	$1.8 billion	$1.8 billion	$2 billion	$2 billion	$1.8 billion	$2 billion	$2.2 billion	$1.8 billion	$2 billion
Score	$3.5 million	$3.5 million	$3.5 million	[4]$3.08 million	$3.75 million	$3.67 million	$0	$4 million	$3.86 million	$0
SBI	$3 million	$3 million	$3 million	[4]$0	$3.25 million	$3.15 million	$0	$3.5 million	$3.31 million	$0
SBDCs: Regular	$71.3 million	$70 million	$70 million	[4]$67 million	$77.5 million	$77.5 million	$0	$85 million	$85 million	$0

SBA REAUTHORIZATION FUNDING LEVELS—Continued

	Appropriated and reprogrammed fiscal year 1994	Proposed fiscal year 1995			Proposed fiscal year 1996			Proposed fiscal year 1997		
		Senate	House	Admin	Senate	House	Admin	Senate	House	Admin
SBDCs: Defense conversion (not funded)		$25 million	$0	$0	$25 million	$0	$0	$25 million	$0	$0

[1] The Administration request includes the non-guaranteed portion of Sec. 7(a) loans which, in SBA's view, is required by credit reform. The House and Senate bills include only the SBA share of the program in conformance with section 20 of the Small Business Act.
[2] Includes $1.8 billion carryover.
[3] The Administration request combines direct and guaranteed amounts.
[4] Administration requests are from Budget submission only for these programs. No authorizing language was requested.

SEC. 7(a) BUSINESS LOANS

Mr. BUMPERS. Mr. President, SBA's flagship program remains the sec. 7(a) business loan guaranty program under which the agency acts as a partial guarantor of loans from commercial lenders to small firms. With SBA's guaranty of 70–90 percent of the loan amount, banks and other lenders are willing to provide longer term financing than would otherwise be available, and also larger loan amounts at lower interest rates than the market and the regulatory environment would permit without SBA's participation.

The committee has provided separate authorizations for the regular 7(a) program and defense conversion loans under section 7(a)(21). Demand for 7(a) loan guarantees has risen sharply since 1991, and Congress has labored to ensure that adequate program levels are available to meet small business credit needs in a recovering economy. No decrease in demand is expected in the foreseeable future for regular 7(a) loans, while the 7(a)(21) program anticipates new borrowers as the economy continues to shift away from the heavy emphasis on national defense before the end of the cold war. This bill looks to the needs of a post-cold-war economy.

Defense conversion loans under sec. 7(a)(21) were authorized in 1991 but have received no funding to date. The program will assist businesses which have been severely adversely affected by reductions in defense expenditures, and those located in communities which have been adversely affected by base closings and curtailment of defense procurement. Members of the Armed Forces who have left the service earlier than planned and who wish to establish small businesses are also eligible for financing under section 7(a)(21).

For defense conversion loans, S. 2060 authorizes $2 billion in fiscal year 1995; $2.5 billion in fiscal year 1996 and $3.5 billion in fiscal year 1997. These are in addition to regular 7(a) program levels of $9 billion in fiscal year 1995; $10 billion in fiscal year 1996; and $12 billion in 1997. While these are substantial increases, they are supported by the administration and by program experience in the last 3 years.

Several factors have contributed to the growth of the 7(a) program in the decade of the 1990's. These include increased regulatory pressure on banks following the savings and loan collapse and ensuing reform legislation, an interest rate environment which made purchase of government securities more profitable for banks than small business lending, and perhaps increased paperwork burdens for banks. All of these trends discouraged small business loans. As a result, unprecedented numbers of borrowers have turned to the SBA 7(a) program, and the section 504 Development Company Program for financing which the private market was unable to provide.

Congress responded to increased demand for 7(a) loans in 1992 with an emergency supplemental appropriation which, unhappily, added to the deficit. In 1993, escalating demand caused the program to shut down for several weeks before Congress again responded, but this time with a reprogramming of unexpended Federal funds from other programs. This action did not add to the deficit, but this course could not be relied on for future funding for the 7(a) program. Congress also responded in 1993 with legislation which reformed the 7(a) program and substantially reduced the cost of loans. Public Law 103–81 reduced the guaranteed percentages of some loans by SBA and imposed a fee of 40 basis points of 7(a) loans sold to investors in the secondary market. This legislation reduced the subsidy cost of the program as calculated under the Credit Reform Act from 5.45 percent to 2.15 percent, thereby more than doubling the program levels which would be available from a fixed amount of appropriated funds. This reform was sought by the Clinton administration and generally supported by the lending community as the responsible course of action in a time of limited federal resources and obvious need for small business financing.

Growth of the 7(a) and 504 program has contributed to the economic recovery in many areas of the country and has prevented the credit crunch from causing even more pain in regions which have yet to fully benefit from the recovery. The program levels in this legislation represent a strong commitment by Congress to furthering and broadening the economic recovery by ensuring that adequate and affordable financing is available to the most vibrant sector of the economy, small business.

DIRECT LENDING

The committee amendment does not authorize SBA direct loan programs which have existed in the past, with the exception of the Microloan Program, the Specialized SBIC Preferred Stock Program, and the Disaster Loan Program, previously noted. This course is consistent with an amendment I offered earlier this year to the Senate Appropriations bill for SBA. That amendment moved funding from direct loans to raise fiscal year 1995 program levels for the sec. 504 and SBIC participating security programs. Appropriations for direct loans have so diminished over the last several years that they can hardly be called national programs. Often, the meager funds appropriated for direct loans have given business owners false hope that a direct loan could be obtained from SBA when, in fact, insufficient funds were available.

The committee concluded that the limited resources could more effectively be used to support loan guaranty programs which have lower subsidy costs under credit reform. Moreover, the Microloan Program is being expanded so that borrowers who might have been served under the direct loan programs should be able to seek financing from a microloan intermediary. Microloan borrowers receive training and technical assistance which is not available to direct loan borrowers.

SEC. 504 DEVELOPMENT COMPANY LOANS

Under the 504 program, SBA guarantees a 10- or 20-year debenture issued by a Certified Development Company [CDC], the proceeds of which fund a loan to a small firm for plant acquisition, construction, conversion, expansion or equipment. The SBA portion of the loan covers not more than 40 percent of the project, with a conventional lender providing 50 percent financing and the borrower providing the remaining 10 percent as equity.

The program is attractive to banks because SBA and the CDC agree to take a secondary position on all of the collateral, so the back is effectively overcollateralized. The borrower gets a long-term, fixed-rate loan with an interest rate comparable to the government's cost of money for a similar term.

The committee has worked to meet the ambitious funding levels proposed by the administration for the 504 program because it provides a cost-effective economic development tool. With a subsidy cost of barely more than one-half of one percent and a strong job creation requirement, the 504 program has boosted economic growth in the

VOL 140 PT 16 AG 12 — 18 1994 UMI

communities where it has been utilized.

Congress recently approved and the President signed legislation increasing the fiscal year 1994 authorization level for sec. 504 from $1.2 billion to $1.5 billion. The committee amendment raises the fiscal year 1995 program level to $2.3 billion, with further increases to $2.8 billion in fiscal year 1996, and $3.5 billion in fiscal year 1997. The program levels for fiscal year 1996 and 1997 are less than sought by the administration but more than provided by the House. For a program which was funded at $500 million in 1992, these are large increases, but they are warranted both by need for long-term, fixed-rate, financing which the market does not provide and by the modest cost of the program.

SBIC DEBENTURES AND PARTICIPATING SECURITIES

Program levels for SBIC debentures in the committee amendment are somewhat less than those set by the House because limited resources should be focused primarily to the new participating security program which was enacted in 1992 but which remains untried. Debenture financing, however, remains an important financing mechanism for some SBIC's and their clients whose business plans do not fit with the participating program.

The administration has sought extremely ambitious increases for the participating security program. The House bill provides $500 million of the $550 million request for 1995. In the outyears, the House bill authorizes $750 million in 1997 compared with the request of $1.1 billion. In 1998, the House bill provides $1.125 billion of the administration's $1.7 billion request. The Senate bill agrees with the House for all 3 years.

The committee concluded that the administration's proposed levels for participating securities are not prudent in light of nonexistent experience with this new but promising program. Moreover, the appropriations environment makes increases of the magnitude sought by the administration extremely unlikely. With a subsidy cost of almost 16 percent for the debenture program and approximately 9 percent for the participating security program, SBIC financing remains among the most expensive of all SBA loan programs. At the same time, I am hopeful that the new participating security will reinvigorate venture capital financing for small business and perhaps produce economic successes comparable to the SBIC program's past economic marvels which include Apple Computer, Intel, Federal Express, Cray Research, Compaq and others.

BUSINESS DEVELOPMENT PROGRAMS

The committee amendment gives statutory authorization for three important business development programs: the Service Corps of Retired Executives [SCORE], Small Business Institutes [SBI], and a special authority for assistance to firms affected by defense budget reductions through Small Business Development Centers [SBDC's]. SCORE and SBI both leverage private sector resources on a volunteer basis to provide valuable management counseling to small business owners. SCORE uses the talents of retired business people to counsel small business owners, while SBI works through faculty and graduate business-school students.

The authorized levels of $3.5 million for SCORE in fiscal year 1995, and $3 million for SBI, with modest inflation adjustments in the outyears, are more than matched in value by the time contributed by volunteers.

The committee adopted an amendment by Senator LEVIN which authorizes SBA, as part of its management assistance duties, to counsel small businesses and entrepreneurs of the benefits and risks of franchising. Franchising is an important and growing facet of our economy and can be an opportunity for people who want to be their own boss and who are willing to work hard. However, there are risks associated with franchising. This amendment aims to avoid problems before they happen by educating prospective franchisees.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

MICROLOAN DEMONSTRATION PROGRAM

At the March 17 oversight hearing and in its budget submission, the administration enthusiastically endorsed the Microloan Demonstration Program and called for its expansion. The administration also proposed a pilot program to test the idea of SBA guaranteeing loans to microloan intermediaries.

The committee strongly supports the Microloan Program and has included a statement of policy in S. 2060 clarifying that the program should be accessible to eligible small businesses regardless of their industry or geographic location. Some areas of the country are served by intermediaries which provide microloans only to certain types of businesses such as manufacturing. In those cases, SBA should permit more than one intermediary to serve the given area.

Other areas are not served by any intermediary. To help remedy this situation, the committee included a provision to permit certain native-American tribal organizations to become intermediaries. Previously, such entities were ineligible to participate in the program because they did not meet the statutory definition of intermediaries. SBA should actively seek and train potential intermediaries to serve areas where microloans are currently unavailable.

As also requested, the committee has authorized a 3-year guaranteed loan pilot program under which the SBA may guarantee between 90 and 100 percent of loans to 20 intermediaries from for-profit or non-profit lenders, or groups of such lenders. Ten intermediaries will be located in urban areas and 10 in rural areas. The loans will be for 10 years with no interest or principal due during the first year. Only interest will be payable during the second through fifth years and both interest and principal will be due during the final 5 years of the term. SBA may use appropriated funds to support these guarantees, including a buy-down of interest rates from lenders.

The committee has increased the authorized number of Microloan Demonstration Programs from 110 to 150 in fiscal year 1995 and to 200 in subsequent fiscal years. We increased the maximum amount an intermediary may borrow from SBA from $1.25 million to $2 million, eliminated the cap on the number of programs per State and, to conform with these two changes, increased the cap on the total loans a State may receive under the Microloan Program from $2.5 million to $10 million.

EXPORT ASSISTANCE LOAN PROGRAM

The administration requested three provisions intended to harmonize SBA's Export Loan Program with the Export-Import Bank's Export Loan Program. These provisions will enable SBA to work together with the Export-Import Bank and the Department of Commerce on jointly operated Export Assistance Centers. These centers will function as one-stop shops for businesses to obtain export counseling and financing, regardless of the size of the business.

The included provisions allow SBA to guarantee a variety of forms of credit, including standby letters of credit and revolving lines of credit for small businesses, small business export trading companies, and small business export management companies. SBA may guarantee between 85 and 90 percent on such credit. The maximum amount of an export loan under SBA's program is increased to $1.25 million, and the limit for working capital, supplies, or other export purposes has been increased to $750,000.

504 DEVELOPMENT COMPANY ACCREDITED LENDERS PROGRAM

The committee has included provisions to establish an Accredited Lenders Program [ALP] for certain section 504 development companies. This Program is based on a bill introduced by Senator WELLSTONE on June 23, 1994, S. 2235, the Small Business Accredited Lenders and Packagers Act. Senator WELLSTONE, as chairman of the Subcommittee on Rural Economy and Family Farming, held a hearing on July 21, 1993, on the Federal role in rural economic development. Testimony indicated a need for expedited processing of section 504 loans in rural areas.

As part of the Accredited Lenders Program, the administration is directed to develop a procedure for expedited processing on loan applications or servicing actions submitted by qualified development companies.

SMALL BUSINESS INVESTMENT COMPANY AND SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY PROGRAMS

In April 1994, the General Accounting Office [GAO] issued a report entitled "Small Business Administration: Inadequate Documentation of Eligibility of Businesses Receiving SSBIC Financing," which was requested by Congressman LAFALCE, chairman of the House Small Business Committee. GAO noted that 37 percent of all specialized small business investment companies [SSBIC's] had poor records or no records concerning the eligibility of their borrowers for financial assistance under the program.

The committee amendment includes a requirement that small businesses seeking financial assistance from SBIC's and SSBIC's certify to SBA that they meet the eligibility requirements of the program. S. 2060 also requires an SBIC or SSBIC to certify to SBA that it has reviewed the application for assistance and that there is no documentary or other indication that the applicant does not meet the program requirements.

With respect to the SBIC participating security program, I am concerned with the number of high-dollar applications the administration has received and with the lack of a policy with respect to funding applications for participating securities submitted by smaller SBIC's. The Committee included a provision which requires half of each year's appropriations for participating securities to be reserved for smaller SBIC's, those with private capital of less than $20 million. Since proportions are not always obtainable or desirable, the bill permits the administrator to use more than 50 percent of the annual appropriations for participating securities for larger SBIC's if, during the last quarter of the fiscal year, there is a lack of qualified applicants among smaller SBIC's.

TITLE III—SURETY BOND GUARANTEES

PREFERRED SURETY BOND GUARANTEE PROGRAM

Section 302 of the committee substitute extends the pilot Preferred Surety Bond Guarantee Program for 1 year, until September 30, 1995.

The Preferred Surety Bond Guarantee [SBG] Program was authorized on a test basis by title II of Public Law 100-590, the Small Business Administration Reauthorization and Amendments Act of 1988. The Preferred SBG Program is aimed at encouraging the participation of the large, so-called standard surety firms in the SBA Surety Bond Guarantee Program. Under the pilot program, a surety firm approved for participation is permitted to use its own bond underwriting, administration, and claims procedures without obtaining SBA's approval for the application of the SBA guarantee on a case-by-case basis. In exchange, the preferred surety's guarantee is limited to 70 percent rather than the 80 or 90 percent SBA guarantees available in the so-called SBA Prior-Approval SBG Program. One main objective of the pilot Preferred SBG Program is to expand access to surety bonding for small business concerns owned and controlled by socially and economically disadvantaged businesses often referred to as SDB's.

Regulatory implementation of the pilot Preferred SBG Program was slower than anticipated. To provide an adequate test period, the program's expiration date was previously extended from September 30, 1992, to September 30, 1994, by section 216 of Public Law 101-574, the Small Business Administration Reauthorization and Amendments Act of 1990.

The preferred surety program permits SBA to delegate to a surety carrier the authority to issue, monitor, and service surety bonds subject to the administration's guarantee without prior approval. Although less than 20 percent of SBA's surety bond guarantees are issued under this program, it is an efficient method. S. 2060 extends this authority for 1 year until September 30, 1995, in order to afford the Committee additional time to conduct thorough oversight hearings on the pilot program.

MANUFACTURING APPLICATIONS AND EDUCATION CENTERS

The committee has included a provision that directs the SBA to promote the award of contracts to manufacturing application and education centers. These centers are entities which have the capacity to assist small businesses in a shared-use production environment and which offer technology demonstration, technology education, technology application support, and technology advancement support services. The administration is to promote such awards by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently being provided by foreign sources.

In addition, S. 2060 further supports small businesses participating in the centers by authorizing an exception to the requirement that 50 percent of the work on a contract be performed by the business to whom the contract is awarded. The exception applies to any manufacturing contract performed by a small business in conjunction with a manufacturing application and education center.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE COSPONSORSHIP AUTHORITY

Since 1984, SBA has had authority to cosponsor business development activities with non-profit and for-profit entities. After some initial difficulties with for-profit cosponsorship, Congress imposed certain restrictions on the Agency's use of such cosponsorships. SBA must ensure that it receives appropriate recognition and publicity, that the cosponsorship does not constitute or imply an SBA endorsement of the cosponsor's product or service, and that SBA avoids unnecessary promotion of products or services.

Since the enactment of these requirements, cosponsorships with for-profit entities have enabled SBA to leverage its resources to reach a larger population of small businesses. The current authority is extended in S. 2060 to September 30, 1997.

SMALL BUSINESS DEVELOPMENT CENTER PROGRAM

The Small Business Development Center [SBDC] Program is a public-private partnership administered by the SBA which provides counseling, training, and other business development assistance to small businesses at over 900 sites nationwide. The Federal contribution is fully matched by State governments and other SBDC participants. The administration intends to make even greater use of the SBDC program than in previous years, and other Federal agencies are considering using the SBDC network to provide information and other services to small businesses. Demand for the program has outstripped its abilities based on current funding.

Since both Houses have passed fiscal year 1995 appropriations bills which contain SBDC funding, the committee has included provisions to increase the authorized national program for SBDCs beginning in fiscal year 1996. The program level will increase to $77.5 million in fiscal year 1996, and in fiscal year 1997 and later years, the authorized level will be $85 million.

In addition, beginning in fiscal year 1996, the funding floor will be raised from $200,000 to $300,000. Eleven States—Delaware, North Dakota, South Dakota, Wyoming, Montana, Vermont, Rhode Island, Idaho, Alaska, the Virgin Islands and the District of Columbia—are currently funded at the $200,000 floor. Together with matching funding requirements, the changes will provide those States with a minimum of $600,000 to operate their SBDC networks. Both the increase in the national program and in the funding floor will only take place if adequate appropriations are made available. If not, the current funding formula will remain applicable.

The committee has also included a provision that permits an SBDC to contract with another Federal department or agency to provide small business services, if the contract is approved in advance by the associate administrator for SBDCs. The 50 percent matching funds requirement is not applicable to such contracts.

VOL 140 PT 16 AG 12 — 18 1994 UMI

WOMEN'S BUSINESS DEMONSTRATION PROJECTS

S. 2060 extends the authority for the women's business training demonstration projects for 3 years until September 30, 1997. This program was designed to permit private organizations to provide financial assistance, management assistance, and marketing assistance to women entrepreneurs. The women's demonstration projects were created by the Women's Business Ownership Act of 1988.

NATIONAL COMMISSION ON WOMEN IN BUSINESS

The committee unanimously adopted an amendment offered by Senator MOSELEY-BRAUN on behalf of herself and Senator LAUTENBERG which creates a National Commission on Women in Business. The amendment was cosponsored by Senators BUMPERS, HARKIN, WOFFORD, and KOHL. The Commission will replace the National Women's Business Council which will expire shortly. The commission is in lieu of a 32-member interagency committee created in the House bill. The existing council, created by the Women's Business Development Act of 1988, was a nine-member board charged with strengthening opportunities for women businessowners. The committee chose creation of the new commission over an extension of the council or the more cumbersome structure chosen by the House because we believe the public-private structure of the commission is preferable to a large committee of Federal bureaucrats in addressing the issues facing women in business. The commission's duties are streamlined to increase the group's focus and effectiveness.

The commission will be composed of 14 members selected equally from both the public and private sectors. The commission's investigative and reporting responsibilities include the following: First, access to credit and capital, second, data collection on women-owned businesses, third, encouragement of women's participation in the White House Conference on Small Business, fourth, advancement of female executives, and fifth, development and growth of women-owned businesses.

The private sector members shall include three female small businessowners and four representatives of national women's business organizations. Terms of service for commission members is 1 year, but a member may serve for two consecutive terms.

Public sector members will include representatives from the Departments of Treasury, Labor, and Commerce, the General Services Administration, the Federal Reserve Board, and also the Administrator of the SBA and the Assistant Administrator of the SBA Office of Women's Business Ownership.

The commission's chairperson will be one of the women businessowners who shall be selected by the President. The vice-chairperson will be the Assistant Administrator of the SBA's Office of Women's Business Ownership.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Title V of the committee amendment provides relief from onerous prepayment penalties now imposed on borrowers under the former section 503 development company program. The 503 program provided long-term, fixed-rate financing to small firms for plant acquisition, construction, conversion or expansion, and equipment. The program differed from the current 504 program chiefly in that development company debentures—which finance individual loans—were sold to the Federal Financing Bank with SBA's endorsement.

Since 1986, these same debentures have been sold in the private capital markets with SBA's guaranty. When the Treasury was the sole purchaser of 503 debentures, the Government was able to dictate terms to the borrowers which have proved burdensome and unfair in light of changes in interest rates since the early 1980's.

Presently, some 3,500 section 503 borrowers nationally are saddled with SBA-backed loans with interest rates reflecting the Government's cost of money more than a decade ago. Many 503 loans carry interest rates from 12–15 percent and higher, and borrowers are unable to refinance at today's lower rates because of the prepayment penalties contained in the debentures. Borrowers have been hampered in growth and job creation by these onerous interest rates. Some borrowers testified that they were unaware of the prepayment issue when they entered into the loan. Others said that they were actually misled by either development company officials or by SBA employees on the issue when the loan was made. Senator HATFIELD characterized the Government's policy toward these borrowers as "loansharking."

The prepayment penalty problem has festered for many years, and this is not the first congressional effort to resolve the problem. In 1988, Congress passed S. 437, a bill introduced by Senator METZENBAUM which would have modified the prepayment penalty and would have benefited both borrowers and the Treasury. That bill was scored by the CBO, under rules then in effect, as reducing the deficit by about $50 million in the ensuing fiscal year. President Reagan pocket vetoed this bill following the adjournment of Congress. Subsequent changes in scoring rules under the 1990 Credit Reform Act prevented loan prepayments from being considered as revenues, and this scoring change seriously delayed resolution of the issue.

Last year, Senator HATFIELD took up the cause of the section 503 borrowers and introduced S. 737. Our committee held a hearing on the Hatfield bill on May 17, 1994, at which SBA representatives and several 503 borrowers testified. Additionally, the Clinton administration endorsed prepayment relief for these borrowers, and the President's fiscal year 1995 budget proposal contains $30 million in funding.

Unfortunately, the administration proposal falls short of meaningful relief to all borrowers. The administration would substitute the current 504 prepayment penalty for the 503 loans.

This change would allow any borrower who had repaid his loan for more than half of its term to face no penalty at all. However, the administration proposal of only $30 million in appropriated funds would assist a much smaller group of borrowers than the plan included in S. 2060.

The committee concluded that the Hatfield bill, which was estimated by CBO to cost $167 million, was too expensive, and the administration bill and budget request of $30 million was too meager. The House bill, on the other hand, allows a very small amount of help in the form of an interest rate buy-down for all borrowers. Relief, under the House bill, would be limited by the amount of appropriated funds available, which seems certain to be $30 million in fiscal year 1995, and probably zero thereafter.

Complete relief for a very few and meager relief for all borrowers were equally unacceptable, so the committee adopted a third course of action which supplements appropriated funds with the proceeds of new, reduced prepayment penalties.

I believe that any solution to this problem must include fairness to the taxpayers and the Treasury as well as the distressed and aggrieved borrowers. The committee amendment compromises these competing interests. While no borrower will get off scot-free, as some would under the administration's proposal, virtually all borrowers should be able to refinance at today's rates upon the payment of a modest penalty.

The committee amendment provides borrowers the right to prepay 503 loans upon the payment of a substitute penalty set forth in the following schedule: First, with respect to a 10-year term loan, 9.5 percent; second, with respect to a 15-year term loan, 9.5 percent; third, with respect to a 20-year term loan, 10.5 percent; and fourth, with respect to a 25-year term loan, 11.5 percent.

These penalties are based on the outstanding principal balance of the loan and accrued interest at the time of prepayment and are estimated to cover approximately half of the cost of these refinancings to the Federal Financing Bank. The remainder of the cost will be covered by SBA appropriated funds contained in the President's fiscal year 1995 budget and in the House and Senate fiscal year 1995 appropriations bills for the Departments of Commerce, Justice, State and Related Agencies. The committee estimates, based on data from SBA, that the sum of these two amounts will allow at least 75 percent of all affected borrowers to prepay, which should include virtually all borrowers likely to choose prepayment.

The committee amendment makes clear that all costs of refinancing may be included in a new section 504 loan, including the penalty here enacted. A borrower may, however, choose any other sources of financing available to him.

TITLE VI—MISCELLANEOUS AMENDMENTS

The committee amendments permits SBA to collect and retain certain user fees and loan action fees. The administration requested and the committee agreed to permit the agency the authority to impose fees for loan servicing actions such as loan extensions or other modification of the terms of a loan. Commercial lenders routinely charge substantial fees for such actions. SBA is permitted under the amendment to charge not more than $300 for loan actions. This figure represents a maximum which will be imposed only for the most costly loan actions.

The amendment also permits SBA to collect and retain reasonable fees for publications produced by SBA. SBA has for many years produced and distributed pamphlets and the like on a variety of business issues. These range from general information on starting a business to specialized information on particular types of businesses such as day care centers. A number of valuable publications from years past are outdated, and SBA has not had resources sufficient to develop and publish new ones. The committee urges SBA to make publications available through its resource partners, including SCORE, SBDC's, and SBI's.

The committee amendment does not include the administration proposal to authorize the SBA to collect fees for SBDC counseling.

Section 607 of the committee amendment requires SBA to conduct a broad-ranging economic impact study for the 7(a) and 504 programs. This requirement parallels a similar requirement contained in the Senate report to accompany H.R. 4603, the appropriations measure for SBA for fiscal year 1995.

Insofar as the 7(a) program is concerned, SBA should build on the results of the Price Waterhouse study released in 1991, and should conduct the most comprehensive assessment possible of the macroeconomic impact of these programs, including job creation and the impact on Federal and State revenues from business expansions. The study should also consider the default and loss rates and projections for both programs. The administration may use outside contractors to the extent necessary.

The committee adopted an amendment offered by Senator MOSELEY-BRAUN on behalf of Senator LAUTENBERG which requires applicants for SBA financial assistance to certify in writing that he or she is not in violation of any court order, administrative order, or any other agreement requiring the applicant to pay child support. This amendment was cosponsored by Senators BUMPERS, KOHL, HARKIN, MACK, and HUTCHISON.

Since 1975, Congress has made a concerted effort to combat the problem of parents who fail to honor their commitments to provide financial support for their children. Almost 20 years ago, the Child Support Enforcement program was enacted. Since that time and with every change to that program, the rate of collection has increased. This amendment will provide another tool against those parents who refuse to acknowledge or comply with their obligations to provide for their offspring. The cost of implementation of this requirement will be nominal.

Mr. President, this bill has been cosponsored by Senators PRESSLER, NUNN, LEVIN, HARKIN, KERRY, LIEBERMAN, WELLSTONE, HEFLIN, MOSELEY-BRAUN, and CHAFEE. It is good legislation which can only help the economy move forward and help to address the difficult challenges facing America's small business men and women. I urge all my colleagues to support S. 2060.

HIGH-SPEED GROUND TRANSPORTATION DEVELOPMENT ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 337, S. 839, the High-speed Ground Transportation Development Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 839) to establish a program to facilitate development of high-speed rail transportation in the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Ground Transportation Development Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) high-speed rail may offer a safe and efficient complement to existing intercity transportation modes in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal financial capital assistance may be required to supplement the financial commitments of State and local governments and the private sector to ensure the development of the infrastructure required for high-speed rail systems;

(8) new technologies and, particularly, defense conversion initiatives can facilitate the development of high-speed rail in the United States;

(9) the development of these technologies can expand the competitiveness of United States industry in this country and overseas; and

(10) Federal assistance is required for research and development of high-speed rail technologies for commercial application in high-speed rail service in the United States.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

The Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) is amended by adding at the end the following new titles:

"TITLE X—HIGH-SPEED RAIL ASSISTANCE

"SEC. 1001. DESIGNATION OF CORRIDORS

"(a) PETITION.—The Governor or Governors (or the duly authorized officer or officers) of a State or States that substantially encompass a proposed corridor may petition the Secretary for designation under this section.

"(b) CONTENTS.—Any petition submitted pursuant to subsection (a) shall include such information as the Secretary determines by regulation to be necessary to evaluate the merits of that corridor. Any such petition shall also designate a public agency, for each petitioning State, that is authorized by the State to be responsible for coordination of activities under the high-speed rail program proposed for that corridor, and authorized to receive financial assistance under section 1002 or 1003.

"(c) DETERMINATIONS AND CRITERIA FOR DESIGNATION.—(1) The Secretary is authorized to designate as a designated corridor any corridor where the Secretary determines that—

"(A) the high-speed rail service proposed for the corridor offers the potential for cost-effective intercity passenger transportation as part of the Nation's transportation system; and

"(B) high-speed rail development will not create unfair competition for existing transportation service in operation or under development in such corridor.

"(2) Determinations under paragraph (1)(A) and (B) shall be based on such criteria as the Secretary considers appropriate, including—

"(A) the integration of the designated corridor into metropolitan area and Statewide transportation planning undertaken pursuant to sections 134 and 135 of title 23, United States Code;

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(B) the interconnection of the proposed high-speed rail service with other parts of the Nation's transportation system, including the relationship of the proposed service to intermodal terminals;

"(C) the anticipated effect of the proposed high-speed rail service on the congestion of other modes of transportation;

"(D) any adverse impact on existing mass transit services and other intercity passenger transportation modes in the corridor;

"(E) the effect of the proposed service on the efforts of State and local governments to attain compliance with the Clean Air Act;

"(F) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(G) the estimated level of ridership;

"(H) an evaluation of existing highway-rail grade crossings on the corridor that need to be closed or separated;

"(I) the estimated capital cost of the proposed service, including the cost of closing or separating highway-rail grade crossings in the corridor;

"(J) the extent to which the projected revenues of the proposed service, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses; and

"(K) the level of support and cooperation of any owners and operators of existing rail facilities proposed for improvement in developing the high-speed rail service.

"(d) ADDITIONAL DESIGNATIONS.—(1) The Secretary shall, upon the written request of the State or States that substantially encompass the proposed corridor, designate as a designated corridor—

"(A) any intercity rail corridor designated as a high-speed rail corridor by the Secretary under section 104(d)(2) of title 23, United States Code; or

"(B) any discrete portion of such a corridor.

"(2) The Secretary shall, upon the written request of the State or States that substantially encompass the proposed corridor, designate as a designated corridor any intercity rail corridor, other than the main line of the Northeast Corridor between Washington, District of Columbia, and Boston, Massachusetts, that includes a substantial segment where regularly scheduled rail passenger service operates at speeds in excess of 100 miles per hour as of the date of enactment of the High-Speed Ground Transportation Development Act of 1993.

"(3) Any request under this subsection shall include the designation of a public agency, for each requesting State, that is authorized by the State to be responsible for coordination of activities under the proposed high-speed rail program, and authorized to receive financial assistance under section 1002 or 1003.

"(e) ADMINISTRATIVE EXPENSES.—The Secretary may provide financial assistance to a public agency designated under subsection (b) for up to 80 percent of the administrative expenses incurred by such agency, and determined eligible by the Secretary, in carrying out its responsibilities in connection with the development of a designated corridor. The Secretary shall establish a formula for the allocation of assistance under this subsection.

"SEC. 1002. CORRIDOR MASTER PLANS.

"(a) REQUIREMENT.—An applicant shall prepare and submit to the Secretary, and may periodically amend, a corridor master plan for a corridor, subject to the approval of the Secretary.

"(b) CONTENTS.—A corridor master plan prepared under subsection (a) shall identify a coordinated program of improvements to advance the establishment of high-speed rail service in the corridor, including those improvements not eligible for financial assistance under this title. Such plan shall include—

"(1) identification of how the proposed high-speed rail service relates to State and metropolitan area transportation plans of the affected States and metropolitan areas;

"(2) identification of the specific elements that comprise the program to achieve the high-speed rail service, including their estimated costs, schedules, timing, and relationship with other transportation projects;

"(3) identification of the transportation benefits expected to be derived from each element, including reductions in trip times and increases in speeds;

"(4) identification of specific improvements that comprise each element, a representation of the extent to which such improvements are eligible for financial assistance under this title, and an identification of all proposed sources of funding for such specific improvements;

"(5) identification of anticipated levels of ridership and projections of revenues and expenses associated with the proposed high-speed rail service when completed and for each element undertaken to achieve high-speed service, including estimates of any operating subsidies that would be required and the sources of such subsidies;

"(6) an operating plan identifying the proposed schedule and frequency of the high-speed rail service and the coordination of such service with any other rail operations on the corridor;

"(7) identification of specific improvements that will permit sustained operating speeds substantially in excess of 125 miles per hour, including such improvements as electrification, line straightening, and use of advanced locomotive and rolling stock;

"(8) identification of specific enhancements to passenger convenience, including such enhancements as interline ticketing with other modes of transportation, parking and other means of passenger access, and use of intermodal terminals, particularly at airports;

"(9) consideration of the effect on existing rail passenger service provided in the corridor by the National Railroad Passenger Corporation; and

"(10) such other information as may be required by the Secretary.

"(c) PLAN PREPARATION ASSISTANCE.—The Secretary, by regulation and to the extent the Secretary considers reasonable, may provide financial assistance to an applicant preparing a corridor master plan for up to 50 percent of the costs associated with preparation of such plan incurred after the date of enactment of the High-Speed Ground Transportation Development Act of 1993, including the costs of design, environmental and route selection analysis, and preliminary engineering necessary to support such analyses. The Secretary shall not provide financial assistance under this subsection in an amount that exceeds the amount provided by State and local governments for such preparation costs.

"SEC. 1003. FINANCIAL ASSISTANCE FOR DESIGNATED CORRIDORS.

"(a) AUTHORITY.—The Secretary may provide financial assistance to an applicant to fund improvements eligible under subsection (c). No financial assistance shall be provided under this title—

"(1) for improvements to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts; or

"(2) for improvements relating to a designated corridor in a State where the State prohibits the expenditure of State funds for such improvements.

"(b) TERMS, CONDITIONS, AND PROCEDURES.—(1) The Secretary shall establish appropriate terms, conditions, and procedures for the provision of financial assistance under this section.

"(2) The Secretary shall not provide financial assistance under subsection (a) for improvements in a designated corridor unless the Secretary finds that the applicant is in compliance with the requirements of section 1005(a) relating to an arrangement for insurance coverage.

"(c) ELIGIBLE IMPROVEMENTS.—Improvements eligible for financial assistance under subsection (a) shall be those improvements, other than the acquisition of rolling stock, that are necessary to facilitate the development of high-speed rail service, including—

"(1) final engineering and design;

"(2) site specific environmental analyses and environmental mitigation;

"(3) acquisition of right-of-way and related property;

"(4) acquisition, construction, rehabilitation, upgrading, or replacement of roadbed, structures, track, guideway, signal and communications systems, electric traction systems, propulsion or guidance systems incorporated as part of a guideway, maintenance-of-way facilities, maintenance-of-equipment facilities, private highway-rail grade crossings (including payments to property owners to close such crossings where appropriate) and public highway-rail grade crossings to the extent authorized under subsection (f)(3), and those portions of terminals and stations directly related to the operation of the high-speed rail service.

Improvements that are eligible for funding under other Federal transportation programs shall not be eligible for financial assistance under subsection (a).

"(d) MINIMUM FUNDING.—Financial assistance may not be provided under subsection (a) unless such assistance enables the completion of at least one full element of a program to achieve high-speed rail service.

"(e) PRIVATE FUNDING.—In providing financial assistance under subsection (a), the Secretary shall ensure that the element or elements for which such assistance is provided include the maximum practicable private funding.

"(f) FUNDING PROPORTIONS.—(1) In providing financial assistance under subsection (a), the Secretary may provide financial assistance for up to 80 percent of the cost of specific eligible improvements. No less than 20 percent of the costs of such improvements shall be provided by State or local funds.

"(2) The Secretary shall not provide financial assistance to an applicant under subsection (a) in an amount which exceeds the amount provided for the development of the designated corridor by State and local governments, and other Federal transportation programs, after April 29, 1993.

"(3) The Secretary may provide financial assistance to an applicant under subsection (a) for a public highway-rail grade crossing improvement that is part of the development of a designated corridor only if such improvement was not, as of the date of enactment of the High-Speed Ground Transportation Development Act of 1993, included as a high priority for highway-rail grade crossing improvement in the State to be funded with funds apportioned to the State under section 104(b)(3) of title 23, United States Code, and allocated under section 133(d)(1) of such title.

"(g) CRITERIA.—In determining whether to provide financial assistance to fund an element under subsection (a), the Secretary shall consider how the element meets the criteria identified in section 1001(c), the information contained in the relevant corridor master plan, commitments by State and local governments to fund any increases in the operating deficit of the National Railroad Passenger Corporation with respect to that Corporation's operation over the designated corridor that result from the completion of the element, and such other information as the Secretary considers appropriate.

"(h) FINAL SAFETY REGULATIONS; DISBURSEMENT LIMITATION.—(1) The Secretary shall issue final regulations concerning the safety of high-speed rail service that address, at a minimum, the following subjects:

"(A) rail vehicle integrity;

"(B) passenger and crew protection and emergency evacuation;

"(C) rail vehicle-track interaction;

"(D) separation and closure of highway-rail grade crossings;

"(E) necessary train control and signaling systems;

"(F) the operation of high-speed and conventional passenger trains, commuter trains, and freight trains in the same corridor (including the means for ensuring safety in a corridor while preserving the existing level of rail service generally); and

"(G) protection against undetected incursions into the right-of-way.

"(2) Upon disbursing any funds for improvements under subsection (c)(4), the Secretary shall publish a notice in the Federal Register—

"(A) certifying that any final safety standards that are essential to ensure that those specific improvements are consistent with a safe operating environment for high-speed rail service are in effect; and

"(B) specifying what those standards are.

"(i) EARLY ASSISTANCE.—The Secretary may provide financial assistance under subsection (a) for an element not contained in a corridor master plan prepared under section 1002 only if such financial assistance is provided, with respect to a designated corridor, before the expiration of 30 months after the date of enactment of the High-Speed Ground Transportation Development Act of 1993.

"SEC. 1004. HIGH-SPEED RAIL TECHNOLOGY DEVELOPMENT.

"(a) AUTHORITY.—The Secretary is authorized to undertake research and development of high-speed rail technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized by subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency of the Federal Government.

"(c) DEFENSE CONVERSION.—The Secretary shall give a high priority to proposals under this section which encourage civilian application to high-speed rail of defense-related technologies.

"SEC. 1005. INSURANCE REQUIREMENTS.

"(a) INSURANCE CONTRACT AND CERTIFICATION.—(1) Before financial assistance may be provided under section 1003 for a designated corridor, the applicant shall—

"(A) enter into an arrangement for the provision of liability insurance coverage, in an amount (subject to subsection (c)) of $500,000,000 per occurrence, to compensate for any and all loss from compensatory and punitive damage claims, against such applicant, the operator of the proposed high-speed rail service, or the owners and operators of the track and other rail facilities that will be used for such high-speed rail service, for death, bodily injury, or loss of or damage to property resulting from an accident or incident involving—

"(i) on designated corridors having intercity rail passenger service on October 1, 1993, operation of a train in excess of maximum speeds for intercity passenger trains in timetables in effect on October 1, 1993, on the applicant's corridor;

"(ii) on designated corridors having rail service but no rail passenger service on October 1, 1993, operation of a train in excess of maximum speeds for passenger trains permitted on the applicant's corridor under section 213.9 of title 49, Code of Federal Regulations, on October 1, 1993; and

"(iii) on designated corridors for which new rail lines are being built, operation of rail passenger service, regardless of the nature of the conduct causing such death, bodily injury, loss, or damage; and

"(B) certify to the Secretary that the applicant has entered into such arrangement for insurance coverage.

"(2) For purposes of this section, the term 'insurance coverage'—

"(A) as applicable to the primary layer of insurance up to $25,000,000 per occurrence, includes self-insurance by any person insured under the applicable coverage and mutual indemnification agreements among any combination of such persons; and

"(B) as applicable to layers of insurance above $25,000,000 per occurrence, includes self-insurance and mutual indemnification agreements that are agreed to by all persons required to be insured under the applicable coverage.

Such term includes self-insurance or mutual indemnification agreements described under subparagraphs (A) or (B) only to the extent authorized under the law of any State in which the applicable rail service is operated.

"(b) RESTRICTION ON OPERATIONS.—On designated corridors upgraded with assistance provided under section 1003, unless insurance coverage as described in subsection (a) is in force, rail passenger service shall not—

"(1) on designated corridors having intercity rail passenger service October 1, 1993, be operated in excess of maximum speeds for intercity passenger trains in timetables in effect on October 1, 1993, on the applicant's corridor;

"(2) on designated corridors having rail service but no rail passenger service on October 1, 1993, be operated in excess of maximum speeds for passenger trains permitted on the applicant's corridor under section 213.9 of title 49, Code of Federal Regulations; and

"(3) on designated corridors for which new rail lines are being build, be operated.

"(c) INTERSTATE COMMERCE COMMISSION JURISDICTION.—Upon the petition of a person insured under insurance coverage purporting to be as described in subsection (a), the Commission shall, within 90 days after its receipt of such petition, determine the adequacy of such coverage. The petitioner shall have the burden of proving, by a preponderance of the evidence, the inadequacy of such insurance coverage (including the sufficiency of the amount specified in subsection (a)) with respect to the corridor for high-speed rail service is proposed and with respect to the potential liability of the petitioner. In making its determination, the Commission shall employ the usual and customary underwriting methodology of insurers of rail activities, taking into account the speeds at which passenger trains are proposed to operate in the corridor, any safety features, rules, and procedures created in connection with such proposed high-speed rail service, and the existence and applicability of other insurance coverage for the petitioner. In no event shall the Commission provide for a lower level of insurance coverage than is provided by subsection (a). In the event the Commission determines that insurance coverage is inadequate, the Commission shall determine the level of insurance coverage that is adequate. The applicant shall then provide coverage at that level.

"(d) MULTIPLE CORRIDORS.—Nothing in this section shall preclude respective applicants from jointly procuring the insurance coverage required pursuant to subsection (a) so that such insurance covers more than one corridor.

"SEC. 1006. BUY AMERICA REQUIREMENTS.

"(a) GENERAL RULE.—Except as provided in subsection (b), an applicant receiving financial assistance under section 1003 shall ensure that the articles, materials, and supplies purchased with such financial assistance are substantially all of United States manufacture or production. An applicant that fails to meet the requirement of this section may not receive further assistance under section 1003.

"(b) EXEMPTION.—The Secretary may grant an exemption from this section to an applicant with respect to the purchase of articles, materials, or supplies, or may grant an exemption for any improvement incorporating such articles, materials, or supplies, if the Secretary determines that—

"(1) the application of this section is inconsistent with the public interest;

"(2) the cost of imposing such requirements with respect to such articles, materials, or supplies is unreasonable;

"(3) such articles, materials, or supplies are not produced or manufactured in the United States in sufficient and reasonably available quantities or of a satisfactory quality;

"(4) such articles, materials, or supplies cannot be purchased and delivered in the United States within a reasonable time; or

"(5) such articles, materials, or supplies are produced or manufactured in a country that the President has determined, in its government procurement contracts, treats articles, materials, or supplies produced or manufactured in the United States on a national treatment basis.

"(c) EXCEPTION.—This section shall not apply with respect to an element in any case in which the total cost of the articles, materials, or supplies purchased in connection with such element with financial assistance provided under section 1003 is less than $1,000,000.

"SEC. 1007. LABOR STANDARDS.

"(a) REQUIREMENT TO PROVIDE PROTECTIVE ARRANGEMENTS.—A recipient of Federal assistance under section 1003, for improvements described in section 1003(c)(4), shall provide fair and equitable arrangements to protect the interests of rail employees who may be affected by such assistance. Such arrangements shall include the guidelines issued by the Secretary of Labor under subsection (c). The Secretary shall be satisfied

VOL 140 PT 16 AG 12 — 18 1994 UMI

that the arrangements include the Secretary of Labor's guidelines before providing financial assistance under section 1003.

"(b) OPERATOR RESPONSIBILITY FOR COSTS.—Where State law prohibits the recipient of Federal assistance under section 1003 from paying the costs of protecting the interests of rail employees in accordance with this section, such costs shall be the responsibility of a beneficiary of such assistance formally identified by the State as having such responsibility or, in the absence of such an identification, the operator of high-speed rail service operating within the applicable designated corridor.

"(c) ISSUANCE OF GUIDELINES.—The Secretary of Labor shall, within 90 days after the date of enactment of this title, issue guidelines on what arrangements are needed to satisfy this section. The guidelines shall be as protective of employee interests as the requirements of section 405(b) of the Rail Passenger Service Act (45 U.S.C. 565(b)) and shall include provisions regulating subcontracting of work funded by financial assistance provided under section 1003.

"SEC. 1008. APPLICABILITY OF OTHER LAWS.

"The operator of a high-speed rail service operating in interstate commerce or over a rail line operated in interstate commerce, within a designated corridor that receives financial assistance under section 1003, shall, with respect to such high-speed rail service, be subject to applicable laws with respect to such service, including, but not limited to, the Railway Labor Act (45 U.S.C. 151 et seq.), the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

"SEC. 1009. DEFINITIONS.

"For purposes of this title—

"(1) the term 'applicant' means a public agency designated under section 1001(b) or (d)(3), or a group of such public agencies, seeking financial assistance under this title for development of a designated corridor;

"(2) the term 'corridor' means an existing or proposed route for high-speed rail serving two or more major metropolitan areas in the United States;

"(3) the term 'designated corridor' means a corridor designated by the Secretary under section 1001;

"(4) the term 'element' means a discrete portion of a program to develop a designated corridor that has a demonstrable intercity ground transportation benefit independent of other improvements to such corridor;

"(5) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(6) the term 'high-speed rail' has the meaning given such term under section 511(n) of this Act;

"(7) the term 'improvement' means a discrete activity that contributes to the development of the infrastructure of a designated corridor;

"(8) the term 'rolling stock' means locomotives and rail passenger cars;

"(9) the term 'State' means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States; and

"(10) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

SEC. 4. EXEMPTIONS FOR NORTHEAST CORRIDOR IMPROVEMENT PROJECT.

Section 705 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 855) is amended by adding at the end the following new subsection:

"(c) APPLICABLE EXEMPTIONS AND PROCEDURES.—For the purpose of any State or local requirement for permit or other approval for construction of any improvement undertaken by Amtrak as part of the Northeast Corridor Improvement Project, the exemptions and procedures applicable to a project undertaken by the Federal Government or an agency thereof shall apply.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) HIGH-SPEED RAIL ASSISTANCE.—There are authorized to be appropriated to the Secretary of Transportation for the national high-speed rail assistance program authorized under sections 1001, 1002, and 1003 of the Railroad Revitalization and Regulatory Reform Act of 1976—

(1) $96,000,000 for fiscal year 1994;
(2) $166,000,000 for fiscal year 1995;
(3) $183,000,000 for fiscal year 1996;
(4) $238,000,000 for fiscal year 1997; and
(5) $299,000,000 for fiscal year 1998.

(b) TECHNOLOGY DEVELOPMENT.—There are authorized to be appropriated to the Secretary of Transportation for high-speed rail technology development authorized under section 1004 of the Railroad Revitalization and Regulatory Reform Act of 1976—

(1) $15,000,000 for fiscal year 1994;
(2) $15,000,000 for fiscal year 1995;
(3) $15,000,000 for fiscal year 1996;
(4) $15,000,000 for fiscal year 1997; and
(5) $15,000,000 for fiscal year 1998.

(c) ADMINISTRATIVE EXPENSES OF SECRETARY.—Of the amounts authorized to be appropriated under subsections (a) and (b), the Secretary of Transportation may reserve the funds necessary for payment of the administrative expenses incurred by the Secretary in carrying out the Secretary's responsibilities under title X of the Railroad Revitalization and Regulatory Reform Act of 1976, as added by section 3 of this Act.

(d) ADMINISTRATIVE EXPENSES OF PUBLIC AGENCIES.—Of the amounts authorized to be appropriated under subsection (a), the Secretary of Transportation may reserve up to 1 percent for the purpose of providing financial assistance under section 1001(e).

(e) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

SEC. 6. GRADE CROSSING SIGNAL DEVICES.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended—

(1) by redesignating the subsections after the first subsection (r) as subsections (s), (t), (u), and (v), respectively; and

(2) by adding at the end the following new subsection:

"(w) GRADE CROSSING SIGNAL DEVICES.—The Secretary shall, within 1 year after the date of enactment of this subsection, establish nationally uniform standards regarding the allocation of responsibility for selection and installation of signal devices at public railroad-highway grade crossings.".

SEC. 7. COLUMBUS AND GREENVILLE RAILWAY.

(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, d/b/a the Columbus & Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825, 831).

(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

AMENDMENT NO. 2570

(Purpose: To authorize appropriations for high-speed ground transportation)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. EXON, proposes an amendment numbered 2570.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Ground Transportation Development Act of 1994".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—

The Congress finds that—

(1) high-speed rail service offers safe transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

(9) Federal assistance is required for the improvement, adaptation, and integration of technologies for commercial application in high-speed rail service in the United States.

(b) PURPOSE.—The purpose of this Act is to encourage farsighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity travel corridors.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Part C of subtitle IV of title 49, United States Code (relating to passenger transportation) is amended by adding at the end the following new chapter:

"CHAPTER 251—HIGH-SPEED RAIL ASSISTANCE

"§ 25101. Corridor planning

"(a) AUTHORITY.—The Secretary may provide financial assistance to an applicant, based upon the criteria set forth in subsection (d) of this section, to fund corridor planning under subsection (b)(1) of this section.

"(b) ELIGIBLE ACTIVITIES.—

"(1) A corridor planning activity is eligible for financial assistance under subsection (c) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institutional plan for implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

"(A) environmental assessments;

"(B) feasibility studies emphasizing commercial technology improvements or applications;

"(C) economic analyses, including ridership, revenue and operating expense forecasting;

"(D) assessing the impact on rail employment of developing high-speed rail corridors;

"(E) assessing community economic impacts;

"(F) interface with State and metropolitan area transportation planning and corridor planning with other States;

"(G) operational planning;

"(H) route selection analyses;

"(I) preliminary engineering and design;

"(J) identification of specific improvements to a corridor, including electrification, line straightening, grade crossing closings, and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, interface with other modes of transportation, parking and other means of passenger access, track, signal, station and other capital works, and use of intermodal terminals;

"(K) preparation of financing plans and prospectuses; and

"(L) creation of public/private partnerships.

"(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

"(c) CORRIDOR PLANNING ASSISTANCE.—

"(1) The Secretary may provide under this subsection financial assistance to an applicant for corridor planning for up to 50 percent of the publicly financed costs associated with eligible activities.

"(2) No less than twenty percent of publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources cannot include funds from any Federal program.

"(d) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of applicants for financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

"(A) the relationship or inclusion of the corridor in the Secretary's national high-speed ground transportation policy;

"(B) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 miles per hour or greater;

"(C) the integration of the corridor into metropolitan area and Statewide transportation planning;

"(D) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

"(E) the anticipated effect of the corridor on the congestion of other modes of transportation;

"(F) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act;

"(G) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(H) the estimated level of ridership;

"(I) the estimated capital cost of corridor improvements, including the cost of closing, improving or separating highway-rail grade crossings;

"(J) rail transportation employment impacts;

"(K) community economic impacts;

"(L) the extent to which the projected revenues of the high-speed rail service to be planned, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses; and

"(M) whether a route has been selected, specific improvements identified, and capacity studies completed.

"§ 25102. High-speed rail technology improvements

"(a) AUTHORITY.—The Secretary is authorized to undertake activities for the improvement, adaption, and integration of technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized in subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency or the Federal Government.

"(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized in subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

"§ 25103. Definitions.

"For purposes of this chapter—

"(1) the term 'applicant' means a public agency, or a group of such public agencies, seeking financial assistance under this title;

"(2) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(3) the term 'high-speed rail' means rail passenger transportation expected to reach and maintain speeds of 125 miles per hour or greater;

"(4) the term 'publicly funded costs' means the costs funded after April 29, 1993, by Federal, State and local governments;

"(4) the term "State" means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States;

"(5) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

"§ 25104. Safety regulations

"The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.".

SEC. 4. COLUMBUS AND GREENVILLE RAILWAY.

(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, doing business as the Columbus & Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively).

(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR FY 1995.—There is authorized to be appropriated to the Secretary of Transportation $29,000,000 for financial assistance authorized under sections 25101 and 25102 of title 49, United States Code.

(b) AUTHORIZATION FOR FY 1996.—There is authorized to be appropriated to the Secretary—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(c) AUTHORIZATIONS FOR FY 1997.—There is authorized to be appropriated to the Secretary of Transportation—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(d) ADMINISTRATIVE EXPENSES OF SECRETARY.—Of the amounts authorized to be appropriated under subsections (a), (b) and (c), the Secretary of Transportation may reserve the funds necessary for payment of the administrative expenses incurred by the Secretary in carrying out the Secretary's responsibilities under chapter 251 of title 49, United States Code.

(e) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

Mr. EXON. Mr. President, I am pleased to offer a compromise substitute amendment to the High-Speed Ground Transportation Act. I was pleased to work on this compromise with the Secretary of Transportation and the chairman of the Senate Commerce Committee. This legislation focuses attention and resources on high-speed rail research and corridor planning as well as incorporates the vision for high-speed rail into the comprehensive national transportation plan.

Admittedly, this proposal is a scaled-back version of the bill which won bipartisan, unanimous Senate Commerce Committee support. While I am very proud of that more comprehensive bill, the compromise before the Senate comes to terms with constraints of the Senate Calendar, the concerns of my colleagues, and the Federal budget. As the author of the Exon-Grassley budget amendment, I frankly welcome making tough choices of this nature.

VOL
140
PT
16
AG
12
—
18
1994
UMI

The compromise plan lengthens the horizon for high-speed rail deployment and defers some questions which will arise with construction, such as liability and fair treatment for labor. These issues must eventually be addressed. I predict that these problems will be addressed in a manner very similar to the high-speed rail bill which won the support of the Senate Commerce Committee last year.

That being said, I am pleased with the substitute amendment. It keeps the vision of high-speed rail service and increased rail employment alive. It focuses in on the key precursors to construction as the administration develops transportation strategy for the next century.

After 12 long years of fighting to defend subsistence investments in Amtrak, the significance of this day can not be underestimated. With the adoption of this legislation, the Nation enters a new era of rail transportation. Just as ribbons of steel and billows of steam helped unite a young America in the 1800's, sleek trains and advanced technology will carry a modern America into a prosperous new century.

Rail transportation is safe, fuel efficient, and environmentally friendly. Today's investment in high-speed rail will pay significant dividends in the next century. High-speed rail holds great promise for reducing traffic congestion on the ground and in the air, boosting employment, and regaining America's edge in rail and maglev technology.

As a Senator from the great State with a long, rich rail history, I am especially proud to help create a new American industry. High-speed rail and maglev service, technology research and manufacturing will create good American jobs at good wages. This initiative also holds a key to converting defense industries into civilian powerhouses. It also creates an opportunity for America to become a player in a major export sector. In recent years European and Japanese companies have won significant contracts for high-speed rail service in Korea, China, and elsewhere.

Because American passenger rail service has been starved for investment for so long, by and large, American firms were not even players in these major export opportunities. A major step is being taken to at last join the fray.

Even for States which will not see high-speed rail service or related manufacturing jobs in the near future, the benefits of this legislation will be real and significant. Modern high-speed rail service will help make airport capacity problems at high-density airports more manageable. Presently, commuter service consumes a significant number of limited landing slots at America's four most popular airports. As high-speed rail attracts short and medium distance travelers, limited airport landing slots will become more available for long distance travelers. In other words, it will become easier for Nebraskans to fly to destinations such as Chicago, New York, and Washington, DC.

For States like Nebraska, with many railroad retirees, the future of those seniors will be made more secure with the revitalization of railroad employment and the increased contributions to the railroad retirement system that employment brings. For the conventional rail industry, this high-speed rail will bring new technology development, grade crossing elimination, and infrastructure improvements which will enhance all passenger and freight service.

In summary, Mr. President, when it comes to American high-speed rail and maglev, it is all aboard.

I encourage my colleagues to support this landmark legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2570) was agreed to.

Mr. FORD. I move to reconsider the vote, and to lay that on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the committee substitute, as amended, be agreed to and the bill, as amended, be read the third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment, as amended, was agreed to.

The bill was read the third time.

Mr. GORTON. Mr. President, I am pleased to have another opportunity to express my strong support for the High Speed Rail Development Act.

I am especially excited that Washington State directly benefits from its implementation. Having one of the five national high-speed rail corridors extending from Vancouver, BC to Eugene, Or will alleviate many of the clogged highways in Washington State.

I am delighted that action is being taken to expand our Nation's use of new transportation technology. I have heard from numerous frustrated Washington State residents about the need for alternative cost-effective intercity passenger service. The development of the high-speed rail corridors is exactly the answer.

High-speed rail will offer a safe and efficient complement to existing intercity transportation modes. It has a distinct environmental advantage over other forms of intercity transportation and the Northwest will clearly benefit from its development.

I would like to especially thank my colleague in the House, Representative AL SWIFT, who has been a tireless advocate for improved Amtrak and high speed rail service in the Northwest. I have worked with Representative SWIFT on language that is very important to the development of our corridor in the Northwest and I am very pleased that the committee has included my suggested amendments to this legislation.

Mr. HOLLINGS. Mr. President, today we are considering S. 839, the High-Speed Ground Transportation Development Act, as amended. What is before the Senate is an amendment in the nature of a substitute, offered by Senator EXON to the bill reported by the Commerce Committee. I support this substitute amendment.

I have endorsed for some time a federal role in the promotion of high-speed ground transportation development in the United States. I view the Federal role as important in this area for two reasons. First, Federal support for research and development of new high-speed ground transportation technologies can enhance our Nation's economic and technology competitiveness and manufacturing base. Second, I believe that establishing new high-speed surface transportation systems to serve the national transportation needs of our country represents an important policy objective for our Nation.

The technologies that underlie high-speed rail systems can improve the safety and efficiency of our surface transportation system. Moreover, these technologies can lead to a reduction in traffic congestion, a favorable impact on our environment, and the conservation of energy resources.

Of course, this legislation by itself will not provide us with all of these benefits but this amendment is a first and very necessary step to that end. It allows the planning for high-speed rail to begin. It allows the Federal Government, in partnership with the states, to develop a workable program for high-speed rail, beginning with the basic determination of which of the Nation's transportation corridors can support high-speed rail systems. Finally, it will help to ensure that when high-speed rail is a reality, it will meet the national transportation needs and be cost-effective. I urge the Senate to support the substitute amendment offered by Senator EXON.

HIGH-SPEED GROUND TRANSPORTATION DEVELOPMENT ACT OF 1993

Mr. FORD. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4867, the House companion now at the desk and that all after the enacting clause be stricken and the text of S. 839, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, passed, and the motion to reconsider be laid on the table, the title be appropriately amended; further, that upon disposition of H.R. 4867, the Senate measure be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4867), as amended, was passed.

The title was amended so as to read: "A bill to authorize appropriations for high-speed ground transportation, and for other purposes."

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Friday, August 19; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders reserved for their use later in the day; that there then be a period for morning business not to extend beyond 9:30, with Senators permitted to speak therein for up to 5 minutes each; that upon disposition of the conference report accompanying H.R. 4603, the Senate then resume consideration of S. 2351, the Health Security Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL FRIDAY, AUGUST 19, 1994, AT 9 A.M.

Mr. FORD. If there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:09 p.m., recessed until Friday, August 19, 1994, at 9 a.m.

VOL 140 PT 16 AG 12 — 18 1994 UMI

HOUSE OF REPRESENTATIVES—*Thursday, August 18, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D. offered the following prayer:

We pray, O gracious God, that You would strengthen us in our inner being and give us the grace to be at peace in body, mind, and spirit. Your Word reminds us that You are our shepherd and that Your love is for the welfare of Your flock. We pray that You will bless us with the gift of a sturdy faith, a faith that withstands the pressures of the day. Give us the assurance that deep in our hearts is Your peace that passes all human understanding. Amen.

JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Wyoming [Mr. THOMAS] please lead the House in the Pledge of Allegiance.

Mr. THOMAS of Wyoming led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

NEED FOR CRIME BILL IS NATIONWIDE

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, witnesses are killed, shootouts happen in broad daylight by city hall, and the police are outgunned. I am not talking about Washington, DC, or New York City. This is happening in the Indiana district I represent.

We need a crime bill now.

The extremists who are preventing us from passing a strong bill are playing Russian roulette with the public's safety for cynical political gain.

What is wrong with putting 100,000 new police officers on the streets?

What is wrong with banning assault weapons designed to kill large numbers of people as quickly as possible?

What is wrong with locking repeat violent criminals behind bars forever?

And what is wrong with preventing the pain and horror of crime before it happens?

Mr. Speaker, there is nothing wrong with these provisions that will take our streets back. Let us stop the politics and put the people first.

THE PRESIDENT'S VISION

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, according to the latest poll, 68 percent of the people agree that President Clinton "has a vision for the country." Today's poll, however, indicates that only 37 percent of Americans agree with that vision.

The President's vision is far different than that of the average American family.

President Clinton views the American taxpayer as the primary provider for his social welfare programs. He views the Federal Government as the primary job creator of the economy. He views the social welfare worker as the best criminal justice enforcer. He views the Federal Government as the best provider of health care. He views the individual with distrust and the Government with complete trust.

Mr. Speaker, President Clinton does indeed have a vision for the country; unfortunately, his vision is a nightmare for most American families.

THE IRS WILL TAKE IT ALL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the IRS recently threatened to seize a Colorado sprinkler company for underpayment of withholding taxes. The underpayment: One copper coin, one cent, one red penny. This is no joke. Unbelievable.

The IRS said they are going to rain all over the Rainmaker Sprinkler Co. Think about it: What is next? They are going to tell us where to eat? What to eat? Where to sleep? Where to go to the john?

We have an IRS agency out of control, ripping us off, and I want to give credit today to Congressman SCOTT MCINNIS. He not only signed Discharge Petition No. 12 that would change the burden of proof in a tax case, he sent a little note with a penny and said, "Straighten this thing out."

Ladies and gentlemen, it has gotten so bad that they will just come in without proof one day and take your wife, take your kids, your dog, your goldfish, and Congress is allowing this to go on. When for one penny the IRS can seize property or threaten to, the Congress should pay some attention.

CLINTON-GEPHARDT: BAD MEDICINE FOR SENIORS

(Mr. GOSS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, seniors in my district have been outspoken critics of the AARP's recent endorsement of the Clinton-Gephardt health bill. Like most Americans, they do not like the idea of giving Government greater control over their health decisions and they are saying so loud and clear. Seniors are right to rebel. For the Clinton-Gephardt bill is worse for seniors than even the recent catastrophic health debacle.

The bill would open up Medicare to a whole host of nonelderly persons—including noncitizen aliens. And it would limit total spending in the program—in effect, rationing care. Seniors' choices would also be restricted. They would be forced to pay for the new drug benefit, even if they have more generous coverage elsewhere. Under the Clinton-Gephardt bill, seniors could also be forced out of the Medicare system altogether and into a State-run health plan.

Very simply, the Clinton-Gephardt bill is bad medicine for America's seniors. For seniors' sake, we must reject it. That is what they are asking us to do.

PLAY BALL

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS. Major league ball players, big-league owners, play ball.

HEALTH CARE—NFIB JOB LOSS

(Mr. EVERETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVERETT. Mr. Speaker, there is another kind of insurance that the Clinton-Gephardt plan should include—job loss insurance. According to a new report from the National Federation of Independent Business, the Clinton-Gephardt bill will destroy 1.3 million jobs and cost another 11 million workers over $13 billion in reduced wages.

These jobs losses and reduced wages are a direct result of employer mandates in the plan. Clinton-Gephardt might be guaranteeing universal health insurance coverage, but will it also find jobs for all the people it puts out of work?

For a President that brags about low-paying job creation as one of his accomplishments—you have to wonder why his health care scheme does more to destroy jobs than its does to provide good, solid bipartisan health care.

PUBLIC GETS CONFUSING MESSAGES ON CLINTON-GEPHARDT HEALTH CARE

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON of Florida. Mr. Speaker, there is mass confusion surrounding the health care debate, and it is only getting worse as the war of the ads heats up.

Consider the back-to-back messages going out to the American public:

First they are told, "We'll all be forced into giant HMO's."

Then they are warned, "They'll take away our HMO's."

First they are told, "Reform will mean the end of life-saving technology."

And then they are warned, "Without reform, your family may lose access to life-saving technology." I guess next will come the Mueslix ad.

Many people bombarded with these conflicting ads thing they are all addressing the Clinton-House bill, rather than the many versions of reform on the table. Is it any wonder they are confused as to what is actually in the legislation and whether it is important?

It is incumbent on us and the media to educate the public, not only as to what the bill will do, but why we must act now, that there is still an emergency in health care in this country.

That 5 years ago, we talked of a $500 billion price tag, and now we are talking a trillion and it is fiscally irresponsible to wait any longer.

And that the only reason the cost of health care has slowed this year is that there is a bill out there dealing with universal coverage and reform. It is not altruism.

If we do not act now, the costs will shoot back up and we will return to the expensive and amoral system we confronted at the start of this debate.

That would not only be unfortunate. It would be unforgiveable.

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THE JOB-KILLING CLINTON-GEPHARDT HEALTH BILL

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, a report, which we have already heard about, released by the National Federation of Independent Business, recently shows that the Clinton-Gephardt health care bill would cost 1.3 million working men and women their jobs, and another 11 million of them might see their wages reduced if this plan were passed.

In my own State of Illinois, the Clinton-Gephardt bill could kill almost 65,000 jobs, and more than 553,000 Illinoisans would see their wages reduced because of this bill.

The mandates in the Clinton-Gephardt bill for businesses to pay for insurance is more than they can afford. It could cause many small businesses to face closing or reducing their employees.

Mr. Speaker, the Illinois economy has had its problems with recession, and through it all small business has been there for the working men and women. The mandates in the Clinton-Gephardt plan would put an end to that. We should not pass the Clinton-Gephardt plan. We should look out for the working men and women of this country.

WRONG AGAIN, THIS TIME ABOUT UNIVERSAL HEALTH CARE COVERAGE

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. There they go again. They are making those numbers up, and every day they can come out here and make up a new set of numbers about what health care will do to this country.

But the record is pretty clear. The record is clear that, when we passed the Budget Act, they were wrong. They said the Budget Act would end up destroying jobs. The Budget Act passed only with Democratic votes. They said it would kill the economy. What has happened? We have produced more jobs in the last 16 months than the previous 4 years.

Mr. Speaker, the people on the Republican side of the aisle that will say that having universal health care coverage will somehow damage the economy have been wrong consistently. They were wrong when they were against Social Security, they were wrong when they were against Medicare, they were wrong when they were against the Budget Act which has reduced the deficit, about to be for the third year in a row, the first time since Harry Truman.

I say to my colleagues, "Let's stop fabricating the crisis that isn't going to exist. Universal health care will strengthen small business, it will level the playing field, and in my State it means small business will stop subsidizing McDonald's and other large corporations that don't provide health care for their workers."

THE PORK IN THIS BILL IS A CRIME

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, as my colleagues know, one section of the President's so-called anticrime bill that he frequently tries to gain support with is that there are going to be 100,000 new cops on the street. It is just another myth. However, the National Center for Policy Analysis discovered the numbers do not quite add up to 100,000.

According to a Princeton University criminologist, Mr. Speaker, it takes 10 police officers to keep 1 full-time officer on the street. Therefore the bill would actually fund only about 2,000 round-the-clock cops. Based on 200 jurisdictions, this would increase actual street strength by only 10 police per city. In reality this bill would fund more social workers than police officers.

Mr. Speaker, the vote last week spoke loud and clear. The pork in this bill is a crime, and Americans do not want, do not need, and do not deserve more pork. America wants a real anticrime bill.

FISCAL RESPONSIBILITY AND THE CRIME BILL

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, we are talking about crime again, and, yes, it is a matter of who we like and who we think is correct. I think that children are important. I think it makes more sense to prevent crime than to spend $24,000 in my State to incarcerate people, and in the Federal level alone it pays $20,000. For those who will say it is fiscally irresponsible, Mr. Speaker, I will say that is nonsense.

So, I want to be a voice for reason. I want to be a voice for logic and say, "How best should you spend $24,000? Should you spend it on basketball? Should you spend it on education? Should you spend it on preventing young people from becoming criminals? I would rather spend $24,000 on a basketball team that produced taxpayers, contributing citizens, than to spend $24,000 a year draining on the society and no productivity at all."

Mr. Speaker, I say, "Let's make sense. Prevention is a part of that strategy, just as incarceration."

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VOL 140 PT 16 AG 12 — 18 1994 UMI

TEN REASONS WHY REPUBLICANS OPPOSE THE CRIME BILL

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, we all want a crime bill, but we have a different vision of what a crime bill ought to look like. So, why do the Republicans oppose the President's version of a crime bill? Let me give my colleagues ten reasons:

No. 1, inadequate funding for building prisons;

No. 2, inadequate funding for hiring more cops on the beat;

No. 3, weakened sexual predators provision;

No. 4, various pork-barrel projects, including $10 million for Lamar University located in Chairman BROOKS' district;

No. 5, may result in the release of 10,000 convicted drug felons;

No. 6, does not include victims restitution provisions of Senate-passed bill;

No. 7, does not include strengthened death penalty procedures to end endless appeals process;

No. 8, does not include tough penalties for violent juvenile gang offenses;

No. 9, includes $9 billion in repetitive, wasteful social welfare spending; and

No. 10, Republicans were not included in this process, nor did they even know until the report came to the table what was going to be in it.

Mr. Speaker, there are 10 reasons, and we could give many more, of why Republicans do not share the President's vision of what a crime bill ought to look like.

PRESIDENT BUSH NAMED MIDNIGHT BASKETBALL AS ONE OF HIS 1,000 POINTS OF LIGHT

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, over the last week, midnight basketball has become the favorite scapegoat of Republicans trying to explain their votes against the crime bill. Republicans say that midnight basketball is nothing more than social pork. Republicans say that it is a feel-good program that has nothing to do with crime. But, that is not what Republican President George Bush was saying just a few short years ago. In fact, the former leader of the Republican party named midnight basketball as 1 of his 1,000 points of light.

And, in 1991, when President Bush visited a pilot midnight basketball league he had this to say, and I quote: "Here everybody wins * * *. Everyone gets a better shot at life. It's about providing opportunity for young adults to escape drugs and the streets * * *."

Midnight basketball may not work everywhere. But, it works in New Haven, CT, and in many other urban areas struggling to provide young people with alternatives to crime and drugs. It is a crime that some Republicans are using partisan politics to snuff out a point of light.

PRESIDENT WANTS CREDIT FOR A CRIME BILL, IGNORES OFFERS OF COOPERATION FROM REPUBLICANS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I would like to remind President Clinton of November 1992 when he said

> Americans want us to work together * * *. They want the finger-pointing and the blame-placing to stop * * * and I don't really care who gets the credit for this if we can actually make some headway on these profound challenges we face.

President Clinton is not using his own advice.

Instead, he is blaming Republicans and special interests for tricking him. He is arm twisting those in his own party to pass the same bad bill in a new vote. And he is ignoring all offers for cooperation from Republicans.

It is obvious the President doesn't really care about fighting crime, he just wants a victory and he will do anything to get it. Even if it means compromising the safety of the American people.

PARTNERSHIP FOR VETERANS HEALTH CARE REFORM

(Mr. DERRICK asked and was given permission to address the House for 1 minute.)

Mr. DERRICK. Mr. Speaker, the Partnership for Veterans Health Care Reform speaks for millions of American veterans. Its members include: The American Legion; AMVETS [American Veterans of WWII, Korea, and Vietnam]; Veterans of Foreign Wars of the United States; Disabled American Veterans; Jewish War Veterans of the USA; Blinded Veterans Association; Military Order of the Purple Heart of the U.S.A., Inc.; Non Commissioned Officers Association of the USA; Paralyzed Veterans of America, and Vietnam Veterans of America, Inc.

Listen to what this partnership has to say about reform: The Guaranteed Health Insurance Act meets "the needs of the brave men and women who sacrifice their health for our country." The partnership states that they "will continue to inform Members of Congress and our membership that [the Guaranteed Health Insurance Act] contains our stated policy goals."

Support health care reform that is good enough for our veterans, and all Americans.

□ 1020

PARTISAN POLITICS HOLDING UP ACTION ON THE CRIME BILL

(Mr. COLLINS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Georgia. Mr. Speaker, I would like to remind the gentlewoman from Connecticut that some of Mr. Bush's remarks are the reason he is not president any longer. Maybe Mr. Clinton ought to take a lesson from such.

Mr. Speaker, the crime bill has turned to 100 percent politics. That is right, the debate has turned from locking up criminals to locking up votes—votes on this House floor and votes in November.

Mr. Speaker, the message from the people of the Third District of Georgia is that they want criminals locked up. They want them prosecuted, and they want them punished. They are tired of partisan politics coming from the White House and from this House. The vote on the rule last week to stop the crime bill was a strong bipartisan vote and was a true representation of the wishes of the people of this country.

LAW ENFORCEMENT OFFICIALS RATE PREVENTION KEY IN ANTI-CRIME LEGISLATION

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, yesterday a number of law enforcement officials from all across the country came and met with many Members of Congress. They were here not just to talk about more cops on the street, which they have a direct interest in. They were here not just to talk about building more prisons which will incarcerate violent offenders. They were not here just to talk about tougher laws like, "three strikes and your out", which we all support.

They were here because they believe prevention is the only way we can stem the tide of an inexorable number of young people moving into a life of crime.

Yet we listen to the Republican partisan spin doctors today flying into the teeth of the views of law enforcement from across the country, yelling, "Pork, pork, pork." This is a good example of how partisanship overcomes good policy;

So much of what is in this bill has been proposed in past administrations. We have never before found the courage to come together and put a bill before this Congress that touches every element of the problem; prevention, punishment and increased policing. And now when we do get there, what do we find? Charges that somehow we have,

through code words like "midnight basketball," prostituted the real goals of fighting crime.

Mr. Speaker, it is an outrage. It ought not to be allowed to last beyond Saturday. I think this Congress will act on a crime bill, and Republicans who do not wish to stand with us will pay the price.

THE CLINTON-GEPHARDT HEALTH CARE PLAN IS A STEP TOWARD THE CLINTON WELFARE STATE

(Mr. HORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, President Clinton has promised to end welfare as we know it. I agree with that goal. But the President is going to create an even larger welfare state than we now know, because a major step toward the Clinton welfare state is the Clinton-Gephardt health care plan.

The payroll taxes alone which are in the Clinton-Gephardt plan will kill millions of jobs and reduce wages. Those taxes will place Americans in a position where they may need to resort to Government assistance. A Government-run health care plan that costs jobs and stagnates economic growth will cause more people not only to depend on the welfare state for health care but also to support them while they are out of work.

Mr. Speaker, there are alternatives: Rowland-Bilirakis, Cooper-Grandy, and the new bipartisan proposal on health reform legislation. The bipartisan proposal does not contain job-killing taxes, Government-run alliances, employer mandates, global budgets, and, worst of all, the rationing of needed health care services. That is why I support the bipartisan proposal.

Mr. Speaker, let us get smart. Let us use common sense. Let us agree on a bipartisan approach to one of the most important issues facing many Americans.

COSPONSORS SOUGHT FOR BILL TO REPEAL THE CUBAN ADJUSTMENT ACT

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, yesterday the Governor of Florida asked for Federal assistance in dealing with the increasing immigration problem from Cuba.

I want to remind my colleagues that Cubans enjoy special treatment under United States immigration and political asylum law. Specifically, the Cuban Adjustment Act allows Cuban nationals who have been living in the United States for 1 year under any circumstances to become permanent residents of the United States. They can come here whether for political reasons or economic reasons. Other asylum-seekers cannot come for economic reasons; they need to seek the safety of political asylum into the United States.

In practical terms, the act creates an exception to our immigration law for Cubans which is not available to persons of any other nation. As long as this preferential treatment exists, Cuban migration will continue.

Mr. Speaker, some are estimating that as many as 1.5 million Cubans may arrive in south Florida in the coming weeks. The Governor of Florida is right to ask for Federal assistance because a special-interest loophole in Federal policy is unfairly punishing his State. Let us end this now.

Mr. Speaker, I urge my colleagues to cosponsor my bill, H.R. 3854, to repeal the Cuban Adjustment Act.

WELFARE REFORM RESOLUTION INTRODUCTION

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute.)

Mr. KNOLLENBERG. Mr. Speaker, this Saturday marks the 30th anniversary of the war on poverty. Three decades and $5 trillion ago, President Johnson told America that the war on poverty would be a temporary investment. Today, President Clinton tells us much the same thing about this welfare plan.

I believe it is time to set a different course in the welfare reform debate. It is time we gave the people who pay the bills as much consideration as the people on the dole. After all, the American taxpayer has paid dearly for our failed welfare policies—an average of $50,000 per household.

That is why today I am introducing a taxpayer protection resolution for welfare reform. It simply states that any plan which passes the House: Will result in a net savings to the taxpayer, will cap welfare spending at rate of inflation, will not be financed by new taxes, will not add to the Federal deficit, and will not place new mandates on States and localities.

I urge you to become a cosponsor. Welfare reform in the 1990's has to be about doing more with less. We owe it to the taxpayer, and we owe it to people we are trying to help.

EVIDENCE OF PARTISAN POLITICS IN APPOINTMENT OF SPECIAL PROSECUTOR FOR WHITEWATER INVESTIGATION

(Mr. CLYBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLYBURN. Mr. Speaker, as the saying goes, appearance is everything. If that is indeed the case, how does this appear to you?

A judge who presides over a three-judge panel is given the authority to chose a special prosecutor to lead the investigations into what detractors say appears to be improprieties by the President in connection with the Whitewater case.

During his deliberations, the judge meets on Capitol Hill with a U.S. Senator who has led efforts to oust the first special prosecutor because the first special prosecutor's professional ties appears to conflict with his duties as special prosecutor.

Shortly after the meeting between the judge and the Senator, the three-judge panel replaces the first special prosecutor with a new special prosecutor, never mind that public statements made by the new special prosecutor against the President appears to bring into question his objectivity in conducting the investigation.

Meanwhile, the judge and the Senator tell us that appearances can be deceiving, and are insisting that nothing untoward occurred during their lunch-time meeting.

Mr. Speaker, this whole thing appears to me to be nothing more than partisan politics while wasting the taxpayers time and money in search of something—anything—which appears of substance in this whole Whitewater washout.

BURUNDI THREATENED WITH MASS GENOCIDE

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I want to speak about Burundi, but before I do, let me just say that Ken Starr, who has been appointed special prosecutor, is a good friend of mine, and he is one of the most honest, decent, ethical, and moral men I think I have ever seen in this city. He is somebody that we have on both sides shown a lot of confidence in.

Mr. Speaker, the lessons of Rwanda are clear. Quick action by the international community could have prevented mass slaughter in Rwanda. It could have saved thousands of lives and millions of dollars in humanitarian assistance. Let us not let another chance to pre-empt genocide in Burundi slip away.

We had reports in June from missionary groups in Burundi that the potential for massive bloodshed was there. The same Tutsi factions responsible for the death of 20,000 Hutus last fall have plans to get rid of any Hutu leaders who stands in the way of assuming full control of the government. Trouble is brewing and tensions are rising. On Tuesday, the New York Times reported that the United Nations, CARE, Doctors without Borders, and other remaining relief organizations have all

VOL 140 PT 16 AG 12 — 18 1994 UMI

pulled their people out over the weekend.

The interim President set an August 26 deadline for naming a new President and forming a new coalition government after missing a constitutionally mandated July 12 deadline. Last weekend the factional leaders snubbed a United Nations proposal to send in a peacekeeping force and international monitors to calm the tensions. The United States should be helping bring the sides together.

If this deadline goes by without reconciliation we could be looking at mass chaos. There is a small window of opportunity here to be peacemakers, rather than crisis managers.

Please understand that I am not talking about sending in American troops, only American diplomats. Maybe Secretary Christopher should go over to help broker peace. Maybe we should send a special envoy. All I know is that we should do something now to prevent another humanitarian disaster. Let us not sit on our hands. And watch many more men, women, and children be brutally killed.

CONFRONTATION POLITICS THREATENS ENACTMENT OF THE CRIME BILL

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, the eyes of the world are upon us, and we are looking at how we are going to deal with the crime bill. As a House conferee and a Member of this House for 20 years, I am saddened as I leave because I see confrontation politics being the order of the day, and it is very evident, particularly in the crime bill.

The crime bill is not essentially different than it was when it left the House. This side of the aisle, unfortunately, or much of this side of the aisle, does not want to see a crime bill. Thirty-seven Members on this side of the aisle voted for the crime bill when it left the House, and it had midnight basketball in it. It also had a lot of other initiatives that have been criticized but which most of the Members support—such things as alternatives for youthful offenders, to try to do something to provide sentencing judges with more options so we can intervene with juvenile offenders earlier in the process and not wait for the 15th time they get into the system, but try to intervene the third time.

On this side of the aisle we lost a lot of votes because of assault weapons. On both sides of the aisle we have seen confrontation politics, and that is why the crime bill is in trouble.

□ 1030

DEPOLITICIZE THE CRIME BILL

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, over on 1600 Pennsylvania Avenue, White House spin doctors are working overtime to try and convince Americans that their so-called crime bill actually fights crime instead of providing exciting new job opportunities for Washington, DC, bureaucrats and giving criminals new loopholes through which to wiggle.

Meanwhile, average Americans are still waiting for real relief from the daily threat of violent crime.

That is why 58 courageous Democrats, nearly 1 out of every 4 Democrats, joined Republicans last week in a bipartisan effort, temporarily stopping this boondoggle.

Once again President Clinton is looking at scoring political points with cheap rhetoric and expensive Government giveaway programs. Unfortunately, he is doing this instead of actually cracking down on the violent thugs terrorizing American neighborhoods.

IMMIGRATION EMERGENCY WITH CUBA

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the United States is facing an immigration emergency which now we face is with respect to Cuba. We had a briefing of our Subcommittee on International Law, Immigration, and Refugees, at our request, yesterday regarding the preparations that we are making in the United States to deal with this immigration emergency.

I might say that something like 6,000 Cubans have already come to the United States this year, compared to 3,000 last year, 1,000 already in August which is only half over, and as many as 500 are coming a day.

I am pleased to know the administration has a kind of broad plan to deal with the emergency, but it is impossible to deal effectively with the emergency, Mr. Speaker, so long as the 1966 Cuban Adjustment Act remains on the Statute books. The act allows Cubans, unlike any people in the world, to come to the United States, even for economic reasons, and be resettled and eventually get their citizenship. I think the President ought to examine some way by Executive order to suspend some applications of the Cuban Adjustment Act.

I might also remind everyone, Mr. Speaker, that there is nothing in the Cuban Adjustment Act which prevents interdiction of Cubans as we do with Haitians. I think it also should be considered in interdicting Cubans that they be landed in places other than the United States to avoid triggering the Cuban Adjustment Act as we await other administration decisions on how to deal with this immigration emergency.

BURUNDI MUST NOT BECOME ANOTHER RWANDA

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, clear evidence of increasing ethnic tensions and violence in Burundi, Rwanda's neighbor, is demanding that the international community not only imagine but that it demonstrate what it has learned from the horror in Rwanda. With alarm, we are witnessing in Burundi a familiar pattern of deteriorating conditions, but I fear we can only find marginal efforts by the international community to intervene, to make the timely and critical difference, to effectively mitigate the spiraling pattern of violence. If the international community does not heavily insist on conflict resolution in Burundi it will never know if it could have prevented yet greater instability in central Africa.

Bipartisan American leadership in providing humanitarian relief to refugees in complex emergencies is well established. I call upon the administration, in the strongest possible terms, to urgently provide an equal degree of leadership in addressing with all possible ways and means the alarming escalation of conflict in Burundi. We cannot once again say, "Who could have imagined."

SOCIAL PROGRAMS TO PREVENT CRIME ARE NOT PORK

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, the crime bill is far from perfect, but I'm getting a little bit tired of hearing from some Members who criticize every program that will try to prevent young people from turning to crime, violence, and drugs as pork.

Let me be very clear, I do not consider it as pork or wasteful spending if we are successful in developing approaches which keep young people from turning to crime, drugs, and violence. In fact, I consider that money very well spent and an important investment for the future of this country. Further, when we spend $25,000 a year to keep one prisoner in jail, I consider crime prevention to be very cost effective for the taxpayers, in other words, I would prefer to spend a few hundred million dollars on a program which keeps kids from turning to crime than a hundred times more money keeping those same young persons in jail.

Mr. Speaker, given the fact that we already have the highest rate per capita of incarceration in the entire world, I think that it's high time that we begin to look at the root causes of crime which have an enormous amount to do with poverty, lack of education, lack of jobs, and lack of hope.

Mr. Speaker, I find it interesting that when some Members of the Congress vote for huge tax breaks for the wealthy, that's not pork, but when we vote for funds to save the lives of our children and the most at-risk people in this country, that is pork.

I find it interesting that when some Members vote to spend almost $3 billion for star wars that's not pork, but when we vote $1.8 billion to protect women against violence, that somehow is pork. I find it interesting that when some Members vote $70 billion for the space station that's not pork but when we vote a few hundred million dollars for after school programs and athletic programs, that is pork. I find it interesting that when we level-fund spending for the intelligence agencies, despite the end of the cold war, that's not pork, but when we put money into athletic programs and boys and girls clubs, that is pork.

My conclusion, Mr. Speaker, is that for some Members of Congress any legislation that helps the wealthy, the Defense Department or the CIA, is a great investment for America. However, any legislation which will improve life for the poor, and the most vulnerable, and will keep young people out of jail, is considered pork and wasteful. Mr. Speaker, let us get our priorities right.

HEALTH CARE PLAN: BIGGER IS NOT BETTER

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, in this health care debate, we have gone from the Clinton plan to the Clinton-Mitchell plan and now to Clinton-Gephardt. The plans have gotten bigger, but not better. In fact, it is hard to imagine these Government-controlled health reform ideas becoming any worse for America's small businesses and their employees.

An independent study for the National Federation of Independent Businesses shows that Clinton-Gephardt will cost more than 1.3 million jobs and cause pay cuts for 11 million more workers.

My State of Georgia would lose more than 33,000 jobs. Almost 300,000 people in my State will face wage cuts if the Democrats are able to ram the ill-conceived Clinton-Gephardt bill through Congress and down the throats of the American people.

We all agree that Americans should not have to lose health care coverage when they lose their jobs. But that does not mean the Government should force employers to issue 1.3 million pink slips to test the theory.

CHARLTON HESTON WILL BE REMEMBERED FOR LYING TO AMERICANS

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, the actor Charlton Heston should be remembered for his great career as an actor, but he will not be. He is going to be remembered for not telling the American public the truth, because that is what he is doing by joining the National Rifle Association in its campaign of lies against the crime bill. He is using his credibility as a respected actor to give credibility to those lies and distortions by the NRA against the crime bill.

Charlton Heston should understand that the crime is lying to the American public.

LEANER, MEANER HEALTH CARE PLAN NEEDED

(Mr. EHLERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EHLERS. Mr. Speaker, we have heard time and time again from the current administration that their goal for health care is to reduce costs and improve efficiency. However, I fear we will have the opposite. An example is what I hold in my hand, an inch-thick survey response submitted by an ambulatory health care facility in my district in response to a questionnaire from the Health Care Financing Administration.

The physician who gave this to me estimated it took 120 hours of staff time, plus a considerable amount of his time, at a total cost of approximately $10,000 simply to respond to this survey from the Federal Government. This, I fear, is a prime example of what Government involvement in health care will do.

Ultimately, it is the users, the patients, who will pay the bill for this sort of thing. It will not reduce health care costs. What we need is a leaner, better, more efficient health administration, not a more bureaucratic one that is going to result in surveys such as this.

I recommend that we work in the direction of a leaner, better, health care plan.

ADVICE TO CHARLTON HESTON: THOU SHALT NOT BEAR FALSE WITNESS AGAINST THY NEIGHBOR

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, first Charlton Heston thought he was Ben-Hur.

Then he thought he was Moses.

Now he thinks he is an expert on the crime bill.

The truth is, Charlton Heston is simply another movie actor, playing another role, reading someone else's words.

And the script Charlton Heston is reading, Mr. Speaker, was written and paid for by the National Rifle Association.

If anyone in this House thinks Charlton Heston has actually read—much less mastered—this crime bill, there is a bridge up in Brooklyn I would like to sell them. The truth is, Charlton Heston does not know a darned thing about this crime bill. He is simply lobbying for assault weapons.

It is shameful—shameful—for a man who played the role of Moses, the original lawgiver, to now be selling lies for the NRA in the name of killing machines.

I say to Charlton Heston, remember the Commandment Moses gave us: Thou shalt not bear false witness against thy neighbor.

□ 1040

THE CLINTON HEALTH BILL

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, as we wait to vote on health care reform, and that should not happen until after we return in September or better in the new year, let us keep one thing in mind: Whatever we pass could have easily been passed in February 1993.

The original Clinton bill was a mistake. The House bill now being drafted is a mistake. Reports state that there are about 160 votes for it. The liberal leadership in the House has ignored the moderate coalitions that voted in Clinton, Bush, and Reagan.

Here is the proof: The committee and subcommittee chairs of Ways and Means and Energy and Commerce all had their own reform bills and none have made it to the floor in the last two Congresses. Of the two Democratic bills we will probably vote on, one is a single payer plan that is supported by less than 50 percent of their party and the other is the leadership bill that could only make it to the floor by circumventing the entire legislative process.

VOL
140
PT
16
AG
12
—
18
1994
UMI

The congressional Woodstock generation should stick to music, for they have failed miserably at health care reform.

CRIME BILL DEBATE

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, the Republicans have crowed about some victories they have had this year. Correctly so, they did achieve mayoral victories in two major U.S. cities, Los Angeles and New York. I would like to inform my friends on the other aisle that the two Republican mayors of those two cities visited this town yesterday to deliver a strong message to this body—pass this crime bill now.

Both Mayor Riordan and Mayor Guiliani, a former prosecutor, were on one accord with their Democratic colleagues in urging this body to act swiftly in passing the Omnibus Crime Control bill. They were not partisan in their approach because they realize that crime affects all of their citizens.

The crime bill which we will soon have the opportunity to vote upon is a good prescription for the pervasive crime problems which are so common to our Nation's cities. It includes a "three strikes and you're out" provision which I proposed last year. The "three strikes and you're out" part of the bill removes repeat violent offenders from our society who have proven by their actions that they no longer deserve to be part of an ordered society. Additionally, the bill is tough on criminals and provides additional funding for prisons to house them. Moreover, it provides for an additional 100,000 police officers to protect our communities and it provides for programs to keep kids off the streets and out of gangs.

We cannot let our cities down. This crime bill is essential to their ongoing struggle to combat crime. We need to quickly pass this crime bill so that Mayors Guiliani, Riordan, and other mayors throughout this country can do what their constituents elected them to do.

FAILED CUBAN POLICY

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, we have seen this administration's bungled policy that brought 12,000 Haitians to my State last year and 15,000 now being held in Guantanamo.

As a Member of Congress from Florida, I am now gravely concerned about our policy relating to Cuba.

This administration says it will stop another *Mariel* boatlift.

Unfortunately our current policy is not working. Last year only 2,800 Cubans fled their island prison for the United States. In the last 2 weeks nearly that number has reached our shores.

By the end of this week 8,000 new Cuban refugees will crowd Florida's hospitals, schools, streets, and social service centers. Yesterday, more than 500 arrived.

Let us face it. As reported in the media today, a slow-motion Mariel is already taking place.

Unfortunately, we have allowed Fidel Castro to dictate our foreign policy. Our present policy provides transportation and potential death for those fleeing by sea. Hundreds are dying, if not by Castro's hand, by our policy.

We need a policy to stop this influx and one to promote freedom in Cuba now.

Only a policy to free Cuba will provide a permanent solution. Only a policy to bring down Fidel Castro will resolve this dilemma.

RESTORE TAX FAIRNESS

(Mr. JEFFERSON asked and was given permission to address the House for 1 minute.)

Mr. JEFFERSON. Mr. Speaker, I rise to suggest that Congress made a mistake last year. By reducing business meal deductions to 50 percent, Congress hurt thousands of hard-working Americans in the transportation industry.

To ensure public safety, Federal regulations force truckers, bus drivers, railroad crews, and airline flight crews to eat and rest at regular intervals.

So, many federally regulated transportation workers eat at truckstops and sleep at modest motels 200 or more days a year—clearly ordinary and necessary business expenses, anything but lavish or frivolous.

These costs for meals and lodging are legitimate expenses forced by Federal regulations, not three-martini lunches; and Congress should eliminate this tax injustice.

Mr. Speaker, I have introduced legislation to restore tax fairness and the 80 percent business meal deduction for these transportation workers. I will work with Senator HERB KOHL who has introduced similar legislation and I urge Congress to correct this mistake before adjourning.

HAWAII WOULD LIKE TO SAY ALOHA TO MANDATES

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, last night I participated in a special order on employer mandates. The State of Hawaii was used to portray how successful this approach is in achieving universal coverage.

Earlier this year the owner of the Paradise Flower Farms, Inc., employing 17 full-time people on the Island of Maui testified before Congress.

In thinking they were doing employees a favor by increasing State mandates, the State of Hawaii only caused worse hardship for workers. Their wages rose at slower rates, and they ultimately received less health care than they previously had. We are at a point in our business that we will do anything to avoid hiring one more person—not for lack of need, but because we cannot afford them.

An HMSA, Hawaii's Blue Cross/Blue Shield, small business premium for a single individual was $57.54 in 1987 and was $214.98 in 1993, which is an increase of nearly 375 percent in 6 years. For a family plan which covered the employee and dependents, the cost of the premium in 1987 was $213.34, and in 1993 it had escalated to $597.92. That represents over a 300-percent increase for families wishing to purchase health care coverage.

Additionally, in the August 5, 1993, edition of the New England Journal of Medicine it was pointed out that Hawaii currently led the Nation in terms of hospital expenses and throughout the 1980's it was fourth, behind only New York, Alaska, and Connecticut. This means that Hawaii's mandate has not decreased the number of people uninsured in the State, or has it been successful in controlling increases in health care expenditures relative to the rest of the Nation.

We should remember this history of mandates in Hawaii and not make the same mistakes with the Gephardt-Clinton plan. No employer mandates, Mr. Speaker.

COURT RULING IN TEXAS

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, it is appropriate that you are in the chair this morning.

Yesterday, a three-judge Federal panel in Houston, all of whom were appointed by Republican administrations, ruled that three Texas congressional districts were unconstitutional. They stated these districts were drawn to maximize participation of minorities, that they violated the 14th amendment to the Constitution.

The 29th District, which I am honored to represent, is one of these minority districts. It is comprised of hard-working men and women who share more than their race or their ethnicity. The people of this district are working-class citizens that are the backbone of this Nation, and this court ruling seeks to divide them and to minimize their voices and to even confuse the electorate even more on what district they live in.

This court case is not about the pigmentation of someone's skin. It is

about politics. We in Washington sometimes let our partisanship get in the way of lots of issues, but it should not happen in a Federal court and that is what is happening now.

In the end I am certain that we will prevail and that this district that I am proud to represent will remain intact. We cannot allow a partisan ploy by a three-judge Federal panel to disrupt the election process, whether it be in Louisiana, North Carolina, or Texas.

MIDNIGHT BASKETBALL

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, midnight basketball. How many of us have heard about midnight basketball. We on this side of aisle have used it as a laughline for the past couple of weeks. We have heard Members try to define it on the other side of the aisle.

Let us think about midnight basketball for just a minute. What is the history of evening sports leagues in our country?

Think about this: the YMCA has been running evening sports leagues for a long time. Maybe not at midnight but certainly the 7, 8, 9, 10 at night. It gives people something to do at night. It uses their facilities at night. It is a good idea.

What about this idea of spending Federal money at $40 million for midnight basketball? If you are going to have a basketball game that starts at midnight or at 12:15 or 12:30 and it goes for a couple of hours, you are finished at 2, 2:30, shower. What on Earth are we thinking about? Why are people up, and we are talking about youth, I assume, why are people up until 3 in the morning and we are spending Federal dollars so that they can be up playing basketball? Should not kids be in bed between 12 and 3 in the morning? Or is this some sort of legislative blackmail that would suggest if they are not playing basketball they are going to be committing crimes. It does not make any sense. Think about it.

□ 1050

LAW ENFORCEMENT EXPERTS WANT CRIME BILL WITH CRIME PREVENTION PROGRAMS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, I would like to make an admission to all those listening to my statement. I am not an expert on crime. I would like to also concede that there has not been a single Member of the House of Representatives, Democrat or Republican, in the well this morning who is an expert on crime. We rely on other people and their judgment.

I went back to my home district of Illinois and met with the judges, the prosecutors, the probation officers, the men and women who put on their uniforms every day to protect us in our homes and communities. I said to them "What do we need in America to reduce the threat of crime against our families?"

They said many of the things that are included in this crime bill: more policemen, tougher sentencing, more prisons, take the assault weapons off the street, and in each and every conversation after they had finished that litany, they said "and, Congressman, incidentally, you cannot reduce crime just by building more and better prisons. You have to do something to reach these kids before they turn to drugs, before they turn to violence, before they turn to gang activity."

The previous speaker here was mocking the idea of midnight basketball. He thought $40 million was an outrageous sum. I am sorry to report to him that we are now building the latest Federal prison in my district at the cost of $58 million. Let us do something to get to these kids before they turn to crime.

AMERICA RECOGNIZES HAWAII FOR EXCELLENT HEALTH CARE

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, the Speaker always asks for what purpose does the gentleman want to be recognized. I see we are recognizing Hawaii for something besides being a vacation place. Thank you very much. I am very pleased to have one Member of the opposition come up and try and say why Hawaii does not have part of the answer for health care.

I ask any of these Members who are so anxious to downgrade the Hawaii program, come out to Hawaii and run for office. Come out to Hawaii and run against health care. We have had health care for 20 years in Hawaii, and I defy any Republican Member to come out there and run against health care in Hawaii and see how far you get.

You cannot take it away because we have the answer out there, universal coverage, coverage that cannot be taken away from anyone, coverage that is totally portable. We cover our employees out in Hawaii.

We are proud of our health care system out in Hawaii, and if the Republicans do not want to have it, then they can have the same situation they have out in Hawaii; namely, they are in a minority that cannot even be seen because they are against the interests of people. Be for health care, come out to Hawaii and you will see how it works.

HAWAIIAN COVERAGE NOT UNIVERSAL, AND AMERICA'S THREE BIG PAPERS DESCRIBE LATEST VICTIMS OF WHITEWATER

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, Hawaii, 91.32 percent coverage, not universal; unacceptable to liberal Democrats on the mainland, but I will go there any time. The problem is, there is no Republican Party in Hawaii, just like there was no Republican Party in Arkansas since the Civil War; hence, this strange focus of Clinton ignoring the loyal opposition.

Mr. Speaker, I know members want to hear from the three big papers in America: First, our national paper, the U.S.A. Today: "Poll reflects Clinton setbacks, disapproval rating up, as Altman resigns." The Los Angeles Times: "Altman is the highest-ranking victim of Whitewater." The New York Times: "Roger Altman under fire."

It looks like they are caning him on the streets of one of our cities. The New York Times is cute when they select their photographs.

Here is the Washington Post, liberal paper of record: "Whitewater reverses banker's ambitions," and members are sacrificing their ambitions, at least 50 of them, on the altar of being a friend to Bill.

However, there is a last one, Mr. Speaker, what a sad picture. It says he is the third victim. What about Vince Foster? He is the fourth victim. Hansen to come, then Josh Steiner, then about 20 of you.

INTRODUCING LEGISLATION EXTENDING PREVENTIVE HEALTH CARE THROUGH MEDICARE

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Speaker, today I, along with the gentleman from New Jersey, Mr. BILL HUGHES, Chairman of the House Older Americans Caucus, I am introducing legislation which expands preventive health care services through Medicare, saving both lives and Federal tax dollars.

The bill establishes a 4-year demonstration project which would provide Medicare patients with preventive services such as screening for colon cancer, prostate cancer, and osteoporosis. If cost and health improvement criteria found the program effective, such services could then become reimbursable nationwide under Medicare.

Our proposal is based on a pilot project I sponsored 5 years ago—reimbursing Medicare patients for flu shots. The flu shot program is estimated to save $60 million annually in Medicare

VOL 140 PT 16 AG 12 — 18 1994 UMI

outlays and nearly 60,000 lives. Moreover, the program improved the flu shot delivery system.

Through expanding Medicare benefits with the preventive services outlined in our bill, I believe that we can further reduce our Medicare and health care costs. I urge all Members who support improving Medicare services while preventing thousands of unnecessary deaths of senior citizens to join us in cosponsorship.

TIME FOR GOVERNMENT TO ASSIST FLORIDA WITH CUBAN IMMIGRATION PROBLEMS

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, as we sit here this morning, a tragedy is playing out in the straits of Florida, that body of water 90 miles wide separating the Florida keys from Cuba. Thousands of Cubans, thirsting for freedom, are risking their lives to come out to the 12-mile limit where they know that our ships are moored.

These ships right now have the policy of staying there, picking these Cubans up, and bringing them into the State of Florida. Yet the Federal Government has yet to release one single dollar of Federal assistance. What these ships are doing is what the flotilla did during the Mariel boatlift. We are picking up the Cubans and bringing them to the United States.

We are the magnet. We are the attraction. We are responsible for the death of hundreds of Cubans who are dying at sea, coming in no more than an inner tube, thinking they can make that 12-mile voyage.

It is time that we get the word to Cuba: The people must stay there. They are endangering their lives. They must not take this dangerous journey, and it is time for the Federal Government to live up to its responsibility and answer the people of Florida, who are asking no more than the assistance for a mess that is being caused by the Federal Government.

AMERICA NEEDS MORE CRIME FIGHTERS, NOT MORE SOCIAL PROGRAMS

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, my colleague, the gentleman from New York [Mr. SCHUMER], has just blamed Charlton Heston for the failure of this pork barrel boondoggle that we humorously refer to as the crime bill. He even criticized Mr. Heston's role as Moses in the Ten Commandments.

Coming from his big government district in New York, Mr. SCHUMER probably would have preferred a movie entitled "Pharoah Knows Best." Charlton Heston did not kill the crime bill. The American people looked at the promise of the gentleman from New York [Mr. SCHUMER] to make the rest of the country as safe as New York City, and the American people said "that is what we are afraid of."

If pouring social programs into New York City solved crime, there would not be a single pickpocket left. Hug-a-thug does not work. We need more Ben Hurs, more Will Pennys, more Andrew Jacksons, and more Moseses.

□ 1100

I DON'T THINK THAT'S GOOD NEWS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, a few days ago, the former Member of Congress, Mr. Coelho, was named as the senior adviser to the Democratic National Committee and he appeared on television this morning on "The Today Show." He said an absolutely astounding thing on "The Today Show." this morning. He said that what the Fed did on interest rates this week, raising them by a half a point, was, and I quote him, "Good news really."

Well, that is a rather amazing statement. This is the administration that just a few months ago was telling us how low interest rates were a sign of the success of their economic policy. Now you have the new head of the Democratic National Committee telling us that when the Fed is raising interest rates because the administration's policies are leading us into inflation. "That's good news really for the economy."

I don't think that's good news for the person trying to buy their home. I don't think that's good news for the person trying to buy a new car. I don't think that's good news for the small businessman trying to get started. I don't think that's good news for the economy as a whole.

Mr. Speaker, it is not good news to have inflation going up and interest rates going up. And when the head of the Democratic National Committee suggests it is, there is something really wrong in the economy.

A BIG SLIP AND A PINK SLIP

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, according to a CNN poll, the first time a majority of Americans, 52 percent, disapprove of the President's performance. At the same time, only 39 percent approve of the President's performance.

Perhaps, the President's big slip in the polls has something to do with the pink slip his health care plan would send American workers.

The National Federation of Independent Business, America's premier small business association, recently sent this to my office.

It is a pink slip. As anyone who works for a living knows, it means "you're fired."

This one says 82,000 Texans will lose their jobs if the Clinton health care plan passes.

A pink slip is the last thing anybody wants to see in their pay envelope, but it will be one of the first things folks will see if the Clinton health plan passes.

According to the NFIB, the Clinton health care bill will send out 1.3 million of these across the country. And 11 million workers who do not see one of these, will see less of these [dollar bill] if Congress enacts this big government, big spender, big-job-loser Clinton health care plan.

A big slip for President Clinton and a pink slip for American workers. Congress should remember this before it starts playing doctor.

WAIT TILL NEXT YEAR

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, I have listened with interest to the analysis of our fellow colleagues on the other side talking about how great the economy is doing and how President Clinton deserves all of the credit. Let me note that the jury is still out on what the Clinton program will do to the American economy.

Many of us remember what happened during Jimmy Carter's administration, where for the first 2 years it was very good, we had a very good economy. But then Jimmy Carter's economic policies began to impact on the economy and very quickly things went to hell in a hand basket. I would suggest, having worked in the White House, that it does take 2 years for a President's policies to fully impact the economy. We are already seeing warning signs that the increased taxation, the increased level of regulation and government interference brought by this administration is having a deleterious effect on the economy. We will be able to know full well next year.

As the interest rates rise and the dollar overseas is embattled, do not tell us that this administration is having a positive effect. Just wait until next year.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 523 and ask for its immediate consideration.

H. RES. 523

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield the customary one-half hour to our colleague, the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During debate on this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 523 is the rule providing for the consideration of the conference report on H.R. 4603, the fiscal year 1995 appropriations bill for Commerce, Justice, State, Judiciary, and Related Agencies.

The rule waives all points of order against the conference report and against its consideration. Under the rule, the conference report shall be considered as read.

Mr. Speaker, in granting this rule, the Rules Committee recognized that it is especially urgent that this conference agreement be considered today because it includes $470 million in fiscal year 1994 supplemental appropriations for the Small Business Administration's Disaster Loans program account. That program provides relief for the victims of the Los Angeles earthquake, which had an especially disastrous effect on districts of some of those who represent those unfortunate areas, as well as for those who suffered losses from the recent floods in Georgia, Florida, and Alabama. In Los Angeles alone, the SBA has been faced with an overwhelming number of applications for loans from homeowners and from small businesses. The Small Business Administration ran out of disaster loan funds on August 17, and in order to provide this much-needed assistance for the victims of these disasters as quickly as possible, and to complete the work of the bill, a rule was requested to waive all points of order against the conference report, thereby allowing expeditious consideration of the bill by the House.

The rule waives clause 2(a) of rule 28, requiring a 3-day layover of the report before it is considered. The prohibition on legislation in an appropriation bill is waived against several amendments, including one dealing with the Omnibus Crime Control and Safe Streets Act and another dealing with bankruptcy judges.

The rule prohibiting unauthorized appropriations is waived against amendments dealing with the Border Patrol, the Immigration Emergency Fund, and over $2 billion in funding for programs included in the crime bill, which as we all know or think we know awaits our final approval, including $1.3 billion for community policing; $450 million for Byrne formula grants; $284 million for the immigration initiative; and $130 million for the State Criminal Aliens Assistance Program.

Clause 3 of rule 28, dealing with scope, is waived for an amendment which restores Securities and Exchange Commission funding, changes in the Asia Foundation figures, and a new title providing funding for a variety of programs through the crime bill's trust fund.

Mr. Speaker, the waivers also protect sections of the agreement against points of order because it contains appropriations for several agencies that have not been reauthorized, and a number of general provisions, most of which have been carried for several years.

Authorization has not yet been enacted for most of the appropriations items in the Department of Justice needed for the war on crime and drugs, including the FBI, the DEA, the INS, the U.S. Attorneys, and the Byrne grants for State and local law enforcement assistance.

Mr. Speaker, the conference agreement on H.R. 4603 provides over $26 billion in funding for fiscal year 1995. This amount is nearly $90 million less than the administration request and about $3 billion above the amount enacted in fiscal year 1994, most of which is for law enforcement and Border Patrol enhancements. According to the House Committee on the Budget, the conference report is $108 million in budget authority and $37 million in outlays below the section 602(b) allocations for the subcommittee. As passed by the House originally, the bill appropriated $27.2 billion while the Senate version appropriated $28 billion.

In addition to the supplemental appropriation for the SBA which I mentioned earlier, the agreement provides $12 billion for the Department of Justice, $4.2 billion for the Department of Commerce programs, nearly $3 billion for the Federal Judicial System, and $4 billion for the Department of State, including $533 million for international peacekeeping activities.

Mr. Speaker, as both the chairman and ranking minority member of the subcommittee testified, this bill is a major crime-fighting initiative, with billions of dollars for police hiring, prison construction, and a restoration of proposed cuts in Federal law enforcement personnel.

The agreement includes several new immigration initiatives to help in the fight against illegal immigration, which is being waged primarily in several States, about half a dozen principally, including California, Florida, Texas, New York, and a couple of others. Substantial increases in the number of Border Patrol agents are funded by the agreement, and for the first time the Federal Government is appropriating funds for the State Criminal Alien Assistance Program which was first authorized back in 1986, reimbursing States at least partially for the costs of incarcerating undocumented criminal aliens.

Mr. Speaker, I commend the new chairman of the subcommittee, the gentleman from West Virginia [Mr. MOLLOHAN] and the ranking minority member, the gentleman from Kentucky [Mr. ROGERS], for their cooperation in bringing us this measure for financing some of the functions of our Government that are most obvious and necessary for all of us and for our constituents. I know it has been a difficult task but their agreement on the provisions of the conference report and their ability to work cooperatively is, we think, in the Committee on Rules a good example for all of us.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this Commerce, Justice, State, and Judiciary appropriations conference report contains money for many vital programs as the gentleman from California [Mr. BEILENSON] has just outlined, including funds to combat the No. 1 problem in America, crime. In fact it was suggested yesterday in the Committee on Rules that perhaps we should scrap the so-called crime bill and just concentrate on this bill because we know we are going to get something done and get some money focused on the problem this way, because this calls for real crime prevention, drug enforcement, and prison construction. Those are the kinds of things Americans are asking for and are apparently a lot less controversial than some of the other sort of more welfare-social programs that are included in the crime bill that we were discussing last week and around the edges on this.

VOL
140
PT
16
AG
12
—
18
1994
UMI

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The conference report for H.R. 4603 contains important increases in programs aimed at controlling the rising tide of illegal immigration: $2.1 billion will help beef up safety and security of our borders and provides almost a thousand new Border patrol agents.

Now that is terrific news, but it is not enough, and it is not enough because we know as we stand here that we have yet another problem coming across the Florida Straits, this time from Cuba, which is no surprise, and we apparently are not ready again to deal with this. And even with a thousand new Border Patrol agents, the estimates are we are not going to be able to control the illegal immigration problems we have got. And of course, the Federal Government, as has been pointed out by several speakers in the 1 minutes this morning, still has not paid up their debt to the States that have been most affected by the illegal alien problem and the lack of the Clinton administration and previous administrations to provide adequate border safety.

California, Texas, Florida, and States like that come to mind. That is a good step in the right direction, and for that we should be happy. But it is not enough. States such as Florida, California, and Texas are currently suffering the fiscal and social consequences of the Federal Government's failure to control illegal immigration.

I guess it is interesting that it has become such a point of desperation that the Governor of Florida, who happens to be in the same party as the President of the United States, is now suing the Clinton administration to get the money back to the State of Florida to pay for the failure of that Federal program.

Increases in this bill certainly will not solve all of the problems. But it is going in the right direction, and it is doable. While I still have specific concerns over specific items such as the tremendous sums in this bill for U.N. preacekeeping missions, and it is not just myself that is concerned on that, we have plenty of cards and letters, and I know every other Member of this body does about how much money we are paying for peacekeeping, and where is it coming from, and what are we doing actually in peacekeeping missions, what are the beginnings of them and what are the ends of them. I think a majority of the Members recognize the importance of bringing the legislation to the floor despite these problems.

However, I am troubled by the fact that this is the second rule granted for the consideration of this bill. Under the standing rules of the House, appropriations bills and conference reports, as we all know, are privileged, making them come to the floor without any special rules. This June the House considered H.R. 4603 under an open amendment rule, but one which waived all points of order against the bill. That means it protected whatever was in the bill. While that rule was supposedly open, that meant any Member could make an amendment, it did not provide for an equal playing field for the amendments because the amendments were not protected. So what that means to say is that people who put the bill together were given special protection and those Members who had legitimate debate points that they wanted to bring up were not given the same treatment, and they were subject to points of order, while the people who put the bill together were not. That just does not seem fair, and unfortunately it is getting to be a trend.

We face a similar dilemma today. This rule provides blanket waivers for the conference report.

Yesterday I asked subcommittee Chairman MOLLOHAN what parts of the conference report violated House rules, and he said he did not actually know, that the appropriations subcommittee had not prepared such information. And to be very fair to the gentleman, who gave candid and good testimony, the gentleman from West Virginia [Mr. MOLLOHAN], is certainly not the first chairman to seek a blanket waiver against all points of order and to not know exactly what they are. The gentleman from West Virginia [Mr. MOLLOHAN], in his defense, did offer to try and provide the information, so this is not about what happened yesterday in the Rules Committee. It is about what has become an all too common occurrence in the Rules Committee to provide a waiver without even attempting to go compile and understand what violations exist in the bill.

Another problem with the waiver will be highlighted by the gentleman from California [Mr. ROHRABACHER]. He came before the Committee on Rules seeking to defend his right, and the right of all Members to seek a separate vote on an item of disagreement in the conference report. I find it very disturbing that a Member has to trek over to the Rules Committee to defend his right to seek a vote on the floor. I find it even more disturbing that the Committee on Rules, by recorded vote, is subsequently going to deny him that right.

Mr. Speaker, while these problems might seem like small stuff to some, remember we are charged with upholding the constitutional rights of every American. It seems a very dangerous precedent to ignore the rights of their elected representatives, thereby refusing those Americans equal representation in the House. The people back in the district of the gentleman from California [Mr. ROHRABACHER] may not realize that he is not being treated with the same advantage as the people in the district of a member of Committee on Rules, or a member of the committee that has brought forward this legislation, and that puts Americans on an unequal footing, and that is not fair.

I think one of the things the Rules Committee is supposed to do is try and ensure openness, deliberation, and fairness in a debate, and I am not sure we have achieved that in this case, and I am not sure we are achieving it often enough. We have a situation today where we have a disaster relief fund of the Small Business Administration as the reason we are moving this thing so critically through. Presumably that fund expired on August 27, not a good time to have it expire when we have floods going on in Georgia, typhoons or tornadoes in South Carolina, flooding in Florida, and who knows what else going on. These are important things that we can expect we are going to be looking for some disaster relief.

It strikes me as curious that we are taking up in the Rules Committee the remedy for this problem on the very day the fund expires, and that becomes our sense of urgency to rush through a fairly large piece of legislation. It is not exactly new, first impression legislation, but when we look at the number of amendments there were, well over 140, 150 or so amendments that were considered in this conference process, obviously we did not have time to look at the whole, big pile. And I want to thank my friend, the gentleman from California [Mr. BEILENSON], who has sought out some of the points that we are protecting because they have not had a chance to go all through this report in order to find out exactly what we are protecting by the waiver of the rules. We were given a short, abbreviated list of scope, germaneness, and of legislating, and appropriations problems that needed to be protected that would otherwise have points of order against them. But it was not by any means the whole list. It is certainly not the fault of the gentleman from West Virginia [Mr. MOLLOHAN], and certainly it is nobody's fault in this case. But it is bad business.

The gentleman from California [Mr. BEILENSON], in good faith has tried to provide as much information as he can, and he has been very helpful. I still have not had an opportunity to review all of this. I am not really concerned about it because I think this bill has been through enough of a process. But I know there are some things in here that we probably do not know about that we would like to ask questions about, and we are providing them protection, and that does worry me because I know we can do better.

Having said that, again I am not making a big fuss about this rule because there is so much important to go forward. But there are patterns here that are disturbing, and I think we have the opportunity to repair those

problems. I hope we will take that opportunity. I do want to thank my friend, the gentleman from California [Mr. BEILENSON], for sharing with me the new information this morning.

Mr. Speaker, I include for the RECORD the rollcall vote in the Rules Committee on this conference report, as follows:

ROLLCALL VOTE IN THE RULES COMMITTEE ON THE RULE FOR THE CONFERENCE REPORT ON H.R. 4603, COMMERCE, JUSTICE, STATE APPROPRIATIONS, WEDNESDAY, AUGUST 17, 1994

1. Dreier Motion on Blanker Waiver Exception—It was moved that a point of order lie against Senate Amendment #131 (relating to immigration) for failure to comply with clause 2 of Rule XX (prohibiting unauthorized or legislative Senate provisions in a conference report). Rejected: 3-4. Yeas: Quillen, Dreier and Goss. Nays: Moakley, Beilenson, Hall and Slaughter. Not Voting: Derrick, Frost, Bonior, Wheat, Gordon, and Solomon.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield so much time as he may desire and consume to the distinguished gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Speaker, I thank my distinguished colleague and friend from California, Mr. BEILENSON, for yielding me this time.

I have some problems with this bill, and I am not quite sure about the proper way to approach it. I likewise have some problems with this rule which I will describe in some detail. They follow the comments made by the distinguished gentleman from Florida [Mr. GOSS], who indicated that there were some problems from his standpoint with the rule also.

Before I get to that, let me briefly recite some history which is the basis for some of his concerns, and it goes back at least 2 years ago, and actually before, in this same period of the year when we had appropriation conference reports coming before us with waivers of all points of order, with no notice to the authorizing committees as to material contained in the conference, which was within the jurisdiction of the authorizing committee. We even had a few examples where an effort was made to obscure and obfuscate the content of the conference report in order to prevent its full consideration by the Members of the House.

This is a serious problem. It is a procedural problem. It is a problem with orderly process in the House which needs to be remedied.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, those instances the gentleman is referring to were not with regard to the bill out of this subcommittee, however. We have always been completely forthcoming.

Mr. BROWN of California. The gentleman is correct.

□ 1120

The specific remarks that I am making are not aimed at this subcommittee unless I specifically identify that they are. I will say to the gentleman from Iowa [Mr. SMITH], and I have told him before, that I have enjoyed an unusual degree of cooperation from him when he was subcommittee chairman and an equally unusual amount of cooperation from the present chairman, who has gone out of his way to keep me notified of material in this bill and in this conference report which he thought would preempt the areas of my concern and the concerns of the Committee on Science, Space, and Technology.

I will use this opportunity to thank both the gentleman from Iowa [Mr. SMITH] and the gentleman from West Virginia [Mr. MOLLOHAN] for the obvious and sincere concern. That does not mean that we have reached perfection. I think they recognize that, and I know the gentleman from West Virginia [Mr. MOLLOHAN] has recognized that because I have gone into some detail to tell him why this bill is not perfect and what improvements I would expect in future years.

Many of the problems in this bill have been, over the years, in large part caused by failures on the part of authorizing committees to fully authorize programs that are contained within this bill. As one of those authorizing committee members, I accept my share of the responsibility for these failures. These failures cumulatively, however, have contributed to a breakdown of the orderly processes of the House, have required that the Subcommittee on Appropriations chairman go to the Committee on Rules and ask for a waiver of all points of order. And this is not really being very helpful to maintaining the orderly course of business in the House.

Now, as a result of the events of 2 years ago, as I started to describe, I and a number of other chairmen of authorizing committees proposed some modest changes in the rules of the House which were intended to require that authorizing committee chairmen be notified of material in the conference report in advance and that we be given the opportunity to discuss these with a certain allotment of time during the debate on the conference report.

All points of order against this bill have been waived. The subcommittee chairman made a good-faith effort to notify me. I cannot say for certain that he has notified me of everything within the jurisdiction of my committee. I have not had the opportunity nor has my staff to review it in full detail.

That is more or less immaterial because the rules have been waived. And if he had not said a word to me, there would still be no point of order that I could raise because the rules are waived.

Similarly, as the gentleman from Florida [Mr. GOSS] pointed out, there has not been a full presentation of all of the violations of the rules contained in this bill. So that the Rules Committee could not have specifically said the rules are waived on this and this and this, but not on this, for whatever the reason.

I would suggest that to the degree that it is possible we probably ought to consider making some additional changes in the rules that would allow at least the Rules Committee to know which rules they were waiving. And if that is not the case at the present time, I think it would be generally helpful. Not that this is absolutely essential in connection with most legislation, but there are many age-old statements about the predisposition of people who have power to use that power. And sometimes to use it in ways which are not in the best interests for all of the community in which they are using that power.

Now I am deeply concerned about that, because to the degree that other Members of the House feel that power is being inappropriately used in the House—and this applies to both Republicans and Democrats, I may assure my friends on the Republican side—to the degree that that perception exists, it creates conditions under which orderly legislation becomes impossible. And we have seen many examples of that.

To the degree that the public perceives that the rules of this body are being violated for the interest of a few people in preferred positions, the confidence of the public in the workings of our democratic system are eroded. And this is at the root of some of the distrust, which we are all aware of, that the public has in their elected representatives.

Now I am taking this time to make this statement in order to let all of my friends know that I am not trying to nitpick with the members of the Appropriations Committee, even less with my good friends on the Committee on Rules. I am trying to make the case that we need to make some changes here in observing the orderly process of the House for the protection of the institution and for its continued credibility in the eyes of the people of the United States.

Now, I do not like this rule waiving all points of order. I have notified the Rules Committee in writing on behalf of my committee that we object to rules waiving all points of order. I intend to vote against this rule because it waives all points of order.

I have not attempted to mount a campaign to secure the defeat of this rule, but I do not want my good friends on the Rules Committee to be surprised

VOL
140
PT
16
AG
12
—
18
1994
UMI

if I should choose to do that in connection with some of the other appropriation bills which are currently pending.

Now, I have reviewed this bill, as I have already indicated, with the chairman, who has been unusually gracious in talking to me about it. And while it is not a perfect bill, it is one that I am going to support. And if the rules passes, as I assume that it will, I will vote for this conference report on final passage.

I hope the chairman of the subcommittee will allow me a little bit of time during debate on the bill to say some of the good things about the bill and also some of the things I might object to in the bill. If he is willing to do that, it will be another indication of his generosity and his respect for his colleagues in the authorizing committee, which I have already praised so eloquently.

Mr. Speaker, I hope it is not merely a reflection of the fact that he is a new chairman, and that these traits will not rapidly dissipate as he gains experience; that he will continue to demonstrate the traits of statesmanship and respect for his colleagues during his tenure as chairman of this important subcommittee.

Mr. GOSS. Mr. Speaker, I would like to commend the chairman, the gentleman from California [Mr. BROWN], who just spoke, on his excellent remarks. I think they are very much on target. I take them to heart as a member of the Committee on Rules, and I hope the Committee on Rules will deal with the points he has raised.

Mr. Speaker, I yield 5 minutes to my distinguished colleague and friend, the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today on a matter of grave import to the integrity of our country's laws and our Nation's fiscal solvency.

Mr. Speaker, Senate amendment 131, as amended in this conference report, is a legislative provision attached to this appropriations bill, which we have heard an eloquent description of why we should not be doing these things, from my friend and colleague from California, but this opens up a 3-year window for people who wish to flout our country's laws; to do so with impunity.

I want to repeat this, Mr. Speaker, because this provision, put into our bill by Senator KENNEDY, is a violation of both House rules and common sense. We should defeat it. It would, starting this October until October of 1997, if the Kennedy amendment becomes law, we will see that there will be no reason for people who want to come to this country to bother with the normal legal channels. That will be the result of the Kennedy amendment.

All they will have to do is sneak across our border and come up with about $800 by any means possible and then they will be granted temporary residence as long as their application for permanent residence is pending.

The bill makes very clear they may be granted temporary residence for as long as their application for permanent residence is pending. Thus they will be eligible to go through the application process, and during that process they will be here legally. Under this status they will be given a work permit and they will be eligible for all taxpayer-paid benefits, even those that by law are supposed to be denied to illegal aliens.

Mr. Speaker, I would like to read this pertinent part of this section. It says, "an alien physically present in the United States who, (A) entered the United States without inspection; or (B) is within one of the classes enumerated in subsection (c)," which means people who have overstayed their visa, "may apply to the Attorney General for the adjustment of their status."

What we see here is people who are present, who entered the United States without inspection, may apply.

□ 1130

That means they are part of the process. This is nothing more than another loophole that is being created in the same way that people were asking for political asylum have a loophole now, and are costing the taxpayers hundreds of millions of dollars, if not billions of dollars, a year.

Mr. Speaker, my opponents claim that somehow the INS will be able to permit the number of people, or limit the number of people, applying by accepting only those applications from those whose green card applications will be approved. No, they will be all put into the process, a process that will last years, just like political asylum seekers. I do not see from the reading of this language how they can deny people and limit the number of applicants by the way this is written.

Mr. Speaker, I read the House language, and it says, "If you're here, and you snuck across the border or overstayed your visa, you may apply." But let us assume for the purpose of argument that they are right and this new immigration law will not permit anyone who sneaks over the border or overstays their visa to apply. Even if we assume all of that to be true, and I do not, they are still rewarding people who have blatantly violated our laws.

Yes, there are some problems they are trying to correct, but there is the law of unintended consequences, like political asylum, where they are creating vast new problems and expenses for the American taxpayer.

Under this provision, Mr. Speaker, anyone who thinks they are eligible would be a fool to obey our immigration laws and go through the normal process. My opponents' arguments are only about how many illegal aliens we will be rewarding, not whether this provision will make it easier for illegal aliens.

The rules of this House are supposed to protect us against facing such a stark choice as rejecting an entire conference report on a major appropriations bill on one hand or swallowing an egregious legislative provision on the other. Legislative provisions, such as the Kennedy amendment, are supposed to be brought back as amendments in disagreement so the House can vote on them separately. However, the House is now being asked to waive all points of order against this conference report so this violation of the House rules and common sense can go forward.

Well, I beg my colleagues not to permit this to happen, but to allow the normal rules to apply to consideration of the Kennedy amendment so that we can debate this most serious matter separately from the appropriations bill. Thus I am asking my colleagues to vote "no" on the previous question. If the previous question is defeated, I will offer an amendment to the rule which will permit a separate vote on the Kennedy amendment.

Whatever the good intentions of the gentleman from California [Mr. BERMAN], and others, the gentleman from Massachusetts [Mr. KENNEDY], this bill, I believe, and the experts with whom I have conferred also believe, and common sense tells us; a common sense reading, as well as the experts; believe that this bill will be used by illegal aliens and their lawyers to legally stay in our country while their case is pending. They may apply. Thus their case is pending. Lawyers around this country will use this to increase the time and money that it costs us for illegal aliens to stay in this country.

Mr. Speaker, this is another loophole even bigger than the political asylum loophole. It will cost us hundreds of millions, even billions, of dollars to open this legal loophole so any illegal aliens can cross our border and have a legal avenue to stay in our country and receive benefits, Federal benefits, in the meantime. This, as I say, is a political asylum loophole. Why are we doing it?

Vote "no" on this rule. A no vote on the previous question will permit us to have a separate vote on the issue. Those that vote "no" will be responsible. Those who vote "yes," and, if this does come to where illegal aliens are using this and their lawyers are using this as a loophole, costing the taxpayers billions of dollars like political asylum, the voters will hold those Members in Congress responsible who have done this to the American people.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman from California [Mr. BEILENSON] for yielding this time to me, and I just want to initially state that I think this is a very important bill. My sincerest congratulations go out to both the chairman of the subcommittee and the ranking member for putting together a very important bill, a bill of particular importance to people who want to do something about the problem of illegal immigration because, as has been mentioned, there is significant new funds for border patrol, for tougher enforcement of immigration laws, and, for the first time, for the reimbursement for the incarceration of illegal criminal aliens.

My friend, the gentleman from California [Mr. ROHRABACHER] has made what I know to be a sincere point about his concern about a specific provision in this bill, this provision which was sponsored initially on the State Department authorization bill by Senators ALAN SIMPSON and KENNEDY and was actively supported in this conference by Senators SIMPSON and KENNEDY, as well as Senators BYRD and HOLLINGS and DOMENICI and has been reviewed by the appropriations members, both majority and ranking, does not do anything close to what the gentleman from California [Mr. ROHRABACHER] has suggested that it does.

Mr. Speaker, what this amendment is about is, where legally qualified immigrants, immigrants who are entitled to come to this country and to have their status adjusted because either through an employer petition or a family petition, and they have gone through the entire process, and for the process, the very final part of that process, which is the filing of the application and the receiving of the visa papers, the immigration papers, this is about where those people can get their legal immigrant visa. It has nothing to do with whether they get them; it has nothing to do with their eligibility for getting them. It does not create a new immigrant eligibility category or an amnesty window as the gentleman from California [Mr. ROHRABACHER] has referred to in the past. It will not give anyone an immigrant visa who will not get one anyway. It will not increase the total number of immigrants. It does provide, however, substantial, and I am talking about $50 million for new funding for the INS to enforce the borders, to enforce the immigration laws, and it helps, in addition, to fight illegal immigration by freeing State Department consular staff from the useless paperwork that is now a routinized process for granting the visa after the entire process has been completed. It frees them to do the important work of fighting visa fraud and checking out applications for people who seek to enter this country to determine whether their purposes are appropriate and whether they qualify for any of the nonimmigrant visas that these people are supposed to handle.

79-059 O—97 Vol. 140 (Pt. 16) 47

To suggest that I would support a provision which would say, for $800 somebody who would not otherwise qualify to come to this country legally, can now get immigrant status is an insult to my intelligence, but that has been insulted many times in the past. to suggest that Senators ALAN SIMPSON, or PETER DOMENICI, or the gentleman from Kentucky, Mr. ROGERS, or any of the other people who have looked at this provision would support such an interpretation is a tremendous leap into fantasy.

I want to give my colleagues one specific example of what this bill is about. This was told to me by a friend, a former Foreign Service officer, worked in the consular office in Guyana. One airline flies to Guyana. When Guyanese who want to come to the United States as illegal immigrants, have been petitioned for, have gone through the entire process, are in the United States, they take that one airline, fly to Guyana. It gets into Guyana that evening. The next morning they go to the American embassy, pick up their visa, their legal immigration papers, and take that afternoon flight back to the United States. This happens over and over again. Ninety-nine percent of these visas are routinely approved. What we are doing with this present ineffective and inefficient system is subsidizing primarily foreign airlines.

So what people like Senator SIMPSON thought was that it made sense instead to raise the fees fivefold, provide a meaningful source of revenue for the INS to fight the illegal immigration, cut out the fiction that something is happening by this ridiculous process, and free up the embassy officials, the consular officials in our foreign posts, to check on whether or not somebody who is claiming to come here on a tourist visa and intends to return, on whether or not they have any kind of criminal background, on all the kinds of things that we do, our consular officials, to be watching for, to protect, American interests.

□ 1140

It is as simple as that. I appreciate the gentleman's misreading one provision in the bill to assume that it allows something that it does not allow or that something might happen that will not happen. This is a revenue producer, and this is an intelligent rationalization of our limited resources. It is supported on a broad bipartisan basis, and I do not think it should be the basis for anyone voting against the previous question.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in opposition to the rule. In particular, I am opposed to the over $27 million in pork-barrel spending appearing under the Small Business Administration budget. What do I mean by pork barrel? I mean totally unauthorized spending.

Mr. Speaker, this represents over 10 percent of the total Small Business Administration budget for fiscal year 1995, and this amount doesn't even include the totally unauthorized spending for the Tree Program. The Tree Program represents another $15 million in totally unauthorized spending that no one even saw fit to mention at the many hearings and the markup of the Small Business Reauthorization Act.

This is particularly outrageous when you consider that we just had to authorize emergency spending to keep the SBA from running out of money. Why is the SBA out of money? Because over 17 percent of the spending in its budget is pork and unauthorized programs.

Mr. Speaker, I oppose this rule and I oppose this misuse of the taxpayer's money.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY], chairman of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I do not want to take very much time. I simply want to take this opportunity to express my admiration for the work that has been done by the new subcommittee chairman, the gentleman from West Virginia [Mr. MOLLOHAN], and the great cooperation he has received from the gentleman from Kentucky [Mr. ROGERS], the ranking Republican.

As the Members in this House understand, the gentleman from West Virginia [Mr. MOLLOHAN] took over this chairmanship in midstream. He has demonstrated, I believe, an amazingly quick ability to master the contents of this bill. I know he has had an awful lot of help from the gentleman from Iowa [Mr. SMITH], who so ably chaired this subcommittee for years, and I know he has had a great deal of help from the gentleman from Kentucky [Mr. ROGERS]. Despite the fact that we have had some serious and strong differences of opinion on several occasions, those differences of opinion have been worked out in an extremely honorable and gentlemanly manner with the gentleman from Kentucky [Mr. ROGERS].

I just want to say that I think this overall product is very defensible, and I simply want to congratulate the subcommittee for being able to produce this bill and finish its work so quickly, especially under the circumstances, with a new chair at the helm. I simply want to congratulate both gentlemen and indicate my happiness with the way in which the bill has been handled.

Mr. MOLLOHAN. Mr. Speaker, will the gentleman yield?

Mr. OBEY. Surely, I yield to the gentleman from West Virginia.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. MOLLOHAN. Mr. Speaker, I would just like to take this opportunity to thank the chairman of the committee, who also has assumed his responsibilities this year in midstream. I thank him for his help and his cooperation, and I also thank him very much for his kind remarks. I would like to reciprocate and tell the Members what a fine job he has done and express my appreciation for the guidance he has given both the gentleman from Kentucky [Mr. ROSS], and me as we have processed this legislation through the subcommittee.

Mr. OBEY. Mr. Chairman, I think that with all the turmoil surrounding the crime legislation, we have had a remarkable display of leadership from the gentleman and from the ranking Republican as well.

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I believe the gentleman from Kentucky and the gentleman from West Virginia have done a very fine job with this bill, given very difficult budgetary circumstances. They have prioritized spending to provide funds for the most vital programs.

One of these priority programs is surrogate radio broadcasting to the nations of Asia—Radio Free Asia. Last week, the House adopted the Pelosi bill as amended by Mr. HAMILTON, outlining a framework for promoting human rights and democracy in China. One of the primary elements of the Hamilton amendment was enhanced radio broadcasting to China through VOA and Radio Free Asia. In addition, the President has repeatedly highlighted Radio Free Asia as a cornerstone of his policy toward China and, as you know, the House adopted by an overwhelming margin a floor amendment to the Commerce, Justice, State bill making funds available for Radio Free Asia. Clearly, Radio Free Asia is an idea whose time has come.

This conference report contains $10 million for startup costs for Radio Free Asia and an additional $85 million for short wave radio construction in the Pacific to benefit Radio Free Asia and VOA. The funds are dependent on a report from the Broadcast Board of Governors regarding feasibility, and we will watch carefully what the Board decides. I just want to take a minute to tell Members why this small investment in surrogate broadcasting is so important.

Tyrants use access to information as a tool to keep their hold on power. during the cold war, this practice was used in Eastern Europe by the Soviet-backed Governments there to try to keep their people in the dark about the free world. The United States responded with Radio Free Europe and Radio Liberty. These broadcasts ultimately proved to be instrumental in keeping the people's spirits alive and weakening communism.

Similarly, the North Koreans have practically no access to outside information. The people of North Korea, including right up to the highest levels of the military and government, have no idea what is really happening regarding their country's nuclear program and its standoff with the rest of the world or regarding North Korea's failed economy compared to other nations. They do not know about the economic and political transformations in South Korea. They are kept by their Government from being members of the world community.

Although some Chinese can receive transmissions from Hong Kong or Taiwan, the vast majority have access only to Government-controlled sources of information. They must have access to news that is relevant to them—surrogate broadcasting.

Democracy activists, and potential activists, must know that there are others out there who share their aspirations. VOA is an important voice telling the world about our country and what we believe in. VOA may have a few minutes of China-related news a week. In China, Radio Free Asia would cover solely issues of interest and relevance to Chinese, from Chinese to Chinese, not from Americans to Chinese.

Radio Free Asia will tell the people of North Korea, China, Burma, Vietnam, and Laos exactly what their Governments do not want them to know. Once the silence is broken, the people in these countries, I believe, will be on a path toward democracy, free markets, and greater freedom.

Mr. Speaker, I think the Commission on Broadcasting to the People's Republic of China said it best when they wrote, "The fate of America is intertwined with the fate of American ideals." For individuals around the world, knowledge is freedom. The 1.3 billion people in the countries served by Radio Free Asia have no freedom. I support this investment in freedom, and I urge Members to vote for this conference report.

□ 1150

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Speaker, I thank the distinguished gentleman from California for yielding me this time.

Mr. Speaker, I rise today in strong support of this rule. For the people of my State of Georgia, the passage of this rule and subsequently the conference report is critical if they are to be allowed to pick up the pieces of their lives, move forward, and once again become productive in the aftermath of the recent floods.

Many of us represent areas that have experienced disasters. It is one thing to see the results of these disasters on a television screen. It is an entirely different experience to meet with the people affected, talk with them, and understand their hardships.

This bill is just the first of several that we will consider which addresses this crisis. But in some ways it is the most important. To begin with, it is time-critical. The Small Business Administration has already depleted all their disaster relief payments. Quick passage of this bill will let the SBA continue to help small businesses recover and give the people of Georgia, Alabama, and Florida an opportunity to once again become productive within the work force.

Finally, this bill is also important because it will set the tone for our assistance. This is not the time to bicker over methods and procedures. It is time to help our citizens who have been touched by misfortune. I ask for your support and the people of the Southeast ask for your help. I urge overwhelming support and passage of the rule.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. DREIER], my colleague on the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend from Sanibel for yielding.

Mr. ROGERS. Mr. Speaker will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Kentucky, the distinguished ranking member of the subcommittee.

Mr. ROGERS. Mr. Speaker, I just wanted to take a few seconds here to compliment the gentleman from Illinois [Mr. PORTER], who most recently spoke, for his dedication and persistence in pushing for the moneys for Radio Free Asia. This is a very historic moment I think in the history of the USIA and the broadcasting sponsored by this Government, because this is the first moneys that will be going into broadcasting on Radio Free Asia.

We all know what has happened with the tremendous success of Radio Liberty and Radio Europe and the Voice of America. But now we enter a new era, and it is thanks in no small measure to the work of the gentleman from Illinois, who pushed and cajoled and worked ceaselessly to get this program off the ground. I wanted to thank the gentleman from Illinois [Mr. PORTER] for his work, and thank the gentleman for yielding.

Mr. DREIER. Mr. Speaker, yesterday the chairman of the Rules Committee half-jokingly referred to those of us who insist on abiding by House rules as a "vigilante committee."

It is a clear indication of just how far we have strayed from normal parliamentary procedure when the chairman of the Rules Committee, of all

committees, ridicules those who believe in upholding the rules of this House—as if we are some kind of a lawless mob intent on violence and vengeance against this body. What have we come to?

Mr. Speaker, last week, when we were debating the crime rule in the Rules Committee, the majority cited to us how many times we have waived all points of order against conference reports in recent times, as if the number of repeat offenses against the standing rules makes it right.

Today we have another rule that waives all points of order against a conference report—your standard, boiler-plate rule for such conference reports, we are led to believe and accept.

I wonder how many Members even know that conference reports do not require special rules—that they are privileged for House floor consideration so long as they are in compliance with the rules?

They only need special rules when they are in violation of House rules. And this conference report apparently is in violation of every important rule that applies to conference reports.

It has not been available to Members for 3 days and therefore violates clause 2 of rule 28. It only became available yesterday. We could take this up tomorrow and it would not need a waiver of the 3-day availability rule.

It contains numerous legislative and unauthorized Senate amendments in violation of clause 2 of rule 20. We were given a list of six such examples, but I understand this is incomplete. There are probably closer to two dozen, but we have not been given an accurate count.

The chairman of the Appropriations Subcommittee who testified before us indicated he did not have such a list.

This conference report contains an unspecified number of provisions that are beyond the scope of anything committed to conference by either body, in violation of clause 3 of rule 28. This is the most serious offense against the House—writing new legislation in conference.

Ordinarily, the Appropriations Committee reports Senate amendments which are legislative in nature or beyond scope as amendments in disagreement to be dealt with separately by motions after the conference report has been agreed to.

In this way, we do not risk defeating the conference report and we can separately examine and vote on those Senate provisions which violate our rules. That applies as well to Senate provisions that are nongermane to the House passed bill.

Under clause 4 of rule 28, if such nongermane Senate provisions are in the conference report, and a point of order is sustained, a motion to reject the provision is debatable for 40 minutes and then voted on. Since the rejection of a nongermane provision defeats the conference report, these are usually reported outside the conference report as amendments in disagreement. In that way, they can be dealt with without defeating the conference report.

Mr. Speaker, I have taken the time to recite these rules since they are not specifically waived in this rule. Instead, we have a so-called blanket waiver that literally covers, or cover up, a variety of sins of which we have not been made fully aware, either by the Rules Committee majority or the committee bringing a conference report.

Last year, in January, when this House adopted its rules, a new rule was adopted allowing an authorizing chairman, and we have one of them sitting right here on the House floor, to have a preferential motion to disagree to any Senate amendment of a legislative nature that is reported in disagreement on an appropriations bill.

That was presumably done to protect the prerogatives of authorizing committees against Senate authorizing language in an appropriations bill. But, when such provisions are included in the conference report and protected against points of order, and has been done today in some two dozen instances, the authorizing committees have no recourse or protection. They must swallow the violations whole or reject the conference report.

Mr. Speaker, this is a wakeup call for authorizing chairmen out there as well as for all House Members. This is not just minority moaning, and it is certainly not vigilantism. These rules were designed to protect all of us, regardless of party, against the abuses being perpetrated by the other body.

You have a right to know what those violations are and to deal separately with them. That right is being denied by rules such as this.

I say this is not in criticism of our conferees who had a very difficult task in dealing with some 162 Senate amendments. This may well be a very good conference report and the best that they could get.

But that does not recuse them from bringing this up in the normal manner of reporting egregious violations as amendments in disagreement and letting the House deal with each separately.

Mr. Speaker, I realize that this conference report is time sensitive due to the expiration on Wednesday of this week of the SBA Disaster Assistance Loan Program. But I do not think waiting 1 more day so that Members do have the opportunity to review this within the 3 days required by our rules would do great violence to that program or the rest of this report.

Nor do I think the conference report would suffer any setbacks if we had taken up the various Senate provisions that violate our rules as amendments in disagreement.

Let us get back to upholding our rules for the sake of more rational, deliberative, and informed decisionmaking around here.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. ROHRABACHER].

□ 1200

Mr. ROHRABACHER. Mr. Speaker, I would like to remind my colleagues that this vote and the vote that I will call on the previous question, a yes vote on the previous question will be interpreted by the organizations that are fighting illegal immigration as a proillegal immigration vote.

Let me note, I have the bill in front of me here. It states that those people who can apply for the process, thus get into the process, they may apply, including those people who have entered the United States without inspection.

This will be interpreted by lawyers throughout the United States as just another loophole, as we have seen through the asylum cases. It will cost us hundreds of millions of dollars. If that happens, the people who have voted yes on the previous question will be responsible, because they will be denying me a right to bring this up and have a separate vote on this very important issue.

Let us note the procedures have not been properly seen to on this whole debate. The fact is, there were never any hearings in the Committee on the Judiciary on this.

This is a bad procedure. It is a bad law. Vote "no" on the previous question.

Mr. GOSS. Mr. Speaker, I yield myself the balance of my time.

I want to say that we have already seen what happens. We have had a couple of authorizers come to the well and say that they have been a little surprised.

The gentlewoman from Kansas [Mrs. MEYERS], our ranking member on the Committee on Small Business, has said that she is outraged that what has been put in this bill that she did not know about.

That is the problem that my colleague, the gentleman from California [Mr. DREIER], has spoken about, legislating outside of the legislative rules of the House in the conference committee. That causes surprises, and I am looking here at the CONGRESSIONAL RECORD. It has pages of projects with lots of money involved. If I started reading these, I am sure that a lot of Members would be surprised about what is in here, and I am sure a lot of Americans would be asking questions about what exactly are we doing.

I think that perhaps the conferees can answer those questions, and the appropriations can answer those questions. But when we do it this way, we do not know what we are waiving. That is the mistake.

VOL 140 PT 16 AG 12 — 18 1994 UMI

I want to thank the gentleman from California [Mr. BEILENSON], my friend, for trying to share with us as complete information as he had on this, but even with those extra efforts made by the gentleman from California [Mr. BEILENSON], we still have not come to a good solution on this.

I think that there is a problem brewing. I think we know about it. We can fix it. I hope we will fix it in the Committee on Rules.

Mr. BEILENSON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in concluding, let me say that it is my belief, and the belief, I think, of the majority of Members who have listened to this debate, both here today and on the floor of the House and also yesterday for some period of time in the Committee on Rules that the understanding of our colleague, the gentleman from California [Mr. ROHRABACHER], on the bill is totally and utterly incorrect.

I refer again to the thoughtful comments of our colleague and friend, the gentleman from California [Mr. BERMAN], who just several minutes ago spent some time explaining why in fact that is the case.

Mr. Speaker, in concluding, let me also remind our colleagues that the waivers granted by this rule protect agencies without authorization, which I believe the great majority of us strongly and fully support, and for several general provisions, most of which have been carried for years in previous bills, also protected as they have to be this year.

Mr. Speaker, I urge our colleagues to support this rule so that we may proceed to consideration of the conference report.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROHRABACHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution. This is a 15-minute vote that may be followed by a 5-minute vote.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 172, not voting 21, as follows:

[Roll No. 406]

YEAS—241

Abercrombie	Glickman	Obey	Coble	Hunter	Portman
Ackerman	Gonzalez	Olver	Combest	Hutchinson	Pryce (OH)
Andrews (ME)	Gordon	Ortiz	Cox	Hutto	Quillen
Andrews (NJ)	Green	Orton	Crane	Hyde	Quinn
Andrews (TX)	Gutierrez	Pallone	Crapo	Inglis	Ramstad
Applegate	Hall (OH)	Parker	Cunningham	Inhofe	Ravenel
Bacchus (FL)	Hall (TX)	Pastor	Deal	Istook	Ridge
Baesler	Hamburg	Payne (NJ)	DeLay	Jacobs	Roberts
Barca	Hamilton	Payne (VA)	Diaz-Balart	Johnson (CT)	Rohrabacher
Barcia	Harman	Pelosi	Dickey	Johnson, Sam	Ros-Lehtinen
Barlow	Hastings	Penny	Doolittle	Kasich	Roth
Barrett (WI)	Hefner	Peterson (FL)	Dornan	Kim	Roukema
Bellenson	Hilliard	Peterson (MN)	Dreier	King	Royce
Berman	Hinchey	Pickle	Duncan	Kingston	Santorum
Bevill	Hoagland	Pomeroy	Dunn	Klug	Sarpalius
Bilbray	Hochbrueckner	Poshard	Ehlers	Knollenberg	Saxton
Bishop	Holden	Price (NC)	Emerson	Kyl	Schaefer
Blackwell	Hoyer	Rahall	Ewing	Lazio	Schiff
Bonior	Hughes	Reed	Fawell	Leach	Sensenbrenner
Borski	Inslee	Regula	Fields (TX)	Levy	Shaw
Boucher	Jefferson	Richardson	Fish	Lewis (CA)	Shays
Brewster	Johnson (GA)	Roemer	Fowler	Lewis (FL)	Shuster
Brooks	Johnson (SD)	Rogers	Franks (CT)	Lewis (KY)	Skeen
Browder	Johnson, E. B.	Rostenkowski	Franks (NJ)	Lightfoot	Skelton
Brown (CA)	Johnston	Rowland	Gallegly	Linder	Smith (NJ)
Brown (FL)	Kanjorski	Roybal-Allard	Gekas	Lucas	Smith (OR)
Brown (OH)	Kaptur	Rush	Gilchrest	Machtley	Smith (TX)
Bryant	Kennedy	Sabo	Gillmor	Manzullo	Snowe
Byrne	Kennelly	Sanders	Gilman	McCandless	Solomon
Callahan	Kildee	Sangmeister	Gingrich	McCollum	Spence
Cantwell	Kleczka	Sawyer	Goodlatte	McCrery	Stearns
Cardin	Klink	Schenk	Goodling	McCurdy	Stenholm
Carr	Kolbe	Schroeder	Goss	McHugh	Stump
Chapman	Kopetski	Schumer	Grams	McInnis	Talent
Clay	Kreidler	Scott	Grandy	McKeon	Taylor (MS)
Clayton	LaFalce	Serrano	Greenwood	McMillan	Taylor (NC)
Clinger	Lambert	Sharp	Gunderson	Meyers	Thomas (CA)
Clyburn	Lancaster	Shepherd	Hancock	Mica	Thomas (WY)
Coleman	LaRocco	Sisisky	Hansen	Michel	Thurman
Collins (GA)	Laughlin	Skaggs	Hastert	Miller (FL)	Upton
Collins (IL)	Lehman	Skelton	Hayes	Molinari	Vucanovich
Collins (MI)	Levin	Slaughter	Hefley	Moorhead	Walker
Condit	Lewis (GA)	Smith (IA)	Herger	Nussle	Walsh
Conyers	Lipinski	Spratt	Hobson	Oxley	Weldon
Coppersmith	Livingston	Stark	Hoekstra	Packard	Wolf
Costello	Lloyd	Stokes	Hoke	Paxon	Young (AK)
Coyne	Long	Strickland	Horn	Petri	Young (FL)
Cramer	Lowey	Studds	Houghton	Pombo	Zeliff
Danner	Maloney	Stupak	Huffington	Porter	Zimmer
Darden	Mann	Swett			
de la Garza	Manton	Swift			
DeFazio	Margolies-Mezvinsky	Synar			
DeLauro	Markey	Tanner			
Dellums	Martinez	Tauzin			
Derrick	Matsui	Tejeda			
Deutsch	Mazzoli	Thompson			
Dicks	McCloskey	Thornton			
Dingell	McDermott	Torres			
Dixon	McHale	Torricelli			
Dooley	McKinney	Towns			
Durbin	McNulty	Traficant			
Edwards (CA)	Meehan	Tucker			
Edwards (TX)	Meek	Unsoeld			
Engel	Menendez	Valentine			
English	Mfume	Velazquez			
Eshoo	Miller (CA)	Vento			
Evans	Mineta	Visclosky			
Everett	Minge	Volkmer			
Farr	Mink	Waters			
Fazio	Moakley	Watt			
Fields (LA)	Mollohan	Waxman			
Filner	Montgomery	Wheat			
Fingerhut	Moran	Whitten			
Foglietta	Morella	Williams			
Ford (MI)	Murphy	Wilson			
Frank (MA)	Murtha	Wise			
Frost	Myers	Woolsey			
Furse	Nadler	Wyden			
Gejdenson	Neal (MA)	Wynn			
Gephardt	Neal (NC)	Yates			
Geren	Oberstar				
Gibbons					

NAYS—172

Allard	Barton	Bonilla	Becerra	Klink	Rose
Archer	Bateman	Bunning	Clement	Lantos	Skeen
Armey	Bentley	Burton	Cooper	McDade	Slattery
Bachus (AL)	Bereuter	Buyer	Flake	Owens	Smith (MI)
Baker (CA)	Billirakis	Calvert	Ford (TN)	Pickett	Sundquist
Baker (LA)	Billey	Camp	Gallo	Rangel	Torkildsen
Ballenger	Blute	Canady	Klein	Reynolds	Washington
Barrett (NE)	Boehlert	Castle			
Bartlett	Boehner	Clinger			

□ 1223

Messrs. JACOBS, BUYER, HAYES, STENHOLM, and McCURDY changed their vote from "yea" to "nay."

Messrs. CONDIT, RUSH, EVERETT, and INSLEE changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 235, nays 175, not voting 24, as follows:

[Roll No. 407]

YEAS—235

Abercrombie	Andrews (ME)	Andrews (TX)
Ackerman	Andrews (NJ)	Applegate

Bacchus (FL)	Hall (OH)	Olver	Fields (TX)	Kyl	Ros-Lehtinen
Baesler	Hall (TX)	Ortiz	Fowler	Lazio	Roth
Barca	Hamburg	Orton	Franks (CT)	Leach	Roukema
Barcia	Hamilton	Pallone	Franks (NJ)	Levy	Royce
Barlow	Harman	Parker	Gallegly	Lewis (CA)	Santorum
Barrett (WI)	Hastings	Pastor	Gallo	Lewis (FL)	Sarpalius
Bellenson	Hefner	Payne (NJ)	Gekas	Lewis (KY)	Saxton
Berman	Hilliard	Payne (VA)	Gilchrest	Lightfoot	Schaefer
Bevill	Hinchey	Pelosi	Gillmor	Linder	Schiff
Bilbray	Hoagland	Penny	Gilman	Lucas	Sensenbrenner
Bishop	Hochbrueckner	Peterson (FL)	Gingrich	Machtley	Shaw
Blackwell	Holden	Peterson (MN)	Goodlatte	Manzullo	Shays
Bonior	Hoyer	Pickle	Goodling	McCandless	Shuster
Borski	Hughes	Pomeroy	Goss	McCollum	Skeen
Boucher	Inslee	Poshard	Grandy	McCrery	Skelton
Brewster	Jacobs	Price (NC)	Greenwood	McCurdy	Smith (NJ)
Brooks	Jefferson	Rahall	Gunderson	McHugh	Smith (OR)
Browder	Johnson (GA)	Rangel	Hancock	McInnis	Smith (TX)
Brown (FL)	Johnson (SD)	Reed	Hansen	McKeon	Snowe
Brown (OH)	Johnson, E. B.	Richardson	Hastert	McMillan	Solomon
Bryant	Johnston	Roemer	Hayes	Meyers	Spence
Byrne	Kanjorski	Rogers	Hefley	Mica	Stearns
Cantwell	Kaptur	Rostenkowski	Herger	Michel	Stenholm
Cardin	Kennedy	Roybal-Allard	Hobson	Miller (FL)	Stump
Carr	Kennelly	Rush	Hoekstra	Molinari	Talent
Chapman	Kildee	Sabo	Hoke	Moorhead	Tauzin
Clay	Kleczka	Sanders	Horn	Nussle	Taylor (MS)
Clayton	Klink	Sangmeister	Houghton	Oxley	Taylor (NC)
Clinger	Kolbe	Sawyer	Huffington	Packard	Thomas (CA)
Clyburn	Kopetski	Schenk	Hunter	Paxon	Thurman
Coleman	Kreidler	Schroeder	Hutchinson	Petri	Torkildsen
Collins (IL)	LaFalce	Schumer	Hutto	Pombo	Upton
Collins (MI)	Lambert	Scott	Hyde	Porter	Vucanovich
Condit	Lancaster	Serrano	Inglis	Portman	Walker
Conyers	LaRocco	Sharp	Inhofe	Pryce (OH)	Walsh
Coppersmith	Laughlin	Shepherd	Istook	Quillen	Weldon
Costello	Lehman	Sisisky	Johnson, Sam	Quinn	Wolf
Coyne	Levin	Skaggs	Kasich	Ramstad	Young (AK)
Cramer	Lewis (GA)	Slaughter	Kim	Ravenel	Young (FL)
Danner	Lipinski	Smith (IA)	King	Regula	Zeliff
Darden	Lloyd	Spratt	Kingston	Ridge	Zimmer
de la Garza	Long	Stark	Klug	Roberts	
Deal	Maloney	Stokes	Knollenberg	Rohrabacher	
DeFazio	Mann	Strickland			
DeLauro	Manton	Studds			
Dellums	Margolies-Mezvinsky	Stupak			
Derrick	Markey	Swett			
Dicks	Martinez	Swift			
Dingell	Matsui	Synar			
Dixon	Mazzoli	Tanner			
Dooley	McCloskey	Tejeda			
Durbin	McDermott	Thompson			
Edwards (CA)	McHale	Thornton			
Edwards (TX)	McKinney	Torres			
Engel	McNulty	Torricelli			
English	Meehan	Towns			
Eshoo	Meek	Traficant			
Evans	Menendez	Tucker			
Farr	Mfume	Unsoeld			
Fazio	Miller (CA)	Velazquez			
Fields (LA)	Mineta	Vento			
Filner	Minge	Visclosky			
Fingerhut	Mink	Volkmer			
Fish	Moakley	Waters			
Foglietta	Mollohan	Watt			
Ford (MI)	Montgomery	Waxman			
Frank (MA)	Moran	Wheat			
Frost	Morella	Whitten			
Gejdenson	Murphy	Williams			
Gephardt	Murtha	Wilson			
Geren	Myers	Wise			
Gibbons	Nadler	Woolsey			
Glickman	Neal (MA)	Wyden			
Gonzalez	Neal (NC)	Wynn			
Gordon	Oberstar	Yates			
Green	Obey				
Gutierrez					

NAYS—175

Allard	Boehlert	Crane	Becerra	Johnson (CT)	Reynolds
Archer	Boehner	Crapo	Clement	Klein	Rose
Armey	Bonilla	Cunningham	Cooper	Lantos	Slattery
Bachus (AL)	Brown (CA)	DeLay	Deutsch	Livingston	Smith (MI)
Baker (CA)	Bunning	Diaz-Balart	Flake	Lowey	Sundquist
Baker (LA)	Burton	Dickey	Ford (TN)	McDade	Thomas (WY)
Ballenger	Buyer	Doolittle	Furse	Owens	Valentine
Barrett (NE)	Callahan	Dornan	Grams	Pickett	Washington
Bartlett	Calvert	Dreier			
Barton	Camp	Duncan			
Bateman	Canady	Dunn			
Bentley	Castle	Ehlers			
Bereuter	Coble	Emerson			
Billirakis	Collins (GA)	Everett			
Billey	Combest	Ewing			
Blute	Cox	Fawell			

□ 1233

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment, a bill of the House of the following title:

H.R. 4790. An act to designate the United States courthouse under construction in St. Louis, Missouri, as the "Thomas F. Eagleton United States Courthouse."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2073. An act to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes.

PERSONAL EXPLANATION

Mr. SMITH of Michigan. Mr. Speaker, I request that the record show that I was absent for rollcall votes number 406 and number 407 for medical reasons. Had I been here I would have voted "no" on the previous question and "no" on the rule.

MODIFICATIONS IN APPOINTMENT OF CONFEREES ON S. 1587, FEDERAL IMPROVEMENT ACT OF 1994 ACQUISITION

The SPEAKER pro tempore (Mr. FIELDS of Louisiana. Without objection, under the authority granted in clause 6 of rule X, the Speaker hereby modifies the appointment of conferees on the Senate bill (S. 1587) to revise and to realine the acquisition laws of the Federal Government, and for other purposes, as follows:

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 4024(g), 6003(a)(4) and (b)(4), and 8005(c)(6) of the Senate bill, and modifications committed to conference: Messrs. DINGELL, SWIFT, and MOORHEAD.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

COMMUNICATION FROM THE HONORABLE PAUL McHALE, MEMBER OF CONGRESS

The SPEAKER pro tempore. Laid before the House the following communication from the Honorable PAUL McHALE, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 17, 1994.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House, that my office has been served with a subpoena issued by the Commonwealth of Pennsylvania, County of Lehigh.

After consultation with the General Counsel to the House, I have determined that compliance with the subpoena is not inconsistent with the privileges and precedents of the House.

Sincerely,

PAUL McHALE.

CONFERENCE REPORT ON H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

Mr. MOLLOHAN. Mr. Speaker, I call up the conference report on the bill (H.R. 4603) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

VOL 140 PT 16 AG 12 — 18 1994 UMI

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 523, the conference report is considered as having been read.

(For conference report and statement see Proceedings of the House of August 16, 1994, at page 22576.)

The SPEAKER pro tempore. The gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN].

GENERAL LEAVE

Mr. MOLLOHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report now under consideration, and that I may include tabular and extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present this conference report to this body for its consideration today. Members should know that throughout the many months of hearings and markup and conference this has been, for the most part, a bipartisan effort. The distinguished ranking minority member, the gentleman from Kentucky [Mr. ROGERS], has been a partner in fashioning this legislation. He is especially capable. His constituents know that, obviously, returning him year after year, and his input has been incorporated throughout this legislation. Whether in supporting or opposing various provisions, his efforts have always been constructive.

Members know how important the funding provisions in this bill are to them and to their constituents. I think that Members will be pleased, especially pleased to go back home and tell their constituents that they are supporting significant increases in crime fighting, and crime fighting is the centerpiece of this appropriations legislation. And they will be pleased to tell their constituents that they are supporting emergency funding relief to those who are suffering from the ravages of floods, fires, and the aftermath of earthquakes.

□ 1240

Mr. Speaker, the conference agreement provides a total of $26,345,687,000 in discretionary new budget authority for the fiscal year 1995. This amount is $851,071,000 below the President's request, and $108 million below this committee's section 602(b) allocation for the bill.

The conference agreement includes the following supplemental appropriations for the fiscal year 1994, and I would bring them to the Members' special attention, Mr. Speaker, because they are important. They address dire imminent needs facing those who have suffered the ravages of disasters recently. The conference agreement appropriates $470 million in emergency supplemental appropriations for the Small Business Administration's disaster loans program account to aid the victims of the flooding in Georgia, Florida, and Alabama. These funds go to provide the remaining requirement for the victims of the Los Angeles earthquake, and also, Mr. Speaker, go to aid the victims of the wildfires in several of our western States that are now burning.

In addition, the supplemental includes $55 million in emergency appropriations for the Economic Development Administration to provide emergency assistance for the disasters that I just mentioned. Also, in the supplemental, Mr. Speaker, there is $670 million for the United States' assessed contributions for international peacekeeping operations.

Mr. Speaker, in regard to these emergencies, the body should understand that the Small Business Administration has advised our committee that, as of this week, the SBA has no more disaster loan funds available. Therefore, Mr. Speaker, it is absolutely critical that the House and the Senate approve this conference report this week and send it to the President so that the disaster funds that I just mentioned will be provided to those victims of the floods in Georgia, Florida, and Alabama and the Los Angeles earthquake and those wildfires in the western States.

Mr. Speaker, beyond the supplementals, I hope that the body agrees, and I know the gentleman from Kentucky [Mr. ROGERS] and I and members of the committee who have worked so hard believe that this is an excellent conference report.

With respect to the Department of Justice, the conference agreement provides $12,304,550,000. That is an increase of $162 million above the House-passed bill.

Mr. Speaker, that is a $2.7 billion increase in crime-fighting money over the fiscal year 1994 funding. Now, this total includes $2.2 billion for the FBI, and that is an increase of $28 million above the amount we had in the House bill when it passed a few weeks ago.

This bill contains $757 million for the Drug Enforcement Administration, and that is an increase of $15 million above the House bill. It includes $2.4 billion to operate the Federal Prison System and $397 million for the Marshals' Service, and that is an increase of $7 million above the House bill.

The conference agreement also includes $2.345 billion to fund the Justice Department programs that would be authorized to be appropriated out of the crime trust fund in the pending crime bill, and that includes, Mr. Speaker, $1.3 billion for the President's community policing initiative. It includes $284 million for the President's immigration initiatives, and that includes, Mr. Speaker, money for an additional 1,000 new Border Patrol agents on the line that are attempting to keep illegal aliens out of the country.

Mr. Speaker, we also have $130 million to reimburse States for the incarceration of illegal aliens. When the bill came through the House, that was not a separate line item. We listened to the concerns of Members, particularly from those States that have the greatest illegal alien problem and have a large number of illegal criminal aliens that they are incarcerating.

This authorization was created, I believe, in the late 1980's. We are pleased, as a matter of fact, to be the first subcommittee to fund this, and out of conference, we are bringing it out as a separate line item in response to the interests, concerns, and expressions of a number of Members in the House and the Senate.

There is also $100 million in this legislation to implement the Brady Act.

The conference agreement is also very responsive, Mr. Speaker, to the President's initiative to create jobs through the civilian technology and economic development initiatives in the Department of Commerce.

The conference agreement provides a total of $4,218,138,000 for the Department, and that is an increase of $188 million above the House.

For the Small Business Administration, the conference agreement provides a total of $815 million.

The conference agreement provides a total of $4,196,000,000 for the Department of State. That is an increase of $15 million above the House amount.

And for the Federal Judiciary, Mr. Speaker, the conference agreement provides a total of $2.9 billion, an increase of $15 million above the House bill.

Mr. Speaker, in closing my initial remarks on the conference report, I am very pleased to give recognition to a fine group of staff who throughout this long process, throughout the hearings and the conferences and the floor appearances, have worked especially hard and very competently to make sure that we were prepared: To John Osthaus, who is the staff director, I express my appreciation, as well as to George Schafer, Sally Chadbourne, and Soo Jin Kwon, and to the minority staff, Mr. Speaker, who have been of tremendous help and worked just as hard, Liz Dawson and Jennifer Miller. I express my sincere appreciation for all of their hard work.

Mr. Speaker, I repeat, this is an excellent conference report, and I commend it to our colleagues.

Mr. Speaker, I will insert a comparative table at this point in the RECORD which shows the fiscal year 1994 enacted level, the fiscal year 1995 budget request, the House level, the Senate level, and the conference level for each of the appropriations accounts in the bill:

VOL 140 PT 16 AG 12 — 18 1994 UMI

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603)

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF JUSTICE AND RELATED AGENCIES						
DEPARTMENT OF JUSTICE						
Office of Justice Programs						
Justice Assistance	80,105,000	78,575,000	94,100,000	96,800,000	88,100,000	+7,995,000
State and local law enforcement:						
Discretionary grants	474,500,000	125,000,000	88,800,000	88,000,000	62,000,000	-412,500,000
Byrne formula grants (crime trust fund)			804,280,000	423,000,000	460,000,000	+460,000,000
Total, State and local law enforcement	474,500,000	125,000,000	872,780,000	491,000,000	512,000,000	+37,500,000
Juvenile justice programs	115,000,000	160,000,000	157,750,000	153,750,000	155,250,000	+40,250,000
Crime trust fund:						
Upgrade criminal history records				100,000,000	100,000,000	+100,000,000
Community policing			1,332,000,000			
State Correctional Grants				175,000,000	24,800,000	+24,800,000
Drug Courts				100,000,000	29,000,000	+29,000,000
Violence Against Women Grants				66,000,000	26,000,000	+26,000,000
Community Schools Supervision Grants				37,000,000		
Ounce of Prevention Council				3,000,000	1,800,000	+1,800,000
State Criminal Alien Assistance Program		350,000,000			130,000,000	+130,000,000
(Transfer from International organizations and peacekeeping activities)				(350,000,000)		
Other crime trust fund		403,000,000				
Public safety officers benefits program:						
Death benefits	26,936,000	27,845,000	27,845,000	27,845,000	27,845,000	+1,291,000
Disability benefits		2,072,000	2,072,000	2,072,000	2,072,000	+2,072,000
Total, Office of Justice Programs	708,541,000	1,147,292,000	2,466,347,000	1,272,067,000	1,108,067,000	+397,526,000
General Administration						
Salaries and expenses:						
Direct appropriation	119,000,000	121,267,000	119,804,000	121,267,000	120,185,000	+1,185,000
Executive Office of Immigration Review (crime trust fund)		24,300,000	34,088,000	24,300,000	17,400,000	+17,400,000
Total, salaries and expenses	119,000,000	145,567,000	143,873,000	145,567,000	137,585,000	+18,585,000
Office of Inspector General	30,000,000	30,423,000	30,500,000	30,500,000	30,800,000	+800,000
Community policing (crime trust fund)		1,720,000,000		1,300,000,000	1,300,000,000	+1,300,000,000
Weed and Seed Fund	13,150,000	13,458,000	13,150,000	13,458,000	13,458,000	+308,000
Total, general administration	162,150,000	1,909,448,000	187,523,000	1,489,323,000	1,481,541,000	+1,319,391,000
United States Parole Commission						
Salaries and expenses	9,123,000	8,951,000	7,451,000	7,451,000	7,451,000	-1,672,000
Legal Activities						
Salaries and expenses, general legal activities:						
Direct appropriation	403,968,000	430,751,000	411,788,000	428,884,000	417,202,000	+13,234,000
Civil division (crime trust fund)		4,700,000	4,695,000	2,000,000	4,600,000	+4,600,000
Total, salaries and expenses	403,968,000	435,451,000	416,481,000	430,884,000	421,802,000	+17,834,000
Vaccine injury compensation trust fund	2,000,000	3,000,000	2,500,000	2,500,000	2,500,000	+500,000
Independent counsel (permanent, indefinite)	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	
Civil liberties public education fund (permanent, definite)	100,000,000					-100,000,000
Civil liberties public education fund		5,000,000	5,000,000	5,000,000	5,000,000	+5,000,000
Salaries and expenses, Antitrust Division:						
Budget authority	70,717,000	75,155,000	78,155,000	85,155,000	85,155,000	+14,438,000
Offsetting fee collections - carryover	-3,900,000		-3,900,000		-4,500,000	-600,000
Total, new budget authority	66,817,000	75,155,000	75,855,000	85,155,000	80,655,000	+13,838,000
Offsetting fee collections - current year	-20,820,000	-30,820,000	-20,820,000	-20,820,000	-25,000,000	-4,180,000
Existing law change - Increased fees		-12,840,000	-14,840,000	-12,840,000	-14,840,000	-14,840,000
Direct appropriation	45,997,000	41,995,000	40,195,000	51,695,000	41,015,000	-4,982,000
Salaries and expenses, United States Attorneys:						
Direct appropriation	813,797,000	827,131,000	820,177,000	832,723,000	829,723,000	+15,926,000
Violent crime task force				25,000,000	15,000,000	+15,000,000
Immigration initiative (crime trust fund)		6,800,000	8,799,000		6,800,000	+6,800,000
Total, salaries and expenses	813,797,000	833,931,000	828,976,000	857,723,000	851,823,000	+37,726,000
United States Trustee System Fund	99,000,000	108,260,000	100,468,000	104,888,000	103,160,000	+4,160,000
Offsetting fee collections	-37,487,000	-40,567,000	-38,678,000	-40,567,000	-40,567,000	-3,110,000
Direct appropriation	61,513,000	65,693,000	61,293,000	64,292,000	62,593,000	+1,080,000
Salaries and expenses, Foreign Claims Settlement Commission	940,000	830,000	830,000	830,000	830,000	-110,000
Salaries and expenses, United States Marshals Service	339,808,000	364,705,000	360,185,000	403,055,000	396,847,000	+57,039,000

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Support of United States prisoners	312,864,000	309,816,000	289,465,000	286,216,000	286,216,000	-14,988,000
Fees and expenses of witnesses	105,022,000	78,000,000	78,000,000	78,000,000	78,000,000	-35,022,000
Salaries and expenses, Community Relations Service	26,106,000	20,379,000	20,379,000	20,379,000	20,379,000	-5,727,000
Assets forfeiture fund	55,000,000	55,000,000	55,000,000	55,000,000	55,000,000	
Total, Legal activities	2,269,035,000	2,277,570,000	2,200,604,000	2,271,364,000	2,237,705,000	-31,330,000
Radiation Exposure Compensation						
Administrative expenses	2,868,000	2,855,000	2,855,000	2,855,000	2,855,000	-13,000
Interagency Law Enforcement						
Organized crime drug enforcement	362,381,000	368,943,000	363,260,000	368,943,000	374,943,000	+7,436,000
Federal Bureau of Investigation						
Salaries and expenses	1,974,305,000	2,046,667,000	2,080,518,000	2,146,111,000	2,122,471,000	+148,166,000
FBI Fingerprint identification	84,400,000	84,400,000	84,400,000	84,400,000	84,400,000	
Total, Federal Bureau of Investigation	2,058,705,000	2,131,067,000	2,178,218,000	2,230,511,000	2,206,871,000	+148,166,000
Drug Enforcement Administration						
Salaries and expenses:						
Budget authority	764,123,000	763,773,000	785,928,000	804,232,000	800,835,000	+36,512,000
Diversion control fund	-42,123,000	-43,431,000	-43,431,000	-43,431,000	-43,431,000	-1,308,000
Direct appropriation	722,000,000	720,342,000	742,497,000	760,801,000	757,204,000	+35,204,000
Immigration and Naturalization Service						
Salaries and expenses:						
General fund appropriation	1,046,536,000	1,146,930,000	1,098,902,000	1,164,958,000	1,102,671,000	+54,135,000
Immigration initiative (crime trust fund)		264,200,000	251,157,000	264,200,000	100,800,000	+100,800,000
Border control system modernization (crime trust fund)					164,800,000	+154,800,000
Subtotal	1,046,536,000	1,411,130,000	1,349,759,000	1,429,058,000	1,367,871,000	+308,393,000
Immigration legalization fund	(4,344,000)	(3,499,000)	(3,499,000)	(3,499,000)	(3,499,000)	(-845,000)
Immigration user fund	(287,012,000)	(321,291,000)	(321,291,000)	(321,291,000)	(321,291,000)	(+34,279,000)
Land border inspection fund	(1,500,000)	(1,585,000)	(1,585,000)	(1,585,000)	(1,585,000)	(+85,000)
Immigration examinations fund	(277,971,000)	(352,298,000)	(352,298,000)	(352,298,000)	(291,097,000)	(+13,126,000)
Breached bond fund	(5,900,000)	(8,221,000)	(8,221,000)	(8,221,000)	(8,221,000)	(+321,000)
Total, Salaries and expenses	(1,625,265,000)	(2,096,022,000)	(2,034,851,000)	(2,113,848,000)	(1,961,564,000)	(+336,299,000)
Immigration Emergency Fund	8,000,000			8,500,000	75,000,000	+68,000,000
Construction				100,000,000	80,000,000	+80,000,000
Total, Immigration and Naturalization Service	(1,631,265,000)	(2,096,022,000)	(2,034,851,000)	(2,222,448,000)	(2,108,564,000)	(+475,299,000)
Federal Prison System						
Salaries and expenses:						
Budget authority	1,980,000,000	2,408,504,000	2,358,404,000	2,403,104,000	2,388,404,000	+408,404,000
Prior year carryover	-30,000,000				-30,000,000	
Direct appropriation	1,950,000,000	2,408,504,000	2,358,404,000	2,403,104,000	2,358,404,000	+408,404,000
National Institute of Corrections	10,211,000	10,144,000	10,344,000	10,144,000	10,344,000	+133,000
Buildings and facilities	269,543,000	191,021,000	236,084,000	243,324,000	280,494,000	+10,951,000
Federal Prison Industries, Incorporated (limitation on administrative expenses)	(3,395,000)	(3,463,000)	(3,463,000)	(3,463,000)	(3,463,000)	(+68,000)
Total, Federal prison system	2,229,754,000	2,607,669,000	2,604,842,000	2,653,572,000	2,647,242,000	+417,488,000
Total, Department of Justice	8,586,895,000	12,566,065,000	12,143,248,000	12,595,433,000	12,304,580,000	+2,705,685,000
(Limitation on administrative expenses)	(3,395,000)	(3,463,000)	(3,463,000)	(3,463,000)	(3,463,000)	(+68,000)
RELATED AGENCIES						
Commission on Civil Rights						
Salaries and expenses	7,778,000	10,146,000	9,500,000	8,413,000	9,000,000	+1,224,000
Equal Employment Opportunity Commission						
Salaries and expenses	230,000,000	244,804,000	236,000,000	240,000,000	233,000,000	+3,000,000
Federal Communications Commission						
Salaries and expenses:						
Budget authority	180,300,000	186,832,000	186,832,000	186,232,000	186,232,000	+24,932,000
Offsetting fee collections - current year	-80,400,000	-95,000,000	-116,400,000	-116,400,000	-116,400,000	-36,000,000
Existing law change - Increased fees		-72,400,000				
Direct appropriation	99,900,000	-568,000	50,432,000	81,832,000	69,832,000	-31,068,000

VOL 140 PT 16 AG 12 — 18 1994 UMI

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Federal Maritime Commission						
Salaries and expenses	16,900,000	16,569,000	16,569,000	16,569,000	16,569,000	-331,000
Federal Trade Commission						
Salaries and expenses:						
Budget authority	92,660,000	95,426,000	96,926,000	96,926,000	96,926,000	+6,266,000
Offsetting fee collections - carryover	-3,820,000		-3,800,000		-4,800,000	-980,000
Total, new budget authority	88,740,000	95,426,000	93,426,000	96,926,000	94,426,000	+5,686,000
Offsetting fee collections - current year	-20,820,000	-20,820,000	-20,820,000	-20,820,000	-25,000,000	-4,180,000
Existing law change		-12,840,000	-14,840,000	-12,840,000	-14,840,000	-14,840,000
Direct appropriation	67,920,000	81,066,000	88,066,000	83,466,000	54,786,000	-13,132,000
National Commission to Support Law Enforcement						
Salaries and expenses (by transfer)	(500,000)					(-500,000)
Securities and Exchange Commission						
Salaries and expenses:						
Budget authority	269,150,000	308,000,000	89,643,000	304,562,000	133,599,000	-135,551,000
Offsetting fee collections - carryover	-30,840,000		-80,148,000		-80,148,000	-18,308,000
Total, new budget authority	238,310,000	308,000,000	9,495,000	304,562,000	53,451,000	-154,859,000
Offsetting fee collections - current year	-180,454,000	-308,000,000		-236,131,000		+180,454,000
Investment adviser fee - offsetting collection			-8,595,000	-8,595,000	-8,595,000	-8,595,000
Direct appropriation	57,856,000		900,000	57,856,000	74,856,000	+17,000,000
State Justice Institute						
Salaries and expenses 1/	13,560,000	16,000,000	13,560,000	13,560,000	13,560,000	
Total, related agencies	495,902,000	349,818,000	380,819,000	485,888,000	472,595,000	-23,307,000
Total, title I, Department of Justice and related agencies	10,084,797,000	12,935,984,000	12,534,185,000	13,081,121,000	12,777,145,000	+2,692,348,000
(By transfer)	(500,000)			(350,000,000)		(-500,000)
(Limitation on administrative expenses)	(3,395,000)	(3,463,000)	(3,463,000)	(3,463,000)	(3,463,000)	(+68,000)
TITLE II - DEPARTMENT OF COMMERCE						
National Institute of Standards and Technology						
Scientific and technical research and services	226,000,000	316,006,000	279,430,000	280,000,000	265,000,000	+39,000,000
Working capital fund transfer	-1,500,000					+1,500,000
Industrial technology services	232,524,000	318,980,000	490,980,000	554,000,000	525,000,000	+292,476,000
Construction of research facilities	61,686,000	100,000,000	64,686,000	64,686,000	64,686,000	+3,000,000
Total, National Institute of Standards and Technology	520,210,000	934,986,000	840,066,000	878,686,000	854,686,000	+334,476,000
National Oceanic and Atmospheric Administration						
Operations, research and facilities:						
Budget authority	1,894,753,000	1,831,029,000	1,792,978,000	1,850,000,000	1,836,000,000	+140,247,000
Offsetting collections:						
Fishery fees		-92,000,000	-35,000,000			
Sanctuary and aero chart fees		-6,000,000	-6,000,000		-6,000,000	-6,000,000
Direct appropriation	1,894,753,000	1,743,029,000	1,751,978,000	1,850,000,000	1,829,000,000	+134,247,000
(By transfer from Promote and Develop Fund)	(54,800,000)	(55,500,000)	(55,500,000)	(55,500,000)	(55,500,000)	(+700,000)
(By transfer from Damage assessment and restoration revolving fund, permanent)	1,500,000	8,500,000	8,500,000	8,500,000	8,500,000	+7,000,000
(Damage assessment and restoration revolving fund)	-1,500,000	-1,500,000	-1,500,000	-1,500,000	-1,500,000	
Total, operations, research and facilities	1,894,753,000	1,750,029,000	1,758,978,000	1,857,000,000	1,836,000,000	+141,247,000
Coastal zone management fund	(7,800,000)	(7,800,000)	(7,800,000)	(7,800,000)	(7,800,000)	
Mandatory offset	(-7,800,000)	(-7,800,000)	(-7,800,000)	(-7,800,000)	(-7,800,000)	
Construction	106,703,000	36,197,000	82,000,000	100,000,000	97,800,000	-8,103,000
Fleet modernization, shipbuilding and conversion	77,064,000	23,040,000	23,040,000	23,040,000	23,040,000	-54,024,000
Aircraft procurement and modernization	43,000,000					-43,000,000
Fishing vessel obligations guarantees	458,000		458,000		250,000	-208,000
Fishing vessel and gear damage fund	1,273,000	1,273,000	1,273,000	1,273,000	1,273,000	
Fishermen's contingency fund	988,000	988,000	988,000	988,000	988,000	
Foreign fishing observer fund	550,000	400,000	400,000	400,000	400,000	-150,000
Total, National Oceanic and Atmospheric Administration	1,924,801,000	1,811,936,000	1,837,149,000	1,982,712,000	1,959,962,000	+34,761,000
General Administration						
Salaries and expenses	33,042,000	36,510,000	36,510,000	36,510,000	36,510,000	+3,468,000
Office of Inspector General	16,000,000	16,847,000	16,800,000	17,350,000	16,800,000	+800,000

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Working capital fund (by transfer)	(1,500,000)					(-1,500,000)
Total, general administration	49,042,000	53,357,000	53,410,000	53,760,000	53,410,000	+4,368,000
Bureau of the Census						
Salaries and expenses	126,286,000	146,816,000	141,272,000	135,000,000	136,000,000	+7,714,000
Periodic censuses and programs	110,000,000	158,588,000	142,576,000	148,000,000	142,576,000	+32,576,000
Total, Bureau of the Census	236,286,000	305,404,000	283,848,000	280,000,000	278,576,000	+40,290,000
Economic and Statistical Analysis						
Salaries and expenses	45,220,000	54,276,000	48,815,000	48,837,000	48,937,000	+1,717,000
Economics and statistics administration revolving fund		1,677,000	1,677,000	1,677,000	1,677,000	+1,677,000
International Trade Administration						
Operations and administration	248,590,000	281,790,000	266,723,000	282,000,000	266,460,000	+17,870,000
Export Administration						
Operations and administration	34,747,000	43,122,000	38,823,000	38,181,000	38,823,000	+4,076,000
Minority Business Development Agency						
Minority business development	41,800,000	44,839,000	42,428,000	44,000,000	43,800,000	+2,300,000
United States Travel and Tourism Administration						
Salaries and expenses	17,120,000	17,907,000	14,907,000	17,907,000	16,407,000	-713,000
Proposed fees, offsetting receipts	-3,000,000	-3,000,000		-3,000,000		+3,000,000
Patent and Trademark Office						
Salaries and expenses	88,329,000		88,329,000	75,000,000	83,000,000	-5,329,000
Loss of offsetting receipt		107,000,000				
Technology Administration						
Salaries and expenses	5,700,000	11,237,000	10,000,000	11,237,000	10,000,000	+4,300,000
National Technical Information Service						
NTIS revolving fund		18,000,000	12,000,000		6,000,000	+6,000,000
National Telecommunications and Information Administration						
Salaries and expenses	18,827,000	22,122,000	21,056,000	20,861,000	20,881,000	+1,054,000
Public broadcasting facilities, planning and construction	24,000,000	10,742,000	26,000,000	30,000,000	28,000,000	+5,000,000
Endowment for Children's Educational Television	1,000,000	1,006,000	2,800,000	2,500,000	2,800,000	+1,800,000
Information infrastructure grants	26,000,000	99,988,000	70,000,000	52,000,000	64,000,000	+38,000,000
Total, National Telecommunications and Information Administration	70,827,000	133,858,000	118,856,000	105,461,000	116,481,000	+45,654,000
Economic Development Administration						
Economic development assistance programs	322,842,000	327,024,000	336,324,000	412,198,000	408,024,000	+85,182,000
Economic development guaranteed loans		50,000,000				
(Limitation on guaranteed loans)		(288,000,000)				
Administrative expenses		1,976,000				
Salaries and expenses	28,000,000	32,539,000	32,205,000	38,000,000	32,205,000	+4,205,000
Total, Economic Development Administration	350,842,000	411,539,000	370,728,000	448,198,000	440,228,000	+89,387,000
Total, title II, Department of Commerce	3,632,214,000	4,207,710,000	4,090,280,000	4,240,758,000	4,218,136,000	+585,924,000
(By transfer)	(54,300,000)	(55,500,000)	(55,500,000)	(55,500,000)	(55,500,000)	(+800,000)
TITLE III - THE JUDICIARY						
Supreme Court of the United States						
Salaries and expenses:						
Salaries of justices	1,816,000	1,857,000	1,857,000	1,857,000	1,857,000	+41,000
Other salaries and expenses	21,364,000	22,666,000	22,300,000	22,666,000	22,383,000	+1,198,000
Total, salaries and expenses	23,000,000	24,323,000	24,157,000	24,323,000	24,240,000	+1,240,000
Care of the building and grounds	2,850,000	3,080,000	3,000,000	3,045,000	3,000,000	+150,000
Total, Supreme Court of the United States	25,850,000	27,403,000	27,157,000	27,368,000	27,240,000	+1,390,000
United States Court of Appeals for the Federal Circuit						
Salaries and expenses:						
Salaries of judges	1,727,000	1,756,000	1,756,000	1,756,000	1,758,000	+31,000
Other salaries and expenses	11,173,000	12,880,000	11,680,000	11,804,000	11,880,000	+707,000
Total, salaries and expenses	12,900,000	14,636,009	13,436,000	13,562,000	13,438,000	+538,000

VOL
140
PT
16
AG
12
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18
1994
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COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
United States Court of International Trade						
Salaries and expenses:						
Salaries of judges	1,331,000	1,395,000	1,395,000	1,395,000	1,395,000	+64,000
Other salaries and expenses	9,669,000	10,380,000	10,300,000	10,380,000	10,300,000	+631,000
Total, salaries and expenses	11,000,000	11,795,000	11,695,000	11,795,000	11,695,000	+695,000
Courts of Appeals, District Courts, and Other Judicial Services						
Salaries and expenses:						
Salaries of judges	172,131,000	172,590,000	172,590,000	172,590,000	172,590,000	+459,000
Salaries of Bankruptcy Judges		47,836,000	47,836,000	47,836,000	47,836,000	+47,836,000
Other salaries and expenses	1,996,669,000	2,256,295,000	2,105,027,000	2,188,880,000	2,119,669,000	+123,000,000
Offsetting fee collections	-12,800,000					+12,800,000
Direct appropriation	2,156,000,000	2,476,693,000	2,323,486,000	2,408,318,000	2,340,127,000	+184,127,000
Vaccine Injury Compensation Trust Fund	2,160,000	2,250,000	2,250,000	2,250,000	2,250,000	+90,000
Defender services	277,000,000	280,283,000	280,000,000	280,000,000	280,000,000	-27,000,000
Fees of jurors and commissioners	77,088,000	74,071,000	62,882,000	59,000,000	59,348,000	-17,740,000
Court security	86,000,000	97,532,000	97,000,000	97,532,000	97,000,000	+11,000,000
Total, Courts of Appeals, District Courts, and Other Judicial Services	2,598,256,000	2,940,828,000	2,736,387,000	2,815,100,000	2,748,723,000	+150,466,000
Administrative Office of the United States Courts						
Salaries and expenses	44,900,000	48,804,000	46,300,000	47,734,000	47,800,000	+2,900,000
Federal Judicial Center						
Salaries and expenses	18,450,000	19,738,000	18,826,000	19,738,000	18,826,000	+376,000
Judicial Retirement Funds						
Payment to Judiciary Trust Funds	20,545,000	36,375,000	28,475,000	28,475,000	28,475,000	+7,930,000
United States Sentencing Commission						
Salaries and expenses	8,468,000	9,200,000	8,468,000	9,200,000	8,800,000	+332,000
Total, title III, the Judiciary	2,740,388,000	3,107,753,000	2,888,948,000	2,972,743,000	2,904,888,000	+164,321,000
TITLE IV - RELATED AGENCIES						
DEPARTMENT OF TRANSPORTATION						
Maritime Administration						
Operating-differential subsidies (liquidation of contract authority)	(240,870,000)	(214,356,000)	(214,356,000)	(214,356,000)	(214,356,000)	(-26,514,000)
Operations and training	76,423,000	76,968,000	76,100,000	76,000,000	76,100,000	-323,000
Ready reserve force:						
Maintenance, operations and facilities	136,000,000	250,000,000	179,415,000	136,000,000	150,000,000	+12,000,000
Fleet addition	160,000,000					-160,000,000
Rescission			-27,000,000	-158,000,000	-158,000,000	-158,000,000
Total, ready reserve force	296,000,000	250,000,000	152,415,000	-20,000,000	-8,000,000	-308,000,000
Maritime Guaranteed Loan Program Account:						
Guaranteed loans subsidy		50,000,000	25,000,000	25,000,000	25,000,000	+25,000,000
(Limitation on guaranteed loans)		(500,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(+250,000,000)
Administrative expenses		4,000,000	2,000,000	2,000,000	2,000,000	+2,000,000
Total, Maritime guaranteed loan program account		54,000,000	27,000,000	27,000,000	27,000,000	+27,000,000
Total, Maritime Administration	374,423,000	380,968,000	255,515,000	85,000,000	95,100,000	-279,323,000
Commission on Immigration Reform						
Salaries and expenses	918,000	1,494,000	1,494,000	1,894,000	1,894,000	+1,276,000
(By transfer)	(500,000)					(-500,000)
Commission on Security and Cooperation in Europe						
Salaries and expenses	1,099,000	1,090,000	1,090,000	1,090,000	1,090,000	-9,000
Competitiveness Policy Council						
Salaries and expenses	1,140,000	1,140,000	1,000,000	1,000,000	1,000,000	-140,000
Marine Mammal Commission						
Salaries and expenses	1,290,000	1,384,000	1,320,000	1,384,000	1,384,000	+94,000
Martin Luther King, Jr. Federal Holiday Commission						
Salaries and expenses	500,000	300,000	300,000	300,000	300,000	-200,000
Office of the United States Trade Representative						
Salaries and expenses	21,150,000	20,948,000	20,948,000	20,948,000	20,948,000	-201,000

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Small Business Administration						
Budget Authority	256,800,000	262,199,000	269,350,000	269,818,000	267,526,000	+8,825,000
Offsetting fee collections		-26,350,000	-6,350,000	-26,350,000	-6,350,000	-6,350,000
Direct appropriation	256,800,000	225,849,000	256,800,000	243,468,000	259,175,000	+725,000
Office of Inspector General	7,992,000	8,482,000	8,300,000	8,300,000	8,300,000	+308,000
Business Loans Program Account:						
Direct loans subsidy	16,946,000		6,800,000	9,221,000	9,589,000	-7,350,000
Guaranteed loans subsidy	161,941,000	310,161,000	267,418,000	245,827,000	274,438,000	+92,496,000
Micro loan guarantees		7,906,000	3,648,000	1,216,000	1,216,000	+1,216,000
Section 503, prepayment		30,000,000	30,000,000	30,000,000	30,000,000	+30,000,000
Administrative expenses	94,737,000	97,484,000	97,000,000	97,000,000	97,000,000	+2,263,000
Total, Business loans program account	303,624,000	445,551,000	428,567,000	383,364,000	412,251,000	+108,627,000
Disaster Loans Program Account:						
Direct loans subsidy		52,183,000	52,183,000	52,183,000	52,183,000	+52,183,000
Emergency supplemental appropriations	254,780,000					-254,780,000
Administrative expenses	76,101,000	76,306,000	76,000,000	76,000,000	76,000,000	+1,899,000
Emergency supplemental appropriations	86,000,000					-86,000,000
Subtotal	395,881,000	130,491,000	130,183,000	130,183,000	130,183,000	-265,698,000
Contingency fund	(140,000,000)		(125,000,000)	(125,000,000)	(125,000,000)	(-15,000,000)
Surety bond guarantees revolving fund	7,000,000	5,368,000	5,368,000	5,368,000	5,368,000	-1,631,000
Total, Small Business Administration	963,337,000	815,892,000	828,468,000	780,884,000	814,646,000	-148,688,000
Thomas Jefferson Commemoration Commission						
Salaries and expenses	92,000					-92,000
Legal Services Corporation						
Payment to the Legal Services Corporation	400,000,000	300,000,000	415,000,000	400,000,000	418,000,000	+18,000,000
Total, title IV, related agencies	1,763,619,000	1,723,008,000	1,526,157,000	1,272,471,000	1,351,165,000	-412,454,000
(Liquidation of contract authority)	(240,870,000)	(214,356,000)	(214,356,000)	(214,356,000)	(214,356,000)	(-26,514,000)
TITLE V - DEPARTMENT OF STATE AND RELATED AGENCIES						
DEPARTMENT OF STATE						
Administration of Foreign Affairs						
Diplomatic and consular programs	1,704,589,000	1,780,439,000	1,700,200,000	1,780,439,000	1,731,416,000	+26,827,000
Registration fees	665,000	700,000	700,000	700,000	700,000	+35,000
Total	1,705,254,000	1,781,139,000	1,700,900,000	1,781,139,000	1,732,116,000	+26,862,000
Salaries and expenses	366,722,000	391,373,000	365,000,000	391,373,000	365,000,000	-11,722,000
Office of Inspector General	23,499,000	23,796,000	23,860,000	23,860,000	23,860,000	+361,000
Representation allowances	4,780,000	4,780,000	4,780,000	4,780,000	4,780,000	
Protection of foreign missions and officials	10,561,000	8,579,000	8,579,000	8,579,000	8,579,000	-972,000
Acquisition and maintenance of buildings abroad	410,000,000	421,780,000	368,000,000	421,780,000	421,780,000	+11,780,000
Emergencies in the diplomatic and consular service	7,805,000	9,500,000	6,500,000	6,500,000	6,500,000	-1,305,000
Repatriation Loans Program Account:						
Direct loans subsidy	593,000	593,000	593,000	593,000	593,000	
(Limitation on direct loans)	(741,000)	(741,000)	(741,000)	(741,000)	(741,000)	
Administrative expenses	183,000	183,000	183,000	183,000	183,000	
Total, Repatriation loans program account	776,000	776,000	776,000	776,000	776,000	
Payment to the American Institute in Taiwan	15,185,000	15,485,000	15,485,000	15,485,000	15,485,000	+300,000
Payment to the Foreign Service Retirement and Disability Fund	125,084,000	129,321,000	129,321,000	129,321,000	129,321,000	+4,237,000
Total, Administration of Foreign Affairs	2,669,606,000	2,783,491,000	2,672,171,000	2,784,843,000	2,728,147,000	+58,541,000
International Organizations and Conferences						
Contributions to international organizations, current year assessment	860,865,000	873,222,000	873,222,000	873,222,000	873,222,000	+12,357,000
Arrearage payments accumulated before FY 1994		40,719,000	40,719,000		4,000,000	+4,000,000
Total	860,865,000	913,941,000	913,941,000	873,222,000	877,222,000	+16,357,000
Contributions for international peacekeeping activities, current year assessment	401,807,000	222,212,000	222,212,000	222,212,000	222,212,000	-179,595,000
Arrearage payments accumulated in FY 1994		286,000,000	286,000,000	284,696,000	286,000,000	+286,000,000
Arrearage payments accumulated before FY 1994		23,092,000	23,092,000	23,092,000	23,092,000	+23,092,000
Total	401,807,000	533,304,000	533,304,000	500,000,000	533,304,000	+131,497,000
International conferences and contingencies	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	
Total, International Organizations and Conferences	1,268,482,000	1,453,245,000	1,453,245,000	1,379,222,000	1,416,526,000	+146,024,000

VOL 140 PT 16 AG 12 — 18 1994 UMI

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
International Commissions						
International Boundary and Water Commission, United States, and Mexico						
Salaries and expenses	11,200,000	15,358,000	13,947,000	12,858,000	12,858,000	+1,658,000
Construction	14,400,000	10,398,000	6,844,000	7,733,000	6,844,000	-7,556,000
American sections, international commissions	4,280,000	7,381,000	5,800,000	5,800,000	5,800,000	+1,510,000
International fisheries commissions	16,200,000	14,889,000	14,889,000	14,889,000	14,889,000	-1,331,000
Total, International commissions	46,080,000	47,986,000	41,080,000	41,080,000	39,971,000	-6,119,000
Other						
United States Bilateral Science and Technology Agreements	4,275,000					-4,275,000
Payment to the Asia Foundation	16,000,000	16,086,000	15,000,000	15,000,000	10,000,000	-6,000,000
Total, other	20,275,000	16,086,000	15,000,000	15,000,000	10,000,000	-10,275,000
Total, Department of State	4,034,463,000	4,300,780,000	4,181,476,000	4,216,926,000	4,195,644,000	+161,181,000
RELATED AGENCIES						
Arms Control and Disarmament Agency						
Arms control and disarmament activities	53,800,000	61,195,000	54,800,000	54,800,000	54,800,000	+1,000,000
Board for International Broadcasting						
Grants and expenses 2/	210,000,000					-210,000,000
Commission for the Preservation of America's Heritage Abroad						
Salaries and expenses	200,000	208,000	208,000	208,000	208,000	+8,000
International Trade Commission						
Salaries and expenses	43,800,000	44,857,000	44,200,000	43,800,000	42,800,000	-1,000,000
Japan - United States Friendship Commission						
Japan - United States Friendship Trust Fund	1,250,000	1,247,000	1,247,000	1,000,000	1,247,000	-3,000
(Foreign currency appropriation)	(1,420,000)		(1,420,000)	(1,420,000)	(1,420,000)	
United States Information Agency						
Salaries and expenses	726,000,000	484,862,000	476,362,000	480,362,000	476,362,000	-251,638,000
Office of Inspector General	4,247,000	4,247,000	4,300,000	4,300,000	4,300,000	+53,000
Educational and cultural exchange programs	241,150,000	221,812,000	237,812,000	242,388,000	238,279,000	-2,871,000
Eisenhower Exchange Fellowship Program, trust fund	360,000	300,000	2,400,000	2,800,000	2,800,000	+2,500,000
Israeli Arab scholarship program	159,000	397,000	397,000	397,000	397,000	+238,000
International Broadcasting Operations 3/		536,078,000	476,786,000	475,478,000	468,786,000	+468,786,000
Radio construction	73,184,000	89,271,000	86,314,000	93,185,000	86,314,000	+13,130,000
Radio Free Asia:						
Operations				10,000,000	10,000,000	+10,000,000
Facilities				8,000,000		
(By transfer)			(10,000,000)			
Broadcasting to Cuba				24,808,000	24,808,000	+24,808,000
Radio Marti	14,000,000		8,825,000			-14,000,000
Television Marti	7,000,000					-7,000,000
East-West Center	26,000,000	24,500,000	20,500,000	24,500,000	24,500,000	-1,500,000
North/South Center	7,700,000		5,000,000		4,000,000	-3,700,000
National Endowment for Democracy	35,000,000	45,000,000	33,000,000	35,000,000	34,000,000	-1,000,000
Total, United States Information Agency	1,136,720,000	1,426,467,000	1,360,508,000	1,401,188,000	1,373,867,000	+236,837,000
Total, related agencies	1,445,170,000	1,535,772,000	1,450,888,000	1,500,405,000	1,472,010,000	+26,840,000
Total, title V, Department of State and related agencies	5,479,633,000	5,836,562,000	5,632,136,000	5,730,230,000	5,667,654,000	+188,021,000
TITLE VI - GENERAL PROVISIONS						
Procurement: General Provisions		-39,092,000	-39,092,000	-39,092,000	-39,092,000	-39,092,000
Procurement: General Provisions (Function 150)		-7,128,000	-7,128,000	-7,128,000	-7,128,000	-7,128,000
Total, title VI, general provisions		-46,180,000	-46,180,000	-46,180,000	-46,180,000	-46,180,000
TITLE VII - SUPPLEMENTAL APPROPRIATIONS, FY 1994						
CHAPTER I - EMERGENCY APPROPRIATIONS						
DEPARTMENT OF COMMERCE						
Economic Development Administration						
Economic Development Assistance Programs:						
Assistance programs				80,000,000	80,000,000	+80,000,000
Salaries and expenses				5,000,000	5,000,000	+5,000,000
Total, Economic Development Assistance Program				85,000,000	85,000,000	+85,000,000

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Small Business Administration						
Disaster Loans Program Account:						
Direct loans subsidy		250,000,000	285,000,000	336,000,000	336,000,000	+336,000,000
Administrative expenses		150,000,000	135,000,000	135,000,000	135,000,000	+135,000,000
Total, Small Business Administration		400,000,000	400,000,000	470,000,000	470,000,000	+470,000,000
DEPARTMENT OF TRANSPORTATION						
Federal Highway Administration						
Federal-aid highways (Highway Trust Fund):						
Emergency relief program		-400,000,000	-400,000,000	-400,000,000	-400,000,000	-400,000,000
Total, emergency appropriations				125,000,000	125,000,000	+125,000,000
CHAPTER II						
DEPARTMENT OF STATE						
International Organizations and Conferences						
Contributions for international peacekeeping activities, arrearage payments accumulated in FY94		670,000,000	670,000,000	670,000,000	670,000,000	+670,000,000
Total, title VII, Supplemental, FY 1994		670,000,000	670,000,000	795,000,000	795,000,000	+795,000,000
TITLE VIII - VIOLENT CRIME CONTROL APPROPRIATIONS ACT, 1994						
Crime trust fund 4/						
Scorekeeping adjustments		-34,255,000	-34,255,000	-34,255,000	-34,255,000	-34,255,000
Grand total	23,710,631,000	28,400,862,000	27,202,230,000	28,001,896,000	27,533,368,000	+3,822,725,000
Fiscal year 1994	(23,710,631,000)	(670,000,000)	(670,000,000)	(795,000,000)	(795,000,000)	(+795,000,000)
Fiscal year 1995		(27,730,862,000)	(26,532,230,000)	(27,206,896,000)	(26,738,368,000)	(+3,127,725,000)
Appropriations	(23,710,631,000)	(24,957,562,000)	(24,136,230,000)	(24,960,396,000)	(24,651,368,000)	(+940,725,000)
Rescission			(-27,000,000)	(-156,000,000)	(-156,000,000)	(-156,000,000)
Crime trust fund		(2,773,000,000)	(2,423,000,000)	(2,314,500,000)	(2,345,000,000)	(+2,345,000,000)
(By transfer)	(57,300,000)	(56,500,000)	(85,800,000)	(406,500,000)	(56,500,000)	(-1,800,000)
(Limitation on administrative expenses)	(3,395,000)	(3,463,000)	(3,463,000)	(3,463,000)	(3,463,000)	(+68,000)
(Limitation on direct loans)	(741,000)	(741,000)	(741,000)	(741,000)	(741,000)	
(Liquidation of contract authority)	(240,870,000)	(214,356,000)	(214,356,000)	(214,356,000)	(214,356,000)	(-26,514,000)
(Foreign currency appropriation)	(1,420,000)		(1,420,000)	(1,420,000)	(1,420,000)	

1/ The State Justice Institute is authorized to submit its budget directly to Congress. The President's request includes $1,260,000 for the Institute.
2/ $256,708,000 is included in USIA, International Broadcasting Operations for transfer to the Board for International Broadcasting.
3/ Includes $243,761,000 for VOA S&E, $10,000,000 for Radio Free Asia, $27,809,000 for Broadcasting to Cuba and $256,708,000 to be transferred to the Board for International Broadcasting.
4/ See Title I, Department of Justice; total appropriations is $2,345,000,000.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, let me open by again saying how much we appreciate the work of the new chairman of this subcommittee. This was Chairman MOLLOHAN'S maiden voyage, and this is, we hope, the terminal of that, terminus of that great voyage. He encountered so many icebergs along the way and so many gale-force winds blowing, swirling around on this bill this time that it is remarkable that we are where we are at this moment.

He did a masterful job, and we thank him for his patience and perseverance and his willingness to listen and to take constructive advice from time to time, although he was in charge of this ship, and the command post was his alone. But he was able to let many of us in to give him constructive advice from time to time, and that went across the aisle on his side and mine as well.

So I commend Chairman MOLLOHAN for a tremendous job. He came in here almost cold on this bill, and immersed himself and staff for weeks on end in order to bring us to where we are.

And like the chairman, I want to thank the other members of the subcommittee on both sides of the aisle who have been constructive and helpful and who all have a part of this bill and, of course, the staff that has been mentioned, both majority and minority staff. On our side, Jennifer and Liz have been, of course, especially helpful to us, and the majority staff of the committee has been likewise very, very helpful.

Mr. Speaker, I am in strong support of the report. This conference agreement provides $26.8 billion in budget authority. That is a $3.4 billion increase over 1994, but of that increase, 80 percent of it goes to fight the war on crime, the No. 1 problem in the country and the No. 1 priority in this bill. Mr. Speaker, this may very well be the crime bill this year. I certainly hope it is. I think the crime bill that has been in the news in the last few days is an abomination, but this bill provides essential, direct-line crime fighting moneys to the core agencies, the FBI, the Drug Enforcement Administration, the Border Patrol, prison guards, and those people who are on the front lines of the war on crime.

This bill brings those agencies up to historically high levels of 1992. For the Department of Justice, the conference agreement provides $12.2 billion. That is a 30-percent increase over last year and $161 million over the House-passed bill.

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Mr. Speaker, I am very pleased to report that this conference agreement specifically rejects the Clinton administration's attempts to cut Federal law enforcement. For the FBI, not only did we restore the 436 FBI agents the administration has cut over the last 2 years, we provided funds to redeploy another 300 agents to the front lines. So this puts 736 more agents on the street, bringing the FBI above their peak agent strength in 1992.

Now I want to repeat again that the budget request the administration sent to us for the FBI would have required further laying off the FBI agents, as they have forced us to do over the last 2 years.

We reject that and in fact increase FBI.

Same for the Drug Enforcement Administration. We restore the 311 special agents the administration has cut over the last 2 years, and we bring DEA, or the Drug Enforcement Administration, back to their 1992 peak strength.

Prisons: This agreement will allow 24 more prisons to be opened and 11 more facilities to be built or expanded. This is a real crime bill, Mr. Speaker.

On our borders, the conference agreement includes almost $300 million for a major immigration initiative, including an almost 1,000 more border Patrol agent force on the front lines guarding our borders. That is on top of the 600 new agents we provided last year.

For our State and local law enforcement efforts, we have $1.3 billion to put more cops on the street, $100 million to help States update and improve their criminal records.

We rejected the administration's proposal to cut the Byrne Formula Grant Program and instead gave it a 26-percent increase. That is money to State and local law enforcement agencies.

For other agencies in the bill, Commerce, Judiciary, State Department, we were also able to do a little better than the House-passed bill, but not much.

Mr. Speaker, this conference report is a tough crime bill. Within tight budget constraints it puts the emphasis where it belongs, putting cops on the street. This is not just talk, this is action. We increase FBI. We increase the lawyers out there fighting drugs, Drug Enforcement Administration, and we build more prisons to put more prisoners away.

This is a good bill. I urge support for it.

Mr. Speaker, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. BROWN], the distinguished chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Speaker, I thank the distinguished chairman of the subcommittee for allowing me to have a few minutes here.

Mr. Speaker, I rise in support of the Commerce, Justice, and State appropriations conference report and I commend the gentleman from West Virginia and the conferees for their efforts.

I am pleased with the substance of the bill as it pertains to programs in the jurisdiction of the Committee on Science, Space, and Technology. I am gratified that is not overburdened with efforts to bypass the proper authorizing committees with inappropriate legislative language. I wish I could say that the bill is free of earmarks, but I cannot—a point I will return to later.

The conferees have produced a bill that is fundamentally responsive to the administration's requests for substantial increases in technology investment programs. Increasingly, economists and other public policy analysts have come to recognize that arguments for Government support of research and development activities apply not only to basic research but also farther down the R&D scale toward commercial development. R&D investments like those in the advanced technology program, for example, are critical to raising the Nation's productivity and standard of living, yet they all too often are singled out for reduction or elimination by zealous deficit cutters who overlook their longer term payoffs in order to achieve short term budget savings.

This did not happen in this conference report. Instead, funding for the National Institute of Standards and Technology was increased 64 percent over last year's level, to $855 million.

I am also pleased that the committee was able to increase funding for NOAA operations, research, and facilities above the fiscal year level in a tight budget environment. But I want to mention an item of particular concern contained in the statement of managers related to the Department of Commerce's plan to modernize our Nation's weather system. The statement of managers includes language intended to mandate the installation of an advanced weather radar system, called Nexrad, in Jackson, KY.

Since the proposal was made in 1988 to modernize the national weather radar system, the Committee on Science, Space, and Technology has maintained an active interest in ensuring that all areas of the country receive the benefits of this program and suffer no degradation of service. Congress passed Public Law 102-567, the Weather Service Modernization Act, to ensure that the administration carried out a fair and technically sound implementation program. Just last month, the committee held hearings in Huntsville, AL, to review this issue.

As a result of those hearings, the committee has asked the Secretary of Commerce to commission an independent review of certain areas of the country which may not receive adequate coverage under the current National Weather Service plan. Legislation guiding that review will be introduced shortly. I believe that the question of coverage in eastern Kentucky as well as six or seven other geographic areas is serious enough that it deserves an independent technical review by knowledgeable experts. The issues are complex and, I might say, beyond the technical capabilities of the conferees on this bill. It may well be that after a thorough technical review, it would be appropriate to procure and site several additional Nexrad radars in affected areas of the country.

I have been approached by many well-meaning Members who have made similar claims and have similar concerns for their districts. Yet, I believe that the only responsible approach is one in which a serious examination of the data and the technical factors is carried out. The language in the statement of managers on page 57 of the conference report undercuts the intent of this review.

I want to remind the Secretary of Commerce that this report language is not binding and should not override Public Law 102-567.

I would be happy to have the proponent of this language join with us in calling for a fair, technically credible, and independent review of his situation. He is not alone in his concern and I will ensure that eastern Kentucky is made a part of this review.

Finally, as Members know, I remain concerned about the level of academic earmarking effected through our appropriations bills and reports. This bill comes back from conference with several new earmarks, and the House and Senate reports contain many more. Although the number and cost of earmarks in this appropriations bill and its associated reports is about the same range as last year, and down substantially from a few years ago when I and other members of the Science Committee first began addressing the problem, I am disappointed that we have not made further progress. I include a chart showing those earmarks we have been able to identify.

Cabinet Secretaries should remember—and I know the distinguished chairman of the Commerce, Justice, and State Appropriations Subcommittee would join me on this point—that report language is not binding upon their Departments. None of us here on the floor can offer amendments to that language, nor do we vote on it. Report language does not represent the law of the land, nor is it explicitly or implicitly endorsed by the House when we vote in favor of passage of the conference report.

Despite my concerns about these earmarks, Mr. Speaker, I believe that, on balance, this is good report. I urge all Members to support it.

The chart referred to is as follows:

Academic Earmarks Commerce, Justice, State, Judiciary and related agencies appropriations bill, 1995

Agency—school	In the bill Amount	In the reports Amount
Commerce:		
Florida State University—construction of a meteorological sciences building	(1)	
Rutgers University—Multispecies Aquaculture Center	$3,500,000	
Indiana State University—Center of Interdisciplinary Research and Education	5,200,000	
Saint Francis College & Saint Vincent College—Center for Global Competitiveness	1,200,000	
Wheeling Jesuit College—Minority Apprenticeship Program in Technology Management	600,000	
Savannah State College—U.S.-African Trade and Technology Center	200,000	
SBA:		
University of Arkansas, Fayetteville—Genesis Small Business Incubator Facility	1,000,000	
Seton Hill College—Center for Entrepreneurial Opportunity	1,000,000	
Hazard Community College—Small Business Consulting, Information & Assistance Center	1,000,000	
University of Central Arkansas—National Data Center Small Business Institute	200,000	
Total	13,900,000	
Justice:		
University of Arkansas, Little Rock—a National Rural Law Enforcement Center for rural crime research		(1)
Lamar University, TX—instructional facility for criminal justice, drug treatment and correctional education		(1)
FCC:		
Rutgers University—wireless information network subscription		30,000
Commerce:		
University of Maryland—Chesapeake Bay observation buoys		400,000
University of Scranton's National Institute for Environmental Renewal—pollution affecting the Chesapeake Bay		500,000
University of Miami's Rosenstiel School of Marine and Atmospheric Sciences—oil spill research		800,000
Southeast Consortium on Severe Tornadoes and Thunderstorms—Florida State University; Georgia Institute of Technology; North Carolina State University; and Univ of AL, Huntsville		400,000
University of Miami—SE US/Caribbean FOCI (marine research)		450,000
University of North Dakota—agricultural weather information initiative		300,000
University of South Carolina's Baruch Institute—small, high-salinity estuaries research		700,000
Oregon State University—Hatfield Marine Science Center		350,000
University of Alaska—Fishery observer training		300,000
University of Hawaii—Hawaii Stock management plan		500,000
Texas A&M University—Beluga whale committee		200,000
University of Hawaii—Hawaiian fisheries aquaculture technology		750,000
Oregon State University's Hatfield Marine Science Center—establish a groundfish unit		2,000,000
University of Nebraska at Lincoln—National Drought Mitigation Program		200,000
University of Southwestern Louisiana—interagency Estuarine Habitats Research Laboratory		11,000,000
Oregon State University's Hatfield Marine Science Center—wharf and support facilities		2,600,000
University of Alaska—Kodiak Fisheries Center		(1)
Oregon Graduate Institute—interactive computer-moderated dialog work		(1)
Wheeling Jesuit College—integrate resources of the National Technology Transfer Center with Technology Administration		(1)
University of New Mexico & University of CA, Los Angeles—Latin American data bases		1,500,000
New Mexico State University—U.S.-Mexico Conflict Resolution Center		500,000
University of Arizona—National Law Center for Inter-American Free Trade		500,000
Michigan and Canadian universities—International Center for Study of Canadian-American Trade		300,000

VOL 140 PT 16 AG 12 — 18 1994 UMI

Agency—school	Amount
University of Miami—North South Center	4,000,000
Total	28,280,000
Grand total, bill and reports	42,180,000

[1] Unspecified.

Mr. ROGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona [Mr. KOLBE], a very hard-working member of our subcommittee, who has been of immeasurable help to us.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding this time to me and for his kind comments.

Mr. Speaker, I rise in strong support of the fiscal year 1995 Commerce, Justice, State, and Judiciary bill. I commend the new chairman of our subcommittee, the gentleman from West Virginia [Mr. MOLLOHAN], for his leadership and judgment in steering his first bill through the subcommittee. I would also like to thank the ranking Republican, the gentleman from Kentucky [Mr. ROGERS], for his guidance and leadership on this bill.

Mr. Speaker, this bill is the real McCoy—a genuine crime bill. The focus of this crime bill is making our streets safer, making our borders more secure, locking up more criminals. It's tough on criminals and sends a message that Americans are serious about fighting the scourge of crime in America.

While Congress debates the politics of crime in another bill that bears the label "crime bill," this is legislation that in a quiet, unassuming way goes after the problem that confronts law-abiding Americans everyday. This is a bill that walks tall against crime and carries a big stick; the other crime bill beats its chest, but carries heaping platefuls of lard. So today we have an opportunity to pass a meaningful crime bill.

Eighty percent of the bill's increase, $2.8 billion, is for crime fighting initiatives. A total of 736 more FBI agents will be on the front lines to fight crime after this bill becomes law. This will restore the level of agents to its peak 1992 level—the level that existed before the administration began its 2-year assault on FBI staffing levels.

The Drug Enforcement Administration will also see its numbers restored to its peak 1992 level—before the administration took the meat ax to this important crime fighting agency. Your vote today gives DEA a $37 million increase over President Clinton's budget submission.

The bill makes a clear policy statement that we are serious about securing our borders. It does this by increasing fiscal year 1994 levels for INS by $310 million. There is $55 million in this bill to hire 700 new Border Patrol agents and deploying 250 additional agents to the front lines. There is $117 million to provide for technology enhancement to help in the struggle to protect our borders.

Put all these numbers together and you have 950 additional agents on our southern border to help make it safer and more secure. The 950 new agents, according to INS, will enable them to implement the highly successful El Paso model with high-intensity, line-of-sight, operations.

The bill, at long last, also recognizes that cost associated with illegal immigration are a Federal responsibility. For the first time since it was authorized 7 years ago, we have included funds for the State criminal alien assistance program. This fund reimburses States for the cost of incarcerating illegal aliens. Its high time—in fact, it is past time—that we acknowledge that illegal aliens in our communities are there because of a failure of Federal law enforcement—not because local governments brought them in. And it is time our national Government help State and Local governments with these skyrocketing and budget-breaking costs.

A total of $450 million is provided in the bill for the Byrne Formula Grant Program. This represents a 26-percent increase over last year and a 100-percent increase over the administration's request for this program. The Byrne formula grants have been of critical importance in targeting highly organized drug trafficking networks in States such as Arizona. The multijurisdictional task forces formed with funds from these grants have provided invaluable assistance in the war on crime.

Finally, this bill provides substantial funding to build more Federal prisons to keep more criminals where they belong—behind bars. There is an $89 million increase over the administration's request and $11 million more than last year for construction or expansion of 10 detention-prison facilities. Additionally, the bill provides $406 million additional to activate 24 new or expanded facilities coming on-line in fiscal year 1995.

We cannot fight the war on crime without resources. This bill provides some of the resources we need to make our communities safer. As the political battles continue on the other crime bill, we can all do our constituents a great service by supporting this bill and providing real help to our communities.

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Mr. MOLLOHAN. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Speaker, I thank the gentleman from West Virginia [Mr. MOLLOHAN] for yielding this time to me, and I rise in strong support of this conference report, and I want to congratulate Chairman MOLLOHAN and the ranking member, the gentleman from Kentucky [Mr. ROGERS], for doing what I think is a remarkable job on a very, very complex bill with a tight budget; in fact, having to make some very tough priorities. I want to address on area in this bill. There is a lot to like in this bill. But I want to talk about disaster assistance.

My district, as well as many others in the southeast United States, particularly in Georgia, particularly in Florida, particularly in Alabama, and now, as it looks, South Carolina, North Carolina, and Virginia; we have major disaster needs that have to be met, and in that we have to recognize that the SBA ran out of money, as I understand it, last night. This bill is absolutely important to the recovery of those areas of the United States.

Just for some statistics: There were 33 deaths in Georgia, Alabama, and Florida; declared disaster counties, 43 in Georgia, 13 in Florida, and 10 in Alabama, just from Alberto, and now we are going back through and having to deal with the remnants of the disaster created by Beryl just last week. So, we are in a position of having to go through a rebuild.

I think it would be an absolute disaster, a second disaster, if we fail to put money in for SBA so they can help families suffering from the problems of these disasters, if we cannot get in the help them now. So, I urge my colleagues to declare this an emergency, declare this conference report an emergency for passage, and to work to make our constituents have a package where they can, in fact, recover, and in closing let me say my Governor of the State of Florida has very well made a statement about the problems we have in the moneys available in the emergency immigration fund. This bill contains $75 million that will help States like Florida, Texas, and California deal with the problems we have in that area as well.

Mr. ROGERS. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina [Mr. TAYLOR], another hard working member of our subcommittee who has been of great importance to us.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would like to comment, first of all, on the hard work our chairman did in the very responsible effort in this legislation and our ranking member, the gentleman from Kentucky [Mr. ROGERS]. There are some things inside this legislation with which I cannot agree, but I do plan to support the bill and find a great majority of it supportable by me.

There is something amazing about to happen in this country, and I think we are taking a very serious step forward in combating crime in this country with little notice by the media or the people.

This step forward has been crafted in a bipartisan fashion by both Democrats and Republicans in the House and Senate that serve on the Commerce, State, Justice, and the Judiciary Appropriations Subcommittee.

The efforts we are making against crime are real and substantive insofar as Congress can make those efforts.

This conference report does not reduce funding for the Drug Enforcement Agency as the President wanted.

This conference report does not cut the FBI as the President wanted.

This conference report does not abolish capital punishment as the President wanted in his crime bill.

This bill does not eliminate the millions of dollars of support for local law enforcement efforts that comes from the Edward Byrne Formula Grant Program as the President's crime bill would.

This report will not release 16,000 drug pushers from Federal prison as the President's crime bill desires.

This report will not abolish mandatory minimum sentences for drug kingpins as the President's crime bill does.

This report does not weaken our second amendment rights with an "assault weapons" provisions that the police benevolent association in my State called "phoney." They know, as does a respected Member of this House, LEE HAMILTON, that real assault weapons are responsible for very few of the crimes in the country.

Many people recognize that the President's crime bill would list hundreds of sport guns as "assault weapons" even though few people would think of these guns as that today.

This report does not abolish mandatory sentences for the commission of a crime with a gun as this administration desires.

This report does not contain the "pork, posturing, and partisanship" of the President's crime bill, not even $10 million to selected colleges or universities.

What this report does do is increase funding for the FBI. It will allow the hiring of 400 new FBI agents, and the transfer of some 600 desk agents to the field.

This report increases funding for the DEA. The appropriation will allow the DEA to hire 300 new agents.

The increased funding for the FBI and DEA will allow them to hire up to their 1992 levels, making them more effective crime fighting tools.

This reporting increases funding for almost all areas within the Justice Department and the judiciary, from the U.S. Marshals Service to the courts of appeals, district courts, and other judicial services.

This report provides funds to activate 11 new or expanded prison facilities.

This report expands the Edward Byrne Formula Grant Program, which provides $450 million in assistance to State and local law enforcement agencies.

Programs funded by the Byrne Program include State and local prosecution initiatives; innovative programs that attack drug use and violent crime; and multijurisdictional programs, an example being State and local police officers working with State troopers.

The Byrne Program was targeted for elimination by the administration, but local law enforcement officers from all over the country and Members of Congress rallied in support of this Program because it's effective in fighting crime.

We not only continued the Program, but expanded its funding levels.

We also include $54.5 million for new Border Patrol agents.

This money will allow the Border Patrol to hire 700 new agents and transfer an additional 200 agents from their desks to the field. It also calls for the hiring of added support personnel.

This increased funding allows the Border Patrol to implement the same strategy in place in El Paso along the entire United States-Mexico border.

In El Paso, agents are stationed within eyesight of each other and keep a continuous watch on 20 miles of river and desert. It makes it extremely difficult to cross illegally without being spotted and few bother to try.

In addition to the Border Patrol increases, this report appropriates $130 million in assistance to the States to offset their high costs in jailing illegal aliens.

This report also includes $24.5 million for bootcamps, which keeps lesser offenders off the streets and our prisons less crowded.

We include $29 million for drug courts, permitting the swifter trials of drug offenders.

The report includes $26 million to combat violence against women, which will support battered women's shelters, promote rape-awareness education and establish a national family violence hotline.

In sum, Mr. Speaker, this conference report spends over $15 billion for crime prevention and the judiciary.

In prioritizing the needs and addressing the concerns of the people across this country and Members of Congress, we decided in a bipartisan manner not to fund the social spending initiatives that the President has promoted.

These include proposals that have been criticized on a bipartisan basis—like midnight basketball, interpretive dance classes, arts and crafts, and the like.

We had to go with proven methods of crime fighting and crime deterrence, and I believe we did the best possible job.

I urge the Members to support this legislation.

□ 1310

Mr. MOLLOHAN. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Colorado [Mr. SKAGGS], a distinguished and hard-working member of our subcommittee.

Mr. SKAGGS. Mr. Speaker, this was the subcommittee's first year under the direction of Chairman MOLLOHAN. I would like to commend him for his leadership in working with the Senate to produce a report that provides funding for the country's crime-fighting, economic development, diplomatic, and myriad other needs under very tight budgetary constraints. Chairman MOLLOHAN deserves the appreciation of this House, and this report deserves its support. I also want to recognize the great and positive contributions of the gentleman from Kentucky [Mr. Rogers].

This conference report appropriates $26.9 billion for fiscal year 1995. That's an increase of $3.1 billion over last year. Most of that increase—$2.3 billion—is targeted to fund programs created under the proposed Violent Crime and Law Enforcement Act, the crime bill which I hope we will pass later this week. This increase notwithstanding, the bill is $900 million less than the administration requested.

One area in which I wanted to make further cost cuts was our broadcasts to Cuba. Our subcommittee had ended all funding for TV Marti. That decision was based on the results of an independent panel report which concluded that TV Marti is not being seen in Cuba. The conference, however, decided to provide $11.395 million for the program and included an extra $1.2 million to convert the broadcast from VHF to UHF, funds that were not even requested by the administration.

A year ago we set up a process that was intended to develop an objective basis for an assessment of TV Marti by the Director of USIA. We said then that TV Marti was to be kept on the air only if it was "consistently being received by a sufficient audience to warrant its continuation." The panel we authorized to examine the issue found that TV Marti was not getting through. "The Panel is able to state categorically that at present TV Marti's broadcasts are not consistently received by a substantial number of Cubans * * *. Whatever TV Marti's shortcomings, they are negligible compared to its inability to reach its intended audience." (Advisory Panel Report, p. 5.) The Panel also cited a survey conducted by the U.S. Interests Section in Havana late last year, which revealed "an unprompted viewing rate for TV Marti of zero and a prompted rate of four percent." (Advisory Panel Report, Appendix J.) By comparison, CNN had a better unprompted rate of 1 percent.

A reasonable person might have thought that the combination of these facts and the legal requirement in last year's conference report would produce a logical conclusion: shut down TV Marti and save $10 or $15 million a year. Amazingly, the Director of USIA chose to charge ahead, ignoring the fact that, for all practical purposes, TV

VOL 140 PT 16 AG 12 — 18 1994 UMI

Marti has no viewing audience. I can only describe his decision as one in willful disregard of the facts and the law, and we should not be endorsing it. Sadly, the Senate did endorse it, and it has survived in conference.

Despite its own findings about viewing audience, the advisory panel went beyond what we authorized them to do and came up with the notion that it might help break through Castro's jamming if TV Marti switched from a VHF signal to UHF. Technical experts at the National Association of Broadcasters, Maximum Service Television, and the FCC have examined that idea and found it seriously defective. A UHF signal would actually degrade more than VHF over the distance involved, especially given the over-ocean atmospherics, and the technical means for jamming UHF are simpler and cheaper than VHF. Nonetheless, we are faced with a Senate bill that not only continues TV Marti, but increases funding for it, including money for the ill-conceived UHF option.

The argument is now offered up that, even though TV Marti is a technical flop and a no-show in the ratings, we must keep it on the air. To show the people of Cuba we care; to deny Castro what he would claim as a propaganda victory, and to have it available for our message when the inevitable overthrow of Castro occurs. Well, I think the Government is, and will continue, doing plenty to demonstrate that it cares about freedom in Cuba, even without TV Marti. We cannot afford to waste millions of tax dollars on empty symbolism. And it is clear from the U.S. interests section's own survey that the Cuban people have a wide range of alternative media and information sources available to them, including Radio Marti, which we can exploit when the time comes. So, these arguments for continuing TV Marti, notwithstanding the fact that nobody sees it, are unconvincing, to say the least.

The decision to go forward with TV Marti is a loss to the American taxpayers.

Even with this glaring defect, this bill is a good one overall, and I urge my colleagues to support it.

The House conferees were successful, however, in retaining provisions on improving where and how resources are spent in our operations abroad. Included in the conference report is language I authored directing the State Department to prepare a pilot program for colocating support services for U.S. missions overseas. Such a joint administrative operation already exists in Vienna, where one main center serves the various missions headquartered there, including the U.S. missions to the International Atomic Energy Agency and the Commission on Security and Cooperation in Europe. The result of replicating the Vienna model on a regional level will be increased efficiency and reduced expenses in future fiscal years.

We were also successful in improving the way in which we invest in our most important science and technology programs. Despite working under very tight spending caps, by being smarter in the way we allocate resources we were able to increase investment in important Department of Commerce research programs that are key to ensuring a strong and competitive economy in the future. Improving operations is critical to the success of the National Oceanic and Atmospheric Administration [NOAA], the National Institute of Standards and Technology [NIST], and the National Telecommunications and Information Administration [NTIA]. Many of these initiatives will help revitalize the American economy and improve the environment for generations to come.

I'm also pleased that we were able to restore funding for the Wind Profiler Demonstration Network, a network which NOAA has called an unqualified success. We've seen the human and economic costs of unexpected severe weather phenomena. It strikes me as unwise to shut down a system that's providing vital and accurate forecasting information.

The conference also provided a funding increase for NIST's Scientific and Technical Research Program, which represents NIST's core research function. This, coupled with an increase in funding for the Industrial Technology Services Program, will allow NIST to fund more of the research necessary to improve American industries' global competitiveness.

Funding for NTIA is vital to support the administration's efforts to help develop an information superhighway. NTIA is the lead agency working to make the information superhighway a reality. Our support for NTIA in this report will go a long way to making up for a decade of neglect of public telecommunication facilities.

We've also made critical investments in some basic programs that matter to every American every day. To answer the call for safer streets, we increased funding for three of the four Department of Justice programs that fight crime: the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, and Organized Crime Drug Enforcement. This means more agents in the field. These law-enforcement agencies are the backbone of the Federal anticrime effort. Their work bolsters State and local crime fighting efforts which increasingly have to extend beyond city and State lines.

Another thing we've done to assist local law enforcement is to enhance funding for the Edward Byrne Memorial Formula Grant Program. Byrne grants have proven a valuable resource for State law enforcement programs, such as drug and alcohol treatment and programs to divert youth away from criminal activities. The conference report includes $450 million for this valuable program. That's almost $100 million more than in fiscal year 1994, it will make a real difference in the ability of police departments to fight crime. For instance, in 1995 Colorado will receive $6.326 million in Byrne grants, an increase of more than $1 million over 1994 funding. That is a positive step in our fight against crime.

The report also includes funding for the National Institute of Corrections [NIC], which is located in Longmont, CO. The NIC is the national center where State correction departments can turn to for information on how to make their operations more efficient and cost-effective, and I am glad we were able to provide the funding they need to continue their excellent work.

I'd also like to say a little about funding for the Legal Services Corporation [LSC]. The $415 million included in the conference report is far less than LSC's $500 million request—and far less than it needs. One of the basic principles of our system of justice is that every American is entitled to a fair hearing in a court of law, and we have an obligation to provide legal representation to those who cannot afford it. The poor are entitled competent representation, and this is important in civil cases as it is in criminal. The LSC is an essential part of the effort to provide this assistance, I support their efforts, and I hope we will be able to provide more resources for this valuable program in the future.

In sum, Mr. Speaker, this conference report strikes a sound and realistic balance between needs and resources in the many important areas of responsibility and programs in the subcommittee's jurisdiction. I urge its adoption. And, once again, I thank the chairman for his excellent work.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY] a member of the full committee and a Member who has made an historic effort in obtaining the Radio Free Asia moneys, which are now in this bill, due to a great effort by the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I want to thank my distinguished colleague, the gentleman from Kentucky [Mr. ROGERS], the ranking minority Member on this committee, for yielding time, and for his leadership on the report. I would be remiss if I did not commend the leadership of the gentleman from West Virginia [Mr. MOLLOHAN] as chairman of the subcommittee in very recent times.

Mr. Speaker, I rise in support of the conference report on the fiscal year 1995 Commerce-Justice-State appropriations bill. Specifically, I want to

draw Members attention to the fact that this bill provides first time funding for a Radio Free Asia broadcast service that is long overdue.

For decades, we successfully operated a Radio Free Europe and Radio Liberty service for Eastern Europe and the former Soviet Union. Through this service, we provided the truth to millions and millions of people who routinely were denied accurate information by their governments. There is no question that our radio broadcasts helped precipitate the downfall of the Iron Curtain and its Berlin Wall.

Unfortunately, for too long, we have been behind the curve in terms of targeting radio broadcasts to many critical regions of Asia where information is monopolized by regimes intent on keeping their citizens in the dark—in China, Burma, Vietnam, North Korea, Cambodia, Tibet, and Laos. Our international radio broadcasting is cost effective and is a very important tool in our diplomatic arsenal.

I would be remiss if I neglected to mention my disappointment that a Radio Free Asia broadcast service was not established several years ago because valuable time has slipped away. However, the important thing is that we are on the right track with this bill here today. The next important step in the process will rest with decisions made by the new Broadcasting Board of Governors and it is my hope that the appointment of these new members will receive priority attention from the White House, which supports the Radio Free Asia effort. I urge a "yes" vote.

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume for two colloquies.

Mr. Speaker, I yield to the gentleman from Texas [Mr. ORTIZ] for a colloquy.

Mr. ORTIZ. Mr. Speaker, I rise to enter into a colloquy with the distinguished chairman of the Subcommittee on Commerce, Justice, State, and Judiciary.

Mr. Speaker, it is my understanding that if funds become available through limiting the National Undersea Research Program's national office duties to oversight of the regional centers and continuation of the Alvin Program, and if it is determined that it is feasible to establish an undersea research center in the Gulf of Mexico, then some of these savings may be used to fund such a center in the Gulf of Mexico,

Mr. MOLLOHAN. Yes, that is my understanding, consistent with the 1992 NOAA Authorization Act.

Mr. Speaker, I yield to the distinguished gentleman from New York [Mr. HOCHBRUECKNER].

Mr. HOCHBRUECKNER. Mr. Chairman, the conference report provides NOAA $4.1 million out of the CZM fund for program support. Is it your view that this is an adequate amount for NOAA/OCRM administrative funding needs?

Mr. MOLLOHAN. Yes, it is.

Mr. HOCHBRUECKNER. So, in your view, it would be inappropriate for NOAA or OCRM to take any further administrative deduction out of the CZM fund in fiscal year 1995?

Mr. MOLLOHAN. Yes.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. DEUTSCH], a very active freshman Member.

Mr. DEUTSCH. Mr. Speaker, I rise today in support of the conference committee report, and particularly praise the conference committee for the funding of Radio and TV Marti. Today, south Florida, my district in particular, is threatened by actions that Castro is taking in Cuba. I think we are in a position today where we are ready for those actions, and part of the reason for that is because of Radio and TV Marti.

Castro has been killing his own people. We know that from other independent sources. And the people of Cuba know that because of Radio Marti. It is the most-listened-to station in Cuba today. We have factual, definite information about that.

Castro is an anachronism in this world today, an anachronism of a cold war era that does not exist except for 90 miles off our shore and in very limited places in the world. Both in the present and the future, it is a needed cause that I support, and praise the conferees for including it in the final report.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS], the very able and helpful ranking member on the Committee on Small Business.

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to thank the ranking member for yielding, because I will be speaking against this bill.

There is $27 million in totally unauthorized spending in this bill. Now, is this all pork? I do not know. Probably most of it is. Or, if some of it is good programs, it certainly should be local programs and not federally funded programs.

The unconscionable part of this and the reason I am calling attention to the Members, is that this is rolled in with really essential spending. There is an extension of SBA disaster spending in here. It is the entire SBA budget.

□ 1320

This unauthorized spending is 15 percent of our salaries and expenses budget and 5 percent of our total budget. And it is totally unauthorized. I am probably not going to end this practice by calling attention to it today, but I would like to mention just one or two of these programs and see what they sound like to Members.

There is $500,000 for the Van Emmons Population Analysis Center in Pennsylvania; $1 million for the city of Prestonberg, KY, that is about the only explanation I have of that. There is $1.5 million for what is called a consortium in Buffalo, NY. There is a program in Bowling Green that would change garbage to a marketable product. And there is $500,000 for the New York City Public Library for construction.

There is $250,000 for the city of Espanola in New Mexico for a plaza of some sort.

I would urge Members to vote their conscience on this bill. It is a big bill. It is Commerce, State, Justice, all independent agencies. There is probably some good crime provisions in this bill. But I think personally I am going to vote "no" on this bill, because sooner or later, we have to begin to take a stand on unauthorized spending where nobody knows what it is for.

Mr. MOLLOHAN. Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. DIAZ-BALART], a Member who has done more for TV and Radio Marti than most anybody I can think of.

Mr. DIAZ-BALART. Mr. Speaker, I thank the gentleman and commend him as well as the gentleman from West Virginia [Mr. MOLLOHAN] for their expert leadership on the multiple issues involved in this very positive legislation that is before the Congress in final form today.

I want to join my colleague, also from south Florida [Mr. DEUTSCH] who spoke earlier, commending the conference committee for having included full funding for radio and television broadcasting to Cuba. I think it is, especially at these times, in these times, more than ever, it is important to continue to inform the Cuban people about what is going on within their unfortunate and distressed island. It is important to be able to improve the technological ability of Television Marti, to penetrate Castro's jamming and reach a higher percentage of viewership in Cuba.

As the report of the panel created by this Congress just a year ago stated, it can be done. I am pleased that within this bill there is funding for the necessary technological, technical conversions required to significantly increase the television viewership of this program, as well as to maintain, of course, the overwhelming radio audience that our broadcasting has. At this time when it is so important to tell the Cuban people how unsafe it is to cross the Florida Straits, it is important also to let them know that they should maintain their hope that better times are coming, that freedom will soon arrive. And so these programs, now more than ever, are critical. And I commend the conference committee for having included them in this important and very positive conference committee report.

Mr. MOLLOHAN. Mr. Speaker, I yield 2 minutes to the distinguished

VOL 140 PT 16 AG 12 — 18 1994 UMI

gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I would like to thank the chairman for yielding the time to me and also for his work.

I rise in support of the Commerce, State, and Justice conference report.

Like my colleague from Florida, I am particularly happy to see that we have not undone an investment that we have made in surrogate broadcasting to the people of Cuba. At this point in time in history, it would be the worst possible decision we could have made. As we face the possibility of Castro's unraveling in these final chapters, as we look at the question of communicating to the people of Cuba as it relates to the dangers of crossing the Florida straits, as it relates to these very same debates for which we have honest disagreements on this issue, as it relates to the tens of thousands of people 2 weeks ago who rose up in Havana against the Castro government, to communicate with the rest of the people on the island, this is the time, however, to take care of some of the concerns and to use our technology either through a C-130, through our satellite transmissions, through our ship-to-shore transmissions, by raising the level of technology of television Marti so that that investment can reach all of the people on the island of Cuba.

If we were able to do that, then, in fact, our investment would pay off, our investment in opening up a window for the people of Cuba who have a very closed society. That is what is at stake here. This time shows us how important it is to have such an opportunity to transmit to the people of Cuba. That is why it is very important that we include it in the conference report.

I think it is the right thing to do. We have now got to use our ability to transmit to permeate throughout the island.

I also want to thank the chairman for his work with us on Hispanic recruitment in the State Department. We have one of the worst records of any Federal department. I think we have made some efforts to bring that along.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER], the very able ranking Republican on the Committee on Science, Space, and Technology.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

I must admit that as I went down through this bill I became concerned about the same things that we have been raising with regard to the crime bill, and that is that there are so many things down in here that are particular projects that my have individual merit but, in many cases, are absolutely unauthorized and the money should not be spent.

For instance, in the SBA section of the bill, we find $750,000 for the North Carolina Biotechnology Center. We find $500,000 for a population analysis center in Towanda, PA. We find $1 million for the city of Prestonberg, KY. We find $375,000 for the Nebraska Micro Enterprise Initiative. We find $3 million for the National Center for Genome Resources in New Mexico, $1 billion for the Genesis Small Business Incubator Facility in Fayettesville, AR; $500,000 for the SBIR in Bozeman, MT; $1 million for the Center for Entrepreneurial Opportunity in Greensburg, PA.

I have just read 8 of the 25 unauthorized projects. It is not just in that section of the bill.

If we go into another section of the bill that covers NOAA, we find things like $2.5 million for a grant to Kansas City, MO, for the development of a weather and environment information and demonstration center; $1 million to Mystic Seaport; $3.5 million for a multispecies aquaculture center in the State of New Jersey; $2 million for the construction of the Massachusetts Biotechnology Research Institute in Boston; $5.2 million for the Center for Interdisciplinary Research and Education in Indiana; $11 million for the construction of the Interagency Estuarine Habitats Research Laboratory in Lafayette, LA; $2.6 million for the Marine Science Center in Newport, OR; $7.5 million for the National Marine Fisheries Service Southeastern Laboratory; $980,000 for an estuarine reserve in South Carolina.

If Members flip the page over, they find $1 million for a grant to the Emerging Technologies Institute in Sacramento, CA; $930,000 for a grant in the Michigan Biotechnology Institute, and many, many more.

This is a problem down in these bills. It ought to be cured. It was not cured in this report.

□ 1330

Mr. MOLLOHAN. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from New Jersey [Mr. HUGHES], the distinguished chairman of the Subcommittee on Intellectual Property and Judicial Administration of the Committee on the Judiciary.

Mr. HUGHES. Mr. Speaker, first I want to thank the distinguished gentleman from West Virginia [Mr. MOLLOHAN] for yielding me some time.

I want to congratulate him, I think HAL ROGERS said it best, on his maiden voyage on the conference report, and I know this is the first of many that the gentleman will usher through the Congress in the years ahead. I congratulate him, and also the gentleman from Kentucky [Mr. ROGERS] and their committees and staffs on a very fine conference report.

Frankly, I have heard the bill described over and over again today as being a good crime bill, but it is broader than that. There are a lot of provisions in here that I think show the kind of balance and the kind of thought that has come out of this particular appropriations subcommittee for many years.

In fact, if all the committees of the Congress worked together in a bipartisan fashion like this particular Committee on Appropriations does, we would probably have better legislation. We might have a little more comity around here, and we would certainly get a lot more done. I think that is what our constituents expect of us.

I am lucky, because I chair a subcommittee where I have that kind of a relationship with my ranking Republican. We are full partners, and we get a lot of things done. I am talking about the gentleman from California [MR. MOORHEAD].

This is a good bill for a lot of reasons. This subcommittee takes a great deal of time in taking testimony, probably as much as any subcommittee, because it deals with some very, very important issues, not just in Justice and in the State Department and in Commerce and in the Judiciary, and in some of the independent agencies, but because it also has so many provisions that are very important.

The reason why this bill enjoys so much support is because the allocation this subcommittee received was not very generous this year, so you had very narrow limits to walk. You have done an excellent job in providing in all subject areas.

In the area of crime control and law enforcement, I think it has been mentioned over and over again, $1.3 billion for community policing. This is real money; it is going to enable us to put policemen on the street to do the kind of community policing that all law enforcement agencies across the country have told us we need.

The Byrne formula grant program, you have all heard from your prosecutors. This is one of their priorities because it is a program that works.

I was a prosecutor for some 10 years, and frankly, I would like to have had the kind of resources we are providing for local law enforcement in the Byrne grant program. It works because it enables them to put together the task force operations to deal with drug problems in their communities. They are able to get all kinds of good, hard intelligence because of the Byrne formula grant programs.

Mr. Speaker, the immigration initiative, there is $284 million in there for immigration. I do not have to tell the Members, immigration unfortunately is chaotic. It is out of control. We have not done a good enough job, not just at the southern border, but we have not done a good enough job in bringing the Immigration Service into the 20th century, let alone the 21st century, in providing the kind of data we need to track aliens who are in this country. We do not have that capacity. We need to provide more resources.

Mr. Speaker, upgrading of criminal history records, $100 million. We have heard over and over again how we have to turn criminal history records over quicker than we do. The FBI is backlogged. Many of their records, tens of thousands of their records, are not automated. This $100 million will enable us to upgrade our criminal history record system. That is something that we have not done.

The moneys, the $130 million for the criminal alien assistance program for the States, is desperately needed in many parts of the country, particularly the southern border, in Florida, and in California. It is out of control. Those States are saddled with humongous bills because of the immigration problems.

The disaster assistance in the bill is essential. Moneys for the State Department, their peacekeeping operations, is needed, and it provides that.

It is a good bill, Mr. Speaker. I congratulate my colleagues on bringing an excellent bill from conference. I urge my colleagues to support it.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, like other Members, there are some provisions of this bill with which I do not agree, but I think the overwhelming majority of provisions are so positive and so beneficial that I intend to vote for this conference report, and I urge my colleagues to vote for it, also.

I particularly want to congratulate the gentleman from West Virginia [Mr. MOLLOHAN], the gentleman from Kentucky [Mr. ROGERS], the ranking member; and all the members of the subcommittee and the House and the Senate conferees for dealing appropriately with law enforcement appropriations.

Mr. Speaker, the House of Representatives, when we took up the bill originally, already addressed the issue of the administration's proposal to reduce the staffing at the Federal Bureau of Investigation and the Drug Enforcement Administration. I am pleased that on a bipartisan basis the House of Representatives rejected that idea, and in fact increased those two agencies.

There was, however, in the original House bill one issue with which I had a disagreement. That dealt with the United States Attorneys' offices. These are the front line Federal prosecutors against violent and other criminal activity.

Although the House recommended an increase for the U.S. attorneys, it was so small as I felt to be negligible, and I do believe that we will pass a crime bill this year. I believe that we have to have the resources in the U.S. attorney's offices to implement that crime bill.

Mr. Speaker, I proposed an amendment on the House floor to increase the U.S. attorneys by simultaneously reducing some of the increase in the Antitrust Division; not lowering the Antitrust Division, but not increasing them as much as in the House proposal.

Mr. Speaker, that amendment was rejected by my colleagues because they wanted to increase, as recommended, the Antitrust Division. The conference committee was able, with a judicious use of funds, to both give an increase to the U.S. attorneys of $9 million over the original House recommendation and to increase the Antitrust Division.

Mr. Speaker, I support both of those actions, and I urge a yes vote on the conference report.

The SPEAKER pro tempore. The Chair would like to inform the managers that the gentleman from West Virginia [Mr. MOLLOHAN] has 3 minutes remaining, and the gentleman from Kentucky [Mr. ROGERS] has 4 minutes remaining.

Mr. MOLLOHAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from North Carolina [Mr. PRICE], a very distinguished, hard-working member of our subcommittee.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for yielding time to me. I want to add my words of commendation and praise for the chairman for his successful work during this, his first year at the helm of the subcommittee, and also for the gentleman from Kentucky [Mr. ROGERS], our ranking minority member.

This is a good bill. It is a model of bipartisan cooperation. I only wish we had this kind of bipartisan cooperation on more of our authorization bills, including the omnibus crime bill now awaiting final action.

As many speakers have stressed, in many ways this appropriations measure is a downpayment on that crime bill. It will get us off to a good start on the prevention, policing, and punishment efforts that are going to be required to make our communities safe again.

This bill, of course, contains funding for many Federal departments, including high priority research, development, and technology transfer programs in the Commerce Department, and the work of the Small Business Administration, now revitalized under the leadership of Erskin Bowles. But our focus this year has been especially on the plague of crime and violence in our country.

In this bill we are making a significant start on community policing, on the upgrading of criminal history records, so that local law enforcement has access to good information when they pick up someone, and on immigration initiatives such as controlling the borders, expedited deportation, and enhanced asylum processing.

Byrne formula grants and increased by 26 percent. I just had a meeting 2 weeks ago with the three sheriffs in my district. All of them said "Go to Washington, pass the crime bill, and pass the funding bill, so we are assured of continued support for local law enforcement from the Byrne fund."

This is a good bill, Mr. Speaker, a practical, well-crafted bill that will make a great deal of difference in our communities. I urge its adoption.

Mr. ROGERS. Mr. Speaker, may I inquire as to the time remaining on each side?

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. ROGERS] has 4 minutes remaining, and the gentleman from West Virginia [Mr. MOLLOHAN] has 2 minutes remaining.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to a very effective spokesman who has been one of the major defenders of Radio and TV Marti, the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, the inclusion of funding for Radio and TV Marti is very pertinent given the recent dramatic events occurring in Cuba. Over the last few weeks, the Cuban people have begun to openly show their great discontent and disgust with the cruel Dictator, Fidel Castro, and have exhibited thirst for freedom as they have taken to the streets to condemn the continuous repression they are subjected to by the Castro regime.

Cries of "Libertad, Libertad" were heard in many parts of Cuba in the past days.

No longer are the Cuban people frightened or intimidated by the tyrants's threats to use whatever means necessary to keep them enslaved. Instead, the Cuban people are risking life and limb to achieve their goal of freedom and democracy.

This is why Radio and TV Marti are so important. Because they bring to the Cuban people the truth about the situation on the island and the violations of human rights that the people in Cuba are subjected to.

When the Castro regime blamed the United States for the death of more than 30 people after the sinking of the tugboat "13 De Marzo," it was Radio and TV Marti which carried the truth to the island interviewing survivors who told of the Cuban authorities merciless attack against the fleeing refugees, mostly women and children.

□ 1340

It is Radio and TV Marti which told the Cuban people of the mass demonstrations in Havana where the people demanded freedom, liberty and justice.

Mr. Speaker, I thank the conferees for fighting to restore those funds for TV and Radio Marti and for getting them in the bill.

Mr. MOLLOHAN. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. SERRANO] a distinguished member of our committee.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. SERRANO. Briefly, Mr. Speaker, I think it is very interesting to hear people say that we need Radio Marti now to send a message to Cubans to stay home. For years, Radio Marti has been the number one culprit in asking Cubans to rebel and to come here. Radio Marti is as responsible for the tragedy that is taking place in the Florida straits as is the Government of Cuba.

Mr. ROGERS. Mr. Speaker, I yield 1 minute to the gentleman from New Hampshire [Mr. ZELIFF].

Mr. ZELIFF. Mr. Speaker, in spite of the many good things we have heard so far about this report, I rise in opposition to the conference report. In particular I am opposed to the $27 million in specific earmarked pork-barrel spending appearing under the Small Business Administration budget. This represents over 4 percent of the total SBA budget for fiscal year 1995. In addition to this $27 million, the SBA budget also contains one of the biggest cases of wasteful spending, the tree planting program, another $15 million in unauthorized spending that no one even saw fit to mention at the many hearings in the markup of the Small Business Reauthorization Act. Those who supported this pork knew it would not pass in committee so they had the appropriators do their dirty work.

What in the world are we trying to do? Why are we wasting these resources? Tree planting is even more outrageous considering we just had to authorize emergency spending to keep the SBA from running out of money. We are always short on loan funds, disaster funds, and all types of funds, but we never seem to run out of pork.

Mr. Speaker, I oppose this bill. I oppose this process. I oppose the betrayal of taxpayers in the small business community. What does it take for us to wake up and start listening to the people we represent? This is why we need an A-to-Z process to get rid of waste and inefficiency in Government spending.

Mr. ROGERS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is a good bill. It is strong in law enforcement. It may be the only crime bill that Members have a chance to vote for this year. I certainly hope it is. But it does strengthen the FBI, it restores the FBI to the 1992 levels, which was the highest ever. It restores the DEA to the 1992 levels, which was the highest ever. There is money in here for new prisons. We are going to open up several of them this year. In fact, there are 24 new or expanded prison facilities coming on line in 1995 under this bill and we appropriate the funds for an additional 11 new or expanded prison facilities in the coming year.

There is money for the Byrne grant formula program which States and locality law enforcement agencies desperately need. In fact, a 26-percent increase over last year, and 100 percent over the administration's request.

There is money for the first time for State criminal alien incarcerations, reimbursements to States who are using their moneys now for that purpose. There are 950 new Border Patrol agents and moneys to support them, not to mention the other items that we have heard here today. I urge a vote for the conference report.

Mr. MOLLOHAN. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. SMITH], the distinguished former chairman of our subcommittee.

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, first I want to congratulate the new chairman of the subcommittee and the ranking Member again. This is a very difficult bill to handle. I was just thinking as I sat here today that this is the first time in 15 years that I have not heard any discussion of Legal Services Corporation. We have finally gotten that behind us, I hope. But actually the rest of the Congress and even the country is even catching up with this subcommittee with regard to crime. A lot of people would not know it, but the big crime bill we are talking about is mostly just an authorization and the money has to be provided by this subcommittee, and the things that we do are limited by the money that this subcommittee can find. That is not true with regard to rules of evidence and penalties but as far as the money is concerned, it is provided in this bill.

Also I think I must respond briefly to the gentleman from New Hampshire. Fifteen million dollars for trees for urban areas all over the whole United States happens to be exactly the same amount of money that we provided for a computer center in New Hampshire that the gentleman did not want rescinded 3 or 4 years ago. I think trees for our children and grandchildren and great grandchildren all over the United States will do a lot more good for this country than a project in only one place such as New Hampshire.

Also this is an important bill with regard to the competitiveness in the world. This is the bill where we really provide funding to encourage private sector development of new high technology to meet world competition as the gentleman from California knows.

This is the bill where NIST was increased from $520 million up to $855 million. We are now centering our attention on the National Institute of Standards and Technology. We are going to go for civilian development of products; we are going to help NIST make the United States competitive in this world. We have been depending too much on the military to do this kind of research and development assuming we get some spinoff from military research and development.

Also there are expert promotion activities funded in this bill that are terribly important to this country. Also funding for the State Department is provided in the bill. I congratulate the gentleman from West Virginia and also from Kentucky for handling this bill. I think it is a very controversial bill at times, but this conference agreement is as good as could be put together this year.

Mr. HUGHES. Mr. Speaker, I rise in support of the conference report on H.R. 4603, the Commerce, Justice, State and Judiciary appropriations bill for fiscal year 1995 and to commend the distinguished chairman of the subcommittee, ALLAN MOLLOHAN and the subcommittee's ranking Republican, HAL ROGERS, on a job well done. Chairman MOLLOHAN took over the helm of this subcommittee at a very difficult and critical time this year. However he and his outstanding staff have done a yeoman's job in crafting and managing this bill.

This is an important bill that provides needed funding for a number of departments and agencies, including the Department of Justice, the Judiciary and the National Oceanographic and Atmospheric Administration. However, on this occasion, I would particularly like to point out the important funding provided in this bill for administering our Nation's fishery related programs.

As the representative of a coastal district, I know that each day brings more and more restrictions on commercial fishing. Ocean resources that we once thought were limitless are proving to be fragile. This bill provides funding that will help us perform needed research into the status of our fishery resources and ways to sustain and manage them. In order to protect our resources and still provide consumers with the fish and seafood products they demand, the bill provides funding to look at new and innovative alternatives to traditional seafood harvesting methods.

One very important alternative source of seafood is aquaculture and I am pleased that this legislation provides some $3.5 million for construction of a multispecies aquaculture facility in New Jersey currently being developed by Rutgers University and Cumberland County College. This demonstration facility is just the type of experimental farm we need to get aquaculture moving in our State. The Rutgers-Cumberland County project will take a multispecies approach to aquaculture; that is, the facility will culture both finfish and shellfish. This unique approach is critical to support development of small-scale culture operations and larger commercial ventures. Supporters of the facility, like me, hope that culture of all these species will lead to new knowledge and developments that will continually make aquaculture a more viable business opportunity in New Jersey and elsewhere.

The lack of demonstration facilities that serve the function of experimental farms is the principal factor limiting aquaculture development in New Jersey—and in most other States. So, perhaps the most important service the Rutgers-CCC facility will perform is to act in a similar manner to a traditional agricultural extension service. In fact, that is why the Northeastern Regional Aquaculture Center is eager to see this facility completed.

The Rutgers-CCC Facility will perform outreach to help entrepreneurs set up businesses. To maintain these businesses, the facility will work to show farmers how to work with various finfish and shellfish species, to cope with diseases, and how to maintain the proper water quality. The aquaculture facility will even work with them to help market their products. These are the services that will really help to minimize the risks for private entrepreneurs and foster a healthy, thriving aquaculture industry in our State and throughout the Northeastern region.

Mr. Speaker, this is an important bill that will help people, not only in New Jersey, but throughout our Nation. I urge my colleagues to pass this measure.

Mr. FAZIO. Mr. Speaker, I rise in strong support of the conference report on H.R. 4603, the bill that funds the Commerce, Justice and State Departments, the Federal Judiciary, and related agencies for fiscal year 1995.

The conference report funds a wide variety of programs. It provides the resources for the punishment and prevention initiatives in the anticrime bill. It supplies resources for attacking the overwhelming problem of crime in our neighborhoods and communities, focusing attention and resources on the State and local levels—the front lines, where the bulk of the responsibility for responding to crime lies.

This year, the conference report includes support for the Emerging Technologies Institute [ETI] in Sacramento, CA. ETI is a nonprofit consortium made up of local businesses, local colleges and universities, and McClellan Air Force Base and is designed to attract public and private sector investment to the Sacramento region in three main areas: Agricultural biotechnology; medical biotechnology; and defense dual-use technology. Local community leaders believe that ETI will be the catalyst for promoting economic development and improving international competitiveness of high-technology businesses in our region.

I am also pleased that this conference report recognizes the important work of the Economic Development Administration. In my district in northern California, the EDA has made a tremendous impact on the economic development of the region and I have been impressed with the broad support the EDA enjoys from the people who are on the front lines of economic development in the communities in my district.

I myself have worked closely with the Tri-County Economic Development Committee [TCEDC], the federally recognized Economic Development District which serves Glenn, Tehama and Butte Counties in my district, and I know the difference these programs have made in these economically distressed areas. TCEDC provides the cities and counties in this region with a wide variety of economic development services, including economic development planning, grant writing, administration of public works and technical assistance projects, management of local, State, and federally funded revolving loan funds [RLF's] and small business financing.

I am specifically pleased that the conference report recognizes the EDA's involvement in efforts underway to expand the Red Bluff, CA Community and Senior Center, a project which could play a pivotal role in the development of the local economy. This addition would enable the community center to better attract business meetings, conventions, and seminars to the community. An expanded community center would assist the community in retaining its present jobs, help promote new jobs, and attract new businesses and industries.

Further, I support the committee's reaffirmation that there be no reductions or degradation of service at the Redding, CA Weather Service Office under the National Weather Services' modernization plan. The importance of accurate weather information for this region has far ranging implications. Plans to close the Redding weather station would seriously jeopardize interstate commerce along the Interstate 5 corridor, agricultural crops, and public safety. I support the report's direction that an independent review of the NWS plan should ensure there is adequate weather forecasting coverage in the Redding area as well as other targeted parts of the country.

The conference report also includes increased funding for the Byrne Grant Program—an initiative that is critical for our communities in California. The Byrne Program provides grants to State and local law enforcement agencies for a wide variety of programs to control violent crime and drug abuse, and to improve the criminal justice system. I first became aware of the critical role that Byrne funding plays in rural law enforcement in a meeting that I set up earlier this year between Attorney General Reno and law enforcement representatives from my district. These sheriffs and police chiefs were concerned because the administration had eliminated Byrne funding from its initial budget request.

Although Byrne funding is important to local law enforcement around the country, rural America is particularly dependent on Byrne formula grants for support for its law enforcement efforts and for its participation in Federal law enforcement assistance programs. Without this funding, the crime-fighting ability of our rural communities is greatly hampered.

I, along with my colleague from Michigan [Mr. STUPAK] introduced a sense-of-Congress amendment which was included in the House anticrime bill and is also present in the conference report for the anticrime initiative. This amendment stresses that Congress must maintain its support for Byrne formula grants and helps ensure that rural communities do not lose ground as the rest of the country moves forward on new anticrime strategies. The amendment puts Congress firmly on record that, as we attempt to attack crime in the cities and suburbs throughout America, rural communities do not get left behind.

As a result of this and similar efforts by other Members, the conference report for the Commerce/Justice/State appropriations bill provides $450 million—a 26-percent increase over fiscal year 1994—for the nationwide Byrne Program. These resources are vital for my State, which traditionally receives roughly 10 percent of these funds and therefore stands to get about $45 million of this money. Equally important is the fact that approximately 60 percent—or $27 million—of California's allocation will be passed through to our local jurisdictions.

The conference report also includes increased funding for the Immigration and Naturalization Service [INS] for additional Border Patrol agents, improved border control capabilities, and improved deportation and asylum processing.

Funds in this bill will also be used for reimbursement to State and local governments for the costs of criminals who are in this country illegally, have been convicted of a felony, and are being incarcerated at State and local expense. It is estimated that approximately 40 percent—or $52 million—of the $130 million provided for these costs will go to our State. This is the first time that these funds, though authorized, have ever been appropriated.

The programs funded in this conference report safeguard our children, neighborhoods, and communities, and preserve our resources. They protect our industries, both locally and globally, and help us maintain our position as an international leader—economically, socially, and politically. Mr. Speaker, I urge my colleagues on both sides of the aisle to vote for maintaining our quality of life to and support final passage of this conference report.

Ms. SNOWE. Mr. Speaker, there are many admirable provisions in the fiscal year 1995 appropriations conference report for the Departments of Commerce, Justice, State and the Judiciary. I would like to highlight for my colleagues, however, the fact that the conferees dropped a Senate provision from the conference report that was virtually identical to legislation, H.R. 2730, I originally introduced last year in the House. This bill, which has been bottled up in the Judiciary Committee, would deny U.S. visas to known members of terrorist organizations unless a high foreign policy decision is made on a case-by-case basis to grants such a visa.

In opposing this Senate amendment, offered by the distinguished Senator from Colorado [Mr. BROWN], the conferees chose to continue the current outrageous practice of putting American lives at risk in deference to some imagined right of foreign terrorists to travel freely to and within the United States. Under current law, a visa can be denied to a known member of a terrorist organization only if the United States has compelling evidence that the individual was personally involved in a past terrorist act or if it is known that the person is coming to the United States to conduct such an act.

Mr. Speaker, some of the appropriations conferees may try to argue that this action was taken to avoid legislating on an appropriations bill. That might be a reasonable argument if this appropriations conference report were otherwise devoid of such items. But it is not.

Nor can the conferees argue that my legislation could not be included in the conference report due to the jurisdictional claim of the Judiciary Committee. I have two comments on this. First, if the Judiciary Committee would move its own immigration reform legislation it would never have been necessary to use a non-Judiciary Committee bill to get enacted this urgently-needed change in law to protect the American people. Second, the chairman of the Judiciary Committee did, ultimately, agree to allow some legislative provisions under his committee's jurisdiction to remain in this bill. Once the Democrat members of the Judiciary Committee agreed to this, they could no

VOL 140 PT 16 AG 12 — 18 1994 UMI

longer make a procedural argument against my legislative provision. They could only legitimately make an argument against my legislation on substance, an argument that I am certain would fail to convince most Members of this body, much less the American people.

I discovered this dangerous loophole in our immigration laws last year during my investigation of the State Department failures that allowed the radical Egyptian cleric, Sheikh Omar Abdel Rahman, to travel to and reside in the United States since 1990. Sheikh Rahman is the spiritual leader of Egypt's terrorist Islamic Group. His followers have been convicted for the 1993 bombing of the World Trade Centers in New York, and the Skeikh himself is set to go on trial soon for his alleged role in planning and approving terrorist acts in the United States.

Earlier this year, I also found out that the State Department has in the past used this legal loophole to grant a visa to Tunisia's Sheikh Rashid el-Ghanoushi, the convicted leader of the Islamic fundamentalist terrorist organization Ennadha. At this very moment, the State Department is considering a new visa request by Sheikh Ghanoushi. A letter I received from the State Department on this matter confirmed that they interpret current law to require them to issue a visa to Ghanoushi—an acknowledged member of a terrorist organization—unless they can prove that he personally was involved in a terrorist act. Apparently his conviction in Tunisia for his part in an assassination plot against Tunisia's pro-Western President Ben Ali is not enough. Nor is the fact that he fled his country after his underground Islamic fundamentalist terrorist group launched violent attacks against the government. Nor, apparently, do his virulently antiwestern and anti-Israel statements have any relevance to the visa decision, as far as the State Department is concerned.

Mr. Speaker, after the recent rash of terrorist bombings in Argentina, Panama, and London, many countries are waking up to their vulnerability to terrorists. As reported in the July 28 Christian Science Monitor, the British Parliament is now considering enacting legislation similar to my legislation that the conferees so casually cast aside.

It is well known that many foreign terrorist organizations depend on money raised in the United States for a major portion of their funding. There are also disturbing indications that many of these organizations are working to develop networks of members and supporters in our own country. The first step we need to take to combat these criminal activities is to slam the door on foreign members of such terrorist organizations who now freely travel to the United States unfettered by our visa laws.

I am deeply disappointed in the action of both the Democrat and Republican conferees who supported deleting the Senate Brown amendment. Whether they fully understand the issue or not, the sad truth is that now American lives will continue to be put at risk out of deference to some imagined first amendment right of foreign terrorists. In my reading of the U.S. Constitution, I see much about the protection of the safety and wellare of U.S. citizens, but nothing about the rights of members of terrorist organizations to visit Disneyland.

I hope that the next time this issue comes before the House it will not be in reaction to an avoidable loss of American lives to a terrorist act. I hope that next time this issue is allowed to be considered on its merits, and not anonymously deleted in an en bloc package of staff agreements.

Mr. KIM. Mr. Speaker, I was shocked to learn that there are 25 unauthorized pork projects contained in title IV of H.R. 4603, which provides appropriations for the Small Business Administration Appropriations. These projects amount to 16 percent of the total SBA appropriation. This is an outrageous abuse of the American taxpayer.

Mr. Speaker, I do not have time to go into the entire list, but let me mention just a few of these projects: $750,000 for a North Carolina Biotechnology Center; $1.5 million for a consortium in Buffalo, NY; $1 million for a Genesis Small Business Incubator Facility in Fayettesville, AR; $500,000 for a Mississippi Delta Small Business Technology project in Little Rock, AR; and $15 million for a tree planting program of which $500,000 is earmarked for Buffalo, NY.

I am amazed that there were no hearings on these projects. Interestingly, there are no projects for my State of California which is still mired in economic troubles with an unemployment rate of 8.2 percent. If we are to earmark funds, shouldn't we earmark them to stimulate the economies of those areas of our country still affected by recession?

But of course, as a freshman Republican I could not get these types of unauthorized projects inserted into an appropriations bill. I am deeply disturbed by the unauthorized inclusion of these projects in this bill. The American people should be outraged by this wasteful spending, and this contemptuous and secretive process.

Mr. CRAMER. Mr. Speaker, I rise in support of the conference report to accompany H.R. 4603, the Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill for fiscal year 1995.

First, I would like to commend Chairman ALAN MOLLOHAN for his leadership in moving through the Appropriations Committee and bringing to the House floor this important bill that will provide the necessary capital to address the problems of child abuse, to fund needed anti-crime initiatives, to assist small and emerging businesses, and to support efforts in developing and implementing strategies to enable U.S. industry to fully realize the commercial benefits of new technology.

Additionally, I would like to commend the staff for their professionalism and attention to details.

Mr. Speaker, the Appropriations Committee has been charged with an almost insurmountable task: funding significant programs on the one hand and acting in accordance with budgetary limitations requirements on the other hand. Chairman MOLLOHAN and the other members of the Subcommittee have performed admirably.

I am very supportive of one particular section of this bill. The bill includes funding for the Children's Advocacy Center Program that was authorized in the 1992 Amendments to the Victims of Child Abuse Act. The administration included the Children's Advocacy Center Program in its 1995 budget request.

Why is this program important? It is important for several reasons. Based on 1990 revised data, States received and referred for investigation approximately 1.7 million cases of child abuse out of an estimated report of 2.6 million children who are the alleged subjects of child abuse and neglect. In 1991, the number of cases referred for investigation rose to nearly 1.8 million reports. The number reported in 1991 represents an increase of approximately 2.4 percent from 1990 data.

In 1992, approximately 918,263 substantiated and indicated victims of child maltreatment cases were reported from 49 states. Of these, approximately 14 percent (129,982) were sexually abused. The Carnegie Corp. of New York reported, in its publication Starting Points, that one in three victims of physical abuse is a baby less than a year old and that in 1990, more 1-year olds were maltreated than in any previous year for which data are available. Additionally, Starting Points reported "almost 90 percent of children who died of abuse and neglect in 1990 were under the age of 5; and 53 percent were less than a year old." Further, based upon its annual telephone survey of States, the National Committee for Prevention of Child Abuse reported that at least three children a day die from physical abuse inflicted by a parent or caretaker.

The Children's Advocacy Center Program addresses this problem. The mission of this program is to provide technical assistance, training and networking opportunities to help communities establish and maintain child abuse prevention, intervention, prosecution and investigation programs which provide quality services for helping victims of child abuse, particularly child sexual abuse. The purpose of Children's Advocacy Centers is to help abused children by providing a safe and comfortable environment designed to meet their needs for support and protection.

The cornerstone of this program is the use of multi-disciplinary teams. A multi-disciplinary team consists of representatives from law enforcement, child protective services, prosecution, victim advocates, medicine and mental health who meet on a regular basis to review cases and issue joint recommendations in the best interest of each child. The multi-disciplinary team concept that is incorporated in the Children's Advocacy Program works to coordinate the activity of all involved public and private agencies to intervene in the lives of abused children in a meaningful way and to ensure that the judicial system does not revictimize them through repeated interviews and examinations.

Preventing the inadvertent revictimization of an abused child by the judicial and social service systems in their efforts to protect the child is a major goal of this program. As a consequence of a coordinated response, child victims are spared the pain and confusion of multiple interviews by prosecutors, protective service workers and social workers.

This program may not be a panacea for the increasing problem of child abuse. However, it is more than a first step toward addressing the problem. This program has served and will continue to serve as a model for communities that are working to focus attention and efforts on the best interests of the child and non-offending family members.

Funding this program speaks volumes to the House of Representatives' commitment to support a necessary pro-family and anti-crime initiative. Without question, this program improves the lives of communities, children and non-offending family members. Communities from Hawaii to Vermont and cities as diverse as Miami and Salt Lake City have established multi-disciplinary teams and mobilized professionals to respond to child sexual abuse. In every instance, when the model outlined in the 1992 amendments to the Victims of Child Abuse Act has been incorporated into a community's unique program, that community has seen positive results.

Mr. Speaker, the Children's Advocacy Center Program is an effective response to child abuse. I commend Chairman MOLLOHAN for his leadership efforts. I urge my colleagues to support the bill.

Mr. STOKES. Mr. Speaker, I rise in strong support of H.R. 4603, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for fiscal year 1995. This bill will enhance many of our Nation's most important functions so that the interests of the American people will be best preserved. I want to take this opportunity to commend my distinguished colleague, the gentleman from West Virginia, Chairman MOLLOHAN, for his leadership in crafting this intelligent and thoughtful legislation, and his expeditiously bringing it before the House for consideration.

This bill contains a great number of essential services to our Nation. In the justice portion of the bill the committee has continued its unprecedented efforts to fight crime. The bill provides for over $12 billion for the Department of Justice. This includes funding for many programs that will play an essential role in our efforts to make our citizens safer. The bill also contains important funding for our Nation's judicial system, essential for the swift, fair, and effective administration of justice for all Americans. The list of important functions supported by this bill is substantial and makes additional substantial contributions in the areas of disaster relief, civil rights, and commerce—to name just a few.

Mr. Speaker, I would also like to address several programs funded by the bill that will greatly assist the citizens of my home State of Ohio. Overall, the bill includes a total of almost $5 billion to continue critical efforts to create jobs and improve the national economy through technology enhancements, economic development programs, and small business administration initiatives. For northeast Ohioans, the bill extends funding for the manufacturing technology center, provides funds for the Cleveland Technology District, the Unified Technology Center, and establishes a minority economic opportunity center. All of these efforts will bring many job opportunities to the region.

This is the kind of bill that will result in the overall enhancement of our Nation by the strategic and wise investment of Government funds in programs that are good for all Americans. In closing, I would again like to express my sincere appreciation for the efforts of Chairman MOLLOHAN and the other members of the subcommittee for the efforts they have made to bring this bill before us today. I strongly encourage all of my colleagues to support the important efforts contained in H.R. 4603.

The SPEAKER pro tempore (Mr. CARDIN). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 322, nays 98, not voting 14, as follows:

[Roll No. 408]

YEAS—322

Abercrombie
Ackerman
Andrews (ME)
Applegate
Bacchus (FL)
Baesler
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Bellenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fazio
Fields (LA)
Filner
Flingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klink
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDermott
McHale
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Mica
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rostenkowski
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Spratt
Stark
Stearns
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)

NAYS—98

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Bartlett
Barton
Billey
Boehner
Bunning
Burton
Callahan
Camp
Coble
Combest
Condit
Cox
Crane
Crapo
DeLay
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Fawell
Fields (TX)
Franks (NJ)
Gekas
Goodlatte
Goodling
Goss
Grams
Greenwood
Hall (TX)
Hancock
Hansen
Hefley
Herger
Hoekstra
Huffington
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kasich
Kim
King
Klug
Knollenberg
Lazio
Levy
Lewis (FL)
Lewis (KY)
Lucas
McCandless
McCollum
McHugh
Meyers
Miller (FL)
Minge
Moorhead
Murphy
Nussle
Paxon
Penny
Peterson (MN)
Petri
Portman
Pryce (OH)
Ramstad
Roberts
Rohrabacher
Roth
Royce
Santorum
Saxton
Schaefer
Sensenbrenner
Shuster
Smith (MI)
Smith (OR)
Solomon
Spence
Stenholm
Stump
Swett
Talent
Taylor (MS)
Walker
Weldon
Young (AK)
Zeliff
Zimmer

NOT VOTING—14

Andrews (TX)
Clement
Cooper
Ford (TN)
Klein
Lantos
McDade
Owens
Reynolds
Rose
Rush
Slattery
Sundquist
Washington

□ 1408

Ms. MOLINARI, Messrs. QUILLEN, LEWIS of California, SHAYS, THOMAS

VOL 140 PT 16 AG 12 — 18 1994 UMI

of California, and LINDER changed their vote from "nay" to "yea."

So the conference agreement was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR MANAGEMENT OF PORTIONS OF THE PRESIDIO

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 516 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 516

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3433) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed seventy-five minutes, with forty-five minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule for a period of not to exceed three hours (excluding time consumed by recorded votes and proceedings incidental thereto). It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill, modified by the amendments recommended by the Committee on Ways and Means now printed in the bill and by the amendments printed in the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. All points of order against the committee amendment in the nature of a substitute, as modified, are waived. No amendment directly or indirectly changing section 3(h)(9), section 3(h)(12), section 3(h)(13), or section 3(j) of the amendment in the nature of a substitute, as modified, shall be in order. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1410

The SPEAKER pro tempore (Mr. MCNULTY). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from Tennessee [Mr. QUILLEN] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 516 is a modified open rule providing for the consideration of H.R. 3433, to provide for the management of the Presidio.

The rule provides for 75 minutes of general debate, with 45 minutes equally divided and controlled by the Natural Resources Committee and 30 minutes equally divided and controlled by the Ways and Means Committee.

All points of order against consideration of the bill are waived.

The rule makes in order an amendment in the nature of a substitute now printed in the bill, as modified by the Ways and Means Committee amendments now printed in the bill and the amendments printed in the report to accompany the rule, as an original bill for the purposes of amendment. The substitute, as modified, shall be considered as read and all points of order against the substitute, as modified, are waived.

The rule is an open rule with the exception that amendments shall not be in order which directly or indirectly change sections 3(h)(9), 3(h)(12), 3(h)(13), or 3(j) of the substitute. These sections, which are in the jurisdiction of the Ways and Means Committee, have to do with budgetary and tax aspects of the bill's proposed Presidio Trust. It was not the intention of the Rules Committee to preclude the offering of substitutes when protecting these sections from amendment. Substitutes which do not include the establishment of the Trust will be in order. Alternatively, substitutes which include the specified sections without change in their text will also be in order.

The rule further provides for a limit of 3 hours, excluding the time for votes, for consideration of the bill for amendment.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 3433, the bill for which the Rules Committee has recommended this rule, provides a framework for the conversion of the Presidio from a military base to an urban national park. The Natural Resources Committee has carefully crafted the bill to protect the nationally significant natural and cultural resources of the Presidio, while at the same time reducing the net cost to the taxpayer through the generation of substantial revenues to offset the overall costs of operation and restoration.

Mr. Speaker, I ask my colleagues to support this modified open rule so that we may proceed with consideration of the merits of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

As the gentlewoman from New York [Ms. SLAUGHTER] has described, this rule waives all points of order against the bill and its consideration and against the substitute, as modified. I cannot support this blanket waiver, Mr. Speaker, and I cannot support his rule.

A list of potential points of order that may lie against the bill and the substitute was made available to the Rules Committee, and it included budget act violations, appropriations in a legislative bill, and nongermane amendments. I understand that the budget problems may be solved, but the other rules violations still stand.

In addition to my objection to the waivers provided by this rule, I am also concerned that certain sections of the bill are closed to amendment and that a time limitation has been established for consideration of the bill for amendment. A letter was sent to the chairman of the Rules Committee, which is signed by the minority leader, the Republican whip, and the ranking Republican members of the Natural Resources and Budget Committees, requesting a completely open rule. A motion was made in the Rules Committee to report an open rule, but this effort was defeated.

Mr. Speaker, the Presidio has been a controversial subject from the start, and we have had heated debate during consideration of appropriation bills on this issue. I think this bill should be completely open to amendment without restriction or limitation. I ask unanimous consent to insert extraneous materials into the RECORD following my statement, and I urge my colleagues to vote "no" on this rule.

Mr. Speaker, I include for the RECORD statistics on open versus restrictive rules, as follows:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	91	25	27	66	73

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Aug. 12, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5, R–25)	3 (D–0, R–3)	PQ: 246–176. A: 259–164 (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1, R–18)	1 (D–0, R–1)	PQ: 248–171. A: 249–170 (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2, R–5)	0 (D–0, R–0)	PQ: 243–172. A: 237–178 (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1, R–8)	3 (D–0, R–3)	PQ: 248–166 A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (D–4, R–9)	8 (D–3, R–5)	PQ: 247–170. A: 248–170 (Mar. 10, 1993)
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8, R–29)	1(not submitted) (D–1, R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2, R–12)	4 (1–0 not submitted) (D–2, R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993)
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8, R–12)	9 (D–4, R–5)	PQ: 252–164. A: 247–169 (Mar. 24, 1993)
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1, R–5)	0 (D–0, R–0)	PQ: 244–168. A: 242–170 (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1, R–7)	3 (D–1, R–2)	A: 212–208 (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1, R–5)	6 (D–1, R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19, R–32)	8 (D–7, R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6, R–44)	6 (D–3, R–3)	PQ: 240–177. A: 226–185 (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote (June 14, 1993)
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4, R–3)	2 (D–1, R–1)	A: 244–176. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department, H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12, R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993)
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11, R–22)	5 (D–1, R–4)	A: Voice Vote. (June 22, 1993)
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: 262–160. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote (June 17, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 401–0 (July 30, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8, R–6)	2 (D–2, R–0)	A: 261–164 (July 21, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8, R–7)	2 (D–2, R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: 224–205. (July 27, 1993)
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109, R–40)		A: Voice Vote. (July 29, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			A: 246–172. (Sept. 8, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3, R–9)	1 (D–1, R–0)	PQ: 237–169. A: 234–169 (Sept. 13, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67, R–24)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 241–182. (Sept. 28, 1993).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	A. 238–188 (10/06/93).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1, R–2)	2 (D–1, R–1)	PQ: 240–185. A. 225–195. (Oct 14, 1993)
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: 239–150 (Oct. 15, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1, R–2)	2 (D–1, R–1)	A: Voice Vote (Oct. 7, 1993)
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7, R–7, I–1)	10 (D–7, R–3)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote (Oct. 13, 1993)
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 21, 1993)
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0 R–0)	0	A: Voice Vote (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: 252–170. (Oct. 28, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: Voice Vote. (Nov. 3, 1993)
H. Res. 295, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1, R–1)	N/A	A: 330–8. (Nov. 8, 1993)
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025, Brady handgun bill	17 (D–6, R–11)	4 (D–1, R–3)	A: Voice Vote. (Nov. 9, 1993)
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: 238–182. (Nov 10, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY-1994	N/A	N/A	A: Voice Vote. (Nov 16, 1993)
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8, R–19)	9 (D–1, R–8)	F. 191–227 (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9, R–6)	4 (D–1, R–3)	A: 233–192. (Nov 18, 1993)
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7, R–14)	6 (D–3, R–3)	A. 238–175. (Nov. 19, 1993)
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1, R–0)	N/A	A: 252–172. (Nov. 20, 1993)
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6, R–29)	1 (D–0, R–1)	A. 220–207 (Nov 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15, R–19)	3 (D–3, R–0)	A. 247–183 (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8, R–5, I–1)	5 (D–3, R–2)	PQ 244–168 A: 342–65 (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8, R–19)	10 (D–4, R–6)	PQ 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2, R–1)	2 (D–2, R–0)	A. W (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	N/A	N/A	A. 245–171 (Mar. 10, 1994)
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5, R–9)	5 (D–3, R–2)	A. 244–176 (Apr. 13, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98, R–82)	68 (D–47, R–21)	A: Voice Vote (Apr. 28, 1994)
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 5, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5, R–2)	0 (D–0, R–0)	A: 228–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1, R–3)	N/A	A. W (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115, R–58)		A. 369–45 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301. Defense Auth., FY 1995		100 (D–80, R–20)	A. Voice Vote (May 23, 1994)
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10, R–6)	5 (D–5, R–0)	A. Voice Vote (May 25, 1994)
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11, R–28)	8 (D–3, R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10, R–33)	12 (D–8, R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A. 236–177 (June 9, 1994)
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994)
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994)
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A. Voice Voie (July 26, 1994)
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2, R–1)	3 (D–2, R–1)	PQ: 245–187. A: Voice Vote (July 21, 1994)
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A. Voice Vote (July 28, 1994)
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A. Voice Vote (July 28, 1994)
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5, R–5)	5 (D–4, R–2)	PQ: 215–169 A: 221–151 (July 29, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A. 336–77 (Aug. 2, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A. Voice Vote (Aug. 3, 1994)
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A. Voice Vote (Aug. 3, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A. Voice Vote (Aug. 5, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 9, 1994)
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16, R–17)	16 (D–10, R–6)	A. 255–178 (Aug. 11, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	PQ: 247–185 A: Voice Vote (Aug. 10, 1994)
H. Res. 516, Aug. 10, 1994	MO	H.R. 3433: Presidio Management	12 (D–2, R–10)	N/A	

Note.—Code: C-Closed, MC-Modified closed, MO-Modified open, O-Open, D-Democrat, R-Republican, PQ: Previous question, A-Adopted, F-Failed.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in opposition to this rule, and I rise in strong opposition to this legislation.

Mr. Speaker, the bill before us provides $25 million for a park we cannot afford and has no business being a national park.

The Presidio may be a beautiful area, but it clearly does not qualify as a national park. It has various resources which are clearly unsuitable for inclusion in a park such as: a shopping mall, warehouses, and a Burger King. This is not exactly my vision of what our national park should be.

More importantly, is the fact that we do not have the resources to be funding such projects at this time. As we all know, funding for the park service is extremely low and many of our Nation's crown jewels in the National Park System are not receiving the money they need to adequately operate.

One of our Nation's truly magnificent jewels is Yellowstone National Park. Everyone knows about Yellowstone's magnificent scenery, outstanding geological features and incredible wildlife. It is truly one of our national treasures.

What many people do not know is that Yellowstone has many problems. The roads throughout much of the park are in horrible shape, many of the buildings need repair and there are not enough rangers to adequately staff the area.

What is incredible is that Yellowstone's operating budget in 1993 was only $17 million. The bill before us today provides $25 million for the Presidio.

This simply is not right. National parks such as Yellowstone and Yosemite should not be underfunded at the same time we are providing $25 million a year for the Presidio.

The National Park Service currently faces a 37-year backlog in construction funding over $5 billion and a $400 million shortfall in its annual operating funds at the same time we ask for an inappropriate park and grant $25 million a year.

The agency needs help and does not need to be burdened with massive new projects that will simply stretch limited resources even further.

The time has come for Congress to step-up and stop designating areas as national parks that do not belong in the system that we are unable to finance.

The facts are clear Mr. Speaker, we do not need this park at the Presidio. We need to fund the parks we already have in the system.

□ 1420

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, for the last 14 years I have had the distinct pleasure to represent the great State of Utah in this body. That State is well known as home of some of the most beautiful scenery and greatest national park areas in the country. I suspect that many Members have visited and most Members have heard of such great Utah national parks as Zion, Bryce, Arches, Canyonlands, Glen Canyon, et cetera. I have enjoyed many hours of family togetherness in our parks; camping, fishing and hiking and I continue to visit our great national parks every chance I get.

In the 122 years since the establishment of the first national park, Yellowstone, Congress has established in this country the best park system in the world. While we started with great natural areas like Yellowstone and Yosemite, the park system was later expanded to include some of the most important historic sites in the country, such as Independence Hall and Lexington-Concord, the place where the shot was heard around the world. Relatively recently, Congress began to designate Federal parks whose primary value was recreational use.

However, today as we survey our park system, many of us who love it are very concerned. We see park areas which are complete fabrications of history, we see local open space initiatives siphoning land acquisition dollars from acquiring lands necessary to protect such national treasures as Everglades National Park and we even see economic redevelopment projects masquerading as parks. Not only do these questionable additions to the park system whittle away at the integrity of the park system, but they make an already underfunded park system that much worse off.

Almost every week, there are media stories about the deteriorating conditions in our national parks. Congress has had, for at least the last 10 years, clear documentation of the shortfalls facing our parks. Again, for the RECORD I will reiterate that the construction backlog in the National Park Service is 37 years at existing funding levels, and for land acquisition the backlog is 25 years at the existing funding levels. In the past, I have stated that the annual operational shortfall was about $400 million, but a recent letter signed by the deputy Director indicates that the annual operating shortfall may be closer to $800 million.

And how has Congress responded to this crisis? What is the committee of primary jurisdiction doing to solve these fundamental and financial problems besetting this most-loved Federal agency? Literally by throwing its arms around every conceivable new park expansion proposal in sight. I ask my colleagues to remember that just the other week the House wisely rejected a proposal advanced by the Natural Resources Committee to authorize the expenditure of millions of dollars through establishment of the Tenement National Historic Site. Earlier this session, the House passed the California Desert bill, after adopting an amendment limiting its costs to $336 million. In all, the Natural Resources Committee has reported nearly $4 billion in new parks and public lands spending this Congress. These bills represent promises which this Congress is making around the country, almost none of which are paid for.

On the other side of the issue, what has the Natural Resources Committee done to help pay for its appetite to turn everything in sight into a national park? This Congress has acted on two measures which had the potential to generate new revenue for parks. The first was a measure to reform the concession policies of the Park Service. Probably one of the most worthwhile features of that bill was a proposal to return additional concession revenues to the parks. Unfortunately, by the time the bill reached the floor, it included an amendment adopted by the rule which will result in even less money to parks from concession operations than the Natural Park Service receives today.

The other measure before our committee to increase funds for the NPS is a proposal to increase entrance fees and to permit those increased fees to remain with the National Park Service. Vice President GORE claimed this initiative would generate $996 million in new funding for parks over 6 years. However, the measure under consideration by our committee is projected to generate only $20 million annually, and even that minimal measure has little chance of passage.

H.R. 3433 is one of the more costly park and public land bills to be reported by the Natural Resources Committee this session. The proposal to develop a Global Center for social, cultural and environmental awareness at the Presidio of San Francisco is estimated to cost $1.2 billion in construction and operations over the 15-year life of the National Park Service plan.

Supporters of this measure claim that the National Park Service plan, as embodied in the bill before us today provides a great cost-savings to taxpayers. That is certainly not the case. The annual cost of operating the Presidio under the National Park Service plan represents only a 10-percent reduction in cost of operation compared to its operation as a military base and that is after removal of nearly ⅓ of the buildings. The National Park Service plan moves tens of millions of dollars off-budget and requires taxpayer subsidies of bonds for the Presidio Global

Center. In fact, the National Park Service consultant found it would cost the taxpayers less if not a single building was leased than if this legislation is implemented.

Mr. Speaker, there is no definition of a national park written down in law. But, I think the American public knows a park when they see one. And I believe that the public is not buying the fact that the Presidio's hospitals, warehouses, apartment complexes, Burger King, bowling alleys, and pet cemetery are worthy of inclusion in the park system.

The list of supporters of this measure is revealing. Basically, the support for this measure comes first from the bay area, which stands to gain financially from the expenditure of hundreds of millions of Federal dollars, and second from a handful of environmental groups. But this legislation is not an environmental issue. Rather, many of the environmental groups supporting this legislation have already indicated their interest in securing office space at the Presidio; office space which would be subsidized at taxpayer expense.

The list of environmental groups which have indicated an interest in leasing subsidized space at the Presidio include: the Sierra Club, the Sierra Club Legal Defense Fund, Fund for Animals, Greenpeace, and Earthwatch, to name but a few. Many of these groups already have offices in the bay area, but would prefer to relocate to offices subsidized by the American taxpayer.

So Mr. Speaker, when the time comes for amendments, a number of amendments will be offered today which will reduce the responsibility of the Federal Government at the Presidio. I intend to offer an amendment to turn surplus lands at the Presidio over to the city of San Francisco. Opponents of my amendment will compare it to turning Yellowstone Park over to the town of Cody, WY. As the debate unfolds today, it will become clear to everyone who is not already aware that the Presidio is no Yellowstone. I hope this body will act with some restraint before serving up the billion dollar Presidio Global Center which is authorized in H.R. 3433.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, again I ask my colleagues to support this rule so that we can proceed with the merits of the legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to House Resolution 516 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3433.

□ 1425

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3433) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior, with Mr. DURBIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to House Resolution 516, the bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 22½ minutes, the gentleman from Utah [Mr. HANSEN] will be recognized for 22½ minutes, the gentleman from Florida [Mr. GIBBONS] will be recognized for 15 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in support of this important legislative initiative introduced by the gentlewoman from California [Ms. PELOSI] and scores of cosponsors in the House which provides for the management of the Presidio following the historic transfer of the installation from the U.S. Army to the National Park Service on October 1 of this year.

The Presidio is a 1,480-acre military post located at the base of the Golden Gate Bridge in San Francisco and is literally surrounded by the Golden Gate National Recreation Area, a unit of the National Park System. The Presidio was determined in 1972 to be included in the Golden Gate National Recreation Area by law, the assumption being, as the military left or needed less space, that this important cultural, this important historic, resource over 220 years in age, having served continuously as a military installation, would indeed become part of the Golden Gate National Recreation Area.

Mr. Chairman, this is a logical and consistent proposal. It is one of the most important historical or cultural resources in our Nation. This area consists of lands that have unique ecological characteristics and recreational opportunities. In fact, the Golden Gate National Recreation Area, is one of the most used national park units. It has more visitors than nearly any other national park unit in the Nation.

Mr. Speaker, the Presidio is a complex unit. About half this space is open space. Other parts have buildings and is developed. It has nearly 6,000,000 square feet in 870 buildings and 1,200 housing units. It is an unusual responsibility for the National Park Service, and because of that this legislation puts in place a public benefit corporation known as the Presidio Trust which will have the responsibility to, in fact, go into adaptive leasing and utilization of these buildings and removal of large numbers of these buildings.

The fact is that as a military base the Presidio costs $60 to $70 million a year to operate. Under this legislation that figure would be cut at least in half, and so, as a transfer is occurring, there is a savings to the American public that is represented, but at the same time there is and has been a commitment for 22 years to move this resource into the care of the National Park Service.

This legislation is must-pass legislation. In the absence of its passage, the preparation for nearly 5 years that has gone on with the National Park Service, they would be unable to exercise the responsibility and responsiveness to the needs that are evident to everyone that has looked at it and thought about it at the Presidio.

□ 1430

The bill is an unusual proposal, but it is very important to the community of San Francisco. They are relying upon the Federal Government to be a good partner after 5 years of planning. It is absolutely essential that we in fact provide the tools necessary for the National Park Service and for our Federal Government to respond to the needs of this important parcel of land.

H.R. 3433 is a complex bill, which responds to a number of public policy goals. Many concerns have been raised, and I think most of them have been resolved. But some continue to advocate the abandonment of this area.

It would be impossible to predict what the consequences would be if the Park Service or Federal Government were to try to release this land. It would be tied up for decades in controversy concerning the rezoning of it. So in fact it would have to be mothballed and sitting, of no use to the Federal Government.

We expect that with the actions taken here, the Presidio will largely, based on a private-public partnership, pay its own way. These buildings that will be leased, in fact about half of the space, half of the 6 million square feet, half of that space has already been leased to the State of California and the U.S. 6th Army, which will retain a presence here, but, of course, in a much different mode.

So what is left to do is fund the removal of buildings that have no historical significance, to deal with the housing needs and maintenance of this facility. The legislation before us, one of its primary missions is to set up this special benefit corporation.

The decision on the designation of this area was made in 1972. What we

VOL 140 PT 16 AG 12 — 18 1994 UMI

are doing here 22 years later is responding and putting in place a rational basis in which the National Park Service, and the Department of the Interior, can deal with the responsibility that has been ordained in law, as I said, some 22 years ago.

This bill is subject to appropriations. The Committee on Ways and Means made important changes to the bill. I have some concerns about those changes, but, nevertheless, am willing at this point to continue to work with them.

The Congress will have the opportunity to hold accountable the trust, to hold accountable the Park Service, in terms of review of the dollars being spent. But we need some flexibility.

We have all kinds of speeches in this body about public-private partnerships. This in fact puts in law such a partnership, provides for the expertise of the private sector, and the retention or attainment of the goals that are sought in terms of preservation of this important resource.

This is the cutting edge of what is part and parcel in terms of historical and cultural resource management.

I note my colleagues have complained and pointed out, and rightfully so, the shortfall in terms of the Park Service operating budget. But I would suggest to my colleagues that the answer in that is not by defeating an important resource like this, which I think needs to be addressed. But we need to in fact deal with our priorities and ask ourselves why the parks are not receiving the money that they have been assured through the land and water conservation fund or the historic preservation fund, and why the priorities have not changed, as there is overwhelming support for parks in this country, and why indeed we do not appropriate the proper amounts to the operating funds of these parks.

In terms of trying to address some of the systems, as is being suggested here, does the Park Service really need 5,000 units of housing, when other land management agencies do not find that necessary? We must ask are we getting our fair share of the highway funding and tax dollars that are supposed to flow for roads that help retain and maintain and build the roads to and from and within our parks.

I think there are a lot of questions, and I think very often the Park Service has been shortchanged in these endeavors, Mr. Chairman. But the answer is not in reneging on commitments we made to maintaining and preserving important historic resources such as the Presidio. The answer is in dealing with our priorities and giving the parks the resources they need, not by abandoning those which we are committed to protect.

Mr. Chairman, H.R. 3433 is an important legislative initiative, introduced by Representative PELOSI, and scores of cosponsors in this House, to provide for the management of the Presidio following the historic transfer of the installation from the U.S. Army to the National Park Service on October 1, 1994. The Presidio is a 1,480 acre military post located at the base of the Golden Gate Bridge in San Francisco. In 1972, Public Law 92–589, which established the Golden Gate National Recreation Area [GGNRA], directed that the Presidio be transferred to the National Park Service and administered as part of the GGNRA when it was determined to be excess to the Army's needs. The 1989 Base Realignment and Closure Commission recommended closure of the Presidio because it was excess to the Army's needs. As a result of this recommendation, the Army stated its intention to vacate the Presidio by October 1, 1994, and transfer all property to the jurisdiction of the Secretary of the Interior. Planning for the transition of the Presidio from the Army to the National Park Service has been ongoing since 1990.

The 1,480 acres of the Presidio consists of park lands, distinctive historic features, unique ecological characteristics, and recreational opportunities. Within the Presidio boundary are significant historic resources representing more than 200 years of military history. The site has been a National Historic Landmark since 1962, recognized as a Spanish colonial military settlement founded in 1776 and as a U.S. Army post from 1846 to the present. Buildings, sites, structures, and objects related to Spanish, Mexican, and American military history have been identified as contributing to its landmark status.

During its 200-year history the Presidio has protected commerce, trade, and migration into the area and has been an influence on the settlement and growth of the West. It has played a logistical role in every major U.S. military engagement since the Mexican-American War. The Presidio's coastal and harbor defense structures display the evolution of such technology from the Civil War through World War II.

Other historical activities and events have contributed to the Presidio's national significance. In 1884, San Francisco National Cemetery was established as a resting place for soldiers and their families. Today it contains over 30,000 interments. In 1898, the Army opened its first general hospital at the Presidio—the Letterman Facility—which has remained at the forefront of military medical research and care to the present day. In the 1920's, Crissy Field, the first Army coastal defense airfield on the Pacific Coast, was built along San Francisco Bay.

Of the total land area of the Presidio, about 700 acres are developed and 780 acres are open space. Within the boundaries are 870 buildings representing architectural styles from every major military construction period since 1848. The historic Presidio Forest is a dominant feature on the post. Designed and planted 100 years ago, it covers about 300 acres of the post, primarily on ridges, along boundaries, and at entrances.

Geological formations, favorable climate, water resources, and open space have contributed to the biological diversity of the site. Ten rare plant communities survive within the Presidio that have disappeared in the rest of San Francisco. Sites throughout the Presidio provide views of the Pacific Ocean, the Golden Gate, the Marin Headlands, San Francisco Bay, and the skyline of San Francisco. The Presidio also contains numerous recreational resources where visitors hike, bike, and tour scenic trails and drives. The Presidio currently attracts more than 3.5 million visitors every year. Coastal attractions include Baker Beach and the Golden Gate Bridge, the Crissy Field shoreline and Golden Gate Promenade on San Francisco Bay.

The conversion of the 1,480 acre military base into an urban national park presents a number of challenges. Although the National Park Service has inherited properties from the Department of Defense in the past, it has never received a property as large and complex as the Presidio. The Presidio's 870 buildings contain over 6 million square feet of interior space, 1,200 units of housing and an extensive infrastructure system including roads, water systems and electric utilities. Given the unique nature of the Presidio and its resources, innovative approaches and authorities will be needed to manage the Presidio as part of the Golden Gate National Recreation Area. This is especially true in an era of increasing fiscal constraint for the National Park Service.

Although the National Park Service has experience in adaptive reuse and historic leasing, they have never had to manage a park unit with such a large array of buildings, housing, and infrastructure. Early on in the planning process, the National Park Service recognized that managing the Presidio will require skills not typically held by National Park Service personnel including property management, leasing, real estate and finance. H.R. 3433 provides authority to the National Park Service to establish a public benefit government corporation—the Presidio Trust—to manage certain properties of the Presidio consistent with the purposes of the GGNRA and the approved general management plan.

H.R. 3433 is a complex bill which responds to a number of public policy goals. Concerns have been expressed by Members of Congress and the public about the cost of the Presidio in relation to other units of the National Park System and the fiscal constraints facing the system as a whole. Concerns have also been expressed that the Presidio should be managed no differently than any other unit of the National Park System, whatever the costs may be. The Committee on Natural Resources was mindful of these concerns and attempted to craft legislation that both protects the nationally significant resources of the Presidio while at the same time reducing its costs to the taxpayers. The purpose of establishing the Presidio Trust is to have the Presidio managed in a unique and innovative partnership which makes use of private sector resources to promote the public interest.

With regards to costs, I would note that the transfer of the Presidio to the National Park Service will be a significant savings to the Federal Government in comparison to its operation as a military base. The Presidio was operated by the Department of the Army at a cost of some $60 to $70 million a year. The Army and the Department of the Interior have calculated the annual cost to operate the Presidio as a national park to be $38 million. Thus the taxpayer will be spending significantly less for the operation of the Presidio by the National Park Service and will have an enhanced ability to enjoy its natural, historical and recreational resources.

I would also note the projections of the National Park Service which show that the total funding needs of the Presidio will go down substantially over time, perhaps the only unit of the National Park System where this is the case. This is due to the increasing revenues to be derived from the leasing of Presidio buildings which are expected to offset the need for additional appropriated funds. The committee certainly understands that there are risks associated with a project of this magnitude. Ultimately, there is no way to predict future economic trends or tenant behavior or other factors which may influence the revenue generating capabilities of the Presidio. Professionals in the field of real estate management are optimistic about the Presidio's ability to attract a critical mass of high quality tenants. We intend to carefully monitor the activities of the National Park Service and the Presidio Trust to see if modifications in authorities are needed. I am aware that some concerns have been expressed about the level of autonomy and accountability of the Presidio Trust. As such, the bill clearly defines the Presidio Trust as a Government corporation subject to all Government laws except those specifically exempted. The Presidio Trust is established within the Department of the Interior, and its budget will be formulated through and in consultation with the Secretary of the Interior. The activities of the National Park Service and the Trust will be monitored closely by the authorizing and appropriations committees of Congress. The bill ensures that the activities of the Trust are consistent with both the purposes of the act establishing GGNRA and the approved general management plan. The Director of the National Park Service will serve on the Board of the Presidio Trust, as do two other Federal officials. The Secretary of the Interior has the authority to review major leases for consistency with the general management plan. The bill also contains a number of other provisions to increase accountability including requirements for public meetings and maintaining liaison with the GGNRA Advisory Commission as well as other financial reporting requirements.

The bill before the House today contains amendments recommended by the Committee on Ways and Means. The amendments will have a significant impact on how the rehabilitation of the hundreds of buildings located on the Presidio will be financed. Rather than obtain loans through direct borrowing from the Treasury, which were to have been paid back from lease revenues, the bill now places such borrowing subject to appropriations. Nonetheless, this bill must move forward in order to place the National Park Service in a position to bring this significant national resource into the National Park System. For regardless of what we do or say here today, the Presidio will become part of the GGNRA on October 1, 1994.

H.R. 3433 is an important measure which provides for the responsible management of the numerous nationally significant resources of the Presidio. I would urge Members to support the bill and resist any weakening amendments that may be offered.

79-059 O—97 Vol. 140 (Pt. 16) 48

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Texas [Mr. DELAY].

Mr. DeLAY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, there is no doubt that the Presidio is one of the most scenic and historic areas in the Nation. Why, then, are we forcing our park system to shoulder the enormous costs of what will certainly be our most expensive acquisition yet, when we cannot make ends meet for other national treasures? Contained in this legislation is Government assistance for movie theaters and bowling alleys while at the same time the Park Service is complaining that it does not have adequate personnel to man park entrances. If that was not enough, the Park Service is cutting 1,200 positions this year. Staffing the Presidio will require 350 additional employees, making an already unacceptable situation worse.

Let us look at the facts. The Park Service is faced with a 37-year, $5.6 billion backlog in its construction budget, a $1.2 billion shortfall in its land acquisition account, and a $400 million operations shortfall. The nearly 1,500 acre Presidio will cost an additional $25 million annually. By comparison, the entire 2.2 million acres of Yellowstone Park, unarguably more of a natural wonder than an old Army base, is appropriated only $17 million. Congress has decided that there will be no increase in money for the Park Service, so why are we loading this legislation on the back of a system which is already overwhelmed?

As an appropriator, I have other concerns which deal with accountability to the American taxpayer. This bill authorizes the creation of a corporation within the Department of the Interior and grants this corporation unprecedented powers to operate simultaneously as both a Government and non-Government entity. This entity is not subject to many Federal controls. How can we authorize any entity to spend taxpayers' money without accountability?

If that was not enough, the bill also inflicts Davis-Bacon requirements on construction projects at the Presidio. While this would not be any big surprise if it were a Federal construction project, the fact is that most of the funds for construction will be private. This legislation is precedent setting in that it extends Davis-Bacon rules and regulations to private money. Davis-Bacon is a Federal law intended to cover Federal projects. There is no basis whatsoever to extend these onerous rules and regulations to the private sector. Davis-Bacon requirements have been proved to add an additional 5 to 15 percent to construction costs for no other reason than to line the pockets of the unions. This is an outrage.

Despite the fact that this park will largely benefit San Francisco and the State of California, this bill neither asks for, nor do the parties offer, any payment or assistance to alleviate the enormous costs. Recently, Californians rejected a referendum that would have approved a State bond issues to finance parks and historic sites. Of course, if the Federal Government wants to spend money for such projects, Californians have no objection whatsoever.

Let us get in tune with what is happening here. We cannot afford to continue designating every historic site and environmentally fragile area as a national park. Those areas that we do designate, we should be able to adequately fund. This bill has serious flaws and I ask all Members to defeat it.

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. RAVENEL], a supporter of the bill.

Mr. RAVENEL. Mr. Chairman, I am a cosponsor of this legislation. I do not know how many of you Members have been out there and taken a look at the Presidio. But it would just be unconscionable to me that this Congress does not take this opportunity, which could not be a rarer opportunity, to incorporate 1,400 acres in downtown San Francisco, which is so absolutely starved for open spaces, green spaces in particular.

□ 1440

The concept is innovative and it is a new type concept. It is going to be a public/private enterprise. I do not know how many of my colleagues have taken the trouble to read the brochure that has been brought out on it. It is just simply marvelous.

After I read it, I was absolutely convinced that the bill of the gentlewoman from California [Ms. PELOSI] was the right way to go. Those of us in Charleston, where we have 1500 acres right there on the Cooper River and we are in the throes now of redeveloping that property, we are looking very keenly at what is being done out here in the San Francisco area with the Presidio as a guide for us.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in opposition to 3433, and I think we are talking about priorities in the National Park System. When most of us visit our Nation's parks, we have an idea of what we expect to see in our national parks.

Here we are, we are talking about spending millions and millions of dollars of taxpayers' money on the presidio. Let me show colleagues some of the things that our money is buying.

Right here we have the only pet cemetery in the National Park Service. Is

VOL 140 PT 16 AG 12 — 18 1994 UMI

that what we expect to see when we visit our Nation's parks? Right here we have one of two hospitals totaling 800,000 square feet. Again, I ask my colleagues, is this what we expect as Americans spending all our tax dollars on parks to see in our National Park System. I do not believe so.

Let me talk about another area. We have one of two Presidio bowling alleys. I do not believe that the American people really want to see their tax dollars go for this purpose. Is this really what they had in mind when they were designating those dollars for pristine areas?

Next here is some of the over 400 residences and dormitories, totaling 2.5 million square feet in the Presidio. I do not believe this is what the American people want to see in their park system.

Right here we have the only Burger King in the National Park System. Again, I ask my colleagues, as American taxpayers, is this where we expect our tax paying dollars to be spent? I do not believe so. This is not what I perceive our priorities should be in the National Park System. I do not think the American taxpayer expects to have their dollars spent in this manner. They truly want to see their tax dollars go to parks that are going to preserve a pristine area, that is going to preserve the beauty of this country.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first let me stipulate that the Presidio is unusual and historic and, yes, a national treasure. But the troublesome issue with this bill, as it came to us, was the unlimited, direct borrowing authority, not subject to appropriations, that was granted specially and uniquely to the Presidio and to no other park in the United States of America.

In order to be a national park, I looked up the criteria today. I am going to read two of the four requirements, which all must be met in order for any location to be designated a national park.

First, an outstanding example of a particular type of resource. Second, possesses exceptional value or quality. The Presidio meets those criteria. But so do all of the other national parks in this country today, which are suffering, as we have just heard, from lack of resources to do their job, to make them suitable for public enjoyment.

The trust that would be created uniquely for the Presidio under this legislation would have allowed, in effect, that trust to issue public debt without accountability to the budget, without accountability to the appropriations project. And they would do this through a unique creative mechanism whereby the Treasury could off-budget, directly borrow, up to $150 million, thereby directly increasing the national debt.

The basic issue of increasing the public debt through off-budget financing, which, in effect, creates a new entitlement program, should concern all of us. So in committee, I offered an amendment, which was adopted on a bipartisan 18 to 16 vote, to restrict any Treasury purchase of Presidio debt to only those amounts already appropriated within existing Federal spending caps. The Presidio should have to compete with all of the other national parks as national treasures for adequate funding.

That amendment, which remains in the bill before us today, prevented the financing structure of the Presidio from increasing the Federal deficit and debt, which would be left to our children and their children forever, by $150 million over the next 5 years.

If this bill is approved today, it is extremely important that we preserve that important financing restriction throughout the legislative consideration of this measure. I want to serve notice right now that I will personally lead the fight to eliminate any effort, coming back from the Senate or in a conference report, to restore the kind of off-budget financing for the Presidio which my amendment addressed.

The Presidio is truly a beautiful place. I have been there. It will continue to be a beautiful place when the National Park Service takes it over. As I mentioned, it meets the criteria for a national park, but that alone is not sufficient cause to bypass the budget constraints that we have struggled to uphold. As beautiful as the Presidio is, I cannot justify leaving our children and grandchildren with more bills to pay for a brand new specific entitlement program, nor can I justify the enormous precedent this would set for funding other such projects outside the constraints of our budget law.

As it stands now, the Presidio bill will compete for appropriations, along with every other worthy project the Members of this body want to see funded by Federal tax dollars. Members will have to make tough choices, and that is the way it should be. That is what our tax paying public expects of us.

Mr. Chairman, I intend to continue to try to make any of these kinds of programs fiscally responsible. I still question spending another $150 million, even though it might work under the spending caps. And I also question the inclusion of the Davis-Bacon Act.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

I rise to support the legislation that we have before us now. It was referred to the Committee on Ways and Means because of some unique financing and tax exemption provisions in here. We worked cooperatively with the Committee on Natural Resources, and I believe we came up with an acceptable arrangement.

We want to make it very clear, though, that the bill, as reported by the Committee on Natural Resources, contained really an exception to the normal funding process. It should never be used in the future for any project that is or is not unique, like the Presidio.

One of the problems we have here is that earlier Congress decided that the Presidio, when it ceased to be used as a military installation, would be made a part of the National Park Service; would become part of the national park system. That was probably a good decision because the Presidio is so unique. However, it requires so much funding that it would completely disrupt the rest of the Park Service budget, if funded in the conventional manner. The Natural Resources Committee arranged unique funding for the Presidio.

In light of the Ways and Means Committee's actions, essentially, we expect that the managers of the Presidio Trust, when they take over, will organize a 501(c)(3) corporation. Any debt obligations that the Presidio trust may issue would be purchased only by the Department of the Treasury. Treasury's purchase of that debt would be limited $150 million outstanding at any one time, and would be at the Treasury's discretion based on their assessment of the creditworthiness of the trust's projects. The Treasury would be there to ride herd over the 501(c)(3) corporation by controlling its borrowing.

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Additionally, any borrowing by the Presidio Trust would be fully subject to the customary budget process. Treasury's lending to the Presidio Trust would be subject to advance appropriations. It would be scored as the rest of the budget process is scored.

Mr. Chairman, I think, considering the national treasure that we have in the Presidio, and the fact that this bill attempts to guarantee that the Presidio will always be available to the public as a great national asset, that this is the acceptable method of getting this work done.

Mr. Chairman, the Committee on Ways and Means wants to point out that we hope we will not need to do this again for any other project. That is the reason why we have changed the funding procedure. We recognize the uniqueness of this project.

Mr. Chairman, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 7 minutes to the gentlewoman from San Francisco, CA [Ms. PELOSI], the principal sponsor of this measure.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Minnesota for yielding time to me.

Mr. Chairman, it is a proud day for me to be able to come to the floor of this House of Representatives to talk to my colleagues about the Presidio of San Francisco. I urge them to support my legislation, which outlines a plan for cost savings to the American taxpayers that could, for the first time, actually reduce Federal costs for a national park. I am very proud of the 124 of our colleagues who have placed their names on this legislation as cosponsors. I am also very proud of the fact that I can come here today and say to my colleagues that we have the support of the environmental community and of the business community, of labor, of the academic community, and the arts. The League of Women Voters has lobbied on Capitol Hill for this legislation. I think it is very unusual that we are able to build a national constituency for this national park, and one that is diverse and ardent.

Mr. Chairman, I particularly want to thank the gentleman from California, GEORGE MILLER, Chairman of the Committee on Natural Resources, and the gentleman from Minnesota, Mr. BRUCE VENTO, subcommittee chairman, who have been essential to the success of this legislation. They have contributed immeasurably to bringing it to the floor, and I appreciate their efforts. They are true champions of the Presidio in the tradition of Philip Burton, a colleague of so many of the Members here.

Mr. Chairman, the reason that we are here today is not to see if we can make the Presidio a national park. We are here because the Presidio will become a national park. In 1972, Philip Burton, in his great wisdom, passed legislation designating the Presidio a national park when the properties were in excess of the needs of the Department of Commerce. Under the 1988 base closure law, the Army determined that the Presidio's lands were in excess of its needs, and recommended that the base be closed.

Subsequent to that, Mr. Chairman, BRAC decided that a small contingent of the Sixth Army would remain at the Presidio, so the Presidio will be a park, and the Army will be a tenant of the National Park Service. We are proceeding with this legislation to provide the maximum access for the public to this magnificent area, with a minimum of exposure to the taxpayers.

The Presidio will not only be a park, it will be a park for the 21st century, in which the concepts of environmental sustainability, innovative technology, and environmental education and stewardship can be brought to reality. H.R. 3433 would create a nonprofit, public benefit trust to rehabilitate, lease, and manage the bulk of Presidio properties, while the Park Service would be responsible for the traditional management of open space areas. Cost savings would be achieved by introducing certain private sector management techniques to the administration of the Presidio.

The Presidio Trust will be a reinventing government model of private-public sector management.

Private sector management techniques would be combined with public sector control and accountability to maximize Federal spending at the Presidio.

Mr. Chairman, my full statement for the RECORD goes into more detail about the participation of the private sector and involvement of the Presidio Council, which is a national private group, in obtaining the $2.5 million in paid or pro bono services of independent financial management experts.

The Presidio conversion quite possibly has had the benefit of more outside, objective analysis than any other base closure in history. Mr. Chairman, I would like to submit for the RECORD a list of private organizations, and I referred them earlier, but I will submit that list for the RECORD.

Mr. Chairman, at the conclusion of this process of examining different models, the passage of this legislation, America will have a 21st century national park dedicated to the stewardship of the world's human and physical resources through global cooperation. As a national park, the Presidio will build on the significance of its past to become one of America's most prominent and innovative urban parks.

Mr. Chairman, there are three characteristics that I want to call to our colleagues' attention. The Presidio's historic attributes have been judged so significant that in 1962, the entire base was declared a national historic landmark. It is rich in military history, and I will submit that history for the RECORD.

Second, Mr. Chairman, the post's biological diversity and rare ecosystems caused it to be declared the world's only urban international biosphere reserve. The Presidio's coastal bluffs abut the Nation's largest chain of marine sanctuaries.

Third, Mr. Chairman, the Presidio is located amid some of the most magnificent scenery in the world. Anchoring the Golden Gate Bridge, the Presidio guards the rugged and strategically important confluence of the San Francisco Bay and the Pacific Ocean.

The post is located in this unusual combination of scenic, natural, and historic values that caused Congress to mandate in 1972 that the Presidio should become the centerpiece of the Golden Gate National Recreation Area once it is no longer needed for military purposes.

Now I would like to address some of the statements made by some of our colleagues. The Golden Gate National Recreation Area, of which the Presidio is part, is the most visited park in the nation, with 20 million visitors a year.

The Federal cost per visitor to the GGNRA and the Presidio is $2, while other parks can account for as much as $13 per visitor. More visitors come to the GGNRA each year than Yellowstone, Yosemite, and Grand Canyon combined. I respect those great national parks, but the fact is that more come to the GGNRA than all three of them combined.

Mr. Chairman, I would like to quote from a former Secretary of the Interior, Secretary Hickel, who said "Our existing national parks are unique, strikingly beautiful, and absolutely necessary elements of nature's wild systems, but they are located in areas remote from the less affluent members of our society. Many of our people cannot get to parks. Therefore, we must get parks to the people."

That is what the Presidio does? It is an urban park that is readily accessible to the people. If we are serious about reinventing and streamlining government, if we really want to save the taxpayers money, then I urge our colleagues to support my legislation.

The gentleman from Colorado [Mr. ALLARD] showed some posters there of different aspects of the Presidio, and in fact what he was describing was the morale and recreation program of the Army.

Yes, indeed, we do have a pet cemetery. It is managed by the Boy Scouts. It is an Army facility. I think it is not anything to be mocked, but something that is appreciated by the Army personnel who live at the Presidio.

Yes, they do have bowling alleys, because that is something that the Army wants for its personnel. The Army will be there. The Army will be using those facilities.

What we are talking about is maintaining and operating a national park of national and international significance, one that I say to my colleagues I do not ask you lightly to support. I am asking you to be part of something great for this country. Please vote for this legislation. It is a vote that you will be very proud of.

Mr. Chairman, for the RECORD, I include the material referred to earlier:

SUPPORT FOR H.R. 3433

Governor Wilson, State of California.
State Assembly, California Legislature.
Mayor Jordan, City of San Francisco.
Board of Supervisors, City of San Francisco.
American Federation of Labor and Congress of Industrial Organizations.
American Institute of Architects.
American Society of Landscape Architects.
Asian American Architects and Engineers.
Bay Area Council.
Bay Area Economic Forum.
Brett Harte Terrace and Francisco Street Neighborhood Association.
Earth Island Institute.
Environmental Defense Fund.
Fort Mason Center.
Friends of the Earth.
Golden Gate National Park Association.
Golden Gate National Recreation Area Advisory Commission.
Hispanic Contractors Association.
Laborers' International Union of North America.

VOL 140 PT 16 AG 12 — 18 1994 UMI

League of Conservation Voters.
League of Women Voters of California.
League of Women Voters of San Francisco.
League of Women Voters of the United States.
Los Californianos.
National Audubon Society.
National Park System Advisory Board.
National Parks and Conservation Association.
National Japanese American Historical Society.
Natural Resources Defense Council.
Neighborhood Associations for Presidio Planning.
North Beach Neighbors.
People for a Golden Gate National Recreation Area.
Presidio Council.
Presidio Heights Association of Neighbors.
San Francisco Bay Area Interfaith Coalition.
San Francisco Chamber of Commerce.
San Francisco Hispanic Chamber of Commerce.
San Francisco Chronicle.
San Francisco Examiner.
San Francisco Independent.
San Francisco Planning and Urban Research Association.
Sierra Club.
Sierra Club of San Francisco.
Travel Industry Association of America.
Trust for Public Land.
United Brotherhood of Carpenters and Joiners of America.
Wilderness Society.

THE PRESIDIO COUNCIL,
San Francisco, CA, August 17, 1994.

DEAR MEMBER OF CONGRESS: We are writing once again to urge you to vote for H.R. 3433 when the bill comes to the Floor this week.

H.R. 3433, introduced by Congresswoman Nancy Pelosi, is designed to create savings at the Presidio, which becomes part of the national park system in October of this year. Inclusion of the Presidio in the Golden Gate National Recreation Area was mandated by Congress in 1972. Because the park is already federal land, there will be no acquisition costs associated with the Presidio's transfer to the Park Service.

The bill under consideration would not create a new park; it would establish a more cost-effective management structure for an existing park. The "Presidio Trust" that would be created by the bill is expected to reduce the cost of operating the park substantially by employing private sector property management techniques to rehabilitate and lease facilities to park tenants. Revenues from these tenants will be used to offset federal costs.

H.R. 3433 is a good government approach to managing the Presidio as a national park. The bill's approach is based on recommendations of a wide variety of experienced independent financial and managerial experts.

We believe H.R. 3433 would result in a magnificent national park and savings for the American taxpayer. We urge you to vote YES on H.R. 3433 and against any weakening amendments.

Sincerely,

JAMES R. HARVEY,
Chair, Presidio Council; Chair, Transamerica Corporation.
TOBY ROSENBLATT,
Chair, Golden Gate National Park Association.

For the Presidio Council:
Patrick Foley, Chair and CEO, DHL Airways, Inc.
John Bryson, Chair and CEO, Southern California Edison.
M.J. Brodie, Former Executive Director, Pennsylvania Avenue Development Corp.; Senior VP, RTKL.
Walter A. Haas, Jr., Honorary Chair of the Board, Levi Strauss & Co.
James P. Miscoll, Vice Chairman (Ret.), Bank of America.
Roger Heyns, President, The William and Flora Hewlett Foundation, (Ret).
Bruce Spivey, MD, President and CEO, Northwest Healthcare System.
Richard A. Clarke, Chair and CEO, Pacific Gas and Electric Co.
Virginia Smith, President Emerita, Vassar College.
Herman Gallegos, Chair, Gallegos Institutional Investors Corp.
Gyo Obata, Chairman and CEO, Hellmuth, Obata, & Kassabaum, Inc.
John W. Gardner, Stanford Graduate School of Business and former U.S. Secretary of H.E.W.
Francis Ford Coppola, President, American Zoetrope.
Roy Eisenhardt, Vice Chair, Presidio Council.
John Sawhill, President and CEO, The Nature Conservancy.
Joan Abrahamson, President, The Jefferson Institute.
Carl Anthony, President, Earth Island Institute.
Edward Blakely, Professor, College of Environmental Design, University of California.
Rodger Boyd, Executive Director, Economic Development, Navajo Nation.
Dr. Noel J. Brown, Director, Regional Office for North America, UNEP.
Adele Chatfield-Taylor, President, The American Academy in Rome.
Robert K. Dawson, Vice Chair, Cassidy and Associates.
Tully M. Friedman, Hellman & Friedman.
Jewelle Taylor Gibbs, Professor, University of California.
William Graves, Editor, National Geographic Society.
Antonia Hernandez, President/General Counsel, Mexican American Legal Defense and Education Fund.
Maya Lin, Architect and Designer, Vietnam Veterans Memorial.
Ellen Ramsey Sanger, Coro Foundation.
Lucy Shapiro, Ph.D., Chair, Dept. of Developmental Biology, Stanford Univ. School of Medicine.
Mimi Silbert, President and CEO, Delancey Street Foundation.
Richard Allan Trudell, Executive Director, AILTP/American Indian Resources Institute.
Dr. Robin W. Winks, Townsend Professor and Chair, Yale University.

In 1972, Phillip Burton passed a law designating the Presidio a national park when its properties were no longer required by the Department of Defense.

Under the 1988 base closure, the Army determined that the Presidio's lands were excess to its needs and recommended that the base be closed. In 1993, the Base Closure Commission revisited and revised their decision by recommending that a small contingent of the 6th Army remain at the Presidio. The recommendation was adopted and as a result, the 6th Army headquarters will remain as a park partner at the Presidio. The remaining Army functions at the Presidio will be terminated and ownership of the Presidio will transfer to the National Park Service effective October 1, 1994.

Cost savings would be achieved by introducing certain private-sector management techniques to the administration of the Presidio.

Authorities for the Presidio Trust would include: A reinventing Government model of private-sector management; Relief from some of the regulatory burdens borne by Government agencies; A private sector skill base; Centralized responsibility for building upgrades; and Retention of revenues to continue rehabilitation of properties.

These private sector management techniques would be combined with public sector control and accountability to maximize Federal savings at the Presidio.

The Presidio Council, comprised of prominent professionals from the fields of business, finance, education, architecture and planning, Government and philanthropy, was formed in 1991 to provide the Park Service with assistance in converting the Presidio to a national park. In the past 3 years, the Council has obtained nearly $2.5 million in paid or pro bono services of independent financial and management experts. The list of consultants who have studied this project include Arthur Anderson & Co., McKinsey & Co., Keyser Marston Associates, Mancini-Mills and the law firm of Morrison and Foerster.

The public benefit corporation established in H.R. 3433 is based on the results of this analysis. In developing the blueprint for the Presidio Trust, 19 public-private management models in the United States and Canada were studied. Specific qualities of the Presidio were then considered and a management model and financial strategy developed. The Presidio conversion quite possibly has had the benefit of more outside objectives analysis than any other base closure in the country. H.R. 3433 is the culmination of this process.

As we consider H.R. 3433 today, steps are already underway to secure major tenants in order to generate needed revenues for the park. Negotiations are in progress to obtain an anchor tenant for the park's biggest income producing property—the Letterman-LAIR complex; The University of California, San Francisco, and the Tides Foundation are under active consideration for this space at the Presidio. The Presidio Trust must engage good tenants who will pay fair market value and contribute to the objectives of the park.

The Army will remain on a limited basis as a park partner. It will occupy 1.8 million square feet of the Presidio's total 6 million square feet and contribute to park operations. Other current tenants include: Red Cross, FEMA, the Gorbachev Foundation, U.S. Postal Service, the U.S. Department of Agriculture, the National Oceanic and Atmospheric Administration and Clean Sites.

Altogether, the Park Service has received over 400 responses to the Call for Interest from individuals requesting space at the Presidio.

The Park Service has been preparing for this transfer for almost 5 years. Its General Management Plan for the Presidio will be finalized this month and an agreement will be signed between Army and Interior for reuse of some military facilities.

In addition to the progress on tenants, a philanthropic plan has been finalized which projects a sizable contribution to the overall financial viability of the Presidio. Under the leadership of the Golden Gate National Park Association, the philanthropic community is being mobilized in an effort to achieve the goal of $30 million in contributions within the next 15 years.

The word that most aptly characterizes the current state of affairs at the Presidio is "momentum." As we approach the official transfer of the post to the Park Service, there is a solid conversion plan based on extensive analysis, a Park Service General Management Plan that is being finalized this month, an accord between the U.S. 6th Army and the Park Service that will maintain a limited Army presence at the park and will reduce Interior Department costs, a major lease for 1.3 million square feet of building space at Letterman/LAIR is under negotiation, and a philanthropic campaign is in progress. H.R. 3433, creating the overarching management structure, is a critical component of the conversion and essential to maintaining the momentum that we are now experiencing at the Presidio.

At the conclusion of this conversion process, America will have a 21st century national park dedicated to the stewardship of the world's human and physical resources through global cooperation. As a national park, the Presidio will build on the significance of its past to become one of America's most prominent and innovative urban parks. Its conversion from a military post to a national park will also demonstrate to America and the world the importance that we place on educating the future by interpreting the past.

We will have also preserved a place unique in American history—a place which has blended history, architecture, biological diversity and scenic beauty in the national interest since it was obtained from Mexico in 1846.

I am convinced of the wide range of possibilities that exist at the Presidio and consider this venture a challenge to our collective creativity. I also believe that the members of this body will meet this challenge and work to develop a national park that will make us proud of its contribution to the national system.

The conversion of the Presidio, from post to park, on September 30, marks an unprecedented opportunity to reshape a cultural and human-made resource into a world-class urban park and global center for seeking solutions to problems of the natural and human environments.

I urge my colleagues to vote for H.R. 3433.

Mr. HANSEN. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I have great respect for the gentlewoman who just spoke, and I can see that she represents her area very well. I know when most of us were elected to this body, we came here to be fiscally responsible, and everybody who campaigned talked about the idea, how they were going to straighten up the budget. They would do everything in their power to live within our means.

Our Founding Fathers gave a lot of great talks in this city about living within our means and not going beyond that. However, now we find ourselves in a huge deficit. It does not come by huge things, it comes by $1 million here, $1 million there, and before you know it, we have trillions of dollars that we are in debt.

Mr. Chairman, we have at this particular time 368 parks. I would hope that Members, as they go this summer, if we get any vacation, if they go to some of these parks, that they go see the superintendent, take time to talk to the superintendent in whatever State they are in.

Go to Yellowstone, go to Yosemite, go to Grand Canyon, Zion, Bryce, Great Smokies, whatever it may be, and ask the superintendent, "Do you have enough money to just handle the infrastructure, the roads, the buildings, the sewer lines, the water lines?" He will say, "No, we are falling apart."

We know ourselves that we have an $800 million operation shortfall. We are 37 years behind on our construction, and we are 25 years behind on our land acquisition.

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Here we are, Mr. Chairman. We are standing here today saying to the people, "Hey, we don't care about your tax-paying dollars. We're just going to go spend, spend, spend." That is the theory around here. What is wrong with San Francisco taking this over if they want this so bad?

What we are creating today is a city park for San Francisco paid for by Government funds. I really cannot understand why the other 49 States want a city park or feel that that is the kind of thing that they want.

I really feel that running pell-mell into debt for this tremendous amount of money does not make much sense.

Mr. Chairman, I would hope you would listen to this. We have a Secretary by the name of Bruce Babbitt. Bruce Babbitt is a very liberal man who believes in all of these things. But he was asked a question the other day regarding a Fort Wadsworth. Let me say this about Fort Wadsworth. Recently on the east coast, Secretary Babbitt has adopted an approach identical to what we have got here dealing with surplus military property located within the boundaries of Gateway National Recreation Area in New York. The facts of these 2 cases bear an uncanny similarity. A military base, Fort Wadsworth, entirely within the authorized boundary of Cateway National Recreation Area in New York City within the last year has been declared surplus to the needs of the Navy. Same as the Presidio, surplus to the needs of the Army. It also contains a collection of both historic and nonhistoric facilities, but the major difference is that the facilities at Fort Wadsworth are in very good condition compared to those at the Presidio. Not only is there a minimal development cost but the annual operating costs are only 25 percent of the cost of operating the Presidio.

Keep in mind, Members watching in your offices, look at this comparison. However, on June 15, the Secretary of the Interior wrote to the Secretary of the Navy as follows:

Increasingly in a period of severely limited resources, the National Park Service must focus on protecting resources directly related to the mission of the agency. After a Department of the Interior review of the Fort Wadsworth acquisition in early June of this year, we are extremely concerned about the inappropriateness of the National Park Service acquisition of facilities not directly related to accomplishing its mission, and further the absence of any specific appropriations or positions for the National Park Service stewardship of this property.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentleman from Utah to yield as he sees fit.

The CHAIRMAN. Without objection, the gentleman from Utah [Mr. HANSEN] is yielded an additional 10 minutes.

There was no objection.

Mr. HANSEN. Mr. Chairman, I am back on the Wadsworth-Presidio comparison.

Due to these concerns and the reality that funds will be difficult to obtain in the foreseeable future, we simply cannot afford to manage Fort Wadsworth as a National Park Service site as presently configured.

There is the Secretary of the Interior, Mr. Babbitt. He takes Fort Wadsworth, which is in better shape than the Presidio, and says we cannot afford it.

I just ask my colleagues, if we want to go ahead and dig a deeper hole into debt, go ahead and vote for this. I agree with the gentlewoman from California, it is a beautiful spot, it is an outstanding spot. But can we afford everything, can we buy everything we want? That is the reason we are in debt. I would just respectfully say, let us reject this particular bill and let us let the City of San Francisco take this.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, the gentleman knows that unlike the Presidio where there was a conscious decision and an evaluation of the Presidio for inclusion into the National Park System and a law passed by the Congress to do so, in the Wadsworth situation, what you had was the State of New York trying to foist off onto Fort Wadsworth to prevent other actions from taking place with respect to the housing on the base that they did not want to have happen in their community. They were trying to use

VOL 140 PT 16 AG 12 — 18 1994 UMI

the Park Service to circumvent the law around BRAC and about the use of the facilities in the community. That is what was going on there. That had nothing to do, and the Secretary made the proper decision in that case.

Mr. HANSEN. If I may respond, in 1972, the Gateway Park that was right there was put in the same category as the Presidio, and I think the gentleman can find that in the RECORD.

Mr. MILLER of California. If the gentleman will yield further, the intent in the Wadsworth case was the community trying to avoid having housing opened up to the community generally or to the homeless or what have you. An entirely different intent. Nothing to do with the Park Service. I appreciate that Gateway is a wonderful facility.

Mr. GIBBONS. Mr. Chairman, I ask unanimous consent to reclaim my time.

The CHAIRMAN. Without objection the gentleman from Florida reclaims his 12 minutes.

There was no objection.

Mr. GIBBONS. Mr. Chairman, I ask unanimous consent to yield my time, for purposes of control, to the gentleman from Minnesota [Mr. VENTO.]

The CHAIRMAN. Without objection the gentleman from Minnesota will be given the 12 minutes.

There was no objection.

Mr. VENTO. Mr. Chairman, I yield myself 1 minute, and I would just point out to my colleague, the gentleman from Utah that the taxpayers did elect us to make prudent, fiscal, responsible decisions. The fact of the matter is that by establishing this public-private partnership, Members of Congress can vote for this and in fact can save the Federal Government money. We can make certain that these buildings do not end up boarded up and shut up like some of the buildings in Gateway National Recreation Area. I visited that park and I would point out to the gentleman, they have a movie theater there, and it is boarded up. They have bowling alleys and they are not being used. They have housing units that are empty and not being used. It is a more remote area, it is not a complete corollary, but the point is that that is an example of just transferring things over to the Park Service and then not having anything happen with them. The problem is, what we are trying to do is avoid that particular situation at the Presidio. The best way to save the taxpayers money is to provide for this public-private partnership that the gentlewoman from California [Ms. PELOSI] is advocating in the legislation before us. So the idea that the military has built a lot of facilities that are inappropriate is hardly the issue. The issue is how are we going to take care of the Presidio as we move forward.

Mr. Chairman, I yield 1½ minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, in the context of the general discussion about the Presidio, some commentary has been made by a couple of the Members with respect to the Davis-Bacon Act. I am sure everyone is familiar with it, but nonetheless, let us just go over what is involved here and I hope we will not have this discussion because I think it will only prolong and interrupt what is otherwise a discussion well worth pursuing. The bill's provisions with respect to the projects that are to be funded by the Presidio trust have in them the Davis-Bacon standards. All that is involved in the Presidio trust for Members who may not be totally familiar with the legislation is as a Government corporation, the Presidio Trust is subject to Davis-Bacon and the Davis-Bacon provisions simply establish the prevailing wage standards. Surely with all of the photos that we saw of the various projects including hospitals and everything else that is in the Presidio right now, we would want the prevailing wage standards to be in this legislation. It is consistent with dozens and dozens of national park projects that are federally financed and federally assisted construction projects.

I do hope we will not get into a side discussion at this time about Davis-Bacon. I think that should be saved for Labor-Education Committee activity.

Mr. HANSEN. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to this bill. I have twice offered amendments to hold down the funding for the Presidio or the conversion of it into a national park, not to eliminate funding but to at least hold it down to some reasonable level. I am not leading the charge this time and I have been asked about this, but let me make it clear—I am still very much opposed to this bill. I think it very much shortchanges and will be very harmful to all our other parks.

Our other units of the national park system, some 368, in number, are already underfunded. The National Park Service says there is a $5.6 billion construction backlog. There is a $1.2 billion shortfall in acquisition funding and a $400 million shortage in operating funding each year. There is a portion of the Presidio that should be protected as a national park. The Park Service recommended many years ago that roughly 20 percent along the shore, that that be protected as a park. Certainly I do not think anyone objects to that.

□ 1510

But to convert this entire military base into a national park, the General Accounting Office has estimated it could cost as much as $1.2 billion over the course of the next 15 years. I certainly do not think that the Federal Government should carry this burden alone. As bad a shape financially as our cities are in, still they are in better financial shape than in our Federal Government. As bad as shape financially as our State governments are in, they are not in as bad a shape as our Federal Government. This Federal Government is over $4.5 trillion in debt. We are still losing hundreds of millions of dollars each day on top of that.

So I would say that at least the city could do some part of this, let the State do their share. That is why I particularly support the amendment of my friend, the gentleman from Colorado [Mr. ALLARD]. I also support the amendment by my friend, the gentleman from Minnesota [Mr. GRAMS], that I think he is going to propose to put a cap on this spending at $25 million each year.

The National Park Service has estimated that to operate the Presidio as a park could cost $45 million a year. That is three times what is spent each year on the Yosemite National Park, three times what is spent each year on the Yellowstone Park and five times the rate of spending at Great Smoky Mountains National Park. Even if the amendment to cap the spending at $25 million a year is adopted, that would still make the Presidio the most expensive national park in this country.

All of this is being done to protect areas that include a pet cemetery, a Burger King, an old bowling alley, a movie theater, many rundown acres of 1950's rambler-style housing, and many other things I do not think one would classify as national park material.

I would say I would urge adoption of some of these amendments that would at least make this a little better bill, and I urge defeat of the overall legislation. I think as I said earlier that it would be very harmful to our other national park units in this country, and I thank the gentleman for yielding the time.

Mr. VENTO. Mr. Chairman, I am pleased to yield 2 minutes to the dean of the California delegation, Mr. EDWARDS.

Mr. EDWARDS of California. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, this is a very important bill. The Presidio is one of our great national treasures, not just for the West Coast, not just California. It is unique. Its history goes back to 1776 when the first Spanish forts were established, and for the entire time since then it has been very involved in all of the wars that the United States has been involved in.

It is so unique because it is an urban park in the midst of many millions of people, 5 million, 6 million, 7 million people. I know the people from my city

of San Jose, some 30 or 40 miles south of San Francisco, on public transit can come and do come and join the 20 million tourists and visitors that visit this area every single year, as the gentlewoman from California [Ms. PELOSI], author of the bill pointed out, more visitors than the three great parks, Yosemite, Grand Canyon, and Yellowstone have visitors in 1 year. I think that is unique. They get there on public transportation from across the bay, Oakland, Alameda and all of the great East Bay people, children, and classes can come and do come. This must not be lost. This is the only way that it can be handled in an economical way with the Presidio trust, a system, a device that has been used successfully. It is by far the very best way to handle this challenge and promise of the Presidio, which as I said earlier, is not only a State and local treasure, but a great national treasure.

So I would urge an overwhelming vote for this bill and congratulate my colleagues from California, Ms. PELOSI, Mr. MILLER, the gentleman from Minnesota, Mr. VENTO, and all those involved in this great enterprise.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in support of this bill reluctantly for some reasons, but let us get some of the facts out.

We have heard about pet cemeteries and Burger Kings and so on. Those were put there by the U.S. Army, the Federal Government. They are there. As of October 1 this land will belong to the Park Service. That decision has been made several years ago. So now the question is what do we do on October 1.

There is 1,500 acres of prime land that title is in the U.S. Park Service as of October 1 with all of the warts that might be there, and we have to address the problem. I am concerned about the financing mechanism of this bill. Why? Because the Interior Appropriations Committee is going to be forced to take right off the top of its budget an amount equal to whatever the revenue bonds are that are issued pursuant to the authority in this bill. That means, as the gentleman from Utah pointed out, there will be a lot less money for the other parks. All of the things that he mentioned are true. There are road needs, there are sanitation needs, there are all kinds of needs in our parks.

I would hope that when this bill goes to the other body that we try to find a better financing mechanism, because we have to deal with this problem. I think the trust is the right way to go because it gets a public-private partnership. Otherwise the Park Service gets the whole bill, and they are not going to be that good at managing all of that real estate.

It is there. We have to do something with it. Hopefully we can get a financing mechanism that would perhaps have the revenue bonds needed to repair these buildings and make them leasable, guaranteed by the State of California and/or the city of San Francisco.

It is not that the money will be a direct expenditure, but under the terms of this bill, and I do not fault the Committee on Ways and Means for I think it is a responsible thing to do under the circumstances. We have to set aside an amount equal to the revenue bonds which will restrict our ability to adequately fund the needs of other parks. Hopefully in the long term of things the revenues from these some 800 structures will be more than enough to retire the bonds, plus interest, for that reason it makes a lot of sense. I think that it is a realistic thing that we need to do.

The 6th Army is going to take 30 percent of the Presidio by leasing it back from the Park Service. So it will be used to serve the people by the 6th Army in meeting its needs. The hospital that is there has a couple of different groups interested in leasing it as a research facility. I think in the long term the revenues from the structures will more than offset the costs of rehabbing them and making them useful to the public generally.

In the meantime, we will have a great addition to Golden Gate national recreation area that will be used by people from all over the United States.

Mr. VENTO. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I thank the gentleman from Ohio for his bipartisan support and realistic approach and the work he does in the Interior Appropriations Subcommittee. The gentleman is really a leader and a good ally on national parks and public land issues. I want to associate myself with his remarks and the desirability of dealing with the overall budget in terms of financing.

I would point out that the funding for the rehabilitation of many of these buildings will in fact generate the revenue necessary to pay back the money. The idea is this can be successful, it is in San Francisco. Furthermore, nearly 400 of the 870 buildings that are present are anticipated to be demolished and taken down, so that is part of the process here on some of the buildings they are pointing out. I do not know if it is the Burger King or not, but some of the other buildings.

With respect to the gentleman from Colorado, the veterinarian and our friend and colleague, he will of course address himself to the amendment on the pet cemetery. He has assured me that he had nothing to do with any of the dogs that are present in that cemetery.

Mr. HANSEN. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I think again we need to seek an innovative financing system here. We have a goal I believe on both sides of preserving this for the public. But it is there, and we have to address it as is on October 1 it is ours, the National Park Service's and this body's. I believe we can achieve a program of innovative financing in the other body by working with them on this bill, and I thank the gentleman for yielding me the time.

□ 1520

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 3433. I wish to congratulate my colleague, the gentlewoman from California [Ms. PELOSI], for the very innovative approach which has been taken in this legislation.

The Presidio Trust is new and different and also the "least-cost" approach to providing for one of the most impressive urban national parks anywhere in this land. Today we have seen the beautiful vistas. Most of us have been to the area. We know how unique it is.

This is still a rather pristine area, in some ways; 300 acres of historic forest, 10 rare plant communities, 11 miles of trails for hiking and biking.

There is nothing wrong with having a national park that is close to 7 to 10 million people. This is a unique opportunity, and it will be available to the people of this country and to the West for half the cost of what we were paying for it when it was a military reservation.

Now, what the gentlewoman from California [Ms. PELOSI] has done is put together a concept that allows for the Federal cost to decline over time. What we are providing for here is a method of earning income off the assets of the Presidio so that the taxpayers will have a lessened responsibility as we proceed through the next couple of decades. We do it in a way that, I think, deserves the support of all of us here.

There will be continued review from Treasury, from Interior. This is not an open-ended, unmonitored idea. But I think it goes a long way to meeting the needs of people in cities who have traditionally had to travel long distances to get this kind of access to nature and to opportunities for recreation in pristine places.

This is an augmentation of the already nationally known Golden Gate National Recreation Area, and it does, I think, provide for a model of future conversion of military facilities to public use.

I think the gentlewoman from San Francisco deserves to be congratulated.

Mr. Chairman, H.R. 3433 creates a nonprofit Government corporation, the Presidio Trust, to manage Presidio properties in a more cost-effective manner. The Presidio Trust will have a

VOL 140 PT 16 AG 12 — 18 1994 UMI

long-term leasehold interest in the Presidio's assets. The Trust will manage the rehabilitation of these properties and lease buildings to rent paying tenants.

This measure is fiscally responsible in that it uses the Presidio's assets to help pay for management of the facility. Revenues from leases will be used to offset costs at the Presidio, driving operating costs down and reducing the need for Federal appropriations. These lease revenues will also be used to repay funds borrowed for the initial rehabilitation of the Presidio's historically significant assets.

The bill preserves strong Federal oversight of the Trust by requiring annual reports and independent audits of the Trust's activities. The bill also mandates that the Trust adhere to the publicly supported Park Service Plan for the Presidio. The Trust's budget and borrowing authority will be subject to Interior and Treasury Department review. The oversight features in this bill recognize fiscal realities and offer a less costly, more business-like approach to managing this important Federal asset.

Amazingly, the Presidio as a national park will cost less than half the cost of operating the Presidio as a military base. The financial plan projects declining Federal costs over time due to rent abatement and private sector support.

Mr. Speaker, the Presidio is a unique historical treasure. The Presidio embodies over 200 years of military history in one location. It has played a logistical role in every U.S. military engagement since the Mexican-American war.

I want to congratulate the bill's author, Congresswoman PELOSI, on her line efforts. She has put together a bill that maximizes our Federal investment in the Presidio and does so in a fiscally responsible manner. I urge my colleagues to support the bill as brought to the floor by the gentlewoman from California and ask for an "aye" vote on H.R. 3433.

Mr. HANSEN. Mr. Chairman, I yield 4 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as we debate whether the Federal Government should spend close to $1 billion in the years ahead to operate an urban park for the city of San Francisco, I think we should take into consideration some remarks made by the gentleman from the other body, Senator WALLOP, a few weeks ago. Senator WALLOP announced he would offer an amendment to every park bill that came through his committee which would defer spending on the new unit unless the Interior Secretary could affirm the Government had the money and really wanted to spend this money on a given project. He also suggested some projects should be delayed until the respective budgets for maintenance and personnel were increased.

I think there is a lot to be said for that idea, and so apparently do many of Senator WALLOP's colleagues in the Senate.

Let me repeat a figure that has been bandied about in the House for at least the last 4 years, and that figure is that the National Park Service has a $6 billion maintenance backlog. A similar backlog exists for land acquisitions. The director of the Park Service has said Park Service employees are living in Third World conditions.

Most of the reforms suggested over the past 10 years for the Park Service have never been implemented.

With all of that, do we really need, or can we afford, the Presidio? Senator WALLOP said it best, "The Federal Government is gaining the reputation of being a bad neighbor, of being someone who buys up land left and right and cannot take care of it." Before we vote to approve this, we should give it a little more thought.

Yes, there are parts of it that are scenic, and there are parts of it that are even historic. I was out there this summer, as the gentlewoman from California [Ms. PELOSI] knows. We have talked about this. I was out there this summer. I particularly went to the Presidio and looked at it, because I knew we were going to be discussing this kind of thing. There are parts of it that are incredibly beautiful and ought to be preserved as a park. But the great majority of it is composed of what you have heard here today. It is composed of the bowling alleys and the office buildings and the housing and parking lots and those kinds of things.

I think we should consider giving the park to the city of San Francisco. It is a city park, after all. That is what it will amount to. I think we maybe should consider giving the beautiful parts and the historic parts, give it to the city of San Francisco, make a gift to them. But the part that has the commercial enterprises and the housing and so forth, let us sell that. Let us sell it to developers or whoever and let us get money back for that.

We simply cannot afford this project. And this, with me—I am often up here making amendments to cut this or cut that out of the budget. But this, to me, this is not a cost-saving effort that I am making here today.

Because I would love to take every dime we can make off of selling much of the Presidio and put it back into the Park Service to take care of the deficits we have within the Park Service. Even if we do not save a penny on the overall Park Service thing, let us put it into some of the jewels of our system. Let us put it into the Yosemites, the Yellowstones, and Grand Canyons that are going begging right now because we do not have the budget to actually keep it up.

Let me quote from that great American, that great Senator from the State of Arkansas, Senator BUMPERS, who, by the way, happens to be the Senate Park Subcommittee chairman. When he is talking about the Presidio, Senator BUMPERS says, "And in any event, the thing—obviously this is a highly desirable thing to do, but I must confess to you, despite my very best efforts, I have not been able to reconcile myself to these costs." And I have to say, my friends, that I agree with Senator BUMPERS.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FARR], a member of the committee.

Mr. FARR of California. Mr. Chairman, I rise in support of this measure. I think those that speak in opposition to it really do not understand it. Because this is really best management practices.

There are those who would say that we ought to sell this. It is Federal property. It might be used for purposes of a locale. That same concept could be used for this building. We could sell this room. It could be used for convention centers. This is a national asset.

We think of the east coast; you think of New York City, and you think of the great Federal Statue of Liberty which is a symbol to our country on the east coast. The Presidio, San Francisco, is the symbol to the Pacific rim. It began in 1776. It has been in military ownership.

Yes, there are a lot of buildings there, and they are out of code. Military does not build buildings by going before boards of supervisors and city councils and getting building permits. They build it their own way, and when it comes to using them in an area that is prone to earthquakes, you have to rehab those buildings. It takes money.

The best way to do that is to set up a management structure that will allow the loans to be repaid through the process of leasing and selling and managing those buildings. That is what this bill does. This is good management practices. It is used in all smart activities by this Government and State governments.

It would be absolutely ludicrous to defeat this bill. The best thing for the United States is to preserve this in public trust for public use under sound public-private management.

I urge an "aye" vote.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA].

□ 1530

Mr. REGULA. I thank the gentleman for yielding this time to me.

Mr. Chairman, I would like to point out to the Members that there is a trust arrangement in this plan, and it is a public-private arrangement. Many people in San Francisco are interested in contributing private funds to the trust. I think we will be surprised at the broad support, at least I get that feeling from talking with some of the leadership in San Francisco, that will exist in the city, in providing private money to help address this problem. In the long term I believe the trust should

appeal to our Members because it does achieve a nonprofit private-sector arrangement. That is what we seek to accomplish.

I think, likewise, it would generate a lot of matching funds that would be helpful in converting the Presidio to a very useful purpose for the people of this Nation.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from the Virgin Islands [Mr. DE LUGO] a member of the committee.

Mr. DE LUGO. I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to commend the gentlewoman from California [Ms. PELOSI] for this legislation. I had the pleasure of serving in this House back in 1972, while Phil Burton had the great vision about the Presidio. At that time he had the vision to say, and to put into legislation, that at such time as the military would no longer need the Presidio, it should be turned over to the national park.

I know a little about the Presidio. During the occupation of Japan I used to ship out from Fort Mason nearby and I trained at the Presidio. And when I went out recently for the dedication of the statue in memory of Phil Burton, I visited the Presidio then and I visited it again on a recent trip, because to me I think thank everyone who is connected with this legislation should be commended.

Mr. Chairman, this shows the type of creativity that can hold precious resources for our people for all time. Yes, it will cost money; but they have put together a private-public plan here that makes it financially possible to retain this precious piece of property.

As I walked in the Presidio last time down by the bay, I thought, "Why, Phil, you really knew what you were doing to preserve this for the people."

Mr. Chairman, I want to commend the gentleman from Minnesota, BRUCE VENTO, chairman of the subcommittee, and I commend the gentleman from California, GEORGE MILLER, my chairman, and I want to commend those on the other side of aisle who support this legislation. This is a good bill, and I urge its support.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. DE LUGO. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from the Virgin Islands. I think many words have been spoken on this floor, but I think the essence of what this is about has been captured by our esteemed colleague, Congressman DE LUGO. This is like, if we had the fate of Central Park before us today, would we be talking about breaking it up and selling it? Mr. Chairman, the Presidio is in the middle of San Francisco, and obviously the history that it has, from early Spanish settlement, and the natural, cultural, and recreational resources and so forth are a vital and significant public asset. I would hope that my colleagues would recognize that and support this legislation.

Mr. DE LUGO. One of the things that impressed me the most on my visits to the Presidio were the numbers of visitors to this area. Not only American citizens but people from all over the world were visiting this area. This is a great piece of legislation, and I urge all of the Members to support it.

Mr. Chairman, I rise in support of H.R. 3433, legislation to provide for the management of the Presidio, and to commend the gentlelady from California [Ms. PELOSI] for her efforts and dedication to the preservation of this most spectacular area.

Mr. Chairman, the Presidio is an approximately 1,500-acre military base located at the foot of the Golden Gate Bridge in San Francisco. When the Golden Gate National Recreation Area was established, in 1972, my good friend and our former colleague, Phil Burton, recognizing the uniqueness and magnificence of the area, provided that if the Presidio was ever determined to be excess to the needs of the Army, it would be turned over to the National Park Service and would become a part of the Golden Gate National Recreation Area.

Because of concerns that operating and repairing the Presidio would drain money from the other national parks, even though millions of dollars would be transferred from the DOD budget to the Park Service, H.R. 3433 would establish a public benefit corporation to manage certain properties at the site to generate income to support park operations.

H.R. 3433, Mr. Chairman, is supported by the National Parks and Conservation Association, the Sierra Club, the National Audubon Society, the Wilderness Society, the Friends of the Earth, the National Trust for Historic Preservation, the National Conference of State Historic Preservation Officers, the AFL–CIO and several other national organizations.

This is a good bill, Mr. Chairman. The gentlelady from California deserves our support. I urge my colleagues to support passage of this bill.

Mr. HANSEN. Mr. Chairman, I have no further speakers, and I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DELLUMS], chairman of the Committee on Armed Services.

Mr. DELLUMS. I thank the subcommittee chairman for yielding this time to me.

Mr. Chairman and members of the committee, first of all, our former colleague, Phil Burton, has been referred to on a number of occasions during the course of this discussion and debate. He has been alluded to as a visionary. He was a very clear and substantive thinker. If anyone believes that Phil Burton did not understand exactly what he was doing, living in a never-never land, did not understand him. He understood it very clearly and unequivocally.

Mr. Chairman and members of the committee, on the 9th of August a notice was sent to every Member of the U.S. Congress from the Department of the Army office of the Secretary of the Army, laying out the agreement that the Department of the Army and the Department of the Interior announced that they had agreed upon terms and conditions by which the Army will retain the headquarters, 6th U.S. Army, at the Presidio of San Francisco to perform its defense mission while maximizing public use of the Presidio as an urban national park. What the gentlewoman from California's legislation simply seeks to do, Mr. Chairman, is to establish a public interest corporation to manage the assets there.

Let me, in that regard, make a couple of important points. That corporation would have a wide range of borrowing authorities, including private borrowing, limited public borrowing, and the ability to negotiate lease terms that encourage third-party borrowing for the purposes of upgrading Presidio properties.

These financial tools, Mr. Chairman, and the authority to retain lease revenues at the park will greatly reduce the need for Federal funding. I underscore that for the purpose of emphasis.

Finally, this bill represents a new reinventing government approach to the management of public assets, combining private and public sector techniques to enhance responsiveness at lower cost to the taxpayer. Again, I underscore that, because a number of my colleagues have marched into the well speaking to the magnitude of the cost of what this transfer is all about. It is in this gentleman's humble opinion, Mr. Chairman, good government approach, it recognizes financial and fiscal realities, it is fiduciarily sound yet provides for the protection of the historic, scenic, and ecological treasure not only for the bay area in California, not only for this Nation, but indeed the world, and for the benefit of all of our people.

For all of these reasons I urge my colleagues to enshrine and enframe and to put into significant frame the vision that Phil Burton had to make sure that we transferred this land for higher and better use, and that is to serve the people of our country.

I ask my colleagues to resist the effort to diminish, to reduce, to significantly harm or, in any other way, compromise the legislation that is before us.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in strong support of H.R. 3433. I commend my colleague, the gentlewoman from California [Ms. PELOSI], for crafting this excellent legislation.

The district I am proud to represent, the Sixth Congressional District of

79-059 O—97 Vol. 140 (Pt. 16) 49

VOL
140
PT
16
AG
12
18
1994
UMI

California includes part of the Golden Gate National Recreation Area, which is soon to be home to the Presidio. I have received letter after letter from my constituents urging the House to ensure that the Presidio is transferred to the National Park Service in its entirety, and to pass H.R. 3433.

The House recognized the national significance of the Presidio in 1972, when it passed Phil Burton's legislation specifying that the Presidio would be transferred from the Department of Defense to the Department of Interior. The House must continue to recognize the significance of the Presidio, in 1994, by passing Congresswoman PELOSI's bill today.

In this time of base closures, Mr. Chairman, it is important that we support and encourage smooth transitions from military use to peace-time purposes. H.R. 3433 is a model for a smooth transition of the Presidio lands from military to peace-time purposes.

In addition, H.R. 3433 will ensure that the Presidio is managed in a cost-effective manner. This bill establishes a nonprofit government corporation, known as the Presidio Trust, which will reduce Federal operating costs by aggressively recruiting tenants that will pay fair market rent for Presidio space. This innovative approach will result in a valuable national park, to be enjoyed by future generations at a significantly reduced cost to the Federal Government.

Mr. Chairman, I urge my colleagues to preserve this national treasure and save American taxpayer dollars by passing H.R. 3433.

□ 1540

Mr. VENTO. Mr. Chairman, I yield the remainder of our time to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Chairman, I rise in strong support of H.R. 3433, which provides for the smart and sound management of the Presidio.

As the Nation's oldest continually operated military post, the Presidio is a national historic landmark—it has played a logistical role in every U.S. military engagement since the Mexican-American War.

This unique landmark which is at the heart of the Golden Gate National Recreation Area is the most visited national park in our Nation. It is characterized by acres of historic forest, historically significant buildings, a national cemetery, and scenic views.

The Presidio will be transferred by statute from the Army to the National Park Service on October 1. This bill is designed to reduce the cost of managing the Presidio under the Park Service by creating a nonprofit Government corporation known as the Presidio Trust.

The Trust would manage the rehabilitation of the Presidio's properties and would lease buildings to rent-paying tenants. Revenues from leases would be used to offset costs at the Presidio driving operating costs down and reducing the need for Federal appropriations. Lease revenues would also be used to repay funds borrowed for the initial rehabilitation.

The Trust brings to the Presidio a proven successful model of public-private partnership. It offers a less costly, business like approach to managing Federal properties.

Indeed, heads of the academic and business communities which comprise the Presidio council have stated that the Presidio Trust is "essential to the success of this * * * conversion project."

Mr. Chairman, the Presidio as a national park will cost less than half of what was spent on it as a military base. It's financial plan projects declining Federal costs over time due to rent abatement and private sector support.

I urge my colleagues to support this smart and sensible approach to management and support this critical legislation.

Mr. PICKLE. Mr. Chairman, I rise to compliment Chairman GIBBONS for his leadership in the Committee on Ways and Means consideration of H.R. 3433, relating to the management of the Presidio. I also appreciate to concerns of Mr. ARCHER, for his efforts to ensure that the funding of the improvements to the Presidio, which are authorized by this legislation, are provided for in a manner that does not subject this important legislation to a budget point of order.

As the result of the amendments supported by Chairman GIBBONS and Mr. ARCHER, the bill before us today will allow for the orderly transfer of the Presidio from the Department of Defense to the Department of the Interior. It will also promote a unique public-private partnership which will allow for certain portions of the Presidio to be commercially developed in a manner consistent with its very special historical and environmental characteristics.

While I support this effort to manage the Presidio in a way that takes full advantage of its public and private sector assets, I have been concerned with the financing approach that was originally proposed. In my judgment, Congress must be very careful that efforts to promote creative solutions to unique problems do not undermine established appropriations, budget, and debt management procedures. If such exceptions to the normal spending and borrowing procedures are allowed, we risk doing great damage to the system of budget discipline that we have established in recent years.

As the result of the modifications to H.R. 3433 which were adopted during its consideration by the Committee on Ways and Means, this important legislation is now in compliance with all of our debt management rules and policies. It is my hope that this legislation will receive favorable consideration, and that the Presidio will become a vital part of our great National Park System. We also must be vigilant that the other body does not try to circumvent the decisions of the Ways and Means Committee.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise in strong support of H.R. 3433, a bill to create a nonprofit Government corporation to manage specified portions of the Presidio under the jurisdiction of the Secretary of the Interior.

Most Americans do not know what the Presidio is and I have been asked on a number of occasions to explain not only what it is, but why I feel it is important to protect this national treasure.

First established in 1776 as a military post, the Presidio's history reads like a page out of American history. As a military installation, the Presidio has played a critical role in providing for our national defense and international security and it is no accident that its history coincides with our country's emergence as a world leader.

Now that the military has determined it no longer needs to maintain the Presidio as a military facility, the responsibility now falls to us to establish a public trust to manage the facilities of the Presidio of San Francisco in a manner befitting its proud history.

Mr. Chairman, H.R. 3433, sponsored by the gentlelady from California, NANCY PELOSI, will do precisely that.

In addition to its other important provisions, H.R. 3433 will establish the Presidio Trust to manage the leasing, maintenance, rehabilitation, repair, and improvement of the property that is transferred to the National Park Service.

Opponents of the Presidio have fought to sell all but 200 of its 1,400 acres to private developers. This would not only rob our future generations of this magnificent resource—but the sight of condominiums on this site would degrade the memory of those who have proudly served our country at this national treasure.

Mr. Chairman, I would like to commend the gentlelady from California, NANCY PELOSI, for sponsoring this important legislation, and also pay tribute to the late Philip Burton, who long ago recognized the importance of preserving this vital piece of American history.

I urge my colleagues to support H.R. 3433.

Mr. LAUGHLIN. Mr. Chairman, I urge my colleagues to vote for H.R. 3433 when it comes to the House this week. The bill provides a more cost-effective management structure for the Presidio in San Francisco, one of the most significant historic sites in our Nation.

The Presidio has guarded against invasion from the Pacific since 1776. It has played a major role in every American engagement since the Mexican-American War. Now, by an earlier act of Congress, the Presidio, a national historic landmark, is slated to become part of the Golden Gate National Recreation Area.

In addition to its historic importance, the Presidio's national, scenic and recreational resources qualify it as a national park. It is an international biosphere reserve, a home for threatened species and a neighbor to the largest chain of marine sanctuaries in the country.

There should be no question about the Presidio's significance to the United States—by now, its value is established fact.

H.R. 3433 would enable us to protect the Presidio while saving money for the American taxpayer. The bill establishes a Presidio Trust

with streamlined management and operations to manage leasing and rehabilitation at the Presidio. This management structure would result in significant savings for the Presidio over traditional park management.

H.R. 3433 is responsible legislation which addresses taxpayers' concerns while protecting a very important national resource for the enjoyment of future generations. I strongly urge the Members to vote for H.R. 3433 and to oppose any amendments to weaken the bill.

Mr. FAWELL. Mr. Chairman, I rise in opposition to H.R. 3433, which includes a wage requirement provision, adopted as an amendment to the bill in the Committee on Natural Resources. Section 3(v) provides that the labor standards provisions under the Davis-Bacon Act and the Service Contract shall apply to the activities of the Presidio Trust. This new provision represents an unwarranted expansion of the requirements under both acts to contracts for services which are paid for primarily, or entirely, through private funds.

Under the Davis-Bacon Act, contractors on construction or renovation projects funded by the Federal Government must pay Government mandated, inflated wages to laborers and mechanics employed on these projects. The procedures used by the Department of Labor for determining the wages in the area of a construction project, as well as the classifications of workers who receive them, favor union wage rates. The General Accounting Office has estimated that Davis-Bacon requirements increase the cost of construction projects by 5 to 15 percent. Likewise, Davis-Bacon reduces the opportunities for the employment of less-skilled workers, women, and minorities.

H.R. 3433 would expand the impact of the wage requirements to projects which would be funded wholly or partially through private sources. If only $1 of Federal funds is contributed to the project, Congress is going to mandate that Davis-Bacon requirements must apply. Under the bill, the Presidio Trust would have the flexibility to negotiate a lease agreement which would allow the tenant to finance the repair or rehabilitation of part or all of the building it is occupying. Clearly, in this type of situation, we are not talking about a Federal project where Federal mandates should apply. We are talking about private construction funded entirely by private sources.

The Service Contract Act, on the other hand, sets basic labor standards for employees on Government contracts whose principal purpose is to furnish labor, such as laundry, custodial, and guard services. Contractors covered by this act generally must provide their employees with wages and fringe benefits that are at least equal to those prevailing in their locality, or, those contained in a collective bargaining agreement of the previous contractor.

In 1983, having reviewed the application of the Service Contract in 1978 and 1982, the GAO recommended repeal of the act. The report stated that the Department of Labor's principles and methods for making wage determinations under the Service Contract Act resulted in inaccurate, inflationary, and unrealistic determinations. Once a prevailing rate is established in a wage determination as the minimum that can be paid, it then becomes the floor for adjusting the wage differentials for higher skilled and more experienced workers in the same job class and for later revising that rate in future determinations. This can quickly escalate wages paid to service workers on Federal contracts and further widen the gap between the federally mandated rates on Service Contract Act contracts and those rates paid to private sector workers in the same jobs.

Both the Service Contract Act and the Davis-Bacon Act, in the years since their adoption, have been used to bring under Federal wage-setting requirements, workers who do not need, and industries which do not require Federal regulation. In all applications, the wage requirements increase the cost of contracted services over what similar work would cost on the open market. Additionally, where the financial contribution by the Federal Government is minimal or nonexistent, Congress has no business mandating Federal wage requirements for work that is being funded by the private sector, the States, or other localities.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule for a period of debate not to exceed 3 hours.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Natural Resources printed in the bill, modified by the amendments recommended by the Committee on Ways and Means printed in the bill, and by the amendments printed in House Report 103–696 is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 3433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Presidio of San Francisco, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continually operating military post in the Nation dating from 1776, and was designated as a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use would give due recognition to its significant role in the history of the United States;

(4) the Presidio in its entirety will transfer to the jurisdiction of the National Park Service on September 30, 1994, in accordance with Public Law 92–589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's outstanding natural, historic, scenic, cultural and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protect the Presidio from development and uses which would destroy the scenic beauty and natural character of the area;

(6) activities and management at the Presidio must be consistent with both the Act establishing the Golden Gate National Recreation Area (Public Law 92–589) and the General Management Plan for the Golden Gate National Recreation Area, as amended;

(7) the Presidio will be a global center dedicated to addressing the world's most critical environmental, social, and cultural challenges and a working laboratory at which models of environmental sustainability shall be developed;

(8) the Presidio, as an urban park, will be managed in a manner that is responsive to the concerns of the public and cognizant of its impact on the local community, and as a public resource, will reflect, in both activities and management, of the diversity that exists in the surrounding community; and

(9) the Presidio will be managed in an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources that could be utilized in the public interest.

SEC. 2. AMENDMENT OF ACT ESTABLISHING GOLDEN GATE NATIONAL RECREATION AREA.

(a) STATEMENT OF PURPOSES.—Section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92–589; 86 Stat. 1299; 16 U.S.C. 460bb), is amended by inserting the following after the second sentence: "In addition, the Secretary may utilize the resources of the Presidio of San Francisco to provide for and support programs and activities that foster research, education or demonstration projects, and relate to the environment, energy, transportation, international affairs, arts and cultural understanding, health and science.".

(b) ADMINISTRATION.—Section 4 of such Act is amended by adding the following new subsection at the end thereof:

"(g) INTERIM AUTHORITY.—(1) In addition to other available authorities, the Secretary may, in his discretion, negotiate and enter into leases, as appropriate, with any person, firm, association, organization, corporation or governmental entity for the use of any property within the Presidio in accordance with the General Management Plan and any of the purposes set forth in section 1 of this Act. The Secretary may further, in his discretion, negotiate and enter into leases or other appropriate agreements with any Federal agency to house employees of the agency engaged in activities or programs at the Presidio.

"(2) In addition to other available authorities, the Secretary may, in his discretion, enter into—

"(A) interagency permitting agreements or other appropriate agreements with the Secretary of Defense and the Director of the Federal Emergency Management Agency, and

"(B) leases with the American Red Cross, to house their activities and employees at the Presidio.

"(3) Any leases or other appropriate agreements entered into under this subsection shall be subject to such procedures, terms, conditions and restrictions as the Secretary deems necessary. The Secretary is authorized to negotiate and enter into leases or other agreements, at fair market value and without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b), fair market value shall take into account the uses permitted by the General Management Plan and this Act. The preceding sentence shall not apply to any interagency permitting agreement entered into between the Secretary and the Secretary of Defense regarding the housing of activities and employees of the Sixth United States Army. For purposes of any such lease or other agreements, the Secretary may adjust the rental by taking into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to the leased properties.

VOL 140 PT 16 AG 12 — 18 1994 UMI

"(4) The proceeds from leases under this subsection, and from concession and other use authorizations and from other services that may be provided by the recreation area under this subsection shall be retained by the Secretary for 5 years after the date of enactment of this paragraph or until the leased property is transferred to the Presidio Trust and shall be available without further appropriation and used to offset the costs of preservation, restoration, maintenance, improvement, repair and related expenses including administration of the above, incurred by the Secretary with respect to Presidio properties, with the balance used to offset other costs incurred by the Secretary in the administration of the Presidio.

"(5) Each lessee of a lease entered into under this subsection shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the lease have been and are being faithfully performed. The Secretary and the Comptroller General and their duly authorized representatives shall, for the purpose of audit and examination, have access to financial records pertinent to the lease and all the terms and conditions thereof.

"(6) The Secretary shall annually prepare and submit to Congress a report on property leased under this subsection.

"(7) In addition to other available authorities, the Secretary may, in his discretion, enter into cooperative agreements and permits for any of the purposes of the recreation area set out in section 1 of this Act.".

SEC. 3. THE PRESIDIO TRUST.

(a) ESTABLISHMENT.—There is established within the Department of the Interior a nonprofit public benefit government corporation to be known as the Presidio Trust (hereinafter in this Act referred to as the "Trust"). The Trust shall manage, in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb), and with this Act, the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio which is transferred to the Trust by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary"). The Trust may participate in the development of programs and activities at the properties that have been transferred to the Trust.

(b) TRANSFER.—Except as provided in this subsection, the Secretary shall transfer to the Trust, under such terms and conditions as the Secretary deems appropriate, a leasehold in the following properties within the Presidio under the control of the Secretary: the Letterman-LAIR complex, Fort Scott, Main Post, Cavalry Stables, Presidio Hill, Wherry Housing, East Housing, the structures at Crissy Field, and such other properties, within the Presidio as the Secretary and the Trust deems appropriate. Any such property shall be transferred within 60 days after a request is made by the Trust. The leasehold shall be of sufficient term to enable the Trust to obtain necessary and beneficial financing arrangements and to carry out the purposes of this Act. The Secretary may withhold transfer to the Trust of any buildings necessary to house or support activities of the National Park Service. The Secretary may not transfer to the Trust any property irrevocably permitted to the Department of Army. The Secretary shall transfer, with any transferred property, all leases, concessions, licenses and other agreements affecting such transferred property. The Secretary may transfer any properties within the Presidio to the Trust not requested by the Trust subject to terms and conditions mutually agreed to by the Secretary and the Trust. All proceeds received by the Presidio Trust from the leasing of properties managed by the Trust within the Presidio shall be retained by the Trust without further appropriation and used to offset the costs of administration, preservation, restoration, operation, maintenance, repair, and related expenses incurred by the Trust with respect to such properties.

(c) BOARD OF DIRECTORS.—(1) The powers and management of the Trust shall be vested in a Board of Directors consisting of 13 members, as follows:

(A) The Director of the National Park Service.

(B) Secretary of the Army.

(C) Administrator of the Environmental Protection Agency.

(D) Ten individuals, who are not employees of the Federal Government, appointed by the Secretary within 6 months after the date of the enactment of this Act, 6 of whom shall have knowledge and experience in one or more of the fields of the environment, energy, transportation, international affairs, health, science, education, or any other such field related to the activities at the Presidio; 4 of whom shall have knowledge and experience in one or more of the fields of city planning, finance, real estate, labor or historic preservation. With respect to the 10 individuals, 5 shall meet the additional requirement of possessing extensive knowledge of the region in which the Presidio is located.

Each member of the Board of Directors specified in subparagraphs (A) through (C) paragraph (1) may designate (through written notice to the Secretary and Chairman of the Board) an alternative senior official (classified as Senior Executive Service) of his or her department or agency who may serve on the Board in his or her stead. The Secretary of the Army shall serve on the Board until such time as the Sixth Army Headquarters ceases to maintain a presence at the Presidio. In such an event, the Secretary of Energy shall replace the Secretary of the Army on the Board.

(d) TERMS OF BOARD MEMBERS.—Each member of the Board of Directors appointed under subparagraph (D) of subsection (c)(1) shall serve for a term of 5 years from the expiration of his or her predecessor's term; except that the Secretary, in making the initial appointments to the Board under subparagraph (D), shall appoint 3 Directors to a term of 2 years and 3 Directors to a term of 3 years. Any vacancy on the Board of Directors shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. Each member shall continue to serve after the expiration of his or her term until his or her successor is appointed. No appointed director may serve more than 10 years in consecutive terms.

(e) ORGANIZATION AND COMPENSATION.—(1) The Board of Directors shall elect at the initial meeting a Chairman and a Vice Chairman from among the members of the Board of Directors. The Director of the National Park Service shall serve as Chairman until such time as the Board holds such election.

(2) The Board of Directors may establish an Executive Committee within the Board and other such committees within the Board as it deems appropriate, and delegate such powers to such committees as the Board determines appropriate to carry out its functions and duties. Any such committees established by the Board may meet and take action on behalf of the Board between meetings to the extent the Board delegates such authority. Delegations to such committees shall not relieve the Board of full responsibility for the carrying out of its functions and duties, and shall be revocable by the Board in its exclusive judgment.

(3) Members of the Board of Directors shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Trust.

(4) The Board of Directors shall meet at the call of the Chairman, who shall require it to meet not less often than once every 6 months. A majority of the members of the Board of Directors (or their designated alternates) shall constitute a quorum. The Board shall hold at least one public meeting per year at the Presidio at which time the Board shall report on its operations, accomplishments and goals for the upcoming year.

(5) Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and other statutes defining legal liability.

(f) STAFF.—The Board of Directors shall have the power to appoint and fix the compensation and duties of an Executive Director and such other officers and employees of the Trust as may be necessary for the efficient administration of the Trust. Officers and employees of the Trust may be appointed and compensated without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code (relating to classification and General Schedule pay rates), except that no such officer or employee may receive a salary which exceeds the salary payable to officers or employees of the United States classified a level IV of the Executive Schedule.

(g) EXPERTS AND CONSULTANTS.—The Board of Directors is authorized to procure the services of experts or consultants, or organizations, including but not limited to urban planners, architects, engineers, and appraisers.

(h) AUTHORITIES.—In exercising its powers and duties, the Trust shall act in accordance with both the approved General Management Plan, as amended (hereinafter in this Act referred to as the "Plan") and the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92-589: 86 Stat. 1299; 16 U.S.C. 460bb), and have the following authorities:

(1) The Trust shall manage, maintain, improve and repair those properties within the Presidio which are transferred to the Trust by the Secretary.

(2) The Trust shall publish and disseminate information and make known to potential occupants, by advertisement, solicitation, or other means, the availability of the property within the Presidio which the Trust manages.

(3) The Trust may prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the rehabilitation, improvement, alteration, or repair of any property managed by the Trust, and from time to time may modify such plans, specifications, designs, or estimates.

(4) The Trust may negotiate and enter into contracts, including leases, cooperative agreements, or other agreements with any person, firm, association, organization, corporation, or governmental entity for the occupancy of any property within the Presidio which the Trust manages. Such leases may be entered into without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b).

(5) The Trust shall establish procedures to be used for the issuance of leases and contracts under this Act.

(6) The Trust shall establish (through easements, covenants, regulations, agreements, or otherwise) such restrictions, standards, and requirements as are necessary to assure the maintenance, protection, and aesthetic character of the property managed by the Trust.

(7) The Trust may make commercially reasonable loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(8) The Trust may provide technical assistance to the occupants of property managed by the Trust, to assist such occupants in making repairs or improvements to the property or applying for loans under paragraph (7) of this section.

(9) The Trust and the Secretary may solicit and the Trust may accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(10) The Trust may retain any revenues from leases or other agreements concerning property managed by the Trust, including preexisting leases or agreements and any donations, and use the proceeds without further appropriation to offset any costs for any function of the Trust authorized by this Act, except for those moneys transferred to the Secretary as stipulated in paragraph (11).

(11) The Secretary and the Trust shall agree on an amount of revenues received by the Trust to be transferred to the Secretary, to be applied by the Secretary, without further appropriation or offset to appropriation, for common operating and maintenance expenses at the Presidio.

(12)(A) The Trust may not (directly or indirectly) borrow funds from any source other than the Secretary of the Treasury as provided in this paragraph.

(B) Except as provided in subparagraph (F), if at any time the funds available to the Trust are insufficient to enable the Trust to discharge its responsibilities under this Act, the Trust may issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy.

(C) The aggregate amount of obligations issued under this paragraph which are outstanding at any one time may not exceed $150,000,000.

(D) Obligations issued under this paragraph—

(i) shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and

(ii) shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(E) No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(F) The Secretary of the Treasury may purchase obligations issued under this paragraph only to the extent provided in advance in appropriation Acts.

(13) Upon the request of the Trust, the Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities with maturities suitable to the needs of the Trust, as determined by the Trust, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(14) The Trust may enter into and perform such contracts and other transactions with any person, firm, association, organization, corporation or governmental entity as may be necessary or appropriate to the conduct of activities authorized under this Act.

(15) The Trust may execute all instruments necessary or appropriate in the exercise of any of its functions under this Act, and may delegate to the Executive Director such of its powers and responsibilities as it deems appropriate and useful for the administration of the Trust.

(16) The Trust may obtain by purchase, rental, donation, or otherwise, such goods and services as may be needed to carry out its duties. In the event of the termination of the Trust, all property and unexpended funds shall be transferred to the Department of the Interior, except that such funds shall only be expended for the purposes of this Act.

(17) The Trust shall procure insurance against any loss in connection with the properties managed by it as is reasonable and customary; and shall procure such additional insurance for losses arising out of any of its authorized activities as is reasonable and customary.

(18) The Trust may sue and be sued in its name. All litigation arising out of the activities of the Trust shall be conducted by the Attorney General; the Trust may retain private attorneys to provide advice and counsel on transactional issues.

(19) The Trust may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised.

(20) The Trust shall have perpetual succession.

(21) The Trust shall have an official seal selected by the Board which shall be judicially noticed.

(22) The Trust shall have all necessary and proper powers for the exercise of the authorities invested in it.

(23) For purposes of complying with section 106 of the National Historic Preservation Act, the Trust may work directly with the National Park Service, the State Historic Preservation Office, and the Advisory Council on Historic Preservation and enter into programmatic agreements, where appropriate.

(i) USE OF FEDERAL PERSONNEL, FACILITIES, AND SERVICES.—The Secretary and the heads of other Federal departments and agencies may provide personnel, facilities, and other administrative services to the Trust to assist it in carrying out its duties under this Act. Furthermore, the Secretary and the heads of other Federal departments and agencies may loan or donate to the Trust excess or surplus personal property deemed necessary for the management of the Presidio.

(j) TAXES.—Since the exercise of the powers granted by this section will be in all respects for the benefit of the people, the Trust is hereby declared to be devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of every kind of the State of California, and its political subdivisions, including the City and County of San Francisco.

(k) VOLUNTEERS.—The Secretary may accept, without regard to the Civil Service classification laws, rules, or regulations, the services of the Trust, the Board, and the officers, and employees and consultants of the Board, without compensation from the Department of the Interior, as volunteers in the performance of the functions authorized herein, in the manner provided for under the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g et seq.).

(l) SAVINGS CLAUSE.—Nothing in this section shall preclude the Secretary from exercising any of his or her lawful powers within the Presidio.

(m) AFFIRMATIVE ACTION.—The Trust shall ensure that affirmative steps are taken, consistent with other Federal law, to afford equal access and equal opportunities for leases, concessions, contracts, subcontracts, and other contracting and employment opportunities to minorities, women, and other socially and economically disadvantaged individuals, commensurate with local availability.

(n) FINANCIAL RECORDS.—The financial records of the Trust shall be available for inspection by the Secretary, the Inspector General of the Department of the Interior, and the Comptroller General at any time and shall be audited by a reputable firm of certified public accountants not less frequently than once each year. Such audit shall be made available to the Secretary and the Congress. The Trust shall be subject to the provisions of the Government Corporation Control Act (31 U.S.C. 9109 et seq.), including the budget and credit provisions, except that the Trust shall submit its budget through and in consultation with the Secretary.

(o) LEASING.—In managing and leasing the properties transferred to it, the Trust should consider the extent to which prospective tenants maximize the contribution to the implementation of the General Management Plan and to the generation of revenues to offset costs of the Presidio. If the Trust has difficulty securing a tenant for a property under its control, it may enter into negotiation with a prospective tenant whose proposed use may be inconsistent with the approved General Management Plan. The Trust may not enter into a lease which is inconsistent with the approved General Management Plan unless the Secretary makes a finding that the proposed lease will not have a detrimental effect on the natural, historical, scenic and recreational values for which the Golden Gate National Recreation Area was established. For major leasing actions, the Trust shall submit the proposed lease to the Secretary of the Interior or his designee for a period of 10 working days for his review of the lease for consistency with the General Management Plan. Before executing the lease, the Trust shall consider issues of consistency raised by the Secretary or his designee.

(p) APPLICATION OF OTHER LAWS.—(1) All general penal statutes relating to the larceny, embezzlement, or conversion of public moneys or property of the United States shall apply to the moneys and property of the Trust.

(2) With respect to the public or Federal contracts for the acquisition of goods and services, the Trust shall be exempt from the following laws and attendant regulations:

(A) The Federal Property and Administrative Services Act (40 U.S.C. 471 et seq. and 41 U.S.C. 251–260).

(B) The Office of Federal Procurement Policy (41 U.S.C. 401 through 424).

(C) Section 111 of the Act of June 30, 1949 (40 U.S.C. 759).

(D) The Contract Disputes Act of 1978 (41 U.S.C. 601–612).

(q) GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION.—The Trust shall maintain liaison with the Golden Gate National Recreation Area Advisory Commission in matters relating to the General Management Plan, and shall meet with the Commission at least annually.

(r) REVERSION.—In the event of failure or default, all interests and assets of the Trust shall revert to the United States to be administered by the Secretary.

(s) REPORT.—The Trust shall transmit to the Secretary and the Congress, annually each January, a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes, in general terms, the Trust's goals for the current fiscal year. The portion of the report containing the audited financial statement may be submitted at a later date, but no later than the first day of March of such year.

(t) AUTHORIZATION OF APPROPRIATIONS FOR PRESIDIO.—For purposes of the Presidio, including the Presidio Trust, there is authorized to be appropriated to the Secretary such sums as may be necessary, but the aggregate of funds appropriated for purposes of the Presidio (excluding the Presidio Trust) under this subsection and

VOL 140 PT 16 AG 12 — 18 1994 UMI

under this Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb) may not exceed $25,000,000 in any one fiscal year. Funds appropriated under this Act (other than funds appropriated for operations) remain available until expended.

(u) SEPARABILITY OF PROVISIONS.—If any provisions of this Act or the application thereof to any body, agency, situation, or circumstance is held invalid, the remainder of the Act and the application of such provision to other bodies, agencies, situations, or circumstances shall not be affected thereby.

(v) The provisions of the Act of March 3, 1931 (40 U.S.C. 276a et seq.; commonly known as the Davis-Bacon Act), and the provisions of the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), shall apply to the Corporation. All laborers and mechanics employed on the construction, rehabilitation, reconstruction, alteration, or repair of projects funded in whole or in part by the Corporation and projects financed in whole or in part by loans, grants, loan guarantees, or any other assistance by the Corporation shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a et seq.; commonly known as the Davis-Bacon Act). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

The CHAIRMAN. No amendment directly or indirectly changing section 3(h)(9), section 3(h)(12), section 3(h)(13) or section 3(j) of the substitute, as modified, is in order.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 5, line 24, strike "The" and all that follows through page 6, line 2.

Page 26, Subsection 3(v), strike the word "Corporation" wherever it appears in the subsection and insert in lieu thereof the word "Trust".

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The Chairman, is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, I shared this amendment with the minority, and those interested in the bill. This amendment strikes authority of the Secretary to negotiate Federal agency housing for various employees of an agency engaged in activities or programs of the presidio. The amendment retains the two specific references which provides authority for housing for the Department of Defense, and for the Federal Energy Management Agency, and for the Red Cross, so there are other provisions in the bill that adequately meet the needs of housing. The concern here is that without this amendment it could end up resulting in a significant amount of housing resources used for other Federal employees. As justifiable as some may think that is, I have very significant concerns about that and so seek to eliminate that particular authority, and furthermore the amendment deals with a technical change when we change the management entity, the Public Benefit Corporation, to a trust. We left the word "corporation," so this changes that particular phrase and is clearly technical in nature.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman from Minnesota [Mr. VENTO] yielding to me.

Mr. Chairman, we have looked at the amendment, we have no problem with it, and we accept it on this side.

Mr. VENTO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ALLARD

Mr. ALLARD. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. ALLARD: Page 26, strike line 3 through 14 and insert the following:

"(t) AUTHORIZATION OF APPROPRIATIONS FOR PRESIDO.—(1) For development of the recreation area within the Presidio as is necessary to meet the essential administrative and resource protection needs of Golden Gate National Recreation Area, there is authorized to be appropriated an amount not to exceed the development ceiling authorized in section 6 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes," approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb).

"(2) For management of lands and facilities within the Presidio, there is authorized to be appropriated $25,000,000 for fiscal year 1995. For each fiscal year thereafter, funds authorized to be appropriated to the Secretary for management of visitor use programs and development of visitor use facilities at the Presidio shall be expanded in the ratio of $1 of Federal funds for each $1 of funds contributed by State, city, and other non-Federal sources.

"(3) Except as provided in section 3(h)12 of this Act, no funds may be appropriated for operation or development of facilities within the Presidio which are not directly related to the administration of Golden Gate National Recreation Area or general public use programs.".

Mr. ALLARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. VENTO. Mr. Chairman, I reserve all points of order against the amendment.

Mr. ALLARD. Mr. Chairman, my amendment that is before us has several goals that I would like to go over with the Members of the House.

This amendment will reduce the cost of implementing the Presidio plan for both the taxpayer and the National Park Service budget. It will cut the National Park Service cost by $200 million to $300 million over the 15-year life of the plan. This amendment asks for a 50–50 split between the Federal Government and the local and State government for visitor use programs, operations and the development of a visitor use facility at the Presidio. It ensures State and local participation in the funding of the visitors services. It precludes the Federal Government from subsidizing the Presidio Global Center for Social, Cultural, Environmental Awareness.

Mr. Chairman, the impact of H.R. 3433 on the Park Service will be staggering. The annual cost of the Presidio is greater than the combined total annual cost of all 30 new parks established by Congress since 1980. The funding allocated to the Presidio in fiscal year 1995, $25 million, is greater than the total increase in the operational funding provided to all other 367 areas managed by the National Park Service. The Park Service already faces an enormous backlog of 37 years for construction, 25 years for land acquisition, and $400 million for park operations.

Now cost sharing is common at other national parks, and I would like to share a few examples:

The State parks within the Federal parks like Indiana Dunes and the Assateague in Maryland, the State pays 100 percent of all costs.

The Golden Gate National Recreation Area, which passed last year, the land acquisition of the Flagler property in this area is a 50–50 split between the Federal and non-Federal source.

The Jefferson Arch, passed last Congress, lands were added to the park on the other side of the river in Illinois. The State of Illinois pays a portion of land acquisition, at least 25 percent of the development costs.

The Everglades in Florida, passed in the 101st Congress, in the State of Florida is to contribute 50 percent of the costs for that land acquisition.

Congress required the State to fully fund acquisition of such parks such as Shenandoah, the Great Smoky Mountains, and Mammoth Caves, and in this case the States paid 100 percent of the costs.

If we look at some of the broad legislation, such as the land and water conservation fund, they require a Federal-State match, and it is a cost sharing program using a 50–50 match.

I would like to look a little bit at who is using the park.

□ 1550

The Presidio gets an estimated number of 3.4 million visitors a year. As detailed in the NPS environmental impact statement on the Presidio, visitor use of the Presidio is almost exclusively local. According to the National Park Service environmental impact statement, the tourists that are nonlocal usually come visit the northern and western segments of the Presidio along the 49 mile scenic drive, which includes Fort Point National Historic Site that already has a $300,000 annual budget. The EIS states, "Many people stop for a short time, and their focus is the Golden Gate Bridge and the bay, not the Presido." Despite the enormous costs of the Presidio, it ranks only 17th in visitation of national park areas.

So who are the beneficiaries? Well, according to the National Park Service environmental impact statement, conversion of the Presidio to a national park area would have a positive cumulative effect on the local and regional economy. There will be positive effects on employment opportunities, income, and local businesses and tax revenues.

Let us look at jobs and payroll. By the year 2010, more than 5,400 jobs would be created and the annual payroll would increase by $57 million. Total employment, construction, and other employment in the city would increase by 9,100 jobs, and in the region by 12,020 jobs. Total earnings in the city would increase by somewhere around $281 million, and in the region by $411 million. There would be an increase in sales and tax revenues.

The city of San Francisco would generate revenues from a number of sources. It will make over $4 million a year in taxes, property, sales, business, and hotel, by the year 2000. Yet H.R. 3433 has no requirement that the city contribute anything to the cost of taking care of the Presidio.

Mr. VENTO. Mr. Chairman, I withdraw my point of order.

Mr. Chairman, I rise in strong opposition to the amendment. I would explain to my colleague the amendment or line numbers or page numbers are different, and that is the basis. Unless I have the amendments here, I will reserve points of order.

Mr. Chairman, I would say I rise in opposition to the amendment. This really takes us back to 22 years ago.

The CHAIRMAN. The Chair would like to make sure it is clear.

Mr. VENTO. Mr. Chairman, I was saying I will reserve points of order for the benefit of my colleagues, unless I have current copies of the amendment. This amendment is offered on page 26. The amendment they shared with me was page 23, line 10. This gentleman has withdrawn his point of order.

The CHAIRMAN. The gentleman's reservation is not to this amendment.

Mr. VENTO. Mr. Chairman, I have been recognized in opposition to the amendment.

Mr. ALLARD. Mr. Chairman, if the gentleman will yield, I believe we have provided the current amendment, and if Members do not have it on that side, we will be glad to pass it over.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment. With the right page numbers or the wrong page numbers, it is the wrong amendment at this time.

Mr. Chairman, this amendment takes us back to 22 years ago, to the development ceiling which was appropriate, I guess, then for he GGNRA. This would vitiate the effect of this particular bill. This would undercut and negate the purposes of the bill that we have before us. It would limit the development of the area to $48 million. It would limit the annual appropriation overall to $25 million for the appropriation and require matching funds. We do not limit operating funds in any national park or require matching funds on a one-to-one match.

Mr. Chairman, the assumption that we are making in the bill is that the State, the city government, the nonprofit sector, that the private philanthropic sector, will in fact participate significantly in the development and other activities for this park.

But, nevertheless, this amendment restricts funds appropriated for the operation and development of facilities, those directly related to the administration of the GGNRA or public use programs. That would in essence mean that the efforts of the Presidio Trust, the public benefit corporation that is being moved forward here, could not use any of the leverage or dollars that are anticipated to be appropriated for them to in fact accomplish their purpose. This is, as I say, again, negating the effect of having a public benefit corporation.

Now, the fact of the matter is that the public-private partnership cannot go forth unless we provide the resources and the flexibility for them to in fact invest and take the actions that are necessary to take down the buildings that are nondesirable, to keep and repair the buildings that are necessary, and will be leasable, and over half of which already has been leased to the State of California and to the 6th Army. This would in essence stop that process.

In addition, it would unnecessarily tie the hands of the Trust from bringing the facilities up to code and to standards that would assure their being leased and reducing to the cost to the Federal Government of operating the Presidio.

Further, it is patently unfair to tie the Presidio's operations to a development ceiling that was established over 20 years ago for a much smaller park unit that does not include the Presidio's nearly 1,500 acres and nearly 900 buildings.

Finally I would note that the bill as amended already places a dollar cap on the trust borrowing authority. That was by virtue of the action of the Committee on Ways and Means. It certainly is a development cap that is much different than the cap that is being proposed here.

Mr. Chairman, it is just this type of amendment which I think has resulted in actually having the Federal Government spend more money. We are asking for a private-public partnership. But the first thing that happens is that Members get up on the floor and they want to renege. They want to renege on the ability of the national government to respond to or engage the private sector.

Here you have a 5-year plan that was put forth. For 5 years, the National Park Service has been planning in good faith with the city of San Francisco, with the other entities that are interested, and with the private sector. And what this does is throw out this plan and start over with some idea, and I think a flawed idea, that is being presented on this floor in order to change how we are going to run the park.

They want to have it both ways. If you want to engage in a public-private partnership, then you have to do so in good faith. You cannot at the first hand abandon that particular process before it even has a chance to be tried. We have plenty of controls, plenty of accountability. This amendment is harmful and deleterious. I urge Members to defeat it.

Mr. Chairman, I rise in opposition to the Allard amendments to H.R. 3433. The amendments strike section 3(t) of the bill, which is the authorization of appropriations for the Presidio in its entirety and inserts: No. 1, limits on development of recreation area to $48 million; No. 2, limits annual appropriation of $25 million, beginning in fiscal year 1996, to $1 of Federal funds for each $1 of funds contributed by State, city and other non-Federal sources, and No. 3, restricts funds appropriated for operation or development of facilities to those directly related to administration of GGNRA or general public use programs.

Extensive studies have been done identifying rehab costs for each structure and area of the Presidio. To arbitrarily limit the amount of funding associated with rehab or the Presidio would negate the ability of the NPS and trust to achieve the goals and very purpose of the act. In addition, it would unnecessarily tie the hands of the trust from bringing the facilities up to code and standards that would assure their being leased and reducing the cost to the Federal Government of operating the Presidio. Further, it is patently unfair to the Presidio operations to a development ceiling that was established over 20 years ago for a much smaller park unit that did not include the Presidio's 1,400 acres and 870 buildings. Finally, I would note that the act as amended already places a dollar cap on the trust's borrowing authority.

With regards to the second amendment, the amount of funds expended by a local, State,

VOL 140 PT 16 AG 12 — 18 1994 UMI

or other non-Federal source on a unit of the National Park System cannot be used as a measuring stick as to how much Federal funds should be appropriated to assure the continued operation of that unit. Furthermore, there is no assurance that a local or State government will provide any funds to a unit of the National Park System. In this case, if the city of San Francisco or the State of California provided no funds in any given year to the Presidio then no Federal appropriation could be expended for visitor use programs or visitor use facilities.

Finally, I would point out that the act already provides that all activities and management of the Presidio must be consistent with the establishment of the GGNRA, the general management plan of the GGNRA, and the general management plan amendments for the Presidio. Therefore, the third amendment restricting the use of funds is unnecessary and appears to be an attempt to thwart the management of the Presidio.

Mr. HANSEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I yield to my friend, the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this amendment is just merely an attempt to try and bring some common sense and some local participation in this park. It is a park that is mainly used by the local inhabitants of the area.

I would like to share with the House some additional figures that I have on the cost-per-visitor to this park. I would like it to do some comparisons.

The majority report states the cost of the Presidio is similar to that of other parks. However, when considering the actual costs of operating the Presidio, the number of visitors each year, we see the Presidio is not similar to costs in our great national parks. Rather, it is more than five times the cost.

The Yosemite figures out on a per visitor basis of $4.47; the Grand Canyon, $2.67; Gettysburg, $2.67; Cape Cod, $.74; Rocky Mountain National Park, $2.53; and yet the Presidio is figured out at $7.35 per visitor.

The costs of the Presidio are driven up because the Federal Government is having to subsidize all the tenants at the Presidio which have nothing to do with the mission of the National Park Service.

The cost of construction of the Presidio is $600 million. The cost of operations is $40 million a year. And over 15 years, this is an additional $600 million, bringing the total cost to $1.2 billion.

The cost of operating the park today is $25 million, which has already been provided for in the next budget year. Today the National Park Service is managing 150 acres of the park with the most intensive visitor use for only $700,000. No justification has been provided to this body suggesting that the cost of managing visitor use on the other less-visited portions of the Presidio will be five times more expensive.

Finally, this amendment precludes the secretary from subsidizing tenants at the Presidio. This is probably the real reason that costs are so high. Although the National Park Service budgets are so obscure by smoke and mirrors, it is difficult to be certain.

I believe that this is a common sense approach. I do not believe that we are asking too much by asking San Francisco to be a participant in a park that is used by local residents.

□ 1600

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Allard amendment. Before talking about the contribution of the city of San Francisco, I want to point out that the Golden Gate National Recreation Area, of which the Presidio will be a part, gets visited by 20 million people per year, that is more than Yosemite, Yellowstone, and Grand Canyon combined, combined, and that the cost per visit is $2 per visit for the GGNRA.

Mr. ALLARD. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Colorado.

Mr. ALLARD. If we talk just about visitation, the gentlewoman's figures include the Golden Gate Bridge Park and all the parks in that area. But if we talk just about the park itself, the Presidio Park, we are talking about 3.4 million.

Ms. PELOSI. It becomes a park on October 1.

Mr. ALLARD. That Presidio area, that is what our visitation is right now, 3.4 million.

Ms. PELOSI. I appreciate the gentleman's point, but we are talking about a park that will not come into existence until October 1 and the park facility, of which it is a part, receives that many visitors now. We anticipate that with the designation of park and all of the amenities and interpretations that the Park Service will be providing at that time, that the visitations will increase.

Mr. ALLARD. I thank the gentlewoman for yielding. I just wanted to clarify for the record that we actually have 3.4 million visitors to the Presidio area itself.

Ms. PELOSI. Again, I call to my colleague's attention that the gentleman is talking about what is happening now. I am, too, in terms of the GGNRA. When the Presidio becomes a national park, the visitation for both the GGNRA and its component, the Presidio, will even be greater than three times Yosemite, Yellowstone, and Grand Canyon. It is greater now but it will even be greater than those remarkable and incredible monuments in our country, of which we are all very proud.

I would like to get to the point that first of all I would like to rise in opposition to the Allard amendment. It would, in fact, gut our legislation. It would undermine our attempts to have maximum use for the park, a magnificent park with minimum exposure and cost to the taxpayer. That is our goal, our responsibility for the taxpayers, what drives this. This is the most cost effective way to proceed. We have studied 19 models. We have considered every possible option.

We are very proud of the proposal that we are putting forth. It would be seriously undermined by the Allard amendment.

The gentleman from Colorado [Mr. ALLARD] mentioned in his comments, what is the contribution of the city. Mr. Chairman, I would like to place in the RECORD a letter from the mayor of San Francisco to the gentleman from Minnesota [Mr. VENTO], chair of the subcommittee, spelling out the city's commitment. It is a reiteration of what the mayor presented to the House subcommittee in hearings as well as the Senate subcommittee.

It talks about utility services and improvements, the contributions from the city are pages long. Time would prevent me from reading all of it, but it talks about the city's role for operation and maintenance of the Presidio's water, electrical, and sewer systems, which could help reduce Presidio's operating costs. It talks about a reclaimed water plan to supply 1 million gallons of treated reclaimed water per day to meet the Presidio's irrigation needs.

It talks about an extension of the Richmond transport project, which we are hoping to do, which would eliminate a sewer out fall at the Presidio's Baker Beach. It goes on to the cost savings involved in that. Talks about transit and traffic improvements, community transit planning process for capital and operational improvements will incorporate the needs of the Presidio. The city and county will pursue potential funding sources for increased capital, capital and operating costs for the Presidio. And longer range plans to extend bus, light rail and water taxi service to the Presidio as described in the draft Presidio plan.

Talks about public safety, services, the city and county will provide backup assistance from our police department, fire department and emergency medical services, technical assistance and services for the Presidio, which go into great detail.

I urge our colleagues who are concerned about this, the city's contribution, to make reference to the mayor's letter. The city has a strong commitment to do its share, but the recognition is that this is a national park and, therefore, we have a national responsibility as spelled out by the law.

Mr. Chairman, I include for the RECORD the letter to which I referred.

OFFICE OF THE MAYOR,
San Francisco, CA, March 24, 1994.

Hon. BRUCE F. VENTO,
House of Representatives,
Washington, DC

DEAR CONGRESSMAN VENTO, Thank you for your recent letter on the conversion of the Presidio to National Park Service management. On behalf of the people of the City and County of San Francisco I want to thank you for your ongoing efforts to preserve the Presidio of San Francisco. I truly believe that the successful transformation of the Presidio from a military installation to a national park will be a project that will be appreciated by generations to come.

I also want to express my strong support for H.R. 3433, the legislation that would create a public benefit corporation at the Presidio. I believe that this type of creative legislation represents the type of partnership between the public and private sector that will be necessary to make this project work.

As I stated in my testimony to the Golden Gate National Recreation Area Advisory Commission on December 11, the City and County of San Francisco's commitment to the transformation of the Presidio to a National Park is very strong. City officials and department staff have devoted hundreds of hours over the past three and a half years to help facilitate the smooth conversion of the Presidio and the planning for its future management.

We are very aware of the importance of reducing costs and generating revenues at the Presidio. We understand the difficult economic climate faced by all levels of government, as San Francisco confronts continuing budget shortfalls and the need to make painful cuts in City services. Despite our current economic difficulties, the City and County is committed to providing a range of critical services and valuable technical assistance to the Presidio which will help assure its successful conversion.

Some of these contributions to the Presidio by the City and County of San Francisco are described below.

UTILITY SERVICES AND IMPROVEMENTS

The San Francisco Public Utilities Commission and Department of Public Works are currently assisting the Park Service to explore potential roles for the City in operation and maintenance of the Presidio's water, electrical and sewer systems which could help reduce Presidio operating costs. One possibility would be for the City to assume responsibilities for specific aspects of these utility systems and help implement the ambitious program of conservation and resource management outlined in the Plan, which includes many conservation programs already in place in the City.

The City is currently preparing a Reclaimed Water Plan which includes spending approximately $25 million to supply 1 million gallons of treated reclaimed water per day to meet the Presidio's irrigation needs. Serving the Presidio has required a significant increase in the capacity of the City's planned reclaimed water treatment plant and delivery system to a total of 14 million gallons in flow capacity. The reclaimed water will reduce the Presidio's potable water demand and treatment and distribution costs and enable restoration of groundwater levels and surface water flows in Lobos Creek. The $25 million to serve the Presidio represents over 12% of the total City project cost, which is anticipated to be funded from revenue bonds and State loans to be repaid through local sewer service and water rates.

While the rate structure for reclaimed water has not yet been established, it will be set at or below that of potable water. Since the cost of producing reclaimed water will exceed that of potable water, and the Presidio will be consuming primarily reclaimed water, this reclaimed water will be provided at a significant discount.

In addition to the reclaimed water investment, the City is currently constructing an extension to its Richmond Transport project which will eliminate a sewer outfall at the Presidio's Baker Beach. The extension, which added $2.2 million to the cost of designing and constructing the City's Richmond Transport project, will completely eliminate the possibility of wet weather sewer overflows at the beach, which previously occurred roughly 40 times per year, protecting the health of the public and the natural environment. As with the reclaimed water, these expenditures were funded with bonds repaid from local sewer service charges. Additional City investments made on Presidio land as part of the project include $300,000 for revegetation and a restoration study of Lobos Creek and $120,000 for new restroom facilities at the beach.

TRANSIT AND TRAFFIC IMPROVEMENTS

The Draft Presidio Plan and EIS rely on a number of extensions and realignments of existing San Francisco public transit lines to increase service to the Presidio and reduce the impacts of dramatic increases in Presidio visitors. We will incorporate these recommendations in the San Francisco's MUNI transit planning process for capital and operational improvements.

The capital costs of the recommended service extensions of MUNI's 41 and 45 Union lines from the Presidio boundary to the Main Post alone are estimated at $1.7 million. MUNI estimates its increased operating costs for extending service on the various lines serving the Presidio to be $300,000 annually. The City and County will pursue potential funding sources for these increased capital and operating costs so these Presidio transit service improvements can be made.

The Park Service and their consultants have concluded that increased express transit service between the Presidio and downtown is also needed to help attract Presidio tenants. A number of options to provide such service are being studied, including expanding MUNI express service. The annual operating cost of such additional service for the county's MUNI transit service would be approximately 41 million. A large portion of these operating costs are subsidized by the City's general fund.

Longer-range plans to extend bus, light-rail and water taxi service to the Presidio as described in the Draft Presidio Plan would require millions in capital costs and ongoing operating subsidies from MUNI and other operators. The City and County will continue to coordinate transportation planning with the Park Service to realize plans for transit improvements to serve future Presidio visitors.

Traffic improvements to City streets and intersections near the Presidio to accommodate the traffic increases projected in the Plan EIS will cost the City and County an additional $2.5 million, according to estimates by the Park Service.

PUBLIC SAFETY SERVICES

The City and County will be providing backup assistance from our Police Department, Fire Department and Emergency Medical services staff to the Presidio's public safety operations. We are currently exploring the potential for lease of Presidio facilities by the City's police and fire department. This arrangement could help preserve and upgrade historic buildings while providing Park Service fire and law enforcement personnel with assistance from specially trained City staff and their equipment.

TECHNICAL ASSISTANCE AND SERVICES

The City will continue to provide substantial technical assistance from experts in a wide range of City departments to Park Service staff in reviewing infrastructure requirements, overseeing toxic remediation efforts, planning transportation improvements, operating facilities and utility systems, projecting staffing requirements, meeting environmental requirements, and numerous other areas. Over the past three years this collaboration has required an average of one meeting each month by the 85 designated department representatives involved, at a cost of over $300,000 in senior staff time. This collaboration is expected to extend well into the future given the multitude of operational and planning decision to be made and coordinated between the two agencies.

OTHER CITY AND COUNTY SERVICES

In addition to these services of specific value to the National Park Service management of the Presidio, the Presidio's residents, employees and visitors will benefit from a whole range of City and County services which increase the attractiveness of the Presidio as a place to live, work and visit. Among City services provided to residents are public schools, parks and recreation facilities, libraries and public health services. Among services provided to employees are child care services, transit service and City street improvements and employment programs. Among services provided to visitors are convention facilities and services, the San Francisco International Airport, and an unparalleled collection of publicly maintained tourist attractions which make San Francisco a favorite destination for national and international travelers. Because the Army provided many of these services to Presidio employees and residents, and generated far less visitor traffic than is projected under Park Service management, use of these kinds of City and County services and facilities by Presidio residents, employees and visitors is likely to be significantly higher in the future.

I look forward to working with Congresswoman Pelosi and Park Service representatives to identify opportunities for revenue growth to help support both Park Service and City capital and operational expenses related to the Presidio. Although setting aside local revenues for Presidio services, as you suggested, is constrained by both State law and the City Charter, I am willing to assure City services and improvements to serve the Presidio are a priority in my budget proposals. We will also examine the potential for the City to provide financing assistance.

In closing, I want to reiterate the City's commitment to the transfer of the Presidio to become part of the Golden Gate National Recreation Area, completing the late Philip Burton's vision for a great national park at the Golden Gate. The 1972 federal legislation has helped to preserve for public use some of the most spectacular historic and natural areas in the Bay Area. The City has been a partner with GGNRA in realizing the park's potential since the park's inception. The City recently purchased a key parcel linking

VOL 140 PT 16 AG 12 — 18 1994 UMI

Ocean Beach and Land's End with over $3 million dollars in open space acquisition and sewer project funds for transfer to GGNRA. This land donation was the latest of many City contributions to GGNRA's necklace of waterfront open space which include much of Ocean Beach and Land's End.

We know you share our strong belief that the Presidio's extraordinary historical, natural and scenic resources, coupled with its accessible location, guarantee that it will be a national Park of truly international significance. Its preservation and successful conversion to civilian use in a project which will benefit all Americans. Please let us know if we can be of any further assistance to you in this important effort. Thank you again for your support.

Sincerely,

FRANK M. JORDAN,
Mayor.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would point out that there is no requirement on any national park for a matching contribution in terms of operating funds. This is a completely unprecedented addition that would be placed on this unit.

Furthermore, the Presidio itself, there is an expectation with regards to operation and maintenance that the projected costs that are in the materials that have been presented would be expected to decrease, down to 15 million over a period of 20 years. So that the actual cost would actually go down.

So I think it is very important to recognize the commitments that have been made. But to mandate them would be completely unprecedented. I think we expected the contributions to be made, but we do not mandate this for any other park. It may be a new innovative thing. We ought to do it for each park. There is no reason to treat this particular park, even today the dollars that are going to GGNRA, the park portion that is already in the park system would have this applied to it.

So I thank the gentlewoman for yielding and for permitting me to make that point.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment and I rise in strong opposition to the amendment. I will explain myself a little bit.

I came here on the House floor wanting to fight against the Presidio proceedings. I will explain why. I look at most of the Members that are supporting this, and I think the gentlewoman from California [Ms. PELOSI], who I have worked with and have immense respect for, has gotten to the tail end of the California desert plan, which most of the Members supporting this thing totally disagree with property rights and some of the other issues that we fought on the California desert plan.

I look at base closures and I know that almost everyone in this room, Mr. Chairman, in base closures fought for their bases. That BRAC delegation looked at the value of closing a base and saving taxpayer dollars.

I also know that this body has not fully funded BRAC, has become an immense burden on our Armed Forces, which causes the existing money that they have in the defense bill to be dwindled even more. I have talked to the gentlewoman from California [Ms. PELOSI].

I would like to enter into a dialog with the gentlewoman, if she would. The reason I am for and against this, I have not made up my mind on how I am going to vote on this blasted thing.

On one side of me, I know that the parks are going to have problems because of the funding, but yet I am told there are more people going into the Presidio than any other park. It looks like it ought to be able to pay for itself. Yet I know that we are going to tear down a lot of those buildings. That costs money. But yet the gentlewoman has told me, and I would like her to assure me, that this money is a loan and not a grant and will be repaid.

I would like the gentlewoman to speak to that.

Ms. PELOSI. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding. I would like to back up to some of his previous remarks.

First of all, as the gentleman knows, the Army has been a good neighbor to the San Francisco Bay area, to California for over 100 years. It was with great dismay that we learned that the Army would be closing the Presidio. My colleague, Senator BOXER, and I, when she was a congresswoman, fought very hard to say to the Army, please stay, "it would be more cost effective if you stay than if you leave." As a matter of fact, not one member of the BRAC commission or the base realignment and closing commission came to the Presidio, not one staff person walked the grounds.

We think that if they had, they might have seen that the teaching hospital there and the mission of the 6th Army that was there, they might have kept the Presidio open and I would have been pleased with that. The mission was not eliminated but reduced at the Presidio, so the Army will be the major tenant, occupying 30 percent of the Presidio.

That leaves the Park Service two thirds, 70 percent of the Presidio to maintain.

So what we have come up with is, I think, a very cost effective way to protect the taxpayer. We have that interest as well as the gentleman has that interest. We have our credibility on the line on this.

We have come up with a way where the Presidio Trust will be formed. It will not receive grants from the Federal Government. It will have the borrowing authority. The money borrowed will be used to rehab or take down facilities in order to rent these properties. It will produce a revenue stream which will, in turn, repay the loans and also reduce the cost of the Presidio to the Federal Government, because on the ongoing cost of maintaining the grounds. And that would be reduced over time.

Mr. CUNNINGHAM. Mr. Chairman, once the loan is paid off, would the dollars from the residents and constituents coming into the park be used to pay for the park itself once the loan is paid off?

Ms. PELOSI. Mr. Chairman, if the gentleman will continue to yield, according to our plan, as the loans are paid off, then the operating cost of the Presidio would then be reduced as well by the funds that we will have coming in. But once we pay off our loans, we are in a whole other arena. That is about 10, 12, 13 years from now.

□ 1610

At that time, all of the costs to the taxpayer will be reduced, even beyond—we see the Presidio becoming a park as drastically reducing the cost to the taxpayer immediately, but once we pay off the loans and we have a revenue stream coming in and we pay back the loans, then the costs will even go down further than they are now.

Mr. CUNNINGHAM. Does the gentlewoman have an estimate of when that loan will be repaid, based on the revenue coming into the park?

Ms. PELOSI. If the gentleman will continue to yield, the fact is the more authority that the Congress—we will be able to do this most expeditiously to the extent that Congress will enable us to. That is why this legislation is so important. To the extent that we are able to invest in rehab and tearing down of properties and bringing tenants on and producing a revenue stream, then we can reduce it faster. I would imagine that in 15 years we will be at that point.

Mr. CUNNINGHAM. Reclaiming my time, I still have not made up my mind on the vote on this thing, but I think we need to support national parks. However, I also look, as I said, at the California desert plan, in which the extremes were used and extreme arguments, and what little bit of my negative feeling carries over to this thing because of what we went through in the California desert plan.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is important that the membership focus on what is

taking place here today. We have an opportunity with the passage of this legislation to react to a situation that is forced upon us already because of current law.

That is a decision made by the Congress of the United States in 1972 that, should the Army vacate the Presidio, it would become part of the national park system of this country. It is clearly, as people on both sides of the aisle have said, worthy of that designation, and deserves that designation. That is going to happen. The Army has concluded its negotiations. It is reserving a small portion for itself, and the rest of it is to be turned over to the park system.

Anticipating that, Mr. Chairman, for the last 5 years—for the last 5 years the Park Service has undertaken a study to determine how they can absorb the Presidio into the system. A private and public effort has been made to see how we could do that in the least costly fashion.

The principles that are being used here are to minimize the public exposure and maximize the private exposure for the renovation and the conversion of the Presidio from an Army base to a park and to some commercial development that will support the park on an ongoing basis. That has involved the leading citizens of San Francisco, leaders in the financial community, banks, insurance companies, and others that have lent their time, lent their staffs, their computers, to try to figure out how to do this.

What they have come up with is now what the gentlewoman from California [Ms. PELOSI] has presented to our committee, passed by our committee, where we had this same amendment and some of the other amendments, all of which were determined by the Park Service to be more expensive than the way the committee and the people of San Francisco, the Park Service, and the private sector determined this should be done.

Mr. Chairman, that is the choice, to pass the committee bill and transfer this property and utilize this property as a national park in the most cost-efficient way possible. As Ms. PELOSI just said in response to the gentleman from California [Mr. CUNNINGHAM], the point here is to borrow some money to do some up-front venture capitalism, some infrastructure work.

We have many, many people who are interested in being tenants in that limited part of the park where we are going to have that kind of development, because of the preexistence of these buildings and the opportunity to help pay for this park. Then, Mr. Chairman, we will use the receipts from that development to help defray the cost of this park.

If we choose any of the other alternatives that will be presented here today, either in this amendment or in the other amendments, they all become more expensive, because the city of San Francisco is not going to take this as a city park, because it is a national park.

If the National Park System gets this property without this authority, we will start simply cocooning these buildings, boarding up these buildings, and they will start to deteriorate, and the expenses will go on with no visible means of supporting those expenses. Mr. Speaker, in that case we will lose the opportunity to form a public and a private venture to support the rest of the park system for the utilization and the enjoyment of millions of Americans and citizens from around the world.

The gentleman talks about the people who visit The Presidio. I dare say that most people do not believe that they have public access to the Presidio today if they are not on official Army business. Most people do not realize that there is a great ability of the public to utilize that Army base even today, as an Army base. They do not go there. They do not go there because there is a guardhouse and a sign and restricted hours of use, the whole thing. Let us not compare it as an Army base to how it is going to be as a park.

Finally, Mr. Chairman, let me say on this notion of local contribution, the city of San Francisco is going to be contributing tens of millions of dollars, some in one-time cases for infrastructure work in response to the Presidio becoming a park, and millions of dollars on an ongoing basis to provide the services, police, fire protection, health, all of those kinds of services, that we do not ask Estes Park to provide to Colorado. No, we provide fire protection for the people living in Estes Park, outside, as part of the national parks.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 4 additional minutes.)

Mr. MILLER of California. The point is what the gentleman says he wants to be done, no other park in the country is required to have that burden placed upon them. We do not ask the citizens of New York to cost-share the cost of the Statue of Liberty. This is a national park. It happens to be an urban national park. The people in urban centers ought to be able to enjoy that experience, especially when they have an asset the caliber of that.

The point, however, is this: That I appreciate that there are a lot of good ideas floating around on the floor today with some of the amendments, but none of them make this a less costly venture for the Federal taxpayer. It makes it a different venture, a different kind of venture. None of them make it less expensive for the taxpayer than the committee bill.

This was not chosen by me as chairman of this committee. This effort was not chosen by Ms. PELOSI or the gentleman from Minnesota, Mr. VENTO, or anyone else. This was chosen by the Park Service, along with a public panel, to make a determination about what was the best and the most effective way to get this park up and running, and to be able to sustain it on a long-term basis.

The way that that could be done, Mr. Chairman, was with this plan to try to maximize the private participation to the extent that is consistent with this designation as a national park, and the values that the national park designation brings to this park and to the expectations of the citizens of this country.

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Chairman, I would just like to clarify for the record that the city of Estes Park is outside of the Rocky Mountain National Park. The Rocky Mountain National Park provides their services. The Estes Park city provides their services as far as sewer and water and police protection.

It just seems to me that if there is a concern about the cost of government and what is happening in that area, we ought to just privatize it. The Burger King, let them own the property and pay the taxes. It benefits the local school districts, it helps the local taxes.

Mr. MILLER of California. Reclaiming my time, the whole point is, ordinarily that would be fine. The fact is we are looking like a smart landlord. People always come up to you in your townhall business and say, "Why don't you run it like a business?"

We are trying to use those business principles. That is why we asked the business community of San Francisco and people across this country to donate their time, to donate their understanding of real estate, to develop this trust, because the Park Service does not have the capability or the expertise to do this, so we could start thinking smart on behalf of our taxpayers, so we could use the revenues of the Burger King as the landlord in that portion of the park to defray the expenses in the rest of the park, to get these other buildings up to code where necessary, to tear some down that will make part of the park more attractive, to do all of that, to think smart, instead of just thinking, inherit this, inherit this as a burden of the Federal Government.

□ 1620

We have gone out and tried to share this. This is a very, very Republican plan—a very Republican plan, in the context of trying to utilize the business community.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Colorado.

Mr. ALLARD. The Republican plan does not include government ownership of business.

Mr. MILLER of California. If I may reclaim my time, there is no support for a Republican plan that says you are going to sell off the national parks. Let us not put a different burden on the Presidio National Park than we would put on any other park. If the gentleman wants to put it to a debate in Colorado about selling off Rocky Mountain Park, if he wants to let the citizens of Boulder and Estes Park and Denver who enjoy that, and he talks about the fact that they use the park to a great extent, he is right, they do. The citizens of Colorado use it to a greater extent than anyone else.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, the citizens of Utah use the national parks in Utah to a greater extent than do citizens in Colorado and in California use their parks. So let us not use rhetoric to try to denigrate what is taking place here with one of the most incredible assets in this country and a decision that was already made by this Congress to make this a national park.

This amendment should be defeated because it simply guts the ability to incorporate the private sector into the financing and the support of this park. It guts the ability of the Park Service to hold on to the remaining part, and it leaves us with simply a sort of an old military ghost town. That is not what this bill is about and that is not what should be allowed to take place.

All of this borrowing, all of this has to be screened by the Secretary of the Treasury. It has limitations on it because we are trying to encourage the private sector to participate.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. REGULA. Two questions. One, to your knowledge, is there any other park where a portion of the operating cost is paid by another level of government than the Federal Government?

Mr. MILLER of California. There are local communities that contribute to the purchase of land for the park. They sometimes contribute services, but as a condition of that park existing, would we require that contribution, no. But we use those same things throughout the country, where we try to get people to help us.

Mr. REGULA. The second question. The trust arrangement which I think will be a unique arrangement to move the private sector into a position of responsibility here that has not been historically the case. Would that be correct?

Mr. MILLER of California. That is exactly the case. I appreciate the remarks the gentleman made earlier. This is sort of ground-breaking in terms of how the Park Service has developed the park, the involvement of the private sector. We have witnessed as taxpayers who have been taken to the cleaners sometimes because of bad deals the Park Service made on concession contracts and what have you. We are trying to redo that policy. Now we are trying to redo this one, where we can take the best of the private sector and the protection of public ownership for the assets of the park and combine those.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, I think there are going to be three or four amendments here, but let me just say, none of them make it less expensive for the Federal taxpayer to maintain this park, to protect this park, and to open it up to the citizens of this country and to the citizens of the world. The view that is over here of the bridge and the Presidio is one of the most famous views in the entire world. We have an opportunity with a very unique, first time-ever public-private partnership to maintain that for the future generations of this country.

We ought to reject this amendment and the other amendments that will be offered to this bill.

Ms. PELOSI. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentlewoman from California.

Ms. PELOSI. I thank the gentleman for yielding.

Mr. Chairman, one point I want to make in response to the question of the gentleman from Ohio [Mr. REGULA] is that the proposal that we have put forth, we wrote with the Treasury Department in terms of the borrowing power and the rest and signed off on by OMB. Although it is an innovative and fresh approach, public-private cooperation and the rest, it is not in a vacuum, it was with the cooperation of the Treasury Department and OMB that we brought this legislation to the committee.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 30 additional seconds.)

Mr. MILLER of California. Finally, if Members are concerned that somehow San Francisco is getting a free ride, they are welcome to examine the letter from the mayor that outlines millions of dollars that San Francisco is going to have to expend on behalf of the utilization of this park by all of our citizens, all of our constituents, that that is what the city has committed itself to do. We should reject the Allard amendment and reject the other amendments to make this a more expensive effort.

Mr. Chairman, I submit four letters for the RECORD regarding consideration of H.R. 3433, as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
Washington, DC, July 29, 1994.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor; House of Representatives, Washington, DC.

DEAR CHAIRMAN FORD: Thank you for your letter dated July 27, 1994 regarding HR 3433, a bill to provide for the management of the Presidio by the Secretary of the Interior.

As noted in your letter, Section 3(v) of the legislation as reported by the Committee on Natural Resources provides that the Davis-Bacon Act and the Service Contract Act apply to the activities of the Presidio Trust. I recognize that the Committee on Education and Labor has jurisdiction over matters pertaining to the Davis-Bacon Act and the Service Contract Act. I understand that your decision not to seek action on HR 3433 does not waive your right to jurisdiction over section 3(v) of the bill, as reported, nor does it hinder your right to pursue conferees on that section, should a conference committee convene.

I will request that our exchange of letters on this matter be printed in the Congressional Record during the floor consideration of HR 3433.

Thank you for your Committee's cooperation in this matter which will expedite the consideration of this legislation by the House.

Sincerely,

GEORGE MILLER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, July 27, 1994.

Hon. GEORGE MILLER,
Chairman, Committee on Natural Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This week the House of Representatives is scheduled to consider H.R. 3433, a bill to provide for the management of the area known as the Presidio by the Secretary of the Interior. Section 3(v) of the proposed legislation, which was adopted at full Committee markup, provides that the Davis-Bacon Act and the Service Contract Act shall apply to construction contracts at the Presidio which are federally assisted.

The scope of coverage of the Davis-Bacon Act and the Service Contract Act are matters which are within the Rule X Jurisdiction of the Committee on Education and Labor. The Committee, however, has no objection to the language of the amendment of these issues which was adopted at the full Committee markup. Accordingly, the Committee on Education and Labor has no reason to take action with regard to H.R. 3433. Our decision to forego action should not be construed as a waiver of the Committee's Rule X jurisdiction. We would appreciate it if this letter and your response could be printed in the Congressional Record with the debate on H.R. 3433.

With kind regards,
Sincerely,

WILLIAM D. FORD,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, August 18, 1994.

Hon. GEORGE MILLER,
Chair, Committee on Natural Resources, House of Representatives, Washington, DC.

DEAR GEORGE: It is my understanding that H.R. 3433, to provide for the management of the Presidio under the jurisdiction of the Secretary of the Interior, is to be considered by the House in the near future. It is also my understanding that the bill, as reported, contains a provision that affects matters under the jurisdiction of the Committee on Public Works and Transportation and that did not come to our attention until well after the report on the bill was filed.

While we recognize that any claim we have to sequential referral is no longer timely, we are concerned that our jurisdiction regarding this bill be protected. Specifically the bill would in Section 3(h)(4) authorize the Presidio trust to negotiate and enter into leases "without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b)." Pursuant to Rule X, clause 1(p), our Committee enjoys jurisdiction over this provision of law. There may be other provisions in the bill which are also under our jurisdiction.

Therefore we would appreciate your acknowledging our jurisdiction regarding this bill. We also reserve our right to pursue conferees on the bill. Lastly, we request that you include our exchange of correspondence on this matter in the CONGRESSIONAL RECORD during debate on the bill.

Thank you in advance for your cooperation in this matter.

Sincerely yours,

NORMAN Y. MINETA,
Chair, Committee on Public Works and Transportation.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
Washington, DC, August 18, 1994.

Hon. NORMAN Y. MINETA,
Chair, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

DEAR MR. CHAIR: Thank you for your letter regarding consideration of HR 3433, to provide for the management of the Presidio under the jurisdiction of the Secretary of the Interior.

I acknowledge your Committee's jurisdiction over section 3(h)(4) of the bill and any other program of the bill which may be under your jurisdiction. I also recognize your right to pursue conferees on the bill.

I thank you for your cooperation in this matter, and will gladly include our exchange of correspondence in the Record during general debate on the bill.

Sincerely,

GEORGE MILLER,
Chair, Committee on Natural Resources.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise, in opposition to the Allard amendment and in support of H.R. 3433—a bill to provide for efficient and effective management of the Presidio.

Mr. Chairman, the Presidio Army Base in San Francisco is one of our Nation's most significant historic sites. Designated as a National Historic Landmark in 1962, the Presidio holds the distinction of being the oldest continually operating military base in the country.

The base was established by the Spanish in 1776, was later controlled by Mexico, and came under the command of the United States in 1846. It also holds special significance for Americans of Japanese ancestry.

It was at Crissy Field that the U.S. military started the Military Intelligence Service Language School, just prior to our entry into the Second World War.

The Japanese-American instructors and students at the school were to play a crucial role in our ability to fight the war in the Pacific. General McArthur's Chief of Intelligence estimated that their efforts shortened the war by as much as 2 years.

The Presidio trust—established by this legislation—will ensure that the precious natural, cultural, and historic resources at the Presidio are managed in the proper way.

H.R. 3433 will streamline the operation of the Presidio. It will transfer operation of the Presidio from the Park Service to a Public Benefit Corporation and is projected to save the Federal Government millions of dollars.

The Presidio is a national treasure that must be preserved. I urge my colleagues to suppport sound management of the Presidio and support H.R. 3433, and to vote "no" on the Allard amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. ALLARD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ALLARD. Mr. Chairman, I demand a record vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 244, not voting 24, as follows:

[Roll No. 409]

AYES—171

Allard	Canady	Franks (CT)
Andrews (NJ)	Castle	Franks (NJ)
Archer	Clinger	Gallegly
Armey	Coble	Gekas
Bachus (AL)	Collins (GA)	Geren
Baker (CA)	Combest	Gingrich
Baker (LA)	Crane	Goodlatte
Ballenger	Crapo	Goodling
Barcia	DeLay	Goss
Barrett (NE)	Dickey	Grams
Bartlett	Doolittle	Grandy
Bateman	Dornan	Greenwood
Bentley	Dreier	Hall (TX)
Bilirakis	Duncan	Hancock
Blute	Dunn	Hansen
Boehner	Ehlers	Hastert
Bonilla	Emerson	Hayes
Bunning	Everett	Hefley
Burton	Ewing	Herger
Buyer	Fawell	Hobson
Callahan	Fields (TX)	Hoekstra
Calvert	Fish	Hoke
Camp	Fowler	Hunter
Hutchinson	McMillan	Schaefer
Hyde	Meyers	Schiff
Inglis	Mica	Schroeder
Inhofe	Michel	Sensenbrenner
Istook	Miller (FL)	Shaw
Jacobs	Minge	Shays
Johnson (CT)	Molinari	Shuster
Johnson, Sam	Myers	Smith (MI)
Kanjorski	Nussle	Smith (NJ)
Kasich	Orton	Smith (OR)
Kim	Oxley	Smith (TX)
King	Packard	Snowe
Kingston	Paxon	Solomon
Klug	Penny	Spence
Knollenberg	Peterson (MN)	Stearns
Kyl	Petri	Stenholm
Lambert	Pickett	Stump
Lazio	Pombo	Talent
Leach	Portman	Tauzin
Levy	Poshard	Taylor (MS)
Lewis (FL)	Pryce (OH)	Taylor (NC)
Lewis (KY)	Quillen	Thomas (CA)
Lightfoot	Quinn	Thomas (WY)
Linder	Ramstad	Torkildsen
Livingston	Ridge	Upton
Lucas	Roberts	Vucanovich
Machtley	Rogers	Walker
Manzullo	Rohrabacher	Walsh
McCandless	Ros-Lehtinen	Weldon
McCollum	Roth	Wolf
McCrery	Royce	Young (AK)
McHugh	Santorum	Young (FL)
McInnis	Sarpalius	Zeliff
McKeon	Saxton	Zimmer

NOES—244

Abercrombie	Durbin	Kreidler
Ackerman	Edwards (CA)	LaFalce
Andrews (ME)	Edwards (TX)	Lancaster
Andrews (TX)	Engel	LaRocco
Applegate	English	Laughlin
Bacchus (FL)	Eshoo	Lehman
Baesler	Evans	Levin
Barca	Farr	Lewis (CA)
Barlow	Fazio	Lewis (GA)
Barrett (WI)	Fields (LA)	Lipinski
Becerra	Filner	Lloyd
Beilenson	Fingerhut	Long
Bereuter	Flake	Lowey
Berman	Foglietta	Maloney
Bevill	Ford (MI)	Mann
Bilbray	Frank (MA)	Manton
Bishop	Frost	Margolies-Mezvinsky
Boehlert	Furse	Markey
Borski	Gejdenson	Martinez
Boucher	Gibbons	Matsui
Brooks	Gilchrest	Mazzoli
Browder	Gillmor	McCloskey
Brown (CA)	Gilman	McCurdy
Brown (FL)	Glickman	McDermott
Brown (OH)	Gonzalez	McHale
Bryant	Gordon	McKinney
Byrne	Green	McNulty
Cantwell	Gunderson	Meehan
Cardin	Gutierrez	Meek
Carr	Hall (OH)	Menendez
Chapman	Hamburg	Mfume
Clay	Hamilton	Miller (CA)
Clayton	Harman	Mineta
Clyburn	Hastings	Mink
Coleman	Hefner	Moakley
Collins (MI)	Hilliard	Mollohan
Condit	Hinchey	Montgomery
Conyers	Hoagland	Moorhead
Coppersmith	Hochbrueckner	Morella
Costello	Holden	Murphy
Cox	Horn	Murtha
Coyne	Hoyer	Nadler
Cramer	Huffington	Neal (MA)
Cunningham	Hughes	Neal (NC)
Danner	Hutto	Norton (DC)
Darden	Inslee	Oberstar
de la Garza	Jefferson	Obey
de Lugo (VI)	Johnson (GA)	Olver
Deal	Johnson (SD)	Ortiz
DeFazio	Johnson, E.B.	Pallone
DeLauro	Johnston	Parker
Dellums	Kaptur	Pastor
Derrick	Kennedy	Payne (NJ)
Deutsch	Kennelly	Payne (VA)
Diaz-Balart	Kildee	Pelosi
Dicks	Kleczka	Peterson (FL)
Dingell	Klink	Pickle
Dixon	Kolbe	Pomeroy
Dooley	Kopetski	

VOL 140 PT 16 AG 12 — 18 1994 UMI

Porter	Serrano	Torricelli
Price (NC)	Sharp	Towns
Rahall	Shepherd	Traficant
Rangel	Skaggs	Tucker
Ravenel	Skeen	Underwood (GU)
Reed	Skelton	Unsoeld
Regula	Slaughter	Valentine
Richardson	Smith (IA)	Velazquez
Roemer	Spratt	Vento
Romero-Barcelo (PR)	Stark	Visclosky
Rostenkowski	Stokes	Volkmer
Roukema	Strickland	Waters
Rowland	Studds	Watt
Roybal-Allard	Stupak	Waxman
Rush	Swett	Wheat
Sabo	Swift	Whitten
Sanders	Synar	Williams
Sangmeister	Tanner	Wilson
Sawyer	Tejeda	Wise
Schenk	Thompson	Woolsey
Schumer	Thornton	Wyden
Scott	Thurman	Wynn
	Torres	Yates

NOT VOTING—24

Barton	Faleomavaega (AS)	Moran
Blackwell	Ford (TN)	Owens
Billey	Gallo	Reynolds
Bonior	Gephardt	Rose
Brewster	Houghton	Sisisky
Clement	Klein	Slattery
Collins (IL)	Lantos	Sundquist
Cooper	McDade	Washington

□ 1648

The Clerk announced the following pair:

On this vote:

Mr. Barton for, with Mrs. Collins of Illinois against.

Mr. SOLOMON, Mr. KIM, and Mrs. SCHROEDER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

□ 1650

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

Page 25, after line 13, add the following new sections:

SEC. 4. COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1993 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 5. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 6. PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is a Buy American amendment. It provides for a notice to those who would receive funds under the act, and encourages them to buy American-made products. It is similar to the other amendments passed on the floor.

As you know, Mr. Chairman, offering buy American amendments is a standard procedure for me.

The Traficant amendment to H.R. 3433, The Presidio Management bill, is composed of three subsections. The first subsection simply ensures compliance with the buy American Act of 1933, by requiring a contract recipient under H.R. 3433 or to comply with sections 2 through 4 of buy American Act. The second subsection would provide for a notice to be sent to a recipient of funding under H.R. 3433. The notice expresses that it is the sense of Congress to encourage all recipients of funding to purchase American-made equipment and products. The third subsection in the Traficant amendment prohibits the fraudulent use of made in America labels on any products or equipment purchased through contractual agreements or funding under this Act or amendments made by this Act.

Entities in violation of the fraudulent label section would be ineligible to bid for contracts.

I believe that it is imperative that buy American measures, such as this one, be incorporated into all bills that reach the House floor for consideration.

Mr. Chairman, I thank my colleagues for their continued support.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, we have no objection to this amendment. I think it is applicable to this bill. I do not anticipate any problems with it.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the ranking minority Member, the gentleman from Utah.

Mr. HANSEN. I thank the gentleman for yielding.

Mr. Chairman, we have examined the amendment, we have no problem with it, and we accept it on the minority side.

Mr. TRAFICANT. Mr. Chairman, with that, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLINGER: In section 3(h), amend paragraphs (4) and (5) to read as follows:

(4)(A) The Trust may negotiate and enter into agreements, including contracts, leases, and cooperative agreements, with any person (including any governmental entity) for the occupancy of any property within the Presidio which the Trust manages.

(B) Agreements under this paragraph shall be subject to procedures established by the Secretary under paragraph (5).

(C) Agreements under this paragraph may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b).

(5) The Secretary shall establish procedures for agreements under paragraph (4), including a requirement that in entering into such agreements the Trust shall obtain such competition as is practicable in the circumstances.

In section 3(p), amend paragraph (2) to read as follows:

(2)(A) Except as provided in subparagraphs (B) and (C), Federal laws and regulations governing procurement by Federal agencies shall apply to the Trust.

(B) The Secretary may authorize the Trust, in exercising authority under section 303(g) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 253(g)) relating to simplified purchase procedures, to use as the dollar limit of each purchase or contract under that subsection an amount which does not exceed $500,000.

(C) The Secretary may authorize the Trust, in carrying out the requirement of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) to furnish to the Secretary of Commerce for publication notices of proposed procurement actions, to use as the applicable dollar threshold for each expected procurement an amount which does not exceed $1,000,000.

In section 3(t), in the second sentence, strike "donate" and insert "transfer".

Mr. CLINGER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. CLINGER. Mr. Chairman, I offer an amendment to H.R. 3433 as reported by the Committee on Natural Resources. The bill establishes a Government corporation called the Presidio Trust within the Interior Department for the management of the numerous properties that are part of the Presidio. But it provides authority for the trust to be exempt from major Federal procurement laws. The special circumstances that would face the trust in disposing of leasehold interests in many buildings at the Presidio and in procuring property and services required in the management activities have been cited by the bill's proponents as justification for these sweeping exemptions.

But these exemptions go too far. Adequate justification has not been made for such a separation from current procurement controls.

My amendment, Mr. Chairman, would provide flexibility to the trust in out leasing building space and in contracting for goods and services and yet would maintain much of the current law.

With regard to the outleasing of space in Government's buildings, my amendment would set a standard of obtaining such competition as is feasible in the circumstances.

In addition, my amendment would relax certain provisions of Federal procurement statutes in order to expedite the making of awards. Current law provides for simplified acquisition procedures to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors. The law provides a ceiling of $25,000 for purchases under this authority. My amendment would permit the trust to use these simplified acquisition procedures for each contract under $500,000 and would reduce certain other administrative requirements with respect to purchases under $1,000,000. These are very sizable steps.

Mr. Chairman, the Committee on Government Operations, which has jurisdiction over matters relating to Government procurement, must be vigilant in ensuring the basic integrity of Federal procurement laws and regulations in order to protect the taxpayers' dollars. As the ranking minority member of that committee, I believe the flexibility afforded by my amendment maintains that basic integrity yet properly recognizes the unusual, one-time need that establishment of the trust is intended to address. I strongly urge my colleagues to support this amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I support the amendment. I think the improvements are workable improvements to the procurement provisions. I understand the gentleman's concerns, and I think that these improvements satisfactorily resolve them and give some necessary flexibility to the trust corporation.

Mr. CLINGER. I thank the gentleman from Minnesota for his statement.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Utah.

Mr. HANSEN. I thank the gentleman for yielding.

Mr. Chairman, we have looked at this amendment. We feel it is a good amendment. We find it is interesting that this is the very thing we raised in our dissenting views. So we are glad to see the gentleman carried it out so that it becomes part of this bill. We felt all along that it should be, and we accept the amendment.

Mr. CLINGER. Mr. Chairman, I thank the gentleman very much for his support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GRAMS

Mr. GRAMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRAMS:

Page 26, line 12, strike "year." and insert the following: "year, which amount may not be adjusted upward for inflation before the end of fiscal year 2009.".

Page 26, after line 14, insert the following: Of such aggregate amount, not more than the following amounts may be made available for operations for the fiscal year indicated:

(1) $24,100,000 for fiscal year 1996.
(2) $20,400,000 for fiscal year 1997.
(3) $19,100,000 for fiscal year 1998.
(4) $16,500,000 for fiscal year 1999.
(5) $16,100,000 for fiscal year 2000.
(6) $15,900,000 for fiscal year 2001.
(7) $14,300,000 for fiscal year 2002.
(8) $12,600,000 for fiscal year 2003.
(9) $12,400,000 for fiscal year 2004.
(10) $12,600,000 for fiscal year 2005.
(11) $12,700,000 for fiscal year 2006.
(12) $12,600,000 for fiscal year 2007.
(13) $12,500,000 for fiscal year 2008.
(14) $13,000,000 for fiscal year 2009.

Mr. GRAMS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. GRAMS. Mr. Chairman, polls show that the American people are rapidly losing faith in the integrity of their Government. This phenomenon is triggered by the results of people for years hearing one thing from their elected officials and then finding out later that they have been deceived.

There is no area of Government where this problem is as prevalent as it is on issues related to congressional budgeting. Only recently have American taxpayers been alerted to the fact that the budgets they see are not what they seem. Congress has played too many tricks, too many gimmicks and covered up their actions for too long.

It is time to change the way Congress and Federal agencies prepare their budget: This House made a step in the right direction by rejecting the use of inflated baselines in the budget process. But now just one week later we have a bill before us which does just that, contrary to what its supporters may claim.

The language in H.R. 3433 claims that the aggregate level of funding for the Presidio will be capped at $25 million per year. Yet the conference report accompanying this bill would enable the National Park Service to adjust this cap upward for inflation.

□ 1700

Assuming a minimum 3 percent annual inflation rate, Mr. Chairman, this legislation would allow the Park Service to spend $40 million or more by the year 2009, if they choose to do so while claiming to cap such spending at $25 million. In other words, Mr. Chairman, this clever piece of legislation is not intended simply to fool the American people. It is also intended to fool us, the elected Representatives of the people.

Then another budget gimmick contained in this legislation is one we have seen before, and that is the so-called $25 million cap is an aggregate figure comprising of both operating expenses and repair/rehabilitation costs. Now in the past standard operating procedures have been to low-ball the operating expenses and then to use other sources of funding to cover repair/rehab costs, and that includes funding from other parks. Now this little budget trick has resulted in annual operating shortfalls for parks in all 50 States, and it has meant that the Park Service has to return to this Congress for supplemental appropriations to cover the shortfalls. Now that is pretty clever because it is one thing to ask for more money for one park which affects one congressional district and one Member of Congress, but to compound these shortfalls so they affect every State in the Union, that is something only the Federal Government can do, and it is called abusive budget practices, and it must come to an end.

Mr. Chairman, my amendment today would do just that. It establishes specific caps for operating expenses of the Presidio at the levels estimated, estimated for the National Park Service. In other words, it holds the Park Service's feet to the fire by making them live by their own numbers. If 25, 15, or 13 million is all they said they will need for operating expenses in any given year, that is all they will receive, and this change is not without precedent. Just 3 weeks ago a similar amendment was adopted by the House to the California Desert Protection Act. There is no reason why we should not adopt this same policy today.

My amendment would also prohibit the use of upward inflationary adjustments for the management of the Presidio, and in doing so it would put an

VOL 140 PT 16 AG 12 — 18 1994 UMI

end to the budget gimmickry in this bill, and it would show the American people that what they see is what they will get, and that is honest budgeting for a change, and I realize this may be a new concept here in Washington, but it is the way the Federal Government should conduct its business, and under my amendment it is how it will be doing so in the future, at least for this portion of the NPS.

Now for the sake of honesty in congressional budgeting I urge my colleagues to support this amendment today, and by doing so we will begin the process of restoring the American people's faith in their elected officials, a difficult——

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GRAMS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the gentleman referred to the conference committee report. Does the gentleman mean the committee report?

Mr. GRAMS. That is right.

Mr. VENTO. I would point out to the gentleman the bill provides for no inflationary increase. The committee report talks about 1994 dollars. The gentleman said there is an inflationary increase, that would lead this to be $40 million in annual costs. Could the gentleman explain what he means by that? There is no inflationary factor in the bill or in the committee report. Could the gentleman point out those specific provisions in the bill or in the committee that he is referring to?

Mr. GRAMS. Yes. It is on page 24 of the committee report, section 3t which says: "authorizes appropriations of no more than $25 million annually."

But then it goes on, if one reads down a couple of lines. It says: "The ceiling refers to 1994 dollars, and it does not apply to the Golden Gate National Recreational Area——"

Mr. VENTO. If the gentleman would yield further, would the gentleman yield?

Mr. GRAMS. Yes.

Mr. VENTO. Well, that reference is, of course, to the Presidio. Does the gentleman understand that there are two entities that we are dealing here, the Presidio and the Golden Gate National Recreational Area?

Mr. GRAMS. That is correct.

Mr. VENTO. And that there is no limitation on the Golden Gate National Recreational Area? Now does the gentleman understand that?

Mr. GRAMS. That is correct.

Mr. VENTO. And that under the park enabling laws that we do not have operating ceilings in any of our national parks; does the gentleman understand that?

Mr. GRAMS. But this is asked for specifically in this bill——

Mr. VENTO. If the gentleman would yield further, I will be happy to ask for additional time, if the gentleman needs it, but I would just point out there is a development ceiling in this bill, there is an operating ceiling in this bill to the Presidio.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. GRAMS] has expired.

(On request of Mr. VENTO and by unanimous consent, Mr. GRAMS was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, if the gentleman would yield further, I would just point out that whatever the other differences the gentleman and I or others may have with regard to this, I just want to point out that the $25 million development in operating ceiling is absolute to the Presidio, that there is no suggestion that somehow there is a $40 million ceiling with regard to the Presidio, that is not correct. There are separate provisions in here for the Golden Gate National Recreational Area.

So the policy we have before us is in the bill to put a development and operating ceiling on the Presidio.

Mr. GRAMS. What we want to make very clear is that where some of the budget gimmickry comes into because what we are talking about is the bill specifically says: this would be capped at $25 million a year, including operating expenses and rehab as well, and what we are saying is that in the bill, if this is to be even a friendly amendment——

Mr. VENTO. Well, if the gentleman would yield——

Mr. GRAMS. Go ahead; I will yield.

Mr. VENTO. Yes, the bill, of course, does it. I would agree to that. Obviously the gentleman then goes off in a different direction with regards to policy. At least at the starting point there ought to be no difference in terms of view with regard to it, but there are other provisions to the gentleman's amendment. His amendment then takes this ceiling down in a descending order without any adjustment for inflation to $12.5 million by the year 2008 and then begins going back up, I guess, for the year 2009 and beyond.

Mr. GRAMS. These are just the operating expenses, and these are the expenses that the Park Service asked for in the bill that was approved, and what we are saying is we would just like to hold the National Park Service's feet to the fire and say:

If this is what you asked for in the bill, these are the numbers that you have requested, we're just saying that we want to put these numbers or clarify the amendment to ensure that operating expenses will not exceed these dollars and will not eat into the capital or rehab expenditures in the future over the period of these 15 years.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota [Mr. GRAMS].

Mr. Chairman, first of all I would say that to my colleague from Minnesota that the Park Service did not request a limitation on its operating expenses with regard to Presidio. It did, Mr. Chairman, specifically project what the cost would be, but these are merely that. They are projections.

Mr. Chairman, they did not seek that type of limit. As I said, and I would call my colleague's attention to it, that in fact there are not operating limitations on park units across the Nation, even those that have relatively high operating costs, such as the Steamtown National Historic Site in Scranton, and others do not have these limitations. The fact is that they have to come before the Appropriations committee each year. The budgets, which include the operating budget for the National Park System, they make actual recommendations on that. The reason the Committee placed a limitation on the Presidio is to make certain that we do have limitations on this.

The committee has already anticipated this and put on an operating and development ceiling on the Presidio because we are concerned about the costs of this particular project. What Mr. GRAMS is attempting to do here is absolutely unique, and, of course, what it does is put into a straitjacket the limitations that would be put on place in terms of operating the Presidio. We do not know. There may be exceptional expenses from one year to another. One year the operating expenses may go down, but there may be other activities or expenses that increase in a different year.

So, while it is, I think, important to recognize the descending costs as the leases and other types of private and public partnership activities benefit the Presidio take place. As they get a greater flow of revenue, it is quite likely that they will be able to reduce these costs, but because this amendment offers no flexibility, no opportunity to deal with the various problems, the various challenges that may arise, I am forced to oppose this amendment.

□ 1710

I understand the gentleman's concern and those that might share it with him. But this makes it impossible by tying the Park Service's hands. The Committee on Appropriations each year brings before the House an overall operating budget for over 300 national parks that we have. We have not got this type of limit on the St. Croix, or on the Mississippi, or on any other park, because it comes before the Congress each year. And we need to have that flexibility to deal with the types of problems that they face. The bill already has a limitation, and that is unprecedented.

Mr. GRAMS. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Minnesota,

Mr. GRAMS. Mr. Chairman, what this does is set into law that they do not have to be accountable for the budget. They can overspend and come back to Congress and ask for further funding.

I would just like to point out in the closing minutes here that when you call for flexibility and to give the Park Service the flexibility, that is fine. But what we are talking about, mainly, or what usually happens, is that flexibility results in more dollars being asked from the taxpayers to supplement a budget that has gone over budget. We are trying to put into the law a friendly amendment.

Mr. VENTO. Mr. Chairman, reclaiming my time, I appreciate the gentleman's friendly amendment and assistance here. But the effect of this is to severely limit and tie the Park Service's hands. Most other parks do not have an operating ceiling. We put a ceiling in this bill because we are concerned about passing this responsibility to the National Park Service. So the gentleman fails to understand the nature of the limitations that already are present in the bill.

The fact is here that the amendment's type of limitation simply is not desirable or workable. Every year this comes before the Congress. We can make decisions on what parks receive. Some parks receive or need more or less operating expenses because of unforeseen events that occur, in Yellowstone when they had the fire. They may have other types of problems.

I am not talking about construction. We have an overall ceiling on this park because of the nature of the work and what is going on. To further restrict this is unworkable in terms of what the gentleman is proposing, and that is why I oppose the amendment. I think the gentleman has a solution in search of a problem. There is no problem yet, and you are trying to solve it. This is the sort of micro-management that results in mismanagement of a park and mismanagement and destruction of the private-public partnership which this legislation tries to establish.

So the gentleman really has a faulty policy amendment, and I urge a rejection of this amendment.

Mr. HANSEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, we have heard all afternoon about how this public-private partnership will save funds. All day we have been hearing about the projections that would make the park cost-effective. Now we have got a reversal on our hands. I hope the body realizes this. Now we want got to reject the same assumptions and estimates that we have supported all day.

I remain unconvinced in that regard. However, I strongly support this amendment because it does hold the National Park Service accountable to the claims that the costs will do down.

Here is the brochure they talk about about this area, and the exact figures that are in here are in the gentleman's amendment. So all we are saying is they have said, look, we can do it for that amount. We stand up and tell the Congress we can do it. And now all we are saying is let us freeze that into law. If you can say you can do it, put your money where your mouth is.

So I support the gentleman's amendment.

I yield to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. What this does, the way the bill is written, it allows a big door for a bus to be driven through. We can appreciate the flexibility that one park needs at a certain time or all the parks need. But when we set an overall budget, what we have allowed the Park Service to do is abuse this budget by taking money from one fund to another, from present operating funds to rehabilitation funds, from one park to another park. Then they can come back after draining these funds in excess and ask for a supplemental appropriation.

I can appreciate what the gentleman mentioned about disasters or extra dollars needed, but we do have supplemental bills that also pay for that. So to say this is coming out of the park budget is not true.

Again, this is not without precedent. Three weeks ago a similar amendment was adopted by this House dealing with the California Desert Protection Act. We should close the loophole. If we are going to have an overall budget that the National Park Service says they can live by, we should make them live by this budget.

This amendment just corrects some of the technical amendments.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, what we did in the California desert is not what we have here. That was an aggregate ceiling. This amendment puts a year-by-year operating ceiling. It would point out that what we did in California was put an aggregate ceiling on the operating and development costs. We did not put a year-by-year operating ceiling in place. So this is a step further. We already have an operating ceiling in the bill. That has already been addressed.

The ceiling, of course, prevents the moving of any additional money into the park. You cannot spend beyond the $25 million ceiling. The appropriators may appropriate less. I think that is likely to happen. It is unprecedented to put this type of limitation on a year-by-year basis.

I would further point out to my colleague from Utah, while that is in the plan based on the number of leases and the revenue flows, much of that is uncertain as to how readily that plan and how fully the objectives will be accomplished. I would point out that the National Park Service and the Department of the Interior did not request those dollar amounts in each of those years. That was simply an extrapolated number that may or may not be achieved in a given year.

I think they are reasonable, but I do not think they are likely. You would have to have a lot more flexibility if you are trying to show a general reduction in the operating expenses over that period of time.

Mr. GRAMS. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Minnesota.

Mr. GRAMS. Mr. Chairman, with the time remaining, I would like to ask the gentleman from Minnesota [Mr. VENTO] to answer one quick question. How can you account for shortfalls in operating budgets in all 50 States of the National Park Service? In Minnesota alone, in your district alone, it is $1.2 million in shortfalls in operating expenses, this year alone.

Now, you take that in all 50 States. If we do not start putting a cap on this and stop this runaway spending, how are we going to bring the National Park Service budget under control, without allowing them to come back to this Congress in all 50 States, putting more pressure to supplement this money, and ask for a supplemental appropriations bill?

This calls out a real need for my amendment, when you look at a shortfall in every State of the Union. I think it is time to put a cap on this and make sure the National Park Service lives up to what they state.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, I would just point out the wish-list of the park superintendents with regard to what they would like with regard to operating dollars is not necessarily a valid shortfall, first of all. I think those numbers, I am sure the gentleman from Minnesota, my colleague, if he had the responsibility to go through them, would not fund every request of a superintendent or of a park.

I would admit that I think there are problems in meeting park needs, but they are not necessarily related to the lack of or the need of a ceiling with regard to the Presidio or those parks. I think the gentleman is adding together apples and pineapples in terms of trying to come up with a solution.

This is a solution in such of a problem. There is no problem. The ceiling is already on this park. No other parks have that type of ceiling. We think it is necessary because we want to send a message to the private-public partnership. We want it to function, and this amendment will effectively vitiate the ability of the private-public partnership to function.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mrs. MINK of Hawaii. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to redirect the debate to the essence of the legislation that we have before us. Obviously there are budgeting problems in the National Park Service.

□ 1720

I think it would be a real mistake to use the errors and difficulties of the overall system and try to adjust them in this pending legislation. All of us have put forth many requests for funding for our national parks that have not been able to be satisfied by the Congress. But the point is that the Congress does meet in appropriations committees each year and they can decide as to what the priorities ought to be.

In this instance, we are embarking upon a new project, upon a new proposal which is coming to pass on October 1, 1994: the creation of a whole new park addition to the Golden Gate Natural Recreation Area.

It seems to me we ought to give the parties that have brought forth this idea a chance for success. We are being preached at constantly about the importance of a public/private partnership in all of these huge enterprises and endeavors for the public good. This is not a park for San Francisco. This is a park for the enjoyment of all of the people of the United States.

It is a national park, and it is one where we do not have to spend one additional cent for the acquisition of lands. It is in a gorgeous, beautiful area, where already millions of people come to visit.

Now, when the Presidio will be open as part of a national park, there will be tens of millions of people that will come to enjoy its beautiful setting, its historic place of over 200 years as a military site.

We have to trust in the analysis that has been poured over the last 4 years by private and public individuals in coming forth with this public/private venture, their estimates of the kinds of investments that will be forthcoming to make this into a productive, profitable venture in the National Park System.

It is unique. It is remarkable. It is visionary. And we ought to really stand up and applaud the gentlewoman from California [Ms. PELOSI] for coming forth with this bold idea which captures the sentiment of the people and the Congress of the current moment, that the private sector ought to be enlisted to come forth to help us save these great areas for the national public to enjoy.

We should not put any kind of hamstrings and restrictions on the possibility of this park to grow, to enable the private sector to use the charitable contributions that are going to be forthcoming, to allow it to flow with whatever the estimates are. Estimates of the national park should not be engaged in some ironclad provision in legislation. Those are estimates based upon economics, upon the flow of generosity, of a huge amount of considerations that may not be as predicted in these reports on a year-to-year basis.

Therefore, I urge this body not to adopt this straitjacket, not to adopt these restrictions and to allow the private/public partnership that we are engaging for the first time in the history of the National Park Service to be able to come forth with the evolution of a beautiful park which will be to the great credit of the United States.

Mr. GRAMS. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK of Hawaii. I yield to the gentleman from Minnesota.

Mr. GRAMS. Mr. Chairman, I am not here to argue about the beauty of this park or what we want to accomplish under this bill. What we are arguing is that we have to be responsible for the taxpayers. And we have said this is what we are going to do for this many dollars.

The gentlewoman is standing there and arguing that no matter what the cost, that we have to go ahead. The taxpayers will write us a blank check. I do not think that is fair. Let us hold the feet to the fire. Let us live within the budget that the gentlewoman or this bill asks for.

Mrs. MINK of Hawaii. Mr. Chairman, reclaiming my time, the point is that the legislation does an unusual thing. It puts a limit on the annual authorizations at $25 million. It seems to me that is more than good faith on the part of the committee, given the limitations of our budget situation and our deficit problem. It has taken that into consideration. And going beyond that, it has embraced the idea of a Presidio trust, which will bring in charitable contributions and engage the private sector into the development of what I believe will be one of the most beautiful, most visited national parks on the west coast, to the great tribute of the taxpayers and the people of this country.

I urge that this amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. GRAMS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GRAMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 227, not voting 22, as follows:

[Roll No. 410]

AYES—190

Allard	Goodlatte	Orton
Archer	Goodling	Oxley
Armey	Goss	Packard
Bachus (AL)	Grams	Paxon
Baker (CA)	Grandy	Payne (VA)
Baker (LA)	Greenwood	Penny
Ballenger	Gunderson	Petri
Barca	Hall (TX)	Pickett
Barcia	Hancock	Pombo
Barrett (NE)	Hansen	Porter
Bartlett	Hastert	Portman
Bateman	Hefley	Pryce (OH)
Bentley	Herger	Quillen
Bereuter	Hobson	Quinn
Billrakis	Hoekstra	Ramstad
Blute	Hoke	Regula
Boehlert	Holden	Ridge
Boehner	Hunter	Roberts
Bonilla	Hutchinson	Rogers
Brewster	Hyde	Rohrabacher
Browder	Inglis	Ros-Lehtinen
Bunning	Inhofe	Roth
Burton	Istook	Roukema
Buyer	Jacobs	Rowland
Callahan	Johnson (CT)	Royce
Calvert	Johnson, Sam	Santorum
Camp	Kanjorski	Sarpalius
Canady	Kaptur	Saxton
Castle	Kasich	Schaefer
Chapman	Kim	Schiff
Clinger	King	Sensenbrenner
Coble	Kingston	Shaw
Collins (GA)	Klug	Shays
Combest	Knollenberg	Shuster
Cox	Kolbe	Skeen
Cramer	Kyl	Smith (MI)
Crane	Lambert	Smith (NJ)
Crapo	Lazio	Smith (OR)
Cunningham	Leach	Smith (TX)
DeLay	Levy	Snowe
Diaz-Balart	Lewis (FL)	Solomon
Dickey	Lewis (KY)	Spence
Doolittle	Lightfoot	Stearns
Dornan	Linder	Stenholm
Dreier	Livingston	Stump
Duncan	Lucas	Swett
Dunn	Machtley	Talent
Edwards (TX)	Manzullo	Taylor (MS)
Ehlers	McCandless	Taylor (NC)
Emerson	McCollum	Thomas (CA)
Everett	McCrery	Thomas (WY)
Ewing	McHugh	Torkildsen
Fawell	McInnis	Upton
Fields (TX)	McKeon	Vucanovich
Fish	McMillan	Walker
Fowler	Meyers	Walsh
Franks (CT)	Mica	Weldon
Franks (NJ)	Michel	Wolf
Gallegly	Miller (FL)	Young (AK)
Gekas	Minge	Young (FL)
Geren	Molinari	Zeliff
Gilchrest	Moorhead	Zimmer
Gillmor	Myers	
Gingrich	Nussle	

NOES—227

Abercrombie	Cardin	Durbin
Ackerman	Carr	Edwards (CA)
Andrews (ME)	Clay	Engel
Andrews (NJ)	Clayton	English
Andrews (TX)	Clyburn	Eshoo
Applegate	Coleman	Evans
Bacchus (FL)	Collins (MI)	Farr
Baesler	Condit	Fazio
Barlow	Conyers	Fields (LA)
Barrett (WI)	Coppersmith	Filner
Becerra	Costello	Fingerhut
Bellenson	Coyne	Flake
Berman	Danner	Foglietta
Bevill	Darden	Ford (MI)
Bilbray	de la Garza	Frank (MA)
Bishop	de Lugo (VI)	Frost
Blackwell	Deal	Furse
Borski	DeFazio	Gejdenson
Boucher	DeLauro	Gibbons
Brooks	Dellums	Gilman
Brown (CA)	Derrick	Glickman
Brown (FL)	Deutsch	Gonzalez
Brown (OH)	Dicks	Gordon
Bryant	Dingell	Green
Byrne	Dixon	Gutierrez
Cantwell	Dooley	Hall (OH)

Hamburg	McDermott	Schenk
Hamilton	McHale	Schroeder
Harman	McKinney	Schumer
Hastings	McNulty	Scott
Hayes	Meehan	Serrano
Hefner	Meek	Sharp
Hilliard	Menendez	Shepherd
Hinchey	Mfume	Skaggs
Hoagland	Miller (CA)	Skelton
Hochbrueckner	Mineta	Slaughter
Horn	Mink	Smith (IA)
Hoyer	Moakley	Spratt
Huffington	Mollohan	Stark
Hughes	Montgomery	Stokes
Hutto	Morella	Strickland
Inslee	Murphy	Studds
Jefferson	Murtha	Stupak
Johnson (GA)	Nadler	Swift
Johnson (SD)	Neal (MA)	Synar
Johnson, E.B.	Neal (NC)	Tanner
Johnston	Norton (DC)	Tauzin
Kennedy	Oberstar	Tejeda
Kennelly	Obey	Thompson
Kildee	Olver	Thornton
Kleczka	Ortiz	Thurman
Klink	Pallone	Torres
Kopetski	Parker	Torricelli
Kreidler	Pastor	Towns
LaFalce	Payne (NJ)	Traficant
Lancaster	Pelosi	Tucker
LaRocco	Peterson (FL)	Underwood (GU)
Laughlin	Peterson (MN)	Unsoeld
Lehman	Pickle	Valentine
Levin	Pomeroy	Velázquez
Lewis (CA)	Poshard	Vento
Lewis (GA)	Price (NC)	Visclosky
Lipinski	Rahall	Volkmer
Lloyd	Rangel	Waters
Long	Ravenel	Watt
Lowey	Reed	Waxman
Maloney	Richardson	Wheat
Mann	Roemer	Whitten
Manton	Romero-Barcelo (PR)	Williams
Margolies-Mezvinsky	Rostenkowski	Wilson
Markey	Roybal-Allard	Wise
Martinez	Rush	Woolsey
Matsui	Sabo	Wyden
Mazzoli	Sanders	Wynn
McCloskey	Sangmeister	Yates
McCurdy	Sawyer	

NOT VOTING—22

Barton	Ford (TN)	Owens
Billey	Gallo	Reynolds
Bonior	Gephardt	Rose
Clement	Houghton	Sisisky
Collins (IL)	Klein	Slattery
Cooper	Lantos	Sundquist
Faleomavaega (AS)	McDade	Washington
	Moran	

□ 1743

The Clerk announced the following pair:

On this vote:

Mr. Barton for, with Mrs. Collins of Illinois against.

Mr. BACHUS of Alabama, Mr. HEFLEY, and Ms. KAPTUR changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Ms. PELOSI. Mr. Chairman, I move to strike the last word.

I thank the Chair for presiding over this debate today, and I thank the chairman of the full committee, the gentleman from California [Mr. MILLER]; the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO]; and the ranking member, the gentleman from Utah [Mr. HANSEN] for his courtesy in the debate today.

There is a saying attached to the Presidio, Mr. Chairman, that a shot has never been fired in anger from the Presidio and I think that that has carried over into this debate today. As different as our opinions are on the subject, I want to thank the minority for their courtesy in the course of the debate.

Mr. Chairman, I sought recognition to acknowledge the fact that one of our colleagues is not present today and that is TOM LANTOS, with whom I share representation of the city of San Francisco and who has worked very hard on this Presidio issue. The gentleman from California [Mr. LANTOS], as Members know, has had surgery, he is resting well, he is a strong supporter of the Presidio and he sends his support to us today.

In closing, I want to say that I hope that many of our colleagues will visit us at the Presidio, to visit the African-American Buffalo Soldier exhibit, to visit the Presidio and its Spanish heritage, to visit the magnificent ecological place that it is.

In closing, in addition to thanking the chairman and the ranking members, I want to acknowledge the hard work of Judy Lemons, John Lawrence, Rick Healy, Mark Trautwein, Sandy Scott, and Michael Yaki.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCNULTY) having assumed the chair, Mr. DURBIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3433) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior, pursuant to House Resolution 516, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

he SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HANSEN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 168, not voting 21, as follows:

[Roll No. 411]

AYES—245

Abercrombie	Gillmor	Oberstar
Ackerman	Gilman	Obey
Andrews (ME)	Glickman	Olver
Andrews (NJ)	Gonzalez	Ortiz
Andrews (TX)	Gordon	Pallone
Applegate	Green	Pastor
Bacchus (FL)	Gutierrez	Payne (NJ)
Baesler	Hamburg	Payne (VA)
Baker (CA)	Hamilton	Pelosi
Barlow	Harman	Peterson (FL)
Barrett (WI)	Hastings	Pickle
Becerra	Hayes	Pomeroy
Bellenson	Hefner	Porter
Bereuter	Hilliard	Poshard
Berman	Hinchey	Price (NC)
Bevill	Hoagland	Rahall
Bilbray	Hobson	Rangel
Bishop	Hochbrueckner	Ravenel
Blackwell	Holden	Reed
Boehlert	Horn	Regula
Bonior	Hoyer	Richardson
Borski	Huffington	Roemer
Boucher	Hughes	Rostenkowski
Brooks	Hutto	Roukema
Browder	Inslee	Rowland
Brown (CA)	Jefferson	Roybal-Allard
Brown (FL)	Johnson (GA)	Rush
Brown (OH)	Johnson (SD)	Sabo
Bryant	Johnson, E.B.	Sanders
Byrne	Johnston	Sangmeister
Cantwell	Kennedy	Sawyer
Cardin	Kennelly	Schenk
Carr	Kildee	Schumer
Clay	Kim	Scott
Clayton	Kleczka	Serrano
Clinger	Klink	Sharp
Clyburn	Kolbe	Shaw
Coleman	Kopetski	Shepherd
Collins (MI)	Kreidler	Skaggs
Condit	LaFalce	Skelton
Conyers	Lambert	Slaughter
Coppersmith	Lancaster	Smith (IA)
Costello	LaRocco	Spratt
Cox	Laughlin	Stark
Coyne	Lehman	Stokes
Cunningham	Levin	Strickland
Danner	Lewis (GA)	Studds
Darden	Lipinski	Stupak
de la Garza	Lloyd	Swift
Deal	Lowey	Synar
DeFazio	Maloney	Tauzin
DeLauro	Mann	Tejeda
Dellums	Manton	Thompson
Derrick	Margolies-Mezvinsky	Thornton
Deutsch	Markey	Thurman
Diaz-Balart	Martinez	Torkildsen
Dicks	Matsui	Torres
Dingell	Mazzoli	Torricelli
Dixon	McCloskey	Towns
Dooley	McCurdy	Traficant
Durbin	McDermott	Tucker
Edwards (CA)	McHale	Unsoeld
Ehlers	McKinney	Valentine
Engel	McMillan	Velazquez
English	McNulty	Vento
Eshoo	Meehan	Visclosky
Evans	Meek	Volkmer
Farr	Menendez	Walsh
Fazio	Mfume	Waters
Fields (LA)	Miller (CA)	Watt
Filner	Mineta	Waxman
Fingerhut	Mink	Weldon
Flake	Moakley	Wheat
Foglietta	Mollohan	Whitten
Ford (MI)	Montgomery	Williams
Frank (MA)	Morella	Wilson
Frost	Murphy	Wise
Furse	Murtha	Wolf
Gejdenson	Nadler	Woolsey
Gephardt	Neal (MA)	Wyden
Gibbons	Neal (NC)	Wynn
Gilchrest		Yates

NOES—168

Allard	Bachus (AL)	Barca
Archer	Baker (LA)	Barcia
Armey	Ballenger	Barrett (NE)

VOL 140 PT 16 AG 12 — 18 1994 UMI

Bartlett	Hansen	Parker
Bateman	Hastert	Paxon
Bentley	Hefley	Penny
Bilirakis	Herger	Peterson (MN)
Blute	Hoekstra	Petri
Boehner	Hoke	Pickett
Bonilla	Hunter	Pombo
Brewster	Hutchinson	Portman
Bunning	Hyde	Pryce (OH)
Burton	Inglis	Quillen
Buyer	Inhofe	Quinn
Callahan	Istook	Ramstad
Calvert	Jacobs	Ridge
Camp	Johnson (CT)	Roberts
Canady	Johnson, Sam	Rogers
Castle	Kanjorski	Rohrabacher
Chapman	Kaptur	Ros-Lehtinen
Coble	Kasich	Roth
Collins (GA)	King	Royce
Combest	Kingston	Santorum
Cramer	Klug	Sarpalius
Crane	Knollenberg	Saxton
Crapo	Kyl	Schaefer
DeLay	Lazio	Schiff
Dickey	Leach	Schroeder
Doolittle	Levy	Sensenbrenner
Dornan	Lewis (CA)	Shays
Dreier	Lewis (FL)	Shuster
Duncan	Lewis (KY)	Skeen
Dunn	Lightfoot	Smith (MI)
Edwards (TX)	Linder	Smith (NJ)
Emerson	Long	Smith (OR)
Everett	Lucas	Smith (TX)
Ewing	Machtley	Snowe
Fawell	Manzullo	Solomon
Fields (TX)	McCandless	Spence
Fish	McCollum	Stearns
Fowler	McCrery	Stenholm
Franks (CT)	McHugh	Stump
Franks (NJ)	McInnis	Swett
Gallegly	McKeon	Talent
Gekas	Meyers	Tanner
Geren	Mica	Taylor (MS)
Gingrich	Michel	Taylor (NC)
Goodlatte	Miller (FL)	Thomas (CA)
Goodling	Minge	Thomas (WY)
Goss	Molinari	Upton
Grams	Moorhead	Vucanovich
Grandy	Myers	Walker
Greenwood	Nussle	Young (AK)
Gunderson	Orton	Young (FL)
Hall (TX)	Oxley	Zeliff
Hancock	Packard	Zimmer

NOT VOTING—21

Barton	Hall (OH)	Owens
Billey	Houghton	Reynolds
Clement	Klein	Rose
Collins (IL)	Lantos	Sisisky
Cooper	Livingston	Slattery
Ford (TN)	McDade	Sundquist
Gallo	Moran	Washington

□ 1815

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Barton against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 3433, the bill just passed.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBERS AS COSPONSOR OF H.R. 3222

Mr. GORDON. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 3222.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

LEGISLATIVE CALENDAR

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I take this time for the purpose of inquiring of the Chair whether or not we have any idea what the program might be for tomorrow and the balance of the week. I am trying to ascertain whether or not the Chair can inform the House what we are going to be doing tomorrow, you know, how long the Members might expect to be in town tomorrow, whether or not this session is going to extend into the weekend, whether or not Members might be expected to cancel schedules for early next week.

Mr. Speaker, there are an awful lot of questions floating around the floor and many, many rumors to go with those questions. It would be extremely helpful at this point to at least have some idea where we might be tomorrow.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be pleased to yield to the distinguished Speaker, the gentleman from Washington [Mr. FOLEY], so that he might update the House a bit in that regard.

Mr. FOLEY. Mr. Speaker, I will say to the gentleman that, in the absence of the majority leader, who is off the floor for a moment, we intend to be in communication with the gentleman's leadership tonight on the schedule. We are meeting tomorrow. The House will be in session tomorrow.

We hope that we can conclude the pending business of the House, which is the consideration of the crime legislation, perhaps if not late tomorrow night, on Saturday. But we are going to be in discussion with the gentleman's Members about that and about how we can best effectuate the most expeditious way to proceed in a way that provides the Members with the ability to have some plans for what will happen next week.

Mr. WALKER. I thank the Speaker for that because the real issue is there are a number of rumors running around that we might quit as of tomorrow, we might come back next week, and Members are trying to figure out whether or not to hold the weekend open or whether or not to begin to open up their schedule next week.

Mr. FOLEY. At this juncture the only thing I can tell the gentleman is that we will be in session tomorrow and we intend to communicate with the gentleman's leadership tonight and tomorrow as well. We will have some additional information for Members early tomorrow.

Mr. WALKER. But the feeling is at this time if we did stretch it, it would probably go into the weekend rather than next week?

Mr. FOLEY. I would not rule that out. It depends, to some degree, again, on the recommendations made by the gentleman's side as to how they feel it best to proceed as well. We intend to have very cooperative consultation on that question for the mutual advantage of Members on both sides. We understand the concern of Members with respect to planning for this weekend and what might happen next week.

We want to give Members the maximum opportunity to know, as best we can, how to plan their affairs.

Mr. WALKER. My assumption is that we will proceed with the hydrogen fusion bill tomorrow, is that right? That was scheduled for tomorrow.

Mr. FOLEY. The gentleman is correct.

Mr. WALKER. And that we would do that tomorrow. As ranking member on that committee, it does appear as though that would be a relatively noncontroversial bill that would move fairly quickly at this point, so that that probably will not take a lot of Members' time if that proceeds forward. And we would then, as I gather, hope that by that point we will be able to take up the crime bill, is that it?

Mr. FOLEY. Well, I cannot promise the gentleman exactly when the crime bill will be taken up. But I certainly will say that we will have a better idea tomorrow when we are in session and advise the Members on the schedule for the remainder of the week and/or the possibility as to whatever might happen next week.

Mr. WALKER. I thank the Speaker, and I thank the Chair.

AMERICANS WANT PUNISHMENT FOR CRIMES, NOT MORE SOCIAL PROGRAMS

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COX. Mr. Speaker, for the last 30 years America has lived through a prolonged failed liberal social experiment that has explained away and justified criminal behavior; indeed, subsidized it with ever more Federal programs. Like the war on poverty, the Great Society war on crime has failed.

These words contain mistaken premises: First, insufficient federally mandated welfare is the cause of crime; second, more welfare would reduce crime; third, more Federal programs will reduce crime.

In California where I come from, we have nearly 400 convicted murderers on death row. They are awaiting their executions and have been for decades. We have not executed but one convicted murderer since the 1960's.

The American people want swift, certain, and severe punishment for crimes, and by the way, they want that punishment to be accomplished as inexpensively as possible. Instead, this crime bill takes $9 billion away from working families through taxes, it takes $9 billion that could have been used to actually punish crimes and deter them in that fashion, and spends it on things like midnight basketball.

We have heard some defense for it. Let me explain why midnight basketball was fine point of light when it was a locally organized program, but why it will not work when it is a new Federal social program.

Mr. Speaker, it is clear: Midnight basketball is about to become the next victim of Federal regulation.

Mr. Speaker, I will include for the RECORD the following information:

SUBTITLE F—MIDNIGHT SPORTS

The Secretary of Housing and Urban Development, in consultation with the Attorney General of the United States, the Secretary of Labor, and the Secretary of Education, shall make grants, to the extent that amounts are approved in appropriations under subsection (k) to the following entities:

(A) Entities eligible under section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b) for a grant under section 520(a) of that Act.

(B) Nonprofit organizations providing crime prevention, employment counseling, job training, or other educational services.

(C) Nonprofit organizations providing federally assisted low-income housing. . .

Any eligible entity that receives a grant under subsection (a) may use the grant only—

(1) to establish or carry out a midnight sports league program under subsection (d);

(2) for salaries for administrators and staff of the program;

(3) for other administrative costs of the program, except that not more than 5 percent of the grant may be used for such administrative costs; and

(4) for costs of training and assistance provided under subsection (d).

Each eligible entity receiving a grant under subsection (a) shall establish a midnight sports league program as follows:

(1) The program shall establish a sports league of not less than 80 players.

(2) Not less than 50 percent of the players in the sports league shall be residents of federally assisted low-income housing.

(3) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):.

(a) A substantial problem regarding use or sale of illegal drugs. . . .

(c) A high incidence of persons infected with HIV or sexually transmitted disease.

Mr. Speaker, It is clear: Midnight basketball is about to become the next victim of Federal regulation.

□ 1820

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. THURMAN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WE HAVE GOT TO GET TOUGH WITH FIDEL CASTRO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Madam Speaker, we are coming along from Florida, and we discover another crisis today having to do with refugees. Today it is not Haitians. It is Cubans. The Florida delegation is of very much the same mind on what the problem is, and we agree very much on two things. The problem is Fidel Castro, and the people of Florida cannot solve the problem alone, nor can they afford to pay the bill of solving the problem, nor can they afford to pay the single-handed bill of taking care of all of the people who are now being allowed unconscionably to come across the Florida Straits in inadequate boats, life rafts, rafts and other devices, basically trying to get to the magnet that is offshore, the life saving of the Coast Guard, or the American Navy, or any ship that is out there to get them out of the clutches of Fidel Castro's Cuba.

Of course there is a magnet. Things are very terrible in Cuba, and of course we need to do something about that. But I do not think that it is a reasonable proposition to encourage people to go to sea in boats that we know are going to sink or might not make it, where lives are not only going to be lost, they have been lost tragically, and more lives inevitably will be lost if this keeps up.

Why has this suddenly become serious? This is nothing new. People have been hearing about this for a long time.

Not so. There is a new policy by Fidel Castro. It is basically to let people go and, in fact, to sort of encourage people to go to sea in these unsafe conditions in the idea that he is going to make a problem for the United States of America, another Fidel Castro tactic.

Fidel Castro is not our friend. He has never been our friend. He is our avowed enemy. He is a Marxist, and maybe not a Marxist of the European style, maybe more a Marxist of the Latin style, but nonetheless he is an avowed enemy of the United States of America who has pledged to do his best to do us all in. Now that he no longer has the muscle of his Soviet Union friends and their client states, obviously his threats are not as serious, but he is still the avowed enemy of the United States willing to make mischief and trouble for us wherever he can, even to the extent of victimizing Cubans to make his point. That is unconscionable, and it is probably the essence of human rights violations.

Is this serious? You bet it is serious. We picked up 574 Cubans escaping yesterday. They have, of course, come to Florida. Governor Chiles, and this is many days in a row going on, and it is accumulating so we are now dealing with thousands of people I understand, Governor Chiles has declared an immigration emergency. The Members of the Florida delegation have asked President Clinton to implement the Federal mass immigration emergency plan. This plan has never been tested. Now is the time we need to test it because we know we have got thousands of Cubans fleeing, on the move, more to come, and inevitably this is a crisis that is escalating, not going away, and, if you remember Haiti, it is sort of deja vu all over again.

We have created this magnet for people to come off shore because they think, if they can just get outside these territorial waters, we will pick them up and bring them to a life of well-being and prosperity in Miami. Unfortunately it does not quite work that way, and that is why the administration needs to get serious and have a plan that works a whole lot better than what they did in Haiti—I guess I should say what they did not do in Haiti which led to a serious crisis there with refugees, and now, interestingly enough, has left a refugee camp on Guantanamo which is nothing more than a tent city of some 16,000 people where they have had not one, but two, riots in the past few days because conditions are so bad, and just as an unnecessary, unwanted wrinkle, we have got a hurricane bearing down, coming across the Atlantic. You can imagine what that is going to do to a tent city of 16,000 people in Guantanamo Bay, to say nothing of those ships that we have, our Navy ships, our amphibious assault ships loaded with Marines, rattling the sabre, flying the flag off of the shores of Haiti, which has been a friendly neighboring country, or to say nothing of what that hurricane might do to our other ships in the Florida Straits who are now out there on patrol duty.

So, we have got a series of problems on our hands, and I think it is time the administration got serious about dealing with this thing.

The first point is the problem of Fidel Castro. This is not a problem of dealing with Cuban people. It is a problem of Fidel Castro. He is the enemy. The leaders of Haiti are not our enemies in the sense that they have decided war or mischief on the United States. Yes, they violated democratic principles, and, yes, they brutalized human rights, but Fidel Castro makes

VOL
140
PT
16
AG
12
18
1994
UMI

them look pretty much like kindergarten compared to what he has done.

We have got to get tough with Castro, we have got to have sanctions, and we have got to focus on that problem, and the administration needs to do it now.

HEALTH CARE QUOTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Madam Speaker, one of our larger daily newspapers, and in fact a Democratic paper, said it all at the top of its front page this past Sunday.

The Headline said: "Health, Bill Hides Big Pricetag."

The sub-headline read: "Middle-class takes the hit in all plans."

Later in the story—but unfortunately not until page A–8, where many people would not read them, were these words:

Whatever is chosen, the pain is likely to wind up hitting the pocketbooks of average working families earning $25,000 to $40,000 a year: Whether they pay the bills as workers, taxpayers or consumers, they are footing most of the costs of health reform.

The middle-class pays no matter what.

Another important thing to remember: Employer mandates really mean higher prices or job layoffs, or both.

Sometimes, I think that some people hear about opposition to employer mandates and they think that person is siding with big business..

Not true—employer mandates are most harmful to small business and simply result in higher prices and/or job layoffs.

Time Magazine reported several months ago that the administration itself has an internal report that estimates their plan could cost as much as a million jobs lost over the next 5 years.

No matter how good something may sound on the surface, if its going to result in a million jobs lost, this Congress should not pass it.

Also, no matter how good something may sound on the surface, we should not pass it unless we can afford it.

This sounds like simple common sense—yet this Congress has passed all kinds of things we could not afford in recent years.

This is why our Federal Government is over $4½ trillion in debt and losing hundreds of millions on top of that every day, even as I speak.

I wish the Federal Government could afford to buy everybody a $200,000 house and a fancy new car each year, but it cannot.

There are limits to what government can do, and there is no way we can afford the most expensive social programs ever when we are already spending many billions each year more than we take in.

We cannot even afford to do what we are already doing, much less adding new programs every week.

Already our health care costs almost three times more as a percentage of our gross national product than it did before the Federal Government got involved in our health care system in a big way a little over 30 years ago.

Now, if we pass the Gephardt bill, or some version thereof, costs will go way up from where they are now.

In last Friday's Washington Post, Charles Krauthammer, a very moderate columnist, wrote this:

It was clear and much remarked that expanding coverage to 37 million Americans now uninsured, by increasing demand, would substantially raise health care costs.

Later in the same column, he wrote this:

In the end, there is no way out of the dilemma: Both extending health care coverage and improving health care quality will increase health care costs. We must pay for that cost by pushing yet health care's share of GDP.

Or we must ration. No one, of course, dares speak the word. There is not a politician who does not recoil from it. But after this debate—If it produces any bill, costs will increase—we will have the rationing debate. Having boosted medical costs even beyond the bank-breaking level of today, we will have to begin deciding which people with which diseases at which ages will be denied the public provision of which medical producers.

Then Mr. Krauthammer noted that in Britain, if your kidneys fail and you are over 55, you are routinely denied life-saving dialysis, among other things. And he says: "Others have done it * * * and so will we."

But I say, why? Sure, we have problems with our heath care—mainly that it costs way too much.

But it costs too much because of too much government involvement already—not too little.

When has the Federal Government ever done anything more cheaply or more efficiently than the private sector?

George Will, in his column on Monday, quoted Senator ROCKEFELLER who told a newspaper in West Virginia that "We're going to push through health care reform regardless of the views of the American people."

This is the same Senator ROCKEFELLER who was quoted in the Washington Post a few months ago as saying that Medicaid, another Federal medical program, was "a horrible program, a vile program, and it ought to be abolished."

Then, George Will summarized our current situation in this way:

Many Democrats profess to believe that they must pass something, anything, lest they face punishment at the polls. But Clinton and the diminishing cohort of Democrats willing to be associated closely with him really want to force health care legislation now for the same reason Clinton does not want to seek congressional approval for any invasion of Haiti: He and his allies are struggling to govern against the American grain.

RATIONING—JUST WAIT

(By Charles Krauthammer)

Ever since the Clinton health care reform was unveiled 11 months and a dozen plans ago, it has been dogged by an obvious contradiction: It promised both universal coverage and control of exploding health care costs, now 14 percent of American gross domestic product. It was clear and much remarked that expanding coverage to 37 million Americans now uninsured, by increasing demand, would substantially raise health care costs.

More care means more cost. That is obvious. But there is another, less obvious and quite perverse contradiction buried at the heart of the health care debate: Better care makes for more cost too. The ordinary progress of modern medicine—quite apart from the cost of high-tech machines and tests and procedures—makes health care more and more of a fiscal drain.

"It is often difficult for lay people to appreciate that good medicine does not reduce the percentage of people with illnesses," writes physician-philosopher Willard Gaylin in a brilliant critique of the health care debate (Harper's, October 1993). "It increases that percentage." Good medicine keeps sick people alive, people with heart disease, diabetes, hypertension and other chronic diseases. And sick people are expensive. The dead are a burden to no one.

Even preventive medicine, that sacred health care cow, increases costs, points out Gaylin. Diphtheria and whooping cough, once the two leading causes of childhood death, have ceased to exist. "But they were rarely expensive. The child either lived or died, and, for the most part, did so quickly and cheaply." Now that child "will grow up to be a very expensive old man or woman."

Because of these hard truths, the great health care debate of '94 will turn out to have been both preliminary and peripheral. Consider: Among the welter of disagreements now highlighted in the Senate debate, there is a clear national consensus for some reforms. Even the Dole plan mandates that health care insurance be portable (you retain it when you change jobs) and accessible (you cannot be denied it for a pre-existing condition).

Inevitably, however, such guarantees must increase health care costs. If the currently screened or dropped out are to be included and cared for, someone will have to pay for their care. There is no free lunch. Either insurance premiums go up, taxes go up or business pays through "employer mandates."

In the end, there is no way out of the dilemma: Both extending health care coverage and improving health care quality will increase health care costs. We must pay for that cost by pushing yet higher health care's share of GDP.

Or we must ration. No one, of course, dares speak the word. There is not a politician who does not recoil from it. But after this debate—if it produces any bill, costs will increase—we will have the retaining debate. Having boosted medical costs even beyond the bank-breaking level of today, we will have to begin deciding which people with which diseases at which ages will be denied the public provision of which medical procedures.

Others have done it, and so will we. In Britain, if your kidneys fail and you are over 55, you are routinely denied life saving dialysis by the National Health Service. If you cannot afford private insurance or the out-of-pocket expense, chances are you die.

Even the Clinton plan had some rationing, though it had to be kept covert. It would, for example, have severely restricted the number of medical specialists. This is indirect rationing. If you reduce by, say, one-third the number of people who can do brain surgery, then many people who need it and would now get it will not be able to.

The Clintons defended that measure, tellingly, not as rationing but as an effort to promote currently fashionable primary care over "specialization." No one is ready to talk now about rationing. That talk is too unpleasant, the tone too pinched, the vision too Carteresque.

Instead, the politicians are holding a picnic and giving away the food. The Democrats are offering "health care that cannot be taken away," a new fundamental right of, literally, untold cost. Even the limited Republican reforms would subsidize health care for more than 35 million Americans.

That costs money. Where do we get it?. Gaylin is right: When this round is over and we are quite through giving away what we cannot afford, the real health care debate, the debate about rationing, will have to begin. And if, like Hillary Clinton, you think Round 1 was nasty, just wait for Round 2.

DUG IN TO FIGHT RADICAL EXPANSION OF GOVERNMENT INTO HEALTH CARE

(By George Will)

WASHINGTON.—George Mitchell, master of the Senate's health-care revels, spoke in a voice mingling reproach and regret. Republicans, he said have been violating the democratic spirit by filibustering promiscuously.

The next day, Texas Republican Phil Gramm and Alabama Democrat Richard Shelby promised to oppose, like Horatius at the bridge, and with a filibuster if necessary, any radical expansion of government control of health care.

So, within the health-care debate there is a debate about the ethics of obstructing. The latter debate illuminates the former by revealing the political weakness that is dictating the Democrats' desperate dash to pass a radical program before the November elections register the public's desires.

The idea that filibusters have become a serious problem is preposterous. Can anyone name anything of significance that an American majority has desired, strongly and protractedly, but has not received because of a filibuster? Who believes that insufficient activity is a defect of modern government?

It takes 60 votes to end a filibuster. Newsweek's entirely plausible poll shows 65 percent of Americans wanting Congress to delay health-care reform until next year. So Democrats sound strange when they say that it is an offense against majority rule to make them get 60 votes before they can override the wishes of 65 percent of the public.

Mitchell says that, "in the 19th century, "there were only 16 filibusters" and "for three-fourths of this century, there were fewer than one filibuster a year." And: "In this Congress alone, I have had to file motions to end filibusters 55 times." But Mitchell's numbers about filibusters, like his numbers about health care, are misleading.

In the 19th century, before there was a cloture process for curtailing Senate Debates (before 1917), the mere hint of a filibuster often sufficed to kill a bill. And Mitchell files cloture motions promiscuously, often merely in anticipation of a slight possibility of delaying tactics.

Filibusters, although important in protecting minority rights and indispensable in registering intensity as distinct from mere numbers in controversies, can be trivialized when used against mild policy proposals. The filibuster Mitchell orchestrated against President Bush's proposal to cut capital gains taxes was trivializing.

However, Mitchell's 1,400-page health-care bill is not mild. It would produce a more sweeping and intrusive expansion of government than has been produced by any permanent measure in American history. Clearly, Mitchell's bill involves large issues of freedom, privacy and prudence. So a filibuster is a reasonable, proportionate recourse for opponents.

They believe, reasonably, that Mitchell's bill would be literally lethal as law. For example, by slowing development of new pharmacological and other technologies, it would disrupt the pain-relieving, life-prolonging therapeutic revolution that America's health-care system has produced in our lifetimes.

Many Democrats profess to believe that they must pass something, anything, lest they face punishment at the polls. But Clinton and the diminishing cohort of Democrats willing to be associated closely with him really want to force health-care legislation now for the same reason Clinton does not want to seek congressional approval for any invasion of Haiti: He and his allies are struggling to govern against the American grain.

Recently William Kristol, a Republican strategist, discerned "the opportunity to turn the health-care debate into liberalism's Afghanistan—the over-reaching that exposes liberalism's weaknesses and causes its collapse." And the debate has indeed high-lighted the spirit of modern liberalism, as when Democratic Sen. John Rockefeller IV of West Virginia, with a hauteur that would have made his great-grandfather proud, said, "We're going to push through health-care reform regardless of the views of the American people."

The liberals' strategy is to pass bills—almost any bills will do—in both houses, then go to conference and write a third bill as liberal as they can make it and still win final passage in both houses. By then, Democrats will be eager to pass something and go home to campaign, so a bill more liberal than even Mitchell's might pass.

A conference report cannot be amended. It would have to be physically filibustered—stopped with nonstop talking, rather than with the scores of amendments that many Republicans and some Democrats will propose in the next few weeks in order to illuminate the myriad perversities lurking in Mitchell's bill.

Any filibuster will cast a Senate minority in the role of defenders of the desires of a large American majority. Filibusterers will risk being accused of "obstructionism"—obstructing the largest peacetime expansion of Government in history.

That is a risk they should relish running.

PERMISSION TO UTILIZE SPECIAL ORDER TIME OF ANOTHER MEMBER

Mr. WAXMAN. Madam Speaker, I ask unanimous consent to exchange time with the gentlewoman from Hawaii [Mrs. MINK]

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1830

THE GUARANTEED HEALTH INSURANCE ACT OF 1994

The SPEAKER pro tempore (Mrs. THURMAN). Under a previous order of the House, the gentleman from California [Mr. WAXMAN] is recognized for 5 minutes.

Mr. WAXMAN. Madam Speaker, I'm proud to have this opportunity to speak on behalf of the health reform legislation submitted by the majority leader—and its vital importance to the Nation's children. We owe Mr. GEPHARDT a great debt for his leadership in bringing this bill before the House.

We are at a critical turning point. We can choose to continue down the same path we've been on: More Americans will lose their health insurance. Health care costs will escalate. Health programs for children, the elderly, and the poor will be cut back more and more. And providers will continue to shift their losses from caring for uninsured and vulnerable people onto their private patients and their employers.

That is basically the direction the Republican and bipartisan proposals will take us.

Or, we can decide to end our national embarrassment and guarantee every American coverage for basic health care. That's the path the majority leader believes the country should take, and I vigorously agree with him.

This is a particularly important point for the Nation's families and for the Nation's children. Almost 39 million Americans are uninsured. Eight million of them are children.

Think of that—in a country as rich as ours, 8 million children without insurance. And most of them are the children of working parents, because the sad fact is that most Americans who are uninsured work.

The Gephardt bill has put together a basic benefits package for all children, services that every child in America should be guaranteed to ensure their best chance at a healthy future: prenatal care, well-baby care, immunizations, lead screening, infectious disease screening, and the regular checkups that are needed for every growing child.

And, in addition to this package of screening and preventive services, the Gephardt bill also provides ongoing coverage and special services for children with chronic illnesses and disabilities.

Earlier this year, the Cacho family from Berkeley, CA—Ann and Bernard and their 8-year-old son Philip with cerebral palsy—testified before my subcommittee.

Their struggles to get real health care to raise their son at home with dignity are unforgettable. They told of not only fighting the disease that was disabling their child but also fighting the very system that was supposed to help them. They told of insurance premiums that rose from $3,000 a year to over $10,000. They described the limitations of the insurance that they could buy even at that price. And they told of the ongoing effort to get their child the care that everyone agreed that he needs.

Their testimony was compelling. Everyone who attended the hearing was moved by their story. I told them we would work to make their future secure. Mr. GEPHARDT has put together a bill that does that for the Cacho's and

VOL 140 PT 16 AG 12 — 18 1994 UMI

for all American children and their families, both those with special needs and disabilities and those who simply need the routine care that all children deserve.

The Gephardt bill assures that most Americans who now have insurance coverage through their jobs will be able to keep that coverage. Health insurance paid for by employer and worker contributions is the way most Americans get coverage today, and the Gephardt bill builds on these arrangements. That's the most practical and direct way to achieve universal coverage. And we owe our children that coverage.

In closing, I just want to ask the opponents of the Gephardt bill to answer one question for me. As you argue for incremental approaches, as you settle for less than universal coverage, as you plan to go slower and slower—

Which children do you want to leave uncovered?

Which of the newborns do you want to leave without screening?

Which of the children with cerebral palsy do you want to leave without home care?

Which of the next generation do not deserve our help?

The only honest answer to that question from any Member of Congress should be none "None." And the only real way to reach that goal is the Gephardt bill.

I thank my colleagues.

□ 1840

WHO IS GOING TO RUN THE HEALTH CARE SYSTEM?

The SPEAKER pro tempore (Mrs. THURMAN). Under a previous order of the House, the gentleman from Michigan [Mr. EHLERS] is recognized for 5 minutes.

Mr. EHLERS. Madam Speaker, the previous speaker spoke about the desire for health care on a national level.

Frankly, his desire is shared by many in this Chamber on both sides of the aisle. I suspect that is not the real issue.

I think the real issues before us are, who is going to run the health care system and who is going to pay the bill. And it is the first one of those questions which I would like to address this evening. Who is going to run the health care system.

Because, you see, the proposals submitted by the administration and most of the bills that we have had presented in this House and in the Senate have assumed that the Federal Government will have a major role in running the health care system. I think that is going to be a problem.

I have in my hands this evening a document furnished me by a physician in my district. Notice the size of this. And this document was prepared in response to a survey, a request, a questionnaire by the Health Care Financing Administration, asking this physician and his colleagues to fill out this document, to let the Federal Government know what they were doing in their office. They were supposedly randomly selected. They were told they did not have to fill it out. But it was implied that if they did not, they might lose the Medicaid approval for their particular facility.

That certainly is a strong arm approach to ensuring that they better fill it out. It took them over 120 hours of staff time. They had to work some weekends to get it done on time. They were given very little time. They estimated it cost them $10,000 in total to complete this survey form.

When you look at the survey and you look as some of the issues that were dealt with, they had to, as an example, list all the supplies that were used in the various procedures done in that office. When you look at the things they had to list, they had to include disposable supplies, such as a tonopen tip cover for 25 cents; a temo probe cover, 3 cents; chart forms at 11 cents each; gonio lens at 22 cents. They had to list pharmaceuticals. And in this case they used A-K Dilate, two drops, they estimated approximately 10 cents for that; Alcaine, 3 drops, at about 12 cents. And then on to head covers at 6 cents, shoe covers at 15 cents a pair, masks at 30 cents, surgeons gloves at 48 cents and on and on.

I really wonder if this makes economic sense for a Federal agency to be requiring physicians to fill out forms in such great detail, with such minutiae. What is going to be done with that information? I hope something useful, but I would not be too sure of that.

What is even worse is the information that was not asked for. Presumably this is being done to determine what the costs were for providing health care and trying to get a handle on this so that perhaps health care costs could be reduced. But, for example, they did not include information about whether or not the facility, cost of the facility was amortized or not. So these physicians, who have a relatively new facility and are still paying it off, are put in the same bag as other facilities which have their property totally paid off and depreciated. No differentiation was made on that score.

That is a very important piece of information that should be included. The reason I bring this here and the reason I discuss this issue is getting at the question, who is going to run the health care system. My concern about a number of the proposals that have been proposed have nothing to do with universal access, which I think we should all have. They have nothing to do with dealing with preexisting conditions, which I think we should ensure are covered by all insurance plans.

The issue of who is running the system, I think, is crucial, because if we have a Federal Government running the system, it is going to involve more and more and more of this.

I believe we have to stay with the type of system we have. We have to, in the legislation we develop, ensure that we continue to have an efficient, well-operating health care system that provides good service, as the current system does, and makes sure that it is available to everyone. That should be our goal.

HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Madam Speaker, I, too, would like to talk for just a few minutes about health care reform and the health care system that we have and what is good about it and perhaps what is not good about it.

And I would like to particularly point out to my friends from the other side of the aisle that there is a great deal of good that we have done, and I know we all can agree on this in our current health care system. Very few people complain about the capabilities that we have, very few people complain about the modern facilities and the great technology that we have been able to develop in our country. We have developed it through the free enterprise system and the system that we know as our current immediate care system, medical care system.

But not everything is good about our medical care system. I would like to suggest to my friends that it is really the economics of medical care that do not work and the economics of medical care that need attention and the economics of medical care that need to be fixed.

That is what needs attention. The big question for me is, how do we fix the economics of medical care without disrupting the great medical care system that we currently have. We can cure diseases that we could not cure not long ago. We keep people in hospitals less time for various procedures than we did not long ago. Doctors are more skilled today than they were not long ago. The same goes for other medical providers.

I have traveled a little bit around the world in places where they have different types of systems. I would much prefer to take part as a patient in our system than anyplace else in the world that I can think of. But you are right about one thing: The economics of medical care is not working the way it should.

Our country, as we all have said over and over again, has been successful economically because we have a free enterprise system. As a matter of fact, 85 percent of our economic system, our free enterprise system, works quite well. It is the 15 percent of our economic system that is involved with medical care that does not work very well. So the real question is, what can we do with that 15 percent of our economy that does not work like it should and why is it that it does not work the way we would like it to?

If we look at the activities that take place in our economic system generally, we can begin to get a pretty good idea about what makes us work. We manufacture goods and we provide services throughout our economy, we have activities that involve buying and selling of goods and services throughout our economy. That all works. We have marketing programs and advertising programs for goods and services, and that all works. And that is all part of our free enterprise system. And health care fits within those types of activities as well.

Implicit in all those activities, manufacturing, buying, selling, marketing, advertising, and all the other economic activities that we take place in, competition is implicit in all of those things that work in the 85 percent of our economy that work, competition is implicit in all of those activities.

When we as American business entrepreneurs begin to look at how to make a business successful, we look at locations for our businesses, because it is important in competition to have the right location. We look at the aesthetics of our plan, particularly retail stores, because it is important to attract customers, and that is part of competition.

We have stocks and inventories that are developed. To get the right inventory is important because of competition. And we set prices fairly, we set prices fairly because of competition.

□ 1850

Competition is missing today in health care. It is missing for a very simple reason. Eighty-three percent of our medical bills, yours and mine and all of America's all Americans', is paid by someone other than the consumer. We go to our employers and say, "We want to negotiate benefits." That means we want to negotiate how you, Mr. Employer, are going to pay for our health care benefits.

When we retire, we have a Medicare program that pays for our benefits. If we are not wealthy, if we are poor Americans, we have a Medicaid program that pays for our benefits. That is right, 83 percent of the time, of the services that we receive in medical care, 83 percent are paid by somebody else, so we don't have to care.

When we go to the doctors, if the doctor says "You need four tests," we don't ask if two will do or if one will do, because 83 percent of the time we don't have to care. Somebody else pays for it.

If the doctor says "This is going to take six visits," we don't have to ask "Can't you do it in three?" because 83 percent of the time somebody else is going to pay for it.

If the doctor says "You need to go the hospital for a procedure," we don't have to ask "Can't we do this as an outpatient?" because 83 percent of the time somebody else pays for its.

There are some ways that we can restore competition to our health care system through a variety of programs which will be discussed in legislation that I'm going to introduce either before we leave here or in September when we come back.

These will take as their essence principles that are encompassed in two dynamic and creative plans I have studied in my home region. The first is a program already put in to place at Forbes, Inc.; the second is a plan Jersey City Mayor Bret Schundler has enacted for municipal employees. Both plans have built-in incentives for employees to select as good and as much health care as they need.

I enclose the statement Mayor Schundler delivered before the Republican Joint Economic Committee Forum held August 16.

HEALTH CARE REFORM TESTIMONY TO THE JOINT ECONOMIC COMMITTEE

I'd like to thank Representative Saxton and all the Republican members of the Joint Economic Committee for inviting me to share my thoughts about health care reform in America. This is an important issue that affects every American, and I believe it is vital that we have a thorough public debate before approving my legislation.

We now have two Democratic proposals before us. The Gephardt bill promises universal coverage by 1999, with employers mandated to pay 80 percent of their employees' health insurance costs. Low income workers would be covered through a huge new entitlement called "Medicare Part C", which the New York Times estimates would soon cover over 100 million Americans. Make no mistake about it, passing the Gephardt bill means turning over the health care needs of every American to the federal bureaucracy. Anyone who lives in public housing knows how frustrating that will be.

The Mitchell bill differs only slightly from the Gephardt bill. If we pass it, we don't get Gephardt's government-run health care system until 2002. Clearly, the fundamental difference between Mitchell and Gephardt is that Mitchell pulls the 'trigger' a few years further into the future. But both bills are guns aimed at the heart of American medicine.

Under no circumstances should Congress pass either bill.

Rather, I propose that Congress should keep what works and reform what does not. President Clinton, Senator Mitchell, and Representative Gephardt believe that our current health care problems arise from market failures, i.e. the failures of a free society. I believe that government failures are the problem. Any health care reform bill should move away from government control and third party payment, and move towards empowering patients to choose their own doctors, make their own decisions, and control their own health care costs.

Just over two weeks ago, President Clinton came into Jersey City to campaign for his version of reform. He challenged his opponents to come up with a constructive alternative to his bureaucratic quagmire. The alternative has already been offered in both the House and Senate, but the President doesn't want to talk about it. It is a system of refundable tax credits to enable Americans to be able to afford to purchase their own combination of catastrophic health insurance and Medical Savings Accounts (MSAs).

In Jersey City, I am working to change how we provide health insurance to our workers. Under the Jersey City plan, the City will purchase catastrophic insurance with a $2,000 deductible, and then deposit $2,000 into a Medical Savings Account to cover 100 percent of employees' out-of-pocket medical expenses. This money can be used to cover routine physical examinations, which are not covered under most traditional health care policies, and will improve our employees' access to prevention care. But since our employees will get to keep as income any money not spent in the MSA, they will also have an incentive to spend their health care dollars more prudently.

Through this approach, not only are our employees likely to stay healthier, but they will be able to take some money home on December 31st, and the City will be able to save money too.

Let me expand on this latter point. First, the City will save money because the combined cost of the catastrophic premiums and the MSA deposits already in the first year will be less than its current health care premiums for its present traditional coverage. (This is because there are immediate administrative savings to be achieved since the insurance carrier really does not have to examine bills closely until a family's expenses exceed $2,000 in a single year.) Second, increased preventative care will make for healthier employees who are a better risk for insurance carriers. Third, there will be reduced cost-shifting when our employees are incentivized to negotiate with their doctors for lower prices and doctors are less like to cost shift onto our employees when they know that our employees will be personally affected by a padded bill. Fourth, because the insured stand to keep money not spent from the MSAs, this plan almost totally eliminates fraudulent claims.

This plan will work for Jersey City employees just as it has worked for employees of Forbes, Inc., where insurance premiums have dipped almost 30 percent in the first two years. Perhaps more importantly, it can work for Americans nationwide.

We can create a federal MSA system by replacing the current system of tax deductions for employer-provided health care with a system of refundable tax credits for individually-purchased insurance and MSA coverage. This would allow every American, regardless of income or employment status, to buy basic health insurance for less than what we spend as a nation right now.

Under this plan, all Americans with an income would use their tax credits to buy a health plan from any carrier they choose, whether through their employer, church, or even their bowling league.

Those who are unemployed or without sufficient income to benefit from a tax credit would receive a voucher to purchase their own health insurance and MSAs in the same way.

Finally, for that 1 percent of Americans whose severe health problems make them

VOL 140 PT 16 AG 12 — 18 1994 UMI

uninsurable, we could establish a very high premium, government subsidized risk pool for basic health coverage.

This simple plan expands access, contains costs, and maintains quality care. Perhaps more importantly, it enhances freedom. It will give Americans the freedom to leave a job without fear of losing their benefits by detaching health insurance from one's employer, thus eliminating the "job lock" so prevalent in our current system. It will free people to get off welfare by eliminating the risk that they will lose medical coverage if they take an entry level job. And it will do all of this without bureaucrats and centralized health boards telling us what treatments shall be covered and when we may get them and from whom.

It seems that there are two broad sides in this debate: those who want government control over the health care decisions of the American people, and those who want we the people to have the power to make the decisions that could mean our life or death. I believe we should empower the people to choose what is best for their own health.

President Clinton deserves credit for starting the debate on health care reform. Now we must ensure that change comes in the proper form.

The President claims it is the moral obligation of government to make sure that every American can obtain affordable health care. I totally agree. But then the President passes the buck. He says to businesses, "You do it!"

His approach takes as its foundation every thing that is wrong with the current health care system and builds upon it. The result of his approach will be to increase costs, decrease quality, and very significantly increase unemployment—all serving no interest save for one: that is, expanding opportunities for government bureaucrats.

My proposal will decrease costs, increase quality, and expand private sector job creation and acceptance. But through the tax credits or vouchers expended, and through the replacement of Medicare and Medicaid with self-purchased private insurance, it will surely reduce government jobs in the federal and state bureaucracies.

Perhaps this is the reason the President refuses to opt for this approach. He seems to have forsaken being the President of the People, and has chosen instead to be the President of Government. In fact, it seems to me that instead of proactively using government to empower all, including the poor, he is choosing to use government to disempower all—including the rich.

I seriously doubt that the America people will stand for this, and I hope that you will do everything in your power to reject it.

Thank you again for giving me the opportunity to address the members of this committee, and I ask permission to enter a prepared statement of my remarks and my Wall Street Journal article concerning this subject matter into the written record.

BRET SCHUNDLER,
Mayor, Jersey City, NJ.

HEALTH CARE REFORM FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Madam Speaker, before I make the comments that I was going to this evening, I would like to make a couple of comments about my colleague who just spoke before I came up to the well.

I agree with my colleague that the United States has the best health care in the world. It is the reason why so many people come from all over the world to avail themselves of the medical care that we have here.

I further agree that the issue is cost, and that in fact, while we have the best medical care in the world, many people today in this Nation cannot avail themselves of that health care because of the cost of that health care.

I further agree that what we need to do is to address this issue of cost, and in fact the Gephardt plan does that very, very well, and helps to look at bringing that cost down by making sure that all Americans are covered, that all Americans have private, guaranteed health insurance that is affordable and that can never be taken away from them.

Part of the Gephardt plan is to make sure that, because all are covered, and we have what is known in this effort as cost shifting, that someone else pays the bill for those who are not now covered, and most of those folks who are now not covered are working Americans, working, and in my State of Connecticut they work in small businesses of less than 25 people and do not have insurance coverage.

If we were able to cover all of those people through the shared responsibility, as our current system is today, where the employer pays a portion, the employee pays a portion, 9 out of 10 people who are insured today in this Nation receive their health care coverage through their place of employment. The Gephardt plan builds on that system, and says that employers and employees who are now not participating in this shared responsibility need to do that, in fact, to help pay for the cost of health care which today, while they are not paying for it, everyone else is paying for them.

Madam Speaker, I want to agree with my colleague on some of these issues, and say that the way in which we can correct this is a piece of legislation that the majority leader of this House, the gentleman from Missouri, DICK GEPHARDT, has put together, and that we ought to come together and support that for the American public.

Madam Speaker, let me move on to the issue that I wanted to discuss today, that has, again, to do with health care.

Madam Speaker, 2 days ago, the other body took the first step in moving the health care reform process forward by adopting an amendment which would make sure that insurance policies offer prenatal care for women and well-baby and immunization services for children. I applaud my colleague from Connecticut, Senator DODD, for his sponsorship of that action, and am proud to be joined by several of my colleagues here tonight who support comprehensive health care reform that includes guaranteed coverage for children and pregnant women.

In a country as wealthy as ours, with the world's best health care system, it is disgraceful that 17 million American children are uninsured for all or part of the year. In my home State of Connecticut alone, more than 40,000 children are uninsured, 8,000 in my district. During some of the most critical years of a child's development, between birth and their sixth birthday, one out of 10 American children is uninsured.

Of the children that do have health insurance, many are woefully underinsured. Only 42 percent are covered for routine immunizations. Only one-third of health insurance policies provided in medium and large firms cover well-baby care. Millions of children have private insurance that fails to cover preventive services. Millions of children have private insurance that fails to cover special treatment for those with physical and emotional disabilities.

Who are these children left out in the cold by our current health care system? The significant majority of them, 58 percent, are dependents of parents who work full-time, every day of the year. According to the Children's Defense Fund, for two decades, employer cost-cutting and the rising cost of health insurance have forced millions of children out of the private health insurance system. Had coverage for children stayed at even the 1987 rates, an additional 3 million children would have had employer-based insurance in 1992.

And if we do nothing to make sure that every working parent receives health insurance through his or her workplace, this trend will only get worse. By the year 2000, only 50 percent of our children will receive health care through insurance provided by employers.

These figures speak for themselves and should be enough to spur Congress to act. But if all these statistics leave any of our colleagues in doubt, then let them listen to what the children themselves are telling us.

Ian Cook, a 12-year-old boy from Lake Charles, LA, has told us that his mother's health insurance doesn't cover all the costs of the liver screenings he needs every 3 months and his medicine—without which he cannot attend school—that costs $173 per month.

Jennifer Bush, a 7-year-old girl from Coral Springs, FL, lost her hearing in one ear due to chronic infections. Her insurance company dropped her because her medical bills exceeded $2 million.

And Asha Thune, an 11-year-old girl from Austin, TX, has juvenile diabetes. Her family is afraid they may lose their insurance as a result.

Madam Speaker, now is the time to correct this intolerable situation. We have made great strides recently in this House to invest more in our children. We have increased funding for Head Start. We have increased funding for WIC. And we are on the verge of enacting a crime bill that will help make our streets safer for our children.

Now let us give our children proper health care—perhaps the most important thing they need to ensure that they grow up healthy and able to learn. Let us give their parents the peace of mind that if their children do get sick they will be taken care of and that their insurance won't be taken away. Let us pass the Gephardt bill which guarantees that every child will get newborn and well-baby services and that every woman will get pre-natal care, all with no cost sharing. We have given enough speeches about our support for children—let us stand and deliver.

A TRUE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of North Carolina. Madam Speaker, a surprising thing took place in this Chamber. We passed a crime bill in the Commerce, Justice, and State appropriation bill, 322 to 98. That was a true crime bill.

It is true, this conference report that we passed did not abolish capital punishment, as the President wanted to do in his crime bill. It did not release 16,000 drug pushers from the Federal prisons, as the crime bill desires. It did not abolish mandatory minimum sentences for drug kingpins, as the President's crime bill calls for. It did not weaken the second amendment rights, called for in the present crime bill.

It did, however, restore funding for the Drug Enforcement Agency, which the President had sought to reduce; it provided some 400 new agents, as well as removing 600 agents from desk duty and reassigning them to the field.

It provided funds for activating 11 new or expanding prisons facilities. It provides $54.5 million for new border patrol guards, providing almost 1,000 new agents in the field. It gives $24.5 million for boot camps, punishing small-time offenders, while leaving prisons open for violent offenders.

It supports increased drug courts, $29 million, permitting swifter action against drug offenders. It grants $26 million to combat violent crime against women, which will support battered women's shelters, promote rape awareness education, and establish a national family hotline service. It restores the Byrne formula grants, and will give States and local governments some $450 million.

In total, Madam Speaker, this bill provides over $15 billion for prevention of crime and the judiciary. It prioritizes the needs. It does not include the President's social spending. It is a real crime bill.

□ 1900

It was put together on a bipartisan basis and passed this House and when it clears the Senate tomorrow and goes to the President, it can be our crime bill.

I would like, Madam Speaker, at this time to yield to the distinguished gentleman from North Carolina [Mr. COBLE] who is a member of the Committee on the Judiciary, for further remarks in this area.

Mr. COBLE. Madam Speaker, I thank the gentleman from North Carolina for yielding. I was scheduled to speak on this bill last Thursday pending passage of the rule. Of course the rule was defeated and this is the first time I have had a chance to address matters concerning the crime bill.

What bothers me, I say to my colleague from North Carolina and to you, Madam Speaker, when it first came to the Senate, to the other body, as best I remember, there was a price tag of $16 billion. When it cleared the other body and came to us, it was $21 billion. After it sailed through the House, it reached the figure of $28 billion. It then was assigned to a conference where, you guessed it, continuing upward, now it is in excess of $33 billion.

That is not the way it is done in the real world. In the real world, if you have to renovate your home or your small business and you start at $25,000, you try to work downward. Here on the banks of the Potomac, it works in just the opposite way. The moral of the story, Madam Speaker, is simply this: It is easy to spend money that belongs to others, and we in this Congress do it every day. I am afraid that we do it recklessly and imprudently.

I am concerned, I say to the gentleman from North Carolina, about some of the accusations that have been made directed to those of us who voted against the rule last week, and the accusations have been, "Well, you only voted no just simply to embarrass the President." This is poppycock and ludicrous. I voted no because the meter continued to run.

Now, when you go from $16 billion to in excess of $33 billion spending public moneys, spending your constituents' moneys and mine wrapped in the package titled crime bill, something is indeed wrong. I say to the gentleman from North Carolina, I would like to see us prior to adjournment in October to instill and restore, if there ever was any before, some sort of fiscal sanity in the manner in which we spend taxpayers' money on this river and on this Hill. I think our constituents deserve better and I think we owe it to ourselves to do better.

I thank the gentleman from North Carolina, and I yield back to him.

Mr. TAYLOR. Madam Speaker, in closing, I think we see that this costly crime bill, so-called, is kind of like side pockets on a hog as far as its benefit in fighting crime. The bill we passed today is a solid crime-fighting bill and it can be one we can all be proud of for this Nation.

CHANGE OF SPECIAL ORDER

Mrs. MINK of Hawaii. Madam Speaker, I ask unanimous consent that I may take the place of the gentleman from California [Mr. WAXMAN].

The SPEAKER pro tempore (Mr. THURMAN). Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

SUPPORT THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Madam Speaker, today I rise in strong support of the crime bill, and I want to take just a few minutes to elaborate on the reasons why I think it is so urgent that the Congress come to some agreement and allow this bill to become law.

One of the very strong provisions in the bill has to do with violence against women. Sometimes this Nation comes to a point of wanting to do something about a terrible situation in our country when there are acts of violence that commend our attention. This is a time when people are focused on this issue and I think it is important to realize that the Congress for the first time is allocating substantial sums of money, $1.8 billion, for this particular problem in our society. I like most Members of Congress have received dozens of phone calls. Most of them argue that we should support the crime bill and put it into law. Some of them say what would also echo the phrases that we have heard on radio and television about the soft social programs and other measures that have been added that have been frequently referred to as pork. The pork that people are fingering in the crime bill has to do with prevention. I would like to say that this is a crime control and prevention proposal. It is not simply to act after the fact when criminals are caught and convicted and to find new prisons and more punitive measures to deal with them. Crime in this country has to be dealt with from two perspectives, and one is to be tough on the criminals that have been caught and convicted, but also to look to our society to find ways to prevent violence and crime in our society. That is the situation with violence against women.

It is too late to look upon the men who have created the violence and have assaulted women and battered women and killed women and say, "What are

VOL 140 PT 16 AG 12 — 18 1994 UMI

we going to do with these individuals" with respect to the trial and the conviction and the imprisonment. What we need to pay attention to is what we are going to do to prevent this violence. All too long in our society women have called the police, complained, noticed situations that were aggravating their lives, and people have simply ignored it, paid no attention. A woman could be on the kitchen floor bleeding to death with her husband standing over her and the police would do nothing if she refuses at that particular moment to file a complaint against her husband. In many cases, she has no choice.

This provision in the crime bill for the first time recognizes that prevention of violence against women is really the way to go. They have put in a substantial amount of money, supported by both sides of the aisle. As a matter of fact, the provisions on violence against women was in the Republican proposal submitted in July 1994 at $1.8 billion. We are in agreement on this.

But the point I am trying to make is not that this provision is in agreement but that the concept of prevention is the key to the substantiation of this entire program of $1.8 billion. It will provide for the establishment of centers for women and do counseling and establish ways in which we can sensitize police officers and prosecutors as to what they must do under these circumstances to afford greater protection to women who file complaints regarding violence. By all agreeing on the $1.8 billion in the crime bill, we have acknowledged that prevention is a very important part of any crime bill.

Going back, then, to the public excitement with respect to prevention programs, given that the provisions for violence against women are substantiated and agreed to by everybody, let us look at some of the other provisions which have been included that deal with youth offenders, with youth at risk. We note with great interest that although almost with unanimity those who are opposed or have voted against the rule or voted against the crime bill argue that there is just too much pork in it, let us see where the pork came from. I have a very interesting analysis here which says that, for instance, this much-touted midnight basketball provision which is funded at $40 million was acknowledged by President Bush as one of the outstanding points of light in his program. It is included in some of the Republican measures. The same thing is true for the community schools program. We have Senator HATCH and Senator DOLE being sponsors for a $630-million program for youth programs in our schools, tutoring and so forth.

I ask those who oppose the bill on these frivolous grounds to look to the sponsors of some of these prevention programs and agree that they belong in any crime bill that this House passes.

A CALL FOR UNIVERSAL HEALTH CARE COVERAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Georgia [Mr. MCKINNEY] is recognized for 5 minutes.

Ms. MCKINNEY. Madam Speaker, health care reform without universal coverage is no reform at all.

I am pleased to join with my colleagues as we underscore the need for health care coverage for everyone.

I would like to remind my colleagues of the six principles of health care reform: First, security; second, simplicity; third, savings; fourth, quality, fifth, choice; and sixth, responsibility. They are included in the Gephardt bill and must be a part of any reform that is meaningful.

After waiting for so long, hard-working families from Georgia's 11th District and throughout America can no longer wait for health security—their interests will not be served by tinkering at the margins.

Mr. Speaker, we were sent here to Washington with a mandate from the people—to change the business as usual politics into a government that looks after the needs of its people. We anticipated resistance from the obstructionist, divisive Republican Gridlock Gang, and we have been fighting them with full force every step of the way.

Politics, gridlock, and partisan positioning can no longer keep us from accomplishing what is within our grasp: Health care reform that guarantees that health care will be there when we need it.

Without universal coverage, "health care reform" is a meaningless phrase. We must not fall short of our promise. Health care reform, after all, is for the people.

I applaud the Senate on putting people first by passing the Dodd amendment this week. The amendment will put children and pregnant women at the top of the list to be covered under health care reform. Nothing should be of greater importance than the health and well being of our children. Unfortunately, the Gridlock Gang does not care about America's children and pregnant women.

About 6 years ago, I took my 2-year-old son to Scottish Rite Children's Hospital in Atlanta for a procedure. As expected, health care providers ran their standard tests for a child that age.

What I did not expect, however, were the results to come back saying that my son carried the gene for sickle-cell anemia.

I was shocked. This disease that predominately strikes African-Americans and wiped out so many—how could it have found its way into my son's little body?

After more tests, it was determined that he only carried the trait and he does not have the disease. He is a happy healthy boy who plays soccer and baseball and does well in school. But in the back of my mind, every time he has stomach pains or his arms and legs ache, I worry of what it might be. And I get angry that still today there is not enough research on sickle cell anemia.

At the National Institutes of Health, researchers are working to find effective treatment for sickle cell. However, without access to health care, hundreds of thousands of uninsured African-American children will not reap the benefits of this research. We need to pass health care reform now. Our kids must not be forgotten.

The Gephardt bill does not forget the importance of research in meaningful health care reform. Mr. GEPHARDT's bill will put a 1 percent tax on health insurance premiums, which will go into a trust. A portion of that trust will go to NIH research that will find new cures and treatments, giving hope to those who battle diseases such as sickle cell and breast cancer. The funding from this trust for NIH will begin at one-half billion dollars and will grow to three-quarters of a billion over 10 years.

I urge all Members of this House to do the right thing for the people of America. Passage of the Gephardt bill assures health care reform that puts people first. And health care reform without universal coverage is no reform at all.

□ 1910

ORDER OF BUSINESS

Mr. HOYER. Madam Speaker, I ask unanimous consent that I might go out of order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

DEMOCRATS AND REPUBLICANS SUPPORT THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Madam Speaker, I rise today to commend the bipartisan—indeed nonpartisan—exchange of views on the crime bill during last night's special order.

If you did not hear it, I suggest you read the transcript in the CONGRESSIONAL RECORD. There was one brief, shining moment of high-minded discussion on the issues before us in this crime bill.

Mr. SHAYS, Republican from Connecticut, and Mr. WYDEN, Democrat from Oregon, cast aside the partisan rancor that has all but consumed debate on this issue. They did not agree on every issue, but they did agree on this: We must pass this "punish and prevent" anticrime bill now.

I share the Connecticut gentleman's "real concern that in the process of debating this bill, a lot of misinformation has been discussed that has distorted the issue."

I share his hope that "in the next day or two we get to focus back on how we can deal with crime both from an enforcement and a preventative side and what we can do to help our cities."

That is what this bill is about. Protecting our families. Putting more police into our streets. Ensuring that our children are safe from the violence that plagues too many of our communities.

This bill will punish criminals.

This bill will prevent crime from happening in the first place. That is what the American people want from this legislation. This is what they demand that we do.

Some would turn this serious issue into a political football. You see, there is an election coming in November. Every seat in this House is up: Some of us will return, some will not. Some feel that their return ticket and political fortunes hinge on their political gamesmanship with this critical legislation.

But the people on the frontlines know that crime is no game. They know that this bill will make a difference in people's lives.

On Tuesday, I quoted President Bush's prescient remarks about the value of the prevention program this bill provides for. Today, I am pleased to quote from a letter signed by 13 mayors from across the Nation:

Ashe of Knoxville,
Riordan of Los Angeles,
Mystrum of Anchorage,
Smith of Newark,
Drinkwater of Scottsdale,
Turner of Dayton,
Mullins of Palatine,
Lashutka of Columbus,
Johanns of Lincoln,
Helmke of Fort Wayne,
Gardner of Jefferson City,
Stewart of Provo,
Norick of Oklahoma City.

Mayors from across the continent. Mayors on the frontlines. They know what works. They think that this bill will work. And they are all Republicans. They write:

Last fall, a bipartisan group of mayors worked with police chiefs to draft the National Action Plan to Combat Violent Crime. Many of the elements of that plan are included in this crime bill: 100,000 officers; local flexibility; more prisons and alternative forms of incarceration; strong prevention measures; enhanced penalties; and strengthened Federal drug control efforts.

They continue:

The conference agreement provides important help to us, important tolls in our efforts to prevent and control crime. * * * As the elected officials closest to the people, we know that crime has been and will continue to be the most important concern of our citizens. They are looking to all of us for help, the kind of help that we can deliver through this crime bill.

They are not alone in urging that this bill be passed. Bipartisan support for this crime fighting bill seems to be breaking out all over the country if not within this Chamber.

My colleagues on the other side of the aisle were rightly proud when two Republicans gained the highest office in the Nation's two largest cities—New York and Los Angeles.

New York's Mayor Giuliani, a well-known crime fighter and one of the Republican Party's brightest stars, got it right when he said that this "crime bill is as much my bill as it is anyone else's * * * It reflects my philosophy. It reflects my sense that there has to be a balance between enforcement and prevention."

Mayor Riordan of Los Angeles said that this "crime bill is the boost that we've all been waiting for to make our cities safe."

Ultimately, this comes down to one question: How does this affect Americans who play by the rules and pay the bills?

Carolyn McCarthy is someone who plays by the rules. Her husband was killed and son wounded last December on the Long Island Railroad. Mrs. McCarthy issued a clarion call to every Member in this Chamber yesterday: "Congressmen need to put aside their differences. This is for the common good of all of us. Children are shooting children. Something is wrong."

Something is wrong, Madam Speaker. We can do something about it: If we tone down the rhetoric; if we turn away from partisan bickering; if we listen to those Americans on the frontlines, in our communities, in our neighborhoods who want this anticrime package.

□ 1920

The SPEAKER pro tempore (Mrs. THURMAN). Under a previous order of the House, the gentlman from Oklahoma [Mr. ISTOOK] is recognized for 5 minutes.

ORDER OF BUSINESS

Mr. KINGSTON. Madam Speaker, I ask unanimous consent that I be allowed to proceed out of order with my 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

TRIBUTE TO PAUL ANDERSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Madam Speaker, today, in the city of Vidalia, located in the First Congressional District, Paul Anderson was remembered in a Memorial Service. There will be many testaments and many memories of his spiritual heart, which will continue to beat for many generations.

Because he was a native and life-long resident of Georgia, thousands of my fellow Georgians will pause today to remember Paul and the remarkable story of his life—a life that brought him world-wide attention and acclaim.

Paul Edward Anderson was born on October 17, 1932 in Toccoa, GA. He suffered from kidney inflammation and rheumatic fever before he was six, however, he overcame problems with these childhood problems and was awarded a football scholarship to Furman College in Greenville, SC. It was at Furman that he began to lift weights. Finding that he had the physical and mental strengths necessary for such a demanding activity, he began a routine of training that found him lifting heavier and heavier weights and starting his own high-protein diet to put on more weight.

His weight lifting talents helped him to be selected as a substitute on a United States team going to the Soviet Union to compete against the best Soviet lifters in 1955 in the first athletic competition held solely between the two countries since World War II. The heavyweight lifters were to provide the climax event for the competition.

The top Russian heavyweight lifter tied the Olympic record with a lift of 330 pounds in the two-hand press. Paul Anderson followed with an unheard of lift of 402.4 pounds, 20 pounds over the existing world record. This lift was to catapult him into overnight international fame as the Strongest Man in the World. Paul Anderson had spent years of dedication, hard work, and faith to become this overnight success. He knew all along he could outlift any other human. He only needed the opportunity to prove it.

This fame was further validated when he broke two world records in winning the World Championships in Munich later that year. In the 1956 Olympics in Melbourne, Australia, he could clean and jerk over 414 pounds and become the first person ever to lift a combined 1,102 pounds in the three Olympic weightlifting events. Paul was awarded a gold medal in the super heavyweight division—a division no American has won since; he became an instant hero in America, a country that needed a man of action, of physical power to counter the Soviet Union's domination in international athletic competition.

He not only brought home the gold medal with him, he brought a renewed commitment to God. During his Olympic winning lift, he initially failed at the first two lifts needed to win. On his third—and final—attempt, Paul related that he asked God for the little extra help he needed to push the weight up over his head. He made the lift that literally set the direction for the rest of his life. As an Olympic hero, he made many demonstration tours. During one

VOL 140 PT 16 AG 12 — 18 1994 UMI

of these tours, he saw youths incarcerated with hardened criminals. He found his way to fulfill his promise to God by serving others through the establishment of a youth home for delinquent boys.

With his accomplishments and his size, Paul Anderson was not an easy man to miss. His olympic size was 5 feet, 9 inches tall, 375 pounds, a 58-inch chest, 36-inch thighs and a 22-inch neck. Using his booming voice, Paul began a series of speaking engagements that saw him witnessing for God and then performing some kind of demonstration lift, such as lifting people from the audience on a table, that would prove to be a crowd pleaser and help bring in the money needed to get the youth home started.

In 1957, Paul made the ultimate lift in his hometown when he piled weights onto a specially constructed table. He lifted this table—a total of 6,270 pounds—with the strength in his back and legs. This lift is still listed in the Guinness Book of World Records as the greatest weight ever lifted by a human.

In 1959, he met and married his wife Glenda who shared his vision of a home for troubled youth. In 1961, they founded the Paul Anderson Youth Home in Vidalia with the purpose of providing a Christian home for young men between the ages of 16 and 21 who would otherwise be confined to penal institutions. They developed a daily routine that includes spiritual guidance, academic training, physical fitness, emotional development, social awareness, and work assignments. In 1976, an on-campus school began operation to give students the opportunity to earn a high school diploma. The staff at the home provides counseling for the boys as well as their families.

Since the Paul Anderson Youth Home began, 2,000 young people have benefited from Paul's philosophy of life: "Give more than you get and lend you ability in any way you can to help somebody else". Teaching young men to work hard and diligently at any task is a foundation stone of the home's philosophy. The obligation for carrying out work assignments instills in the hearts of young people a sense of responsibility and the personal satisfaction of a job well done. This social awareness is something that is sorely missing in many of today's young people and had helped to lead to many of the criminal problems we see daily.

Paul's wife, Glenda Anderson has overseen its operation. She supervised the staff and the boys while Paul was on his speaking tours; and she continued to provide leadership when later health problems prevented him from his daily activities at the home. Glenda has provided administrative leadership, given personal counseling and attention, and maintained day-to-day contact with alumni and families of the boys. All this while being a mother of their daughter Paula, born in 1966.

Even as he used his life to help others, Paul Anderson faced a personal struggle as his health declined because of his battle against kidney failure. In 1983, Paul's sister gave him a kidney; in 1984, a ruptured colon caused him to be in a coma for 10 days. In 1986, he required double hip joint replacements, and then became confined to a wheel chair. Throughout all these physical ailments, his faith in God never wavered.

Many public honors were presented to Paul Anderson. These are too numerous to be listed now, but I will ask that they be entered into the CONGRESSIONAL RECORD along with just a few of many articles written about the life of this dedicated Christian gentleman. With the 1996 Olympic Games coming to Atlanta, Georgia, Paul was the subject of some recent articles about what has happened since the last time there was much attention to the Olympics in the State, that time being when Paul won his medal. I also wish to share two letters sent to Mrs. Anderson by Billy Payne, the President of the Atlanta Committee for the Olympic Games, and by Lindsay Thomas, the Director of Government Relations for the Committee. Lindsay served as Paul's Congressman from 1983–1992 and came to know him well.

Madam Speaker, I rarely utilize printed space in the RECORD for the inclusion of such articles, but Paul was such a special individual, with such a special story, that I would like to make these stories available to those who want to learn more about this unique person.

Paul Anderson's legacy will be in the thousands of lives that he touched, in the thousands of lives that he and his family changed. His words will be available through the video and audio messages he produced and the books that he wrote. In my congressional office, I have copies of such materials that tell about the life of Paul Anderson, including this copy of his autobiography, "A Greater Strength", which tells the story of the real power behind the world's strongest man.

I look forward to reading this book in its entirety. Before coming to the House floor tonight, I quickly looked through its contents and two passages of Paul Anderson's own words caught my eye. Both of these come from public remarks that he made. After talking about some of his weight lifting feasts, he told one crowd:

They call me the strongest man in the world. I want you to know, ladies and gentlemen, that all these things are secondary in my life. I, Paul Anderson, the strongest man on the face of the earth, can't get through a minute of the day without Jesus Christ. The greatest thing in my life is being a Christian.

At another public event in his hometown, just prior to his kidney replacement operation, he was being honored on Paul Anderson Day with the dedication of a granite marker in his honor. In part, the monument was inscribed with this message: All our strengths come from God: to achieve—to excel—to succeed—to serve—to share—to forgive—to live and die—to gain eternal life through Jesus Christ.

When he departed this banquet to face the uncertainty of an operation that could take his life—or prolong his life of service, Paul Anderson left the gathering by saying:

If someday you hear that Paul Anderson is dead, he's not dead. He's gone to live with God. He can't live anymore in this tired old vehicle. Don't weep for Paul Anderson.

Today, in Vidalia at the Memorial Service and in many other places where Paul Anderson's accomplishments are known, there will be weeping by those who were privileged to know him personally or to see the great good that he did with his God-given talents. With tears in their eyes and joy in their hearts, they will remember a saying once written by a reporter who wrote a feature story on Paul: "Paul Anderson is the strongest man in the world and he lifts weights too."

The Kingston Family and our Congressional office extend our prayers to his wife, Glenda Garland Anderson; his daughter, Paula Dean Anderson Schaefer; his sister, Dorothy Anderson Johnson; and his aunt, Betty Anderson Guest. We also send our prayers of thanksgiving to God for sending Paul Edward Anderson to share his time on earth with so many.

Mr. Speaker, I am including at this point in the RECORD two letters and a letter to the editor concerning Paul Anderson and a list of the medals and honors earned by Paul Anderson, as follows:

ATLANTA COMMITTEE,
FOR THE OLYMPIC GAMES,
Atlanta, GA, August 16, 1994.

Mrs. PAUL ANDERSON,
Paul Anderson Youth Home, Vidalia, GA.

DEAR MRS. ANDERSON: I was certainly very saddened by the news of Mr. Anderson's death. There are very few people in this state who have enjoyed the very high acclaim and wide recognition that Mr. Anderson attained. Being a gold medal winner in the Olympics and the "strongest man in the world" are truly unique accomplishments. The great thing is that Mr. Anderson took his fame and ability and turned it into a life dedicated to doing good for others.

I think, often, of the lives that he touched and the many great inspirations he left for others. To me, the mark of a truly great person is measured in the person's influence on others. In Mr. Anderson's case, these persons, too, are doing great things for the lives of others as well. And so, his great tradition is passed on from generation to generation.

I will always have fond memories of Mr. Anderson and I claim some sort of personal friendship with him, although we were often not in close contact. My acquaintance with him, in addition to reading about him in the news, goes back to Athens "Y" Camp in the late 1950's when, as a young camper, I saw him duplicate the world record press that he later performed in the Olympics.

It was a pleasure this past year when I helped in some small way to see that he received the very special Olympic tag that commemorated the year of his great performance. He was the only person who received such a tag.

I hope you will share my feelings and my condolences with your entire family and all of Mr. Anderson's many friends. He will be an inspiration for generations to come.

Sincerely,

LINDSAY THOMAS,
Director, Government Relations.

ATLANTA COMMITTEE
FOR THE OLYMPIC GAMES,
Atlanta, GA, August 16, 1994.

Mrs. PAUL ANDERSON
Paul Anderson Youth Home, Vidalia, GA.

DEAR MRS. ANDERSON: It was with sincere regret that I learned of the passing of your husband on Monday of this week, and on behalf of all of the employees of The Atlanta Committee for the Olympic Games I extend to you and your family our deepest sympathy.

As a young person in the late 1950's I, like many other Georgians, shared a special, great admiration and respect for the many accomplishments attributed to Paul Anderson as an athlete, and most especially as a gold medal Olympian. As I have grown older, however, and learned more about Paul Anderson, the man and humanitarian, those athletic feats, though impressive by any measure, pale in comparison to his many contributions to the youth of our society who for various reasons needed special attention and a friend.

Like the true Olympian that he was, Paul Anderson reached beyond himself in every phase of life and in doing so set an example for the rest of us that will live forever. We have lost a truly great person, but the legacy that he leaves behind is one that can only be measured in Olympic proportions. In his memory it would be most appropriate that those of us who remain strive to follow that legacy and touch the lives of our fellowman in the positive way that Paul Anderson demonstrated for us.

God bless you and your family, and thank you for sharing your wonderful husband and father with us.

With best regards, I am

Sincerely,

WILLIAM PORTER PAYNE,
President and Chief Executive Officer.

[From the Advance-Progress, Sept. 16, 1992]

PAUL ANDERSON IS THE STRONGEST MAN IN THE WORLD AND HE LIFTS WEIGHTS TOO

With the announcement that Atlanta will host the 1996 Olympics, newspapers throughout the state, including our own Advance-Progress, have begun running numerous articles concerning the upcoming games. Though a good four years away, the impact these games will have on our state has already begun to take shape, creating a tremendous interest among Georgians. With this in mind, I thought the local readers would enjoy learning more about Vidalia's own Olympic hero Paul Anderson.

Paul Anderson was born in 1932 in the midst of The Great Depression in Toccoa, Georgia, where he spent the majority of his early life, graduating from Toccoa High in 1949. In 1952, at twenty years of age, the young man from Toccoa appeared on the weightlifting scene where he immediately gained the attention of lifters throughout the United States, breaking records that had taken old time lifters dozens of years to establish. Anderson, who stood 5'9" tall, weighed around 300 pounds and sported huge 21" biceps, 16" forearms, 58" chest, and massive 34" thighs. Those who witnessed his lifts in person, described the young man as a new strength sensation. The stories coming back from his competitions were so amazing that for some time many of the magazines refused to believe he actually existed.

Between 1952 and 1955, however, magazines and newspapers throughout the United States and then overseas saw the new sensation in person as he quickly took control of the heavyweight division, smashing record after record. Lifting magazines described the young man as one of the greatest lifters of all times.

Paul gained worldwide attention, however, in 1955, when he shattered the egos of the Russians, who had ruled the heavyweight division for years. Paul's performance behind the iron curtain in Moscow was far beyond a simple win. He dominated the competition with such ease that the Russian newspapers labeled him a wonder of nature. One elderly Russian stated, "I can die happy now, I have seen the greatest thing on earth". Throughout the world Paul Anderson was recognized unquestionably as the strongest man in the world. Paul continued his march through the record books right up to the 1956 Olympics in Melbourne, Australia, where, despite a horrible fever, he won a gold medal in the then heavyweight division.

1996 will mark forty years since Paul's Olympic performance. It also marks forty years since an American has won a gold medal in the heavyweight division. Nine Olympic games have passed since Anderson's performance, yet the ever elusive Olympic gold medal remains only a dream to the many American heavyweight lifters who have trained and competed for the last four decades.

For many athletes this would be their top achievement. For Paul Anderson, however, his life had only just begun. The gentle giant from Georgia yearned for more, and in 1961 Paul and his wife Glenda established The Paul Anderson Youth Home in Vidalia.

For over thirty years The Paul Anderson Youth Home has provided thousands of homeless and troubled teenagers, most of whom would otherwise be in juvenile or adult institutions, a home where academic training, physical fitness, emotional development, and spiritual guidance are instilled. Their unique approach has been duplicated in numerous other homes throughout the nation by those wishing to accomplish the tremendous results achieved by the home in Vidalia. The Andersons, who are devout Christians, attribute their success to the spiritual guidance they give to the young men. One only has to talk to present and past students to realize the wonderful results the Vidalia home achieves.

Anderson is known throughout this country and even the world, however, not just for his athletic abilities, but for the tremendous Christian values he has carried with him over the years, and for his untiring devotion to helping his fellow man. That untiring devotion had him traveling untold hundreds of thousands of miles where he appeared before as many as five hundred audiences a year. During those appearances Anderson would astound his audiences as he lifted objects that no other human could lift and then, with a booming voice that very rarely required a microphone, shared with his audiences his love of God, country and the free enterprise system.

Over thirty years later one only has to ride out highway 297 to the north end of town where the beautiful Paul Anderson Youth Home stands to see that one man can make a difference, and that true heroes do, indeed, exist. Anderson's unselfish giving and his tremendous spiritual devotion has propelled him into a category very few athletes ever achieve.

Though Anderson plays down the many records he set years ago, instead wanting to discuss the youth home and his many Christian achievements, lifting experts throughout the world continue to discuss his legendary strength. Many believe Paul Anderson is the strongest man who has ever walked on earth. This was no more apparent than in February of this year when at the first ever held Power and Strength Symposium in Orlando, Florida, his peers recognized him as the strongest man of the century. One only had to be there in person to feel the tremendous respect these athletes hold for the man they have loved for years. Once again, however, the talk around the tables after Anderson left for his return trip home was not just of his athletic strength, but centered around the tremendous Christian principles he has shared with untold thousands over the years.

Those close to Anderson have adopted a saying once written by a reporter who spent some time with Paul for an upcoming feature story. Though the reporter's name has long been forgotten, his words have not: "Paul Anderson is the strongest man in the world and he lifts weights too."

Sincerely,

LARRY COLEMAN.

PAUL ANDERSON

1955—Won World Championship in Munich, Germany, by breaking two world records.

1955—Appointed Lieutenant Colonel, Aide De Camp, Governor's staff by Georgia's Governor Marvin Griffin.

1955—Georgia's Governor Marvin Griffin proclaimed July 5 "Paul Anderson Day."

1955—Goodwill Ambassador for America through the United States Information Service.

1956—Olympic Gold Medalist, last American to win in the super heavyweight division.

1961—Founder of Paul Anderson Youth Home, alternative to juvenile and adult penal institutions for boys between the ages of sixteen and twenty-one.

1964—Helms Athletic Foundation—Helms Hall of Fame Award.

1966—Appointed Lieutenant Colonel, Aide De Camp, Governor's staff by New Mexico's Governor Jack M. Campbell.

1966—Named one of Five Outstanding Young Men in Georgia by Georgia Jaycees.

1970—Governor Jimmy Carter appointed him to State Physical Fitness Council.

1971—District Toastmasters International Georgian of the Year.

1974—Inducted into the Georgia Athletic Hall of Fame.

1975—Appointed member Advisory Committee on Juvenile Justice and Delinquency Prevention by Governor George Busbee.

1975—Presented Branch Rickey Memorial Award, highest honor presented to laymen by Fellowship of Christian Athletes.

1977—Recipient of the Golden Plate Award presented by the American Academy of Achievement.

1983—Appointed Lieutenant Colonel, Aide De Camp, Governor's Staff, by Georgia's Governor Joe Frank Harris.

1983, May 25—Citizens of Toccao, Georgia, placed a permanent marker at his original home in Toccoa.

1983, May 25—Governor Joe Frank Harris proclaimed "Paul Anderson Day" in Georgia.

VOL 140 PT 16 AG 12 — 18 1994 UMI

1983, May 25—Congressional Record paid tribute to Paul Anderson.

1983—Granted the Honorary Presidential Sports/Fitness Award for his contribution to sports in the USA by President Ronald Reagan.

1984—National Powerlifting Hall of Fame.

1984, May 30—Awarded Father of the Year by Southeast Farther's Day Committee.

1986, October 5—Declared "Paul Anderson Day" by Governor Joe Frank Harris in commemoration of the Paul Anderson Youth Home's twenty-fifth anniversary.

1990, June 29—Awarded Honorary Doctorate of Education from Piedmont College, Demorest, Georgia.

1992, February 14—Inducted into the Fellowship of Christian Athletes Hall of Champions.

1992, February 29—Presented "Strongest Man of the Century" award at the 1992 USA Power and Strength Symposium.

Awarded keys to cities including: Memphis, Tennessee; Salisbury, Maryland; Anniston, Alabama; Gainesville, Georgia; Toccoa, Georgia; Shreveport, Louisiana.

Listed in "Guinness Book of World Records" ". . . raised the greatest weight ever lifted by a human—6,270 pounds."

Member National Board FCA.

Author of three books, weightlifting courses, and poetry, as well as numerous newspaper and magazine articles.

Philanthropist whose speaking engagements and weightlifting exhibitions have provided a majority of the funding for the Paul Anderson Youth Home.

Highly acclaimed speaker for churches, Christian organizations, colleges, universities, high schools, corporations, and civic organizations.

Serves on the Board of Advisors of the Fellowship of Christian Athletes (FCA).

HEALTH CARE REFORM AS IT AFFECTS THE 85 PERCENT WHO ARE NOW COVERED—THOUGH NOT FULLY

The SPEAKER pro tempore. (Mrs. THURMAN). Under a previous order of the House, the gentleman from California [Mr. BECERRA] is recognized for 5 minutes.

Mr. BECERRA. Madam Speaker, I was going to devote a few minutes to talk about health care reform, but rather than do that I would like to just address some of the points made by some of my colleagues a little earlier today.

First, let me say a little bit about health care reform. I want to do that because I look at things from the context of what has happened to my family. I will speak most specifically about my mother and, if I have a chance, I will talk about my child, who is now about 15 months old.

I know a few of the gentlemen, my colleagues who came up before me, talked about the system and how it does not work. I think all of us would agree there are things about our health care system that do not work and dramatically do not work. But when one of my colleagues, Mr. SAXTON, from New Jersey, mentioned that 85 percent of the system works well because 85 percent of Americans are covered and 15 percent are not covered and it is that 15 percent that we have to address, this is a very major point. The 85 percent or so of the people who are insured are not getting the best type of coverage they deserve, whether it is my mother or someone working out there in the world or someone working in a business.

Talk to them, and they will tell you. They are right now concerned about whether or not they are going to keep their coverage or whether or not they are going to be able to afford it. That is what we have to address. Not just the 15 percent of America, which constitutes 39 million Americans, who are not insured, though we have to take a comprehensive approach to reform of our health care system.

Why do I say that? Well, I look at my mother. Years ago she had an operation in which she was in and out of the hospital within 24 hours. She was receiving some treatment because she was having calcification in her ears and was losing some of her hearing.

The doctor said it was a fairly routine procedure. It was surgery, they did have to go inside. But they said if all goes right, she would be out within 24 hours. Well, sure, she was in and out within 24 hours, with a bill of about $13,000. Now my mother had health insurance because my father was employed as a laborer for about 27 years of his life in road construction and he had partial coverage, 50 percent coverage—50 percent of $13,000, which they had to pay out of pocket is a lot of money for anyone, especially for someone who never earned more than $20,000 or $23,000 in his or her life before retirement. When my mother tried to deal with the situation and figure out why it was $13,000, she called, and she called not just the hospital but she had to call the insurance company. I must tell you my mother quickly learned what it is like to be an attorney, because she had to become her own attorney because she did not want to spend another $7,000 trying to, now, get an attorney to help her resolve the problems with her bill.

Interestingly enough—and I am her son, so she calls her son, who happens to be an attorney—when we finally had a chance to get access to that bill, let me tell you it was like extracting teeth to finally get the insurance company to give us copies of the bill.

I see why we have people complaining all the time about $5 aspirin tablets, because some of the expenses, some of the charges on that bill were ludicrous. Yet, she is someone who is covered. She is considered among the 85 percent of Americans who receive health insurance because she is able to get it through my father's employment, now in retirement.

Yet, can she afford to pay out $7,500, $6,000, even $1,000 in any given year for health care? It is tough. It is tough for anyone.

Now, put on top of that the fact that most people are seeing their deductibles go up, their copayments go up, their overall cost of premiums go up, and you see that the 85 percent who are covered do not have it easy.

On top of that, take a look at the 12 to 14 percent rate of inflation for medical costs, and you see something is wrong when the rate of inflation overall is about 2 or 3 percent.

Something is wrong.

Then I look back at my father's experience, and I had a chance to work with him when I was trying to pay my way through college, working out in road construction as well, more and more you find people who are working, working men and women who are constantly having to negotiate down their salaries to maintain their health care benefits.

That to me is not a sign of a system that is working. That is why we have to change, not only for the 15 percent who are not insured but for everyone, because sooner or later those who are insured are going to find themselves in the category of those who are not.

Interestingly enough, one of the reasons we have gridlock in this House is because people are saying, mostly on the other side of the aisle, that we cannot have what is being called the employer mandate or, as some would call it, shared responsibility, where the employer would pay a percentage, normally 80 percent, and the employee would pay a percentage, 20 percent, of the insurance.

Strangely enough, we are having a debate over something that goes on in America every day. Most of those 85 percent of Americans who are covered right now by insurance get it through their employer. They get it because the employer pays a good percentage of it right now, employer mandate or not. That is why I think what we have to do is understand that there is some good and some bad and make sure we deal with it for everyone, not just those who have it now.

I would hope that the debate on health care deals with those small issues, whether it is not those who—those who are not covered or the issue of those who are seeing too much bureaucracy, and we see there is a greater good in getting universal coverage.

HEALTH CARE REFORM: THE IMPACT OF TAXES

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes as the designee of the minority leader.

Mr. WALKER. Thank you very much, Madam Speaker.

I am going to talk a little bit about health care myself this evening. I am going to talk, and hopefully be joined by some of my colleagues in this effort,

about the taxes that are included in a variety of health care bills that are before this Congress, and try to put into perspective why some of us are concerned about how health care will be paid for, if in fact some of those particular measures pass.

But what I really want to do is begin by putting this into a little larger context because I believe the debate about health care also characterizes the debate going on in the country and a number of other arenas.

In Washington today the debate is often characterized as between conservatives and liberals or Republicans and Democrats or varieties of other kinds of groupings and that we have these battles that involve those kinds of political factions.

In my belief, that is not the real battle that is going on here. The real battle in Washington today and in the Congress is between those who believe that Government is too big and spends too much and another faction that believes just as sincerely that bigger Government means a better America.

Now, I number myself among those who believe that Government is too big and spends too much. Many of my Republican colleagues, I think, would probably be in that same category, although not all. Even some Republicans would agree that bigger Government means a better America.

But the health plans that we are considering here are very much involved with those two kinds of philosophies. In one case you have some health plans that stem from the idea that Government is too big and spends too much, and they are plans oriented toward keeping the present system of private care, private choice, and having the free enterprise system have a chance to work in health care. That particular system has produced the best health care system in the world. Many of us think it ought to be kept.

Those who believe that bigger Government means a better America have fashioned some new bills in Washington, some of which are coming before us in the form of the Clinton-Mitchell bill and the Clinton-Gephardt bill. In those cases they are also not only remaking the health system but they are figuring out ways to pay for it that involve new taxes, which is the subject of our special order this evening. This is happening in the context of an America where more and more people are coming to the conclusion that they need to take more responsibility for their own lives and that other people need to take more responsibility for their own lives. They also believe Government needs to have more accountability. It should not grow bigger; as a matter of fact, it ought to get smaller and be more accountable to the people.

And they want some idea of a hopeful future. They want some hope about what future generations are going to have in this country. In fact, many Americans think that one of the goals that we should be pursuing is the renewal of the American dream.

Now, I would contend that it is very, very difficult for more people to assume responsibility for their own lives if you raise their taxes, if you cut their wages and you take away their jobs.

I would also contend that it is very difficult to hold people more accountable within their own communities and hold the Nation more accountable if what we are doing to Americans is raising their taxes, cutting their wages and taking away their jobs.

And I would suggest there is very little hope involved in any kind of measures that pass the Congress that in fact raise the taxes of Americans, cut the wages of Americans, and take away the jobs of Americans.

□ 1940

And yet, and yet, the proposals that have been brought to us in the form of the Clinton-Mitchell health care plan and the Clinton-Gephardt health care plan would have exactly that impact on the country.

I am not going to discuss the problems that it would create for health care. I believe that these are plans that would create massive problems in the delivering of health care in the country, but I am not going to talk about those this evening. I am going to talk about the economics of the plans, and in those plans I am going to suggest that those plans have the potential for raising taxes, cutting wages, and taking away American jobs, and that is, in fact, a major concern, I think, for all of us if that is, in fact, what this Congress is going to do. I believe it is, and that will be a part of our discussion this evening.

What I would like to do is yield, first of all, to my colleague from Colorado [Mr. ALLARD] who is working with me on a task force looking into this whole problem of the tax problem within the health care plans and how those taxes can lead to cutting wages, increasing the tax burden on Americans, and taking away their jobs, and I yield to the gentleman.

Mr. ALLARD. Madam Speaker, I thank the gentleman from Pennsylvania [Mr. WALKER]. I would also like to compliment you, Mr. WALKER, on your fine work on the floor and your fine work on this issue because unfortunately there are too many Members of Congress that do not want to talk about the cost of health care, who want to continually talk about the benefits, but somehow or the other this is going to end up in a free ride. Nobody is going to have to pay for it, and every American knows that you are not going to get something for nothing, that the costs have to come from somewhere, and that is why this discussion is so very critical.

The focus that I would like to bring to this discussion is as somebody who has been in business for himself. I came to the Congress as a small business man. I was a veterinarian, started my own business, and I understand how sensitive small businesses are to just small changes in tax rates, and here we are, for example, with the Mitchell-Gephardt plans that are talking about tax increases that are going——

Mr. WALKER. That is Clinton-Mitchell and Clinton-Gephardt.

Mr. ALLARD. That is right. We got the Clinton-Mitchell and the Clinton-Gephardt plans that have been put out before us.

We are talking about increases of revenue. Most of them are tax increases that are going to be applied to the insurance policy, going to amount somewhere to a hundred billion dollars. That is a 20-percent increase in the income tax. Now——

Mr. WALKER. Now wait. Let us clarify that. You are suggesting that the tax increases involved in these two health care plans could amount to as much as a hundred billion dollars a year, which is the equivalent of a 20-percent increase in income taxes in the country.

Mr. ALLARD. A 20-percent increase in personal income taxes in this country, and what that does is that takes away from the spendable resources that individuals have.

Many small business people are individuals because they do not have a large enough company or large enough business to incorporate or to get organized, so they fall under this individual, and this is money that is going to be taken from their net profit and sent to Washington——

Mr. WALKER. But you are not suggesting that any of these plans actually come right out and include a 20-percent increase in the income taxes for Americans; are you?

Mr. ALLARD. Well, the effect——

Mr. WALKER. Effect is that, but in actuality what they have done is they have nicely hidden down in a lot of these bills a lot of taxes that they then do not want to discuss; is that not the case?

Mr. ALLARD. There is a lot of little taxes hidden in all these proposals. One of them has 12 taxes, and another one has somewhere around 17 taxes. But the biggest composite of all this is what we call premium taxes.

Now I had a proposal in the Committee on the Budget that said that any mandated revenues and mandated expenditures had to be on budget. Now the reason that is so very important to this discussion and so very important to the American people is that, when we talk about premiums, people get the impression that we are talking about premiums, people get the impression that we are talking about something that is voluntary, you go down and decide you need your insurance, you pay

79-059 O—97 Vol. 140 (Pt. 16) 50

VOL 140 PT 16 AG 12 — 18 1994 UMI

for this voluntary assessment so you can get your coverage, but in this case it is a mandated revenue. In other words, you are going to be required to pay it by the Federal Government, and if you do not pay it, there is going to be some kind of dire consequences.

That in my mind is a tax. That is so important to why we framed this discussion about what is going to have an actual impact on budget and not off budget. If it is off budget, there is no accountability on expenditures, no accountability on revenues, and the American people, I believe, want accountability on the health care system. That is part of their concern today.

Mr. WALKER. The gentleman from Georgia [Mr. KINGSTON] would like to join us here, and I would be happy to recognize him at this point.

Mr. KINGSTON. Madam Speaker, I thank the gentleman from Pennsylvania [Mr. WALKER] for yielding to me.

The question that I had when you were talking about this, you are basically talking about the old payroll tax concept, but has a few fancy slick titles, but it is still the payroll tax; is that correct?

Mr. ALLARD. In my view it is going to have an impact on the bottom line on what the employee is going to take home. It is going to have an impact on the bottom line, what the employer has available to create new jobs and to buy new equipment——

Mr. WALKER. The gentleman from Georgia makes an interesting point here, and it is an important point. Every time you hear someone talk about an employer mandate, that is a fancy word. What it means is payroll tax because when you say employer mandate, a lot of people say, "Well, that's not me. I'm not an employer. I work for an employer. Sounds to me as though my employer is going to get stuck for more money. Maybe that is a bad thing or good thing, but it really doesn't affect me."

What they have not heard is that employer mandate is an 80–20 split, which means that 20 percent of the cost of this they are going to pay. Employer mandate is really an employer-employee mandate with employees picking up 20 percent of the costs of all of these programs——

Mr. KINGSTON. If the gentleman would yield, now I understand a lot of unions have 100 percent of it paid by their employer, so what you are saying, if I have constituents who are members of a union, they are actually going to lose 20 percent.

Mr. WALKER. Right. At the present time anybody that has 100-percent health coverage at their place of work will now be required to pay 20 percent under the plan that has been put fourth here called the Clinton-Gephardt plan because they have an 80–20 split, and so it becomes a 20-percent payroll tax or—or 20 percent of the overall payroll is going to be paid by those union workers in your district. That is absolutely correct.

Mr. KINGSTON. So a rank and file union member working in a papermill in south Georgia who is maybe making $20,000 to $25,000 a year better be aware that he is about to lose a substantial portion of his payroll if this socialized medicine plan ever passes.

Mr. WALKER. If Clinton-Gephardt passes, there is absolutely no doubt that that employer is going—employee is going to end up with an additional payroll tax, and most employees now have awakened to the fact that that is real money. For most employees out there at the present time, for most middle class employees, for most average families in this country, they pay more in Social Security payroll taxes than they pay in income taxes, and so this is a very, very real expense in the pocketball when you start talking about that level of payroll tax.

But let me tell the gentleman the gentleman from Colorado was mentioning another thing. There is a premium tax. If you go over to the Clinton-Mitchell bill, there they do not have the payroll tax in it as such. Over there what they have done is they have put in place a 1.75, 1¾-percent tax on all private and self-insured health care plans, a premium tax on your actual health insurance. So, get this:

If you are buying health insurance, what they are now going to do is tax the health insurance that you are buying to take care of your health, and so what they are going to do is raise the price of all health insurance all across the country that not only then affects the employee and the employer, but it also has a massive inflationary impact on the society because all of a sudden you have raised the cost of health care all the way across the board by taxing the premiums on your health care policy.

□ 1950

To those union workers in your district that have particularly good health care plans, guess what? They are going to pay particularly more, because this is an 1.75-percent tax on the entire premium of the insurance.

Mr. ALLARD. If the gentleman would yield, obviously you are not going to get something for nothing. We talk about the current payroll taxes for Medicare, and then we have Medicaid. We are talking about 60 million people covered by both. We have now got a program that is going to bring in another 60 million people. And no matter whether you do something to try and keep yourself healthy, right now there are incentives in the system to be healthy. If a business sets up a health plan for regular checkups, exercise, and whatnot, they can do things to try and control their health care costs.

This is an uncontrollable cost that is going to go to individuals. It is going to go to the business people. It is a payroll tax that hits both sides. It hits the employer and the employee, no matter what you do, and I think that is devastating.

Mr. WALKER. You know, that is kind of interesting. We wanted to make certain we are bipartisan in some of this. I want to quote here from a Dear Colleague letter we recently got from one of our Democratic colleagues who tells us that when all these premium taxes are added up, it really is not going to pay for better health care. He makes the point, quoting from Congressman TIM PENNY, "Over half of the new taxes in the leadership bill," which is the Clinton-Gephardt bill, "come from premium payments for non-enrolling employees." Listen to this. "These are fees the employers pay for employees covered somewhere else, through their spouse, et cetera. Until the year 2003, the Treasury keeps this money to finance the cost of the legislation, thereby helping the 10-year outlook tremendously. After 2003, this money would be returned to the employer who provides the insurance."

Why isn't this money given to the employer who provides the insurance immediately? Because the money is needed to cover the higher health costs in the first 10 years.

So they are boosting the health care cost. They are charging the employees. We are going to collect the money here, use it to make the books look better, and everybody loses. The employee loses, the employer loses, everybody loses, and we get tremendously more expensive health care in the country.

Mr. KINGSTON. If the gentleman will yield, the thing that I have been told about Medicare during its first 5 years is that it was 70 percent over projection. So the cost of that, and when we are talking billions and billions of dollars, it is so important to remember, 70 percent over projection, when as the gentleman from Colorado says, we are talking about a $100 billion cost, we have absolutely no idea what we are talking about in truth, because we cannot predict over-utilization.

Another thing, my office is getting bombarded by provider groups saying "I want to be in on the standard benefit package." The history of these State-run programs in places like Hawaii is that new provider groups every year have come in and said include this, include that. And as they do, that $100 billion that the gentleman talked about goes through the roof. Then the payroll tax will not be just the end of it. There will be more and more taxes.

Mr. WALKER. The history of payroll taxes is every time you have one, it keeps increasing. It is always for

things that look like they are good reasons. But the bottom line is that they have a tremendous impact on the pocketbook of the average American family, and it keeps that American family from being able to be responsible for itself. It keeps that family from being able to pursue the things that it regards as most important, because too much of its money is headed back to Washington or someplace else in payroll taxes, that they end up not being able to afford.

Mr. ALLARD. On this discussion on the cost to the employer and the cost to the employee, I am looking at a study here put out by the Heritage Foundation. They are talking about the impact on both the employer and the employee. Here is a chart that talks about the wage effects of the Gephardt bill, for example. It applies to my State of Colorado.

It states here the net change in wages per employee is $705. In other words, that employee is going to take home that year $705 less than what he has been all along, without a salary increase.

Then let us look at the other side and how that is going to impact the small businessman or the employer. It says here that we are looking at a cost per employee to the business person of $802. So we have the employer facing a cost of $802, additional cost per year per employee, and then we are looking at each employee is going to be looking at taking home $705 less. That is just in the State of Colorado.

It is going to have an impact on all employers and employees.

Mr. WALKER. The gentleman raises an interesting point. Recently I was contacted by the National Federation of Independent Businesses, the small business organization in Washington, who has done some studies of their own. I was shocked to find out that if the Clinton-Gephardt health reform bill were to pass, 66,120 Pennsylvanians would end up losing their jobs.

Now, I looked at that figure, and it stunned me. And then all of a sudden I realized if you divide that out, that is on an average 3,150 people in my congressional district that are going to lose their jobs as a result of this. It is not just the wages are going to go down, it is the fact that actual people are going to lose their jobs, 3,150 people in my district.

Then to go along with what the gentleman just said, NFIB looked and figured out how many jobs were going to get wage cuts if we passed the Gephardt bill. This is a pretty stunning figure. In my State, 539,754 people are going to end up having their wages cut as a result of this bill. That is almost an entire congressional district in my State that is going to have their wages cut under this bill.

In my district, if you average it out, in my district under this, 25,700 people in my congressional district are going to have their wages cut if this bill passes and becomes law.

Now, I do not know a lot of people in my district that can afford to take wage cuts at this point. I sure do not know people who can afford to lose their jobs.

Mr. KINGSTON. Especially after the tax increase they were hit with last year.

Mr. WALKER. They are already paying increased taxes.

Mr. BECERRA. Would the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. BECERRA. I am interested in the discussion. I had spoken a little earlier on some of the issues on health care. I do not know if the gentleman from Colorado's figures are accurate or not. We always hear figures. Assuming there might be some accuracy in the figures of $705 less in take-home pay, it seems to me those Coloradans who will now be given full coverage at an expensive $705, which is probably 2 month's worth of premiums in this day and age, might be benefited by having the Gephardt plan if that is the case.

In terms of the gentleman from Pennsylvania's point that there might be 3,000 or so people who might lose their jobs in his congressional district, which is again, of course, about the same size as my congressional district, I know that the Department of the Treasury has told me according to their surveys and studies, and again we can question whether they are accurate or not, but that there are 179,000 people in my congressional district who are not insured. A third of those are children. Eighty-five percent of those 179,000 people are working, but they do not have insurance.

Mr. WALKER. Let me tell you how phony those figures are. One of the things the figures included in my districts are the Amish. They do not have insurance because they do not believe in insurance. Yet they are carried as part of the figure here that is told to us about uninsured Americans. So I have real questions about whether or not those figures reflect much beyond a decision that we ought to have a bigger government that provides health care for everyone.

I do not believe, to begin with, that that is possible to happen. But second, I also question whether or not the cost is too enormous. For many of those people that the gentleman from Colorado was talking about, their employers cover them pretty fully with health care insurance right now. What you are saying to them is you ought to give up $705 so that other people who are not covered can get health care coverage.

Mr. BECERRA. I think the gentleman has misconstrued the plan that Mr. GEPHARDT has presented. The majority leader's plan does not say that an employer cannot continue to fund 100 percent of a plan. It says the employer is only required to fund 80 percent of a plan. If we have generous employers who wish to fund 100 percent, that is great. I think employees would rather have an employer that would like to fund 100 percent of a plan. We have too many employers who cannot afford to fund 80 percent.

Mr. COX. I assume that the gentleman is aware that the Clinton-Gephardt bill proposes $7 billion in new taxes on health care premiums themselves, a direct tax on individuals who buy health insurance, if they happen to be self-employed, and obviously a pass-through tax for anyone who gets insurance through their employer.

□ 2000

That explicit $7 billion tax is just the base of what Martin Feldstein has determined is a $100 billion annual tax increase. You cannot have a tax increase of this magnitude on the American economy without destroying jobs.

So the real question is not how many people right now are without health insurance and how many people right now are at the margin. The question is, after this enormous new tax plan passes, $100 billion a year, according to the former chairman of the Council of Economic Advisors, how many more people will be without jobs and how many more people will be on the margin and what overall for America will be the reduction in the quality of care and the availability of care?

If fewer people are working, if we destroy as many jobs as it is estimated we shall with this magnitude of tax increase, what will be the availability to the Government of revenues necessary to run what is obviously the largest expansion of entitlements in American history?

Mr. WALKER. Just to emphasize the gentleman's point, the total job loss under the Gephardt plan, Clinton-Gephardt plan, is 1,323,961 jobs, according to NFIB. The numbers of people who will have their wages cut under the Clinton-Gephardt plan is 10,986,106 people. Those are enormous figures. Imagine, 10 million Americans are going to have their wages cut as a result of this plan.

Mr. BECERRA. The gentleman is being very gracious with the time.

We do not know if the numbers that we are all talking about are accurate or not.

Mr. WALKER. These are NFIB numbers.

Mr. BECERRA. Whatever the source might be, we all have to just assume that what we are saying is somewhat accurate. But if in fact 10 million Americans will now see their wages decrease as the gentleman has explained it, is that not as a result of trying to provide these Americans who do not have health insurance coverage with coverage?

VOL 140 PT 16 AG 12 — 18 1994 UMI

I would ask the gentleman from Pennsylvania, how much is he paying a month right now for his health insurance?

Mr. WALKER. I personally pay, I think, about $100 a month.

Mr. BECERRA. So in 7 months, you would recoup the $705 that you are saying the people in your State or the State of Colorado will pay?

Mr. WALKER. I personally pay that. I do not think anybody, I do not think anybody is going to reduce that for me. It is not going to be reduced. I still have to pay it right now. Right now I pay 25 percent. My guess is that that is exactly what I will end up paying in the end. I am not going to have that reduced and no one else is either.

What the gentleman from California is making the point, and he is absolutely right, in addition to that, you are now going to put a premium tax on that insurance that is going to cost me more. The cost of my insurance is now going to go up because of the premium tax that is included in these bills. So you are going to charge me more for my insurance now. I am not going to get any break. Maybe some additional people are going to get covered, but it is not going to help me.

Mr. KINGSTON. Let me say this, if you lose your job, even for a good intention, like to get health care, you still lose your job. I do not think it is the Government's right.

I want to back up a little bit, because in some way we are talking about the paint of a car, the color of a car that we are going to buy, but we do not have the money to buy the car. We have all somewhat agreed, and if I could paraphrase the gentleman from the other side of the aisle, you said we are not sure about these figures, which I agree with. We are not sure about these figures at all.

The reason why we are here, the reason why we were all sent from 435 congressional districts is to know the figures, know the facts.

If you all remember political science 101, whatever your background is, you know that when a bill is introduced, how a bill becomes law. It is read on the floor of the House. It is referred to a committee. The committee assigns it to a subcommittee and sometimes three or four subcommittees, sometimes it goes to two or three major committees. Then it is reported out of it. It goes to the House floor, comes back for a vote.

During that period of time there are countless hearings, countless letters, countless studies done to find out, are we talking 600,000 jobs or 11 million jobs. How many jobs are we talking about? How much money. This is how a bill becomes law.

If you took it in political science 101 in college, you learned you did not need to buy Sominex ever again because this gave you all the facts.

Now, what we are doing with one-seventh of the economy is a little bit different. We are talking about the Clinton-Gephardt bill, which we do not have, unless any of my colleagues have got the bill. Is there anybody here that has a bill?

Mr. BECERRA. It was printed up as of last week in the CONGRESSIONAL RECORD, every single word.

Mr. KINGSTON. Has that been distributed to all the Members?

Mr. BECERRA. It is available now.

Mr. WALKER. Let me just say, it is available. The problem is, the cost estimates are not. A lot of what we are talking about here is cost estimates. The cost estimates are not, because it has not been through the process. We do not have any idea what some of these provisions cost.

Mr. KINGSTON. And remember, Mr. GEPHARDT has already said he is going to rewrite Clinton's bill. So if you have one right there, that is not the bill that your leader has said he is going to rewrite. So here is where we are. We are in a position that a bill has been introduced, read into the RECORD, and that is supposed to be it. I do not know any other bill that has gone through a process like that. We are voting on it because we have been held hostage in Washington, DC.

The President is going to sign it and, presto, rather than this going through a deliberative process and knowing the real numbers on the taxes, how we will pay for it and all of that, we are going to have this. As a result, the American people are going to have this.

Mr. COX. If the gentleman will continue to yield, I think we have to focus on the numbers we do have. The gentleman is right. We are operating in an environment of uncertainty.

Over in the Senate I understand Senator MITCHELL went down to the White House tonight to say that his Clinton-Mitchell bill is in trouble. We are obviously spinning our wheels here waiting for the majority leader to try and put together enough votes on the Democratic side so he might be able to bring his bill here to the floor. That is why the bill is constantly changing. Because in order to get the votes, it has to change.

But notwithstanding that, there is no health care bill that has a rule to come to the floor, the Clinton-Gephardt bill that was submitted to CBO, that was printed in the CONGRESSIONAL RECORD that our colleague is holding up in the air, has been scored by CBO in such a fashion that there are $63 billion per annum, per year, in new taxes on top of current levels in addition to the stated taxes in the Clinton-Gephardt bill. Those $63 billion have been understated, according to Professor Feldstein of Harvard and the National Bureau of Economic Research, by yet another $40 billion, getting us to $100 billion.

Let me illustrate where some of these billions and billions in annual new taxes on American working families are coming from.

Medicaid is nearly abolished by the Gephardt-Clinton bill, a fact of which the majority leader is quite proud. We are going to save, he believes, all sorts of money by requiring private insurance companies to provide Medicaid benefits. But here is the rub, the standard benefit plan in the Gephardt bill is much less generous than Medicaid. So what poor Americans are now being guaranteed by Medicaid is better than what all Americans will get out of the standard benefit package.

And under the Clinton-Gephardt bill, the Government is going to guarantee to the private insurance companies that are now responsible for Medicaid only the same subsidy that they are going to pay to all Americans for the Government standard benefit plan, even though the private companies are going to continue, under the Gephardt-Clinton bill, to have to provide the higher level of care that is currently guaranteed to Medicaid recipients.

That is $29 billion of difference outlined in this piece by Professor Feldstein and the National Bureau of Economic Research.

What do you think happens to that $29 billion that insurance companies have to pay out but that they do not get from the Government for Medicaid recipients? They shift that entire $29 billion cost onto the premium payers that are private.

Mr. WALKER. Over and above the premium tax.

Mr. COX. This is $29 billion that gets sucked out of working Americans' pockets because private insurance companies are mandated by law to provide the Medicaid benefits that the subsidies do not cover. The money has to come from someplace. That is $29 billion of it right there in an annual new tax that is quite nicely hidden inside the Clinton-Gephardt bill.

Mr. BECERRA. I thank the gentleman for yielding. You are right, it is difficult to read through this. I would not encourage anyone to have to read such small print. That is the case with just about any bill you pass, because are you dealing with so much language. One thing I did not learn in poli sci 101 is politics. For anyone to come to the floor of this House and say that we have not had a chance to discuss the guts of what is health care reform, I think it is unfair.

Because my predecessor, I just came in, this is my first year in Congress, my first session in Congress, my predecessor, who was here for about 30 years, constantly, for years, tried to push through health care reform, major health care reform. He was not able to do it.

We can go back to the early 1970's when President Nixon tried to push through similar health care reform as we see on the floor being debated today. It is there. Clearly a lot of the components of the Gephardt bill were not in language that was seen 4 months ago, 3 months ago. But we have debated just about every component of it. Now it is a matter of ways to get it scored to see how much it costs so we can have an honest debate. But to say that we have not had a chance to discuss meaningfully just about every component, I think is an unfair statement for the American people to hear.

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Mr. KINGSTON. If I may respond, I find it appalling that you are suggesting that cost is not a major component. Listen, we are not talking about letting the Government run it. We already know that the purpose of the Clinton-Gephardt-Mitchell approach is to let the Government run health care. That is not right. We are talking about the cost of it, and what you have just said, if I heard you correctly, is we have talked about all the major components.

We believe on this side of the aisle, and I believe most of our constituents do, too, that a major component of health care is cost. That is what we are talking about here tonight, and we all know we do not have any idea what it is truly going to cost. That is why we have not even had a bill.

Mr. WALKER. The gentleman from Colorado [Mr. ALLARD] has been very patient, and I will yield to him.

Mr. ALLARD. We are throwing billions of dollars here and a billion dollars there, Madam Speaker, and I think back to my small business background, every $10 made a big difference. I was in the State senate and we ran things off to the closest thousand. Here we are talking about billions and billions of dollars.

The bottom line is, is this going to cost us more? It is going to cost us jobs and it is going to be reflected in tax rates, the amount of taxes people have to deal with.

Mr. WALKER. All of these billions we are talking about is 3,150 jobs in my district that are going to be lost. The people of Lancaster and Chester Counties in Pennsylvania are going to lose 3,150 jobs that we cannot afford to lose. That is what the billions of dollars mean. That means that practically every community in my district will lose at least one job, and maybe several. We can talk about the billions, but those kinds of specifics do need to be debated here.

Mr. BECERRA. Are not the four gentlemen on the floor here debating one major piece of legislation?

Mr. ALLARD. We have a lot of people working part time who are going to be impacted. They may hold down two or three or four part-time jobs. Those are part of the loss that we are going to—that is going to make it more difficult for these hard-working Americans on the lower end of the pay scale to keep a job, and then to have the revenue that they need to support their families.

Mr. WALKER. I do not think it is going to be the chairman of the board of one of my major industries that is going to lose his job. My guess is it is going to be people who can ill afford to lose their jobs, who are going to be those who are out jobs as a result of this.

Mr. BECERRA. If the gentleman will continue to yield, and I thank the gentleman for yielding again, it seems to me that one of the important things that the four gentlemen here are excluding or omitting from their discussion in talking only about the Government taxes that may be increased, is what I would call private taxes that are already increasing upon all Americans, either insured or uninsured.

We have a system where close to $1 trillion right now is being spent on health care, yet we have about 39 million Americans who are not yet covered. If we let things continue the way they are going, in the next 6 years, by the time we hit the next century, we are going to see that the cost will have increased dramatically on Americans.

So whether we call it a tax from the Government or a tax from private industry which has not been able to corral its costs, there is still a tax. Whether it is paid out to the Government or paid out to an insurance company in a premium or a copayment or a deductible, it is still coming out of the pocket of the American people. We have to take the whole picture into account.

Mr. WALKER. I say to the gentleman, before yielding to the gentleman from California, private industries pay taxes, they do not create taxes. Taxes are that which is coerced out of people's pockets by government. That is what is happening here. I will tell the gentleman, that is very specifically what this special order is all about.

We are talking here tonight about what is going to end up being coerced out of the pocketbooks of working Americans as a result of the passage of the Clinton-Gephardt plan. In our view, that is a legitimate subject, because the Clinton-Gephardt plan is in fact a big-Government plan that relies on big-Government taxes.

We want the American people to understand that those big taxes are going to impact on them; that when many people on your side of the aisle talk about employer mandates, the American people need to really know that is a payroll tax. We are talking about a payroll tax, a payroll tax that is not only going to take more money out of their pockets but is going to cost some of them their jobs.

I yield to the gentleman from California.

Mr. COX. I think the gentleman is quite right to focus on this very euphemistic term, "employer mandate." It is a payroll tax, and it is a substantial one. Of course, a payroll tax is a tax on jobs. It is not only a tax on people who currently work, but it is the worst of all, a prohibitive penalty tax on people who do not yet have jobs, because it raises the cost of creating that new job.

If you are trying to get your first job, if you are unemployed and you are looking for work, would it not be a shame if that job that you might have gotten is destroyed because a new tax was placed on that job that made the cost of hiring you prohibitive, and the employer could not hire the margin worker?

What we are looking at with $100 billion in annual new taxes, according to professor Martin Feldstein, again, at Harvard, the former chairman of the President's Council of Economic Advisers, and the National Bureau of Economic Research, is the equivalent of raising personal income taxes 20 percent across the board.

Mr. WALKER. Can you imagine the outcry that would happen if they actually put that in the bill, that they were going to raise personal income taxes 20 percent to pay for all of the things they want to do?

Mr. COX. If the gentleman will yield, of course that is exactly what is in the bill. The fact that we have not had time to read it in committee, as has been pointed out so eloquently, is the only reason that more people are not aware of the fact that we do in fact have such an enormous increase in taxes in this bill.

Let me just explain where $13 billion of that new annual tax burden comes from. It comes from Medicare cuts. Again, the majority leader is proud of the fact that his bill cuts Medicare. The bill actually requires that hospitals and other providers continue to provide the same level of Medicare services, no reduction in the services that they are required to provide, but it cuts billions of dollars, $13 billion a year, out of what they can get for it.

Naturally, the hospitals and the providers are going to have to shift that cost onto their paying patients and onto people who are privately insured, so that those people, working Americans who are not getting the Government subsidies, are going to pay 100 percent of this new $13 billion annual tax.

That, taken together with the $29 billion annual tax from the Medicaid shift to private insurance without an accompanying sufficient subsidy, and the $7 billion in explicit new taxes on health care premiums, of all things—obviously we were supposed to be reducing the cost of health care in this exercise, and now we are levying a tax directly on the health care insurance itself, and

VOL 140 PT 16 AG 12 — 18 1994 UMI

that is on all health insurance, I should add, in the Gephardt bill. Over in the other body the Mitchell bill has a 25-percent tax, a huge tax on any insurance plan that does not fit the prescribed form of the national benefit plan.

Mr. WALKER. So in other words, if you get one of these good plans that some people around here call the Cadillac plan, the Mitchell-Clinton bill would actually tax those plans?

Mr. COX. That is exactly right. But here the Gephardt plan is going to tax you even if you do conform with the standard benefit plan, the one-size-fits-all plan for America. When you add all these taxes together, that is where $7 billion, the premium tax, $20 billion, the Medicaid tax, $13 billion, the Medicare annual tax that I explained, $27 billion in additional tax burden on the American people that Professor Feldstein explains will be caused by people changing their behavior to, in essence, game the system, so they qualify for more subsidies, all that adds up to $100 billion a year in new taxes, or the equivalent of a 20-percent income tax increase across the board for all Americans. It is just extraordinary to think of the economic impact this will have on America. It will destroy jobs.

Mr. WALKER. I yield to the gentlewoman from Texas [Ms. EDDIE BERNICE JOHNSON].

Ms. EDDIE BERNICE JOHNSON of Texas. Could I just get a clarification, Madam Speaker?

Are you speaking about the working people that have no opportunity to be covered on their jobs by private insurance, those people that other working people have to take care of, simply because they have no mechanism by which to pay their insurance? Is that the population you are speaking about?

Mr. WALKER. What I'm talking about is the fact that the increased taxes that are in the Clinton-Gephardt bill are going to, in fact, cost a lot of those people their jobs. In fact, I gave a figure earlier, before you came here: 3,150 people in my area, according to the National Federation of Independent Businesses, are going to actually lose their jobs; 25,700 people in Lancaster and Chester Counties, PA, are going to have their wages cut as a result of this bill. A lot of those are people who can ill afford to have their wages cut.

Ms. EDDIE BERNICE JOHNSON of Texas. Are you telling me that businesses would rather lay people off than share the cost of their insurance?

Mr. WALKER. What I am telling you is that the cost of the taxes that are included in this bill are in fact going to have impact. I realize there are a lot of people in the Congress who think we can pass taxes and they have no economic impact. The fact is they do have economic impact, and it causes people to lose jobs.

In this particular case the enormity of the taxes is going to cause literally, according to NFIB, 10,968,106 Americans to have their wages cut, and over 1 million Americans will lose their jobs.

Ms. EDDIE BERNICE JOHNSON of Texas. What is this going to cost the working people, unless they have the opportunity to pay for their own insurance? A lot of working people do not have the opportunity to pay for their own insurance.

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Mr. WALKER. Our point has been the working people are going to pay a terrible price here.

Ms. EDDIE BERNICE JOHNSON of Texas. They already are, paying for those people who have no opportunity to pay for their own private insurance because their companies will not offer them a plan. These are the companies that are pulling out of the taxpayers' pockets because they will not offer an opportunity to people to pay for their own insurance.

Mr. WALKER. The gentlewoman has a rather strange view of the American economy, but I would say that I thoroughly agree—as I said to begin my remarks, I thoroughly believe that there are many people on your side who believe that bigger Government leads to a better America. That is exactly what I am hearing.

Ms. EDDIE BERNICE JOHNSON of Texas. We are not talking about a bigger Government. We are talking about an opportunity to stop paying so many taxes for working people. We want them to have the opportunity to pay the taxes for themselves by having an opportunity to have their own insurance.

Mr. WALKER. Your opportunity is more taxes on both employees and employers.

Ms. EDDIE BERNICE JOHNSON of Texas. You like saying that. But that is not the truth.

Mr. WALKER. It is.

Mr. KINGSTON. Is it not true that the Michel and Rowland-Bilirakis plan does address the working poor, that $5-an-hour brick mason who may work 8 months a year, he is serviced by the Rowland-Bilirakis plan without a tax increase? He gets to keep his job and his insurance.

Mr. WALKER. There are a number of options around here other than the Clinton-Gephardt big Government plan.

Ms. EDDIE BERNICE JOHNSON of Texas. You want to protect those businesses who do not want to protect their employees.

Mr. WALKER. Madam Speaker, I think I have been very generous in terms of yielding time here on both sides, and I am willing to do that, but I think that we ought to be given the courtesy of pursuing the issue that we brought to the floor. I will be very happy to yield to the gentlewoman and allow her to have some time, too, but I wish she would allow my colleagues to make their points without trying to outshout them. It seems to me we ought to have a dialogue here that is helpful and does not become a shouting match. I will be very happy to yield in a way that makes that happen.

Mr. COX. I think I can answer the gentlewoman's question directly from the Congressional Budget Office report that we have seen on the bill that we are discussing. The CBO's report, and I am reading from it, and this is a quote, acknowledges that the effective marginal levy on labor compensation, and now we are talking about, in other words, the effective marginal tax on labor compensation could increase by as much as 30 to 45 percent for workers in families eligible for low-income subsidies, the very people we are supposedly trying to help, so that "some low-wage workers would keep as little as 10 cents of every additional dollar earned." This is a quote from the Congressional Budget Office report on the bill. This is how steep the effective marginal taxes are on low-wage workers. Of course the ultimate tax is losing your job.

Virtually all economists agree that if there is a new payroll tax, it is going to have to come out of either employee wages or other fringe benefits or it will result in reduced employment. All of the studies presented to the Joint Economic Committee, whether it is from the Rand Corporation, the State of California or what have you all show that that is where the money comes from. That is how the cost is paid. And the only tradeoff is some people say that you lose a few more jobs and you do not reduce wages quite as much. Other studies say, no, you reduce wages a lot and you do not lose quite as many jobs. Everybody agrees that you lose jobs and you cut wages. Of course if the magnitude of the tax is $100 billion a year, it is just absolutely mindboggling to contemplate what an enormous tax increase this is. It makes last year's largest tax increase in history pale by comparison. It is absolutely certain that we are hurting low-wage working Americans. The Joint Economic Committee found in a report by our staff economists that the people bearing the greatest burden from this so-called employer mandate, the new health care payroll tax, are people with annual incomes of $14,000 to $24,000. Those are the people that are bearing the burden.

Mr. ALLARD. The bottomline is we are pulling in 60 million Americans over and beyond the 60 million that are covered by Medicare and Medicaid. We have to pay for this additional coverage some way. The only way we are going to do that is we are going to have to apply a tax. I was looking at some figures here that is looking at somewhere around $100 billion.

Mr. WALKER. That is $100 billion a year.

Mr. ALLARD. One hundred billion dollars a year. We are talking about part-time employees. I am trying to think here. Who are part-time employees? It might be the neighborhood fellow over here that cuts your lawn. It may be someone you hire to come in and clean your house. It might be someone you are paying to baby-sit your pet or even baby-sit your child. So when you stop to think about the myriad of part-time jobs that we have in this economy, it is not hard to understand how you lose jobs when you have these expenses that go over—we are not talking about large corporations, these are individuals who hire people to come in and do work for them on a part-time basis. When both parties get hit with these types of tax increases, it reduces productivity, it has an adverse impact on revenue to the Federal Government, to everybody. And there is a limit there on how high we can go on taxing people, and I think that is a lot of what this discussion is about.

Ms. EDDIE BERNICE JOHNSON of Texas. I just want to clarify with my colleagues. When working poor, marginal workers, whatever way you want to define them, have no opportunity to pay for their own insurance, are you not keenly aware that taxpayers pay that bill? Are we not going to look for an opportunity for them to have a way to pay their own way with it being shared by the employer? Or do you expect that the working people are going to continue to pick up the tab for both the employer and the employee?

Mr. WALKER. I would say to the gentlewoman, that is exactly what we attempt to do in both the Michel bill that is here and the Rowland-Bilirakis bipartisan bill.

Ms. EDDIE BERNICE JOHNSON of Texas. That is what is being done in the Gephardt bill.

Mr. WALKER. One of the provisions in there is aimed at providing the kinds of encouragement that employers need in order to provide that kind of broad-based insurance, and we believe that that will help in the situation. Does it solve the entire situation? No, it does not. But it provides coverage for millions more Americans than now have coverage. But it does so without raising taxes.

What the gentlewoman is suggesting is, it seems to me, that the country is better off if we simply raise taxes, grow Government bigger, because that will help these people.

Ms. EDDIE BERNICE JOHNSON of Texas. You have grossly misunderstood me. May I clarify my point?

Mr. WALKER. Sure. Go ahead. I yield to the gentlewoman.

Ms. EDDIE BERNICE JOHNSON of Texas. I know that it is important to you to label my side of the hall here as tax-and-spend. That seems to be quite important. But the truth of the matter is the Gephardt bill is attempting to take some of the burden off middle-class America so that persons who are working can have an avenue by which to help pay for their own insurance.

Mr. WALKER. I would say that I think we are attempting that in the proposals that we will put forth as alternatives.

Ms. EDDIE BERNICE JOHNSON of Texas. We are talking about people taking on their own responsibilities. Not raising taxes.

Mr. WALKER. Once again, I remind the gentlewoman that I control the time and I would like an opportunity to answer without her outshouting me.

Ms. EDDIE BERNICE JOHNSON of Texas. I am listening.

Mr. WALKER. We think that we do provide the opportunity within the alternative bills that we have put forward for people to have those kinds of plans and that we do so without raising taxes, but I would simply say to the gentlewoman that the tax plans that are a part of the Gephardt-Clinton plan that you endorse in fact will lead most of those low- and middle-income Americans or for many of them to a situation that is going to raise their taxes, cut their wages, and take away their jobs. We simply say that that is unacceptable, that is unacceptable as national policy. You may think that there is a common good at the end of that process that justifies doing that, but I suggest to you, when you raise people's taxes, cut their wages, and take away their jobs, you have done something wrong.

Ms. EDDIE BERNICE JOHNSON of Texas. Are you assuming that employers are just that unscrupulous? It sounds to me that you are assuming that the employers are irresponsible, that they do not want to take on their proper share.

Mr. WALKER. I am not assuming that at all. I am assuming that if you give them the kind of incentives that they have in the Rowland-Bilirakis bill that they will be very happy to step forward and do this and in fact will do much more than the initial estimates suggested. But right now we have provided disincentives within our State for that. We want to reincentivize the economy to allow employers to step up to that plate and we think that is possible, and you can do so without raising taxes, without cutting jobs, and without cutting wages.

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It seems to me that is the right thing to do. Let me yield to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. I think it is important for us to recognize that there are philosophical differences as to what the role of Government should be in private industry, in health care, in individual people's lives. I think that less Government is better Government. I think often the Government goes into this picture of the struggling middle class who wakes up in the morning and hopes Government will do something for him or her, and I find that kind of like getting fish out of the water to keep them from drowning when the Government gets involved. I do not think the middle class sits forlornly and says only the Government is going to get me out of this one.

You know we have a good bill that does not turn health care over to the Government in the Michel bill.

But there is also the bipartisan Rowland-Bilirakis bill with many of the same things like eliminating preexisting illness, doing away with some of the antitrust problems with the hospitals and health care providers, some tort reform and no tax increases.

But there are philosophical differences here, and really what we are debating as much as anything is that there are good alternatives here. There are two fundamental questions to health care. First, who is going to run it? In the Gephardt bill it already says the Government is going to run it in its entirety because that is the bottom line of universal care. The second question is, Who is going to pay for it? The debate here tonight is really we are not willing to engage in the first question because we have already made up our mind and the other side of the aisle has made up their mind on that. But what we are talking about is who is going to pay for it, and that is why it is so important we talk.

Mr. BECERRA. Madam Speaker, will the gentleman yield?

Mr. WALKER. I want to do a summation and I am told I am down to about my last 3 minutes.

Mr. BECERRA. I will be brief.

Mr. WALKER. I yield briefly to the gentleman.

Mr. BECERRA. Madam Speaker, I think it is important to point out that the bills that the gentleman has referred to, all three gentlemen have referred to, the Republican proposals and the Rowland-Bilirakis bill do not cover anyone, in fact probably leave close to 25 million Americans without insurance, which means, as my colleague from Texas tried to point out, which means again middle-class taxpayers will again have the burden of the problem of paying for the health care costs for those uninsured.

Mr. WALKER. Let me say to the gentleman if I can just take back my time, we simply do not agree with that. That is your analysis of the bill designed to try to say that these bills are going to fail. I agree with what the gentlewoman from Texas told us here a minute ago, that employers, given the right incentives, will step up to the plate, and if they do, we will cover far more than the numbers of people the

VOL
140
PT
16
AG
12
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18
1994
UMI

gentleman suggests in some of these wild kinds of figures that he gives us.

Mr. BECERRA. This is actual fact. If the gentleman will yield, there was a study done in New York based on incremental reform. This was done in New York which showed that very few people became insured. As a result, the middle-class taxpayer still held the burden of paying the bills for the uninsured, and that is what happens when you have 25 million Americans who remain uninsured. The middle-class taxpayer always has the burden.

Mr. WALKER. Let me say to the gentleman, there can be no study made of the Rowland-Bilirakis plan or the Michel plan because they simply were not introduced in this House until a couple of days ago. There is no way that there can be a study that covers all of the various component parts of those bills that we think add up to an incentive system. There is no plan across the country that does that. The gentleman simply does not have a study that is relevant to the plans that are before us.

Mr. BECERRA. We have a case study of New York, if the gentleman will yield.

Mr. WALKER. You have a case study of New York and a plan that is much different than anything that has been introduced in this House. So it seems to me it is not a relevant kind of program.

The point of this special order tonight, let me just make the point again, the point of this special order tonight is to suggest that you never get something for nothing. If the American people want to assume responsibility for their own lives, they do not want the Clinton-Gephardt plan because the Clinton-Gephardt plan is in fact more big Government interfering in their lives. The Clinton-Gephardt plan then not only interferes in their lives in terms of health care coverage, it takes money specifically away from them, and it does so in increased taxes that go across the board in many, many different ways. Those increased taxes will in fact not only come out of their pocketbook and reduce the amount of money that they have to spend on themselves, but it will in fact cut their jobs and cut their wages.

For most middle class Americans that I am aware of, the thing that they can ill afford at the present time is to have their taxes raised, their job cut and their wages cut. Yet those are the impacts of the Clinton plan on America.

We are simply suggesting that whatever good you hear about the things that you are going to get out of the plan, remember that there is a cost to the Clinton-Gephardt plan. The Clinton-Gephardt plan is aimed not at improving health care for most Americans, because most Americans are very satisfied with the health care that they now have. It is aimed at, as some people have mentioned here tonight, kind of spreading the cost, redistributing the money, and in the redistribution what they end up doing is raising taxes, cutting jobs and cutting wages.

Now I think that America has to make a choice. Middle-class America cannot afford to have their job cut, cannot afford to have their wages cut, and cannot afford to have their taxes raised. That is what the Clinton plan promises, and it is something which we think America needs to fully understand.

I yield briefly to the gentleman from Georgia.

Mr. KINGSTON. All I want to say is I think one of the big differences tonight is the figures of 25 million jobs, or uninsured people, or 100 million in costs, whatever. That is why I think it is in our own judicial interest to have a good process with a health care bill, with all of the facts and figures laid out on the table.

I also want to thank our friends on the other side of the aisle for joining us tonight. As your favorite talk show host, Rush Limbaugh says, it is like hitting the ball over the net without an opponent when you do not have anyone to talk to.

Mr. BECERRA. I thank the gentleman for yielding me so much of his time.

Mr. WALKER. I thank the gentleman.

THE CRIME BILL AND HEALTH CARE REFORM

The SPEAKER pro tempore (Mrs. THURMAN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from South Carolina [Mr. CLYBURN] is recognized for 60 minutes as the majority leader's designee.

Mr. CLYBURN. Madam Speaker, I want to begin by thanking my fellow Members of the freshman class for joining me in this special order for the evening.

Madam Speaker, this week the hot topics on the minds of our constituents are the crime bill and health care.

The crime bill took a beating on the floor of this House last week, when its opponents voted against it on a rule.

The one-two punch was delivered by those who objected to the crime bill for one reason or another. Some said they voted against the rule because of the assault weapons ban. Others said they voted against the rule because the crime bill was laden with pork.

Let us take a closer look at these two so-called sticking points in the crime bill.

First, let us take up the argument against the assault weapons ban. When we here in the U.S. House of Representatives initially voted on the assault weapons ban back in May, my office was inundated with calls and letters from people who both supported and opposed my vote.

I received a lot of angry letters from gun owners and constituents who saw a vote for the assault weapons ban as a vote against what they view as their constitutional right to bear arms.

Let me say that this ban does not tamper with those rights. I support the second amendment and that for which it stands. The assault weapons ban prohibits the future sale of only 19 types of assault weapons, while protecting the right of the American people to own at least 650 other types of guns.

Let me also add that for every angry call or letter I received opposing my vote, I have received just as many calls in support of the ban. These calls are coming from people, who, like me are finding it difficult to understand why anyone would fight so hard to keep these deadly weapons on our streets.

As you know, Madam Speaker, I represent a mostly rural district in South Carolina. Unfortunately my district's demographics do not make it immune from the ravages of crime.

I remember back in January, when the President was winding up his State of the Union Address, a shoot-out was occurring at a college in my district. Two students were injured.

Earlier that day, a high school student lay dead in the haliway outside his classroom—shot by a fellow classmate with a .22-caliber semi-automatic weapon and a grudge to settle.

The student told police he purchased the gun for $90 from a man in a nearby apartment complex. I don't have to reach as far back as January to recall instances of violence involving semi-automatic weapons in my district. All I have to do is turn on the local news or open the local newspaper.

And all I have to do is listen to the constituents who talk to me when I go home to my district every weekend.

My constituents are becoming increasingly appalled by these violent acts. These are constituents who are afraid to leave their neighborhoods, attend community functions, or participate in family outings. These people, in short, have become prisoners in their own homes.

And what about our children? It breaks my heart to get letters like the ones I recently received from fifth grade students complaining about drugs and the rise of violence in their communities.

What do I say to youngsters who write to me asking for more jails in their communities? What do I say to youngsters who fear the rising tide of violence will engulf the Earth?

I would like to be able to say to them that Congress did its part by passing the crime bill, which represents the most comprehensive and balanced legislative initiative ever undertaken by the Congress to prevent crime and punish those who commit crime.

It is especially for these young people—our future—that I support a crime bill that will provide half of the 100,000 new officers to small cities and rural counties. Each State will be eligible for a minimum of 500 new police officers or equivalent sized grants.

It is for my frightened constituents that I support a crime bill that will work to combat drug trafficking in rural areas by authorizing $250 million for rural law enforcement agencies and specialized drug enforcement training for rural law enforcement officers.

These are the types of programs in the crime bill that have come under attack by some who see it as only so much pork.

Let us look more closely at this complaint. The crime bill went into conference at $27 billion and came out at $33 billion. Why? The crime bill was increased by $6 billion to provide more funds for police officers, FBI and drug enforcement agents, and local prosecutors, to combat violence against women.

In fact, 85 percent of the $33 billion in the crime bill is for police, Federal and State law enforcement, prisons, and detection facilities.

The so-called pork programs account for the other 15 percent. These programs were actually cut in conference by $478 million.

One so-called pork program in particular that has taken a severe beating from the opposition is the midnight basketball program, which has been allocated $7 million—a mere drop in the bucket when compared to the total $33 billion allocated for the crime bill.

I want to talk about midnight basketball, because the program has been ridiculed for being nothing more than a Government-funded recreational outlet for thugs.

To the young people who participate in and benefit from midnight basketball programs around the country, it is so much more.

A midnight basketball program has been operating in my district on the East Side of Charleston, SC since 1991.

The program began as a result of a resident's desire to participate in meaningful recreational activity in an area where residents are often stigmatized by the criminal activity occurring in their community.

This year, the Charleston Inner City Midnight Basketball Association ended its most successful season ever with a total of 530 inner-city youth participating in a program designed to build their self-esteem and character, and to enhance a dream that they can improve their lives.

These are children who did not get to go to summer camp, these are children who didn't get a summer job. These are children who are readily written off by the larger society because of where they live.

A program like the one in Charleston goes one step further. During the school year, many of these academically at-risk youngsters participate in the educational aspect of the program—Project Rescue.

According to the program's senior organizing director, the Rev. Dallas Wilson, thanks to Project Rescue, 11 midnight basketball participants will be attending prep schools this fall. Several are currently in college.

This program is heavily supported by the State and local community. But many more youngsters could benefit from midnight basketball and other so-called pork programs—that are instrumental in redirecting the energies of our young people away from the false attractions of drugs and crime and toward the positive lessons of team work, hard work, and school work.

Although crime is first up on our agenda, the health care debate still rages and we must not forget this legislation or the millions of American people it will affect.

In our country today, there are currently 37 million uninsured people in the United States. If we pass health care legislation without universal coverage, there is no way to guarantee that these Americans and their families will have health coverage they can never lose.

Take a look at this pie chart. It is a very simple chart and the message is very clear. The gold portion represents the 1.1 million currently uninsured Americans that will receive coverage under a plan with insurance market reforms. That's a very small piece of the pie.

If you look at the blue portion, you will see about 40 percent or 13.8 million of the uninsured Americans who will receive insurance when subsidies are added for low-income populations.

After taking these two pieces of the pie, there is still an enormous red slice containing 22.3 million Americans who will remain without health care coverage. This piece of the pie is too big to think we can get away with passing any kind of legislation with less than universal coverage.

In my State of South Carolina 406,632 working people do not have health care protection. Over 97,000 children do not have health care coverage.

These people are no different from the millions of others in our country who work hard to make a living for themselves and their families. They deserve affordable health care insurance that can never be taken away.

In my district alone, there are 94,000 people from working families who have no health insurance. This means, almost 79 percent of all of the uninsured in my district are from working families.

On top of this astounding figure—of the lucky ones who have coverage—33,000 people living in the State of South Carolina lose their health insurance each month. Of the uninsured in my district, 26,000 of these people are young children.

Madam Speaker, the uninsured are people just like you and me who may have unexpected medical emergencies and need attention in the middle of the night, the uninsured are persons who need preventive care, they are school-aged children who have ear infections, they are children whose required immunizations should be covered under their families health insurance plans.

Under a plan with universal coverage, 5,424 2-year-olds will have improved coverage for immunization in my district; 40,355 women will have better opportunities for breast cancer screening; 160,801 people will no longer have lifetime limits on their coverage, and, 84,632 people will no longer have preexisting condition exclusions in their insurance.

Madam Speaker, I remind you that these are real numbers, and there are real people behind the numbers.

I recently received this letter from a lady in Florence, SC. She is the mother of two children, one of whom has a pulmonary condition she has had since 3 months old. The daughter has never taken any medicine for her condition, nor does she require any special needs. In fact, she runs 3–5 miles a day.

This young woman's father purchased health insurance for their family while he was self-employed. However, the insurance offers no coverage whatsoever for their daughter, simply because of this preexisting condition.

This young woman is a college graduate, and doesn't have a full-time job yet. She maintains three part-time jobs—none of which offer her health insurance.

In other words, Madam Speaker, this is one of millions of deserving people who will gain health insurance with universal coverage. This is one of 1,142,949 South Carolinians with a preexisting condition who will not be discriminated against any longer if we pass comprehensive health care legislation with universal coverage.

As this debate continues, we hear from a lot of people on each side of the argument. We hear about how the elderly will be affected, the young mothers and children, and many other vital sectors of our population.

However, I believe we often overlook the monetary affects that what we do or don't do will have on the so-called middle class, the working people that make up the core of America, the ones that are currently insured.

If you are a middle class, working taxpayer, making between $20,000 and $75,000 a year in the Sixth Congressional District of South Carolina—or any other Congressional district in the country, for that matter; and if we pass a plan which covers only 91 percent, such as that under the Cooper, Managed Competition bill, you can expect to see an increase in your yearly premium.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Let us take a look at the figures on this chart.

The columns represent changes in health care premiums, if we only do incremental reform, as many opponents of universal coverage are advocating.

You can readily see that the biggest increase in premiums is the column which represents those who make over $30,000 but less than $40,000 a year. And if you make between $20,000 and $30,000 a year, you can expect an increase of over $200 per year in your annual premiums.

If you make over $40,000 a year, but less than $50,000, you will experience an increase of $137 per year. Under this plan, you will only experience a decrease if you make less than $20,000 or between $75,000 and $100,000 a year.

Now, I do not know about you, but to me and the people of my district, that could mean a car payment for those who make between $30,000 and $40,000 a year, or child care payments for those who make between $20,000 and $30,000 a year, and a college student's textbooks for those who make between $40,000 and $75,000 a year. In my district alone, this increase would hit 89,376 families. My fellow colleagues, I wager my bet that you have many people who fit into this average-American household category living in your districts as well.

This information, as you all can see, shows that the managed competition concept of health care reform delivers devastating body blows to middle-income Americans at almost every level.

If you are a middle-class, working taxpayer and we pass a health care reform bill with universal coverage, you can expect to pay less than you are currently paying for health insurance premiums each year.

Let us look at another chart, the other picture, if you please.

What you can readily see is that the same people who would see a dramatic increase in their premiums under the incremental reform plan would experience a large decrease in their annual premiums under universal coverage.

If you make between $30,000 and $39,000 a year, your savings could be as much as $165 each year. Again, that's $165 hard-earned dollars that you could save with universal coverage.

Under universal coverage, everybody in America making less than $100,000 a year will experience dramatic savings.

And those making over $100,000 a year would experience only a $210 increase in their annual premiums.

Health care reform, without universal coverage, will mean significantly higher—not lower—health care costs for middle-class Americans who presently have health insurance.

By implementing universal coverage, the increase in average premiums is averted because, not only would the sick and medically needy be included in the insurance pool, but also the young and healthy people who don't require as much medical service.

By including everyone, the people who don't regularly use the insurance services drive down the premiums for everyone.

Just think of this concept in simple terms. If the only people in the pool are the elderly and medically needy who require excessive amounts of medical attention, the premiums will be high because these "high use" patients will be supporting the costs of others just like themselves.

However, if universal coverage is implemented, many more young, healthy people will be in the insurance pool. When this diversity is reached in the pool, the picture is quite different.

The low use people who rarely use medical services will cause the costs to drop dramatically because the total dollar amount of medical care required by all of those in the pool is much lower. When this happens, the premiums dramatically go down for all of those in the pool. That's the beauty of universal coverage.

Besides, without universal coverage, young, healthy people will opt out of the insurance market when premiums are raised, thus causing higher premiums for the medically needy who remain.

Also, without universal coverage, many employers who presently provide health insurance for their workers are likely to reduce coverage or stop coverage altogether.

With 9 out of 10 insured Americans currently receiving health care through their employers, we cannot afford to risk reducing their share of health care coverage. When dealing with the employer share of the costs, it is important to notice the significant savings, once again, by passing health reform legislation with universal coverage.

Madam Speaker, we continually hear people from all walks of life ask: "Where is the promised middle-class tax cut?" I maintain it is right here in health care reform with universal coverage, and those of us who fail to recognize or acknowledge it are either shortsighted or a bit disingenuous.

The middle class of America is deserving of universal coverage and the men and women of this Congress, in my opinion, are duty-bound to grant it.

Madam Speaker, I thank you for allowing me and my colleagues the time to participate tonight in these special orders. As we contribute to this ongoing conversation for the Chamber where decisions affecting each and every one of us will be made in the coming days.

The mother who wrote me a letter from my district which I quoted from earlier, reminded me the America people hear lots of talk about health reform from both sides of the aisle—but she and her families and many others are ready to see some concern shown and pass universal health coverage.

Madam Speaker, with that I remind you and my colleagues once again, universal health care coverage which can never be lost should be guaranteed to every American, because there is no such thing as a lifetime guarantee of good health.

□ 2050

Madam Speaker, I have with me tonight some others of my colleagues who would like to participate in this special order.

First I want to call upon the president of the freshman class for the first session, the Honorable EVA CLAYTON of North Carolina. Mrs. CLAYTON is going to share with us some of her feelings on the crime bill and what we ought to be doing. She is going to be followed by EDDIE BERNICE JOHNSON, the congresswoman from Texas, who, as many know, is a professional nurse. She is going to share with us some of her feelings about health care, and then we will move to Congressman HINCHEY, who will talk about whatever he wants to, but I think it will be health care.

I now yield to the gentlewoman from North Carolina [Mrs. CLAYTON].

□ 2100

Mrs. CLAYTON. Madam Speaker, I appreciate the fact that the gentleman from South Carolina [Mr. CLYBURN] has organized this special order, and, Madam Speaker, facts and figures have been tossed around during our debate on the crime package ad nauseam, but facts and figures are not the issues at hand here—the issues are the amount of crime and the number of young Americans at risk and how to fight crime.

In regard to crime, there are those in this Chamber that would like to have you believe that locking people up and throwing away the key is the toughest and most effective means of curbing crime, while prevention programs are just a waste of taxpayer dollars.

It is a myth that this crime bill has allocated most of its funds to social programs—more than $7 out of every $10 dollars in the bill is for law enforcement, prisons and detention facilities—not social programs.

Those same members would also have you believe that the Midnight Basketball Program especially is the most egregious waste of Federal money. That is simply not the case. For example, a midnight basketball league was awarded a Point of Light by then President George Bush in 1990.

A professor at the University of North Carolina, Chapel Hill, was kind enough to provide me with a copy of just-completed study on a Milwaukee midnight basketball league. The facts are: 74 percent of the participants feel that there are not enough recreational opportunities for children, teens, and young adults; 65 percent of the participants in the program believe that the league is helping to reduce crime in the community; and 78 percent of the participants feel that midnight basketball is a much-needed recreational outlet for young black men.

It has been documented that black youths under the age of 18 are the group most frequently involved in violent activity. Why should we not reach out to those youngsters at risk?

Many of the proposed prevention programs contained in the crime bill are already implemented and working on the State level.

According to the North Carolina Governor's Commission on Crime: The three different boot camps are working; the youth employment and skills program incorporated into the Cities in Schools Program is working, and anti-crime youth councils are working.

These programs are making a significant difference. So why shouldn't Federal funds be allocated to programs that work? Being tough on crime and prevention programs are not mutually exclusive. It is possible to be strong, smart and tough on crime and support prevention.

It makes much more sense to nip crime in the bud through prevention programs, to get those young adults before they become criminals and are locked into the criminal justice system.

If we head the young adults at risk off at the pass through prevention programs, it just might be possible to help them to be productive, contributing members of society instead of people supported by society.

Mr. CLYBURN. Madam Speaker, I thank the gentlewoman from North Carolina [Mrs. CLAYTON] for that very insightful analysis of the prevention side of our crime bill.

□ 2110

I think that you are right to raise an old adage that so many of us were raised on. I find it very strange sometimes that we tend to go off and get all of these degrees and all this learning, and really what is basic is what our grandparents taught us: An ounce of prevention is, in fact, worth a pound of cure. And if we can just apply that to those simple, everyday things that we do here in this hall, I do believe that we would come with much better legislation. And that is something that I hope we will apply to this crime bill. Thank you so much for your insight.

Let me at this time yield to the gentlewoman from Texas, the Honorable EDDIE BERNICE JOHNSON, who will talk to us a little bit about the second aspect, health care.

Ms. EDDIE BERNICE JOHNSON of Texas. Thank you, Mr. Leader of the hour, and Madam Speaker.

To my colleagues, let me just comment very briefly on crime before I move to health care. I represent District 30 in Dallas, TX. Our statistics indicate that crime is going down, but you cannot tell that by the newspapers. Every day most of the headlines have to do with crime, and they really are crimes committed by young people.

School has only been open less than 2 weeks now, and already teachers have had guns in their faces. They found a gun arsenal under the side of the building. It is overwhelming, but we must do something about it.

The presence of all these weapons and drugs and gangs will continue to terrorize our communities and our schools, unless we take a hand to do something about it. And if we do not put a hand in to alter this activity by young people, they will commit crimes with these weapons. That is a proven fact.

We are no longer safe in our homes. We do not even use parks anymore for what they were intended because no one feels safe walking through parks.

We simply must do something about crime, and it must be balanced.

We have to prevent, as well as punish and then treat, because we have learned that 70 percent of the crimes committed are committed under the influence of drugs. All of us know that the influence of drugs simply does not just disappear. It must be a treatment modality, and there must be after-care, and then there must be activities that will prevent the need to fall back into a gang and that environment that starts this cycle again and causes what we call recidivism.

We simply must do something about what is going on. We have that responsibility. We are responsible to the citizens of this country, and we must do something about it.

We must fund the additional police. You know, I used to fear policemen, before I got to know who they really were. Now I would not live in a neighborhood, on a block, that I did not feel had some attention from the police. They are really our friends. But we have put them out there with not much protection as well. We must have more, and they must be trained properly, and we must supply that need.

Our communities, our inner-cities, and our rural areas, are overcome with this influx of activity that they have not been accustomed to dealing with. The money that will help put the additional cops on the street, an almost 20-percent increase in the Nation's 504,000 local police officers, will go a long way in addressing this area.

I cannot understand why there is so much opposition and so much rhetoric and so much demagoguery surrounding the bill that will address these issues. It is unfortunate that the NRA has so many people hostage. It is almost like holding them hostage with a gun.

You know, I have noticed television recently with Charlton Heston, a very well-known popular actor, but, unfortunately, he does not have a clue about crime and how to fight it. His commercial, sponsored by NRA and the Republican party, is not only unbelievable, it is filled with untruths about funding police officers. It is unfortunate that we cannot tell the real truth to the public. But they are not fooling them. It is clear to me they understand very well about what is going on in their own communities.

So when we say all of this and we avoid the truth, we are simply fooling ourselves. The ban on assault weapons has been endorsed by every major law enforcement group in the country, and police across America report that semiautomatic weapons are the weapons of choice for drug traffickers and street gangs. There is really no real legal use for all of these handgun assault weapons. We must stop the flow. And the only way we can do that is take on our rightful responsibility.

People across America, police officers, ministers, students, are pleading for us to give them some attention.

You know, in my district was a 5-year-old boy sitting on his grandmother's porch one Sunday afternoon eating ice cream, and a stray bullet took his life away. And I received a letter from his aunt recently that pleaded for something to be done. She said I will never forget seeing my nephew. And more than that, I see my son every day, who is afraid every time he moves around. He will not go on the porch. He is afraid to go to school, because all he can think about is his cousin sitting innocently eating an ice cream cone and glancing up to take his last glance at his parents, and then being hit by a bullet and his life snuffed away.

I appreciate my colleague taking this time to address the issue of crime, and I would encourage all of my colleagues to let us have a swift passage of the crime bill. I do not agree with everything that is in the crime bill. Clearly no legislation that we pass do I agree with every bit of it. But that is the process we are in, and it is called a democracy.

Madam Speaker, I would like to include a statement by the African-American religious leader who supports the crime bill.

STATEMENT OF AFRICAN-AMERICAN RELIGIOUS LEADERS

Washington—The White House today released the following statement by African-American religious leaders supporting the crime bill.

"In the words of an African proverb 'It takes an entire village to raise a child.' We believe there is no more important responsibility of society than to raise its children to become upstanding adults. Parents and families must shoulder the burden of this duty, but all of society—including government—must pitch in, that is why we support the President's crime bill.

While we do not agree with every provision in the crime bill, we do believe and emphatically support the bill's goal to save our communities, and most importantly, our children.

VOL
140
PT
16
AG
12
—
18
1994
UMI

We believe and support the $8 billion in the bill to fund prevention programs such as grants for recreation, employment, anti-gang and comprehensive programs to steer our young people away from crime.

We believe in drug treatment to help get federal and state inmates out of the cycle of dependency.

We believe in programs to fight violence against women.

We believe in banning assault weapons, and preventing these deadly devices from falling into the hands of criminals and drug dealers.

We believe in putting 100,000 well-trained police officers on the streets of our most violence-plagued communities and urban areas.

We believe in that 9-year-olds like James Darby of New Orleans, who was killed by a stray bullet only days after writing a plea to President Clinton to stop the violence, must have the opportunity to live and learn and grow in safe, decent communities.

For all these reasons, we support the crime bill and we urge others to join us in this crusade."

Charles Adams, National Progressive Baptist Convention, President, Detroit, Michigan.

Bishop H.H. Brookins, AME Denomination, Los Angeles, California.

Rev. Dr. Amos Brown, Third Baptist Church, San Francisco, CA.

Bishop E. Lynn Brown, Christian Methodist Episcopal, Los Angeles, California.

Rev. John A. Cherry, Full Gospel AME Zion Church, Temple Hills, MD.

Rev. Howard Chubbs, Providence Baptist Church, Greensboro, N.C.

Father George Clements, The Alliance for Rights and Responsibilities, Washington, D.C.

Bishop F. Clinton Hoggard, AME ZION Church, Washington, DC.

Rev. John Doggett, Superintendent, United Methodist Church, St. Louis, MO.

Rev. Jerry Drayton, New Bethel Baptist Church, Winston-Salem, N.C.

Rev. Walter Fauntroy, New Bethel Baptist Church, Washington, D.C.

Bishop Louis Ford, Church of God in Christ, Chicago, Illinois.

Bishop William Graves, Christian Methodist Episcopal Church, Memphis, Tennessee.

Rev. Joe Hardwick, Praises of ZION Baptist Church, Los Angeles, CA.

Rev. Calvin A. Harper, Morning Star Baptist Church, Cincinnati, OH.

Bishop Fred James, AME Denomination, Washington, DC.

Dr. T.J. Jemison, President, National Baptist Convention USA, Baton Rouge, LA.

Rev. E. Edward Jones, Galilee Baptist Church, Shreveport, LA.

Rev. Odell Jones, Pleasant Grove Baptist Church, Detroit, Michigan.

Rev. William A. Jones Jr., Bethany Baptist Church, Brooklyn, NY.

Rev. W.B. Lewis, President, North Carolina General State Baptist Convention, Raleigh, NC.

Bishop S.C. Madison, United House of Prayer, Washington, DC.

Bishop Haskell Mayo, African Methodist Episcopal, Fourth Episcopal District, Chicago, Illinois.

Rev. Randall McCaskill, Concerned Black Clergy of Philadelphia, President, Philadelphia, Pennsylvania.

Dr. John Miles, Morning Star Missionary Baptist Church, Kansas City, Missouri.

Rev. James E. Milton, Southern Baptist Church, Cincinnati, OH.

Rev. Dr. Frank Pinkard, Evergreen Baptist Church, Oakland, CA.

Bishop Norman Quick, Church of God in Christ, New York, New York.

Dr. W. Franklyn Richardson, General Secretary, National Baptist Convention USA, Mt. Vernon, NY.

Joseph L. Roberts Jr., Ebenezer Baptist Church, Atlanta, GA.

Bishop J.H. Sherman, Church of God in Christ, Charlotte, North Carolina.

Rev. Dr. E.E. Stafford, Mt. Tabor Baptist Church, Los Angeles, CA.

Rev. Charles Stith, Union United Methodist Church, Boston, Massachusetts.

Bishop Frederick Talbot, African Methodist Episcopal, Arkansas/Oklahoma.

Dr. M.T. Thompson, Berkeley Mount ZION Baptist, Berkeley, CA.

Wyatt T. Walker, Canaan Baptist Church, New York, NY.

Bishop George W. Walker Sr., AME Zion Denomination, New York, NY.

Bishop L.T. Walker, Church of God in Christ, Little Rock, Arkansas.

Dr. Kenneth Whalum, Olivet Baptist Church, Memphis, Tennessee.

Rev. Frederick Williams, Episcopal Church of the Intercession, New York, NY.

Bishop Milton Williams, AME Zion Church, Washington, DC.

You win some, and you lose some. But you try to do the best you can for the people of this Nation.

Now, Mr. Leader, I want to talk a bit about health care, and just a bit, because that is my profession. I could talk all night on health care. I want to talk a little bit about what was talked about earlier, and that is the overburden on businesses.

Mr. Leader, I believe that the Gephardt bill is giving an opportunity to businesses to take on their rightful responsibility. You know, I am a small business owner, and I could not afford a policy. After I paid worker's compensation in Texas, I could not afford a policy to cover my employees. I do not have more than 11. But with the insurance approach that is being offered by the Gephardt bill, an opportunity for small businesses to be able to afford to offer insurance coverage for their employees is the best opportunity that my small business has had.

You see, we understand clearly that when people have access to insurance, they will go for the preventive measures, they are in better health conditions, they are better workers, and they are more stable. Because when they come on to a job that does not offer insurance, they are constantly looking for another job. And they will not take preventive care, because they cannot afford it. All of us know that prevention is much less costly than sick care.

I am standing here because of prevention. You know, that is why I believe so much in research. I had a pap smear over 30 years ago that was positive, and I had surgery. It was a routine physical examination. But if I had not had that surgery, if I had not had access to going for a routine physical without it costing me more than I was making, I would not have had the opportunity to keep myself in good health by having early detection, early surgery, and then back to work.

If I had not had that surgery, I would have probably had to go through a long modality of some kind of chemotherapy, going through lots of misery, putting a lot of strain emotionally on my family, and then not being able to perhaps go back to work, and then maybe losing my life at a time when my young son was less than 3 years old. Then he would have had to grow up without a mother.

There is real value in having access to health care, health care coverage, for preventive measures.

□ 2120

Even young children that do not have immunizations against measles will cost. For every dollar that an immunization costs, we save $14, because if they do not have them, they are subject to be blind and all kinds of complications and side effects that might come from having measles.

It is so simple to me because I have lived the life of watching people be sick and be well, depending on what is offered to them. Clearly, we must move rapidly to address the issue of health care coverage for all Americans, and we certainly ought to see that the people who are working have an opportunity to have access to affordable health care coverage.

We are attempting to do that, and we hope that the big insurance companies and the big businesses that hire lots of people that do not pay them very much will not spend so many millions of dollars trying to sway the public away from health care reform. We simply must have it.

Mr. CLYBURN. Madam Speaker, I thank the gentlewoman so much for her very comprehensive talk on both crime and health care. I thought that crime would be 1 minute, but I wish she had taken the whole time for that since that is the most immediate thing upon us.

Let us move now to our distinguished colleague, the gentleman from New York [Mr. HINCHEY], for his remarks.

I yield to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Madam Speaker, I really appreciate the opportunity to spend this time with you and appreciate your yielding this time so that I can engage in this discussion with you about the two issues confronting the American people and the two issues which we are discussing this evening, which are, of course, our efforts to deal with the problems of crime as well as our efforts to ensure that every American has adequate health care coverage.

I would like to touch just very briefly on both of those subjects, following your example, but doing it in a much more abbreviated form. I think this

crime bill, although as has been mentioned by previous speakers, it contains some elements which are questionable and, frankly, with which I do not agree, nevertheless, on balance, this crime bill makes an extraordinary contribution to our efforts to deal with the problem of crime in this country.

It does so, of course, in a variety of ways. It does it by increasing the number of police officers who will be available in our communities, whether those communities are urban communities or rural communities, such as the ones that you and I represent for the most part, although I do have some urban areas in my district as well.

The additional police officers which will be available through this bill will be available in both rural and urban communities. That, of course, is a major factor.

But quite frankly, the portion of the bill which intrigues me the most and which I think, frankly, is the most valuable is that which focuses on prevention, because as has been said here a number of times already this evening, prevention is much more appropriate, much more efficacious, it works much better than dealing with the problem after it occurs.

I learned that old axiom at my mother's knee, just as did you, an ounce of prevention is worth a pound of cure. That is true with regard to health care as it is true with regard to many of the kinds of social problems we face in this country, including and specifically, perhaps particularly, the problem of crime.

In the connection of this bill with its efforts at prevention, we have heard a lot of criticism about that particular aspect of the bill. As you mentioned in your address a little bit earlier, that aspect of the bill has been labeled pork. One wonders why. Because it is not that at all. It is simply an effort to direct resources at a serious problem in a way that is appropriate so that it can be dealt with effectively.

One of the aspects of this attempt at prevention which has gotten the most criticism is so-called midnight basketball. I would just like to read a statement that was made a couple years ago, in 1991, by President Bush. He said then, in 1991, President Bush said this:

> The founders of the midnight basketball program in Hyattsville, Maryland contribute to the struggle against crime and delinquency. This country is finally catching on to the fact that whenever drugs are involved, everybody loses. But here everybody wins. And some may get better at basketball, but everyone gets a better shot at life, every participant.

That particular point of view, I think, represents a much more enlightened attitude about the way that we need to deal with the crime problem that has been expressed by many of the Members of this House who are in the minority party in this Chamber.

I think that it is unfortunate that they did not learn more from President Bush while he was in office about this particular problem, because I think what he said there is really on target.

Prevention is what is important. If we spend a little bit of our energies and resources on preventing crime, then we are going to have to spend a lot less in the future on dealing with the problems of crime after they occur. I think that ought to be obvious to everyone.

I would like to turn for a couple minutes to the problem of health care. I would like to begin by saying that I was fascinated by the discussion that took place here earlier this evening, which was led by the deputy whip of the minority party, the gentleman from Pennsylvania, when they attempted to deflate the Gephardt health care bill, a bill which will provide universal health care coverage to all Americans.

Frankly, I could not help thinking that those Members who were trying to oppose universal health care coverage for all Americans here in this House this evening, as they have been for weeks and months and, frankly, over the course of the last year, that those folks who currently inhabit this House and who are opposed to universal health care are in a real way the philosophical and political descendants of a previous group of people who tried to defeat the passage of Social Security in 1935, who tried to defeat the passage of benefits for returning veterans after the Second World War, who tried to defeat the passage of Medicare in 1965. And some of the arguments that we have heard in this House against universal health care coverage resound in a very familiar way back and harken back to the kinds of arguments that were made against Social Security and against the GI bill and against Medicare coverage, health care coverage for older people in this country.

It is the same attitude. It is the same philosophy. And it is the same arguments that were used against those very important programs. But you can be sure that not one of them would have the audacity to stand up today and oppose Social Security or the GI bill or Medicare. No, they focus their attention now on what we are trying to achieve for people in this decade, the decade of the 1990's, the last decade of the 20th century, to try to ensure that every American, regardless of their stature, regardless of their station in life, regardless of their past experiences, regardless of what will happen to them in the future, will have good, solid quality health care.

I would like to read to you, if I may, an excerpt from a letter than I received recently from a constituent of mine.

He said, "Dear Congressman Hinchey, I am one of many Americans, after 32 years of employment with one company, terminated due to 'corporate downsizing.' As of today," he says, "I must convert to an individual health conversion policy. Under COBRA," which was available to him, of course, after he was laid off as a result of the corporate downsizing of his company, "I was paying a premium of $848 per quarter. My premium now," now that COBRA has expired for him, "will be $1661 per quarter. This is a 96-percent increase. I have been insured by the same company for almost 34 years and have had no major health problems. I am now facing one of the hardest decisions of my life, to pay the mortgage payment or the health insurance premium. This would not be a decision that citizens of most other countries would have to make. What has happened to the American dream?"

□ 2130

We talk about the 40 or so million people currently without health care in this country, but we ought to also recognize that every single day in this country someone else, large numbers of people, lose their health care coverage. They fall into the kind of condition that this gentleman finds himself in currently.

After paying into an insurance company for 34 years, without ever having any problems of health care, after having worked for a company for 32 years, giving his energy, his sweat, his intellectual and physical resources to that company, he has now been laid off, now been put out in the street, and he has to worry about whether he is going to spend what little resources he has left to keep a roof over his head for himself and his family, or use that money to pay the premiums on his health insurance so that if he gets sick or someone else in his family becomes ill, that they at least will have health coverage.

As he observes, that decision would not confront any other person in any other advanced, civilized country on this planet, and it ought not to afflict citizens of this country, either. We need to pass universal health care. We need to do it this term.

We need to have the courage and foresight that our predecessors in this House had when they passed Social Security, when they passed the G.I. bill, and when they passed Medicare. Those ought to be the banners which we follow. They ought to lead us on to overcome the unenlightened opposition which is offered by the minority party in this House, not all of them, but unfortunately, many of them, and which was exemplified by the discussion we heard earlier this evening.

I thank the gentleman very much for giving me this opportunity, and I think it is important that we get on with this work.

Mr. CLYBURN. Thank you so much, Mr. HINCHEY, for your contributions to this special order tonight. I think that on both counts they were very enlightened.

Madam Speaker, I would like to say, I do not think we have to go back to

VOL 140 PT 16 AG 12 — 18 1994 UMI

Social Security and to Medicare and the G.I. bill in order to see the shortsightedness that we are getting from the other side. In fact, you need to only go back 1 year.

In fact, the same people who we heard here tonight talk about the dangers of the job losses that we will get if we do something about health care, those are the same people I think I heard in August of last year, who told us that if we pass the President's budget, that the economy would end up in the ditch; that in another year, we will all be back here doing something to get the economy going again, trying to bail the Nation out.

The fact of the matter is that anybody who can read and anybody who can see and feel, and especially those people who are going to work every day, we see that what has happened is the creation of now over 4 million new jobs. We see home building increasing, and we see that it is working.

In fact, I think I read, I think it was Al Hunt's column in the Wall Street Journal, and nobody can call the Wall Street Journal any kind of a fan of this administration or the party we represent, but the fact of the matter is, that they say it is working. So those people who last year said that we are going to have all these dire consequences, what we are finding this year is that they are passing it off, saying that this is a lucky President, and we are a lucky party.

I always learned that the harder you worked, the luckier you get. The fact of the matter is, this President works hard; he is visionary. This party is working hard to show leadership, and I think that you are right to talk about the history, but you do not have to go back that far.

Mr. HINCHEY. Will the gentleman yield?

Mr. CLAYBURN. I yield to the gentleman from New York.

Mr. HINCHEY. I just wanted to say how right you are. I remember that column on the op ed page of the Wall Street Journal a week or 2 ago by Al Hunt, and he made the point that you have just made so well: that those persons who are giving the same kind of argument about job losses with regard to the passage of health care, were trying to argue with us over a year ago when we passed the President's economic program, back last year, that we would see those same kinds of job losses, and we would see utter destruction of the economy coming about as a result of the passage of that economic program which was designed to reduce the annual budget deficit, and has succeeded enormously, and beyond even our expectations.

The budget deficit is down now substantially below even where we expected it to be as a result of the passage of that program; no job losses. As a matter of fact, there have been more jobs created across the country in the last 18 months than were created in the previous 4 years.

So the same kind of scare tactics that they are trying to use now against health care were used against us and against the American people a year ago when we, fortunately, had the ability as a party, without one vote from the other side, to pass an economic development program which has succeeded in reducing the annual budget deficit substantially, and placing this country and its economy back on a steady, level footing once again.

Mr. CLAYBURN. Thank you so much for joining me tonight.

EXAMINING THE CENTERPIECE OF THE CRIME BILL

The SPEAKER pro tempore (Mrs. THURMAN). Under a previous order of the House, the gentleman from Illinois [Mr. MANZULLO] is recognized for 30 minutes.

Mr. MANZULLO. Madam Speaker, crime is serious. It is very serious in this country. We have been wrestling with a crime bill for some time in the U.S. Congress. It has been touted that the centerpiece of the crime bill are the cops on the beat and the prisons.

Tonight I want to take a look at this in depth, to describe exactly what this means. The crime bill states on its face that there will be 100,000 new cops on the beat, and they will be involved in community policing, but nowhere is community policing defined. The bill states what the cops must be doing. They must be involved in community policing, but we wrestle with the definition, and then find out in Title I, part Q, section F, "Technical Assistance," subparagraph 2, model, which states, "The Attorney General defines what is community policing," how it will be implemented. This means a Federal bureaucrat decides what a community means, as opposed to a community.

For example, cities may use the funds in the following ways: They can go to enhance police officers' conflict resolution, mediation, problem solving, service, and other skills needed to work in partnership with members of the community; to develop new technologies; to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime; and to develop and establish new manage administrative and managerial systems to facilitate the adoption of community oriented policing as an organization-wide philosophy.

Madam Speaker, this means that a Federal bureaucrat can tell local police officers how to resolve conflicts and solve problems. It also means a Federal Bureaucrat could tell a community that instead of apprehending criminals, it should be preventing crimes from taking place. Granted, both are necessary, but why should the Federal Government be involved in telling the police force what it needs to do?

Second, the bill sets up a quota system for hiring police. Section 1702(c)(11) states the hiring guidelines by the Attorney General must "provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within the sworn positions in the law enforcement agency."

That quota section speaks for itself.

Third, the Clinton crime bill provides only seed money for a community that wants to hire police officers. Here is the irony. For a community to get a grant to hire police officers, it must show a specific financial need. The grant runs out in equal stages over 5 years.

However, a community must also show that as a grant runs out in steps, the community must be able to afford to keep the cops permanently. This does not make sense. A community applies for a grant because it needs the money, but must show that as the money runs out, it has the financial ability to continue the program.

□ 2140

If a community has the money in the first place, then it could not receive the grant, yet it has to show it has the money in order to continue the program.

Fourth, the actual amount of money allocated in the crime bill for cops will hire 20,000 at most, not 100,000 cops. The reason is in the application. The Clinton administration itself estimates it will cost $75,000 per year to hire one cop. So if you stretch out the money allocated for the program over 5 years, it comes out to $14,500 per cop. That is why we have police officers all the way from down in Florida from a city that employs 17 police officers, to say that we are in a tight budget now, so why should we hire more policemen on this program when the money will be whittled away in a short period of time, essentially leaving us with an unfunded mandate? These are the words of Terry Chapman, acting police chief of the Brooksville, FL police department.

And Paul Logli, the State's attorney for Winnebago County, IL, which I represent, the county that leads the State in crime, and he is saying we have all these programs and yet the money that is held out is just seed money and after a few short years, it is reduced on a periodic basis, still leaving the city and the municipalities involved with the prospect of raising all this money, essentially an unfunded mandate, to keep the programs going.

Who runs community policing? Do local law enforcement agencies or social agencies? We have probably never heard this argument before. The application and the proposed statutory language show how little emphasis is placed on the crime rate in a community.

Here are some of the 11 mandatory requirements to get a grant. The police department has to have a long-term strategy that is devised not by the police but by "community groups and appropriate private and public agencies."

What does that mean? Those words are not defined. It means the Federal Government is saying the sheriffs and chiefs of police do not know how to use police officers but "community groups and appropriate private and public agencies"—which are never defined—do. And the police department has to identify related governmental and community initiatives which complement or will be coordinated with a proposal.

This is the United States Congress empowering the Attorney General and bureaucrats to micromanage local police departments. This application process demonstrates the hoops through which a municipality must jump to get the money that already belongs to the citizens.

Madam Speaker, there is no Federal money, only money provided by the ordinary taxpayer that is sent to Washington, legally shrunk and then waved by a Federal bureaucrat in the face of local officials who fight like heck to get back money that already belongs to them.

Sixth, to implement the cops on the beat, the bill states the Attorney General shall have access over the purpose of audit and examination to any pertinent books, documents, papers or records of a grant recipient under this part and to the pertinent books, et cetera or records of State and local governments, persons, businesses and other entities that are involved in programs, projects or activities for which assistance is provided under this part. "The Attorney General may promulgate regulations and guidelines that carry this out."

This is called red tape. This conceivably means that a businessperson who has a contrast with the local or State police could have their entire operations audited by the Federal Government if the law enforcement agency participates in this program.

What is the other half of the centerpiece of this crime bill? Prisons. The Clinton crime bill claims that $10.9 billion will be spent on building prisons. But a closer look shows that $2.2 billion is authorized but not funded. $8.7 billion would then be left allegedly for building prisons. However, $1.8 billion of that goes toward refunding States incarcerating illegal aliens. That leaves the bill with a total of $6.5 billion for prison construction. Or is it really for prisons?

Title 2 Prisons authorizes funding with the following language:

The Attorney General may make grants to individual States and to States organized as multistate compacts to develop, expand, operate or improve correctional facilities and programs including boot camp facilities and programs and other alternative confinement facilities and programs that can free conventional prison space for the confinement of violent offenders to ensure that prison space is available for the confinement of violent offenders and to implement truth-in-sentencing of violent offenders.

At this point it appears the Clinton crime bill will allow the States to spend the prison money the best way the States see fit. However, a further reading of the bill shows the Federal strings attached to it. For example, if a State qualifies for assistance to build a prison, it must still come up with 25 percent of the funding.

The Federal Government must approve the manner in which the State prison is operated or in which the local jail that applies for these grants is operated.

From Section 20101, Grants for Correctional Facilities, B-4, the States must have a "comprehensive correction plan which represents an integrated approach to the management and operation of correctional facilities and programs which include diversion programs, particularly drug diversion programs, community correction programs, prison screening, security classification systems, appropriate professional training for corrections officers in dealing with violent offenders, prisoner rehabilitation and treatment programs, prisoner work activities, jobs skills programs, educational programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance and an assessment of recidivism rates."

This means once the Federal Government gives money to a State to build that prison or to a locality to build a jail, then the Federal Government will determine through approving the comprehensive correctional plan the following: These are the new powers, the nine new powers of the Federal Government when it comes to these prisons.

No. 1. The Federal Government will determine, No. 1, how to manage and operate a correctional facility.

No. 2. The Federal Government will determine all the drug programs.

No. 3. The Federal Government will define and determine and make sure they are enacted a "community corrections program."

No. 4. The Federal Government will determine the security systems of the State and local secured facilities.

No. 5. The Federal Government will set forth the requirements and oversee and approve the training of officers who work with violent offenders.

No. 6. The Federal Government will determine the prisoner rehab programs.

No. 7. The Federal Government will determine prisoner work activities. That is, the daily life of a prisoner.

No. 8. All job skills programs and educational programs must be approved by the Federal Government.

No. 9. The Federal Government must determine the prisoner pre-release programs. That means that the strings that are attached by the Federal Government as the price for a State receiving money which already belongs to it and as the price that a local government must pay to receive money that already belongs to it is that it is turning over the local correctional facilities and the State correctional facilities to the fiat of the Attorney General and her bureaucrats.

That is not all of the prisons program. There is something called the Task Force on Prison Construction Standardization and Techniques, Section 20406 C-1.

The Federal Government now determines how the State prison is built or how the local jail facility is built and dictates the materials. This task force is comprised of Federal bureaucrats and engineers, architects, construction experts to come up with a performance requirement. The task force shall work to "establish or recommend standardized construction plans and techniques for prison and prison component construction."

That is the money that goes to a local sheriff that wants to expand his jail. That is the money that goes to a Governor that wants to expand the prison system. The price for it is the federalization of all correctional facilities that receive this money. Arguably you do not have one comprehensive plan for part of a jail that does not receive Federal money and another correctional plan for the other part that does receive the Federal money. That means the Federal Government will now be in the business of running all State and local prison and jail facilities. That has never been brought out in this Congress before. The reason is in the reading of the bill where the red tape and the strings comes, somebody in Washington has made a determination that the Attorney General knows better than all 50 Governors, than all 50 State legislatures, than every single sheriff and every single county administrator in the United States.

□ 2150

That is the centralization of power in the Federal Government, and that is what is wrong with the two very centerpieces of this Clinton crime bill.

How do we fight crime? We passed today a measure, very quietly passed by an overwhelming majority in the grants and the appropriations for Commerce, State and Justice. We were contacted several months ago by the State Line Area Narcotics Team that operates in the counties, the rural areas of Winnebago County and Stevenson County, Boone County and up into one county in Wisconsin called Monroe. We

VOL 140 PT 16 AG 12 — 18 1994 UMI

were told that this group called the State Line Area Narcotics Team, SLANT, that the money that they were receiving under the Edward Byrne fund that coordinates all of the different agencies to fight narcotics on the local level, that this program had been eliminated in the budget plan of President Clinton, and it became our passion in my office to work very diligently and very hard to restore that, because the Federal Government's role in crime is very limited. Think about it: Interdiction of drugs at the borders, working with multijurisdictional task forces on following those drugs as they come over the borders and go into the hands of the individuals. Here was an area where if we could stop the flow of drugs into Winnebago and Boone and Stevenson County, if we could do that, then Winnebago County, IL, which leads the State in violent crimes, Winnebago County, where 65 percent to 75 percent of the violent crimes are the result of people involved in drug trafficking, whether they are trying to buy the drugs or sell the drugs or being used for their ingestion, or being shot as a result of the underworld activity of drug traffickers. And we wrote letters and succeeded to get that money put back in.

Today I talked with Capt. Earl Hernandez of Rockford, talked to him on the telephone and I said, "Captain, today the crime bill was passed. There was no fanfare. Today this crime bill was passed called, in a not very glamorous term, the annual appropriations bill to fund the Departments of Commerce, Justice and State."

That bill allows the hiring of 400 new FBI agents, the transfer of some 600 desk agents to the field. This bill increases funding for the Drug Enforcement Agency. The appropriation will allow the DEA to hire 300 new agents. The increased funding for the FBI and DEA will allow them to hire up to their 1992 levels, making them more effective crime fighting tools. And the bill increases funding for almost all areas within the Justice Department, the Judiciary, from the U.S. Marshal Service to the courts of appeals, district courts and other judicial services. The report expands the Edward Byrne formula grant program.

Programs funded by the Byrne program include State and local prosecution initiatives, innovative programs that attack drug use and violent crimes and multijurisdictional programs, an example being State and local police officers working with State troopers.

As we talked, Captain Hernandez said, "Congressman, thank you. Thank you for voting to give us local law enforcement officers the tool of our choice to go after these drug people."

Madam Speaker, look at the results of what this organization has done in 4 years, in 4 years working in three counties, mostly in rural areas. The total number of new drug investigations, 708; total of arrests for delivery of cocaine, 253; total arrests for possession of cocaine, 135; total of arrests for delivery of cannabis 114; total of arrests for possession of cannabis 78. Listen to this: Cocaine seizures in grams, 44,260; street value of cocaine seized, $10,622,400. Cannabis seized in grams, 542,000; street value of cannabis seized, $4,340,000.

The report from Captain Hernandez says none of these cases, 708, would have been investigated, none of these people, 580, would have been arrested, none of the cocaine, 44,260 grams or cannabis 542,547 grams, would have been accomplished without this multijurisdictional effort that we call SLANT.

The bill that passed today will not make the headlines, and the Captain Hernandezes will not be quoted in newspapers, not really. They are the heroes. They are on the front lines. They see exactly what is going on.

You know it is amazing that it is people like this, people like this that have the opportunity to know firsthand. These are the ones that should be defining exactly what programs that they need.

If you take the crime bill and break it out in its most simple terms and say if we are going to give money to the local and State law enforcement authorities, then block grant it out. Let the Earl Hernandezes determine how to spend the money. Yes, let Terry Chapman, acting police chief of Brookville, FL Police Department which employs 17 police officers, let him determine how that money is used. And yes, let us take a look at Paul Logli. Paul Logli is the State's Attorney, Winnebago County at large, the county that leads the State in terms of high crime. And Paul Logli says yes, we need cops, we need the system fixed. There are plenty of things that we need, but we do not need the Federal Government to tell us how to run our law enforcement agencies. We do not need the Federal Government determining the hoops through which we must jump. We do not need these things. We simply need to have the ability to use the money that already belongs to us.

Madam Speaker, that is really what the crime bill is about. When I was in law school, actually undergraduate at the American University here in Washington, there was a professor of constitutional law who used to ask the same rhetorical question. I think he got it from the ancient days in Greece when parading before the courts of justice the lawyers would carry these signs. It was actually the Latin courts in Rome. Written on these signs would be these words in Latin: Cui he produs, in whose interest is this trial being directed.

□ 2200

And this professor of constitutional law used to ask the same rhetorical question: What is the locus of sovereignty? And I sat there for months before I came to the realization that here was a man earnestly seeking to define the role of the Federal Government in its relationship to the States and the localities vis-a-vis the tender working relationship of the inner workings as it were of the 9th and 10th amendments of the U.S. Constitution. And after prodding with that question, "What is the locus of sovereignty," I came to the conclusion that the locus of sovereignty is not the State Government, it is not the local government, it is not the Federal Government. The locus of sovereignty is the people. It is the people that elect me to represent them, the 600,000 people in the 16th Congressional District of Illinois and the 600,000 or so people in the 434 other congressional districts. But ultimately it is the people who are sovereign, because they determine the governments, and they can bring down a government every 2 years through turning over of a majority or all of the Members of the House of Representatives.

That constitutional argument rings true today. What is the locus of sovereignty? And the issue is who knows best about how to fight a local problem. Does the Attorney General? Certainly not the CIA with the horrible Ames scandal, with a Benedict Arnold living in its midst, driving a fancy sports car, living in a half-million-dollar home, spending money like crazy to pay off credit card bills, in charge of a sensitive area of counterintelligence in Europe, nobody checking on him, a man personally responsible for the deaths of at least 10 people worldwide.

And do we really want the local police chiefs and the sheriffs, do we really want them to concede the authority that they have, to cede the authority that has been given to them by the people to the Attorney General and to the bureaucrats that operate under her? Do we really want a Government, a U.S. Government, that determines the manner of operation of local jails? Do we really want a U.S. Government, as determined by the Attorney General, that tells local police chiefs the manner in which they must train and recruit and equip the officers that work for them?

That is what is wrong with this crime bill. It is fatally flawed because of the philosophy behind it, and the philosophy behind it says Washington knows much better than Rockford, IL, and Washington knows much better than this little town in Florida, the little town of Brooksville, FL, on how to run the system of government.

The locus of sovereignty is with the people, and that is where the decisions must be made in the effective war against crime.

Mr. BECERRA. Madam Speaker, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from California. I thank the gentleman for his patience. You have been sticking around here all night, have you not?

Mr. BECERRA. Madam Speaker, I have been here listening intently to much of what has gone on today, and I listened intently to what the gentleman had to say. I wonder if the gentleman would allow me to ask him a couple of questions, because he went into great detail about the crime bill. I think that is good, because the American public often wants to know the guts of what we are talking about in the different bills, whether it is health care or crime.

Is the gentleman suggesting that he is opposed to the idea of putting cops on the street as the President has proposed or providing additional funds for incarceration or building prisons as the President proposed, or is it more the details of the crime bill with which he objects?

Mr. MANZULLO. The devil is always in the details. The issue here is this, if we are saying let us put cops on the beat, give a community grant and say, "If you need detectives, hire detectives."

Let me read a quote here. This was also from a group in Florida, the Hillsboro sheriff, Cal Henderson, a Democrat, he likes what is in the bill, but he does not agree, he likes some of what is in the bill, but he does not agree with the centerpiece, 100,000 officers. He says, "At this point, the most important thing is the prison beds and juvenile detention facilities." His deputies are arresting the same offenders over and over. He said more deputies made more arrests, but no real change, no real impact. "Give me a break," says Manatee Sheriff Charlie Wells, a Republican, "100,000 police to arrest people to put them where?" Put them where? I mean, Washington cannot determine the needs of a local police force. That is the whole point.

Mr. BECERRA. To my question, it is not the gentleman objects to the idea that the President has of putting more cops on the beat or providing more funds for prison construction, it is the details and the way the conditions, perhaps, arose that are imposed in the bill in trying to implement those particular programs, in that sense?

Mr. MANZULLO. What I am opposed to is the presumption of the U.S. Congress that it knows the needs of a local police department in trying to combat crime. That is the primary opposition.

Let me follow that through with an answer, because as you see by all the comments from these, the different principles involved, they may not need police. They may not need prisons. They may need other backup personnel. But we are determining the needs of the local communities, and that is what is wrong about it.

Mr. BECERRA. But in terms of the programs themselves, community policing, helping provide more community police.

Mr. MANZULLO. Can you define community police? It is not defined in the bill.

Mr. BECERRA. That is because the local government, the police department, is allowed to define what a local community police officer will be which goes to your point about trying to provide local control.

Mr. MANZULLO. We are out of time.

Let me thank the gentleman, thank him very much, and I would state in conclusion that the community policing definition is not included in the bill.

Mr. BECERRA. I hope the gentleman does support the concept of community police and more money for prison construction.

Mr. MANZULLO. We can go on and on. I support the concept of letting the local police departments determine what their needs are and letting the U.S. Congress give them the money to spend the way they determine it.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT), for today through August 26, on account of official business in the district.

Mr. CLEMENT (at the request of Mr. GEPHARDT), for Thursday, August 18, on account of official business.

Mr. MCDADE (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. SAXTON, for 5 minutes, today.

Mr. TAYLOR of North Carolina, for 5 minutes, today.

Mrs. BENTLEY, for 5 minutes, today.

Mr. SHAYS, for 5 minutes, today.

Mr. ISTOOK, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. KREIDLER, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. FINGERHUT, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. WAXMAN, for 5 minutes, today.

Ms. MCKINNEY, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BECERRA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. THOMAS of California.

Mr. CALVERT.

Mr. BALLENGER.

Mr. PACKARD.

Mr. KASICH.

Mr. BEREUTER.

Mr. DORNAN in three instances.

Mr. SOLOMON in two instances.

Mrs. MORELLA.

Ms. MOLINARI.

Mr. SHAYS.

(The following Members (at the request of Ms. DELAURO) and include extraneous matter:)

Mr. BROWN of California.

Mr. HAMILTON.

Mr. KILDEE.

Mr. NEAL of North Carolina.

Mr. LANTOS.

Mr. LIPINSKI in three instances.

Mr. MANN.

Mr. BONIOR.

Mr. ENGEL.

Mr. STARK in two instances.

Ms. LONG.

Mr. FAZIO.

Ms. ROYBAL-ALLARD.

Mr. SYNAR.

(The following Members (at the request of Mr. MANZULLO) and to include extraneous matter:)

Mr. PAYNE of Virginia.

Mr. BARCIA of Michigan.

Ms. VELÁZQUEZ.

Mr. GINGRICH.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2073. An act to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes; to the Committee on Public Work and Transportation.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House

VOL
140
PT
16
AG
12
—
18
1994
UMI

of the following titles, which were thereupon signed by the Speaker:

H.R. 2567. An act to amend the Commemorative Works Act, and for other purposes; and

H.R. 4750. An act to designate the United States courthouse under construction in St. Louis, Missouri, as the "Thomas F. Eagleton United States Courthouse."

ADJOURNMENT

Mr. MANZULLO. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 8 minutes p.m.), the House adjourned until tomorrow, Friday, August 19, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3719. A letter from the Acting Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1999 resulting from passage of H.R. 4429, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

3720. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period April 1, 1994, through June 30, 1994, pursuant to 2 U.S.C. 104a (H. Doc. No. 103-294); to the Committee on House Administration and ordered to be printed.

3721. A letter from the Comptroller General of the United States, transmitting the ninth report on the assignment or detail of General Accounting Office (GAO) employees to congressional committees as of July 8, 1994; jointly, to the Committees on Appropriations and Government Operations.

3722. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report required by section 508 of the FREEDOM Support Act, pursuant to 22 U.S.C. 5852; jointly, to the Committees on Foreign Affairs and Appropriations.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

Referral of H.R. 2680 to the Committee on Government Operations extended for a period ending not later than September 23, 1994.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. MARGOLIES-MEZVINSKY:

H.R. 4984. A bill to amend the Solid Waste Disposal Act to regulate the use of hazardous waste as fuel for energy recovery, the operation of cement kilns that burn hazardous waste as fuel, the disposal of cement kiln dust waste, and related activities; to the Committee on Energy and Commerce.

By Mr. BARTON of Texas:

H.R. 4985. A bill to prohibit aircraft from flying over The Ballpark in Arlington, in Arlington, TX, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. JEFFERSON:

H.R. 4986. A bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal hours of limitation; to the Committee on Ways and Means.

By Mr. KIM (for himself, Mr. COX, Mr. DORNAN, Mr. PACKARD, and Mr. ROYCE):

H.R. 4987. A bill to authorize the Secretary of the Interior to participate in the construction of the Orange County Regional Water Reclamation Project; to the Committee on Natural Resources.

By Mr. REGULA (for himself and Mr. HUGHES):

H.R. 4988. A bill to provide for a 4-year demonstration project under Medicare which shall establish a preventive health care screening examination program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TRAFICANT (for himself, Mr. MINETA, Mr. SHUSTER, Mr. DUNCAN, Mr. HYDE, Mr. HASTERT, and Mr. GINGRICH):

H.R. 4989. A bill to designate the Federal building and United States courthouse located at 100 Northeast Monroe Street in Peoria, IL, as the "Robert H. Michel Federal Building and United States Courthouse"; to the Committee on Public Works and Transportation.

By Mr. CAMP:

H.R. 4990. A bill to amend title 10, United States Code, to require the Secretary of Defense to establish a commission to collect and investigate reports by members of the Armed Forces of illnesses incurred during or shortly following their service in combat zones during a war on contingency operation; to the Committee on Armed Services.

By Mr. INSLEE:

H.R. 4991. A bill to provide that Oregon may not tax compensation paid to a resident of Washington for services as a Federal employee at a Federal hydroelectric facility located on the Columbia River; to the Committee on the Judiciary.

H.R. 4992. A bill to accept redesignation by the Yakama Tribal Council of the name Confederated Tribes and Bands of the Yakima Indian Nation to the "Confederated Tribes and Bands of Yakama Indian Nation" to conform to wording of the Treaty with the Yakamas; to the Committee on Natural Resources.

H.R. 4993. A bill to authorize the Secretary of Agriculture to exchange certain lands in the Wenatachee National Forest, Washington, for certain lands owned by Public Utility District No. 1 of Chelan County, WA, and for other purposes; to the Committee on Natural Resources.

By Mr. SYNAR (for himself, Mr. BUNNING, Mr. OWENS, and Mr. BILIRAKIS):

H.R. 4994. A bill to apply the antitrust laws of the United States to major league baseball; to the Committee on the Judiciary.

By Ms. MOLINARI (for herself, Mr. BAKER of California, Mr. CAMP, Mr. HOEKSTRA, Mr. KING, Mr. LEVY, Mrs. MALONEY, Mr. MCCRERY, Mrs. MORELLA, Mr. QUINN, Mrs. ROUKEMA, Mr. SANDQUIST, Mr. TORRICELLI, Mr. TRAFICANT, and Ms. VELÁZQUEZ):

H.J. Res. 403. Joint resolution to designate October 1, 1994, as "National Incest and Sexual Abuse Healing Day"; to the Committee on Post Office and Civil Service.

By Mr. STUPAK:

H.J. Res. 404. Joint resolution designating March 26, 1995, as "Native American Heritage Day"; to the Committee on Post Office and Civil Service.

By Mr. KNOLLENBERG (for himself, Mr. SOLOMON, Mr. MCCOLLUM, Mr. KIM, Mr. HOEKSTRA, Mr. BARTLETT of Maryland, Ms. MOLINARI, Mr. WALKER, Mrs. MEYERS of Kansas, Mr. CRAPO, Mr. SAM JOHNSON of Texas, Mr. UPTON, Mr. BALLENGER, Mr. TORKILDSEN, Mr. EVERETT, Mr. STUMP, Mr. KLUG, Mr. HOBSON, Mr. FIELDS of Texas, Mr. DORNAN, Mr. EWING, Mr. CANADY, Mr. KINGSTON, Mr. MCKEON, Mr. LEWIS of Kentucky, Mr. HORN, Mr. WOLF, Mr. ROYCE, Mr. SMITH of Texas, and Mr. INGLIS of South Carolina):

H. Res. 525. Resolution expressing the sense of the House of Representatives with respect to welfare reform legislation; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. HOAGLAND.
H.R. 291: Mr. SANTORUM.
H.R. 799: Mr. POMEROY.
H.R. 966: Mr. NADLER.
H.R. 1500: Mr. KLEIN, Ms. FURSE, Mr. PALLONE, Mr. ACKERMAN, and Mr. GORDON.
H.R. 1509: Mr. MANTON.
H.R. 1600: Mr. SAXTON.
H.R. 1671: Mrs. MALONEY.
H.R. 1840: Mr. MILLER of Florida.
H.R. 1897: Mr. HALL of Ohio and Mr. GEJDENSON.
H.R. 1928: Mr. MCCOLLUM.
H.R. 2113: Mr. CALVERT.
H.R. 2229: Mr. MINETA and Mr. VENTO.
H.R. 2663: Mr. MILLER of California.
H.R. 2717: Mr. MANZULLO.
H.R. 2898: Mr. VENTO.
H.R. 3005: Ms. MOLINARI.
H.R. 3250: Mr. CANADY.
H.R. 3261: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TORRES, Mr. BRYANT, Mrs. FOWLER, and Mrs. BENTLEY.
H.R. 3293: Mr. THOMAS of Wyoming.
H.R. 3348: Mr. UNDERWOOD.
H.R. 3363: Mr. ACKERMAN.
H.R. 3421: Ms. MOLINARI.
H.R. 3491: Mr. ZELIFF.
H.R. 3538: Mr. PASTOR, Mr. PORTER, and Mr. RUSH.
H.R. 3646: Mr. HILLIARD, Mr. BARRETT of Nebraska, Mr. DÍAZ-BALART, Mr. CRAMER, Mr. STEARNS, Mr. GILLMOR, Mr. BACHUS of Alabama, and Mr. SENSENBRENNER.
H.R. 3695: Mr. ROYCE.
H.R. 3762: Mr. KIM and Mr. UNDERWOOD.
H.R. 3812: Mr. BACHUS of Alabama.
H.R. 3854: Mr. KANJORSKI.
H.R. 3951: Mr. PASTOR.
H.R. 4000: Mr. GOODLATTE and Ms. ENGLISH of Arizona.
H.R. 4069: Mr. INGLIS of South Carolina and Mr. FOGLIETTA.
H.R. 4070: Mr. INGLIS of South Carolina and Mr. FOGLIETTA.

H.R. 4071: Mr. INGLIS of South Carolina and Mr. FOGLIETTA.
H.R. 4095: Mr. ROBERTS.
H.R. 4142: Ms. VELÁZQUEZ, Mr. VENTO, Mr. THOMAS of California, Mr. MCNULTY, Mr. MARKEY, Mr. WATT, Ms. FURSE, Mr. HUFFINGTON, and Ms. ROYBAL-ALLARD.
H.R. 4178: Mr. DOOLITTLE.
H.R. 4179: Ms. CANTWELL.
H.R. 4251: Mr. HASTERT.
H.R. 4343: Mr. WOLF.
H.R. 4412: Mr. BARLOW and Mr. CHAPMAN.
H.R. 4491: Mr. CALVERT and Mr. BACHUS of Alabama.
H.R. 4514: Mr. CALVERT and Mr. POMBO.
H.R. 4546: Mr. RANGEL.
H.R. 4566: Mr. SENSENBRENNER and Mr. ZIMMER.
H.R. 4592: Mr. POMBO.
H.R. 4654: Mr. HASTINGS.
H.R. 4698: Mr. VENTO.
H.R. 4708: Ms. ROYBAL-ALLARD.
H.R. 4765: Mr. SHAYS.
H.R. 4831: Mr. WILSON and Ms. MOLINARI.
H.R. 4846: Mr. VALENTINE.
H.R. 4919: Mr. ZIMMER, Mr. VISCLOSKY, and Mr. ROEMER.
H.R. 4940: Mr. REED.
H.R. 4951: Mr. DORNAN.
H.R. 4952: Mr. DORNAN.
H.R. 4953: Mr. DORNAN.
H.R. 4957: Ms. DANNER.
H.J. Res. 355: Mr. HAYES, Mr. DICKEY, Mr. STOKES, Mrs. UNSOELD, Mr. LAZIO, Mr. CONYERS, Mr. SHARP, Mr. BAKER of California, Mr. HAMILTON, Mr. FRANK of Massachusetts, Mr. OWENS, Mr. MOORHEAD, Mr. GRAMS, Mr. ANDREWS of New Jersey, Mr. BATEMAN, Ms. DUNN, Mr. LEVY, Mr. PASTOR, Mr. FILNER, Mr. MARKEY, Mr. JOHNSON of Georgia, Mr. MYERS of Indiana, Mr. CRANE, Mr. ABERCROMBIE, Mr. BILBRAY, Mr. SAXTON, Mr. WYDEN, Mr. NADLER, Mr. FRANKS of New Jersey, Mr. ENGEL, Mr. COYNE, and Mr. BLACKWELL.
H.J. Res. 381: Mr. OWENS, Ms. DELAURO, and Mr. ENGEL.
H.J. Res. 385: Mr. SERRANO.
H.J. Res. 399: Mrs. MINK of Hawaii, Mr. OWENS, Mr. JOHNSON of South Dakota, Mr. WYNN, Mr. BEVILL, Mr. HORN, Mr. MARTINEZ, Mr. BILBRAY, Mr. WOLF, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. HASTINGS.
H. Con. Res. 173: Mr. LEACH, Mr. DOOLITTLE, Ms. MARGOLIES-MEZVINSKY, Mr. HANCOCK, and Mr. KIM.
H. Con. Res. 264: Mr. GINGRICH and Mr. GOODLING.
H. Res. 432: Ms. NORTON, Mrs. UNSOELD, and Mr. KLEIN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3222: Mr. GORDON.

VOL 140 PT 16 AG 12 — 18 1994 UMI

EXTENSIONS OF REMARKS

HEALTH CARE REFORM

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. PACKARD. Mr. Speaker, President Clinton and the liberal leadership are launching an invasion on our medical schools. An army of new Government bureaucrats will decide the course of study for thousands of medical students.

Presently there are 72,347 medical students enrolled at America's 141 medical schools. These bright, young energetic students will lose their right to choose a career path.

Instead, under the Clinton-Gephardt health care reform scheme, a national commission will ration the number of medical students per school and decide what kind of medicine these students will study. The fate of thousands of medical students will rest in the hands of Government bureaucrats.

Mr. Speaker, the Clinton-Gephardt attack does not stop at the medical school door. Health care consumers will also feel the consequences of this new rationing system. We only need to look over our northern border to see the results.

Every day thousands of Canadians seek care in the United States because they are denied access to specialists. In essence, they are refugees of the Canadian health care system. Socialized medicine sabotages a patient's right to quality care.

If the Clinton-Gephardt bill is enacted, Americans will join the ranks of the socialized medicine refugees. What border will we have to cross to get the kind of health care we need?

As a dentist, I am aware of the vast opportunities the medical profession offers. The Clinton-Gephardt bill takes away that opportunity. The Government did not infringe upon my career choice. Do not let bureaucracy smother the aspirations and dreams of future medical students.

Mr. Speaker, I urge my colleagues to consider the Michel and Dole health care bills. We must protect the rights of our future health care providers. Do not let Government limit the choices and career paths of future medical students.

TENTH ANNIVERSARY OF ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to commemorate the 10th anniversary of the Illinois and Michigan Canal national heritage corridor.

Designated by Congress on August 24, 1984, the Illinois and Michigan Canal national heritage corridor extends from Navy Pier and Calumet Harbor in Chicago 120 miles to La Salle-Peru. Illinois, the sixth most populous State in the Nation, had no national park until the corridor's designation, which was seen as an innovative model for preserving the natural heritage of an urban area. The Illinois and Michigan Canal national heritage corridor was the first partnership park of its kind and is now a model for such parks throughout the Nation.

While significant strides have been made in preserving the corridor, much work remains to be done. Presently, the Illinois and Michigan Canal itself, a national historic landmark, is included on the Federal Government's list of endangered landmarks. Local funding efforts have been instrumental in enhancing the historical, natural, and recreational resources of the corridor. However, Federal investment for capital improvements remains an important objective. Federal funding would address some of the capital projects along the corridor and tie the region as a great urban cultural park.

I have introduced two bills designed to enhance and preserve the corridor. H.R. 1828 would provide Federal funding for capital improvements, define the eastern boundaries of the corridor and extend the National Heritage Corridor Commission for another 10 years. Another bill, H.R. 3999 simply defines the eastern boundaries of the corridor and extends the life of the commission.

In the last 10 years, we have seen significant progress being made along the corridor. The corridor's rich heritage and recreational opportunities attract countless visitors to the area and enhance the pride of local residents. The Illinois and Michigan Canal national heritage corridor is of great historical significance to the State of Illinois, as well as the Nation. We must continue to work to preserve this unique treasure for future generations.

RSVP PROGRAM IS SUCCESS IN ESSEX COUNTY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. SOLOMON. Mr. Speaker, there are a number of Federal programs that are inefficient, or just plain don't work. But let me say a few words today about one of the good programs, one which performs a vital service for an important segment of the population.

It is the Retired and Senior Volunteer Program [RSVP] in Essex County, which is funded by the National Community and Service Corp., and locally by Catholic Charities of the Diocese of Ogdensburg.

RSVP makes use of retired persons after 55 or older who still have enormous talents and energies to offer. These volunteers assist public and nonprofit agencies and licensed health care facilities in meeting urgent social needs. Their efforts are directed to older Americans who are frail, ailing, and homebound, and deal with such areas as nutrition, health, independence. They assist hospitals, nursing homes, schools, libraries, and a variety of other human service agencies.

'Have they been successful? You bet! RSVP-Essex County has 530 enrolled volunteers, who have logged 68,500 hours annually. They serve at 74 agencies and organizations throughout the county. It's one of 38 such programs in the State of New York, with a total of 45,000 volunteers.

In Essex County, over 1,556 volunteers have joined this program since 1974, and contributed 788,860 hours of service.

Mr. Speaker, this is America at its best. It is an example of neighbor helping neighbor. The staff and all volunteers deserve our Highest praise.

RSVP-Essex County will be celebrating its 20th anniversary on September 15, and I would ask this House to join me in congratulating RSVP-Essex County for its 20 years of outstanding service.

BEYOND THE CALL OF DUTY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. KILDEE. Mr. Speaker, I would like to take this opportunity to bring attention to the extraordinary efforts of three young people who have selflessly donated the last few days of their summer vacation to the U.S. House of Representatives. I am referring to Caroline Andrews, Sarah Raimo, and Dan Malin.

As you may be aware, Mr. Speaker, the second session for our summer pages ended on Friday, August 12. Caroline and Sarah have gone above and beyond the call of duty, and volunteered to continue their dedicated service in the Democratic Cloakroom. As the only pages left in the House, they have also taken on a number of additional duties. They should be commended for their loyalty and spirit.

Finally, I would be remiss if I failed to mention the fine job Dan has done as a volunteer intern. He is a student at the Nichols School in Buffalo, NY, and his arrival here could not have been more timely. On behalf of my colleagues in the House, I would like to thank each of you for your help.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CONGRATULATIONS TO MRS. CARMEL DOYLE SLEVIN

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. CALVERT. Mr. Speaker, the 20th century is rapidly drawing to a close. It has been a period of astounding change—an era that has seen more progress in more fields of human endeavor than all previous years of man's existence on Earth. And, if there is any one country that has shaped and molded the 20th century in its own image, it is the United States of America. Clearly, this has been an American century.

In just a few days—on August 23, 1994, a California woman who has lived in every decade of this American century will celebrate her 90th birthday. To truly understand the reasons for America's greatness, we must understand lives such as hers, because she personifies the American spirit and the American dream.

Mrs. Carmel Margaret Doyle Slevin was born in her mother's home in San Francisco in 1904. Teddy Roosevelt was President and most vehicles were described by the number of horses rather than the amount of horsepower.

At the age of 19, Miss Doyle took her first job as a schoolteacher. She had to commute by horseback to a rural school outside of San Francisco in the hills of San Mateo County. It was a one-room schoolhouse with children of all different ages.

But, Carmel was a city girl at heart and returned the next year to take a job teaching in her hometown. She passed the San Francisco city teacher's exam and taught from 1925–43, resigning to give birth to her second child.

During the 1940's, 1950's, and 1960's, Carmel and her husband, Edward M. Slevin, lived the American dream. They worked hard, raised a family and participated actively in their church and community. And, they made sure that their children, Edward J. Slevin and Patricia Carmel Slevin Mantoani, would have even greater opportunities than they had.

After her children were grown, Mrs. Slevin returned to teaching school, once again, sharing her knowledge and experience with a new generation of Americans. She continued teaching until required to retire at age 55.

Since the death of her husband in 1973, Carmel has kept active with the two most important things in her life—her family and her religion. She has eight grandchildren and 6 great grandchildren.

Mrs. Carmel Margaret Doyle Slevin has witnessed more change then most of us will have the opportunity to see. She rode on horseback to her first job and now watches space flights on television. She read about the horror of World War I, saw newsreels about World War II, and watched as the Vietnam war was fought in living color on her television.

But, we congratulate Mrs. Slevin on her 90th birthday, not because she has witnessed almost the entire American century, but because she has contributed so much of her talent and spirit to making the 21st century the next American century.

CONGRATULATIONS TO TULARE COUNTY DAIRY INDUSTRY: NO. 1 IN THE NATION

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. THOMAS of California. Mr. Speaker, I would like to congratulate the dairy farmers of Tulare County, CA, for realizing a significant accomplishment. Tulare County dairy farmers, through a blend of hard work, perseverance, and the use of modern technology, have become the Nation's leading milk-producing region. Making Tulare County's achievement even more significant is the instrumental role this accomplishment had in helping the State of California overtake Wisconsin as America's dairy land.

The reasons for Tulare County's rise to the top read like a typical American success story. Building upon an already strong base of 230 dairies in 1970, Tulare County now has 286 dairies. And using strong management practices, economies of scale, the most-advanced technologies, and taking advantage of favorable weather and local resources, the dairy farmers of Tulare County made the decisions and took the risks that led to the increase in their production. And what a record they have achieved. Tulare County dairy farmers have annual gross receipts of $455 million or about 15 percent of the State's total receipts of $3 billion.

But the good news does not end here. Based on the strength of the diary industry, several new large scale-milk processors have opened facilities in the county including the California Milk Processors, the State's largest milk cooperative and Kraft, which will soon complete a bulk cheese facility.

However, Tulare's accomplishment had not been made without the need to overcome several challenges including a statewide recession to roller-coaster prices for milk. But drawing on the strengths of the county, family-owned dairies and tightknit communities, Tulare County's dairy farmers were able to pool their resources during the tough times and ultimately persevere. The result is what we know today. Tulare County is the No. 1 milk-producing region in the county—no small achievement—because I know well the pride in which the Wisconsin delegation held that distinction. And if I know them, they will work hard to rebound. It is a challenge that I and the dairy farmers of Tulare County and the entire State of California look forward to meeting.

TRIBUTE TO WEBER BAKERY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. LIPINSKI. Mr. Speaker, I rise today to offer my hearty congratulations to the Weber Bakery on the occasion of their 64th anniversary.

Weber's, founded in 1930 near 45th and Kedzie by German immigrant, Erich H. Weber, moved to 63d and St. Louis in 1937 and was a venerable member of the Chicago lawn business community until 1980. Erich H. Weber retired in the mid-1960's turning the business over to his son, current business president, Erich R. Weber. The senior Mr. Weber, 86, is living in retirement in Florida.

I first met Erich R. Weber in 1960, when I was a physical education instructor at Marquette Park. They sold the best hot dog buns in the world, and I would purchase them for the 350 youngsters in the Marquette Park day camp.

In 1979, the family decided to start a full-service branch in the thriving Garfield Ridge area and opened up at Archer and Nottingham. The Garfield Ridge Bakery located in the 23d ward of the city of Chicago, where I served as Alderman from 1975 to 1982. The Weber Bakery is also located in the Third Congressional District of Illinois, the district I have served since 1982.

After the Weber's closed their Chicago lawn shop, they poured all their energy into the Archer location, expanding, remodeling, and improving their property. In their years in the 23d ward and Third Congressional district, under the leadership of Erich R. Weber, the Webers have sponsored countless patriotic, cultural, and athletic events for the youth of the area. They have also contributed to senior citizens picnics, bingos, and awards programs. They have truly been outstanding citizens of the community. Their community involvement has helped the southwest side of Chicago become the garden spot.

Today, Weber's is managed by two of Eric R. Weber's sons, Michael and David. Like their father before them they literally grew up in the business, working weekends and summers learning the art of baking.

"We're very proud of our operation here, and we're proud that over the years we have expanded our offerings to meet the tastes of our many customers," states Michael Weber. "Our German specialties, as well as our Polish, Italian, and Mexican items, have proven quite popular with a wide audience."

On a personal note, I would like to add that the many conversations I have had with Erich and Michael Weber have been excellent informational experience for me. Those conversations have kept me informed on what was going on in the community, what the people were thinking and how government was affecting small business.

Once again, let me thank the Weber's for their total contributions to our community and congratulations on your 64th year in business.

TRIBUTE TO COMMEMORATE THE THIRD ANNIVERSARY OF UKRAINIAN INDEPENDENCE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. BONIOR. Mr. Speaker, I rise today to commemorate the third anniversary of Ukrainian independence. To celebrate, members of the Ukrainian Cultural Center in Warren, MI, are hosting a commemorative and cultural program this Sunday evening, August 21.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Much has been achieved in the 3 years since the Parliament of Ukraine declared independence. Barely 3 months after the proclamation, over 90 percent of the population ratified the proclamation in a referendum. In the past year, parliamentary and presidential elections have been held. The people of Ukraine face many challenges; however, they are in the process of building a free and democratic society.

I believe the United States must reach out to the people of Ukraine. Americans can and should assist Ukrainians in their quest to build a prosperous free-market society. As a Member of the House of Representatives, I have worked to see that Ukraine receives a fair portion of the aid designated for the New Independent States. On a more personal level, I have worked with individual Ukrainians who have come to America to learn about our system of government and to acquire entrepreneurial skills. Ukrainian citizens have worked in my Washington and Mount Clemens offices studying the American political system. I have been fortunate to have the opportunity to provide assistance with the exchange program between the Lvov Institute of Management and Wayne State University. Currently, I am making arrangements for Ukrainian students participating in this M.B.A. program to spend time with small business owners in Michigan. I encourage all Americans committed to Ukraine's future to participate in these types of one-on-one experiences. These efforts will undoubtedly make an important impact on Ukraine.

On the third anniversary of Ukrainian independence, Ukrainian-Americans share in the joy of a free Ukraine. I ask that my colleagues join me in saluting the Ukrainian Congress Committee of America and the Ukrainian American Coordinating Council for their vigilance through the many difficult years, and for organizing and hosting this commemorative cultural program.

SENIOR COMPANION PROGRAM IS GREENE COUNTY SUCCESS STORY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. SOLOMON. Mr. Speaker, there are a number of Federal programs that are inefficient or just plain do not work. But let me say a few words today about one of the good programs, one which performs a vital service for an important segment of the population at a reasonable cost.

I'm speaking about the Senior Companion Program, which has brightened the lives of both the volunteers and those whom they have served in Greene County in upstate New York since 1989.

The Senior Companion Program consists entirely of volunteers aged 60 or over. They provide a variety of services that professional, full-time health-related agencies would be hard-pressed to offer. For example, many volunteers simply provide companionship, keeping an eye on home-bound older Americans, many of whom no longer have living relatives. These volunteers often become advocates and advisors for their charges, informing them about available services and helping them enroll in other programs. Or, volunteers might give family members responsible for an ailing relative a few hours of relief. Some even do some light housekeeping chores, or help with managing household budgets.

Invariably, solid friendships are often formed between volunteers and the beneficiaries of this program. Many even spend holidays with them.

The volunteers get a great deal of satisfaction, Mr. Speaker, from their participation in this program, and so does the entire community. Imagine how far this program goes in cutting down the cost of home health aids and other expenses, which can be prohibitive.

Beyond that, Mr. Speaker, I can think of few things more all-American than this program, which features neighbor helping neighbor.

The Senior Companion Program of Greene County will be holding its annual recognition luncheon on September 6, and I'm looking forward to being there.

Meanwhile, Mr. Speaker, I would like this House to commend Terry La Sala, program director, whose enthusiasm and dedication are such important factors in the program's success, and everyone else affiliated with this effort. Thanks to such people, the Senior Companion Program has become a success story of which we can all be proud.

HONORING THE LIBERATION OF MAASTRICHT, HOLLAND

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. ENGEL. Mr. Speaker, I wish to call to the attention of the U.S. Congress a special group and its celebration of a historic event.

This September marks the 50th anniversary of the liberation of Maastricht, Holland, by elements of the 30th Infantry Division of the U.S. Army. The city of Maastricht was the first Dutch community liberated from Nazi occupation, and it would take 9 months to overcome the ferocious counterattack by the enemy. More than 76,000 American troops lost their lives in the Ardennes, in the final and bloodiest Nazi onslaught that became known as the Battle of the Bulge.

During the opening days of this military campaign, a moving relation was formed among the American troops and the Dutch people. Ten years earlier in 1934, a jeweler from the city of Maastricht named Knijf founded an athletic club known as AV34—Athletiekverening. This physical fitness program for the area's youth was suspended and disrupted by the advent of Nazi occupation in 1940. When Maastricht was finally liberated 5 years later, AV34 was reborn as an athletic club with an added, noble cause—to pay homage to the soldiers who fought and died to free their homeland.

Over the years, the members of AV34 and the American troops who liberated Holland have participated in a series of special events. The first dedication was a torch designed by Mr. Knijf that was carried in a relay from Maastricht to the American military cemetery in Margraten, some 6 miles away. That initial run of the Liberation Torch has evolved into a 600-mile relay run from Omaha Beach in Caen, through western France following the battle route of the 30th Infantry Division to Holland. Every 5 years, members of AV34 are joined by veterans and athletes from around the world to run this course.

Members of AV34 have also visited our shores, participating in a commemorative run dubbed Torch 200 during the U.S. bicentennial, and in 1986 for the ceremonies marking the 100th anniversary of the Statue of Liberty.

Again this year, American veterans will travel to Europe to mark the liberation of Maastricht. Just as the ceremonies marking the 50th anniversary of D-day revived memories and evoked emotions, the ceremonies in Maastricht will highlight five decades of brotherhood and freedom.

At this time, I must commend the efforts of one American veteran who has dedicated his time and energy to continuing the special relationship with AV34. Philip Capotorto, a resident of my home borough of the Bronx, served with distinction in Holland and literally acts as a living tribute to the men who fought there.

To Philip Capotorto and all the members of AV34, I extend my congratulations and best wishes. I am sure my constituents and the American people share this sense of gratitude and admiration. Your efforts are not forgotten, and your courage will live on throughout history.

TRIBUTE TO PEARL MAZE MacLEECH

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Ms. ROYBAL-ALLARD. Mr. Speaker, it is an honor for me to pay tribute to the life of Mrs. Pearl Maze MacLeech, cofounder and secretary of the senior citizens club at Angelus Plaza. With her death on August 12, 1994, Mrs. MacLeech has left a legacy of dedication and commitment to the senior citizen community.

Mrs. Pearl Maze MacLeech was born in New York City on October 5, 1908. She spent her teenage years on her family's ranch in Freehold, NJ. Determined to learn from life's classroom, Pearl left home at 16 and moved to New York City, where she successfully advocated for the American Association of Retarded Children and the Foundation for the Blind. She was a cofounder of the Institute for Handicapped Adolescents and Young Adults.

In 1955, she married Bert MacLeech. The couple moved to southern California where Mr. MacLeech joined the University of Southern California's faculty in 1967. Pearl and Bert's home became a satellite classroom where students shared their intellectual and cultural pursuits.

When Bert retired, they moved to Angelus Plaza in Los Angeles, where they cofounded the senior citizens club. The club is one of the largest local senior advocacy groups in the Nation.

I wish to extend my sympathy to the MacLeech family and friends. Thanks to the work of Ms. Pearl Maze MacLeech, the lives of the elderly, the physically challenged, and all who knew her have been enriched.

I will always be eternally grateful for having the privilege of knowing her as a constituent, but more importantly, as a friend.

INTRODUCTION OF THE BASEBALL FANS AND COMMUNITIES PROTECTION ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. SYNAR. Mr. Speaker, it is a sad and unfortunate fact that throughout our great Nation this summer baseball fans from Little Leaguers to the President are sorely disappointed that for the eighth time in eight negotiations major league players are on strike. While fans are disappointed, many others feel a real economic impact of the strike. Those communities that host major league teams have lost valuable jobs and millions in revenue because their major league stadiums have all been shuttered by the strike.

To make matters worse, in the 2 weeks since the strike began, little progress in resolving the strike has been made and it appears that neither side seems intent on ending the strike any time soon. Frustrated fans sit on the sidelines and watch the remainder of the season dwindle away while the negotiations between players and owners stall.

That is why I join today with Congressmen BUNNING, OWENS, and BILIRAKIS to introduce the Baseball Fans and Communities Protection Act. This legislation will apply the Federal antitrust laws to major league baseball in a manner designed to spur the now stagnant negotiations between the players and owners of major league baseball. This bill is specifically designed to allow the players to get back to the field while all parties to the strike have their rights and bargaining positions protected through the application of the antitrust laws.

The current impasse between owners and players is that owners are committed to imposing a salary cap following the season and players feel the only way to negotiate on the imposition of the salary cap by the owners is to strike now, during the season, when their bargaining leverage is at a maximum. What the Baseball Fans and Communities Protection Act will do is allow the players to retake the field by giving them access to the rights and remedies of the antitrust laws from which major league baseball is currently exempt.

I believe giving the players antitrust remedies will preserve their bargaining positioning during the upcoming negotiations without having to resort to a strike. This will allow all parties, players and owners, to sit down and bargain in good faith until an agreement that is satisfactory to both sides is reached. In the meantime, players can play ball.

I urge my colleagues to cosponsor this important legislation, and I look forward to its swift consideration by the House Judiciary Committee and the entire Congress.

INTRODUCTION OF NATIONAL INCEST AND SEXUAL ABUSE HEALING DAY

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Ms. MOLINARI. Mr. Speaker, today I am introducing a resolution to designate October 1, 1994, as "National Incest and Sexual Abuse Healing Day."

As the crime bill has dominated our attention this week, I think it is important to reflect on why it is so important that anti-crime legislation strongly address the problems of sexual abuse through such measures as strengthening evidentiary rules for the prosecution of child molesters and notifying communities when sexual predators are present.

The statistics on child abuse and sexual abuse of children are grim. In 1992, 2.9 million child cases were reported to child protective service [CPS] agencies. This represents a 50-percent increase in reported child abuse cases between 1985 and 1992. But despite this increase in the reporting of cases, there remain thousands of children whose cries go unheard.

In addition, it is estimated that nearly 1,300 child abuse and neglect-related fatalities in 1992 were confirmed by CPS agencies—an average of over three child deaths a day. Almost 84 percent of these children were under 5 years old at the time of their deaths.

The futures of those who survive these crimes follow two paths. The fortunate ones may be able to overcome child abuse by speaking out, creating an open and honest dialog on the subject. Others, unable to come to terms with what has occurred, may face years of physical and emotional problems. Many will grow up to become the next generation of abusers, perpetuating a vicious cycle of violence.

Mr. Speaker, I encourage all my colleagues to join me in bringing attention to these crimes and recognizing the brave survivors of incest and child abuse by commemorating October 1, 1994 as "National Incest and Sexual Abuse Healing Day." And I hope we will join together to pass a crime bill that helps protect our children and prevent such crimes in the future.

TRIBUTE TO THE PREMIUM MARKETING SYSTEMS ON THEIR 25TH ANNIVERSARY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. LIPINSKI. Mr. Speaker, I rise today to recognize Premium Marketing Systems on their 25th anniversary. It is an honor to participate in the celebration of this prosperous business, one that has contributed so much to my community and the State of Illinois.

Mr. Bill Stephansen, the president of Premium Marketing System, and Barbara Stephansen, secretary-treasurer, began their telemarketing business in 1969 with one small office. In the 25 years since their humble beginning, Premium Marketing Systems has grown to become the fifth largest employer in Cicero. It also has the distinction of being the oldest telemarketer in the world in one location.

Premium specializes in the sale of family magazines such as TV Guide, McCalls, and Good Housekeeping. Their sales and employment have soared since 1991 with the introduction of state-of-the-art computer driven predictive dialing equipment, which automatically calls prospective customers, statistically evaluates data, and enters orders. In fact, verified annual sales totaled $11 million last year, a dramatic increase from Premium's first year of sales of $75,000 in 1969.

Premium has become an integral part of the business community of Cicero, providing employment for hundreds of Illinois residents throughout its history. On August 26, 1994, Premium will officially celebrate their anniversary at a barbecue with their current and former employees.

Mr. Speaker, I am proud to recognize Premium Marketing Systems on their 25th anniversary. Its contributions to the business community, as well as its service and dedication to Cicero, and deserving of recognition. I urge my colleagues to participate in this worthy celebration.

TRIBUTE TO BROOKEVILLE'S BICENTENNIAL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mrs. MORELLA. Mr. Speaker, I rise in recognition of the 200th birthday of Brookeville, MD, a lovingly preserved link with our early American past. Once a Quaker mill town serving the farms of northeast Montgomery County, Brookeville a picture-perfect backdrop in the autumn, for pumpkins and falling leaves. With its fieldstone and clapboard houses, period street lamps, and strict building restrictions, the 45-household, 4-block village invokes the past.

Brookeville played a significant role in the events surrounding the War of 1812. On August 26, 1814. President James Madison fled burning Washington, DC, and was given refuge by Henrietta Bentley, wife of the town's postmaster. With the President came his military attache, General Mason, and the Secretary of the Treasury, and the assets—gold bars—from the National Treasury. For 2 days, our Federal Government was located at the Bentley farm. Later, the Bentley farm was renamed the Madison House in honor of the presidential visit. The town of Brookeville had been laid out in September 1794 by Richard Thomas, who married Deborah Brooke—one of four Brooke sisters, on whose land the town was built. The Maryland State Assembly officially recognized the town of Brookeville in 1808; 5 years later, the town of Brookeville was authorized by the State Assembly to appoint its first constable. By 1890, Brookeville

VOL
140
PT
16
AG
12
—
18
1994
UMI

made clear to all visitors who passed through its boundaries that it had an agricultural identity. Many of the town's laws dealt with the conduct of Brookeville's animals. One regulation stated that "no hogs or hog pen or pens or slaughter house" were allowed within town limits, nor were barking dogs.

The population of the town of Brookeville at the time was 250, making it the third largest town in Montgomery County. The town was incorporated by the State Assembly in 1890. Today, Brookeville has a population of 150, and retains its rural, small-town flavor.

In conclusion, Mr. Speaker, I want to offer my congratulations to the town of Brookeville and its citizens on its 200th birthday.

JUDICIAL ASSISTANCE FOR GUATEMALA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. HAMILTON. Mr. Speaker, in March 1993, the Agency for International Development proposed to renew a judicial sector reform support project for Guatemala. Included in that proposed project was assistance to the Public Ministry in Guatemala. Given the past record of that institution, I requested that the portion of the proposed project which would provide assistance to the Public Ministry be placed on hold until certain benchmarks were met. My correspondence with AID at that time is included in the CONGRESSIONAL RECORD of August 3, 1993 [19109].

AID has since that time consulted closely with the Committee on Foreign Affairs on this project. Based on recent developments in Guatemala, I am not prepared to support the release of those funds. I commend Administrator Atwood and his staff for the careful consultation with the committee and commend my most recent correspondence with Administrator Atwood, which follows, to the attention of my colleagues.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, August 15, 1994.

Hon. J. BRIAN ATWOOD,
Administrator, Agency for International Development, Washington, DC.

DEAR BRIAN: Thank you for your letter of August 10 regarding the hold I placed on portions of AID project number 520-0407, the Judicial Sector Reform Support project for Guatemala.

As you know, I have had continuing concerns over several elements of this program, in particular aid to the Public Ministry. I believe that the developments cited in your letter, and the specific steps you have taken to structure such aid, meet my concerns. I am therefore lifting that hold.

I would like to commend you and your staff, Mr. Administrator, for the manner in which you have consulted with this committee on these issues. I commend particularly Mr. Neil Levine, Congressional Liaison Division, for his careful and tireless work in ensuring that these serious concerns were addressed. This kind of consultation helps to strengthen executive-legislative relations.

Thank you for your cooperation in this matter.

With best regards,
Sincerely,

LEE H. HAMILTON,
Chairman.

AUGUST 10, 1994.

Hon. LEE HAMILTON,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I would like to take this opportunity to update you on recent developments in Guatemala and to inform you of the Agency's desire to move forward at this time with $1.5 million in assistance for the Justice Sector Reform Project.

As you may recall, last year we agreed to withhold assistance to the Guatemalan Public Ministry until we had confidence both in the leadership of the Ministry and that our program would enhance the protection of human rights for Guatemala's citizens. We strongly believe that because of key changes within the Public Ministry, as well as historic developments related to the Guatemalan Peace Process, the time has come to put these funds to work.

Since the time of the original notification in March 1993, important events have transformed the Guatemalan political landscape. The former Human rights Ombudsman, Ramiro De Leon Carpio, emerged from the June 1993 constitutional crisis as the new President of Guatemala. He is determined to make Guatemalan institutions serve the majority of Guatemala's people. He has called for a "depuracion" or cleansing of Guatemala's judicial and legislative branches and worked to ensure that a greater share of Guatemala's national budget goes to those areas of the country in greatest need.

In the justice sector, a new criminal procedures code designed to transform an antiquated, closed and inefficient system of justice into one that is transparent, accountable and more accessible to the traditionally disenfranchised went into effect on July 1 of this year. One of the principal features of the new code is the creation of an empowered Public Ministry able to investigate and prosecute criminal cases with complete autonomy. In May of this year, the Guatemalan Congress also passed a new "organic law" which codifies the changes in the Public Ministry needed to implement the new criminal procedures code. The Government of Guatemala's commitment to judicial reforms has also been expressed through increased budget authority for justice sector institutions.

As part of the package of constitutional reforms negotiated between the executive and legislative branches and then ratified through a popular referendum last January, the Public Ministry has been reorganized, dividing the functions of the old Public Ministry into two separate entities: a new Public Ministry responsible for the investigation and prosecution of all criminal cases, and a Solicitor General's Office charged with representing the State in all civil (non-criminal) matters. This division delinks the functions of the Public Ministry and the Chief Prosecutor who heads it from the functions of counsel to the President and line ministries, thus greatly increasing the autonomy of the new Public Ministry and curtailing the tendency toward political interference in the vigorous prosecution of any and all criminal cases.

The process for selecting a Prosecutor General was also changed by requiring the President to select from a list of nominees established by a blue ribbon commission from the judicial sector. On May 14, President De Leon appointed Ramses Cuestas Gomez, a respected law professor, as the new Prosecutor General and head of the Public Ministry. One of Cuestas' early decisions was to dismiss the entire investigative unit of the Public Ministry and to institute a new process for the recruitment and selection of qualified candidates based on thorough background checks, thus assuring that new investigators would be technically competent and without any previous affiliation with military intelligence.

Reinforcing our conviction that this is the right time to go forward with the justice sector project is the historic progress made this year in the protracted negotiations between the De Leon government and the URNG, the Guatemalan armed guerrilla movement. Since January, the parties have signed a framework accord setting a calendar aimed at achieving a comprehensive peace settlement by the end of the year, and three substantive agreements on human rights, refugees, and a commission to examine and report on abuses during the armed conflict. The human rights agreement, signed on March 29, calls for the dispatch of a UN mission to Guatemala, charged with monitoring compliance with a detailed human rights agreement, through the strengthening of national institutions.

We see a strong connection between the operations of this mission and the justice sector reform project, and expect to coordinate our work closely with it. The presence of a human rights verification team in-country means that new cases may soon flow into a system that is ill-prepared to carry out its functions. Our assistance is targeted specifically to assist Guatemalan institutions in implementing a new legal code, designed to move to a system of oral proceedings, provide adequate public defense and to improve investigative and prosecution functions. While we have already begun work with the Supreme Court and the San Carlos Law School, without training prosecutors and investigators of the Public Ministry, the project lacks a critical feature for accomplishing its goal. In short, we have a "two-legged stool" which fails to bring us closer to the goal that we share—i.e., advancing respect for human rights by making the justice system function better for all Guatemalan citizens.

State Department and USAID representatives have shared our views on these developments with your staff and with representatives of human rights organizations here and in Guatemala. We felt those meetings were very productive and we want to be as responsive as possible to the concerns raised. We fully agree that all investigators and prosecutors receiving U.S.-financed training must undergo background checks. This will be accomplished by the U.S. Embassy in Guatemala and through consultations with our local counterparts. Should any questions arise concerning the background of an individual, the individual will not receive training. Concerning other employees of the Public Ministry, we are prepared to suspend assistance to the project if, at any time, we believe that any individual in a significant position of responsibility has compromised the integrity of the project. We will make this clear to the Guatemalans as a condition of our collaboration.

In response to concerns raised in your letter, I have asked the State Department to prepare the enclosed paper on the status of the major human rights cases in Guatemala. As you will note, the record is mixed. Release of the suspended project funds now

sends a message of support for the peace process, provides important resources to reform a weak and outdated judicial system, and provides positive reinforcement to the work of the human rights verification mission. Although we continue to push for progress on individual cases, we believe that developments in Guatemala warrant moving forward now to advance institutional change and to help ensure that future cases can be prosecuted and justice delivered.

Mr. Chairman, judicial reform in Guatemala is a long-term process requiring concerted efforts by Guatemalans with the sustained support of the international community. Although the wholesale violence of the early 1980s thankfully has not returned, major and egregious violations continue. More importantly, impunity remains one of Guatemala's most severe problems. Developments under President De Leon, a reform-minded leader who shares our commitment to human rights and democratic governance, and advances in the peace process provide us an opportunity to put U.S. assistance to work. We seek to bring about institutional change to advance democracy and human rights and to hasten the day that the longest civil war in Central America is finally and peacefully brought to an end.

As I pledged to you last year, I want to see USAID's administration of justice activities succeed in furthering respect for human rights, not only in Guatemala, but around the world. I want to renew that pledge and with your agreement, I propose that USAID move forward with the $1.5 million in assistance for the Justice Sector Reform Project.

Sincerely,

J. BRIAN ATWOOD.

The following is an update of the status of the major human rights cases in Guatemala.

AMILCAR MENDEZ

Human rights activist Amilcar Mendez, is the leader of the Consejo de Comunidades Ethnicas Runujel Junam (CERJ), a rural-based human rights organization. Over the years, a number of CERJ activists, including Amilcar Mendez, have received threats. Some CERJ activists have been killed. CERJ often has had difficulties with Civil Defense Patrollers (PAC's) since it pays close attention to alleged PAC violations.

A number of specific incidents have involved Amilcar Mendez or his extended family over the last two years. In October 1992, he was charged with providing explosives to Guatemalan guerrillas. In November, the Chargé d'Affairs personally accompanied Mendez to a Quiche tribunal to face the charges. The charges were dropped in March 1993, Mendez never having served time in jail. Throughout this period, the U.S. was active in meeting with legal and human rights authorities to seek justice in this case.

CERJ's Guatemala City office was broken into on May 8, 1993 and, later that year, one of Mendez' teenage nieces was kidnapped and raped. The U.S. Embassy was in rapid contact with police authorities following the break-in, as well as with CERJ members manning the office. In the case of the niece, the Ambassador paid a personal call to the girl's family the day after her release and raised this matter with Government officials. The police conducted an investigation, but no arrests were made.

In January of this year, a motorcyclist (with his face covered) apparently tried to run over Mendez' sixteen-year-old daughter. The police investigated the case, but no arrest was made. The Ambassador met with Mendez that same day, who sent his daughter to the U.S. until June for her own safety. She has not been bothered since her return. Nonetheless, on June 29, Mendez' son called the Embassy to say armed men were outside his home. The Embassy contacted the Presidential Human Rights Commission Office (COPREDEH) and the National Police Chief. This led to the dispatch of a police patrol to the Mendez home. The armed men had left by the time the police arrived.

Amilcar Mendez continues to be active and in the news. Recently, he filed a motion to have the Defense Minister tried for permitting forced recruitment. The U.S. Embassy maintains close and fluid contact with Mendez. Guatemalan authorities have responded to incidents directly affecting him and recognized his right to pursue his human rights work. Guatemalan authorities have also shown a willingness to meet with Mendez.

MYRNA MACK

Myrna Mack, a Guatemalan anthropologist studying displaced persons, was killed in September 1990. Noel de Jesus Beteta Alvarez, then a member of the Presidential Defense Staff ("Estado Mayor Presidencial"), was implicated in the case. He fled to California, but was returned to Guatemala in December 1991.

In February 1993, a trial court convicted Beteta, sentencing him to 25 years for the Mack murder and five years in an unrelated case. Beteta filed an appeal, as did Helen Mack, Myrna's sister. Helen Mack's appeal requested that the case against the alleged intellectual authors remain open. In late 1993, Beteta briefly escaped from prison, but was recaptured within hours.

In February 1994, in two milestone rulings, the Supreme Court confirmed the sentence against Beteta and ruled the investigation into the intellectual authors should remain open. The alleged intellectual authors (retired military officers) have appealed this ruling to the Constitutional Court. The Embassy was in close contact with Helen Mack and Judicial and Executive Branch officials at this time urging a speedy and just decision on these appeals.

Helen Mack has a separate appeal pending with the Constitutional Court concerning the release of Executive Branch documents concerning the case. The Executive Branch maintains that it does not have any files not already released to the courts.

The U.S. Embassy maintains close contact with Helen Mack and has spoken repeatedly to Government authorities over the need for justice in this case.

MICHAEL DEVINE

Michael Devine was an U.S. citizen resident of Poptun, Peten for 18 years prior to his June 8, 1990 abduction and murder. Several persons saw the abduction; none witnessed his murder. Subsequently, the U.S. Embassy became aware that Guatemalan military personnel had killed Devine. Lack of movement in the case and attempted coverup led to the suspension of U.S. military assistance in December 1990.

After persistent Embassy prodding, five enlisted men were tried and convicted for participation in the killing; charges were dismissed against one officer believed involved. This dismissal was appealed.

On appeal, Captain Contreras was convicted in the case and sentenced to 20 years. Immediately after this May 11, 1993 decision, Contreras escaped from custody on a military base. He remains at large. The enlisted men convicted in the Devine murder are appealing their conviction and a decision is not expected for several months.

The Ambassador and other Embassy officials have consistently pressed for justice in this case, including seeking the return of Captain Contreras.

During the last seven months, there have been several violent acts committed against relatives of persons who testified in the court trial leading to the above convictions. Two persons have been killed and another was the target of an attempted shooting. The Embassy is in close touch with Guatemalan officials and human rights organizations over the safety of these persons and is also pursuing the possibility of parole in two cases.

SANTIAGO ATITLAN

In the early morning hours of December 2, 1990, a large group of Santiago Atitlan residents gathered in front of the local army detachment to protest incidents of military harassment and violence against townspeople. The detachment opened fire, killing 12 adults and 2 children.

Following the incident, then-President Cerezo sent a December 6 letter to residents of Santiago Atitlan stating he had ordered the withdrawal of the military from the town. He added that Santiago Atitlan residents could henceforth be responsible for their own security. Two army personnel were arrested and convicted in this case.

Since that time, there have been occasional complaints from residents that the army has entered village limits. The military has publicly stated it is free to pursue the guerrillas if they enter the town, but has been more cautious in practice.

The latest incident occurred in February of this year, when residents complained of army patrols within town limits. A delegation came to the capital and met with the Army Chief, Human Rights Ombudsman and U.S. Embassy, among others. The then-Army Chief provided the group with his phone number in case other incidents arose, though he reiterated the army right to pursue the guerrillas. To the best of our knowledge, no further incidents have occurred.

CRIME BILL

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues an editorial which appeared in the Omaha World-Herald on August 18, 1994.

HOW ABOUT A BILL THAT REALLY FIGHTS CRIME?

Congress and the White House should be able to draft a realistic crime bill to take the place of the monstrosity that stalled last week in the House of Representatives.

A realistic crime bill would have these features:

Federal subsidies to add police officers where violent crime is the worst.

The improvement of sentencing laws and appeal procedures that currently allow dangerous felons to avoid prison sentences.

A prison-construction program to deal with the chronic shortage of cells in some states.

In our opinion, President Clinton's proposed ban on 19 varieties of assault-style weapons is also a worthy idea. But if including the ban is likely to jeopardize the rest of a realistic crime bill, the ban should be considered at another time.

VOL 140 PT 16 AG 12 — 18 1994 UMI

Above all, a realistic crime bill would be presented honestly. It would contain no hidden bonanzas for the districts of influential congressmen—bonanzas such as the $10 million crime research center that would go to a college in the Texas district of Jack Brooks, the chairman of the House Judiciary Committee.

Neither should the next crime bill pretend to get tougher on drug offenders while allowing them the opportunity to appeal by the thousands for new trials. That's what the House-stalled bill would have done. It would have been a victory for the muddleheaded view that drug users, many of whom are also pushers or thieves, are victims, not criminals.

A realistic crime bill wouldn't be loaded with huge grants disguised as crime-prevention spending. Under the stalled legislation, taxpayer dollars would be used to teach teenagers how to dance. Midnight basketball leagues would be organized, with special preferences for neighborhoods with a higher rate of HIV infection.

There would be self-esteem programs and subsidized jobs, which often amount to no more than getting paid for killing time. Someone slapped funds into the bill to track down Alzheimer's patients who wander away from home. Someone else put in money to retrain spray-paint vandals as muralists.

Skepticism has materialized about the 100,000 police officers. Much of the cost would fall on state and local governments, with federal funds by some accounts covering the equivalent of 20,000 officers. Hubert Williams, a former New Jersey police chief who heads a law-enforcement research organization in Washington, said the police buildup "sounds better than it is." The officers would be spread thinly across the country for political benefit, thereby diluting the impact in high-crime areas.

A realistic crime bill would address that concern. Obviously, the new officers should be placed where crime is worst. If that means a large number of Miami, the Bronx, South Central Los Angeles or the Anacostia area of Washington, D.C., so be it. Omaha's most crime-ridden neighborhoods should get some of these officers, but if the number is less than the number for Houston, per capita, so what?

The White House angled Wednesday for votes to revive the stalled measure. President Clinton's people held out the possibility of reducing the social spending by 5 percent, watering down the gun control provisions and taking out the $10 million for the Texas college. All to buy support.

But how much better it would be to start over. Begin with a police-buildup provision that puts more officers where they are needed. Add a prison-construction program that actually builds prisons. Require more prison time for repeat felons, tougher penalties for violent offenders, a greater certainty of jail time for those who break the law.

These are not revolutionary concepts. Most have already received majority House and Senate support as part of the original bill. Repackaged without the social spending, which would remain huge even if reduced by Clinton's token 5 percent, they would constitute a crime bill that really fought crime. The World-Herald would be pleased to urge Midlands senators and representatives to support such a bill.

EXTENSIONS OF REMARKS

TRIBUTE TO SEBASTIAN MINABERRI

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. THOMAS of California. Mr. Speaker, I would like to take this opportunity to pay tribute to a Kern County, CA, resident, Mr. Sebastian Minaberri. Mr. Minaberri, a French immigrant, has helped tackle a complicated problem by using a little common sense.

As we in California know all too well, fires in the dry forest of the Los Angeles basin are common—and destructive. Solutions to reduce the number and intensity of the fires are difficult to come by. But Mr. Minaberri is contributing to a solution with a low-cost, low-technology answer that is proving successful. You see, Mr. Minaberri is a successful sheep farmer. And by simply grazing his sheep on ridgetop firebreaks, Mr. Minaberri's sheep keep the grasses and brush low, thereby denying fires fuel and thus an opportunity to spread from mountain to mountain.

These firefighting sheep benefit just about everyone, sheep included. They are cheaper than machinery, far better for the environment than herbicides, and they help protect the residents of communities threatened by uncontrolled brush fires. In addition, according to Mr. Minaberri, the sheep "thrive better in the cooler temperatures of the national forests" than they would in the 100-degree-plus heat of the lower altitudes.

For his contribution to reducing the number of fires in the LA Basin my hat goes off to Mr. Sebastian Minaberri—an American success story, and a practitioner of one of our greatest arts—common sense.

CONGRATULATING EAGLE SCOUT DAN CURLEY

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. MANN. Mr. Speaker, I want to take this opportunity to recognize Dan Curley on his accomplishment of earning the rank of Eagle Scout. This is a substantial achievement demonstrating Dan's abilities and perseverance, as only 2 percent of all Scouts ever achieve the Eagle rank.

Dan began his Scouting odyssey as a member of Den 1, Pack 27. In 1980, he joined Troop 27, sponsored by Church of the Assumption, and earned his Tenderfoot 2 short months later. In 1993, he completed his Eagle Scout requirements having organized a major landscaping project at the Winton Woods Golf Course.

While blazing the trail to Eagle Scout, Dan held leadership positions from patrol leader to senior patrol leader. He is also a recognized honor camper as a member of the Order of the Arrow.

Dan Curley is also active outside of scouting. He is a junior at LaSalle High School, where he is student technical director. Dan is responsible for all of the lighting and special effects for school plays, musicals, and concerts.

I extend my congratulations to Dan who should be justifiably proud of his accomplishments. I also congratulate his parents, Robert and Janet Curley, and his adult Scout leaders whose support and encouragement helped make his goal a reality.

CBO—BEST HUSH PUPPIES AROUND

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. STARK. Mr. Speaker, there has been some grumpiness at CBO recently because of the logjam over health care analysis.

Prof. Uwe Reinhardt offers a refreshing look at this excellent corps of public servants:

HAIL TO THE GOVERNMENT NUMBER CRUNCHERS

(By Uwe E. Reinhardt, Ph.D.)

Much sport is made these days of the hapless government actuaries who, in 1965, so vastly underestimated the eventual cost of the Medicare program. The error is deemed typical of a government widely believed to be incapable of walking and chewing gum at the same time. We remind ourselves incessantly of that ancient error as we behold the CBO's current cost projections for the new health reform proposals before us.

It is fair to ask, however, whether anyone could have done better, then or now. Do we sincerely believe that the actuaries of, say, the General Motors Corporation (or, for that matter, of any other American corporation) could have predicted with any greater accuracy, in 1965, how many dollars per employee the company would spend on health care in, say, 1994? If you think so, think again!

In its 1991 annual report, GM told its shareholders that the company's year-end networth (the reported value of all assets owned by GM minus all debt it owed) was $27.4 billion. But only one year later GM told its shareholders that the company's year-end networth was, Oops!, really only $6.2 billion. In both years, GM's outside auditor certified, for a fee, that the year's figure represented "fairly, in all material respects," the financial position of General Motors. But how could both numbers possibly be true? What could explain this sudden massive meltdown of GM's networth? A massive operating loss? There was a loss; but it amounted to less than $3 billion "before extraordinary items." It must have been an "extraordinary item."

A clue to that item can be found in the footnotes. Here GM admits to a little error the company had made, year after year, for several decades, when it promised its workers generous post-retirement benefits without ever reporting to shareholders the probable cost of these reckless promises. By 1992 these unreported and unfunded promises had run up a tab amounting to $33.1 billion. That is the estimated amount of money GM ought to have set aside, by 1992, to guarantee payment for all of the post-retirement health benefits it already had promised current and former workers. Fessing up to this liability in 1992 forced the company to make a sudden after-tax hit of $21 billion on the $27 billion net worth it had reported to shareholders only a year earlier.

In fairness, it must be said that GM was by no means alone in fibbing thus. Many other American corporations had made similar promises to their workers, and virtually none had been more forthcoming on the issue than GM. Their shareholders learned about these liabilities (and the corresponding meltdown of their companies' net worth) only in 1992, when the Financial Accounting Standard Board literally forced management to come clean, at long last.

In my accounting classes at Princeton, I regularly ask my students what we are to make of adults who claim to be describing, "fairly, in all material respects," the financial status of the companies they manage, all the while overstating knowingly the firm's net income and networth, and correspondingly understating its liability. Perhaps these executives, far from being inept, simply found it expedient to lie to their shareholders. Paying workers with promises whose cost could go unreported and that required cash outlays only decades hence allowed management to overstate the earnings on which performance pay tended to be based. Not surprisingly, I have yet to meet an executive willing to plead guilty to that cynical charge. Instead, the excuse invariably is that it was just too difficult to estimate accurately the liability for post-retirement benefits. The CBO's brave number crunchers, of course, would laugh at that feeble excuse.

But if that really be these executives' excuse, then how can they even presume to comment on the quality of the government's number crunchers? Indeed, apparently unbeknownst to many, the decision makes in corporate America and on Wall Street routinely dispose of billions of other people's money on the basis of information whose quality is much below that given by the CBO to the decision makers on the Hill. I am speaking here of the accounting data that drive so many mega deals in the private sector. While the intellectual foundation for the CBO's work rests heavily on highly sophisticated simulation models and equally sophisticated econometric studies, the intellectual foundation for decision makers in the private sector is furnished largely by the so-called Generally Accepted Accounting Principles (GAAP), a set of relatively simplistic rules written on a rubber sheet that can be stretched in any number of ways. All too frequently, these GAAP allow private executives to march to the motto "Better to be precisely wrong than to be about right."

With appeal to the GAAP, for example, private-sector number crunchers busily add up apples and oranges and then pretend that the sum means something. They do this when they add asset values stated in, say, 1993 dollars to asset values stated in, say, 1975 dollars, without any adjustments for general price inflation or, alternatively, for changes in the market values of these assets. They do likewise when they calculate net income by deducting from revenues expressed in, say, 1993 dollars depreciation expenses and, sometimes, cost-of-goods-sold figures expressed in dollars of distant years past, once again without any adjustment for inflation. Worse still, with appeal to the hallowed GAAP these private sector number crunchers routinely disregard any quantitive effects they cannot measure "objectively"—as GM evidently did when it strung along its shareholders for so many years.

All of which makes one wonder why casting aspersions at the government's number crunchers is such a favorite sport among Americans—particularly among corporate executives. My own hypothesis is this: Americans in general hold the public sector to much higher standards than they impose upon the private sector. Deep down we know, or should know, that when it comes to structuring data in imaginative and sophisticated ways, the wing-tip booted number crunchers of the business sector could not even tie the shoes of the hush-puppied civil servant at the CBO. Sheer bluster helps them camouflage that inferiority.

FRANK MURPHY: A MODEL AMERICAN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. BARCIA of Michigan. Mr. Speaker, I rise today to call attention to the dedication of the Frank Murphy Memorial Museum this Saturday in the city of Harbor Beach, MI. Frank Murphy was best known as an Associate Justice on the U.S. Supreme Court, having been named to the Court by President Franklin Roosevelt in 1940. To the people of Michigan, and Harbor Beach in particular, Frank Murphy is much, much more. He is a model American who continues to serve as a worthy role model for our young people who love our Nation as much as Justice Murphy.

The Harbor Beach birthplace of Frank Murphy at 142 South Huron, has served as a museum since 1960. This building, along with his boyhood home, furnishings, mementos, and surrounding structures will provide an appropriate tribute to a man who rose from a chief assistant U.S. attorney in Detroit, to a potential Vice Presidential candidate with Franklin Roosevelt in 1944. The ceremony this Saturday recognizes the purchase of the Murphy Estate by the State of Michigan and transfer of ownership to the city of Harbor Beach, for the preservation and promotion of the life and times of the most famous native son of Harbor Beach, Frank Murphy.

Frank Murphy had an unerring sense of justice. He prosecuted World War I profiteers who cheated the Federal Government out of $30 million. He defended minority rights as a recorder's court judge in the 1920's. He served as mayor of Detroit, Governor General of the Philippines, and as the Governor of Michigan before his appointment to the Supreme Court. He died in 1949 at the age of 59.

He is responsible for General Motors having recognized the United Auto Workers as the bargaining agent for workers in 1937, and then within a few years dissented in the historic case that allowed the internment of Americans with Japanese ancestry in camps during World War II.

As a young person, I knew the life story of Frank Murphy, a man who stood up for his beliefs, even when those beliefs might be contrary to popular views. His selfless devotion to his community, his State, and his Nation, played a major role in my personal growth and that of countless other Michiganites. It has been a privilege of my public career to be a supporter of the Murphy Museum. It is a major regret that I cannot personally join his family, his supporters, the distinguished Michigan Secretary of State Richard Austin, the esteemed Michigan Attorney General Frank Kelly, UAW President Owen Bieber, and Justice Murphy's colleague Judge James Lincoln. The people's business keeps us in session, and I trust that Frank Murphy would once again say that the people's business must come first.

Mr. Speaker, it is rare that we get to celebrate true American heroes. Frank Murphy is one. I urge our colleagues to join in paying him this richly deserved tribute, and encourage them to visit the museum when they visit Michigan.

SUPPORT FOR KASICH-STENHOLM-PENNY AMENDMENT TO H.R. 4906

HON. JOHN R. KASICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. KASICH. Mr. Speaker, as further evidence of strong support for prohibiting extraneous measures on emergency supplemental appropriation bills, I submit the following list of groups that have publicly commended the Kasich-Stenholm-Penny amendment to H.R. 4906: The American Business Conference; The Chamber of Commerce of the United States; Citizens Against Government Waste; Citizens for a Sound Economy; Committee for A Responsible Federal Budget; The Concord Coalition; The Financial Executives Institute; The National Home Builders Association of America; The National Taxpayers Union.

The following are some of the letters in support of the amendment:

AMERICAN BUSINESS CONFERENCE,
Washington, DC, August 16, 1994.

Hon. JOHN KASICH,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE KASICH: On behalf of the members of the American Business Conference (ABC) I congratulate you for your leadership in attempting to curtail the ability of members of Congress to insert pork barrel spending into emergency supplemental appropriations.

Your work deserves the unqualified support of all Americans who seek to maintain the integrity of the discretionary spending caps and the budgetary accountability of Congress.

We at ABC will do all we can to urge Congress to pass your proposal in its current form.

Sincerely,

BARRY K. ROGSTAD,
President.

COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET
Washington, DC, August 10, 1994.

Hon. JOHN KASICH,
Ranking Republican, Committee on the Budget,
House of Representatives, Washington DC.

DEAR JOHN: This is to express strong support for your efforts to restrict the use of emergency exemptions to the discretionary spending caps. Including classic pork barrel spending in so-called "emergency supplemental appropriations" makes mockery of the word "emergency" and flaunts the limits the caps are intended to impose.

We would have gone even further than your proposal. We would prefer to see Congress budget for unanticipated contingencies

VOL 140 PT 16 AG 12 — 18 1994 UMI

within the spending caps. But failing that, we would hate to see your proposal weakened in any manner and we encourage the House to pass your proposal.

We understand that hard work on budget process issues often goes unrewarded. We appreciate your efforts. Keep up the good work.

Best regards.

CAROL COX WAIT,
President.

NATIONAL ASSOCIATION OF HOME BUILDERS,
Washinton, DC, August 11, 1994.

Hon. JOHN R. KASICH,
House of Representatives, Longworth House Office Building, Washington, DC

DEAR CONGRESSMAN KASICH: On behalf of the 170,000 member firms of the National Association of Home Builders (NAHB), I offer our strong support for the Kasich-Stenholm-Penny Amendment to the Emergency Spending Control Act, H.R. 4906.

As long-standing advocates of real deficit reduction and meaningful budget reform, I believe that Congress provides a great disservice to the American taxpayer by allowing funding unrelated to the emergency situation addressed in an emergency spending bill to be appended to the measure, thereby avoiding the firm discretionary budget caps in the Budget Act.

Your amendment would correct this situation by requiring the Office of Management and Budget (OMB) to include the emergency-designated funding within the budget caps if the legislation contains extraneous items, and also would allow Members to raise a point of order to block consideration of the measure.

NAHB congratulates you for your leadership on this issue and stands ready to offer assistance.

Sincerely,

THOMAS N. THOMPSON,
President.

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, August 10, 1994.

Hon. JOHN R. KASICH,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE KASICH: On behalf of the 250,000 members of Citizens for a Sound Economy (CSE), I applaud and support your efforts to pass H.R. 4906, the Kasich-Stenhoim-Penny amendment to the Emergency Spending Control Act. Our members have worked long and hard to help reduce wasteful spending on pork-barrel projects and see your proposal as another means to halt extraneous spending items from being attached to emergency supplemental appropriations bills.

In fact, our CSE members were instrumental in stopping the so-called "stimulus" spending package last year that would have used the emergency spending rules to deficit spend on numerous pork-barrel projects such as tree planting and bike paths. Therefore, your bill, H.R. 4906 will help in our efforts to stop such unnecessary deficit spending by not allowing emergency legislation to contain funding for items unrelated to the specific emergencies addressed.

We believe your legislation would help keep Congress and the President from simply using emergency bills to launch new, non-emergency spending and pork projects that waste taxpayers hard-earned dollars.

CSE supports your efforts on H.R. 4906 and is happy to work with you on these budget changes to ensure that Congress does not continue to spend taxpayers' money unwisely.

Sincerely,

PAUL BECKNER
President.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, August 10, 1994.

Members of the House of Representatives:

The U.S. Chamber of Commerce Federation of 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 69 American Chambers of Commerce abroad urges Congress to reform the current process of appropriating "emergency" funds through passage of the Kasich-Stenholm-Penny amendment to the Emergency Spending Control Act. The Kasich-Stenholm-Penny amendment will be offered as an amendment in the nature of a substitute to the watered-down Spratt bill, H.R. 4906, much of which simply restates current law.

The Chamber realizes that unanticipated emergencies arise for which a designated appropriation may exceed the cap without triggering an across-the-board cut in all discretionary programs. However, such a circumstance should not signal an opportunity for proponents of pork-barrel projects to attach extraneous items to an emergency supplemental appropriations bill. The Kasich-Stenholm-Penny amendment would compel Congress and the President to keep emergency spending bills free of pork and other non-emergency spending, and would allow financial assistance to reach disaster victims faster than when legislative conflicts arise over controversial add-ons.

The Chamber strongly supports this amendment as part of a greater effort to regain control of the federal budget. Vote YES for the Kasich-Stenholm-Penny substitute to the Spratt floor vehicle and take a stand in support of meaningful budget reform.

Sincerely,

R. BRUCE JOSTEN.

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, August 10, 1994.

DEAR REPRESENTATIVE: Tomorrow, votes are expected on essential reforms of the budget process and emergency spending procedures, reforms which in the opinion of our more than 600,000 members are needed to help correct the course of fiscal practice in Congress.

Acknowledging that no "process" is ever a complete substitute for good decisions, the Council for Citizens Against Government Waste (CCAGW) nonetheless is committed to the common-sense principle that "process" can make it easier or more difficult to reach good decisions—decisions which cut wasteful spending and contain budget deficits. The present practices of phony baseline budgeting and non-accountability of pork-barrel spending on emergency supplemental bills make good decisions more difficult, and it's time to change.

It is no secret that the Spratt alternatives on baseline budgeting and emergency spending legislation, as presently constituted, are cosmetic only. Worse, they seek to mislead taxpayers by giving the illusion of real reform where none exists. The battle which is set before you has been engaged by the leadership with a truly hollow army, and this phantom force deserves to be defeated soundly.

As you prepare to vote tomorrow, you can stand with the toy soldier proposals of Representative Spratt, or you can join with Representatives Stenholm, Penny and Kasich, who like our Marines are looking for a few good men and women who can get the job done.

The Stenholm-Penny-Kasich alternatives merit your support not because CCAGW intends to count them in our 1994 Congressional Ratings, but because they are the right choices in order to move Congress toward greater spending discipline.

One further note: The expected King-of-the-Hill strategy requires us to notify you that CCAGW will pay special public attention to those who try to have it both ways by first supporting the "SPK" amendments and later undercutting them by voting for Representative Spratt's proposals. Our suggestion: choose a side and have the courage to stay there.

Sincerely,

JOE WINKELMANN,
Director of Government Affairs.

THE OMNIBUS CRIME PACKAGE

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Ms. VELÁZQUEZ. Mr. Speaker, tonight I rise to take strong exception to the rightwing attacks on the crime bill. To those of my colleagues who oppose this bill because of its prevention programs, I say, "Wise up." These programs are not pork, they are prevention, and are essential to an effective anticrime initiative. Prosecution without prevention is a formula for failure, and maybe if you came down from your ivory suburban towers to inner-city areas like my district, you would learn to recognize the difference between pork and prevention.

Groups and individuals closest to the crime problem can tell the difference. The prevention programs are endorsed by every police organization in this country, and are supported by the Republican majors of our two largest cities, Los Angeles and New York.

The critics call them waste. They're wrong. These provisions are an investment, an investment in our youth. Prevention programs are vital to inner-city kids. They provide an alternative to a life of crime, poverty, and drug use—an escape from the harsh realities that too many of our kids face every day of their lives.

Throughout my district we have areas where our youth have little to do; there are few job opportunities, no recreational facilities, and few ball fields. When school is out, these kids are limited to hanging out on street corners where they are seduced by drug dealers by offers of easy money, and by the temptations of the streets.

Just one block away from my home in Brooklyn is a park that last year hosted a summer softball league for teenagers. This program was run by the local police precinct, and it involved over 100 local teenagers. This year, due to budget constraints, the police had to cancel the program. Not surprisingly, there has been an increase in petty street crimes, drug sales, and youth gang activity in the neighborhood this summer. The local police captain is convinced that the increase is directly related to the elimination of the softball league.

He and his youth officer, on the front lines in the battle against crime, recognize firsthand the need for prevention programs. Parents in my district also recognize the need for prevention programs. They face a daily struggle to offer options to their children.

These programs are cost-effective deterrents, prudent alternatives. Attacks on these programs are nothing more than transparent disguises to hide the true opposition behind the bill: Republican hopes to embarrass the President and to get rid of an assault weapons ban supported by the majority of the voting population.

Mr. Speaker, I had strong reservations about the conference report brought before this body last week. I thought then, and still do now, that a provision on racial justice should have been included for prisoners sentenced to death based on racially biased decisions. Nevertheless, I voted for the rule and was prepared to support the bill because it has struck a balance between prevention and punishment.

I urge the President and the leadership of this House to maintain that delicate balance. I cannot, and will not support a compromise that slashes critical social programs in order to appease the critics on the right. I will not play politics with the future of America's youth. I urge my colleagues and the American people to see through this charade of deception and support this legislation.

To quote Major Rudolph Giuliani, "Crime is not a political issue; it's a public safety issue." We must support prevention today for less prisons tomorrow.

LET'S NEGOTIATE A BETTER CRIME BILL

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. GINGRICH. Mr. Speaker, in light of our current effort to pass a crime bill, I would like to bring two items to the attention of my colleagues: First, an editorial from the Marietta Daily Journal, and, second, a letter from the National Association of Assistant U.S. Attorneys. The latter goes right to the heart of the problems with the crime bill conference report in its current form. The former is relevant to our current debate as well as the upcoming debate on health care.

[From the Marietta Daily Journal, Aug. 16, 1994]

CRIME BILL A WARNING

The blocking of a bad crime bill by the House of Representatives on Thursday was a clarifying event. Its most important effect by far is to slow down the Democratic leadership's rush to health reform.

If the majority party could not corral the votes to enact a $33 billion something-for-everyone crime grab bag at a time when crime is on the voters' minds, it has no chance of passing Majority Leader Richard Gephardt's latest version of Clintoncare. That is good news for the country. An ill-conceived, compulsory, government-heavy, comprehensive overhaul would make our health system worse.

The crime bill—which fell 8 votes short and was opposed by 58 Democrats and 187 Republicans—was a perfect example of undisciplined legislation, driven by polls and posturing and riddled with pork.

"It's hard to argue it's a strong crime bill when it cuts the FBI budget and the Drug Enforcement Agency budget," said Minority Whip Newt Gingrich, R-east Cobb, who led the fight against the bill.

Still, the crime bill's effects on the budget and on average people would have been minute by comparison with those of a permanent universal entitlement to health insurance. The legislators should take the crime bill's fate as a warning on health reform: Don't do it at all if you're not going to do it right.

Specifically, avoid last-minute legislating. Republicans got the final 972-page crime bill less than 24 hours before the key vote. The health debate is only now shaping up. An interesting bipartisan bill was introduced into the House only Thursday, and the Congressional Budget Office still hasn't produced its analysis even of Rep. Gephardt's plan. The push to vote on health this month is unrealistic.

Finally, legislate with good government and sound budgeting in mind. On this score, the crime bill was flawed at its core. Crime is a local issue, and national politicians' desire to ride it does not make it Washington's business. This bill mainly ignored the legitimate federal role in fighting crime—the FBI, the Drug Enforcement Agency, and so on—while promising to pay for local cops and neighborhood amenities and state prisons with money the federal government doesn't have.

As Rep. Gingrich put it: "The average American doesn't want to see cuts in the FBI and DEA and $9 billion worth of social-work spending, including money for 'midnight basketball leagues' and two social workers' for each new police officer. That's not an anti-crime bill they wrote. This so-called crime bill is weak on crime and strong on social work."

Democrats and Republicans can work together to pass essential legislation: They did it on the North American Free Trade Agreement nine months ago. But even—or especially—on important issues like crime and health, gridlock is preferable to irresponsible action.

NATIONAL ASSOCIATION OF ASSISTANT U.S. ATTORNEYS,
Alexandria, VA, August 17, 1994.

Hon. ORRIN HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: The National Association of Assistant United States Attorneys has as its members front-line litigators. Our members represent the United States in all civil and criminal matters. We are our nation's lawyers. Most of our members are prosecutors who work very closely with federal and local law enforcement agents.

In 1987, Congress the Federal Sentencing Guidelines, which, in part, had stiff but appropriate sentencing provisions, incorporating mandatory minimum sentences for certain drug traffickers. Those mandatory minimums have given our prosecutors the ability to get drug dealers to cooperate by forcing them to work with us in giving up their source(s) of supply or face years of incarceration. When their cooperation is deemed to be "substantial" by a committee of Assistant United States Attorneys (or, in some cases, the United States Attorney), their sentences may be reduced by a federal Judge. In fiscal 1993, almost one-fifth of convicted defendants benefited by having their sentences reduced because they cooperated with law enforcement authorities. The results of that cooperation led to the arrest and conviction of numerous drug suppliers and their sources.

The present Crime Bill contains a provision which not only severely negate the benefits of "mandatory minimums" for a certain class of offenders, but also would permit the filing of 10,000 to 20,000 frivolous law suits which would cause prosecutors to spend their time in needless litigation instead of investigating and prosecuting criminals. The present provision would dilute prosecutors' ability to determine if a drug dealer has "substantially" cooperated. In effect, our leverage to get to the suppliers would be eliminated for certain types of drug traffickers. We cannot stand idly by and allow this very effective tool to be taken from us and the citizens we are sworn to protect.

The bill's present language is intended to address low level drug traffickers who are so minimally involved that they cannot have their sentences reduced because they truly cannot provide information or cooperation which would be deemed to be "substantial". In some instances under mandatory minimums (and the Department of Justice's requirement that prosecutors had to charge the most serious provable crime), some injustices occurred. We believe that should be corrected. However, Attorney General Reno fixed this problem some time ago by no longer requiring Assistant United States Attorneys to charge the most serious readily provable offense if that would result in a miscarriage of justice. In addition, our Association proposed minor revisions to the present bill which would codify the intent to appropriately treat first time low level drug traffickers. We are not opposed to these goals and objectives. We are, however, very much opposed to the way the present bill achieves them.

We believe that prosecutors are in the best position to determine if an individual has cooperated substantially or truly has nothing to offer and therefore meets the other criteria to receive a reduced sentence in accordance with this bill's present language. We have proposed, therefore, that in order to qualify for "safety valve" relief, the current language be amended as follows:

(f)(5) is hereby amended by striking the current language and inserting:

(f)(5) the Government certifies that the defendant has timely and truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.

We urge the Committee to make the change we have proposed.

Sincerely,

LAWRENCE J. LEISER, AUSA,
President, NAAUSA.

NATIONAL ASSOCIATION OF ASSISTANT U.S. ATTORNEYS POLICY BRIEF

MANDATORY MINIMUMS

The National Association of Assistant United States Attorneys represents frontline federal prosecutors, including criminal narcotics prosecutors and designated Organized Crime Drug Enforcement Task Force prosecutors, charged with enforcing the Federal narcotics laws. We are encouraged that "The

VOL 140 PT 16 AG 12 — 18 1994 UMI

Mandatory Minimum Sentencing Reform Act of 1994", H.R. 3979, as amended, and adopted by the Committee on the Judiciary's Crime Subcommittee, recognizes the importance of limiting relief from provisions of existing mandatory minimum sentences to those defendants who have made every effort to provide assistance to the government.

The proposed amendment to Section 3553 of Title 18, United States Code, to create a relief mechanism from application of mandatory minimum sentences in certain cases, includes the criteria as set forth in paragraph (5) that the defendant has provided to the Government all information the defendant has concerning the offense or other criminal conduct related to the offense.

While we are encouraged by the obvious recognition that any relaxation from mandatory minimum application should be limited to those who provide information to the government, we suggest that the existing language is problematic in its application. The first difficulty arises as to who is in a position to determine whether a defendant has provided the government all information. Only the Government is able to make that determination, by comparing the information provided with other evidence of the case. The current language would conceivably allow the defendant to self-servingly state "that's all I know," without the Government being in a position to test that assertion by debriefings, polygraph results, etc. In order to assist in this process, the defendant should be required to provide any evidence he can, in addition to information.

Similarly, we are concerned that this relief mechanism not be available to a defendant who has provided information which is not truthful, or to a defendant who in providing certain truthful information, nevertheless, also lies about other aspects or details so as to mislead investigators or obstruct the investigation.

It also should be required that the information be timely. Under the current language, a defendant who goes to trial and is convicted, would presumably be able to stand up at sentencing, tell the Government what it has already proved, and avoid the mandatory minimums under this escape provision.

Accordingly, we seek amended language which would require that the defendant must provide timely information, truthful information, other evidence, and that the determination as to whether a defendant has provided all this be by certification by the Government. Otherwise the sentencing court will be inundated by litigation calling upon it to make determinations it is not equipped to make.

This is the natural complement to the existing "substantial assistance" reduction mechanism currently embodied under Section 3553(e) of Title 18, United States Code. This provision has been responsibly applied by federal prosecutors throughout the country.

It reflects the recognition that the Government is in the best position to make such a determination, and provides the incentive to the low-level defendant to work with the Government in working up the ladder to identify and target higher-up drug traffickers. The current amendment properly recognizes that there are simply those who are not able to provide "substantial assistance" but who nevertheless have done everything they can to assist.

Simply put, society has a right to ask that a defendant provide all that he knows. If what he knows constitutes "substantial assistance" he will have already earned relief. (18 U.S.C. 3553(e)) If it does not, and he meets the other requirements of the currently proposed legislation, then justice dictates that he receive a lesser sentence.

The amended language which we have suggested (attached) will assure that defendants continue to have an incentive to cooperate with the United States by providing all truthful information in a timely manner, while allowing those who, through no fault of their own, are simply not in a position to provide "substantial assistance," an opportunity to receive a sentence below current mandatory minimums.

(f)(5) is hereby amended by striking—

"(5) no later than the time of the sentencing hearing, the defendant has provided to the government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide shall not preclude or require a determination by the court that the defendant has complied with this requirement."

And inserting—

"(5) the government certifies that the defendant has timely and truthfully provided to the government all information, and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan."

THE TRUTH IS ALWAYS BEST

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. DORNAN. Mr. Speaker, one of our former members, Mr. Lionel Van Deerlin, who served here for 18 years and was defeated by DUNCAN HUNTER in the Reagan Landslide of 1980 was always the quintessential gentleman. He and I were always cordial to one another and when he was unfairly mentioned in the 1982 Capitol Hill cocaine scandal I defended Lionel. As a matter of fact, I defended him in a sworn court deposition. I supported his proper defense of his reputation and he was vindicated.

Then, for a while, he functioned as a lobbyist here in Washington on important legislation, even lobbying me. He had some success I'm told. So, it was with much surprise and annoyance that I read an article in October 1992 by Lionel blaming me a wee bit for President Bush's defeat. Pathetic. Now to be sure, there were several statements about me, his friend, in his hit-piece article. But, the few kind words were lost in a plethora of historical inaccuracies and gross distortions, which I know for a fact were fed to Lionel Van Deerlin by the yuppie assassins at the Democratic Congressional Campaign Committee. I vowed in those gloomy days of the meltdown of the Bush Presidency that someday hence I would rewrite the Van Deerlin article retaining the good vibes but correcting the very bad history. It's a pretty darn good profile now, and historically accurate. It will be in my press kit, and I'll save it as embryonic research for my autobiography which will be published in 2001 anno Domini. I trust Lionel as a gentleman will take counsel with the truth.

So, Mr. Speaker, here it is.

FIGHTER DORNAN'S LATEST BATTLE TOO LATE TO HELP

(By former Congressman Lionel Van Deerlin as corrected for truth by U.S. Congressman Robert K. Dornan (R–CA/46))

Congressman Robert K. Dornan was not a "spin doctor" at the first presidential debate on October 12, 1992, because he was representing President Bush with the oldest of the nine Dornan grandchildren on the island of San Salvador in the Bahamas to commemorate the 500th Anniversary of the first landfall in the New World by Christopher Columbus. But Bush needed Dornan in Richmond, Virginia that October night because there was virtually no other real fighter in the President's reelection team corner except for Mary Matalin.

Dornan is the outspoken congressman from Garden Grove, California, who represents the only democrat seat in Orange County. Dornan's dedication to truth has often catapulted him into the national scene. For example, on October 6, 1992, he lead to the White House three congressmen (a Navy ace, an Air Force seven-year POW hero and a former Army paratrooper officer—all Vietnam War decorated combat veterans) to advise bady-trailing-the-polls George Bush on a campaign strategy that recommended aggressive public discussion of Bill Clinton's lack of character and his lying about not using drugs and not dodging the selective service draft during wartime three, that's three, times. They also begged the president to go after Clinton for an explanation of a solo trip he made in January 1970 to Moscow, heart of the then communist world. (That month Moscow was 27 degrees below zero and under 10 inches of snow cover.) Bill was then a 23 years-old Rhodes scholar who apparently was also dodging his classes at Oxford. (He never took any of his 1970 exams so was denied an Oxford degree.) Only four of Clinton's class of 32 American students failed as he did to justify the two years of very generous scholarship money advanced to Rhodes students from the United States.

With everything else going badly, Bush should have heeded the counsel of Dornan and the three decorated Vietnam vet congressmen. In retrospect, it is apparent that voters would have been willing to revisit the Vietnam war issue in deciding the November 3 presidential election if they had been given the truth by the media regarding Clinton's disloyal overseas conduct as an organizer of demonstrations against the United States—conduct that blocked him for life from ever even getting a security clearance except by election to federal office. This was and is a valid and crucial national security issue.

One must wonder about Bush's advisers on political matters in general since there seems to have been no solid response to attacks or any fighting strategy in his campaign whatsoever.

Dornan is a man who may wish he had lived in more stirring times—during the medieval Crusades, perhaps, or circa King Arthur's Camelot. He would gladly have been with Davy Crockett at the Alamo, with Clive in India, the 300 Spartans at the Thermopylae pass, scaling Pointe du Hoc cliffs on D-Day, or have flown against Hitler's Luftwaffe with the Eagle Squadrons or against Tojo with the Flying Tigers in China, and certainly Dornan would have been with Horatio at the bridge.

Dornan joined up at age 19 in October 1952 and spent 23½ years as an Air Force enlisted man, cadet and officer, active and reserve. During his active duty years he was a fighter pilot flying F–86 and F–100 Sabers. Only God sets birth dates, and Bob got his wings too late for service in Sabre jets over the Yalu River in North Korea. After leaving active duty, he worked his way to Vietnam eight times to report for his own "Robert K. Dornan" television show on what he called "the Washington ordained no-victory-non-strategy in Southeast Asia, with the inevitable result—killing fields and boat people." He filmed combat as close as any journalist who ever covered the war, including scrounging combat flights on helicopter gunships and in two-seat jet fighters.

Dornan considers himself blessed that he has never had to fire at other young men misled by aggressors. He prays that all our military forces will be as fortunate under Clinton as he was serving during peacetime under a decisive President Eisenhower.

Dornan could have been one of the most colorful military figures since George Patton had he been born in 1903 or 1913 instead of 1933. Republicans think him their best and toughest debater. Democrats call him irrepressible. Some Democrats view him with intense frustration but not with dislike. The man is lively company. High-spirited and with easy command of the language, Dornan always draws attention on the House floor, and he loves the competitive exchange of ideas and the political give and take.

His flair for a bold and fearless approach to most problems was made apparent shortly after his arrival on the Washington scene; elected from a Santa Monica centered coastal district in L.A. County in 1976. A domestic terrorist band, the Hanafi Muslims, had taken more than 200 hostages at three Washington, D.C., locations, one of them the downtown headquarters of the B'nai B'rith. During a siege lasting days, with several shotgun murders at point blank range, Dornan, following his former investigative reporter instincts, appeared at police lines outside the occupied District Building where a police captain named Callahan described to him a desperate standoff. Several hostages already had been wounded and Dornan could hear them calling out to police, "food" and "water, please." A newsman had been murdered by a shotgun blast to his chest on the fifth floor. Dornan, without hesitation, offered himself in exchange for all the hostages in order to give the terrorists at least one hostage to ensure their safe passage to Dulles airport where they had demanded a waiting, fully fueled 747 jumbo jet. Dornan's offer was under consideration when the terrorists unexpectedly surrendered.

And if we don't yet have the truth about Chappaquiddick, it's not because Bob Dornan hasn't tried to uncover it. He took the well of Congress one day in 1979 to assert that Ted Kennedy had lied and still lies when he claims to have swum that swift channel on that fateful July 18-19, 1969 night.

"Only one member of either the House or Senate has ever made that swim," he announced. "And it is Bob Dornan, not Ted Kennedy!" On July 26, 1969, Dornan had truly traced every step of Kennedy's movements and filmed it all with his own 16 mm Bolex camera, including a channel swim, for an investigative report aired on his Emmy Award winning "Tempo" television show.

The parents of Mary Jo Kopechne, whose only child was left to die at Chappaquiddick at age 29, said Dornan came to their Pennsylvania home on November 6, 1979, seeking their side of the tragic event. For seven hours, the Kopechnes related to Dornan how they had been cruelly manipulated in 1969 by Kennedy lawyers, a labor leader, Rose Kennedy (who had beckoned them to visit her and a monsignor at the New York City apartment) and even by a Catholic bishop. They all coerced the Kopechnes into silence and extracted a promise from them not to seek an independent investigation. Dornan took their heart-breaking story to the public for the very first time to stop Sen. Kennedy from taking the nomination away from President Carter in the primaries of 1980. That year was also a presidential election where "lack of character" became a battle cry.

Dornan's legislative efforts include a successful move to deny Pentagon-funded abortions for military personnel or their dependents whether overseas or in the U.S., thereby saving diminishing security dollars for the defense of lives instead of for the destruction of innocent preborn lives.

Certainly, because of his stands on moral and social issues, a few liberal reporters take great liberties in conjuring up tales about Dornan that simply never happened. For example, when he referred to Tom Downey (D–NY) as a "draft-dodging wimp" during a March 1985 conservative conference at the Mayflower Hotel in Washington, D.C., the press wrote and still write that it led to a shoving match the next day on the House floor. It never happened. There were strong words between them, but Dornan never "straightened Downey's tie!" Here's another distortion: during California's 1982 Senate primary, Dornan assailed Rep. Barry Goldwater Jr. for attending a party at the Playboy mansion. True enough. Goldwater admitted that, but liberal press falsely added that Dornan claimed the revelers indulged in bestiality. Wow. Ex-porno performer Linda Lovelace charged that, not Dornan, and she never mentioned Goldwater Jr. Sometimes the liberal press can really lose it!

In 1985, Dornan also successfully fought to have the California GOP deny recognition to "Log Cabin Clubs" formed by homosexual and bisexual activists who register as Republicans for political mischief. Dornan has prevailed to this day in blocking their recognition by the Republican Party.

During Dornan's 1984 comeback, a radical Catholic priest (since gone over the hill) lied that Dornan once "stormed into his church rectory" to denounce a "certain Catholic bishop as communist," and, of course, the liberal press reported the priest's tale without checking with Dornan on the veracity of such a vicious charge. This political priest was a constant traveler to Nicaragua where he schmoozed with the Marxist Sandinistas, hence his animosity toward the pro-Contra Dornan.

When Radio Moscow's communist propagandist Vladimir Posner, who grew up Jewish in the United States, was featured on ABC television for 7 uninterrupted minutes calling President Reagan a liar, Dornan went after him on the House floor exposing him as the liar and betrayer of his own Jewish heritage in the measure. (Posner for years relentlessly lied that there was absolutely no anti-semitism anywhere throughout the Soviet Union, even though he had been kicked out of Moscow University because of his Jewish heritage.) Dornan had just returned from his 8th of 10 trips to the Soviet Union to meet with the terribly abused and oppressed Jewish "refuseniks." Dornan, who created the POW/MIA bracelet, had already resurrected the concept with dozens of names of courageous Soviet Jews engraved on bracelets above the date they had been arrested and imprisoned by the KGB.

Dornan, in September 1992, described 23-year-old "student" Clinton during his Oxford years and his 1970 USSR-Czechoslovakia trekking as "a nerdy little flower-child peacenik." Dornan, in a series of Sept./Oct. 1992 House speeches, said Clinton was not a traitor, but nevertheless did give "aid and comfort to an enemy locked in very bloody combat with over 500,000 brave American troops." (In 1992, Clinton referred to himself in 1970 as a "23-year-old boy.") The average age of the fighting men in Vietnam was only 19. (When Dornan was 23, he was the father of two with another on the way and flying supersonic F–100 fighters at George Air Force Base in the Mojave desert.)

It's hard to understand why President Bush never used Dornan's fighting strategy to defend himself and the Bush administration. George Bush would probably be serving out his second term if he had heeded only three of Battling Bob's impassioned pleas: first, pick Bob Dole or Colin Powell as Veep; second, capture and bring to justice Saddam Hussein, especially since Bush had called him "an Adolph Hitler"; and, three, most important of all, probably sufficient unto itself to reelect Bush, Dornan begged "Please, Mr. President, don't unread your lips and break your no new taxes pledge." Irish-American Robert K. Dornan obviously has a no-fear approach to life, and in politics he can strategize with the very best.

CHIEF OF ARMY CHAPLAINS, MAJ. GEN. MATTHEW A. ZIMMERMAN, JR., A STEWARD OF SOULS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to bring to the attention of my colleagues the retirement of Chaplain, Maj. Gen. Matthew A. Zimmerman, Jr., Chief of Army Chaplains. Major General Zimmerman will retire on August 31, 1994 after 26 years of dedicated service.

There is always a sense of renewal in acknowledging the development, growth and success of men and women who are destined to lead and make changes. Major General Zimmerman has made a difference in many lives and will continue to do so. He has served at virtually every level of the Chaplaincy, from a Battalion Chaplain in Vietnam to Chief of Army Chaplains—the first African-American to become Chief of Chaplains of any service.

When we talk of leading by example, we can speak of no one more stellar or better prepared than Matthew A. Zimmerman, Jr. to "shepherd the flock". Chaplain Zimmerman was born in Rock Hill, SC. He holds a bachelor of science degree in biology and chemistry from Benedict College, a master of divinity degree from Duke University, and a master of science degree in guidance and counseling from Long Island University. Chaplain Zimmerman is ordained by the National Baptist Convention and is a member of Omega Psi Phi Fraternity and Kiwanis International. Major General Zimmerman uses his educational, spiritual, and social talents to foster the good in mankind, to protect and nurture those who need comforting, and to challenge those who need a "jump start" in life.

On March 20, 1990, I had the privilege of welcoming then Brig. Gen. Matthew A. Zimmerman, Jr. to the House of Representatives

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when he served as a guest chaplain. He offered the following prayer:

Almighty God, our Creator, as we pause here today in work and fellowship, we acknowledge, appreciate, and applaud the uniqueness of this body's interests, talents, and work. We are grateful that its efforts can be defined in terms of stewardship; stewardship of the well-being of this Nation and its people.

Help each Member, we pray, better to maintain an understanding and profound appreciation of the nature and the implications of their charter. Bless this body and its Members as agents of change and facilitators for excellence in the quality of our citizens' lives. As stewards of effectiveness and excellence, continue to challenge them with a firm recognition of the dignity and worth of our citizens.

Give to each of them generous portions of Your wisdom, grace, and strength. Enable them to believe strongly in what they do; remain confident in their objectives and abilities, to be aware of and celebrate the humanity of our people, and certainly to maintain a good sense of humor.

In Your name and with your peace we pray. Amen.

These words attest to the type of community and spiritual leader Major General Zimmerman is, indeed a steward of man and his soul. Mr. Speaker, the apple doesn't fall far from the tree. His father, the Rev. Matthew A. Zimmerman, Sr., pastor of the Greater Abyssinian Baptist Church in my hometown of Newark, NJ, is the same type of leader. Always at the forefront of major issues the senior Reverend Zimmerman has used his vision and stability to prepare his congregation for the 21st century.

Mr. Speaker, I know my colleagues will want to join me as I congratulate Chaplain, Maj. Gen. Matthew A. Zimmerman, Jr. on his outstanding career and wish him well in his retirement.

END